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United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Wednesday, September 27, 1989*

The House met at 12 noon.

The Reverend Hugh L. Baker, Jr., First United Methodist Church, New Iberia, LA, offered the following prayer:

O Lord, our Lord, how excellent is Your name in all the Earth. Before the mountains were brought forth or ever You had formed the Earth and the world, even from everlasting to everlasting You are God. Give us grace to live our days within the framework of Your blessed will. May the freedom that we ask for ourselves be the freedom we seek for our neighbors. May the crown of liberty, which our great Nation wears, be the model for the kind of liberty we seek for other nations. Let justice roll down like waters and integrity like an ever-flowing stream. Forgive us our sins as we ultimately forgive those who sin against us. To Your name be praise and glory, world without end. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MACHTLEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. MACHTLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 304, nays 117, not voting 11, as follows:

[Roll No. 247]

YEAS—304

Ackerman	Downey	Kanjorski
Akaka	Durbin	Kaptur
Alexander	Dwyer	Kasich
Anderson	Dymally	Kastenmeier
Andrews	Dyson	Kennedy
Annunzio	Early	Kennelly
Anthony	Eckart	Kildee
Applegate	Edwards (CA)	Kleczka
Archer	Emerson	Kolter
Aspin	Engel	Kostmayer
Atkins	English	LaFalce
AuCoin	Erdreich	Lantos
Barnard	Espy	Laughlin
Bartlett	Evans	Leath (TX)
Bateman	Fascell	Lehman (CA)
Bates	Fazio	Lehman (FL)
Beilenson	Feighan	Lent
Bennett	Fish	Levin (MI)
Bereuter	Flake	Levine (CA)
Berman	Flippo	Lewis (GA)
Bevill	Foglietta	Lipinski
Bilbray	Ford (MI)	Livingston
Boggs	Ford (TN)	Lloyd
Bonior	Frank	Long
Borski	Frost	Lowey (NY)
Bosco	Gallo	Luken, Thomas
Boucher	Gaydos	Manton
Boxer	Gejdenson	Markey
Brennan	Gephardt	Martinez
Brooks	Geren	Matsui
Broomfield	Gibbons	Mavroules
Browder	Gillmor	Mazzoli
Brown (CA)	Gilman	McCloskey
Bruce	Glickman	McCollum
Bryant	Gonzalez	McCrery
Bustamante	Gordon	McCurdy
Byron	Gradison	McDade
Callahan	Grant	McDermott
Campbell (CA)	Gray	McEwen
Campbell (CO)	Green	McHugh
Cardin	Guarini	McMillen (MD)
Carper	Hall (OH)	McNulty
Carr	Hall (TX)	Meyers
Chapman	Hamilton	Mfume
Clement	Hammerschmidt	Miller (CA)
Clinger	Harris	Miller (WA)
Coleman (TX)	Hatcher	Mineta
Collins	Hawkins	Moakley
Combest	Hayes (IL)	Mollohan
Condit	Hefner	Montgomery
Conte	Hertel	Moody
Conyers	Hoagland	Morella
Cooper	Hochbrueckner	Morrison (CT)
Costello	Horton	Morrison (WA)
Coyne	Houghton	Mrazek
Crockett	Hoyer	Murtha
Darden	Hubbard	Myers
Davis	Huckaby	Nagle
de la Garza	Hughes	Natcher
DeFazio	Hutto	Neal (MA)
Dellums	Jenkins	Neal (NC)
Derrick	Johnson (CT)	Nelson
Dicks	Johnson (SD)	Nowak
Dingell	Johnston	Oakar
Dixon	Jones (GA)	Oberstar
Donnelly	Jones (NC)	Obey
Dorgan (ND)	Jontz	Olin
Ortiz	Russo	Stenholm
Owens (NY)	Sabo	Stokes
Owens (UT)	Saiki	Studds
Packard	Sangmeister	Swift
Pallone	Sarpalius	Synar
Panetta	Savage	Tallon
Parker	Sawyer	Tanner
Patterson	Saxton	Tauzin
Payne (NJ)	Schaefer	Thomas (GA)
Payne (VA)	Scheuer	Torres
Pease	Schiff	Torricelli
Pelosi	Schneider	Towns
Penny	Schulze	Traficant
Perkins	Schumer	Traxler
Petri	Sharp	Udall
Pickett	Shaw	Unsoeld
Pickle	Shumway	Valentine
Porter	Shuster	Vander Jagt
Poshard	Sisisky	Vento
Price	Skaggs	Visclosky
Quillen	Skeen	Volkmer
Rahall	Skelton	Walgren
Rangel	Slattery	Watkins
Ravenel	Slaughter (NY)	Waxman
Ray	Smith (FL)	Weiss
Richardson	Smith (IA)	Weldon
Rinaldo	Smith (NE)	Whitten
Ritter	Smith (NJ)	Wilson
Robinson	Smith (TX)	Wise
Rose	Solarz	Wolpe
Rostenkowski	Spence	Wyden
Roth	Spratt	Wylie
Rowland (CT)	Staggers	Yates
Rowland (GA)	Stallings	
Roybal	Stark	

NAYS—117

Armey	Gekas	Martin (IL)
Baker	Gingrich	Martin (NY)
Ballenger	Goodling	McGrath
Barton	Goss	McMillan (NC)
Bentley	Grandy	Michel
Bilirakis	Gunderson	Miller (OH)
Bliley	Hancock	Molinari
Boehlert	Hansen	Moorhead
Brown (CO)	Hastert	Murphy
Buechner	Hefley	Nielson
Bunning	Henry	Oxley
Burton	Herger	Parris
Chandler	Hiler	Pashayan
Clarke	Holloway	Paxon
Clay	Hopkins	Pursell
Coble	Hunter	Regula
Coleman (MO)	Hyde	Rhodes
Coughlin	Inhofe	Ridge
Cox	Ireland	Roberts
Craig	Jacobs	Rogers
Crane	James	Rohrabacher
Dannemeyer	Kolbe	Ros-Lehtinen
DeLay	Kyl	Roukema
DeWine	Lagomarsino	Schroeder
Dickinson	Leach (IA)	Schuette
Dornan (CA)	Lewis (CA)	Sensenbrenner
Douglas	Lewis (FL)	Shays
Dreier	Lightfoot	Sikorski
Duncan	Lowery (CA)	Slaughter (VA)
Fawell	Lukens, Donald	Smith (VT)
Fields	Machtley	Smith, Denny (OR)
Frenzel	Madigan	Smith, Robert
Gallegly	Marlenee	

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

(NH)	Stump	Walsh
Smith, Robert (OR)	Sundquist	Weber
Snowe	Tauke	Wheat
Solomon	Thomas (CA)	Whittaker
Stangeland	Thomas (WY)	Wolf
Stearns	Upton	Young (AK)
	Walker	Young (FL)

NOT VOTING—11

Courter	Hayes (LA)	Vucanovich
Edwards (OK)	Lancaster	Williams
Florio	McCandless	Yatron
Garcia	Roe	

□ 1226

Mr. KOSTMAYER changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Jersey [Mr. SAXTON] please lead the House in the Pledge of Allegiance.

Mr. SAXTON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 2835. An act to provide for the relocation of certain facilities at the Gateway National Recreation Area, Sandy Hook, NJ, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2771. An act to reauthorize the National Flood Insurance Program and the Federal Crime Insurance Program through September 30, 1991;

H.R. 2990. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1990, and for other purposes; and

H.R. 2939. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1990, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2990) "An act making appropriations for the Departments of Labor, Health, and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1990, and for other purposes", requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HARKIN, Mr. BYRD, Mr. HOLLINGS, Mr. BURDICK, Mr. INOUYE, Mr. BUMPERS, Mr. REID, Mr. ADAMS, Mr. SPECTER, Mr. HATFIELD, Mr. STEVENS, Mr. RUDMAN, Mr. MCCLURE, Mr. COCHRAN, and Mr. GRAMM, to be conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2939) "An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1990, and for other purposes", requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LEAHY, Mr. INOUYE, Mr. JOHNSTON, Mr. DECONCINI, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mr. BYRD, Mr. KASTEN, Mr. HATFIELD, Mr. D'AMATO, Mr. RUDMAN, Mr. SPECTER, Mr. NICKLES, and Mr. STEVENS, to be the conferees on the part of the Senate.

THE REVEREND HUGH L. BAKER, JR.

(Mr. BAKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER. Mr. Speaker, I wish to express my appreciation to the Chaplain and to the leadership for this accommodation in arranging for our guest Chaplain for the day. It is a particularly unique opportunity for me to rise and address the House in the fact that the gentleman who gave our opening prayer is a man who by his service to the U.S. Navy and by his service to the Methodist Church for over 40 years has exemplified his commitment to God and country better than any other I know.

It is my pleasure to welcome to the House today my father, the pastor of the First United Methodist Church from New Iberia, LA, the Honorable Reverend H.L. Baker.

APPOINTMENT OF CONFEREES ON H.R. 1312, DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1989

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1312) to revise and extend the programs of the Domestic Volunteer Service Act of 1973, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from New York? The Chair hears none, and appoints the following conferees: Messrs. HAWKINS, OWENS of New York, KILDEE, MARTINEZ, SAWYER, and PAYNE of New Jersey, Mrs. UNSOELD, and Messrs. GOODLING, TAUKE, BARTLETT, and GRANDY.

□ 1230

MCNULTY SUPPORTS ROSTENKOWSKI/GEPHARDT SUBSTITUTE

(Mr. MCNULTY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCNULTY. Mr. Speaker, I rise today in strong support of the proposal by DAN ROSTENKOWSKI and DICK GEPHARDT to give a tax break to middle-income Americans, while at the same time reducing the Federal budget deficit. The simple closing of a loophole—which currently permits the wealthiest among us to be taxed at a lower rate than middle-income Americans—can accomplish this.

The enactment of this proposal will increase savings, help families to buy a first home, help pay for college educations, and reduce the budget deficit by about $25 billion in the first 5 years. That's the kind of positive action the American people would like to see from Congress. Let us not disappoint them.

INTRODUCTION OF LEGISLATION TO CREATE A NATIONAL ENVIRONMENTAL INSTITUTE

(Mr. SAXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXON. Mr. Speaker, the age of the environmental ambulance squad must end.

For years we have found ourselves suddenly reacting to clean up the environmental messes that we have dumped on our own doorstep.

Today, I ask my colleagues to join with me, in taking the first step to change all that.

Yesterday, I introduced legislation, House Concurrent Resolution 202, which calls for the creation of a National Environmental Institute.

This institute would tap into our Nation's great scientific intellect and coordinate it, and enable us to finally adopt environmental policies which anticipate problems before they fester and explode.

We do not need another unexpected oilspill, another shocking epidemic of dolphin deaths, or another toxic waste surprise before we begin to take charge of the environmental challenges which, up until this time, have taken charge of us.

Mr. Speaker, our national institute will enable us to bolster the education of graduate and undergraduate students, to offer training to those in the policymaking arm of government, and to sponsor public awareness campaigns.

More important, it will be one of the greatest environmental data banks in the world.

It is a first step, but for the sake of all of us, a critically important one.

DO WHAT IS RIGHT: BRING BACK THE IRA'S

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, I do not take this floor often for the 1-minutes, but this Chamber is going to have a choice tomorrow, a verdict, so to speak, on Leona Helmsley. She said that taxes are only for little people.

I guess we are going to make that decision. If we vote for the President's proposal, we will benefit 3.3 percent of the public with 80 percent of the benefit, and like with other tax-cut proposals, the costs will come back to middle and lower income Americans.

Leona Helmsley said that taxes are only for little people. Is that what we are going to do in this Chamber? Are we going to cut taxes for the richest people in the country so we can pass more burden on to middle and lower class Americans? I certainly hope not.

We ought to do what we know is right, what we know will benefit the broadest segment of America by bringing back the IRA's.

Do not let Leona Helmsley be right. Let us not just tax poor and middle-class people.

THERE IS JOY IN CHICAGOLAND TODAY—THE CUBS WIN

(Mr. CRANE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRANE. Mr. Speaker, the Sun shines on the Chicago Cubs today. It has been 5 years since the skies above Wrigley Field have been this bright.

With two outs in the last inning last night in Montreal, Mitch Williams blazed a third-strike pitch past Mike Fitzgerald to bring the National League East Championship back to the north side of Chicago for the first time in 5 years.

It was the initial step in what Cub players and fans alike believe will be a march to the team's first pennant since 1945, and first World Series title since 1908.

We Cub fans are patient folk. But the blood is now zipping through our veins as we see a baseball world championship captured by a Chicago team for the first time since 1917. For the first time in 81 years the Cubs will reign as world champions.

It has been noted by others that team effort was the formula used by the Cubs of 1989 to bring a title to the north side of Chicago by a team some so-called experts predicted would finish last.

Manager Don Zimmer is the genius who led and motivated team members to a first-place finish. Zimmer, his coaching staff, and all of the players are to be congratulated for this shining moment of success. Others, too, aided in the victory drive, such as Harry Carey with his never-ending enthusiasm and optimism for the Cub cause.

All of Chicagoland, as well as Cub fans worldwide, delight in this success story. With the division title in hand, a World Series victory is but two steps down the path: First the pennant, then the series.

AN EXHILARATING DAY FOR THE CUBS

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, holy cow, I am one of the happiest fellows on this floor today, because I, too, am one of those long-suffering Cub fans.

Mr. Speaker, I guess there is a life beyond the legislative duties that we perform here, and certainly the Cubbies have been part of my life from childhood on.

The last time the Cubs were in the World Series I was overseas in Europe waiting to come home. We were listening to the Cubs and the Tigers replay at 2 and 3 o'clock in the morning.

We have agonized over this thing over the last few years. The last 2 years I have gone to spring training. I impressed upon Jim Frey and Don Zimmer the need for bunting that ball once in a while, particularly when the pitchers could not do it, when we needed that sacrifice bunt. I think we have put it all together today, and as my good friend, the gentleman from Illinois [Mr. CRANE], has said, we certainly want to congratulate the Cubs, the management, and all the players for doing such an outstanding job with a bunch of rookies. It is just an exhilarating day for old BOB to come here and say these things in behalf of the Cubs.

JOHN WAYNE IS ROLLING OVER IN HIS GRAVE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, I, too, am very glad for the Cubs. I just hope the Japanese do not buy them.

Two years ago Sony bought CBS Records. Today, Congress, the Sony Corp. bought Columbia Pictures. John Wayne is rolling over in his grave. The biggest film library in the world, 40,000 movies, are now owned by the Japanese; in addition, 27,000 hours of hit television programs such as the film and the series "Room 227," "Married With Children," and "Who's the Boss."

Think about it now: What is next? Are they going to buy ABC, CBS, NBC? Will the evening news be beamed over from Tokyo, America? Is that what is coming? Think about it.

Nomura, Japan's leading securities firm, is 20 times bigger than Merrill Lynch now. Nippon Telephone & Telegraph is bigger than IBM, AT&T, General Motors, and General Electric combined.

There is no doubt in my opinion who will be the boss. It seems that Congress and Washington is evidently very comfortable in watching reruns now owned by the Japanese.

I hope the Cubs stay in Chicago and they continue to be owned by the fine people from Chicago, and I think a lot of people would like to see them win.

PRESERVING THE AVIATION TRUST FUND

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and entend his remarks.)

Mr. CLINGER. Mr. Speaker, I rise to alert Members that later today an amendment will be offered by the chairman of the Public Works Committee, Mr. ANDERSON, to preserve the aviation trust fund.

His amendment is very simple. It requires that Federal excise taxes collected on airline tickets and aviation fuel continue to flow into the aviation trust fund.

For those of you unfamiliar with the trust fund, it is a self-supporting account, those revenues are derived from a dedicated tax. The aviation trust fund supports capital improvements at our Nation's airports and airway facilities.

This same trust fund concept also applies to over 20 other federally managed programs, including the highway trust fund and the Social Security trust fund. Dedicated Federal excise taxes are collected, deposited to a specific account, and spent in support of a particular array of programs.

Another important feature common to all trust funds is their inability to draw on General Treasury revenues. If a trust fund account is depleted, then its affiliated programs come to a halt.

With that as background, you should be aware that the reconciliation bill contains a provison that diverts dedicated user taxes into the Treasury.

This violates the principle of trust fund supported programs. It is a dangerous precedent. If this provision is allowed to stand, it threatens the very integrity of all trust fund supported

programs and exposes them to future raids.

I urge all Members to support the Anderson amendment to maintain the integrity of the aviation trust fund.

IRA'S: THE RIGHT CHOICE

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, this House will soon have a choice to make between two revenue plans which are supposed to stimulate savings and investment. The capital gains plan favored by President Bush rewards past, rather than future investments, and is not likely, based on the historical record, to contribute to an increase in the pool of national savings. It is certain, however, that the Bush plan will contribute to an increase in the national debt.

The Democratic alternative, on the other hand, utilizes the proven tool of IRA's to provide a solid boost to our savings rate. IRA's work, on that the evidence is clear. By encouraging middle-income Americans to get back into the IRA market by providing an opportunity to use IRA's to help pay college tuition bills or make the down payment on a home, the Democratic plan combines good economic policy with good tax policy. In addition, the Democratic alternative is truly self-financing. Providing the tax relief associated with extending the deductibility of IRA's will not contribute to the national debt.

Mr. Speaker, the essence of governing is the making of choices. When we choose between the competing plans to advance our economy let us be clear: The President's plan benefits a few at the expense of a great many. The Democratic plan will benefit many and pay for itself. I believe most Americans will agree, the Democratic alternative is the right choice.

□ 1240

CAPITAL GAINS IS GOOD FOR FARMERS

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, to my good friend from Ohio, if he wants to find a way to keep the Chicago Cubs American, I would ask that he find a way to keep more capital in the hands of American business rather than in the hands of their government. While we are not dealing with corporations here today, we are dealing with the capital gains reduction for individuals. I happen to come from a rural district, a district that has some 30,000 farmers. I would like to tell my colleagues what capital gains means to those farmers, not a big farmers but a small farmers.

Let us say he has 20 head of cattle that he has raised from birth. He decides to sell them for $600 a head. That works out to $12,000 in taxable gain. Under the 28 percent present capital gains law, that means $3,300 in taxes owed. If we can pass the capital gains reduction we are talking about here, there will be a 30-percent exclusion. That is $3,600, and then all of a sudden instead of paying $3,300 on the sale of those 20 cows, he will pay $2,300 in taxes. That means this small farmer with only 20 head of cattle being sold will be able to keep an additional $1,000.

This is not a rich man's tax. This is a family farm tax, and that is why the National Milk Producers Federation in their most recent publication said this:

> Farmers would benefit from the Ways and Means proposal if it is adopted in two ways. First, by the overall exclusion which includes assets such as breeding stock, and, second, by a provision which will allow 25% of health insurance premiums to be deducted by taxpayers.

MORE SUPPORT FOR BANNING ASSAULT WEAPONS

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, nearly 2 weeks have passed since a gunman in Louisville killed 8 of his former fellow employees, wounded seriously 14 more before taking his own life at the scene.

Family, friends, and the community still grieve for the dead. The wounded are still trying to get their lives back in order. It will be no easy task.

The only redeeming aspect of this horrible tragedy is that public opinion is coalescing around the view—which I hold—that we need to do something, and soon, to curtail the availability and use of semi-automatic, assault-style weapons which have no legitimate sporting or target use.

Yesterday, I cited a recent resolution of the Louisville Chamber of Commerce that such weapons have no place in our community.

Earlier, Governor Wilkinson, Mayor Abramson, Judge/Executive Sloane, and State Representatives Burch and Ward announced their support of a ban on assault weapons.

And, just yesterday, the Jefferson County Fiscal Court unanimously adopted a similar position. I want to commend Commissioners Gorman, Maze, and Owens on their stand.

I hope Congress will move forward on providing legislation and will send a responsible and sensible assault-weapon bill to the President soon.

SUPPORT A LOWER CAPITAL GAINS TAX

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, I notice the most often-quoted person in the democratic rhetoric is Leona Helmsley. She was convicted so what she said was wrong. As a practical matter, the question of who are rich people and who are poor people, ask people who are in the middle class and they will say I am poor and anybody that makes more money than me is a rich person.

By the way, if people without money are not given an incentive to invest in America, who is going to invest in America?

You know, there is an amazing change of religiosity we have had here. DAN ROSTENKOWSKI and DICK GEPHARDT just a few years ago, in fact since the Cubs won their last division title, were all for reducing the capital gains to 20 percent, and all of a sudden there has been a leap of faith, coming out and saying we do not have the confidence to instill investment in America.

But the Japanese do, the British do. The Japanese and all of the other countries in this world that understand America is a good place to invest want to get in there. We do not encourage capital savings. Foreign countries do.

Let us do something good for America. Let us reduce capital gains.

FULFILLING THE AMERICAN DREAM

(Mr. SYNAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SYNAR. Mr. Speaker, what is the American dream? It is to give your children a college education, buy your first home, and to save money to make your retirement years safe and secure. The plan to give a tax break on capital gains won't go far to help people from Muskogee or Sallisaw achieve the American dream.

The choice between the capital gains tax break and the Democratic proposal is not a difficult decision. It is a simple choice between a proposal which provides only limited benefit and the Democratic proposal which benefits a larger percentage of Americans and the country as a whole.

The true Democratic proposal will revitalize savings and long-term investment, promote education, encourage homeownership, and reduce the deficit.

That is the best one-stop shopping bargain in a long time.

CAPITAL GAINS REDUCTION: AMERICAN HOMEOWNERS

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, up to now not much has been said in this debate about capital gains and the effect on the average American family who are trying to save and buy their first home, and maybe it is because the first-time homeowners can benefit significantly from a reduction in the capital gains rate. Let me give a specific example.

Consider the young American family that has been putting away some money each month for some time. They are not wealthy, but of average income. They have listened to America's leaders, who have all declared themselves in favor of greater individual savings and investment.

After a while, this family's modest investments in stocks, bonds or a mutual fund have appreciated to the point where they can be rewarded for their long-term thinking. They want to cash in the investments and use the money for down payment on their first home.

But will they be financially able to buy it? Their investments have done a little better than inflation, but that does not help much because they will be taxed at 28 percent or more on the unadjusted gains.

That means that this typical young family will likely wind up paying a third or more on their real capital gain, in constant dollars. That is a large amount of money and it may mean that they still cannot buy their first house.

We have said for years that every American family should be able to own their own home, and that Government should help in meeting that goal. Yet more and more young couples now find homeownership financially beyond their reach.

A lower capital gains rate, with indexing, is a positive step that can make that dream of homeownership a reality.

PENNSYLVANIA'S MODEL CHILD CARE PROGRAM FOR STATE EMPLOYEES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, what America's children need are more leaders like Gov. Robert P. Casey of Pennsylvania.

Since becoming Governor in 1987, Robert Casey has put in place a model child care program for State employees.

But Governor Casey didn't stop at child care. Understanding that family leave is a crucial component of any successful child care policy, he expanded Pennsylvania's leave policy so that both fathers and mothers could take an unpaid job guaranteed leave of up to 6 months.

Still Governor Casey went one step further. To encourage parents to take the leave, children enter the child care centers at the age of 6 months.

And just this week, he endorsed a Pennsylvania version of family and medical leave legislation.

All of this action for families from a probusiness Governor who knows that when families and children thrive, so do businesses.

He understands that by vastly expanding investments in child care for parents struggling to enter the workforce, in early childhood health and nutrition, and in programs that help all families, he is investing in future economic growth.

Mr. Speaker, I hope Governor Casey's leadership on work and family issues is contagious.

SUPPORT URGED FOR CAPITAL GAINS PROVISIONS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I stand before you today to express my support for the capital gains provisions of the budget reconciliation bill that will be considered over the next several days. My support for the rate reduction over the Gephart plan IRA provisions is easily explained—the reduction in capital gains will help more middle-class Americans over the long run.

The proposal to expand IRA's and increase taxes is not a good deal for working middle-income people. Instead of decreasing the tax burden of this group, the plan seeks to increase their tax liability. At age 59, when the IRA would be cashed in, the rate of tax on it would be even higher, then leaving absolutely no advantage for the taxpayer. If Congress is truly interested in helping middle-class Americans, we cannot in good conscience approve such a plan. The capital gains provisions are important to this group, and we should adopt the language passed by the Ways and Means Committee.

The capital gains exclusion is good policy that will help Americans and our economy. It is a policy that I intend to support, and I encourage my colleagues to do the same.

AMENDMENT PENDING TO RESTORE FUNDS FOR AVIATION

(Mr. ANDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON. Mr. Speaker, I want to alert Members that when the House resumes consideration of the budget reconciliation bill today, I will be offering a very important amendment.

My amendment would strike a provision in the Ways and Means Committee title that diverts almost $1 billion from the aviation trust fund to the general fund.

Briefly, the diversion is wrong. It's bad public policy and it's counter-productive.

It puts our airways at risk; it jeopardizes aviation projects and it will make airport congestion a common occurrence.

Furthermore, the diversion provision is not necessary to achieve the budget revenue targets.

My amendment, which is deficit neutral, reflects the good faith compact Congress made with the American public.

Those who say working families should not be subsidizing aviation users are dead wrong. Working families are aviation users.

My amendment will be considered after the section 89 amendment—around mid to late afternoon.

I urge an aye vote on the amendment.

□ 1250

SUPPORT URGED FOR JENKINS-ARCHER CAPITAL GAINS TAX CUT

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, I urge my colleagues to support the Jenkins-Archer proposal to cut the capital gains tax. It is a common sense, bipartisan plan that will increase investments and create jobs. The liberal Democrat alternative is the same old, tax and spend, song and dance.

Lower taxes on capital gains will increase investors' willingness to sell their capital assets. Greater realization of capital gains will translate into increased revenue for the Federal Government.

Liberal Democrats have tried to turn the debate into a class war, by stating that the capital gains proposal will only benefit the rich. Seventy-four percent of those with capital gains have ordinary income under $50,000. The bipartisan cut will help small business people, family farmers, and small investors, and will help spur world-wide competitiveness.

Look around the world at our competitors who do not tax capital gains at all: West Germany, Italy, Holland, South Korea, Hong Kong. Look who has lower capital gains rates than we do: Japan, Canada, France, Sweden.

The issue is simple: The liberal Democrats want to raise taxes, and the Republicans want to cut them.

SONY'S PURCHASE OF COLUMBIA PICTURES PRESENTS ANTITRUST PROBLEMS

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, Sony Corp.'s purchase today of Columbia Pictures is a challenge to American antitrust laws. I must ask the question whether Sony's integration of this industry is a violation of traditional monopoly law in this country? The Justice Department hopefully is looking into this purchase.

Sony, the largest producer of VCR's in the world, is now in a position to control a major portion of the telecommunications/entertainment market from film through television to distribution and replay technology. Sony also owns CBS Records which adds to its power in the entertainment field.

Up until this time, this kind of power play was unthinkable inside the United States. Inside Japan, it is the way business is done.

This country now could become a battleground for multinational corporations to vertically integrate, not only in entertainment, but also in manufacturing and services.

Although we have become accustomed to importing many of our consumer products, we should determine whether imported business practices and values are contrary to our free enterprise system.

It is one thing to buy their consumer products. It is another thing to buy a different set of values from the ones which made this country great. The purchase of Columbia must not be considered business as usual because it could be a grab of power in a very strategic area.

MEMBERS ASKED TO VOTE AGAINST CAPITAL GAINS TAX CUT

(Mr. SABO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SABO. Mr. Speaker, tomorrow we will cast a very important vote. We have two distinct options from which to choose. One gives another tax break to the very rich and adds to the budget deficit. The other helps average Americans and reduces the deficit.

I urge my colleagues to vote against the capital gains tax cut plan. It's bad tax policy, bad economic policy, and bad budget policy.

If we are really serious about reducing the deficit, we should not make the job more difficult in the years ahead. Cutting the deficit will be tough enough. We should not make it even tougher. The capital gains tax cut will soon be a major revenue loser. Then we'll either have to live with a bigger deficit or face serious pressure to raise the average taxpayer's taxes.

We should reject this unwise, unfair, and irresponsible proposal and adopt a better, fairer, and more responsible alternative.

LEGITIMATE DEBATE DEGENERATES INTO FIGHT FOR POWER WITHIN THE DEMOCRATIC PARTY

(Mr. LIGHTFOOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIGHTFOOT. Mr. Speaker, there has been a lot of talk about capital gains tomorrow and a lot of talk about who the rich are that are receiving all of the benefits and breaks.

I received yesterday a letter from a lady in my district who at the age of 60 was divorced. She worked for the next 10 years to save and scrape and put every penny aside that she could into stocks and bonds. She now wants to convert that into CD's that bear interest so she can retire. She is now told by her accountant that Uncle Sam because of catastrophic and capital gains will take 38 percent of her money, which puts her back into the poverty category.

Is this woman rich? No.

What really I guess has a knot in my stomach this morning is that what started out as a legitimate debate between two philosophical ideas on capital gains has degenerated into a fight for power within the Democratic Party and it makes me sick to think that so someone can say, "I am the leader," we are going to sacrifice millions of middle-class citizens in this country by sticking taxes to them again and again and again because it sounds quick to say, "We are just going to stick the rich," on the 10 o'clock news.

CAPITAL GAINS MIRAGE

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE. Mr. Speaker, by now we are all quite familiar with the capital gains issue before us. I want to take this opportunity to outline my own concerns about the 2-year reduction in the capital gains rate that President Bush is supporting—a one-shot, short-term proposal that could not possibly achieve the long-term goals of increased investment and productivity that its supporters claim to espouse.

We all know that the Bush proposal will bust the budget—to the tune of $21 billion over the next 10 years. This idea defies common sense. Is the President seriously proposing to generate capital for investment by forcing the Government to borrow more of it? Can any Member of this body claim that this 2-year tax giveaway is really about fostering long-term economic growth?

There are some clear principles that Members on both sides of the aisle should embrace on any economic issue before us. First, and foremost, any proposal must meet the test of long-term deficit reduction. Every dollar of the Federal deficit is a dollar of capital lost to American businesses. President Bush's proposal simply encourages churning of assets to produce a short-term revenue windfall with no long-term benefit to capital formation or increased savings rates. Over the next decade the Federal deficit would be increased by some $21 billion, digging us even more deeply into the fiscal hole we are in, and increasing our children's future tax burden. The President's plan flunks the deficit reduction test badly. By way of contrast, the leadership alternative dedicates $23 billion to deficit reduction over the next 5 years.

Second, it is patently unfair that the benefits of a cut should go primarily to the wealthy who not only were major beneficiaries of the 1986 rate cuts, but whose real incomes have increased more over the past 10 years than any other segment of the population.

The President's proposal would violate the principle of tax reform that reduced the top rates in return for ending special tax loopholes. Have we forgotten that Ronald Reagan sent to Congress a tax reform proposal that noted that "the preferential tax rate for capital gains * * * distorts investment decisions * * * and impedes the efficiency of a market based upon free market principles"? Now perhaps President Reagan overstated his case: I see considerable merit in indexing capital gains so that taxes are not incurred on inflationary increases. Perhaps a tightly written incentive for investment in new ventures could be justified, and I also see merit in providing a preference for timber, an industry that requires an inordinately long investment period and that provides many environmental benefits as well. But the short-sighted profit-taking proposal before us has none of these merits. There is a time and a place for a capital gains adjustment as part of an overall budget package that would put our fiscal house in order and stimulate investment and growth. But the proposal before us would make such an agreement less likely, not more so.

To illustrate the folly of the Bush proposal, let me elaborate on the possible impact on two important sectors of the economy—timber production and home sales. A timber grower from my State recently told me that he favored the Bush proposal, but only on the assumption that someone, somewhere down the line, would rewrite it. He has grave reservations that it might result in the devastation of our country's private woodlands as landowners rush to cash in during the 2-year window. Similarly, in Sunday's Washington Post, Ken Harney eloquently outlined the potential havoc this proposal could wreak in real estate markets across the country due to the incentive to cash in. We are just beginning to liquidate the housing that is now Government property because of the savings and loan disaster. This temporary capital gains cut could glut the market in many areas and help ensure that these houses are sold at depressed prices—costing the taxpayers even more than anticipated 1 month ago to maintain the solvency of the Federal deposit insurance funds.

The alternative offered by the Democratic leadership surpasses the Bush plan on all of these criteria—fiscal responsibility, fairness, stimulation of savings and investment. It is a commonsense proposal that—by restoring favorable tax treatment of Individual Retirement Accounts and allowing these IRA's to be used for educational expenses and first-time home purchase—will give a tax break to the middle class Americans who are the backbone of our economy. Not only that, but it reduces the deficit not just the first year but every year.

President Bush and the Republicans are blowing a lot of smoke about a tax increase. As they well know, the Democratic proposal does not increase the present top tax rate of 33 percent. It simply ensures that the wealthiest Americans will pay that rate. Individuals with taxable incomes greater than $45,000 already pay the 33 percent rate, but because of a quirk in the tax reform act, individuals with taxable incomes over $93,000 or couples with incomes over $155,000 revert to a lower marginal rate. The Democratic proposal does not increase tax rates but merely removes this loophole. In so doing, it enables us to reduce the deficit, provide tax relief for ordinary Americans, and restore fairness to the Tax Code. For some reason Mr. Bush has a problem with making the wealthiest Americans pay the same tax rate as those who make less than they do. He calls this a tax increase. I call it common sense.

The Democratic proposal also recognizes the benefits of a capital gains rate differential, capping capital gains rates at 28 percent. This will lower capital gains taxes for those now paying income taxes at 33 percent, and maintain a 28-percent capital gains rate for the richest taxpayers who now will also pay 33 percent on their ordinary income. Moreover, this is a permanent preference for capital gains, rather than a 2-year incentive to unload assets.

The bottom line is simple. The Democratic proposal makes long-term changes that will address critical problems. It provides incentives for all Americans to play a role in stimulating economic growth. It supports two pillars of the American dream: Buying a first home and paying for our children's education. It also corrects the largest remaining injustice of our post tax reform Tax Code. What is more, this plan will reduce Government borrowing and the deficit—permanently.

The Bush plan is a short term gimmick that continues the borrow-and-spend patterns that created our deficits. It encourages investors to make decisions based on a 2-year tax window rather than sound economics, and it leaves behind more bad debts for our children to pay.

I urge my colleagues to reject the flashy, quick-fix scheme in this bill and to support deficit reduction, tax relief for ordinary Americans, and investment in our Nation's future—vote for the leadership alternative.

COMMEMORATIVE BILLS SEEN AS WASTE OF TIME AND MONEY

(Mr. HOLLOWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLLOWAY. Mr. Speaker, House Resolution 244, legislation which I have introduced to abolish the time-consuming and generally meaningless practice of recognizing various days, weeks, and causes through commemorative bills.

Mr. Speaker, there is no doubt that certain commemorative legislation is worthwhile. However, most of the commemorative bills many Members of Congress, have supported border on the ridiculous. It is time to do away with the practice of recognizing such cases as "Smoke Detector Day," "National Tap Dance Day," "Dairy Goat Awareness Week" and "Snow White Week." Let me acknowledge that I have cosponsored commemorative measures in the past. I do not intend to do so again. The vast majority of commemorative bills are a waste of time and money. It's gotten out of hand. Congress now spends thousands and thousands of dollars in printing costs and hours upon hours of staff time tending to commemorative legislation which means little and accomplishes even less.

In the last Congress, commemorative bills accounted for nearly one-third of all the legislation enacted into law.

Mr. Speaker, we have serious things to talk about in this great body. We should do so—and we should stop wasting our time on commemorative bills. That is why I urge my colleagues to show the general public that we mean business, that we are not content to waste our time. I urge my colleagues to cosponsor and strongly support House Resolution 244.

□ 1300

SUMMIT MEETINGS ON THE ISSUE OF EDUCATION IN AMERICA

(Mr. OWENS of New York asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. OWENS of New York. Mr. Speaker, we all welcome the summit of the President and the Governors on the very important issue of education in America.

However, at the beginning of this summit I would like to ask the Governors to examine their own formulas for the distribution of assistance to school districts in their States. In too many States there is an open, blatant, and official discrimination against poor children and minority children who live in the inner cities. Governors and State legislators have for years cynically manipulated State aid formulas. They use school attendance instead of school enrollment as a basis for the distribution of State aid to schools.

This emphasis on attendance clearly favors middle class, suburban, and rural districts while it penalizes the poor inner-city districts where the aid is needed most. Most knowledgeable citizens are aware of this longstanding pattern of official discrimination.

I ask the Governors to take a strong look at this during the summit. The moral and practical answer to this evil is a formula based on per capita distribution of aid, as we do in most Federal legislation. Let us ask the Governors to lead the summit with a resolution to correct this gross injustice. In each State where they still practice it, they can make this change.

Mr. Speaker, let that be one of the first steps they take toward the improvement of education in America.

CAPITAL GAINS TAX CUT WOULD IMPACT THE ECONOMY, CUT SAVINGS

(Mr. CARDIN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. CARDIN. Mr. Speaker, the proponents of capital gains are bringing forward this proposal in order to do something about the poor savings ratio in the country, and yet their pro-

posal would do just the reverse. We all know that the No. 1 problem we have in regard to our savings ratio is the deficit of this Nation, and yet the capital gains proposal will add to the deficit of this country.

The proposal that is before us provides a 2-year window, which will cause the turning of assets rather than the long-range planning that is necessary for this Nation and our capital investments. It provides for holding assets for 1 year. That is not the type of savings that we want for the future of America.

The impact on the real estate community will be adverse in that we will have a lot of assets that are going to be sold.

Have we considered that in regard also to the fact that the savings and loan bailout will require savings and loan assets also be brought to the marketplace?

It is unfair in the way it is framed in that it will help the wealthy. That is not the type of proposal we should be considering.

Mr. Speaker, I urge my colleagues to take the capital gains provisions out of reconciliation.

A BEAUTIFUL DAY IN THE NEIGHBORHOOD

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, I had intended to lecture you this morning on the failure of our budget process. I wanted to assess blame and rail against our individual and collective inadequacies. But I find, Mr. Speaker, that I cannot.

Because this morning the sun shines brighter, the grass is greener, and all is right with the world, for the Cubs, Mr. Speaker, have clinched the National League East Division title.

At the start of the season, no one anywhere said they could do it. No one, except Cub fans. We believed in our hearts, as we do every year, that the Cubs really will win it all.

So, Mr. Speaker, no matter how difficult things get here, you can expect smiles from the Chicago contingent, and even more when the Cubs take San Francisco, and still more when they win the World Series.

Have a nice day, Mr. Speaker.

TAX RELIEF FOR INVESTORS OR TAX RELIEF FOR AMERICAN FAMILIES?

(Mr. DURBIN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, the debate on the reconciliation bill is going to be a real test. The test is whether Congress is really listening to the concerns of American families.

I have had about 300 town meetings in my district in downstate Illinois. I have not heard people come forward and say they are worried about whether we are going to cut taxes for the sale of stocks and bonds, but I have heard many people say they are concerned about whether or not their children will ever be able to buy a home. They are concerned also about whether they will ever be able to pay for the college education expenses of their kids. These are the basic things people worry about over the kitchen table at night.

So why is the Republican Party and their proposal opposed to helping American families pay for their share of the American dream? Under the Republican proposal investors would receive a tax break but the average American family would receive no help in paying for college and house purchase expenses.

Unfortunately, Mr. Speaker, it is the same old story. The Republican proposal is going to bring smiles to the investors on Wall Street; the Democratic alternative focuses on tax relief for American families living on Main Street.

THE NEED FOR ANOTHER ALTERNATIVE ON RECONCILIATION

(Mr. SMITH of Vermont asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Vermont. Mr. Speaker, we have before us one of the most important bills this year—the reconciliation bill supporting programs for everyone from infants and seniors to farmers, veterans, and the very needy.

By acting on this bill now and addressing the deficit in a responsible manner, we can still avoid the worst case scenario of across-the-board Gramm-Rudman cuts.

Because of the bill's importance, it is disturbing that debate has become overshadowed by what amounts to a political power play over a proposed reduction in capital gains taxes.

There are lies, damn lies, and statistics.

The game playing over this issue has spawned smoke-and-mirror distortion of facts. Worse, it is now limiting our ability to come up with the very best option for Americans.

We are given only two options to act upon—what is in the bill and the so-called Democratic alternative—both of which are not perfect. We are not allowed debate on any other alternative—or a blend of the two options—that might be better for the broad middle class of this country, the people who pay the bills and make the country run.

The deficit represents a chilling threat to this Nation. It is unfortunate that it is being held hostage with this bill because of political game playing. And its disturbing that we are not allowed to come up with the best alternative for capital gains and IRA's that might help the most Americans the most.

WHO BENEFITS FROM THE BUSH PROPOSAL?

(Mr. PEASE asked and was given permission to address the House for one minute, and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, while we are talking about "lies, damn lies, and statistics," I would like to make reference to a statement by President Bush in a letter to a Congressman today and a statement made on the floor yesterday that "over 70 percent of the taxpayers who report capital gains have other income of less than $50,000."

What that carefully worded statement means is that of the 8 million tax returns annually which show any capital gains activity, roughly 70 percent are filed by those with incomes below $50,000. But that does not take into account the nearly 100 million tax returns which show no capital gains activity at all. Thus those earning under $50,000 actually report only about 8 percent of the actual gains and would get only 8 percent of the benefits. Eighty percent of the benefits of this Bush-Archer-Jenkins proposal would go to those earning over $100,000 a year.

Mr. Speaker, it is pretty clear who gets the benefit from the Bush proposal.

WHAT WAS THAT WORD AGAIN, PLEASE?

(Mr. HENRY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HENRY. Mr. Speaker, tax, tax, tax, tax, tax, tax, tax.

Tax, tax, tax, tax, tax, tax, tax.
Tax, tax, tax, tax, tax, tax, tax.
Tax, tax, tax, tax, tax, tax, tax.
Tax, tax, tax, tax, tax, tax, tax.
Tax, tax, tax, tax, tax, tax, tax.
Tax, tax, tax, tax, tax, tax, tax.
Tax, tax, tax, tax, tax, tax, tax.

Have we got a deal for you. We will lower your rate by allowing you to defer your taxes in an IRA in exchange for substantially increasing your taxes when you cash in.

Congratulations, Democratic leadership, for an idea well conceived.

□ 1310

A CAPITAL GAINS TAX WOULD STIMULATE ECONOMIC GROWTH

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, if America is serious about competing in the global economy, we must cut the capital gains tax.

The United States has one of the highest costs of capital in the world. Those countries that are looked upon as competitors and models of economic growth—Hong Kong, Singapore, South Korea, and Malaysia—do not tax capital gains at all. In fact, one of the world's largest welfare states, Sweden, has a lower capital gains tax than the United States.

Despite the modern Robin Hood rhetoric of opponents of tax cuts, the capital gains cut is not a rich versus poor issue. The middle class also suffers when a gains tax is too high. A cut in the capital gains will result in economic benefits for all Americans. As a recent Treasury Department study stated, "over 70 percent of the taxpayers—almost 10 million Americans—who report capital gains have other income less that $50,000." At the same time, wealthy Americans would actually increase their tax payments as they shift more of their wealth from tax shelters to taxable investments.

I urge my colleagues to support the Jenkins-Archer capital gains proposal. It is good tax policy for all Americans.

EXPRESSING SORROW AT THE DEATH OF THE LATE HONORABLE JOHN E. HUNT

(Mr. RINALDO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RINALDO. Mr. Speaker, I rise to announce the death of a former Member of this House, Congressman John E. Hunt, who passed away last Friday in Woodbury, NJ. Funeral services were held this morning in Pitman, NJ.

He served in the House from 1966 to 1974 and represented New Jersey's First Congressional District. He was a well-respected Member in this body and will be remembered for his courage, strength of character, and dedication to his State and country.

NOT FUNNY

(Mrs. BOXER asked and was given permission to address the House for 1 minute.)

Mrs. BOXER. Mr. Speaker, I was not going to do 1 minute, but I was very amused by my Republican colleague who got up here and used the word "tax" about 50 times. It was a clever way to make his point.

However, Mr. Speaker, I have to ask the gentleman from Michigan [Mr. HENRY] whether he thinks it fair and in the American tradition for people who earn millions of dollars a year to pay less of a tax than those in the middle income. So, when he says, "tax, tax, tax," a number of times, I think it is important to go beyond that.

Mr. Speaker, that was funny and it was cute, but it is not funny, and it is not cute, that a billionaire in this country pays a lower tax rate than a middle-income person.

JENKINS-ARCHER WILL CREATE JOBS AND EXPAND THE ECONOMY

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, the argument, despite all of the efforts by the liberal Democratic leadership to change the topic is simple. On the one hand the Jenkins-Archer bipartisan effort to cut the capital rates gain would, in fact, create 527,000 jobs, expand the economy by $70 billion and lead to $25 billion in additional investment in American industry.

Now, if this was a bureaucratic government jobs program with 527,000 jobs, most of our liberal friends would be excited, but it is not. It lowers the capital rates so that we, in fact, encourage people to invest in creating those 527,000 jobs. On the other hand, the Gephardt tax increase raises $35 billion through a tax increase in order to give back $15 billion in an IRA package.

Mr. Speaker, I say to my colleagues, "If you have to spend $35 billion giving it to the Government in Washington to get back a mere $15 billion in IRA rates, that sounds like Son of Mondale, and I don't think that's what the American people want."

THE "DEMOCONS" ARE AT IT AGAIN

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, there is a classic, anticonsumer scam known as bait and switch. Read the Democrats' tax proposal, and my colleagues will see how bait and switch works.

First, under their plan tax on working people would be increased, but wait. They say we are offsetting the tax increase with an IRA deduction. For those of us who think that IRA's have merit that sounds attractive. Then we look more carefully. Sure enough, there is a problem: "You can't cash in your IRA until you get close to retirement age, and at retirement, because of Social Security earnings limitations and the like, your marginal tax rate goes up to as much as between 40 and 50 percent."

So, Mr. Speaker, here is the Democrats' deal: "You get to pay higher taxes now while you're working, and then even higher taxes later when you cash in your IRA."

Mr. Speaker, bring on the consumer protection agency. The "Democons" are at it again.

CORRECTING MR. WALKER'S STATEMENT ABOUT THE DEMOCRATS' IRA PROPOSAL

(Mr. MOODY asked and was given permission to address the House for 1 minute.)

Mr. MOODY. Mr. Speaker, I usually respect the gentleman from Pennsylvania [Mr. WALKER] for his accuracy, however, I would request the gentleman from Pennsylvania to perhaps return to the well to correct his statement.

The Democratic IRA proposal specifically unlocks the IRA for anyone who needs it for college tuition, for health care, or for purchasing homes. Those are the three big-ticket items that the middle class needs an IRA for. Those are totally different than the kind of IRA's we have had in the past, and I would hope the gentleman from Pennsylvania [Mr. WALKER] would be more accurate in his comments.

WHY AMERICANS VOTED FOR GEORGE BUSH

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, it is going to be difficult as we watch the debate and the procedures unfold here on the floor of the Congress to see exactly what it is we are voting on. But ultimately underneath it all there will be a choice between a capital gains rate reduction and something else. So, what the real debate ought to focus on is: "Is a capital gains rate reduction good for America?"

Mr. Speaker, there are two ways to look at it, from the standpoint of the taxpayer and from the standpoint of the Government. From the standpoint of the taxpayer it certainly makes sense that they are better off with a lower rate of tax. Most Americans know that. That is why they voted for George Bush who urged upon America the wisdom of a capital gains rate reduction.

From the standpoint of the Government, the Federal Government stands to gain billions of dollars in new revenues, and everyone agrees about this.

The only question is how long that new revenue stream will last.

Mr. Speaker, we have got some empirical data that will help us. We have reduced the rate of tax in this country on capital gains in 1978, and revenues shot up. We reduced the rate again in 1981, and in 1981, 1982, 1983, 1984, and 1985 revenues went up.

This is a chance to reduce rates and raise revenues for the Federal Government, make taxpayers and our Government better off.

MY REASONS FOR OPPOSING THE JENKINS-BUSH PLAN

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, I strongly oppose the Jenkins-Bush plan for cutting the capital gains tax rate. I oppose this measure for several reasons.

First, I am in favor of cutting capital gains rates only if such a plan is designed properly. Such a proposal would provide for long-term investment incentives designed to benefit many middle-class citizens and others who experience a one-time gain on sales of assets like a farm, a home, or a business. The Jenkins-Bush plan is not such a proposal.

Second, Mr. Speaker, the Jenkins-Bush tax cut is shortsighted providing an incentive to sell off assets during the next 2 years to benefit from the temporary drop in tax rates. That is bad economics, bad budgeting, and bad policy. We may get a 2-year bump in revenues, but over time we lose money, and a short-term tax break makes new investment relatively less attractive.

Finally, I am concerned about the effects of the Jenkins-Bush plan on one of our most productive and dynamic sectors in our economy, and that is agriculture. This 2-year tax cut could spur the selloff of a sizable amount of farmland driving down farmland values and hurting our financially strapped farmers who just came through one of the worst agriculture depressions in our Nation's history.

STOP THE DEMAGOGUERY

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, it is a little disheartening to sit here on the floor and hear Republicans and Democrats accusing each other of being against the middle class and the poor and for the rich, et cetera.

As my colleagues know, yesterday up in the Committee on Rules; late last night I should say, I offered a motion which would have made an amendment in order on this floor which would have eliminated the cap on outside earnings for our American senior citizens on Social Security, middle class and poor alike. Do my colleagues realize that the Democratic Party voted en bloc on a party line vote not to allow that amendment on the floor?

Mr. Speaker, Claude Pepper would have turned over in his grave up in that Committee on Rules; however, we know that that does not mean that the Democratic Party is against senior citizens, and that they are against the poor and the middle class any more than it does for those Democrats and Republicans who are going to support a capital gains reduction here today.

□ 1320

Why do we not stop this demagoguery? You are good guys. We are good guys. Let us do what is right for the American people.

The unions throughout this Nation who invest their money into retirement systems take advantage of capital gains, and so do the little old ladies who have survived their husbands and need that money as income.

Come on, let us get with it.

IS A TAX CUT GOOD FOR EVERYONE?

(Mr. MAVROULES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAVROULES. Mr. Speaker, I yield to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Speaker, I appreciate the gentleman yielding to me.

I just want to respond to the point made earlier about a tax cut being good for everyone. A tax cut is not good for everyone if it puts the country in a deeper and deeper deficit hole. That is bad for everyone, because the deficit is a tax. The deficit is a tax on the capital markets. It raises interest rates 2 or 3 points higher than they otherwise would be. It is a tax on every middle-class American, their mortgages, their car payments, and everything else.

So as we contemplate the Jenkins tax cut, make no mistake about it, the Jenkins tax cut and the Bush tax cut will drastically increase the deficit starting in 1992. It will make previous deficits look tame. That will be a tax on all Americans. That is a tax, a tax far more serious than anything we are talking about today in terms of balancing out the deficit.

CAPITAL GAINS CUT SIMPLY A GIVEAWAY TO THE RICH

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, we have heard a lot about capital gains today, but I think three facts are irrefutable:

First, the majority of the capital gains tax cut, supported by the President and the other side, is going to go to reward the very wealthy, not to encourage them to invest, because it goes for prior investments. It is simply a giveaway to the rich, saying, "Great. You did a great job for America. Here's a couple hundred thousand dollars to add to your bank account."

Second, the forward parts of the capital gains tax in the bill are counterproductive, because they say that if you are going to make a new investment that has not been rewarded by previous investments, if you are going to make a new investment, get in and get out in 2 years.

Probably one of the two greatest problems America has is this short-term thinking, but the Jenkins proposal and the Bush proposal says, "Think and invest short term." That is death for America.

The third problem is, what does the Democrat alternative do? It encourages savings, our greatest problem. The other proposal does not. If America is going to save, it is going to have to be the middle class that starts saving, and IRA's are about the best way that I know of to get it done.

Mr. Speaker, I urge my colleagues to vote for the Democratic proposal.

A SINGLE VOTE TODAY WILL DEFINE US AS MEMBERS

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, rarely in this institution does a single vote define us as Members. Rarely can one issue provide a real view of the differences between our political parties and our philosophies. This day and this vote offers just such a contrast.

The American people are given an opportunity to see the real difference in our political parties, our Members, and our philosophies. The Republican Party suggests to you today that those one-half of 1 percent of the American people with incomes in excess of $200,000 per year should have a tax rate lower, pay less of a rate in taxes than the overwhelming majority of Americans in the middle class, the working class, and the upper middle class.

The Democratic Party suggests that they be equal.

If you doubt whose constituencies are being represented, whose interests are represented by the two parties, look at this vote today. Watch your Member and learn the difference.

OMNIBUS BUDGET RECONCILIATION ACT OF 1989

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 249 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 249

Resolved, That during the further consideration of the bill (H.R. 3299) to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990, the bill shall be considered as having been read for amendment under the five-minute rule. All points of order against the bill are hereby waived except against section 3131(b)(1)(A), 3156, 3201, 7001, and 7002. The amendments printed in section one of the report of the Committee on Rules accompanying this resolution shall be considered as having been adopted in the House and in the Committee of the Whole. No other amendment to the bill shall be in order in the House or in the Committee of the Whole except that amendments printed in section two of the report of the Committee on Rules and said amendments shall be considered only in the order and in the manner specified. Said amendments may be offered only by the Member indicated in the report, or his designee, and said amendments shall be considered as having been read when offered. Debate on each of said amendments shall not exceed the time specified in the report and shall be equally divided and controlled by the proponent of the amendment and a member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report and all points of order against said amendments are hereby waived. If more than one of the amendments relating to catastrophic health insurance (amendments number six and seven) are adopted, only the last such amendment which is adopted shall be considered to have been finally adopted and reported back to the House. If more than one of the amendments relating to child care (amendments number nine and ten) are adopted, only the last such amendment which is adopted shall be considered to have been finally adopted and reported back to the House. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. Bosco). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 249 is a modified open rule providing for the further consideration of H.R. 3299, the Budget Reconciliation Act of 1989. The rule does not provide for general debate on this bill as this time was allotted in an earlier rule.

The rule waives all points of order against the bill except against sections 3131(b)(1)(A), 3156, 3201, 7001, and 7002. These sections largely raised user fees in the Education and Labor and Merchant Marine and Fisheries Committees' portions of the reconciliation bill, and in one instance repealed a 150-percent full funding limitation on multiemployer pension plans.

The rule further provides that the amendments printed in section 1 of report 101-261 accompanying this resolution, are considered as having been adopted in the House and in the Committee of the Whole upon adoption of this rule. These "self-executing" amendments follow.

The rule provides for an amendment striking textile and footwear provisions of the Caribbean Basin Initiative in the bill and adding back a 50-percent reduction in duties on certain leather-related products.

The rule provides for an amendment striking a user fee for the filing of FCC form 740 in the Energy and Commerce Committee title of this bill.

This rule provides for an amendment designed to bring the Post Office and Civil Service Committee's reconciled savings up to the level required in this year's budget resolution. The amendment would require the postal service to pay for cost of living adjustments for certain retirees and survivors and would raise an estimated $69 million toward reconciliation targets.

The rule provides for an amendment providing that transfers of outlays, receipts, or revenues from one fiscal year to another are a necessary but secondary effect of a significant policy change. This amendment addresses several timing changes in the Agriculture, Energy and Commerce, and Ways and Means titles of H.R. 3299, and would permit the scoring of the amount of deficit reduction that would result from their enactment.

Finally, the rule provides for an amendment incorporating abortion-neutral language into the bill. This amendment is designed to clarify that sex discrimination provisions of the child care portion of this bill do not require an employer to pay for or provide abortion-related service. The amendment mimics current-law, title IX(9) language.

In addition to these "self-executing" provisions, the rule provides that no other amendment to the bill is in order in the House or in the Committee of the Whole except the amendments printed in section 2 of report 101-261 accompanying this resolution, and that these amendments may only be offered in the order and manner specified. These amendments may be offered by the Member indicated in the report or by that Member's designee and each amendment shall be considered as having been read when offered. Debate on each of the amendments shall not exceed the time specified in the report and the time is to be equally divided and controlled by the proponent and a Member opposed thereto. These amendments are not subject to amendment except as specified in the report and all points of order against these amendments are waived. The amendments follow.

The rule provides for one amendment to be offered by Representative ROUKEMA to strike the Visclosky provision in the Education and Labor title of H.R. 3299 and to be debatable for 1 hour.

The rule provides for one amendment to be offered by Representative DORGAN to repeal section 89 of the Internal Revenue Code, to be debatable for 1 hour.

The rule provides for one amendment to be offered by Representative ANDERSON to strike a provision in this bill diverting funds from the airport and airways trust fund into the general fund, to be debatable for 1 hour.

The rule provides for one amendment to be offered by either Representative GEPHARDT or ROSTENKOWSKI as a substitute to the capital gains tax rate reduction provisions in the bill, to be debatable for 2 hours.

The rule provides for one amendment to be introduced by Representative OXLEY to strike the fairness doctrine from the Energy and Commerce title of this bill, to be debated for 30 minutes.

The rule provides for two amendments to be introduced by Representatives DONNELLY and STARK to repeal and modify current catastrophic insurance provisions, respectively. These amendments are each to be debatable for 1 hour. If more than one of these amendments relating to catastrophic insurance—amendments number six and seven—is adopted, only the last such amendment adopted shall be considered to have been finally adopted and reported back to the House. This is commonly known as a "king of the hill" mechanism.

The rule also provides for one further amendment pertaining to catastrophic health care. Both potential modifications to catastrophic health care law would exempt resulting changes in the deficit from calculation in a few budget documents. Essentially, they provide that changes to catastrophic health care law would not affect deficit calculation under the Balanced Budget and Emergency Deficit Control Act of 1985, better known as Gramm-Rudman-Hollings. Anticipating the adoption of modifications to catastrophic health care law, the rule provides for one amendment to be introduced by Mr. PANETTA to strike such a Gramm-Rudman-Hollings exemption and to be debatable for 30 minutes.

Finally, the rule provides for two amendments to be introduced by Representatives EDWARDS and STENHOLM as substitutes for the child care provisions contained in both the Education and Labor and Ways and Means Committees' titles or H.R. 3299. Like the amendments on catastrophic health care, these amendments are to be considered in a "king of the hill" fashion. If more than one of the amendments relating to child care—amendments number nine and ten—is adopted, only the last such amendment adopted shall be considered to have been finally adopted and reported back to the House.

At the conclusion of consideration of the bill for amendment, the rule provides that the committee shall report the bill back to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill as amended without intervening motion except one motion to recommit.

Mr. Speaker, the Budget Reconciliation Act of 1989 is an act designed to implement requirements of the 1990 budget resolution and the budget summit agreement worked out between Congress and the administration in April of this year. As it stands now, this legislation would provide for an estimated $16.6 billion in budget savings in fiscal year 1990 and $13.7 billion in 1991. Passage of a reconciliation act is essential if the Government is to avoid sequestration under the Revised Balanced Budget and Emergency Deficit Control Act of 1985.

The Rules Committee has tried to be fair and responsible in crafting the rule now before the House. I believe House Resolution 249 provides for adequate consideration of the many and varied issues contained in this year's reconciliation legislation. I urge my colleagues to adopt this rule.

□ 1330

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from South Carolina [Mr. DERRICK] has ably explained the provisions of the rule. Mr. Speaker, I shall support the rule, but I want to show the Members of this House what we are considering today.

The printed bill is in two volumes, 1,935 pages, and the report accompanying the bill is 1,555 pages. I do not want to minimize what we are up against today.

I want to congratulate the chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], and other Members on both sides for working out a rule that we can support. Over a period of several days the Committee on Rules was called to meet but then recessed in order to hammer out a consensus of both sides and, finally, a consensus was reached. I am proud of that work. I am proud to support this rule on the floor of the House.

We know this is a massive undertaking. We know it is late in the game, and we are dealing with a bill which has turned into a Christmas tree, but reconciliation is absolutely necessary. We must get down to the business of passing this measure so that it can go to the Senate and then to a large conference committee. Hopefully they can work it out before Christmas. But then, if it is not worked out, under Gramm-Rudman, there will be a cut across the board in all of the programs that this Congress has authorized. We must not let that happen, because cuts should be made only where cuts are needed.

I am happy to say that we are going to have an up-and-down vote to repeal catastrophic insurance, which is really a turkey that the elderly citizens of this Nation want to see repealed, because the financing burden is on the wrong shoulders.

I am happy that we are going to have an up-or-down vote to repeal section 89 which has turned out to be a nightmare for small business.

I am proud that all of these other measures are singled out for separate votes. I think it is a step forward in the history of the Committee on Rules to shape such a balanced rule.

I also want to congratulate the Committee on the Budget for their fine job. I know they would have preferred to see a clean reconciliation bill, but that is not the case today, as evidenced by the 1,935-page bill itself.

In the Committee on Rules I offered an amendment to include the enterprise zone proposal championed by Secretary Kemp, championed by President Bush, championed by myself and other members of the Committee on Rules. It should have been allowed an up-or-down vote, because we know that the poor people of this country are suffering today. The rule should have made in order the amendment, but it was not allowed.

I understand that the chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], has a commitment from the Committee on Ways and Means to hold a hearing on the enterprise zone proposal so that it can be brought to the floor of the House. I applaud that action, because enterprise zone legislation is absolutely necessary.

Mr. Speaker, I could go on and on and point out all the good and the bad items in the bill, but we need to get down to business to debate the bill itself.

Mr. Speaker, I support the rule. I urge its adoption.

Mr. Speaker, I advise the gentleman from South Carolina that I have five remaining requests for time.

Mr. DERRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, I appreciate the opportunity to be able to say a couple of things on this bill and on this rule.

Mr. Speaker, I do not rise to oppose the rule, but I do reluctantly support it. I will tell the Members why. How many of us here in this room would like to find $500 million or $600 million? Everybody is looking for money, and we do not know where to get it.

I offered an amendment to the Committee on Rules to come out on the floor to the reconciliation bill.

□ 1340

We could use $500 or $600 million to fight the drug war. We could use it to restore some of the cuts in the domestic programs which are going to be cut in order to help to fund the drug war. Or we could help to balance the budget. There are a lot of different reasons.

The Committee on Rules refused to allow my amendment. What it would simply do is deny an oil company to be able to write off the cleanup costs from an oilspill if the company or its employees are declared by a court of law to have committed a negligent act. That is very simple and that is all it is.

Of immediate concern is the Exxon oilspill of which there was 11 million gallons of oil that went out into the environment, and Exxon came in, they have been declared to be negligent in this matter. The cost they say is somewhere in the neighborhood of $1.5 to $2 billion. They are going to come back and they are going to write this off, and the American taxpayer is going to reward them for damaging the environment by giving back $500 or $600 million. I think that is wrong.

The taxpayers are going to have to cough this up, and I do not think that they should have that right to do that. They are profiteering at the taxpayers' expense. And this does not just mean that it is going to cost this amount of money. What about the animals, the loss of life of animals? What about the loss of the fish and the loss of birds? We can see reports where this is going to continue on, and what about the loss of jobs in the future? And this is happening every year.

Let me tell my colleagues something. Since 1984 there have been 95 million gallons of oil that has been dumped into the waterways of this country through one act or another. So I am just saying that while I do not get up to oppose the rule and I do support it, it is basically a good rule, but I just

wish that this had been allowed to be offered as an amendment.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. SOLOMON], a member of the Rules Committee.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of this rule. H.R. 3299 itself is another story, but the rule we have before us is a rule we all can support. This rule is the product of lengthy consultations between the leadership on both sides of the aisle, and it will enable the House to work its will on the difficult issue of budget reconciliation.

I think special note needs to be made concerning Chairman MOAKLEY, BUTLER DERRICK, and the Democrat majority on the Rules Committee throughout this long process of preparing a rule for H.R. 3299, Chairman MOAKLEY was very sensitive to Republican concerns. He made every effort to keep Republicans on the Rules Committee informed about how the process was working out. And I would note that we were briefed on the contents of this rule several hours before the committee met last evening and we had copies of the rule in hand a good 45 minutes prior to the meeting which allowed we Republicans time to plan any necessary strategy.

And so I am very grateful for the chairman's cooperation throughout this process. You know, the Washington Post did a story a couple of weeks ago about Chairman MOAKLEY. And in that article, he was quoted as saying that he consults with Republicans and tries to accommodate our concerns. I can certainly testify to the fact that he does exactly that. Evidently, he is a man of his word.

Turning now, Mr. Speaker, to the rule itself. This rule will enable the House to have clean-cut, up-or-down votes on several of the most important issues contained within the reconciliation package.

We will have ample opportunity to debate the capital gains issue. I support the capital gains tax reduction presently contained in the bill. Some people will say that this tax cut is only a gimmick for the rich. But I am convinced that many middle-income Americans, as well as many others living on fixed incomes, are the ones who really have a stake in what we do here today. These are the people who truly will benefit from a capital gains tax reduction. We will have ample time to debate this, and we will have the opportunity of voting on a substitute version.

The rule allows us the opportunity of voting for an outright repeal of section 89. This odious provision, which has proven to be such an obnoxious burden on small businesses in America, must be gotten rid of. And we will have the opportunity to do that.

We will also have the opportunity of voting on a repeal of the Catastrophic Health Insurance Program, which has, in practice, proven to be very ill-conceived. The senior citizens of America want us to do something about it, and this rule gives us the chance.

The rule allows us the opportunity to strike the "fairness doctrine" provision from H.R. 3299. Whatever may be the arguments, pro and con, on that particular idea, the fact remains that a reconciliation bill is simply not an appropriate legislative vehicle for dealing with such a politically-charged subject.

And that goes for the pension provisions as well. Under the rules, we will have the opportunity to strike the Visclosky amendment dealing with the composition of pension trustee boards. Frankly, I wanted all three pension provisions to be stricken, but at least we will have the chance to strike one of them.

Mr. Speaker, reconciliation bills are extraordinarily complicated. And so, it goes without saying that the rule will be complicated as well. No Member, on either side of the aisle, will be entirely satisfied with the rule—just as no Member can be entirely satisfied with the bill. I myself have several concerns on the rule:

I regret that the child care bill was folded into reconciliation. But I would note that we will have the chance to consider several different versions.

I regret that we will not have the opportunity to vote on an amendment establishing urban enterprise zones.

And, finally, the rule provides a motion to recommit but not with instructions.

But I believe, on balance, that the scales are tipped strongly in favor of the rule. Given the extraordinary nature of H.R. 3299, the benefits of this rule far outweigh the negative points and that is why the Republican leadership is supporting this rule.

I will conclude, Mr. Speaker, by making a comment about the reconciliation process itself. We are confronted today with the consequences of a systemic failure in the congressional budget process. Here we are, more than 3 months late, still horsing around trying to produce a reconciliation bill. Mr. Speaker, Congress has become a national embarrassment, especially the other body.

Reconciliation bills are increasingly loaded with extraneous issues that have all kinds of spending implications in the outyears. Throughout the decade of the 1980's, actual outlays have exceeded the budget resolutions by an average of $13 billion per fiscal year. The reconciliation process has failed, and H.R. 3299 is no exception to this dismal record.

I have no idea what it is going to take—what kind of crisis will have to come upon us—before we as a Congress will summon the courage and the discipline that are necessary to put our country's financial affairs in order. But when that day comes, the cumulative effects of monstrosities like H.R. 3299 are going to make our jobs all that more difficult.

Mr. Speaker, I strongly urge a "yes" vote on the rule. Congress must have this chance to work its will. But I reserve my vote on final passage of the bill, pending the outcome of the various amendments we will be voting on.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I rise today in symbolic opposition to the rule, and I will vote against the rule for the purpose of making a point that I think needs to be made.

Under the present scheme of accounting in the budget process the figures that are used in order to achieve a so-called balance budget under the Gramm-Rudman-Hollings Act by 1992 are fictitious, they are arbitrary. That is to say, they have no meaning that bears a resemblance to reality.

In 1992 if we continue under the method that we are now using, according to the House Budget Office, the real deficit as measured by the Federal funds accounting system will be $291 billion. Two years later the House Budget Office projects that the Federal funds deficit will be about $303 billion. That is to say, after we balance the budget according to the method that we are now using, in 1994 the real deficit will be $303 billion.

I would like for the Members of this body to consider what we are doing to ourselves. I have here a bar graph that is produced by the House Budget Office which illustrates the net interest paid on debt held by the public. The amount of interest on the debt since 1981 has increased from $50 billion to about $160 billion. That is $160 billion less that we have to assist the flood victims in South Carolina. It is $160 billion less that we have to attend to the education needs of our Nation. It is $160 billion less that we have to assist rural hospitals and to fund farm programs and provide for the priorities that are established by the U.S. Congress.

□ 1350

In effect, what this system is doing is to restrict the priorities and prerogatives of the U.S. Congress. It is unwitting in a sense, but in effect that is what we are doing to ourselves.

Now I have offered an amendment which was not made in order by the Committee on Rules that would redefine deficit to count it all, that is to

say, the Federal funds deficit which reflects the true deficit which faces this Nation and faces our people. I will vote against this rule in order to make that point.

I think it is time for us to seize the initiative and deal with this issue in a meaningful way.

Much of the payment of our debt goes to foreign banks and if we do not get a handle on the situation about the only thing we will have to decide around here is which bank in Japan to send the interest check.

With this monster we call the deficit lurking in the shadows, we must always be looking over our shoulders, wondering when it is going to pounce and devour us all.

I certainly regret that this proposed rule does not make in order the amendment I proposed which would add to this bill an element of budget process reform. The bill does not now contain any such provisions.

My amendment would have required that for all purposes, except the gymnastics involved in the Gramm-Rudman-Hollings (G-R-H) exercise, the deficit be defined as the gap between Federal income, except that of trust funds, and Federal spending, excluding trust fund spending. Thus, the Federal deficit we focus on will be the real one—the Federal funds deficit.

If that definition had been in place, the American people would have been told that the 1988 Federal deficit was $252.9 billion. Instead, they were told the unified budget deficit was $155.1 billion. The answer was legally true. But, an unsound and dangerous accounting practice was used to get to that bottom line. It is reached by subtracting from the Federal funds deficit the surplus receipts of Federal trust funds, including those for Social Security and Medicare.

The change I propose does not alter the calculation of the deficit for purposes of comparison with the maximum deficit amount allowed under the Gramm-Rudman-Hollings scheme. But, it can be a step in the direction of focusing deficit control where it ought to be—on the Federal funds deficit.

But, making the facts about the real budget deficit—the Federal funds deficit—generally available to the American people would help bring about the necessary national commitment to bring budget deficit management into line with the program priorities studies say the American people want addressed.

Right now, congressional and Presidential assaults are not centered on the enemy in sight—the Federal funds deficit. They are concentrated on the G-R-H mirage advancing up the other side of the ridge.

The futility of such a deficit battle strategy is easily seen.

The G-R-H maximum deficit amounts do not have, and never have had, a realistic relationship to the real deficit, the Federal funds deficit. When the G-R-H deficit reduction scheme was written into law in December 1985, it set a fiscal year 1985 deficit of $171.9 billion. That was nearly 3 months after the fiscal year had ended with a Federal funds deficit of $266.4 billion. Before the scheme had been in effect for 2 years, even its backers were tinkering with Gramm-Rudman-Hollings, stretching out the time line for reaching a mythical budget balance year.

The demagogues in the G-R-H debate are nimble; but their deficit two-step shuffle it grows stale, and, meanwhile, the Federal funds deficit just grows.

The following table compares the Gramm-Rudman-Hollings deficit for each year that the scheme has been in effect with the actual Federal funds deficit for that year and the G-R-H levels for the current and future years with the Congressional Budget Office's August estimate of the actual Federal funds deficit:

TABLE NO. 1

[In billions of dollars]

Fiscal year	G-R-H Maximum amount	Federal funds deficit
1985	$171.9	266.4
1986	144.0	282.99
1987	144.0	222.3
1988	136.0	252.9
1989	100.0	[1] 283.0
1990	64.0	[1] 276.0
1991	28.0	[1] 287.0
1992	0.0	[1] 291.0

[1] Estimates from Table II–6, "The Economic and Budget Outlook: An Update", Congressional Budget Office, August, 1989.

Data Sources: Paragraph 7, Section 622, Title 2, United States Code; "Historical Tables, Budget of the United States Government, Fiscal Year 1990", submitted to the 101st Congress by the President; "The Economic and Budget Outlook:' An Update", Congressional Budget Office, August, 1989.

For the public, the debate becomes an even more tangled deficit jungle when you compare the Federal funds deficit with the unified budget deficit and the Gramm-Rudman-Hollings target maximum deficit amount.

TABLE NO. 2

[In billions of dollars]

Fiscal year	Federal funds deficit	Trust funds + surplus − deficit	Unified budget + surplus − deficit	G–R–H maximum deficit amount
1981	−$85.8	+$6.8	−$78.9	.....
1982	−134.2	+6.3	−127.9	.....
1983	−230.8	+23.0	−207.8	.....
1984	−218.2	+32.9	−185.3	.....
1985	−266.4	+54.2	−212.3	$171.9
1986	−283.0	+61.8	−221.2	144.0
1987	−222.3	+72.9	−149.7	144.0
1988	−252.9	+97.8	−155.1	136.0
1989	[1] −283	+121.0	−161.0	100.0
1990	[1] −276	+135.0	−141.0	64.0
1991	[1] −287	+143.0	−143.0	28.0
1992	[1] −291	+150.0	−141.0	[2] 0.0
1993	[1] −304	+162.0	−143.0	.....
1994	[1] −303	+175.0	−128.0	.....

[1] Data in these lines are from table II–6, "The Economic and Budget Outlook: An Update", Congressional Budget Office, August, 1989.

[2] Current law does not contain Gramm-Rudman-Hollings numbers for Fiscal Year 1993 and 1994.

Data Sources: "Historical Tables, budget of the United States Government, Fiscal Year 1990," submitted to the Congress by the President and "The Economic and Budget Outlook: An Update," Congressional Budget Office, August, 1989.

Note.—The "Trust Funds" column includes surpluses in the following trust funds: Social Security, Medicare, Military Retirement, Civilian Retirement, Unemployment, Highway and Airports and Airways.

There are no yellow brick road solutions to the budget deficit battle. Given the growth in the Federal funds deficit—it was $85.8 billion in 1981—there is no route to reduction that is entirely safe. Inaction is not an option. Continuing to skirmish around hollow remedies such as Gramm-Rudman will almost certainly plunge us into the financial equivalent of a train wreck.

We must redefine deficit in a way that ends the public's isolation from fiscal reality so we can keep Presidential and congressional sights on the real deficit—the Federal funds deficit. That is the only clear route to practical Federal deficit management.

Mr. QUILLEN. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to comment on one aspect of the proposed rule, and explain its intent. Under the proposed rule, upon adoption of the rule a new section 3404 is added to H.R. 3299. Adding that section is necessary to insure that the child care portion of H.R. 3299 is "abortion neutral," that is, that it neither requires nor forbids providers who receive funds under subtitle E, the "Early Childhood Education and Development Act of 1989," to provide or pay for abortion related services.

Chapters II, III, IV, and V of subtitle E as reported by the Education and Labor Committee incorporate the sex discrimination provisions from the Head Start Act. Section 654 of the Head Start Act contains two separate subsections prohibiting sex discrimination, neither of which contains any limiting language regarding abortion.

My colleagues will recall the work that went into the Tauke-Danforth abortion neutral amendment to title IX of the Education Amendments of 1972 during last year's debate over the Civil Rights Restoration Act. Rather than repeat that debate, the self-executing provision of the rule which adds section 3404 provides that any reference to section 654 of the Head Start Act in subtitle E shall be construed so as to be consistent with the title IX provision.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the provisions of this legislation that lower the capital gains tax and simplify the rules for determining material participation.

I am particularly pleased that the Jenkins-Archer capital gains tax proposal includes timber, an asset that takes as long as 40 or more years to sell and recognize a gain. My colleagues on the Forestry 2000 Task Force and I have made capital gains for timber a very high priority and have worked with the authors of this measure to try to develop an acceptable plan. I commend their hard work and their success.

Mr. Speaker, in recent days we have heard the capital gains tax characterized as a benefit only to the rich. In truth, nearly three-fourths of all 1985 tax returns claiming capital gains were filed by taxpayers with incomes of less than $50,000. Indeed, as Lou Cannon noted in the Washington Post:

> Middle class and working-class Americans who bought a home or a stock years ago with pre-inflated dollars feel they ought to be able to sell their investments without having the proceeds gobbled up by taxes. They favor a capital gains tax.

I could not agree more. In addition to benefiting ordinary American taxpayers and investors, the capital gains tax will stimulate investment, create jobs, and enhance our economy.

Those of us with large numbers of small woodlot owners in our districts also support the inclusion in this bill of the Farm and Woodland Owners Tax Simplification Act. This legislation would amend the "passive loss" provisions of the 1986 Tax Reform Act which impose unreasonable material participation rules on small landowners. This legislation recognizes that tree farmers managing crops that may take 40 years to mature do not necessarily need to manage these crops on the same hourly basis as other crops must be managed.

Mr. Speaker, the cochairmen of the Forestry 2000 Task Force strongly urge other members of the task force to support the Jenkins-Archer amendment as approved by the Ways and Means Committee. In addition, I encourage all Members to support the committee-approved provisions.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge a "yes" vote on reducing the capital gains tax. It is so important to create an incentive to put people back to work.

The argument of the Democrats is misguided because they know in their hearts it is not correct.

So I urge a vote in support of the capital gains tax cut.

I urge also a vote to strike the fairness doctrine when that comes to the floor of the House.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I rise in support of the rule and to note that the very first amendment made in order is an amendment by Mrs. ROUKEMA of New Jersey, who is the ranking member of the Subcommittee on Labor-Management Relations, to strike the so-called Visclosky amendment that was added in about 60 seconds' time at a hurried-up markup by the Committee on Education and Labor with no hearings and very little opportunity for debate.

I want to bring to the attention of the Congress some facts about the Visclosky amendment, the damage it would do to pension beneficiaries throughout this country.

First, by way of background and backdrop, please remember that pension and profit-sharing plans are optional. They are voluntary, they can be established or terminated in the sole discretion of the employer.

There has in fact been a slow erosion of these plans in recent years. If we allow the Visclosky amendment to stay in this bill, that slow erosion will become a mass stampede.

There is no requirement that an employer have a pension or profit-sharing plan. They are considered an optional fringe benefit.

Those pension and profit-sharing plans are typically paid for entirely by the employer. The employers will simply choose not to pay them, not to start them or in fact choose to terminate the ones they have.

There are two reasons employers in fact will run away from pensions or profit-sharing plans if Visclosky stays in the bill.

First, for nonunion plans, which is most of them, it sets up a regulatory nightmare that will make section 89 pale by comparison.

In fact, what the Visclosky amendment contains is a Department of Labor-supervised election for nonunion companies, DOL-supervised elections to have an election for the trustees of the plan. Employers will run like crazy from that prospect.

Second, the Visclosky amendment separates the financial responsibility from the authority to make good investment decisions.

The employer is singularly and solely and completely responsible for the funding of that single employer pension plan or profit-sharing plan.

If you place trustees elected for political reasons into that trusteeship, then they have the authority to make the investment decisions but the losses accrue to the employer.

So an employer looking at that situation, understanding that he makes up for all the investment losses but has none of the decisions, will simply terminate the plans and the employees will lose.

I urge a vote for the Roukema amendment.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 6 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. I thank the gentleman.

As we discuss the rule and consider the contents of the amendments that will be made in order under this rule I want to take a few moments to discuss several points regarding the capital gains feature of the bill. I also would comment briefly on some of the arguments that have been advanced in favor of the Bush-Jenkins proposal.

One of them which has been advanced is that it will create jobs. Now, if we had a 7-percent or a 9-percent unemployment rate, that might be persuasive but the fact is we are effectively near full employment.

If you talk to Alan Greenspan, or the people who manage our macroeconomics, I do not think they want to see a large stimulus to create jobs right now because it would be inherently inflationary.

So the jobs argument does not make a lot of sense because we are at a very low rate of unemployment, as it is.

□ 1400

The second point often alleged is that this will increase savings. Well, let me remind Members that savings do not depend very much at all on the aftertax rate for some specific uses of capital. Aggregate savings in the Nation is only running at 3 percent of net national product now. It is not really a function of the tax system, how that capital is allocated between uses. It is a function of how the Government taxes the different uses of the capital. However, the total amount of savings in a society is very much dependent on the national income and on a variety of other factors, not the Tax Code. The Tax Code has shown itself to be a very, very weak device for increasing total savings. A very powerful device for channeling savings, but not for increasing total savings. I think that argument is not valid and says we will substitute our knowledge, and the Tax Code, for the private market. The private market knows how to allocate capital between real estate and utilities, and steel plants and auto plants. For Members to use the Tax Code to push capital into different uses never seems to work very well, and it is very inefficient for Members to put a political spin on that allocation process.

The third point often alleged is that this will enhance capital markets. My friends, I think tax stability would enhance capital markets, and somebody joked the other day that tax reform would be tax stability. We are in a position where we are changing the Tax Code every single year, and one thing I hear from business friends in Wisconsin is, "Please leave the Tax Code alone for a while so we can plan." Capital gains, it is argued, would stimulate long-term planning, which we need in

terms of efficiency in economy. Let us leave the Tax Code alone so people can plan, instead of changing it every year, as we have been doing.

Even worse in this bill, the 2-year window that the Bush-Jenkins plan creates would be more than just another change, it is inherently unstable. It creates a rush to market, and it will be very desirable to unload real estate and other assets quickly, while the 2-year window is open. That is hardly stabilizing our capital market. It will create a rush to market.

The fourth and final point I want to address, and most important by far, is what the Jenkins-Bush plan will do to the deficit. I am not going to talk about the distribution of benefits. That argument has been worked to death, but one thing overlooked is the effect on the deficit. If Members look at the chart, Members see that the deficit just literally explodes under the Bush-Jenkins plan starting in 1992. Now my friends, we have spent a lot of agony in this body trying to bring that deficit down. There is not the stomach on this side of the aisle for serious domestic cuts in spending, or that side of the aisle for cuts in military spending, to bring the deficit purely down on the cut side. Obviously, there is a political problem with raising taxes. Well, then, what are we doing by putting ourselves deeper in the hole and making it tougher to solve that problem? And here's the crucial point: the deficit we are about to enlarge if we pass Bush-Jenkins is a tax. The deficit is a tax. The deficit is a tax on capital markets, it's tax on all savings, it's tax on your capital market through the interest rate mechanism. Why do Members think interest rates in the United States are 2 or 3 points higher than Germany, Japan, and other countries? Because we have a huge deficit, including the Federal dissavings that wipes out almost our entire private savings, and therefore we have to borrow internationally to replace that money. That will be worse. Worse, not better, if the Bush-Jenkins plan is enacted. That is a tax.

If a person has a $50,000 mortgage, that is $1,000 per year tax. That 2-percent differential rate I mentioned, and it could be a 3-percent differential compared with some countries, is almost entirely attributable to the deficit, and is $1,000 a year on your mortgage. That is a tax.

You cannot tell me we will go for a no-tax scenario. There is no no-tax scenario. If you drive up the deficit, as this bill will do, you are taxing every American who finances a home or a car or anything else. It is easier to do it that way because the public isn't mad at the politicians, they will be mad at their banker, or they will be mad at some impersonal capital markets. But the fact is, we have to take responsibility for what we are doing, and what we are doing is raising taxes through the capital market system by adding 2 or 3 points onto interest rates.

So, there is no such thing as a no-tax scenario, my friends. If you adopt the Bush-Jenkins plan to cut capital gains, you will enlarge the deficit in 1992 and later years, primarily as a result of what I consider to be an irresponsible and avoidable step.

The SPEAKER pro tempore (Mr. Bosco). The Chair would announce that the gentleman from South Carolina [Mr. DERRICK] has 10 minutes remaining, and the gentleman from Tennessee [Mr. QUILLEN] has 15½ minutes remaining.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, if the Congress were a savings and loan, Federal regulators would shut us down for mismanagement and bankruptcy. They wouldn't need to replace us, because we do not do anything.

We have not done anything all year. We have not tightened our ethics rules, addressed pay or honoraria, reformed campaign finance, extended the debt ceiling, or passed clean air. We have not enacted our 13 appropriations bills, passed budget reconciliation, repealed section 89 or catastrophic. And now it appears we have not avoided Gramm-Rudman cuts.

We live in a fantasy world. How else do you explain this reconciliation bill? It is a deficit reduction bill wherein we fight over competing versions of a tax cut? It is a deficit reduction bill with a massive child care entitlement. No, make that two, contradictory, child care entitlements. It also has two, contradictory, approaches to physician payment reform.

And, of course, this June 15 reconciliation bill arrives right on schedule on September 27, too late to stop Gramm-Rudman. And, of course, it is OK to put all these matters in one huge bill, although we can only manage it with several rules.

It is ridiculous, Mr. Speaker. It is downright silly. "Recon-silly-ation" is about the right word for it.

Mr. DERRICK. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise in strong support of the rule granted H.R. 3299, the Omnibus Budget Reconciliation Act of 1989.

This year's budget reconciliation measure includes an unprecedented potpourri of polemical problems, employee pension rights, of which the Roukema amendment is made in order. Capital gains, section 89, catastrophic health care, and child care, not to mention a bundle of smaller but nonetheless very important issues are all part of this monstrous bill. Crafting a rule that permitted free debate, without becoming unwieldly and interminable was no small feat.

When the House considers this crucial issue, you will have three options before you: First, the Republican substitute which enhances the earned income tax credit [EITC] for the working poor but does not directly address improving the quality and availability of child care services; second, the Stenholm/Shaw substitute which combines flexible grant programs with the enhanced EITC; or third, relinquishing the power of the House to work its will, and instead, sending the conflicting Hawkins and Downey child care provisions to conference, allowing others to make your decision for you.

We believe that the most reasonable, responsible, and truly constructive option you could choose would be to support the Stenholm/Shaw substitute.

I commend Chairman MOAKLEY and the entire Rules Committee for finding that appropriate balance in virtually all cases. Ideally, I would rather see each of these issues handled separately, outside of reconciliation. In the future, I hope that the House will remember the juggling headaches we are experiencing right now. However, since the Rules Committee was presented with the entire package and left to figure out the proper balance of debate and timeliness, they did what I truly believe was the best they could.

Many tough decisions lie before all of us in the next few days. While taking a position may at times cause us discomfort, I am grateful that the Rules Committee afforded us the opportunity to make those decisions and cast our votes on the wide variety of issues at hand.

I urge my colleagues to join me today in supporting the rule for this year's budget reconciliation package.

□ 1410

Mr. DERRICK. Mr. Speaker, I yield 2 minutes, for purposes of debate only, to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I am going to vote for the rule and find out what everybody has to say.

All I would like to say now is that we know there is an old saying that you never heard of anybody who committed suicide by jumping out of a basement window. That is the only consolation to America's working poor. Congress is saying, "Don't worry, things are going to get better. No one commits suicide by jumping out of a basement window. You'll stay in the basement, and look how safe you're going to be."

We cut taxes before, and we ended up with great amounts of red ink. We had tidal waves that did not raise all ships, but they flooded out the workers' basements.

Mr. Speaker, we have a new social class in America today. It is called the working poor. They cannot buy a home; they can only rent. They make $3.50 to $5.50 an hour, and they have two or three different jobs. They have no benefits. They cannot afford to get sick because they cannot afford insurance.

Now we are going to make more cuts. I stand here today and say that from what I understand, if it is a family of four that makes $200,000, under the Republican plan they will get a $25,000 tax break. If it is a family of four that makes $25,000 a year, they will get $15 a year under the Republican plan.

But what bothers me is the statement made yesterday by our colleague, the gentleman from Arkansas [Mr. ANTHONY]. On the Democratic alternative of reinstating the IRA's, he said that 80 percent of the people who invest in IRA's make more than $100,000. Let us quit kidding ourselves. We keep cutting taxes, and we keep going further in the hole.

Why do we not just stabilize what we are doing so people can figure out a long-range tax program for America? We keep changing the rules so often. We snatch away the ITC, we snatch away the IRA's, and now we are going to throw them back in. Let us face it. Maybe we are cutting too much, and maybe Congress should not be discussing taxes as much as we are, but the only consolation again is that to those working poor out there we can say, "Hey, don't worry, we never heard of anybody committing suicide by jumping out of a basement window, and we know you're never going to be able to afford a highrise."

Mr. ROSTENKOWSKI. Mr. Speaker, I want to congratulate Chairman MOAKLEY and the members of the Rules Committee for their work on the rule for the reconciliation bill. This legislation is about as substantively and politically complex as any bill I have seen in the House. The Rules Committee had the nearly impossible task of fashioning a rule that would accommodate all of the conflicting points of views represented in this bill and the amendments that will be offered. They accomplished that task in a fair manner. I want to thank the committee in particular for addressing a number of jurisdictional concerns of the Committee on Ways and Means regarding various provisions in the bill.

Nevertheless, I am compelled to vote against this rule—and I want to explain why. The fact is this is a reconciliation bill; a bill that is supposed to reduce the deficit. And yet, the rule waives Budget Act points of order against budget-busting amendments—points of order, such as 310(d) of the Budget Act—that would require the proponents of such amendments as the repeal of catastrophic health insurance and the repeal of section 89, to pay for their amendments. The Budget Act's discipline of deficit neutrality applied to all amendments during the markup of the Ways and Means Committee's reconciliation bill. The same rules and discipline should apply on the floor.

We have seen far too much budget gimmickry from the administration this year—from "slide-by" budgets, to "off-budget" financing to a temporary capital gains revenue surge—all in the face of a $130 billion deficit. Sooner or later the President and his economic advisors will have to face the tough decisions that real deficit reduction requires. Waiving points of order against budget busting amendments serves only to postpone the day when that responsibility will have to be met. For these reasons, I must vote no on this rule.

Mr. QUILLEN. Mr. Speaker, I urge the adoption of this rule.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. Bosco). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DERRICK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 371, nays 49, not voting 12, as follows:

[Roll No. 248]

YEAS—371

Ackerman	Buechner	Douglas
Akaka	Bunning	Dreier
Anderson	Bustamante	Durbin
Andrews	Byron	Dwyer
Annunzio	Callahan	Dymally
Anthony	Campbell (CA)	Dyson
Applegate	Campbell (CO)	Eckart
Archer	Cardin	Edwards (CA)
Aspin	Carper	Edwards (OK)
Atkins	Carr	Emerson
AuCoin	Chandler	English
Baker	Chapman	Espy
Ballenger	Clarke	Evans
Barnard	Clay	Fascell
Bartlett	Clement	Fawell
Barton	Clinger	Fazio
Bateman	Coble	Feighan
Bates	Coleman (MO)	Fields
Beilenson	Collins	Fish
Bennett	Combest	Flake
Bentley	Condit	Flippo
Berman	Conyers	Foglietta
Bilbray	Costello	Ford (MI)
Bilirakis	Coughlin	Ford (TN)
Bliley	Coyne	Frank
Boehlert	Craig	Frost
Boggs	Crockett	Gallegly
Bonior	Darden	Gallo
Borski	Davis	Gaydos
Bosco	de la Garza	Gejdenson
Boucher	DeFazio	Gephardt
Boxer	Dellums	Geren
Brennan	Derrick	Gibbons
Brooks	Dickinson	Gillmor
Broomfield	Dicks	Gilman
Browder	Dingell	Gingrich
Brown (CA)	Dixon	Glickman
Brown (CO)	Donnelly	Gonzalez
Bruce	Dorgan (ND)	Goodling
Bryant	Dornan (CA)	Gordon
Goss	McCloskey	Sarpalius
Gradison	McCollum	Sawyer
Grandy	McCrery	Saxton
Grant	McCurdy	Schaefer
Gray	McDade	Scheuer
Green	McDermott	Schneider
Guarini	McEwen	Schroeder
Gunderson	McGrath	Schuette
Hall (OH)	McHugh	Schulze
Hall (TX)	McMillan (NC)	Schumer
Hamilton	McMillen (MD)	Shaw
Hansen	McNulty	Shays
Harris	Meyers	Shuster
Hastert	Mfume	Sikorski
Hatcher	Michel	Sisisky
Hawkins	Miller (CA)	Skeen
Hayes (IL)	Miller (OH)	Slaughter (NY)
Hayes (LA)	Miller (WA)	Slaughter (VA)
Hefley	Mineta	Smith (FL)
Hefner	Moakley	Smith (IA)
Herger	Molinari	Smith (NE)
Hiler	Mollohan	Smith (NJ)
Hoagland	Montgomery	Smith (TX)
Hochbrueckner	Moody	Smith (VT)
Holloway	Moorhead	Smith, Robert (NH)
Hopkins	Morella	Smith, Robert (OR)
Houghton	Morrison (WA)	Snowe
Hoyer	Mrazek	Solarz
Hubbard	Murphy	Solomon
Huckaby	Murtha	Spence
Hunter	Myers	Spratt
Hutto	Nagle	Staggers
Hyde	Natcher	Stallings
Inhofe	Neal (MA)	Stark
Ireland	Neal (NC)	Stearns
James	Nielson	Stenholm
Jenkins	Nowak	Stokes
Johnson (CT)	Oakar	Studds
Johnson (SD)	Oberstar	Stump
Johnston	Ortiz	Sundquist
Jones (GA)	Owens (NY)	Swift
Jones (NC)	Owens (UT)	Synar
Jontz	Oxley	Tallon
Kanjorski	Packard	Tanner
Kaptur	Pallone	Tauke
Kasich	Panetta	Tauzin
Kastenmeier	Parker	Thomas (CA)
Kennedy	Parris	Thomas (GA)
Kennelly	Pashayan	Thomas (WY)
Kleczka	Patterson	Torres
Kolbe	Paxon	Torricelli
Kolter	Payne (NJ)	Towns
Kostmayer	Payne (VA)	Traficant
Kyl	Pelosi	Traxler
LaFalce	Penny	Udall
Lagomarsino	Perkins	Unsoeld
Lancaster	Pickett	Upton
Lantos	Pickle	Valentine
Laughlin	Porter	Vander Jagt
Leath (TX)	Poshard	Vento
Lehman (CA)	Price	Visclosky
Lehman (FL)	Pursell	Volkmer
Lent	Quillen	Vucanovich
Levin (MI)	Rahall	Walgren
Levine (CA)	Ravenel	Walker
Lewis (CA)	Ray	Walsh
Lewis (FL)	Regula	Watkins
Lewis (GA)	Rhodes	Waxman
Lipinski	Richardson	Weber
Livingston	Ridge	Weiss
Lloyd	Rinaldo	Weldon
Long	Ritter	Wheat
Lowery (CA)	Roberts	Whittaker
Lowey (NY)	Robinson	Whitten
Luken, Thomas	Roe	Williams
Lukens, Donald	Ros-Lehtinen	Wilson
Machtley	Rose	Wise
Madigan	Roth	Wolf
Manton	Roukema	Wolpe
Markey	Rowland (CT)	Wyden
Marlenee	Rowland (GA)	Wylie
Martin (NY)	Roybal	
Martinez	Sabo	
Mavroules	Saiki	
Mazzoli	Sangmeister	

NAYS—49

Alexander	Dannemeyer	Hammerschmidt
Armey	DeLay	Hancock
Bereuter	DeWine	Henry
Burton	Downey	Hertel
Conte	Duncan	Hughes
Cooper	Early	Jacobs
Cox	Erdreich	Kildee
Crane	Frenzel	Leach (IA)

Lightfoot	Rangel	Skaggs
Martin (IL)	Rogers	Skelton
Matsui	Rohrabacher	Slattery
Morrison (CT)	Rostenkowski	Smith, Denny (OR)
Nelson	Russo	Yates
Obey	Schiff	Young (AK)
Olin	Sensenbrenner	Young (FL)
Pease	Sharp	
Petri	Shumway	

NOT VOTING—12

Bevill	Florio	McCandless
Coleman (TX)	Garcia	Savage
Courter	Gekas	Stangeland
Engel	Horton	Yatron

□ 1432

Messrs. PEASE, RANGEL, and MATSUI changed their vote from "yea" to "nay."

Mrs. VUCANOVICH and Mr. WATKINS changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. Bosco). Pursuant to House Resolution 245 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3299.

□ 1434

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for further consideration of the bill (H.R. 3299) to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990, with Mr. MAVROULES in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, September 26, 1989, all time for general debate had expired.

Pursuant to House Resolution 249, the bill is considered as having been read for amendment under the 5-minute rule.

The text of H.R. 3299 is as follows:

H.R. 3299

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1989".

SEC. 2. TABLE OF CONTENTS.

Title I—Committee on Agriculture.
Title II—Committee on Banking, Finance and Urban Affairs.
Title III—Committee on Education and Labor.
Title IV—Committee on Energy and Commerce.
Title V—Committee on Government Operations.
Title VI—Committee on Interior and Insular Affairs.
Title VII—Committee on Merchant Marine and Fisheries.
Title VIII—Committee on Post Office and Civil Service.
Title IX—Committee on Veterans' Affairs.
Title X—Non-revenue provisions of the Committee on Ways and Means.
Title XI—Revenue provisions.

TITLE I—COMMITTEE ON AGRICULTURE

SEC. 1001. SOYBEAN, SUNFLOWER, AND SAFFLOWER PLANTING PROGRAM AND FEED GRAIN ACREAGE LIMITATION PROGRAM.

(a) PLANTING OF SOYBEANS, SUNFLOWERS, AND SAFFLOWERS ON PERMITTED ACREAGE.—Effective only for the 1990 crops, the Agricultural Act of 1949 is amended by striking section 504(e) (7 U.S.C. 1464(e)) and inserting the following:

"(e) Notwithstanding any other provision of this Act—

"(1) Effective for the 1990 crops, the Secretary shall, subject to paragraph (2), permit producers on a farm to plant soybeans, sunflowers, or safflowers on a portion specified by the producer (but in any event not more than 25 percent) of the producers' 1990 wheat, feed grain, upland cotton, extra long staple cotton, and rice permitted acreage, as determined by the Secretary.

"(2)(A) The Secretary shall establish a sign-up period during which the producers on a farm, participating in the 1990 crop wheat, feed grain, upland cotton, extra long staple cotton, or rice price support and production adjustment program, must state their intentions regarding use of the increased planting provision under paragraph (1).

"(B) After termination of the sign-up period under subparagraph (A), the Secretary shall estimate whether, based on the anticipated additional soybean, sunflower, and safflower plantings for the crop, the average market price for the 1990 crop of soybeans will be below 115 percent of the loan rate established for the 1989 crop of soybeans.

"(C) If the Secretary estimates that the average market price for the 1990 crop of soybeans will be below 115 percent of such loan rate, the Secretary shall reduce the percentage of permitted acreage on the farm that may be planted to soybeans, sunflowers, and safflowers to a level, or prohibit such plantings, as necessary to ensure that the average soybean market price does not fall below 115 percent of such loan rate.

"(D) The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth the reasons for any reduction in the permitted planting percentage, or prohibition on such plantings, under this paragraph.

"(3)(A) For the purposes of determining the farm acreage base or the crop acreage bases for the farm, any acreage on the farm on which soybeans, sunflowers, or safflowers are planted under this subsection shall be considered to be planted to the program crop for which soybeans, sunflowers, or safflowers are substituted.

"(B) The Secretary may not make program benefits other than soybean or sunflower seed price support loans and purchases available to producers with respect to acreage planted to soybeans, sunflowers, or safflowers under this subsection and shall ensure that the crop acreage bases established for the farm and the farm acreage base are not increased due to such plantings.".

(b) FEED GRAIN ACREAGE LIMITATION PROGRAM.—Effective only for the 1990 crop of feed grains, section 105C(f)(1)(C) of the Agricultural Act of 1949 (7 U.S.C. 1444e(f)(1)(C)) is amended—

(1) by striking "(C)", "1990", "(i)", and "(ii)", and inserting "(C)(i)", "1989", "(I)", and "(II)", respectively; and

(2) by adding at the end the following new clause:

"(ii) In the case of the 1990 crop of feed grains, if the Secretary estimates, not later than September 30, 1989, that the quantity of corn on hand in the United States on the first day of the marketing year for that crop (not including any quantity of corn of that crop) will be—

"(I) more than 2,000,000,000 bushels, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain crop acreage base for the farm for the crop reduced by not less than 12½ percent nor more than 20 percent;

"(II) less than 2,000,000,000 bushels but more than 1,800,000,000 bushels, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain crop acreage base for the farm for the crop reduced by not less than 10 percent nor more than 12½ percent; or

"(III) 1,800,000,000 bushels or less, the Secretary may provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain crop acreage base for the farm for the crop reduced by not more than 10 percent.".

SEC. 1002. DEFICIENCY PAYMENT CALCULATIONS.

(a) RICE.—Effective only for the 1990 crop of rice, section 101A(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1441-1(c)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "(A) The Secretary", "(i)", "(ii)", and "(iii)" and inserting "(A)(i) The Secretary", "(I)", "(II)", and "(III)", respectively; and

(B) by adding at the end of subparagraph (A) the following new clause:

"(ii)(I) The Secretary shall, at the end of the first 5 months of the marketing year for such crop, estimate the amount of the payments due to producers under this paragraph for the 1990 crop. The Secretary shall make available to producers no later than the end of the first 6 months of the marketing year for such crop an interim deficiency payment in an amount not less than the amount determined by multiplying such estimate by 80 percent and then subtracting any amounts paid to the producer pursuant to section 107C for such crop.

"(II) If the deficiency payment payable to a producer for a crop of rice, as finally determined by the Secretary under this Act, is less than the amount paid to the producer as an advance deficiency payment under section 107C and an interim deficiency payment under this clause for the crop, the producer shall refund an amount equal to the difference between the amounts paid and the amount finally determined by the Secretary to be payable to the producer as a deficiency payment for the crop. If the Secretary determines under this Act that deficiency payments will not be made available to producers on a crop with respect to which interim deficiency payments already have been made under this clause, the producers

who received such interim payments shall refund such payments."; and

(3) in subparagraph (C)(i), by striking "first 5 months of the".

(b) FEED GRAINS.—

(1) CALCULATION AND INTERIM PAYMENT.—Effective only for the 1990 crop of feed grains, section 105C(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1444e(c)(1)) is amended—

(A) in subparagraph (A)—

(i) by striking "(A) The Secretary", "(i)", "(ii)", and "(iii)" and inserting "(A)(i) The Secretary", "(I)", "(II)", and "(III)", respectively; and

(ii) by adding at the end of subparagraph (A) the following new clause:

"(ii)(I) The Secretary shall, at the end of the first 5 months of the marketing year for such crop, estimate the amount of the payments due to producers under this paragraph for such crop, excluding any amount due under the provisions of subparagraph (D) for such crop. The Secretary shall make available to producers no later than the end of the first 6 months of the marketing year for such crop an interim deficiency payment in an amount not less than the amount determined by multiplying such estimate by 80 percent and then subtracting any amounts paid to the producer pursuant to section 107C for such crop.

"(II) If the deficiency payment payable to a producer for such crop, as finally determined by the Secretary under this Act, is less than the amount paid to the producer as an advance deficiency payment under section 107C and an interim deficiency payment under this clause for the crop, the producer shall refund an amount equal to the difference between the amounts paid and the amount finally determined by the Secretary to be payable to the producer as a deficiency payment for the crop. If the Secretary determines under this Act that deficiency payments will not be made available to producers on a crop with respect to which interim deficiency payments already have been made under this clause, the producers who received such interim payments shall refund such payments."; and

(B) in subparagraph (C)(i), by striking "first 5 months of the".

(2) TECHNICAL CORRECTION.—Effective only for the 1986 through 1990 crops of feed grains, section 105C(c)(1)(D)(i) of the Agricultural Act of 1949 (7 U.S.C. 1444e(c)(1)(D)(i)) is amended by striking "(a)(4)" and inserting "(a)(3)".

(c) WHEAT.—Effective only for the 1990 crop of wheat, section 107D(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "(A) The Secretary", "(i)", "(ii)", and "(iii)", and inserting "(A)(i) The Secretary", "(I)", "(II)", and "(III)", respectively; and

(B) by adding at the end of subparagraph (A) the following new clause:

"(ii)(I) The Secretary shall, at the end of the first 5 months of the marketing year for such crop, estimate the amount of the payments due to producers under this paragraph for such crop, excluding any amount due under the provisions of subparagraph (E) for such crop. The Secretary shall make available to producers no later than the end of the first 6 months of the marketing year for such crop an interim deficiency payment in an amount not less than the amount determined by multiplying such estimate by 80 percent and then subtracting any amounts paid to the producer pursuant to section 107C for such crop.

"(II) If the deficiency payment payable to a producer for a crop of wheat, as finally determined by the Secretary under this Act, is less than the amount paid to the producer as an advance deficiency payment under section 107C and an interim deficiency payment under this clause for the crop, the producer shall refund an amount equal to the difference between the amounts paid and the amount finally determined by the Secretary to be payable to the producer as a deficiency payment for the crop. If the Secretary determines under this Act that deficiency payments will not be made available to producers on a crop with respect to which interim deficiency payments already have been made under this clause, the producers who received such interim payments shall refund such payments."; and

(3) in subparagraph (D)(i), by striking "first 5 months of the".

SEC. 1003. RICE AND UPLAND COTTON OPTIONAL ACREAGE DIVERSION.

(a) RICE.—Effective only for the 1990 crop of rice, section 101A(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1444-1(c)(1)(B)) is amended—

(1) in clause (i)(II) by striking ", subject to the compliance of the producers with clause (ii)";

(2) by striking clauses (ii) and (iii) and inserting the following new clauses:

"(ii) Notwithstanding any other provision of this section, any producer who elects to devote all or a portion of the permitted rice acreage of the farm to conservation uses (or other uses as provided in subparagraph (G)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to rice and eligible for payments under this subparagraph for such crop at a per hundredweight rate established by the Secretary, except that such rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. Such projected payment rate for the crop shall be announced by the Secretary prior to the period during which rice producers may agree to participate in the program for such crop.

"(iii) The Secretary shall implement this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph, the Secretary is authorized to restrict the total amount of rice acreage that may be taken out of production under this subparagraph, taking into consideration the total amount of rice acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the amount of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed in the case of a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of a disaster that occurred during such crop year."; and

(3) in clause (iv)—

(A) by inserting "(or all)" after "such portion"; and

(B) by inserting "under this subparagraph" after "subparagraph (G))".

(b) UPLAND COTTON.—Effective only for the 1990 crop of upland cotton, section 103A(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1444-1(c)(1)(B)) is amended—

(1) in clause (i)(II), by striking ", subject to the compliance of the producers with clause (ii)";

(2) by striking clauses (ii) and (iii) and inserting the following:

"(ii) Notwithstanding any other provision of this section, any producer who elects to devote all or a portion of the permitted upland cotton acreage of the farm to conservation uses (or other uses as provided in subparagraph (G)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to upland cotton and eligible for payments under this subparagraph for such crop at a per-pound rate established by the Secretary, except that such rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. Such projected payment rate for the crop shall be announced by the Secretary prior to the period during which upland cotton producers may agree to participate in the program for such crop.

"(iii) The Secretary shall implement this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph, the Secretary is authorized to restrict the total amount of upland cotton acreage that may be taken out of production under this subparagraph, taking into consideration the total amount of upland cotton acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the amount of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed in the case of a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of a disaster that occurred during such crop year."; and

(3) in clause (iv)—

(A) by inserting "(or all)" after "such portion"; and

(B) by inserting "under this subparagraph" after "subparagraph (G))".

(c) REGULATIONS.—(1) Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations implementing the amendments made by this section.

(2) Such regulations shall ensure, to the maximum extent practicable, that the programs authorized under this section will not adversely affect the relationships between landlords and tenants, regarding any crop acreage base entered into such programs, in existence on the date of enactment of this Act.

SEC. 1004. REPAYMENT OF ADVANCE DEFICIENCY PAYMENTS.

(a) DELAY IN REFUND.—Section 201(b)(4) of the Disaster Assistance Act of 1988 (7 U.S.C. 1421 note) is amended—

(1) by inserting "notwithstanding the provisions of section 107C(a)(2)(I) of the Agricultural Act of 1949," after "rice,"; and

(2) by striking "July 31, 1989, for that portion of the crop for which a disaster payment is made under subsection (a)" and inserting "December 31, 1989, for producers of such crops if such producers suffered losses of 1988 or 1989 crops due to a natural disaster in 1988 or 1989".

(b) RATIONALE.—For purposes of section 202 of Public Law 100-119, the amendment

made by subsection (a) is a necessary (but secondary) result of a significant policy change.

SEC. 1005. MORATORIUM ON CONSERVATION RESERVE PROGRAM.

Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(1) in subsection (a) by striking "(a) During the 1986 through 1990" and inserting "(a)(1) Except as provided in paragraph (2), during the 1986 through 1992";

(2) in subsection (a) by adding at the end the following:

"(2) The Secretary shall not enter into such contracts during the period beginning on October 1, 1989, through December 31, 1990.";

(3) in subsection (b)(4) by striking "35" and inserting "30"; and

(4) in subsection (b)(5) by striking "1990" and inserting "1992".

SEC. 1006. REDUCTION OF EXPENDITURES UNDER THE EXPORT ENHANCEMENT PROGRAM AND FOR TARGETED EXPORT ASSISTANCE.

(a) EXPORT ENHANCEMENT PROGRAM.—

(1) LIMITATION.—During the fiscal year ending September 30, 1990, the Commodity Credit Corporation shall not, except to the extent provided for under section 4301 of the Agricultural Competitiveness and Trade Act of 1988 (7 U.S.C. 1466 note), make available to exporters, processors, or foreign importers under the authority of section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f)) more than $523,000,000 in commodities of the Commodity Credit Corporation to enhance the export of United States commodities by making the price of such commodities competitive in the world market.

(2) PROMOTION OF UNITED STATES MEAT EXPORTS.—During each of the fiscal years ending September 30, 1990, 1991, and 1992, the Commodity Credit Corporation shall, in carrying out the export enhancement program established pursuant to section 5(f) of the Commodity Credit Corporation Charter Act, promote the export of United States meat, including poultry products, to commissaries on military installations in the European Community. The Commodity Credit Corporation shall make available for such purpose not less than $14,000,000 in funds or commodities for the fiscal year ending September 30, 1990, not less than $9,300,000 in funds or commodities for the fiscal year ending September 30, 1991, and not less than $4,600,000 in funds or commodities for the fiscal year ending September 30, 1992, except that funds or commodities shall be made available under this section only to the extent that funds are made available by the Department of Defense for the costs of transporting the meat to the commissaries. Section 4 of the Act of July 16, 1943 (15 U.S.C. 713a-9) shall not apply to services performed, losses sustained, operating costs incurred, or commodities purchased or delivered by the Commodity Credit Corporation pursuant to the provisions of this section.

(b) TARGETED EXPORT ASSISTANCE.—Section 1124(a) of the Food Security Act of 1985 (7 U.S.C. 1736s(a)) is amended—

(1) by striking "and" at the end of paragraph (2); and

(2) by striking paragraph (3) and inserting the following:

"(3) for the fiscal year 1989, the Secretary shall use under this section not less than $325,000,000 of the funds of, or commodities owned by, the Corporation; and

"(4) for the fiscal year 1990, the Secretary shall use $200,000,000 of the funds of, or commodities owned by, the Corporation.".

SEC. 1007. EXTENSION ON SALE OF RURAL DEVELOPMENT LOANS.

Section 1001 of the Omnibus Budget Reconciliation Act of 1986 (7 U.S.C. 1929a note) is amended by adding at the end the following new subsection:

"(h)(1) Notwithstanding the provisions of section 633 of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 (Public Law 100-460), the Secretary of Agriculture shall offer to the issuer of any unsold note or other obligation described in paragraph (2)(A) for which such issuer made the good faith deposit described in paragraph (2)(A) the opportunity to purchase such note or other obligation consistent with the provisions of this subsection and subsections (f)(2) and (f)(3).

"(2) The provisions of this subsection shall apply only to those issuers who:

"(A) on or before March 9, 1989, made a good faith deposit under this section for fiscal year 1989 with the Secretary to purchase a note or other obligation held in the Rural Development Insurance Fund; and

"(B) otherwise meet all eligibility criteria, as such criteria existed immediately prior to May 9, 1989, at the time the purchase occurs under this subsection.

"(3) The opportunity to purchase any such note or other obligation shall be held open, under the policies and procedures in effect under subsections (f)(2) and (f)(3) immediately prior to May 9, 1989, for 150 days after the date of enactment of this subsection. The Secretary shall not require any further good faith deposit from issuers who qualify under this subsection. The Secretary shall notify eligible issuers of the opportunity afforded under this subsection within 30 days after the date of enactment of this subsection and may require such issuers to express an intention to purchase their note or other obligation by a date certain.".

SEC. 1008. FARM CREDIT.

(a) EXEMPTION FROM REDUCTION.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting "Farm Credit System Financial Assistance Corporation, interest payments (20-1850-0-1-351);" after "Exchange stabilization fund (20-4444-0-3-155);".

(b) REPEAL.—Section 646 of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 (Public Law 100-460), is hereby repealed.

SEC. 1009. SENSE OF CONGRESS REGARDING NATIONAL FINANCE CENTER.

It is the sense of Congress that the Secretary of Agriculture should examine carefully the working capital fund established pursuant to section 1 of the Act of July 12, 1943 (7 U.S.C. 2235), as it relates to the National Finance Center to determine—

(1) the appropriate level at which the working capital fund should be funded; and

(2) if the working capital fund is currently funded at an excessive level.

SEC. 1010. LIMITATION ON OUTLAYS OF THE DISASTER ASSISTANCE ACT OF 1989.

(a) LIMITATION.—Section 154 of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended to read as follows:

"(a) MAXIMUM AMOUNT.—Notwithstanding any other provision of law, if the area planted in the United States to the 1989 crop of barley is greater than 9,290,000 acres and to the 1989 crop of oats is greater than 12,500,000 acres, as reported by the Department of Agriculture in the report released in October 1989 entitled 'Crop Production', then the amount of payments made available to producers of the 1990 crops of wheat, feed grains, upland cotton, and rice, under sections 107D(c), 105C(c), 103A(c), and 101A(c) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c), 1444e(c), 1444-1(c), and 1441-1(c)) shall be reduced by—

"(1) in the case of wheat, 9.7 cents per bushel;

"(2) in the case of corn, 9.7 cents per bushel (and a comparable amount for other feed grains, as determined by the Secretary);

"(3) in the case of upland cotton, 2.2 cents per pound; and

"(4) in the case of rice, 21.6 cents per hundredweight.

"(b) APPLICATION TO ADVANCE DEFICIENCY PAYMENTS.—To the extent practicable, the Secretary shall implement the reduction required under subsection (a) by reducing any advance deficiency payment made available to producers of such 1990 crops under section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b-2).".

(b) CONFORMING AMENDMENT.—Effective only for the 1990 crops of wheat, feed grains, upland cotton, and rice, section 107C(a)(2)(G) of the Agricultural Act of 1949 (7 U.S.C. 1445b-2(a)(2)(G)) is amended by inserting after "this Act" the following: "(less any reduction in the payment required under section 154 of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note))".

TITLE II—COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

SEC. 2001. EXTENSION OF FLOOD INSURANCE PROGRAM.

(a) GENERAL AUTHORITY.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(b) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(c) ESTABLISHMENT OF FLOOD-RISK ZONES.—Section 1360(a)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(a)(2)) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(d) LIMITATION ON PREMIUMS.—Section 541(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 4015 note) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(e) STRUCTURES ON LAND SUBJECT TO IMMINENT COLLAPSE OR SUBSIDENCE.—Section 1306(c)(7) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(7)) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

SEC. 2002. EXTENSION OF CRIME INSURANCE PROGRAM.

(a) GENERAL AUTHORITY.—Section 1201(b) of the National Housing Act (12 U.S.C. 1749bbb(b)) is amended by striking "September 30, 1989" in the matter preceding paragraph (1) and inserting "September 30, 1991".

(b) CONTINUATION OF EXISTING CONTRACTS.—Section 1201(b)(1) of the National Housing Act (12 U.S.C. 1749bbb(b)(1)) is amended by striking "September 30, 1990" and inserting "September 30, 1992".

(c) LIMITATION ON PREMIUMS.—Section 542(c) of the Housing and Community Development Act of 1987 (12 U.S.C. 1749bbb-10c note) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

TITLE III—COMMITTEE ON EDUCATION AND LABOR

SEC. 3000. TABLE OF CONTENTS OF TITLE.

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Subtitle A—Education and Labor Provisions

CHAPTER 1—STUDENT LOAN RECONCILIATION AMENDMENTS

SEC. 3001. SHORT TITLE.

This chapter may be cited as the "Student Loan Reconciliation Amendments of 1989".

SEC. 3002. STUDENT LOAN INTERNSHIP DEFERMENTS.

(a) FISL PROGRAM.—Section 427(a)(2)(C)(i) of the Higher Education Act of 1965 (20 U.S.C. 1077(a)(2)(C)(i)) is amended by inserting before the semicolon at the end thereof the following: ", except that no borrower shall be eligible for a deferment under this clause while serving in a medical profession internship or residency program".

(b) GSL PROGRAM.—Section 428(b)(1)(M)(i) of such Act (20 U.S.C. 1078(b)(1)(M)(i)) is amended by inserting before the semicolon at the end thereof the following: ", except that no borrower shall be eligible for a deferment under this clause while serving in a medical profession internship or residency program".

(c) NDSL PROGRAM.—Section 464(c)(2)(A)(i) of such Act (20 U.S.C. 1087dd(c)(2)(A)(i)) is amended by inserting before the semicolon at the end thereof the following: ", except that no borrower shall be eligible for a deferment under this clause while serving in a medical profession internship or residency program".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective for all loans made, insured, or guaranteed under part B or E of title IV of the Higher Education Act of 1965, including loans made before the date of enactment of this Act, and shall take effect on October 1, 1989.

SEC. 3003. SUPPLEMENTAL LOANS FOR STUDENTS.

(a) AMENDMENT.—Section 428A(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078-1) is amended to read as follows:

"(1) ANNUAL LIMIT.—Subject to paragraphs (2) and (3), the maximum amount a student who has successfully completed the first year of a program of undergraduate education may borrow in any succeeding

academic year or its equivalent (as defined by regulation by the Secretary) is $4,000. A student who has not successfully completed such first year may not borrow any amount under this section.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 1989 and shall cease to be effective on October 1, 1991.

SEC. 3004. DEFAULT REDUCTION PROGRAM.

(a) AMENDMENT.—Section 428F of the Higher Education Act of 1965 (20 U.S.C. 1078-6) is amended to read as follows:

"DEFAULT REDUCTION PROGRAM

"SEC. 428F. (a) PROGRAM REQUIREMENTS.—

"(1) AUTHORITY TO ESTABLISH A DEFAULT REDUCTION PROGRAM.—The Secretary shall, in accordance with the requirements of this section, establish a default reduction program for borrowers who have one or more loans under part B of this title which are in default, as defined in section 435(l), as of the date of enactment of this section. Such program shall be commenced on October 1, 1989, and shall last for six months.

"(2) ELIGIBILITY FOR THE BENEFITS OF THE DEFAULT REDUCTION PROGRAM.—In order to be eligible for the benefits of the default reduction program, a borrower who has a loan or loans which are in default shall contact the holder of such loan or loans during the default reduction program and shall pay in full all remaining principal and interest on such loan or loans.

"(3) BENEFITS OF THE DEFAULT REDUCTION PROGRAM.—For each borrower meeting the requirement of paragraph (2)—

"(A) no penalties shall be charged on defaulted loans which are paid in full;

"(B) any information on the defaulted loan or loans which has been reported to credit bureaus shall be removed; and

"(C) notwithstanding section 484, eligibility to receive additional assistance under this title shall be reestablished.

"(b) OTHER REPAYMENT INCENTIVES.—

"(1) SALE OF LOAN.—

"(A) Upon securing consecutive payments for 12 months of amounts owed on a loan for which the Secretary has made a payment under paragraph (1) of section 428(c), the guaranty agency (pursuant to an agreement with the Secretary) or the Secretary shall, if practicable, sell the loan to an eligible lender. Such loan shall not be sold to an eligible lender who has been found by the guaranty agency or the Secretary to have substantially failed to exercise the due diligence required of lenders under this part.

"(B) An agreement between the guaranty agency and the Secretary for purposes of this paragraph shall provide—

"(i) for the repayment by the agency to the Secretary of 81.5 percent of the amount of the principal balance outstanding at the time of such sale, multiplied by a percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

"(ii) for the reinstatement by the Secretary (I) of the obligation to reimburse such agency for the amount expended by it in discharge of its insurance obligation under its loan insurance program and (II) of the obligation to pay to the holder of such loan a special allowance pursuant to section 438.

"(C) A loan which does not meet the requirements of subparagraph (A) may also be eligible for sale under this paragraph upon a determination that a loan was in default due to clerical or data processing error and would not, in the absence of such error, be in a delinquent status.

"(2) USE OF PROCEEDS OF SALES.—Amounts received by the Secretary pursuant to the sale of such loans by a guaranty agency under this paragraph shall be deducted from the calculations of the amount of reimbursement for which the agency is eligible under paragraph (1)(B)(ii) of this section for the fiscal year in which the amount was received, notwithstanding the fact that the default occurred in a prior fiscal year.

"(3) BORROWER ELIGIBILITY.—Any borrower whose loan is sold under paragraph (1) shall not be precluded by section 484 from receiving additional loans under this title (for which he or she is otherwise eligible) on the basis of defaulting on the loan prior to such loan sale.

"(4) APPLICABILITY OF GENERAL LOAN CONDITIONS.—A loan which is sold under this paragraph shall, so long as the borrower continues to make scheduled repayments thereon, be subject to the same terms and conditions and qualify for the same benefits and privileges as other loans made under this part.".

(b) PUBLICITY.—The Secretary of Education shall, from funds available through student loan collections, commencing not less than 30 days before the beginning of the default reduction program required by the amendment made by this section, and continuing throughout the duration of such program, widely publicize (through various communications media) the availability of the default reduction program.

SEC. 3005. ADDITIONAL REQUIREMENTS WITH RESPECT TO DISBURSEMENT OF STUDENT LOANS.

(a) AMENDMENT.—Part B of title IV of the Higher Education Act of 1965 is amended by inserting after section 428F (20 U.S.C. 1078-6) the following new section:

"REQUIREMENTS FOR DISBURSEMENT OF STUDENT LOANS

"SEC. 428G. (a) MULTIPLE DISBURSEMENT REQUIRED.—

"(1) TWO DISBURSEMENTS REQUIRED.—The proceeds of any loan made, insured, or guaranteed under this part that is made for any period of enrollment that ends more than 180 days (or 6 months) after the date disbursement is scheduled to occur, and that is for an amount of $1,000 or more, shall be disbursed in 2 or more installments, none of which exceeds one-half of the loan.

"(2) MINIMUM INTERVAL REQUIRED.—The interval between the first and second such installments shall be not less than one-half of such period of enrollment, except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment.

"(b) METHOD OF MULTIPLE DISBURSEMENT.—Disbursements under subsection (a)—

"(1) shall be made in accordance with a schedule provided by the institution (under section 428(a)(2)(A)(i)(III)) that complies with the requirements of this section; and

"(2) may be made directly by the lender or, in the case of a loan under section 428, may be disbursed pursuant to the escrow provisions of subsection (i) of such section.

"(c) WITHHOLDING OF SECOND DISBURSEMENT.—

"(1) WITHDRAWING STUDENTS.—A lender or escrow agent that is informed by the borrower or the institution that the borrower has ceased to be enrolled on at least a half-time basis before the disbursement of the second or any succeeding installment shall withhold such disbursement unless notified by the institution that such disbursement is necessary to cover costs already earned by the institution (within the meaning of section 485(a)). Any disbursement which is so withheld shall be credited to the borrower's loan and treated as a prepayment thereon.

"(2) STUDENTS RECEIVING OVER-AWARDS.—If the sum of a disbursement installment for any student and the other financial aid obtained by such student exceeds the amount of assistance for which the student is eligible under this title, the institution such student is attending shall withhold and return to the lender or escrow agent the portion (or all) of such installment that exceeds such eligible amount. Any portion (or all) of a disbursement installment which is so returned shall be credited to the borrower's loan and treated as a prepayment thereon.

"(d) AGGREGATION OF MULTIPLE LOANS.—All loans issued for the same period of enrollment shall be considered as a single loan for the purposes of subsection (a) of this section.

"(e) EXCLUSION OF PLUS, CONSOLIDATION, AND FOREIGN STUDY LOANS.—The provisions of this section shall not apply in the case of a loan made under section 428B or 428C or made to a student to cover the cost of attendance at an eligible institution outside the United States.

"(f) BEGINNING OF PERIOD OF ENROLLMENT.—For purposes of this section, a period of enrollment begins on the first day that classes begin for the applicable period of enrollment.".

(c) CONFORMING AMENDMENTS.—

(1) TRANSMITTAL OF INSTITUTION SCHEDULES TO LENDERS.—Section 428(a)(2)(A)(i) of the Higher Education Act of 1965 (20 U.S.C. 1078(a)(2)(A)(i)) is amended—

(A) by striking "and" at the end of clause (I); and

(B) by inserting after clause (II) the following:

"(III) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G; and".

(2) FEDERALLY INSURED LOANS.—Section 427(a)(4) of the Higher Education Act of 1965 (20 U.S.C. 1077(a)(4)) is amended to read as follows:

"(4) the funds borrowed by a student are disbursed in accordance with section 428G.".

(3) GUARANTEED LOANS.—Section 428(b)(1)(O) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(O)) is amended to read as follows:

"(O) provides that the proceeds of the loans will be disbursed in accordance with the requirements of section 428G;".

SEC. 3006. SANCTIONS AGAINST LENDERS AND LENDERS' AGENTS.

Section 432 of the Higher Education Act of 1965 (20 U.S.C. 1082) is amended by adding at the end thereof the following new subsections:

"(j) AUTHORITY OF THE SECRETARY TO TAKE EMERGENCY ACTIONS AGAINST LENDERS.—

"(1) IMPOSITION OF SANCTIONS.—If the Secretary—

"(A) receives information, determined by the Secretary to be reliable, that a lender is violating any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation;

"(B) determines that immediate action is necessary to prevent misuse of Federal funds; and

"(C) determines that the likelihood of loss outweighs the importance of following the

limitation, suspension, or termination procedures authorized in subsection (h),

the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to the lender (by registered mail, return receipt requested), take emergency action to stop the issuance of guarantee commitments and the payment of interest benefits and special allowance to the lender.

"(2) LENGTH OF EMERGENCY ACTION.—An emergency action under this subsection may not exceed 30 days unless a limitation, suspension, or termination proceeding is initiated against the lender under subsection (h) before the expiration of that period.

"(3) OPPORTUNITY TO SHOW CAUSE.—The Secretary shall provide the lender, if it so requests, an opportunity to show cause that the emergency action is unwarranted.

"(k) AUTHORITY OF THE SECRETARY TO LIMIT, SUSPEND, TERMINATE, OR FINE LENDERS' AGENTS.—

"(1) IMPOSITION OF SANCTIONS.—If the Secretary, after a reasonable notice and opportunity for hearing, has determined that an individual or an organization that has contracted with a lender to administer any aspect of the lender's participation in a student loan insurance program operated by a guaranty agency under this part, has, while acting on behalf of the lender, violated or failed to carry out any provision of this part, any regulation prescribed under this part, or any applicable special arrangement, agreement, or limitation, the Secretary shall (A) limit, suspend, or terminate the eligibility of the individual or organization to contract with any lender to administer any aspect of the lender's participation in a student loan insurance program operated by a guaranty agency under this part, or (B) impose a civil penalty on the individual or organization consistent with the requirements of subsection (g), except that no period of suspension under this paragraph shall exceed 60 days unless the individual or organization and the Secretary agree to an extension, or unless limitation or termination proceedings are initiated by the Secretary against the individual or organization within that period of time.

"(2) REMOVAL OF SANCTIONS.—The Secretary shall not lift any limitation, suspension, or termination imposed by the Secretary under paragraph (1) until the Secretary is satisfied that the individual or organization's violation or failure has ceased and finds that there are reasonable assurances that the individual or organization will—

"(A) exercise necessary care and diligence; and

"(B) cease to engage in the practices that led to the violation or failure.

"(l) AUTHORITY OF THE SECRETARY TO TAKE EMERGENCY ACTIONS AGAINST LENDERS' AGENTS.—

"(1) IMPOSITION OF SANCTIONS.—If the Secretary—

"(A) receives information, determined by the Secretary to be reliable, that an individual or an organization that has contracted with a lender to administer any aspect of the lender's participation in a student loan insurance program operated by a guaranty agency under this part, is, while acting on behalf of the lender, violating any provision of this part, any regulation prescribed under this part, or any applicable special arrangement, agreement, or limitation;

"(B) determines that immediate action is necessary to prevent misuse of Federal funds; and

"(C) determines that the likelihood of loss outweighs the importance of following the limitation, suspension, or termination procedures authorized in subsection (k),

the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to the individual or organization (by registered mail, return receipt requested), take emergency action to withhold funds from the individual or organization and withdraw the individual or organization's authority to act on behalf of a lender under any program under this part.

"(2) LENGTH OF EMERGENCY ACTION.—An emergency action under this subsection may not exceed 30 days unless a limitation, suspension, or termination proceeding is initiated against the individual or organization under subsection (k) before the expiration of that period.

"(3) OPPORTUNITY TO SHOW CAUSE.—The Secretary shall provide the individual or organization, if it so requests, an opportunity to show cause that the emergency action is unwarranted.".

SEC. 3007. EFFECT OF LOSS OF ACCREDITATION.

(a) STATUS AS ELIGIBLE INSTITUTION FOR GSL PROGRAM.—Section 435 of the Higher Education Act of 1965 (20 U.S.C. 1085) is amended—

(1) in subsection (a)(1), by striking out "The term" and inserting "Subject to subsection (m), the term"; and

(2) by adding at the end thereof the following:

"(m) IMPACT OF LOSS OF ACCREDITATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an institution may not be certified or recertified as an eligible institution under subsection (a) of this section if such institution has—

"(A) had its accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months; or

"(B) withdrawn from accreditation voluntarily under a show cause or suspension order during the preceding 24 months.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to an institution if—

"(A) such institution's accreditation has been restored by the same accrediting agency which had accredited it prior to the withdrawal, revocation or termination; or

"(B) such institution has demonstrated its academic integrity to the satisfaction of the Secretary in accordance with section 1201(a)(5) (A) or (B) of this Act.".

(b) STATUS AS ELIGIBLE INSTITUTION FOR OTHER TITLE IV PROGRAMS.—Section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088) is amended—

(1) in subsection (a)(1), by striking out "For the purpose" and inserting "Subject to subsection (e), for the purpose";

(2) by adding at the end thereof the following:

"(e) IMPACT OF LOSS OF ACCREDITATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an institution may not be certified or recertified as an institution of higher education under subsection (a) of this section if such institution has—

"(A) had its accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months; or

"(B) withdrawn from accreditation voluntarily under a show cause or suspension order during the preceding 24 months.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to an institution if—

"(A) such institution's accreditation has been restored by the same accrediting agency which had accredited it prior to the withdrawal, revocation or termination; or

"(B) such institution has demonstrated its academic integrity to the satisfaction of the Secretary in accordance with section 1201(a)(5)(A) or (B) of this Act.".

SEC. 3008. NATIONAL STUDENT LOAN DATA SYSTEM.

Section 485B of the Higher Education Act of 1965 (20 U.S.C. 1092b) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

SEC. 3009. SANCTIONS AGAINST INSTITUTIONS AND INSTITUTIONS' AGENTS.

Section 487(c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1094(c)(1)) is amended—

(1) in subparagraph (C), by striking out "and" at the end thereof;

(2) in subparagraph (D)—

(A) by striking out "or any regulation prescribed under this title," and inserting in lieu thereof a comma and "any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation,"; and

(B) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(E) an emergency action against an institution, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to the institution (by registered mail, return receipt requested), withhold funds from the institution or its students and withdraw the institution's authority to obligate funds under any program under this title, if the Secretary (i) receives information, determined by the Secretary to be reliable, that the institution is violating any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation, (ii) determines that immediate action is necessary to prevent misuse of Federal funds, and (iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (D) for limitation, suspension, or termination, except that an emergency action shall not exceed 30 days unless limitation, suspension, or termination proceedings are initiated by the Secretary against the institution within that period of time, and except that the Secretary shall provide the institution an opportunity to show cause, if it so requests, that the emergency action is unwarranted;

"(F) the limitation, suspension, or termination of the eligibility of an individual or an organization to contract with any institution to administer any aspect of an institution's student assistance program under this title, or the imposition of a civil penalty under paragraph (2)(B), whenever the Secretary has determined, after reasonable notice and opportunity for a hearing on the record, that such organization, acting on behalf of an institution, has violated or failed to carry out any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this subparagraph shall exceed 60 days unless the organization and the Secretary agree to an extension, or unless limitation or termination proceedings are initiated by the Secretary against the individual or organization within that period of time; and

"(G) an emergency action against an individual or an organization that has contract-

ed with an institution to administer any aspect of the institution's student assistance program under this title, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to such individual or organization (by registered mail, return receipt requested), withhold funds from the individual or organization and withdraw the individual or organization's authority to act on behalf of an institution under any program under this title, if the Secretary (i) receives information, determined by the Secretary to be reliable, that the individual or organization, acting on behalf of an institution, is violating any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation, (ii) determines that immediate action is necessary to prevent misuse of Federal funds, and (iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (F), for limitation, suspension, or termination, except that an emergency action shall not exceed 30 days unless the limitation, suspension, or termination proceedings are initiated by the Secretary against the individual or organization within that period of time, and except that the Secretary shall provide the individual or organization an opportunity to show cause, if it so requests, that the emergency action is unwarranted.".

Chapter 2—Pension Plan Reversions and Health Benefits

SEC. 3051. GENERAL RULES GOVERNING FIDUCIARY STANDARDS APPLICABLE TO PLAN ASSETS OF TERMINATED PLANS.

(a) EXCLUSIVE PURPOSES FOR HOLDING PLAN ASSETS.—Section 403(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(c)(1)) is amended to read as follows:

"(c)(1) Except as provided in paragraph (2), (3), or (4) or subsection (d) or (e), the assets of a plan shall never inure to the benefit of any employer and shall be held for the exclusive purposes of providing benefits to participants in the plan and their beneficiaries (except to the extent necessary to provide for distribution of available plan assets to such participants and beneficiaries upon plan termination in accordance with allocations pursuant to section 4044) and defraying reasonable expenses of administering the plan.".

(b) FIDUCIARY DUTIES WITH RESPECT TO PLAN ASSETS OF TERMINATED PLANS.—Section 404(a)(1) of such Act (29 U.S.C. 1104(a)(1)) is amended—

(1) by striking "Subject to" and all that follows through "beneficiaries and—" and inserting "Subject to subsections (c), (d), and (e) of section 403, a fiduciary shall discharge his or her duties with respect to a plan solely in the interest of the participants and beneficiaries and—";

(2) by striking subparagraph (A) and inserting the following:

"(A) for the exclusive purpose of:

"(i) providing benefits to participants and their beneficiaries (except to the extent necessary to provide for distribution of available plan assets to such participants and beneficiaries upon plan termination in accordance with allocations pursuant to section 4044); and

"(ii) defraying reasonable expenses of administering the plan;"; and

(3) by striking subparagraph (D) and inserting the following:

"(D) in accordance with the documents and instruments governing the plan insofar as such documents and instruments are consistent with the provisions of this title and title IV.".

(c) EFFECTIVE DATE.—Except as otherwise provided in this subsection, the amendments made by this section shall apply in the case of any termination of a plan under section 4041 of the Employee Retirement Income Security Act of 1974 (other than a plan with no participants at the time the notice of intent to terminate was filed) if the date of the final distribution of assets is on or after July 13, 1989. The amendment made by subsection (b)(3) of the second section of this part shall be effective as if it were included in section 404(a)(1)(D) of the Employee Retirement Income Security Act of 1974 at the time of its enactment.

SEC. 3052. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL.—Section 403 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103) is amended by adding at the end thereof the following new subsection:

"(e)(1) The requirements of this part shall not be treated as violated with respect to a plan solely by reason of a qualified transfer of excess pension assets in such plan to a health benefits account established or maintained by such plan if the plan specifically provides for such transfer.

"(2) For purposes of paragraph (1), the term 'qualified transfer' means any transfer of excess pension assets to a health benefits account with respect to which—

"(A) the limitations of paragraph (3) are met,

"(B) the use requirements of paragraph (4) are met, and

"(C) health benefits are provided through such account on the basis of a classification which is not discriminatory in favor of highly compensated employees (within the meaning of section 414(q) of the Internal Revenue Code of 1986).

"(3)(A) No amount may be transferred to a health benefits account if, immediately after the transfer, the balance in the account would exceed the present value of the benefits to be provided under the health benefits account to former employees who, immediately before the transfer, are currently entitled to receive benefits through the account by reason of their participation under the plan (and their spouses and dependents).

"(B) The maximum amount otherwise permitted to be transferred under subparagraph (A) shall be reduced by the amount of any assets which otherwise have been set aside for the payment of benefits of the types which are provided through the health benefits account (whether such benefits are provided in such account or otherwise).

"(4) The requirements of this paragraph are met if, under the plan—

"(A) Any assets transferred to a health benefits account in a qualified transfer (and any income properly allocable thereto)—

"(i) shall be used only to pay for benefits provided through such account, and

"(ii) upon satisfaction of all liabilities with respect to benefits provided through such account, shall be transferred out of the account and remain in the plan to be used in accordance with the provisions of this Act.

"(B) Benefits provided after a qualified transfer to former employees taken into account under paragraph (3) with respect to such transfer (and their spouse and dependents)—

"(i) may not be reduced below the greater of—

"(I) the level of the benefits in effect for the 3rd plan year preceding the plan year in which the qualified transfer occurs (or, if later, the 1st plan year for which health benefits are provided for under the plan), or

"(II) the level of benefits in effect immediately before the transfer, and

"(ii) may not otherwise be modified in such a manner as to increase the cost to the former employees for such benefits immediately before the transfer (or, if less, at the time described in clause (i)(I)).

"(C) All participants in the plan immediately before the transfer have a nonforfeitable right to retirement benefits under the plan after the transfer.

"(5) For purposes of this subsection, the term 'excess pension assets' means the excess (if any) of—

"(A) the lesser of—

"(i) the fair market value of the assets of a pension plan that is a single-employer plan (without regard to assets allocable to a health benefits account), or

"(ii) the value of such assets determined under section 302(c)(2), over

"(B) 150 percent of the benefit liabilities of the plan (as determined under section 4001(16) without regard to liabilities for benefits provided through a health benefits account).

The determination of excess pension assets shall be made as of the time of the transfer.

"(6) For purposes of this subsection, the term 'health benefits account' means an account—

"(A) established and maintained under section 401(h) of the Internal Revenue Code of 1986; and

"(B) under which benefits may be provided only to individuals entitled to such benefits solely by reason of participation in the plan of which it is a part (and their spouses and dependents).

"(7) Each actuarial assumption used for purposes of this subsection must be reasonable by itself and in the aggregate.

"(8) Nothing in this subsection shall be construed as allowing a transfer of assets in violation of the terms and conditions of a collective bargaining agreement."

(b) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Section 408(b) of such Act (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

"(12) A transfer of excess pension assets to a health benefits account in a qualified transfer under section 403(e).".

(c) NOTICE REQUIREMENTS.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE OF TRANSFER OF EXCESS PENSION ASSETS TO HEALTH BENEFITS ACCOUNTS.—

"(1) NOTICE TO PARTICIPANTS.—Not later than 60 days before the date of a qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the administrator of the plan shall notify (in such manner as the Secretary may prescribe) each participant and beneficiary under the plan of such transfer. Such notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, and the amount of health benefits liabilities to be funded with the assets transferred.

"(2) NOTICE TO SECRETARIES, ADMINISTRATOR, AND EMPLOYEE ORGANIZATIONS.—

"(A) IN GENERAL.—Not later than 60 days before the date of any qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the employer maintaining the plan from which the transfer is made shall provide the Secretary, the Secretary of the Treasury, the administrator, and each employee organization representing participants in the plan a written notice of such transfer. A copy of any such notice shall be maintained in the principal office of the administrator.

"(B) INFORMATION RELATING TO TRANSFER.—Such notice shall identify the plan from which the transfer is made, the amount of the transfer, a detailed accounting of assets held by the plan immediately before and immediately after the transfer, the benefit liabilities under the plan at the time of the transfer, and a listing of all transactions described in section 208 involving the plan during the period commencing with the period of 2 calendar years preceding the transfer and ending with the date of the transfer.

"(C) RELATED FILINGS.—Such notice shall include copies of all filings required by the Secretary of the Treasury or such Secretary's delegate pursuant to section 6058 of the Internal Revenue Code of 1986 with respect to the plan from which the transfer is made.

"(D) CERTIFICATION BY ENROLLED ACTUARY.—Such notice shall include a certification by an enrolled actuary (including supporting documentation) that the requirements of section 403(e) were met with respect to the transfer.

"(E) AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS.—The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purpose of section 403(e) and other related provisions.

"(3) DEFINITIONS.—For purposes of paragraph (1), any term used in such paragraph which is also used in section 403(e) shall have the same meaning as when used in such section."

(d) STUDY.—The Secretary of Labor shall conduct a study of the need for additional rules or standards relating to transfers of excess pension assets to health accounts. Such study shall include a study of—

(1) issues relating to the vesting, accrual, and portability of health benefits, and

(2) the use of excess pension assets for purposes which inure exclusively for the benefit of employees.

The Secretary shall, not later than 1 year after the date of the enactment of this Act, report the results of such study to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(e) DEFINITION OF SINGLE-EMPLOYER PLAN FOR TITLE I.—

(1) IN GENERAL.—Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) is amended by adding at the end the following new paragraph:

"(41) SINGLE-EMPLOYER PLAN.—The term 'single-employer plan' means an employee benefit plan other than a multiemployer plan.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the date of the enactment of this Act.

(f) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendments made by this section (other than subsection (e)) shall apply to transfers occurring after 180 days after the date on which regulations necessary to carry out the amendments made by this section are issued.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan that is maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section (other than subsection (e)) shall not apply to plan years beginning before the later of—

(A) the termination of the last of such collective bargaining agreements relating to the plan (determined without regard to any extension thereof agreed to on or after the date of the enactment of this Act), or

(2) the end of the 180-day period described in paragraph (1).

Subtitle B—Miscellaneous ERISA Amendments

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the "Miscellaneous ERISA Amendments Act of 1989".

SEC. 3102. DEFINITIONS.

For purposes of this subtitle—

(1) 1986 CODE.—The term "1986 Code" means the Internal Revenue Code of 1986.

(2) REFORM ACT.—Except where incompatible with the intent, the term "Reform Act" means the Tax Reform Act of 1986.

(3) ERISA.—The term "ERISA" means the Employee Retirement Income Security Act of 1974.

CHAPTER 1—AMENDMENTS RELATING TO THE TAX REFORM ACT OF 1986

SEC. 3111. AMENDMENTS RELATING TO THE TAX REFORM ACT OF 1986.

(a) AMENDMENTS RELATED TO SECTION 2.—

(1) Titles I, III, and IV of ERISA (other than sections 3(37)(E), 301(a)(7), and 308, the last sentence of section 408(d), and sections 414(c), 4001(a)(3)(ii), and 4303) are each amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(2) The last sentence of section 408(d) of ERISA (as amended by section 3151(e)(5)(A)) is further amended—

(A) by striking "section 408 of the Internal Revenue Code of 1954" and inserting "section 408 of the Internal Revenue Code of 1986"; and

(B) by striking "section 408(c) of such Code" and inserting "section 408(c) of the Internal Revenue Code of 1986".

(b) AMENDMENTS RELATED TO SECTION 1113.—

(1) Section 203(a)(2) of ERISA is amended—

(A) by striking "following" the first place it appears; and

(B) by striking "414(f)(1)(B)" in subparagraph (C)(ii)(I) and inserting "3(37)(A)(ii)".

(2) Section 1113(e)(3) of the Reform Act is amended by striking "Section 202(B)(i)" and inserting "Section 202(a)(1)(B)(i)".

(3) The second subsection (e) of section 1113 of the Reform Act is redesignated as subsection (f).

(4) Section 1113(f) of the Reform Act, as redesignated by paragraph (3), is amended by adding at the end the following new paragraph:

"(4) REPEAL OF CLASS YEAR VESTING.—If a plan amendment repealing class year vesting is adopted after October 22, 1986, such amendment shall not apply to any employee for the first plan year to which the amendments made by subsections (b) and (e)(2) apply (and any subsequent plan year) if—

"(A) such plan amendment would reduce the nonforfeitable right of such employee for such year, and

"(B) such employee has at least 1 hour of service before the adoption of such plan amendment and after the beginning of such first plan year."

(5)(A) Section 411(a)(3) of the 1986 Code is amended by adding at the end the following new subparagraph:

"(G) TREATMENT OF MATCHING CONTRIBUTIONS FORFEITED BY REASON OF EXCESS DEFERRAL OR CONTRIBUTION.—A matching contribution (within the meaning of section 401(m)) shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an excess contribution under section 401(k)(8)(B), an excess deferral under section 402(g)(2)(A), or an excess aggregate contribution under section 401(m)(6)(B)."

(B) Paragraph (3) of section 203(a) of ERISA is amended by adding at the end the following new subparagraph:

"(F) A matching contribution (within the meaning of section 401(m) of the Internal Revenue Code of 1986) shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an excess contribution under section 401(k)(8)(B) of such Code, an excess deferral under section 402(g)(2)(A) of such Code, or an excess aggregate contribution under section 401(m)(6)(B) of such Code."

(6)(A) Section 411(a)(4)(A) of the 1986 Code is amended to read as follows:

"(A) years of service before age 18;".

(B) Subparagraph (A) of section 203(b)(1) of ERISA is amended to read as follows:

"(A) years of service before age 18,".

(c) AMENDMENTS RELATED TO SECTION 1139.—

(1) Paragraphs (2)(A) and (2)(B) of section 203(e) of ERISA are each amended by adjusting the margination thereof, and of each subdivision thereof, 2 ems to the left.

(2) Subparagraph (B) of section 203(e)(2) of ERISA is amended by striking "APPLICABLE INTEREST RATE.—".

(3) Paragraph (3)(A) of section 205(g) of ERISA is amended by adjusting the left-hand margination thereof, and of each subdivision thereof, 2 ems to the left.

(d) AMENDMENTS RELATED TO SECTION 1140.—

(1) Subsection (a) of section 1140 of the Reform Act is amended by striking "or subtitle C" and inserting ", subtitle C, or title XVIII of this Act".

(2) Section 1140(c) of the Reform Act is amended by inserting "on or" after "beginning" the second place it appears.

(3) Section 1140(c) of the Reform Act is amended by adding at the end, after and below paragraph (2), the following new flush sentence:

"For purposes of paragraph (1)(B) and any other provision of this title, an agreement shall not be treated as terminated merely because the plan is amended pursuant to such agreement to meet the requirements of any amendment made by this title or title XVIII of this Act."

(e) AMENDMENTS RELATED TO SECTION 1145.—

(1) Paragraph (3) of section 205(b) of ERISA (as added by section 1145(b) of the Reform Act) is amended by adjusting the left-hand margination thereof 2 ems to the left.

(2) Subsection (f) of section 303 of the Retirement Equity Act of 1984 is amended by striking "July 24, 1984" and inserting "July 17, 1984".

(f) AMENDMENTS RELATED TO SECTION 1879.—

(1) Section 1879(u) of the Reform Act is amended—

(A) in paragraph (1), by striking "206(h)" and inserting "204(h); and

(B) in paragraph (4)(B), by striking "206(h)(2)" and inserting "204(h)(2)".

(2) So much of section 204(h)(2) of ERISA as precedes subparagraph (A) thereof is amended by adjusting the left-hand margination thereof to full measure.

(g) AMENDMENTS RELATED TO SECTION 1895.—

(1)(A) Section 106(b)(2) of the 1986 Code (relating to exception to certain plans) (to the extent remaining in effect) is amended by striking the last sentence.

(B) Section 601(b) of ERISA is amended by striking the last sentence.

(C) The amendments made by this paragraph shall apply to years beginning after December 31, 1986.

(2)(A) Section 607(2) of ERISA is amended by striking "the individual's employment or previous employment with an employer." and inserting "the performance of services by the individual for one or more persons maintaining the plan (including as an employee defined in section 401(c)(1) of the Internal Revenue Code of 1986)."

(B)(i) Section 4980B(f)(7) of the 1986 Code (as added by the Technical and Miscellaneous Revenue Act of 1988) is amended by striking "the individual's employment or previous employment with an employer" and inserting "the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1))"

(ii) The amendment made by this subparagraph shall take effect as if included in the amendments made by section 321 of the Technical and Miscellaneous Revenue Act of 1988.

(C) Section 162(k)(7)(A) of the 1986 Code (to the extent remaining in effect) is amended by striking "the individual's employment or previous employment with an employer." and inserting "the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1))."

(D) The amendments made by this paragraph (other than subparagraph (B)) shall apply to plan years beginning after December 31, 1989.

(3)(A) The last sentence of section 602(3) of ERISA is amended to read as follows:

"In no event may the plan require the payment of any premium before the day which is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage."

(B)(i) The last sentence of section 4980B(f)(2)(C) of the 1986 Code (as added by the Technical and Miscellaneous Revenue Act of 1988) is amended to read as follows:

"In no event may the plan require the payment of any premium before the day which is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage."

(ii) The amendment made by this subparagraph shall take effect as if included in the amendments made by section 321 of the Technical and Miscellaneous Revenue Act of 1988.

(C) The last sentence of section 162(k)(2)(C) of the 1986 Code (to the extent remaining in effect) is amended to read as follows:

"In no event may the plan require the payment of any premium before the day which is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage."

(4)(A)(i) Section 606 of ERISA is amended—

(I) in paragraph (2), by inserting after "30 days" the following: "(or, in the case of a group health plan which is a multiemployer plan, such longer period of time as may be provided in the terms of the plan)"; and

(II) in the first sentence following paragraph (4), by inserting after "14 days" the following: "(or, in the case of a group health plan which is a multiemployer plan, such longer period of time as may be provided in the terms of the plan)".

(ii) Section 606 of ERISA is amended—

(I) by inserting "(a) IN GENERAL.—" before "In accordance";

(II) by striking "For purposes of paragraph (4)," and inserting the following:

"(c) RULES RELATING TO NOTIFICATION OF QUALIFIED BENEFICIARIES BY PLAN ADMINISTRATOR.—For purposes of subsection (a)(4),"; and

(III) by inserting after subsection (a)(4) (as so designated by the amendment made by subclause (I)) the following new subsection:

"(b) ALTERNATIVE MEANS OF COMPLIANCE WITH REQUIREMENT FOR NOTIFICATION OF MULTIEMPLOYER PLANS BY EMPLOYERS.—The requirements of subsection (a)(2) shall be considered satisfied in the case of a multiemployer plan in connection with a qualifying event described in paragraph (2) of section 603 if the plan provides that the determination of the occurrence of such qualifying event will be made by the plan administrator.".

(B)(i) Section 4980B(f)(6) of the 1986 Code (as added by the Technical and Miscellaneous Revenue Act of 1988) is amended—

(I) in subparagraph (B), by inserting after "30 days" the following: "(or, in the case of a group health plan which is a multiemployer plan, such longer period of time as may be provided in the terms of the plan)"; and

(II) in the first sentence following subparagraph (D), by inserting after "14 days" the following: "(or, in the case of a group health plan which is a multiemployer plan, such longer period of time as may be provided in the terms of the plan)".

(ii) Section 4980B(f)(6) of the 1986 Code (as added by the Technical and Miscellaneous Revenue Act of 1988) is amended by inserting, after and below subparagraph (D), the following new flush sentence:

"The requirements of subparagraph (B) shall be considered satisfied in the case of a multiemployer plan in connection with a qualifying event described in paragraph (3)(B) if the plan provides that the determination of the occurrence of such qualifying event will be made by the plan administrator.".

(C) The amendments made by this paragraph shall apply with respect to plan years beginning on or after January 1, 1990.

(5)(A) Section 4980B(f) of the 1986 Code (as added by the Technical and Miscellaneous Revenue Act of 1988) is amended by adding at the end the following new paragraph:

"(8) OPTIONAL EXTENSION OF REQUIRED PERIODS.—A group health plan shall not be treated as failing to meet the requirements of this subsection solely because the plan provides both—

"(A) that the period of extended coverage referred to in paragraph (2)(B) commences with the date of the loss of coverage, and

"(B) that the applicable notice period provided under paragraph (6)(B) commences with the date of the loss of coverage.".

(B)(i) Section 607 of ERISA is amended—

(I) in the heading, by inserting "AND SPECIAL RULES" after "DEFINITIONS"; and

(II) by adding at the end the following new paragraph:

"(5) OPTIONAL EXTENSION OF REQUIRED PERIODS.—A group health plan shall not be treated as failing to meet the requirements of this part solely because the plan provides both—

"(A) that the period of extended coverage referred to in section 602(2) commences with the date of the loss of coverage, and

"(B) that the applicable notice period provided under section 606(a)(2) commences with the date of the loss of coverage.".

(ii) The item relating to section 607 in the table of contents in section 1 of ERISA is amended by inserting "and special rules" after "Definitions".

(C) The amendments made by this paragraph shall apply with respect to plan years beginning on or after January 1, 1990.

(6)(A) Section 602(2)(D) of ERISA is amended to read as follows:

"(D) MEDICARE ELIGIBILITY.—In the case of a qualified beneficiary other than a qualified beneficiary described in section 607(3)(D), the date on which the qualified beneficiary first becomes, after the date of the election, entitled to benefits under title XVIII of the Social Security Act."

(B)(i) Clause (iv) of section 4980B(f)(2)(B) of the 1986 Code (as added by the Miscellaneous Revenue Act of 1988) is amended to read as follows:

"(iv) MEDICARE ELIGIBILITY.—In the case of a qualified beneficiary other than a qualified beneficiary described in subsection (g)(1), the date on which the qualified beneficiary first becomes, after the date of the election, entitled to benefits under title XVIII of the Social Security Act."

(ii) The amendment made by this subparagraph shall take effect as if included in the amendments made by section 321 of the Miscellaneous Revenue Act of 1988.

(C) Clause (iv) of section 162(k)(2)(B) of the 1986 Code (to the extent remaining in effect) is amended to read as follows:

"(iv) MEDICARE ELIGIBILITY.—In the case of a qualified beneficiary other than a qualified beneficiary described in paragraph (7)(B)(iv), the date on which the qualified beneficiary first becomes, after the date of the election, entitled to benefits under title XVIII of the Social Security Act."

(D) The amendments made by this paragraph (other than subparagraph (C)) shall apply to plan years beginning after December 31, 1989.

(7)(A) Part 6 of subtitle B of title I of ERISA is amended—

(i) by redesignating section 608 as section 609; and

(ii) by inserting after section 607 the following new section:

"SEC. 608. PENALTY FOR FAILURE TO SATISFY CONTINUATION COVERAGE REQUIREMENTS.

"(a) GENERAL RULE.—The Secretary may assess under this section a penalty for a failure of a group health plan to meet with respect to any qualified beneficiary the requirements of the preceding sections of this

part (other than requirements described in section 502(c)(1)(A)).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—The amount of the penalty assessed pursuant to subsection (a) for any failure with respect to a qualified beneficiary shall be $100 for each day in the noncompliance period with respect to such failure.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the earlier of—

"(i) the date such failure is corrected, or

"(ii) the date which is 6 months after the last day in the period applicable to the qualified beneficiary under section 602(2) (determined without regard to subparagraph (C) thereof).

"(c) LIMITATIONS ON AMOUNT OF PENALTY.—

"(1) PENALTY NOT TO BE ASSESSED WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No penalty may be assessed pursuant to subsection (a) for any failure which is determined by the Secretary of the Treasury to have occurred without the knowledge of any person referred to in subsection (e) and during a period for which all such persons exercised reasonable diligence.

"(2) PENALTY NOT TO BE ASSESSED FOR FAILURES CORRECTED WITHIN 30 DAYS.—

"(A) IN GENERAL.—No penalty shall be assessed pursuant to subsection (a) for any failure if—

"(i) such failure was not due to willful neglect or other than reasonable cause, and

"(ii) such failure is corrected during the 30-day period beginning on the first date any of the persons referred to in subsection (e) knew, or should have known, that such failure existed.

"(B) CORRECTION.—A failure of a group health plan to meet the requirements of the preceding sections of this part with respect to any qualified beneficiary shall be treated as corrected if—

"(i) such failure is retroactively undone to the extent possible, and

"(ii) the qualified beneficiary is placed in a financial position which is as good as such beneficiary would have been in had such failure not occurred.

For purposes of applying clause (ii), the qualified beneficiary shall be treated as if such beneficiary had elected the most favorable coverage in light of the expenses such beneficiary incurred since the failure first occurred.

"(3) $100 LIMIT ON AMOUNT OF PENALTY FOR FAILURES ON ANY DAY WITH RESPECT TO A QUALIFIED BENEFICIARY.—

"(A) IN GENERAL.—The maximum amount assessed pursuant to subsection (a) for failures on any day during the noncompliance period with respect to a qualified beneficiary shall be $100.

"(B) SPECIAL RULE WHERE MORE THAN ONE QUALIFIED BENEFICIARY.—If there is more than one qualified beneficiary with respect to the same qualifying event, the maximum amount assessed pursuant to subsection (a) on all failures on any day during the noncompliance period with respect to such qualified beneficiaries shall be $200.

"(4) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are not due to willful neglect or other than reasonable cause—

"(A) SINGLE-EMPLOYER PLANS.—

"(i) IN GENERAL.—In the case of failures with respect to a single-employer plan, the penalty assessed pursuant to subsection (a) for failures during any period which is a taxable year of the employer under the Internal Revenue Code of 1986 shall not exceed the amount equal to the lesser of—

"(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding such period for group health plans, or

"(II) $500,000.

"(ii) TAXABLE YEARS IN THE CASE OF CERTAIN CONTROLLED GROUPS.—For purposes of this subparagraph, if not all persons who are treated as a single employer for purposes of this section have the same taxable year under the Internal Revenue Code of 1986, the taxable years taken into account shall be determined under principles similar to the principles of section 1561 of such Code.

"(B) MULTIEMPLOYER PLANS.—

"(i) IN GENERAL.—In the case of failures with respect to a multiemployer plan, the penalty assessed pursuant to subsection (a) for failures during any period which is a taxable year under the Internal Revenue Code of 1986 of the trust forming part of such plan shall not exceed the amount equal to the lesser of—

"(I) 10 percent of the amount paid or incurred by such trust during such period to provide medical care (as defined in section 213(d) of the Internal Revenue Code of 1986) directly or through insurance, reimbursement, or otherwise, or

"(II) $500,000.

For purposes of the preceding sentence, all plans of which the same trust forms a part shall be treated as one plan.

"(ii) SPECIAL RULE FOR EMPLOYERS REQUIRED TO PAY PENALTY.—If an employer is assessed a penalty pursuant to subsection (a) by reason of a failure with respect to a multiemployer plan, the limit shall be determined under subparagraph (A) (and not under this subparagraph) and as if such plan were a single-employer plan.

"(5) MAXIMUM PENALTY.—The Secretary may not assess a penalty under this section in an amount greater than the amount of any tax imposed under section 4980B of the Internal Revenue Code of 1986 with respect to the failure involved.

"(d) PENALTY NOT TO APPLY TO CERTAIN PLANS.—This section shall not apply to any failure of a group health plan to meet the requirements of the preceding sections of this part if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year.

"(e) LIABILITY FOR PENALTY.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the following shall be liable for the penalty assessed pursuant to subsection (a) for a failure:

"(A)(i) In the case of a single-employer plan, the employer.

"(ii) In the case of a multiemployer plan, the plan.

"(B) Each person who is responsible (other than in a capacity as an employee) for administering or providing benefits under the plan and whose act or failure to act caused (in whole or in part) the failure.

"(2) SPECIAL RULES FOR PERSONS DESCRIBED IN PARAGRAPH (1)(B).—

"(A) NO LIABILITY FOR PENALTY UNLESS WRITTEN AGREEMENT.—Except in the case of liability resulting from the application of subparagraph (B) of this paragraph, a person described in subparagraph (B) (and not in subparagraph (A)) of paragraph (1) shall be liable for the penalty assessed pursuant to subsection (a) for any failure only if such person assumed (under a legally enforceable written agreement) responsibility for the performance of the act to which the failure relates.

"(B) FAILURE TO COVER QUALIFIED BENEFICIARIES WHERE CURRENT EMPLOYEES ARE COVERED.—A person shall be treated as described in paragraph (1)(B) with respect to a qualified beneficiary if—

"(i) such person provides coverage under a group health plan for any similarly situated beneficiary under the plan with respect to whom a qualifying event has not occurred, and

"(ii) the—

"(I) employer or plan administrator, or

"(II) in the case of a qualifying event described in paragraph (3) or (5) of section 603 where the person described in clause (i) is the plan administrator, the qualified beneficiary,

submits to such person a written request that such person provide to such qualified beneficiary the same coverage which such person provides to the beneficiary referred to in clause (i).

"(f) COORDINATION WITH SECRETARY OF THE TREASURY.—The Secretary of Labor shall consult with the Secretary of the Treasury before imposing any penalty pursuant to this section. Whenever the Secretary of Labor obtains information regarding a possible violation of this part, such Secretary shall transmit such information to the Secretary of the Treasury.".

(B) Section 502(a)(6) of ERISA is amended by inserting "or section 608" before the period.

(C) The table of contents in section 1 of ERISA is amended by striking the item relating to section 608 and inserting the following new items:

"Sec. 608. Failure to satisfy continuation coverage requirements of group health plans.

"Sec. 609. Regulations.".

(D) The amendments made by this paragraph shall apply to plan years beginning after December 31, 1989, but shall not apply to any plan for any plan year to which part 6 of subtitle B of title I of ERISA (as in effect on the day before the date of the enactment of this Act) did not apply by reason of section 10002(d)(2) of the Consolidated Omnibus Budget Reconciliation Act of 1985.

(8)(A) Section 3011(b)(6) of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647) is repealed.

(B) Subparagraph (A) shall be effective as if included in the enactment of section 3011(b) of the Technical and Miscellaneous Revenue Act of 1988.

(9) STUDY BY GENERAL ACCOUNTING OFFICE OF EFFECT OF COBRA CONTINUATION COVERAGE REQUIREMENTS ON LENGTH OF ELIGIBILITY PERIOD FOR GROUP HEALTH INSURANCE COVERAGE.—

(A) STUDY.—The Comptroller General of the United States shall, as soon as practicable after the date of the enactment of this Act, conduct a thorough study of the extent to which employers have lengthened the eligibility period for group health insurance coverage as a result of the enactment of title X of the Consolidated Omnibus Budget Reconciliation Act of 1985.

(B) REPORT.—The Comptroller General shall, not later than August 31, 1990, report the results of the study conducted pursuant to subparagraph (A) to the Committee on Education and Labor and the Committee on

Ways and Means of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Finance of the Senate.

(h) AMENDMENTS RELATED TO SECTION 1898.—

(1)(A) Clause (ii) of section 417(a)(3)(B) of the 1986 Code (defining applicable period) is amended by striking subclause (V) and inserting at the end, after and below subclause (IV), the following new flush sentence:

"In the case of a participant who separates from service before attaining age 35, the applicable period shall be a reasonable period after separation."

(B) Clause (ii) of section 205(c)(3)(B) of ERISA is amended by striking subclause (V) and inserting at the end, after and below subclause (IV), the following new flush sentence:

"In the case of a participant who separates from service before attaining age 35, the applicable period shall be a reasonable period after separation."

(2) Section 1898(b)(8) of the Reform Act is amended by adding at the end the following new subparagraph:

"(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to distributions after the date of the enactment of this Act."

(3)(A) Subparagraph (B) of section 1898(b)(14) of the Reform Act is amended by inserting "(as amended by section 1145(b))" after "1974".

(B) Paragraph (3) of section 205(b) of ERISA (as added by section 1898(b)(14)(B) of the Reform Act) is redesignated as paragraph (4).

(4)(A) Subparagraphs (A)(i) and (B) of section 1898(d)(1) of the Reform Act are repealed.

(B) Section 411(a)(11)(A) of the 1986 Code is amended to read as follows:

"(A) IN GENERAL.—If the present value of any nonforfeitable benefit with respect to a participant in a plan exceeds $3,500, the plan meets the requirements of this paragraph only if the plan provides that such benefit may not be immediately distributed without the consent of the participant.".

(C) Section 203(e)(1) of ERISA (as amended by section 1898(d)(1) of the Tax Reform Act of 1986) is further amended to read as follows:

"(e)(1) If the present value of any nonforfeitable benefit with respect to a participant in a plan exceeds $3,500, the plan shall provide that such benefit may not be immediately distributed without the consent of the participant.".

(5) Section 205(e)(2) of ERISA is amended by striking "nonforfeitable accrued benefit" and inserting "nonforfeitable right".

(6) Subclause (IV) of section 205(c)(3)(B)(ii) of ERISA is amended by striking "401(a)(11)" and inserting "205".

(7) Section 205(h) of ERISA is amended—

(A) in paragraph (1), by striking "the term" and inserting "The term", and by striking "benefit," and inserting "benefit."; and

(B) in paragraph (3), by striking "the term" and inserting "The term".

(8) Subparagraph (B) of section 1898(b)(7) of the Reform Act is amended by striking "Subparagraph (C) of section 205(b)(1)" and inserting "Clause (i) of section 205(b)(1)(C)".

SEC. 3112. EFFECTIVE DATE.

Except as otherwise provided in this chapter, any amendment made by this chapter shall take effect as if originally included in the provision of the Reform Act to which such amendment relates.

CHAPTER 2—AMENDMENTS RELATING TO THE OMNIBUS BUDGET RECONCILIATION ACT OF 1986

SEC. 3121. AMENDMENTS RELATING TO THE OMNIBUS BUDGET RECONCILIATION ACT OF 1986.

(a) AMENDMENTS RELATED TO SECTION 9202.—

(1) Section 411(b)(2) of the 1986 Code and section 204(b)(2) of ERISA are each amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(2) Section 411(b)(2)(C) of the 1986 Code (as redesignated by paragraph (1)) is amended by striking "subparagraph" and inserting "paragraph".

(3) Section 204(b)(2)(C) of ERISA (as redesignated by paragraph (1)) is amended by striking "(C) and (D)" and inserting "(B) and (C)".

(b) AMENDMENTS RELATED TO SECTION 9203.—

(1) Section 411(a)(8)(B) of the 1986 Code is amended to read as follows:

"(B) the later of—

"(i) the time a plan participant attains age 65, or

"(ii) the 5th anniversary of the time a plan participant commenced participation in the plan."

(2) Section 3(24)(B) of ERISA is amended to read as follows:

"(B) the later of—

"(i) the time a plan participant attains age 65, or

"(ii) the 5th anniversary of the time a plan participant commenced participation in the plan."

(c) AMENDMENT RELATING TO SECTION 9501.—Section 602(2)(A)(iii) of ERISA is amended by inserting "section" before "603(6)".

SEC. 3122. EFFECTIVE DATE.

Any amendment made by this chapter shall take effect as if originally included in the provision of the Omnibus Budget Reconciliation Act of 1986 to which such amendment relates.

CHAPTER 3—AMENDMENTS RELATING TO THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987 (INCLUDING THE PENSION PROTECTION ACT)

SEC. 3131. AMENDMENTS RELATING TO THE PENSION PROTECTION ACT AND FULL FUNDING LIMITATIONS PROVIDED IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987.

(a) AMENDMENTS RELATED TO SECTION 9203.—Section 202(a)(2) of ERISA is amended by striking the comma.

(b) AMENDMENTS RELATED TO SECTION 9301.—

(1)(A) Subparagraph (C) of section 412(c)(7) of the 1986 Code is amended—

(i) in the heading, by striking "FOR PARAGRAPH (6)(B)"; and

(ii) by inserting after "paragraph (6)(B)" the following: "and in the case of a multiemployer plan".

(B) Subparagraph (C) of section 302(c)(7) of ERISA is amended—

(i) in the heading, by striking "FOR PARAGRAPH (6)(B)"; and

(ii) by inserting after "paragraph (6)(B)" the following: "and in the case of a multiemployer plan".

(C) The amendments made by this paragraph shall apply with respect to plan years beginning on or after October 1, 1992.

(2) Paragraph (7) of section 302(c) of ERISA is amended by adjusting the left-hand margination thereof, and of each subdivision thereof, 2 ems to the left.

(c) AMENDMENTS RELATED TO SECTION 9303.—

(1)(A) Subclause (II) of section 412(l)(3)(C)(ii) of the 1986 Code is amended by inserting "(but not below zero)" after "reducing".

(B) Subclause (II) of section 302(d)(3)(C)(ii) of ERISA is amended by inserting "(but not below zero)" after "reducing".

(2)(A) Clause (i) of section 412(l)(4)(B) of the 1986 Code is amended by inserting "and the unamortized portion of the unfunded existing benefit increase liability" after "unfunded old liability".

(B) Clause (i) of section 302(d)(4)(B) of ERISA is amended by inserting "and the unamortized portion of the unfunded existing benefit increase liability" after "unfunded old liability".

(3)(A) Section 412(l)(5)(C) of the 1986 Code is amended by striking "October 17, 1987" and inserting "the first plan year beginning after December 31, 1988".

(B) Section 302(d)(5)(C) of ERISA is amended by striking "October 17, 1987" and inserting "the first plan year beginning after December 31, 1988".

(4)(A) Section 412(l)(7)(D) of the 1986 Code is amended—

(i) by striking "and" at the end of clause (iii)(I), by striking the period at the end of clause (iii)(II) and inserting ", and", and by adding at the end of clause (iii) the following new subclause:

"(III) has years of service greater in number than the minimum number of years of service necessary for eligibility to participate in the plan."; and

(ii) by adding at the end the following new clause:

"(iv) ELECTION.—An employer may elect not to have this subparagraph apply. Such an election, once made, may be revoked only with the consent of the Secretary."

(B) Section 302(d)(7)(D) of ERISA is amended—

(i) by striking "and" at the end of clause (iii)(I), by striking the period at the end of clause (iii)(II) and inserting ", and", and by adding at the end of clause (iii) the following new subclause:

"(III) has years of service greater in number than the minimum number of years of service necessary for eligibility to participate in the plan."; and

(ii) by adding at the end the following new clause:

"(iv) ELECTION.—An employer may elect not to have this subparagraph apply. Such an election, once made, may be revoked only with the consent of the Secretary of the Treasury."

(5)(A) Section 412(l)(8) of the 1986 Code is amended—

(i) by striking "reduced by any credit balance in the funding standard account" in subparagraph (A)(ii); and

(ii) by adding at the end the following new subparagraph:

"(E) DEDUCTION FOR CREDIT BALANCES.—For purposes of this subsection, the amount determined under subparagraph (A)(ii) shall be reduced by any credit balance in the funding standard account. The Secretary may provide for such reduction for purposes of any other provision which references this subsection."

(B) Section 302(d)(8) of ERISA is amended—

(i) in subparagraph (A)(ii), by striking "reduced by any credit balance in the funding standard account"; and

(ii) by adding at the end the following new subparagraph:

"(E) DEDUCTION FOR CREDIT BALANCES.—For purposes of this subsection, the amount determined under subparagraph (A)(ii) shall be reduced by any credit balance in the funding standard account. The Secretary of the Treasury may provide for such reduction for purposes of any other provision which references this subsection."

(6)(A) Section 412(c)(9) of the 1986 Code is amended—

(i) in the heading, by striking "3-YEAR VALUATION" and inserting "FREQUENCY OF VALUATION"; and

(ii) by striking "3 years" and inserting "year (3 years in the case of a multiemployer plan)".

(B) Section 302(c)(9) of ERISA is amended by striking "3 years" and inserting "year (3 years in the case of a multiemployer plan)".

(7) Subclause (II) of section 9303(e)(3)(C)(ii) of the Pension Protection Act is amended by inserting "(and any income allocable to such amount)" after "clause (i)".

(8)(A) Section 2005(d)(2) of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647) is repealed.

(B) Subparagraph (C) of section 302(d)(3) of ERISA is amended—

(i) by striking "October 17, 1987" in clause (i) and inserting "October 29, 1987", and

(ii) by striking "October 16, 1987" in clause (iii) and inserting "October 28, 1987".

(C) Subparagraphs (A) and (B) shall be effective as if included in the enactment of section 2005(d) of the Technical and Miscellaneous Revenue Act of 1988.

(d) AMENDMENTS RELATED TO SECTION 9304.—

(1)(A) Subparagraph (A) of section 412(c)(10) of the 1986 Code is amended—

(i) by inserting "defined benefit" before "plan other", and

(ii) by striking "PLANS" in the heading and inserting "DEFINED BENEFIT PLANS".

(B) Subparagraph (A) of section 302(c)(10) of ERISA is amended by inserting "defined benefit" before "plan other".

(2)(A) Subparagraph (B) of section 412(c)(10) of the 1986 Code is amended—

(i) by striking "multiemployer plan" and inserting "plan not described in subparagraph (A)", and

(ii) by striking "MULTIEMPLOYER" in the heading and inserting "OTHER".

(B) Subparagraph (B) of section 302(c)(10) of ERISA is amended by striking "multiemployer plan" and inserting "plan not described in subparagraph (A)".

(3)(A) Section 412(m)(1) of the 1986 Code is amended by inserting "defined benefit" before "plan (other".

(B) Section 302(e)(1) of ERISA is amended by inserting "defined benefit" before "plan (other".

(4)(A) Subparagraph (D) of section 412(m)(4) of the 1986 Code is amended to read as follows:

"(D) SPECIAL RULES FOR UNPREDICTABLE CONTINGENT EVENT BENEFITS.—In the case of a plan to which subsection (l) applies for any calendar year and which has any unpredictable contingent event benefit liabilities—

"(i) LIABILITIES NOT TAKEN INTO ACCOUNT.—Such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B).

"(ii) INCREASE IN INSTALLMENTS.—Each required installment shall be increased by the greater of—

"(I) the unfunded percentage of the amount of benefits described in subsection (l)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (l)(5)(A)(ii) for the plan year.

"(iii) UNFUNDED PERCENTAGE.—For purposes of clause (ii)(I), the term 'unfunded percentage' means the percentage determined under subsection (l)(5)(A)(i)(I) for the plan year.

"(iv) LIMITATION ON INCREASE.—In no event shall the increases under clause (ii) exceed the amount necessary to increase the funded current liability percentage (within the meaning of subsection (l)(8)(B)) for the plan year to 100 percent."

(B) Subparagraph (D) of section 302(e)(4) of ERISA is amended to read as follows:

"(D) SPECIAL RULES FOR UNPREDICTABLE CONTINGENT EVENT BENEFITS.—In the case of a plan to which subsection (d) applies for any calendar year and which has any unpredictable contingent event benefit liabilities—

"(i) LIABILITIES NOT TAKEN INTO ACCOUNT.—Such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B).

"(ii) INCREASE IN INSTALLMENTS.—Each required installment shall be increased by the greater of—

"(I) the unfunded percentage of the amount of benefits described in subsection (d)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (d)(5)(A)(ii) for the plan year.

"(iii) UNFUNDED PERCENTAGE.—For purposes of clause (ii)(I), the term 'unfunded percentage' means the percentage determined under subsection (d)(5)(A)(i)(I) for the plan year.

"(iv) LIMITATION ON INCREASE.—In no event shall the increases under clause (ii) exceed the amount necessary to increase the funded current liability percentage (within the meaning of subsection (d)(8)(B)) for the plan year to 100 percent."

(5)(A) Section 101(d)(1) of ERISA is amended by striking "an employer of a plan" and inserting "an employer maintaining a plan".

(B) Section 502(c) of ERISA is amended by adding at the end the following new paragraph:

"(3) Any employer maintaining a plan who fails to meet the notice requirement of section 101(d) with respect to any participant or beneficiary may in the court's discretion be liable to such participant or beneficiary in the amount of up to $100 a day from the date of such failure, and the court may in its discretion order such other relief as it deems proper."

(C) Section 9304(d) of the Pension Protection Act is amended by striking "Section" and inserting "Effective with respect to plan years beginning after December 31, 1987, section".

(6)(A)(i) Subparagraph (B) of section 412(m)(1) of the 1986 Code is amended to read as follows:

"(B) the rate of interest used under the plan in determining costs (including adjustments under subsection (b)(5)(B))."

(ii) Clause (ii) of section 412(d)(1)(A) of the 1986 Code is amended by inserting "(including adjustments under subsection (b)(5)(B))" after "costs".

(B)(i) Subparagraph (B) of section 302(e)(1) of ERISA is amended to read as follows:

"(B) the rate of interest used under the plan in determining costs (including adjustments under subsection (b)(5)(B))."

(ii) Section 303(a)(1)(B) of ERISA (as redesignated by subsection (e)(2)) is amended by inserting "(including adjustments under section 302(b)(5)(B))" after "costs".

(e) AMENDMENTS RELATED TO SECTION 9306.—

(1)(A) The last sentence of section 412(f)(4)(A) of the 1986 Code is amended by striking "the benefit liabilities" and inserting "for benefit liabilities".

(B) The last sentence of section 303(e)(1) of ERISA is amended by striking "the benefit liabilities" and inserting "for benefit liabilities".

(2) Section 303(a) of ERISA (as amended by section 9306(c)(2)(A) of the Pension Protection Act) is amended—

(A) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and by adjusting the left-hand margination thereof 4 ems to the left;

(B) in paragraph (1) (as redesignated), by redesignating clauses (i) and (ii) as clauses (A) and (B), respectively; and

(C) in paragraph (2) (as redesignated), by inserting "of such Code" after "section 6621(b)".

(3) Subsection (f) of section 303 of ERISA (as so redesignated by section 9306(a)(2) of the Pension Protection Act) is transferred to immediately after subsection (e) of such section.

(4) Section 9306(f)(3) of the Pension Protection Act is amended to read as follows:

"(3) SUBSECTION (b).—The amendments made by subsection (b) shall apply to waivers for plan years beginning after December 31, 1987. For purposes of applying such amendments, the number of waivers which may be granted for plan years after December 31, 1987, shall be determined without regard to any waivers granted for plan years beginning before January 1, 1988."

(f) AMENDMENTS RELATED TO SECTION 9307.—

(1)(A) Clause (iii) of section 412(b)(5)(B) of the 1986 Code is amended by striking "for purposes of this section and for purposes of determining current liability,".

(B) Clause (iii) of section 302(b)(5)(B) of ERISA is amended by striking "for purposes of this section and for purposes of determining current liability,".

(2)(A) Section 302(b)(5)(B) of ERISA is amended by inserting after "RATE.—" the following: "For purposes of determining a plan's current liability and for purposes of determining a plan's required contribution under section 302(d) for any plan year—".

(B) Section 302(b)(5) of ERISA is amended by striking "For purposes" and all that follows through "plan year—".

(C) Subclause (I) of section 302(b)(5)(B)(ii) of ERISA is amended by striking "average rate" and inserting "the weighted average of the rates".

(3) Subparagraphs (A) and (B) of section 302(c)(3) of ERISA are each amended by adjusting the left-hand margination thereof, and of each subdivision thereof, 2 ems to the left.

(4) Section 404(a)(1)(D) of the 1986 Code is amended—

(A) by inserting "contributions to" after "In the case of";

(B) by inserting "or in the case of contributions to any plan which include contributions described in subsection (g)(1)" after "for the plan year"; and

(5) Section 9307(f) of the Pension Protection Act is amended to read as follows:

"(f) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1987.

"(2) AMORTIZATION OF GAINS AND LOSSES.—Sections 412(b)(2)(B)(iv) and 412(b)(3)(B)(ii) of the Internal Revenue Code of 1986 and sections 302(b)(2)(B)(iv) and 302(b)(3)(B)(ii) of the Employee Retirement Income Security Act of 1974 (as amended by paragraphs (1)(A) and (2)(A) of subsection (a)) shall apply to gains and losses established in years beginning after December 31, 1987. For purposes of the preceding sentence, any gain or loss determined by a valuation occurring as of January 1, 1988, shall be treated as established in years beginning before 1988."

(g) AMENDMENTS RELATED TO SECTION 9311.—

(1) Section 4044(d)(2)(D) of ERISA is amended by striking the last sentence.

(2) Section 9311(a)(2) of the Pension Protection Act is amended by striking "plan assets to the employer for purposes of section 4044(d)(1)(C) of the Employee Retirement Income Security Act of 1974" and inserting "residual plan assets upon termination".

(3) Section 9311(b)(2) of the Pension Protection Act is amended by striking "subsection (c)(1)" and inserting "subsection (a)(1)".

(4) Section 9311(d) of the Pension Protection Act is amended—

(A) in paragraph (1), by striking "section 4041(c)" and inserting "section 4041"; and

(B) by adding at the end, after and below paragraph (2), the following new sentence:

"Except as provided in subsection (a)(2), the amendments made by subsection (a) shall apply to any provision of the plan or plan amendment adopted after December 17, 1987.".

(5) Section 9311(a)(2) of the Pension Protection Act is amended—

(A) by striking "1 year after the effective date of such amendments made by paragraph (1)" and inserting "December 17, 1988"; and

(B) by striking the last sentence.

(h) AMENDMENTS RELATED TO SECTION 9312.—

(1)(A) Section 4062(b)(2)(B) of ERISA is amended by striking "the liability under paragraph (1)(A)(ii)" and inserting "so much of the liability under paragraph (1)(A) as exceeds 30 percent of the collective net worth of all persons described in subsection (a) (including interest)".

(B) Section 9312(b)(2)(B)(ii) of the Pension Protection Act is amended to read as follows:

"(ii) Section 4062(d) of ERISA (as redesignated by paragraph (1)(B)) is amended by striking out paragraph (3).".

(C) Section 4068 of ERISA is amended by adding at the end the following new subsection:

"(f) DEFINITIONS.—For purposes of this section—

"(1) The collective net worth of persons subject to liability in connection with a plan termination shall be determined as provided in section 4062(d)(1).

"(2) The term 'pre-tax profits' has the meaning provided in section 4062(d)(2).".

(2) Section 4022(c)(1) of ERISA is amended by striking "section 4044(a), to such participant" and inserting "section 4044(a). Such payment shall be made to such participant".

(3) Section 9312(b)(3)(B)(i) of the Pension Protection Act is amended—

(A) in subclause (I), by striking "section 4022(c)(1)" and inserting "section 4022(c)(3)", and

(B) in subclause (II), by striking "subparagraph (B) of section 4022(c)(1)" and inserting "subparagraph (C) of section 4022(c)(3)".

(4) Section 4062(a) of ERISA is amended—

(A) by inserting "and" at the end of paragraph (1);

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2) (as so redesignated), by striking "subsection (d)" and inserting "subsection (c)".

(5)(A) Section 4064(b) of ERISA is amended by striking "and clauses (i)(II) and (ii) of section 4062(b)(1)(A)" and inserting "and section 4068(a)".

(B) Section 4068(a) of ERISA is amended by striking the last sentence.

(6) Section 4022(c)(1) of ERISA is amended by striking "(in the case of a deceased participant)".

(7) Section 4022(c)(3)(B)(ii) of ERISA is amended by inserting ", and during the 5-Federal fiscal year period ending with the fiscal year preceding the fiscal year in which occurs the date of the notice of intent to terminate with respect to the plan termination for which the recovery ratio is being determined" after "1987".

(8) Section 9312(b)(3)(B) of the Pension Protection Act is amended by striking clause (ii).

(9) Section 4041(c) of ERISA is amended—

(A) in paragraph (2)(A)(iii)(II), by striking "(or its designee under section 4049(b))" and by striking "section 4049" and inserting "section 4022(c)"; and

(B) in paragraph (3)(C)(i), by striking the last sentence.

(10) Subsection (a) of section 4068 of ERISA is amended—

(A) by striking "to the extent such amount does not exceed 30 percent of the collective net worth of all persons described in section 4062(a)" the first place it appears; and

(B) by striking "to the extent such amount does not exceed 30 percent of the collective net worth of all persons described in section 4062(a)" the second place it appears and all that follows and inserting the following: "in the amount of such liability (including interest) upon all property and rights to property, whether real or personal, belonging to such person, except that such lien may not be in an amount in excess of 30 percent of the collective net worth of all persons described in section 4062(a)".

(12) Section 4070(a) of ERISA is amended by striking "4049,".

(13) Section 9312(d)(1)(A) of the Pension Protection Act is amended by striking "section 4041(c)" and inserting "section 4041".

(14) The table of contents in section 1 of ERISA is amended by striking the item relating to section 4049.

(i) AMENDMENTS RELATED TO SECTION 9313.—

(1) Subparagraph (B) of section 4041(b)(3) of ERISA is amended by adding a period at the end.

(2) Clause (ii) of section 4041(c)(2)(A) of ERISA is amended—

(A) by inserting "unless the corporation determines the information is not necessary for purposes of paragraph (3)(A) or section 4062," before "certification";

(B) in subclause (I), by inserting "and, if applicable, the proposed distribution date" after "termination date"; and

(C) in subclauses (II) through (V), by striking "date" each place it appears and inserting "dates".

(3) Section 4041(c)(2)(B) of ERISA is amended—

(A) by inserting "proposed" before "termination" in the parenthetical in the second sentence;

(B) in clause (ii)(IV), by striking "the chapter 11 reorganization process" and inserting "the process of such reorganization".

(4) Section 4041(d)(1) of ERISA is amended by striking "sufficient for benefit commitments" and inserting "sufficient for benefit liabilities".

(5) Section 9313(b)(3) of the Pension Protection Act is amended by inserting "each place it appears" before the period.

(j) AMENDMENTS RELATED TO SECTION 9314.—

(1) Section 4041(b)(2)(A) of ERISA is amended by adjusting the left-hand margination of the last sentence two ems to the right.

(2) The first subsection (b) of section 9314 of the Pension Protection Act is amended by striking "Section 4042" and inserting "Section 4042(a)", and by striking "third sentence" and inserting "last sentence".

(3) The second subsection (b) of section 9314 of the Pension Protection Act is amended by striking "Section 4042(c) of ERISA (29 U.S.C. 1342(c))" and inserting "Section 4042(d) of ERISA (29 U.S.C. 1342(d))", and by striking "by adding at the end" and inserting "by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2)".

(4) Section 4042(d)(3) of ERISA (as amended after application of paragraph (3)) is amended to read as follows:

"(3) In the case of a proceeding initiated under this section, upon the request of the corporation, the contributing sponsor or a member of the contributing sponsor's controlled group shall transmit to the corporation the information described in clauses (ii), (iii), and (iv) of section 4041(c)(2)(A). If the contributing sponsor or a member of the contributing sponsor's controlled group submits such information to the plan administrator for transmittal to the corporation pursuant to this paragraph, the plan administrator shall carry out such transmittal to the corporation.".

(5) Section 9314(c)(1) of the Pension Protection Act is amended by inserting "title IV of" after "Subtitle D of".

(k) AMENDMENTS RELATING TO SECTION 9331.—

(1)(A) Subparagraph (E) of section 4006(a)(3) of ERISA is amended by adding at the end the following new clause:

"(v) No premium shall be determined under this subparagraph for any plan year if, as of the close of the preceding plan year, contributions to the plan for the preceding plan year were not less than the full funding limitation for the preceding plan year under section 302(c)(7) or section 412(c)(7) of the Internal Revenue Code of 1986.".

(B) The amendment made by subparagraph (A) shall apply with respect to plan years beginning on or after October 1, 1992.

(2) Clause (iii) of section 4006(c)(1)(A) of ERISA is amended by adjusting the left-hand margination thereof 2 ems to the left.

(3) Section 4007(e)(1)(A) of ERISA is amended to read as follows:

"(A) in the case of a single-employer plan—

"(i) the contributing sponsor, or

"(ii) with respect to any premium payable for a plan year which does not include an additional premium determined under section 4006(a)(3)(E), the contributing sponsor or the plan administrator, and".

(4) Section 4007(e)(2) of ERISA is amended by striking the last sentence.

(l) AMENDMENTS RELATED TO SECTION 9341.—

(1)(A) Section 401(a)(29)(C)(i)(II) of the 1986 Code is amended by inserting "and any other plan amendments adopted after December 22, 1987, and before such plan amendment" after "amendment".

(B) Section 307(c)(1)(B) of ERISA is amended by inserting "and any other plan amendments adopted after December 22, 1987, and before such plan amendment" after "amendment".

(2) Section 307(d) of ERISA is amended by inserting "of the Treasury" after "Secretary".

(3)(A) Section 307 of ERISA is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE.—A contributing sponsor which is required to provide security under subsection (a) shall notify the Pension Benefit Guaranty Corporation within 30 days after the amendment requiring such security takes effect. Such notice shall contain such information as the Corporation may require."

(B) Section 4071 of ERISA is amended—

(i) by striking "or subtitle A, B, or C," and inserting ", subtitle A, B, or C, or section 302(f)(4) or 307(e),"; and

(ii) by inserting "or such section" after "such subtitle".

(4)(A) Clause (i) of section 401(a)(29)(A) of the 1986 Code is amended by inserting "to which the requirements of section 412 apply" after "multiemployer plan)".

(B) Section 307(a)(1) of ERISA is amended by inserting "to which the requirements of section 302 apply" after "multiemployer plan)".

(5) Section 9341(c)(2) of the Pension Protection Act is amended by inserting "(without regard to any extension, amendment, or modification of such agreements on or after such date of enactment)" after "ratified before the date of enactment".

(m) AMENDMENTS RELATED TO SECTION 9342.—

(1) Paragraph (11) of section 103(d) of ERISA is amended—

(A) by striking "60 percent" and inserting "70 percent"; and

(B) by striking "such percentage" and inserting "the percentage which such value is of such liability".

(2) Paragraph (2) of section 413 of ERISA (as amended by section 3151(e)(4)) is amended by striking the comma.

(3) Section 502(a)(6) of ERISA is amended by striking "subsection (i)" and inserting "subsection (c)(2) or (i)".

(4) Section 502(c)(2) of ERISA is amended—

(A) by inserting "against any plan administrator" after "civil penalty"; and

(B) by striking "a plan administrator's" and inserting "such plan administrator's".

(n) AMENDMENT RELATED TO SECTION 9343.—Section 403(c) of ERISA is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(o) AMENDMENTS RELATED TO SECTION 9345.—

(1) Section 407(d)(3)(C) of ERISA is amended by adjusting the left-hand margination thereof 2 ems to the left.

(2) Section 407(d)(9) of ERISA is amended—

(A) by striking "such arrangement" and inserting "such individual account plan"; and

(B) by adjusting the left-hand margination thereof 2 ems to the right.

(3) Section 407(f) of ERISA is amended—

(A) in paragraph (1), by striking "this subsection" and inserting "this paragraph"; and

(B) by striking paragraph (3).

(4) Section 407(f)(1) of ERISA is amended by inserting ", immediately following the acquisition of such stock" after "if".

(5) Section 408(b) of ERISA (as amended by section 3052(b)) is further amended by adding at the end the following new paragraph:

"(13) The sale by a plan to a party in interest on or after December 18, 1987, of any stock, if—

"(A) the requirements of paragraphs (1) and (2) of subsection (e) are met with respect to such stock,

"(B) on the later of the date on which the stock was acquired by the plan, or January 1, 1975, such stock constituted a qualifying employer security (as defined in section 407(d)(5) as then in effect), and

"(C) such stock does not constitute a qualifying employer security (as defined in section 407(d)(5) as in effect at the time of the sale).".

(p) AMENDMENTS RELATED TO SECTION 9346.—

(1)(A) Clause (iii) of section 411(c)(2)(C) of the 1986 Code is amended to read as follows:

"(iii) interest on the sum of the amounts determined under clauses (i) and (ii) compounded annually—

"(I) at the rate of 120 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of a plan year) for the period beginning with the 1st plan year to which subsection (a)(2) applies (by reason of the applicable effective date) and ending with the date on which the determination is being made, and

"(II) at the interest rate which would be used under the plan under section 417(e)(3) (as of the determination date) for the period beginning with the determination date and ending on the date on which the employee attains normal retirement age."

(B) Subparagraph (B) of section 411(c)(2) of the 1986 Code is amended to read as follows:

"(B) DEFINED BENEFIT PLANS.—In the case of a defined benefit plan, the accrued benefit derived from contributions made by an employee as of any applicable date is the amount equal to the employee's accumulated contributions expressed as an annual benefit commencing at normal retirement age, using an interest rate which would be used under the plan under section 417(e)(3) (as of the determination date)."

(C) Section 411(c)(2) of the 1986 Code is amended by striking subparagraph (E).

(D) Section 411(a)(7) of the 1986 Code is amended by adding at the end the following new subparagraph:

"(D) ACCRUED BENEFIT ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS.—The accrued benefit of an employee shall not be less than the amount determined under subsection (c)(2)(B) with respect to the employee's accumulated contributions."

(2)(A) Clause (iii) of section 204(c)(2)(C) of ERISA is amended to read as follows:

"(iii) interest on the sum of the amounts determined under clauses (i) and (ii) compounded annually—

"(I) at the rate of 120 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the first month of a plan year for the period beginning with the first plan year to which subsection (a)(2) applies by reason of the applicable effective date) and ending with the date on which the determination is being made, and

"(II) at the interest rate which would be used under the plan under section 205(g)(3) (as of the determination date) for the period beginning with the determination date and ending on the date on which the employee attains normal retirement age."

(B) Subparagraph (B) of section 204(c)(2) of ERISA is amended to read as follows:

"(B) In the case of a defined benefit plan, the accrued benefit derived from contributions made by an employee as of any applicable date is the amount equal to the employee's accumulated contributions expressed as an annual benefit commencing at normal retirement age, using an interest rate which would be used under the plan under section 205(g)(3) (as of the determination date)."

(C) Section 204(c)(2) of ERISA is amended by striking subparagraph (E).

(D) Paragraph (23) of section 3 of ERISA is amended by adding at the end the following new flush sentence:

"The accrued benefit of an employee shall not be less than the amount determined under section 204(c)(2)(B) with respect to the employee's accumulated contribution."

(3) If—

(A) during the period beginning December 22, 1987, and ending June 21, 1988, a plan was amended to reflect the amendments made by section 9346 of the Pension Protection Act, and

(B) such plan is amended to reflect the amendments made by this subsection,

any plan amendment described in subparagraph (B) shall not be treated as reducing accrued benefits for purposes of section 411(d)(6) of the 1986 Code or section 204(g) of ERISA.

SEC. 3132. EFFECTIVE DATE.

Except as otherwise provided in this chapter, any amendment made by this chapter shall take effect as if originally included in the provision of the Omnibus Budget Reconciliation Act of 1987 or Pension Protection Act to which such amendment relates.

CHAPTER 4—AMENDMENTS RELATING TO THE SINGLE-EMPLOYER PENSION PLAN AMENDMENTS ACT OF 1986

SEC. 3141. AMENDMENTS RELATING TO THE SINGLE-EMPLOYER PENSION PLAN AMENDMENTS ACT OF 1986.

(a) AMENDMENT RELATED TO SECTION 11004.—Section 3(37)(B) of ERISA is amended by striking "section 4001(c)(1)" and inserting "section 4001(b)(1)".

(b) AMENDMENT RELATED TO SECTION 11005.—Subparagraph (B) of section 4022A(f)(2) of ERISA is amended by striking "the the enactment" and inserting "the enactment".

(c) AMENDMENT RELATED TO SECTION 11008.—Subparagraph (B) of section 4041(b)(2) of ERISA is amended by adjust-

ing the margination of the sentence following clause (ii)(V) 2 ems to the left.

(d) AMENDMENTS RELATED TO SECTION 11009.—

(1) Subparagraph (D) of section 4041(c)(3) of ERISA is amended by adjusting the margination thereof, and of each subdivision thereof, 2 ems to the right.

(2) Subclause (I) of section 4041(c)(3)(D)(ii) of ERISA is amended by striking "of" and inserting "under".

(e) AMENDMENT RELATED TO SECTION 11010.—Section 4042(a) of ERISA is amended, in the matter following paragraph (4), by inserting a period after "terms of the plan".

(f) AMENDMENT RELATED TO SECTION 11011.—

(1) Subparagraph (A) of section 4232(c)(1) of ERISA is amended by striking "less 30 percent of the net worth of the employer who maintained the single-employer plan, determined in accordance with section 4062 or 4064," and inserting "less the amount collected by the corporation in connection with such termination under subtitle D,".

(2) The amendment made by paragraph (1) shall apply with respect to terminations of single-employer plans with respect to which notices of intent to terminate are provided under section 4041(a)(2) of ERISA, or proceedings are initiated under section 4042 of ERISA, on or after the date of the enactment of this Act.

(g) AMENDMENT RELATED TO SECTION 11013.—Subparagraph (A) of section 4218(1) of ERISA is amended by striking "section 4062(d)" and inserting "section 4069(b)".

(h) AMENDMENTS RELATED TO SECTION 11016.—

(1) Section 4047 of ERISA is amended, in the first sentence, by striking "under this subtitle".

(2) Section 4066 of ERISA is amended by inserting "any" before "contributing sponsor" the first place it appears.

(3) Section 11016(a)(6)(A)(ii) of the Single-Employer Pension Plan Amendments Act of 1986 is amended to read as follows:

"(ii) by striking 'employers' and inserting 'contributing sponsors and members of their controlled groups'; and".

SEC. 3142. EFFECTIVE DATE.

Except as otherwise provided in this chapter, any amendment made by this chapter shall take effect as if originally included in the provision of the Single-Employer Pension Plan Amendments Act of 1986 to which such amendment relates.

CHAPTER 5—OTHER AMENDMENTS AND PROVISIONS RELATING TO ERISA

SEC. 3151. OTHER AMENDMENTS TO ERISA.

(a) AMENDMENTS RELATED TO SECTION 3.—

(1)(A) Section 3(33)(D)(iii) of ERISA is amended by inserting "of the Treasury" after "Secretary" each place it appears.

(B) The amendments made by subparagraph (A) shall take effect as if originally included in section 407 of the Multiemployer Pension Plan Amendments Act of 1980.

(2)(A) Section 3(37)(F) of ERISA (as added by section 136 of Public Law 100-202 (101 Stat. 1329-441)) is amended—

(i) in clause (i)(II), by striking "such Code" and inserting "the Internal Revenue Code of 1986";

(ii) in clause (ii)(I), by inserting "of such Code" after "section 501(c)"; and

(iii) in clause (ii)(II), by inserting "of such Code" after "section 170(b)(1)(A)(ii)".

(B) The amendment made by this paragraph shall take effect as if originally included in section 136 of Public Law 100-202.

(3) Section 3(39) of ERISA is amended by inserting a comma after "mean" and by inserting "the" before "calendar".

(4) Section 3 of ERISA is amended by adding at the end the following new paragraph:

"(41) SINGLE-EMPLOYER PLAN.—The term 'single-employer plan' means an employee benefit plan other than a multiemployer plan.".

(b) AMENDMENTS RELATED TO PART 1 OF SUBTITLE B OF TITLE I.—

(1) The heading for part 1 of subtitle B of title I of ERISA is amended by striking "Part I" and inserting "Part 1".

(2) Section 101(a)(2) of ERISA is amended by striking "section" and inserting "sections".

(3) Section 104(a)(5)(B) of ERISA is amended by striking the period and inserting a comma.

(4) Section 104(b)(1) of ERISA is amended by striking the comma after "summary".

(5) Section 105(b) of ERISA is amended by striking "12 month" and inserting "12-month".

(6) Section 106(b) of ERISA is amended by striking "section" and inserting "sections".

(7) Section 108 of ERISA is amended by striking "act of omission" and inserting "act or omission".

(c) AMENDMENTS RELATED TO PART 2 OF SUBTITLE B OF TITLE I.—

(1)(A) Section 201(6) of ERISA is amended by striking "section 409 of such Code" and inserting "section 409 of the Internal Revenue Code of 1954 (as effective for obligations issued before January 1, 1984)".

(B) The amendment made by subparagraph (A) shall take effect as if originally included in section 491(b) of Public Law 98-369.

(2)(A) Section 201 of ERISA is amended—

(i) in paragraph (6), by striking "or" at the end;

(ii) in paragraph (7), by striking "plan." and inserting "plan; or"; and

(iii) in paragraph (8), by striking "Any" and inserting "any".

(B) The amendments made by subparagraph (A) shall take effect as if originally included in section 411 of the Multiemployer Pension Plan Amendments Act of 1980.

(3)(A) Section 202(a)(1)(B)(ii) of ERISA is amended by striking "institution" and inserting "organization".

(B) Section 202(b)(2) of ERISA is amended by striking "the plan" and inserting "a plan".

(4) Section 203(a)(3)(D)(v) of ERISA is amended by striking "nonforfeitably" and inserting "nonforfeitability".

(5) Section 204(b)(1)(A) of ERISA is amended in the last sentence by striking "suparagraph" and inserting "subparagraph".

(6) Section 204(b)(1)(E) of ERISA is amended by striking "years" in the last sentence and inserting "year".

(7) Section 204(d) of ERISA is amended, in the matter following paragraph (2), so as to remove the indentation of the term "Paragraph" the first place it appears.

(8)(A) Section 205(c)(6) of ERISA is amended by striking "act" and inserting "Act".

(B) The amendment made by subparagraph (A) shall take effect as if originally included in section 103 of the Retirement Equity Act of 1984 in reference to the new section 205(c)(5) of ERISA as added by such section 3113.

(9) Section 206(a)(1) of ERISA is amended by inserting "occurs" after "(1)".

(10)(A) Section 206(d)(3)(I) of ERISA is amended by striking "act" and inserting "Act".

(B) The amendment made by subparagraph (A) shall take effect as if originally included in section 104 of the Retirement Equity Act of 1984.

(11) Section 210(c) of ERISA is amended by striking "such code" and inserting "such Code".

(d) AMENDMENT RELATED TO PART 3 OF SUBTITLE B OF TITLE I.—

(1)(A) Section 301(a)(7) of ERISA is amended by striking "section 409 of such Code" and inserting "section 409 of the Internal Revenue Code of 1954 (as effective for obligations issued before January 1, 1984)".

(B) The amendment made by subparagraph (A) shall take effect as if originally included in section 491(b) of Public Law 98-369.

(2)(A) Section 301(a) of ERISA is amended—

(i) in paragraph (8), by striking "or" at the end;

(ii) in paragraph (9), by striking "plan." and inserting "plan; or"; and

(iii) in paragraph (10), by striking "Any" and inserting "any".

(B) The amendments made by subparagraph (A) shall take effect as if originally included in section 411 of the Multiemployer Pension Plan Amendments Act of 1980.

(3) Clause (iii) of section 302(b)(3)(B) of ERISA is amended by striking the period and inserting a comma.

(4) Paragraph (6) of section 302(c) of ERISA is amended by striking "subsection (g)" and inserting "section 305".

(5) Subparagraph (A) of section 304(b)(2) of ERISA is amended by striking the period and inserting a comma.

(e) AMENDMENTS RELATED TO PART 4 OF SUBTITLE B OF TITLE I.—

(1) Paragraph (3) of section 403(b) of ERISA is amended—

(A) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively;

(B) by striking ", to the extent" and all that follows through "applicable" in subparagraph (B) (as so redesignated); and

(C) by adding at the end, after and below subparagraph (B) (as redesignated), the following:

"to the extent that such plan's assets are held in one or more custodial accounts which qualify under section 401(f) or 408(h) of such Code, whichever is applicable.".

(2)(A) Subsection (c) of section 403 of ERISA is amended—

(i) in paragraph (2)(A), by striking "part iv" and inserting "title IV", and

(ii) by inserting "if such contribution or payment is" after "(i)" and "(ii)", respectively.

(B) The amendments made by subparagraph (A) shall take effect as if originally included in section 410 of the Multiemployer Pension Plan Amendments Act of 1980.

(3)(A) Paragraph (5) of section 407(d) of ERISA is amended to read as follows:

"(5) The term 'qualifying employer security' means an employer security which is—

"(A) stock,

"(B) a marketable obligation (as defined in subsection (e)), or

"(C) an interest in a publicly traded partnership (as defined in section 7704(b) of the Internal Revenue Code of 1986), but only if such partnership is the successor to a corporation whose assets were conveyed in liqui-

dation to such partnership prior to January 1, 1987.

After December 17, 1987, in the case of a plan other than an eligible individual account plan, an employer security described in subparagraph (A) or (C) shall be considered a qualifying employer security only if such employer security satisfies the requirements of subsection (f)(1).".

(B) The amendment made by subparagraph (A) shall take effect on the date of the enactment of this Act and shall apply with respect to assets held or acquired on or after such date.

(4) Section 407(d)(6)(A) of ERISA is amended—

(A) by inserting "plan" after "money purchase"; and

(B) by striking "employee securities" and inserting "employer securities".

(5)(A) Section 408(d) of ERISA is amended, in the last sentence—

(i) by striking "individual retirement account, individual retirement annuity, or an individual retirement bond (as defined in section 408 or 409 of the Internal Revenue Code of 1954)" and inserting "individual retirement account or individual retirement annuity described in section 408 of the Internal Revenue Code of 1954 or a retirement bond described in section 409 of the Internal Revenue Code of 1954 (as effective for obligations issued before January 1, 1984)"; and

(ii) by striking "section 408(c) of such code" and inserting "section 408(c) of such Code".

(B) The amendments made by subparagraph (A) shall take effect as if originally included in section 491(b) of the Deficit Reduction Act of 1984.

(6)(A) Section 409 of ERISA is amended by adding at the end the following new subsection:

"(c) Any person who participates knowingly in, or knowingly undertakes to conceal, an act or omission of a fiduciary with respect to a plan, knowing such act or omission is a breach of fiduciary responsibility to such plan, shall be personally liable to the plan for such breach of fiduciary responsibility in the same manner and to the same extent as if such person were a fiduciary committing such breach.".

(2) The amendment made by subparagraph (A) shall be effective as if included in section 409 of the ERISA at the time of its enactment.

(7) Section 413 of ERISA is amended by striking "(a)".

(8) Section 414(c)(2) of ERISA is amended by striking "1954)" and inserting "1986", and by striking "prior law" and inserting "prior law)".

(f) AMENDMENTS RELATED TO PART 5 OF SUBTITLE B OF TITLE I.—

(1) Section 502(b)(1) of ERISA is amended by striking "respct" and inserting "respect".

(2)(A) Section 514(b)(5)(C) of ERISA (as amended by section 301 of Public Law 97-473 (96 Stat. 2611)) is amended by striking "such parts" the second place it appears and inserting "such parts 1 and 4 and the preceding sections of this part".

(B) The amendment made by this paragraph shall take effect as if originally included in section 301 of Public Law 97-473.

(3)(A) Section 514(b)(6)(B) of ERISA (as amended by section 302 of Public Law 97-473 (96 Stat. 2612)) is amended by striking "section 3(1)" and inserting "section 3(1)".

(B) The amendments made by this paragraph shall take effect as if originally included in section 302 of Public Law 97-473.

(g) AMENDMENTS TO TITLE IV.—

(1)(A) Section 4021(a) of ERISA is amended by striking "this section" and inserting "this title".

(B) Section 4022(a) of ERISA is amended by striking "section 4021" and inserting "this title".

(C)(i) Section 4022A(a)(1) of ERISA is amended by striking "section 4021" and inserting "this title".

(ii) The amendment made by clause (i) shall take effect as if originally included in section 102 of the Multiemployer Pension Plan Amendments Act of 1980.

(2) Section 4022(b)(2) of ERISA is amended by striking "60 month" and inserting "60-month".

(3)(A) Section 4042(d)(1)(A) of ERISA is amended—

(i) by redesignating clauses (v), (vi), and (vii) as clauses (vi), (vii), and (viii), respectively; and

(ii) by inserting after clause (iv) the following new clause:

"(v) to collect for the plan any amounts due the plan, including but not limited to the power to collect from the persons obligated to meet the requirements of section 302 or the terms of the plan;".

(B) Section 4042(d)(1)(B) of ERISA is amended—

(i) by striking clause (ii); and

(ii) by redesignating clauses (iii) through (viii) as clauses (ii) through (vii), respectively.

(C) The amendments made by this paragraph shall apply with respect to terminations with respect to which proceedings are instituted under section 4042 of ERISA on or after the date of the enactment of this Act.

(4) Paragraph (1) of section 4044(a) of ERISA is amended by striking "accured" and inserting "accrued".

(5)(A) Paragraph (2) of section 4068(c) of ERISA is amended by striking "section 3466 of the Revised Statutes (31 U.S.C. 191)" and inserting "section 3713 of title 31 of the United States Code".

(B) The amendment made by subparagraph (A) shall take effect as if originally included in section 3 of Public Law 97-258.

(6) Section 4065 of ERISA is amended, in the next to last sentence, by striking "6 months" and inserting "7 months".

(h) AMENDMENTS CLARIFYING APPLICABILITY OF ORIGINAL EFFECTIVE DATE PROVISIONS.—

(1) Section 111 of ERISA is amended by adding at the end the following new subsection:

"(d) Subsections (b) and (c) shall not apply with respect to amendments made to this part in provisions enacted after the date of the enactment of this Act.".

(2) Section 211 of ERISA is amended by adding at the end the following new subsection:

"(f) The preceding provisions of this section shall not apply with respect to amendments made to this part in provisions enacted after the date of the enactment of this Act.".

(3) Section 308 of ERISA is amended by adding at the end the following new subsection:

"(f) The preceding provisions of this section shall not apply with respect to amendments made to this part in provisions enacted after the date of the enactment of this Act.".

(4) Section 414 of ERISA is amended by adding at the end the following new subsection:

"(e) The preceding provisions of this section shall not apply with respect to amendments made to this part in provisions enacted after the date of the enactment of this Act.".

(5)(A) Section 4402 of ERISA is amended by adding at the end the following new subsection:

"(i) The preceding provisions of this section shall not apply with respect to amendments made to this title in provisions enacted after the date of the enactment of the Tax Reform Act of 1986.".

(B) The amendment made by subparagraph (A) shall take effect as if originally included in the Reform Act.

(i) EFFECTIVE DATE.—Except as otherwise provided in this section, any amendment made by this section shall take effect as if originally included in the provision of the Employee Retirement Income Security Act of 1974 to which such amendment relates.

SEC. 3152. INDEX BOND STUDY.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Labor, shall undertake, as soon as possible after the date of the enactment of this Act, a thorough study with respect to the feasibility of the issuance by the Federal Government of index bonds for investment by private pension plans and individual retirement accounts and annuities.

(b) MATTERS TO BE STUDIED.—In carrying out the study provided for in subsection (a), the Secretary of the Treasury shall address, analyze, and report specifically on the following matters:

(1) the extent to which legislative changes would be necessary or appropriate to enable the Federal Government to effectively issue index bonds for investment by private pension plans and individual retirement accounts or annuities;

(2) the extent to which the private investment community is currently offering or could offer comparable investment vehicles to such plans and accounts or annuities;

(3) the extent to which there exists a demand for such index bonds among such plans and accounts or annuities;

(4) the impact that the issuance of such bonds to such plans and accounts or annuities would have on the financial markets and overall investment; and

(5) the impact that the issuance of such bonds to such plans and accounts or annuities would have on the Federal budget.

(c) REPORT.—The Secretary of the Treasury shall, not later than December 31, 1990, submit to the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Finance of the Senate a report of the findings of the study provided for by subsection (a), together with any recommendations the Secretary considers appropriate.

SEC. 3153. SPECIAL RULES FOR TOP-HEAVY PLANS.

(a) IN GENERAL.—Part 2 of subtitle B of title I of ERISA is amended—

(1) by redesignating section 211 as section 212; and

(2) by inserting after section 210 the following new section:

"SPECIAL RULES FOR TOP-HEAVY PLANS

"SEC. 211. (a) GENERAL RULE.—A pension plan which is a top-heavy plan for any plan year shall (effective for such plan year) meet—

"(1) the vesting requirements of subsection (b), and

"(2) the minimum benefit requirements of subsection (c).

"(b) VESTING REQUIREMENTS.—

"(1) IN GENERAL.—A plan satisfies the requirements of this subsection if it satisfies the requirements of either of the following subparagraphs:

"(A) 3-YEAR VESTING.—A plan satisfies the requirements of this subparagraph if an employee who has completed at least 3 years of service with the employer or employers maintaining the plan has a nonforfeitable right to 100 percent of such employee's accrued benefit derived from employer contributions.

"(B) 6-YEAR GRADED VESTING.—A plan satisfies the requirements of this subparagraph if an employee has a nonforfeitable right to a percentage of such employee's accrued benefit derived from employer contributions determined under the following table:

"Years of service	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6 or more	100

"(2) CERTAIN RULES MADE APPLICABLE.—Except to the extent inconsistent with the provisions of this subsection, the rules of section 203 shall apply for purposes of this subsection.

"(c) PLAN MUST PROVIDE MINIMUM BENEFITS.—

"(1) DEFINED BENEFIT PLANS.—

"(A) IN GENERAL.—A defined benefit plan meets the requirements of this subsection if the accrued benefit derived from employer contributions of each participant who is a non-key employee, when expressed as an annual retirement benefit, is not less than the applicable percentage of the participant's average compensation for years in the testing period.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means the lesser of—

"(i) 2 percent multiplied by the number of years of service with the employer, or

"(ii) 20 percent.

"(C) YEARS OF SERVICE.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), years of service shall be determined under the rules of section 203(b).

"(ii) EXCEPTION FOR YEARS DURING WHICH PLAN WAS NOT TOP-HEAVY.—A year of service with the employer shall not be taken into account under this paragraph if—

"(I) the plan was not a top-heavy plan for any plan year ending during such year of service, or

"(II) such year of service was completed in a plan year beginning before January 1, 1990.

"(D) AVERAGE COMPENSATION FOR HIGH 5 YEARS.—For purposes of this paragraph—

"(i) IN GENERAL.—A participant's testing period shall be the period of consecutive years (not exceeding 5) during which the participant had the greatest aggregate compensation from the employer.

"(ii) YEAR MUST BE INCLUDED IN YEAR OF SERVICE.—The years taken into account under clause (i) shall be properly adjusted for years not included in a year of service.

"(iii) CERTAIN YEARS NOT TAKEN INTO ACCOUNT.—Except to the extent provided in the plan, a year shall not be taken into account under clause (i) if—

"(I) such year ends in a plan year beginning before January 1, 1990, or

"(II) such year begins after the close of the last year in which the plan was a top-heavy plan.

"(E) ANNUAL RETIREMENT BENEFIT.—For purposes of this paragraph, the term 'annual retirement benefit' means a benefit payable annually in the form of a single life annuity (with no ancillary benefits) beginning at the normal retirement age under the plan.

"(2) DEFINED CONTRIBUTION PLANS.—

"(A) IN GENERAL.—A defined contribution plan meets the requirements of the subsection if the employer contribution for the year for each participant who is a non-key employee is not less than 3 percent of such participant's compensation.

"(B) SPECIAL RULE WHERE MAXIMUM CONTRIBUTION LESS THAN 3 PERCENT.—

"(i) IN GENERAL.—The percentage referred to in subparagraph (A) for any year shall not exceed the percentage at which contributions are made (or required to be made) under the plan for the year for the key employee for whom such percentage is the highest for the year.

"(ii) DETERMINATION OF PERCENTAGE.—The determination referred to in clause (i) shall be determined for each key employee by dividing the contributions for such employee by so much of his total compensation for the year as does not exceed $200,000.

"(iii) TREATMENT OF AGGREGATION GROUPS.—

"(I) For purposes of this subparagraph, all defined contribution plans required to be included in an aggregation group under section 416(g)(2)(A)(i) of the Internal Revenue Code of 1986 shall be treated as one plan.

"(II) This subparagraph shall not apply to any plan required to be included in an aggregation group if such plan enables a defined benefit plan required to be included in such group to meet the requirements of section 401(a)(4) or 410 of such Code.

"(d) PLAN MUST MEET REQUIREMENTS WITHOUT TAKING INTO ACCOUNT SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS AND BENEFITS.—A top-heavy plan shall not be treated as meeting the requirement of subsection (b) or (c) unless such plan meets such requirement without taking into account contributions or benefits under chapter 2 (relating to tax on self-employment income), chapter 21 (relating to Federal Insurance Contributions Act), title II of the Social Security Act, or any other Federal or State law.

"(e) COORDINATION WHERE EMPLOYER HAS TWO OR MORE PLANS.—The Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section where the employer has two or more plans including (but not limited to) regulations to prevent inappropriate omissions or required duplication of minimum benefits or contributions.

"(f) PLANS WHICH MAY BECOME TOP-HEAVY.—Except to the extent provided in regulations, each pension plan shall contain provisions—

"(1) which will take effect if such plan becomes a top-heavy plan, and

"(2) which meet the preceding requirements of this section.

"(g) DEFINITIONS.—For purposes of this section—

"(1) TOP-HEAVY PLAN.—The term 'top-heavy plan' means a pension plan which is, or is treated as, a top-heavy plan within the meaning of section 416(g) of the Internal Revenue Code of 1986.

"(2) KEY EMPLOYEE.—The term 'key employee' means an employee who is a key employee within the meaning of section 416(i)(1) of such Code.

"(3) NON-KEY EMPLOYEE.—The term 'non-key employee' means any employee who is not a key employee.

"(4) TREATMENT OF EMPLOYEES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—The requirements of subsections (b) and (c) shall not apply with respect to any employee included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and one or more employers if there is evidence that retirement benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

"(5) TREATMENT OF BENEFICIARIES.—The terms 'employee' and 'key employee' include their beneficiaries.

"(6) COMPENSATION.—The term 'compensation' shall have the meaning provided in section 414(s) of the Internal Revenue Code of 1986.

"(h) REGULATIONS.—The Secretary of the Treasury shall prescribe such regulations as are necessary to carry out the provisions of this section.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of ERISA is amended by striking the item relating to section 211 and inserting the following new items:

"Sec. 211. Special rules for top-heavy plans.
"Sec. 212. Effective dates.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after January 1, 1990.

SEC. 3154. COMPLIANCE WITH APPLICABLE QUALIFICATION REQUIREMENTS.

(a) NOTIFICATION REQUIREMENTS RELATING TO QUALIFICATION STATUS.—

(1) PLAN DESCRIPTIONS AND SUMMARY PLAN DESCRIPTIONS.—

(A) IN GENERAL.—Subsection (b) of section 102 of ERISA is amended by striking "Act)." and inserting the following: "Act); and, in the case of an employee pension benefit plan, whether the applicable requirements for qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 are met with respect to the plan.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect one year after the date of the enactment of this Act. The amendment made by subparagraph (A) shall apply with respect to plan descriptions and summary plan descriptions required to be filed with the Secretary of Labor and furnished to participants as provided in section 104 of ERISA before, on, or after the date of the enactment of this Act, except that the requirements of the amendment made by subparagraph (A) shall be considered met in the case of any plan description or summary plan description so filed and furnished before the effective date specified in the preceding sentence if, before such effective date, the plan administrator files with the Secretary of Labor, and furnishes to each participant, and each beneficiary receiving benefits under the plan, the information required by such amendment in the form of a summary of material modification.

(2) ANNUAL REPORT.—

(A) IN GENERAL.—Section 103(a)(1)(B) of ERISA is amended—

(i) in clause (i), by striking "and" at the end;

(ii) in clause (ii), by striking "subsection." and inserting "subsection, and"; and

(iii) by adding at the end the following new clause:

"(iii) in the case of an employee pension benefit plan, a statement of whether the applicable requirements for qualification

under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 are met with respect to the plan.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply with respect to annual reports required to be filed under section 104(a)(1)(A) of ERISA on or after the date of the enactment of this Act.

(b) RELIEF FOR VIOLATION OF APPLICABLE QUALIFICATION REQUIREMENTS.—

(1) IN GENERAL.—Section 3002 of ERISA is amended by adding at the end the following new subsection:

"(f) RELIEF FOR VIOLATION OF APPLICABLE QUALIFICATION REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), a civil action may be brought by a participant, beneficiary, or fiduciary against any party in interest to enjoin any act or practice by such party in interest with respect to the plan which violates the applicable requirements for qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986, or to obtain other appropriate legal or equitable relief to redress such violation. Any person who makes a showing that such person would have been a participant or beneficiary but for the alleged violation shall be treated as such a participant or beneficiary for purposes of this paragraph.

"(2) EXEMPTION FROM CIVIL ACTION UPON DISCLOSURE TO PARTICIPANTS OF NONQUALIFIED STATUS.—Paragraph (1) shall not apply with respect to any plan if the latest information made available to participants pursuant to section 104(b) with respect to such plan indicates that the applicable requirements for qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 are not currently met with respect to such plan.

"(3) JURISDICTION AND RELATED MATTERS.—Subsections (d), (e), (f), (g), (h), and (j) of section 502 shall apply with respect to a civil action brought under paragraph (1) in the same manner and to the same extent as such subsections apply with respect to civil actions brought under subsection (a) of section 502.

"(4) DEFINITIONS.—For purposes of this subsection, terms used in this subsection which are defined in section 3 shall have the meanings provided such terms in section 3.".

(2) EFFECTIVE DATE AND RELATED RULES.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply with respect to acts and practices occurring on or after January 1, 1990.

(B) INTERIM DISCLOSURE BY PLANS OF NONQUALIFIED STATUS.—Any written statement provided to all participants by the administrator of an employee pension benefit plan, before the filing of the next annual report of the plan pursuant to section 104 of ERISA, that the applicable requirements for qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 are not met with respect to the plan shall be treated, for purposes of section 3002(f)(2) of ERISA (as added by this section), as information made available to participants pursuant to section 104(b) of ERISA with respect to such plan.

SEC. 3155. EQUAL TREATMENT OF TELEPHONE AND ELECTRIC COOPERATIVE WELFARE PLANS FOR PURPOSES OF ERISA PREEMPTION.

(a) IN GENERAL.—Section 3(40) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)) is amended—

(1) in subparagraph (A)(i), by striking "or" at the end;

(2) in subparagraph (A)(ii), by striking "cooperative." and inserting "cooperative, or";

(3) by adding at the end of subparagraph (A) the following new clause:

"(iii) by a rural telephone cooperative association.";

(4) in subparagraph (B)(iii), by striking "and" at the end;

(5) in subparagraph (B)(iv)(II), by striking "subclause (I)." and inserting "subclause (I), and"; and

(6) by adding at the end of subparagraph (B) the following new clause:

"(v) the term 'rural telephone cooperative association' means an organization described in paragraph (4) or (6) of section 501(c) of the Internal Revenue Code of 1986 which is exempt from tax under section 501(a) of such Code and at least 80 percent of the members of which are organizations engaged primarily in providing telephone service to rural areas of the United States on a mutual, cooperative, or other basis.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 3156. TERMINATION FEE.

(a) IN GENERAL.—Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new section:

"TERMINATION FEE

"SEC. 516. (a) IN GENERAL.—At the time of filing a notice of intent to terminate a single-employer plan under a standard termination under section 4041(b), the employer maintaining such plan shall pay to the Pension Benefit Guaranty Corporation a fee in the amount determined under subsection (b).

"(b) AMOUNT OF FEE.—The amount of the fee under subsection (a) shall be equal to $200, multiplied by the number of participants in the plan immediately before the filing of the notice of intent to terminate.

"(c) CREDITING OF FEES.—Fees collected under this section shall be deposited as offsetting receipts in the applicable fund established under section 4005.".

(b) CONFORMING AMENDMENT.—The table of sections for part 5 of subtitle B of title I of such Act is amended by adding at the end thereof the following new item:

"Sec. 516. Termination fee.".

(c) EFFECTIVE DATE.—Section 516 of the Employee Retirement Income Security Act of 1974, as added by subsection (b), shall apply with respect to notices of intent to terminate filed after July 13, 1989.

SEC. 3157. REQUIREMENTS RELATING TO TRUSTEESHIP OF SINGLE-EMPLOYER PLANS.

(a) IN GENERAL.—Section 403(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by adding at the end the following new paragraph:

"(2)(A) The assets of a pension plan that is a single-employer plan shall be held in trust by a joint board of trustees, which shall consist of two or more trustees representing on an equal basis the interests of the employer or employers maintaining the plan and the interests of the participants and their beneficiaries.

"(B)(i) Except as provided in clause (ii), in any case in which the plan is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and one or more employers, the trustees representing the interests of the participants and their beneficiaries shall be designated by such employee organizations.

"(ii) Clause (i) shall not apply with respect to a plan described in such clause if the employee organization (or all employee organizations, if more than one) referred to in such clause file with the Secretary, in such form and manner as shall be prescribed in regulations of the Secretary, a written waiver of their rights under clause (i).

"(iii) In any case in which clause (i) does not apply with respect to a plan because the plan is not described in clause (i) or because of a waiver filed pursuant to clause (ii), the trustee or trustees representing the interests of the participants and their beneficiaries shall consist of one or more participants under the plan elected to serve as such in accordance with this clause. The Secretary shall provide by regulation for a secret ballot of the participants under the plan for purposes of such election, and for certification of the results thereof to the participants (and any employee organization referred to in clause (ii)) and to the employer.

"(C) Each pension plan that is single-employer plan shall provide a method for deciding questions upon which a tie vote has been rendered by its joint board of trustees.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to plan years beginning after 180 days after the date of the enactment of this Act. The Secretary of Labor shall prescribe the initial regulations necessary to carry out the provisions of such amendments not later than 90 days after the date of the enactment of this Act.

Subtitle C—User Fees

SEC. 3201. USER FEES FOR PROCESSING OF REPORTS.

(a) IN GENERAL.—Section 104 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) USER FILING FEES ON ANNUAL REPORTS AND SUMMARY PLAN DESCRIPTIONS.—

"(1) IN GENERAL.—The administrator of any single-employer plan shall pay to the Secretary at the time of—

"(A) filing an annual report under subsection (a)(1)(A),

"(B) filing a summary plan description under subsection (a)(1)(C), or a summary of material modifications or changes under subsection (a)(1)(D), or

"(C) filing a notice of qualified transfer of excess pension assets under section 101(e),

a user fee in the amount determined under paragraph (2).

"(2) AMOUNT OF FEE.—

"(A) ANNUAL REPORTS.—The amount of the fee under paragraph (1)(A) with respect to each report shall be—

"(i) $100 if the plan had fewer than 100 participants as of the close of the plan year preceding the plan year in which such report or description is filed,

"(ii) $250 if the plan had 100 or more but fewer than 500 participants as of the close of such plan year, and

"(iii) $500 in the case of any other plan.

"(B) PLAN DESCRIPTIONS.—The amount of the fee under paragraph (1)(B) with respect to each plan description shall be $100.

"(C) QUALIFIED TRANSFERS.—The amount of the fee under paragraph (1)(C) with respect to each transfer shall be $500.

"(3) SPECIAL RULE FOR PLANS NOT REQUIRED TO FILE ANNUAL REPORTS.—

"(A) IN GENERAL.—In the case of any employee benefit plan not required to file an annual report described in subsection (a)(1)(A) for any year, the administrator of such plan shall notify the Secretary of the following information concerning such year:

"(i) The name of the employer maintaining such plan.

"(ii) The number of employees covered by such plan.

"(iii) The aggregate amount of benefits provided.

"(B) TIME FOR FILING NOTICE.—The notice under subparagraph (A) shall be filed at the same time as the annual report under subsection (a)(1)(A) would have been filed.

"(C) APPLICATION OF FEE.—For purposes of this subsection, the notice under subparagraph (A) shall be treated in the same manner as an annual report under subsection (a)(1)(A).".

(b) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—The Secretary of the Treasury shall transfer each fiscal year beginning after fiscal year 1989, any amounts received in the Treasury under section 104(d) of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)) to the Secretary of Labor.

(2) USE OF FUNDS.—The Secretary of Labor shall expend the amounts received under such section 104(d) for each fiscal year only for enforcement of requirements under title I of the Employee Retirement Income Security Act of 1974.

SEC. 3202. EFFECTIVE DATES.

Section 104(d) of the Employee Retirement Income Security Act of 1974, as added by section 3201, shall apply to reports, descriptions, and notices filed after July 13, 1989. Section 104(d)(3) of such Act (as so added) shall apply to plan years ending after such date.

Subtitle D—Settlement of Claims

SEC. 3301. ACTION BY SECRETARY OF LABOR REQUIRED.

The Secretary of Labor shall accept, in full settlement of claims with respect to disallowed expenses of the Genesee, Lapeer, Shiswassee, and Flint Employment and Training Consortium under the Comprehensive Employment and Training Act for the periods from October 1, 1975, through September 30, 1979, and from October 1, 1979, through September 30, 1981, the payment by the city of Flint to the Department of Labor of the sum of $171,364, by 20 quarterly payments of $8,568.20 commencing not later than January 15, 1990.

SEC. 3302. TREATMENT OF BILINGUAL EDUCATION AWARDS.

Awards made to the Franklin-Northwest Supervisory Union, Vermont, of $388,076.56 for fiscal years 1984 (for programs of bilingual education) and 1985 (for programs of transitional bilingual education) and $400,061 for fiscal year 1986 (for programs of transitional bilingual education) made by the Secretary of Education under the Bilingual Education Act (20 U.S.C. 3221 et seq.), and any expenditure of funds by the Franklin-Northwest Supervisory Union pursuant to such awards, shall be treated as if they were made in accordance with the provisions of the Bilingual Education Act for the purposes of any claims for repayment asserted by the Secretary of Education.

Subtitle E—Early Childhood Education and Development

SEC. 3401. SHORT TITLE.

This subtitle may be cited as the "Early Childhood Education and Development Act of 1989".

SEC. 3402. PURPOSES.

The purposes of this subtitle are—

(1) to build on and to strengthen the role of the family by seeking to ensure that parents are not forced by lack of available programs or financial resources to place a child in an unsafe or unhealthy child care facility or arrangement;

(2) to promote the availability and diversity of quality child care services and early childhood development programs to expand child care options available to all families who need such services;

(3) to assist States and Indian tribes to work with businesses to find innovative ways to provide employee child care services through the workplace;

(4) to provide assistance to families whose financial resources are not sufficient to enable such families to pay the full cost of necessary child care services and early childhood development;

(5) to lessen the chances that children will be left to fend for themselves for significant parts of the day;

(6) to improve the productivity of parents in the labor force by lessening the stresses related to the absence of adequate child care services;

(7) to provide assistance to States and Indian tribes to improve the quality of, and coordination among, child care programs and early childhood development programs;

(8) to increase the opportunities for attracting and retaining qualified staff in the field of child care and early childhood development to provide high quality child care services to children; and

(9) to strengthen the competitiveness of the United States by providing young children with a sound early childhood development experience.

SEC. 3403. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—(1) Subject to paragraph (2), there are authorized to be appropriated for the purposes specified in subsection (b) $1,750,000,000 for fiscal year 1990 and such sums as may be necessary for fiscal years 1991, 1992, and 1993.

(2) No funds are authorized by paragraph (1) to be appropriated for fiscal 1990 unless—

(A) the aggregate amount appropriated to carry out chapter 1 of title I of the Elementary and Secondary Education Act of 1965 for fiscal year 1990 is not less than the adjusted appropriation to carry out such chapter for fiscal year 1989; and

(B) the aggregate amount appropriated to carry out the Head Start Act for fiscal year 1990 is not less than the adjusted appropriation to carry out such Act for fiscal year 1989.

(3) For purposes of paragraph (2), the term "adjusted appropriation" means the amount appropriated for fiscal year 1989 as adjusted to reflect the percentage change in the Consumer Price Index For All Urban Consumers, issued by the Bureau of Labor Statistics, during the 1-year period ending on September 30, 1989.

(b) AVAILABILITY OF APPROPRIATIONS.—Of the aggregate amount appropriated under subsection (a) for a fiscal year—

(1) 25 percent shall be available to provide developmentally appropriate child care services under the Head Start Act, as amended by chapter 1 of this subtitle;

(2) 25 percent shall be available to carry out title VIII of the Elementary and Secondary Education Act of 1965, as added by chapter 2 of this subtitle;

(3) 35 percent shall be available to carry out the Child Care Services For Infants, Toddlers, And Young Children Act, as added by chapter 3 of this subtitle; and

(4) 15 percent shall be available to carry out the Child Care and Early Childhood Development Coordinating Activities Act, as added by chapter 4 of this subtitle.

CHAPTER 1—EXPANDED HEAD START

SEC. 3411. DEFINITIONS.

Section 637 of the Head Start Act (42 U.S.C. 9832) is amended by adding at the end the following:

"(4) The term 'full calendar year' means all days of the year other than Saturdays, Sundays, and legal public holidays.

"(5) The term 'full-working-day' means at least 10 hours per day.

"(6) The term 'lower living standard income level' means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor and based on the most recent lower living family budget issued by the Secretary of Labor.

"(7) The term 'sliding fee scale' means the sliding fee scale established and revised under section 658.".

SEC. 3412. FINANCIAL ASSISTANCE FOR HEAD START PROGRAMS.

Section 638 of the Head Start Act (42 U.S.C. 9833) is amended—

(1) in subsection (a)—

(A) by striking "and (2)" and inserting "(2)"; and

(B) by inserting the following before the period at the end: "; and (3) may provide developmentally appropriate child care services in accordance with this subchapter"; and

(2) in subsection (b) by striking "subchapter E" and inserting "subchapter G".

SEC. 3413. CONFORMING AMENDMENT.

Section 639 of the Head Start Act (42 U.S.C. 9835) is amended by inserting "(other than the provisions relating to child care services referred to in section 638(a)(3))" after "subchapter".

SEC. 3414. ALLOTMENT OF FUNDS.

Section 640(a) of the Head Start Act (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (1) by inserting "and the amount made available under section 3(b)(1) of the Early Childhood Education and Development Act of 1989" after "section 639";

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A) by inserting "under section 639" after "appropriated";

(B) in the second sentence by inserting "under section 639" after "appropriation";

(C) in the last sentence by striking "such funds appropriated under this subchapter" and inserting "such funds reserved under this paragraph";

(D) by inserting before the last sentence the following: "The Secretary shall reserve 8 percent of the amount made available under section 3(b)(1) of the Early Childhood Education and Development of 1989 for any fiscal year, for use in accordance with subparagraphs (A) and (B)."; and

(3) in paragraph (3)—

(A) by striking "The Secretary" and inserting "After reserving the amounts re-

quired by paragraph (2), the Secretary"; and

(B) by striking "remaining 87 percent of the amounts appropriated" and inserting "remainder".

SEC. 3415. FEDERAL SHARE.

Section 640(b) of the Head Start Act (42 U.S.C. 9835(b)) is amended—

(1) in the first sentence by striking "Financial" and inserting "Except as provided in paragraph (2), financial";

(2) by inserting "(1)" after "(b)"; and

(3) by adding at the end the following:

"(2) Financial assistance extended under this subchapter to a Head Start agency, attributable to funds made available under section 3(b)(1) of the Early Childhood Education and Development Act of 1989, shall be 100 percent of the approved costs of the developmentally appropriate child care services for which such assistance is provided.".

SEC. 3416. PARTICIPATION IN HEAD START PROGRAMS.

(a) CHILD CARE SERVICES AND EXPANDED HEAD START ELIGIBILITY.—Section 645(a) of the Head Start Act (42 U.S.C. 9840(a)) is amended—

(1) in the second sentence of paragraph (1) by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(2) by adding at the end the following:

"(3)(A) Funds allotted under section 640 that are attributable to funds made available under section 3(b)(1) of the Early Childhood Education and Development Act of 1989 shall be expended only in accordance with this paragraph.

"(B) Funds allotted under section 640 that are attributable to funds made available under section 3(b)(1) of the Early Childhood Education and Development Act of 1989 may be expended to enable Head Start programs to provide developmentally appropriate child care services throughout the full calendar year to children who are eligible under paragraphs (1) and (2) to participate in, and are participating in, Head Start programs so that such children receive full-working-day services if such child care services are provided to meet the needs of parents each of whom is working, or attending a job training or educational program.

"(C) Subject to subparagraph (D) and subsection (b)(2), funds allotted under section 640 that are attributable to funds made available under section 3(b)(1) of the Early Childhood Education and Development Act of 1989 may be expended to enable Head Start programs to provide throughout the full calendar year both Head Start services (other than services specified in section 638(a)(3)) and developmentally appropriate child care services to children—

"(i) who are ineligible under paragraphs (1) and (2) to participate in Head Start programs; and

"(ii) whose family income is greater than the poverty line but less than 150 percent of the lower living standard income level;

so that such children receive full-working-day services if such services are provided to meet the needs of parents each of whom is working, or attending a job training or educational program.

"(D)(i) For purposes of carrying out this paragraph, priority shall be given to providing services under subparagraph (B).

"(ii) For any fiscal year, an amount not to exceed 50 percent of the funds allotted under section 640 that are attributable to funds made available under section 3(b)(1) of the Early Childhood Education and Development Act of 1989 may be expended for the purpose specified in subparagraph (C).".

(b) FEES.—Section 645(b) of the Head Start Act (42 U.S.C. 9840(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2) Parents of children who receive Head Start services (including developmentally appropriate child care services) under the authority of subsection (a)(3)(C) shall pay a portion of the cost of such services, based on a sliding fee scale. Payments received under this paragraph shall be retained by Head Start agencies and shall be expended by such agencies only to carry out this subchapter.".

SEC. 3417. ESTABLISHMENT AND REVISION OF SLIDING FEE SCALE.

The Head Start Act (42 U.S.C. 9831-9852) is amended by adding at the end the following:

"ESTABLISHMENT AND REVISION OF SLIDING FEE SCALE

"SEC. 658. The Secretary shall establish and periodically revise, by rule, a sliding fee scale that provides for cost sharing between the Federal Government (acting indirectly through Head Start agencies) and the families that receive services for which assistance is provided under the amendments to this Act made by Early Childhood Education and Development Act of 1989. Such fee scale shall be based on the services provided to, and the income of the families (adjusted for family size and extraordinary medical expenses paid by the family as a result of a disability of a family member) of, eligible children who receive such services, except that families whose income does not exceed the poverty line (as determined under section 652) may not be required to pay a fee for such services.".

SEC. 3418. TECHNICAL AMENDMENT.

Section 652(b) of the Head Start Act (42 U.S.C. 9847(b)) is amended by inserting "For All Urban Consumers" after "Consumer Price Index".

CHAPTER 2—EARLY CHILDHOOD DEVELOPMENT AND SCHOOL-RELATED CHILD CARE

SEC. 3421. GRANTS FOR STATE AND LOCAL PROGRAMS.

The Elementary and Secondary Education Act of 1965 is amended—

(1) by redesignating title X as title IX;

(2) by redesignating sections 8001 through 8005 as sections 9001 through 9005, respectively; and

(3) by inserting before title IX (as redesignated by paragraph (1)) the following new title:

"TITLE VIII—EARLY CHILDHOOD DEVELOPMENT AND SCHOOL-RELATED CHILD CARE

"SEC. 8001. PROGRAM AUTHORIZED.

"(a) GENERAL AUTHORITY.—The Secretary shall make grants to eligible States to assist in the expansion or establishment of before- and after-school child care or early childhood development programs that offer services that—

"(1) are intended to provide an environment which enhances the educational, social, cultural, emotional, and recreational development of children; and

"(2) in the case of before- and after-school child care—

"(A) are provided Monday through Friday, including school holidays and vacation periods other than legal public holidays, to children attending half-day early childhood development programs, kindergarten, or elementary or secondary school classes during such times of the day and on such days that regular instructional services are not in session; and

"(B) are not intended to extend or replace the regular academic program.

"(b) ELIGIBILITY.—In any fiscal year, a State, and the local educational agencies in such State, shall only be eligible to receive assistance under this title if—

"(1) such State submitted an application for a grant under the Child Care and Early Childhood Development Coordinating Activities Act for the same fiscal year; and

"(2) the application submitted under the Child Care and Early Childhood Development Coordinating Activities Act is approved.

"(c) AVAILABILITY OF APPROPRIATIONS.—Amounts shall be available to carry out this title as provided in section 3(b)(2) of the Early Childhood Education and Development Act of 1989.

"SEC. 8002. AMOUNTS OF GRANTS.

"(a) GRANTS FOR TERRITORIES.—

"(1) The Secretary shall reserve 1 percent of the amount made available for purposes of carrying out this title in each fiscal year for payments to—

"(A) Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for grants under this title; and

"(B) the Secretary of the Interior in the amount necessary—

"(i) to make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this title with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior, in amounts determined by the Secretary in accordance with the provisions of section 1005(d)(1); and

"(ii) to meet the needs of Indian children on reservations serviced by elementary and secondary schools for Indian children operated with Federal assistance or operated by the Department of the Interior, pursuant to an agreement between the Secretary and the Secretary of the Interior made in accordance with the provisions of section 1005(d)(2).

"(2) The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Secretary determines will best carry out the purposes of this title.

"(b) GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND THE COMMONWEALTH OF PUERTO RICO.—

"(1)(A) In each fiscal year, the Secretary shall determine which local educational agencies in a State are eligible to receive a grant under subparagraph (B) and the amount of the grant each such local educational agency is eligible to receive in accordance with the provisions of subsections (a) through (c) of section 1005, section 1403(b), and subparagraph (B).

"(B) Except as provided in paragraph (2), and subject to the availability of appropriations, in any fiscal year a local educational agency shall receive a grant under this subsection only if the amount of the grant which such local educational agency is eligible to receive, as determined under subsections (a) through (c) of section 1005 and section 1403(b)—

"(i) is not less than $15,000; or

"(ii) is not less than $5,000, in the case of a local educational agency which has under its jurisdiction children at least 30 percent of whom are eligible to be counted under section 1005(c).

"(2)(A) In each fiscal year, amounts remaining from amounts appropriated for the purpose of making grants under this title after carrying out subsection (a) and paragraph (1) shall be allocated to the States for the purpose of making grants to local educational agencies that did not receive a grant under paragraph (1) for such fiscal year. Each State shall receive under this paragraph an amount that bears the same relationship to such remaining amounts as the amount received by all local educational agencies in such State under chapter 1 of title I in the preceding fiscal year bears to the amount made available to carry out such chapter in such fiscal year, except that in any fiscal year no State may receive any amount under this paragraph that, when added to the amount received under paragraph (1) in such fiscal year by all local educational agencies in such State, would total more than an amount that bears the same relationship to the amount made available for purposes of carrying out this title for such fiscal year as the amount received by all local educational agencies in such State in the preceding fiscal year under chapter 1 of title I bears to the amount made available to carry out such chapter in such fiscal year.

"(B) Subject to subparagraphs (C) and (D), in each fiscal year each State shall, from amounts made available to it under this paragraph, make grants to local educational agencies that did not receive a grant under paragraph (1) for such fiscal year, for the purposes specified in section 8001.

"(C) Each State shall give priority for grants under subparagraph (B) to local educational agencies—

"(i) that have under their jurisdiction the greatest concentrations of children whose families have very low income;

"(ii) that will use amounts made available under the grant to supplement, not supplant, non-Federal funds being used before the grant is received for the purposes for which the grant is provided; and

"(iii) that are located in areas in greatest need of child care and early childhood development services, taking into consideration the needs and resources assessment conducted under section 659F of Public Law 97-35.

"(D) The State may not make a grant under this paragraph for an amount that is less than $5,000.

"(3) For purposes of determining the amount that a local educational agency in a State would be eligible to receive under this title, the Secretary shall include children aged 4 in the count conducted under section 1005(c).

"(4) For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(c) LIMITATION.—Notwithstanding the provisions of this section, the amount paid to any State under this title for any fiscal year shall not exceed 150 percent of—

"(1) the amount received by such State under this title in the preceding fiscal year; or

"(2) an amount that bears the same relationship to the amount made available to carry out this title as the amount received by all local educational agencies in such State under chapter 1 of title I in the preceding fiscal year bears to the amount made available to carry out such chapter in such fiscal year.

"SEC. 8003. LOCAL PROGRAM REQUIREMENTS.

"(a) APPLICATION.—A local educational agency that desires to receive funds under this title shall submit an application to the State that includes a 2-year plan describing how the local educational agency will use such funds to carry out the purposes of this title.

"(b) USE OF FUNDS.—Each local educational agency that receives funds under this title shall use such funds to expand, establish, or operate an early childhood development program or before- and after-school child care program, or both, in accordance with the application and plan approved by the State. Each such program shall meet the following requirements:

"(1)(A) An early childhood development program shall be provided at the costs described in subparagraph (C) for children described in subparagraph (B).

"(B) Children described in this subparagraph are children from families—

"(i) within the area served by the local educational agency; and

"(ii) in which the parent or parents work or are in education or training programs.

"(C) The program described in subparagraph (A)—

"(i) shall be provided at no cost for 4-year-old children from families within the area served by the local educational agency with income of not more than 100 percent of the poverty level (to the extent such services are not available under the Head Start Act); and

"(ii) may be provided, from not more than 50 percent of the funds provided under this title that will be used to provide such program—

"(I) on a sliding fee scale for 4-year-old children from families within the area served by the local educational agency with income of more than 100 percent of the poverty level but not more than 160 percent of the lower living standard income level; and

"(II) on a full-fee basis for children from families within the area served by the local educational agency with income of more than 160 percent of the lower living standard income level.

"(2) At the option of the local educational agency, an early childhood development program may be provided for 3-year-old children under the terms described in paragraph (1).

"(3)(A) A before- and after-school child care program shall provide such care at the costs described in subparagraph (C) for children described in subparagraph (B). Such program shall consist of services that—

"(i) are provided during such times of the day when regular instructional services are not in session; and

"(ii) are not intended as an extension of or replacement for the regular academic program, but are intended to provide an environment that enhances the social, educational, cultural, emotional, and recreational development of school-age children.

"(B) Children described in this subparagraph are children from families within the area served by the local educational agency and in which—

"(i) the parent or parents work or are in education or training programs; and

"(ii) the children are attending early childhood development programs, kindergarten, or elementary or secondary school classes.

"(C) The care described in subparagraph (A)—

"(i) shall be provided at no cost for children from families within the area served by the local educational agency with income of not more than 100 percent of the poverty level; and

"(ii) may be provided, from not more than 50 percent of the funds provided under this title that will be used to provide such care—

"(I) on a sliding fee scale for children from families within the area served by the local educational agency with income of more than 100 percent of the poverty level but not more than 160 percent of the lower living standard income level; and

"(II) on a full-fee basis for children from families within the area served by the local educational agency with income of more than 160 percent of the lower living standard income level.

"(4)(A) Services shall be available during the full working day for 4-year-olds (and for 3-year-olds, where offered). Such services may only include an early childhood development program or before- and after-school care, or both.

"(B) Before- and after-school care shall be available for the calendar year, Monday through Friday, excluding legal public holidays.

"(5) The local educational agency shall provide for the inclusion in each program of eligible children enrolled in private early childhood development programs and in private kindergarten and elementary and secondary schools in accordance with the provisions of chapter 1 of title I relating to the participation of children enrolled in private schools.

"(6) Each early childhood development program shall be in compliance with—

"(A) applicable State regulatory standards for health and safety; and

"(B) applicable State standards for program quality.

"(7) With respect to early childhood development programs, norm-referenced and criterion-referenced standardized tests shall not be administered.

"(8) With respect to before- and after-school child care programs—

"(A) each such program provided shall be developmentally appropriate and meet the diverse recreational, social, emotional, cultural, and educational needs of school-aged children; and

"(B) each such program shall be in compliance with—

"(i) applicable State regulatory standards for health and safety; and

"(ii) applicable State standards for program quality.

"(9) A smooth transition of children shall be encouraged—

"(A) from early childhood development programs to kindergarten; and

"(B) from kindergarten to grade 1.

"(10) Services shall include—

"(A) adequate and nutritious meals and snacks;

"(B) if practicable, social services; and

"(C) in the case of early childhood development programs—

"(i) coordination of such health and nutrition services as are available from other agencies for children in such programs; and

"(ii) referrals to health and social services for which an enrolled child and the family of such child are eligible under Federal, State, or local law.

"(11) Information, programs, and activities for parents shall be provided, to the extent practicable, in a language and form the parents understand.

"(c) FEES.—Payments received by local educational agencies from parents of children who receive early childhood development services under the authority of subsection (b)(1)(C)(ii) or before- and after-school child care services under the authority of subsection (b)(3)(C)(ii) shall be retained by such agencies and shall be expended by such agencies only to carry out this title.

"(d) COORDINATION WITH EXISTING PROVIDERS.—Each local educational agency that receives funds under this title shall coordinate the program carried out with such funds with other public entities and private nonprofit community-based organizations that provide before- and after-school child care and early childhood development programs in the area served by the local educational agency, including entities and organizations that provide programs with assistance received under section 619 of the Education of the Handicapped Act.

"(e) CONTRACTING AUTHORITY.—

"(1) A local educational agency may provide a before- and after-school child care program or early childhood development program in accordance with the provisions of this title through grants to or contracts with other public entities and eligible private nonprofit community-based organizations that provide before- and after-school child care programs or early childhood development programs, as appropriate. In making a grant or entering into a contract under the authority of the preceding sentence, a local educational agency shall give priority to a program offered in a public school building, if the cost of such program is comparable to the costs of programs offered in other facilities.

"(2) To be eligible for a grant or contract under this subsection, a private nonprofit community-based organization shall provide assurances that—

"(A) the organization is able to and willing to enroll in the program, or has a history of enrolling, racially, ethnically, linguistically, and economically diverse children and children with disabilities;

"(B) the organization will ensure that the program is in compliance with section 654 of the Head Start Act; and

"(C) the organization will comply with other reasonable requirements established by the local educational agency consistent with the purposes of this title.

"(f) PROHIBITION OF SECTARIAN ACTIVITIES.—No provider of a program receiving assistance under this title shall engage in any sectarian activity, including sectarian worship and instruction, in such program.

"SEC. 8004. STATE PROGRAM REQUIREMENTS.

"(a) STATE EDUCATIONAL AGENCY ASSURANCES.—In order for a State to participate under this title, the State shall submit to the Secretary, through its State educational agency, assurances that the State educational agency—

"(1) will meet the requirements in paragraphs (2) and (5) of section 435 of the General Education Provisions Act, relating to fiscal control and fund accounting procedures;

"(2) will establish, before the expiration of the 3-year period beginning on the date of the enactment of the Early Childhood Education and Development Act of 1989—

"(A) standards for early childhood development programs for which funds are received under this title, which shall include standards relating to—

"(i) group size limits in terms of the number of staff members and the number and ages of children;

"(ii) the maximum appropriate child-staff ratios;

"(iii) qualifications and background of staff members;

"(iv) health, nutrition, and safety requirements for children and staff members; and

"(v) parental involvement; and

"(B) standards for before- and after-school child care programs for which funds are received under this title, which shall include standards relating to—

"(i) inservice training for staff members;

"(ii) health, nutrition, and safety requirements for children and staff members; and

"(iii) parental involvement;

"(3) will ensure that its local educational agencies and State agencies receiving funds under this title comply with any applicable statutory and regulatory provisions pertaining to this title; and

"(4) will require any local educational agency that desires to receive assistance under this title to submit an application for such assistance that includes a 2-year plan describing how the local educational agency will carry out the objectives of this title.

"(b) LIMITATION ON STATE PROGRAM COSTS.—The State educational agency may, from the amounts paid to it pursuant to section 8006, use not more than 3 percent of such amounts for costs of administration related to carrying out this title.

"SEC. 8005. ESTABLISHMENT AND REVISION OF SLIDING FEE SCALE.

"The State shall establish and periodically revise, by rule, a sliding fee scale that provides for cost sharing between the Federal Government (acting indirectly through the State and local educational agencies) and the families that receive child care or early childhood development services for which assistance is provided under this title. Such fee scale shall be based on the services provided to, and the income of the families (adjusted for family size and extraordinary medical expenses paid by the family as a result of a disability of a family member) of, eligible children who receive such services, except that it shall apply only to services received by children from families with income of more than 100 percent of the poverty level but not more than 160 percent of the lower living standard income level.

"SEC. 8006. PAYMENTS TO STATES.

"The Secretary shall pay to each State on a timely basis, in advance or otherwise, the amount which it and the local educational agencies of such State are eligible to receive under this title.

"SEC. 8007. PAYMENTS TO LOCAL EDUCATIONAL AGENCIES.

"Each State educational agency shall distribute not less than 97 percent of the amounts paid to it pursuant to section 8006 to the local educational agencies of the State which are eligible to receive grants under this title and which have applications and plans approved by the State.

"SEC. 8008. DEFINITIONS.

"For purposes of this title:

"(1) The term 'community-based organization' means an organization that—

"(A) is representative of the community or significant segments of the community; and

"(B) provides child care, preschool programs, or early childhood development programs.

"(2) The term 'early childhood development program' means a program to provide educational services that are appropriate for the child's age and all areas of the individual child's development, including physical, emotional, social, cultural, cognitive, and communication, and including services appropriate to meet the needs of children with disabilities.

"(3) The term 'full working day' means at least 10 hours per day.

"(4) The term 'lower living standard income level' means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor and based on the most recent lower living family budget issued by the Secretary of Labor.

"(5) The term 'non-English language background' means the experience of living in a home in which the primary language spoken is not English.

"(6) The term 'poverty level' means the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index For All Urban Consumers.

"(7) The term 'sliding fee scale' means the sliding fee scale established and revised under section 8005.".

SEC. 3422. TECHNICAL AMENDMENT.

The first sentence of section 1005(c)(2)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711(c)(2)(B)) is amended by inserting after "Consumer Price Index" the following: "For All Urban Consumers".

CHAPTER 3—CHILD CARE SERVICES FOR INFANTS, TODDLERS, AND YOUNG CHILDREN

SEC. 3431. ESTABLISHMENT OF PROGRAM.

Chapter 8 of subtitle A of title VI of Public Law 97-35 (42 U.S.C. 9871-9877) is amended—

(1) by redesignating subchapters C, D, and E as subchapters D, E, and F, respectively; and

(2) by inserting after subchapter B the following:

"Subchapter C—Child Care Services For Infants, Toddlers, And Young Children

"SEC. 658A. SHORT TITLE.

"This subchapter may be cited as the 'Child Care Services For Infants, Toddlers, And Young Children Act'.

"SEC. 658B. AMOUNTS RESERVED; ALLOTMENTS.

"(a) AMOUNTS RESERVED.—

"(1) TERRITORIES AND POSSESSIONS.—The Secretary shall reserve not to exceed one-half of 1 percent of the amount made available under section 3(b)(3) of the Early Childhood Education and Development of 1989 in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau, to be allotted in accordance with their respective needs.

"(2) INDIANS.—The Secretary shall reserve an amount, not less than 1.5 percent and not more than 3 percent of the amount made available under section 3(b)(3) of the Early Childhood Education and Development of 1989 in each fiscal year, to carry out subsection (c) regarding Indian children.

"(b) STATE ALLOTMENT.—

"(1) GENERAL RULE.—From the remainder of the amount made available under section 3(b)(3) of the Early Childhood Education and Development Act of 1989 for each fiscal year, the Secretary shall allot to each State (excluding jurisdictions referred to in subsection (a)(1)) an amount equal to the sum of—

"(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment factor bears to the sum of the corresponding products for all States; and

"(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment factor bears to the sum of the corresponding products for all the States.

"(2) ALLOTMENT PERCENTAGE.—

"(A) IN GENERAL.—The allotment factor for a State is determined by dividing—

"(i) the per capita income of all individuals in the United States; by

"(ii) the per capita income of all individuals in the State.

"(B) LIMITATIONS.—If a sum determined under subparagraph (A)—

"(i) exceeds 1.2, then the allotment factor of that State shall be considered to be 1.2; and

"(ii) is less than 0.8, then the allotment percentage of the State shall be considered to be 0.8.

"(C) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

"(i) determined at 4-year intervals;

"(ii) applied for the 4-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

"(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

"(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

"(1) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—From the funds reserved under subsection (a)(2), the Secretary may, upon the application of an Indian tribe or tribal organization, enter into a contract with or make a grant to such Indian tribe or tribal organization for a period of 2 years, subject to satisfactory performance, to plan and carry out programs and activities that are consistent with this subchapter. Such contract or grant shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 655-657), that are relevant to such programs and activities.

"(2) INDIAN RESERVATIONS.—In the case of an Indian tribe in a State other than the States of Oklahoma, Alaska, and California, such programs and activities shall be carried out on the Indian reservation for the benefit of Indian children.

"(3) STANDARDS.—(A)(i) Subject to subparagraph (B), in the case of an Indian tribe or tribal organization that has in effect licensing or regulatory requirements applicable to child care services, the Secretary shall incorporate such requirements into the grant or contract made under this subsection with respect to such tribe or such tribal organization.

"(ii) Subject to subparagraph (B) and if there are no tribal requirements of the kind described in clause (i), the Secretary shall establish, through the application process, standards applicable to child care services provided under such programs and activities. For purposes of establishing such standards, the Secretary shall take into consideration—

"(I) the codes, regulations, and cultural factors of the Indian tribe involved, as expressed by such tribe or the tribal organization that represents such tribe; and

"(II) the State licensing and regulatory requirements applicable to child care services provided in the State in which such program and activities are carried out.

"(B) After the Secretary establishes model child care standards under section 658H(e)(2), the Secretary shall incorporate into any subsequent grant or contract made under this subsection—

"(i) minimum child care standards established by the Indian tribe or tribal organization that address all of the matters specified in paragraphs (1), (2), and (3) of section 658H(d); or

"(ii) such model child care standards;

at the option of the Indian tribe or tribal organization. The standards incorporated into such grant or contract shall apply with respect to child care services provided under such programs and activities.

"(4) AVAILABILITY OF STATE CHILD CARE SERVICES.—For the purpose of determining whether to approve an application for a contract or grant under this subsection, the Secretary shall take into consideration the availability of child care services provided in accordance with this subchapter by the State in which the applicant proposes to carry out a program to provide child care services.

"(5) RULE OF STATUTORY CONSTRUCTION.—This subsection shall not be construed—

"(A) to limit the eligibility of any individual to participate in any program carried out with assistance received under this subchapter by a State; or

"(B) to modify any requirement imposed on a State by any provision of this subchapter.

"(6) COORDINATION.—To the maximum extent practicable, the applicant for a grant or contract under this subsection and the State in which the applicant is located shall coordinate with each other their respective child care programs and activities, including child care programs and activities carried out with assistance received under this subchapter.

"(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

"(e) REALLOTMENTS.—

"(1) IN GENERAL.—Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under section 658C(d), in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

"(2) LIMITATIONS.—(A) The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 658C(d).

"(B) the amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

"(3) AMOUNTS REALLOTTED.—For purposes of any other section of this subchapter, any amount reallotted to a State under this subsection shall be deemed to be part of the allotment made under subsection (b) to the State.

"(f) DEFINITION.—For the purposes of this section, the term 'State' means any of the several States, the District of Columbia, or the Commonwealth of Puerto Rico.

"SEC. 658C. APPLICATION AND PLAN.

"(a) APPLICATION.—To be eligible to receive funds under this subchapter, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule.

"(b) PLAN.—The application of a State submitted under subsection (a) shall include an assurance that the State will comply with the requirements of this subchapter and a State plan that is designed to be implemented during a 2-year period and that meets the requirements of subsection (c).

"(c) REQUIREMENTS OF THE PLAN.—

"(1) LEAD AGENCY.—The plan shall contain an assurance that the financial assistance received under this subchapter by the State will be administered by the lead agency and shall identify the lead agency designated in accordance with section 659D of the Child Care and Early Childhood Development Coordinating Activities Act.

"(2) POLICIES AND PROCEDURES.—The plan shall set forth policies and procedures designed to ensure all of the following:

"(A) That, to the maximum extent feasible—

"(i) the parents of each eligible child who will receive child care services for which assistance is provided under paragraph (3) are permitted to select the eligible child care provider that will provide such services to such child; and

"(ii) the State will attempt to place such child with the eligible child care provider selected by such parents.

"(B) That—

"(i) all providers of child care services for which assistance is provided under this subchapter comply with all licensing and regulatory requirements (including registration requirements) applicable under State and local law; and

"(ii) such requirements are imposed and enforced by the State uniformly on all such providers that provide child care services under similar child care arrangements.

This subparagraph shall not be construed to prohibit a State to impose more stringent standards or requirements on child care providers who provide services for which assistance is provided under this subchapter and who also receive State funds under any other law to provide child care services under a contract or other arrangement with the State.

"(C) That procedures will be established to ensure that child care providers required to be licensed or regulated in the State comply with the standards established under section 658F(a) by the State as well as all applicable State and local licensing and regulatory requirements (including registration requirements).

"(D) That the State will not—

"(i) reduce the categories of child care providers licensed or regulated by the State on the date of enactment of the Early Childhood Education and Development Act of 1989; or

"(ii) reduce the level of standards applicable to child care services provided in the State and to the matters referred to in sections 658F, even if such standards exceed the model standards established under section 658H(e)(2) by the Secretary unless the State demonstrates, to the satisfaction of the Secretary that the reduction is based on positive developmental practice.

"(E) That for each fiscal year the State will use an amount not to exceed 2 percent of the amount of funds received under section 658B by the State for such fiscal year to administer the State plan.

"(F) That the State will pay funds under this subchapter to eligible child care providers in a timely fashion to ensure the continuity of child care services to eligible children.

"(G) That each eligible child care provider who provides services for which assistance is provided under paragraph (3)—

"(i) to the maximum extent feasible, provides child care services to a reasonable mix of children, including children from different socioeconomic backgrounds and children with a disability;

"(ii) after the expiration of the 4-year period beginning on the date of the enactment of the Early Childhood Education and Development Act of 1989, complies with the minimum child care standards established under section 658F(a) by the State; and

"(iii) complies with the State plan and the requirements of this subchapter.

"(H) That child care services for which assistance is provided under paragraph (3) are available to children who are identified in the local needs assessments to receive special attention.

"(I) That child care providers in the State are encouraged to develop personnel policies that include compensated time for staff undergoing training required under this subchapter.

"(J) That child care services for which assistance is provided under paragraph (3) are provided for an adequate number of hours and days to serve the needs of parents of eligible children, including parents who work nontraditional hours.

"(3) CHILD CARE SERVICES.—The plan shall provide that the State will use the amount allotted to the State in any fiscal year to provide child care services that meet the requirements of this subchapter to eligible children in the State on a sliding fee scale basis and using funding methods provided for in section 658D, and in providing for such services will give priority to children whose families have very low income.

"(4) DISTRIBUTION OF FUNDS.—The plan shall provide that funds will be distributed, to the maximum extent feasible—

"(A) to a variety of types of child care providers in each community, including center-based child care providers, group home child care providers, and family child care providers; and

"(B) equitably among applicants in rural and urban areas.

"(5) REIMBURSEMENTS.—The plan shall provide that, for child care services for which assistance is provided under this subchapter, reimbursement (including any fee paid by the family of a child that receives such services) shall be made at not less than the fair market rate for such services in the geographical area in the State in which such services are being provided and that such reimbursement will reflect the additional cost to a provider of special services or a provider serving special populations of children, with a higher rate of reimbursement being provided for—

"(A) programs providing comprehensive child care services and family support services to adolescent parents;

"(B) the care of eligible children who have a disability; and

"(C) eligible children who are less than 3 years of age.

"(d) APPROVAL OF APPLICATIONS.—The Secretary shall approve an application submitted under this section that satisfies the requirements of this section but only if—

"(1) the State that submitted such application also submitted an application for a grant under the Child Care and Early Childhood Development Coordinating Activities Act for the same fiscal year; and

"(2) the application submitted under the Child Care and Early Childhood Development Coordinating Activities Act is approved.

"SEC. 658D. SPECIAL RULES FOR USE OF STATE ALLOTMENTS.

"(a) GRANTS AND CONTRACTS.—The child care services referred to in section 658C(c)(3) that are to be provided out of the allotment to a State, shall be provided—

"(1) by contracts with or grants to eligible child care providers who agree to provide such services directly to eligible children; or

"(2) by grants to units of general purpose local government or contracts with nonprofit private organizations to provide child care services by making grants to or contracts with eligible child care providers.

"(b) REQUIREMENTS.—For purposes of subsection (a), each entity that makes a grant to or contract with an eligible child care provider shall—

"(1) identify eligible children; and

"(2) allow the parents of eligible children to select from among all eligible child care providers to provide child care services.

"SEC. 658E. CONTINUING ELIGIBILITY OF STATES.

"A State shall be ineligible for funds under this subchapter after the expiration of the 4-year period beginning on the date of the enactment of the Early Childhood Education and Development Act of 1989 unless the State demonstrates to the satisfaction of the Secretary that all child care providers that receive public financial assistance and that are required to be licensed and regulated in the State—

"(1) are so licensed and regulated;

"(2) satisfy the minimum child care standards established under section 658F(a) by the State; and

"(3) are subject to the enforcement provisions referred to in section 659E(c)(4) of the Child Care and Early Childhood Development Coordinating Activities Act.

"SEC. 658F. MINIMUM STATE CHILD CARE STANDARDS AND TRAINING REQUIREMENT.

"(a) MINIMUM CHILD CARE STANDARDS.—A State that receives funds under this subchapter after the expiration of the 3-year period beginning on the date the enactment of the Early Childhood Education and Development Act of 1989 shall have in effect minimum child care standards that address all of the matters specified in paragraphs (1), (2), and (3) of section 658H(d) and that apply with respect to child care services provided in the State by child care providers that receive public financial assistance and that are required to be licensed and regulated by the State.

"(b) MINIMUM TRAINING REQUIREMENT.—A State that receives funds under this subchapter after the expiration of the 2-year period beginning on the date the enactment of the Early Childhood Education and Development Act of 1989 shall require that all child care providers (and the caregivers employed by such providers) that receive public financial assistance and that are required to be licensed and regulated in the State complete annually at least 15 hours of training.

"SEC. 658G. FEDERAL ENFORCEMENT.

"(a) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this subchapter and the plan approved under section 658C(d) for the State.

"(b) NONCOMPLIANCE.—

"(1) IN GENERAL.—If the Secretary, after reasonable notice and opportunity for a hearing to a State, finds that—

"(A) there has been a failure by the State to comply substantially with any provision or any requirements set forth in the plan approved under section 658C(d) for the State; or

"(B) in the operation of any program or project for which assistance is provided under this subchapter there is a failure by the State to comply substantially with any provision of this subchapter;

the Secretary shall notify the State of the finding and that no further payments may be made to such State under this subchapter (or, in the case of noncompliance in the operation of program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

"(2) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to this paragraph (1), the Secretary may, in addition to imposing the sanctions described in such paragraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this subchapter, and disqualification from the receipt of financial assistance under this subchapter.

"(3) NOTICE.—The notice required under paragraph (1) shall include a specific identification of any additional sanction being imposed under paragraph (2).

"(c) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

"(1) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this subchapter; and

"(2) imposing sanctions under this section.

"SEC. 658H. NATIONAL ADVISORY COMMITTEE ON MODEL CHILD CARE STANDARDS.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to improve the quality of child care services, the Secretary shall establish, not later than 60 days after the date of the enactment of the Early Childhood Education and Development Act of 1989, the National Advisory Committee On Model Child Care Standards the members of which shall be appointed from among representatives of—

"(A) persons who carry out various types of child care programs;

"(B) persons who carry out resource and referral programs;

"(C) child care and early childhood development specialists;

"(D) early childhood education specialists and specialists in the education of children with a disability and children whose English language proficiency is limited as a result of their nonEnglish language background;

"(E) individuals who have expertise in pediatric health care, nutrition, disabilities, and related fields;

"(F) organizations representing child care employees;

"(G) individuals who have experience in the regulation of child care services;

"(H) parents who have been actively involved in child care programs; and

"(I) States.

"(2) APPOINTMENT OF MEMBERS.—The Committee shall be composed of 21 members of which—

"(A) 7 members shall be appointed by the President;

"(B) 4 members shall be appointed by the majority leader of the Senate;

"(C) 3 members shall be appointed by the minority leader of the Senate;

"(D) 4 members shall be appointed by the Speaker of the House of Representatives; and

"(E) 3 members shall be appointed by the minority leader of the House of Representatives.

Not less than one-third of the members of the Committee shall be appointed from among individuals described in paragraph (1)(H).

"(3) CHAIRMAN.—The Committee shall appoint a chairman from among the members of the Committee.

"(4) VACANCIES.—A vacancy occurring on the Committee shall be filled in the same manner as that in which the original appointment was made.

"(b) PERSONNEL, REIMBURSEMENT, AND OVERSIGHT.—

"(1) PERSONNEL.—The Secretary shall make available to the Committee office facilities, personnel who are familiar with child development and with developing and implementing regulatory requirements, technical assistance, and funds as are necessary to enable the Committee to carry out effectively its duties.

"(2) REIMBURSEMENT.—(A) Members of the Committee who are not regular full-time employees of the United States Government shall, while attending meetings and conferences of the Committee or otherwise engaged in the business of the Committee (including traveltime), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

"(B) While away from their homes or regular places of business on the business of the Committee, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

"(3) OVERSIGHT.—The Secretary shall ensure that the Committee is established and operated in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

"(c) DUTIES.—The Committee shall—

"(1) review Federal policies with respect to child care services and such other data as the Committee may deem appropriate;

"(2) not later than 180 days after the date on which a majority of the members of the Committee are first appointed, submit to the Secretary proposed model standards described in subsection (d) for child care services, taking into account the different needs of infants, toddlers, and preschool and school-age children; and

"(3) develop and make available to lead agencies, for distribution to resource and referral agencies in the State, model requirements for resource and referral agencies.

"(d) MODEL CHILD CARE STANDARDS.—The proposed model child care standards submitted pursuant to subsection (c)(2) shall consist of only the following:

"(1) CENTER-BASED CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by center-based child care providers shall be limited to—

"(A) group size limits in terms of the number of caregivers and the number and ages of children;

"(B) the maximum appropriate child-staff ratios;

"(C) qualifications and background of child care personnel;

"(D) health, nutrition, and safety requirements for children and caregivers; and

"(E) parental involvement in licensed and regulated child care services.

"(2) FAMILY CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by family child care providers shall be limited to—

"(A) the maximum number of children for which child care services may be provided and the total number of infants for which child care services may be provided;

"(B) the minimum age for caregivers; and

"(C) health, nutrition, and safety requirements for children and caregivers.

"(3) GROUP HOME CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by group home child care providers shall be limited to the matters specified in paragraphs (1)(B) and (2).

"(e) CONSIDERATION AND ESTABLISHMENT OF STANDARDS.—

"(1) NOTICE OF PROPOSED RULEMAKING.—Not later than 90 days after receiving the recommendations of the Committee, the Secretary shall—

"(A) publish in the Federal Register—

"(i) a notice of proposed rulemaking concerning the model standards proposed under subsection (d) to the Secretary; and

"(ii) such proposed model standards for public comment; and

"(B) distribute such proposed model standards, for comment, to each lead agency and each State committee on child care licensing established under section 659G of the Child Care and Early Childhood Development Coordinating Activities Act.

"(2) ESTABLISHMENT OF MODEL CHILD CARE STANDARDS.—(A) The Secretary shall, in consultation with the Committee—

"(i) take into consideration any comments received by the Secretary with respect to the model standards proposed under subsection (d); and

"(ii) not later than 180 days after publication of such standards, shall issue rules establishing model child care standards for purposes of this subchapter. Such standards shall include nutrition requirements.

"(B) The Secretary may amend any standard first established under subparagraph (A), except that such standard may not be modified, by amendment or otherwise, to make such standard less comprehensive or less stringent than it is when first established.

"(3) ADDITIONAL COMMENTS.—The Committee may submit to the Secretary and to the Congress such additional comments on the model child care standards established under paragraph (2) as the Committee considers appropriate.

"(f) TERMINATION OF COMMITTEE.—The Committee shall cease to exist 90 days after the date the Secretary establishes model child care standards under subsection (e)(2).

"SEC. 658I. ESTABLISHMENT AND REVISION OF SLIDING FEE SCALE.

"The State shall establish and periodically revise, by rule, a sliding fee scale that provides for cost sharing between the Federal Government (acting indirectly through the State and service providers) and the families that receive child care services for which assistance is provided under this subchapter. Such fee scale shall be based on the services provided to, and the income of the families (adjusted for family size and extraordinary medical expenses paid by the family as a result of a disability of a family member) of, eligible children who receive such services, except that families whose income does not exceed the poverty line (as determined under section 652 of the Head Start Act) may not be required to pay a fee for such services.

"SEC. 658J. APPLICABILITY OF PROVISIONS OF THE HEAD START ACT.

"Sections 654, 655, and 656 of the Head Start Act (42 U.S.C. 9849-9851) shall apply with respect to this subchapter to the same extent and in the same manner as such sections apply with respect to such Act. No child care provider receiving financial assistance under this subchapter shall engage in any sectarian activity, including sectarian worship and instruction, in the program for which such assistance is received.

"SEC. 658K. DEFINITIONS.

"As used in this subchapter:

"(1) CAREGIVER.—The term 'caregiver' means an individual who provides a service directly to an eligible child on a person-to-person basis.

"(2) CENTER-BASED CHILD CARE PROVIDER.—The term 'center-based child care provider' means a child care provider that provides child care services in a nonresidential facility, and may include a nonprofit institution of higher education.

"(3) COMMITTEE.—The term 'Committee' means the National Advisory Committee On Model Child Care Standards established under section 658H(a).

"(4) DISABILITY.—The term 'disability' means any condition set forth in section 602(a)(1) of the Education of the Handicapped Act (20 U.S.C. 1401(a)(1)) or subparagraph (A) or (B) of section 672(1) of the Education of the Handicapped Act (20 U.S.C. 1472(1)).

"(5) ELIGIBLE CHILD.—The term 'eligible child' means an individual—

"(A) who is—

"(i) less than the age of compulsory school attendance; or

"(ii) for purposes of receiving child care services while the school attended by such individual is not in regular session for such child, of an age of compulsory school attendance but less than 13 years of age;

"(B) whose family income does not exceed 160 percent of the lower living standard income level; and

"(C) who—

"(i) resides with 1 or more parents each of whom is working, or attending a job training or educational program; or

"(ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

"(6) ELIGIBLE CHILD CARE PROVIDER.—The term 'eligible child care provider' means—

"(A) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

"(i) is licensed or regulated under State law;

"(ii) satisfies—

"(I) the Federal requirements, except as provided in clause (iii); and

"(II) the State and local requirements;

applicable to the child care services it provides; and

"(iii) after the expiration of the 4-year period beginning on the date of the enactment of the Early Childhood Education and Development Act of 1989, complies with the minimum child care standards established under section 658F(a) by the State that are applicable to the child care services it provides; or

"(B) a child care provider who provides child care services only to an eligible child who is, by affinity or consanguinity, the grandchild of such provider if such provider satisfies the State requirements (if any) applicable to such services.

"(7) FAMILY CHILD CARE PROVIDER.—The term 'family child care provider' means 1 individual who provides child care services to any eligible child who does not reside with such individual, as the sole caregiver and in the private residence of such individual.

"(8) FAMILY SUPPORT SERVICES.—The term 'family support services' means services that assist parents by providing support in parenting and by linking parents with community resources and with other parents.

"(9) GROUP HOME CHILD CARE PROVIDER.—The term 'group home child care provider' means 2 or more individuals who jointly provide child care services in a private residence to any eligible child who does not reside with any of such individuals.

"(10) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given it in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

"(11) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)), except that with respect to a tribally controlled community college such term has the meaning given it in section 2(a)(5) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(5)).

"(12) LEAD AGENCY.—The term 'lead agency' means the agency designated under section 659D of the Child Care and Early Childhood Development Coordinating Activities Act.

"(13) LOWER LIVING STANDARD INCOME LEVEL.—The term 'lower living standard income level' means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor and based on the most recent lower living family budget issued by the Secretary of Labor.

"(14) NON-ENGLISH LANGUAGE BACKGROUND.—The term 'non-English language background' means the experience of living in a home in which the primary language spoken is not English.

"(15) PARENT.—The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(16) SCHOOL LUNCH FACTOR.—The term 'school lunch factor' means the ratio of the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of children in all the States who are receiving free or reduced price lunches under such program.

"(17) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services unless the context specifies otherwise.

"(18) SLIDING FEE SCALE.—The term 'sliding fee scale' means the sliding fee scale established and revised under section 658I.

"(19) STATE.—The term 'State' means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau.

"(20) TRIBAL ORGANIZATION.—The term 'tribal organization' has the meaning given it in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

"(21) UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT.—The term 'unit of general purpose local government' means a city, county, town, parish, village, or other general purpose political subdivision of a State.

"(22) YOUNG CHILD FACTOR.—The term 'young child factor' means the ratio of the number of children in the State who are less than 6 years of age to the number of children in all the States who are less than 6 years of age.".

CHAPTER 4—CHILD CARE AND EARLY CHILDHOOD DEVELOPMENT COORDINATING ACTIVITIES

SEC. 3441. COORDINATING ACTIVITIES.

Chapter 8 of subtitle A of title VI of Public Law 97-35 (42 U.S.C. 9871-9877), as amended by section 3431, is amended—

(1) by redesignating subchapters D, E, and F as subchapters E, F, and G, respectively; and

(2) by inserting after subchapter C the following:

"Subchapter D—Child Care and Early Childhood Development Coordinating Activities

"SEC. 659A. SHORT TITLE.

"This subchapter may be cited as the 'Child Care and Early Childhood Development Coordinating Activities Act'.

"SEC. 659B. AUTHORITY TO PROVIDE FINANCIAL ASSISTANCE.

"The Secretary may provide financial assistance to eligible States, and to Indian tribes and tribal organizations, to carry out this subchapter.

"SEC. 659C. AMOUNTS RESERVED; ALLOTMENTS.

"(a) AMOUNTS RESERVED.—From the amount made available under section 3(b)(4) of the Early Childhood Education and Development Act of 1989 in each fiscal year, the Secretary shall reserve and allot amounts for States, and for Indian tribes and tribal organizations, in the same manner as provided in subsections (a), (b), (c)(1), (c)(2), and (e) of section 658B of the Child Care Services For Infants, Toddlers, And Young Children Act, except that for purposes of this subsection a reference in such subsections to—

"(1) the State plan shall be deemed to be a reference to the State plan required by section 659E;

"(2) section 3(b)(3) of the Early Childhood Education and Development Act of 1989 shall be deemed to be a reference to section 3(b)(4) of such Act;

"(3) a subchapter shall be deemed to be a reference to this subchapter; and

"(4) a provision of section 658C of the Child Care Services For Infants, Toddlers, And Young Children Act shall be deemed to be a reference to the corresponding provision of section 659E.

"SEC. 659D. LEAD AGENCY.

"(a) DESIGNATION.—The chief executive officer of a State that desires to receive funds under this subchapter shall designate, in an application submitted to the Secretary under section 659E(a), a State agency to act as the lead agency to perform administrative functions to carry out this subchapter.

"(b) ASSISTANCE TO LOCAL CHILD DEVELOPMENT COUNCILS.—The lead agency shall provide to the local child development councils established under section 659F(a) such funds and administrative support services (including personnel), directly or by contract, as may be necessary to enable the councils to carry out their duties under section 659F.

"SEC. 659E. APPLICATION AND PLAN.

"(a) APPLICATION.—To be eligible to receive funds under this subchapter, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule.

"(b) PLAN.—The application of a State submitted under subsection (a) shall include an assurance that the State will comply with the requirements of this subchapter and a State plan that is designed to be implemented during a 4-year period and that meets the requirements of subsection (c).

"(c) REQUIREMENTS OF THE PLAN.—

"(1) LEAD AGENCY.—The plan shall contain an assurance that funds received under this subchapter by the State will be administered by the lead agency and shall identify the lead agency designated in accordance with section 659D.

"(2) MANDATORY ACTIVITIES.—The plan shall provide that the State will use funds allotted under section 659C to do all of the following:

"(A) In at least 1 fiscal year in each 4-year period, provide financial assistance to establish or expand local resource and referral programs under section 659H.

"(B) In each fiscal year, improve the quality of child care services and early childhood development programs in the State by providing training in accordance with the requirements of section 659I.

"(C) In each fiscal year, improve the quality of child care services by improving the monitoring of compliance with, and enforcement of, the licensing and regulatory requirements (including registration requirements) of the State.

"(D) In the first fiscal year and at 4-year intervals thereafter, collate into a single document the most recent needs assessments (as revised to date) received under section 659F by the lead agency and transmit to the Secretary a copy of such document.

"(E) In at least 1 fiscal year in each 4-year period, improve salaries and other compensation paid to full- and part-time staff who provide child care services—

"(i) for which assistance is provided under the Head Start Act, title VIII of the Elementary and Secondary Education Act of 1965, or the Child Care Services For Infants, Toddlers, And Young Children Act; and

"(ii) to the extent practicable, in other major Federal and State child care programs;

to the extent that such salaries and other compensation are inadequate.

"(3) OTHER ACTIVITIES.—The plan shall provide that funds allotted under section 659C not necessary to carry out paragraph

(2) will be used to carry out 1 or more of the following:

"(i) Make low-interest loans to eligible child care providers that are nonprofit child care providers and family child care providers to make renovations and improvements in existing facilities to be used to carry out child care programs.

"(ii) Make grants or low-interest loans to child care providers to assist such providers to meet Federal, State, and local child care standards, giving priority to such providers that serve children of families that have very low income.

"(iii) Make grants to eligible child care providers that demonstrate that they have received commitments from businesses to contribute to such providers not less than 3 times the amount of such grants. The aggregate amount of grants made under this clause in a fiscal year to a single eligible child care provider may not exceed $50,000.

"(iv) Make grants under section 659J to businesses.

"(v) Promote the involvement of local public libraries in improving early childhood learning resources and in expanding the availability of such resources to eligible child care providers.

Amounts (including interest) received by the State for the repayment of loans made under this paragraph shall be used by the State to carry out this subchapter.

"(4) ENFORCEMENT OF LICENSING AND OTHER REGULATORY REQUIREMENTS (INCLUDING REGISTRATION REQUIREMENTS).—The plan shall provide that the State, not later than 3 years after the date of enactment of the Early Childhood Education and Development Act of 1989, shall have in effect enforcement policies and practices that will be applicable to all licensed or regulated child care providers (including child care providers required to register) in the State, including policies and practices that—

"(A) require personnel who perform inspection functions with respect to licensed or regulated child care services to receive training in child development, health and safety, child abuse prevention and detection, the needs of children with a disability, program management, and relevant law enforcement;

"(B) impose personnel requirements to ensure that individuals who are hired as licensing inspectors are qualified to inspect and, to the maximum extent feasible, have inspection responsibility exclusively for children's services;

"(C) require—

"(i) personnel who perform inspection functions with respect to licensed or regulated child care services to make not less than 1 unannounced inspection of each center-based child care provider in the State annually;

"(ii) personnel who perform inspection functions with respect to licensed or regulated child care services to make unannounced inspections annually, and during normal hours of operation, of not less than 25 percent of licensed and regulated family child care providers in the State; and

"(D) require the ratio of licensing personnel to child care providers in the State to be maintained at a level sufficient to enable the State to conduct inspections of child care facilities and providers on a timely basis and otherwise to comply with the enforcement requirements of this section;

"(E) require licensed or regulated child care providers (including registered child care providers) in the State—

"(i) to have written policies and program goals and to make a copy of such policies and goals available to parents; and

"(ii) to provide parents with unlimited access to their children whenever children of such parents are in the care of such providers;

"(F) implement a procedure to address complaints that will provide a reasonable opportunity for a parent, or child care provider, that is adversely affected or aggrieved by a decision of the lead agency or any program or activity assisted under this subchapter or the Child Care Services for Infants, Toddlers, and Young Children Act, to be heard by the State;

"(G) prohibit the operator of a child care facility to take any action against an employee of such operator that would adversely affect the employment, or terms or conditions of employment, of such employee because such employee communicates a failure of such operator to comply with any applicable licensing or regulatory requirement;

"(H) make consumer education information available to inform parents and the general public about licensing requirements, complaint procedures, and policies and practices required by this paragraph;

"(I) require a child care provider to post, on the premises where child care services are provided, the telephone number of the appropriate licensing or regulatory agency that parents may call regarding a failure of such provider to comply with any applicable licensing or regulatory requirement; and

"(j) require the State to maintain a record of parental complaints and to make information regarding substantiated parental complaints available to the public on request.

"(5) DATA COLLECTION.—The plan shall provide for the collection, and submission to the Secretary, by the State of data designed to show—

"(A) by race, sex, ethnic origin, disability, and limited English language proficiency resulting from non-English language background, how the child care needs of families in the State are being fulfilled, including information on—

"(i) the number of children being assisted with funds provided under this subchapter, and under other State and Federal child care programs;

"(ii) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State;

"(iii) the cost of child care services; and

"(iv) salaries and other compensation paid to full- and part-time staff who provide child care services;

"(B) the extent to which the availability of child care services has been increased; and

"(C) that the State complies with the applicable requirements of section 658F of the Child Care Services For Infants, Toddlers, And Young Children Act.

"(6) PROPORTIONAL EXPENDITURES FOR SALARIES AND RENOVATION.—The plan shall provide that of the funds expended under paragraphs (2)(E) and (3)(A)(i)—

"(A) 29 percent shall be expended for the benefit of staff and providers who provide developmentally appropriate child care services for which funds are expended under the Head Start Act;

"(B) 29 percent shall be expended for the benefit of staff and providers who provide services in programs for which funds are expended under title VIII of the Elementary and Secondary Education Act of 1965; and

"(C) 42 percent shall be expended for the benefit of staff and providers who provide child care services for which funds are expended under the Child Care Services For Infants, Toddlers, And Young Children Act.

"(7) REPORT.—The plan shall provide that not later than December 31, 1991, and at 2-year intervals thereafter, the State will submit to the Secretary a report—

"(A) specifying—

"(i) the uses for which the State expended under paragraph (2) funds allotted to the State; and

"(ii) with respect to each purpose specified under clause (i), the amount of such funds expended;

"(B) stating the reasons supporting the selection of each such use and the amount of such funds expended for each such use; and

"(C) identifying the extent to which other resources of the State were expended for each of the activities described in subparagraphs (A) through (E) of such paragraph;

during the 2-year period for which such report is required to be submitted.

"SEC. 659F. NEEDS AND RESOURCES ASSESSMENT.

"(a) APPOINTMENT OF LOCAL CHILD DEVELOPMENT COUNCILS.—(1) The chief elected executive authority of each unit of general purpose local government in a State shall establish separately, or jointly with any other chief elected executive authority of a unit of general purpose local government in such State, a local child development council and shall appoint the members of the council.

"(2) The council shall be composed of any number of members, except that—

"(A) not less than 25 percent of the members shall be representatives of Head Start agencies (if any) that operate in the geographical area that is under the jurisdiction of such government;

"(B) not less than 25 percent of the members shall be representatives of providers of different types of child care services (including caregivers and directors) and organizations that carry out resource and referral programs of the kind described in section 659H(b);

"(C) not less than 25 percent of the members shall be representatives of local educational agencies, school board members, and teachers involved in providing early childhood development programs and before- and after-school child care programs;

"(D) not less than 25 percent of the members shall be representatives of businesses, the labor force, units of general purpose local government, and organizations in the fields of nutrition, public health, and child development; and

"(E) 25 percent of the members appointed under subparagraphs (A) through (D) shall be parents, including parents of children who are eligible to receive—

"(i) developmentally appropriate child care services under the Head Start Act;

"(ii) services in programs under title VIII of the Elementary and Secondary Education Act of 1965; and

"(iii) child care services under the Child Care Services For Infants, Toddlers, And Young Children Act.

"(b) PREPARATION AND REVISION OF LOCAL NEEDS AND RESOURCES ASSESSMENTS.—A State that receives funds under this subchapter for a fiscal year shall require each council—

"(1) to prepare and submit to the lead agency, in accordance with guidelines issued by the chief executive officer of the State, a written assessment of—

"(A) the needs and resources for child care services and early childhood develop-

ment services in the geographical area for which the council is established; and

"(B) the effectiveness of existing child care services, early childhood development services, and related services for which assistance is provided under this subchapter or under other laws, in meeting such needs; and

"(2) at 4-year intervals after submitting such assessment, to revise such assessment to reflect changes in such needs, resources, and effectiveness occurring during the then most recently concluded 4-year period.

For purposes of preparing and revising such assessment, the council shall give special attention to meeting the needs for services for low-income children, migrant children, children with a disability, foster children, children in need of protective services, children of adolescent parents, homeless children, and children with limited English-language proficiency resulting from non-English language background.

"SEC. 659G. STATE COMMITTEE ON CHILD CARE LICENSING.

"(a) ESTABLISHMENT.—The chief executive officer of a State that receives funds under this subchapter shall establish, in the first fiscal year for which such funds are received, a State committee on child care licensing and shall appoint the members of the committee.

"(b) COMPOSITION.—The committee shall be composed of—

"(1) 1 representative of the State department of health;

"(2) 1 representative of the State department of human services or of social services;

"(3) 1 representative of the State department of education;

"(4) at least 1 representative of different types of providers (including caregivers and directors) of child care services, including providers who serve school-age children;

"(5) at least 1 representative of resource and referral programs;

"(6) 1 pediatrician;

"(7) parents of children receiving or in need of child care services, including parents whose children are receiving or are in need of subsidized child care services;

"(8) 1 representative of fire marshals and building inspectors;

"(9) 1 representative of child protective services; and

"(10) at least 1 representative of local educational agencies and teachers involved in providing child care services.

"(c) DUTIES.—

"(1) REVIEW OF LICENSING AUTHORITY.—The committee shall review the law applicable to, and the licensing requirements and the policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 4-year period ending on the date of the establishment of the committee under subsection (a).

"(2) REPORT.—(A) Not later than 18 months after establishment of the committee under subsection (a), the committee shall prepare and submit a report to the chief executive officer of the State involved.

"(B) Such report shall contain—

"(i) a statement of the findings and recommendations that result from the committee review under paragraph (1), including a description of the current status of child care licensing, regulating, monitoring, and enforcement in the State;

"(ii) a detailed statement identifying and describing the deficiencies in the existing licensing, regulating, and monitoring programs of the State involved, including an assessment of the adequacy of personnel to carry out such programs effectively, and recommendations to correct such deficiencies or to improve such programs;

"(iii) comments on the model child care standards established by the Secretary under section 658H(e)(2) of the Child Care Services For Infants, Toddlers, And Young Children Act;

"(iv) recommendations regarding standards that should apply to local educational agencies that receive funds under title VIII of the Elementary and Secondary Education Act of 1965 to provide child care services; and

"(v) at the option of the State, a plan describing the present level of child care standards in the State, the adequacy of the State's fiscal resources, and improvements to the child care standards to be made with funds which shall be made available not later than 3 years after the date of enactment by the Secretary of Health and Human Services for a program of grants to assist States in improving child care standards and the enforcement of such standards. The Secretary shall promulgate regulations concerning the application and criteria for receipt of funds under this clause.

"(3) RECEIPT OF REPORT BY THE CHIEF EXECUTIVE OFFICER OF THE STATE.—Not later than 60 days after receiving the report from the committee, the chief executive officer of the State shall transmit such report to the Secretary with—

"(A) the comments of the chief executive officer of the State; and

"(B) a plan for correcting deficiencies in, or improving the licensing, regulating, and monitoring, of the child care services and programs referred to in paragraph (1).

"(4) TERMINATION OF ASSISTANCE.—None of the funds received under this subchapter may be used to carry out any activity under this section occurring more than 90 days after the State submits a report required by paragraph (2).

"(d) SERVICES AND PERSONNEL.—

"(1) AUTHORITY.—The lead agency is authorized to provide the services of such personnel, and to contract for such other services as may be necessary, to enable the committee to carry out its duties under this section.

"(2) REIMBURSEMENT.—Members of the committee shall be reimbursed by the lead agency, in accordance with standards established by the Secretary, for necessary expenses incurred by such members in carrying out the duties of the committee.

"(3) SUFFICIENCY OF FUNDS.—The Secretary shall ensure that sufficient funds are made available, from funds received by the State under this subchapter, to the committee to carry out its duties under this section.

"SEC. 659H. RESOURCE AND REFERRAL PROGRAMS.

"(a) RECOGNITION.—Each State that receives funds under this subchapter shall recognize a community-based organization, a public organization, a unit of general purpose local government, or a public agency that represents a combination of units of general purpose local government as the resource and referral agency for a particular geographical area in the State.

"(b) FUNDING.—Each State that receives funds under this subchapter for a fiscal year shall provide assistance, in such fiscal year, to the organizations recognized under subsection (a) to enable such organizations to carry out resource and referral programs—

"(1) to identify existing child care services;

"(2) to provide to interested parents information and referral regarding such services;

"(3) to provide or arrange for the provision of information and training to existing and potential child care providers and to others (including businesses) concerned with the availability of child care services; and

"(4) to provide information on the demand for and supply of child care services located in a community.

"(c) REQUIREMENTS.—To be eligible for recognition as a resource and referral agency for a designated geographical area in a State, an organization shall—

"(1) have or acquire a database of information on child care services in the geographical area that the organization continually updates, including child care services provided in centers, nursery schools, and family child care settings;

"(2) have the capability to provide resource and referral services in the designated geographical area;

"(3) be able to respond in a timely fashion to requests for information or assistance;

"(4) be a public agency, or a community-based organization, located in the geographical area to be served; and

"(5) be able to provide parents with a checklist to identify quality child care services.

"(d) DUTY.—An organization recognized under subsection (a) as a resource and referral agency shall gather, update, and provide information concerning child care services available from eligible child care providers in the geographical area served by such organization.

"(e) LIMITATION ON INFORMATION.—An organization recognized under subsection (a) as a resource and referral agency shall not provide information concerning any child care program or services which are not in compliance with the laws of the State and localities in which such services are provided.

"(f) COORDINATION.—Each organization recognized under subsection (a) shall coordinate the activities it carries out under such subsection with the activities carried out by the State under paragraphs (5), (6), and (7) of section 676(b) of the Education of the Handicapped Act (20 U.S.C. 1476).

"SEC. 659I. TRAINING AND RELATED ACTIVITIES.

"(a) CLEARINGHOUSE.—A State that receives funds under this subchapter for a fiscal year shall establish in the lead agency a clearinghouse to collect and disseminate training materials to resource and referral agencies and child care providers throughout the State.

"(b) GRANTS AND CONTRACTS FOR TRAINING.—A State that receives funds under this subchapter for a fiscal year shall, in such fiscal year, make grants to and enter into contracts with State and local public agencies, private nonprofit organizations, and institutions of higher education to develop and carry out child care training programs under which preservice and continuing in-service training is provided to—

"(1) staff who provide child care services for which assistance is provided under the Head Start Act, title VIII of the Elementary and Secondary Education Act of 1965, or the Child Care Services for Infants, Toddlers, and Young Children Act; and

"(2) staff of eligible child care providers and staff of resource and referral programs involved in providing child care services in the State.

"(c) TRAINING AND OTHER ACTIVITIES RELATING TO FAMILY CHILD CARE ENHANCEMENT.—

"(1) AUTHORITY TO MAKE GRANTS AND CONTRACTS.—A State that receives funds under this subchapter for a fiscal year shall, in such fiscal year, make grants to and enter into contracts with nonprofit organizations, including resource and referral organizations, child care food program sponsors, and family child care associations, to enable such organizations to develop and carry out child care training programs under which preservice and inservice training is provided to eligible child care providers that are family child care providers.

"(2) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS.—To be eligible to receive a grant or enter into a contract under paragraph (1), a nonprofit organization shall—

"(A) recruit and train individuals to become family child care providers, including providers with the capacity to provide night-time child care services and emergency child care services at irregular hours (as well as emergency care for sick children);

"(B) provide ongoing training to individuals who are family child care providers, including specialized training in working with infants;

"(C) operate resource centers to make developmentally appropriate curriculum materials available to family child care providers;

"(D) provide grants to family child care providers for the purchase of moderate cost equipment to be used to provide child care services; and

"(E) provide such other services to family child care providers in the communities of such organization as the lead agency determines to be appropriate.

"(d) PROPORTIONAL DISTRIBUTION OF TRAINING.—Of the funds expended by a State carry out subsections (b) and (c)—

"(1) 29 percent shall be expended for the benefit of staff who provide developmentally appropriate child care services for which funds are expended under the Head Start Act;

"(2) 29 percent shall be expended for the benefit of staff who provide services in programs for which funds are expended under title VIII of the Elementary and Secondary Education Act of 1965; and

"(3) 42 percent shall be expended for the benefit of staff who provide child care services for which funds are expended under the Child Care Services for Infants, Toddlers, and Young Children Act.

"SEC. 659J. CHILD CARE SERVICES PROVIDED BY BUSINESSES.

"(a) ACTIVITIES AUTHORIZED.—A State that receives funds under this subchapter for a fiscal year may carry out activities in such fiscal year designed to encourage businesses in the State to support or provide child care services to a reasonable mix of children, including children from different socioeconomic backgrounds, of employees and nonemployees. Such activities may include—

"(1) disseminating information relating to—

"(A) model child care programs appropriate for implementation by such businesses;

"(B) flexible employee work schedules; and

"(C) the identity of individuals who are willing and qualified to speak to employers regarding the establishment and operation of child care programs;

"(2) establishing a demonstration program under which grants are made to local nonprofit private organizations to improve and expand child care services in cooperation with employers who contribute to the cost of such improvement or expansion;

"(3) making grants to businesses that directly provide exemplary child care services to enable such businesses to assist other businesses to provide child care services directly;

"(4) making grants, on a competitive basis, to businesses and eligible child care providers jointly, to establish innovative programs to provide child care services;

"(5) encouraging such businesses to participate in resource and referral activities carried out by organizations recognized under section 659H(a); and

"(6) making grants to businesses that subsidize child care services provided to their employees.

In carrying out such activities, the chief executive officer of the State, or the designee of such officer, shall provide outreach to such businesses, and encourage such businesses to contribute to the cost of carrying out such activities.

"(b) PRIORITY.—For the purpose of making grants under subsection (a)(2), the Secretary shall give priority to businesses that have fewer than 100 full-time employees.

"SEC. 659K. LIBRARY SERVICES.

"(a) INVOLVEMENT OF LIBRARIES.—A State that receives funds under this subchapter for a fiscal year, shall promote in such fiscal year the involvement of public libraries (and elementary and secondary school libraries, as appropriate), and the utilization of the services and resources of such libraries, in the activities for which funds appropriated under section 3(a) of the Early Childhood Education and Development Act of 1989 are expended.

"(b) AUTHORITY TO MAKE GRANTS.—(1) In carrying out this subsection (a), a State may make grants to local public libraries (and elementary and secondary school libraries, as appropriate) to improve the quality of early childhood learning resources and to expand the availability of such resources to eligible child care providers (particularly family child care providers) that provide child care services to preschool children, and to the preschool children and their families served by such providers. Such grants may be expended—

"(A) to acquire early childhood learning resources for circulation among such providers, and the preschool children and their families served by such providers; and

"(B) to promote greater access to and use of early childhood learning resources by such providers, and by the preschool children and their families served by such providers, through such means as—

"(i) training such providers and their staff in the selection and effective use of early childhood learning resources with preschool children;

"(ii) maintaining deposit collections of early childhood learning resources on the premises of such providers and of resource and referral agencies;

"(iii) supporting bookmobile services to deliver early childhood learning resources to family child care and other providers; and

"(iv) developing and maintaining other appropriate outreach programs and services.

"(c) This section shall be carried out in consultation with the State library administrative agency.

"SEC. 659L. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE.

"(a) SUBSTITUTION OF FUNDS.—Funds received under—

"(1) the amendments to the Head Start Act made by Early Childhood Education and Development Act of 1989;

"(2) title VIII of the Elementary and Secondary Education Act of 1965;

"(3) the Child Care Services For Infants, Toddlers, And Young Children Act; or

"(4) this subchapter;

by the State may be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of the activities for which such funds are received.

"(b) EXISTING FACILITIES.—No financial assistance provided under the provisions of law specified in subsection (a) may be expended to renovate or repair any facility unless—

"(1) the child care provider that receives such financial assistance agrees—

"(A) in the case of a grant, to repay to the Secretary or the State, as the case may be, the amount that bears the same ratio to the amount of such grant as the value of the renovation or repair, as of the date such provider ceases to provide child care services in such facility in accordance with this subchapter, bears to the original value of the renovation or repair; and

"(B) in the case of a loan, to repay immediately to the Secretary or the State, as the case may be, the principal amount of such loan outstanding and any interest accrued, as of the date such provider ceases to provide child care services in such facility in accordance with this subchapter;

if such provider does not provide child care services in such facility in accordance with this subchapter throughout the useful life of the renovation or repair; and

"(2) if such provider is a sectarian agency or organization, the renovation or repair is necessary to bring such facility into compliance with health and safety requirements imposed as a result of such provisions of law.

"SEC. 659M. LIMITATION ON STATE ELIGIBILITY TO RECEIVE FUNDS.

"Notwithstanding any other provision of this subchapter, a State is eligible to receive funds under this subchapter for a fiscal year only if such State receives for such fiscal year funds under—

"(1) title VIII of the Elementary and Secondary Education Act of 1965; or

"(2) the Child Care Services For Infants, Toddlers, And Young Children Act.

"SEC. 659N. FEDERAL ENFORCEMENT.

"(a) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this subchapter and the plan approved under section 659E for the State.

"(b) NONCOMPLIANCE.—

"(1) IN GENERAL.—If the Secretary, after reasonable notice and opportunity for a hearing to a State, finds that—

"(A) there has been a failure by the State to comply substantially with any provision or any requirements set forth in the plan approved under section 659E for the State; or

"(B) in the operation of any program or project for which assistance is provided under this subchapter there is a failure by the State to comply substantially with any provision of this subchapter;

the Secretary shall notify the State of the finding and that no further payments may be made to such State under this subchapter (or, in the case of noncompliance in the operation of program or activity, that no

further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

"(2) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to this paragraph (1), the Secretary may, in addition to imposing the sanctions described in such paragraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this subchapter, and disqualification from the receipt of financial assistance under this subchapter.

"(3) NOTICE.—The notice required under paragraph (1) shall include a specific identification of any additional sanction being imposed under paragraph (2).

"(c) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

"(1) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this subchapter; and

"(2) imposing sanctions under this section.

"SEC. 659O. APPLICABILITY OF PROVISIONS OF THE HEAD START ACT.

"Sections 654, 655, and 656 of the Head Start Act (42 U.S.C. 9849-9851) shall apply with respect to this subchapter to the same extent and in the same manner as such sections apply with respect to such Act. No individual or entity receiving financial assistance under this subchapter shall engage in any sectarian activity, including sectarian worship and instruction, in the program for which such assistance is received.

"SEC. 659P. DEFINITIONS.

"As used in this subchapter:

"(1) CENTER-BASED CHILD CARE PROVIDER.—The term 'center-based child care provider' means a child care provider that provides child care services in a nonresidential facility, and may include a nonprofit institution of higher education.

"(2) COMMITTEE.—The term 'committee' means the State committee on child care licensing established under section 659G.

"(3) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization'—

"(A) means a private nonprofit organization that—

"(i) is representative of the community or of significant segments of the community; and

"(ii) provides child care, preschool programs, or early childhood development programs; or

"(B) has the meaning given it in section 4(5) of the Job Training Partnership Act (29 U.S.C. 1503(5)).

"(4) COUNCIL.—The term 'council' means a local child development council established under section 659F(a).

"(5) DISABILITY.—The term 'disability' means any condition set forth in section 602(a)(1) of the Education of the Handicapped Act (20 U.S.C. 1401(a)(1)) or subparagraph (A) or (B) of section 672(1) of the Education of the Handicapped Act (20 U.S.C. 1472(1)).

"(6) EARLY CHILDHOOD LEARNING RESOURCES.—The term 'early childhood learning resources' includes books, audio and video tapes, films, educational toys and games and other materials designed principally for use by or with children who are less than 6 years of age.

"(7) ELIGIBLE CHILD CARE PROVIDER.—The term 'eligible child care provider' means—

"(A) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

"(i) is licensed or regulated under State law;

"(ii) satisfies—

"(I) the Federal requirements, except as provided in clause (iii); and

"(II) the State and local requirements;

applicable to the child care services it provides; and

"(iii) after the expiration of the 4-year period beginning on the date of the enactment of the Early Childhood Education and Development Act of 1989, complies with the minimum child care standards established by the State under section 658F(a) of the Child Care Services For Infants, Toddlers, And Young Children Act that are applicable to the child care services it provides; or

"(B) a child care provider who provides child care services only to an eligible child who is, by affinity or consanguinity, the grandchild of such provider if such provider satisfies the State requirements (if any) applicable to such services.

"(8) FAMILY CHILD CARE PROVIDER.—The term 'family child care provider' means 1 individual who provides child care services to any eligible child who does not reside with such individual, as the sole caregiver and in the private residence of such individual.

"(9) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given it in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

"(10) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)), except that with respect to a tribally controlled community college such term has the meaning given it in section 2(a)(5) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(5)).

"(11) LEAD AGENCY.—The term 'lead agency' means the agency designated under section 659D.

"(12) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given that term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

"(13) PUBLIC LIBRARY.—The term 'local public library' has the meaning given that term in section 3(5) of the Library Services and Construction Act.

"(14) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' includes an Indian tribe and a tribal organization.

"(15) NON-ENGLISH LANGUAGE BACKGROUND.—The term 'non-English language background' means the experience of living in a home in which the primary language spoken is not English.

"(16) PARENT.—The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(17) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(18) STAFF.—The term 'staff' means an individual who provides a service directly to an eligible child on a person-to-person basis.

"(19) STATE.—The term 'State' means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau.

"(20) STATE LIBRARY ADMINISTRATIVE AGENCY.—The term 'State library administrative agency' has the meaning given that term in section 3(10) of the Library Services and Construction Act.

"(21) TRIBAL ORGANIZATION.—The term 'tribal organization' has the meaning given it in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

"(22) UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT.—The term 'unit of general purpose local government' means a city, county, town, parish, village, or other general purpose political subdivision of a State.".

CHAPTER 5—BUSINESS INVOLVEMENT IN MEETING EMPLOYEE CHILD CARE NEEDS

SEC. 3451. ESTABLISHMENT OF GRANT PROGRAM.

The Secretary of Health and Human Services shall establish a program to make grants to eligible businesses—

(1) to pay start-up costs incurred to provide child care services; or

(2) to provide additional child care services;

needed by the employees of such businesses.

SEC. 3452. ELIGIBLE BUSINESSES.

To be eligible to receive a grant under section 3451, a business shall submit to the Secretary an application in accordance with section 3453.

SEC. 3453. APPLICATION.

The application required by section 3452 shall be submitted by a business (separately or jointly with another business) at such time, in such form, and containing such information as the Secretary may require by rule, except that such application shall contain—

(1) an assurance that such business shall expend, for the purpose for which such grant is made, an amount not less than 300 percent of the the amount of such grant;

(2) an assurance that such business will expend such grant for the use specified in section 3451, as the case may be;

(3) an assurance that if the employees of such business do not require all the child care services for which such grant and the funds required by paragraph (1) are to be expended by such business, the excess of such child care services shall be made available to families in the community in which such business is located;

(4) an assurance that such business will employ strategies to provide such child care services at affordable rates, and on an equitable basis, to low- and moderate-income employees; and

(5) an assurance that the provider of such child care services will comply with all State and local licensing requirements applicable to such provider.

SEC. 3454. SELECTION OF GRANTEES.

For purposes of selecting eligible businesses to receive grants under this chapter, the Secretary shall give priority to businesses that have fewer than 100 full-time employees.

SEC. 3455. APPLICABILITY OF PROVISIONS OF THE HEAD START ACT.

Sections 654, 655, and 656 of the Head Start Act (42 U.S.C. 9849-9851) shall apply with respect to this chapter to the same extent and in the same manner as such sections apply with respect to such Act.

SEC. 3456. DEFINITIONS.

As used in the title:

(1) BUSINESS.—The term "business" means a person engaged in commerce whose primary activity is not providing child care services.

(2) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

SEC. 3457. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $25,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993 to carry out this chapter.

TITLE IV—COMMITTEE ON ENERGY AND COMMERCE

Subtitle A—Medicare

PART A—PROVISIONS RELATING TO PART B OF MEDICARE

Subpart 1—Payment for Physicians' Services and Related Professional Services

SEC. 4001. APPLICATION OF RESOURCE-BASED RELATIVE VALUE SCALE TO PHYSICIANS' SERVICES.

(a) IN GENERAL.—Part B of title XVIII of the Social Security Act is amended by adding at the end the following new section:

"RESOURCE-BASED RELATIVE VALUE SCALE FOR PHYSICIANS' SERVICES

"SEC. 1848. (a) APPLICATION DURING 1990 AFTER APRIL 1.—

"(1) TO ADJUSTMENT OF PREVAILING CHARGES.—

"(A) IN GENERAL.—For physicians' services specified under paragraph (2) which are furnished under this part during 1990 on or after April 1, 1990, the Secretary shall provide for an adjustment in the prevailing charge otherwise applied. Such adjustment shall be equal to an increase or decrease of ⅛ of the amount by which the applicable reference fee schedule amount (as determined under paragraph (3)(A)) with respect to each such service is greater or less, respectively, than the prevailing charge otherwise applied with respect to the service. The prevailing charge for such a service, as so adjusted, shall be treated, for purposes of this part for all subsequent periods, as the prevailing charge determined under this part for 1990.

"(B) TREATMENT OF EVALUATION AND MANAGEMENT SERVICES.—

"(i) IN GENERAL.—In the case of the class of physicians' services consisting of evaluation and management services (as defined in clause (ii)), the Secretary shall provide for the application of subparagraph (A) in such a manner as will result in a percentage increase (or decrease) equal to the weighted average of such an increase (or decrease, respectively) that the Secretary estimates would have occurred if subparagraph (A) had applied to individual evaluation and management services (rather than to the class of such services).

"(ii) EVALUATION AND MANAGEMENT SERVICES.—In clause (i), the term 'evaluation and management services' means primary care services (as defined in section 1842(i)(4)) and also includes hospital medical services and consultations.

"(2) PHYSICIANS' SERVICES COVERED.—This subsection shall only apply to those physicians' services that are specified in Appendix A of the explanation of title IV (Committee on Energy and Commerce) contained in the report of the Committee on the Budget, House of Representatives, to accompany H.R. (the 'Omnibus Budget Reconciliation Act of 1989'), 101st Congress, which specification is based on available data and the recommendations of the Physician Payment Review Commission.

"(3) APPLICATION OF REFERENCE FEE SCHEDULE.—

"(A) IN GENERAL.—The Secretary shall apply a reference fee schedule covering each of the physicians' services to which this subsection applies. The applicable reference fee schedule amounts specified in such schedule with respect to a physicians' service furnished in a fee schedule area shall represent the product of—

"(i) the relative value for the service (specified under paragraph (4)),

"(ii) the national standard conversion factor (specified under paragraph (5)), and

"(iii) the geographic adjustment factor (specified under paragraph (6)(A)) for the service for the fee schedule area.

"(B) FEE SCHEDULE AREA DEFINED.—In this subsection, the term 'fee schedule area' means a locality used for purposes of computing payment amounts for physicians' services under section 1842(b).

"(4) DETERMINATION OF RELATIVE-VALUE.—

"(A) APPLICATION OF RELATIVE VALUE SCALE.—In applying this subsection, the Secretary shall use as the relative value for a physicians' service the sum of the relative values of the components for practice expenses and for physician work specified in Appendix A of the explanation of title IV (Committee on Energy and Commerce) contained in the report of the Committee on the Budget, House of Representatives, to accompany H.R. (the 'Omnibus Budget Reconciliation Act of 1989'), 101st Congress for such service, which values are based on the relative resources used with respect to such expenses and such work.

"(B) DESCRIPTION OF COMPONENTS.—In this subsection:

"(i) PRACTICE EXPENSES.—The component relating to practice expenses is based on the relative expenses of items (such as office rent, wages of personnel, etc.) comprising practice expenses (as defined in subsection (k)(2)).

"(ii) PHYSICIAN WORK.—The component relating to physician work is based on the relative resources (reflecting such factors as relative time and effort) relating to physician work.

"(5) NATIONAL STANDARD CONVERSION FACTOR.—The Secretary shall, by not later than February 1, 1990, establish (and report to Congress concerning) the national standard conversion factor to be used under paragraph (3)(A)(ii). Such factor shall be established in a manner so that the aggregate payments for physicians' services furnished under this part on or after April 1, 1990, and before January 1, 1991, will be the same as the aggregate of payments for such services if this subsection had not applied. In establishing such a factor, the Secretary shall provide for appropriate adjustments to take into account, in the precise manner specified in Appendix B of the explanation of title IV (Committee on Energy and Commerce) contained in the report of the Committee on the Budget, House of Representatives, to accompany H.R. (the 'Omnibus Budget Reconciliation Act of 1989'), 101st Congress, changes in the volume and distribution of physicians' services furnished under this part due to the impact of this subsection.

"(6) GEOGRAPHIC ADJUSTMENT FACTORS.—

"(A) IN GENERAL.—For purposes of paragraph (3)(A)(iii), for each physicians' service for each fee schedule area there shall be a geographic adjustment factor equal to the sum of the geographic cost-of-practice adjustment factor (specified in subparagraph (B)) and the geographic physician work adjustment factor (specified in subparagraph (C)) for the service and the area.

"(B) GEOGRAPHIC COST-OF-PRACTICE ADJUSTMENT FACTOR.—For purposes of subparagraph (A), the 'geographic cost-of-practice adjustment factor', for a service for a fee schedule area, is the product of—

"(i) the ratio of the relative value of the practice expense component for the service (specified in the Appendix A referred to in paragraph (4)(A)) to the total relative value for the service (as specified in such Appendix), and

"(ii) the geographic cost-of-practice index value for the area, based on the relative costs of a mix of goods and services comprising practice expenses in that fee schedule area for a typical physicians' service compared to the national average of such costs for the service, as specified in Appendix C of the explanation of title IV (Committee on Energy and Commerce) contained in the report of the Committee on the Budget, House of Representatives, to accompany H.R. (the 'Omnibus Budget Reconciliation Act of 1989').

"(C) GEOGRAPHIC PHYSICIAN WORK ADJUSTMENT FACTOR.—For purposes of subparagraph (A), the 'geographic physician work adjustment factor', for a service for a fee schedule area, is the product of—

"(i) 1, minus the ratio described in subparagraph (B)(i) for the service, and

"(ii) the geographic physician work index value for the area, based on ½ of the difference between the relative value of physicians' work effort in that fee schedule area and the national average relative value of such work effort, as specified in Appendix C of the explanation of title IV (Committee on Energy and Commerce) contained in the report of the Committee on the Budget, House of Representatives, to accompany H.R. (the 'Omnibus Budget Reconciliation Act of 1989').

"(b) APPLICATION IN 1991.—

"(1) TO FURTHER ADJUSTMENT OF PREVAILING CHARGES.—

"(A) IN GENERAL.—For all physicians' services which are furnished under this part during 1991, the Secretary shall provide for an adjustment in the prevailing charge otherwise applied. Such adjustment shall be equal to an increase or decrease of ¼ of the amount by which the applicable reference fee schedule amount (as determined under paragraph (2)(A)) with respect to each service is greater or less, respectively, than the prevailing charge otherwise applied with respect to the service. The prevailing charge, as so adjusted, for such a service shall be treated, for purposes of this part for all subsequent periods, as the prevailing charge determined under this part for 1991 for the service.

"(B) TREATMENT OF EVALUATION AND MANAGEMENT SERVICES.—Subparagraph (B) of subsection (a)(1) shall apply to subparagraph (A) of this paragraph in the same manner as it applies to subsection (a)(1)(A).

"(C) COMPUTATION OF PREVAILING CHARGE LEVELS WITHOUT REGARD TO CUSTOMARY CHARGE LEVELS.—Notwithstanding any other provision of this part (other than subparagraph (A)), the prevailing charge levels for physicians' services furnished during 1991 shall be the prevailing charge levels for such services furnished in 1990 increased by the percentage increase in the MEI applicable to 1991, and shall not be recomputed to reflect any change in the customary charges of physicians during any previous period.

"(2) ESTABLISHMENT OF REFERENCE FEE SCHEDULE.—

"(A) IN GENERAL.—The Secretary shall establish, by October 1, 1990, a reference fee schedule covering each physicians' service. Except as provided in subparagraph (B), the applicable reference fee schedule amounts

specified in such schedule with respect to a physicians' service furnished in a fee schedule area shall represent the product of—

"(i) the relative value for the service (determined under paragraph (3)),

"(ii) the national standard conversion factor (determined under paragraph (4)), and

"(iii) the geographic adjustment factor (determined under paragraph (5)(B)) for the service for the fee schedule area.

"(B) ANESTHESIA SERVICES.—In establishing a reference fee schedule for anesthesia services for which a relative value guide has been established under section 4048(b) of the Omnibus Budget Reconciliation Act of 1987, instead of the factors described in clauses (i) and (ii) of subparagraph (A), the Secretary shall use, to the extent practicable, such relative value guide, with appropriate adjustment of the conversion factor, in a manner to assure that the reference fee schedule amounts for anesthesia services in fee schedule areas are consistent with the reference fee schedule amounts for other services determined by the Secretary to be of comparable value in those areas. In applying the previous sentence, the Secretary shall adjust the reference fee schedule amounts by geographic adjustment factors in the same manner as such adjustment is made under subparagraph (A)(iii). The Secretary may provide for an overall percentage adjustment for anesthesia services under paragraph (1)(A) in a manner similar to the overall percentage adjustment provided for evaluation and management services under paragraph (1)(B).

"(C) FEE SCHEDULE AREA DEFINED.—In this subsection, the term 'fee schedule area' means a locality used for purposes of computing payment amounts for physicians' services under section 1842(b).

"(3) DETERMINATION OF RELATIVE VALUES.—

"(A) IN GENERAL.—

"(i) GENERAL RULE.—The Secretary shall determine, using the best available information and taking into account the recommendations of the Physician Payment Review Commission, a relative value for each physicians' service. Each such relative value shall be the sum of the relative values of the components of each physicians' service, which values are based on the relative resources utilized with respect to each component in furnishing particular physicians' services.

"(ii) NO VARIATION FOR SPECIALISTS.—With respect to the computation of the relative value for each component for a service, the Secretary may not vary the relative values, for the same physicians' service, based on whether the physician furnishing the service is a specialist or based on the type of specialty of the physician.

"(B) TREATMENT OF CERTAIN SERVICES.—

"(i) RADIOLOGY SERVICES.—In establishing the relative value for radiology services (including radiologist services, as defined in section 1834(b)(6)), the Secretary shall base the relative value on the relative value scale developed under section 1834(b)(1)(A), with appropriate modifications of the relative value to assure that the relative value established for radiology services which are similar or related to other physicians' services are consistent with the relative value established for those similar or related services.

"(ii) EXTRAPOLATION FOR OTHER SERVICES.—In the case of physicians' services for which specific data are not available, the Secretary may extrapolate relative values based on related services for which data are available and shall specifically take into account recommendations of the Physician Payment Review Commission and the results of consultations with organizations representing physicians who provide such services.

"(C) COMPONENTS.—In this subsection, each of the following is a separate 'component' with respect to a physicians' service:

"(i) PRACTICE EXPENSES.—A component relating to relative practice expenses, based on general categories of expenses (such as office rent, wages of personnel, etc.) comprising practice expenses.

"(ii) PHYSICIAN WORK.—A component relating to relative physician work (reflecting such factors as relative time and effort).

With respect to the computation of the relative values for the component for practice expenses described in clause (i), the Secretary shall base such computation on the best, readily available data, such as data from surveys covering such expenses.

"(4) NATIONAL STANDARD CONVERSION FACTOR.—The Secretary shall, by not later than October 1, 1990, establish (and report to Congress concerning) the national standard conversion factor to be used under paragraph (2)(A)(ii). Such factor shall be established in a manner so that the aggregate payments for physicians' services under this part during 1991 will be the same as the aggregate of payments for such services if this subsection had not applied. In establishing such a factor, the Secretary shall take into account the recommendations of the Physician Payment Review Commission and the percentage increase in the MEI (as defined in section 1842(i)(3)) and shall provide for appropriate adjustments to increase or decrease the conversion factor, to take into account projected changes in volume and distribution of physicians' services furnished under this part due to the impact of this subsection. The report of the Secretary under this paragraph shall identify and evaluate the components of such changes in the volume and distribution of services and shall explain the basis for any such adjustments.

"(5) GEOGRAPHIC ADJUSTMENT FACTORS.—

"(A) ESTABLISHMENT OF GEOGRAPHIC INDICES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary shall establish—

"(I) an index which reflects the relative costs of the mix of goods and services comprising practice expenses in the different fee schedule areas compared to the national average of such costs, and

"(II) an index which reflects ½ of the difference between the relative value of physicians' work effort in each of the different fee schedule areas and the national average of such work effort.

"(ii) CLASS-SPECIFIC GEOGRAPHIC COST-OF-PRACTICE INDICES.—The Secretary may establish more than one index under clause (i)(I) in the case of classes of physicians' services, if, because of differences in the mix of goods and services comprising practice expenses for the different classes of services, the application of a single index to different classes of such services would be substantially inequitable.

"(B) COMPUTATION OF GEOGRAPHIC ADJUSTMENT FACTOR.—For purposes of paragraph (2)(A)(iii), for all physicians' services for each fee schedule area the Secretary shall establish a geographic adjustment factor equal to the sum of the geographic cost-of-practice adjustment factor (specified in subparagraph (C)) and the geographic physician work adjustment factor (specified in subparagraph (D)) for the service and the area.

"(C) GEOGRAPHIC COST-OF-PRACTICE ADJUSTMENT FACTOR.—For purposes of subparagraph (B), the 'geographic cost-of-practice adjustment factor', for a service for a fee schedule area, is the product of—

"(i) the ratio of the relative value of the practice expense component for the service (as determined under paragraph (3)(A)) to the total relative value for the service (as determined under such paragraph), and

"(ii) the geographic cost-of-practice index value for the area for the service, based on the index established under subparagraph (A)(i)(I) or (A)(ii) (as the case may be).

"(D) GEOGRAPHIC PHYSICIAN WORK ADJUSTMENT FACTOR.—For purposes of subparagraph (B), the 'geographic physician work adjustment factor', for a service for a fee schedule area, is the product of—

"(i) 1, minus the ratio described in subparagraph (C)(i) for the service, and

"(ii) the geographic physician work index value for the area, based on the index established under subparagraph (A)(i)(II).

"(6) REQUIRING TRANSITIONAL CODING OF BILLS SUBMITTED.—In order to provide for the collection of data required to implement subsection (c)(1)(C), the Secretary may require, for bills submitted for physicians' services furnished during 1991, that the bills indicate the fee schedule area (described in subsection (c)(3)(C)(i)) and the classification and coding (described in subsection (c)(2)) with respect to the services.

"(c) APPLICATION IN 1992.—

"(1) PAYMENT ON BASIS OF FEE SCHEDULE AMOUNT, SUBJECT TO ADJUSTMENT WITH RESPECT TO PREVAILING CHARGE.—

"(A) IN GENERAL.—Notwithstanding any other provision of this part, instead of payment under this part being based on an applicable percent (specified under section 1833(a) or (b)) of the reasonable charges for the services, for physicians' services furnished in 1992 payment shall be based on such applicable percent of the lesser of—

"(i) the actual charge for the services, or

"(ii) the fee schedule amount (determined under paragraph (3)(A)) for the service, as adjusted under subparagraph (B).

"(B) ADJUSTMENT WITH RESPECT TO PREVAILING CHARGE.—For purposes of subparagraph (A)(ii), the adjustment of a fee schedule amount under this subparagraph for a service shall be an increase or decrease by ½ of the amount by which the prevailing charge level (specified in subparagraph (C)) for the service is greater or less, respectively, than such fee schedule amount.

"(C) PREVAILING CHARGE LEVEL.—

"(i) IN GENERAL.—In applying subparagraph (B), the prevailing charge level for a service shall be the prevailing charge level for that service furnished in 1991 (taking into account any affect of subsection (b)(1)(C)) increased by the percentage increase in the MEI applicable to 1992.

"(ii) ESTABLISHMENT OF PREVAILING CHARGE LEVEL WHERE RECLASSIFICATION OF SERVICE.—In the case of a physicians' service which is reclassified or recoded under paragraph (2) or otherwise and for which specific service a prevailing charge level was not established for 1991, the Secretary shall provide for the construction of such proxy prevailing charge level for 1991 as may be appropriate.

"(iii) ESTABLISHMENT OF PREVAILING CHARGE LEVEL FOR NEW FEE SCHEDULE AREAS.—If the fee schedule area in 1992 for a service is different from the fee schedule area in 1991 for that service, the Secretary shall provide for the computation of the prevailing charge level for the service for the new fee schedule area based on the weighted aver-

age of the prevailing charge levels that would otherwise have applied in the portions of the old fee schedule areas included in the new fee schedule area.

"(D) COMPUTATION OF PREVAILING AND CUSTOMARY CHARGES.—

"(i) NO RECOMPUTATION OF CUSTOMARY CHARGES.—The Secretary shall not require carriers to recompute customary charges for physicians' services, for purposes of payment with respect to such services furnished during or after 1992.

"(ii) PREVAILING CHARGES.—The Secretary shall not require carriers to recompute prevailing charges for physicians' services, for purposes of payment with respect to such services furnished after 1992.

"(2) UNIFORM CLASSIFICATION AND CODING OF SERVICES, GLOBAL SURGICAL CODES, AND CODING OF EVALUATION AND MANAGEMENT SERVICES BY TIME.—The Secretary shall make such changes in classification and coding of physicians' services furnished during or after 1992 as may be required—

"(A) to provide for uniform classification and coding of the same physicians' services in all fee schedule areas;

"(B) to classify and code, with a surgical procedure, related pre-operative and post-operative physicians' services; and

"(C) to take into account, in the classification and coding of evaluation and management services, the time used in providing different evaluation and management services.

"(3) FEE SCHEDULE.—

"(A) IN GENERAL.—For purposes of this subsection and succeeding subsections for a year, the Secretary shall establish, by not later than October 1 before the year, a fee schedule covering each physicians' services. Except as provided in subparagraph (B), the applicable fee schedule amounts specified in such schedule with respect to a physicians' service furnished in a fee schedule area shall represent the product of—

"(i) the relative value for the service (specified under paragraph (4)),

"(ii) the national standard conversion factor (specified in paragraph (5)), and

"(iii) the geographic adjustment factor for the service for the fee schedule area (specified in paragraph (6)(B)).

"(B) ANESTHESIA SERVICES.—In establishing a reference fee schedule for anesthesia services for which a relative value guide has been established under section 4048(b) of the Omnibus Budget Reconciliation Act of 1987, instead of the factors described in clauses (i) and (ii) of subparagraph (A), the Secretary shall use, to the extent practicable, such relative value guide, with appropriate adjustment of the conversion factor, in a manner to assure that the reference fee schedule amounts for anesthesia services in fee schedule areas are consistent with the reference fee schedule amounts for other services determined by the Secretary to be of comparable value in those areas. In applying the previous sentence, the Secretary shall adjust the reference fee schedule amounts by geographic adjustment factors in the same manner as such adjustment is made under subparagraph (A)(iii). In applying the previous sentence, the Secretary may provide for an overall percentage adjustment under paragraph (1)(A) a manner similar to the overall percentage adjustment provided for evaluation and management services under paragraph (1)(B).

"(C) FEE SCHEDULE AREAS DEFINED.—

"(i) IN GENERAL.—For purposes of this subsection, a 'fee schedule area' shall be comprised of either—

"(I) each State (in its entirety), or

"(II) each metropolitan statistical area (or New England County Metropolitan area or comparable area recognized by the Secretary) and each portion of each State which is outside a metropolitan statistical area (or comparable area).

"(ii) RECOMMENDATIONS TO CONGRESS.—The Secretary shall report to Congress, by not later than July 1, 1991, on the Secretary's recommendation on whether fee schedule areas under this subsection should be the areas described in subclause (I) or subclause (II) of clause (i).

"(4) RELATIVE VALUES.—

"(A) IN GENERAL.—Except as provided in this paragraph, the Secretary shall determine relative values for each physicians' service in the same manner as such determination is made under subsection (b)(3).

"(B) COMPONENTS.—In this subsection, each of the following is a separate 'component' with respect to a physicians' service:

"(i) GENERAL PRACTICE EXPENSES.—A component relating to relative practice expenses (as defined in subsection (k)(2) (which excludes malpractice expenses)), based on general categories of expenses (such as office rent, wages of personnel, etc.) comprising practice expenses.

"(ii) MALPRACTICE EXPENSES.—A component relating to relative malpractice expenses, based on the risk category of the class of services furnished (or the specialty of physicians providing the services).

"(iii) PHYSICIAN WORK.—A component relating to relative physician work (reflecting such factors as relative time and effort).

"(5) NATIONAL STANDARD CONVERSION FACTOR.—The Secretary shall, by not later than October 1, 1991, establish (and report to Congress concerning) the national standard conversion factor to be used under paragraph (3)(A)(ii). Such factor shall be established in a manner so that the aggregate payments for physicians' services under this part during 1992 will be the same as the aggregate of payments for such services if this section had not applied. In establishing such a factor, the Secretary shall take into account the recommendations of the Physician Payment Review Commission and the percentage increase in the MEI (as defined in section 1842(i)(3)) and shall provide for appropriate adjustments to increase or decrease the conversion factor, to take into account projected changes in volume and distribution of physicians' services furnished under this part due to the impact of this subsection. The report of the Secretary under this paragraph shall identify and evaluate the components of such changes in the volume and distribution of services and shall explain the basis for any such adjustments.

"(6) GEOGRAPHIC ADJUSTMENT FACTORS.—

"(A) ESTABLISHMENT OF GEOGRAPHIC INDICES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary shall establish—

"(I) an index which reflects the relative costs of the mix of goods and services comprising practice expenses (other than malpractice expenses) in the different fee schedule areas compared to the national average of such costs,

"(II) an index which reflects the relative costs of malpractice expenses in the different fee schedule areas compared to the national average of such costs, and

"(III) an index which reflects ½ of the difference between the relative value of physicians' work effort in each of the different fee schedule areas and the national average of such work effort.

"(ii) CLASS-SPECIFIC GEOGRAPHIC COST-OF-PRACTICE INDICES.—The Secretary may establish more than one index under clause (i)(I) in the case of classes of physicians' services, if, because of differences in the mix of goods and services comprising practice expenses for the different classes of services, the application of a single index under such clause to different classes of such services would be substantially inequitable.

"(B) COMPUTATION OF GEOGRAPHIC ADJUSTMENT FACTOR.—For purposes of paragraph (2)(A)(iii), for all physicians' services for each fee schedule area the Secretary shall establish a geographic adjustment factor equal to the sum of the geographic cost-of-practice adjustment factor (specified in subparagraph (C)), the geographic malpractice adjustment factor (specified in subparagraph (D)), and the geographic physician work adjustment factor (specified in subparagraph (E)) for the service and the area.

"(C) GEOGRAPHIC COST-OF-PRACTICE ADJUSTMENT FACTOR.—For purposes of subparagraph (B), the 'geographic cost-of-practice adjustment factor', for a service for a fee schedule area, is the product of—

"(i) the ratio of the relative value of the practice expense component for the service (as determined under paragraph (3)(A)) to the total relative value for the service (as determined under such paragraph), and

"(ii) the geographic cost-of-practice index value for the area for the service, based on the index established under subparagraph (A)(i)(I) or (A)(ii) (as the case may be).

"(D) GEOGRAPHIC MALPRACTICE ADJUSTMENT FACTOR.—For purposes of subparagraph (B), the 'geographic malpractice adjustment factor', for a service for a fee schedule area, is the product of—

"(i) the ratio of the relative value of the malpractice expense component for the service (as determined under paragraph (3)(A)) to the total relative value for the service (as determined under such paragraph), and

"(ii) the geographic malpractice index value for the area, based on the index established under subparagraph (A)(i)(II).

"(E) GEOGRAPHIC PHYSICIAN WORK ADJUSTMENT FACTOR.—For purposes of subparagraph (B), the 'geographic physician work adjustment factor', for a service for a fee schedule area, is the product of—

"(i) 1, minus the sum of the ratios described in subparagraphs (C)(i) and (D)(i) for the service, and

"(ii) the geographic physician work index value for the area, based on the index established under subparagraph (A)(i)(III).

"(d) APPLICATION IN 1993 AND SUCCEEDING YEARS.—The provisions of subsection (c) shall apply to physicians' services furnished during 1993 and succeeding years in the same manner as they apply to physicians' services furnished during 1992, except as follows:

"(1) PAYMENT ON BASIS OF FEE SCHEDULE AMOUNT.—In applying (by reference) subsection (c)(1)(A), there shall be no adjustment made under subparagraph (B) thereof (relating to an adjustment with respect to prevailing charge).

"(2) ADJUSTMENTS IN RELATIVE VALUES AND GEOGRAPHIC INDEX FACTORS.—

"(A) IN GENERAL.—The Secretary, taking into account recommendations made by the Physician Payment Review Commission and the views of appropriate organizations representing physicians and other interested parties, may provide—

"(i) from time to time for the establishment of relative values for physicians' serv-

ices for which such values have not previously been established, and

"(ii) subject to subparagraph (B), annually for such adjustments in the relative values and in the geographic adjustment factors used for purposes of this subsection, as the Secretary determines to be appropriate.

"(B) BUDGET NEUTRALITY IN ANNUAL ADJUSTMENTS.—The Secretary may not make adjustments under subparagraph (A)(ii) which are intended or designed to result in an overall increase or decrease in the aggregate amount of payments to be made under this part for physicians' services.

"(3) NATIONAL STANDARD CONVERSION FACTOR.—Instead of applying subsection (c)(5) (by reference), the Secretary shall, by not later than August 1 before the year involved, establish (and report to Congress concerning) the national standard conversion factor to be used for the year involved. Such factor for a year shall be the conversion factor established for the previous year adjusted by the projected percentage change, between the midpoint of the previous year and the midpoint of the year involved, in an appropriate index (established by the Secretary) that reflects the value of the resources (including practice expenses, malpractice expenses, and physician work effort) used in furnishing physicians' services. In establishing such index, the Secretary shall take into account the recommendations of the Physician Payment Review Commission and the views of appropriate organizations representing physicians and other interested parties.

"(e) [reserved]

"(f) [reserved]

"(g) [reserved]

"(h) [reserved]

"(i) [reserved]

"(j) MISCELLANEOUS PROVISIONS.—

"(1) EXPEDITED PROCEDURES FOR INITIAL IMPLEMENTATION.—In order to implement subsections (a) and (b) on a timely basis, the Secretary may provide for publication of regulations on an interim, final basis and chapter 35 of title 44, United States Code, and Executive Order 12291 shall not apply to information and regulations required for purposes of carrying out such subsections.

"(2) RESTRICTION ON ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1869 or otherwise of—

"(A) the percentage adjustments for evaluation and management services under subsection (a)(1)(B)(i);

"(B) the relative values established for physicians' services under this section, including the relative value of components of services;

"(C) the national standard conversion factors established under this section;

"(D) the geographic indices and adjustment factors established under this section; and

"(E) the selection of fee schedule areas under subsection (c)(3)(B).

"(k) DEFINITIONS.—In this section:

"(1) PHYSICIANS' SERVICES DEFINED.—The term 'physicians' services' includes items and services described in paragraphs (3) and (4) of section 1861(s) (other than clinical diagnostic laboratory tests) furnished in connection with other physicians' services.

"(2) PRACTICE EXPENSES DEFINED.—

"(A) 1990 AND 1991.—Except as provided in subparagraph (B), the term 'practice expenses' includes all expenses for furnishing physicians' services, including malpractice expenses, but excluding physician compensation and other physician fringe benefits.

"(B) 1992 AND THEREAFTER.—For purposes of subsections other than subsections (a) and (b), the term 'practice expenses' does not include malpractice expenses.".

(b) LIMITATION ON EXTRA BILLING FOR 1991 AND THEREAFTER.—Section 1842(j)(1) of such Act (42 U.S.C. 1395u(j)(1)) is amended—

(1) in subparagraph (B)—

(A) in clause (i), by striking "(B)(i) During any period (on or after January 1, 1987, and before the date specified in clause (ii))" and inserting "(B) During any period (on or after January 1, 1987)",

(B) in the second sentence of clause (i), by striking "maximum allowable actual charge determined" and inserting "actual charge permitted", and

(C) by striking clause (ii); and

(2) by amending subparagraph (C) to read as follows:

"(C)(i) For a particular physicians' service furnished by a nonparticipating physician to individuals enrolled under this part during a year, for purposes of subparagraph (B), the actual charge may not exceed 120 percent of the reference payment amount described in clause (ii) for the year.

"(ii) For purposes of clause (i), the reference payment amount for—

"(I) 1991, is the prevailing charge level for the services for the year increased or decreased by ¼ of the amount by which the applicable reference fee schedule amount (determined under section 1848(b)(2)(A)) with respect to the services is greater or less, respectively, than such prevailing charge level;

"(II) 1992, is the fee schedule amount (determined under section 1848(c)(2)(A)) with respect to the services increased or decreased by ½ of the amount by which the prevailing charge level otherwise applied with respect to the services is greater or less, respectively, than such fee schedule amount; or

"(III) 1993 and any succeeding year, is the fee schedule amount (determined pursuant to section 1848(d)) with respect to the services.".

(c) EXTENSION OF PHYSICIAN PARTICIPATION AGREEMENTS AND RELATED PROVISIONS.—Notwithstanding any other provision of law—

(1) subject to the last sentence of this subsection, each agreement with a participating physician in effect on December 31, 1989, under section 1842(h)(1) of the Social Security Act shall remain in effect for the 3-month period beginning on January 1, 1990, and the Secretary of Health and Human Services shall not provide any opportunity for physicians to enroll as participating physicians with respect to such 3-month period;

(2) the effective period for agreements under such section entered into for 1990 shall be the 9-month period beginning on April 1, 1990, and the Secretary shall provide an opportunity for physicians to enroll as participating physicians before April 1, 1990;

(3) instead of publishing, under section 1842(h)(4) of the Social Security Act, at the beginning of 1990, directories of participating physicians for 1990, the Secretary shall provide for such publication, at the beginning of the 9-month period beginning on April 1, 1990, of such directories of participating physicians for such period; and

(4) instead of providing to nonparticipating physicians under section 1842(b)(3)(G) of the Social Security Act at the beginning of 1990, a list of maximum allowable actual charges for 1990, the Secretary shall provide, at the beginning of the 9-month period beginning on April 1, 1990, such physicians such a list for such 9-month period.

An agreement with a participating physician in effect on December 31, 1989, under section 1842(h)(1) of the Social Security Act shall not remain in effect for the period described in paragraph (1) if the participating physician requests on or before December 31, 1989, that the agreement be terminated.

(d) MONITORING THE EFFECTS OF PAYMENT REFORM.—The Secretary of Health and Human Services shall monitor the effects of payment reform provided under section 1848 of the Social Security Act, including the effects (if any) on—

(1) the volume of services furnished under part B of title XVIII of such Act,

(2) the access to such services by individuals enrolled under such part,

(3) the quality of services furnished under such part,

(4) the percentage of physicians who are participating physicians under such part and the percent of claims for physicians' services under such part paid on an assignment-related basis, and

(5) the amount of balanced billing for such services under such part.

(e) ROLE OF PHYSICIAN PAYMENT REVIEW COMMISSION.—Section 1845(b)(3) of such Act (42 U.S.C. 1395w-1(b)(3)) is amended by striking all that follows "Secretary" and inserting the following: "respecting the payment methodology established under section 1848, specifically including (A) the relative values established under such section, and any adjustments to such values, (B) the national conversion factors to be applied, and (C) the geographic adjustment factors.".

(f) MISCELLANEOUS CONFORMING AMENDMENTS.—

(1) DELAY IN GROUPING OF CODES FOR PHYSICIANS' SERVICES.—Section 9331(d)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "January 1, 1990" and inserting "January 1, 1993".

(2) CHANGING REFERENCES TO MAXIMUM ALLOWABLE ACTUAL CHARGES.—Section 1842(b)(3)(G) of the Social Security Act (42 U.S.C. 1395u(b)(3)(G)) is amended by striking "maximum allowable actual charges (established under subsection (j)(1)(C))" and inserting "limiting charges established under subsection (j)(1)(C)".

(3) DIFFERENTIAL FOR PARTICIPATING PHYSICIANS.—Effective for physicians' services furnished on or after January 1, 1992, the first sentence of section 1842(b)(4)(A)(iv) of such Act (42 U.S.C. 1395u(b)(4)(A)(iv)) is amended by striking "prevailing charge levels" and all that follows through the end and inserting "fee schedule amount (or, for 1992, adjusted fee schedule amount) provided for under section 1848.".

(4) PAYMENT FOR PHYSICIAN ASSISTANTS.—Section 1842(b)(12)(A)(ii)(II) of such Act (42 U.S.C. 1395u(b)(12)(A)(ii)(II)) is amended by inserting "(or, for services furnished on or after January 1, 1992, the adjusted fee schedule amount or fee schedule amount specified in subsection (c)(1)(A)(ii) or (d)(1) of section 1848, as the case may be)" after "prevailing charge rate for such services".

(5) PAYMENT FOR CERTIFIED REGISTERED NURSE ANESTHETISTS.—Section 1833(a)(1)(H) of such Act (42 U.S.C. 1395l(a)(1)(H)) is amended by inserting "(or, for services furnished on or after January 1, 1992, the adjusted fee schedule amount or fee schedule amount specified in subsection (c)(1)(A)(ii)

or (d)(1) of section 1848, as the case may be)" after "prevailing charge that would be recognized".

(6) PAYMENT FOR RADIOLOGIST SERVICES.—(A) Section 1833(a)(1)(J) of (42 U.S.C. 1395l(a)(1)(J)) Act is amended by inserting "subject to section 1848," before "the amounts".

(B) Section 4049(b)(2) of the Omnibus Budget Reconciliation Act of 1987 is amended by striking ", and until" and all that follows through "Social Security Act".

(7) PAYMENT FOR NURSE MIDWIVES.—Section 1833(a)(1)(K) of the Social Security Act (42 U.S.C. 1395l(a)(1)(K)) is amended by inserting ", or, for services furnished on or after January 1, 1992, 65 percent of the adjusted fee schedule amount or fee schedule amount specified in subsection (c)(1)(A)(ii) or (d)(1) of section 1848, as the case may be, for the same service performed by a physician" after "for the same service performed by a physician".

(8) PHYSICIANS' SERVICES FOR INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1881(b)(3)(A) of such Act (42 U.S.C. 1395rr(b)(3)(A)) is amended by inserting "or, for services furnished on or after January 1, 1992, on the basis described in section 1848" after "comparable services".

(9) TREATMENT OF CERTAIN EYE EXAMINATION VISITS AS PRIMARY CARE SERVICES.—In applying section 1842(i)(4) of the Social Security Act for services furnished on or after January 1, 1990, intermediate and comprehensive office visits for eye examinations and treatments (codes 92002 and 92004) shall be considered to be primary care services.

(g) EFFECTIVE DATES.—(1) Except as otherwise provided in this section, the amendments made by this section shall apply to physicians' services furnished on or after April 1, 1990.

(2) The amendments made by subsection (b) (relating to limitation on extra billing) shall apply to physicians' services furnished after December 31, 1990.

(3) The amendments made by subsection (e) shall apply to reports beginning with the report for 1990.

SEC. 4002. FREEZE IN MEDICARE ECONOMIC INDEX DURING 1990.

Section 1842(b)(4)(E) of the Social Security Act (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end the following new clause:

"(iv) For purposes of this part for items and services furnished in 1990, the percentage increase in the MEI is 0 percent.".

SEC. 4003. PAYMENT FOR RADIOLOGY SERVICES.

(a) ADJUSTMENT IN NATIONAL AVERAGE CONVERSION FACTOR TO REFLECT GEOGRAPHIC INDEX.—Section 1834(b)(3) of the Social Security Act (42 U.S.C. 1395m(b)(3)) is amended by adding at the end the following:

"In carrying out subparagraph (A) with respect to services furnished in 1990, the conversion factor applicable to a locality shall be the average of such conversion factor (as determined under the policies in effect on December 31, 1989) for the locality and the conversion factor that would result from establishing a national average conversion factor and adjusting such factor, in each locality, by the applicable geographic adjustment factors applied to physicians' services under section 1848 during 1989 (after April 1). In carrying out subparagraph (A) with respect to services furnished in a year after 1990, the Secretary shall establish a national average conversion factor and, in applying such a factor to fee schedule areas, shall adjust such factor by the applicable geographic adjustment factors applied to physicians' services under section 1848 during that year.".

(b) 1-YEAR EXEMPTION OF NUCLEAR PHYSICIANS.—In applying section 1834(b)(6) of the Social Security Act with respect to services furnished during 1990, the term "radiologist services" does not include radiology services performed by, or under the direct supervision of, a physician who is certified, or eligible to be certified, by the American Board of Nuclear Medicine or by the American Board of Radiology (with Special Competence in Nuclear Radiology).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1990.

SEC. 4004. PAYMENT FOR ANESTHESIOLOGY SERVICES.

(a) REDUCTION IN TIME UNITS.—For purposes of payment for anesthesia services (whether furnished by a physician or by a certified registered nurse anesthetist) furnished under part B of title XVIII of the Social Security Act on and after January 1, 1990, the time units shall be counted based on actual time (using fractional time units) rather than rounded to full time units.

(b) MODIFICATION OF CONVERSION FACTORS USED FOR CRNAs.—Section 1833(l)(3) of the Social Security Act (42 U.S.C. 1395l(l)(3)) is amended by striking "and 1990" in subparagraph (B) and by adding at the end the following new subparagraph:

"(C)(i) In establishing fee schedules under this subsection for services furnished in 1990, subject to clause (ii), the Secretary shall establish a uniform national conversion factor which shall be $14 for services furnished under the medical direction of a physician and $21 for other services.

"(ii) The conversion factor described in clause (i) as applied for any locality shall not exceed the conversion factor applied to anesthesiologists' services in the same locality, except that this clause shall not apply in the case of services furnished in a facility in which there is no physician furnishing anesthesia services.".

(c) NO PAYMENT FOR MEDICAL DIRECTION OF CRNAs BY SURGEONS.—

(1) IN GENERAL.—Section 1862(a)(15) of such Act (42 U.S.C. 1395y(a)(15)) is amended by inserting "(A)" after "(15)" and by inserting before the semicolon at the end the following: ", or (B) which are for medical direction by a surgeon of a certified registered nurse anesthetist".

(2) NO BILLING PERMITTED.—Section 1842(k) of such Act (42 U.S.C. 1395u(k)) is amended—

(A) by striking "(a)(15)" each place it appears and inserting "(a)(15)(A)",

(B) in paragraph (1), by inserting "(A)" after "(k)(1)", and

(C) by adding at the end of paragraph (1) the following:

"(B) If a physician knowingly and willfully presents or causes to be presented a claim or bills an individual enrolled under this part for charges for medical direction as a surgeon of a certified registered nurse anesthetist for which payment may not be made by reason of section 1862(a)(15)(B), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2) in the case of surgery performed on or after January 1, 1990.".

(d) EXTENSION AND EXPANSION OF CRNA PASS-THROUGH.—Section 9320(k) of the Omnibus Budget Reconciliation Act of 1986, as added by section 608(c)(2) of the Family Support Act of 1988, is amended—

(1) by striking "250" each place it appears and inserting "500";

(2) in paragraph (1)—

(A) by striking "1989, 1990, and 1991" and inserting "a year (beginning with 1989)", and

(B) by striking "before April 1, 1989," and inserting "at any time before the year";

(3) in paragraph (2)—

(A) by striking "1990 or 1991" and inserting "in a year (after 1989)", and

(B) by striking "each respective year" and inserting "the year"; and

(4) by striking paragraph (3).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1990.

SEC. 4005. PAYMENT FOR PATHOLOGY SERVICES.

(a) FEE SCHEDULE.—Section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(f) FEE SCHEDULE FOR PHYSICIAN PATHOLOGY SERVICES.—

"(1) APPLICATION.—The Secretary shall provide for application of a fee schedule with respect to physician pathology services. Subject to paragraph (2), such fee schedule shall be based on the relative value scale and conversion factors developed under section 4050(a) of the Omnibus Budget Reconciliation Act of 1987.

"(2) GEOGRAPHIC AREA ADJUSTMENT.—The Secretary shall provide for a geographic area adjustment of the conversion factors in a manner comparable to the geographic area adjustment applied to physicians' services under section 1848 during the year in which the services are furnished.".

(b) PAYMENT ON BASIS OF FEE SCHEDULE.—Section 1833(a)(1)(J) of such Act (42 U.S.C. 1395l(a)(1)(J)) is amended—

(1) by inserting "or physician pathology services" after "1834(b)(6))", and

(2) by inserting "or section 1834(f), respectively" after "1834(b)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1990.

SEC. 4006. WAIVER OF LIABILITY LIMITING RECOUPMENT IN CERTAIN CASES.

In the case where more than the correct amount may have been paid to a physician or individual under part B of title XVIII of the Social Security Act with respect to services furnished during the period beginning on July 1, 1985, and ending on March 31, 1986, as a result of a carrier's establishing statewide fees for certain procedure codes while the carrier was in the process of implementing the national common procedure coding system of the Health Care Financing Administration, the provisions of section 1870(c) of the Social Security Act shall apply, without the need for affirmative action by such a physician or individual, so as to prevent any recoupment, or other decrease in subsequent payments, to the physician or individual. The previous sentence shall apply to claims for items and services which were reopened by carriers on or after July 31, 1987.

Subpart 2—Payment for Other Services

SEC. 4011. DURABLE MEDICAL EQUIPMENT.

(a) ACCELERATION OF USE OF REGIONAL RATES AND NARROWING OF RANGE OF AMOUNTS RECOGNIZED.—Paragraphs (8) and (9) of section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)) are each amended—

(1) in subparagraph (A)(ii)(II), by striking ", 1991" and all that follows through "equal to" and inserting "or 1991, equal to";

(2) in subparagraph (B)(i), by striking "1991" and all that follows through the first comma and inserting "1990 and for 1991,";

(3) in subparagraph (C)—

(A) in clause (i), by striking "1989" and all that follows through the first comma and inserting "1989",

(B) in clause (ii), by striking "1991" each place it appears and inserting "1990",

(C) in clause (iii), by striking "1992" each place it appears and inserting "1991", and

(D) in clause (iv), by striking "in" and all that follows through the first comma and inserting "in 1992 or a subsequent year,"; and

(4) in subparagraph (D)—

(A) in clause (i), by striking "1991" and all that follows through "80 percent" and inserting "1990, may not exceed 125 percent, and may not be lower than 85 percent", and

(B) in clause (ii), by striking "125 percent" and all that follows through "85 percent" and inserting "120 percent, and may not be lower than 90 percent".

(b) COVERAGE OF PARENTERAL AND ENTERAL NUTRITION EQUIPMENT.—Section 1834(a)(13)(B) of such Act is amended by striking ", supplies, and equipment" and inserting "and supplies".

(c) REDUCTION IN PAYMENT FOR SEAT-LIFT CHAIRS, POWER-OPERATED VEHICLES, AND TRANSCUTANEOUS ELECTRICAL NERVE STIMULATORS.—Section 1834(a)(1) of such Act is amended by adding at the end the following new subparagraph:

"(D) REDUCTION IN FEE SCHEDULES FOR CERTAIN ITEMS.—With respect to a seat-lift chair, power-operated vehicle, or transcutaneous electrical nerve stimulator, the Secretary shall reduce the payment amount applied under subparagraph (B)(ii) for such an item by 15 percent.".

(d) TREATMENT OF POWER-DRIVEN WHEELCHAIRS AS ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT.—Section 1834(a)(2)(A) of such Act is amended—

(1) by striking "or" at the end of clause (i),

(2) by adding "or" at the end of clause (ii), and

(3) by inserting after clause (ii) the following new clause:

"(iii) which is a power-driven wheelchair,".

(e) OSTOMY SUPPLIES AS PART OF HOME HEALTH SERVICES.—

(1) SPECIFIC INCLUSION IN HOME HEALTH SERVICES.—Section 1861(m)(5) of such Act (42 U.S.C. 1395x(m)(5)) is amended to read as follows:

"(5) ostomy supplies (as defined by the Secretary) while under such a plan;".

(2) EXCLUSION FROM COVERED ITEMS.—Section 1834(a)(13) of such Act (42 U.S.C. 1395m(a)(13)) is amended—

(A) in subparagraph (A), by striking ", including such equipment described in section 1861(m)(5)", and

(B) by inserting "or items described in section 1861(m)(5)" after "intraocular lenses".

(3) REQUIRING PROVISION AS PART OF HOME HEALTH SERVICES.—Section 1866(a)(1) of such Act (42 U.S.C. 1395cc(a)(1)) is amended—

(A) by striking "and" at the end of subparagraph (N),

(B) by striking the period at the end of subparagraph (O) and inserting "; and",

(C) and by inserting after subparagraph (O) the following new subparagraph:

"(P) in the case of home health agencies which provide home health services to individuals entitled to benefits under this title who require ostomy supplies (described in section 1861(m)(5)), to offer to furnish such supplies to such individual as part of their furnishing of home health services.".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to covered items furnished on or after January 1, 1990.

(2) TREATMENT OF POWER-DRIVEN WHEELCHAIRS.—The amendments made by subsection (d) shall apply with respect to items furnished on or after October 1, 1989.

SEC. 4012. CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) REDUCTION OF LIMITATION AMOUNT ON PAYMENT AMOUNT.—Section 1833(h)(4)(B) of the Social Security Act (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii)—

(A) by inserting "and before January 1, 1990," after "March 31, 1988,", and

(B) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(iii) after December 31, 1989, is equal to 95 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(b) RESTRICTION ON PAYMENT TO REFERRING LABORATORY.—

(1) IN GENERAL.—Section 1833(h)(5)(A)(ii) of such Act is amended by striking "referring laboratory, and" and inserting "referring laboratory but only if—

"(I) the referring laboratory is located in, or is part of, a rural hospital, or

"(II) not more than 30 percent of the clinical diagnostic laboratory tests for which such referring laboratory submits bills or requests for payment in any year are performed by another laboratory, and".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to clinical diagnostic laboratory tests performed on or after January 1, 1990.

(c) ELIMINATION OF NATIONWIDE FEE SCHEDULES.—Section 1833(h) of such Act is amended—

(1) in subparagraph (B) and (C) of paragraph (1), by striking "during the period" and all that follows through "established on a nationwide basis" and inserting "on or after July 1, 1984"; and

(2) in paragraph (4)(B)(ii), by striking "and so long as a fee schedule for the test has not been established on a nationwide basis,".

(d) REPEAL OF STATE CERTIFICATION OF HIGH-VOLUME PHYSICIAN OFFICE LABS.—Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, subsection (e) of section 4064 of such Act is repealed.

SEC. 4013. REDUCTION IN CAPITAL PAYMENTS FOR OUTPATIENT HOSPITAL SERVICES.

Section 1861(v)(1)(S) of the Social Security Act (42 U.S.C. 1395x(v)(1)(S)) is amended—

(1) by inserting "(i)" after "(S)", and

(2) by adding at the end the following new clause:

"(ii)(I) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of outpatient hospital services, the Secretary shall reduce the amounts of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods occurring during fiscal year 1990.

"(II) Subclause (I) shall not apply to payments with respect to the capital-related costs of any hospital that is a sole community hospital (as defined in section 1886(d)(5)(C)(ii)).".

SEC. 4014. FEDERALLY QUALIFIED HEALTH CENTER SERVICES.

(a) COVERAGE.—Section 1861(s)(2)(E) of the Social Security Act (42 U.S.C. 1395x(s)(2)(E)) is amended by inserting "and Federally qualified health center services" after "rural health clinic services".

(b) SERVICES DEFINED.—Section 1861(aa) of such Act is amended—

(1) in the heading, by adding at the end the following: "and Federally Qualified Health Center Services";

(2) in paragraph (3), by striking "paragraphs (1) and (2)" and inserting "the previous provisions of this subsection" and by redesignating such paragraph as paragraph (5); and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) The term 'Federally qualified health center services' means services of the type described in subparagraphs (A) through (C) of paragraph (1) when furnished to an individual as an outpatient of a Federally qualified health center and, for this purpose, any reference to a rural health clinic or a physician described in paragraph (2)(B) is deemed a reference to a Federally qualified health center or a physician at the center, respectively.

"(4) The term 'Federally qualified health center' means a facility which—

"(A) is receiving a grant under section 329, 330, or 340 of the Public Health Service Act,

"(B) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, is determined by the Secretary to meet the requirements for receiving such a grant, or

"(C) was treated by the Secretary, for purposes of part B, as a comprehensive Federally funded health center as of January 1, 1989.".

(c) PAYMENTS.—

(1) IN GENERAL.—Section 1832(a)(2)(D) of such Act (42 U.S.C. 1395k(a)(2)(D)) is amended by inserting "(i)" after "(D)" and by inserting "and (ii) Federally qualified health center services" after "rural health clinic services".

(2) DEDUCTIBLE DOES NOT APPLY.—The first sentence of section 1833(b) of such Act (42 U.S.C. 1395l(b)) is amended—

(A) by striking "and" before "(4)", and

(B) by inserting before the period at the end the following: ", and (5) such deductible shall not apply to Federally qualified health center services".

(3) EXCLUSION FROM PAYMENT REMOVED.—Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (2), by inserting ", except in the case of Federally qualified health center services" before the semicolon at the end, and

(B) in paragraph (3), by inserting ", in the case of Federally qualified health center services, as defined in section 1861(aa)(3)," after "1861(aa)(1),".

(d) WAIVER OF ANTI-KICKBACK REQUIREMENT.—Section 1128B(b)(3) of such Act (42 U.S.C. 1320a-7b(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (C),

(2) by redesignating subparagraph (D) as subparagraph (E), and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) a waiver of any coinsurance under part B of title XVIII by a Federally qualified health care center with respect to an individual who qualifies for subsidized services under a provision of the Public Health Service Act; and".

(e) CONFORMING AMENDMENTS.—Section 1861 of such Act is further amended—

(1) in subsection (s)(2)(H)(i) and (s)(2)(K)(i), by striking "subsection (aa)(3)" and inserting "subsection (aa)(5)", and

(2) in subsection (aa)(1)(B), by striking "paragraph (3)" and inserting "paragraph (5)".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1990.

SEC. 4015. PHYSICAL AND OCCUPATIONAL THERAPY SERVICES.

(a) INCREASE IN MAXIMUM PAYMENTS.—Section 1833(g) of the Social Security Act (42 U.S.C 1395l(g)) is amended by striking "$500" each place it appears and inserting "$750".

(b) GAO STUDY OF PHYSICAL AND OCCUPATIONAL THERAPY SERVICES.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the provision of physical and occupational therapy services under the medicare program. Such study shall include an examination of the availability of such services in different settings and the appropriateness of the current payment methodologies.

(2) REPORT.—By not later than January 15, 1991, the Comptroller General shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the study conducted under paragraph (1) and shall include in the report such recommendations as the Comptroller General deems appropriate.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply beginning with 1990.

SEC. 4016. STUDY OF REIMBURSEMENT FOR AMBULANCE SERVICES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall provide for a study to determine the adequacy and appropriateness of payment amounts under title XVIII of the Social Security Act for ambulance services. Such study examines at least the following:

(1) The effect of payment amounts on the provision of ambulance services in rural areas.

(2) The relationship of such payment amounts to the direct and indirect costs of providing ambulance services. Such relationship shall be examined separately—

(A)(i) for tax-subsidized, municipally-owned and operated services, (ii) for volunteer services, (iii) for private, for-profit services, and (iv) for hospital-owned services, and

(B) for different levels (such as basic life support and advanced life support) of such services.

(3) The effect of such payment amounts on access to, and the quality of, ambulance services.

(b) REPORT.—The Secretary shall report to Congress on the results of the study under subsection (a) by not later than one year after the date of the enactment of this Act. The Secretary shall include in such report such recommendations for changes in medicare payment policy with respect to ambulance services as may be needed to ensure access by medicare beneficiaries to quality ambulance services in metropolitan and rural areas.

SEC. 4017. PHYSICIAN PAYMENT REVIEW COMMISSION STUDY OF ASSISTANTS AT SURGERY.

The Physician Payment Review Commission shall conduct a study of the appropriateness of providing for payments, and the appropriate level of payment, under title XVIII of the Social Security Act for assistants at surgery. By not later than January 15, 1991, the Commission shall submit a report to Congress on such study and shall include in the report such recommendations as it deems appropriate.

SEC. 4018. STUDY OF REIMBURSEMENT FOR BLOOD CLOTTING FACTOR FOR HEMOPHILIA PATIENTS.

The Secretary of Health and Human Services shall review the current methodology for reimbursing for blood clotting factor for hemophilia patients under part B of title XVIII of the Social Security Act and shall evaluate the effect of such methodology on the accessibility and affordability of such factor to medicare beneficiaries. By not later than 6 months after the date of the enactment of this Act, the Secretary shall report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such review and shall include in such report such recommendations as the Secretary deems appropriate.

Subpart 3—Changes in Coverage and Miscellaneous

PART C—CHANGES IN COVERAGE AND MISCELLANEOUS PROVISIONS

SEC. 4021. MENTAL HEALTH SERVICES.

(a) ELIMINATING RESTRICTION ON PSYCHOLOGISTS' SERVICES TO SERVICES FURNISHED AT COMMUNITY MENTAL HEALTH CENTERS.—Section 1861(ii) of the Social Security Act (42 U.S.C. 1395x(ii)) is amended by striking "on-site at a community mental health center" and all that follows through "because of similar circumstances of the individual,".

(b) CLINICAL SOCIAL WORKERS.—

(1) COVERAGE OF SERVICES.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(A) by striking "and" at the end of subparagraph (L);

(B) by adding "and" at the end of subparagraph (M); and

(C) by adding at the end the following new subparagraph:

"(N) clinical social worker services;".

(2) DEFINITIONS.—Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(A) in subsection (s)(2)(H)(ii), by striking "(hh)" and inserting "(hh)(2)", and

(B) in subsection (hh)—

(i) by amending the heading to read as follows:

"Clinical Social Worker; Clinical Social Worker Services",

(ii) by redesignating clauses (i) and (ii) of paragraph (3)(B) as subclauses (I) and (II), respectively,

(iii) by redesignating subparagraphs (A) and (B) of paragraph (3) as clauses (i) and (ii), respectively,

(iv) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively,

(v) by striking "(hh)" and inserting "(hh)(1)", and

(vi) by adding at the end the following new paragraph:

"(2) The term 'clinical social worker services' means services performed by a clinical social worker (as defined in paragraph (1)) for the diagnosis and treatment of mental illnesses which the clinical social worker is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed as would otherwise be covered if furnished by a physician or as an incident to a physician's service.".

(c) NOTIFICATION REGARDING MEDICAL EXAMINATION.—The Secretary of Health and Human Services shall require, with respect to qualified psychologist services and services of a clinical social worker for which payment may be made directly to the psychologist or social worker under part B of title XVIII of the Social Security Act, that the psychologist or social worker document in the patient record that the psychologist or social worker—

(1) has informed the patient of the desirability of conferring with the patient's primary care physician to consider potential medical conditions contributing to the patient's condition, and

(2) has provided written notification to the patient's designated attending physician that services are being provided to the patient, or has consulted directly with the physician to consider medical conditions that may be contributing to the patient's symptoms, unless the patient specifically requests that such notification or consultation not be made.

(d) ELIMINATING DOLLAR LIMITATION ON MENTAL HEALTH SERVICES.—Section 1833(d)(1) of the Social Security Act (42 U.S.C. 1395l(d)(1)) is amended by striking "whichever" and all that follows and inserting "62½ percent of such expenses.".

(e) EFFECTIVE DATE.—The amendments made by this section, and the provisions of subsection (c), shall apply to services performed on or after January 1, 1990, and the amendments made by subsection (d) shall apply to expenses incurred in a year beginning with 1990.

SEC. 4022. NURSE PRACTITIONER SERVICES.

(a) SERVICES COVERED.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (J),

(2) in subparagraph (K)(i), by striking "(as so defined)" and inserting "or by a nurse practitioner (as defined in subsection (aa)(5)) working in collaboration (as defined in subsection (aa)(6)) with a physician (as defined in subsection (r)(1))", and

(3) in subparagraph (K)(i), by inserting "or nurse practitioner" after "physician assistant" the second place it appears.

(b) DETERMINATION OF PAYMENT AMOUNT.—Section 1842(b)(12)(A) of such Act (42 U.S.C. 1395u(b)(12)(A)) is amended by striking "physician assistant acting under the supervision of a physician" and inserting "physician assistants and nurse practitioners".

(c) PAYMENT TO EMPLOYER; PAYMENT FOR ROUTINE VISITS BY MEMBERS OF A TEAM.—Section 1842(b)(6) of such Act (42 U.S.C. 1395u(b)(6)) is amended—

(1) in clause (C) of the first sentence, by inserting "or nurse practitioner" after "physician assistant", and

(2) by adding at the end the following new sentence:

"In the case of residents of nursing facilities who receive services described in section 1861(s)(2)(K)(i) performed by a member of

a team, the Secretary shall instruct carriers to develop mechanisms which permit routine payment under this part for up to 1.5 visits per month per resident. In the previous sentence, the term 'team' refers to a physician and includes a physician assistant acting under the supervision of the physician or a nurse practitioner working in collaboration with that physician, or both.".

(d) REDUCTION IN PAYMENT TO AVOID DUPLICATE PAYMENT.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may reduce the amount of payments otherwise made to hospitals and skilled nursing facilities under title XVIII of the Social Security Act, so as to eliminate estimated duplicate payments for historical or current costs attributable to services described in section 1861(s)(2)(K) of such Act (for which payment may be made under the amendments made by this section).

(e) DEFINITION OF COLLABORATION.—Section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)), as amended by section 4014(b) of this subtitle, is amended by adding at the end the following new paragraph:

"(6) The term 'collaboration' means a process in which a nurse practitioner works with a physician to deliver health care services within the scope of the practitioner's professional expertise, with medical direction and appropriate supervision as provided for in jointly developed guidelines or other mechanisms as defined by the law of the State in which the services are performed.".

(f) STATE DEMONSTRATION PROJECTS ON APPLICATION OF LIMITATION ON VISITS PER MONTH PER RESIDENT ON AGGREGATE BASIS FOR A TEAM.—The Secretary of Health and Human Services shall provide for at least 1 demonstration project under which, in the application of the next-to-last sentence of section 1842(b)(6) of the Social Security Act (as added by subsection (c)(2) of this section) in one or more States, the limitation on the number of visits per month per resident would be applied on an average basis over the aggregate total of residents receiving services from members of the team.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1990.

SEC. 4023. COVERAGE OF SCREENING PAP SMEARS.

(a) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(1) in subsection (s)—

(A) by striking "and" at the end of paragraph (12),

(B) by striking the period at the end of paragraph (13) and inserting "; and",

(C) by redesignating paragraphs (14) and (15) as paragraphs (15) and (16), respectively, and

(D) by inserting after paragraph (13) the following new paragraph;

"(14) screening pap smear."; and

(2) by adding at the end the following new subsection:

"Screening Pap Smear

"(mm) The term 'screening pap smear' means a diagnostic laboratory test consisting of a routine exfoliative cytology test (Papanicolaou test) provided to a woman for the purpose of early detection of cervical cancer and includes a physician's interpretation of the results of the test, if the individual involved has not had such a test during the preceding 3 years (or such shorter period as the Secretary may specify in the case of a woman who is at high risk of developing cervical cancer (as determined pursuant to factors identified by the Secretary)).".

(b) REVISION OF EXCLUSION GROUNDS.—Section 1862(a)(1)(F) of such Act (42 U.S.C. 1395y(a)(1)(F)) is amended by inserting before the semicolon at the end the following: ", and, in the case of screening pap smear, which is performed more frequently than is provided under 1861(mm)".

(c) CONFORMING AMENDMENTS.—Sections 1864(a), 1865(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) of such Act (42 U.S.C. 1395aa(a), 1395bb(a), 1396(a)(9)(C), 1396n(a)(1)(B)(ii)(I)) are each amended by striking "paragraphs (14) and (15)" and inserting "paragraphs (15) and (16)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to screening pap smears performed on or after January 1, 1990.

SEC. 4024. RURAL HEALTH CLINIC SERVICES.

(a) STAFFING REQUIREMENTS; INCLUSION OF NURSE-MIDWIFE SERVICES.—Section 1861(aa)(2) of the Social Security Act (42 U.S.C. 1395x(aa)(2)) is amended—

(1) by striking "; and" at the end of subparagraph (I) and inserting a semicolon;

(2) by redesignating subparagraph (J) as subparagraph (K); and

(3) by inserting after subparagraph (I) the following new subparagraph:

"(J) has a nurse practitioner, a physician assistant, or a certified nurse-midwife (as defined in subsection (gg)) available to furnish patient care services not less than 50 percent of the time the clinic operates; and".

(b) COVERAGE OF SOCIAL WORKER SERVICES.—Section 1861(aa)(1)(B) of such Act (42 U.S.C. 1395x(aa)(1)(B)) is amended—

(1) by striking "or" before "by"; and

(2) by inserting "or by a clinical social worker (as defined in subsection (hh)(1))," after "Secretary)".

(c) EXPANSION OF ELIGIBLE AREAS.—The second sentence of section 1861(aa)(2) of such Act is amended—

(1) by striking "designated by the Secretary" and inserting "designated by the chief executive officer of the State and certified by the Secretary as an area with a shortage of personal health services, or that is designated by the Secretary";

(2) by striking "section 1302(7) of the Public Health Service Act or" and inserting "sections 330(b)(3) or 1302(7) of the Public Health Service Act,"; and

(3) by striking "medical care manpower," and inserting the following: "medical care manpower, (III) as a high impact area described in section 329(a)(5) of that Act, or (IV) as an area which includes a population group which the Secretary determines has a health manpower shortage under section 332(a)(1)(B) of that Act,".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) through (c) of this section shall take effect October 1, 1989.

(e) DISSEMINATION OF RURAL HEALTH CLINIC INFORMATION.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with the Director of the Office of Rural Health Policy, shall disseminate to health care facilities and to the chief executive officer, chief health officer, and chief human services officer of each State, applications and other necessary information to enable such a facility to apply for designation as a rural health clinic for the purposes of titles XVIII and XIX of the Social Security Act.

(2) DEFINITIONS.—For purposes of this subsection:

(A) The term "health care facility" means a community health center or a migrant health center, or a hospital, home health agency, or skilled nursing facility participating in a program established under title XVIII or title XIX of the Social Security Act.

(B) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(f) TREATMENT OF CERTAIN FACILITIES AS RURAL HEALTH CLINICS.—The Secretary of Health and Human Services shall not deny certification of a facility as a rural health clinic under section 1861(aa)(2) of the Social Security Act if the facility is located on an island and would otherwise be qualified to be certified as such a facility but for the requirement that the services of a physician assistant or nurse practitioner be provided in the facility.

SEC. 4025. LIMITATIONS ON CHARGES FOR MEDICARE BENEFICIARIES ELIGIBLE FOR MEDICAID BENEFITS.

(a) IN GENERAL.—Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended by adding at the end the following new subsection:

"(q)(1) Payment for physicians' services furnished to an individual who is enrolled under this part and eligible for any medical assistance (including as a qualified medicare beneficiary, as defined in section 1905(p)(1)) with respect to such services under a State plan approved under title XIX may only be made on an assignment-related basis.

"(2) A person may not bill for physicians' services subject to paragraph (1) other than on an assignment-related basis. If a person knowingly and willfully bills for physicians' services in violation of the previous sentence, the Secretary may apply sanctions against the person in accordance with subsection (j)(2).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1990.

SEC. 4026. STUDY BY PHYSICIAN PAYMENT REVIEW COMMISSION.

Section 1845(b) of the Social Security Act (42 U.S.C. 1395w-1(b)) is amended by adding at the end the following new paragraph:

"(4) The Commission also shall review the adequacy and appropriateness of payment rates provided for physicians' services under State plans approved under title XIX.".

PART B—PROVISIONS RELATING TO PARTS A AND B OF MEDICARE

SEC. 4041. HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.

(a) TEMPORARY WAIVER FOR WATTS HEALTH FOUNDATION.—Section 9312(c)(3)(D) of the Omnibus Budget Reconciliation Act of 1986, as added by section 4018(d) of the Omnibus Budget Reconciliation Act of 1987, is amended—

(1) in clause (i), by striking "January 1, 1990" and inserting "January 1, 1994"; and

(2) by amending clauses (ii) and (iii) to read as follows:

"(ii) beginning on January 1, 1990, the Secretary of Health and Human Service shall conduct an annual review of the organization to determine the organization's compliance with the quality assurance requirements of section 1876(c)(6) of such Act; and

"(iii) after January 1, 1990, if the organization receives an unfavorable review under clause (ii), the Secretary, after notice to the

organization of the unfavorable review and an opportunity to correct any deficiencies identified during the review, may provide for the sanction described in section 1876(f)(3) of such Act effective with respect to individuals enrolling with the organization after the date the Secretary notifies the organization that the organization is not in compliance with the requirements of section 1876(c)(6) of such Act.".

(b) LIMIT ON CHARGES FOR EMERGENCY SERVICES AND OUT-OF-AREA COVERAGE.—

(1) IN GENERAL.—Section 1876 of the Social Security Act (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(j)(1)(A) In the case of physicians' services described in paragraph (2) which are furnished by a participating physician to an individual enrolled with an eligible organization under this section and enrolled under part B, the participation agreement under section 1842(h)(1) is deemed to provide that the physician will accept as payment in full from the eligible organization the amount that would be payable to the physician under part B and from the individual under such part, if the individual were not enrolled with an eligible organization under this section.

"(B) In the case of physicians' services described in paragraph (2) which are furnished by a nonparticipating physician, the limitations on actual charges for such services otherwise applicable under part B (to services furnished by individuals not enrolled with an eligible organization under this section) shall apply in the same manner as such limitations apply to services furnished to individuals not enrolled with such an organization.

"(2) The physicians' services described in this paragraph are physicians' services which—

"(A) are emergency services or out-of-area coverage (described in clauses (iii) and (iv) of subsection (b)(2)(A)), and

"(B) are furnished to an enrollee of an eligible organization under this section by a person who is not under a contract with the organization.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after the date of the enactment of this Act.

(c) DISCLOSURE OF AAPCC ASSUMPTIONS.—Section 1876(a)(1) of such Act (42 U.S.C. 1395mm(a)(1)) is amended by adding at the end the following new subparagraph:

"(F)(i) At least 45 days before making the announcement under subparagraph (A) for a year (beginning with the announcement for 1991), the Secretary shall provide for notice to eligible organizations of proposed changes to be made in the methodology or assumptions (including any benefit coverage assumptions), from the methodology and assumptions used in the previous announcement, in making the determinations under such subparagraph with respect to the year and shall provide such organizations an opportunity to comment on such proposed changes.

"(ii) In each announcement made under subparagraph (A) for a year (beginning with the announcement for 1991), the Secretary shall include an explanation of the methodology and assumptions (including any benefit coverage assumptions) used in the announcement in sufficient detail so that eligible organizations can compute per capita rates of payment for classes of individuals located in each county (or equivalent area) which is in whole or in part within the service area of such an organization.".

(d) INCENTIVE PAYMENT PLANS.—Section 1128A(b)(1) of such Act (42 U.S.C. 1320a-7a(b)) is amended—

(1) by striking ", an eligible organization with a risk-sharing contract under section 1876, or an entity with a contract under section 1903(m)";

(2) by inserting "and" at the end of subparagraph (A), by striking subparagraph (B), and redesignating subparagraph (C) as subparagraph (B); and

(3) by striking "or organization".

(e) INCREASE TO 100 PERCENT OF AAPCC.—

(1) IN GENERAL.—Section 1876(a)(1)(C) of such Act (42 U.S.C. 1395mm(a)(1)(C)) is amended by striking "95 percent" and inserting "100 percent".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to payments for months beginning with January 1990.

SEC. 4042. PEER REVIEW ORGANIZATIONS.

(a) PROVIDER AND PRACTITIONER RIGHT TO RECONSIDERATION OF PRO DETERMINATION BEFORE NOTICE TO BENEFICIARY.—

(1) IN GENERAL.—Section 1154(a)(3) of the Social Security Act (42 U.S.C. 1320c-5(a)(3)) is amended—

(A) in subparagraph (A), by striking "subparagraph (B)" and inserting "subparagraphs (B) and (D)",

(B) in subparagraph (B), by inserting "with respect to services or items denied for payment by reason of subparagraph (A) or (C) of paragraph (1)" after "under subparagraph (A)", and

(C) by adding at the end the following new subparagraphs:

"(D) The notification under subparagraph (A) with respect to services or items denied for payment by reason of paragraph (1)(B) shall not occur until after—

"(i) the organization has notified the practitioner or provider involved of the determination and of the practitioner's or provider's right to a formal reconsideration of the determination under section 1155, and

"(ii) if the provider or practitioner requests such a reconsideration, the organization has made such a reconsideration.

If a provider or practitioner is provided a reconsideration, such reconsideration shall be in lieu of any subsequent reconsideration to which the provider or practitioner may be otherwise entitled under section 1155, but shall not affect the right of a beneficiary from seeking reconsideration under such section of the organization's determination (after any reconsideration requested by the provider or physician under clause (ii)).

"(E) In the case of services and items denied by reason of paragraph (1)(B), the notice to the patient shall state the following: 'In the judgment of the peer review organization, the medical care received was not acceptable under the medicare program. The reasons for the denial have been discussed with your physician and hospital.'.".

(2) CONFORMING AMENDMENT.—Section 1155 of such Act (42 U.S.C. 1320c-5) is amended by inserting ", subject to section 1154(a)(3)(C)," before "any practitioner or provider".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to determinations by utilization and quality control peer review organizations with respect to which preliminary notifications were made under section 1154(a)(3)(B) of the Social Security Act more than 30 days after the date of the enactment of this Act.

(b) CLARIFICATION OF WILLING AND ABLE TEST FOR PHYSICIAN SANCTIONS.—

(1) IN GENERAL.—Section 1156(b)(1) of such Act (42 U.S.C. 1320c-5(b)(1)) is amended—

(A) in the first sentence, by inserting before "any organization" the following: "and after such practitioner or person has been given an adequate opportunity to pursue a recommended course of remedial education if appropriate", and

(B) by inserting after the second sentence the following: "In determining whether a practitioner or person has demonstrated an unwillingness or a lack of ability substantially to comply with such obligations, the Secretary shall take into account the practitioner's or person's refusal or willingness to pursue, or failure to comply with, an appropriate course of remedial education recommended by the peer review organization or the practitioner's or person's failure or willingness to take any other corrective action on the practitioner's or person's own initiative before or during the administrative appeal.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to recommendations for sanctions made by a utilization and quality control peer review organization to the Secretary of Health and Human Services under section 1156(b)(1) of the Social Security Act more than 90 days after the date of the enactment of this Act.

(c) INCREASE IN POPULATION THRESHOLD FOR PRE-EXCLUSION HEARING.—

(1) IN GENERAL.—Section 1156(b)(5) of such Act (42 U.S.C. 1320c-5(b)(5)) is amended by striking "70,000" and inserting "140,000".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to determinations made by the Secretary of Health and Human Services under section 1156(b) of the Social Security Act on or after the date of the enactment of this Act.

(d) INCREASE IN CIVIL MONETARY PENALTIES.—Section 1156(b)(3) of such Act (42 U.S.C. 1320c—5(b)(3)) is amended in the first sentence by striking "the actual or estimated cost" and all that follows through "so provided" and inserting "$2,500".

SEC. 4043. PAYMENTS FOR END STAGE RENAL DISEASE SERVICES.

(a) MAINTENANCE OF, AND CHANGES IN, CURRENT COMPOSITE RATE.—Section 9335(a)(1) of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) by striking "and before October 1, 1988" and inserting "and before October 1, 1989"; and

(2) by adding at the end the following: "No change may be made in the base rate in effect as of September 30, 1989, unless the Secretary makes such change in accordance with the notice and comment requirements set forth in section 1871(b)(1).".

(b) LIMITATION ON AMOUNT OF PAYMENT WHEN PATIENT DEALS DIRECTLY WITH MEDICARE.—

(1) IN GENERAL.—Section 1881(b)(7) of the Social Security Act (42 U.S.C. 1395rr(b)(7)) is amended by striking the period at the end of the second sentence and inserting the following: ", except that in no case may the amount of a payment made under any method other than a method based on a single composite weighted formula exceed the amount of payment that would have been made under such formula.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to dialysis services furnished on or after January 1, 1990.

SEC. 4044. PAYMENTS FOR DIRECT GRADUATE MEDICAL EDUCATION.

(a) INCREASE IN WEIGHTING FACTOR FOR PRIMARY CARE RESIDENCIES.—Section 1886(h) of the Social Security Act (42 U.S.C. 1395ww(h)) is amended—

(1) in paragraph (4)(C)(ii), by inserting "or, in the case of a primary care resident (as defined in paragraph (5)(I)(i)), 1.25, or, in the case of a primary care specialty resident (as defined in paragraph (5)(I)(ii)), 1.10" after "1.00"; and

(2) in paragraph (5), by adding at the end the following new subparagraph:

"(I) PRIMARY CARE RESIDENT; PRIMARY CARE SPECIALTY RESIDENT.—

"(i) The term 'primary care resident' means a resident in family medicine, general internal medicine, or general pediatrics.

"(ii) The term 'primary care specialty resident' means a resident (other than a primary care resident) in internal medicine or pediatrics.".

(b) LIMITATION ON APPROVED FTE RESIDENT AMOUNTS.—Paragraph (2) of such section is amended—

(1) in subparagraph (D), by striking "For each" and inserting "Subject to the limit established in subparagraph (F)(ii), for each"; and

(2) by adding at the end the following new subparagraph:

"(F) LIMITATION ON APPROVED FTE RESIDENT AMOUNTS.—

"(i) ESTABLISHMENT OF LIMIT.—For each residency year beginning on or after July 1, 1990, the Secretary shall establish a national payment limit which, when applied to hospitals under clause (ii), is estimated by the Secretary to result in a reduction of payments under this title in the residency year equal to the total additional expenditures under this title in the residency year resulting from the weighting factors for primary care residents and primary care specialty residents under paragraph (4)(C)(ii) being greater than 1.00.

"(ii) APPLICATION OF LIMIT TO HOSPITALS.—For each residency year to which clause (i) applies, the approved FTE resident amount for a hospital may not exceed the product of the national payment limit (established under such clause) for the residency year and the primary care coefficient (established under clause (iii)) for the hospital for the residency year.

"(iii) COMPUTATION OF PRIMARY CARE COEFFICIENT.—For each hospital for each residency year the Secretary shall estimate a primary care coefficient equal to—

"(I) the number of full-time equivalent residents (as determined under paragraph (4), taking into account the weighting factors established under paragraph (4)(C)) expected in the hospital in the residency year, divided by

"(II) the total number of full-time-equivalent residents (determined under such paragraph but without applying the weighting factors established under paragraph (4)(C)) expected in the hospital in the residency year.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to residency years beginning on or after July 1, 1990.

SEC. 4045. DISTRIBUTION OF INFORMATION ON RECOMMENDED PREVENTIVE HEALTH PRACTICES.

(a) IN GENERAL.—Section 1804 of the Social Security Act (42 U.S.C. 1396b-2) is amended—

(1) in the heading, by inserting "AND DISTRIBUTION OF PREVENTIVE HEALTH INFORMATION" after "MEDICARE BENEFITS";

(2) by inserting "(a)" after "SEC. 1804."; and

(3) by adding at the end the following new subsection:

"(b)(1) The Secretary shall develop (and, from time to time, shall revise) a summary of recommended preventive health care practices for elderly individuals entitled to benefits under this title. The summary shall indicate, for recommended preventive screening tests, for which tests payment may be made under this title.

"(2) The Secretary also shall develop a 1-page form that may be used by elderly individuals to record information, such as a personal and family medical history, which may be useful to physicians in connection with furnishing appropriate health care.

"(3) The summary and form shall be developed in consultation with national physician, consumer, and other health-related groups and shall be based on recommendations of an appropriate task force or similar group established by the Secretary.

"(4) The Secretary shall provide for the distribution of—

"(A) the summary developed under paragraph (1), and the form developed under paragraph (2), to each individual at the time of the individual's first becoming eligible for benefits under part A under section 226(a) or section 1818, as part of other materials sent to such an individual at such time, and

"(B) the summary developed under paragraph (1) to individuals entitled to benefits under this title in conjunction with general mailings sent under this title to such individuals.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act. The Secretary of Health and Human Services shall first develop the summary and form described in section 1804(b) of the Social Security Act (as added by subsection (a)) not later than April 1, 1990, and shall first provide for the distribution of such summaries and forms by not later than October 1, 1990.

PART C—OTHER PROVISIONS RELATING TO MEDICARE AND HEALTH-RELATED PROGRAMS

SEC. 4061. ADMINISTRATIVE LAW JUDGES FOR HEALTH-RELATED CASES.

(a) IN GENERAL.—Title XI of the Social Security Act is amended by inserting after section 1122 the following new section:

"ADMINISTRATIVE LAW JUDGES FOR HEALTH-RELATED CASES

"SEC. 1123. Insofar as this title, title XVIII, or title XIX provides for a hearing before an administrative law judge relating to a matter under title XVIII, title XIX, part B of this title, or a provision of this part relating to such titles or part, notwithstanding any other provision of law, such a hearing shall be held before such a judge appointed by the Secretary exclusively for hearings relating to such matters.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to hearings before administrative law judges conducted on or after January 1, 1990.

SEC. 4062. AMENDMENTS RELATING TO THE UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE.

(a) COMMISSION NAME.—Section 401 of the Medicare Catastrophic Coverage Act of 1988 is amended by inserting before the period at the end the following: "and also to be known as the 'Claude Pepper Commission' or the 'Pepper Commission' ".

(b) 4 VICE CHAIRMEN.—Section 403(b) of such Act is amended—

(1) by striking "VICE CHAIRMAN" and inserting "VICE CHAIRMEN"; and

(2) by striking "vice chairman" and inserting "4 vice chairmen".

(c) ADDITIONAL MAILING PRIVILEGE.—Section 405(f) of such Act is amended by inserting before the period at the end the following: ", and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code".

(d) PRINTING OF REPORTS.—Section 405 of such Act is further amended by adding at the end the following new subsection:

"(j) PRINTING.—For purposes of costs relating to printing and binding, including the costs of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.".

(e) REPORT DEADLINES.—Section 406 of such Act is amended—

(1) in each of subsections (a) and (b), by striking ", not later than" and all that follows through "for the Commission,"; and

(2) by adding at the end the following new subsection:

"(c) DEADLINES.—The two reports required under this section shall be submitted concurrently by not later than November 9, 1989.".

SEC. 4063. OFFICE OF RURAL HEALTH POLICY.

(a) APPOINTMENT OF DEPUTY UNDER SECRETARY FOR RURAL HEALTH TO HEAD OFFICE OF RURAL HEALTH POLICY.—

(1) IN GENERAL.—Section 711(a) of the Social Security Act (42 U.S.C. 912(a)) is amended—

(A) by striking "by a Director, who shall advise the Secretary" and inserting "by a Deputy Under Secretary for Rural Health, who shall report directly to the Secretary and the Under Secretary of Health and Human Services", and

(B) by adding at the end the following new sentence: "The Office shall not serve as a component of any other office, service, or component of the Department of Health and Human Services.".

(2) CONFORMING AMENDMENT.—Section 711(b) of such Act (42 U.S.C. 912(b)) is amended by striking "the Director" and inserting "the Deputy Under Secretary for Rural Health".

(3) TRANSITION RULE.—Not later than 30 days after the date of enactment of this Act, the Secretary shall appoint as the first Deputy Under Secretary for Rural Health the individual who is the Director of the Office of Rural Health Policy of the Public Health Service on the date of such appointment.

(b) EXPANSION OF FUNCTIONS OF OFFICE OF RURAL HEALTH POLICY.—Section 711(b) of the Social Security Act (42 U.S.C. 912(b)) is amended—

(1) in paragraph (2)(A), by striking "health care issues" and inserting "health care issues, including rural mental health, rural infant mortality prevention, and rural occupational safety and preventive health promotion";

(2) in paragraph (2)(C), by striking "rural areas" and inserting "rural areas, including programs providing community-based mental health services, pre-natal and infant care services, and rural occupational safety and preventive health education and promotion"; and

(3) in paragraph (4), by striking "rural health care" and inserting "rural health care, including activities relating to rural mental health, rural infant mortality, and

rural occupational safety and preventive health promotion".

SEC. 4064. EXPRESSING THE SENSE OF THE CONGRESS RESPECTING MAKING RECEIPT OF MEDICARE BENEFITS ADDED, AND PREMIUMS IMPOSED, BY THE MEDICARE CATASTROPHIC COVERAGE ACT OF 1988 VOLUNTARY.

It is the sense of the Congress that legislation should be enacted in 1989—

(1) to make the receipt of the additional benefits provided under title XVIII of the Social Security Act as a result of the enactment of the Medicare Catastrophic Coverage Act of 1988 voluntary; and

(2) to limit the imposition of the additional premiums imposed as a result of the enactment of such Act to those individuals who voluntarily elect to receive such additional benefits.

SEC. 4065. EXPRESSING THE SENSE OF THE HOUSE OF REPRESENTATIVES RESPECTING REVIEW OF, AND HEARINGS ON, THE MEDICARE CATASTROPHIC COVERAGE ACT OF 1988.

(a) FINDINGS.—The House of Representatives finds that—

(1) according to the Health Insurance Association of America, at least 70 percent of the elderly were covered by supplemental insurance policies (sometimes provided by former employers) or Medicaid at the time the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) was enacted, in effect duplicating some coverage for almost two-thirds of the medicare beneficiaries;

(2) this year a supplemental premium of 15 percent of tax liability is being assessed against medicare beneficiaries, next year the tax will rise to 25 percent of tax liability, and the tax will rise to 28 percent of tax liability in 1993, thereby placing a heavy burden on senior citizens who often live on a fixed income; and

(3) hundreds of thousands of senior citizens from across the country have written Congress requesting that the Act be revised.

(b) SENSE OF HOUSE OF REPRESENTATIVES.—It is the sense of the House of Representatives that—

(1) the Committees on Energy and Commerce and Ways and Means review the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360); and

(2) such committees hold hearings in the process of such review.

Subtitle B—Health Care Research and Policy

PART A—AGENCY FOR HEALTH CARE RESEARCH AND POLICY

SEC. 4101. ESTABLISHMENT OF AGENCY.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by inserting after title VIII the following new title:

"TITLE IX—AGENCY FOR HEALTH CARE RESEARCH AND POLICY

"PART A—ESTABLISHMENT AND GENERAL DUTIES

"SEC. 901. ESTABLISHMENT.

"(a) IN GENERAL.—There is established within the Service an agency to be known as the Agency for Health Care Research and Policy.

"(b) PURPOSE.—The purpose of the Agency is to enhance the quality, appropriateness, and effectiveness of health care services, and access to such services, through the establishment of a broad base of scientific research and through the promotion of improvements in clinical practice and in the organization, financing, and delivery of health care services.

"(c) APPOINTMENT OF ADMINISTRATOR.—There shall be at the head of the Agency an official to be known as the Administrator for Health Care Research and Policy. The Administrator shall be appointed by the Secretary. The Secretary, acting through the Administrator, shall carry out the authorities and duties established in this title.

"SEC. 902. GENERAL AUTHORITIES AND DUTIES.

"(a) IN GENERAL.—In carrying out section 901(b), the Administrator shall conduct and support research, demonstration projects, evaluations, training, and the dissemination of information, on health care services and on systems for the delivery of such services, including activities with respect to—

"(1) the effectiveness, efficiency, and quality of health care services;

"(2) subject to subsection (d), the outcomes of health care services and procedures;

"(3) clinical practice, including primary care and practice-oriented research;

"(4) health care technologies, facilities, and equipment;

"(5) health care costs, productivity, and market forces;

"(6) health promotion and disease prevention;

"(7) health statistics and epidemiology; and

"(8) medical liability.

"(b) REQUIREMENTS WITH RESPECT TO RURAL AREAS AND UNDERSERVED POPULATIONS.—In carrying out subsection (a), the Administrator shall undertake and support research, demonstration projects, and evaluations with respect to—

"(1) the delivery of health care services in rural areas (including frontier areas); and

"(2) the health of low-income groups, minority groups, and the elderly.

"(c) MULTIDISCIPLINARY CENTERS.—The Administrator may provide financial assistance to public or nonprofit private entities for meeting the costs of planning and establishing new centers, and operating existing and new centers, for multidisciplinary health services research, demonstration projects, evaluations, training, policy analysis, and demonstrations respecting the matters referred to in subsection (b).

"(d) RELATION TO CERTAIN AUTHORITIES REGARDING SOCIAL SECURITY.—Activities required in this section may include, and shall be appropriately coordinated with, experiments, demonstration projects, and other related activities authorized by the Social Security Act and the Social Security Amendments of 1967. Activities under subsection (a)(2) shall be carried out consistent with section 1142 of the Social Security Act.

"SEC. 903. DISSEMINATION.

"(a) IN GENERAL.—The Administrator shall—

"(1) promptly publish, make available, and otherwise disseminate, in understandable form and on as broad a basis as practicable, the results of research, demonstration projects, and evaluations conducted or supported under this title;

"(2) promptly make available to the public data developed in such research, demonstration projects, and evaluations;

"(3) provide indexing, abstracting, translating, publishing, and other services leading to a more effective and timely dissemination of information on research, demonstration projects, and evaluations with respect to health care to public and private entities and individuals engaged in the improvement of health care delivery and the general public, and undertake programs to develop new or improved methods for making such information available; and

"(4) as appropriate, provide technical assistance to State and local health agencies and conduct liaison activities to such agencies to foster dissemination.

"(b) PROHIBITION AGAINST RESTRICTIONS.—Except as provided in subsection (c), the Administrator may not restrict the publication or dissemination of data from, or the results of, projects conducted or supported under this title.

"(c) LIMITATION ON USE OF CERTAIN INFORMATION.—No information, if an establishment or person supplying the information or described in it is identifiable, obtained in the course of activities undertaken or supported under this title may be used for any purpose other than the purpose for which it was supplied unless such establishment or person has consented (as determined under regulations of the Secretary) to its use for such other purpose. Such information may not be published or released in other form if the person who supplied the information or who is described in it is identifiable unless such person has consented (as determined under regulations of the Secretary) to its publication or release in other form.

"(d) CERTAIN INTERAGENCY AGREEMENT.—The Administrator and the Director of the National Library of Medicine shall enter into an agreement providing for the implementation of subsection (a)(3).

"SEC. 904. HEALTH CARE TECHNOLOGY AND TECHNOLOGY ASSESSMENT.

"(a) IN GENERAL.—In carrying out section 901(b), the Administrator shall promote the development and application of appropriate health care technology assessments—

"(1) by identifying needs in, and establishing priorities for, the assessment of specific health care technologies;

"(2) by developing and evaluating criteria and methodologies for health care technology assessment;

"(3) by conducting and supporting research on the development and diffusion of health care technology;

"(4) by conducting and supporting research on assessment methodologies; and

"(5) by promoting education, training, and technical assistance in the use of health care technology assessment methodologies and results.

"(b) SPECIFIC ASSESSMENTS.—

"(1) IN GENERAL.—In carrying out section 901(b), the Administrator shall conduct and support specific assessments of health care technologies.

"(2) CONSIDERATION OF CERTAIN FACTORS.—In carrying out paragraph (1), the Administrator shall consider the safety, efficacy, and effectiveness, and, as appropriate, the cost-effectiveness and appropriate uses of such technologies.

"(c) INFORMATION CENTER.—

"(1) IN GENERAL.—There shall be established at the National Library of Medicine an information center on health care technologies and health care technology assessment.

"(2) INTERAGENCY AGREEMENT.—The Administrator and the Director of the National Library of Medicine shall enter into an agreement providing for the implementation of paragraph (1).

"(d) RECOMMENDATIONS WITH RESPECT TO HEALTH CARE TECHNOLOGY.—

"(1) IN GENERAL.—The Administrator shall make recommendations to the Secretary and to the Administrator of the Health Care Financing Administration with respect to whether specific health care technologies should be reimbursable under federally fi-

nanced health programs, including recommendations with respect to any conditions and requirements under which any such reimbursements should be made.

"(2) CONSIDERATION OF CERTAIN FACTORS.—In making recommendations respecting health care technologies, the Administrator shall consider the safety, efficacy, and effectiveness, and, as appropriate, the cost-effectiveness and appropriate uses of such technologies.

"(3) CONSULTATIONS.—In carrying out this subsection, the Administrator shall cooperate and consult with the Director of the National Institutes of Health, the Commissioner of Food and Drugs, and the heads of any other interested Federal department or agency.

"PART B—FORUM FOR QUALITY AND EFFECTIVENESS IN HEALTH CARE

"SEC. 911. ESTABLISHMENT OF OFFICE.

"There is established within the Agency an office to be known as the Office of the Forum for Quality and Effectiveness in Health Care. The office shall be headed by a director, who shall be appointed by the Administrator.

"SEC. 912. DUTIES.

"(a) ESTABLISHMENT OF FORUM PROGRAM.—The Administrator, acting through the Director, shall establish a program to be known as the Forum for Quality and Effectiveness in Health Care. For the purpose of promoting the quality, appropriateness, and effectiveness of health care, the Director, using the process set forth in section 913, shall arrange for the development and periodic review and updating of—

"(1) clinically relevant guidelines that may be used by physicians and health care practitioners to assist in determining how diseases, disorders, and other health conditions can most effectively and appropriately be diagnosed and treated; and

"(2) standards of quality, performance measures, and medical review criteria through which health care providers and other appropriate entities may assess or review the provision of health care and assure the quality of such care.

"(b) CERTAIN REQUIREMENTS.—Guidelines, standards, performance measures, and review criteria under subsection (a) shall—

"(1) be based on the best available research and professional judgment regarding the effectiveness and appropriateness of health care services and procedures; and

"(2) be presented in formats appropriate for use by physicians, health care practitioners, providers, and medical review organizations and in formats appropriate for use by consumers of health care.

"(c) AUTHORITY FOR CONTRACTS.—In carrying out this part, the Director may enter into contracts with public or nonprofit private entities.

"SEC. 913. PANELS OF EXPERTS AND CONSUMERS.

"(a) DEVELOPMENT OF GUIDELINES AND STANDARDS THROUGH PANELS AND CONTRACTS.—The Director shall—

"(1) convene panels of appropriately qualified experts (including practicing physicians) and health care consumers for the purpose of developing and periodically reviewing and updating the guidelines, standards, performance measures, and review criteria described in section 912(a); and

"(2) enter into contracts with public and nonprofit private entities for such purpose.

"(b) AUTHORITY FOR ADDITIONAL PANELS.—The Director may convene panels of appropriately qualified experts (including practicing physicians) and health care consumers for the purpose of—

"(1) making recommendations to the Director on priorities and strategies for carrying out this part;

"(2) developing the standards and criteria described in section 914(b); and

"(3) providing advice to the Administrator and the Director with respect to any other activities carried out under this part or under section 902(a)(2).

"(c) SELECTION OF PANEL MEMBERS.—In selecting individuals to serve on panels convened under this section, the Director shall consult with a broad range of interested individuals and organizations, including organizations representing physicians in the general practice of medicine and organizations representing physicians in specialties pertinent to the purposes of the panel involved. The Director shall seek to appoint physicians reflecting a variety of practice settings.

"SEC. 914. ADDITIONAL REQUIREMENTS.

"(a) PROGRAM AGENDA.—

"(1) IN GENERAL.—The Director shall provide for an agenda for the development of the guidelines, standards, performance measures, and review criteria described in section 912(a), including—

"(A) with respect to the guidelines, identifying specific diseases, disorders, and other health conditions for which the guidelines are to be developed and those that are to be given priority in the development of the guidelines; and

"(B) with respect to the standards, performance measures, and review criteria, identifying specific aspects of health care for which the standards, performance measures, and review criteria are to be developed and those that are to be given priority in the development of the standards, performance measures, and review criteria.

"(2) CONSIDERATION OF CERTAIN FACTORS IN ESTABLISHING PRIORITIES.—Factors considered by the Director in establishing priorities for purposes of paragraph (1) shall include consideration of the extent to which the guidelines, standards, performance measures, and review criteria involved can be expected—

"(A) to improve methods of diagnosis and treatment for the benefit of a significant number of individuals;

"(B) to reduce clinically significant variations among physicians in the particular services and procedures utilized in making diagnoses and providing treatments; and

"(C) to reduce clinically significant variations in the outcomes of health care services and procedures.

"(b) STANDARDS AND CRITERIA.—

"(1) EXPERT PANELS.—The Director shall establish standards and criteria to be utilized by the expert panels convened under section 913 in the development and periodic review and updating of the guidelines, standards, performance measures, and review criteria described in section 912(a).

"(2) RECIPIENTS OF CONTRACTS.—The Director shall establish standards and criteria to be utilized for the purpose of ensuring that contracts entered into for the development or periodic review or updating of the guidelines, standards, performance measures, and review criteria described in section 912(a) will be entered into only with appropriately qualified entities.

"(3) CERTAIN REQUIREMENTS FOR STANDARDS AND CRITERIA.—The Director shall ensure that the standards and criteria established under paragraphs (1) and (2) specify that—

"(A) appropriate consultations with interested individuals and organizations are to be conducted in the development of the guidelines, standards, performance measures, and review criteria described in section 912(a); and

"(B) such development may be accomplished through the adoption, with or without modification, of guidelines, standards, performance measures, and review criteria that—

"(i) meet the requirements of this part; and

"(ii) are developed by entities independently of the program established in this part.

"(4) IMPROVEMENTS OF STANDARDS AND CRITERIA.—The Director shall conduct and support research with respect to improving the standards and criteria developed under this subsection.

"(c) DISSEMINATION.—The Director shall promote and support the dissemination of the guidelines, standards, performance measures, and review criteria described in section 912(a). Such dissemination shall be carried out through organizations representing health care providers, organizations representing health care consumers, peer review organizations, and other appropriate entities.

"(d) PILOT TESTING.—The Director may conduct or support pilot testing of the guidelines, standards, performance measures, and review criteria developed under section 912(a). Any such pilot testing may be conducted prior to, or concurrently with, their dissemination under subsection (c).

"(e) EVALUATIONS.—The Director shall conduct and support evaluations of the extent to which the guidelines, standards, performance standards, and review criteria developed under section 912 have had an effect on the clinical practice of medicine.

"(f) RECOMMENDATIONS TO ADMINISTRATOR.—The Director shall make recommendations to the Administrator on activities that should be carried out under section 902(a)(2) and under section 1142 of the Social Security Act, including recommendations of particular research projects that should be carried out with respect to—

"(1) evaluating the outcomes of health care services and procedures;

"(2) developing the standards and criteria required in subsection (b); and

"(3) promoting the utilization of the guidelines, standards, performance standards, and review criteria developed under section 912(a).".

PART B—OUTCOMES OF HEALTH CARE SERVICES AND PROCEDURES

SEC. 4111. ESTABLISHMENT OF PROGRAM OF RESEARCH.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"RESEARCH ON OUTCOMES OF HEALTH CARE SERVICES AND PROCEDURES

"SEC. 1142. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—The Secretary, acting through the Administrator for Health Care Research and Policy, shall conduct and support research with respect to the outcomes of health care services and procedures in order to identify the manner in which diseases, disorders, and other health conditions can most effectively and appropriately be diagnosed and treated.

"(2) EVALUATIONS OF ALTERNATIVE SERVICES AND PROCEDURES.—In carrying out paragraph (1), the Administrator shall conduct or support evaluations of the comparative effects, on health and functional capacity, of alternative services and procedures utilized in di-

agnosing and treating diseases, disorders, and other health conditions.

"(b) PRIORITY WITH RESPECT TO CERTAIN HEALTH CONDITIONS.—

"(1) IN GENERAL.—The Administrator shall establish priorities with respect to the diseases, disorders, and other health conditions for which evaluations are to be conducted under subsection (a). In establishing such priorities, the Administrator shall, with respect to a disease, disorder, or other health condition, consider the extent to which—

"(A) improved methods of diagnosis and treatment can benefit a significant number of individuals;

"(B) there is significant variation among physicians in the particular services and procedures utilized in making diagnoses and providing treatments or there is significant variation in the outcomes of health care services or procedures due to different patterns of diagnosis or treatment;

"(C) the services and procedures utilized for diagnosis and treatment result in relatively substantial expenditures; and

"(D) the data necessary for such evaluations are readily available or can readily be developed.

"(2) PRELIMINARY ASSESSMENTS.—For the purpose of establishing priorities under paragraph (1), the Administrator may, with respect to services and procedures utilized in diagnosing and treating diseases, disorders, and other health conditions, conduct or support assessments of the extent to which—

"(A) rates of utilization vary among similar populations for particular diseases, disorders, and other health conditions;

"(B) uncertainties exist on the effect of utilizing a particular service or procedure; or

"(C) inappropriate services and procedures are provided.

"(c) METHODOLOGIES AND CRITERIA FOR EVALUATIONS.—For the purpose of facilitating research under subsection (a), the Administrator shall conduct and support—

"(1) research with respect to improvement of the methodologies and criteria utilized in conducting research with respect to outcomes of health care services and procedures; and

"(2) evaluations of methodologies that utilize large data bases (including claims data and clinical data) in conducting research with respect to such outcomes.

"(d) STANDARDS FOR RESEARCH INFORMATION.—In order to promote the research described in subsection (a), the Administrator shall, consistent with section 923(a) of the Public Health Service Act, develop and promote the use of uniform standards and formats in the collection and maintenance of information on the outcomes of health care services and procedures, including the effect on health and functional capacity resulting from such services and procedures.

"(e) DISSEMINATION OF FINDINGS AND EDUCATION OF PROVIDERS.—The Administrator shall provide for the dissemination of the findings of research described in subsection (a) and for the education of providers in the application of such research.

"(f) EVALUATIONS.—The Administrator shall conduct and support evaluations of the activities carried out under this section to determine the extent to which such activities have had an effect on the practices of physicians in providing medical treatment, the delivery of health care, and the outcomes of health care services and procedures.

"(g) RESEARCH WITH RESPECT TO DISSEMINATION.—The Administrator may conduct or support research with respect to improving methods of disseminating information on the effectiveness and appropriateness of health care services and procedures.

"(h) APPLICABILITY OF CERTAIN AGENCY AUTHORITIES.—Authorities and duties of the Administrator under part C of title IX of the Public Health Service Act, and under section 903 of such Act, shall apply with respect to activities carried out under this section to the same extent and in the same manner as such authorities and duties apply with respect to activities under such title IX.

"(i) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For carrying out this section, there are authorized to be appropriated $8,300,000 for fiscal year 1990, $12,500,000 for fiscal year 1991, and $16,700,000 for fiscal year 1992.

"(2) TRANSFER OF CERTAIN FUNDS.—

"(A) In addition to amounts made available under paragraph (1) for carrying out this section, there are authorized to be transferred for such purpose, from the trust fund specified in subparagraph (B), $16,700,000 for fiscal year 1990, $25,000,000 for fiscal year 1991, and $33,300,000 for fiscal year 1992.

"(B) The fund referred to in subparagraph (A), known as the Federal Supplementary Medical Insurance Trust Fund, is the trust fund provided for in section 1841 of part B of title XVIII.

"(j) DEFINITION.—For purposes of this section, the term 'Administrator' means the Administrator for Health Care Research and Policy.".

PART C—ADDITIONAL AUTHORITIES AND DUTIES WITH RESPECT TO AGENCY FOR HEALTH CARE RESEARCH AND POLICY

SEC. 4121. ADVISORY COUNCIL, PEER REVIEW, ADMINISTRATIVE AUTHORITIES, AND OTHER GENERAL PROVISIONS.

Title IX of the Public Health Service Act, as added by section 4101 of this subtitle, is amended by adding at the end the following new part:

"PART C—GENERAL PROVISIONS

"SEC. 921. ADVISORY COUNCIL FOR HEALTH CARE RESEARCH, EVALUATION, AND POLICY.

"(a) ESTABLISHMENT.—There is established an advisory council to be known as the National Advisory Council for Health Care Research, Evaluation, and Policy.

"(b) DUTIES.—

"(1) IN GENERAL.—The Council shall advise the Secretary and the Administrator with respect to activities to carry out the purpose of the Agency under section 901(b).

"(2) CERTAIN RECOMMENDATIONS.—Activities of the Council under paragraph (1) shall include making recommendations to the Administrator regarding priorities for a national agenda and strategy for—

"(A) the conduct of research, demonstration projects, and evaluations with respect to health care, including clinical practice and primary care;

"(B) the development and periodic review and updating of guidelines for clinical practice, standards of quality, performance measures, and medical review criteria with respect to health care;

"(C) the development and application of appropriate health care technology assessments; and

"(D) the conduct of research on outcomes of health care services and procedures under section 1142 of the Social Security Act.

"(c) MEMBERSHIP.—

"(1) IN GENERAL.—The Council shall, in accordance with this subsection, be composed of appointed members and ex officio members. All members of the Council shall be voting members.

"(2) APPOINTED MEMBERS.—The Administrator shall appoint to the Council 15 appropriately qualified representatives of the public who are not officers or employees of the United States. The Administrator shall ensure that the appointed members of the Council, as a group, are representative of professions and entities concerned with, or affected by, activities under this title and under section 1142 of the Social Security Act. Of such members—

"(A) 8 shall be individuals distinguished in the conduct of research, demonstration projects, and evaluations with respect to health care;

"(B) 3 shall be individuals distinguished in the practice of medicine;

"(C) 2 shall be individuals distinguished in the fields of business, law, ethics, economics, and public policy; and

"(D) 2 shall be individuals representing the interests of consumers of health care.

"(3) EX OFFICIO MEMBERS.—The Administrator shall designate as ex officio members of the Council the Director of the National Institutes of Health, the Director of the Centers for Disease Control, the Administrator of the Health Care Financing Administration, the Assistant Secretary of Defense (Health Affairs), the Chief Medical Officer of the Department of Veterans Affairs, and such other Federal officials as the Administrator may consider appropriate for membership on the Council.

"(d) TERMS.—

"(1) Except as provided in paragraph (2), members of the Council appointed under subsection (c)(2) shall serve for a term of 3 years.

"(2) Of the members first appointed to the Council under subsection (c)(2), the Secretary shall appoint 5 members to serve for a term of 3 years, 5 members to serve for a term of 2 years, and 5 members to serve for a term of 1 year.

"(e) VACANCIES.—

"(1) Any member of the Council appointed under subsection (c)(2) to fill a vacancy occurring before the expiration of the term of the predecessor of the member shall be appointed for the remainder of the term of the predecessor.

"(2) A member of the Council appointed under subsection (c)(2) may continue to serve after the expiration of the term of the member until a successor is appointed.

"(f) CHAIR.—The Administrator shall, from among the members of the Council appointed under subsection (c)(2), designate an individual to serve as the chair of the Council.

"(g) MEETINGS.—The Council shall meet not less than once during each discrete 4-month period and shall otherwise meet at the call of the Administrator or the chair.

"(h) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—

"(1) APPOINTED MEMBERS.—Members of the Council appointed under subsection (c)(2) shall receive compensation for each day (including traveltime) engaged in carrying out the duties of the Council. Such compensation may not be in an amount in excess of the maximum rate of basic pay payable for GS-18 of the General Schedule.

"(2) EX OFFICIO MEMBERS.—Officials designated under subsection (c)(3) as ex officio members of the Council may not receive compensation for service on the Council in

addition to the compensation otherwise received for duties carried out as officers of the United States.

"(i) STAFF.—The Administrator shall provide to the Council such staff, information, and other assistance as may be necessary to carry out the duties of the Council.

"(j) DURATION.—Notwithstanding section 14(a) of the Federal Advisory Committee Act, the Council shall continue in existence until otherwise provided by law.

"SEC. 922. PEER REVIEW WITH RESPECT TO GRANTS AND CONTRACTS.

"(a) REQUIREMENT OF REVIEW.—

"(1) IN GENERAL.—Appropriate technical and scientific peer review shall be conducted with respect to each application for a grant, cooperative agreement, or contract under this title.

"(2) REPORTS TO ADMINISTRATOR.—Each peer review group to which an application is submitted pursuant to paragraph (1) shall report its finding and recommendations respecting the application to the Administrator in such form and in such manner as the Administrator shall require.

"(b) APPROVAL AS PRECONDITION OF AWARDS.—The Administrator may not approve an application described in subsection (a)(1) unless the application is recommended for approval by a peer review group established under subsection (c).

"(c) ESTABLISHMENT OF PEER REVIEW GROUPS.—

"(1) IN GENERAL.—The Administrator shall establish such technical and scientific peer review groups as may be necessary to carry out this section. Such groups shall be established without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and without regard to the provisions of chapter 51, and subchapter III of chapter 53, of such title that relate to classification and pay rates under the General Schedule.

"(2) MEMBERSHIP.—The members of any peer review group established under this section shall be appointed from among individuals who are not officers or employees of the United States and who by virtue of their training or experience are eminently qualified to carry out the duties of such peer review group.

"(3) DURATION.—Notwithstanding section 14(a) of the Federal Advisory Committee Act, peer review groups established under this section shall continue in existence until otherwise provided by law.

"(d) CATEGORIES OF REVIEW.—

"(1) IN GENERAL.—With respect to technical and scientific peer review under this section, such review of applications with respect to research, demonstration projects, or evaluations shall be conducted by different peer review groups than the peer review groups that conduct such review of applications with respect to dissemination activities or the development of research agendas (including conferences, workshops, and meetings).

"(2) AUTHORITY FOR PROCEDURAL ADJUSTMENTS IN CERTAIN CASES.—In the case of applications described in subsection (a)(1) for financial assistance whose direct costs will not exceed $50,000, the Administrator may make appropriate adjustments in the procedures otherwise established by the Administrator for the conduct of peer review under this section. Such adjustments may be made for the purpose of encouraging the entry of individuals into the field of research, for the purpose of encouraging clinical practice-oriented research, and for such other purposes as the Administrator may determine to be appropriate.

"(e) REGULATIONS.—The Secretary shall issue regulations for the conduct of peer review under this section.

"SEC. 923. CERTAIN PROVISIONS WITH RESPECT TO DEVELOPMENT, COLLECTION, AND DISSEMINATION OF DATA.

"(a) STANDARDS WITH RESPECT TO UTILITY OF DATA.—With respect to data developed or collected by any entity for the purpose described in section 901(b), the Administrator shall, in order to assure the utility of such data for all interested entities, establish guidelines for uniform methods of developing and collecting such data. Such guidelines shall include specifications for the development and collection of data on the outcomes of health care services and procedures.

"(b) STATISTICS.—The Administrator shall—

"(1) take such action as may be necessary to assure that statistics developed under this title are of high quality, timely, and comprehensive, as well as specific, standardized, and adequately analyzed and indexed; and

"(2) publish, make available, and disseminate such statistics on as wide a basis as is practicable.

"SEC. 924. ADDITIONAL PROVISIONS WITH RESPECT TO GRANTS AND CONTRACTS.

"(a) REQUIREMENT OF APPLICATION.—The Administrator may not, with respect to any program under this title authorizing the provision of grants, cooperative agreements, or contracts, provide any such financial assistance unless an application for the assistance is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Administrator determines to be necessary to carry out the program involved.

"(b) PROVISION OF SUPPLIES AND SERVICES IN LIEU OF FUNDS.—

"(1) IN GENERAL.—Upon the request of an entity receiving a grant, cooperative agreement, or contract under this title, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the entity in carrying out the project involved and, for such purpose, may detail to the entity any officer or employee of the Department of Health and Human Services.

"(2) CORRESPONDING REDUCTION IN FUNDS.—With respect to a request described in paragraph (1), the Secretary shall reduce the amount of the financial assistance involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Administrator. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"(c) APPLICABILITY OF CERTAIN PROVISIONS WITH RESPECT TO CONTRACTS.—Contracts may be entered into under this part without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"SEC. 925. CERTAIN ADMINISTRATIVE AUTHORITIES.

"(a) DEPUTY ADMINISTRATOR AND OTHER OFFICERS AND EMPLOYEES.—

"(1) DEPUTY ADMINISTRATOR.—The Administrator may appoint a deputy administrator for the Agency.

"(2) OTHER OFFICERS AND EMPLOYEES.—The Administrator may appoint and fix the compensation of such officers and employees as may be necessary to carry out this title. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

"(b) FACILITIES.—The Secretary, in carrying out this title—

"(1) may acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of General Services, buildings or portions of buildings in the District of Columbia or communities located adjacent to the District of Columbia for use for a period not to exceed 10 years; and

"(2) may acquire, construct, improve, repair, operate, and maintain laboratory, research, and other necessary facilities and equipment, and such other real or personal property (including patents) as the Secretary deems necessary.

"(c) PROVISION OF FINANCIAL ASSISTANCE.—The Administrator, in carrying out this title, may make grants to, and enter into cooperative agreements with, public and nonprofit private entities and individuals, and, when appropriate, may enter into contracts with public and private entities and individuals.

"(d) UTILIZATION OF CERTAIN PERSONNEL AND RESOURCES.—

"(1) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—The Administrator, in carrying out this title, may utilize personnel and equipment, facilities, and other physical resources of the Department of Health and Human Services, permit appropriate (as determined by the Secretary) entities and individuals to utilize the physical resources of such Department, and provide technical assistance and advice.

"(2) OTHER AGENCIES.—The Administrator, in carrying out this title, may use, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, or of any foreign government, with or without reimbursement of such agencies.

"(e) CONSULTANTS.—The Secretary, in carrying out this title, may secure, from time to time and for such periods as the Administrator deems advisable but in accordance with section 3109 of title 5, United States Code, the assistance and advice of consultants from the United States or abroad.

"(f) EXPERTS.—

"(1) IN GENERAL.—The Secretary may, in carrying out this title, obtain the services of not more than 50 experts or consultants who have appropriate scientific or professional qualifications. Such experts or consultants shall be obtained in accordance with section 3109 of title 5, United States Code, except that the limitation in such section on the duration of service shall not apply.

"(2) TRAVEL EXPENSES.—

"(A) Experts and consultants whose services are obtained under paragraph (1) shall be paid or reimbursed for their expenses associated with traveling to and from their assignment location in accordance with sections 5724, 5724a(a)(1), 5724a(a)(3), and 5726(c) of title 5, United States Code.

"(B) Expenses specified in subparagraph (A) may not be allowed in connection with the assignment of an expert or consultant whose services are obtained under paragraph (1) unless and until the expert agrees in writing to complete the entire period of assignment, or one year, whichever is shorter, unless separated or reassigned for reasons that are beyond the control of the expert or consultant and that are accepta-

ble to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for the expenses specified in subparagraph (A) is recoverable from the expert or consultant as a debt of the United States. The Secretary may waive in whole or in part a right of recovery under this subparagraph.

"(g) VOLUNTARY AND UNCOMPENSATED SERVICES.—The Administrator, in carrying out this title, may accept voluntary and uncompensated services.

"SEC. 926. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this title, there are authorized to be appropriated $35,000,000 for fiscal year 1990, $50,000,000 for fiscal year 1991, and $70,000,000 for fiscal year 1992.

"(b) EVALUATIONS.—In addition to amounts available pursuant to subsection (a) for carrying out this title, there shall be made available for such purpose, from the amounts made available pursuant to section 2611 of this Act (relating to evaluations), an amount equal to 40 percent of the maximum amount authorized in such section 2611 to be made available.

"SEC. 927. DEFINITIONS.

"For purposes of this title:

"(1) The term 'Administrator' means the Administrator for Health Care Research and Policy.

"(2) The term 'Agency' means the Agency for Health Care Research and Policy.

"(3) The term 'Council' means the National Advisory Council on Health Care Research, Evaluation, and Policy.

"(4) The term 'Director' means the director appointed to head the Office of the Forum for Quality and Effectiveness in Health Care.".

PART D—GENERAL PROVISIONS

SEC. 4131. TERMINATIONS.

(a) NATIONAL CENTER FOR HEALTH SERVICES RESEARCH AND HEALTH CARE TECHNOLOGY ASSESSMENT.—Part A of title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by striking section 305.

(b) COUNCIL ON HEALTH CARE TECHNOLOGY.—Part A of title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by striking section 309.

SEC. 4132. CONTRACT FOR TEMPORARY ASSISTANCE TO SECRETARY WITH RESPECT TO HEALTH CARE TECHNOLOGY ASSESSMENT.

(a) IN GENERAL.—The Secretary of Health and Human Services shall request the Institute of Medicine of the National Academy of Sciences to enter into a contract—

(1) to develop and recommend to the Secretary priorities for the assessment of specific health care technologies under section 904 of the Public Health Service Act (as added by section 4101 of this Act); and

(2) to assist the Administrator for Health Care Research and Policy, and the Director of the National Library of Medicine, in establishing the information center required under subsection (c)(1) of such section 904.

(b) TRANSFER OF CERTAIN MATERIALS WITH RESPECT TO CLEARINGHOUSE.—In carrying out section 904(c)(1) of the Public Health Service Act (as added by section 4101 of this Act), the Secretary of Health and Human Services shall, as appropriate, provide for the transfer to the Secretary of any information and materials developed by the council on health care technology under section 309(c)(1)(A) of the Public Health Service Act (as such section was in effect on the day before the effective date of this subtitle).

(c) DATE FOR COMPLETION OF ASSISTANCE.—The Secretary of Health and Human Services shall ensure that the contract under subsection (a) specifies that the activities described in paragraphs (1) and (2) of such subsection shall be completed not later than 1 year after the date on which the Secretary enters into the contract.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the contract under subsection (a), there is authorized to be appropriated $300,000 for fiscal year 1990.

SEC. 4133. TECHNICAL AND CONFORMING AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.

(a) SECTION 304.—Section 304 of the Public Health Service Act (42 U.S.C. 242b) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1) and (2); and

(B) by striking the paragraph designation in paragraph (3);

(2) in subsection (a) (as amended by paragraph (1) of this subsection)—

(A) by striking "the National Center for Health Services Research and Health Care Technology Assessment" and inserting "the Agency for Health Care Research and Policy"; and

(B) by striking "in sections 305, 306, and 309" and inserting "in section 306 and in title IX";

(3) in subsection (b), in the matter preceding paragraph (1), by striking "subsection (a)," and inserting "subsection (a) and section 306,"; and

(4) in subsection (c)—

(A) in paragraph (1), in the second sentence, by striking "the National Center for Health Services Research and Health Care Technology Assessment" and inserting "the Agency for Health Care Research and Policy"; and

(B) in paragraph (2), by striking "the National Center for Health Services Research and Health Care Technology Assessment" and inserting "the Agency for Health Care Research and Policy".

(b) SECTION 306.—Section 306 of the Public Health Service Act (42 U.S.C. 242k) is amended—

(1) in subsection (a), by adding at the end the following new sentence: "The Secretary, acting through the Center, shall conduct and support statistical and epidemiological activities for the purpose of improving the effectiveness, efficiency, and quality of health services in the United States.";

(2) in subsection (b), in the matter preceding paragraph (1), by striking "section 304(a)," and inserting "subsection (a),"; and

(3) by adding at the end the following new subsection:

"(m) For health statistical and epidemiological activities undertaken or supported under this section, there are authorized to be appropriated $55,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

(c) SECTION 307.—Section 307(a) of the Public Health Service Act (42 U.S.C. 2421(a)) is amended by striking "sections 304, 305, 306, and 309" and inserting "section 306 and by title IX".

(d) SECTION 308.—Section 308 of the Public Health Service Act (42 U.S.C. 242m) is amended—

(1) in the section heading, by striking "SECTIONS" and all that follows and inserting the following: "EFFECTIVENESS, EFFICIENCY, AND QUALITY OF HEALTH SERVICES";

(2) in subsection (a)—

(A) in paragraph (1)(A)(i), by striking "sections 304 through 307 and section 309" and inserting "sections 304, 306, and 307 and title IX"; and

(B) in paragraph (2), by striking "the National Center for Health Services Research and Health Care Technology Assessment" and inserting "the Agency for Health Care Research and Policy";

(3) in subsection (b)—

(A) in paragraph (1), by striking "sections 304, 305, 306, 307, and 309" and inserting "section 304, 306, or 307";

(B) in subparagraph (A) of paragraph (2)—

(i) in the first sentence, by striking "under section 304 or 305," and all that follows through "shall be submitted" and inserting the following: "under section 306 in an amount exceeding $50,000 of direct costs shall be submitted";

(ii) by striking the second sentence; and

(iii) by amending the last sentence to read as follows: "The Director of the National Center for Health Statistics shall establish such peer review groups as may be necessary to provide for such an evaluation of each such application.";

(C) in subparagraph (B) of paragraph (2), by striking "the Director involved," and inserting "the Director of the National Center for Health Statistics,";

(D) in subparagraph (C) of paragraph (2), by striking "the Directors," and inserting "the Director of the National Center for Health Statistics,"; and

(E) in paragraph (3), in the first sentence—

(i) by striking "section 304, 305, or 306" the first place such term appears and inserting "section 306"; and

(ii) by striking "section 304, 305, or 306" the second place such term appears and inserting "any of such sections";

(4) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "section 304, 305, 306, 307, or 309" and inserting "section 304, 306, or 307";

(B) in paragraph (1), by striking "in other form, and" and inserting "in other form." and by striking the paragraph designation; and

(C) by striking paragraph (2);

(5) in subsection (e)—

(A) in paragraph (1), by striking "section 304, 305, 306, 307, or 309" and inserting "section 304, 306, or 307"; and

(B) in paragraph (2), in the matter preceding subparagraph (A), by striking "section 304, 305, 306, 307, or 309" and inserting "section 304, 306, or 307";

(6) in subsection (f), by striking "section 304, 305, 306, or 309" and inserting "section 304 or 306";

(7) in subsection (g)—

(A) in paragraph (1), by striking the matter after and below subparagraph (C); and

(B) in paragraph (2), by striking "sections 304, 305, 306, and 309" and inserting "sections 304 and 306";

(8) in subsection (h)(1)—

(A) by striking "section 304, 305, 306, or 309" the first place such term appears and inserting "section 306"; and

(B) by striking "section 304, 305, 306, or 309" the second place such term appears and inserting "any of such sections"; and

(9) by striking subsection (i).

(e) SECTION 330.—Section 330(e)(3)(G)(i) of the Public Health Service Act (42 U.S.C. 254c(e)(3)(G)(i)) is amended by inserting after "(i)" the following: "except in the case of an entity operated by an Indian tribe or tribal or Indian organization under the Indian Self-Determination Act,".

(f) SECTION 487.—Section 487(d)(3)(B) of the Public Health Service Act (42 U.S.C. 288(d)(3)(B)) is amended by striking "National Center" and all that follows through "Assessment" and inserting "Agency for Health Care Research and Policy".

SEC. 4134. TRANSITIONAL AND SAVINGS PROVISIONS.

(a) TRANSFER OF PERSONNEL, ASSETS, AND LIABILITIES.—Personnel of the Department of Health and Human Services employed on the date of the enactment of this Act in connection with the functions vested in the Administrator for Health Care Research and Policy pursuant to the amendments made by this subtitle, and assets, property, contracts, liabilities, records, unexpended balances of appropriations, authorizations, allocations, and other funds, of such Department arising from or employed, held, used, or available on such date, or to be made available after such date, in connection with such functions shall be transferred to the Administrator for appropriate allocation. Unexpended funds transferred under this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) SAVINGS PROVISIONS.—With respect to functions vested in the Administrator for Health Care Research and Policy pursuant to the amendments made by this subtitle, all orders, rules, regulations, grants, contracts, certificates, licenses, privileges, and other determinations, actions, or official documents, of the Department of Health and Human Services that have been issued, made, granted, or allowed to become effective in the performance of such functions, and that are effective on the date of the enactment of this Act, shall continue in effect according to their terms unless changed pursuant to law.

SEC. 4135. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect October 1, 1989, or upon the date of the enactment of this Act, whichever occurs later.

Subtitle C—Medicaid

PART A—INFANT MORTALITY PROVISIONS

SEC. 4201. PHASED-IN COVERAGE OF PREGNANT WOMEN AND INFANTS UP TO 185 PERCENT OF POVERTY LEVEL.

(a) IN GENERAL.—Section 1902(l)(2)(A) of the Social Security Act (42 U.S.C. 1396a(l)(2)(A)) is amended—

(1) in clause (ii)—

(A) in subclause (I), by striking "and" at the end of subclause (I), and

(B) by striking subclause (II) and inserting the following:

"(II) April 1, 1990, 130 percent, or, if greater, the percentage provided under clause (iv),

"(III) July 1, 1992, 150 percent, or, if greater, the percentage provided under clause (iv), and

"(IV) July 1, 1993, 185 percent."; and

(2) by adding at the end the following new clause:

"(iv) In the case of a State which, as of the date of the enactment of this clause, has established under clause (i), or has enacted legislation authorizing, or appropriating funds, to provide for, a percentage (of the income official poverty line) that is greater than 130 percent, the percentage provided under clause (ii) for medical assistance on or after April 1, 1990, shall not be less than—

"(I) the percentage specified by the State in an amendment to its State plan (whether approved or not) as of the date of the enactment of this clause, or

"(II) if no such percentage is specified as of the date of the enactment of this clause, the percentage established under the State's authorizing legislation or provided for under the State's appropriations.".

(b) FLEXIBILITY IN INCOME METHODOLOGY AND DEDUCTION OF CHILD CARE IN COMPUTATION OF INCOME.—Section 1902(l)(3)(E) of such Act (42 U.S.C. 1396a(l)(3)(E)) is amended by striking "(E)" and inserting the following:

"(E)(i) with respect to an individual described in subparagraph (A) or (B) of paragraph (1), family income shall be determined in accordance with a methodology which is no more restrictive than the methodology employed under the State plan under part A or E of title IV (except to the extent such methodology is inconsistent with clause (D) of subsection (a)(17) and except that there shall be disregarded costs for such child care as is necessary for the employment of the pregnant woman or the caretaker of the infant), and costs incurred for medical care or for any other type of remedial care shall not be taken into account, and

"(ii) with respect to an individual described in paragraph (1)(C),".

(c) PROHIBITING APPLICATION OF RESOURCE TEST.—Section 1902(l)(3) of such Act (42 U.S.C. 1396a(l)(3)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A)(i) no resource standard or methodology shall be applied to individuals who are eligible for medical assistance because of subsection (a)(10)(A)(i)(IV), and (ii) application of a resource standard or methodology for individuals who are eligible for medical assistance because of subsection (a)(10)(A)(ii)(IX) shall be at the option of the State, but any such resource standard or methodology may not be more restrictive than the corresponding standard or methodology that is applied under the State plan under part A of title IV;",

(2) by striking subparagraphs (B) and (C), and

(3) by redesignating subparagraphs (D) and (E) as subparagraphs (B) and (C), respectively.

(d) REPORT AND TRANSITION ON ERRORS IN ELIGIBILITY DETERMINATIONS.—

(1) REPORT.—The Secretary of Health and Human Services shall report to Congress, by not later than July 1, 1990, on error rates by States in determining eligibility of individuals described in subparagraph (A) or (B) of section 1902(l)(1) of the Social Security Act for medical assistance under plans approved under title XIX of such Act. Such report may include data for medical assistance provided before July 1, 1989.

(2) ERROR RATE TRANSITION.—There shall not be taken into account, for purposes of section 1903(u) of the Social Security Act, payments and expenditures for medical assistance which—

(A) are attributable to medical assistance for individuals described in subparagraph (A) or (B) of section 1902(l)(1) of such Act, and

(B) are made on or after July 1, 1989, and before the first calendar quarter that begins more than 12 months after the date of submission of the report under paragraph (1).

(e) EFFECTIVE DATES.—

(1) HIGHER INCOME STANDARDS.—Except as provided in paragraph (3), the amendments made by subsection (a) shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after April 1, 1990, with respect to eligibility for medical assistance on or after such date, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) INCOME METHODOLOGY AND RESOURCE STANDARD.—Except as provided in paragraph (3), the amendments made by subsections (b) and (c) shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1990, with respect to eligibility for medical assistance on or after such date, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(3) EXCEPTION FOR CERTAIN STATES.—(A) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(B) In the case of the State of Texas, the State plan shall not be regarded as failing to comply with the requirements of title XIX of the Social Security Act solely on the basis of its failure to meet the additional requirements imposed by the amendments made by this section before September 1, 1991.

SEC. 4202. PRESUMPTIVE ELIGIBILITY.

(a) EXTENSION OF PRESUMPTIVE ELIGIBILITY PERIOD.—Section 1920 of the Social Security Act (42 U.S.C. 1396r-1) is amended—

(1) in subsection (b)(1)(B)—

(A) by adding "or" at the end of clause (i),

(B) by striking clause (ii), and

(C) by amending clause (iii) to read as follows:

"(ii) in the case of a woman who does not file an application by the last day of the month following the month during which the provider makes the determination referred to in subparagraph (A), such last day; and"; and

(2) in subsections (c)(2)(B) and (c)(3), by striking "within 14 calendar days after the date on which" and inserting "by not later than the last day of the month following the month during which".

(b) FLEXIBILITY IN APPLICATION.—Section 1920(c)(3) of such Act (42 U.S.C. 1396r-1(c)(3)) is amended by inserting before the period at the end the following: ", which application may be the application used for the receipt of medical assistance by individuals described in section 1902(l)(1)(A)".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) The amendment made by subsection (b) shall be effective as if included in the en-

actment of section 9407(b) of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4203. OPTIONAL COVERAGE OF PRENATAL AND POSTPARTUM HOME VISITATION SERVICES.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) by striking "and" at the end of paragraph (20),

(2) by redesignating paragraph (21) as paragraph (22), and

(3) by inserting after paragraph (20) the following new paragraph:

"(21) prenatal home visitation services for high-risk pregnant women, postpartum home visitation services with respect to high-risk infants under 1 year of age, or both (as specified by the State), as prescribed by a physician; and".

(b) CONFORMING AMENDMENTS.—Section 1902 of such Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(10)(C)(iv), by striking "(20)" and inserting "(21)", and

(2) in subsection (j), by striking "(21)" and inserting "(22)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after July 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 4204. PAYMENT FOR OBSTETRICAL AND PEDIATRIC SERVICES.

(a) CODIFICATION OF ADEQUATE PAYMENT LEVEL PROVISIONS.—Section 1902(a)(30)(A) of the Social Security Act (42 U.S.C. 1396a(a)(30)(A)) is amended by inserting before the semicolon at the end the following: "and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area".

(b) ASSURING ADEQUATE PAYMENT LEVELS FOR OBSTETRICAL AND PEDIATRIC SERVICES.—Title XIX of such Act, as amended by section 303 of the Family Support Act of 1988, is amended by redesignating section 1926 as section 1927 and by inserting after section 1925 the following new section:

"ASSURING ADEQUATE PAYMENT LEVELS FOR OBSTETRICAL AND PEDIATRIC SERVICES

"SEC. 1926. (a)(1) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(30)(A) with respect to obstetrical services (as defined in paragraph (4)(A)), as of July 1 of each year (beginning with 1990), unless, by not later than April 1 of such year, the State submits to the Secretary an amendment to the plan that specifies the payment rates to be used for such services under the plan in the succeeding period and includes in such submission such additional data as will assist the Secretary in evaluating the State's compliance with such requirement, including data relating to how rates established for payments to health maintenance organizations under section 1903(m) take into account such payment rates.

"(2) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(30)(A) with respect to pediatric services (as defined in paragraph (4)(B)), as of July 1 of each year (beginning with 1990), unless, by not later than April 1 of such year, the State submits to the Secretary an amendment to the plan that specifies, by pediatric procedure, the payment rates to be used for such services under the plan in the succeeding period and includes in such submission such additional data as will assist the Secretary in evaluating the State's compliance with such requirement, including data relating to how rates established for payments to health maintenance organizations under section 1903(m) take into account such payment rates.

"(3) The Secretary, by not later than 90 days after the date of submission of a plan amendment under paragraph (1) or (2), shall—

"(A) review each such amendment for compliance with the requirement of section 1902(a)(30)(A), and

"(B) approve or disapprove each such amendment.

If the Secretary disapproves such an amendment, the State shall immediately submit a revised amendment which meets such requirement.

"(4) In this section:

"(A) The term 'obstetrical services' means services relating to pregnancy covered under the State plan provided by an obstetrician, obstetrician-gynecologist, family practitioner, certified nurse midwife, or certified family nurse practitioner and does not include inpatient or outpatient hospital services or other institutional services.

"(B) The term 'pediatric services' means services covered under the State plan provided by a pediatrician, family practitioner, or certified pediatric nurse practitioner to children under 18 years of age and does not include inpatient or outpatient hospital services or other institutional services.

"(b) For amendments submitted under subsection (a)(1) in 1992 and thereafter, the data submitted under such subsection must include, for the second previous year, at least the statewide average payment rates under the State plan for obstetrical services furnished by obstetricians, obstetrician-gynecologists, family practitioners, certified family nurse practitioners, and certified nurse midwives, by procedure. Such information shall be provided separately for providers located in each metropolitan statistical area (or similar area) in the State and in the remainder of the State.

"(c) For amendments submitted under subsection (a)(2) in 1992 and thereafter, the data submitted under such subsection must include, for the second previous year, at least the statewide average payment rates under the State plan for pediatric services furnished by pediatricians, family practitioners, and certified pediatric nurse practitioners by procedure. Such information shall be provided separately for providers located in each metropolitan statistical area (or similar area) in the State and in the remainder of the State.

"(d) Nothing in this title (including section 1902(a)(30)(A)) shall be construed as preventing a State from establishing payment levels for obstetrical or pediatric services that are higher for those services furnished in rural areas than those furnished in metropolitan statistical areas.".

(c) PAYMENT FOR CERTAIN SERVICES IN CERTAIN FEDERALLY-FUNDED HEALTH CENTERS.—

(1) COVERAGE.—Section 1905(a)(2) of the Social Security Act (42 U.S.C. 1396d(a)(2)) is amended by striking "and" before "(B)" and by inserting before the semicolon at the end the following: ", and (C) ambulatory services offered by a health center receiving funds under section 329, 330, or 340 of the Public Health Service Act to a pregnant woman or individual under 18 years of age".

(2) PAYMENT AMOUNTS.—Section 1902(a)(13)(E) of such Act (42 U.S.C. 1396a(a)(13)(E)) is amended by inserting ", and for payment for services described in section 1905(a)(2)(C) under the plan," after "provided by a rural health clinic under the plan".

(d) EFFECTIVE DATE.—(1) The amendments made by subsections (a) and (b) (except as otherwise provided in such amendments) shall take effect on the date of the enactment of this Act.

(2)(A) The amendments made by subsection (c) apply (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsection (c), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 4205. ROLE IN PATERNITY DETERMINATIONS.

(a) IN GENERAL.—Section 1912(a)(1)(B) of the Social Security Act (42 U.S.C. 1396k(a)(1)(B)) is amended by inserting "the individual is described in section 1902(l)(1)(A) or" after "unless (in either case)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 4206. REQUIRED MEDICAID NOTICE AND COORDINATION WITH SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC).

(a) STATE PLAN REQUIREMENTS OF NOTICE AND COORDINATION.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (11), by striking "and" before "(B)" and by inserting before the semicolon at the end the following: ", and (C) provide for coordination of the operations under this title with the State's operations under the special supplemental food program for women, infants, and children under section 17 of the Child Nutrition Act of 1966";

(2) by striking "and" at the end of paragraph (51);

(3) by striking the period at the end of paragraph (52) and inserting "; and"; and

(4) by inserting after paragraph (52) the following new paragraph:

"(53) provide—

"(A) for notifying in a timely manner all individuals in the State who are determined to be eligible for medical assistance and who are pregnant women, breastfeeding or postpartum women (as defined in section 17 of the Child Nutrition Act of 1966), or children below the age of 5, of the availability of benefits furnished by the special supplemental food program under such section, and

"(B) for referring any such individual to the State agency responsible for administering such program.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on July 1, 1990, without regard to whether regulations to carry out such amendments have been promulgated by such date.

PART B—CHILD HEALTH AMENDMENTS

SEC. 4211. PHASED-IN MANDATORY COVERAGE OF CHILDREN UP TO 100 PERCENT OF POVERTY LEVEL.

(a) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(10)(A)(i)—

(A) by striking "or" at the end of subclause (IV),

(B) by striking the semicolon at the end of subclause (V) and inserting ", or", and

(C) by adding at the end the following new subclause:

"(VI) who are described in subparagraph (C) of subsection (l)(1) and whose family income does not exceed the income level the State is required to establish under subsection (l)(2)(B) for such a family;";

(2) in subsection (a)(10)(A)(ii)(IX), by inserting "or clause (i)(VI)" after "clause (i)(IV)";

(3) in subsection (l)—

(A) by amending subparagraph (C) of paragraph (1) to read as follows:

"(C) children born after September 30, 1983, who have attained one year of age but have not attained 18 years of age,";

(B) by striking subparagraph (B) of paragraph (2) and inserting the following:

"(B) For purposes of paragraph (1) with respect to individuals described in subparagraph (C) of that paragraph, the State shall establish an income level which is equal to the minimum percentage provided under subclause (I) or (II) of subparagraph (A)(ii) of the income official poverty line described in subparagraph (A) applicable to a family of the size involved.";

(C) in paragraph (3)—

(i) by inserting ", (a)(10)(A)(i)(VI)," after "(a)(10)(A)(i)(IV)";

(ii) in subparagraph (A), as previously amended by section 4201(c)(1) of this subtitle, by inserting "or (VI)" after "(a)(10)(A)(i)(IV)";

(iii) in subparagraph (C)(ii), as amended and redesignated by subsections (b) and (c)(3) of section 4201, by striking "the methodology employed" and inserting "a methodology which is no more restrictive than the methodology employed"; and

(iv) in subparagraph (C)(ii), as so amended and redesignated, by inserting "and except that there shall be disregarded costs for such child care as is necessary for the employment of the pregnant woman or the caretaker relative of the child" after "(a)(17)";

(D) in paragraph (4)(A), by inserting "and for children described in subsection (a)(10)(A)(i)(VI)" after "(a)(10)(A)(i)(IV)"; and

(E) in paragraph (4)(B), by inserting "or (a)(10)(A)(i)(VI)" after "(a)(10)(A)(i)(IV)"; and

(4) in subsection (r)(2)(A), by inserting "(a)(10)(A)(i)(VI)," after "(a)(10)(A)(i)(IV),".

(b) APPLICATIONS USING OUTREACH LOCATIONS.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)), as amended by section 4206(a) of this subtitle, is amended—

(1) by striking "and" at the end of paragraph (52),

(2) by striking the period at the end of paragraph (53) and inserting "; and", and

(3) by inserting after paragraph (53) the following new paragraph:

"(54) provide for receipt and initial processing of applications of individuals for medical assistance under subsections (a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI), or (a)(10)(A)(ii)(IX)—

"(A) at locations which include locations (such as hospitals or clinics providing covered services to such individuals, without discrimination based on whether the hospital or clinic is public or private) which are other than those used for the receipt and processing of applications for aid under part A of title IV, and

"(B) using applications which are other than those used for applications for aid under such part.".

(c) CONFORMING AMENDMENT TO QUALIFIED CHILDREN.—Section 1905(n)(2) of such Act (42 U.S.C. 1396d(n)(2)) is amended by striking "age of 7 (or any age designated by the State that exceeds 7 but does not exceed 8)" and inserting "age of 18".

(d) ADDITIONAL CONFORMING AMENDMENT.—Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended by striking "1902(a)(10)(A)(i)(IV)," and inserting "1902(a)(10)(A)(i)(III), 1902(a)(10)(A)(i)(IV), 1902(a)(10)(A)(i)(V), 1902(a)(10)(A)(i)(VI), 1902(a)(1)(A)(ii)(I),".

(e) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as otherwise provided in this subsection) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2)(A) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(B) In the case of the State of Texas, the State plan shall not be regarded as failing to comply with the requirements of title XIX of the Social Security Act solely on the basis of its failure to meet the additional requirements imposed by the amendments made by this section before September 1, 1991.

SEC. 4212. EXTENSION OF MEDICAID TRANSITION COVERAGE.

(a) OPTIONAL ADDITIONAL 12-MONTH EXTENSION.—Section 1925(b) of the Social Security Act (42 U.S.C. 1396s(b)) is amended—

(1) in the heading, by striking "6-MONTH";

(2) in paragraph (1), by striking "the succeeding 6-month period" and inserting "the succeeding period of 6 months (or, at the State option as specified by the State, of 9 months, 12 months, 15 months, or 18 months)";

(3) in paragraph (2)(A)(ii), by inserting "(and, if applicable, 6th, 9th, 12th, and 15th month)" after "3rd month";

(4) in paragraph (2)(B)(ii), by inserting "(and, if applicable, 7th, 10th, 13th, and 16th month)" after "4th month";

(5) in paragraph (3)(A), in the matter before clause (i), by striking "6-month";

(6) in paragraph (3)(A)(iii), by striking "of the 6-month period" and inserting "(or, if applicable, the 7th, 10th, 13th, or 16th month) of the period"; and

(7) in paragraph (5)(D)(i), by striking "of the 6-month additional extension period" and inserting "(or, if applicable, the 7th, 10th, 13th, or 16th month) of the additional extension period".

(b) REPEAL OF SUNSET PROVISION.—Subsection (f) of section 1925 of such Act is repealed.

(c) TECHNICAL CORRECTIONS.—

(1) CLARIFICATION OF TERMINATION WHEN NO CHILD IN HOUSEHOLD.—Subsections (a)(3)(A) and (b)(3)(A)(i) of section 1925 of such Act (42 U.S.C. 1396r-6) are each amended by striking "who is" and inserting ", whether or not the child is".

(2) EFFECTIVE DATE FOR TERMINATION OF CURRENT 9-MONTH EXTENSION.—Section 303(f)(2)(A) of the Family Support Act of 1988 is amended by inserting before the period at the end the following: ", but such amendment shall not apply with respect to families that cease to be eligible for aid under part A of title IV of the Social Security Act before such date".

(3) CORRECTION OF REFERENCES.—Subsections (a)(3)(C) and (b)(3)(C)(i) of section 1925 of the Social Security Act (42 U.S.C. 1396r-6) are each amended by striking "or (v) of section 1905(a)" and inserting "of section 1905(a) or clause (i)(IV), (i)(VI), or (ii)(IX) of section 1902(a)(10)(A)".

(d) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) shall take effect on April 1, 1990, and the amendments made by subsection (c) shall be effective as if included in the enactment of the Family Support Act of 1988.

SEC. 4213. EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT SERVICES DEFINED.

(a) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

"(r) The term 'early and periodic screening, diagnostic, and treatment services' means the following items and services:

"(1) Screening services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of medical and dental practice, as determined by the State after consultation with recognized medical and dental organizations involved in child health care, and

"(ii) at such other intervals, indicated as medically necessary, to determine the existence of certain physical or mental illnesses or conditions; and

"(B) which shall at a minimum include—

"(i) a comprehensive health and developmental history (including assessment of both physical and mental health development),

"(ii) a comprehensive unclothed physical exam,

"(iii) appropriate immunizations according to age and health history,

"(iv) laboratory tests (including lead blood level assessment appropriate for age and risk factors), and

"(v) health education (including anticipatory guidance).

"(2) Vision services—
"(A) which are provided—
"(i) at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care, and
"(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and
"(B) which shall at a minimum include diagnosis and treatment for defects in vision, including eyeglasses.
"(3) Dental services—
"(A) which are provided—
"(i) at intervals which meet reasonable standards of dental practice, as determined by the State after consultation with recognized dental organizations involved in child health care, and
"(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and
"(B) which shall at a minimum include relief of pain and infections, restoration of teeth, and maintenance of dental health.
"(4) Hearing services—
"(A) which are provided—
"(i) at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care, and
"(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and
"(B) which shall at a minimum include diagnosis and treatment for defects in hearing, including hearing aids.
Nothing in this title shall be construed as limiting providers of early and periodic screening, diagnostic, and treatment services to providers who are qualified to provide all of the items and services described in the previous sentence or as preventing a provider that is qualified under the plan to furnish one or more (but not all) of such items or services from being qualified to provide such items and services as part of early and periodic screening, diagnostic, and treatment services.".

(b) REPORT ON PROVISION OF EPSDT.—Section 1902(a)(43) of such Act (42 U.S.C. 1396a(a)(43)) is amended—
(1) by striking "and" at the end of subparagraph (B),
(2) by striking the semicolon at the end of subparagraph (C) and inserting ", and", and
(3) by adding at the end the following new subparagraph:
"(D) reporting to the Secretary (in a uniform form and manner established by the Secretary, by age group and by basis of eligibility for medical assistance, and by not later than April 1 after the end of each fiscal year, beginning with fiscal year 1990) the following information relating to early and periodic screening, diagnostic, and treatment services provided under the plan during each fiscal year:
"(i) the number of children provided child health screening services,
"(ii) the number of children referred for corrective treatment (the need for which is disclosed by such child health screening services), and
"(iii) the number of children receiving dental services;".

(c) CONFORMING AMENDMENTS.—(1) Section 1902(a)(43)(A) of such Act (42 U.S.C. 1396a(a)(43)(A)) is amended by striking "and treatment services as described in section 1905(a)(4)(B)" and inserting "and treatment services as described in section 1905(r)".

(2) Section 1905(a)(4) of such Act (42 U.S.C. 1396d(a)(4)) is amended by amending clause (B) to read as follows: "(B) early and periodic screening, diagnostic, and treatment services (as defined in subsection (r)) for individuals who are eligible under the plan and are under the age of 21; and".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4214. EXTENSION OF PAYMENT PROVISIONS FOR MEDICALLY NECESSARY SERVICES IN DISPROPORTIONATE SHARE HOSPITALS TO CHILDREN UNDER 18 YEARS OF AGE.

(a) COVERAGE OF MEDICALLY NECESSARY SERVICES FOR CHILDREN.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended, in the subdivision (X) following subparagraph (E), inserted by section 302(b)(1)(B) of the Medicare Catastrophic Coverage Act of 1988, by striking "under one year of age" and inserting "under 18 years of age".

(b) ASSURING ADEQUATE PAYMENT FOR INPATIENT HOSPITAL SERVICES FOR CHILDREN IN DISPROPORTIONATE SHARE HOSPITALS.—Section 1923(a)(2) of such Act (42 U.S.C. 1396r-4), as amended by section 302(b)(2) of the Medicare Catastrophic Coverage Act of 1988, is amended by adding at the end the following new subparagraph:
"(D) If a State plan under this title provides for payments for inpatient hospital services on a prospective basis (whether per diem, per case, or otherwise), in order for the plan to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1990, the State must submit to the Secretary by not later than April 1, 1990, a State plan amendment that provides, in the case of hospitals defined by the State as disproportionate share hospitals under paragraph (1)(A), for an outlier adjustment in payment amounts for medically necessary inpatient hospital services provided on or after July 1, 1990, involving exceptionally high costs or exceptionally long lengths of stay for individuals one year of age or older, but under 18 years of age.".

(c) EFFECTIVE DATES.—(1)(A) The amendment made by subsection (a) applies (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1990, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendment made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(2) The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 4215. REQUIRING "SECTION 209(B)" STATES TO PROVIDE MEDICAL ASSISTANCE TO DISABLED CHILDREN RECEIVING SSI BENEFITS.

(a) IN GENERAL.—Section 1902(f) of the Social Security Act (42 U.S.C. 1396a(f)) is amended—
(1) by inserting "paragraph (2) of this subsection and" after ", except as provided in",
(2) by striking "(1)" and "(2)" and inserting "(A)" and "(B)", respectively,
(3) by inserting "(1)" after "(f)", and
(4) by adding at the end the following new paragraph:
"(2) A State shall provide medical assistance to any individual under 18 years of age with respect to whom supplemental security income benefits are payable under title XVI.".

(b) EFFECTIVE DATE.—(1) The amendments made by subsection (a) apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 4216. MANDATORY CONTINUATION OF COVERAGE FOR CHILDREN OTHERWISE QUALIFIED FOR BENEFITS UNTIL REDETERMINATION.

(a) IN GENERAL.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following new paragraph:
"(11) With respect to an individual who has not attained the age of 18, who is receiving medical assistance under this title, and who is determined to be no longer eligible for such assistance, the State may not discontinue such assistance until the State has determined that the individual is not eligible for assistance under this title on any basis.".

(b) CONFORMING AMENDMENT TO QUALITY CONTROL.—Section 1903(u)(1)(D) of such Act (42 U.S.C. 1396b(u)(1)(D)) is amended by adding at the end the following new clause:
"(vi) In determining the amount of erroneous excess payments for quarters beginning on or after July 1, 1990, there shall not be included any erroneous payments which are attributable to individuals described in section 1902(e)(11) who are determined to be no longer eligible for assistance but whose assistance has not been discontinued because a determination on other bases for such assistance has not been made.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to eligibility determina-

tions for medical assistance under title XIX of the Social Security Act on or after July 1, 1990, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

SEC. 4217. OPTIONAL MEDICAID COVERAGE FOR FOSTER CHILDREN.

(a) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(10)(A)(ii)—

(A) by striking "or" at the end of subclause (X),

(B) by inserting "or" at the end of subclause (XI), and

(C) by adding at the end the following new subclause:

"(XII) who are described in subsection (s)(1);";

(2) in subsection (a)(17), by striking "and (m)(4)" and inserting "(m)(4), and (s)(1)"; and

(3) by adding at the end the following new subsection:

"(s)(1) Individuals described in this paragraph are individuals for whom a public agency assumes full or partial financial responsibility—

"(A) who have not attained the age of 18,

"(B) who reside in a foster home, group home, or private institution, and

"(C) whose incomes do not exceed 100 percent of the income official poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of one.

"(2) Notwithstanding subsection (a)(17), for individuals who are eligible for medical assistance because of subsection (a)(10)(A)(ii)(XII)—

"(A) no resource standard or methodology shall be applied,

"(B) the income standard to be applied is the income standard described in paragraph (1)(C), and

"(C) income for these individuals shall be determined in accordance with a methodology which is no more restrictive than the methodology employed under the State plan under part E of title IV.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

PART C—COMMUNITY AND FACILITY HABILITATION SERVICES AMENDMENTS

SEC. 4220. SHORT TITLE OF PART.

This part may be cited as the "Medicaid Community and Facility Habilitation Services Amendments of 1989".

Subpart 1—Community Habilitation and Supportive Services

SEC. 4221. COMMUNITY HABILITATION AND SUPPORTIVE SERVICES AS OPTIONAL, STATEWIDE SERVICE.

(a) PROVISION AS OPTIONAL, STATEWIDE SERVICE.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)), as amended by section 4203(a) of this subtitle, is amended—

(1) by striking "and" at the end of paragraph (21),

(2) by redesignating paragraph (22) as paragraph (23), and

(3) by inserting after paragraph (21) the following new paragraph:

"(22) community habilitation and supportive services (as defined in section 1927(a) and including at least the services described in paragraph (2) thereof) for individuals with mental retardation or a related condition (as defined in subsection (s)) without regard to whether or not individuals who receive such services have been discharged from a nursing facility or habilitation facility; and".

(b) DEFINITION OF COMMUNITY HABILITATION AND SUPPORTIVE SERVICES.—Title XIX of such Act, as amended by section 303(a) of the Family Support Act of 1988 (Public Law 100-485) and section 4204(b) of this title, is amended—

(1) by redesignating section 1927 as section 1929, and

(2) by inserting after section 1926 the following new section:

"COMMUNITY HABILITATION AND SUPPORTIVE SERVICES

"SEC. 1927. (a) COMMUNITY HABILITATION AND SUPPORTIVE SERVICES DEFINED.—In this title, the term 'community habilitation and supportive services'—

"(1) means services designed—

"(A) to assist individuals in acquiring, retaining, and improving self-help, socialization, and adaptive skills necessary to function successfully in a home or community-based setting, or

"(B) to assist individuals in participating in community or other activities;

"(2) includes (except as provided in paragraphs (4), (5), and (6))—

"(A) case management services (furnished by entities that, in the case of nonpublic organizations, are not providers of other community habilitation and supportive services and do not have a direct or indirect ownership or controlling interest in, or direct or indirect affiliation or relationship with, an entity that provides other community habilitation and supportive services),

"(B) respite care services, and

"(C) personal attendant care;

"(3) may, at a State's option, also include (except as provided in paragraphs (4), (5), and (6))—

"(A) prevocational services,

"(B) education services,

"(C) supported employment services,

"(D) day habilitation and related services,

"(E) transportation,

"(F) assistive technologies or devices used to increase, maintain, or improve functional capabilities of individuals with mental retardation or a related condition, and

"(G) other supportive services, including services to assist an individual to achieve the objectives of independence, productivity, and integration into the community; but

"(4) does not include—

"(A) special education and related services (as defined in section 602 (16) and (17) of the Education of the Handicapped Act (20 U.S.C. 1401 (16), (17)) which otherwise are available to the individual through a local educational agency, and

"(B) vocational rehabilitation services which otherwise are available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730);

"(5) does not include room and board, consisting of non-personnel costs directly attributable to—

"(A) the purchase of food on behalf of clients,

"(B) the cost of property,

"(C) the purchase of household supplies not otherwise employed in the provision of covered services,

"(D) utility expenses, and

"(E) costs of facility maintenance, upkeep, and improvement, other than such costs for modifications or adaptations to a facility required to assure the health and safety of residents or to meet the requirements of the applicable life safety code; and

"(6) does not include payments made, directly or indirectly, to members of the family of the individual receiving such services.".

(c) INDIVIDUAL WITH MENTAL RETARDATION OR A RELATED CONDITION DEFINED.—Section 1905 of such Act (42 U.S.C. 1396d), as amended by section 4213(a) of this subtitle, is amended by adding at the end the following new subsection:

"(s) The term 'individual with mental retardation or a related condition' means an individual with mental retardation or an individual who has a severe, chronic disability that—

"(1) is attributable—

"(A) to cerebral palsy or epilepsy,

"(B) to any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of individuals with mental retardation, and requires treatment or services similar to those required for these individuals;

"(2) is manifested before the individual reaches age 22;

"(3) is likely to continue indefinitely; and

"(4) results in substantial functional limitations in 3 or more of the following areas of major life activity: self-care, understanding and use of language, learning, mobility, self-direction, and capacity for independent living.".

(d) MAINTENANCE OF EFFORT.—Section 1903 of such Act (42 U.S.C. 1396b) is amended by inserting after subsection (g) the following new subsection:

"(h)(1) As a condition for the receipt of payment under subsection (a) with respect to medical assistance provided by a State for community habilitation and supportive services (other than under a waiver under section 1915(c)), the State shall report to the Secretary, with respect to each Federal fiscal year (beginning with fiscal year 1989) and in a format developed or approved by the Secretary, the amount of non-Federal funds obligated by the State (including funds obligated by localities in the State) with respect to the provision of such services (other than under such a waiver) for individuals with mental retardation or a related condition in that fiscal year.

"(2) In applying subsection (a)(1) with respect to the total amount expended by a State for calendar quarters in a fiscal year (beginning with fiscal year 1990) for community habilitation and supportive services for individuals with mental retardation or a related condition (other than under a waiver under section 1915(c)), such expenditures shall be reduced by the amount reported under paragraph (1) with respect to fiscal year 1989.".

(e) CONFORMING AMENDMENTS.—

(1) Section 1915(c) of such Act (42 U.S.C. 1395n) is amended—

(A) in paragraph (4)(B), by striking "habilitation" and inserting "community habilitation and supportive", and

(B) by striking paragraph (5).

(2) Section 1919(e)(7)(G)(ii) of such Act (42 U.S.C. 1396r(e)(7)(G)(i)) is amended by striking "mentally retarded or a person with a related condition (as described in section 1905(d))" and inserting "an individual with mental retardation or a related condition".

(3) Section 1902(j) of such Act (42 U.S.C. 1396a(j)), as amended by section 4203(b)(2) of this subtitle, is amended by striking "(22)" and inserting "(23)".

(4) Section 1902(a)(10)(C)(iv) of such Act (42 U.S.C. 1396a(a)(10)(C)(iv)), as amended by section 4203(b)(1) of this subtitle, is amended by striking "(21)" and inserting "(22)".

(f) EFFECTIVE DATE.—The amendments made by this section apply to services furnished on or after July 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date; except that—

(1) such amendments shall not apply to habilitation services furnished under a waiver which is in effect under section 1915(c) of the Social Security Act (as in effect on the date of the enactment of this Act) before July 1, 1990, until the date the next renewal of such a waiver takes effect, and

(2) such amendments shall not apply to services furnished before the end of the 30-day period beginning on the date the Secretary of Health and Human Services promulgates interim requirements described in section 1927(j)(1) of the Social Security Act (as added by section 4222(a) of this subtitle).

(g) NO ABROGATION OF FREEDOM OF CHOICE.—Nothing in the amendments made by this section shall be construed as abrogating the right of medicaid clients to freedom of choice, under section 1902(a)(23) of the Social Security Act, with respect to the providers from whom they can receive covered services.

SEC. 4222. QUALITY ASSURANCE FOR COMMUNITY HABILITATION AND SUPPORTIVE SERVICES.

(a) IN GENERAL.—Section 1927 of the Social Security Act, as inserted by section 4221(a) of this Act, is amended by adding at the end the following new subsections:

"(b) INDEPENDENCE, PRODUCTIVITY, AND INTEGRATION.—

"(1) IN GENERAL.—The objectives of community habilitation and supportive services are to expand opportunities for independence, productivity, and integration into the community for individuals with mental retardation or a related condition.

"(2) APPLICATION TO CERTAIN WAIVERS.—

"(A) SECTION 1915(c).—The provisions of this section apply to community habilitation and supportive services provided under a waiver approved under section 1915(c), but such provisions do not apply to such a waiver in effect before July 1, 1990, until the date the next renewal of such a waiver takes effect or, if later, the end of the 30-day period beginning on the date the Secretary promulgates interim regulations described in subsection (j)(1).

"(B) SECTION 1115.—In the case of any State which is providing medical assistance under a waiver granted under section 1115(a) with respect to community habilitation and supportive services, the Secretary shall require the State to meet the requirements of this section in the same manner as the State would be required to meet such requirements if the State had in effect a plan approved under this title.

"(3) DEFINITIONS.—In this section and section 1928:

"(A) INDEPENDENCE.—The term 'independence' means the extent to which individuals with mental retardation or a related condition exert control and choice over their own lives.

"(B) PRODUCTIVITY.—The term 'productivity' means engagement by an individual with mental retardation or a related condition in income-producing work or work that contributes to a household or community.

"(C) INTEGRATION INTO THE COMMUNITY.—The term 'integration into the community' means, with respect to an individual with mental retardation or a related condition, the use of common facilities, participation in activities, and regular contact with other residents (who are not individuals with mental retardation or a related condition) of the community in which such individual resides.

"(c) INDIVIDUAL HABILITATION PLANS.—

"(1) REQUIREMENT.—Community habilitation and supportive services must be provided in accordance with an individual habilitation plan (in this section referred to as an 'IHP') which states specific objectives necessary to meet some or all of the client's needs, as identified in the comprehensive functional assessment conducted under subsection (d). In addition, the IHP shall include a description of the medical care service needs of the client, as identified by the client's physician. Nothing in this paragraph shall be construed as requiring a State to make available medical assistance under this title for all types or elements of community habilitation and supportive services. If a State provides such medical assistance for some or all such types or elements and an IHP identifies such types or elements with respect to a client, the medical assistance shall be made available under this title for those types and elements for that client under the IHP.

"(2) PREPARATION.—Each IHP for a client shall be prepared, before the date community habilitation and supportive services are first provided to the client under this title, by an appropriate interdisciplinary team and shall be periodically reviewed and revised by such a team after each assessment under subsection (d). In preparing an IHP the team shall provide the client, the client's parents (if the client is a minor), and the client's legal guardian (if any) with notice of the rights described in subsection (e)(2).

"(3) REQUIRED PARTICIPATION IN DEVELOPMENT OF IHP.—In developing an IHP for a client, the team shall notify, and provide for and encourage the participation of, the client, the client's parents (if the client is a minor), and the client's legal guardian (if any) and the client's case manager.

"(4) PERMISSIVE PARTICIPATION OF PARENTS OF ADULT CLIENTS.—A parent (if the client is not a minor) who is not a legal guardian of the client may participate in developing the IHP unless the client has objected to the parent's participation.

"(5) AVAILABILITY.—A copy of each IHP must, consistent with the client's right to confidentiality described in subsection (e)(2)(D), be made accessible to all relevant providers, including other providers who work with the client, to the client's legal guardian (if any), and, unless the client objects, to the client's parents.

"(d) COMPREHENSIVE FUNCTIONAL ASSESSMENT.—

"(1) REQUIREMENT.—The State must provide that each individual who receives community habilitation and supportive services under the State plan under this title must have had a comprehensive functional assessment and must have such an assessment periodically reviewed. Such an assessment and review must be conducted by an interdisciplinary team. Such an assessment and review must identify each client's developmental and behavioral abilities and management needs. In the case of a client with a seizure disorder, the assessment must include a determination, by a professional with expertise in the diagnosis and treatment of such disorders, of the classification of the disorder in accordance with the most recent version of the International Classification of Epileptic Seizures.

"(2) FREQUENCY.—

"(A) ASSESSMENTS.—Such an assessment must be conducted before the receipt of community habilitation and supportive services under this title.

"(B) REVIEWS.—A review of each such assessment shall be performed in no case less often than once every 12 months.

"(3) USE.—The results of such an assessment or review shall be used in developing, reviewing, and revising the client's IHP under subsection (c).

"(e) MINIMUM REQUIREMENTS FOR SERVICES.—

"(1) IN GENERAL.—Community habilitation and supportive services provided under this title must meet such requirements for the protection of health, safety, and welfare of clients, consistent with the objectives described in subsection (b), as are published or developed by the Secretary under subsection (j). Such requirements shall include—

"(A) minimum qualifications for individuals providing such services,

"(B) guidelines for such minimum compensation for personnel as will assure the availability and continuity of qualified personnel to provide such services for clients of various levels of impairment, and

"(C) the requirement that a provider of community habilitation and supportive services must protect and promote the rights of each client, including the rights specified in paragraph (2).

"(2) SPECIFIED RIGHTS.—The rights specified in this paragraph are as follows:

"(A) FREE FROM ABUSE.—The right to be free from physical, verbal, sexual, or psychological abuse, corporal or psychological punishment, aversive stimuli, and involuntary seclusion. Nothing in the previous sentence shall be construed to prohibit the use of 'time-out' rooms for periods of less than one hour, if the use of such a room is subject to review by the interdisciplinary team (described in subsection (c)(2)) to ensure the use of the least restrictive and most positive behavior management intervention and consistency with the objectives of the client's IHP.

"(B) FREE FROM RESTRAINTS.—The right to be free from any physical restraints or medications imposed for purposes of discipline or convenience of the provider or as a substitute for active treatment and not required to treat the client's medical symptoms. Any such imposition of such physical restraints or medications must be subject to review by the interdisciplinary team (described in subsection (c)(2)) to ensure protection of this right and consistency with the objectives of the client's IHP.

"(C) PRIVACY.—The right to privacy with regard to accommodations, medical treatment, written and telephonic communications, visits, and meetings of family and friends and of client groups.

"(D) CONFIDENTIALITY.—The right to confidentiality of personal and clinical records.

"(E) DIGNITY.—The right to be treated with dignity in a manner consistent with the client's chronological age.

"(F) GRIEVANCES.—The right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal (or threat of dis-

crimination or reprisal) for voicing the grievances and the right to prompt efforts by the provider to resolve grievances the client may have, including those with respect to the behavior of other clients.

"(G) FREE CHOICE WITH RESPECT TO MEDICAL CARE AND TREATMENT.—The right to choose the provider of community habilitation and supportive services from which to receive such services, to be fully informed in advance about care and treatment, to be fully informed in advance of any changes in care or treatment that may affect the client's well-being, and to participate in planning care and treatment or changes in such care and treatment.

"(H) USE OF PSYCHOPHARMACOLOGIC DRUGS.—Psychopharmacologic drugs may be administered only on the orders of a physician and only as an integral part of a plan (included in the IHP) designed to eliminate or modify the symptoms or behaviors for which the drugs are prescribed and only if, at least annually, an independent, external consultant trained in the administration and interaction of psychopharmacologic drugs reviews the appropriateness of the drug plan of each client receiving such drugs.

"(I) OTHER RIGHTS.—Any other right established by the Secretary.

"(3) RIGHTS OF INCOMPETENT CLIENTS.—In the case of a client adjudged incompetent under the laws of a State, the rights of the client under this title shall devolve upon, and, to the extent judged necessary by a court of competent jurisdiction, be exercised by, a person appointed under State law to act on the client's behalf. For purposes of the previous sentence, the term 'person' includes an organization which is independent of a provider of community habilitation and supportive services.

"(f) MINIMUM REQUIREMENTS FOR RESIDENTIAL SETTINGS.—A residential setting in which one or more community habilitation or supportive services are provided must meet the following requirements, in order to protect the health, safety, and welfare of clients residing in such settings:

"(1) CLIENTS' RIGHTS.—A setting must meet the requirements of section 1928(c)(1) (relating to clients' rights) in the same manner as such requirements apply to habilitation facilities under such section.

"(2) ADMINISTRATION.—A setting must meet the requirements of section 1928(d) (relating to administration and other matters), other than paragraph (2)(B) thereof, in the same manner as such requirements apply to habilitation facilities under such section.

"(3) LIFE SAFETY CODE.—A setting must meet such provisions of such edition (as specified by the Secretary in regulation) of the Life Safety Code of the National Fire Protection Association as are applicable and appropriate to the residential setting; except that—

"(A) the Secretary may waive, for such periods as he deems appropriate, specific provisions of such Code which if rigidly applied would result in unreasonable hardship upon a setting, but only if such waiver would not adversely affect the health and safety of clients or personnel, and

"(B) the provisions of such Code shall not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects clients of and personnel in residential settings.

"(4) DISCLOSURE OF OWNERSHIP AND CONTROL INTERESTS AND EXCLUSION OF REPEATED VIOLATORS.—A residential setting—

"(A) must disclose persons with an ownership or control interest (including such persons as defined in section 1124(a)(3)) in the setting, and

"(B) may not have, as a person with an ownership or control interest in the setting, any individual or person who has been excluded from participation in the program under this title or who has had such an ownership or control interest in one or more residential settings which have been found repeatedly to have provided care of substandard quality in the setting.

"(5) CONTINUATION OF ACTIVE TREATMENT FOR CERTAIN CLIENTS UPON CONVERSION FROM A HABILITATION FACILITY.—If part or all of a facility converts from an habilitation facility to a residential setting, each client who was a resident of the portion of the facility so converted at the time of the conversion and who, under the client's individual program plan at such time, required continuous active treatment (as defined in section 1928(b)(2)(B)), the residential setting must continue to provide for (or arrange for the provision of) continuous active treatment (as so defined) so long as such client resides in the setting and continues to require such active treatment. Nothing in section 1902(a)(10)(B) shall be construed as requiring medical assistance made available under the previous sentence to be made available to individuals not described in such sentence.

"(6) DOCUMENTATION OF RECEIPT OF MEDICAL CARE SERVICES.—A residential setting must include, in the clinical records of each client, documentation of the provision of medical care services to the client. Nothing in this paragraph shall be construed as requiring a State to make available medical assistance under this title for all types or elements of medical care services for such clients.

In this section, the term 'residential setting' does not include a setting in which fewer than 3 unrelated adults reside.

"(g) STATE QUALITY ASSURANCE PROGRAM FOR SERVICES.—

"(1) IN GENERAL.—Each State which elects to cover community habilitation and supportive services under this title shall establish a program for assuring the quality of community habilitation and supportive services provided, and for protecting and promoting the rights of clients receiving such services, under this title, consistent with the objectives described in subsection (b).

"(2) ELEMENTS OF PROGRAM.—A program under this subsection shall provide, in a manner specified by the State—

"(A) for identifying a State agency responsible for implementing the program;

"(B) for the publication of standards, relating to the quality of community habilitation and supportive services and relating to clients' rights, which are consistent with the objectives of independence, productivity, and integration into the community described in subsection (b);

"(C) for a system of periodic monitoring (through onsite, unannounced reviews and including measurement of client satisfaction) of compliance with standards, of investigation of complaints of violations of standards, and of public disclosure of results of such monitoring and investigations;

"(D) for a system of enforcement of standards, including specified remedies;

"(E) for public participation in the development of the program; and

"(F) for educational programs for providers of community habilitation and supportive services, clients, parents, and legal guardians, respecting the quality assurance program.

A State's program under this subsection may include incentives to reward, through public recognition, incentive payments, or both, providers of community habilitation and supportive services that provide the highest quality care to clients under this title.

"(3) NO SECRETARIAL REVIEW.—Nothing in this subsection shall be construed as authorizing the Secretary to review or approve a State quality assurance program established to meet the requirements of this subsection if the program, on its face, meets such requirements.

"(4) NO MATCHING PAYMENT AVAILABLE.—Notwithstanding section 1903, no Federal financial participation shall be available under section 1903(a) to a State with respect to its expenditures in establishing or carrying out its quality assurance program under this subsection.

"(h) SURVEY AND CERTIFICATION PROCESS.—

"(1) RESPONSIBILITIES OF THE STATE.—

"(A) IN GENERAL.—Subject to paragraph (2), under each State plan under this title, the State shall be responsible for certifying the compliance of providers of community habilitation and supportive services, and of residential settings in which such services are provided, with the requirements of subsections (e) and (f).

"(B) EDUCATIONAL PROGRAM.—Each State shall conduct periodic educational programs for the staff and clients in residential settings in which community habilitation and supportive services are provided, and the parents (if the client is a minor) and legal guardians (if any) of such clients, in order to present current regulations, procedures, and policies under this section.

"(C) INVESTIGATION OF ALLEGATIONS OF CLIENT NEGLECT AND ABUSE AND MISAPPROPRIATION OF CLIENT PROPERTY.—The State shall provide, through the agency responsible for surveys and certification of providers of community habilitation and supportive services and residential settings under this subsection, for a process for the receipt, review, and investigation of allegations of client neglect and abuse (including injuries of unknown source) by individuals providing such services and of misappropriation of client property by such individuals. The State shall, after notice to the individual involved and a reasonable opportunity for hearing for the individual to rebut allegations, make a finding as to the accuracy of the allegations. If the State finds that an individual has neglected or abused a client receiving community habilitation and supportive services or misappropriated such client's property, the State shall notify the individual against whom the finding is made. A State shall not make a finding that an individual has neglected a client if the individual demonstrates that such neglect was caused by factors beyond the control of the individual. The State shall provide for public disclosure of findings under this subparagraph upon request and for inclusion, in any such disclosure of such findings, of any brief statement (or of a clear and accurate summary thereof) of the individual disputing such findings. The findings relating to such allegations shall be made available, on request, to the State protection and advocacy system established under part C of the Developmental Disabilities Assistance and Bill of Rights Act and to other appropriate agency or agencies with whom a client, parent, or guardian may file a complaint respecting

client abuse and neglect and misappropriation of client property.

"(D) CONSTRUCTION.—The failure of the Secretary to issue regulations to carry out this subsection shall not relieve a State of its responsibility under this subsection.

"(2) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall be responsible for certifying the compliance of State providers of community habilitation and supportive services, and of State residential settings in which such services are provided, with the requirements of subsections (e) and (f).

"(3) FREQUENCY OF CERTIFICATIONS.—Certification of providers and settings under this subsection shall occur no less frequently than once every 12 months.

"(4) SURVEYS AND REVIEWS.—

"(A) SURVEYS OF RESIDENTIAL SETTINGS.—The certification under this subsection with respect to a setting must be based on a survey. Such survey for a residential setting must be conducted without prior notice to the setting. Any individual who notifies (or causes to be notified) a residential setting of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of not to exceed $2,000. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). The Secretary shall review each State's procedures for scheduling and conducting such surveys to assure that the State has taken all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

"(B) SURVEY PROTOCOL.—Surveys under this paragraph shall be conducted based upon a protocol which the Secretary has provided for under subsection (j).

"(C) PROHIBITION OF CONFLICT OF INTEREST IN SURVEY TEAM MEMBERSHIP.—A State and the Secretary may not use as a member of a survey team under this paragraph an individual who is serving (or has served within the previous 2 years) as a member of the staff of, or as a consultant to, the provider or residential setting being surveyed (or the person responsible for such setting) respecting compliance with the requirements of subsections (e) and (f) or who has a personal or familial financial interest in the provider or setting being surveyed.

"(D) TRAINING REQUIRED.—No individual shall serve on or after January 1, 1992, as a member of a survey team under this paragraph or paragraph (5) unless the individual has successfully completed a training and testing program in survey and certification techniques that has been approved by the Secretary under subsection (j)(3).

"(E) REVIEWS OF PROVIDERS.—The certification under this subsection with respect to a provider (other than with respect to a residential setting) must be based on a periodic review of the provider's performance.

"(5) VALIDATION SURVEYS AND REVIEWS.—

"(A) IN GENERAL.—The Secretary shall conduct onsite surveys of a representative sample of residential settings in each State, within 2 months of the date of surveys conducted under paragraph (4) by the State, in a sufficient number to allow inferences about the adequacies of each State's surveys conducted under paragraph (4). In conducting such surveys, the Secretary shall use the same survey protocols as the State is required to use under paragraph (4). If the State has determined that an individual setting meets the requirements of subsection (e) and (f), but the Secretary determines that the setting does not meet such requirements, the Secretary's determination as to the setting's noncompliance with such requirements is binding and supersedes that of the State survey.

"(B) SPECIAL SURVEYS AND REVIEWS OF COMPLIANCE.—Where the Secretary has reason to question the compliance of a provider or setting with any of the requirements of subsections (e) and (f), the Secretary may conduct a survey of the setting or a review of the provider and, on the basis of that survey or review, make independent and binding determinations concerning the extent to which the setting or provider meets such requirements.

"(6) INVESTIGATION OF COMPLAINTS AND MONITORING.—Each State and the Secretary shall maintain procedures and adequate staff to investigate complaints of violations of requirements by providers of community habilitation and supportive services or by residential settings in which such services are provided.

"(7) DISCLOSURE OF RESULTS OF INSPECTIONS AND ACTIVITIES.—

"(A) PUBLIC INFORMATION.—Each State, and the Secretary, shall make available to the public—

"(i) information respecting all surveys, reviews, and certifications made under this subsection respecting providers and settings, including statements of deficiencies and plans of correction,

"(ii) copies of cost reports (if any) of such providers and settings filed under this title,

"(iii) copies of statements of ownership under section 1124, and

"(iv) information disclosed under section 1126.

"(B) NOTICE TO PROTECTION AND ADVOCACY SYSTEM.—Each State shall notify the agency responsible for the protection and advocacy system for developmentally disabled individuals established under part C of the Developmental Disabilities Assistance and Bill of Rights Act of the State's findings of noncompliance with any of the requirements of subsections (e) and (f) with respect to a provider or setting in the State.

"(C) ACCESS TO FRAUD CONTROL UNITS.—Each State shall provide its State medicaid fraud and abuse control unit (established under section 1903(q)) with access to all information of the State agency responsible for surveys, reviews, and certifications under this subsection.

"(D) NOTICE TO FAMILY.—If a State finds that a provider or setting has provided services of substandard quality, the State shall notify the parent (if the client is a minor), or legal guardian (if any) of each client with respect to which such finding is made.

"(i) ENFORCEMENT PROCESS.—

"(1) IN GENERAL.—If a State finds, on the basis of a survey or review under subsection (f)(2) or otherwise, that a provider of community habilitation and supportive services or a residential setting in which such services are provided no longer meets the requirements of this section (other than standards developed by the State under subsection (g)), and further finds that the provider's or setting's deficiencies—

"(A) immediately jeopardize the health or safety of its clients, the State shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in paragraph (2)(A)(iii), or terminate the provider's or setting's participation under the State plan and may provide, in addition, for one or more of the other remedies described in paragraph (2); or

"(B) do not immediately jeopardize the health or safety of its clients, the State may—

"(i) terminate the provider's or setting's participation under the State plan,

"(ii) provide for one or more of the remedies described in paragraph (2), or

"(iii) do both;

but in any case in which the Secretary has not provided for a civil money penalty under paragraph (3)(C)(i), the State shall provide for a civil money penalty under paragraph (2)(A)(i) for each day in which the State finds that the provider or setting was not in compliance with such requirements. Nothing in this paragraph shall be construed as restricting the remedies available to a State to remedy a provider's or setting's deficiencies. If the State finds that a provider or setting meets such requirements but, as of a previous period, did not meet such requirements, the State shall provide for a civil money penalty under paragraph (2)(A)(ii) for the days on which it finds that the provider or setting was not in compliance with such requirements.

"(2) SPECIFIED REMEDIES.—

"(A) LISTING.—Each State shall establish by law (whether statute or regulation) at least the following remedies:

"(i) Denial of payment under the State plan with respect to any individual admitted to a residential setting involved after such notice to the public and to the setting as may be provided for by the State.

"(ii) A civil money penalty assessed and collected, with interest, for each day in which the provider or setting is or was out of compliance with a requirement of this section. Funds collected by a State as a result of imposition of such a penalty (or as a result of the imposition by the State of a civil money penalty for activities described in subsection (h)(4)(A)) shall be applied to the protection of the health or property of clients of providers of community habilitation and supportive services that the State or the Secretary finds deficient, including payment for the costs of relocation of clients, maintenance of operation of a provider pending correction of deficiencies or closure, and reimbursement of clients for personal funds lost.

"(iii) The appointment of temporary management to oversee the operation of a residential setting and to assure the health and safety of the setting's clients, where there is a need for temporary management while—

"(I) there is an orderly closure of the setting, or

"(II) improvements are made in order to bring the setting into compliance with all the requirements of this section.

The temporary management under this clause shall not be terminated under subclause (II) until the State has determined that the setting has the management capability to ensure continued compliance with all the requirements of this section.

"(iv) The authority, in the case of an emergency, to close a residential setting, to transfer clients in that setting to other settings, or both.

The State also shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the remedies and shall provide for the imposition of incrementally more severe fines for repeat-

ed or uncorrected deficiencies. In addition, the State may provide for other specified remedies.

"(B) DEADLINE AND GUIDANCE.—As a condition for approval of a State plan for calendar quarters in which the State plan provides for coverage of community habilitation and supportive services (including under a waiver approved under section 1915(c), pursuant to subsection (b)(2)(A)), each State shall have in effect the remedies described in clauses (i) through (iv) of subparagraph (A). The Secretary shall provide, through regulations or otherwise by not later than July 1, 1990, guidance to States in establishing such remedies; but the failure of the Secretary to provide such guidance shall not relieve a State of the responsibility for establishing such remedies.

"(C) ASSURING PROMPT COMPLIANCE.—If a residential setting has not complied with any of the requirements of this section within 3 months after the date the setting is found to be out of compliance with such requirements, the State shall impose the remedy described in subparagraph (A)(i) for all individuals who are admitted to the setting after such date.

"(D) FUNDING.—The reasonable expenditures of a State to provide for temporary management and other expenses associated with implementing the remedies described in clauses (iii) and (iv) of subparagraph (A) shall be considered, for purposes of section 1903(a)(7), to be necessary for the proper and efficient administration of the State plan.

"(3) SECRETARIAL AUTHORITY.—

"(A) FOR STATE PROVIDERS AND SETTINGS.—With respect to a State provider of community habilitation and supportive services and a State residential setting in which such services are provided, the Secretary shall have the authority and duties of a State under this subsection, including the authority to impose the remedies described in clauses (i) and (ii) of paragraph (2)(A), except that the remedy described in subparagraph (C)(i) shall be substituted for the remedy described in paragraph (2)(A)(ii).

"(B) OTHER PROVIDERS AND SETTINGS.—With respect to any other provider of community habilitation and supportive services and any other residential setting in which such services are provided in a State, if the Secretary finds that a provider or setting no longer meets a requirement of this section (other than a standard developed by the State under subsection (g)) and further finds that the provider's or setting's deficiencies—

"(i) immediately jeopardize the health or safety of its clients, the Secretary shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in subparagraph (C)(ii), or terminate the provider's or setting's participation under the State plan and may provide, in addition, for the remedy described in subparagraph (C)(i); or

"(ii) do not immediately jeopardize the health or safety of its clients, the Secretary may impose either or both of the remedies described in subparagraph (C);

but in any case the Secretary shall provide for a civil money penalty under paragraph (2)(A)(i) for each day in which the Secretary finds that the provider or setting was not in compliance with such requirements. Nothing in this subparagraph shall be construed as restricting the remedies available to the Secretary to remedy a provider's or setting's deficiencies. If the Secretary finds that a provider or setting meets such requirements but, as of a previous period, did not meet such requirements, the Secretary shall provide for a civil money penalty under subparagraph (C)(i) for the days on which he finds that the provider or setting was not in compliance with such requirements.

"(C) SPECIFIED REMEDIES.—If the Secretary finds that a provider or setting has not met an applicable requirement:

"(i) AUTHORITY WITH RESPECT TO CIVIL MONEY PENALTIES.—The Secretary shall impose a civil money penalty in an amount not to exceed $10,000 for each day of noncompliance. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(ii) APPOINTMENT OF TEMPORARY MANAGEMENT.—In consultation with the State, the Secretary may appoint temporary management to oversee the operation of a residential setting and to assure the health and safety of the setting's clients, where there is a need for temporary management while—

"(I) there is an orderly closure of the setting, or

"(II) improvements are made in order to bring the setting into compliance with all the requirements of this section.

The temporary management under this clause shall not be terminated under subclause (II) until the Secretary has determined that the setting has the management capability to ensure continued compliance with all the requirements of this section.

The Secretary shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the remedies and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.

"(4) EFFECTIVE PERIOD OF DENIAL OF PAYMENT.—A finding to deny payment under this subsection shall terminate when the State or Secretary (or both, as the case may be) finds that the provider or setting is in compliance with all the requirements of this section.

"(j) SECRETARIAL RESPONSIBILITIES.—

"(1) PUBLICATION OF INTERIM AND FINAL REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall publish, by July 1, 1990, an interim regulation, and by October 1, 1991, a final regulation, that sets forth interim and final requirements, respectively, consistent with subparagraph (B), to protect the health, safety, and welfare of clients receiving community habilitation and supportive services, including—

"(i) the requirements of subsection (e) (relating to providers of community habilitation and supportive services) and subsection (f) (relating to residential settings), and

"(ii) survey protocols for residential settings and guidelines for reviews of providers (for use under subsection (h)) which relate to such requirements.

In developing such protocols for residential settings, the Secretary shall take into account the type of residential setting.

"(B) MINIMUM PROTECTIONS.—Interim and final requirements under subparagraph (A) shall assure, through methods other than reliance on State licensure processes or the State quality assurance programs under subsection (g), that—

"(i) individuals receiving community habilitation and supportive services are protected from neglect, physical and sexual abuse, and financial exploitation;

"(ii) a provider of community habilitation and supportive services and a residential setting may not use individuals who have been convicted of child or client abuse, neglect, or mistreatment or of a felony involving physical harm to an individual and shall take all reasonable steps to determine whether applicants for employment by the provider or in the setting have histories indicating involvement in child or client abuse, neglect, or mistreatment or a criminal record involving physical harm to an individual;

"(iii) individuals or entities delivering such services are not unjustly enriched as a result of abusive financial arrangements (such as owner lease-backs); and

"(iv) individuals or entities delivering such services to clients, or relatives of such individuals, are prohibited from being named beneficiaries of life insurance policies purchased by (or on behalf of) such clients.

"(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as authorizing the Secretary to develop standards relating to the quality of community habilitation and supportive services beyond the scope of the minimum requirements for the protection of the health, safety, and welfare of clients under subsections (e) and (f).

"(2) TECHNICAL ASSISTANCE.—The Secretary shall make available to States, providers of community habilitation and supportive services, and clients (and their representatives) technical assistance with respect to the implementation of this section, including, upon request of a State, such assistance with respect to the development and operation of State quality assurance programs under subsection (g).

"(3) APPROVAL OF TRAINING PROGRAMS.—The Secretary shall provide, by not later than October 1, 1990, for the approval of comprehensive training programs of State and Federal surveyors in the conduct of surveys under paragraphs (4) and (5) of subsection (h).

"(4) NO DELEGATION TO STATES.—The Secretary's authority under this subsection shall not be delegated to States.

"(5) NO PREVENTION OF MORE STRINGENT REQUIREMENTS BY STATES.—Nothing in this section shall be construed as preventing States from imposing requirements that are more stringent than the requirements published or developed by the Secretary under this subsection.

"(k) DENIAL OF PAYMENT FOR SERVICES OR SETTINGS FAILING TO MEET MINIMUM REQUIREMENTS.—No payment may be made under section 1903(a) for community habilitation and supportive services furnished on and after October 1, 1991, including such services furnished under section 1915(c) or 1905(a)(22), if the services, or the residential setting (if any) in which the services are provided, do not meet the minimum requirements described in subsections (e) and (f).

"(l) NONDUPLICATION OF PAYMENTS.—Payments made to a habilitation facility for providing community habilitation or supportive services shall not include payment for any services for which payment is otherwise made under this title to such facility.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to community habilitation and supportive services furnished on or after July 1, 1990.

(c) WAIVER OF PAPERWORK REDUCTION, ETC.—Chapter 35 of title 44, United States Code, and Executive Order 12291 shall not apply to information and regulations required for purposes of carrying out this subpart and implementing the amendments made by this subpart.

SEC. 4223. ELIMINATING PRIOR INSTITUTIONALIZATION REQUIREMENT UNDER WAIVER AUTHORITY.

(a) IN GENERAL.—Section 1915(c)(5) of the Social Security Act (42 U.S.C. 1396n(c)(5)) is amended by striking ", with respect to" and all that follows through "retarded".

(b) EFFECTIVE DATE.—The amendment made by this section with respect to waivers approved or renewed on or after the date of the enactment of this Act, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 4224. ANNUAL REPORT AND EVALUATION OF OUTCOME-ORIENTED INSTRUMENTS AND METHODS.

(a) ANNUAL REPORT.—The Secretary of Health and Human Services shall report to the Congress annually on the extent to which providers of community habilitation and supportive services and residential settings in which such services are provided are complying with the requirements of subsections (e) and (f) of section 1927 of the Social Security Act (as added by the amendments made by this subpart) and the number and type of enforcement actions taken by States and the Secretary under section 1927(h) of such Act (as added by such amendments).

(b) EVALUATION OF OUTCOME-ORIENTED INSTRUMENTS AND METHODS.—The Secretary shall study the effectiveness of existing outcome-oriented instruments and methods in evaluating and assuring the quality of community habilitation and supportive services and shall report to Congress, by not later than January 1, 1992, such recommendations as the Secretary deems appropriate respecting the use of such instruments and methods (or the development of other instruments and methods) for evaluating and assuring the quality of community habilitation and supportive services furnished under title XIX of the Social Security Act.

Subpart 2—Quality Assurance for Habilitation Facility Services

SEC. 4231. REQUIREMENTS FOR HABILITATION FACILITIES.

(a) SPECIFICATION OF FACILITY REQUIREMENTS.—Title XIX of the Social Security Act, as amended by section 303(a) of the Family Support Act of 1988 (Public Law 100-485) and as amended by sections 4204(b) and 4221(b) of this subtitle, is amended by inserting after section 1927 the following new section:

"REQUIREMENTS FOR HABILITATION FACILITIES

"SEC. 1928. (a) DEFINITIONS AND APPLICATION OF SECTION.—

"(1) DEFINITIONS.—

"(A) HABILITATION FACILITY.—In this title, the term 'habilitation facility' means an institution (or a distinct part of an institution) which—

"(i) is primarily engaged in providing health or habilitation services to individuals with mental retardation or a related condition and is not primarily for the care and treatment of mental diseases; and

"(ii) meets the requirements for an habilitation facility described in subsections (b), (c), and (d) of this section.

"(B) CLIENT.—In this section, the term 'client' means, with respect to an habilitation facility, an individual with mental retardation or a related condition who is admitted to the facility.

"(2) APPLICATION TO WAIVERS UNDER SECTION 1115.—In the case of any State which is providing medical assistance under a waiver granted under section 1115(a) with respect to habilitation facility services, the Secretary shall require the State to meet the requirements of this section in the same manner as the State would be required to meet such requirements if the State had in effect a plan approved under this title.

"(b) REQUIREMENTS RELATING TO PROVISION OF SERVICES.—

"(1) QUALITY OF LIFE.—An habilitation facility must care for its clients in such a manner and in such an environment as will promote maintenance or enhancement of the quality of life, independence, productivity, and integration into the community of each client.

"(2) SCOPE OF SERVICES AND ACTIVITIES UNDER INDIVIDUAL PROGRAM PLAN.—

"(A) IN GENERAL.—An habilitation facility must provide each client, in accordance with an individual program plan, with continuous active treatment (as defined in subparagraph (B)) which is coordinated and monitored by a qualified mental retardation professional.

"(B) ACTIVE TREATMENT DEFINED.—In this section, the term 'active treatment' means services directed towards—

"(i) the acquisition of behaviors and skills necessary for the client to function with as much self-determination, independence, productivity, and integration into the community as possible, and

"(ii) the prevention or deceleration of regression or loss of current optimal functional status.

Such term includes aggressive, consistent implementation of a program of specialized and generic training, treatment, and health services. Such term does not include services to maintain generally independent clients who are able to function with little supervision or in the absence of a continuous active treatment program.

"(3) INDIVIDUAL PROGRAM PLAN.—

"(A) DEVELOPMENT OF IPPS.—

"(i) IN GENERAL.—An habilitation facility must develop (or provide for the development of), not later than 30 days after the date of admission of each client, an individual program plan (in this section referred to as an 'IPP') which states specific objectives necessary to meet the client's needs, as identified in the comprehensive functional assessment conducted under paragraph (4).

"(ii) PREPARATION BY AN INTERDISCIPLINARY TEAM.—Each IPP shall be prepared by an appropriate interdisciplinary team and shall be periodically reviewed and revised by such a team after each assessment under paragraph (4). Such team shall include, in the case of a client who has a seizure disorder, a professional with expertise in the diagnosis and treatment of seizure disorders. Such team shall include, in the case of an IPP which provides for physical or chemical restraints, a person who has expertise in positive behavioral interventions.

"(iii) REQUIRED PARTICIPATION IN DEVELOPMENT OF IPP.—In developing an IPP for a client, the facility shall notify, and provide for and encourage the participation of, the client, the client's parents (if the client is a minor), and the client's legal guardian (if any).

"(iv) PERMISSIVE PARTICIPATION OF PARENTS OF ADULT CLIENTS.—A parent (if the client is not a minor) who is not a legal guardian of the client may participate in developing the IPP unless the client objects to the parent's participation.

"(B) AVAILABILITY.—A copy of each IPP must, consistent with subsection (c)(1)(A)(iv), be made accessible to all relevant staff, including staffs of other agencies who work with the client, the client's legal guardian (if any), and, unless the client objects, to the client's parents.

"(C) MEDICAL CARE PLAN.—The IPP shall include a formalized plan for the provision of physician, licensed nursing care, and related medical care services (including access to appropriate medical specialists) if the client's physician determines that the client requires such a plan. In the case of an IPP under which drug therapy is provided for a client with a seizure disorder, the plan must provide for periodic reviews of the client's response to such therapy.

"(4) COMPREHENSIVE FUNCTIONAL ASSESSMENT.—

"(A) REQUIREMENT.—An habilitation facility must provide for comprehensive functional assessments, and review of such assessments, of each client by an interdisciplinary team. Such an assessment and review must identify each client's developmental and behavioral abilities and management needs. In the case of a client with a seizure disorder, the assessment must include a determination, by a professional with expertise in the diagnosis and treatment of such disorders, of the classification of the type of disorder in accordance with the most recent version of the International Classification of Epileptic Seizures.

"(B) FREQUENCY.—

"(i) ASSESSMENTS.—Such an assessment must be conducted promptly upon (but no later than 30 days after the date of) admission for each client admitted on or after January 1, 1991, and by not later than January 1, 1992, for each client of the facility on that date.

"(ii) REVIEWS.—A review of each such assessment shall be performed in no case less often than once every 12 months.

"(C) USE.—The results of such an assessment or review shall be used in developing, reviewing, and revising the client's IPP under paragraph (3).

"(D) REQUIREMENTS RELATING TO PREADMISSION SCREENING FOR INDIVIDUALS WITH MENTAL RETARDATION OR A RELATED CONDITION.—An habilitation facility must not admit, on or after January 1, 1991, any new client who is an individual with mental retardation or a related condition (as defined in section 1905(s)) unless the State mental retardation or developmental disability authority has determined prior to admission, based on an independent evaluation performed by a person or entity other than the facility, that the individual requires the level of services provided by an habilitation facility. Such determination shall not affect an individual's eligibility for services other than habilitation facility services.

"(5) PROVISION OF SERVICES AND ACTIVITIES.—

"(A) IN GENERAL.—To the extent needed to fulfill all IPPs described in paragraph (3), an habilitation facility must provide (or arrange for the provision of)—

"(i) physician services 24 hours a day;

"(ii) annual physical examinations (including vision and hearing examination, routine immunizations and tuberculosis control, and routine laboratory examinations);

"(iii) licensed nursing services sufficient to meet health needs of clients;

"(iv) comprehensive dental diagnostic services, including—

"(I) a complete extraoral and intraoral examination, not later than one month after the date of admission to the facility (unless such an examination was completed within 12 months before admission), and

"(II) periodic examination and diagnosis performed at least annually;

"(v) comprehensive dental treatment services, including—

"(I) provision of emergency dental treatment on a 24-hour-a-day basis by a licensed dentist, and

"(II) dental care needed for relief of pain and infections, restoration of teeth, and maintenance of dental health;

"(vi) routine and emergency drugs and biologicals for clients and procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals and that assure the accurate recording of the administration by staff of drugs and biologicals to clients and of the self-administration of drugs and biologicals by clients;

"(vii) professional program services needed to implement the active treatment plan defined in each client's IPP; and

"(viii) meal services, including at least 3 meals daily, and food and nutrition services that assure that the meals meet the daily nutritional and special dietary needs of each client.

The services provided or arranged by the facility must meet professional standards of quality. The facility may, to the extent permitted by State law, utilize physician assistants and nurse practitioners to provide services described in clauses (i) and (ii).

"(B) QUALIFIED PERSONS PROVIDING SERVICES.—Services described in subparagraph (A) must be provided by qualified persons in accordance with each client's IPP.

"(C) FACILITY STAFFING.—

"(i) IN GENERAL.—An habilitation facility must have, or arrange for the provision of, sufficient direct care staff to meet the needs of clients at the facility.

"(ii) NO DEPENDENCE ON VOLUNTEERS.—An habilitation facility may not use a client or volunteer to meet the requirements of this subparagraph.

"(iii) NO USE OF CERTAIN INDIVIDUALS.—An habilitation facility may not use individuals in the facility who have been convicted of child or client abuse, neglect, or mistreatment or of a felony involving physical harm to an individual. The facility must take all reasonable steps to determine whether applicants for employment at the facility have histories indicating involvement in child or client abuse, neglect, or mistreatment or a criminal record involving physical harm to an individual and, if an applicant has such a history, not to use the applicant in the facility.

"(6) PHYSICIAN SUPERVISION.—An habilitation facility must—

"(A) require that the health care of every client be provided under the supervision of a physician, and

"(B) provide for having a physician available to furnish necessary medical care in case of emergency.

"(7) RECORDS.—An habilitation facility must maintain records on all clients, which records include clinical records, IPPs (described in paragraph (3)), and the clients' comprehensive functional assessments (described in paragraph (4)), as well as the findings of any preadmission screen.

"(c) REQUIREMENTS RELATING TO CLIENTS' RIGHTS.—

"(1) GENERAL RIGHTS.—

"(A) SPECIFIED RIGHTS.—An habilitation facility must protect and promote the rights of each client, including each of the following rights:

"(i) FREE FROM ABUSE.—The right to be free from physical, verbal, sexual, or psychological abuse, corporal or psychological punishment, aversive stimuli, and involuntary seclusion. Nothing in the previous sentence shall be construed to prohibit the use of 'time-out' rooms for periods of less than one hour, if the use of such a room is subject to review by the interdisciplinary team (described in subsection (b)(4)) to ensure the use of the least restrictive and most positive behavior management intervention and consistency with the objectives of the client's IPP.

"(ii) FREE FROM RESTRAINTS.—The right to be free from any physical restraints or medications imposed for purposes of discipline or convenience of the staff or as a substitute for active treatment and not required to treat the client's medical symptoms. Any such imposition of such physical restraints or medications must be subject to review by the interdisciplinary team (described in subsection (b)(4)) to ensure protection of this right and consistency with the objectives of the client's IPP.

"(iii) PRIVACY.—The right to privacy with regard to accommodations, medical treatment, written and telephonic communications, visits, and meetings of family and friends and of client groups.

"(iv) CONFIDENTIALITY.—The right to confidentiality of personal and clinical records.

"(v) ACCOMMODATION OF NEEDS.—The right—

"(I) to reside and receive services with reasonable accommodations of individual needs and preferences (including the right of a husband and wife living in the same facility to share a room and including the right to retain and use personal possessions and clothing), except where the health or safety of the individual or other clients would be endangered, and

"(II) to receive adequate notice and explanation of the reasons therefor before the room or roommate of the client in the facility is changed and, other than in extraordinary circumstances, to disapprove such a change.

"(vi) DIGNITY.—The right to be treated with dignity in a manner consistent with the client's chronological age.

"(vii) GRIEVANCES.—The right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal (or threat of discrimination or reprisal) for voicing the grievances and the right to prompt efforts by the facility to resolve grievances the client may have, including those with respect to the behavior of other clients.

"(viii) PARTICIPATION IN CLIENT AND FAMILY GROUPS.—The right of the client to organize and participate in client groups in the facility and the right of the client's family to meet in the facility with the families of other clients in the facility. Nothing in this clause shall be construed as requiring a facility to provide for a room specifically designed to accommodate meetings under this clause.

"(ix) PARTICIPATION IN OTHER ACTIVITIES.—The right of the client to participate in social, religious, and community activities that do not interfere with the rights of other clients in the facility.

"(x) EXAMINATION OF SURVEY RESULTS.—The right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Secretary or a State with respect to the facility and any plan of correction in effect with respect to the facility.

"(xi) FREE CHOICE WITH RESPECT TO MEDICAL CARE AND TREATMENT.—The right to choose a personal attending physician and to choose a qualified mental retardation professional or case manager, to be fully informed in advance about care and treatment, to be fully informed in advance of any changes in care or treatment that may affect the client's well-being, and to participate in planning care and treatment or changes in such care and treatment.

"(xii) VOLUNTARY SERVICES.—The right not to be compelled to perform services for the facility and, if the client chooses to perform such services, to be compensated for such services at prevailing wages commensurate with the client's productivity.

"(xiii) OTHER RIGHTS.—Any other right established by the Secretary.

Clause (v) shall not be construed as requiring the provision of a private room.

"(B) NOTICE OF RIGHTS.—A habilitation facility must—

"(i) inform each client, parent (if the client is a minor), or legal guardian (if any), orally and in writing at the time of admission to the facility, of the client's legal rights during the stay at the facility; and

"(ii) make available to each client, parent (if the client is a minor), or legal guardian (if any), upon reasonable request, a written statement of such rights (which statement is updated upon changes in such rights).

The written description of legal rights under this subparagraph shall include a description of the protection of personal funds under paragraph (6) and the mailing address, contact person, and telephone number of the State protection and advocacy system (established under part C of the Developmental Disabilities Assistance and Bill of Rights Act) or other appropriate agency with whom the client, parent, or guardian may file a complaint respecting client abuse and neglect and misappropriation of client property in the facility.

"(C) RIGHTS OF INCOMPETENT CLIENTS.—In the case of a client adjudged incompetent under the laws of a State, the rights of the client under this title shall devolve upon, and, to the extent judged necessary by a court of competent jurisdiction, be exercised by, a person appointed under State law to act on the client's behalf. For purposes of the previous sentence, the term 'person' includes an organization which is independent of a facility.

"(D) USE OF PSYCHOPHARMACOLOGIC DRUGS.—Psychopharmacologic drugs may be administered only on the orders of a physician and only as an integral part of a plan (included in the IPP) designed to eliminate or modify the symptoms or behaviors for which the drugs are prescribed and only if, at least annually, an independent, external consultant trained in the administration and interaction of psychopharmacologic drugs reviews the appropriateness of the drug plan of each client receiving such drugs.

"(2) TRANSFER AND DISCHARGE RIGHTS.—

"(A) IN GENERAL.—A habilitation facility must permit each client to remain in the facility and must not transfer or discharge the client from the facility unless—

"(i) the transfer or discharge is necessary to meet the client's welfare and the client's welfare cannot be met in the facility;

"(ii) the transfer or discharge is appropriate because the client no longer requires continuous active treatment;

"(iii) the safety of individuals in the facility is endangered;

"(iv) the health of individuals in the facility would otherwise be endangered; or

"(v) the facility ceases to operate or the transfer or discharge is pursuant to a court order or under a reduction plan approved by the Secretary under subsection (i).

In each of the cases described in clauses (i) through (iv), the basis for the transfer or discharge must be documented in the client's clinical record. In the cases described in clauses (i) and (ii), the documentation must be made by a qualified mental retardation professional in consultation with the appropriate interdisciplinary team that developed the client's IPP, and in the case described in clause (iv) the documentation must be made by a physician. A facility may not transfer or discharge a client under clause (i) or (ii) unless the service needs of the client recommended under subparagraph (C)(ii) will be met in the client's new living environment. A facility may not transfer or discharge a client under clause (iii) or (iv) unless adequate arrangements have been made for an alternative placement.

"(B) PRETRANSFER AND PREDISCHARGE NOTICE.—

"(i) IN GENERAL.—Before effecting a transfer or discharge of a client (including such a transfer or discharge under a reduction plan under subsection (i)), a habilitation facility must—

"(I) notify the client, parent (if the client is a minor), or legal guardian (if any) of the transfer or discharge and the reasons therefor,

"(II) record the reasons in the client's clinical record (including any documentation required under subparagraph (A)), and

"(III) include in the notice the items described in clause (iii).

"(ii) TIMING OF NOTICE.—The notice under clause (i)(I) must be made at least 60 days in advance of the client's transfer or discharge except—

"(I) in a case described in clause (iii) or (iv) of subparagraph (A);

"(II) in a case described in clause (i) of subparagraph (A), where a more immediate transfer or discharge is necessitated by the client's urgent medical needs; or

"(III) in a case where a client has not resided in the facility for 60 days.

In the case of such exceptions, notice must be given as many days before the date of the transfer or discharge as is practicable.

"(iii) ITEMS INCLUDED IN NOTICE.—Each notice under clause (i) must include—

"(I) for transfers or discharges effected on or after January 1, 1991, notice of the client's right to appeal the transfer or discharge under the State process established under subsection (e)(5)(B), and

"(II) in the case of clients with developmental disabilities, the mailing address, contact person, and telephone number of the agency responsible for the protection and advocacy system for developmentally disabled individuals established under part C of the Developmental Disabilities Assistance and Bill of Rights Act.

"(C) SUMMARY, POST-DISCHARGE PLAN, AND ORIENTATION.—If a client is to be either transferred or discharged (including such a transfer or discharge under a reduction plan under subsection (i)), the facility must—

"(i) provide a final summary of the client's developmental, behavioral, social, health, and nutritional status and skills at the time for the discharge that is available for release to authorized persons and agencies, with the consent of the client, parent (if the client is a minor), or legal guardian (if any),

"(ii) provide recommendations relating to the service needs of the client in the client's new living environment; and

"(iii) provide the client with sufficient preparation and orientation (taking into account the client's length of stay at the facility) to ensure safe and orderly transfer or discharge from the facility.

"(3) ACCESS AND VISITATION RIGHTS.—A habilitation facility must—

"(A) permit immediate access to any client by any representative of the Secretary, by any representative of the State, by the protection and advocacy system described in paragraph (2)(B)(iii)(II), or by the client's physician or qualified mental retardation professional;

"(B) permit immediate access to a client, subject to the client's right to deny or withdraw consent at any time, by immediate family or other relatives of the client;

"(C) permit immediate access to a client, subject to reasonable restrictions and the client's right to deny or withdraw consent at any time, by others who are visiting with the consent of the client;

"(D) permit reasonable access to a client by any other entity or individual that provides health, social, legal, or other services to the client or that is a friend of the client, subject to the right of the client, parent (if the client is a minor), or legal guardian (if any) to deny or withdraw consent at any time;

"(E) permit representatives of the State protection and advocacy system (described in paragraph (2)(B)(iii)(II)), with the permission of the client, parent (if the client is a minor), or legal guardian (if any) and consistent with State law, to examine a client's records; and

"(F) permit representatives of such State protection and advocacy system to have access to any client and to examine the client's records, in the case of any client—

"(i) who, by reason of the client's mental or physical condition, is unable to authorize such examination,

"(ii) who does not have a legal guardian, conservator, or other legal representative, or for whom the legal guardian is the State, and

"(iii) with respect to whom a complaint has been received by such system or with respect to whom there is probable cause to believe that such client has been subject to abuse and neglect.

"(4) EQUAL ACCESS TO QUALITY CARE.—A habilitation facility must establish and maintain identical policies and practices regarding the admission, transfer, and discharge of, and the provision of services required under the State plan for, all individuals regardless of source of payment.

"(5) ADMISSIONS POLICY.—With respect to admissions practices, an habilitation facility must—

"(A)(i) not require individuals applying to reside or residing in the facility to waive their rights to benefits under this title, (ii) not require oral or written assurance that such individuals are not eligible for, or will not apply for, benefits under this title, and (iii) provide to such individuals (and their representatives) oral and written information about how to apply for and use such benefits and how to receive refunds for previous payments covered by such benefits;

"(B) not require a third party guarantee of payment to the facility as a condition of admission (or expedited admission) to, or continued stay in, the facility; and

"(C) in the case of an individual who is entitled to medical assistance for habilitation facility services, not charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid under the State plan under this title, any gift, money, donation, or other consideration as a precondition of admitting (or expediting the admission of) the individual to the facility or as a requirement for the individual's continued stay in the facility.

"(6) MANAGEMENT OF CLIENT FUNDS.—

"(A) IN GENERAL.—The habilitation facility—

"(i) whether or not a client deposits personal funds with the facility, must allow individual clients to manage their financial affairs and teach them to do so to the extent of their capabilities, and

"(ii) upon the written authorization of the client, parent (if the client is a minor), or legal guardian (if any), must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this paragraph.

"(B) FACILITY MANAGEMENT OF PERSONAL FUNDS.—Upon a facility's acceptance of written authorization under subparagraph (A)(ii), the facility must manage and account for the personal funds of the client deposited with the facility as follows:

"(i) DEPOSIT.—The facility must deposit any amount of personal funds in excess of $50 with respect to a client in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts and credit all interest earned on such separate account to such account. With respect to any other personal funds, the facility must maintain such funds in a noninterest bearing account or petty cash fund.

"(ii) ACCOUNTING AND RECORDS.—The facility must assure a full and complete separate accounting of each such client's personal funds, maintain a written record of all financial transactions involving the personal funds of a client deposited with the facility, and afford the client, parent (if the client is a minor), or legal guardian (if any) reasonable access to such record.

"(iii) NOTICE OF CERTAIN BALANCES.—The facility must notify each client receiving medical assistance under this title or the parent (if the client is a minor) or legal guardian (if any), when the amount in the client's account reaches $200 less than the dollar amount determined under section 1611(a)(3)(B) and the fact that if the amount in the account (in addition to the value of the client's other nonexempt resources) reaches the amount determined under such section the client may lose eligibility for such medical assistance or for benefits under title XVI.

"(iv) CONVEYANCE UPON DEATH.—Upon the death of a client with such an account, the facility must convey promptly the client's personal funds (and a final accounting of such funds) to the individual administering the client's estate.

"(C) ASSURANCE OF FINANCIAL SECURITY.—The facility must purchase a surety bond, or otherwise provide assurance satisfactory to the Secretary, to assure the security of all personal funds of clients deposited with the facility.

"(D) LIMITATION ON CHARGES TO PERSONAL FUNDS.—The facility may not impose a charge against the personal funds of a client for any item or service for which payment is made under this title.

"(E) NO FACILITY BORROWING OF PERSONAL FUNDS.—The facility may not borrow, or use as security for any indebtedness, personal funds deposited with the facility.

"(d) REQUIREMENTS RELATING TO ADMINISTRATION AND OTHER MATTERS.—

"(1) ADMINISTRATION.—An habilitation facility must be administered in a manner that enables it to use its resources effectively and efficiently to promote maintenance or enhancement of the quality of life, independence, productivity, and integration into the community of each client.

"(2) LICENSING AND LIFE SAFETY CODE.—

"(A) LICENSING.—An habilitation facility must be licensed under applicable State and local law.

"(B) LIFE SAFETY CODE.—An habilitation facility must meet such provisions of such edition (as specified by the Secretary in regulation) of the Life Safety Code of the National Fire Protection Association as are applicable to health care occupancies or residential board and care occupancies; except that—

"(i) the Secretary may waive, for such periods as he deems appropriate, specific provisions of such Code which if rigidly applied would result in unreasonable hardship upon a facility, but only if such waiver would not adversely affect the health and safety of clients or personnel, and

"(ii) the provisions of such Code shall not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects clients of and personnel in habilitation facilities.

"(3) SANITATION AND INFECTION CONTROL AND PHYSICAL ENVIRONMENT.—An habilitation facility must—

"(A) establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment in which clients reside and to help prevent the development and transmission of disease and infection, and

"(B) be designed, constructed, equipped, and maintained in a manner to protect the health and safety of clients, personnel, and the general public.

"(4) MISCELLANEOUS.—

"(A) COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND PROFESSIONAL STANDARDS.—An habilitation facility must operate and provide services in compliance with all applicable Federal, State, and local laws and regulations (including the requirements of section 1124) and with accepted professional standards and principles which apply to professionals providing services in such a facility.

"(B) OTHER.—An habilitation facility must meet such other requirements relating to the health and safety of clients or relating to the physical facilities thereof as the Secretary may find necessary.".

(c) STATE REQUIREMENT FOR PREADMISSION SCREENING AND CLIENT REVIEW.—For State requirement for preadmission screening and client review, see the amendment made by section 4241 of this part.

(d) FEDERAL RESPONSIBILITIES.—Section 1928 of such Act is amended by adding at the end the following new subsection:

"(f) RESPONSIBILITIES OF SECRETARY RELATING TO HABILITATION FACILITY REQUIREMENTS.—

"(1) GENERAL RESPONSIBILITY.—It is the duty and responsibility of the Secretary to assure that requirements which govern the provision of care in habilitation facilities under State plans approved under this title, and the enforcement of such requirements, are adequate to protect the health, safety, welfare, and rights of clients and to promote the effective and efficient use of public moneys.

"(2) OPERATIONAL DEFINITION OF CONTINUOUS ACTIVE TREATMENT.—The Secretary shall establish, by not later than January 1, 1991, an operational definition of continuous active treatment that promotes a consistent assessment of whether an habilitation facility is in compliance with the requirements of subsection (b)(2)(A) and clarifies the manner in which a program of interventions and services is considered to be continuous.

"(3) FEDERAL GUIDELINES FOR STATE APPEALS PROCESS FOR TRANSFERS AND DISCHARGES.—For purposes of subsections (c)(2)(B)(iii) and (e)(5)(B), by not later than July 1, 1990, the Secretary shall establish guidelines for minimum standards which State appeals processes under subsection (e)(5)(B) must meet to provide a fair mechanism for hearing appeals on transfers and discharges of clients from habilitation facilities. The guidelines shall provide, upon the request of a client, parent (if the client is a minor), or legal guardian (if any), for the participation of a representative of the State protection and advocacy system (described in subsection (c)(2)(B)(iii)(II)) in the appeals process with respect to that client.

"(4) CRITERIA FOR ADMINISTRATION.—The Secretary shall establish criteria for assessing an habilitation facility's compliance with the requirement of subsection (d)(1) with respect to—

"(A) its governing body and management,

"(B) disaster preparedness,

"(C) laboratory and radiological services (if provided),

"(D) clinical records, and

"(E) client and advocate participation.".

(e) INCORPORATING REQUIREMENTS INTO STATE PLAN.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (13)(A), by inserting "which, in the case of habilitation facilities, take into account the costs of complying with subsections (b) (other than paragraph (4)(D)), (c), and (d) of section 1928," after "State" the second place it appears; and

(2) in paragraph (28), by striking "and" at the end of subparagraph (C) and by adding at the end the following new subparagraphs:

"(E) that any habilitation facility receiving payments under such plan must satisfy all the requirements of subsections (b) through (d) of section 1928 as they apply to such facilities; and

"(F) for compliance (by the date specified in the respective sections) with the requirements of—

"(i) section 1928(e) (relating to preadmission screening and client review);

"(ii) section 1928(g) (relating to responsibility for survey and certification of habilitation facilities); and

"(iii) sections 1928(h)(2)(B) and 1928(h)(2)(D) (relating to establishment and application of remedies);".

(f) REVISION OF PREVIOUS DEFINITION.—Subsection (d) of section 1905 of such Act (42 U.S.C. 1396d) is amended to read as follows:

"(d) For definition of the term 'habilitation facility', see section 1928(a).".

(g) CONFORMING AMENDMENTS.—(1) Section 1902 of such Act (42 U.S.C. 1396a) is amended—

(A) in subsections (a)(10)(A)(ii)(VI), (a)(10)(C)(iv), (a)(13), and (e)(3)(B)(i), by striking "intermediate care facility for the mentally retarded" each place it appears and inserting "habilitation facility";

(B) in subsection (a)(13)(C), by striking "intermediate care facilities for the mentally retarded" and inserting "habilitation facilities";

(C) in subsection (e)(9)(A)(iii), by striking ", nursing facility, or intermediate care facility for the mentally retarded" and inserting "or nursing facility"; and

(D) in subsection (e)(9)(B), by striking ", nursing facilities, or intermediate care facilities for the mentally retarded" and inserting "or nursing facilities".

(2) Section 1903(a)(7) of such Act (42 U.S.C. 1396b(a)(7)) is amended by inserting "and section 1927(g)(4)" after "1919(g)(3)(B)".

(3) Section 1905(a)(15) of such Act (42 U.S.C. 1396d(a)(15)) is amended by striking "intermediate care facility for the mentally retarded" and inserting "habilitation facility".

(4) Section 1915(c) of such Act (42 U.S.C. 1396n(c))—

(A) in paragraphs (1), (2)(C), and (7), by striking "intermediate care facility for the mentally retarded" each place it appears and inserting "habilitation facility",

(B) in paragraph (2)(B), by striking "services in an intermediate care facility for the mentally retarded" and inserting "habilitation facility services" each place it appears, and

(C) in paragraph (7)(A), by striking "intermediate care facilities for the mentally retarded" and inserting "habilitation facilities".

(5) Section 1916 of such Act (42 U.S.C. 1396o) is amended, in subsections (a)(2)(C) and (b)(2)(C), by striking "intermediate care facility for the mentally retarded" and inserting "habilitation facility".

(6) Section 1917(a)(1)(B)(i) of such Act (42 U.S.C. 1396p(a)(1)(B)(i)) is amended by striking "intermediate care facility for the mentally retarded" and inserting "habilitation facility".

(7) Section 1128B of such Act (42 U.S.C. 1320a-7b) is amended, in subsections (c) and (d)(2)(A), by striking "intermediate care facility for the mentally retarded" and inserting "habilitation facility".

SEC. 4232. SURVEY AND CERTIFICATION PROCESS.

(a) IN GENERAL.—Section 1928 of the Social Security Act, as inserted by section 4231(a), is amended by adding at the end the following new subsection:

"(g) SURVEY AND CERTIFICATION PROCESS.—

"(1) STATE AND FEDERAL RESPONSIBILITY.—

"(A) IN GENERAL.—Under each State plan under this title, the State shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of habilitation facilities (other than facilities of the State) with the requirements of subsections (b), (c), and (d). The Secretary shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of State habilitation facilities with the requirements of such subsections.

"(B) EDUCATIONAL PROGRAM.—Each State shall conduct periodic educational programs for the staff and clients in habilitation facilities, and for the parents (if the client is a minor) and legal guardians (if any) of such clients, in order to present current regulations, procedures, and policies under this section.

"(C) INVESTIGATION OF ALLEGATIONS OF CLIENT NEGLECT AND ABUSE AND MISAPPROPRIATION OF CLIENT PROPERTY.—The State shall provide, through the agency responsible for surveys and certification of habilitation fa-

cilities under this subsection, for a process for the receipt, review, and investigation of allegations of client neglect and abuse (including injuries of unknown source) by staff and of misappropriation of client property by staff in an habilitation facility. The State shall, after notice to the individual involved and a reasonable opportunity for hearing for the individual to rebut allegations, make a finding as to the accuracy of the allegations. If the State finds that an individual has neglected or abused a client receiving habilitation facility services or misappropriated such client's property, the State shall notify the individual against whom the finding is made. A State shall not make a finding that an individual has neglected a client if the individual demonstrates that such neglect was caused by factors beyond the control of the individual. The State shall provide for public disclosure of findings under this subparagraph upon request and for inclusion, in any such disclosure of such findings, of any brief statement (or of a clear and accurate summary thereof) of the individual disputing such findings. The findings relating to such allegations shall be made available, on request, to the State protection and advocacy system (described in subsection (c)(2)(B)(iii)(II)) and to other appropriate agency or agencies with whom a client, parent, or guardian may file a complaint respecting client abuse and neglect and misappropriation of client property in the facility.

"(D) CONSTRUCTION.—The failure of the Secretary to issue regulations to carry out this subsection shall not relieve a State of its responsibility under this subsection.

"(2) ANNUAL SURVEYS.—

"(A) IN GENERAL.—Each habilitation facility shall be subject to an annual survey, to be conducted without any prior notice to the facility. Any individual who notifies (or causes to be notified) an habilitation facility of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of not to exceed $2,000. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). The Secretary shall review each State's procedures for scheduling and conduct of annual surveys to assure that the State has taken all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

"(B) CONTENTS.—Each annual survey shall include—

"(i) a review, based on a representative sample of clients and IPPs, of the quality, appropriateness, and effectiveness of active treatment provided, and

"(ii) a review of compliance with all requirements under this section.

"(C) FREQUENCY.—Each habilitation facility shall be subject to an annual survey not later than 15 months after the date of the previous annual survey conducted under this subparagraph. The Statewide average interval between annual surveys of habilitation facilities shall not exceed 12 months.

"(D) SURVEY PROTOCOL.—Annual surveys shall be conducted—

"(i) based upon a protocol which the Secretary has developed, tested, and validated by not later than October 1, 1990, and

"(ii) by individuals, of a survey team, who meet such minimum qualifications as the Secretary establishes by not later than such date.

The failure of the Secretary to develop, test, or validate such protocols or to establish such minimum qualifications shall not relieve any State of its responsibility (or the Secretary of the Secretary's responsibility) to conduct surveys under this subsection.

"(E) CONSISTENCY OF SURVEYS.—Each State shall implement programs to measure and reduce inconsistency in the application of survey results among surveyors.

"(F) SURVEY TEAMS.—

"(i) IN GENERAL.—Surveys under this subsection shall be conducted by a multidisciplinary team of professionals.

"(ii) PROHIBITION OF CONFLICTS OF INTEREST.—A State may not use as a member of a survey team under this subsection an individual who is serving (or has served within the previous 2 years) as a member of the staff of, or as a consultant to, the facility surveyed respecting compliance with the requirements of subsections (b), (c), and (d), or who has a personal or familial financial interest in the facility being surveyed.

"(iii) TRAINING.—The Secretary shall provide for the comprehensive training of State and Federal surveyors in the conduct of annual surveys under this subsection, including the auditing of client assessments and IPPs. No individual shall serve as a member of a survey team unless the individual has successfully completed a training and testing program in survey and certification techniques that has been approved by the Secretary.

"(3) VALIDATION SURVEYS.—

"(A) IN GENERAL.—The Secretary shall conduct onsite surveys of a representative sample of habilitation facilities in each State, within 2 months of the date of surveys conducted under paragraph (2) by the State, in a sufficient number to allow inferences about the adequacies of each State's surveys conducted under paragraph (2). In conducting such surveys, the Secretary shall use the same survey protocols as the State is required to use under paragraph (2). If the State has determined that an individual habilitation facility meets the requirements of subsections (b), (c), and (d), but the Secretary determines that the facility does not meet such requirements, the Secretary's determination as to the facility's noncompliance with such requirements is binding and supersedes that of the State survey.

"(B) REDUCTION IN ADMINISTRATIVE COSTS FOR SUBSTANDARD PERFORMANCE.—If the Secretary finds, on the basis of such surveys, that a State has failed to perform surveys as required under paragraph (2) or that a State's survey and certification performance otherwise is not adequate, the Secretary may provide for the training of survey teams in the State and shall provide for a reduction of the payment otherwise made to the State under section 1903(a)(2)(D) with respect to a quarter equal to 33 percent multiplied by a fraction, the denominator of which is equal to the total number of clients in habilitation facilities surveyed by the Secretary that quarter and the numerator of which is equal to the total number of clients in habilitation facilities which were found pursuant to such surveys to be not in compliance with any of the requirements of subsections (b), (c), and (d). A State that is dissatisfied with the Secretary's findings under this subparagraph may obtain reconsideration and review of the findings under section 1116 in the same manner as a State may seek reconsideration and review under that section of the Secretary's determination under section 1116(a)(1).

"(C) SPECIAL SURVEYS OF COMPLIANCE.—Where the Secretary has reason to question the compliance of an habilitation facility with any of the requirements of subsections (b), (c), and (d), the Secretary may conduct a survey of the facility and, on the basis of that survey, make independent and binding determinations concerning the extent to which the habilitation facility meets such requirements.

"(4) INVESTIGATION OF COMPLAINTS AND MONITORING HABILITATION FACILITY COMPLIANCE.—Each State and the Secretary shall maintain procedures and adequate staff to—

"(A) investigate complaints of violations of requirements by habilitation facilities, and

"(B) monitor, onsite, on a regular, as needed basis, an habilitation facility's compliance with the requirements of subsections (b), (c), and (d), if—

"(i) the facility has been found not to be in compliance with such requirements and is in the process of correcting deficiencies to achieve such compliance;

"(ii) the facility was previously found not to be in compliance with such requirements, has corrected deficiencies to achieve such compliance, and verification of continued compliance is indicated; or

"(iii) the State or the Secretary, respectively, has reason to question the compliance of the facility with such requirements.

"(5) DISCLOSURE OF RESULTS OF INSPECTIONS AND ACTIVITIES.—

"(A) PUBLIC INFORMATION.—Each State, and the Secretary, shall make available to the public—

"(i) information respecting all surveys and certifications made respecting habilitation facilities, including statements of deficiencies and plans of correction,

"(ii) copies of cost reports of such facilities filed under this title,

"(iii) copies of statements of ownership under section 1124, and

"(iv) information disclosed under section 1126.

"(B) NOTICE TO PROTECTION AND ADVOCACY SYSTEM.—Each State shall notify the agency responsible for the protection and advocacy system for developmentally disabled individuals established under part C of the Developmental Disabilities Assistance and Bill of Rights Act of the State's findings of noncompliance with any of the requirements of subsections (b), (c), and (d), with respect to an habilitation facility in the State.

"(C) NOTICE TO FAMILY.—If a State finds that an habilitation facility has provided services of substandard quality, the State shall notify the parent (if the client is a minor), or legal guardian (if any) of each client with respect to which such finding is made.

"(D) ACCESS TO FRAUD CONTROL UNITS.—Each State shall provide its State medicaid fraud and abuse control unit (established under section 1903(q)) with access to all information of the State agency responsible for surveys and certifications under this subsection.".

(b) DISSEMINATION OF SURVEY RESULTS.—Section 1928(d)(4) of such Act, as added by section 4231 of this part, is amended by adding at the end the following new subparagraph:

"(C) DISSEMINATION OF SURVEY RESULTS.—An habilitation facility must—

"(i) make the results of the most recent survey of the facility conducted under subsection (g) available to anyone upon request, and

"(ii) mail promptly an accurate summary of the results of each such survey to the parent (if the client is a minor), legal guard-

ian (if any), or other legal representative of each client.".

SEC. 4233. ENFORCEMENT PROCESS.

(a) IN GENERAL.—Section 1928 of the Social Security Act, as inserted by section 4231 and amended by section 4232, is further amended by adding at the end the following new subsections:

"(h) ENFORCEMENT PROCESS.—

"(1) IN GENERAL.—If a State finds, on the basis of an annual survey under subsection (g)(2) or otherwise, that an habilitation facility no longer meets a requirement of subsection (b), (c), or (d), and further finds that the facility's deficiencies—

"(A) immediately jeopardize the health or safety of its clients, the State shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in paragraph (2)(A)(iii), or terminate the facility's participation under the State plan and may provide, in addition, for one or more of the other remedies described in paragraph (2); or

"(B) do not immediately jeopardize the health or safety of its clients, the State may—

"(i) terminate the facility's participation under the State plan,

"(ii) provide for one or more of the remedies described in paragraph (2), or

"(iii) do both.

Nothing in this paragraph shall be construed as restricting the remedies available to a State to remedy an habilitation facility's deficiencies. If a State finds that an habilitation facility meets the requirements of subsections (b), (c), and (d), but, as of a previous period, did not meet such requirements, the State may provide for a civil money penalty under paragraph (2)(A)(ii) for the days in which it finds that the facility was not in compliance with such requirements.

"(2) SPECIFIED REMEDIES.—

"(A) LISTING.—Each State shall establish by law (whether statute or regulation) at least the following remedies:

"(i) Denial of payment under the State plan with respect to any individual admitted to the habilitation facility involved after such notice to the public and to the facility as may be provided for by the State.

"(ii) A civil money penalty assessed and collected, with interest, for each day in which the facility is or was out of compliance with a requirement of subsection (b), (c), or (d). Funds collected by a State as a result of imposition of such a penalty (or as a result of the imposition by the State of a civil money penalty for activities described in subsection (g)(2)(A)) shall be applied to the protection of the health or property of clients of habilitation facilities that the State or the Secretary finds deficient, including payment for the costs of relocation of clients, maintenance of operation of a facility pending correction of deficiencies or closure, and reimbursement of clients for personal funds lost.

"(iii) In cases where a correction or reduction plan has not been approved under subsection (i), the appointment of temporary management to oversee the operation of the facility and to assure the health and safety of the facility's clients, where there is a need for temporary management while—

"(I) there is an orderly closure of the facility, or

"(II) improvements are made in order to bring the facility into compliance with all the requirements of subsections (b), (c), and (d).

The temporary management under this clause shall not be terminated under subclause (II) until the State has determined that the facility has the management capability to ensure continued compliance with all the requirements of subsections (b), (c), and (d).

"(iv) The authority, in the case of an emergency, to close the facility, to transfer clients in that facility to other facilities, or both.

The State also shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the remedies and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies. In addition, the State may provide for other specified remedies, such as plans of correction and reduction plans under subsection (i).

"(B) DEADLINE AND GUIDANCE.—As a condition for approval of a State plan for calendar quarters (beginning on or after January 1, 1991) in which the State plan provides for coverage of habilitation facility services, each State shall have in effect the remedies described in clauses (i) through (iv) of subparagraph (A). The Secretary shall provide, through regulations or otherwise by not later than July 1, 1990, guidance to States in establishing such remedies; but the failure of the Secretary to provide such guidance shall not relieve a State of the responsibility for establishing such remedies.

"(C) ASSURING PROMPT COMPLIANCE.—If an habilitation facility has not complied with any of the requirements of subsections (b), (c), and (d), within 3 months after the date the facility is found to be out of compliance with such requirements, and a reduction plan has not been approved with respect to the facility under subsection (i), the State shall impose the remedy described in subparagraph (A)(ii) and the remedy described in subparagraph (A)(i) for all individuals who are admitted to the facility after such date.

"(D) REPEATED NONCOMPLIANCE.—In the case of an habilitation facility which, on 3 consecutive annual surveys conducted under subsection (g)(2), has been found not to provide continuous active treatment of adequate quality and effectiveness, the State shall (regardless of what other remedies are provided)—

"(i) impose the remedies described in clauses (i) and (ii) of subparagraph (A), and

"(ii) monitor the facility under subsection (g)(4)(B),

until the facility has demonstrated, to the satisfaction of the State, that it is in compliance with the requirements of subsections (b), (c), and (d), and that it will remain in compliance with such requirements. Under clause (i), the remedy described in subparagraph (A)(ii) shall be applied with respect to each day of noncompliance covered under any of such 3 annual surveys.

"(E) FUNDING.—The reasonable expenditures of a State to provide for temporary management and other expenses associated with implementing the remedies described in clauses (iii) and (iv) of subparagraph (A) shall be considered, for purposes of section 1903(a)(7), to be necessary for the proper and efficient administration of the State plan.

"(F) INCENTIVES FOR HIGH QUALITY CARE.—In addition to the remedies specified in this paragraph, a State may establish a program to reward, through public recognition, incentive payments, or both, habilitation facilities that provide the highest quality care to clients who are entitled to medical assistance under this title. For purposes of section 1903(a)(7), proper expenses incurred by a State in carrying out such a program shall be considered to be expenses necessary for the proper and efficient administration of the State plan under this title.

"(3) SECRETARIAL AUTHORITY.—

"(A) FOR STATE HABILITATION FACILITIES.—With respect to a State habilitation facility, the Secretary shall have the authority and duties of a State under this subsection, including the authority to impose remedies described in clauses (i), (ii), and (iii) of paragraph (2)(A), except that the remedy described in subparagraph (C)(ii) shall be substituted for the remedy described in paragraph (2)(A)(ii).

"(B) OTHER HABILITATION FACILITIES.—With respect to any other habilitation facility in a State, if the Secretary finds that an habilitation facility no longer meets a requirement of subsection (b), (c), or (d), and further finds that the facility's deficiencies—

"(i) immediately jeopardize the health or safety of its clients, the Secretary shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in subparagraph (C)(iii), or terminate the facility's participation under the State plan and may provide, in addition, for one or more of the other remedies described in subparagraph (C); or

"(ii) do not immediately jeopardize the health or safety of its clients, the Secretary may impose any of the remedies described in subparagraph (C).

Nothing in this subparagraph shall be construed as restricting the remedies available to the Secretary to remedy an habilitation facility's deficiencies. If the Secretary finds that an habilitation facility meets such requirements but, as of a previous period, did not meet such requirements, the Secretary may provide for a civil money penalty under subparagraph (C)(ii) for the days on which he finds that the facility was not in compliance with such requirements.

"(C) SPECIFIED REMEDIES.—The Secretary may take the following actions with respect to a finding that a facility has not met an applicable requirement:

"(i) DENIAL OF PAYMENT.—The Secretary may deny any further payments to the State for medical assistance furnished by the facility to all individuals in the facility or to individuals admitted to the facility after the effective date of the finding.

"(ii) AUTHORITY WITH RESPECT TO CIVIL MONEY PENALTIES.—The Secretary may impose a civil money penalty in an amount not to exceed $10,000 for each day of noncompliance. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(iii) APPOINTMENT OF TEMPORARY MANAGEMENT.—In consultation with the State, the Secretary may appoint temporary management to oversee the operation of the facility and to assure the health and safety of the facility's clients, where there is a need for temporary management while—

"(I) there is an orderly closure of the facility, or

"(II) improvements are made in order to bring the facility into compliance with all the requirements of subsections (b), (c), and (d).

The temporary management under this clause shall not be terminated under subclause (II) until the Secretary has determined that the facility has the management capability to ensure continued compliance with all the requirements of subsections (b), (c), and (d).

The Secretary shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the remedies and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.

"(D) CONTINUATION OF PAYMENTS PENDING REMEDIATION.—The Secretary may continue payments, over a period of not longer than 6 months after the effective date of the findings, under this title with respect to an habilitation facility not in compliance with a requirement of subsection (b), (c), or (d), if—

"(i) the State survey agency finds that it is more appropriate to take alternative action to assure prompt compliance of the facility with the requirements than to terminate the certification of the facility,

"(ii) the State has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action, and

"(iii) the State agrees to repay to the Federal Government payments received under this subparagraph if the corrective action is not taken in accordance with the approved plan and timetable.

The Secretary shall establish guidelines for the approval of corrective actions requested by States under this subparagraph.

"(E) CONTINUATION OF PAYMENTS UNDER REDUCTION PLANS.—The Secretary may continue payments in the case of habilitation facilities under the terms and conditions of a reduction plan approved under subsection (i), but only with respect to services provided on or after the date of such approval.

"(4) EFFECTIVE PERIOD OF DENIAL OF PAYMENT.—A finding to deny payment under this subsection shall terminate when the State or Secretary (or both, as the case may be) finds that the facility is in compliance with all the requirements of subsections (b), (c), and (d).

"(5) IMMEDIATE TERMINATION OF PARTICIPATION FOR FACILITY WHERE STATE OR SECRETARY FINDS NONCOMPLIANCE AND IMMEDIATE JEOPARDY.—If either the State or the Secretary finds that an habilitation facility has not met a requirement of subsection (b), (c), or (d), and finds that the failure immediately jeopardizes the health or safety of its clients, the State or the Secretary—

"(A) shall notify the other of such finding, and

"(B) shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in paragraph (2)(A)(iii) or (3)(C)(iii), or terminate the facility's participation under the State plan.

If the facility's participation in the State plan is terminated by either the State or the Secretary, the State shall provide for the safe and orderly transfer of the clients eligible under the State plan consistent with the requirements of subsection (c)(2).

"(6) SHARING OF INFORMATION.—Notwithstanding any other provision of law, all information concerning habilitation facilities required by this section to be filed with the Secretary or a State agency shall be made available to Federal or State employees for purposes consistent with the effective administration of programs established under this title, including investigations by State medicaid fraud control units.

"(i) REDUCTION PLANS.—

"(1) IN GENERAL.—If there is a finding under subsection (h)(1)(B) (including a similar finding under subsection (h)(3)(A)) or (h)(3)(B)(ii) that an habilitation facility has any deficiency that does not immediately jeopardize the health or safety of its clients, the State may elect in accordance with this subsection to submit to the Secretary a written plan—

"(A) for permanently reducing the number of certified beds, within 36 months after the effective date of the findings, so that, by the end of such period, the facility no longer has such deficiency, and

"(B) for providing services to clients of the facility who will not continue to receive habilitation facility services at the affected facility after such reduction, including (for clients not in an habilitation facility) community services.

"(2) APPROVAL OF PLANS.—The Secretary may not approve a plan submitted under paragraph (1) unless—

"(A) the State has provided for a hearing on the plan at the facility involved at least 30 days before the date of submission of the plan, after reasonable notice thereof to the staff and clients of the facility, members of the clients' families, and the public,

"(B) the State demonstrates that, with respect to clients described in paragraph (1)(B), the State has successfully provided services similar to the services to be provided to such clients under the plan,

"(C) the plan meets the requirements of paragraph (3), and

"(D) the State meets the requirements of subsection (j).

"(3) REQUIREMENTS OF REDUCTION PLANS.—The requirements of this paragraph for a reduction plan with respect to a facility are as follows:

"(A) The plan must—

"(i) identify the clients described in paragraph (1)(B),

"(ii) describe each such client's needs for services described in that paragraph and a timetable for providing such services,

"(iii) provide for continuous active treatment for such clients under the clients' IPPs after their discharge from the facility,

"(iv) identify necessary safeguards (including adequate standards for provider participation) to be taken to protect the health and welfare of such clients, and

"(v) provide sufficient preparation and orientation to facilitate their safe and orderly transfer to another habilitation facility or integration into the community;

however, individually identifiable information identified under this subparagraph and respecting a client shall be treated as confidential and not made available to the public.

"(B) The plan must permit each client of the facility who would continue to be eligible for medical assistance while a client of such a facility the option of remaining a client of such a facility or a similar facility.

"(C) The plan must specify the actions to be taken, including maintenance of adequate ratios of qualified staff to clients, to protect the health and safety of, and to provide for continuous active treatment under the clients' IPPs for, clients who remain at the facility while the reduction plan is in effect.

"(4) SEMIANNUAL REVIEW OF COMPLIANCE.—The Secretary shall, at 6-month intervals, review compliance of States with reduction plans approved under this subsection. If the Secretary determines in such a review that the State has failed to comply with the requirements of paragraph (3) or the assurances described in subsection (j), the Secretary shall—

"(A) terminate the facility's participation under the State plan, or

"(B) disallow, for purposes of Federal financial participation, an amount equal to 5 percent of the cost of care for all eligible individuals in the facility for each month for which the failure continues.

If the Secretary determines in such a review that the State has failed to comply with the requirement of paragraph (3)(C), the Secretary shall disallow, for purposes of Federal financial participation, the cost of care for all eligible individuals in the facility for each month for which the failure continues.".

(b) REPEAL OF PREVIOUS CORRECTION AND REDUCTION PLAN PROVISION.—

(1) IN GENERAL.—Section 1922 of such Act (42 U.S.C. 1396r) is repealed.

(2) APPLICATION TO FACILITIES SUBJECT TO STATE AGENCY ACTION.—Effective for findings occurring on or after May 1, 1989, section 1922(a) of such Act (42 U.S.C. 1396r-3(a)) is amended by inserting "or the State" after "If the Secretary".

(c) CONFORMING AMENDMENTS.—(1) Section 1902(i) of such Act (42 U.S.C. 1396a(i)) shall not apply to intermediate care facilities for the mentally retarded on or after the date of the enactment of this Act.

(2) Section 1910 of such Act (42 U.S.C. 1396i) is amended—

(A) by striking subsection (b), and

(B) in subsection (a), by striking "(a)(1)" and "(2)" and inserting "(a)" and "(b)", respectively.

SEC. 4234. EFFECTIVE DATES.

(a) NEW REQUIREMENTS AND SURVEY AND CERTIFICATION PROCESS.—Except as otherwise specifically provided in section 1928 of the Social Security Act, the amendments made by sections 4231 and 4232 (relating to habilitation facility requirements and survey and certification requirements) shall apply to habilitation facility services furnished on or after January 1, 1991, without regard to whether regulations to implement such amendments are promulgated by such date.

(b) ENFORCEMENT.—(1) Except as otherwise specifically provided in section 1928 of the Social Security Act, in section 4233(b)(2) of this Act, or in paragraph (2) of this subsection, the amendments made by section 4233 of this Act shall take effect on the date of the enactment of this Act and shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after the date of the enactment of this Act, without regard to whether regulations to implement such amendments are promulgated by such date, but shall not apply to findings of noncompliance made before such date.

(2) The repeal made by section 4233(b)(1) shall take effect on January 1, 1990, but shall not apply to correction and reduction plans under section 1922 of the Social Security Act which were approved before the date of the enactment of this Act. Such

repeal also shall not apply to a correction or reduction plan submitted to the Secretary of Health and Human Services, pursuant to the amendment made by section 4233(b)(2), within 65 days after the date of the enactment of this Act and, in the case of a finding of deficiencies made before the date of the enactment of this Act, the State may submit such a correction plan not later than 30 days after the date of the enactment of this Act and may submit such a reduction plan not later than 65 days after such date of enactment.

(c) TRANSITIONAL RULE.—In applying the amendments made by this subpart for services furnished before January 1, 1991—

(A) any reference to an habilitation facility is deemed a reference to an intermediate care facility for the mentally retarded, and

(B) with respect to such an habilitation facility, any reference to a requirement of subsection (b), (c), or (d), is deemed a reference to the provisions of section 1861(j) or section 1905(c), respectively, of the Social Security Act.

(d) WAIVER OF PAPERWORK REDUCTION, ETC.—Chapter 35 of title 44, United States Code, and Executive Order 12291 shall not apply to information and regulations required for purposes of carrying out this subpart and implementing the amendments made by this subpart.

(e) RELATION TO CURRENT REGULATIONS.—For any period before the effective date of the requirements established under this subpart, nothing in this subpart shall be construed as superseding the final regulations (published on June 3, 1988, 53 Federal Register 20448) setting forth conditions for intermediate care facilities for the mentally retarded under the Medicaid program.

SEC. 4235. ANNUAL REPORT.

The Secretary of Health and Human Services shall report to the Congress annually on the extent to which habilitation facilities are complying with the requirements of subsections (b), (c), and (d) of section 1928 of the Social Security Act (as added by the amendments made by this subpart) and the number and type of enforcement actions taken by States and the Secretary under section 1928(h) of such Act (as added by section 4233 of this subpart).

Subpart 3—Appropriate Placement for Individuals with Mental Retardation or a Related Condition

SEC. 4241. STATE PREADMISSION SCREENING AND ANNUAL CLIENT REVIEW REQUIREMENTS.

Section 1928 of the Social Security Act, as inserted by section 4231 of this part, is further amended by inserting after subsection (d) the following new subsection:

"(e) STATE REQUIREMENT FOR PREADMISSION SCREENING AND CLIENT REVIEW.—

"(1) IN GENERAL.—

"(A) STATE CONDITION OF PLAN APPROVAL.—

"(i) IN GENERAL.—As a condition of approval of its plan under this title, effective January 1, 1991, the State must have in effect a preadmission screening program, for making determinations (using any criteria developed under subparagraph (B)) described in subsection (b)(4)(D) for individuals with mental retardation or a related condition (as defined in section 1905(s)) who are admitted to habilitation facilities on or after January 1, 1991. The failure of the Secretary to develop minimum criteria under subparagraph (B) shall not relieve any State of its responsibility to have a preadmission screening program under this paragraph or to perform client reviews under paragraph (2).

"(ii) TREATMENT OF READMISSIONS.—Clause (i) shall not apply to a readmission of a client upon discharge from a hospital.

"(iii) DELAY IN APPLICATION OF PREADMISSION SCREENING FOR PRIVATE PAY CLIENTS.—In the case of an clients who, at the time of admission to an habilitation facility, is not entitled to benefits under this title, the preadmission screening requirements of this subparagraph shall not apply until such time as the client is so entitled and, in such case, the preadmission screening requirements shall apply as of the end of the day following the date on which the individual is determined to be so entitled. The previous sentence shall not be construed as prohibiting a State from imposing such a preadmission screening requirement with respect to clients not so entitled at the time of admission.

"(B) FEDERAL MINIMUM CRITERIA AND MONITORING FOR PREADMISSION SCREENING AND CLIENT REVIEW.—

"(i) MINIMUM CRITERIA.—The Secretary shall develop, by not later than July 1, 1990, minimum criteria for States to use in making determinations with respect to habilitation facility services under subsection (b)(4)(D) and paragraph (2) of this subsection and in permitting individuals adversely affected to appeal such determinations, and shall notify the States of such criteria.

"(ii) MONITORING COMPLIANCE.—The Secretary shall review a sufficient number of cases to allow reasonable inferences about the adequacy of each State's compliance with the requirements of paragraph (3)(A) (relating to discharge and placement for active treatment of certain clients).

"(2) STATE REQUIREMENT FOR ANNUAL CLIENT REVIEW.—

"(A) IN GENERAL.—As of January 1, 1991, except as provided in subparagraph (A)(iii), in the case of each client of an habilitation facility, the State mental retardation or developmental disability authority must review and determine (using any criteria developed under subsection (f)(8) and based on an independent evaluation performed on site by a person or entity other than the facility)—

"(i) whether or not the client requires the level of services provided by an habilitation facility; and

"(ii) whether or not the client requires community habilitation and supportive services.

Such independent evaluation shall take into account the comprehensive functional assessment under subsection (b)(4).

"(B) FREQUENCY OF REVIEWS.—

"(i) ANNUAL.—Except as provided in clauses (ii) and (iii), the reviews and determinations under subparagraph (A) must be conducted with respect to each client not less often than annually.

"(ii) PREADMISSION REVIEW CASES.—In the case of a client subject to a preadmission review under subsection (b)(3)(F), the review and determination under subparagraph (A) need not be done until the client has resided in the habilitation facility for 1 year.

"(iii) INITIAL REVIEW.—The reviews and determinations under subparagraph (A) must first be conducted (for each client not subject to preadmission review under subsection (b)(3)(F)) by not later than January 1, 1992.

"(C) DELAY IN APPLICATION OF ANNUAL CLIENT REVIEW FOR PRIVATE PAY CLIENTS.—In the case of a client who, at the time of admission to an habilitation facility, is not entitled to benefits under this title, the annual client review requirements of this subparagraph shall not apply until such time as the client is so entitled. The previous sentence shall not be construed as prohibiting a State from imposing such an annual client review requirement with respect to individuals not so entitled at the time of admission.

"(3) RESPONSE TO PREADMISSION SCREENING AND CLIENT REVIEW.—As of January 1, 1991, the State must meet the following requirements:

"(A) CLIENTS NOT REQUIRING HABILITATION FACILITY SERVICES, BUT REQUIRING COMMUNITY HABILITATION AND SUPPORTIVE SERVICES.—In the case of a client who is determined, under paragraph (2), not to require the level of services provided by an habilitation facility, but to require community habilitation and supportive services, the State must, in consultation with the client's family or legal representative and care-givers—

"(i) arrange for the safe and orderly discharge of the client from the facility, consistent with the requirements of subsection (c)(2),

"(ii) prepare and orient the client for such discharge, and

"(iii) provide for (or arrange for the provision of) such community habilitation and supportive services for the mental retardation or a related condition.

"(B) CLIENTS NOT REQUIRING HABILITATION FACILITY SERVICES AND NOT REQUIRING COMMUNITY HABILITATION AND SUPPORTIVE SERVICES.—In the case of a client who is determined, under paragraph (2), not to require the level of services provided by an habilitation facility and not to require community habilitation and supportive services, the State must—

"(i) arrange for the safe and orderly discharge of the client from the facility, consistent with the requirements of subsection (c)(2), and

"(ii) prepare and orient the client for such discharge.

"(4) DENIAL OF PAYMENT.—

"(A) WHERE FAILURE TO CONDUCT PREADMISSION SCREENING.—No payment may be made under section 1903(a) with respect to habilitation facility services furnished to an individual for whom a determination is required under subsection (b)(3)(F) or paragraph (2) but for whom the determination is not made.

"(B) FOR RESIDENTS NOT REQUIRING HABILITATION FACILITY LEVEL OF SERVICES.—No payment may be made under section 1903(a) with respect to habilitation facility services furnished to a client who is determined, under paragraph (2), not to require the level of services provided by an habilitation facility.

"(5) APPEALS PROCEDURES BOTH FOR PREADMISSION DETERMINATIONS AND CLIENT REVIEW AND FOR TRANSFERS AND DISCHARGES.—

"(A) PREADMISSION AND CLIENT REVIEW DETERMINATIONS.—Each State, as a condition of approval of its plan under this title, effective January 1, 1991, must have in effect an appeals process for individuals adversely affected by determinations under paragraph (1) or (2).

"(B) TRANSFERS AND DISCHARGES.—Each State, as a condition of approval of its plan under this title, effective January 1, 1991, must provide for a fair mechanism for hearing appeals on transfers or discharges of clients of habilitation facilities. Such mechanism must meet the guidelines established by the Secretary under subsection (f)(3); but the failure of the Secretary to establish such guidelines shall not relieve any State

of its responsibility to provide for such a fair mechanism.".

SEC. 4242. REVISION OF UTILIZATION REVIEW PROVISIONS.

(a) REVISION OF STATE PLAN REQUIREMENT.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (30)(B), by striking ", intermediate care facility for the mentally retarded," in clauses (i) and (ii)(II), and

(2) by striking paragraph (31), and

(3) in paragraph (44)—

(A) in the matter before subparagraph (A), by striking ", services in an intermediate care facility for the mentally retarded,",

(B) in subparagraph (A), by striking "(or, in the case of skilled" the first place it appears and all that follows through "a physician)",

(C) in subparagraph (A), by striking "or, in the case of" the second place it appears and all that follows through "in collaboration with a physician,",

(D) in subparagraph (A), by striking "(or, in the case of services" and all that follows through "every year)", and

(E) in subparagraph (B), by striking "or, in the case" and all that follows through "with a physician".

(b) REVISION OF PENALTY PROVISIONS.—Section 1903(g) of such Act (42 U.S.C. 1396b(g)) is amended—

(1) in paragraph (1)—

(A) by striking "or services in an intermediate care facility for the mentally retarded" each place it appears,

(B) by striking "and intermediate care facilities for the mentally retarded", and

(C) by striking "paragraphs (26) and (31)" and inserting "paragraph (26)";

(2) in paragraph (4)(B)—

(A) by striking "and intermediate care facilities for the mentally retarded",

(B) by striking "paragraphs (26) and (31)" and inserting "paragraph (26)", and

(C) by striking "and facilities" and "or facility" each place it appears;

(3) in paragraph (5)—

(A) by striking "facility or institutional" and inserting "inpatient hospital", and

(B) by striking "facilities or institutions" each place it appears and inserting "hospitals"; and

(4) in paragraph (6)—

(A) by striking subparagraph (B), and

(B) by redesignating subparagraph (C) as subparagraph (B).

(c) CONFORMING AMENDMENTS.—(1) Section 1128(b)(12)(B) of such Act (42 U.S.C.1320a-7(b)(12)(B)) is amended by striking "(26), (31), and (33)" and inserting "(26) and (33)".

(2) Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (33)(B), by striking "section 1919(g)" and inserting "section 1919 and section 1928", and

(B) in the third sentence, by striking "(9)(A), (31), and (33)" and inserting "(9)(A) and (31)".

(3) Section 1905(a)(15) of such Act (42 U.S.C. 1396d(a)(15)) is amended by striking "for individuals" and all that follows through "in need of such care".

(d) EFFECTIVE DATE.—The amendments made by this section shall not apply to a State until such date as of which the Secretary of Health and Human Services determines that the State has begun conducting annual surveys under section 1928(g) of such Act.

Subpart 4—Payment for Community Habilitation and Supportive Services and Habilitation Facility Services

SEC. 4244. PAYMENT FOR COMMUNITY HABILITATION AND SUPPORTIVE SERVICES AND HABILITATION FACILITY SERVICES.

(a) REASONABLE AND ADEQUATE PAYMENTS.—Section 1902(a)(13) of the Social Security Act (42 U.S.C. 1396a(a)(13)) is amended—

(1) by striking "and" at the end of subparagraph (D),

(2) by inserting "and" at the end of subparagraph (E), and

(3) by adding at the end the following new subparagraph:

"(F) for payment—

"(i) for community habilitation and supportive services (as defined in section 1927(a)) through rates which are reasonable and adequate (and which may not be established on a capitation basis or any other risk basis) to meet the costs of providing services, efficiently and economically, in conformity with applicable State and Federal laws, regulations, and quality and safety standards (including those described in section 1927(e)(1)(B)),

"(ii) for habilitation facility services through rates which are reasonable and adequate (and which may not be established on a capitation basis or any other risk basis) to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable State and Federal laws, regulations, and quality and safety standards, and

"(iii) for services described in clause (i) or (ii) through methodologies which do not distinguish between State-operated providers and other providers;".

(b) DENIAL OF FEDERAL PAYMENTS TO COMPENSATE FOR CIVIL MONEY PENALTIES.—Section 1903(i)(8) of such Act (42 U.S.C. 1396b(i)(8)) is amended by inserting "(A)" after "medical assistance" and by inserting before the semicolon at the end the following: ", (B) for community habilitation and supportive services or habilitation facility services to reimburse (or otherwise compensate) a provider of such services or habilitation facility for payment of a civil money penalty imposed under this title or title XI".

(c) EFFECTIVE DATE.—(1) The amendments made by subsection (a) shall apply—

(A) to community habilitation and supportive services furnished on or after July 1, 1990, or, if later, 30 days after the date of publication of interim regulations under section 1927(i)(1) of the Social Security Act, and

(B) to habilitation facility services furnished on or after January 1, 1991.

(2) The amendments made by subsection (b) shall apply to civil money penalties imposed after the date of the enactment of this Act.

Subpart 5—Employee Protections and Miscellaneous

SEC. 4247. EMPLOYEE PROTECTIONS FOR CLOSURES AND REDUCTIONS IN CAPACITY.

(a) IN GENERAL.—Section 1928 of the Social Security Act, as inserted by section 4231 and amended by sections 4232 and 4233 of this part, is further amended by adding at the end the following new subsection:

"(j) EMPLOYEE PROTECTIONS FOR CAPACITY REDUCTIONS.—

"(1) IN GENERAL.—As a requirement of its State plan under section 1902(a), the State must provide that, in the case of any closure or reduction in capacity (whether through a reduction plan under subsection (i) or otherwise) of an habilitation facility in the State made on or after the date of the enactment of this subsection, the following fair and equitable arrangements have been made to protect the interests of employees of the facility affected by such closure or reduction:

"(A) The preservation of rights, privileges, and benefits (including continuation of pension rights and benefits), under applicable collective bargaining agreements.

"(B) The continuation of collective bargaining rights through any certified representative.

"(C) The protection of individual employees against a worsening of their positions with respect to their employment at the facility during the period of the closure or reduction.

"(D) Except as provided in paragraph (3), assurance of employment of affected employees with at least the same compensation (including benefits) and a comparable level of job responsibilities. In the case of a State-operated habilitation facility, the State must offer to affected employees of the facility employment, with at least the same compensation (including benefits) and a comparable level of job responsibilities, with a provider of community services to individuals with mental retardation or a related condition or in a residential setting in which such services are provided.

"(E) The establishment of paid training or retraining programs for employment of affected employees in the provision of community services to individuals with mental retardation or a related condition.

"(F) Provision of—

"(i) a grievance procedure (meeting the requirements of paragraph (2)) for affected employees to assure the preceding requirements have been met with respect to such employees, or

"(ii) another grievance procedure with respect to affected employees who have a certified bargaining representative, if such other grievance procedure has been agreed to by the State and by the certified bargaining representative.

"(2) REQUIREMENTS FOR GRIEVANCE PROCEDURE.—The grievance procedure under paragraph (1)(F)(i) shall include the following:

"(A) Within 30 days after the date of presentation of a grievance to the management of a facility, a response from the management of the facility and, during the 60-day period beginning on the date of the presentation, informal resolution of the grievance.

"(B) After such 60-day period, the affected employee shall be permitted, at the employee's election, the option of (i) submitting the grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties, or (ii) a hearing on the grievance before the appropriate State agency.

"(C) An arbitration proceeding or hearing on the grievance, under subparagraph (B), shall be held within 45 days after the date of the request for such arbitration or hearing under such subparagraph.

"(D) A decision on the grievance shall be made within 30 days after the date of such proceeding or hearing.

"(E) Costs of the arbitration proceeding shall be divided evenly between the affected employee and the State and costs of the hearing shall be borne by the State.

Costs of the State under subparagraph (E), and comparable costs of the State under another grievance procedure under paragraph

(1)(F)(ii), shall not be considered, for purposes of section 1903(a), costs of administration of the State plan under this title.

"(3) CONSTRUCTION.—Nothing in paragraph (1) shall be construed—

"(A) as entitling an affected employee to lifetime employment,

"(B) as protecting an employee against a discharge for good cause, or

"(C) as superceding or abrogating any collective bargaining agreement or any statutory or contractual labor/management negotiating process to the extent that such agreement or process contains protections for individual employees that comply with the requirements of paragraph (1).".

(b) PAYMENT FOR TRAINING AND RETRAINING COSTS.—Section 1903(b) of such Act (42 U.S.C. 1396b(b)) is amended by adding at the end the following new paragraph:

"(4) Federal reimbursement is available under subsection (a)(7) for reasonable expenses associated with training and retraining programs for habilitation facility employees pursuant to section 1928(j)(1)(E).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 4248. USE OF STATE DEVELOPMENTAL DISABILITIES AGENCY IN CERTAIN MEDICAID ADMINISTRATIVE FUNCTIONS.

(a) IN GENERAL.—Section 1902(a)(5) of the Social Security Act (42 U.S.C. 1396a(a)(5)) is amended—

(1) by inserting "(A)" after "except that", and

(2) by inserting before the semicolon at the end the following ", and (B) nothing in this paragraph shall be construed as preventing a State plan from assigning, to a State agency responsible for developmentally disabled individuals, specific management functions under the plan relating to provision of services under the plan to individuals with mental retardation or a related condition".

(b) AVAILABILITY OF MATCHING FUNDS.—Section 1903(a) of such Act (42 U.S.C. 1396b(a)) is amended by adding at the end the following:

"Payment shall be made available under paragraph (7) for amounts expended for reasonable administrative expenses of a State agency described in section 1902(a)(5)(B) in carrying out activities described in that section in the same manner as they are available for similar reasonable administrative expenses of the single State agency described in section 1902(a)(5).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

PART D—FRAIL ELDERLY COMMUNITY CARE AMENDMENTS

SEC. 4251. COMMUNITY CARE AS OPTIONAL, STATEWIDE SERVICE.

(a) PROVISION AS OPTIONAL, STATEWIDE SERVICE.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)), as amended by sections 4203(a) and 4221(a) of this subtitle, is amended—

(1) by striking "and" at the end of paragraph (22),

(2) by redesignating paragraph (23) as paragraph (24), and

(3) by inserting after paragraph (22) the following new paragraph:

"(23) community care (as defined in section 1929(a)) for functionally disabled elderly individuals; and".

(b) COMMUNITY CARE FOR FUNCTIONALLY DISABLED ELDERLY INDIVIDUALS.—Title XIX of such Act, as amended by section 303(a) of the Family Support Act of 1988 (Public Law 100-485) and as amended by sections 4204(b), 4221(b), and 4231(a) of this subtitle, is amended—

(1) by redesignating section 1929 as section 1930, and

(2) by inserting after section 1928 the following new section:

"COMMUNITY CARE FOR FUNCTIONALLY DISABLED ELDERLY INDIVIDUALS

"SEC. 1929. (a) COMMUNITY CARE DEFINED.—In this title, the term 'community care' means one or more of the following services furnished to an individual who has been determined, after an assessment under subsection (c), to be a functionally disabled elderly individual, and in accordance with an individual community care plan (established and periodically reviewed and revised by a qualified community care case manager under subsection (d)):

"(1) Homemaker/home health aide services.

"(2) Chore services.

"(3) Personal care services.

"(4) Nursing care services (other than continuous 24-hour nursing care services) provided by, or under the supervision of, a registered nurse.

"(5) Respite care.

"(6) Training for family members in managing the individual.

"(7) Adult day health services.

"(8) In the case of an individual with chronic mental illness, day treatment or other partial hospitalization, psychosocial rehabilitation services, and clinic services (whether or not furnished in a facility).

"(9) Such other home and community-based services (other than room and board) as the Secretary may approve.

With respect to services described in paragraphs (1) through (4), the services must be provided in a place of residence used as the individual's home.

"(b) FUNCTIONALLY DISABLED ELDERLY INDIVIDUAL DEFINED.—

"(1) IN GENERAL.—In this title, the term 'functionally disabled elderly individual' means an individual who—

"(A) is 65 years of age or older;

"(B) is determined to be a functionally disabled individual under subsection (c); and

"(C)(i) subject to section 1902(f) (as applied consistent with section 1902(r)(2)), is described in section 1902(a)(10)(A)(i), or

"(ii) at the option of the State, is described in section 1902(a)(10)(C).

"(2) TREATMENT OF CERTAIN INDIVIDUALS COVERED UNDER CERTAIN WAIVERS.—

"(A) HOME AND COMMUNITY-BASED WAIVERS.—In the case of a State which—

"(i) at the time of its election to provide coverage for community care under this section has a waiver approved under section 1915(c) or 1915(d) with respect to individuals 65 years of age or older, and

"(ii) subsequently discontinues such waiver,

individuals who were eligible for benefits under the waiver as of the date of its discontinuance and who would, but for income or resources, be eligible for medical assistance for community care under the plan shall, notwithstanding any other provision of this title, be deemed a functionally disabled elderly individual for so long as the individual would have remained eligible for medical assistance under such waiver.

"(B) OTHER WAIVERS.—In the case of a State which, as of December 31, 1989, has in effect a waiver under section 1115 that provides under the State plan under this title for personal care services for functionally disabled individuals, the term 'functionally disabled elderly individual' may include, at the option of the State, an individual who—

"(i) is 65 years of age or older or is disabled (as determined under the supplemental security income program under title XVI);

"(ii) is determined to meet the test of functional disability applied under the waiver as of such date; and

"(iii) meets the resource requirement and income standard that apply in the State to individuals described in section 1902(a)(10)(A)(ii)(V).

"(3) USE OF PROJECTED INCOME.—In applying section 1903(f)(1) in determining the eligibility of an individual (described in section 1902(a)(10)(C)) for medical assistance for community care, a State may, at its option, provide for the determination of the individual's anticipated medical expenses (to be deducted from income) over a period of up to 6 months.

"(c) DETERMINATIONS OF FUNCTIONAL DISABILITY.—

"(1) IN GENERAL.—In this section, an individual is 'functionally disabled' if the individual—

"(A) due solely to physical impairment or due solely to mental illness, is unable to perform without substantial assistance from another individual at least 2 (or, at the option of the State, 3 or 4) of the following activities of daily living: bathing, dressing, toileting, transferring, and eating; or

"(B) has a primary or secondary diagnosis of Alzheimer's disease.

For purposes of this section, an individual is considered to have a 'mental illness' if the individual has primary or secondary diagnosis of mental disorder (as defined in the Diagnostic and Statistical Manual of Mental Disorders, 3rd edition).

"(2) ASSESSMENTS OF FUNCTIONAL DISABILITY.—

"(A) REQUESTS FOR ASSESSMENTS.—If a State has elected to provide community care under this section, upon the request of an individual who is 65 years of age or older and who meets the requirements of subsection (b)(1)(C) (or another person on such individual's behalf), the State shall provide for a comprehensive functional assessment under this subparagraph which—

"(i) is used to determine whether or not the individual is functionally disabled,

"(ii) is based on a uniform minimum data set specified by the Secretary under subparagraph (C)(i), and

"(iii) uses an instrument which has been specified by the State under subparagraph (B).

No fee may be charged for such an assessment.

"(B) SPECIFICATION OF ASSESSMENT INSTRUMENT.—The State shall specify the instrument to be used in the State in complying with the requirement of subparagraph (A)(iii). Such instrument shall be—

"(i) one of the instruments identified under subparagraph (C)(ii), or

"(ii) an instrument which the Secretary has approved as being consistent with the minimum data set of core elements, common definitions, and utilization guidelines specified by the Secretary in subparagraph (C)(i).

"(C) SPECIFICATION OF ASSESSMENT DATA SET AND INSTRUMENTS.—The Secretary shall—

"(i) not later than July 1, 1990—

"(I) specify a minimum data set of core elements and common definitions for use in conducting the assessments required under subparagraph (A), and

"(II) establish guidelines for use of the data set; and

"(ii) by not later than July 1, 1990, identify one or more instruments which are consistent with the specification made under subparagraph (A) and which a State may specify under subparagraph (B) for use in complying with the requirements of subparagraph (A).

"(D) PERIODIC REVIEW.—Each individual who qualifies as a functionally disabled elderly individual shall have the individual's assessment periodically reviewed and revised not less often than once every 12 months.

"(E) CONDUCT OF ASSESSMENT BY INTERDISCIPLINARY TEAMS.—

"(i) IN GENERAL.—An assessment under subparagraph (A) and a review under subparagraph (D) must be conducted by an interdisciplinary team designated by the State.

"(ii) DELEGATION.—The Secretary shall permit a State to provide for assessments and reviews through teams under contracts—

"(I) with State or local agencies, or

"(II) with nonprofit or public organizations which do not provide community care or nursing facility services and do not have a direct or indirect ownership or control interest in, or direct or indirect affiliation or relationship with, an entity that provides, community care or nursing facility services.

"(F) CONTENTS OF ASSESSMENT.—The interdisciplinary team must—

"(i) identify in each such assessment or review each client's functional disabilities and need for community care (based on social, cognitive, and other relevant factors), and

"(ii) based on such assessment or review, determine whether the individual is (or continues to be) functionally disabled.

The results of such an assessment or review shall be used in establishing, reviewing, and revising the individual's ICCP under subsection (d)(1).

"(G) APPEAL PROCEDURES.—Each State which elects to provide community care under this section must have in effect an appeals process for individuals adversely affected by determinations under subparagraph (F).

"(d) INDIVIDUAL COMMUNITY CARE PLAN (ICCP).—

"(1) INDIVIDUAL COMMUNITY CARE PLAN DEFINED.—In this section, the terms 'individual community care plan' and 'ICCP' mean, with respect to a functionally disabled elderly individual, a written plan which—

"(A)(i) is established by a qualified community care case manager in face-to-face consultation with (and with notice to) the individual and based upon a visit to the individual in the individual's residence and the most recent comprehensive functional assessment of such individual conducted under subsection (c)(2);

"(ii) is periodically reviewed and (as appropriate) revised by such a manager in face-to-face consultation with (and with notice to) the individual and based upon a visit to the individual in the individual's residence and the most recent comprehensive functional assessment of such individual conducted under subsection (c)(2);

"(B) reflects, consistent with subparagraph (C), the needs and preferences of the individual and, to the extent feasible, allows for and promotes the direction and oversight of community care by the individual;

"(C) specifies, within any amount, duration, and scope limitations imposed on community care provided under the State plan, the community care to be provided to such individual under the plan;

"(D) does not include community care for which payment is made by the individual or on the individual's behalf; and

"(E) may specify services (other than those to be provided to the individual under the plan) required by such individual.

Nothing in this section shall be construed as authorizing an ICCP or the State to restrict the specific persons or individuals (who are competent to provide community care under the State plan) who will provide the community care described in subparagraph (C).

"(2) QUALIFIED COMMUNITY CARE CASE MANAGER DEFINED.—In this section, the term 'qualified community care case manager' means a nonprofit or public agency or organization which—

"(A) has experience in establishing, and in periodically reviewing and revising, assessments or individual community care plans and in the provision of case management services to the elderly;

"(B) is responsible (i) for assuring that community care covered under the State plan and specified in the ICCP is being provided and (ii) for visiting each individual receiving such care at the individual's residence not less often than once every 90 days;

"(C) in the case of a non-public organization, does not provide community care or nursing facility services and does not have a direct or indirect ownership or control interest in, or direct or indirect affiliation or relationship with, an entity that provides, community care or nursing facility services;

"(D) has procedures for assuring the quality of case management services it provides; and

"(E) meets such other standards, established by the Secretary, as assure that—

"(i) such a manager is competent to perform case management functions,

"(ii) individuals whose community care they manage are not at risk of financial exploitation due to such a manager, and

"(iii) meets such other standards as the State may establish.

"(3) APPEAL PROCEDURES.—Each State which elects to provide community care under this section must have in effect an appeals process for individuals who disagree with the ICCP established under this subsection.

"(e) CEILING ON PAYMENT AMOUNTS AND MAINTENANCE OF EFFORT.—

"(1) CEILING ON PAYMENT AMOUNTS.—Payments may not be made under section 1903(a) to a State for community care provided under this section in a quarter to the extent that the medical assistance for such care in the quarter exceeds 30 percent of the product of—

"(A) the average number of individuals in the quarter receiving such care under this section,

"(B) the average per diem rate of payment which the Secretary has determined (before the beginning of the quarter) will be payable under title XVIII (without regard to coinsurance) for extended care services to be provided in the State during such quarter, and

"(C) the number of days in such quarter.

"(2) MAINTENANCE OF EFFORT.—

"(A) ANNUAL REPORTS.—As a condition for the receipt of payment under section 1903(a) with respect to medical assistance provided by a State for community care (other than under a waiver under section 1915(c)) to functionally disabled elderly individuals, the State shall report to the Secretary, with respect to each Federal fiscal year (beginning with fiscal year 1989) and in a format developed or approved by the Secretary, the amount of non-Federal funds obligated by the State (including funds obligated by localities in the State) with respect to the provision of community care (other than under such a waiver) to functionally disabled elderly individuals in that fiscal year.

"(B) REDUCTION IN PAYMENT IF FAILURE TO MAINTAIN EFFORT.—In applying section 1903(a)(1) with respect to the total amount expended by a State for calendar quarters in a fiscal year (beginning with fiscal year 1990) for community care to the functionally disabled elderly individuals (other than under a waiver under section 1915(c)), such expenditures shall be reduced by the amount reported under subparagraph (A) with respect to fiscal year 1989.

"(3) DIRECT PAYMENT TO PROVIDERS OF COMMUNITY CARE.—Nothing in this title shall be construed as authorizing a State to permit payment for community care to be made through a qualified community care case manager.

"(f) MINIMUM REQUIREMENTS FOR COMMUNITY CARE.—

"(1) IN GENERAL.—Community care provided under this section must meet such requirements for individuals' rights and quality as are published or developed by the Secretary under subsection (j). Such requirements shall include—

"(A) the requirement that individuals providing community care are competent to provide such care,

"(B) guidelines for such minimum compensation for individuals providing such care as will assure the availability and continuity of competent individuals to provide such care for functionally disabled individuals who have functional disabilities of varying levels of severity, and

"(C) the rights specified in paragraph (2).

Nothing in this section shall be construed as preventing competent individuals (other than members of the family of an individual) from providing, and being paid directly for, community care.

"(2) SPECIFIED RIGHTS.—The rights specified in this paragraph are as follows:

"(A) FREE CHOICE.—The right to be fully informed in advance about care and treatment, to be fully informed in advance of any changes in care or treatment that may affect the individual's well-being, and (except with respect to an individual adjudged incompetent) to participate in planning care and treatment or changes in care and treatment.

"(B) FREE FROM RESTRAINTS.—The right to be free from physical or mental abuse, corporal punishment, involuntary seclusion, and any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the individual's medical symptoms. Restraints may only be imposed—

"(i) to ensure the physical safety of the individual or other individuals, and

"(ii) only upon the written order of a physician that specifies the duration and circumstances under which the restraints are to be used (except in emergency circumstances specified by the Secretary until such an order could reasonably be obtained).

"(C) PRIVACY.—The right to privacy with regard to accommodations, medical treatment, written and telephonic communications, visits, and meetings of family and friends and of groups.

"(D) CONFIDENTIALITY.—The right to confidentiality of personal and clinical records.

"(E) GRIEVANCES.—The right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal (or threat of discrimination or reprisal) for voicing the grievances and the right to prompt efforts by the provider to resolve grievances the individual may have, including those with respect to the behavior of other individuals.

"(F) OTHER RIGHTS.—Any other right established by the Secretary.

"(g) MINIMUM REQUIREMENTS FOR COMMUNITY CARE SETTINGS.—

"(1) COMMUNITY CARE SETTING DEFINED.—In this section, the term 'community care setting' means—

"(A) a nonresidential setting, or

"(B) a residential setting (including a foster home, board-and-care facility, or other group living arrangement, but not including a setting to the extent it is a nursing facility) in which more than 2 unrelated adults reside and in which personal services (other than merely board) are provided in conjunction with residing in the setting,

in which community care under this section is provided.

"(2) MINIMUM REQUIREMENTS.—A community care setting in which community care is provided under this section must meet the following requirements:

"(A) SECRETARIAL REQUIREMENTS.—A setting must meet such requirements as are published or developed by the Secretary under subsection (j).

"(B) SPECIFIED RIGHTS, RIGHTS OF INCOMPETENT RESIDENTS, USE OF PSYCHOPHARMACOLOGIC DRUGS, ACCESS AND VISITATION RIGHTS, PROTECTION OF RESIDENT FUNDS.—A setting must meet the requirements of subparagraphs (A), (C), and (D) of paragraph (1), paragraph (3), and paragraph (6) of section 1919(c), to the extent applicable to such a setting.

"(C) NOTICE OF RIGHTS.—A setting must inform each individual receiving community care under this section in the setting, orally and in writing at the time the individual first receives community care in the setting, of the individual's legal rights with respect to such a setting and the care provided in the setting.

"(D) LICENSING.—A setting must be licensed under applicable State and local law.

"(E) LIFE SAFETY CODE.—A setting must meet such provisions of such edition (as specified by the Secretary in regulation) of the Life Safety Code of the National Fire Protection Association as are applicable and appropriate to the community care setting; except that—

"(i) the Secretary may waive, for such periods as he deems appropriate, specific provisions of such Code which if rigidly applied would result in unreasonable hardship upon a setting, but only if such waiver would not adversely affect the health and safety of clients or personnel, and

"(ii) the provisions of such Code shall not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects clients of and personnel in community care settings.

"(F) SANITARY AND INSPECTION CONTROL AND MAINTENANCE OF PHYSICAL ENVIRONMENT.—A setting must—

"(i) establish and maintain infection control standards designed to provide a safe, sanitary, and comfortable environment in which residents reside and to help prevent the development and transmission of disease and infection, and

"(ii) be maintained in a manner to protect the health and safety of residents, personnel, and the general public.

"(3) DISCLOSURE OF OWNERSHIP AND CONTROL INTERESTS AND EXCLUSION OF REPEATED VIOLATORS.—A community care setting—

"(A) must disclose persons with an ownership or control interest (including such persons as defined in section 1124(a)(3)) in the setting, and

"(B) may not have, as a person with an ownership or control interest in the setting, any individual or person who has been excluded from participation in the program under this title or who has had such an ownership or control interest in one or more community care settings which have been found repeatedly to be substandard or to have failed to meet the requirements of paragraph (2).

"(h) SURVEY AND CERTIFICATION PROCESS.—

"(1) CERTIFICATIONS.—

"(A) RESPONSIBILITIES OF THE STATE.—

"(i) IN GENERAL.—Under each State plan under this title, the State shall be responsible for certifying the compliance of providers of community care and community care settings with the applicable requirements of subsections (f) and (g).

"(ii) CONSTRUCTION.—The failure of the Secretary to issue regulations to carry out this subsection shall not relieve a State of its responsibility under this subsection.

"(B) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall be responsible for certifying the compliance of State providers of community care, and of State community care settings in which such care is provided, with the requirements of subsections (f) and (g).

"(C) FREQUENCY OF CERTIFICATIONS.—Certification of providers and settings under this subsection shall occur no less frequently than once every 12 months.

"(2) REVIEWS OF PROVIDERS.—

"(A) IN GENERAL.—The certification under this subsection with respect to a provider of community care must be based on a periodic review of the provider's performance in providing the care required under ICPP's in accordance with the requirements of subsection (f). Such periodic review shall be conducted, not less often than annually, by an agency (other than the single State agency described in section 1902(a)(5)) and shall be based on information that includes the views of qualified community care case managers whose clients have received community care from such providers and from a sample of individuals receiving community care from such providers.

"(B) SPECIAL REVIEWS OF COMPLIANCE.—If the Secretary has reason to question the compliance of a provider of community care with any of the requirements of subsection (f), the Secretary may conduct a review of the provider and, on the basis of that review, make independent and binding determinations concerning the extent to which the provider meets such requirements.

"(3) SURVEYS OF COMMUNITY CARE SETTINGS.—

"(A) IN GENERAL.—The certification under this subsection with respect to a community care setting must be based on a survey. Such survey for such a setting must be conducted without prior notice to the setting. Any individual who notifies (or causes to be notified) a community care setting of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of not to exceed $2,000. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). The Secretary shall review each State's procedures for scheduling and conducting such surveys to assure that the State has taken all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

"(B) SURVEY PROTOCOL.—Surveys under this paragraph shall be conducted based upon a protocol which the Secretary has provided for under subsection (j).

"(C) PROHIBITION OF CONFLICT OF INTEREST IN SURVEY TEAM MEMBERSHIP.—A State and the Secretary may not use as a member of a survey team under this paragraph an individual who is serving (or has served within the previous 2 years) as a member of the staff of, or as a consultant to, the community care setting being surveyed (or the person responsible for such setting) respecting compliance with the requirements of subsection (g) or who has a personal or familial financial interest in the setting being surveyed.

"(D) VALIDATION SURVEYS OF COMMUNITY CARE SETTINGS.—The Secretary shall conduct onsite surveys of a representative sample of community care settings in each State, within 2 months of the date of surveys conducted under subparagraph (A) by the State, in a sufficient number to allow inferences about the adequacies of each State's surveys conducted under subparagraph (A). In conducting such surveys, the Secretary shall use the same survey protocols as the State is required to use under subparagraph (B). If the State has determined that an individual setting meets the requirements of subsection (g), but the Secretary determines that the setting does not meet such requirements, the Secretary's determination as to the setting's noncompliance with such requirements is binding and supersedes that of the State survey.

"(E) SPECIAL SURVEYS OF COMPLIANCE.—If the Secretary has reason to question the compliance of a community care setting with any of the requirements of subsection (g), the Secretary may conduct a survey of the setting and, on the basis of that survey, make independent and binding determinations concerning the extent to which the setting meets such requirements.

"(4) INVESTIGATION OF COMPLAINTS AND MONITORING OF PROVIDERS AND SETTINGS.—Each State and the Secretary shall maintain procedures and adequate staff to investigate complaints of violations of applicable requirements imposed on providers of community care or on community care settings under subsections (f) and (g).

"(5) INVESTIGATION OF ALLEGATIONS OF INDIVIDUAL NEGLECT AND ABUSE AND MISAPPROPRIATION OF INDIVIDUAL PROPERTY AND PUBLIC DISCLOSURE OF FINDINGS.—The State shall provide, through the agency responsible for surveys and certification of providers of community care and community care settings under this subsection, for a process for the receipt, review, and investigation of allegations of individual neglect and abuse (including injuries of unknown source) by individuals providing such care or in such setting and of misappropriation of individual

property by such individuals. The State shall, after notice to the individual involved and a reasonable opportunity for hearing for the individual to rebut allegations, make a finding as to the accuracy of the allegations. If the State finds that an individual has neglected or abused an individual receiving community care or misappropriated such individual's property, the State shall notify the individual against whom the finding is made. A State shall not make a finding that a person has neglected an individual receiving community care if the person demonstrates that such neglect was caused by factors beyond the control of the person. The State shall provide for public disclosure of findings under this paragraph upon request and for inclusion, in any such disclosure of such findings, of any brief statement (or of a clear and accurate summary thereof) of the individual disputing such findings.

"(6) DISCLOSURE OF RESULTS OF INSPECTIONS AND ACTIVITIES.—

"(A) PUBLIC INFORMATION.—Each State, and the Secretary, shall make available to the public—

"(i) information respecting all surveys, reviews, and certifications made under this subsection respecting providers of community care and community care settings, including statements of deficiencies,

"(ii) copies of cost reports (if any) of such providers and settings filed under this title,

"(iii) copies of statements of ownership under section 1124, and

"(iv) information disclosed under section 1126.

"(B) NOTICES OF SUBSTANDARD CARE.—If a State finds that—

"(i) a provider of community care has provided care of substandard quality with respect to an individual, the State shall make a reasonable effort to notify promptly (I) an immediate family member of each such individual and (II) individuals receiving community care from that provider under this title, or

"(ii) a community care setting is substandard, the State shall make a reasonable effort to notify promptly (I) individuals receiving community care in that setting, and (II) immediate family members of such individuals.

"(C) ACCESS TO FRAUD CONTROL UNITS.—Each State shall provide its State medicaid fraud and abuse control unit (established under section 1903(q)) with access to all information of the State agency responsible for surveys, reviews, and certifications under this subsection.

"(i) ENFORCEMENT PROCESS FOR PROVIDERS OF COMMUNITY CARE.—

"(1) STATE AUTHORITY.—

"(A) IN GENERAL.—If a State finds, on the basis of a review under subsection (h)(2) or otherwise, that a provider of community care no longer meets the requirements of this section and further finds that the provider's deficiencies—

"(i) immediately jeopardize the health or safety of individuals receiving its services, the State shall take immediate action to remove the jeopardy and correct the deficiencies or terminate the provider's participation under the State plan and may, in addition, provide for a civil money penalty, or

"(ii) do not immediately jeopardize the health or safety of such individuals, the State may—

"(I) terminate the provider's participation under the State plan,

"(II) provide for a civil money penalty, or

"(III) do both.

Nothing in this subparagraph shall be construed as restricting the remedies available to a State to remedy a provider's deficiencies. If the State finds that a provider meets such requirements but, as of a previous period, did not meet such requirements, the State may provide for a civil money penalty under subparagraph (B) for the period during which it finds that the provider was not in compliance with such requirements.

"(B) CIVIL MONEY PENALTY.—

"(i) IN GENERAL.—Each State shall establish by law (whether statute or regulation) at least the following remedy: A civil money penalty assessed and collected, with interest, for each day in which the provider is or was out of compliance with a requirement of this section. Funds collected by a State as a result of imposition of such a penalty (or as a result of the imposition by the State of a civil money penalty under subsection (h)(3)(A)) may be applied to reimbursement of individuals for personal funds lost due to a failure of community care providers to meet the requirements of this section. The State also shall specify criteria, as to when and how this remedy is to be applied and the amounts of any penalties. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the penalties and shall provide for the imposition of incrementally more severe penalties for repeated or uncorrected deficiencies.

"(ii) DEADLINE AND GUIDANCE.—Each State which elects to provide community care under this section must establish the civil money penalty remedy described in clause (i) applicable to all providers of community care covered under this section. The Secretary shall provide, through regulations or otherwise by not later than July 1, 1990, guidance to States in establishing such remedy; but the failure of the Secretary to provide such guidance shall not relieve a State of the responsibility for establishing such remedy.

"(2) SECRETARIAL AUTHORITY.—

"(A) FOR STATE PROVIDERS.—With respect to a State provider of community care, the Secretary shall have the authority and duties of a State under this subsection, except that the civil money penalty remedy described in subparagraph (C) shall be substituted for the civil money remedy described in paragraph (1)(B)(i).

"(B) OTHER PROVIDERS.—With respect to any other provider of community care in a State, if the Secretary finds that a provider no longer meets a requirement of this section and further finds that the provider's deficiencies—

"(i) immediately jeopardize the health or safety of individuals receiving its services, the Secretary shall take immediate action to remove the jeopardy and correct the deficiencies or terminate the provider's participation under the State plan and may, in addition, provide for a civil money penalty under subparagraph (C), or

"(ii) do not immediately jeopardize the health or safety of such individuals, the Secretary may—

"(I) terminate the provider's participation under the State plan,

"(II) provide for a civil money penalty under subparagraph (C), or

"(III) do both.

If the Secretary finds that a provider meets such requirements but, as of a previous period, did not meet such requirements, the Secretary may provide for a civil money penalty under subparagraph (C) for the period during which the Secretary finds that the provider was not in compliance with such requirements.

"(C) CIVIL MONEY PENALTY.—If the Secretary finds on the basis of a review under subsection (h)(2) or otherwise that a community care provider no longer meets the requirements of this section, the Secretary shall impose a civil money penalty in an amount not to exceed $10,000 for each day of noncompliance. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). The Secretary shall specify criteria, as to when and how this remedy is to be applied and the amounts of any penalties. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the penalties and shall provide for the imposition of incrementally more severe penalties for repeated or uncorrected deficiencies.

"(j) SECRETARIAL RESPONSIBILITIES.—

"(1) PUBLICATION OF INTERIM REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall publish, by July 1, 1990, an interim regulation that sets forth interim requirements, consistent with subparagraph (B), for the provision of community care and for community care settings, including—

"(i) the requirements of subsection (c)(2) (relating to comprehensive functional assessments, including the use of assessment instruments), of subsection (d)(2)(E) (relating to qualifications for qualified community care case managers), of subsection (f) (relating to minimum requirements for community care), and of subsection (g) (relating to minimum requirements for community care settings), and

"(ii) survey protocols (for use under subsection (h)(3)(A)) which relate to such requirements.

"(B) MINIMUM PROTECTIONS.—Interim requirements under subparagraph (A) and final requirements under paragraph (2) shall assure, through methods other than reliance on State licensure processes, that individuals receiving community care are protected from neglect, physical and sexual abuse, financial exploitation, inappropriate involuntary restraint, and the provision of health care services by individuals in community care settings who are not competent to provide such care.

"(2) DEVELOPMENT OF FINAL REQUIREMENTS.—The Secretary shall develop, by not later than October 1, 1991—

"(A) final requirements, consistent with paragraph (1)(B), respecting the provision of appropriate, quality community care and respecting community care settings under this section, and including at least the requirements referred to in paragraph (1)(A)(i), and

"(B) survey protocols and methods for evaluating and assuring the quality of community care settings.

The Secretary may, from time to time, revise such requirements, protocols, and methods.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed as authorizing the Secretary to develop standards respecting the quality of community care and standards respecting community care settings beyond the scope of the interim and final requirements specified under paragraphs (1) and (2).

"(4) NO DELEGATION TO STATES.—The Secretary's authority under this subsection shall not be delegated to States.

"(5) NO PREVENTION OF MORE STRINGENT REQUIREMENTS BY STATES.—Nothing in this section shall be construed as preventing States from imposing requirements that are more stringent than the requirements published or developed by the Secretary under this subsection.

"(k) APPLICABILITY IN STATES OPERATING UNDER DEMONSTRATION PROJECTS.—In the case of any State which is providing medical assistance under a waiver granted under section 1115(a) with respect to community care, the Secretary shall require the State to meet the requirements of this section in the same manner as the State would be required to meet such requirements if the State had in effect a plan approved under this title and had elected to cover community care under this section.".

(c) PAYMENT FOR COMMUNITY CARE.—

(1) REASONABLE AND ADEQUATE PAYMENT RATES.—Section 1902 of such Act (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(13), as amended by section 4244(a) of this subtitle—

(i) by striking "and" at the end of subparagraph (E),

(ii) by inserting "and" at the end of subparagraph (F), and

(iii) by adding at the end the following new subparagraph:

"(G) for payment for community care (as defined in section 1929(a) and provided under such section) through rates which are reasonable and adequate (and which may not be established on a capitation basis or any other risk basis) to meet the costs of providing care, efficiently and economically, in conformity with applicable State and Federal laws, regulations, and quality and safety standards (including those described in section 1928(f)(1)(B));"; and

(B) in subsection (h), by inserting before the period at the end the following: "or to limit the amount of payment that may be made under a plan under this title for community care".

(2) DENIAL OF PAYMENT FOR CIVIL MONEY PENALTIES, ETC.—Section 1903(i)(8) of such Act (42 U.S.C. 1396b(i)(8)) is amended by inserting, after the matter inserted by section 4244(b) of this subtitle, the following: ", or (C) for community care to reimburse (or otherwise compensate) a provider of such care for payment of a civil money penalty imposed under this title or title XI or for legal expenses in defense of an exclusion or civil money penalty under this title or title XI if there is no reasonable legal ground for the provider's case".

(3) DENIAL OF PAYMENT FOR SUBSTANDARD COMMUNITY CARE AND COMMUNITY CARE FURNISHED BY FAMILY MEMBERS OR OTHERWISE PAID FOR.—Section 1903(i) of such Act is further amended—

(A) by striking "or" at the end of paragraph (8),

(B) by striking the period at the end of paragraph (9) and inserting "; or",

(C) by inserting after paragraph (9) the following new paragraph:

"(10) for community care under sections 1905(a)(23) and 1929—

"(A) which does not meet the applicable requirements published or developed under section 1929(j),

"(B) which is furnished in a community care setting—

"(i) if a survey under section 1929(h)(3)(A) indicates that such setting is substandard,

"(ii) on or after January 1, 1992, with respect to which the State has not applied the protocols and methods developed under section 1929(j)(2)(B), or

"(iii) that does not meet the applicable requirements of paragraphs (2) and (3) of section 1929(g),

"(C) which is provided to a functionally disabled elderly individual by members of the family of such individual, or

"(D) to the extent payment is made for such care other than under this title.", and

(D) by adding at the end the following:

"Clauses (i) and (iii) of paragraph (10)(B) shall not apply once, and only once, in the case of a setting found to be substandard or not to meet applicable requirements if the setting is changed within 3 months of the finding to no longer be substandard and to meet applicable requirements.".

(d) CONFORMING AMENDMENTS.—

(1) Section 1902(j) of such Act (42 U.S.C. 1396a(j)), as amended by sections 4203(b)(2) and 4221(e)(3) of this subtitle, is amended by striking "(23)" and inserting "(24)".

(2) Section 1902(a)(10)(C)(iv) of such Act (42 U.S.C. 1396a(a)(10)(C)(iv)), as amended by sections 4203(b)(1) and 4221(e)(4) of this subtitle, is amended by striking "(22)" and inserting "(23)".

(3) Section 1903(a)(2)(A) of such Act (42 U.S.C. 1396b(a)(2)(A)) is amended by inserting "and are not attributable to community care for functionally disabled elderly individuals" before the semicolon at the end.

(4) Section 9523(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 4115(d) of the Omnibus Budget Reconciliation Act of 1987 (added by section 411(k)(9) of the Medicare Catastrophic Coverage Act of 1988), is amended by striking "January 1, 1990" and inserting "July 1, 1990".

(e) EFFECTIVE DATES.—

(1) Except as provided in this subsection, the amendments made by this section shall apply to community care furnished on or after July 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2)(A) The amendments made by subsection (c)(1) shall apply to community care furnished on or after July 1, 1990, or, if later, 30 days after the date of publication of interim regulations under section 1929(j)(1) of the Social Security Act.

(B) The amendment made by subsection (c)(2) shall apply to civil money penalties imposed after the date of the enactment of this Act.

(f) WAIVER OF PAPERWORK REDUCTION, ETC.—Chapter 35 of title 44, United States Code, and Executive Order 12291 shall not apply to information and regulations required for purposes of carrying out this part and implementing the amendments made by this part.

PART E—HOSPICE COVERAGE

SEC. 4261. MANDATING HOSPICE COVERAGE.

(a) IN GENERAL.—Subparagraphs (A) and (C)(iv) of section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) are each amended by inserting "and (18)" after "(17)".

(b) PAYMENT.—Section 1902(a)(13)(D) of such Act (42 U.S.C. 1396a(a)(13)(D)) is amended—

(1) by striking "in the same amounts, and using the same methodology, as used" and inserting "in amounts no lower than the amounts, using the same methodology, used", and

(2) by striking "a separate rate may be paid for" and inserting "in the case of", and

(3) by striking "to take into account the room and board furnished by such facility" and inserting "there shall be paid an additional amount, to take into account the room and board furnished by the facility, equal to at least 95 percent of the rate that would have been paid by the State under the plan for facility services in that facility for that individual".

(c) CLARIFYING EFFECT OF HOSPICE ELECTION.—Section 1905(o)(1)(A) of such Act (42 U.S.C. 1396d(o)(1)(A)) is amended by inserting "and for which payment may otherwise be made under title XVIII" after "described in section 1812(d)(2)(A)".

(d) CONFORMING AMENDMENT.—Section 1905(o)(3) of such Act (42 U.S.C. 1396d(o)(3)) is amended—

(1) by striking "a State which elects" and all that follows through "with respect to" the first place it appears,

(2) by striking "the amounts allocated under the plan for room and board in the facility, in accordance with the rates established under section 1902(a)(13)," and inserting "the additional amount described in section 1902(a)(13)(D)", and

(3) by striking the last sentence.

(e) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

PART F—MISCELLANEOUS

SEC. 4271. AMENDMENTS RELATING TO NURSING HOME REFORM.

(a) MORATORIUM ON IMPLEMENTATION OF FEBRUARY 2, 1989 REGULATION.—The regulations promulgated by the Secretary of Health and Human Services on February 2, 1989 (54 Federal Register 5315 et seq., relating to requirements for long-term care facilities) shall not be effective before October 1, 1990, insofar as such regulations apply to skilled nursing facilities and intermediate care facilities under title XIX of the Social Security Act.

(b) NURSE AIDE TRAINING.—

(1) DELAY IN REQUIREMENT.—Section 1919(b)(5) of the Social Security Act (42 U.S.C. 1396r(b)(5)) is amended—

(A) in subparagraph (A), by striking "January 1, 1990" and inserting "October 1, 1990", and

(B) in subparagraph (B), by striking "July 1, 1989" and "January 1, 1990" and inserting "January 1, 1990" and "October 1, 1990", respectively.

(2) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF GUIDELINES.—The Secretary of Health and Human Services shall not take (and shall not continue) any action against a State under section 1904 of the Social Security Act on the basis of the State's failure to meet the requirement of section 1919(e)(1)(A) of such Act before the effective date of guidelines, issued by the Secretary, establishing requirements under section 1919(f)(2)(A)(ii)(I) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.

(3) PUBLICATION OF PROPOSED REGULATIONS.—The Secretary of Health and Human Services shall issue proposed regulations to establish the requirements described in section 1919(f)(2) of the Social Security Act by not later than 90 days after the date of the enactment of this Act.

(4) CLARIFICATION OF GRACE PERIOD FOR NURSE TRAINING OF INDIVIDUALS.—Section 1919(b)(5)(A) of such Act (42 U.S.C. 1396r(b)(5)(A)) is amended—

(A) by striking "for more than 4 months", and

(B) by striking the period at the end and inserting a semicolon and the following: "except that such requirement shall not apply to an individual who has been used (on a full-time, temporary, per diem, or other basis) as a nurse aide for less than 90 days in any nursing facility.".

(5) REQUIREMENTS FOR TRAINING AND EVALUATION PROGRAMS.—Section 1919(f)(2)(A) of the Social Security Act (42 U.S.C. 1396r(f)(2)(A)) is amended—

(A) in clause (i)(I), by inserting "care of cognitively impaired residents," after "social service needs,";

(B) in clause (ii), by striking "cognitive, behavioral and social care" and by inserting "recognition of mental health and social service needs, care of cognitively impaired residents";

(C) by striking the period at the end of clause (iii) and inserting "; and"; and

(D) by adding at the end the following new clause:

"(iv) requirements, under both such programs, that—

"(I) provide procedures for determining competency that permit a nurse aide, at the nurse aide's option, to establish competency through procedures or methods other than the passing of a written examination and to have the competency evaluation conducted at the nursing facility at which the aide is (or will be) employed (unless the facility is described in subparagraph (B)(iii)(I)), and

"(II) prohibit the imposition on a nurse aide of any charges (including any charges for textbooks and other required course materials and any charges for the competency evaluation) for either such program.".

(6) DELAY AND TRANSITION IN 75-HOUR TRAINING PROGRAM REQUIREMENT.—

(A) Section 1919(f)(2)(B)(ii) of such Act (42 U.S.C. 1396r(f)(2)(B)(ii)) is amended by striking "January 1, 1989" and inserting "July 1, 1989".

(B) A nurse aide shall be considered to satisfy the requirement of section 1919(b)(5)(A) of the Social Security Act (of having completed a training and competency evaluation program approved by a State under section 1919(e)(1)(A) of such Act), if such aide would have satisfied such requirement as of July 1, 1989, if a number of hours (not less than 60 hours) were substituted for "75 hours" in section 1919(f)(2) of such Act and if such aide had received, before July 1, 1989, at least the difference in the number of such hours in supervised practical nurse aide training or in regular in-service nurse aide education.

(7) CLARIFICATION OF STATE RESPONSIBILITY TO DETERMINE COMPETENCY.—Section 1919(f)(2)(B) of such Act (42 U.S.C. 1396r(f)(2)(B)) is amended, in the second sentence, by inserting "(through subcontract or otherwise)" after "may not delegate".

(8) CLARIFICATION OF TEMPORARY ENHANCED FEDERAL FINANCIAL PARTICIPATION FOR NURSE AIDE TRAINING BY NURSING FACILITIES.—

(A) IN GENERAL.—Section 1903(a)(2)(B) of such Act (42 U.S.C. 1396b(a)(2)(B)) is amended—

(i) by inserting "(including the costs for nurse aides to complete such competency evaluation programs)" after "1919(e)(1)", and

(ii) by inserting "(or, for calendar quarters beginning on or after July 1, 1988, and before July 1, 1990, the lesser of 90 percent or the Federal medical assistance percentage plus 25 percentage points)" after "50 percent".

(B) NO ALLOCATION OF COSTS BEFORE OCTOBER 1, 1990.—In making payments under section 1903(a)(2)(B) of the Social Security Act for amounts expended for nurse aide training and competency evaluation programs, and competency evaluation programs, described in section 1919(e)(1) of such Act, in the case of activities conducted before October 1, 1990, the Secretary of Health and Human Services shall not take into account, or allocate amounts on the basis of, the proportion of residents of nursing facilities that is entitled to benefits under title XVIII or XIX of such Act.

(9) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(B) EXCEPTION.—The amendments made by paragraph (5) shall apply to nurse aide training and competency evaluation programs, and nurse aide competency evaluation programs, offered on or after the end of the 90-day period beginning on the date of the enactment of this Act, but shall not affect competency evaluations conducted under programs offered before the end of such period.

(c) PREADMISSION SCREENING AND ANNUAL RESIDENT REVIEW.—

(1) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF GUIDELINES.—The Secretary of Health and Human Services shall not take (and shall not continue) any action against a State under section 1904 or section 1919(e)(7)(D) of the Social Security Act on the basis of the State's failure to meet the requirement of section 1919(e)(7)(A) of such Act before the effective date of guidelines, issued by the Secretary, establishing minimum criteria under section 1919(f)(8)(A) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.

(2) PUBLICATION OF PROPOSED REGULATIONS.—The Secretary of Health and Human Services shall issue proposed regulations to establish the criteria described in section 1919(f)(8)(A) of the Social Security Act by not later than 90 days after the date of the enactment of this Act.

(3) CLARIFICATION WITH RESPECT TO ADMISSIONS AND READMISSION FROM A HOSPITAL.—Section 1919 of the Social Security Act (42 U.S.C. 1396r) is amended—

(A) in subsection (b)(3)(F), by striking "A nursing facility" and by inserting "Except as provided in clauses (ii) and (iii) of subsection (e)(7)(A), a nursing facility"; and

(B) in subsection (e)(7)(A)—

(i) by redesignating the first 2 sentences as clause (i) with the following heading (and appropriate indentation):

"(i) IN GENERAL.—", and

(ii) by adding at the end the following:

"(ii) CLARIFICATION WITH RESPECT TO CERTAIN READMISSIONS.—The preadmission screening program under clause (i) need not provide for determinations in the case of the readmission to a nursing facility of an individual who, after being admitted to the nursing facility, was transferred for care in a hospital.

"(iii) EXCEPTION FOR CERTAIN HOSPITAL DISCHARGES.—The preadmission screening program under clause (i) shall not apply to the admission to a nursing facility of an individual—

"(I) who is admitted to the facility directly from a hospital after receiving acute inpatient care at the hospital,

"(II) who requires nursing facility services for the condition for which the individual received care in the hospital, and

"(III) whose attending physician has certified, before admission to the facility, that the individual is likely to require less than 30 days of nursing facility services.".

(4) CHARGES APPLICABLE IN CASES OF CERTAIN MEDICAID-ELIGIBLE INDIVIDUALS.—Section 1919(c) of such Act (42 U.S.C. 1396r(c)) is amended—

(A) by redesignating paragraph (7) as paragraph (8), and

(B) by inserting after paragraph (6) the following new paragraph:

"(7) LIMITATION ON CHARGES IN CASE OF MEDICAID-ELIGIBLE INDIVIDUALS.—

"(A) IN GENERAL.—A nursing facility may not impose charges, for certain medicaid-eligible individuals for nursing facility services covered by the State under its plan under this title, that exceed the payment amounts established by the State for such services under this title.

"(B) CERTAIN MEDICAID INDIVIDUALS DEFINED.—In subparagraph (A), the term 'certain medicaid-eligible individual' means an individual who is entitled to medical assistance for nursing facility services in the facility under this title but with respect to whom such benefits are not being paid because, in determining the amount of the individual's income to be applied monthly to payment for the costs of such services, the amount of such income exceeds the payment amounts established by the State for such services under this title.".

(5) DELAY IN APPLICATION TO PRIVATE PAY RESIDENTS.—

(A) IN GENERAL.—Section 1919(e)(7) of such Act (42 U.S.C. 1396r(e)(7)) is amended—

(i) in subparagraph (A), as amended by paragraph (3)(B) of this subsection—

(I) in clause (i), by inserting "except as provided in clause (iv)," after "January 1, 1989,", and

(II) by adding at the end the following new clause:

"(iv) DELAY IN APPLICATION OF PREADMISSION SCREENING FOR PRIVATE PAY RESIDENTS.—In the case of an individual who, at the time of admission to a nursing facility, is not entitled to benefits under this title, the preadmission screening requirements of this subparagraph shall not apply until such time as the resident is so entitled and, in such case, the preadmission screening requirements

shall apply as of the end of the day following the date on which the individual is determined to be so entitled. The previous sentence shall not be construed as prohibiting a State from imposing such a preadmission screening requirement with respect to individuals not so entitled at the time of admission."; and

(ii) in subparagraph (B)—

(I) in clauses (i) and (ii), by inserting "except as provided in clause (iv)," after "April 1, 1990," each place it appears,

(II) in clause (iii)(III), by inserting ", except as provided in clause (iv)" after "April 1, 1990", and

(III) by adding at the end the following new clause:

"(iv) DELAY IN APPLICATION OF ANNUAL RESIDENT REVIEW FOR PRIVATE PAY RESIDENTS.—In the case of an individual who, at the time of admission to a nursing facility, is not entitled to benefits under this title, the annual resident review requirements of this subparagraph shall not apply until such time as the resident is so entitled. The previous sentence shall not be construed as prohibiting a State from imposing such an annual resident review requirement with respect to individuals not so entitled at the time of admission.".

(B) NO COMPLIANCE ACTION FOR PREVIOUS NONCOMPLIANCE.—The Secretary of Health and Human Services may not impose any sanction against a State under section 1904 or section 1919(e)(7)(D) of the Social Security Act due to the State's failure to comply with the preadmission screening requirements of section 1919(e)(7)(A) of such Act insofar as such requirements applied with respect to individuals not entitled to benefits under title XIX of such Act at the time of their admission.

(6) DENIAL OF PAYMENTS FOR CERTAIN RESIDENTS NOT REQUIRING NURSING FACILITY SERVICES.—Section 1919(e)(7) of such Act (42 U.S.C. 1395r(e)(7)) is amended—

(A) in subparagraph (D)—

(i) in the heading, by striking "WHERE FAILURE TO CONDUCT PREADMISSION SCREENING",

(ii) by designating the first sentence as clause (i) with the following heading (and appropriate indentation):

"(i) FOR FAILURE TO CONDUCT PREADMISSION SCREENING OR ANNUAL REVIEW.—", and

(iii) by adding at the end the following new clause:

"(ii) FOR CERTAIN RESIDENTS NOT REQUIRING NURSING FACILITY LEVEL OF SERVICES.—No payment may be made under section 1903(a) with respect to nursing facility services furnished to an individual (other than an individual described in subparagraph (C)(i)) who does not require the level of services provided by a nursing facility."; and

(B) in subparagraph (E), by striking "the requirement of this paragraph" and inserting "the requirements of subparagraphs (A) through (C) of this paragraph".

(7) NO DELEGATION OF AUTHORITY TO CONDUCT SCREENING AND REVIEWS.—Section 1919 of such Act is further amended—

(A) in subsection (b)(3)(F), by adding at the end the following:

"A State mental health authority and a State mental retardation or developmental disability authority may not delegate (by subcontract or otherwise) their responsibilities under this subparagraph to a nursing facility (or to an entity that has a direct or indirect affiliation or relationship with such a facility)."; and

(B) in subsection (e)(7)(B), as amended by paragraph (5)(A)(i) of this subsection, by adding at the end the following new clause:

"(v) PROHIBITION OF DELEGATION.—A State mental health authority, a State mental retardation or developmental disability authority, and a State may not delegate (by subcontract or otherwise) their responsibilities under this subparagraph to a nursing facility (or to an entity that has a direct or indirect affiliation or relationship with such a facility).".

(8) ANNUAL REPORTS.—

(A) STATE REPORTS.—Section 1919(e)(7)(C) of such Act (42 U.S.C. 1396r(e)(7)(C)) is amended by adding at the end the following new clause:

"(iv) ANNUAL REPORT.—Each State shall report to the Secretary annually concerning the number and disposition of residents described in each of clauses (ii) and (iii).".

(B) SECRETARIAL REPORT.—Section 4215 of the Omnibus Budget Reconciliation Act of 1987 is amended by adding at the end the following new sentence: "Each such report shall also include a summary of the information reported by States under section 1919(e)(7)(C)(iv) of such Act.".

(9) REVISION OF ALTERNATIVE DISPOSITION PLANS.—Section 1919(e)(7)(E) of such Act (42 U.S.C. 1396r(e)(7)(E)) is amended by adding at the end the following: "The State may revise such an agreement, subject to the approval of the Secretary, before October 1, 1990, but only if, under the revised agreement, all residents subject to the agreement who do not require the level of services of such a facility are discharged from the facility by not later than April 1, 1994.".

(10) DEFINITION OF MENTALLY ILL.—Section 1919(e)(7)(G)(i) of such Act (42 U.S.C. 1396r(e)(7)(G)(i)) is amended by striking "primary or secondary" and all that follows through "3rd edition)" and inserting "serious mental illness (as defined by the Secretary)".

(11) SUBSTITUTION OF "SPECIALIZED SERVICES" FOR "ACTIVE TREATMENT".—Sections 1919(b)(3)(F) and 1919(e)(7) of such Act (42 U.S.C. 1396r(b)(3)(F), 1396r(e)(7)) is amended by striking "active treatment" and "ACTIVE TREATMENT" each place either appears and inserting "specialized services" and "SPECIALIZED SERVICES", respectively.

(12) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(B) EXCEPTION.—The amendments made by paragraphs (4), (5), (7), (9), and (11) shall take effect on the date of the enactment of this Act, without regard to whether or not regulations to implement such amendments have been promulgated.

(d) OTHER AMENDMENTS.—

(1) ASSURANCE OF APPROPRIATE PAYMENT AMOUNTS.—

(A) IN GENERAL.—Section 1902(a)(13)(A) of the Social Security Act (42 U.S.C. 1396a(a)(13)(A)) is amended by inserting "(including the costs of services required to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident eligible for benefits under this title)" after "take into account the costs".

(B) DETAILS IN PLAN AMENDMENT.—Section 4211(b)(2) of the Omnibus Budget Reconciliation Act of 1987 is amended by inserting after the first sentence the following: "Each such amendment shall include a detailed description of the specific methodology to be used in determining the appropriate adjustment in payment amounts for nursing facility services.".

(2) DISCLOSURE OF INFORMATION OF QUALITY ASSESSMENT AND ASSURANCE COMMITTEES.—Section 1919(b)(1)(B) of the Social Security Act (42 U.S.C. 1396r(b)(1)(B)) is amended by adding at the end the following new sentence: "A State or the Secretary may not require disclosure of the records of such committee except insofar as such disclosure is related to the compliance of such committee with the requirements of this subparagraph.".

(3) PERIOD FOR RESIDENT ASSESSMENT.—Section 1919(b)(3)(C)(i)(I) of such Act (42 U.S.C. 1396r(b)(3)(C)(i)(I)) is amended by striking "4 days" and inserting "14 days".

(4) CLARIFICATION OF RESPONSIBILITY FOR SERVICES FOR MENTALLY ILL AND MENTALLY RETARDED RESIDENTS.—Section 1919(b)(4)(A) of such Act (42 U.S.C. 1396r(b)(4)(A)) is amended—

(A) by striking "and" at the end of clause (v),

(B) by striking the period at the end of clause (vi) and inserting "; and", and

(C) by inserting after clause (vi) the following new clause:

"(vii) treatment and services required by mentally ill and mentally retarded residents not otherwise provided or arranged for (or required to be provided or arranged for) by the State.".

(5) RESIDENTS' RIGHTS TO REFUSE INTRA- FACILITY TRANSFERS TO MOVE THE RESIDENT TO A MEDICARE-QUALIFIED PORTION.—Section 1919(c)(1)(A) of Act (42 U.S.C. 1396r(c)(1)(A)) is amended—

(A) by redesignating clause (x) as clause (xi) and by inserting after clause (ix) the following new clause:

"(x) REFUSAL OF CERTAIN TRANSFERS.—The right to refuse a transfer to another room within the facility, if a purpose of the transfer is to relocate the resident from a portion of the facility that is not a skilled nursing facility (for purposes of title XVIII) to a portion of the facility that is such a skilled nursing facility."; and

(B) by adding at the end the following: "A resident's exercise of a right to refuse transfer under clause (x) shall not affect the resident's eligibility or entitlement to medical assistance under this title or a State's entitlement to Federal medical assistance under this title with respect to services furnished to such a resident.".

(6) RESIDENT ACCESS TO CLINICAL RECORDS.—Section 1919(c)(1)(A)(iv) of such Act (42 U.S.C. 1396r(c)(1)(A)(iv)) is amended by inserting before the period at the end the following: "and to access to current clinical records of the resident promptly upon request by the resident".

(7) INCLUSION OF STATE NOTICE OF RIGHTS IN FACILITY NOTICE OF RIGHTS.—Section 1919(c)(1)(B)(ii) of such Act (42 U.S.C. 1396r(c)(1)(B)(ii)) is amended by inserting "including the notice (if any) of the State developed under subsection (e)(6)" after "in such rights)".

(8) REMOVAL OF DUPLICATIVE REQUIREMENT FOR QUALIFICATIONS OF NURSING HOME ADMINISTRATORS.—Effective October 1, 1990—

(A) paragraph (29) of section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is repealed, and

(B) section 1908 of such Act (42 U.S.C. 1396g) is repealed.

(9) CLARIFICATION ON FINDINGS OF NEGLECT.—Section 1919(g)(1)(C) of such Act (42 U.S.C. 1396r(g)(1)(C)) is amended by adding at the end the following: "A State shall not make a finding that an individual has neglected a resident if the individual demonstrates that such neglect was caused

by factors beyond the control of the individual.".

(10) TIMING OF PUBLIC DISCLOSURE OF SURVEY RESULTS.—Section 1919(g)(5)(A)(i) of such Act (42 U.S.C. 1396r(g)(5)(A)(i)) is amended by adding at the end the following: "within 14 calendar days after such information is made available to those facilities,".

(11) CLARIFICATION OF APPLICABILITY OF ENFORCEMENT RULES TO DUALLY-CERTIFIED FACILITIES.—Section 1919(h)(8) of such Act (42 U.S.C. 1396r(h)(8)) is amended by adding at the end the following: "The provisions of this subsection shall apply to a nursing facility (or portion thereof) notwithstanding that the facility (or portion thereof) also is a skilled nursing facility for purposes of title XVIII.".

(12) CLARIFICATION OF FEDERAL MATCHING RATE FOR SURVEY AND CERTIFICATION ACTIVITIES.—During the period before October 1, 1990, the Federal percentage matching payment rate under section 1903(a) of the Social Security Act for so much of the sums expended under a State plan under title XIX of such Act as are attributable to compensation or training of personnel responsible for inspecting public or private skilled nursing or intermediate care facilities to individuals receiving medical assistance to determine compliance with health or safety standards shall be 75 percent.

(13) MISCELLANEOUS TECHNICAL CORRECTIONS.—Section 1919 of such Act is further amended—

(A) in subsection (c)(1)(A)(ii)(II), by striking the closing parenthesis after "Secretary" and inserting a closing parenthesis after "obtained",

(B) in subsection (c)(1)(A)(v)(I), by striking "accommodations" and inserting "accommodation",

(C) in subsection (f)(2)(A)(i), by striking ", content of the curriculum" and inserting "and content of the curriculum", and

(D) in subsection (h)(3)(D), by inserting "after the effective date of the findings" after "6 months".

(14) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection (other than by paragraph (8)) shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(B) EXCEPTION.—The amendment made by paragraph (11) shall take effect on the date of the enactment of this Act.

SEC. 4272. MEDICARE BUY-IN PROVISIONS.

(a) MEDICARE BUY-IN FOR PREMIUMS OF CERTAIN WORKING DISABLED.—

(1) IN GENERAL.—Section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)), as amended by is amended—

(A) by inserting "(i)" after "(E)",

(B) by striking the semicolon at the end and inserting ", and", and

(C) by adding at the end the following new clause:

"(ii) for making medical assistance available for payment of medicare cost-sharing described in section 1905(p)(3)(A) for qualified disabled and working individuals described in section 1905(t);".

(2) ELIGIBILITY.—Section 1905 of such Act (42 U.S.C. 1396d), as amended by sections 4123(a) and 4221(c) of this title, is amended by adding at the end the following new subsection:

"(t) The term 'qualified disabled and working individual' means an individual—

"(1) who is entitled to enroll for hospital insurance benefits under part A of title XVIII under section 1818A (as added by title X of the Omnibus Budget Reconciliation Act of 1989);

"(2) whose income (as determined under section 1612 for purposes of the supplemental security income program) does not exceed 200 percent of the official poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved; and

"(3) who is not otherwise eligible for medical assistance under this title.".

(3) PREMIUM PAYMENTS REQUIRED FOR CERTAIN INDIVIDUALS.—Section 1916 of such Act (42 U.S.C. 1396o) is amended—

(A) in subsection (a), by striking "(E)" and inserting "(E)(i)",

(B) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and

(C) by inserting after subsection (c) the following new subsection:

"(d) With respect to a qualified disabled and working individual described in section 1905(t) whose income (as determined under paragraph (3) of that section) exceeds 150 percent of the official poverty line referred to in that paragraph, the State plan of a State may provide for the charging of a premium (expressed as a percentage of the medicare cost-sharing described in section 1905(p)(3)(A) provided with respect to the individual) according to a sliding scale under which such percentage increases from 0 percent to 100 percent, in reasonable increments (as determined by the Secretary), as the individual's income increases from 150 percent of such poverty line to 200 percent of such poverty line.".

(4) CONFORMING AMENDMENTS.—

(A) Section 1905(p)(3) of such Act (42 U.S.C. 1396d(p)(3)) is amended—

(i) by inserting "(or, with respect to a qualified disabled and working individual, only the premiums described in subparagraph (A))" after "qualified medicare beneficiary" the first place it appears, and

(ii) in subparagraph (A), by striking "section 1818" and inserting "section 1818 or 1818A".

(B) Section 1905(p)(1)(A) of such Act is amended by inserting ", but not including an individual entitled to such benefits only pursuant to an enrollment under section 1818A" after "1818".

(5) EFFECTIVE DATE.—

(A) The amendments made by this subsection apply (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(b) TECHNICAL CORRECTIONS TO MEDICARE BUY-IN FOR THE ELDERLY.—

(1) TEMPORARY RETROACTIVE BENEFITS CAUSED BY DELAY IN IMPLEMENTATION.—Notwithstanding sections 1902(e)(8) and 1905(a) of the Social Security Act, in the case of an individual who—

(A) is a resident of a State which began determinations with respect to qualified medicare beneficiaries (under title XIX of such Act) in a month after December 1988, and

(B) was determined to be a qualified medicare beneficiary (as defined in section 1905(p)(1) of such Act) in a month in 1989 before October,

the State may elect to treat such an individual as a qualified medicare beneficiary under its plan under such title for each month in 1989 before October in which the individual would have been such a qualified medicare beneficiary if the individual had applied in the previous month.

(2) CLARIFICATION WITH RESPECT TO "SECTION 209(B)" STATES.—

(A) IN GENERAL.—The first sentence of section 1902(f) of the Social Security Act (42 U.S.C. 1396a(f)) is amended by inserting "and except with respect to qualified medicare beneficiaries, qualified severely impaired individuals, and individuals described in subsection (m)(1)" before ", no State".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply as if it had been included in the enactment of the Medicare Catastrophic Coverage Act of 1988.

SEC. 4273. STATE MATCHING PAYMENTS THROUGH VOLUNTARY CONTRIBUTIONS AND STATE TAXES.

(a) VOLUNTARY CONTRIBUTIONS.—Section 1902 of the Social Security Act (42 U.S.C. 1396a), as amended by section 4217(a)(3) of this title, is amended by adding at the end the following new subsection:

"(t)(1)(A) Subject to subparagraphs (B) and (C), financial participation described in subsection (a)(2) may include the application of private funds donated by hospitals to, and subject to the unrestricted control of, the State.

"(B) Financial participation may not include—

"(i) donations to the extent their aggregate amount exceeds in any Federal fiscal year 10 percent of the non-Federal portion of expenditures under the plan in the year, or

"(ii) donations made by, or on behalf of, or with respect to, any particular hospital, to the extent that their aggregate amount in an annual cost reporting period exceeds 10 percent of the gross revenues of the hospital (not taking into account any Federal revenues under this title or under title V or title XVIII).

"(C) For purposes of this paragraph, the fact that a hospital may receive some benefit from a transfer of funds to a State shall not prevent the transfer from being treated as the donation of funds, unless the amount of benefit to the hospital is directly related, in timing and amount, to the timing and amount of the transfer.".

(b) STATE TAX CONTRIBUTIONS.—Section 1902(t) of such Act, added by the amendment made by subsection (a), is amended by adding at the end the following new paragraph:

"(2) Nothing in this title (including sections 1903(a) and 1905(a)) shall be construed as authorizing the Secretary to deny or limit payments to a State for expenditures, for medical assistance for items or services, attributable to taxes (whether or not of general applicability) imposed with respect to the provision of such items or services.".

(c) EFFECTIVE DATES.—The amendment made by subsection (a) shall apply to funds donated on or after May 1, 1989.

(2) The amendment made by subsection (b) shall take effect on May 1, 1989.

SEC. 4274. DISPROPORTIONATE SHARE HOSPITALS.

(a) CLARIFICATION OF MEDICAID DISPROPORTIONATE SHARE ADJUSTMENT CALCULATION.—Section 1923(b)(2) of the Social Security Act (42 U.S.C. 1396r-4(b)(2)) is amended by adding at the end the following new sentence: "In this paragraph, the term 'inpatient day' includes each day in which an individual (including a newborn) is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.".

(b) FEDERAL FINANCIAL PARTICIPATION FOR MEDICAID CAPITAL PAYMENTS.—Section 1902(h) of such Act (42 U.S.C. 1396a(h)) is amended by inserting "(including pass-through payments for capital costs)" after "payment adjustments".

(c) SPECIAL RULE FOR NEW JERSEY UNCOMPENSATED CARE TRUST FUND.—Section 1923(e)(1) of such Act (42 U.S.C. 1396r-4(e)(1)) is amended—

(1) by inserting "(A)(i)" after "without regard to the requirement of subsection (a) if", and

(2) by striking "and if" and inserting "or (ii) the plan as of January 1, 1987, provided for payment adjustments based on a statewide pooling arrangement involving all acute care hospitals and the arrangement provides for reimbursement of the total amount of uncompensated care provided by each participating hospital, and (B)".

(d) CONFORMING AMENDMENT.—Section 1915(b)(4) of such Act (42 U.S.C. 1396n(b)(4)) is amended by inserting "shall be consistent with the requirements of section 1923 and" after "which standards".

(e) EFFECTIVE DATES.—

(1) CLARIFICATION OF INPATIENT DAYS.—The amendment made by subsection (a) shall take effect on July 1, 1990.

(2) FEDERAL FINANCIAL PARTICIPATION.—The amendment made by subsection (b) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1981.

(3) SPECIAL RULE AND CONFORMING AMENDMENT.—The amendments made by subsections (c) and (d) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

SEC. 4275. MEDICAID PROVISIONS RELATING TO DEMONSTRATION OF EFFECTIVENESS OF MINNESOTA FAMILY INVESTMENT PLAN.

If, under section 10265 of the Omnibus Budget Reconciliation Act of 1989, the Secretary of Health and Human Services approves an application by the State of Minnesota to conduct a demonstration project relating to the State family investment plan, the Secretary of Health and Human Services shall, in order to enable the State to implement such demonstration project—

(1)(A) require that the State treat each family participating in the project as individuals eligible for medical assistance under section 1902(a)(10)(A) of the Social Security Act,

(B) require that the State treat, for purposes of section 1925 of such Act, each family whose participation in the project is terminated by reason of increased income from employment as a family that has become ineligible for aid under the State plan approved under part A of title IV of such Act, and

(C) require that the State treat each family whose participation in the project is terminated by reason of the collection or increased collection of child support under part D of title IV of the Social Security Act as a recipient of aid to families with dependent children for purposes of title XIX of such Act for an additional 12 calendar months beginning with the month in which such termination occurs; and

(2) make payment, under section 1903 of such Act, for medical assistance and administrative expenses for families participating in the project in the same manner as such payments may be made for medical assistance and administrative expenses for individuals entitled to benefits under title XIX of such Act, except that the aggregate amount of such payments may not exceed the aggregate amount of payments that would have been made for those families in the absence of such project.

SEC. 4276. MISCELLANEOUS PROVISIONS.

(a) FRAUD AND ABUSE TECHNICAL AMENDMENTS.—

(1) TREATMENT OF LOSS OF RIGHT TO RENEW LICENSE.—Section 1128(b)(4)(A) of the Social Security Act (42 U.S.C. 1396a-7(b)(4)(A)) is amended by inserting "or the right to apply for or renew such a license" after "lost such a license".

(2) CLARIFICATION WITH RESPECT TO EMERGENCY TREATMENT.—Sections 1862(e)(1) and 1903(i)(2) of such Act (42 U.S.C. 1395y(e)(1), 1396b(i)(2)) are each amended by inserting ", not including items or services furnished in an emergency room of a hospital" after "emergency item or service".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(b) PSYCHIATRIC HOSPITALS.—

(1) CLARIFICATION OF COVERAGE OF INPATIENT PSYCHIATRIC HOSPITAL SERVICES.—

(A) IN GENERAL.—Section 1905(h)(1)(A) of the Social Security Act (42 U.S.C. 1396d(h)(1)(A)), as amended by section 2340(b) of the Deficit Reduction Act of 1984, is amended by inserting "or in another inpatient setting that the Secretary has specified in regulations" after "1861(f)".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall be effective as if included in the enactment of the Deficit Reduction Act of 1984.

(2) INTERMEDIATE SANCTIONS FOR PSYCHIATRIC HOSPITALS.—Subsection (i) of section 1902 of such Act (42 U.S.C. 1396a) is amended to read as follows:

"(i)(1) In addition to any other authority under State law, where a State determines that a psychiatric hospital which is certified for participation under its plan no longer meets the requirements for a psychiatric hospital (referred to in section 1905(h)) and further finds that the hospital's deficiencies—

"(A) immediately jeopardize the health and safety of its patients, the State shall terminate the hospital's participation under the State plan; or

"(B) do not immediately jeopardize the health and safety of its patients, the State may terminate the hospital's participation under the State plan, or provide that no payment will be made under the State plan with respect to any individual admitted to such hospital after the effective date of the finding, or both.

"(2) Except as provided in paragraph (3), if a psychiatric hospital described in paragraph (1)(B) has not complied with the requirements for a psychiatric hospital under this title—

"(A) within 3 months after the date the hospital is found to be out of compliance with such requirements, the State shall provide that no payment will be made under the State plan with respect to any individual admitted to such hospital after the end of such 3-month period, or

"(B) within 6 months after the date the hospital is found to be out of compliance with such requirements, no Federal financial participation shall be provided under section 1903(a) with respect to further services provided in the hospital until the State finds that the hospital is in compliance with the requirements of this title.

"(3) The Secretary may continue payments, over a period of not longer than 6 months from the date the hospital is found to be out of compliance with such requirements, if—

"(A) the State finds that it is more appropriate to take alternative action to assure compliance of the hospital with the requirements than to terminate the certification of the hospital,

"(B) the State has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action, and

"(C) the State agrees to repay to the Federal Government payments received under this paragraph if the corrective action is not taken in accordance with the approved plan and timetable.".

(c) CLARIFICATION OF APPLICATION OF 133 PERCENT INCOME LIMIT TO MEDICALLY NEEDY.—

(1) IN GENERAL.—Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended by striking "shall not apply" and all that follows through the end and inserting "shall only apply with respect to any amount expended by a State as medical assistance for an individual who is only eligible for such assistance as an individual described in section 1902(a)(10)(C) at the time of the provision of the medical assistance giving rise to such expenditure.".

(2) CONFORMING AMENDMENTS.—Section 1902(a)(10)(A)(ii) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(A) in subclause (V), by striking "whose income does not exceed a separate income standard established by the State which is consistent with the limit established under section 1903(f)(4)(C)" and inserting "whose income does not exceed a separate income standard established by the State, which income (as determined under section 1612, but without regard to subsection (b) thereof) does not exceed 300 percent of the supplemental security income benefit rate established by section 1611(b)(1)", and

(B) in subclauses (VI) and (VII), by inserting "(applying the resource and income standards applicable under subclause (V))" after "in a medical institution".

(3) CONFORMING AMENDMENT.—Effective as if included in the enactment of section 303(e) of the Medicare Catastrophic Coverage Act of 1988, section 1902(f) of the Social Security Act (42 U.S.C. 1396a(f)) is amended by striking "subsection (e)" and inserting "subsections (e) and (r)(2)".

(4) EFFECTIVE DATE.—The amendments made by this subsection (other than para-

graph (3)) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

(d) HEALTH MAINTENANCE ORGANIZATIONS.—

(1) WAIVER OF 75 PERCENT RULE FOR PUBLIC ENTITIES.—Section 1903(m)(2)(D) of the Social Security Act (42 U.S.C. 1396b(m)(2)(D)) is amended by striking "(i) special circumstances warrant such modification or waiver, and (ii)".

(2) EXTENDING SPECIAL TREATMENT TO MEDICARE COMPETITIVE MEDICAL PLANS.—

(A) 6-MONTH MINIMUM ENROLLMENT PERIOD OPTION.—Section 1902(e)(2)(A) of such Act (42 U.S.C. 1396a(e)(2)(A)) is amended by inserting "or with an eligible organization with a contract under section 1876" after "1903(m)(2)(A)".

(B) ENROLLMENT LOCK-IN.—Section 1903(m)(2)(F)(i) of such Act (42 U.S.C. 1396b(m)(2)(F)(i)) is amended—

(i) by striking "(G) or" and inserting "(G),", and

(ii) by inserting after "(A)(ii)," the following: ", or with an eligible organization with a contract under section 1876 which meets the requirement of subparagraph (A)(ii),".

(3) AUTOMATIC 1-MONTH REENROLLMENT FOR SHORT PERIODS OF INELIGIBILITY.—Section 1903(m)(2) of such Act is amended by adding at the end the following new subparagraph:

"(H) In the case of an individual who—

"(i) in a month is eligible for benefits under this title and enrolled with a health maintenance organization with a contract under this paragraph,

"(ii) in the next month (or in the next 2 months) is not eligible for such benefits, but

"(iii) in the succeeding month is again eligible for such benefits,

the State plan, subject to subparagraph (A)(vi), may enroll the individual for that succeeding month with the health maintenance organization described in clause (i) if the organization continues to have a contract under this paragraph with the State.".

(4) ELIMINATION OF PROVISIONAL QUALIFICATION FOR HMOS.—Section 1903(m) of such Act is amended—

(A) in paragraph (2)(A)(i), by striking "(or the State as authorized by paragraph (3))", and

(B) by striking paragraph (3).

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(e) PERSONAL CARE SERVICES.—

(1) CLARIFICATION OF COVERAGE.—Section 1905 of the Social Security Act (42 U.S.C. 1396d), as previously amended by sections 4203(a), 4221(a), 4221(c), 4151(a), and 4272(a)(2) of this subtitle, is amended—

(A) in subsection (a)—

(i) by striking "and" at the end of paragraph (23),

(ii) by redesignating paragraph (24) as paragraph (25), and

(iii) by inserting after paragraph (23) the following new paragraph:

"(24) personal care services (as defined in section (u)); and"; and

(B) by adding at the end the following new subsection:

"(u) Only for purposes of subsection (a)(24), the term 'personal care services' means services—

"(1) prescribed by a physician for an individual in accordance with a plan of treatment,

"(2) provided by a person who is qualified to provide such services and who is not a member of the individual's family,

"(3) supervised by a registered nurse, and

"(4) furnished in a home or other location;

but does not include such services furnished to an inpatient or resident of a hospital or nursing facility.".

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(j) of such Act (42 U.S.C. 1396a(j)), as amended by sections 4203(b)(2), 4221(e)(3), and 4251(d)(1) of this subtitle, is amended by striking "(24)" and inserting "(25)".

(B) Section 1902(a)(10)(C)(iv) of such Act (42 U.S.C. 1396a(a)(10)(C)(iv)), as amended by sections 4203(b)(1), 4221(e)(4), and 4151(d)(2) of this subtitle, is amended by striking "(23)" and inserting "(24)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act and shall also apply to personal care services (as defined in such amendments) furnished before such date pursuant to regulations in effect as of July 1, 1989.

(f) SUPERVISION OF HEALTH CARE OF RESIDENTS OF NURSING FACILITIES BY NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS ACTING IN COLLABORATION WITH PHYSICIANS.—

(1) IN GENERAL.—Section 1919(b)(6)(A) of the Social Security Act (42 U.S.C. 1396r(b)(6)(A)) is amended by inserting "(or, at the option of a State, under the supervision of a nurse practitioner or clinical nurse specialist who is not an employee of the facility but who is working in collaboration with a physician)" after "physician".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies with respect to nursing facility services furnished on or after October 1, 1990, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

(g) CODIFICATION OF COVERAGE OF REHABILITATION SERVICES.—

(1) IN GENERAL.—Section 1905(a)(13) of the Social Security Act (42 U.S.C. 1396d(a)(13)) is amended by inserting before the semicolon at the end the following: ", including any medical or remedial services (provided in a facility, a home, or other setting) recommended by a physician or other licensed practitioner of the healing arts within the scope of their practice under State law, for the maximum reduction of physical or mental disability and restoration of an individual to the best possible functional level".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(h) INSTITUTIONS FOR MENTAL DISEASES.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study of the implementation, under current provisions, regulations, guidelines, and regulatory practices under title XIX of the Social Security Act, of the exclusion of coverage of services to certain individuals residing in institutions for mental diseases. By not later than October 1, 1990, the Secretary shall submit a report to Congress on the study and shall include in the report recommendations respecting modifications in such provisions, regulations, guidelines, and practices, if any, that may be appropriate to accommodate changes that may have occurred since 1972 in the delivery of psychiatric and other mental health services on an inpatient basis to such individuals.

(2) MORATORIUM ON TREATMENT OF CERTAIN FACILITIES.—Any determination by the Secretary that Kent Community Hospital Complex in Michigan or Saginaw Community Hospital in Michigan is an institution for mental diseases, for purposes of title XIX of the Social Security Act shall not take effect until 180 days after the date the Congress receives the report required under paragraph (1).

(3) SUBACUTE PSYCHIATRIC FACILITIES.—

(A) STUDY.—The Secretary shall conduct a study of the costs and benefits of providing services under title XIX of the Social Security Act in public subacute psychiatric facilities which provide services to psychiatric patients who would otherwise require acute hospitalization. The study shall examine—

(i) the relative difference in the cost of providing services in subacute psychiatric facilities and acute inpatient psychiatric facilities;

(ii) the effect of subacute psychiatric facilities in preventing hospitalization in acute psychiatric facilities of individuals eligible for assistance under such title; and

(iii) the impact of subacute psychiatric facilities on the accessibility and quality of psychiatric services available to such individuals.

(B) REPORT.—By not later than October 1, 1990, the Secretary shall submit a report to Congress on the study conducted under subparagraph (A), and shall include in such report such recommendations with respect to the continued coverage of services provided in subacute psychiatric facilities under title XIX of the Social Security Act as the Secretary considers appropriate.

(i) TIMELY PAYMENT UNDER WAIVERS OF FREEDOM OF CHOICE OF HOSPITAL SERVICES.—

(1) IN GENERAL.—Section 1915(b)(4) of the Social Security Act (42 U.S.C. 1396n(b)(4)) is amended by inserting before the period at the end the following: "and if providers under such restriction are paid on a timely basis in the same manner as health care practitioners must be paid under section 1902(a)(37)(A)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as of the first calendar quarter beginning more than 30 days after the date of the enactment of this Act.

(j) HOME AND COMMUNITY-BASED SERVICES WAIVERS.—

(1) CLARIFYING DEFINITION OF ROOM AND BOARD.—

(A) IN GENERAL.—Subsections (c)(1) and (d)(1) of section 1915 of such Act (42 U.S.C. 1396n) are each amended by adding at the end the following: "For purposes of this subsection, the term 'room and board' shall not include the portion of costs of rent and food attributable to an unrelated personal caregiver who is residing in the same household with an individual who, but for the assistance of such caregiver, would require admission to a hospital, nursing facility, or intermediate care facility for the mentally retarded.".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall apply to services furnished on or after the date of the enactment of this Act.

(2) TREATMENT OF PERSONS WITH MENTAL RETARDATION OR A RELATED CONDITION IN A DECERTIFIED FACILITY.—

(A) IN GENERAL.—Section 1915(c)(7) of the Social Security Act (42 U.S.C. 1396n(c)(7)) is amended by adding at the end the following new subparagraph:

"(C) In making estimates under paragraph (2)(D) in the case of a waiver to the extent that it applies to individuals with mental retardation or a related condition who are resident in an intermediate care facility for the mentally retarded the participation of which under the State plan is ter-

minated, the State may determine the average per capita expenditures that would have been made in a fiscal year for those individuals without regard to any such termination.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply as if included in the enactment of the Omnibus Budget Reconciliation Act of 1981, but shall only apply to facilities the participation of which under a State plan under title XIX of the Social Security Act is terminated on or after the date of the enactment of this Act.

(3) SCOPE OF RESPITE CARE.—

(A) IN GENERAL.—Section 1915(c)(4) of such Act is amended by adding at the end the following:

"Except as provided under paragraph (2)(D), the Secretary may not restrict the number of hours or days of respite care in any period which a State may provide under a waiver under this subsection.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply as if included in the enactment of the Omnibus Budget Reconciliation Act of 1981.

(4) PERMITTING ADJUSTMENT IN ESTIMATES TO TAKE INTO ACCOUNT PREADMISSION SCREENING REQUIREMENT.—In the case of a waiver under section 1915(c) of the Social Security Act for individuals with mental retardation or a related condition in a State, the Secretary of Health and Human Services shall permit the State to adjust the estimate of average per capita expenditures submitted under paragraph (2)(D) of such section, with respect to such expenditures made on or after January 1, 1989, to take into account increases in expenditures for, or utilization of, intermediate care facili ties for the mentally retarded or habilitation facilities resulting from implementation of section 1919(e)(7)(A) of such Act.

(k) SPOUSAL IMPOVERISHMENT.—

(1) EQUAL TREATMENT OF TRANSFERS BY COMMUNITY SPOUSE BEFORE INSTITUTIONALIZATION.—Section 1917(c) of the Social Security Act (42 U.S.C. 1396p(c)) is amended—

(A) in paragraph (1), by inserting "or whose spouse," after "an institutionalized individual (as defined in paragraph (3)) who,", and

(B) in paragraph (2)(B)—

(i) by amending clause (i) to read as follows: "(i) to or from (or to another for the sole benefit of) the individual's spouse, or", and

(ii) by striking ", or (iii)" and all that follows through "fair market value".

(2) CLARIFYING APPLICATION TO "SECTION 209(B)" STATES.—Section 1902(f) of such Act (42 U.S.C. 1396a(f)) is amended by inserting "and section 1924" after "1619(b)(3)".

(3) 1-TIME COMPUTATION OF SPOUSAL SHARE.—Section 1924(c)(1) of such Act (42 U.S.C. 1396r-1(c)(1)) is amended by striking "the beginning of a continuous period of institutionalization of the institutionalized spouse" each place it appears and inserting "the beginning of the first continuous period of institutionalization (beginning on or after September 30, 1989) of the institutionalized spouse".

(4) EFFECTIVE DATE.—

(A) SPOUSAL TRANSFERS.—The amendments made by paragraph (1) shall apply to transfers occurring after the date of the enactment of this Act.

(B) OTHER AMENDMENTS.—Except as provided in subparagraph (A), the amendments made by this subsection shall apply as if included in the enactment of the Medicare Catastrophic Coverage Act of 1988.

(l) STATE UTILIZATION REVIEW SYSTEMS.—Section 9432 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "IN GENERAL.—",

(B) by striking ", during the period" and all that follows through "Congress,", and

(C) by adding at the end the following new paragraph:

"(2) The Secretary may not, during the period beginning on the date of the enactment of the Omnibus Budget Reconciliation Act of 1989 and ending on the date that is 180 days after the date on which the report required by subsection (d) is submitted to the Congress, publish final or interim final regulations requiring a State plan approved under title XIX of the Social Security Act to include a program for ambulatory surgery, preadmission testing, or same-day surgery.";

(2) in subsection (b)(4), by inserting "and subsection (d)" after "In this subsection"; and

(3) by adding at the end the following new subsection:

"(d) REPORT.—The Secretary shall report to Congress, by not later than January 1, 1992, for each State in a representative sample of States—

"(1) an analysis of the procedures for which programs for ambulatory surgery, preadmission testing, and same-day surgery are appropriate for patients who are covered under the State medicaid plan, and

"(2) the effects of such programs on access of such patients to necessary care, quality of care, and costs of care.

In selecting such a sample of States, the Secretary shall include some States with medicaid plans that include such programs.".

(m) HEALTH INSURING ORGANIZATIONS.—

(1) TREATMENT OF CERTAIN COUNTY-OPERATED HEALTH INSURING ORGANIZATIONS.—Section 9517(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended—

(A) in paragraph (2)(A), by inserting "and in paragraph (3)" after "subparagraph (B)", and

(B) by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (C), in the case of up to 3 health insuring organizations which are described in subparagraph (B), which first become operational on or after January 1, 1986, and which are designated by the Governor, and approved by the Legislature, of California, the amendments made by paragraph (1) shall not apply.

"(B) A health insuring organization described in this subparagraph is one that—

"(i) is operated directly by a public entity established by a county government in the State of California under a State enabling statute;

"(ii) enrolls all medicaid beneficiaries residing in the county in which it operates;

"(iii) is subject to regulation under the Knox-Keene Act (Cal. Health and Safety Code, section 1340 et seq.) and the Waxman-Duffy Act (Cal. Welfare and Institutions Code, section 14450 et seq.);

"(iv) assures a reasonable choice of providers, which includes providers that have historically served medicaid beneficiaries and which does not impose any restriction which substantially impairs access to covered services of adequate quality where medically necessary; and

"(v) provides for a payment adjustment for a disproportionate share hospital (as defined under State law consistent with section 1923 of the Social Security Act) in a manner consistent with the requirements of such section.

"(C) Subparagraph (A) shall not apply with respect to any period for which the Secretary of Health and Human Services determines that the number of medicaid beneficiaries enrolled with health insuring organizations described in subparagraph (B) exceeds 10 percent of the number of such beneficiaries in the State of California.

"(D) In this paragraph, the term 'medicaid beneficiary' means an individual who is entitled to medical assistance under the State plan under title XIX of the Social Security Act, other than a qualified medicare beneficiary who is only entitled to such assistance because of section 1902(a)(10)(E) of such title.".

(2) EXTENSION OF WAIVER.—The Secretary of Health and Human Services shall continue to waive, through June 30, 1992, the application of section 1903(m)(2)(A)(ii) of the Social Security Act to the Tennessee Primary Care Network, Inc., under the same terms and conditions as applied to such waiver as of July 1, 1989.

(n) DAY HABILITATION AND RELATED SERVICES.—

(1) PROHIBITION OF DISALLOWANCE PENDING ISSUANCE OF REGULATIONS.—Except as specifically permitted under paragraph (3), the Secretary of Health and Human Services may not—

(A) withhold, suspend, disallow, or deny Federal financial participation under section 1903(a) of the Social Security Act for day habilitation and related services under paragraph (9) or (13) of section 1905(a) of such Act on behalf of persons with mental retardation or with related conditions pursuant to a provision of its State plan as approved on or before June 30, 1989, or

(B) withdraw Federal approval of any such State plan provision.

(2) REQUIREMENTS FOR REGULATION.—A final regulation described in this paragraph is a regulation, promulgated after a notice of proposed rule-making and a period of at least 60 days for public comment, that—

(A) specifies the types of day habilitation and related services that a State may cover under paragraph (9) or (13) of section 1905(a) of the Social Security Act on behalf of persons with mental retardation or with related conditions, and

(B) any requirements respecting such coverage.

(3) PROSPECTIVE APPLICATION OF REGULATION.—If the Secretary promulgates a final regulation described in paragraph (2) and the Secretary determines that a State plan under title XIX of the Social Security Act does not comply with such regulation, the Secretary shall notify the State of the determination and its basis, and such determination shall not apply to day habilitation and related services furnished before the first day of the first calendar quarter beginning after the date of the notice to the State.

Subtitle D—Maternal and Child Health Program

SEC. 4301. INCREASE IN AUTHORIZATION OF APPROPRIATIONS.

IN GENERAL.—Section 501 of the Social Security Act (42 U.S.C. 701) is amended—

(1) by amending subsection (a) to read as follows:

"(a) To improve the health of all mothers and children consistent with the applicable health status goals and national health objectives established by the Secretary under

the Public Health Service Act for the year 2000, there are authorized to be appropriated $661,000,000 for fiscal year 1990 and each fiscal year thereafter—

"(1) for the purpose of enabling each State—

"(A) to provide and to assure mothers and children (in particular those with low income or with limited availability of health services) access to quality maternal and child health services;

"(B) to reduce infant mortality and the incidence of preventable diseases and handicapping conditions among children, to reduce the need for inpatient and long-term care services, to increase the number of children (especially preschool children) appropriately immunized against disease and the number of low income children receiving health assessments and follow-up diagnostic and treatment services, and otherwise to promote the health of mothers and infants by providing prenatal, delivery, and postpartum care for low income, at-risk pregnant women, and to promote the health of children by providing preventive and primary care services for low income children;

"(C) to provide rehabilitation services for blind and disabled individuals under the age of 16 receiving benefits under title XVI, to the extent medical assistance for such services is not provided under title XIX; and

"(D) to provide and to promote family-centered, community-based, coordinated care (including care coordination services, as defined in subsection (b)(3)) for children with special health care needs and to facilitate the development of community-based systems of services for such children and their families;

"(2) for the purpose of enabling the Secretary (through grants, contracts, or otherwise) to provide for special projects of regional and national significance, research, and training with respect to maternal and child health and children with special health care needs (including early intervention training and services development), for genetic disease testing, counseling, and information development dissemination programs, and for grants relating to hemophilia (without regard to age) and including funding for comprehensive hemophilia diagnostic and treatment centers; and

"(3) for the purpose of enabling the Secretary (through grants, contracts, or otherwise) to provide for developing and expanding each of the following—

"(A)(i) maternal and infant health home visiting programs in which case management services (as defined in subparagraphs (B) and (C) of subsection (b)(3)), health education services, and related social support services are provided in the home to pregnant women or families with an infant up to age one by an appropriate health professional or by a qualified non-professional acting under the supervision of a health care professional,

"(ii) integrated maternal and child health service delivery systems (of the type described in section 1136 and using, once developed, the model application form developed under section 4306 of the Omnibus Budget Reconciliation Act of 1989),

"(iii) maternal and child health centers which (I) provide prenatal, delivery, and postpartum care for pregnant women and preventive and primary care services for infants up to age one and (II) operate under the direction of a not-for-profit hospital, and

"(iv) projects designed to increase the participation of obstetricians and pediatricians under the program under this title and under State plans approved under title XIX; and

"(B)(i) projects for the screening of newborns for sickle cell anemia and other genetic disorders and follow-up services, and

"(ii) maternal and child health projects to serve rural populations."; and

(2) by adding at the end of subsection (b) the following new paragraphs:

"(3) The term 'care coordination services' means services to promote the effective and efficient organization and utilization of resources to assure access to necessary comprehensive services for children with special health care needs and their families.

"(4) The term 'case management services' means—

"(A) with respect to pregnant women, services to assure access to quality prenatal, delivery, and postpartum care; and

"(B) with respect to infants up to age 1, services to assure access to quality preventive and primary care services.".

(b) CONFORMING AMENDMENT.—Section 505(2)(C)(ii) of such Act (42 U.S.C. 705(2)(C)(ii)) is amended by striking "paragraphs (1) through (3) of section 501(a)" and inserting "subparagraphs (A) through (D) of section 501(a)(1)".

SEC. 4302. ALLOTMENTS TO STATE AND FEDERAL SET-ASIDES.

(a) IN GENERAL.—Section 502 of the Social Security Act (42 U.S.C. 702) is amended—

(1) by amending the first sentence of paragraph (1) of subsection (a) to read as follows: "Of the amounts appropriated under section 501(a) for a fiscal year, the Secretary shall retain an amount equal to 15 percent for the purpose of carrying out activities described in section 501(a)(2).";

(2) in subsection (a)(3), by inserting "or subsection (b)" after "this subsection";

(3) by striking subsection (c), by redesignating subsection (b) as subsection (c), and by inserting after subsection (a) the following new subsection:

"(b)(1) Of the amounts appropriated under section 501(a) for a fiscal year, the Secretary shall retain an amount equal to 12¾ percent, of which ⅔ shall be retained for the purpose of carrying out activities described in section 501(a)(3)(A) and ⅓ shall be retained for the purpose of carrying out activities described in section 501(a)(3)(B).

"(2)(A) Of the amounts retained for the purpose of carrying out activities described in section 501(a)(3)(A), the Secretary shall provide preference to qualified applicants which demonstrate that the activities to be carried out with such amounts shall be in areas with a high infant mortality rate (relative to the average infant mortality rate in the United States or in the State in which the area is located).

"(B) In carrying out activities described in section 501(a)(3)(A)(iii), the Secretary shall not provide for developing or expanding a maternal and child health center unless the Secretary has received satisfactory assurances that there will be applied, towards the costs of such development or expansion, non-Federal funds in an amount at least equal to the amount of funds provided under this title toward such development or expansion.

"(3) Of the amounts retained for the purpose of carrying out activities described in section 501(a)(3)(B)—

"(A) not less than 25 percent shall be retained to carry out projects described in clause (i) of such section, and

"(B) not less than 25 percent shall be retained to carry out projects described in clause (ii) of such section."; and

(4) in subsection (c), as redesignated by paragraph (2)—

(A) by striking "that are not in excess of $478,000,000", and

(B) by amending paragraph (2) to read as follows:

"(2) Each such State shall be allotted for each fiscal year an amount equal to the sum of—

"(A) the amount of the allotment to the State under this subsection in fiscal year 1983, and

"(B) the State's proportion (determined under paragraph (1)(B)(ii)) of the amount by which the allotment available under this subsection for all the States for that fiscal year exceeds the amount that was available under this subsection for allotment for all the States for fiscal year 1983.".

(b) CONFORMING AMENDMENTS.—Sections 503(a) and 508(b) of such Act (42 U.S.C. 703(a), 708(b)) are amended by striking "502(b)" each place it appears and inserting "502(c)".

SEC. 4303. USE OF ALLOTMENT FUNDS AND APPLICATION FOR BLOCK GRANT FUNDS.

(a) EXPANDING USE OF FUNDS AND LIMITATION ON USE OF FUNDS FOR ADMINISTRATIVE COSTS.—Section 504 of the Social Security Act (42 U.S.C. 704) is amended—

(1) in subsection (a), by inserting "and including payment of salaries and other related expenses of National Health Service Corps personnel" after "education, and evaluation", and

(2) by adding at the end the following new subsection:

"(d) Of the amounts paid to a State under section 503 from an allotment for a fiscal year under section 502(c), not more than 10 percent may be used for administering the funds paid under such section.".

(b) APPLICATION.—Section 505 of such Act (42 U.S.C. 705) is amended—

(1) by amending the heading to read as follows:

"APPLICATION FOR BLOCK GRANT FUNDS";

(2) by inserting "(a)" after "SEC. 505.";

(3) in the matter before paragraph (1), by inserting "an application (in a standardized form specified by the Secretary) that" after "must prepare and transmit to the Secretary";

(4) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by inserting before paragraph (2) the following new paragraph:

"(1) except as provided under subsection (b), provides that the State will use—

"(A) at least 30 percent of the amounts paid to it under section 503 for preventive and primary care services for pregnant women, mothers, and infants up to age one, including prenatal, delivery, and postpartum care,

"(B) at least 30 percent of such payment amounts for preventive and primary care services for children, and

"(C) at least 30 percent of such payment amounts for services for children with special health care needs (as specified in section 501(a)(1)(D));";

(5) in paragraph (2), as redesignated by paragraph (4) of this subsection—

(A) by striking "a report describing" and inserting "provides a description of",

(B) in clause (B), by inserting "subject to paragraph (1)," after "(B)",

(C) in clause (B), by inserting "(consistent with the health status goals and national

health objectives referred to in section 501(a))" after "those needs", and

(D) in clause (D), by striking "data the State intends to collect respecting activities conducted with such payments" and inserting "information the State will collect in order to prepare the reports required under section 506(a)";

(6) in paragraph (3), as redesignated by paragraph (4) of this subsection—

(A) by striking "a statement of assurances that represents to the Secretary" and inserting "provides";

(B) in subparagraph (A), by striking "will provide" and inserting "will establish";

(C) by amending subparagraph (C) to read as follows:

"(C) special consideration will be given (where appropriate) to the continuation of the funding of special projects in the State previously funded under this title (as in effect before August 31, 1981);";

(D) in subparagraph (D), by striking "and" at the end;

(E) in subparagraph (E)—

(i) by striking "participate" before clause (i),

(ii) in clause (i), by striking "diagnosis" and inserting "diagnostic",

(iii) in clause (i), by striking "title XIX" and inserting "section 1905(a)(4)(B) (including the establishment of periodicity and content standards for early and periodic screening, diagnostic, and treatment services)",

(iv) by inserting "participate" after "(i)", after "(ii)", and after "(iii)",

(v) by striking "and" at the end of clause (ii),

(vi) by striking the period at the end of clause (iii) and inserting ", and", and

(vii) by adding after clause (iii) the following new clause:

"(iv) provide, directly and through their providers and institutional contractors, for services to identify pregnant women and infants who are eligible for medical assistance under subparagraph (A) or (B) of section 1902(l)(1) and, once identified, to assist them in applying for such assistance; and"; and

(G) by inserting after subparagraph (E) the following:

"(F) each health care provider or practitioner providing health care services under this title has entered into an agreement, with the single State agency under section 1902(a)(5), to provide services under the State plan under title XIX to individuals entitled to medical assistance for such services under the plan.";

(7) by striking the last 2 sentences and inserting the following: "The application shall be developed by, or in consultation with, the State maternal and child health agency and shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during its development and after its transmittal."; and

(8) by adding at the end the following new subsection:

"(b) The Secretary may waive the requirement under subsection (a)(1) that a State's application for a fiscal year provide for the use of funds for specific activities if for that fiscal year—

"(1) the Secretary determines—

"(A) on the basis of information provided in the State's most recent annual report submitted under section 506(a)(1), that the State has demonstrated an extraordinary unmet need for one of the activities described in subsection (a)(1), and

"(B) that the granting of the waiver is justified and will assist in carrying out the purposes of this title; and

"(2) the State provides assurances to the Secretary that the State will provide for the use of some amounts paid to it under section 503 for each of the activities described in subparagraphs (A), (B), and (C) of subsection (a)(1) and specifies the percentages to be substituted in each of such subparagraphs.".

(c) CONFORMING AMENDMENTS.—(1) Section 502(c) of such Act (42 U.S.C. 702(c)), as redesignated by section 4302(a)(3) of this subtitle, is amended by striking "a description of intended activities and statement of assurances" and inserting "an application".

(2) Section 504(a) of such Act (42 U.S.C. 704(a)) is amended by striking "its description of intended expenditures and statement of assurances" and insert "its application".

(3) Section 506(a)(1) of such Act (42 U.S.C. 706(a)(1)) is amended by striking "description and statement" and inserting "application".

(4) Sections 502(b), 502(d)(1), 503(c), 504(a), 506(a)(1)(C), and 509(a)(6) of such Act (42 U.S.C. 702(b), 702(d)(1), 703(c), 704(a), 706(a)(1)(C), 709(a)(6)) are each amended by striking "505" each place it appears and inserting "505(a)".

SEC. 4304. REPORTS.

(a) STATE REPORTS.—Subsection (a) of section 506 of the Social Security Act (42 U.S.C. 706) is amended—

(1) in paragraph (1)—

(A) by inserting after the first sentence the following: "Each such report shall be prepared by, or in consultation with, the State maternal and child health agency.",

(B) by striking "be in such form and contain such information" and inserting "be in such standardized form and contain such information (including information described in paragraph (2))", and

(C) by striking "and of the progress made toward achieving the purposes of this title, and (C)" and inserting ", (C) to describe the extent to which the State has met the goals and objectives it set forth under section 505(a)(1)(B) and the national health objectives referred to in section 501(a), and (D)";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) Each annual report under paragraph (1) shall include the following information:

"(A)(i) The number of individuals served by the State under this title (by class of individuals).

"(ii) The proportion of each class of such individuals which has health coverage.

"(iii) The types (as defined by the Secretary) of services provided under this title to individuals within each such class.

"(iv) The amounts spent under this title on each type of services, by class of individuals served.

"(B) Information on the status of maternal and child health in the State, including—

"(i) information (by county and by racial and ethnic group) on—

"(I) the rate of infant mortality, and

"(II) the rate of low-birth-weight births;

"(ii) information (on a State-wide basis) on—

"(I) the rate of maternal mortality,

"(II) the rate of neonatal death,

"(III) the rate of perinatal death,

"(IV) the proportion of infants born with fetal alcohol syndrome,

"(V) the proportion of infants born with drug dependency,

"(VI) the proportion of women who deliver who do not receive prenatal care during the first trimester of pregnancy, and

"(VII) the proportion of children, who at their second birthday, have been vaccinated against each of measles, mumps, rubella, polio, diphtheria, tetanus, pertussis, Hib meningitis, and hepatitis B; and

"(iii) information on such other indicators of maternal, infant, and child health care status as the Secretary may specify.

"(C) Information (by racial and ethnic group) on—

"(i) the number of deliveries in the State in the year, and

"(ii) the number of such deliveries to pregnant women who were provided prenatal, delivery, or postpartum care under this title or were entitled to benefits with respect to such deliveries under the State plan under title XIX in the year.

"(D) Information (by racial and ethnic group) on—

"(i) the number of infants under one year of age who were in the State in the year, and

"(ii) the number of such infants who were provided services under this title or were entitled to benefits under the State plan under title XIX at any time during the year.

"(E) Information on the number of—

"(i) obstetricians,

"(ii) family practitioners,

"(iii) certified family nurse practitioners,

"(iv) certified nurse midwives,

"(v) pediatricians, and

"(vi) certified pediatric nurse practitioners,

who were licensed in the State in the year.

For purposes of subparagraph (A), each of the following shall be considered to be a separate class of individuals: pregnant women, infants up to age 1, children with special health care needs, other children under age 22, and other individuals.".

(b) SECRETARIAL REPORT.—Paragraph (3) of subsection (a) of such section, as redesignated by subsection (a)(2) of this section, is amended to read as follows:

"(3) The Secretary shall annually transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report that includes—

"(A) a description of each project receiving funding under paragraph (2) or (3) of section 502(a), including the amount of Federal funds provided, the number of individuals served or trained, as appropriate, under the project, and a summary of any formal evaluation conducted with respect to the project;

"(B) a summary of the information described in paragraph (2)(A) reported by States;

"(C) based on information described in paragraph (2)(B) supplied by the States under paragraph (1), a compilation of the following measures of maternal and child health in the United States and in each State:

"(i) Information on—

"(I) the rate of infant mortality, and

"(II) the rate of low-birth-weight births.

Information under this clause shall also be compiled by racial and ethnic group.

"(ii) Information on—

"(I) the rate of maternal mortality, and

"(II) the rate of neonatal death,

"(III) the rate of perinatal death,

"(IV) the proportion of infants born with fetal alcohol syndrome,

"(V) the proportion of infants born with drug dependency,

"(VI) the proportion of women who deliver who do not receive prenatal care during the first trimester of pregnancy, and

"(VII) the proportion of children, who at their second birthday, have been vaccinated against each of measles, mumps, rubella, polio, diphtheria, tetanus, pertussis, Hib meningitis, and hepatitis B.

"(iii) Information on such other indicators of maternal, infant, and child health care status as the Secretary has specified under paragraph (2)(B)(iii).

"(iv) Information on (by racial and ethnic group)—

"(I) the number of deliveries in the State in the year, and

"(II) the number of such deliveries to pregnant women who were provided prenatal, delivery, or postpartum care under this title or were entitled to benefits with respect to such deliveries under the State plan under title XIX in the year;

"(D) based on information described in subparagraphs (C), (D), and (E) of paragraph (2) supplied by the States under paragraph (1), a compilation of the following information in the United States and in each State:

"(i) Information on—

"(I) the number of deliveries in the year, and

"(II) the number of such deliveries to pregnant women who were provided prenatal, delivery, or postpartum care under this title or were entitled to benefits with respect to such deliveries under a State plan under title XIX in the year.

Information under this clause shall also be compiled by racial and ethnic group.

"(ii) Information on—

"(I) the number of infants under one year of age in the year, and

"(II) the number of such infants who were provided services under this title or were entitled to benefits under a State plan under title XIX at any time during the year.

Information under this clause shall also be compiled by racial and ethnic group.

"(iii) Information on the number of—

"(I) obstetricians,

"(II) family practitioners,

"(III) certified family nurse practitioners,

"(IV) certified nurse midwives,

"(V) pediatricians, and

"(VI) certified pediatric nurse practitioners,

who were licensed in a State in the year; and

"(E) an assessment of the progress being made to meet the health status goals and national health objectives referred to in section 501(a).".

SEC. 4305. FEDERAL ASSISTANCE IN DATA COLLECTION MECHANISMS.

Section 509(a)(4) of the Social Security Act (42 U.S.C. 709(a)(4)) is amended by inserting before the semicolon at the end the following: "and in developing consistent and accurate data collection mechanisms in order to report the information required under section 506(a)(2)".

SEC. 4306. DEVELOPMENT OF MODEL APPLICATION FORM FOR MATERNAL AND CHILD ASSISTANCE PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall develop, by not later than 1 year after the date of the enactment of this Act and in consultation with the Secretary of Agriculture, a model application form for use in applying, simultaneously, for assistance for a pregnant woman or a child less than 6 years of age under maternal and child assistance programs (as defined in subsection (c)). In developing such form, the Secretary is not authorized to change any requirement with respect to eligibility under any maternal and child assistance program.

(b) DISSEMINATION OF MODEL FORM.—The Secretary shall provide for publication in the Federal Register of the model application form developed under subsection (a) and shall send a copy of such form to each State agency responsible for administering a maternal and child assistance program.

(c) MATERNAL AND CHILD ASSISTANCE PROGRAM DEFINED.—In this section, the term "maternal and child assistance program" means any of the following programs:

(1) The maternal and child health block grant program under title V of the Social Security Act.

(2) The medicaid program under title XIX of the Social Security Act.

(3) The migrant and community health centers programs under sections 329 and 330 of the Public Health Service Act.

(4) The grant program for the homeless under section 340 of the Public Health Service Act.

(5) The "WIC" program under section 17 of the Child Nutrition Act of 1966.

(6) The head start program under the Head Start Act.

SEC. 4307. RESEARCH ON INFANT MORTALITY AND MEDICAID SERVICES.

The Secretary of Health and Human Services shall, through the National Center for Health Statistics, develop a national system for linking, for any infant up to age 1—

(1) the infant's birth record,

(2) any death record for the infant, and

(3) information on any claims submitted under title XIX of the Social Security Act for health care furnished to the infant or with respect to the birth of the infant.

SEC. 4308. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle shall apply to appropriations for fiscal years beginning with fiscal year 1990.

(b) APPLICATION AND REPORT.—The amendments made—

(1) by subsections (b) and (c) of section 4303 shall apply to payments for allotments for fiscal years beginning with fiscal year 1991, and

(2) by section 4304 shall apply to annual reports for fiscal years beginning with fiscal year 1991.

Subtitle E—Miscellaneous Health-Related Provisions

SEC. 4401. CONGRESSIONAL ACCESS TO INFORMATION.

Section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j) is amended by adding at the end the following: "This paragraph does not authorize the withholding of information from either House of Congress or from, to the extent of matter within its jurisdiction, any committee or subcommittee of such committee or any joint committee of Congress or any subcommittee of such joint committee.".

SEC. 4402. VACCINE INJURY COMPENSATION TECHNICALS.

(a) REFERENCE.—Whenever in this section an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

(b) PETITIONS.—

(1) Section 2111(a)(1) (42 U.S.C. 300aa-11(a)(1)) is amended by striking out "filing of a petition" and inserting in lieu thereof "filing of a petition containing the matter prescribed by paragraphs (1) and (2) of subsection (c)".

(2) Section 2111(a)(5) is amended—

(A) in subparagraph (A) by striking out "elect to withdraw such action" and inserting in lieu thereof "petition to have such action dismissed without prejudice", and

(B) in subparagraph (B), by striking out "on the effective date of this part had pending" and inserting in lieu thereof "has pending" and by striking out "does not withdraw the action under subparagraph (A)".

(3) Section 2111(a)(6) is amended by striking out "the effective date of this part" each place it appears and inserting in lieu thereof "November 15, 1988".

(4) Section 2111(a) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following:

"(8) If on the effective date of this part there was pending an appeal or rehearing with respect to a civil action brought against a vaccine administrator or manufacturer and if as a result of such appeal or rehearing damages were denied for a vaccine-related injury or death, the person who brought such action may file a petition under subsection (b) for such injury or death.".

(5) Section 2111(c) is amended—

(A) in paragraph (1), by inserting "except as provided in paragraph (4)," after "(1)" and in paragraph (2), by inserting "except as provided in paragraph (4)," after "(2)",

(B) in paragraph (2), by striking out "(including autopsy reports, if any)" and by striking out "and an identification" and all that follows and inserting in lieu thereof ", and",

(C) by redesignating paragraph (2) as paragraph (3) and by adding after paragraph (1) the following new paragraph:

"(2) except as provided in paragraph (4), maternal prenatal and delivery records, newborn hospital records, including all physicians' and nurses' notes and test results, vaccination records associated with the vaccine allegedly causing the injury, pre- and post-injury physician or clinic records, including all relevant growth charts and test results, all post-injury outpatient records, including all provider notes, test results, and medication records, if applicable, death certificate, and if applicable, autopsy results (if an autopsy was conducted),", and

(D) by adding after paragraph (3) (as so redesignated) the following:

"(4) an identification of any records of the type described in paragraph (1), (2), or (3) which are unavailable to the petitioner and the reasons for their unavailability.".

(6) Paragraph (3) of section 2111(c), as in effect before the date of the enactment of this section, is redesignated as subsection (d) of such section and is amended by striking out "appropriate" and inserting in lieu thereof "Upon the making of the determination of eligibility required in section 2113, the petitioner shall expeditiously submit appropriate".

(7) The margin on paragraph (9) of section 2111(a) (as so redesignated) is indented two ems.

(8) Section 2115(e)(2) (42 U.S.C. 300aa-15(e)(2)) is amended by striking out "and elected under section 2111(a)(4) to withdraw such action" and inserting in lieu thereof "and petitioned under section 2111(a)(5) to

have such action dismissed without prejudice".

(c) SPECIAL MASTERS.—Section 2112(c)(2) (42 U.S.C. 300a-12(c)(2)) is amended by striking out "may" and subparagraphs (A) through (E) of section 2112(c)(2) are amended to read as follows:

"(A) may require such evidence as may be reasonable and necessary for the preparation of proposed findings of fact and conclusions of law with respect to whether compensation is to be provided under the Program to the petitioner and the amount of any such compensation,

"(B) may require the submission of such information as may be reasonable and necessary to determine whether compensation is to be provided under the Program to the petitioner and the amount of any such compensation,

"(C) may require the testimony of any person and the production of any documents as may be reasonable and necessary to determine whether compensation is to be provided under the Program to the petitioner and the amount of any such compensation,

"(D) may conduct such hearings as may be reasonable and necessary if requested by the petitioner or respondent, and

"(E) shall prepare and submit to the court proposed findings of fact and conclusions of law.".

(d) DE NOVO PROCEEDINGS.—Section 2112(d)(1) (42 U.S.C. 300aa-12)(d)(1)) is amended by striking out ", or remand for further proceedings" and inserting in lieu thereof a period and the following: "The court may also receive further evidence or recommit the matter to a special master with instructions.".

(e) TIME FOR JUDGMENT.—Section 2112(d)(3) (42 U.S.C. 300aa-12(d)(3)) is amended by inserting before the period a comma and the following: "except that a judgment on a petition filed under the Program with respect to a vaccine administered before the effective date of this part shall be rendered not later than 18 months after the date on which the petition was filed".

(f) TABLE.—The table contained in section 2114(a) (42 U.S.C. 300aa-14(a)) is amended by striking out "(c)(2)" each place it occurs and inserting in lieu thereof "(b)(2)".

(g) COMPENSATION.—

(1) Section 2115(b) (42 U.S.C. 300aa-15(b)) is amended by striking out "may not include" and all that follows and inserting in lieu thereof "may include the compensation described in paragraphs (1)(A) and (2) of subsection (a) and may also include an amount, not to exceed a combined total of $30,000, for—

"(1) lost earnings (as provided in paragraph (3) of subsection (a)),

"(2) pain and suffering (as provided in paragraph (4) of subsection (a)), and

"(3) attorneys' fees and other costs (as provided in subsection (e)).".

(2) Section 2115(e) (42 U.S.C. 300aa-15(e)) is amended—

(A) in the first sentence of paragraph (1), by striking out "The judgment of the United States Claims Court on a petition filed under section 2111 awarding compensation shall include an amount to cover" and inserting in lieu thereof "In awarding compensation on a petition filed under section 2111 the United States Claims Court shall also award an amount to cover",

(B) in the second sentence of paragraph (1), by striking out "may include in the judgment an amount to cover" and inserting in lieu thereof "may award an amount to cover",

(C) in paragraph (2), by striking out "the judgment of the court on such petition may include an amount" and inserting in lieu thereof "the court may also award an amount", and

(D) in paragraph (3), by striking out "included under paragraph (1) in a judgment on such petition" and inserting in lieu thereof "awarded by the court under paragraph (1)".

(h) TECHNICAL.—

(1) Section 2116(c) (42 U.S.C. 300aa-16(c) is amended by striking out "final".

(2) Section 2121(a) (42 U.S.C 300aa-21(a)) is amended by striking out "has become final" and inserting in lieu thereof "has been entered".

(i) VACCINE INFORMATION.—Section 2126(c)(9) (42 U.S.C. 300aa-26(c)(9)) is amended to read as follows:

"(9) a summary of—

"(A) relevant Federal recommendations concerning a complete schedule of childhood immunizations, and

"(B) the availability of the Program, and".

(j) AUTHORIZATIONS.—

(1) For administering part A of subtitle 2 of title XXI of the Public Health Service Act there is authorized to be appropriated from the Vaccine Injury Compensation Trust Fund established under section 9510(c) of the Internal Revenue Code of 1986 to the Secretary of Health and Human Services $1,500,000 for each of the fiscal years 1990 and 1991.

(2) For administering part A of subtitle 2 of title XXI of the Public Health Service Act there is authorized to be appropriated from the Vaccine Injury Compensation Trust Fund to the Attorney General $1,500,000 for each of the fiscal years 1990 and 1991.

(3) For administering part A of subtitle 2 of title XXI of the Public Health Service Act there is authorized to be appropriated from the Vaccine Injury Compensation Trust Fund to the United States Claims Court $1,500,000 for each of the fiscal years 1990 and 1991.

(k) RULES CHANGES.—The United States Claims Court shall review its rules for proceedings under the National Vaccine Injury Compensation Program under title XXI of the Public Health Service Act, make revisions in such rules to provide for a non-adversarial, expeditious, and informal process for the resolution of petitions filed under such program, and reissue the rules as so revised in accordance with applicable provisions of Federal law governing the issuance of rules by the United States Claims Court. The amended rules shall—

(1) include flexible and informal standards of admissibility of evidence,

(2) include the opportunity for summary judgment,

(3) include the opportunity for parties to submit arguments and evidence on the record without requiring routine use of oral presentations, cross examinations, or hearings, and

(4) provide for limitations on discovery and allow the special masters to replace the usual rules of discovery in civil actions in the United States Claims Court.

(l) STUDY.—The Secretary of Health and Human Services shall evaluate the National Vaccine Injury Compensation Program under title XXI of the Public Health Service Act and shall report the results of such study to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate not later than January 1, 1992.

(m) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to petitions filed under the National Vaccine Injury Compensation Program under title XXI of the Public Health Service Act after the date of the enactment of this section.

SEC. 4403. STUDY BY GENERAL ACCOUNTING OFFICE WITH RESPECT TO LOSS BY RETIRED INDIVIDUALS OF HEALTH BENEFITS DUE TO LIQUIDATION OF EMPLOYER IN BANKRUPTCY.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study for the purpose of—

(1) identifying methods for providing health benefits to any retired individual whose employer-provided health benefits have been or may be terminated as a result of the employer receiving a discharge under chapter 7 of title 11, United States Code;

(2) determining the number of such individuals and the extent to which such individuals have experienced, as a result of such discharge, a reduction in health benefits;

(3) determining the extent to which employer-provided health benefits for retired individuals have been reduced since 1984 for retired individuals; and

(4) determining the projected trend for the reduction of health benefits for retired individuals.

(b) CONSIDERATION OF CERTAIN METHODS.—In carrying out subsection (a)(1), the Comptroller General of the United States shall consider the feasibility of—

(1) expanding the authority of the Pension Benefits Guaranty Corporation to include the provision of health benefits to individuals described in such subsection or, in the alternative, establishing a separate corporation for such purpose;

(2) providing for the eligibility of such individuals for benefits under title XVIII or XIX of the Social Security Act, including eligibility through income-related cost sharing methods;

(3) the establishment by the States of insurance programs to provide health benefits for such individuals;

(4) the use of excess pension funds to establish funds for the provision of health benefits to such individuals;

(5) with respect to group health benefits through the employer involved, providing for the mandatory conversion of the group plan to an individual plan, with continuation of the group premium rate; and

(6) such other methods as the Comptroller General determines to be appropriate.

(c) COSTS AND EXTENT OF BENEFITS.—In carrying out subsection (b), the Comptroller General of the United States shall determine, for each of the methods considered under such subsection—

(1) the cost to the Federal Government and the Governments of the States;

(2) the cost to individuals;

(3) the extent, scope, and duration of health benefits to be provided; and

(4) the administrative structure required for implementation and the cost of such administrative structure.

Subtitle F—NRC User Fees

SEC. 4501. NRC USER FEES AND ANNUAL CHARGES.

(a) ANNUAL ASSESSMENT.—

(1) AMOUNT.—The Nuclear Regulatory Commission (hereafter in this section referred to as the "Commission") shall annually assess and collect such fees and charges as are described in subsections (b) and (c) in an amount that approximates 100 percent of the budget authority of the Commission

in the fiscal year in which such assessment is made less any amount appropriated to the Commission from the Nuclear Waste Fund in such fiscal year.

(2) FIRST ASSESSMENT.—The first such assessment shall be made not later than September 30, 1990, and shall be based on the budget authority of the Commission for fiscal year 1990.

(b) FEES FOR SERVICE OR THING OF VALUE.—Pursuant to section 9701 of title 31, United States Code, any person who receives a service or thing of value from the Commission shall pay fees to cover the Commission's costs in providing any such service or thing of value.

(c) ANNUAL CHARGES.—

(1) PERSONS SUBJECT TO CHARGE.—Any person who holds a license issued under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)) that authorizes such person to operate a utilization facility with a rated thermal capacity in excess of 50,000,000 watts shall pay, in addition to the fees set forth in subsection (b), an annual charge.

(2) AGGREGATE AMOUNT OF CHARGES.—The aggregate amount of the annual charge collected from all persons described in paragraph (1) shall equal an amount that approximates 100 percent of the budget authority of the Commission in the fiscal year in which such charge is collected, less any amount appropriated to the Commission from the Nuclear Waste Fund and the amount of fees collected under subsection (b) in such fiscal year.

(3) AMOUNT PER LICENSEE.—The Commission shall establish, by rule, a schedule of charges fairly and equitably allocating the aggregate amount of charges described in paragraph (2) among the licensees described in paragraph (1). The charges shall have a reasonable relationship to the cost of providing regulatory services and may be based on the allocation of the Commission's resources among licensees or classes of licensees described in paragraph (1).

(d) DEFINITION.—As used in this section, "Nuclear Waste Fund" means the fund established pursuant to section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)).

SEC. 4502. REPEAL.

Title VII of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) is amended by striking subtitle G. This repeal shall become effective upon promulgation of the Nuclear Regulatory Commission's final rule implementing section 4501 of this Act.

Subtitle G—Securities and Exchange Commission Fees

SEC. 4601. SECURITIES AND EXCHANGE COMMISSION.

(a) INCREASE IN OFFSETTING RECEIPTS.—

(1) CHANGES IN APPLICATION, COLLECTION, AND RATE OF TRANSACTION FEES UNDER SECTION 31 OF THE SECURITIES EXCHANGE ACT OF 1934.—Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended to read as follows:

"TRANSACTION FEES

"SEC. 31. (a) EXCHANGE-TRADED SECURITIES.—Every national securities exchange shall pay to the Commission a fee in an amount equal to 1/300th of 1 per centum of the aggregate dollar amount of sales of securities (other than bonds, debentures, and other evidences of indebtedness) transacted on such national securities exchange.

"(b) OFF-EXCHANGE-TRADED SECURITIES.—Every national securities association shall pay to the Commission a fee in an amount equal to 1/300th of 1 per centum of the aggregate dollar amount of sales transacted by or through any member of such association otherwise than on a national securities exchange of—

"(1) securities registered on such an exchange (other than bonds, debentures, and other evidences of indebtedness); and

"(2) securities designated as qualified for trading in a national market system pursuant to section 11A(a)(2) of this title and the rules and regulations thereunder.

"(c) DATES FOR PAYMENT OF FEES.—The fees required by subsections (a) and (b) shall—

"(1) with respect to transactions occurring during any calendar year before calendar year 1990, be paid on March 15 of the following calendar year;

"(2) with respect to transactions occurring during the period January 1, 1990, through June 30, 1990, be paid on September 15, 1990; and

"(3) with respect to transactions occurring during any 12-month period beginning on July 1 of 1990 or any succeeding year, be paid on the September 15 following the end of such 12-month period.

"(d) SPECIAL RATE FOR FISCAL YEARS 1990 AND 1991.—During the period October 1, 1989, through December 31, 1991, subsections (a) and (b) shall be applied with respect to transactions occurring during such period by substituting '1/220th of 1 percent' for '1/300th of 1 percent'.

"(e) EXEMPTIONS.—The Commission, by rule, may exempt any sale of securities or any class of sales of securities from any fee imposed by this section, if the Commission finds that such exemption is consistent with the public interest, the equal regulation of markets and brokers and dealers, and the development of a national market system.".

(2) SPECIAL RATE FOR COLLECTIONS OF REGISTRATION AND FILING FEES DURING FISCAL YEARS 1990 AND 1991.—During the period October 1, 1989, through December 31, 1991, the following provisions of the securities laws shall be applied with respect to fees required to be paid during such period by substituting "1/40th of 1 per centum" for "one-fiftieth of 1 percent" (or "1/50 of 1 per centum") each place it appears therein:

(A) Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)).

(B) Section 13(e)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)(3)).

(C) Section 14(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(g)).

(3) SPECIAL RATE CONTINGENT ON APPROPRIATIONS.—The special rate required to be applied under paragraph (2)(A) of this subsection—

(A) shall not be applied during fiscal year 1990 unless the amount appropriated to the Securities and Exchange Commission for such fiscal year exceeds the amount appropriated to such Commission for fiscal year 1989 by at least $26,000,000; and

(B) shall not be applied during fiscal year 1991 unless the amount appropriated to the Securities and Exchange Commission for such fiscal year exceeds the amount appropriated to such Commission for fiscal year 1989 by at least $50,000,000.

(4) DEPOSIT AND CREDIT OF OFFSETTING RECEIPTS.—The amounts collected by the Securities and Exchange Commission pursuant to this subsection and the amendments made by this subsection shall be deposited in the Treasury and shall be credited as offsetting receipts.

(5) EFFECTIVE DATE.—The amendment made by paragraph (1) of this subsection shall apply with respect to any fee based on a transaction occurring on or after October 1, 1989.

(b) FULL COST RECOVERY OF COMMISSION EXPENSES.—

(1) AMENDMENT.—The Securities Exchange Act of 1934 is further amended by inserting after section 31 the following new section:

"FULL COST RECOVERY OF COMMISSION EXPENSES

"SEC. 31A. (a) ESTABLISHMENT OF ADJUSTED RATES.—

"(1) OBLIGATION TO ADJUST RATES TO RECOVER COST.—For each of the fiscal years after fiscal year 1991, the Commission, by rule, shall adjust the rate of each of the fees described in subsection (b) to secure a total amount of collections of such fees during such fiscal year equal to the sum of—

"(A) the amount appropriated for such fiscal year pursuant to section 35 of this title; and

"(B) the applicable surplus amount for such fiscal year.

"(2) METHOD OF ADJUSTMENT.—Such rates shall be adjusted by making an equal proportionate change in each of such rates, except that the Commission may round such proportionate changes to avoid requiring rates that are unduly mathematically complex.

"(3) EFFECTIVE DATE OF ADJUSTMENTS.—Such adjusted rates shall apply—

"(A) with respect to any fee described in paragraph (1), (2), or (3) of subsection (b), to any fee paid on or after January 1 of such fiscal year; and

"(B) with respect to any fee described in paragraph (4) of such subsection, to any fee based on a transaction occurring on or after January 1 of such fiscal year.

Any such adjusted rate shall continue to apply until the effective date of a subsequent adjusted rate.

"(b) FEES TO WHICH ADJUSTMENTS APPLY.—For purposes of this section, the fees described in this subsection are—

"(1) the fees collected under section 6(b) of the Securities Act of 1933;

"(2) the fees collected under section 13(e) of this title;

"(3) the fees collected under section 14(g) of this title; and

"(4) the fees collected under section 31 of this title.

"(c) APPLICABLE SURPLUS AMOUNT.—For purposes of subsection (a)(1)(B), the applicable surplus amount is equal to—

"(1) $100,000,000 for fiscal year 1992;

"(2) $75,000,000 for fiscal year 1993;

"(3) $50,000,000 for fiscal year 1994;

"(4) $25,000,000 for fiscal year 1995; and

"(5) zero for fiscal year 1996 and each succeeding fiscal year.

"(d) DEPOSIT AND CREDIT OF OFFSETTING RECEIPTS.—The amounts collected by the Securities and Exchange Commission pursuant to this section shall be deposited in the Treasury and shall be credited as offsetting receipts.

"(e) JUDICIAL REVIEW; REPORTS TO CONGRESS.—The determinations and adjustments made by the Commission under this section shall not be subject to judicial review. The Commission shall, not less than 30 days before the effective date of any adjustments required by this section, submit such adjustments to the Congress together with a report explaining the estimates and calculations on which such adjustments are based.".

(2) CONFORMING AMENDMENTS.—(A) Section 6(b) of the Securities Act of 1933 (15

U.S.C. 77f(b)) is amended by adding at the end thereof the following: "The fees required by this subsection are subject to adjustment by the Commission pursuant to section 31A of the Securities Exchange Act of 1934.".

(B) Section 13(e)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)(3)) is amended by adding at the end thereof the following: "The fees required by this paragraph are subject to adjustment by the Commission pursuant to section 31A of the Securities Exchange Act of 1934.".

(C) Section 14(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(g)) is amended by adding at the end thereof the following new paragraph:

"(5) The fees required by this subsection are subject to adjustment by the Commission pursuant to section 31A of this title.".

(D) Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is further amended by adding at the end thereof the following new subsection:

"(f) RATES SUBJECT TO ADJUSTMENT.—The fees required by this section are subject to adjustment by the Commission pursuant to section 31A of this title.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 35(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78kk(a)) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) $178,023,000 for fiscal year 1990; and

"(2) $212,609,000 for fiscal year 1991.".

Subtitle H—Federal Communications Commission Fees and Penalties

SEC. 4701. FEDERAL COMMUNICATIONS COMMISSION FEES.

(a) UPDATE OF FEE SCHEDULE.—Section 8 of the Communications Act of 1934 (47 U.S.C. 158) is amended by adding at the end thereof the following:

"(g) Until modified pursuant to subsection (b) of this section, the Schedule of Charges which the Federal Communications Commission shall prescribe pursuant to subsection (a) of this section shall be as follows:

"SCHEDULE OF CHARGES

Service	Fee amount
PRIVATE RADIO SERVICES	
1. Marine Coast Stations	
a. New License (per station)	$70.00
b. Modification of License (per station)	70.00
c. Renewal of License (per station)	70.00
d. Special Temporary Authority (Initial, Modifications, Extensions)	100.00
e. Assignments (per station)	70.00
f. Transfers of Control (per station)	30.00
g. Request for Waiver (per station)	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
2. Ship Stations	
a. New License (per station)	30.00
b. Modification of License (per application).	30.00
c. Renewal of License (per application)	30.00
d. Transfer of Control (per call sign)	30.00
e. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
3. Operational Fixed Microwave Stations	
a. New License (per station)	155.00
b. Modification of License (per station)	155.00
c. Renewal of License (per station)	155.00
d. Special Temporary Authority (Initial, Modifications, Extensions)	30.00
e. Assignments (per station)	155.00
f. Transfers of Control (per station)	30.00
g. Request for Waiver (per station)	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
4. Aviation (Ground Stations)	
a. New License (per station)	70.00
b. Modification of License (per station)	70.00
c. Renewal of License (per station)	70.00
d. Special Temporary Authority (Initial, Modifications, Extensions)	100.00
e. Assignments (per station)	70.00
f. Transfers of Control (per station)	30.00
g. Request for Waiver (per station)	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
5. Aircraft Stations	
a. New License (per application)	30.00
b. Modification of License (per application).	30.00
c. Renewal of License (per application)	30.00
d. Transfer of Control (per call sign)	30.00
e. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
6. Land Mobile Radio Stations (including Special Emergency and Public Safety Stations)	
a. New License (per call sign)	30.00
b. Modification of License (per call sign)	30.00
c. Renewal of License (per call sign)	30.00
d. Special Temporary Authority (Initial, Modifications, Extensions)	30.00
e. Assignments (per station)	30.00
f. Transfers of Control (per call sign)	30.00
g. Request for Waiver (per call sign)	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
h. Reinstatement (per call sign)	30.00
i. Specialized Mobile Radio Systems-Base Stations	
(i) New License (per call sign)	35.00
(ii) Modification of License (per call sign	35.00
(iii) Renewal of License (per call sign)	35.00
(iv) Waiting List (annual charge per application)	30.00
(v) Special Temporary Authority (Initial, Modifications, Extensions)	30.00
(vi) Assignments (per call sign)	35.00
(vii) Transfers of Control (per call sign)	30.00
(viii) Request for Waiver	
(1) Routine (per request)	105.00
(2) Non-Routine (per rule section/per station)	105.00
(ix) Reinstatements (per call sign)	30.00
j. Private Carrier Licenses	
(i) New License (per call sign)	30.00
(ii) Modification of License (per call sign)	30.00
(iii) Renewal of License (per call sign)	30.00
(iv) Special Temporary Authority (Initial, Modifications, Extensions)	30.00
(v) Assignments (per call sign)	30.00
(vi) Transfers of Control (per call sign)	30.00
(vii) Request for Waiver	
(1) Routine (per request)	105.00
(2) Non-Routine (per rule section/per station)	105.00
(viii) Reinstatements (per call sign)	30.00
7. Amateur License	
a. New License (per application)	30.00
b. Modification of License (per application).	30.00
c. Renewal of License (per application)	30.00
d. Reciprocal Permit for Alien Amateur License.	30.00
e. Renewal or Modification of Amateur Club, Races, or Military Recreation Station License	30.00
f. Special Temporary Authority (Initial, Modifications, Extensions)	30.00

g. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Nonroutine (per rules section/per station)	105.00
8. General Mobile Radio Service	
a. New License (per call sign)	30.00
b. Modifications of License (per call sign)	30.00
c. Renewal of License (per call sign)	30.00
d. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Nonroutine (per rules section/per station)	105.00
e. Special Temporary Authority (Initial, Modifications, Extensions)	30.00
f. Transfer of control (per call sign)	30.00
9. Restricted Radiotelephone Operator Permit	30.00
10. Request for Duplicate Station License (all services)	30.00
11. Hearing (Comparative, New, and Modifications)	6,670.00

EQUIPMENT APPROVAL SERVICES/ EXPERIMENTAL RADIO

1. Certification	
a. Receivers (except TV and FM receivers)	285.00
b. All Other Devices	735.00
c. Modifications and Class II Permissive Changes	30.00
d. Request for Confidentiality	105.00
2. Type Acceptance	
a. All Devices	370.00
b. Modifications and Class II Permissive Changes	30.00
c. Request for Confidentiality	105.00
3. Type Approval (all devices)	
a. With Testing (including Major Modifications	1,465.00
b. Without Testing (including Minor Modifications)	170.00
c. Request for Confidentiality	105.00
4. Notifications	115.00
5. Advance Approval for Subscription TV System	2,255.00
a. Request for Confidentiality	105.00
6. Assignment of Grantee Code for Equipment Identification	30.00
7. Experimental Radio Service	
a. New Construction Permit and Station Authorization (per application)	30.00
b. Modification to Existing Construction Permit and Station Authorization (per application)	30.00
c. Renewal of Station Authorization (per application)	30.00
d. Assignment or Transfer of Control (per application)	30.00
e. Special Temporary Authority (per application)	30.00
f. Additional Charge for Applications Containing Requests to Withhold Information From Public Inspection (per application)	30.00

MASS MEDIA SERVICES

1. Commercial and Noncommercial Educational TV Stations	
a. New or Major Change Construction Permits	2,535.00
b. Minor Change	565.00
c. Hearing (Major/Minor Change, Comparative New, or Comparative Renewal)	6,760.00
d. License	170.00
e. Assignment or Transfer	
(i) Long Form (Forms 314/315)	565.00
(ii) Short Form (Form 316)	80.00
f. Renewal	100.00
g. Call Sign (New or Modification)	55.00
h. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
i. Extension of Time to Construct or Replacement of CP	200.00
j. Permit to Deliver Programs to Foreign Broadcast Stations	55.00
k. Petition for Rulemaking for New Community of License or Higher Class Channel	1,565.00
l. Ownership Report (per report)	30.00
2. Commercial and Noncommercial Educational Radio Stations	
a. New and Major Change Construction Permit	
(i) AM Station	2,255.00
(ii) FM Station	2,030.00
b. Minor Change	
(i) AM Station	565.00
(ii) FM Station	565.00
c. Hearing (Major/Minor Change, Comparative New, or Comparative Renewal)	6,760.00
d. License	
(i) AM	370.00
(ii) FM	115.00
(iii) AM Directional Antenna	425.00
(iv) FM Directional Antenna	355.00
(v) AM Remote Control	30.00
e. Assignment or Transfer	
(i) Long Form (Forms 314/315)	565.00
(ii) Short Form (Form 316)	80.00
f. Renewal	100.00
g. Call Sign (New or Modification)	55.00
h. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
i. Extension of Time to Construct or Replacement of CP	200.00
j. Permit to Deliver Programs to Foreign Broadcast Stations	55.00
k. Petition for Rulemaking for New Community of License or Higher Class Channel	1,565.00
l. Ownership Report (per report)	30.00
3. Commercial and Noncommercial Educational FM Translators	
a. New or Major Change Construction Permit	425.00
b. License	85.00
c. Assignment or Transfer	80.00
d. Renewal	30.00
e. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
4. Commercial and Noncommercial TV Translators and LPTV Stations	
a. New or Major Change Construction Permit	425.00
b. License	85.00
c. Assignment or Transfer	80.00
d. Renewal	30.00
e. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
5. Auxiliary Services—Commercial or Non-Commercial (Includes Remote Pickup stations, TV Auxiliary Broadcast stations, Aural Broadcast STL and Intercity Relay stations, and Low Power Auxiliary stations)	
a. Major Actions	85.00
b. Renewals	30.00
c. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
6. Instructional Television Fixed Service (ITFS)	
a. New and Major Change Construction Permits	420.00
b. Assignment or Transfer	420.00
c. Renewal	30.00
d. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
7. Commercial and Noncommercial FM/TV Boosters	
a. New and Major Change Construction Permits	425.00

b. License	85.00
c. Assignment or Transfer	80.00
d. Renewal	30.00
e. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
8. International Broadcast Station (Commercial or Noncommercial)	
a. New Construction Permit and Facilities Change CP	1,705.00
b. License	385.00
c. Assignment or Transfer (per station)	60.00
d. Renewal	95.00
e. Frequency Assignment and Coordination (per frequency hour)	35.00
f. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
9. Cable Television Service	
a. Cable Television Relay Service	
(i) Construction Permit	155.00
(ii) Assignment or Transfer	155.00
(iii) Renewal	155.00
(iv) Modification	155.00
(v) Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	155.00
b. Cable Special Relief Petition	790.00
c. 76.12 Registration Statement (per statement)	30.00
d. Aeronautical Frequency Usage Notifications (per notice)	30.00
e. Aeronautical Frequency Usage Waivers (per waiver)	30.00
10. Direct Broadcast Satellite	
a. New or Major Change Construction Permit	
(i) Application for Authorization to Construct a Direct Broadcast Satellite	2,030.00
(ii) Issuance of Construction Permit & Launch Authority	19,710.00
(iii) License to Operate Satellite	565.00
b. Hearing (Comparative New, Major/Minor Modifications, or Comparative Renewal)	6,760.00
c. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00

COMMON CARRIER SERVICES

1. All Common Carrier Services	
a. Hearing (Comparative New or Major/Minor Modifications)	6,760.00
b. Development Authority . . . Same charge as regular authority in service unless otherwise indicated	
.....	
c. Formal Complaints and Pole Attachment Complaints Filing Fee	120.00
2. Domestic Public Land Mobile Stations (includes Base, Dispatch, Control & Repeater Stations)	
a. New or Additional Facility (per transmitter)	230.00
b. Major Modifications (per transmitter)	230.00
c. Fill In Transmitters (per transmitter)	230.00
d. Major Amendment to a Pending Application (per transmitter)	230.00
e. Assignment or Transfer (per call sign)	230.00
f. Partial Assignment (per call sign)	230.00
g. Renewal (per call sign)	30.00
h. Minor Modification (per transmitter)	30.00
i. Special Temporary Authority (per frequency/per location)	200.00
j. Extension of Time to Construct (per application)	30.00
k. Notice of Completion of Construction (per application)	30.00
l. Auxiliary Test Station (per transmitter)	200.00
m. Subsidiary Communications Service (per request)	100.00
n. Reinstatement (per application)	30.00
o. Combining Call Signs (per call sign)	200.00
p. Standby Transmitter (per transmitter/per location)	200.00
q. 900 MHz Nationwide Paging	
(i) Renewal	
(1) Network Organizer	30.00
(2) Network Operator (per operator/per city)	30.00
r. Air-Ground Individual License (per station)	30.00
(i) Initial License (per station)	30.00
(ii) Renewal of License (per station)	30.00
(iii) Modification of License (per station)	30.00
3. Cellular Systems (per system)	
a. New or Additional Facilities	230.00
b. Major Modification	230.00
c. Minor Modification	60.00
d. Assignment or Transfer (including partial)	230.00
e. License to Cover Construction	
(i) Initial License for Wireline Carrier	595.00
(ii) Subsequent License for Wireline Carrier	60.00
(iii) License for Non-wireline Carrier	60.00
(iv) Fill In License (all carriers)	60.00
f. Renewal	30.00
g. Extension of Time to Complete Construction	30.00
h. Special Temporary Authority (per system)	200.00
i. Combining Cellular Geographic Service Areas (per system)	50.00
4. Rural Radio (includes Central Office, Interoffice, or Relay Facilities)	
a. New or Additional Facility (per transmitter)	105.00
b. Major Modification (per transmitter)	105.00
c. Major Amendment to Pending Application (per transmitter)	105.00
d. Minor Modification (per transmitter)	30.00
e. Assignments or Transfers (per call sign)	105.00
(i) Partial Assignment (per call sign)	105.00
f. Renewal (per call sign)	30.00
g. Extension of Time to Complete Construction (per application)	30.00
h. Notice of Completion of Construction (per application)	30.00
i. Special Temporary Authority (per frequency/per location)	200.00
j. Reinstatement (per application)	30.00
k. Combining Call Signs (per call sign)	200.00
l. Auxiliary Test Station (per transmitter)	200.00
m. Standby Transmitter (per transmitter/per location)	200.00
5. Offshore Radio Service (Mobile, Subscriber, and Central Stations; fees would also apply to any expansion of this service into coastal waters other than the Gulf of Mexico)	
a. New or Additional Facility (per transmitter)	105.00
b. Major Modifications (per transmitter)	105.00
c. Fill In Transmitters (per transmitter)	105.00
d. Major Amendment to Pending Application (per transmitter)	105.00
e. Minor Modification (per transmitter)	30.00
f. Assignment or Transfer (per call sign)	105.00
(i) Partial Assignment (per call sign)	105.00
g. Renewal (per call sign)	30.00
h. Extension of Time to Complete Construction (per application)	30.00
i. Reinstatement (per application)	30.00
j. Notice of Completion of Construction (per application)	30.00
k. Special Temporary Authority (per frequency/per location)	200.00

l. Combining Call Signs (per call sign) 200.00
m. Auxiliary Test Station (per transmitter) ... 200.00
n. Standby Transmitter (per transmitter/per location) 200.00
6. Point-to-Point Microwave and Local Television Radio Service
a. Conditional License (per station) 155.00
b. Major Modification of Conditional License or License Authorization (per station) 155.00
c. Certification of Completion of Construction (per station) 155.00
d. Renewal (per licensed station) 155.00
e. Assignment or Transfer (per authorized station) 55.00
f. Extension of Construction Authorization (per station) 55.00
g. Special Temporary Authority or Request for Waiver of Prior Construction Authorization (per request) 70.00
7. Multipoint Distribution Service (including multichannel MDS)
a. Conditional License (per station) 155.00
b. Major Modification of Conditional License or License Authorization (per station) 155.00
c. Certification of Completion of Construction (per channel) 455.00
d. Renewal (per licensed station) 155.00
e. Assignment or Transfer (per authorized station) 55.00
f. Extension of Construction Authorization (per station) 110.00
g. Special Temporary Authority or Request for Waiver of Prior Construction Authorization (per request) 70.00
8. Digital Electronic Message Service
a. Conditional License (per nodal station) 155.00
b. Modification of Conditional License of Prior Construction Authorization (per nodal station) 155.00
c. Certification of Completion of Construction (per nodal station) 155.00
d. Renewal (per licensed nodal station) 155.00
e. Assignment or Transfer (per authorized station) 55.00
f. Extension of Construction Authorization (per station) 55.00
g. Special Temporary Authority or Request for Waiver of Prior Construction Authorization (per request) 70.00
9. International Fixed Public Radio (Public & Control Stations)
a. Initial Construction Permit (per station) 510.00
b. Assignment or Transfer (per application) 510.00
c. Renewal (per license) .. 370.00
d. Modification (per station) 370.00
e. Extension of Construction Authorization (per station) 185.00
f. Special Temporary Authority or Request for Waiver (per request) 185.00
10. Fixed Satellite Transmit/Receive Earth Stations
a. Initial Application (per station) 1,525.00
b. Modification of License (per station) 105.00
c. Assignment or Transfer
(i) First Station on Application 300.00
(ii) Each Additional Station 100.00
d. Developmental Station (per station) 1,000.00
e. Renewal of License (per station) 105.00
f. Special Temporary Authority or Waivers of Prior Construction Authorization (per request) 105.00
g. Amendment of Application (per station) 105.00
h. Extension of Construction Permit (per station) 105.00
11. Small Transmit/Receive Earth Stations (2 meters or less and operating in the 4/6 GHz frequency band)
a. Lead Application 3,380.00
b. Routine Application (per station) 30.00
c. Modification of License (per station) 105.00
d. Assignment or Transfer
(i) First Station on Application 300.00
(ii) Each Additional Station 30.00
e. Developmental Station (per station) 1,000.00
f. Renewal of License (per station) 105.00
g. Special Temporary Authority or Waivers of Prior Construction Authorization (per request) 105.00
h. Amendment of Application (per station) 105.00
i. Extension of Construction Permit (per station) 105.00
12. Receive Only Earth Stations
a. Initial Application for Registration 230.00
b. Modification of License or Registration (per station) 105.00
c. Assignment or Transfer
(i) First Station on Application 300.00
(ii) Each Additional Station 100.00
d. Renewal of License (per station) 105.00
e. Amendment of Application (per station) 105.00
f. Extension of Construction Permit (per station) 105.00
g. Waivers (per request) .. 105.00
13. Very Small Aperture Terminal (VSAT) Systems
a. Initial Application (per system) 5,630.00
b. Modification of License (per system) 105.00
c. Assignment or Transfer of System 1,505.00
d. Developmental Station 1,000.00
e. Renewal of License (per system) 105.00
f. Special Temporary Authority or Waivers of Prior Construction Authorization (per request) 105.00
g. Amendment of Application (per system) 105.00
h. Extension of Construction Permit (per system) 105.00
14. Mobile Satellite Earth Stations
a. Initial Application of Blanket Authorization. 5,630.00
b. Initial Application for Individual Earth Station 1,350.00
c. Modification of License (per station) 105.00
d. Assignment or Transfer (per system) 1,505.00
e. Developmental Station 1,000.00
f. Renewal of License (per system) 105.00
g. Special Temporary Authority or Waivers of Prior Construction Authorization (per request) 105.00
h. Amendment of Application (per system) 105.00
i. Extension of Construction Permit (per system) 105.00
15. Radio determination Satellite Earth Stations
a. Initial Application of Blanket Authorization. 5,630.00
b. Initial Application for Individual Earth Station 1,350.00
c. Modification of License (per station) 105.00
d. Assignment or Transfer (per system) 1,505.00
e. Developmental Station 1,000.00
f. Renewal of License (per system) 105.00
g. Special Temporary Authority or Waivers of Prior Construction Authorization (per request) 105.00
h. Amendment of Application (per system) 105.00

i. Extension of Construction Permit (per system)	105.00
16. Space Stations	
a. Application for Authority to Construct	2,030.00
b. Application for Authority to Launch & Operate	
(i) Initial Application	70,000.00
(ii) Replacement Satellite	70,000.00
c. Assignment or Transfer (per satellite)	5,000.00
d. Modification	5,000.00
e. Special Temporary Authority or Waiver of Prior Construction Authorization (per request)	500.00
f. Amendment of Application	1,000.00
g. Extension of Construction Permit/ Launch Authorization (per request)	500.00
17. Section 214 Applications	
a. Overseas Cable Construction	9,125.00
b. Cable Landing License	
(i) Common Carrier	1,025.00
(ii) Non-Common Carrier	10,150.00
c. Domestic Cable Construction	610.00
d. All Other 214 Applications	610.00
e. Special Temporary Authority (all services)	610.00
f. Assignments or Transfers (all services)	610.00
18. Recognized Private Operating Status (per application)	610.00
19. Telephone Equipment Registration	155.00
20. Tariff Filings	
a. Filing Fee	490.00
b. Special Permission Filing (per filing)	490.00
21. Accounting and Audits	
a. Field Audit	62,290.00
b. Review of Attest Audit	34,000.00
c. Review of Depreciation Update Study (Single State)	20,685.00
(i) Each Additional State	680.00
d. Interpretation of Accounting Rules (per request)	2,885.00
e. Petition for Waiver (per petition)	4,660.00
MISCELLANEOUS CHARGES	
1. International Telecommunications Settlements Administrative Fee for Collections (per line item)	2.00
2. Radio Operator Examinations	
a. Commercial Radio Operator Examination	30.00
b. Renewal of Commercial Radio Operator License, Permit, or Certificate	30.00
c. Duplicate Commercial Radio Operator License, Permit, or Certificate	30.00
3. Importation of Radio Frequency Devices FCC Form 740 (per filing)	30.00
4. Ship Inspections	
a. Inspection of Oceangoing Vessels Under Title III, Part II of the Communications Act (per inspection)	620.00
b. Inspection of Passenger Vessels Under Title III, Part III of the Communications Act (per inspection)	320.00
c. Inspection of Vessels Under the Great Lakes Agreement (per inspection)	360.00
d. Inspection of Foreign Vessels Under the Safety of Life at Sea (SOLAS) Convention (per inspection)	540.00
e. Temporary Waiver for Compulsorily Equipped Vessel	60.00".

(b) CONFORMING AMENDMENTS.—Section 8 of the Communications Act of 1934 is further amended—

(1) by striking the last sentence of subsection (a);

(2) in subsection (b)(1), by striking "April 1, 1987" and inserting "October 1, 1991";

(3) by striking subsection (d)(1); and

(4) by redesignating subsection (d)(2) as subsection (d).

(c) EFFECTIVE DATE; IMPLEMENTATION.—The amendments made by this section shall take effect on the date of enactment of this Act, and the Schedule of Charges required by the amendment made by subsection (a) of this section shall be implemented not later than 150 days after the date of enactment of this Act.

SEC. 4702. FINES AND PENALTIES UNDER THE COMMUNICATIONS ACT OF 1934.

(a) REVISION OF FINES AND PENALTIES.—

(1) DISCRIMINATION AND PREFERENCE BY COMMON CARRIER.—Section 202(c) of the Communications Act of 1934 (47 U.S.C. 202(c)) is amended—

(A) by striking "$500" and inserting "$6,000"; and

(B) by striking "$25" and inserting "$300".

(2) FAILURE IN FILING OF SCHEDULE OF CHARGES.—Section 203(e) of such Act (47 U.S.C. 203(e)) is amended—

(A) by striking "$500" and inserting "$6,000"; and

(B) by striking "$25" and inserting "$300".

(3) NONCOMPLIANCE WITH RATE ORDERS.—Section 205(b) of such Act (47 U.S.C. 205(b)) is amended by striking "$1,000" and inserting "$12,000".

(4) NONCOMPLIANCE WITH LINE EXTENSION ORDERS.—Section 214(d) of the Act (47 U.S.C. 214(d)) is amended by striking "$100" and inserting "$1,200".

(5) FAILURE TO FILE REPORTS OR INFORMATION.—Section 219(b) of the Act (47 U.S.C. 219(b)) is amended by striking "$100" and inserting "$1,200".

(6) RECORDKEEPING FAILURES.—Section 220(d) of the Act (47 U.S.C. 220(d)) is amended by striking "$500" and inserting "$6,000".

(7) NONCOMPLIANCE WITH SHIPBOARD RADIO REQUIREMENTS.—Section 364 of such Act (47 U.S.C. 362) is amended—

(A) by striking "$500" in subsection (a) and inserting "$5,000"; and

(B) by striking "$100" in subsection (b) and inserting "$1,000".

(8) NONCOMPLIANCE WITH PASSENGER VESSEL RADIO REQUIREMENTS.—Section 386 of such Act (47 U.S.C. 386) is amended—

(A) by striking "$500" in subsection (a) and inserting "$5,000"; and

(B) by striking "$100" in subsection (b) and inserting "$1,000".

(9) GENERAL FORFEITURES.—Subsection (b) of section 503 of the Communications Act of 1934 (47 U.S.C. 503(b)) is amended—

(A) by inserting "(1)" after "(b)" at the beginning of such subsection; and

(B) by striking paragraph (2) and inserting the following:

"(2)(A) If the violator is (i) a broadcast station licensee or permittee, (ii) a cable television operator, or (iii) an applicant for any broadcast or cable television operator license, permit, certificate, or other instrument or authorization issued by the Commission, the amount of any forfeiture penalty determined under this section shall not exceed $25,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $250,000 for any single act or failure to act described in paragraph (1) of this subsection.

"(B) If the violator is a common carrier subject to the provisions of this Act or an applicant for any common carrier license, permit, certificate, or other instrument of authorization issued by the Commission, the amount of any forfeiture penalty determined under this subsection shall not exceed $100,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $1,000,000 for any single act or failure to act described in paragraph (1) of this subsection.

"(C) In any case not covered in subparagraph (A) or (B), the amount of any forfeiture penalty determined under this subsection shall not exceed $10,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $75,000 for any single act or failure to act described in paragraph (1) of this subsection.

"(D) The amount of such forfeiture penalty shall be assessed by the Commission, or its designee, by written notice. In determining the amount of such a forfeiture penalty, the Commission or its designee shall take into account the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.".

(b) APPLICATION TO FAIRNESS DOCTRINE.—

(1) FINDINGS.—The Congress finds that—

(A) despite technological advances, the electromagnetic spectrum remains a scarce and valuable public resource;

(B) there are still substantially more people who want to broadcast than there are frequencies to allocate;

(C) a broadcast license confers the right to use a valuable public resource and a broadcaster is therefore required to utilize that resource as a trustee for the American people;

(D) there is a substantial governmental interest in conditioning the award or renewal of a broadcast license on the requirement that the licensee assure that widest possible dissemination of information from diverse

and antagonistic sources by presenting a reasonable opportunity for the discussion of conflicting views on issues of public importance;

(E) while new video and audio services have been proposed and introduced, many have not succeeded and even those that are operating reach a far smaller audience than broadcast stations;

(F) even when and where new video and audio services are available, they do not provide meaningful alternatives to broadcast stations for the dissemination of news and public affairs;

(G) for more than 30 years, the Fairness Doctrine and its corollaries, as developed by the Federal Communications Commission on the basis of the provisions of the Communications Act of 1934, have enhanced free speech by securing the paramount right of the broadcast audience to robust debate on issues of public importance;

(H) because the Fairness Doctrine only requires more speech, it has no chilling effect on broadcasters; and

(I) the Fairness Doctrine (i) fairly reflects the statutory obligation of broadcasters under that Act to operate in the public interest, (ii) was given statutory approval by the Congress in making certain amendments to that Act in 1959, and (iii) strikes a reasonable balance among the first amendment rights of the public, broadcast licensees, and speakers other than owners of broadcast facilities.

(2) CODIFICATION OF FAIRNESS DOCTRINE.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(A) by redesignating subsections (a) through (d) as subsections (b) through (e), respectively; and

(B) by inserting before subsection (b) the following new subsection:

"(a)(1) A broadcast licensee shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

"(2) The enforcement and application of the requirement imposed by this subsection shall be consistent with the rules and policies of the Commission in effect on January 1, 1987. Such rules and policies shall not be construed to authorize the application of any criminal sanction pursuant to section 501 of this Act.".

(3) CONFORMING AMENDMENT.—Section 503(b) of the Communications Act of 1934 (47 U.S.C. 503(b)) is further amended—

(A) by striking "317(c) or" in paragraph (1)(C) and inserting "315(a), 317(c), or"; and

(B) by inserting "or in the case of a violation of section 315(a)," after "subparagraph (A) or (B)," in paragraph (2)(C).

(c) RESTORATION AND CORRECTION OF DIAL-A-PORN SANCTIONS.—

(1) AMENDMENT.—Section 223 of the Communications Act of 1934 (47 U.S.C. 223) is amended by striking subsection (b) and inserting the following:

"(b)(1) Whoever knowingly—

"(A) within the United States, by means of telephone, makes (directly or by recording device) any obscene communication for commercial purposes to any person, regardless of whether the maker of such communication placed the call; or

"(B) permits any telephone facility under such person's control to be used for an activity prohibited by subparagraph (A),

shall be fined in accordance with title 18, United States Code, or imprisoned not more than two years, or both.

"(2) Whoever knowingly—

"(A) within the United States, by means of telephone, makes (directly or by recording device) any indecent communication for commercial purposes to any person under 18 years of age or to any other person without that person's consent, regardless of whether the maker of such communication placed the call; or

"(B) permits any telephone facility under such person's control to be used for an activity prohibited by subparagraph (A),

shall be fined not more than $50,000 or imprisoned not more than six months, or both.

"(3) It is a defense to a prosecution under paragraph (2) of this subsection that the defendant restricted access to the prohibited communication to persons 18 years of age or older in accordance with subsection (c) of this section and with such procedures as the Commission may prescribe by regulation.

"(4) In addition to the penalties under paragraph (1), whoever, within the United States, intentionally violates paragraph (1) or (2) shall be subject to a fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(5)(A) In addition to the penalties under paragraphs (1), (2), and (4), whoever, within the United States, violates paragraph (1) or (2) shall be subject to a civil fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(B) A fine under this paragraph may be assessed either—

"(i) by a court, pursuant to a civil action by the Commission or any attorney employed by the Commission who is designated by the Commission for such purposes, or

"(ii) by the Commission after appropriate administrative proceedings.

"(6) The Attorney General may bring a suit in the appropriate district court of the United States to enjoin any act or practice which violates paragraph (1) or (2). An injunction may be granted in accordance with the Federal Rules of Civil Procedure.

"(c)(1) A common carrier shall not, to the extent technically feasible, provide access to a communication specified in subsection (b) from the telephone of any subscriber who has not previously requested of the carrier access to such communication if the carrier collects from subscribers an identifiable charge for such communication that the carrier remits, in whole or in part, to the provider of such communication.

"(2) Except as provided in paragraph (3), no cause of action may be brought in any court or administrative agency against any common carrier, or any of its affiliates, including their officers, directors, employees, agents, or authorized representatives on account of—

"(A) any action which the carrier demonstrates was taken in good faith to restrict access pursuant to paragraph (1) of this subsection, or

"(B) any access permitted—

"(i) in good faith reliance upon the lack of any representation by a provider of communications that communications provided by that provider are communications specified in subsection (b), or

"(ii) because a specific representation by the provider did not allow the carrier, acting in good faith, a sufficient period to restrict access to communications described in subsection (b).

"(3) Notwithstanding paragraph (2) of this subsection, a provider of communications services to which subscribers are denied access pursuant to paragraph (1) of this subsection may bring an action for a declaratory judgment or similar action in a court or before the Commission. Any such action shall be limited to the question of whether the communications which the provider seeks to provide fall within the category of communications to which the carrier will provide access only to subscribers who have previously requested such access.".

(2) CONFORMING AMENDMENT.—Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by striking "section 224" and inserting "sections 223 and 224".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect 150 days after the date of enactment of this Act.

TITLE V—COMMITTEE ON GOVERNMENT OPERATIONS

SEC. 5001. SHORT TITLE.

This title may be cited as the "Postal Reorganization Act Amendments of 1989".

SEC. 5002. BUDGETARY TREATMENT OF THE POSTAL SERVICE FUND.

(a) TREATMENT OF THE POSTAL SERVICE FUND.—

(1) IN GENERAL.—Chapter 20 of title 39, United States Code, is amended by inserting after section 2009 the following:

"§ 2009a. Budgetary treatment of the Postal Service Fund

"Notwithstanding any other provision of law, the receipts and disbursements of the Postal Service Fund, including disbursements for administrative expenses incurred in connection with the Fund—

"(1) shall not be included in the totals of—

"(A) the budget of the United States Government as submitted by the President, or

"(B) the congressional budget (including allocations of budget authority and outlays provided therein);

"(2) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government; and

"(3) shall be exempt from any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985, and shall not be counted for purposes of calculating the deficit under section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 nor counted in calculating the excess deficit for purposes of sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, for any fiscal year.".

(2) CHAPTER ANALYSIS.—The analysis for chapter 20 of title 39, United States Code, is amended by inserting after the item relating to section 2009 the following:

"2009a. Budgetary treatment of the Postal Service Fund.".

(b) CONSTRUCTION.—Nothing in any amendment made by subsection (a) shall be considered to diminish the oversight responsibilities of the Congress under law, rule, or regulation with respect to the budget of the United States Postal Service.

(c) APPLICABILITY.—The amendments made by this section shall apply with respect to budgets for fiscal years beginning after September 30, 1989.

TITLE VI—COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Subtitle A—NRC User Fees

SEC. 6001. NRC USER FEES.

(a) AMENDMENT TO ATOMIC ENERGY ACT.—Chapter 19 of the Atomic Energy Act of 1954 (42 U.S.C. 2015 et seq.) is amended by adding at the end the following new section:

"SEC. 292. USER FEES AND ANNUAL CHARGES.

"(a) ANNUAL ASSESSMENT.—

"(1) AMOUNT.—The Nuclear Regulatory Commission (hereafter in this section referred to as the Commission) shall annually assess and collect such fees and charges as are described in subsections (b) and (c) in an amount that approximates 100 percent of the budget authority of the Commission in the fiscal year in which such assessment is made less any amount appropriated to the Commission from the Nuclear Waste Fund in such fiscal year.

"(2) FIRST ASSESSMENT.—The first such assessment shall be made not later than September 30, 1990, and shall be based on the budget authority of the Commission for fiscal year 1990.

"(b) FEES FOR SERVICE OR THING OF VALUE.—Pursuant to section 9701 of title 31, United States Code, any person who receives a service or thing of value from the Commission shall pay fees to cover the Commission's costs in providing any such service or thing of value.

"(c) ANNUAL CHARGES.—

"(1) PERSONS SUBJECT TO CHARGE.—Any person who holds a license issued under section 103 or 104 b. that authorizes such person to operate a utilization facility with a rated thermal capacity in excess of 50,000,000 watts shall pay, in addition to the fees set forth in subsection (b), an annual charge.

"(2) AGGREGATE AMOUNT OF CHARGES.—The aggregate amount of the annual charge collected from all persons described in paragraph (1) shall equal an amount that approximates 100 percent of the budget authority of the Commission in the fiscal year in which such charge is collected, less any amount appropriated to the Commission from the Nuclear Waste Fund and the amount of fees collected under subsection (b) in such fiscal year.

"(3) AMOUNT PER LICENSEE.—The Commission shall establish, by rule, a schedule of charges fairly and equitably allocating the aggregate amount of charges described in paragraph (2) among the licensees described in paragraph (1). The charges shall have a reasonable relationship to the cost of providing regulatory services and may be based on the allocation of the Commission's resources among licensees or classes of licensees described in paragraph (1).

"(d) DEFINITION.—As used in this section, 'Nuclear Waste Fund' means the fund established pursuant to section 302 (c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222 (c)).".

(b) REPEAL.—Title VII of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) is amended by striking subtitle G. This repeal shall become effective upon promulgation of the Nuclear Regulatory Commission's final rule implementing section 292 of the Atomic Energy Act of 1954.

(c) TABLE OF CONTENTS.—The table of contents of the Atomic Energy Act of 1954 is amended by adding after the item relating to section 291 the following new item:

"Sec. 292. User fees and annual charges.".

Subtitle B—Tongass Timber Reform

SEC. 6101. SHORT TITLE AND DEFINITION.

(a) SHORT TITLE.—This subtitle may be cited as the "Tongass Timber Reform Act".

(b) DEFINITION.—As used in this subtitle, the term "the Act" means the Alaska National Interest Lands Conservation Act (Public Law 96-487).

PART 1—ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT AMENDMENTS

SEC. 6111. TO REQUIRE ANNUAL APPROPRIATIONS FOR TIMBER MANAGEMENT AND RESOURCE CONSERVATION ON THE TONGASS NATIONAL FOREST.

Section 705(a) of the Act (16 U.S.C. 539d(a)) is repealed effective October 1, 1989.

SEC. 6112. IDENTIFICATION OF LANDS UNSUITABLE FOR TIMBER PRODUCTION.

Section 705(d) of the Act (16 U.S.C. 539d(d)) is hereby repealed.

SEC. 6113. FUTURE REPORTS ON THE TONGASS NATIONAL FOREST.

(a) MONITORING.—Section 706(a) of the Act (16 U.S.C. 539e(a)) is amended—

(1) by striking "the Committee on Interior and Insular Affairs" and inserting "the Committee on Agriculture and the Committee on Interior and Insular Affairs"; and

(2) by striking the second sentence and inserting the following new sentence: "This report shall include a complete analysis of the losses or gains sustained by the United States Government with respect to long-term, short-term, and total sales of timber from the Tongass National Forest using information from the statement on revenues and expenses of the Timber Sale Program Information Reporting System and shall display total costs, unit costs (per thousand board feet of timber sold or released) and associated revenues, for the current and previous two years of operations.".

(b) STATUS.—Section 706(b) of the Act (16 U.S.C. 539e(b)) is amended as follows:

(1) Strike out "and (4)" and insert in lieu thereof "(4)".

(2) Strike out the period at the end of the section and insert in lieu thereof ", (5) the impact of timber management on subsistence resources, wildlife, and fisheries habitats, and (6) the steps taken by the Secretary of Agriculture under section 6141(c) of the Tongass Timber Reform Act.".

(c) CONSULTATION.—Section 706(c) of the Act (16 U.S.C. 539e(c)) is amended by striking out "and the Alaska Land Use Council" and inserting in lieu thereof "the southeast Alaska commercial fishing industry, and the Alaska Land Use Council".

SEC. 6114. ADMINISTRATION.

Section 705 (16 U.S.C. 539d) of the Act is amended by adding at the end thereof the following:

"(e) FISHERIES PROTECTION.—In order to assure protection of riparian habitat, the Secretary of Agriculture shall maintain a buffer zone of a minimum of 100 feet in width within which logging shall be prohibited on each side of all anadromous fish streams in the Tongass National Forest, and their tributaries, except those tributaries with no resident fish populations which are intermittent in flow, or have flow of inadequate magnitude to directly influence downstream fish habitat.

"(f) TENAKEE SPRINGS ROAD PROHIBITION.—A vehicular access road connecting the Indian River and Game Creek roads may not be constructed, and the Secretary of Agriculture shall not engage in any further efforts to connect the city of Tenakee Springs with the logging road system on Chichagof Island.".

PART 2—TERMINATION OF LONG-TERM TIMBER SALE CONTRACTS IN ALASKA

SEC. 6121. TERMINATION.

Title V of the Act is amended by adding at the end thereof the following new section:

"SEC. 508. TERMINATION OF LONG-TERM TIMBER SALE CONTRACTS IN ALASKA.

"(a) FINDING.—The Congress hereby finds and declares that it is in the national interest to assure that valuable public resources in the Tongass National Forest are protected and wisely managed. Termination of the long-term timber sale contracts is necessary because the contracts prevent proper Forest Service management, allow the holders to concentrate logging in the rare, high-volume old growth forest most valuable for fish and wildlife habitat, threaten natural resource dependent communities and industries, and undermine competition within the southeast Alaska timber industry.

"(b) TERMINATION OF LONG-TERM TIMBER SALE CONTRACTS.—Not later than 90 days after the date of enactment of this section, the Secretary of Agriculture shall terminate the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 between the United States and Alaska Pulp Corporation, and between the United States and Ketchikan Pulp Company, respectively.

"(c) SUBSTITUTION OF SHORT-TERM TIMBER SALES.—The Secretary of Agriculture is authorized to make available sufficient volumes of timber to meet actual market demand as determined pursuant to planning process specified in section 6 of the Forest and Rangeland Renewable Resource Planning Act of 1974 and other applicable laws. Timber sales shall be offered for competitive bid and administered consistent with standard, short-term timber sales on other national forests.".

PART 3—WILDERNESS

SEC. 6131. ADDITIONAL WILDERNESS AREAS.

(a) DESIGNATION.—Section 703 of the Act is amended by adding at the end thereof the following:

"(c) DESIGNATION OF ADDITIONAL WILDERNESS ON THE TONGASS NATIONAL FOREST.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands within the Tongass National Forest in the State of Alaska are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

"(1) ANAN CREEK WILDERNESS.—Certain lands which comprise approximately 38,415 acres, as generally depicted on a map entitled 'Anan Creek Wilderness—Proposed' and dated May, 1989, which shall be known as the Anan Creek Wilderness.

"(2) BERNERS BAY WILDERNESS.—Certain lands which comprise approximately 46,135 acres, as generally depicted on a map entitled 'Berners Bay Wilderness—Proposed' and dated May, 1989, which shall be known as the Berners Bay Wilderness.

"(3) CALDER-HOLBROOK WILDERNESS.—Certain lands which comprise approximately 68,693 acres, as generally depicted on a map entitled 'Calder-Holbrook Wilderness—Proposed' and dated May, 1989, which shall be known as the Calder-Holbrook Wilderness.

"(4) CHICHAGOF WILDERNESS.—Certain lands which comprise approximately 347,733 acres, as generally depicted on a map entitled 'Chichagof Wilderness—Proposed' and dated May, 1989, which shall be known as the Chichagof Wilderness.

"(5) CHUCK RIVER WILDERNESS.—Certain lands which comprise approximately 124,539

acres, as generally depicted on a map entitled 'Chuck River Wilderness—Proposed' and dated May, 1989, which shall be known as the Chuck River Wilderness.

"(6) KADASHAN WILDERNESS.—Certain lands which comprise approximately 34,044 acres, as generally depicted on a map entitled 'Kadashan Wilderness—Proposed' and dated May, 1989, which shall be known as the Kadashan Wilderness.

"(7) KARTA RIVER WILDERNESS.—Certain lands which comprise approximately 39,886 acres, as generally depicted on a map entitled 'Karta River Wilderness—Proposed' and dated May, 1989, which shall be known as the Karta River Wilderness.

"(8) KEGAN LAKE WILDERNESS.—Certain lands which comprise approximately 24,655 acres, as generally depicted on a map entitled 'Kegan Lake Wilderness—Proposed' and dated May, 1989, which shall be known as the Kegan Lake Wilderness.

"(9) NAHA RIVER WILDERNESS.—Certain lands which comprise approximately 31,794 acres, as generally depicted on a map entitled 'Naha River Wilderness—Proposed' and dated May, 1989, which shall be known as the Naha River Wilderness.

"(10) NUTKWA WILDERNESS.—Certain lands which comprise approximately 52,654 acres, as generally depicted on a map entitled 'Nutkwa Wilderness—Proposed' and dated May, 1989, which shall be known as the Nutkwa Wilderness.

"(11) OUTSIDE ISLANDS WILDERNESS.—Certain lands which comprise approximately 98,572 acres, as generally depicted on a map entitled 'Outside Islands Wilderness—Proposed' and dated May, 1989, which shall be known as the Outside Islands Wilderness.

"(12) PLEASANT-LEMESURIER-INIAN ISLANDS WILDERNESS.—Certain lands which comprise approximately 23,140 acres, as generally depicted on a map entitled 'Pleasant-Lemesurier-Inian Islands Wilderness—Proposed' and dated May, 1989, which shall be known as the Pleasant-Lemesurier-Inian Islands Wilderness.

"(13) POINT ADOLPHUS-MUD BAY WILDERNESS.—Certain lands which comprise approximately 73,346 acres, as generally depicted on a map entitled 'Point Adolphus-Mud Bay Wilderness—Proposed' and dated May, 1989, which shall be known as the Point Adolphus-Mud Bay Wilderness.

"(14) PORT HOUGHTON-SANBORN CANAL WILDERNESS.—Certain lands which comprise approximately 58,915 acres, as generally depicted on a map entitled 'Port Houghton-Sanborn Canal Wilderness—Proposed' and dated May, 1989, which shall be known as the Port Houghton-Sanborn Canal Wilderness.

"(15) ROCKY PASS WILDERNESS.—Certain lands which comprise approximately 75,734 acres, as generally depicted on a map entitled 'Rocky Pass Wilderness—Proposed' and dated May, 1989, which shall be known as the Rocky Pass Wilderness.

"(16) SARKAR LAKES WILDERNESS.—Certain lands which comprise approximately 25,650 acres, as generally depicted on a map entitled 'Sarkar Lakes Wilderness—Proposed' and dated May, 1989, which shall be known as the Sarkar Lakes Wilderness.

"(17) SOUTH ETOLIN ISLAND WILDERNESS.—Certain lands which comprise approximately 83,642 acres, as generally depicted on a map entitled 'South Etolin Island Wilderness—Proposed' and dated May, 1989, which shall be known as the South Etolin Island Wilderness.

"(18) SOUTH KUIU WILDERNESS.—Certain lands which comprise approximately 191,532 acres, as generally depicted on a map entitled 'South Kuiu Wilderness—Proposed' and dated May, 1989, which shall be known as the South Kuiu Wilderness.

"(19) SULLIVAN ISLAND WILDERNESS.—Certain lands which comprise approximately 4,032 acres, as generally depicted on a map entitled 'Sullivan Island Wilderness—Proposed' and dated May, 1989, which shall be known as the Sullivan Island Wilderness.

"(20) TRAP BAY WILDERNESS.—Certain lands which comprise approximately 6,667 acres, as generally depicted on a map entitled 'Trap Bay Wilderness—Proposed' and dated May, 1989, which shall be known as the Trap Bay Wilderness.

"(21) WEST DUNCAN CANAL WILDERNESS.—Certain lands which comprise approximately 134,627 acres, as generally depicted on a map entitled 'West Duncan Canal Wilderness—Proposed' and dated May, 1989, which shall be known as the West Duncan Canal Wilderness.

"(22) YAKUTAT FORELANDS WILDERNESS.—Certain lands which comprise approximately 220,268 acres, as generally depicted on a map entitled 'Yakutat Forelands Wilderness—Proposed' and dated May, 1989, which shall be known as the Yakutat Forelands Wilderness.

"(23) YOUNG LAKE WILDERNESS ADDITION TO ADMIRALTY ISLAND NATIONAL MONUMENT.—Certain lands which comprise approximately 18,702 acres, as generally depicted on a map entitled 'Young Lake Wilderness—Proposed' and dated May, 1989, which shall be managed as an addition to the Admiralty Island National Monument.

"(d) APPLICATION OF SECTION 1315(e).—Section 1315(e) of this Act (16 U.S.C. 3203(e)) shall not apply to the wilderness designated by subsection (c).".

(b) ADMINISTRATION.—Section 707 of the Act is amended by adding the following at the end thereof: "Subject to valid existing rights, the wilderness areas designated in amendments made to section 703(c) of this Act by the Tongass Timber Reform Act shall be administered by the Secretary of Agriculture in accordance with this section, except that, in the case of such areas, any reference in the provisions of the Wilderness Act to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of the Tongass Timber Reform Act.".

PART 4—IMPROVEMENT OF THE MANAGEMENT OF THE TONGASS NATIONAL FOREST

SEC. 6141. MANAGEMENT OF THE TONGASS NATIONAL FOREST.

(a) FINDINGS.—The Congress finds that—

(1) the commercial fishing, recreation, timber, and tourism industries each make a substantial contribution to the economy of southeast Alaska and their ability to contribute in the future depends upon balanced planning and management of the Tongass National Forest; and

(2) the Secretary of Agriculture should plan and manage the Tongass National Forest in a manner that adequately protects and enhances fish, wildlife, and recreation resources, as well as timber, and should act in the long-term best interests of all natural resources dependent industries and subsistence communities in southeast Alaska.

(b) PURPOSES.—The purposes of this section are to require the Secretary of Agriculture to—

(1) assess the extent to which planning and management of the Tongass National Forest prior to the enactment of this subtitle has differed from planning for, and management of, other national forests; and

(2) change, in conformance with laws applicable to the National Forest System, planning and management priorities regarding the Tongass National Forest so as to assure that greater emphasis is given to the long-term best interests of the commercial fishing, recreation, and tourism industries, subsistence communities in southeast Alaska, and the national interest in the fish and wildlife and other natural resources in the Tongass National Forest.

(c) DIRECTIVE.—The Secretary of Agriculture is authorized and directed to take such steps as are necessary in current management practices and in revisions of the Tongass land management plan to achieve the purposes described in subsection (b).

(d) OLD-GROWTH FOREST MANAGEMENT.—In developing the land management plan for the Tongass National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, the Secretary shall—

(1) provide for sustained production of old-growth forest resources within the Tongass National Forest; and

(2) upon completion of the draft of such plan, which shall be completed in any event not later than one year after the date of enactment of this subtitle, report to the Committees on Agriculture and on Interior and Insular Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on provisions incorporated into such plan to meet the objective set forth in paragraph (1). The report shall include—

(A) the definition of the term "old-growth forest" used for purposes of such plan;

(B) the quantity and distribution of old-growth forest in the Tongass National Forest;

(C) the management objectives and guidelines incorporated into such plan to provide for sustained production of old-growth forest resources;

(D) the criteria used to determine how to integrate old-growth forest management objectives into the plan; and

(E) the relationship between old-growth forest management objectives and other resource management goals affecting timber, fish, and wildlife, water quality, recreation, subsistence uses, and aesthetics.

Subtitle C—Oil Shale Claims Reform

SEC. 6201. FINDINGS.

The Congress finds that:

(1) Certain oil shale mining claims were located pursuant to the General Mining Act of May 10, 1872, before enactment of the Mineral Leasing Act of February 25, 1920, which provides for the leasing of that mineral.

(2) Section 37 of the Mineral Leasing Act permitted oil shale claims that were "maintained in compliance with the laws under which initiated" to be perfected under such laws.

(3) The holders of those oil shale claims that have not been patented have been afforded ample opportunity to apply for patents over the last 69 years but have failed to take such action.

(4) Both the Mining Act of 1872 and the Mineral Leasing Act were intended to accomplish the development of the mineral resources of the Nation, including oil shale.

(5) Almost none of the oil shale claims have been developed for their oil shale in the intervening 69 years.

(6) The continued existence of these oil shale claims restricts the lands from the development of other minerals which may exist on the claimed lands.

(7) The continued existence of these oil shale claims interferes with the effective management of Federal lands.

(8) Issuing patents at this time for claims for which a right to patent has not vested would likely result in non-mineral development contrary to the intent of the Mining Act of 1872 and the Mineral Leasing Act.

(9) The lands embraced in an unpatented claim remain subject to the disposing power of the Congress until all conditions imposed by law for issuance of a patent are fully satisfied.

(10) Either the conversion of valid oil shale claims to leases or requiring diligent work toward production on such claims, together with the cancellation of invalid claims, would promote mineral development including for oil shale.

(11) It is in the public interest for these claims to be brought to some final resolution so that Federal lands affected may be properly managed for their mineral and other values in accordance with the laws and policies of the United States.

SEC. 6202. AMENDMENT TO THE MINERAL LEASING ACT.

Section 37 of the Mineral Leasing Act (30 U.S.C. 193) is amended by inserting "(a)" before the first sentence and by adding the following new subsections at the end thereof:

"(b)(1) The Secretary of the Interior shall undertake an expedited program to determine the validity of all unpatented oil shale claims referred to in subsection (a). The expedited program shall include an examination of all unpatented oil shale claims, including those for which a patent application has not been filed. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void and cancel it.

"(2) Not later than 30 days after the enactment of this subsection the Secretary shall publish proposed regulations in the Federal Register containing standards and criteria for determining the validity of all unpatented oil shale claims referred to in subsection (a). Final regulations shall be promulgated within 180 days after the date such proposed regulations are published. The Secretary shall make a determination with respect to the validity of each such claim within 2 years after the promulgation of such final regulations. In making such determinations the Secretary shall give priority to those claims which meet the requirements of paragraphs (1) and (2) of subsection (c) and subsection (f).

"(c) Except as provided in subsection (f), after January 24, 1989, no patent shall be issued by the United States for any oil shale claim referred to in subsection (a) unless the Secretary of the Interior determines that, for the claim concerned—

"(1) a patent application was filed with the Secretary on or before January 24, 1989, and

"(2) all requirements established under sections 2329, 2330, 2331, 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) were fully complied with by that date.

"(d)(1) The holder of each oil shale claim for which no patent may be issued by reason of subsection (c) shall make an election under paragraph (2) or paragraph (3) of this subsection. Not later than 30 days after the enactment of this subsection, the Secretary shall notify the holder of each such claim of the requirement to make such election. The holder shall make the election by certified mail within 60 days after receiving such notification. Failure to make an election within such period, shall be deemed conclusively to constitute a forfeiture of the claim and the claim shall be null and void.

"(2) The holder of a claim required to make an election under this subsection may elect to apply to the Secretary for a lease under section 21. The Secretary shall promptly provide a lease application to any claimholder who makes such election and the claimholder shall file an application for lease within 90 days after receiving such application. Upon receiving such an application the Secretary shall issue a lease to the holder of such claim for the area covered by the claim if the claim is determined to be valid. A lease under this paragraph shall be issued in accordance with the provisions of section 21 except as follows:

"(A) The term of the lease shall be 20 years and for so long thereafter as oil shale or associated minerals are produced annually in commercial quantities from the lease.

"(B) The acreage limitations contained in section 21(a) shall not apply.

"(C) The first and second provisos of section 21(a) shall not apply.

"(D) The limitation on the number of leases to be granted to any one person, association, or corporation contained in section 21(a) shall not apply.

"(E) The phrase 'oil shale and gilsonite' in the first sentence of section 21(a) shall be construed to include oil shale and all other associated minerals.

"(3)(A) The holder of a claim making an election under this subsection may elect to maintain the claim by complying with such requirements as the Secretary shall prescribe, by rule, to assure that, during each year that oil shale or associated minerals are not being produced from the claim in commercial quantities, the holder of such claim either makes payments in lieu of diligent development under subparagagph (B) or expends an amount annually which—

"(i) represents diligent efforts toward the production of oil shale or associated minerals (or both),

"(ii) includes substantial work on the claim, and

"(iii) represents not less than $5,000 worth of expenditure on the claim.

"(B) In lieu of making the expenditure described in clauses (i), (ii), and (iii) in any year, the holder of such claim may pay the Secretary an amount equal to $5,000 for the claim for that year. Moneys received by the Secretary under this subparagraph shall be disposed of in the same manner as moneys received pursuant to section 35, except that 50 percent of such moneys shall be transferred to the States and 50 percent shall be deposited in the General Fund of the Treasury.

"(C) The Secretary shall promulgate a final rule under this paragraph within 90 days after the enactment of this subsection. The annual expenditure requirement under such rule shall take effect on the first day of the first month of September which occurs more than 90 days after the enactment of this subsection.

"(D) The Secretary shall review the expenditures made for each such claim not less frequently than annually.

"(E) In applying the provisions of section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744), the holder of a claim for which an election under this paragraph has been made shall comply with the provisions of subsection (a)(1) thereof only by filing (as provided in such provisions) an affidavit that the annual expenditure (or annual payments in lieu of diligent development) requirements of this paragraph have been met with respect to such claim or that oil shale or associated minerals are being produced from the claim in commercial quantities.

"(F) Failure to comply with the requirements of this paragraph and the requirements of such section 314(a)(1) shall be deemed conclusively to constitute a forfeiture of the claim and the claim shall be null and void. In addition, the Secretary shall declare a claim to be null and void and cancel it on the earlier of the following:

"(i) The date on which the Secretary determines that oil shale and associated minerals are exhausted.

"(ii) The date 100 years after the date of location of the claim.

On the date referred to in clause (ii), the Secretary shall make a determination under this subparagraph and if the Secretary determines that oil shale or associated minerals are being produced in commercial quantities there shall be substituted for such date the date on which the Secretary determines that oil shale or associated minerals cease to be produced from the claim in commercial quantities.

"(G) The provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526), popularly known as the Multiple Minerals Development Act, and the provisions of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), popularly known as the Surface Resources Act, shall apply to claims for which an election under this paragraph has been made in the same manner and to the same extent as such provisions apply to the mining claims referred to therein.

"(e) In addition to other applicable requirements, any person who holds a lease pursuant to paragraph (2) of subsection (d) or who maintains a claim pursuant to paragraph (3) of subsection (d) or pursuant to subsection (f) shall be required, by regulation, to reclaim the site subject to such lease or claim and to post a surety bond or provide other types of financial guarantee satisfactory to the Secretary before disturbance of the site to insure such reclamation. The Secretary shall promulgate such regulations as may be necessary to implement this subsection.

"(f)(1) If a patent application was filed with the Secretary before January 24, 1989, for an oil shale claim referred to in subsection (a) but all requirements established under sections 2329, 2330, 2331, 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) were not fully complied with by that date, the Secretary may issue a patent under this subsection notwithstanding the failure to meet those requirements by that date if such requirements are subsequently met and the Secretary determines the claim to be valid (after review as provided in subsection (c)). The patent shall be limited to the oil shale and associated minerals on such claim. Upon compliance with such requirements, such patent may be issued upon payment to the Secretary of $2,000 per acre.

"(2) Any patent under this subsection shall be subject to an express reservation of the surface of the affected lands, and the provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526), popularly known as the Multiple Minerals Development Act, and of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), popularly known as the Surface Resources Act,

shall apply to such claim in the same manner and to the same extent as such provisions apply to the unpatented mining claims referred to in such provisions.

"(3) No claimholder having a claim described in this subsection shall be required to make an election under subsection (d).".

TITLE VII—COMMITTEE ON MERCHANT MARINE AND FISHERIES

SEC. 7001. PASSENGER FEE.

(a) ESTABLISHMENT OF FEE.—

(1) IN GENERAL.—Chapter 35 of title 46, United States Code, is amended by adding at the end the following:

"§ 3507. Passenger fee

"(a) The Secretary shall establish, assess, and collect a fee for each covered voyage of a passenger vessel or small passenger vessel—

(1) on an overnight cruise having berth or stateroom accommodations for more than 16 passengers, except a vessel that is—

"(A) on a voyage of less than 12 hours between 2 points in the United States; or

"(B) owned and operated by a State or a political subdivision of a State; or

"(2) transporting passengers engaged in gambling beyond the territorial sea of the United States.

"(b)(1) Subject to paragraph (2) of this subsection, the amount of a fee under this section shall be $20 for each passenger on a vessel for a covered voyage with respect to which the fee is assessed.

"(2) The Secretary shall reduce a fee under this section for a covered voyage of a vessel in an amount equal to—

"(A) the amount for which the person from whom the fee is collected is liable with respect to that voyage under section 4461 of the Internal Revenue Code of 1986 (26 U.S.C. 4461), relating to the harbor tax; plus

"(B) an amount, to be determined by the Secretary, representing fees for which that person is liable for inspections of the vessel performed by the Coast Guard.

"(c) A fee under this section may be collected from an owner, operator, or person in charge of a vessel for a covered voyage with respect to which the fee is assessed.

"(d)(1) Of amounts received by the United States as fees under this section for covered voyages beginning in fiscal year 1990 or 1991—

"(A) one-third shall be deposited by the Secretary of the Treasury into the Harbor Maintenance Trust Fund established by section 9505 of the Internal Revenue Code of 1986 (26 U.S.C. 9505) as offsetting receipts; and

"(B) two-thirds shall be deposited into the general fund of the Treasury as proprietary receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

"(2) Amounts collected as fees under this section for covered voyages beginning after fiscal year 1991 shall be deposited by the Secretary into an interest bearing escrow account.

"(e) In this section, 'covered voyage' means a voyage of a vessel during which a passenger of the vessel embarks or disembarks the vessel in the United States.".

(2) AFFECTED VOYAGES.—Section 3507 of title 46, United States Code, as added by this subsection, applies to a covered voyage (as that term is defined in that section) that begins after September 30, 1989.

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 35 of title 46, United States Code, is amended by adding at the end the following:

"3507. Passenger fee.".

(b) CONFORMING AMENDMENT.—Section 9505(a) of the Internal Revenue Code of 1986 (26 U.S.C. 9505(a)), relating to the Harbor Maintenance Trust Fund, is amended—

(1) in paragraph (2) by striking ", or" and inserting in lieu thereof a comma;

(2) in paragraph (3) by striking the period at the end and inserting in lieu thereof ", or"; and

(3) by adding at the end the following:

"(4) deposited into the Harbor Maintenance Trust Fund pursuant to section 3507(d)(1) of title 46, United States Code (relating to passenger fee).".

(c) REGULATIONS.—The Secretary of Transportation shall issue regulations implementing section 3507 of title 46, United States Code, as added by this section, not later than 6 months after the date of the enactment of this Act.

SEC. 7002. OCEANS PROTECTION FEE.

(a) AMENDMENTS.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended—

(1) in subsection (b)(6), by inserting "provisions requiring an oceans protection fee at a rate of $1 per acre, per year, and" after "contain"; and

(2) in subsection (m), by inserting ", except that rental and oceans protection fee amounts collected pursuant to subsection (b)(6) shall be deposited by the Secretary into an interest bearing escrow account. On the last day of each of the fiscal years 1990 and 1991, the Secretary shall deposit all such escrowed amounts into the Treasury, 50 percent as offsetting receipts of the Department of the Interior and 50 percent as offsetting receipts of the National Oceanic and Atmospheric Administration. In subsequent fiscal years any transfer of such escrowed amounts shall be made only as specifically provided by legislation enacted after the date of enactment of this Act" after "section 9 of this Act".

(b) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply to leases in effect on the date of enactment of this Act as well as leases issued after such date of enactment.

SEC. 7003. PAYMENT OF EXTRAORDINARY EXPENSES AND LOSSES OF PANAMA CANAL COMMISSION.

(a) USE OF INTEREST ON ESCROWED PAYMENTS TO PANAMA.—Section 1341 of the Panama Canal Act of 1979 (22 U.S.C. 3751) is amended by adding at the end the following:

"(h)(1) In the event that payments to the Republic of Panama referred to in subsection (a) are held in escrow by the United States—

"(A) any interest which accrues on the amounts so held shall be available to the Secretary of the Treasury for reimbursing the Commission, notwithstanding any other provision of law, for expenses and losses incurred by the Commission in connection with actions taken by the Noriega-Solis regime in Panama, including amounts expended by the Commission to reimburse employees of the Commission for expenses and losses incurred in connection with actions taken against such employees by the Noriega-Solis regime (including expenses and losses described in paragraph (2)); and

"(B) any interest described in subparagraph (A) which is not used for reimbursements under that subparagraph during a fiscal year shall, at the end of that fiscal year, be deposited by the Secretary of the Treasury into the general fund of the Treasury as offsetting receipts.

"(2) The Commission may reimburse any employee of the Commission for expenses and losses of that employee which the Commission determines were incurred by reason of actions by the Noriega-Solis regime in Panama.

"(3) The Secretary of the Treasury shall, upon application by the Commission, reimburse the Commission for expenses and losses described in paragraph (1)(A)—

"(A) using the interest described in paragraph (1)(A); and

"(B) in accordance with such rules and procedures as the Secretary of the Treasury may prescribe.

"(4) Reimbursements authorized by this subsection may be made for expenses and losses incurred before, on, or after the date of the enactment of this subsection.

"(5) The Commission shall include, in the annual report to the Congress under section 1312, a detailed description of all expenses and losses for which reimbursement was made under this subsection during the fiscal year covered by the report.

"(6) Reimbursements to the Commission authorized by paragraph (1)(A)—

"(A) may not exceed $5,000,000 in any fiscal year; and

"(B) may not be made before October 1, 1989.

"(7) This subsection shall be effective during the period in which the national emergency declared on April 8, 1988, by Executive Order Numbered 12635 remains in effect.".

SEC. 7004. PANAMA CANAL COMMISSION AUTHORIZATION.

(a) SHORT TITLE.—This section may be cited as the "Panama Canal Commission Authorization Act, Fiscal Year 1990".

(b) AUTHORIZATION OF EXPENDITURES.—

(1) IN GENERAL.—The Panama Canal Commission is authorized to make such expenditures within the limits of funds and borrowing authority available to it and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, and improvement of the Panama Canal for fiscal year 1990, except that not more than $52,000 for fiscal year 1990 may be made available for official reception and representation expenses, of which—

(A) not more than $12,000 may be made available for such expenses of the supervisory board of the Commission,

(B) not more than $6,000 may be made available for such expenses of the Secretary of the Commission, and

(C) not more than $34,000 may be made available for such expenses of the Administrator of the Commission.

(2) PURCHASE OF PASSENGER MOTOR VEHICLES.—Funds available to the Panama Canal Commission for obligations shall be available for the purchase of passenger motor vehicles (including large heavy-duty vehicles) used to transport Commission personnel across the Isthmus of Panama, which may be purchased without regard to price limitations set forth in applicable regulations of any department or agency of the United States or by other law.

(c) REPORTING REQUIREMENTS.—The Panama Canal Commission shall provide written advance notification to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Com-

mittee on Armed Services of the Senate regarding—

(1) any proposed change in the rates of tolls for use of the Panama Canal;

(2) any payment estimated to be due Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977, as provided by section 1341(a) of the Panama Canal Act of 1979 (22 U.S.C. 3751(a)); and

(3) the initiation of any major capital acquisition or construction project exceeding $10,000,000, which was not specified in the budget estimates submitted to the Congress for the fiscal year in which the project will commence.

(d) GENERAL PROVISIONS.—

(1) PAY INCREASES.—Funds for the Panama Canal Commission may be apportioned notwithstanding section 1341 of title 31, United States Code, to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law which are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

(2) EXPENSES IN ACCORDANCE WITH LAW.—None of the funds authorized in this section for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

(e) EFFECTIVE DATE.—This section is effective on October 1, 1989.

SEC. 7005. USE OF MILITARY COMMISSARIES AND EXCHANGE STORES BY PANAMA CANAL COMMISSION EMPLOYEES.

(a) FINDINGS.—The Congress finds that—

(1) due to the harassment of persons by the Panamanian Defense Forces in the public areas of Panama, the security in those areas of employees of the Panama Canal Commission who are United States citizens is seriously threatened and their mobility is severely limited;

(2) the political unrest caused by the illegal acts of the Noriega-Solis regime, including the manipulation of the May 7, 1989, election returns, has resulted in the declaration by the President of the United States that Panama is unsafe for United States citizens, thereby severely hindering the ability of the employees of the Panama Canal Commission who are United States citizens to purchase food and other goods;

(3) the operation of the Panama Canal is jeopardized by the inability of these employees to purchase food and other goods safely and adequately; and

(4) in accordance with paragraph 4 of Article I of the Panama Canal Treaty of 1977, which requires the United States and Panama to assure the uninterrupted and efficient operation of the Panama Canal, it is necessary to authorize employees of the Panama Canal Commission who are United States citizens the right temporarily to purchase food and other goods at commissaries and exchanges operated by United States military departments in Panama.

(b) COMMISSARY AND EXCHANGE PRIVILEGES.—Those employees of the Panama Canal Commission who are United States citizens are authorized to purchase food and any other goods at any commissary or exchange store located in Panama which is operated by any military department of the United States.

(c) TERMINATION OF AUTHORITY.—

(1) CERTIFICATION OF THE PRESIDENT.—If the President finds that—

(A) the Panamanian Defense Forces have ceased the harassment of persons in the public areas of Panama, and

(B) that food and goods are available and accessible safely to employees of the Panama Canal Commission who are United States citizens so that the operation of the Panama Canal is not jeopardized,

the President shall certify the finding to the Congress.

(2) TERMINATION OF AUTHORITY.—The President may terminate the authority described in subsection (b) on or after the later of—

(A) the end of the 90-day period beginning on the date on which a certification to the Congress under paragraph (1) has been made, or

(B) the date on which the national emergency declared on April 8, 1988, by Executive Order Numbered 12635 is terminated.

TITLE VIII—COMMITTEE ON POST OFFICE AND CIVIL SERVICE

SEC. 8001. BUDGETARY TREATMENT OF THE POSTAL SERVICE FUND.

(a) TREATMENT OF THE POSTAL SERVICE FUND.—

(1) IN GENERAL.—Chapter 20 of title 39, United States Code, is amended by inserting after section 2009 the following:

"§ 2009a. Budgetary treatment of the Postal Service Fund

"Notwithstanding any other provision of law, the receipts and disbursements of the Postal Service Fund, including disbursements for administrative expenses incurred in connection with the Fund—

"(1) shall not be included in the totals of—

"(A) the budget of the United States Government as submitted by the President, or

"(B) the congressional budget (including allocations of budget authority and outlays provided therein);

"(2) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government; and

"(3) shall be exempt from any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985, and shall not be counted for purposes of calculating the deficit under section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 nor counted in calculating the excess deficit for purposes of sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, for any fiscal year."

(2) CHAPTER ANALYSIS.—The analysis for chapter 20 of title 39, United States Code, is amended by inserting after the item relating to section 2009 the following:

"2009a. Budgetary treatment of the Postal Service Fund."

(b) CONSTRUCTION.—Nothing in any amendment made by subsection (a) shall be considered to diminish the oversight responsibilities of the Congress under law, rule, or regulation with respect to the budget of the United States Postal Service.

(c) APPLICABILITY.—The amendments made by this section shall apply with respect to budgets for fiscal years beginning after September 30, 1989.

SEC. 8002. FUNDING OF COST-OF-LIVING ADJUSTMENTS FOR CERTAIN POSTAL SERVICE ANNUITANTS AND SURVIVOR ANNUITANTS.

(a) IN GENERAL.—Section 8348 of title 5, United States Code, is amended by adding at the end the following:

"(m)(1) Notwithstanding any other provision of law, the United States Postal Service shall be liable for that portion of any estimated increase in the unfunded liability of the Fund which is attributable to any benefits payable from the Fund to former employees of the Postal Service who first become annuitants by reason of separation from the Postal Service on or after October 1, 1986, or to their survivors, or to the survivors of individuals who die on or after October 1, 1986, while employed by the Postal Service, when the increase results from a cost-of-living adjustment under section 8340 of this title.

"(2) The estimated increase in the unfunded liability referred to in paragraph (1) of this subsection shall be determined by the Office after consultation with the Postal Service. The Postal Service shall pay the amount so determined to the Office in 15 equal annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System, with the first payment thereof due at the end of the fiscal year in which the cost-of-living adjustment with respect to which the payment relates becomes effective.

"(3) In determining the amount for which the Postal Service is liable under this subsection in cases in which the benefits involved are based on service of an individual who performed 1 or more forms of service besides employment with the Postal Service, the amount of the Postal Service's liability shall be prorated to reflect only that portion of total service which is attributable to employment with the Postal Service."

(b) EFFECTIVE DATE: ADDITIONAL AMOUNT PAYABLE.—

(1) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as of October 1, 1986.

(2) ADDITIONAL AMOUNT PAYABLE.—

(A) GENERALLY.—The first payment made under the provisions of section 8348(m) of title 5, United States Code (as added by subsection (a)) shall include, in addition to the amount which would otherwise be payable at that time, an amount equal to the sum of any amounts which would have been due under those provisions in any prior year if this section had been enacted before October 1, 1986.

(B) INTEREST.—The additional amount payable under this paragraph shall be computed in accordance with section 8348(m) of title 5, United States Code (as added by subsection (a)), except that interest on any amount which would have been due in a prior year shall be computed—

(i) in accordance with section 8334(e) of title 5, United States Code, rather than as would otherwise apply under such section 8348(m); and

(ii) through the date on which payment is actually made.

SEC. 8003. FUNDING OF HEALTH BENEFIT PREMIUMS FOR SURVIVORS OF EMPLOYEES AND FORMER EMPLOYEES OF THE POSTAL SERVICE.

(a) GENERALLY.—Section 8906(g)(2) of title 5, United States Code, is amended by inserting "or for a survivor of such an individual or of an individual who died on or after Oc-

tober 1, 1986, while employed by the United States Postal Service," after "1986,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989, and shall apply with respect to amounts payable for periods beginning on or after that date.

SEC. 8004. AMENDMENTS RELATING TO LIMITATIONS ON POSTAL SERVICE'S BORROWING AUTHORITY.

(a) IN GENERAL.—Section 2005(a) of title 39, United States Code, is amended—

(1) by striking "(a)" and inserting "(a)(1)";

(2) by striking "$10,000,000,000." and inserting "the maximum amount then allowable under paragraph (2) of this subsection.";

(3) by striking "$1,500,000,000" and inserting "$3,000,000,000";

(4) by striking "$500,000,000" and inserting "$1,000,000,000"; and

(5) by adding at the end the following:

"(2) The maximum amount allowable under this paragraph is—

"(A) $15,000,000,000 for each of fiscal years 1990 and 1991;

"(B) $20,000,000,000 for each of fiscal years 1992 and 1993;

"(C) $25,000,000,000 for each of fiscal years 1994 and 1995; and

"(D) $30,000,000,000 for fiscal year 1996 and each fiscal year thereafter."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1989.

SEC. 8005. REDIRECTION OF POSTAL SERVICE BORROWING, DEPOSITS, AND INVESTMENTS TO PRIVATE MARKETS.

(a) POSTAL SERVICE EXCLUDED FROM BORROWING FROM FEDERAL FINANCING BANK.—

(1) IN GENERAL.—Section 2005(d) of title 39, United States Code, is amended—

(A) in paragraph (1), by striking "and bearer or";

(B) in paragraph (4), by striking "and" after the semicolon;

(C) in paragraph (5), by striking the period and inserting a semicolon; and

(D) by adding at the end the following:

"(6) not be sold to the Federal Financing Bank, created by section 4 of the Federal Financing Bank Act of 1973; and

"(7) be deemed to be 'exempted securities', within the meaning of section 3(a)(2) of the Securities Act of 1933, section 3(a)(12) of the Securities Exchange Act of 1934, and section 304(a)(4) of the Trust Indenture Act of 1939, issued by an instrumentality of the Government of the United States."

(2) PREPAYMENTS.—Notwithstanding any other provision of law, rule, or regulation, or the terms of any agreement thereunder, whenever (after the end of the 6-month period beginning on the date of enactment of this Act) the United States Postal Service prepays any of its loan notes with the Federal Financing Bank, the prepayment shall be made at the note's par value.

(3) CONSULTATION WITH THE TREASURY.—Section 2006(a) of title 39, United States Code, is amended to read as follows:

"(a) The Postal Service shall consult with the Secretary of the Treasury as to the timing and terms of sale of any obligations issued under section 2005 of this title."

(b) TREASURY CONTROL OF POSTAL DEPOSITS AND INVESTMENTS REPEALED.—

(1) DEPOSITS.—Section 2003 of title 39, United States Code, is amended—

(A) in subsection (a), by striking "in the Treasury of the United States";

(B) in subsection (b), by striking "and" after the semicolon in paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and", and by adding at the end the following:

"(8) the balance in the Postal Service Fund (as then established within the Treasury of the United States) immediately before the amendments made by section 8005(b) of the Omnibus Budget Reconciliation Act of 1989 take effect."; and

(C) in subsection (d)—

(i) by striking "With the approval of the Secretary of the Treasury, the" and inserting "The"; and

(ii) by striking "as the Postal Service and the Secretary may mutually agree" and inserting "as the Postal Service deems appropriate".

(2) INVESTMENTS.—Section 2003(c) of title 39, United States Code, is amended to read as follows:

"(c) If the Postal Service determines that the moneys of the Fund are in excess of current needs, it may invest such amounts as it deems advisable in obligations of, or obligations guaranteed by, the Government of the United States."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 6-month period beginning on the date of enactment of this Act.

SEC. 8006. POSTAL SERVICE PAYMENTS TO THE EMPLOYEES' COMPENSATION FUND.

(a) AMENDMENT.—Section 2003 of title 39, United States Code, is amended by adding at the end the following:

"(g) Notwithstanding any provision of section 8147 of title 5, whenever the Secretary of Labor furnishes a statement to the Postal Service indicating an amount due from the Postal Service under subsection (b) of that section, the Postal Service shall make the deposit required pursuant to that statement (and any additional payment under subsection (c) of that section, to the extent that it relates to the period covered by such statement) not later than 30 days after the date on which such statement is so furnished. Any deposit (and any additional payment) which is subject to the preceding sentence shall, once made, remain available without fiscal year limitation."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989.

SEC. 8007. AMENDMENTS RELATING TO PARTIAL DEFERRED PAYMENT OF LUMP-SUM CREDIT.

(a) AMENDMENTS.—Section 6001 of the Omnibus Budget Reconciliation Act of 1987 (5 U.S.C. 8343a note) is amended—

(1) in subsection (a), by striking "after January 3, 1988, and before October 1, 1989" and inserting "after September 30, 1989, and before October 1, 1991";

(2) in subsection (b)(1), by striking "60" and inserting "50"; and

(3) in subsection (c), by striking the matter before paragraph (1) and inserting the following:

"(c) EXCEPTIONS.—The Office of Personnel Management shall prescribe regulations to provide that, unless the individual involved indicates otherwise by written notice to the Office (submitted at such time and in such manner as the regulations may require), this section shall not apply—".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1989.

SEC. 8008. COORDINATION.

For purposes of section 202 of the Balanced Budget and Emergency Deficit Reaffirmation Act of 1987 (2 U.S.C. 909), any transfer resulting from any provision of this title or any of the amendments made by this title is a necessary (but secondary) result of a significant policy change (within the meaning of section 202(b) of such Act).

TITLE IX—COMMITTEE ON VETERANS' AFFAIRS

SEC. 9001. ESTABLISHMENT OF SPECIAL INDEMNITY FUND AND LOAN FEE.

(a) SPECIAL INDEMNITY FUND.—(1) Chapter 37 of title 38, United States Code, is amended by adding the following new section after section 1824:

"§ 1824A. Mortgage indemnity fund

"(a) There is hereby established in the Treasury of the United States a revolving fund known as the Veterans' Mortgage Indemnity Fund (hereinafter referred to as the 'Indemnity Fund').

"(b) The Indemnity Fund shall be available to the Secretary for all operations (other than administrative expenses) carried out with respect to housing loans guaranteed or insured under this chapter which are made on or after the effective date of the Omnibus Budget Reconciliation Act of 1989, other than loans to which section 1814 of this title applies and which were originally guaranteed or insured before such effective date.

"(c)(1) All fees collected under section 1829 of this title on or after such effective date shall be credited to the Indemnity Fund, other than fees collected with respect to loans to which section 1814 of this title applies and which were originally guaranteed or insured before such effective date.

"(2) There shall also be credited to the Indemnity Fund—

"(A) for each housing loan guaranteed or insured under this chapter on or after October 1, 1989, an amount equal to 0.25 percent of the original amount of such loan for each of the three fiscal years beginning with the fiscal year in which such loan is guaranteed or insured;

"(B) all collections of principal and interest and the proceeds from the use of property held, or from the sale of property disposed of, with respect to loans to which subsection (b) of this section applies; and

"(C) all income from the investments described in subsection (d) of this section.

"(d)(1) The Secretary of the Treasury shall invest the portion of the Indemnity Fund that is not required to meet current payments made from the Indemnity Fund, as determined by the Secretary of Veterans' Affairs, in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

"(2) Such obligations shall have maturities suitable to the needs of the Indemnity Fund, as determined by the Secretary of Veterans' Affairs, and shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.".

(2) The table of sections of subchapter III of chapter 37 of such title is amended by inserting after the item for section 1824 the following new item:

"1824A. Mortgage indemnity fund.".

(b) LOAN FEE.—Section 1829 of such title is amended to read as follows:

"§ 1829. Loan fee

"(a)(1) Except as provided in subsection (c), a fee shall be collected from each veteran obtaining a housing loan guaranteed or insured under this chapter, and from each person obtaining a loan under section 1833(a), and no such loan may be guaran-

teed, made, or insured under this chapter until the fee payable under this section has been remitted to the Secretary.

"(2) The amount of such fee shall be 1.25 percent of the total loan amount, except that—

"(A) in the case of a loan made under section 1833(a), the amount of such fee shall be one percent of the total loan amount; and

"(B) in the case of a guaranteed or insured loan for a purchase or construction with respect to which the veteran has made a downpayment of not less than 5 percent of the total purchase price or construction cost, the amount of such fee shall be 0.75 percent of the total loan amount.

"(3) The amount of the fee may be included in the loan and paid from the proceeds thereof.

"(b) Except as provided in subsection (c), a fee shall be collected from a person assuming a loan to which section 1814 of this title applies. The amount of the fee shall be equal to one-half of 1 percent of the balance of the loan on the date of the transfer of the property.

"(c) A fee may not be collected under this section from a veteran who is receiving compensation (or who but for the receipt of retirement pay would be entitled to receive compensation) or from a surviving spouse of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability.".

(c) LIABILITY.—Section 1803 of such title is amended by adding at the end the following:

"(e) Any veteran who pays a fee under section 1829 of this title, or is exempted under section 1829(c) from paying such fee, on or after the effective date of the Omnibus Budget Reconciliation Act of 1989 with respect to a housing loan (other than a loan made under section 1833(a) or a loan for which a fee is collected under section 1829(b)) shall have no liability to the Secretary with respect to the loan for any loss resulting from any default of the veteran except in the case of fraud, misrepresentation, or bad faith by the veteran in obtaining the loan or in connection with the loan default.".

(d) CONFORMING AMENDMENTS.—(1) Section 1824 of such title is amended—

(A) in subsection (b), by inserting the following before the period at the end of the first sentence: "and the operations carried out with the Indemnity Fund established by section 1824A"; and

(B) in subsection (c)—

(i) by inserting after "title" in clause (2) the following: "before the effective date of the Omnibus Budget Reconciliation Act of 1989, except that fees collected under subsection (b) of such section 1829 on or after such effective date with respect to loans which were originally guaranteed, made, or insured before such effective date shall also be deposited in the Fund"; and

(ii) by inserting after "chapter" in clause (3) the following: "with respect to housing loans guaranteed or insured under this chapter before the effective date of the Omnibus Budget Reconciliation Act of 1989".

(2) Section 1832(a)(1) of such title is amended by striking out "If" in the last sentence and inserting in lieu thereof "Except as provided in section 1803(e), if".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to any loan closed on or after October 1, 1989.

SEC. 9002. SALE OF VENDEE LOANS.

(a) IN GENERAL.—Section 1833(a) of title 38, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking out "October 1, 1989," in subparagraphs (A), (B), and (C) and inserting in lieu thereof "October 1, 1991,"; and

(B) by adding at the end the following new subparagraph:

"(D) All amounts received from the sale of such loans shall be credited, without any reduction and for the fiscal year in which the amount is received, as offsetting collections of the Fund, established by section 1824 or by section 1824A, for which a fee was collected (or from which a fee was exempted from being collected) at the time the loan was originally guaranteed. The total credited to such Fund for a fiscal year shall offset outlays attributed to such Fund during such fiscal year."; and

(2) in paragraph (6), by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1991".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1989.

TITLE X—NON-REVENUE PROVISIONS OF THE COMMITTEE ON WAYS AND MEANS

Subtitle A—Social Security Administration, Old-Age, Survivors, and Disability Insurance, and Railroad Retirement

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CHAPTER 1—ADMINISTRATIVE CHANGES

Subchapter A—Establishment of the Social Security Administration as an Independent Agency

PART 1—GENERAL PROVISIONS

SEC. 10001. DECLARATION OF PURPOSE.

The purposes of this subchapter are as follows:

(1) to establish the Social Security Administration as an independent agency, separate from the Department of Health and Human Services;

(2) to charge the Social Security Administration with administration of the old-age, survivors, and disability insurance program and supplemental security income program;

(3) to establish a Social Security Board as head of the Social Security Administration and define the powers and duties of such Board;

(4) to establish an Executive Director of the Administration and define the powers and duties of the Executive Director; and

(5) to provide for delegating major authorities to the Board and the Executive Director.

SEC. 10002. ESTABLISHMENT OF SOCIAL SECURITY ADMINISTRATION AS A SEPARATE, INDEPENDENT AGENCY; RESPONSIBILITIES OF THE AGENCY.

Section 701 of the Social Security Act is amended to read as follows:

"SOCIAL SECURITY ADMINISTRATION

"SEC. 701. There is hereby established, as an independent agency in the executive branch of the Government, a Social Security Administration. It shall be the duty of the Administration to administer the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI.".

SEC. 10003. SOCIAL SECURITY BOARD; EXECUTIVE DIRECTOR; DEPUTY DIRECTOR; BENEFICIARY OMBUDSMAN; OTHER OFFICERS.

(a) IN GENERAL.—Section 702 of the Social Security Act is amended to read as follows:

"SOCIAL SECURITY BOARD; EXECUTIVE DIRECTOR; OTHER OFFICERS

"Social Security Board

"SEC. 702. (a)(1)(A) The Administration shall be governed by a Social Security Board. The Board shall be composed of three members appointed by the President, by and with the advice and consent of the Senate. The members shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education, experience, and attainments, exceptionally qualified to perform the duties of members of the Board.

"(B)(i) Except as provided in clauses (ii) and (iii), members of the Board shall be appointed for terms of six years. A member of the Board may be removed only pursuant to a finding by the President of neglect of duty or malfeasance in office. The President shall transmit any such finding to the Speaker of the House of Representatives and the Majority Leader of the Senate not later than five days after the date on which such finding is made.

"(ii) Of the members first appointed—

"(I) one shall be appointed for a term ending June 30, 1993,

"(II) one shall be appointed for a term ending June 30, 1995, and

"(III) one shall be appointed for a term ending June 30, 1997,

as designated by the President at the time of appointment. Such members shall be appointed after active consideration of recommendations made by the chairman of the Committee on Ways and Means of the House of Representatives and of recommendations made by the chairman of the Committee on Finance of the Senate.

"(iii) The President may not nominate an individual for appointment to a term of office as member of the Board before the commencement of the President's term of office in which the member's term of office commences. Any member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term. A member may, at the request of the President, serve for not more than one year after the expiration of his or her term until his or her successor has taken office. A member of the Board may be appointed for additional terms.

"(C) Not more than two members of the Board shall be of the same political party.

"(D) A member of the Board may not, during his or her term as member, engage in any other business, vocation, profession, or employment. A member of the Board may continue as a member of the Board for not longer than the 30-day period beginning on the date such member first fails to meet the requirements of the preceding sentence.

"(E) Two members of the Board shall constitute a quorum, except that one member may hold hearings.

"(F) A member of the Board shall be designated by the President to serve as Chairperson of the Board for a term of 4 years.

"(G) The Board shall meet at the call of the Chairperson or two members of the Board.

"(2) Each member of the Board shall be compensated at the rate provided for level II of the Executive Schedule.

"(3) The Board shall—

"(A) govern by regulation the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI,

"(B) establish the Administration and oversee its efficient and effective operation,

"(C) establish policy and devise long-term plans to promote and maintain the effective implementation of programs referred to in subparagraph (A),

"(D) appoint an Executive Director of the Administration, as described in subsection (b), to act as the chief operating officer of the Administration responsible for administering the programs referred to in subparagraph (A),

"(E) constitute three of the members of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, with the Chairperson of the Social Security Board serving as Chairperson of such Board of Trustees,

"(F) make annual budgetary recommendations relating to the Administration, including program costs of the supplemental security income program under title XVI, and defend such recommendations before the appropriate committees of each House of the Congress,

"(G) study and make recommendations to the Congress and the President as to the most effective methods of providing economic security through social insurance, supplemental security income, and related programs and as to legislation and matters of administrative policy concerning the programs referred to in subparagraph (A),

"(H) provide the Congress and the President with the ongoing actuarial and other analysis undertaken by the Administration with respect to the programs referred to in subparagraph (A) and any other information relating to such programs, and

"(I) conduct policy analysis and research relating to the programs referred to in subparagraph (A).

"(4)(A) The Board may prescribe such rules and regulations as the Board determines necessary or appropriate to carry out the functions of the Administration. The regulations prescribed by the Board shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.

"(B) The Board may establish, alter, consolidate, or discontinue such organizational units or components within the Administration as the Board considers necessary or appropriate to carry out its functions, except that this subparagraph shall not apply with respect to any unit, component, or position provided for by this Act.

"(C) The Board may, with respect to the administration of the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI, assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees as the Board may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Board.

"Executive Director

"(b)(1) There shall be in the Administration an Executive Director who shall be appointed by the Social Security Board.

"(2)(A) The Executive Director shall be appointed for a term of four years, except that the individual first appointed to the office of Executive Director shall be appointed for a term ending September 30, 1995. An individual appointed to a term of

office as Executive Director after the commencement of such term may serve under such appointment only for the remainder of such term. An individual may, at the request of the Chairperson of the Board, serve as Executive Director after the expiration of his or her term for not more than one year until his or her successor has taken office. An individual may be appointed as Executive Director for additional terms.

"(B) An individual may be removed from the office of Executive Director before completion of his or her term only for cause found by the Board.

"(3) The Executive Director shall be compensated at the rate provided for level II of the Executive Schedule.

"(4) The Executive Director shall—

"(A) constitute the chief operating officer of the Administration, responsible for administering, in accordance with applicable statutes and regulations, the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI,

"(B) maintain an efficient and effective operational structure for the Administration,

"(C) implement the long-term plans of the Board to promote and maintain the effective implementation of such programs,

"(D) report annually to the Board on program costs under title II, make annual budgetary recommendations to the Board for the ongoing administrative costs of the Administration under this Act and the program costs of the supplemental security income program under title XVI, and defend the recommendations before the Board,

"(E) advise the Board and the Congress on the effect on the administration of such programs of proposed legislative changes in such programs,

"(F) serve as Secretary of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund,

"(G) report in December of each year to the Board for transmittal to the Congress concerning the administrative endeavors and accomplishments of the Administration, and

"(H) carry out such additional duties as are assigned by the Board from time to time.

Any reference to the Board in this Act or any other provision of law in connection with the exercise of a function of the Board which is delegated to the Executive Director pursuant to this section shall be considered a reference to the Executive Director.

"Deputy Director of Social Security

"(c)(1) There shall be in the Office of the Executive Director a Deputy Director, who shall be appointed by and serve at the pleasure of the Executive Director.

"(2) The Deputy Director shall be compensated at the rate provided for level III of the Executive Schedule.

"(3) The Deputy Director shall perform such duties and exercise such powers as the Executive Director shall from time to time assign or delegate. The Deputy Director shall be Acting Executive Director of the Administration during the absence or disability of the Executive Director and, unless the Board designates another officer of the Government as Acting Executive Director, in the event of a vacancy in the office of the Executive Director.

"General Counsel

"(d)(1) There shall be in the Administration a General Counsel, who shall be appointed by and serve at the pleasure of the Board. The General Counsel shall be the principal legal officer in the Administration.

"(2) The General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule.

"Inspector General

"(e)(1) There shall be in the Administration an Office of the Inspector General. Such Office shall be headed by an Inspector General appointed in accordance with the Inspector General Act of 1978.

"(2) The Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule.

"Beneficiary Ombudsman

"(f)(1) There shall be in the Administration an Office of the Beneficiary Ombudsman, to be headed by a Beneficiary Ombudsman appointed by the Board.

"(2)(A) The Beneficiary Ombudsman shall be appointed for a term of five years, except that the individual first appointed to the Office of Beneficiary Ombudsman shall be appointed for a term ending September 30, 1995. An individual appointed to a term of Office as Beneficiary Ombudsman after the commencement of such term may serve under such appointment only for the remainder of such term. An individual may, at the request of the Chairperson of the Board, serve as Beneficiary Ombudsman after the expiration of his or her term for not more than one year until his or her successor has taken office. An individual may be appointed as Beneficiary Ombudsman for additional terms.

"(B) An individual may be removed from the Office of Beneficiary Ombudsman before completion of his or her term only for cause found by the Board.

"(3) The Beneficiary Ombudsman shall be compensated at the rate provided for level V of the Executive Schedule.

"(4) The duties of the Beneficiary Ombudsman are as follows:

"(A) to represent within the Administration's decisionmaking process the interests and concerns of beneficiaries under the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI;

"(B) to review the Administration's policies and procedures for possible adverse effects on such beneficiaries;

"(C) to recommend within the Administration's decisionmaking process changes in policies which have caused problems for such beneficiaries;

"(D) to help resolve the problems under such programs of individual beneficiaries in unusual or difficult circumstances, as determined by the Administration; and

"(E) to represent within the Administration's decisionmaking process the views of beneficiaries in the design of forms and the issuance of instructions.

"(5) The Board shall assure that the Office of the Beneficiary Ombudsman has staff sufficient to enable the Beneficiary Ombudsman to efficiently carry out his or her duties. Such staff shall be located in the regional offices, program centers, and central office of the Administration.

"(6) The annual report of the Board under section 704 shall include a description of the activities of the Beneficiary Ombudsman.

"Administrative Law Judges

"(g)(1) There shall be in the Administration an Office of the Chief Administrative Law Judge, who shall be appointed by the Board. The duty of the Chief Administrative Law Judge shall be to administer the affairs of the administrative law judges serving in the Administration in a manner so as to ensure that hearings and other business are conducted by the administrative law judges in accordance with applicable law and regulations.

"(2) The Chief Administrative Law Judge shall report directly to the Board.

"(3) Notwithstanding any other provision of law, insofar as section 205 applies under any provision of this Act, hearings before administrative law judges to which such section applies shall be presided over by administrative law judges serving in the Administration (as the delegates of the Board or the Secretary, as applicable) under the procedures applied by the Board under such section. The Board shall consult with the Secretary with respect to any changes in such procedures insofar as such changes may apply to any such provision.".

(b) CONFORMING AMENDMENTS RELATING TO COMPOSITION OF BOARD OF TRUSTEES OF OASDI TRUST FUNDS.—Section 201(c) of such Act is amended—

(1) in the first sentence, by striking "shall be composed of" and all that follows down through "ex officio" and inserting the following: "shall be composed of the members of the Social Security Board, the Secretary of the Treasury, and the Secretary of Health and Human Services, all ex officio";

(2) by inserting after the first sentence the following new sentence: "The Chairperson of the Social Security Board shall be the Chairperson of the Board of Trustees."; and

(3) by striking "Commissioner of Social Security" and inserting "Executive Director of the Social Security Administration".

(c) INTERIM AUTHORITY OF THE COMMISSIONER.—The President shall nominate for appointment the initial members of the Social Security Board not later than April 1, 1990. In the event that, as of July 1, 1990, all members of the Social Security Board have not entered upon office, until all members of the Board have entered upon office, the officer serving on July 1, 1990, as Commissioner of Social Security in the Department of Health and Human Services (or Acting Commissioner, if applicable), or such officer's successor, shall, while continuing to serve as Commissioner of Social Security (or Acting Commissioner) in such Department, serve as head of the Social Security Administration established under section 701 of the Social Security Act (as amended by this Act) and shall assume the powers and duties of such Board and of the Executive Director under such Act (as amended by this Act).

(d) REPORTS TO THE CONGRESS RELATING TO ROLE OF SSA ADMINISTRATIVE LAW JUDGES IN HEARINGS UNDER THE SECRETARY OF THE HEALTH AND HUMAN SERVICES.—Not later than July 1, 1992, the Secretary of Health and Human Services and the Comptroller General of the United States shall each report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate with recommendations regarding the appropriateness of maintaining the provisions of section 702(g)(3) of the Social Security Act (as amended by this section). The report by the Secretary shall be prepared in consultation with the Social Security Board.

SEC. 10004. PERSONNEL; BUDGETARY MATTERS; FACILITIES AND PROCUREMENT; SEAL OF OFFICE.

(a) IN GENERAL.—Section 703 of the Social Security Act is amended to read as follows:

"ADMINISTRATIVE DUTIES OF THE SOCIAL SECURITY BOARD

"Personnel

"SEC. 703. (a)(1) The Social Security Board shall appoint such additional officers and employees as it considers necessary to carry out its functions. Except as otherwise provided in any other provision of law, such officers and employees shall be appointed, and their compensation shall be fixed, in accordance with title 5, United States Code.

"(2) The Board may procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

"(3) The Director of the Office of Personnel Management shall authorize for the Administration a total number of Senior Executive Service positions which is greater than the number of such positions authorized in the Social Security Administration in the Department of Health and Human Services as of immediately before the date of the enactment of the Omnibus Budget Reconciliation Act of 1989, to the extent that the greater number of such authorized positions is specified in the comprehensive work force plan as established and revised by the Board under subsection (b)(1). The total number of such positions authorized for the Administration pursuant to such section 3133 shall not at any time be less than the number of such authorized positions as of immediately before such date.

"(4) In addition to the positions of the Administration in the Executive Schedule specified in section 702, the Administration is authorized six additional positions at level IV of the Executive Schedule and six additional positions at level V of the Executive Schedule.

"Budgetary Matters

"(b)(1) Appropriations requests for staffing and personnel of the Administration shall be based upon a comprehensive work force plan, which shall be established and revised from time to time by the Board. The entire amount of appropriations provided for the administrative costs of the Administration shall be apportioned in the time period provided in title 31, United States Code, for apportionment and shall be apportioned for the entire period of availability without restriction or deduction by the apportioning officer or employee of the Office of Management and Budget or any other entity within the executive branch of the Federal Government, except as otherwise provided in this subsection.

"(2) The report submitted pursuant to section 704 shall include a section reflecting the use of budget authority provided to the Administration by quarters.

"(3)(A) The authority of the Administration for facilities construction, and any authority of the Administration for automated data processing procurement which is delegated thereto, shall be provided in the form of contract authority covering the total costs thereof, to be available until expended.

"(B) Amounts necessary for the liquidation of contract authority provided pursuant to this paragraph are hereby made available from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to the extent that the Board, with the concurrence of the Secretary of the Treasury, determines that such amounts are not necessary to meet the current obligations for benefit payments from the Trust Funds.

"(C) Funds appropriated for the Administration to be available on a contingency basis shall be apportioned only upon the occurrence of the stipulated contingency, as determined by the Board and reported to each House of the Congress.

"Seal of Office

"(c) The Board shall cause a seal of office to be made for the Administration of such design as the Board shall approve. Judicial notice shall be taken of such seal.".

(b) DEMONSTRATION PROJECTS RELATING TO PERSONNEL MATTERS.—As soon as practicable after June 30, 1990, the Social Security Board and the Director of the Office of Personnel Management shall jointly implement one or more demonstration projects under this subsection. For purposes of such demonstration projects, all authority and functions of the Office of Personnel Management under section 4703 of title 5, United States Code (relating to demonstration projects), to the extent such section relates to personnel or positions in the Administration, shall be exercised exclusively by the Board, and any limitations provided in such section 4703 on such authority and functions shall apply to the Board. Under each such project, for the period of its duration—

(1) the Board may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, such technical and professional employees as the Board considers appropriate whose compensation may be fixed by the Board without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that such employees may not be paid at a rate in excess of the rate payable for level IV of the Executive Schedule, and

(2) the Director shall delegate to the Board (pursuant to section 1104 of title 5, United States Code, and subject to applicable limitations under such title relating to delegations under such section) functions relating to—

(A) recruitment and examination programs for entry level employees, and

(B) classification and standards development systems and pay ranges for those job categories identified by the Board in assuming such delegation.

The Social Security Board shall ensure that the requirements of subsections (f) and (g) of section 4703 of title 5, United States Code, are met in connection with any demonstration project implemented pursuant to this subsection. The Board shall report annually to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the demonstration projects undertaken by the Board pursuant to this subsection. The Comptroller General of the United States shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning such demonstration projects, together with any recommendations, not later than June 30, 1994. Such report by the Comptroller General shall include an evaluation of the readiness of the Board to assume permanent and full authority over the functions described in paragraphs (1) and (2).

(c) DEMONSTRATION PROJECTS RELATING TO DELEGATIONS FROM ADMINISTRATOR OF GENERAL SERVICES.—As soon as practicable after June 30, 1990, the Social Security Board and the Administrator of General Services shall jointly implement one or more demonstration projects under this subsection. Under each such project, for the period of its duration, the Board shall have all authorities permitted to be delegated under title II of the Federal Property and Administrative Services Act of 1949 relating to the acquisition, operation, and maintenance of the facilities needed for the administration of programs for which the Board is given responsibility under the Social Security Act, except that nothing in this subsection shall be construed to require delegation under any such demonstration project of—

(1) any authority under section 110 or 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757, 759), relating to the lease, purchase, or maintenance of telecommunications equipment and services, automated data processing equipment and services, and other information technology resources, or

(2) any authority to contract telecommunications equipment and services, automated data processing equipment and services, and other information technology resources.

The Comptroller General of the United States shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning such demonstration projects, together with any recommendations, not later than June 30, 1994. Such report shall include an evaluation of the readiness of the Board to assume permanent and full authority over the functions described in paragraphs (1) and (2).

SEC. 10005. TRANSFERS TO THE NEW SOCIAL SECURITY ADMINISTRATION.

(a) FUNCTIONS.—There are transferred to the Social Security Administration all functions carried out by the Secretary of Health and Human Services with respect to the programs and activities the administration of which is vested in the Social Security Administration by reason of this chapter and the amendments made thereby. The Social Security Board shall allocate such functions in accordance with sections 701, 702, and 703 of the Social Security Act (as amended by this chapter).

(b) PERSONNEL, ASSETS, ETC.—(1) There are transferred from the Department of Health and Human Services to the Social Security Administration, for appropriate allocation by the Social Security Board in the Social Security Administration—

(A) the personnel employed in connection with the functions transferred by this chapter and the amendments made thereby, as considered appropriate by the Board in consultation with the Secretary of Health and Human Services, and

(B) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, or used in connection with such functions, arising from such functions, or available, or to be made available, in connection with such functions.

(2) Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(3) The Secretary of Health and Human Services shall terminate—

(A) six positions in the Department of Health and Human Services placed in level IV of the Executive Schedule (or equivalent positions) other than positions specifically required under section 5315 of title 5, United States Code, or any other provision of law, and

(B) six positions in such Department placed in level V of the Executive Schedule

(or equivalent positions) other than positions specifically required under section 5316 of such title or any other provision of law.

(4) The transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employees to be separated or reduced in grade or compensation for 1 year after such transfer or July 1, 1990, whichever is later.

(c) ABOLISHMENT OF OFFICE OF COMMISSIONER IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Effective upon the entry upon office of all initial members of the Social Security Board pursuant to section 702 of the Social Security Act (as amended by this chapter), the position of Commissioner of Social Security in the Department of Health and Human Services is abolished.

SEC. 10006. TRANSITIONAL RULES.

(a) INTERIM AUTHORITY FOR APPOINTMENT AND COMPENSATION.—At any time on or after October 1, 1989—

(1) any of the officers provided for in section 702 of the Social Security Act (as amended by this chapter) may enter upon office, as provided in such section, and

(2) the Social Security Board, upon entry upon office of all of the members thereof, may prescribe regulations providing for the orderly transfer of proceedings before the Secretary of Health and Human Services to the Social Security Board.

Funds available to any official or component of the Department of Health and Human Services, functions of which are transferred to the Social Security Board or the Social Security Administration by this chapter, may with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer entering upon office pursuant to this section until such time as funds for that purpose are otherwise available.

(b) CONTINUATION OF ORDERS, DETERMINATIONS, RULES, REGULATIONS, ETC.—All orders, determinations, rules, regulations, permits, contracts, collective bargaining agreements, recognitions of labor organizations, certificates, licenses, and privileges—

(1) which have been issued, made, promulgated, granted, or allowed to become effective, in the exercise of functions (A) which were exercised by the Secretary of Health and Human Services (or his delegate), and (B) which relate to functions which, by reason of this chapter, the amendments made thereby, and regulations prescribed thereunder, are vested in the Social Security Board, and

(2) which are in effect immediately before July 1, 1990,

shall (to the extent that they relate to functions described in paragraph (1)(B)) continue in effect according to their terms until modified, terminated, suspended, set aside, or repealed, in accordance with law, by such Board.

(c) CONTINUATION OF PROCEEDINGS.—The provisions of this chapter (including the amendments made thereby) shall not affect any proceeding pending before the Secretary of Health and Human Services immediately before July 1, 1990, with respect to functions vested (by reason of this Act, the amendments made thereby, and regulations prescribed thereunder) in the Social Security Board, except that such proceedings, to the extent that they relate to such functions, shall continue before such Board. Orders shall be issued under any such proceeding, appeals taken therefrom, and payments shall be made pursuant to such orders, in like manner as if this chapter had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or repealed by such Board, by a court of competent jurisdiction, or by operation of law.

(d) CONTINUATION OF SUITS.—Except as provided in this subsection—

(1) the provisions of this chapter shall not affect suits commenced prior to July 1, 1990; and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this chapter had not been enacted.

No cause of action, and no suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Department of Health and Human Services, shall abate by reason of the enactment of this Act. Causes of action, suits, actions, or other proceedings may be asserted by or against the United States and the Social Security Administration, or such official of such Administration as may be appropriate, and, in any litigation pending immediately before July 1, 1990, the court may at any time, on its own motion or that of a party, enter an order which will give effect to the provisions of this subsection (including, where appropriate, an order for substitution of parties).

(e) CONTINUATION OF PENALTIES.—This chapter shall not have the effect of releasing or extinguishing any criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function which (by reason of this chapter, the amendments made thereby, and regulations prescribed thereunder) is vested in the Social Security Board.

(f) JUDICIAL REVIEW.—Orders and actions of the Social Security Board in the exercise of functions vested in such Board under this chapter (and the amendments made thereby) shall be subject to judicial review to the same extent and in the same manner as if such orders had been made and such actions had been taken by the Secretary of Health and Human Services in the exercise of such functions immediately before July 1, 1990. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function so vested in such Board shall continue to apply to the exercise of such function by such Board.

(g) EXERCISE OF FUNCTIONS.—In the exercise of the functions vested in the Social Security Board under this chapter, the amendments made thereby, and regulations prescribed thereunder, such Board shall have the same authority as that vested in the Secretary of Health and Human Services with respect to the exercise of such functions immediately preceding the vesting of such functions in such Board, and actions of such Board shall have the same force and effect as when exercised by such Secretary.

(h) OPERATION OF TRANSITIONAL RULES IN THE EVENT OF INTERIM AUTHORITY IN THE COMMISSIONER.—For purposes of this section, in any case in which the powers and duties to be transferred to the Social Security Board are transferred to the Commissioner of Social Security (or acting Commissioner) in the Department of Health and Human Services for an interim period pursuant to section 10003(c), the preceding provisions of this section shall apply with respect to the transfer of such powers and duties to and from such Commissioner (or acting Commissioner) pursuant to such section in the same manner and to the same extent as they would have applied to a direct transfer from the Secretary of Health and Human Services to the Social Security Board if all members of the Board had entered upon office.

SEC. 10007. EFFECTIVE DATES.

(a) IN GENERAL.—Sections 10002, 10003(a), 10004, and 10005 of this Act shall take effect July 1, 1990.

(b) EXCEPTIONS.—Sections 10003(c) and 10006 of this Act shall take effect October 1, 1989.

(c) NEW SPENDING AUTHORITY.—Any new spending authority provided by this part shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

PART 2—CONFORMING AMENDMENTS AND RULES OF CONSTRUCTION

SEC. 10011. AMENDMENTS TO TITLES II AND XVI OF THE SOCIAL SECURITY ACT.

(a) IN GENERAL.—Title II (other than section 201, section 218(d), section 226, section 226A, and section 231(c)) and title XVI of the Social Security Act, and the provisions (including amendments made thereby) of chapters 2 and 3 of this subtitle (with respect to functions to be exercised under such provisions on or after July 1, 1990), are each amended—

(1) by striking, wherever it appears therein, "Secretary of Health and Human Services" and inserting "Social Security Board";

(2) by striking, wherever it appears therein, "Department of Health and Human Services" and inserting "Social Security Administration";

(3) by striking, wherever it appears therein, "Department" (but only if it is not immediately succeeded by the words "of Health and Human Services", and only if it is used in reference to the Department of Health and Human Services) and inserting "Administration";

(4) by striking, wherever it appears therein, each of the following words (but, in the case of any such word only if such word refers to the Secretary of Health and Human Services): "Secretary", "Secretary's", "his", "him", and "he", and inserting (in the case of the word "Secretary") "Social Security Board", (in the case of the word "Secretary's") "Board's", (in the case of the word "his") "the Board's", (in the case of the word "him") "the Board", and (in the case of the word "he") "the Board"; and

(5) by striking, wherever it appears therein, "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986".

(b) AMENDMENTS TO SECTION 218.—Section 218(d) of such Act is amended by striking "Secretary" each place it appears in paragraphs (3) and (7) and inserting "Social Security Board".

(c) AMENDMENTS TO SECTION 222.—Section 222(d) of such Act is amended—

(1) in the last sentence of paragraph (1), by striking "Commissioner of Social Security" and inserting "Executive Director of the Social Security Administration"; and

(2) in the first sentence of paragraph (2), by striking "Commissioner of Social Security" and inserting "Executive Director of the Social Security Administration".

(d) AMENDMENTS TO SECTION 225.—Section 225(b)(2) of such Act is amended by striking "Commissioner of Social Security" and inserting "Executive Director of the Social Security Administration".

(e) AMENDMENT TO SECTION 231.—Section 231(c) of such Act is amended by striking "Secretary determines" and inserting "Social Security Board and the Secretary jointly determine".

(f) AMENDMENT TO SECTION 1615.—Section 1615(d) of such Act is amended by striking "Commissioner of Social Security" and inserting "Executive Director of the Social Security Administration".

SEC. 10012. OTHER CONFORMING AMENDMENTS.

Title VII of the Social Security Act is amended—

(1) by striking section 704 and inserting the following new section:

"REPORTS

"SEC. 704. The Secretary and the Social Security Board shall make full reports to Congress, within 120 days after the beginning of each regular session, of the administration of the functions with which they are charged under this Act. In addition to the number of copies of such reports authorized by other law to be printed, there is hereby authorized to be printed not more than 5,000 copies of each such report for use by the Secretary and Social Security Board for distribution to Members of Congress and to State and other public or private agencies or organizations participating in or concerned with the programs provided for in this Act.";

(2) in section 709(b)(2), by striking "(as estimated by the Secretary)" and inserting ", as estimated by the Social Security Board or the Secretary (whichever administers the program involved),"; and

(3) by adding at the end thereof the following new section:

"DUTIES AND AUTHORITY OF SECRETARY

"SEC. 712. (a) The Secretary shall perform the duties imposed upon him by this Act and shall also have the duty of studying and making recommendations as to the most effective methods of providing economic security and as to legislation and matters of administrative policy concerning the programs administered by the Secretary and related subjects; except that nothing in this section shall be construed to require the Secretary to make studies or recommendations with respect to programs administered by the Social Security Administration.

"(b) The Secretary is authorized to appoint and fix the compensation of such officers and employees, and to make such expenditures, as may be necessary for carrying out the Secretary's functions under this Act. Appointments of attorneys and experts may be made without regard to the civil service laws.".

SEC. 10013. RULES OF CONSTRUCTION.

(a) REFERENCES TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Whenever any reference is made in any provision of law (other than this part or part 1 or a provision of law amended by either such part), regulation, rule, record, court order, or other document to the Department of Health and Human Services with respect to such Department's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act, such reference shall be considered a reference to the Social Security Administration.

(b) REFERENCES TO THE SECRETARY OF HEALTH AND HUMAN SERVICES.—Whenever any reference is made in any provision of law (other than this chapter or chapter 1 or a provision of law amended by either such chapter), regulation, rule, record, court order, or other document to the Secretary of Health and Human Services with respect to such Secretary's functions under such programs, such reference shall be considered a reference to the Social Security Board.

(c) REFERENCES TO OTHER OFFICERS AND EMPLOYEES.—Whenever any reference is made in any provision of law (other than this chapter or chapter 1 or a provision of law amended by either such chapter), regulation, rule, record, or document to any other officer's or employee of the Department of Health and Human Services with respect to such officer's or employee's functions under such programs, such reference shall be considered a reference to the appropriate officer or employee of the Social Security Administration.

SEC. 10014. EFFECTIVE DATES.

(a) IN GENERAL.—The preceding provisions of this part shall take effect July 1, 1990.

(b) NEW SPENDING AUTHORITY.—Any new spending authority provided by this part shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

Subchapter B—Improvements in Social Security Services

SEC. 10021. STANDARDS GOVERNING COLLECTION OF OVERPAYMENTS.

(a) IN GENERAL.—Subsection (b) of section 204 of the Social Security Act (42 U.S.C. 404(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Subject to subparagraph (B), any adjustment of payments to, or recovery by the United States from, any person pursuant to subsection (a) shall be on a schedule which will not cause undue financial hardship to such person, as determined according to the facts and circumstances applicable in such person's case.

"(B) Subparagraph (A) shall not apply with respect to any person in any case in which fraud, willful misrepresentation, or concealment of material information was involved on the part of such person in connection with the payment of more than the correct amount upon which the adjustment or recovery is based.

"(C)(i) In the case of any individual who, at the time such individual receives notice of any overpayment of a benefit under this title, is an individual or eligible spouse described in paragraph (1)(B)(ii) of section 1631(b) (irrespective of whether the individual has received an overpayment to which section 1631(b) applies), section 1631(b)(1)(B) shall apply with respect to any adjustment or recovery pursuant to subsection (a) with respect to overpayments of benefits under this title in the same manner and to the same extent as section 1631(b)(1)(B) applies with respect to an adjustment or recovery pursuant to section 1631(b)(1)(A) with respect to overpayments of benefits under title XVI, except that, for purposes of this clause, the reference in section 1631(b)(1)(B)(ii)(II) to 'income' for a month shall be deemed a reference to the total of all benefits payable under this title to such individual for such month.

"(ii) The Secretary shall include, in any notice to an individual of an overpayment to such individual of a benefit under this title, a description of the provisions of clause (i) and of the availability of relief provided thereunder.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to adjustments made, and recoveries obtained, on or after January 1, 1990.

SEC. 10022. DEMONSTRATION PROJECTS RELATING TO ACCOUNTABILITY FOR TELEPHONE SERVICE CENTER COMMUNICATIONS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall develop and carry out demonstration projects designed to implement the accountability procedures described in subsection (b) in each of not fewer than 3 telephone service centers operated by the Social Security Administration. Telephone service centers shall be selected for implementation of the accountability procedures so as to permit a thorough evaluation of such procedures as they would operate in conjunction with the service technology most recently employed by the Social Security Administration. Each such demonstration project shall commence not later than 180 days after the date of the enactment of this Act and shall remain in operation for not less than 1 year and not more than 3 years.

(b) ACCOUNTABILITY PROCEDURES.—

(1) IN GENERAL.—During the period of each demonstration project developed and carried out by the Secretary of Health and Human Services with respect to a telephone service center pursuant to subsection (a), the Secretary shall provide for the application at such telephone service center of accountability procedures consisting of the following:

(A) In any case in which a person communicates with the Social Security Administration by telephone at such telephone service center and provides in such communication his or her name, address, and such other identifying information as the Secretary determines necessary and appropriate for purposes of this subparagraph, the Secretary must thereafter promptly provide such person a written receipt which sets forth—

(i) the name of any individual representing the Social Security Administration with whom such person has spoken in such communication,

(ii) the date of the communication,

(iii) a description of the nature of the communication,

(iv) any action that an individual representing the Social Security Administration has indicated in the communication will be taken in response to the communication, and

(v) a description of the information or advice offered in the communication by an individual representing the Social Security Administration.

(B) Such person must be notified during the communication by an individual representing the Social Security Administration that, if adequate identifying information is provided to the Administration, a receipt described in subparagraph (A) will be provided to such person.

(C) A copy of any receipt required to be provided to any person under subparagraph (A) must be—

(i) included in the file maintained by the Social Security Administration relating to such person, or

(ii) if there is no such file, otherwise retained by the Social Security Administration in retrievable form until the end of the 5-year period following the termination of the project.

(2) EXCLUSION OF CERTAIN ROUTINE TELEPHONE COMMUNICATIONS.—The Secretary may exclude from demonstration projects carried out pursuant to this section routine telephone communications which do not

relate to potential or current eligibility or entitlement to benefits.

(c) REPORTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate written reports on the progress of each demonstration project conducted pursuant to this section, together with any related data and materials which the Secretary may consider appropriate. Such reports shall include an initial report (relating to the first 180 days of the project), which shall be submitted not later than 270 days after the commencement of the project, and annual reports thereafter for the duration of the project. The final report shall be submitted not later than 90 days after the termination of the project.

(2) SPECIFIC MATTERS TO BE INCLUDED.—Each report required under paragraph (1) shall—

(A) assess the costs and benefits of the accountability procedures,

(B) identify any major difficulties encountered in implementing the demonstration project, and

(C) assess the feasibility of implementing the accountability procedures on a national basis.

SEC. 10023. STANDARDS APPLICABLE IN CERTAIN DETERMINATIONS OF GOOD CAUSE, FAULT, AND GOOD FAITH.

(a) GOOD CAUSE FOR FAILURE TO MAKE EARNINGS REPORTS TIMELY.—Section 203(l) of the Social Security Act (42 U.S.C. 403(l)) is amended in the last sentence by striking "Secretary" and inserting "Secretary, except that in making any such determination, the Secretary shall specifically take into account any physical, mental, educational, or linguistic limitation such individual may have (including any lack of facility with the English language)".

(b) WAIVERS OF RECOVERY OF OVERPAYMENTS.—Section 204(b) of such Act (42 U.S.C. 404(b)) is amended by adding at the end the following new sentence: "In making for purposes of this subsection any determination of whether any individual is without fault, the Secretary shall specifically take into account any physical, mental, educational, or linguistic limitation such individual may have (including any lack of facility with the English language).".

(c) STANDARD OF REVIEW IN TERMINATION OF DISABILITY BENEFITS.—Section 223(f) of such Act (42 U.S.C. 423(f)) is amended by inserting after the first sentence in the matter following paragraph (4) the following new sentence: "In making for purposes of the preceding sentence any determination relating to fraudulent behavior by any individual or failure by any individual without good cause to cooperate or to take any required action, the Secretary shall specifically take into account any physical, mental, educational, or linguistic limitation such individual may have (including any lack of facility with the English language).".

(d) CONTINUATION OF BENEFITS PENDING APPEAL.—Section 223(g)(2)(B) of such Act (42 U.S.C. 423(g)(2)(B)) is amended by adding at the end the following new sentence: "In making for purposes of this subparagraph any determination of whether any individual's appeal is made in good faith, the Secretary shall specifically take into account any physical, mental, educational, or linguistic limitation such individual may have (including any lack of facility with the English language).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations made on or after January 1, 1990.

SEC. 10024. ASSISTANCE TO THE HOMELESS.

(a) IN GENERAL.—Section 205 of the Social Security Act (42 U.S.C. 405) is amended by adding at the end the following new subsection:

"Assistance to the Homeless

"(s)(1) The Secretary shall establish a program under which homeless individuals who may be eligible for benefits under this title may be identified and provided reasonable assistance and support in applying for such benefits.

"(2)(A) For purposes of this subsection, except as provided in subparagraph (B), the term 'homeless individual' means—

"(i) an individual who lacks a fixed, regular, and adequate nighttime residence, or

"(ii) an individual who has a primary nighttime residence that is—

"(I) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill),

"(II) an institution that provides a temporary residence for individuals intended to be institutionalized, or

"(III) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

"(B) Such term does not include any individual imprisoned or otherwise detained pursuant to Federal law or the law of any State (as defined in subsection (c)(2)(C)(iv)) or political subdivision thereof.

"(3) Upon the request of the government of any State (as defined in subsection (c)(2)(C)(iv)) or of a political subdivision thereof or of any organization which is exempt from tax under section 501 of the Internal Revenue Code of 1986, the assistance provided by the Secretary under the program established pursuant to this subsection shall include efforts coordinated with such government or organization to encourage and facilitate application by homeless individuals for benefits under this title. Such efforts shall include regular visitation of homeless individuals by employees of the Social Security Administration at primary nighttime residences described in paragraph (2)(A)(ii) and facilities which regularly provide meals to homeless individuals.

"(4) The Secretary shall annually report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the status and accomplishments of the program required to be established under this subsection.".

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Health and Human Services shall establish the program provided for in section 205(s) of the Social Security Act (as added by this section) not later than 180 days after the date of the enactment of this Act.

SEC. 10025. NOTICE REQUIREMENTS.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Section 205 of the Social Security Act (42 U.S.C. 405) (as amended by section 10024(a) of this Act) is further amended by adding at the end the following new subsection:

"Notice Requirements

"(t) The Secretary shall take such actions as are necessary to ensure that any notice to one or more individuals issued pursuant to this title by the Secretary or by a State agency—

"(1) is written in simple and clear language, and

"(2) includes the name, address, and telephone number of a responsible person to contact regarding the notice.

In the case of any such notice which is not generated by a local servicing office, the requirements of paragraph (2) shall be treated as satisfied if such notice includes the name and address of the local office of the Social Security Administration which serves the recipient of the notice and a telephone number through which such office can be reached.".

(2) REPORT REGARDING NOTICES IN LANGUAGES OTHER THAN ENGLISH.—Not later than July 1, 1990, the Secretary of Health and Human Services shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth—

(A) the procedures of the Social Security Administration currently in effect for issuing notices in languages other than English to individuals who have a limited capacity to communicate with such Administration in English, and

(B) reasonable options for expanding the use of notices in languages other than English.

(b) APPLICABILITY TO BLIND BENEFICIARIES UNDER TITLE II OF NOTICE STANDARDS CURRENTLY APPLICABLE TO BLIND BENEFICIARIES UNDER TITLE XVI.—

(1) IN GENERAL.—Section 221 of such Act (42 U.S.C. 421) is amended by adding at the end the following new subsection:

"(l)(1) In any case where an individual who is applying for or receiving benefits under this title on the basis of disability by reason of blindness is entitled to receive notice from the Secretary of any decision or determination made or other action taken or proposed to be taken with respect to his or her rights under this title, such individual shall at his or her election be entitled either (A) to receive a supplementary notice of such decision, determination, or action, by telephone, within 5 working days after the initial notice is mailed, (B) to receive the initial notice in the form of a certified letter, or (C) to receive notification by some alternative procedure established by the Secretary and agreed to by the individual.

"(2) The election under paragraph (1) may be made at any time, but an opportunity to make such an election shall in any event be given (A) to every individual who is an applicant for benefits under this title on the basis of disability by reason of blindness, at the time of his or her application, and (B) to every individual who is a recipient of such benefits on the basis of disability by reason of blindness, at the time of each redetermination of his or her eligibility. Such an election, once made by an individual, shall apply with respect to all notices of decisions, determinations, and actions which such individual may thereafter be entitled to receive under this title until such time as it is revoked or changed.".

(2) APPLICATION TO CURRENT RECIPIENTS.—Not later than January 1, 1991, the Secretary of Health and Human Services shall provide every individual receiving benefits under title II of the Social Security Act on the basis of disability by reason of blindness an opportunity to make an election under section 221(l)(1) of such Act (as added by paragraph (1)).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with re-

spect to notices issued on or after January 1, 1990.

SEC. 10026. REPRESENTATION OF CLAIMANTS.

(a) RECORDING OF IDENTITY OF REPRESENTATIVES IN ELECTRONIC INFORMATION RETRIEVAL SYSTEM.—

(1) IN GENERAL.—Section 206(a) of the Social Security Act (42 U.S.C. 406(a)) is amended by adding at the end the following new sentence: "The Secretary shall maintain in the electronic information retrieval system used by the Social Security Administration a current record, with respect to any claimant before the Secretary, of the identity of any person representing such claimant in accordance with this subsection.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect July 1, 1990.

(b) NOTIFICATION OF OPTIONS FOR OBTAINING ATTORNEYS.—

(1) IN GENERAL.—Section 206 of such Act (42 U.S.C. 406) is further amended by adding at the end the following new subsection:

"(c) The Secretary shall notify each claimant in writing, together with the notice to such claimant of an adverse determination, of the options for obtaining attorneys to represent individuals in presenting their cases before the Secretary. Such notification shall also advise the claimant of the availability to qualifying claimants of legal services organizations which provide legal services free of charge.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to adverse determinations made on or after January 1, 1990.

SEC. 10027. APPLICABILITY OF ADMINISTRATIVE RES JUDICATA; RELATED NOTICE REQUIREMENTS.

(a) IN GENERAL.—Section 205(b) of the Social Security Act (42 U.S.C. 405(b)) is amended by adding at the end the following new paragraph:

"(3)(A) A failure to request, during the sixty-day period provided in paragraph (1), review of an adverse determination with respect to an application for any payment under this title shall not serve as a basis for denial of a subsequent application for any payment under this title if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information provided by any officer or employee of the Social Security Administration or any State agency acting under section 221.

"(B) In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Secretary shall describe in clear and specific language the effect on possible entitlement to payments under this title of choosing to reapply in lieu of requesting review of the determination.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to adverse determinations made on or after January 1, 1990.

SEC. 10028. AUTHORITY FOR SECRETARY TO TAKE INTO ACCOUNT MISINFORMATION PROVIDED TO APPLICANTS IN DETERMINING DATE OF APPLICATION FOR BENEFITS.

(a) IN GENERAL.—Section 202(j) of the Social Security Act (42 U.S.C. 402(j)) is amended by adding at the end the following new paragraph:

"(5) In any case in which it is determined to the satisfaction of the Secretary that an individual failed as of any date to apply for monthly insurance benefits under this title by reason of misinformation provided to such individual by any officer or employee of the Social Security Administration relating to such individual's eligibility for benefits under this title, such individual shall be deemed to have applied for such benefits on the later of—

"(A) the date on which such misinformation was provided to such individual, or

"(B) the date on which such individual met all requirements for entitlement to such benefits (other than application therefor).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to benefits for months after December 1959.

SEC. 10029. SAME-DAY PERSONAL INTERVIEWS AT FIELD OFFICES OF THE SOCIAL SECURITY ADMINISTRATION IN CERTAIN CASES WHERE TIME IS OF THE ESSENCE.

(a) IN GENERAL.—Section 205 of the Social Security Act (as amended by section 10025(a) of this Act) is further amended by adding at the end the following new subsection:

"Same-Day Personal Interviews at Field Offices In Cases Where Time Is of The Essence

"(u) In any case in which an individual visits a field office of the Social Security Administration on a business day of the office and represents during the visit to an officer or employee of the Social Security Administration in the office that the individual's visit to the office is occasioned by—

"(1) the receipt of a notice from the Social Security Administration indicating a time limit for response by the individual, or

"(2) the theft, loss, or nonreceipt of a benefit payment under this title,

the Secretary shall ensure that the individual is granted a face-to-face interview at the office with an officer or employee of the Social Security Administration before the close of business on such day.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to visits to field offices of the Social Security Administration on or after January 1, 1990.

SEC. 10030. AUTHORITY TO AMEND WAGE RECORDS AFTER EXPIRATION OF TIME LIMITATION.

Subparagraph (H) of section 205(c)(5) of the Social Security Act (42 U.S.C. 405(c)(5)(H)) is amended by striking "if" and all that follows through "period".

Subchapter C—Representative Payee Reforms

SEC. 10031. IMPROVEMENTS IN THE REPRESENTATIVE PAYEE SELECTION AND RECRUITMENT PROCESS.

(a) AUTHORITY FOR CERTIFICATION OF PAYMENTS TO REPRESENTATIVE PAYEES.—Section 205(j)(1) of the Social Security Act (42 U.S.C. 405(j)) is amended to read as follows:

"Representative Payees

"(j)(1) If the Secretary determines that the interest of any individual under this title would be served thereby, certification of payment of such individual's benefit under this title may be made, regardless of the legal competency or incompetency of the individual, either for direct payment to the individual, or for his or her use and benefit, to a relative or other person with respect to whom the requirements of paragraph (2) have been met (hereinafter in this subsection referred to as the individual's 'representative payee'). If the Secretary determines that a representative payee has misused any individual's benefit paid to such representative payee pursuant to this subsection or section 1631(a)(2), the Secretary shall promptly revoke certification for payment of benefits to such representative payee pursuant to this subsection and certify payment to an alternate representative payee or to the individual.".

(b) PROCEDURE FOR SELECTING REPRESENTATIVE PAYEES.—

(1) IN GENERAL.—Section 205(j)(2) of such Act (42 U.S.C. 405(j)(2)) is amended to read as follows:

"(2)(A) Any certification made under paragraph (1) for payment of benefits to an individual's representative payee shall be made on the basis of—

"(i) an investigation by the Secretary of the person to serve as representative payee, which shall be conducted in advance of such certification, and

"(ii) adequate evidence that such certification is in the interest of such individual (as determined by the Secretary in regulations).

"(B)(i) As part of the investigation referred to in subparagraph (A)(i), the Secretary shall—

"(I) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity has been submitted with an application for benefits under this title or title XVI,

"(II) verify such person's social security account number (or employer identification number),

"(III) determine whether such person has been convicted of a violation of section 208 or 1632, and

"(IV) determine whether certification of payment of benefits to such person has been revoked pursuant to this subsection or payment of benefits to such person has been terminated pursuant to section 1631(a)(2) by reason of misuse of funds paid as benefits under this title or title XVI.

"(ii) The Secretary shall establish and maintain, for purposes of making determinations under clause (i)(IV), a current list of the names and social security account numbers (or employer identification numbers) of all persons with respect to whom certification of payment of benefits has been revoked on or after July 1, 1990, pursuant to this subsection, or with respect to whom payment of benefits has been terminated on or after such date pursuant to section 1631(a)(2), by reason of misuse of funds paid as benefits under this title or title XVI. The Secretary shall make such list available to servicing offices of the Social Security Administration.

"(C)(i) Benefits of an individual may not be certified for payment to any other person pursuant to this subsection if—

"(I) such person has previously been convicted as described in subparagraph (B)(i)(III), or

"(II) except as provided in clause (ii), certification of payment of benefits to such person under this subsection has previously been revoked as described in subparagraph (B)(i)(IV).

"(ii) The Secretary shall prescribe regulations under which the Secretary may grant exemptions to any person from the provisions of clause (i)(II) on a case-by-case basis if such exemption is in the best interest of the individual whose benefits would be paid to such person pursuant to this subsection.

"(D)(i) Notwithstanding any determination by the Secretary that the interest of any individual under this title would be served by certification of payment of such

individual's benefit under this title to a representative payee pursuant to paragraph (1), direct payment of such benefit to the individual may be deferred (in the case of an initial entitlement) or suspended (in the case of an existing entitlement), pending the selection of a representative payee pursuant to this subsection, for not more than 2 months.

"(ii) Clause (i) shall not apply in any case in which—

"(I) the individual is legally incompetent, or

"(II) the individual is under age 15 as of the date of the Secretary's determination.

"(iii) Payment pursuant to this subsection of any benefits which are deferred or suspended pending the selection of a representative payee shall be made to the individual or the representative payee as a single sum or over such period of time as the Secretary determines is in the best interest of the individual entitled to such benefits.".

(2) REPORT ON FEASIBILITY OF OBTAINING READY ACCESS TO CERTAIN CRIMINAL FRAUD RECORDS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with the Attorney General of the United States and the Secretary of the Treasury, shall study the feasibility of establishing and maintaining a current list, which would be readily available to local offices of the Social Security Administration for use in investigations undertaken pursuant to section 205(j)(2) or 1631(a)(2)(B) of the Social Security Act, of the names and social security account numbers of individuals who have been convicted of a violation of section 495 of title 18, United States Code. The Secretary of Health and Human Services shall, not later than July 1, 1990, submit the results of such study, together with any recommendations, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(c) PROVISION FOR COMPENSATION OF QUALIFIED ORGANIZATIONS SERVING AS REPRESENTATIVE PAYEES.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4)(A) The Secretary shall, by regulation, prescribe reasonable maximum fees which may be charged to an individual by a qualified organization for expenses (including overhead) incurred in providing services performed by such organization as such individual's representative payee pursuant to this subsection, and any agreement in violation of such regulations shall be void and shall be treated as misuse by such representative payee of such individual's benefits.

"(B) For purposes of this paragraph, the term 'qualified organization' means any community-based nonprofit social service agency which, in accordance with any applicable regulations of the Secretary—

"(i) regularly provides services as the representative payee, pursuant to this subsection or section 1631(a)(2), concurrently to 5 or more individuals, and

"(ii) demonstrates to the satisfaction of the Secretary that such agency is not otherwise a creditor of any such individual.

"(C) Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under subparagraph (A) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both.".

(d) DEMONSTRATION PROJECTS RELATING TO SCREENING OF INDIVIDUALS WITH CRIMINAL RECORDS.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall implement a demonstration project under this subsection in each of not fewer than two States. Under each such project, for the period of its duration, the Secretary shall—

(A) make readily available to servicing offices of the Social Security Administration the name and social security account number of any person who has been convicted of a felony or misdemeanor under section 208, 1107(a), 1128B, or 1632 of the Social Security Act,

(B) obtain access to Federal and State criminal arrest records maintained by the Federal Bureau of Investigation and make readily available to local offices of the Social Security Administration such information (obtained through access to such records) as the Secretary considers relevent and appropriate as a basis for determining the suitability of persons to serve as representative payees pursuant to sections 205(j) and 1631(a)(2) of the Social Security Act,

(C) establish appropriate criteria for determining, on the basis of information obtained pursuant to subparagraphs (A) and (B), suitability of persons to serve as representative payees pursuant to sections 205(j) and 1631(a)(2), and

(D) in the case of any person with respect to whom the criteria established pursuant to subparagraph (C) are met, ensure that certification of payment of benefits pursuant to such section 205(j), or payment of benefits pursuant to such section 1631(a)(2), is made to such person only upon the written approval of the official acting as the head of the servicing office involved.

In carrying out the demonstration projects under this subsection, the Secretary shall establish and maintain a current, centralized file of the name, address, and social security account number of each person serving as representative payee pursuant to section 205(j) or 1631(a)(2) of the Social Security Act whose suitability was evaluated pursuant to this subsection. Such file shall be in a form which shall be readily retrievable by all servicing offices of the Social Security Administration included within the demonstration projects.

(2) REPORT.—The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning such demonstration projects, together with any recommendations, not later than July 1, 1991. Such report shall include an evaluation of the feasibility and desirability of legislation implementing the programs established pursuant to this subsection on a permanent basis in all servicing offices of the Social Security Administration (together with proposed legislative language).

(e) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) shall take effect July 1, 1990, and shall apply only with respect to certifications of payment of benefits to representative payees made on or after such date. The amendments made by subsection (c) shall take effect July 1, 1990, and the Secretary of Health and Human Services shall prescribe initial regulations necessary to carry out such amendments not later than such date.

SEC. 10032. IMPROVEMENTS IN RECORDKEEPING AND AUDITING REQUIREMENTS.

(a) IN GENERAL.—Section 205(j)(3) of the Social Security Act is amended—

(1) by striking subparagraph (B);

(2) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively;

(3) in subparagraph (D) (as so redesignated), by striking "(A), (B), (C), and (D)" and inserting "(A), (B), and (C)"; and

(4) by adding at the end the following new subparagraphs:

"(E) The Secretary shall maintain a centralized file, which shall be updated periodically and which shall be in a form which will be readily retrievable by each servicing office of the Social Security Administration, of—

"(i) the address and the social security account number (or employer identification number) of each representative payee who is receiving benefit payments pursuant to this subsection or section 1631(a)(2), and

"(ii) the address and social security account number of each individual for whom each representative payee is reported to be providing services as representative payee pursuant to this subsection or section 1631(a)(2).

"(F) Each servicing office of the Administration shall maintain a list, which shall be updated periodically, of public agencies and community-based nonprofit social service agencies which are qualified to serve as representative payees pursuant to this subsection or section 1631(a)(2) and which are located in the area served by such servicing office.".

(b) STUDY RELATING TO MORE STRINGENT OVERSIGHT OF HIGH-RISK REPRESENTATIVE PAYEES.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the need for a more stringent accounting system for high-risk representative payees than is otherwise generally provided under section 205(j)(3) or 1631(a)(2)(C) of the Social Security Act, which would include such additional reporting requirements, record maintenance requirements, and other measures as the Secretary considers necessary to determine whether services are being appropriately provided by such payees in accordance with such sections 205(j) and 1631(a)(2).

(2) SPECIAL PROCEDURES.—In such study, the Secretary shall determine the appropriate means of implementing more stringent, statistically valid procedures for—

(A) reviewing reports which would be submitted to the Secretary under any system described in paragraph (1), and

(B) periodic, random audits of records which would be kept under such a system,

in order to identify any instances in which high-risk representative payees are misusing payments made pursuant to section 205(j) or 1631(a)(2) of the Social Security Act.

(3) HIGH-RISK REPRESENTATIVE PAYEE.—For purposes of this subsection, the term "high-risk representative payee" means a representative payee under section 205(j) or 1631(a)(2) of the Social Security Act (other than a Federal or State institution) who—

(A) regularly provides concurrent services as a representative payee under such section 205(j), such section 1631(a)(2), or both such sections, for 3 or more individuals who are unrelated to such representative payee,

(B) is neither related to an individual on whose behalf the payee is being paid benefits nor living in the same household with such individual, or

(C) is in such other category of payees as the Secretary may determine appropriate.

(4) REPORT.—The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study, together with any recommendations, not later than July 1, 1990. Such report shall include an evaluation of the feasibility and desirability of legislation implementing stricter accounting and review procedures for high-risk representative payees in all servicing offices of the Social Security Administration (together with proposed legislative language).

(c) DEMONSTRATION PROJECTS RELATING TO PROVISION OF INFORMATION TO LOCAL AGENCIES PROVIDING CHILD AND ADULT PROTECTIVE SERVICES.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall implement a demonstration project under this subsection in each of not fewer than two States. Under each such project, the Secretary shall enter into an agreement with the State in which the project is located to make readily available, for the duration of the project, to the appropriate State agency, a listing of addresses of multiple benefit recipients.

(2) LISTING OF ADDRESSES OF MULTIPLE BENEFIT RECIPIENTS.—The list referred to in paragraph (1) shall consist of a current list setting forth each address within the State at which benefits under title II, benefits under title XVI, or any combination of such benefits are being received by 5 or more individuals. For purposes of this paragraph, in the case of benefits under title II, all individuals receiving benefits on the basis of the wages and self-employment income of the same individual shall be counted as one individual.

(3) APPROPRIATE STATE AGENCY.—The appropriate State agency referred to in paragraph (1) is the agency of the State which the Secretary determines is primarily responsible for regulating care facilities operated in such State or providing for child and adult protective services in such State.

(4) REPORT.—The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning such demonstration projects, together with any recommendations, not later than July 1, 1991. Such report shall include an evaluation of the feasibility and desirability of legislation implementing the programs established pursuant to this subsection on a permanent basis.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect July 1, 1990.

SEC. 10033. REPORTS TO THE CONGRESS.

(a) IN GENERAL.—Section 205(j)(5) of the Social Security Act (as redesignated by section 10031(c)(1)) is amended to read as follows:

"(5) The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this subsection, including the number of cases in which the representative payee was changed, the number of cases discovered where there has been a misuse of funds, how any such cases were dealt with by the Secretary, the final disposition of such cases, including any criminal penalties imposed, and such other information as the Secretary determines to be appropriate.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to annual reports issued for years after 1989.

Subchapter D—Other Amendments

SEC. 10041. STATEMENT OF THE LIABILITIES OF THE OASDI TRUST FUNDS.

Section 201(c) of the Social Security Act is amended by inserting, after the first sentence following paragraph (5), the following new sentences: "Such statement of the actuarial status of the Trust Funds shall include an analysis of the actuarial present value of the expected future income to, and the expected disbursements from, each Trust Fund and the combined Trust Funds, measured over the next ensuing periods of 25, 50, and 75 calendar years. Such analysis shall include for each Trust Fund and the combined Trust Funds the present-value actuarial balance measured over each of the three periods of calendar years. Such actuarial status shall be expressed as a percent of the present value of future taxable payroll and in dollar amounts. Such analysis shall also include (A) the actuarial present value of expected future taxable payroll over each of the three periods, and (B) the present-value actuarial balance, expressed as a percent of the present value of future disbursements. For purposes of the preceding sentences, the term 'present-value actuarial balance' for a Trust Fund over a period of calendar years means the difference between (i) the sum of the actuarial present value of expected future income to the Trust Fund during the period and the assets of the Trust Fund at the beginning of the period and (ii) the actuarial present value of expected future disbursements from the Trust Fund during the period.".

SEC. 10042. EFFECTIVE DATE.

The amendment made by section 10041 of this Act shall apply with respect to reports required under section 201(c)(2) of the Social Security Act for years after 1989.

CHAPTER 2—PROVISIONS AFFECTING COVERAGE

SEC. 10051. ELIMINATION OF THE DEPENDENCY TEST APPLICABLE TO CERTAIN ADOPTED CHILDREN.

(a) IN GENERAL.—Section 202(d)(8)(D) of the Social Security Act (42 U.S.C. 402(d)(8)(D)) is amended—

(1) by adding "and" after the comma at the end of clause (i); and

(2) by striking clauses (ii) and (iii) and inserting the following new clause:

"(ii) in the case of a child who attained the age of 18 prior to the commencement of proceedings for his adoption, the child was living with or receiving at least one-half of his support from such individual for the year immediately preceding the month in which his adoption is decreed.".

(b) CONFORMING AMENDMENT.—Paragraph (8) of section 202(d) of such Act is further amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits payable for months after December 1989, but only on the basis of applications filed on or after January 1, 1990.

SEC. 10052. CLARIFICATION OF RULES GOVERNING TAXATION UNDER FICA AND SECA OF INDIVIDUALS OF CERTAIN RELIGIOUS FAITHS.

(a) EXEMPTION FROM SECA TAXATION FOR CERTAIN EMPLOYEES EXEMPT FROM FICA TAXATION.—

(1) IN GENERAL.—Paragraph (3) of section 1402(g) of the Internal Revenue Code of 1986 (relating to inapplicability of exemption to certain church employees) is amended—

(A) in the heading, by striking "NOT TO APPLY" and inserting "TO APPLY"; and

(B) by striking "shall not" and inserting "shall".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to taxable years beginning after December 31, 1989.

(b) TECHNICAL AMENDMENT CLARIFYING INCLUSION OF PARTNERSHIPS AMONG EMPLOYERS ELIGIBLE FOR RELIGIOUS EXEMPTION FROM FICA.—

(1) IN GENERAL.—Section 3127 of the Internal Revenue Code of 1986 (relating to exemption for employers and their employees where both are members of religious faiths opposed to participation in Social Security Act programs) is amended—

(A) in subsection (a)(1), by inserting "(or, if the employer is a partnership, each partner therein)" after "an employer";

(B) in subsection (a), in the matter following paragraph (2), by striking "his employees" and inserting "the employees thereof";

(C) in subsection (b), by inserting "(or a partner)" after "an employer";

(D) in subsection (c), by striking "his employees" and inserting "the employees thereof";

(E) in subsection (c)(1), by inserting "(or, if the employer is a partnership, each partner therein)" after "such employer"; and

(F) in subsection (c)(2), by striking "such employer or the employee involved ceases to meet" and inserting "such employer (or, if the employer is a partnership, any partner therein) or the employee involved does not meet", and by inserting "(or, if the employer is a partnership, any partner therein)" after "such employer" the second place it appears.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall be effective as if they were included in the amendments made by section 8007(a)(1) of the Technical and Miscellaneous Revenue Act of 1988 (102 Stat. 3781).

SEC. 10053. PROHIBITION OF TERMINATION OF COVERAGE OF U.S. CITIZENS AND RESIDENTS EMPLOYED ABROAD BY A FOREIGN AFFILIATE OF AN AMERICAN EMPLOYER.

(a) IN GENERAL.—Subsection (l) of section 3121 of the Internal Revenue Code of 1986 (relating to agreements entered into by American employers with respect to foreign affiliates) is amended—

(1) in paragraph (2), by adding at the end the following: "Notwithstanding any other provision of this subsection, the period for which any such agreement is effective with respect to any foreign entity shall terminate at the end of any calendar quarter in which the foreign entity, at any time in such quarter, ceases to be a foreign affiliate as defined in paragraph (6).";

(2) by striking paragraphs (3), (4), and (5);

(3) by inserting after paragraph (2) the following new paragraph:

"(3) NO TERMINATION OF AGREEMENT.—No agreement under this subsection may be terminated, either in its entirety or with respect to any foreign affiliate, on or after June 15, 1989."; and

(4) by redesignating paragraphs (6) through (10) as paragraphs (4) through (8), respectively.

(b) CONFORMING AMENDMENTS.—(1) Subsection (a) of section 210 of the Social Security Act (42 U.S.C. 410(a)) and subsection (a) of section 406 of the Internal Revenue Code of

1986 (relating to treatment of employees of American employer) are each amended by striking "section 3121(l)(8)" and inserting "section 3121(l)(6)".

(2) Paragraph (3) of section 406(c) of the Internal Revenue Code of 1986 (relating to termination of status as deemed employee not be treated as separation from service for purposes of limitation of tax) is amended by striking "section 3121(l)(8)(B)" and inserting "section 3121(l)(6)(B)".

(3) Paragraph (1) of section 3121(l) of such Code (relating to agreements entered into by American employers with respect to foreign affiliates) is amended, in the matter preceding subparagraph (A), by striking "paragraph (8)" and inserting "paragraph (6)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any agreement in effect under section 3121(l) of the Internal Revenue Code of 1986 on or after June 15, 1989, with respect to which no notice of termination is in effect on such date.

SEC. 10054. EXCLUSION FROM WAGES AND COMPENSATION OF REFUNDS REQUIRED FROM EMPLOYERS TO COMPENSATE FOR DUPLICATION OF MEDICARE BENEFITS BY HEALTH CARE BENEFITS PROVIDED BY THE EMPLOYERS.

(a) OLD-AGE, SURVIVORS, AND DISABILITY, AND HOSPITAL INSURANCE PROGRAMS.—For purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1986, the term "wages" shall not include the amount of any refund required under section 421 of the Medicare Catastrophic Coverage Act of 1988.

(b) RAILROAD RETIREMENT PROGRAM.—For purposes of chapter 22 of the Internal Revenue Code of 1986, the term "compensation" shall not include the amount of any refund required under section 421 of the Medicare Catastrophic Coverage Act of 1988.

(c) FEDERAL UNEMPLOYMENT PROGRAMS.—

(1) FEDERAL UNEMPLOYMENT TAX.—For purposes of chapter 23 of the Internal Revenue Code of 1986, the term "wages" shall not include the amount of any refund required under section 421 of the Medicare Catastrophic Coverage Act of 1988.

(2) RAILROAD UNEMPLOYMENT CONTRIBUTIONS.—For purposes of the Railroad Unemployment Insurance Act, the term "compensation" shall not include the amount of any refund required under section 421 of the Medicare Catastrophic Coverage Act of 1988.

(3) RAILROAD UNEMPLOYMENT REPAYMENT TAX.—For purposes of chapter 23A of the Internal Revenue Code of 1986, the term "rail wages" shall not include the amount of any refund required under section 421 of the Medicare Catastrophic Coverage Act of 1988.

(d) EFFECTIVE DATE.—This section shall apply with respect to refunds provided on or after January 1, 1989.

CHAPTER 3—PROVISIONS AFFECTING ENTITLEMENT TO BENEFITS

Subchapter A—Work Incentives for Certain Adult Disabled Children

SEC. 10061. CONTINUATION OF ENTITLEMENT TO CERTAIN CHILD'S INSURANCE BENEFITS BASED ON DISABILITY.

(a) CONTINUED ENTITLEMENT TO CHILD'S INSURANCE BENEFITS BASED ON DISABILITY OTHER THAN BY REASON OF BLINDNESS.—Section 202(d) of the Social Security Act (42 U.S.C. 402(d)) is amended—

(1) in paragraph (1)(G)(i), by striking "(and for purposes" and all that follows through "activity)"; and

(2) in paragraph (7), by adding at the end the following new subparagraph:

"(E) The 'termination month' for any individual entitled to a benefit under this subsection by reason of disability is the third month following the month in which such individual's disability ceases, except that—

"(i) in the case of such an individual whose disability is not by reason of blindness, such individual's disability shall not be considered to have ceased until the disabling physical or mental impairment on the basis of which such individual was found to be under a disability ceases (as determined after application of section 223(f)), and

"(ii) in the case of an individual whose disability is by reason of blindness, if such individual has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of—

"(I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be blind (within the meaning of 'blindness' under section 216(i)(1)), or

"(II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 36 months following such period of trial work in which such individual engages in or is determined able to engage in substantial gainful activity.".

(b) CONFORMING AMENDMENTS.—

(1) CLARIFICATION OF INAPPLICABILITY OF TRIAL WORK PERIOD TO INDIVIDUALS ENTITLED TO CHILD'S INSURANCE BENEFITS WITH CONTINUED ENTITLEMENT.—

(A) Section 222(c)(1) of such Act (42 U.S.C. 422(c)(1)) is amended by inserting "(other than an individual described in section 202(d)(7)(E)(i))" after "202(d)".

(B) Section 222(c)(3) of such Act (42 U.S.C. 422(c)(3)) is amended by inserting "(other than an individual described in section 202(d)(7)(E)(i))" after "eighteen" the first place it appears.

(2) CLARIFICATION OF INAPPLICABILITY OF EXTENDED PERIOD OF ELIGIBILITY TO INDIVIDUALS ENTITLED TO CHILD'S INSURANCE BENEFITS WITH CONTINUED ENTITLEMENT.—Subsection (e) of section 223 of such Act (42 U.S.C. 423(e)) is amended—

(A) by inserting "(1)" after "(e)"; and

(B) by adding at the end the following new paragraph:

"(2) Paragraph (1) shall not apply in the case of any individual entitled to benefits under section 202(d) based on disability who is described in section 202(d)(7)(E)(i).".

(c) CONFORMING AMENDMENTS PROVIDING FOR 48-MONTH LIMITATION ON MEDICARE BENEFITS FOR DISABLED ADULT CHILDREN.—

(1) Section 226 of the Social Security Act (42 U.S.C. 426) is amended—

(A) in the first sentence of subsection (b), by inserting "and subsection (h)" after "subject to the last sentence of this subsection";

(B) by redesignating subsection (h) as subsection (i); and

(C) by inserting after subsection (g) the following new subsection:

"(h)(1) In the case of an individual who is entitled to hospital insurance benefits for a month (pursuant to the preceding provisions of this section or paragraph (5)) only because the individual is entitled to benefits under section 202(d) based on disability (other than by reason of blindness), the period of the individual's entitlement to hospital insurance benefits under subsection (b) shall end with the earliest of the following:

"(A) The month following the month in which notice is mailed to the individual that he or she has been determined not to be entitled to such specified benefits under section 202(d) based on a finding that the disabling physical or mental condition on the basis of which such individual was found to be under a disability had ceased.

"(B) The month before the month in which the individual attains age 65.

"(C) In the case of a covered disabled individual with SGA (as defined in paragraph (6)(A)), the month following the month in which notice is provided under paragraph (3) (or, if later, the end of the individual's 48-month period described in paragraph (6)(B)).

"(2)(A) In the case of a covered disabled individual with SGA, the Secretary shall determine for each reference month (as defined in subparagraph (B)(i)) whether the individual's earnings in the month exceed the SGA amount. Such determination shall be made in the determination month (as defined in subparagraph (B)(ii)).

"(B) In this subsection:

"(i) The term 'reference month' means any month beginning with the 4th-to-last-month of the individual's 48-month period and ending with the first month in which the individual has earnings which exceed the SGA amount.

"(ii) The term 'determination month' means the 2nd month following the reference month.

"(iii) The term 'notice month' means the month following the determination month.

"(3) If the Secretary makes a determination under paragraph (2) in a determination month that a covered disabled individual with SGA had earnings in the reference month that exceeded the SGA amount, the Secretary shall provide notice under this paragraph in the notice month (as defined in paragraph (2)(B)(iii)). Such notice shall specify the month in which entitlement to hospital insurance benefits ends under paragraph (1)(C).

"(4)(A) If in a month, during the 5-year period beginning on the first day of the month following the month in which an individual's entitlement to hospital insurance benefits is terminated under paragraph (1)(C), the individual—

"(i) has a disabling physical or mental impairment,

"(ii) does not have earnings that exceed the SGA amount, and

"(iii) files under subsection (b) an application in conformity with regulations of the Secretary for hospital insurance benefits,

notwithstanding paragraph (1), the individual shall resume entitlement to hospital insurance benefits under subsection (b) beginning with the month in which such application is filed under clause (iii) and ending with the earlier of—

"(I) the earlier month specified in subparagraphs (A) or (B) of paragraph (1), or

"(II) the month following the month in which notice is provided under subparagraph (C).

In the case of an individual whose entitlement to hospital insurance benefits is resumed and ended under the previous sentence, the previous sentence shall continue to apply to subsequent months during such 5-year period for which the individual meets the requirements of clauses (i) through (iii).

"(B) In the case of an individual who resumes entitlement to hospital insurance benefits under subparagraph (A), the Secretary shall determine (for each month beginning with the month in which such entitlement is resumed) whether the individual's earnings for the month exceed the SGA amount. Such determination shall be made in the 2nd month following the month involved.

"(C) If the Secretary makes a determination under subparagraph (B) in a month that a covered disabled individual with SGA had earnings for the 2nd previous month that exceeded the SGA amount, the Secretary shall provide notice under this subparagraph in the following month. Such notice shall specify the month in which entitlement to hospital insurance benefits under this paragraph ends.

"(5)(A) Any individual—

"(i) whose entitlement to hospital insurance benefits has terminated with the earlier month referred to in clause (I) or (II) of paragraph (4)(A),

"(ii) who thereafter files under subsection (b) an application in conformity with regulations of the Secretary for hospital insurance benefits,

"(iii) who has a disabling physical or mental impairment, and

"(iv) who does not have earnings that exceed the SGA amount in at least one month after the earlier month referred to in clause (I) or (II) of paragraph (4)(A),

shall again be entitled to hospital insurance benefits under subsection (b), beginning with the individual's re-entitlement month, and ending as provided in paragraph (1).

"(B)(i) For purposes of subparagraph (A), an individual's 're-entitlement month' is—

"(I) in any case in which the physical or mental impairment referred to in subparagraph (A)(iii) is the same as (or directly related to) the physical or mental impairment which served as the basis for the prior disability, the month in which the application referred to in subparagraph (A)(ii) is filed, or

"(II) in any other case, the month following the individual's new 24-month waiting period.

"(ii) For purposes of clause (i), an individual's 'new 24-month waiting period' is the period—

"(I) beginning with the first month, after the earlier month referred to in clause (I) or (II) of paragraph (4)(A), in which a benefit under section 202(d) is payable to such individual (or would be so payable but for entitlement of such individual to benefits under section 223), and

"(II) ending with the 23rd month following such first month (whether or not consecutive) for which the requirement of subclause (I) is met.

"(6) In this subsection:

"(A) The term 'covered disabled individual with SGA' means an individual who is entitled to hospital insurance benefits under subsection (b) for a month only because the individual is entitled to benefits under section 202(d) based on disability (other than by reason of blindness) and who, in a month, has earnings that exceed the SGA amount.

"(B) The term '48-month period' refers, with respect to a covered disabled individual with SGA, to the period of 48 consecutive months beginning with the first month in which the individual has earnings that exceed the SGA amount.

"(C) The term 'SGA amount' means the amount of earnings designated by the Secretary under section 223(d)(4) to represent substantial gainful activity, and section 223(d)(4) shall apply in determining whether earnings in any month exceed such amount.".

(d) CLARIFICATION OF EXTENDED MEDICARE ELIGIBILITY BASED ON ENTITLEMENT TO DISABILITY BENEFITS.—

(1) Section 226(b) of the Social Security Act (42 U.S.C. 426(b)) is amended—

(A) in the third sentence, by striking "24 such months" and inserting "3 such months", and

(B) by striking the last sentence (previously added by section 9010(e)(3) of the Omnibus Budget Reconciliation Act of 1987 and amended by section 411(n)(1) of the Medicare Catastrophic Coverage Act of 1988).

(2) The amendments made by paragraph (1) shall take effect January 1, 1988.

SEC. 10062. MONTHLY EARNINGS TAKEN INTO ACCOUNT IN DETERMINING AMOUNT OF CHILD'S INSURANCE BENEFITS UNDER TITLE II BASED ON DISABILITY OTHER THAN BY REASON OF BLINDNESS.

(a) IN GENERAL.—Section 202(d) of the Social Security Act (42 U.S.C. 402(d)) is amended by adding at the end the following new paragraph:

"(10)(A)(i) The amount of the benefit for any month under this subsection based on disability of an individual described in paragraph (7)(E)(i) shall be reduced (to not less than zero) by 50 percent of such individual's monthly earnings which are in excess of $85 and which are taken into account by the Secretary under section 223(d)(4) in determining substantial gainful activity.

"(ii) The amount by which a benefit for any month is reduced under this subparagraph shall be determined on the basis of earnings in the first or, if the Secretary so determines, second month preceding such month. The amount of the reduction shall be redetermined at such time or times as may be provided by the Secretary.

"(B) In the case of an individual to whom both a benefit referred to in subparagraph (A)(i) and a benefit under the supplemental security income program under title XVI (which shall be considered for purposes of this subparagraph to include any Federally administered supplementary payment of the type described in section 1616(a)) are payable in any month—

"(i) except to the extent of the applicable amount of child's insurance benefits under title II, the reduction under 1611(b) shall not apply, and

"(ii) the total benefit (consisting of the benefit under title XVI (after the reduction allowed under clause (i)) and the child's insurance benefit under this subsection) shall be subject to the reduction provided under subparagraph (A) as if such total benefit were the benefit referred to in subparagraph (A),

except that, in so applying the reduction provided under subparagraph (A) to such total benefit, such reduction shall be applied to the portion payable under title XVI before being applied to the portion payable under this subsection.

"(C) Subject to section 223(j)(2), for purposes of determining the amount of the reduction under this paragraph, an individual shall be deemed to be entitled to payments under this subsection equal to the amount of the benefit or benefits to which he or she is entitled under this subsection—

"(i) after any deductions under section 203 and 222(b),

"(ii) after any reduction under section 224, and

"(iii) after application of section 203(a), but without the application of the first sentence of paragraph (4) thereof.".

(b) CONFORMING AMENDMENT RELATING TO ROUNDING OF BENEFITS.—Subsection (g) of section 215 of such Act (42 U.S.C. 415(g)) is amended by striking "sections 203(a) and 224" and inserting "sections 202(d)(10), 203(a), and 224".

(c) ADDITIONAL CONFORMING AMENDMENTS.—Section 203 of such Act (42 U.S.C. 403) is amended—

(1) in subsection (a)(4), by inserting "and after any reduction under section 202(d)(10)" after "section 222(b)";

(2) in subsection (e), by inserting ", section 202(d)(10)," after "subsections (c) and (d)", and by inserting "or reductions" after "deductions"; and

(3) in subsection (i), by inserting "or Reductions" after "Deductions" in the heading, by inserting "or reductions" after "deductions", and by inserting ", the provisions of section 202(d)(10)," after "section,".

SEC. 10063. TREATMENT OF INDIVIDUALS ENTITLED TO DISABILITY INSURANCE BENEFITS WHO ARE CONCURRENTLY ENTITLED TO CHILD'S INSURANCE BENEFITS.

Section 223 of the Social Security Act (42 U.S.C. 423) is amended by adding at the end the following new subsection:

"Treatment of Beneficiaries Concurrently Entitled to Child's Insurance Benefits

"(j) Notwithstanding subsection (a), in the case of an individual who is entitled to benefits under section 202(d) based on disability other than by reason of blindness and who is entitled to disability insurance benefits under this section—

"(1) the 'termination month' for purposes of subsection (a)(1) is the third month following the month in which such individual's disability ceases, except that such individual's disability shall not be considered to have ceased until such individual's disability is considered to have ceased for purposes of section 202(d), and

"(2) such individual's total benefit under this title for any month consisting of—

"(A) the amount of the benefit to which the individual is entitled under section 202 without the application of section 202(d)(10) and this paragraph, and

"(B) the amount of the benefit to which the individual is entitled under this section without the application of this paragraph,

shall be subject to the reduction provided under section 202(d)(10) as if such total benefit were the benefit under section 202(d) subject to reduction under section 202(d)(10), except that such reduction shall be applied to the portion payable under section 202(d) before being applied to the portion payable under this section.".

SEC. 10064. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this subchapter shall apply with respect to benefits for months after June 1990.

(b) DELAYED EFFECTIVE DATE FOR BENEFICIARIES ENGAGED IN TRIAL WORK.—In the case of any individual entitled for June 1990 to benefits payable for such month based on disability under section 202(d) of the Social Security Act for whom such month is a month of trial work under section 222 of such Act, the amendments made by this subchapter shall apply with respect to benefits for months after June 1990, except that, if June 1990 is a month of trial work for such individual under such section 222 following consecutively one or more months of trial work for such individual under such section 222, such amendments shall apply

only with respect to months following such period of consecutive months of trial work.

(3) SPECIAL RULE FOR CERTAIN EXISTING BENEFICIARIES.—Section 202(d) of such Act (as amended by section 10063 of this Act) is further amended by adding at the end the following new paragraph:

"(11) The amendments made by sections 10061, 10062, and 10063 of the Omnibus Budget Reconciliation Act of 1989 shall not apply in the case of an individual who is entitled to benefits under this subsection for June 1990 (other than by reason of blindness) if such individual has never derived earnings (for any month in the period of entitlement to such benefits through June 1990) in excess of the amount determined for the month by the Secretary under section 223(d)(4) to represent substantial gainful activity.".

Subchapter B—Other Provisions

SEC. 10071. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

Subsection (g) of section 223 of the Social Security Act (42 U.S.C. 423(g)) is amended—

(1) in paragraph (1)(i), by inserting "or" after "hearing,", and by striking "pending, or (iii) June 1990." and inserting "pending."; and

(2) by striking paragraph (3).

SEC. 10072. ELIMINATION OF ANY CARRYOVER REDUCTION IN RETIREMENT OR DISABILITY BENEFITS DUE TO RECEIPT OF WIDOW'S OR WIDOWER'S BENEFITS BEFORE ATTAINING AGE 62.

(a) IN GENERAL.—Section 202(q)(3) of the Social Security Act (42 U.S.C. 402(q)(3)) is amended—

(1) by striking subparagraphs (E), (F), and (G); and

(2) by redesignating subparagraph (H) as subparagraph (E).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) in the case of any individual's old-age insurance benefit referred to in section 202(q)(3)(E) of the Social Security Act (as in effect before the amendments made by this section), only if such individual attains age 62 on or after January 1, 1990, and

(2) in the case of any individual's disability insurance benefit referred to in section 202(q)(3)(F) or (G) of such Act (as so in effect), only if such individual both attains age 62 and becomes disabled on or after such date.

SEC. 10073. MODIFICATION OF THE PREEFFECTUATION REVIEW REQUIREMENT APPLICABLE TO DISABILITY INSURANCE CASES.

(a) IN GENERAL.—Section 221(c)(3) of the Social Security Act (42 U.S.C. 421(c)(3)) is amended to read as follows:

"(3)(A) In carrying out the provisions of paragraph (2) with respect to the review of determinations made by State agencies pursuant to this section that individuals are under disabilities (as defined in section 216(i) or 223(d)), the Secretary shall review—

"(i) at least 50 percent of all such determinations made by State agencies on applications for benefits under this title, and

"(ii) at least 25 percent of all such determinations made by State agencies in continuing eligibility reviews carried out under subsection (i) of this section.

"(B) In conducting reviews pursuant to subparagraph (A), the Secretary shall, to the extent feasible, select for review those determinations which the Secretary determines are most likely to be incorrect.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to determinations made by State agencies in fiscal years after fiscal year 1989.

SEC. 10074. RECOVERY OF OASDI OVERPAYMENTS BY MEANS OF REDUCTION IN TAX REFUNDS.

(a) ADDITIONAL METHOD OF RECOVERY.—Section 204(a)(1)(A) of the Social Security Act (42 U.S.C. 404(a)(1)(A)) is amended by inserting after "payments to such overpaid person," the following: "or shall obtain recovery by means of reduction in tax refunds based on notice to the Secretary of the Treasury as permitted under section 3720A of title 31, United States Code,".

(b) RECOVERY BY MEANS OF REDUCTION IN TAX REFUNDS.—Section 3720A of title 31, United States Code (relating to collection of debts owed to Federal agencies) is amended—

(1) in subsection (a), by striking "OASDI overpayment and";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting the following new subsection after subsection (e):

"(f)(1) Subsection (a) shall apply with respect to an OASDI overpayment made to any individual only if such individual is not currently entitled to monthly insurance benefits under title II of the Social Security Act.

"(2)(A) The requirements of subsection (b) shall not be treated as met in the case of the recovery of an OASDI overpayment from any individual under this section unless the notification under subsection (b)(1) describes the conditions under which the Secretary of Health and Human Services is required to waive recovery of an overpayment, as provided under section 204(b) of the Social Security Act.

"(B) In any case in which an individual files for a waiver under section 204(b) of the Social Security Act within the 60-day period referred to in subsection (b)(2), the Secretary of Health and Human Services shall not certify to the Secretary of the Treasury that the debt is valid under subsection (b)(4) before rendering a decision on the waiver request under such section 204(b).

"(3) In lieu of payment, pursuant to subsection (c), to the Secretary of Health and Human Services of the amount of any reduction under this subsection based on an OASDI overpayment, the Secretary of the Treasury shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary of the Treasury as appropriate by the Secretary of Health and Human Services.".

(c) INTERNAL REVENUE CODE PROVISIONS.—

(1) IN GENERAL.—Subsection (d) of section 6402 of the Internal Revenue Code of 1986 (relating to collection of debts owed to Federal agencies) is amended—

(A) in paragraph (1), by striking "any OASDI overpayment and"; and

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) TREATMENT OF OASDI OVERPAYMENTS.—

"(A) REQUIREMENTS.—Paragraph (1) shall apply with respect to an OASDI overpayment only if the requirements of paragraphs (1) and (2) of section 3720A(f) of title 31, United States Code, are met with respect to such overpayment.

"(B) NOTICE; PROTECTION OF OTHER PERSONS FILING JOINT RETURN.—

"(i) NOTICE.—In the case of a debt consisting of an OASDI overpayment, if the Secretary determines upon receipt of the notice referred to in paragraph (1) that the refund from which the reduction described in paragraph (1)(A) would be made is based upon a joint return, the Secretary shall—

"(I) notify each taxpayer filing such joint return that the reduction is being made from a refund based upon such return, and

"(II) include in such notification a description of the procedures to be followed, in the case of a joint return, to protect the share of the refund which may be payable to another person.

"(ii) ADJUSTMENTS BASED ON PROTECTIONS GIVEN TO OTHER TAXPAYERS ON JOINT RETURN.—If the other person filing a joint return with the person owing the OASDI overpayment takes appropriate action to secure his or her proper share of the refund subject to reduction under this subsection, the Secretary shall pay such share to such other person. The Secretary shall deduct the amount of such payment from amounts which are derived from subsequent reductions in refunds under this subsection and are payable to a trust fund referred to in subparagraph (C).

"(C) DEPOSIT OF AMOUNT OF REDUCTION INTO APPROPRIATE TRUST FUND.—In lieu of payment, pursuant to paragraph (1)(B), of the amount of any reduction under this subsection to the Secretary of Health and Human Services, the Secretary shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary as appropriate by the Secretary of Health and Human Services.

"(D) OASDI OVERPAYMENT.—For purposes of this paragraph, the term 'OASDI overpayment' means any overpayment of benefits made to an individual under title II of the Social Security Act.".

(2) PRESERVATION OF REMEDIES.—Subsection (e) of section 6402 of such Code (relating to review of reductions) is amended in the last sentence by inserting before the period the following: "or any such action against the Secretary of Health and Human Services which is otherwise available with respect to recoveries of overpayments of benefits under section 204 of the Social Security Act".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1990, but shall not apply to refunds to which the amendments made by section 2653 of the Deficit Reduction Act of 1984 (98 Stat. 1153) do not apply.

SEC. 10075. EXEMPTION FOR CERTAIN ALIENS, RECEIVING AMNESTY UNDER THE IMMIGRATION AND NATIONALITY ACT, FROM PROSECUTION FOR MISREPORTING OF EARNINGS OR MISUSE OF SOCIAL SECURITY ACCOUNT NUMBERS OR SOCIAL SECURITY CARDS.

(a) IN GENERAL.—Section 208 of the Social Security Act (42 U.S.C. 408) is amended by adding at the end the following:

"(d)(1) Except as provided in paragraph (2), an alien—

"(A) whose status is adjusted to that of lawful temporary resident under section 210 or 245A of the Immigration and Nationality Act or under section 902 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989,

"(B) whose status is adjusted to that of permanent resident—

"(i) under section 202 of the Immigration Reform and Control Act of 1986, or

"(ii) pursuant to section 249 of the Immigration and Nationality Act, or

"(C) who is granted special immigrant status under section 101(a)(27)(I) of the Immigration and Nationality Act,

shall not be subject to prosecution for any alleged conduct described in paragraph (6) or (7) of subsection (a) if such conduct is alleged to have occurred prior to 30 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1989.

"(2) Paragraph (1) shall not apply with respect to conduct (described in subsection (a)(7)(C)) consisting of—

"(A) selling a card that is, or purports to be, a social security card issued by the Secretary,

"(B) possessing a social security card with intent to sell it, or

"(C) counterfeiting a social security card with intent to sell it.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—So much of section 208 of such Act as precedes subsection (d) (as added by subsection (a) of this section) is amended—

(1) in subsection (a), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) in subsection (g), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) by redesignating subsections (a) through (h) as paragraphs (1) through (8), respectively;

(4) by inserting "(a)" before "Whoever";

(5) by inserting "(b)" at the beginning of the next-to-last undesignated paragraph; and

(6) by inserting "(c)" at the beginning of the last undesignated paragraph.

SEC. 10076. ADJUSTMENTS IN EXEMPT AMOUNT FOR PURPOSES OF THE RETIREMENT TEST.

(a) INCREASE IN EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.—Section 203(f)(8)(D) of the Social Security Act (42 U.S.C. 403(f)(8)(D)) is amended to read as follows:

"(D)(i) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved—

"(I) shall be the amount which would be determined under this paragraph for each month of any taxable year ending after 1989 and before 1991 if section 10076 of the Social Security Administrative Reform Act of 1989 had not been enacted, plus $30.00, and

"(II) shall be the amount which would be determined under this paragraph for each month of any taxable year ending after 1990 and before 1992 if such section 10076 had not been enacted, plus $50.00.

"(ii) For purposes of subparagraph (B)(ii)(II), the increase in the exempt amount provided under clause (i)(II) shall be deemed to have resulted from a determination which shall be deemed to have been made under subparagraph (A) in 1990.".

(b) STUDY BY CONGRESSIONAL BUDGET OFFICE.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Congressional Budget Office shall conduct a study of the following:

(A) the distribution of benefit increases for individuals in various earnings categories which would result from the elimination of, and from various alternative levels of increases in the exempt earnings amount under, the retirement test under section 203(b) of the Social Security Act,

(B) the impact on the Federal Old Age and Survivors Insurance Trust Fund which would be derived from such an elimination and such increases, and

(C) the impact on labor force participation which would be derived from such an elimination and such increases.

(2) REPORT.—The Congressional Budget Office shall report the results of such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, together with any recommendations, not later than April 1, 1990.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years ending after 1989.

SEC. 10077. INCREASE IN SPECIAL MINIMUM PRIMARY INSURANCE AMOUNT.

(a) INCREASE IN DOLLAR AMOUNT APPLICABLE IN DETERMINING SPECIAL MINIMUM PRIMARY INSURANCE AMOUNT.—

(1) IN GENERAL.—Section 215(a)(1)(C)(i) of the Social Security Act (42 U.S.C. 415(a)(1)(C)(i)) is amended to read as follows:

"(C)(i) No primary insurance amount computed under subparagraph (A) in the case of any individual may be less than an amount equal to (I) the sum of the amount determined for purposes of this clause under subsection (i) effective for December 1989 plus the product derived by multiplying $1.70 by the individual's years of coverage in excess of 10, or (II) the increased amount determined for purposes of this clause under subsection (i).".

(2) CONFORMING AMENDMENT RELATING TO APPLICABLE FORMER LAW.—Section 215(a)(5) of such Act (42 U.S.C. 415(a)(5)) is amended in the first sentence by striking "except that" and all that follows and inserting "except that (A) effective for January 1979, the dollar amount specified in paragraph (3) of subsection (a) shall be increased to $11.50, and (B) effective for January 1990, the primary insurance amount referred to in paragraph (3) of subsection (a) shall be equal to the primary insurance amount determined under paragraph (1)(C)(i) as in effect after December 1978.".

(3) CONFORMING AMENDMENT TO FAMILY MAXIMUM PROVISIONS.—Section 203(a) of such Act (42 U.S.C. 403(a)) is amended by adding at the end the following new paragraph:

"(10) Notwithstanding paragraphs (1) and (2), the amount of total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for any month on the basis of the wages and self-employment income of an individual whose primary insurance amount is determined under section 215(a)(1)(C)(i) (or under section 215(a)(3) as in effect in December 1978 pursuant to section 215(a)(5)) shall be equal to the product derived by multiplying—

"(A) the amount, based on the current number of the individual's years of coverage, which would be the primary insurance amount as so determined for January 1990, by

"(B) 160 percent,

with such product, if not a multiple of $0.10, being rounded to the next lower multiple of $0.10. Such product, as so rounded, shall be subject to increases under section 215(i) (as in effect after December 1978) as if such product were a primary insurance amount determined under section 215(a)(1)(C)(i) subject to such increases.".

(b) REDUCTION OF AMOUNT OF WAGES NEEDED TO EARN A YEAR OF COVERAGE APPLICABLE IN DETERMINING SPECIAL MINIMUM PRIMARY INSURANCE AMOUNT.—Section 215(a)(1)(C)(ii) of such Act (42 U.S.C. 415(a)(1)(C)(ii)) is amended by striking "of not less than 25 percent" the first place it appears and all that follows through "1977) if" and inserting "of not less than 25 percent (in the case of a year after 1950 and before 1978) of the maximum amount which (pursuant to subsection (e)) may be counted for such year, or 25 percent (in the case of a year after 1977 and before 1990) or 15 percent (in the case of a year after 1989) of the maximum amount which (pursuant to subsection (e)) could be counted for such year if".

(c) CONFORMING AMENDMENTS.—Section 215(i)(2)(D) of such Act (42 U.S.C. 415(i)(2)(D)) is amended—

(1) by striking "dollar"; and

(2) by inserting "and paragraph (10) thereof" after "1979)".

(d) PRESERVATION OF MEDICAID ELIGIBILITY.—Section 1634 of such Act (42 U.S.C. 1383c) is amended by adding at the end the following new subsections:

"(e)(1) An individual described in paragraph (2) who is entitled to a monthly insurance benefit under title II on the basis of the primary insurance amount determined under section 215(a)(1)(C)(i) or 215(a)(5) but is not eligible for benefits under this title in that month, and who applies for the protection of this subsection under paragraph (3), shall be deemed for purposes of title XIX to be an individual with respect to whom benefits under this title are paid in that month if he or she—

"(A) has been continuously entitled to such monthly insurance benefits from the first month for which the increase described in paragraph (2)(B) was reflected in such benefits through the month involved, and

"(B) would be eligible for benefits under this title in the month involved if the amount of the increase described in paragraph (2)(B) in his or her monthly insurance benefits, and any subsequent cost-of-living adjustments in such benefits under section 215(i), were disregarded.

"(2) An individual is described in this paragraph if—

"(A) such individual is entitled to a monthly insurance benefit under title II for December 1989 and a benefit under this title is payable to such individual in January 1990, and

"(B) because of the increase in such individual's monthly insurance benefits under title II based on the increase in the primary insurance amount under section 215(a)(1)(C)(i) (or under section 215(a)(3) as in effect in December 1978 pursuant to section 215(a)(5)) which resulted from the amendments made by section 10077 of the Omnibus Budget Reconciliation Act of 1989, is ineligible for benefits under this title in the first month in which such increase is paid to him or her.

"(3) This subsection shall apply only to an individual who files a written application for protection under this subsection, in such manner and form as the Secretary may prescribe, during the 15-month period beginning with the month in which this subsection is enacted.

"(f)(1) In any case in which—

"(A) the requirements of paragraph (2) are met with respect to an individual for any month by reason of entitlement to a benefit (or a benefit increase) under title II, and

"(B) such individual was eligible for medical assistance in the preceding month under a State plan approved under title XIX of a State exercising the option under section 1902(f),

the amount of the deduction required, under the first sentence of section 1902(f), to be applied against the income of such individual for such month shall be increased by the amount of such benefit (or benefit increase).

"(2) An individual meets the requirements of this paragraph for a month if, for purposes of title XIX, such individual—

"(A) is deemed under subsection (b)(1) to be an individual with respect to whom benefits under this title are paid in such month,

"(B) is treated under subsection (c) as receiving benefits under this title in such month,

"(C) is deemed under subsection (d) to be a recipient of supplemental security income benefits under this title in such month,

"(D) is deemed under subsection (e)(1) to be an individual with respect to whom benefits under this title are paid in such month, or

"(E) is required, under section 503 of Public Law 94-566 (90 Stat. 2685), to be provided medical assistance for such month in like manner and under the same terms and conditions as are applicable under the State plan in the case of individuals who are eligible for and receiving benefits under this title for such month.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for (and medical assistance in) months after December 1989.

SEC. 10078. ELIMINATION OF ELIGIBILITY FOR RETROACTIVE BENEFITS FOR CERTAIN INDIVIDUALS ELIGIBLE FOR REDUCED BENEFITS.

(a) IN GENERAL.—Section 202(j)(4) of the Social Security Act (42 U.S.C. 402(j)(4)) is amended—

(1) in subparagraph (A), by striking "if the effect" and all that follows and inserting "if the amount of the monthly benefit to which such individual would otherwise be entitled for any such month would be subject to reduction pursuant to subsection (q).''; and

(2) in subparagraph (B), by striking clauses (i) and (iv) and by redesignating clauses (ii), (iii), and (v) as clauses (i), (ii), and (iii), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to applications for benefits filed on or after January 1, 1990.

SEC. 10079. INCLUSION OF CERTAIN DEFERRED COMPENSATION IN DETERMINATION OF WAGE-BASED ADJUSTMENTS.

(a) IN GENERAL.—Section 209 of the Social Security Act (42 U.S.C. 409) is amended by added at the end the following new subsection:

"(k)(1) For purposes of sections 203(f)(8)(B)(ii), 213(d)(2)(B), 215(a)(1)(B)(ii), 24(f)(2)(B), and 230(b)(2) (and 230(b)(2) as in effect immediately prior to the enactment of the Social Security Amendments of 1977), the term 'deemed average total wages' for any particular calendar year means the product of—

"(A) the SSA average wage index (as defined in section 215(i)(1)(G) and promulgated by the Secretary) for the calendar year preceding such particular calendar year, and

"(B) the quotient obtained by dividing—

"(i) the average of total wages (as defined in regulations of the Secretary and computed without regard to the limitation specified in subsection (a)(1) and by including deferred compensation amounts) reported to the Secretary of the Treasury or his delegate for such particular calendar year, by

"(ii) the average of total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year preceding such particular calendar year.

"(2) For purposes of paragraph (1), the term 'deferred compensation amount' means—

"(A) any amount excluded from gross income under chapter 1 of the Internal Revenue Code of 1986 by reason of section 402(a)(8), 402(h)(1)(B), or 457(a) of such Code or by reason of a salary reduction agreement under section 403(b) of such Code,

"(B) any amount with respect to which a deduction is allowable under chapter 1 of such Code by reason of a contribution to a plan described in section 501(c)(18) of such Code, and

"(C) to the extent provided in regulations of the Secretary, deferred compensation provided under any arrangement, agreement, or plan referred to in subsection (i) or (j).".

(b) CONFORMING AMENDMENTS.—

(1) Sections 203(f)(8)(B)(ii), 215(b)(3)(A)(ii), and 230(b)(2)(A) of the Social Security Act (42 U.S.C. 403(f)(8)(B)(ii)(I), 415(b)(3)(A)(ii)(I), and 430(b)(2)(A)), as amended by subsection (d)(2)(A)(i), are each further amended—

(A) by striking "the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)(1)) reported to the Secretary of the Treasury or his delegate" and inserting "the deemed average total wages (as defined in section 209(k)(1))";

(B) by striking "the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate" and inserting "the deemed average total wages (as so defined)"; and

(C) in section 215(b)(3)(A)(ii)(I), by striking "(after 1976)".

(2) Sections 213(d)(2)(B), 215(a)(1)(B)(ii), and 224(f)(2)(B) of such Act (42 U.S.C. 413(d)(2)(B), 415(a)(1)(B)(ii), and 424a(f)(2)(B)), as amended by subsection (d)(2)(A)(i), are each further amended—

(A) by striking "the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)(1)) reported to the Secretary of the Treasury or his delegate" and inserting "the deemed average total wages (as defined in section 209(k)(1))";

(B) in sections 213(d)(2)(B) and 215(a)(1)(B)(ii)(II), by striking "(as so defined and computed)" and inserting "(as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)(1)"; and

(C) in section 224(f)(2)(B)(ii), by inserting "(I)" after "(ii)", by striking "as so defined and computed)" and inserting "(as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)(1))", and by inserting after "disability)" the following: ", if such calendar year is before 1991, or (II) the deemed average total wages (as defined in section 209(k)(1)) for the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability), if such calendar year is after 1990".

(3) Section 215(i)(1)(G) of such Act (42 U.S.C. 415(i)(1)(G)) is amended by striking "the average of the total wages reported to the Secretary of the Treasury or his delegate as determined for purposes of subsection (b)(3)(A)(ii)" and inserting "the amount determined for such calendar year under subsection (b)(3)(A)(ii)(I)".

(4) Section 215(a)(1)(C)(ii) of such Act (42 U.S.C. 415(a)(1)(C)(ii)) is amended by striking "change." and inserting "change (except that, for purposes of subsection (b)(2)(A) of such section 230 as so in effect, the reference therein to the average of the wages of all employees as reported to the Secretary of the Treasury for any calendar year shall be deemed a reference to the deemed average total wages (within the meaning of section 209(k)(1)) for such calendar year).".

(5) Section 230(d) of such Act (42 U.S.C. 430(d)) is amended by striking "change." and inserting "change (except that, for purposes of subsection (b)(2)(A) of such section 230 as so in effect, the reference therein to the average of the wages of all employees as reported to the Secretary of the Treasury for any calendar year shall be deemed a reference to the deemed average total wage (within the meaning of section 209(k)(1)) for such calendar year).".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply with respect to the computation of average total wage amounts (under the amended provisions) for calendar years after 1990.

(2) TRANSITIONAL RULE.—For purposes of determining the contribution and benefit base for 1990, 1991, and 1992 under section 230(b) of the Social Security Act (and section 230(b) of such Act as in effect immediately prior to enactment of the Social Security Amendments of 1977)—

(A) the average of total wages for 1988 shall be deemed to be equal to the amount which would have been determined without regard to this paragraph, plus 2 percent of the amount which has been determined to be the average of total wages for 1987,

(B) the average of total wages for 1989 shall be deemed to be equal to the amount which would have been determined without regard to this paragraph, plus 2 percent of the amount which would have been determined to be the average of total wages for 1988 without regard to subparagraph (A), and

(C) the average of total wages reported to the Secretary of the Treasury for 1990 shall be deemed to be equal to the product of—

(i) the SSA average wage index (as defined in section 215(i)(1)(G) of the Social Security Act and promulgated by the Secretary) for 1989, and

(ii) the quotient obtained by dividing—

(I) the average of total wages (as defined in regulations of the Secretary and computed without regard to the limitations of section 209(a)(1) of the Social Security Act and by including deferred compensation amounts, within the meaning of section 209(k)(2) of such Act as added by this section) reported to the Secretary of the Treasury or his delegate for 1990, by

(II) the average of total wages (as so defined and computed without regard to the limitations specified in such section 209(a)(1) and by excluding deferred compensation amounts within the meaning of such section 209(k)(2)) reported to the Secretary of the Treasury or his delegate for 1989.

(3) DETERMINATION OF CONTRIBUTION AND BENEFIT BASE FOR 1993.—For purposes of determining the contribution and benefit base for 1993 under section 230(b) of the Social Security Act (and section 230(b) of such Act as in effect immediately prior to enactment of the Social Security Amendments of 1977), the average of total wages for 1990 shall be

determined without regard to subparagraph (C) of paragraph (2).

(d) CLERICAL AMENDMENTS.—

(1) DESIGNATION OF UNDESIGNATED PROVISIONS.—Section 209 of the Social Security Act is further amended—

(A) by redesignating paragraphs (1) through (9) of subsection (a) as subparagraphs (A) through (I), respectively;

(B) by redesignating clauses (1) through (3) of subsection (b) as clauses (A) through (B), respectively;

(C) by redesignating clauses (1) through (9) of subsection (e) as clauses (A) through (I), respectively

(D) by redesignating paragraphs (1) and (2) of subsection (f) as subparagraphs (A) and (B), respectively;

(E) by redesignating paragraphs (1), (2), and (3) of subsection (g) as subparagraphs (A), (B), and (C), respectively;

(F) in subsection (h), by redesignating clauses (i), (ii), and (iii) as clauses (I), (II), and (III), respectively, by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively, and by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(G) by redesignating paragraphs (1) and (2) of subsection (l) as subparagraphs (A) and (B), respectively;

(H) by redesignating paragraphs (1) and (2) of subsection (m) as subparagraphs (A) and (B), respectively;

(I) by redesignating paragraphs (1) and (2) of subsection (p) as subparagraphs (A) and (B), respectively;

(J) by redesignating subsections (a), (b), (d), (e), (f), (g), (h), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), and (t) (in the matter preceding subsection (k) added by subsection (a) of this section, and as amended by the preceding provisions of this paragraph) as paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), and (18), respectively;

(K) by inserting "(a)" after "SEC. 209.";

(L) by striking "Nothing in the regulations" and inserting the following:

"(b) Nothing in the regulations";

(M) in the undesignated paragraph commencing with "For purposes of this title, in the case of domestic service", by inserting "(c)" at the beginning thereof, and by striking "subsection (g)(2)" each place it appears and inserting "subsection (a)(6)(B)";

(N) in the undesignated paragraph commencing with "For purposes of this title, in the case of an individual performing service, as a member", by inserting "(d)" at the beginning thereof, and by striking "subsection (a)" and inserting "subsection (a)(1)";

(O) by inserting "(e)" at the beginning of the undesignated paragraph commencing with "For purposes of this title, in the case of an individual performing service, as a volunteer";

(P) by inserting "(f)" at the beginning of the undesignated paragraph commencing with "For purposes of this title, tips received";

(Q) by inserting "(g)" at the beginning of the undesignated paragraph commencing with "For purposes of this title, in any case where";

(R) by inserting "(h)" at the beginning of the undesignated paragraph commencing with "For purposes of this title, in the case of an individual performing service under the provisions";

(S) by inserting "(i)" at the beginning of the undesignated paragraph commencing with "Nothing in any of the foregoing"; and

(T) by inserting "(j)" at the beginning of the undesignated paragraph commencing with "Any amount deferred".

(2) CONFORMING AMENDMENTS.—

(A) Title II of such Act is amended—

(i) in sections 203(f)(8)(B)(ii)(I), 213(d)(2)(B), 215(a)(1)(B)(ii)(I), 215(b)(3)(A)(ii)(I), 224(f)(2)(B)(i), and 230(b)(2)(A) (42 U.S.C. 403(f)(8)(B)(ii)(I), 413(d)(2)(B), 415(a)(1)(B)(ii)(I), 415(b)(3)(A)(ii)(I), 424a(f)(2)(B)(i), and 430(b)(2)(A)), by striking "section 209(a)" and inserting "section 209(a)(1)";

(ii) in section 203(f)(5)(C), by striking "subsections (a), (g)(2), (g)(3), (h)(2), and (j) of section 209" and inserting "'paragraphs (1), (6)(B), (6)(C), (7)(B), and (8) of section 209(a)";

(iii) in clauses (B) and (C) of the last sentence of section 224(a), by striking "209(a)" and inserting "209(a)(1)";

(iv) in section 217(b)(1), by striking "209(e)(2)" and inserting "209(a)(4)(B)";

(v) in section 218(c)(5), by striking "paragraph (2) of section 209(h)" and inserting "subparagraph (B) of section 209(a)(7)"; and

(vi) in section 203(f)(5)(C)(ii), by striking "209(m)(2)" and inserting "209(a)(11)(B)".

(B)(i) Section 6(f)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(f)(1)) is amended by striking "209(g)" and inserting "209(a)(6)".

(ii) Section 1(h)(5)(iii) of the Railroad Retirement Act of 1974 (45 U.S.C. 231(h)(5)(iii)) is amended by striking "the third paragraph of section 209" and inserting "section 209(d)".

CHAPTER 4—RAILROAD RETIREMENT

SEC. 10081. TREATMENT OF GROUP-TERM LIFE INSURANCE UNDER RAILROAD RETIREMENT TAXES.

(a) IN GENERAL.—The second sentence of section 3231(e)(1) of the Internal Revenue Code of 1986 (defining compensation) is amended by striking ", (ii) tips" and inserting "or death, except that this clause does not apply to a payment for group-term life insurance to the extent that such payment is includible in the gross income of the employee, (ii) tips".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to—

(A) group-term life insurance coverage in effect after December 31, 1989, and

(B) remuneration paid before January 1, 1990, which the employer treated as compensation when paid.

(2) EXCEPTION.—The amendment made by subsection (a) shall not apply with respect to payments by the employer (or a successor of such employer) for group-term life insurance for such employer's former employees who separated from employment with the employer on or before December 31, 1989, to the extent that such payments are not for coverage for any such employee for any period for which such employee is employed by such employer (or a successor of such employer) after the date of such separation.

(3) BENEFIT DETERMINATIONS TO TAKE INTO ACCOUNT REMUNERATION ON WHICH TAX PAID.—The term "compensation" as defined in section 1(h) of the Railroad Retirement Act of 1974 includes any remuneration which is included in the term "compensation" as defined in section 3231(e)(1) of the Internal Revenue Code of 1986 by reason of the amendment made by subsection (a).

SEC. 10082. TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS UNDER RAILROAD RETIREMENT TAXES.

(a) IN GENERAL.—The second sentence of section 3231(e)(1) of the Internal Revenue Code of 1986 (defining compensation) is amended by striking "or (iii)" and inserting "(iii)" and by inserting before the period ", or (iv) any remuneration which would not (if chapter 21 applied to such remuneration) be treated as wages (as defined in section 3121(a)) by reason of section 3121(a)(5)".

(b) TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS.—Subsection (e) of section 3231 of such Code is amended by adding at the end thereof the following new paragraph:

"(9) TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS.—

"(A) CERTAIN EMPLOYER CONTRIBUTIONS TREATED AS COMPENSATION.—Nothing in any paragraph of this subsection (other than paragraph (2)) shall exclude from the term 'compensation' any amount described in subparagraph (A) or (B) of section 3121(v)(1).

"(B) TREATMENT OF CERTAIN NONQUALIFIED DEFERRED COMPENSATION.—The rules of section 3121(v)(2) which apply for purposes of chapter 21 shall also apply for purposes of this chapter."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1989.

(2) SUBSECTION (b).—Except as otherwise provided in this subsection—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to—

(i) remuneration paid after December 31, 1989, and

(ii) remuneration paid before January 1, 1990, which the employer treated as compensation when paid.

(B) BENEFIT DETERMINATIONS TO TAKE INTO ACCOUNT REMUNERATION ON WHICH TAX PAID.—The term "compensation" as defined in section 1(h) of the Railroad Retirement Act of 1974 includes any remuneration which is included in the term "compensation" as defined in section 3231(e)(1) of the Internal Revenue Code of 1986 by reason of the amendment made by subsection (b).

(3) SPECIAL RULE FOR CERTAIN PAYMENTS.—For purposes of applying the amendment made by subsection (b) to remuneration paid after December 31, 1989, which would have been taken into account before January 1, 1990, if such amendments had applied to periods before January 1, 1990, such remuneration shall be taken into account when paid (or, at the election of the payor, at the time which would be appropriate if such amendments had applied).

(4) EXCEPTION FOR CERTAIN 401(k) CONTRIBUTIONS.—The amendment made by subsection (b) shall not apply to employer contributions made during 1990 and attributable to services performed during 1989 under a qualified cash or deferred arrangement (as defined in section 401(k) of the Internal Revenue Code of 1986) if, under the terms of the arrangement as in effect on June 15, 1989—

(A) the employee makes an election with respect to such contributions before January 1, 1990, and

(B) the employer identifies the amount of such contribution before January 1, 1990.

(5) SPECIAL RULE WITH RESPECT TO NONQUALIFIED DEFERRED COMPENSATION PLANS.—In the case of an agreement in existence on

June 15, 1989, between a nonqualified deferred compensation plan (as defined in section 3121(v)(2)(C) of such Code) and an individual, the amendment made by subsection (b) shall apply with respect to services performed by the individual after December 31, 1989. The preceding sentence shall not apply in the case of a plan to which section 457(a) of such Code applies.

SEC. 10083. TREATMENT OF ROWAN DECISION UNDER RAILROAD RETIREMENT TAXES.

(a) EXCLUSION OF MEALS AND LODGING.—Subsection (e) of section 3231 of the Internal Revenue Code of 1986 is further amended by adding at the end thereof the following new paragraph:

"(10) MEALS AND LODGING.—The term 'compensation' shall not include the value of meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119."

(b) INCOME TAX WITHHOLDING REGULATIONS NOT TO APPLY.—Paragraph (1) of section 3231(e) of such Code (as amended by section 10082) is further amended by adding at the end thereof the following new sentence: "Nothing in the regulations prescribed for purposes of chapter 24 (relating to wage withholding) which provides an exclusion from 'wages' as used in such chapter shall be construed to require a similar exclusion from 'compensation' in regulations prescribed for purposes of this chapter."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid after December 31, 1989.

SEC. 10084. TRANSFER TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "1989" and inserting "1990".

Subtitle B—Medicare

SEC. 10100. SHORT TITLE; TABLE OF CONTENTS OF SUBTITLE.

This subtitle may be cited as the "Medicare Omnibus Budget Reconciliation Act of 1989".

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PART A—PROVISIONS RELATING TO PART A OF MEDICARE

Subpart 1—Payment for Inpatient Hospital Services

SEC. 10101. REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS OF INPATIENT HOSPITAL SERVICES FOR FISCAL YEAR 1990.

(a) REDUCTION IN PAYMENTS FOR FISCAL YEAR 1990.—Section 1886(g)(3)(A) of the Social Security Act (42 U.S.C. 1395ww(g)(3)(A)) is amended—

(1) in clause (iii), by striking "and";

(2) in clause (iv), by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(v) 15 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) occurring during fiscal year 1990.".

(b) GAO STUDY OF EFFECTS OF LOW INPATIENT OCCUPANCY ON HOSPITAL COSTS.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the effects of low rates of hospital inpatient occupancy on the costs to the medicare program of inpatient hospital services. Such study shall include an analysis of the relationship between fixed and variable hospital costs and of the extent to which the closure of unneeded hospital beds or the consolidation of hospital inpatient services and facilities could result in savings to the medicare program.

(2) REPORT.—By not later than October 1, 1990, the Comptroller General shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the study conducted under paragraph (1) and shall include in the report such recommendations (including changes in hospital reimbursement policy under the medicare program) as the Comptroller General deems appropriate.

SEC. 10102. PROSPECTIVE PAYMENT HOSPITALS.

(a) REDUCTION IN HOSPITAL UPDATE FACTORS.—Section 1886(b)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) by striking "and" at the end of subclause (IV),

(2) in subclause (V), by striking "1990" and inserting "1991" and redesignating such subclause as subclause (VI), and

(3) by inserting after subclause (IV) the following new subclause:

"(V) for fiscal year 1990, the market basket percentage increase minus 0.75 percentage points for hospitals located in a rural area, the market basket percentage increase minus 1.25 percentage points for hospitals located in a large urban area, and the market basket percentage increase minus 1.75 percentage points for hospitals located in other urban areas, and".

(b) ANNUAL RECALIBRATION OF DRG WEIGHTS ON BUDGET-NEUTRAL BASIS.—Section 1886(d)(4)(C) of such Act (42 U.S.C. 1395ww(d)(4)(C)) is amended by adding at the end the following: "Any such adjustment for discharges in a fiscal year (beginning with fiscal year 1990) shall be made in a manner that assures that the aggregate payments under this subsection in the fiscal year are not greater or less than those that would have been made in the year without such adjustment.".

(c) INCREASE IN DISPROPORTIONATE SHARE ADJUSTMENT.—

(1) CHANGE IN FORMULA.—Section 1886(d)(5)(F) of such Act (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(A) in clause (iv)(I), by striking "the following formula" and all that follows through "(as defined in clause (vi));" and inserting "the applicable formula described in clause (vii);", and

(B) by adding at the end the following new clause:

"(vii) The formula used to determine the disproportionate share adjustment percentage for a cost reporting period for a hospital described in clause (iv)(I) is—

"(I) in the case of such a hospital with a disproportionate patient percentage (as defined in clause (vi)) greater than 20.2, (P-20.2)(.7) + 5.62, or

"(II) in the case of any other such hospital, (P-15)(.6) + 2.5,

where 'P' is the hospital's disproportionate patient percentage (as defined in clause (vi)).".

(2) TREATMENT OF RURAL REFERRAL CENTERS FOR DISPROPORTIONATE SHARE CALCULATION.—Section 1886(d)(5)(F) of such Act (42 U.S.C. 1395ww(d)(5)(F)), as amended by paragraph (1), is amended—

(A) in clause (iv)—

(i) in subclause (II), by striking "or",

(ii) by striking the period at the end of subclause (III) and inserting "; or", and

(iii) by adding at the end the following new subclause:

"(IV) is classified as a rural referral center under subparagraph (C), is equal to the percent determined in accordance with the applicable formula described in clause (viii).", and

(B) by adding at the end the following new clause:

"(viii) The formula used to determine the disproportionate share adjustment percentage for a cost reporting period for a hospital described in clause (iv)(IV) is—

"(I) in the case of such a hospital with a disproportionate patient percentage (as defined in clause (vi)) greater than 50.2, (P-50.2)(.7) + 7.12, or

"(II) in the case of any other such hospital, (P-45)(.6) + 4.0,

where 'P' is the hospital's disproportionate patient percentage (as defined in clause (vi)).".

(3) INCREASE FOR HOSPITALS WITH DISPROPORTIONATE INDIGENT CARE REVENUES.—Section 1886(d)(5)(F)(iii) of such Act (42 U.S.C. 1395ww(d)(5)(F)(iii)) is amended by striking "25 percent" and inserting "30 percent".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to discharges occurring on or after October 1, 1989.

(d) INCREASE IN UPDATE FACTOR FOR RURAL HOSPITALS.—Section 1886(b)(3)(B)(i)(V) of such Act (42 U.S.C. 1395ww(b)(3)(B)(i)(V)), as inserted by subsection (a)(3), is amended by striking "minus 0.75 percentage points for hospitals located in a rural area" and inserting "plus 2.0 percentage points for hospitals located in a rural area".

(e) 3-YEAR EXTENSION OF REGIONAL REFERRAL CENTER CLASSIFICATION.—Section 9302(d)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "1989" and inserting "1992".

(f) CRITERIA AND PAYMENT FOR SOLE COMMUNITY HOSPITALS.—

(1) IN GENERAL.—(A) Section 1886(d)(5) of the Social Security Act (42 U.S.C. 1395ww(d)(5)) is amended—

(i) by transferring clause (iv) of subparagraph (C) to the end and by redesignating it as subparagraph (G),

(ii) by transferring clause (iii) of subparagraph (C) to the end and by redesignating it as subparagraph (H),

(iii) in subparagraph (D), by striking "(D)(i)" and inserting "(E)(i)", and

(iv) by amending clause (ii) of subparagraph (C) to read as follows:

"(D)(i) For any cost reporting period beginning on or after October 1, 1989, with respect to a subsection (d) hospital which is a sole community hospital, payment under paragraph (1)(A) shall be—

"(I) an amount based on 100 percent of the hospital's target amount for the cost reporting period, as defined in subsection (b)(3)(C), or

"(II) the amount determined under paragraph (1)(A)(iii),

whichever is selected by the hospital.

"(ii) In the case of a sole community hospital that experiences, in a cost reporting period compared to the previous cost reporting period, a decrease of more than 5 percent in its total number of inpatient cases due to circumstances beyond its control, the Secretary shall provide for such adjustment to the payment amounts under this subsection (other than under paragraph (9)) as may be necessary to fully compensate the hospital for the fixed costs it incurs in the period in providing inpatient hospital services, including the reasonable cost of maintaining necessary core staff and services.

"(iii) The term 'sole community hospital' means any hospital that the Secretary determines is located more than 35 road miles from another hospital.".

(B) Section 1886(b)(3) of such Act (42 U.S.C. 1395ww(b)(3)) is amended—

(i) in subparagraph (A), by striking "(A) For purposes of this subsection" and inserting "(A) Except as provided in subparagraph (C), for purposes of this subsection", and

(ii) by adding at the end the following new subparagraph:

"(C) In the case of a hospital that is a sole community hospital (as defined in subsection (d)(5)(D)(iii)), the term 'target amount' means—

"(i) with respect to the first 12-month cost reporting period in which this subparagraph is applied to the hospital—

"(I) the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital for the 12-month cost reporting period (in this subparagraph referred to as the 'base cost reporting period') preceding the first cost reporting period for which this subsection was in effect with respect to such hospital, increased (in a compounded manner) by—

"(II) the sum of the applicable percentage increases applied to such hospital under this paragraph for cost reporting periods after the base cost reporting period and up to and including such first 12-month cost reporting period, or

"(ii) with respect to a later cost reporting period, the target amount for the preceding 12-month cost reporting period, increased by the applicable percentage increase under subparagraph (B)(i) for discharges occurring in the fiscal year in which that later cost reporting period begins.

There shall be substituted for the base cost reporting period described in clause (i) a hospital's cost reporting period (if any) beginning during fiscal year 1987 if such substitution results in an increase in the target amount for the hospital.".

(2) CONTINUATION OF PAYMENT RULES FOR CURRENT SOLE COMMUNITY HOSPITALS.—Any hospital classified as a sole community hospital under section 1886(d)(5)(C)(ii) of the Social Security Act on the date of the enactment of this Act that will no longer be classified as sole community hospital after such date as a result of the amendments made by paragraph (1) may continue to be classified as a sole community hospital for purposes of section 1886(d)(5)(D) of such Act, and, if so classified pursuant to this paragraph, shall continue to receive payment under title XVIII of such Act as if such section had not been amended by paragraph (1).

(3) CONFORMING AMENDMENTS.—Such Act is further amended—

(A) in section 1833(h)(1)(D), by striking "the last sentence of section 1886(d)(5)(C)(ii)" and inserting "section 1886(d)(5)(D)(iii)";

(B) in section 1886(d)(5)(C)(i)—

(i) by striking "(C)(i)(I)" and inserting "(C)(i)", and

(ii) by redesignating subclause (II) as clause (ii) and by striking "subclause (I)" each place it appears in such clause and inserting "clause (i)";

(C) in section 1886(d)(9)(B)(ii)(IV), by striking "(D)(v)" and inserting "(D)(iii)";

(D) in section 1886(d)(9)(D)—

(i) by striking clause (iv),

(ii) by transferring clause (iii) to the end and redesignating it as clause (iv), and by striking "(C)(iii)" and inserting "(H)", and

(iii) by redesignating clause (v) as clause (iii); and

(E) in section 1886(g)(3)(B), by striking "(d)(5)(C)(ii)" and inserting "(d)(5)(D)(iii)".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to cost reporting periods beginning on or after October 1, 1989.

(g) GEOGRAPHIC CLASSIFICATION OF HOSPITALS.—

(1) IN GENERAL.—Section 1886(d)(8) of such Act (42 U.S.C. 1395ww(d)(8)) is amended—

(A) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E);

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) The Secretary shall establish, and publish criteria for, a procedure under which a hospital may submit an application requesting that, for purposes of this subsection, the Secretary—

"(i) change the classification of the county in which the hospital is located from a rural area to an urban area or from one urban area to another urban area, or

"(ii) in the case of a hospital located in an urban area, change the area wage index applicable to the county in which the hospital is located.

The Secretary shall approve or disapprove such an application not later than 12 months after the date the Secretary receives the completed application from the hospital.";

(C) in subparagraph (D) (as redesignated by subparagraph (A))—

(i) in clause (i), by inserting "by more than 2 percentage points" after "reduces the wage index for that urban area (as applied under this subsection)",

(ii) by redesignating clause (ii) as clause (iv), and

(iii) by inserting after clause (i) the following new clause:

"(ii) If the application of subparagraph (C), by reclassifying a county from a rural to an urban area or by reclassifying an urban county from one urban area to another urban area, reduces the wage index for the urban area within which the county or counties is reclassified by more than 2 percentage points (as applied under this subsection), the Secretary shall calculate and apply such wage index under this subsection separately to hospitals located in such urban area (excluding all the hospitals so reclassified) and to the hospitals so reclassified (as if each affected county were a separate area). If the application of subparagraph (C), by reclassifying a rural or urban county as not being located in a rural area in a State or in that urban area, reduces the wage index for that rural area or for other counties located in that urban area (as applied under this subsection), the Secretary shall calculate and apply such wage index under this subsection as if the hospitals so reclassified had not been excluded from the calculation of the wage index for that area."; and

(D) in subparagraph (E) (as redesignated by subparagraph (A))—

(i) by striking "(E)" and inserting "(E)(i)",

(ii) by striking "subparagraphs (B) and (C)" each place it appears and inserting "subparagraphs (B) and (D)(i)", and

(iii) by adding at the end the following new clause:

"(ii) The Secretary shall make a proportional adjustment in the standardized amounts determined under paragraph (3) for hospitals located in an urban or rural area to assure that the provisions of subparagraphs (C) and (D)(ii) do not result in aggregate payments under this section that are greater or less than those that would otherwise be made.".

(2) FLOOR FOR AREA WAGE INDICES.—Section 1886(d)(8)(D) of such Act, as redesignated by paragraph (1), is amended by inserting after clause (ii) the following new clause:

"(iii) The application of subparagraph (B) or (C) or of clause (i) or (ii) of this subparagraph may not result in the reduction of any county's wage index to a level below the wage index for rural areas in the State in which the county is located.".

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act. The Secretary of Health and Human Services shall establish and publish criteria for the procedure required under such amendment not later than 6 months after the date of the enactment of this Act.

(B) The amendment made by paragraph (2) shall apply to payments for discharges occurring on or after October 1, 1989.

(h) ESSENTIAL ACCESS COMMUNITY HOSPITAL DEMONSTRATION PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—

(A) IN GENERAL.—Part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.) is amended by adding at the end the following new section:

"ESSENTIAL ACCESS COMMUNITY HOSPITAL DEMONSTRATION PROGRAM

"SEC. 1820. (a) IN GENERAL.—There is hereby established a demonstration program under which the Secretary—

"(1) shall make grants to not more than 10 States to carry out the activities described in subsection (d)(1);

"(2) shall make grants to hospitals and facilities (or consortia of hospitals and facilities) located in States receiving grants under paragraph (1) to carry out the activities described in subsection (d)(2); and

"(3) shall designate (under subsection (i)) hospitals and facilities located in States receiving grants under paragraph (1) as essential access community hospitals or rural primary care hospitals.

"(b) ELIGIBILITY OF STATES FOR GRANTS.—A State is eligible to receive a grant under subsection (a)(1) only if the State submits to the Secretary, at such time and in such form as the Secretary may require, an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) provides for the creation of one or more rural health networks (as defined in subsection (g)) in the State,

"(ii) promotes regionalization of rural health services in the State,

"(iii) improves access to hospital and other health services for rural residents of the State, and

"(iv) enhances the provision of emergency and other transportation services related to health care;

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State and rural hospitals located in the State (or, in the case of a State in the process of developing such plan, that assures the Secretary that it will consult with its State hospital association and rural hospitals located in the State in developing such plan); and

"(C) has designated, or is in the process of designating, rural non-profit or public hospitals or facilities located in the State as essential access community hospitals or rural primary care hospitals within such networks; and

"(2) such other information and assurances as the Secretary may require.

"(c) ELIGIBILITY OF HOSPITALS AND CONSORTIA FOR GRANTS.—

"(1) IN GENERAL.—A hospital or facility is eligible to receive a grant under subsection (a)(2) only if the hospital or facility—

"(A) is located in a State receiving a grant under subsection (a)(1);

"(B) is designated as an essential access community hospital or a rural primary care hospital by the State in which it is located or is a member of a rural health network (as defined in subsection (g));

"(C) submits to the State in which it is located and to the Secretary, at such time and in such form as the Secretary may require, an application containing such information and assurances as the Secretary may require; and

"(D) the State in which the hospital or facility is located certifies to the Secretary that—

"(i) the receiving of such a grant by the hospital or facility is consistent with the State's rural health care plan (described in subsection (b)(1)(A)), and

"(ii) the State has approved the application submitted under subparagraph (C).

"(2) TREATMENT OF CONSORTIA.—A consortium of hospitals or facilities each of which is part of the same rural health network is eligible to receive a grant under subsection (a)(2) if each of its members would individually be eligible to receive such a grant.

"(d) ACTIVITIES FOR WHICH GRANTS MAY BE USED.—

"(1) GRANTS TO STATES.—A State shall use a grant received under subsection (a)(1) to carry out the demonstration program established under this section in the State. Such grant may be used for engaging in activities relating to planning and implementing a rural health care plan and rural health networks, designating hospitals or facilities in the State as essential access community hospitals or rural primary care hospitals, and developing and supporting communication and emergency transportation systems.

"(2) GRANTS TO HOSPITALS, FACILITIES, AND CONSORTIA.—A hospital or facility shall use a grant received under subsection (a)(2) to finance the costs it incurs in converting itself to a rural primary care hospital or in becoming part of a rural health network in the State in which it is located, including capital costs, costs incurred in the development of necessary communications systems, and costs incurred in the development of an emergency transportation system. A consortium shall use a grant received under subsection (a)(2) to finance the costs it incurs in converting hospitals or facilities that are part of the consortium into rural primary care hospitals or in developing and implementing a rural health network consisting of its members in the State in which it is located, including capital costs, costs incurred in the development of necessary communications systems, and costs incurred in the development of an emergency transportation system.

"(e) DESIGNATION BY STATE OF ESSENTIAL ACCESS COMMUNITY HOSPITALS.—A State may designate a hospital as an essential access community hospital only if the hospital—

"(1) is located in a rural area (as defined in section 1886(d)(2)(D));

"(2)(A) is located more than 35 miles from any hospital that either (i) has been designated as an essential access community hospital, (ii) is classified by the Secretary as a rural referral center under section 1886(d)(5)(C), or (iii) is located in an urban area that meets the criteria for classification as a regional referral center under such section, or (B) meets such other criteria relating to geographic location as the State may impose with the approval of the Secretary;

"(3) has at least 75 inpatient beds or is located more than 35 miles from any other hospital;

"(4) has in effect an agreement to provide emergency and medical backup services to rural primary care hospitals participating in the rural health network of which it is a member and throughout its service area;

"(5) has in effect an agreement, with each rural primary care hospital participating in the rural health network of which it is a member, to accept patients transferred from such primary care hospitals, to receive data from and transmit data to such primary care hospitals, and to provide staff privileges to physicians providing care at such primary care hospitals; and

"(6) meets any other requirements imposed by the State with the approval of the Secretary.

"(f) DESIGNATION BY STATE OF RURAL PRIMARY CARE HOSPITALS.—

"(1) CRITERIA FOR DESIGNATION.—A State may designate a facility as a rural primary care hospital only if the facility—

"(A) is located in a rural area (as defined in section 1886(d)(2)(D));

"(B) at the time such facility applies to the State for designation as a rural primary care hospital, is a hospital with a participation agreement in effect under section 1866(a) and had not been found, on the basis of a survey under section 1864, to be in violation of any requirement to participate as a hospital under this title;

"(C) has ceased, or agrees (upon the approval of such application) to cease, providing inpatient care (except as required under subparagraph (F));

"(D) in the case of a facility that is a member of a rural health network, has in effect an agreement to participate with other hospitals and facilities in the communications system of such network, including the network's system for the electronic sharing of patient data, including telemetry and medical records, if the network has in operation such a system;

"(E) makes available 24-hour emergency care;

"(F) provides not more than 6 inpatient beds (meeting such conditions as the Secretary may establish) for providing inpatient care for a period not to exceed 72 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions) to patients requiring stabilization before discharge or transfer to a hospital;

"(G) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on a 24-hour basis under subparagraph (E),

"(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietician, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off-site basis, and

"(iii) the inpatient care described in subparagraph (F) may be provided by a physician's assistant or nurse practitioner, subject to the oversight of a physician; and

"(H) meets the requirements of subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of that paragraph.

"(2) PREFERENCE GIVEN TO HOSPITALS OR FACILITIES PARTICIPATING IN RURAL HEALTH NETWORK.—In designating facilities as rural primary care hospitals under paragraph (1), the State shall give preference to hospitals or facilities participating in a rural health network.

"(g) RURAL HEALTH NETWORK DEFINED.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization—

"(1) consisting of—

"(A) at least 1 hospital that—

"(i) the State has designated or plans to designate as an essential access community hospital under subsection (b)(1)(C),

"(ii) is classified by the Secretary as rural referral center under section 1886(d)(5)(C), or

"(iii) is located in an urban area and meets the criteria for classification as a regional referral center under such section, and

"(B) at least 1 facility that the State has designated or plans to designate as a rural primary care hospital, and

"(2) the members of which have entered into agreements regarding—

"(A) patient referral and transfer,

"(B) the development and use of communications systems, including (where feasible) telemetry systems and systems for electronic sharing of patient data, and

"(C) the provision of emergency and non-emergency transportation among the members.

"(h) LIMIT ON AMOUNT OF GRANT TO HOSPITAL OR FACILITY.—A grant made to a hospital or facility under subsection (a)(2) may not exceed $200,000.

"(i) ELIGIBILITY OF HOSPITALS OR FACILITIES FOR DESIGNATION BY SECRETARY.—

"(1) ESSENTIAL ACCESS COMMUNITY HOSPITAL.—(A) The Secretary shall designate a hospital as an essential access community hospital if the hospital—

"(i) is located in a State receiving a grant under subsection (a)(1);

"(ii) is designated as an essential access community hospital by the State in which it is located (except as provided in subparagraph (B)); and

"(iii) meets such other criteria as the Secretary may require.

"(B) In the case of a hospital that is not eligible for designation as an essential access community hospital under this paragraph solely because it is not designated as an essential access community hospital by the State in which it is located, the Secretary may designate such hospital as an essential access community hospital under this paragraph if the hospital is not so designated by the State in which it is located solely because of its failure to meet the criteria described in paragraph (3) of subsection (e).

"(2) RURAL PRIMARY CARE HOSPITAL.—(A) The Secretary shall designate a facility as a rural primary care hospital if the facility—

"(i) is located in a State receiving a grant under subsection (a)(1);

"(ii) is designated as a rural primary care hospital by the State in which it is located (except as provided in subparagraph (B)); and

"(iii) meets such other criteria as the Secretary may require.

"(B) In the case of a facility that is not eligible for designation as a rural primary care hospital under this paragraph solely because it is not designated as a rural primary care hospital by the State in which it is located, the Secretary may designate such facility as a rural primary care hospital under this paragraph if the facility is not so designated by the State in which it is located solely because of its failure to meet the criteria described in subparagraphs (C), (F), or (G) of subsection (f)(1).

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund for each of the fiscal years 1990, 1991, and 1992—

"(1) $15,000,000 for grants to States under subsection (a)(1); and

"(2) $15,000,000 for grants to hospitals, facilities, and consortia under subsection (a)(2).".

(B) MODIFICATION OF RURAL HEALTH CARE TRANSITION GRANT PROGRAM.—(i) Section 4005(e) of the Omnibus Budget Reconciliation Act of 1987 is amended—

(I) in paragraph (3)(A), by striking "an application to the Governor" and inserting "an application to the Administrator and a copy of such application to the Governor",

(II) in paragraph (3)(B), by striking "any application" and all that follows through "accompanied by" and inserting "to the Administrator, within a reasonable time after receiving a copy of an application pursuant to subparagraph (A),",

(III) in paragraph (7)(A), by striking "(D)" and inserting "(B)",

(IV) in paragraph (7)(C), by striking the period at the end and inserting the following: ", except that this limitation shall not apply with respect to a grant used for the purposes described in subparagraph (D).",

(V) by adding at the end of paragraph (7) the following new subparagraph:

"(D) A hospital may use a grant received under this subsection to develop a plan for converting itself to a rural primary care hospital (as described in section 1820 of the Social Security Act) or to develop a rural health network (as defined in section 1820(g) of such Act) in the State in which it is located if the State is receiving a grant under section 1820(a)(1).", and

(VI) in paragraph (9), by striking "each of the fiscal years 1989 and 1990" and inserting "fiscal year 1989 and $10,000,000 for each of the fiscal years 1990, 1991, and 1992".

(ii) The amendments made by clause (i) shall apply with respect to applications for grants under the Rural Health Care Transition Grant Program described in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987 submitted on or after October 1, 1989, except that the amendments made by subclauses (III) and (V) of such clause shall take effect on the date of the enactment of this Act.

(2) TREATMENT OF ESSENTIAL ACCESS COMMUNITY HOSPITALS AS SOLE COMMUNITY HOSPITALS.—Section 1886(d)(5)(D) of such Act (42 U.S.C. 1395ww(d)(5)), as redesignated and amended by subsection (f)(1), is further amended—

(A) in clause (iii), by striking the period at the end and inserting the following: "and includes any hospital designated by the Secretary as an essential access community hospital under section 1820(i)(1).", and

(B) by adding at the end the following new clause:

"(iv) If the Secretary determines that, in the case of a hospital designated by the Secretary as an essential access community hospital under section 1820(i)(1), the hospital has incurred increases in reasonable costs during a cost reporting period as a result of becoming a member of a rural health network (as defined in section 1820(g)) in the State in which it is located, and in incurring such increases, the hospital will increase its costs for subsequent cost reporting periods, the Secretary shall increase the hospital's target amount under subsection (b)(3)(C) to account for such incurred increases.".

(3) COVERAGE OF, AND PAYMENT FOR, INPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

(A) DEFINITIONS.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Rural Primary Care Hospital; Rural Primary Care Hospital Services

"(mm)(1) The term 'rural primary care hospital' means a facility designated by the Secretary as a rural primary care hospital under section 1820(i)(2).

"(2) The term 'inpatient rural primary care hospital services' means items and services, furnished to an inpatient of a rural primary care hospital by such a hospital, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.".

(B) COVERAGE AND PAYMENT.—(i) Section 1812(a)(1) of such Act (42 U.S.C. 1395d(a)(1)) is amended by inserting "and inpatient rural primary care hospital services" after "inpatient hospital services".

(ii) Section 1814(a) of such Act (42 U.S.C. 1395f(a)) is amended—

(I) by striking "and" at the end of paragraph (6),

(II) by striking the period at the end of paragraph (7) and inserting "; and", and

(III) by inserting after paragraph (7) the following new paragraph:

"(8) in the case of inpatient rural primary care hospital services, a physician certifies that such services were required to be immediately furnished on a temporary, inpatient basis.".

(iii) Section 1814 of such Act is further amended—

(I) in subsection (b), by inserting ", other than a rural primary care hospital providing inpatient rural primary care hospital services," after "providing hospice care", and

(II) by adding at the end the following new subsection:

"Payment for Inpatient Rural Primary Care Hospital Services

"(l)(1) The amount of payment under this part for inpatient rural primary care hospital services—

"(A) in the case of the first 12-month cost reporting period for which the facility operates as such a hospital, is the reasonable costs of the facility in providing inpatient rural primary care hospital services during

such period, as such costs are determined on a per diem basis, and

"(B) in the case of a later reporting period, is the per diem payment amount established under this paragraph for the preceding 12-month cost reporting period, increased by the applicable percentage increase under section 1886(b)(3)(B)(i) for that particular cost reporting period applicable to hospitals located in a rural area.

The payment amounts otherwise determined under this paragraph shall be reduced, to the extent necessary, to avoid duplication of any payment made under section 1820(a)(2) (or under section 4005(e) of the Omnibus Budget Reconciliation Act of 1987) to cover the provision of inpatient rural primary care hospital services.

"(2) The Secretary shall develop a prospective payment system for determining payment amounts for inpatient rural primary care hospital services under this part furnished on or after January 1, 1993.".

(C) TREATMENT OF RURAL PRIMARY CARE HOSPITALS AS PROVIDERS OF SERVICES.—(i) Section 1861(u) of such Act (42 U.S.C. 1395x(u)) is amended by inserting "rural primary care hospital," after "hospital,".

(ii) Section 1863 of such Act (42 U.S.C. 1395z) is amended by striking "and (jj)(3)" and inserting "(jj)(3), and (mm)(1)".

(iii) The first sentence of section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended by inserting ", a rural primary care hospital, as defined in section 1861(mm)(1)," after "1861(aa)(2)".

(iv) The third sentence of section 1865(a) of such Act (42 U.S.C. 1395bb(a)) is amended by striking "or 1861(dd)(2)" and inserting "1861(dd)(2), or 1861(mm)(1)".

(D) CONFORMING AMENDMENTS.—(i) Section 1128A(b)(1) of such Act (42 U.S.C. 1320a-7a(b)(1)) is amended by striking "hospital" and inserting "hospital or a rural primary care hospital".

(ii) Section 1128B(c) of such Act (42 U.S.C. 1320a-7b(c)) is amended by inserting "rural primary care hospital," after "hospital,".

(iii) Section 1134 of such Act (42 U.S.C. 1320b-4) is amended by striking "hospitals" each place it appears and inserting "hospitals or rural primary care hospitals".

(iv) Section 1138(a)(1) of such Act (42 U.S.C. 1320b-8(a)(1)) is amended by striking "hospital" each place it appears in the matter preceding clause (i) of subparagraph (A) and inserting "hospital or rural primary care hospital".

(v) Section 1164(e) of such Act (42 U.S.C. 1320c-13(e)) is amended by inserting "rural primary care hospitals," after "hospitals,".

(vi) Section 1816(c)(2)(C) of such Act (42 U.S.C. 1395h(c)(2)(C)) is amended by inserting "rural primary care hospital," after "hospital,".

(vii) Section 1833 of such Act (42 U.S.C. 1395l) is amended—

(I) in subsection (h)(5)(A)(iii), by striking "hospital," each place it appears and inserting "hospital or a rural primary care hospital,";

(II) in subsection (i)(1)(A), by inserting ", rural primary care hospital," after "1832(a)(2)(F)(i))";

(III) in subsection (i)(3)(A), by inserting "or rural primary care hospital services" after "facility services";

(IV) in subsection (l)(5)(A), by inserting "rural primary care hospital," after "hospital,"; and

(V) in subsection (l)(5)(C), by striking "hospital" each place it appears and inserting "hospital or rural primary care hospital".

(viii) Section 1835(c) of such Act (42 U.S.C. 1395n(c)) is amended by adding at the end the following: "A rural primary care hospital shall be considered a hospital for purposes of this subsection.".

(ix) Section 1842(b)(6)(A)(ii) of such Act (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by inserting "rural primary care hospital," after "hospital,".

(x) Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(I) in subsection (e), by adding at the end the following: "The term 'hospital' does not include, unless the context otherwise requires, a rural primary care hospital (as defined in section 1861(mm)(1)).",

(II) in subsection (w)(1), by inserting "rural primary care hospital," after "hospital,", and

(III) in subsection (w)(2), by striking "hospital" each place it appears and inserting "hospital or rural primary care hospital".

(xi) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by striking "hospital" each place it appears and inserting "hospital or rural primary care hospital".

(xii) Section 1866(a)(1) of such Act (42 U.S.C. 1395cc(a)(1)) is amended—

(I) in subparagraph (F)(ii), by inserting "rural primary care hospitals," after "hospitals,";

(II) in subparagraph (H), by inserting after "this title" the first place it appears the following: "and in the case of rural primary care hospitals which provide rural primary care hospital services";

(III) in subparagraph (I), by inserting "and in the case of a rural primary care hospital" after "hospital"; and

(IV) in subparagraph (N), by striking "hospitals" and "hospital," and inserting "hospitals and rural primary care hospitals" and "hospital or rural primary care hospital,", respectively.

(xiii) Section 1866(a)(3) of such Act (42 U.S.C. 1395cc(a)(3)) is amended—

(I) by striking "hospital," each place it appears in subparagraphs (A) and (B) and inserting "hospital, rural primary care hospital,", and

(II) in subparagraph (C)(ii)(II), by striking "facilities" each place it appears and inserting "facilities, rural primary care hospitals,".

(xiv) Section 1867(e) of such Act (42 U.S.C. 1395dd(e)), as amended by section 10155(h)(1)(E), is amended by adding at the end the following new paragraph:

"(5) The term 'hospital' includes a rural primary care hospital (as defined in section 1861(mm)(1)).".

(4) AVOIDING DUPLICATIVE PAYMENTS TO HOSPITALS PARTICIPATING IN RURAL DEMONSTRATION PROGRAMS.—Section 1886 of such Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(i) AVOIDING DUPLICATIVE PAYMENTS TO HOSPITALS PARTICIPATING IN RURAL DEMONSTRATION PROGRAMS.—The Secretary shall reduce any payment amounts otherwise determined under this section to the extent necessary to avoid duplication of any payment made under section 1820(a)(2) or under section 4005(e) of the Omnibus Budget Reconciliation Act of 1987.".

(i) STUDY OF DIFFERENCES IN STANDARDIZED AMOUNTS UNDER THE PROSPECTIVE PAYMENT SYSTEM.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study analyzing the differences in the standardized amounts computed under section 1886(d)(3) of the Social Security Act among large urban, other urban, and rural areas, and evaluating whether the differences in the amounts among such areas could be eliminated by expanding or revising the current method used to determine or update such amounts.

(2) REPORT.—Not later than October 1, 1990, the Secretary shall submit a report to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Prospective Payment Assessment Commission on the study conducted under paragraph (1) and shall include in the report—

(A) recommendations regarding the establishment of a single national rate for determining payments to hospitals for the operating costs of inpatient hospital services under title XVIII of the Social Security Act,

(B) recommendations regarding the need for appropriate adjustments in such rate to reflect the severity of illness among patients classified in the same diagnosis-related group or to reflect other differences in costs within a diagnosis-related group, and

(C) such other recommendations as the Secretary deems appropriate.

(3) EVALUATION BY PROPAC.—Not later than April 1, 1991, the Prospective Payment Assessment Commission shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate evaluating the Secretary's recommendations included in the report submitted under paragraph (2).

(j) UNIFORM REPORTING REQUIREMENTS FOR CERTAIN HOSPITALS.—

(1) REQUIREMENTS.—Each hospital described in paragraph (2) shall, in accordance with the uniform system for reporting by medicare participating hospitals developed by the Secretary of Health and Human Services under section 4007(c) of the Omnibus Budget Reconciliation Act of 1987, report the information described in paragraph (2) of such section to the Secretary.

(2) HOSPITALS SUBJECT TO REQUIREMENT.—Each of the following hospitals is subject to the requirement of paragraph (1):

(A) A hospital receiving an additional payment under section 1886(d)(5)(F) of the Social Security Act (relating to payments to disproportionate share hospitals).

(B) A hospital classified by the Secretary of Health and Human Services as a sole community hospital under section 1886(d)(5)(D) of such Act (as amended by subsection (f)(1)).

(C) A hospital classified by the Secretary as a rural referral center under section 1886(d)(5)(C) of such Act.

(D) A hospital designated by the Secretary as an essential access community hospital under section 1820(i)(1) (as added by subsection (h)).

(3) EFFECTIVE DATE.—The requirement of paragraph (1) shall apply to hospitals with respect to cost reporting periods beginning on or after October 1, 1989.

SEC. 10103. PPS-EXEMPT HOSPITALS.

(a) EXEMPTION OF CANCER HOSPITALS FROM PROSPECTIVE PAYMENT SYSTEM.—

(1) IN GENERAL.—Section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)) is amended—

(A) in clause (iii), by striking "or";

(B) in clause (iv), by striking the semicolon at the end and inserting ", or"; and

(C) by inserting after clause (iv) the following new clause:

"(v) a hospital that the Secretary has classified, at any time on or before December 31, 1990, for purposes of applying exceptions and adjustments to payment amounts under this subsection, as a hospital involved extensively in treatment for or research on cancer;".

(2) CONFORMING AMENDMENT.—Section 1886(d)(5)(H) of such Act (as redesignated by section 10102(f)(1)(B)) is amended by striking "(including" and all that follows through "cancer)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to cost reporting periods beginning on or after October 1, 1989, except that—

(A) in the case of a hospital classified by the Secretary of Health and Human Services as a hospital involved extensively in treatment for or research on cancer under section 1886(d)(5)(H) of the Social Security Act (as redesignated by section 10102(f)(1)(A)) after the date of the enactment of this Act, such amendments shall apply with respect to cost reporting periods beginning on or after the date of such classification,

(B) in the case of a hospital that is not described in subparagraph (A), such amendments shall apply with respect to portions of cost reporting periods or discharges occurring during and after fiscal year 1987 for purposes of section 1886(g) of the Social Security Act, and

(C) such amendments shall take effect 30 days after the date of the enactment of this Act for purposes of determining the eligibility of a hospital to receive periodic interim payments under section 1815(e)(2) of the Social Security Act.

(b) REBASING FOR CERTAIN NON-PPS HOSPITALS.—

(1) IN GENERAL.—Section 1886(b)(3) of such Act (42 U.S.C. 1395ww(b)(3)), as amended by section 10102(f)(1)(B), is amended—

(A) in subparagraph (A), by striking "subparagraph (C)" and inserting "subparagraphs (C) and (D)",

(B) in subparagraph (B)(ii), by striking "For purposes of subparagraph (A)" and inserting "For purposes of subparagraphs (A) and (D)", and

(C) by adding at the end the following new subparagraph:

"(D) In the case of a hospital described in clause (v) of subsection (d)(1)(B), the term 'target amount' means—

"(i) with respect to the first 12-month cost reporting period in which this subparagraph is applied to the hospital—

"(I) the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital for the 12-month cost reporting period (in this subparagraph referred to as the 'base cost reporting period') preceding the first cost reporting period for which this subsection was in effect with respect to such hospital, increased (in a compounded manner) by—

"(II) the sum of the applicable percentage increases applied to such hospital under this paragraph for cost reporting periods after the base cost reporting period and up to and including such first 12-month cost reporting period, or

"(ii) with respect to a later cost reporting period, the target amount for the preceding 12-month cost reporting period, increased by the applicable percentage increase under subparagraph (B)(ii) for that later cost reporting period.

There shall be substituted for the base cost reporting period described in clause (i) a hospital's cost reporting period (if any) beginning during fiscal year 1987 if such substitution results in an increase in the target amount for the hospital.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to cost reporting periods beginning on or after October 1, 1989.

(c) PUBLICATION OF INSTRUCTIONS RELATING TO EXCEPTIONS AND ADJUSTMENTS IN TARGET AMOUNTS.—By not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall publish instructions specifying the application process to be used in providing exceptions and adjustments under section 1886(b)(4)(A) of the Social Security Act.

Subpart 2—Other Provisions

SEC. 10111. PAYMENTS FOR HOSPICE CARE.

(a) INCREASE IN CURRENT RATES.—Section 1814(i)(1) of the Social Security Act (42 U.S.C. 1395f(i)(1)) is amended—

(A) in subparagraph (A), by inserting "and except as otherwise provided in this paragraph" after "1813(a)(4)", and

(B) by striking subparagraph (C) and inserting the following:

"(C)(i) With respect to routine home care and other services included in hospice care furnished during fiscal year 1990, the payment rates for such care and services shall be 120 percent of such rates in effect as of September 30, 1989.

"(ii) With respect to routine home care and other services included in hospice care furnished during a subsequent fiscal year, the payment rates for such care and services shall be the payment rates in effect under this subparagraph during the previous fiscal year increased by the market basket percentage increase (as defined in section 1886(b)(3)(B)(iii)) otherwise applicable to discharges occurring in the fiscal year.".

(b) STUDY OF METHODS TO COMPENSATE HOSPICES FOR HIGH-COST CARE.—

(1) STUDY.—The Secretary of Health and Human Services shall—

(A) conduct a study of high-cost hospice care provided to medicare beneficiaries under the medicare program, and evaluate the ability of hospice programs participating in the medicare program to provide such high-cost care to such patients, and

(B) based on such study, develop methods to compensate such programs for providing such high-cost care.

(2) REPORT TO CONGRESS.—Not later than October 1, 1990, the Secretary shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the study conducted under paragraph (1) and shall include in the report any recommendations developed by the Secretary to compensate hospice programs for providing high-cost hospice care to medicare beneficiaries.

SEC. 10112. MISCELLANEOUS AND TECHNICAL PROVISIONS RELATING TO PART A.

(a) HOSPITAL OBLIGATIONS WITH RESPECT TO TREATMENT OF EMERGENCY MEDICAL CONDITIONS AND INDIGENT CARE.—

(1) IN GENERAL.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(A) by amending subparagraph (I) to read as follows:

"(I) in the case of a hospital or rural primary care hospital—

"(i) to adopt and enforce a policy to ensure compliance with the requirements of section 1867,

"(ii) to maintain medical and other records related to individuals transferred to or from the hospital for a period of five years from the date of the transfer, and

"(iii) to maintain a list of physicians who are on call for duty after the initial examination to provide treatment necessary to stabilize an individual with an emergency medical condition;"; and

(B) in subparagraph (N)—

(i) by striking "and" at the end of clause (i),

(ii) by striking "and" at the end of clause (ii), and

(iii) by adding at the end the following new clauses:

"(iii) to post conspicuously in any emergency department a sign (in a form specified by the Secretary) specifying rights of individuals under section 1867 with respect to examination and treatment for emergency medical conditions and women in labor, and

"(iv) to post conspicuously (in a form specified by the Secretary) information indicating whether or not the hospital participates in the medicaid program under a State plan approved under title XIX, and".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the first day of the first month that begins more than 180 days after the date of the enactment of this Act, without regard to whether regulations to carry out such amendments have been promulgated by such date.

(3) GAO SURVEY OF TREATMENT OF MEDICAID-ELIGIBLE PATIENTS BY PARTICIPATING HOSPITALS.—

(A) SURVEY.—The Comptroller General shall determine, through a survey or other appropriate means, for each hospital participating in the medicare program—

(i) the hospital's policy regarding the treatment of individuals eligible for medicaid benefits, and

(ii) the percentage of the hospital's revenue that is attributable to medicaid payments.

(B) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the determinations made under subparagraph (A).

(4) DEVELOPMENT OF METHOD OF DETERMINING AMOUNT OF UNCOMPENSATED CARE.—Not later than 1 year after the date of the enactment of this Act, the Prospective Payment Assessment Commission shall, consistent with the definitions and treatment of bad debt and charity care developed by the Secretary of Health and Human Services under section 4007(c) of the Omnibus Budget Reconciliation Act of 1987, develop a method for determining the amount of uncompensated care provided by a hospital and submit a report describing such method to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(b) MEDICARE BUY-IN FOR CONTINUED BENEFITS FOR DISABLED INDIVIDUALS.—

(1) IN GENERAL.—Title XVIII of the Social Security Act is amended—

(A) in the heading of section 1818, by inserting "ELDERLY" after "UNINSURED", and

(B) by inserting after section 1818 the following new section:

"HOSPITAL INSURANCE BENEFITS FOR DISABLED INDIVIDUALS WHO HAVE EXHAUSTED OTHER ENTITLEMENT

"SEC. 1818A. (a) Every individual who—

"(1) has not attained the age of 65;

"(2)(A) has been entitled to benefits under this part under section 226(b), and

"(B)(i) continues to have the disabling physical or mental impairment on the basis of which the individual was found to be under a disability or to be a disabled qualified railroad retirement beneficiary, or (ii) is blind (within the meaning of section 216(i)(1)), but

"(C) whose entitlement under section 226(b) ends due solely to the individual having earnings that exceed the SGA amount (as defined in section 226(h)(6)(C)); and

"(3) is not otherwise entitled to benefits under this part,

shall be eligible to enroll in the insurance program established by this part.

"(b)(1) An individual may enroll under this section only in such manner and form as may be prescribed in regulations, and only during an enrollment period prescribed in or under this section.

"(2) The individual's initial enrollment period shall begin with the month in which the individual receives notice that the individual's entitlement to benefits under section 226(b) will end due solely to the individual having earnings that exceed the SGA amount (as defined in section 226(h)(6)(C)) and shall end 7 months later.

"(3) There shall be a general enrollment period during the period beginning on January 1 and ending on March 31 of each year (beginning with 1990).

"(c)(1) The period (in this subsection referred to as a 'coverage period') during which an individual is entitled to benefits under the insurance program under this part shall begin on whichever of the following is the latest:

"(A) In the case of an individual who enrolls under subsection (b)(2) before the month in which the individual first satisfies subsection (a), the first day of such month.

"(B) In the case of an individual who enrolls under subsection (b)(2) in the month in which he first satisfies subsection (a), the first day of the month following the month in which he so enrolls.

"(C) In the case of an individual who enrolls under subsection (b)(2) in the month following the month in which the individual first satisfies subsection (a), the first day of the second month following the month in which he so enrolls.

"(D) In the case of an individual who enrolls under subsection (b)(2) more than one month following the month in which the individual first satisfies subsection (a), the first day of the third month following the month in which he so enrolls.

"(E) In the case of an individual who enrolls under subsection (b)(3), the July 1 following the month in which the individual so enrolls.

"(2) An individual's coverage period under this section shall continue until the individual's enrollment is terminated as follows:

"(A) As of the month following the month in which the Secretary provides notice to the individual that the individual no longer meets the condition described in subsection (a)(2)(B).

"(B) As of the month following the month in which the individual files notice that the individual no longer wishes to participate in the insurance program established by this part.

"(C) As of the month before the first month in which the individual becomes eligible for hospital insurance benefits under section 226(a) or 226A.

"(D) As of a date, determined under regulations of the Secretary, for nonpayment of premiums.

The regulations under subparagraph (D) may provide a grace period of not longer than 90 days, which may be extended to not to exceed 180 days in any case where the Secretary determines that there was good cause for failure to pay the overdue premiums within such 90-day period. Termination of coverage under this section shall result in simultaneous termination of any coverage affected under any other part of this title.

"(3) The provisions of subsections (h) and (i) of section 1837 apply to enrollment and nonenrollment under this section in the same manner as they apply to enrollment and nonenrollment and special enrollment periods under section 1818.

"(d)(1)(A) Premiums shall be paid to the Secretary at such times, and in such manner, as the Secretary shall by regulations prescribe, and shall be deposited in the Treasury to the credit of the Federal Hospital Insurance Trust Fund.

"(B)(i) Subject to clause (ii), such premiums shall be payable for the period commencing with the first month of an individual's coverage period and ending with the month in which the individual dies or, if earlier, in which the individual's coverage period terminates.

"(ii) Such premiums shall not be payable for any month in which the individual is eligible for benefits under this part pursuant to section 226(b).

"(C) For purposes of applying section 1839(g) of this title and section 59B(f)(1)(B)(i) of the Internal Revenue Code of 1986, any reference to section 1818 shall be deemed to include a reference to this section.

"(2) The provisions of subsections (d) through (f) of section 1818 (relating to premiums) shall apply to individuals enrolled under this section in the same manner as they apply to individuals enrolled under that section.".

(2) NOTICE OF RIGHT.—Section 226(h) of such Act, as inserted by section 10061(c) of this title, is amended—

(A) by adding at the end of paragraph (3) the following new sentence: "Such notice shall also notify the individual of the individual's right to continue coverage under the medicare program through enrollment under section 1818A.", and

(B) by adding at the end of paragraph (4)(C) the following new sentence: "Such notice shall also notify the individual of the individual's right to continue coverage under the medicare program through enrollment under section 1818A.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act, but shall not apply so as to provide for coverage under part A of title XVIII of the Social Security Act for any month before July 1990.

(c) RELEASE AND USE OF HOSPITAL ACCREDITATION SURVEYS.—

(1) REQUIRING ALL INSTITUTIONS AND JCAHCO TO RELEASE SURVEYS TO SECRETARY.—Section 1865(a)(2) of the Social Security Act (42 U.S.C. 1395bb(a)(2)) is amended—

(A) by striking "(2) such institution" and inserting "(2)(A) such institution",

(B) by striking "(if it is included within a survey described in section 1864(c))",

(C) by striking the comma at the end and inserting the following: ", together with any other information directly related to the survey as the Secretary may require (including corrective action plans),", and

(D) by adding at the end the following new subparagraph:

"(B) such Commission releases such a copy and any such information to the Secretary,".

(2) AUTHORIZING SECRETARY TO RELEASE CERTAIN INFORMATION.—Section 1865(a) of such Act is further amended by striking the period at the end of the last sentence and inserting the following: ", except that the Secretary may disclose such a survey and information related to such a survey to the extent such survey and information relate to an enforcement action taken by the Secretary.".

(3) PERMITTING SECRETARY TO WITHDRAW HOSPITAL'S STATUS BASED UPON INFORMATION OTHER THAN SURVEYS.—Section 1865(b) of such Act is amended by striking "following a survey made pursuant to section 1864(c)".

(4) EFFECTIVE DATE.—(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect on the date of the enactment of this Act.

(B) The amendments made by paragraph (1) shall take effect 6 months after the date of the enactment of this Act.

(d) INTERMEDIATE SANCTIONS FOR PSYCHIATRIC HOSPITALS.—Section 1866 of such Act (42 U.S.C. 1395cc) is amended by adding at the end the following new subsection:

"(i)(1) If the Secretary determines that a psychiatric hospital which has an agreement in effect under this section no longer meets the requirements for a psychiatric hospital under this title and further finds that the hospital's deficiencies—

"(A) immediately jeopardize the health and safety of its patients, the Secretary shall terminate such agreement; or

"(B) do not immediately jeopardize the health and safety of its patients, the Secretary may terminate such agreement, or provide that no payment will be made under this title with respect to any individual admitted to such hospital after the effective date of the finding, or both.

"(2) If a psychiatric hospital, found to have deficiencies described in paragraph (1)(B), has not complied with the requirements of this title—

"(A) within 3 months after the date the hospital is found to be out of compliance with such requirements, the Secretary shall provide that no payment will be made under this title with respect to any individual admitted to such hospital after the end of such 3-month period, or

"(B) within 6 months after the date the hospital is found to be out of compliance with such requirements, no payment may be made under this title with respect to any individual in the hospital until the Secretary finds that the hospital is in compliance with the requirements of this title.".

(e) MEDICAL NECESSITY CERTIFICATION OF EXTENDED CARE SERVICES BY NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS.—Section 1814(a)(2) of such Act (42 U.S.C. 1395f(a)(2)) is amended, in the matter before subparagraph (A), by striking "a physician" and inserting "a physician (or, in the case of services described in subparagraph (B), a nurse practitioner or clinical nurse specialist working in collaboration with a physician)".

(f) ELIGIBILITY OF MERGED OR CONSOLIDATED HOSPITALS FOR PERIODIC INTERIM PAYMENTS.—

(1) IN GENERAL.—Section 1815(e) of such Act (42 U.S.C. 1395g(e)) is amended by adding at the end the following new paragraph:

"(4) A hospital created by the merger or consolidation of 2 or more hospitals or hospital campuses shall be eligible to receive periodic interim payment on the basis described in paragraph (1)(B) if—

"(A) at least one of the hospitals or campuses received periodic interim payment on such basis prior to the merger or consolidation; and

"(B) the merging or consolidating hospitals or campuses would each meet the requirement of paragraph (1)(B)(i) if such hospitals or campuses were treated as independent hospitals for purposes of this title.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to payments made for discharges occurring on or after October 1, 1989, regardless of the date of the merger or consolidation involved.

(g) EXTENSION OF WAIVER FOR FINGER LAKES AREA HOSPITAL'S CORPORATION.—Section 1886(c)(4) of such Act (42 U.S.C. 1395ww(c)(4)) is amended in the second sentence by striking "the aggregate payment or payments" and all that follows and inserting "the aggregate rate of increase from October 1, 1984, to the most recent date for which annual data are available.".

(h) CLARIFICATION OF CONTINUATION OF AUGUST 1987 HOSPITAL BAD DEBT RECOGNITION POLICY.—

(1) IN GENERAL.—Section 4008(c) of the Omnibus Budget Reconciliation Act of 1987 is amended by adding at the end the following: "The Secretary may not require a hospital to change its bad debt collection policy if a fiscal intermediary, in accordance with the rules in effect as of August 1, 1987, with respect to criteria for indigency determination procedures, record keeping, and determining whether to refer a claim to an external collection agency, has accepted such policy before that date, and the Secretary may not collect from the hospital on the basis of an expectation of a change in the hospital's collection policy.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(i) USE OF MORE RECENT DATA REGARDING ROUTINE SERVICE COSTS OF SKILLED NURSING FACILITIES.—The Secretary of Health and Human Services shall determine mean per diem routine service costs for freestanding and hospital based skilled nursing facilities under section 1888(a) of the Social Security Act for cost reporting periods beginning on or after October 1, 1989, in accordance with regulations published by the Secretary that require the use of cost reports submitted by skilled nursing facilities for cost reporting periods beginning not earlier than October 1, 1985.

(j) PERMITTING DENTIST TO SERVE AS HOSPITAL MEDICAL DIRECTOR.—Notwithstanding the requirement that the responsibility for organization and conduct of the medical staff of an institution be assigned only to a doctor of medicine or osteopathy in order for the institution to participate as a hospital under the medicare program, an institution that has a doctor of dental surgery or of dental medicine serving as its medical director shall be considered to meet such requirement if the laws of the State in which the institution is located permit a doctor of dental surgery or of dental medicine to serve as the medical staff director of a hospital.

(k) GAO STUDY OF HOSPITAL-BASED AND FREESTANDING SKILLED NURSING FACILITIES.—

(1) STUDY.—The Comptroller General shall conduct a study to assess the differences in costs and case-mix between hospital-based and freestanding skilled nursing facilities participating in the medicare program.

(2) REPORT.—By not later than June 1, 1990, the Comptroller General shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the study conducted under paragraph (1) and shall include in the report any recommendations, including recommendations regarding the payment differential between hospital-based and freestanding skilled nursing facilities, the Comptroller General considers appropriate.

PART B—PROVISIONS RELATING TO PART B OF MEDICARE

Subpart 1—Payment for Physicians' Services

SEC. 10121. REDUCTION IN PAYMENTS FOR CERTAIN PROCEDURES.

(a) REDUCTION IN PAYMENTS FOR IDENTIFIED OVERPRICED PROCEDURES.—

(1) IN GENERAL.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(14)(A) In determining the reasonable charge for a physicians' service specified in subparagraph (C)(i) and furnished during the 9-month period beginning on April 1, 1990, the prevailing charge for such service shall be the prevailing charge otherwise recognized for such service for 1989 reduced by 15 percent or, if less, ½ of the percent (if any) by which the prevailing charge otherwise applied in the locality in 1989 exceeds the locally-adjusted reduced prevailing amount (as determined under subparagraph (B)(i)) for the service.

"(B) For purposes of this paragraph:

"(i) The 'locally-adjusted reduced prevailing amount' for a locality for a physicians' service is equal to the product of (I) the reduced national weighted average prevailing charge for the service (specified under clause (ii)) and (II) the adjustment factor (specified under clause (iii) for the locality.

"(ii) The 'reduced national weighted average prevailing charge' for a physicians' service is equal to the national weighted average prevailing charge for the service (specified under subparagraph (C)(ii)) reduced by the percentage change (specified under subparagraph (C)(iii)) for the service.

"(iii) The 'adjustment factor' for a locality is .54 plus the product of .46 and the geographic practice cost index value (specified under subparagraph (C)(iv)) for the locality.

"(C) For purposes of this paragraph:

"(i) The physicians' services specified in this clause are the physicians' services specified in the Appendix A of the explanation of subtitle B of title X (Committee on Ways and Means) contained in the report of the Committee on the Budget, House of Representatives, to accompany H.R. (the 'Omnibus Budget Reconciliation Act of 1989'), 101st Congress, which specification is of physicians' services that have been identified as overpriced by at least 15 percent based on a comparison of payments for such services under a resource-based relative value scale and of the national average prevailing charges under this part.

"(ii) The 'national weighted average prevailing charge' specified in this clause, for a physicians' service specified in clause (i), is the national weighted average prevailing charge for the service in 1989 as determined by the Secretary using the best data available.

"(iii) The 'percent change' specified in this clause, for a physicians' service specified in clause (i), is the percent change specified for the service in the Appendix referred in clause (i).

"(iv) The geographic practice cost index value specified in this clause for a locality is such value specified for the locality in the Appendix referred to in clause (i).

"(D) In the case of a reduction in the prevailing charge for a physicians' service under subparagraph (A), if a nonparticipating physician furnishes the service to an individual entitled to benefits under this part, after the effective date of such reduction, the physician's actual charge is subject to a limit under subsection (j)(1)(D).".

(2) SPECIAL LIMITS ON ACTUAL CHARGES.—Section 1842(j)(1)(D) of such Act is amended—

(A) in clause (ii)(II), by inserting "or (b)(14)(A)" after "(b)(10)(A)", and

(B) in clause (iii)(II), by striking "or (b)(11)(C)(i)" and inserting "(b)(11)(C)(i), or (b)(14)(A)".

(b) REDUCTIONS IN PAYMENTS FOR RADIOLOGY SERVICES.—

(1) REDUCTION IN CONVERSION FACTORS IN LOCALITIES UNDER FEE SCHEDULES.—Section 1834(b)(4) of such Act (42 U.S.C. 1395m(b)(4)) is amended—

(A) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) UPDATING FOR 1990.—

"(i) IN GENERAL.—Subject to clause (ii), for radiologist services furnished during 1990 after March 31, the fee schedules shall be the fee schedules established for 1989.

"(ii) REDUCTION IN LOCAL CONVERSION FACTORS.—If the conversion factor for a locality otherwise applied under this subsection for services furnished during 1990 after March 31 (taking into account clause (i)) (in this clause referred to as the 'base conversion factor') exceeds the locally-adjusted conversion factor (as determined under clause (iii)) for the locality, the conversion factor shall be reduced to such locally-adjusted conversion factor, except that in no case shall such reduction exceed 15 percent of the amount of the base conversion factor. However, such reduction shall not apply to portable xray services.

"(iii) LOCALLY-ADJUSTED CONVERSION FACTOR.—For purposes of clause (ii), the locally-adjusted conversion factor for a locality is equal to the product of—

"(I) 92 percent of the national weighted average conversion factor for services furnished in 1989 (as estimated by the Secretary based on the best data available), and

"(II) the adjustment factor (specified under section 1842(b)(14)(B)(iii)) for the locality.".

(2) REDUCTIONS IN PREVAILING CHARGES FOR RADIOLOGY SERVICES NOT INCLUDED UNDER FEE SCHEDULES.—

(A) IN GENERAL.—Section 1842(b) of such Act (42 U.S.C. 1395u(b)), as amended by subsection (a), is further amended by adding at the end the following new paragraph:

"(15)(A) In determining the reasonable charge for radiology services (other than radiologist services as defined in section 1834(b)(6)) furnished during the 9-month period beginning on April 1, 1990, the prevailing charge for such services may not

exceed the fee schedule amount for the services (determined under section 1834(b)).

"(B) In the case of a limitation on a prevailing charge for a radiology service under subparagraph (A), if a nonparticipating physician furnishes the service to an individual entitled to benefits under this part, after the effective date of such limitation, the physician's actual charge is subject to a limit under subsection (j)(1)(D).".

(B) SPECIAL LIMITS ON ACTUAL CHARGES.—Section 1842(j)(1)(D) of such Act, as amended by subsection (a)(2) of this section, is further amended—

(i) in clause (ii)(IV), by inserting "or (b)(15)(A)" before the comma at the end, and

(ii) in clause (iii)(II), by striking "or (b)(14)(A)" and inserting "(b)(14)(A), or (b)(15)(A)".

(3) STUDY OF PAYMENT FOR PORTABLE XRAY SERVICES.—The Secretary of Health and Human Services shall conduct a study of the costs of furnishing, and payments for, portable xray services under part B of title XVIII of the Social Security Act. Not later than 1 year after the date of the enactment of this Act, the Secretary shall report to Congress on the results of such study and shall include a recommendation respecting whether payment for such services should be made in the same manner as for radiologists' services or on the basis of a separate fee schedule.

(c) COUNTING ACTUAL TIME UNITS FOR ANESTHESIOLOGY SERVICES AND CODIFICATION OF PREVIOUS AUTHORITY.—Section 1842 of such Act (42 U.S.C. 1395u) is amended by adding at the end the following new subsection:

"(q)(1) The Secretary, in consultation with groups representing physicians who furnish anesthesia services, shall establish by regulation a relative value guide for use in all carrier localities in making payment for physician anesthesia services furnished under this part. Such guide shall be designed so as to result in expenditures under this title for such services in an amount that would not exceed the amount of such expenditures which would otherwise occur.

"(2) For purposes of payment for anesthesia services (whether furnished by physicians or by certified registered nurse anesthetists) under this part, the time units shall be counted based on actual time rather than rounded to full time units.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after April 1, 1990. The addition of subsection (q)(1) to section 1842 of the Social Security Act (by the amendment made by subsection (c)) shall not be construed as requiring the Secretary of Health and Human Services to establish a relative value guide other than the one established under section 4048(b) of the Omnibus Budget Reconciliation Act of 1987.

SEC. 10122. REDUCTION IN PERCENTAGE INCREASE IN THE MEDICARE ECONOMIC INDEX.

(a) DELAYING MEI UPDATE UNTIL APRIL 1.—

(1) IN GENERAL.—Subject to the amendments made by this section, any increase or adjustment in prevailing or customary charges, fee schedule amounts, maximum allowable actual charges, and other limits on actual charges with respect to physicians' services and other items and services described in paragraph (2) under part B of title XVIII of the Social Security Act which would otherwise occur as of January 1, 1990, shall be delayed so as to occur as of April 1, 1990, and, notwithstanding any other provision of law, the amount of payment under such part for such items and services which are furnished during the period beginning on January 1, 1990, and ending on March 31, 1990, shall be determined on the same basis as the amount of payment for such services furnished on December 31, 1989.

(2) ITEMS AND SERVICES COVERED.—The items and services described in this paragraph are items and services (other than ambulance services) for which payment is made under part B of title XVIII of the Social Security Act on the basis of reasonable charge or on the basis of a fee schedule if the fee schedule is subject to an annual adjustment based on the percentage increase in the MEI (as defined in section 1842(i)(3) of such Act).

(3) EXTENSION OF PARTICIPATION AGREEMENTS AND RELATED PROVISIONS.—Notwithstanding any other provision of law—

(A) subject to the last sentence of this paragraph, each participation agreement in effect on December 31, 1989, under section 1842(h)(1) of the Social Security Act shall remain in effect for the 3-month period beginning on January 1, 1990;

(B) the effective period for such agreements under such section entered into for 1990 shall be the 9-month period beginning on April 1, 1990, and the Secretary shall provide an opportunity for physicians and suppliers to enroll as participating physicians and suppliers before April 1, 1990;

(C) instead of publishing, under section 1842(h)(4) of the Social Security Act, at the beginning of 1990, directories of participating physicians and suppliers for 1990, the Secretary shall provide for such publication, at the beginning of the 9-month period beginning on April 1, 1990, of such directories of participating physicians and suppliers for such period; and

(D) instead of providing to nonparticipating physicians under section 1842(b)(3)(G) of the Social Security Act at the beginning of 1990, a list of maximum allowable actual charges for 1990, the Secretary shall provide, at the beginning of the 9-month period beginning on April 1, 1990, such physicians such a list for such 9-month period.

An agreement with a participating physician or supplier described in subparagraph (A) in effect on December 31, 1989, under section 1842(h)(1) of the Social Security Act shall not remain in effect for the period described in subparagraph (A) if the participating physician or supplier requests on or before December 31, 1989, that the agreement be terminated.

(b) PERCENTAGE INCREASE IN MEI FOR 1990.—Section 1842(b)(4)(E) of the Social Security Act (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end the following new clause:

"(iv) For purposes of this part for items and services furnished in 1990, after March 31, 1990, the percentage increase in the MEI is—

"(I) 0 percent for radiology services, for anesthesiology services, and for other services specified in Appendix A of the explanation of subtitle B of title X (Committee on Ways and Means) contained in the report of the Committee on the Budget, House of Representatives, to accompany H.R. (the 'Omnibus Budget Reconciliation Act of 1989'), 101st Congress,

"(II) 2 percent for other services (other than primary care services), and

"(III) such percentage increase in the MEI (as defined in subsection (i)(3)) as would be otherwise determined for primary care services (as defined in subsection (i)(4)).".

SEC. 10123. PHYSICIAN PAYMENT REFORM.

(a) IN GENERAL.—Part B of title XVIII of the Social Security Act is amended by adding at the end the following new section:

"PAYMENT FOR PHYSICIANS' SERVICES BASED ON A RESOURCE-BASED RELATIVE VALUE FEE SCHEDULE

"SEC. 1848. (a) PAYMENT BASED ON RELATIVE VALUE FEE SCHEDULE.—

"(1) IN GENERAL.—Effective for all physicians' services (as defined in subsection (j)(3)) furnished under this part during a year (beginning with 1991, but only including, for 1991, services furnished on or after October 1), for which payment is otherwise made on the basis of a reasonable charge or on the basis of a fee schedule under section 1834(b), payment under this part shall instead be based on the lesser of—

"(A) the actual charge for the service, or

"(B) subject to paragraphs (2) and (3), the amount determined under the fee schedule established under subsection (b) for services furnished for any period during that year (in this subsection referred to as the 'fee schedule amount').

"(2) LIMITING REDUCTIONS AND INCREASES TO 15 PERCENT IN ANY YEAR.—

"(A) LIMIT ON INCREASES.—Subject to paragraph (3), in the case of a service in a locality (as defined in subparagraph (C)(ii)) for which the historical payment basis (as defined in subparagraph (C)(i)) is less than 85 percent of the fee schedule amount for 1991—

"(i) for services furnished in 1991 or 1992, there shall be substituted for the fee schedule amount 115 percent of the historical payment basis, and

"(ii) for services furnished in 1993, 1994, or 1995, there shall be substituted for the fee schedule amount 115 percent of the amount substituted under this subparagraph for services furnished in the previous year, but in no case shall the amount substituted under this clause exceed the fee schedule amount otherwise applicable.

"(B) LIMIT IN REDUCTIONS.—Subject to paragraph (3), in the case of a service in a locality for which the historical payment basis exceeds 115 percent of the fee schedule amount for 1991—

"(i) for services furnished in 1991 or 1992, there shall be substituted for the fee schedule amount 85 percent of the historical payment basis, and

"(ii) for services furnished in 1993, 1994, or 1995, there shall be substituted for the fee schedule amount 85 percent of the amount substituted under this subparagraph for services furnished in the previous year, but in no case shall the amount substituted under this clause be less than the fee schedule amount otherwise applicable.

"(C) DEFINITIONS.—In this paragraph:

"(i) HISTORICAL PAYMENT BASIS.—The term 'historical payment basis' means, with respect to a physicians' service furnished in a locality, the weighted average prevailing charge applied in the locality for the service in 1991 (as determined by the Secretary without regard to physician specialty and as adjusted to reflect payments for services with charges below the prevailing charge).

"(ii) LOCALITY.—The term 'locality' means such an area established under section 1842(b), as of the date of the enactment of this section, for purposes of payment for physicians' services under this part.

"(3) DIFFERENTIAL FOR NONPARTICIPATING PHYSICIANS.—In applying paragraph (1)(B) in the case of a nonparticipating physician, the fee schedule amount (or the amount

substituted for such amount under paragraph (2)) shall be 95 percent of such amount otherwise determined.

"(b) ESTABLISHMENT OF NATIONAL FEE SCHEDULE.—

"(1) IN GENERAL.—The Secretary shall establish, by not later than October 1, 1991, a fee schedule that establishes payment amounts for all physicians' services furnished in all physician payment areas (as defined in subsection (j)(2)) in a year. Except as provided in paragraphs (2) and (3), each such payment amount shall be equal to the sum of the following 3 amounts:

"(A) WORK PAYMENT AMOUNT.—An amount equal to the product of—

"(i) the number of work relative value units for the service (determined under subsection (c)(2)(A)), and

"(ii) the work conversion factor established under subsection (d) for the year for the category of services.

"(B) OVERHEAD PAYMENT AMOUNT.—An amount equal to the product of—

"(i) the number of overhead relative value units for the service (determined under subsection (c)(2)(B)),

"(ii) the overhead conversion factor established under subsection (d) for the year for the category of services, and

"(iii) the geographic overhead index value (established under subsection (e)(1)) for services furnished in the payment area.

"(C) MALPRACTICE PAYMENT AMOUNT.—An amount equal to the product of—

"(i) the number of malpractice relative value units for the service (determined under subsection (c)(2)(C)),

"(ii) the malpractice conversion factor established under subsection (d) for the year for the category of services, and

"(iii) the geographic malpractice index value (established under subsection (e)(2)) for services furnished in the payment area.

"(2) TREATMENT OF RADIOLOGIST SERVICES AND ANESTHESIA SERVICES.—With respect to radiologist services for which payment may (but for this section) be made under section 1834(b) and anesthesia services for which a relative value guide has been established under section 4048(b) of the Omnibus Budget Reconciliation Act of 1987, the Secretary may waive the application of paragraph (1) or adjust the application of such paragraph in a manner so as to take into account the special schedules and guide developed for payment for such services.

"(c) DETERMINATION OF RELATIVE VALUE UNITS FOR COMPONENTS OF PHYSICIAN'S SERVICES.—

"(1) DIVISION OF PHYSICIANS' SERVICES INTO COMPONENTS.—In this section, with respect to a physician's service:

"(A) WORK COMPONENT DEFINED.—The term 'work component' means the portion of the resources used in furnishing the service that reflects physician time and intensity in furnishing the service. Such portion shall—

"(i) include activities before and after direct patient contact, and

"(ii) be defined, with respect to surgical procedures, to reflect a global definition including pre-operative and post-operative physicians' services.

"(B) OVERHEAD COMPONENT DEFINED.—The term 'overhead component' means the portion of the resources used in furnishing the service that reflects the overhead (as defined by the Secretary), other than overhead associated with malpractice expenses, in furnishing the service.

"(C) MALPRACTICE COMPONENT DEFINED.—The term 'malpractice component' means the portion of the resources used in furnishing the service that reflects malpractice expenses in furnishing the service.

"(2) DETERMINATION OF RELATIVE VALUE UNITS FOR EACH COMPONENT.—

"(A) IN GENERAL.—Subject to paragraph (3), for purposes of this section for each physician's service—

"(i) WORK RELATIVE VALUE UNITS.—The Secretary shall determine a number of work relative value units for the service based on the relative resources incorporating physician time and intensity required in furnishing the service.

"(ii) OVERHEAD RELATIVE VALUE UNITS.—The number of overhead relative value units is equal to the product of—

"(I) the base allowed charges (as defined in subparagraph (D)) for the service, and

"(II) the overhead percentage for the service (as determined under paragraph (4)(C)(ii)).

"(iii) MALPRACTICE RELATIVE VALUE UNITS.—The number of malpractice relative value units is equal to the product of—

"(I) the base allowed charges (as defined in subparagraph (D)) for the service, and

"(II) the malpractice percentage for the service (as determined under paragraph (4)(C)(iii)).

"(B) EXTRAPOLATION.—The Secretary may use extrapolation and other techniques to determine the number of relative value units for low volume services and other services for which adequate data are not available, and to determine practice costs for specialties for which adequate practice cost data are not available.

"(C) ANCILLARY POLICIES.— The Secretary may establish ancillary policies (such as regarding the use of modifiers and local codes) as may be required to implement this subsection.

"(D) BASE ALLOWED CHARGES DEFINED.—In this paragraph, the term 'base allowed charges' means, with respect to a physician's service, the national average allowed charges for the service under this part for services furnished during the first 9 months of 1991, as estimated by the Secretary using the most recent data available, consistent with practice-cost data.

"(3) ADJUSTMENTS IN RELATIVE VALUE UNITS.—

"(A) IN GENERAL.—The Secretary may, from time to time, provide for the adjustment of the relative value units established under paragraph (2) to take into account changes in medical practice, coding changes, or new data on relative value components.

"(B) ADJUSTMENT FOR CERTAIN SERVICES.—The relative value units otherwise established under paragraph (2) are subject to adjustment by the Secretary under subsection (d)(2)(D) (to take into account excessive growth in volume and intensity or inadequate access).

"(4) COMPONENT PERCENTAGES.—For purposes of paragraph (2), for each physician's service or class of physicians' services, the Secretary shall determine a work percentage, an overhead percentage, and a malpractice percentage as follows:

"(A) DIVISION OF SERVICES BY SPECIALTY.—For each physician's service or class of physicians' services, the Secretary shall determine the average percentage of each such service or class of services that is performed, nationwide, under this part by physicians in each of the different physician specialties (as identified by the Secretary).

"(B) DIVISION OF SPECIALTY BY COMPONENT.—The Secretary shall determine the average percentage division of resources, among the work component, the overhead component, and the malpractice component, used by physicians in each of such specialties in furnishing physicians' services. Such percentages shall be based on national data that describe the elements of physician practice costs and revenues, by physician specialty.

"(C) DETERMINATION OF COMPONENT PERCENTAGES.—

"(i) WORK PERCENTAGE.—The work percentage for a service (or class of services) is equal to the sum (for all physician specialties) of—

"(I) the average percentage division for the work component for each physician specialty (determined under subparagraph (B)), multiplied by

"(II) the proportion (determined under subparagraph (A)) of such service (or services) performed by physicians in that specialty.

"(ii) OVERHEAD PERCENTAGE.—The overhead percentage for a service (or class of services) is equal to the sum (for all physician specialties) of—

"(I) the average percentage division for the overhead component for each physician specialty (determined under subparagraph (B)), multiplied by

"(II) by the proportion (determined under subparagraph (A)) of such service (or services) performed by physicians in that specialty.

"(iii) MALPRACTICE PERCENTAGE.—The malpractice percentage for a service (or class of services) is equal to the sum (for all physician specialties) of—

"(I) the average percentage division for the malpractice component for each physician specialty (determined under subparagraph (B)), multiplied by

"(II) by the proportion (determined under subparagraph (A)) of such service (or services) performed by physicians in that specialty.

"(D) PERIODIC RECOMPUTATION.—The Secretary may, from time to time, provide for the recomputation of work percentages, overhead percentages, and malpractice percentages determined under this paragraph.

"(5) CODING.—The Secretary shall establish a uniform procedure coding system for the coding of all physicians' services. The Secretary shall provide for an appropriate coding structure for visits and consultations. Such structure may incorporate the use of time in the coding for visits and consultations.

"(6) NO VARIATION FOR SPECIALISTS.—The Secretary may not vary the number of relative value units and conversion factors for the same physicians' service based on whether the physician furnishing the service is a specialist or based on the type of specialty of the physician.

"(d) ESTABLISHMENT OF CONVERSION FACTORS.—

"(1) FACTORS FOR 1991.— The Secretary shall, by not later than September 1, 1991, establish (and report to Congress concerning) the conversion factors to be used under subsection (b)(1)(A) for categories of services furnished on or after October 1, 1991. The conversion factors for each component shall be established in a manner so that the aggregate amount of payments under this part for each component of physicians' services furnished under this part during the last 3 months of 1991 will be the same as the aggregate amount of payments under this part for that component of such services if this section had not applied.

"(2) CHANGE IN CONVERSION FACTORS FOR SUBSEQUENT YEARS.—

"(A) INITIAL RECOMMENDATION.—By not later than February 1 of each year (beginning with 1991), the Secretary shall transmit to the Congress a recommendation on the appropriate change in the conversion factors for categories (as defined in subsection (j)(1)) of physicians' services to be applied in the following year. In making the recommendation, the Secretary shall consider the elements described in subclauses (I) and (II) of subparagraph (C)(ii), changes in volume or access to services, and such other factors as the Secretary deems appropriate. The Secretary also may recommend changes in the number of relative value units to be applied in the case of physicians' services (or classes of such services) for which the Secretary finds there has been an excessive growth in volume or intensity or inadequate access. In making recommendations for the conversion factors for a category of services, the Secretary shall consider how the rate of increase in expenditures under this part for such category of services compares to the target rate of increase in expenditures (as defined in subsection (f)(1)) for such category of services.

"(B) PHYSPRC REVIEW.—The Physician Payment Review Commission shall review the recommendation submitted under subparagraph (A) in a year and shall make its recommendation to Congress, by not later than May 1 of the year, respecting the changes in conversion factors (and any change in relative value units) for the following year.

"(C) PUBLICATION OF CONVERSION FACTORS.—

"(i) IN GENERAL.—The Secretary shall cause to have published in the Federal Register, during the first 15 days of November of each year (beginning with 1991), the conversion factors which will apply under subsection (b)(1)(A) in the following year for each category of physicians' services.

"(ii) COMPUTATION.—Unless Congress otherwise provides, such factor for a year (beginning in a fiscal year) for a category of services shall be the conversion factor established under this subsection for the previous year for such category of services—

"(I) increased by the Secretary's estimate of the percentage increase in the appropriate update index (as defined in clause (iii)) for that following year,

"(II) increased or decreased by the same percentage by which percentage increase in the actual expenditures for the category of physicians' services under this part for the previous fiscal year was less or greater, respectively, than the target rate of increase in expenditures (as defined in subsection (f)(1)) for such category of services for that previous fiscal year; and

"(III) increased or decreased by such amount as the Secretary determines to be necessary so as to offset, in the aggregate amount of payments made under this part, any decrease of increase, respectively, in the relative value units made under subparagraph (D).

"(iii) APPROPRIATE UPDATE INDEX DEFINED.—In this subparagraph, the term 'appropriate update index' means, for services for which prevailing charges in 1989 were subject to a limit under the fourth sentence of section 1842(b)(3), the medicare economic index (referred to in that sentence), and for other services, such index (such as the consumer price index) that was applicable under this part in 1989 to increases in the payment amounts recognized under this part with respect to such services.

"(D) CHANGES IN RELATIVE VALUE UNITS FOR SERVICES WITH EXCESS GROWTH IN VOLUME OR INTENSITY OR FOR INADEQUATE ACCESS.—In the publication under subparagraph (C), the Secretary may specify changes to be made in the relative value units for specific physicians' services (or classes of such services) for which the Secretary has determined that there has been an excessive growth of volume or intensity or inadequate access.

"(e) GEOGRAPHIC PRACTICE-COST INDEX (GPCI) VALUES FOR OVERHEAD AND MALPRACTICE.—The Secretary shall establish—

"(1) a geographic overhead index which establishes a numerical relationship between the costs of goods and services composing the overhead component in each physician payment area compared to the national average cost of such goods and services, and

"(2) a geographic malpractice index which establishes a numerical relationship between the costs of professional liability insurance in each physician payment area compared to the national average costs of professional liability insurance.

"(f) TARGET RATES OF INCREASE IN EXPENDITURES.—

"(1) FOR FISCAL YEAR 1990.—

"(A) IN GENERAL.—Subject to subparagraph (B), for purposes of this section, the 'target rate of increase in expenditures' for a category of services for fiscal year 1990 is equal to the Secretary's estimate of the current baseline percentage increase (as defined in subparagraph (C)(i)), reduced by the OBRA-1989 percentage savings (as defined in subparagraph (C)(ii)), and further reduced by ½ percentage point.

"(B) ADJUSTMENT FOR HMO ENROLLMENT.—The Secretary shall adjust the target rates of increase in expenditures under subparagraph (A) so as to reflect differences in the actual proportion of HMO enrollees (as defined in paragraph (6)(B)) in fiscal year 1990 compared to such proportion in fiscal year 1989.

"(C) DEFINITIONS.—In subparagraph (A):

"(i) CURRENT BASELINE PERCENTAGE INCREASE.—The term 'current baseline percentage increase' means, for a category of services, the Secretary's estimate (based on the law in effect before the enactment of the Omnibus Budget Reconciliation Act of 1989) of the percentage by which (I) the total actual expenditures under this part for such category of services furnished during fiscal year 1990, will exceed (II) the total actual expenditures under this part for such category of services furnished during fiscal year 1989.

"(ii) OBRA-1989 PERCENTAGE SAVINGS.—The term 'OBRA percentage savings' means, for a category of services, the Secretary's estimate of the percentage by which the current baseline percentage increase (as defined in clause (i)) exceeds such an increase if it were determined instead based on the law in effect after the enactment of the Omnibus Budget Reconciliation Act of 1989.

"(2) FOR SUBSEQUENT FISCAL YEARS.—

"(A) INITIAL RECOMMENDATION.—By not later than February 1 of each year (beginning with 1990), the Secretary shall transmit to the Congress a recommendation on the target rate of increase in expenditures for each category of services for the fiscal year beginning in such year. In making the recommendation, the Secretary shall confer with associations representing the major physician medical and surgical specialties and shall consider—

"(i) inflation,

"(ii) changes in numbers of enrollees (other than HMO enrollees) under this part,

"(iii) changes in the age composition of enrollees (other than HMO enrollees) under this part,

"(iv) changes in technology,

"(v) evidence of unnecessary utilization of services,

"(vi) evidence of lack of access to necessary physicians' services, and

"(vii) such other factors as the Secretary considers appropriate.

"(B) PHYSPRC REVIEW.—The Physician Payment Review Commission shall review the recommendation submitted during a year under subparagraph (A) and shall make its recommendation to Congress, by not later than May 1 of the year, respecting the target rates of increase in expenditures for the fiscal year beginning in that year.

"(C) PUBLICATION OF TARGET RATES.—The Secretary shall cause to have published in the Federal Register, in September of each year (beginning with 1990), the target rate of increase in expenditures for each category of services for the fiscal year beginning in that year. Unless Congress otherwise provides, each such rate shall be equal to the sum of—

"(i) the Secretary's estimate of the percentage increase or decrease, respectively, in the consumer price index for all urban consumers (U.S. city average) between the midpoint of the previous fiscal year to the midpoint of the fiscal year involved, and

"(ii) the Secretary's estimate of the percentage increase or decrease, respectively, in the average number of enrollees (other than HMO enrollees) under this part from the previous fiscal year to the fiscal year involved.

"(3) COMPUTATION OF TARGET RATES FOR SEPARATE CATEGORIES OF PHYSICIANS' SERVICES.—The Secretary shall determine a target rate of increase in expenditures separately for the category of surgical services and for the category of other physicians' services (or for such other categories of such other services as the Secretary deems appropriate).

"(4) MAINTAINING BUDGET BASELINE.—Notwithstanding any other provision of law, for purposes of determining budgetary baselines for all purposes, instead of using the target rate of increase in expenditures established under paragraph (2) for a category of service for a fiscal year, there shall be substituted the percentage by which (A) the total actual expenditures under this part for such category of services furnished during fiscal year, is estimated to exceed (B) the total actual expenditures under this part for such category of services furnished during the previous fiscal year.

"(5) MONTHLY REPORTING.—The Secretary shall establish procedures for providing, on a monthly basis to the Physician Payment Review Commission, the Congressional Budget Office, the Congressional Research Service, the Committees on Ways and Means and Energy and Commerce of the House of Representatives, and the Committee on Finance of the Senate, the information on physicians' services reported to the Secretary by carriers under section 1842(b)(3)(L).

"(6) DEFINITIONS.—In this subsection:

"(A) SERVICES INCLUDED IN PHYSICIANS' SERVICES.—The term 'physicians' services' includes other items and services (such as laboratory tests and x-rays), specified by the Secretary, that are commonly performed or furnished by a physician or in a physician's office, but does not include services fur-

nished to an HMO enrollee under a risk-sharing contract under section 1876.

"(B) HMO ENROLLEE.—The term 'HMO enrollee' means, with respect to a fiscal year, an individual enrolled under this part who is enrolled with an entity with a risk-sharing contract under section 1876 in the fiscal year.

"(g) LIMITATION ON BENEFICIARY LIABILITY.—

"(1) LIMITATION ON ACTUAL CHARGES FOR UNASSIGNED CLAIMS.—If a nonparticipating physician knowingly and willfully bills on a repeated basis for physicians' services (furnished with respect to an individual enrolled under this part on or after January 1, 1991) an actual charge in excess of the limiting charge described in paragraph (2) and for which payment is not made on an assignment-related basis under this part, the Secretary may apply sanctions against such physician in accordance with section 1842(j)(2).

"(2) LIMITING CHARGE DEFINED.—

"(A) FOR 1991.—For physicians' services of a physician furnished during 1991, the 'limiting charge' shall be the same percentage (or, if less, 25 percent) above the recognized payment amount under this part with respect to the physician (as a nonparticipating physician) as the percentage by which—

"(i) the maximum allowable actual charge (as determined under section 1842(j)(1)(C) as of December 31, 1990, or, if less, the maximum actual charge otherwise permitted for the service under this part as of such date) for the service of the physician, exceeds

"(ii) the recognized payment amount for the service of the physician (as a nonparticipating physician) as of such date.

"(B) FOR 1992.—For physicians' services furnished during 1992, the 'limiting charge' shall be the same percentage (or, if less, 20 percent) above the recognized payment amount under this part for nonparticipating physicians as the percentage by which—

"(i) the limiting charge (as determined under subparagraph (A) as of December 31, 1991) for the service, exceeds

"(ii) the recognized payment amount for the service for nonparticipating physicians as of such date.

"(C) AFTER 1992.—For physicians' services furnished in a year after 1992, the 'limiting charge' shall be 115 percent of the recognized payment amount under this part for nonparticipating physicians.

"(3) MONITORING.—

"(A) IN GENERAL.—The Secretary shall monitor—

"(i) the actual charges of nonparticipating physicians for physicians' services furnished on or after January 1, 1991, to individuals enrolled under this part, and

"(ii) changes (by specialty, type of service, and geographic area) in (I) the proportion of physicians' services provided under this part by participating physicians, (II) the proportion of such services for which payment is made under this part on an assignment-related basis, and (III) the amounts charged above the recognized payment amounts under this part.

"(B) REPORT.—The Secretary shall report annually to the Congress regarding the changes described in subparagraph (A)(ii).

"(C) PLAN.—If the Secretary finds that there has been a significant decrease in the proportions described in subclauses (I) and (II) of subparagraph (A)(ii) or an increase in the amounts described in subclause (III) of that subparagraph, the Secretary shall develop a plan to address such a problem and transmit to Congress recommendations regarding the plan. The Physician Payment Review Commission shall review the Secretary's plan and recommendations and transmit to Congress its comments regarding such plan and recommendations.

"(h) SENDING INFORMATION TO PHYSICIANS.—

"(1) FOR SERVICES IN 1991 AFTER OCTOBER 1.—The Secretary shall send to each physician furnishing physicians' services under this part information on—

"(A) the fee schedule amount (established under subsection (b)) for 1991, and

"(B) whether subsection (a)(2) applies,

for each of the physician's 30 most frequent physicians' services the physician furnishes under this part. The information shall also include an estimate of such fee schedule amounts that would apply, for each of such services in 1992 and 1993, if no adjustment were required by virtue of subsection (e). Information under this subparagraph shall be transmitted in conjunction with notices to physicians under section 1842(h) relating to the participating physician program for 1991.

"(2) FOR SERVICES IN SUBSEQUENT YEARS.—The Secretary shall provide, in conjunction with notices sent to physicians under section 1842(h) relating to the participating physician program for a year after 1991, information on the fee schedule amounts for the year for the physician's 30 most frequently furnished physicians' services and on whether subsection (a)(2) continues to apply with respect to payment for any of such services.

"(i) MISCELLANEOUS PROVISIONS.—

"(1) RESTRICTION ON ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1869 or otherwise of—

"(A) the determination of the historical payment basis (as defined in subsection (a)(2)(C)),

"(B) the determination of relative value units under subsection (c),

"(C) the determination of conversion factors under subsection (d),

"(D) the establishment of values in the geographic overhead index and the values in the geographic malpractice index under subsection (e), and

"(E) the establishment of the system for the coding of physicians' services under this section.

"(j) DEFINITIONS.—In this section:

"(1) CATEGORY.—The term 'category' means, with respect to physicians' services, surgical services and such other category of physicians' services as the Secretary deems, from time to time, appropriate.

"(2) PHYSICIAN PAYMENT AREA.—The term 'physician payment area' means (A) each urban area (as defined in paragraph (2)(D) of subsection (d) of section 1886) and (B) the rural area (as so defined) within each State.

"(3) PHYSICIANS' SERVICES.—The term 'physicians' services' does not include physicians' services of a physician not described in section 1861(r)(1), but includes items and services described in paragraphs (3) and (4) of section 1861(s) (other than clinical diagnostic laboratory tests) furnished in connection with physicians' services.".

(b) REPORTING REQUIREMENTS FOR CARRIERS.—Section 1842(b)(3) of such Act (42 U.S.C. 1395u(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (J), and

(2) by inserting after subparagraph (K) the following new subparagraph:

"(L) will report to the Secretary monthly on expenditures and volume of physicians' services (as defined in section 1848(f)(6)(A)), by category of services and physician specialty within each payment area; and".

(c) LIMITING BONUS PAYMENTS FOR SERVICES FURNISHED IN HEALTH MANPOWER SHORTAGE AREAS TO PRIMARY CARE SERVICES.—

(1) IN GENERAL.—Section 1833(m) of such Act (42 U.S.C. 1395l(m)) is amended by striking "physicians' services" and inserting "primary care services".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after the first date on which section 1848 of the Social Security Act applies to such services.

(d) STUDIES.—

(1) GAO STUDY OF ALTERNATIVE PAYMENT METHODOLOGY FOR MALPRACTICE COMPONENT.—

(A) The Comptroller General shall provide for a study of alternative ways of paying, under section 1848 of the Social Security Act, for the malpractice component for physicians' services, in a manner that would assure, to the extent practicable, payment for medicare's share of malpractice insurance premiums.

(B) The study shall specifically examine the following approach:

(i) Physicians would be required to submit periodic reports of costs, which would include detailed information on practice expenses for, malpractice premiums for, and charges imposed for, and revenues received from, medicare covered services and other services.

(ii) Payment for the malpractice component would be paid, quarterly or annually, based on the proportion of each physician's malpractice premiums that corresponds to the portion of total revenues that are revenues from medicare covered services.

(C) By not later than April 1, 1991, the Comptroller General shall submit a report to Congress on the results of the study.

(2) GAO STUDY EXAMINING ALTERNATIVE MALPRACTICE RESOLUTIONS SYSTEMS.—

(A) The Comptroller General shall provide for a study to examine alternative resolution procedures for malpractice claims respecting professional services furnished under the medicare program. Such examination shall include review of the feasibility of establishing procedures that involve no-fault payment or that involve mandatory arbitration.

(B) By not later than April 1, 1991, the Comptroller General shall submit a report to Congress on the results of the study.

(3) STUDY OF PAYMENTS TO RISK-CONTRACTING PLANS.—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall conduct a study of how payments under section 1848 of the Social Security Act may affect payments to eligible organizations with risk-sharing contracts under section 1876 of such Act. By not later than April 1, 1990, the Secretary shall submit a report to Congress on such study and shall include in the report such recommendations for such changes in the methodology for payment under such risk-sharing contracts as the Secretary deems appropriate.

(4) STUDY OF CARVE-OUT FROM TARGET RATE OF INCREASE IN EXPENDITURES.—The Secretary shall conduct a study of the feasibility and design of a method by which the target rates of increase in expenditures under section 1848 of the Social Security Act either would not be applied or would be applied on a separate basis to managed health care organizations. Such study shall consider—

(A) alternative definitions of such organizations, and

(B) means to assure that such organizations do not underserve their patients or shift care outside the organization (in order to exceed the target rates of increase in expenditures).

By not later than May 1, 1991, the Secretary shall submit a report to Congress on the study and shall include in the report a description of the impact of such a method on the amount of expenditures and services furnished under the medicare program.

(5) STUDY OF ELECTRONIC BILLING.—The Secretary shall conduct a study of the feasibility and costs of providing for electronic submission and payment of claims from participating physicians under part B of title XVIII of the Social Security Act. Such study shall consider—

(A) the feasibility of making payments on the next business day for clean claims or for claims processed entirely by computer,

(B) direct deposit of payments, and

(C) providing participating physicians with (or reimbursing such physicians for) such electronic equipment, software, and technical assistance as may be required to submit such claims electronically.

By not later than January 1, 1991, the Secretary shall submit a report to Congress on the results of such study.

(6) PHYSPRC STUDY OF TARGET RATES OF INCREASE IN EXPENDITURES.—The Physician Payment Review Commission shall conduct a study of the feasibility of establishing, under section 1848(f) of the Social Security Act, separate target rates of increase in expenditures for services furnished by or within each of the following (including combinations of the following):

(A) Geographic area (such as a region, State, or other area).

(B) Specialty or group of specialties of physicians.

(C) Type of services (such as primary care, services of hospital-based physicians, and other inpatient services).

Such study shall also include the scope of services included within, or excluded from, the rate of increase in expenditure system. By not later than May 1, 1990, the Commission shall submit a report to Congress on such study and shall include in the report such recommendations respecting the feasibility of establishing separate target rates of increase in expenditures as it deems appropriate.

(7) PHYSPRC STUDY OF PAYMENT FOR OVERHEAD.—The Physician Payment Review Commission shall conduct a study on how payment for the overhead component for physicians' services under section 1848 of the Social Security Act could vary for different procedures (or groups of procedures) and physician payment area. By not later than May 1, 1990, the Commission shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the study and shall include in the report such recommendations as it deems appropriate.

(e) CONFORMING AMENDMENTS.—

(1) PAYMENT FOR CERTIFIED REGISTERED NURSE ANESTHETISTS.—Section 1833(a)(1)(H) of the Social Security Act (42 U.S.C. 1395l(a)(1)(H)) is amended by inserting "(or, for services furnished on or after October 1, 1991, the amount provided under the fee schedule established under section 1848(b))" after "prevailing charge that would be recognized".

(2) PAYMENT FOR RADIOLOGIST SERVICES.—Section 1833(a)(1)(J) of such Act (42 U.S.C. 1395l(a)(1)(J)) is amended by inserting "subject to section 1848," after "1834(b)(6)),".

(3) PAYMENT FOR NURSE MIDWIVES.—Section 1833(a)(1)(K) of such Act (42 U.S.C. 1395l(a)(1)(K)) is amended by inserting ", or, for services furnished on or after October 1, 1991, 65 percent of the amount provided under the fee schedule established under section 1848(b) for the same service performed by a physician" after "for the same service performed by a physician".

(4) PAYMENT FOR PHYSICIAN ASSISTANTS.—Section 1842(b)(12)(A)(ii)(II) of such Act (42 U.S.C. 1395u(b)(12)(A)(ii)(II)) is amended by inserting "(or, for services furnished on or after October 1, 1991, the amount provided under the fee schedule established under section 1848(b))" after "prevailing charge rate determined for such services".

(5) SUNSET OF MAACS.—Section 1842(j)(1) of such Act (42 U.S.C. 1395u(j)(1)) is amended—

(A) in subparagraph (B)(ii), by striking "the earlier of" and all that follows through the end and inserting "December 31, 1990.", and

(B) in subparagraph (D)(v), by striking "the earlier of" and all that follows through the end and inserting "December 31, 1990.".

(f) REVISION OF PARTICIPATION PERIOD DURING 1991 AND 1992.—Notwithstanding any other provision of law, in the case of physicians—

(1) the effective period for participation agreements entered into under section 1842(h)(1) of the Social Security Act for 1991 shall be only for the 1st 9 months of 1991;

(2) instead of the effective period for such agreements entered into under such section for 1992 being 12 months, there shall be substituted a 15-month period beginning with October 1991, and the Secretary shall provide an opportunity for physicians to enroll as participating physicians before October 1, 1991; and

(3) instead of publishing, under section 1842(h)(4) of such Act, at the beginning of 1992, directories of participating physicians for 1992, the Secretary shall provide for such publication, at the beginning of the 15-month period beginning on October 1, 1991, of such directories of participating physicians for such period.

(g) EFFECTIVE DATES.—(1) Except as provided in paragraph (2) and subsection (c)(2), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall apply to contracts entered into on or after the date of the enactment of this Act.

SEC. 10124. MISCELLANEOUS PROVISIONS RELATING TO PAYMENT FOR PHYSICIANS' SERVICES.

(a) CUSTOMARY CHARGE FOR NEW PHYSICIANS.—

(1) PHASE-IN TO PREVAILING CHARGE LEVEL.—Section 1842(b)(4)(F) of the Social Security Act (42 U.S.C. 1395u(b)(4)(F)) is amended—

(A) by inserting "furnished during a calendar year" after "physicians' services", and

(B) by adding at the end the following: "For the first calendar year during which the preceding sentence no longer applies, the Secretary shall set the customary charge at a level no higher than 85 percent of the prevailing charge for the service, for the second year, no higher than 90 percent, and for the third year, no higher than 95 percent. This subparagraph shall not apply to services furnished on or after such date as section 1848 applies to payments for such services.".

(2) EFFECTIVE DATE.—(A) Subject to subparagraph (B), the amendments made by paragraph (1) apply to services furnished in calendar years after 1989 which were subject to the first sentence of section 1842(b)(4)(F) of the Social Security Act in 1989 or a subsequent year.

(B) The amendments made by paragraph (1) shall not apply to services furnished in 1990 before the date the percentage increase in the MEI is applied to physicians' services (under section 10122(a) of this subtitle) under part B of title XVIII of the Social Security Act. With respect to physicians' services furnished during 1990 on and after such date, such amendments shall be applied as though any reference, in the matter inserted by such amendments, to the "first calendar year during which the preceding sentence no longer applies" were deemed a reference to the remainder of 1990.

(b) LIMITATION ON AMOUNTS FOR CERTAIN SERVICES FURNISHED BY MORE THAN ONE SPECIALTY.—

(1) IN GENERAL.—Section 1842(b) of such Act (42 U.S.C. 1395u(b)), as amended by subsections (a) and (b) of section 10121 of this Act, is amended by adding at the end the following:

"(16)(A) In determining the reasonable charge for physicians' services which the Secretary shall designate (based on their high volume of expenditures under this part) and for which the prevailing charge (but for this paragraph) differs by physician specialty, the prevailing charge for such a service may not exceed the prevailing charge (or fee schedule amount) for that specialty of physicians that furnish the service most frequently nationally.

"(B) In the case of a reduction in the prevailing charge for a physician's service under subparagraph (A), if a nonparticipating physician furnishes the service to an individual entitled to benefits under this part, after the effective date of the reduction, the physician's actual charge is subject to a limit under subsection (j)(1)(D).".

(2) SPECIAL LIMITS ON ACTUAL CHARGES.—Section 1842(j)(1)(D) of such Act, as amended by subsections (a)(2) and (b)(2)(B) of section 10121 of this Act, is amended—

(A) in clause (ii)(IV), by striking "or (b)(15)(A)" and inserting "(b)(15)(A), or (b)(16)(A)", and

(B) in clause (iii)(II), by striking out "or (b)(15)(A)" and inserting "(b)(15)(A), or (b)(16)(A)".

(3) EFFECTIVE DATE.—The amendments made by this subsection apply to procedures performed after March 31, 1990.

Subpart 2—Payment for Other Services

SEC. 10131. PAYMENTS FOR CAPITAL FOR HOSPITAL OUTPATIENT SERVICES.

Section 1861(v)(1)(S) of the Social Security Act (42 U.S.C. 1395x(v)(1)(S)) is amended—

(1) by inserting "(i)" after "(S)", and

(2) by adding at the end the following new clause:

"(ii)(I) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of outpatient hospital services, the Secretary shall reduce the amounts of such payments otherwise established under this title by 15 percent for services provided in cost

reporting periods beginning during fiscal year 1990.

"(II) Subclause (I) shall not apply to payments with respect to the capital-related costs of any hospital for a cost reporting period if the hospital is a sole community hospital (as defined in section 1886(d)(5)) for the period.

"(III) In applying subclause (I) to services for which payment is made on the basis of a blend amount under section 1833(i)(3)(A)(ii) or 1833(n)(1)(A)(ii), capital-related costs reflected in the amounts described in sections 1833(i)(3)(B)(ii)(I) and 1833(n)(1)(B)(i)(I), respectively, shall be reduced in accordance with such subclause.".

SEC. 10132. DURABLE MEDICAL EQUIPMENT.

(a) DETERMINING PAYMENT AMOUNTS.—

(1) COMPUTATION OF PURCHASE PRICE ON BASIS OF REASONABLE CHARGES.—Paragraph (8)(A)(i)(II) of section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)) is amended by striking "average of the purchase prices on the claims submitted" and inserting "average of the reasonable charges on claims paid".

(2) LIMITATION ON MONTHLY RECOGNIZED RENTAL AMOUNTS FOR MISCELLANEOUS ITEMS.—Paragraph (7)(A)(i) of such section is amended—

(A) by striking "for each such month" and inserting "for each of the first three months of such period", and

(B) by striking the semicolon at the end and inserting the following: ", and for each of the remaining months of such period is 7.5 percent of such purchase price;".

(3) TREATMENT OF PAYMENTS FOR ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—Paragraph (3)(A) of such section is amended—

(A) by striking "Payment for" and inserting "In the case of", and

(B) striking "patient's health" and all that follows and inserting the following: "patient's health—

"(i) payment shall be made on a monthly basis for the rental of such item during the period of medical need (but payments under this clause may not extend over a period of continuous use (as such term is defined by the Secretary) of longer than 15 months), and the amount recognized is the amount specified in subparagraph (B); and

"(ii) during the last month of each succeeding 6-month period of medical need, a maintenance and servicing payment shall be made in an amount established by the Secretary as a reasonable and necessary maintenance and servicing fee for the particular type of durable medical equipment involved. The payment under clause (ii) shall include payment for parts and labor not covered by the supplier's or manufacturer's warranty, as determined by the Secretary to be appropriate for the particular type of durable medical equipment.".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to payment for items of durable medical equipment furnished on or after April 1, 1990.

(b) DELAY IN AND REDUCTION OF UPDATE FOR 1990.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT AND ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—Paragraphs (2)(B) and (3)(B) of section 1834(a) of such Act (42 U.S.C. 1395m(a)) are each amended—

(A) in clause (i), by striking "in 1989" and inserting "in 1989 and the first 3 months of 1990",

(B) in clause (i), by striking "or" at the end,

(C) in clause (ii), by striking "for the preceding year" and inserting "for the last day of the preceding year",

(D) by redesignating clause (ii) as clause (iii), and

(E) by inserting after clause (i) the following new clause:

"(ii) in the remaining months of 1990, is the amount specified in clause (i) increased by 2 percent, or".

(2) MISCELLANEOUS DEVICES AND ITEMS AND OTHER COVERED ITEMS.—Paragraph (8)(A)(ii) of such section is amended—

(A) in subclause (I), by striking "1989" and inserting "1989 and the first 3 months of 1990",

(B) in subclause (I), by striking "or" at the end,

(C) in subclause (II), by striking "1990, 1991," and inserting "1991",

(D) in subclause (II), by striking "for the previous year" and inserting "for the last day of the previous year",

(E) by redesignating subclause (II) as subclause (III), and

(F) by inserting after subclause (I) the following new subclause:

"(II) in the remaining months of 1990, is the amount specified in subclause (I) increased by 2 percent, or".

(3) OXYGEN AND OXYGEN EQUIPMENT.—Paragraph (9)(A)(ii) of such section is amended—

(A) in subclause (I), by striking "1989" and inserting "1989 and the first 3 months of 1990",

(B) in subclause (I), by striking "or" at the end,

(C) in subclause (II), by striking "1990, 1991," and inserting "1991",

(D) in subclause (II), by striking "for the previous year" and inserting "for the last day of the previous year",

(E) by redesignating subclause (II) as subclause (III), and

(F) by inserting after subclause (I) the following new subclause:

"(II) to the remaining months of 1990, is the amount specified in subclause (I) increased by 2 percent, or".

(4) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in paragraph (7)(A)(i), by striking "this subparagraph" and inserting "this clause";

(B) in paragraph (8)(C)(i), by striking "(A)(ii)(I)" and inserting "(A)(ii)"; and

(C) in paragraphs (8) and (9)—

(i) in subparagraph (B)(i), by striking "(A)(ii)(II)" and inserting "(A)(ii)(III)", and

(ii) in clauses (ii) and (iii) of subparagraph (C), by striking "(A)(ii)(II)" and inserting "(A)(ii)(III)".

(c) REDUCTION IN FEE SCHEDULE FOR OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9)(A)(ii)(II) of such Act (42 U.S.C. 1395m(a)(9)(A)(ii)(II)), as inserted by subsection (b)(3)(F), is amended by inserting "95 percent of" before "the amount".

(d) NATIONAL CAP ON FEE SCHEDULES.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT AND ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—Paragraphs (2)(B) and (3)(B) of section 1834(a) of such Act (42 U.S.C. 1395m(a)) are each amended in clause (ii), as inserted by subsection (b)(1)(F), by striking ", or" and inserting ", except that the amount for an item under this clause may not exceed 95 percent of the median of the amounts otherwise determined under this clause for such an item, or".

(2) MISCELLANEOUS DEVICES AND ITEMS, OTHER COVERED ITEMS, AND OXYGEN AND OXYGEN EQUIPMENT.—Paragraphs (8)(A)(ii) and (9)(A)(ii) of such section are each amended in subclause (II), as inserted by paragraphs (2)(F) and (3)(F) of subsection (b), by striking ", or" and inserting ", except that the amount specified under this subclause for an item may not exceed 95 percent of the median of the amounts specified in this subclause for such item, or".

(3) IV POLES.—Paragraph (2)(C)(i) of such section, as added by subsection (e)(2)(C), is amended by inserting before the semicolon the following: ", except that the payment amount for an item specified in this clause may not exceed 95 percent of the median of payment amounts otherwise determined under this clause for such an item".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to items furnished on or after April 1, 1990.

(e) COVERAGE OF PARENTERAL AND ENTERAL NUTRITION EQUIPMENT.—

(1) COVERAGE GENERALLY.—Paragraph (13)(B) of section 1834(a) of such Act (42 U.S.C. 1395m(a)) is amended by striking ", supplies, and equipment" and inserting "and supplies".

(2) PAYMENT FOR IV POLES.—Paragraph (2) of such section is amended—

(A) in subparagraph (A), by striking "subparagraph (B)" each place it appears and inserting "subparagraph (B) or (C)",

(B) in subparagraph (B), by striking "For purposes" and inserting "Except as provided in subparagraph (C), for purposes", and

(C) by adding at the end the following new subparagraph:

"(C) PAYMENT FOR IV POLES.—For purposes of subparagraph (A), the amount specified in this subparagraph with respect to the purchase or rental of an IV pole furnished in a carrier service area—

"(i) in 1990 is the average reasonable charge in the area for the purchase or rental, respectively, of the IV pole for the 12-month period ending on June 30, 1988, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June 1989; or

"(ii) in a subsequent year, is the amount specified in this subparagraph for the last day of the preceding year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of that preceding year.".

(3) PAYMENT FOR ENTERAL AND PARENTERAL INFUSION PUMPS.—Paragraph (8)(A)(i)(II) of such section is amended by striking the period at the end and inserting the following: ", or, in the case of an enteral or parenteral infusion pump, the 6-month period ending with December 1987.".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to items furnished on or after April 1, 1990.

(f) ADJUSTMENT BY SECRETARY FOR OVERPRICED ITEMS.—

(1) ADJUSTMENT FOR INHERENT REASONABLENESS PERMITTED.—Paragraph (10)(B) of section 1834(a) of such Act (42 U.S.C. 1395m(a)) is amended by striking "For covered items furnished on or after January 1, 1991, the Secretary" and inserting "The Secretary".

(2) SEAT-LIFT CHAIRS, MOTORIZED SCOOTERS, AND TRANSCUTANEOUS ELECTRICAL NERVE STIMULATORS.—Paragraph (1) of such section is amended by adding at the end the following new subparagraph:

"(D) REDUCTION IN FEE SCHEDULES FOR CERTAIN ITEMS.—With respect to a seat-lift chair, motorized scooter, or transcutaneous electrical nerve stimulator furnished on or after April 1, 1990, the Secretary shall reduce the payment amount applied under subparagraph (B)(ii) for such an item by 15 percent.".

(3) OTHER OVERPRICED ITEMS.—The Secretary of Health and Human Services shall publish a list of covered items for which payment may be made under section 1834(a) of the Social Security Act that the Secretary determines are overpriced, and shall reduce the payment amount that would otherwise be applied under paragraph (1)(B)(ii) of such section by 15 percent for any month beginning after the expiration of the 3-month period that begins on the date the Secretary publishes such list.

(g) RESTRICTIONS ON SUPPLIERS OF DURABLE MEDICAL EQUIPMENT; REQUIREMENTS FOR CARRIERS.—

(1) PROHIBITION AGAINST DISTRIBUTION OF MEDICAL NECESSITY FORMS.—Section 1834(a) of such Act (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

"(14) PROHIBITION AGAINST DISTRIBUTION BY SUPPLIERS OF FORMS DOCUMENTING MEDICAL NECESSITY.—

"(A) IN GENERAL.—A supplier of a covered item under this subsection may not distribute to individuals entitled to benefits under this part for commercial purposes any completed or partially completed forms or other documents required by the Secretary to be submitted to show that a covered item is reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.

"(B) PENALTY.—Any supplier of a covered item who knowingly and willfully distributes a form or other document in violation of subparagraph (A) is subject to a civil money penalty in an amount not to exceed $1,000 for each such form or document so distributed. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a).".

(2) DISCLOSURE OF INDIVIDUALS WITH OWNERSHIP INTEREST IN OR CONTROL OF SUPPLIER.—Such section, as amended by paragraph (1), is further amended by adding at the end the following new paragraph:

"(15) SUPPLIER DISCLOSURE REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall require by regulation, as a condition of payment for covered items furnished by a supplier, that the supplier shall provide the Secretary with full and complete information as to the identity of each person with an ownership or control interest (as defined in section 1124(a)(3)) in the supplier or in any subcontractor (as defined by the Secretary in regulations promulgated pursuant to section 1124(a)(1)) in which the supplier directly or indirectly has a 5 percent or more ownership interest, and shall inform the carrier if any of such persons is a physician.

"(B) PROHIBITION AGAINST BILLING BENEFICIARIES.—A supplier who is not eligible to receive payment for a covered item as a result of failing to comply with the regulations promulgated under this paragraph may not bill the individual to whom such item is furnished.".

(3) CARRIER REVIEW OF SUPPLIERS IN WHICH PHYSICIAN HAS OWNERSHIP INTEREST.—Section 1842(b)(3) of such Act (42 U.S.C. 1395u(b)(3)), as amended by section 10123(b), is amended by inserting after subparagraph (L) the following new subparagraph:

"(M) if it makes determinations with respect to covered items (as defined in section 1834(a)(13)), will subject claims from suppliers of such items identified under section 1834(a)(15)(A) as having a physician with an ownership or control interest to a higher level of review than claims from other suppliers of such items;".

(4) EFFECTIVE DATE.—(A) The amendment made by paragraph (1) shall apply to forms and documents distributed on or after April 1, 1990.

(B) The amendments made by paragraph (3) shall apply to contracts entered into, or renewed, on or after April 1, 1990.

(h) MANDATORY ASSIGNMENT.—

(1) IN GENERAL.—Section 1834(a)(11) of such Act (42 U.S.C. 1395m(a)(11)) is amended by adding at the end the following new subparagraph:

"(C) PAYMENT AND BILLING ON ASSIGNMENT-RELATED BASIS ONLY.—

"(i) PAYMENT.—Payment for a covered item under this subsection may only be made on an assignment-related basis.

"(ii) BILLING.—A supplier may not bill for a covered item under this subsection other than on an assignment-related basis. If a supplier knowingly and willfully and on a repeated basis bills for covered items under this subsection in violation of the previous sentence, the Secretary may apply sanctions against the supplier in the same manner as the Secretary may apply sanctions against a physician in accordance with paragraphs (2) and (3) of section 1842(j).".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to covered items furnished on or after April 1, 1990.

(i) ESTABLISHMENT OF REASONABLE LIFETIME FOR ITEMS.—

(1) ITEMS REQUIRING FREQUENT SERVICE.—Paragraph (3) of section 1834(a) of such Act (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

"(C) LIFETIME OF ITEMS; PAYMENTS FOR NEW ITEMS.—The Secretary shall determine and establish a reasonable lifetime for items of durable medical equipment for which payment may be made under this paragraph. If the reasonable lifetime of such an item, as so established, has been reached during a continuous period of medical need, payment for an item serving as a replacement for such item shall be made in accordance with subparagraph (A).".

(2) MISCELLANEOUS ITEMS.—Paragraph (7) of such section is amended by adding at the end the following new subparagraph:

"(C) LIFETIME OF ITEMS; PAYMENTS FOR NEW ITEMS.—The Secretary shall determine and establish a reasonable lifetime for items of durable medical equipment (such as motorized wheelchairs) for which payment may be made under this paragraph. If the reasonable lifetime of such an item, as so established, has been reached during a continuous period of medical need, payment for an item serving as a replacement for such item shall be made in accordance with subparagraph (A).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 1, 1990.

(k) GAO STUDY OF STANDARDS FOR USE OF AND PAYMENT FOR ITEMS OF DURABLE MEDICAL EQUIPMENT.—

(1) STUDY.—The Comptroller General shall conduct a study of the appropriate uses of items of durable medical equipment and of the appropriate criteria for making determinations of medical necessity under title XVIII of the Social Security Act for such items, with particular emphasis on items (including seat-lift chairs) that may be subject to abusive billing practices. Such study shall include an analysis of—

(A) the appropriate use of forms in making medical necessity determinations for items of durable medical equipment under such title, and

(B) procedures for identifying items of durable medical equipment that should no longer be covered under such title.

(2) USE OF PANEL.—The Comptroller General shall conduct such study with a panel convened by the Comptroller General consisting of—

(A) specialists in the disciplines of orthopedic medicine, rehabilitation, arthritis, and geriatric medicine,

(B) representatives of consumer organizations, and

(C) representatives of carriers under the Medicare Program.

(3) REPORT.—Not later than April 1, 1990, the Comptroller General shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the study conducted under paragraph (1) and shall include in such report such recommendations as the Comptroller General deems appropriate.

SEC. 10133. CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) SETTING FEE SCHEDULE UPDATE FOR 1990 AT 2 PERCENT.—Paragraph (2)(A)(ii) of section 1833(h) of the Social Security Act (42 U.S.C. 1395l(h)) is amended—

(1) by striking "and" at the end of subclause (I);

(2) in subclause (II), by striking "1988." and inserting "1988 or 1989, and"; and

(3) by adding at the end the following new subclause:

"(III) the annual adjustment under clause (i) to become effective on January 1, 1990, shall be an increase of 2 percent.".

(b) REDUCTION OF LIMITATION AMOUNT ON PAYMENT AMOUNT.—Paragraph (4)(B) of such section is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii)—

(A) by striking "and so long as a fee schedule for the test has not been established on a nationwide basis," and inserting "and before January 1, 1990,", and

(B) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(iii) after December 31, 1989, and so long as a fee schedule for the test has not been established on a nationwide basis, is equal to 95 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(c) 2-YEAR DELAY IN ESTABLISHMENT OF NATIONWIDE FEE SCHEDULES.—Paragraph (1) of such section is amended in subparagraphs (B) and (C) by striking "January 1, 1990," and inserting "January 1, 1992,".

(d) PAYMENTS OF FEES TO CERTAIN LABS FOR ADDITIONAL TRIPS FOR TESTS REQUIRING "STAT" RESULTS.—Paragraph (3) of such section is amended—

(1) in the second sentence—

(A) by striking "during the period" and all that follows through "(ii)" and inserting

"by a laboratory that establishes to the satisfaction of the Secretary that", and

(B) by striking "facility, and (iii)" and all that follows and inserting "facility."; and

(2) by inserting after the first sentence the following new sentence: "The previous sentence shall permit the payment of a fee to a laboratory described in the next sentence for a second trip on a day with respect to a location if that trip is required to collect a sample for a test which the individual's physician has ordered and for which the results are required on an as-soon-as-possible basis.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to clinical diagnostic laboratory tests furnished on or after January 1, 1990.

SEC. 10134. MENTAL HEALTH SERVICES.

(a) ELIMINATING RESTRICTION ON PSYCHOLOGISTS' SERVICES TO SERVICES FURNISHED AT COMMUNITY MENTAL HEALTH CENTERS.—Section 1861(ii) of the Social Security Act (42 U.S.C. 1395x(ii)) is amended by striking "on-site at a community mental health center" and all that follows through "because of similar circumstances of the individual,".

(b) REIMBURSEMENT ON REASONABLE CHARGE BASIS.—Section 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)) is amended—

(1) by striking the comma at the end of clause (K) and inserting ", and",

(2) by striking clause (L), and

(3) by redesignating clause (M) as clause (L).

(c) DEVELOPMENT OF CRITERIA REGARDING CONSULTATION WITH A PHYSICIAN.—The Secretary of Health and Human Services shall, taking into consideration concerns for patient confidentiality, develop criteria with respect to payment for qualified psychologist services for which payment may be made directly to the psychologist under part B of title XVIII of the Social Security Act under which such a psychologist must agree to consult with a patient's attending physician within a reasonable time after initiating treatment of the patient to consider potential physical conditions that may be contributing to the patient's symptoms.

(d) ELIMINATING DOLLAR LIMITATION ON MENTAL HEALTH SERVICES.—Section 1833(d)(1) of the Social Security Act (42 U.S.C. 1395l(d)(1)) is amended by striking "whichever" and all that follows and inserting "62½ percent of such expenses.".

(e) EFFECTIVE DATE.—The amendments made by this section, and the provisions of subsection (c), shall apply to services furnished on or after January 1, 1990, and the amendments made by subsection (d) shall apply to expenses incurred in a year beginning with 1990.

SEC. 10135. CERTIFIED REGISTERED NURSE ANESTHETISTS.

(a) MODIFICATION OF CONVERSION FACTORS USED FOR CRNAs.—Section 1833(l)(3) of the Social Security Act (42 U.S.C. 1395l(l)(3)) is amended by striking "and 1990" in subparagraph (B) and by adding at the end the following new subparagraph:

"(C)(i) In establishing fee schedules under this subsection for services furnished in 1990, subject to clause (ii), the Secretary shall establish a uniform national conversion factor which shall be $14 for services furnished under the medical direction of a physician and $21 for services that are not medically directed.

"(ii) The conversion factor described in clause (i) as applied to services furnished in any locality shall not exceed the conversion factor applied to anesthesiologists' services furnished in the same locality, except that this clause shall not apply in the case of services furnished in a facility in which there is no anesthesiologist furnishing anesthesia services.".

(b) NO PAYMENT FOR MEDICAL DIRECTION OF CRNAs BY SURGEONS.—

(1) IN GENERAL.—Section 1862(a)(15) of such Act (42 U.S.C. 1395y(a)(15)) is amended by inserting "(A)" after "(15)" and by inserting before the semicolon at the end the following: ", or (B) which are for medical direction of a certified registered nurse anesthetist by a surgeon".

(2) NO BILLING PERMITTED.—Section 1842(k) of such Act (42 U.S.C. 1395u(k)) is amended—

(A) by striking "1862(a)(15)" each place it appears and inserting "1862(a)(15)(A)",

(B) in paragraph (1), by inserting "(A)" after "(k)(1)", and

(C) by adding at the end of paragraph (1) the following:

"(B) If a physician knowingly and wilfully presents or causes to be presented a claim or bills an individual enrolled under this part for charges for medical direction of a certified registered nurse anesthetist by a surgeon for which payment may not be made by reason of section 1862(a)(15)(B), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after April 1, 1990.

SEC. 10136. FEDERALLY QUALIFIED HEALTH CENTER SERVICES.

(a) COVERAGE.—Section 1861(s)(2)(E) of the Social Security Act (42 U.S.C. 1395x(s)(2)(E)) is amended by inserting "and Federally qualified health center services" after "rural health clinic services".

(b) SERVICES DEFINED.—Section 1861(aa) of such Act is amended—

(1) in the heading, by adding at the end the following: "and Federally Qualified Health Center Services",

(2) in paragraph (3), by striking "paragraphs (1) and (2)" and inserting "the previous provisions of this subsection" and by redesignating such paragraph as paragraph (5), and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) The term 'Federally qualified health center services' means services of the type described in subparagraphs (A) through (C) of paragraph (1) when furnished to an individual as an outpatient of a Federally qualified health center and, for this purpose, any reference to a rural health clinic or a physician described in paragraph (2)(B) is deemed a reference to a Federally qualified health center or a physician at the center, respectively.

"(4) The term 'Federally qualified health center' means a facility which—

"(A) is receiving a grant under section 329, 330, or 340 of the Public Health Service Act,

"(B) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, is determined by the Secretary to meet the requirements for receiving such a grant, or

"(C) was treated by the Secretary, for purposes of part B, as a comprehensive Federally funded health center as of January 1, 1989.".

(c) PAYMENTS.—

(1) IN GENERAL.—Section 1832(a)(2)(D) of such Act (42 U.S.C. 1395k(a)(2)(D)) is amended by inserting "(i)" after "(D)" and by inserting "and (ii) Federally qualified health center services" after "rural health clinic services".

(2) DEDUCTIBLE DOES NOT APPLY.—The first sentence of section 1833(b) of such Act (42 U.S.C. 1395l(b)) is amended—

(A) by striking "and" before "(4)",

(B) by inserting before the period at the end the following: ", and (5) such deductible shall not apply to Federally qualified health center services".

(3) EXCLUSION FROM PAYMENT REMOVED.—Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (2), by inserting ", except in the case of Federally qualified health center services" before the semicolon at the end, and

(B) in paragraph (3), by inserting ", in the case of Federally qualified health center services, as defined in section 1861(aa)(3)," after "1861(aa)(1),".

(d) WAIVER OF ANTI-KICKBACK REQUIREMENT.—Section 1128B(b)(3) of such Act (42 U.S.C. 1320a-7b(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (C),

(2) by redesignating subparagraph (D) as subparagraph (E), and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) a waiver of any coinsurance under part B of title XVIII by a Federally qualified health care center with respect to an individual who qualifies for subsidized services under a provision of the Public Health Service Act; and".

(e) CONFORMING AMENDMENTS.—Section 1861 of such Act (42 U.S.C. 1395x) is further amended—

(1) in subsection (s)(2)(H)(i) and (s)(2)(K)(i), by striking "subsection (aa)(3)" and inserting "subsection (aa)(5)", and

(2) in subsection (aa)(1)(B), by striking "paragraph (3)" and inserting "paragraph (5)".

(f) EFFECTIVE DATE.—(1) Subject to paragraph (2), the amendments made by this section shall apply to services furnished on or after April 1, 1990.

(2) In the case of a Federally qualified health care center that has elected, as of January 1, 1989, under part B of title XVIII of the Social Security Act, to have the amount of payments for services under such part determined on a reasonable-charge basis, the amendment made by subsection (c)(1) shall only apply on and after such date (not earlier than April 1, 1990) as the center may elect.

SEC. 10137. MISCELLANEOUS AND TECHNICAL PROVISIONS RELATING TO PART B.

(a) COVERAGE UNDER, AND PAYMENT FOR, OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES UNDER PART B.—

(1) COVERAGE.—(A) Section 1861(mm) of the Social Security Act (42 U.S.C. 1395x(mm)), as added by section 10102(h)(4)(A), is amended by adding at the end the following:

"(3) The term 'outpatient rural primary care hospital services' means medical and other health services furnished by a rural primary care hospital.".

(B) Section 1832(a)(2) of such Act (42 U.S.C. 1395k(a)(2)) is amended—

(i) in subparagraph (F), by striking "and" at the end,

(ii) in subparagraph (G) by striking the period at the end and inserting "; and", and

(iii) by inserting after subparagraph (G) the following new subparagraph:

"(H) outpatient rural primary care hospital services (as defined in section 1861(mm)(3)).".

(C) Section 1833(a) of such Act (42 U.S.C. 1395l(a)) is amended—

(i) in paragraph (2), in the matter before subparagraph (A), by striking "and (G)" and inserting "(G), and (H)",

(ii) in paragraph (4), by striking "and" at the end,

(iii) in paragraph (5), by striking the period at the end and inserting "; and", and

(iv) by inserting after paragraph (5) the following new paragraph:

"(6) in the case of outpatient rural primary care hospital services, the amounts described in section 1834(f).".

(D) Section 1834 of such Act (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(f) PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

"(1) IN GENERAL.—The amount of payment for outpatient rural primary care hospital services provided during a year before 1993 in a rural primary care hospital under this part shall be determined by one of the 2 following methods, as elected by the rural primary care hospital:

"(A) COST-BASED FACILITY FEE PLUS PROFESSIONAL CHARGES.—

"(i) FACILITY FEE.—With respect to facility services, not including any services for which payment may be made under clause (ii), there shall be paid amounts equal to the amounts described in section 1833(a)(2)(B) (describing amounts paid for hospital outpatient services).

"(ii) REASONABLE CHARGES FOR PROFESSIONAL SERVICES.—In electing treatment under this subparagraph, payment for professional medical services otherwise included within outpatient rural primary care hospital services shall be made under such other provisions of this part as would apply to payment for such services if they were not included in outpatient rural primary care hospital services.

"(B) ALL-INCLUSIVE RATE.—With respect to both facility services and professional medical services, there shall be paid amounts equal to the costs which are reasonable and related to the cost of furnishing such services or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations, less the amount the hospital may charge as described in clause (i) of section 1866(a)(2)(A), but in no case may the payment for such services (other than for items and services described in section 1861(s)(10)(A) and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion) exceed 80 percent of such costs.

"(2) DEVELOPMENT AND IMPLEMENTATION OF ALL INCLUSIVE, PROSPECTIVE PAYMENT SYSTEM.— Not later than January 1, 1993, the Secretary shall develop and implement a prospective payment system for determining payments under this part for outpatient rural primary care hospital services using a methodology that includes all costs in providing all such services (including related professional medical services) and that determines the payment amount for such services on a prospective basis.".

(b) MODIFICATION OF PAYMENT FOR THERAPEUTIC SHOES FOR INDIVIDUALS WITH SEVERE DIABETIC FOOT DISEASE.—

(1) PERMITTING ADDITIONAL INSERTS.—

(A) IN GENERAL.—Section 1833(o) of the Social Security Act (42 U.S.C. 1395l(o)) is amended—

(i) by amending subparagraph (A) of paragraph (1) to read as follows:

"(A) no payment may be made under this part, with respect to any individual for any year, for the furnishing of—

"(i) more than one pair of custom molded shoes (including inserts provided with such shoes) and 2 additional pairs of inserts for such shoes, or

"(ii) more than one pair of extra-depth shoes (not including inserts provided with such shoes) and 3 pairs of inserts for such shoes, and";

(ii) in paragraphs (1)(B) and (2)(A), by striking "limit" and inserting "limits";

(iii) in the second sentence of paragraph (1), by inserting "(or inserts)" after "shoes" each place it appears;

(iv) by amending clause (i) of paragraph (2)(A) to read as follows:

"(i) for the furnishing of—

"(I) one pair of custom molded shoes (including any inserts that are provided initially with the shoes) is $300, and

"(II) any additional pair of inserts with respect to such shoes is $50; and"; and

(v) in paragraph (2)(A)(ii)(II), by inserting "any pairs of" after "$50 for".

(B) CONFORMING AMENDMENT.—Section 1861(s)(12) of such Act (42 U.S.C. 1395x(s)(12)) is amended by inserting "with inserts" after "custom molded shoes".

(2) PERMITTING SUBSTITUTION OF SHOE MODIFICATIONS FOR INSERTS.—Section 1833(o)(2) of such Act is amended by adding at the end the following new subparagraph:

"(D) In accordance with procedures established by the Secretary, an individual entitled to benefits with respect to shoes described in section 1861(s)(12) may substitute modification of such shoes instead of obtaining one (or more, as specified by the Secretary) pairs of inserts (other than the original pair of inserts with respect to such shoes). In such case, the Secretary shall substitute, for the limits established under subparagraph (A), such limits as the Secretary estimates will assure that there is no net increase in expenditures under this subsection as a result of this subparagraph.".

(3) EFFECTIVE DATE.—

(A) The amendments made by this subsection shall apply with respect to therapeutic shoes and inserts furnished on or after July 1, 1989.

(B) In applying the amendments made by this subsection, the increase under subparagraph (C) of section 1833(o)(2) of the Social Security Act shall apply to the dollar amounts specified under subparagraph (A) of such section (as amended by this subsection) in the same manner as the increase would have applied to the dollar amounts specified under subparagraph (A) of such section (as in effect before the date of the enactment of this Act).

(c) EXTENSION OF MUNICIPAL HEALTH SERVICE DEMONSTRATION PROJECTS.—Section 9215 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended—

(1) by striking ", for a period of three additional years," and inserting "through December 31, 1993,", and

(2) by adding at the end the following: "The Secretary shall submit a report to Congress on the waiver program with respect to the quality of health care, beneficiary costs, and such other factors as may be appropriate.".

(d) STUDY OF REIMBURSEMENT FOR AMBULANCE SERVICES.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study to determine the adequacy and appropriateness of payment amounts under title XVIII of the Social Security Act for ambulance services. Such study shall examine at least the following:

(A) The effect of payment amounts on the provision of ambulance services in rural areas.

(B) The relationship of such payment amounts to the direct and indirect costs of providing ambulance services. Such relationship shall be examined separately—

(i)(I) for tax-subsidized, municipally-owned and operated services, (II) for volunteer services, (III) for private, for-profit services, and (IV) for hospital-owned services, and

(ii) for different levels (such as basic life support and advanced life support) of such services.

(C) How such payment amounts compare to the payment amounts made for ambulance services under medicaid plans under title XIX of such Act.

(2) REPORT.—By not later than one year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the results of the study conducted under paragraph (1) and shall include in the report such recommendations for changes in medicare payment policy with respect to ambulance services as may be needed to ensure access by medicare beneficiaries to quality ambulance services in metropolitan and rural areas.

(e) PROPAC STUDY OF PAYMENTS FOR SERVICES IN HOSPITAL OUTPATIENT DEPARTMENTS.—

(1) The Prospective Payment Assessment Commission shall conduct a study, in two parts, of factors related to the rapid growth in payments under the medicare program for services provided in hospital outpatient departments.

(2) The first part of the study shall include consideration of the effects on outpatient hospital costs of the step-down method used to allocate hospital capital between inpatient and outpatient departments and shall assess the extent to which hospital outpatient costs were affected by the implementation of the prospective payment system of payment for inpatient hospital services and by increased review of such services by peer review organizations. By not later than March 1, 1990, the Commission shall submit a report to Congress on this part of the study.

(3) The second part of the study shall examine alternative methods for reimbursing hospitals for services in outpatient departments under the medicare program. Such alternative methods shall include prospective payment methods, fee schedules, and such other methods as the Commission may consider appropriate. By not later than March 1, 1991, the Commission shall submit a report to Congress on this part of the study and shall include in such report such recommendations as it deems appropriate on how to reduce the rate of growth in payments for such services under the medicare program.

(f) PHYSPRC STUDY OF PAYMENTS FOR ASSISTANTS AT SURGERY.—The Physician Payment Review Commission shall conduct a study of the payments made under title XVIII of the Social Security Act for assistants at surgery. Such study shall examine—

(1) the necessity and appropriateness of using an assistant at surgery, and

(2) the use of physician and non-physician assistants at surgery.

By not later than May 1, 1990, the Commission shall submit a report to Congress on

such study and shall include in the report such recommendations at it deems appropriate.

(g) GAO STUDY OF PAYMENTS FOR SERVICES OF NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS.—The Comptroller General shall conduct a study on the feasibility of providing for payment for services of nurse practitioners and clinical nurse specialists (particularly such services for inpatients) under the medicare program on the same basis as payment for services of physician assistants under such program. Such study shall examine—

(1) the licensing standards and educational requirements for such practitioners and specialists,

(2) the types of services currently provided by such practitioners and specialists to medicare beneficiaries,

(3) the employment and compensation arrangements with respect to such practitioners and specialists,

(4) the experience in the use of such practitioners and specialists under medicare demonstration projects, and

(5) the cost-effectiveness of covering the services of such practitioners and specialists under the medicare program.

By not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit a report to Congress on such study and shall include in the report such recommendations as the Comptroller General deems appropriate.

(h) GAO STUDY OF THE COST OF MAGNETIC RESONANCE IMAGING (MRI).—The Comptroller General shall conduct a study that compares the payment amounts and costs for magnetic resonance imaging services under title XVIII of the Social Security Act. By not later than July 1, 1990, the Comptroller General shall submit a report to Congress on such study and shall include in the report such recommendations as he deems appropriate.

SEC. 10151. DELAY IN PAYMENTS IN FISCAL YEAR 1990.

(a) PART A.—Section 1816(c) of the Social Security Act (42 U.S.C. 1395h(c)) is amended—

(1) in paragraph (2)(B)(ii)(IV), by striking "24" and inserting "26"; and

(2) in paragraph (3)(B)—

(A) by striking "and" at the end of clause (i),

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end the following new clause:

"(iii) with respect to claims received in the 12-month period beginning October 1, 1989, 16 days.".

(b) PART B.—Section 1842(c) of such Act (42 U.S.C. 1395u(c)) is amended—

(1) in paragraph (2)(B)(ii)(IV), by striking "24" and "17" and inserting "26" and "21", respectively; and

(2) in paragraph (3)(B)—

(A) by striking "and" at the end of clause (i),

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end the following new clause:

"(iii) with respect to claims received in the 12-month period beginning October 1, 1989, 16 days.".

SEC. 10152. MEDICARE AS SECONDARY PAYER.

(a) IDENTIFICATION OF MEDICARE SECONDARY PAYER SITUATIONS.—

(1) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION FOR VERIFICATION OF EMPLOYMENT STATUS OF MEDICARE BENEFICIARY AND SPOUSE OF MEDICARE BENEFICIARY.—

(A) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph:

"(12) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION FOR VERIFICATION OF EMPLOYMENT STATUS OF MEDICARE BENEFICIARY AND SPOUSE OF MEDICARE BENEFICIARY.—

"(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary shall, upon written request from the Commissioner of Social Security, disclose to the Commissioner available filing status and taxpayer identity information from the individual master files of the Internal Revenue Service relating to whether any medicare beneficiary identified by the Commissioner was a married individual (as defined in section 7703) for any specified year after 1986, and, if so, the name of the spouse of such individual and such spouse's TIN.

"(B) RETURN INFORMATION FROM SOCIAL SECURITY ADMINISTRATION.—The Commissioner of Social Security shall, upon written request from the Administrator of the Health Care Financing Administration, disclose to the Administrator the following information:

"(i) The name and TIN of each medicare beneficiary who is identified as having received wages (as defined in section 3401(a)) from a qualified employer in a previous year.

"(ii) For each medicare beneficiary who was identified as married under subparagraph (A) and whose spouse is identified as having received wages from a qualified employer in a previous year—

"(I) the name and TIN of the medicare beneficiary, and

"(II) the name and TIN of the spouse.

"(iii) With respect to each such qualified employer, the name, address, and TIN of the employer and the number of individuals with respect to whom written statements were furnished under section 6051 by the employer with respect to such previous year.

"(C) DISCLOSURE BY HEALTH CARE FINANCING ADMINISTRATION.—With respect to the information disclosed under subparagraph (B), the Administrator of the Health Care Financing Administration may disclose—

"(i) to the qualified employer referred to in such subparagraph the name and TIN of each individual identified under such subparagraph as having received wages from the employer (hereinafter in this subparagraph referred to as the 'employee') for purposes of determining during what period such employee or the employee's spouse may be (or have been) covered under a group health plan of the employer and what benefits are or were covered under the plan (including the name, address, and identifying number of the plan),

"(ii) to any group health plan which provides or provided coverage to such an employee or spouse, the name of such employee and the employee's spouse (if the spouse is a medicare beneficiary) and the name and address of the employer, and, for the purpose of presenting a claim to the plan—

"(I) the TIN of such employee if benefits were paid under title XVIII of the Social Security Act with respect to the employee during a period in which the plan was a primary plan (as defined in section 1862(b)(2)(A) of the Social Security Act), and

"(II) the TIN of such spouse if benefits were paid under such title with respect to the spouse during such period, and

"(iii) to any agent of such Administrator the information referred to in subparagraph (B) for purposes of carrying out clauses (i) and (ii) on behalf of such Administrator.

"(D) SPECIAL RULES.—

"(i) RESTRICTIONS ON DISCLOSURE.—Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, determining the extent to which any medicare beneficiary is covered under any group health plan.

"(ii) TIMELY RESPONSE TO REQUESTS.—Any request made under subparagraph (A) or (B) shall be complied with as soon as possible but in no event later than 120 days after the date the request was made.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) MEDICARE BENEFICIARY.—The term 'medicare beneficiary' means an individual entitled to benefits under part A, or enrolled under part B, of title XVIII of the Social Security Act, but does not include such an individual enrolled in part A under section 1818 or section 1818A.

"(ii) GROUP HEALTH PLAN.—The term 'group health plan' means—

"(I) any group health plan (as defined in section 5000(b)(1)), and

"(II) any large group health plan (as defined in section 5000(b)(2)).

"(iii) QUALIFIED EMPLOYER.—The term 'qualified employer' means, for a calendar year, an employer which has furnished written statements under section 6051 with respect to at least 20 individuals for wages paid in the year.

"(F) TERMINATION.—Subparagraphs (A) and (B) shall not apply to—

"(i) any request made after September 30, 1991, and

"(ii) any request made before such date for information relating to—

"(I) 1990 or thereafter in the case of subparagraph (A), or

"(II) 1991 or thereafter in the case of subparagraph (B)."

(B) SAFEGUARDS.—

(i) Paragraph (3) of section 6103(a) of such Code is amended by inserting "(l)(12)," after "(e)(1)(D)(iii),".

(ii) Subparagraph (A) of section 6103(p)(3) of such Code is amended by striking "or (11)" and inserting "(11), or (12)".

(iii) Paragraph (4) of section 6103(p) of such Code is amended in the material preceding subparagraph (A) by striking "or (9) shall" and inserting "(9), or (12) shall".

(iv) Clause (ii) of section 6103(p)(4)(F) of such Code is amended by striking "or (11)" and inserting "(11), or (12)".

(v) The next to the last sentence of paragraph (4) of section 6103(p) of such Code is amended by inserting "or which receives any information under subsection (l)(12)(B) and which discloses any such information to any agent" before ", this paragraph".

(C) PENALTY.—Paragraph (2) of section 7213(a) of such Code is amended by striking "or (10)" and inserting "(10), or (12)".

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect on October 1, 1989.

(2) RESPONSIBILITIES OF HCFA.—

(A) IN GENERAL.—Section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)), as amended by subsection (b)(1) of this section, is amended by inserting after paragraph (4) the following new paragraph:

"(5) IDENTIFICATION OF SECONDARY PAYER SITUATIONS.—

"(A) REQUESTING MATCHING INFORMATION.—

"(i) COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security shall, not less often than annually, transmit to the Secretary of the Treasury a list of the names and TINs of medicare beneficiaries (as defined in section 6103(l)(12) of the Internal Revenue Code of 1986) and request that the Secretary disclose to the Commissioner the information described in subparagraph (A) of such section.

"(ii) ADMINISTRATOR.—The Administrator of the Health Care Financing Administration shall request, not less often than annually, the Commissioner of the Social Security Administration to disclose to the Administrator the information described in subparagraph (B) of section 6103(l)(12) of the Internal Revenue Code of 1986.

"(B) DISCLOSURE TO FISCAL INTERMEDIARIES AND CARRIERS.—In addition to any other information provided under this title to fiscal intermediaries and carriers, the Administrator shall disclose to such intermediaries and carriers the information received under subparagraph (A) for the purposes of carrying out this subsection.

"(C) CONTACTING EMPLOYERS.—

"(i) IN GENERAL.—With respect to each individual (in this subparagraph referred to as an 'employee') who was furnished a written statement under section 6051 of the Internal Revenue Code of 1986 by a qualified employer (as defined in section 6103(l)(12)(D)(iii) of such Code), as disclosed under subparagraph (B), the appropriate fiscal intermediary or carrier shall contact the employer in order to determine during what period the employee or employee's spouse may be (or have been) covered under a group health plan of the employer and the nature of the coverage that is or was provided under the plan (including the name, address, and identifying number of the plan).

"(ii) EMPLOYER RESPONSE.—Within 30 days of the date of receipt of the inquiry, the employer shall notify the intermediary or carrier making the inquiry as to the determinations described in clause (i). An employer (other than a Federal or other governmental entity) who willfully or repeatedly fails to provide timely and accurate notice in accordance with the previous sentence shall be subject to a civil money penalty of not to exceed $1,000 for each individual with respect to which such an inquiry is made. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(iii) SUNSET ON REQUIREMENT.—Clause (ii) shall not apply to inquiries made after September 30, 1991.".

(B) DEADLINE FOR FIRST REQUEST.—The Commissioner of Social Security shall first—

(i) transmit to the Secretary of the Treasury information under paragraph (5)(A)(i) of section 1862(b) of the Social Security Act (as inserted by subparagraph (A)), and

(ii) request from the Secretary disclosure of information described in section 6013(l)(12)(A) of the Internal Revenue Code of 1986,

by not later than October 1, 1989.

(b) UNIFORM ENFORCEMENT AND COORDINATION OF BENEFITS.—

(1) IN GENERAL.—Section 1862 of the Social Security Act (42 U.S.C. 1395y) is amended—

(A) in the heading, by adding at the end the following: "AND MEDICARE AS SECONDARY PAYER"; and

(B) by amending subsection (b) to read as follows:

"(b) MEDICARE AS SECONDARY PAYER.—

"(1) REQUIREMENTS OF GROUP HEALTH PLANS.—

"(A) WORKING AGED UNDER GROUP HEALTH PLANS.—

"(i) IN GENERAL.—A group health plan—

"(I) may not take into account, for any item or service furnished to an individual 65 years of age or older at the time the individual is covered under the plan by reason of the current employment of the individual (or the individual's spouse), that the individual is entitled to benefits under this title under section 226(a), and

"(II) shall provide that any employee aged 65 or older, and any employee's spouse age 65 or older, shall be entitled to the same benefits under the plan under the same conditions as any employee, and the spouse of such employee, under age 65.

"(ii) EXCLUSION OF GROUP HEALTH PLAN OF A SMALL EMPLOYER.—Clause (i) shall not apply to a group health plan unless the plan is sponsored by or contributed to by an employer that has 20 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year or the preceding calendar year.

"(iii) EXCEPTION FOR SMALL EMPLOYERS IN MULTIEMPLOYER OR MULTIPLE EMPLOYER GROUP HEALTH PLANS.—Clause (i) also shall not apply with respect to individuals enrolled in a multiemployer or multiple employer group health plan if the coverage of the individuals under the plan is by virtue of employment with an employer that does not have 20 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year or the preceding calendar year; except that the exception provided in this clause shall only apply if the plan elects treatment under this clause.

"(iv) EXCEPTION FOR INDIVIDUALS WITH END STAGE RENAL DISEASE.—Clause (i) shall not apply to an item or service furnished in a month to an individual if for the month the individual is, or would upon application be, entitled to benefits under section 226A.

"(v) GROUP HEALTH PLAN DEFINED.—In this subparagraph, and subparagraph (C), the term 'group health plan' has the meaning given such term in section 5000(b)(1) of the Internal Revenue Code of 1986.

"(B) DISABLED ACTIVE INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—

"(i) IN GENERAL.—A large group health plan (as defined in clause (iv)(II)) may not take into account that an active individual (as defined in clause (iv)(I)) is entitled to benefits under this title under section 226(b).

"(ii) EXCEPTION FOR INDIVIDUALS WITH END STAGE RENAL DISEASE.—Clause (i) shall not apply to an item or service furnished in a month to an individual if for the month the individual is, or would upon application be, entitled to benefits under section 226A.

"(iii) SUNSET.—Clause (i) shall only apply to items and services furnished on or after January 1, 1987, and before January 1, 1992.

"(iv) DEFINITIONS.—In this subparagraph:

"(I) ACTIVE INDIVIDUAL.—The term 'active individual' means an employee (as may be defined in regulations), the employer, self-employed individual (such as the employer), an individual associated with the employer in a business relationship, or a member of the family of any of such persons.

"(II) LARGE GROUP HEALTH PLAN.—The term 'large group health plan' has the meaning given such term in section 5000(b)(2) of the Internal Revenue Code of 1986.

"(C) INDIVIDUALS WITH END STAGE RENAL DISEASE.—A group health plan (as defined in subparagraph (A)(v))—

"(i) may not take into account that an individual is entitled to benefits under this title solely by reason of section 226A during the 12-month period which begins with the earlier of—

"(I) the month in which a regular course of renal dialysis is initiated, or

"(II) in the case of an individual who receives a kidney transplant, the first month in which he would be eligible for benefits under part A (if he had filed an application for such benefits) under the provisions of section 226A(b)(1)(B); and

"(ii) may not differentiate in the benefits it provides between individuals having end stage renal disease and other individuals covered by such plan on the basis of the existence of end stage renal disease, the need for renal dialysis, or in any other manner;

except that clause (ii) shall not prohibit a plan from taking into account that an individual is entitled to benefits under this title solely by reason of section 226A after the end of the 12-month period described in clause (i).

"(2) MEDICARE SECONDARY PAYER.—

"(A) IN GENERAL.—Payment under this title may not be made, except as provided in subparagraph (B), with respect to any item or service to the extent that—

"(i) payment has been made, or can reasonably be expected to be made, with respect to the item or service as required under paragraph (1), or

"(ii) payment has been made, or can reasonably be expected to be made promptly (as determined in accordance with regulations) under a workers' compensation law or plan of the United States or a State or under an automobile-medical insurance policy or plan or no-fault insurance.

In this subsection, the term 'primary plan' means a group health plan or large group health plan, to the extent that clause (i) applies, and a workers' compensation law or plan, an automobile-medical insurance policy or plan, or no-fault insurance, to the extent that clause (ii) applies.

"(B) CONDITIONAL PAYMENT.—

"(i) IN GENERAL.—

"(I) PRIMARY PLANS.—Any payment under this title with respect to any item or service to which subparagraph (A) applies shall be conditioned on reimbursement to the appropriate Trust Fund established by this title when notice or other information is received that payment for such item or service has been or could be made under such subparagraph.

"(II) LIABILITY INSURANCE.—Any payment under this title with respect to any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to the item or service under a liability insurance policy or plan (including a self-insured plan) shall be conditioned on reimbursement to the appropriate Trust Fund established by this title when notice or other information is received that payment for such item or service has been or could be made under such policy or plan.

"(ii) ACTION BY UNITED STATES.—In order to recover payment under this title for such an item or service, the United States may bring an action against any entity which is required or responsible under this subsection to pay with respect to such item or service (or any portion thereof) under a primary plan or under a liability insurance policy or

plan described in clause (i)(II) (and may, in accordance with paragraph (3)(A) collect double damages against that entity), or against any other entity (including any physician or provider) that has received payment from that entity with respect to the item or service, and may join or intervene in any action related to the events that gave rise to the need for the item or service.

"(iii) SUBROGATION RIGHTS.—The United States shall be subrogated (to the extent of payment made under this title for such an item or service) to any right under this subsection of an individual or any other entity to payment with respect to such item or service under a primary plan.

"(iv) WAIVER OF RIGHTS.—The Secretary may waive (in whole or in part) the provisions of this subparagraph in the case of an individual claim if the Secretary determines that the waiver is in the best interests of the program established under this title.

"(3) ENFORCEMENT.—

"(A) PRIVATE CAUSE OF ACTION.—There is established a private cause of action for damages (which shall be in an amount double the amount otherwise provided) in the case of a primary plan which fails to provide for primary payment (or appropriate reimbursement) in accordance with such paragraphs (1) and (2)(A).

"(B) REFERENCE TO EXCISE TAX WITH RESPECT TO NONCONFORMING GROUP HEALTH PLANS.—For provision imposing an excise tax with respect to nonconforming group health plans, see section 5000 of the Internal Revenue Code of 1986.

"(4) COORDINATION OF BENEFITS.—Where payment for an item or service by a primary plan is less than the amount of the charge for such item or service and is not payment in full, payment may be made under this title (without regard to deductibles and coinsurance under this title) for the remainder of such charge, but—

"(A) payment under this title may not exceed an amount which would be payable under this title for such item or service if paragraph (2)(A) did not apply; and

"(B) payment under this title, when combined with the amount payable under the primary plan, may not exceed—

"(i) in the case of an item or service payment for which is determined under this title on the basis of reasonable cost (or other cost-related basis) or under section 1886, the amount which would be payable under this title on such basis, and

"(ii) in the case of an item or service for which payment is authorized under this title on another basis—

"(I) the amount which would be payable under the primary plan (without regard to deductibles and coinsurance under such plan), or

"(II) the reasonable charge or other amount which would be payable under this title (without regard to deductibles and coinsurance under this title),

whichever is greater.".

(2) ENFORCEMENT THROUGH EXCISE TAX.—Section 5000 of the Internal Revenue Code of 1986 is amended—

(A) by striking "LARGE" in the heading;

(B) in subsection (a), by striking "large" each place it appears; and

(C) by amending subsections (b) and (c) to read as follows:

"(b) GROUP HEALTH PLAN AND LARGE GROUP HEALTH PLAN.—For purposes of this section—

"(1) GROUP HEALTH PLAN.—The term 'group health plan' means any plan of, or contributed to by, an employer (including a self-insured plan) to provide health care (directly or otherwise) to the employer's employees, former employees, or the families of such employees or former employees.

"(2) LARGE GROUP HEALTH PLAN.—The term 'large group health plan' means a plan of, or contributed to by, an employer or employee organization (including a self-insured plan) to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families, that covers employees of at least one employer that normally employed at least 100 employees on a typical business day during the previous calendar year.

"(c) NONCONFORMING GROUP HEALTH PLAN.—For purposes of this section, the term 'nonconforming group health plan' means a group health plan or large group health plan that at any time during a calendar year does not comply with the requirements of subparagraphs (A) and (C) or subparagraph (B), respectively, of section 1862(b)(1) of the Social Security Act.".

(3) APPLICATION OF PROVIDER AGREEMENTS IN SECONDARY PAYER SITUATIONS.—Section 1866(a)(1)(A) of such Act (42 U.S.C. 1395cc(a)(1)(A)) is amended by inserting "section 1862(b)(2)(A) did not apply and" after "(or for which he would be so entitled if".

(4) REPEAL OF CERTAIN ALTERNATIVE ENFORCEMENT PROVISIONS.—

(A) DENIAL OF DEDUCTION FOR GROUP HEALTH PLANS.—Subsection (i) of section 162 of such Code (relating to group health plans) is repealed.

(B) AGE DISCRIMINATION IN EMPLOYMENT ACT.—The Age Discrimination in Employment Act of 1967 is amended—

(i) by striking subsection (g) of section 4, and

(ii) in section 12(a), by striking "(except the provisions of section 4(g))".

(5) CLERICAL AND CONFORMING AMENDMENTS.—

(A) Chapter 47 of the Internal Revenue Code of 1986 is amended—

(i) in the heading, by striking "LARGE", and

(ii) in the table of sections, by striking "large".

(B) The item in the table of chapters of subtitle D of such Code relating to chapter 47 is amended by striking "large".

(C) Sections 1837(i) and 1839(b) of the Social Security Act (42 U.S.C. 1395p(i), 1395r(b)) are each amended by striking "1862(b)(3)(A)(iv)" and "1862(b)(4)(B)" each place each appears and inserting "1862(b)(1)(A)(vi)" and "1862(b)(1)(B)(iv)", respectively.

(6) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items and services furnished after the date of the enactment of this Act.

(c) SPECIAL ENROLLMENT PERIOD FOR DISABLED EMPLOYEES.—

(1) IN GENERAL.—Section 1837(i) of the Social Security Act (42 U.S.C. 1395p(i)) is amended—

(A) in paragraph (1)—

(i) by striking subparagraph (A), and

(ii) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(iii) in the second sentence, by inserting "not described in the previous sentence" after "In the case of an individual"; and

(B) in paragraph (2)—

(i) in subparagraph (B)(i), by striking "(1)(B)" and inserting "(1)(A)",

(ii) by striking subparagraph (A),

(iii) by redesignating subparagraphs (B) through (D) as subparagraphs (A) and (C), respectively, and

(iv) in the second sentence, by inserting "not described in the previous sentence" after "In the case of an individual".

(2) CONFORMING AMENDMENT.—The second sentence of section 1839(b) of such Act (42 U.S.C. 1395r(b)) is amended by striking "during which the individual has attained the age of 65 and".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to enrollments occurring after, and premiums for months after, the second calendar quarter beginning after the date of the enactment of this Act.

(d) NO MATCHING BASED ON PRIVATE ACTIVITIES REQUIRED IN FISCAL INTERMEDIARY AGREEMENTS AND CARRIER CONTRACTS.—

(1) FISCAL INTERMEDIARY AGREEMENTS.—Section 1816(c)(1) of the Social Security Act (42 U.S.C. 1395h(c)(1)) is amended by adding at the end the following: "The Secretary may not require, as a condition of entering into or renewing an agreement under this section or under section 1871, that a fiscal intermediary match data obtained other than in its activities under this part with data used in the administration of this part for purposes of identifying situations in which the provisions of section 1862(b) may apply.".

(2) CARRIER CONTRACTS.—Section 1842(b)(2)(A) of such Act (42 U.S.C. 1395u(b)(2)(A)) is amended by adding at the end the following: "The Secretary may not require, as a condition of entering into or renewing a contract under this section or under section 1871, that a carrier match data obtained other than in its activities under this part with data used in the administration of this part for purposes of identifying situations in which section 1862(b) may apply.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to agreements and contracts entered into or renewed on or after the date of the enactment of this Act.

(e) TREATMENT OF EMPLOYMENT AS A MEMBER OF A RELIGIOUS ORDER.—

(1) IN GENERAL.—Section 1862(b)(1) of the Social Security Act (42 U.S.C. 1395y(b)(1)), as amended by subsection (b)(1) of this section, is amended by adding at the end the following new subparagraph:

"(D) TREATMENT OF CERTAIN MEMBERS OF RELIGIOUS ORDERS.—In this subsection, an individual shall not be considered to be employed, or an employee, with respect to the performance of services as a member of a religious order which are considered employment only by virtue of an election made by the religious order under section 3121(r) of the Internal Revenue Code of 1986.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items and services furnished on or after October 1, 1989.

SEC. 10153. END STAGE RENAL DISEASE SERVICES.

(a) MAINTENANCE OF CURRENT COMPOSITE RATE.—

(1) IN GENERAL.—Section 9335(a)(1) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "and before October 1, 1988" and inserting "and before October 1, 1990".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

(b) REQUIREMENTS FOR PATIENTS DEALING DIRECTLY WITH MEDICARE.—

(1) LIMITATION ON AMOUNT OF PAYMENT GENERAL.—Section 1881(b)(7) of the Social Security Act (42 U.S.C. 1395rr(b)(7)) is amended by inserting after the second sentence the following new sentence: "In no case may the amount of a payment made under any method other than a method based on a single composite weighted formula exceed the amount of payment that would have been made under the formula for hospital-based facilities.".

(2) AGREEMENTS WITH PROVIDERS OF SERVICES.—Section 1881(b)(4) of such Act (42 U.S.C. 1395rr(b)(4)) is amended—

(A) by striking "(4)" and inserting "(4)(A)", and

(B) by adding at the end the following new subparagraph:

"(B) The Secretary shall make payments to a supplier of home dialysis supplies and equipment furnished to a patient whose self-care home dialysis is not under the direct supervision of an approved provider of services or renal dialysis facility only in accordance with a written agreement under which—

"(i) the patient certifies that the supplier is the sole provider of such supplies and equipment to the patient,

"(ii) the supplier agrees to receive payment for the cost of such supplies and equipment only on an assignment-related basis, and

"(iii) the supplier certifies that it has entered into a written agreement with an approved provider of services or renal dialysis facility under which such provider or facility agrees to furnish to such patient all self-care home dialysis support services and all other necessary dialysis services and supplies, including institutional dialysis services and supplies and emergency services.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to dialysis services, supplies, and equipment furnished on or after October 1, 1989.

(c) ESRD PATIENT PROTECTION AND QUALITY ASSURANCE.—

(1) SHORT TITLE.—This subsection may be cited as the "End Stage Renal Disease Patient Protection and Quality Assurance Act of 1989".

(2) PATIENTS' RIGHTS AND FACILITY RESPONSIBILITIES; SURVEY AND CERTIFICATION PROCEDURES.—Section 1881 of the Social Security Act (42 U.S.C. 1395rr) is amended—

(A) by redesignating subsection (g) as subsection (k); and

(B) by inserting after subsection (f) the following new subsections:

"(g) PATIENTS' RIGHTS.—

"(1) IN GENERAL.—As a requirement for each renal dialysis facility and provider of services under subsection (b)(1)(A) (each such facility or provider referred to in this subsection as a 'facility'), each such facility must meet the requirements of paragraphs (2) and (3) and must protect and promote the rights provided to patients pursuant to such paragraphs regarding the quality of patient care and the provision of information about the facility.

"(2) INFORMATION ABOUT THE FACILITY.—As soon as feasible, but in no case later than 30 days after the beginning of a patient's dialysis program or course of treatment (except as otherwise provided in this paragraph), and upon the patient's reasonable request thereafter, each facility shall—

"(A) inform the patient of the patient's rights under this subsection and of all rules and regulations governing such rights, including the patient's rights regarding the grievance procedures described in paragraph (5);

"(B) inform the patient of services available in the facility and of related charges, including any charges for services not covered under this title;

"(C) inform the patient of the facility's responsibility for continuing the patient in the dialysis program and of the specific circumstances that may result in termination of treatment;

"(D) inform the patient of the name of the physician who has primary responsibility for coordinating the patient's care and the names and professional relationship of other physicians who will see the patient, if different from the patient's personal physician;

"(E) upon request, provide the patient with full information regarding the relationships of the facility to other organizations, corporations, or institutions, including disclosure of any physicians involved in the patient's care who have a financial relationship with the facility;

"(F) upon request, and in accordance with applicable State law, provide the patient with access to the patient's own medical records maintained by the facility; and

"(G) provide the patient with information from the network administrative organization about facilities in the region that offer home or self-care dialysis and flexible arrangements for patients, and about facilities outside the region that are available to transient patients.

"(3) QUALITY OF CARE IN TREATMENT.—Each facility—

"(A) shall inform each patient, through a physician and at regular intervals, of the patient's medical condition, unless medically contraindicated (as documented in the patient's medical records), and, at the request of the patient or because of medical necessity, transmit such information to third parties;

"(B) on at least an annual basis, shall provide each patient with an evaluation by a physician and counseling by a physician or an individual designated by a physician regarding the patient's suitability as a candidate for kidney transplantation, peritoneal, or self-care dialysis, and shall maintain appropriate documentation of the evaluation in the patient's medical record;

"(C) through a physician, shall provide each patient, except in the case of emergencies, with as much information about any proposed treatment, including any experimental procedure or procedure involving reuse, as the patient may need in order to give informed consent for or to refuse such treatment, including a description of the procedure or treatment, the medically significant risks involved in the procedure or treatment, any alternative course of treatment or nontreatment and the risks involved in each, and the name of the individual who will carry out the procedure or treatment;

"(D) may not refuse to treat a patient because the patient seeks other medical opinions regarding modes of treatment;

"(E) to the extent permitted by law and without jeopardy to the facility, shall permit a patient to refuse treatment if the facility has informed the patient, and the patient is aware, of the medical consequences of this course of action;

"(F) shall provide each patient at regular intervals with a written plan of care developed by the attending physician upon consultation with the patient, which assures a reasonable continuity of care and which includes designation of the agreed-upon treatment modality, advance notice of the time and location of appointments for dialysis treatment, and designation of the physician responsible for that care;

"(G) may require a patient to attest to a statement which affirms that the patient has been fully informed of the rights provided under this subsection, understands the various options of transplantation, peritoneal dialysis, and self-care dialysis, and has consented to the written plan of care;

"(H) shall treat each patient with consideration and respect and protect and promote each patient's rights, including—

"(i) the patient's right to privacy with regard to accommodations, medical treatment, written and telephonic communications, visits, and meetings of family and patient groups (except that nothing in this clause may be construed as requiring the provision of a private room), and

"(ii) the patient's right to receive services with reasonable accommodation of the individual needs and preferences, except where the health or safety of the patient or other patients would be endangered;

"(I) may transfer or discharge a patient only for medical reasons or for the patient's welfare, or that of other patients or staff, or for nonpayment of fees (except as prohibited by this title), and shall provide each patient with advance notice of any transfer or discharge;

"(J) may not transfer or discharge a patient without the patient's consent, unless—

"(i) the patient transferred or discharged is a new or medically unstable patient, the facility is responsible for providing treatment for such patient, and the facility is required, either contractually or under State or local law, to routinely transfer such a patient to another setting, or

"(ii) the patient is transferred or discharged in accordance with the facility's written policy regarding routine transfers for specified circumstances, except that grounds for transfer or discharge under such a policy may not include—

"(I) the filing of a grievance or legal complaint, or

"(II) the refusal to agree to reuse of artificial kidneys or other supplies, if such refusal is based upon the written advice of a nephrologist (who may or may not be affiliated with the facility) that overriding medical reasons preclude such reuse;

"(K) shall ensure the confidential treatment of the patient's personal and medical records, and may not release any such records to any person outside the facility without the patient's consent, except in the case of the patient's transfer to another health care institution, as required for the proper administration of the program under this title, or as otherwise required by Federal, State, or local law;

"(L) shall provide, during dialysis treatment at the facility, for a registered professional nurse experienced in dialysis therapy to direct any technicians providing such treatment;

"(M) may not interfere with the right of patients to form patient councils or committees to discuss their common concerns; and

"(N) in the case of a facility that serves a significant number of patients whose primary language is not English, shall ensure that information is provided in a language and form that is understood by such patients.

"(4) APPLICATION OF PATIENT RIGHTS TO GUARDIANS.—The rights provided to patients under this subsection shall apply where necessary to the individual having legal responsibility to make decisions regarding medical care on behalf of the patient.

"(5) GRIEVANCE PROCEDURE.—Each facility shall—

"(A) provide for the resolution of patient concerns and conflicts within its policies and procedures; and

"(B) permit patients to state grievances, report accidents and incidents occurring within the facility, and recommend changes in policies and services, directly and through any representative of the patient's choice, without restraint or interference, and may not discriminate against patients who state grievances or recommend changes.

"(h) SURVEY AND CERTIFICATION PROCESS.—

"(1) STATE AND FEDERAL RESPONSIBILITIES.—Pursuant to an agreement under section 1864, each State shall be responsible for—

"(A) certifying, in accordance with surveys conducted under paragraph (2) by the State or by another State under an agreement entered into between such States, the compliance of renal dialysis facilities and providers of services providing renal dialysis services (each such facility or provider in this subsection referred to as a 'facility') with the requirements established under subsection (b)(1)(A) (including the requirements specified in subsection (g));

"(B) conducting in collaboration with the network administrative organization periodic educational programs for the staff and patients of such facilities in order to present current regulations, procedures, and policies; and

"(C) providing for the transmission to the network administrative organization for the State of survey findings with respect to facilities found to be out of compliance with quality standards.

"(2) SURVEYS.—

"(A) STANDARD SURVEY.—

"(i) IN GENERAL.—Each facility shall be subject to a standard survey, to be conducted without any prior notice to the facility. The Secretary shall review each State's procedures for scheduling and conducting standard surveys to assure that the State has taken all reasonable steps to avoid giving prior notice of the survey.

"(ii) CONTENTS.—Each standard survey shall include for a sample of the patients of such a facility—

"(I) a survey of the quality of care furnished, as measured by indicators of medical, nursing, and rehabilitation care developed by the Secretary;

"(II) a survey of the facility's internal quality assurance program and its ability to ensure detection and correction of quality problems;

"(III) a review of the facility's staffing, in-service training, and, if appropriate, contracts with consultants;

"(IV) a review of the facility's written plans of care;

"(V) a review of patient records for items such as potential for transplantation or home care, excessive or unnecessary dialysis, hospitalizations, recurrent pericarditis, and infections;

"(VI) a review of the facility's compliance with requirements regarding patient's rights under subsection (g);

"(VII) interviews with patients to determine their satisfaction with care provided; and

"(VIII) a review of the records of each patient who, after treatment, was admitted to a hospital as an inpatient, or who died while participating in a course of treatment in or under the supervision of the facility, to determine the quality of care provided to such patient and to determine if the cause of the death was accurately described in such records in the case of a patient who died.

"(iii) FREQUENCY.—

"(I) IN GENERAL.—Each facility shall be subject to a standard survey not later than December 31, 1992, and not later than every 15 months thereafter. The Statewide average interval between standard surveys of facilities under this subsection may not exceed 12 months.

"(II) SPECIAL SURVEYS.—If not otherwise conducted under subclause (I), a standard survey may be conducted within 2 months of any change of ownership, administration, or management in a facility, in order to determine whether the change has resulted in any decline in the quality of care furnished in the facility.

"(B) EXTENDED SURVEYS.—

"(i) IN GENERAL.—Each facility found under a standard survey to be out of compliance with prescribed quality standards, as indicated by such factors as infection, hypotension, hospitalization, and others specified by the Secretary and adjusted on an appropriate severity case-mix basis, shall be subject to an extended survey. Any other facility may, at the Secretary's or State's discretion, be subject to such an extended survey.

"(ii) TIMING.—The extended survey shall be conducted immediately after the standard survey (or, if not practicable, not later than 2 weeks after the date of completion of the standard survey).

"(iii) CONTENTS.—In such an extended survey, the survey team shall review and identify the policies, procedures, and quality assurance system which produced such substandard quality of care and shall determine whether the facility has complied with all the requirements established under subsection (b)(1)(A) (including the requirements specified in subsection (g)). Such review shall include a survey of the patients' records for all the patients of the facility and an expanded sample of interviews of patients to determine their satisfaction with the care provided, and shall take into account whether the facility has a plan of correction and any evidence that the facility has acted immediately to implement such plan.

"(iv) CONSTRUCTION.—Nothing in this paragraph shall be construed as requiring an extended survey as a prerequisite to imposing a sanction against a facility under subsection (j) on the basis of findings in a standard survey.

"(3) SURVEY PROTOCOL.—Standard and extended surveys shall be conducted—

"(A) based upon a protocol developed, tested, and validated by the Secretary by not later than July 1, 1991; and

"(B) by individuals of a survey team who meet such minimum qualifications of experience or training as the Secretary establishes by not later than such date.

The protocol referred to in subparagraph (A) and the minimum qualifications referred to in subparagraph (B) shall be based upon recommendations made by the advisory board under subsection (i)(2). The failure of the Secretary to develop, test, or validate such a protocol or to establish such minimum qualifications shall not relieve any State of its responsibility (or the Secretary of the Secretary's responsibility) to conduct surveys under this subsection.

"(4) CONSISTENCY OF SURVEYS.—Each State and the Secretary shall implement programs to measure and reduce inconsistency in the application of survey results among surveyors.

"(5) SURVEY TEAMS.—

"(A) IN GENERAL.—Surveys under this subsection shall be conducted by a multidisciplinary team of professionals (including a registered professional nurse).

"(B) PROHIBITION OF CONFLICTS OF INTEREST.—A State may not use as a member of a survey team under this paragraph an individual who is serving (or has served within the previous 2 years) as a member of the staff of, or as a consultant to, the facility surveyed or who has a personal or familial financial interest in the facility being surveyed.

"(C) TRAINING.—The Secretary shall provide for the comprehensive training of surveyors in the conduct of standard and extended surveys under this subsection. No individual shall serve as a member of a survey team unless the individual has successfully completed a training and testing program in survey and certification techniques that has been approved by the Secretary.

"(6) SPECIAL SURVEYS OF COMPLIANCE.—In any case where the Secretary has reason to question the compliance of a facility with any of the requirements established under subsection (b)(1)(A) (including the requirements specified in subsection (g)), the Secretary may conduct a survey of the facility and, on the basis of such survey, make independent and binding determinations concerning the extent to which the facility meets such requirements.

"(7) DISCLOSURE OF RESULTS OF INSPECTIONS AND ACTIVITIES.—

"(A) PUBLIC INFORMATION.—Each State and the Secretary shall make available to the public—

"(i) information regarding all surveys and certifications made with respect to facilities, including statements of deficiencies, and

"(ii) copies of cost reports of such facilities filed under this title.

"(B) NOTICE OF DEFICIENCIES.—If a State finds that a facility has provided substandard quality of care, the State shall notify the attending physician of each patient with respect to which such finding is made, and where a facility has established a plan to correct deficiencies, the State shall notify the physician of the details of such plan.

"(C) NOTIFICATION TO PATIENTS OF RESULTS OF NETWORK PATIENT GRIEVANCE INVESTIGATIONS.—The network administrative organization shall provide to the facility's administrator and the patient or patients filing a grievance with the organization (and only to such patient or patients) a full statement of the findings of the organization's investigation and all steps taken or to be taken as a consequence of such investigation.

"(8) AWARDS OF EXCELLENCE.—A State may award annual designations of 'excellence in quality' to facilities in the State that have achieved outstanding quality in various categories of care (adjusted for severity of case mix) on the basis of standards established by the State, including success in referring to transplantation, self care, and rehabilitation, success in reducing morbidity, success in promoting patient morale, and success in improving patient cooperation with nutritional and dietary guidelines.".

(3) ESTABLISHMENT OF ADVISORY BOARD.—Such section is further amended by inserting after subsection (h) (as inserted by paragraph (2)(B)) the following new subsection:

"(i) ADVISORY BOARD.—

"(1) ESTABLISHMENT; MEMBERSHIP.—Not later than March 1, 1990, the Secretary shall establish an advisory board composed of 11 members, of whom—

"(A) at least 1 shall be an end stage renal disease patient;

"(B) at least 1 shall be a nephrologist;

"(C) at least 1 shall be a renal administrator;

"(D) at least 1 shall be a transplant surgeon;

"(E) at least 1 shall be a nephrology nurse;

"(F) at least 1 shall be a dialysis technician;

"(G) at least 1 shall be a nephrology social worker;

"(H) at least 1 shall be a renal nutritionist;

"(I) at least 1 shall be a representative of a network administrative organization; and

"(J) at least 1 shall be an expert in quality assessment or assurance.

"(2) DUTIES.—The advisory board shall advise the Secretary on—

"(A) establishing quality standards (within the requirements established under subsection (b)(1)(A) (including the requirements of subsection (g)) for the various methods of treatment of end stage renal disease, including standards in the areas of transplantation, alternative methods and locations of treatment, the use and availability of drugs, hypertension control, bone disease prevention, anemia, nutrition, rehabilitation, and quality of water used in the facility;

"(B) developing protocols for standard and extended surveys conducted pursuant to subsection (h);

"(C) developing minimum qualifications for members of survey teams conducting surveys under such subsection; and

"(D) developing complete uniform national instructional guidelines for surveyors and renal dialysis facilities and providers of services that outline the specific methodology by which such facilities will be judged under surveys conducted under such subsection.

"(3) RECOMMENDATIONS.—The advisory board shall make recommendations to the Secretary, by not later than December 31, 1990 (or 12 months after the establishment of the Board, whichever occurs earlier), concerning the standards, protocols, qualifications, guidelines, and criteria described in paragraph (2). The advisory board may also make recommendations on ways to improve the administration of the end stage renal disease program within the Department. The Secretary shall implement such recommendations as the Secretary deems appropriate not later than January 1, 1992, and shall notify the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate upon such implementation.

"(4) FOLLOW-UP REPORTS.—Not later than December 31 of each of the years 1992 and 1994, the advisory board shall prepare and submit a report to the Secretary and to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. This report shall include—

"(A) recommendations to update quality standards, if necessary;

"(B) an assessment of the extent to which recommendations of the advisory board concerning patient protection and quality assurance have been implemented; and

"(C) an assessment as to which of its recommendations (if any) concerning patient protection and quality assurance should be revised.

"(5) MISCELLANEOUS PROVISIONS.—

"(A) CHAIRMAN.—The advisory board shall elect one of its members to serve as Chairman.

"(B) QUORUM; MEETINGS.—(i) A majority of the members of the advisory board shall constitute a quorum for the transaction of business.

"(ii) The advisory board shall meet at the call of the Chairman or at the call of a majority of its members.

"(C) COMPENSATION.—Members of the advisory board shall serve without compensation, but shall be entitled, subject to the amounts provided in advance in appropriation Acts, to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the advisory board.

"(D) STAFF.—In consultation with the Secretary, the advisory board may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(E) OBTAINING INFORMATION.—The advisory board may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities. Upon request of the advisory board, any such department or agency shall furnish any such data or information.

"(F) SUPPORT SERVICES.—The Administrator of General Services shall provide to the advisory board, on a reimbursable basis, such administrative support services as the advisory board may request.".

(4) ENFORCEMENT OF QUALITY ASSURANCE STANDARDS IN END STAGE RENAL DISEASE FACILITIES.—Such section is further amended by inserting after subsection (i) (as inserted by paragraph (3)) the following new subsection:

"(j) ENFORCEMENT PROCESS.—

"(1) IN GENERAL.—Subject to paragraph (2), the provisions of subsection (h) of section 1819 shall apply to facilities and providers of services under this section in the same manner as such provisions apply to skilled nursing facilities.

"(2) APPLICATION.—In applying paragraph (1), any reference in section 1819(h) to:

"(A) a 'skilled nursing facility' is deemed a reference to a facility or provider of services under this section;

"(B) a 'survey' is deemed a reference to a survey under subsection (h);

"(C) 'requirements of subsections (b), (c), and (d)' is deemed a reference to the requirements established under subsection (b)(1)(A) (including the requirements specified in subsections (g));

"(D) a 'resident' is deemed a reference to a patient; and

"(E) 'temporary management' is deemed to be the temporary appointment by the Secretary or the State of a temporary substitute manager or administrator with authority to hire, terminate, or reassign staff, to obligate facility funds, to alter procedures, and to take other appropriate actions to manage the facility as necessary to correct the deficiencies found during the survey.

The temporary manager under subparagraph (E) must be an experienced facility administrator or licensed nephrologist within the State in which the manager is to serve in that capacity. The salary of the temporary manager shall be paid by the facility.".

(5) DUTIES AND FUNCTIONS OF ESRD NETWORK ADMINISTRATIVE ORGANIZATIONS.—Section 1881(c)(2) of such Act (42 U.S.C. 1395rr(c)(2)) is amended by striking subparagraphs (B) through (H) and inserting the following:

"(B) upon request, assisting facilities, providers, and suppliers (including those furnishing staff assistance) which have been found under a standard survey conducted in accordance with subsection (h) to be out of compliance with quality standards in developing appropriate plans for correction;

"(C) developing network goals with respect to the placement of patients in self-care settings and transplantation, with special attention to correcting the underrepresentation of minorities in transplantation and self-care options, and the participation of patients in vocational rehabilitation programs;

"(D) conducting studies—

"(i) to verify that facilities are assessing all patients for appropriate placement in the most medically suitable modality for the individual patient, and

"(ii) to determine the number of patients who have returned to employment;

"(E) implementing a procedure for evaluating and resolving patient grievances which includes provisions—

"(i) for verifying the implementation of an internal grievance mechanism by each facility,

"(ii) for furnishing to the State the findings of those investigations of patient grievances that indicate noncompliance with quality standards, and

"(iii) for informing all patients about the operation of the network's patient grievance mechanism;

"(F) developing and implementing informational programs—

"(i) in collaboration with the State, for patients and facilities with respect to end stage renal disease quality assurance policies and procedures,

"(ii) for facilities with respect to data collection policies and procedures, and

"(iii) for patients with respect to the rights specified in subsection (g);

"(G) compiling and furnishing to facilities information concerning facilities in the network that offer home or self-care dialysis, and provide flexible shift arrangements for patients undergoing rehabilitation and patients returning to full-time employment;

"(H) collecting, validating, and analyzing such data as are necessary to prepare the report required by subparagraph (J) and to assure the maintenance of the registry established under paragraph (7), and participating in special studies designed by the United States Renal Data System to help develop or evaluate indices of quality care or for other purposes relevant to the maintenance of such system;

"(I) serving in an advisory capacity to facilities, on request, in the evaluation of issues raised by the facility involving the placement of patients; and

"(J) submitting an annual report to the Secretary, at such time and in such format as the Secretary may prescribe, which shall include a statement of the network's goals and data on the network's performance in meeting its goals, and such additional information and data as the Secretary may require.".

(6) CONFORMING AMENDMENTS.—

(A) USE OF STATE AGENCIES FOR SURVEY AND CERTIFICATION.—(i) Section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended—

(I) in the first sentence, by striking the period and inserting the following: ", or whether a facility or provider of services meets the requirements referred to in section 1881(b)(1)(A) (including the requirements specified in section 1881(g))."; and

(II) in the second and fifth sentences, by inserting "renal disease facility," after "rural health clinic," each place it appears.

(ii) Section 1865(a) of such Act (42 U.S.C. 1395bb(a)), as amended by section 10102(h)(4)(C)(iv), is amended by striking "or 1861(mm)(1)" and inserting "1861(mm)(1), or 1881(b)(1)(A)".

(B) REQUIREMENTS FOR ELIGIBILITY FOR PAYMENT.—Section 1881(b)(1)(A) of such Act (42 U.S.C. 1395rr(b)(1)(A)) is amended by inserting "(including the requirements specified in subsection (g))" after "meet such requirements".

(C) REPEAL OF PRIOR ENFORCEMENT PROVISIONS.—Section 1881 of such Act (42 U.S.C. 1395rr) is further amended by striking subsection (k) (as redesignated by paragraph (2)(A)).

(7) EFFECTIVE DATES.—(A) Except as provided in subparagraph (B), the amendments made by paragraphs (2), (4), (5), and (6) shall apply with respect to renal dialysis facilities and providers of services under section 1881(b)(1)(A) of the Social Security Act, renal dialysis patients, ESRD network administrative organizations, and States after the expiration of the 6-month period that begins on the date of the enactment of this Act.

(B) The amendment made by paragraph (6)(C) shall take effect January 1, 1993.

(d) OTA STUDY OF COSTS OF TREATMENTS AND ESTABLISHMENT OF COMPOSITE RATES.—

(1) IN GENERAL.—The Director of the Office of Technology Assessment shall—

(A) conduct a study to determine the costs associated with various modalities of dialysis treatments provided to end stage renal disease patients, and

(B) using the information obtained in such study, make recommendations regarding the level at which the composite rate used to determine the amounts of payments made for dialysis services furnished by providers of services and renal dialysis facilities under title XVIII of the Social Security Act should be established for dialysis services furnished during fiscal year 1991 and the methodology to be used to update such composite rate for subsequent fiscal years.

(2) REPORT TO COMMITTEE ON WAYS AND MEANS.—Not later than June 1, 1990, the Director shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the study conducted under paragraph (1)(A) and shall include in the report the recommendations described in paragraph (1)(B).

(e) REPORTS ON PAYMENT FOR ERYTHROPOIETIN (EPO).—

(1) REPORT BY SECRETARY.—Not later than April 1, 1990, the Secretary of Health and Human Services shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate and to the Comptroller General on the methodology and rationale used to establish a payment rate for the drug erythropoietin (EPO) under title XVIII of the Social Security Act and shall include in the report (A) a summary of information provided to the Secretary by the manufacturer of EPO and used by the Secretary to establish such rate and (B) a plan for ensuring the appropriateness of rates in the future.

(2) REVIEW BY GAO AND OTA.—(A) Not later than June 1, 1990, the Comptroller General shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report reviewing the information contained in the report submitted under paragraph (1).

(B) Not later than July 1, 1990, the Director of the Office of Technology Assessment shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on alternative acquisition and reimbursement strategies for reducing expenditures for certain drugs used to treat end stage renal disease patients in a manner that does not adversely affect the quality of care provided to such patients.

SEC. 10154. MEDICAL CARE QUALITY RESEARCH AND IMPROVEMENT.

(a) IN GENERAL.—Title XI of the Social Security Act is amended by inserting after section 1141 the following new section:

"RESEARCH AND EDUCATION CONCERNING THE OUTCOMES, EFFECTIVENESS, AND APPROPRIATENESS OF MEDICAL CARE

"SEC. 1142. (a) RESEARCH.—The Secretary shall provide for outcomes, effectiveness, and appropriateness research (as defined in subsection (j)) with respect to specific medical treatment or specific medical conditions (selected under subsection (h)(2)(C)). Such research shall include the following:

"(1) Review of existing research findings with respect to such treatment or conditions.

"(2) Review of the existing methodologies that use large data bases in conducting such research and development of new research methodologies, including data-based methods of advancing knowledge and methodologies that measure clinical and functional status of patients, with respect to such research.

"(3) Grants and contracts to research centers, and contracts to other entities, to conduct such research on such treatment or conditions, including research on the appropriate use of prescription drugs.

"(4) Development of projects to demonstrate the use of claims data and data on clinical and functional status of patients in determining the outcomes, effectiveness, and appropriateness of such treatment.

"(5) Supplementation of existing data bases, including the collection of new information, to enhance data bases for research purposes, and the design and development of new data bases that would be used in outcomes and effectiveness research.

The Secretary shall establish a process to assure that new information and medical innovation are addressed, in a timely manner, and incorporated into such research when appropriate.

"(b) STANDARDS FOR DATA BASES.—In order to promote the research described in subsection (a) through the use of a wider base of data which can be linked together, the Secretary shall develop standards to be used in the collection and maintenance of data (whether by the Secretary or others) which may be used in such research. In developing such standards, the Secretary shall develop—

"(1) uniform definitions of data to be collected and used in describing a patient's clinical and functional status;

"(2) common reporting formats and linkages for such data; and

"(3) standards to assure the security, confidentiality, accuracy, and appropriate maintenance of such data.

Not later than 1 year after the date of the enactment of this section, the Secretary shall report to Congress on the feasibility of linking such research-related data of the Department with such data collected or maintained by other Federal departments (including the Departments of Defense and Veterans Affairs and the Office of Personnel Management) and by non-Federal entities.

"(c) DISSEMINATION OF FINDINGS AND EDUCATION.—The Secretary shall provide for the dissemination of the findings of research described in subsection (a) and for the education of providers and others in the application of such research. In disseminating such findings and providing for such education, the Secretary shall develop—

"(1) a program designed to identify effective meansto educate, and to educate physicians, other providers, consumers, and others in using such findings, including a formal training program for training physician managers within provider organizations; and

"(2) appropriate relationships between the Department and professional associations, medical societies, and other relevant groups.

"(d) DEVELOPMENT OF GUIDELINES.—The Secretary shall establish an ongoing program of financial support and oversight—

"(1) to develop (based on research described in subsection (a)) treatment-specific or condition-specific practice guidelines for clinical treatments and conditions selected under subsection (h)(2)(C), in forms appropriate for use in clinical practice, for use in educational programs, and for use in reviewing quality and appropriateness of medical care, and

"(2) to update such guidelines and forms to reflect changes in technology and appropriate medical practice.

"(e) MEDICARE DEMONSTRATION PROJECT.—(1) The Administrator of the Health Care Financing Administration shall initiate, by not later than January 1, 1991, a demonstration project to evaluate the application of the guidelines developed under subsection (d) to at least 3 clinical treatments or conditions that—

"(A) account for a significant portion of expenditures under title XVIII, and

"(B) have a significant variation in the frequency or the type of treatment provided.

"(2) The Secretary shall provide for an evaluation of the project as a model for broad scale implementation.

"(f) REPORT TO CONGRESS.—The Secretary shall report to the Congress not later than February 1 of each year (beginning with 1991) on the progress of the activities under this section during the previous fiscal year, including the impact of such activities on medical care (particularly medical care for individuals receiving benefits under title XVIII).

"(g) ADVISORY COUNCIL.—(1) The Secretary shall provide a charter for, and appointment of 18 members to, an advisory council to assist the Secretary in activities conducted under this section, including commenting and advising the Secretary regarding each annual coordination plan transmit-

ted by the coordinating group under subsection (h)(2)(A).

"(2) The membership on the advisory council shall consist of representatives from a broad range of interested parties.

"(3) The Assistant Secretary for Health is responsible for providing the advisory council with such staff and technical assistance as may be required.

"(4) Section 14 of the Federal Advisory Committee Act shall not apply to the advisory council.

"(h) COORDINATING GROUP.—(1) The Secretary shall establish a coordinating group composed of the Assistant Secretary for Health, the Assistant Secretary for Planning and Evaluation, and the Administrator of the Health Care Financing Administration. The Assistant Secretary for Health shall serve as chairman of the coordinating group.

"(2) The coordinating group shall—

"(A) transmit annually to the Secretary a plan to coordinate the activities of the Department in each of the areas of activities described in subsections (a) through (d),

"(B) establish annually an agenda (including priorities) for activities under this section and periodically monitor and review activities conducted under this section (including coordination and information exchange), and

"(C) select the specific treatments and medical conditions to be the subject of research and guidelines under subsections (a) and (d), of which at least ⅔ must have the concurrence of the Administrator of the Health Care Financing Administration.

"(i) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to carry out this section—

"(A) $72,000,000 for fiscal year 1990,

"(B) $110,000,000 for fiscal year 1991,

"(C) $170,000,000 for fiscal year 1992,

"(D) $225,000,000 for fiscal year 1993, and

"(E) $270,000,000 for fiscal year 1994.

"(2) Two-thirds of the amounts appropriated under paragraph (1) for any fiscal year are hereby transferred to carry out this section in the following proportions from the following trust funds:

"(A) 60 percent from the Federal Hospital Insurance Trust Fund (established under section 1817).

"(B) 40 percent from the Federal Supplementary Medical Insurance Trust Fund (established under section 1841).

"(3) Of the amounts transferred or otherwise appropriated to carry out this section in fiscal year 1990—

"(A) ⅓ shall be allotted for the activities described in subsection (a),

"(B) ⅓ shall be allotted for the activities described in subsection (b),

"(C) ⅙ shall be allotted for activities described in subsection (c), to be distributed evenly between informational and educational activities, and

"(D) ⅙ shall be allotted for activities described in subsections (d) and (e).

"(j) DEFINITIONS.—In this section:

"(1) The term 'outcomes research' means, with respect to a medical condition, research that—

"(A) focuses on the evaluation of a treatment or alternative treatments for the condition, and

"(B) formally assesses the probabilities for the full spectrum of different outcomes and the value of these outcomes for patients, including mortality, morbidity, functional status, symptoms, and quality of life.

"(2) The term 'effectiveness research' means, with respect to a treatment, research that focuses on—

"(A) the uses of the treatment for patients in typical clinical practice and the impact on outcome of the treatment of those patients, taking into account (to the extent relevant) patient conditions and local environment, and

"(B) through routine monitoring and feedback of information to physicians and patients, changes in the treatment to improve outcomes in such practice.

"(3) The term 'appropriateness research' means, with respect to a treatment, an assessment, which may be based on outcomes research, effectiveness research, or a consensus of medical experts or expert judgment, of the characteristics of particular patients for which the treatment is effective.".

(b) CONFORMING REPEAL.—Effective for fiscal years after fiscal year 1990, subsection (c) of section 1875 of such Act (42 U.S.C. 1395ll) is repealed.

SEC. 10155. MEDICARE HOSPITAL PATIENT PROTECTION AMENDMENTS.

(a) SCOPE OF HOSPITAL RESPONSIBILITY FOR SCREENING.—Subsection (a) of section 1867 of the Social Security Act (42 U.S.C. 1395dd) is amended by striking "within the capability of the hospital's emergency department" and inserting "within the hospital's capability".

(b) INFORMED REFUSALS OF TREATMENT OR TRANSFERS.—Subsection (b) of such section is amended—

(1) in paragraph (2)—

(A) by inserting "and informs the individual (or a person acting on the individual's behalf) of the risks and benefits to the individual of such examination and treatment," after "in that paragraph",

(B) by striking "or treatment" and inserting "and treatment", and

(C) by adding at the end the following new sentence: "The hospital shall take all reasonable steps to secure the individual's (or person's) written informed consent to refuse such examination and treatment."; and

(2) in paragraph (3)—

(A) by inserting "and informs the individual (or a person acting on the individual's behalf) of the risks and benefits to the individual of such transfer," after "with subsection (c)", and

(B) by adding at the end the following new sentence: "The hospital shall take all reasonable steps to secure the individual's (or person's) written informed consent to refuse such transfer.".

(c) AUTHORIZATION FOR TRANSFERS.—

(1) INFORMED CONSENT FOR TRANSFERS AT INDIVIDUAL REQUEST.—Subsection (c)(1)(A)(i) of such section is amended by striking "requests that the transfer be effected" and inserting "after being informed of the hospital's obligations under this section and of the risk of transfer, in writing requests transfer to another medical facility".

(2) CLARIFYING PHYSICIAN AUTHORIZATION FOR TRANSFERS.—Subsection (c)(1)(A) of such section is amended—

(A) by striking "or" at the end of clause (i);

(B) in clause (ii)—

(i) by striking ", or other qualified medical personnel when a physician is not readily available in the emergency department,", and

(ii) by inserting "of transfer" after "information available at the time";

(C) by striking "; and" at the end of clause (ii) and inserting ", or", and

(D) by adding at the end the following new clause:

"(iii) if a physician is not physically present in the emergency department at the time an individual is transferred, a qualified medical person (as defined by the Secretary in regulations) has signed a certification described in clause (ii) after a physician (as defined in section 1861(r)(1)), in consultation with the person, has made the determination described in such clause, and subsequently countersigns the certification; and".

(3) STANDARD FOR AUTHORIZING TRANSFER.—Subsection (c)(1)(A)(ii) of such section is amended—

(A) by striking ", based upon the reasonable risks and benefits to the patient, and", and

(B) by striking "individual's medical condition" and inserting "individual and, in the case of labor, to the unborn child".

(4) INCLUSION OF SUMMARY OF RISKS AND BENEFITS IN CERTIFICATE OF TRANSFER.—Subsection (c)(1) of such section is amended by adding at the end the following: "A certification described in clause (ii) or (iii) of subparagraph (A) shall include a summary of the risks and benefits upon which the certification is based.".

(5) PROVISION OF SERVICES PENDING TRANSFER.—Subsection (c)(2) of such section is amended—

(A) by redesignating subparagraphs (A) through (D) as subparagraphs (B) through (E), respectively, and

(B) by inserting before subparagraph (B), as so redesignated, the following new subparagraph:

"(A) in which the transferring hospital provides the medical treatment within its capacity which minimizes the risks to the individual's health and, in the case of a woman in labor, the health of the unborn child;".

(d) REQUIRING MAINTENANCE OF RECORDS OF TRANSFERS.—Subsection (c)(2)(C) of such section, as redesignated by subsection (c)(5)(A) of this section, is amended—

(1) by striking "provides" and inserting "sends to", and

(2) by striking "with appropriate medical records" and all that follows through "transferring hospital" and inserting "all medical records (or copies thereof), related to the emergency condition for which the individual has presented, available at the time of the transfer, including records related to the individual's emergency medical condition, observations of signs or symptoms, preliminary diagnosis, treatment provided, results of any tests and the informed written consent or certification (or copy thereof) provided under paragraph (1)(A), and the name and address of any on-call physician (described in subsection (d)(2)(C)) who has refused or failed to appear within a reasonable time to provide necessary stabilizing treatment".

(e) ENFORCEMENT.—

(1) HOSPITAL LIABILITY.—Subsection (d) of such section is amended—

(A) in paragraph (2)(A), by striking "knowingly", and

(B) by adding at the end the following new paragraph:

"(4) AGENCY LIABILITY.—A hospital shall be liable under this section for the acts and omissions of its agents and the physicians through whom it carries out its duties under this section.".

(2) PHYSICIAN LIABILITY.—Subsection (d)(2) of such subsection is amended—

(A) by amending subparagraph (B) to read as follows:

"(B) Subject to subparagraph (C), any physician who is responsible for the exami-

nation, treatment, or transfer of an individual in a participating hospital, including a physician on-call for the care of such an individual, and who violates a requirement of this section, including a physician who—

"(i) signs a certification under subsection (c)(1)(A) that the medical benefits reasonably to be expected from a transfer to another facility outweigh the risks associated with the transfer, if the physician knew or should have known that the benefits did not outweigh the risks, or

"(ii) misrepresents an individual's condition or other information, including a hospital's obligations under this section,

is subject to a civil money penalty of not more than $50,000 for each such violation and, if the violation is knowing and willful or negligent, to exclusion from participation in this title and State health care programs. The provisions of section 1128A (other than the first and second sentences of subsection (a) and subsection (b)) shall apply to a civil money penalty and exclusion under this subparagraph in the same manner as such provisions apply with respect to a penalty, exclusion, or proceeding under section 1128A(a)."; and

(B) by striking subparagraph (C) and insert the following:

"(C) If, after an initial examination, a physician determines that the individual requires the services of a physician listed by the hospital on its list of on-call physicians (required to be maintained under section 1866(a)(1)(I)) and notifies the on-call physician and the on-call physician fails or refuses to appear within a reasonable period of time, and the physician orders the transfer of the individual because the physician determines that without the services of the on-call physician the benefits of transfer outweigh the risks of transfer, the physician authorizing the transfer shall not be subject to a penalty under subparagraph (B). However, the previous sentence shall not apply to the hospital or to the on-call physician who failed or refused to appear.".

(f) ADDITIONAL OBLIGATIONS.—Such section is amended by adding at the end the following new subsections:

"(g) NONDISCRIMINATION.—A participating hospital that has specialized capabilities or facilities (such as burn units, shock-trauma units, neonatal intensive care units, or (with respect to rural areas) regional referral centers as identified by the Secretary in regulation) shall not refuse to accept an appropriate transfer of an individual who requires such specialized capabilities or facilities if the hospital has the capacity to treat the individual.

"(h) NO DELAY IN EXAMINATION OR TREATMENT.—A participating hospital may not delay provision of an appropriate medical screening examination required under subsection (a) or further medical examination and treatment required under subsection (b) in order to inquire about the individual's method of payment or insurance status.

"(i) WHISTLEBLOWER PROTECTIONS.—A participating hospital may not penalize or take adverse action against a physician because the physician refuses to authorize the transfer of an individual with an emergency medical condition that has not been stabilized.".

(g) CHANGE IN "PATIENT" TERMINOLOGY.—

(1) Subsection (c) of such section is amended—

(A) by striking "PATIENT" and inserting "INDIVIDUAL", and

(B) by striking "a patient" "the patient", "patient's", and "patients" each place each appears and inserting "an individual", "the individual", "individual's", and "individuals", respectively.

(2) Subsection (e)(5) of such section is amended by striking "a patient" each place it appears and inserting "an individual".

(h) CLARIFICATION OF "EMERGENCY MEDICAL CONDITION" DEFINITION.—

(1) IN GENERAL.—Subsection (e) of such section is amended—

(A) in paragraph (1), by striking "means" and all that follows and inserting the following:

"means—

"(A) a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(i) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

"(ii) serious impairment to bodily functions, or

"(iii) serious dysfunction of any bodily organ or part; or

"(B) with respect to a pregnant women who is having contractions—

"(i) that there is inadequate time to effect a safe transfer to another hospital before delivery, or

"(ii) that transfer may pose a threat to the health or safety of the woman or the unborn child.";

(B) by striking paragraph (2);

(C) in paragraph (4)(A)—

(i) by inserting "described in paragraph (1)(A)" after "emergency medical condition",

(ii) by inserting "or occur during" after "likely to result from",

(iii) by inserting before the period at the end the following: ", or, with respect to an emergency medical condition described in paragraph (1)(B), to deliver (including the placenta)";

(D) in paragraph (4)(B)—

(i) by inserting "described in paragraph (1)(A)" after "emergency medical condition",

(ii) by inserting "or occur during" after "to result from", and

(iii) by inserting before the period at the end the following: ", or, with respect to an emergency medical condition described in paragraph (1)(B), that the woman has delivered (including the placenta)"; and

(E) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively.

(2) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in the heading, by striking "ACTIVE";

(B) in subsection (a), by striking "or to determine if the individual is in active labor (within the meaning of section (e)(2))";

(C) in the heading of subsection (b), by striking "ACTIVE";

(D) in subsection (b)(1)—

(i) by striking "or is in active labor", and

(ii) in subparagraph (A), by striking "or to provide for treatment of the labor"; and

(E) in subsection (c)(1), by striking "(e)(4)(B)) or is in active labor" and inserting "(e)(3)(B))".

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 180 days after the date of the enactment of this Act, without regard to whether regulations to carry out such amendments have been promulgated by such date.

SEC. 10156. HEALTH MAINTENANCE ORGANIZATIONS.

(a) REGULATION OF INCENTIVE PAYMENTS TO PHYSICIANS.—

(1) IN GENERAL.—Section 1876(c) of the Social Security Act (42 U.S.C. 1395mm(c)) is amended by adding at the end the following new paragraph:

"(8)(A) The Secretary may not enter into a risk-sharing contract with an eligible organization under this section unless the organization certifies to the Secretary that—

"(i) the organization does not use (directly or indirectly through subcontracts) any potentially high-risk physician compensation arrangements (identified under subparagraph (B)), or

"(ii) the organization provides information satisfactorily to the Secretary describing in detail the physician compensation arrangements used by the organization (directly or indirectly through subcontracts) and the mechanisms used by the organization to limit risk to individual physicians (including such mechanisms as stop-loss protection and catastrophic insurance) and to assure quality of services provided, in order to allow the Secretary to assess whether such arrangements pose an excessive risk.

"(B) The Secretary shall identify, and publish descriptions of, physician compensation arrangements which, in his judgment, may place individual physicians at excessive risk or liability and which may lead to the withholding or limiting of medically necessary services. In identifying such arrangements the Secretary shall consult with representatives of eligible organizations with contracts under this section and similar organizations. The Secretary shall take into account the potential of the payment arrangements to compromise substantially enrollee access to services or the quality or care provided to enrollees when evaluated in the context of quality control mechanisms.".

(2) INITIAL PUBLICATION OF PHYSICIAN COMPENSATION ARRANGEMENTS.—The Secretary of Health and Human Services shall first publish in the Federal Register, by not later than 1 year after the date of the enactment of this Act, a description of the physician compensation arrangements identified under section 1876(c)(8)(B) of the Social Security Act (as added by paragraph (1) of this subsection).

(3) USE OF INTERMEDIATE SANCTIONS IN ENFORCEMENT.—Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is amended—

(A) in subparagraph (A)—

(i) by striking "or" at the end of clause (v),

(ii) by adding "or" at the end of clause (vi), and

(iii) by inserting after clause (vi) the following new clause:

"(vii)(I) uses (directly or indirectly through a subcontract) a high-risk physician compensation arrangement after certifying under subsection (c)(8)(A)(i) that it did not, (II) substantially changes such an arrangement (for which information is required to be provided under subsection (c)(8)(A)(ii)) without submitting the required information to the Secretary, (III) uses (directly or indirectly through subcontract) any physician compensation arrangement which provided a direct and specific individual payment to a physician as an inducement to withhold or limit a specific medically necessary service to an identifiable patient;"; and

(B) in subparagraph (B)(i), by striking "or (v)(I)" and inserting ", (v)(I), or (vii)".

(4) CONFORMING REPEAL OF PROVISION.—Section 1128A(b)(1) of such Act (42 U.S.C. 1320a-7a(b)(1)) is amended—

(A) by striking ", an eligible organization with a risk-sharing contract under section 1876,",

(B) in subparagraph (B), by striking "an eligible organization or an entity, are enrolled with the organization or entity" and inserting "an entity, are enrolled with the entity", and

(C) by striking "or organization" and inserting "or entity".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to contracts entered into, or renewed, on or after April 1, 1991; except that the amendments made by paragraph (4) shall take effect on the date of the enactment of this Act.

(b) EXCLUSION OF PRISONERS AND WELFARE BENEFICIARIES FROM COMPUTATION OF 50/50 RULE.—

(1) IN GENERAL.—Section 1876(f)(1) of the Social Security Act (42 U.S.C. 1395mm(f)(1)) is amended by adding at the end the following new sentence: "In applying the previous sentence, there shall not be included as enrolled members individuals who are incarcerated or detained in a State or local institution or individuals for whom a State or local government purchases health benefits as part of a general welfare assistance program.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contracts entered into on or after the date of the enactment of this Act.

(c) DISCLOSURE OF AAPCC ASSUMPTIONS AND METHODOLOGIES.—Section 1876(a)(1) of such Act (42 U.S.C. 1395mm(a)(1)) is amended by adding at the end the following new subparagraph:

"(F) At least 45 days before making the announcement under subparagraph (A) for a year (beginning with the announcement for 1991), the Secretary shall provide for publication of an explanation of the methodology and assumptions (including any benefit coverage assumptions) to be used in the announcement in sufficient detail so that eligible organizations can compute per capita rates of payment for classes of individuals located in each county (or equivalent area) which is in whole or in part within the service area of such an organization.".

(d) MAKING AUTHORITY FOR BENEFIT STABILIZATION FUND PERMANENT.—

(1) REPEAL ON LIMITATION ON ESTABLISHMENT OF A FUND.—Section 2350(b) of the Deficit Reduction Act of 1984 (Public Law 98-369) is amended by striking paragraphs (3) and (4).

(2) REPEAL ON LIMITING PERIOD OF USE.—Section 1876(g)(5) of the Social Security Act (42 U.S.C. 1395mm(g)(5)) is amended by striking "and during a period of not longer than four years".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

SEC. 10157. PHYSICIAN OWNERSHIP OF, AND REFERRAL TO, HEALTH CARE ENTITIES.

(a) PROHIBITION OF CERTAIN FINANCIAL ARRANGEMENTS BETWEEN REFERRING PHYSICIANS AND PROVIDERS OF CERTAIN MEDICARE COVERED ITEMS AND SERVICES.—Title XVIII of the Social Security Act is amended by inserting after section 1876 the following new section:

"LIMITATION ON CERTAIN PHYSICIAN REFERRALS

"SEC. 1877. (a) PROHIBITION OF CERTAIN REFERRALS.—

"(1) IN GENERAL.—Except as provided in subsection (b), if a physician (or immediate family member of such physician) has a financial relationship with an entity specified in paragraph (2), then—

"(A) the physician may not make a referral to the entity for the furnishing of an item or service for which payment otherwise may be made under this title, and

"(B) the entity may not present or cause to be presented a claim under this title or bill to any individual, third party payor, or other entity for an item or service furnished pursuant to a referral prohibited under subparagraph (A).

"(2) FINANCIAL RELATIONSHIP SPECIFIED.—For purposes of this section, a financial relationship of a physician (or immediate family member) with an entity specified in this paragraph is—

"(A) except as provided in subsections (c), (d), (e), and (f) an ownership or investment interest in the entity; or

"(B) except as provided in subsection (g), a compensation arrangement (as defined in subsection (i)(1)) between the physician (or immediate family member) and the entity.

An ownership or investment interest described in subparagraph (A) may be through equity, debt, or other means.

"(b) GENERAL EXCEPTIONS TO BOTH OWNERSHIP AND COMPENSATION ARRANGEMENT PROHIBITIONS.—Subsection (a)(1) shall not apply in the following cases:

"(1) PHYSICIANS' SERVICES.—In the case of physicians' services (as defined in section 1861(q)) provided personally by (or under the personal supervision of) another physician in the same group practice (as defined in subsection (i)(4)) as the referring physician.

"(2) SERVICES OF PRACTITIONERS EMPLOYED BY PHYSICIAN.—In the case of services described in subparagraph (K), (L), or (M) of section 1861(s)(2) or section 1861(s)(11), provided by a practitioner who is employed—

"(A) by the referring physician,

"(B) by the same group practice as the referring physician, or

"(C) by another physician in that same group practice.

"(3) IN-OFFICE ANCILLARY SERVICES.—In the case of medical and other health services (as defined in section 1861(s), but excluding durable medical equipment, ambulance services, and parenteral and enteral nutrition), if—

"(A) items and services are furnished—

"(i) personally by the referring physician, personally by a physician who is a member of the same group practice as the referring physician, or personally by individuals who are employed by such physician or group practice and who are personally supervised by the physician or by another physician in the group practice, and

"(ii)(I) in a building in which the referring physician (or another physician who is a member of the same group practice) furnishes physicians' services, or

"(II) in the case of a referring physician who is a member of a group practice, in another building which is used by the group practice for the central provision of items and services other than physicians' services;

"(B) the items and services are billed by the physician performing or supervising the services, by a group practice of which such physician is a member, or by an entity that is wholly owned by such physician or such group practice; and

"(C) the ownership or investment interest meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(4) PREPAID PLANS.—In the case of items and services furnished—

"(A) by an organization with a contract under section 1876 to an individual enrolled with the organization,

"(B) by an organization described in section 1833(a)(1)(A) to an individual enrolled with the organization, or

"(C) by an organization receiving payments on a prepaid basis, under a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972, to an individual enrolled with the organization.

"(5) HOME INTRAVENOUS DRUG THERAPY SERVICES SUBJECT TO RESTRICTIONS OF SECTION 1834(d)(3).—In the case of home intravenous drug therapy services (as defined in section 1861(jj)(1)).

"(6) OTHER PERMISSIBLE EXCEPTIONS.—In the case of any other financial relationship which the Secretary determines, and specifies in regulations, does not pose a risk of program or patient abuse.

"(c) GENERAL EXCEPTION RELATED ONLY TO OWNERSHIP OR INVESTMENT PROHIBITION FOR OWNERSHIP IN PUBLICLY-TRADED SECURITIES.—Ownership of investment securities (including shares or bonds, debentures, notes, or other debt instruments) which were purchased on terms generally available to the public and which are in a corporation that—

"(1) is listed for trading on the New York Stock Exchange or on the American Stock Exchange, or is a national market system security traded under an automated interdealer quotation system operated by the National Association of Securities Dealers, and

"(2) had, at the end of the corporation's most recent fiscal year, total assets exceeding $100,000,000,

shall not be considered to be an ownership or investment interest described in subsection (a)(2)(A).

"(d) ADDITIONAL EXCEPTIONS RELATED ONLY TO OWNERSHIP OR INVESTMENT PROHIBITION AND SUBJECT TO REPORTING AND DISCLOSURE.—

"(1) IN GENERAL.—The following, if not otherwise excepted under subsection (b), shall not be considered to be an ownership or investment interest described in subsection (a)(2)(A) if the reporting and disclosure requirements of paragraph (2) are met:

"(A) DISPROPORTIONATE SHARE HOSPITALS AND HOSPITALS IN PUERTO RICO.—In the case of items and services provided by a hospital if the hospital—

"(i) has a disproportionate patient percentage (as defined in section 1886(d)(5)(F)(vi)) in its most recently completed cost reporting period of 32 percent or greater, or

"(ii) is located in Puerto Rico.

"(B) HOSPITAL OWNERSHIP.—In the case of items and services provided by a hospital (other than a hospital described in subparagraph (A)) if—

"(i) the referring physician is authorized to perform services at the hospital, and

"(ii) the ownership or investment interest is in the hospital itself (and not merely in a subdivision thereof).

"(C) ENTITIES SUBSTANTIALLY IN OPERATION BEFORE MARCH 1, 1989.—In the case of items and services provided by an entity if—

"(i) as of March 1, 1989—

"(I) the entity is actually providing such items and services,

"(II) binding contracts for building or equipment needed in the operation of the entity for the provision of such items and services have been signed, or

"(III) the entity has received a certificate of need, from a State authority designated to provide such certificates under State law, with respect to the provision of such items and services; and

"(ii) the entity does not have, as an interested investor, any individual who was not an interested investor in the entity as of March 1, 1989.

"(2) REPORTING REQUIREMENTS.—The reporting and disclosure requirements, with respect to an individual's ownership or investment interest in an entity, are as follows:

"(A) REPORTING INFORMATION TO SECRETARY.—The entity must provide the Secretary with information concerning the entity's ownership arrangements, including—

"(i) the items and services provided by the entity,

"(ii) the names and all of the medicare provider numbers of the referring physician investors, and

"(iii) any other information required by the Secretary to determine that the entity was in compliance with applicable law.

Such information shall be provided in such form, manner, and at such times as the the Secretary shall specify.

"(B) DISCLOSURE OF INTEREST TO PATIENTS REFERRED.—Each physician who is an interested investor in an entity and who makes a referral of a patient entitled to benefits under this title to the entity must disclose to the patient, in a form and manner specified by the Secretary, the physician's (or family member's) ownership interest in the entity.

"(C) HOSPITAL REPORTING.—In the case of an entity that is a hospital, the hospital must provide for reporting of information in accordance with the uniform hospital reporting system developed under section 4007(c) of the Omnibus Budget Reconciliation Act of 1987.

"(e) ADDITIONAL EXCEPTIONS RELATED ONLY TO OWNERSHIP OR INVESTMENT PROHIBITION AND SUBJECT TO REPORTING AND DISCLOSURE AND INVESTMENT STANDARDS.—

"(1) IN GENERAL.—The following, if not otherwise excepted under subsection (b) or (d), shall not be considered to be an ownership or investment interest described in subsection (a)(2)(A) if the reporting and disclosure requirements of subsection (d)(2) are met and if each of the investment standards described in paragraph (2) of this subsection is met:

"(A) RURAL PROVIDER.—In the case of a particular item or service if the entity furnishing the item or service is in a rural area (as defined in section 1886(d)(2)(D)).

"(B) AMBULATORY SURGICAL CENTERS.—In the case of items and services provided by an ambulatory surgical center (described in section 1832(a)(1)(F)(i)) in conjunction with a surgical procedure performed by the referring physician at the center.

"(C) LITHOTRIPSY SERVICES.—In the case of items and services provided by a freestanding or hospital-based facility in conjunction with a lithotripsy procedure performed personally by the referring physician at the facility.

"(D) HOSPITAL JOINT VENTURES.—In the case of items and services (other than items and services furnished to inpatients) provided by an entity if a hospital has a controlling interest, and an ownership interest, of at least 50 percent, in the entity.

"(2) DESCRIPTION OF INVESTMENT STANDARDS.—For purposes of paragraph (1), the investment standards described in this paragraph (with respect to an investment or ownership interest in an entity) are as follows:

"(A) Investment in the entity must be open and offered on the same terms to disinterested investors as to interested investors.

"(B) The terms on which an investment interest is offered to an interested investor are not related to the previous or expected volume of referrals of business from that investor (or family members of the investor) to the entity.

"(C) The investment of each interested investor must bear the full risk of loss related to the investment.

"(D) The investment of each interested investor must be paid in full at the time of investment and may not be paid from funds of (or from funds borrowed, directly or indirectly, from) the entity or a related entity.

"(E) The amount of payment in return for the investment interest of an interested investor must be directly proportional to the amount of the capital investment of that investor.

"(F) The return on investment of an interested investor must be reasonable (taking into account both current return and increase in the value of the entity, considering the amount invested and the risk of loss of the investment, and taking into account the return on investment in similar health services or other start-up ventures).

"(G) There may not be a requirement that an investor (or a family member of the investor) make or be in a position to make referrals of business to the entity as a condition of the investor's continued right to maintain an ownership interest.

"(H) Investors (and family members of investors) in the entity may not, overtly or covertly, be encouraged to order services or otherwise refer business to the entity and the entity may not collect or maintain information on the volume of referrals from investors (and family members of investors) other than information maintained in order to comply with applicable law.

"(I) The entity must disclose, in a form and manner satisfactory to the Secretary, to individuals entitled to benefits under this title and receiving medical items and services at the entity the relevant charges for such items and services and the professional qualifications of the entity to provide such items and services.

"(3) DISCRETIONARY APPLICATION OF STANDARDS.—The Secretary's decision with respect to whether the investment standards described in paragraph (2) have been met in any case shall be final and not subject to judicial review. The Secretary's application of such standards in any case shall not control, or serve as a precedent, in any other case.

"(4) WITHDRAWAL OF EXCEPTION.—In the case of an exception under this subsection or subsection (f), the Secretary shall withdraw such exception if the Secretary finds that—

"(A) the entity has failed to disclose to the Secretary, in a form and manner specified by the Secretary, any circumstance which would cause the entity to be out of compliance with any of the investment standards described in paragraph (2),

"(B) the entity has failed to disclose periodically, in such form and manner as the Secretary may require, information relating to the entity's compliance with such standards, or

"(C) based on information in such a disclosure or otherwise, that the entity no longer is in compliance with each of such standards.

The Secretary's withdrawal of an exception under this paragraph is final and not subject to judicial review. In the case of a withdrawal of such an exception due to a failure to disclose information which, if disclosed, would result in a finding that an entity no longer is in compliance with each of such standards, the Secretary shall make such withdrawal effective as of the date of such failure to disclose.

"(f) ADDITIONAL CASE-BY-CASE EXCEPTIONS RELATED ONLY TO OWNERSHIP OR INVESTMENT PROHIBITION.—

"(1) IN GENERAL.—In addition to the exceptions provided under subsections (c) through (e), the Secretary may consider an ownership or investment interest in an entity not to be an ownership or investment interest described in subsection (a)(2)(A) if—

"(A) the entity demonstrates to the satisfaction of the Secretary that—

"(i) the items or services provided by the entity would, but for the exception provided in this subsection, otherwise be unavailable to patients in the area to be served by the entity,

"(ii) the items and services provided by the entity will be more convenient for patients, or

"(iii) the items and services provided by the entity will be provided at a substantially lower per unit charge and at a substantially lower cost overall to the program under this title than any similar item or service in the area served by the entity;

"(B) the entity applies to the Secretary (in a form and manner approved by the Secretary) for approval under this subsection;

"(C) the reporting and disclosure requirements of subsection (d)(2) are met,

"(D) the Secretary determines that each of the investment standards described in subsection (e)(2) are met, and

"(E) there are no new interested investors in the entity on and after the date of approval of the application under this subsection.

For purposes of subparagraph (A)(ii), the Secretary shall define in regulations convenience to patients based upon a reduction in travel time to the entity furnishing the items or services for at least 75 percent of the patients receiving such items and services by at least 30 minutes, taking into account such factors as seasonal weather conditions, and based upon such other considerations as the Secretary deems appropriate.

"(2) DISCRETIONARY APPLICATION OF CONDITIONS.—The Secretary's decision with respect to whether a requirement of paragraph (1)(A) has been met in any case shall be final and not subject to judicial review. Such a decision in one case shall not control, or serve as a precedent, in any other case.

"(3) FEES.—The Secretary shall require, as a condition for approval of an exception under this subsection, payment of a reasonable fee to cover the necessary costs of processing such an exception. The Secretary may apply such a fee to the payment of costs of processing and review of such exceptions.

"(g) EXCEPTIONS RELATING TO OTHER COMPENSATION ARRANGEMENTS.—The following

shall not be considered to be a compensation arrangement described in subsection (a)(2)(B):

"(1) RENTAL OF OFFICE SPACE.—Payments made for the rental or lease of office space if—

"(A) there is a written agreement, signed by the parties, for the rental or lease of the space, which agreement—

"(i) specifies the space covered by the agreement and dedicated for the use of the lessee,

"(ii) provides for a term of rental or lease of at least one year;

"(iii) provides for payment on a periodic basis of an amount that is consistent with fair market value;

"(iv) provides for an amount of aggregate payments that does not vary (directly or indirectly) based on the volume or value of any referrals of business between the parties; and

"(v) would be considered to be commercially reasonable even if no referrals were made between the parties;

"(B) in the case of rental or lease of office space in which a physician who is an interested investor (or an interested investor who is an immediate family member of the physician) has an ownership or investment interest, the office space is in the same building as the building in which the physician (or group practice of which the physician is a member) has a practice; and

"(C) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(2) EMPLOYMENT AND SERVICE ARRANGEMENTS WITH HOSPITALS.—An arrangement between a hospital and a physician (or immediate family member) for the employment of the physician (or family member) or for the provision of administrative services and personnel, if—

"(A) the arrangement is for identifiable services;

"(B) the amount of the remuneration under the arrangement—

"(i) is consistent with the fair market value of the services, and

"(ii) is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals by the referring physician;

"(C) the remuneration is provided pursuant to an agreement which would be considered to be commercially reasonable even if no referrals were made to the hospital; and

"(D) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(3) OTHER SERVICE ARRANGEMENTS.—Remuneration from an entity (other than a hospital) under an arrangement if—

"(A) the arrangement is—

"(i) for specific identifiable services as the medical director or as a member of a medical advisory board at the entity pursuant to a requirement of this title,

"(ii) for specific identifiable physicians' services to be furnished to an individual receiving hospice care if payment for such services may only be made under this title as hospice care, or

"(iii) for specific identifiable administrative services (other than direct patient care services), but only under exceptional circumstances specified by the Secretary in regulations;

"(B) the requirements described in subparagraphs (B) and (C) of paragraph (2) are met with respect to the entity in the same manner as they apply to a hospital; and

"(C) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(4) PHYSICIAN RECRUITMENT.—In the case of remuneration which is provided by a hospital to a physician to induce the physician to relocate to the geographic area served by the hospital in order to be a member of the medical staff of the hospital, if—

"(A) the physician is not required to refer patients to the hospital,

"(B) the amount of the remuneration under the arrangement is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals by the referring physician, and

"(C) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(5) ISOLATED TRANSACTIONS.—In the case of an isolated financial transaction, such as a one-time sale of property, if—

"(A) the requirements described in subparagraphs (B) and (C) of paragraph (2) are met with respect to the entity in the same manner as they apply to a hospital, and

"(B) the transaction meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(6) SALARIED PHYSICIANS IN A GROUP PRACTICE.—A compensation arrangement involving payment by a group practice of the salary of a physician member of the group practice.

"(h) SANCTIONS.—

"(1) DENIAL OF PAYMENT.—No payment may be made under this title for an item or service which is provided in violation of subsection (a)(1).

"(2) REQUIRING REFUNDS FOR CERTAIN CLAIMS.—If a person collects any amounts that were billed in violation of subsection (a)(1), the person shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts so collected.

"(3) CIVIL MONEY PENALTY AND EXCLUSION FOR IMPROPER CLAIMS.—Any person that presents or causes to be presented a bill or a claim for an item or service that such person knows or should know is for an item or service for which payment may not be made under paragraph (1) or for which a refund has not been made under paragraph (2) shall be subject to a civil money penalty of not more than $15,000 for each such item or service. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(4) CIVIL MONEY PENALTY AND EXCLUSION FOR CIRCUMVENTION SCHEMES.—Any physician or other entity that enters into an arrangement or scheme (such as a cross-referral arrangement) which the physician or entity knows or should know has a principal purpose of assuring referrals by the physician to a particular entity which, if the physician directly made referrals to such entity, would be in violation of this section, shall be subject to a civil money penalty of not more than $100,000 for each such arrangement or scheme. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(5) FAILURE TO DISCLOSE INFORMATION.—Any person who is required, but fails, to meet a reporting requirement of subsection (d)(2) or (e)(2) or who knows or should know that a disclosure of any circumstance is required to be made to the Secretary under subsection (e)(4) and who fails to disclose, or causes the failure of such disclosure, is subject to a civil money penalty of not more than $10,000 for each day for which disclosure is required to have been made.

"(i) DEFINITIONS.—For purposes of this section:

"(1) COMPENSATION ARRANGEMENT; REMUNERATION.—(A) The term 'compensation arrangement' means any arrangement involving any remuneration between a physician (or immediate family member) and an entity.

"(B) The term 'remuneration' includes any remuneration, directly or indirectly, overtly or covertly, in cash or in kind.

"(2) EMPLOYEE.—An individual is considered to be 'employed by' or an 'employee' of an entity if the individual would be considered to be an employee of the entity under the usual common law rules applicable in determining the employer-employee relationship (as applied for purposes of section 3121(d)(2) of the Internal Revenue Code of 1986).

"(3) FAIR MARKET VALUE.—The term 'fair market value' means the value in arms length transactions, consistent with the general market value, and, with respect to rentals or leases, the value of rental property for general commercial purposes (not taking into account its intended use) and, in the case of a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor where the lessor is a potential source of patient referrals to the lessee.

"(4) GROUP PRACTICE.—The term 'group practice' means a group of two or more physicians legally organized as a partnership, professional corporation, foundation, not-for-profit corporation, faculty practice plan, or similar association—

"(A) in which each physician who is a member of the group provides substantially the full range of services which the physician routinely provides (including medical care, consultation, diagnosis, or treatment) through the joint use of shared office space, facilities, equipment, and personnel;

"(B) for which substantially all of the services of the physicians who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group;

"(C) in which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group; and

"(D) which meets such other standards as the Secretary may impose by regulation.

In the case of a faculty practice plan associated with a hospital with an approved medical residency training program in which physician members may provide a variety of different specialty services and provide professional services both within and outside the group (as well as perform other tasks such as research), the previous sentence shall be applied only with respect to the items and services provided within the faculty practice plan.

"(5) INTERESTED INVESTOR; DISINTERESTED INVESTOR.—The term 'interested investor' means, with respect to an entity, an investor who is a physician in a position to make or to influence referrals or business to the entity (or who is an immediate family member of such an investor), and the term 'disinterested investor' means an investor other than an interested investor.

"(6) REFERRAL; REFERRING PHYSICIAN.—

"(A) PRESCRIPTIONS.—Except as provided in subparagraph (F), in the case of a covered outpatient drug, the prescription of the drug by a physician constitutes a 'referral' by a 'referring physician', but only if the physician directs the patient to the specific pharmacy, home intravenous drug therapy provider, or other entity dispensing the drug.

"(B) PHYSICIANS' SERVICES.—Except as provided in subparagraphs (D), (E), (F), and (G), in the case of an item or service which under law is required to be provided by (or under the supervision of) a physician, the request by a physician for the item or service, including the request by a physician for a consultation with another physician (and any test or procedure ordered by, or to be performed by (or under the supervision of) that other physician), constitutes a 'referral' by a 'referring physician'.

"(C) OTHER ITEMS.—Except as provided in subparagraphs (D), (E), and (G), in the case of another item or service, the request or establishment of a plan of care by a physician for the provision of the item or service constitutes a 'referral' by a 'referring physician'.

"(D) CLARIFICATION RESPECTING PHYSICIANS' SERVICES PROVIDED PERSONALLY BY REFERRING PHYSICIAN.—A request by a physician for physicians' services consisting solely of professional services to be furnished personally by that physician (or under that physician's personal supervision) does not constitute a 'referral' by a 'referring physician'.

"(E) CLARIFICATION RESPECTING CERTAIN SERVICES INTEGRAL TO A CONSULTATION BY CERTAIN SPECIALISTS.—A request—

"(i) by a radiologist for diagnostic imaging services,

"(ii) by a physician specializing in the provision of radiation therapy services for such services, or

"(iii) by a pathologist for diagnostic clinical laboratory tests and pathological examination services,

if such services are furnished by (or under the supervision of) such a physician pursuant to a consultation requested by another physician does not constitute a 'referral' by a 'referring physician'.

"(F) SPECIALIZED CANCER TREATMENT PHARMACIES.—A referral by a physician to a specialized cancer treatment pharmacy does not constitute a 'referral' by a 'referring physician' if the pharmacy is engaged in the specific practice of preparing and distributing intravenous drugs and solutions used in the diagnosis and treatment of cancer and the complications thereof and is not engaged in distributing general pharmaceuticals to the public.

"(G) RENAL DIALYSIS PROVIDERS.—A referral by a physician to a renal dialysis provider in conjunction with a renal dialysis procedure performed under the direction of the physician does not constitute a 'referral' by a 'referring' physician.".

(b) CONFORMING AMENDMENTS.—(1) Sections 1814(a) and 1835(a) of such Act (42 U.S.C. 1395f(a), 1395n(a)) are each amended by striking the third and fourth sentences.

(2) Section 1834(d)(3)(B)(i) of such Act (42 U.S.C. 1395m(d)(3)(B)(i)) is amended by inserting "if the home intravenous drug therapy provider meets the reporting and disclosure requirements of section 1877(d)(2) and" after "shall not apply".

(c) REQUIRING REQUESTS FOR PAYMENT TO INCLUDE INFORMATION ON REFERRING PHYSICIAN.—Section 1833 of such Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(q)(1) Each request for payment, or bill submitted, for an item or service (other than physicians' services) furnished by an entity for which payment may be made under this part and for which the entity knows or has reason to believe there has been a referral by a referring physician (within the meaning of section 1877) shall include the name and provider number for the referring physician and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(i)(5)).

"(2)(A) In the case of a request for payment for an item or service furnished by an entity under this part on an assignment-related basis and for which information is required to be provided under paragraph (1) but not included, payment may be denied under this part.

"(B) In the case of a request for payment for an item or service furnished by an entity under this part not submitted on an assignment-related basis and for which information is required to be provided under paragraph (1) but not included—

"(i) if the entity knowingly and willfully fails to provide such information promptly upon request of the Secretary or a carrier, the entity may be subject to a civil money penalty in an amount not to exceed $2,000, and

"(ii) if the entity knowingly, willfully, and in repeated cases fails, after being notified by the Secretary of the obligations and requirements of this subsection to provide the information required under paragraph (1), the entity may be subject to exclusion from participation in the programs under this Act for a period not to exceed 5 years, in accordance with the procedures of subsections (c), (f), and (g) of section 1128.

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under clause (i) in the same manner as they apply to a penalty or proceeding under section 1128A(a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to referrals made on or after 180 days after the date of the enactment of this Act; except that with respect to compensation arrangements that were entered into and became legally binding before March 1, 1989, the amendments shall not apply to referrals occurring before 2 years after the date of the enactment of this Act.

(e) DEADLINE FOR CERTAIN REGULATIONS.—The Secretary of Health and Human Services shall publish final regulations to carry out section 1877 of the Social Security Act by not later than 180 days after the date of the enactment of this Act.

(f) GAO STUDY OF HOSPITAL OWNERSHIP AND HOSPITAL JOINT VENTURES.—The Comptroller General shall conduct a study of the ownership of hospitals by referring physicians and of joint ventures between hospitals and referring physicians. Such study shall investigate—

(1) the types of such ownership arrangements and types of services offered under such arrangements,

(2) the returns generally earned by physician investors in such arrangements,

(3) the effect of such arrangements on (A) hospital admissions overall and in the communities served, (B) other hospitals in the communities served, (C) the utilization of services by medicare beneficiaries, and (D) medicare expenditures, and

(4) the effect of such arrangements on independent providers of similar services.

By not later than May 15, 1990, the Comptroller General shall report to Congress on the results of such study.

SEC. 10158. MISCELLANEOUS AND TECHNICAL PROVISIONS RELATING TO PARTS A AND B.

(a) PEER REVIEW OF NON-PHYSICIAN SERVICES.—

(1) IN GENERAL.—Section 1154(a)(1) of the Social Security Act (42 U.S.C. 1320c-3(a)(1)) is amended by adding at the end the following:

"If the organization performs such reviews with respect to a type of health care practitioner other than medical doctors, the organization shall establish procedures for the involvement of health care practitioners of that type in such reviews.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contracts entered into after the date of the enactment of this Act.

(b) PROVIDER AND PRACTITIONER RIGHT TO RECONSIDERATION OF PRO DETERMINATION BEFORE NOTICE TO BENEFICIARY.—

(1) IN GENERAL.—Section 1154(a)(3) of the Social Security Act (42 U.S.C. 1320c-3(a)(3)) is amended—

(A) in subparagraph (A), by striking "subparagraph (B)" and inserting "subparagraphs (B) and (D)",

(B) in subparagraph (B), by inserting "with respect to services or items disapproved by reason of subparagraph (A) or (C) of paragraph (1)" after "under subparagraph (A)", and

(C) by adding at the end the following new subparagraphs:

"(D) The notification under subparagraph (A) with respect to services or items disapproved by reason of paragraph (1)(B) shall not occur until after—

"(i) the organization has notified the practitioner or provider involved of the determination and of the practitioner's or provider's right to a formal reconsideration of the determination under section 1155, and

"(ii) if the provider or practitioner requests such a reconsideration, the organization has made such a reconsideration.

If a provider or practitioner is provided a reconsideration, such reconsideration shall be in lieu of any subsequent reconsideration to which the provider or practitioner may be otherwise entitled under section 1155, but shall not affect the right of a beneficiary from seeking reconsideration under such section of the organization's determination (after any reconsideration requested by the provider or physician under clause (ii)).

"(E) In the case of services and items disapproved by reason of paragraph (1)(B), the notice to the patient shall state the following: 'In the judgment of the peer review organization, the medical care received was not acceptable under the medicare program. The reasons for the denial have been discussed with your physician and hospital.'.".

(2) CONFORMING AMENDMENT.—Section 1155 of such Act (42 U.S.C. 1320c-5) is amended by inserting ", subject to section 1154(a)(3)(D)," before "any practitioner or provider".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to determinations by utilization and quality control peer review organizations with respect to which preliminary notifications were made under section 1154(a)(3)(B) of the Social Security Act more than 30 days after the date of the enactment of this Act.

(c) DETERMINING ELIGIBILITY OF HOME HEALTH AGENCIES FOR WAIVER OF LIABILITY FOR DENIED CLAIMS.—

(1) SCOPE OF WAIVER AND DETERMINATION OF DENIED CLAIM.—Section 1879(f) of the Social Security Act (42 U.S.C. 1395pp(f)) is amended—

(A) in paragraph (1), by striking "with respect to" and all that follows and inserting a period, and

(B) in paragraph (4), by striking "(4) The requirement" and inserting "(4)(A) The requirement", and by adding at the end the following new subparagraph:

"(B) For purposes of determining the rate of denial of bills for a home health agency under subparagraph (A), a bill shall not be considered to be denied until the expiration of the 60-day period that begins on the date such bill is denied by the fiscal intermediary, or, with respect to such a denial for which the agency requests reconsideration, until the fiscal intermediary issues a decision denying payment for such bill.".

(2) MONITORING OF DENIED CLAIMS.—Section 1879(f) of such Act (42 U.S.C. 1395pp(f)) is amended by adding at the end the following new paragraph:

"(6) The Secretary shall monitor the proportion of denied bills submitted by home health agencies for which reconsideration is requested, and shall notify Congress if the proportion of denials reversed upon reconsideration increases significantly.".

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to determinations for quarters beginning on or after the date of the enactment of this Act.

(d) EXTENSION OF AUTHORITY TO CONTRACT WITH FISCAL INTERMEDIARIES AND CARRIERS ON OTHER THAN A COST BASIS.—

(1) IN GENERAL.— Section 2326(a) of the Deficit Reduction Act of 1984 is amended—

(A) in the first sentence, by striking "fiscal year 1989" and inserting "fiscal year 1993",

(B) in the second sentence, by striking "over a period of time" and inserting "over a 2-year period of time", and

(C) by inserting after the second sentence, the following: "In addition, during such period the Secretary may enter into such additional agreements and contracts without regard to such cost reimbursement provisions if the fiscal intermediary or carrier involved and the Secretary agree to waive such provisions, but the Secretary may not take any action that has the effect of requiring that the intermediary or carrier agree to waive such provisions, including requiring such a waiver as a condition for entering into or renewing such an agreement or contract.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply beginning with fiscal year 1990.

(e) EXPANSION OF RURAL HEALTH MEDICAL EDUCATION DEMONSTRATION PROJECT.—

(1) NUMBER OF PROJECTS.—Section 4038(a) of the Omnibus Budget Reconciliation Act of 1987 is amended by striking "four sponsoring hospitals" and inserting "10 sponsoring hospitals".

(2) SELECTION OF NEW PROJECTS.—Section 4038(c) of such Act is amended—

(A) by striking "In selecting" and inserting "(1) In selecting",

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), and

(C) by adding at the end the following new paragraph:

"(2) The provisions of paragraph (1) shall not apply with respect to applications submitted as a result of amendments made by section 10158(e) of the Medicare Omnibus Budget Reconciliation Act of 1989.".

(3) COMMENCEMENT OF NEW PROJECTS.—Section 4038(e) of such Act is amended by inserting "(or the date of the enactment of the Medicare Omnibus Budget Reconciliation Act of 1989, in the case of a project conducted as a result of the amendments made by section 10158(e) of such Act)" after "this Act".

(f) CANCER CENTER TREATMENT DEMONSTRATION PROJECT AND STUDY.—

(1) DEMONSTRATION PROJECT.—(A) Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish a demonstration project under the Secretary shall permit payment to be made under title XVIII of the Social Security Act for 3 cost reporting periods, to each of 2 cancer center hospitals (as defined in paragraph (3)) for costs incurred in experimental treatments under research protocols that—

(i) are registered (where appropriate) with the National Cancer Institute,

(ii) if experimental drugs are used in the protocols, involve only drugs approved by the Food and Drug Administration for clinical trials, and

(iii) are approved by the hospital's patient protection committee.

(B) A cancer center hospital is eligible to receive payment under the demonstration project established under subparagraph (A) if such hospital—

(i) submits to the Secretary, at such time and in such form as the Secretary may require, an application containing such information as the Secretary may require, and

(ii) agrees to share with the Office of Technology Assessment data and other information relating to the experimental treatments for which the hospital is reimbursed under the demonstration project to assist the Office of Technology Assessment in conducting the study described in paragraph (2).

(2) STUDY AND REPORT.—(A) The Director of the Office of Technology Assessment shall conduct a study of the appropriateness of medicare reimbursement for experimental cancer treatment under research protocols, including an analysis of the costs to the medicare program of such reimbursement, whether such reimbursement should be limited to cancer center hospitals, and any controls the program should place on such reimbursement.

(B) Not later than June 1, 1992, the Director shall submit a report on the study conducted under subparagraph (A) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(3) CANCER CENTER HOSPITAL DEFINED.—In this subsection, the term "cancer center hospital" means a hospital described in section 1886(d)(1)(B)(v) of the Social Security Act (as inserted by section 10103(a)), relating to a hospital involved extensively in treatment for or research on cancer.

(g) EXTENSION AND CLARIFICATION OF PROHIBITION ON COST SAVINGS POLICIES BEFORE BEGINNING OF FISCAL YEAR.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may not issue any proposed or final regulation, instruction, or other policy which is estimated by the Secretary to result in a net reduction in expenditures under title XVIII of the Social Security Act in a fiscal year (beginning with fiscal year 1990 and ending with fiscal year 1993, or, if later, the last fiscal year for which there is a maximum deficit amount specified under section 3(7) of the Congressional Budget and Impoundment Control Act of 1974) of more than $50,000,000, except as follows:

(1) The Secretary may issue such a proposed regulation, instruction, or other policy with respect to the fiscal year before the May 15th preceding the beginning of the fiscal year.

(2) The Secretary may issue such a final regulation, instruction, or other policy with respect to the fiscal year on or after October 15th of the fiscal year.

(3) The Secretary may, at any time, issue such a proposed or final regulation, instruction, or other policy with respect to the fiscal year if required to implement specific provisions required under statute.

(h) LONG-TERM CARE STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall provide for a study of existing public and private long-term care programs and demonstration projects, including continuing care retirement communities, medicaid waiver programs, long-term programs under the Older Americans Act, and other innovative public or private long-term care programs.

(2) DETAILS OF STUDY.—Such study shall—

(A) identify new benefits, programs, or payment methodologies that could be used to develop and provide long-term care benefits for medicare beneficiaries;

(B) determine the extent to which coverage of new benefits under the medicare program would meet the needs of such beneficiaries;

(C) examine the issues of financing, coverage, and administration relating to long-term care programs;

(D) determine the availability and adequacy of personnel to provide long-term care services;

(E) outline the methods and analyze the effectiveness with which current long-term care programs—

(i) recruit, train, and retain personnel,

(ii) use functional status and disability measures to entitle beneficiaries to various levels of coverage, and

(iii) take into account the presence of family support and other informal caregivers;

(F) determine how the adoption of new long-term care benefits under the medicare program could be designed to complement programs and benefits already in place; and

(G) identify areas where information important to the successful implementation of a long-term care benefit program under medicare is either incomplete or unavailable.

(3) USE OF INSTITUTE OF MEDICINE.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to enter into an appropriate arrangement with the Secretary for the conduct of the study under this subsection. If the Secretary is unable to enter into such an arrangement with the Institute of Medicine, the Secretary may enter into such an arrangement with another appropriate entity. The Secretary shall take such steps as may be necessary to complete such arrangements within 60 days after the date of the enactment of this Act.

(4) REPORT.—By not later than 2 years after the date of completion of the arrangements for the conduct of the study under this subsection, the Secretary shall submit a report to the Congress on the results of such study and shall include in such report such recommendations as the Secretary deems appropriate with respect to the coverage of long-term care benefits under, or in conjunction with, the medicare program.

(i) RECOGNITION OF COSTS OF CERTAIN HOSPITAL-BASED NURSING SCHOOLS.—

(1) IN GENERAL.—(A) The reasonable costs incurred by a hospital in training students of a hospital-based nursing school shall be allowable as reasonable costs under title XVIII of the Social Security Act and reimbursed under such title on the same basis as if they were allowable direct costs of a hospital-operated educational program (other than an approved graduate medical education program) if, before June 15, 1989, and thereafter, the hospital incurred substantial costs in training students and operating the school, the nursing school and the hospital share some common board members, and all instruction is provided at the hospital or in the immediate proximity of the hospital.

(B) Section 8411(b) of the Technical and Miscellaneous Revenue Act of 1988 is amended by striking "1989, 1990, and" and inserting "1986 through".

(2) EFFECTIVE DATE.—Paragraph (1)(A) shall apply with respect to costs reporting periods beginning on or after the date of the enactment of this Act.

(j) INNER-CITY HOSPITAL TRIAGE DEMONSTRATION PROJECT.—

(1) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish a demonstration project in a public hospital that is located in a large urban area and that has established a triage system, under which the Secretary shall make payments for 3 years to reimburse the hospital for the reasonable costs of the operating the system, including costs—

(A) to train hospital personnel to operate and participate in the system, and

(B) to provide services to patients who might otherwise be denied appropriate and prompt care.

(2) LIMITATIONS ON PAYMENT.—(A) The Secretary may not make payment under the demonstration project established under paragraph (1) for costs that the Secretary determines are not reasonable.

(B) The amount of payment made under the demonstration project during a single year may not exceed $500,000.

(k) GAO STUDY OF HOME HEALTH AGENCY PAPERWORK REQUIREMENTS.—

(1) STUDY.—The Comptroller General shall conduct a study analyzing the costs and effectiveness of current paperwork and other administrative requirements for home health agencies participating in the medicare program, including an analysis of the feasibility of eliminating the separate reporting requirements for medicare and medicaid participation.

(2) REPORT.—By not later than May 1, 1990, the Comptroller General shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the study conducted under paragraph (1) and shall include in the report such recommendations regarding paperwork requirements for home health agencies as the Comptroller General deems appropriate.

(l) GAO STUDY OF ADMINISTRATIVE COSTS OF MEDICARE PROGRAM.—

(1) STUDY.—The Comptroller General shall conduct a study of the administrative burden of medicare regulations and program requirements on providers of services, fiscal intermediaries, and carriers, and shall include in such study—

(A) an assessment of current administrative costs to such entities and of trends in such administrative costs since 1982, and

(B) a comparison of the administrative burden to such entities in providing services to individuals who are not medicare beneficiaries.

For purposes of such assessment, administrative costs shall include personnel costs, training costs, the costs of data and communications systems as affected by changes in requirements of the medicare program, and costs to such entities of non-compliance with such requirements resulting from the failure of the Secretary of Health and Human Services to provide entities with adequate notice of changes in program requirements.

(2) REPORT.—Not later than March 31, 1990, the Comptroller General shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the study conducted under paragraph (1).

(m) GAO REVIEW OF LONG-TERM CARE INSURANCE STANDARDS.—The Comptroller General shall conduct a review of the standards that may be used by States to regulate private long-term care insurance with respect to inflation protection, non-forfeiture of benefits, and other consumer protection provisions, and, by not later than April 1, 1990, shall submit a report to Congress on the results of such review.

PART D—MEDICARE PART B BASIC PREMIUM

SEC. 10161. PART B PREMIUM.

Section 1839(e) of the Social Security Act (42 U.S.C. 1395r(e)) is amended by striking "1990" each place it appears and inserting "1991".

PART E—EXTENSION OF COBRA CONTINUATION COVERAGE FOR DISABLED EMPLOYEES

SEC. 10171. EXTENSION OF COBRA CONTINUATION COVERAGE FROM 18 TO 29 MONTHS FOR THOSE WITH A DISABILITY AT TIME OF TERMINATION OF EMPLOYMENT.

(a) IN GENERAL.—Paragraph (2)(B) of section 4980B(f) of the Internal Revenue Code of 1986, as added by section 3011(a) of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647), (relating to maximum required period of continuation coverage), is amended—

(1) by adding at the end of clause (i) the following new sentence: "In the case of a qualified beneficiary who is determined, under title II or XVI of the Social Security Act, to have been disabled at the time of a qualifying event described in paragraph (3)(B), any reference in subclause (I) or (II) to 18 months with respect to such event is deemed a reference to 29 months, but only if the qualified beneficiary has provided notice of such determination under paragraph (6)(C) before the end of such 18 months."; and

(2) by adding at the end the following new clause:

"(v) TERMINATION OF DISABILITY FOR EXTENDED COVERAGE.—In the case of a qualified beneficiary who is disabled at the time of a qualifying event described in paragraph (3)(B), the month that begins more than 30 days after the date of the final determination under title II or XVI of the Social Security Act that the qualified beneficiary is no longer disabled.".

(b) INCREASED PREMIUM PERMITTED.—Paragraph (2)(C) of such section (relating to premium requirements) is amended by adding at the end the following new sentence: "In the case of an individual described in the last sentence of subparagraph (B)(i), any reference in clause (i) of this subparagraph to '102 percent' is deemed a reference to '150 percent' for any month after the 18th month of continuation coverage described in subclause (I) or (II) of subparagraph (B)(i).".

(c) NOTICES REQUIRED.—Paragraph (6)(C) of such section (relating to certain notices to plan administrator) is amended by inserting before the period at the end the following: "and each qualified beneficiary who is determined, under title II or XVI of the Social Security Act, to have been disabled at the time of a qualifying event described in paragraph (3)(B) is responsible for notifying the plan administrator of such determination within 60 days after the date of the determination and for notifying the plan administrator within 30 days of the date of any final determination under such title or titles that the qualified beneficiary is no longer disabled".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the date of the enactment of this Act, regardless of whether the qualifying event occurred before, on, or after such date.

PART F—REVISIONS TO MEDICARE CATASTROPHIC COVERAGE ACT OF 1988

Subpart 1—Provisions Relating to Part A of Medicare Program and Supplemental Medicare Premium

SEC. 10181. SUPPLEMENTAL MEDICARE PREMIUM.

(a) REDUCTION IN SUPPLEMENTAL PREMIUM RATE.—Subsection (d) of section 59B of the Internal Revenue Code of 1986 (relating to determination of supplemental premium rate) is amended to read as follows:

"(d) DETERMINATION OF SUPPLEMENTAL PREMIUM RATE.—The supplemental premium rate determined under this subsection for a taxable year shall be determined under the following table:

"In the case of any taxable year beginning in:	The supplemental premium rate is:
1989	$11.25
1990	18.75
1991	19.50
1992	20.25
1993 and thereafter	21.00."

(b) APPLICATION ONLY TO THOSE WHO HAVE ELECTED MEDICARE PART B COVERAGE.—

(1) IN GENERAL.—Paragraph (1) of section 59B(f) of such Code (defining medicare-eligible individual) is amended to read as follows:

"(1) MEDICARE-COVERED INDIVIDUAL.—For purposes of this section—

"(A) IN GENERAL.—The term 'medicare-covered individual' means, with respect to any month, any individual who is entitled to benefits under part B of title XVIII of the Social Security Act for such month.

"(B) PREVIOUSLY-COVERED INDIVIDUALS.—The term 'medicare-covered individual' also includes, with respect to a month, any individual who—

"(i) for any previous month (after December 1989) was entitled to benefits under part B of title XVIII of the Social Security Act,

"(ii) would still be entitled to such benefits but for a termination of enrollment under section 1838(b) of such Act, and

"(iii) in the month is not enrolled either in a group health plan (as defined in section 5000(b)(1)) by reason of individual's (or the individual's spouse's) current employment or, in the case of an individual who is under 65 years of age, in a large group health plan (as defined in section 5000(b)(2)) as an active individual (as defined in section 1862(b)(1)(B)(iv)(I) of the Social Security Act) and the month is not part of the individual's special enrollment period described in section 1837(i)(3) of such Act.".

(2) TREATMENT OF MONTHS IN 1989.—An individual is not a medicare-covered individual for any month in 1989 for purposes of section 59B of the Internal Revenue Code of 1989 if the individual has disenrolled under part B of title XVIII of the Social Security Act under section 1837(b)(1) of such Act.

(c) INCREASED PREMIUM RATE AND LIMITATION FOR CERTAIN INDIVIDUALS.—

(1) IN GENERAL.—Section 59B of such Code is further amended by amending subsection (e) to read as follows:

"(e) INCREASE IN LIMITATION AND SUPPLEMENTAL PREMIUM RATE FOR CERTAIN INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual who, with respect to any month in a taxable year, is a previously disenrolled individual—

"(A) the limitation on annual premium under subsection (c)(2)(A) shall be increased by 15 percent, and

"(B) the supplemental premium rate under subsection (d) shall be increased by 15 percent.

"(2) PREVIOUSLY DISENROLLED INDIVIDUAL.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'previously disenrolled individual' means, with respect to a month, a medicare-covered individual described in subsection (f)(1)(A) who had previously disenrolled or waived enrollment under part B of title XVIII of the Social Security Act pursuant to section 1837(b) of such Act.

"(B) EXCEPTION.—Such term does not include an individual if, at the time of such disenrollment or waiver, the individual was enrolled in a group health plan (as defined in section 5000(b)(1)) by reason of individual's (or the individual's spouse's) current employment or, in the case of an individual who is under 65 years of age, was enrolled in a large group health plan (as defined in section 5000(b)(2)) as an active individual (as defined in section 1862(b)(1)(B)(iv)(I) of the Social Security Act)."

(2) TREATMENT OF MARRIED INDIVIDUALS.—

(A) JOINT RETURNS.—Paragraph (2) of section 59B(f) of such Code is amended by adding at the end thereof the following new subparagraph:

"(C) COORDINATION WITH SUBSECTION (e).—

"(i) IN GENERAL.—Subparagraph (A)(ii) shall be applied before the application of subsection (e).

"(ii) SPECIAL RULE WHERE SUBSECTION (e)(1) APPLIES TO ONLY 1 SPOUSE.—In any case to which subparagraph (A) applies where only 1 spouse is described in subsection (e)(1), subsection (e)(1) shall apply to the joint return; except that '7.5 percent' shall be substituted for '15 percent' each place it appears in such subsection."

(B) SEPARATE RETURNS.—Paragraph (3) of section 59B(f) of such Code is amended by striking "and" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) if such individual is not otherwise described in subsection (e)(1), such individual shall be treated as described in subsection (e)(1) for the taxable year if the spouse of such individual is so described with respect to the calendar year in which the taxable year begins, and".

(d) CONFORMING AMENDMENTS.—

(1) Section 59B of such Code is further amended—

(A) in subsection (b)(1), by striking "medicare-eligible" and inserting "medicare-covered";

(B) in subsection (c)(1), by inserting "or in subsection (e)" after "this subsection";

(C) in subsection (c)(1)(A), by striking "or (e) (whichever applies)";

(D) in subsection (c)(2), by inserting "Except as provided in subsection (e)—" after "ANNUAL PREMIUM.—";

(E) in subsection (c)(2)(C)(i)(II), by striking "(g)(4), and (g)(5)" and inserting "and (g)(4)";

(F) in subsection (c)(2)(C)(iii)(II), by striking "excluding premiums under section 1839(g) of such Act attributable to the prescription drug monthly premium" and inserting "excluding a proportion of such premium equal to the Secretary's estimate of the proportion of the total monthly premiums collected under section 1839 of such Act in such calendar year that is transferred to the Federal Catastrophic Drug Insurance Trust Fund"; and

(G) in subsection (f)—

(i) by striking paragraph (5), and

(ii) by redesignating paragraphs (6) through (8) as paragraphs (5) through (7), respectively.

(2) Section 6050F(a)(2) of such Code is amended by striking "(determined without regard to section 59B(f)(1)(B)(ii))".

(3) Section 111 of the Medicare Catastrophic Coverage Act of 1988 is amended by striking subsection (d) (relating to announcement of supplemental premium rate).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 10182. ABOLITION OF FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.

Section 1817A of the Social Security Act (42 U.S.C. 1395i-1a) and section 112(b) of the Medicare Catastrophic Coverage Act of 1988 are hereby repealed.

Subpart 2—Provisions Relating to Part B of the Medicare Program

SEC. 10191. ONE-TIME OPTION OF DECLINING CATASTROPHIC COVERAGE.

Section 1837 of the Social Security Act (42 U.S.C. 1395p) is amended—

(1) by inserting after subsection (a) the following new subsection:

"(b)(1)(A) Each individual who has enrolled (or been deemed to have enrolled) under the program under this part as of October 1, 1989, or who would otherwise be enrolled (or deemed enrolled) under subsection (f) during November or December 1989 shall be provided the option under this subsection of disenrollment during the 3-month period beginning October 1, 1989.

"(B) The Secretary shall distribute, to each individual described in subparagraph (A), material describing the disenrollment option under this subsection and its consequences. Such material shall include—

"(i) a general description of the program under this part, including a specific description of the catastrophic coverage benefits,

"(ii) information on the value of the Federal subsidy provided under this part, both for 1990 and over a period of years,

"(iii) an analysis of costs of alternative private insurance coverage,

"(iv) an explanation of the increased premiums (including premiums under section 59B of the Internal Revenue Code of 1986) that will apply if the disenrollment option is taken and the individual subsequently enrolls under this part, and

"(v) a form to request the application for disenrollment.

The Secretary shall also make available a toll-free telephone service to provide information on the disenrollment option under this subsection.

"(C) Upon the request of an individual, the Secretary shall provide to the individual an application for disenrollment under this subsection and the material described in clauses (i) through (iv) of subparagraph (B). The completion of the application shall require the individual's signature and an acknowledgement that the individual has been provided an explanation of the information on the value of the Federal subsidy provided under this part, of the costs of alternative private insurance coverage, and of the increased premiums that will apply upon subsequent enrollment.

"(D) Notwithstanding section 1838, in the case of an individual who disenrolls under this paragraph, the individual's coverage period under this part shall terminate as of January 1, 1990, and such disenrollment shall apply to premiums for months beginning with January 1990.

"(2) In the case of each individual who is not enrolled under this part as of December 31, 1989, and who is otherwise deemed enrolled under subsection (f), the Secretary shall provide for the disenrollment option described in paragraph (1) during the first 3 months of the individual's initial enrollment period, in the form of a waiver of enrollment under this part. Such disenrollment option shall include the material described in paragraph (1)(B) and the application for disenrollment described in paragraph (1)(C). In the case of an individual who waives enrollment during such period, the individual shall be considered not to have enrolled under this part for purposes of section 1838.", and

(2) in subsection (h), by striking "or nonenrollment" and inserting ", nonenrollment, disenrollment, or waiver of enrollment".

SEC. 10192. ADJUSTMENTS IN PART B PREMIUM.

(a) SETTING BASIC PREMIUM AT 25 PERCENT FOR 1991, 1992, AND 1993.—Section 1839(e) of the Social Security Act (42 U.S.C. 1395r(e)), as amended by section 10161 of this title, is amended by striking "1991" each place it appears and inserting "1994".

(b) INCREASE IN MEDICARE CATASTROPHIC MONTHLY PREMIUM.—Section 1839(g) of such Act is amended—

(1) in the matter in paragraph (1)(A) before the table—

(A) by striking "paragraphs (4) and (5)" and inserting "paragraph (3)",

(B) by striking "the catastrophic coverage monthly premium and the prescription drug monthly premium" and inserting "the ad hoc monthly premium described in subparagraph (B) and the catastrophic coverage monthly premium", and

(C) by striking "in accordance with paragraphs (2) and (3)" and inserting "paragraph (2)";

(2) by amending the table in paragraph (1)(A) to read as follows:

"In the case of:	The catastrophic coverage monthly premium is:
1989	$4.00
1990	4.90
1991	7.40
1992	9.20
1993	10.20.";

(3) by striking subparagraphs (B) through (D) of paragraph (1) and inserting the following:

"(B) For purposes of subparagraph (A), the ad hoc monthly premium for months in 1989 is 0, for months in 1990 is $3.50, for months in 1991 is $4.00, for months in 1992 is $4.10, and for months in 1993 is $4.10.";

(4) by amending paragraph (2) to read as follows:

"(2)(A)(i) In the case of months in 1994, the catastrophic coverage monthly premium is the sum of the catastrophic coverage monthly premium and the ad hoc monthly premium for months in 1993 (as determined under paragraph (1)), increased by the COLA percentage increase applicable to 1994.

"(ii) In the case of months in a year after 1994, the catastrophic coverage monthly premium is the catastrophic coverage monthly premium in effect under this subparagraph for months in the preceding year, increased by the COLA percentage increase applicable to the year.

"(B) In subparagraph (A), the term 'COLA percentage increase' means the percentage described in subsection (a)(3)(B).";

(5) by striking paragraph (3);

(6) by amending paragraph (4) to read as follows:

"(3)(A) In the case of an individual who is a resident of Puerto Rico during a month, instead of the premium increase provided under paragraph (1), subject to subsection (b), the monthly premium for each individual enrolled under this part otherwise determined, without regard to this subsection, shall be increased—

"(i) for months in 1989, by $1.30,

"(ii) for months in 1990, by $3.26,

"(iii) for months in 1991, by $6.13,

"(iv) for months in 1992, by $7.42,

"(v) for months in 1993, by $7.98, and

"(vi) for months in a subsequent year, by the additional amount specified in this subparagraph for months in the previous year increased by the COLA percentage increase (as defined in paragraph (2)(B)) applicable to the year.

"(B) In the case of an individual who is a resident of a U.S. commonwealth or territory (other than Puerto Rico) during a month, instead of the premium increase provided under paragraph (1), subject to subsection (b), the monthly premium for each individual enrolled under this part otherwise determined, without regard to this subsection, shall be increased—

"(i) for months in 1989, by $2.10,

"(ii) for months in 1990, by $5.26,

"(iii) for months in 1991, by $9.90,

"(iv) for months in 1992, by $11.99,

"(v) for months in 1993, by $12.90, and

"(vi) for months in a subsequent year, by the additional amount specified in this subparagraph for months in the previous year increased by the COLA percentage increase (as defined in paragraph (2)(B)) applicable to the year.";

(7) by striking paragraphs (5) and (7) and by redesignating paragraph (6) as paragraph (4); and

(8) by amending paragraph (8) to read as follows:

"(5) For purposes of this subsection, the term 'U.S. commonwealth or territory' means Puerto Rico, the United States Virgin Islands, Guam, American Samoa, or the Northern Mariana Islands.".

(c) CONFORMING AMENDMENT.—The last sentence of section 1844(a) of such Act (42 U.S.C. 1395w(a)) is amended by inserting "or additional premium amounts under section 1839 for months after December 1990 attributable to section 1839(e) applying during 1991, 1992, and 1993" after "Internal Revenue Code of 1986".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to premiums for months beginning with January 1990.

SEC. 10193. INCREASE IN CATASTROPHIC DRUG DEDUCTIBLE AMOUNT.

(a) IN GENERAL.—Section 1834(c)(1)(C)(i) of the Social Security Act (42 U.S.C. 1395m(c)(1)(C)(i)) is amended—

(1) in subclause (II), by striking "1991 is $600" and inserting "1991 is $800", and

(2) in subclause (III), by striking "1992 is "$652" and inserting "1992 is $950".

(b) GAO REPORT.—Section 1834(c)(1)(C)(iii) of such Act (42 U.S.C. 1395m(c)(1)(C)(iii)) is amended by inserting after the first sentence the following: "The Comptroller General shall report to Congress, not later than 60 days after the date of publication of such proposed regulation, on the accuracy of the Secretary's proposed amount of the catastrophic drug deductible for that following year.".

SEC. 10194. TEMPORARY DELAY IN MEDICARE PAYMENTS.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall provide that—

(1) with respect to the last 5 days for which payments would otherwise be made under title XVIII of the Social Security Act during fiscal year 1990, such payments shall be deferred until October 1, 1990,

(2) with respect to the last 6 days for which payments would otherwise be made under such title during fiscal year 1991, such payments shall be deferred until October 1, 1991,

(3) with respect to the last 3 days for which payments would otherwise be made under such title during fiscal year 1992, such payments shall be deferred until October 1, 1992, and

(4) with respect to the last day for which payments would otherwise be made under such title during fiscal year 1993, such payments shall be deferred until October 1, 1993.

SEC. 10195. REVISION OF FUNDING FORMULAS AND ACCOUNTS.

(a) FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND.—

(1) DEPOSIT OF ADDITIONAL PREMIUMS INTO TRUST FUND.—

(A) Section 1840(i) of the Social Security Act (42 U.S.C. 1395s(i)) is repealed.

(B) The third sentence of section 1841(a) of such Act (42 U.S.C. 1395t(a)) is amended by striking "which are attributable" and all that follows up to the period and inserting "(less the portion, if any, of such premiums appropriated to the Federal Catastrophic Drug Insurance Trust Fund)".

(2) TRANSFER OF AMOUNTS TO FEDERAL CATASTROPHIC DRUG INSURANCE TRUST FUND.—Section 1841 of such Act is further amended by adding at the end the following new subsection:

"(j) The Managing Trustee shall pay from time to time from the Trust Fund to the Federal Catastrophic Drug Insurance Trust Fund—

"(1) during 1990, an amount equal to the sum of (A) the amount of the expenditures from the Federal Catastrophic Drug Insurance Trust Fund during such year, and (B) such an amount as is necessary to assure that, as of the end of such year, the balance in such Trust Fund is equal to 150 percent of the amount described in clause (A);

"(2) during 1991, the sum of (A) the amount of the expenditures from the Federal Catastrophic Drug Insurance Trust Fund during such year, and (B) such an amount (if any) as is necessary to assure that, as of the end of such year, the balance in such Trust Fund is equal to 100 percent of the amount described in clause (A);

"(3) during 1992, the sum of (A) the amount of the expenditures from the Federal Catastrophic Drug Insurance Trust Fund during such year, and (B) such an amount (if any) as is necessary to assure that, as of the end of such year, the balance in such Trust Fund is equal to 70 percent of the amount described in clause (A);

"(4) during 1993, the sum of (A) the amount of the expenditures from the Federal Catastrophic Drug Insurance Trust Fund during such year, and (B) such an amount (if any) as is necessary to assure that, as of the end of such year, the balance in such Trust Fund is equal to 50 percent of the amount described in clause (A); and

"(5) during 1994 and each subsequent year, an amount equal to—

"(A) the product of—

"(i) the dollar amount specified under paragraph (4)(A) increased by the Secretary's estimate of the percentage by which outlays from the Federal Catastrophic Drug Insurance Trust Fund for the year involved will exceed such outlays for 1993, and

"(ii) the ratio of (I) the sum of the amount of premiums collected under section 1839(g) in 1993 and the additional premium amounts under section 1839 collected in 1993 attributable to section 1839(e) applying during 1991, 1992, and 1993, to (II) the sum of the sum described in clause (I) and the aggregate supplemental medicare premiums imposed under section 59B of the Internal Revenue Code of 1986 for taxable years ending in 1993, or

"(B) the sum of (i) the amount of premiums collected under section 1839(g) in the year involved, and (ii) the additional premium amounts collected in the year involved under section 1839 which are attributable to section 1839(e) applying during 1991, 1992, and 1993,

whichever is less.".

(b) FEDERAL CATASTROPHIC DRUG INSURANCE TRUST FUND.—Section 1841A(a) of such Act (42 U.S.C. 1395t-1(a)) is amended—

(1) in subsection (a)(1), by striking "1840(i)" and inserting "1841(j)";

(2) by amending paragraph (2) of subsection (a) to read as follows:

"(2) There are hereby appropriated to the Trust Fund, from the supplemental medicare premiums imposed by section 59B of the Internal Revenue Code of 1986 for taxable years ending during 1994 and each subsequent calendar year, an amount equal to the product of—

"(A) the dollar amount specified under section 1841(j)(4)(A) increased by the Secretary's estimate of the percentage by which the aggregate supplemental medicare premiums imposed under section 59B of the Internal Revenue Code of 1986 for taxable years ending during the year involved exceed such aggregate premiums imposed under such section for taxable years ending during 1993, and

"(B) the ratio of (i) the aggregate supplemental medicare premiums imposed under section 59B of the Internal Revenue Code of 1986 for taxable years ending in 1993, to (ii) the sum of (I) such aggregate premiums imposed in 1993, (II) the total amount of premiums collected under section 1839(g) in 1993, and (III) the additional premium amounts collected under section 1839 in 1993 that are attributable to section 1839(e) applying during 1991, 1992, and 1993."; and

(3) by amending subsection (d) to read as follows:

"(d) The Secretary shall submit to Congress, with the report submitted under section 1841(b)(2) for each year, a report respecting the receipts and outlays of the Trust Fund in the previous year attributable to the Medicare Catastrophic Coverage Act of 1988. The Comptroller General shall submit to Congress, not later than 60 days after the date of submittal of the report under the previous sentence, a report concerning the completeness and accuracy of the Secretary's report.".

(c) MEDICARE CATASTROPHIC COVERAGE ACCOUNT.—Section 1841B of such Act (42 U.S.C. 1395t-2) is amended—

(1) in subsection (a), by striking ", and section 59B of the Internal Revenue Code of 1986," and by striking "and for purposes of section 59B of the Internal Revenue Code of 1986";

(2) by amending paragraph (1) of subsection (b) to read as follows:

"(1) The Account shall be—

"(A) credited for receipts of the Federal Supplementary Medical Insurance Trust Fund attributable to (i) premiums under section 59B of the Internal Revenue Code of 1986, (ii) premiums under section 1839(g), and (iii) the additional premium amounts under section 1839 that are attributable to section 1839(e) applying during 1991, 1992, and 1993,

"(B) debited by the amount of transfers of funds made from the Federal Supplementary Medical Insurance Trust Fund to the Federal Catastrophic Drug Insurance Trust Fund under section 1841(j), and

"(C) debited for outlays made under this part that are attributable to the amendments made by the Medicare Catastrophic Coverage Act of 1988 (other than outlays relating to covered outpatient drugs and related administrative costs).";

(3) by striking paragraph (4) of subsection (b); and

(4) by amending subsection (c) to read as follows:

"(c) The Secretary shall submit to Congress, with the report submitted under section 1841(b)(2) for each year, a report respecting the outlays, and distribution of outlays, from the Account in the previous year among major spending categories and the balance in the Account as of the close of the preceding year. The Comptroller General shall submit to Congress, not later than 60 days after the date of submittal of the report under the previous sentence, a report concerning the completeness and accuracy of the Secretary's report.".

(d) TRANSFER OF FUNDS FROM FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.—Any funds in the Federal Hospital Insurance Catastrophic Coverage Reserve Fund before the date of its repeal under section 10182 are hereby transferred to the Federal Supplementary Medical Insurance Trust Fund.

SEC. 10196. MISCELLANEOUS AMENDMENTS AND TECHNICAL CORRECTIONS.

(a) TECHNICAL CORRECTIONS RELATING TO MEDICARE CATASTROPHIC COVERAGE ACT OF 1988.—

(1) CORRECTIONS RELATING TO CATASTROPHIC DRUG BENEFIT.—

(A) DEFINITION OF COVERED OUTPATIENT DRUGS.—Section 1861(t)(3)(A) of the Social Security Act, as added by section 202(a)(2)(C) of the Medicare Catastrophic Coverage Act of 1988 (in this subsection referred to as "MCCA"), is amended—

(i) by redesignating clauses (iv) through (xiii) as clauses (vi), (vii), (viii), (ix), (x), (xii), (xiii), (xiv), (xvi), and (xviii), respectively;

(ii) by inserting after clause (iii) the following:

"(iv) Diagnostic services under subsections (s)(2)(C) and (s)(3).

"(v) X-ray, radium, and radioactive isotope therapy under subsection (s)(4).";

(iii) by inserting after clause (x), as so redesignated, the following:

"(xi) Parenteral nutrition nutrients under subsection (s)(8).";

(iv) by inserting after clause (xvi), as so redesignated, the following:

"(xv) Partial hospitalization services (as defined in subsection (ff)).''; and

(v) by inserting after clause (xvi), as so redesignated, the following:

"(xvii) Qualified psychologist services (as defined in subsection (ii)).".

(B) COVERED HOME IV DRUGS.—Section 1861(t)(4)(A) of such Act (42 U.S.C 1395x(t)(4)(A)) is amended by striking "dispensed" and inserting "furnished by a qualified home intravenous drug therapy provider".

(C) REFERENCES TO CATASTROPHIC DRUG DEDUCTIBLE AMOUNT.—Section 1834(c) of the Social Security Act, as added by section 202(b)(4) of MCCA, is amended—

(i) in paragraph (1)(C), by striking "Subject to subparagraph (D), the" and inserting "The,

(ii) in paragraph (2)(A), by striking "under paragraph (1)(A) and except as provided in subparagraph (C)" and inserting "under paragraph (1)"; and

(iii) in paragraph (8)(E), by striking "paragraph (1)(A)" each place it appears and inserting "paragraph (1)",

(D) PAYMENT FOR ELECTRONIC EQUIPMENT FOR PHARMACIES.—Section 1842(o)(2) of the Social Security Act, as added by section 202(c)(1)(C) of MCCA, is amended—

(i) in subparagraph (B)—

(I) by inserting ", software," after "electronic equipment", and

(II) by inserting ", or reimbursement for such equipment or software modifications," after "telephone service)";

(ii) by adding at the end the following:

"Any reimbursement under subparagraph (B) shall be contingent upon a pharmacy's system meeting the requirements specified in the contracts between the Secretary and carriers and shall not exceed the reasonable cost of the modifications or, if less, the cost of a point-of-sale terminal (as defined in such contracts).".

(E) INTERIM FUNDING OF CATASTROPHIC DRUG EXPENSES.—(i) Section 202(m)(5) of MCCA is amended by striking "January 1, 1990" and inserting "April 1, 1990".

(ii) Section 1841A(c) of the Social Security Act, as inserted by section 212(a) of MCCA, is amended by striking "and administrative costs" and inserting "(and on or after April 1, 1990, for administrative costs)".

(F) EXPANSION OF IDENTIFIERS TO NONPHYSICIAN PRACTITIONERS.—The Secretary of Health and Human Services shall expand the identifier system established under section 9202(g) of the Consolidated Omnibus Budget Reconciliation Act of 1985 to provide unique identifiers to each nonphysician practitioner (physician assistants, nurse practitioners, and certified registered nurse anesthetists) who is authorized to prescribe or dispense covered outpatient drugs for which payment may be made under title XVIII of the Social Security Act.

(2) SCREENING MAMMOGRAPHY.—

(A) APPLICATION OF PARTICIPATING PHYSICIAN DIFFERENTIAL.—Section 1834(e)(4) of the Social Security Act, as added by section 204(b)(2) of MCCA, is amended by adding at the end the following new subparagraph:

"(D) APPLICATION OF PARTICIPATING PHYSICIAN DIFFERENTIAL.—In applying the limit under subparagraph (A) with respect to a nonparticipating physician, the limit applied shall be the applicable percent (as defined in the second sentence of section 1842(b)(4)(A)(iv)) of the limit otherwise established in that subparagraph.".

(B) FREQUENCY OF SCREENING.—Section 1834(e)(2)(A) of the Social Security Act, as added by section 204(b)(2) of MCCA, is amended—

(i) in clause (iii)(I), by striking "the 11 months of a previous screening mammography" and inserting "11 months following the month in which a previous screening mammography was performed",

(ii) in clause (iii)(II), by striking "the 23 months of a previous screening mammography" and inserting "23 months following the month in which a previous screening mammography was performed",

(iii) in clause (iv), by striking "11 months of a previous screening mammography" and inserting "11 months following the month in which a previous screening mammography was performed", and

(iv) in clause (v), by striking "23 months of a previous screening mammography" and inserting "23 months following the month in which a previous screening mammography was performed".

(3) IN-HOME CARE DEDUCTIBLE.—Subparagraph (B) of section 1861(ll)(4) of the Social Security Act, as added by section 205(b) of MCCA, is amended to read as follows:

"(B) has incurred expenses during a year for covered outpatient drugs equal to the amount of the catastrophic drug deductible specified in section 1834(c)(1)(C) for the year.".

(4) ROUNDING OF PART B PREMIUM.—Section 1839 of the Social Security Act, as amended by section 211(c)(1)(E) of MCCA, is amended—

(A) in the first sentence of subsection (b), by striking "subsections (f) and (g)(4)" and inserting "subsection (f)",

(B) in subsection (b), by inserting after the first sentence the following new sentence: "If the resulting monthly premium is not a multiple of 10 cents, such premium shall be rounded to the nearest multiple of 10 cents.", and

(C) in subsection (c), by striking "the foregoing provisions of this section" and inserting "subsection (a)(3) or (e)".

(5) MISCELLANEOUS.—

(A) Clause (iii) of section 1814(a)(7)(A) of the Social Security Act, as added by section 104(d)(2)(C)(iii) of MCCA, is amended by moving its alignment 2 ems to the left so its alignment is the same as that of clause (ii) of such section.

(B) Section 1842(p)(3)(B) of the Social Security Act, as added by section 202(g) of MCCA, is amended by striking "section 1842(j)(2)(A)" and inserting "subsection (j)(2)(A)".

(C) Section 221(g)(3) of MCCA is amended by striking "subsection (f)" and inserting "subsection (e)".

(D) Section 1842(h)(5)(B)(iv) of the Social Security Act, as added by section 223(b)(4) of MCCA, is amended by striking "paragraph (2)(A)" and inserting "paragraph (2)".

(b) MISCELLANEOUS CORRECTIONS RELATING TO THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987.—

(1) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, section 1834(b)(4)(A) of the Social Security Act, as added by section 4049(a)(2) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "insurance and deductibles under section 1835(a)(1)(I)" and inserting "coinsurance and deductibles under sections 1833(a)(1)(J)".

(2) Section 1842(j)(1)(C)(vii) of the Social Security Act, as added by section 4085(i)(7)(C) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "accordingly" and inserting "according".

(3) Section 1886(g)(3)(A)(iv) of the Social Security Act, as added by section 4006(a)(2) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "may) be" and inserting "may be)".

(c) OTHER CORRECTIONS.—

(1) Section 1866(a)(1)(F)(i)(III) of the Social Security Act is amended by striking "fiscal year))" and inserting "fiscal year)".

(2) Section 1875(c)(7) of the Social Security Act, as added by section 9316(a) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking "date of the enactment of this Act" and inserting "date of the enactment of this section".

(3) Section 1842(j)(2)(B) of the Social Security Act, as amended by section 8(c)(2)(A) of the Medicare and Medicaid Fraud and Abuse Patient Protection Act of 1987, is amended by striking "paragraphs" and inserting "subsections".

Subtitle C—Human Resource Amendments

SEC. 10200. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the "Human Resource Amendments of 1989".

(b) TABLE OF CONTENTS.—

Sec. 10200. Short title; table of contents.

PART 1—CHILDREN'S INITIATIVE

SUBPART A—SOCIAL SERVICES

Sec. 10201. Increase in funding for title XX social services block grant.

SUBPART B—FOSTER CARE AND CHILD WELFARE AMENDMENTS

Sec. 10211. Increase in authorization for child welfare services under title IV-B.

Sec. 10212. Extension and permanent increase in foster care ceiling; extension of authority to transfer foster care funds to child welfare services.

Sec. 10213. Report by States to courts on preplacement preventive and reunification programs and services.

Sec. 10214. Increase in reimbursement for foster parent training.

Sec. 10215. Case plans to include health and education records and to be reviewed and updated at the time of each placement.

Sec. 10216. Revision and extension of independent living initiatives program.

Sec. 10217. Improvement of data collection.

Sec. 10218. Improvement of oversight and accountability.

SUBPART C—SSI DISABLED CHILDREN AMENDMENTS

Sec. 10221. Establishment and conduct of outreach program for children.

Sec. 10222. Individual functional assessments of children.

Sec. 10223. Presumptive disability for children under age 4 with certain genetic or congenital impairments.

Sec. 10224. Publication of childhood mental impairment listing.

Sec. 10225. Revision of listings of impairments for children.

Sec. 10226. Medicaid protection for certain months in case of individuals ineligible for SSI because of weekly or biweekly income.

Sec. 10227. Eligibility for benefits of children residing overseas.

Sec. 10228. Rule for deeming income and resources of parents to children waived for disabled children receiving benefits under State home care plan.

Sec. 10229. Demonstration project.

Sec. 10230. Exclusion from resources of all work-related equipment.

SUBPART D—CHILD SUPPORT ENFORCEMENT AMENDMENTS

Sec. 10231. Extension of authority of States to request the withholding of Federal tax refunds from persons owing past due child support.

Sec. 10232. Withholding of Federal tax refunds and collection of past due child support on behalf of disabled child of any age.

Sec. 10233. Permanent extension of Medicaid eligibility extension due to collection of child or spousal support.

PART 2—SSI SERVICE IMPROVEMENTS

SUBPART A—INITIATIVE FOR THE POOR ELDERLY

Sec. 10241. SSI benefit increase.

Sec. 10242. Establishment and conduct of outreach program for adults.

Sec. 10243. Representative payee reform.

Sec. 10244. Clarification of limits for eligible individuals receiving support or maintenance in kind.

Sec. 10245. Exclusion from income of domestic commercial transportation tickets received as gifts.

Sec. 10246. Reduction in time during which income and resources of separated couples must be treated as jointly available.

Sec. 10247. Exclusion of accrued income with respect to purchase of certain burial spaces.

Sec. 10248. Benefits for persons who lose social security disability benefits.

Sec. 10249. Exclusion from income and resources of victims' compensation payments.

SUBPART B—OTHER SERVICE IMPROVEMENTS

Sec. 10251. Standards applicable in certain determinations of good cause, fault, and good faith.

Sec. 10252. Assistance to the homeless.

Sec. 10253. Notice requirements.

Sec. 10254. Representation of claimants.

Sec. 10255. Applicability of administrative res judicata; related notice requirements.

Sec. 10256. Authority for Secretary to take into account misinformation provided to applicants in determining date of application for benefits.

Sec. 10257. Same-day personal interviews at field offices of the Social Security Administration in certain cases where time is of the essence.

PART 3—MISCELLANEOUS AMENDMENTS

Sec. 10261. Employees providing services to educational institutions.

Sec. 10262. Treatment of certain determinations.

Sec. 10263. Extension of moratorium on implementation of proposed regulation affecting assistance to homeless AFDC families.

Sec. 10264. Authorization of appropriations to cover state administrative expenses in operating certain self-employment demonstration programs.

Sec. 10265. Demonstration of effectiveness of Minnesota family investment plan.

Sec. 10266. Miscellaneous technical corrections.

PART 4—AFDC QUALITY CONTROL AMENDMENTS

SUBPART A—RESOLUTION OF DISALLOWANCE BACKLOG THROUGH FISCAL YEAR 1990

Sec. 10271. Treatment of quality control disallowance backlog.

SUBPART B—PERMANENT MODIFICATION OF QUALITY CONTROL SYSTEM AFTER FISCAL YEAR 1990

Sec. 10281. Modification of quality control system.

(c) AMENDMENT OF SOCIAL SECURITY ACT.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

PART 1—CHILDREN'S INITIATIVE

Subpart A—Social Services

SEC. 10201. INCREASE IN FUNDING FOR TITLE XX SOCIAL SERVICES BLOCK GRANT.

Section 2003(c) (42 U.S.C. 1397b) is amended—

(1) in paragraph (3), by striking "and 1987, and for each succeeding fiscal year other than the fiscal year 1988; and" and inserting "1987, 1989, and 1990;";

(2) in paragraph (4), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(5) $2,900,000,000, for the fiscal year 1991;

"(6) $3,100,000,000, for the fiscal year 1992; and

"(7) $3,300,000,000, for the fiscal year 1993 and for each succeeding fiscal year.".

Subpart B—Foster Care and Child Welfare Amendments

SEC. 10211. INCREASE IN AUTHORIZATION FOR CHILD WELFARE SERVICES UNDER TITLE IV-B.

(a) IN GENERAL.—Sections 420(a), 427(b), 474(c)(4)(B), and 474(c)(4)(C) (42 U.S.C. 620(a), 627(b), 674(c)(4)(B), and

674(c)(4)(C)) are each amended by striking "$266,000,000" and inserting "$400,000,000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1989.

SEC. 10212. EXTENSION AND PERMANENT INCREASE IN FOSTER CARE CEILING; EXTENSION OF AUTHORITY TO TRANSFER FOSTER CARE FUNDS TO CHILD WELFARE SERVICES.

(a) 3-YEAR EXTENSION.—Subsections (b)(1), (b)(2)(B), (b)(4)(B), (b)(5)(A), (b)(5)(A)(ii), (c)(1), and (c)(2) of section 474 (42 U.S.C. 674) are each amended by striking "1989" and inserting "1992".

(b) PERMANENT INCREASE IN APPROPRIATIONS LEVEL WHICH TRIGGERS FOSTER CARE CEILING.—Section 474(b)(2)(A) (42 U.S.C. 674(b)(2)(A)) is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(iv) with respect to each fiscal year succeeding the fiscal year 1989, only if $400,000,000 is appropriated under section 420 for such succeeding fiscal year.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1989.

SEC. 10213. REPORTS BY STATES TO COURTS ON PREPLACEMENT PREVENTIVE AND REUNIFICATION PROGRAMS AND SERVICES.

Part B of title IV (42 U.S.C. 620 et seq.) is amended by adding at the end the following:

"SEC. 429. REPORTS BY STATES TO COURTS ON PREPLACEMENT PREVENTIVE AND REUNIFICATION PROGRAMS AND SERVICES.

"(a) ANNUAL REPORTS.—Beginning in fiscal year 1990, the State agency responsible for administering the program authorized by this part in the State shall, before the end of each fiscal year, prepare a detailed report that specifies the preplacement preventive service programs and the programs designed to help children return to families from which they have been removed which were operating and available to children and families in need in the State as of August of the fiscal year.

"(b) CONTENTS OF REPORTS.—Each report compiled under subsection (a) shall—

"(1) contain information arranged geographically to correspond with the relevant court jurisdictions; and

"(2) include—

"(A) the name of the program;

"(B) the name of the agency or organization which administers the program;

"(C) the number of persons that the program is capable of serving concurrently, on a monthly basis;

"(D) a description of program services;

"(E) a description of eligibility for such services; and

"(F) the location of services.

"(c) DISTRIBUTION OF REPORTS.—Not later than October 1 of the fiscal year immediately following any fiscal year for which the State agency prepares a report required by subsection (a), the State agency shall distribute such report to the Secretary, and to all State agencies, judges, and other judicial administrators, who are involved in child protective services.

"(d) PUBLICATION OF REPORT SUMMARIES.—Not later than January 1 of the fiscal year immediately following any fiscal year for which State agencies are required to prepare reports required by subsection (a), the Secretary shall publish a summary of the reports so prepared.".

SEC. 10214. INCREASE IN REIMBURSEMENT FOR FOSTER AND ADOPTIVE PARENT TRAINING.

(a) IN GENERAL.—Section 474(a)(3) (42 U.S.C. 674(a)(3)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

"(B) 75 percent of so much of such expenditures (including travel and per diem expenses) as are for the short-term training of current or prospective foster or adoptive parents and the members of the staff of State licensed or approved child care institutions in ways that increase their ability to provide support and assistance to foster and adopted children, whether incurred directly by the State or by contract, and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to expenditures made on or after October 1, 1989.

SEC. 10215. CASE PLANS TO INCLUDE HEALTH AND EDUCATION RECORDS AND TO BE REVIEWED AND UPDATED AT THE TIME OF EACH PLACEMENT.

(a) INCLUSION OF HEALTH AND EDUCATION RECORDS.—Section 475(1) (42 U.S.C. 675(1)) is amended—

(1) by inserting "(A)" before "A description";

(2) by striking "472(a)(1); and a" and inserting "472(a)(1). (B) A";

(3) by indenting subparagraphs (A) and (B) (as so amended by paragraphs (1) and (2) of this subsection) 4 ems to the right of the left margin;

(4) by inserting after and below subparagraph (B) (as so amended and indented) the following:

"(C) To the extent available and accessible, the health and education records of the child, including—

"(i) the names and addresses of the child's health and educational providers;

"(ii) the child's grade level performance;

"(iii) the child's school record;

"(iv) assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement;

"(v) a record of the child's immunizations;

"(vi) the child's known medical problems;

"(vii) the child's medications;

"(viii) in the case of a child in foster care who is eligible for medical assistance benefits under a State plan approved under section 1902(a), an indication that, within 60 days after the placement of the child in foster care and periodically thereafter, the child received comprehensive health examinations identical to the assessments required by the State under the early and periodic screening, diagnosis, and treatment program under sections 1902(a)(43) and 1905(a)(4)(B), and the results of such examinations and any follow-up treatment; and

"(ix) any other relevant health and education information concerning the child determined to be appropriate by the State agency."; and

(5) by setting the last sentence flush with the left margin of the paragraph.

(b) REVIEW AND UPDATE OF HEALTH AND EDUCATION RECORD AT TIME OF PLACEMENT.—Section 475(5) (42 U.S.C. 675(5)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) a child's health and education record (as described in paragraph (1)(A)) is reviewed and updated, and supplied to the foster parent or foster care provider with whom such child is placed, at the time of each placement of the child in foster care.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1989.

SEC. 10216. REVISION AND EXTENSION OF INDEPENDENT LIVING INITIATIVES PROGRAM.

(a) REDESIGNATION OF PROGRAM.—The section heading of section 477 (42 U.S.C. 677) is amended to read as follows:

"FOSTER CARE ADOLESCENT SERVICES BLOCK GRANT".

(b) PROGRAM EXTENDED FOR 3 YEARS.—Section 477 (42 U.S.C. 677) is amended—

(1) in each of subsections (a)(1) and (e)(1), by striking ", 1988, and 1989" and inserting "through 1992"; and

(2) in subsection (c), by striking "the fiscal year 1988 or 1989" and inserting "any of the fiscal years 1988 through 1992".

(c) ENTITLEMENT INCREASED.—Section 477(e)(1) (42 U.S.C. 677(e)(1)) is amended by striking "$45,000,000" and inserting "$100,000,000".

(d) EXPENDITURE OF UNOBLIGATED FUNDS.—Section 477(f) (42 U.S.C. 677(f)) is amended—

(1) in paragraph (3), by striking "succeeding fiscal year" and inserting "fiscal year 1990, 1991, or 1992"; and

(2) by striking the 2nd sentence.

(e) PROGRAM IMPROVEMENTS.—Section 477 (42 U.S.C. 677) is amended—

(1) in subsection (a)(1)—

(A) by inserting "(or, at the option of the State, any age from age 10 to age 16) before "in making"; and

(B) by inserting ", and to address the increasingly complex needs of adolescents in foster care" after "independent living"; and

(2) in subsection (d)—

(A) by striking the matter preceding paragraph (1) and inserting the following:

"(d) DESCRIPTION OF INCLUDIBLE PROGRAMS.—Each program established under this section may include programs to—";

(B) by striking "and" at the end of paragraph (6);

(C) by striking the period at the end of paragraph (7) and inserting "; and"; and

(D) by adding at the end the following:

"(8) establish, extend, strengthen, and coordinate services and programs which—

"(A) encourage and support school attendance;

"(B) prevent alcohol and other drug abuse;

"(C) provide access to mental health services and alcohol and drug abuse treatment; or

"(D) provide other adolescent services determined to be appropriate by the State.".

(f) 70 PERCENT OF FUNDS REQUIRED TO BE EXPENDED FOR FOSTER CHILDREN AGE 16 OR OLDER.—Section 477 (42 U.S.C. 677) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following:

"(g) 70 PERCENT OF FUNDS REQUIRED TO BE EXPENDED FOR FOSTER CHILDREN AGE 16 OR OLDER.—Each State that receives payment under this section for a fiscal year shall expend at least 70 percent of such payments to assist children described in paragraph (2) who have attained the age of 16 years in

making the transition from foster care to independent living.".

(g) TECHNICAL AMENDMENT.—Section 474(a)(4) (42 U.S.C. 674(a)(4)) is amended by striking "transitional independent living programs" and inserting "foster care adolescent block grants".

(h) EFFECTIVE DATE.—The amendments made by subsections (a), (c), (d), (e), (f), and (g) shall take effect October 1, 1989.

SEC. 10217. IMPROVEMENT OF DATA COLLECTION.

(a) REGULATIONS FOR IMPLEMENTATION OF DATA COLLECTION SYSTEM.—Section 479(b)(2) (42 U.S.C. 679(b)(2)) is amended to read as follows:

"(2) REGULATIONS FOR IMPLEMENTATION OF DATA COLLECTION SYSTEM.—

"(A) PROPOSED REGULATIONS.—Not later than 4 months after the date of the enactment of this paragraph, the Secretary shall issue proposed regulations providing for—

"(i) the implementation of the system described in subsection (a)(1), based on—

"(I) the recommendations made pursuant to subsection (a)(3);

"(II) the report submitted under paragraph (1); and

"(III) the voluntary cooperative information system developed by the American Public Welfare Association under any grant made by the Office of Human Development Services of the Department of Health and Human Services; and

"(ii) the full implementation of the system not later than October 1, 1991.

"(B) COMMENT PERIOD.—During the 60-day period beginning on the day after the Secretary issues proposed regulations under subparagraph (A), the Secretary shall accept comments on such proposed regulations.

"(C) FINAL REGULATIONS.—4 months after the end of the 60-day period described in subparagraph (B), the Secretary shall prescribe final regulations, in accordance with this paragraph, providing for the implementation of the system described in subsection (a)(1).".

(b) DATA TO BE COLLECTED.—Section 479(c) (42 U.S.C. 679(c)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following:

"(5) collect the following information on the child welfare programs of each State under part B and this part:

"(A) For each State child welfare services program under part B, and each State foster care, adoption assistance, and adolescent services block grant program under this part—

"(i) the total expenditures for the fiscal year divided into amounts attributable to Federal funds and amounts attributable to State and local funds;

"(ii) the total Federal expenditures for the fiscal year divided into amounts expended for service categories which shall be developed by the Secretary, who, in developing such categories, shall consider—

"(I) the service categories used in the voluntary cooperative information system data gathering instrument developed by the American Public Welfare Association under any grant made by the Office of Human Development Services of the Department of Health and Human Services;

"(II) the service categories used under title XX, as required by the Family Support Act of 1988; and

"(III) the ability of the State to collect and report such data by service category; and

"(iii) the total number of persons (or average monthly number of persons, where appropriate) who received services in any of the service categories during the fiscal year, and a breakdown of such number by service category.

"(B) The amounts each State transferred from the foster care program under this part to the child welfare services program under part B during the fiscal year.

"(C) The amounts allotted to each State under the foster care program under this part during the fiscal year.

"(D) The average monthly rate at which each State made foster care maintenance payments during the fiscal year, including information on special rates of payment and information on the cost of providing foster care incurred by foster care providers with whom the State contracts to provide such care.

"(E) Compliance by each State with section 427, as of the close of the fiscal year.

"(F) The dates and results of each compliance and fiscal review under part B of this part.

"(G) Information on disallowances resulting from compliance and fiscal reviews, and any other reviews, undertaken during the fiscal year.

"(H) Any other data the Secretary deems necessary to monitor the operations of the State child welfare programs under part B and this part.".

(c) ANNUAL FOSTER CARE AND ADOPTION REPORTS.—Section 479 (42 U.S.C. 679) is amended by adding at the end the following:

"(d) ANNUAL REPORTS.—

"(1) IN GENERAL.—Not later than December 31 of each calendar year beginning with 1992, the Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the information collected pursuant to subsection (c) for the fiscal year ending in such calendar year (including explanatory text and notes, where necessary to interpret and evaluate data in the report, and prior year data where available) and shall make such report available to the public.

"(2) INTERIM REPORTS.—Not later than December 31, 1990, and not later than December 31, 1991, the Secretary shall provide interim reports to the Committees specified in paragraph (1) containing such information described in subsection (c) as has been provided to the Secretary in time for such reports.".

(d) BIENNIAL REPORTS ON CHILD ABUSE AND NEGLECT.—Part B of title IV (42 U.S.C. 620 et seq.) is amended by adding after the section added by section 10213 of this Act the following:

"SEC. 430. BIENNIAL REPORTS ON CHILD ABUSE AND NEGLECT.

"(a) COLLECTION AND ANALYSIS OF DATA.—The Secretary, through the National Center on Child Abuse and Neglect of the Department of Health and Human Services, shall, directly or by grant or contract, collect and analyze aggregate and case-specific child abuse and neglect data.

"(b) REPORTS.—Until the Secretary implements the program required by section 6(b)(1) of the Child Abuse Prevention and Treatment Act, the Secretary shall biennially submit to the Congress, with the report required by section 479(d), a report analyzing the data collected under subsection (a) for the 2-year period for which such data was collected. As soon as possible after the date of the enactment of this section and not later than December 31, 1990, the Secretary shall submit the first such report, which shall contain data on child abuse and neglect for 1987 and 1988.".

SEC. 10218. IMPROVEMENT OF OVERSIGHT AND ACCOUNTABILITY CONCERNING FOSTER CARE PROTECTIONS.

(a) IN GENERAL.—Section 427 (42 U.S.C. 627) is amended by adding at the end the following:

"(d) OVERSIGHT AND ACCOUNTABILITY.—

"(1) REGULATIONS.—The Secretary shall prescribe regulations providing the specific and comprehensive set of criteria against which State programs will be uniformly measured for compliance with this section.

"(2) UNIFORM GUIDELINES REQUIRED.—

"(A) IN GENERAL.—All guidelines and other materials (including instruments, methodology, and forms) used in reviewing compliance with this section for fiscal year 1991 or any succeeding fiscal year shall conform to the regulations prescribed under paragraph (1).

"(B) APPLICATION OF REVISED GUIDELINES OR MATERIALS.—In reviewing compliance with this section for fiscal year 1991 or any succeeding fiscal year, the Secretary shall not apply any guideline or material (including any instrument, methodology, or form) which was revised later than 6 months before the beginning of the fiscal year under review.

"(3) REVIEW OF FOSTER CARE PROGRAMS.—

"(A) INITIAL REVIEW.—Not later than October 1, 1993, the Secretary shall conduct a complete review of each State foster care program and shall determine, based on the regulations published in accordance with this subsection, whether the program has been operated during the fiscal year under review in accordance with this section.

"(B) SUBSEQUENT REVIEWS.—The Secretary shall conduct a review as described in subparagraph (A) not less frequently than—

"(i) annually, in the case of a State the foster care program of which has been determined by the Secretary in the most recent review not to have been operated in accordance with this section; or

"(ii) every 3 years, in any other case.

"(4) FINAL NOTIFICATION OF NONCOMPLIANCE.—If the Secretary conducts a review under paragraph (3)(A) and determines a State foster care program has not been operated in compliance with this section, the Secretary shall provide final notification to the State of the determination of noncompliance and the basis therefor within 45 days (excluding Saturdays, Sundays, and legal public holidays) after the date of the review.

"(5) AVOIDANCE OF PENALTY THROUGH SUBSTANTIAL COMPLIANCE.—

"(A) IN GENERAL.—The Secretary shall not reduce or withhold any payment to any State by reason of a finding of noncompliance with this section for fiscal year 1991 or any succeeding fiscal year if the State is in substantial compliance (as determined by the Secretary in regulations) with this section.

"(B) DETERMINATION OF SUBSTANTIAL COMPLIANCE.—Any State which is not in full compliance with this section shall be determined to be in substantial compliance with this section only if the Secretary determines that any noncompliance with this section is of a minor nature (as determined by the Secretary in regulations) which does not adversely affect program performance.

"(6) SUSPENSION OF PENALTY DURING IMPLEMENTATION OF CORRECTIVE ACTION PLAN.—The reduction or withholding of any payment to

any State by reason of a finding of noncompliance with this section for fiscal year 1991 or any succeeding fiscal year shall be suspended if—

"(A) within a period to be prescribed by the Secretary in regulations, the State submits a corrective action plan containing steps necessary to achieve substantial compliance with this section within a period to be prescribed by the Secretary in regulations;

"(B) the Secretary approves the corrective action plan; and

"(C) the Secretary finds that the State is fully implementing the corrective action plan and is making progress towards achieving substantial compliance with this section in accordance with the timetable contained in the plan.

"(7) RECISSION OF PENALTY.—The Secretary shall rescind any reduction or withholding of payments to a State under paragraph (6) if the State achieves substantial compliance with this section in accordance with the timetable contained in the corrective action plan approved under paragraph (6)(B).

"(8) TREATMENT OF REVIEWS FOR FISCAL YEARS BEFORE FISCAL YEAR 1991.—The Secretary shall not reduce any payment to, withhold any payment from, or seek any repayment from, any State under part B or E, by reason of a determination made in connection with any triennial review of State compliance with the foster care protections of this section for any fiscal year preceding fiscal year 1991.".

(b) EFFECTIVE DATE RELATING TO TREATMENT OF CERTAIN TRIENNIAL REVIEWS.—Paragraph (8) of section 427(d) of the Social Security Act shall take effect on June 9, 1989.

(c) FINAL REGULATIONS.—Not later than March 1, 1990, the Secretary of Health and Human Services shall prescribe final regulations required by section 427(d)(1) of the Social Security Act.

Subpart C—SSI Disabled Children Amendments

SEC. 10221. ESTABLISHMENT AND CONDUCT OF OUTREACH PROGRAM FOR CHILDREN.

Part B of title XVI (42 U.S.C. 1383 et seq.) is amended by adding at the end the following:

"SEC. 1635. OUTREACH PROGRAM FOR CHILDREN.

"(a) OUTREACH PROGRAM.—

"(1) ESTABLISHMENT.—As soon as is practicable after the date of the enactment of this section, the Secretary of Health and Human Services shall establish and conduct an ongoing program of outreach to children who are potentially eligible for benefits under this title by reason of disability or blindness.

"(2) REQUIREMENTS.—Under this program, the Secretary shall—

"(A) aim outreach efforts at populations for whom such efforts would be most effective; and

"(B) work in cooperation with other Federal, State, and private agencies, and nonprofit organizations, which serve blind or disabled individuals and have knowledge of potential recipients of supplemental security income benefits, and with agencies and organizations (including school systems and public and private social service agencies) which focus on the needs of children.

"(b) EVALUATION; REPORTS.—

"(1) IN GENERAL.—Not less frequently than annually, the Secretary shall evaluate and determine the effectiveness of the program under subsection (a) and submit to the Congress a complete report on such program, together with such recommendations as the Secretary may deem appropriate.

"(2) CONTENTS OF REPORTS.—Each report required by paragraph (1) shall—

"(A) specify the agencies and organizations with which the Secretary has entered into cooperative outreach agreements;

"(B) contain statistics on the number of children potentially eligible for benefits who are not receiving such benefits; and

"(C) contain specific information about the outreach efforts undertaken by the Secretary directly or in cooperation with other agencies or organizations, including information on—

"(i) the number of individuals notified;

"(ii) the nature of the outreach; and

"(iii) if possible, the additional number of applications filed as a result of the outreach.".

SEC. 10222. INDIVIDUAL FUNCTIONAL ASSESSMENTS OF CHILDREN.

(a) ASSESSMENTS REQUIRED.—Section 1614(a)(3)(B) (42 U.S.C. 1382c(a)(3)(B)) is amended by adding at the end the following: "In determining the eligibility of a child for benefits under this title by reason of disability or blindness, the Secretary shall conduct an individualized assessment of the child's mental and physical impairments, including functional limitations, which prevent or significantly interfere with the activities of daily living appropriate to the age of the child. In determining the extent to which the impairments prevent or interfere with age appropriate daily living activities, the Secretary shall evaluate the degree of support and intervention reasonably required to perform such activities.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any determination made on or after October 1, 1989.

SEC. 10223. PRESUMPTIVE DISABILITY FOR CHILDREN UNDER AGE 4 WITH CERTAIN GENETIC OR CONGENITAL IMPAIRMENTS.

(a) IN GENERAL.—Section 1614(a)(3)(C) (42 U.S.C. 1382c(a)(3)(C)) is amended—

(1) by inserting "(i)" after "(C)";

(2) by inserting ", except as provided in clause (ii)," after "mental impairment"; and

(3) by adding after and below the end the following new clause:

"(ii) In the case of any child under the age of 4 years with a genetic or congenital impairment (including cystic fibrosis, Down's syndrome, junctional epidermolysis bullosa, Hirschprung's syndrome, Tourette syndrome, Prader Willi syndrome, and spina bifida) the medical severity of which cannot be accurately determined by clinical or laboratory techniques because the child is too young, and with respect to whom the Secretary has determined that it is probable that, when the child is older, medical professionals will be able to administer a test that accurately demonstrates (by acceptable clinical and laboratory diagnostic techniques) that the child suffers from an impairment or impairments of sufficient medical severity to qualify the child for benefits under this title, the Secretary shall presume such child to be disabled or blind, as the case may be, for purposes of this part. Such presumption may be rebutted at any time by evidence that the child's impairment is not of the requisite severity.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations made with respect to benefits for months after September 1989.

SEC. 10224. PUBLICATION OF CHILDHOOD MENTAL IMPAIRMENT LISTING.

(a) NOTICE OF PROPOSED RULEMAKING.—Within 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall publish, as a notice of proposed rulemaking, a revision of the listings of mental and emotional disorders under the April 1, 1987, edition of section 112.00 of part B of appendix 1 of subpart P of part 404 of title 20, Code of Federal Regulations, and in such notice shall explain and justify each deviation of such revised listings from the recommendations contained in the Revised Childhood Listings of Mental Impairments submitted by the Mental Impairment Listings Workgroup to the Associate Commissioner for Disability on April 1, 1986.

(b) FINAL REGULATIONS.—Within 9 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall prescribe final regulations with respect to the revised listings described in subsection (a).

SEC. 10225. REVISION OF LISTINGS OF IMPAIRMENTS FOR CHILDREN.

(a) EXPERT ADVICE REQUIRED.—Effective on the date of the enactment of this Act, the Secretary of Health and Human Services shall solicit and obtain the advice of experts in childhood disability for the purpose of reviewing and revising the medical criteria for the evaluation of impairments of children under the age of 18 years (other than the criteria relating to mental and emotional disorders) established by the Secretary pursuant to the Social Security Act, to take account of age-appropriate medical and functional criteria developed by such experts.

(b) NOTICE OF PROPOSED RULEMAKING.—Within 18 months after the date of the enactment of this Act, the Secretary shall publish, as a notice of proposed rulemaking, the revised listings and the recommendations of the experts described in subsection (a), and shall identify and explain any deviation from such recommendations in such revised listings.

(c) FINAL REGULATIONS.—Within 24 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall prescribe final regulations with respect to the revised listings described in subsection (a).

SEC. 10226. MEDICAID PROTECTION FOR CERTAIN MONTHS IN CASE OF INDIVIDUALS INELIGIBLE FOR SSI BECAUSE OF WEEKLY OR BIWEEKLY INCOME.

(a) IN GENERAL.—Section 1634 (42 U.S.C. 1383c) is amended by adding at the end the following:

"(e) TREATMENT OF INDIVIDUALS WITH WEEKLY OR BIWEEKLY INCOME.—If—

"(1) an individual receives earned income in any month on a regular weekly or biweekly basis (or earned income is deemed to be included in the individual's income under section 1614(f));

"(2) such individual is determined to be ineligible for a benefit under this title, or for State supplementary payments of the type described in section 1616(a), for such month by reason of receipt of such income; and

"(3) such determination would not be made if the amount of such earned income included in the income of such individual for such month were equal to 1/12 of the annual rate at which such individual receives such earned income (as determined by the Secretary in regulations),

such individual shall nevertheless be deemed to be a recipient of supplemental security income benefits under this title for purposes of title XIX, so long as such individual would otherwise be eligible for such

benefits, or for federally administered State supplementary payments, in the absence of such earned income.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to benefits for months after September 1989.

SEC. 10227. ELIGIBILITY FOR BENEFITS OF CHILDREN RESIDING OVERSEAS.

(a) IN GENERAL.—Section 1611(f) is amended by inserting "(other than a child described in section 1614(a)(1)(B)(ii))" after "no individual".

(b) CONFORMING AMENDMENT.—Section 1614(a)(1) (42 U.S.C. 1382c(a)(1)) is amended—

(1) in subparagraph (B)—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(B) by inserting "(i)" after "(B)"; and

(C) by striking the period and inserting ", or"; and

(2) by adding after and below subparagraph (B) the following:

"(ii) is a child who is a citizen of the United States, and is living with a parent of such child who is working outside the United States (other than in Puerto Rico, the Virgin Islands, or Guam).".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to benefits for months after September 1989.

SEC. 10228. RULE FOR DEEMING INCOME AND RESOURCES OF PARENTS TO CHILDREN WAIVED FOR DISABLED CHILDREN RECEIVING BENEFITS UNDER STATE HOME CARE PLAN.

(a) IN GENERAL.—Section 1614(f)(2) (42 U.S.C. 1382c(f)(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end the following:

"(B) Subparagraph (A) shall not apply in the case of any child under age 18 who—

"(i) is disabled;

"(ii) while in an institution described in section 1611(e)(1)(B), was receiving—

"(I) benefits under this title by reason of section 1611(e)(1)(B); and

"(II) medical assistance under a State home care plan authorized under title XIX; and

"(iii) (but for this subparagraph) would be ineligible for benefits under this title.".

(b) PERSONAL NEEDS ALLOWANCE.—Section 1611(e)(1)(B) (42 U.S.C. 1382(e)(1)(B)) is amended by inserting "or, at the close of any month, a child described in section 1614(f)(2)(B)," before "the benefit under this title".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1990.

SEC. 10229. DEMONSTRATION PROJECT.

(a) NUMBER OF PROJECTS.—In order to determine whether, and if so, the extent to which, the use of volunteer senior aides to provide basic medical assistance and support to families with moderately or severely disabled or chronically ill children contributes to reducing the costs of care for such children, not more than 10 communities may conduct demonstration projects under this section.

(b) DUTIES OF THE SECRETARY.—

(1) CONSIDERATION OF APPLICATIONS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall consider all applications received from communities desiring to conduct demonstration projects under this section.

(2) APPROVAL OF CERTAIN APPLICATIONS.—The Secretary shall approve not more than 10 applications to conduct projects which appear likely to contribute significantly to the achievement of the purpose of this section.

(3) GRANTS.—The Secretary shall make grants to each community whose application to conduct a demonstration project under this section is approved by the Secretary to assist the community in carrying out the project.

(c) REQUIREMENTS.—Each community receiving a grant with respect to a demonstration project under this section shall conduct the project in accordance with such requirements as the Secretary may prescribe.

(d) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For grants under this section, there are authorized to be appropriated to the Secretary of Health and Human Services not to exceed—

(1) $1,000,000 for each of the fiscal years 1990 and 1991; and

(2) $2,000,000 for each of the fiscal years 1992, 1993, and 1994.

(e) EFFECTIVE DATE.—This section shall take effect on October 1, 1989.

SEC. 10230. EXCLUSION FROM RESOURCES OF ALL WORK-RELATED EQUIPMENT.

Section 1613(a)(3) (42 U.S.C. 1382b(a)(3)) is amended to read as follows:

"(3) other property which is so essential to the means of self-support of such individual (and such spouse) as to warrant its exclusion, as determined in accordance with and subject to limitations prescribed by the Secretary, except that the Secretary shall not establish a limitation on work-related equipment (including the tools of a tradesperson and the machinery and livestock of a farmer) in the case of an individual who is an employee or is engaged in a trade or business;".

Subpart D—Child Support Enforcement Amendments

SEC. 10231. EXTENSION OF AUTHORITY OF STATES TO REQUEST THE WITHHOLDING OF FEDERAL TAX REFUNDS FROM PERSONS OWING PAST DUE CHILD SUPPORT.

Section 464(a)(2)(B) (42 U.S.C. 664(a)(2)(B)) is amended by striking "Janauary 1, 1991" and inserting "January 10, 1996".

SEC. 10232. WITHHOLDING OF FEDERAL TAX REFUNDS AND COLLECTION OF PAST DUE CHILD SUPPORT ON BEHALF OF DISABLED CHILD OF ANY AGE.

(a) IN GENERAL.—Section 464(c)(2) (42 U.S.C. 664(c)(2)) is amended by inserting ", or an individual who, at the time such individual was a minor, was determined to be disabled under title II or XVI, and for whom an order of support is in force" before the period.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1990.

SEC. 10233. PERMANENT EXTENSION OF MEDICAID ELIGIBILITY EXTENSION DUE TO COLLECTION OF CHILD OR SPOUSAL SUPPORT.

(a) ELIMINATION OF SUNSET ON APPLICABILITY OF MEDICAID ELIGIBILITY EXTENSION.—Section 20(b) of the Child Support Enforcement Amendments of 1984 (Public Law 98-378) is amended by striking "and before October 1, 1989".

(b) MEDICAID ELIGIBILITY EXTENDED FOR 12 MONTHS.—Section 406(h) (42 U.S.C. 606(h)) is amended by striking "four" and inserting "12".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1989.

PART 2—SSI SERVICE IMPROVEMENTS

Subpart A—Initiative for the Poor Elderly

SEC. 10241. SSI BENEFIT INCREASE.

Section 1617 (42 U.S.C. 1382f) is amended by adding at the end the following:

"(d) Effective January 1, 1990—

"(1) each of the dollar amounts in effect under subsections (a)(1)(A) and (b)(1) of section 1611, as increased before such date under this section, shall be increased by $24 (and the dollar amount in effect under subsection (a)(1)(A) of section 211 of Public Law 93-66, as increased before such date under this section, shall be increased by $12); and

"(2) each of the dollar amounts in effect under subsections (a)(2)(A) and (b)(2) of section 1611, as increased before such date under this section, shall be increased by $36.".

SEC. 10242. ESTABLISHMENT AND CONDUCT OF OUTREACH PROGRAM FOR ADULTS.

Part B of title XVI (42 U.S.C. 1383 et seq.) is amended by adding after the section added by section 10221 of this Act the following:

"SEC. 1636. OUTREACH PROGRAM FOR ADULTS.

"(a) OUTREACH PROGRAM.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—As soon as is practicable after the date of the enactment of this section, the Secretary of Health and Human Services shall establish and conduct an ongoing program to provide information about supplemental security income benefits (and federally and State-administered State supplementary benefits) to low-income aged, blind, and disabled individuals who are not receiving such benefits.

"(B) NOTICE TO POTENTIAL SSI BENEFICIARIES.—In conducting the program under this section, the Secretary shall—

"(i) on or before October 1, 1989, and not less frequently than annually thereafter, provide notice of the availability of supplemental security income benefits (and federally and State-administered State supplementary benefits) to all elderly individuals and disabled individuals who are recipients of benefits under title II, and who may be or could become eligible for supplemental security income benefits (and federally and State-administered State supplementary benefits); and

"(ii) provide such notice to any individual when such individual—

"(I) in the case of an individual for whom the Secretary has a current address, attains 65 years of age;

"(II) (before attaining the age of 65 years) applies for benefits under title II based on disability; and

"(III) is notified of his or her eligibility for supplementary medical insurance benefits under title XVIII.

"(C) ENCOURAGEMENT TO OBTAIN FURTHER INFORMATION.—Each notice provided pursuant to subparagraph (B) shall encourage the recipient of the notice to contact the recipient's local Social Security district office for further information.

"(2) REQUIREMENTS.—In conducting the program under this section, the Secretary shall—

"(A) aim outreach efforts at populations for whom such efforts would be most effective;

"(B) regularly consult and cooperate with other Federal, State, and private agencies, and nonprofit organizations, which serve aged, blind, or disabled individuals and have knowledge of potential recipients of supplemental security income benefits; and

"(C) enter into appropriate arrangements under which such agencies and organizations will—

"(i) provide information about supplemental security income benefits (and federally and State-administered State supplementary benefits) to low income aged, blind, or disabled individuals who are not receiving such benefits; and

"(ii) encourage such individuals to apply for such benefits.

"(b) EVALUATION; REPORTS.—

"(1) IN GENERAL.—Not less frequently than annually, the Secretary shall evaluate and determine the effectiveness of the program under subsection (a) and submit to the Congress a complete report on such program, together with such recommendations as the Secretary may deem appropriate.

"(2) CONTENTS OF REPORTS.—Each report required by paragraph (1) shall—

"(A) specify the agencies and organizations with which the Secretary has entered into cooperative outreach agreements;

"(B) provide statistics on the number of individuals potentially eligible for benefits who are not receiving such benefits; and

"(C) contain specific information about the outreach efforts undertaken by the Secretary directly or in cooperation with other agencies or organizations, including information on the number of individuals notified, the nature of the outreach, and, if possible, the additional number of applications filed as a result of the outreach.".

SEC. 10243. REPRESENTATIVE PAYEE REFORM.

(a) USE, SELECTION, AND COMPENSATION OF REPRESENTATIVE PAYEES.—

(1) AUTHORITY TO USE REPRESENTATIVE PAYEES.—Section 1631(a)(2)(A) (42 U.S.C. 1383(a)(2)(A)) is amended to read as follows:

"(2) PERSONS TO WHOM PAYMENTS MAY BE MADE.—

"(A) AUTHORITY TO MAKE PAYMENTS.—

"(i) PAYMENTS TO ELIGIBLE INDIVIDUALS.—Payments of the benefit of any individual may be made to any such individual or to the eligible spouse (if any) of such individual or partly to each.

"(ii) PAYMENTS TO REPRESENTATIVE PAYEES.—

"(I) IN GENERAL.—Upon a determination by the Secretary that the interest of such individual would be served thereby, or in the case of any individual or eligible spouse referred to in section 1611(e)(3)(A), such payments shall be made, regardless of the legal competency or incompetency of the individual or eligible spouse, to another person (including an appropriate public or private agency) who is interested in or concerned with the welfare of such individual and with respect to whom the requirements of subparagraph (B) have been met (in this paragraph referred to as such individual's 'representative payee') for the use and benefit of the individual or eligible spouse.

"(II) MISUSE OF PAYMENTS.—If the Secretary determines that the representative payee of an individual or eligible spouse has misused any benefits which have been paid to the representative payee pursuant to subclause (I) or section 205(j)(1), the Secretary shall promptly terminate payment of benefits to the representative payee pursuant to such clause, and provide for payment of benefits to the individual or eligible spouse or to an alternative representative payee of the individual or eligible spouse.".

(2) SELECTION OF REPRESENTATIVE PAYEES.—Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended to read as follows:

"(B) SELECTION OF REPRESENTATIVE PAYEES.—

"(i) BASIS FOR SELECTION.—Any provision made under subparagraph (A) for payment of benefits to the representative payee of an individual or eligible spouse shall be made on the basis of—

"(I) an investigation by the Secretary of the person to serve as representative payee, which shall be conducted before such payment; and

"(II) adequate evidence that such payment is in the interest of the individual or eligible spouse (as determined by the Secretary in regulations).

"(ii) ELEMENTS OF THE INVESTIGATION.—As part of the investigation referred to in clause (i)(I), the Secretary shall—

"(I) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity was submitted with an application for benefits under title II or this title;

"(II) verify the social security account number (or employer identification number) of such person;

"(III) determine whether such person has been convicted of a violation of section 208 or 1632; and

"(IV) determine whether payment of benefits to such person has been terminated pursuant to subparagraph (A)(ii)(II), and whether certification of payment of benefits to such person has been revoked pursuant to section 205(j), by reason of misuse of funds paid as benefits under title II or this title.

The Secretary shall establish and maintain, for purposes of making determinations under subclause (IV), a current list of the names and social security account numbers (or employer identification numbers) of all persons with respect to whom payment of benefits has been terminated on or after July 1, 1990, pursuant to subparagraph (A)(ii)(II), or with respect to whom certification of payment of benefits has been revoked on or after such date pursuant to section 205(j), by reason of misuse of funds paid as benefits under title II or this title. The Secretary shall make such list available to servicing offices of the Social Security Administration.

"(iii) DISQUALIFICATIONS.—Benefits of an individual may not be paid to any other person pursuant to subparagraph (A)(ii) if—

"(I) such person has previously been convicted as described in clause (ii)(III); or

"(II) except as provided in clause (iv), payment of benefits to such person pursuant to subparagraph (A)(ii) has previously been terminated as described in clause (ii)(IV).

"(iv) REGULATORY EXEMPTIONS.—The Secretary shall prescribe regulations under which the Secretary may grant exemptions from clause (iii)(II) on a case-by-case basis if such exemption would be in the best interest of the individual or eligible spouse.

"(v) DEFERRAL OF PAYMENTS IN CERTAIN CASES.—

"(I) IN GENERAL.—Except as provided in subclause (II), notwithstanding any determination by the Secretary that the interest of any individual or eligible spouse under this title would be served by payment of such individual's (or spouse's) benefit under this title to a representative payee pursuant to subparagraph (A)(ii), direct payment of such benefit to the individual (or spouse) may be deferred (in the case of an initial entitlement) or suspended (in the case of an existing entitlement), pending the selection of a representative payee pursuant to this subparagraph, for not more than 2 months.

"(II) EXCEPTIONS.—Subclause (I) shall not apply in any case in which the individual or eligible spouse is—

"(aa) legally incompetent;

"(bb) under age 15 as of the date of the Secretary's determination; or

"(cc) a drug addict or an alcoholic within the meaning of section 1611(e)(3)(A).

"(vi) RESUMPTION OF PAYMENTS.—Payment pursuant to this subparagraph of any benefits which are deferred or suspended pending the selection of a representative payee shall be made—

"(I) to the representative payee upon such selection; or

"(II) as a single payment, or over such period as the Secretary determines is in the best interests of the individual entitled to such benefits.".

(3) LIMITATION ON FEES OF QUALIFIED ORGANIZATIONS SERVING AS REPRESENTATIVE PAYEES.—Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended—

(A) by redesignating subparagraph (D) as subparagraph (E);

(B) by moving subparagraph (C) 4 ems to the right; and

(C) by inserting after subparagraph (C) the following:

"(D) LIMITATION ON FEES OF QUALIFIED ORGANIZATIONS SERVING AS REPRESENTATIVE PAYEES.—

"(i) MAXIMUM FEES.—The Secretary shall, by regulation, prescribe reasonable maximum fees which may be charged by a qualified organization to an eligible individual (or an eligible spouse) for expenses (including overhead) incurred in providing services performed by such organization as a representative payee pursuant to subparagraph (A)(ii). Any agreement in violation of such regulations shall be void and shall be treated as a misuse by the representative payee of benefits paid under this title.

"(ii) QUALIFIED ORGANIZATION DEFINED.—For purposes of this subparagraph, the term 'qualified organization' means any community-based nonprofit social service agency which, in accordance with any applicable regulations of the Secretary—

"(I) regularly provides services as a representative payee pursuant to subparagraph (A)(ii) or section 205(j)(4) concurrently to 5 or more individuals; and

"(II) demonstrates to the satisfaction of the Secretary that such person is not otherwise a creditor of any such individual.

"(iii) PROHIBITION; PENALTY.—Any qualified organization which knowingly charges or collects, or makes any agreement to charge or collect, directly or indirectly, any fee in violation of any regulation prescribed pursuant to clause (i), shall for each offense be fined not more than $500, or imprisoned not more than 1 year, or both.".

(b) IMPROVEMENTS IN RECORDKEEPING AND AUDITING REQUIREMENTS.—Section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end the following:

"(vi) The Secretary shall maintain a file, which shall be updated periodically and be in a form that will be readily retrievable by all local offices of the Social Security Administration, of—

"(I) the address and the social security account number (or employer identification number) of each representative payee who receives benefit payments pursuant to subparagraph (A)(ii) or section 205(j); and

"(II) the address and social security account number of each individual being provided representative payee services pursuant to subparagraph (A)(ii).

"(vii) Each servicing office of the Social Security Administration shall maintain a list, which shall be updated periodically, of public agencies and community-based nonprofit social service agencies which are qualified to serve as representative payees pursuant to this paragraph or section 205(j) and which are located in the area served by such servicing office.".

(c) REPORT TO THE CONGRESS.—Section 1631(a)(2)(E) (as so redesignated by subsection (a)(3)(A) of this section) is amended to read as follows:

"(E) INFORMATION REQUIRED TO BE INCLUDED IN SECTION 704 REPORT.—The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of this paragraph, including—

"(i) the number of cases in which the representative payee was changed;

"(ii) the number of cases discovered where there has been a misuse of funds;

"(iii) how any such cases were dealt with by the Secretary;

"(iv) the final disposition of such cases (including any criminal penalties imposed); and

"(v) such other information as the Secretary determines to be appropriate.".

(d) CONFORMING AMENDMENTS.—Section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended—

(1) in clause (i), by striking "a person other than the individual or spouse entitled to such payment" and inserting "representative payee of an individual or spouse";

(2) in clauses (ii), (iii), and (iv), by striking "other person to whom such payment is made" each place it appears and inserting "representative payee"; and

(3) in clause (v)—

(A) by striking "person receiving payments on behalf of another" and inserting "representative payee"; and

(B) by striking "person receiving such payments" and inserting "representative payee".

(e) EFFECTIVE DATES.—

(1) USE AND SELECTION OF REPRESENTATIVE PAYEES.—The amendments made by paragraphs (1) and (2) of subsection (a) shall take effect July 1, 1990, and shall apply only with respect to provision for payment of benefits to representative payees on or after such date.

(2) COMPENSATION OF REPRESENTATIVE PAYEES.—The amendment made by subsection (a)(3) shall take effect July 1, 1990, and the Secretary of Health and Human Services shall prescribe initial regulations necessary to carry out such amendment not later than the effective date of such amendment.

(3) IMPROVEMENTS IN RECORDKEEPING AND AUDITING REQUIREMENTS.—The amendment made by subsection (b) shall take effect on July 1, 1990.

(4) REPORT TO THE CONGRESS.—The amendment made by subsection (c) shall apply with respect to annual reports issued for years after 1989.

(5) CONFORMING AMENDMENTS.—The amendments made by subsection (d) shall take effect on July 1, 1990.

SEC. 10244. CLARIFICATION OF LIMITS FOR ELIGIBLE INDIVIDUALS RECEIVING SUPPORT OR MAINTENANCE IN KIND.

(a) IN GENERAL.—Section 1612(a)(2)(A) (42 U.S.C. 1382a(a)(2)(A)) is amended—

(1) by striking "33⅓ percent" and inserting "the lesser of (I) the amount of such in-kind income, and (II) 33⅓ percent,";

(2) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively;

(3) by inserting after clause (i) the following: "(ii) in the case of any individual (and his eligible spouse, if any) receiving support or maintenance (and to whom clause (i) does not apply), the dollar amounts otherwise applicable to such individual (and spouse) as specified in subsections (a) and (b) of section 1611 shall be reduced by the lesser of (I) the amount of such inkind income, and (II) 33 ⅓ percent of such dollar amounts, in lieu of including such support or maintenance in the unearned income of such individual (and spouse) as otherwise required by this subparagraph,"; and

(4) in clause (iv) (as so redesignated by paragraph (2) of this subsection), by striking "the provisions of clause (i) shall not be applicable" and inserting in lieu thereof "clauses (i) and (ii) shall not apply".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to benefits for months after December 1989.

(c) REPORT ON EFFECTS OF AMENDMENTS MADE BY THIS SECTION.—Within 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study and report to the Congress on the effects of the amendments made by this section on—

(1) recipients of benefits under the supplemental security income program under title XVI of the Social Security Act; and

(2) the administration of such program.

SEC. 10245. EXCLUSION FROM INCOME OF DOMESTIC COMMERCIAL TRANSPORTATION TICKETS RECEIVED AS GIFTS.

(a) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(1) by striking "and" at the end of paragraph (13);

(2) by striking the period at the end of paragraph (14) and inserting "; and"; and

(3) by adding at the end the following:

"(15) the value of any commercial transportation ticket, for travel by such individual (or spouse) among the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands, which is received as a gift by such individual (or such spouse) and is not converted to cash.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1989.

SEC. 10246. REDUCTION IN TIME DURING WHICH INCOME AND RESOURCES OF SEPARATED COUPLES MUST BE TREATED AS JOINTLY AVAILABLE.

(a) IN GENERAL.—Section 1614(b) (42 U.S.C. 1382c(b)) is amended by striking "six months" and inserting "1 month".

(b) WAIVER OF REQUIREMENT IN EMERGENCY SITUATIONS.—Section 1614(b) is further amended by adding at the end the following: "If, before the one-month period referred to in the first sentence of this subsection expires, the Secretary determines that an individual is faced with a financial emergency, the Secretary shall waive such requirement and treat the individual (if otherwise eligible) as an eligible individual without an eligible spouse (for purposes of paying or continuing benefits) immediately.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1989.

SEC. 10247. EXCLUSION OF ACCRUED INCOME WITH RESPECT TO PURCHASE OF CERTAIN BURIAL SPACES.

(a) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)), as amended by section 10245(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting "; and"; and

(3) by adding at the end the following:

"(16) interest accrued on the value of an agreement entered into by such individual (or such spouse) representing the purchase of a burial space excluded under section 1613(a)(2)(B), and left to accumulate.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1989.

SEC. 10248. BENEFITS FOR PERSONS WHO LOSE SOCIAL SECURITY DISABILITY BENEFITS.

(a) IN GENERAL.—Part A of title XVI (42 U.S.C. 1382 et seq.) is amended by inserting after section 1619 the following:

"SEC. 1619A. BENEFITS FOR PERSONS WHO LOSE SOCIAL SECURITY DISABILITY BENEFITS.

"Each individual—

"(1) who received benefits under subsection (d), (e), or (f) of section 202 based on disability, or disability insurance benefits under section 223;

"(2) whose benefits under such provision are not payable in a month after the close of the individual's trial work period determined by application of section 222(c)(4)(A) by reason of the rendering of services; and

"(3) who files an application for benefits under this title during the 33-month period beginning with the first month, after the end of such individual's trial work period, for which a benefit described in paragraph (1) is not payable,

shall, for purposes of the requirement in section 1619 of a prior month of eligibility for benefits under section 1611, be deemed to have been eligible for benefits under section 1611 in the month immediately preceding such 33-month period, and such application shall be deemed to have been filed in such immediately preceding month.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals whose trial work period ends after June 1990.

SEC. 10249. EXCLUSION FROM INCOME AND RESOURCES OF VICTIMS' COMPENSATION PAYMENTS.

(a) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)), as amended by sections 10245(a) and 10247(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting "; and"; and

(3) by adding at the end the following:

"(17) any amount received from a fund established by a State to aid victims of crime.".

(b) EXCLUSION FROM RESOURCES.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following:

"(9)(A) any amount received from a fund established by a State to aid victims of crime, to the extent that the recipient demonstrates that such amount was paid as compensation for expenses incurred or losses suffered as a result of a crime; and

"(B) any amount received from a fund described in subparagraph (A) that is not excluded by reason of subparagraph (A) and is unexpended, for the 9-month period beginning after the month in which received.".

(c) VICTIMS COMPENSATION AWARD NOT REQUIRED TO BE ACCEPTED AS CONDITION OF RECEIVING BENEFITS.—Section 1631(a)(1) (42 U.S.C. 1383(a)(1)) is amended by adding at the end the following: "Benefits under this title shall not be denied to any individual solely by reason of the refusal of the individual to accept an amount offered as compensation for a crime of which the individual was a victim.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1989.

Subpart B—Other Service Improvements

SEC. 10251. STANDARDS APPLICABLE IN DETERMINATIONS OF GOOD FAITH, FAULT, INTENT, ETC.

(a) IN GENERAL.—Section 1631(c)(1) (42 U.S.C. 1383(c)(1)) is amended by adding at the end the following: "The Secretary shall take into account any physical, mental, educational, or linguistic limitation of such individual (including any lack of facility with the English language) in determining, with respect to the eligibility of such individual to benefits under this title, whether such individual acted in good faith or was at fault, and in determining fraud, deception, or intent.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations made on or after January 1, 1990.

SEC. 10252. ASSISTANCE TO THE HOMELESS.

(a) IN GENERAL.—Section 1631 (42 U.S.C. 1383) is amended by adding at the end the following:

"(n) ASSISTANCE TO THE HOMELESS.—

"(1) IN GENERAL.—The Secretary shall establish a program under which homeless individuals who may be eligible for benefits under this title may be identified and provided reasonable assistance and support in applying for such benefits.

"(2) HOMELESS INDIVIDUAL DEFINED.—As used in this subsection:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'homeless individual' means—

"(i) an individual who lacks a fixed, regular, and adequate nighttime residence; or

"(ii) an individual whose primary nighttime residence is—

"(I) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

"(II) an institution that provides a temporary residence for individuals intended to be institutionalized; or

"(III) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

"(B) EXCEPTIONS.—Such term does not include any individual imprisoned or otherwise detained pursuant to Federal law or the law of any State (as defined in section 205(c)(2)(C)(iv)) or political subdivision thereof.

"(3) COORDINATION WITH STATES TO AID APPLICATION FOR BENEFITS.—Upon the request of the government of any State (as defined in section 205(c)(2)(C)(iv)) or of a political subdivision thereof or of any organization which is exempt from tax under section 501 of the Internal Revenue Code of 1986, the assistance provided by the Secretary under the program established pursuant to this subsection shall include efforts coordinated with such government or organization to encourage and facilitate application by homeless individuals for benefits under this title. Such efforts shall include regular visitation of homeless individuals by employees of the Social Security Administration at primary nighttime residences described in paragraph (2)(A)(ii) and facilities which regularly provide meals to homeless individuals.

"(4) ANNUAL REPORTS.—The Secretary shall annually report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the status and accomplishments of the program required to be established under this subsection.".

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Health and Human Services shall establish the program provided for in section 1631(n) of the Social Security Act (as added by subsection (a) of this section) not later than 180 days after the date of the enactment of this Act.

SEC. 10253. NOTICE REQUIREMENTS.

(a) REQUIREMENTS.—Section 1631 (42 U.S.C. 1383) is amended by adding after the subsection added by section 10252(a) of this Act the following:

"(o) NOTICE REQUIREMENTS.—The Secretary shall take such actions as are necessary to ensure that any notice to 1 or more individuals issued pursuant to this title by the Secretary or a State agency—

"(1) is written in simple and clear language; and

"(2) includes the name, address, and telephone number of a responsible person to contact regarding the notice.

In the case of any such notice which is not generated by a local servicing office, the requirements of paragraph (2) shall be treated as satisfied if such notice includes the name and address of the local office of the Social Security Administration which serves the recipient of the notice and a telephone number through which such office can be reached.".

(b) REPORT REGARDING NOTICES OTHER THAN IN ENGLISH.—Not later than July 1, 1990, the Secretary of Health and Human Services shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth—

(1) the procedures of the Social Security Administration currently in effect for issuing notices in languages other than English to individuals who have a limited capacity to communicate with such Administration in English; and

(2) reasonable options for expanding the use of notices in languages other than English.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to notices issued on or after January 1, 1990.

SEC. 10254. REPRESENTATION OF CLAIMANTS.

(a) RECORDING OF IDENTITY OF REPRESENTATIVES IN ELECTRONIC INFORMATION RETRIEVAL SYSTEM.—

(1) IN GENERAL.—Section 1631(d)(2) (42 U.S.C. 1383(d)(2)) is amended by adding at the end the following: "The Secretary shall maintain in the electronic information retrieval system used by the Social Security Administration a current record, with respect to any claimant before the Secretary, of the identity of any person representing such claimant in accordance with this paragraph.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect July 1, 1990.

(b) NOTIFICATION OF OPTIONS FOR OBTAINING ATTORNEYS.—

(1) IN GENERAL.—Section 1631(d)(2) (42 U.S.C. 406) is further amended—

(A) by inserting "(A)" after "(2)"; and

(B) by adding at the end the following:

"(B) The Secretary shall notify each claimant in writing, together with the notice to such claimant of an adverse determination, of the options for obtaining an attorney to represent the claimant in presenting the claimant's case before the Secretary. Such notification shall also advise the claimant of the availability to a qualifying claimant of legal services organizations which provide legal services free of charge.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to adverse determinations made on or after January 1, 1990.

SEC. 10255. APPLICABILITY OF ADMINISTRATIVE RES JUDICATA; RELATED NOTICE REQUIREMENTS.

(a) IN GENERAL.—Section 1631(c)(1) (42 U.S.C. 1383(c)(1)) is amended—

(1) by inserting "(A)" after "(c)(1)"; and

(2) by adding at the end the following:

"(B)(i) A failure to request, during the 60-day period provided in subparagraph (A), review of an adverse determination with respect to an application for any payment under this title shall not serve as a basis for denial of a subsequent application for any payment under this title if the applicant demonstrates that the applicant, or any other individual referred to in subparagraph (A), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information provided by the Secretary or any officer or employee of the Social Security Administration.

"(ii) In any notice of an adverse determination with respect to which a review may be requested under subparagraph (A), the Secretary shall describe in clear and specific language the effect on possible entitlement to payments under this title of choosing to reapply in lieu of requesting review of the determination.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to adverse determinations made on or after January 1, 1990.

SEC. 10256. AUTHORITY FOR SECRETARY TO TAKE INTO ACCOUNT MISINFORMATION PROVIDED TO APPLICANTS IN DETERMINING DATE OF APPLICATION FOR BENEFITS.

(a) IN GENERAL.—Section 1631(e) (42 U.S.C. 1383(e)) is amended by adding at the end the following:

"(4) In any case in which it is determined to the satisfaction of the Secretary that an individual failed as of any date to apply for benefits under this title by reason of misinformation provided to such individual by any officer or employee of the Social Security Administration relating to such individual's eligibility for benefits under this title, such individual shall be deemed to have applied for such benefits on the later of—

"(A) the date on which such misinformation was provided to such individual; or

"(B) the date on which such individual met all requirements for entitlement to such benefits (other than application therefor).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to benefits for months after December 1959.

SEC. 10257. SAME-DAY PERSONAL INTERVIEWS AT FIELD OFFICES OF THE SOCIAL SECURITY ADMINISTRATION IN CERTAIN CASES WHERE TIME IS OF THE ESSENCE.

(a) IN GENERAL.—Section 1631(e) (42 U.S.C. 1383(e)) is amended by adding after

the paragraph added by section 10256(a) of this Act the following:

"(5) In any case in which an individual visits a field office of the Social Security Administration on a business day of the office and represents during the visit to an officer or employee of the Social Security Administration in the office that the individual's visit to the office is occasioned by—

"(A) the receipt of a notice from the Social Security Administration indicating a time limit for response by the individual; or

"(B) the theft, loss, or nonreceipt of a benefit payment under this title,

the Secretary shall ensure that the individual is granted a face-to-face interview at the office with an officer or employee of the Social Security Administration before the close of business on such day.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to visits to field offices of the Social Security Administration on or after January 1, 1990.

CHAPTER 3—MISCELLANEOUS AMENDMENTS

SEC. 10261. EMPLOYEES PROVIDING SERVICES TO EDUCATIONAL INSTITUTIONS.

(a) IN GENERAL.—

(1) Clause (ii)(I) of section 3304(a)(6)(A) of the Internal Revenue Code of 1986 is amended by striking "shall be denied" and inserting "may be denied".

(2) Subparagraph (A) of section 3304(a)(6) of such Code is amended by striking "and" at the end of clauses (iii) and (iv) and by inserting after clause (v) the following new clause:

"(vi) with respect to services described in clause (ii), clauses (iii) and (iv) shall be applied by substituting 'may be denied' for 'shall be denied', and".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of compensation paid for weeks beginning on or after the date of the enactment of this Act.

SEC. 10262. TREATMENT OF CERTAIN DETERMINATIONS.

(a) IN GENERAL.—Section 3304(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by redesignating paragraph (18) as paragraph (19), and

(3) by inserting after paragraph (17) the following new paragraph:

"(18) no finding of fact or law, judgment, conclusion, or final order made with respect to a claim for unemployment compensation benefits pursuant to the State's unemployment compensation law may be conclusive or binding or used as evidence in any separate or subsequent action or proceeding in another forum, except proceedings under the State's unemployment compensation law, regardless of whether the prior action was between the same or related parties or involved the same facts."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on October 1, 1989.

(2) SPECIAL RULE.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not successive) between the date of the enactment of this Act and October 1, 1989, such amendments shall take effect 30 calendar days after the first day on which such legislature is in session on or after October 1, 1989.

SEC. 10263. EXTENSION OF MORATORIUM ON IMPLEMENTATION OF PROPOSED REGULATION AFFECTING ASSISTANCE TO HOMELESS AFDC FAMILIES.

Section 9118 of the Omnibus Budget Reconciliation Act of 1987 is amended by striking "September 30, 1989" and inserting "October 1, 1990".

SEC. 10264. AUTHORIZATION OF APPROPRIATIONS TO COVER STATE ADMINISTRATIVE EXPENSES IN OPERATING CERTAIN SELF-EMPLOYMENT DEMONSTRATION PROGRAMS.

Section 9152(e) of Omnibus Budget Reconciliation Act of 1987 (26 U.S.C. 3304 note) is amended by adding at the end the following:

"(3) For administrative expenses of States incurred in carrying out activities under this section, there are hereby authorized to be appropriated to the Secretary not to exceed $1,000,000, without fiscal year limitation.".

SEC. 10265. DEMONSTRATION OF EFFECTIVENESS OF MINNESOTA FAMILY INVESTMENT PLAN.

(a) IN GENERAL.—Upon written application of the State of Minnesota (in this section referred to as the "State") within 24 months after the date of the enactment of this Act, and after the approval of such application by the Secretary of Health and Human Services, the State may conduct a demonstration project to determine whether the State family investment plan helps families to become self-supporting and enhances the ability of families to care for their children more effectively than does the State program of aid to families with dependent children under part A of title IV of the Social Security Act.

(b) PROJECT REQUIREMENTS.—In an application submitted under subsection (a), the State shall provide that the following terms and conditions shall be in effect under the demonstration project:

(1) FIELD TRIALS.—The project will consist of 2 field trials, conducted as follows:

(A) URBAN FIELD TRIAL.—1 field trial will be conducted in 1 or more of the following counties in the State:

(i) Anoka.
(ii) Carver.
(iii) Dakota.
(iv) Hennepin.
(v) Ramsey.
(vi) Scott.
(vii) Washington.

(B) RURAL FIELD TRIAL.—1 field trial will be conducted in 1 or more counties in the State not specified in subparagraph (A).

(C) NUMBER OF FAMILIES INVOLVED.—The field trials will not involve more than a total of 6,000 families at any one time, excluding families whose sole involvement is as members of control groups needed to evaluate the project.

(2) AUTHORITY TO IMPLEMENT FIELD TRIALS DIFFERENTLY.—The implementation of the family investment plan in 1 field trial may be different from the implementation of such plan in the other field trial.

(3) WAIVERS REQUIRED BEFORE PROJECT BEGINS.—The project will not begin before all waivers required as described in subsection (e) have been granted.

(4) BEGINNING OF PROJECT.—

(A) IN GENERAL.—The project will begin during the first month of a calendar quarter.

(B) BEGIN DEFINED.—For purposes of this section, the project begins when the first family receives assistance under the project.

(5) PROJECT TO BE OPERATED IN ACCORDANCE WITH CERTAIN MINNESOTA LAWS.—The project will be operated in accordance with the 1989 Minnesota Laws, sections 6 through 11, 13, 130, and 132 of article 5 of chapter 282, and all amendments to the Laws of Minnesota, to the extent that such laws and amendments are consistent with the goals of the project and this subsection.

(6) PROJECT PARTICIPANTS INELIGIBLE FOR AFDC.—Each family which participates in the project will not be eligible for aid under the State plan approved under section 402(a) of the Social Security Act.

(7) MEDICAID ELIGIBILITY RULES APPLICABLE TO PROJECT.—

(A) ELIGIBILITY OF PARTICIPANTS.—

(i) IN GENERAL.—Each family which participates in the project and would (but for such participation) be eligible for aid under the State plan approved under section 402(a) of the Social Security Act will be treated as receiving such aid for purposes of the State plan approved under section 1902(a) of such Act.

(ii) ELIGIBILITY EXTENDED FOR PROJECT PARTICIPANTS WITH INCREASED EMPLOYMENT INCOME.—Each family which participates in the project and, during such participation, would (but for such participation) become ineligible for aid under the State plan approved under section 402(a) of the Social Security Act by reason of increased income from employment will, for purposes of section 1925 of such Act, be treated as a family that has become ineligible for such aid.

(B) ELIGIBILITY EXTENDED FOR PERSONS LEAVING PROJECT BECAUSE OF INCREASED RECEIPT OF CHILD SUPPORT.—Each family whose participation in the project is terminated by reason of the collection or increased collection of child support under part D of title IV of the Social Security Act will be treated as a recipient of aid to families with dependent children for purposes of title XIX of such Act for an additional 12 calendar months beginning with the month in which such termination occurs.

(8) AFDC RULES TO APPLY GENERALLY.—

(A) IN GENERAL.—Except where inconsistent with this subsection, the requirements of the State plan approved under section 402(a) of the Social Security Act will apply to the project, unless waived by the Secretary of Health and Human Services in accordance with subsection (d).

(B) RULES RELATING TO PARTICIPATION IN EDUCATION, EMPLOYMENT, AND TRAINING ACTIVITIES.—

(i) PARTICIPATION GENERALLY NOT REQUIRED.—Except as provided in clause (ii), the State will not require any individual who applies for or receives assistance under the project to comply with any education, employment, or training requirement of title IV of the Social Security Act, unless required to do so under a contract entered into under the project.

(ii) AUTHORITY TO REQUIRE PARTICIPATION OF PARENT OF CHILD AGE 1 OR OLDER.—The State may require any individual to comply with any education, employment, or training requirement imposed under the project if the State plan approved under section 402(a) of the Social Security Act does not prohibit the State from requiring such compliance, and the individual—

(I) receives assistance under the project;

(II) is the parent or relative of a child who has attained the age of 1 year; and

(III) is personally providing care for such child.

(9) AVAILABILITY OF EDUCATION, EMPLOYMENT, AND TRAINING SERVICES.—The education, employment, and training services available under the State plan approved under part F of title IV of the Social Securi-

ty Act will be made available to each family required to enter into a contract with a county agency under the 1989 Minnesota Laws, section 10 of article 5 of chapter 282.

(10) ASSISTANCE UNDER PROJECT NOT LESS THAN UNDER AFDC AND FOOD STAMP PROGRAM.—

(A) ESTABLISHMENT OF POLICIES AND STANDARDS.—The State will establish policies and standards to ensure that families participating in the project receive cash assistance under the project in an amount not less than the aggregate value of the assistance that such families would have received under the State plan approved under section 402(a) of such Act and under the food stamp program established under the Food Stamp Act of 1977 in the absence of the project.

(B) IDENTIFICATION OF CHARACTERISTICS OF PARTICIPANTS WHO MIGHT RECEIVE LESS BENEFITS THAN UNDER AFDC AND FOOD STAMP PROGRAM.—The State will identify the set or sets of characteristics of families that (but for this paragraph) might receive benefits under the project in an amount less than the amount required under subparagraph (A) to be provided to such family.

(C) DETERMINATION OF BENEFIT LEVEL FOR PARTICIPANTS WITH IDENTIFIED CHARACTERISTICS.—The State will establish a mechanism to determine, for each family with any set of characteristics identified under subparagraph (B), whether the family would (but for this paragraph) receive benefits under the project in an amount less than the amount required under subparagraph (A) to be provided to such family.

(D) ASSISTANCE UNDER PROJECT INCREASED WHERE NECESSARY.—The State will, for each family which would (but for this paragraph) receive benefits under the project in an amount less than the amount required under subparagraph (A) to be provided to such family, increase the amount of such benefits to such family to the amount so required.

(11) TERMINATION OF PROJECT.—The project will terminate at the end of the 5-year period beginning on the first day of the month during which the project begins, or, if earlier—

(A) 180 days after the State notifies the Secretary of Health and Human Services that the State intends to terminate the project;

(B) 180 days after the Secretary of Health and Human Services, after 30 days written notice to the State and opportunity for a hearing, determines that the State has materially failed to comply with this section; or

(C) on agreement by the State and the Secretary of Health and Human Services.

(c) FUNDING.—

(1) IN GENERAL.—If an application submitted under subsection (a) by the State complies with the requirements specified in subsection (b) and contains an evaluation plan which meets the requirements of subsection (g), and the Secretary of Health and Human Services approves such application, then the Secretary shall, from amounts made available under parts A and F of title IV of the Social Security Act—

(A) pay the State for each calendar quarter, pursuant to section 403 of such Act, the amounts that would have been payable to the State during such calendar quarter, in the absence of the demonstration project, for cash assistance, child care, education, employment and training, and administrative expenses under the State plan approved under section 402(a) of such Act;

(B) reimburse the State at the rate of 50 percent, for expenses of evaluating the effects of the project.

(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to prevent the State from claiming and receiving reimbursement for additional persons who would qualify for assistance under the State plan approved under section 402(a) of the Social Security Act, for costs attributable to increases in the State's payment standard under such plan, or for any other benefits and services for which Federal matching funds are available under part A of title IV of such Act.

(d) WAIVERS.—

(1) AUTHORITY.—Except as provided in paragraph (2), the Secretary of Health and Human Services shall, with respect to the demonstration project under this section, waive any requirement of part A or F of title IV of the Social Security Act that, if applied, would prevent the State from (i) carrying out the project in accordance with subsection (b), or (ii) effectively achieving its purposes, but only to the extent necessary to enable the State to carry out the project.

(2) LIMITATIONS.—The Secretary of Health and Human Services may not, with respect to the demonstration project under this section—

(A) waive any requirement of section 402(a)(4) or 482(h) of the Social Security Act;

(B) permit the State to provide cash assistance to any family under the project in an amount less than the aggregate value of the assistance that would have been provided to such family under the State plan approved under section 402(a) of such Act and under the food stamp program established under the Food Stamp Act of 1977 in the absence of the project; or

(C) waive any requirement of section 402(a)(19)(C) of such Act.

(e) DEFINITIONS OF CERTAIN TERMS.—As used in this section, the terms "family" and "contract" shall have the meaning given such terms by the 1989 Minnesota Laws, sections 6 through 11, 13, 130, and 132 of article 5 of chapter 282.

(f) QUALITY CONTROL.—Cases participating in the demonstration project under this section during a fiscal year shall be excluded from any sample taken for purposes of determining under section 403(i) of the Social Security Act the rate at which the State made overpayments under part A of title IV of such Act for such fiscal year. For purposes of such section 403(i), payments made by the State under the project shall be treated as payments made under the State plan approved under section 402(a) of such Act.

(g) EVALUATION OF PROJECT.—

(1) EVALUATION PLAN.—The State shall develop and implement an evaluation plan designed to provide reliable information on the impact and implementation of the demonstration project. The evaluation plan shall include groups of project participants and control groups assigned at random in the field trial conducted in accordance with subsection (b)(1)(A).

(2) EVALUATION.—The evaluation conducted under the evaluation plan shall measure the extent to which the project increases family employment and income, prevents long-term dependency, moves families toward self-support, reduces total assistance payments, and simplifies the welfare system.

(3) REPORTS.—The State shall issue an interim report and a final report on the results of the evaluation described in paragraph (2) to the Secretary of Health and Human Services at such times as the Secretary shall require.

(h) REPORT TO CONGRESS.—Within 3 months after receipt of the final report issued pursuant to subsection (g)(3), the Secretary of Health and Human Services shall report to the Congress the results of the evaluation described in subsection (g)(2).

SEC. 10266. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) TECHNICAL CORRECTIONS RELATING TO THE FAMILY SUPPORT ACT OF 1988.—

(1) CORRECTIONS TAKING EFFECT RETROACTIVELY.—

(A)(i) Section 407(b)(1)(B)(iii)(I) (42 U.S.C. 607(b)(1)(B)(iii)(I)), as amended by section 202(b)(8)(A), and redesignated by section 401(b)(1), of the Family Support Act of 1988, is amended by striking "409(a)(19)(C)" and inserting "402(a)(19)(C)".

(ii) The amendment made by clause (i) shall take effect as if such amendment had been included in section 202(b)(8)(A) of the Family Support Act of 1988 on the date of the enactment of such Act.

(B)(i) Sections 402(a)(30) and 452(d)(2)(B) (42 U.S.C. 602(a)(30) and 652(d)(2)(B)) are each amended by striking "automatic" and inserting "automated".

(ii) The amendments made by clause (i) shall take effect as if such amendments had been included in section 123(d) of the Family Support Act of 1988 on the date of the enactment of such Act.

(C)(i) Section 402(g)(1)(A) (42 U.S.C. 602(g)(1)(A)) is amended—

(I) in clause (iv), by striking "includes a child who is (or, if needy," and inserting "received aid to families with dependent"; and

(II) in clause (v), by striking the first comma.

(ii) The amendments made by clause (i) shall take effect as if such amendments had been included in section 302(c) of the Family Support Act of 1988 on the date of the enactment of such Act.

(2) CORRECTION TAKING EFFECT PROSPECTIVELY.—Effective September 30, 1998, section 407(d)(1) (42 U.S.C. 607(d)(1)) is amended by striking "participated" and all that follows and inserting "participated in a program under part F".

(b) TECHNICAL CORRECTION RELATING TO THE TAX REFORM ACT OF 1986.—

(1) CORRECTION.—Section 422(b)(1)(A) (42 U.S.C. 622(b)(1)(A)) is amended by striking "the individual or agency designated pursuant to section 2003(d)(1)(C) to administer or supervise the administration of the State's services program" and inserting "the individual or agency that administers or supervises the administration of the State's services program under title XX".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if such amendment had been included in section 1883(e)(1) of the Tax Reform Act of 1986 on the date of the enactment of such Act.

PART 4—AFDC QUALITY CONTROL AMENDMENTS

Subpart A—Resolution of Disallowance Backlog Through Fiscal Year 1990

SEC. 10271. TREATMENT OF QUALITY CONTROL DISALLOWANCE BACKLOG.

(a) IDENTIFICATION OF STATES TO WHICH DISALLOWANCES WILL APPLY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall identify for disallowances under section 403(i) of the Social Security Act any State the error rate of which exceeds—

(A) in the case of any particular fiscal year after fiscal year 1980 and before fiscal year 1983, the greater of—

(i) the target error rate in effect for the State for such particular fiscal year; or

(ii) the national average error rate for the fiscal year after fiscal year 1980 and before fiscal year 1991 for which such rate is the least; and

(B) in the case of any particular fiscal year after fiscal year 1982 and before fiscal year 1991, the national average error rate for the fiscal year after fiscal year 1980 and before fiscal year 1991 for which such rate is the least.

(b) CALCULATION OF ERROR RATES.—

(1) ERROR RATE DEFINED.—As used in this section, the term "error rate", means, with respect to a State and a fiscal year, the ratio of the State's erroneous excess payments (as defined in section 403(i)(1)(C) of the Social Security Act, as in effect before the date of the enactment of this Act) for a fiscal year to its total payments under the State plan approved under section 402(a) of such Act for such fiscal year.

(2) TECHNICAL ERRORS EXCLUDED FROM STATE ERROR RATES.—In calculating a State's error rate for any fiscal year, the Secretary shall exclude all technical errors made with respect to benefits under the State plan approved under section 402(a) of the Social Security Act for such fiscal year.

(3) TECHNICAL ERRORS INCLUDED IN NATIONAL AVERAGE ERROR RATES.—In calculating the national average error rate for any fiscal year, the Secretary shall include all technical errors made with respect to benefits under any State plan approved under section 402(a) of the Social Security Act for such fiscal year.

(4) TECHNICAL ERROR DEFINED.—As used in this subsection, the term "technical error" means—

(A) the failure to—

(i) secure or apply for a social security number;

(ii) register for a work program;

(iii) assign child support rights;

(iv) assign rights to third party payments; or

(v) obtain monthly reports from cases for which such reports were required; and

(B) any error which, when made, did not result in a change in any benefit amount.

(c) STATE OPTIONS.—Any State identified under subsection (a) for a disallowance with respect to a fiscal year may—

(1) appeal, in accordance with subsection (d), the decision to impose such disallowance to the Departmental Appeals Board of the Department of Health and Human Services; or

(2) in lieu of filing such an appeal, pay 75 percent of the amount of the disallowance, which shall be treated as payment in full of the amount of the disallowance, and waive any right to appeal such decision.

(d) ADMINISTRATIVE REVIEW.—

(1) FILING OF APPEAL.—Within 6 months after the later of the date of the enactment of this Act or the date the Secretary notifies the State of the amount of a disallowance, the State may appeal to the Departmental Appeals Board the decision to impose the disallowance.

(2) DECISION.—

(A) IN GENERAL.—Within 12 months after the date any such appeal is filed in accordance with paragraph (1), the Board shall decide whether to affirm or reverse the decision to impose a disallowance on the State, and shall determine the amount (if any) of any disallowance.

(B) FACTORS TO BE CONSIDERED.—In determining the amount of any disallowance to impose on a State with respect to an error rate for a fiscal year, the Board shall, at a minimum, take into account—

(i) whether the error rate is sufficiently statistically valid and reliable to support a conclusion that the error rate exceeded the tolerance level;

(ii) whether the errors included in the error rate represented misspending of funds;

(iii) whether the State could have cost-efficiently avoided errors included in the error rate through means that would not have interfered with the purposes of the State program of aid to families with dependent children under part A of title IV of the Social Security Act;

(iv) whether the error rate deviates from the historical trend of the error rate enough to demonstrate a significant problem in need of correction;

(v) whether the error rate was affected by factors beyond the control of the State, such as caseload growth, caseload composition, program changes, strikes, or natural disasters;

(vi) whether the State's record of corrective action demonstrates a concerted effort to reduce errors;

(vii) whether the measurement of errors was contrary to State practice as outlined in State regulations and policy clarifications; and

(viii) any other factors the Board deems relevant.

(e) INTEREST.—

(1) RATE OF INTEREST.—The Secretary shall charge interest on the amount of any disallowance imposed on a State under subsection (d)(2)(A) at the rate described in section 3717(a)(1) of title 31, United States Code.

(2) ACCRUAL RULES.—

(A) BEGINNING OF ACCRUAL PERIOD.—Interest under paragraph (1) shall accrue from the day after the date the Board reaches a decision on such appeal.

(B) LIMITATION.—Interest under paragraph (1) shall not accrue on any amount finally adjudicated not to be owed by the State.

(f) JUDICIAL REVIEW.—Within 12 months after any decision of the Board to affirm, in whole or in part, any decision to impose a disallowance on a State under this section, the State may seek judicial review of such decision in any United States district court.

(g) EFFECTIVE DATE.—This section shall take effect on July 1, 1989.

Subpart B—Permanent Modification of Quality Control System After Fiscal Year 1990

SEC. 10281. MODIFICATION OF QUALITY CONTROL SYSTEM.

(a) IN GENERAL.—Section 403(i)(1) (42 U.S.C. 603(i)(1)) is amended to read as follows:

"(i) QUALITY CONTROL.—

"(1) SYSTEM FOR REDUCING ERRORS.—

"(A) PAYMENT FOR EXCESSIVE COMBINED ERROR RATE.—

"(i) IN GENERAL.—Notwithstanding subsection (a)(1), if the Secretary determines that a State's combined error rate for a fiscal year exceeds the error rate threshold for such fiscal year, the State shall, except as provided in clause (ii), pay the Secretary (and the Secretary shall collect from the State) an amount equal to the product of—

"(I) the Federal medical assistance percentage (as defined in section 1905);

"(II) the aggregate of the State's payments under the State plan approved under this part for such fiscal year; and

"(III) the combined error rate minus the error rate threshold.

"(ii) STATE OPTIONS.—Any State required by clause (i) to pay an amount to the Secretary with respect to a fiscal year may—

"(I) appeal the determination on which such requirement is based to the Departmental Appeals Board; or

"(II) in lieu of filing such an appeal, pay 75 percent of the amount so required to be paid, which shall be treated as payment in full of such amount, and waive any right to appeal such determination.

"(iii) AUTHORITY TO CHARGE AND COLLECT INTEREST.—

"(I) IN GENERAL.—The Secretary shall charge and collect interest on any amount required to be paid by a State under clause (i) at the rate described in section 3717(a)(1) of title 31, United States Code.

"(II) ACCRUAL RULES.—Interest under subclause (I) shall accrue from the day after the date the Board reaches a decision on such appeal.

"(III) EXCEPTION.—Interest under subclause (I) shall not accrue on any amount finally adjudicated not to be owed by the State.

"(B) REQUIREMENT TO TAKE CORRECTIVE ACTION.—If a State's combined error rate for a fiscal year exceeds the incentives threshold for such fiscal year, the Secretary shall require the State to undertake actions to reduce the combined error rate for succeeding fiscal years.

"(C) INCENTIVE PAYMENTS.—If a State's combined error rate for a fiscal year does not exceed the incentives threshold for such fiscal year, the Secretary shall pay the State an amount equal to—

"(i) ½ of the Federal share of the total payments under the State plan approved under this part for such fiscal year; multiplied by

"(ii) the incentives threshold for such fiscal year minus the combined error rate for such fiscal year.

"(D) PUBLICATION OF STANDARD ERRORS.—The Secretary shall publish the standard errors for each State's overpayment and underpayment error rates for each fiscal year and the 95 percent confidence intervals with respect to such error rates.

"(E) DEFINITIONS.—As used in this subsection:

"(i) COMBINED ERROR RATE.—The term 'combined error rate' means with respect to a State and a fiscal year, the sum of—

"(I) the overpayment error rate of the State for such fiscal year; and

"(II) the underpayment error rate of the State for such fiscal year.

"(ii) OVERPAYMENT ERROR RATE.—The term 'overpayment error rate' means, with respect to a State and a fiscal year, the ratio of the State's overpayments for such fiscal year to the total payments under the State plan approved under this part for such fiscal year. Payments described in the preceding sentence made due to any technical error shall be excluded in calculating such error rate.

"(iii) UNDERPAYMENT ERROR RATE.—The term 'underpayment error rate' means, with respect to a State and a fiscal year, the ratio of the State's underpayments for such fiscal year to the total payments under the State plan approved under this part for such fiscal year.

"(iv) OVERPAYMENTS.—The term 'overpayments' means, with respect to a State and a fiscal year, the total of—

"(I) the amount by which payments made by the State during such fiscal year under the State plan approved under this part to eligible families receiving assistance under such plan exceeds payments required to be made to such families under such plan during such fiscal year; and

"(II) the amount of payments made by the State during such fiscal year to ineligible families receiving assistance under the State plan approved under this part.

"(v) UNDERPAYMENTS.—The term 'underpayments' means, with respect to a State and a fiscal year, the amount by which payments required to be made under the State plan approved under this part during such fiscal year to eligible families receiving assistance under such plan exceeds the payments made to such families under such plan during such fiscal year.

"(vi) ERROR RATE THRESHOLD.—The term 'error rate threshold' means, with respect to a particular fiscal year, the sum of the national average overpayment error rate and the national average underpayment error rate for the fiscal year after fiscal year 1980 and before such particular fiscal year for which such sum is the least, plus 0.01. In calculating the national average overpayment error rate for any fiscal year, the Secretary shall exclude any payment made due to any technical error.

"(vii) INCENTIVES THRESHOLD.—The term 'incentives threshold' means, with respect to a particular fiscal year, ½ of the sum of the national average overpayment error rate and national average underpayment error rate for the fiscal year after fiscal year 1980 and before such particular fiscal year for which such sum is the least.

"(viii) TECHNICAL ERROR.—The term 'technical error' means—

"(I) the failure to—

"(aa) secure or apply for a social security number;

"(bb) assign child support rights;

"(cc) assign rights to third party payments; or

"(dd) obtain monthly reports from cases for which such reports were required; and

"(II) any error which, when made, did not result in a change in any benefit amount.".

(b) APPEALS.—Section 403(i) (42 U.S.C. 603(i)) is amended by redesignating paragraph (4) as paragraph (6) and by inserting after paragraph (3) the following:

"(4) APPEALS.—

"(A) FILING OF APPEAL.—Within 45 days after the Secretary notifies a State that the State is required to pay an amount under paragraph (1)(A)(i), the State may appeal to the Departmental Appeals Board the determination to require such payment.

"(B) DECISION.—

"(i) TIMING.—Within 12 months after the date any State files an appeal, in accordance with subparagraph (A) of this paragraph, of a determination to require the State to pay an amount under paragraph (1)(A)(i) for a fiscal year, the Board shall decide whether to affirm or reverse the determination, and shall determine the amount (if any) required to be so paid for such fiscal year.

"(ii) FACTORS TO BE CONSIDERED.—In determining the amount required to be paid by a State under paragraph (1)(A)(i) with respect to an error rate for a fiscal year, the Board shall take into account—

"(I) whether the error rate is sufficiently statistically valid and reliable to support a conclusion that the error rate exceeded the error rate threshold;

"(II) whether the errors included in the error rate represented misspending of funds;

"(III) whether the State could have cost-efficiently avoided errors included in the error rate through means that would not have interfered with the purposes of the State program under this part;

"(IV) whether the error rate is based on errors included in the error rate for another program of public assistance, or on funds previously recouped by the Federal Government directly or through benefit offsets;

"(V) whether the error rate deviates from the historical trend of the error rate enough to demonstrate a significant problem in need of correction;

"(VI) whether the error rate was affected by factors beyond the control of the State, such as caseload growth, caseload composition, program changes, strikes, or natural disasters;

"(VII) whether the State's record of corrective action demonstrates a concerted effort to reduce errors;

"(VIII) whether the measurement of errors was contrary to State practice as outlined in State regulations and policy clarifications; and

"(IX) any other factors the Board deems relevant.

"(5) JUDICIAL REVIEW.—Within 12 months after any decision of the Board to affirm, in whole or in part, any determination made by the Secretary under paragraph (1)(A), the State may seek judicial review of such decision in any United States district court.".

(c) CONFORMING AMENDMENTS.—

(1) Section 403(i)(2) (42 U.S.C. 603(i)(2)) is amended—

(A) by moving such provision 2 ems to the right;

(B) by inserting "PROVISION OF INFORMATION BY STATES.—" before "The State"; and

(C) by striking "rates of erroneous excess payments made" and inserting "combined error rate".

(2) Section 403(i)(3) (42 U.S.C. 603(i)(3)) is amended—

(A) by striking "(3)(A) If a State" and inserting the following:

"(3) EFFECT OF FAILURE OF STATE TO PROVIDE NECESSARY INFORMATION.—

"(A) If a State";

(B) by aligning the left margin of the matter that follows with the left margin of subparagraph (A) (as amended by subparagraph (A) of this paragraph).

(3) Section 403(i)(6) (42 U.S.C. 603(i)(6)), as so redesignated by subsection (b) of this section) is amended—

(A) by moving such provision 2 ems to the right; and

(B) by inserting "APPLICABILITY.—" before "This subsection".

(d) STATES REQUIRED TO COLLECT AND REPORT DATA ON UNDERPAYMENTS AND NEGATIVE CASE ACTIONS.—

(1) IN GENERAL.—Section 403(i)(2) (42 U.S.C. 603(i)(2)) is amended by inserting ", and on underpayments and negative case actions (including improper denials and terminations)," before "in connection".

(2) INCLUSION OF DEFINITION OF NEGATIVE CASE ACTIONS IN SOCIAL SECURITY ACT.—Section 403(i)(1)(E) (42 U.S.C. 603(i)(1)(E)), as added by subsection (a) of this section, is amended by adding at the end the following:

"(ix) NEGATIVE CASE ACTIONS.—The term 'negative case actions' means actions to terminate assistance under this part, to deny an application for assistance under this part, or to otherwise dispose of an application under this part without a determination of eligibility for assistance under this part.".

(e) EFFECTIVE DATES.—

(1) MODIFICATIONS OF QUALITY CONTROL SYSTEM; APPEAL OF SANCTIONS.—The amendments made by subsections (a), (b), and (c) shall take effect on the date of the enactment of this Act.

(2) STATES REQUIRED TO COLLECT AND REPORT DATA ON UNDERPAYMENTS AND NEGATIVE CASE ACTIONS.—The amendment made by subsection (d) shall take effect on October 1, 1990.

(f) STUDY ON INCORPORATING NEGATIVE CASE ACTIONS INTO ERROR RATES.—

(1) IN GENERAL.—Not later than October 1, 1992, the Secretary of Health and Human Services shall report to the Congress on the results of a study of negative case actions under the program of aid to families with dependent children under State plans approved under part A of title IV of the Social Security Act, and make recommendations on how to incorporate improper negative case actions into State error rates for purposes of section 403(i) of such Act.

(2) NEGATIVE CASE ACTIONS DEFINED.—The term "negative case actions" means actions to terminate assistance under part A of title IV of the Social Security Act, to deny an application for assistance under such part, or to otherwise dispose of an application under such part without a determination of eligibility for assistance under such part.

Subtitle D—Trade Agency Authorizations, Customs User Fees, and Other Customs Provisions

PART 1—TRADE AGENCY AUTHORIZATIONS FOR FISCAL YEAR 1990

SEC. 10301. UNITED STATES INTERNATIONAL TRADE COMMISSION.

Section 330(e)(2) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended—

(1) by striking out "1988" and inserting "1990"; and

(2) by striking out "$35,386,000;" and inserting "$39,943,000;".

SEC. 10302. UNITED STATES CUSTOMS SERVICE.

Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FOR NONCOMMERCIAL OPERATIONS.—There are authorized to be appropriated for fiscal year 1990 not to exceed $418,822,000 for the salaries and expenses of the United States Customs Service that are incurred in noncommercial operations.

"(2) FOR COMMERCIAL OPERATIONS.—There are authorized to be appropriated for fiscal year 1990 not less than $656,468,000 from the Customs User Fee Account for the salaries and expenses of the United States Customs Service that are incurred in commercial operations.

"(3) FOR AIR INTERDICTION.—There are authorized to be appropriated for fiscal year 1990 not to exceed $128,128,000 for the operation (including salaries and expenses) and maintenance of the air interdiction program of the United States Customs Service.".

SEC. 10303. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

Section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)) is amended to read as follows:

"(g)(1)(A) There are authorized to be appropriated for fiscal year 1990 to the Office for the purposes of carrying out its functions not to exceed $21,143,000.

"(B) Of the amounts authorized to be appropriated under subparagraph (A) for fiscal year 1990—

"(i) not to exceed $89,000 may be used for entertainment and representation expenses of the Office; and

"(ii) not to exceed $1,000,000 shall remain available until expended.".

PART 2—CUSTOMS USER FEES

SEC. 10311. CUSTOMS USER FEES FOR FORMAL ENTRIES MADE DURING FISCAL YEAR 1990.

(a) IN GENERAL.—Section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)) is amended—

(1) by inserting "(except fiscal year 1990)" after "1987" in paragraph (10); and

(2) by adding at the end thereof the following new paragraph:

"(11) For the processing of any merchandise (other than an article described in subparagraph (A), (B), or (C) of paragraph (9)) that is formally entered, or withdrawn from warehouse for consumption, during fiscal year 1990, a fee (not exceeding $575) in an amount equal to—

"(A) 0.17 percent ad valorem, or

"(B) an ad valorem rate which the Secretary of the Treasury estimates will provide a total amount of revenue during fiscal year 1990, equal to—

"(i) the total amount authorized to be appropriated for such fiscal year to the United States Customs Service for salaries and expenses incurred in conducting commercial operations during such fiscal year, reduced by

"(ii) the excess, if any, of—

"(I) the total amount authorized to be appropriated for such salaries and expenses for such fiscal year, over

"(II) the total amount actually appropriated for such salaries and expenses for such fiscal year,

except that if appropriations are not authorized for fiscal year 1990, the fee imposed under this paragraph with respect to that year shall be in an amount equal to 0.17 percent ad valorem or $575, whichever is less.".

(b) CONFORMING AMENDMENTS.—Section 13031 of such Act of 1985 is further amended as follows:

(1) Subsection (b) is amended—

(A) by striking out "(a) (9) or (10)" in paragraph (8)(A) and inserting "(a) (9), (10), or (11)";

(B) by amending paragraph (10) to read as follows:

"(10) The fee charged under subsection (a) (10) or (11) of this section with respect to goods of Canadian origin (as determined under section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988) shall be in accordance with article 403 of the United States-Canada Free-Trade Agreement."; and

(C) by inserting at the end thereof the following:

"(11) No fee may be charged under subsection (a) (10) or (11) with respect to products of Israel if an exemption with respect to the fee is implemented under section 10313 of the Omnibus Budget Reconciliation Act of 1989.

"(12) For purposes of applying subsection (a)(11)(B), expenses incurred in conducting commercial operations do not include costs incurred in—

"(A) air passenger processing;

"(B) export control; and

"(C) international affairs.".

(2) Subsection (f)(2) is amended—

(A) by inserting "(A)" after "(2)",

(B) by striking out "(other than costs for which direct reimbursement under paragraph (3) is required)" and inserting "(other than costs described in subparagraph (B))", and

(C) by adding at the end thereof the following:

"(B) The following costs may not be funded with money contained in the Customs User Fee Account:

"(i) Costs for which direct reimbursement under paragraph (3) is required.

"(ii) Costs for any of the following services (other than a service for which direct reimbursement is made under paragraph (3)):

"(I) Any service for which a fee exemption is provided by reason of subsection (b)(10).

"(II) Any service for which a fee exemption is provided by reason of the determination referred to in section 10313 of the Omnibus Budget Reconciliation Act of 1989.

"(III) Any service provided in processing during fiscal year 1990 air passengers and articles described in subparagraph (A), (B), or (C) of subsection (a)(9).".

SEC. 10312. ENFORCEMENT AUTHORITY.

Section 13031(g) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(g)) is amended—

(1) by amending the side heading to read as follows: "REGULATIONS AND ENFORCEMENT.—"; and

(2) by adding at the end the following new paragraph:

"(3) Except to the extent otherwise provided in regulations, all administrative and enforcement provisions of customs laws and regulations, other than those laws and regulations relating to drawback, shall apply with respect to any fee prescribed under subsection (a) of this section, and with respect to persons liable therefor, as if such fee is a customs duty. For purposes of the preceding sentence, any penalty expressed in terms of a relationship to the amount of the duty shall be treated as not less than the amount which bears a similar relationship to the amount of the fee assessed. For purposes of determining the jurisdiction of any court of the United States or any agency of the United States, any fee prescribed under subsection (a) of this section shall be treated as if such fee is a customs duty.".

SEC. 10313. EXEMPTION OF ISRAELI PRODUCTS FROM USER FEES.

If the United States Trade Representative determines that the Government of Israel has provided reciprocal concessions in exchange for the exemption of the products of Israel from the fees imposed under section 13031(a) (10) and (11) of the Consolidated Omnibus Budget Reconciliation Act of 1985, such fees may not be charged with respect to any product of Israel that is entered, or withdrawn from warehouse for consumption, on or after the 15th day (but not before October 1, 1989) after the date on which the determination is published in the Federal Register.

SEC. 10314. GAO REPORT.

The Comptroller General of the United States, within 180 days after the effective date of this section, shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the costs incurred by the Customs Service in conducting commercial operations and on appropriate fees to be charged to the beneficiaries of such services.

SEC. 10315. EXTENSION OF CUSTOMS USER FEE PROGRAM.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "September 30, 1990" and inserting "September 30, 1991".

SEC. 10316. FEES COLLECTED IN CONNECTION WITH FOREIGN TRADE ZONES AT CERTAIN SMALL AIRPORTS.

(a) LIMITATION ON FEES.—Section 13031(e)(2) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(2)) is amended—

(1) by striking out "This subsection" and inserting in lieu thereof "(A) This subsection"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Subparagraph (C) of paragraph (6) shall not apply with respect to any foreign trade zone or subzone that is located at, or in the vicinity of, an airport to which section 236 of the Trade and Tariff Act of 1984 applies.".

(b) SMALL AIRPORT CUSTOMS FEES.—Section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b) is amended by adding at the end thereof the following new subsection:

"(f) For purposes of this section, customs services provided in connection with, or with respect to, any foreign trade zone or subzone that is located at, or in the vicinity of, any airport described in paragraph (1) or (2) of subsection (a) shall be considered to be customs services provided at such airport.".

SEC. 10317. EFFECTIVE DATES.

This part (except section 10313) takes effect October 1, 1989. Section 10313 takes effect on the date of the enactment of this Act.

PART 3—MISCELLANEOUS CUSTOMS PROVISIONS

SEC. 10321. APPOINTMENT OF THE COMMISSIONER OF CUSTOMS.

(a) IN GENERAL.—The second sentence of the first section of the Act entitled "An Act to create a Bureau of Customs and a Bureau of Prohibition in the Department of the Treasury", approved March 3, 1927 (44 Stat. 1381, 19 U.S.C. 2071), is amended to read as follows: "The Commissioner of Customs, who shall be appointed by the President, by and with the advice and consent of the Senate, shall—

"(1) be at the head of the United States Customs Service;

"(2) carry out the duties and powers prescribed by the Secretary of the Treasury; and

"(3) report to the Secretary of the Treasury through such other officials as may be designated by the Secretary.".

(b) TRANSITION.—The individual who is serving as the Commissioner of Customs on the day before the date of the enactment of this Act may continue to serve in such capacity until a Commissioner of Customs, appointed as provided in the amendment made by subsection (a), takes office.

SEC. 10322. CUSTOMS FORFEITURE FUND.

Section 613A of the Tariff Act of 1930 (16 U.S.C. 1613b) is amended as follows:

(1) Subsection (e)(1) is amended—

(A) by striking out "and" after the semicolon at the end of subparagraph (A);

(B) by amending subparagraph (B)—

(i) by striking out clause (ii),

(ii) by redesignating clauses (iii) through (vi) as clauses (ii) through (v), respectively,

(iii) by striking out "and" after the semicolon in clause (iv) (as so redesignated); and

(iv) by striking out the period at the end thereof and inserting "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) a report on—

"(i) the value of the on-hand inventory of seized property (general property, conveyances, seized cash, and real property) as of the last day of the previous fiscal year, and

"(ii) the sources (categorized on the basis of general property, conveyances, seized cash, and real property) of the gross receipts of, and the gross disbursements from, the Fund during the previous fiscal year.

The report required under subparagraph (C) shall include a statement of all income and expenses associated with the disposition of all seized property during the previous fiscal year, including property sold, remitted, shared with State and local law enforcement agencies, placed into official use, or otherwise disposed of.".

(2) Subsection (f)(2) is amended by inserting before the period the following: ", of which for each such year not to exceed $10,000,000 shall be available to carry out the purposes set forth in subsection (a)(3)".

SEC. 10323. ADMINISTRATIVE PROCESSING OF MONEY SEIZED UNDER THE CUSTOMS LAWS.

Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended—

(1) by striking out "or" at the end of subsection (a)(2);

(2) by inserting "or" after the semicolon at the end of subsection (a)(3); and

(3) by inserting after paragraph (3) of subsection (a) the following new paragraph:

"(4) such seized merchandise is any monetary instrument within the meaning of section 5312(a)(3) of title 31 of the United States Code;"; and

(4) by adding at the end thereof the following new subsection:

"(c) The Commissioner of Customs shall submit to the Congress, by no later than February 1 of each fiscal year, a report on the total dollar value of uncontested seizures of monetary instruments having a value of over $100,000 which, or the proceeds of which, have not been deposited into the Customs Forfeiture Fund under section 613A within 120 days of seizure, as of the end of the previous fiscal year.".

SEC. 10324. DISPOSITION OF FORFEITED PROPERTY.

Section 616(c)(1)(B) of the Tariff Act of 1930 (19 U.S.C. 1616(c)(1)) is amended to read as follows:

"(B) Transfer any of the property to—

"(i) any other Federal agency;

"(ii) any State or local law enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property; or

"(iii) the Civil Air Patrol.

Aircraft is authorized to be transferred to the Civil Air Patrol under subparagraph (B)(iii) in support of air search and rescue and other emergency services and, pursuant to a memorandum of understanding entered into with a Federal agency, illegal drug traffic surveillance. Jet-powered aircraft may not be transferred to the Civil Air Patrol under the authority of subparagraph (B)(iii).".

PART 4—CONSISTENCY OF THE SUPERFUND PETROLEUM TAX WITH THE GENERAL AGREEMENT ON TARIFFS AND TRADE

SEC. 10331. AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.

(a) UNIFORM RATE.—Section 4611(c)(2)(A) of the Internal Revenue Code of 1986 (26 U.S.C. 4611(c)(2)(A)) is amended to read as follows:

"(A) the Hazardous Substance Superfund financing rate is 9.7 cents a barrel, and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect October 1, 1989.

Subtitle E—Caribbean Basin Economic Recovery

PART 1—SHORT TITLE AND FINDINGS

SEC. 10401. SHORT TITLE.

This subtitle may be cited as the "Caribbean Basin Economic Recovery Expansion Act of 1989".

SEC. 10402. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) a stable political and economic climate in the Caribbean region is necessary for the development of the countries in that region and for the security and economic interests of the United States;

(2) the Caribbean Basin Economic Recovery Act was enacted in 1983 to assist in the achievement of such a climate by stimulating the development of the export potential of the region; and

(3) the commitment of the United States to the successful development of the region, as evidenced by the enactment of the Caribbean Basin Economic Recovery Act, should be reaffirmed, and further strengthened, by amending that Act to improve its operation.

PART 2—AMENDMENTS TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT AND RELATED PROVISIONS

Subpart A—Amendments to Caribbean Basin Economic Recovery Act

SEC. 10411. REPEAL OF TERMINATION DATE ON DUTY-FREE TREATMENT UNDER THE ACT.

Section 218 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2706(b)) is repealed.

SEC. 10412. EXCEPTIONS TO GENERAL DUTY-FREE TREATMENT.

(a) EXCEPTIONS.—The Caribbean Basin Economic Recovery Act is amended by inserting after section 213 the following new section:

"SEC. 213A. ARTICLES ELIGIBLE FOR LIMITED DUTY-FREE TREATMENT OR DUTY REDUCTION.

"(a) TEXTILE PRODUCTS SUBJECT TO GUARANTEED ACCESS LEVELS.—

"(1) DEFINITIONS.—As used in this subsection—

"(A) The term 'qualifying fabric' means—

"(i) fabric that is formed and cut in the United States; and

"(ii) foreign fabric that is cut in the United States.

"(B) The term 'foreign fabric' means the following articles provided for under the headings or subheadings (as appropriate) of the HTS specified parenthetically:

"(i) Broadwoven fabrics containing 85 percent or more by weight of silk, weighing more than 100 grams per square meter (5007.10.30, 5007.20.00 and 5007.90.30).

"(ii) Velveteen fabric, 85 percent or more by weight of cotton (5801.23.00).

"(iii) Corduroy fabric, 85 percent or more by weight of cotton, containing more than 7.5 wales per centimeter (5801.22.00).

"(iv) Broadwoven fabrics of cotton of average yarn number greater than 135 metric count (5208.21.60, 5208.22.80, 5208.29.80, 5208.31.80, 5208.32.50, 5208.39.80, 5208.41.80, 5208.42.50, 5208.49.80, 5208.51.80, 5208.52.50 and 5208.59.80).

"(v) Circular knit fabrics of cotton of average yarn number greater than 100 metric count (6002.92.00).

"(vi) Broadwoven fabric, 85 percent or more by weight of wool, certified as being genuine Harris Tweed (5111.19.20 and 5111.19.60).

"(vii) Broadwoven fabric 85 percent or more by weight of continuous synthetic yarn of polyester, weighing not more than 100 grams per square meter, containing more than 145 threads per square centimeter (5407.71.00, 5407.72.00, 5407.73.20, and 5407.74.00).

"(viii) Broadwoven fabric of combed wool or fine combed animal hair, of wool and not less than 20 percent combed fine animal hair, mixed mainly or solely with man-made fibers, weighing not more than 340 grams per square meter (5112.30.00).

"(2) GUARANTEED MARKET ACCESS AND DUTY-FREE TREATMENT FOR CERTAIN TEXTILE PRODUCTS.—

"(A) The United States Trade Representative—

"(i) shall establish with each beneficiary country guaranteed access levels for textile products assembled in that country from qualifying fabrics; and

"(ii) is authorized to negotiate and conclude a bilateral agreement with each such country regarding the guaranteed access levels established under clause (i).

"(B) Textile products entered pursuant to a bilateral agreement provided for under subparagraph (A) shall be accorded duty-free treatment.

"(3) PERMISSIBLE FOREIGN CONTENT.—A textile product that is assembled in a beneficiary country from qualifying fabric and incorporates findings and trimmings of foreign origin is eligible for guaranteed access and duty-free treatment under an agreement entered into under paragraph (2)(A) if such foreign findings and trimmings do not exceed 25 percent of the cost of the components of the assembled product.

"(4) REQUIREMENTS AND PROCEDURES.—The Committee for Implementation of Textile Agreements established under Executive Order No. 11651, dated March 3, 1972, shall establish such requirements and procedures as may be necessary or appropriate to implement the obligations of the United States under agreements entered into under paragraph (2)(A).

"(5) EXISTING AGREEMENTS.—Any bilateral agreement that—

"(A) was entered into between the United States and a beneficiary country under the Special Access Program, announced on February 20, 1986, for textile products under the aegis of the Caribbean Basin Initiative; and

"(B) is in effect on the date of the enactment of this section;

shall be treated as being a valid agreement that was entered into under paragraph (2)(A).

"(6) SENSE OF CONGRESS.—It is the sense of Congress that—

"(A) the benefits granted through the establishment of guaranteed access levels in bilateral textile agreements should not result in any disadvantage to United States firms that seek export certificates or export visas which authorize shipments under specific limits; and

"(B) the United States Trade Representative should obtain assurances from beneficiary countries which have been granted guaranteed access levels that such countries will administer export certificates or export visas in such a manner as to ensure fairness and nondiscriminatory treatment to United States firms that seek allocations under specific limits rather than guaranteed access levels.

"(b) TEXTILE AND APPAREL ARTICLES SUBJECT TO SPECIFIC LIMITS AND DESIGNATED CONSULTATION LEVELS.—

"(1) DEFINITIONS.—As used in this subsection—

"(A) The term 'quota article' means any textile or apparel article that may be imported into the United States under either a specific limit or a designated consultation level established in a bilateral textile agreement between the United States and a beneficiary country that is in force and effect on, or enters into force and effect after, the date of the enactment of this section.

"(B) The term 'textile category' means any category established in the publication entitled 'Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States Annotated, 1989', prepared by the Department of Commerce.

"(C) The term 'trade-weighted average duty rate' means the rate of duty determined by the Secretary under paragraph (3).

"(2) DUTY ON QUOTA ARTICLES.—

"(A) Except as provided in subparagraph (B), each quota article that is entered shall be dutiable at a rate equal to 50 percent of the trade-weighted average duty rate for the textile category under which the quota article is classified.

"(B) The rate of duty provided for under subparagraph (A) for any article that is a quota article shall not apply if that rate is higher than the rate of duty provided for that article in general column 1 of the HTS.

"(3) TRADE-WEIGHTED AVERAGE DUTY RATE DETERMINATIONS.—For each textile category under which one or more kinds of quota articles are classified, the Secretary shall determine the trade-weighted average of the general column 1 rates of duty under the HTS for all classes or kinds of goods included within that category. The Secretary shall calculate the trade-weighted average duty rate under this paragraph for each textile category on the basis of the best information available for the most recent 12-month period occurring before the date of the enactment of this section.

"(c) FOOTWEAR AND LEATHER-RELATED PRODUCTS.—The rate of duty on any footwear (other than leather footwear), handbag, luggage, flat good, work glove, or leather wearing apparel that—

"(1) is a product of a beneficiary country; and

"(2) was not designated on August 5, 1983, as an eligible article for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

is a rate equal to 50 percent of the general column 1 rate of duty under the HTS that would apply to such article but for this subsection.

"(d) ADMINISTRATION.—

"(1) PROCLAIMING OF RATES.—The President shall proclaim the rates of duty imposed under subsection (b)(2)(A) and subsection (c).

"(2) CONSTRUCTION.—The duty applied under subsection (b)(2)(A) or subsection (c) to an article is in lieu of the duty provided for that article under general column 1 of the HTS.

"(3) DEFINITION OF SECRETARY.—For purposes of this section, the term 'Secretary' means the Secretary of Commerce.".

(b) CONFORMING AMENDMENT.—Section 213(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)) is amended to read as follows:

"(b) The duty-free treatment provided under this subtitle does not apply to—

"(1) textile and apparel articles which are subject to textile agreements, except to the extent provided for in section 213A(a);

"(2) articles to which reduced duties apply under section 213A (b) and (c);

"(3) leather footwear not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974;

"(4) tuna, prepared or preserved in any manner, in airtight containers;

"(5) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS; and

"(6) watches and watch parts (including cases, bracelets, and straps), of whatever type including, but not limited to, mechanical, quartz digital or quarts analog, if such watches or watch parts contain any material which is the product of any country with respect to which column 2 rates of duty under the HTS apply.".

(c) EFFECTIVE DATE.—Section 213A(b) of the Caribbean Basin Economic Recovery Act (as added by subsection (a) of this section) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 30th day after the date of the enactment of this Act.

SEC. 10413. WORKER RIGHTS.

Section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) is amended—

(1) by striking out "and" after the semicolon at the end of subsection (b)(5);

(2) by striking out the period at the end of subsection (b)(6) and inserting "; and";

(3) by adding at the end of subsection (b) the following new paragraph:

"(7) if such country has not or is not taking steps to afford internationally recognized worker rights (as defined in section 502(a)(4) of the Trade Act of 1974) to workers in the country (including any designated zone in that country).";

(4) by amending the last sentence in subsection (b) by striking out "and (5)" and inserting "(5), and (7)";

(5) by amending subsection (c)(8) to read as follows:

"(8) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights."; and

(6) by adding the following new subparagraph at the end of subsection (e):

"(3) Not later than January 4, 1991 and biennially thereafter, the President shall conduct a general review of eligible countries based on the considerations described in subsections (b) and (c).".

SEC. 10414. REPORTS.

Section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) is amended by adding at the end thereof the following new subsection:

"(f) On or before October 1, 1992, and the close of each 3-year period thereafter, the President shall submit to the Congress a complete report regarding the operation of this title.".

SEC. 10415. APPLICATION OF ACT IN EASTERN CARIBBEAN AREA.

It is the sense of the Congress that there should be undertaken special efforts in order to improve the ability of the Organization of Eastern Caribbean States countries and Belize to benefit from the Caribbean Basin Economic Recovery Act.

Subpart B—Amendments to the Harmonized Tariff Schedule and Other Provisions Affecting CBI Beneficiary Countries

SEC. 10421. SUGAR IMPORTS FROM BENEFICIARY COUNTRIES.

(a) ALLOCATIONS TO BENEFICIARY COUNTRIES.—Paragraph (c) of additional U.S. note 3 of chapter 17 of the Harmonized Tariff Schedule of the United States is amended—

(1) by inserting after note 2 of subparagraph (i) the following:

"NOTE 3: The Secretary shall determine whether any country is not utilizing fully the base quota amount allocated to it for a quota year and any amount determined to be unused during such year shall be reallocated on a pro rata basis among the countries listed in general note 3(c)(v) (hereinafter in this paragraph referred to as the 'CBI countries') receiving base quota allocations for such year. The unused quota amount reallocated to any CBI country under this note for any quota year is in addition to any reallocation made under subparagraph (iv) to that country for such year. No portion of any reallocation made to a CBI country for a quota year under this note or subparagraph (iv) that is unused at the close of such year is available for use in any other quota year.";

(2) by amending subparagraph (iii) to read as follows:

"(iii) Notwithstanding any authority given to the United States Trade Representative under paragraphs (e) and (g) of this note, in allocating any limitation imposed under any paragraph of this note on the quantity of sugars, syrups, and molasses described in the subheadings cited under paragraph (a) of this note which may be entered—

"(A) the percentage allocation made to the Philippines under this paragraph may not be reduced,

"(B) no allocation may be made to the Republic of South Africa, and

"(C) the aggregate of the amounts of the base quota allocations to the CBI countries for any quota year beginning after December 31, 1988, may not be less than 371,449 metric tons, raw value.";

and

(3) by adding at the end thereof the following new subparagraphs:

"(iv) If under law authorizing such an action for purposes of dealing with a threat to the national security or foreign policy of the United States, the allocation under subparagraph (i) for any quota year is suspended or terminated with respect to any country, the amount of the suspended or terminated allocation shall be reallocated on a pro-rata basis among the CBI countries receiving allocations for that year. Any quota amount reallocated to any CBI country under this subparagraph for any quota year is in addition to any reallocation made under note 3 of subparagraph (i) to that country for such year.

"(v) The President may enter into trade agreements with foreign governments for purposes of granting appropriate compensation, and may proclaim such compensation, if any action taken by the United States under the authority of note 3 of subparagraph (i), subparagraph (iii)(C), or subparagraph (iv) is found to be inconsistent with the international obligations of the United States (including the General Agreement on Tariffs and Trade). Before offering compensation under this subparagraph, the President shall consult with the Committee on Ways and Means of the House of Represent-

atives and the Committee on Finance of the Senate regarding the reasons for taking the action concerned and the compensation proposed to be offered.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to the quota year in effect on the date of the enactment of this Act and to quota years thereafter.

SEC. 10422. INCREASE IN DUTY-FREE TOURIST ALLOWANCES.

(a) DUTY-FREE ALLOWANCE FOR RETURNING RESIDENTS.—Subchapter IV of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(1) by inserting the following new note at the end of the notes to such subchapter:

"4. As used in subheadings 9804.00.70 and 9804.00.72, the term 'beneficiary country' means a country listed in general note 3(c)(v)(A).";

(2) by striking out "subheading 9804.00.65 or 9804.00.70" and all that follows thereafter in the superior article description to subheadings 9804.00.65 and 9804.00.70 and inserting "subheadings 9804.00.65, 9804.00.70, and 9804.00.72 within 30 days preceding his arrival, and claims exemption under only one of such items on his arrival.";

(3) by striking out "$800" in subheading 9804.00.70 and inserting "$1,200";

(4) by inserting "or up to $600 of which have been acquired in one or more beneficiary countries" before the parenthetical matter in subheading 9804.00.70; and

(5) by inserting after subheading 9804.00.70 the following new subheading with the article description for the new subheading having the same degree of indentation as subheading 9804.00.70:

"	9804.00.72	Articles whether or not accompanying a person, not over $600 in aggregate fair market value in the country of acquisition, including—. (a) but only in the case of an individual who has attained the age of 21, not more than 1 liter of alcoholic beverages or not more than 2 liters if at least one liter is the product of one or more beneficiary countries, and. (b) not more than 200 cigarettes, and not more than 100 cigars, ... if such person arrives directly from a beneficiary country, not more than $400 of which shall have been acquired elsewhere than in beneficiary countries (but this item does not permit the entry of articles not accompanying a person which were acquired elsewhere than in beneficiary countries)	Free		Free	."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to residents of the United States who depart from the United States on or after the 15th day after the date of the enactment of this Act.

SEC. 10423. DUTY-FREE TREATMENT FOR ARTICLES ASSEMBLED IN BENEFICIARY COUNTRIES FROM COMPONENTS PRODUCED IN THE UNITED STATES.

(a) IN GENERAL.—U.S. Note 2 of subchapter II of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(1) by striking out "2. Any" and inserting "2. (a) Except as provided in paragraph (b), any"; and

(2) by adding at the end thereof the following new paragraph:

"(b) No article (except a textile or apparel article) may be treated for purposes of this Act as a foreign article, or as subject to duty, if—

"(i) the article is—

"(A) assembled in whole of fabricated components that are a product of the United States, or

"(B) processed in whole of ingredients (other than water) that are a product of the United States, in a beneficiary country; and

"(ii) neither the fabricated components or ingredients, after exportation from the United States, nor the article itself, before importation into the United States, enters the commerce of any foreign country other than a beneficiary country.

As used in this paragraph, the term 'beneficiary country' means a country listed in general note 3(c)(V)(A).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) applies with respect to goods assembled or processed abroad that are entered on or after the 15th day after the date of the enactment of this Act.

SEC. 10424. RULES OF ORIGIN FOR BENEFICIARY COUNTRY PRODUCTS.

(a) IN GENERAL.—For purposes of administering the Caribbean Basin Economic Recovery Act and subject to subsection (b), the President may proclaim new rules, to take effect on January 1, 1991, for determining whether articles originate in beneficiary countries.

(b) CONSULTATION AND LAY-OVER REQUIREMENTS.—Rules of origin may not be proclaimed under subsection (a) unless—

(1) the President has obtained advice regarding the proposed rules pursuant to consultation with—

(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974,

(B) the governments of the beneficiary countries,

(C) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, and

(D) other interested parties;

(2) the President has submitted a report to such Committees that sets forth the rules proposed to be proclaimed and the reasons therefor;

(3) a period of at least 90 calendar days that begins on the first day on which the President has met the requirements of paragraphs (1) and (2) with respect to such action has expired; and

(4) the President has further consulted with such Committees regarding the proposed action during the period referred to in paragraph (3).

SEC. 10425. CUMULATION INVOLVING BENEFICIARY COUNTRY PRODUCTS UNDER THE COUNTERVAILING AND ANTIDUMPING DUTY LAWS.

(a) MATERIAL INJURY.—Section 771(7)(C)(iv) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(c)(iv)) is amended to read as follows:

"(iv) CUMULATION.—

"(I) IN GENERAL.—For purposes of clauses (i) and (ii) and subject to subclause (II), the Commission shall cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if such imports compete with each other and with like products of the domestic industry in the United States market.

"(II) CBI EXCEPTION.—When the imports subject to investigation are products of a country designated as a beneficiary country under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.), the volume and effect of imports from such country may only be cumulatively assessed with imports of like products from one or more other countries designated as beneficiary countries.".

(b) THREAT OF MATERIAL INJURY.—Section 771(7)(F)(iv) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(F)(iv)) is amended by striking out "(C)(v)," and inserting "(C)(iv)(II) and (v),".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) apply with respect to investigations initiated under section 702 or 732 of the Tariff Act of 1930 on or after the date of the enactment of this Act.

SEC. 10426. ETHYL ALCOHOL AND MIXTURES THEREOF FOR FUEL USE.

(a) DETERMINATION OF INDIGENOUS PRODUCTS.—Section 423(c) of the Tax Reform Act of 1986 (19 U.S.C. 2703 note) is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(2) by striking out paragraph (2) and inserting the following:

"(2) Ethyl alcohol or a mixture thereof that is produced by a process of full fermentation in an insular possession or beneficiary country shall be treated as being an indigenous product of that possession or country.

"(3)(A) Ethyl alcohol and mixtures thereof that are only dehydrated within an insular possession or beneficiary country (hereinafter in this paragraph referred to as 'dehydrated alcohol and mixtures') shall be treated as being indigenous products of that possession or country only if the alcohol or mixture, when entered, meets the applicable local feedstock requirement.

"(B) The local feedstock requirement with respect to any calendar year is—

"(i) 0 percent with respect to the base quantity of dehydrated alcohol and mixtures that is entered;

"(ii) 30 percent with respect to the 35,000,000 gallons of dehydrated alcohol and mixtures next entered after the base quantity; and

"(iii) 50 percent with respect to all dehydrated alcohol and mixtures entered after the amount specified in clause (ii) is entered.

"(C) For purposes of this paragraph:

"(i) The term 'base quantity' means, with respect to dehydrated alcohol and mixtures entered during any calendar year, the greater of—

"(I) 60,000,000 gallons; or

"(II) an amount (expressed in gallons) equal to 7 percent of the United States domestic market for ethyl alcohol, as determined by the United States International Trade Commission, during the 12-month period ending on the preceding September 30;

that is first entered during that calendar year.

"(ii) The term 'local feedstock' means hydrous ethyl alcohol which is wholly produced or manufactured in any insular possession or beneficiary country.

"(iii) The term 'local feedstock requirement' means the minimum percent, by volume, of local feedstock that must be included in dehydrated alcohol and mixtures.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to calendar years after 1989.

SEC. 10427. CONFORMING AMENDMENT.

Section 503(b) of the Trade Act of 1974 (19 U.S.C. 2463(b)) is amended to read as follows:

"(b)(1) The duty free treatment provided under section 501 shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—

"(A) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and

"(B) the sum of (i) the cost or value of the materials produced in the beneficiary developing country or any 2 or more countries which are members of the same association of countries which is treated as one country under section 502(a)(3), plus (ii) the direct costs of processing operations performed in such beneficiary developing country or such member countries is not less than 35 percent of the appraised value of such article at the time of its entry into the customs territory of the United States.

"(2) The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this subsection, including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article must be wholly the growth, product, or manufacture of a beneficiary developing country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country; but no article or material of a beneficiary developing country shall be eligible for such treatment by virtue of having merely undergone—

"(A) simple combining or packaging operations, or

"(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.".

PART 3—SCHOLARSHIP ASSISTANCE AND TOURISM PROMOTION

SEC. 10431. CARIBBEAN-CENTRAL AMERICAN SCHOLARSHIP PARTNERSHIP.

(a) ESTABLISHMENT OF SCHOLARSHIP PROGRAM.—The Administrator of the Agency for International Development shall establish and administer a program of scholarship assistance, in cooperation with State governments, universities, community colleges, and businesses, to provide scholarships to enable students from eligible countries in the Caribbean and Central America to study in the United States.

(b) GRANTS TO STATES.—In carrying out this section, the Administrator may make grants to States to provide scholarship assistance for undergraduate degree programs and for training programs of one year or longer in study areas related to the critical development needs of the students' respective countries.

(c) CONSULTATION WITH STATES.—The Administrator shall consult with the participating States with regard to the educational opportunities available within each State and on the assignment of scholarship recipients.

(d) FEDERAL SHARE.—The Federal share for each year for which a State receives payments under this section shall be not less than 50 percent.

(e) NON-FEDERAL SHARE.—The non-Federal share of payments under this section may be in cash, including the waiver of tuition or the offering of in-State tuition or housing waivers or subsidies, or in-kind fairly evaluated, including the provision of books or supplies.

(f) FORGIVENESS OF SCHOLARSHIP ASSISTANCE.—The obligation of any recipient to reimburse any entity for any or all scholarship assistance provided under this section shall be forgiven upon the recipient's prompt return to his or her country of domicile for a period which is at least one year longer than the period spent studying in the United States with scholarship assistance.

(g) PRIVATE SECTOR PARTICIPATION.—To the maximum extent practicable, each participating State shall enlist the assistance of the private sector to enable the State to meet the non-Federal share of payments under this section. Wherever appropriate, each participating State shall encourage the private sector to offer internships or other opportunities consistent with the purposes of this section to students receiving scholarships under this section.

(h) FUNDING.—Any funds used in carrying out this section shall be derived from funds allocated for Latin American and Caribbean regional programs under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(i) DEFINITIONS.—As used in this section—

(1) The term "eligible country" means any country—

(A) which is receiving assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund); and

(B) which is designated by the President as a beneficiary country pursuant to the Caribbean Basin Economic Recovery Act.

(2) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

SEC. 10432. PROMOTION OF TOURISM.

(a) CONGRESSIONAL FINDING.—The Congress finds that the tourism industry must be recognized as a central element in the economic development and political stability of the Caribbean Basin region because of the potential that the industry has for increasing employment and foreign exchange earnings, establishing important linkages with other related sectors, and having a positive complementary effect on trade with the United States.

(b) FEDERAL AGENCY PRIORITY.—It is the sense of the Congress that increased tourism and related activities should be developed in the Caribbean Basin region as a central part of the Caribbean Basin Initiative program and, to that end, the appropriate agencies of the United States Government should assign a high priority to projects that promote the tourism industry in the Caribbean Basin.

(c) STUDY.—The Secretary of Commerce shall complete the study begun in 1986 regarding tourism development strategies for the Caribbean Basin region. The study shall include—

(1) information on the mutual benefits received by the United States and the Caribbean Basin economies as a result of tourist activity in the area; and

(2) proposals for developing increased linkages between the tourism industry and local industries in the region such as the agro-business.

SEC. 10433. PILOT PRECLEARANCE PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Subject to subsection (b), the Commissioner of Customs shall carry out, during fiscal years 1990 and 1991, preclearance operations at a facility of the United States Customs Service in a country within the Caribbean Basin which the Commissioner of Customs considers appropriate for testing the extent to which the availability of preclearance operations can assist in the development of tourism.

(b) RESTRICTIONS REGARDING PROGRAM.—

(1) The Commissioner of Customs may not consider a country within the Caribbean Basin to be appropriate for the testing referred to in subsection (a)—

(A) if preclearance operations are currently carried out by the United States Customs Service in that country; or

(B) unless immigration preinspection operations are currently carried out in that country with respect to individuals traveling to the United States.

(2) Preclearance operations may not be commenced in the country selected for testing under subsection (a) unless the Commissioner of Customs and the Commissioner of Immigration and Naturalization jointly certify that—

(A) there exists a bilateral agreement between the United States Government and the government of such country which protects the interests of the United States and affords diplomatic protection to United States employees working at the preclearance location;

(B) the facilities at the preclearance location conform to Federal Inspection Services standards and are suitable for the duties to be performed therein;

(C) there is adequate security around the structure used for the reception of international arrivals;

(D) the government of such country grants the United States Customs Service and the United States Immigration and Naturalization Service appropriate search, seizure, and arrest authority; and

(E) United States employees and their families will not be subject to fear of reprisal, acts of terrorism, and threats of intimidation.

(c) REPORT.—As soon as practicable after September 30, 1991, the Commissioner of Customs shall submit to the Congress a report regarding the preclearance oper-

ations program carried out under subsection (a). The report shall include—

(1) a summary of the preclearance operations, including the number of individuals processed, any administrative problems encountered, and cost of the operations;

(2) an evaluation of the extent to which the preclearance operations contributed to—

(A) the stimulation of the tourism industry of the country concerned, and

(B) expedited customs processing at United States ports of entry;

(3) the opinion of the Commissioner of Customs regarding the efficacy of extending preclearance operations to other countries within the Caribbean Basin that are developing tourism industries, and if the opinion is affirmative, the identity of those countries to which such operations should be extended and the estimated costs and results of such extensions; and

(4) such other matters that the Commissioner of Customs considers relevant.

Subtitle F—Tariff Provisions

SEC. 10501. REFERENCE.

Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision, the reference shall be considered to be made to a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007).

PART 1—TEMPORARY SUSPENSIONS AND REDUCTIONS IN DUTIES

Subpart A—New Duty Suspensions and Temporary Reductions

SEC. 10511. CASTOR OIL AND ITS FRACTIONS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.15.15	Castor oil and its fractions (provided for in subheading 1515.30.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 10512. CERTAIN JAMS, PASTES AND PUREES, AND FRUIT JELLIES.

Subchapter II of chapter 99 is amended—

(1) by adding at the end of the U.S. notes thereto the following:

"10. (a) The general column 1 rate of duty for goods provided for under heading 9902.20.07 is a rate equal to the column 1 rate of duty that would have applied to such goods under the Tariff Schedules of the United States (19 U.S.C. 1202) on the day before the effective date of this schedule.

"(b) If the President determines that appropriate trade concessions, including the correction of errors and oversights in foreign tariff schedules, have been obtained, the President may proclaim such modifications to the column 1 rates of duty on jams, pastes, and purees, and fruit jellies of peaches, apricots, or cherries, classified in subheading 2007.99 as are necessary and practicable to restore with repect to such goods the tariff treatment that applied under the Tariff Schedules of the United States (19 U.S.C. 1202) on the day before the effective date of this schedule.";

(2) by inserting in numerical sequence the following new heading:

"	9902.20.07	Jams, pastes, and purees, and fruit jellies, the foregoing of peaches, apricots, or cherries (provided for in subheading 2007.99)	The rates of duty prescribed in U.S. note 10(a) to this subchapter	No change	No change	On or before the earlier of— (1) 12/31/92 or (2) the effective date of the rates proclaimed under U.S. note 10(b) to this subchapter	".

SEC. 10513. MERCURIC OXIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.28.25	Mercuric oxide (provided for in subheading 2825.90.60)	Free	No change	No change	On or before 12/31/92	".

SEC. 10514. HEXYL CHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.07	1-Chlorohexane (hexyl chloride) (CAS No. 544-10-5) (provided for in subheading 2903.19.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10515. TERTIARY-BUTYL CHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.08	2-Chloro-2-methylpropane (tertiary-Butyl chloride) (CAS No. 507-20-0) (provided for in subheading 2903.19.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10516. HEXACHLOROBUTADIENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.09	Hexachlorobutadiene (provided for in subheading 2903.29.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 10517. DMBS AND HPBA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.30.10	4.4-Isopropylidenedicyclohexanol (CAS No. 80-04-6) (provided for in subheading 2906.19.00)	Free	No change	No change	On or before 12/31/92	;" and
"	9902.30.83	Bis-O-[(4-methylphenyl)methylene]-D-glucitol (CAS Nos. 54686-974 and 58956-31-3) (dimethylbenzylidene sorbitol) (provided for in subheading 2932.90.41)	Free	No change	No change	On or before 12/31/92	".

SEC. 10518. MBEP.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.11	2-(1,1-Dimethylethyl)-4-ethylphenol (CAS No. 96-70-8) (provided for in subheading 2907.19.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10519. 6-T-BUTYL-2,4-XYLENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.12	6-t-Butyl-2,4-xylenol (provided for in subheading 2907.19.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10520. 4,4'-METHYLENEBIS-(2,6-DIMETHYLPHENYLCYANATE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.13	4,4'-Methylenebis- (2, 6-dimethylphenylcyanate) (CAS No. 101657-77-6) (provided for in subheading 2907.29.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10521. NEVILLE AND WINTER'S ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.14	1-Naphhol-4-sulfonic acid and the mono-sodium salt (CAS Nos. 84-87-7 and 6099-57-6) (provided for in subheading 2908.20.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 10522. 7-HYDROXY-1,3-NAPHTHALENEDISULFONIC ACID, DIPOTASSIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.15	7-Hydroxy-1,3-naphthalenedisulfonic acid, dipotassium salt (CAS No. 842-18-2) (provided for in subheading 2908.20.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10523. 7-ACETYL-1,1,3,4,4,6-HEXAMETHYLTETRAHYDRONAPHTHALENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.16	7-Acetyl-1,1,3,4,4,6-hexamethyltetrahydronaphthalene (CAS No. 1506-02-1) (provided for in subheading 2914.30.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 10524. ANTHRAQUINONE (AQ).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.17	Anthraquinone (CAS No. 84-65-1) (provided for in subheading 2914.61.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 10525. 1,4 DIHYDROXYANTHRAQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.18	1,4-Dihydroxy-anthraquinone (CAS No. 81-64-1) (provided for in subheading 2914.69.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10526. 2-ETHYLANTHRAQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.19	2-Ethylanthraquinone (CAS No. 84-51-5) (provided for in subheading 2914.69.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10527. CHLORHEXANONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.20	1-Chloro-5-hexanone (CAS No. 10226-30-9) (provided for in subheading 2914.70.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10528. P-TOLUIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.21	p-Toluic acid (provided for in subheading 2916.39.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10529. NAPHTHALIC ACID ANHYDRIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.22	Naphthalic acid anhydride (CAS No. 81-84-5) (provided for in subheading 2917.39.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 10530. DIFLUNISAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.23	2',4'-Difluoro-4-hydroxy-3-biphenyl-carboxylic acid (provided for in subheading 2918.29.40)	Free	No change	No change	On or before 12/31/92	".

SEC. 10531. DIPHENOLIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.24	4,4-Bis(4-hydroxyphenyl)-pentanoic acid (CAS No. 126-00-1) (provided for in subheading 2918.29.40)	Free	No change	No change	On or before 12/31/92	".

SEC. 10532. 6-HYDROXY-2-NAPHTHOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.25	6-Hydroxy-2- naphthoic acid (CAS No. 16712-64-4) (provided for in subheading 2918.29.40)	Free	No change	No change	On or before 12/31/92	".

SEC. 10533. METHYL AND ETHYL PARATHION.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.26	0,0-Diethyl-0-(4-nitrophenyl) phosphorothioate and 0,0-Dimethyl-0-(4-nitrophenyl) phosphorothioate (provided for in subheading 2920.10.20)	Free	No change	No change	On or before 12/31/92	".

SEC. 10534. N-METHYLANILINE AND M-CHLOROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.30.27	N-Methylaniline (provided for in subheading 2921.42.20)	Free	No change	No change	On or before 12/31/92	
	9902.30.28	m-Chloroaniline (provided for in subheading 2921.42.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10535. 4,4'-METHYLENEBIS-(3-CHLORO-2,6-DIETHYL ANILINE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.29	4,4'-Methylenebis-(3-chloro-2,6-diethylaniline) (CAS No. 106246-33-7) (provided for in subheading 2921.42.30)	Free	No change	No change	On or before 12/31/92	".

SEC. 10536. 4,4'-METHYLENE-BIS-(2,6-DIISOPROPHYL ANILINE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.30	4,4'-Methylenebis-(2,6-diisoprophyl-aniline) (provided for in subheading 2921.42.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10537. 2-CHLORO-4-NITROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.31	2-chloro-4-nitroaniline (CAS No. 121-87-9) (provided for in subheading 2921.42.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10538. 4-CHLORO-α-α-α-TRIFLUORO-O-TOLUIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.32	4-chloro-α-α-α-trifluoro-o-toluidine (CAS No. 445-03-4) (provided for in subheading 2921.43.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 10539. TRIFLUOROMETHYLANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.33	Trifluoromethylaniline (CAS No. 98-16-8) (provided for in subheading 2921.43.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10540. 5-AMINO-2-NAPTHALENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.34	5-Amino-2- naphthalenesulfonic acid (CAS No. 119-79-9) (provided in subheading 2921.45.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 10541. 7-AMINO-1,3-NAPHTHALENEDISULFONIC ACID MONOPOTASSIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.35	7-Amino-1,3-naphthalenedisulfonic acid, monopotassium salt (CAS No. 842-15-9) (provided for in subheading 2921.45.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 10542. 4 AMINO-1-NAPHTHALENESULFONIC ACID, SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.36	4-Amino-1-naphthalenesulfonic acid, sodium salt (CAS No. 130-13-2) (provided for in subheading 2921.45.20)	Free	No change	No change	On or before 12/31/92	".

SEC. 10543. 8-AMINO-2 NAPHTHENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.37	8-Amino-2 naphthenesulfonic acid (CAS No. 119-28-8) (provided for in subheading 2921.45.20)	Free	No change	No change	On or before 12/31/92	".

SEC. 10544. MIXTURES OF 5- AND 8- AMINO-2 NAPHTHALENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.38	Mixtures of 5- and 8-amino-2 naphthalenesulfonic acid (CAS No. 119-28-8) (provided for in subheading 2921.45.30)	Free	No change	No change	On or before 12/31/92	".

SEC. 10545. 1-NAPHTHYLAMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.39	1-Naphthylamine (CAS No. 134-32-7) (provided for in subheading 2921.45.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10546. 6-AMINO-2-NAPHTHENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.40	6-Amino-2-naphthenesulfonic acid (CAS No. 93-00-5) (provided for in subheading 2921.45.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10547. BROENNER'S ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.41	2-Naphthylamine-6-sulfonic acid (CAS No. 93-00-5) (provided for in subheading 2921.45.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10548. D SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.42	2-Naphthylamine-1, 5-disulfonic acid and its monosodium salt (CAS Nos. 117-62-4 and 19532-03-07) (provided for in subheading 2921.45.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10549. 2,4-DIAMINOBENZENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.43	2,4-Diaminobenzenesulfonic acid (CAS No. 88-63-1) (provided for in subheading 2921.51.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10550. PARAMINE ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.44	1,4-Diaminobenzene-2-sulfonic acid (CAS No. 88-45-9) (provided for in subheading 2921.59.50)	Free	No change	No change	On or before 12/31/92".	".

SEC. 10551. TAMOXIFEN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.45	Tamoxifen citrate (provided for in subheading 2922.19.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 10552. K-ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.46	1-Amino-8-hydroxy-4, 6-naphthalenedisulfonic acid, monosodium salt (CAS No. 85294-32-2 (provided for in subheading 2922.21.20)	Free	No change	No change	On or before 12/31/92	".

SEC. 10553. O-ANISIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.47	1-Amino-2-methoxybenzene (o-Anisidine) (CAS No. 90-04-0) (provided for in subheading 2922.22.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 10554. 2-AMINO-4-CHLOROPHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.48	2-Amino-4-chlorophenol (CAS No. 95-85-2) (provided for in subheading 2922.29.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 10555. ORNITHINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.49	L-Ornithine, ethyl ester (L-2,5-Diaminopentanoic acid, ethyl ester) (CAS No. 84772-29-2) (provided for in subheading 2922.49.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10556. DEMAP.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.50	m-Diethylaminophenol (CAS No. 91-68-9) (provided for in subheading 2922.29.15)	Free	No change	No change	On or before 12/31/92	".

SEC. 10557. 7-ANILINO-4-HYDROXY-2 NAPHTHALENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.51	7-Anilino-4-hydroxy-2-naphthalenesulfonic acid (CAS No. 119-40-4) (provided for in subheading 2922.29.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10558. 1,4-DIAMINO-2,3 DIHYDROANTHRAQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.52	1,4-Diamino-2,3 dihydroanthraquinone (CAS No. 81-63-0) (provided for in subheading 2922.30.30)	Free	No change	No change	On or before 12/31/92	".

SEC. 10559. TFA LYS PRO IN FREE BASE AND TOSYL SALT FORMS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.53	Trifluoroacetyl-L-lysine-L-proline in free base and tosyl salt forms (provided for in subheadings 2922.49.50 and 2922.49.30, respectively)	Free	No change	No change	On or before 12/31/92	".

SEC. 10560. LEVODOPA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.54	3-Hydroxy-L-tyrosine (provided for in subheading 2922.50.25)	Free	No change	No change	On or before 12/31/92	".

SEC. 10561. 1-AMINO-2-BROMO-4-HYDROXYANTHRAQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.55	1-Amino-2-bromo-4-hydroxyanthraquinone (CAS No. 116-82-5) (provided for in subheading 2922.50.40)	Free	No change	No change	On or before 12/31/92	".

SEC. 10562. ADC-6.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.56	3-Amino-2-(1-hydroxethyl) pentane-dioic acid, 5-methyl ester (provided for in subheading 2922.50.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10563. L-CARNITINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.57	L-Carnitine (CAS No. 541-15-1) (provided for in subheading 2923.90.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 10564. QUIZALOFOP-ETHYL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.58	2-[4-[(6-Chloro-2-quinoxalinyl)oxy)-phenoxy]propionic acid, ethyl ester (Quizalofop-ethyl) (provided for in subheading 2924.21.15)	Free	No change	No change	On or before 12/31/92	".

SEC. 10565. ACETOACET-PARA-TOLUIDIDE (AAPT).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.59	Acetoacet-para-toluidide (AAPT) (CAS No. 2415-85-2) (provided for in subheading 2924.29.09)	Free	No change	No change	On or before 12/31/92	".

SEC. 10566. NAPHTHOL AS TYPES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.60	3-Hydroxy-2-naphthanilide (CAS No. 92-77-3); 3-hydroxy-2-naphtho-o-toluidide (CAS No. 135-61-5); 3-hydroxy-2-naphtho-o-anisidide (CAS No. 135-62-6); 3-hydroxy-2-naphtho-o-phenetidide (CAS No. 92-74-0); 3-hydroxy-2-naphtho-4-chloro-2,5-dimethoxyanilide (CAS No. 4273-92-1); and N,N'-bis(acetoacetyl-o-toluidine) (CAS No. 91-96-3) (provided for in subheading 2924.29.14)	Free	No change	No change	On or before 12/31/92	".

SEC. 10567. N-[[(4-CHLOROPHENYL)-AMINO]CARBONYL]-2,6-DIFLUOROBENZAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.30.61	N-[[(4-chlorophenyl)-amino]carbonyl]-2,6-difluorobenzamide, 90% or more (provided for in subheading 2924.29.19.)	Free	No change	No change	On or before 12/31/92.	"; and
"	9902.38.13	Mixtures of N-[[(4-chlorophenyl)-amino]carbonyl]-2,6-difluorobenzamide and inert substances (provided for in subheading 3808.10.20.)	Free	No change	No change	On or before 12/31/92.	".

SEC. 10568. ANIS BASE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.62	3-Aminomethoxybenzanilide (CAS No. 120-35-4) (provided for in subheading 2924.29.25)	Free	No change	No change	On or before 12/31/92	".

SEC. 10569. ACETOACETSULFANILIC ACID, POTASSIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.63	Acetoacetsulfanilic acid, potassium salt (CAS No. 70321-85-6) (provided for in subheading 2924.29.40)	Free	No change	No change	On or before 12/31/92	".

SEC. 10570. IOHEXOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.64	N,N'-Bis(2,3-dihydroxpropyl)-5-[N-(2,3-dihydroxypropyl)-acetamido]-2,4,6-triiodoisophthalamide (iohexol) (provided for in subheading 2924.29.40)	Free	No change	No change	On or before 9/30/90	".

SEC. 10571. IOPAMIDOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.65	1,3-Benzenedicarboxamide (provided for in subheading 2924.29.40)	Free	No change	No change	On or before 9/30/90	".

SEC. 10572. IOXAGLATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new item:

"	9902.30.66	N-(2-Hydroxyethyl)-2,4,6-triiodo-5-[2(2,4,6-triiodo-3(N-methylacetamido)-5-(methylcarbamoyl)- benzamidoacetamido]-isophthalamic acid (provided for in subheading 2924.29.40)	Free	No change	No change	On or before 9/30/90	".

SEC. 10573. 4-AMINOACETANILIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.67	4-Aminoacetanilide (CAS No. 122-80-5) (provided for in subheading 2924.29.45)	Free	No change	No change	On or before 12/31/92	".

SEC. 10574. D-CARBOXAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.68	2,2-Dimethylcyclo-propylcarboxamide (CAS No. 75885-58-4) (provided for in subheading 2924.29.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10575. 2,6-DICHLOROBENZONITRILE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.69	Mixtures of 2,6-dichlorobenzonitrile and inert substances (provided for in subheading 2926.90.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 10576. OCTADECYL ISOCYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.70	Octadecyl isocyanate (provided for in subheading 2929.10.40)	Free	No change	No change	On or before 12/31/92	".

SEC. 10577. 1,6-HEXAMETHYLENE DIISOCYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.71	1,6-Hexamethylene diisocyanate (provided for in subheading 2929.10.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10578. 1,1-ETHYLIDENEBIS-(PHENYL-4-CYANATE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.72	1,1-Ethylidenebis-(phenyl-4-cyanate) (provided for in subheading 2929.90.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 10579. 2,2'-BIS(4-CYANATOPHENYL-1,1,1,3,3,3-HEXAFLUOROPROPANE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.73	2,2'-Bis(4-cyanatophenyl)-1,1,1,3,3,3-hexafluoropropane (CAS No. 32728-27-1) (provided for in subheading 2929.90.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 10580. 4,4'-THIODIPHENYL CYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.74	4,4'-Thiodiphenyl cyanate (CAS No. 101657-79-8) (provided for in subheading 2930.90.20)	Free	No change	No change	On or before 12/31/92	".

SEC. 10581. 2[(4 AMINOPHENYL) SULFONYL]ETHANOL, HYDROGEN SULFATE ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.75	2-[(4-Aminophenyl) sulfonyl]ethanol, hydrogen sulfate ester (CAS No. 2494-89-5) (provided for in subheading 2930.90.20)	Free	No change	No change	On or before 12/31/92	".

SEC. 10582. DIMETHOATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.76	0,0-Dimethyl-S-methylcarbamoylmethyl phosphorodithioate (provided for in subheading 2930.90.40	Free	No change	No change	On or before 12/31/92	".

SEC. 10583. DIPHENYLDICHLOROSILANE AND PHENYLTRICHLOROSILANE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.77	Diphenyldichlorosilane and phenyltrichlorosilane (provided for in subheading 2931.00.40)	Free	No change	No change	On or before 12/31/92	".

SEC. 10584. BENDIOCARB.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.78	2,2,-Dimethyl-1,3-benzo-dioxol-4-yl methylcarbamate (Bendiocarb) (provided for in subheading 2932.90.10)..	Free	No change	No change	On or before 12/31/92	".

SEC. 10585. RHODAMINE 2C BASE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.79	Rhodamine 2C base (CAS No. 41382-37-0) (provided for in subheading 2932.90.45)	Free	No change	No change	On or before 12/31/92	".

SEC. 10586. 2,5-DICHLORO-4-(3-METHYL-5-OXO-2-PYRAZOLIN-1-YL) BENZENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.80	2,5-Dichloro-4-(3-methyl-5-oxo-2-pyrazolin-1-yl) benzenesulfonic acid (CAS No. 84-57-1) (provided for in subheading 2933.19.42)	Free	No change	No change	On or before 12/31/92	".

SEC. 10587. NIMODIPINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.81	Nimodipine (provided for in subheading 2933.39.35)	Free	No change	No change	On or before 12/31/92	".

SEC. 10588. BPIP.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.82	Hexamethylenebis-triacetonediamine (provided for in subheading 2933.39.47)	Free	No change	No change	On or before 12/31/92	".

SEC. 10589. 2,2,6,6-TETRAMETHYL-4-PIPERIDINON AND AMINO HYDROXY- AND IMIDO DERIVATIVES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.83	2,2,6,6-Tetramethyl-4-piperidinone (CAS No. 61260-55-7); 2,2,6,6-Tetramethyl-4-piperidylamine (CAS No. 36768-62-4); 2,2,6,6-Tetramethyl-4-piperidinol (CAS No. 2403-88-5); 3-Dodecyl-1-(2,2,6,6-tetramethyl-4-piperidyl)-pyrrolidin-2,5-dione (CAS No. 79720-19-7); 3-Dodecyl-1-(1,2,2,6,6-pentamethyl-4-piperidyl)-pyrrolidin-2,5-dione (CAS No. 106917-30-0); and 3-Dodecyl-1-[1-acetyl-(2,2,6,6-tetramethyl-4-piperidyl)pyrrolidin-2,5-dione (CAS No. 106917-31-1) (the foregoing provided for in subheading 2933.39.47)	Free	No change	No change	On or before 12/31/92	".

SEC. 10590. NORFLOXACIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.84	(1)3-Quinolinecar-boxylic acid, 1-ethyl-6-fluoro-1,4-dihydro-4-oxo-7-(1-piperazinyl) (provided for in subheading 2933.59.27)	Free	No change	No change	On or before 12/31/92	".

SEC. 10591. CIPROFLOXACIN AND CIPROFLOXACIN HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.85	Ciprofloxacin and ciprofloxacin hydrochloride (provided for in subheading 2933.59.27)	Free	No change	No change	On or before 12/31/92	".

SEC. 10592. 6-METHYLURACIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.86	6-Methyluracil (CAS No. 626-48-2) (provided for in subheading 2933.59.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10593. 2,4-DIAMINO-6-PHENYL-1,3,5-TRIAZINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.87	2,4-Diamino-6-phenyl-1,3,5-triazine (CAS No. 91-76-9) (provided for in subheading 2933.69.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 10594. AMILORIDE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.88	N-amidino-3,5-diamino-6-chloropyrazine-carboxamide monohydrochloride dihydrate (provided for in subheading 2933.90.36)	Free	No change	No change	On or before 12/31/92	".

SEC. 10595. TRIMETHYL BASE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.89	(1,3,3-Trimethylindolin-2-ylidene)-acetylaldehyde (CAS No. 118-12-7) (provided for in subheading 2933.90.39)	Free	No change	No change	On or before 12/31/92	".

SEC. 10596. ALA PRO.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.90	L-Alanyl-L-proline (CAS No. 13485-59-1) (provided for in subheading 2933.90.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10597. THIOTHIAMINE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.91	Thiothiamine hydrochloride (CAS No. 2443-50-7) (provided for in subheading 2934.10.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10598. ETHYL 2-(2-AMINOTHIAZOL-4-YL)-2-HYDROXYIMINOACETATE (ATHAET).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.92	Ethyl 2-(2-aminothiazol-4-yl)-2-hydroxyiminoacetate (ATHAET) (CAS No. 64485-82-1) (provided for in subheading 2934.10.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10599. ETHYL 2-(2-AMINOTHIAZOL-4-YL)-2-METHOXYIMINOACETATE (ATMAET).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.93	Ethyl 2-(2-aminothiazol-4-yl)-2-methoxyiminoacetate (ATMAET) (CAS No. 64485-88-7) (provided for in subheading 2934.10.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10600. 7-NITRONAPHTH[1,2]-OXADIAZOLE-5-SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.94	7-Nitronaphth[1,2]-oxadiazole-5-sulfonic acid (CAS No. 84-91-3) (provided for in subheading 2934.90.06)	Free	No change	No change	On or before 12/31/92	".

SEC. 10601. CEFTAZIDIME TERTIARY BUTYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new item:

"	9902.30.95	(6R,7R)-7-[(Z)-2-(2-Aminothiazol-4-yl)-2-[(2-tert.-butoxycarbonyl) prop-2-oxyiminol acetamido]-3-(1-pyridinium-methyl)ceph-3-em-4-carboxylate (provided for in subheading 2934.90.25)	Free	No change	No change	On or before 12/31/92	".

SEC. 10602. CHEMICAL INTERMEDIATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.96	(6R, 7R)-7-amino-3-chloro-8-oxa-5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid, (4-nitrophenyl) methyl ester (provided for in subheading 2934.90.40)	Free	No change	No change	On or before 12/31/92	".

SEC. 10603. SULFACHLOROPYRIDAZINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new item:

"	9902.30.97	Sulfachloropyridazine (provided for in subheading 2935.00.39)	Free	No change	No change	On or before 12/31/92	".

SEC. 10604. MIXED ORTHO/PARA TOLUENE SULFONOMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.98	Mixed ortho/para toluenesulfanomide (provided for in subheading 2935.00.47)	Free	No change	No change	On or before 12/31/92	".

SEC. 10605. HERBICIDE INTERMEDIATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new item:

"	9902.30.99	N-(2,6-Dichloro-3-methylphenyl)-5-amino-1,3,4-triazole-2-sulfonamide (provided for in subheading 2935.00.47)	Free	No change	No change	On or before 12/31/92	".

SEC. 10606. N-[4-[[(2-AMINO-5-FORMYL-1,4,5,6,7,8-HEXAHYDRO-4-OXO-6-PTERIDINYL)METHYL]AMINO]BENZOYL]-L-GLUTAMIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.00	N-[4-[[(2-Amino-5-formyl-1,4,5,6,7,8-hexahydro-4-oxo-6-pteridinyl) methyl]amino]benzoyl]-L-glutamic acid (provided for in subheading 2936.29.20)	Free	No change	No change	On or before 12/31/92	".

SEC. 10607. THEOBROMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.01	Theobromine (provided for in subheading 2939.90.10 or 2939.90.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10608. (6R-(6a,7B(Z)))-7-(((2-AMINO-4-THIAZOLYL) ((CARBOXYMETHOXY)IMINO) ACETYL)AMINO)-3-ETHENYL-8-OXO-5-THIA-1-AZABICYCLO(4.2.0) OCT-2-ENE-2-CARBOXYLIC ACID (CEFIXIME).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.02	(6R-(6a,7B(Z)))-7-(((2-Amino-4-thiazolyl)((carboxymethoxy)imino) acetyl)amino)-3-ethenyl-8-oxo-5-thia-1-azabicyclo(4.2.0) oct-2-ene-2-carboxylic acid (cefixime) (provided for in subheading 2941.90.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10609. TEICOPLANIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.03	Teicoplanin (provided for in subheading 3004.20.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 10610. CARFENTANIL CITRATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.04	Carfentanil citrate (provided for in subheading 3004.90.60)	Free	No change	No change	On or before 12/31/92	".

SEC. 10611. CALCIUM ACETYLSALICYLATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.05	Calcium acetylsalicylate, put up in measured doses or in forms or packings for retail sale (provided for in subheading 3004.90.60)	Free	No change	No change	On or before 12/31/92	".

SEC. 10612. RESOLIN RED F3BS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.05	N-[2-[(2,6-dicyano-4-methylphenyl)azo]-5-(diethylamino) phenyl]methanesulfonamide and N-[2-[(2,6-dicyano-4-methylphenyl)azo]-5-(di-1-propylamino)phenyl]-methanesulfonamide (provided for in subheading 3204.11.20)	Free	No change	No change	On or before 12/31/92".	".

SEC. 10613. CERTAIN ACID BLACK POWDER AND PRESSCAKE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.06	Acid black 210 powder and acid black 210 presscake (CAS No. 112484-44-3) (provided for in subheading 3204.12.40)	Free	No change	No change	On or before 12/31/92	".

SEC. 10614. PIGMENT RED 178.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.07	Pigment red 178 (CAS No. 3049-71-6) (provided for in subheading 3204.17.10)	Free	No change	No change	On or before 12/31/90	".

SEC. 10615. PIGMENT RED 149 DRY AND PRESSCAKE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.08	Pigment red 149 dry and pigment red 149 presscake (CAS No. 4948-15-6) (provided for in subheading 3204.17.50)	Free	No change	No change	On or before 12/31/90	".

SEC. 10616. SOLVENT YELLOW 43.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.09	Solvent yellow 43 (CAS No. 19125-99-6) (provided for in subheading 3204.19.15)	Free	No change	No change	On or before 12/31/92	".

SEC. 10617. SOLVENT YELLOW 44.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.10	Solvent yellow 44 (CAS No. 2478-20-8) (provided for in subheading 3204.19.19)	Free	No change	No change	On or before 12/31/92	".

SEC. 10618. MODELING PASTES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.34.07	Modeling pastes (provided for in heading 3407.00.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 10619. MONO- AND DIBENZYL TOLUENES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.38.24	Mono- and dibenzyl toluenes (provided for in subheading 3823.90.29)	Free	No change	No change	On or before 12/31/92	".

SEC. 10620. CHEMICAL LIGHT ACTIVATOR BLENDS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.38.25	Mixtures of dimethyl phthalate, t-butanol, hydrogen peroxide, and sodium salicylate (provided for in subheading 3823.90.29)	Free	No change	No change	On or before 12/31/92	".

SEC. 10621. POLYMIN P AND POLYMIN P HYDROCHLORIDE, AND POLYMIN SNA 60.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.39.08	Polymin SNA 60 (CAS No. 28825-79-8) (provided for in subheading 3908.90.00)	Free	No change	No change	On or before 12/31/92	"; and
"	9902.39.10	Polymin P and polymin P hydrochloride (CAS Nos. 9002-98-6 and 26338-45-4) (provided for in subheading 3911.90.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10622. SPECIALTY THERMOSET RESIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.11	Hydrocarbon novolac cyanate ester (provided for in subheading 3911.90.30)	Free	No change	No change	On or before 12/31/92	".

SEC. 10623. HYDROCARBON NOVOLAC CYANATE ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.12	Hydrocarbon novolac cyanate ester (provided for in subheading 3911.90.30)	Free	No change	No change	On or before 12/31/92	".

SEC. 10624. CHLORINATED SYNTHETIC RUBBER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.13	Chlorinated synthetic rubber (provided for in subheading 3913.90.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10625. WICKER PRODUCTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.46.02	Wicker products (provided for in subheading 4602.10.11, 4602.10.13, 4602.10.19, 4602.10.40, or 4602.10.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10626. CERTAIN PLASTIC WEB SHEETING.

Subchapter II of chapter 99 is amended—

(1) by adding at the end of the U.S. notes thereto the following new note:

"11. For purposes of heading 9902.56.01, the term 'nonwoven fiber sheet' means sheet comprising a highly uniform and random array of polyester fibers 1.5 to 3.0 denier, thermally bonded and calendered into a smooth surface web having—

"(a) a thickness of 3.7 to 4.0 mils;

"(b) a basis weight of 2.5 oz. per sq. yd.;

"(c) a machine tensile strength of 30 lb. per sq. in. or greater;

"(d) a low cross-direction tensile (approximately ⅓ of MD tensile strength); and

"(e) a Frazier air permeability of 1.0 to 1.5 cfm per sq. ft."; and

(2) by inserting in numerical sequence the following new heading:

"	9902.56.01	Nonwoven fiber sheet (provided for in subheading 5603.00.90)	Free	No change	No change	On or before 12/31/92	".

SEC. 10627. PROTECTIVE SPORTS APPAREL.

Subchapter II of chapter 99 is amended—

(1) by adding at the end of the U.S. notes thereto the following:

"12. The general column 1 rate of duty for goods provided for under heading 9902.62.01 is a rate equal to the column 1 rate of duty that would have applied to such goods under the Tariff Schedules of the United States on the day before the effective date of this schedule."; and

(2) by inserting in numerical sequence the following new heading:

"	9902.61.10	Goods provided for under subheading 6201.93 or 6203.43 which because of their design, fabric, construction and special features provide protection to athlete participants against the hazards of a sport such as injury from blows, falls, flying objects, road burns, or fire	The rates of duty prescribed in U.S. note 12 to the subchapter	No change	No change	On or before 12/31/92	".

SEC. 10628. GARMENTS SPECIALLY DESIGNED FOR HANDICAPPED PERSONS WHO ARE NOT AMBULATORY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"		Garments, however provided for under heading 6203, 6204, or 6205, of cotton or of man-made fibers, specially designed for use by handicapped persons who are not ambulatory:					
	9902.62.10	Dresses that open at the back, have hook and loop closings, and are cut so there is no fabric beneath the seated wearer	Free	No change	No change	On or before 12/31/92	
	9902.62.15	Pants designed with a 60 angle at the hip area to provide for comfortable seating and—					
		(i) are too low in front, too high in back, and too full in seat to be worn by the ambulatory, or					

		(ii) have no seat and are designed to be put on a seated individual without lifting	Free	No change	No change	On or before 12/31/92	
	9902.62.20	Blouses or shirts that open at the back, have hook and loop closings, and have large side gussets for comfortable sitting	Free	No change	No change	On or before 12/31/92	".

SEC. 10629. GRIPPING NARROW FABRICS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.58.06	Fastener fabric tapes of man made fibers (provided for in subheading 5806.10.20)	7%	No change	No change	On or before 12/31/92	".

SEC. 10630. IN-LINE ROLLER SKATE BOOTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.64.02	Skating boots actually used in the manufacture of in-line roller skates (provided for in subheading 6402.19.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 10631. SELF-FOLDING COLLAPSIBLE UMBRELLAS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.66.01	Self-folding telescopic shaft collapsible umbrellas chiefly used for protection against rain (provided for in subheading 6601.91.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 10632. GLASS BULBS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.70.11	Monochrome glass envelopes with both (1) gray, tinted skirted faceplates, and (2) either a video display diagonal of 14 inches and under or a transmission level of 37% or less (provided for in subheading 7011.20.00)	Free	No change	No change	On or before 12/31/92.	".

SEC. 10633. DRINKING GLASSES WITH SPECIAL EFFECTS IN THE GLASS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.70.14	Drinking glasses decorated with metal flecking, glass pictorial scenes, or glass thread-like or ribbon-like effects, any of the foregoing embedded or introduced into the body of the glassware prior to its solidification; millefiori glassware (provided for in subheading 7013.29.10 or 7013.29.20)	6.6%	No change	No change	On or before 12/31/92	
	9902.70.15	Drinking glasses colored prior to solidification, and characterized by random distribution of numerous bubbles, seeds, or stones, throughout the mass of the glass (provided for in subheading 7013.29.10 or 7013.29.20)	20%	No change	No change	On or before 12/31/92	".

SEC. 10634. CERTAIN GLASS FIBERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

"	9902.70.19	Cord, yarn or woven fabric, all the foregoing of electrically nonconductive continuous glass fiber filaments measuring 9 or 10 microns in diameter, impregnated, coated or covered with resorcinol formaldehyde latex (provided for in subheadings 7019.10.10, 7019.10.20, 7019.10.60, 7019.20.10, 7019.20.20, or 7019.20.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 10635. ARTICLES OF SEMIPRECIOUS STONES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.71.16	Graded semiprecious stones (except rock crystal) strung temporarily for convenience of transport (provided for in subheading 7116.20.20)	2.1%	No change	No change	On or before 12/31/92	".

SEC. 10636. LUGGAGE FRAMES OF ALUMINUM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.76.16	Luggage frames of aluminum (provided for in subheading 7616.90.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 10637. MOLTEN-SALT-COOLED ACRYLIC ACID REACTORS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.19	Molten-salt-cooled acrylic acid reactors and their associated parts, accessories, and equipment (provided for in subheadings 8419.89.50, 8419.90.30 or 8419.90.90), when imported as an entirety	Free	No change	No change	On or before 12/31/92	".

SEC. 10638. ZINC PRINTING TYPE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.30	Zinc printing type (provided for in subheading 8442.50.90)	3.7%	No change	No change	On or before 12/31/92	".

SEC. 10639. IMPACT LINE PRINTERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.65	Impact line printers using band drive mechanisms and which are capable of printing speeds of not less than 1,300 lines per minute (provided for in subheading 8471.92.65)	No change	No change	3.75%	On or before 12/31/92	".

SECTION 10640. MACHINES USED IN THE MANUFACTURE OF BICYCLE PARTS; CERTAIN BICYCLE PARTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.84.79	Wheelbuilding, wheeltruing, rim punching, tire fitting and similar machines suitable for use in the manufacture of wheels for bicycles (provided for in subheading 8479.89.90)	Free	No change	No change	On or before 12/31/92	"; and
"	9902.87.15	Bicycle handlebar stems wholly of aluminum alloy (including their hardware of any material), valued over $2.15 each (provided for in subheading 8714.99.90)	Free	No change	No change	On or before 12/31/92	
	9902.87.16	Bicycle handlebar stem rotor assemblies (provided for in subheading 8714.99.90)	Free	No change	No change	On or before 12/31/92	".

SEC. 10641. MOTOR VEHICLE PARTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.83	Motor vehicle parts, however provided for in heading 8483 and subheading 7014.00.20	Free	No change	No change	On or before the effective date of a Presidential proclamation extending duty free treatment under general column 1 to such motor vehicle parts	".

SEC. 10642. PARTS OF GENERATORS FOR USE ON AIRCRAFT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.85.03	Parts of generators suitable for use on aircraft (provided for in subheading 8503.00.60)	Free	No change	No change	On or before 12/31/92	".

SEC. 10643. MAGNETIC VIDEO TAPE RECORDINGS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.85.24	Video tape recordings of a width exceeding 6.5mm but not exceeding 16mm, in cassettes of United States origin as certified by the importers, and valued at not over $7.00 per pre-recorded cassette unit (provided for in subheading 8524.23.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 10644. CERTAIN INFANT NURSERY MONITORS AND INTERCOMS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.85.25	Infant nursery monitor systems, each consisting in the same package of a radio transmitter, an electrical adapter, and a radio receiver (provided for in subheading 8504.40.00, 8525.10.60, or 8527.39.00)	Free	No change	No change	On or before 12/31/92	
"	9902.85.26	Infant nursery intercommunication systems, each consisting in the same package of a pair of transceivers operating on frequencies from 49.82 to 49.90 mHz and an electrical adapter (provided for in subheading 8504.40.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 10645. CERTAIN MACHINED ELECTRONIC CONNECTOR CONTACT PARTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.85.35	Machined electronic connector contact parts, ½ inch or less in diameter suitable for use in aerospace or military equipment applications (provided for in subheading 8538.90.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 10646. CERTAIN PISTON ENGINES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.07	Internal combustion piston-type engines, of a cylinder capacity exceeding 50 cc but not exceeding 1,000 cc (provided for in heading 8407.32.20 or 8407.33.20), to be installed in vehicles specially designed for traveling on snow, golf carts, non-amphibious all-terrain vehicles, and burden carriers, (provided for in subheading 8703.10.00, 8703.21.00 or 8704.31.00)	Free	No change	No change	On or before 12/31/92	"

SEC. 10647. TIMING APPARATUS WITH OPTO-ELECTRONIC DISPLAY ONLY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.91.06	Apparatus for measuring, recording or otherwise indicating intervals of time, with clock or watch movements, battery or AC powered and with opto-electronic display only (provided for in subheading 9106.90.80)	3.9% on the apparatus + 5.3% on the battery	No change	No change	On or before 12/31/92	"

SEC. 10648. FURNITURE AND SEATS OF UNSPUN FIBROUS VEGETABLE MATERIALS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.94.01	Furniture seats and parts thereof, of cane, osier, bamboo or other similar materials, including rattan (provided for in subheading 9401.50.00, 9401.90.25, 9403.80.30, or 9403.90.25)	Free	No change	No change	On or before 12/31/92	"

SEC. 10649. CHRISTMAS ORNAMENTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.95.05	Christmas ornaments other than ornaments of glass or wood (provided for in subheading 9505.10.25)	Free	No change	No change	On or before 12/31/92	"

SEC. 10650. 3-DIMENSIONAL CAMERAS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.90.06	Cameras incorporating 4 fixed lenses which together are capable of producing a 3-dimensional effect (provided for in subheading 9006.53.00)	Free	No change	No change	On or before 12/31/92	"

SEC. 10651. OPERATIC SCENERY, PROPERTIES, INCLUDING SETS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.44.21	Operatic scenery and properties, including operatic sets (provided for in subheading 4421.90.90, 5907.00.10, 5907.00.90, 9701.10.00, 9706.00.00, or 9813.00.65)	Free	No change	No change	On or before 12/31/92	"

Subpart B—Existing Temporary Duty Suspensions

SEC. 10661. EXTENSION OF CERTAIN EXISTING SUSPENSIONS OF DUTY.

(a) EXTENSIONS UNTIL JANUARY 1, 1993.—Each of the following subheadings or headings is amended by striking out the date in the effective date column and inserting "12/31/92":

(1) Subheadings 9902.05.10 and 9902.05.11 (relating to crude feathers and down).

(2) Heading 9902.08.07 (relating to fresh cantaloupes).

(3) Heading 9902.09.04 (relating to mixtures of hot red peppers and salt).

(4) Heading 9902.29.04 (relating to p-Toluenesul-foynl chloride).

(5) Heading 9902.29.05 (relating to certain menthol feedstocks).

(6) Heading 9902.29.06 (relating to Dicofol).

(7) Heading 9902.29.11 (relating to triethylene glycol dichloride).

(8) Heading 9902.29.13 (relating to 2,6-Dichlor-obenzaldehyde).

(9) Heading 9902.29.14 (relating to Dinocap).

(10) Heading 9902.29.21 (relating to m-Hydroxy-benzoic acid).

(11) Heading 9902.29.22 (relating to d-6-Meth-oxy-a-methyl-2 naphthaleneacetic acid and its sodium salt).

(12) Heading 9902.29.24 (relating to 3-amino-3-methyl-1-butyne).

(13) Heading 9902.29.30 (relating to 8-Amino-1-naphthalenesulfonic acid and its salts).

(14) Heading 9902.29.31 (relating to 5-Amino-2 (p-aminoarrilino) benzenesulfonic acid).

(15) Heading 9902.29.33 (relating to 1-Amino-8-hydroxy-3,6-naphthalenedisulfonic acid; and 4-Amino-5-hydroxy-2,7-naphthalenedisulfonic acid, monosodium salt (H acid, monosodium salt)).

(16) Heading 9902.29.43 (relating to 1-Amino-2,4-dibromoanthraquinone).

(17) Heading 9902.29.44 (relating to Bromamine acid).

(18) Heading 9902.29.51 (relating to N-(7-Hydroxy-1-naphthyl)acetamide).

(19) Heading 9902.29.57 (relating to N,N-Bis(2-cyanothyl)aniline).

(20) Heading 9902.29.60 (relating to triallate).

(21) Heading 9902.29.64 (relating to 6-(3-Methyl-5-oxo-1-pyrazolyl)-1,3-naphthalenedisulfonic acid (Amino-J-pyrazolone) CAS No. 7277-87-4); and 3-Methyl-1-

phenyl-5-pyrazolone (Methylphenylpyrazolone)).

(22) Heading 9902.29.66 (relating to m-Sulfaminopyrazolone (m-Sulfamidophenylmethylpyrazolone)).

(23) Heading 9902.29.76 (relating to suspension of the duty on 2-n-octyl-4-isothiazolin-3-one, and mixtures of 2-n-octyl-4-isothiazolin-3-one and application adjuvants).

(24) Heading 9902.29.79 (relating to 2-Amino-N-ethylbenzenesulfonanilide).

(25) Heading 9902.32.04 (relating to methylene blue).

(26) Heading 9902.38.06 (relating to mixtures of dinocap with application adjuvants).

(27) Heading 9902.38.07 (relating to mixtures of mancozeb and dinocap).

(28) Heading 9902.38.08 (relating to mixtures of maneb, zineb, mancozeb, and metiram).

(29) Heading 9902.38.10 (relating to mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one,2-methyl-4-isothiazolin-3-one, magnesium chloride and stabilizers, whether or not containing application adjuvants).

(30) Heading 9902.38.11 (relating to mixtures of dicofol and application adjuvant).

(31) Heading 9902.39.14 (relating to Cholestyramine resin USP).

(32) Headings 9902.40.11, 9902.73.12, 9902.73.15, 9902.85.12, and 9902.87.14 (relating to certain bicycle parts).

(33) Heading 9902.51.01 (relating to certain wools).

(34) Heading 9902.62.10 (relating to disposable surgical gowns and drapes).

(35) Heading 9902.84.42 (relating to certain narrow weaving machines).

(36) Heading 9902.84.45 (relating to certain wool carding and spinning machinery).

(37) Heading 9902.84.48 (relating to certain knitting machines designed for sweater strip or garment length knitting).

(38) Heading 9902.84.50 (relating to certain lace braiding machines).

(39) Heading 9902.95.01 (relating to stuffed dolls and doll skins).

(b) EXTENSION UNTIL DATE OTHER THAN JANUARY 1, 1993.—Heading 9902.61.00 (relating to certain knitwear fabricated in Guam) is amended by striking out "10/31/92" and inserting "10/31/96".

SEC. 10662. EXTENSION OF, AND OTHER MODIFICATIONS TO, CERTAIN EXISTING SUSPENSIONS OF DUTY.

(a) CORNED BEEF IN AIRTIGHT CONTAINERS.—Heading 9902.16.02 is amended—

(1) by striking out "3%" and inserting "Free"; and

(2) by striking out "12/31/89" and inserting "12/31/92".

(b) CERTAIN JEWELRY.—Heading 9902.71.13 is amended—

(1) by amending the article description to read as follows: "Toy jewelry provided for in subheading 7117.19.10, 7117.19.50, 7117.90.40 (except parts) or 7117.90.50 (except parts) valued not over 5¢ per piece; and articles (except parts) provided for in heading 9502, 9503, or 9504 or subheading 9505.90 (except balloons, marbles, dice, and diecast vehicles), valued not over 5¢ per unit"; and

(2) by striking out "12/31/90" and inserting "12/31/92".

(c) ELECTROSTATIC COPYING MACHINES.—Heading 9902.90.90 is amended—

(1) by inserting "and accessories," after "Parts,"; and

(2) by striking out "12/31/90" and inserting "12/31/92".

(d) TOY FIGURES.—

(1) Heading 9902.95.02 is amended—

(A) by striking out "toy figures of animate objects (except dolls)" and inserting "toys representing animals or nonhuman creatures,"; and

(B) by striking out "12/31/90" and inserting "12/31/92".

(2) Heading 9902.95.03 is repealed.

(3) Heading 9902.95.04 is amended—

(A) by striking out "toy figures of animate or inanimate objects" and inserting "toys representing animals or nonhuman creatures"; and

(B) by striking out "12/31/90" and inserting "12/31/92".

SEC. 10663. TERMINATION OF EXISTING SUSPENSION OF DUTY ON C-AMINES.

Heading 9902.29.29 is repealed.

PART 2—OTHER TARIFF AND MISCELLANEOUS PROVISIONS

Subpart A—Tariff Classification and Other Technical Amendments

SEC. 10671. CERTAIN EDIBLE MOLASSES.

Additional U.S. notes 2, 3, and 4 of chapter 17 are each amended by striking out "1702.90.40," each place it appears therein.

SEC. 10672. CERTAIN WOVEN FABRICS AND GAUZE.

(a) WOVEN FABRICS OF CARDED WOOL OR CARDED FINE ANIMAL HAIR.—Heading 5111 of chapter 51 is amended—

(1) by inserting after subheading 5111.11.10 the following new subheading with the article description having the same degree of indentation as the article description in subheading 5111.11.10:

"	5111.11.20	Tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m²	7%	2.8% (IL) 6.3% (CA)	68.5%	";

(2) by inserting after subheading 5111.20.05 the following new subheading with the article description having the same degree of indentation as the article description in subheading 5111.20.05:

"	5111.20.10	Tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m²	7%	2.8% (IL) 6.3% (CA)	68.5%	";

(3) by inserting after subheading 5111.30.05 the following new subheading with the article description having the same degree of indentation as the article description in subheading 5111.30.05:

"	5111.30.10	Tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m²	7%	2.8% (IL) 6.3% (CA)	68.5%	"; and

(4) by inserting after subheading 5111.90.30 the following new subheadings with the article descriptions having the same degree of indentation as the article description in subheading 5111.90.30:

"	5111.90.40	Tapestry fabrics and upholstery fabrics of a weight exceeding 300 g/m²	7%	2.8% (IL) 6.3% (CA)	68.5%	
"	5111.90.50	Tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m²	7%	2.8% (IL) 6.3% (CA)	68.5%	".

(b) WOVEN FABRICS OF COMBED WOOL OR OF COMBED FINE ANIMAL HAIR.—Heading 5112 of chapter 51 is amended by striking out subheadings 5112.11.00 through 5112.90.60, inclusive, and inserting the following with the article descriptions for subheadings 5112.11 and 5112.19 having the same degree of indentation as the article description in subheading 5111.90.60 and with the article descriptions for subheadings 5112.20, 5112.30, and 5112.90 having the same degree of indentation as the article description in subheading 5111.90:

"	5112.11	Of a weight not exceeding 200g/m²:			
	5112.11.10	Tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m²	7%	2.8% (IL) 6.3% (CA)	68.5%
	5112.11.20	Other	36.1%	13.2% (IL) 32.4% (CA)	68.5%
	5112.19	Other:			
	5112.19.10	Tapestry fabrics and upholstery fabrics	7%	2.8% (IL) 6.3% (CA)	68.5%

5112.19.60	Other	36.1%	13.2% (IL) 32.4% (CA)	68.5%	
5112.20	Other, mixed mainly or solely with man-made filaments:				
5112.20.10	Tapestry fabrics and upholstery fabrics of weight exceeding 300 g/m²	7%	2.8% (IL) 6.3% (CA)	68.5%	
5112.20.20	Tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m²	7%	2.8% 6.3% (CA)	68.5%	
5112.20.30	Other	48.5¢/ kg+38%	19.2¢/ kg+15.2% (IL) 43.6¢/ kg+34.2% (CA)	48.5¢/ kg+68.5%	
5112.30	Other mixed mainly or solely with manmade staple fibers:				
5112.30.10	Tapestry fabrics and upholstery fabrics of a weight exceeding 300 g/m²	7%	2.8% (IL) 6.3% (CA)	68.5%	
5112.30.20	Tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m²	7%	2.8% (IL) 6.3% (CA)	68.5%	
5112.30.30	Other	48.5¢/ kg+38%	19.2¢/ kg+15.2% (IL) 43.6¢/ kg+34.2% (CA)	48.5¢/ kg+68.5%	
5112.90	Other:				
5112.90.30	Containing 30 percent or more by weight of silk or silk waste, valued over $33/kg	7.8%	3.1% (IL) 7% (CA)	80%	
5112.90.40	Tapestry fabrics and upholstery fabrics of a weight exceeding 300 g/m²	7%	2.8% (IL) 6.3% (CA)	68.5%	
5112.90.50	Tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m²	7%	2.8% (IL) 6.3% (CA)	68.5%	
5112.90.60	Other	33%	3.4% (IL) 29.7% (CA)	68.5%	".

(c) GAUZE.—Chapter 58 is amended by striking out subheading 5803.90.10 and inserting the following with the superior heading to subheadings 5803.90.11 and 5803.90.12 having the same degree of indentation as the article description for subheading 5803.90.20:

"	Of wool or fine animal hair:				
5803.90.11	Tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m²	7%	2.8% (IL) 6.3% (CA)	68.5%	
5803.90.12	Other	33%	13.2% (IL) 24.7% (CA)	68.5%	".

SEC. 10673. CLASSIFICATION OF CERTAIN ARTICLES IN WHOLE OR PART OF FABRICS COATED, COVERED, OR LAMINATED WITH OPAQUE RUBBER OR PLASTICS.

Chapter 42 is amended—

(1) by striking out "Additional U.S. Note" and inserting "Additional U.S. Notes"; and

(2) by inserting after additional U.S. note 1 the following:

"2. For purposes of classifying articles under subheadings 4202.12, 4202.22, 4202.32, and 4202.92, articles of textile fabric impregnated, coated, covered or laminated with plastics (whether compact or cellular) shall be regarded as having an outer surface of textile material or of plastic sheeting, depending upon whether and to the extent the textile constituent or the plastic constituent comprises the exterior surface of the article.".

SEC. 10674. GLOVES, MITTENS, AND MITTS.

The article description in subheading 6116.10.10 6116. 92.10, 6116.93.10, 6116.99.30, 6216.00.10, 6216.00.34 or 6216.00.44 is amended to read as follows: "Gloves principally designed for sports use, including ski and snowmobile gloves, mittens and mitts".

SEC. 10675. CHIPPER KNIFE STEEL.

Subchapter XV of chapter 72 is amended by striking out subheadings 7226.91.10 and 7226.91.30 and inserting the following with the article description for subheading 7226.91.05 having the same degree of indentation as subheading 7226.91.50:

"	7226.91.05	Of chipper knife steel	Free		34%
		Other:			
	7226.91.15	Of a width of 300mm or more	9.6%	Free (E, IL) 8.6% (CA)	29%
	7226.91.25	Of a width of less than 300mm	11.6%	Free (E, IL) 10.4% (CA)	34% ".

SEC. 10676. ELIMINATION OF INVERTED TARIFF ON CANTILEVER BRAKES AND BRAKE PARTS FOR BICYCLES.

The following provisions are amended as follows:

(1) Subheading 8714.94.20 is amended by striking out "Caliper brakes" and inserting "Caliper and cantilever brakes and parts thereof".

(2) Heading 9902.73.12 is amended by inserting "and cantilever" immediately after "caliper".

(3) Heading 9902.87.14 is amended by inserting "cantilever brakes," immediately after "caliper brakes,".

SEC. 10677. BICYCLES HAVING 26-INCH WHEELS.

Chapter 87 is amended—

(1) by striking out "65 cm" in subheadings 8712.00.10 and 8712.00.20 and inserting "63.5 cm"; and

(2) by striking out "4 cm" in subheading 8712.00.20 and inserting "4.13 cm".

SEC. 10678. PROCESSING OF CERTAIN BLENDED SYRUPS.

U.S. note 2 to subchapter IV of chapter 99 is amended by adding the following at the end thereof:

"(e) Blended syrups of heading 9904.50.20, if entered by a foreign trade zone user, to the extent that the annual quantity entered into the customs territory does not contain an amount of sugar of nondomestic origin greater than that authorized by the Foreign Trade Zones Board for processing by such user during calendar year 1985.".

Subpart B—Miscellaneous Provisions

SEC. 10681. RENEWAL OF EXISTING CUSTOMS EXEMPTION APPLICABLE TO BICYCLE PARTS IN FOREIGN TRADE ZONES.

Section 3(b) of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c(b)), is amended by striking out "before January 1, 1991" and inserting in lieu thereof "on or before December 31, 1992".

SEC. 10682. CHATEAUGAY, NEW YORK, PORT OF ENTRY.

The Commissioner of Customs shall provide the facilities and equipment at the port of entry at Chateaugay, New York, that are necessary to make such port of entry a commercial center under the Northern Border Enhancement Program administered by the Commissioner of Customs.

SEC. 10683. RAIL CARS FOR THE STATE OF FLORIDA.

Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the Secretary of the Treasury shall admit free of duty each bi-level rail passenger car that was—

(1) entered after March 14, 1988, and before January 1, 1989, and classified under item 690.15 of the Tariff Schedules of the United States (19 U.S.C. 1202); and

(2) designed for, and is for the use of, the Department of Transportation of the State of Florida.

If the liquidation of the entry of any such rail car has become final before the date of the enactment of this Act, the entry shall, notwithstanding any other provision of law, be reliquidated in accordance with the provisions of this Act and the appropriate refund of duty made.

SEC. 10684. RELIQUIDATION OF CERTAIN ENTRIES.

(a) CERTAIN ANTIDUMPING DUTIES.—(1) Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to paragraph (2), the entries listed in paragraph (3) shall be reliquidated, without liability of the importer of record for antidumping duties, and if any such duty has been paid, either through liquidation or compromise under section 617 of the Tariff Act of 1930 (19 U.S.C. 1617), refund thereof shall be made within 90 days after reliquidation.

(2) Reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with the appropriate customs officer within 180 days after the date of the enactment of this Act that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

(3) The entries referred to in paragraph (1) are as follows:

Entry number	Date of entry
74-222089	May 7, 1974.
74-225275	June 17, 1974.
76-237223	July 9, 1976.
76-247178	October 1, 1976.
79-251251	September 11, 1979.
80-223851	October 9, 1979.
80-224447	November 27, 1979.
80-224448	November 27, 1979.
80-225842	April 29, 1980.
80-225843	April 29, 1980.
80-225844	April 29, 1980.
80-225845	April 29, 1980.
80-226742	August 13, 1980.
80-226748	August 13, 1980.

(b) DIGITAL PROCESSING UNITS.—(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer within 180 days after the date of the enactment of this Act, any entry of a processing unit that—

(A) was classified under item 676.15, 676.54, 945.83, or 945.84 of the Tariff Schedules of the United States (19 U.S.C. 1202);

(B) occurred after January 16, 1986, and before July 2, 1987; and

(C) was unliquidated as of December 31, 1987;

shall be liquidated as free of duty.

(2) For purposes of this subsection, the term "processing unit" means a digital processing unit for an automated data processing machine, unhoused, consisting of a printed circuit (single or multiple) with one or more electronic integrated circuits or other semiconductor devices mounted directly thereon.

(c) CERTAIN OTHER ENTRIES.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer within 180 days after the date of the enactment of this Act—

(1) any entry of 1-(3-Sulfopropyl pyridinium hydroxide (provided for in item 406.39 of the Tariff Schedules of the United States (19 U.S.C. 1202)) that occurred after September 30, 1988, and before January 1, 1989, shall be reliquidated as free of duty;

(2) any entry of brussels sprouts (provided for in item 903.29 of such Schedules (19 U.S.C. 1202)) that occurred after December 31, 1987, and before November 11, 1988, shall be liquidated at the rate of 12.5 percent ad valorem; and

(3) any entry of 1,6-Hexamethylene diisocyanate (provided for in subheading 2929.10.50 of the Harmonized Tariff Schedule of the United States) that occurred after December 31, 1988, and before the effective date defined in section 10686(a)(1) shall be liquidated or reliquidated at the rate of 7.9 percent ad valorem.

SEC. 10685. PROTEST RELATING TO CERTAIN ENTRIES.

For purposes of section 514 of the Tariff Act of 1930 (19 U.S.C. 1514), and notwithstanding any other provision of law, Protest Numbered 1801-000027 shall be deemed to have been filed with the appropriate customs officer within 90 days of the liquidation of entries 81-103533-2 and 81-103789-3.

SEC. 10686. EFFECTIVE DATES.

(a) DEFINITIONS.—For purposes of this section:

(1) The term "effective date" means the 15th day after the later of—

(A) October 1, 1989; or

(B) the date of the enactment of this Act.

(2) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(3) The term "entry" includes any withdrawal from warehouse.

(b) IN GENERAL.—

(1) Except as otherwise provided in this section, the amendments made by this Act apply with respect to goods entered on or after the effective date.

(2) The amendments made by sections 10661(a) and 10662 (a)(2), (b)(2), and (c)(2) apply with respect to goods entered after December 31, 1990.

(3) The amendment made by section 10661(b) applies with respect to goods entered after October 31, 1992.

(4) The amendment made by section 10678 applies with respect to goods entered after December 31, 1988.

(c) RETROACTIVE APPLICATION OF CERTAIN AMENDMENTS—

(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer on or before the 90th day after the effective date the entry of any good described in paragraph (2) shall be treated as provided in such paragraph.

(2)(A) In the case of the application of any amendment made by section 10511, 10512, 10601, 10627, 10629, 10633, 10635, 10637, 10638, 10639, 10641, 10642, 10643, 10646, 10647, 10662(c)(1), 10672, 10674, 10675, or 10677 to any entry—

(i) which was made after the applicable date and before the effective date; and

(ii) with respect to which there would have been no duty or a lesser duty if the amendment made by such section applied to such entry;

such entry shall be liquidated or reliquidated as though such entry had been made on the effective date.

(B) For purposes of subparagraph (A), the term "applicable date" means—

(i) in the case of sections 10601 and 10643, January 1, 1988,

(ii) in the case of section 10639, October 1, 1988;

(iii) in the case of sections 10511, 10512, 10627, 10629, 10633, 10635, 10638, 10641, 10642, 10646, 10647, 10662(c)(1), 10672, 10674, 10675, and 10677, January 1, 1989; and

(iv) in the case of section 10637, July 1, 1989.

(d) STAGED RATE REDUCTIONS FOR CERTAIN GOODS.—

(1) Any stated rate reduction of a rate of duty set forth in subheading 5111.19.10 of the Harmonized Tariff Schedule of the United States that was proclaimed by the President before the effective date and takes effect after the effective date also applies to the corresponding rates of duty set forth in subheadings 5111.11.20, 5111.20,10, 5111.30.10, 5111.90.40, 5111.90.50, 5112.11.10, 5112.20.10 5112.20,20, 5112.30,10, 5112.30.20, 5112.90.40, 5112.90.50, and 5803.90.11 (relating to certain woven fabrics and gauze) of such Schedule (as added by section 10672).

(2) Any staged rate reduction proclaimed by the President before the effective date that would—

(A) take effect after the effective date; and

(B) apply, but for any amendment made by section 10672 (relating to certain woven farbics) or 10675 (relating to chipper knife steel), to a rate of duty set forth in any subheading of the Harmonized Tariff Schedule of the United States that is listed in column A;

applies to the corresponding rate of duty set forth in the subheading of such Schedule that is listed in column B opposite such column A subheading:

Column A	Column B
5112.11.00	5112.11.20
5112.20.00	5112.20.30
5112.31.00	5112.30.30
5112.91.10	5112.90.12
7226.91.10	7226.91.15
7226.91.30	7226.91.25

(3) The amendments made by section 10672 shall not affect any staged rate reduction of a rate of duty set forth in subheadings 5112.19.10, 5112.19.60, 5112.90.30, 5112.90.60 of the Harmonized Tariff Schedule of the United States that was proclaimed by the President before the effective date and takes effect after the effective date.

TITLE XI—REVENUE MEASURES

SEC. 11001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1989".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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PART I—TEMPORARY EXTENSIONS

SEC. 11101. EMPLOYER PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "December 31, 1988" and inserting "December 31, 1991".

(b) CERTAIN OTHERWISE TAXABLE EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE MAY BE EXCLUDABLE AS WORKING CONDITION FRINGE.—Subsection (h) of section 132 is amended by adding at the end thereof the following new paragraph:

"(9) APPLICATION OF SECTION TO OTHERWISE TAXABLE EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.—Amounts which would be excludable from gross income under section 127 but for subsection (a)(2) thereof or the last sentence of subsection (c)(1) thereof shall be excluded from gross income under this section if (and only if) such amounts are a working condition fringe."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 11102. EXTENSION AND MODIFICATION OF TARGETED JOBS CREDIT.

(a) 2-YEAR EXTENSION.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking "December 31, 1989" and inserting "December 31, 1991".

(b) EXTENSION OF AUTHORIZATION.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended by striking "and 1989" and inserting "1989, 1990, and 1991".

(c) MODIFICATION OF REQUEST FOR CERTIFICATION.—

(1) IN GENERAL.—Paragraph (16) of section 51(d) is amended by adding at the end thereof the following new subparagraph:

"(C) EMPLOYER REQUEST MUST SPECIFY POTENTIAL BASIS FOR ELIGIBILITY.—In any request for a certification of an individual as a member of a targeted group, the employer shall—

"(i) specify each subparagraph (but not more than 2) of paragraph (1) by reason of which the employer believes that such individual is such a member, and

"(ii) certify that a good faith effort was made to determine that such individual is such a member."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to individuals who begin work for the employer after December 31, 1989.

SEC. 11103. EXTENSION OF QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "December 31, 1989" each place it appears and inserting "December 31, 1991".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 is amended by striking "1989" and inserting "1991".

SEC. 11104. EXTENSION OF QUALIFIED SMALL ISSUE BONDS.

Subparagraph (B) of section 144(a)(12) is amended by striking "1989" and inserting "1991".

SEC. 11105. EXTENSION OF ENERGY INVESTMENT CREDIT FOR GEOTHERMAL PROPERTY.

The table contained in section 46(b)(2)(A) (relating to energy percentage) is amended by striking "Dec. 31, 1989" in clause (ix) and inserting "Dec. 31, 1991".

SEC. 11106. EXTENSION OF SPECIAL RULES FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) GENERAL RULE.—Paragraph (5) of section 162(1) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "December 31, 1989" and inserting "December 31, 1991".

(b) SPECIAL RULE FOR CERTAIN S CORPORATION SHAREHOLDERS.—Subsection (1) of section 162 (as amended by subsection (a)) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) TREATMENT OF CERTAIN S CORPORATION SHAREHOLDERS.—This subsection shall apply in the case of any individual treated as a partner under section 1372(a), except that—

"(A) for purposes of this subsection, such individual's wages (as defined in section 3121) from the S corporation shall be treated as such individual's earned income (within the meaning of section 401(c)(1)), and

"(B) there shall be such adjustments in the application of this subsection as the Secretary may by regulations prescribe."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

PART II—PERMANENT EXTENSIONS

SEC. 11111. LOW-INCOME HOUSING CREDIT MADE PERMANENT; MODIFICATIONS TO CREDIT.

(a) CREDIT MADE PERMANENT.—Subsection (n) of section 42 (relating to low-income housing credit) is hereby repealed.

(b) 1-YEAR CARRYOVER OF UNUSED CREDIT AUTHORITY.—

(1) IN GENERAL.—Subparagraph (C) of section 42(h)(3) (relating to State housing credit ceiling) is amended to read as follows:

"(C) STATE HOUSING CREDIT CEILING.—The State housing credit ceiling applicable to any State for any calendar year shall be an amount equal to the sum of—

"(i) $1.25 multiplied by the State population, plus

"(ii) the unused State housing credit ceiling (if any) of such State for the preceding calendar year.

For purposes of clause (ii), the unused State housing credit ceiling for any calendar year is the excess (if any) of the amount described in clause (i) over the aggregate housing credit dollar amount allocated for such year."

(2) CONFORMING AMENDMENT.—Paragraph (6) of section 42(h) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(c) ELECTION OF 15-YEAR CREDIT PERIOD.—

(1) Paragraph (1) of section 42(f) (defining credit period) is amended to read as follows:

"(1) CREDIT PERIOD DEFINED.—For purposes of this section—

"(A) IN GENERAL.—The term 'credit period' means, with respect to any building, the period of 10 taxable years beginning with—

"(i) the taxable year in which the building is placed in service, or

"(ii) at the election of the taxpayer, the succeeding taxable year,

but only if the building is a qualified low-income building as of the close of the 1st year of such period.

"(B) ELECTION OF 15-YEAR CREDIT PERIOD.—At the election of the taxpayer—

"(i) subparagraph (A) shall be applied by substituting '15 taxable years' for '10 taxable years',

"(ii) subparagraphs (B) and (C) of subsection (b)(2) shall be applied by substituting '15-year period' for '10-year period',

"(iii) clause (ii) of subsection (b)(2)(C) shall be applied by substituting 'the sum of ⅓ of the annual Federal mid-term rates and ⅔ of the annual Federal long-term rates' for 'the average of the annual Federal mid-term rates and the annual Federal long-term rates', and

"(iv) subsection (j) shall be applied—

"(I) as if paragraph (1) thereof read as follows:

"(1) IN GENERAL.—If, at any time during the credit period, any building (with respect to which credit was determined under this section) ceases to be a qualified low-income building, the taxpayer's tax imposed by this chapter for the taxable year in which such cessation occurs shall be increased by the credit determined under this section (without regard to subsection (f)(2)(A)) with respect to such building for the year of the credit period for which the credit so determined was the largest.", and

"(II) without regard to the other provisions thereof other than subparagraphs (D) and (E) of paragraph (4).

"(C) ELECTIONS.—Any election under subparagraph (A) or (B), once made, shall be irrevocable. An election may be made under subparagraph (B) with respect to any building only if such election applies to all buildings which are part of the same project as such building."

(2) The heading of subparagraph (B) of section 42(f)(2) is amended by striking "11TH YEAR" and inserting "1ST TAXABLE YEAR FOLLOWING CREDIT PERIOD".

(d) BUILDINGS ELIGIBLE FOR CREDIT ONLY IF AGREEMENT NOT TO EVICT LOW-INCOME TENANTS; IMPACT OF TENANT'S RIGHT OF 1ST REFUSAL TO ACQUIRE PROPERTY.—Subsection (i) of section 42, as amended by subtitle H, is amended by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (2) the following new paragraphs:

"(3) BUILDINGS ELIGIBLE FOR CREDIT ONLY IF AGREEMENT NOT TO EVICT LOW-INCOME TENANTS.—

"(A) IN GENERAL.—No credit shall be allowed by reason of this section with respect to any building for the taxable year unless an agreement between the taxpayer and the housing credit agency is in effect as of the beginning of such taxable year—

"(i) which prohibits the eviction or the termination of tenancy (other than for good cause) of the tenant of any low-income unit,

"(ii) which prohibits any increase after the close of the compliance period in the gross rent with respect to such unit in excess of that permitted under the rules of subsection (g),

"(iii) which allows such tenants the same rights as such agency to enforce in any State court the requirements of clauses (i) and (ii), and

"(iv) which is binding on all successors of the taxpayer.

"(B) EFFECT OF NONCOMPLIANCE.—If, during a taxable year, there is a determination that an agreement described in subparagraph (A) was not in effect as of the beginning of such year, such determination shall not apply to any period before such year and subparagraph (A) shall be applied without regard to such determination if the failure is corrected within 1 year from the date of the determination.

"(4) IMPACT OF TENANT'S RIGHT OF 1ST REFUSAL TO ACQUIRE PROPERTY.—

"(A) IN GENERAL.—No Federal income tax benefit shall fail to be allowable to the taxpayer with respect to any qualified low-income building merely by reason of a right of 1st refusal held by the tenants of such building to purchase the property after the close of the compliance period for a price which is not less than the minimum purchase price determined under subparagraph (B).

"(B) MINIMUM PURCHASE PRICE.—For purposes of subparagraph (A), the minimum purchase price under this subparagraph is an amount equal to the sum of—

"(i) the principal amount of outstanding indebtedness secured by the building (other than indebtedness incurred within the 5-year period ending on the date of the sale to the tenants), and

"(ii) all Federal, State, and local taxes attributable to such sale.

Except in the case of Federal income taxes, there shall not be taken into account under clause (ii) any additional tax attributable to the application of clause (ii)."

(e) CREDIT FOR ACQUISITION OF EXISTING BUILDING TO APPLY ONLY IF BUILDING TO BE REHABILITATED; INCREASE IN REQUIRED REHABILITATION EXPENDITURES.—

(1) IN GENERAL.—Subparagraph (B) of section 42(d)(2) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end thereof the following new clause:

"(iv) except as provided in subsection (f)(5), a credit is allowable under subsection (a) by reason of subsection (e) with respect to the building."

(2) CREDIT PERIOD FOR EXISTING BUILDINGS NOT TO BEGIN BEFORE REHABILITATION CREDIT ALLOWED.—Subsection (f) of section 42 (relating to definition and special rules relating to credit period), as amended by subtitle H, is amended by adding at the end thereof the following new paragraph:

"(5) CREDIT PERIOD FOR EXISTING BUILDINGS NOT TO BEGIN BEFORE REHABILITATION CREDIT ALLOWED.—

"(A) IN GENERAL.—The credit period for an existing building shall not begin before the 1st taxable year of the credit period for rehabilitation expenditures with respect to the building.

"(B) ACQUISITION CREDIT ALLOWED FOR CERTAIN BUILDINGS NOT ALLOWED A REHABILITATION CREDIT.—

"(i) IN GENERAL.—In the case of a building described in clause (ii)—

"(I) subsection (d)(2)(B)(iv) shall not apply, and

"(II) the credit period for such building shall not begin before the taxable year which would be the 1st taxable year of the credit period for rehabilitation expenditures with respect to the building under the modifications described in clause (ii)(II).

"(ii) BUILDING DESCRIBED.—A building is described in this clause if—

"(I) a waiver is granted under subsection (d)(6)(C) with respect to the acquisition of the building, and

"(II) a credit would be allowed for rehabilitation expenditures with respect to such building if subsection (e)(3)(A)(ii)(I) did not apply and if subsection (e)(3)(A)(ii)(II) were applied by substituting '$2,000' for '$3,000'."

(3) INCREASE IN REQUIRED REHABILITATION EXPENDITURES.—Paragraph (3) of section 42(e) is amended by redesignating subparagraph (B) as subparagraph (C) and by striking so much of such paragraph as precedes such subparagraph and inserting the following:

"(3) MINIMUM EXPENDITURES TO QUALIFY.—

"(A) IN GENERAL.—Paragraph (1) shall apply to rehabilitation expenditures with respect to any building only if—

"(i) the expenditures are allocable to 1 or more low-income units or substantially benefit such units, and

"(ii) the amount of such expenditures during any 24-month period meets the requirements of whichever of the following subclauses requires the greater amount of such expenditures:

"(I) The requirement of this subclause is met if such amount is not less than 10 percent of the adjusted basis of the building (determined as of the 1st day of such period and without regard to paragraphs (2) and (3) of section 1016(a)).

"(II) The requirement of this subclause is met if the qualified basis attributable to such amount, when divided by the low-income units in the building, is $3,000 or more.

"(B) EXCEPTION FROM 10 PERCENT REHABILITATION.—In the case of a building acquired by the taxpayer from a governmental unit, at the election of the taxpayer, subparagraph (A)(ii)(I) shall not apply and the credit under this section for such rehabilitation expenditures shall be determined using the percentage applicable under subsection (b)(2)(B)(ii)."

(f) CHANGES IN RULES RELATING TO RENT RESTRICTIONS.—

(1) RENT RESTRICTION DETERMINED ON BASIS OF NUMBER OF BEDROOMS, ETC.—

(A) Paragraph (2) of section 42(g) is amended by redesignating subparagraph (C) as subparagraph (E) and by inserting after subparagraph (B) the following new subparagraphs:

"(C) IMPUTED INCOME LIMITATION APPLICABLE TO UNIT.—For purposes of this paragraph, the imputed income limitation applicable to a unit is the income limitation which would apply under paragraph (1) to individuals occupying the unit if the number of individuals occupying the unit were as follows:

"(i) In the case of a unit which does not have a separate bedroom, 1 individual.

"(ii) In the case of a unit which has 1 or more separate bedrooms, 1.5 individuals for each separate bedroom.

In the case of a project with respect to which a credit is allowable by reason of this section and for which financing is provided by a bond described in section 142(a)(7), the imputed income limitation shall apply in lieu of the otherwise applicable income limitation for purposes of applying section 142(d)(4)(B)(ii).

"(D) HIGHER RENT PERMITTED FOR UNITS OCCUPIED BY INDIVIDUALS WHOSE INCOMES RISE ABOVE LIMIT.—

"(i) IN GENERAL.—Notwithstanding an increase in the income of the occupants of a low-income unit above the income limitation applicable under paragraph (1), such unit shall continue to be treated as a low-income unit if—

"(I) the income of such occupants initially met such income limitation,

"(II) the income of such occupants does not exceed 140 percent of such income limitation, and

"(III) the gross rent with respect to such unit does not exceed the sum of 30 percent of the imputed income limitation applicable to such unit plus 10 percent of the excess of the income of the occupants over the income limitation applicable under paragraph (1).

"(ii) NEXT AVAILABLE UNIT MUST BE RENTED TO LOW-INCOME TENANT IF INCOME RISES ABOVE 140 PERCENT OF INCOME LIMIT.—If the income of the occupants of the unit increases above 140 percent of the income limitation applicable under paragraph (1)—

"(I) clause (i)(III) shall cease to apply to a unit, and

"(II) clause (i) shall cease to apply to such unit if any residential rental unit in the building (of a size comparable to, or smaller than, such unit) is occupied by a new resident whose income exceeds such income limitation."

(B) Subparagraph (A) of section 42(g)(2) is amended by striking "the income limitation under paragraph (1) applicable to individuals occupying such unit" and inserting "the imputed income limitation applicable to such unit".

(2) REDUCTION IN AREA MEDIAN GROSS INCOME NOT TO REQUIRE REDUCTION OF RENT.—Subparagraph (A) of section 42(g)(2) (relating to rent-restricted units) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the amount of the income limitation under paragraph (1) applicable for any period shall not be less than such limitation applicable for the earliest period the building (which contains the unit) was included in the determination of whether the project is a qualified low-income housing project."

(3) EXCLUSION WITH RESPECT TO CONTINUING CARE FACILITIES NOT TO APPLY IN DETERMINING INCOME.—Subparagraph (B) of section 142(d)(2) is amended by adding at the end thereof the following:

"Section 7872(g) shall not apply in determining the income of individuals under this subparagraph."

(g) ADDITIONAL BUILDINGS ELIGIBLE FOR WAIVER OF 10-YEAR PERIOD APPLICABLE TO ACQUISITIONS OF EXISTING BUILDINGS.—Paragraph (6) of section 42(d) is amended by redesignating subparagraph (C) as subparagraph (E) and by inserting after subparagraph (B) the following new subparagraphs:

"(C) LOW-INCOME BUILDINGS WHERE MORTGAGE MAY BE PREPAID.—A waiver may be granted under subparagraph (A) (without regard to any clause thereof) with respect to a federally-assisted building described in clause (ii) or (iii) of subparagraph (B) if—

"(i) the mortgage on such building is eligible for prepayment under subtitle B of the Emergency Low Income Housing Preservation Act of 1987 or under section 502(c) of the Housing Act of 1949 at any time within 1 year after the date of the application for such a waiver,

"(ii) the appropriate Federal official certifies to the Secretary that it is reasonable to expect that, if the waiver is not granted, such building will cease complying with its low-income occupancy requirements, and

"(iii) the eligibility to prepay such mortgage without the approval of the appropriate Federal official is waived by all persons who are so eligible and such waiver is binding on all successors of such persons.

"(D) BUILDINGS ACQUIRED FROM INSURED DEPOSITORY INSTITUTIONS IN DEFAULT.—A waiver may be granted under subparagraph (A) (without regard to any clause thereof) with respect to any building acquired from an insured depository institution in default (as defined in section 3 of the Federal Deposit Insurance Act) or from a receiver or conservator of such an institution."

(h) INCREASE IN CREDIT FOR BUILDINGS IN HIGH COST AREAS.—

(1) Paragraph (5) of section 42(d) is amended by adding at the end thereof the following new subparagraph:

"(D) INCREASE IN CREDIT FOR BUILDINGS IN HIGH COST AREAS.—

"(i) IN GENERAL.—In the case of any building located in the portion of a difficult development area which is designated for purposes of this subparagraph—

"(I) in the case of a new building, the eligible basis of such building shall be 130 percent of such basis determined without regard to this subparagraph, and

"(II) in the case of an existing building, the rehabilitation expenditures taken into account under subsection (e) shall be 130 percent of such expenditures determined without regard to this subparagraph.

"(ii) EXCEPTION.—Clause (i) shall not apply to any federally subsidized building (as defined in subsection (i)).

"(iii) DIFFICULT DEVELOPMENT AREA.—For purposes of clause (i)—

"(I) IN GENERAL.—The term 'difficult development area' means any area designated by the Secretary of Housing and Urban Development as an area which has high construction, land, or utility costs relative to area median gross income.

"(II) LIMIT ON AREAS DESIGNATED.—The areas designated within metropolitan statistical areas shall not exceed an aggregate area having 20 percent of the population of all metropolitan statistical areas. The areas designated within nonmetropolitan areas shall not exceed an aggregate area having 20 percent of the population of nonmetropolitan areas.

"(iv) DEFINITIONS.—For purposes of this subparagraph—

"(I) the term 'metropolitan statistical area' has the same meaning as when used in section 143(k)(2)(B), and

"(II) the term 'nonmetropolitan area' means any area which is not within a metropolitan statistical area."

(2) Subparagraph (A) of section 42(i)(2) (relating to determination of whether building is federally subsidized) is amended by striking "for purposes of subsection (b)(1), a new building" and inserting "a building".

(i) CHANGES IN RULES RELATING TO BUILDINGS FOR WHICH CREDIT MAY BE ALLOWED.—

(1) BUILDINGS RECEIVING SECTION 8 MODERATE REHABILITATION ASSISTANCE ELIGIBLE ONLY FOR 30 PERCENT CREDIT.—Paragraph (1) of section 42(b) is amended by adding at the end thereof the following new sentence: "A building shall be treated as described in subparagraph (B) if, at any time during the credit period, moderate rehabilitation assistance is provided with respect to such building under section 8(e)(2) of the United States Housing Act of 1937."

(2) SCATTERED SITE HOUSING ELIGIBLE FOR CREDIT.—Subsection (g) of section 42 (defining qualified low-income housing project) is amended by adding at the end thereof the following new paragraph:

"(7) SCATTERED SITE PROJECTS.—Buildings which would (but for their lack of proximi-

ty) be treated as a project for purposes of this section shall be so treated if all of the dwelling units in each of the buildings are rent-restricted (within the meaning of paragraph (2)) residential rental units."

(3) CHANGES IN RULES RELATED TO DEEP RENT SKEWED PROJECTS.—

(A) Clause (iii) of section 142(d)(4)(B) is amended by striking "⅓" and inserting "½".

(B) Paragraph (4) of section 42(g) (relating to certain rules made applicable) is amended by striking "(other than section 142(d)(4)(B)(iii))".

(4) OWNER-OCCUPIED BUILDINGS HAVING 4 OR FEWER UNITS ELIGIBLE FOR CREDIT WHERE DEVELOPMENT PLAN.—Paragraph (5) of section 42(i), as amended by subtitle H and redesignated by subsection (d), is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) OWNER-OCCUPIED BUILDINGS HAVING 4 OR FEWER UNITS ELIGIBLE FOR CREDIT WHERE DEVELOPMENT PLAN.—

"(i) IN GENERAL.—Subparagraph (C) shall not apply to the acquisition or rehabilitation of a building pursuant to a development plan of action sponsored by a State or local government or a qualified nonprofit organization (as defined in subsection (h)(5)(C)).

"(ii) LIMITATION ON CREDIT.—In the case of a building to which clause (i) applies, the applicable fraction shall not exceed 80 percent of the unit fraction.

"(iii) CERTAIN UNRENTED UNITS TREATED AS OWNER-OCCUPIED.—In the case of a building to which clause (i) applies, any unit which is not rented for 90 days or more shall be treated as occupied by the owner of the building as of the 1st day it is not rented."

(j) VOLUME CAP NOT TO APPLY WHERE 50 PERCENT OR MORE OF BUILDING IS FINANCED WITH TAX-EXEMPT BONDS.—Subparagraph (B) of section 42(h)(4) is amended by striking "70 percent" each place it appears and inserting "50 percent".

(k) BUILDING NOT TREATED AS FEDERALLY SUBSIDIZED BY REASON OF COMMUNITY DEVELOPMENT BLOCK GRANT.—Subparagraph (D) of section 42(i)(2) (defining below market Federal loan) is amended by adding at the end thereof the following new sentence: "Such term shall not include any loan which would be a below market Federal loan solely by reason of assistance provided under section 106, 107, or 108 of the Housing and Community Development Act of 1974 (as in effect on the date of the enactment of this sentence)."

(l) ELIGIBLE BASIS FOR BUILDING TO INCLUDE EXPENDITURES BEFORE CLOSE OF 1ST YEAR OF CREDIT PERIOD.—

(1) NEW BUILDINGS.—Paragraph (1) of section 42(d) (relating to eligible basis for new buildings) is amended by inserting before the period "as of the close of the 1st taxable year of the credit period".

(2) EXISTING BUILDINGS.—Subparagraph (A) of section 42(d)(2) (relating to eligible basis for existing buildings) is amended by striking "subparagraph (B)" and all that follows through the end of clause (i) and inserting "subparagraph (B), its adjusted basis as of the close of the 1st taxable year of the credit period, and".

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 42(d)(2) is amended by striking "ACQUISITION COST" in the heading and inserting "ADJUSTED BASIS" and by striking "cost" in the text and inserting "adjusted basis".

(B) Paragraph (5) of section 42(d) is amended by striking subparagraph (A), by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively, and by striking the paragraph heading and inserting the following:

"(5) SPECIAL RULES FOR DETERMINING ELIGIBLE BASIS.—".

(C) Paragraph (5) of section 42(e) is amended by striking "subsection (d)(2)(A)(i)(II)" and inserting "subsection (d)(2)(A)(i)".

(m) HOUSING CREDIT MAY BE ALLOCATED ON PROJECT BASIS.—

(1) IN GENERAL.—Paragraph (1) of section 42(h) is amended by adding at the end thereof the following new subparagraph:

"(F) ALLOCATION OF CREDIT ON A PROJECT BASIS.—

"(i) IN GENERAL.—In the case of a project which includes (or will include) more than 1 building, an allocation meets the requirements of this subparagraph if—

"(I) the allocation is made to the project for a calendar year during the project period,

"(II) the allocation only applies to buildings placed in service during or after the calendar year for which the allocation is made, and

"(III) the portion of such allocation which is allocated to any building in such project is specified not later than the close of the calendar year in which the building is placed in service.

"(ii) PROJECT PERIOD.—For purposes of clause (i), the term 'project period' means the period—

"(I) beginning with the 1st calendar year for which an allocation may be made for the 1st building placed in service as part of such project, and

"(II) ending with the calendar year the last building is placed in service as part of such project."

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 42(h)(1) is amended by striking "or (E)" and inserting "(E), or (F)".

(3) PROJECTS WITH MORE THAN 1 BUILDING MUST BE IDENTIFIED.—Paragraph (3) of section 42(g) is amended by adding at the end thereof the following new subparagraph:

"(D) PROJECTS WITH MORE THAN 1 BUILDING MUST BE IDENTIFIED.—For purposes of this section, a project shall be treated as consisting of only 1 building unless, before the close of the 1st calendar year in the project period (as defined in subsection (h)(1)(F)(ii)), each building which is (or will be) part of such project is identified in such form and manner as the Secretary may provide."

(n) INCREASED RESPONSIBILITIES FOR HOUSING CREDIT AGENCIES.—Section 42 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) RESPONSIBILITIES OF HOUSING CREDIT AGENCIES.—

"(1) PLANS FOR ALLOCATION OF CREDIT AMONG PROJECTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, the housing credit dollar amount with respect to any building shall be zero unless—

"(i) such amount was allocated pursuant to a qualified allocation plan of the housing credit agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof)) of which such agency is a part, and

"(ii) such agency notifies the chief executive officer (or the equivalent) of the local jurisdiction within which the building is located of such project and provides such individual a reasonable opportunity to comment on the project.

"(B) QUALIFIED ALLOCATION PLAN.—For purposes of this paragraph, the term 'qualified allocation plan' means any plan—

"(i) which sets forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions,

"(ii) which gives the highest priority to those projects as to which the highest percentage of the housing credit dollar amount is to be used for project costs other than the cost of intermediaries, and

"(iii) which also gives preference in allocating housing credit dollar amounts among selected projects to—

"(I) projects serving the lowest income tenants, and

"(II) projects obligated to serve qualified tenants for the longest periods.

"(C) CERTAIN SELECTION CRITERIA MUST BE USED.—The selection criteria set forth in a qualified allocation plan must include—

"(i) project location,

"(ii) housing needs characteristics,

"(iii) project characteristics,

"(iv) sponsor characteristics, and

"(v) tenant populations with special housing needs.

"(D) APPLICATION TO BOND FINANCED PROJECTS.—Subsection (h)(4) shall not apply to any project unless the project satisfies the requirements for allocation of a housing credit dollar amount under the qualified allocation plan applicable to the area in which the project is located.

"(2) CREDIT ALLOCATED TO BUILDING NOT TO EXCEED AMOUNT NECESSARY TO ASSURE PROJECT FEASIBILITY.—

"(A) IN GENERAL.—The housing credit dollar amount allocated to a project shall not exceed the amount the housing credit agency determines is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period.

"(B) AGENCY EVALUATION.—In making the determination under subparagraph (A), the housing credit agency shall consider—

"(i) the sources and uses of funds and the total financing planned for the project, and

"(ii) any proceeds or receipts expected to be generated by reason of tax benefits.

Such a determination shall not be construed to be a representation or warranty as to the feasibility or viability of the project.

"(C) DETERMINATION MADE WHEN CREDIT AMOUNT APPLIED FOR AND WHEN BUILDING PLACED IN SERVICE.—

"(i) IN GENERAL.—A determination under subparagraph (A) shall be made as of each of the following times:

"(I) The application for the housing credit dollar amount.

"(II) The allocation of the housing credit dollar amount.

"(III) The date the building is placed in service.

"(ii) CERTIFICATION AS TO AMOUNT OF OTHER SUBSIDIES.—Prior to each determination under clause (i), the taxpayer shall certify to the housing credit agency the full extent of all Federal, State, and local subsidies which apply (or which the taxpayer expects to apply) with respect to the building.

"(D) APPLICATION TO BOND FINANCED PROJECTS.—Subsection (h)(4) shall not apply to any project unless the governmental unit which issued the bonds (or on behalf of which the bonds were issued) makes a determination under rules similar to the rules of subparagraphs (A) and (B)."

(o) CREDIT PERCENTAGES DETERMINED ON SEMIANNUAL BASIS.—Subparagraph (C) of section 42(b)(2) is amended—

(1) by inserting "for any month" after "subparagraph (B)" in the material preceding clause (i),

(2) by striking clause (ii) and inserting the following:

"(ii) by using a discount rate equal to 72 percent of the average of the annual Federal mid-term rates and the annual Federal long-term rates applicable under section 1274(d)(1) to months during the most recent semiannual period ending before such month and compounded annually, and", and

(3) by adding at the end thereof the following new sentence:

"For purposes of clause (ii), the term 'semiannual period' means the 6-month period ending June 30 and the 6-month period ending December 31."

(p) CERTIFICATIONS WITH RESPECT TO 1ST YEAR OF CREDIT PERIOD MADE WITH INCOME TAX RETURNS.—Paragraph (1) of section 42(l) (relating to certification with respect to 1st year of credit period) is amended by striking so much of the text as precedes "the taxpayer shall" and inserting "Not later than the last day prescribed law for filing the return of tax for the 1st taxable year in a credit period (including extensions) with respect to any qualified low-income building,".

(q) APPLICATION OF CREDIT TO TRANSITIONAL HOUSING FOR THE HOMELESS; DENIAL OF CREDIT FOR SUBSTANDARD HOUSING.—

(1) IN GENERAL.—Subparagraph (B) of section 42(i)(5) (defining low-income unit), as redesignated by subsection (d), is amended to read as follows:

"(B) EXCEPTIONS.—

"(i) IN GENERAL.—A unit shall not be treated as a low-income unit unless the unit is suitable for occupancy and used other than on a transient basis.

"(ii) SUITABILITY FOR OCCUPANCY.—For purposes of clause (i), the suitability of a unit for occupancy shall be determined under regulations prescribed by the Secretary taking into account local health, safety, and building codes.

"(iii) TRANSITIONAL HOUSING FOR HOMELESS.—For purposes of clause (i), a unit shall be considered to be used other than on a transient basis if the unit contains sleeping accommodations and kitchen and bathroom facilities and is located in a building—

"(I) which is used exclusively to facilitate the transition of homeless individuals (within the meaning of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302), as in effect on the date of the enactment of this clause) to independent living within 24 months, and

"(II) in which a governmental entity or qualified nonprofit organization (as defined in subsection (h)(5)) provides such individuals with temporary housing and supportive services designed to assist such individuals in locating and retaining permanent housing."

(2) QUALIFIED BASIS TO INCLUDE PORTION OF BUILDING USED TO PROVIDE SUPPORTIVE SERVICES.—Paragraph (1) of section 42(c) is amended by adding at the end thereof the following new subparagraph:

"(E) QUALIFIED BASIS TO INCLUDE PORTION OF BUILDING USED TO PROVIDE SUPPORTIVE SERVICES FOR HOMELESS.—In the case of a qualified low-income building described in subsection (i)(5)(B)(iii), the qualified basis of such building for any taxable year shall be increased by the lesser of—

"(i) so much of the eligible basis of such building as is used throughout the year to provide supportive services designed to assist tenants in locating and retaining permanent housing, or

"(ii) 20 percent of the qualified basis of such building (determined without regard to this subparagraph)."

(r) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings for calendar years after 1989.

(2) BUILDINGS NOT SUBJECT TO ALLOCATION LIMITS.—Except as otherwise provided in this subsection, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof, the amendments made by this section shall apply to buildings placed in service after December 31, 1989.

(3) 1-YEAR CARRYOVER OF UNUSED CREDIT AUTHORITY.—The amendments made by subsection (b) shall apply to calendar years after 1989, but clause (ii) of section 42(h)(3)(C) of such Code (as added by this section) shall not apply to unused allocations for 1989 or any preceding year.

(4) ADDITIONAL BUILDINGS ELIGIBLE FOR WAIVER OF 10-YEAR RULE.—The amendments made by subsection (g) shall take effect on the date of the enactment of this Act.

(5) DETERMINATION OF CREDIT PERCENTAGE.—The amendment made by subsection (o) shall apply to months after December 1989.

(6) CERTIFICATIONS WITH RESPECT TO 1ST YEAR OF CREDIT PERIOD.—The amendment made by subsection (p) shall apply to taxable years ending on or after December 31, 1989.

(7) CERTAIN RULES WHICH APPLY TO BONDS.—Paragraphs (1)(D) and (2)(D) of section 42(m) of such Code, as added by this section, shall apply to obligations issued after December 31, 1989.

(8) REGULATIONS ON DIFFICULT DEVELOPMENT AREAS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall prescribe initial regulations on the designation of difficult development areas under section 42(d)(5)(C) of the Internal Revenue Code of 1986, as added by this section.

SEC. 11112. LOW-INCOME HOUSING CREDIT AND REHABILITATION CREDIT EXEMPT FROM INCOME PHASEOUT OF $25,000 EXEMPTION FROM PASSIVE LOSS RULES.

(a) IN GENERAL.—Subparagraph (B) of section 469(i)(3) (relating to phase-out of exemption) is amended to read as follows:

"(B) EXCEPTION FOR LOW-INCOME HOUSING AND REHABILITATION CREDITS.—Subparagraph (A) shall not apply to any portion of the passive activity credit for any taxable year which is attributable to any credit to which paragraph (6)(B) applies."

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 469(i)(5) is amended by striking clause (iii), by striking ", and" at the end of clause (ii) and inserting a period, and by adding "and" at the end of clause (i).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 1989, in taxable years ending after such date.

(2) SPECIAL RULE WHERE INTEREST HELD IN PASS-THRU ENTITY.—In the case of a taxpayer who holds an indirect interest in property described in paragraph (1), the amendments made by this section shall apply only if such interest is acquired after December 31, 1989.

SEC. 11113. RESEARCH CREDIT MADE PERMANENT; MODIFICATIONS TO CREDIT.

(a) CREDIT MADE PERMANENT.—

(1) IN GENERAL.—Section 41 is amended by striking subsection (i) (relating to termination).

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 28(b) is amended by striking subparagraph (D).

(b) CHANGES IN COMPUTATION OF INCREMENTAL CREDIT.—

(1) IN GENERAL.—Subsection (c) of section 41 is amended to read as follows:

"(c) BASE AMOUNT.—

"(1) IN GENERAL.—The term 'base amount' means the product of—

"(A) the fixed-base percentage, and

"(B) the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year for which the credit is being determined (hereinafter in this subsection referred to as the 'credit year').

"(2) MINIMUM BASE AMOUNT.—In no event shall the base amount be less than the applicable percentage (determined in accordance with the following table) of the qualified research expenses for the credit year.

"If the credit year begins during—	The applicable percentage is— For taxpayers to whom paragraph (3)(A) applies—	For taxpayers to whom paragraph (3)(B) applies—
1990	50	65
1991	55	65
1992	60	65
1993	65	65
1994	70	70
1995 or thereafter.	75	75.

"(3) FIXED-BASE PERCENTAGE.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the fixed-base percentage is the percentage which the aggregate qualified research expenses of the taxpayer for the selected period is of the aggregate gross receipts of the taxpayer for such period. For purposes of the preceding sentence, the term 'selected period' means the 5 taxable years selected by the taxpayer from among the taxable years beginning after December 31, 1982, and before January 1, 1989. Such a selection, once made, shall be irrevocable.

"(B) START-UP COMPANIES.—

"(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if there are fewer than 3 taxable years beginning after December 31, 1982, and before January 1, 1989, in which the taxpayer had both gross receipts and qualified research expenses.

"(ii) FIXED-BASE PERCENTAGE.—In a case to which this subparagraph applies, the fixed-base percentage is—

"(I) 3 percent for each of the taxpayer's 1st 5 taxable years beginning after December 31, 1989, for which the taxpayer has qualified research expenses,

"(II) in the case of the taxpayer's 6th such taxable year, ⅙ of the percentage which the aggregate qualified research expenses of the taxpayer for the 4th and 5th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(III) in the case of the taxpayer's 7th such taxable year, ⅓ of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th and 6th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(IV) in the case of the taxpayer's 8th such taxable year, ½ of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, and 7th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(V) in the case of the taxpayer's 9th such taxable year, ⅔ of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, and 8th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(VI) in the case of the taxpayer's 10th such taxable year, ⅚ of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, 8th, and 9th such taxable years is of the aggregate gross receipts of the taxpayer for such years, and

"(VII) for taxable years thereafter, the percentage determined under subparagraph (A) by substituting the 5th through 10th such taxable years for the taxable years from among which the taxpayer selects a selected period.

"(iii) TREATMENT OF DE MINIMIS AMOUNTS OF GROSS RECEIPTS AND QUALIFIED RESEARCH EXPENSES.—The Secretary may prescribe regulations providing that de minimis amounts of gross receipts and qualified research expenses shall be disregarded under clauses (i) and (ii).

"(C) MAXIMUM FIXED-BASE PERCENTAGE.—In no event shall the fixed-base percentage exceed 20 percent.

"(D) ROUNDING.—The percentages determined under subparagraphs (A) and (B)(ii) shall be rounded to the nearest 1/100th of 1 percent.

"(4) CONSISTENT TREATMENT OF EXPENSES REQUIRED.—Notwithstanding whether the period for filing a claim for credit or refund has expired for any taxable year taken into account in determining the fixed-base percentage, the qualified research expenses taken into account in computing such percentage shall be determined on a basis consistent with the determination of qualified research expenses for the credit year.

"(5) GROSS RECEIPTS.—For purposes of this subsection, gross receipts for any taxable year shall be reduced by returns and allowances made during the taxable year. In the case of a foreign corporation, there shall be taken into account only gross receipts which are effectively connected with the conduct of a trade or business within the United States."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 41(a)(1) is amended to read as follows:

"(B) the base amount, and".

(B) Clause (ii) of section 41(e)(7)(C) is amended by striking "base period research expenses" and inserting "base amount".

(C) Paragraph (1) of section 41(f) (relating to aggregation of expenditures) is amended by striking "proportionate share of the increase in qualified research expenses" each place it appears and inserting "proportionate shares of the qualified research expenses and basic research payments".

(D) Subparagraph (A) of section 41(f)(3) is amended—

(i) by striking "June 30, 1980" and inserting "December 31, 1982", and

(ii) by inserting before the period ", and the gross receipts of the taxpayer for such periods shall be increased by so much of the gross receipts of such predecessor with respect to the acquired trade or business as is attributable to such portion".

(E) Subparagraph (B) of section 41(f)(3) is amended—

(i) by striking "June 30, 1980" and inserting "December 31, 1982", and

(ii) by inserting before the period ", and the gross receipts of the taxpayer for such periods shall be decreased by so much of the gross receipts as is attributable to such portion".

(F)(i) Subparagraph (C) of section 41(f)(3) is amended by striking "for the base period" and all that follows and inserting "for the taxable years taken into account in computing the fixed-base percentage shall be increased by the lesser of—

"(i) the amount of the decrease under subparagraph (B) which is allocable to taxable years so taken into account, or

"(ii) the product of the number of taxable years so taken into account, multiplied by the amount of the reimbursement described in this subparagraph."

(ii) The heading for such subparagraph (C) is amended to read as follows:

"(C) CERTAIN REIMBURSEMENTS TAKEN INTO ACCOUNT IN DETERMINING FIXED-BASE PERCENTAGE.—".

(G) Paragraph (4) of section 41(f) is amended by inserting "and gross receipts" after "qualified research expenses".

(b) TRADE OR BUSINESS REQUIREMENT DISREGARDED FOR IN-HOUSE RESEARCH EXPENSES OF CERTAIN STARTUP VENTURES.—Subsection (b) of section 41 (defining qualified research expenses) is amended by adding at the end thereof the following new paragraph:

"(4) TRADE OR BUSINESS REQUIREMENT DISREGARDED FOR IN-HOUSE RESEARCH EXPENSES OF CERTAIN STARTUP VENTURES.—In the case of in-house research expenses, a taxpayer shall be treated as meeting the trade or business requirement of paragraph (1) if, at the time such in-house research expenses are paid or incurred, the principal purpose of the taxpayer in making such expenditures is to use the results of the research in the active conduct of a future trade or business—

"(A) of the taxpayer, or

"(B) of 1 or more other persons who with the taxpayer are treated as a single taxpayer under subsection (f)(1)."

(c) FULL DISALLOWANCE OF DEDUCTION FOR QUALIFIED RESEARCH EXPENSES.—

(1) Subsection (c) of section 280C, as amended by subtitle H, is further amended by striking "50 percent of" each place it appears.

(2) Paragraph (2) of section 196(d) is amended by inserting before the period "for a taxable year beginning before January 1, 1990".

(d) ONLY REASONABLE RESEARCH EXPENDITURES ELIGIBLE FOR SECTION 174.—Section 174 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ONLY REASONABLE RESEARCH EXPENDITURES ELIGIBLE.—This section shall apply to a research or experimental expenditure only to the extent that the amount thereof is reasonable under the circumstances."

(e) EFFECTIVE DATE.—The amendments made by this section (other than subsection (a)) shall apply to taxable years beginning after December 31, 1989.

(f) TREASURY STUDY.—The Secretary of the Treasury or his delegate shall conduct a study with respect to the 5-year period beginning on January 1, 1990, and each 5-year period thereafter—

(1) comparing the projected revenue loss resulting from section 41 of the Internal Revenue Code of 1986 (relating to research credit) for the period and the actual revenue loss resulting from such section for the period,

(2) analyzing the effectiveness of such credit in promoting research during such period, and

(3) evaluating whether the rules for computing the fixed-base percentage for startup firms are appropriate in view of actual trends in the qualified research expenditures and gross receipts of those firms.

The results of such study for each such period shall be submitted, not later than the close of such period, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 11114. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) GENERAL RULE.—Section 864 (relating to definitions and special rule) is amended by adding at the end thereof the following new subsection:

"(f) ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.—

"(1) IN GENERAL.—For purposes of sections 861(b), 862(b), and 863(b), qualified research and experimental expenditures shall be allocated and apportioned as follows:

"(A) Any qualified research and experimental expenditures expended solely to meet legal requirements imposed by a political entity with respect to the improvement or marketing of specific products or processes for purposes not reasonably expected to generate gross income (beyond de minimis amounts) outside the jurisdiction of the political entity shall be allocated only to gross income from sources within such jurisdiction.

"(B) In the case of any qualified research and experimental expenditures (not allocated under subparagraph (A)) to the extent—

"(i) that such expenditures are attributable to activities conducted in the United States, 64 percent of such expenditures shall be allocated and apportioned to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States, and

"(ii) that such expenditures are attributable to activities conducted outside the United States, 64 percent of such expenditures shall be allocated and apportioned to income from sources outside the United States and deducted from such income in determining the amount of taxable income from sources outside the United States.

"(C) The remaining portion of qualified research and experimental expenditures (not allocated under subparagraphs (A) and (B)) shall be apportioned, at the annual election of the taxpayer, on the basis of gross sales or gross income, except that, if the taxpayer elects to apportion on the basis of gross income, the amount apportioned to income from sources outside the United States shall at least be 30 percent of the amount which would be so apportioned on the basis of gross sales.

"(2) QUALIFIED RESEARCH AND EXPERIMENTAL EXPENDITURES.—For purposes of this sec-

tion, the term 'qualified research and experimental expenditures' means amounts which are research and experimental expenditures within the meaning of section 174. For purposes of this paragraph, rules similar to the rules of subsection (c) of section 174 shall apply. Any qualified research and experimental expenditures treated as deferred expenses under subsection (b) or (f) of section 174 shall be taken into account under this subsection for the taxable year for which such expenditures are allowed as a deduction under such subsection.

"(3) SPECIAL RULES FOR EXPENDITURES ATTRIBUTABLE TO ACTIVITIES CONDUCTED IN SPACE, ETC.—

"(A) IN GENERAL.—Any qualified research and experimental expenditures described in subparagraph (B)—

"(i) if incurred by a United States person, shall be allocated and apportioned under this section in the same manner as if they were attributable to activities conducted in the United States, and

"(ii) if incurred by a person other than a United States person, shall be allocated and apportioned under this section in the same manner as if they were attributable to activities conducted outside the United States.

"(B) DESCRIPTION OF EXPENDITURES.—For purposes of subparagraph (A), qualified research and experimental expenditures are described in this subparagraph if such expenditures are attributable to activities conducted—

"(i) in space,

"(ii) on or under water not within the jurisdiction (as recognized by the United States) of a foreign country, possession of the United States, or the United States, or

"(iii) in Antarctica.

"(4) AFFILIATED GROUP.—

"(A) Except as provided in subparagraph (B), the allocation and apportionment required by paragraph (1) shall be determined as if all members of the affiliated group (as defined in subsection (e)(5)) were a single corporation.

"(B) For purposes of the allocation and apportionment required by paragraph (1)—

"(i) sales and gross income from products produced in whole or in part in a possession by an electing corporation (within the meaning of section 936(h)(5)(E)), and

"(ii) dividends from an electing corporation,

shall not be taken into account, except that this subparagraph shall not apply to sales of (and gross income and dividends attributable to sales of) products with respect to which an election under section 936(h)(5)(F) is not in effect.

"(C) The qualified research and experimental expenditures taken into account for purposes of paragraph (1) shall be adjusted to reflect the amount of such expenditures included in computing the cost-sharing amount (determined under section 936(h)(5)(C)(i)(I)).

"(D) The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including regulations providing for the source of gross income and the allocation and apportionment of deductions to take into account the adjustments required by subparagraph (C).

"(E) Paragraph (6) of subsection (e) shall not apply to qualified research and experimental expenditures."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after August 1, 1989.

Subtitle B—Corporate Provisions

SEC. 11201. EARNINGS AND PROFITS OF AFFILIATED GROUP COMPUTED ON CONSOLIDATED BASIS.

(a) GENERAL RULE.—Section 1503 is amended by inserting after subsection (a) the following new subsection:

"(b) EARNINGS AND PROFITS COMPUTED ON CONSOLIDATED BASIS.—

"(1) DETERMINATION OF WHETHER DISTRIBUTION IS DIVIDEND.—For purposes of applying section 316 to any distribution made by a corporation which is a member of an affiliated group filing a consolidated return to a person not a member of such group, the earnings and profits taken into account shall be—

"(A) the earnings and profits of the group for periods after July 10, 1989, determined on a consolidated basis as if the members of such group were 1 corporation, and

"(B) the separately computed earnings and profits of the corporation making the distribution.

Any such distribution shall be treated as made first out of earnings and profits described in subparagraph (A) to the extent thereof and then out of earnings and profits described in subparagraph (B).

"(2) SEPARATELY COMPUTED EARNINGS AND PROFITS.—For purposes of this subsection, the term 'separately computed earnings and profits' means, with respect to any corporation, the sum of—

"(A) the accumulated earnings and profits of such corporation (as determined under the consolidated return regulations as in effect on the day before the date of the enactment of this subsection) for periods ending on or before July 10, 1989, during which such corporation was a member of such group, and

"(B) the accumulated earnings and profits of such corporation for periods before such corporation became a member of such group.

"(3) SPECIAL RULES FOR SUBSIDIARY STOCK ISSUED ON OR BEFORE JULY 10, 1989.—

"(A) IN GENERAL.—This subsection shall not apply for purposes of determining whether any distribution with respect to subsidiary stock issued on or before July 10, 1989, is a dividend.

"(B) EFFECT ON OTHER DISTRIBUTIONS.—For purposes of determining whether distributions with respect to stock not described in subparagraph (A) are dividends, any distribution with respect to stock described in subparagraph (A) which is a dividend—

"(i) first shall reduce the amount of the consolidated earnings and profits to the extent thereof, and

"(ii) then shall reduce the separately computed earnings and profits of the corporation making the distribution.

"(C) SUBSIDIARY STOCK.—For purposes of this paragraph, the term 'subsidiary stock' means stock (including stock described in section 1504(a)(4)) in any member of an affiliated group filing a consolidated return other than the common parent.

"(D) SPECIAL RULE FOR AUCTION RATE PREFERRED.—For purposes of this paragraph, auction rate preferred stock shall be treated as issued when the contract requiring the auction became binding.

"(E) SPECIAL RULE WHEN SUBSIDIARY LEAVES GROUP.—If, by reason of a transaction after July 10, 1989, a corporation ceases to be a member of an affiliated group, this paragraph shall cease to apply to any distribution with respect to stock in such corporation after the date of such cessation unless such transaction is of a kind which would not result in the recognition of any deferred intercompany gain under the consolidated return regulations by reason of the acquisition of the entire group.

"(F) TREATMENT OF STOCK ISSUED PURSUANT TO BINDING CONTRACT IN EFFECT ON JULY 10, 1989.—For purposes of this paragraph, any subsidiary stock issued after July 10, 1989, pursuant to a written binding contract in effect on such date and at all times thereafter before such stock is issued shall be treated as issued on or before July 10, 1989.

"(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations providing for appropriate adjustments in the amount of consolidated earnings and profits and separately computed earnings and profits in the case of deficits or other circumstances."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to distributions after July 10, 1989, in taxable years ending after such date.

(2) ELECTION TO RECOMPUTE PRIOR EARNINGS ON CONSOLIDATED BASIS.—For purposes of determining whether distributions after July 10, 1989, are dividends, an affiliated group may elect (at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe)—

(A) to recompute its earnings and profits accumulated in periods ending on or before July 10, 1989, on a consolidated basis (and not to determine separately computed earnings and profits for such periods under section 1503(b)(2)(A) of the Internal Revenue Code of 1986 (as added by subsection (a))), and

(B) to waive the provisions of section 1503(b)(3) of such Code (as so added).

(3) SPECIAL RULE FOR CERTAIN CARRYOVERS.—If—

(A) a net operating loss carryover or a net capital loss carryover arose in a taxable year ending on or before July 10, 1989, which was not a separate return limitation year, and

(B) such carryover is used in a taxable year ending after July 10, 1989,

the amount so used shall reduce the consolidated earnings and profits for the taxable year in which used. The preceding sentence shall not apply in the case of any carryover of the common parent and shall not apply in the case of a group making an election under paragraph (2). To the extent provided in regulations, this paragraph shall also apply to any portion of any net operating loss or net capital loss for a taxable year which includes July 10, 1989, to the extent such loss is attributable to the portion of such taxable year on or before July 10, 1989.

(4) SPECIAL RULE FOR CERTAIN AUCTION RATE PREFERRED.—For purposes of section 1503(b) of the Internal Revenue Code of 1986 (as added by subsection (a)), any auction rate preferred stock shall be treated as issued before July 10, 1989, if—

(A) a subsidiary was incorporated before such date for the special purpose of issuing such stock,

(B) a rating agency was retained before such date, and

(C) such stock is issued before the date 30 days after the date of the enactment of this Act.

SEC. 11202. TREATMENT OF CERTAIN HIGH YIELD ORIGINAL ISSUE DISCOUNT OBLIGATIONS.

(a) GENERAL RULE.—Part VI of subchapter C of chapter 1 (relating to treatment of certain corporate interests as stock or indebt-

edness) is amended by adding at the end thereof the following new section:

"SEC. 386. TREATMENT OF CERTAIN ORIGINAL ISSUE DISCOUNT OBLIGATIONS AS PREFERRED STOCK.

"(a) GENERAL RULE.—For purposes of this title, any disqualified discount obligation issued by a corporation shall be treated as preferred stock.

"(b) DISQUALIFIED DISCOUNT OBLIGATION.—

"(1) IN GENERAL.—For purposes of this section, the term 'disqualified discount obligation' means any debt instrument if—

"(A) the maturity date of such instrument is more than 5 years from the date of issue,

"(B) the yield to maturity on such instrument equals or exceeds the sum of—

"(i) the applicable Federal rate in effect under section 1274(d) for the calendar month in which the obligation is issued, plus

"(ii) 5 percentage points, and

"(C) such instrument has significant original issue discount.

For purposes of subparagraph (B)(i), the Secretary may by regulation permit a rate to be used with respect to any debt instrument which is higher than the applicable Federal rate if the taxpayer establishes to the satisfaction of the Secretary that such higher rate is based on the same principles as the applicable Federal rate and is appropriate for the term of the instrument.

"(2) SIGNIFICANT ORIGINAL ISSUE DISCOUNT.—For purposes of paragraph (1)(C), a debt instrument shall be treated as having significant original issue discount if—

"(A) the aggregate amount which would be includible in gross income with respect to such instrument for periods before the close of any accrual period (as defined in section 1272(a)(5)) ending after the date 5 years after the date of issue, exceeds,

"(B) the sum of—

"(i) the aggregate amount of interest to be paid under the instrument before the close of such accrual period, and

"(ii) the product of the issue price of such instrument (as defined in section 1273(b)) and its yield to maturity.

"(3) SPECIAL RULES.—For purposes of determining whether a debt instrument is a disqualified discount obligation—

"(A) any payment under the instrument shall be assumed to be made on the last day permitted under the instrument, and

"(B) any payment to be made in the form of another obligation (or stock) of the issuer (or a related person within the meaning of section 453(f)(1)) shall be assumed to be made when such obligation (or stock) is required to be paid (or redeemed) in cash or in property other than such an obligation (or stock).

"(c) BIFURCATION WHERE DEBT INSTRUMENT PROVIDES FOR CURRENT INTEREST.—If a disqualified discount obligation provides for qualified periodic interest, for purposes of this title, subsection (a) shall not apply to such obligation and such obligation shall be treated as 2 instruments as follows:

"(1) A debt instrument paying the qualified periodic interest with—

"(A) an issue price which, on the basis of the qualified periodic interest, results in a yield to maturity equal to the yield to maturity on the entire obligation, and

"(B) a stated redemption price at maturity equal to such issue price.

"(2) Preferred stock—

"(A) which has an issue price equal to the excess of the issue price of the entire obligation (as defined in section 1273(b)) over the issue price of the debt instrument determined under paragraph (1), and

"(B) which pays all payments under the entire obligation other than payments under the debt instrument described in paragraph (1).

"(d) EXCEPTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section shall not apply to any debt instrument issued by an issuer while such issuer is—

"(A) an S corporation,

"(B) an organization exempt from tax under section 501(a), or

"(C) a cooperative housing corporation (as defined in section 216(b)(1)).

"(2) SPECIAL RULE WHERE STATUS CHANGES.—If any debt instrument is issued by an issuer described in paragraph (1) and such issuer subsequently ceases to be so described, for purposes of this section, such debt instrument shall be treated as issued by an issuer not described in paragraph (1) pursuant to a recapitalization occurring on the day on which such issuer ceases to be so described.

"(e) DEFINITIONS.—For purposes of this section—

"(1) DEBT INSTRUMENT.—The term 'debt instrument' means any instrument which, without regard to this section, is a debt instrument as defined in section 1275(a).

"(2) QUALIFIED PERIODIC INTEREST.—The term 'qualified periodic interest' means interest based on a fixed rate and payable unconditionally at fixed periodic intervals of 1 year or less during the entire term of the disqualified discount obligation.

"(3) SPECIAL RULE.—Determinations under this section shall be made without regard to subsection (a).

"(f) INFORMATION REQUIREMENTS.—

"(1) INFORMATION REQUIRED TO BE SET FORTH ON INSTRUMENT.—

"(A) IN GENERAL.—In the case of any disqualified debt obligation, the Secretary may by regulations require that—

"(i) the fact that such instrument is a disqualified debt obligation, and

"(ii) such other information as the Secretary may by regulations prescribe,

be set forth on the instrument.

"(B) SPECIAL RULE FOR INSTRUMENTS NOT PUBLICLY OFFERED.—In the case of any issue of disqualified debt obligations not publicly offered, the regulations prescribed under subparagraph (A) shall not require the information to be set forth on the instrument before any disposition of such instrument by the 1st buyer.

"(2) INFORMATION REQUIRED TO BE SUBMITTED TO THE SECRETARY.—In the case of any publicly offered disqualified debt obligations, the issuer shall (at such time and in such manner as the Secretary shall by regulations prescribe) furnish the Secretary such information with respect to such obligations as the Secretary shall by regulations prescribe.

"(3) CROSS REFERENCE.—

"For civil penalty for failure to meet requirements of this subsection, see section 6706.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including—

"(1) regulations providing for modifications to the provisions of this section in the case of varying rates of interest, put or call options, indefinite maturities, contingent payments, assumptions of debt instruments, conversion rights, or other circumstances where such modifications are appropriate to carry out the purposes of this section, and

"(2) regulations to prevent avoidance of the purposes of this section through the use of noncorporate issuers, agreements to borrow amounts due under the debt instrument, or other arrangements."

(b) CIVIL PENALTY.—Section 6706 (relating to original issue discount information requirements) is amended—

(1) by striking "section 1275(c)(1)" in subsection (a) and inserting "section 386(f)(1) or 1275(c)(1)",

(2) by striking "section 1275(c)(2)" in subsection (b) and inserting "section 386(f)(2) or 1275(c)(2)", and

(3) by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE.—For purposes of this section, the determination of whether any instrument is a debt instrument shall be made without regard to section 386."

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter C of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 386. Treatment of certain original issue discount obligations as preferred stock."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to instruments issued after July 10, 1989.

(2) EXCEPTIONS.—

(A) The amendments made by this section shall not apply to any instrument if—

(i) such instrument is issued in connection with an acquisition—

(I) which is made on or before July 10, 1989,

(II) for which there was a written binding contract in effect on July 10, 1989, and at all times thereafter before such acquisition, or

(III) for which a tender offer was filed with the Securities and Exchange Commission on or before July 10, 1989, and

(ii) the significant terms of such instrument (other than yield) were determined on or before July 10, 1989 and such determination is evidenced by written documents—

(I) which were transmitted on or before July 10, 1989, between the issuer and any governmental regulatory bodies or prospective parties to the issuance or acquisition, and

(II) which are customarily used for the type of acquisition or financing involved.

(B) The amendments made by this section shall not apply to any instrument issued pursuant to the terms of a debt instrument issued on or before July 10, 1989, or described in subparagraph (A).

(C) The amendments made by this section shall not apply to any instrument issued to refinance a debt instrument to which the amendments made by this section do not apply if—

(i) the maturity date of the refinancing instrument is not later than the maturity date of the refinanced instrument,

(ii) the issue price of the refinancing instrument does not exceed the adjusted issue price of the refinanced instrument,

(iii) the stated redemption price at maturity of the refinancing instrument is not greater than the stated redemption price at maturity of the refinanced instrument, and

(iv) the interest payments required under the refinancing instrument before maturity are not less than (and are paid not later than) the interest payments required under the refinanced instrument.

SEC. 11203. TREATMENT OF CERTAIN TRANSFERS TO CONTROLLED CORPORATIONS.

(a) GENERAL RULE.—Section 351 (relating to transfer to corporation controlled by transferor) is amended by redesignating subsection (g) as subsection (i) and by inserting after subsection (f) the following new subsections:

"(g) CORPORATE TRANSFERORS NOT PERMITTED TO RECEIVE SECURITIES.—

"(1) IN GENERAL.—In the case of property transferred (directly or indirectly through a partnership or otherwise) by a corporation, subsections (a), (b), and (d) shall be applied by substituting 'stock' for 'stock or securities'.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) any exchange in pursuance of a plan of reorganization,

"(B) any exchange where the stock or securities received in the exchange are distributed in a transaction to which section 355 (or so much of section 356 as relates to section 355) applies, or

"(C) any exchange where the transferor meets the requirements of section 1504(a)(2) with respect to the transferee corporation (and where such exchange is not part of a plan pursuant to which the transferor subsequently fails to meet such requirements).

"(h) CERTAIN INDEBTEDNESS NOT TREATED AS A SECURITY.—

"(1) IN GENERAL.—For purposes of this section, any indebtedness of the transferee corporation which (but for this subsection) would be treated as a security shall not be treated as a security if—

"(A) in connection with the transfer, the holder of such indebtedness is substantially protected against risk of default through a letter of credit, a guarantee, a right to sell the indebtedness, a segregation of assets, or any other arrangement, or

"(B) the fair market value of the stock (other than preferred stock) in the transferee corporation received by the transferor in the exchange is less than 25 percent of the total fair market value of the stock, securities, and other property received by the transferor in the exchange.

"(2) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subsection, including—

"(A) regulations to ensure that such purposes may not be circumvented through the use of any provision of law or regulations, and

"(B) regulations providing that the basis of any property received by the transferee corporation in the exchange shall be determined without regard to this subsection if such transferee does not comply with such reporting requirements as may be contained in such regulations."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to transfers after July 11, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendment made by subsection (a) shall not apply to any transfer pursuant to a written binding contract in effect on July 11, 1989, and at all times thereafter before such transfer.

(3) SPECIAL RULE.—With respect to so much of the amendment made by subsection (a) as adds section 351(h) of the Internal Revenue Code of 1986, paragraphs (1) and (2) shall be applied by substituting "July 10, 1989" for "July 11, 1989".

SEC. 11204. PROVISIONS RELATED TO REGULATED INVESTMENT COMPANIES.

(a) REQUIREMENT TO DISTRIBUTE 98 PERCENT OF ORDINARY INCOME.—

(1) IN GENERAL.—Subparagraph (A) of section 4982(b)(1) (defining required distribution) is amended by striking "97 percent" and inserting "98 percent".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to calendar years ending after July 10, 1989.

(b) TREATMENT OF CERTAIN MUTUAL FUND SALES CHARGES.—

(1) IN GENERAL.—Section 852 (relating to taxation of regulated investment companies and their shareholders) is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF CERTAIN SALES CHARGES.—

"(1) IN GENERAL.—If—

"(A) the taxpayer incurs a load charge in acquiring stock in a regulated investment company and, by reason of incurring such charge or making such acquisition, the taxpayer acquires a reinvestment right,

"(B) such stock is disposed of before the 31st day after the date on which such stock was acquired, and

"(C) the taxpayer subsequently acquires stock in such regulated investment company or in another regulated investment company and the otherwise applicable load charge is reduced by reason of the reinvestment right,

the load charge referred to in subparagraph (A) (to the extent it does not exceed the reduction referred to in subparagraph (C)) shall not be taken into account for purposes of determining the amount of gain or loss on the disposition referred to in subparagraph (B). To the extent such charge is not taken into account in determining the amount of such gain or loss, such charge shall be treated as incurred in connection with the acquisition referred to in subparagraph (C) (including for purposes of reapplying this paragraph).

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) LOAD CHARGE.—The term 'load charge' means any sales or similar charge incurred by a person in acquiring stock of a regulated investment company. Such term does not include any charge incurred by reason of the reinvestment of a dividend.

"(B) REINVESTMENT RIGHT.—The term 'reinvestment right' means any right to acquire stock of 1 or more other regulated investment companies without the payment of a load charge or with the payment of a reduced charge.

"(C) NONRECOGNITION TRANSACTIONS.—If the taxpayer acquires stock in a regulated investment company from another person in a transaction in which gain or loss is not recognized, the taxpayer shall succeed to the treatment of such other person under this subsection."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to charges incurred after July 10, 1989, in taxable years ending after such date.

(c) REGULATED INVESTMENT COMPANIES REQUIRED TO ACCRUE DIVIDENDS ON THE EX-DIVIDEND DATE.—

(1) IN GENERAL.—Subsection (b) of section 852 (relating to treatment of companies and shareholders) is amended by adding at the end thereof the following new paragraph:

"(9) DIVIDENDS TREATED AS RECEIVED BY COMPANY ON EX-DIVIDEND DATE.—For purposes of this title, any dividend received by a regulated investment company with respect to any share of stock shall be treated as received by such company on the date such share became ex-dividend with respect to such dividend."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dividends in cases where the stock becomes ex-dividend after the date of the enactment of this Act.

SEC. 11205. LIMITATION ON THRESHOLD REQUIREMENT UNDER SECTION 382 BUILT-IN GAIN AND LOSS PROVISIONS.

(a) GENERAL RULE.—Clause (i) of section 382(h)(3)(B) (relating to threshold requirement) is amended to read as follows:

"(i) IN GENERAL.—If the amount of the net unrealized built-in gain or net unrealized built-in loss (determined without regard to this subparagraph) of any old loss corporation is not greater than the lesser of—

"(I) 15 percent of the amount determined for purposes of subparagraph (A)(i)(I), or

"(II) $10,000,000,

the net unrealized built-in gain or net unrealized built-in loss shall be zero."

(b) CONFORMING AMENDMENT TO ADJUSTED CURRENT EARNINGS PREFERENCE.—Subparagraph (H) of section 56(g)(4) (relating to treatment of certain ownership changes) is amended by striking clause (ii) and all that follows and inserting the following:

"(ii) there is a net unrealized built-in loss (within the meaning of section 382(h)) with respect to such corporation,

then the adjusted basis of each asset of such corporation (immediately after the ownership change) shall be its proportionate share (determined on the basis of respective fair market values) of the fair market value of the assets of such corporation (determined under section 382(h)) immediately before the ownership change."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to ownership changes and acquisitions after July 10, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any ownership change or acquisition pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter before such change or acquisition.

SEC. 11206. DISTRIBUTIONS ON CERTAIN PREFERRED STOCK TREATED AS EXTRAORDINARY DIVIDENDS.

(a) GENERAL RULE.—Section 1059 (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended by striking subsection (f) and inserting the following:

"(f) TREATMENT OF DIVIDENDS ON CERTAIN PREFERRED STOCK.—

"(1) IN GENERAL.—Any dividend with respect to disqualified preferred stock shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held the stock.

"(2) DISQUALIFIED PREFERRED STOCK.—For purposes of this subsection, the term 'disqualified preferred stock' means any stock which is preferred as to dividends if—

"(A) when issued, such stock has a dividend rate which declines (or can reasonably be expected to decline) in the future,

"(B) the issue price of such stock exceeds its liquidation rights or its stated redemption price, or

"(C) such stock is otherwise structured—

"(i) to avoid the other provisions of this section, and

"(ii) to enable corporate shareholders to reduce tax through a combination of dividend received deductions and loss on the disposition of the stock.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations—

"(1) providing for the application of this section in the case of stock dividends, stock splits, reorganizations, and other similar transactions and in the case of stock held by pass-thru entities, and

"(2) providing that the rules of subsection (f) shall apply in the case of stock which is not preferred as to dividends in cases where stock is structured to avoid the purposes of this section."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to stock issued after July 10, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendment made by subsection (a) shall not apply to any stock issued pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter before the stock is issued.

SEC. 11207. REPEAL OF ELECTION TO REDUCE EXCESS LOSS ACCOUNT RECAPTURE BY REDUCING BASIS OF INDEBTEDNESS.

(a) GENERAL RULE.—Subsection (e) of section 1503 (relating to special rule for determining adjustment to basis) is amended by adding at the end thereof the following new paragraph:

"(4) ELIMINATION OF ELECTION TO REDUCE BASIS OF INDEBTEDNESS.—Nothing in the regulations prescribed under section 1502 shall permit any reduction in the amount otherwise included in gross income by reason of an excess loss account if such reduction is on account of a reduction in the basis of indebtedness."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to dispositions after July 10, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendment made by subsection (a) shall not apply to any disposition pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter before such disposition.

SEC. 1 E

(a) CLARIFICATION OF REGULATORY AUTHORITY UNDER SECTION 385.—

(1) IN GENERAL.—Subsection (a) of section 385 (relating to treatment of certain interests in corporations as stock or indebtedness) is amended by inserting "(or as in part stock and in part indebtedness)" by the amendment made by paragraph (1) shall only apply with respect to instruments issued after the date on which the Secretary of the Treasury or his delegate provides public guidance as to the characterization of such instruments whether by regulation, ruling, or otherwise.

(b) REPORTING OF CERTAIN ACQUISITIONS OR RECAPITALIZATIONS.—

(1) IN GENERAL.—Section 6043 is amended by striking subsection (c) and inserting the following new subsections:

"(c) CHANGES IN CONTROL AND RECAPITALIZATIONS.—If—

"(1) control (as defined in section 304(c)(1)) of a corporation is acquired by any person (or group of persons) in a transaction (or series of related transactions), or

"(2) there is a recapitalization of a corporation or other substantial change in the capital structure of a corporation,

when required by the Secretary, such corporation shall make a return (at such time and in such manner as the Secretary may prescribe) setting forth the identity of the parties to the transaction, the fees involved, the changes in the capital structure involved, and such other information as the Secretary may require with respect to such transaction.

"(d) CROSS REFERENCES.—

"For provisions relating to penalties for failure to file—

"(1) a return under subsection (b), see section 6652(c), or

"(2) a return under subsection (c), see section 6652(l)."

(2) PENALTY.—Section 6652 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) FAILURE TO FILE RETURN WITH RESPECT TO CERTAIN CORPORATE TRANSACTIONS.—In the case of any failure to make a return required under section 6043(c) containing the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to file such return, an amount equal to $500 for each day during which such failure continues, but the total amount imposed under this subsection with respect to any return shall not exceed $100,000."

(3) CONFORMING AMENDMENTS.—

(A) The subsection heading for subsection (a) of section 6043 is amended by striking "CORPORATIONS" and inserting "CORPORATE LIQUIDATING, ETC., TRANSACTIONS".

(B) The section heading for section 6043 is amended to read as follows:

"SEC. 6043. LIQUIDATING; ETC., TRANSACTIONS."

(C) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6043 and inserting the following:

"Sec. 6043. Liquidating; etc., transactions."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transactions after March 31, 1990.

(c) STUDY.—

(1) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study of—

(A) whether the present law distinctions between debt and equity are meaningful and whether there are cases in which it is appropriate to limit interest deductions,

(B) the policy and revenue implications of proposals to integrate the corporate and individual income tax systems, and

(C) the policy and revenue implications of the tax treatment of corporate distributions with respect to debt and equity held by tax-exempt entities and foreign persons.

(2) REPORT.—Not later than the date 1 year after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under paragraph (1), together with such recommendations as he may deem advisable.

SEC. 11209. ESTIMATED TAX PAYMENTS REQUIRED FOR S CORPORATIONS.

(a) IN GENERAL.—Subsection (g) of section 6655 (relating to failure by corporation to pay estimated income tax) is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION OF SECTION TO CERTAIN TAXES IMPOSED ON S CORPORATIONS.—In the case of an S corporation, for purposes of this section—

"(A) The following taxes shall be treated as imposed by section 11:

"(i) The tax imposed by section 1374(a) (or the corresponding provisions of prior law).

"(ii) The tax imposed by section 1375(a).

"(iii) Any tax for which the S corporation is liable by reason of section 1371(d)(2).

"(B) Paragraph (2) of subsection (d) shall not apply.

"(C) Clause (ii) of subsection (d)(1)(B) shall be applied as if it read as follows:

"'(ii) the sum of—

"'(I) the amount determined under clause (i) by only taking into account the taxes referred to in clauses (i) and (iii) of subsection (g)(4)(A), and

"'(II) 100 percent of the tax imposed by section 1375(a) which was shown on the return of the corporation for the preceding taxable year.'

"(D) The requirement in the last sentence of subsection (d)(1)(B) that the return for the preceding taxable year show a liability for tax shall not apply.

"(E) Any reference in subsection (e) to taxable income shall be treated as including a reference to the net recognized built-in gain or the excess passive income (as the case may be)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1989.

SEC. 11210. LIMITATION ON DEDUCTION FOR CERTAIN INTEREST PAID TO RELATED PERSON.

(a) GENERAL RULE.—Section 163 (relating to interest) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) LIMITATION ON DEDUCTION FOR CERTAIN INTEREST PAID BY CORPORATION TO RELATED PERSON.—

"(1) IN GENERAL.—If, for any taxable year—

"(A) a corporation's net interest expense, exceeds

"(B) 50 percent of the adjusted taxable income of such corporation,

no deduction shall be allowed under this chapter for disqualified interest paid or accrued by such corporation during such taxable year to the extent that the amount of such disqualified interest is not greater than such excess.

"(2) DISALLOWED AMOUNT CARRIED TO SUCCEEDING TAXABLE YEAR.—Any amount disallowed under paragraph (1) for any taxable year shall be treated as disqualified interest paid or accrued in the succeeding taxable year.

"(3) DISQUALIFIED INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'disqualified interest' means any interest paid or accrued by the taxpayer to a related person if no tax is imposed by this subtitle with respect to such interest.

"(B) EXCEPTION FOR CERTAIN EXISTING INDEBTEDNESS.—The term 'disqualified inter-

est' does not include any interest paid or accrued under indebtedness with a fixed term—

"(i) which was issued on or before July 10, 1989, or

"(ii) which was issued after such date pursuant to a written binding contract in effect on such date and all times thereafter before such indebtedness was issued.

"(4) RELATED PERSON.—For purposes of this subsection, the term 'related person' means any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

"(5) SPECIAL RULES FOR DETERMINING WHETHER INTEREST IS SUBJECT TO TAX.—

"(A) TREATMENT OF PASS-THRU ENTITIES.—In the case of any interest paid or accrued to a partnership, the determination of whether any tax is imposed by this subtitle on such interest shall be made at the partner level. Rules similar to the rules of the preceding sentence shall apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(B) INTEREST TREATED AS TAX-EXEMPT TO EXTENT OF TREATY REDUCTION.—If any treaty between the United States and any foreign country reduces the rate of tax imposed by this subtitle on any interest paid or accrued by the taxpayer to a related person, such interest shall be treated as interest on which no tax is imposed by this subtitle to the extent of the same proportion of such interest as—

"(i) the rate of tax imposed without regard to such treaty, reduced by the rate of tax imposed under the treaty, bears to

"(ii) the rate of tax imposed without regard to the treaty.

"(6) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) ADJUSTED TAXABLE INCOME.—The term 'adjusted taxable income' means the taxable income of the taxpayer, computed without regard to—

"(i) any deduction allowable under this chapter for the net interest expense, and

"(ii) the amount of any net operating loss deduction under section 172.

"(B) NET INTEREST EXPENSE.—The term 'net interest expense' means the excess (if any) of—

"(i) the interest paid or accrued by the taxpayer during the taxable year, over

"(ii) the amount of interest includible in the gross income of such taxpayer for such taxable year.

"(C) TREATMENT OF AFFILIATED GROUP.—All members of the same affiliated group (within the meaning of section 1504(a)) shall be treated as 1 taxpayer.

"(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subsection, including—

"(A) such regulations as may be appropriate to prevent the avoidance of the purposes of this subsection,

"(B) regulations providing such adjustments in the case of corporations which are members of an affiliated group as may be appropriate to carry out the purposes of this subsection, and

"(C) regulations for the coordination of this subsection with section 884."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to interest paid or accrued in taxable years beginning after July 10, 1989.

(2) SPECIAL RULE FOR DEMAND LOANS, ETC.—In the case of any demand loan (or other loan without a fixed term) which was outstanding on July 10, 1989, interest on such loan to the extent attributable to periods before September 1, 1989, shall not be treated as disqualified interest for purposes of section 163(i) of the Internal Revenue Code of 1986 (as added by subsection (a)).

SEC. 11211. LIMITATIONS ON REFUNDS DUE TO NET OPERATING LOSS CARRYBACKS OR EXCESS INTEREST ALLOCABLE TO CORPORATE EQUITY REDUCTION TRANSACTIONS.

(a) IN GENERAL.—Paragraph (1) of section 172(b) (relating to which loss may be carried) is amended by adding at the end thereof the following new subparagraph:

"(M) EXCESS INTEREST LOSS.—

"(i) IN GENERAL.—If—

"(I) there is a corporate equity reduction transaction, and

"(II) an applicable corporation has a corporate equity reduction interest loss for any loss limitation year ending after August 2, 1989,

then the corporate equity reduction interest loss shall be a net operating loss carryback and carryover to the taxable years described in subparagraphs (A) and (B), except that such loss shall not be carried back to a taxable year preceding the taxable year in which the corporate equity reduction transaction occurs.

"(ii) LOSS LIMITATION YEAR.—For purposes of clause (i) and subsection (m), the term 'loss limitation year' means, with respect to any corporate equity reduction transaction, the taxable year in which such transaction occurs and each of the 2 succeeding taxable years.

"(iii) APPLICABLE CORPORATION.—For purposes of clause (i), the term 'applicable corporation' means a C corporation—

"(I) which acquires stock, or the stock of which is acquired, in a major stock acquisition,

"(II) a corporation making distributions with respect to, or redeeming, its stock in connection with an excess distribution, or

"(III) any successor corporation of a corporation described in subclause (I) or (II).

"(iv) OTHER DEFINITIONS.—For definitions of terms used in this subparagraph, see subsection (m)."

(b) CORPORATE EQUITY REDUCTION INTEREST LOANS AND CORPORATE EQUITY REDUCTION TRANSACTION DEFINED.—Section 172 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CORPORATE EQUITY REDUCTION INTEREST LOSSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'corporate equity reduction interest loss' means, with respect to any loss limitation year, the excess (if any) of—

"(A) the net operating loss for such taxable year, over

"(B) the net operating loss for such taxable year determined without regard to any allocable interest deductions otherwise taken into account in computing such loss.

"(2) ALLOCABLE INTEREST DEDUCTIONS.—

"(A) IN GENERAL.—The term 'allocable interest deductions' means deductions allowed under this chapter for interest on the portion of any indebtedness allocable to a corporate equity reduction transaction.

"(B) METHOD OF ALLOCATION.—Except as provided in regulations and subparagraph (E), indebtedness shall be allocated to a corporate equity reduction transaction in the manner prescribed under clause (ii) of section 263A(f)(2)(A) (without regard to clause (i) thereof).

"(C) ALLOCABLE DEDUCTIONS NOT TO EXCEED INTEREST INCREASES.—Allocable interest deductions for any loss limitation year shall not exceed the excess (if any) of—

"(i) the amount allowable as a deduction for interest paid or accrued by the taxpayer during the loss limitation year, over

"(ii) the average of such amounts for the 3 taxable years preceding the taxable year in which the corporate equity reduction transaction occurred.

"(D) DE MINIMIS RULE.—A taxpayer shall be treated as having no allocable interest deductions for any taxable year if the amount of such deductions (without regard to this subparagraph) is less than $1,000,000.

"(E) SPECIAL RULE FOR CERTAIN UNFORESEEABLE EVENTS.—If an unforeseeable extraordinary adverse event occurs during a loss limitation year but after the corporate equity reduction transaction—

"(i) indebtedness shall be allocated in the manner described in subparagraph (B) to unreimbursed costs paid or incurred in connection with such event before being allocated to the corporate equity reduction transaction, and

"(ii) the amount determined under subparagraph (C)(i) shall be reduced by the amount of interest on indebtedness described in clause (i).

"(F) TRANSITION RULE.—If any of the 3 taxable years described in subparagraph (C)(ii) end on or before August 2, 1989, the taxpayer may substitute for the amount determined under such subparagraph an amount equal to the interest paid or accrued (determined on an annualized basis) during the taxpayer's taxable year which includes August 3, 1989, on indebtedness of the taxpayer outstanding on August 2, 1989.

"(3) CORPORATE EQUITY REDUCTION TRANSACTION.—

"(A) IN GENERAL.—The term 'corporate equity reduction transaction' means—

"(i) a major stock acquisition, or

"(ii) an excess distribution.

"(B) MAJOR STOCK ACQUISITION.—

"(i) IN GENERAL.—The term 'major stock acquisition' means the acquisition by a corporation pursuant to a plan of such corporation (or any group of persons acting in concert with such corporation) of stock in another corporation representing 50 percent or more (by vote or value) of the stock in such other corporation,

"(ii) EXCEPTIONS.—The term 'major stock acquisition' shall not include—

"(I) a qualified stock purchase (within the meaning of section 338) to which an election under section 338 applies, or

"(II) except as provided in regulations, an acquisition in which a corporation acquires stock of another corporation which, immediately before the acquisition, was a member of an affiliated group (within the meaning of section 1504(a)) other than the common parent of such group.

"(C) EXCESS DISTRIBUTION.—The term 'excess distribution' means the excess (if any) of—

"(i) the aggregate distributions (including redemptions) made during a taxable year by a corporation with respect to its stock, over

"(ii) the greater of—

"(I) 150 percent of the average of such distributions during the 3 taxable years immediately preceding such taxable year, or

"(II) 10 percent of the fair market value of the stock of such corporation as of the beginning of such taxable year.

"(D) RULES FOR APPLYING SUBPARAGRAPH (B).—For purposes of subparagraph (B)—

"(i) PLANS TO ACQUIRE STOCK.—All plans referred to in subparagraph (B) by any corporation (or group of persons acting in concert with such corporation) with respect to another corporation shall be treated as 1 plan.

"(ii) ACQUISITIONS DURING 24-MONTH PERIOD.—All acquisitions during any 24-month period shall be treated as pursuant to 1 plan.

"(E) RULES FOR APPLYING SUBPARAGRAPH (C).—For purposes of subparagraph (C)—

"(i) CERTAIN PREFERRED STOCK DISREGARDED.—Stock described in section 1504(a)(4), and distributions (including redemptions) with respect to such stock, shall be disregarded.

"(ii) ISSUANCE OF STOCK.—The amounts determined under clauses (i) and (ii)(I) of subparagraph (C) shall be reduced by the aggregate amount of stock issued by the corporation during the applicable period in exchange for money or property other than stock in the corporation.

"(4) OTHER RULES.—

"(A) ORDERING RULE.—For purposes of paragraph (1), in determining the allocable interest deductions taken into account in computing the net operating loss for any taxable year, taxable income for such taxable year shall be treated as having been computed by taking allocable interest deductions into account after all other deductions.

"(B) COORDINATION WITH SUBSECTION (B)(2).—In applying paragraph (2) of subsection (b), the corporate equity reduction interest loss shall be treated in a manner similar to the manner in which a foreign expropriation loss is treated.

"(C) MEMBERS OF AFFILIATED GROUPS.—Except as provided by regulations, all members of an affiliated group filing a consolidated return under section 1501 shall be treated as 1 taxpayer for purposes of this subsection and subsection (b)(1)(M).

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

"(A) for applying this subsection to successor corporations and in cases where a taxpayer becomes, or ceases to be, a member of an affiliated group filing a consolidated return under section 1501,

"(B) to prevent the avoidance of this subsection through related parties, pass-through entities, and intermediaries, and

"(C) for applying this subsection where more than 1 corporation is involved in a corporate equity reduction transaction.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to corporate equity reduction transactions occurring after August 2, 1989, in taxable years ending after August 2, 1989.

(2) EXCEPTIONS.—In determining whether a corporate equity reduction transaction has occurred after August 2, 1989, there shall not be taken into account—

(A) acquisitions or redemptions of stock, or distributions with respect to stock, occurring on or before August 2, 1989,

(B) acquisitions or redemptions of stock after August 2, 1989, pursuant to a binding written contract (or tender offer filed with the Securities and Exchange Commission) in effect on August 2, 1989, and at all times thereafter before such acquisition or redemption, or

(C) any distribution with respect to stock after August 2, 1989, which was declared on or before August 2, 1989.

Any distribution to which the preceding sentence applies shall be taken into account under section 172(m)(3)(C)(ii)(I) of the Internal Revenue Code of 1986 (relating to base period for distributions).

SEC. 11212. MISCELLANEOUS CORPORATE PROVISIONS.

(a) TREATMENT OF CERTAIN DISTRIBUTIONS BY COOPERATIVE HOUSING CORPORATIONS.—

(1) IN GENERAL.—Subsection (e) of section 216 (relating to distributions by cooperative housing corporations) is amended to read as follows:

"(e) DISTRIBUTIONS BY COOPERATIVE HOUSING CORPORATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2) or in regulations, no gain or loss shall be recognized on the distribution by a cooperative housing corporation of a dwelling unit to a stockholder who was entitled to occupy such dwelling unit by reason of his ownership of stock in such corporation.

"(2) RECAPTURE.—In the case of any distribution described in paragraph (1), the cooperative housing corporation shall include in gross income an amount equal to any depreciation or other deductions with respect to the distributed dwelling unit claimed for taxable years beginning after December 31, 1970, against income other than income from tenant-stockholders. For purposes of section 277, any amount so included shall be treated as derived from a transaction with a person other than a tenant-stockholder."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions after September 14, 1989, in taxable years ending after such date.

(b) TREATMENT OF CERTAIN LEASES BY RURAL ELECTRIC COOPERATIVES.—In the case of a rural electric cooperative described in section 1381(a)(2)(C) of the Internal Revenue Code of 1986, any interest income in connection with a transaction involving qualified leased property which was treated as a lease under section 168(i) of the Internal Revenue Code of 1986 (as in effect before the amendments made by the Tax Reform Act of 1986) or any corresponding prior provision of law shall be offset by any rental expense in connection with such transaction before allocation of such income or expense to members and nonmembers of such cooperative for purposes of such Code.

Subtitle C—Employee Benefit Provisions

PART I—REPEAL OF SECTION 89 NONDISCRIMINATION RULES

SEC. 11301. REPEAL OF SECTION 89.

(a) IN GENERAL.—Section 89 (relating to benefits provided under certain discriminatory employee benefit plans) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by striking the item relating to section 89.

SEC. 11302. RESTORATION OF PRIOR ANTIDISCRIMINATION RULES APPLICABLE TO EMPLOYEE BENEFITS.

(a) IN GENERAL.—The amendments made by subsection (c) of section 1151 of the Tax Reform Act of 1986 are hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if the amendments made by such subsection had not been enacted.

(b) CAFETERIA PLANS.—

(1) IN GENERAL.—Paragraph (1) of section 125(b) (relating to prohibition against discrimination as to eligibility to participate) is amended to read as follows:

"(1) HIGHLY COMPENSATED EMPLOYEES.—

"(A) IN GENERAL.—In the case of a highly compensated employee, subsection (a) shall not apply to any benefit attributable to a plan year unless—

"(i) the plan is available to a group of employees qualifying under a classification which is set up by the employer and which the Secretary finds not to be discriminatory in favor of highly compensated employees, and

"(ii) the plan does not discriminate in favor of highly compensated employees as to contributions and benefits.

"(B) DISCRIMINATION AS TO BENEFITS OR CONTRIBUTIONS.—For purposes of subparagraph (A)(ii), a cafeteria plan does not discriminate where qualified benefits and total benefits (or employer contributions for qualified benefits and for total benefits) do not discriminate in favor of highly compensated employees.

"(C) SPECIAL RULE FOR HEALTH BENEFITS.—For purposes of subparagraph (A)(ii), a cafeteria plan which provides health benefits does not discriminate if—

"(i) contributions under the plan on behalf of each participant include an amount which—

"(I) equals 100 percent of the cost of the health benefit coverage under the plan of the majority of the highly compensated participants similarly situated, or

"(II) equals or exceeds 75 percent of the cost of the health benefit coverage of the participant (similarly situated) having the highest cost health benefit coverage under the plan, and

"(ii) contributions or benefits under the plan in excess of those described in clause (i) bear a uniform relationship to compensation."

(2) WRITTEN PLAN.—Paragraph (1) of section 125(c) (relating to definition of cafeteria plan) is amended by striking "plan which meets the requirements of section 89(k) and" and inserting "written plan".

SEC. 11303. EFFECTIVE DATE.

The amendments made by this part shall apply to years beginning after December 31, 1988.

PART II—EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 11311. LIMITATIONS ON PARTIAL EXCLUSION OF INTEREST ON LOANS USED TO ACQUIRE EMPLOYER SECURITIES.

(a) PARTIAL INTEREST EXCLUSION AVAILABLE ONLY WHERE EMPLOYEES RECEIVE SIGNIFICANT OWNERSHIP INTEREST.—Subsection (b) of section 133 (defining securities acquisition loans) is amended by adding at the end thereof the following new paragraph:

"(6) PLAN MUST HOLD 30 PERCENT OF STOCK AFTER ACQUISITION OR TRANSFER.—

"(A) IN GENERAL.—A loan shall not be treated as a securities acquisition loan for purposes of this section unless, immediately after the acquisition or transfer referred to in subparagraph (A) or (B) of paragraph (1), respectively, the employee stock ownership plan owns at least 30 percent of—

"(i) each class of outstanding stock of the corporation issuing the employer securities, or

"(ii) the total value of all outstanding stock of the corporation.

"(B) FAILURE TO RETAIN 30 PERCENT INTEREST.—

"(i) IN GENERAL.—Subsection (a) shall not apply to any interest received with respect to a securities acquisition loan which is allocable to any period during which the employee stock ownership plan does not own

stock meeting the requirements of subparagraph (A).

"(ii) EXCEPTION.—To the extent provided by the Secretary, clause (i) shall not apply to any period if, within 90 days of the first date on which the failure occurred (or such longer period not in excess of 180 days as the Secretary may prescribe), the plan acquires stock which results in its meeting the requirements of subparagraph (A).

"(C) STOCK.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'stock' means stock other than stock described in section 1504(a)(4).

"(ii) TREATMENT OF CERTAIN RIGHTS.—The Secretary may provide that warrants, options, contracts to acquire stock, convertible debt interests and other similar interests be treated as stock for 1 or more purposes under subparagraph (A)."

(b) EMPLOYER SECURITY LOANS MAY BE HELD ONLY BY QUALIFIED LENDERS.—

(1) IN GENERAL.—Section 133(b), as amended by subsection (a), is amended by adding at the end thereof the following new paragraph:

"(7) LOANS MAY BE HELD ONLY BY QUALIFIED LENDERS.—A loan shall not be treated as a securities acquisition loan—

"(A) if such loan was originated by a person not described in subsection (a), or

"(B) for any period after such loan is first held by such a person."

(2) CONFORMING AMENDMENT.—Section 133(b)(2) is amended by striking out the last sentence.

(c) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Section 6047 (relating to information reports relating to certain trusts or annuity plans) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) EMPLOYEE STOCK OWNERSHIP PLANS.—The Secretary shall require—

"(1) any employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, an employee stock ownership plan—

"(A) which acquired stock in a transaction to which section 133 applies, or

"(B) which holds stock with respect to which section 404(k) applies to dividends paid on such stock,

"(2) any person making or holding a loan to which section 133 applies, or

"(3) both such employer or plan administrator and such person,

to make returns and reports regarding such plan, transaction, or loan to the Secretary and to such other persons as the Secretary may prescribe. Such returns and reports shall be made in such form, shall be made at such time, and shall contain such information as the Secretary may prescribe."

(2) CONFORMING AMENDMENT.—Section 6652(e) is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to a return or report required under section 6047(d)."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to loans made after July 10, 1989.

(2) BINDING COMMITMENT EXCEPTION.—

(A) The amendments made by this section shall not apply to any loan which is made pursuant to a binding written commitment in effect on July 10, 1989, and at all times thereafter before such loan is made. The preceding sentence shall only apply to the extent that the proceeds of such loan are used to acquire employer securities pursuant to a written binding contract (or tender offer registered with the Securities and Exchange Commission) in effect on July 10, 1989, and at all times thereafter before such securities are acquired.

(B) The amendments made by this section shall not apply to any loan made on or before July 10, 1992, pursuant to a written agreement entered into on or before July 10, 1989, if such agreement evidences the intent of the borrower on a periodic basis to enter into securities acquisition loans described in section 133(b)(1)(B) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act). The preceding sentence shall apply only if one or more securities acquisition loans were made to the borrower on or before July 10, 1989.

(3) REFINANCINGS.—The amendments made by this section shall not apply to loans made after July 10, 1989, to refinance securities acquisition loans made on or before such date or to refinance loans described in paragraph (2) if—

(A) such loans meet the requirements of section 133 of the Internal Revenue Code of 1986 (as in effect before such amendments) applicable to such loans,

(B) immediately after the refinancing the principal amount of the loan resulting from the refinancing does not exceed the principal amount of the refinanced loan (immediately before the refinancing),

(C) the term of such loan does not extend beyond the later of—

(i) the last day of the term of the original securities acquisition loan, or

(ii) the last day of the 7-year period beginning on the date the original securities acquisition loan was made, and

(D) the original securities acquisition loan which was originated by a person who was eligible to exclude 50 percent of the income received by such person under section 133(a) of such Code.

SEC. 11312. LIMITATIONS ON DEDUCTIONS FOR DIVIDENDS PAID ON EMPLOYER SECURITIES.

(a) IN GENERAL.—Subsection (k) of section 404 is amended to read as follows:

"(k) DEDUCTION FOR DIVIDENDS PAID ON CERTAIN EMPLOYER SECURITIES.—

"(1) GENERAL RULE.—In the case of a corporation, there shall be allowed as a deduction for a taxable year the amount of any applicable dividend paid in cash by such corporation during the taxable year with respect to applicable employer securities. Such deduction shall be in addition to the deductions allowed under subsection (a).

"(2) APPLICABLE DIVIDEND.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable dividend' means any dividend which, in accordance with the plan provisions—

"(i) is paid in cash to the participants in the plan or their beneficiaries,

"(ii) is paid to the plan and is distributed in cash to participants in the plan or their beneficiaries not later than 90 days after the close of the plan year in which paid, or

"(iii) is used to make payments on a loan described in subsection (a)(9) the proceeds of which were used to acquire the employer securities (whether or not allocated to participants) with respect to which the dividend is paid.

"(B) LIMITATIONS ON DIVIDENDS.—A dividend shall be treated as an applicable dividend only if—

"(i) the record date of such dividend occurs during any period during which the plan owns stock meeting the requirements of section 133(b)(6)(A) (determined after application of the rules under section 133(b)(6)(B)(ii)), and

"(ii) in the case of any dividend described in subparagraph (A)(iii) which is paid with respect to any employer security which is allocated to a participant, the plan provides that employer securities with a fair market value of not less than the amount of such dividend are allocated to such participant for the year which (but for subparagraph (A)) such dividend would have been allocated to such participant.

"(3) APPLICABLE EMPLOYER SECURITIES.—For purposes of this subsection, the term 'applicable employer securities' means, with respect to any dividend, employer securities—

"(A) which—

"(i) were acquired by, or transferred to, the employee stock ownership plan in a transaction to which section 133 applied, or

"(ii) were transferred to such plan from another employee stock ownership plan which acquired such securities in such a transaction, and

"(B) which are held on the record date for such dividend by an employee stock ownership plan which is maintained by—

"(i) the corporation paying such dividend, or

"(ii) any other corporation which is a member of a controlled group of corporations (within the meaning of section 409(l)(4)) which includes such corporation.

"(4) TIME FOR DEDUCTION.—

"(A) IN GENERAL.—The deduction under paragraph (1) shall be allowable in the taxable year of the corporation in which the dividend is paid or distributed to a participant or his beneficiary.

"(B) REPAYMENT OF LOANS.—In the case of an applicable dividend described in clause (iii) of paragraph (2)(A), the deduction under paragraph (1) shall be allowable in the taxable year of the corporation in which such dividend is used to repay the loan described in such clause.

"(5) OTHER RULES.—For purposes of this subsection—

"(A) DISALLOWANCE OF DEDUCTION.—The Secretary may disallow the deduction under paragraph (1) for any dividend if the Secretary determines that such dividend constitutes, in substance, an evasion of taxation.

"(B) PLAN QUALIFICATION.—A plan shall not be treated as violating the requirements of section 401, 409, or 4975(e)(7), or as engaging in a prohibited transaction for purposes of section 4975(d)(3), merely by reason of any payment or distribution described in paragraph (2)(A).

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) EMPLOYER SECURITIES.—The term 'employer securities' has the meaning given such term by section 409(l).

"(B) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' has the meaning given such term by section 4975(e)(7). Such term includes a tax credit employee stock ownership plan (as defined in section 409)."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to employer securities acquired after July 10, 1989.

(2) SECURITIES ACQUIRED WITH CERTAIN LOANS.—The amendment made by this section shall not apply to employer securities acquired after July 10, 1989, with the proceeds of loans described in paragraph (2) of subsection (d) of section 11311 (whether or

not such loans meet the requirements of section 133 of the Internal Revenue Code of 1986).

SEC. 11313. 3-YEAR HOLDING PERIOD REQUIRED BEFORE SECTION 1042 SALE.

(a) IN GENERAL.—Section 1042(b) (relating to requirements to qualify for nonrecognition) is amended by adding at the end thereof the following new paragraph:

"(4) 3-YEAR HOLDING PERIOD.—The taxpayer's holding period with respect to the qualified securities is at least 3 years (determined as of the time of the sale)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales after July 10, 1989.

SEC. 11314. REPEAL OF CERTAIN PROVISIONS RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS.

(a) ESTATE TAX DEDUCTION.—

(1) IN GENERAL.—Section 2057 (relating to sales of employer securities to employee stock ownership plans or worker-owned corporations) is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 409(n) is amended—

(i) by striking "or section 2057" each place it appears,

(ii) by striking "or any decedent if the executor of the estate of such decedent makes a qualified sale to which section 2057 applies" in subparagraph (A)(i) thereof, and

(iii) by striking "or the decedent" in subparagraph (A)(ii) thereof.

(B) Paragraphs (2)(C)(i) and (3)(A)(ii) of section 409(n) are each amended by striking "or section 2057".

(C)(i) Section 4978A is hereby repealed.

(ii) Section 4978(b)(2) is amended by striking "(determined as if such securities were disposed of in the order described in section 4978A(e))." and inserting "determined as if such securities were disposed of—

"(A) first, from qualified securities to which section 1042 applied acquired during the 3-year period ending on the date of the disposition, beginning with the securities first so acquired, and

"(B) then from any other employer securities.

If subsection (d) applies to a disposition, the disposition shall be treated as made from employer securities in the opposite order of the preceding sentence."

(iii) The table of sections for chapter 43 is amended by striking the item relating to section 4978A.

(D) Section 4979A is amended—

(i) by striking "or section 2057" in subsection (b)(1), and

(ii) by striking "or section 2057(d)" in subsection (c)(2).

(E) The table of sections for part IV of subchapter A of chapter 11 is amended by striking the item relating to section 2057.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying after July 12, 1989.

(b) LIABILITY FOR PAYMENT OF ESTATE TAX.—

(1) IN GENERAL.—Section 2210 (relating to liability for payment in case of transfer of employer securities) is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 2002 is amended by striking "Except as provided in section 2210, the" and inserting "The".

(B) Section 6018 is amended by striking subsection (c).

(C) The table of sections for subchapter C of chapter 11 is amended by striking the item relating to section 2210.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to estates of decedents dying after July 12, 1989.

(c) LIMITATIONS ON DEFINED CONTRIBUTION PLANS.—

(1) IN GENERAL.—Paragraph (6) of section 415(c) is amended to read as follows:

"(6) SPECIAL RULE FOR EMPLOYEE STOCK OWNERSHIP PLANS.—If no more than one-third of the employer contributions to an employee stock ownership plan (as described in section 4975(e)(7)) for a year which are deductible under paragraph (9) of section 404(a) are allocated to highly compensated employees (within the meaning of section 414(q)), the limitations imposed by this section shall not apply to—

"(A) forfeitures of employer securities (within the meaning of section 409) under such an employee stock ownership plan if such securities were acquired with the proceeds of a loan (as described in section 404(a)(9)(A)), or

"(B) employer contributions to such an employee stock ownership plan which are deductible under section 404(a)(9)(B) and charged against the participant's account."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after July 12, 1989.

(d) SPECIAL RULES RELATING TO NET OPERATING LOSSES.—

(1) IN GENERAL.—Section 382(l)(3) is amended by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to acquisitions of employer securities after July 12, 1989, except that such amendments shall not apply to acquisitions after July 12, 1989, pursuant to a written binding contract in effect on July 12, 1989, and at all times thereafter before such acquisition.

PART III—TAX TREATMENT OF RETIREE HEALTH ACCOUNTS

SEC. 11321. ONE-TIME TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) GENERAL RULE.—If there is a qualified transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to a health benefits account which is part of such plan—

(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 of the Internal Revenue Code of 1986 solely by reason of such transfer (or any other action authorized under this section),

(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer, and such transfer shall not be treated as an employer reversion for purposes of section 4980 of such Code, and

(3) the limitations of subsection (d) shall apply to such employer.

(b) QUALIFIED TRANSFER.—For purposes of this section—

(1) IN GENERAL.—The term "qualified transfer" means a transfer of excess pension assets to a health benefits account—

(A) which occurs before January 1, 1992, and in a plan year beginning after December 31, 1989, and

(B) with respect to which—

(i) the requirements of subsection (c) are met (relating to use of transferred assets), and

(ii) the requirements of paragraph (3) are met (relating to accrued pension benefits).

(2) LIMITATIONS ON QUALIFIED TRANSFERS.—

(A) ONLY 1 TRANSFER.—No more than 1 transfer with respect to any plan may be treated as a qualified transfer for purposes of this section.

(B) MAXIMUM AMOUNT TRANSFERRED.—The amount of excess pension assets which may be transferred in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay out of such account for qualified current retiree health liabilities.

(C) QUALIFIED CURRENT RETIREE HEALTH LIABILITIES.—For purposes of this section—

(i) IN GENERAL.—The term "qualified current retiree health liabilities" means the aggregate amounts (excluding administrative expenses) which would have been allowable as a deduction to the employer for taxable years beginning in 1990 and 1991 with respect to applicable health benefits provided during such taxable years if—

(I) such benefits were provided directly by the employer, and

(II) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) of such Code shall apply.

(ii) APPLICABLE HEALTH BENEFITS.—For purposes of clause (i), the term "applicable health benefits" means health benefits provided under 1 or more health plans maintained by the employer to employees of such employer (whether or not eligible for pension benefits under the defined benefit plan) who have retired on or before the date of the qualified transfer.

(iii) AMOUNTS PAID BEFORE TRANSFER.—For purposes of clause (i), there shall not be taken into account the amount of any liabilities which the employer paid before the date of the qualified transfer.

(3) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—The requirements of this paragraph are met if—

(A) the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable, and

(B) annuities are purchased to provide pension benefits under the plan,

in the same manner which would be required if the plan had terminated immediately before the qualified transfer.

(c) RESTRICTIONS ON USE OF TRANSFERRED ASSETS.—

(1) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities.

(2) AMOUNTS NOT USED TO PAY FOR HEALTH BENEFITS.—Any assets transferred to a health benefits account in a qualified transfer which are not used as provided in paragraph (1)—

(A) shall be transferred out of the account to the transferor plan,

(B) shall be treated as distributed to the employer on the last day of the employer's last taxable year beginning in 1991,

(C) shall be includible in the gross income of the employer for such taxable year, and

(D) shall be treated, for purposes of section 4980 of such Code, as an employer reversion which occurs on such day.

(d) LIMITATIONS ON EMPLOYER.—For purposes of the Internal Revenue Code of 1986—

(1) DEDUCTION LIMITATIONS.—No deduction shall be allowed—

(A) for the transfer of any amount to a health benefits account in a qualified transfer,

(B) for qualified current retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for taxable years beginning in 1990 or 1991 to the extent such amounts are not greater than the excess (if any) of—

(i) the amount determined under subparagraph (A) (and income allocable thereto), over

(ii) the amount determined under subparagraph (B).

(2) NO CONTRIBUTIONS ALLOWED.—An employer may not contribute after December 31, 1989, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1) of such Code) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).

(3) FULL FUNDING LIMITATION.—In the case of the plan year in which the qualified transfer occurs, and each of the succeeding 4 plan years, subclause (I) of section 412(c)(7)(A)(i) of such Code shall be applied by substituting "140 percent" for "150 percent".

(e) DEFINITION AND SPECIAL RULES.—For purposes of this section—

(1) EXCESS PENSION ASSETS.—The term "excess pension assets" means the excess (if any) of—

(A) the amount determined under section 412(c)(7)(A)(ii) of such Code, over

(B) the amount determined under section 412(c)(7)(A)(i) of such Code by substituting "140 percent" for "150 percent" in subclause (I) thereof.

(2) HEALTH BENEFITS ACCOUNT.—The term "health benefits account" means an account established and maintained under section 401(h) of such Code.

(3) ORDERING RULE.—Amounts paid as provided in subsection (c)(1) shall be treated as—

(A) first paid from income allocable to transferred assets, and

(B) then paid from transferred assets.

SEC. 11322. LIMITATION ON CONTRIBUTIONS TO SECTION 401(h) ACCOUNTS.

(a) IN GENERAL.—Section 401(h) is amended by adding at the end thereof the following new sentence: "In no event shall the requirements of paragraph (1) be treated as met if the aggregate actual contributions for medical benefits, when added to actual contributions for life insurance protection under the plan, exceed 25 percent of the total actual contributions to the plan (other than contributions to fund past service credits) after the date on which the account is established."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1989.

PART IV—TREATMENT OF BENEFITS PROVIDED UNDER DISCRIMINATORY EMPLOYEE BENEFIT PLANS

SEC. 11331. EMPLOYEE HEALTH PLANS.

(a) IN GENERAL.—Section 106 (relating to contributions by employer to accident and health plans) is amended—

(1) by inserting before "Gross income" the following: "(a) EXCLUSION FROM GROSS INCOME.—", and

(2) by adding at the end the following new subsection:

"(b) TREATMENT OF BENEFITS PROVIDED UNDER DISCRIMINATORY HEALTH PLANS.—

"(1) INCLUSION IN INCOME.—Notwithstanding subsection (a), gross income of a highly compensated employee who is a participant in a discriminatory health plan during any taxable year shall include an amount equal to the employee's employer-provided benefit under the plan during the taxable year.

"(2) DISCRIMINATORY HEALTH PLAN.—For purposes of this subsection, the term 'discriminatory health plan' means any health plan unless—

"(A) the plan is available on the same terms and conditions to a nondiscriminatory group, and

"(B) in the case of a plan maintained by a professional service organization, the plan does not disproportionately benefit highly compensated employees.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) NONDISCRIMINATORY GROUP.—

"(i) IN GENERAL.—The term 'nondiscriminatory group' means any group of employees qualifying under eligibility requirements which are set up by the employer and which do not result in significant discrimination in favor of highly compensated employees.

"(ii) SAFE HARBOR.—Any group of employees shall be treated as a nondiscriminatory group if—

"(I) at least 50 percent of the group consists of employees who are not highly compensated employees, and

"(II) in the case of a plan maintained by a professional service organization or a large employer, the group includes more than 25 percent of the employer's employees who are not highly compensated employees or the employer makes core health coverage available to a significant portion of employees who are not highly compensated employees.

"(B) EMPLOYER-PROVIDED BENEFIT.—

"(i) IN GENERAL.—An employee's employer-provided benefit under any health plan for any taxable year is the value of the coverage provided during the taxable year to or on behalf of the employee to the extent attributable to contributions made by the employer.

"(ii) VALUE OF COVERAGE.—The value of the coverage provided by any health plan shall be determined in substantially the same manner as costs under a health plan are determined under section 4980B(f)(4).

"(iii) INDIVIDUALLY RATED PLANS.—In the case of a health plan of a small employer (as defined in section 414(u)(2)) with respect to which costs are individually rated, the employer may elect to determine the value under clause (ii) of the coverage under the plan for all employees on the basis of the average cost for employees with the same coverage.

"(iv) SALARY REDUCTION ARRANGEMENTS.—Any contribution by reason of a salary reduction arrangement under a cafeteria plan shall be treated as an employer contribution.

"(C) HEALTH PLAN.—The term 'health plan' means an accident or health plan within the meaning of section 105(e). The term shall not include a plan maintained by a church for church employees. For purposes of the preceding sentence, the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).

"(D) HIGHLY COMPENSATED EMPLOYEE.—The term 'highly compensated employee' has the meaning given such term by section 414(q), except that paragraph (5)(B) of such section shall not apply.

"(E) LARGE EMPLOYER.—The term 'large employer' means any employer which employs more than 100 employees (determined without regard to section 414(u)).

"(F) PROFESSIONAL SERVICE ORGANIZATION.—The term 'professional service organization' means any employer primarily providing professional services in the field of health, law, engineering, architecture, accounting, actuarial science, financial services, or consulting or in such other fields as the Secretary may prescribe.

"(4) SPECIAL RULES.—

"(A) SEPARATE LINE OF BUSINESS, ETC., EXCEPTION.—

"(i) IN GENERAL.—If—

"(I) under section 414(r), an employer is treated as operating separate lines of business for a year, or

"(II) an employer which is a State or local government (or any agency or instrumentality thereof) operates separate administrative units,

the employer may apply this subsection separately with respect to employees in each such separate line of business or separate administrative unit, as the case may be.

"(ii) OPERATING UNITS.—In applying section 414(r)(7) for purposes of this subsection, an operating unit shall be treated as in a separate geographic area from another unit if the units are at least 35 miles apart.

"(iii) SEPARATE ADMINISTRATIVE UNITS.—An administrative unit shall not be treated as a separate administrative unit unless the requirements of section 414(r)(2) are met (determined by substituting 'administrative unit' for 'line of business' each place it appears).

"(B) TREATMENT OF UNION EMPLOYEES.—

"(i) IN GENERAL.—In the case of a qualified bargaining unit, the employees in the unit shall be excluded from consideration under this subsection.

"(ii) QUALIFIED BARGAINING UNIT.—For purposes of clause (i), the term 'qualified bargaining unit' means any unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employers if—

"(I) there is evidence that health benefits were the subject of good faith bargaining between the employee representatives and the employer or employers, and

"(II) not more than a de minimis number of employees in the unit perform professional services in the field of health, law, engineering, architecture, accounting, actuarial science, financial services, or consulting or in such other fields as the Secretary may prescribe.

In the case of an employer which is a State or local government (or agency or instrumentality thereof), subclause (II) shall be treated as satisfied if not more than 25 percent of the employees in the unit are highly compensated employees.

"(C) TREATMENT OF FORMER EMPLOYEES.—

"(i) IN GENERAL.—This subsection shall be applied separately to former employees.

"(ii) FORMER EMPLOYEES SEPARATING BEFORE 1990.—This subsection shall not apply to any former employee who was separated from service before January 1, 1990 (and who was not reemployed on or after such date).

"(D) EXEMPTION OF CERTAIN BENEFITS.—

"(i) DISABILITY COVERAGE.—This subsection shall not apply to any disability coverage other than disability coverage the benefits of which are excludable from gross income under subsection (b) or (c) of section 105.

"(ii) ACCIDENTAL DEATH AND DISMEMBERMENT BENEFITS.—In the case of accidental death and dismemberment benefits—

"(I) this subsection shall not apply, and

"(II) rules similar to the rules of section 79(d) shall apply to the benefits.

"(E) EMPLOYERS WITH ONLY HIGHLY COMPENSATED EMPLOYEES.—This subsection shall not apply to any health plan for any year if the only employees of the employer maintaining the plan are highly compensated employees.

"(F) TREATMENT OF LEASED EMPLOYEES.—

"(i) DELAY.—In the case of years beginning before January 1, 1993, subsection (n) of section 414 shall not apply for purposes of this section.

"(ii) NO DELAY WHERE SERVICE RECIPIENT PROVIDES PROFESSIONAL SERVICES.—In any case where the person for whom the services are performed is engaged in providing professional services referred to in paragraph (3)(F), clause (i) shall not apply.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.

"(6) CROSS REFERENCE.—

"For excludable employees, see section 414(u)."

(b) EXCISE TAX ON HEALTH PLANS FAILING TO SATISFY CERTAIN REQUIREMENTS.—

(1) IN GENERAL.—Chapter 43 is amended by adding at the end the following new section:

"SEC. 4980C. FAILURE TO SATISFY CERTAIN REQUIREMENTS WITH RESPECT TO EMPLOYEE HEALTH PLANS.

"(a) IMPOSITION OF TAX.—

"(1) GENERAL RULE.—There is hereby imposed a tax equal to 10 percent of the amounts paid or incurred during any taxable year under a health plan (within the meaning of section 106(b)(3)) which at any time during the taxable year does not meet the requirements of subsection (c).

"(2) LIABILITY FOR TAX.—The following shall be liable for the tax imposed by paragraph (1):

"(A) In the case of a plan other than a multiemployer plan, the employer.

"(B) In the case of a multiemployer plan, the plan.

"(b) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (a)(2) knew, or exercising reasonable diligence would have known, that the failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 180 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) the failure was due to reasonable cause and not to willful neglect, and

"(B) the failure is corrected during the 180-day period beginning on the 1st date any of the persons referred to in subsection (a)(2) knew, or exercising reasonable diligence would have known, that the failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of the tax would be excessive relative to the failure involved.

"(c) REQUIREMENTS.—A health plan does not meet the requirements of this subsection unless, except to the extent provided in regulations—

"(1) the plan is in writing,

"(2) the employee's rights under the plan are legally enforceable,

"(3) employees are provided reasonable notification of benefits available in the plan,

"(4) the plan is maintained for the exclusive benefit of employees, and

"(5) the plan was established with the intention of being maintained for an indefinite period of time.

In the case of a plan maintained by a small employer (as defined in section 414(u)(2)), the requirements of paragraph (1) shall be treated as met if the plan consists of an insurance policy issued by a third party insurer.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end the following new item:

"Sec. 4980C. Failure to satisfy certain requirements with respect to employee health plans."

(c) EXCLUDED EMPLOYEES.—Section 414 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

"(u) EXCLUDED EMPLOYEES.—

"(1) IN GENERAL.—The following employees may be excluded from consideration under section 106(b):

"(A) Employees who have not completed 6 months of service. An employee may be excluded from consideration until the 1st day of the 1st month (or 1st day of a period of less than 31 days specified by the plan) beginning after completion of the period of service required under the preceding sentence.

"(B) Employees who normally work less than 30 hours per week.

"(C) Employees who normally work during not more than 6 months during any year.

"(D) Employees who have not attained age 21.

"(E) Employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

"(F) Employees who are students if—

"(i) the students are performing services described in section 3121(b)(10), and

"(ii) core health coverage is made available to the students by the employer.

"(G) Individuals who have attained the age of 55 and—

"(i) who are enrolled in a federally subsidized program under title V of the Older Americans Act, or

"(ii) whose employment is funded under a grant or cooperative agreement made pursuant to the Environmental Programs Assistance Act of 1984.

"(H) Individuals who are students employed under a cooperative education program which is qualified, or would be qualified, under title VIII of the Higher Education Act of 1965.

"(I) Individuals who perform services at a rehabilitation facility and—

"(i) who are holding a certificate issued pursuant to section 14(c) of the Fair Labor Standards Act of 1938, or

"(ii) who are receiving benefits under section 223 or title XVI of the Social Security Act.

"(J) Individuals who are imprisoned in a correctional facility operated by or for the United States or a State (or political subdivision thereof) and who are performing services under a program operated by or for the facility.

"(K) Individuals who are performing services under any other Federal or State subsidized program similar to a program referred to in subparagraph (G), (H), (I), or (J) and specified by the Secretary.

(L) Individuals who are permanently and totally disabled (within the meaning of section 151(c)(5)(C)) performing services at a sheltered workshop (as defined in section 151(c)(5)(B)).

Subparagraphs (A), (B), (C), and (D) shall be applied by substituting a shorter period of service, small number of hours or months, or lower age specified in the plan for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph.

"(2) SPECIAL RULE FOR CERTAIN EMPLOYEES OF SMALL EMPLOYERS.—

"(A) IN GENERAL.—In the case of a small employer, there shall be excluded from consideration under section 106(b) any employee if—

"(i) a third party insurer providing coverage under the health plan determines that the employee is medically uninsurable under customary and reasonable standards, and

"(ii) such requirements as the Secretary may prescribe are met with respect to the exclusion.

"(B) SMALL EMPLOYER.—For purposes of this paragraph, the term 'small employer' means an employer which employs 20 or fewer employees (determined without regard to paragraph (1) but with regard to subsection (t))."

SEC. 11332. CONFORMING AMENDMENTS.

(a) EXCLUDED EMPLOYEES.—

(1) Subparagraph (B) of section 79(d)(3) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

"(B) EXCLUSION OF CERTAIN EMPLOYEES.—For purposes of subparagraph (A), there shall be excluded from consideration—

"(i) employees who may be excluded from consideration under rules similar to the rules of section 414(u), determined—

"(I) by substituting '1 year' for '6 months' in paragraph (1)(A) thereof, and

"(II) without regard to paragraph (2) thereof, and

"(ii) employees not included in the plan who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employers, if the benefits provided under the plan were the subject of good faith bargaining between such representatives and employers."

(2) Sections 117(d)(4) and 125(b)(3) are each amended by striking "section 89(h)" and inserting "rules similar to the rules of section 414(u) (determined by substituting '1 year' for '6 months' in paragraph (1)(A) thereof and without regard to paragraph (2) thereof)".

(3) Paragraph (2) of section 120(c) is amended to read as follows:

"(2) ELIGIBILITY.—

"(A) IN GENERAL.—The plan shall benefit employees who qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in

favor of employees who are described in paragraph (1).

"(B) EXCLUDED EMPLOYEES.—For purposes of subparagraph (A), there shall be excluded from consideration employees—

"(i) who may be excluded from consideration under rules similar to the rules of section 414(u), determined—

"(I) by substituting '1 year' for '6 months' in paragraph (1)(A) thereof, and

"(II) without regard to paragraph (2) thereof, and

"(ii) employees who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employers, if there is evidence that group legal services plan benefits were the subject of good faith bargaining between such representatives and employees if no employees included in such a unit are included in any qualified group legal services plan of the employer."

(4) Paragraph (2) of section 127(b) is amended to read as follows:

"(2) ELIGIBILITY.—

"(A) IN GENERAL.—The plan shall benefit employees who qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of employees who are highly compensated employees (within the meaning of section 414(q)) or their dependents.

"(B) EXCLUDABLE EMPLOYEES.—For purposes of subparagraph (A), there shall be excluded from consideration employees—

"(i) who may be excluded from consideration under rules similar to the rules of section 414(u), determined—

"(I) by substituting '1 year' for '6 months' in paragraph (1)(A) thereof, and

"(II) without regard to paragraph (2) thereof, and

"(ii) employees who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employers, if there is evidence that educational assistance program benefits were the subject of good faith bargaining between such representatives and employers and if no employees included in such unit are included in any educational assistance program of the employer."

(5) Paragraph (8) of section 129(d) is amended to read as follows:

"(8) EXCLUDED EMPLOYEES.—For purposes of paragraphs (2), (3), and (7), there shall be excluded from consideration employees—

"(A) who may be excluded from consideration under rules similar to the rules of section 414(u), determined—

"(i) by substituting '1 year' for '6 months' in paragraph (1)(A) thereof, and

"(ii) without regard to paragraph (2) thereof, and

"(B) employees who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employers, if there is evidence that dependent care benefits were the subject of good faith bargaining between such representatives and employers if no employees included in such unit are included in any dependent care assistance program of the employer."

(6) Paragraph (1) of section 132(h) is amended by striking the last sentence and inserting the following: "For purposes of this paragraph and subsection (e), there shall be excluded from consideration employees—

"(A) who may be excluded from consideration under rules similar to the rules of section 414(u), determined—

"(i) by substituting '1 year' for '6 months' in paragraph (1)(A) thereof, and

"(ii) without regard to paragraph (2) thereof, and

"(B) employees who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employers, if there is evidence that dependent care benefits were the subject of good faith bargaining between such representatives and employers if no employees included in such unit are included in any dependent care assistance program of the employer."

(7) Paragraph (2) of section 505(b) is amended to read as follows:

"(2) EXCLUDED EMPLOYEES.—For purposes of paragraph (1), there shall be excluded from consideration employees—

"(A) who may be excluded from consideration under rules similar to the rules of section 414(u), determined—

"(i) by substituting '1 year' for '6 months' in paragraph (1)(A) thereof, and

"(ii) without regard to paragraph (2) thereof, and

"(B) employees who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employers, if there is evidence that the benefits involved were the subject of good faith bargaining between such representatives and employers and no employees included in such unit are included in any plan of the employer providing such benefits."

(b) OTHER CONFORMING AMENDMENTS.—

(1)(A)(i) Paragraph (7) of section 79(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

"(7) EXEMPTION FOR CHURCH PLANS.—This subsection shall not apply to any plan maintained by a church for church employees. For purposes of the preceding sentence, the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(ii) The amendment made by this subparagraph shall apply to years beginning after December 31, 1988.

(B) Unless the employer otherwise elects, the reference to section 79(d) in section 223(d)(2) of the Tax Reform Act of 1984 shall be treated as a reference to such section as in effect on the day before the date of the enactment of the Tax Reform Act of 1986.

(2)(A) Subparagraph (C) of section 125(c)(2) is amended by striking the last sentence.

(B) Paragraph (1) of section 125(e) is amended by striking "section 89(a)" and inserting "sections 79(d) and 106(b)".

(3) Subparagraph (B) of section 162(l)(2) is amended—

(A) by striking "89" and inserting "106(b)", and

(B) by inserting "and treating individuals who are employees within the meaning of section 401(c)(1) as employees" before the period at the end.

(4) Subparagraph (C) of section 401(a)(9) is amended—

(A) by striking "(as defined in section 89(i)(4))", and

(B) by adding at the end the following: "For purposes of this subparagraph, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(5)(A) Subparagraph (C) of section 414(n)(3) is amended by striking "89,".

(B) Paragraph (1) of section 414(r) is amended by striking "89" and inserting "106(b)".

(C) Paragraph (2) of section 414(t) is amended by striking "89,".

(6)(A) Paragraph (1) of section 505(a) is amended by striking "89" and inserting "106(b)".

(B) Paragraph (3) of section 505(b) is amended by striking "other than this subsection" and inserting "(other than this subsection or section 106(b))".

(7)(A) Sections 3121(x), 3231(e)(8), 3306(t), and 3401(g) are each amended by striking "89" and inserting "106(b)".

(B) Clause (3) of the third to the last sentence of section 209 of the Social Security Act is amended by striking "89" and inserting "106(b)".

(8)(A) Subsection (b) of section 4976 is amended by striking paragraph (5).

(B) Subparagraph (B) of section 4976(c)(1) is amended to read as follows:

"(B) a health or group-term life insurance plan is part of such fund and benefits under such plan are taxable under chapter 1 by reason of section 79(d) or 106(b),".

(C) Clause (i) of section 4976(c)(2)(A) is amended to read as follows:

"(i) the aggregate benefits referred to in paragraph (1)(B), or".

(D) Clause (ii) of section 4976(c)(2)(A) is amended by striking "such testing year" and inserting "the plan year".

(E) Section 4976(c) is amended by adding at the end the following new paragraph:

"(3) TAX NOT TO APPLY IF AMOUNTS REPORTED ON W-2 FORMS.—No tax shall be imposed under paragraph (1) for any plan year if the employer meets the requirements of section 6051(g) for such year."

(9) Section 6051 is amended by adding at the end the following new subsection:

"(g) REPORTING REQUIREMENTS FOR CERTAIN TAXABLE FRINGE BENEFITS.—

"(1) IN GENERAL.—If an employee of an employer maintaining any plan is required to include any amount in gross income under section 79(d) or 106(b) for any year ending with or within a calendar year, the employer shall separately include such amount on the statement which the employer is required to provide the employee under subsection (a) (and any statement required to be furnished under subsection (d)).

"(2) PENALTY.—

"For penalty for failure to report, see section 6652(k)."

(10)(A) Paragraph (1) of section 6652(k) is amended by striking "89(l)" and inserting "6051(g)".

(B) Paragraph (2) of section 6652(k) is amended by striking subparagraph (B) and inserting the following:

"(B) an amount which bears the same ratio to the employer-provided benefit with respect to the individual to whom such failure relates as the amount required to be but not shown on timely statements under sections 6051(a) and 6051(d) bears to the amount required to be shown.

For purposes of subparagraph (B), the term 'employer-provided benefit' means the employer-provided benefit determined under section 106(b) in the case of a health benefit

and the cost of insurance determined under section 79(d)(1)(B) in case of a plan providing group-term life insurance."

(11) Sections 3021(c) and 6070 of the Technical and Miscellaneous Revenue Act of 1988 are hereby repealed.

SEC. 11333. EFFECTIVE DATES; REGULATIONS.

(a) IN GENERAL.—Except as otherwise provided in this part, the amendments made by this part shall apply to years beginning after December 31, 1989.

(b) SPECIAL RULES.—

(1) COLLECTIVE BARGAINING PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before July 10, 1989, the amendments made by this part (and the amendments made by section 1151 of the Tax Reform Act of 1986) shall not apply to employees covered by such an agreement in years beginning before the earlier of—

(A) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after July 10, 1989), or

(B) January 1, 1993.

(2) STATE AND LOCAL PLANS.—In the case of a plan established and maintained for its employees by any State or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing, the amendments made by this part (and the amendments made by section 1151 of the Tax Reform Act of 1986) shall not apply to plan years beginning before January 1, 1992.

(c) REGULATIONS.—The Secretary of the Treasury (or the delegate of the Secretary) shall prescribe regulations to carry out the amendments made by this part not later than the date 6 months after the date of the enactment of this Act.

PART V—MISCELLANEOUS PROVISIONS

SEC. 11341. OTHER PROVISIONS RELATING TO NONTAXABLE BENEFITS.

(a) DEPENDENT CARE ASSISTANCE.—Paragraph (1) of section 129(d) (defining dependent care assistance program) is amended by adding at the end the following new sentence:

"If any plan described in subparagraph (A) fails to meet the requirements referred to in subparagraph (B), notwithstanding such failure, such plan shall be treated as a dependent care assistance program in the case of employees who are not highly compensated employees."

(b) GROUP-TERM LIFE INSURANCE.—

(1) HIGHLY COMPENSATED EMPLOYEES.—

(A) Section 79(d) is amended by striking "key" each place it appears (other than paragraph (6)) and inserting "highly compensated".

(B) Paragraph (6) of section 79(d) is amended to read as follows:

"(6) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subsection, the term 'highly compensated employee' has the meaning given such term by section 414(q)."

(2) COMPENSATION LIMIT.—Paragraph (5) of section 79(d) is amended by adding at the end the following new sentence: "For purposes of the preceding sentence, compensation for any year shall not be taken into account for such year to the extent it exceeds the amount in effect under section 401(a)(17) for such year."

(c) APPLICATION OF LINE OF BUSINESS TEST FOR PERIOD BEFORE GUIDELINES ISSUED.—In the case of any plan year beginning on or before the date the Secretary of the Treasury (or the delegate of the Secretary) issues guidelines under section 414(r)(2)(C) of the Internal Revenue Code of 1986 (and begins issuing determination letters with respect to such section), an employer meeting the requirements of subparagraphs (A) and (B) of section 414(r)(2) of such Code with respect to a line of business may treat it as a separate line of business if the employer reasonably determines it to be separate.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to years beginning after December 31, 1988.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to years beginning after December 31, 1989 (December 31, 1990, in the case of an employer making an election under section 11302(f)(2)).

(3) SUBSECTION (c).—The provisions of subsection (c) shall apply to years beginning after December 31, 1986.

Subtitle D—Foreign Provisions

SEC. 11401. TAXABLE YEAR OF CERTAIN FOREIGN CORPORATIONS.

(a) GENERAL RULE.—Subpart D of part II of subchapter N of chapter 1 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 898. TAXABLE YEAR OF CERTAIN FOREIGN CORPORATIONS.

"(a) GENERAL RULE.—For purposes of this title, the taxable year of any specified foreign corporation shall be the required year determined under subsection (c).

"(b) SPECIFIED FOREIGN CORPORATION.—For purposes of this section, the term 'specified foreign corporation' means any foreign corporation which is—

"(1) treated as a controlled foreign corporation for any purpose under subpart F of part III of this subchapter, or

"(2) a foreign personal holding company (as defined in section 552).

"(c) DETERMINATION OF REQUIRED YEAR.—

"(1) CONTROLLED FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—In the case of a specified foreign corporation described in subsection (b)(1), the required year is—

"(i) the majority U.S. shareholder year, or

"(ii) if there is no majority U.S. shareholder year, the taxable year prescribed under regulations.

"(B) MAJORITY U.S. SHAREHOLDER YEAR.—

"(i) IN GENERAL.—For purposes of this subsection, the term 'majority U.S. shareholder year' means the taxable year (if any) which, on each testing day, constituted the taxable year of 1 or more United States shareholders owning (on such day) stock in the foreign corporation with an aggregate value of more than 50 percent of the total value of the stock in such corporation owned (on such day) by all United States shareholders.

"(ii) CONSTRUCTIVE OWNERSHIP RULES.—The rules of section 958(a) shall apply in determining ownership for purposes of clause (i).

"(iii) TESTING DAY.—The testing days shall be—

"(I) the first day of the corporation's taxable year (determined without regard to this section), or

"(II) the days during such representative period as the Secretary may prescribe.

"(C) UNITED STATES SHAREHOLDER.—For purposes of this paragraph, the term 'United States shareholder' has the meaning given to such term by section 951(b), except that, in the case of a foreign corporation having related person insurance income (as defined in section 953(c)(2)), the Secretary may treat any person as a United States shareholder for purposes of this paragraph if such person is treated as a United States shareholder under section 953(c)(1).

"(2) FOREIGN PERSONAL HOLDING COMPANIES.—In the case of a specified foreign corporation which is described in subsection (b)(2) but is not described in subsection (b)(1), the required year shall be determined under paragraph (1) with the following modifications:

"(A) The term 'United States shareholder' means any person who is treated as a United States shareholder under section 551.

"(B) The rules of section 551(f) shall apply in lieu of the rules of section 958(a)."

(b) TREATMENT OF DIVIDENDS PAID AFTER CLOSE OF TAXABLE YEAR.—

(1) IN GENERAL.—Section 563 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) FOREIGN PERSONAL HOLDING COMPANY TAX.—

"(1) IN GENERAL.—In the determination of the dividends paid deduction for purposes of part III, a dividend paid after the close of any taxable year and on or before the 15th day of the 3rd month following the close of such taxable year shall, to the extent the company designates such dividend as being taken into account under this subsection, be considered as paid during such taxable year. The amount allowed as a deduction by reason of the application of this subsection with respect to any taxable year shall not exceed the undistributed foreign personal holding company income of the corporation for the taxable year computed without regard to this subsection.

"(2) SPECIAL RULES.—In the case of any distribution referred to in paragraph (1)—

"(A) paragraph (1) shall apply only if such distribution is to the person who was the shareholder of record (as of the last day of the taxable year of the foreign personal holding company) with respect to the stock for which such distribution is made,

"(B) the determination of the person required to include such distribution in gross income shall be made under the principles of section 551(f), and

"(C) the person required to include such distribution in gross income shall include such distribution in income for such person's taxable year in which the taxable year of the foreign personal holding company ends."

(2) CONFORMING AMENDMENT.—Subsection (d) of section 563 (as redesignated by paragraph (1)) is amended by striking "subsection (a) or (b)" and inserting "subsection (a), (b), or (c)".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 898. Taxable year of certain foreign corporations."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after July 10, 1989.

(2) SPECIAL RULES.—If any foreign corporation is required by the amendments made by this section to change its taxable year for its first taxable year beginning after July 10, 1989—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary of the Treasury or his delegate, and

(C) if, by reason of such change, any United States person is required to include in gross income for 1 taxable year amounts attributable to 2 taxable years of such foreign corporation, the amount which would otherwise be required to be included in gross income for such 1 taxable year by reason of the short taxable year of the foreign corporation resulting from such change shall be included in gross income ratably over the 4-taxable-year period beginning with such 1 taxable year.

SEC. 11402. LIMITATION ON USE OF DECONSOLIDATION TO AVOID FOREIGN TAX CREDIT LIMITATIONS.

(a) GENERAL RULE.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) LIMITATION ON USE OF DECONSOLIDATION TO AVOID FOREIGN TAX CREDIT LIMITATIONS.—If 2 or more domestic corporations would be members of the same affiliated group if—

"(1) section 1504(b) were applied without regard to the exceptions contained therein, and

"(2) the constructive ownership rules of section 1563(e) applied for purposes of section 1504(a),

the Secretary may by regulations provide for resourcing the income of any of such corporations or for modifications to the consolidated return regulations to the extent that such resourcing or modifications are necessary to prevent the avoidance of the provisions of this subpart."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after July 10, 1989.

SEC. 11403. INFORMATION WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS.

(a) 25-PERCENT FOREIGN-OWNED CORPORATIONS REQUIRED TO REPORT.—

(1) Paragraph (2) of section 6038A(a) is amended to read as follows:

"(2) is 25-percent foreign-owned,".

(2) Subsection (c) of section 6038A is amended to read as follows:

"(c) DEFINITIONS.—For purposes of this section—

"(1) 25-PERCENT FOREIGN-OWNED.—A corporation is 25-percent foreign-owned if at least 25 percent of—

"(A) the total voting power of all classes of stock of such corporation entitled to vote, or

"(B) the total value of all classes of stock of such corporation,

is owned at any time during the taxable year by 1 or more 10-percent foreign shareholders.

"(2) 10-PERCENT FOREIGN SHAREHOLDER.—The term '10-percent foreign shareholder' means any foreign person owning 10 percent or more of the total combined voting power of all classes of stock of the reporting corporation entitled to vote.

"(3) RELATED PARTY.—The term 'related party' means—

"(A) any 10-percent foreign shareholder of the reporting corporation,

"(B) any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the reporting corporation or to any 10-percent foreign shareholder of the reporting corporation, and

"(C) any other person who is related (within the meaning of section 482) to the reporting corporation.

"(4) FOREIGN PERSON.—The term 'foreign person' means any person who is not a United States person. For purposes of the preceding sentence, the term 'United States person' has the meaning given to such term by section 7701(a)(30), except that any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States shall not be treated as a United States person.

"(5) RECORDS.—The term 'records' includes any books, papers, or other data.

"(6) SECTION 318 TO APPLY.—Section 318 shall apply for purposes of paragraphs (1) and (2), except that—

"(A) '10 percent' shall be substituted for '50 percent' in section 318(a)(2)(C), and

"(B) subparagraphs (A), (B), and (C) of section 318(a)(3) shall not be applied so as to consider a United States person as owning stock which is owned by a person who is not a United States person."

(b) U.S. RECORDKEEPING REQUIREMENTS.—Subsection (a) of section 6038A is amended by inserting before the period at the end thereof the following: "and such corporation shall maintain in the United States (in the manner prescribed in regulations) such records as may be appropriate to determine the correct treatment of transactions with related parties as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records)".

(c) INCREASE IN PENALTY.—Subsection (d) of section 6038A is amended to read as follows:

"(d) PENALTY FOR FAILURE TO FURNISH INFORMATION OR MAINTAIN RECORDS—

"(1) IN GENERAL.—If a reporting corporation—

"(A) fails to furnish (within the time prescribed by regulations) any information described in subsection (b), or

"(B) fails to maintain (or cause another to maintain) records as required by subsection (a),

such corporation shall pay a penalty of $10,000 for each taxable year with respect to which such failure occurs.

"(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the reporting corporation, such corporation shall pay a penalty (in addition to the amount required under paragraph (1)) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period.

"(3) REASONABLE CAUSE.—For purposes of this subsection, the time prescribed by regulations to furnish information or maintain records (and the beginning of the 90-day period after notice by the Secretary) shall be treated as not earlier than the last day on which (as shown to the satisfaction of the Secretary) reasonable cause existed for failure to furnish the information or maintain the records."

(d) ENFORCEMENT OF INFORMATION REQUESTS.—Section 6038A is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ENFORCEMENT OF REQUESTS FOR CERTAIN RECORDS.—

"(1) AGREEMENT TO TREAT CORPORATION AS AGENT.—The disallowance rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's agent in applying sections 7602, 7603, and 7604 with respect to any request to examine records or produce testimony related to any such transaction or with respect to any summons for such records or testimony.

"(2) DISALLOWANCE RULES WHERE INFORMATION NOT FURNISHED.—If—

"(A) for purposes of determining the correct treatment of any transaction between the reporting corporation and a related party who is a foreign person, the Secretary issues a summons to such corporation to produce (either directly or as agent for such related party) any records or testimony,

"(B) such summons is not quashed in a proceeding begun under paragraph (4) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

"(C) the reporting corporation does not substantially comply in a timely manner with such summons,

the Secretary may apply the disallowance rules of paragraph (3) with respect to such transaction (whether or not the Secretary begins a proceeding to enforce such summons).

"(3) DISALLOWANCE RULES.—If the disallowance rules of this paragraph apply to any transaction—

"(A) no deduction shall be allowed under subtitle A for any amount paid or incurred by the reporting corporation to the related party in connection with such transaction, and

"(B) the cost to the reporting corporation of any property acquired in such transaction from the related party (or transferred by such corporation in such transaction to the related party) shall be treated as zero for purposes of subtitle A.

"(4) PROCEEDING TO QUASH.—

"(A) IN GENERAL.—Notwithstanding any law or rule of law, any reporting corporation to which the Secretary issues a summons referred to in paragraph (2)(A) shall have the right to begin a proceeding to quash such summons not later than the 90th day after such summons was issued. In any such proceeding, the Secretary may seek to compel compliance with such summons.

"(B) JURISDICTION.—The United States district court for the district in which the person (to whom the summons is issued) resides or is found shall have jurisdiction to hear any proceeding brought under subparagraph (A). An order denying the petition shall be treated as a final order which may be appealed.

"(C) SUSPENSION OF STATUTE OF LIMITATIONS.—If the reporting corporation brings an action under subparagraph (A) to quash the summons referred to in paragraph (2)(A), the running of any period of limitations under section 6501 (relating to assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to any transaction to which the summons relates shall be suspended for the period during which such proceeding, and appeals therein, are pending. In no event shall any such period expire before the 90th day after the day on which there is a final determination in such proceeding."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after July 10, 1989.

SEC. 11404. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter N of chapter 1 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 899. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

"(a) GENERAL RULE.—

"(1) TREATMENT AS EFFECTIVELY CONNECTED WITH UNITED STATES TRADE OR BUSINESS.—For purposes of this title, if any nonresident alien individual or foreign corporation is a 10-percent shareholder in any domestic corporation, any gain or loss of such individual or foreign corporation from the disposition of any stock in such domestic corporation shall be taken into account—

"(A) in the case of a nonresident alien individual, under section 871(b)(1), or

"(B) in the case of a foreign corporation, under section 882(a)(1),

as if the taxpayer were engaged in a trade or business within the United States during the taxable year and as if such gain or loss were effectively connected with such trade or business. Notwithstanding section 865, any such gain or loss shall be treated as from sources in the United States.

"(2) 21-PERCENT MINIMUM TAX ON NONRESIDENT ALIEN INDIVIDUALS.—

"(A) IN GENERAL.—In the case of any nonresident alien individual, the amount determined under section 55(b)(1)(A) shall not be less than 21 percent of the lesser of—

"(i) the individual's alternative minimum taxable income (as defined in section 55(b)(2)) for the taxable year, or

"(ii) the individual's net taxable stock gain for the taxable year.

"(B) NET TAXABLE STOCK GAIN.—For purposes of subparagraph (A), term 'net taxable stock gain' means the excess of—

"(i) the aggregate gains for the taxable year from dispositions of stock in domestic corporations with respect to which such individual is a 10-percent shareholder, over

"(ii) the aggregate of the losses for the taxable year from dispositions of such stock.

"(C) COORDINATION WITH SECTION 897(a)(2).—Section 897(a)(2)(A) shall not apply to any nonresident alien individual for any taxable year for which such individual has a net taxable stock gain, but the amount of such net taxable stock gain shall be increased by the amount of such individual's net United States real property gain (as defined in section 897(a)(2)(B)) for such taxable year.

"(b) 10-PERCENT SHAREHOLDER.—

"(1) IN GENERAL.—For purposes of this section, the term '10-percent shareholder' means any person who at any time during the shorter of—

"(A) the period after July 10, 1989, and before the date of the disposition, or

"(B) the 5-year period ending on the date of the disposition,

owned more than 10 percent (by vote or value) of the stock in the domestic corporation.

"(2) CONSTRUCTIVE OWNERSHIP.—

"(A) IN GENERAL.—Section 318(a) (relating to constructive ownership of stock) shall apply for purposes of paragraph (1).

"(B) MODIFICATIONS.—For purposes of subparagraph (A)—

"(i) paragraph (2)(C) of section 318(a) shall be applied by substituting '10 percent' for '50 percent', and

"(ii) paragraph (3)(C) of section 318 shall be applied—

"(I) by substituting '10 percent' for '50 percent', and

"(II) in any case where such paragraph would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation.

"(3) TREATMENT OF STOCK HELD BY CERTAIN PARTNERSHIPS.—

"(A) IN GENERAL.—For purposes of this section, if—

"(i) a partnership is a 10-percent shareholder in any domestic corporation, and

"(ii) more than 10 percent of the capital or profits interests in such partnership are held (directly or indirectly) by nonresident alien individuals or foreign corporations,

each partner in such partnership who is not otherwise a 10-percent shareholder in such corporation shall, with respect to the stock in such corporation held by the partnership, be treated as a 10-percent shareholder in such corporation.

"(B) VENTURE CAPITAL EXCEPTION.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to any stock in a domestic corporation held by a partnership if—

"(I) when such partnership first acquired any stock or securities in such corporation, no stock or securities in such corporation were traded on an established securities market,

"(II) at all times during the designated testing period or at the time of the disposition involved the aggregate bases of the stock and securities in such corporation held by such partnership is less than 25 percent of the partnership's net adjusted asset cost, and

"(III) at no time did the aggregate bases of stock or securities in disqualified corporations held by such partnership exceed 25 percent of the aggregate bases of all assets of the partnership other than cash and cash items.

For purposes of this paragraph, the term 'disqualified corporation' means any corporation if any stock or securities in such corporation were traded on an established securities market when the partnership first acquired any stock or securities in such corporation.

"(ii) DESIGNATED TESTING PERIOD.—For purposes of clause (i), the term 'designated testing period' means any 90-day period selected by the partnership within the shorter of—

"(I) the 5-year period ending on the date of the disposition involved, or

"(II) the period beginning on the date on which the partnership first acquired any stock or securities in the corporation and ending on the date of the disposition involved.

"(iii) NET ADJUSTED ASSET COST.—For purposes of clause (i), the term 'net adjusted asset cost' means—

"(I) the aggregate bases of all of the assets of the partnership other than cash and cash items and other than stock or securities in a disqualified corporation, reduced by

"(II) the portion of the liabilities of the partnership not allocable (on a proportionate basis) to assets excluded under subclause (I).

"(iv) SPECIAL RULES.—For purposes of this subparagraph—

"(I) the principles of section 1223 shall apply in determining when a partnership first acquired stock or securities in a corporation, and

"(II) any investment in such corporation shall be disregarded (or, if appropriate, treated as an investment in stock or securities traded on an established securities market) if 1 of the principal purposes of such investment is to avoid any limitation of this paragraph.

"(v) TREATMENT OF PREDECESSORS.—Any reference in this subparagraph to a corporation shall include a reference to any predecessor thereof.

"(C) INVESTMENT PARTNERSHIP EXCEPTION.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to stock in a domestic corporation held by any partnership if, at all times during the 5-year period ending on the date of the disposition involved—

"(I) the fair market value of the stock and securities in such domestic corporation held by such partnership was less than 25 percent of the net adjusted value of the partnership, and

"(II) the partnership did not own 50 percent or more of any class of stock issued by such domestic corporation.

The Secretary may by regulations disregard any failure to meet the requirements of subclause (I) where the company normally met such requirements during such 5-year period.

"(ii) NET ADJUSTED VALUE.—For purposes of clause (i), the term 'net adjusted value' means—

"(I) the fair market value of all of the assets of the partnership other than cash and cash items, reduced by

"(II) the portion of the liabilities of the partnership not allocable (on a proportionate basis) to assets excluded under subclause (I).

"(D) EXCEPTIONS NOT TO APPLY TO 50-PERCENT PARTNERS.—Subparagraphs (B) and (C) shall not apply in the case of any partner owning (directly or indirectly) more than 50 percent of the capital or profits interests in the partnership at any time during the 5-year period ending on the date of the disposition.

"(E) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of the preceding provisions of this paragraph shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(c) COORDINATION WITH NONRECOGNITION PROVISIONS; ETC.—

"(1) COORDINATION WITH NONRECOGNITION PROVISIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no nonrecognition provision shall apply for purposes of this section.

"(B) REGULATIONS.—The Secretary shall prescribe regulations (which are necessary or appropriate to prevent the avoidance of Federal income taxes) providing—

"(i) the extent to which nonrecognition provisions shall apply for purposes of this section, and

"(ii) the extent to which—

"(I) transfers of property in a reorganization, and

"(II) changes in interests in, or distributions from, a partnership, trust, or estate,

shall be treated as sales of property at fair market value.

"(C) NONRECOGNITION PROVISION.—For purposes of this paragraph, the term 'nonrecognition provision' means any provision of this title for not recognizing gain or loss.

"(2) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of subsections (g) and (j) of section 897 shall apply.

"(d) CERTAIN INTEREST TREATED AS STOCK.—For purposes of this section—

"(1) any option or other right to acquire stock in a domestic corporation,

"(2) the conversion feature of any debt instrument issued by a domestic corporation, and

"(3) to the extent provided in regulations, any other interest in a domestic corporation other than an interest solely as creditor,

shall be treated as stock in such corporation.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including—

"(1) regulations coordinating the provisions of this section with the provisions of section 897, and

"(2) regulations aggregating stock held by a group of persons acting together."

(b) WITHHOLDING OF TAX.—Subchapter A of chapter 3 is amended by adding at the end thereof the following new section:

"SEC. 1447. WITHHOLDING OF TAX ON CERTAIN STOCK DISPOSITIONS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of any disposition of stock in a domestic corporation by a foreign person who is a 10-percent shareholder in such corporation, the withholding agent shall deduct and withhold a tax equal to 10 percent of the amount realized on the disposition.

"(b) EXCEPTIONS.—

"(1) STOCK WHICH IS NOT REGULARLY TRADED.—In the case of a disposition of stock which is not regularly traded, a withholding agent shall not be required to deduct and withhold any amount under subsection (a) if—

"(A) the transferor furnishes to such withholding agent an affidavit by such transferor stating, under penalty of perjury, that section 899 does not apply to such disposition because—

"(i) the transferor is not a foreign person, or

"(ii) the transferor is not a 10-percent shareholder, and

"(B) such withholding agent does not know (or have reason to know) that such affidavit is not correct.

"(2) STOCK WHICH IS REGULARLY TRADED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a withholding agent shall not be required to deduct and withhold any amount under subsection (a) with respect to any disposition of regularly traded stock if such withholding agent does not know (or have reason to know) that section 899 applies to such disposition.

"(B) SPECIAL RULE WHERE SUBSTANTIAL DISPOSITION.—If—

"(i) there is a disposition of regularly traded stock in a corporation, and

"(ii) the amount of stock involved in such disposition constitutes 1 percent or more (by vote or value) of the stock in such corporation,

subparagraph (A) shall not apply but paragraph (1) shall apply as if the disposition involved stock which was not regularly traded.

"(C) NOTIFICATION BY FOREIGN PERSON.—If section 899 applies to any disposition by a foreign person of regularly traded stock, such foreign person shall notify the withholding agent that section 899 applies to such disposition.

"(3) NONRECOGNITION TRANSACTIONS.—A withholding agent shall not be required to deduct and withhold any amount under subsection (a) in any case where gain or loss is not recognized by reason of the regulations prescribed under section 899(d)(1)(B).

"(c) SPECIAL RULE WHERE NO WITHHOLDING.—If

"(1) there is no amount deducted and withheld under this section with respect to any disposition to which section 899 applies, and

"(2) the foreign person does not pay the tax imposed by this chapter to the extent attributable to such disposition on the date prescribed therefor,

for purposes of determining the amount of such tax, the foreign person's basis in the stock disposed of shall be treated as zero (and, for purposes of section 6501, the underpayment of such tax shall be treated as due to a willful attempt to evade such tax).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WITHHOLDING AGENT.—The term 'withholding agent' means—

"(A) the last United States person to have the control, receipt, custody, disposal, or payment of the amount realized on the disposition, or

"(B) if there is no such United States person, the person prescribed in regulations.

"(2) FOREIGN PERSON.—The term 'foreign person' means any person other than a United States person.

"(3) REGULARLY TRADED STOCK.—The term 'regularly traded stock' means any stock of a class which is regularly traded on an established securities market.

"(4) OTHER TERMS.—Except as provided in this section, terms used in this section shall have the same respective meanings as when used in section 899.

"(5) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1445(e) shall apply for purposes of this section.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations coordinating the provisions of this section with the provisions of sections 1445 and 1446."

(c) EXCEPTION FROM BRANCH PROFITS TAX.—Subparagraph (C) of section 884(d)(2) is amended to read as follows:

"(C) gain treated as effectively connected with the conduct of a trade or business within the United States under—

"(i) section 897 in the case of the disposition of a United States real property interest described in section 897(c)(1)(A)(ii), or

"(ii) section 899,".

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part II of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 899. Dispositions of stock in domestic corporations by 10-percent foreign shareholders."

(2) The table of sections for subchapter A of chapter 3 is amended by adding at the end thereof the following new item:

"Sec. 1447. Withholding of tax on certain stock dispositions."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dispositions after December 31, 1989; except that section 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition before the date 6 months after the date of the enactment of this Act.

(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any disposition pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter before the disposition.

(3) TREATY EXCEPTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (C), the amendments made by this section shall not apply to any disposition before July 11, 1992—

(i) if such disposition is by a qualified resident of a foreign country with which the United States has in effect a comprehensive income tax treaty, or

(ii) if the application of such amendments to such disposition would be contrary to any treaty obligation of the United States.

(B) QUALIFIED RESIDENT.—For purposes of subparagraph (A), the term "qualified resident" means any resident of the foreign country entitled to the benefits of the treaty referred to in subparagraph (A)(i); except that such term shall not include a corporation unless such corporation is a qualified resident of such country as defined in section 884(e)(4) of the Internal Revenue Code of 1986.

(C) EXCEPTION.—Subparagraph (A)(i) shall not apply to any disposition by a qualified resident of a foreign country of stock in a domestic corporation if—

(i) the tax laws of such foreign country impose an income tax on residents of the United States on gains (not attributable to a permanent establishment in such country) from dispositions of stock in corporations organized under the laws of such foreign country in all cases or in cases where such residents hold a portion of the stock of such corporations in excess of a specified threshold, and

(ii) if there is such a threshold requirement, the portion of the stock in such domestic corporation held (directly or indirectly) by such qualified resident exceeds such threshold requirement.

(4) SUBSEQUENT TREATY OVERRIDE.—After July 10, 1992, nothing in any treaty obligation of the United States in effect on the date of the enactment of this Act shall require an exemption from (or reduction of) any tax imposed by section 871 or 882 of the Internal Revenue Code of 1986 on a gain described in section 899 of such Code.

SEC. 11405. REPEAL OF SPECIAL TREATMENT OF INTEREST ON CERTAIN FOREIGN LOANS.

(a) GENERAL RULE.—Paragraph (2) of section 1201(e) of the Tax Reform Act of 1986 is hereby repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to taxable years beginning after December 31, 1989.

SEC. 11406. CAPITALIZATION OF FOREIGN RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) GENERAL RULE.—Section 174 (relating to research and experimental expenditures), as amended by subtitle A, is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF FOREIGN RESEARCH AND EXPERIMENTAL EXPENDITURES.—

"(1) IN GENERAL.—In the case of any foreign research and experimental expenditures—

"(A) subsections (a) and (b) shall not apply, and

"(B) such expenditures shall be treated as deferred expenses.

In computing taxable income, such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the taxpayer (beginning with the month in which the expenditures are paid or incurred).

"(2) FOREIGN RESEARCH AND EXPERIMENTAL EXPENDITURES.—For purposes of paragraph (1), the term 'foreign research and experimental expenditures' means any research and experimental expenditures which—

"(A) are paid or incurred by the taxpayer in connection with his trade or business;

"(B) are attributable to activities conducted outside the United States, and

"(C) are chargeable to capital account (determined without regard to this section)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid or incurred in taxable years beginning after December 31, 1989.

SEC. 11407. ALLOCATION OF INTEREST EXPENSE IN CASE OF CERTAIN AFFILIATED GROUPS.

(a) GENERAL RULE.—Subsection (e) of section 864 (relating to rules for allocating interest, etc.) is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) ALLOCATION AND APPORTIONMENT OF INTEREST FOR CERTAIN FINANCIAL AFFILIATED GROUPS.—

"(A) IN GENERAL.—The taxable income of a financial affiliated group from sources without the United States shall be determined by allocating and apportioning interest expense to such income in an amount equal to—

"(i) the total interest expense of the expanded financial affiliated group which includes such financial affiliated group, multiplied by

"(ii) a percentage equal to the ratio which the foreign assets of the expanded financial affiliated group bears to all assets of the expanded financial affiliated group.

"(B) TREATMENT OF FOREIGN FINANCIAL SUBSIDIARY INTEREST EXPENSE.—Interest expense allocated and apportioned to income from sources without the United States under the rules of this paragraph shall be reduced (but not below zero) by any interest expense incurred by any foreign corporation in the expanded financial affiliated group to the extent such interest would have been allocated and apportioned to income from sources without the United States of such corporation if this paragraph were applied to all foreign corporations in the expanded financial affiliated group as if such foreign corporations were a separate affiliated group.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) FINANCIAL AFFILIATED GROUP.—The term 'financial affiliated group' means any affiliated group if—

"(I) 90 percent or more of the activities of such group consist of the active conduct of a banking, insurance, financing, or similar business,

"(II) less than 50 percent of the activities of such group consist of activities in an insurance business or activities of a corporation described in subparagraph (C) of paragraph (5),

"(III) such group is part of an expanded financial affiliated group, and

"(IV) such group made an election under this clause for its 1st taxable year beginning after December 31, 1989, for which the preceding requirements of this clause were met.

Any election under this clause, once made, may be revoked only with the consent of the Secretary.

"(ii) EXPANDED FINANCIAL AFFILIATED GROUP.—The term 'expanded financial affiliated group' means any expanded group with respect to which the requirements of subclauses (I) and (II) of clause (i) are met.

"(iii) EXPANDED GROUP.—The term 'expanded group' has the meaning given to the term 'affiliated group' by section 1504 (determined without regard to paragraphs (3) and (4) of section 1504(b)).

(D) COORDINATION WITH PARAGRAPH (5)(B).—The provisions of paragraph (5)(B) shall not apply to any affiliated group for any taxable year for which such group is a financial affiliated group."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 864(e) is amended by striking "The taxable income" and inserting "Except as provided in paragraph (6), the taxable income".

(2) Subparagraph (B) of section 864(e)(5) is amended by striking "paragraph (6)" and inserting "paragraph (7)".

(3) Subparagraph (E) of section 864(f)(4) (as added by section 11114) is amended by striking "Paragraph (6)" and inserting "Paragraph (7)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 11408. CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS TREATED AS UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

"(16) TREATMENT OF CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), any disqualified amount derived by an organization from a foreign corporation in which such organization is a 10-percent shareholder shall be included as an item of gross income derived from an unrelated trade or business. There shall be allowed all deductions directly connected with amounts included in gross income under the preceding sentence.

"(B) DISQUALIFIED AMOUNT.—For purposes of subparagraph (A), the term 'disqualified amount' means any of the following:

"(i) SUBPART F INCLUSION.—Any amount included in gross income under section 951(a)(1)(A) to the extent the amount so included is attributable to income which, if derived directly by the organization, would be treated as gross income from an unrelated trade or business.

"(ii) DIVIDENDS.—Any dividend paid out of the earnings and profits of any foreign corporation in proportion to the ratio of—

"(I) the portion of the earnings and profits attributable to income which, if derived directly by the organization, would be treated as gross income from an unrelated trade or business, to

"(II) the total amount of earnings and profits.

For purposes of the preceding sentence, earnings and profits accumulated in taxable years beginning before January 1, 1990, shall not be taken into account.

"(C) 10-PERCENT SHAREHOLDER.—The term '10-percent shareholder' means any organization who owns (within the meaning of section 958(a)), or is considered as owning by applying the rules of section 958(b), 10 percent or more of the combined voting power of all classs of stock entitled to vote of the foreign corporation.

"(D) TREATMENT OF CERTAIN AMOUNTS AS DIVIDENDS.—The rules of section 904(d)(3)(G) shall apply for purposes of this paragraph.

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations for the application of this paragraph in the case of income paid through 1 or more entities or between 2 or more chains of entities."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) dividends paid out of earnings and profits of foreign corporations for taxable years beginning after December 31, 1989, and

(a) amounts included in gross income under section 951(a)(1)(A) of the Internal Revenue Code of 1986 in respect of any such taxable year.

Subtitle E—Excise Tax Provisions

SEC. 11501. CHANGES IN EXCISE TAX ON GASOLINE.

(a) IN GENERAL.—Sections 4081 and 4082 are amended to read as follows:

"SEC. 4081. IMPOSITION OF TAX.

"(a) GASOLINE RECEIVED AT TERMINAL.—

"(1) IN GENERAL.—There is hereby imposed a tax at the rate specified in subsection (b) on the receipt of gasoline at any terminal.

"(2) LIABILITY FOR TAX.—The tax imposed by paragraph (1) shall be paid by the owner of the terminal, except that the owner of the gasoline at the time of such receipt shall be secondarily liable for such tax.

"(b) RATES OF TAX.—

"(1) IN GENERAL.—The rate of the taxes imposed by this section is the sum of—

"(A) the Highway Trust Fund financing rate, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate.

"(2) RATES.—For purposes of paragraph (1)—

"(A) the Highway Trust Fund financing rate is 9 cents a gallon, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent a gallon.

"(c) OTHER TAXES ON GASOLINE.—

"(1) GASOLINE NOT TRANSFERRED IN BULK TO A REGISTERED TERMINAL.—

"(A) IN GENERAL.—There is hereby imposed a tax at the rate specified in subsection (b) on the earlier of the removal or sale of gasoline by the refiner or importer thereof unless such gasoline is to be transferred in bulk to a terminal the owner of which is registered under section 4101.

"(B) LIABILITY FOR TAX.—The tax imposed by subparagraph (A) shall be paid by the refiner or importer, as the case may be.

"(2) BLENDING OR COMPOUNDING OF GASOLINE.—

"(A) IN GENERAL.—There is hereby imposed a tax at the rate specified in subsection (b) on the blending or compounding of gasoline by any person other than a refiner or importer.

"(B) LIABILITY FOR TAX.—The tax imposed by subparagraph (A) shall be paid by the terminal owner in the case of gasoline blended or compounded at a terminal, and

by the blender or compounder in any other case.

"(d) TAX IMPOSED ONLY ONCE.—There shall be allowed as a credit against any tax imposed by this section with respect to any gasoline an amount equal to the amount of any prior tax which (as established to the satisfaction of the Secretary) was imposed by this section on such gasoline.

"(e) REDUCED RATE OF TAX FOR GASOHOL.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a tax imposed by subsection (c)(1), subsection (b) shall be applied—

"(A) by substituting '3 cents' for '9 cents' in the case of a sale or removal of gasohol, and

"(B) by substituting '3⅓ cents' for '9 cents' and by substituting '⅓ cent' for '0.1 cent' in the case of a sale of gasoline for use in producing gasohol.

For purposes of this subsection, the term 'gasohol' means any mixture of gasoline if at least 10 percent of such mixture is alcohol.

"(2) LATER SEPARATION OF GASOLINE FROM GASOHOL, ETC.—If—

"(A) any person separates the gasoline from a mixture of gasoline and alcohol on which tax was imposed at any rate specified in paragraph (1) (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1) or 6416(b)(7)), or

"(B) any person uses gasoline on which tax was imposed at any rate specified in paragraph (1)(B) other than in producing gasohol,

such person shall be treated as the refiner of such gasoline. The amount of tax imposed on any removal or sale of such gasoline by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or sale of such fuel.

"(3) ALCOHOL DEFINED.—For purposes of this subsection, the term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum, natural gas, or coal (including peat). Such term does not include alcohol with a proof of less than 190 (determined without regard to any added denaturants).

"(4) TERMINATION.—Paragraph (1) shall not apply to any removal or sale after September 30, 1993.

"(f) TERMINATION.—

"(1) HIGHWAY TRUST FUND FINANCING RATE.—On and after October 1, 1993, the Highway Trust Fund financing rate under subsection (b) shall not apply.

"(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—

"(A) IN GENERAL.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (b) shall not apply after the earlier of—

"(i) December 31, 1991, or

"(ii) the last day of the termination month.

"(B) TERMINATION MONTH.—For purposes of subparagraph (A), the termination month is the 1st month as of the close of which the Secretary estimates that the net revenues are at least $500,000,000 from taxes imposed by section 4041(d) and taxes attributable to the Leaking Underground Storage Tank Trust financing rate imposed under this section and sections 4042 and 4091.

"(C) NET REVENUES.—For purposes of subparagraph (B), the term 'net revenues' means the excess of gross revenues over amounts payable by reason of section 9508(c)(2) (relating to transfer from Leaking Underground Storage Tank Trust Fund for certain repayments and credits).

"SEC. 4082. DEFINITION AND SPECIAL RULES.

"(a) GASOLINE.—For purposes of this subpart, the term 'gasoline' means all products commonly or commercially known or sold as gasoline which are suitable for use as motor fuel.

"(b) CERTAIN USES TREATED AS REMOVAL.—If any refiner or importer uses gasoline other than in the production of gasoline or of special fuels referred to in section 4041, such use shall be treated for purposes of this chapter as a removal of such gasoline.

"(c) EXTENSION OF DUE DATE FOR PAYMENT OF TAX.—

"(1) 14-DAY EXTENSION.—The Secretary shall prescribe regulations which permit any qualified person whose liability for tax under section 4081(c)(1) is payable with respect to semimonthly periods to pay the tax imposed by section 4081(c)(1) on or before the 14th day after the close of such semimonthly period if such payment is made by wire transfer to any government depository authorized under section 6302.

"(2) QUALIFIED PERSON DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified person' means—

"(i) any refiner or importer other than any person whose average daily production of crude oil for the preceding calendar quarter exceeds 1,000 barrels, and

"(ii) any independent refiner (within the meaning of section 4995(b)(4)).

"(B) AGGREGATION RULES.—For purposes of subparagraph (A), in determining whether any person's production exceeds 1,000 barrels per day, rules similar to the rules of section 4992(e) shall apply.

"(3) SPECIAL RULE WHERE 14TH DAY FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—If, but for this paragraph, the due date under paragraph (1) would fall on a Saturday, Sunday, or holiday in the District of Columbia, such due date shall be deemed to be the immediately preceding day which is not a Saturday, Sunday, or such a holiday.

"(4) REFERENCES TO CHAPTER 45.—The references in this subsection to sections 4992 and 4995 shall be references to such sections in effect before their repeal."

(b) CHANGES IN REGISTRATION RULES.—

(1) IN GENERAL.—Section 4101 is amended to read as follows:

"SEC. 4101. REGISTRATION AND BOND.

"(a) REGISTRATION.—Each person—

"(1) before incurring any liability for tax under section 4091, or

"(2) who is a refiner or importer of gasoline, a terminal owner, or a blender or compounder of gasoline,

shall register with the Secretary at such time, in such manner and form, and subject to such terms and conditions, as the Secretary may by regulations prescribe. A registration under this subsection may be used only in accordance with regulations prescribed under this subsection. Rules similar to the rules of section 4222(c) shall apply for purposes of this subsection.

"(b) BONDS AND LIENS.—Under regulations prescribed by the Secretary, as a condition of permitting any person to be registered under subsection (a)—

"(1) the Secretary may require that such person give a bond in such sum as the Secretary determines appropriate, and

"(2) the Secretary may require that such person agree to the imposition of a lien on such property (or rights to property) of such person (used in the trade or business for which the registration is sought) as the Secretary determines appropriate.

If a lien is imposed pursuant to paragraph (2), the Secretary shall release such lien in connection with a transfer of the property if there is furnished to the Secretary (and accepted by him) a bond in such sum as the Secretary determines appropriate. The Secretary shall respond to any request to release a lien imposed pursuant to paragraph (2) in connection with a transfer of the property not later than 90 days after the date the request for such a release is made. Any lien imposed pursuant to paragraph (2) shall be treated as a lien imposed pursuant to section 6321 for purposes of applying subchapter C of chapter 64, except that section 6323(g) shall not apply."

(2) DISCLOSURE PERMITTED OF REGISTRATION INFORMATION.—Subsection (k) of section 6103 is amended by adding at the end thereof the following new paragraph:

"(7) DISCLOSURE OF NAMES AND REGISTRATION NUMBERS FOR ADMINISTRATION OF EXCISE TAXES.—The name, address, and registration number of any person registered with the Secretary under subtitle D may be disclosed to the extent the Secretary determines that such disclosure is necessary to permit the effective administration of such subtitle. In the case of the tax imposed by section 4081, the terminals owned by such person may also be disclosed."

(c) REFUNDS THROUGH SELLER IN THE CASE OF GASOLINE USED TO PRODUCE GASOHOL.—Subsection (b) of section 6416 (relating to special cases in which tax payments considered overpayments) is amended by adding at the end thereof the following new paragraph:

"(7) GASOLINE USED TO PRODUCE GASOHOL.—

"(A) IN GENERAL.—If gasoline on which tax has been imposed under section 4081 is sold by a seller who meets such requirements as may be prescribed by the Secretary, and the purchaser of the gasoline establishes to the satisfaction of the Secretary that such purchaser used the gasoline to produce gasohol (as defined in section 4081(e)), then—

"(i) for purposes of subsection (a), such seller shall be treated as the person (and the only person) who paid such tax, and

"(ii) the excess of—

"(I) the tax so paid, over

"(II) the tax which would have been paid had the gasoline been sold at the rate specified in section 4081(e)(1) for such use,

shall be deemed an overpayment.

"(B) CLAIMS.—A claim may be filed under this paragraph for any period for which $200 or more is payable under this paragraph and which is not less than 1 week. The Secretary shall make all reasonable efforts to pay such a claim within 20 days after the date the claim is filed.

"(C) REFUNDS PAYABLE WITH INTEREST.—Notwithstanding the material preceding paragraph (1), interest shall be payable on claims under this paragraph from the date the claim is filed to the date the claim is paid."

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsections (c) and (d)(4)(B) of section 40 are each amended by striking "4081(c)" and inserting "4081(e)".

(2) Subsections (c)(1)(A)(i) and (d)(1)(A) of section 4091 are each amended by striking "4081(c)(3)" and inserting "4081(e)(3)".

(3) Sections 6420(c)(5) and 6421(e)(1) are each amended by striking "4082(b)" and inserting "4082(a)".

(4)(A) Subparagraph (A) of section 6427(f)(1) is by striking "4081(c)" and inserting "4081(e)".

(B) Subclause (I) of section 6427(f)(1)(B)(i) is amended by striking "subsection (c)" and inserting "subsection (e)".

(C) Subclause (I) of section 6427(f)(1)(B)(ii) is amended by striking "subsection (c)(1)" and inserting "subsection (e)(1)(B)".

(D) Subparagraph (C) of section 6427(f)(1) is amended by striking "or 6421" and inserting ", 6421, or 6416(b)(7)".

(5)(A) Subsection (h) of section 6427 is hereby repealed.

(B) The following provisions of section 6427 are each amended by striking "(h)," each place it appears: paragraphs (1) and (2)(A) of subsection (i) and subsection (o).

(6) Subparagraph (A) of section 6427(i)(3) is amended by striking "any person with respect to gasoline used to produce" and inserting "any person who uses gasoline to produce" and by striking "section 4081(c)(1)" and inserting "section 4081(e)(1)".

(7) Section 518 of the Highway Revenue Act of 1982 is hereby repealed.

(8) The table of sections for subpart A of part III of subchapter A of chapter 32 is amended by striking the item relating to section 4082 and inserting the following:

"Sec. 4082. Definition and special rules."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to gasoline removed from the refiner or importer after September 30, 1989.

(2) REFUNDS THROUGH CERTAIN SELLERS.—The amendment made by subsection (c) shall take effect on October 1, 1989.

(f) FLOOR STOCKS TAX ON GASOLINE.—

(1) IN GENERAL.—On gasoline (as defined in section 4082 of the Internal Revenue Code of 1986, as amended by this section)—

(A) which was removed from the refiner or importer before October 1, 1989, and

(B) on which no tax was imposed under section 4081 of such Code (as in effect on the day before the date of the enactment of this Act) before such date,

there is hereby imposed a floor stocks tax at the rate specified in section 4081(b) of such Code.

(2) LIABILITY FOR TAX.—The tax imposed by paragraph (1) shall be paid by the owner of the gasoline as of the beginning of October 1, 1989.

(3) DUE DATE.—The taxes imposed by this subsection shall be paid on or before November 14, 1989.

(4) APPLICATION OF OTHER LAWS.—All other provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall apply to the floor stocks taxes imposed by this subsection.

(5) TRANSFER OF FLOOR STOCKS TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of such Code.

SEC. 11502. 1-YEAR SUSPENSION OF AUTOMATIC REDUCTION IN AVIATION-RELATED TAXES.

(a) IN GENERAL.—Subsection (a) of section 4283 (relating to reduction in aviation-related taxes in certain cases) is amended by striking "1990" and inserting "1991".

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 4283(b)(1)(A) is amended by striking "1988 and 1989" and inserting "1989 and 1990".

(2) Paragraph (3) of section 4283(b) is amended—

(A) by striking "1990" and inserting "1991", and

(B) by striking "1989" and inserting "1990".

(3) Subsection (q) of section 6427 is amended by striking "1990" each place it appears and inserting "1991".

(c) CERTAIN ADDITIONAL REVENUES FROM SUSPENSION OF REDUCTION TO REMAIN IN GENERAL FUND.—

(1) IN GENERAL.—The amounts which would (but for this subsection) be transferred to the Airport and Airway Trust Fund under section 9502(b) of the Internal Revenue Code of 1986 by reason of taxable events occurring during 1990 shall be reduced by the sum of—

(A) twice the excess of—

(i) the aggregate amount described in section 4283(b)(1)(B) of such Code with respect to fiscal year 1990, over

(ii) the aggregate amount described in section 4283(b)(1)(A) of such Code with respect to fiscal year 1990, plus

(B) the excess of—

(i) the aggregate amount obligated under section 505 of the Airport and Airway Improvement Act of 1982 for fiscal year 1990, over

(ii) the aggregate amount obligated under such section for fiscal year 1989.

The amount decribed in subparagraph (A)(i) shall not exceed $3,863,000,000.

(2) LIMITATION ON AMOUNT NOT TRANSFERRED TO AIRPORT AND AIRWAY TRUST FUND.—The amount which is not transferred to the Airport and Airway Trust Fund by reason of paragraph (1) with respect to taxable events occurring during 1990 shall not exceed the excess of—

(A) the taxes received in the Treasury by reason of such taxable events, over

(B) the taxes which would have been received in the Treasury by reason of such taxable events if the provisions of section 4283(a) of such Code, as in effect on the day before the date of the enactment of this Act, had applied to such taxable events.

SEC. 11503. OIL SPILL LIABILITY TRUST FUND TAX TO TAKE EFFECT ON OCTOBER 1, 1989.

(a) TAX TO TAKE EFFECT ON OCTOBER 1, 1989.—

(1) IN GENERAL.—Subsection (f) of section 4611 (relating to application of Oil Spill Liability Trust Fund financing rate) is amended by striking paragraphs (1) and (2) and by inserting the following:

"(1) IN GENERAL.—Except as provided in paragraph (2), the Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply after September 30, 1989, and before January 1, 1992."

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 4611(f) is redesignated as paragraph (2) and is amended by striking "the commencement date" in subparagraph (A) and inserting "October 1, 1989,".

(b) 3 CENT RATE OF TAX.—Subparagraph (B) of section 4611(c)(2) is amended by striking "1.3 cents" and inserting "3 cents".

(c) OIL SPILL LIABILITY TRUST FUND TO BE OPERATING FUND.—

(1) IN GENERAL.—For purposes of sections 8032(d) and 8033(c) of the Omnibus Budget Reconciliation Act of 1986, the commencement date is October 1, 1989.

(2) CONFORMING AMENDMENTS.—

(A) Section 9509 (relating to Oil Spill Liability Trust Fund) is amended by adding at the end thereof the following new subsection:

"(f) REFERENCES TO COMPREHENSIVE OIL POLLUTION LIABILITY AND COMPENSATION ACT.—For purposes of this section, references to the Comprehensive Oil Pollution Liability and Compensation Act shall be treated as references to any law enacted before December 31, 1990, which is substantially identical to subtitle E of title VI, or subtitle D of title VIII, of H.R. 5300 of the 99th Congress as passed by the House of Representatives."

(B) Paragraph (3) of section 9509(b) is amended by striking "(on the 1st day the Oil Spill Liability Trust Fund financing rate under section 4611(c) applies)" and inserting "(on October 1, 1989)".

(C) Paragraph (1) of section 9509(c) is amended by striking the last sentence.

SEC. 11504. ACCELERATION OF DEPOSIT REQUIREMENTS FOR TELEPHONE EXCISE TAX AND AIRLINE TICKET TAX; TELEPHONE EXCISE TAX EXEMPTION CERTIFICATES.

(a) ACCELERATION OF DEPOSIT REQUIREMENTS.—

(1) IN GENERAL.—Section 6302 (relating to mode or time of collection) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) TIME FOR DEPOSIT OF TAXES ON COMMUNICATIONS SERVICES AND AIRLINE TICKETS.—If, under regulations prescribed by the Secretary, a person is required to make deposits of any tax imposed by section 4251 or subsection (a) or (b) of section 4261 with respect to amounts considered collected by such person during any semimonthly period, such deposits shall be made not later than the 3rd day (not including Saturdays, Sundays, or legal holidays) after the close of the 1st week of the 2nd semimonthly period following the period to which such amounts relate.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to payments of taxes considered collected for semimonthly periods beginning after June 30, 1990.

(b) ONE-TIME FILING OF TELEPHONE EXCISE TAX EXEMPTION CERTIFICATES.—

(1) IN GENERAL.—Section 4253 is amended by adding at the end thereof the following new subsection:

"(k) FILING OF EXEMPTION CERTIFICATES.—

"(1) IN GENERAL.—In order to claim an exemption under subsection (c), (h), (i), or (j), a person shall provide to the provider of communications services a statement (in such form and manner as the Secretary may provide) certifying that such person is entitled to such exemption.

"(2) DURATION OF CERTIFICATE.—Any statement provided under paragraph (1) shall remain in effect until—

"(A) the provider of communications services has actual knowledge that the information provided in such statement is false, or

"(B) such provider is notified by the Secretary that the provider of the statement is no longer entitled to an exemption described in paragraph (1).

If any information provided in such statement is no longer accurate, the person providing such statement shall inform the provider of communications services within 30 days of any change of information."

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to any claim for exemption made after the date of the enactment of this Act.

(B) DURATION OF EXISTING CERTIFICATES.—Any annual certificate of exemption effective on the date of the enactment of this Act shall remain effective until the end of the annual period.

SEC. 11505. TELEPHONE EXCISE TAX MADE PERMANENT.

(a) IN GENERAL.—Paragraph (1) of section 4251(a) (relating to imposition of tax) is amended by striking "the applicable percentage" and inserting "3 percent".

(b) CONFORMING AMENDMENT.—Subsection (b) of section 4251 is amended to read as follows:

"(b) COMMUNICATIONS SERVICES.—For purposes of subsection (a), the term 'communications services' means—

"(1) local telephone service,

"(2) toll telephone service, and

"(3) teletypewriter exchange service."

SEC. 11506. EXCISE TAX ON SALE OF CHEMICALS WHICH DEPLETE THE OZONE LAYER AND OF PRODUCTS CONTAINING SUCH CHEMICALS.

(a) IN GENERAL.—Chaper 38 (relating to environmental taxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Ozone-Depleting Chemicals, Etc.

"Sec. 4681. Imposition of tax.

"Sec. 4682. Definitions and special rules.

"SEC. 4681. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on—

"(1) any ozone-depleting chemical sold or used by the manufacturer, producer, or importer thereof, and

"(2) any imported taxable product sold or used by the importer thereof.

"(b) AMOUNT OF TAX.—

"(1) OZONE-DEPLETING CHEMICALS.—

"(A) IN GENERAL.—The amount of the tax imposed by subsection (a) on each pound of ozone-depleting chemical shall be an amount equal to—

"(i) the base tax amount, multiplied by

"(ii) the ozone-depletion factor for such chemical.

"(B) BASE TAX AMOUNT.—Except as provided in subsection (c), the base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year is the amount determined under the following table for such calendar year:

"Calendar year:	Base tax amount:
1990 or 1991	$1.10
1992	1.60
1993 or thereafer	3.10.

"(2) IMPORTED TAXABLE PRODUCT.—

"(A) IN GENERAL.—The amount of the tax imposed by subsection (a) on any imported taxable product shall be the amount of tax which would have been imposed by subsection (a) on the ozone-depleting chemicals used as materials in the manufacture or production of such product if such ozone-depleting chemicals had been sold in the United States for use in the manufacture or production of such imported taxable product.

"(B) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 4671(b) shall apply.

"(c) INFLATION ADJUSTMENT OF BASE TAX AMOUNT.—

"(1) IN GENERAL.—In the case of any article sold or used in a calendar year after 1990, the base tax amount applicable to such year under subsection (b) shall be the amount (determined by the Secretary) equal to—

"(A) the dollar amount specified in subsection (b)(1)(B) for such calendar year, increased by

"(B) the product of—

"(i) the dollar amount so specified, and

"(ii) the inflation adjustment for such calendar year.

(2) INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the inflation adjustment for a calendar year is the percentage (if any) by which—

"(i) the applicable price index for the preceding calendar year, exceeds

"(ii) the applicable index for 1989.

"(B) APPLICABLE PRICE INDEX.—For purposes of subparagraph (A), the applicable price index for any calendar year is the average of the producer price index for basic inorganic chemicals (as published by the Secretary of Labor) for the months in the 12-month period ending on September 30 of such calendar year.

"(3) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of 10 cents, such increase shall be rounded to the nearest multiple of 10 cents (or if such increase is a multiple of 5 cents, such increase shall be increased to the nearest multiple of 10 cents).

"SEC. 4682. DEFINITIONS AND SPECIAL RULES.

"(a) OZONE-DEPLETING CHEMICAL.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'ozone-depleting chemical' means any substance—

"(A) which, at the time of the sale or use by the manufacturer, producer, or importer, is listed as an ozone-depleting chemical in the table contained in paragraph (2), and

"(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

"(2) OZONE-DEPLETING CHEMICALS.—

"Common name:	Chemical nomenclature:
CFC-11	trichlorofluoromethane
CFC-12	dichlorodifluoromethane
CFC-113	trichlorotrifluoroethane
CFC-114	1,2-dichloro-1,1,2,2-tetrafluoroethane
CFC-115	chloropentafluoroethane
Halon-1211	bromochlorodifluoromethane
Halon-1301	bromotrifluoromethane
Halon-2402	dibromotetrafluoroethane.

"(b) OZONE-DEPLETION FACTOR.—For purposes of this subchapter, the term 'ozone-depletion factor' means, with respect to an ozone-depleting chemical, the factor assigned to such chemical under the following table:

"Ozone-depleting chemical:	Ozone-depletion factor:
CFC-11	1.0
CFC-12	1.0
CFC-113	0.8
CFC-114	1.0
CFC-115	0.6
Halon-1211	3.0
Halon-1301	10.0
Halon-2402	6.0.

"(c) IMPORTED TAXABLE PRODUCT.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'imported taxable product' means any product (other than an ozone-depleting chemical) entered into the United States for consumption, use, or warehousing if any ozone-depleting chemical was used as material in the manufacture or production of such product.

"(2) DE MINIMIS EXCEPTION.—The term 'imported taxable product' shall not include any product specified in regulations prescribed by the Secretary as using a de minimis amount of ozone-depleting chemicals as materials in the manufacture or production thereof. The preceding sentence shall not apply to any product if any ozone-depleting chemical is used for purposes of refrigeration or air conditioning, creating an aerosol or foam, or electronic components.

"(d) EXCEPTIONS.—

"(1) RECYCLING.—No tax shall be imposed by section 4681 on any ozone-depleting chemical which is diverted or recovered in the United States as part of a recycling process (and not as part of the original manufacturing or production process).

"(2) USE IN FURTHER MANUFACTURE.—

"(A) IN GENERAL.—No tax shall be imposed by section 4681 on any ozone-depleting chemical which is used (and entirely consumed) by the manufacturer, producer, or importer thereof in the manufacture or production of any other chemical.

"(B) CREDIT OR REFUND.—Under regulations prescribed by the Secretary, if—

"(i) a tax under this subchapter was paid with respect to any ozone-depleting chemical, and

"(ii) such chemical was used (and entirely consumed) by any person in the manufacture or production of any other chemical,

then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4681.

"(3) EXPORTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), rules similar to the rules of section 4662(e) (other than section 4662(e)(2)(A)(ii)(II)) shall apply for purposes of this subchapter.

"(B) LIMIT ON BENEFIT.—

"(i) IN GENERAL.—The aggregate tax benefit allowable under subparagraph (A) with respect to ozone-depleting chemicals manufactured or produced by any person during a calendar year shall not exceed the sum of—

"(I) the amount equal to the 1986 export percentage of the aggregate tax imposed by this subchapter with respect to ozone-depleting chemicals manufactured or produced by such person during such calendar year (other than chemicals with respect to which subclause (II) applies), and

"(II) the aggregate tax imposed by this subchapter with respect to any additional production allowance granted to such person with respect to ozone-depleting chemicals manufactured or produced by such person during such calendar year by the Environmental Protection Agency under 40 CFR Part 82 (as in effect on September 14, 1989).

"(ii) 1986 EXPORT PERCENTAGE.—A person's 1986 export percentage is the percentage equal to the ozone-depletion factor adjusted pounds of ozone-depleting chemicals manufactured or produced by such person during 1986 which were exported during 1986, divided by the ozone-depletion factor adjusted pounds of all ozone-depleting chemicals manufactured or produced by such person during 1986. The preceding sentence shall be determined based on data published by the Environmental Protection Agency.

"(e) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) IMPORTER.—The term 'importer' means the person entering the article for consumption, use, or warehousing.

"(2) UNITED STATES.—The term 'United States' has the meaning given such term by section 4612(a)(4).

"(f) SPECIAL RULES.—

"(1) FRACTIONAL PARTS OF A POUND.—In the case of a fraction of a pound, the tax imposed by this subchapter shall be the same fraction of the amount of such tax imposed on a whole pound.

"(2) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by this subchapter.

"(g) PHASE-IN OF TAX ON CERTAIN SUBSTANCES.—

"(1) TREATMENT FOR 1990.—

"(A) HALONS.—The term 'ozone-depleting chemical' shall not include halon-1211, halon-1301, or halon-2402 with respect to any sale or use during 1990.

"(B) CHEMICALS USED IN RIGID FOAM INSULATION.—No tax shall be imposed by section 4681—

"(i) on the use during 1990 of any substance in the manufacture of rigid foam insulation,

"(ii) on the sale during 1990 by the manufacturer, producer, or importer of any substance—

"(I) for use by the purchaser in the manufacture of rigid foam insulation, or

"(II) for resale by the purchaser to a second purchaser for such use by the second purchaser, or

"(iii) on the sale or use during 1990 by the importer of any rigid foam insulation.

Clause (ii) shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(2) TREATMENT FOR 1991, 1992, AND 1993.—

"(A) HALONS.—The tax imposed by section 4681 during 1991, 1992, or 1993 by reason of the treatment of halon-1211, halon-1301, and halon-2402 as ozone-depleting chemicals shall be the applicable percentage (determined under the following table) of the amount of such tax which would (but for this subparagraph) be imposed.

"In the case of:	The applicable percentage is: For sales during 1991	For sales during 1992	For sales during 1993
Halon-1211	7	5	3
Halon-1301	2	1	1
Halon-2402	4	2	1.

"(B) CHEMICALS USED IN RIGID FOAM INSULATION.—In the case of a sale or use during 1991, 1992, or 1993 on which no tax would have been imposed by reason of paragraph (1)(B) had such sale or use occurred during 1990, the tax imposed by section 4681 shall be the applicable percentage (determined in accordance with the following table) of the amount of such tax which would (but for this subparagraph) be imposed.

"In the case of sales during:	The applicable percentage is:
1991	23
1992	16
1993	8.

"(3) OVERPAYMENTS WITH RESPECT TO CHEMICALS USED IN RIGID FOAM INSULATION.—If any substance on which tax was paid under this subchapter is used during 1990, 1991, 1992, or 1993 by any person in the manufacture of rigid foam insulation, credit or refund (without interest) shall be allowed to such person an amount equal to the excess of—

"(A) the tax paid under this subchapter on such substance, over

"(B) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacturer, producer, or importer thereof on the date of its use by such person.

"(h) IMPOSITION OF FLOOR STOCKS TAXES.—

"(1) JANUARY 1, 1990, TAX.—On any ozone-depleting chemical which on January 1, 1990, is held by any person (other than the manufacturer, producer, or importer thereof) for sale or for use in further manufacture, there is hereby imposed a floor stocks tax in an amount equal to the tax which would be imposed by section 4681 on such chemical if such chemical were sold during 1990 by the manufacturer, producer, or importer thereof.

"(2) OTHER TAX-INCREASE DATES.—

"(A) IN GENERAL.—If, on any tax-increase date, any ozone-depleting chemical is held by any person (other than the manufacturer, producer, or importer thereof) for sale or for use in further manufacture, there is hereby imposed a floor stocks tax.

"(B) AMOUNT OF TAX.—The amount of the tax imposed by subparagraph (A) shall be the excess (if any) of—

"(i) the tax which would be imposed under section 4681 on such substance if such substance were sold on the tax-increase date by the manufacturer, producer, or importer thereof, over

"(ii) the prior tax (if any) imposed by this subchapter on such substance.

"(C) TAX-INCREASE DATE.—For purposes of this paragraph, the term 'tax-increase date' means January 1 of 1991, 1992, 1993, and 1994.

"(D) SPECIAL RULE FOR JANUARY 1, 1994, TAX-INCREASE DATE.—In the case of the January 1, 1994, tax-increase date, the tax imposed by subparagraph (A) shall apply only to ozone-depleting chemicals with respect to which the prior tax (if any) was determined under subsection (g).

"(3) DUE DATE.—The taxes imposed by this subsection on January 1 of any calendar year shall be paid on or before April 1 of such year.

"(4) COORDINATION WITH PHASE-IN OF TAX ON CERTAIN CHEMICALS.—

"(A) JANUARY 1, 1990, TAX.—The tax imposed by paragraph (1) shall not apply to—

"(i) halon-1211, halon-1301, and halon-2402, or

"(ii) any substance held by any person who could acquire, sell, or use such substance free of tax during 1990 by reason of subsection (g)(1)(B).

"(B) JANUARY 1, 1991, TAX.—In the case of the January 1, 1991, tax-increase date, paragraph (2) shall apply only to—

"(i) halon-1211, halon-1301, and halon-2402, and

"(ii) any substance held by any person free of tax by reason of subsection (g)(1)(B).

"(5) APPLICATION OF OTHER LAWS.—All other provisions of law, including penalties, applicable with respect to the taxes imposed by section 4681 shall apply to the floor stocks taxes imposed by this subsection."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Ozone-depleting chemicals, etc."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1990.

(2) NO DEPOSITS REQUIRED BEFORE APRIL 1, 1990.—No deposit of any tax imposed by subchapter D of chapter 38 of the Internal Revenue Code of 1986, as added by this section, shall be required to be made before April 1, 1990.

SEC. 11507. AMENDMENTS RELATED TO EXCISE TAX ON VACCINES AND VACCINE INJURY COMPENSATION TRUST FUND.

(a) INACTIVATED POLIO VIRUS VACCINE EXEMPT FROM TAX.—Paragraph (5) of section 4132(a) (defining polio vaccine) is amended by adding at the end thereof the following new sentence: "Such term shall not include any inactivated polio vaccine sold by the manufacturer, producer, or importer after the last day on which any injury or death resulting from the administration of such vaccine on such day is eligible for compensation from the Vaccine Injury Compensation Trust Fund."

(b) AUTHORITY TO PAY ADMINISTRATIVE EXPENSES FROM TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by inserting before the period at the end thereof the following: ", or for the payment of all expenses of administration (but not in excess of $6,000,000 for any fiscal year) incurred by the Federal Government in administering such subtitle".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to fiscal years beginning after September 30, 1989.

SEC. 11508. TAXATION OF BULK CIGAR IMPORTS.

(a) IN GENERAL.—Subsection (c) of section 5704 (relating to tobacco products and cigarette papers and tubes released in bond from customs custody) is amended by inserting "or to a manufacturer of tobacco products or cigarette papers and tubes if such articles are not put up in packages," after "export warehouse,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles imported or brought into the United States after the date of the enactment of this Act.

Subtitle F—Miscellaneous Provisions

PART I—LIMITATION ON NONRECOGNITION FOR CERTAIN EXCHANGES

SEC. 11601. LIMITATION ON NONRECOGNITION FOR CERTAIN EXCHANGES.

(a) GENERAL RULE.—Paragraph (1) of section 1031(a) (relating to exchange of property held for productive use or investment) is amended to read as follows:

"(1) IN GENERAL.—No gain or loss shall be recognized on the exchange of property if—

"(A) such property was held by the taxpayer for productive use in a trade or business or for investment at all times during the 1-year period ending on the date such property was transferred in such exchange,

"(B) such property is exchanged solely for property similar or related in service or use to such property, and

"(C) the property received in the exchange is held for a service or use similar or related to the service or use of the property transferred at all times during the 1-year period beginning on the date the property is received in the exchange."

(b) CERTAIN DISPOSITIONS NOT TAKEN INTO ACCOUNT.—Subsection (a) of section 1031 is amended by adding at the end thereof the following new paragraph:

"(4) CERTAIN DISPOSITIONS NOT TAKEN INTO ACCOUNT.—If the property received in the

exchange which is similar or related in service or use to the property transferred is disposed of by the taxpayer before the close of the 1-year period referred to in subparagraph (C) of paragraph (1)—

"(A) by reason of the death of the taxpayer,

"(B) in a compulsory or involuntary conversion (within the meaning of section 1033) if the exchange occurred before the threat or imminence of such conversion, or

"(C) in any other disposition if it is established to the satisfaction of the Secretary that neither the exchange nor such disposition had as one of its principal purposes the avoidance of Federal income tax,

such subparagraph shall not apply if such property was held as required by such subparagraph at all times after such property was received and before such disposition."

(c) SPECIAL RULES FOR EXCHANGES BETWEEN RELATED PERSONS, ETC.—Section 1031 (relating to exchange of property held for productive use or investment) is amended by adding at the end thereof the following new subsections:

"(f) SPECIAL RULES FOR EXCHANGES BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—If—

"(A) a taxpayer exchanges property with a related person,

"(B) there is nonrecognition of gain or loss to the taxpayer under this section with respect to the exchange of such property (determined without regard to this subsection), and

"(C) before the date 2 years after the date of the last transfer which was part of such exchange—

"(i) the related person disposes of such property, or

"(ii) the taxpayer disposes of the property received in the exchange from the related person which was similar or related in service use to the property transferred by the taxpayer,

there shall be no nonrecognition of gain or loss under subsection (a) to the taxpayer with respect to such exchange; except that any gain or loss recognized by the taxpayer by reason of this paragraph shall be taken into account as of the date on which the disposition referred to in subparagraph (C) occurs.

"(2) CERTAIN DISPOSITIONS NOT TAKEN INTO ACCOUNT.—Any disposition described in subsection (a)(4) shall not be taken into account under paragraph (1)(C).

"(3) RELATED PERSON.—For purposes of this subsection, the term 'related person' means any person bearing a relationship to the taxpayer described in section 267(b).

"(4) TREATMENT OF CERTAIN TRANSACTIONS.—Subsection (a) shall not apply to any exchange which is part of a transaction (or series of transactions) structured to avoid the purposes of this subsection.

"(g) SPECIAL RULE WHERE SUBSTANTIAL DIMINUTION OF RISK.—

"(1) IN GENERAL.—If paragraph (2) applies to any property for any period—

"(A) the taxpayer shall not be treated as holding such property during such period for purposes of subparagraphs (A) and (C) of subsection (a)(1), and

"(B) the running of any period set forth in subsection (f)(1)(C) with respect to such property shall be suspended during such period.

"(2) PROPERTY TO WHICH SUBSECTION APPLIES.—This paragraph shall apply to any property for any period during which the holder's risk of loss with respect to the property is substantially diminished by—

"(A) the holding of a put with respect to such property,

"(B) the holding by another person of a right to acquire such property, or

"(C) a short sale or any other transaction.

"(h) SPECIAL RULE FOR FOREIGN REAL PROPERTY.—For purposes of this section and section 1033, real property located in the United States and real property located outside the United States are not property similar or related in service or use.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including such regulations as may be necessary to prevent the avoidance of the purposes of this section."

(d) REPEAL OF SPECIAL TREATMENT FOR INVOLUNTARY CONVERSIONS OF REAL PROPERTY.—Subsection (g) of section 1033 is amended to read as follows:

"(g) EXTENSION OF REPLACEMENT PERIOD IN CASE OF CONDEMNATION OF REAL PROPERTY.—If real property (not including stock in trade or other property held primarily for sale) held for productive use in a trade or business or for investment is (as a result of its seizure, requisition, or condemnation, or threat or imminence thereof) compulsorily or involuntarily converted, subsection (a)(2)(B)(i) shall be applied with respect to such conversion by substituting '3 years' for '2 years'."

(e) TECHNICAL AMENDMENTS.—

(1) The paragraph heading for paragraph (6) of section 453(f) is amended by striking "LIKE-KIND" and inserting "SECTION 1031".

(2) Paragraph (3) of section 1031(a) is amended by striking "property which is not like-kind property" and inserting "property which is not similar or related in service or use".

(3) Subsection (e) of section 1031 is amended by striking "property of a like kind" and inserting "property similar or related in service or use".

(4) Paragraph (4) of section 1245(b) is amended by striking "LIKE-KIND" in the paragraph heading and inserting "SECTION 1031".

(5) Paragraph (4) of section 1250(d) is amended by striking "LIKE-KIND" in the paragraph heading and inserting "SECTION 1031".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section—

(A) to the extent such amendments relate to section 1031 of the Internal Revenue Code of 1986, shall apply to transfers after July 10, 1989, in taxable years ending after such date, and

(B) to the extent such amendments relate to section 1033 of such Code, shall apply to dispositions of the converted property (as defined in section 1033(a)(2)(E)(ii) of such Code) after July 10, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any transfer or disposition pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter before the transfer or disposition.

PART II—MINIMUM TAX PROVISIONS

SEC. 11611. SIMPLIFICATION OF ADJUSTED CURRENT EARNINGS PREFERENCE.

(a) ELIMINATION OF BOOK LIMITATIONS APPLICABLE TO DEPRECIATION.—

(1) IN GENERAL.—

(A) Clause (i) of section 56(g)(4)(A) (relating to depreciation) is amended to read as follows:

"(i) PROPERTY PLACED IN SERVICE AFTER 1989.—The depreciation deduction with respect to any property placed in service in a taxable year beginning after 1989 shall be determined under the alternative system of section 168(g)."

(B) Subparagraph (A) of section 56(g)(4) is amended by striking clauses (v) and (vi) and by redesignating clause (vii) as clause (v).

(2) TECHNICAL AMENDMENT.—Clause (iii) of section 56(g)(4)(A) is amended by inserting "and which is placed in service in a taxable year beginning before 1990" after "thereof) applies".

(b) TREATMENT OF CERTAIN EARNINGS AND PROFITS ADJUSTMENTS.—Subparagraph (D) of section 56(g)(4) is amended to read as follows:

"(D) CERTAIN OTHER EARNINGS AND PROFITS ADJUSTMENTS.—

"(i) INTANGIBLE DRILLING COSTS.—The adjustments provided in section 312(n)(2)(A) shall apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1989.

"(ii) CERTAIN AMORTIZATION PROVISIONS NOT TO APPLY.—Sections 173 and 248 shall not apply to expenditures paid or incurred in taxable year beginning after December 31, 1989.

"(iii) LIFO INVENTORY ADJUSTMENTS.—The adjustments provided in section 312(n)(4) shall apply.

"(iv) INSTALLMENT SALES.—In the case of any installment sale in a taxable year beginning after December 31, 1989, adjusted current earnings shall be computed as if the corporation did not use the installment method. The preceding sentence shall not apply to the applicable percentage (as determined under section 453A) of the gain from any installment sale with respect to which section 453A(a)(1) applies."

(c) ELIMINATION OF BOOK LIMITATION ON DEPLETION.—Subparagraph (G) of section 56(g)(4) is amended to read as follows:

"(G) DEPLETION.—The allowance for depletion with respect to any property placed in service in a taxable year beginning after 1989 shall be cost depletion determined under section 611."

(d) TREATMENT OF CERTAIN DIVIDENDS.—Clause (ii) of section 56(g)(4)(C) is amended to read as follows:

"(ii) SPECIAL RULE FOR CERTAIN DIVIDENDS.—

"(I) IN GENERAL.—Clause (i) shall not apply to any deduction allowable under section 243 or 245 for any dividend which is a 100-percent dividend or which is received from a 20-percent owned corporation (as defined in section 243(c)(2)), but only to the extent such dividend is attributable to income of the paying corporation which is subject to tax under this chapter (determined after the application of sections 936 and 921).

"(II) 100-PERCENT DIVIDEND.—For purposes of the subclause (I), the term '100 percent dividend' means any dividend if the percentage used for purposes of determining the amount allowable as a deduction under section 243 or 245 with respect to such dividend is 100 percent."

(e) SPECIAL RULE FOR CERTAIN DIVIDENDS RECEIVED BY COOPERATIVES.—Subparagraph (C) of section 56(g)(4) is amended by adding at the end thereof the following new clause:

"(iv) SPECIAL RULE FOR CERTAIN DIVIDENDS RECEIVED BY CERTAIN COOPERATIVES.—In the case of a cooperative described in section 927(a)(4), clause (i) shall not apply to any amount allowable as a deduction under section 245(c)."

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Clause (i) of section 56(g)(4)(H) is amended by striking "after the date of the enactment of the Tax Reform Act of 1986" and inserting "in a taxable year beginning after 1989".

(2) Clause (i) of section 56(g)(4)(B) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply in the case of any amount excluded from gross income under section 108 (or the corresponding provisions of prior law)."

(3) Clause (iii) of section 56(g)(4)(B) is hereby repealed.

(4) Paragraph (5) of section 56(g) is amended by striking subparagraphs (A) and (C) and by redesignating subparagraphs (B) and (D) as subparagraphs (A) and (B), respectively.

(5)(A) Clause (ii) of section 312(n)(2)(A) is amended by striking "in which the production from the well begins" and inserting "in which such amount was paid or incurred".

(B) Paragraph (1) of section 59(e) is amended by inserting before the period at the end thereof: "(or, in the case of a qualified expenditure described in paragraph (2)(C), over the 60-month period beginning with the month in which such expenditure was paid or incurred)".

(6) Subsection (i) of section 59 is amended—

(A) by striking "interest shall" and inserting "any amount shall", and

(B) by striking "INTEREST" in the subsection heading and inserting "AMOUNTS".

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1989.

(2) INTANGIBLE DRILLING COSTS.—The amendments made by subsection (d)(5) shall apply to costs paid or incurred in taxable years beginning after December 31, 1989.

(3) REGULATIONS ON EARNINGS AND PROFITS RULES.—Not later than March 15, 1991, the Secretary of the Treasury or his delegate shall prescribe initial regulations providing guidance as to which items of income are included in adjusted current earnings under section 56(g)(4)(B)(i) of the Internal Revenue Code of 1986 and which items of deduction are disallowed under section 56(g)(4)(C) of such Code.

SEC. 11612. OTHER MODIFICATIONS TO MINIMUM TAX.

(a) MODIFICATION TO CORPORATE MINIMUM TAX CREDIT.—

(1) IN GENERAL.—Subparagraph (B) of section 53(d)(1) (relating to credit not allowed for exclusion preferences) is amended by adding at the end thereof the following new clause:

"(iv) CREDIT ALLOWABLE FOR EXCLUSION PREFERENCES OF CORPORATIONS.—In the case of a corporation—

"(I) the preceding provisions of this subparagraph shall not apply, and

"(II) the adjusted net minimum tax for any taxable year is the amount of the net minimum tax for such year increased by the amount of any credit not allowed under section 29 solely by reason of the application of section 29(b)(5)(B)."

(2) CONFORMING AMENDMENT.—Clause (ii) of section 53(d)(1)(B) is amended—

(A) by striking "subsections (b)(1) and (c)(3)" and inserting "subsection (b)(1)", and

(B) by striking the last sentence.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply for purposes of determining the adjusted net minimum tax for taxable years beginning after December 31, 1989.

(b) ADJUSTMENT FOR DISALLOWED PORTION OF ORPHAN DRUG CREDIT.—

(1) IN GENERAL.—Clauses (iii) and (iv) of section 53(d)(1)(B) (as amended by subsection (a)) are each amended by inserting after "section 29(d)(5)(B)" the following: "or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply for purposes of determining the amount of the minimum tax credit for taxable years beginning after December 31, 1989; except that, for such purposes, section 53(b)(1) of the Internal Revenue Code of 1986 shall be applied as if such amendment had been in effect for all prior taxable years.

(c) EXEMPTION FOR CERTAIN HOME CONSTRUCTION CONTRACTS.—

(1) IN GENERAL.—Paragraph (3) of section 56(a) (relating to treatment of certain long-term contracts) is amended by striking "with respect to which the requirements of clauses (i) and (ii) of section 460(e)(1)(B) are met".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contracts entered into in taxable years beginning after September 30, 1990.

(d) TREATMENT OF CERTAIN RESEARCH AND EXPERIMENTAL EXPENDITURES.—

(1) IN GENERAL.—Paragraph (2) of section 56(b) (relating to circulation and research and experimental expenditures) is amended by adding at the end thereof the following new subparagraph:

"(D) EXCEPTION FOR CERTAIN RESEARCH AND EXPERIMENTAL EXPENDITURES.—If the taxpayer materially participates (within the meaning of section 469(h)) in an activity, this paragraph shall not apply to any amount allowable as a deduction under section 174(a) for expenditures paid or incurred in connection with such activity."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1990.

(e) 90-PERCENT LIMITATION ON FOREIGN TAX CREDIT NOT TO APPLY TO CERTAIN CORPORATIONS.—

(1) IN GENERAL.—Paragraph (2) of section 59(a) (relating to limitation of foreign tax credit to 90-percent of tax) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION.—Subparagraph (A) shall not apply to any domestic corporation if—

"(i) more than 50 percent of the stock of such domestic corporation (by vote and value) is owned by United States persons who are not members of an affiliated group (as defined in section 1504 of such Code) which includes such corporation,

"(ii) all of the activities of such corporation are conducted in 1 foreign country with which the United States has an income tax treaty in effect and such treaty provides for the exchange of information between such foreign country and the United States,

"(iii) all of the current earnings and profits of such corporation are distributed at least annually (other than current earnings and profits retained for normal maintenance or capital replacements or improvements of an existing business), and

"(iv) all of such distributions by such corporation to United States persons are used by such persons in a trade or business conducted in the United States."

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to taxable years beginning after March 31, 1990.

(B) SPECIAL RULE FOR YEAR WHICH INCLUDES MARCH 31, 1990.—In the case of any taxable year (of a corporation described in subparagraph (C) of section 59(a)(2) of the Internal Revenue Code of 1986 (as added by paragraph (1))) which begins after December 31, 1989, and includes March 31, 1990, the amount determined under clause (ii) of section 59(a)(2)(A) of such Code shall be an amount which bears the same ratio to the amount which would have been determined under such clause without regard to this subparagraph as the number of days in such taxable year on or before March 31, 1990, bears to the total number of days in such taxable year.

(f) STUDY OF DEPRECIATION TREATMENT OF CERTAIN VEHICLES.—

(1) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study on the proper class life for cars and light trucks.

(2) REPORT.—Not later than the day 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the report conducted under paragraph (1), together with such recommendations as he may deem advisable.

PART III—ACCOUNTING PROVISIONS

SEC. 11621. REPEAL OF COMPLETED CONTRACT METHOD OF ACCOUNTING FOR LONG-TERM CONTRACTS.

(a) IN GENERAL.—Subsection (a) of section 460 (relating to special rules for long-term contracts) is amended to read as follows:

"(a) REQUIREMENT THAT PERCENTAGE OF COMPLETION METHOD BE USED.—In the case of any long-term contract, the taxable income from such contract shall be determined under the percentage of completion method (as modified by subsection (b))."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 460 is amended by striking paragraph (1) and by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(2) Paragraph (1) of section 460(b), as redesignated by paragraph (1), is amended—

(A) by striking "paragraph (4)" and inserting "paragraph (3)", and

(B) by striking "paragraph (3)" and inserting "paragraph (2)".

(3) Paragraph (3) of section 460(b), as redesignated by paragraph (1), is amended by striking "Paragraph (2)(B) and subsection (a)(2)" and inserting "Paragraph (1)(B)".

(4) Subparagraph (A) of section 460(b)(4), as redesignated by paragraph (1), is amended—

(A) by striking "paragraph (3)" each place it appears and inserting "paragraph (2)",

(B) by striking "paragraph (3)(B)" and inserting "paragraph (2)(B)", and

(C) by striking "paragraph (3)(A)" and inserting "paragraph (2)(A)".

(5) Paragraph (5) of section 460(e) is amended by striking so much of such paragraph as precedes subparagraph (A) and inserting the following:

"(5) SPECIAL RULE FOR RESIDENTIAL CONSTRUCTION CONTRACTS WHICH ARE NOT HOME CONSTRUCTION CONTRACTS.—In the case of any residential construction contract which is not a home construction contract, subsec-

tion (a) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1989) shall apply except that such subsection shall be applied—".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contracts entered into on or after July 11, 1989.

(2) BINDING BIDS.—The amendments made by this section shall not apply to any contract resulting from the acceptance of a bid made before July 11, 1989. The preceding sentence shall apply only if the bid could not have been revoked or altered at any time on or after July 11, 1989.

(3) SPECIAL RULE FOR CERTAIN SHIP CONTRACTS.—The amendment made by this section shall not apply in the case of a qualified ship contract (as defined in section 10203(b)(2)(B) of the Revenue Act of 1987).

SEC. 11622. CHANGES IN TREATMENT OF TRANSFERS OF FRANCHISES, TRADEMARKS, AND TRADE NAMES.

(a) GENERAL RULE.—Subsection (d) of section 1253 (relating to treatment of payments by transferee) is amended by adding at the end thereof the following new paragraph:

"(3) LIMITATIONS.—

"(A) LIMITATION ON DEDUCTIBILITY OF CONTINGENT PAYMENTS.—Paragraph (1) shall not apply to any payment described in such paragraph unless such payment is part of a series of payments—

"(i) which are payable not less frequently than annually throughout the entire term of the transfer agreement, and

"(ii) which are substantially equal in amount (or payable under a fixed formula).

For purposes of the preceding sentence, the term of the transfer agreement shall be treated as including all renewal options (and any other period for which the parties reasonably expect the agreement to be renewed).

"(B) $100,000 LIMITATION ON DEDUCTIBILITY OF PRINCIPAL SUM.—Paragraph (2) shall not apply if the principal sum referred to in such paragraph exceeds $100,000. For purposes of the preceding sentence, all payments which are part of the same transaction (or a series of related transactions) shall be taken into account as payments with respect to each such transaction.

"(C) TREATMENT OF DISALLOWED AMOUNTS.—Any amount to which paragraph (1) or (2) would apply but for this paragraph shall be treated as an amount properly chargeable to capital account."

(b) TECHNICAL AMENDMENTS.—

(1) DEPRECIATION ALLOWABLE.—Subsection (r) of section 167 is hereby repealed.

(2) DEDUCTION SUBJECT TO RECAPTURE.—

(A) Subparagraph (C) of section 1245(a)(2) is amended by striking "or 193" and inserting "193, or 1253(d)(2)".

(B) The material preceding subparagraph (A) of section 1245(a)(3) is amended by striking "section 185" and inserting "section 185 or 1253(d)(2)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers after July 10, 1989.

(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any transfer pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter before the transfer.

(3) SPECIAL RULE FOR CONTINGENT PAYMENT RULE.—With respect to so much of the amendment made by subsection (a) as adds section 1253(d)(3)(A) of the Internal Revenue Code of 1986, paragraphs (1) and (2) shall be applied by substituting "August 4, 1989" for "July 10, 1989".

SEC. 11623. MODIFICATIONS TO PROVISIONS REQUIRING INTEREST ON INSTALLMENT SALES OF TIMESHARES AND RESIDENTIAL LOTS.

(a) GENERAL RULE.—Section 453A (relating to special rules for nondealers) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULES FOR INSTALLMENT SALES OF TIMESHARES AND RESIDENTIAL LOTS.—

"(1) IN GENERAL.—Notwithstanding subsection (b)—

"(A) in the case of a disposition described in section 453(1)(2)(B) by a C corporation—

"(i) this section shall apply to any installment obligation arising from such disposition for purposes of subsection (a)(1), but not for purposes of subsection (a)(2), and

"(ii) any such installment obligation shall not be taken into account for purposes of applying this section to other obligations, and

"(B) in the case of any disposition described in section 453(l)(2)(B) by any other taxpayer, this section shall not apply to any installment obligation arising from such disposition but the provisions of section 453(l)(2)(B) shall apply to such obligation.

"(2) MODIFICATION OF INTEREST RULES.—In the case of any installment obligation arising from a disposition described in paragraph (1)(A)—

"(A) the applicable percentage for purposes of subsection (c) shall be 100 percent,

"(B) no increase in tax shall be made under subsection (c)(1) with respect to such obligation—

"(i) for any taxable year ending before the date 2 years after the date of such disposition, or

"(ii) for any succeeding taxable year if such obligation is in default as of the close of such taxable year, and

"(C) if such obligation is not in default as of the close of any taxable year ending after the close of such 2-year period, any increase in tax which would have resulted under subsection (c)(1) for any prior taxable year but for subparagraph (B) shall (to the extent not previously recaptured under this paragraph) be taken into account under subsection (c)(1) for such taxable year (together with interest for the deferral period at the underpayment rate).

For purposes of subparagraph (C), the term 'deferral period' means the period after the due date (without regard to extensions) for the prior taxable year and ending on the due date (without regard to extensions) for the taxable year."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 453(l)(3) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply in the case of any obligation arising from a disposition by a C corporation."

(2) Subsection (b) of section 453A is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(3) The section heading for section 453A is amended by inserting "; certain sales of timeshares and residential lots" before the period at the end thereof.

(4) The table of sections for subpart B of part II of subchapter E of chapter 1 is amended by inserting "; certain sales of timeshares and residential lots" before the period at the end of the item relating to section 453A.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to installment sales in taxable years beginning after December 31, 1989.

PART IV—EMPLOYMENT TAX PROVISIONS

SEC. 11631. TREATMENT OF AGRICULTURAL WORKERS UNDER WAGE WITHHOLDING.

(a) IN GENERAL.—Paragraph (2) of section 3401(a) (defining wages) is amended to read as follows:

"(2) for agricultural labor (as defined in section 3121(g)) unless the remuneration paid for such labor is wages (as defined in section 3121(a)); or".

(b) CREW LEADER RULES TO APPLY.—Section 3401 is amended by adding at the end thereof the following new subsection:

"(h) CREW LEADER RULES TO APPLY.—Rules similar to the rules of section 3121(o) shall apply for purposes of this chapter."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid after December 31, 1989.

SEC. 11632. ACCELERATION OF DEPOSIT REQUIREMENTS.

(a) IN GENERAL.—Section 6302 (relating to mode or time for collection), as amended by section 11504, is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eight-month periods, such person shall make deposits of such taxes on the first banking day after any day on which such person has $1,000,000 or more of such taxes for deposit. Rules similar to the rules of section 5061(e)(3) shall apply to the $1,000,000 amount in the preceding sentence.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1994.

PART V—OTHER PROVISIONS

SEC. 11641. LIMITATION ON SECTION 104 EXCLUSION.

(a) GENERAL RULE.—Paragraph (2) of section 104(a) (relating to compensation for injuries or sickness) is amended by inserting "(in a case involving physical injury or physical sickness)" after "personal injuries or sickness".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to amounts received after July 10, 1989, in taxable years ending after such date.

(2) EXCEPTION.—The amendment made by subsection (a) shall not apply to any amount received under any written binding agreement, court decree, or mediation award in effect on July 10, 1989.

SEC. 11642. TREATMENT OF DISTRIBUTIONS BY PARTNERSHIPS OF CONTRIBUTED PROPERTY.

(a) GENERAL RULE.—Subsection (c) of section 704 (relating to contributed property) is amended to read as follows:

"(c) CONTRIBUTED PROPERTY.—Under regulations prescribed by the Secretary—

"(1) income, gain, loss, and deduction with respect to property contributed to the partnership by a partner shall be shared among the partners so as to take account of the variation between the basis of the property

to the partnership and its fair market value at the time of contribution, and

"(2) if any property so contributed is distributed by the partnership other than to the contributing partner—

"(A) the contributing partner shall be treated as recognizing gain or loss (as the case may be) from the sale of such property in an amount equal to the gain or loss which would have been allocated to such partner under paragraph (1) by reason of the variation described in paragraph (1) if the property had been sold at its fair market value at the time of the distribution,

"(B) the character of such gain or loss shall be determined by reference to the character of the gain or loss which would have resulted if such property had been sold by the partnership to the distributee, and

"(C) appropriate adjustments shall be made to the adjusted basis of the contributing partner's interest in the partnership and to the adjusted basis of the property distributed to reflect any gain or loss recognized under this paragraph.

Under regulations prescribed by the Secretary, rules similar to the rules of the preceding sentence shall apply to contributions by a partner (using the cash receipts and disbursements method of accounting) of accounts payable and other accrued items. Any reference in paragraph (2) to the contributing partner shall be treated as including a reference to any successor of such partner."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of property contributed to the partnership after July 10, 1989, in taxable years ending after such date.

SEC. 11643. DEPRECIATION TREATMENT OF CELLULAR TELEPHONES.

(a) GENERAL RULE.—Subparagraph (A) of section 280F(d)(4) (defining listed property) is amended by striking "and" at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following new clause:

"(v) any cellular telephone (or other similar telecommunications equipment), and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property placed in service or leased in taxable years beginning after December 31, 1989.

SEC. 11644. ELIMINATION OF RETROACTIVE CERTIFICATION OF EMPLOYEES FOR WORK INCENTIVE JOBS CREDIT.

(a) IN GENERAL.—So much of subparagraph (A) of section 50B(h)(1) of the Internal Revenue Code of 1954 (as in effect for taxable years beginning before January 1, 1982) as precedes clause (i) thereof is amended to read as follows:

"(A) who has been certified (or for whom a written request for certification has been made) on or before the day the individual began work for the taxpayer by the Secretary of Labor or by the appropriate agency of State or local government as—".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of credits first claimed after March 11, 1987.

SEC. 11645. DISALLOWANCE OF DEPRECIATION FOR CERTAIN TERM INTERESTS.

(a) GENERAL RULE.—Section 167 (as amended by section 11622) is amended by inserting after subsection (q) the following new subsection:

"(r) CERTAIN TERM INTERESTS NOT DEPRECIABLE.—

"(1) IN GENERAL.—No depreciation deduction shall be allowed under this section (and no depreciation or amortization deduction shall be allowed under any other provision of this subtitle) to the taxpayer for any term interest in property for any period during which the remainder interest in such property is held (directly or indirectly) by a related person.

"(2) BASIS ADJUSTMENTS.—If, but for this subsection, a depreciation or amortization deduction would be allowable to the taxpayer with respect to any term interest in property—

"(A) the taxpayer's basis in such property shall be reduced by any depreciation or amortization deductions disallowed under this subsection, and

"(B) the basis of the remainder interest in such property shall be increased by the amount of such disallowed deductions.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) TERM INTEREST IN PROPERTY.—The term 'term interest in property' has the meaning given such term by section 1001(e)(2).

"(B) RELATED PERSON.—The term 'related person' means any person bearing a relationship to the taxpayer described in subsection (b) or (e) of section 267.

"(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations preventing avoidance of this subsection through cross-ownership arrangements or otherwise."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interests created or acquired after July 27, 1989, in taxable years ending after such date.

SEC. 11646. REPORTING OF POINTS ON MORTGAGE LOANS.

(a) GENERAL RULE.—Paragraph (2) of section 6050H(b) (relating to form and manner of returns) is amended by striking "and" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) the amount of points on the mortgage received during the calendar year and whether such points were paid directly by the borrower, and".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 6050H(b)(1) is amended by inserting "(other than points)" after "such interest".

(2) Paragraph (2) of section 6050H(d) is amended—

(A) by inserting "(other than points)" after "subsection (a)(2)", and

(B) by inserting before the period at the end thereof the following: "(and the information required under subsection (b)(2)(C))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the date for which (determined without regard to extensions) is after December 31, 1990.

SEC. 11647. CLARIFICATION OF TREATMENT OF CERTAIN BUILDINGS UNDER REHABILITATION CREDIT.

A building shall not be treated as being ineligible for the rehabilitation credit by reason of being relocated if the rehabilitation of such building at the relocated site began before the date of the publication of proposed Treasury Regulation 1.48-12(b)(5).

SEC. 11648. TAX EXEMPTION FOR OVERSEAS PRIVATE INVESTMENT CORPORATION.

(a) GENERAL RULE.—Subsection (l) of section 501 (relating to government corporations exempt under subsection (c)(1)) is amended by adding at the end thereof the following new paragraph:

"(4) The Overseas Private Investment Corporation established under the Foreign Assistance Act of 1961."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 11649. EXCLUSION FOR CERTAIN OVERSEAS ALLOWANCES RECEIVED BY PERSONNEL OF DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Paragraph (1) of section 912 (relating to foreign areas allowances) is amended by striking "or" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting a comma, and by adding at the end the following new subparagraphs:

"(E) section 9(b) of the National Security Agency Act of 1959, if the amount would be excluded from gross income if received under a law referred to in subparagraph (A) or (B) of this paragraph, or

"(F) section 1605(a) of title 10, United States Code, if the amount would be excluded from gross income if received under the law referred to in subparagraph (A) of this paragraph."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to allowances received after December 31, 1988, in taxable years ending after such date.

SEC. 11650. USE OF RETURN INFORMATION TO VERIFY INCOME FOR PURPOSES OF NEEDS-BASED BENEFITS AND SERVICES OF DEPARTMENT OF VETERANS AFFAIRS.

(a) DISCLOSURE OF TAX INFORMATION TO DVA.—

(1) IN GENERAL.—Subparagraph (D) of section 6103(1)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended—

(A) by striking "and" at the end of clause (vi),

(B) by striking the period at the end of clause (vii) and inserting "; and", and

(C) by adding at the end the following new clause:

"(viii)(I) any needs-based pension provided under chapter 15 of title 38, United States Code, or any other needs-based pension administered by the Secretary of Veterans Affairs and affected by section 306 of Public Law 95-588;

"(II) parents' dependency and indemnity compensation provided under section 415 of title 38, United States Code;

"(III) health-care services furnished under sections 610(a)(1)(I), 610(a)(2)(A), 610(b), and 612(a)(2)(B) of such title; and

"(IV) compensation paid under chapter 11 of title 38, United States Code, at the 100 percent rate based solely on unemployability and without regard to the fact that the disability or disabilities are not rated as 100 percent disabling under the rating schedule.

Only return information from returns with respect to net earnings from self-employment and wages may be disclosed under this paragraph for use with respect to any program described in clause (viii)(IV)."

(2) CLERICAL AMENDMENT.—The heading of paragraph (7) of section 6103(l) is amended by striking "OR THE FOOD STAMP ACT OF 1977" and inserting ", THE FOOD STAMP ACT OF 1977, OR TITLE 38, UNITED STATES CODE".

(b) USE OF INCOME INFORMATION.—

(1) USE FOR NEEDS-BASED PROGRAMS.—Chapter 53 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3117. Use of income information from other agencies: notice and verification

"(a) The Secretary shall notify each applicant for a benefit or service described in subsection (c) of this section that income information furnished by the applicant to the Secretary may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986.

"(b) The Secretary may not, by reason of information obtained from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986, terminate, deny, suspend, or reduce any benefit or service described in subsection (c) of this section until the Secretary takes appropriate steps to verify independently information relating to the following:

"(1) The amount of the asset or income involved.

"(2) Whether such individual actually has (or had) access to such asset or income for the individual's own use.

"(3) The period or periods when the individual actually had such asset or income.

"(c) The benefits and services described in this subsection are the following:

"(1) Needs-based pension benefits provided under chapter 15 of this title or any other law administered by the Secretary.

"(2) Parents' dependency and indemnity compensation provided under section 415 of this title.

"(3) Health-care services furnished under sections 610(a)(1)(I), 602(a)(2)(A), 610(b), and 612(a)(2)(B) of this title.

"(4) Compensation paid under chapter 11 of title 38, United States Code, at the 100 percent rate based solely on unemployability and without regard to the fact that the disability or disabilities are not rated as 100 percent disabling under the rating schedule.

"(d) In the case of compensation described in subsection (c)(4) of this section, the Secretary may independently verify or otherwise act upon wage or self-employment information referred to in subsection (b) of this section only if the Secretary finds that the amount and duration of the earnings reported in that information clearly indicate that the individual may no longer be qualified for a rating of total disability.

"(e) The Secretary shall inform the individual of the findings made by the Secretary on the basis of verified information under subsection (b) of this section, and shall give the individual an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility for the benefit or service involved."

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3117. Use of income information from other agencies: notice and verification.".

(c) NOTICE TO CURRENT BENEFICIARIES.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall notify individuals who (as of the enactment of this Act) are applicants for or recipients of the benefits described in subsection (b) (other than paragraph (3)) of section 3117 of title 38, United States Code (as added by subsection (b)), that income information furnished to the Secretary by such applicants and recipients may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)).

(2) DEADLINE FOR NOTICE.—Notification under paragraph (1) shall be made not later than 90 days after the date of the enactment of this Act.

(3) LIMITATION UNTIL NOTICE MADE.—The Secretary of Veterans Affairs may not obtain information from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)) until such notification under paragraph (1) is made.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, but information disclosed pursuant to the amendment made by subsection (a) may not be used to reduce, deny, or otherwise affect any benefit provided before such date.

SEC. 11651. NOTICE OF UNDERREPORTING OF AMOUNTS WITHHELD.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7523. NOTICE OF UNDERREPORTING OF AMOUNTS WITHHELD.

"(a) IN GENERAL.—If, in connection with 1 or more information return matching programs, the Secretary determines that with respect to information returns examined under such programs—

"(1) the amount shown on information returns as deducted and withheld as tax for any taxable year, exceeds by $5 or more,

"(2) the amount shown on the return of tax for such taxable year as deducted and withheld as tax,

the Secretary shall notify the taxpayer of such excess.

"(b) INFORMATION RETURN.—For purposes of subsection (a), the term 'information return' has the meaning given such term by section 6724(d)(1). The Secretary may prescribe other returns which are to be treated as information returns for purposes of this section."

(c) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7523. Notice of underreporting of amounts withheld."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to information return matching occurring after the date of the enactment of this Act.

SEC. 11652. TREATMENT OF CERTAIN INVESTMENT-ORIENTED LIFE INSURANCE CONTRACTS.

(a) GENERAL RULE.—Subsection (c) of section 7702A (relating to computational rules) is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF CERTAIN CONTRACTS WITH MORE THAN ONE INSURED.—If—

"(A) a contract provides a death benefit which is payable only upon the death of 1 insured following (or occurring simultaneously with) the death of another insured, and

"(B) there is a reduction in such death benefit below the lowest level of such death benefit provided under the contract during the 1st 7 contract years,

this section shall be applied as if the contract had originally been issued at the reduced benefit level."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contracts entered into on or after September 14, 1989.

SEC. 11653. INCREASE IN THRESHOLD FOR JOINT COMMITTEE REFUND REVIEW.

(a) GENERAL RULE.—Subsections (a) and (b) of section 6405 (relating to reports of refunds and credits) are each amended by striking "$200,000" and inserting "$1,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, except that such amendment shall not apply with respect to any refund or credit with respect to which a report has been made before the date of the enactment of this Act under subsection (a) or (b) of section 6405 of the Internal Revenue Code of 1986.

SEC. 11654. STUDY OF PRIVATE LETTER RULING PROCESS.

(a) GENERAL RULE.—The Commissioner of Internal Revenue or his delegate shall conduct a study on methods of strengthening and improving the private letter ruling process. Such study shall include consideration of—

(1) whether an overall increase in funding for the private letter ruling process would improve the issuance of such rulings,

(2) whether the provision requiring user fees for such rulings should be extended beyond its scheduled expiration date, and

(3) if such provision is extended, whether the current level of user fees should be increased and whether the user fees should be available for use by the Internal Revenue Service for the ruling process instead of being deposited in the general fund of the Treasury.

(b) REPORT.—Not later than the day six months after the date of the enactment of this Act, the Commissioner of Internal Revenue or his delegate shall submit a report on the study conducted under subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, together with such recommendations as he may deem advisable.

SEC. 11655. NONRECOGNITION FOR CERTAIN SALES TO COMPLY WITH CONFLICT-OF-INTEREST REQUIREMENTS.

(a) GENERAL RULE.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1043. SALE OF PROPERTY TO COMPLY WITH CONFLICT-OF-INTEREST REQUIREMENTS.

"(a) NONRECOGNITION OF GAIN.—If an eligible person sells any property pursuant to a certificate of divestiture, at the election of the taxpayer, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds the cost (reduced by any basis adjustment under subsection (c) attributable to a prior sale) of any permitted property purchased by the taxpayer during the 60-day period beginning on the date of such sale.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE PERSON.—The term 'eligible person' means—

"(A) an officer or employee of the executive branch of the Federal Government, and

"(B) any spouse or minor or dependent child whose ownership of any property is attributable under any executive order referred to in paragraph (2) to a person referred to in subparagraph (A).

"(2) CERTIFICATE OF DIVESTITURE.—The term 'certificate of divestiture' means any written determination—

"(A) which is made pursuant to the provisions of an executive order which is in effect on the date of the enactment of this section and which relates to conflict-of-interest rules, and

"(B) which specifies that the divestiture of specified property is reasonably necessary to comply with the provisions of such executive order.

"(3) PERMITTED PROPERTY.—The term 'permitted property' means any obligation of the United States or any diversified investment fund approved by regulations issued by the Office of Government Ethics.

"(4) PURCHASE.—The taxpayer shall be considered to have purchased any permitted property if, but for subsection (c), the unadjusted basis of such property would be its cost within the meaning of section 1012.

"(c) BASIS ADJUSTMENTS.—If gain from the sale of any prohibited property is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any permitted property which is purchased by the taxpayer during the 60-day period described in subsection (a)."

(b) TECHNICAL AMENDMENTS.—

(1) Section 1223 (relating to holding period of property) is amended by redesignating paragraph (14) as paragraph (15) and by inserting after paragraph (13) the following new paragraph:

"(14) In determining the period for which the taxpayer has held property the acquisition of which resulted under section 1043 in the nonrecognition of any part of the gain realized on the sale of other property, there shall be included the period for which such other property had been held as of the date of such sale."

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(25) in the case of property the acquisition of which resulted under section 1043 in the nonrecognition of any part of the gain realized on the sale of other property, to the extent provided in section 1043(c)."

(3) The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1043. Sale of property to comply with conflict-of-interest requirements."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in cases where the divestiture is first required to be made after the date of the enactment of this Act.

SEC. 11656. ELECTION TO TREAT CERTAIN LUMP SUM DISTRIBUTIONS AS RECEIVED DURING 1986.

Subsection (b) of section 1124 of the Tax Reform Act of 1986 is amended by striking "a lump sum distribution received from such plan before June 30, 1987, as if it were received in 1986" and inserting "as received during 1986 any lump sum distribution received before the earlier of—

"(1) the date which is 180 days after the date of the resolution of a declaratory judgment action relating to the termination, or

"(2) the date on which the period of limitation under section 6511(a) of the Internal Revenue Code of 1986 expires with respect to such employee's taxable year beginning during 1986."

SEC. 11657. ALTERNATIVE FULL-FUNDING LIMITATION.

(a) IN GENERAL.—Subsection (c) of section 412 (relating to minimum funding standards) is amended by redesignating paragraphs (8) through (11) as paragraphs (9) through (12), respectively, and by adding after paragraph (7) the following new paragraph:

"(8) ALTERNATIVE FULL-FUNDING LIMITATION.—

"(A) GENERAL RULE.—An employer may elect the full-funding limitation under this paragraph with respect to any defined benefit plan of the employer in lieu of the full-funding limitation determined under paragraph (7) if the requirements of subparagraphs (C) and (D) are met.

"(B) ALTERNATIVE FULL-FUNDING LIMITATION.—The full-funding limitation under this paragraph is the full-funding limitation determined under paragraph (7) without regard to 'the lesser of (I) 150 percent of current liability, or (II)'.

"(C) REQUIREMENTS RELATING TO PLAN ELIGIBILITY.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to a defined benefit plan if—

"(I) as of the 1st day of the election period, the accrued liability of participants accruing benefits under the plan is at least 90 percent of the plan's total accrued liability,

"(II) the plan is not a top-heavy plan (as defined in section 416(g)) for the 1st plan year of the election period or either of the 2 preceding plan years, and

"(III) each defined benefit plan of the employer (and each defined benefit plan of each employer who is a member of any controlled group which includes such employer) meets the requirements of subclauses (I) and (II).

"(ii) FAILURE TO CONTINUE TO MEET REQUIREMENTS.—

"(I) If any plan fails to meet the requirement of clause (i)(I) for any plan year during an election period, the benefits of the election under this paragraph shall be phased out under regulations prescribed by the Secretary.

"(II) If any plan fails to meet the requirement of clause (i)(II) for any plan year during an election period, such plan shall be treated as not meeting the requirements of clause (i) for the remainder of the election period.

If there is a failure described in subclause (I) or (II) with respect to any plan, such plan (and each plan described in clause (i)(III) with respect to such plan) shall be treated as not meeting the requirements of clause (i) for any of the 10 plan years beginning after the election period.

"(D) REQUIREMENTS RELATING TO ELECTION.—The requirements of this subparagraph are met if—

"(i) FILING DATE.—Notice of such election is filed with the Secretary (in such form and manner and containing such information as the Secretary may provide) at least 425 days before the 1st day of the election period.

"(ii) CONSISTENT ELECTION.—Such an election is made for all defined benefit plans maintained by the employer or by any member of a controlled group which includes the employer.

"(E) TERM OF ELECTION.—Any election made under this paragraph shall apply for the election period.

"(F) OTHER CONSEQUENCES OF ELECTION.—

"(i) NO FUNDING WAIVERS.—In the case of a plan with respect to which an election is made under this paragraph, no waiver may be granted under subsection (d) for any plan year beginning after the date the election was made and ending at the close of the election period with respect thereto.

"(ii) FAILURE TO MAKE SUCCESSIVE ELECTIONS.—If an election is made under this paragraph with respect to any plan and such an election does not apply for each successive plan year of such plan, such plan shall be treated as not meeting the requirements of subparagraph (C) for the period of 10 plan years beginning after the close of the last election period for such plan.

"(G) DEFINITIONS.—For purposes of this paragraph—

"(i) ELECTION PERIOD.—The term 'election period' means the period of 5 consecutive plan years beginning with the 1st plan year for which the election is made.

"(ii) CONTROLLED GROUP.—The term 'controlled group' means all persons who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

"(H) PROCEDURES IF ALTERNATIVE FUNDING LIMITATION REDUCES NET FEDERAL REVENUES.—

"(i) IN GENERAL.—At least once with respect to each fiscal year, the Secretary shall estimate whether the application of this paragraph will result in a net reduction in Federal revenues for such fiscal year.

"(ii) ADJUSTMENT OF FULL-FUNDING LIMITATION IF REVENUE SHORTFALL.—If the Secretary estimates that the application of this paragraph will result in a more than insubstantial net reduction in Federal revenues for any fiscal year, the Secretary—

"(I) shall make the adjustment described in clause (iii), and

"(II) to the extent such adjustment is not sufficient to reduce such reduction to an insubstantial amount, shall make the adjustment described in clause (iv).

Such adjustments shall apply only to defined benefit plans with respect to which an election under this paragraph is not in effect.

"(iii) REDUCTION IN LIMITATION BASED ON 150 PERCENT OF CURRENT LIABILITY.—The adjustment described in this clause is an adjustment which substitutes a percentage (not lower than 140 percent) for the percentage described in paragraph (7)(A)(i)(I) determined by reducing the percentage of current liability taken into account with respect to participants who are not accruing benefits under the plan.

"(iv) REDUCTION IN LIMITATION BASED ON ACCRUED LIABILITY.—The adjustment described in this clause is an adjustment which reduces the percentage of accrued liability taken into account under paragraph (7)(A)(i)(II). In no event may the amount of accrued liability taken into account under such paragraph after the adjustment be less than 140 of current liability."

(b) ALTERATION OF DISCRETIONARY REGULATORY AUTHORITY.—Subparagraph (D) of section 412(c)(7) is amended by striking "provide—" and all that follows through "(iii) for" and inserting "provide for".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

PART VI—TAX-EXEMPT BOND PROVISIONS

SEC. 11661. AUTHORITY TO FINANCE TRANSITIONAL HOUSING FOR HOMELESS WITH TAX-EXEMPT BONDS.

(a) IN GENERAL.—Paragraph (2) of section 142(d) (relating to qualified residential rental project) is amended by adding at the end thereof the following new subparagraph:

"(C) TRANSITIONAL HOUSING FOR HOMELESS.—

"(i) IN GENERAL.—Clause (iii) of section 42(i)(5)(B) shall apply.

"(ii) AREA USED TO PROVIDE CERTAIN SUPPORTIVE SERVICES TO QUALIFY.—In the case of any building described in such clause (iii), the portion of such building described in subclause (II) thereof shall be treated as residential rental property to the extent such portion does not exceed 20 percent of the portion of the building consisting of residential rental units treated as provided in such clause (iii)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after December 31, 1989.

SEC. 11662. AUTHORITY TO ELECT REBATE TO THE UNITED STATES AFTER CERTAIN MORTGAGE BONDS ARE ISSUED.

For purposes of section 143(g)(3)(D) of the Internal Revenue Code of 1986, in the case of a bond issued before January 1, 1989, an election made by the issuer before the close of the 1-year period beginning on the date of the enactment of this Act shall be treated as made before such bond was issued. An election under the preceding sentence shall apply only to amounts required to be paid or credited after the date the election is made.

SEC. 11663. TREATMENT OF HEDGE BONDS.

(a) IN GENERAL.—Section 149 (relating to bonds must be registered to be tax-exempt; other requirements) is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF HEDGE BONDS.—

"(1) IN GENERAL.—Section 103(a) shall not apply to any hedge bond unless, with respect to the issue of which such bond is a part—

"(A) the requirement of paragraph (2) is met, and

"(B) the requirement of subsection (f)(3) is met.

"(2) REASONABLE EXPECTATIONS AS TO WHEN PROCEEDS WILL BE SPENT.—An issue meets the requirement of this paragraph if the issuer reasonably expects that—

"(A) 15 percent of the spendable proceeds of the issue will be spent for the governmental purposes of the issue within the 1-year period beginning on the date the bonds are issued,

"(B) 30 percent of the spendable proceeds of the issue will be spent for such purposes within the 2-year period beginning on such date,

"(C) 50 percent of the spendable proceeds of the issue will be spent for such purposes within the 3-year period beginning on such date, and

"(D) 85 percent of the spendable proceeds of the issue will be spent for such purposes within the 5-year period beginning on such date.

"(3) HEDGE BOND.—For purposes of this subsection, the term 'hedge bond' means any bond issued as part of an issue unless—

"(A) the issuer reasonably expects that 85 percent of the spendable proceeds of the issue will be used to carry out the governmental purposes of the issue within the 3-year period beginning on the date the bonds are issued, and

"(B) not more than 50 percent of the proceeds of the issue are invested in nonpurpose investments (as defined in section 148(f)(6)(A)) having a substantially guaranteed yield for 4 years or more.

Such term shall not include any bond the proceeds of which are required to be used to refund another bond if the original bond was not a hedge bond.

"(4) SPECIAL RULES.—For purposes of this subsection—

"(A) CONSTRUCTION PERIOD IN EXCESS OF 5 YEARS.—The Secretary may, at the request of any issuer, provide that the requirement of paragraph (2) shall be treated as met with respect to the portion of the spendable proceeds of an issue which is to be used for any construction project having a construction period in excess of 5 years if it is reasonably expected that such proceeds will be spent over a reasonable construction schedule specified in such request.

"(B) RULES FOR DETERMINING EXPECTATIONS.—The rules of subsection (f)(2)(B) shall apply.

"(5) REGULATIONS.—The Secretary may prescribe regulations—

"(A) to provide that bonds issued to meet the self-insurance needs of the governmental unit issuing the bonds (or subordinate entities thereof) shall not be treated as hedge bonds if—

"(i) insurance meeting such needs cannot be acquired by such unit at commercially reasonable rates,

"(ii) the amount of such bonds is determined under reasonable assumptions and actuarially sound methods, and

"(iii) such bonds meet such other requirements as the Secretary may prescribe, and

"(B) to prevent the avoidance of the rules of this subsection, including through the aggregation of projects within a single issue."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to bonds issued after September 14, 1989.

(2) BONDS SOLD BEFORE SEPTEMBER 15, 1989.—The amendment made by subsection (a) shall not apply to any bond sold before September 15, 1989, and issued before October 15, 1989.

(3) APPLICATION TO REFUNDING BONDS.—In the case of a refunding bond to which the amendment made by subsection (a) applies which is issued to refund a bond to which the amendment made by subsection (a) does not apply, for purposes of determining whether the refunding bond is a hedge bond, the amendment made by subsection (a) shall be treated as applying to the original bond.

SEC. 11664. EXCEPTIONS FROM ARBITRAGE REBATE REQUIREMENT.

(a) IN GENERAL.—Clause (i) of section 148(f)(4)(B) (relating to temporary investments) is amended to read as follows:

"(ii) IN GENERAL.—An issue shall, for purposes of this subsection, be treated as meeting the requirements of paragraph (2) if—

"(I) the gross proceeds of such issue are expended for the governmental purposes for which the issue was issued no later than the day which is 6 months after the date of issuance of the issue, and

"(II) the requirements of paragraph (2) are met after such 6 months with respect to earnings on amounts in any reasonably required reserve or replacement fund.

Gross proceeds which are held in a bona fide debt service fund or a reasonably required reserve or replacement fund shall not be considered gross proceeds for purposes of this subparagraph only."

(b) CONSTRUCTION BONDS.—Subparagraph (B) of section 148(f)(4) (relating to temporary investments) is amended by adding at the end thereof the following new clause:

"(iv) ADDITIONAL 18-MONTH PERIOD FOR CERTAIN CONSTRUCTION BONDS.—

"(I) IN GENERAL.—In the case of an issue described in subclause (III), clause (i) shall be applied by substituting '2 years' for '6 months' each place it appears.

"(II) PROCEEDS MUST BE SPENT WITHIN CERTAIN PERIODS.—Subclause (I) shall not apply to any issue if less than 10 percent of the net proceeds of the issue are spent for the governmental purposes of the issue within the 6-month period beginning on the date the bonds are issued, less than 50 percent of such proceeds are spent for such purposes within the 1-year period beginning on such date, less than 90 percent of such proceeds are spent for such purposes within the 18-month period beginning on such date, or less than 100 percent of such proceeds are spent for such purposes within the 2-year period beginning on such date. For purposes of the preceding sentence, the term 'net proceeds' includes investment proceeds earned before the close of the period involved on the investment of the sale proceeds of the issue.

"(III) ISSUES TO WHICH SUBCLAUSE (I) APPLIES.—An issue is described in this subclause if at least 75 percent of the net proceeds of the issue are to be used for construction expenditures with respect to property which is owned by a governmental unit or a 501(c)(3) organization. For purposes of the preceding sentence, the term 'construction' includes reconstruction and rehabilitation, and section 142(b)(1) shall apply. An issue is not described in this subclause if any bond which is part of such issue is a bond other than a qualified 501(c)(3) bond, a bond which is not a private activity bond, or a private activity bond to finance property to be owned by a governmental unit or a 501(c)(3) organization."

(c) CONFORMING AMENDMENT.—Subclause (I) of section 148(f)(4)(B)(ii) is amended by inserting "each place it appears" after "'6 months'".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 11665. ADDITIONAL AMENDMENTS RELATED TO TAX-EXEMPT BONDS, ETC.

(a) Section 1317(6)(W) of the Tax Reform Act of 1986, as amended by the Technical and Miscellaneous Revenue Act of 1988, is further amended by adding the following 2 sentences at the end thereof: "Paragraph (52) of this section shall be applied to bonds authorized under this subparagraph by substituting 'September 3, 1996' for 'December 31, 1990'. In applying subparagraph (Y) of this paragraph, bonds authorized under this subparagraph shall be treated as qualified redevelopment bonds notwithstanding that the facilities to be financed are not identified at the time the bonds are issued if all such facilities financed with the proceeds of the bonds would have been eligible facilities had they been so identified."

(b) Section 204(a)(32)(M) of the Tax Reform Act of 1986, as amended by the Technical and Miscellaneous Revenue Act of 1988, is amended further by adding at the end thereof: "Section 203(b)(2) shall be applied to such property by substituting 'Sep-

tember 3, 1999' for 'January 1, 1989' and 'January 1, 1991'."

Subtitle G—Revision of Civil Penalties

SEC. 11701. SHORT TITLE.

This subtitle may be cited as the "Improved Penalty Administration and Compliance Tax Act".

PART I—DOCUMENT AND INFORMATION RETURN PENALTIES

SEC. 11711. UNIFORM PENALTIES FOR FAILURES TO COMPLY WITH CERTAIN INFORMATION REPORTING REQUIREMENTS.

(a) GENERAL RULE.—Part II of subchapter B of chapter 68 (relating to failure to file certain information returns or statements) is amended to read as follows:

"PART II—FAILURE TO COMPLY WITH CERTAIN INFORMATION REPORTING REQUIREMENTS

"Sec. 6721. Failure to file correct information returns.

"Sec. 6722. Failure to furnish correct payee statements.

"Sec. 6723. Failure to comply with other information reporting requirements.

"Sec. 6724. Waiver; definitions and special rules.

"SEC. 6721. FAILURE TO FILE CORRECT INFORMATION RETURNS.

"(a) IMPOSITION OF PENALTY.—

"(1) IN GENERAL.—In the case of a failure described in paragraph (2) by any person with respect to an information return, such person shall pay a penalty of $50 for each return with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $250,000.

"(2) FAILURES SUBJECT TO PENALTY.—For purposes of paragraph (1), the failures described in this paragraph are—

"(A) any failure to file an information return with the Secretary on or before the required filing date, and

"(B) any failure to include all of the information required to be shown on the return or the inclusion of incorrect information.

"(b) REDUCTION WHERE CORRECTION IN SPECIFIED PERIOD.—

"(1) CORRECTION WITHIN 30 DAYS.—If any failure described in subsection (a)(2) is corrected on or before the day 30 days after the required filing date—

"(A) the penalty imposed by subsection (a) shall be $15 in lieu of $50, and

"(B) the total amount imposed on the person for all such failures during any calendar year which are so corrected shall not exceed $75,000.

"(2) FAILURES CORRECTED ON OR BEFORE AUGUST 1.—If any failure described in subsection (a)(2) is corrected after the 30th day referred to in paragraph (1) but on or before August 1 of the calendar year in which the required filing date occurs—

"(A) the penalty imposed by subsection (a) shall be $30 in lieu of $50, and

"(B) the total amount imposed on the person for all such failures during the calendar year which are so corrected shall not exceed $150,000.

"(c) EXCEPTION FOR DE MINIMIS FAILURES TO INCLUDE ALL REQUIRED INFORMATION.—

"(1) IN GENERAL.—If—

"(A) an information return is filed with the Secretary,

"(B) there is a failure described in subsection (a)(2)(B) with respect to such return, and

"(C) such failure is corrected on or before August 1 of the calendar year in which the required filing date occurs,

for purposes of this section, such return shall be treated as having been filed with all of the correct required information.

"(2) LIMITATION.—The number of information returns to which paragraph (1) applies for any calendar year shall not exceed the greater of—

"(A) 10, or

"(B) one-half of 1 percent of the total number of information returns required to be filed by the person during the calendar year.

"(d) LOWER LIMITATIONS FOR PERSONS WITH GROSS RECEIPTS OF NOT MORE THAN $5,000,000.—

"(1) IN GENERAL.—If any person meets the gross receipts test of paragraph (2) with respect to any calendar year, with respect to failures during such taxable year—

"(A) subsection (a)(1) shall be applied by substituting '$100,000' for '$250,000',

"(B) subsection (b)(1)(B) shall be applied by substituting '$25,000' for '$75,000', and

"(C) subsection (b)(2)(B) shall be applied by substituting '$50,000' for '$150,000'.

"(2) GROSS RECEIPTS TEST.—

"(A) IN GENERAL.—A person meets the gross receipts test of this paragraph for any calendar year if the average annual gross receipts of such person for the most recent 3 taxable years ending before such calendar year do not exceed $5,000,000.

"(B) CERTAIN RULES MADE APPLICABLE.—For purposes of subparagraph (A), the rules of paragraphs (2) and (3) of section 448(c) shall apply.

"(e) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If 1 or more failures described in subsection (a)(2) are due to intentional disregard of the filing requirement (or the correct information reporting requirement), then, with respect to each such failure—

"(1) subsections (b), (c), and (d) shall not apply,

"(2) the penalty imposed under subsection (a) shall be $100, or, if greater—

"(A) in the case of a return other than a return required under section 6045(a), 6041A(b), 6050H, 6050J, 6050K, or 6050L, 10 percent of the aggregate amount of the items required to be reported correctly, or

"(B) in the case of a return required to be filed by section 6045(a), 6050K, or 6050L, 5 percent of the aggregate amount of the items required to be reported correctly, and

"(3) in the case of any penalty determined under paragraph (2)—

"(A) the $250,000 limitation under subsection (a) shall not apply, and

"(B) such penalty shall not be taken into account in applying such limitation (or any similar limitation under subsection (b)) to penalties not determined under paragraph (2).

"SEC. 6722. FAILURE TO FURNISH CORRECT PAYEE STATEMENTS.

"(a) GENERAL RULE.—In the case of each failure described in subsection (b) by any person with respect to a payee statement, such person shall pay a penalty of $50 for each statement with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $100,000.

"(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

"(1) any failure to furnish a payee statement on or before the date prescribed therefor to the person to whom such statement is required to be furnished, and

"(2) any failure to include all of the information required to be shown on a payee statement or the inclusion of incorrect information.

"(c) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If 1 or more failures to which subsection (a) applies are due to intentional disregard of the requirement to furnish a payee statement (or the correct information reporting requirement), then, with respect to each failure—

"(1) the penalty imposed under subsection (a) shall be $100, or, if greater—

"(A) in the case of a payee statement other than a statement required under section 6045(b), 6041A(e) (in respect of a return required under section 6041A(b)), 6050H(d), 6050J(e), 6050K(b), or 6050L(c), 10 percent of the aggregate amount of the items required to be reported correctly, or

"(B) in the case of a payee statement required under section 6045(b), 6050K(b), or 6050L(c), 5 percent of the aggregate amount of the items required to be reported correctly, and

"(2) in the case of any penalty determined under paragraph (1)—

"(A) the $100,000 limitation under subsection (a) shall not apply, and

"(B) such penalty shall not be taken into account in applying such limitation to penalties not determined under paragraph (1).

"SEC. 6723. FAILURE TO COMPLY WITH OTHER INFORMATION REPORTING REQUIREMENTS.

"In the case of a failure by any person to comply with a specified information reporting requirement on or before the time prescribed therefor, such person shall pay a penalty of $50 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $100,000.

"SEC. 6724. WAIVER; DEFINITIONS AND SPECIAL RULES.

"(a) REASONABLE CAUSE WAIVER.—No penalty shall be imposed under this part with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.

"(b) PAYMENT OF PENALTY.—Any penalty imposed by this part shall be paid on notice and demand by the Secretary and in the same manner as tax.

"(c) SPECIAL RULE FOR FAILURE TO MEET MAGNETIC MEDIA REQUIREMENTS.—No penalty shall be imposed under section 6721 solely by reason of any failure to comply with the requirements of the regulations prescribed under section 6011(e), except to the extent that such a failure occurs with respect to more than 250 information returns.

"(d) DEFINITIONS.—For purposes of this part—

"(1) INFORMATION RETURN.—The term 'information return' means—

"(A) any statement of the amount of payments to another person required by—

"(i) section 6041(a) or (b) (relating to certain information at source),

"(ii) section 6042(a)(1) (relating to payments of dividends),

"(iii) section 6044(a)(1) (relating to payments of patronage dividends),

"(iv) section 6049(a) (relating to payments of interest),

"(v) section 6050A(a) (relating to reporting requirements of certain fishing boat operators),

"(vi) section 6050N(a) (relating to payments of royalties), or

"(vii) section 6051(d) (relating to information returns with respect to income tax withheld), and

"(B) any return required by—

"(i) section 6041A(a) or (b) (relating to returns of direct sellers),

"(ii) section 6045(a) or (d) (relating to returns of brokers),

"(iii) section 6050H(a) (relating to mortgage interest received in trade or business from individuals),

"(iv) section 6050I(a) (relating to cash received in trade or business),

"(v) section 6050J(a) (relating to foreclosures and abandonments of security),

"(vi) section 6050K(a) (relating to exchanges of certain partnership interests),

"(vii) section 6050L(a) (relating to returns relating to certain dispositions of donated property),

"(viii) section 6052(a) (relating to reporting payment of wages in the form of group-life insurance),

"(ix) section 6053(c)(1) (relating to reporting with respect to certain tips),

"(x) section 1060(b) (relating to reporting requirements of transferors and transferees in certain asset acquisitions), or

"(xi) subparagraph (A) or (C) of subsection (c)(4), or subsection (e), of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels).

Such term also includes any form, statement, or schedule required to be filed with the Secretary with respect to any amount from which tax was required to be deducted and withheld under chapter 3 (or from which tax would be required to be so deducted and withheld but for an exemption under this title or any treaty obligation of the United States).

"(2) PAYEE STATEMENT.—The term 'payee statement' means any statement required to be furnished under—

"(A) section 6031(b) or (c), 6034A, or 6037(b) (relating to statements furnished by certain pass-thru entities),

"(B) section 6039(a) (relating to information required in connection with certain options),

"(C) section 6041(d) (relating to information at source),

"(D) section 6041A(e) (relating to returns regarding payments of remuneration for services and direct sales),

"(E) section 6042(c) (relating to returns regarding payments of dividends and corporate earnings and profits),

"(F) section 6044(e) (relating to returns regarding payments of patronage dividends),

"(G) section 6045(b) or (d) (relating to returns of brokers),

"(H) section 6049(c) (relating to returns regarding payments of interest),

"(I) section 6050A(b) (relating to reporting requirements of certain fishing boat operators),

"(J) section 6050H(d) relating to returns relating to mortgage interest received in trade or business from individuals),

"(K) section 6050I(e) (relating to returns relating to cash received in trade or business),

"(L) section 6050J(e) (relating to returns relating to foreclosures and abandonments of security),

"(M) section 6050K(b) (relating to returns relating to exchanges of certain partnership interests),

"(N) section 6050L(c) (relating to returns relating to certain dispositions of donated property),

"(O) section 6050N(b) (relating to returns regarding payments of royalties),

"(P) section 6051 (relating to receipts for employees),

"(Q) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance),

"(R) section 6053(b) or (c) (relating to reports of tips), or

"(S) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels).

Such term also includes any form, statement, or schedule required to be furnished to the recipient of any amount from which tax was required to be deducted and withheld under chapter 3 (or from which tax would be required to be so deducted and withheld but for an exemption under this title or any treaty obligation of the United States).

"(3) SPECIFIED INFORMATION REPORTING REQUIREMENT.—The term 'specified information reporting requirement' means—

"(A) the notice required by section 6050K(c)(1) (relating to requirement that transferor notify partnership of exchange),

"(B) any requirement contained in the regulations prescribed under section 6109 that a person—

"(i) include his TIN on any return, statement, or other document (other than an information return or payee statement),

"(ii) furnish his TIN to another person, or

"(iii) include on any return, statement, or other document (other than an information return or payee statement) made with respect to another person the TIN of such person,

"(C) any requirement contained in the regulations prescribed under section 215 that a person—

"(i) furnish his TIN to another person, or

"(ii) include on his return the TIN of another person, and

"(D) the requirement of section 6109(e) that a person include the TIN of any dependent on his return.

"(4) REQUIRED FILING DATE.—The term 'required filing date' means the date prescribed for filing an information return with the Secretary (determined with regard to any extension of time for filing)."

(b) TECHNICAL AMENDMENTS.—

(1) Sections 6017A, 6676, and 6687 are hereby repealed.

(2) Subsection (b) of section 7205 is amended to read as follows:

"(b) BACKUP WITHHOLDING ON INTEREST AND DIVIDENDS.—If any individual willfully makes a false certification under paragraph (1) or (2)(C) of section 3406(d), then such individual shall, in addition to any other penalty provided by law, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 1 year, or both."

(3) The table of sections for subpart B of part II of subchapter A of chapter 61 is amended by striking the item relating to section 6017A.

(4) The table of sections for part I of subchapter B of chapter 68 is amended by striking the items relating to sections 6676 and 6687.

(5) The table of parts for subchapter B of chapter 68 is amended by striking the item relating to part II and inserting the following:

"Part II. Failure to comply with certain information reporting requirements."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which (determined without regard to extensions) is after December 31, 1989.

SEC. 11712. INFORMATION REQUIRED WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS.

(a) CLARIFICATION OF REPORTING REQUIREMENTS UNDER SECTION 6038.—

(1) Subsection (a) of section 6038 (relating to information with respect to certain foreign corporations) is amended by adding at the end thereof the following new paragraph:

"(4) INFORMATION REQUIRED FROM CERTAIN SHAREHOLDERS IN CERTAIN CASES.—If any foreign corporation is treated as a controlled foreign corporation for any purpose under subpart F of part III of subchapter N of chapter 1, the Secretary may require any United States person treated as a United States shareholder of such corporation for any purpose under subpart F to furnish the information required under paragraph (1)."

(2) Paragraph (1) of section 6038(a) is amended by inserting before the period at the end of the second sentence the following: "or which the Secretary determines to be appropriate to carry out the provisions of this title."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to returns and statements the due date for which (determined without regard to extensions) is after December 31, 1989.

SEC. 11713. UNIFORM REQUIREMENTS FOR RETURNS ON MAGNETIC MEDIA.

(a) GENERAL RULE.—Subsection (e) of section 6011 (relating to regulations requiring returns on magnetic tape, etc.) is amended to read as follows:

"(e) REGULATIONS REQUIRING RETURNS ON MAGNETIC MEDIA, ETC.—

"(1) IN GENERAL.—The Secretary shall prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form. The Secretary may not require returns of any tax imposed by subtitle A on individuals, estates, and trusts to be other than on paper forms supplied by the Secretary.

"(2) REQUIREMENTS OF REGULATIONS.—In prescribing regulations under paragraph (1), the Secretary—

"(A) shall not require any person to file returns on magnetic media unless such person is required to file at least 250 returns during the calendar year, and

"(B) shall take into account (among other relevant factors) the ability of the taxpayer to comply at reasonable cost with the requirements of such regulations."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1989.

SEC. 11714. STUDY OF PROCEDURES TO PREVENT MISMATCHING.

(a) GENERAL RULE.—The Comptroller General (in consultation with the Secretary of the Treasury or his delegate) shall conduct a study on procedures to resolve, with the least disclosure of return information possible, discrepancies between taxpayer-identity information shown on information returns and such information in the records of the Internal Revenue Service.

(b) REPORT.—Not later than June 1, 1990, the Comptroller General shall submit to the Committee on Ways and Means of the

House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

SEC. 11715. STUDY OF SERVICE BUREAUS.

(a) GENERAL RULE.—The Comptroller General (in consultation with the Secretary of the Treasury or his delegate) shall conduct a study of whether persons engaged in the business of transmitting information returns or other documents to the Internal Revenue Service on behalf of other persons should be subject to registration or other regulation.

(b) REPORT.—Not later than July 1, 1990, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

PART II—REVISION OF ACCURACY-RELATED PENALTIES

SEC. 11721. REVISION OF ACCURACY-RELATED PENALTIES.

(a) GENERAL RULE.—Subchapter A of chapter 68 (relating to additions to the tax and additional amounts) is amended by striking section 6662 and inserting the following:

"PART II—ACCURACY-RELATED AND FRAUD PENALTIES

"Sec. 6662. Imposition of accuracy-related penalty.

"Sec. 6663. Imposition of fraud penalty.

"Sec. 6664. Definitions and special rules.

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY.

"(a) IMPOSITION OF PENALTY.—If this section applies to any portion of an underpayment of tax required to be shown on a return, there shall be added to the tax an amount equal to 20 percent of the portion of the underpayment to which this section applies.

"(b) PORTION OF UNDERPAYMENT TO WHICH SECTION APPLIES.—This section shall apply to the portion of any underpayment which is attributable to 1 or more of the following:

"(1) Negligence or disregard of rules or regulations.

"(2) Any substantial understatement of income tax.

"(3) Any substantial valuation overstatement under chapter 1.

"(4) Any substantial overstatement of pension liabilities.

"(5) Any substantial estate or gift tax valuation understatement.

This section shall not apply to any portion of an underpayment on which a penalty is imposed under section 6663.

"(c) NEGLIGENCE.—For purposes of this section, the term 'negligence' includes any failure to make a reasonable attempt to comply with the provisions of this title, and the term 'disregard' includes any careless, reckless, or intentional disregard.

"(d) SUBSTANTIAL UNDERSTATEMENT OF INCOME TAX.—

"(1) SUBSTANTIAL UNDERSTATEMENT.—

"(A) IN GENERAL.—For purposes of this section, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year, or

"(ii) $5,000.

"(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), paragraph (1) shall be applied by substituting "$10,000" for "$5,000".

"(2) UNDERSTATEMENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'understatement' means the excess of—

"(i) the amount of the tax required to be shown on the return for the taxable year, over

"(ii) the amount of the tax imposed which is shown on the return, reduced by any rebate (within the meaning of section 6211(b)(2)).

"(B) REDUCTION FOR UNDERSTATEMENT DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—The amount of the understatement under subparagraph (A) shall be reduced by that portion of the understatement which is attributable to—

"(i) the tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or

"(ii) any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return.

"(C) SPECIAL RULES IN CASES INVOLVING TAX SHELTERS.—

"(i) IN GENERAL.—In the case of any item attributable to a tax shelter—

"(I) subparagraph (B)(ii) shall not apply, and

"(II) subparagraph (B)(i) shall not apply unless (in addition to meeting the requirements of such subparagraph) the taxpayer reasonably believed that the tax treatment of such item by the taxpayer was more likely than not the proper treatment.

"(ii) TAX SHELTER.—For purposes of clause (i), the term 'tax shelter' means—

"(I) a partnership or other entity,

"(II) any investment plan or arrangement, or

"(III) any other plan or arrangement,

if the principal purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.

"(D) SECRETARIAL LIST.—The Secretary shall prescribe (and revise not less frequently than annually) a list of positions—

"(i) for which the Secretary believes there is not substantial authority, and

"(ii) which affect a significant number of taxpayers.

Such list (and any revision thereof) shall be published in the Federal Register.

"(e) SUBSTANTIAL VALUATION OVERSTATEMENT UNDER CHAPTER 1.—

"(1) IN GENERAL.—For purposes of this section, there is a substantial valuation overstatement under chapter 1 if the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be).

"(2) LIMITATION.—No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation overstatements under chapter 1 exceeds $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).

"(f) SUBSTANTIAL OVERSTATEMENT OF PENSION LIABILITIES.—

"(1) IN GENERAL.—For purposes of this section, there is a substantial overstatement of pension liabilities if the actuarial determination of the liabilities taken into account for purposes of computing the deduction under paragraph (1) or (2) of section 404(a) is 200 percent or more of the amount determined to be the correct amount of such liabilities.

"(2) LIMITATION.—No penalty shall be imposed by reason of subsection (b)(4) unless the portion of the underpayment for the taxable year attributable to substantial overstatements of pension liabilities exceeds $1,000.

"(g) SUBSTANTIAL ESTATE OR GIFT TAX VALUATION UNDERSTATEMENT.—

"(1) IN GENERAL.—For purposes of this section, there is a substantial estate or gift tax valuation understatement if the value of any property claimed on any return of tax imposed by subtitle B is 50 percent or less of the amount determined to be the correct amount of such valuation.

"(2) LIMITATION.—No penalty shall be imposed by reason of subsection (b)(5) unless the portion of the underpayment attributable to substantial estate or gift tax valuation understatements for the taxable period (or, in the case of the tax imposed by chapter 11, with respect to the estate of the decedent) exceeds $5,000.

"(h) INCREASE IN PENALTY IN CASE OF GROSS VALUATION MISSTATEMENTS.—

"(1) IN GENERAL.—To the extent that a portion of the underpayment to which this section applies is attributable to one or more gross valuation misstatements, subsection (a) shall be applied with respect to such portion by substituting '40 percent' for '20 percent'.

"(2) GROSS VALUATION MISSTATEMENTS.—The term 'gross valuation misstatements' means—

"(A) any substantial valuation overstatement under chapter 1 as determined under subsection (e) by substituting '400 percent' for '200 percent',

"(B) any substantial overstatement of pension liabilities as determined under subsection (f) by substituting '400 percent' for '200 percent', and

"(C) any substantial estate or gift tax valuation understatement as determined under subsection (g) by substituting '25 percent' for '50 percent'.

"SEC. 6663. IMPOSITION OF FRAUD PENALTY.

"(a) IMPOSITION OF PENALTY.—If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 75 percent of the portion of the underpayment which is attributable to fraud.

"(b) DETERMINATION OF PORTION ATTRIBUTABLE TO FRAUD.—If the Secretary establishes that any portion of an underpayment is attributable to fraud, the entire underpayment shall be treated as attributable to fraud, except with respect to any portion of the underpayment which the taxpayer establishes (by a preponderance of the evidence) is not attributable to fraud.

"(c) SPECIAL RULE FOR JOINT RETURNS.—In the case of a joint return, this section shall not apply with respect to a spouse unless some part of the underpayment is due to the fraud of such spouse.

"SEC. 6664. DEFINITIONS AND SPECIAL RULES.

"(a) UNDERPAYMENT.—For purposes of this part, the term 'underpayment' means the amount by which any tax imposed by this title exceeds the excess of—

"(1) the sum of—

"(A) the amount shown as the tax by the taxpayer on his return, plus

"(B) amounts not so shown previously assessed (or collected without assessment), over

"(2) the amount of rebates made.

For purposes of paragraph (2), the term 'rebate' means so much of an abatement, credit, refund, or other repayment, as was made on the ground that the tax imposed was less than the excess of the amount specified in paragraph (1) over the rebates previously made.

"(b) PENALTIES APPLICABLE ONLY WHERE RETURN FILED.—The penalties provided in this part shall apply only in cases where a return of tax is filed (other than a return prepared by the Secretary under the authority of section 6020(b)).

"(c) REASONABLE CAUSE EXCEPTION.—

"(1) IN GENERAL.—No penalty shall be imposed under this part with respect to any portion of an underpayment if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) SPECIAL RULE FOR CERTAIN VALUATION OVERSTATEMENTS.—In the case of any underpayment attributable to a substantial or gross valuation overstatement under chapter 1 with respect to charitable deduction property, paragraph (1) shall not apply unless—

"(A) the claimed value of the property was based on a qualified appraisal made by a qualified appraiser, and

"(B) in addition to obtaining such appraisal, the taxpayer made a good faith investigation of the value of the contributed property.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) CHARITABLE DEDUCTION PROPERTY.—The term 'charitable deduction property' means any property contributed by the taxpayer in a contribution for which a deduction was claimed under section 170. For purposes of paragraph (2), such term shall not include any securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.

"(B) QUALIFIED APPRAISER.—The term 'qualified appraiser' means any appraiser meeting the requirements of the regulations prescribed under section 170(a)(1).

"(C) QUALIFIED APPRAISAL.—The term 'qualified appraisal' means any appraisal meeting the requirements of the regulations prescribed under section 170(a)(1).

"PART III—APPLICABLE RULES

"Sec. 6665. Applicable rules.

"SEC. 6665. APPLICABLE RULES.

"(a) ADDITIONS TREATED AS TAX.—Except as otherwise provided in this title—

"(1) the additions to the tax, additional amounts, and penalties provided by this chapter shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as taxes; and

"(2) any reference in this title to 'tax' imposed by this title shall be deemed also to refer to the additions to the tax, additional amounts, and penalties provided by this chapter.

"(b) PROCEDURE FOR ASSESSING CERTAIN ADDITIONS TO TAX.—For purposes of subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes), subsection (a) shall not apply to any addition to tax under section 6651, 6654, or 6655; except that it shall apply—

"(1) in the case of an addition described in section 6651, to that portion of such addition which is attributable to a deficiency in tax described in section 6211; or

"(2) to an addition described in section 6654 or 6655, if no return is filed for the taxable year."

(b) REPEAL OF INCREASE IN INTEREST ON CERTAIN SUBSTANTIAL UNDERPAYMENTS.—Subsection (c) of section 6621 (relating to interest on substantial underpayments attributable to tax motivated transactions) is hereby repealed.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 6653 is amended to read as follows:

"SEC. 6653. FAILURE TO PAY STAMP TAX.

"Any person (as defined in section 6671(b)) who—

"(1) willfully fails to pay any tax imposed by this title which is payable by stamp, coupons, tickets, books, or other devices or methods prescribed by this title or by regulations under the authority of this title, or

"(2) willfully attempts in any manner to evade or defeat any such tax or the payment thereof,

shall, in addition to other penalties provided by law, be liable for a penalty of 50 percent of the total amount of the underpayment of the tax."

(2) Sections 6659, 6659A, 6660, and 6661 are hereby repealed.

(3) Subsection (b) of section 5684 is amended—

(A) by striking "6662(a)" and inserting "6665(a)", and

(B) by striking "6662" in the subsection heading and inserting "6665".

(4) Subsection (a) of section 5761 is amended by striking "or 6653" and inserting "or 6653 or part II of subchapter A of chapter 68".

(5) Subsection (c) of section 5761 is amended—

(A) by striking "6662(a)" and inserting "6665(a)", and

(B) by striking "6662" in the subsection heading and inserting "6665".

(6) Subparagraph (A) of section 6013(b)(5) is amended—

(A) by striking "section 6653" and inserting "part II of subchapter A of chapter 68", and

(B) by striking "section 6653" in the subparagraph heading and inserting "part II of subchapter A of chapter 68".

(7) Subsection (d) of section 6222 is amended by striking "section 6653(a)" and inserting "part II of subchapter A of chapter 68".

(8) Paragraph (2) of section 6601(e) is amended by striking "section 6651(a)(1), 6653, 6659, 6660, or 6661" each place it appears and inserting "section 6651(a)(1) or 6653 or under part II of subchapter A of chapter 68".

(9) Subsection (a) of section 6672 is amended by striking "under section 6653" and inserting "under section 6653 or part II of subchapter A of chapter 68".

(10) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(b)(2)(C)(ii)" and inserting "section 6662(d)(2)(C)(ii)".

(11) Clause (i) of section 1274(b)(3)(B) is amended by striking "section 6661(b)(2)(C)(ii)" and inserting "section 6662(d)(2)(C)(ii)".

(12) Subparagraph (B) of section 7519(f)(4) is amended by striking "section 6653" and inserting "part II of subchapter A of chapter 68".

(13) Subchapter A of chapter 68 is amended by inserting after the subchapter heading the following:

"Part I. General provisions.

"Part II. Accuracy-related and fraud penalties.

"Part III. Applicable rules.

"PART I—GENERAL PROVISIONS".

(14) The table of sections for part I of subchapter A of chapter 68 (as amended by paragraph (1)) is amended—

(A) by striking out the items relating to sections 6659, 6659A, 6660, and 6661, and

(B) by striking the item relating to section 6653 and inserting:

"Sec. 6653. Failure to pay stamp tax."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1989.

PART III—PREPARER, PROMOTER, AND PROTESTER PENALTIES

SEC. 11731. PENALTY FOR INSTITUTING PROCEEDINGS BEFORE TAX COURT PRIMARILY FOR DELAY, ETC.

(a) GENERAL RULE.—Section 6673 (relating to damages assessable for instituting proceedings before the Tax Court primarily for delay, etc.) is amended to read as follows:

"SEC. 6673. SANCTIONS AND COSTS AWARDED BY COURTS.

"(a) TAX COURT PROCEEDINGS.—

"(1) PROCEDURES INSTITUTED PRIMARILY FOR DELAY, ETC.—Whenever it appears to the Tax Court that—

"(A) proceedings before it have been instituted or maintained by the taxpayer primarily for delay,

"(B) the taxpayer's position in such proceeding is frivolous or groundless, or

"(C) the taxpayer unreasonably failed to pursue available administrative remedies,

the Tax Court, in its decision, may require the taxpayer to pay to the United States a penalty not in excess of $25,000.

"(2) COUNSEL'S LIABILITY FOR EXCESSIVE COSTS.—Whenever it appears to the Tax Court that any attorney or other person admitted to practice before the Tax Court has multiplied the proceedings in any case unreasonably and vexatiously, the Tax Court may require—

"(A) that such attorney or other person pay personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct, or

"(B) if such attorney is appearing on behalf of the Commissioner of Internal Revenue, that the United States pay such excess costs, expenses, and attorneys' fees in the same manner as such an award by a district court.

"(b) PROCEEDINGS IN OTHER COURTS.—

"(1) CLAIMS UNDER SECTION 7433.—Whenever it appears to the court that the taxpayer's position in the proceedings before the court instituted or maintained by such taxpayer under section 7433 is frivolous or groundless, the court may require the taxpayer to pay to the United States a penalty not in excess of $10,000.

"(2) COLLECTION OF SANCTIONS AND COSTS.—In any civil proceeding before any court (other than the Tax Court) which is brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title, any monetary sanctions, penalties, or costs awarded by the court to

the United States may be assessed by the Secretary and, upon notice and demand, may be collected in the same manner as a tax.

"(3) SANCTIONS AND COSTS AWARDED BY A COURT OF APPEALS.—In connection with any appeal from a proceeding in the Tax Court or a civil proceeding described in paragraph (2), an order of a United States Court of Appeals or the Supreme Court awarding monetary sanctions, penalties or court costs to the United States may be registered in a district court upon filing a certified copy of such order and shall be enforceable as other district court judgments."

(b) CLARIFICATION OF AUTHORITY TO IMPOSE PENALTIES BY APPELLATE COURTS.—Paragraph (4) of section 7482(c) (relating to power to impose damages) is amended to read as follows:

"(4) TO IMPOSE PENALTIES.—The United States Court of Appeals and the Supreme Court shall have the power to require the taxpayer to pay to the United States a penalty in any case where the decision of the Tax Court is affirmed and it appears that the appeal was instituted or maintained primarily for delay or that the taxpayer's position in the appeal is frivolous or groundless."

(c) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6673 and inserting the following:

"Sec. 6673. Sanctions and costs awarded by courts."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to positions taken after December 31, 1989, in proceedings which are pending on, or commenced after such date.

SEC. 11732. MODIFICATIONS TO PENALTIES ON RETURN PREPARERS FOR CERTAIN UNDERSTATEMENTS.

(a) GENERAL RULE.—Subsections (a) and (b) of section 6694 (relating to understatement of taxpayer's liability by income tax return preparer) are amended to read as follows:

"(a) UNDERSTATEMENTS DUE TO UNREALISTIC POSITIONS.—If—

"(1) any part of any understatement of liability with respect to any return or claim for refund is due to a position for which there was not a realistic possibility of being sustained on its merits,

"(2) any person who is an income tax return preparer with respect to such return or claim knew (or reasonably should have known) of such position, and

"(3) such position was not disclosed as provided in section 6662(d)(2)(B)(ii) or was frivolous,

such person shall pay a penalty of $250 with respect to such return or claim unless it is shown that there is reasonable cause for the understatement and such person acted in good faith.

"(b) WILLFUL OR RECKLESS CONDUCT.—If any part of any understatement of liability with respect to any return or claim for refund is due—

"(1) to a willful attempt in any manner to understate the liability for tax by a person who is an income tax return preparer with respect to such return or claim, or

"(2) to any reckless or intentional disregard of rules or regulations by any such person,

such person shall pay a penalty of $1,000 with respect to such return or claim. With respect to any return or claim, the amount of the penalty payable by any person by reason of this subsection shall be reduced by the amount of the penalty paid by such person by reason of subsection (a)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to documents prepared after December 31, 1989.

SEC. 11733. MODIFICATIONS TO OTHER ASSESSABLE PENALTIES WITH RESPECT TO RETURN PREPARERS.

(a) FAILURE TO FURNISH COPY TO TAXPAYER.—Subsection (a) of section 6695 is amended—

(1) by striking "$25" and inserting "$50", and

(2) by adding at the end thereof the following new sentence: "The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed $25,000."

(b) FAILURE TO SIGN RETURN.—Subsection (b) of section 6695 is amended—

(1) by striking "$25" and inserting "$50", and

(2) by adding at the end thereof the following new sentence: "The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed $25,000."

(c) FAILURE TO FURNISH IDENTIFYING NUMBER.—Subsection (c) of section 6695 is amended—

(1) by striking "$25" and inserting "$50", and

(2) by adding at the end thereof the following new sentence: "The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed $25,000."

(d) FAILURE TO FILE CORRECT INFORMATION RETURNS.—Subsection (e) of section 6695 is amended to read as follows:

"(e) FAILURE TO FILE CORRECT INFORMATION RETURNS.—Any person required to make a return under section 6060 who fails to comply with the requirements of such section shall pay a penalty of $50 for—

"(1) each failure to file a return as required under such section, and

"(2) each failure to set forth an item in the return as required under such section,

unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed $25,000."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to documents prepared after December 31, 1989.

SEC. 11734. MODIFICATIONS TO PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS, ETC.

(a) GENERAL RULE.—Subsection (a) of section 6700 is amended—

(1) by inserting "(directly or indirectly)" after "participates" in paragraph (1)(B),

(2) by inserting "or causes another person to make or furnish" after "makes or furnishes" in paragraph (2), and

(3) by striking the material following paragraph (2) and inserting the following:

"shall pay, with respect to each activity described in paragraph (1), a penalty equal to the $1,000 or, if the person establishes that it is lesser, 100 percent of the gross income derived (or to be derived) by such person from such activity. For purposes of the preceding sentence, activities described in paragraph (1)(A) with respect to each entity or arrangement shall be treated as a separate activity and participation in each sale described in paragraph (1)(B) shall be so treated."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to activities after December 31, 1989.

SEC. 11735. MODIFICATIONS TO PENALTIES FOR AIDING AND ABETTING UNDERSTATEMENT OF TAX LIABILITY.

(a) GENERAL RULE.—Subsection (a) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended—

(1) by striking "in connection with any matter arising under the internal revenue laws" in paragraph (1),

(2) by striking "who knows" in paragraph (2) and inserting "who knows (or has reason to believe)", and

(3) by striking "will result" in paragraph (3) and inserting "would result".

(b) COORDINATION WITH PENALTY UNDER SECTION 6700.—

(1) IN GENERAL.—Subsection (f) of section 6701 is amended by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH SECTION 6700.—No penalty shall be assessed under section 6700 on any person with respect to any document for which a penalty is assessed on such person under subsection (a)."

(2) TECHNICAL AMENDMENT.—Paragraph (1) of section 6701(f) is amended by striking "paragraph (2)" and inserting "paragraphs (2) and (3)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 31, 1989.

SEC. 11736. MODIFICATION TO PENALTY FOR FRIVOLOUS INCOME TAX RETURN.

(a) REQUIREMENT OF FULL PAYMENT OF PENALTY.—Subsection (c) of section 6703 is amended by striking "section 6700, 6701, or 6702" each place it appears and inserting "section 6700 or 6701".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns filed after December 31, 1989.

SEC. 11737. AUTHORITY TO COUNTERCLAIM FOR BALANCE OF PENALTY IN PARTIAL REFUND SUITS.

(a) GENERAL RULE.—Sections 6672(b)(1), 6694(c)(1), and 6703(c)(1) are each amended by adding at the end thereof the following new sentence: "Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 11738. REPEAL OF BONDING REQUIREMENT UNDER SECTION 7407.

(a) GENERAL RULE.—Subsection (c) of section 7407 (relating to bond to stay injunction) is hereby repealed.

(b) CONFORMING AMENDMENT.—Subsection (a) of section 7407 is amended by striking "Except as provided in subsection (c), a civil" and inserting "A civil".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions commenced after December 31, 1989.

SEC. 11739. CERTAIN DISCLOSURES OF INFORMATION BY PREPARERS PERMITTED.

(a) GENERAL RULE.—Paragraph (3) of section 7216(b) (relating to exceptions) is amended by adding at the end thereof the following new sentence: "Such regulations shall permit (subject to such conditions as such regulations shall provide) the disclo-

sure or use of information for quality or peer reviews."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

PART IV—FAILURES TO FILE OR PAY

SEC. 11741. INCREASE IN PENALTY FOR FRAUDULENT FAILURE TO FILE.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or pay tax) is amended by adding at the end thereof the following new subsection:

"(f) INCREASE IN PENALTY FOR FRAUDULENT FAILURE TO FILE.—If any failure to file any return is fraudulent, paragraph (1) of subsection (a) shall be applied—

"(1) by substituting '15 percent' for '5 percent' each place it appears, and

"(2) by substituting '75 percent' for '25 percent'."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of failures to file returns the due date for which (determined without regard to extensions) is after December 31, 1989.

SEC. 11742. FAILURE TO MAKE DEPOSIT OF TAXES.

(a) GENERAL RULE.—Section 6656 (relating to failure to make deposit of taxes or overstatement of deposits) is amended to read as follows:

"SEC. 6656. FAILURE TO MAKE DEPOSIT OF TAXES.

"(a) UNDERPAYMENT OF DEPOSITS.—In the case of any failure by any person to deposit (as required by this title or by regulations of the Secretary under this title) on the date prescribed therefor any amount of tax imposed by this title in such Government depository as is authorized under section 6302(c) to receive such deposit, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be imposed upon such person a penalty equal to the applicable percentage of the amount of the underpayment.

"(b) DEFINITIONS.—For purposes of subsection (a)—

"(1) APPLICABLE PERCENTAGE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'applicable percentage' means—

"(i) 2 percent if the failure is for not more than 5 days,

"(ii) 5 percent if the failure is for more than 5 days but not more than 15 days, and

"(iii) 10 percent if the failure is for more than 15 days.

"(B) SPECIAL RULE.—In any case where the tax is not deposited on or before the earlier of—

"(i) the day 10 days after the date of the first delinquency notice to the taxpayer under section 6303, or

"(ii) the day on which notice and demand for immediate payment is given under section 6861 or 6862 or the last sentence of section 6331(a),

the applicable percentage shall be 15 percent.

"(2) UNDERPAYMENT.—The term 'underpayment' means the excess of the amount of the tax required to be deposited over the amount, if any, thereof deposited on or before the date prescribed therefor."

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 68 (as amended by title II) is amended by striking the item relating to section 6656 and inserting the following:

"Sec. 6656. Failure to make deposit of taxes."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to deposits required to be made after December 31, 1989.

SEC. 11743. EFFECT OF PAYMENT OF TAX BY RECIPIENT ON CERTAIN PENALTIES.

(a) GENERAL RULE.—Section 1463 (relating to tax paid by recipient of income) is amended to read as follows:

"SEC. 1463. TAX PAID BY RECIPIENT OF INCOME.

"If—

"(1) any person, in violation of the provisions of this chapter, fails to deduct and withhold any tax under this chapter, and

"(2) thereafter the tax against which such tax may be credited is paid,

the tax so required to be deducted and withheld shall not be collected from such person; but this subsection shall in no case relieve such person from liability for interest or any penalties or additions to the tax otherwise applicable in respect of such failure to deduct and withhold."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to failures after December 31, 1989.

Subtitle H—Technical Corrections

SEC. 11801. DEFINITIONS; COORDINATION WITH OTHER SUBTITLES.

(a) DEFINITIONS.—For purposes of this subtitle—

(1) 1988 ACT.—The term "1988 Act" means the Technical and Miscellaneous Revenue Act of 1988.

(2) 1987 ACT.—The term "1987 Act" means the Revenue Act of 1987.

(b) COORDINATION WITH OTHER SUBTITLES.—For purposes of applying the amendments made by any subtitle of this title other than this subtitle, the provisions of this subtitle shall be treated as having been enacted immediately before the provisions of such other subtitles.

PART I—AMENDMENTS RELATED TO TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1988

SEC. 11811. AMENDMENTS RELATED TO TITLE I OF THE 1988 ACT.

(a) AMENDMENTS RELATED TO SECTION 1003 OF THE 1988 ACT.—

(1) Subparagraph (C) of section 643(a)(6) is amended by striking "(i)" and by striking ", and (ii)" and all that follows and inserting a period.

(2) Paragraph (6) of section 643(a) is amended by striking subparagraph (D).

(b) AMENDMENTS RELATED TO SECTION 1006 OF THE 1988 ACT.—

(1) Subparagraphs (C) and (D) of section 26(b)(2) are amended to read as follows:

"(C) subsection (m)(5)(B), (q), (t), or (v) of section 72 (relating to additional taxes on certain distributions),

"(D) section 143(m) (relating to recapture of poration of Federal subsidy from use of mortgage bonds and mortgage credit certificates),"

(2) Paragraph (2) of section 26(b) is amended by striking subparagraph (K) and all that follows and inserting the following new subparagraphs:

"(K) sections 871(a) and 881 (relating to certain income of nonresident aliens and foreign corporations),

"(L) section 860E(e) (relating to taxes with respect to certain residual interests), and

"(M) section 884 (relating to branch profits tax)."

(3) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (viii) and all that follows and inserting the following:

"(viii) section 6052(a) (relating to reporting payment of wages in the form of group-term life insurance),

"(ix) section 6053(c)(1) (relating to reporting with respect to certain tips),

"(x) section 1060(b) (relating to reporting requirements of transferors and transferees in certain asset acquisitions), or

"(xi) subparagraph (A) or (C) of subsection (c)(4), or subsection (e), of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuel).".

(4) Clause (i) of section 1374(d)(2)(A) is amended by striking "(except as provided in subsection (b)(2))".

(5)(A) Paragraph (6) of section 382(h) is amended—

(i) by striking "during the recognition period" in subparagraph (B) and inserting "during the recognition period (determined without regard to any carryover)", and

(ii) by striking "treated as recognized built-in gains or losses under this paragraph" in subparagraph (C) and inserting "which would be treated as recognized built-in gains or losses under this paragraph if such amounts were properly taken into account (or allowable as a deduction) during the recognition period".

(B) Paragraph (5) of section 1374(d) is amended—

(i) by striking "during the recognition period" in subparagraph (B) and inserting "during the recognition period (determined without regard to any carryover)", and

(ii) by striking "treated as recognized built-in gains or losses under this paragraph" in subparagraph (C) and inserting "which would be treated as recognized built-in gains or losses under this paragraph if such amounts were properly taken into account (or allowable as a deduction) during the recognition period".

(6) Subparagraph (B) of section 1361(b)(2) is amended to read as follows:

"(B) a financial institution to which section 585 applies (or would apply but for subsection (c) thereof) or to which section 593 applies,"

(7) Paragraph (2) of section 1366(f) is amended to read as follows:

"(2) TREATMENT OF TAX IMPOSED ON BUILT-IN GAINS.—If any tax is imposed under section 1374 for any taxable year on an S corporation, for purposes of subsection (a), the amount so imposed shall be treated as a loss sustained by the S corporation during such taxable year. The character of such loss shall be determined by allocating the loss proportionately among the recognized built-in gains giving rise to such tax."

(8) Subparagraph (B) of section 1374(b)(3) is amended by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of the minimum tax credit under section 53 to the extent attributable to taxable years for which the corporation was a C corporation.".

(c) AMENDMENTS RELATED TO SECTION 1007 OF THE 1988 ACT.—

(1)(A) Subsection (g) of section 59 is amended by striking "for any taxable year" and inserting "for the taxable year for which the item is taken into account or for any other taxable year".

(B) The provisions of section 58(h) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) shall be construed to authorize regulations providing adjustments to items other than tax preferences.

(2) Subclause (II) of section 53(d)(1)(B)(i) is amended by inserting before the period at the end thereof the following: "and if section 59(a)(2) did not apply".

(3) Paragraph (3) of section 56(b) is amended—

(A) by inserting after the first sentence the following new sentence: "Section 422A(c)(2) shall apply in any case where the disposition and the inclusion for purposes of this part are within the same taxable year and such section shall not apply in any other case.", and

(B) by striking "the preceding sentence" and inserting "this paragraph".

(d) AMENDMENTS RELATED TO SECTION 1008 OF THE 1988 ACT.—

(1) Paragraph (2) of section 460(a) is amended by inserting "(or, with respect to any amount properly taken into account after completion of the contract, when such amount is so properly taken into account)" after "any long-term contract".

(2) Subparagraph (B) of section 460(b)(2) is amended—

(A) by striking "any amount received or accrued" and inserting "any amount properly taken into account", and

(B) by striking "is so received or accrued" and inserting "is so properly taken into account".

(3) Paragraph (3) of section 460(b) is amended—

(A) by striking "any amount received or accrued" in the second sentence and inserting "any amount properly taken into account", and

(B) by striking "such amount was received or accrued" in the second sentence and inserting "such amount was properly taken into account".

(4) Paragraph (2) of section 460(b) is amended by adding at the end thereof the following new sentence:

"In the case of any long-term contract with respect to which the percentage of completion method is used, except for purposes of applying the look-back method of paragraph (3), any income under the contract (to the extent not previously includible in gross income) shall be included in gross income for the taxable year following the taxable year in which the contract was completed.".

(5) Paragraph (2) of section 460(e) is amended by striking "and" at the end of subparagraph (A), by inserting "and" at the end of subparagraph (B), and by inserting after subparagraph (B) the following new subparagraph:

"(C) any predecessor of the taxpayer or a person described in subparagraph (A) or (B),"

(6) Paragraph (2) of section 460(b) is amended by adding at the end thereof the following new sentence:

"For purposes of subtitle F (other than sections 6654 and 6655), any interest required to be paid by the taxpayer under subparagraph (B) shall be treated as an increase in the tax imposed by this chapter for the taxable year in which the contract is completed (or, in the case of interest payable with respect to any amount properly taken into account after completion of the contract, for the taxable year in which the amount is so properly taken into account)."

(e) AMENDMENTS RELATED TO SECTION 1009 OF THE 1988 ACT.—

(1) Subparagraph (A) of section 643(a)(6) is amended by striking "section 265(1)" and inserting "section 265(a)(1)".

(2) Subparagraph (B) of section 1009(b)(3) of the 1988 Act is amended by striking "section 265(b)(3)(B)(iii)" and inserting "section 265(b)(3)(B)(i)(III)".

(f) AMENDMENT RELATED TO SECTION 1011 OF THE 1988 ACT.—

(1) Subsection (a) of section 401 is amended by moving paragraph (30) from the end thereof and inserting it after paragraph (29).

(2) The last sentence of section 402(g)(3) is amended by inserting "involving a one-time irrevocable election" after "similar arrangement".

(g) AMENDMENT RELATED TO SECTION 1011B OF THE 1988 ACT.—Paragraph (5) of section 409(l) is amended by striking "the last sentence" and inserting "the second sentence".

(h) AMENDMENTS RELATED TO SECTION 1012 OF THE 1988 ACT.—

(1) Subparagraph (H) of section 904(d)(1) is amended by striking "qualified interest and carrying charges (as defined in section 245(c))" and inserting "interest or carrying charges (as defined in section 927(d)(1)) derived from a transaction which results in foreign trade income (as defined in section 923(b))".

(2) Sections 861(a)(6), 862(a)(6), 863(b)(2), and 863(b)(3) are each amended by striking "865(h)(1)" and inserting "865(i)(1)".

(3) Subparagraph (A) of section 954(c)(3) is amended—

(A) by striking "is created" in clause (i) and inserting "is a corporation created", and

(B) by striking "from a related person" in clause (ii) and inserting "from a corporation which is a related person".

(4) Paragraph (5) of section 1297(b) is amended—

(A) by inserting "STOCK" after "WHERE" in the paragraph heading,

(B) by striking "any disposition of" in subparagraph (A)(ii) and inserting "any distribution of", and

(C) by striking "treated as a disposition to" in subparagraph (A) and inserting "treated as a disposition by, or distribution to".

(5) Subparagraph (B) of section 1012(q)(1) of the 1988 Act is amended—

(A) by striking "1021(e)(2)(C)" and inserting "1021(c)(2)(C)", and

(B) by striking "823(b)(4)(C)" and inserting "832(b)(4)(C)".

(6)(A) Subparagraph (B) of section 1446(b)(2) is amended by striking "section 11(b)" and inserting "section 11(b)(1)".

(B) Paragraph (2) of section 1446(d) is amended to read as follows:

"(2) CREDIT TREATED AS DISTRIBUTED TO PARTNER.—Except as provided in regulations, a foreign partner's share of any withholding tax paid by the partnership under this section shall be treated as distributed to such partner by such partnership on the earlier of—

"(A) the day on which such tax was paid by the partnership, or

"(B) the last day of the partnership's taxable year for which such tax was paid."

(C) Subsection (f) of section 1446 is amended to read as follows:

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including—

"(1) regulations providing for the application of this section in the case of publicly traded partnerships, and

"(2) regulations providing—

"(A) that, for purposes of section 6655, the withholding tax imposed under this section shall be treated as a tax imposed by section 11 and any partnership required to pay such tax shall be treated as a corporation, and

"(B) appropriate adjustments in applying section 6655 with respect to such withholding tax."

(7) Subsection (a) of section 988 is amended by inserting after the subsection heading the following: "Notwithstanding any other provision of this chapter—".

(8)(A) Subsection (b) of section 887 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) EXCEPTION FOR CERTAIN INCOME TAXABLE IN POSSESSIONS.—The term 'United States source gross transportation income' does not include any income taxable in a possession of the United States under the provisions of this title as made applicable in such possession."

(B) Paragraph (1) of section 887(b) is amended by striking "paragraph (2)" and inserting "paragraphs (2) and (3)".

(C) Subsection (b) of section 872 is amended by adding at the end thereof the following new paragraph:

"(7) TREATMENT OF POSSESSIONS.—To the extent provided in regulations, a possession of the United States shall be treated as a foreign country for purposes of this subsection."

(D) Paragraph (4) of section 883(a) is amended by striking "(5) and (6)" and inserting "(5), (6), and (7)".

(9) Paragraph (4) of section 887(b) (as redesignated by paragraph (8) is amended by striking "transportation income" the first two places it appears and inserting "United States source gross transportation income".

(10) Subsection (a) of section 883 is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR COUNTRIES WHICH TAX ON RESIDENCE BASIS.—For purposes of this subsection, there shall not be taken into account any failure of a foreign country to grant an exemption to a corporation organized in the United States if such corporation is subject to tax by such foreign country on a residence basis pursuant to provisions of foreign law which meets such standards (if any) as the Secretary may prescribe."

(11) Paragraph (2) of section 4371 is amended by striking ", unless the insurer is subject to tax under section 842(b)".

(12) Subsection (g) of section 995 is amended by striking "section 511" and inserting "section 511 (or any other person otherwise subject to tax under section 511)".

(13) Subsection (e) of section 402 is amended by adding at the end thereof the following new paragraph:

"(7) COORDINATION WITH FOREIGN TAX CREDIT LIMITATIONS.—Subsections (a), (b), and (c) of section 904 shall be applied separately with respect to any lump sum distribution on which tax is imposed under paragraph (1), and the amount of such distribution shall be treated as the taxable income for purposes of such separate application."

(i) AMENDMENTS RELATED TO SECTION 1014 OF THE 1988 ACT.—

(1) The subparagraph (C) of section 1(i)(3) added by section 1014(e)(7) of the 1988 Act is redesignated as subparagraph (D).

(2) Paragraph (1) of section 2654(a) is amended by adding at the end thereof the following new sentence: "The preceding shall be applied after any basis adjustment under section 1015 with respect to the transfer.".

(3) Subsection (g) of section 642 is amended by inserting after the first sentence the following new sentence: "Rules similar to the rules of the preceding sentence shall apply to amounts which may be taken into account under 2621(a)(2) or 2622(b).".

(4) Paragraphs (1) and (3) of section 2642(b) are each amended by striking "a timely filed gift tax return required by sec-

tion 6019" and inserting "a gift tax return filed on or before the date prescribed by section 6075(b)".

(5) Paragraph (1) of section 6654(l) is amended by striking "this subsection shall" and inserting "this section shall".

(6) Clause (ii) of section 6654(l)(2)(B) is amended by inserting before the period at the end thereof the following: "(or, if no will is admitted to probate, which is the trust primarily responsible for paying debts, taxes, and expenses of administration)".

(j) AMENDMENTS RELATED TO SECTION 1015 OF THE 1988 ACT.—

(1) Paragraph (3) of section 1015(r) of the 1988 Act is amended by striking "section 6211" and inserting "section 6213".

(2) The last sentence of section 6502(a) is amended by striking "enforceable" and inserting "unenforceable".

(k) AMENDMENT RELATED TO SECTION 1016 OF THE 1988 ACT.—The subparagraph (E) of section 514(c)(9) added by section 1016 of the 1988 Act is redesignated as subparagraph (F).

(l) AMENDMENTS RELATED TO SECTION 1018 OF THE 1988 ACT.—

(1) The subsection (f) of section 2503 added by section 1018 of the 1988 Act is redesignated as subsection (g).

(2) Paragraph (4) of section 1018(d) of the 1988 Act is amended by inserting "the first place it appears" before "and inserting".

(3) Paragraph (20) of section 1018(u) of the 1988 Act is amended by striking "section 9507(b)" and inserting "section 9509(b)".

SEC. 11812. AMENDMENT RELATED TO TITLE II OF THE 1988 ACT.

Section 2005(e) of the 1988 Act is amended by inserting ", except that the amendment made by subsection (a)(1) shall take effect as if included in the amendment made by section 1131(c) of the Tax Reform Act of 1986".

SEC. 11813. AMENDMENTS RELATED TO TITLE III OF THE 1988 ACT.

(a) AMENDMENT RELATED TO SECTION 3001 OF THE 1988 ACT.—Paragraph (2) of section 6724(d) is amended by redesignating subparagraph (U) as subparagraph (S), by striking "or" at the end of subparagraph (Q), and by striking the period at the end of subparagraph (R) and inserting ", or".

(b) AMENDMENTS RELATED TO SECTION 3011 OF THE 1988 ACT.—Paragraphs (4) and (5) of section 3011(b) of the 1988 Act are each amended—

(1) by striking "111B(a)" and inserting "1011B(a)", and

(2) by striking "162(k)(2)" and inserting "162(k)".

(c) AMENDMENT RELATED TO SECTION 3021 OF THE 1988 ACT.—Clause (ii) of section 89(g)(3)(D) is amended—

(1) by striking "SUBSECTION (d)(1)(a)(ii)" in the heading and inserting "SUBSECTION (d)(1)(A)(ii)", and

(2) by striking "shall treated as" in the material preceding subclause (I) and inserting "shall be treated as".

SEC. 11814. AMENDMENTS RELATED TO TITLE IV OF THE 1988 ACT.

(a) AMENDMENT RELATED TO SECTION 4001 OF THE 1988 ACT.—Subsection (c) of section 127 is amended by striking paragraph (8).

(b) AMENDMENTS RELATED TO SECTION 4005 OF THE 1988 ACT.—

(1) The paragraph (3) of section 6045(e) added by section 4005 of the 1988 Act is redesignated as paragraph (4).

(2) Clause (ii) of section 148(d)(3)(E) is amended by striking "a qualified mortgage bond or".

(c) AMENDMENT RELATED TO SECTION 4006 OF THE 1988 ACT.—Section 4006 of the 1988 Act is amended—

(1) by striking "December 31, 1988" and inserting "Dec. 31, 1988", and

(2) by striking "December 31, 1989" and inserting "Dec. 31, 1989".

(d) AMENDMENTS RELATED TO SECTION 4008 OF THE 1988 ACT.—

(1) Subsection (d) of section 196 is amended by striking "substituting" and all that follows through "in the case of—" and inserting "substituting 'an amount equal to 50 percent of' for 'an amount equal to' in the case of—".

(2)(A) Subsection (c) of section 280C is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) ELECTION OF REDUCED CREDIT.—

"(A) IN GENERAL.—In the case of any taxable year for which an election is made under this paragraph—

"(i) paragraphs (1) and (2) shall not apply, and

"(ii) the amount of the credit under section 41(a) shall be the amount determined under subparagraph (B).

"(B) AMOUNT OF REDUCED CREDIT.—The amount of credit determined under this subparagraph for any taxable year shall be the amount equal to the excess of—

"(i) the amount of credit determined under section 41(a) without regard to this paragraph, over

"(ii) the product of—

"(I) 50 percent of the amount described in clause (i), and

"(II) the maximum rate of tax under section 11(b)(1).

"(C) ELECTION.—An election under this paragraph for any taxable year shall be made not later than the time for filing the return of tax for such year (including extensions), shall be made on such return, and shall be made in such manner as the Secretary may prescribe. Such an election, once made, shall be irrevocable."

(B) In the case of a taxable year for which the last date for making the election under section 280C(c)(3) of the Internal Revenue Code of 1986 (as added by subparagraph (A)) is on or before the date which is 75 days after the date of the enactment of this Act, such an election for such year may be made—

(i) at any time before the date which is 75 days after such date of enactment, and

(ii) in such form and manner as the Secretary of the Treasury or his delegate may prescribe.

(C) Section 41 is amended by striking subsection (h) and by redesignating subsection (i) as subsection (h).

(D) Paragraph (4) of section 196(c) is amended by inserting "(other than such credit determined under section 280C(c)(3))" after "section 41(a)".

(E) Subsection (n) of section 6501 is amended by striking ", 41(h),".

SEC. 11815. AMENDMENTS RELATED TO TITLE V OF THE 1988 ACT.

(a) AMENDMENTS RELATED TO SECTION 5012 OF THE 1988 ACT.—

(1) Subparagraph (B) of section 7702A(c)(3) is amended to read as follows:

"(B) TREATMENT OF CERTAIN BENEFIT INCREASES.—For purposes of subparagraph (A), the term 'material change' includes any increase in the death benefit under the contract or any increase in, or addition of, a qualified additional benefit under the contract. Such term shall not include—

"(i) any increase which is attributable to the payment of premiums necessary to fund the lowest level of the death benefit and qualified additional benefits payable in the 1st 7 contract years (determined after taking into account death benefit increases described in subparagraph (A) or (B) of section 7702(e)(2)) or to crediting of interest or other earnings (including policyholder dividends) in respect of such premiums, and

"(ii) to the extent provided in regulations, any cost-of-living increase based on an established broad-based index if such increase is funded ratably over the remaining period during which premiums are required to be paid under the contract."

(2) Paragraph (2) of section 5012(e) of the 1988 Act is amended by striking "continues to make level annual premium payments over the life of the contract" and inserting "makes at least 7 level annual premium payments".

(3) Subparagraph (A) of section 72(e)(11) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply to any contract described in paragraph (5)(D)."

(4) Paragraph (4) of section 7702A(c) is amended—

(A) by striking "UNDER $10,000" in the paragraph heading and inserting "OF $10,000 OR LESS", and

(B) by striking "the same insurer" and inserting "the same policyholder".

(b) AMENDMENT RELATED TO SECTION 5021 OF THE 1988 ACT.—Subsection (e) of section 5021 of the 1988 Act is amended by striking "no provision in any law (whether enacted before, on, or after the date of the enactment of this Act)" and inserting "no provision in any law enacted after the date of the enactment of this Act".

(c) AMENDMENT RELATED TO SECTION 5032 OF THE 1988 ACT.—Subsection (b) of section 2101 is amended by adding at the end thereof the following new sentence:

"For purposes of the preceding sentence, there shall be appropriate adjustments in the application of section 2001(c)(3) to reflect the difference between the amount of the credit provided under section 2102(c) and the amount of the credit provided under section 2010."

(d) AMENDMENTS RELATED TO SECTION 5033 OF THE 1988 ACT.—

(1)(A) Paragraph (2) of section 2523(i) is amended by striking "made by the donor to such spouse" and inserting "which are made by the donor to such spouse and with respect to which a deduction would be allowable under this section but for paragraph (1)".

(B) The amendment made by subparagraph (A) shall apply with respect to gifts made after June 29, 1989.

(2) Subsection (a) of section 2523 is amended by striking "who is a citizen or resident".

(3) Paragraph (3) of section 2106(a) is amended by striking "ALLOWED WHERE SPOUSE IS CITIZEN".

(4)(A) Subparagraph (B) of section 2056(d)(2) is amended to read as follows:

"(B) SPECIAL RULE.—If any property passes from the decedent to the surviving spouse of the decedent, for purposes of subparagraph (A), such property shall be treated as passing to such spouse in a qualified domestic trust if—

"(i) such property is transferred to such a trust before the date on which the return of the tax imposed by this chapter is made, or

"(ii) such property is irrevocably assigned to such a trust under an irrevocable assign-

ment made on or before such date which is enforceable under local law."

(B) In the case of the estate of a decedent dying before the date of the enactment of this Act, the period during which the transfer (or irrevocable assignment) referred to in section 2056(d)(2)(B) of the Internal Revenue Code of 1986 (as amended by subparagraph (A)) may be made shall not expire before the date 1 year after such date of enactment.

(5) Subsection (d) of section 2056 is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE WHERE RESIDENT SPOUSE BECOMES CITIZEN.—Paragraph (1) shall not apply if—

"(A) the surviving spouse of the decedent becomes a citizen of the United States before the day on which the return of the tax imposed by this chapter is made, and

"(B) such spouse was a resident of the United States at all times after the date of the death of the decedent and before becoming a citizen of the United States."

(6) Paragraph (3) of section 2056(d) is amended—

(A) by striking "section 2001" and inserting "this chapter", and

(B) by inserting before the period at the end thereof the following: "and without regard to subsection (d)(3) of such section".

(7)(A) Subsection (a) of section 2056A is amended—

(i) by amending paragraph (1) to read as follows:

"(1) the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation and that no distribution from the trust may be made without the approval of such a trustee,", and

(ii) by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(B) Subsection (b) of section 2056A is amended by redesignating paragraphs (3) through (8) as paragraphs (4) through (9), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) CERTAIN LIFETIME DISTRIBUTIONS EXEMPT FROM TAX.—

"(A) INCOME DISTRIBUTIONS.—No tax shall be imposed by paragraph (1)(A) on any distribution of income to the surviving spouse.

"(B) MINIMUM EXEMPTION.—If the aggregate distributions during any calendar year of income to the surviving spouse under all qualified domestic trusts of the decedent do not exceed $100,000, no tax shall be imposed on any other distributions to the surviving spouse during such calendar year except to the extent that such other distributions exceed the difference between $100,000 and the amount of such income distributions.

"(C) ADDITIONAL EXEMPTION FOR DISTRIBUTION FOR MEDICAL EXPENSES.—

"(i) IN GENERAL.—In the case of a qualified medical expense distribution—

"(I) no tax shall be imposed by paragraph (1)(A) on such distribution, and

"(II) such distribution shall not be taken into account in determining the amount of other distributions exempt from such tax under subparagraph (B).

"(ii) QUALIFIED MEDICAL EXPENSE DISTRIBUTION.—For purposes of clause (i), the term 'qualified medical expense distribution' means any distribution made in the form of a payment on behalf of the surviving spouse to any person for medical care (as defined in section 213(d)) of the surviving spouse provided by such person."

(C) Subparagraph (A) of section 2056A(b)(1) is amended by striking "other than a distribution of income required under subsection (a)(2)".

(D) Paragraph (4) of section 2056A(b) (as redesignated by subparagraph (B)) is amended to read as follows:

"(4) TAX WHERE TRUST CEASES TO QUALIFY.—If any qualified domestic trust ceases to meet the requirements of paragraphs (1) and (2) of subsection (a), the tax imposed by paragraph (1) shall apply as if the surviving spouse died on the date of such cessation."

(8) Subsection (d) of section 2056 is amended by adding at the end thereof the following new paragraph:

"(4) REFORMATIONS PERMITTED.—

"(A) IN GENERAL.—In the case of any property with respect to which a deduction would be allowable under subsection (a) but for this subsection, the determination of whether a trust is a qualified domestic trust shall be made—

"(i) as of the date on which the return of the tax imposed this chapter is made, or

"(ii) if a judicial proceeding is commenced on or before the due date (determined with regard to extensions) for filing such return to change such trust into a trust which is a qualified domestic trust, as of the time when the changes pursuant to such proceeding are made.

"(B) STATUTE OF LIMITATIONS.—If a judicial proceeding described in subparagraph (A)(ii) is commenced with respect to any trust, the period for assessing any deficiency of tax attributable to any failure of such trust to be a qualified domestic trust shall not expire before the date 1 year after the date on which the Secretary is notified that the trust has been changed pursuant to such judicial proceeding or that such proceeding has been terminated."

(9) Subsection (b) of section 2056A is amended by adding at the end thereof the following new paragraphs:

"(10) CERTAIN BENEFITS ALLOWED.—

"(A) IN GENERAL.—If any property remaining in the qualified domestic trust on the date of the death of the surviving spouse is includible in the gross estate of such spouse for purposes of this chapter (or would be includible if such spouse were a citizen or resident of the United States), any benefit which is allowable (or would be allowable if such spouse were a citizen or resident of the United States) with respect to such property to the estate of such spouse under section 2032, 2032A, 2055, 2056, or 6166 shall be allowed for purposes of the tax imposed by paragraph (1)(B).

"(B) SECTION 303.—If the estate of the surviving spouse meets the requirements of section 303 with respect to any property described in subparagraph (A), for purposes of section 303, the tax imposed by paragraph (1)(B) with respect to such property shall be treated as a Federal estate tax payable with respect to the estate of the surviving spouse.

"(C) SECTION 6161(a)(2).—The provisions of section 6161(a)(2) shall apply with respect to the tax imposed by paragraph (1)(B), and the reference in such section to the executor shall be treated as a reference to the trustees of the trust.

"(11) SPECIAL RULE WHERE DISTRIBUTION TAX PAID OUT OF TRUST.—For purposes of this subsection, if any portion of the tax imposed by paragraph (1)(A) with respect to any distribution is paid out of the trust, an amount equal to the portion so paid shall be treated as a distribution described in paragraph (1)(A).

"(12) SPECIAL RULE WHERE SPOUSE BECOMES CITIZEN.—If the surviving spouse of the decedent becomes a citizen of the United States and if—

"(A) such spouse was a resident of the United States at all times after the date of the death of the decedent and before such spouse becomes a citizen of the United States,

"(B) no tax was imposed by paragraph (1)(A) with respect to any distribution before such spouse becomes such a citizen, or

"(C) such spouse elects—

"(i) to treat any distribution on which tax was imposed by paragraph (1)(A) as a taxable gift made by such spouse for purposes of—

"(I) section 2001, and

"(II) determining the amount of the tax imposed by section 2501 on actual taxable gifts made by such spouse during the year in which the spouse becomes a citizen or any subsequent year, and

"(ii) to treat any reduction in the tax imposed by paragraph (1)(A) by reason of the credit allowable under section 2010 with respect to the decedent as a credit allowable to such surviving spouse under section 2505 for purposes of determining the amount of the credit allowable under section 2505 with respect to taxable gifts made by the surviving spouse during the year in which the spouse becomes a citizen or any subsequent year,

paragraph (1)(A) shall not apply to any distributions after such spouse becomes such a citizen (and paragraph (1)(B) shall not apply).

"(13) COORDINATION WITH SECTION 1015.—For purposes of section 1015, any distribution on which tax is imposed by paragraph (1)(A) shall be treated as a transfer by gift, and any tax paid under paragraph (1)(A) shall be treated as a gift tax."

(10) Paragraph (2) of section 2056A(c) is amended by striking "The term" and inserting "Except as provided in regulations, the term".

(11) Clause (ii) of section 2056A(b)(2)(B) is amended by striking "as a credit or refund" and inserting "as a credit or refund (with interest)".

(12) Paragraph (2) of section 2056A(b) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE WHERE DECEDENT HAS MORE THAN 1 QUALIFIED DOMESTIC TRUST.—If there is more than 1 qualified domestic trust with respect to any decedent, the amount of the tax imposed by paragraph (1) with respect to such trusts shall be determined by using the highest rate of tax in effect under section 2001 as of the date of the decedent's death (and the provisions of paragraph (3)(B) shall not apply) unless, pursuant to a designation made by the decedent's executor, there is 1 person—

"(i) who is an individual citizen of the United States or a domestic corporation and is responsible for filing all returns of tax imposed under paragraph (1) with respect to such trusts and for paying all tax so imposed, and

"(ii) who meets such requirements as the Secretary may by regulations prescribe."

(13) Section 2056A is amended by adding at the end thereof the following new subsection:

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations under which an annuity includible in the decedent's gross estate under section 2039 may be treated as a qualified domestic trust."

(14) In the case of the estate of, or gift by, an individual who was not a citizen or resident of the United States but was a resident of a foreign country with which the United States has a tax treaty with respect to estate, inheritance, or gift taxes, the amendments made by section 5033 of the 1988 Act shall not apply to the extent such amendments would be inconsistent with the provisions of such treaty relating to estate, inheritance, or gift tax marital deductions. In the case of the estate of an individual dying before the date 3 years after the date of the enactment of this Act, or a gift by an individual before the date 3 years after the date of the enactment of this Act, the requirement of the preceding sentence that the individual not be a citizen or resident of the United States shall not apply.

(15) Paragraph (5) of section 2056A(b) (as redesignated by paragraph (7)(B) of this subsection) is amended to read as follows:

"(5) DUE DATE.—

"(A) TAX ON DISTRIBUTIONS.—The estate tax imposed by paragraph (1)(A) shall be due and payable on the 15th day of the 4th month following the calendar year in which the taxable event occurs; except that the estate tax imposed by paragraph (1)(A) on distributions during the calendar year in which the surviving spouse dies shall be due and payable not later than the date on which the estate tax imposed by paragraph (1)(B) is due and payable.

"(B) TAX AT DEATH OF SPOUSE.—The estate tax imposed by paragraph (1)(B) shall be due and payable on the date 9 months after the date of such death."

(16) For purposes of applying section 2040(a) of the Internal Revenue Code of 1986 with respect to any joint interest to which section 2040(b) of such Code does not apply solely by reason of section 2056(d)(1)(B) of such Code, any consideration furnished before July 14, 1988, by the decedent for such interest to the extent treated as a gift to the spouse of the decedent for purposes of chapter 12 of such Code shall be treated as consideration originally belonging to such spouse and never acquired by such spouse from the decedent.

(e) AMENDMENTS RELATED TO SECTION 5041 OF THE 1988 ACT.—

(1) Subparagraph (A) of section 460(e)(6) is amended—

(A) by striking "the building, construction, reconstruction, or rehabilitation of" and inserting "activities referred to in paragraph (4) with respect to", and

(B) by striking clause (i) and inserting the following:

"(i) dwelling units (as defined in section 167(k)) contained in buildings containing 4 or fewer dwelling units (as so defined), and".

(2)(A) Paragraph (4) of section 5041(b) of the 1988 Act is amended by inserting ", as amended by title I of this Act," after "1986 Code".

(B) Paragraph (3) of section 56(a) is amended by striking "The preceding sentence shall not" and inserting "The first sentence of this paragraph shall not".

(3) Subparagraph (C) of section 5041(e)(1) of 1988 Act is amended by striking "subsections (a), (b), and (c)" and inserting "subsections (a) and (b)".

(4) Clause (i) of section 56(g)(4)(D) is amended by adding "and" at the end of subclause (III) and by striking subclauses (IV) and (V) and inserting the following new subclause:

"(IV) paragraphs (6), (7), and (8) shall not apply."

(f) AMENDMENT RELATED TO SECTION 5053 OF THE 1988 ACT.—Subsection (d) of section 145 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) CERTAIN PROPERTY TREATED AS NEW PROPERTY.—Solely for purposes of determining under paragraph (2)(A) whether the 1st use of property is pursuant to tax-exempt financing—

"(A) IN GENERAL.—If—

"(i) the 1st use of property is pursuant to taxable financing,

"(ii) there was a reasonable expectation (at the time such taxable financing was provided) that such financing would be replaced by tax-exempt financing, and

"(iii) the taxable financing is in fact so replaced within a reasonable period after the taxable financing was provided,

then the 1st use of such property shall be treated as being pursuant to the tax-exempt financing.

"(B) SPECIAL RULE WHERE STATE LAW INITIALLY PROHIBITED TAX-EXEMPT FINANCING.—If, at the time of the 1st use of property, State law prohibited tax-exempt financing of the property, the 1st use of the property shall be treated as pursuant to the 1st tax-exempt financing of the property.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) TAX-EXEMPT FINANCING.—The term 'tax-exempt financing' means financing provided by tax-exempt bonds.

"(ii) TAXABLE FINANCING.—The term 'taxable financing' means financing which is not tax-exempt financing."

(g) AMENDMENT RELATED TO SECTION 5076 OF THE 1988 ACT.—Paragraph (3) of section 453A(b) is amended to read as follows:

"(3) EXCEPTION FOR PERSONAL USE AND FARM PROPERTY.—An installment obligation shall not be treated as described in paragraph (1) if it arises from the disposition—

"(A) by an individual of personal use property (within the meaning of section 1275(b)(3)), or

"(B) of any property used or produced in the trade or business of farming (within the meaning of section 2032A(e) (4) or (5))."

(h) AMENDMENT RELATED TO SECTION 5077 OF THE 1988 ACT.—Clause (ii) of section 382(l)(3)(C) is amended by striking "for purposes of subclause (III)," and inserting "For purposes of subclause (III),".

SEC. 11816. AMENDMENTS RELATED TO TITLE VI OF THE 1988 ACT.

(a) AMENDMENT RELATED TO SECTION 6006 OF THE 1988 ACT.—Subparagraph (A) of section 1(i)(7) is amended by inserting "(other than for purposes of this paragraph)" after "shall be treated".

(b) AMENDMENTS RELATED TO SECTION 6026 OF THE 1988 ACT.—

(1) Subparagraph (D) of section 263A(h)(3) is amended to read as follows:

"(D) TREATMENT OF CERTAIN CORPORATIONS.—

"(i) IN GENERAL.—If—

"(I) substantially all of the stock of a corporation is owned by a qualified employee-owner and members of his family (as defined in section 267(c)(4)), and

"(II) the principal activity of such corporation is performance of personal services directly related to the activities of the qualified employee-owner and such services are substantially performed by the qualified employee-owner,

this subsection shall apply to any expense of such corporation which directly relates to the activities of such employee-owner in the same manner as if such expense were incurred by such employee-owner.

"(ii) QUALIFIED EMPLOYEE-OWNER.—For purposes of this subparagraph, the term 'qualified employee-owner' means any individual who is an employee-owner of the corporation (as defined in section 269A(b)(2)) and who is a writer, photographer, or artist."

(2) Subparagraph (B) of section 6026(d)(2) of the 1988 Act is amended by striking "the taxpayer made" and inserting "a taxpayer engaged in a farming business involving the production of animals having a preproductive period of more than 2 years made".

(c) AMENDMENTS RELATED TO SECTION 6028 OF THE 1988 ACT.—

(1) Paragraph (5) of section 168(b) is amended by striking "paragraph (2)(B)" and inserting "paragraph (2)(C)".

(2) Paragraph (2) of section 168(c) is amended by striking "subsection (b)(2)(B)" and inserting "subsection (b)(2)(C)".

(d) AMENDMENT RELATED TO SECTION 6029 OF THE 1988 ACT.—The subparagraph (D) of section 168(b)(3) added by section 6029 of the 1988 Act is redesignated as subparagraph (E).

(e) AMENDMENT RELATED TO SECTION 6061 OF THE 1988 ACT.—Section 6061 of the 1988 Act is amended—

(1) by striking "section 111B(h)(5)(A)" and inserting "section 1011B(h)(5)(A)", and

(2) by striking "section 111B(h)" and inserting "section 1011B(h)".

(f) AMENDMENT RELATED TO SECTION 6064 OF THE 1988 ACT.—Paragraph (13) of section 457(e) is amended to read as follows:

"(13) SPECIAL RULE FOR CHURCHES.—The term 'eligible employer' shall not include a church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(g) AMENDMENT RELATED TO SECTION 6067 OF THE 1988 ACT.—Subsection (c) of section 6067 of the 1988 Act is amended by striking "section 205(c)" and inserting "section 2005(c)".

(h) PROVISION RELATED TO SECTION 6076 OF THE 1988 ACT.—If, for the 1st taxable year beginning on or after January 1, 1987, a qualified group self-insurers' fund changes its treatment of policyholder dividends to take into account such dividends no earlier than the date that the State regulatory authority determines the amount of the policyholder dividend that may be paid, then such change shall be treated as a change in a method of accounting and no adjustment under section 481(a) of the Internal Revenue Code of 1986 shall be made with respect to such change in method of accounting.

(i) AMENDMENTS RELATED TO SECTION 6077 OF THE 1988 ACT.—

(1) Paragraph (1) of section 847 is amended—

(A) by striking "separate estimated tax" and inserting "special estimated tax", and

(B) by striking "after December 31, 1986" and inserting "in taxable years beginning after December 31, 1986".

(2) The first sentence of section 847(2) is amended to read as follows: "The deduction under paragraph (1) shall be allowed only to the extent that such deduction would result in a tax benefit for the taxable year for which such deduction is allowed or any carryback year and only to the extent that special estimated tax payments are made in an amount equal to the tax benefit attributable to such deduction on or before the due date (determined without regard to extensions) for filing the return for the taxable year for which the deduction is allowed.".

(3) Paragraph (5) of section 847 is amended by adding at the end thereof the following new sentence:

"To the extent that any amount added to the special loss discount account is not subtracted from such account before the 15th year after the year for which the amount was so added, such amount shall be subtracted from such account for such 15th year and included in gross income for such 15th year.".

(4) Paragraph (9) of section 847 is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(C) providing for the application of this section in cases where the deduction allowed under paragraph (1) for any taxable year is less than the excess referred to in paragraph (1) for such year.".

(5) Section 847 (as amended by paragraph (4)) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

"(9) EFFECT ON EARNINGS AND PROFITS.—In determining the earnings and profits.—

"(A) any special estimated tax payment made for any taxable year shall be treated as a payment of income tax imposed by this title for such taxable year, and

"(B) any deduction or inclusion under this section shall not be taken into account.

Nothing in the preceding sentence shall be construed to affect the application of section 56(g) (relating to adjustments based on adjusted current earnings)."

(6) Paragraph (8) of section 847 is amended by adding at the end thereof the following new sentence: "The limitations on consolidation contained in section 1503(c) shall not apply to the deduction allowed under paragraph (1)."

(j) AMENDMENTS RELATED TO SECTION 6105 OF THE 1988 ACT.—

(1) The subsection (c) of section 5276 added by section 6105 of the 1988 Act is amended—

(A) by striking "(c) EXEMPTION" and inserting "(d) EXCEPTION",

(B) by striking "section 5271(a)(2)" in paragraph (1) and inserting "section 5271", and

(C) by striking "specially denatured distilled spirits" in paragraph (2) and inserting "distilled spirits free of tax".

(2) Subsection (a) of section 5276 is amended by striking "Except as provided in subsection (c)," and inserting "Except as otherwise provided in this section,".

(k) AMENDMENT RELATED TO SECTION 6135 OF THE 1988 ACT.—Paragraph (3) of section 953(d) is amended by striking "(as defined in section 1503(d))" and inserting "for purposes of section 1503(d) without regard to paragraph (2)(B) thereof".

(l) AMENDMENT RELATED TO SECTION 6152 OF THE 1988 ACT.—Subparagraph (C) of section 2056(b)(7) is amended by striking "an annuity" and inserting "an annuity included in the gross estate of the decedent under section 2039".

(m) AMENDMENTS RELATED TO SECTION 6180 OF THE 1988 ACT.—

(1) Paragraph (1) of section 142(i) is amended by inserting "IN GENERAL.—" after "(1)".

(2) The paragraph (3) of section 146(g) added by section 6180 of the 1988 Act is redesignated as paragraph (4).

(3) Paragraph (3) of section 147(c) is amended by inserting a comma after "mass commuting facility" each place it appears.

(n) AMENDMENTS RELATED TO SECTION 6183 OF THE 1988 ACT.—Subclause (II) of section 148(f)(4)(C)(ii) is amended by striking "on behalf of" and inserting "to make loans to".

(o) AMENDMENTS RELATED TO SECTION 6228 OF THE 1988 ACT.—

(1) The section 7520 added by section 6228 of the 1988 Act is redesignated as section 7521.

(2) The table of sections for chapter 77 is amended by striking the item added by section 6228 of the 1988 Act and inserting the following:

"Sec. 7521. Procedures involving taxpayer interviews.".

(p) AMENDMENTS RELATED TO SECTION 6242 OF THE 1988 ACT.—

(1) The section 6712 added by section 6242 of the 1988 Act is redesignated as section 6713.

(2) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item added by section 6242 of the 1988 Act and inserting the following:

"Sec. 6713. Disclosure or use of information by preparers of returns.".

(q) AMENDMENT RELATED TO SECTION 6253 OF THE 1988 ACT.—Section 6253 of the 1988 Act is amended by inserting ", as amended by title I of this Act," after "1986 Code".

SEC. 11817. EFFECTIVE DATE.

Except as otherwise provided in this part, any amendment made by this part shall take effect as if included in the provision of the 1988 Act to which such amendment relates.

PART II—AMENDMENTS RELATED TO REVENUE ACT OF 1987

SEC. 11821. AMENDMENTS RELATED TO SUBTITLE B.

(a) AMENDMENTS RELATED TO SECTION 10202 OF THE 1987 ACT.—

(1) Subparagraph (B) of section 453A(b)(2) is amended by striking "all obligations of the taxpayer described in paragraph (1)" and inserting "all such obligations held by the taxpayer".

(2) Subparagraph (B) of section 453A(d)(2) is amended by striking "before such secured indebtedness was incurred" and inserting "before the later of the times referred to in subparagraph (A) or (B) of paragraph (1)".

(3) Subparagraph (B) of section 453A(d)(1) is amended by inserting "the time" before the "the proceeds".

(4)(A) Paragraph (2) of section 26(b) (as amended by section 11811) is amended by striking "and" at the end of subparagraph (L), by striking the period at the end of subparagraph (M) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(N) sections 453(l)(3) and 453A(c) (relating to interest on certain deferred tax liabilities).".

(B) Subsection (c) of section 453A is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) TREATMENT AS INTEREST.—Any amount payable under this subsection shall be taken into account in computing the amount of any deduction allowable to the taxpayer for interest paid or accrued during the taxable year.".

(5) In the case of taxable years beginning in 1987, the reference to section 453 contained in section 56(a)(6) of the Internal Revenue Code of 1986 shall be treated as including a reference to section 453A.

(b) AMENDMENTS RELATED TO SECTION 10206 OF THE 1987 ACT.—Effective with respect to taxable years beginning after 1988, the last sentence of section 7519(d)(4) is amended—

(1) by striking "for taxable years beginning after 1987,",

(2) by striking "if more than 50 percent" and inserting "unless more than 50 percent", and

(3) by striking "who would not have been entitled" and inserting "who would have been entitled".

(c) AMENDMENT RELATED TO SECTION 10222 OF THE 1987 ACT.—Clause (ii) of section 1503(e)(2)(A) is amended by striking "another member" and inserting "another corporation which is or was a member".

(d) AMENDMENTS RELATED TO SECTION 10242 OF THE 1987 ACT.—

(1) The item relating to section 842 in the table of sections for part III of subchapter L of chapter 1 is amended by striking "corporations" and inserting "companies".

(2) The heading for paragraph (4) of section 842(c) is amended by striking "YEILDS" and inserting "YIELDS".

SEC. 11822. AMENDMENT RELATED TO SUBTITLE C AND FOLLOWING SUBTITLES.

(a) AMENDMENT RELATED TO SECTION 10301 OF THE 1987 ACT.—Paragraph (1) of section 6655(e) is amended by striking "section (d)(1)" and inserting "subsection (d)(1)".

(b) AMENDMENTS RELATED TO SECTION 10502 OF THE 1987 ACT.—

(1) Paragraph (1) of section 6427(i) is amended by striking "subsection (a)" and all that follows through "by any person" and inserting "subsection (a), (b), (d), (e), (g), (h), (l), or (p) by any person".

(2) Clause (i) of section 6427(i)(2)(A) is amended to read as follows:

"(i) $1,000 or more is payable under subsections (a), (b), (d), (e), (g), (h), and (p), or".

(3) Subparagraph (B) of section 6427(i)(2) is amended to read as follows:

"(B) SPECIAL RULE.—If the requirements of subparagraph (A)(ii) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in subparagraph (A)(ii).".

(4) The subsection of section 6427 relating to payments for taxes imposed by section 4041(d) is redesignated as subsection (p).

(5) Paragraph (3) of section 9502(b) is amended by striking ", and" and inserting "; and".

(6) Subparagraph (A) of section 9503(b)(4) is amended by striking "sections 4041(d)" and inserting "section 4041(d)".

(7) Subsections (b)(3) and (c)(2)(A) of section 9508 are each amended by striking "Storage Trust Fund" and inserting "Storage Tank Trust Fund".

(c) AMENDMENT RELATED TO SECTION 10611 OF THE 1987 ACT.—The table of sections for part II of subchapter B of chapter 1 is amended by inserting "Illegal" before "Federal" in the item relating to section 90.

(d) AMENDMENTS RELATED TO SECTION 10713 OF THE 1987 ACT.—

(1) Subparagraph (G) of section 10713(b)(2) of the 1987 Act is amended to read as follows:

"(G) Paragraph (3) of section 7611(i) is amended by striking all that follows 'income tax)' and inserting ', section 6852 (relating to termination assessments in case of flagrant political expenditures of section 501(c)(3) organizations), or section 6861 (re-

lating to jeopardy assessments of income taxes, etc.),'.".

(2) Clause (iii) of section 10713(b)(2)(E) of the 1987 Act is amended to read as follows:

"(iii) by striking '6851(a) nor 6861(a)' in subsection (b)(3)(A)(iii) and inserting '6851(a), 6852(a), nor 6861(a)'.".

SEC. 11823. EFFECTIVE DATE.

Except as otherwise provided in this part, any amendment made by this part shall take effect as if included in the provision of the 1987 Act to which such amendment relates.

PART III—AMENDMENTS RELATED TO TAX REFORM ACT OF 1986

SEC. 11831. AMENDMENTS RELATED TO TAX REFORM ACT OF 1986.

(a) AMENDMENT RELATED TO SECTION 201 OF THE 1986 ACT.—Paragraph (5) of section 1250(b) is amended—

(1) by striking "in the case of recovery property" in subparagraph (A) and inserting "in the case of property to which section 168 applies", and

(2) by striking "in the case of any property which is not recovery property" in subparagraph (B) and inserting "in the case any property to which section 168 does not apply".

(b) AMENDMENTS RELATED TO SECTION 252 OF THE 1986 ACT.—

(1) Subparagraph (B) of section 42(i)(3) (defining low-income unit) is amended by inserting "(as determined under regulations prescribed by the Secretary taking into account local health, safety, and building codes)" after "suitable for occupancy".

(2) Paragraph (3) of section 42(i) is amended by adding at the end thereof the following new subparagraph:

"(D) STUDENTS IN GOVERNMENT-SUPPORTED JOB TRAINING PROGRAMS NOT TO DISQUALIFY UNIT.—A unit shall not fail to be treated as a low-income unit merely because it is occupied by an individual who is enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws."

(3) Subsection (i) of section 42 (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(6) APPLICATION TO ESTATES AND TRUSTS.—In the case of an estate or trust, the amount of the credit determined under subsection (a) and any increase in tax under subsection (j) shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each."

(4) Subsection (f) of section 42 is amended by adding at the end thereof the following new paragraph:

"(4) DISPOSITIONS OF PROPERTY.—If a building (or an interest therein) is disposed of during any year for which credit is allowable under subsection (a), such credit shall be allocated between the parties on the basis of the number of days during such year the building (or interest) was held by each."

(5) Subsection (m) of section 42 (relating to regulations) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(4) providing the opportunity for housing credit agencies to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after their discovery, taking into account the availability of regulations and other administrative guidance from the Secretary."

(6) Subparagraph (A) of section 42(d)(7) is amended by inserting "(or interest therein)" after "a building described in subparagraph (B)".

(c) AMENDMENTS RELATED TO SECTION 803 OF THE 1986 ACT.—

(1) Subparagraph (A) of section 803(d)(4) of the Tax Reform Act of 1986 is amended by striking so much of such subparagraph as precedes clause (i) thereof and inserting the following:

"(A) TRANSITION PROPERTY EXEMPTED FROM INTEREST CAPITALIZATION.—Section 263A of the Internal Revenue Code of 1986 (as added by this section) and the amendment made by subsection (b)(1) shall not apply to interest costs which are allocable to any property—".

(2) If any interest costs incurred after December 31, 1986, are attributable to costs incurred before January 1, 1987, the amendments made by section 803 of the Tax Reform Act of 1986 shall apply to such interest costs only to the extent such interest costs are attributable to costs which were required to be capitalized under section 263 of the Internal Revenue Code of 1954 and which would have been taken into account in applying section 189 of the Internal Revenue Code of 1954 (as in effect before its repeal by section 803 of the Tax Reform Act of 1986) or, if applicable, section 266 of such Code.

(d) APPLICATION OF FUTURE LEGISLATION TO TRANSITIONED BONDS.—Section 1318 of the Tax Reform Act of 1986 is amended by adding at the end thereof the following new paragraph:

"(8) APPLICATION OF FUTURE LEGISLATION TO TRANSITIONED BONDS.—In the case of any bond to which the amendments made by section 1301 do not apply by reason of a provision of this Act, any amendment of the 1986 Code (and any other provision applicable to such Code) included in any law enacted after October 22, 1986, shall be treated as included in section 103 and section 103A (as appropriate) of the 1954 Code with respect to such bond unless—

"(A) such law expressly provides that such amendment (or other provision) shall not apply to such bond, or

"(B) such amendment (or other provision) applies to a provision of the 1986 Code—

"(i) for which there is no corresponding provision in section 103 and section 103A (as appropriate) of the 1954 Code, and

"(ii) which is not otherwise treated as included in such sections 103 and 103A with respect to such bond.".

(e) EFFECTIVE DATE.—Any amendment made by this section shall take effect as if included in the provision of the Tax Reform Act of 1986 to which such amendment relates.

PART IV—MISCELLANEOUS CHANGES.

SEC. 11841. MISCELLANEOUS CHANGES.

(a) AMENDMENT RELATED TO TRANSFERS INCIDENT TO DIVORCE OR SEPARATION.—

(1) Paragraph (6) of section 408(d) is amended by striking "his former spouse under a divorce decree or under a written instrument incident to such divorce" and inserting "his spouse or former spouse under a divorce or separation instrument described in subparagraph (A) of section 71(b)(2)".

(2) Subsection (p) of section 414 is amended by redesignating paragraph (11) as paragraph (12) and by inserting after paragraph (10) the following new paragraph:

"(11) APPLICATION OF RULES TO GOVERNMENTAL PLANS.—For purposes of subsections (m)(10) and (t)(2) of section 72, subsections (a)(9) and (e)(6) of section 402, and this subsection, a distribution or payment from a governmental plan (as defined in subsection (d)) shall be treated as made pursuant to a qualified domestic relations order if it is made pursuant to a domestic relations order which meets the requirement of clause (i) of paragraph (1)(A).

(3) the amendments made by this subsection shall apply to transfers after the date of the enactment of this Act in taxable years ending after such date.

(b) AMENDMENT RELATED TO SINGLE-EMPLOYER PENSION PLAN AMENDMENTS ACT OF 1986.—

(1) Section 404(g)(1) is amended by inserting "4041(b)," before "4062".

(2) The amendment made by paragraph (1) shall apply to payments made after January 1, 1986, in taxable years ending after such date.

(c) MISCELLANEOUS CLERICAL CHANGES.—

(1) Paragraph (1) of section 6103(d) is amended by striking "45,".

(2) Section 6871 is amended by striking "44, or 45" each place it appears and inserting "or 44".

(3) Paragraph (5) of section 691(c) is amended by striking "paragraph (1)(D)" and inserting "paragraph (1)(C)".

(4) The table of chapters for subtitle D is amended by striking the comma in the item relating to chapter 42 and inserting a semicolon.

(5) Section 6652 is amended—

(A) by redesignating the subsection relating to information with respect to includible employee benefits as subsection (k), and

(B) by redesignating the subsection relating to alcohol and tobacco taxes as subsection (l).

(6) Paragraph (2) of section 410(a) is amended by striking the comma before the period.

(7) The heading of paragraph (1) of section 132(h) is amended by striking "OFFICERS, ETC.," and inserting "HIGHLY COMPENSATED EMPLOYEES".

(8) Paragraph (1) of section 66(d) is amended by striking "section 911(b)" and inserting "section 911(d)(2)".

(9) Subsection (e) of section 861 is amended by striking "section 826(a)" and inserting "section 862(a)".

(10) Paragraph (27) of section 381(a) (relating to credit under section 53) is redesignated as paragraph (26).

(11) Subclause (III) of section 382(l)(3)(B)(i) is amended by striking "divorce," and inserting "divorce),".

(12) The last sentence of section 6157(a) is amended by striking "subsections (c) and (d)" and inserting "subsection (c)".

(13) Clause (i) of section 42(d)(6)(A) is amended by striking "Farmers' Home Administration" and inserting "Farmers Home Administration".

(14) Clause (ii) of section 42(d)(7)(A) is amended by striking "sebsection (a)" and inserting "subsection (a)".

(15) Subparagraph (A) of section 42(e)(2) is amended by striking "captial account" and inserting "capital account".

(16) Paragraph (2) of section 844(a) is amended by striking "for the taxable year" and inserting "for a prior taxable year".

(17) Subsection (c) of section 4221 is amended by striking "or 4083".

PART V—AMENDMENTS RELATED TO PENSION PROVISIONS

SEC. 11851. DEFINITIONS.

For purposes of this part—

(1) REFORM ACT.—Except where incompatible with the intent, the term "Reform Act" means the Tax Reform Act of 1986.

(2) ERISA.—The term "ERISA" means the Employee Retirement Income Security Act of 1974.

Subpart A—Amendments Related To Tax Reform Act of 1986

SEC. 11861. AMENDMENTS RELATED TO TITLE XI OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1113 OF THE REFORM ACT.—

(1) Section 203(a)(2) of ERISA is amended—

(A) by striking "following" the first place it appears, and

(B) by striking "414(f)(1)(B)" in subparagraph (C)(ii)(I) and inserting "3(37)(A)(ii)".

(2) Section 1113(e)(3) of the Reform Act is amended by striking "Section 202(B)(i)" and inserting "Section 202(a)(1)(B)(i)".

(3) The second subsection (e) of section 1113 of the Reform Act is redesignated as subsection (f).

(4) Section 1113(f) of the Reform Act, as redesignated by paragraph (3), is amended by adding at the end thereof the following new paragraph:

"(4) REPEAL OF CLASS YEAR VESTING.—If a plan amendment repealing class year vesting is adopted after October 22, 1986, such amendment shall not apply to any employee for the 1st plan year to which the amendments made by subsections (b) and (e)(2) apply (and any subsequent plan year) if—

"(A) such plan amendment would reduce the nonforfeitable right of such employee for such year, and

"(B) such employee has at least 1 hour of service before the adoption of such plan amendment and after the beginning of such 1st plan year.".

(5)(A) Section 411(a)(3) is amended by adding at the end thereof the following new subparagraph:

"(G) TREATMENT OF MATCHING CONTRIBUTIONS FORFEITED BY REASON OF EXCESS DEFERRAL OR CONTRIBUTION.—A matching contribution (within the meaning of section 401(m)) shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an excess contribution under section 401(k)(8)(B), an excess deferral under section 402(g)(2)(A), or an excess aggregate contribution under section 401(m)(6)(B).".

(B) Paragraph (3) of section 203(a) of ERISA is amended by adding at the end thereof the following new subparagraph:

"(F) A matching contribution (within the meaning of section 401(m) of the Internal Revenue Code of 1986) shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an excess contribution under section 401(k)(8)(B) of such Code, an excess deferral under section 402(g)(2)(A) of such Code, or an excess aggregate contribution under section 401(m)(6)(B) of such Code.".

(6)(A) Section 411(a)(4)(A) is amended to read as follows:

"(A) years of service before age 18,".

(B) Subparagraph (A) of section 203(b)(1) of ERISA is amended to read as follows:

"(A) years of service before age 18,".

(b) AMENDMENT RELATED TO SECTION 1132 OF THE ACT.—

(1) Notwithstanding any other provision of law, in the case of any qualified pension plan and welfare benefit plan described in paragraph (2), the assets of such pension plan in excess of its liabilities may be transferred to such welfare benefit plan upon the termination of such pension plan if such assets are to be used to provide retiree health benefits.

(2) For purposes of paragraph (1), a qualified pension plan and welfare benefit plan are described in this paragraph if—

(A) both such plans are jointly administered pursuant to a collective bargaining agreement between the employer maintaining such plans and one or more employee representatives,

(B) the welfare benefit plan provides retiree health benefits, and

(C) the qualified pension plan has assets in excess of liabilities (determined on a termination basis) and the welfare benefit plan has assets which are less than the present value of the benefits to be provided under the plan (determined as of the time of termination of the pension plan).

(3) For purposes of the Internal Revenue Code of 1986, any transfer of assets to which paragraph (1) applies shall be treated as a reversion of such assets to the employer maintaining the plan which is includible in the gross income of such employer and subject to the tax imposed by section 4980 of such Code.

(c) AMENDMENTS RELATED TO SECTION 1140 OF THE REFORM ACT.—

(1) Subsection (a) of section 1140 of the Reform Act is amended by striking "or subtitle C" and inserting ", subtitle C, or title XVIII of this Act".

(2) Section 1140(c) of the Reform Act is amended by inserting "on or" after "beginning" the second place it appears.

(3) Section 1140(c) is amended by adding at the end thereof the following new flush sentence:

"For purposes of paragraph (1)(B) and any other provision of this title, an agreement shall not be treated as terminated merely because the plan is amended pursuant to such agreement to meet the requirements of any amendment made by this title or title XVIII of this Act.".

(d) AMENDMENTS RELATED TO SECTION 1145 OF THE REFORM ACT.—

(1) Subsection (f) of section 303 of the Retirement Equity Act of 1984 is amended by striking "July 24, 1984" and inserting "July 17, 1984".

(2) Paragraph (3) of section 205(b) of ERISA, as added by section 1145(b) of the Reform Act, is redesignated as paragraph (4).

SEC. 11862. AMENDMENTS RELATED TO TITLE XVIII OF THE REFORM ACT.

(a) AMENDMENT RELATED TO SECTION 1852 OF THE REFORM ACT.—Paragraph (1) of section 4402(h) of ERISA is amended by striking "January 12, 1982" the second place it appears and inserting "January 16, 1982".

(b) AMENDMENT RELATED TO SECTION 1879 OF THE REFORM ACT.—Subsection (u) of section 1879 of the Reform Act is amended—

(1) by striking "206(h)" each place it appears in paragraphs (1) and (4)(B) and inserting "204(h)",

(2) by redesignating paragraph (4) as paragraph (5), and

(3) by inserting after paragraph (3) the following:

"(4) CORRECTION OF CROSS REFERENCE.—Section 4218(1)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1398(1)(A)) is amended by striking 'section 4062(d)' and inserting 'section 4069(b)'."

(c) AMENDMENTS RELATED TO SECTION 1895 OF THE REFORM ACT.—

(1)(A) Section 106(b)(2) (relating to exception to certain plans) is amended by striking the last sentence thereof.

(B) Section 601(b) of ERISA is amended by striking the last sentence thereof.

(C) The amendments made by this paragraph shall apply to years beginning after December 31, 1986.

(2)(A) Section 607(2) of ERISA is amended by striking "the individual's employment or previous employment with an employer" and inserting "the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1) of the Internal Revenue Code of 1986)".

(B) Section 4980B(f)(7), as added by the Technical and Miscellaneous Revenue Act of 1988, is amended by striking "the individual's employment or previous employment with an employer" and inserting "the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1))".

(C) The amendments made by this paragraph shall apply to plan years beginning after December 31, 1989.

(3)(A) Clause (iv) of section 162(k)(2)(B) is amended—

(i) by striking "ELIGIBILITY" in the heading and inserting "ENTITLEMENT", and

(ii) by inserting "which does not contain any exclusion or limitation with respect to any preexisting condition of such beneficiary" after "or otherwise)" in subclause (I).

(B) Section 602(2)(D) of ERISA is amended—

(i) by striking "ELIGIBILITY" in the heading and inserting "ENTITLEMENT", and

(ii) by inserting "which does not contain any exclusion or limitation with respect to any preexisting condition of such beneficiary" after "or otherwise)" in clause (i).

(C) Clause (iv) of section 4980B(f)(2)(B), as added by the Technical and Miscellaneous Revenue Act of 1988, is amended—

(i) by striking "ELIGIBILITY" in the heading and inserting "ENTITLEMENT", and

(ii) by inserting "which does not contain any exclusion or limitation with respect to any preexisting condition of such beneficiary" after "or otherwise)" in subclause (I).

(D) The amendments made by this paragraph shall apply to—

(i) plan years beginning after December 31, 1989, and

(ii) with respect to qualified beneficiaries—

(I) who elected continuation coverage after December 31, 1988, and before September 15, 1989, and

(II) who paid before September 15, 1989, the premium for such coverage.

(4)(A) The last sentence of section 602(3) of ERISA is amended to read as follows:

"In no event may the plan require the payment of any premium before the day which is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage.".

(B) The last sentence of section 4980B(f)(2)(C), as added by the Technical and Miscellaneous Revenue Act of 1988, is amended to read as follows:

"In no event may the plan require the payment of any premium before the day which is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage.".

(C) The amendments made by this paragraph shall apply to plan years beginning after December 31, 1989.

(d) AMENDMENTS RELATED TO SECTION 1898 OF THE REFORM ACT.—

(1)(A) Clause (ii) of section 417(a)(3)(B) (defining applicable period) is amended by striking subclause (V) and inserting at the end thereof the following new flush sentence:

"In the case of a participant who separates from service before attaining age 35, the applicable period shall be a reasonable period after separation.".

(B) Clause (ii) of section 205(c)(3)(B) of ERISA is amended by striking subclause (V) and inserting at the end thereof the following new flush sentence:

"In the case of a participant who separates from service before attaining age 35, the applicable period shall be a reasonable period after separation.".

(2) Section 1898(b)(8) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to distributions after the date of the enactment of this Act.".

(3) Paragraph (12) of section 1898(b) of the Reform Act is amended by striking all of subparagraph (B) from "(B) AMENDMENT" through "follows:" and inserting the following:

"(B) AMENDMENT TO ERISA.—Section 205(h) of the Employee Retirement Income Security Act of 1974 is amended—

"(i) by striking 'the term' in paragraphs (1) and (3) and inserting 'The term',

"(ii) by striking the comma in paragraph (1) and inserting a period, and

"(iii) by striking paragraph (2) and inserting the following:".

(4) Subparagraph (B) of section 1898(d)(1) of the Reform Act is amended by striking "Paragraph (1)" and inserting "Subsection (e)(1)".

(5) Subsection (e)(1) of section 203 of ERISA is amended—

(A) by inserting "(e)" before "(1)", and

(B) by striking "vested" and inserting "nonforfeitable".

(6) Subclause (IV) of section 205(c)(3)(B)(ii) of ERISA is amended by striking "401(a)(11)" and inserting "205".

(7) Subparagraph (B) of section 1898(b)(7) of the Reform Act is amended by striking "Subparagraph (C) of section 205(b)(1)" and inserting "Clause (i) of section 205(b)(1)(C)".

(8) Section 205(e)(2) of ERISA is amended by striking "nonforfeitable accrued benefit" and inserting "nonforfeitable right (within the meaning of section 203)".

SEC. 11863. EFFECTIVE DATE.

Except as otherwise provided in this subpart, any amendment made by this subpart shall take effect as if included in the provision of the Reform Act to which such amendment relates.

Subpart B—Amendments Related to Omnibus Budget Reconciliation Act of 1986

SEC. 11871. AMENDMENTS RELATED TO OMNIBUS BUDGET RECONCILIATION ACT OF 1986.

(a) AMENDMENTS RELATED TO SECTION 9202 OF THE ACT.—

(1) Section 411(b)(2) of the Internal Revenue Code of 1986 and section 204(b)(2) of ERISA are each amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(2) Section 411(b)(2)(C), as redesignated by paragraph (1), is amended by striking "subparagraph" and inserting "paragraph".

(3) Section 204(b)(2)(C) of ERISA, as redesignated by paragraph (1), is amended by striking "(C) and (D)" and inserting "(B) and (C)".

(4) The amendments made by this subsection shall take effect as if included in the amendments made by section 9202 of the Omnibus Budget Reconciliation Act of 1986.

(b) AMENDMENTS RELATED TO SECTION 9203 OF THE ACT.—

(1) Sections 411(a)(8)(B) of the Internal Revenue Code of 1986 and 3(24)(B) of ERISA are each amended to read as follows:

"(B) the later of—

"(i) the time a plan participant attains age 65, or

"(ii) the 5th anniversary of the time a plan participant commenced participation in the plan.".

(2) The amendments made by this subsection shall take effect as if included in the amendments made by section 9203 of the Omnibus Budget Reconciliation Act of 1986.

Subpart C—Amendments Related to Pension Protection Act

SEC. 11881. AMENDMENTS RELATED TO PENSION PROTECTION ACT.

(a) AMENDMENTS RELATED TO SECTION 9303.—

(1)(A) Subclause (II) of section 412(l)(3)(C)(ii) is amended by inserting "(but not below zero)" after "reducing".

(B) Subclause (II) of section 302(d)(3)(C)(ii) of ERISA is amended by inserting "(but not below zero)" after "reducing".

(2)(A) Clause (i) of section 412(l)(4)(B) is amended by inserting "and the unamortized portion of the unfunded existing benefit increase liability" after "liability".

(B) Clause (i) of section 302(d)(4)(B) of ERISA is amended by inserting "and the unamortized portion of the unfunded existing benefit increase liability" after "liability".

(3)(A) Section 412(l)(5)(C) is amended by striking "October 17, 1987" and inserting "the first plan year beginning after December 31, 1988".

(B) Section 302(d)(5)(C) of ERISA is amended by striking "October 17, 1987" and inserting "the first plan year beginning after December 31, 1988".

(4)(A) Section 412(l)(7)(D) is amended—

(i) by striking "and" at the end of clause (iii)(I), by striking the period at the end of clause (iii)(II) and inserting ", and", and by adding at the end of clause (iii) the following new subclause:

"(III) has years of service greater than the minimum years of service necessary for eligibility to participate in the plan.", and

(ii) by adding at the end thereof the following new clause:

"(iv) ELECTION.—An employer may elect not to have this subparagraph apply. Such an election, once made, may be revoked only with the consent of the Secretary.".

(B) Section 302(d)(7)(D) of ERISA is amended—

(i) by striking "and" at the end of clause (iii)(I), by striking the period at the end of clause (iii)(II) and inserting ", and", and by adding at the end of clause (iii) the following new subclause:

"(III) has years of service greater than the minimum years of service necessary for eligibility to participate in the plan.", and

(ii) by adding at the end thereof the following new clause:

"(iv) ELECTION.—An employer may elect not to have this subparagraph apply. Such an election, once made, may be revoked only with the consent of the Secretary of the Treasury.".

(5)(A) Section 412(l)(8) is amended—

(i) by striking "reduced by any credit balance in the funding standard account" in subparagraph (A)(ii), and

(ii) by adding at the end thereof the following new subparagraph:

"(E) DEDUCTION FOR CREDIT BALANCES.—For purposes of this subsection, the amount determined under subparagraph (A)(ii) shall be reduced by any credit balance in the funding standard account. The Secretary may provide for such reduction for purposes of any other provision which references this subsection.".

(B) Section 302(d)(8) of ERISA is amended—

(i) by striking "reduced by any credit balance in the funding standard account" in subparagraph (A)(ii), and

(ii) by adding at the end thereof the following new subparagraph:

"(E) DEDUCTION FOR CREDIT BALANCES.—For purposes of this subsection, the amount determined under subparagraph (A)(ii) shall be reduced by any credit balance in the funding standard account. The Secretary of the Treasury may provide for such reduction for purposes of any other provision which references this subsection.".

(6)(A) Section 412(c)(9) is amended—

(i) by striking "3 years" and inserting "year", and

(ii) by striking "3-YEAR" in the heading and inserting "ANNUAL".

(B) Section 302(c)(9) of ERISA is amended by striking "3 years" and inserting "year".

(7) Subclause (II) of section 9303(e)(3)(C)(ii) of the Pension Protection Act is amended by inserting "(and any income allocable to such amount)" after "clause (i)".

(b) AMENDMENTS RELATED TO SECTION 9304.—

(1)(A) Subparagraph (A) of section 412(c)(10) is amended—

(i) by inserting "defined benefit" before "plan other", and

(ii) by striking "PLANS" in the heading and inserting "DEFINED BENEFIT PLANS".

(B) Subparagraph (A) of section 302(c)(10) of ERISA is amended by inserting "defined benefit" before "plan other".

(2)(A) Subparagraph (B) of section 412(c)(10) is amended—

(i) by striking "multiemployer plan" and inserting "plan not described in subparagraph (A)", and

(ii) by striking "MULTIEMPLOYER" in the heading and inserting "OTHER".

(B) Subparagraph (B) of section 302(c)(10) of ERISA is amended by striking "multiemployer plan" and inserting "plan not described in subparagraph (A)".

(3)(A) Section 412(m)(1) is amended by inserting "defined benefit" before "plan (other".

(B) Section 302(e)(1) is amended by inserting "defined benefit" before "plan (other".

(4)(A) Subparagraph (D) of section 412(m)(4) is amended to read as follows:

"(D) SPECIAL RULES FOR UNPREDICTABLE CONTINGENT EVENT BENEFITS.—In the case of a plan to which subsection (1) applies for any calendar year and which has any unpredictable contingent event benefit liabilities—

"(i) LIABILITIES NOT TAKEN INTO ACCOUNT.—Such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B).

"(ii) INCREASE IN INSTALLMENTS.—Each required installment shall be increased by the greater of—

"(I) the unfunded percentage of the amount of benefits described in subsection (d)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (l)(5)(A)(ii) for the plan year.

"(iii) UNFUNDED PERCENTAGE.—For purposes of clause (ii)(I), the term 'unfunded percentage' means the percentage determined under subsection (l)(5)(A)(i)(I) for the plan year.

"(iv) LIMITATION ON INCREASE.—In no event shall the increases under clause (ii) exceed the amount necessary to increase the funded current liability percentage (within the meaning of subsection (l)(8)(B)) for the plan year to 100 percent.".

(B) Subparagraph (D) of section 302(e)(4) of ERISA is amended to read as follows:

"(D) SPECIAL RULES FOR UNPREDICTABLE CONTINGENT EVENT BENEFITS.—In the case of a plan to which subsection (d) applies for any calendar year and which has any unpredictable contingent event benefit liabilities—

"(i) LIABILITIES NOT TAKEN INTO ACCOUNT.—Such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B).

"(ii) INCREASE IN INSTALLMENTS.—Each required installment shall be increased by the greater of—

"(I) the unfunded percentage of the amount of benefits described in subsection (d)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (d)(5)(A)(ii) for the plan year.

"(iii) UNFUNDED PERCENTAGE.—For purposes of clause (ii)(I), the term 'unfunded percentage' means the percentage determined under subsection (d)(5)(A)(i)(I) for the plan year.

"(iv) LIMITATION ON INCREASE.—In no event shall the increases under clause (ii) exceed the amount necessary to increase the funded current liability percentage (within the meaning of subsection (d)(8)(B)) for the plan year to 100 percent.".

(5)(A) Section 101(d)(1) of ERISA is amended by striking "an employer of a plan" and inserting "an employer maintaining a plan".

(B) Section 502(c) of ERISA is amended by adding at the end thereof the following new paragraph:

"(3) Any employer maintaining a plan who fails to meet the notice requirement of section 101(d) with respect to any participant or beneficiary may in the court's discretion be liable to such participant or beneficiary in the amount of up to $100 a day from the date of such failure, and the court may in its discretion order such other relief as it deems proper.".

(C) Section 9304(d) of the Pension Protection Act is amended by striking "Section" and inserting "Effective with respect to plan years beginning after December 31, 1987, section".

(6)(A)(i) Subparagraph (B) of section 412(m)(1) is amended to read as follows:

"(B) the rate of interest used under the plan in determining costs (including adjustments under subsection (b)(5)(B)).".

(ii) Clause (ii) of section 412(d)(1)(A) is amended by inserting "(including adjustments under subsection (b)(5)(B))" after "costs".

(B)(i) Subparagraph (B) of section 302(e)(1) of ERISA is amended to read as follows:

"(B) the rate of interest used under the plan in determining costs (including adjustments under subsection (b)(5)(B)).".

(ii) Section 303(a) of ERISA is amended—

(I) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2),

(II) by redesignating clauses (i) and (ii) of paragraph (1) (as so redesignated) as subparagraphs (A) and (B), and

(III) by inserting "(including adjustments under section 302(b)(5)(B))" after "costs" in paragraph (1)(B) (as so redesignated).

(c) AMENDMENTS RELATED TO SECTION 9306.—

(1) The last sentence of section 412(f)(4)(A) is amended by striking "the benefit liabilities" and inserting "for benefit liabilities".

(2) The last sentence of section 303(e)(1) of ERISA is amended by striking "the benefit liabilities" and inserting "for benefit liabilities".

(3) Section 9306(f)(3) of the Pension Protection Act is amended to read as follows:

"(3) SUBSECTION (b).—The amendments made by subsection (b) shall apply to waivers for plan years beginning after December 31, 1987. For purposes of applying such amendments, the number of waivers which may be granted for plan years after December 31, 1987, shall be determined without regard to any waivers granted for plan years beginning before January 1, 1988.".

(d) AMENDMENTS RELATED TO SECTION 9307.—

(1)(A) Clause (iii) of section 412(b)(5)(B) is amended by striking "for purposes of this section and for purposes of determining current liability,".

(B) Clause (iii) of section 302(b)(5)(B) of ERISA is amended by striking "for purposes of this section and for purposes of determining current liability,".

(2)(A) Section 302(b)(5)(B) of ERISA is amended by inserting the following matter after the heading and before clause (i): "For purposes of determining a plan's current liability and for purposes of determining a plan's required contribution under section 302(d) for any plan year—".

(B) Section 302(b)(5) of ERISA is amended by striking the matter following the heading thereof and preceding subparagraph (A).

(C) Subclause (I) of section 302(b)(5)(B)(ii) of ERISA is amended by striking "average rate" and inserting "the weighted average of the rates".

(3) Section 9307(f) of the Pension Protection Act is amended to read as follows:

"(f) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1987.

"(2) AMORTIZATION OF GAINS AND LOSSES.—Sections 412(b)(2)(B)(iv) and 412(b)(3)(B)(ii) of the Internal Revenue Code of 1986 and sections 302(b)(2)(B)(iv) and 302(b)(3)(B)(ii) of the Employee Retirement Income Security Act of 1974 (as amended by paragraphs (1)(A) and (2)(A) of subsection (a)) shall apply to gains and losses established in years beginning after December 31, 1987. For purposes of the preceding sentence, any gain or loss determined by a valuation occurring as of January 1, 1988, shall be treated as established in years beginning before 1988.".

(e) AMENDMENTS RELATED TO SECTION 9311.—

(1) Section 9311(a)(2) of the Pension Protection Act is amended by striking "plan assets to the employer for purposes of section 4044(d)(1)(C) of the Employee Retirement Income Security Act of 1974" and inserting "residual plan assets upon termination".

(2) Section 9311(d) of the Pension Protection Act is amended—

(A) by striking "section 4041(c)" and inserting "section 4041" in paragraph (1), and

(B) by adding at the end thereof the following new flush sentence:

"Except as provided in subsection (a)(2), the amendments made by subsection (a) shall apply to any provision of the plan or plan amendment adopted after December 17, 1987."

(3) Section 9311(a)(2) of the Pension Protection Act is amended by striking the last sentence.

(f) AMENDMENTS RELATED TO SECTION 9312.—

(1) Section 9312(b)(3)(B)(i) of the Pension Protection Act is amended—

(A) by striking "section 4022(c)(1)" in subclause (I) and inserting "section 4022(c)(3)", and

(B) by striking "subparagraph (B) of section 4022(c)(1)" and inserting "subparagraph (C) of section 4022(c)(3)".

(2) Section 9312(b)(3)(B)(ii) of such Act is amended by striking "section 4022(c)(1)(B)" and inserting "section 4022(c)(3)(C)".

(3) Section 4062(a) of ERISA is amended—

(A) by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2), and

(B) by striking "subsection (d)" in paragraph (2) (as so redesignated) and by inserting "subsection (c)".

(4)(A) Section 4064(b) of ERISA is amended by striking "and clauses (i)(II) and (ii) of section 4062(b)(1)(A)" and inserting "and section 4068(a)".

(B) Section 4068(a) of ERISA is amended by striking the last sentence.

(5) Section 4022(c)(1) of ERISA is amended by striking "(or in the case of a deceased participant)".

(6) Section 4022(c)(3)(B)(ii) of ERISA is amended by inserting ", and during the 5-Federal fiscal year period ending with the fiscal year preceding the fiscal year in which occurs the date of the notice of intent to terminate with respect to the plan termination for which the recovery ratio is being determined" after "1987".

(7) Section 9312(b)(3)(B) of the Pension Protection Act is amended by striking clause (ii).

(8) Section 4041(c) of ERISA is amended—

(A) by striking "(or its designee under section 4049(b))" in paragraph (2)(A)(iii)(II),

(B) by striking "section 4049" in paragraph (2)(A)(iii)(II) and inserting "section 4022(c)", and

(C) by striking the last sentence of paragraph (3)(C)(i).

(9) Section 4070(a) of ERISA is amended by striking "4049,".

(10) Section 9312(d)(1) of the Pension Reform Act is amended by striking "section 4041(c)" and inserting "section 4041".

(g) AMENDMENTS RELATED TO SECTION 9313.—

(1) Section 4041(d)(1) of ERISA is amended by striking "sufficient for benefit commitments" and inserting "sufficient for benefit liabilities".

(2) Section 4041(c)(2)(B) of ERISA is amended by inserting "proposed" before "termination" in the parenthetical in the second sentence.

(3) Clause (ii) of section 4041(c)(2)(A) of ERISA is amended—

(A) by inserting "unless the corporation determines the information is not necessary for purposes of paragraph (3)(A) or section 4062," before "certification",

(B) by inserting "and, if applicable, the proposed distribution date" after "termination date" in subclause (I), and

(C) by striking "date" and inserting "dates" in subclauses (II) through (V).

(h) AMENDMENT RELATED TO SECTION 9331.—Subparagraph (E) of section 4006(a)(3) of ERISA is amended by adding at the end thereof the following new clause:

"(v) No premium shall be determined under this subparagraph for any plan year if, as of the close of the preceding plan year, contributions to the plan for the preceding plan year were not less than the full funding limitation for the preceding plan year under section 412(c)(7) of the Internal Revenue Code of 1986.".

(i) AMENDMENTS RELATED TO SECTION 9341.—

(1)(A) Section 401(a)(29)(C)(i)(II) is amended by inserting "and any other plan amendments adopted after December 22, 1987, and before such plan amendment" after "amendment".

(B) Section 307(c)(1)(B) of ERISA is amended by inserting "and any other plan amendments adopted after December 22, 1987, and before such plan amendment".

(2) Section 307(d) of ERISA is amended by inserting "of the Treasury" after "Secretary".

(3)(A) Section 307 of ERISA is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE.—A contributing sponsor which is required to provide security under subsection (a) shall notify the Corporation within 30 days after the amendment requiring such security takes effect. Such notice shall contain such information as the Corporation may require.".

(B) Section 4071 of ERISA is amended—

(i) by striking "or subtitle A, B, or C" and inserting ", subtitle A, B, or C, as section 302(f)(4) or 307(e)", and

(ii) by inserting "or such section" after "such subtitle".

(4)(A) Clause (i) of section 401(a)(29)(A) is amended by inserting "to which the requirements of section 412 apply" after "multiemployer plan)".

(B) Section 307(a)(1) of ERISA is amended by inserting "to which the requirements of section 302 apply" after "multiemployer plan)".

(5) Section 9341(c) of the Pension Protection Act is amended by inserting "(without regard to any extension, amendment, or modification of such agreements on or after such date of enactment)" after "ratified before the date of enactment".

(j) AMENDMENTS RELATED TO SECTION 9342.—

(1) Paragraph (11) of section 103(d) of ERISA is amended—

(A) by striking "60 percent" and inserting "70 percent", and

(B) by striking "such percentage" and inserting "the percentage which such value is of such liability.".

(2) Section 502(a)(6) of ERISA is amended by striking "subsection (i)" and inserting "subsection (c)(2) or (i)".

(3) Section 502(c)(2) of ERISA is amended—

(A) by inserting "against any plan administrator" after "civil penalty", and

(B) by striking "a plan administrator's" and inserting "such plan administrator's".

(k) AMENDMENT RELATED TO SECTION 9343.—Section 403(c) of ERISA is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(l) AMENDMENTS RELATED TO SECTION 9345.—

(1) Section 407(d)(9) of ERISA is amended by striking "such arrangement" and inserting "such individual account plan".

(2) Section 407(f) of ERISA is amended by striking paragraph (3).

(m) AMENDMENTS RELATED TO SECTION 9346.—

(1)(A) Clause (iii) of section 411(c)(2)(C) is amended to read as follows:

"(iii) interest on the sum of the amounts determined under clauses (i) and (ii) compounded annually—

"(I) at the rate of 120 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of a plan year) for the period beginning with the 1st plan year to which subsection (a)(2) applies (by reason of the applicable effective date) and ending with the date on which the determination is being made, and

"(II) at the interest rate which would be used under the plan under section 417(e)(3) (as of the determination date) for the period beginning with the determination date and ending on the date on which the employee attains normal retirement age.".

(B) Subparagraph (B) of section 411(c)(2) is amended to read as follows:

"(B) DEFINED BENEFIT PLANS.—In the case of a defined benefit plan, the accrued benefit derived from contributions made by an employee as of any applicable date is the amount equal to the employee's accumulated contributions expressed as an annual benefit commencing at normal retirement age, using an interest rate which would be used under the plan under section 417(e)(3) (as of the determination date).".

(C) Section 411(c)(2) is amended by striking subparagraph (E).

(D) Section 411(a)(7) is amended by adding at the end thereof the following new subparagraph:

"(D) ACCRUED BENEFIT ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS.—The accrued benefit of an employee shall not be less than the amount determined under subsection (c)(2)(B) with respect to the employee's accumulated contributions.".

(2)(A) Clause (iii) of section 204(c)(2)(C) of ERISA is amended to read as follows:

"(iii) interest on the sum of the amounts determined under clauses (i) and (ii) compounded annually—

"(I) at the rate of 120 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of a plan year for the period beginning with the 1st plan year to which subsection (a)(2) applies by reason of the applicable effective date) and ending with the date on which the determination is being made, and

"(II) at the interest rate which would be used under the plan under section 205(g)(3) (as of the determination date) for the period beginning with the determination date and ending on the date on which the employee attains normal retirement age.".

(B) Subparagraph (B) of section 204(c)(2) of ERISA is amended to read as follows:

"(B) DEFINED BENEFIT PLANS.—In the case of a defined benefit plan, the accrued benefit derived from contributions made by an employee as of any applicable date is the amount equal to the employee's accumulated contributions expressed as an annual benefit commencing at normal retirement age, using an interest rate which would be used under the plan under section 205(g)(3) (as of the determination date).".

(C) Section 204(c)(2) of ERISA is amended by striking subparagraph (E).

(D) Paragraph (23) of section 3 of ERISA is amended by adding at the end thereof the following new flush sentence: "The accrued benefit of an employee shall not be less than the amount determined under section 204(c)(2)(B) with respect to the employee's accumulated contribution."

(3) If—

(A) during the period beginning December 22, 1987, and ending June 21, 1988, a plan was amended to reflect the amendments made by section 9346 of the Pension Protection Act, and

(B) such plan is amended to reflect the amendments made by this subsection,

any plan amendment described in subparagraph (B) shall not be treated as reducing accrued benefits for purposes of section 411(d)(6) of the Internal Revenue Code of 1986 or section 204(g) of ERISA.

SEC. 11882. EFFECTIVE DATE.

Except as otherwise provided in this subpart, any amendment made by this subpart shall take effect as if included in the provision of the Pension Protection Act to which such amendment relates.

Subpart D—Additional Pension Provisions

SEC. 11891. AMENDMENTS RELATING TO THE TAX REFORM ACT OF 1986.

(a) AMENDMENTS RELATED TO SECTION 2.—

(1) Titles I, III, and IV of ERISA (other than sections 3(37)(E), 301(a)(7), and 308, the last sentence of section 408(d), and sections 414(c), 4001(a)(3)(ii), and 4303) are each amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(2) The last sentence of section 408(d) of ERISA (as amended by section 3151(e)(5)(A)) is further amended—

(A) by striking "section 408 of the Internal Revenue Code of 1954" and inserting "section 408 of the Internal Revenue Code of 1986"; and

(B) by striking "section 408(c) of such Code" and inserting "section 408(c) of the Internal Revenue Code of 1986".

(b) AMENDMENTS RELATED TO SECTION 1139.—

(1) Paragraphs (2)(A) and (2)(B) of section 203(e) of ERISA are each amended by adjusting the margination thereof, and of each subdivision thereof, 2 ems to the left.

(2) Subparagraph (B) of section 203(e)(2) of ERISA is amended by striking "APPLICABLE INTEREST RATE.—".

(3) Paragraph (3)(A) of section 205(g) of ERISA is amended by adjusting the left-hand margination thereof, and of each subdivision thereof, 2 ems to the left.

(c) AMENDMENT RELATED TO SECTION 1145.—Paragraph (3) of section 205(b) of ERISA (as added by section 1145(b) of the Reform Act) is amended by adjusting the left-hand margination thereof 2 ems to the left.

(d) AMENDMENTS RELATED TO SECTION 1895.—

(1)(A)(i) Section 606 of ERISA is amended—

(I) in paragraph (2), by inserting after "30 days" the following: "(or, in the case of a group health plan which is a multiemployer

plan, such longer period of time as may be provided in the terms of the plan)"; and

(II) in the first sentence following paragraph (4), by inserting after "14 days" the following: "(or, in the case of a group health plan which is a multiemployer plan, such longer period of time as may be provided in the terms of the plan)".

(ii) Section 606 of ERISA is amended—

(I) by inserting "(a) IN GENERAL.—" before "In accordance";

(II) by striking "For purposes of paragraph (4)," and inserting the following:

"(c) RULES RELATING TO NOTIFICATION OF QUALIFIED BENEFICIARIES BY PLAN ADMINISTRATOR.—For purposes of subsection (a)(4),"; and

(III) by inserting after subsection (a)(4) (as so designated by the amendment made by subclause (I)) the following new subsection:

"(b) ALTERNATIVE MEANS OF COMPLIANCE WITH REQUIREMENT FOR NOTIFICATION OF MULTIEMPLOYER PLANS BY EMPLOYERS.—The requirements of subsection (a)(2) shall be considered satisfied in the case of a multiemployer plan in connection with a qualifying event described in paragraph (2) of section 603 if the plan provides that the determination of the occurrence of such qualifying event will be made by the plan administrator.".

(B)(i) Section 4980B(f)(6) of the 1986 Code (as added by the Technical and Miscellaneous Revenue Act of 1988) is amended—

(I) in subparagraph (B), by inserting after "30 days" the following: "(or, in the case of a group health plan which is a multiemployer plan, such longer period of time as may be provided in the terms of the plan)"; and

(II) in the first sentence following subparagraph (D), by inserting after "14 days" the following: "(or, in the case of a group health plan which is a multiemployer plan, such longer period of time as may be provided in the terms of the plan)".

(ii) Section 4980B(f)(6) of the 1986 Code (as added by the Technical and Miscellaneous Revenue Act of 1988) is amended by inserting, after and below subparagraph (D), the following new flush sentence:

"The requirements of subparagraph (B) shall be considered satisfied in the case of a multiemployer plan in connection with a qualifying event described in paragraph (3)(B) if the plan provides that the determination of the occurrence of such qualifying event will be made by the plan administrator.".

(C) The amendments made by this paragraph shall apply with respect to plan years beginning on or after January 1, 1990.

(2)(A) Section 4980B(f) of the 1986 Code (as added by the Technical and Miscellaneous Revenue Act of 1988) is amended by adding at the end the following new paragraph:

"(8) OPTIONAL EXTENSION OF REQUIRED PERIODS.—A group health plan shall not be treated as failing to meet the requirements of this subsection solely because the plan provides both—

"(A) that the period of extended coverage referred to in paragraph (2)(B) commences with the date of the loss of coverage, and

"(B) that the applicable notice period provided under paragraph (6)(B) commences with the date of the loss of coverage.".

(B)(i) Section 607 of ERISA is amended—

(I) in the heading, by inserting "AND SPECIAL RULES" after "DEFINITIONS"; and

(II) by adding at the end the following new paragraph:

"(5) OPTIONAL EXTENSION OF REQUIRED PERIODS.—A group health plan shall not be treated as failing to meet the requirements of this part solely because the plan provides both—

"(A) that the period of extended coverage referred to in section 602(2) commences with the date of the loss of coverage, and

"(B) that the applicable notice period provided under section 606(a)(2) commences with the date of the loss of coverage.".

(ii) The item relating to section 607 in the table of contents in section 1 of ERISA is amended by inserting "and special rules" after "Definitions".

(C) The amendments made by this paragraph shall apply with respect to plan years beginning on or after January 1, 1990.

(e) AMENDMENTS RELATED TO SECTION 1898.—Section 205(h) of ERISA is amended—

(1) in paragraph (1), by striking "the term" and inserting "The term", and by striking "benefit," and inserting "benefit."; and

(2) in paragraph (3), by striking "the term" and inserting "The term".

(f) EFFECTIVE DATE.—Except as otherwise provided in this section, any amendment made by this section shall take effect as if included in the provision of the Reform Act to which such amendment relates.

SEC. 11892. AMENDMENTS RELATING TO THE PENSION PROTECTION ACT.

(a) AMENDMENT RELATED TO SECTION 9203.—Section 202(a)(2) of ERISA is amended by striking the comma.

(b) AMENDMENT RELATED TO SECTION 9301.—Paragraph (7) of section 302(c) of ERISA is amended by adjusting the left-hand margination thereof, and of each subdivision thereof, 2 ems to the left.

(c) AMENDMENTS RELATED TO SECTION 9345.—

(1) Section 407(f)(1) of ERISA is amended by inserting ", immediately following the acquisition of such stock" after "if".

(2) Section 408(b) of ERISA is further amended by adding at the end the following new paragraph:

"(13) The sale by a plan to a party in interest on or after December 18, 1987, of any stock, if—

"(A) the requirements of paragraphs (1) and (2) of subsection (e) are met with respect to such stock,

"(B) on the later of the date on which the stock was acquired by the plan, or January 1, 1975, such stock constituted a qualifying employer security (as defined in section 407(d)(5) as then in effect), and

"(C) such stock does not constitute a qualifying employer security (as defined in section 407(d)(5) as in effect at the time of the sale).".

(d) EFFECTIVE DATE.—Any amendment made by this section shall take effect as if included in the provision of the Omnibus Budget Reconciliation Act of 1987 or Pension Protection Act to which such amendment relates.

SEC. 11893. AMENDMENTS RELATING TO THE SINGLE-EMPLOYER PENSION PLAN AMENDMENTS ACT OF 1986.

(a) AMENDMENT RELATED TO SECTION 11004.—Section 3(37)(B) of ERISA is amended by striking "section 4001(c)(1)" and inserting "section 4001(b)(1)".

(b) AMENDMENT RELATED TO SECTION 11005.—Subparagraph (B) of section 4022A(f)(2) of ERISA is amended by striking "the the enactment" and inserting "the enactment".

(c) AMENDMENT RELATED TO SECTION 11008.—Subparagraph (B) of section 4041(b)(2) of ERISA is amended by adjusting the margination of the sentence following clause (ii)(V) 2 ems to the left.

(d) AMENDMENTS RELATED TO SECTION 11009.—

(1) Subparagraph (D) of section 4041(c)(3) of ERISA is amended by adjusting the margination thereof, and of each subdivision thereof, 2 ems to the right.

(2) Subclause (I) of section 4041(c)(3)(D)(ii) of ERISA is amended by striking "of" and inserting "under".

(e) AMENDMENT RELATED TO SECTION 11010.—Section 4042(a) of ERISA is amended, in the matter following paragraph (4), by inserting a period after "terms of the plan".

(f) EFFECTIVE DATE.—Any amendment made by this section shall take effect as if included in the provision of the Single-Employer Pension Plan Amendments Act of 1986 to which such amendment relates.

SEC. 11894. OTHER AMENDMENTS TO ERISA.

(a) AMENDMENTS RELATED TO SECTION 3.—

(1)(A) Section 3(33)(D)(iii) of ERISA is amended by inserting "of the Treasury" after "Secretary" each place it appears.

(B) The amendments made by subparagraph (A) shall take effect as if included in section 407 of the Multiemployer Pension Plan Amendments Act of 1980.

(2)(A) Section 3(37)(F) of ERISA (as added by section 136 of Public Law 100-202 (101 Stat. 1329-441)) is amended—

(i) in clause (i)(II), by striking "such Code" and inserting "the Internal Revenue Code of 1986";

(ii) in clause (ii)(I), by inserting "of such Code" after "section 501(c)"; and

(iii) in clause (ii)(II), by inserting "of such Code" after "section 170(b)(1)(A)(ii)".

(B) The amendment made by this paragraph shall take effect as if included in section 136 of Public Law 100-202.

(3) Section 3(39) of ERISA is amended by inserting a comma after "mean" and by inserting "the" before "calendar".

(4) Section 3 of ERISA is amended by adding at the end the following new paragraph:

"(41) SINGLE-EMPLOYER PLAN.—The term 'single-employer plan' means an employee benefit plan other than a multiemployer plan.".

(b) AMENDMENTS RELATED TO PART 1 OF SUBTITLE B OF TITLE I.—

(1) The heading for part 1 of subtitle B of title I of ERISA is amended by striking "Part I" and inserting "Part 1".

(2) Section 101(a)(2) of ERISA is amended by striking "section" and inserting "sections".

(3) Section 104(a)(5)(B) of ERISA is amended by striking the period and inserting a comma.

(4) Section 104(b)(1) of ERISA is amended by striking the comma after "summary".

(5) Section 105(b) of ERISA is amended by striking "12 month" and inserting "12-month".

(6) Section 106(b) of ERISA is amended by striking "section" and inserting "sections".

(7) Section 108 of ERISA is amended by striking "act of omission" and inserting "act or omission".

(c) AMENDMENTS RELATED TO PART 2 OF SUBTITLE B OF TITLE I.—

(1)(A) Section 201 of ERISA is amended—

(i) in paragraph (6), by striking "or" at the end;

(ii) in paragraph (7), by striking "plan." and inserting "plan; or"; and

(iii) in paragraph (8), by striking "Any" and inserting "any".

(B) The amendments made by subparagraph (A) shall take effect as if included in section 411 of the Multiemployer Pension Plan Amendments Act of 1980.

(2)(A) Section 202(a)(1)(B)(ii) of ERISA is amended by striking "institution" and inserting "organization".

(B) Section 202(b)(2) of ERISA is amended by striking "the plan" and inserting "a plan".

(3) Section 203(a)(3)(D)(v) of ERISA is amended by striking "nonforfeitably" and inserting "nonforfeitability".

(4) Section 204(b)(1)(A) of ERISA is amended in the last sentence by striking "suparagraph" and inserting "subparagraph".

(5) Section 204(b)(1)(E) of ERISA is amended by striking "years" in the last sentence and inserting "year".

(6) Section 204(d) of ERISA is amended, in the matter following paragraph (2), so as to remove the indentation of the term "Paragraph" the first place it appears.

(7)(A) Section 205(c)(6) of ERISA is amended by striking "act" and inserting "Act".

(B) The amendment made by subparagraph (A) shall take effect as if included in section 103 of the Retirement Equity Act of 1984 in reference to the new section 205(c)(5) of ERISA as added by such section 3113.

(8) Section 206(a)(1) of ERISA is amended by inserting "occurs" after "(1)".

(9)(A) Section 206(d)(3)(I) of ERISA is amended by striking "act" and inserting "Act".

(B) The amendment made by subparagraph (A) shall take effect as if included in section 104 of the Retirement Equity Act of 1984.

(10) Section 210(c) of ERISA is amended by striking "such code" and inserting "such Code".

(d) AMENDMENT RELATED TO PART 3 OF SUBTITLE B OF TITLE I.—

(1)(A) Section 301(a) of ERISA is amended—

(i) in paragraph (8), by striking "or" at the end;

(ii) in paragraph (9), by striking "plan." and inserting "plan; or"; and

(iii) in paragraph (10), by striking "Any" and inserting "any".

(B) The amendments made by subparagraph (A) shall take effect as if included in section 411 of the Multiemployer Pension Plan Amendments Act of 1980.

(2) Clause (iii) of section 302(b)(3)(B) of ERISA is amended by striking the period and inserting a comma.

(3) Subparagraph (A) of section 304(b)(2) of ERISA is amended by striking the period and inserting a comma.

(e) AMENDMENTS RELATED TO PART 4 OF SUBTITLE B OF TITLE I.—

(1)(A) Subsection (c) of section 403 of ERISA is amended—

(i) in paragraph (2)(A), by striking "part iv" and inserting "title IV", and

(ii) by inserting "if such contribution or payment is" after "(i)" and "(ii)", respectively.

(B) The amendments made by subparagraph (A) shall take effect as if included in section 410 of the Multiemployer Pension Plan Amendments Act of 1980.

(2) Section 407(d)(6)(A) of ERISA is amended—

(A) by inserting "plan" after "money purchase"; and

(B) by striking "employee securities" and inserting "employer securities".

(f) AMENDMENTS RELATED TO PART 5 OF SUBTITLE B OF TITLE I.—

(1) Section 502(b)(1) of ERISA is amended by striking "respct" and inserting "respect".

(2)(A) Section 514(b)(5)(C) of ERISA (as amended by section 301 of Public Law 97-473 (96 Stat. 2611)) is amended by striking "such parts" the second place it appears and inserting "such parts 1 and 4 and the preceding sections of this part".

(B) The amendment made by this paragraph shall take effect as if included in section 301 of Public Law 97-473.

(3)(A) Section 514(b)(6)(B) of ERISA (as amended by section 302 of Public Law 97-473 (96 Stat. 2612)) is amended by striking "section 3(1)" and inserting "section 3(1)".

(B) The amendments made by this paragraph shall take effect as if included in section 302 of Public Law 97-473.

(g) AMENDMENTS TO TITLE IV.—

(1) Section 4022(b)(2) of ERISA is amended by striking "60 month" and inserting "60-month".

(2) Paragraph (1) of section 4044(a) of ERISA is amended by striking "accured" and inserting "accrued".

(h) EFFECTIVE DATE.—Except as otherwise provided in this section, any amendment made by this section shall take effect as if originally included in the provision of the Employee Retirement Income Security Act of 1974 to which such amendment related.

Subtitle I—Child Care Provisions

SEC. 11901. GRANTS TO STATES FOR CHILD CARE.

(a) ESTABLISHMENT OF PROGRAM.—Title XX of the Social Security Act (42 U.S.C. 1397 et seq.) is amended—

(1) by inserting after the title heading the following:

"SEC. 2000. PURPOSE OF TITLE; LIMITATION ON ENTITLEMENT.

"(a) PURPOSES OF TITLE.—The purpose of this title is to provide Federal assistance to States for a range of social services, with additional funds set aside for child care services.

"(b) LIMITATION ON ENTITLEMENT.—For payments to which States are entitled under this title, there are authorized to be appropriated to the Secretary—

"(1) $2,900,000,000 for fiscal year 1990, of which $200,000,000 shall be for payments under subtitle B;

"(2) $3,250,000,000 for fiscal year 1991, of which $350,000,000 shall be for payments under subtitle B;

"(3) $3,500,000,000 for fiscal year 1992, of which $400,000,000 shall be for payments under subtitle B; and

"(4) $3,700,000,000 for each fiscal year after fiscal year 1992, of which $400,000,000 shall be for payments under subtitle B.

"Subtitle A—Grants to States for Social Services";

and

(2) by adding at the end the following:

"Subtitle B—Grants to States for Child Care

"SEC. 2011. PAYMENTS TO STATES.

"(a) ENTITLEMENT.—

"(1) IN GENERAL.—Each State which is eligible for payments under this subtitle for a fiscal year shall be entitled to payments in an aggregate amount equal to the child care allotment of the State for such fiscal year.

"(2) ELIGIBILITY.—

"(A) FIRST 3 YEARS.—During the 3-year period beginning on the date of the enactment of this subtitle, each State is eligible for payments under this subtitle.

"(B) AFTER 3 YEARS.—After the end of such 3-year period, a State shall be ineligible for any payment under this subtitle if the State has not demonstrated to the Secretary that all child care providers in the State who receive funds under this title and all other providers in the State who receive public funds for child care services—

"(i) are licensed or regulated as required by State or local law;

"(ii) comply with the minimum child care standards established by the State in accordance with section 2012(c); and

"(iii) are subject to the enforcement provisions in section 2012(i).

This subparagraph shall not be construed to require the training or licensing of any individual who provides child care solely to members of the family of the individual.

"(b) PAYMENTS.—The Secretary shall make payments to each State which is eligible for payments under this subtitle for a fiscal year from the child care allotment of the State under this subtitle for such fiscal year, in accordance with section 6503 of title 31, United States Code.

"SEC. 2012. STATE ADMINISTRATION.

"(a) ADMINISTRATION.—The State agency with primary responsibility for child care in the State shall administer the use of all payments made to the State under this subtitle.

"(b) USE OF PAYMENTS.—

"(1) IN GENERAL.—

"(A) 80 PERCENT FOR CHILD CARE SERVICES.—Each State which receives a payment under this subtitle shall use 80 percent of the amount of such payment to provide child care services in accordance with this subtitle.

"(B) 20 PERCENT FOR ADMINISTRATION, TRAINING, AND ENFORCEMENT.—Each State which receives a payment under this subtitle shall use 20 percent of the amount of such payment for child-care related administration and training, and for enforcing in accordance with subsection (i) the child care standards established by the State in accordance with subsection (c).

"(2) LIMITATIONS.—

"(A) CHILD CARE PROVIDERS AND SERVICES MUST MEET STATE STANDARDS AND REQUIREMENTS.—Each State which receives a payment under this subtitle may not use any part of any grant made under this subtitle for any child care services unless such services meet all applicable child care standards and licensing and registration requirements—

"(i) during the 3-year period beginning on the date of the enactment of this subtitle, as established by State and local law; and

"(ii) after such 3-year period, as established by State and local law pursuant to subsection (c).

"(B) NO SUPPLANTING OF OTHER PUBLIC FUNDS FOR CHILD CARE SERVICES.—Each State which receives a payment under this subtitle shall not use such payment to supplant any other Federal or State funds used for child care services.

"(c) CHILD CARE STANDARDS.—Beginning 3 years after the date of the enactment of this subtitle, each State which receives a payment under this subtitle shall have in effect child care standards in each of the categories described in this subsection, which shall apply to all child care funded in the State under this title and all child care services delivered by providers in the State

who receive public funds for child care services. Such categories are as follows:

"(1) CENTER-BASED CHILD CARE SERVICES.—Such standards with respect to child care services provided by center-based child care providers shall be limited to—

"(A) group size limits in terms of the number of caregivers and the number and ages of children;

"(B) the maximum appropriate child-staff ratios;

"(C) preservice qualifications and background of child care personnel;

"(D) requirements for inservice training in areas appropriate to the provision of such child care services;

"(E) health and safety requirements for children and caregivers, including requirements for—

"(i) the prevention and control of infectious diseases (including immunization and handwashing procedures);

"(ii) injury prevention, control, and treatment;

"(iii) building and physical premises safety;

"(iv) general health and nutrition;

"(v) children with special needs; and

"(vi) prevention of child abuse; and

"(F) requirements for parental involvement in licensed and regulated child care services.

"(2) FAMILY CHILD CARE SERVICES.—Such standards with respect to child care services provided by family child care providers shall be limited to—

"(A) the maximum number of children for which child care services should be provided and the maximum number of infants for which child care services should be provided;

"(B) the minimum age for caregivers;

"(C) requirements for inservice training in areas appropriate to the provision of such child care services, or participation in a provider organization that addresses child development and management issues; and

"(D) health and safety requirements for children and caregivers, including those described in paragraph (1)(E), as appropriate for family child care services.

"(3) GROUP HOME CHILD CARE SERVICES.—Such standards with respect to child care services provided by group home child care providers shall be limited to the matters specified in paragraphs (1)(B) and (2).

"(d) MINIMUM TRAINING REQUIREMENT.—Each State which receives a payment under this subtitle after the expiration of the 2-year period beginning on the date of the enactment of this subtitle shall require all child care providers (and the caregivers employed by such providers) who receive public funds for child care services and are required to be licensed or regulated in the State to complete annually an average of 15 hours of training. Such training shall be tailored to the needs of the State and the providers.

"(e) MARKET RATES.—Each State which receives a payment under this subtitle shall reimburse child care expenses at market rates, with higher reimbursements for infants and toddlers, children with disabilities, and comprehensive child care programs for children of adolescent parents.

"(f) SLIDING FEE SCHEDULE.—Each State which receives a payment under this subtitle shall establish a sliding fee schedule, based on income, for determining the amount a family will be required to pay for the delivery of child care services under this title.

"(g) CHILD CARE SERVICES TO BE PROVIDED AT NO COST TO FAMILIES WITH INCOMES BELOW POVERTY LINE.—Each State which receives a payment under this subtitle shall ensure that child care services which are provided to any family with income below the poverty line shall be provided at no cost to such family.

"(h) POLICIES AND PROCEDURES.—Each State which receives a payment under this subtitle shall develop policies and procedures designed to ensure that the State will not reduce—

"(1) the categories of child care providers licensed or regulated by the State on the date of the enactment of this subtitle; or

"(2) the level of standards applicable to child care services provided in the State and to the matters referred to in subsection (c), even if such standards exceed the standards required to be established by the State in accordance with subsection (c) unless the State demonstrates, to the satisfaction of the Secretary, that the reduction is—

"(A) based on positive developmental practice; or

"(B) necessary to increase access to and availability of child care providers, and will not jeopardize the health and safety of children.

"(i) ENFORCEMENT.—Beginning 3 years after the date of the enactment of this subtitle, each State which receives a payment under this subtitle shall have in effect enforcement policies and practices that will apply to all child care funded in the State under this title and all child care services delivered by providers in the State who receive public funds for child care services, including policies and practices that—

"(1) require personnel who perform inspection functions with respect to licensed or regulated child care services to receive training in child development, health and safety, child abuse prevention and detection, the needs of children with a disability, program management, and relevant law enforcement;

"(2) impose personnel requirements to ensure that individuals who are hired as licensing inspectors are qualified to inspect and, to the maximum extent feasible, have inspection responsibility exclusively for children's services;

"(3) require personnel who perform inspection functions with respect to licensed or regulated child care services to make—

"(A) not less than 1 unannounced inspection annually of each center-based child care provider in the State; and

"(B) unannounced inspections annually, and during normal hours of operation, of not less than 25 percent of licensed and regulated family child care providers in the State;

"(4) require the ratio of licensing personnel to child care providers in the State to be maintained at a level sufficient to enable the State to conduct inspections of child care facilities and providers on a timely basis and otherwise to comply with the requirements of this subsection;

"(5) require licensed or regulated child care providers (including registered child care providers) in the State—

"(A) to have written policies and program goals and to make a copy of such policies and goals available to parents; and

"(B) to provide parents with unlimited access to their children whenever children of such parents are in the care of such providers;

"(6) implement a procedure to address complaints that will provide a reasonable opportunity for a parent, or child care provider, that is adversely affected or aggrieved by a decision of the agency described in subsection (a) or any program or activity assisted under this subtitle or, to the extent funds are used for child care services, under subtitle A, to be heard by the State;

"(7) prohibit the operator of a child care facility to take any action against an employee of such operator that would adversely affect the employment, or terms or conditions of employment, of such employee because such employee communicates a failure of such operator to comply with any applicable licensing or regulatory requirement;

"(8) make consumer education information available to inform parents and the general public about licensing requirements, complaint procedures, and policies and practices required by this subsection;

"(9) require a child care provider to post, on the premises where child care services are provided, the telephone number of the appropriate licensing or regulatory agency that parents may call regarding a failure of such provider to comply with any applicable licensing or regulatory requirement; and

"(10) require the State to maintain a record of parental complaints and to make information regarding substantiated parental complaints available to the public on request.

"(j) TIMING OF EXPENDITURES.—Except as provided in section 2013(c)(1), each State receiving a payment under this subtitle for a fiscal year shall expend such funds in such fiscal year or in the succeeding fiscal year.

"SEC. 2013. CHILD CARE ALLOTMENTS.

"(a) FORMULA FOR DETERMINING CHILD CARE ALLOTMENTS.—The child care allotment of any State which is eligible for payments under this subtitle for a fiscal year shall be—

"(1) the State share for such fiscal year; multiplied by

"(2) the child care set aside for such fiscal year.

"(b) DEFINITIONS.—

"(1) STATE SHARE.—The term 'State share' means, with respect to a State and a fiscal year—

"(A) the regular allotment of the State under section 2003 for such fiscal year; divided by

"(B)(i) the amount specified in section 2003(c) for such fiscal year; minus

"(ii) the aggregate of the regular allotments, under section 2003 for such fiscal year, of the States which are not eligible for payments under this subtitle for such fiscal year.

"(2) CHILD CARE SET ASIDE.—The term 'child care set aside' means—

"(A) $200,000,000 for fiscal year 1990;

"(B) $350,000,000 for fiscal year 1991; and

"(C) $400,000,000 for each fiscal year after fiscal year 1991.

"(c) REDISTRIBUTION OF UNEXPENDED CHILD CARE ALLOTMENTS.—

"(1) REMITTANCE TO THE SECRETARY.—Each State which receives any payment under this subtitle for a fiscal year shall remit to the Secretary that part of such payment which the State intends not to, or does not, expend in such fiscal year or in the succeeding fiscal year.

"(2) REDISTRIBUTION.—The Secretary shall increase the child care allotment of each State not remitting any amount to the Secretary for a fiscal year pursuant to paragraph (1) by an amount equal to—

"(A) the aggregate of the amounts so remitted; multiplied by

"(B) the adjusted State share for such fiscal year.

"(3) ADJUSTED STATE SHARE.—The term 'adjusted State share' means, with respect to a fiscal year—

"(A) the child care allotment of the State for such fiscal year (before any increase under paragraph (2)); divided by

"(B)(i) the child care set aside for such fiscal year; minus

"(ii) the aggregate of the amounts remitted to the Secretary for such fiscal year pursuant to paragraph (1).

"SEC. 2014. REPORTS AND AUDITS.

"(a) REPORTS ON INTENDED USES OF CHILD CARE ALLOTMENTS.—

"(1) IN GENERAL.—Before any State expends any payment made to the State under this subtitle for any fiscal year, the State shall report to the Secretary on the intended uses of such payment (including information on the types of activities to be supported, and the categories and characteristics of individuals to be served) and on any part of such payment which the State intends not to expend in such fiscal year or in the succeeding fiscal year.

"(2) PUBLICATION IN THE STATE.—The State shall make the report required by paragraph (1) public within the State in such manner as to facilitate comment by any person (including any Federal or other public agency) during the development of the report and after the completion of the report.

"(b) NOTICE TO SECRETARY OF UNEXPENDED CHILD CARE SET ASIDE.—Each State which has not completely expended the payments made to the State under this subtitle for a fiscal year in such fiscal year or the succeeding fiscal year shall notify the Secretary of any amount not so expended.

"(c) REPORTS ON ACTUAL USE OF CHILD CARE SET ASIDE.—

"(1) ANNUAL REPORTS.—

"(A) IN GENERAL.—Each State shall prepare reports annually, beginning with fiscal year 1992, on the activities of the State carried out with funds made available under this subtitle or (to the extent funds made available under subtitle A are expended for child care services) under subtitle A, covering the most recently completed fiscal year.

"(B) FORM AND CONTENT.—Each report required by subparagraph (A) shall be in such form and contain such information (including the information specified in paragraph (2)) as the State finds necessary—

"(i) to provide an accurate description of such activities;

"(ii) to secure a complete record of the purposes for which funds made available under this subtitle were spent; and

"(iii) to determine the extent to which such funds were spent in a manner consistent with the reports required by subsection (a).

"(C) AVAILABILITY OF COPIES.—The State shall make copies of each report required by this section available for public inspection within the State, shall transmit a copy of each such report to the Secretary, and shall provide a copy of each such report, on request, to any interested public agency.

"(D) SUBMISSION TO CONGRESS.—The Secretary shall annually compile the State reports transmitted to the Secretary pursuant to subparagraph (C), and submit such annual compilation to the Congress.

"(2) REPORTS TO CONTAIN CERTAIN SPECIFIC INFORMATION.—Each report prepared and transmitted by a State under paragraph (1) shall set forth with respect to child care services funded under this subtitle or subtitle A (for the fiscal year covered by the report)—

"(A) showing separately for center-based child care services, group home child care services, family child care services, and relative care services—

"(i) the number of children who received such services paid for, in whole or in part, with funds made available under this subtitle or subtitle A, grouped according to the average income of the families of such children as a percentage of the poverty line;

"(ii) the average cost and market rate, by geographical area, for child care services funded, in whole or in part, with funds made available under this subtitle or subtitle A; and

"(iii) the out-of-pocket costs for such services funded, in whole or in part, with funds made available under this subtitle or subtitle A, grouped according to the average income of the families of the children receiving such services as a percentage of the poverty line;

"(B) whether the recipients of each type of service specified in subparagraph (A) receive public assistance benefits, the extent to which such benefits are taken into account in determining the child care services benefit, and the effect of public assistance benefits on the child care services benefit;

"(C) income eligibility guidelines, sliding fee schedules, requirements for enrollment in school or training programs, and any other criteria applied in determining eligibility for, or priority in receiving, each type of service specified in subparagraph (A);

"(D) the methods by which each type of service specified in subparagraph (A) was provided;

"(E) the child care standards in effect in the State with respect to each type of service specified in subparagraph (A);

"(F) the child care licensing and regulatory (including registration) requirements in effect in the State with respect to each type of service specified in subparagraph (A); and

"(G) the enforcement policies and practices in effect in the State which apply to licensed and regulated child care providers (including providers required to register).

"(3) UNIFORM REPORTING REQUIREMENTS.—Within 12 months after the date of the enactment of this subtitle, the Secretary shall establish uniform reporting requirements for use by the States in preparing the information required by this subsection, and make such other provision as may be necessary or appropriate to ensure that compliance with this subsection will not be unduly burdensome on the States.

"(4) INTERIM REPORT.—The Secretary shall issue an interim report on the matters described in paragraphs (1) and (2) with respect to fiscal year 1991, based on information made available by the States.

"(c) AUDITS.—Each State shall, not less often than every 2 years, audit the expenditures of the State from payments made under this subtitle. Such audits shall be conducted by an entity independent of any agency administering activities funded under this subtitle, in accordance with generally accepted auditing principles. Within 30 days after each such audit is completed, the State shall submit a copy of such audit to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts ultimately found not to have been expended in accordance with this subtitle, or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subtitle.

"(d) DEFINITIONS.—As used in this subtitle:

"(1) CENTER-BASED CHILD CARE PROVIDER.—The term 'center-based child care provider' means a child care provider that provides child care services in a nonresidential facility, and may include a nonprofit institution of higher education.

"(2) FAMILY CHILD CARE PROVIDER.—The term 'family child care provider' means 1 individual who provides child care services to a child who does not reside with such individual, as the sole caregiver and in the private residence of such individual.

"(3) GROUP HOME CHILD CARE PROVIDER.—The term 'group home child care provider' means 2 or more individuals who jointly provide child care services in a private residence to a child who does not reside with any of such individuals.

"(4) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 481(a)(1) of the Higher Education Act of 1965, except that with respect to a tribally controlled community college such term has the meaning given it in section 2(a)(5) of the Tribally Controlled Community College Assistance Act of 1978.

"(5) POVERTY LINE.—The term 'poverty line' has the meaning given to such term in section 673(2) of the Community Services Block Grant Act.".

(b) CONFORMING AMENDMENTS.—

(1) Title XX of the Social Security Act (42 U.S.C. 1397 et seq.) is amended—

(A) by striking "this title" each place such term appears (except in section 2001 and the 3rd place such term appears in section 2002(d)) and inserting "this subtitle";

(B) by inserting "regular" before "allotment" each place such term appears;

(C) in section 2003(c), as amended by section 10201 of this Act, by striking paragraphs (5), (6), and (7) and inserting the following:

"(5) $2,900,000,000, for the fiscal year 1990;

"(6) $3,250,000,000, for the fiscal year 1991;

"(7) $3,500,000,000, for the fiscal year 1992; and

"(8) $3,700,000,000, for the fiscal year 1993 and each succeeding fiscal year."; and

(D) in section 2006(a), by striking "each such agency may provide its views on these reports" and inserting "the Secretary shall annually compile the reports transmitted to the Secretary and submit such annual compilation".

(2) The heading of section 2001 of the Social Security Act (42 U.S.C. 1397) is amended by striking "TITLE" and inserting "SUBTITLE".

(3) The heading of section 2003 of the Social Security Act (42 U.S.C. 1397b) is amended by inserting "REGULAR" before "ALLOTMENTS".

SEC. 11902. CHILD CARE STANDARDS IMPROVEMENT INCENTIVE GRANT PROGRAM; DEMONSTRATION PROJECT.

(a) GRANT PROGRAM.—

(1) IN GENERAL.—On October 1, 1989, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall establish a child care standards improvement incentive grant program to make grants to eligible States to assist such States in improving State child care standards in the categories described in section 2012(c) of the Social Security Act.

(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection, the State desiring the grant shall prepare and submit to the Secretary an application at such time, in such form, and containing such informa-

tion as the Secretary shall require, including—

(A) an assurance that the State will meet the requirements of paragraph (4)(C);

(B) information that shall—

(i) describe the present level of child care standards that are in effect in the State;

(ii) describe the prospective use of such grant; and

(iii) describe the expected improvement in the child care standards of the State;

(C) an assurance that the State will use any amounts received under a grant under this subsection to specifically improve its child care standards; and

(D) any other information that the Secretary determines appropriate.

(3) CONSIDERATION AND AWARDING OF GRANTS.—

(A) INITIAL GRANTS.—The Secretary shall consider applications submitted by States under paragraph (2), and shall award the initial grants under this section to States on a competitive basis after considering the following criteria:

(i) The relative quality of the existing child care standards of the State as described in the application in comparison to such standards of other States that submit applications.

(ii) The level of child care standards that the State desires to adopt and the State plans for achieving this improved level of standards.

(iii) The relative fiscal capacity of the State in comparison to that of other States that submit applications.

(B) SUBSEQUENT GRANTS.—In determining whether a State that submits an application under paragraph (2) for a subsequent grant under this subsection after the expiration of the previous grant, the Secretary shall award such grant based on the compliance of the State with the application for the previous grant. The Secretary may award a subsequent grant to a State that has not complied with such application of the State if the Secretary determines that factors beyond the control of the State significantly contributed to such noncompliance.

(4) AMOUNT OF GRANT.—

(A) IN GENERAL.—The Secretary shall pay each State awarded a grant under the program established under this subsection 80 percent of the costs to be incurred with respect to activities carried out under the grant.

(B) STATE CONTRIBUTION.—Each State awarded a grant under the program established under this subsection shall, from non-Federal sources, pay 20 percent of the costs to be incurred with respect to activities carried out under the grant.

(C) LIMITATION.—A State may not require any private provider of child care services that receives or seeks funds made available under title XX of the Social Security Act to contribute in cash or in kind to the State contribution required by subparagraph (B).

(5) USE OF GRANTS.—

(A) IN GENERAL.—Each State that receives a grant under this subsection shall use amounts provided under such grant to specifically carry out the State's application for improving child care standards, as submitted by the State under paragraph (2).

(B) SPECIFIC USES.—In meeting the requirement of subparagraph (A), a State may use such amounts for any activity which is directly related to the State's application for improving child care standards.

(6) ADMINISTRATIVE PROVISIONS.—

(A) TERM OF GRANTS.—Grants made under the program established under this subsection shall be for a 2-year period with no State receiving more than 3 consecutive grants.

(B) TERMINATION.—The grant program established under this subsection shall terminate 8 years after the date of the enactment of this Act.

(b) DEMONSTRATION PROJECT.—

(1) AUTHORITY TO MAKE DEMONSTRATION GRANTS.—The Secretary may make grants to not more than 10 eligible public agencies and private entities, in urban and rural areas, to administer child development models.

(2) APPLICATION FOR GRANT.—To be eligible to receive a grant under paragraph (1), a public agency or private entity (in this subsection referred to as the "applicant") shall submit to the Secretary an application that contains at least the following:

(A) Information demonstrating that the applicant has established, or will establish, a child development model.

(B) A detailed plan for the recruitment, training, and support of family child care satellites that will participate in such model.

(C) An assurance that each family child care satellite will be required by the applicant, as conditions of participating in such model—

(i) to pay to the applicant a minimal annual fee; and

(ii) to enter into a contract with the applicant requiring such satellite to provide high quality child care services to children for whom it provides child care services.

(D) A detailed plan for the continuing evaluation of such model and such satellites.

(E) A plan specifying in detail the expenditures the applicant will make, as part of administering a child development model, with such grant throughout a 2-year period.

(F) An assurance that resource materials acquired by such model with a grant received under paragraph (1) will be made available to any child care provider in the community.

(G) An assurance that with respect to each of the following categories of children, there is at least 1 participating satellite that will provide child care services:

(i) Children who are ill but not terminally ill.

(ii) Children who do not speak English as their primary language, if there is a reasonable number of such children in the geographical area in which such model will be administered.

(iii) Children who have a handicapping condition.

(H) An assurance that the applicant will recruit, train, monitor, and provide support for not fewer than 20, and not more than 35, family child care satellites.

(I) An assurance that the applicant will provide to each participating satellite training with respect to the following:

(i) Basic child development, including physical development, social and emotional development, intellectual development, and language development.

(ii) Developmentally appropriate activities.

(iii) Developmentally appropriate problem solving.

(iv) Providing family child care services as a business.

(J) Information describing the demographics of the population in the geographical area in which such model will be administered.

(K) An assurance that the applicant will prepare and submit to the Secretary, by such date as the Secretary may specify, the report required by paragraph (3)(B).

(L) Such information and assurances as the Secretary may require by rule.

(3) EVALUATION AND REPORT.—

(A) EVALUATION.—Each applicant that receives a grant under paragraph (1) shall evaluate each family child care satellite that participates in the child development model administered by the applicant. Such evaluation shall include—

(i) a determination, based on making monthly visits (with and without advance notice to such satellite), whether—

(I) the child care services provided by such satellite are appropriate for the ages of the children to whom such services are provided;

(II) the interaction of the staff of such satellite with such children is of good quality; and

(III) such satellite is providing nutritional food to such children to satisfy their needs;

(ii) a determination of the extent to which the community cluster of which such model is a part—

(I) expands the availability of quality child care for working families;

(II) encourages quality and professionalism in child care;

(III) encourages the emotional security of sustained relationships between children and child care providers;

(IV) serves as a model and information center for current and potential child care providers; and

(V) educates family child care providers on matters relating to quality child care; and

(iii) such other information as the Secretary may require by rule.

(B) REPORT.—In accordance with rules issued by the Secretary, submit to the Secretary a detailed description of the results of the evaluation conducted under subparagraph (A).

(4) REPORT BY THE SECRETARY.—Not later than April 1, 1992, the Secretary shall submit to the Congress a report describing the operation of the child development models that received grants under paragraph (1) and summarizing the evaluations received under paragraph (3)(B) by the Secretary.

(5) DEFINITIONS.—As used in this subsection:

(A) CHILD CARE DEVELOPMENT CENTER.—The term "child care development center" means a center-based child care provider that provides child care services that include educational activities that are appropriate to the ages of participating children.

(B) CHILD DEVELOPMENT MODEL.—The term "child development model" means—

(i) a child care development center that—

(I) provides child care services at a single site (or at multiple sites in reasonably close proximity) to infants, toddlers, preschool children, and school-age children; and

(II) is capable of providing training and on-going assistance to satellites that provide child care services to sick children or to exceptional children; or

(ii) a high quality child care program that is capable of—

(I) recruiting, training, supporting, and monitoring family child care providers; and

(II) providing training and on-going assistance to satellites that provide child care services to sick or exceptional children.

(C) COMMUNITY CLUSTER.—The term "community cluster" means a child development model together with not fewer than 20, and not more than 35, family child care satellites.

(D) FAMILY CHILD CARE SATELLITE.—The term "family child care satellite" means a licensed or unlicensed family child care provider who is—

(i) capable of providing high quality child care services, as defined by such child development model; and

(ii) monitored and evaluated regularly by such child development model.

(E) HIGH QUALITY CHILD CARE PROGRAM.—The term "high quality child care program" means a child care program in which—

(i) participating children are well nourished;

(ii) the health of participating children is monitored;

(iii) participating children are supervised;

(iv) participating children have adequate space;

(v) ample equipment for learning is provided to participating children;

(vi) materials are incorporated into the child care environment in ways that are appropriate to the ages of participating children;

(vii) staff members who carry out such program have training in child development and teaching methods;

(viii) appropriate salaries and benefits are available to staff members;

(ix) such program is well planned and well organized;

(x) such program provides to parents unlimited access to their children while their children are receiving child care services provided by such program;

(xi) the number of participating children is appropriate; and

(xii) the ratio of staff members to participating children is appropriate.

(F) RESOURCE MATERIAL.—The term "resource material" means a printed or nonprint material relating to—

(i) child development or providing child care services; or

(ii) practical or legal matters applicable to the operation of a child care provider, including management, taxation, and insurance;

(G) SUPPORT.—The term "support" means—

(i) access to a toy lending library;

(ii) regular inservice programs on topics related to providing child care services;

(iii) development of a family child care satellite support group; and

(iv) regular visits from a resource specialist.

(c) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—For grants under this section, there are hereby authorized to be appropriated to the Secretary not to exceed $75,000,000 for each of fiscal years 1990 through 1997.

(2) DEMONSTRATION PROJECT.—2 percent of the amounts appropriated for each fiscal year pursuant to paragraph (1) shall be used to make grants under subsection (b) in such fiscal year.

SEC. 11903. EXPANSION OF EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—Subsections (a) and (b) of section 32 (relating to earned income tax credit) are amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the earned income for the taxable year as does not exceed $5,714.

"(2) LIMITATION.—The amount of the credit allowable to a taxpayer under this subsection for any taxable year shall not exceed the excess (if any) of—

"(A) the credit percentage of $5,714, over

"(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $9,000.

"(b) PERCENTAGES.—

"(1) IN GENERAL.—For purposes of subsection (a)—

"In the case of an eligible individual with—	The credit percentage is—	The phaseout percentage is—
1 qualifying child	17	12
2 qualifying children	21	15
3 or more qualifying children	25	18.

"(2) SUPPLEMENTAL YOUNG CHILD CREDIT.—In the case of a taxpayer with a qualifying child who has not attained age 6 as of the close of the calendar year in which or with which the taxable year of the taxpayer ends—

"(A) the credit percentage shall be increased by 6 percentage points, and

"(B) the phaseout percentage shall be increased by 4.25 percentage points.".

(b) QUALIFYING CHILD DEFINED.—Subsection (c) of section 32 is amended by adding at the end thereof the following new paragraph:

"(3) QUALIFYING CHILD.—The term 'qualifying child' means any child (within the meaning of section 151(c)(3)) of the eligible individual if—

"(A) such individual is entitled to a deduction under section 151 for such child (or would be so entitled but for paragraph (2) or (4) of section 152(e)), and

"(B) such child has the same principal place of abode as such individual for more than one-half of the taxable year.".

(c) ADVANCE PAYMENT PROVISIONS.—

(1) PAYMENT BASED ON NUMBER OF QUALIFYING CHILDREN.—

(A) Subsection (b) of section 3507 is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) states the number of qualifying children (as defined in section 32(c)(3)) of the employee for the taxable year and whether any such child is described in section 32(b)(2).".

(B) Paragraph (2) of section 3507(c) is amended—

(i) by striking "14 percent" in subparagraphs (B)(i) and (C)(i) and inserting "the credit percentage",

(ii) by striking "subsection (b)" in subparagraph (B)(ii) and inserting "subsection (a)(2)", and

(iii) by adding at the end thereof the following new sentence:

"For purposes of this paragraph, the determination of the credit percentage under section 32(b), and the determination of the amounts referred to in subparagraph (B)(ii), shall be made on the basis of the information specified in the earned income eligibility certificate.".

(C) Clause (i) of section 3507(e)(3)(A) is amended by inserting before ", or" the following: "(or changing the percentages applicable to the employee under section 32(b) for the taxable year)".

(2) EXPANDED PARTICIPATION IN ADVANCE PAYMENT PROGRAM.—Subsection (e) of section 3507 (relating to furnishing and taking effect of certificates) is amended by adding at the end thereof the following new paragraph:

"(6) EMPLOYERS REQUIRED TO COLLECT CERTIFICATE OR STATEMENT OF INELIGIBILITY, ETC.—On or before the date of commencement of employment with an employer, the employer shall require the employee to furnish to the employer a signed earned income eligibility certificate or a signed statement that such employee does not meet the requirements of paragraphs (1) and (2) of subsection (b). As of the beginning of each calendar year, the employer shall require each employee with respect to whom an earned income eligibility certificate is in effect to determine whether there has been a change in circumstances requiring a new certificate or revocation of such certificate.".

(3) REPEAL OF CALENDAR YEAR LIMITATION ON EFFECTIVENESS OF CERTIFICATE.—

(A) Subparagraphs (A) and (B) of section 3507(e)(1) are each amended by striking "had been in effect for the calendar year" and inserting "is in effect".

(B) Paragraph (2) of section 3507(e) is amended—

(i) by striking "for any calendar year", and

(ii) by striking "during such calendar year".

(d) COORDINATION OF EARNED INCOME CREDIT WITH MEANS-TESTED PROGRAMS.—Section 32 is amended by adding at the end thereof the following new subsection:

"(j) COORDINATION OF CREDIT WITH MEANS-TESTED PROGRAMS.—

"(1) FEDERAL MEANS-TESTED TRANSFER PAYMENTS TREATED AS SUPPORT PROVIDED BY TAXPAYER.—Solely for purposes of determining whether any credit is allowable to an individual under this section (and the amount of credit so allowable), Federal means-tested payments shall be treated as support provided by such individual.

"(2) CREDIT DISREGARDED IN DETERMINING BENEFITS UNDER OTHER MEANS-TESTED PROGRAMS.—Any refund of tax by reason of this section, and any payment made by an employer under section 3507, shall not be taken into account as income or receipts for purposes of determining the eligibility (for the month in which such refund or payment is made or any month thereafter) of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds. The preceding sentence shall apply only if the individual (or the family unit of which the individual is a member) is a recipient of benefits or assistance under such a program for the month before the month in which such refund or payment is made.".

(e) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 32(f) is amended—

(A) by striking "subsection (b)" each place it appears in subparagraphs (A) and (B) and inserting "subsection (a)(2)", and

(B) by adding at the end thereof the following new sentence:

"Separate tables shall be prescribed for taxpayers with 1 qualifying child, 2 qualifying children, 3 or more qualifying children, and any qualifying child who has not attained age 6.".

(2) Subparagraph (A) of section 32(i)(2) is amended by striking "or (ii)" in clause (i) and by striking "clause (iii)" in clause (ii) and inserting "clause (ii)".

(3) Subparagraph (B) of section 32(i)(2) is amended by striking clauses (i), (ii), and (iii) and inserting the following:

"(i) the $5,714 amounts contained in subsection (a), and

"(ii) the $9,000 amount contained in subsection (a)(2)(B).".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

Subtitle J—Capital Gain Provisions

PART I—REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS

SEC. 11951. TEMPORARY REDUCTION IN CAPITAL GAINS TAX.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

"SEC. 1202. TEMPORARY REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

"(a) DEDUCTION ALLOWED FOR 30 PERCENT OF CAPITAL GAIN.—

"(1) IN GENERAL.—If, for any taxable year which includes any portion of the temporary rate reduction period, a taxpayer other than a corporation has a qualified net capital gain, an amount equal to 30 percent of the qualified net capital gain shall be allowed as a deduction. Such deduction shall be allowable in computing adjusted gross income.

"(2) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under paragraph (1) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

"(b) COORDINATION WITH SECTION 1(g).—In the case of any taxable year which includes any portion of the temporary rate reduction period, for purposes of section 1(g)(1)(A), the amount allowed as a deduction under subsection (a) shall be applied against (and operate to reduce) the amount of the qualified net capital gain as determined for purposes of section 1(g)(1)(A).

"(c) DEDUCTION NOT ALLOWED FOR PURPOSES OF MINIMUM TAX.—The deduction under subsection (a) shall not be allowed in determining alternative minimum taxable income.

"(d) QUALIFIED NET CAPITAL GAIN.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified net capital gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the net capital gain for the taxable year determined—

"(i) by taking into account only gain or loss from sales or exchanges occurring during the temporary rate reduction period, and

"(ii) by not taking into account any gain or loss from the sale or exchange of any collectible.

"(2) SPECIAL RULES FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying paragraph (1) with respect to any pass-thru entity, the determination of when a sale or exchange has occurred shall be made at the entity level.

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund.

"(3) COLLECTIBLE.—For purposes of this section, the term 'collectible' has the meaning given to such term by section 408(m)(2) without regard to section 408(m)(3).

"(e) TEMPORARY RATE REDUCTION PERIOD.—For purposes of this section, the term 'temporary rate reduction period' means the period beginning on September 14, 1989, and ending on December 31, 1991.

"(f) MODIFICATIONS TO OTHER PROVISIONS.—

"(1) For purposes of section 163(d), the deduction allowable under this section to the extent attributable to gain from dispositions of property held for investment shall be applied against (and operate to reduce) the net gain referred to in section 163(d)(4)(B)(ii).

"(2) In the case of any charitable contribution (other than of a collectible) by a person other than a corporation during the temporary rate reduction period, section 170(e)(1)(B) shall be applied by substituting '70 percent of the amount of gain' for 'the amount of gain'.

"(3) The deduction allowed under this section shall not be taken into account in determining the net operating loss under section 172 for any taxable year.

"(4) To the extent that the amount otherwise allowable as a deduction under section 642(c) consists of any gain taken into account in determining the qualified net capital gain, proper adjustment shall be made for any deduction allowable to the trust or estate under this section.

"(5) The deduction allowed under this section shall not be taken into account for purposes of section 643(a).

"(6) For purposes of this section, the rules of section 691(c)(4) shall apply.

"(7) The amount subject to tax under section 871(a)(2) shall be determined without regard to the deduction allowed under this section.

"(8) The deduction allowed under this section shall not be taken into account in determining the net earnings from self-employment of any options dealer (as defined in section 1402(i)) or commodities dealer (as so defined).

"(9) In the case of a withdrawal during the temporary rate reduction period, section 7518(g)(6)(A), and section 607(h)(6) of the Merchant Marine Act, 1936, shall each be applied by substituting '19.6 percent' for '28 percent'."

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1202. Temporary reduction in capital gains tax for noncorporate taxpayers."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 14, 1989.

SEC. 11952. NET CAPITAL GAIN NOT TAKEN INTO ACCOUNT UNDER PHASE OUT OF 15-PERCENT RATE AND PERSONAL EXEMPTIONS.

(a) GENERAL RULE.—Subparagraph (A) of section 1(g)(1) is amended to read as follows:

"(A) taxable income reduced by the qualified net capital gain, over".

(b) QUALIFIED NET CAPITAL GAIN.—Subsection (g) of section 1 is amended by adding at the end thereof the following new paragraph:

"(5) QUALIFIED NET CAPITAL GAIN.—The term 'qualified net capital gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the net capital gain for the taxable year determined—

"(i) by taking into account only gain or loss from sales or exchanges on or after September 14, 1989, and

"(ii) by not taking into account any gain or loss from the sale or exchange of any collectible (as defined in section 408(m)(2) without regard to section 408(m)(3)).

For purposes of the preceding sentence the rules of section 1202(d)(2) shall apply."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 14, 1989.

SEC. 11953. RECAPTURE UNDER SECTION 1250 OF TOTAL AMOUNT OF DEPRECIATION.

(a) GENERAL RULE.—Subsections (a) and (b) of section 1250 (relating to gain from disposition of certain depreciable realty) are amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

"(1) the depreciation adjustments in respect of such property, or

"(2) the excess of—

"(A) the amount realized (or, in the case of a disposition other than a sale, exchange, or involuntary conversion, the fair market value of such property), over

"(B) the adjusted basis of such property, shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(b) DEPRECIATION ADJUSTMENTS.—For purposes of this section, the term 'depreciation adjustments' means, in respect of any property, all adjustments attributable to periods after December 31, 1963, reflected in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under section 168 (as in effect before its repeal by the Tax Reform Act of 1976), 169, 185 (as in effect before its repeal by the Tax Reform Act of 1986), 188, 190, or 193). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed."

(b) LIMITATION IN CASE OF INSTALLMENT SALES.—Subsection (i) of section 453 is amended—

(1) by striking "1250" the first place it appears and inserting "1250 (as in effect on

the day before the date of the enactment of the Revenue Reconciliation Act of 1989)", and

(2) by striking "1250" the second place it appears and inserting "1250 (as so in effect)".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 1250(d)(4) is amended—

(A) by striking "additional depreciation" and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(2) Subparagraph (B) of section 1250(d)(6) is amended to read as follows:

"(B) DEPRECIATION ADJUSTMENTS.—In respect of any property described in subparagraph (A), the amount of the depreciation adjustments attributable to periods before the distribution by the partnership shall be—

"(i) the amount of gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

"(ii) the amount of such gain to which section 751(b) applied."

(3) Subparagraph (D) of section 1250(d)(8) is amended—

(A) by striking "additional depreciation" each place it appears and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(4) Paragraph (8) of section 1250(d) is amended by striking subparagraphs (E) and (F) and inserting the following:

"(E) ALLOCATION RULES.—For purposes of this paragraph, the amount of gain attributable to the section 1250 property disposed of shall be the net amount realized with respect to such property reduced by the greater of the adjusted basis of the section 1250 property disposed of, or the cost of the section 1250 property acquired, but shall not exceed the gain recognized in the transaction."

(5) Subsection (d) of section 1250 is amended by striking paragraph (10).

(6) Section 1250 is amended by striking subsections (e), (f), and (g) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(7) Paragraph (5) of section 48(q) is amended to read as follows:

"(5) RECAPTURE OF REDUCTION.—For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation."

(8) Clause (i) of section 267(e)(5)(D) is amended by striking "section 1250(a)(1)(B)" and inserting "section 1250(a)(1)(B) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1989)".

(9)(A) Subsection (a) of section 291 is amended by striking paragraph (1) and redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Subsection (c) of section 291 is amended to read as follows:

"(c) SPECIAL RULE FOR POLLUTION CONTROL FACILITIES.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(4)."

(C) Section 291 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(D) Subparagraph (A) of section 265(b)(3) is amended by striking "291(e)(1)(B)" and inserting "291(d)(1)(B)".

(E) Subsection (c) of section 1277 is amended by striking "291(e)(1)(B)(ii)" and inserting "291(d)(1)(B)(ii)".

(10) Subsection (d) of section 1017 is amended to read as follows:

"(d) RECAPTURE OF DEDUCTIONS.—For purposes of sections 1245 and 1250—

"(1) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

"(2) any reduction under this section shall be treated as a deduction allowed for depreciation."

(11) Paragraph (5) of section 7701(e) is amended by striking "(relating to low-income housing)" and inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1989)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions on or after September 14, 1989, in taxable years ending after such date.

PART II—INDEXING OF CERTAIN ASSETS ACQUIRED AFTER 1991 FOR PURPOSES OF DETERMINING GAIN

SEC. 11961. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER 1991 FOR PURPOSES OF DETERMINING GAIN.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER 1991 FOR PURPOSES OF DETERMINING GAIN.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Solely for purposes of determining gain on the sale or other disposition by an individual of an indexed asset which has been held for more than 1 year, the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) SPECIAL RULE FOR RECAPTURE GAIN.—

"(A) IN GENERAL.—Paragraph (1) shall not apply for purposes of determining the amount of recapture gain on the sale or other disposition of an indexed asset, but the amount of any such recapture gain shall increase the adjusted basis of the asset for purposes of applying paragraph (1) to determine the amount of other gain on such sale or other disposition.

"(B) RECAPTURE GAIN.—For purposes of subparagraph (A), the term 'recapture gain' means any gain treated as ordinary income under section 1245, 1250, or 1254.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) any stock in a corporation, and

"(B) any tangible property (or any interest therein),

which is a capital asset or property used in the trade or business (as defined in section 1231(b)) and the holding period of which begins after December 31, 1991.

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) COLLECTIBLES.—Any collectible (as defined in section 408(m)(2) without regard to section 408(m)(3)).

"(C) OPTIONS.—Any option or other right to acquire an interest in property.

"(D) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (i)(3)).

"(E) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(F) STOCK IN FOREIGN CORPORATIONS.—Stock in a foreign corporation.

"(G) STOCK IN S CORPORATIONS.—Stock in an S corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Paragraph (2)(F) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis or is authorized for trading on the national market system operated by the National Association of Securities Dealers other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)),

"(B) stock in a passive foreign investment company (as defined in section 1296), and

"(C) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset shall be determined by dividing—

"(A) the CPI for the calendar year preceding the calendar year in which the disposition takes place, by

"(B) the CPI for the calendar year preceding the calendar year in which the taxpayer's holding period for such asset began.

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest one-hundredth.

"(3) CONVENTIONS.—For purposes of paragraph (2), if any asset is disposed of during any calendar year—

"(A) such disposition shall be treated as occurring on the last day of such calendar year, and

"(B) the taxpayer's holding period for such asset shall be treated as beginning in the same calendar year as would be determined for an asset actually disposed of on such last day with a holding period of the same length as the actual holding period of the asset involved.

"(4) CPI.—For purposes of this subsection, the CPI for any calendar year shall be determined under section 1(f)(4).

"(d) SHORT SALES.—

"(1) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 1 year, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) multiplied by the applicable inflation ratio. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date on which the holding period for the asset begins and the closing date for the sale shall be treated as the date of disposition.

"(2) SHORT SALE OF SUBSTANTIALLY IDENTICAL PROPERTY.—If the taxpayer or the taxpayer's spouse sells short property substantially identical to an asset held by the taxpayer, the asset held by the taxpayer and the substantially identical property shall not be treated as indexed assets for the short sale period.

"(3) SHORT SALE PERIOD.—For purposes of this subsection, the short sale period begins on the day after property is sold and ends on the closing date for the sale.

"(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

"(1) ADJUSTMENTS AT ENTITY LEVEL.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).

"(B) EXCEPTION FOR CORPORATE SHAREHOLDERS.—Under regulations—

"(i) in the case of a distribution by a qualified investment entity (directly or indirectly) to a corporation—

"(I) the determination of whether such distribution is a dividend shall be made without regard to this section, and

"(II) the amount treated as gain by reason of the receipt of any capital gain dividend shall be increased by the percentage by which the entity's net capital gain for the taxable year determined without regard to this section exceeds the entity's net capital gain for such year determined with regard to this section, and

"(ii) there shall be other appropriate adjustments (including deemed distributions) so as to ensure that the benefits of this section are not allowed (directly or indirectly) to corporate shareholders of qualified investment entities.

For purposes of the preceding sentence, any amount includible in gross income under section 852(b)(3)(D) shall be treated as a capital gain dividend and an S corporation shall not be treated as a corporation.

"(C) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).

"(D) EXCEPTION FOR CERTAIN TAXES IMPOSED AT ENTITY LEVEL.—

"(i) TAX ON FAILURE TO DISTRIBUTE ENTIRE GAIN.—If any amount is subject to tax under section 852(b)(3)(A) for any taxable year, the amount on which tax is imposed under such section shall be increased by the percentage determined under subparagraph (B)(i)(II). A similar rule shall apply in the case of any amount subject to tax under paragraph (2) or (3) of section 857(b) to the extent attributable to the excess of the net capital gain over the deduction for dividends paid determined with reference to capital gain dividends only. The first sentence of this clause shall not apply to so much of the amount subject to tax under section 852(b)(3)(A) as is designated by the company under section 852(b)(3)(D).

"(ii) OTHER TAXES.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).

"(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(3) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—

"(A) a regulated investment company (within the meaning of section 851), and

"(B) a real estate investment trust (within the meaning of section 856).

"(f) OTHER PASS-THRU ENTITIES.—

"(1) PARTNERSHIPS.—

"(A) IN GENERAL.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners (but only for purposes of determining the income of partners who are individuals).

"(B) SPECIAL RULE IN THE CASE OF SECTION 754 ELECTIONS.—In the case of a transfer of an interest in a partnership with respect to which the election provided in section 754 is in effect—

"(i) the adjustment under section 743(b)(1) shall, with respect to the transferor partner, be treated as a sale of the partnership assets for purposes of applying this section, and

"(ii) with respect to the transferee partner, the partnership's holding period for purposes of this section in such assets shall be treated as beginning on the date of such adjustment.

"(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders. This section shall not apply for purposes of determining the amount of any tax imposed by section 1374 or 1375.

"(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants (but only for purposes of determining the income of participants who are individuals).

"(g) DISPOSITIONS BETWEEN RELATED PERSONS.—This section shall not apply to any sale or other disposition of property between related persons (within the meaning of section 465(b)(3)(C)) if such property, in the hands of the transferee, is of a character subject to the allowance for depreciation provided in section 167.

"(h) TRANSFERS TO INCREASE INDEXING ADJUSTMENT.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.

"(i) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) A substantial improvement to property.

"(B) In the case of stock of a corporation, a substantial contribution to capital.

"(C) Any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation ratio shall be appropriately reduced for periods during which the asset was not an indexed asset.

"(3) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) GAINS AND LOSSES FROM INDEXED ASSETS NOT TAKEN INTO ACCOUNT UNDER LIMITATION ON INVESTMENT INTEREST.—Subparagraph (B) of section 163(d)(4) (defining investment income) is amended by adding at the end thereof the following new sentences:

"Gain from the sale or other disposition of an indexed asset (as defined in section 1022) held for more than 1 year shall not be taken into account for purposes of the preceding sentence. The preceding sentence shall not apply to gain from the sale or other disposition of any such asset if the taxpayer elects to waive the benefits of section 1022 in determining the amount of such gain."

(c) REPEAL OF SECTION 1(j).—

(1) IN GENERAL.—Subsection (j) of section 1 is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (4) of section 694(c) is amended by striking "1(j), 1201, and 1211" and inserting "1201, and 1211".

(B)(i) Subparagraph (B) of section 904(b)(2) is amended by striking so much of such subparagraph as precedes clause (i) and inserting the following:

"(B) SPECIAL RULE WHERE CORPORATE CAPITAL GAIN RATE DIFFERENTIAL.—In the case of a corporation for any taxable year for which there is a capital gain rate differential—".

(ii) Subparagraph (D) of section 904(b)(3) is amended to read as follows:

"(D) CAPITAL GAIN RATE DIFFERENTIAL.—There is a capital gain rate differential for any taxable year in the case of a corporation if any rate of tax imposed by section 11, 511, or 831(a) or (b) (whichever applies) exceeds the alternative rate of tax under section 1201(a) (determined without regard to the last sentence of section 11(b)(1))."

(iii) Subparagraph (E) of section 904(b)(3) is amended by striking clauses (ii) and (iii) and inserting the following:

"(ii) HIGHEST APPLICABLE TAX RATE.—For purposes of clause (i), the term 'highest applicable tax rate' means the highest rate of tax specified in section 11(b).

"(iii) ALTERNATIVE TAX RATE.—For purposes of clause (i), the term 'alternative tax rate'

means the alternative rate of tax under section 1201(a)."

(C)(i) The last sentence of subparagraph (A) of section 7518(h)(6) is amended to read as follows: "With respect to the portion of any nonqualified withdrawal made out of the capital gain account by a corporation during the taxable year to which section 1201(a) applies, the rate of tax taken into account under the preceding sentence shall not exceed 34 percent."

(ii) The last sentence of subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936, is amended to read as follows: "With respect to the portion of any nonqualified withdrawal made out of the capital gain account by a corporation during the taxable year to which section 1201(a) of such Code applies, the rate of tax taken into account under the preceding sentence shall not exceed 34 percent."

(d) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets acquired after 1991 for purposes of determining gain."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dispositions of any property the holding period of which begins after December 31, 1991.

(2) EXCEPTION FOR CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—The amendments made by subsections (a) and (b) shall not apply to any property acquired after December 31, 1991, from a related person (as defined in section 465(b)(3)(C) of the Internal Revenue Code of 1986) if—

(A) such property was so acquired for a price less than the property's fair market value, and

(B) the amendments made by this section did not apply to such property in the hands of such related person.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1991.

PART III—TREATMENT OF CERTAIN TIMBER ACTIVITIES UNDER PASSIVE LOSS RULES

SEC. 11965. TREATMENT OF CERTAIN TIMBER ACTIVITIES UNDER PASSIVE LOSS RULES.

(a) GENERAL RULE.—Subsection (c) of section 469 (defining passive activity) is amended by redesignating paragraphs (4), (5), and (6), as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) CERTAIN INTERESTS IN TIMBER PROPERTY.—

"(A) IN GENERAL.—The term 'passive activity' shall not include any interest in qualified timber property (as defined in section 194(c)(1) held by a natural person directly or through an entity which does not limit the liability of such person with respect to such interest.

"(B) INCOME IN SUBSEQUENT YEARS.—If any taxpayer has any loss for any taxable year from an interest in any qualified timber property (as so defined) which is treated as a loss which is not from a passive activity, then any net income from such property (or any other property the basis of which is determined in whole or part by reference to the basis of such property) for any succeeding taxable year shall be treated as income of the taxpayer which is not from a passive activity."

(b) TECHNICAL AMENDMENT.—Paragraph (5) of section 469(c) (as redesignated by subsection (a)) is amended by striking "(2) and (3)" each place it appears and inserting "(2), (3), and (4)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

The CHAIRMAN. The amendments printed in section 1 of House Report 101-261 are considered as having been adopted.

The following is the text of the amendments considered to have been adopted in the House and in the Committee of the whole:

Strike out section 10412 of the bill and insert the following:

SEC. 10412. DUTY REDUCTION FOR CERTAIN LEATHER-RELATED PRODUCTS

(a) IN GENERAL.—Section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703) is amended by adding at the end thereof the following new subsection:

"(h)(1) The rate of duty on any handbag, luggage, flat good, work glove, or leather wearing apparel that—

"(A) is a product of a beneficiary country; and

"(B) was not designated on August 5, 1983, as an eligible article for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

is a rate equal to 50 percent of the general column 1 rate of duty under the HTS that would apply to such article but for this paragraph.

"(2) The President shall proclaim the rates of duty imposed under paragraph (1).

"(3) The duty applied under paragraph (1) to an article is in lieu of the duty provided for that article under general column 1 of the HTS.".

(b) CONFORMING AMENDMENT.—Section 213(b) of such Act is amended—

(1) by striking out ", handbags, luggage, flat goods, work gloves, and leather wearing apparel" in paragraph (2);

(2) by striking out "or" at the end of paragraph (4);

(3) by striking out the period at the end of paragraph (5) and inserting "; or"; and

(4) by adding at the end thereof the following new paragraph:

"(6) articles to which reduced rates of duty apply under subsection (h).".

On page 702, delete the item relating to "Importation of Radio Frequency Devices" under "Miscellaneous Charges" and redesignate the following items accordingly.

Strike section 8002 and insert the following:

SEC. 8002. FUNDING OF COST-OF-LIVING ADJUSTMENTS FOR CERTAIN POSTAL SERVICE ANNUITANTS AND SURVIVOR ANNUITANTS.

(a) IN GENERAL.—Section 8348 of title 5, United States Code, is amended by adding at the end the following:

"(m)(1) Notwithstanding any other provision of law, the United States Postal Service shall be liable for that portion of any estimated increase in the unfunded liability of the Fund which is attributable to any benefits payable from the Fund to former employees of the Postal Service who first become annuitants by reason of separation from the Postal Service on or after October 1, 1986, or to their survivors, or to the survivors of individuals who die on or after October 1, 1986, while employed by the Postal Service, when the increase results from a cost-of-living adjustment under section 8340 of this title.

"(2) The estimated increase in the unfunded liability referred to in paragraph (1) of this subsection shall be determined by the Office after consultation with the Postal Service. The Postal Service shall pay the amount so determined to the Office in 15 equal annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System, and with the first payment thereof due at the end of the fiscal year in which the cost-of-living adjustment with respect to which the payment relates becomes effective.

"(3) In determining the amount for which the Postal Service is liable under this subsection in cases in which the benefits involved are based on service of an individual who performed 1 or more forms of service besides employment with the Postal Service, the amount of the Postal Service's liability shall be prorated to reflect only that portion of total service which is attributable to employment with the Postal Service."

(b) EFFECTIVE DATE; SIZE OF ANNUAL INSTALLMENTS TO FUND EARLIER COLAs; ADDITIONAL AMOUNT INITIALLY PAYABLE.—

(1) EFFECTIVE DATE.—This section and the amendment made by this section shall be effective as of October 1, 1986.

(2) SIZE OF ANNUAL INSTALLMENTS TO FUND PREVIOUS YEARS' COLAs.—Notwithstanding any provision of section 8348(m) of title 5, United States Code (as added by subsection (a)), the estimated increase in the unfunded liability referred to in paragraph (1) of such section 8348(m) shall be payable based on annual installments equal to—

(A) $100,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1987;

(B) $6,000,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1988; and

(C) $15,000,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1989.

(3) ADDITIONAL AMOUNT PAYABLE.—

(a) GENERALLY.—The first payment made under the provisions of section 8348(m) of title 5, United States Code (as added by subsection (a)) shall include, in addition to the amount which would otherwise be payable at the time, an amount equal to the sum of any amounts which would have been due under those provisions in any prior year if this section had been enacted before October 1, 1986.

(B) COMPUTATION METHOD.—Subject to paragraph (2), the additional amount payable under this paragraph shall be computed in accordance with section 8348(m) of title 5, United States Code (as added by subsection (a)), and shall include interest. Interest on an amount—

(i) shall be computed at the rate used in the most recent valuation of the Civil Service Retirement System;

(ii) shall accrue, and be compounded, annually; and

(iii) shall be computed for the period beginning on the date by which such amount should have been paid (if this section had been enacted before October 1, 1986) and ending on the date on which payment is made.

At the end of the bill insert the following new title:

TITLE XII—MISCELLANEOUS

Any transfer of outlays, receipts, or revenues from one fiscal year to an adjacent fiscal year that occurs pursuant to any provision of this Act or any amendment made by this Act shall be considered a necesssary (but secondary) result of a significant policy change as provided in section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987.

Insert after section 3403 of the bill the following:

SEC. 3404. APPLICATION OF OTHER ACTS.

Title IX of the Education Amendments of 1972 (as amended) shall be deemed applicable to any program or activity assisted under any provision of subtitle E, or of any amendment made by such subtitle E, to the same extent and in the same manner as any program or activity included within the meaning of such term under such title IX. References in subtitle E, or any amendment made by subtitle E, to section 654 of the Head Start Act shall be construed so as to be consistent with such title IX.

The CHAIRMAN. No other amendments are in order except that amendments printed in section 2 of House Report 101-261. Said amendments may be offered only by the Member indicated in House Report 101-261 or his designee, may be offered only in the order and manner specified, and shall be considered as having been read. Debate on said amendments shall be equally divided by the proponent of the amendment and a Member opposed thereto. Said amendments are not subject to amendment except as specified in House Report 101-261.

If more than one of the amendments relating to catastrophic health insurance (amendments No. 6 and 7) are adopted, only the latter amendment adopted shall be considered as finally adopted and reported back to the House.

If more than one of the amendments relating to child care (amendments No. 9 and 10) are adopted, only the latter amendment adopted shall be considered as finally adopted and reported back to the House.

The Chair will announce the amendment made in order by House Resolution 249 and the name of its sponsor in order to give notice to the Committee of the Whole as to the order of recognition.

It is now in order to consider amendment No. 1 printed in section 2 of House Report 101-261.

Mr. PANETTA. Mr. Chairman, I ask unanimous consent to strike out the last word.

The CHAIRMAN. Without objection, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

There was no objection.

Mr. PANETTA. Mr. Chairman, I take this time to advise the Members of what amendments we will consider today so that they are aware of the ones we will have today and hopefully tomorrow and next week and in what order.

Today we will first take up the amendment of the gentlewoman from New Jersey [Mrs. ROUKEMA] to strike the Visclosky provision. The time allotted for that is 60 minutes.

The second amendment, also with a time allotment of 60 minutes, will be by the gentleman from North Dakota [Mr. DORGAN] for the repeal of section 89.

The third amendment will be offered by the gentleman from California [Mr. ANDERSON] to strike the diversion from aviation. That will also have 60 minutes.

Tomorrow, hopefully we would take up the capital gains amendment and on Tuesday the Fairness Doctrine and the catastrophic health care area, and on Wednesday the child care amendments. That is the order we anticipate right now in order to complete the reconciliation bill.

AMENDMENT OFFERED BY MRS. ROUKEMA

Mrs. ROUKEMA. Mr. Chairman, I offer an amendment made in order by the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. ROUKEMA: On page 149, strike out line 1 and all that follows through page 150, line 22 and redesignate succeeding subsections accordingly.

The CHAIRMAN. Pursuant to the rule, the gentlewoman from New Jersey [Mrs. ROUKEMA] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Mr. CLAY. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from Missouri [Mr. CLAY] will be recognized for 30 minutes in opposition to the amendment.

The Chair recognizes the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING], the ranking member of the Committee on Education and Labor.

□ 1440

Mr. GOODLING. Mr. Chairman, during the last several hours we have heard a lot of political rhetoric, but now we are at an issue that is not political. This is neither a Democrat issue, it is not a Republican issue, it is not a labor issue, it is not a management issue. What we are talking about now is charting a new course when dealing with pensions without any planning, without any studies, without any hearings.

Charting a new course is fine if you are taking the voyage by yourself, but if you are charting a new course and there are millions of Americans who could be affected and who could be adversely affected, then I think we had better think about what we should be doing in relationship to hearings and in relationship to study. We have no idea, no idea what the Visclosky amendment will do to the pension system in this country.

We do know one thing: We know that the people responsible for making sure that money is available will not have total responsibility and could lose, and they will pay. It will not be the employee who will pay. It will be the employer who will pay if, as a matter of fact, we made bad investments. So, again, it is not a political issue.

We are talking about millions of Americans whose pensions we want to make sure we protect, and I would ask all of my colleagues not to think in political terms. It is not Democrat, it is not Republican, it is not labor, it is not management. It is the future of millions of pension programs for those who are presently receiving their benefits and those who are about to receive those benefits.

Mr. CLAY. Mr. Chairman, I yield 6 minutes to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Chairman, I appear here today to urge you to vote against a motion-to-strike the Visclosky provision from the budget reconciliation bill. My provision would require equal employee and management representation on the board of trustees for single-employer pension plans. This is a good provision and one of basic fairness.

Pensions are deferred income and workers should have a voice in how their pension funds are invested. Workers understand all too well that their retirement income depends upon the wise and profitable investment of their pension funds.

Originally introduced as H.R. 2664 on June 15, the provision is the direct result of 3 days of hearings convened last spring by the Subcommittee on Labor-Management Relations to examine the role of pension funds in corporate takeovers.

In those hearings, I found testimony from Thomas Donahue, to be particularly troubling. He cited the case of the Texaco buyout of Getty which resulted in the termination of the Getty pension plan and adversely affected 18,000 Getty workers by usurping $250 million in so-called excess pension assets.

To those who argue that hearings were not held specifically on the issue of joint trusteeship, I would like to quote from Mr. Donahue's statement of February 9, 1989:

[The Texaco buyout] highlights the problem workers face in single-employer plans when they are denied any voice in the administration or in the investment of pension fund assets.

Further, my provision reflects the concerns of the Education and Labor Committee over the pernicious effects of leveraged buyouts specifically and other corporate mergers and acquisitions generally. On July 13, the major elements of H.R. 2664 were approved by the full Education and Labor Committee as part of its budget reconciliation recommendations.

According to the General Accounting Office, 40 percent of LBO's result in the termination of one or more of the pension funds of the corporation that has been taken over.

My provision does not affect terminations or reversions of pension fund assets. However, worker representation on the board of trustees for the company threatened with a hostile takeover would be crucial in such a situation.

Pension fund trustees often vote proxies in takeover battles. Without employee representatives on these boards, the interests of the workers affected by the takeover are not taken into consideration.

The boards of trustees make investment decisions, but they do not control the formation or termination of pension plans or the distribution of benefits.

In fact, employee and management trustees share a common interest in sound investment. All trustees are governed by ERISA's fiduciary guidelines, which require that the pension fund assets are managed in the sole interests of the plan participants.

Given this fiduciary standard, there is no reason to believe that joint trusteeship will cause far-reaching changes in the investment of most funds.

This concept of joint trusteeship is not unprecedented.

Seven States have public employee representation on pension commissions that review pension and retirement legislation and conduct fiscal impact studies of legislative changes.

Also, for over 40 years, since the passage of the Taft-Hartley Act in 1948, employee/management boards have profitably overseen multiemployer pension plans.

In 1987, these multiemployer plans covered 9.7 million plan participants and held assets of $164 billion.

In a 1988 study conducted by the consulting firm of Martin E. Segal, stated that:

> The funded status of multiemployer plans is excellent and comparable to the funded status of single-employer plans.

I would like to clarify the election procedure under which the employee trustees would be chosen. All my provision mandates is that the elections be conducted by secret ballot with a certification of the results.

The Secretary of Labor would initially establish the guidelines for the elections. Once with guidelines have been established, there would not be a need for the National Labor Relations Board to supervise the elections as is often the case in union elections. The cost of worker trustee elections would be nominal.

In union elections, the interests of workers and management are often adversarial, and close supervision by the NLRB is necessary to protect both sides. Since workers and management share a common interest in the performance of pension funds, trustee elections will not provoke the same sort of antagonism that makes costly supervision necessary.

For those of you who are concerned about small businesses and the effect of this provision on "mom and pop" pension plans, I can make the assurance that provisions will be made in conference for small businesses.

We live in an era where concern for worker rights is often dismissed simply as evidence of an antibusiness bias. Such a characterization has been applied to my provision which gives workers and management equal representation on the boards of trustees that govern single-employer pension plans. My bill recognizes the legitimate right of all workers to influence investment decisions that affect the deferred wages accumulated in their pension funds.

The issue of joint trusteeship is a simple matter of fairness.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. VISCLOSKY. I am happy to yield to the gentleman from Texas.

Mr. BARTLETT. Under the Visclosky amendment, if an employer who is sponsoring a single-employer plan did not like what the newly created trustees are doing, is there anything in the Visclosky amendment or currently in law that would keep the employer from terminating if he does not like what the trustees are doing that are created under your amendment?

Mr. VISCLOSKY. Not at all.

Mr. BARTLETT. He could just terminate anyway?

Mrs. ROUKEMA. Mr. Chairman, I yield myself 8 minutes.

Mr. DREIER of California. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I am happy to yield to the gentleman from California.

Mr. DREIER of California. Mr. Chairman, I thank my friend, the gentlewoman from New Jersey [Mrs. ROUKEMA], for yielding. I compliment her on the amendment and say, to avoid confusion and dissension among employees and because of my support for small business, I enthusiastically support her amendment, and urge all of our colleagues to do likewise.

Mr. Chairman, I want to express my strong support for the amendment offered by my colleague from New Jersey, MARGE ROUKEMA. The Roukema amendment would delete from the budget reconciliation bill the most onerous and ill-conceived pension-related provision in title III.

This provision, referred to as the Visclosky amendment, would require that all single-employer pension plans be controlled by a joint board of labor and management trustees. This proposal would require employee elections in any business that sponsors any pension plan, regardless of whether the employees are organized or not; require the Department of Labor to supervise these elections among some 700,000 different pension plans and consequently inject the U.S. Government into union organizing efforts.

If enacted, these new mandates necessarily would politicize the administration, liability, and investment of several hundred billion dollars of pension assets, thus endangering the security of pension benefits and the stability of investment markets. Further, these changes would create confusion and dissension among employees. The proposal fails to provide for the high likelihood of disputes among workers who are covered by more than one union as well as workers who are not covered by any union. Indeed, the bill appears to require that a union would represent nonunion employees even if those employees have rejected union representation.

Perhaps most damaging of all, there is evidence that the proposal would result in weaker funding for pension plans. A recent study by the Employee Benefits Research Insitute showed a full percentage point difference in investment performance between single-employer and multiemployer pension plans which are under joint trusteeship. As a result, the investments of single-employer plans have significantly and consistently outperformed those of multiemployer plans.

Unfortunately, the effect of this proposal will fall disproportionately on America's small businesses, as well as lower income workers wo stand to lose their pension benefit as a consquence of these provisions. Tragically, these workers are least able to contribute to individual retirement accounts as an alternative.

I must reiterate that the Visclosky amendment is the most onerous pension-related provision in the bill, since the Education and Labor Committee included in their section several provisions which would threaten the viability of the voluntary private pension system. I regret that the Rules Committee did not make in order Representative ROUKEMA's original amendment to strike all the bill's misguided provisions on pension benefit plans.

While all these provisions are cause for concern, we have an opportunity to remove the most damaging provision, the Visclosky amendment. Let me stress that this provision would discourage the creation, maintenance, and proper funding of pension plans at a time when we should be making greater efforts to expand pension coverage for our Nation's current and retired work force. I urge my colleagues to join me in supporting the Roukema amendment.

□ 1550

Mrs. ROUKEMA. Mr. Chairman, as the ranking minority member of the Labor-Management Relations Subcom-

mittee of the Committee on Education and Labor, I want in the strongest possible terms to urge my colleagues to support the Roukema amendment to strike the most radical change ever proposed to the ERISA pension law in its 15-year history.

Let me first summarize the effects of the so-called Visclosky amendment which requires contentious trustee elections to be held next year in each of this Nation's 1.5 million pension plans. Talk about disruption. Nowhere does this provision say how the trustees will be chosen among the 68.5 million affected current and former employee and retiree pension plan participants. This is the case for defined benefit plans, defined contribution plans, for plans covering hundreds of thousands of participants or the smallest of plans covering a single, solitary worker. From mega-corporations to mom-and-pop operations, the enormity of this undertaking could lead one to dismiss the Visclosky provision as unworkable, untenable, and unbelievable—but it's here in the bill and must be stricken before it inflicts untold damage to the private pension system.

To say that this amendment is misguided is an understatement. No wonder it was rammed into reconciliation without notice or even a single hour of hearings. It would radically alter the voluntary pension system and negatively affect the capital markets. It could distort plan investment strategy, reduce equity holdings, and lower investment returns, thus jeopardizing the pension levels for millions of employees and retirees, and send labor-management relations into chaos.

In short, if left in this legislation in any form, this single provision will reverse the well-reasoned ERISA pension policies that have stood the test of time in nourishing private pension development.

The administration has communicated these same concerns. The Secretary of Labor, Elizabeth Dole, in urging support for the Roukema amendment, states her strong opposition to the Visclosky provision which would politicize the Nation's employee pensions.

I also oppose the inclusion of these provisions because they are not germane to budget reconciliation, because they were adopted by circumventing the normal legislative process, and because their substance is contrary to the purpose of ERISA to encourage the establishment and continuation of defined benefit and other pension plans.

In reflection, I think it unfortunate that over the last few years budget reconciliation has become the preferred vehicle for major changes to our Nation's pension and other employee benefit laws. This use of the budget process has truncated and suppressed balanced hearings and the sort of reasoned and bipartisan deliberations which led to the enactment of ERISA years ago.

This led to the inclusion in this year's budget bill of not only the Visclosky amendment, but to other interlinked provisions. They include an absolute prohibition on the reversion to employers of excess assets upon plan termination; and ERISA report filing fees ranging from $100 to $500 per plan and $200 per participant upon plan termination. The filing fees on pension and health plans were included only to pay for the revenue reductions of the other provisions, but are insidious on their own, represent new taxes, and will discourage pension and health plan coverage under 5.4 million plans.

I had originally asked that all of these "gang-of-three" be deleted, but at least we will now have the opportunity to remove the leader of this gang from causing further damage.

In several instances the Visclosky provision could also be found in conflict with the labor policies and precedents under the National Labor Relations Act and the Labor-Management Relations Act [Taft-Hartley Act]. By legislating mandated elections in the nonunion setting and, in certain cases, mandating union representation of nonunion employees, the amendment conflicts and overrides the current statutory rights of such employees. Conflicts will also arise among unions when a single plan covers employees under different collective bargaining agreements. As pension plan participants, employees and retirees often have competing interests. How would these conflicts and those of other disparate participant groups be resolved? In this connection the legislation does not tell us, and it certainly raises more questions than answers. What is clear, however, is that mandated elections and trustee representation will create new tensions and a battleground in labor-management relations.

Even if plans and their participants and plan sponsors could resolve these contentious election issues, the representation and composition of the resulting joint boards of trustees may subject investment decisions and other plan operations to political and social objectives contrary to longstanding ERISA policy and Department of Labor investment guidelines. In fact, the amendment's supporters state that it will provide a needed safeguard against the pressures and effects of corporate mergers, acquisitions, and LBO's. But on what basis? Clearly the current ERISA fiduciary law has provided plan participants with comprehensive and adquate protection.

There has been no evidence offered as to abuses or other conditions which would necessitate such a radical change in ERISA's fiduciary standards. Not only is there no evidence under single-employer plans of systemic fiduciary problems, to the contrary, there is no need to require employees to become fiduciaries because ERISA already requires trustees to exercise independent fiduciary judgment solely in the interest of participants and beneficiaries. Other than organized labor, what groups of employees are asking for this change? None that I know of. Among these millions of employees, yet to be heard from, who among them would consider themselves expert in planning fiduciary matters and how many, if any, would be willing to accept exposure of millions of dollars in personal liability under ERISA? If adopted, under the amendment, banks and other expert fiduciaries would be displaced by a board of trustees, many of whom would lack the necessary fiduciary skills.

It is not hard to imagine the chaotic situation that would likely result in the Nation's financial institutions and markets from such a precipitous change in ERISA investment law. While under defined benefit pension plans the employer sponsor would continue to bear the full risk of investment losses, the amendment would undermine the prerogative of plan sponsors to select and discharge trustees solely on the quality of their performance. In the long run the Nation's equity markets could be impaired as joint trustees avoid common stock purchase in favor of fixed investments. One constituent company has told me that if only a small percentage of the estimated $600 billion in pension fund equity investments were shifted, the negative effect on the equity markets could be severe. This potential, but likely, result is in marked contrast to the policies that both the Bush administration and the Congress have announced in the last few days to encourage savings and lessen the disadvantage of raising capital through equity means.

Given these weighty concerns with the amendment, is it possible that there is more to its intended effect than first meets the eye? In the statement of introduction, the amendment's sponsor expresses concern over pension plan terminations that may accompany various changes in corporate structure. The committee's majority views also state that, "There is no reason why participants in single-employer pension plans should not be governed by the same principles as multiemployer plans," which, by the way of definition only involve plans subject to collective bargaining agreements.

There are untold and unexamined legal consequences to this provision. The Visclosky amendment would appear to make redundant the specific provision prohibiting excess asset re-

versions in the Education and Labor reconciliation instructions. Unlike the original Clay/Metzenbaum reversion legislation which specifically mandates COLA's, the prohibition approach would indirectly require excess assets in some indeterminate way to be distributed to participants and beneficiaries upon plan termination.

In fact, any provision prohibiting pension reversions will not only increase the budget deficit—$1.6 billion over 5 years—but will lead to the demise and underfunding of defined benefit plans while also impairing the equity markets as companies turn to fixed investments to limit their exposure to investment risk. To employers relying on current law regarding about $210 billion in excess assets, the provision would be confiscatory. Employees would also face a greater risk of loss of pension accruals or plan coverage as plans become underfunded or are terminated at the point of asset sufficiency. With fewer employees covered under defined benefit plans, employee retirment income security will be greatly impaired for future generations. And this just at the time we should be encouraging retirement savings for baby-boomers and post-boomers.

In conclusion, I would think it quite apparent that the Visclosky amendment raises more questions and could create more serious problems than their proponents say they want to solve. They would disrupt the operations of defined benefit and defined contribution plans, of large as well as small plans—whether covering one or hundreds of thousands of participants—and nonnegotiated as well as union-negotiated plans. Many employers, especially including Keogh and IRA plan sponsors, would terminate their plans rather than incur the expense and labor-management problems inherent in this proposal. Neither would they create new plans.

In short, if you liked sec. 89 and the Catastrophic Illness bill you'll love the fallout from Visclosky. For the reasons I have stated, and many others, I strongly urge my colleagues to vote for the Roukema amendment to remove at least this one isuse from contention and help save the private pension system from a behind-the-scenes deal which could be devastating to fiduciary protections and the future expansion of pension coverage for this Nation's employees and retirees.

Mr. Chairman, I reserve the balance of my time.

Mr. CLAY. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Chairman, I rise in support of the Visclosky provision in the reconciliation bill requiring equal representation for workers on the boards of trustees of single-employer pension plans.

The issue before us today is one of fairness.

Since 1948, under the Taft-Hartley Act, workers and employers have been equally represented on the boards of trustees of multiemployer pension plans.

The Visclosky provision would simply extend this principle to single-employer pension plans.

Workers have a right to share in managing their own pension plans. The retirement benefits are theirs, and are in essence deferred wages.

Workers must be equal partners with their employers in determining how these funds are invested. They know what's in their own interest better than anyone.

The evidence indicates that when workers are involved, wise investment decisions will be made.

Multiemployer pension plans, managed by joint boards of trustees for the last 40 years, have performed just as well as single-employer pension funds.

By granting workers an equal say, boards of trustees can make better decisions about the investment security of pension funds—about their impact on American families and communities.

Workers and employers share the same goals: Efficient pension plan management and prudent investment decisions. Together they can determine which investments will yield the most income with the greatest security. Equal representaion will help avoid adversarial relationships in managing these funds.

Equal worker-management representation has been successful in multiemployer pension plans. There's no reason it won't work just as well for single-employer plans.

I urge my colleagues to vote against the motion to strike the Visclosky provision from the bill.

It is a matter of fairness and of the right of American workers to secure retirement benefits.

□ 1500

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Chairman, does the gentleman know that the PBGC has in fact calculated officially that the investment returns of multiemployer plans are approximately 1½ percent below, per annum, the investment returns of single-employer plans if you take them up group by group?

Mr. BONIOR. I am not aware of that. In fact, the figures and facts and data that I have on multiemployer pension plans indicate that over the last 40 years they have performed as well as single-employer pension plans.

Mr. BARTLETT. If the gentleman would yield further.

Mr. BONIOR. I yield.

Mr. BARTLETT. In fact, the PBGC has calculated that the return by multiemployer pension plans is about 1½ percent per annum less than single-employer pension plans as a group. I would be happy to show the gentleman the source of the data.

Mr. BONIOR. Mr. Chairman, is the gentleman suggesting perhaps we ought to move away from equal representation on boards of multiemployer pension plans because of that figure?

Mr. BARTLETT. No, I am not. The point here of course is that a single-employer pension plan, the single employer has the complete responsibility for making up the investment losses. So with that responsibility ought to go the authority to make certain the investments in fact accrue to the beneficiaries of the plan participants, but with the responsibility should go the authority to make the investment decisions.

Mrs. ROUKEMA. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. GIBBONS], a distinguished member of the Committee on Ways and Means.

Mr. GIBBONS. Mr. Chairman, I have a great deal of respect for Mr. VISCLOSKY and Mr. CLAY. I hate to disagree with them on this issue.

What we have to talk about is that these plans are voluntary plans. No one is required to setup one of these plans.

Now I do not know what is going to happen to the ones that are in existence, they certainly could go out of existence and many of them do go out of existence.

But I think if you think it through, there will never be any more of them setup if you breach this matter.

I do not know who the money belongs to. I think that is an open question. I think most of the money belongs to the taxpayers. You have to remember that all the money put into these pension plans first of all is tax deductible. We have just come from a 46 percent tax rate.

Then there is the inside buildup on these funds which is tax-free. So most of the money in these funds belongs to the taxpayer. Maybe we should take that into consideration in these surplus-funded plans.

But I can tell you this from my experience, and I worked on this for a long time when ERISA came about: If we do what is suggested here, there just will be no new plans.

Mr. Chairman, America needs these private pension plans. We should not do that. The subject matter that has been brought up here is one that should be referred to both the Committee on Ways and Means, the Committee on Education and Labor; we

should have some understanding as to the ramifications of it. It just has not been done.

So on that ground that it has not been considered by the main committee of jurisdiction, and it is a tax deduction that we are talking about here now more than anything else, and the fiduciary control of it all came out of the Committee on Ways and Means. We have not had any exposure to this. I am openminded on it. But if it is adopted now and becomes law, there will just be no more plans, no new plans.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman for yielding.

Mr. Chairman, I agree with my friend from Florida that this is not the proper way to find an answer to the problem we have facing us in the pension program.

The Committee on Ways and Means and the Committee on Education and Labor have been at odds here now for the past two sessions, trying to find some kind of an answer. I do not think the proper way, in a matter of trusteeship, should be handled in a reconciliation bill. We ought to have a bill come out of the committee, so that we have a chance to vote on it, where we have hearings and know exactly what it is.

As it is, we are trying to settle very major issues in reconciliation.

Now I am not going to vote for this Visclosky amendment, but I say that without prejudice, because it seems to me that both the working people and the management have got to realize we need to make some changes and I hope in the next session we can approach it in that kind of spirit.

At this point I think it would be improper to do this through reconciliation.

I thank the gentleman for yielding.

Mr. GIBBONS. Mr. Chairman, I think the gentleman from Texas [Mr. PICKLE] has made a very good statement.

I would say to my friends from the Committee on Education and Labor they can accomplish their goals through collective bargaining if that is really what they want, but they should not prohibit the establishment of new plans.

Mr. CLAY. Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, how many times on the floor of the House have we heard Members speak, particularly on the Republican side of the aisle, about their belief that opening the economy of a nation to competition and collective bargaining will result not just in industrial democracy but in political democracy. Whether the setting is in Eastern Europe or Central America, many times we have heard the argument that democracy is followed or is complemented by an open economy.

The Visclosky amendment tests whether Americans believe in industrial democracy only as an export product or will accept it for domestic consumption in the United States.

Historically in the United States we have expanded the voice of American workers with collective bargaining, profit sharing, employee membership on corporate boards. Mr. VISCLOSKY challenges us to give American workers a voice in deciding the fate of their retirement plans, an issue just as critical as wages, hours, working conditions.

Opponents would argue that you just cannot trust employees to make the best decision when it comes to the investment of their retirement funds. I do not believe that for a minute.

Workers will guard these investments in their future just as carefully, if not more so, as management.

Others just do not want to see blue collars or coveralls in the board rooms. To that elitist and reactionary position I can only say, "Step aside."

The democratic principles that guide this country are just as valid in the work place as they are in the polling place. The Visclosky language is an affirmation of our confidence in democracy and deserves our solid support.

Vote "no" on the Roukema amendment.

Mrs. ROUKEMA. Mr. Chairman, I yield 3 minutes to the gentleman from Washington, [Mr. CHANDLER].

Mr. CHANDLER. I thank the gentlewoman for yielding.

Mr. Chairman, I join many of my colleagues in suggesting that Mr. VISCLOSKY has in mind here a perfectly legitimate goal. I do not question his motives in the least.

Let me make a couple of points that would tend to, I think, persuade perhaps one to conclude this is not a good idea.

First of all, Mr. VISCLOSKY in his comments said that leverage buyouts would somehow be affected by membership on these investment boards of workers. That is a totally irrelevant issue to this debate. It has absolutely nothing to do with this.

In a leveraged buyout, when a plan termination is involved, that is a decision of the employer. The employer makes that decision, and this group of workers would have absolutely nothing to do with it. So set that aside; LBO's are totally separate.

Our colleague from Florida [Mr. GIBBONS], who just happens to know something about this issue from his years of experience, concluded, as I did, that workers also do not need this so-called protection.

□ 1510

In 1974 President Ford signed the Employee Retirement Income Security Act [ERISA]. When he did so, he put in place protections for workers that had never existed before, and ERISA has worked pretty well.

The problem is now we are going to say that an employers must share responsibility with employees for decision making on the investment of pension plan assets. Also, employers are going to say, "No." They will not do it. What is their alternative? Well, the answer is clear in the response to the question from the gentleman from Texas. They can and will terminate their plans, or as our friend from Florida said, they will not set them up in the first place.

In the last 10 to 15 years this Congress has changed tax and pension law practically every year. The Congress has heaped on new requirements, year after year. What has been the result? Members can look back at years 1983, 1984, 1985, and I will tell Members what plan sponsors were doing. They were doing then what they will do if this amendment stays in place. They were terminating their plans in record numbers, and that is what will result from the Visclosky amendment.

Mr. CLAY. Mr. Chairman, I yield 4½ minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I rise in strong opposition to the Roukema amendment, and in support of the amendment by the gentleman from Indiana [Mr. VISCLOSKY]. The issue here is one of fairness. Several people have risen already today and said that, in fact, this is a radical proposal, that somehow to give employees a voice over their retirement, over the use of their pension funds, is radical. Did the Congress think it was radical when we provided tax benefits so that the employer could hand off ownership to the employees, as we give them ESOP's? Do they think it is radical when we give them IRA's, so people can take control over their retirements, and make the investments wherever they want? Is it radical that the employees of United Airlines are smart enough, apparently, to guide this company against some of the captains of private enterprise, to win that effort to buy United Airlines, but they are not smart enough to invest their pension funds?

How can this be? How can this be? We celebrate employees taking over the Gdansk shipyard in Poland, but do not let an American employee have a say in their retirement, because they would squander the money. What would they do? Would they do what the employers are doing now, put it into a fund to participate in the purchase of junk bonds, as they are doing today with employees? Would they

invest it in savings and loan stocks as the employers are doing today? Radical.

What would be radical, would be to take the money away from the people who are investing it today and give it to the people. Now, Members say the Government cannot do this because it is an employer's money. Yes, but how did the pension get earned? The employer said, "I will put a dime into the pension plan if you work an hour." That sounds like money, because I just gave them an hour's work, and he got a percent of the profit. He got to pay off his debt, and he got to participate in his pension plan. What is radical about employees directing where they would like these benefits made? This is where America should be going, in the cooperation between employers and employees, where we can increase the productivity, where the employers have a stake in the say of the health of that company, so that those pension plans can be continued to be paid into. That is what Americans should be doing. What the Republicans are saying is, Americans can have employee participation in Europe, in Eastern Europe, in Poland, we can have cooperation by doing calisthenics in Tennessee with the Japanese, but employees cannot control their own pension. Employees cannot control where they would like this investment. Employees cannot do that because that would be radical.

This is about fairness. This is about a stake of employees, working for hourly wages, having a say in the economy of this country. It is on their back that we generate capital gains. It is on their back that we generate profits, that we pay taxes on, and it is on their back that we generate taxes. But somehow, Members are going to use the forces of the Government to keep them away from a say in their own money?

Now, some people say an employee will not set up a plan. Why would they not? We will have a competitive system. If I am an employee and retirement is important to me, I will try to find an employer that offers pension benefits. If my employer terminates my pension benefits, I guess I will have to go somewhere else. That is the market system. But what some Members are saying is that the marketplace must work to the exclusion of the employees, that we really do not trust working people in this country.

Now, as has been pointed out, working people have had a say in their pension plans since 1948, and they have been performing very well. I would say for those who say this was not raised, I raised this issue in those 3 days of hearings. I asked continually, how do we get a share at the table for the people who are affected most by these decisions—the workers—and we went through it, around and around with each of the witnesses, about how we get employer participation. That is where the Visclosky amendment comes in, because he understood what people were saying.

Today there is no way for those employees to participate, and that is why the gentleman from Indiana [Mr. VISCLOSKY] has offered this amendment. It is about fairness, about equity, and control over your own destiny as American workers.

Mr. Chairman, I rise in opposition to the Roukema amendment and in support of the Visclosky provision—which is a basic statement of equity for millions of employees throughout the United States.

At the heart of the debate over this provision is good old-fashioned economic paternalism.

Should employers alone control the pension funds, and make the investment decisions, for the beneficiaries of those funds—the employees?

Or should single employer funds move into the 20th century—as did multiemployer funds 40 years ago—and involve the participation of the men and women who are most affected by these pension funds, the employees themselves?

The arguments against Visclosky are updated versions of the same arguments we have heard in the past against unionization, against collective bargaining, against worker participation in corporate planning.

For years, we in this body have quoted the results of studies about the competitive edge of foreign business practices which emphasize cooperation and joint decisionmaking between capital and labor. Those results have been quoted and requoted by the leading business schools and the best business journals. They tell us that cooperation and joint decisionmaking is the best way to promote competitiveness and workplace harmony.

Well, cooperation is more than workers and employers doing calisthenics together.

It means sharing decisions about the business, and certainly about those aspects which affect employees' economic security. It is time that we statutorily acknowledge what our foreign competitors practice: business works best when decisions are made cooperatively.

Current law, the Secretary of Labor informs us in her letter of September 26, "already requires that plan trustees must act solely in the interest of plan participants and exercise the highest standards of investment responsibility."

In other words, workers—the beneficiaries of the plans—should meekly allow others to make all those complex investment decisions on their behalf, because they're not sophisticated enough to make the right choices.

What nonsense.

If anyone suggested that employers alone set wages, determine health and safety conditions, or adjudicate disputes "solely in the interest of employees," they would be properly ridiculed.

But a law which bars employees from a role in managing their own pension plans is accorded credibility.

Those who oppose the Visclosky provision, in essence, tell us that employees should entrust their future economic security entirely to their employers. Why?

There is no evidence that workers participation will result in bad investment decisions.

There is no evidence that the security of the pension fund will be undermined if the beneficiaries of those plans have a say in the investment of their funds.

In fact, following the 1987 stock market crash, jointly managed multiemployer funds performed better than other plans.

The entire trend of labor-management relations over the past half century has been toward accommodation, toward joint decisionmaking, toward mutual interest. And certainly, for us to regain our preeminent position in the world marketplace, we must find ways of alleviating every form of economic conflict. That is as true in the administration of pension funds as it is on the factory floor or in collective bargining negotiations.

Some may say that no problem exists in employer-only management of single employer funds. But problems do exist from the standpoint of the beneficiaries of those funds, the workers, and the organizations which represent them.

Not only are workers' voices absent in investment decisions, but those same decisions frequently are made contrary to the broader economic interests of working people.

Under the current employer-only policy, pension assets are being used to finance leveraged buyouts that reshape American business and unemploy tens of thousands of workers.

According to the AFL-CIO, 90,000 union workers have already lost their jobs because of mergers, takeovers and leveraged buyouts—many financed with pension assets.

Some may argue that such broader considerations are inappropriate to decisions about pension investments. Perhaps they are.

But who is in a better situation to make that determination which affects the employees who are the beneficiaries of the pension fund: employees and employers jointly, or employers along?

Deletion of the Visclosky amendment would represent a giant step backward in two major respects—

First, workers would be told that their employers exclusively should make decisions about the employees' future economic security and investment of worker assets; and

Second, employer-employee cooperation—the much-heralded panacea for our lack of economic competitiveness—would stop at the pension issue.

Don't tell American workers that they are too stupid, or too shortsighted, or too naive to share in the decisionmaking about their own economic futures.

Don't tell American workers that they should let their employers continue to use employees assets to finance investment policies that impair American workers.

Vote "no" on the Roukema amendment, and affirm the dignity of American workers and the concept of joint management-labor cooperation on behalf of a stronger American economic future.

Mrs. ROUKEMA. Mr. Chairman, I yield 1½ minutes to the gentleman from Colorado [Mr. BROWN].

Mr. BROWN of Colorado. Mr. Chairman, some of my friends believe this is a debate about fairness, about corporate takeovers, about class warfare. If Members decided that, those Members need not listen; but those willing to listen, listen to this: Half of the plans that have the enormous new burden of paperwork, only have one employee. How is one employee going to elect two trustees? I suppose they can, but if Members care about competitiveness, if Members care about using less paperwork, this plan is a disaster. It is not well-thought-out. If someone had thought about it, they would have exempted employer plans where there is only one employee, and the person is likely to be self-employed. This is only fit for schizophrenic employees, I assume. This plan is a disaster.

Members are talking about 1½ million plans that all have to be reworked. Now, if a Member is an advocate of the bar association, and 1½ million new plans are being filed, Members ought to like this, but if Members care about the cost of plans and the cost of making this country work, Members have to be horrified by this amendment.

Let me make it clear what this does. This requires the election of at least two trustees, even if there is only one employee. It sets the trustee up for a tie. How in the world are we going to settle a tie? The bill does not tell Members. This suggests we will have a deadlock any time an issue comes up, if there is a tie.

It says the Department of Labor can issue regulations. However, ladies and gentlemen, what we have done is plan a disaster. This thing is not well-thought-out, and the fact it has not had full hearings is reflected. One other thing that I hope Members will try and address and think about is the fact that this is unworkable.

Mr. CLAY. Mr. Chairman, I yield 3 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I hear a lot on both sides. I am not sure that it does not overstate the issue. Pension funds, after all, are deferred or contributed wages, by the workers, to secure their well-being, after a lifetime of productive work.

I do not know many people that think that workers should not have some say over their funds. That does not seem to be quite as radical a departure from good economics or fiscal prudence as some would have Members believe. Those who argue that it is, have also said that there has been no hearings on this matter. We have had hearings on this. We had hearings on it for years. We had 3 days of hearings in the subcommittee this spring. Of course this matter has been heard.

There are some who say that it would radically distort investment decisions of these pension funds, but the fact is that the trustees would be under the exact fiduciary responsibilities put forward by ERISA that trustees have to be under.

□ 1520

Should workers not have some say in the investment decisions of their pensions? It is a long and well-established precedent that they should have. For decades State pension plans and employer pension plans have had employees as pension plan trustees. That is an old established precedent in the United States. And, by the way, those pension funds have not gone broke. They have a sound record of good invesments and they are very secure today. And, yes, employees, workers, sit at the table to judge how their money shall be used. So I ask my colleagues to set aside what it seems to me are boogymen that have been raised about this issue and just decide in their own minds whether they think workers should have some say in how their very important pension money is going to be used. If we believe they should have a say in it with regard to these pension plans, then I ask the Members to vote against the amendment offered by the gentlewoman from New Jersey [Mrs. ROUKEMA] and for the amendment offered by the gentleman from Indiana [Mr. VISCLOSKY].

Mrs. ROUKEMA. Mr. chairman, may I ask the Chair, how much time do I have remaining?

The CHAIRMAN. The gentlewoman from New Jersey [Mrs. ROUKEMA] has 12½ minutes remaining, and the gentleman from Missouri [Mr. CLAY] has 10½ minutes remaining.

Mrs. ROUKEMA. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, I rise in support of the Roukema amendment which strikes the pension provisions contained in the Visclosky amendment. I oppose the Visclosky amendment with the view that it is not pension reform, but a pension experiment. The Visclosky amendment requires workers to be represented on the boards of trustees of single-employer pension funds. On its face, the amendment would seem to promote sound investments by pension trustees. As commendable as that motive is, the Visclosky amendment in no way protects the interests of these employees. If anything, it inserts a wild card into pension finances which could effect from $1.2 to $2 trillion.

Employees are entitled to the sound investment of their pension funds. Congress has and will continue to protect the pension of our Nation's employees. In fact, a plan's trustees are required by law to exercise the highest standard of investment responsibility. The Visclosky amendment cannot guarantee a higher fiduciary standard because there is no higher standard. Instead, it requires the trustee to represent a constituency, rather than the best interests of all beneficiaries. Moreover, the Visclosky amendment extends fiduciary authority without shifting the financial obligation. No matter what the investment decision, the employer ultimately remains responsible for their employees' pensions. The employee, on the other hand, represents a group which bears none of the financial risk. In the case of a defined benefit plan, the company has guaranteed a specific benefit even if investments turn sour.

What, then, is the purpose of requiring employee involvement in the investment process? According to proponents of the Visclosky amendment, they do not envision far-reaching changes in the placement of most funds. In fact, they assert that multiemployer plans generally enjoy the same investment results as single employer plans. Now I ask you, why are we attempting a radical change in law to fix what is not broken.

No hearings have been held on the possible adverse effects of these changes on pension funds nor the financial market as a whole. Think of it, a change which impacts funds in excess of $1 trillion, and yet no hearings have been held. In this era of fiscal responsibility, we have no idea of the cost of such a change. The Department of Labor will be responsible for the design and implementation of the secret election process for over 700,000 nonunion single employer plans.

The Visclosky amendment adds no protections to the beneficiaries of a single employer pension fund. It does not prevent leveraged buy-outs as the

decision to terminate the fund remains with the employer. Furthermore, employers in all likelihood would be more willing to terminate a plan than to hold an organized election.

The Visclosky amendment strains all aspects of labor relations. The amendment requires that which was previously a subject for collective bargaining. In certain cases, it will mandate union representation of nonunion employees and will override the current statutory rights of such employees.

Fellow colleagues, I cannot and do not support such a radical change in ERISA laws. These changes are unwarranted, unjustified and, most important of all, are of unknown consequence to pension beneficiaries. As we learned from the changes in section 89, any change in the structure of an employee benefit plan must be carefully considered before implementation. The Visclosky amendment was not carefully considered nor its impact weighed before its appearance on the floor here today. For these reasons, I seek your support for the Roukema amendment which removes these sections from the budget reconciliation package.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. I rise in opposition to the motion to strike and in support of the so-called Visclosky amendment that would give workers equal representation on the boards of trustees that govern single-employer pension plans. Now we can look at this provision in two ways. On the one hand, many would have us believe that allowing employees a voice in the investment decisions of their pension plan will result in employers terminating those pension plans or workers advocating risky or speculative investments.

I tend to believe, however, that giving workers a voice in their pension plan is not only a question of fundamental fairness but also good business sense.

It is good business sense because it is only prudent for employers to allow employees a voice in the workplace. Through closer cooperation, business and labor will both benefit and the benefit to the economy will be greater productivity and new jobs. There are hundreds of examples of workplaces across this country where a high level of productivity has resulted from employer-employee cooperation. There is no reason to believe that workers and management cannot work together productively in the pension plan management area just as they work together in other aspects of the management of the workplace itself.

And let's be clear about what this provision will not do: it will not give employees control over the formation or termination of pension plans or the distribution of benefits. And like employer representatives on the trustee boards, nothing in this provision would terminate the fiduciary responsibility of the trustees to see that pension funds are invested wisely. In fact, employees have as much or more reason than employers to see that their future pension benefits are invested wisely.

Mr. Chairman, I urge a vote against the motion to strike.

Mrs. ROUKEMA. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. Mr. Chairman, I thank the gentlewoman for yielding this time to me.

Mr. Chairman, I rise today in support of the amendment offered by my colleague, the gentlewoman from New Jersey [Mrs. ROUKEMA] to strike the Visclosky language on pensions from H.R. 3299.

This addition to H.R. 3299 has very important ramifications and yet has not been the subject of any committee hearing. I believe the seriousness of the changes proposed by the gentleman from Indiana deserve the full scrutiny and hearing process provided for by our committee system. For that reason I alone could support this amendment to strike.

However, I have other problems with Mr. VISCLOSKY's proposal. For example, the bill impose new fees for standard termination and filing of certain reports.

But most troublesome, I think, for all of us, is the requirement for joint representation on single-employer pension boards. While this sounds fair on the face of things, especially considering comparable regulations for multiemployer pensions, it ignores some salient facts.

Multiemployer plans, which are jointly trusteed, generally experience lower rates of investment return than single-employer plans. Since the employer bears all of the investment risk under a defined pension plan, the employer must make up for defined losses by increasing its contributions to the plans. I fear that the significant costs associated with increased contributions would ultimately result in lower retirement benefits or greater reductions in current pay.

While trying to help employees, we could end up hurting them. Because we don't know the answer to this and other questions, I believe the most prudent course would be to delay a decision on the matter until we have had the opportunity for full consideration and debate.

Mr. Chairman, I urge my colleagues to support the Roukema amendment so that we may have hearings on the necessity and ramifications of pension reform.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, we hear about those silly, foolish workers. The fundamental assumption behind the arguments for the motion to strike is a paternalistic and condescending one. It essentially says that even though the law requires that plan trustees must act solely in the interest of plan participants and exercise the highest standards of investment responsibility, people chosen by the workers whose money is being put into these plans will elect people who will squander and risk their assets because they are not wise to the ways of the world. Even though these were not the people who were responsible for developing the highest level corporate debt this country has ever known.

I would like to go through the arguments given by the Secretary of Labor in her opposition to this provision in the bill and presumably in support of the motion to strike. She says:

> Requiring single employer plans to be jointly trusteed could substantially reduce pension plan equity holding. This provision could distort investment strategy, lower returns on pension investments, and increase costs of providing pensions.

□ 1530

But it could also do the opposite. It could enhance investment strategies. It could maximize returns on pension investments.

Mr. Chairman, why is the assumption that the workers representatives are not going to pursue their statutory obligation with the same sense of responsibility, obligation and wisdom as the employer-selected trustees?

I would like to suggest that the real underlying reason for opposition to the Visclosky provision was reported very well in the recent issue of Business Week:

> While the potential decline in fund performance is a major concern to managers, what really horrifies them is the possibility of worker encroachment on their decision-making turf. Company pension funds hold 35 percent of all corporate stock and almost always cast their proxies in support of management.

The argument is made that this is something that is subject to collective bargaining. The Secretary argues we do not need this. This would interfere with the collective-bargaining process because joint trusteeship is already subject to bargaining.

First of all, it does not speak to the overwhelming majority of American workers who are not organized. Second, that was not the argument used when there was bipartisan support to pass ERISA, including subjects that could have been dealt with through collective bargaining. That is an argument that, taken to its logical conclusion, we should not be legislat-

ing in the area of occupational health and safety standards or the minimum wage laws. The possibility that something is within the collective bargaining process does not mean that it should not be legislated.

Mrs. ROUKEMA. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, I rise in support of the Roukema amendment to strike the so-called Visclosky amendment from the reconciliation bill.

The Visclosky amendment would require all retirement plans to be held in trust by a joint employee-employer board of trustees. This is cause for concern because Congress is displaying once again that it possesses little capacity to effectively govern.

This amendment was adopted on a party-line vote by the Education and Labor Committee after no hearings, little debate and no convincing need for a change in current law.

We have all heard the terrors of section 89. If we leave the Visclosky amendment in place, it will become the section 89 for 1990.

Under the Visclosky amendment, employee rights will be ignored and organized labor will have a new tool to gain control to achieve its goals. In addition, it will require the Department of Labor to conduct secret ballot elections for more than 700,000 noncollectively bargained single-employer plans.

This fundamental change in pension rules is a threat. Surely this issue deserves greater attention than it has received thus far. I strongly urge you to join me in striking this provision from reconciliation.

The reconciliation bill also bans asset reversions to employers upon the termination of pension plans. As a former small businessman, I recognize that this proposal will severely penalize those employers who have successfully funded their plans to meet obligations to retirees. In fact, over the long term, employers would reduce their plan contributions to the minimum level allowed by ERISA funding standards. This type of measure promotes weaker pension funding while increasing the risks inadequately funded pension plans place on employees, retirees, and the Pension Benefit Guaranty Corporation.

Congressional intervention can only lead to greater regulation and will discourage employers from setting up defined-benefit plans, or for that matter, any plans at all. Employees end up as the victims.

Congress is aiming a loaded gun at the pension system of our Nation. It has already fired several shots and the victim cannot stand much more. With this latest barrage, Congress may just cause the death of the pension system as we know it.

Mrs. ROUKEMA. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Chairman, for those of us who do not consider themselves to be experts in the pension field, who do not know defined benefits and defined contributions very well, but who can smell a huge, new bureaucracy being loosed upon the land and who have some general idea that huge bureaucracies generate huge bucks and expenditures, let me just give them a number.

Mr. Chairman, there are 700,000 single employer, nonunion plans registered with the Department of Labor. Every last one of them has to have a Department of Labor certified and supervised election for their board of trustees. If this plan were to be implemented over a reasonable period of time like a year, that would be 2,700 elections a day.

How much would that cost us? Who knows? I can tell you this: We know that last year the National Labor Relations Board supervised 3,000 elections on a budget of $138 million. How much is 700,000 elections going to cost? That seems to answer the question right there.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I rise to oppose the Roukema amendment for three very sensible reasons.

First of all, the proposal by the gentleman from Indiana [Mr. VISCLOSKY], the amendment under consideration, is fair, it is forward-looking, and it will result in higher productivity in our country. In terms of fairness, I fundamentally believe in the principle of joint stewardship—where management and employees hold equal responsibility together for managing the fruits of their own labor. Pension funds now control the stock markets of this Nation. Thus the deferred compensation of workers in the form of retirement funds has really resulted in pension funds becoming the largest source of long-term capital and investment capital in this country, now amounting to over $1 trillion. Over 80 percent of the trades on Wall Street all by institutional investors, most of which are pension funds. It is only fair that those responsible for these earnings in the form of pension funds have joint responsibility for their trusteeship.

So, Mr. Chairman, joint stewardship is fair, it makes sense. The people have earned this money together, management and worker. They should manage it together.

Second, the community that I represent in Ohio's Ninth District can demonstrate an excellent record in the joint trusteeship of multiemployer pension plans. We really have ushered in a new era of management and employee cooperation. In Toledo, these plans have literally been rebuilding our community by investing in office towers, hotels, major construction, and housing.

Mr. Chairman, I invite all of our Members to visit our community and see the magnificent job that these plans have done and, at the same time, earned the highest rates of return. This is because both management and workers share a common interest in sound investment for the benefit of the plans. We should be encouraging our management and workers to help usher in this new era of cooperation and joint stewardship. We should be looking forward, not backward, in our efforts to keep America No. 1 and to help do so by better involving our citizens in this process.

In terms of the criticisms that have been offered here that there is a difference in rates of return between single and multiemployer plans, let me mention that any marginal difference which may exist in such returns is probably due less to the fact that they are single or multiemployer. Rather, it is due to the fact that some industries are concentrated in endeavors where our Nation is facing stiff competition in the international marketplace. Returns reflects productivity and competitiveness. Much of the battles for America's future is being fought in industries requiring infusions of capital now to benefit long-term improvement in productivity down the road. A short-term narrow focus is not good enough any more.

Finally, let me say many single employer plans today have caused upheaval in communities across this country by promoting leveraged buyouts, selling off of divisions, creating unemployment and terminating pension plans. Many single employer plans have really been responsible for the quick-fix solutions that have eked out a short-term profit but cost America long-term benefits. Joint stewardship could help stem this tide of irresponsibility and result in the wiser management of capital for productive investment across this country.

I urge adoption of the Visclosky alternative. It is fair, forward-looking, and can help lead America for an era of higher productivity. It is time.

Mrs. ROUKEMA. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise in support of the Roukema amendment to strike from H.R. 3299 the provisions mandating the composition of trustee boards administering single-employer pension plans.

I do regret having to stand in opposition to the gentleman from Indiana [Mr. VISCLOSKY], since I agree that his amendment is based on an appealing concept and is offered with serious good intentions. However, I do have deep concerns about the substance of the amendment and also believe this provision is not the type that belongs in a budget reconciliation bill.

On substance, I am more than a little reluctant to involve the Department of Labor in employee elections concerning some 700,000 different pension plans. I also persist in the belief that the government should be a referee in employer-employee relations,

and not weigh in to mandate arrangements for which either side is free to negotiate. The Department of Labor says, for example, that if a pension plan covers any union workers, this bill would require union representation of all employees, including those not part of the bargaining unit.

There is no evidence that this provision would result in better managed pension funds. Actually the empirical evidence is to the contrary. An Employee Benefits Research Institute study showed a full percentage point difference between investment performance, favoring single-employer plans over multiemployer plans—which are required to be under joint trusteeship. Another Pension Benefit Guaranty Corporation/Department of Labor study found a 2.4-percent performance gap—10.2 percent to 7.8 percent—meaning single-employer plans outperformed multiemployer plans by more than 20 percent from 1977 to 1983, on average.

I do not cite these figures to indict multiemployer plans or their trustees. I do take this as evidence, however, that this provision tries to fix something that isn't broken. These figures also suggest the need for much study and caution before we overhaul the laws governing pension plans, the Nation's largest source of private capital.

On procedure and timing, I am concerned that this issue has received only incidental consideration as a by-product of hearings on corporate takeovers. There is no urgency associated with this provision that should compel us to include it in reconciliation. A number of legitimate questions have been raised which should be addressed before we vote on such a fundamental change in Federal pension law. I don't think that a mere 60 minutes of debate here on the House floor will suffice to answer the questions many Members have on this issue.

I urge my colleagues to exercise restraint and let a more deliberate legislative process, including full and complete hearings, take place before we significantly remake pension law and labor law and send a potentially disruptive signal to the investment world.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Louisiana.

Mr. HUCKABY. Mr. Chairman, I thank the gentleman from Texas [Mr. STENHOLM] for yielding, and I just want to voice my strong support for the position that he just stated.

Certainly a massive budget reconciliation bill is not the place to be considering changes in the private pension system.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I rise in support of the amendment of the gentleman from Indiana [Mr. VISCLOSKY] which is included in the budget reconciliation bill now being considered.

In recent years companies have been abolishing pension plans and using the excess fund to help finance corporate takeovers and improvements. This practice is wrong. Pension plans represent deferred compensation. In effect workers forgo higher wages and benefits in exchange for future retirement income.

The Visclosky amendment ensures that investments could not be made without the input of employees. That is only fair and equitable. What is wrong with that? Since pension plans provide most workers with their retirement income, it is important for employees to be included in the investment decisions.

Mr. Chairman, the Visclosky amendment is a huge step forward for protecting the rights of workers. I commend my colleague for his work on this proposal and urge that it be included in this bill, and I urge defeat of the Roukema amendment.

□ 1540

Mrs. ROUKEMA. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. GUNDERSON], a member of the committee.

Mr. GUNDERSON. Mr. Chairman, let me begin by saying that the gentleman from Indiana ought to be complimented for raising this particular issue at this point in time. I think there is something that needs to be done with our pension laws in this country, especially as we are dealing with leveraged buyouts; but this bill does not solve that problem. That is the whole crux of the debate here today.

Unfortunately, a good intention to deal with a real problem has resulted in a new section 89. If we are going to repeal the section 89 that is out there today, let us not in the very same day create a whole new bureaucracy that sends a signal across this country that we are going to eliminate or discourage every new private single employer pension that exists, and that is unfortunately what this legislation, if kept in, will do.

The reality is that there are 1½ million single-employer plans out there, based on the Department of Labor statistics. Whether they like it or not, under this piece of legislation over 700,000 elections are going to be supervised each year just to keep us operating at the present time.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Chairman, we are coming close to the end of debate, and certainly there has been a lot of hyperbole. As someone who has been identified as the lead gangster, I might want to tone down somewhat the rhetoric.

First of all, what are we voting on? We are voting on an issue of fairness, fairness for workers who have deferred their compensation as a condition of employment. It is their money. They ought to have input in their decision. Management is still part of that decision and it certainly is an incorrect characterization to imply that workers do not remain at risk in defined benefit plans. If the interest income, if the dividend income on defined benefit plans necessitate additional corporate contribution, that could be harmful to employees. They will take that into consideration.

It does go to the question of investment in plant and equipment. It does go to the question of their wages. It does go to the question of the condition of the corporation and its ability to raise money. They will act in a responsible fashion.

Mr. CLAY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I rise in opposition to the Roukema amendment.

I strongly support the Visclosky provision. It makes a necessary adjustment to pension law which assures that those most directly concerned with the security of their pension funds have a say in how they are managed.

Listening to the rhetoric offered by my friends on the other side of the aisle, one would think that the concept that workers should be involved in pension investment decisions was radical or untested. On the contrary, the idea of plan participants serving as trustees on pension boards is a well-established and successful concept.

Both multiemployer plans and many State pension funds have for decades had plan trustees elected from their membership and Western civilization as we know it has not collapsed. In fact, those plans have a solid, proven track record.

Some plans are even governed by a board that is overwhelmingly dominated by participant/trustees. One outstanding example is the Colorado Public Employees Retirement System. On a 16-member board of trustees, 14 are elected by the members of the system and only two represent the State. The Colorado system is an outstanding pension fund, easily comparable to any corporate pension plan as to administration, investment performance, and service to its members.

Another example of the successful performance of participant-trustees is the California Public Employees Retirement System with a 13-member board of trustees, 7 appointed and 6 elected by the membership. Both of those plans cover employees that belong to different groups. Each elects its own representatives. The election process is neither costly, cumbersome, complicated, or contentious. Presum-

ably, as it carries out its responsibility under the provision to prescribe procedural rules governing the election of participant-trustees, the Department of Labor will consult with plans such as these with substantial experience in handling elections.

Pension funds are deferred wages that employees rely on to secure their well-being after a lifetime of productive work. Nobody is more concerned about the performance of a pension fund than the beneficiaries of that fund. Yet currently they have no say in how corporate pension plans are run. The solution is obvious. Give the participants in the fund a voice at the table.

Yesterday my friend from New Jersey, Mrs. ROUKEMA, said she had no idea where Congressman VISCLOSKY got this idea. I was amazed by her statement. The concern that workers have no input into pension investment decision making has been voiced at several hearings over the years and, most specifically, at 3 days of hearings our subcommittee held this past spring. The hearings examined issues related to pension fund investment, with a special focus on the role of pension funds in leveraged buyouts. Several witnesses testified that providing for participant trustees on pension funds was an important means of protecting the pension assets.

Some have tried to cloud the issue of worker representation on joint pension boards by alleging that the provision would mandate union representation for nonunion workers. That is a serious misstatement of the provision. Under the provision, if some or all of the participants are unionized, the union could select the representative(s) for that group of plan participants. If the union waives this right, or if some or all of the participants are nonunion, the plan participants themselves by secret written ballot select their own representative(s). Similar principles would apply for plans covering multiple unions.

Moreover, since the overall number of trustees and composition of the board are design issues, when setting up the plan, an employer could easily provide for pro rata representation of all employee groups on the board.

Some have tried to confuse the issue by arguing that the joint trusteeship requirement would prohibit asset reversions. That is nonsense. The decision to terminate a plan is clearly an employer decision, not a fiduciary decision. Nothing in the Visclosky provision would change that. The provision does not amend any of the current fiduciary rules.

The ERISA fiduciary requirements apply to persons acting in fiduciary capacity performing fiduciary functions. Under sections 402, 403, and 404 of title I of ERISA, the plan's named fiduciary—designated by the employer—has certain rights and responsibilities and may delegate certain of its functions to others—including to trustees.

Fiduciary functions, however, must be distinguished from "settlor"—employer or plan sponsor—functions. Over the years, the Department of Labor has identified certain functions as settlor functions. Nothing in the Visclosky provision would transform traditional employer functions into fiduciary functions over which a joint board would have authority. Under current law, the primary employer functions include: First, the decision to establish or terminate a plan, and second, decisions relating to plan design—that is, who to cover, what the benefit levels are, and so forth. Except to the extent that some settlor functions might independently be subject to collective bargaining, the Visclosky provision would not require any worker input into those settlor decisions.

Many of the arguments raised by the opponents of this provision allege that requiring joint trusteeship will somehow dilute or alter the ERISA requirement that a fiduciary must discharge his or her duties "solely in the interest of the participants and beneficiaries" (section 404(a)(1)).

Opponents of the Visclosky provision also argue that it would require plan trustees to represent separate constituencies with separate interests, thus "politicizing" the process. This, too, is a baseless argument. No change is made in either the "solely in the interest standard," cited above, or in the general requirement that all investments be prudent. Requiring that some of the trustees must be selected by or from the ranks of plan participants does not change in any way the legal duty of trustees under ERISA. Since business is arguing that joint-trusteeship is unnecessary because under current law, employer/trustees faithfully discharge their fiduciary duty to act "solely in the interest of plan trustees and their beneficiaries," why do they think so little of the integrity and ability of their own employees by assuming that participant/trustees will be unable to do the same?

Finally, some have raised the question of the impact of the provision on small business. They say that the Visclosky provision affects all pension plans. That is incorrect. It only affects pension plans that under ERISA are required to place assets in a separate trust. Many small businesses are exempt from that requirement because they are funded entirely by insurance contracts or policies or because they have established simplified employee pension plans or employer-sponsored IRA's. The joint trusteeship requirement would not apply to these plans.

All multiemployer plans and most large State pension funds already provide for significant participant representation on pension boards, requiring joint worker and management trustees on the remainder of pension plans is the logical next step. It is consistent with the plea we hear for greater cooperation between labor and management. It is consistent with our growing need for improved employee participation in workplace decisions. It is also consistent with the democratic principles which underlie labor-management relations. Finally it will help to secure the pension funds on which senior citizens rely.

Our committee has considered the issue and has acted to bring before this body an important reform in pension law. Those who believe that how workers' deferred wages are invested is none of the workers' business will support the Roukema amendment. Those who see this issue for what it is—a matter of fundamental fairness for workers—will oppose the amendment. I strongly urge that you reject the Roukema amendment.

Mrs. ROUKEMA. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Minnesota [Mr. FRENZEL], a member of the Ways and Means Committee.

Mr. FRENZEL. Mr. Chairman, we have an unusual situation here. We have a statement from the author of the bill that he introduced it in June. We have another statement that some hearings were held in the first quarter of the year, which obviously could not bear on the bill because it had not been introduced yet. We further hear that some witness at the earlier hearing referred to something that may have been covered within the later bill. Then we are told that is a hearing.

So we have the Visclosky amendment before us today. It is an unwanted hitchhiker, an ugly irrelevancy, in the reconciliation bill. It does not belong here. It was adopted without hearings, without debate, without cause, without showing of need, without amendment, and without good sense.

It would, we are assured by the companies who operate and contribute to pensions and by the people who advise pension plan contributors, cause many plans to be terminated and cause many others not to be started. That in turn would cause many Americans not to be covered by pension benefits.

What could be a sillier action on the part of this House than passing a bill that was going to protect people from having pensions? It passes all understanding that we should even be considering this matter today.

We are told that multiemployer plans have employer trustees, as indeed they do. It has been shown

here today that those plans have a much lower return.

I happen to have served as the chairman of a multiemployer pension trustee group, and I can tell you that on my board we often deadlocked, and I believe our returns were less than could have been achieved. The employer representatives on our board usually insisted that we put the money in the Central States Teamsters fund. I think most of you know about the under water real estate bought in Florida, the Nevada pool tables and so on, that caused that plan to come into great difficulty.

The Visclosky amendment would therefore protect many Americans right out of their pensions. You remember when we adopted ERISA. We had a huge flight from pension plans. The reason is that pension plans are voluntary. Employers startup pension plans because they want them, because they think they are pretty good, but if there is a reason not to have them, they get out of them or they do not start them. If plans terminated because of ERISA, we are certainly going to lose many of them as a result of the Visclosky amendment.

Because pension plans are voluntary, we can start them, or continue them, or fold them up. As long as employers make all the contributions, take all the risks, particularly in a defined benefit plan, there is no reason for them to feel that they should share the investment decisions with other representatives.

Now, if they decide they want employer trustees, they can do so. Under the rules that exist today, they can voluntarily accept that kind of trusteeship.

One of our Members stood up and said that this is opening up the system. It is not opening up the system. The system is open today. This closes the system. It mandates a certain type of representation on the board.

Mr. Chairman, I would repeat that only healthy plans can be terminated under existing law. The Visclosky amendment will, therefore, cause healthy plans to be terminated. That will give us a survival of the sickest plans, and so the PBGC will come under pressure. It will have to raise fees from companies who cannot pay it.

□ 1550

If the Members want to reduce pension coverage, they should support Visclosky. These who want to preserve pension coverage should vote for Roukema.

Mrs. ROUKEMA. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinios [Mr. CRANE].

Mr. CRANE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, over the next few days, we will be considering what is probably the most important piece of legislation that we will see this year. Unfortunately, the budget reconciliation bill has extraneous amendments that could have a potentially devastating effect on the pension laws of this country. Corporations are the backbone of the free-market economy. The compensation they provide to employees is not only in the form of a paycheck. In addition to compensation, corporations often provide medical and dental coverage, educational assistance, day care, and most importantly a pension for the later years.

The pension plan amendments proposed by the Education and Labor Committee include several egregious provisions. Included in these amendments are the elimination of pension asset reversions, joint labor-management control of pension plans, participant right to sue under the Internal Revenue Code, and exit/user fees. Three corporate constituents of mine, including Eaton Corp., Northrop, and the biggest employer in my district, Motorola, have discussed with me at length the problems associated with these pension proposals. Below is a brief look at these four issues and the negative impact these changes would have on corporations. The inclusion of these amendments would seriously jeopardize the corporation pension plan system and hurt those individuals who the creators of these amendments are trying to save. It is time that the Congress take a step back and let the free-market system work and allow corporations the ability to provide beneficial pensions to deserving and loyal employees. I ask my fellow colleagues to understand the following provisions and oppose any changes to corporate pension plans, and support the motion by the gentlewoman from New Jersey.

TERMINATION OF PENSION REVERSIONS

This amendment to the reconciliation bill would prohibit an employer from terminating a defined benefit plan unless the employer first provides additional, unearned benefits to active and former plan participants and their beneficiaries. These new mandated benefits are in addition to the earned benefits that the employer has actually promised to provide.

The bill also provides that, before an employer may recover excess assets from a given plan, all other unrelated plans maintained by the employer and its affiliates must be brought up to a funded level sufficient to pay all liabilities to participants and beneficiaries. Unrelated plan funding is triggered regardless of whether the funding of the unrelated plan is dictated by union agreements, government contract restrictions, or Internal Revenue Code limits on the tax deductibility of contributions.

The bill determines the longstanding presumption that, because an employer backs up the pension plan promise and bears all the risk of the plan's investment experience, assets in excess of what is necessary to pay the plan's bill is a back-door effort to mandate cost-of-living increases for all retirees and beneficiaries, which were neither promised nor earned and are to the detriment, in many cases, of active employees.

By mandating new pension benefits which have been promised or earned, this amendment will deter sound funding, reduce employees' retirement security, discourage the formation and expansion of new defined benefit plans, and subject the Pension Benefit Guaranty Corporation to substantial new financial hazards and will result in many pension funds reducing their exposure in the equity markets.

JOINT LABOR-MANAGEMENT CONTROL OF PENSION PLANS

The Visclosky amendment, recently introduced and approved without the benefit of hearings, would require joint labor-management control over all single employer pension plans and would have a profound impact on the balance of power between unions and management. Such control would give unions substantial influence over the investment of pension assets, benefit design, and plan administration while leaving employers with the liability for maintaining adequate funding. To the extent that the bill ultimately provides organized labor with control over investment decisions, it would also provide them with substantial influence in business management.

PARTICIPANT RIGHT TO SUE UNDER IRC

The Education and Labor Committee also approved a proposal that would permit a participant the right to sue under ERISA to enforce plan qualification requirements of the Internal Revenue Code. As a result, employers could no longer count on uniform application of the rules across the country or, possibly even within its own operations if a single employee demanded settlement of his or her claim. Moreover, it would make more difficult IRS efforts to ensure uniform compliance with the rule in a manner that provided relief for all the employees in a plan. This proposal would permit participant suits on such complex issues as the Internal Revenue Code's coverage, separate line of business, leased employee, nondiscrimination and integration rules.

EXIT AND USER FEES

The committee's bill would also subject plans to exit fees of $200 per participant on termination of a plan. User fees would also be levied at the time of filing an annual report, summary plan description or material modifications, or notice of a qualified transfer of excess assets and include defined benefit and defined contribution plans, profit sharing plans, ESOP's, KEOGH's, and other plans. The fees are levied on a sliding scale based on the number of participants; the highest fee is $500 per filing in the House bill and $1,000 in the Senate version. The rationale for the fees is that the Department of Labor has failed to provide adequate information about plans and the fees are dedicated to increased enforcement of title I. This is clearly a tax levied against corporations.

Mrs. ROUKEMA. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. DONALD E. "BUZ" LUKENS].

Mr. DONALD E. "BUZ" LUKENS. Mr. Chairman, I rise in support of the Roukema amendment.

Mr. RAHALL. Mr. Chairman. I am in support of the Visclosky provision, which would require equal employee and management representation on the board of trustees for single-employer pension plans.

I think this provision provides for simple fairness. Pensions are funded by deferred wages.

Pension benefits are not simply a gift from the employer, but are earned by employees through the years of hard work. Therefore, they should have the right to determine how their pension plans are managed.

To suggest that employees should not be provided equal representation is really to suggest that they are incapable of making such investment decisions. It is to suggest that they cannot grasp the complexity of investment decisionmaking. Nothing could be further from the truth. According to a 1988 study conducted by the consulting firm of Martin E. Segal, the funded status of multiemployer plans, which have been jointly trusted since the passage of the Taft-Hartley Act of 1947, is excellent. According to the report, 78 percent of the multiemployer plans are fully funded for their vested benefits in 1988. I am aware of no evidence to suggest that joint trusteeship of single-employer pension plans will not allow for just as effective administration. Workers have demonstrated that they are very capable.

I urge my colleagues to vote against the motion to strike, and for the rights of workers.

Mr. POSHARD. Mr. Chairman, I believe that workers have a right to help determine how their pensions are being managed.

I believe we should give employees who participate in single-employer pension plans the same rights we have given workers who are covered under multiemployer plans.

I believe that if you give workers the chance to become involved in deciding how their pension funds are invested they will make the right choices.

Mr. Speaker, I do not believe the mail I have been getting from business groups.

I do not believe that employees will recommend bad financial decisions simply because they may not have had prior experience with fund management.

It's their money. They'll watch it very carefully.

Mr. Chairman, before we gave the vote to women—before we gave it to black Americans—there were probably people who said they should not be allowed to vote because they would not vote correctly.

Time has proven those critics incorrect, and time will prove that workers can be excellent managers of their retirement funds. For these and many other reasons, I urge all my colleagues to oppose the Roukema amendment.

Mr. SKAGGS. Mr. Chairman, I would like to take this opportunity to explain why I am voting to strike from the omnibus budget reconciliation bill the provision, offered in committee by Congressman PETER VISCLOSKY, which deals with equal representation on single-employer pension plan boards.

My decision to vote to strike the Visclosky amendment is based primarily on procedural grounds. We need to stop and ask what this provision is doing in the budget reconciliation bill at all. The purpose of an omnibus budget reconcilation bill is to change spending and revenues laws to comply with the congressional budget resolution. The Visclosky amendment is a change in policy; it has nothing to do with Federal spending or revenue raising.

I certainly support what I understand the intentions of the Visclosky amendment to be. The increased use of pension funds to finance mergers and other acquisitions is a very real and very serious problem. We need to look at the role of pension plans in such transactions, and we need to make sure employee benefits are properly managed and employee interests protected.

I know that a number of hearings have been held on this larger issue, and some good legislation introduced. But this provision would do more than just give workers a voice in how their retirement funds are invested. It would dramatically alter single-employer pension plan laws, without the benefit of focused hearings or full public debate. There are just too many unanswered questions with this provision that should be fully considered before action is taken. And they should be answered by way of the regular legislative process.

For example, I would question whether a blanket requirement on all single-employer pension plans is really in our best interest. The fact that workers and employers have had joint trusteeship on multiemployer plans does not by itself warrant forcing the same system on all single-employer plans. Some more discrete standards or criteria may be advised here. In some cases, where workers have desired joint employer/employee benefit boards, they have negotiated an agreement on their own without any need for the Federal Government stepping in with blanket legislation.

I would urge my colleagues to limit the reconciliation bill to the spending and revenue matters that have to be included in it, and to forgo addressing unrelated policy questions like pension reform.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey [Mrs. ROUKEMA].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CLAY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 250, noes 173, not voting 9, as follows:

[Roll No. 249]

AYES—250

Andrews	Burton	Douglas
Applegate	Byron	Dreier
Archer	Callahan	Duncan
Armey	Campbell (CA)	Early
Baker	Chandler	Edwards (OK)
Ballenger	Chapman	Emerson
Barnard	Clement	English
Bartlett	Clinger	Erdreich
Barton	Coble	Fawell
Bateman	Coleman (MO)	Fields
Bentley	Coleman (TX)	Fish
Bereuter	Combest	Flippo
Bevill	Cooper	Frenzel
Bilbray	Coughlin	Frost
Bilirakis	Cox	Gallegly
Billey	Craig	Gallo
Boehlert	Crane	Gekas
Boggs	Dannemeyer	Geren
Borski	Darden	Gibbons
Brooks	DeLay	Gillmor
Broomfield	Derrick	Gingrich
Browder	DeWine	Glickman
Brown (CO)	Dickinson	Goodling
Buechner	Dorgan (ND)	Gordon
Bunning	Dornan (CA)	Goss
Gradison	Mazzoli	Saxton
Grandy	McCollum	Schaefer
Grant	McCrery	Schiff
Green	McCurdy	Schneider
Guarini	McDade	Schuette
Gunderson	McEwen	Schulze
Hall (OH)	McGrath	Sensenbrenner
Hall (TX)	McMillan (NC)	Shaw
Hamilton	Meyers	Shays
Hammerschmidt	Michel	Shumway
Hancock	Miller (OH)	Shuster
Hansen	Miller (WA)	Sisisky
Harris	Molinari	Skaggs
Hastert	Mollohan	Skeen
Hatcher	Montgomery	Skelton
Hayes (LA)	Moorhead	Slattery
Hefley	Morella	Slaughter (VA)
Hefner	Morrison (WA)	Smith (NE)
Henry	Myers	Smith (TX)
Herger	Natcher	Smith (VT)
Hiler	Neal (NC)	Smith, Denny (OR)
Holloway	Nelson	Smith, Robert (NH)
Hopkins	Nielson	Smith, Robert (OR)
Houghton	Olin	Snowe
Hubbard	Ortiz	Solomon
Huckaby	Oxley	Spence
Hughes	Packard	Spratt
Hunter	Parker	Staggers
Hutto	Parris	Stallings
Hyde	Patterson	Stangeland
Inhofe	Paxon	Stearns
Ireland	Payne (VA)	Stenholm
James	Petri	Stump
Jenkins	Pickett	Sundquist
Johnson (CT)	Pickle	Tallon
Johnston	Porter	Tanner
Jones (GA)	Price	Tauke
Jones (NC)	Pursell	Tauzin
Kasich	Quillen	Thomas (CA)
Kennelly	Ravenel	Thomas (GA)
Kolbe	Ray	Thomas (WY)
Kostmayer	Regula	Upton
Kyl	Rhodes	Valentine
LaFalce	Richardson	Vander Jagt
Lagomarsino	Ridge	Vucanovich
Lancaster	Ritter	Walker
Laughlin	Roberts	Walsh
Leach (IA)	Robinson	Watkins
Leath (TX)	Rogers	Weber
Lent	Rohrabacher	Weldon
Lewis (CA)	Ros-Lehtinen	Whittaker
Lewis (FL)	Rose	Whitten
Lightfoot	Roth	Wolf
Livingston	Roukema	Wylie
Lowery (CA)	Rowland (CT)	Young (FL)
Lukens, Donald	Rowland (GA)	
Madigan	Russo	
Marlenee	Saiki	
Martin (IL)	Sangmeister	
Martin (NY)	Sarpalius	

NOES—173

Ackerman	Crockett	Hayes (IL)
Akaka	Davis	Hertel
Alexander	DeFazio	Hoagland
Anderson	Dellums	Hochbrueckner
Annunzio	Dicks	Horton
Aspin	Dingell	Hoyer
Atkins	Dixon	Jacobs
AuCoin	Donnelly	Johnson (SD)
Bates	Downey	Jontz
Beilenson	Durbin	Kanjorski
Bennett	Dwyer	Kaptur
Berman	Dymally	Kastenmeier
Bonior	Dyson	Kennedy
Bosco	Eckart	Kildee
Boucher	Edwards (CA)	Kleczka
Boxer	Engel	Kolter
Brennan	Espy	Lantos
Brown (CA)	Evans	Lehman (CA)
Bruce	Fascell	Lehman (FL)
Bryant	Fazio	Levin (MI)
Bustamante	Feighan	Levine (CA)
Campbell (CO)	Flake	Lewis (GA)
Cardin	Foglietta	Lipinski
Carper	Ford (MI)	Long
Carr	Ford (TN)	Lowey (NY)
Clarke	Frank	Luken, Thomas
Clay	Gaydos	Machtley
Collins	Gejdenson	Manton
Condit	Gephardt	Markey
Conte	Gilman	Martinez
Conyers	Gonzalez	Matsui
Costello	Gray	Mavroules
Coyne	Hawkins	McCloskey

McDermott	Pelosi	Studds
McHugh	Penny	Swift
McMillen (MD)	Perkins	Synar
McNulty	Poshard	Torres
Mfume	Rahall	Torricelli
Miller (CA)	Rangel	Towns
Mineta	Rinaldo	Traficant
Moody	Roe	Traxler
Morrison (CT)	Rostenkowski	Udall
Mrazek	Roybal	Unsoeld
Murphy	Sabo	Vento
Murtha	Savage	Visclosky
Nagle	Sawyer	Volkmer
Neal (MA)	Scheuer	Walgren
Nowak	Schroeder	Waxman
Oakar	Schumer	Weiss
Oberstar	Sharp	Wheat
Obey	Sikorski	Williams
Owens (NY)	Slaughter (NY)	Wilson
Owens (UT)	Smith (FL)	Wise
Pallone	Smith (IA)	Wolpe
Panetta	Smith (NJ)	Wyden
Pashayan	Solarz	Yates
Payne (NJ)	Stark	Young (AK)
Pease	Stokes	

NOT VOTING—9

Anthony	Florio	McCandless
Courter	Garcia	Moakley
de la Garza	Lloyd	Yatron

□ 1611

Messrs. CROCKETT, FOGLIETTA, GONZALEZ, WILSON, CARDIN, HOYER, McMILLEN of Maryland, and BUSTAMANTE changed their vote from "aye" to "no."

Messrs. RICHARDSON, JENKINS, and BILBRAY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 2, printed in section 2 of the House Report 101-261.

AMENDMENT OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. DORGAN of North Dakota. Mr. Chairman, I offer the amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DORGAN of North Dakota: In title XI of the bill, strike parts IV and V of subtitle C.

In title XI of the bill, strike part I of subtitle C and insert the following:

PART I—REPEAL OF SECTION 89 NONDISCRIMINATION RULES

SEC. 11301. REPEAL OF SECTION 89.

(a) IN GENERAL.—Section 89 (relating to benefits provided under certain discriminatory employee benefit plans) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by striking the item relating to section 89.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

SEC. 11302. REINSTATEMENT OF PRE-1986 ACT NONDISCRIMINATION RULES.

(a) IN GENERAL.—

(1) Each provision of law amended by subsection (b), (c), (d)(1), or (g) of section 1151 of the Tax Reform Act of 1986 is amended to read as if the amendments made by such subsection had not been enacted.

(2) Each provision of law amended by paragraph (22), (27), or (31) of section 1011B(a) of the Technical and Miscellaneous Revenue Act of 1988 is amended to read as if the amendments made by such paragraph had not been enacted.

(3) Subparagraph (A) of section 125(g)(3) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking "subparagraph (B) of section 410(b)(1)" and inserting "section 410(b)(2)(A)(i)".

(4) Section 162(1)(2) is amended by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(5) Subparagraph (C) of section 401(a)(9) is amended—

(A) by striking "(as defined in section 89(i)(4))", and

(B) by adding at the end the following: "For purposes of this subparagraph, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(6)(A) Subparagraph (C) of section 414(n)(3) is amended by striking "89,".

(B) Paragraph (1) of section 414(r) is amended by striking "sections 89 and" and inserting "section".

(C) Paragraph (2) of section 414(t) is amended by striking "89,".

(7) Sections 3021(c) and 6070 of the Technical and Miscellaneous Revenue Act of 1988 are hereby repealed.

(b) EXCEPTIONS.—

(1)(A) Paragraph (7) of section 79(d) (as in effect on the day before the date of the enactment of the Trade Reform Act of 1986) is amended to read as follows:

"(7) EXEMPTION FOR CHURCH PLANS.—This subsection shall not apply to any plan maintained by a church for church employees. For purposes of the preceding sentence, the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(B) Unless the employer otherwise elects, the reference to section 79(d) in section 223(d)(2) of the Tax Reform Act of 1984 shall be treated as a reference to such section as in effect on the day before the date of the enactment of the Tax Reform Act of 1986.

(2) Paragraph (2) of section 125(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

"(2) DEFERRED COMPENSATION PLANS EXCLUDED.—

"(A) IN GENERAL. The term 'cafeteria plan' does not include any plan which provides for deferred compensation.

"(B) EXCEPTION FOR CASH AND DEFERRED ARRANGEMENTS.—Subparagraph (A) shall not apply to a profit-sharing or stock bonus plan or rural electric cooperative plan (within the meaning of section 401(k)(7) which includes a qualified cash or deferred arrangement (as defined in section 401(k)(2)) to the extent of amounts which a covered employee may elect to have the employer pay as contributions to a trust under such plan on behalf of the employee.

"(C) EXCEPTION FOR CERTAIN PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—Subparagraph (A) shall not apply to a plan maintained by an eductional organization described in section 170(b)(1)(A)(ii) to the extent of amounts which a covered employee may elect to have the employer pay as contributions for post-retirement group life insurance if—

"(i) all contributions for such insurance must be made before retirement, and

"(ii) such life insurance does not have a cash surrender value at any time.

For purposes of section 79, any life insurance described in the preceding sentence shall be treated as group-term life insurance."

(c) EFFECTIVE DATE.—The amendments made by this seciton shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

SEC. 11303. OTHER PROVISIONS RELATING TO NONTAXABLE BENEFITS.

(a) DEPENDENT CARE ASSISTANCE.—Paragraph (1) of section 129(d) (defining dependent care assistance program) is amended by adding at the end the following new sentence:

"If any plan described in subparagraph (A), fails to meet the requirements referred to in subparagraph (B), notwithstanding such failure, such plan shall be treated as a dependent care assistance program in the case of employees who are not highly compensated employees."

(b) APPLICATION OF LINE OF BUSINESS TEST FOR PERIOD BEFORE GUIDELINES ISSUED.—In the case of any plan year beginning on or before the date the Secretary of the Treasury (or the delegate of the Secretary) issues guidelines under section 414(r)(2)(C) of the Internal Revenue Code of 1986 (and begins issuing determination letters with respect to such section), an employer meeting the requirements of subparagraphs (A) and (B) of section 414(r)(2) of such Code with respect to a line of business may treat it as a separate line of business if the employer reasonably determines it to be separate.

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to years beginning after December 31, 1988.

(2) The provisions of subsection (c) shall apply to years beginning after December 31, 1986.

Conform the table of contents for title XI accordingly.

The CHAIRMAN. Pursuant to the rule the gentleman from North Dakota [Mr. DORGAN] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Mr. ROSTENKOWSKI. Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The gentleman form Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, today I offer an amendment on behalf of myself, Mr. WATKINS from Oklahoma, Mr. LAFALCE from New York, Mr. SLATTERY from Kansas, and Mr. PENNY from Minnesota.

The amendment is to repeal a provision in the 1986 tax law called section 89. Section 89 contains the so-called nondiscrimination rules for health insurance plans offered by American businesses.

In fact, the section says if you are going to deduct as a business expense

the health insurance costs, then you have a responsibility to be nondiscriminatory in the offering of those benefits to your employees. The suggestion for nondiscrimination rules came to us from former Treasury Secretary Donald Regan.

Frankly, on its face, it is not a bad idea. But this germ of a good idea has become an infection of complexity in the Tax Code.

This good idea resulted in this: This document represents the rules and regulations published by the Treasury Department to implement this little idea called nondiscrimination. This is nearly 200 pages of regulations for American business, big and small, to try and sift through to understand what section 89 really means.

Accountants do not understand it, lawyers do not understand it, and consultants do not understand it. Yet we expect the American small businessman to understand it It cannot be done. It will not work.

There are times when things that ought to be done simply are too complicated to put into practice. This is one of those instances, in my judgment.

Once the American business community became aware of section 89 there was a literal firestorm of protest.

Most of us understand that when we receive a firestorm of protests from around the country occasionally, it is from some perceived hysteria about a plan that they do not quite understand, and other times it is grounded in real substance. In this instance, I think when the business community took a look at what they were hit with, a couple of hundred pages of rules and regulations, they understood the complexity of it, I think they understood that this had to be repealed.

Frankly, it is our responsibility and our job, to try to see if we can provide more incentives and greater incentives for more insurance in this country. We have 37 million people walking around in America without health insurance. But if you impose this on American businesses, particularly small- to medium-sized businesses, they have told me this is going to persuade them to withdraw their insurance coverage altogether because they cannot comply with this kind of complexity.

Section 89, in my judgment, moves in the opposite direction of the kind of incentive we ought to be providing. That is the reason I am offering today an amendment that would repeal section 89.

Let me be clear for the House of Representatives what I am doing with this amendment: I am repealing section 89 and going back prior to the 1986 law. When section 89 was imposed in the code in 1986 it withdrew from the code the broad discrimination rules that existed, nondiscrimination rules that existed prior to 1986. Those were noncontroversial. Those were well accepted and they provoked no difficulty of any kind.

When section 89 was imposed, those were taken out of the code. I would go back with this amendment prior to 1986 as if section 89 had never been imposed, and reinstate what existed in prior law, prior to 1986.

That is what my amendment represents. I hope the Members of this House will see fit to support it.

I might add that the organizations such as Small Business Legislative Council, National Federation of Independent Business, and others support this amendment today, and a broad majority, I think, of Democrats and Republicans who want to get this issue behind us will support it as well.

Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. PICKLE].

□ 1620

Mr. PICKLE. Mr. Chairman, Congress passed the section 89 provision in 1986, and we did it in good faith, with good intent. We simply said there should be no discrimination in these kinds of health benefit programs. We have the same kind of test for other kinds of benefits, such as pensions.

Now the gentleman from North Dakota was a part of our committee, and we voted for the principle underlying section 89, I believe, unanimously. We put it into effect because we simply said there should be no discrimination. Now, we have to admit that upon examination we have found out that the rules and regulations to implement this policy have become more complicated, too much so, and we begin to hear from all the small businesses all over the country. In good faith, we met, and we tried to correct that but to still maintain the principle that highly compensated employees should not be treated better than rank-and-file employees.

We made a new version of it, which simplified the qualification tests and which would have been easier to comply with than the bill we passed in 1986. We did that for the Members who would be responding to the criticism and because we recognized that some changes should be made. Congress had been flooded with objections from some organizations that they had decided, no, we do not want to improve and correct anything, we have to have outright repeal.

We also passed now in the Committee on Ways and Means portion of reconciliation, another version. We simply said that there cannot be discrimination in the very top echelons of a plan maintained by professional service organizations such as doctors or lawyers or engineers. That is in reconciliation, and I submit to Members that is a much more simple version. The Committee on Ways and Means has given Members two versions to implement the nondiscrimination policy and we are willing to continue to work on it if necessary.

But, if Members vote for outright repeal, as most Members may, then Members are saying again, "You can have discrimination." Surely, we do not intend that. That should not be our intent. We ought to say in these kinds of plans there should be no discrimination. That is fair.

Now, our committee had tried, in two instances already, to come up with a workable version on section 89. So if a Member votes for just outright repeal, as strong as the urge is because of the opposition Members have received from small businesses and from others that are not so small, Members are saying, "I endorse discrimination." Members may think that we can look at it the next session, and I hope we would if it is repealed. But the best thing to do is to keep the law on the books now and try to work it out this session, rather than just repeal the entire thing. I hope the repeal would not be the course to follow.

I think that the temptation is strong to say, "Well, let us just start from scratch," like some Members want to do on catastrophic health. We are legislators and ought to try to find out what is a better way to handle it rather than to repeal the nondiscrimination rules.

With good intent, we have offered different versions. We are still willing to do more, perhaps in a conference, but if Members choose an outright repeal, they are saying, "I am for allowing discrimination to continue," and surely we do not think that. As legislators, I think we ought to find an answer to this perplexing problem, and try to yield to the objections and concerns as much as we can, but to keep something on the books. I hope that the House then would not vote for outright repeal.

The CHAIRMAN. The gentleman from North Dakota [Mr. DORGAN] has consumed 4½ minutes, and the gentleman from Illinois has consumed 4 minutes.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma [Mr. WATKINS].

Mr. WATKINS. Mr. Chairman, the time has come to repeal section 89 of the Internal Revenue Code.

My distinguished colleague from Massachusetts, Mr. CONTE, Mr. DORGAN, and I rise today to offer an amendment to the budget reconciliation bill, H.R. 3299. This amendment will give the House of Representatives, including the 317 of my colleagues who cosponsored H.R. 634—legislation

to repeal section 89—the long-awaited opportunity to strip from the books one of the most confusing, complex and counterproductive measures ever enacted.

As you well know, section 89 poses serious compliance problems for small business owners. Before you can comply with section 89, you've got to hire someone who actually understands it. Then you've got to gather extensive information about your benefit package and subject the plan to complicated nondiscrimination tests to avoid tax penalties. Put yourselves in the shoes of a small business owner for a moment. How do you comply with a law like this? Certainly not without costly outside advice. Unfortunately, many small business owners have simply opted to cancel their health insurance plans.

Remember, Mr. Chairman, it took the Treasury Department several months after section 89 was supposed to go into effect to come out with incomplete regulations that even the accountants and attorneys could not understand.

Besides the direct effect on the time and resources of small businesses, there are other negative effects as well. The Institute for Research on the Economics of Taxation estimated that section 89 would result in an estimated $4 billion in compliance costs. This added labor cost would result in a loss of about 89,000 jobs.

Have we seen any evidence, from the Department of Treasury or elsewhere, that small business owners discriminate among employees in offering health insurance? No, we have not. Have any hearings been held to investigate discrimination in fringe benefits? No, they have not. Has anyone in the U.S. House of Representatives, or the U.S. Senate for that matter, risen in support of section 89? No, they have not. Mr. Chairman, section 89 is a solution in search of a problem.

Small business are already burdened by excessive regulation. Why subject them to further restrictions on their ability to provide adequate and affordable health insurance plans to their employees?

The health care crisis in our Nation is indeed a severe one. It therefore calls for constructive solutions, not increased restrictions on the business community's ability to provide health insurance to their employees. In fact, in a recent National Federation of Independent Business survey, 71 percent of small business owners believe that every American has a right to basic health care. But, that same survey found that 89 percent of these business owners find health insurance becoming prohibitively expensive. We need to repeal these restrictive rules on small business health insurance plans and replace them with an incentive for offering health insurance—100 percent deductibility for self-employed business owners.

We have witnessed a variety of proposals to "reform" section 89. Yet with each change, the problem grows more confusing and more complex.

Mr. Chairman, this is simply a good idea gone awry. The purported goal of expanding health care coverage is a good one; however, in practice section 89 has proved unworkable and counterproductive.

In my office, the calls and letters opposing section 89 have poured in from Oklahoma small businesses. I want the opportunity to tell those folks we've finally repealed section 89.

If we do not take this opportunity today to repeal section 89 and "son of section 89"—Sec. 106(b)—our Nation's small business community will, once again, be subject to needless restrictions on their ability to offer their employees health insurance.

I would also like to acknowledge the outstanding work of the National Federation of Independent Business [NFIB] in this effort to repeal section 89. As leaders of the Repeal Section 89 Committee, the NFIB has coordinated the repeal movement, and served their small business owners well in this battle.

Mr. Chairman, the outpouring of opposition on this matter has been nothing short of overwhelming. Before us today is a legislative vehicle that can rid us of this nagging issue once and for all. I urge you and the Members of the House to support this amendment to finally repeal section 89.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, I rise today to oppose the amendment offered by my good friend Mr. DORGAN.

I wholeheartedly agree with the sentiments behind this amendment.

I disagree that repeal is the way to proceed. There is no Member of this House who is more committed than me to responding to the legitimate complaints of businesses trying to comply with present law section 89. For months, I have been meeting with representatives of various businesses, both in Michigan and in Washington, to better understand the specific complaints and to help shape an answer. As a member of the House Ways and Means Committee, I have worked closely with the chairman and the other members to construct an effective answer.

There is no doubt that existing law is too complex, too burdensome, and too costly to implement.

At the same time, I believe that the concept of nondiscrimination and the policy embodied in section 89 should not be abandoned.

The tax expenditures for nontaxed health benefits next year alone will top $38 billion. This makes health care the largest tax subsidized fringe benefit after pensions.

Nondiscrimination rules have applied for years to pension benefits. The principle is simple: If the American taxpayer is going to provide a subsidy for a benefit plan, these taxpayers have a right to require that this plan provide benefits to more than just a handful of highly paid individuals.

The pension nondiscrimination rules have evolved through trial and error. When first instituted, they were too complex, and Congress had to revise them. But over time, employers have accepted these revised rules, and rank and file workers have received bigger pension benefits as a result.

Section 89 should be reformed by streamlining, carefully constructing, and narrowly drawing rules to prevent truly egregious abuses of the tax subsidy for health care.

The provisions in the reconciliation bill, while not perfect, go a long way toward this ideal. The rewritten rules in the bill are simple; they are easy to understand and easy to satisfy. For most employers, there is only one rule: an employer can't maintain an abusive "executives' only" plan. That is, a plan cannot make coverage available exclusively to highly paid individuals and still receive a tax subsidy.

In contrast to the complicated mechanical tests of present law, the bill provides some simple safe harbors to give employers guidance. Of course, employers do not have to satisfy the safe harbors. Instead, they may choose to demonstrate compliance by showing by facts and circumstances that their plans make coverage available to a reasonably broad group, and not merely to high paid executives.

A second rule is added for professional service corporations. It adds a simple requirement that health benefits be not merely available, but are actually elected by at least some nonhighly paid employees.

I would urge my colleagues to take a minute before they vote and consider what a complete repeal of section 89 would mean.

Repeal will mean that businesses which provide health insurance to all their employees will be treated under the law identically as their competitors that only provide insurance to top management.

Repeal will mean a step backward in our efforts to expand health insurance coverage at a time when 37 million people, many who are families with young children, have no health coverage. If we are unable to expand coverage through nondiscrimination rules, businesses may well find themselves facing even more difficult and expensive choices.

Repeal will reopen the debate on whether all health insurance should be tax exempt. In 1985, President Reagan and the Treasury Department proposed taxing a portion of employer provided health insurance as part of their tax reform plans. These proposals were dropped after business and labor agreed to work out a system of nondiscrimination rules that became section 89. As we continue to face persistent massive deficits, I fear that the Congress may start looking at tax expenditures that are completely untargeted. At nearly $40 billion a year, health insurance might be a tempting target.

In sum, the rules in the reconciliation bill while not perfect are simple, basic tests to prohibit unfair use of the tax expenditure for health plans. In the end, total repeal will not be good for business, especially those who strive to provide needed health coverage to all their regular employees, not just to the highly paid.

I urge the defeat of the amendment.

□ 1630

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. CONTE].

Mr. Chairman, I rise in strong support of the amendment now under consideration and I say it is about time. Since day one I have vigorously opposed section 89. In January, I was the first original cosponsor of legislation designed to repeal it. In July, I successfully fought for a 1-year freeze on the implementation of section 89. And just last week, as all America knows, I went before the Rules Committee to offer my amendment for the total repeal of section 89 and son of section 89, the so-called modified repeal. It is reassuring to see that my colleagues on the Ways and Means Committee agree to repeal and finally clean up their mess. The only question America has is why did it take them so long?

Section 89 and son of section 89 were legislative experiments gone berserk. It was unscientific, unprofessional back room tinkering that produced a legislative frankenstein, complete with a bolt through the head, that threatened to rampage through America's hard earned benefits plans. From day one I have asked where is the documentation that a problem existed? Where is the documentation that section 89 would reduce the number of the uninsured? There is none and America's employers are up in arms. What kind of anguish have we put them through? How much have they expended in man-hours and dollars to try and comply? And how many employees were threatened with loss of benefits because of this craziness? Finally, did section 89 bring credit to this great institution? The answer is a resounding no. Section 89 is a national embarrassment. About the only people who benefited from it appear to be two consultants who will shortly be out of business.

The good people of America have held their nose over this stench for 9 long months. Members of this side of the aisle have tried on a number of occasions to have a straight up and down recorded vote on section 89 only to fall prey to facile parliamentary maneuvers. Now we can finally do what our constituents want us to do—repeal section 89. Never have I received so many angry letters as I have on section 89—over 200 letters. But I can sleep at night because my conscience is clear. I fought it from day one. Now I urge all my colleagues to cast the vote we have all worked so hard for.

WHY SECTION 89 SHOULD BE REPEALED

Mr. Chairman, I am outraged by how far we have strayed from a legislative process which ensures that laws benefiting the greatest number of our countrymen are enacted. Of course, I am referring to the dangerous road leading us to the notorious section 89. I would like to take a few moments to review the legislative history of section 89 and then explain why I offered an amendment to budget reconciliation with my distinguished colleague, Congressman WATKINS, to repeal section 89 outright.

HISTORY OF LEGISLATION

The origin of section 89 is difficult to trace these days because no one will admit to having authored the provision. Some in Congress are blaming the Reagan administration while others are pointing their finger at members of the House Ways and Means Committee and the Senate Finance Committee who advocated this law in conference committee. Apparently, in November 1984, a tax document called Treasury I, suggested a cap on tax-free benefits. Nondiscrimination as a motivation was mentioned in passing. In 1985, Treasury I led to Treasury II, which included nondiscrimination rules, as well as a proposal that workers pay taxes on a small amount of fringe benefits.

Two veteran staffers, specialists in benefits law, Kent Mason and Harry Conaway, apparently used Treasury I and Treasury II as a basis for including section 89 in the 1989 tax-reform proposal. One sidelight to this entire affair, as reported by the Wall Street Journal, is that Mr. Mason and Mr. Conaway are now working as consultants for firms which interpret section 89 for businesses. In the end, House Ways and Means Chairman DAN ROSTENKOWSKI and then-Senate Finance Chairman BOB PACKWOOD included section 89 in the final version of the 1986 Tax Reform Act.

Moreover, it is my understanding that during consideration of the Tax Reform Act of 1986 no hearings were held in the tax-writing committees in either body which specifically focused on section 89. There was no attempt to determine what problem, if any, really existed. There was no attempt to fashion a solution to any specifics. Section 89 was just added to the Tax Code.

DESCRIPTION OF SECTION 89

What is section 89? Though most everyone knows the politics behind this convoluted piece of legislation, few truly understand the complicated tests which compose the basis for it. That's the whole problem with section 89—no one understands it, least of all small business owners who will be hit the hardest if it is enacted. In essence, section 89 requires employers to apply an intricate series of tests to their benefit plans. These tests attempt to measure whether employer-sponsored benefits are fairly distributed to both higher and lower paid employees. If a particular benefit plan fails the section 89 tests, higher paid employees are taxed on benefits that exceed the section 89 limits. The excess value or premium appears on the employee's W-2 form.

There are essentially three major tests which businesses must pass to comply with the law. The first is the 50-percent test which requires that for each benefit offered, lower paid workers must make up at least half of those employees eligible to participate. The second test states that at least 90 percent of an employer's lower paid workers must be eligible for benefits at least half as valuable as those available to executives. The last 75 percent test requires employers to offer benefits to lower paid workers the average value of which is at least 75 percent of the average value of those given to highly paid workers.

While the goal of section 89 is to increase coverage to lower paid workers and their families, its effect has been just the opposite. The complexity of the section 89 rules, combined with the lack of adequate regulatory guidance, will drive many employers to simplify their benefit programs to ease their compliance burdens or drop their programs completely. If a business owner stops short of dropping his or her benefit packages likely changes will include eliminating subsidized spouse and dependant health coverages, reducing available benefit options, and limiting cafeteria plan choices.

REPEAL SECTION 89 EFFORT AND THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Congressman JOHN LAFALCE has led the way in championing the repeal of section 89 movement by sponsoring his bill, H.R. 634. I was the first original cosponsor of H.R. 634, and since that time I have been in the forefront of the congressional repeal effort. Already, H.R. 634 has attracted 318 cosponsors.

Mr. Chairman, I would be remiss if I did not also commend the National Federation of Independent Business [NFIB] for leading this massive effort to repeal section 89. At the beginning of this fight Business Week reported, "A coalition of 33 lobbying groups, led by the NFIB, is calling on small business owners to flood Congress with letters protesting section 89." Even my friend JOHN LAFALCE has been quoted as saying, "NFIB was first to bring this issue to my attention and has used its resources to help me demonstrate how onerous section 89 is for small business."

NFIB has successfully used its growing grassroots to lobby Congress through a unique combination of letters, phone calls, personal visits back in the home district and good old-fashioned office to office visits here in Washington. The day has come when small business owners are becoming a powerful lobbying force on Capitol Hill. In fact, up until now, historically, small businesses have been the loser in legislative battles. Now, thanks to NFIB, small business has begun to translate its numerical strength into action with a growing number of legislative victories.

Founded nearly a half-century ago in 1943, NFIB was created to give small and independent businesses a voice in governmental decisionmaking. Today, the organization remains true to its charter of advancing small business owners' concerns among State and Federal legislators. Advocating outright repeal of section 89 is just one example of their commitment to small business. NFIB is now the Nation's largest advocacy organization representing small and independent businesses, with a membership of more than 570,000 business owners. NFIB is a melting pot of commercial enterprise: high-technology manufacturers and family farmers, neighborhood retailers and service companies. NFIB, I salute you for your outstanding efforts protecting the interests of small business owners, particularly concerning this onerous provision of the Tax Code—section 89.

DELAY OF SECTION 89

On July 26, the House Appropriations Committee passed the Treasury, Postal Service, and related agencies appropriations bill (H.R. 2989) which included an amendment authored by Congressman TOM DELAY, which effectively prevents the Treasury Department from providing funds for 1 year to enforce section 89. The final vote was 29-26 in favor of the amendment. Following the vote in the House Appropriations Committee, the Rules Committee on July 27 agreed to allow Congressman DELAY's request for a waiver against making tax policy on an appropriations bill, effectively protecting the section 89 provision.

NFIB worked hard to educate members of the House Appropriations Committee before they voted to delay implementation of section 89. In my position as ranking minority member on the House Appropriations Committee I spoke out in opposition to section 89 in favor of sustaining the rule. During my statement, I noted that employers in Massachusetts are hopping mad about section 89. They want total repeal and that's why, again, I signed on as the first original cosponsor of the legislation to repeal this law.

ROSTENKOWSKI'S LEGISLATION, H.R. 1864

Several modifications of section 89 have been introduced along the way in an attempt to soften the blow to the business community. These measures have all been unacceptable because they assume employee discrimination exists. This has never been proven by any studies or other supporting data. The first measure introduced by Congressman ROSTENKOWSKI, H.R. 1864, was completely unworkable for small business owners for several reasons. First, under the chairman's proposal a highly compensated employee would be defined as a 5-percent owner or those making more than $54,000 annually. This definition would include every small business owner in the country. In addition, the chairman's proposal requires that if a small business owner employs 20 or fewer employees, he or she must offer a health insurance plan that is available to 100 percent of his or her eligible employees. This is an inflexible plan which prevents small business employers and their employees from negotiating benefit packages that best meet the needs of the employee.

Mr. Chairman, the Ways and Means held hearings on H.R. 1864 earlier this year and many issues were raised. We appreciate the sincere attempts by my colleagues to reform section 89. But reform is not enough. Every time a reform is suggested, new problems appear. Repeal is the only legitimate option.

"SON OF SECTION 89"

The latest section 89 proposal offered by the chairman has been appropriately named "son of section 89." While section 89 is repealed by the chairman, he inserts 89 modification language into at least nine areas of the Internal Revenue Code. The legislative language for repeal of section 89 is over 30 pages long. This is even before the IRS begins to issue final regulations on qualification tests and compliance tests. Under this proposal, the definition of a highly compensated employee [HCE] contained within the 89 modification still means that every small business owner in the Nation will be automatically included in the HCE category and subject to any possible penalties of noncompliance. Further, under the chairman's newest proposal, if an employer offers special health benefits to one highly compensated employee, that employer must offer the same benefit under the same terms to at least one nonhighly compensated employee. This forces employers to choose among their nonhighly compensated employees, which could lead to charges of discrimination and extensive litigation.

THE DEPARTMENT OF TREASURY INVOLVEMENT

Even the administration's response to section 89 has become an argument for its outright repeal. Though the law went into effect on January 1, 1989, the Treasury Department did not issue its first set of 185 pages of regulations until March, more than 2 months after the law took effect. Most recently, the Department of Treasury agreed to delay implementation of section 89 regulations first to October 1. Then it just recently delayed enforcement until December 1.

THE FUTURE

Mr. Chairman, small business owners across this country are anxious for Congress to repeal section 89. The time has come for us to act decisively and that is why I introduced my amendment to budget reconciliation with Congressman WATKINS to repeal section 89 in its entirety. Section 89 and all of the subsequent modifications are solutions in search of a problem. This onerous law will only make it more difficult for small business to offer health benefits to their employees. Outright repeal is the only solution to end the regulatory nightmare for small business.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 5 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise in opposition to the Dorgan amendment.

First, let us get the facts straight. Section 89, contrary to what the Wall Street Journal contends, did not come from the tax staff, but from the Treasury Department. Second, section 89 does not force employers to provide benefits, but simply says that to the extent an employer chooses to provide benefits, they must be provided on a nondiscriminatory basis.

Now I know that we have all heard that section 89 is too complicated. And it was, which is precisely why we on the Ways and Means Committee revised it, not once but three times, in response to just those concerns. We enacted a series of safe harbors and simplifications last year in the Technical and Miscellaneous Revenue Act of 1988.

The chairman then introduced H.R. 1864 which totally revamped section 89. The committee then held hearings and heard from over 30 witnesses, the majority of whom did not advocate repeal, but agreed with the chairman's bill.

Finally, continuing concerns led the committee to approve the absolute bare bones nondiscrimination rules that you have before you today. Both of these revisions had broad based business support including that of the Small Business Legislative Council and National Small Business United.

So it can not be said that the Committee on Ways and Means has not been responsive on section 89.

I know we are going to lose this vote. I have no doubt in my mind. However, I want my colleagues to know exactly what they are voting for.

If we repeal section 89, we are telling American employers that the Tax Code will subsidize discrimination—that they can give themselves, their executives and their families health care, and that we do not care whether the secretary, the janitor and their families have coverage or not.

If employers only want to provide benefits for their highly paid workers and their families while abandoning the average working family, that is fine, but it shouldn't be subsidized by the Tax Code.

All section 89 tried to do was to say to employers to the extent you provide benefits, provide them on a nondiscriminatory basis. And we didn't even ask employers to pick up the whole tab for the benefits—just not to discriminate. I frankly do not think that is too much to ask for a $38 billion tax subsidy.

But the problem is that all of us do not care whether average American families have access to health care. And despite the claims that will be made by some here today, there is discrimination out there. Just look at the statistics on the 37 million Americans with no health insurance. A majority of these individuals are workers or family members in households in which at least one person is employed. Seventy percent are in families where at least one person worked at least part time.

Section 89, as reported by the committee, was a way to help the average American family have access to health care without costing the Government a dime and without imposing burdensome regulations on business.

We may abandon these families today, but I can guarantee you that at some point we are going to have to come to terms with the problems of American working families who lack health insurance, and with the discrimination that does exist in the business community.

□ 1640

May I say as I end that section 89 as reported by the committee was a way to help the average American family have access to health care without costing the Government a red dime and without imposing burdensome regulations on business. We may, and may I say, and it is going to happen, we may abandon these people today, but I can guarantee at some point that we are going to have to come to terms with the problems of American working families who lack health care, and with discrimination we are going to have to say we had a chance, we went back, we admitted we were wrong, it was too complicated, but we began by saying, "No discrimination in health care plans," and where are we today? Repeal, but we are going to regret it.

Mr. Chairman, I have never ever knowingly voted for discrimination in my life, and I have a lot of feeling that a lot of my colleagues today do not know that is what is happening. I think it is too bad, but the facts have to be stated.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I rise in strong support of the Dorgan amendment, an amendment that will relieve businesses of a needless mountain of burdensome and complex regulations.

As we already know, nearly 75 percent of the House support flat repeal of section 89.

Section 89 assumes all businesses are guilty of discrimination and must prove their innocence before being proven guilty. It burdens employers with an unjustified amount of complex regulations—regulations so complicated and expensive to comply with that some business owners have told me that they may have to drop health benefits altogether. This regulation is a legislative nightmare—a very expensive nightmare.

The Institute for Research on the Economics of Taxation, or IRET, has estimated that, due to its complexities, section 89 will impose compliance costs of over $4 billion in 1990. And who loses in this situation? The employee.

It is estimated that section 89 will add $4 billion to the cost of labor in 1990 alone and, consequently, reduce the overall level of employment by some 89,000 jobs.

The reduction in the work force will only hurt the economic balance in this Nation. By increasing the cost of production throughout the economy, section 89 will result in a loss of about $2.6 billion in GNP in 1990. Further, as a result of the reduction of output and losses in employment, the United States will lose an estimated $800 million in tax revenues in 1990.

You don't need to be an expert on tax law to realize that this provision is bad for our economy, bad for business, and most importantly, bad for all hard-working Americans. This anticompetitive provision needs to be stricken from the books. Help preserve the welfare of our small business community and protect the well-being of our Nation's work force.

Support the Dorgan amendment to flat out repeal this legislative nightmare.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, if I could, I would like to personalize this debate.

As we debate this issue here today, my brother-in-law lays in the hospital back in Wisconsin for this 44-year-old young man last Friday suffered a stroke. He has three children, and he is a partner in a small business. The reality is that he and his partner some years ago made the decision to provide a benefit plan that protected the two partners in case of disability, major illiness or death so that the company could survive. Under the rules of section 89 that program, that benefit plan, and in this case that business would be ruled illegal. We today are going to eliminate these section 89 rules and regulations because it has failed to take into consideration the realities of normal business life and family protection for people like my brother-in-law.

Mr. Chairman, every one of us in this House, or at least many of us today, will join NFIB in repealing section 89. But for me, "Bruce, this one's for you."

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I propose a toast here today to the small business man of America who brought it forcefully to the attention of the Members of this House that section 89 must be repealed. I propose a toast to the accountant for the small business man of America who brought it to the attention of the small business man that he, the accountant, could not grapple successfully with the complexities of section 89. I propose a toast to all the Members of the House who responded handsomely to the outcry of the small business man and his accountant to bring this moment to bear here in the House of Representatives. I propose a toast to the eventual outcome of this debate and the repeal of section 89.

Mr. Chairman, let us all rejoice and repeal.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong support of Mr. DORGAN'S amendment calling for a complete repeal of section 89 of the Internal Revenue Code. The American small business community has been carrying the onerous burdens of this tax provision long enough, and now is

the time from Congress to correct this misguided law.

The real tragedy of section 89 is that the provision may well end up hurting the very people that it was designed to help. In an effort to ensure better benefits to workers, section 89 may be ensuring that fewer companies offer any benefits at all for fear of noncompliance with the complicated regulations. I firmly believe that no amount of change is going to prevent compliance with section 89 from resulting in a greater number of uninsured American workers. Further, the cost of complying with the provisions of section 89 in 1990 is estimated to add $4 billion to the cost of labor in 1990. More expensive labor means fewer jobs, and America cannot afford to lose any more jobs.

Over 300 of our collegues have cosponsored Congressman LAFALCE's bill to repeal section 89. In addition, Treasury Secretary Brady has announced two separate delays in the beginning date for testing for compliance with section 89, while in the Treasury, Postal Service and General Government appropriations bill for fiscal year 1990, the House voted to prohibit the Treasury from spending any of its appropriated funds on enforcing section 89 requirements. The need for repeal is clear. I urge my colleagues to recognize this need, and to vote for Mr. DORGAN's amendment to repeal section 89.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. IRELAND].

Mr. IRELAND. Mr. Chairman, I rise in strong support of the repeal of section 89, and in doing so I would like to spend and devote some special tribute to my colleagues, the gentleman from North Dakota [Mr. DORGAN], the gentleman form Oklahoma [Mr. WATKINS], and the gentleman from Massachusetts [Mr. CONTE], and particularly the gentleman from Massachusetts has worked for these many years for the American small business community.

Mr. Chairman, reports have indicated that, if section 89 were allowed to be implemented, it would reduce the gross national product by $2.6 billion, eliminate 89,000 jobs, and cause a net loss to the Government in taxes of $800 million. America's employers support the total repeal of section 89, and it is evident that their voices are being heard by the 317 Members of this body that have cosponsored this legislation.

In passing, Mr. Chairman, I would remind my colleagues that, if the IRS were subject to the Regulatory Flexibility Act, as are other agencies of our Government, we would not have the auto tag mess, the W-2 form mess and section 89 mess.

Mr. Chairman, I support the bill.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 1 minute to the gentleman from Colorado [Mr. BROWN].

Mr. BROWN of Colorado. Mr. Chairman, I thank the gentleman from North Dakota [Mr. DORGAN], and I rise in strong support of his motion to repeal section 89.

First, let me pay tribute to my chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI] who I believe has worked sincerely to try and simplify this measure, and my support of the Dorgan amendment is in no way meant as criticism of his sincere efforts to try to reconcile what is an enormous problem. By voting for the Dorgan amendment we repeal hundreds of pages of unneeded statutes and regulations, and that is good. By voting for the Dorgan amendment we save the American public billions of dollars in useless paperwork, and that is good. By voting for the Dorgan amendment we save thousands of health plans that would have been dropped without it.

Mr. Chairman, this is good legislation, and we ought to vote for it, but let us remember that there is a reason to allow flexibility in the offering of health care plans.

I ask my colleagues, "If your spouse already is covered, why should you have to take your fringe benefits in those areas?"

Repealing section 89 is fair as well, and I think what we do today that is most important is we send a message to the American people that we are not going to try and regulate the minute details of their daily lives, and that is good, too.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, I rise in strong support of the Dorgan and Conte amendment, and I would like to especially thank the gentleman from Massachusetts [Mr. CONTE] for his continued work in getting us to this vote today.

We now have a historic opportunity to vote up or down on true repeal of section 89.

Despite the sincere efforts of the Committee on Ways and Means to provide relief for the complex and confusing mix of rules on section 89, they have substituted four pages of new language dealing with health benefit regulations for nondiscrimination rules.

Mr. Chairman, that is not repeal. That is further complication. This new measure remains inflexible. Small employers and their employees should be able to negotiate benefit packages that best meet the needs of employees.

The answer is simple. The answer is complete repeal, and once again, Mr. Chairman, I wish to thank the chairmen, the gentleman from Illinois [Mr. ROSTENKOWSKI], and the gentleman from North Dakota [Mr. DORGAN] and the gentleman from Massachusetts [Mr. CONTE] for bringing us to their point.

□ 1650

Mr. DORGAN of North Dakota. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, let me be clear for the Members of this House. A vote on this amendment is not a vote to repeal section 89 and a vote therefore for discrimination. This is not a vote for discrimination. This is in my judgment a triumph of common sense over sophisticated theory. Sophisticated theory is wonderful. It is embodied in 200 pages of rules and regulations, but I am willing to bet all the money I have, and it is not much, that there is not one Member of this House, not one, that understands all these rules and regulations, and yet we would want our constituents to do that.

Mr. Chairman, this vote to repeal section 89 is a triumph of common sense, that is what it is about. It is not about discrimination.

Mr. Chairman, I yield such time as he may consume to my friend, the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding this time to me.

I rise in strong support of the Dorgan-Conte amendment, an amendment on behalf of common sense in American business and American tax policy.

It is a widely held belief in Congress that on occasion the U.S. Tax Code can and should be used as an instrument of social engineering. In many cases, when properly implemented, targeted tax policy has proven to provide beneficial social results. The key to using the Tax Code for broad social purposes is ensuring that policies are properly implemented. Clearly section 89 was not.

I laud the intention of section 89 which was to prevent benefit plan discrimination against low-wage employees. But this piece of social engineering took on a life of its own, imposing a burden vastly out of proportion to the goal. Small businesses and nonprofits such as colleges and universities have already shelled out thousands of dollars each in consulting fees for tax experts and consultants in a struggle to comply with the complexity of the law. Even the smallest firms could pay as much as $5,000.

Experts estimate the total cost of compliance between $1 billion to $5 billion, far higher than the revenues to be raised by section 89.

Besides the cost, section 89 causes a number of other problems. Cafeteria-style health plans are jeopardized because of the sheer difficulty involved in proving that the different benefits chosen by individual employees are not discriminatory. And ironically, at a time when many Americans cannot afford health insurance, section 89 is giving business

a potent reason to stop subsidizing employee health plans.

Employers across America went into a state of euphoria 2 weeks ago when it was reported that Chairman ROSTENKOWSKI changed his position on this issue and supported repeal. The euphoria was short-lived once they read the fine print of this so-called repeal. The Wall Street Journal called the Rostenkowski repeal "Son of Section 89," and pointed out that sections of the new proposal were more onerous than the original.

But small businesses across the country led by the National Federation of Independent Business [NFIB] were ever-vigilant and adamant in their press for repeal. Our American enterprises have enough trouble trying to keep up with foreign competition without having to handle an additional burden of an overregulatory Congress performing social engineering at their and American workers' expense.

I urge my colleagues to support the Dorgan-Conte amendment for full repeal of section 89.

Let's let America get to work on meeting the demands of the competition and set aside the onerous and gratuitous demands put forth in section 89.

Let's get rid of this nightmare.

Mr. DORGAN of North Dakota. Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Dorgan amendment, although I have little illusion how the vote on the amendment is going to go.

I firmly believe that repeal of this basic health care protection for rank-and-file workers is an enormous mistake that will be long regretted. No one is more aware than I that the rules of section 89 under present law are burdensome and complex. Although some newspapers have attributed section 89 to my staff, I want to clearly state that section 89 was originated by the Reagan Treasury Department. Let me be clear on another point: I make no defense of the provisions of present law. That is why I have worked in good faith for the last 6 months with the members of the Committee on Ways and Means and the administration to simplify the rules.

In place of section 89, the Ways and Means Committee agreed to a set of simple rules to prohibit only the most egregious abuses of discrimination against rank-and-file workers. The provisions adopted by the committee—with the administration's support and, I thought, on a bipartisan basis—would simply prohibit "executive-only" health plans created by owners and highly paid managers who give themselves Cadillac health coverage, and give absolutely nothing to their rank-and-file employees. In addition, the bill would prohibit discriminatory health plans maintained by professional service organizations; that is, doctors, lawyers, and other highly paid professionals.

These rules prohibit only the most blatantly discriminatory health plans that were brought to the committee's attention by the administration. But even these simple rules—designed to deal only with abuse cases—do not satisfy the repeal advocates.

If all these rules are repealed, let's be very clear on what you are doing. You are no longer showing concern with complexity, but rather you are encouraging discrimination against rank-and-file workers. There's no other way around it. This is no longer a debate about complexity—full repeal with nothing to replace will result in discrimination, pure and simple.

Nondiscrimination rules have a simple purpose; they ensure that employee benefits are not subsidized by the Tax Code if these benefits are enjoyed only by an employer's top-paid employees. To vote for complete repeal of these rules today is to vote in favor of a $38 billion tax subsidy paid for by all American taxpayers but which only benefits those with the highest income.

Next year alone, the tax expenditure for employer-provided health care will exceed $38 billion. Let me repeat that—$38 billion. If we repeal all nondiscrimination rules, there will be absolutely no constraints on how employers may use this tax subsidy. If an executive gives himself and his vice president health coverage, and nobody else; if law partners give themselves health coverage and none to their secretaries; if a doctor covers himself and not his nurse—these health plans will be perfectly all right under the Tax Code, and fully subsidized by all taxpayers. I find that policy totally indefensible—but that's exactly what you are determined to do today. If you repeal all nondiscrimination rules, how can you justify to the American taxpayer a tax subsidy of $38 billion to support health coverage only for highly paid executives to the exclusion of the rank and file? Maybe you can—but I can't.

I firmly believe that repeal of these nondiscrimination rules will not make the fact of inadequate health coverage for American workers go away. Today we spend $38 billion a year to subsidize health insurance for the highest paid; some day—and I hope it is soon—we will have to figure out how to cover everybody else—37 million hard-working, rank-and-file Americans with no coverage at all. When that day arrives, I will proudly provide my strong support for the promotion of broader health coverage for hard-working Americans.

Mr. Chairman, we all know how the vote will go today. The Ways and Means Committee's good faith effort to simplify the rules—however hard we tried—was never good enough for those few with a blind determination for repeal. Well, today they will have their day—they have this House in full retreat. Section 89 may go away—but the issue of fundamental health care protection for rank-and-file Americans will not—we'll be back to fight another day. I look forward to working with responsible business groups. Such as the National Small Business United, the Small Business Legislative Council, and the Association of Wholesaler-Distributors, as well as the "Section 89" Coalition, to develop at the earliest legislative opportunity, a simple, workable set of nondiscrimination rules—fair to both employee and employers of all sizes.

This is nothing but a tax subsidy paid for by middle- and low-income taxpayers for the benefit of highly paid management. That is plainly wrong—and we will be back to correct it.

Mr. McGRATH. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from New York.

Mr. McGRATH. Mr. Chairman, I would like to associate myself with the remarks of the committee chairman on this particular issue, and urge defeat of the Dorgan amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I rise in support of the amendment offered by my good friend, Representative BYRON DORGAN, which would repeal section 89 and strike the new health benefit nondiscrimination rules that H.R. 2399 proposes as a replacement for section 89 of the Tax Code.

Section 89 has been a nightmare for American business. This year, I have received over 5,250 calls and letters from Kansans regarding section 89, and not one of them wanted to let me know that they like it the way we enacted it. Before we rush in and approve another version of rules intended to prevent discrimination in the provision of employee benefits, we should carefully define any problem that exists and move carefully to develop legislation that pinpoints real problems, rather than casting a net that sweeps in employers who make health benefits available to broad groups of employees, without discriminating in favor of owners and managers.

While the new employee benefit rules proposed in H.R. 3299 are an improvement over the provisions of section 89, they still require employers to engage in unnecessary analysis and recordkeeping. Congress should not be imposing additional requirements on businesses, particularly on small businesses which are ill-equipped to deal with additional paperwork burdens. These nondiscrimination rules actually may be counterproductive: Employers may respond to the requirements by deciding not to offer any health benefits at all, rather than go through the analysis required to prove that their plan is not in violation.

I am an original cosponsor of H.R. 634, legislation introduced by the distinguished chairman of the Small Business Committee, JOHN LAFALCE, which calls for the repeal of section 89, and I would like to take this opportunity to commend Chairman LAFALCE for the leadership he has demonstrated on this issue since public concern first arose over it. I have been a staunch supporter of repeal of section 89 throughout the 101st Congress, and I urge my colleagues to take this opportunity to respond to the very real and sincerely felt concerns of businesses across America, both large and small, by voting to repeal section 89, and take a step back from further promulgation of nondiscrimination rules until we have a clearer sense of what problems, if any, exist in this area, I hope my colleagues will join with me in supporting the Dorgan amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. LAFALCE].

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. LAFALCE. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding to me.

I would like to just briefly comment on the remarks of the chairman. I think he is absolutely correct. The die has been set on this particular issue, and I think the gentleman is also correct in saying that we will be back to fight another day. I think we should wipe out discrimination where we see it; however, I would strongly urge passage of this amendment. It is most important that we get rid of this section 89 and start over again. I have a great deal of confidence in the Ways and Means Committee, of which I am a member, and chairman and the ranking member, to see that we do go forward and come up with a better bill.

□ 1700

Mr. LAFALCE. Mr. Chairman, in February of this year I introduced H.R. 634, a bill to repeal section 89. As of today, there are now a total of 320 sponsors of my bill. Approximately 50 percent of those sponsors are Democrats, and approximately 50 percent Republicans. It has been a bipartisan effort. The effort has been supported not simply by business organizations. The effort also has been supported by labor organizations representing their rank and file members.

Why have virtually all groups in America supported repeal of section 89? Because the Reagan administration and the Congress made an honest mistake. Section 89 proceeded on the assumption that all employers in America were guilty of discrimination. The law, section 89, asssumed that the Federal Government was discriminating, that State governments were discriminating, that local governments and school boards were discriminating, that every nonprofit organization in America was discriminating.

Second, after assuming there was discrimination on the part of every employer, the law imposed a burden of proof on those employers to prove that they were not discriminating. These were two absolutely unreasonable steps, but then, further, in order for these employers to prove that they were not guilty of discrimination, they were told they would have to go through a mammoth data collection effort incurring tremendous expenses. And they would not have to do this for just one occasion. They would have to go through this mammoth data collection effort annually. Every single year they would have to prove they were not discriminating.

Further, in proving that they were not discriminating, they could not offer evidence as to the design of their plans. They could not offer evidence as to their intent. They could not offer evidence that they were offering the same basic plan to all employees. No, there had to be a certain quality of result rather than opportunity. It was, in short, the worst of all worlds, and we set out to repeal it. We set out to repeal it against strong opposition, too, because we were told that under no circumstances could there be repeal, that we would be met with adamant opposition.

Then the Committee on Ways and Means began deliberating on the issue, and the Committee on Ways and Means took steps, and each step was a step in the right direction. But unfortunately while each step was a step in the right direction, they did not quite go far enough early enough. Also, unfortunately, there were efforts to repeal section 89 that were inappropriate and made it more difficult to proceed appropriately.

For example, there was an effort to defeat the previous question on the urgent supplemental appropriations bill. Even if the previous question were defeated, an amendment to repeal section 89 would have been ruled out of order, and I therefore opposed that inappropriate effort. Unfortunately, it was further complicated when newspapers such as the Wall Street Journal attempted to demagog the issue and criticized those who voted for the previous question, saying that they supported repeal and then, hypocritically, voted against repeal. Nothing could be further from the truth.

There were other inappropriate efforts, too, that I opposed, such as discharge petitions, because I thought it appropriate to let the Committee on Ways and Means proceed in a responsible fashion. It was not until last Thursday that the latest effort, and there were about five separate efforts, became available. I must say that I think the Committee on Ways and Means proceeded in good faith and, in their latest version, produced a responsible product. They, in fact, did in their final version of the reconciliation bill come forth with repeal of section 89, and in addition to repeal of section 89, also amended section 106 in an attempt to deal with their perceived problem of discrimination.

Some would argue that that effort was "too little, too late." I would not. I would argue, though, that regrettably it came too late. Had that effort come 2 months or so earlier, I think we then could have hammered out the technical difficulties that still remain with the amendment to section 106, and we might have avoided this floor confrontation, something that I at all times wanted to avoid.

Mr. Chairman, there are still problems with the section 89 provisions in the reconciliation bill. There is a necessity, I think, to prove to the world that the Congress can correct mistakes once those mistakes are recognized. I think a clean and simple repeal is therefore necessary. I think it is also going to be necessary to deal with two separate problems, one of which the reconciliation bill attempts to deal with, one of which it does not. These are the problems of excessive fringe benefits and the problems of discrimination.

The amendments to section 106, as I read them, do not deal with the problem of excessive benefits. President Reagan, in his 1984 tax reform proposal, would have dealt with that problem. However, there was too much opposition, both from labor and business.

The problem of discrimination will still remain, although I think that the number of instances of unfair discrimination is relatively small. It seems to me that, first, we ought to establish exactly what the extent of unfair discrimination is, and then we should work, collectively, to fashion an appropriate remedy, rather than simply being handed something at the last minute, as was done last week.

In closing, I want to praise so many groups. I want to praise the chairman of the Committee on Ways and Means for his good-faith efforts. I want to praise labor and business organizations. I want to praise the groups that the chairman of the Committee on Ways and Means mentioned, the National Small Business United, the Small Business Legislative Council and others, and I think special praise must be given to the National Federation of Independent Business. I understand the chairman has his difficulties with that organization, but they were primary the moving force for repeal of section 89, from the beginning to the end.

However, I will say this, too, that NFIB suggested to me, informally, and unofficially, that they would be able to support some efforts to deal with both unfair discrimination and excessive benefits. If the Dorgan/LaFalce

amendment is accepted, and I hope and expect it will be—indeed, I think it must be—it is my intent in the next session to work on the problem of the taxation of excessive benefits, to work on the problem of unfair discrimination, and to work on the problem of availability of health insurance for all Americans.

It is my hope that all those organizations that allied with me in the effort to repeal section 89 will also ally with me in my good-faith efforts to deal with the problem of excessive benefits, of unfair discrimination, and of the unavailability of health insurance for all Americans, and that the Committee on Ways and Means will respond cooperatively to such collective efforts.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. LAFALCE. I am happy to yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, I, too, would like to add one more commendation to the gentleman in the well for his work on this issue. I rise in strong support of the Dorgan amendment and urge its approval.

Mr. Chairman, I rise to urge my colleagues to support the Dorgan amendment to repeal section 89. As we all know, section 89 was added to the Internal Revenue Code by the Tax Reform Act of 1986—which, by the way, this Member opposed—a 925-page bill comprising literally hundreds of provisions.

Section 89's ostensible purpose was to require more uniform coverage of more employees when employers provide tax-exempt benefits, such as health and life insurance. However, this law is so complex that only a relatively few benefits experts understand it.

How complex is secton 89? Originally, it was supposed to go into effect on January 1 of this year. It is so complicated that the Internal Revenue Service didn't even finish its 250 pages of regulations—explaining section 89 and how to comply with it—until April. Even then, these regulations created little illumination for the average business person.

Section 89 was intended to guarantee that employee fringe benefits were provided on a fair, nondiscriminatory basis. But the section 89 rules are so hard to follow and understand that many workers could suddenly find the IRS thinking they owe taxes on employer-provided benefits everyone thought were tax free.

In fact, the $200 million a year section 89 was projected to raise for the Federal treasury would have come mostly from small employers terminating their tax-exempt employee benefit plans and "cashing out" those benefits in the form of taxable income to employees.

Members of the House have come to understand this problem. I was an original cosponsor of H.R. 634, the leading bill for repeal, which ultimately attracted more than two-thirds of the House as cosponsors. I commend the chairman of the Small Business Committee, JOHN LAFALCE, for his foresight and leadership on that bill. I was glad to see that, on July 25, the House voted, in the Treasury-Postal Service appropriations, to prohibit the use of funds to implement or enforce section 89.

The Treasury Department has understood the problem. Because it's not fair to expect employers to comply with a law before the IRS can even explain it to them, they have said they would not enforce compliance with the law until at least December 1 of this year.

And I want to commend the leadership and the chairman of the Ways and Means Committee for their agreement that the House should have the opportunity to work its will on this issue. Section 89 needs to be repealed. I acknowledge that the committee approved section 89 with the best of motives and I have confidence in their expertise as they continue to work toward a leaner, cleaner, nondiscrimination policy after repeal of section 89 is completed.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, I rise and request against repeal of the section 89, not based on race, but based on class as has been stated, and I am in full support of the position taken by the chairman of the Committee on Ways and Means against this repeal.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield such time as he may consume to the gentleman from Rhode Island [Mr. MACHTLEY].

Mr. MACHTLEY. Mr. Chairman, I rise in support of the Dorgan amendment.

Mr. Chairman, I rise in support of the Dorgan amendment and ask unanimous consent to revise and extend my remarks. The outcry over section 89 is justified, and I am pleased to see that real progress has been made to curtail this messy tax regulation.

Section 89 has created more problems than it is worth because it is a preposterous creation. Imagine a tax regulation that even the IRS officials cannot figure out how to decipher! I am sure that anyone who has ever filed their taxes, or read even more complicated IRS regulations explaining tax procedures, thought that nothing more confusing could ever be codified into law. But, section 89 has pulled a rabbit out of a hat and achieved exactly that—a regulation which exceeds the understanding of its own IRS creators.

I am all for the basic tenets behind section 89. That is why I support the pre-1986 nondiscrimination provisions of the Tax Code, which the Dorgan amendment would return us to. The "son of section 89" created by the Ways and Means Committee would do little to curb this confusion, and I am certain that the owners of small businesses in my congressional district agree. I commend the efforts of my colleague from North Dakota, and urge all members to support his needed amendment.

Mr. BONIOR. Mr. Chairman, today we have an opportunity to end an administrative nightmare for small businesses. We have an opportunity to provide small business employees with increased security about their health plans. We have a chance to repeal section 89.

Section 89 started out as a provision of the 1986 Tax Code with two very simple and worthy objectives. First, it aimed to eliminate the favorable tax treatment of discriminatory health benefits packages. And second, it aimed to provide increased incentives for employee provided health care coverage.

Yet as section 89 made its way through the Congress and the bureaucracy, it turned into an impractical, unmagageable tangle of rules, regulations and requirements. Needless to say, section 89 does not fulfill either of it's original goals.

Compliance costs for this measure are estimated at more than $4 billion. The Internal Revenue Service estimates that section 89 will generate more than 9 million hours of paperwork for employers. And, finally, Mr. Chairman, it is estimated that the additional cost of labor caused by section 89 will eliminate more than 80,000 jobs.

Employers are going to be more tempted to simply drop their health plans altogether. These regulations are so complicated that it took the IRS 6 months to develop them—the Federal Government's trained tax professionals labored for 6 months.

This is not good government. Businesses in my district are furious and they have every right to be. Mr. Chairman, I rise in strong support of the amendment to strike section 89 from the books. It's time to clean up this mess once and for all.

Mr. McDADE. Mr. Chairman, I rise in support of the amendment offered by the gentleman from North Dakota [Mr. DORGAN]. As the vice chairman of the Small Business Committee, I want to express my strongest opposition to section 89 and urge my colleagues to vote in favor of repealing this onerous provision. In fact, I was pleased to cosponsor, with the distinguished chairman of the Small Business Committee, Congressman JOHN LAFALCE, the original legislation that would repeal section 89. That bill, which now has 318 cosponsors, is substantially embodied in the amendment before us today.

Earlier this year, the Small Business Committee held hearings on the deleterious impact of section 89. We heard small business trade associations, municipal employee organizations, educational institutions, and many others, tell how section 89, if not repealed, would cripple their operations. And, we have all heard from our constituents on this matter. The outcry has been overwhelming. I assure my colleagues that the small business men and women of this Nation are watching today to see if we have been listening to them and taking their concerns seriously.

Section 89 is so burdensome and unmanageable, that the Internal Revenue Service has postponed its implementation on several occasions. Originally, the IRS stated that this provision would mean an extra 9 million hours in paperwork for the businesses of this Nation. That figure has since been revised to at least 36 million hours and many believe that this figure is still too low. Similarly, it was estimated that enactment of section 89 would result in an additional $72 million in taxes flowing into the Federal Treasury. However, it is now believed that this provision will cause a $2.6 billion reduction in our gross national product

in 1990 and nearly $45 billion between 1990 and 2000. This reduction translates into a loss of $13.5 billion in taxes over the next 10 years. Thus, far from being a revenue raiser, section 89 would be a great revenue loser.

It has been shown in study after study that America's small businesses are the chief producer of new jobs in this country. In fact, nearly 60 percent of all the jobs created in this decade have come from small firms. Many of these businesses make just enough in profits to meet their payroll. Provisions such as section 89, which hit small firms much harder than large companies, could cost this Nation thousands of jobs and hundreds of small business closings. In fact, one recent study has estimated that nearly 700,000 jobs will be lost over the next 10 years if this provision is not repealed. That is a price this country truly cannot afford to pay. I urge my colleagues to vote to repeal section 89.

Mr. MILLER of Ohio. Mr. Chairman, I rise today in support of the Dorgan amendment to repeal section 89 in its entirety. All of us have heard about the regulatory nighmares that businesses of this country will encounter trying to comply with section 89, the tax change instituted by the Tax Reform Act of 1986. At the time that that act was passed, I felt there were a number of ill conceived provisions, section 89 being foremost, and therefore voted against it. Section 89 is so complex that, though well intended, it would have devastating effects on the business community. The provision was designed to eliminate discrimination in health and life insurance programs provided by employers. Unfortunately section 89 will probably have exactly the opposite effect, by causing many employers to lose their existing health and life insurance benefits and by preventing many others from obtaining them. As a member of the House Appropriations Committee, I supported an amendment to the fiscal year 1990 Treasury appropriations bill which denies funding to the Department of Treasury for the purpose of enforcing this tax provision. Several different House bills have been introduced to modify or eliminate section 89, but up to this point the full House of Representatives has not been given the opportunity to act on them. Finally, today is the day in which we will have the chance to repeal this burdensome tax provision. Do the responsible thing, support the repeal amendment.

Mr. DREIER of California. Mr. Chairman, I want to congratulate my colleagues on the Ways and Means Committee for making a sincere attempt to address the costly and burdensome provisions of section 89. Unfortunately, I do not believe the modifications contained in this reconciliation bill go far enough to prevent what will certainly be a regulatory nightmare should section 89 go into effect.

While I support the goal of nondiscrimination and ensuring broad coverage, I am concerned that the costs and bureaucratic burdens placed on small firms could force many of them to drop their health insurance plans. With an estimated 37 million uninsured Americans, section 89 could make a serious problem even worse.

Small businesses are already faced with many paperwork and tax burdens. Section 89 is another example of short-sighted Federal involvement in the day-to-day operations of American business. In my view, Congress should focus on efforts to make health insurance coverage affordable and reduce Government requirements. This would help to achieve the goal of expanding employee benefits without imposing onerous new burdens on small business.

I urge my colleagues to support an outright repeal of section 89 by supporting the Dorgan amendment.

Mr. GALLO. Mr. Chairman, I rise today in support of the amendment proposed by my colleague Mr. DORGAN, which would repeal section 89 of the Internal Revenue Code.

Earlier this year I worked hard as a member of the Appropriations Committee to prohibit the Treasury Department or the Internal Revenue Service from using funds to enforce section 89. But this was just a first step. Now we must take the final step and repeal this provision. It has been estimated that compliance with section 89 would cost American businesses $4 billion in 1990 alone. This translates into a potential loss of 89,000 jobs for American workers. The impact would be particularly acute on part-time workers.

There was never any guarantee that section 89 ever would have made health insurance and other benefits more widely available to workers. Indeed, section 89 is too confusing, too complex and too costly to have ever held out any hope of helping those workers it was said it would protect.

Some have argued that the Budget reconciliation bill accomplishes the repeal which I seek, and on the face of things, that would seem to be true. However, the Ways and Means Committee inserted modifications which could very well get us back to square one. The legislative language affects at least nine areas of the Internal Revenue Code and runs over 30 pages long. The modifications would also revisit a problem section 89 presented—while they are to take effect on January 1, 1990, the IRS would be given 6 months to write the regulations. It is not fair to expect businesses to comply with a law before regulations are issued. Also, and perhaps most significant, the Ways and Means language does not clarify the treatment of part-time employees.

Section 89 was not a good proposal which merely needed fine-tuning. It was a bad proposal which needs to be eliminated. This amendment will accomplish that goal. I support it, and urge my colleagues to join me in doing so.

Mr. BUECHNER. Mr. Chairman, I rise today in support of the Dorgan-Conte amendment to repeal section 89.

"The road to hell is paved with good intentions", so runs the cliche'd old addage, and there is no better illustration of this point than Congress' attempt to ensure that everyone had an equal opportunity for health insurance. Once again, Congress recognized an inequity in the system and wasted no time in throwing the baby out with the bathwater.

This is by no means a new phenomenon; indeed we have been doing "too much good" for years by opening such Pandora's boxes as catastrophic health insurance. Section 89 is a particularly good example, since it is not only insufficient to its own ends but detrimental to the cause it was designed to help.

The paperwork necessary to verify section 89 compliance is so inundating that few businesses in particular are drowning in the red tape spawned by this "simple" stipulation. More frightening is the fact that many small businesses are finding it infeasible to maintain their health benefits program, and are rescinding them altogether. In trying to encourage employee health benefits, Congress has threatened their very existence.

There are some lessons that Congress is very slow to learn; foremost among these is the fact that there are many problems legislation does not cure. Looking at the effects of this initiative one would be inclined to wonder if Congress would try to help a thirsty man by drowning him.

Mr. Chairman, I sincerely hope that Congress sees the moral of this story and repudiates the idea that we can create a perfect world if we pass enough laws. Section 89 is yet another good intention on the road to hell; let's not take another step in that direction: repeal section 89.

Mr. MARLENEE. Mr. Chairman, I rise in support of repealing section 89. This section of the 1986 "Tax Confusion Act" has wreaked havoc on the American small businessmen, by forcing them to comply with section 89 regulations at great expense. As a result, many small businessmen threatened to drop employee benefits rather than comply with these onerous regulations.

In May, Congress had a chance to end the section 89 nightmare by supporting a motion by my good friend from Pennsylvania, Mr. GEKAS, repealing section 89. However, the Democratic leadership did not allow a vote on this commonsense motion. But this vote today represents a positive move toward fixing the problems the liberals created for the American people when they instituted the 1986 Tax Reform Act.

I was an early cosponsor of legislation to repeal section 89, which has support from over 300 Members of Congress who realized the problems of section 89. I was also pleased that the House earlier this summer voted overwhelmingly to cut the funding for the Internal Revenue Service to implement or enforce section 89 regulations.

The intent of section 89 was a dubious one. Two liberal tax writers on the House Ways and Means Committee devised section 89 and installed it into the 1986 Tax Reform Act. Mr. Chairman, these individuals are now benefiting from this by working in the private sector as consultants helping businesses abide by section 89 regulations. These former staffers created a complicated, bureaucratic monster which they only understand.

These former staffers may have had good intentions, but they still ignored several issues. First, section 89 is so complicated that it took the Internal Revenue Service a considerable amount of time before issuing the final compliance regulations. Second, workers often negotiate health and insurance benefits creating dissimilarities between employee contracts. Finally, perks are used to reward outstanding individual performance.

By supporting the repeal of this chicanery, we will create a better environment for businesses and workers. Now, small businesses will be able to continue providing vital benefits to their employees. We must not subject the business world to more onerous, unnecessary Government regulations. I encourage my colleagues to vote for the amendment offered by Representative BYRON DORGAN.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from North Dakota [Mr. DORGAN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 390, noes 36, not voting 6, as follows:

[Roll No. 250]

AYES—390

Ackerman	Coleman (MO)	Gibbons
Akaka	Coleman (TX)	Gillmor
Alexander	Collins	Gilman
Anderson	Combest	Gingrich
Andrews	Condit	Glickman
Annunzio	Conte	Goodling
Anthony	Cooper	Gordon
Applegate	Costello	Goss
Archer	Coughlin	Grandy
Armey	Cox	Grant
Aspin	Craig	Gray
Atkins	Crane	Green
AuCoin	Dannemeyer	Guarini
Baker	Darden	Gunderson
Ballenger	Davis	Hall (OH)
Barnard	de la Garza	Hall (TX)
Bartlett	DeFazio	Hamilton
Barton	DeLay	Hammerschmidt
Bateman	Derrick	Hancock
Bates	DeWine	Hansen
Beilenson	Dickinson	Harris
Bennett	Dicks	Hastert
Bentley	Dixon	Hatcher
Bereuter	Donnelly	Hayes (LA)
Berman	Dorgan (ND)	Hefley
Bevill	Dornan (CA)	Hefner
Bilbray	Douglas	Henry
Bilirakis	Dreier	Herger
Bliley	Duncan	Hertel
Boehlert	Durbin	Hiler
Boggs	Dwyer	Hoagland
Bonior	Dyson	Hochbrueckner
Borski	Early	Holloway
Bosco	Eckart	Hopkins
Boucher	Edwards (CA)	Horton
Boxer	Edwards (OK)	Houghton
Brennan	Emerson	Hoyer
Brooks	Engel	Hubbard
Broomfield	English	Huckaby
Browder	Erdreich	Hughes
Brown (CA)	Espy	Hunter
Brown (CO)	Evans	Hutto
Bruce	Fascell	Hyde
Bryant	Fawell	Inhofe
Buechner	Fazio	Ireland
Bunning	Feighan	Jacobs
Burton	Fields	James
Bustamante	Fish	Jenkins
Byron	Flippo	Johnson (CT)
Callahan	Foglietta	Johnson (SD)
Campbell (CA)	Ford (MI)	Johnston
Campbell (CO)	Frank	Jones (GA)
Cardin	Frenzel	Jones (NC)
Carper	Frost	Kanjorski
Carr	Gallegly	Kaptur
Chandler	Gallo	Kasich
Chapman	Gaydos	Kastenmeier
Clarke	Gejdenson	Kennedy
Clement	Gekas	Kleczka
Clinger	Gephardt	Kolbe
Coble	Geren	Kolter
Kostmayer	Nowak	Skeen
Kyl	Oakar	Skelton
LaFalce	Obey	Slattery
Lagomarsino	Olin	Slaughter (NY)
Lancaster	Ortiz	Slaughter (VA)
Lantos	Owens (UT)	Smith (FL)
Laughlin	Oxley	Smith (IA)
Leach (IA)	Packard	Smith (NE)
Leath (TX)	Pallone	Smith (NJ)
Lehman (CA)	Panetta	Smith (TX)
Lehman (FL)	Parker	Smith (VT)
Lent	Parris	Smith, Denny (OR)
Levine (CA)	Pashayan	Smith, Robert (NH)
Lewis (CA)	Patterson	Smith, Robert (OR)
Lewis (FL)	Paxon	Snowe
Lewis (GA)	Payne (VA)	Solarz
Lightfoot	Pelosi	Solomon
Lipinski	Penny	Spence
Livingston	Perkins	Spratt
Lloyd	Petri	Stallings
Long	Pickett	Stangeland
Lowery (CA)	Porter	Stearns
Lowey (NY)	Poshard	Stenholm
Luken, Thomas	Price	Studds
Lukens, Donald	Pursell	Stump
Machtley	Quillen	Sundquist
Madigan	Rahall	Swift
Manton	Ravenel	Synar
Markey	Ray	Tallon
Marlenee	Regula	Tanner
Martin (IL)	Rhodes	Tauke
Martin (NY)	Richardson	Tauzin
Martinez	Ridge	Thomas (CA)
Mavroules	Rinaldo	Thomas (GA)
Mazzoli	Ritter	Thomas (WY)
McCloskey	Roberts	Torres
McCollum	Robinson	Torricelli
McCrery	Roe	Traficant
McCurdy	Rogers	Traxler
McDade	Rohrabacher	Udall
McEwen	Ros-Lehtinen	Unsoeld
McHugh	Rose	Upton
McMillan (NC)	Roth	Valentine
McMillen (MD)	Roukema	Vander Jagt
McNulty	Rowland (CT)	Visclosky
Meyers	Rowland (GA)	Volkmer
Mfume	Roybal	Vucanovich
Michel	Russo	Walgren
Miller (OH)	Saiki	Walker
Miller (WA)	Sangmeister	Walsh
Mineta	Sarpalius	Watkins
Moakley	Sawyer	Waxman
Molinari	Saxton	Weber
Mollohan	Schaefer	Weldon
Montgomery	Scheuer	Wheat
Moody	Schiff	Whittaker
Moorhead	Schneider	Whitten
Morella	Schroeder	Williams
Morrison (CT)	Schuette	Wilson
Morrison (WA)	Schulze	Wise
Mrazek	Schumer	Wolf
Murphy	Sensenbrenner	Wolpe
Murtha	Sharp	Wyden
Myers	Shaw	Wylie
Nagle	Shays	Yates
Natcher	Shumway	Young (AK)
Neal (MA)	Shuster	Young (FL)
Neal (NC)	Sikorski	
Nelson	Sisisky	
Nielson	Skaggs	

NOES—36

Clay	Hayes (IL)	Pease
Conyers	Jontz	Pickle
Coyne	Kennelly	Rangel
Crockett	Kildee	Rostenkowski
Dellums	Levin (MI)	Sabo
Dingell	Matsui	Savage
Downey	McDermott	Staggers
Dymally	McGrath	Stark
Flake	Miller (CA)	Stokes
Ford (TN)	Oberstar	Towns
Gonzalez	Owens (NY)	Vento
Gradison	Payne (NJ)	Weiss

NOT VOTING—6

Courter	Garcia	McCandless
Florio	Hawkins	Yatron

□ 1730

Messrs. CLAY, SAVAGE, STOKES, and TOWNS changed their vote from "aye" to "no."

Messrs. MARTINEZ, UDALL, and MINETA changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1730

The CHAIRMAN. It is now in order to consider Amendment No. 3 printed in section 2 of House Report 101-261.

AMENDMENT OFFERED BY MR. ANDERSON

Mr. ANDERSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ANDERSON: In section 11502 of the bill, strike subsection (c).

The CHAIRMAN. Under the rule, the gentleman from California [Mr. ANDERSON] will be recognized for 30 minutes in support of his amendment, and the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes in opposition to the amendment.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the reconciliation bill includes two provisions on aviation taxes: one to suspend the tax trigger; the other to place the resulting revenues in the general fund instead of the aviation trust fund.

While our committee does not agree with the suspension, it is the latter—the diversion of aviation taxes from the trust fund to the general fund—that we're opposing in this amendment.

We do so for a number of reasons.

First, it would seriously jeopardize aviation tax moneys that are urgently needed to meet capital development projects. For example, the FAA estimates that approximately $85 billion will be needed for airport development and air traffic control modernization over the next 10 years to ensure safety, to increase capacity, and to expand the system to meet passenger and air traffic demands.

If the Ways and Means provision becomes law there will be less funding for aviation. Projects will fall by the wayside; congestion will be a common occurrence, and the safety of our airways will be at a greater risk. Put simply, we have tremendous aviation needs and our meeting them will be impeded if the amendment is defeated.

The second factor, and a very important fact I hope our colleagues realize, is that the diversion which is so damaging to our aviation system is just not necessarily for Ways and Means to meet its revenue requirements. The added revenues from suspending the

tax trigger will be credited toward the committee's target whether these revenues are placed in the trust fund or the general fund. That has been confirmed by both the Budget Committee and the Congressional Budget Office, and I invite all our colleagues to stop by and pick up copies of letters supporting the fact that my amendment is absolutely revenue neutral.

The third factor important to note is that if this diversion is allowed to happen it could be the beginning of the end for other user fee programs.

For example, what about Social Security?

Do you want Social Security taxes used to fund defense programs? Do you want Social Security revenues applied to deficit reduction?

What about the highway trust fund? Do you want to jeopardize future funding of highway projects in your district?

These are only a few examples. There are others.

The important point is that if you are concerned, take notice. The provision in this bill is bad for aviation today, and dangerous as a precedent down the road. It is an effort to test the waters. First, the Aviation Trust Fund and then what?

Protect Social Security.

Protect unemployment compensation.

Protect black lung.

Protect civil service retirement.

Protect Foreign Service retirement.

Protect the aviation trust fund.

Protect the highway trust fund.

Vote "aye" on my amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, it is with some reluctance that I rise to oppose my friend and colleagues on the Committee on Public Works and Transportation. However, my colleagues, we have got to be willing to have user financing of our aviation system. We have that in our highway system. It is totally user financed. Our aviation system is not user financed. We have got to be willing to have the aviation trust fund pay its fair share of the cost of operating our air traffic system. The cost of air traffic controllers is just as much a part of the cost of operating our system as is the cost of building and maintaining airports, or improving our radar or our computers.

We have not been stingy with the Federal Aviation Administration and our aviation system. Spending has increased 121 percent since 1982. That is more than the increase in spending for our Department of Defense. It is not a lack of funding that has held up new airport construction or modernization of our air traffic control system. Capital spending has gone up in this period by 300 percent. Seventy-five percent of FAA funding is supposed to come from the trust fund, but because of the accounting gimmicks, in fact only 56 percent has, in fact, come from the trust fund. General taxpayers have subsidized aviation users by some $5.3 billion since 1983. The Committee on Ways and Means' provision is a one-time reimbursement of less than $1 billion of that $5.3 billion.

Now, statements have been made that the accumulation in the trust fund means that users have paid more in taxes than they have received in benefits. Exactly, exactly the opposite is the case. From 1982 to 1989, $20 billion has been collected by the FAA, and we have spent $39 billion.

□ 1740

The rest has been spent by a subsidy from the general taxpayers. We have got to be willing to use that trust fund for the purpose for which it was designed, and that is to pay for the aviation system.

Mr. Chairman, this amendment would destroy that. It is important that we defeat the amendment and stick with the proposal made by the Committee on Ways and Means.

Mr. ANDERSON, Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in strong support of this amendment.

The point that must be emphasized is that this amendment is revenue neutral. Adoption of this amendment will not add 1 cent to the Federal deficit or reduce the revenue coming into the Federal Treasury.

This debate is not about the deficit. Rather, it is about where the money paid by aviation users should go. Right now, when you buy an airline ticket, 8 percent of the cost of that ticket goes into the aviation trust fund. When a private pilot buys a gallon of fuel for his plane, 12 cents goes into that same aviation trust fund.

Since the trust fund was created in 1970, all ticket taxes, fuel taxes, and other aviation user fees have gone entirely into the aviation trust fund. But a provision in this bill now would change that. It would take half of the revenue collected by aviation user fees and place it in the general fund. This is unprecedented and unnecessary. Congress should not permit it.

This amendment would eliminate this diversion from the trust fund. It would ensure that the taxes paid by airline passengers and other aviation users continue to go into the aviation trust fund.

Let me say once again that whether you take the aviation tax revenues and put them in the trust fund or put them in the general fund, it won't make any difference at all from the standpoint of the Federal deficit. We have letters to that effect from both the Budget Committee chairman and the CBO Director.

But there is an important principle involved here. That is that aviation user fees should be spent on aviation improvements. This is a principle that holds true for other trust funds as well. The money collected for those funds should be spent for the purposes for which they were collected. They should not be diverted to the general fund.

If you have any other trust funds that you care about, whether they be aviation, highway, social security or whatever, you should be concerned about the diversion provision in this bill. You should be supporting this amendment. Because if you do not you may find that there will be raids on other trust funds as well until the whole concept of a dedicated user-supported trust fund has been destroyed.

I urge my colleagues to take a careful look at what is being done here and vote in favor of this amendment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, this is not a very difficult issue. The issue here is that over the years the Appropriations Committee has not appropriated sufficient moneys. The result is that the authorizing committee has dipped into general funds in order to support aviation and the airways and the airports of this country.

That does not make any sense, especially when the trust fund is increasing. The Committee on Ways and Means took off the trigger this year. When we did that, in effect we raised the revenues. More money is going to come in than anybody here anticipated, so we took some of that money and paid back the general fund.

It is not complicated; it is very simple. The concept is that the users of this country ought to be paying for the cost of the airports and the airways. The Members who offer this amendment apparently do not believe that.

Mr. Chairman, what we did in the Ways and Means Committee is something that everybody in this Chamber ought to support. It is simple, and it is right.

Mr. ANDERSON. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Chairman, I appreciate the gentleman's yielding this time to me.

Mr. Chairman, I take the floor to strongly endorse the Anderson amendment. I think the provisions contained in the Reconciliation Act provide a

terrible precedent. We have a tremendous need for investment in our infrastructure in America.

The Chicago Federal Reserve in a study indicated that during the 1950's we invested 2.2 percent of our gross national product in infrastructure, and we had a high rate of productivity growth. During the decade of the 1980's we invested four-tenths of 1 percent in infrastructure, and we have had a significant decline in productivity.

Mr. Chairman, I urge all my colleagues to insure that the funds collected for the trust fund go to the trust fund and in this case go for infrastructure development of our airport and aviation system. I strongly support the Anderson amendment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 5 minutes to the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Chairman, I rise in opposition to the amendment.

We have heard a lot of rhetoric today about trust funds and "keeping faith with the users," and how we must protect aviation user interests.

But we have not heard from these Members about protecting another group of taxpayers—the general taxpayers—the working families of America, the single mothers, the elderly, and many others in society who cannot afford to fly that often. No one seems to care about breaching faith with the general taxpayers who have been subsidizing aviation users for the last 9 years to the tune of $5.3 billion.

I think most Members who do not follow aviation closely will be shocked to realize that aviation users have paid for only 56 percent of total FAA expenses over the last decade. For example, the general taxpayers—not aviation users—pay the bulk of the expenses for air traffic controllers or airline inspectors. That's simply not fair.

Why isn't this share higher? Because the game has been rigged in favor of the aviation users to the detriment of the less-affluent families in this country who pay into the general fund.

When the last aviation bill was passed, the Congress, the aviation community, and the administration all agreed that the users ought to pay roughly 75 percent of the FAA's costs. But, unfortunately, obscure accounting rules buried in authorizing statutes have had the effect of substantially and artificially lowering the aviation users' share of FAA expenses from 75 percent to only 56 percent.

That 19 percent difference is not cut from the FAA's budget. It is simply replaced with general fund dollars. And it adds up to an incredible subsidy—over $5.3 billion since 1982. Those aren't my figures, or even the Appropriations Committee's figures, they are the calculations of the neutral Congressional Budget Office.

As chairman of the Transportation Appropriations Subcommittee, I see this inequity first hand. Every year we provide very large increases in FAA spending—up 121 percent over the last 9 years—yet in each of those years the aviation trust fund balance goes up. Why? Because the general taxpayers have paid for a large part of the FAA buildup instead of the aviation users. And that is simply not fair.

If there is any raiding going on, it is the general fund that has been raided—not the aviation trust fund.

The Ways and Means bill recognizes this fact—and stops the hemorrhage for 1 year. It's a simple straightforward provision. It retains $992 million of aviation excise tax receipts in the general fund instead of paying them into the trust fund. This is roughly equal the subsidy the general taxpayers would otherwise provide the aviation users in fiscal year 1990. The remaining $2.9 billion that is collected will flow into the trust fund as is normal course.

It is not the end of the world for the trust funds, it does not create Earth-shattering precedents. It will not bankrupt the trust fund. It will not increase airline ticket prices.

It will send a message to the authorizing committee that we expect the working men and women of this country who pay their income taxes—many of whom do not have the luxury of flying regularly—to be treated fairly. It does send a message that we want the authorizing committee to see to it that aviation users pay their fair share of FAA expenses—not more than their fair share and not less.

Mr. Chairman, although it is an over-used cliche, it is appropriate in this case—we need to get back to a "level playing field" when it comes to aviation financing. The Ways and Means bill accomplishes this for fiscal year 1990.

I strongly urge my colleagues to defeat this amendment.

Do working families fly?

Of course some do. But the latest available data from DOT shows that, in 1987, only 30 percent of all adults flew. That means 70 percent did not.

Furthermore, the income scale of an individual tracks closely with the likelihood of that individual using air transportation. The higher your income, the more likely you are to have flown. In 1987, only 17 percent of those earning under $15,000 flew. Only 27 percent of those making under $25,000 flew in 1987. By contrast, 63 percent of those earning $50,000 or more flew in 1987, and 97 percent of those earning over $50,000 have flown at least once in their lifetime.

This is common wisdom. The aviation users are the more wealthy members of our society. And the working men and women who pay into the general fund and who cannot afford to fly should not be subsidizing them.

□ 1750

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CARR].

Mr. CARR. Mr. Chairman, I rise in support of the Anderson amendment, and I do not do so lightly. My esteemed chairman of the Subcommittee on Transportation and Appropriations laid out his reasons for opposing the amendment, but I think a lot of my colleagues know that the trust fund must remain inviolate and that this is, in fact, converting a user fee into a general tax.

Make no mistake about it, particularly for those who have read the President's lips and follow him, this is a new tax, and they will not want to support it. It takes the trust fund dedicated users fees and creates a general fund tax out of them. The trust fund is needed. We can argue, and I argue with my good friends on the Committee on Public Works and Transportation all the time, about why we have a surplus and what we ought to do with it, but I can tell my colleagues that I am united with them in opposing this particular provision of the reconciliation bill.

Mr. Chairman, we have heard some talk about why the trust fund ought to be supporting FAA operations. That has been an historical argument as well. Most of us who have supported the trust fund support it on the basis that it is a user fee for capital improvements. Most of us do not like the idea that any money is taken out of the trust fund and spent for FAA operations.

There has been over a period of time some compromises in that regard. Those compromises have been hammered out in authorization legislation, some of which I have not always agreed with, but the Committee on Public Works and Transportation in the authorization language has designated which portion of the trust fund should go to operations.

Mr. Chairman, this is an end run on that authorization, and I urge the support of the Anderson amendment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas [Mr. ANTHONY].

Mr. ANTHONY. Mr. Chairman, I rise in opposition to the Anderson amendment. The central issue here is: What is the appropriate share between user financing and general financing, and it should be permanently resolved by the Congress.

Unfortunately, Mr. Chairman, we are not going to resolve it today, so this is a temporary action. That is the reason I think the body should oppose the Anderson amendment.

At the moment there is a surplus in the airport and highway trust fund of over $6.5 billion. Of that, three-fourths is surplus due to the fact that the general taxpayers have paid $5.3 billion of FAA operating costs since 1982. The provisions in the reconciliation bill will reimburse general taxpayers for funds they have paid to insure safety in our skies including funds for air traffic controllers. Even after the reimbursement to the general fund, aviation users will only pay one-half of the cost of insuring safe air travel in fiscal year 1990, and it is my belief that next year there could be as much as a 15-percent increase in grants for airport improvements and funding to improve FAA facilities and equipment, and I believe that this is due to Ways and Means provision in the reconciliation bill which says that aviation users will pay a greater share of the cost.

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, I say to my colleagues, "If you buy the argument that we should raid the aviation trust fund to provide to pay for government safety operations, then get ready to buy the argument that we should raid the highway trust fund to pay for highway police on our highways across this country because it is just as logical an argument, and it is just a misguided argument. If you want to destroy America's transportation future, the way to do it is to raid the aviation trust fund today, and then 6 months from now raid the highway trust fund."

Mr. Chairman, we have not built a new airport in this country in over a decade, yet we have more than doubled air travel: 460 million passengers last year.

I say to my colleagues, "If you want to keep the skies safe and if you want to provide your constituents with efficient service, then let's spend this money to modernize our aviation system, spend this money on new airports, and new runways, and new terminals and new gates."

Mr. Chairman, let us not raid the aviation trust fund. Let us not break faith with the American public.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Chairman, this is not rocket science. Everyone understands pretty much the issues here. It is pretty clear that the aviation users should pay their fair share of FAA expenses.

Does anybody disagree with that, that the trust fund has been paid for over by the general public, people who do not fly, 56 percent of FAA costs since fiscal year 1981? No one disagrees with that. That the CBO says that the general taxpayers, as the gentleman from Arkansas [Mr. ANTHONY] has said, have overpaid $5.3 billion? We do not destroy the trust fund. We would like to see the trust fund used for the purpose that it was designed for, air safety. We preserve that principle.

However, Mr. Chairman, I would add that, if we vote for the Anderson amendment, what we will be doing is ignoring the fact that the air traveling public is responsible for the FAA and this trust fund.

So I ask my colleagues: Please recognize the sound principle that the trust fund should be used for this purpose, that ordinary men and women who work and who do not fly should not be paying for this. It is that simple. Vote against the Anderson amendment.

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, there are serious problems involving air safety in America, and in my judgment the Ways and Means provisions are not consistent with these problems.

Mr. Chairman, let us just look at what has happened in the last year and a half. A United DC-10 crashes over Iowa, probably caused by aging aircraft and aging engines that the FAA ought to be working on. A USAir airplane crashes just last week at LaGuardia Airport, perhaps caused by human factors in the cockpit that the FAA ought to be working on. A UTA DC-10 and a PanAm 747 are crashed as a result of terrorism, and we last week worked on problems dealing with that. A Delta L-1011 crashed at Dallas last year because of improper weather equipment riding into a thunderstorm.

Mr. Chairman, deregulation has changed the whole way we fly in this country, and the airport trust fund is our foundation, our bulwark to deal with air safety issues. The Anderson amendment is an air safety amendment. To oppose it would send a signal to our constituents who fly and who pay the bills that padding the budget deficit ledger is more important than insuring the safety of the flying public. The dollars in the Committee on Ways and Means that they proposed to divert are not even earmarked for aviation purposes so they can go to any operations in this country having nothing to do with air safety.

□ 1800

Now, it is bad enough that the FAA allows available trust fund monies to sit idle. It is almost criminal that that happens, but it would also be criminal for this body to altogether divert monies away from the trust fund.

I urge you, for the safety of the flying public in this country, to vote for the Anderson amendment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, let us take the emotion out of this. We are not talking with the gentleman from California [Mr. ANDERSON] and his amendment that we are not going to build more airports. He is not going to provide more safety. He is not going to do the things that the gentlemen before me were talking about. That is not the issue here.

The issue is that you cannot have it both ways. You cannot spend money out of the trust fund and spend money out of the general fund. That is basically the issue.

If you believe in user pay for the aviation system of our country, then you must defeat the Anderson amendment, because what we are talking about is fairness. What we are talking about here is putting money out of the trust fund back in and reimbursing the general taxpayer here, and that is basically the issue.

Now, the accounting is very complicated. The accounting is very difficult to explain in 2 minutes, but please consider that this is a one-time shot that the Ways and Means Committee is proposing. It is not an institutional thing that they are doing. We can address all these other problems later, but the general taxpayer has been subsidizing our aviation system, and I think that the users, those who pay taxes that go into the trust fund, ought to reimburse some of those general taxpayers' moneys.

People who do not fly have been paying for a lot of our aviation system. Some of my colleagues on the Public Works Committee claim that the aviation trust fund is being unfairly raided. I respectfully disagree. If any fund has been pillaged, it is the general fund that has been so significantly subsidizing the aviation trust fund.

The amount of funds this bill proposes to retain in the general fund is not quite $1 billion. That is approximately the amount the general taxpayers would otherwise give to the flying public for fiscal year 1990.

This proposal will not disrupt the aviation trust fund. It will still collect approximately $3 billion.

I hope my colleague will oppose the Anderson amendment. The luxury of flying and its resulting expenses should be borne by those who are fortunate enough to fly. It should not continue to burden working Americans with unfair subsidization.

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, the Public Works Committee has tried over the years to get these trust funds taken off budget, because we recognize the money that is raised for these

trust funds cannot be spent for purposes other than for which they are collected.

The Appropriations Committee and the Ways and Means Committee have always resisted that, and now we see why, because what is being proposed here is to divert, indeed I would say steal, $1 billion out of a trust fund that is dedicated for a specific purpose, and apply it for purposes other than the purpose for which it is collected.

Let me stress, that is not an intramural spat. This is not just a spat between the Public Works Committee and the Ways and Means Committee or the Appropriations Committee. If this amendment does not pass, it has the potential of affecting nearly every Member in the House.

Mr. Chairman, we have an enormous need to increase the capacity of our airports. A billion dollars, I assure you, will pay for a lot of runways, a lot of taxiways, a lot of airport improvements throughout this country.

Now, the fact is, Mr. Chairman, the argument that the funds should be totally financed, or the FAA should be totally financed out of the highway trust fund has been rejected in the past. What is being tried here is to make a major policy change from what we had in the past and say, "OK, we are not going to recognize the inviolability of the trust fund."

The diversion is also entirely unnecessary, as has been pointed out in the past. So you have to ask yourself, what is the intention of the authors of this amendment? Once those funds are taken out of the trust fund, we cannot be assured they are going to be spent for aviation. They say that they will be spent for aviation, but there is no guarantee that that is going to be the case. Once they are in the general revenue, they can be used for any purpose whatsoever.

Mr. Chairman, this represents a raid. It represents a change in policy that has no hearings, no consideration by the authorizing committee. It should be rejected and the amendment offered by the gentleman from California [Mr. ANDERSON] should be approved.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, this debate is an accountant's dream. We have been tossing back and forth terminology from one side of the aisle to the other relating to the accounting of the aviation trust fund. Some Members have tried to inject into this debate the whole question of air safety. It may have some bearing on the debate, but quite honestly, I believe we are dealing more basically with an accounting question, and perhaps to get down to basics, a jurisdictional question. That is the reason it has become such a contentious issue. Let me try to put a few basic facts before you. The basics are these: Airline passengers in America pay 8 cents on every dollar that they pay for an airline ticket. The 8 cents they pay, or the 8 percent, goes into the aviation trust fund. The idea behind the fund was to use that money not only for the construction of airports, but also for the maintenance of the support services for aviation. Now, that makes sense. The passengers are paying for what they receive.

If you thought that the ticket tax, however, paid for all the expenses of maintaining the support services for U.S. aviation, I can understand why you would be upset with the idea of taking money out of that trust fund and using it for any other purpose, but the ticket tax that is collected from the passengers pays barely half the cost of keeping our aviation system modern and fully staffed.

Now, the taxpayers of this country have been subsidizing air travel from its inception. I do not have any quarrel with that. Take a look at the various modes of transportation in America. The fact is we subsidize each and every one of them, but since 1982 general taxpayers have paid into the aviation system more than $5.3 billion in subsidies, subsidies to keep air service safe and to keep it efficient.

This transfer of $1 billion from the trust fund back to the Treasury is just a payback of a part of it, less than 20 percent of it.

The question we must ask is whether that is fair or wise policy. I think it is, for the following reason:

This reconciliation bill is no picnic. The chairman of the Ways and Means Committee has had a very difficult time coming up with the money to deal with our deficit. I think he has come up with a fair transfer, and I think it one that we can live with. This transfer is not going to shortchange any airport construction. It is not going to shortchange air safety. It is in fact an effort to continue to have our Federal Treasury as solvent as we can get it, to keep the subsidy going toward aviation.

Many have spoken about our obligation to the aviation trust fund, but let us be fair. The aviation interests have received a generous subsidy from the Treasury. It is not unfair to ask for this transfer to deal with our serious deficit.

Mr. ANDERSON. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, my colleague who preceded me in the well talked about a transfer of funds, just a billion dollar transfer of funds from the aviation trust fund, $1 billion of unmet needs for air traffic safety, for airport capacity, just take the billion dollars and transfer it over somewhere into the general fund for unspecified purposes. What other trust fund will be next? What other unmet need will go unresolved by the Federal Government, the Federal highway trust fund? We are already, of course, using Social Security funds to make a deficit look smaller and borrowing the money back.

Mr. Chairman, we all fly a lot in this House. Many of us have had hair raising experiences. Think of the horror of the passengers in that minute or those seconds after the impact in midair as the plane starts to fall toward Earth.

□ 1810

If we take this billion dollars today and we take another billion dollars next year and we do not get the updated air traffic control system we need and we do not get the runway improvements and capacity improvements we need, it might be your plane or a loved one's plane that goes down in the future after a midair impact.

Vote "yes" on the Anderson amendment.

Mr. ANDERSON. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. Bosco].

Mr. BOSCO. Mr. Chairman, I have noticed that many of the opponents to the Anderson amendment are now saying that the accounting is complicated on this, but they can explain their case. In fact, one of the speakers just said the accounting was complicated, and he could not explain it in 2 minutes.

Mr. Chairman, I would submit that today and in the days to come we are repealing a lot of things that the accounting was complicated on, and I would advise all of the Members that before they go off and spend airport trust funds in the general fund they had better be sure they can explain it to the American people in 2 minutes.

The fact is we ask airline ticket buyers to contribute to our airport infrastructure. We do not ask them for $1 billion that is poured into the General Treasury of the United States to be used for virtually any purpose that the Government wants it to be used for. I say that we have not built an airport in this country since 1974. We have our work cut out for us.

Use the trust fund money for trust fund purposes.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, I thank the gentleman for yielding me this time.

The gentleman from Oregon and the gentleman from California himself has indicated that this money that is being removed, a billion dollars, would have been used for necessary airport expenses. Could the gentleman from

California enlighten me as to what the needs were that were unmet last year and how much money was in the airport trust fund last year, the year before, the year before that, the year before that?

Mr. BOSCO. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I am happy to yield to the gentleman from California.

Mr. BOSCO. Mr. Chairman, one thing that the gentleman from Pennsylvania [Mr. CLINGER] pointed out is the Committee on Public Works and Transportation, in trying to build airports, in trying to improve the infrastructure of our country's air transportation system, has begged the Congress to take these funds off budget, but because of Gramm-Rudman and the other legerdemain that we have around here we have not been willing to expend those funds.

Mr. THOMAS of California. Reclaiming my time, the only thing to do with the trust fund is to take it off budget so somebody can use it for other purposes rather than repaying the general fund for a significant portion of the subsidy that has been supplied to the FAA which is used by the airlines.

Mr. ANDERSON. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Chairman, I cannot believe the argument of those opposing this amendment. The only argument that I have heard is that the taxpayers are now subsidizing the aviation needs of this country.

The Committee on Public Works and Transportation, and maybe others of this Congress, have called upon the Committee on Ways and Means and the Congress for years to take the aviation trust fund moneys off budget so that they can be used for aviation purposes, and aviation purposes only. That is the reason they are collected and the only reason for which they are collected.

But these committees, and the money committees and other Members of the Congress have resisted the taking of these funds off budget. They now want to take the trust funds out of the trust and spend them elsewhere.

Our committee has called for the use of these funds, much-needed funds for aviation purposes, but the money committees want to use them for other purposes. The only way they can do this is to keep them in the trust fund and then take them out into the general purposes. We cannot have it both ways. We cannot prevent the trust funds from being used for aviation purposes and then complain that the general funds have to be used to subsidize aviation purposes.

Aviation trust funds will be now, and then highway trust funds will be next, and then Social Security trust funds will follow. All trust funds would be imperiled.

Mr. Chairman, I call upon my colleagues to support the Anderson amendment.

Mr. ANDERSON. Mr. Chairman, I yield 1 minute to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Chairman, as a former member of the Committee on Public Works and Transportation I rise in support of the Anderson amendment. I believe, for two reasons, that it is important that we continue to target aviation tax moneys to the aviation trust fund.

First, these moneys are badly needed in order to assure that critical modernization programs move forward. The continued safety of the traveling public depends upon airport and air traffic control modernization programs funded out of the aviation trust. I would caution that when we compromise the trust, we compromise public confidence in the entire air transportation system.

Second, I believe strongly that if we allow the transfer of aviation tax moneys to the general fund we establish a dangerous precedent and we call into question the integrity of other trust funds.

If we break faith today with the aviation users who have contributed to this fund to insure a safe and efficient aviation system, would we be more likely to break faith tomorrow with those Americans whose taxes have supported the highway trust fund? Let us leave no doubt: Support the Public Works Committee amendment and preserve the integrity of the aviation trust fund.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, it would seem that the Committee on Public Works and Transportation is presenting a solid phalanx of support for the Anderson amendment.

I think it would be well for the body to consider what the Secretary of Transportation has to say on the subject. He writes to the Honorable THOMAS FOLEY in a letter that I will put into the RECORD at the appropriate time, and this is his last paragraph:

I am committed to meeting aviation capital needs. I believe that aviation users are truly dependent on the men and women of the FAA who control aircraft and maintain air traffic equipment. I ask your support of the Ways and Means Committee's effort to ensure continuation of aviation user fees. I look forward to working with you and the Committee on Ways and Means and Public Works and Transportation in the next year as we try to find more permanent solutions to these problems.

THE SECRETARY OF TRANSPORTATION
Washington, D.C. 20590, September 26, 1989

Hon. THOMAS S. FOLEY,
Speaker of the House,
House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: The House Ways and Means Committee has proposed, as part of its plan to raise $5.3 billion in revenues through reconciliation, to suspend for one year the aviation tax trigger. The trigger, which was included in aviation legislation enacted in 1987, threatens to reduce aviation revenues by $1.2 billion in 1990. The Committee is also proposing to retain about one billion dollars in aviation user fees in the general fund. That may appear to be a diversion of aviation user fees for non-aviation purposes, but, in fact, it is the only way to ensure that the fees will be used now for aviation purposes. These fees could be used by the Federal Aviation Administration (FAA) to pay the salaries of the people who are responsible for safety of the system, such as air traffic controllers.

We support the Committee's proposal because we strongly favor user financing of the aviation system and believe that an adequate source of dedicated revenues is critical to meeting future aviation needs.

There are many misconceptions about aviation financing and the Aviation trust Fund. Many users believe that aviation spending has not been a priority to the Administration or to the Congress. In fact, the FAA budget has more than doubled between FY 1982 and FY 1989, increasing from $3.1 billion to $6.4 billion. Capital spending alone has increased by almost 300 percent during that period. The Administration has requested $7.4 billion for FY 1990, another significant increase. Many users also believe that they have paid more in taxes than they have received in benefits. In fact, the reverse is true. Between 1982 and 1989, $20 billion was collected in trust fund revenues, but a total of $39 billion in Federal funds has been made available to the FAA.

While FAA's operating expenses, such as salaries for air traffic controllers, are an eligible use of trust fund resources, a provision in existing law limits the extent of that eligibility. By retaining a portion of the fees to be collected next year in the general fund, the Ways and Means Committee provision would fund more of FAA's critical safety personnel from aviation user fees.

I am firmly committed to meeting aviation capital needs. I also believe that avaiation users are truly dependent on the men and women of the FAA who control aircraft and maintain air traffic equipment. I ask your support of the Ways and Means Commitee's efforts to ensure continuation of aviation user fees. I look forward to working with you and the Committees on Ways and Means and Public Works and Transportation in the next year as we try to find more permanent solutions to these problems.

Sincerely,

Samuel K. Skinner.

Secretary Skinner does not support the Anderson amendment. He supports the Committee on Ways and Means. Why? It is simply not enough for the Committee on Public Works and Transportation to say, "If you had taken us off budget, we could have spent more money." Any committee in

this House could spend a lot more money if we let them off the budget.

The problem is that the Committee on Public Works and Transportation has not been able to convince the appropriators to spend out of what they consider to be too large a pot. The result is that the money has piled up in there.

The Committee on Ways and Means, in response to the request of the Committee on Public Works and Transportation, offered them the trigger which was supposed to stimulate more spending for capital account. It did not work, so we have the option of throwing away the trigger and letting money pile up in the account or seeing if the money would be good for aircraft safety.

The Secretary assured us that the money could be used for the FAA which was already being subsidized by the general taxpayers for the use of air travelers. That is not fair, I am told by the Department of Transportation and by the Committee on the Budget. The user benefits have exceeded user fees between 1982 and 1989 to the total of about 2 to 1. Tax receipts from the aircraft users, $20 billion; Federal spending for the FAA and safety, about $39 billion.

The Committee on Ways and Means decided, after talking to Secretary Skinner and to Director Darman, that we would take the advice of our Committee on Appropriations and the administration and provide that the money could be spent for aircraft safety.

□ 1820

The Committee on Public Works and Transportation offers us the option of putting the money back in the trust fund where it will continue not to be spent. We are offering an option to put it out there where the FAA can use it and make air travel more safe.

It seems to me that the Committee on Public Works and Transportation is valuing turf over safety, and I do not think that makes a lot of sense.

After talking to Secretary Skinner I talked again, as a member of the Budget Committee, to the Director of Management and Budget and queried him on the administration's position. He said that it was definitely a matter of great importance to him. He supported the Committee on Ways and Means' position and urged me and members of my committee, if we valued the budget process and wanted to keep aircraft safety going that we should vote against the Anderson amendment, and that is what I can report to the House on the administration's position and the position of the Committee on Ways and Means. We were looking for a way to preserve the revenues and yet to let them be used for aircraft safety. We did not need to raid anybody's trust fund.

Unfortunately, the money has piled up in the trust fund. We have done everything that people asked of us, and now we ask that Members reject the Anderson amendment.

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Chairman, I thank the gentleman for yielding to me the 2 minutes and strongly rise in support of the Anderson amendment.

I would say to every Member in this House, Democrat or Republican, shame, shame, shame, because the reason that we are not able to do the infrastructure work in this country is not because the Appropriations Committee has not provided the money. We have had the opportunity there. It is called a trust fund.

Trust means to me that the money is kept in trust for the purpose intended. We voted for that, all of us did, and we voted to set up trust funds that provided the resources for the people of this country. This is not a question of shifting money around.

Fundamentally what we are coming back and saying, and hear me, we are using the trust fund to shield the deficit. Shame on Congress. Shame on Congress. Shame on Congress.

Face up to it. That is what the issue is about, and in effect here is one step somebody is trying to take at this point to say we will not do that anymore now, we will take the first step, we will take the first $1 billion and put that $1 billion into the general treasury, and tomorrow we will take the second $1 billion and put that in.

But the fact fundamentally remains that the trust funds are held in trust in the name of the people of the country, and that is the bill that Congress passed, and you are attempting to divert away the funds that the people were allocated for the purpose intended. That is the truth, and that is the issue we have to deal with.

This is the wrong time to do this. This is not a jurisdictional fight whatsoever. It simply comes back and says that the future capital of the infrastructure of this country is involved in this debate. It is not that simple, and once we start to divert those funds we break trust with the American people, and that is the reason fundamentally I support the Anderson amendment over anything else that is before us today.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. ARCHER.]

Mr. ARCHER. Mr. Chairman, I thank the gentleman for yielding time to me and only want to corroborate and reiterate what the gentleman from Minnesota [Mr. FRENZEL] said. This money that is being spent, No. 1, is being spent for safety, and safety on airline traffic is as important as building runways. I do not think any of us can deny that.

It is being spent for a purpose for which it was collected, which is to make the airports safer.

But second, Gramm-Rudman makes tough choices. We have to face up to that, all of us in this body, and they are not going to get easier. I for one would rather see the trust funds put off budget, and one day I believe we will do that. But they are not off budget today.

A deal was made in order to implement the budget summit agreement, a compromise, and now the Committee on Ways and Means is going to stand full force behind that compromise. It may not be totally acceptable to everyone in this body, but it is the only way we can go at this point and measure up to our responsibilities under the budget agreement.

Mr. ANDERSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. BORSKI].

Mr. BORSKI. Mr. Chairman, I rise in strong support of the Anderson amendment.

Mr. Speaker, I rise today to join with the distinguished chairman of the Public Works Committee in support of his amendment and in support of his strong commitment to ensuring that the future of American air travel will not be held hostage by budget tricks or short-term thinking.

I would urge my colleagues to remember the purpose of a trust fund.

It is to endow a vital activity with the resources needed to ensure its future.

Diverting funds from a trust fund for immediate emergencies ensures that when the future arrives, when the rainy day comes, we will be unprepared.

This proposal would divert funds which could modernize our air traffic control system; fund the capital developments which will allow our airports to expand and better serve American travelers and businesses; and provide the maintenance which is vital to the safety and security of every traveler.

Don't be mistaken by the fact that huge surpluses have built up in the fund.

Those surpluses exist not because they are not sorely needed for our air infrastructure, but because they are victim of an administration budget trick.

Building up the airport trust fund with one set of budget tricks to keep the deficit seeming smaller and then using another budget stratagem to take the money, does not live up to the idea of a trust fund, and does not serve the public interest.

The CBO and the House Budget Committee have issued opinions stating that the added revenues from suspending the tax trigger will count toward the $5 billion no matter which fund these moneys go to.

So let's keep them where they belong, in the airport trust fund.

I strongly urge my colleagues to support the Anderson amendment, showing that when we

already have the funds, we are still worthy of the trust which accompanies them.

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, first of all I rise in very strong support of the amendment offered by our fine colleague, the gentleman from California [Mr. ANDERSON], the chairman of our House Committee on Public Works and Transportation.

For 8 years I had the privilege of serving as the chairman of the Aviation Subcommittee for the House Committee on Public Works and Transportation. If there was anything I ever heard every Monday when Members returned to this Chamber it was, "Mineta, the plane was delayed." So we tried in 1982 and 1987 to make sure that the aviation user fees that were being collected were going to be used for safety and capacity improvement purposes. So for that reason I included in 1982 and 1987 a penalty clause to make sure that these were being used for capital improvement purposes, and second, that if 85 percent of the moneys that were appropriated or authorized under law were not being used for aviation purposes, then the aviation taxes would go down, because it makes no sense to collect taxes against the users and continue to have that aviation trust fund increase in size without having that money being used for safety and capacity purposes.

So this year we have done that. We have come to that point where the Appropriations Committee did not appropriate 85 percent, and the tax trigger takes place in January 1990.

I understand why the Committee on Ways and Means does not want to lose this revenue. But what they are doing is, by subterfuge, stealing money, putting it into the general fund by saying we will keep collecting the taxes, but the 50 percent that we would otherwise have collected we will remove from the aviation trust fund, and leave in the general fund, and to me that is not a correct way to do it.

Please support the Anderson amendment in order to keep the safety and capacity moneys for aviation.

Mr. ANDERSON. Mr. Chairman, I yield 23 minutes to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Chairman, let me just say first of all that I appreciate very much the chairman yielding me this time, and I rise with sadness to take a position of asking for a yes vote on the Anderson amendment. I am sad because in this case I clearly am disagreeing with the administration. I prefer not to disagree with the administration, although earlier today when I voted to repeal section 89, along with most of my colleagues, I recognized that the adminstration was not particularly happy with that vote either. I think there are times when we are elected as Members of the House to decide for ourselves what we think is right.

I also sympathize with the pressures on the Committee on Ways and Means and the pressures on the Appropriations Committee. The fact is that trying to meet the Gramm-Rudman target and trying to work our way toward a balanced budget is very, very difficult. I can appreciate the temptation of the aviation trust fund and the money which is sitting there, which looks like it might be available. But I think there are a couple of very key questions we have to ask.

First, we made a pact with the taxpayers when we said we were going to set up a trust fund. The whole concept of calling it a trust fund was to suggest that even though politicians are often tempted, on this particular occasion with this particular user fee they could count on us to spend it the way we promised.

How did we promise to spend it? We promised to spend it on building more airports, which we need. We promised to spend it on putting new computers in the air traffic control system, which we need.

□ 1830

We promised to spend it on advances in radars, in particular on new experimental radars that would enable us to fly aircraft in and around microbursts without crashes, which we need. And we said if you will let us raise this user fee we promise you that.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Chairman, you know what the real issue here is? It's who's going go pay for FAA operations, the people who fly or the people who don't? If my friends who support this amendment think that the general taxpayer should continue to dig into his pocket to subsidize frequent flyers, then I humbly suggest they consider their priorities.

We established the aviation trust fund to make the user pay for the cost of building, maintaining, and operating our aviation system. The general taxpayer, who gets some indirect benefit, would only pay a small portion of the expense. But over the last 8 years, the general taxpayer, the little guy who doesn't fly, has overpaid the system by more than $5 billion. Who is being taken for a ride?

Shame on the Public Works Committee gouging the little taxpayer like that; shame on you.

How much longer are we going to make the little guy foot the bill? I say its time to make the fat cats start paying their fair share.

The Anderson amendment says just the opposite. Keep the status quo, make the little guy dole out the subsidy. I don't think that's very fair. The amendment would make the little guy pay almost $1 billion more than he should for FAA operations in fiscal year 1990.

The provision in the reconciliation bill would make the aviation user pay that share. I think the choice is clear, and I urge my colleagues to do the right thing: Oppose the amendment.

I am glad to be with DANNY ROSTENSKOWSKI on this.

Mr. ANDERSON. Mr. Chairman, I yield 30 seconds to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I rise today in support of an amendment offered by the distinguished chairman of the Public Works Committee, GLENN ANDERSON, to strike a provision in the Ways and Means' title that would divert almost $1 billion in aviation user taxes from the aviation trust fund to the general fund.

The Ways and Means proposal could have an adverse effect on Nashville International Airport as well as airports across the country. The aviation tax moneys which the Ways and Means proposal would place in the general fund are badly needed to meet the capital development needs funded by the airport and airway trust fund.

For instance, $2 billion a year will be required annually to continue the FAA's air traffic control modernization program. Furthermore, the FAA will need $3 billion to $3.5 billion per year just to sustain modernization projects already committed to and in the delivery pipeline.

Finally, placing aviation user taxes in the general fund is a violation of the basic principle underlying these dedicated user fees. When the aviation trust fund was established in 1970, it was a basic principle of the trust fund program that user fees collected would be spent only for the aviation programs funded out of the trust fund. The user fees were not to go into the general fund where they can be spent for any Government program. The Ways and Means proposal to place user fees in the general fund is a breach of faith with aviation users.

This is not just a budget issue. It's an issue of public safety and aviation efficiency. I urge all of my colleagues to support the Anderson amendment to ensure that aviation user fee revenues go into the trust fund.

Mr. ANDERSON. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. I thank the chairman.

As that old philosopher Yogi Berra said, "This is the most unheard thing I have ever heard of."

I do not know how you do this with a straight face. This is a $900 million pickpocket. This is flat-out stealing. This comes in and says we are going to

take money out of the trust fund and use it for food stamps and there is no guarantee that it will not be used for that.

You remember when Chairman Jim Howard stood on this floor on a motion to recommit and begged the House to use that money for construction of airports. Not one single airport has been built in 15 years, only one runway in the last 10; the traveling public has doubled air transportation in the last 10 years and now because we have not spent it they are going to use it for other purposes.

Shame on you.

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. OBERSTAR], the chairman of the Subcommittee on Aviation.

Mr. OBERSTAR. Mr. Chairman, the budget summit has nothing to do with this issue. It did not address this at all. The transfer does not deal with the deficit.

Leaving the money in the aviation trust fund accomplishes everything Ways and Means needs to do. They get credit for a billion dollars. Why play this little charade, this little game of transferring money around? There is no assurance in what the Ways and Means Committee has done that one penny of this money is going to be spent or airport improvements, not a single one.

The issue inside these walls is committee jurisdiction; I want to tell you, my friends, the issue outside this Chamber is airport improvements, building airports, making the air traffic control system safe. Keeping the $900 million in the trust fund will build airports, will keep aviation safe, it will put air traffic control equipment in place to cover the radar that we need at airports. We need runway extensions, runway resurfacing and crosswind runways and parking aprons. Putting this money in the general fund is not going to build them.

There are $7 billion worth of airport improvement projects pending with the FAA right now, a whole list of them which came down here. If you have an airport in your district it is in this list right here.

If you want to go back home and explain to the people why you put money into the general fund and took it out of the aviation trust fund, come and take a look at this stack, $3.1 billion worth of projects right here.

You are going to take it out of your future; you are cheating yourself; you are cheating air travelers. Yes, there is a provision in law that says some of the money from the aviation tax could be used for operation and maintenance, after the law has been complied with, after the amount authorized for airport improvements and facilities and improvements have been spent for the purposes for which intended.

Spend those moneys; then what is left over can be spent on operation and maintenance.

Why is Secretary Skinner supporting the Ways and Means Committee? Simply because the Office of Management and Budget told him to do so. His heart is not there, believe me. Your heart should not be there either.

Vote for the Public Works Committee, vote for the Anderson amendment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to the Anderson amendment.

Members of Congress are probably among the most frequent flyers and users of the National aviation system. Those of us who fly to and from our districts each week are well aware of the agitation and frustration of air travel. There is an obvious need for improvements to the air travel system. And those improvements need to be financed. The critical financing issue is: Who should pay—general taxpayers or aviation users? These issues have been the subject of congressional debate for many years. Throughout all the debate, one message is clear—our airports and our entire airway system need funding, and a reduction in aviation taxes will not get us any closer to meeting these essential needs.

The Ways and Means Committee's provision in the reconciliation bill to which Mr. ANDERSON objects, is not intended to permanently resolve the issue of the $6 billion trust fund surplus. Rather we have attempted to provide an incentive for increased aviation spending. The reconciliation bill provides for a 1-year suspension in the tax trigger and allows the general fund to retain a portion of the aviation tax revenues with the expectation that such action will result in increased trust fund spending in fiscal year 1990. The provision responds to the concerns raised that aviation users, who finance only 50 percent of the FAA budget, should pay a greater share of the costs of FAA operations. Adoption of this provision in the reconciliation bill encouraged the Committee on Appropriations to report legislation which will increase spending for our airports and FAA facilities by close to 15 percent in fiscal year 1990. Even after the general fund is reimbursed with a portion of the trust fund revenues, American taxpayers will still support close to 30 percent of the FAA budget.

Finally, I want to remind you of what is not included in the Ways and Means Committee's reconciliation bill. We have not extended the aviation-related excise taxes past their scheduled 1990 expiration. This was done so that Congress could find a more permanent solution next year to the needs of our Nation's aviation system.

Along with the leadership of the Appropriations Committee and the administration, I strongly urge my colleagues to oppose the Anderson amendment.

□ 1840

Mr. ANDERSON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in closing, let me emphasize the following: first, the diversion of the trust fund money to the general fund is wrong. It is bad public policy; it is counterproductive; it puts our airways at a greater peril; it jeopardizes aviation projects; it will make airport congestion a common occurence; and it is a threat to Social Security and other user-fee programs. I urge an aye vote on my amendment.

Mr. LEWIS of Florida. Mr. Chairman, I strongly support the Anderson amendment.

As a pilot myself—and a strong supporter of aviation—I have long been concerned that the current on-budget position of the aviation trust fund would cause a temptation to dip into the trust fund. Sure enough, my worst fears have been realized.

This bill would divert almost $1 billion from the aviation trust fund to the general fund.

I am strongly opposed to this action. This notion threatens the basic concept of the aviation trust fund, and therefore all of our Nation's trust funds.

Even more important, this would be a breach of faith with millions of aviation users.

Yes we must balance the budget. However, we must not balance the budget by going back on past promises.

Everytime an American buys a plane ticket or flies his own plane, he or she pays into this trust fund through an excise tax which is meant to be used only for airport improvement and safety. This money should be spent this way, and needs to be spent this way.

If we take the trust fund off-budget, we can be assured that this money will be spent for the safety and welfare of the flying public.

These funds were meant to benefit the flying public who contributed the money—they were not meant to be just another way of hiding the true deficit.

In addition, what kind of precedent are we setting? We currently have several trust funds which are on-budget. If we start dipping into one, who is to say we must leave others, such as the Social Security trust fund alone?

Simply put, this limited amount of sleight of hand budget reduction is not worth the amount of trust that the public will lose in their Government. It's picking the pocket of the aircraft user. I heard today that there is a surplus in the trust account. This is fallicious if the trust fund was used properly—commercial and general aviators would be safer today.

Again, I congratulate the gentleman, Mr. ANDERSON, chairman of the Public Works Committee for offering this bipartisan amendment and I strongly urge its adoption.

Mr. LAGOMARSINO. Mr. Chairman, I rise to support the amendment offered by Mr. ANDERSON and to protect the integrity of user fee financing. Diverting almost $1 billion from the airport and airway trust fund into the

Treasury's general revenue fund is a breach of contract faith with the aviation passengers and pilots who have been paying into the fund since 1970. Further, it also sets a dangerous precedent that could lead to damaging the integrity of other user funded trust funds such as the highway trust fund.

Every day the need for continuing improvements in air traffic and airport safety becomes more apparent and more critical. The taxes that aviation users pay into the trust fund are dedicated to improving and modernizing the air transportation system. If air travel is to remain safe, the FAA is going to have to spend billions of dollars over the next 10 years on improvements to airports and air traffic control systems. The money to pay for these improvements must not come out of the pockets of the American taxpayer. Instead, they should be paid for by those who will benefit from them—the aviation user. In order to meet these needs, the airport and airway trust fund must remain healthy and intact.

Almost 250 of our colleagues have joined me in cosponsoring House Resolution 41, expressing the sense of Congress that Federal gasoline taxes should not be raised in order to reduce the Federal deficit. I ask all of my colleagues who support that resolution to look very carefully at this proposed diversion of funds. Only aviation users pay into the aviation trust fund, and no one group of Americans should bear an unfair tax burden in the national effort to reduce the dangerous Federal deficit. I urge my colleagues to support Mr. ANDERSON's amendment, and to keep the trust in the airport and airway trust fund.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. ANDERSON].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 305, noes 116, not voting 11, as follows:

[Roll No. 251]

AYES—305

Ackerman	Bryant	Darden
Anderson	Bunning	Davis
Annunzio	Burton	de la Garza
Applegate	Bustamante	DeFazio
Armey	Byron	DeWine
Baker	Callahan	Dickinson
Ballenger	Campbell (CA)	Dicks
Barnard	Campbell (CO)	Dixon
Bartlett	Carper	Dornan (CA)
Barton	Carr	Douglas
Bateman	Chandler	Dreier
Bennett	Chapman	Duncan
Bentley	Clarke	Dwyer
Bereuter	Clay	Dymally
Bilbray	Clement	Dyson
Bilirakis	Clinger	Eckart
Bliley	Coble	Edwards (OK)
Boehlert	Coleman (MO)	Emerson
Borski	Collins	Engel
Bosco	Combest	English
Boucher	Condit	Espy
Boxer	Conyers	Evans
Brennan	Costello	Fawell
Broomfield	Cox	Feighan
Browder	Craig	Fields
Brown (CA)	Crane	Flake
Brown (CO)	Crockett	Foglietta
Bruce	Dannemeyer	Ford (MI)
Frost	Manton	Sangmeister
Gallegly	Markey	Sarpalius
Gallo	Marlenee	Savage
Gaydos	Martin (IL)	Sawyer
Gekas	Martinez	Saxton
Gephardt	Mavroules	Scheuer
Geren	Mazzoli	Schiff
Gillmor	McCollum	Schneider
Gilman	McCrery	Schroeder
Gingrich	McCurdy	Schuette
Glickman	McDade	Sensenbrenner
Gonzalez	McEwen	Shays
Gordon	McMillan (NC)	Shumway
Goss	McNulty	Shuster
Grandy	Meyers	Sikorski
Grant	Miller (OH)	Sisisky
Gunderson	Miller (WA)	Skaggs
Hall (OH)	Mineta	Skelton
Hall (TX)	Moakley	Slattery
Hamilton	Molinari	Slaughter (NY)
Hammerschmidt	Montgomery	Slaughter (VA)
Hancock	Moorhead	Smith (NJ)
Hansen	Morella	Smith (TX)
Hastert	Morrison (CT)	Smith (VT)
Hatcher	Morrison (WA)	Smith, Denny (OR)
Hayes (IL)	Murphy	Smith, Robert (NH)
Hayes (LA)	Myers	Smith, Robert (OR)
Hefley	Nagle	Snowe
Henry	Neal (NC)	Solarz
Herger	Nelson	Solomon
Hertel	Nielson	Spence
Hiler	Nowak	Spratt
Hoagland	Oakar	Staggers
Holloway	Oberstar	Stallings
Hopkins	Olin	Stangeland
Horton	Ortiz	Stearns
Hubbard	Oxley	Stenholm
Hughes	Packard	Stokes
Hunter	Pallone	Studds
Hutto	Parker	Stump
Inhofe	Pashayan	Swift
Ireland	Patterson	Tallon
Jacobs	Paxon	Tanner
James	Payne (NJ)	Tauke
Johnson (SD)	Payne (VA)	Tauzin
Jones (GA)	Penny	Torres
Jones (NC)	Perkins	Torricelli
Kanjorski	Petri	Towns
Kaptur	Pickett	Traficant
Kennedy	Porter	Udall
Kildee	Poshard	Unsoeld
Kleczka	Price	Upton
Kolbe	Pursell	Valentine
Kolter	Quillen	Vento
Kostmayer	Rahall	Visclosky
Kyl	Ravenel	Volkmer
LaFalce	Ray	Vucanovich
Lagomarsino	Regula	Walgren
Lancaster	Rhodes	Walker
Lantos	Richardson	Walsh
Laughlin	Ridge	Weber
Leath (TX)	Rinaldo	Weiss
Lehman (CA)	Ritter	Weldon
Levine (CA)	Roberts	Wheat
Lewis (FL)	Robinson	Whittaker
Lewis (GA)	Roe	Williams
Lightfoot	Rohrabacher	Wise
Lipinski	Ros-Lehtinen	Wolpe
Lloyd	Rose	Wyden
Long	Roth	Yates
Lowey (NY)	Roukema	Young (AK)
Luken, Thomas	Rowland (CT)	Young (FL)
Lukens, Donald	Rowland (GA)	
Machtley	Roybal	
Madigan	Saiki	

NOES—116

Akaka	Conte	Flippo
Alexander	Cooper	Ford (TN)
Andrews	Coughlin	Frank
Anthony	Coyne	Frenzel
Archer	DeLay	Gejdenson
Aspin	Dellums	Gibbons
Atkins	Derrick	Goodling
AuCoin	Dingell	Gradison
Bates	Donnelly	Gray
Beilenson	Dorgan (ND)	Green
Berman	Downey	Guarini
Bevill	Durbin	Harris
Boggs	Early	Hefner
Bonior	Edwards (CA)	Hochbrueckner
Brooks	Erdreich	Houghton
Buechner	Fascell	Hoyer
Cardin	Fazio	Hyde
Coleman (TX)	Fish	Jenkins
Johnson (CT)	Mollohan	Shaw
Johnston	Moody	Skeen
Jontz	Mrazek	Smith (FL)
Kasich	Murtha	Smith (IA)
Kastenmeier	Natcher	Smith (NE)
Kennelly	Neal (MA)	Stark
Lehman (FL)	Obey	Sundquist
Lent	Owens (NY)	Synar
Levin (MI)	Owens (UT)	Thomas (CA)
Lewis (CA)	Panetta	Thomas (GA)
Livingston	Parris	Thomas (WY)
Lowery (CA)	Pease	Traxler
Matsui	Pelosi	Vander Jagt
McCloskey	Pickle	Watkins
McDermott	Rogers	Waxman
McGrath	Rostenkowski	Whitten
McHugh	Russo	Wilson
McMillen (MD)	Sabo	Wolf
Mfume	Schaefer	Wylie
Michel	Schulze	Yates
Miller (CA)	Schumer	

NOT VOTING—11

Courter	Huckaby	Rangel
Florio	Leach (IA)	Sharp
Garcia	Martin (NY)	Yatron
Hawkins	McCandless	

□ 1900

Mr. TRAXLER changed his vote from "aye" to "no."

Mr. RAHALL changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. COYNE. Mr. Chairman, I rise in support of the budget reconciliation bill for fiscal year 1990—except for its provisions on capital gains rates. I urge the incorporation of the Democratic alternative into the legislation before us.

Let me first leave aside the capital gains provisions and comment on the bulk of the budget reconciliation bill. It would reduce the Federal budget deficit in constructive, responsible ways.

The Ways and Means Committee was directed by the Budget Committee to draw up legislation that would narrow the deficit by $5.3 billion. That aim was set up in the budget agreement between the White House and the Congress last April. They worked out this goal as a way of reducing the Federal budget deficit.

Chairman ROSTENKOWSKI and the Ways and Means Committee succeeded in meeting this goal.

In addition, the budget reconciliation package contains several important and useful improvements of the tax law. Among these are a child care package; a compromise on the Medicare catastrophic health coverage program; and repeal of the section 89 antidiscrimination rules that govern fringe benefit plans.

It also includes a proposal to simplify the corporate minimum tax; a permanent extension of the 3-percent Federal excise tax on telephone bills; accelerated collection of the 8-percent Federal excise tax on airline tickets; and new restrictions on real estate owners' practice of exchanging properties in no-cash deals that are not now subject to tax.

The reconciliation package also would extend five temporary tax provisions, and make three others permanent.

They include a provision allowing employees to exclude from their taxable income up

to $5,250 in educational assistance provided by their employer.

There is a 2-year extension of the targeted-jobs tax credit for employers who hire individuals in centain targeted groups.

There is an extension of the authority for State and local governments to issue tax-exempt mortgage bonds and mortgage credit certificates, and to issue small-issue manufacturing bonds.

Also, the legislation would make permanent the 20-percent tax credit for increases in research expenditures.

I would like to expand on the impact that the reconciliation package woud have on health care. Historically, reconciliation and health care policy have shared a strong link. This year, that tradition continues with the Ways and Means Committee making several changes in Medicare policy on hospitals and physician payments.

Under Medicare part A, the hospital portion of the program, the committee proposed savings that can be achieved with slight reductions of the inflation update factor. Hospitals located in innercity or rural areas, as well as those that serve a disproportionately large share of indigent patients, would enjoy an increased adjusted inflation rate.

Medicare part B—the part that covers physicians and outpatient care—was closely examined and revamped. In particular, the reconciliation package includes modifications that would significantly change the way physicians are reimbursed.

Drawing from the work of the well-respected Physician Payment Review Commission, the Ways and Means Committee approved replacing the current customary, prevailing and reasonable reimbursement system with resource-based relative value scale. In addition to establishing a new fee schedule, the reconciliation package includes limits on extra billings by physicians along with expenditure targets that are designed to prevent physicians from increasing the volume of their service.

In July of last year, Medicare expanded benefits to include coverage for catastrophic expenses. The financing of the new benefits proved to be extremely controversial. In response to the opponents of the expansion, the Ways and Means Committee went back and reworked the original plan.

The resulting reform would reduce supplemental premium rates by one-half and allow enrollees to opt out of the physician and outpatient benefits. The reduced supplemental premium rates would provide substantial relief to middle-class retirees.

The committee considered and rejected a number of alternatives to the supplemental premium. Alternatives included increasing the FICA tax rate for employers and employees, increased tobacco and alcohol taxes, and requirements that State and local employees should pay the Medicare portion of the FICA tax.

The committee also considered and rejected outright repeal of the program. Repeal would not only have denied necessary benefits to Medicare users—it also would have increased the deficit by an estimated $5 billion in the next fiscal year.

In the end, the health care provisions are a solid part of the total.

The greatest flaw in the budget reconciliation package as it exists now is the provision to reduce the capital gains rate.

The Jenkins plan would allow the exclusion of 30 percent of a capital gain from taxable income, and it would apply to assets held for longer than a year and disposed of between September 14 of this year and the end of 1991.

I am opposed to it, primarily for two reasons.

The first is its distributional effects. It would give disproportionate benefits to upper income taxpayers. Those with incomes over $100,000 would receive 80 percent of the tax savings from reducing the capital gains rate.

The second is its effect on the budget deficit. The Joint Committee on Taxation projects that in the short term, it could raise some revenue and reduce the deficit slightly. But beginning in 1993, it would produce revenue losses of $5 billion per year. This contrasts dramatically with the Democratic alternative, which would be revenue-neutral through 1994.

Fortunately, the Democratic leadership has drafted an excellent alternative.

It would strike the Jenkins proposal. Instead, it would create a 28-percent maximum rate on capital gains. It would expand IRA's so that everyone who is not now eligible for fully deductible IRA's would be able to deduct 50 percent of their IRA contributions. And it would eliminate the 33-percent bubble, which was certainly one of the oddest features of the 1986 Tax Reform Act.

When that bill was passed, it provided that the top rate would rise from 28 percent to 33 percent as middle-income taxpayers became more affluent, but it would drop back to 28 percent on incomes that were still higher.

The dollar figures were indexed to account for inflation—so the way it stands now, a family of four pays 33 percent on taxable income beyond $74,850 and continues doing so on each additional dollar until income exceeds $200,120. But each additional dollar after that is taxed at 28 percent.

The Democratic leadership plan would eliminate that bubble. It would replace it with a third tax bracket with an explicit 33-percent rate on incomes in excess of the bubble.

The budget reconciliation package is, with one glaring exception, a carefully crafted, well-balanced piece of legislation that would build in useful ways on the foundations set out in the 1986 Tax Reform Act, and it would reduce the Federal budget deficit.

The Democratic alternative would eliminate the only great flaw in the budget reconciliation package—the capital gains reduction proposal—and would also give much-needed tax relief to America's middle class by expanding IRA's.

Taken in tandem, these measures would be very good for the country and the economy. I urge my colleagues to support both of them.

Mr. DREIER of California. Mr. Chairman, I would like to commend the Ways and Means Committee for raising the outside earnings limitation for Social Security recipients. Changing the earnings test is fair and makes good economic sense. The legislation proposed under budget reconciliation, however, does not go far enough in rectifying this injustice against seniors who desire to work but are penalized for doing so. When seniors are taxed $1 for every $2 earned under current limitations, we deprive ourselves from added tax revenue and endowing our older Americans with a sense that they can still be a contributing member of this society. The proposed limitation does not go far enough in fulfilling the purpose of Social Security as a supplemental retirement pension.

As you know, Mr. Chairman, I have been working for an elimination of the outside earnings limitation for a number of years. The earnings limitation originated with every good intention. Social Security is a partial retirement program meant to cushion a senior's lost earnings. The earnings limitation encouraged senior workers to fully retire, thereby making room for younger workers, at a time when 50 workers were supporting every beneficiary. Although the Social Security Program is still a partial retirement plan, one quarter of all retired people depend on Social Security for 90 percent of their income. In addition, demographics have changed, leaving only three workers to support each beneficiary.

The earnings limitation imposes a great burden on those older Americans with the greatest need—those who have had a career of low earnings and who did not qualify for employer pensions. Many seniors need extra money to supplement their Social Security benefits. Others may simply want to continue working because they want to keep busy. The earnings limitation almost forces these people into full retirement. Let me suggest that the earnings limitation is one of the few remaining—though indirect—mandatory retirement policies imposed by the Federal Government. And this policy affects a significant number of elderly. Last year, 1 million people had their benefits reduced because of the test; 1 million lost their benefits entirely; and labor economists estimate that the test deters another 1 million from working. This, at the same time analysts predict a labor shortage in the 1990's.

Social Security is not a welfare program. And yet, we treat it that way with the earnings test. Under a pension, an individual gets a specific amount that does not change because of other activities or income. Under Social Security, benefits are reduced for those who planned well or want to keep working. I think we are sending the wrong message to today's workers. We say: Plan ahead; Social Security is a partial retirement plan. And yet our policies say: Don't plan ahead; rely totally on Social Security. We must not lock our elderly into one retirement plan of questionable solvency. We must give them incentives to save, and repeal the disincentives to earn.

Eliminating the earnings test makes sense for senior citizens and for Social Security. According to Social Security actuaries, eliminating the earnings test, in addition to planned changes in the delayed retirement credit, would actually produce a long-term savings to the trust funds. It is difficult to estimate the cost in the short term, as it is uncertain how many elderly would return to the workforce, resulting in more revenues from Federal income taxes, payroll taxes, and taxation of benefits. But one thing is certain: Elimination of the earnings test will not hurt the trust

funds in the long or short term. Benefits will not be affected and the solvency of the trust funds will remain strong.

Mr. Chairman, let us work to eliminate this restriction on older Americans for their sake and for the good of the economy. The proposed increase on earnings limitation is not nearly the level which is necessary.

Mr. PANETTA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. FEIGHAN] having assumed the chair, Mr. MAVROULES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3299) to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. McCANDLESS. Mr. Speaker, because of a serious illness in my family, I requested and received a leave of absence so that I could return to California, September 27.

Had I been present during the debate and votes on amendments to H.R. 3299, the Budget Reconciliation Act, I would have voted "aye" on the Roukema amendment (Roll No. 249), to strike the Visclosky amendment. As a cosponsor of H.R. 634, I would have voted "aye" on the Dorgan amendment (Roll No. 250), to completely eliminate section 89 from the Tax Code. And in support of airport improvement and aviation safety, I would have voted "aye" on the Anderson amendment (Roll No. 251), to protect the integrity of the aviation trust fund.

HOPE'S ONLY MESSENGER

(Mr. VALENTINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. VALENTINE. Mr. Speaker, I would like to express my gratification to Burroughs Wellcome Co., to make its anti-AIDS drug, known as AZT or retrovir, more accessible to AIDS victims.

More than 90,000 Americans have been diagnosed with AIDS and 50,000 have died of it. The Center for Disease Control estimates that between 750,000 and 1.5 million Americans are infected with the virus. This disease, which is so infectious and fatal, has baffled scientists since its discovery. There is no known cure, but thanks to Burroughs Wellcome, there is a treatment.

Burroughs Wellcome, which is a research-based pharmaceutical company located in the Second Congressional District of North Carolina, has been in the forefront of AIDS research from the beginning. The company began studying AZT as a potential human antibacterial agent in 1981, before AIDS was even identified. In the summer of 1984, the drug company began an AIDS research program to find chemical compounds that would be effective against the disease. By the next year, AZT had been identified as a possible treatment for AIDS, and Burroughs Wellcome began a collaborative study to assess AZT's safety and tolerance in humans.

When the drug was first found to be effective in September 1986, the company provided AZT, free of charge to 5,000 patients through a treatment program for a 6-month period. Since then Burroughs Wellcome has given away from one-third to one-fourth of the amount of AZT—totaling about 1 ton—that it manufactures each year. To make the drug even more available to AIDS patients, in 1987 the company lowered its price by 20 percent. Just last week it lowered the price by 20 percent again.

Mr. Speaker, Burroughs Wellcome has made a huge commitment, both in research hours and dollars, to the fight against AIDS. All available evidence that I have seen shows that the company has gone to great lengths to make the drug as available to as many AIDS patients as possible.

I understand that there is a move to force the company to reduce its price even further and to disregard the company's need to retain money for future research costs.

There are even some talking about the drastic step of overriding the company's patents. This would certainly have a serious and negative effect on pharmaceutical research and, in the long term, could cost many lives.

I submit an editorial from the Durham Morning Herald to be included in the RECORD. This editorial sets forth the issues clearly. I commend it to your attention.

[From the Durham (NC) Morning Herald, Sept. 21, 1989]

HOPE'S ONLY MESSENGER

Burroughs Wellcome Co. has lowered by 20 percent the price of its drug to combat the AIDS virus, which is indeed good news for people who have the life-threatening disease or are susceptible to it.

While recent campaigns against Burroughs Wellcome may have had a role in the timing of the price decrease, we suspect that the situation is similar to what it was in 1987, when Burroughs Wellcome lowered its price by 20 percent. Increased sales, ability to acquire necessary ingredients at lower cost and more efficient manufacturing allowed both decreases without requiring the company to jeopardize its financial base.

With the added approval of AZT for use in treating people who carry the AIDS virus but have not suffered the effects of the disease, Burroughs Wellcome now faces the opportunity to have enormously expanded sales. Perhaps, as production of AZT continues, the price can be reduced further. This is the way market drives costs of almost any product.

But there are pressures on Burroughs Wellcome to use another model. The people who oppose the high cost of AZT are now saying that Burroughs Wellcome has a responsibility to reduce the cost without regard to the company's need to maintain profitability and a high level of research. This argument suggests that Burroughs Wellcome's social responsibility is greater than its economic vitality. It ignores the principle that social responsibility is dependent on economic vitality.

Even lawyers for the Public Health Service and congressional committees are considering the draconian step of using an 80-year-old law in which government could ignore Burroughs Wellcome's patent rights and have the drug manufactured at a lower cost by another company.

For drug companies and other industries, that would be a virtual declaration of war by the government. Patents are rights that should be inviolable. The chilling effect of transgressing that right would not reduce drug or product costs; rather, it would chase research and manufacturing to areas of the world where the companies could create and manufacture products without fear that their rights would be stolen. Patent violation by the government could virtually destroy the U.S. drug industry and, in turn, be a devastating blow to patients.

It should be kept in mind that Burroughs Wellcome has a corporate policy that is exceptionally charitable. Well over 10 percent of the company's profits are distributed to charity. Organizations concerned about the welfare of AIDS patients are entitled to seek some of those charitable gifts.

In the meantime, Burroughs Wellcome has three responsibilities: 1) not to overprice AZT just to gain unconscionable profits and 2) to continue to invest in research for drugs that might be even more effective than AZT and 3) to ensure that their stockholders, the risk-takers, get a reasonable return from their investments. Burroughs Wellcome should not become the scapegoat. It did not create the AIDS epidemic. So far, it has provided the best hope to thousands of patients who are able to live nearly normal lives with AIDS.

It should be unthinkable that government would even consider destroying the messengers of that hope.

BANNING DRIFTNETTING IN THE SOUTH PACIFIC

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.

Mr. FALEOMAVAEGA. Mr. Speaker, I wish to bring to the attention of my colleagues the progress that is being made in the fight against driftnetting—the practice of marine ecocide on the high seas—in the Pacific region.

Last week it was reported in the New York Times (Wednesday, September 20, 1989, edition) that Japan, one of two countries that presently persists in raiding the waters of the South Pacific by driftnetting, has agreed to reduce by two-thirds, the size of the driftnet fleet deployed last season. This is indeed encouraging news, especially when viewed against the recalcitrance Japan initially exhibited, along with Taiwan, when meeting this

summer with the Forum Fishery Agency [FFA] and Pacific regional officials.

The FFA and the South Pacific Forum, an organization representing the 15 nations of the Pacific region in July this year issued the "Tarawa Declaration," which calls for an immediate elimination and ban of driftnet fishing in the region. Despite the international outcry that this ecologically destructive fishing practice has raised—especially with regard to the threatened decimation of the valuable albacore fishery, the lifeblood of many South Pacific economies—Japan and Taiwan have indicated their intention to ignore the driftnet ban and to continue pillaging the marine resources of the Pacific region.

Japan's recently announced action to reduce its driftnet fleet is to be commended as a step in the right direction. To constitute an act of real substance, however, there must be guarantees that those Japanese vessels allowed to fish, be limited also in the length of driftnets employed. The nets routinely used in the South Pacific have been up to 30 miles in length and 30 feet in depth. Reports have documented, however, that driftnets extending 60-70 miles or longer may have been employed on occasion. Obviously, limitation of the number of driftnet boats is meaningless if there is no restriction on the length of the nets employed. What is to stop a crew from fishing a curtain of death stretching 100 miles? Japan, if she is indeed acting in good faith in the Pacific, must also make assurances about driftnet length restrictions.

Mr. Speaker, I applaud Japan's decision, although she ultimately should stop driftnetting altogether. I also call on the nation of Taiwan, which deploys the vast majority of the driftnet fishing vessels in the South Pacific, to follow Japan's lead in reducing her fleet size and restricting net length.

Moreover, Mr. Speaker, I strongly urge my colleagues to support legislation to be introduced very shortly that will bring about a timely elimination of driftnetting—a most inhumane method of fishing that is indiscriminately destroying the marine resources of the Pacific region, and potentially other areas of the world as well.

Mr. Speaker, I submit the New York Times article to be made part of the RECORD.

[From the New York Times, Sept. 20, 1989]

JAPAN TO LIMIT SHIPS WITH HUGE NETS

(By David E. Sanger)

TOKYO, Sept. 19.—Under pressure from the Western allies and South Pacific nations, Japan said today that it would cut by two-thirds the number of fishing boats permitted to deploy giant drift nets that sweep up large amounts of ocean life, including sea birds, seals and dolphins.

The action was Japan's first major concession in an increasingly bitter international dispute over the use of the nets, which have become a favorite tool of Japanese fishing fleets. Environmentalists, scientists and fishermen with small businesses have contended that the 30-mile-long nets devastate some species and threaten the food chain in the deep ocean.

Two months ago, 15 nations in the South Pacific demanded that Japan and Taiwan cease the practice, saying it was "indiscriminate, irresponsible and destructive."

Japan's action seems unlikely to end sharp criticism of its fishing practices and accusations that it is slow to act on environmental issues. Japanese officials said today that they would not decide whether to ban the nets until a long study of the effect of theirs is completed.

BAN ON IVORY IMPORTS

Nonetheless, starting in December, the beginning of the fishing season, Japanese officials said they would limit the number of boats using the nets in the South Pacific to 20. That is about the number sent out in 1987. Last year, the drift-net fleet swelled to more than 60 boats. By some accounts, those boats caught 10,000 tons of tuna, or twice as much as New Zealand caught and 20 times more than Australia.

Acting on another major environmental issue, Japan's Ministry of International Trade and Industry said that starting Wednesday, it would ban imports of virtually all types of ivory. Japan announced sharp restrictions on ivory imports in June, but officials said they had evidence of a huge flow of ivory into the country in the days before the restrictions went into effect.

In the days leading up to the new restrictions, 20 to 30 tons of ivory was skipped into Japan, mostly from Hong Kong, according to officials at the ministry. Japan has imported 100 tons of ivory this year, for use in products ranging from signature stamps to piano keyboards. One hundred tons were imported in all of 1988, and officials said they feared the number would rise further if they did not take quick action.

Under Japan's three-month-old rules, imports directly from African countries are still permitted, though not from third countries. The new rules ban even direct imports.

THREAT TO BIRDS AND SEA MAMMALS

Drift nets have become increasingly popular among Japan's fishermen—along with those from South Korea and Taiwan—because they can trap a large amount of fish with relatively small fishing crews. The nets are cast in the evening when fish rise to the surface. The nets sometimes stretch more than twice the length of the island of Manhattan and as deep as 40 feet. When they are retrieved in the morning, fishing experts say, birds and sea mammals are often caught in the fine mesh and die trying to escape. Others are mutilated or killed by fishermen trying to untangle them from the nets.

As a result, some in the United States have threatened to invoke a 1987 law that would put an embargo on the fishery products of Japan if drift netting continued unabated.

The Japanese Government has insisted that the damage caused by the drift nets has yet to be proved.

U.S. SAYS PROTESTS WILL CONTINUE

WASHINGTON, Sept. 19.—American officials welcomed Japan's announcement today but said American protests against Japanese drift netting would continue.

"It's a positive step," a State Department official said. "But it's not going to ease opposition on drift netting. People are really incensed about this thing."

The official said the United States was concerned primarily with Japanese drift netting in the North Pacific and had limited its activity in the South Pacific to supporting protests by South Pacific nations.

THE PROPOSED REDUCTION IN THE CAPITAL GAINS TAX RATE

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, I would like to point out to the opponents of this reduction who say that this is an extension of so-called Reaganomics, that we are now in our 82d straight month of economic expansion due mostly to tax cuts instituted in the early 1980's. And it is not just the rich who are enjoying the fruits of lower unemployment and low inflation. All Americans, and especially the middle class, benefit from economic growth. And the reason we have this sustained growth is simple: we have lowered taxes.

Small businesses also need this reduction in the capital gains rate. They need to attract capital investments into small, risky ventures and need partial relief when the business is closed or sold. A capital gains differential, particularly one with long holding periods and an adjustment for inflation, helps to attract capital for small firms which, in turn, creates more jobs and sustains the economic expansion in this country.

Now my question to my liberal colleagues is this: Why would you want once again to increase taxes rather than cut them when history has shown that lower taxes promote economic growth and high taxes stunt it? I think this is a question you should address now, so that the American people know once and for all which philosophy favors prosperity and which philosophy does not.

Mr. Speaker, I would like to enter at this point in the RECORD an editorial by Bill Wild of the Dayton Daily News. Mr. Wild quite aptly points out that it is not the rich that benefit from a capital gains cut, but people who make less than $50,000 a year. He goes on to quote Alan Reynolds, chief economist for Polyeconomics, who says that if we lowered the rate even further, to say, 15 percent, we would shave at least $20 billion or more of the deficit in the "out" years.

It is these statistics from which opponents of the capital gains reduction can run, but from which they cannot hide. Reducing this tax helps all Americans and I urge my colleagues to support continued economic growth in

this country and vote for the Jenkins/Archer capital gains reduction.

Mr. Speaker, I include with my remarks an editorial from the Dayton (OH) Daily News of September 20, 1989, as follows:

[From the Dayton Daily News, Sept. 20, 1989]

"SOAK THE RICH" PITCH SENDING DEMOCRATS TO THE SHOWERS

Those rich senior citizens who were once thought easy pickings for an unfair "catastrophic health care" tax are banging congressional dunderheads in Washington just as the debate heats up over lowering the capital gains tax, what the Democrats call "a tax break for the rich."

Don't the Democrats and their media mouthpieces ever learn?

Most of the senior citizens who are livid over the catastrophic health care surtax are also veterans of the capital gains wringer. They know what it means for federal and state tax collectors to reward a lifetime of frugality and fiscal responsibility with a bill for the "government's share" of your "good fortune."

To their credit, some Democrats in Congress are making it possible to even have the capital gains debate. But they are the naughty Democrats, the boll weevils of old, who sneak around helping the rich when other Democrats are loyally spending money on new schemes to help the poor.

Such schemes used to be called patronage, but times change.

It ought not to be hard for politicians—even in Washington—to understand the pernicious relationship between their catastrophic health care mistake last year and their current resistance to a lower capital gains tax. Most Republicians who were a party to the health care gaffe have admitted that they and President Reagan were wrong. Some Democrats are coming around to that slowly, but most can't understand that their capital gains stance is a kick in the shins to the same constituency.

Something like a fifth of the dollar volume of capital gains realized by taxpayers annually is to people with ordinary incomes of under $10,000. That, at least, is the best guess of former Treasury Assistant Secretary Paul Craig Roberts, now a syndicated columnist. In fact, almost half of the gains go to all families with incomes no higher than $50,000 a year.

That is a major non-rich constituency that may not feel put-upon all at once like those taxed for catastrophic health care, but still understands the unfairness of it all when selling a small business or a long-time residence or cashing in mutual fund investments from many years. The same constituency may also be chafing under another tax burden—the confiscatory taxes senior retirees pay if they earn more than $8,880 in salary while drawing Social Security.

When you come right down to it, even the best income statistics are distorted by the fact that someone in the $100,000 to $150,000 income bracket may actually be in it only that year—because of capital gains. One year you're "rich" according to the Democrats. The next year you're back to church mouse status.

It isn't my job to convert the Democratic leadership in Washington to my view, but you'd think the rank-and-file would be sending a message. If so, not many leaders are hearing it. The official Democratic position is that the Reagan tax cuts were "bad" and "caused the deficit." Therefore, what must be "good" would be higher taxes to "balance the budget." But there is hardly anyone who believes that the budget will be balanced if we increase taxes to give Congress more money to play with.

Republicans have been successful by adopting a populist agenda which says, in effect, if the government won't discipline itself to balance the budget, at least we should help out ordinary citizens by cutting taxes. Government revenues at every level have benefited from the resulting prosperity. Every segment of society has benefited too, but you'd never know it by listening to Democrats. They are on a crusade against "the rich" and seem to think that a lovely little class war would be just wonderful.

But even as they have blathered about "rich investors," a consensus has been forming on the common sense of a capital gains tax at a substantially lower rate than ordinary income taxes—in fact, maybe even no capital gains tax at all as in a number of other major industrial nations. Here's why.

Norman B. Ture of the Institute for Research on the Economics of Taxation has preached that a "capital gain" is an asset's increase in market value. Such assets are purchased largely with after-tax income. Then what the asset produces, such as stock dividends, is taxed as realized. "Taxing the capital gain that is realized when the asset is sold," he said, "amounts to adding a layer of income tax on the same income."

A relatively high capital gains tax discourages venture capital investments and interest in growth stocks. It encourages substitutions of debt for equity to take advantage of tax write-offs and the like. This is one reason for leveraged buyouts and junk bonds. In short, high capital gains taxes help encourage the kind of economic behavior that is most deplored by those who adamantly oppose a lower tax.

Capital losses in ordinary income are limited to $3,000, an obvious unfairness when gains can be taxed to infinity. Taking risks is penalized, but "risk capital" is what a dynamic economy most needs.

Alan Reynolds, chief economist for Polyeconomics, Inc., of Morristown, N.J., believes that there are many "dynamic effects" from a capital gains tax cut that haven't been effectively analyzed. In addition to direct benefits for a wide range of citizens who hardly qualify as the idle rich, there would be a move away from tax-exempt bonds and housing and toward investment activities generating jobs and new tax revenues. In fact, he predicts a 15 percent capital gains rate would "shave at least $20 billion from the federal deficit, and even more in later years."

Maybe. Maybe not. But everything except the politics of envy points toward giving such tax experiments a chance and ending such absurdities as trying to tell senior citizens that higher taxes will make them feel better.

GENERAL LEAVE

Mr. UPTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of the special order today by the gentleman from Illinois [Mr. CRANE].

The SPEAKER pro tempore (Mr. FEIGHAN). Is there objection to the request of the gentleman from Michigan?

There was no objection.

REASSIGNMENT OF SPECIAL ORDER TIME

Mr. UPTON. Mr. Speaker, I ask unanimous consent that the gentleman from Michigan [Mr. UPTON] may be permitted to take the special order of the gentleman from Oklahoma [Mr. EDWARDS] today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON ECONOMIC AND COMMERCIAL LAW OF THE COMMITTEE ON THE JUDICIARY TO SIT DURING 5-MINUTE RULE TOMORROW

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Economic and Commercial Law of the Committee on the Judiciary may be permitted to sit tomorrow while the House is reading under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

FHA IS IN TROUBLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER of California. Mr. Speaker, often when we have a chance to take out these special orders it is to talk about something that is thrilling, of interest to all of us, and, more often than not, it seems to be good news which people have. However, Mr. Speaker, unfortunately, this evening I have some rather sad news to convey in my very brief 5 minutes.

Today, Mr. Speaker, another bombshell landed on the steps of the U.S. Congress. It is a financial bombshell like those that we have been receiving on a semiconsistent basis over the past several years.

In testimony this morning before the Senate Subcommittee on Housing and Urban Affairs the General Accounting Office presented its results of a long-awaited financial audit of the FHA for 1988.

Mr. Speaker, I have been a strong proponent of FHA over the years. I have supported our goal of making it permanent. I coauthored an amendment along with two of my California colleagues on the other side of the aisle, one in the Senate, to increase the high cost area from $90,000 to $101,250 because I thought that was important at the time, but I am very

saddened to hear of the news which came out today.

According to the GAO the FHA's financial statement shows losses of $4.2 billion in fiscal year 1988. That is right; $4.2 billion is the size of FHA's loss.

The audit also found that the Government's equity has sunk to a deficit; I repeat, a deficit, Mr. Speaker, of $2.9 billion at the end of the fiscal year.

The news of FHA's financial condition comes only 2 months after Congress enacted an unprecedented $160 billion bailout of another financial insurance fund, that of course being the Federal Savings and Loan Insurance Corporation.

What is even more troubling about this though, Mr. Speaker, is that Congress is close to enacting legislation that could actually exacerbate FHA's situation and move it further in the direction of demise.

Last week our colleagues in the other body voted to increase from $101,250 to almost $125,000 the ceiling on mortgages insured by the FHA in high cost areas. This increase was included, Mr. Speaker, as part of the fiscal year 1990 VA, HUD, and independent agencies appropriation bill.

Mr. Speaker, if the Senate amendment becomes law, it could have serious repercussions on the financial solvency of FHA, as I was saying. Given the program's low-down-payment requirements and the riskier nature, the loan portfolio, the FHA will be exposed to substantially greater loses in the future.

Even without an increase in the loan limits, Mr. Speaker, FHA's financial problems are expected to get worse. According to GAO, and I quote, "Numerous investigations of alleged fraud, embezzlement, and other illegal acts are currently underway and it is not possible to determine the extent of losses that could ultimately be sustained by FHA as a result of these alleged improprieties."

The GAO, Mr. Speaker, went on to say, and I quote, "Basic management weaknesses must be corrected if future losses are to be brought under control."

Now, Mr. Speaker, I believe that it is imprudent to put billions of additional tax dollars at risk by expanding FHA before the agency's financial and management problems are fully addressed.

□ 1910

Millions of low- and moderate-income Americans depend on FHA to provide mortgage financing that is not available in the conventional mortgage market. The FHA Program is too important to allow these serious financial problems to be ignored.

Mr. Speaker, I again want to reiterate my support for the program, but we have got to move ahead with it in a very careful way.

Mr. Speaker, I will insert in the RECORD at this point an article from yesterday's Wall Street Journal which suggests further reasons why an increase in those FHA loan limits would be a mistake at this time.

Mr. Speaker, I thank the Chair and my colleagues for listening to this. I hope next time I take out a special order it will be to provide better news to our colleagues.

[From the Wall Street Journal, Sept. 26, 1989]

THE HOUSING MARKET IS A BIGGER MESS THAN YOU THINK

(By George Melloan)

Housing is very much in the news these days. First there was the discovery that influence peddlers had penetrated HUD. The true man-bites-dog story would have been news that there were no longer influence peddlers loitering around this big subsidy mill, but Congress gave a good imitation of outrage.

The outrage was mainly for the press. In substantive terms, Congress isn't mad at HUD at all. Early this month the Senate voted to expand the powers of a key HUD enterprise, the Federal Housing Administration. Under the National Affordable Housing Act, a wide-ranging bill designed by Senators Cranston and D'Amato, the FHA will be able to guarantee home mortgages up to just under $125,000, a 25% boost from the present maximum.

The FHA is currently suffering from a large negative cash flow, reserves are shrinking and its inventory of foreclosed houses is climbing, which one might expect to give the legislators pause. But this sad state of affairs is being used as an argument for, not against, expanding FHA insurance powers. It is asserted that the Cranston-D'Amato bill will allow the FHA to spread its risks by insuring higher-priced real estate.

They'd better be right, because Uncle Sam doesn't need yet another boost for his traffic in distressed real estate. The one it got last month with the passage of the Financial Institutions Reform, Recovery and Enforcement Act—better known as the thrift bailout bill—will do quite nicely. The new law created Resolution Trust Corp. (RTC) to take over the assets of crashed savings and loans and try to dispose of them. How much housing and other developed real estate might that be? Well, no one knows for sure but estimates range from $100 billion to $200 billion. To give some idea of magnitude, the total of all home mortgages written in the U.S. last year by the thrift industry was $240 billion.

If any of this gives the impression that federal housing policies are in disarray, it should. While the federal government becomes an ever larger holder of distressed property, the ability of young families to acquire decent housing has been shrinking. Further, wide disparities exist in housing costs from region to region of the U.S.

Politicians have found a new public cause in the "homeless," but the "homeless," by and large, are an altogether different problem, having to do with a troubling pathology of mental illness and addiction that dumps unfortunates on city streets. Yet the "homeless" issue finds resonance among healthy people, simply because of things that are wrong with the housing market.

Citing one example of real estate market disparities, Ira Gribin, president of the National Association of Realtors, notes that a house costing $25,000 in rural Oklahoma could go for 10 times that in Encino, Calif., where he lives. NAR statistics show that the median price for an existing home in the Northeast is $147,000, just double the $73,500 of the Midwest. In the West the median is $138,200 and in the South it is $88,200.

Mr. Gribin and the NAR, not surprisingly, are among the backers of the Cranston-D'Amato bill, which also has numerous other provisions supposedly designed to make housing more "affordable." He supports the argument that a higher loan ceiling will make the FHA healthier, asserting that risks are lower on more expensive houses. "The FHA is being shut out of the very market that will spread its risk," he argues.

Regional disparities in home prices also are cited as arguments for higher FHA mortgage ceilings, on grounds that higher ceilings are needed in higher-cost areas. But it can be argued as well that more liberal terms, by raising demand in areas where housing supplies are tight, will only further widen the price disparities. Indeed, the regional disparities that have developed in the housing market since 1980 probably owe something to a law that year keying FHA maximums to the median home price in an area.

The true villains in high-cost areas are factors restricting the housing supply. Rent controls have destroyed a large chunk of New York City's housing stock, putting price pressure on available housing throughout the metropolitan region. In such areas, young people seeking rental housing are, in effect, subsidizing older residents who are on the rent-control gravy train. Forced to pay high rents, these young people find it hard to save a down payment for home or co-op purchases. To get a test of the impact of rent controls, take a look at the price of real estate in the Chicago metropolitan area, where rent controls are not a factor, as compared with New York or Washington. They are substantially lower.

Suburban areas meanwhile fight back against the demand pressure caused by a flight from rent-control cities with higher zoning requirements and more red tape for developers. In Orange County, Calif., it has been estimated that red-tape delays raise construction financing and other expenses so much that a builder can spend $40,000 on a house before he ever drives a nail.

Distressed housing is becoming a very large burden for taxpayers. Critics of the Cranston-D'Amato bill, who not surprisingly include private mortgage insurers, argue that the FHA is heading for a bust just as big or bigger than the one that demolished the Federal Savings and Loan Insurance Corp. (FSLIC). A recent Heritage Foundation study by Ronald Utt notes that a FHA down-payment requirement of only 3% often leaves the FHA with a mortgage guarantee larger than the value of the house, particularly in depressed markets. That invites the householder who runs into financial reverses to simply walk away, since he has no significant equity to lose.

Which brings us back to the RTC and its task of disposing of all that foreclosed housing acquired from insolvent thrifts. If it simply "dumps" the housing in those depressed markets where a glut exists, Congress will be getting anguished phone calls from local real estate interests. Mr. Gribin's Realtors are 800,000 strong, a significant political force. Look for the RTC to incur

some substantial costs in carrying its real estate inventory and trying to maintain the properties as it steers clear of complaints from local interests about its disposal programs.

The federal inventory does little for most house hunters for the simple reason that housing is not portable. A surplus in Dallas or Denver doesn't lower prices in New Jersey or Southern California. Those high prices, by raising living costs and property taxes, factor back into construction costs. You have to pay workers more in places where it costs more to live.

In short, the problems of federal housing policy are deepening. The thrift bust itself, in essence, had its origins in efforts by Congress to foster home ownership. While that is certainly a worthwhile social goal, the methods employed to achieve it have left a great deal to be desired. The critics of the Cranston-D'Amato bill are fully justified by past events in worrying about this further effort to federalize the housing market. "Affordable housing" is certainly something we all want, but housing is going to be a lot less affordable for a lot of people if they find themselves paying ever higher taxes to remedy housing-policy mistakes.

I HOPE PRESIDENT BUSH AND DRUG CZAR BENNETT ARE LISTENING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I hope that President Bush is listening this evening, and also William Bennett, the gentleman that he has put in charge of this so-called war on drugs in the United States. I would like to say to both of them that fighting this all-out war on drugs with slingshots is not enough.

I was so disappointed in the President's message on drugs because he offered no immediate relief to communities like my own.

In his message, he did not say anything about making available Federal properties nor vacant military bases nor other facilities to relieve the critical overcrowding that faces us in our prisons and jails. That is our greatest first obstacle in getting offenders off the streets.

Just in my home county, our jail capacity is 296 persons. In July this summer, that rose to over 370, and in August the jail took an all-time high of over 500 prisoners.

Ninety-five percent of these people are awaiting trial and prosecution.

In addition to that, well over half of them have substance abuse problems.

This country cannot wait for the few new prisons that the President says will be built a few years from now in order to solve this particular problem, because those responsible for selling, using, and distributing cocaine, crack, and other illegal drugs, are getting away with murder every day, and they know it.

The Executive order that the President has signed in conjunction with his message called "Report of the President of the United States, An Alternative Use of Military Facilities," is supposed to make military facilities available to relieve local jails; but in the President's order accompanying this report, he gives his own commission a year from this month, a year from September 1989, we will not hear from them again until 1990 in the fall, in order to solve the problem.

Mr. President, if you are listening tonight, please know that this is not good enough. Our communities need help now. We need to get criminals off the street now and to prosecute those who have already been arrested and to treat those who desperately need treatment.

The President ought to put some heat under his own administration to get them to open available vacant military bases and Federal properties now, not next year. Is not leadership what Presidents are for?

This evening I am introducing, along with our colleagues, the gentleman from Pennsylvania [Mr. MURTHA], the gentleman from New York [Mr. RANGEL], the chairman of our Special Committee on Narcotics, along with the gentleman from Mississippi [Mr. MONTGOMERY] a special resolution in the House regarding the President's Executive order on the alternative utilization of military bases. Our resolution asks the President not to report 1 year from this month, but to report by the end of this year, no later than January 1, 1990.

We know that 97 percent of the people in our country arrested for drug violations are being arrested at the State and local levels, that the number of prisoners in our State and local facilities has increased by 100 percent since the beginning of this decade, and that State prisons are more than 40 percent above capacity.

We also know that section 372 of title X of the United States Code provides that:

> The Secretary of Defense may, in accordance with other applicable law, make available any equipment (including supplies or spare parts), base facility, or research facility of the Department of Defense to any federal, state, or local civilian law enforcement officials for law enforcement purposes.

We ask the President to use the authority he already has to begin a real war on drugs.

Please, Mr. President, help us take the people out of these institutions, put them on bases where they can either be treated or if they have been sentenced, put into an appropriate incarceration facility; but to try to say that we have to wait until a year from now, when our local facilities are so overcrowded, makes a mockery of this entire process.

Mr. HOYER. Mr. Speaker, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentlewoman for her statement and I want to congratulate her for her treatment of this very critical issue. It is a thoughtful statement and I hope that she does and the President and the White House will give it full attention.

AUTHORIZATION TO SIGN AND SUBMIT REQUESTS TO ADD NAMES OF MEMBERS TO LIST OF COSPONSORS OF H.R. 2273

Mr. HOYER. Mr. Speaker, I ask unanimous consent that I may be authorized to sign and submit requests to add the names of the following Members to the list of cosponsors on H.R. 2273.

Mr. JIM LEACH, Mr. MARVIN LEATH, Mr. GLENN ANDERSON, Mr. DAVID NAGLE, Mr. ALAN B. MOLLOHAN, Mr. J.J. PICKLE, Mr. ROBERT W. DAVIS, Mr. BILL NELSON, Mr. JOHN M. SPRATT, JR., Mr. TERRY BRUCE, and Mr. HENRY J. HYDE.

The SPEAKER pro tempore. (Mr. FEIGHAN). Is there objection to the request of the gentleman from Maryland?

There was no objection.

RULE CHANGES AND CONTINUING RESOLUTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. UPTON] is recognized for 60 minutes.

Mr. UPTON. Mr. Speaker, tonight, of course, is Wednesday, meaning it is the night that we have designated by our Congressional Task Force to talk about some rule changes that some of us would like to discuss. This evening we have designated this to talk about continuing resolutions.

Of course, the end of the fiscal year is coming up September 30 and just yesterday we did pass a continuing resolution.

The first Member of our delegation who is going to speak this evening is my good friend, the gentleman from Missouri [Mr. BUECHNER]. The gentleman from Missouri serves with distinguished ability on the Budget Committee.

Mr. Speaker, I yield to the gentleman from Missouri [Mr. BUECHNER].

Mr. BUECHNER. Mr. Speaker, I thank the gentleman from Michigan for yielding to me. I know his heart is in Chicago as we speak.

Mr. Speaker. In a 1920 work titled "Little Essays," George Santayana stated: "To the art of working well a civilized race would add the art of playing well." Well, Mr. Speaker, it

should be obvious to even the most casual observer that Mr. Santayana did not have Congress in mind when he made that statement. You see, Congress has perfected the art of playing well. Unfortunately, we haven't perfected the art of working well.

Consider, for example, our efforts to complete work on the Federal budget.

Mr. Speaker, the Wall Street Journal once described the budget as the heart and soul of Washington, its very reason for existence. And in many respects, the paper's editorialists were correct, because the budget defines our national priorities. In doing so, it says much about us as a society.

One characteristic of our society is a belief in the rule of law. As such, it is not surprising that the budget and the budget process is also subject to a set of laws.

In fact, one such law contains a timetable which states that Congress is required to complete certain actions within a specified timeframe. For example, we are required to complete reconciliation on June 15. Of course, we still have not completed this effort. Furthermore, we are required to complete action on the 13 appropriations bills by June 30. But everyone knows that the House completed that work only shortly before leaving town for the August recess, and the Senate completes their work even later. And so, we once again find ourselves violating yet another law which Congress has established for itself.

Now, Mr. Speaker, if a citizen violates the law, he or she would be subject to some form of penalty. This is not the case with Congress. You see, the budget law has no enforcement mechanism and no set of penalties.

We simply decide on the floor of the House to lump all Federal programs into one incomprehensible bill and shuffle it off to the President. Then we dare the President to either accept it or to shut the Government down. Mr. Speaker, even that bastion of liberalism, the New York Times, decried this approach as a fraud and a fantasy. In fact, the Times stated: "No President should be forced to swallow all that at once." They are indeed correct.

Unfortunately, this happens routinely. But there is no good reason why it should be allowed this year or in any subsequent year. Therefore, I strongly urge President Bush to veto the continuing resolution. Only a veto will send Congress the proper message: enough of the games. We must do what the law requires and what the people demand—to get our fiscal house in order.

□ 1920

Mr. UPTON. Mr. Speaker, today we had a special treat at our Republican conference where we had Dick Darman come and speak this morning to address our conference. We talked a little bit about the continuing resolution and what we hoped the President would do in terms of vetoing this continuing resolution, this massive document of appropriation bills, spending bills that have been packaged together.

One of the leaders the last couple of years who has urged the President to take such action in terms of forcing Congress to do its work, to not allow a massive continuing resolution to be allowed, is the gentleman from Illinois [Mr. PORTER]. Under his leadership, the leadership of the gentleman from Illinois, he has been able to sponsor letters both to President Reagan as well as obviously now to President Bush with enough signatures, with enough backbone of this House of Representatives to show that the President has the support to make a veto sustainable by this body.

Mr. Speaker, I yield to my good friend and colleague, the gentleman from Illinois [Mr. PORTER], and hopefully he can tell some of our audience a little bit this evening some of the accolades and some of the work that he has accomplished.

Mr. PORTER. Mr. Speaker, I thank the gentleman from Michigan for yielding, and I thank him for taking over from our colleague from Oklahoma the task of organizing this special order on continuing resolutions, and more than anything I thank him for his leadership and his hard work in bringing to the attention of the Congress and to the White House the importance of resisting the use of these insidious devices in our budgetary process that allow us to avoid meeting the issues that this country ought to be meeting head on in making the hard, tough decisions that have to be made if we are to solve our Nation's deficit problem.

Mr. Speaker, the continuing resolution has had a long-checkered history, and it is back again.

To understand why we rise tonight to oppose the continuing resolution, you must understand this history. The continuing resolution has been used for hiding spending, settling old scores, and avoiding difficult budgetary decisions. Yesterday, the House passed a continuing resolution. Just a little one, its proponents told us. But like an alcoholic who wants just one little drink, this short-term continuing resolution could turn into a big one. That is not a wild prediction, that is what history shows.

In fiscal year 1988 we had an omnibus continuing resolution which funded the entire Government for an entire year.

That continuing resolution had some insidious features.

A Senator used it to get even with Rupert Murdoch.

Another Senator used it to fund Hebrew Schools in France.

A Congressman used it to punish the Defense Intelligence Agency by taking two planes away from them for allegedly insulting him.

There was a provision changing the Tax Code in that continuing resolution; yes, that is right, a tax provision in a spending bill.

The whole continuing resolution was tied up for weeks while we fought over the fairness doctrine, an extraneous legislative provision which had been jammed into the bill.

After that continuing resolution was enacted, the newspaper articles came. Journalists reported all of these little provisions hidden in the bill, and mocked the Congress as a venal group of very small-minded people who used omnibus legislation to settle personal scores.

It is that type of legislating that destroys the reputation of the Congress with the American people—as it should.

That continuing resolution, that fiscal year 1988 omnibus continuing resolution, was the third continuing resolution of fiscal year 1988. Before we passed it, we passed two little short-term continuing resolutions, just like the one we passed yesterday.

Go back another year, to fiscal year 1987, and the story is the same. Two short-term funding measures preceding an omnibus continuing resolution where all 13 bills with $600 billion in spending the entire discretionary spending of the Federal Government for 1 year, were foisted on the President at the last minute, where he had to sign it and lost his power of the veto.

So this is why yesterday's short-term continuing resolution is so worrisome, because history shows that these little ones are followed by the big, uncontrollable, unconscionable ones.

Mr. Speaker, continuing resolutions result from missing deadlines.

In fact, a lot of things result from missing deadlines. Very soon, we are going to have a Gramm-Rudman automatic cut because we have failed by 3 months to pass the reconciliation bill.

And continuing resolutions, too, result from missing deadlines.

In fiscal year 1987, the House only passed 11 of the 13 spending bills. The 11th passed on September 12. On October 17, the President swallowed a 13-bill ominbus continuing resolution.

In fiscal year 1988, the House only passed 10 of the 13 bills. The 10th passed on September 22. On December 22, the President swallowed a 13-bill continuing resolution.

But fiscal year 1989 was different.

President Reagan warned us. He said in February he wanted the 13 bills on his desk separately and on time.

President Reagan said he would veto a continuing resolution. And he knew he could do it because 147 of us had signed a letter to him promising to uphold such a veto.

So in fiscal year 1989, we reported all 13 bills by June 29. And we enacted all 13 as freestanding measures by October 1, and the President had an opportunity to consider each one of them separately.

This year, however, we did not get any word from the President regarding continuing resolutions.

And while we did pass all 13 bills separately in the House, we did not do so until August 4, 5 weeks late.

And now, all our efforts to avoid a continuing resolution have gone down the tubes.

This is truly tragic because both majority leaders in both bodies vowed to avoid a continuing resolution, and yet we now have passed one and it seems to me that is exactly the wrong thing to do.

But what's really wrong with the continuing resolution we have passed?

First, it is too long; it goes all the way to October 25.

That gives Members a full month to dream up new things to stick in appropriations bills. That gives Members a full month to make an even bigger mess out of the budget reconciliation bill.

Second, and more important, this continuing resolution is not going to solve any of our problems and it just may make them worse.

The deficit will not get any smaller by using a continuing resolution.

This continuing resolution will not make any decisions easier, it just once again makes it easier to delay doing the job we are supposed to do.

Third, who knows what will happen to this continuing resolution in the Senate?

When we send this nice clean continuing resolution over to the Senate, who knows what they will put on it.

Some people think they might attach the D.C. appropriations bill to it in order to prevent Mr. Bush from vetoing that bill.

The Senate is infamous for extraneous provisions, and we are powerless often to stop them.

So, for me at least, the continuing resolution is a symbol of failure. It is a monument to our incompetence, and a sign of the lack of leadership both in the Congress and the executive branch.

And it goes far to show why we cannot balance the budget.

Because form and function go hand in hand.

If we cannot meet our deadlines, what is there to make anyone think we can balance the budget?

Moreover, the continuing resolution is a form of appeasement.

The continuing resolution asks us to appease the appetite of the Federal Government and the failures of our processes.

We are asked to give in to a 25-day extension.

In exchange, all our problems will be solved by the end of that time. But you and I know, Mr. Speaker, that is not true.

Budgetary appeasement fails. Omnibus budgeting runs all over the map.

When we end up with a continuing resolution, we end up with a lot of people blaming each other for it.

Whose fault it is, of course, depends on where you sit.

It is not the Appropriations Committee's fault, they say; it is not the Budget Committee's fault, they say; it is not the fault of the House and Senate leadership, they will tell you.

And, of course, the White House will tell you that it is not the President's fault.

□ 1930

But really, Mr. Speaker, it is all of our faults. The bottom line is that we are not doing our work for the American people.

Let me end by saying that 150 House Republicans urged President Reagan in August through a letter they signed to him to stand fast against a continuing resolution. Tonight I beg the President, who will sign this continuing resolution, to say that when he does so that that is it, that he will not sign another one, and he insists on having all 13 bills separately by October 25, that this is the end of the line.

Wonderful things will happen, Mr. President. People here will get serious about the process. He will get the bills. He will have an opportunity to veto those he does not like. He will get respect from the congressional leadership, and he will show the American people who is in charge and who insists that Congress do its work properly.

So I am here to plead with you, Mr. President. Mr. President, Congress is obviously institutionally and functionally unable to discipline ourselves and live up to the responsibilities of the budget act.

Mr. President, only you can save us from ourselves and bring order out of this budgetary chaos. Mr. President, take the reins and guide the Congress through and tell us that continuing resolutions are history, that this is the last one you will ever sign, and you will ever tolerate in your Presidency. We will stand behind you, and it will be a much, much better Presidency for doing so.

Let me thank the gentleman from Michigan for his wonderful leadership on this issue, and let us hope together that we can work together to make progress, and that President Bush will listen to us. He is the only one that can save this Congress from itself.

Mr. UPTON. I thank the gentleman from Illinois. He makes some very, very good points and, in fact, as I indicated a little bit earlier in my remarks, one of the points and questions that I asked Richard Darman, the Director of the Office of Management and Budget earlier this morning, of course, was the very fact that we had a letter signed by 150 Republicans indicating the willingness of us to vote to sustain a veto on the process, the terrible process of what the continuing resolutions bring about.

We sent that letter down. We all got thank you notes from John Sununu and the President saying thank you very much for standing behind me and we are going to need you, et cetera, and yet here we are at the end of the fiscal year and in fact it seems as though President Bush is going to sign this short-term continuing resolution. But I think we made the point today is a direct, almost confrontation with the Director of the Office of Management and Budget that, in fact, a line would be drawn in the sand saying that no more after this short-term 25-day continuing resolution, that the next continuing resolution, which hopefully will take us through September 30 will in fact not be a continuing resolution but each of the appropriation bills independently on their own to take us from October 25 through September 30, the end of the next fiscal year, and that he will not need us, because he is going to say we are going to veto it, and Congress, get your work done. And in fact the Director of the Office of Management and Budget hoped that he would be able to send that signal to us this morning. He said within 36 hours, and I hope that tomorrow evening, perhaps at this time, we are going to get that message from White House, and that Congress will buckle down, and we will do the job that our constituents sent us to do to make those tough decisions up or down on each of those 13 appropriation spending bills, or actually maybe just 12 since 1 of them has cleared. But 1 out of 13 is a failure in anybody's book. The energy and water appropriation bill was the one that we passed, and we had great leadership on both sides of the aisle to get that through. But what happened to the other 12? That is what we are going to talk a little bit about this evening.

But here we go again, Mr. Speaker. Only yesterday the Members of this House voted to bail us out of our budget mess, and by a vote of 274 to 152 we decided once again to have government by continuing resolution. I mean good grief, we finally broke the trend last year. For the first time since 1954 we passed all of the spending bills on time, and I think it really came

about with Ronald Reagan speaking in this well in the State of the Union Address when he literally brought 16 pounds' worth, I think, of a continuing resolution. He dropped it. We almost all thought he was going to break his arms picking it up or his legs, and he said, "No more." And in this House, Republicans and Democrats, House Members, Senate Members, Members of the Supreme Court, the Diplomatic Corps were on their feet praising him when he said no more will he sign a continuing resolution, to paraphrase him. And in fact, we passed all of the bills on time, and it took that gutsy leadership by President Reagan to get the job done. I am just sorry to say that tonight we were not able to extend that record to two in a row.

Most of the other years of this decade passing this kind of a stopgap spending measure might have been less surprising, although not more acceptable. Throughout much of Reagan's tenure, in fact, as President, the administration and the Democratic leadership of this House had sharply different philosophies about budget and spending matters. The result often was deadlock after deadlock, sometimes leading the President to simply shut down the Government rather than endorse congressional spending measures he could not accept, and leading Congress to adopt one continuing resolution after another, while the Members scrambled to patch together something we could call a budget.

Remember, a continuing resolution is the actual spending appropriation bills, and of course we do those annually. If we do not get those done by the end of the fiscal year for the next fiscal year, no funds shall be spent in those areas except in the course of life in danger or a threat to the national security. So in essence, without appropriations spending bills we have to shut down the Government in those sections, and thus this continuing resolution contraption was thought up.

Now I humbly claim a special understanding of all of this. I have seen it from both sides, having served in Reagan's Office of Management and Budget, and later as a Member of the House, of course representing the Fourth District of Michigan.

But this year was supposed to be different. How? Let me count the ways.

No. 1, on January 3 our Speaker, then Jim Wright, was reelected as Speaker of this House and pledged to get our budget work done on time. Let me remind the Members of what he said that day, quoting from the CONGRESSIONAL RECORD.

> There is hardly a limit to what we can achieve if, in truth, we can work together. By working together we can steadily reduce and eventually eliminate the annual budget deficits that threaten our economic future. We must and we shall.

Later on that day the Speaker said:

> I am determined that so far as the Speaker can influence the schedule, we shall perform our work on time.

Let me repeat that, "We shall perform our work on time." If Members heard the gentleman from Missouri [Mr. BUECHNER] a little bit earlier, they know we missed deadline after deadline.

To continue Mr. Wright's words:

> Just as we did last year, the House will pass all 13 of our regular appropriation bills before we leave for the August recess.

We did, just barely, but we did.

To continue, he said:

> Now, in order to make that possible, we intend to pass the budget resolution by April 15, as the law commands.

It is important to point out, I think, that Mr. Wright's pledge was not only a promise to the Members assembled here, it was a pledge to the people we represent. Our budget process is mandated by law, and that law is our contract with the people. This is the people's House, and our job is to get the people's work done and done on time.

On January 20 we inaugurated George Bush right here at the steps of the Capitol as our 41st President, and he reiterated the aim of cooperation between Congress and the administration. He called it: "the age of the offered hand." Many of those in Congress who had blamed Reagan for our budget problems in the past saw President Bush as less confrontational, someone with whom they could easily work out a budget deal. And on April 14, one day before the deadline Speaker Wright had set, the President and the congressional leaders announced that they had indeed reached the outlines of a budget agreement.

Now make no mistake, no one thought it was a great budget agreement. A good summary of the attitude toward it was given by David Rapp in his article in Congressional Quarterly, one of the most respected publications in this town, and his article started off this way, and let me just read the first paragraph:

> Confronting the prospect of yet another embarrassing defeat in their ongoing war of attrition against the massive Federal deficit, White House and congressional budget negotiators this year have opted for the only facesaving way out: they declared victory and went home.

□ 1940

Now as we all know, the middle months of this year brought a great deal of upheaval in this House.

On our side of the aisle our Republican whip and good friend Dick Cheney from Wyoming left to become Secretary of Defense and we had to choose new leadership. On the Democratic side the changes were even more dramatic.

Both the Speaker and the majority whip resigned in the same month so that the Democrats had to choose a new leadership team smack in the middle of the busy congressional year.

Yet despite all that the budgeting process continued along the schedule that Speaker Wright had set January 3. All 13 appropriation spending bills were passed by the House before the August recess.

But since then something has gone wrong. In a few days we will start a new fiscal year and will not have agreed on how we will spend the public's money in that year. That is why we have been forced to approve a continuing resolution, a continuing resolution.

Let us take a look at how much of the people's work has been left undone. This is taken from the Congressional Monitor, which is a daily publication I get in my office.

I am going to go through each of these appropriation bills.

Let us take agriculture: Both the House and Senate passed the bill in July. Conferees were appointed in the House in September, September 6 in the House and in the Senate in July. To date I do not think the conference has met. We have not done our work. It has been 3 weeks since the conferees have been appointed. Both the bills have passed this Chamber as well as the Senate. This bill ought to be down past the President's desk either signed or vetoed. It should not be part of a continuing resolution.

Commerce, Justice, State, and the judiciary appropriations bill: Passed the House August 1. Yet in the Senate they are still in subcommittee markup. That was completed 2 weeks ago. Have not even gotten to full committee. I guess that is the other body's problem. Again we have not done the people's work. Where have they been?

Defense appropriations bill: Passed the House August 4; again in full committee, got out 2 weeks ago in the Senate, September 14. I know that and I think that they had some debate on the Senate floor. But where is it? It should have been done.

The people's work has not been done.

District of Columbia appropriations: It passed the House August 3, passed the Senate September 14; conferees have been appointed in the Senate. We have not even appointed conferees to this important subcommittee bill which passed August 3, almost 2 months ago. We have not even appointed conferees.

How can they go to conference? Something as simple as that; just ridiculous.

Energy and water development appropriations: Well, there we go. We have gotten that one done. That is the one bill we have gotten done. Passed the House and Senate in June and

July and we finally got that and it is down on the President's desk.

Foreign operations: That is foreign aid, that is an important subcommittee. Passed the House July 21. Where is it in the Senate? Well, they finished in full committee 2 weeks ago. But again they have not brought it up for a final vote in the other body.

We have got to get our work done.

Now Interior appropriations: This is 7th of 13. It passed the House in July, passed the Senate in July. Conferees were appointed. Conference was scheduled for today. That one might have a chance of getting out by the end of the week. Let us hope so.

Labor-HHS-Education: Passed the House August 2. Boy, this is a big appropriations bill. In the Senate the full committee report was filed on the 13th. I understand they may go to conference next week. But you know what? That is next fiscal year. Why could they not go this week or go the week before?

Now legislative branch appropriations: This is the one that funds Congress. It passed the House July 31, passed the Senate September 7. Conferees were appointed just a couple of days ago in the House. They could have been appointed, I would have thought, a couple of weeks ago. We did not get it done. Congress did not get the job done. We had to rely on that terrible thing called the continuing resolution.

Military construction appropriations: Another appropriations spending bill. This is a sad report. Passed the House July 31, passed the Senate September 15, conferees were appointed the 15th of September in the Senate even though we passed it in the House back in July and we still have not appointed conferees. Here it is September 27. We are not going to appoint them tonight. So that is going to be at least September 28.

Transportation appropriations: Passed the House August 3, full committee in the Senate September 7. They have probably been debating it over there on the Senate floor and have not come up with a final vote on the floor as of today.

But again our work has not been done.

Treasury-Postal Service appropriations: Boy, that is another important subcommittee here. Passed the House July 28, passed the Senate August 4. They appointed conferees back in the Senate in August, first week in the House here, conference began the 13th but they have not finished yet. Let us hope we can get that done before the end of the week.

Finally the last of the 13 appropriation bills.

Veterans' Administration, HUD, independent agencies appropriations: Passed the House July 20, the Senate full committee back 2 weeks ago, September 13, but again it was not brought up for final vote over there and again we have not done our work.

You know, this is uncalled for. We are here to do a job. We have been out the entire month of August because of the recess. We came back. We have had some days where we could have come in earlier most of those days, we have not had a lot of votes on Mondays or Fridays. There is plenty of chance to get the job done. Congress has not done the job.

Here we are at the end of the fiscal year burning the midnight oil, probably, and we resort to this terrible practice of passing a continuing resolution. No one reads it.

It is a couple of thousand pages long in some cases. No one knows how the special little pork-barrel projects that might be inserted here or there; the President has to take it or leave it or shut down the Government, without a line-item veto, something that even Michael Dukakis supported prior to the election. He often has to take it, as proves the point this week.

You know if we did get our job done, at least send these appropriation bills back one at a time, whether it be military construction or agriculture or legislative, at least the process would work and we would live up to the laws that we established for ourselves.

I see my good friend, the gentleman from Indiana [Mr. BURTON] has come on the floor. I know the gentleman would like to make a few remarks. Mr. Speaker, I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I thank the gentleman from Michigan for taking this special order tonight to inform our colleagues and, hopefully, some other people that we do have a real problem here in the Congress which is not new.

I have been in the Congress now almost 8 years and we have had to struggle with continuing resolutions throughout that entire period of time. In fact, I only recall 1 year, I think it was in 1987, when Ronald Reagan came before this body in his State of the Union Message with a 14-pound document that he dropped on the lectern up there and said this was the last continuing resolution that he was going to sign.

We all applauded wildly because we knew that as the gentleman said, nobody knew really what was in that continuing resolution in 1986-87. What really concerns me and the reason I am very happy to participate in this special order is not that we do not get our work done on time, although that is a major problem—we should get our work done on time. We wasted a tremendous amount of time in the early part of the year. What really concerns me is the chicanery that takes place when you pass a continuing resolution. The last continuing resolution that I remember we brought before the House, they brought it out here about 11:30 at night, it was wrapped in string, there were big red lines through it. People did not really know what was in it. I doubt seriously whether the people on Ways and Means knew everything that was in that bill. But later we found out there were pork-barrel projects for special apartment buildings in Chicago, there was a new parking lot approval for a stadium in Miami, FL, there was all kinds of pork-barrel projects, tax forgiveness in Tarrant County, TX. I remember that specifically very well, in Jim Wright's district. Those kinds of things bother those of us in this body because we know they are pork-barrel projects, we know there is chicanery, stuff that is done under the table. But it bothers the American people even more because they lose confidence in us.

Lord knows we have enough problems around here right now that lead the American people to lose confidence in Congress.

I think we only add fuel to the fire when we do not go through the regular appropriations process and meet the deadlines that have been set out by the Constitution and by law.

When we pass a continuing resolution, we violate the trust of the American people. I think it is time that we as a body pass the constitutional amendment to balance the budget, pass a constitutional amendment or a law that would give the President a line-item veto and say once and for all we are going to live within our means, we are going to live within the laws, we are going to get our appropriations bill done on time, we are going to go through all the processes required in a reasonable amount of time and cut out these continuing resolutions once and for all.

I think the American people would applaud it. I think they would look upon Congress with much more favor than they do. It would restore a lot of trust which has been lost by the American people as respects the Congress of the United States.

Once again I thank my colleague from Michigan. I know this is a real drain on him to set this thing up. I know he was going around the Chamber today trying to get people to come down and talk on it.

□ 1950

Mr. Speaker, I applaud the gentleman's efforts, and really thank the gentleman for taking the time.

Mr. UPTON. Mr. Speaker, I thank the gentleman for coming over. I remember that night so well because, of course, it was December. This was a continuing resolution that was going to take Members from about December 23 or so, 1987.

Suddenly, all Members with families, and I remember your remarks from the floor, within a couple of days, wondered where are we going to do the Christmas shopping? Is this a ruse by Marion Barry to make Members do our shopping here in the District of Columbia, or can we go home to Indiana or Michigan or wherever for Christmas and spend time with our families? It was a late night, about 11 o'clock at night. In fact, I just wish that I had kept my copy, because I ended up with one of the three copies that were available of the CONGRESSIONAL RECORD. It was about a foot and a half thick, bound with rubberbands and string, and one copy here on this table for the Republicans, one copy over there for the Democrats. They brought it out in a Xerox box, like in a trunk, practically, and one copy for the Speaker. They said that we would have debate on this for an hour, and then we would vote.

No Member read it. No Member read it even afterward. It was terribly long. What people did was they came up and rifled through the pages. They were all looseleaf-like sections. They wanted to see if their "special project" was in there, because it might have governed their vote, up or down. As I recall, it only passed by one vote. One vote, and I am sure the gentleman voted no on that. The whole process was wrong. How could we go back to our constituents, to the town meetings and such, and tell constituents with a straight face that we are trying to reduce the deficit? That is why we are here, trying to make tough choices. Yet we allow this process, without a line-item veto, would enhance rescission. Even the administration, and they had 10 days once this bill was passed by the House for the President to sign it, and they almost had to sign it overnight because, of course, the Government was going to shut down. Even they did not know what was all the mischief that had been done until long after the ink was dried. They said, "By gosh, we have to fund this program," and was too late.

That is what we are trying to get away from. That is a reason I voted against the continuing resolution yesterday. I am sorry to say that President Bush is likely to sign it. We have to lay the line in the sand and say "Enough is enough." We were elected to do a job, elected to make tough decisions. We ought to stand up by those decisions, and we ought to make the process work, make the trains run on time, just like the Speaker said earlier this year. We failed.

Mr. BURTON of Indiana. If the gentleman will continue yielding, he made a very valid point, and that is that the President is likely to sign this continuing resolution. I would like to say, if the President were here, that I wish he would make the same kind of unequivocal statement that President Reagan made and say that, "I will not sign any more continuing resolutions." He has been a former Member of this body and he knows.

Mr. UPTON. He could join Members tonight as a former Member. He could not speak, but perhaps we could get face time.

Mr. BURTON of Indiana. If the gentleman will continue to yield, I wish he would take your advice and my advice and tell the Congress, "Look, we will live by the rules. No more continuing resolutions. If you do not want to get the job done on time, you will stay here until you do." If the President held our feet to the fire a couple of times like that, we would get the message, and the American people would applaud the message.

Mr. UPTON. One day of Government shut down would force this institution to react the correct way and get the bills done, appoint conferees, if that is the hold up, get them out of conference, get them down there and let the President take the option of signing or vetoing. If he chose to veto, let Congress take the job and fix it up and get the job done and move on. We have to start looking ahead now to the next fiscal year. Gramm-Rudman target is ever harder. It will be much harder to achieve. We are being threatened now with sequestration because of Gramm-Rudman, automatic across-the-board cuts. We have not done our job. The reconciliation bill that we began really debating yesterday, and having some votes on today should have been done months ago.

Yet the Senate will take another week of vacation. The week of October 9 they are not scheduled to be here. How we can possibly finish the bill, send it to the Senate, get it through conference, down to the White House in time for automatic sequestration not to start?

Mr. BURTON of Indiana. If the gentleman will continue yielding, Speaker FOLEY was on television. I believe on CNN on Sunday. I was watching the show, and he pretty much conceded that we will have temporary sequestration because there is no way to reach the goal of getting this thing done on time.

Mr. UPTON. Even though I believe the gentleman from Indiana and I both supported Gramm-Rudman, that is no way for Members to act. We were here to set priorities. We were sent here to make spending choices within a limited amount, to reduce the budget. We were not here to act like robots and say everything will take a 1-percent cut or a 4-percent cut. Any school child could do that, and could come up with such a formula. We were sent here to make those priorities. Is health care more important maybe than running an Amtrak train from two different towns, to another place? Those are the choices that we are supposed to make here. Not letting automatic sequestration kick in.

Mr BURTON of Indiana. If the gentleman would continue to yield, for whomever in our body may be paying attention to this debate right now, and I hope all our colleagues are as well as other people, the thing that needs to be spelled out clearly as we have target dates, we have required dates by which we are supposed to get certain things done. We have not met those targets, and that is the reason why we have this sequestration problem facing Members, which is why we have a continuing resolution facing Members down the road. It is incomprehensible that the leadership in this body had not taken the bull by the horns and said to the committee chairmen and the conferees that they have appointed and said. "Look, get on with it, get the job done." and put pressure on the Senate to get it done so we can get out of here at a reasonable time, and to do the job the American people send Members here to do.

Mr. UPTON. If the gentleman can remember even last year when we were able to pass all the appropriations bills on time, everyone in this Chamber, Republican and Democrat alike, properly so, gave credit to finally getting the job done for almost—I was born in 1953—first time since 1954. Only one other time in my lifetime have they gotten the job done on time. I can remember the chairman of the Committee on Appropriations, people knew what he was saying.

Mr. BURTON of Indiana, If the gentleman will yield, we applauded that night.

Mr. UPTON. The Speaker at that time, Mr. Wright, was on the floor. The gentleman from Massachusetts [Mr. CONTE] was here. We were all here. It was almost like a birthday celebration, it was so festive. Where is that attitude now?

Mr. BURTON of Indiana. If the gentleman will continue yielding, I think the reason that attitude prevailed, if I might speak one more time, is that President Reagan, as I said, in the State of the Union message, dropped the 14-pound document on the desk and said, "No more." If that resolve is shown, by the administration, and if it is really believed by the leadership of this body and the other body, then by golly, get it done on time. The problem is that pressure has to be exerted, because if it is not exerted, all the other pressures, the pork barrel projects, the special interest groups, the special things people want to get done, will have to be done only through a continuing resolution and they will drag their feet until we are to the point where we have to have a continuing resolution and we will the chicanery and the pork barrel.

So I think the administration needs to be strong in saying, "Look, no more continuing resolutions," and stick by it, and keep Members here if we do not get the job done.

Mr. UPTON. We all are in this together. It is not only Members in this House. It is certainly the "Lower Body," as we like to refer to them over in the Senate, but also certainly the administration.

The gentleman is right. We need to make sure that, hopefully, our pledge initiated, really, by my good friend and colleague, the gentleman from Illinois [Mr. PORTER], and the gentleman from Oklahoma [Mr. EDWARDS] and myself, and I know the gentleman from Indiana [Mr. BURTON] had a good hand in this as well, circulating the pages for signature to get the necessary requisite number of names to say we had enough votes to sustain a veto. We need leadership from the top on down to say "Enough is enough." Let Members get the job done like we had done before.

Let me say in conclusion, how did this happen that up until August things seemed to be going so well, and all of a sudden, September things really began to collapse? I think it is, frankly, because our ambitions exceed our ability to perform. The fact is amply demonstrated in the reconciliation bill that is up for debate right now. It looks a lot like the continuing resolution back in 1987. This is it, and it almost takes two hands to hold it up. It is nearly 2,000 pages, which is what we are doing tonight. Actually, 1,935 pages.

□ 2000

Mr. Speaker, we are supposed to cast votes on it this week and next week, even though we only received it as of Monday this week.

It is not just that the bill is so long; it is that it contains a whole variety of major policy issues that do not belong in a massive package. Much of the delay has come about because the House leadership was unable to determine where the votes were on a variety of policy questions contained here.

There are issues like catastrophic health care. I think we are going to visit that issue next week. Then there is child care, and there is section 89, which we were able to repeal, thank goodness, a little bit earlier this afternoon. Then there is the fairness doctrine.

But at least those issues will come up for separate votes. Others will not. In fact, far more votes will not come up, and if this bill passes, there will be included as one of the items in the bill pension reform, although there was a vote earlier to make a proposed change in the pension law. A great many new regulations governing pensions are still included in the bill.

Another example is an expansion of Medicaid benefits. That is included here. How many Members of the House really understand Medicaid expansions as contained in the bill and whether or not they will be approved if they vote in favor of the bill?

It is not that these things are unimportant. In fact, they are very important, regardless of whether we support these specific proposals or not.

What makes it necessary that we pile all these into a massive "must pass" bill? Is that the way to do the people's business? Is that what our constituents want? Are these issues not important enough that we should give them more careful and deliberate consideration and have up and down votes on separate amendments on each and every one of these issues?

Those of us who advocate congressional reform are not saying these things just to criticize the Democratic leadership. Our point is that all of us in this House must take some responsibility for getting our work done on time, and that means that we cannot demand that every one of our legislative wishes be included in these massive catchall bills. It means we cannot just bring up these "must pass" measures just to test the loyalty, and it means that when we promise to do the job properly, it is a pledge to the people as well as to ourselves.

With that, Mr. Speaker, I wish to yield back the balance of my time, and we look forward to next Wednesday night when we will be talking about another issue of congressional rules. I hope we will have as lively a debate then as we had this evening.

RELIGIOUS FREEDOM WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, this week we are celebrating Religious Freedom Week, a reminder to us all that we are the fortunate recipients of that freedom. Much of our history is bound up with religious values and a heritage bequeathed to us by our immigrant forebearers. Their zeal and dedication in establishing congregations in their new homeland provide countless examples of personal sacrifice and personal triumphs over adversity.

Such an example is furnished by Immanuel Lutheran Church, which celebrates its 125th anniverary in this month of October. Immanuel Lutheran congregation was founded on October 3, 1864, by German-Americans, recent arrivals from Europe who were determined to preserve their strong Lutheran traditions for themselves and their children. Their reasons for leaving Germany were diverse; there were intellectuals disappointed by the failed revolutions of 1848, young people fearful of the ever increasing powers of an oppressive police state, and middle-class shopkeepers of an oppressive police state, and middle-class shopkeepers anxious for economic prosperity. The first meetings of the congregation were held at "Depford Hall" located at Gough and Dallas Streets in East Baltimore. Eleven days after President Lincoln's assassination it was resolved to begin the construction of an impressive church edifice on Caroline Street near Baltimore. The cornerstone was laid in September 1865, and on May 6 of the following year the completed structure was dedicated with appropriate services. Among the speakers for the occasion was Prof. Charles Porterfield Krauth of Philadelphia, the foremost leader of conservative Lutheranism in America. In keeping with the founders' intense interest in Christian education, a day school was established shortly thereafter.

Assimilation into the larger community caused church members to question the continued use of German as the language of worship and gradually English services were introduced in the 1890's. The early 1900's, particularly the post World War I years, saw members relocating to the suburbs, returning for worship services. School enrollment declined and the onslaught of the Great Depression multiplied the church's financial worries, but the congregation did not lose heart. In August 1934, lightning struck the church spire resulting in the parital destruction of the church building itself and its organ. Members accepted this disaster as a challenge and, in faith, the building was rebuilt and rededicated on April 7, 1935.

During the years of World War II, efforts were made to reach the families without a parish who were housed in Government projects, but membership declined, making pastoral efforts, however diligently made, more and more difficult. The congregation made a momentous decision at the close of the war to relocate, believing that missionary efforts might be more gratifying at a new site.

A cornerstone for a parish hall, which would serve as a place of worship until the church proper could be built, was laid on September 28, 1947, at the 2-acre plot on Loch Raven Boulevard and Belvedere Avenue. The church building itself was completed in 1951, expedited by a generous gift from Emma Wolpman Momberger, a lifelong member.

The imposing stone church structure, regarded as one of the finest examples of church architectural design in America, has not changed since that time. Yet within, the congregation worshiping there is no longer comprised solely of descendants of German-Americans. The membership has grown to reflect changes in the community Immanuel serves, but its mission remains the same—to minister to the needs of the people of its congregation as well as those of the community at large.

Great things have happened in the history of Immanuel Lutheran Church in the last 125 years, and great things have taken place in our Nation. Both have survived a bloody Civil War and two World Wars, both have struggled under the economic hardships of the Great Depression, both have witnessed societal changes and have adapted to those changes, and both have never lost the fervor and sense of commitment exhibited by those early immigrants.

Mr. Speaker, I would like to take this opportunity to congratulate Immanuel Luthern congregation on the occasion of its 125th anniversary, and admonish the members to continue to live in deeds, not in years. You have contributed immensely to the community you serve. Continue to labor in the knowledge that God will continue to use your strength and abilities to meet your responsibilities to that community, the Nation, and the world. More service is demanded of you, and I wish you continual prosperity and growth.

CONCURRENT RESOLUTION EXPRESSING SENSE OF THE CONGRESS THAT THE PANAMA CANAL TREATIES SHOULD BE ABROGATED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. CRANE] is recognized for 60 minutes.

Mr. CRANE. Mr. Speaker, today is the 10th anniversary of the signing of the Panama Canal Act of 1979 by President Jimmy Carter, which implemented the 1977 Panama Canal Treaties. In light of this historic date, I would like to take this opportunity to remind my colleagues of the substantial legal arguments which impair the validity of the Panama Canal Treaties, as well as invite them to cosponsor my resolution, House Concurrent Resolution 47, expressing the sense of the Congress that the treaties should be abrogated.

As the situation in Panama continues to deteriorate, we grow closer and closer to the unhappy prospect of turning over the maintenance and operation of the canal to the corrupt military regime of Gen. Manuel Noriega. Although some experts have downplayed its strategic importance, be assured that the canal is still considered a vital choke point in times of crisis. The ability to use the canal for the transshipment of ships, supplies, and other critical equipment would be vital to the United States in times of national crisis. Without the canal, ships would have to make a 13,000-mile trip around the tip of South America.

In 1977, President Carter and the "Head of Government" in Panama at the time, Gen. Omar Torrijos, signed two treaties. The first was the Panama Canal Treaty which calls for the gradual transfer of the canal and Canal Zone to Panama by December 31, 1999. The second treaty signed was the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, which guarantees the neutrality of the canal after the transfer is complete. A review of the process by which these treaties came to be ratified clearly indicate that constitutional irregularities exist that render the treaties null and void.

Chief among the many legal problems with the 1977 treaties is the DeConcini Reservation which declared that the United States' right of intervention to guarantee the neutrality of the canal could be exercised unilaterally and, if necessary, against the opposition of the Government of Panama. This amendment, which was essential in securing Senate ratification, was strongly opposed by the Panamanian negotiators. Unbeknownst to the Senate at the time, General Torrijos included a three-paragraph counterreservation in the treaty ratified by his Government. In essence, it stated that it was the understanding of Panama that the DeConcini Reservation did not allow for unilateral United States action. Hence it negated the Senate reservation.

Further complicating the matter is the fact that under the Vienna Convention on the Law of Treaties, which is generally recognized as the codification of the international law of treaties, each country entering into a treaty must ratify the identical language. Due to the DeConcini Reservation and the Torrijos counterreservation, this criterion clearly was not met.

Another justification for abrogating the treaties is the fact that the canal, which was declared U.S. property by the U.S. Supreme Court in *Wilson* v. *Shaw* [1907], was disposed of improperly. Under article IV, section 3, clause 2 of the U.S. Constitution, "The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States . . ." Therefore, U.S. property can only be conveyed through the normal legislative process, which means approval of both the Senate and the House, not through the treaty ratification process, which only requires Senate approval. As long as Panama continues to be held hostage by a drug-trafficking thug, for our own security and the security of the rest of the free world, we must do everything in our power to retain the canal. After we determine that the people of Panama have had the opportunity to select their own government in a free and fair election, we can work with that government to renegotiate a treaty. And next time we are going to do it right.

Mr. BUNNING. Mr. Speaker, I rise today on the anniversary of the signing of the Panama Canal Act of 1979 which implemented the Panama Canal Treaties of 1977. Since its passage and the ratification of the Panama Canal Treaties of 1977, the ire of many Americans has been raised because of the giveaway of a strategically important military and commercial waterway. Putting aside the fact that many of us believe the Panama Canal Treaties are in themselves faulty, the United States now has the responsibility to review these treaties as long as Gen. Manuel Antonio Noriega remains in power.

As we all know, General Noriega stole an apparent Presidential victory from opposition candidate Guillermo Endara and the Panamanian people earlier this year. Instead of listening to the will of the Panamanian people, Noriega placed in power a puppet regime. Since then, Noriega and his cronies have repeatedly violated the Panama Canal Treaties by harassing U.S. citizens and disrupting the efficient functioning of the Panama Canal.

Besides supporting the puppet Government, General Noriega has been indicted by two Federal grand juries in the United States for money laundering, racketeering, and drug trafficking. He has also been accused of harboring members of the Colombian drug cartels in Panama. And we are expected to turn over this vital waterway and the Canal Zone to him and his Government of despots.

Mr. Speaker, we need to reassess the Panama Canal Treaties and realize they are not working the way they were envisioned over a decade ago. House Concurrent Resolution 47, of which I am an original cosponsor, calls for the abrogation of the Panama Canal Treaties. As long as Noriega or his puppets remain in power and until internationally recognized free and fair elections are held, the United States needs to maintain sovereignty over the Panama Canal Zone. To do this, we need to use the Panama Canal Zone as a bargaining chip to get rid of Noriega and his cronies. We need to abrogate the Panama Canal Treaties.

Once a democratically elected civilian government is in power, the United States should then begin renegotiation of the Panama Canal Treaties. The problems we have had in ousting a military strongman such as General Noriega could be addressed in a new treaty by making sure the United States retains some semblance of say over the Panama Canal, either through maintaining a military presence or by asserting the United States' right to protect the Panama Canal and its surrounding zone.

It is unconscionable that we turn over a strategically vital waterway such as the Panama Canal to a bunch of drug-running despots who have no regard for the will of its citizens or their democratic rights that we, as Americans, take for granted. The security of the canal is at stake, let alone the future of Panama. The Panama Canal Treaties need to be abrogated, and they need to be abrogated now.

Mr. HANCOCK. Mr. Speaker, before I begin, I'd just like to thank my colleague, Mr. CRANE, for having the courage to introduce his resolution and to organize this special order calling for the abrogation of the infamous Panama Canal Treaty of 1977.

This is one mistake Congress is long overdue in correcting.

In my judgment, there are two reasons we should abrogate the Panama Canal giveaway: First, dictator Manuel Noriega has already violated the treaties and, second, it has never been in our security interests to surrender the canal in the first place.

Whatever one says of Noriega, he has at least forced us to revisit this sorry mistake of Congress and the Carter administration with the hope of getting back our canal—for good.

To begin with, Noriega has violated several provisions of the treaty, ending any obligation on our part to adhere to this ill-conceived document. He has harrassed U.S. citizens, failed to provide security for U.S. personnel, disrupted the efficient operation of the canal, failed to provide agreed-upon support services for the canal, and even threatened to evict the U.S. Southern Command—all in direct violation of the 1977 treaty.

To continue abiding by a dead letter treaty that goes against our national interests to begin with is asinine. The proper response to Panamanian violations is abrogation of the treaty entirely.

Despite what some say about the reduced significance of the canal, it is still vital and strategic for trade and military deployment—especially in a crisis situation.

Over 3,500 ships a year go through the Panama Canal. Seventy percent of that cargo

originates in or is bound for the United States. A large variety of trade passes through the canal affecting a wide cross-section of industries.

The Panama Canal is also still vital to world trade. Over 60 percent of British shipping crossing the oceans passes through the canal, as well as a third of Japanese oceanic trade. Furthermore, the Panama Canal is absolutely essential to trade between the countries of Latin America. In this sense, keeping the canal in friendly hands is important not only for the United States, but for the world economy as well.

Finally, the Panama Canal is properly considered by military observers as a strategic choke point, critical in any national security crisis.

Except for our large aircarft carriers, most of our fleet can still travel through the canal as well as the supplies and equipment that would be transported in an emergency. Without the canal, the United States would need a larger navy, capable of patrolling both oceans—an expense we can little afford during this budget crisis.

The case is clear. We are entitled to the canal by all rights. We have a serious and compelling interest in reclaiming the canal. It's time to take back what we should have never given away.

PERSONAL EXPLANATION

Mr. TORRES. Mr. Speaker, I was unavoidably absent on official business during rollcall votes No. 239 through No. 243 on Monday, September 25, 1989. Had I been present on the House floor I would have voted in the following manner:

Roll No. 239: "Yea" on approval of the Journal.

Roll No. 240: "No" on the Conte motion to instruct the conferees.

Roll No. 241: "Yea" on passage of H.R. 2364, Amtrak reauthorization.

Roll No. 242: "Yea" on passage of H.R. 2365, airport security.

Roll No. 243: "Yea" on Gephardt motion of meeting hour.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCCANDLESS (at the request of Mr. MICHEL) for today and tomorrow, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. UPTON):)

Mr. DREIER of California, for 5 minutes, today.

Mr. BEREUTER, for 5 minutes, today.

Mr. BURTON of Indiana, for 60 minutes, on October 2, 3, and 4.

Mr. MCEWEN, for 5 minutes, today.

Mrs. BENTLEY, for 60 minutes, on October 2, 3, 4, and 5.

Mr. DORNAN of California, for 60 minutes, on October 11, 18, and 25.

(The following Members (at the request of Mr. ERDREICH) to revise and extend their remarks and include extraneous material:)

Mr. GEPHARDT, for 5 minutes, today.

Mr. TORRICELLI, for 5 minutes, today.

Mr. ECKART, for 5 minutes, today.

Mr. PENNY, for 5 minutes, today.

Mr. STENHOLM, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. TALLON, for 30 minutes, on September 28.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. UPTON) and to include extraneous matter:)

Mrs. ROS-LEHTINEN.

Mr. HUNTER.

Mr. SMITH of New Jersey in three instances.

Mr. PORTER.

Mr. HYDE.

Mr. MCGRATH.

Mr. BROOMFIELD.

Mr. ROBERT F. (BOB) SMITH.

Mr. BUNNING.

Mr. SCHAEFER.

Mr. WELDON.

Mr. CRANE.

Mr. BUECHNER.

Mr. LAGOMARSINO.

Mr. LEWIS of Florida.

Mr. GEKAS.

Mrs. BENTLEY.

(The following Members (at the request of Mr. ERDREICH) and to include extraneous matter:)

Mr. NELSON of Florida.

Mr. TORRES.

Mr. HAMILTON.

Mr. STOKES.

Mr. LEHMAN of California.

Mr. SKAGGS.

Mr. BONIOR in two instances.

Mr. VOLKMER.

Mr. TRAFICANT.

Mr. GUARINI.

Mr. COLEMAN of Texas.

Mr. BILBRAY.

Mr. APPLEGATE.

Mr. HERTEL.

Mr. RANGEL.

Mr. SYNAR.

Mr. STUDDS.

Mr. MANTON in two instances.

ADJOURNMENT

Mr. UPTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 4 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, September 28, 1989, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1744. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptable [LOA] to Saudi Arabia for defense articles estimated to cost $50 million or more (Transmittal No. 89-40), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

1745. A letter from the Secretary of Defense, transmitting his certification that the current 5-Year Defense Program fully funds the support costs associated with the proposed multiyear contract for procurement of the F-16 and AV-8B aircraft and M-1 tank, pursuant to Public Law 100-180; to the Committee on Armed Services.

1746. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Saudia Arabia for defense articles and services estimated to cost $485 million (Transmittal No. 89-40), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1747. A letter from the Comptroller General, transmitting a list of all the GAO reports issued in August 1989, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

1748. A letter from the Secretary of Transportation, transmitting the 1988 report on the valuation of the U.S. Coast Guard military retirement system, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

1749. A letter from the Director, Office of National Drug Control Policy, transmitting a draft of proposed legislation to make funds available to the special forfeiture fund earlier than currently authorized, and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on the Judiciary.

1750. A letter from the Director, Office of Management and Budget, transmitting a copy of his determination and certification that certain amounts appropriated for the Board for International Broadcasting for grants to Radio Free Europe/Radio Liberty, Inc., are in excess of the amount necessary and will be placed in BIB's currency reserve fund, pursuant to 22 U.S.C. 2877(b); jointly, to the Committees on Foreign Affairs and Appropriations.

1751. A letter from the Comptroller General, transmitting the results of the review of the audits of the financial statements of the Civic Achievement Award Program in honor of the Office of the Speaker of the House of Representatives for fiscal year 1988 and for the period from July 1, 1987, through September 30, 1987, pursuant to 2 U.S.C. 1003; jointly, to the Committees on Government Operations and House Administration.

1752. A letter from the Secretary of State, transmitting a copy of the certification and determination, on behalf of the President, that it is in the national interest to waive the transfer of foreign assistance funds under the Fishermen's Protective Act, pursuant to 22 U.S.C. 1975; jointly, to the Committees on Merchant Marine and Fisheries and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 1335. A bill to amend title 38, United States Code, to increase rates of compensation and disability and dependency compensation for veterans with service-connected disabilities and survivors of such veterans, and for other purposes; with amendments (Rept. 101-262). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 3275. A bill to implement the Steel Trade Liberalization Program; with amendments (Rept. 101-263). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X, the following action was taken by the Speaker:

The Committee on House Administration discharged from further consideration of H.R. 2710; H.R. 2710 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER:

H.R. 3351. A bill to provide that the President may not prohibit or curtail the export to any country of agricultural commodities produced in the United States unless that country is engaged in war or military hostilities against the United States; to the Committee on Foreign Affairs.

By Mr. DELAY:

H.R. 3352. A bill to require competitive contractual practices in the Department of Defense, and for other purposes; jointly, to the Committees on Education and Labor and Armed Services.

By Mr. HUTTO:

H.R. 3353. A bill to provide Federal recognition to the Florida Tribe of Eastern Creek Indians; to the Committee on Interior and Insular Affairs.

By Mr. LEHMAN of California:

H.R. 3354: A bill to authorize the Secretary of the Interior to enter into a contract for the delivery of water from the New Melones Unit of the Central Valley project, California; to the Committee on Interior and Insular Affairs.

By Mr. MORRISON of Connecticut:

H.R. 3355. A bill directing the Attorney General to pursue the creation of an international criminal court with jurisdiction over certain internationally recognized crimes; jointly, to the Committees on Foreign Affairs and the Judiciary.

By Mr. SCHAEFER:

H.R. 3356. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income awards received for information leading to arrests; to the Committee on Ways and Means.

By Mr. SOLOMON:

H.R. 3357. A bill to require random drug testing of Federal legislative branch officers and employees; to the Committee on House Administration.

H.R. 3358. A bill to require random drug testing of Federal judicial branch officers and employees; to the Committee on the Judiciary.

By Mr. WISE (for himself, Mr. ECKART, Mr. BONIOR, Mr. ACKERMAN, Mr. TRAFICANT, Mr. PALLONE, Mr. CHAPMAN, Mr. LANCASTER, Mr. ATKINS, Mr. SAVAGE, Mr. JONTZ, and Ms. KAPTUR):

H.R. 3359. A bill to amend the Federal Trade Commission Act to require product advertising to disclose the countries in which components of the product are produced; to the Committee on Energy and Commerce.

By Mr. DICKS (for himself, Mr. SWIFT, Mr. MORRISON of Washington, Mr. CHANDLER, Mr. MILLER of Washington, Mr. MCDERMOTT, and Mrs. UNSOELD):

H.J. Res. 410. Joint resolution designating Novemer 11, 1989, as "Washington Centennial Day"; to the Committee on Post Office and Civil Service.

By Mr. PANETTA:

H.J. Res. 411 Joint resolution designating the monarch butterfly as the national insect; to the Committee on Post Office and Civil Service.

By Mr. WOLPE (for himself, Mr. GRAY, Mr. MORRISON of Washington, Mr. HOYER, Mr. SOLARZ, Mr. HENRY, Mr. CROCKETT, Mr. ENGEL, Mr. LEACH of Iowa, Mr. PAYNE of New Jersey, Mr. MOODY, Mrs. MORELLA, Mr. DELLUMS, Mr. MURTHA, Mr. GRANDY, Mr. ESPY, Mr. BERMAN, Mr. SHAYS, Mr. ACKERMAN, Mr. HAYES of Illinois, Mr. GOODLING, Mr. STOKES, Mr. RICHARDSON, Mr. HOUGHTON, Mr. MRAZEK, Mr. RANGEL, Ms. SCHNEIDER, Mr. OWENS of Utah, Mrs. COLLINS, Mr. GILMAN, Mr. FRENZEL, Mr. DYMALLY, Mr. KENNEDY, Mr. FISH, Mr. FAUNTROY, Mr. KILDEE, Mr. GREEN, Mr. BONIOR, Mr. CONYERS, Mr. CONTE, Mr. DIXON, Mr. UDALL, Mr. GEJDENSON, Mr. BUECHNER, Mr. FALEOMAVAEGA, Mr. KASTENMEIER, Mr. MARKEY, Mrs. SCHROEDER, Mr. MFUME, Mr. MCHUGH, Mr. LEWIS of Georgia, Mr. FAZIO, Mrs. BOXER, Mrs. BOGGS, Mr. WEISS, Mr. TOWNS, Mr. FORD of Michigan, Mr. KOSTMAYER, Mr. FLAKE, and Mr. GEPHARDT):

H. Con. Res. 203. Concurrent resolution concerning relations between the United States and the Government of Angola; jointly, to the Committees on Foreign Affairs and Banking, Finance and Urban Affairs.

By Ms. KAPTUR (for herself, Mr. MURTHA, Mr. RANGEL, and Mr. MONTGOMERY):

H. Res. 250. Resolution expressing the sense of the House of Representatives regarding requirements for the Commission on Alternative Utilization of Military Bases; to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 45: Mr. CARDIN and Mr. KILDEE.

H.R. 101: Mr. EDWARDS of California.

H.R. 114: Mr. EVANS.

H.R. 120: Mr. TOWNS.

H.R. 133: Mr. TOWNS.

H.R. 141: Mr. DWYER of New Jersey, Mr. LEWIS of Georgia, Mr. BOUCHER, Mr. TALLON, and Mr. JOHNSON of South Dakota.

H.R. 143: Mr. JONTZ.

H.R. 169: Mr. NELSON of Florida, Mr. STANGELAND, and Mr. MACHTLEY.

H.R. 209: Mr. MOAKLEY.

H.R. 211: Mr. BEVILL.

H.R. 369: Mr. MARLENEE.

H.R. 446: Mr. DEFAZIO.

H.R. 500: Mr. STOKES and Mr. GEKAS.

H.R. 505: Mr. SHUSTER.

H.R. 930: Mr. SHARP.

H.R. 978: Mr. EVANS.

H.R. 979: Mr. FROST, Mr. PERKINS, Ms. SCHNEIDER, and Mr. TRAXLER.

H.R. 1074: Mr. BROWN of Colorado.

H.R. 1083: Mr. JONTZ, Mr. POSHARD, Mr. SPRATT, Mrs. SCHROEDER, Mr. COSTELLO, Mr. SMITH of Vermont, Mr. MAZZOLI, and Mr. LIPINSKI.

H.R. 1095: Mr. LANCASTER and Mr. TAUZIN.

H.R. 1129: Mr. MACHTLEY, Mr. EDWARDS of California, and Mr. BOSCO.

H.R. 1249: Mr. SYNAR.

H.R. 1335: Mr. STAGGERS, Mr. HAMMERSCHMIDT, Mr. ROWLAND of Georgia, Mr. SMITH of New Jersey, Mr. FLORIO, Mr. BURTON of Indiana, Mr. STENHOLM, Mr. RIDGE, Mr. HARRIS, Mr. ROWLAND of Connecticut, Mr. KENNEDY, Mr. SMITH of New Hampshire, Mrs. PATTERSON, Mr. JAMES, Mr. JONTZ, Mr. STEARNS, Mr. PAYNE of Virginia, Mr. PAXON, Ms. LONG, Mr. BLAZ, Mr. MORRISON of Connecticut, Mr. LEATH of Texas, Mr. HEFNER, Mr. JENKINS, Mr. RICHARDSON, and Mr. BROWDER.

H.R. 1383: Mr. MURTHA.

H.R. 1394: Mr. YOUNG of Florida.

H.R. 1416: Mr. MORRISON of Washington, Mr. DICKINSON, Mr. BEVILL, Mr. WYLIE, Mr. YOUNG of Florida, Mr. BLILEY, Mr. ERDREICH, and Mr. GALLEGLY.

H.R. 1423: Mr. BUSTAMANTE.

H.R. 1493: Mr. THOMAS A. LUKEN, Ms. LONG, Mr. GILMAN, and Mr. FALEOMAVAEGA.

H.R. 1564: Mr. SMITH of New Hampshire and Mr. JONES of Georgia.

H.R. 1632: Mr. OWENS of New York.

H.R. 1693: Mr. FRANK and Mr. RINALDO.

H.R. 1810: Mr. JONTZ, Mr. HOCHBRUECKNER, Mr. DWYER of New Jersey, Mr. MCDERMOTT, and Mrs. BOXER.

H.R. 2041: Mr. MURPHY and Mr. HALL of Texas.

H.R. 2086: Mr. PARKER, Ms. SCHNEIDER, and Mr. INHOFE.

H.R. 2213: Mr. DYMALLY, Mr. LEVINE of California, Mr. STUDDS, Mr. STARK, Mr. DELLUMS, Mr. SCHEUER, Mr. MILLER of Washington, Mr. MORRISON of Connecticut, Ms. SLAUGHTER of New York, Mr. LANTOS, Ms. PELOSI, and Mr. ATKINS.

H.R. 2258: Mr. OWENS of Utah.

H.R. 2273: Mr. LEACH of Iowa, Mr. LEATH of Texas, Mr. ANDERSON, Mr. NAGLE, Mr. MOLLOHAN, Mr. PICKLE, Mr. DAVIS, Mr. NELSON, Mr. SPRATT, Mr. BRUCE, and Mr. HYDE.

H.R. 2407: Mr. FROST, Mr. RANGEL, Mr. WALSH, Mrs. COLLINS, Mr. HUGHES, Mr. BENNETT, Mr. LIVINGSTON, Mr. FALEOMAVAEGA, Mr. FAZIO, Mr. BLAZ, Mr. EVANS, Mr. BATES, and Mr. GILLMOR.

H.R. 2437: Mr. MORRISON of Washington, Mr. STARK, and Mr. NEAL of North Carolina.

H.R. 2460: Mrs. ROS-LEHTINEN.

H.R. 2575: Mr. BERMAN, Mr. STAGGERS, Mr. MADIGAN, Mr. TALLON, Mr. SMITH of Florida,

MS. SCHNEIDER, Mr. WALSH, Mr. FAUNTROY, Mrs. COLLINS, Mr. COLEMAN of Texas, Mr. INHOFE, Mr. DANNEMEYER, Mr. CALLAHAN, Mr. ERDREICH, Mr. MACHTLEY, Mr. RAY, Mr. THOMAS of Georgia, Mr. HOYER, Mr. FLIPPO, Mrs. BYRON, Mr. RANGEL, and Mr. EVANS.

H.R. 2584: Mr. NEAL of North Carolina, Mr. COSTELLO, and Mr. LEVINE of California.

H.R. 2589: Mr. LEWIS of California, Mr. GOSS, Mr. KYL, Mr. BATEMAN, and Mr. LEWIS of Florida.

H.R. 2632: Mr. BATES, Mr. SMITH of Florida, Mr. RAHALL, Mr. DWYER of New Jersey, Mr. OWENS of New York, Mrs. COLLINS, Mr. DORGAN of North Dakota, Ms. SLAUGHTER of New York, and Mr. TOWNS.

H.R. 2681: Mr. DELLUMS.

H.R. 2700: Mr. HYDE.

H.R. 2770: Mr. BENNETT, Mr. HEFLEY, Mr. HYDE, Mr. STUMP, and Mr. JONES of North Carolina.

H.R. 2782: Mr. DELLUMS.

H.R. 2853: Mr. SAXTON.

H.R. 2903: Mr. THOMAS of Wyoming.

H.R. 2923: Mr. SAVAGE, Mr. EMERSON, and Mrs. VUCANOVICH.

H.R. 2958: Mr. STOKES and Mr. DELLUMS.

H.R. 2972: Mr. LIPINSKI, Mr. BROWN of California, Mr. CAMPBELL of Colorado, Mr. TRAFICANT, Mr. AKAKA, Mr. BROOKS, Mr. GRANT, Mr. MURTHA, Mr. ROSE, and Mr. KOLTER.

H.R. 2996: Mr. JONTZ.

H.R. 3020: Mr. SENSENBRENNER and Mr. HENRY.

H.R. 3051: Mr. LIVINGSTON, Mr. BARTON of Texas, Ms. SLAUGHTER of New York, Mr. IRELAND, Mr. WATKINS, Mr. NIELSON of Utah, Mr. DWYER of New Jersey, and Mr. RITTER.

H.R. 3082: Mr. HUBBARD and Mr. SLATTERY.

H.R. 3126: Mr. FAUNTROY, Mr. RANGEL, and Mr. DEFAZIO.

H.R. 3211: Mr. POSHARD and Mr. WALGREN.

H.R. 3251: Mr. KILDEE, Mr. MOAKLEY, Mr. FUSTER, Mr. LANCASTER, Mr. DWYER of New Jersey, Mr. ROYBAL, and Ms. SLAUGHTER of New York.

H.R. 3266: Mr. GUARINI and Mr. HUGHES.

H.R. 3296: Mr. EDWARDS of California, Mr. ATKINS, Mr. WOLPE, Mr. VALENTINE, Mr. TRAXLER, and Mrs. COLLINS.

H.R. 3303: Mr. ERDREICH.

H.R. 3323: Mr. GILMAN and Mr. TAUZIN.

H.J. Res. 141: Mr. GREEN, Mrs. MORELLA, Mr. HAYES of Illinois, Mr. SANGMEISTER, Mr. PAYNE of Virginia, Mr. HENRY, Mr. INHOFE, Mr. JONES of North Carolina, Ms. KAPTUR, Mr. LEHMAN of Florida, Mr. MCGRATH, Mr. PALLONE, Mr. SCHUETTE, Mr. HERGER, Mr. HEFLEY, Mr. MCCRERY, Mr. BAKER, Mr. RHODES, Mr. UPTON, Mr. PARKER, Mr. RAVENEL, Mr. LEHMAN of California, Mr. JONES of Georgia, Mr. NOWAK, Mr. EVANS, Mr. BLILEY, and Mr. MADIGAN.

H.J. Res. 160: Mr. FALEOMAVAEGA.

H.J. Res. 223: Mr. HEFNER, Mr. CHANDLER, Mr. FRENZEL, Mr. VANDER JAGT, and Mr. DEWINE.

H.J. Res. 244: Mr. ACKERMAN, Mrs. BENTLEY, Mr. BILBRAY, Mr. BUNNING, Mr. CHAPMAN, Mrs. COLLINS, Mr. COSTELLO, Mr. CROCKETT, Mr. DEFAZIO, Mr. DE LA GARZA, Mr. DE LUGO, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FAUNTROY, Mr. FAWELL, Mr. FAZIO, Mr. FLORIO, Mr. FORD of Tennessee, Mr. FUSTER, Mr. GARCIA, Mr. HEFNER, Mr. HERTEL, Mr. HORTON, Mr. HUBBARD, Mrs. JOHNSON of Connecticut, Mr. KENNEDY, Mr. KOLTER, Mr. LEHMAN of Florida, Mrs. MARTIN of Illinois, Mr. MATSUI, Mr. MOAKLEY, Mr. MRAZEK, Mr. OWENS of New York, Mrs. PATTERSON, Mr. RAHALL, Mr. RANGEL, Mr. ROE, Mr. ROGERS, Mr. SCHUETTE, Mr. VENTO, Mr. WALSH, Mr. WHEAT, Mr. WYDEN, and Mr. SAWYER.

H.J. Res. 255: Mr. STOKES, Mr. YOUNG of Florida, Mr. STUDDS, Mr. SAVAGE, Mr. RUSSO, Mr. RICHARDSON, Mr. YATRON, and Mr. NEAL of Massachusetts.

H.J. Res. 278: Mr. PAYNE of Virginia, Mr. COX, and Mr. YATES.

H.J. Res. 389: Ms. SLAUGHTER of New York.

H.J. Res. 400: Mr. LEVIN of Michigan, Mr. HALL of Ohio, Mr. FAZIO, and Mr. DINGELL.

H.J. Res. 404: Mr. EMERSON and Mr. HENRY.

H. Con. Res. 62: Mr. APPLEGATE, Mr. OBERSTAR, and Mr. TRAFICANT.

H. Con. Res. 66. Mr. MOODY.

H. Con. Res. 118: Mr. MCEWEN.

H. Con. Res. 149: Mr. MCNULTY, Mr. WOLPE, Mr. ACKERMAN, Mr. FISH, and Mr. HAMMERSCHMIDT.

H. Con. Res. 175: Mrs. COLLINS, Mr. VALENTINE, Mr. LANCASTER, Mr. SMITH of Vermont, and Mr. JONTZ.

H. Res. 206: Mr. FAZIO, Mr. LIVINGSTON, Mr. MILLER of Washington, Mr. WOLF, Mr. HEFNER, Mr. DONALD E. LUKENS, Mr. PICKETT, Mr. CALLAHAN, Mr. COURTER, Mr. QUILLEN, Mr. SOLOMON, Mr. MOAKLEY, Mr. CHAPMAN, Mr. BONIOR, Mr. GEREN, and Mr. CAMPBELL of Colorado.

H. Res. 220: Mr. STOKES.

H. Res. 231: Mr. BENNETT, Mr. HUTTO, Ms. SCHNEIDER, Mr. LAGOMARSINO, Mr. MACHTLEY, Mr. SCHAEFER, and Mr. STEARNS.

PETITIONS, ETC.

Under clause 1 of rule XXII,

99. The SPEAKER presented a petition of the board of directors, Marysville School District, Marysville, WA, relative to legislation to ban alcohol advertisements from television and radio; which was referred to the Committee on Energy and Commerce.

SENATE—*Wednesday, September 27, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Lord God of Abraham, Isaac and Jacob—Moses and the prophets—Jesus and the Apostles; Lord God of the ages and all peoples of all races, grant that this Nation may fulfill its God-destined role among all nations.

Heighten our gratitude for the blessings so lavishly bestowed upon us; deepen our humility in the recognition of the resources so uncommonly plentiful in our land; broaden our sense of justice to include the deprived and the forgotten of the world; lengthen the outreach of our love and goodness to include all who suffer, the homeless and the hungry, the persecuted and the oppressed.

Sensitize us to the hurt and pain of all peoples at home and abroad. Make us advocates of the voiceless, the weak, the poor, the elderly, the neglected. Let compassion be the hallmark of our deliberations.

We pray this in the matchless name of Him who, in love, gave His life for all peoples. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 27, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is now recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, following the time for the two leaders, there will be a period for morning business until 10 a.m., with Senators permitted to speak for up to 5 minutes each. At 10 o'clock, the Senate will resume consideration of H.R. 3015, the Department of Transportation appropriations bill. The manner in which we will proceed on this bill is governed by an extensive unanimous-consent agreement reached last night, provisions of which can be found on page 2 of the Senate Legislative Calendar.

Upon disposition of the transportation appropriations bill, the Senate will resume consideration of the Department of Defense appropriations bill. For the information of Senators, rollcall votes are anticipated today relative to these matters.

Mr. President, I congratulate all concerned in reaching agreement on how we will proceed with respect to the drug program. This agreement gives us the opportunity to take much-needed action to substantially improve the President's proposal dealing with drugs. That proposal, the one submitted by the President, was painfully inadequate for the task that we face in this country in dealing with drugs. Now we have the opportunity to improve it in three important respects.

First, to elevate the goals of the program. What is it that we are trying to accomplish? The President's program, his proposal, was unnecessarily modest in that regard. It set goals that are far less than must be and can be achieved.

Second, it permits us to shift the emphasis of that program. We need much more in the way of education, rehabilitation, and treatment, much more than the President proposed in the way of emphasis in those important areas. This gives us the opportunity to do so.

Finally, it significantly increases the resources which we will commit to this program, substantially more than initially proposed by the President, the amount he proposed being clearly inadequate to the task. I congratulate Senator BYRD for his leadership in this area and all of the Members on both sides who participated in the negotiations. This is a victory, not just for Senator BYRD; this is a victory not just for the Senate; this is a victory for the American people. We have a chance to do something meaningful on the most serious domestic problem that we face, and we are going to take that action and dramatically improve the program that the President proposed.

STEVE GERSTEL'S 30TH ANNIVERSARY

Mr. MITCHELL. Mr. President, I would like to call to the Senate's attention that today, the 27th of September 1989, marks an anniversary for a man who is a friend to many of us, and who has served the Congress in his capacity for 30 years.

That man is Steve Gerstel of United Press International, who today celebrates his 30th anniversary as a member of the Senate and House Press Galleries.

Steve has been around a great deal longer than I, and as a result, I often find his insights and his comments both helpful and enlightening. He has served our Nation as a reporter, and although that is not an official position under our system, it is a role that is tacitly recognized and honored in the first amendment.

Steve's work is of a caliber that respects and honors the purposes of the first amendment and it is particularly fitting that he marks his anniversary at this time, because it is a time when the worth of the first amendment is being acknowledged worldwide as never before.

Not all of us know it, because Steve has so thoroughly assimilated American culture and traditions, but his family emigrated to this country from their homeland of Czechoslovakia. Indeed, it was Steve's unvarnished Czechoslovakian name which led to his untimely detention by an overly enthusiastic FBI agent when he was

detailed to cover Khrushchev's visit to this country in 1959.

That detention may be the only time Steve has failed to fulfill his duty as a reporter honorably, fairly, and well in the three decades that he has covered the Congress.

Today, when the liberties of free speech and a free press are being openly sought in Soviet Russia and Eastern Europe, it is a good time to consider the role that our Nation's independent media have played in the development of our system and the preservation of our liberties.

Not all of us always enjoy the attention we receive from our friends in the press, but if we are given the honest and fair reporting that is a hallmark of Steve Gerstel's work, we have much to be grateful for.

Our Nation was the winner when Steve came to this country, and it is a real pleasure to congratulate him on his 30th anniversary on the job.

STEVE GERSTEL: CONGRATULATIONS ON 30 YEARS OF CAPITOL HILL JOURNALISM—WE'LL CALL YOU IN THE MORNING

Mr. DOLE. Mr. President, I want to take just a moment to salute someone who is celebrating a remarkable anniversary today. I am talking about Steve Gerstel of United Press International, who is observing his 30th year of dedicated journalism on Capitol Hill—that gives Steve more tenure than almost every Member of the U.S. Senate. In fact, it might even entitle him to vote on the floor.

Let's face it, anyone who has spent that much time listening to the Senate deserves something special—like a free doctor's examination.

Steve found out all about this place when he first joined UPI's Washington bureau. One day his boss told him to get some reaction comments from Senator Herman Talmadge of Georgia. Although it was late in the evening, the young reporter dutifully called the distinguished Senator at his home. Senator Talmadge answered but told Steve he would call him back in the morning.

"That's OK," Steve said. Well, the Senator called back in the a.m.—4 a.m. to be exact.

Steve, welcome to the U.S. Senate.

Since that time, Steve Gerstel has seen plenty of 4 a.m.'s on Capitol Hill. Of course, UPI subscribers and newspaper readers don't think about how the news got to their desks or breakfast tables—they just want the news.

But behind that news are the men and women who do the thankless task of digging out the news and getting it out to the public in a seemingly endless series of pressure-packed deadlines. That is why Steve Gerstel's service in the Press Gallery is so impressive.

Steve, I congratulate you and wish you all the best as you continue your record-setting pace in this historic building. You have earned the respect and admiration of your colleagues and my colleagues as well.

TEMPORARY WAIVER OF THE JACKSON-VANIK AMENDMENT

Mr. MITCHELL. Mr. President, we are all heartened by the progress made in United States-Soviet relations during the past few days. I congratulate the President and Secretary of State for their work to ensure the success of their meetings with Soviet Foreign Minister Shevardnadze. I hope that both sides will devote significant energies to building upon these developments.

President Bush has pledged to respond to positive steps by the Soviet Union with positive steps of his own.

One specific step that President Bush should take immediately is a temporary waiver of the Jackson-Vanik amendment linking nondiscriminatory trade treatment with the freedom of emigration.

Since the beginning of 1989, over 100,000 people have emigrated from the Soviet Union. Tens of thousands more have permission to leave. The monthly rate of emigration continues to rise. Depending on how the overall trend is projected, we can anticipate that over 150,000 will depart the Soviet Union this year. It is estimated that as many as 250,000 Soviets could apply to come to the United States in 1990.

In the early 1980's, only about 1,000 people were allowed to leave the Soviet Union annually.

This is a truly remarkable change.

The indisputable rise in Soviet emigration is a step that deserves an American response. The response quite clearly should be the conditional lifting of impediments to trade imposed by the Jackson-Vanik amendment. Particularly if we are to maximize the leverage of the law, Jackson-Vanik should be temporarily waived now.

In 1974, Congress passed the Jackson-Vanik amendment to the Trade Act. The amendment bars an extension of certain credits and the granting of most-favored-nation status to non-market-economy countries that deny their citizens the freedom to emigrate.

The United States is virtually the only country that denies nations nondiscriminatory trade treatment and export credits based on their emigration policy.

In this respect, the Jackson-Vanik amendment is unique, reflecting Senator Jackson's forceful argument that the right to emigrate should not be separated from other issues of United States-Soviet relations.

The amendment gives the President the authority to lift the restrictions on trade if he determines that first, the relevant country no longer denies its citizens the right or opportunity to emigrate; or second, the waiver will promote freedom of emigration and receives appropriate assurances that emigration practices will lead to such freedom. The President may waive the amendment on a temporary or continuing basis, Congress concurring.

Waiving Jackson-Vanik would not automatically confer dramatic benefits. The United States and Soviet Union would have to complete a commercial agreement, as required by the Trade Act, before the Soviet Union could benefit from most-favored-nation status. Other provisions of United States law would continue to limit the availability of certain trade credits and guarantees for American exports to the Soviet Union. Moreover, United States-Soviet trade would continue to be limited by the lack of demand for Soviet products.

But Jackson-Vanik is of enormous symbolic importance.

Despite the assurances about continued freedom of emigration that the Soviets reportedly have given the administration, the President still says that he will consider waiving the amendment only once Soviet emigration law is changed and the United States is able to see the faithful implementation of that law.

I believe this is an overly timid approach.

Now is the time to grant a temporary waiver and maximize its utility by making a waiver extension contingent upon guaranteed freedom of emigration.

I believe—and the historical record demonstrates—that the actions of the Soviet Government are more meaningful than its laws. The number of Soviet citizens emigrating this year almost certainly will be three times that permitted in 1979—a year once regarded as the freest period of emigration in Soviet history.

Why wait? Why not give the Supreme Soviet added incentive to make legal reform a legislative priority?

If the President temporarily waives Jackson-Vanik, he loses nothing. He can only win. He can refuse to renew it should the Soviets restrict emigration or refuse to codify their emigration laws—and I would be among the first to urge him to do so.

By failing to grant a temporary waiver now, the United States could miss an important opportunity to respond to the changes we have demanded and to maximize the utility of the Jackson-Vanik amendment.

A temporary waiver would accomplish three things. It would conform with the intention of the Jackson-Vanik amendment; it would provide a carrot and a stick with which to influence the future of Soviet emigration; and it would demonstrate that the trade between the United States and the Soviet Union is limited first and foremost by the failings of the Soviet economy.

As Senator Jackson noted, the waiver provision in the Jackson-Vanik amendment "gives the President the legal authority he needs" to make a "gesture" to the Soviets once they improve emigration policy. Presidents have waived Jackson-Vanik in response to improve emigration policies in Hungary and other countries.

The law was written to ensure that the President could respond promptly to greater freedom of emigration. The restrictions of Jackson-Vanik becomes meaningless if they are not lifted when the conditions are fulfilled. Clearly, the freedom of Soviet emigration policy has increased—far more dramatically than many anticipated. Therefore, President Bush should grant a temporary waiver now.

An essential and related point is this: If we do not waive the amendment when its conditions are met, we have no leverage, no appropriate response, should emigration freedom be restricted in the future.

Many believe that the United States missed an important opportunity to faithfully implement the law in 1979, when Soviet emigration topped 50,000. Then, after the Soviets invaded Afghanistan and drastically restricted emigration, the United States had no specific response to that change of emigration policy. Having never waived Jackson-Vanik when emigration became freer, we could not reimpose it when emigration was restricted. If we fail to use the law as intended, we deprive ourselves of a useful tool.

Finally, a temporary waiver of Jackson-Vanik would pave the way for more normal economic relations between the United States and the Soviet Union. I believe this would serve American interests. It is in our interest not because it would spur a vast increase in trade between our nations, but because it would clearly indicate our willingness to build a relationship based on economic reality.

A temporary waiver would be a first step toward removing the political barriers to trade in acknowledgment of the political changes made by the Soviet Union. It would indicate the American willingness to welcome the Soviets into the international trading system if it can adapt to the economic principles and rules upon which that system is based. Finally, it would be a necessary precondition for revealing the fact that it is Soviet economic weakness, not American law, that ultimately limits United States-Soviet trade.

For all these reasons, I have urged the President to immediately exercise his authority to temporarily waive the Jackson-Vanik amendment.

Since May, I have called for such a waiver. Since May, Soviet emigration numbers have continued to rise.

Senator Jackson often said that his amendment would only be deemed a success when the President could exercise the waiver provision. Now is the time to make the amendment successful.

It is disappointing that the President has failed to recognize that the goals of Jackson-Vanik have been met.

President Bush should accept victory and respond accordingly. Both the United States and the Soviet Union have everything to gain.

RESERVATION OF REPUBLICAN LEADER'S TIME

Mr. MITCHELL. Mr. President, I reserve the time of the distinguished Republican leader. I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each. The Senator from Delaware is recognized.

IRA-CAPITAL GAINS

Mr. ROTH. Mr. President, Americans need the individual retirement account, and America needs the capital gains tax cut. Both represent programs vital to the economic well-being of our countrymen and our country—especially if the prosperity we have enjoyed the last 8 years is to continue.

When Congress passed the 1986 Tax Reform Act which pulled the teeth from the effective IRA program, then in place, my office rang loud with phone calls from angry Delawareans who had trusted Congress' earlier IRA legislation. These people were upset that a program which has grown to represent a quarter of personal savings—much needed savings for investment in America's future—was being cut. They were upset that Congress was attacking their nest egg, stripping them of a good program that led toward self-reliance, a basic principle in the American work ethic.

The time has come to bring back the IRA—and not at the expense of the capital gains tax cut. Congress has seen the consequence of the mistake it made by cutting the IRA program.

Annual contributions declined by almost $25 billion, a serious drop that adversely affects our gross national product and America's ability to compete in the global community.

And as savings represents the means to a bright future, this was a tremendous error.

To correct the mistake, in June I introduced an expanded IRA, known as the IRA-Plus. It picked up immediate support from constituents, and then earlier this month Senate Finance Committee Chairman LLOYD BENTSEN announced his support for the expansion of IRA's. Frankly, both represent significant steps toward reviving this important program—both show this necessary step is not only possible, but also important.

However the Bentsen plan is proposed as an alternative to President Bush's capital gains tax cuts, another measure needed to encourage investment in America. To exchange one for another would be like the man who trades in the tires on his car for a tank of gas. Both are needed if the machine is to work properly and progress is to be made. More importantly, the IRA, if properly crafted, could be combined with the capital gains tax cut, instead of being a substitute for it. Handled correctly, the IRA-Plus could actually raise revenues in the early years after enactment, a necessary and attractive feature in this time of deficits.

Where Senator BENTSEN's plan will cost the Federal Government around $8 billion in its first 3 years, my IRA-Plus should actually raise revenue for the Government while providing a greater payoff for the contributor. This is done by shifting the contributor's benefit to the time of withdrawal, rather than offer the tax deduction up front like the Bentsen plan and allowing current IRA depositors to transfer their funds to an IRA-Plus—provided they pay a tax on the previously deductible contributions. My IRA-Plus requires after-tax contributions, but then allows the contributor to withdraw the earnings after age 59½ completely tax free. This gives our senior citizens the security of knowing that once they have paid taxes on the earned income during their working years, the money saved in an IRA-Plus, and all interest, will be tax free at the time of retirement.

Even if the money is withdrawn before retirement, for purchasing a home, paying for education, or covering catastrophic health care bills, the withdrawal remains tax free. BENTSEN's proposal allows for early withdrawal without a penalty, but still subject to tax. And the withdrawal can be used only for purchasing a home and paying for education. There is no

withdrawal provision for catastrophic health care.

The differences between my IRA-Plus option and the Bentsen plan become even more poignant with an example:

If a couple contributes $2,000 a year from the time they're 30, and receives an 8-percent yield on their investment, they can, upon reaching age 59½, withdraw $23,080 tax-free each and every year. Under the Bentsen plan, the same investment would yield $19,618 after taxes, if the taxpayer is in the 15-percent bracket. The difference is $3,462 annually. However, if the taxpayer is in the 28-percent bracket, the annual withdrawal under the Bentsen plan would be reduced to $16,617, for an annual difference of $6,463. If the couple is in the 33-percent bracket the Bentsen plan pays only $15,464 a year at retirement.

These examples do not take into account the effect of the future value of the annual tax deduction offered under the Bentsen plan. If the tax savings is invested, the Bentsen IRA might prove more attractive, but still would not yield as well as the IRA-Plus. And the sad truth is that for most workers the income from saving with the current IRA program, or through the Bentsen plan, will be taxed higher after retirement than it would have been taxed during the earning years, largely due to the Social Security benefit tax and the Medicare surtax. Consequently, at a time when American seniors need a tax break the most, they will be faced with a higher tax bill on their retirement income.

The IRA-Plus offers the best option for Americans. It rewards thrift, encourages self-reliance, and allows families the incentive to save for retirement while providing the flexibility to cover many of life's necessary demands like home, college, and health. And by helping Americans save, the IRA-Plus, combined with a capital gains tax cut, will help America secure its industrial leadership into the future.

Mr. DURENBERGER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized.

INTERNATIONAL TRANS-ANTARCTICA TEAM

Mr. DURENBERGER. Mr. President, I rise to make my weekly report from the Trans-Antarctica 1990 International Expedition. Today is day 63 in the expedition that began at the end of July in west Antarctica, and will end up in March of next year on the east coast of Antarctica.

During the last week the weather has been very poor. The team has traveled only 75 miles and is now at a point which is right here still on the Antarctica peninsula.

The weather in Antarctica this week last has been a lot like the weather has been this past week in the eastern seaboard. Wind gusts have been in the neighborhood of 100 miles an hour, much like some people have experienced with Hurricane Hugo. But this is a consistent winter like wind which has been making life miserable. The six men who are on this expedition do not live in homes like the rest of us but they spend much of their time when they are not behind their dogsleds living in tents.

Actually, the weather is bothering everyone except a dog named Monte, whose abnormally thick coat keeps him warmer than the other dogs. Besides the weather, hard crust ridges, like frozen waves formed by the winds, have made sledding very tough. The frozen ridges are called sastrugi that will be coming up again during the course of this trip at various times.

I have been asked, What do these men do when they are not behind their dog sleds? How do they spend their time when they are stuck in their tents? You have to run out of conversation after awhile. We inquired this week and discovered that the team had requested for reading the Jack London books, if you can imagine that, and interestingly enough for those of you who read poetry, and particularly what some people would call commitment poetry, Robert Service poetry.

In addition, they requested a Beetles song book. All of that is going to be delivered to them on the mid-October resupply plane.

Mr. President, in the last 2 weeks I have spoken often of Victor Boyarsky, the Soviet member of the six man team. He is 38 years of age—his September 6 birthday was forgotten because they were out in the middle of the Peninsula in the middle of a near tragedy on September 6. A member of the Soviet Arctic and Antarctic Research Institute has been on two scientific projects in the Arctic and four in East Antarctica, the Soviets have a permanent camp in East Antarctica. At the time Victor joined the team in 1987 he was not fluent in English. By the time the team reached Greenland for their 1,600 mile practice run, last winter he was speaking emotionally, if in broken English, about the importance of the expedition. Going into the trek, Victor was confident that the language barrier would be no problem. As he said there is only "one language in Antarctica, the language of keeping moving."

A veteran radio—glaciologists, Victor oversees the expedition's glaciological and meteorological studies, including unprecedented land—based readings of the deteriorating ozone layer which we disuss here in this body in the comfort of 72 degree temperature. He has also become something of a cheerleader. On the team's traverse of Greenland, Victor was generally the first to rise and make sure his fellow travelers' were awake too: Leningrad's version of an alarm clock.

Although I have focused on the men, the real heros, according to expedition leader Will Steger, are the dogs. They are the ones that do the work of pulling the 1,000 pound sleds. They pick up the scent of a snow—drifted trail and awake each morning oblivious to the cold and eager to run. Often it is the enthusiasm of the dogs that spark the men to action, not vice versa.

There are 42 dogs on the expedition—36 are pulling sleds—12 to a sled. The six extra dogs are kept at the base camp on King George Island. Driving the sleds or mushers are Will Steger, Geoff Somer, of Great Britain, and Keizo Funatsu. Most of the dogs are Will Steger's, but eight are from the highly respected Krabloonik kennel in Colorado, and five are from Greenland. The Greenland huskies are direct descendants of the dogs used in Antarctica by U.S. Adm. Richard E. Byrd, who in 1929 was the first man to fly over the South Pole.

Mr. President, as my time concludes, I want my colleagues to know that the 42 dogs pulling the sleds across 4,000 miles of ice are not pets, nor are they wild, they are work dogs bred for the weather and the work. They actually like it.

Next week I will introduce to my colleagues individual dogs, for as any pet owner knows, they do have personalities and are making the trip interesting for the six men that try to manage them.

JFK CAPITAL GAINS

Mr. KENNEDY. Mr. President, it is with a strong sense of the absurd that I have listened to defenders of President Bush's capital gains tax cut invoke President Kennedy in support of their scheme.

Nothing could be farther from the truth. In 1963, President Kennedy proposed a comprehensive set of reforms to reduce tax rates and close tax loopholes. It was similar in many ways to the historic Tax Reform Act of 1986, which he would have enthusiastically supported.

Yes, President Kennedy's proposal included a reduction in the capital gains tax. But it also included taxation of capital gains on assets transferred at death or by gift.

In his message to Congress in 1963, President Kennedy clearly stated:

Adoption of this proposal—meaning taxing capital gains on transfers at death or

by gift—is an essential element of my program for the taxation of capital gains; certainly in its absence there would be no justification for any reduction or present capital gain rate schedules.

Does President Bush support this reform as well? The answer is no. All he has proposed on capital gains is the tax cut without the tax reform.

I have no doubt that my brother would vigorously oppose the Bush plan if he were here today. Invoking President Kennedy on behalf of this multibillion-dollar giveaway to the richest taxpayers in the Nation is intellectually dishonest and politically preposterous.

It misreads history and misleads the American people. I hope that House Members who should know better will stop misrepresenting President Kennedy's position.

THE CAPTIVITY OF TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, it is now 1,656 days that Terry Anderson has been held in captivity in Beirut. I wish to once again remind my colleagues of his continuing captivity.

THE EDUCATION SUMMIT

Mr. DOLE. Mr. President, today President Bush convenes a historic education summit with the Nation's Governors. This meeting offers a unique opportunity for the President, members of his Cabinet, and the Governors to work on strategies for reversing the education deficit.

President Bush and the Governors do not need more studies telling them how our education system is failing our children. They are convinced it's failing us—and so are the American people. They are fed up and they want action.

The President has worked closely with the Governors to shape an agenda that responds to the public's concerns. The participants will focus on teaching, the learning environment, governance, choice and restructuring, a competitive work force and life-long learning, and postsecondary education.

One aim of the summit is to begin the process of developing national goals for our education system. The American public is ready for this idea. A Gallup poll released last month found Americans strongly favor national goals and standards for public schools and national tests to determine if students are meeting the standards. What they do not want, however, is a national curriculum.

The President and the Governors will also explore the possibility of allowing greater flexibility in the use of Federal education funds in return for greater accountability for performance. I am convinced this is a trade the American people will support. Americans do not want Uncle Sam running the classroom. What they want is more bang for their education buck; and plenty of local control.

Mr. President, our system of higher education is already the envy of the world. There is no reason our elementary and secondary schools should not be the same. But to get there we will have to make changes, fundamental changes. Thanks to President Bush's leadership, we are heading in the right direction.

Now we need a renewed commitment to go beyond tinkering at the margins so we can implement real reforms. We have to give school administrators more flexibility and parents more choice; we must do more to recruit and retain good teachers; and we need to improve the curriculum and make schools more accountable for results.

These are all themes which the President has sounded and which he and the Governors will take up during the summit. I am confident that their work this week will give a renewed sense of purpose and direction to the reform of our educational system.

UNITED STATES-SOVIET RELATIONS

Mr. CRANSTON. Mr. President, earlier today I made several proposals regarding arms control efforts during a speech to the American Committee on United States-Soviet Relations. Knowing of my colleagues' interest in these issues, I ask unanimous consent that the text of my remarks appear in the RECORD at this point:

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR ALAN CRANSTON, AMERICAN COMMITTEE ON UNITED STATES-SOVIET RELATIONS ANNUAL MEETING, WASHINGTON DC, SEPTEMBER 27, 1989

I am pleased to be here today in the company of two good friends and very distinguished Ambassadors, Yuri Dubinin and Jack Matlock. I believe it is an encouraging commentary on our times that each day the work of these two fine diplomats grows both more important and more promising.

I also wish to thank Don Kendall, Hodding Carter, and the other officers of the American Committee on U.S.-Soviet relations. Your efforts in pressing a broad agenda—through times both bleak and encouraging—have laid a crucial foundation for ever more constructive people-to-people relations in the future.

We gather today to celebrate some rather modest good news.

There is very slow, but nonetheless steady, progress across a broad range of issues on the U.S.-Soviet agenda. I wish to share briefly with you the perspective of one Capitol Hill veteran both on these developments as well as on the possibilities and prospects ahead.

Let me begin by congratulating President Bush and his team for their readiness to move ahead, albeit quite cautiously, on some important arms control issues. I am pleased that we finally have the prospect for another summit and the hope for progress on conventional weapons and start negotiations.

President Bush has deservedly won high praise for his selection of a top notch team of U.S.-Soviet experts in the national security area. I have nothing but respect for men like Jack Matlock, Colin Powell, Jim Baker, Dick Cheney, Larry Eagleburger, Brent Scowcroft and Bob Gates.

But frankly, I share the growing impatience of a number of my colleagues on Capitol Hill—including Democrats, Republicans, liberals, conservatives—that this team has been excessively cautious and timid in moving to capitalize on developments in the Communist world.

For three generations, American leaders have wished for a Soviet leadership prepared to address our security concerns. At long last it may be possible to end some of the risks and burdens of the military competition that has dominated the East-West relationship for four decades.

George Bush has in his hands the greatest opportunity for statesmanship that has faced a President since our country embarked, after World War II, on the policies recommended in a report of the National Security Council of that era, NSC-68.

That report identified the Soviet design of the world dominated by its will as the greatest threat to our national security. NSC-68 recommended that the U.S. reduce the influence of the U.S.S.R. and force the Soviets to modify their behavior through a combination of military and economic initiatives, while allowing time for the internal contradictions and weaknesses of Marxist-Leninism to emerge. "It is only by developing the moral and material strength of the free world," the document stated, "that the Soviet regime will become convinced of the falsity of its assumptions and that the preconditions for workable agreements can be reached.

Well, containment worked. The determined resolution and sustained strength of the U.S. and NATO, and the spreading realization in most of the Communist world that Marxist-Leninism doesn't work, have combined to produce the long-awaited conditions wherein workable agreements should at least be reachable.

Now is the time to respond—in consultation with our allies and with appropriate creativity—to the overtures, actions, and unilateral concessions emanating from the new Soviet leadership.

Instead, there is a ring of "business-as-usual" to the pace and tenor of Bush administration policy declarations. A flavor of bureaucratic stodginess rather than a tone of creative leadership characterizes the Bush administration response to the vast opportunities are at hand due to 40 years of resolute perserverance on our part and due to the unanticipated and incredible developments inside the Soviet Union and within the Warsaw Pact.

U.S. policy makers have just now resolved with some finality the fundamental question of whether or not we wish Peristroika to succeed. We do wish Peristroika, Glasnost, and Gorbachev well. But it looks as if it will be almost 20 months after George Bush was elected President before he will hold his first working meeting with his Soviet counterpart, Mikhail Gorbachev.

We've spent many billions of dollars for NATO military forces while committed to greater freedom for those oppressed by Communist systems. Yet now that freedom has a chance—in Warsaw, in Budapest, indeed, in Moscow—the Bush administration finds what I see as too much comfort in the status quo.

When Lech Walesa asked for U.S. aid, the administration responded with a progam totaling just 1 percent of what the Poles sought to help make the transition toward a free market economy. By contrast, while we have historic opportunities in the field of arms reductions, the administration is asking tens of billions of dollars for not one but two new land based ICBM's and funding for dozens of Stealth bombers at $500 million a piece!

What is missing from these discussions, I believe, is a greater sense of the moment, a greater sense of priorities.

We do have an historic opportunity before us, the opportunity of a life time.

We do not have the luxuary of squandering this opportunity with status quo, steady-as-she-goes thinking.

The fact is, it has been 17 years since the United States and the Soviet Union ratified a strategic arms control treaty . . . and of course we have never negotiated and ratified a strategic arms reduction treaty. I, for one, am uncomfortable with the idea that start won't be completed until 1991, as suggested by the post-mortems on the Baker-Shevardnadze talks.

We can do better.

We can do it sooner.

We can do more.

The Bush team is too competent and the Gorbachev commitment is too genuine to accept such a slow timetable as if it is carved in stone.

Today is a day for optimism. But to be realistic, let's take a moment to consider the worst-case scenario.

Many of us, I am sure, share a common fear. That is the fear that the Gorbachev experiments will ultimately fail, sparking a reaction in the Kremlin away from glasnost and perestroika, prompting regression back towards the dark ages of the Soviets' Stalinist past. I do not believe such a development is likely because the Soviets have come too far to go back. Too much of the old order has been destroyed. It does not all depend on the political survival of one man—Mikhail Gorbachev. He is an impressive leader responding to special circumstances. But these circumstances—the failing of Marxist-Leninism and the success of freedom—were recognized widely, and there were many, many people in the Communist world eager to address the challenges presented by these circumstances.

I share a fear of many on Capitol Hill that the United States will be too much of a spectator as the Soviets struggle to transform their society, as they struggle to accept some basic Western precepts about human rights, market economics and the rule of law. I fear the United States will fail to take advantage of mutual opportunities in arms reductions and a further normalization of relations.

Whether the Soviet experiment succeeds or fails depends to a very significant degree on U.S. reciprocity.

President Gorbachev is not likely to bring about truly meaningful cutbacks in Soviet military spending if we don't cut back ours.

If, God forbid, the United States plays for the status quo and the Soviet experiment fails, a bitter, divisive debate will likely ensue in this country. Liberals will castigate the White House for lost opportunities. Conservatives will counter that their critics have been naive and White House caution has been vindicated. Both sides will find confidence in having pursued a self-fulfilling prophecy. Far worse, of course, is the hard, harsh fact that if the Soviet experiment fails and the Soviets regress to a cold war posture, there will be disastrous consequences for us in terms of more and more military spending, more deficits, and increased dangers of confrontation and war.

As a member of the Democratic leadership on Capitol Hill, I have been trying to help us avoid such a tragedy for the United States.

We are fully aware of the uncertainties regarding the capacity of the U.S.S.R. to remain on its present course. I know that we must be extremely careful in any actions we take. We know that our intelligence analysts estimate that Soviet military expenditures increased in 1988 by 3 percent. We know that these same analysts warn of ambiguities in Soviet pledges to reduce defense spending and to reorient toward a defensive military posture.

But it is in our interest to test, now, how far President Gorbachev can and will go in committing his nation to actions and agreements that any Soviet successor would find it difficult to reverse.

I am heartened that, finally, the Bush team is moving on a broad range of U.S.-Soviet issues.

Over the past 48 hours we have heard some inspiring speeches at the U.N. But I think it is important for us to get beyond the rhetoric and to move more swiftly on negotiating the details. The U.S. proposal to retire some—but not all—of our mutual stockpiles of chemical weapons has the same infirmity as Foreign Minister Shevardnadze's counter that we should both freeze production of fissile material. These modest steps will remain distracting sideshows unless we address the main issues impeding a START Treaty. Destroying a percentage of our old chemical weapons—as required by Congress—will mean little if we continue to make new binary chemical weapons. Similarly freezing plutonium production won't mean much if the U.S. and Soviet Union are free to pirate retiring weapons and access our enormous stockpiles to fabricate new warheads. So while the warmth of the Bush and Shevardnadze speeches is pleasing, we still need to focus on prompt and dedicated negotiation of the central issues. These remain deep cuts in strategic arms, a comprehensive nuclear test ban, and normalized trade and emigration policies.

To get beyond rhetoric to action, there are several concrete steps we should take now.

For example, the time has come for the United States to stop hemming and hawing and to finally waive the Jackson-Vanik prohibitions on the extension of most-favored-nation treatment to the Soviet Union. Let there be no more preconditions, no new hurdles erected.

Similarly, we should waive Stevenson amendment restrictions on trade financing credits.

We should also move with greater dispatch to conclude a START agreement, to permit the opportunity for a follow-on accord before we are immersed in the politics of the Presidential election season of 1992.

In addition, we should be pushing a much more ambitious program of aid for Eastern Europe—Poland and Hungary especially—than that proposed by administration authorities. For the price of just one Stealth bomber per year, we could quadruple President Bush's meager aid effort and immeasurably advance our national security interests.

In conclusion, I would observe that for nearly a decade, executive branch policymakers were transfixed by an alleged "window of vulnerability." The debate in this country over U.S. military modernization requirements was spurred by unimaginative, inconsistent and heavy-handed Kremlin actions.

We are in a new era now. The cold war was waned, the rhetorical window of vulnerability has vanished, and the Soviet Union under Mikhail Gorbachev is daily taking bold risks at home to strengthen the ties between us.

We, too, must dare to be bold. We must not confuse the status quo with stability. We must have the wisdom to recognize that sometimes in a world burdened with 50,000 nuclear warheads it is more dangerous to stand pat than to take a calculated, carefully evaluated, risk.

Looming before us today is a more substantial window of opportunity. Each person in this room has an obligation to do what we can to see that together, the United States and Soviet leadership address these mutual opportunities and moves through this window toward a more promising tomorrow for future generations.

I thank you for all each of you is doing to realize these possibilities and I urge you onward.

THE RETIREMENT OF COOPER T. HOLT, EXECUTIVE DIRECTOR OF THE WASHINGTON VFW OFFICE

Mr. THURMOND. Mr. President, on September 1, 1989, Cooper T. Holt retired as the executive director of the Veterans of Foreign War's [VFW] Washington office. His retirement marks the conclusion of a 45-year association with an organization which is dedicated to our Nation's veterans. It is my privilege to pay tribute to him at this time.

In 1944, Cooper Holt, who was then a 19-year-old soldier stationed in the South Pacific, paid $1 to join the VFW as a member-at-large. Although he did not know it at the time, it would signify the beginning of a lifelong partnership.

In 1956, just 12 years later, Cooper Holt was elected commander-in-chief of the VFW and became the youngest man ever to serve in this capacity. In 1963 he became the executive director of the VFW's Washington office. In each of these positions, Commander Holt served with integrity, dedication, and conviction.

Commander Holt's leadership will be sorely missed by the members of VFW and by those of us who have worked closely with him in past years. The outstanding service which he rendered

to our Nation's heroes, however, will be forever remembered and admired.

Representative G.V. "SONNY" MONTGOMERY, our colleague from Mississippi, has written an excellent article detailing the career and accomplishments of Commander Holt. I ask unanimous consent that this article, entitled "Cooper T. Holt: Veteran's Advocate," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COOPER T. HOLT: VETERAN'S ADVOCATE

(By Hon. G.V. "Sonny" Montgomery)

It all started in the South Pacific in 1944. A 19-year-old soldier from Chattanooga, Tenn., while serving at Bougainville in the Solomon Islands, paid $1 to join the VFW as a member-at-large.

After service as a flamethrower-operator with the Americal Division's 164th Infantry Regiment, he, like hundreds of thousands of other veterans of the Pacific Theater, returned home to begin a new life.

A life, in the case of Cooper T. Holt, that was devoted to the service of his fellow veterans.

During a 45-year career with the VFW, Holt has held a prominent place on the front lines of some of the most memorable struggles and victories on behalf of veterans' benefits and a strong U.S. foreign and defense policy.

He is proudest of three undertakings: establishment of a full, independent Senate Veterans's Affairs Committee; upgrading of the Veterans Administration to a Cabinet-level department; and though it failed, the battle to retain America's control of the Panama Canal.

Recent events in Panama, under the autocratic control of the drug-running Gen. Manuel Noriega, are testimony to just how right the VFW's and Holt's stance has been.

"At least we scored some very important points in the fight. I don't think Congress will ever again be able to so easily give away anything bought with so much American sweat and sacrifice, especially something as strategic to U.S. security, shipping and travel," he says.

RISING IN THE RANKS

Holt demonstrated an obvious capacity for leadership with his rapid climb through VFW ranks. The organization recognized his ability in 1956 when it chose him to serve, at the age of 32, as the VFW's youngest ever Commander-in-Chief and, in 1963, as the Executive Director of the VFW's Washington Office.

A *VFW Magazine* writer in 1956 had this to say about Holt: "With strong convictions about national security issues and the readjustment problems of millions of young Americans, Holt recognized in the VFW a tailor-made opportunity to do something constructive about the things that rankled his sense of patriotism on national affairs and his ideas of just treatment for the country's returning veterans."

INTEGRITY THE KEY

Tough, gracious, honest, amiable and rare are just some of the words you hear when Holt's the topic of conversation. Sometimes the descriptions are a bit more colorful (and unprintable).

But they're all apt. That shock of white hair. That strong hint of Southern roots detected in his speech and actions. That disarming yet legitimate small town demeanor and eloquence.

All these qualities have drawn admiration from many quarters, especially from those who have worked closest with him.

Sen. Alan Simpson of Wyoming described Holt as "an extraordinary person . . . very tough . . . very firm, fair, honest . . . and highly opinionated."

Harry Walters, former VA administrator, and now president of Great Lakes Carbon, Inc., claims Holt can be "one tough cookie." Only those "close to the battle" for veterans' issues inside Washington, he says, can fully understand his accomplishments.

"He's like a stingray, sometimes . . . tough and effective," says Walters. "And it's all directed toward advocacy for veterans. He's a legend in terms of the way he has influenced things in Washington."

From Presidents Kennedy to Bush, he's utilized a shrewd combination of hometown charms and "stingray" skills to establish close and effective working relationships with seven administrations and 14 different Congresses.

These skills have been devoted to ensuring that the nation consistently fulfills its obligations to veterans and their dependents. Along the way, he's rated unequivocal praise from several Presidents, including the most recent.

Addressing a recent gathering of VFW conference delegates, President George Bush spoke of "a real institution of the VFW . . . He has my respect and my friendship, and I don't know what it's going to be like without him around here, I'll tell you.

"Members of the VFW, others who stand for a strong defense, whoever they may be, Cooper has earned the gratitude of veterans everywhere for making the VFW his lifelong cause, but also for the way he has conducted himself in Washington and elsewhere in this high office," said the President.

In 1973, President Richard Nixon wrote to Holt: "I am proud of your friendship and grateful for your counsel. But more than this, America is a better nation because of men like you . . . All of us have an abiding respect for the immense contributions you have made in the area of national security and world peace."

A HELPING HAND

President Nixon also spoke of Holt's "untold measure" of devotion to the nation's veterans. Among the major achievements during his tenure in office:

Vietnam Era and Montgomery GI Bills, which to date have provided education assistance to 8.4 million veterans and service personnel; Veteran Readjustment Appointment (VRA) authority, which provides for non-competitive appointments for Vietnam Era veterans to federal jobs; Veterans' Job Training Act, an innovative employment program that has put more than 53,000 Vietnam Era and Korea Era veterans back to work; home loan guaranty entitlement which is no longer for readjustment only, but is now a continuing benefit; guaranteed minimum annual income pensions for the first and only time in any government program; compensation benefits for atomic veterans; expanded statutory presumptions for former prisoners of war, guaranteeing that no disease or disability which resulted from captivity would be ignored; and entitlement (rather than a benefit) to hospital care for service connected and low-income veterans for the first time ever. (Efforts to expand this entitlement to outpatient care are under way.)

TIME OF MAJOR CHANGE

During Holt's time in Washington, the VA has evolved from an independent, largely overlooked agency with a $5.6 billion annual budget to a prestigious Cabinet-level department with a budget of $31.1 billion.

Over this same period, the VA's health care delivery system has become the free world's largest. In no small measure can many of the steps that led to this growth be attributed to the VFW and its point man in Washington.

Larry Rivers, outgoing VFW Commander-in-Chief and the man who will take over Holt's responsibilities as Executive Director, told a joint hearing of the House and Senate Veterans' Affairs Committees earlier this year: "Just as America is a nation of action, so is Cooper a man of action.

"He has established, shaped and directed our three nationally understood goals of maintaining America's military superiority, adequately funding the Department of Veterans Affairs and ensuring that all veterans receive the entitlements they have earned . . .

"First as a soldier and later as a veterans' advocate, Cooper remains committed to his country and his fellow veterans. That commitment will never change."

As dean of the delegation of national veterans' service organizations, Holt's experience and counsel have come to be commonly sought by associates, laymen and legislators. He has played a prominent role in helping shape modern day veterans' programs.

I know him well enough to say that he could never stray too far from the battle. He has his own chair in my office. That's a pretty good indication that he's a fixture up here on the Hill, and I might add, a welcome fixture. We respect him and trust him. And veterans couldn't have a more loyal or more dedicated advocate.

Holt's tenure with the VFW is covered well in his own words: "I have found in my dealings with veterans over these years that all they want and all they ask for and the only thing they demand is a fair shake, and they're going to get that."

Yes, they will, thanks in large part to his efforts. That was a wisely spent dollar in the South Pacific. Veterans will reap benefits from that investment for many generations to come.

NOBEL PRIZE FOR THE ENVIRONMENT

Mr. GORE. Mr. President, I rise today to ask the Senate's support for a resolution urging the Nobel Commission to create a Nobel Prize to recognize achievements in the field of environmental preservation.

We have all watched environmental problems rise to the forefront of the public's attention. The world's forests are being destroyed at the rate of one Tennessee's worth every year. An enormous hole is opening in the ozone layer. Living species are dying at an unprecedented rate, 1,000 times faster than at any time in the last 65 million years. Chemical wastes, in growing volumes, are seeping downward to poison ground water, while huge quantities of carbon dioxide, methane, and chlorofluorocarbons are trapping heat in the

atmosphere and raising global temperatures.

These problems are not confined within the boundaries of a single nation, but are international in scope. International cooperation is required if we are to protect this planet's ability to sustain life.

We wouldn't know about these global environmental problems, or be in a position to address them, if it weren't for the pioneering efforts of many dedicated individuals. Many of these individuals—scientists, educators, concerned citizens—have committed their lives to alerting society to the impact of its actions. The findings of environmental scientists in areas such as stratospheric ozone depletion, the greenhouse effect, deforestation, and acid rain are already leading to a profound change in public consciousness and in the agendas of all governments. It seems highly appropriate to me that those individuals who have made signal contributions to the world's awareness of our environment should receive recognition that is global in scope.

This recognition would have a larger benefit: it would generate a greater awareness of the environmental peril facing the world today and the urgent need for environmental protection. The world must act in the next decade to ward off a grave and growing danger to the global ecological system that sustains life as we know it. However, action will occur only when society becomes sufficiently aware of the danger to demand action. Public awareness of environmental problems is vital if we are to hope to overcome them.

Alfred Nobel willed that the prize bearing his name be given to those who "have contributed most materially to the benefit of mankind," be it in the sciences, literature, or the pursuit of world peace. Progress in each of these fields will falter if we do not strive to save the planet of which we are all a part.

There is already a precedent for awarding a Nobel Prize to a field not specified by Alfred Nobel's will: the Nobel Prize for Economics, which does not rely on funding from the Nobel estate, nevertheless carries with it the prestige of the Nobel Prize. Likewise, my colleagues and I urge the Nobel Commission to consider granting the prestige of the Nobel Prize to individuals who have made important contributions to the preservation of the environment, even though the funds to support such a Nobel Prize for the Environment must ultimately come from a source outside of the Nobel Estate.

Mr. President, human society can only function and progress if the life support system on which we depend—our environment—also functions. Those who contribute most to efforts to preserve this system ultimately contribute most materially to humankind.

I therefore ask my colleagues to agree to this resolution urging the Nobel Commission to consider awarding Nobel Prize recognition for achievements in preservation of the world environment. Such a prize would recognize the efforts of outstanding individuals worldwide in protecting and preserving the environment, and it would be highly effective for drawing attention to those issues that have emerged to profoundly stir the consciousness of nations.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the pending business, H.R. 3015, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3015) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Byrd amendment No. 727 (to committee amendment beginning on page 5, line 22), to provide additional funds for drug programs.

The ACTING PRESIDENT pro tempore. Under the previous order, the senior Senator from West Virginia is recognized.

AMENDMENT NO. 727, AS MODIFIED

Mr. BYRD. Mr. President, under the order that was entered last evening, I believe that by unanimous consent I have been authorized to modify my amendment which is presently pending; am I correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BYRD. I send the modification to the desk.

The ACTING PRESIDENT pro tempore. The modification is received and so modified.

The amendment (No. 727), as modified, is as follows:

In the pending amendment, on page 6, line 2, strike all after the word "of" and insert in lieu thereof the following:

TITLE IV—EMERGENCY DRUG FUNDING

SEC. 401. (a) Except as provided in subsection (b) and notwithstanding any other provision of this or any other Act—

(1)(A) each appropriation item and loan program level provided for in appropriations Acts for fiscal year 1990 in accounts not included within the major functional category 050 shall be reduced by .300 percent, rounded to the nearest $1,000: *Provided*, That such reduction shall be applied proportionally to each program, project, and activity as set forth in section 252(a)(1)(B)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901); and

(B) each subcommittee of the Committee on Appropriations of the Senate with respect to the appropriations bill appropriating funds for fiscal year 1990 within the jurisdiction of such subcommittee shall reduce the total amounts provided in such bill for any appropriations items and loan program levels not included within the major functional category 050 by an amount of new budget outlays equal to the reduction in new budget outlays that would result from a .130 percent reduction within each program, project, and activity not included within the major functional category 050 in such bill and shall achieve such reduction by—

(i) reducing amounts provided for specific programs,

(ii) applying a percentage reduction in each appropriation item or loan program level provided for in the appropriations bill, or

(iii) a combination of (i) and (ii); and

(2) each subcommittee of the Committee on Appropriations of the Senate with respect to the appropriations bill appropriating funds for fiscal year 1990 within the jurisdiction of such subcommittees shall reduce amounts provided in such bill for appropriations items and loan program levels within the major functional category 050 by an amount equal to $1,318,000,000 in budget authority and by an amount equal to $797,000,000 in budget outlays and shall achieve such reductions by—

(A) reducing amounts provided for specific programs,

(B) applying a percentage reduction in each appropriation item or loan program level provided for in the appropriations bill, or

(C) a combination of (A) and (B).

If a subcommittee fails to achieve the reductions required by paragraph (1)(B) or (2), any appropriations items and loan program levels within the appropriations Act for the subcommittee shall be reduced by the percentage necessary to achieve the reduction required by paragraph (1)(B) or (2). Any percentage reduction under this subsection shall be applied proportionally to each program, project, and activity as set forth in section 252(a)(1)(B)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901).

(b) Subsection (a) shall not apply to (1) programs scored as mandatory by the Congressional Budget Office as set forth on pages 80 through 83 of the report of the House of Representatives accompanying House Concurrent Resolution 106 (House Report 101-42), or (2) the amounts provided in subsection (c).

(c) There is hereby appropriated for the following programs the amounts specified:

CHAPTER I—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

Salaries and Expenses

For an additional amount for "Salaries and expenses", $10,261,000.

LEGAL ACTIVITIES

Salaries and Expenses, General Legal Activities

For an additional amount for "Salaries and expenses, general legal activities", $41,476,000, to remain available until expended.

Salaries and Expenses, United States Attorneys

For an additional amount for "Salaries and expenses, United States Attorneys", $80,699,000.

Salaries and Expenses, United States Marshals Service

For an additional amount for "Salaries and expenses, United States Marshals Service", $23,819,000.

Support of United States Prisoners

For an additional amount for "Support of United States prisoners", 23,000,000, to remain available until expended; of which not to exceed $10,000,000 shall be available under the Cooperative Agreement Program.

Assets Forfeiture

For an additional amount for expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F) and (G), as amended, $25,000,000 to be derived from the Department of Justice Assets Forfeiture Fund.

INTERAGENCY LAW ENFORCEMENT

Organized Crime Drug Enforcement

For an additional amount for "Organized crime drug enforcement", $46,361,000 shall be available to reimburse participating agenices from the Departments of Treasury and Transportation: *Provided,* That of this amount, $8,045,000 shall be available to reimburse the Immigration and Naturalization Service.

FEDERAL BUREAU OF INVESTIGATION

Salaries and Expenses

For an additional amount for "Salaries and expenses", $97,045,000: *Provided,* That $15,000,000 of this amount shall be available until expended for construction of Pod B of the Engineering Research Facility at Quantico, Virginia.

DRUG ENFORCEMENT ADMINISTRATION

Salaries and Expenses

For an additional amount for "Salaries and expenses", $64,301,000.

IMMIGRATION AND NATURALIZATION SERVICE

Salaries and Expenses

For an additional amount for "Salaries and expenses", $16,891,000.

FEDERAL PRISON SYSTEM

Salaries and Expenses

For an additional amount for "Salaries and expenses", $54,923,000.

Buildings and Facilities

For an additional amount for "Buildings and facilities", $1,000,000,000, to remain available until expended.

OFFICE OF JUSTICE PROGRAMS

Justice Assistance

For an additional amount for "Justice assistance", $308,821,000, to remain available until expensed: *Provided,* That $300,000,000 shall be available for the Edward Byrne Memorial State and Local Law Enforcement Assistance Program and $8,821,000 for the Juvenile Justice and Delinquency Prevention Program.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

Salaries and Expenses

For an additional amount for "Salaries and expenses", $59,550,000.

DEFENDER SERVICES

For an additional amount for "Defender services", $41,373,000, to remain available until expended.

FEES OF JURORS AND COMMISSIONERS

For an additional amount for "Fees of jurors and commissioners", $4,000,000, to remain available until expended.

COURT SECURITY

For an additional amount for "Court security", $15,400,00.

RELATED AGENCY

STATE JUSTICE INSTITUTE

Salaries and Expenses

For an additional amount for "Salaries and expenses", $4,020,000, to remain available until expended.

CHAPTER II—DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

Construction

For an additional amount for "Construction", for expenses necessary to carry out sections 2207 and 2211 of Public Law 100-690, $4,000,000, to remain available until expended.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

Indian Health Services

For an additional amount for "Indian Health Services", for expenses necessary to carry out sections 2212, 2213, 2215, and 2217 of Public Law 100-690, $7,250,000.

Indian Health Facilities

For an additional amount for "Indian Health Facilities", for construction expenses necessary to carry out section 2212 of Public Law 100-690, $1,500,000, to remain available until expended.

CHAPTER III—DEPARTMENT OF LABOR

Salaries and Expenses

For an additional amount for substance abuse employee assistance programs in the workplace, $2,000,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration—Health Resources and Services

For an additional amount for health care for the homeless, $10,000,000.

Centers for Disease Control—Disease Control Research, and Training

For an additional amount for "Disease control, research, and training", $3,150,000.

Alcohol, Drug Abuse and Mental Health Administration—Alcohol Drug Abuse, and Mental Health

For an additional amount for "Alcohol, Drug Abuse, and Mental Health", for carrying out substance abuse activities only, $708,084,00: *Provided,* That the amounts provided for block grants to States under Title XIX of the Public Health Service Act shall not be used to calculate amounts to be used for programs and activities relating to drug abuse as required by section 1916(c)(7)(B) of said Act.

Family Support Administration Community Services Block Grant

For an additional amount for "Community services block grant", $11,000,000.

Assistant Secretary for Human Development Services—Human Development Services

For an additional amount for "Human development services", $24,500,000.

DEPARTMENT OF EDUCATION

School Improvement Program

For an additional amount for Part F of Title IV and Title V of Public Law 100-297, $183,500,000 of which $2,000,000 shall be for section 4607, $7,500,000 shall be for Part C and $2,000,000 shall be for Part D of Title V and $172, 000,000, which shall become available on July 1, 1990 and remain available until September 30, 1991, shall be for Part B of said Title of which not less than $25,000,000 shall be for section 5121 (a) for urban and rural emergency grants.

RELATED AGENCIES

ACTION

For an additional amount for substance abuse prevention and education activities under Part C of Title I of the Domestic Volunteer Service Act of 1973 as amended, $1,500,000 of which not more than $150,000 may be used for administrative expenses.

CHAPTER IV—DEPARTMNENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms Salaries and Expenses

For an additional amount for "Salaries and expenses", $10,000,000.

U.S. Customs Service Salaries and Expenses

For an additional amount for "Salaries and expenses", $18,000,000.

Operations and Maintenance, Air Interdiction Program

For an additional amount for "Operations and maintenance, air interdiction program" for the procurement of helicopters, surveillance, tracking, and intercepter aircraft; and operation and maintenance expenses for these and other assets of the U.S. Customs Service air interdiction program, $35,800,000.

Customs Forfeiture Fund (Limitation on Availability of Deposits)

For necessary expenses of the "Customs forfeiture fund", an additional amount not to exceed $5,000,000 as authorized by Public Law 100-690; to be derived from deposits in the fund.

Internal Revenue Service Investigation, Collection and Taxpayer Service

For an additional amount for "Investigation, collection and taxpayer service", $5,000,000, solely for activities related to the criminal investigations division.

EXECUTIVE OFFICE OF THE PRESIDENT

Office of National Drug Control Policy Salaries and Expenses

For an additional amount for "Salaries and expenses", for activities related to the designation of high intensity drug trafficking areas, $25,000,000.

Special Forfeiture Fund

For expenses authorized by section 6073 of Public Law 100-690, not to exceed $115,000,000, to be derived from the Department of Justice Assets Forfeiture Fund, and to remain available until expended for prison construction purposes.

CHAPTER V—DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

Medical Care

For an additional amount for "Medical care", $50,000,000, to remain available until expended.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

Payments for Operation of Low-Income Housing Projects

For an additional amount for "Payments for operation of low-income housing projects", $50,000,000: *Provided*, That such amount shall be made available, notwithstanding section 9(d) of the United States Housing Act of 1937, for grants authorized under the Public Housing Drug Elimination Act of 1988 (42 U.S.C. 11901, et seq.).

Mr. BYRD. Mr. President, when the President takes the occasion to go before the American people, it is usually a matter of the gravest urgency. Such was the case when President Bush took to the airways on September 5, 1989 to declare a national commitment to wage war on drugs.

I commend the President for declaring the war and for proposing a plan, as the 1988 omnibus drug bill passed in the 100th Congress mandated that he do. I support the President's plan to deal with the supply or enforcement side of the problem, and I have responded to his pleas for teamwork by offering a plan that funds every penny of every dollar that the President asked for. But the 1988 drug bill, signed by a Republican President, stressed attacking the problem right here in our own streets of Washington, DC, or Sutton, WV, or Martinsburg, WV, and elsewhere in our own streets, with an equal emphasis on the demand side. And the provisions of that Anti-Drug Act of last year reflected a 50-to-50 split in funds for suppressing the supply side and funds for reducing the demand for the supply of drugs.

The President's plan provided a 73-to-27 split, favoring the supply side; whereas, as I have already indicated, the Anti-Drug Act reflected a 50-to-50 split between supply and demand.

As the President pointed out in his televised speech, drugs are coming into our country because there is a demand for them. if there were no demand for them, they would not come into the country. If they could not be sold, they would not be sent here.

Mr. President, they will continue to pour in as long as evil people are able to sell them and tormented people are eager to use them, despite the best efforts of Customs officials and law enforcement personnel. The 1988 drug bill rightly recognized that the root of the problem of drugs is demand for drugs.

For fiscal year 1990, the President asked for $6.4 billion in his February budget for the war on drugs. In June, he requested an additional $1.2 billion in his anticrime package. And in September he requested an additional $700 million for the war on drugs. These figures are rounded out to the nearest millions. So that totals $8.3 billion.

After reviewing his request in the manner in which the President asked Congress to fund his program, I had two major concerns: One, the President asked us to fund his drug and crime package by taking an ad hoc approach. He would have us make specific program cuts wherever we could find them from our regular appropriations bills in order to pay for his increases. In other words, cut your program, cut your program, cut your program, cut your program, but do not cut my program. Do not cut my program.

I felt that that approach would result in shifting the pain for funding the war on drugs to a few select programs. It would pit program against program, agency against agency, Senator against Senator. It was a formula for a stalemate. Therefore, although I normally oppose across-the-board cuts, in this instance I felt that that was the only approach that would be fair and evenhanded and had a chance of enactment.

The second difficulty that I had with the President's drug proposal is that his requests are tilted toward enforcement by a ratio of 73 to 27. While I fully support the President's request for enforcement—every penny of the President's request for enforcement, I support it, every dollar—his request for prevention, education, and treatment was inadequate, particularly, in the light of the authorized but unfunded programs for prevention, education, and treatment that were contained in the Anti-Drug Act of 1988.

So because of these concerns, I instructed my staff to go to each of the 13 Appropriations Subcommittees and ask these two questions: First, how much of the President's $8.3 billion anti-crime and drug request could they fund within their 302(b) allocations. How much can you fund under this budgetary straitjacket within which you are operating? That amount for all of the subcommittees totaled $6.2 billion, or $2.1 billion less than the President's request.

The second question I asked: How much additional funding for drug programs authorized by the Anti-Drug Act did they feel was justified, based on the evidence before them, based on their hearings. That total came up to $1.6 billion. In addition, the Commerce, Justice Subcommittee added $200 million for juvenile justice and delinquency prevention programs to the President's crime request.

So the total of the so-called Byrd Democratic amendment consisted of three parts: $2.1 billion needed to fully fund the President's drug and crime request, plus an additional $1.6 billion for prevention, education and treatment, plus $200 million for juvenile justice and delinquency prevention programs. That totaled $3.9 billion.

The original Byrd Democratic amendment of $3.9 billion, plus the amounts recommended in the regular appropriations bills, totals $10.1 billion.

When added to the $6.2 billion, the ratio for the total $10.1 billion Byrd Democratic plan then was 65-35, as against the President's 73-27.

This compares to the President's ratio of 73 to 27 in favor of enforcement.

Shortly after I offered this amendment, the majority leader asked me to chair for the Democrats a bipartisan working group to attempt to reach a compromise between the Byrd/Democratic plan and the President's requests. Senator HATFIELD, my distinguished colleague from Oregon and the ranking minority member of the Appropriations Committee, was asked by the minority leader to chair the Republican side of the working group. The Democratic members of the group, in addition to myself, consisted of Senators INOUYE, NUNN, SASSER, BIDEN, KERRY, HARKIN, DECONCINI, and HOLLINGS. The Repubican members, in addition to Senator HATFIELD, consisted of Senators D'AMATO, DOMENICI, STEVENS, WARNER, HATCH, GRAMM, RUDMAN, and THURMOND.

These discussions ultimately led to the agreement which I have now offered on behalf of Senator HATFIELD and myself as a modification of the pending Byrd/Democratic amendment. This agreement was approved by the task force and has come about only after many long hours of intensive negotiations.

Mr. President, I put 10 days of my life into negotiations on this matter and a few more days than that when I consider the work that was put into the formulation of the amendment in the first place.

I feel rather strongly about the matter and I think that it is a good agreement. It does not go as far as I would have liked to have gone. It does not go as far as I would have gone. But it is a good step. It goes farther than the President would have gone and that is important. The President wanted a bipartisan war and so I am in their helping to fight it on a bipartisan basis.

This agreement was approved by this working group and has come about only after many long hours of intensive negotiations. Senator HATFIELD and I have put some extra days into this. We have been here on some long evenings and we have not confined our discussions entirely to the

usual 5 working days of the week either.

The amendment calls for fully funding, fully funding, Mr. President; every penny that you requested is in this modification, every penny. You said you wanted it done quickly. It is being done quickly. It is not exactly your way, but the point is that we are both fighting the war on drugs. That is what we all are doing and each of us cannot have it exactly his own way. But the important thing is to get on with the war on drugs and make it effective, forceful and in a way that will meet with the approval of the American people and I think that they want us to move and move quickly and put the necessary force behind it.

So it calls for the full funding of the President's anti-crime and antidrug budget requests plus an additional $800 million for prevention, education, and treatment and an additional $100 million for local law enforcement grants.

That is more than the President asked for, even on the supply side.

The specific programs that are included in the modified amendment have been agreed to by the chairmen and ranking members of the Appropriations Subcommittees which have jurisdiction over them.

The adoption of this amendment, when added to the anticrime and antidrug funding in the 13 regular appropriations bills, will total $9.4 billion in budget authority.

We will be fully funding the President's request for drugs and crime $8.3 billion. In other words, there was $7.9 as he announced it in his September television appearance, but there are $400 million additionally in his June anticrime package. So that makes $8.3 billion, plus an additional $800 million for prevention, education, and treatment; plus an additional $100 million for local law enforcement grants; plus an additional $200 million for juvenile justice and delinquency prevention.

So, we total that in this manner:

President's crime and drug requests, $8.3 billion;

Prevention, education, and treatment, $0.8 billion;

Local law enforcement, $0.1 billion;

Juvenile, justice, and delinquency prevention, $0.2 billion;

Total package, $9.4 billion.

That is $1.1 billion higher than the President's requests and $700 million less than the $10.1 billion Byrd Democratic plan.

So we have to give a little and take it a little.

To pay for the increases in this amendment, an across-the-board cut of 0.300 of 1 percent will be made in all nondefense fiscal year 1990 discretionary appropriations. An additional 0.130 of 1 percent will be reduced by these Appropriations Subcommittees in their conferences with the House through specific program cuts or by an across-the-board cut, or by a combination thereof.

For defense discretionary programs, the same 0.430 of 1 percent reduction will be applied to the defense discretionary programs but, the subcommittees will have the ability to take this entire cut from specific program reductions if they so choose in their conferences with the House.

So while we came out with the even-handed approach across the board, 0.430 of 1 percent for defense discretionary programs and foreign operations, we did allow flexibility in the Defense Department as to how and where the cuts would be applied.

So, we yielded on that point to the other side.

To the extent that such reductions are not found, the necessary across-the-board cut to all defense discretionary appropriations will be made.

In the event that the necessary cuts amounting to $1.318 billion in budget authority, $797 million in outlays in the Defense Department are not found through the selected approach then the across-the-board reduction will apply.

The total 050 reduction will be $1.318 billion in budget authority and $797 million in outlays for defense.

So, this proposal gives the President every penny he asked for, but also provides for more emphasis on education, prevention, and treatment. We must have strong law enforcement to protect our citizens from the violence that the drug culture fosters. But we must also begin a war on dependency.

And we have to begin that war like we mean it.

We must teach our children that taking drugs is not a high, but a low. We must educate every child in America about the sickness that drugs will bring to the body, the mind, and the soul. We must attack the image that a pill can make you cool or that a shot can eliminate problems or that selling crack can win respect. That is basic, and we have to start now to salvage as many as we can from the horrors of dependency on drugs.

For those who have already fallen prey to addiction, we must treat and rehabilitate. Every crack addict turned around means a little less crack that a pusher can sell.

Every addict gotten off the street means a little less violence, a little less mugging, a little less knifing, a little less shooting, a little less killing.

Changing attitudes and treating substance abuse mean committing resources. You get what you pay for. There will be no improvement in the violence, no lessening of the illegal drugs powering across our border until we purge drugs from our national psyche as well as from our citizens' bloodstreams.

To fail to commit those resources to this side of the problem is to fight only half the war. To heavily fund law enforcement without a sufficient emphasis on education, prevention, treatment, and rehabilitation is to fund but half of the war. It is to fight the war with one hand behind your back. That approach is like providing the air cover without sending in the ground troops. It will not work. The victory will not be ours. And just as in any other lost war, money and lives will be wasted.

We need to start with all the ammunition we can muster. The American people are alarmed, and well they might be, when they cannot walk within a block of the Capitol without the danger of being held up, robbed, shot to death for a few dollars to spend on drugs. The American people are alarmed. The scourge of drugs jeopardizes the family structure, and the very moral fiber of this country.

The war within our borders is in many ways a more terrifying and insidious threat to the future of America than any war on foreign shores. It is a real war. It is a shooting war. People are dying.

So we must not be timid. The American people must not be told that we can do this on the cheap. They know better and it is time that we understand that. They know when a problem is so important that it demands a major commitment, and they want results. They wanted more done than the President proposed, and this proposal helps to bridge the gap and gives them more.

The President said to read his lips—no taxes. And so, in formulating the plan, I heard the President. I read his lips. And so I added no taxes in this bill. Added none. I also read the American people's lips. They wanted more. And so we have produced more.

My original plan contained four important principles, which I am proud to say have emerged in the compromise. It provided more money for education, treatment, and prevention—the demand side—and an equal percentage cut to pay for the drug war from both domestic discretionary and defense programs. It accomplished all of this without increasing the deficit. So it is deficit neutral, and it did this without raising taxes.

This is the first step. We will need to do more as time goes on.

And the chairman of the Judiciary Committee, the distinguished Senator from Delaware [Mr. BIDEN] is currently holding hearings on new and imaginative ways to attack the drug plague in America. But, an initial strong first step is crucial. Weak shots across the bow will not cripple the garbage scow of drug violence and drug dependency.

I think we owe the American people our best effort. I think this proposal

represents the strongest first step we can make to win the war against drugs.

I would have made a stronger statement. But legislation is the art of compromise. So I think that we have done the best we can do for now.

And a great deal of the effort, a great deal of the time, the energy, and the credit are represented by my friend, the Senator from Oregon [Mr. HATFIELD], and to all those on the working group who have worked hard to bring up this modification of this compromise.

I thank the leadership for its support. I thank my own leader for his encouragement and his unstinting support. I thank both leaders for making it possible, finally, for us to offer this modification today.

I thank Members on both sides of the aisle, all Senators who participated and worked hard on this difficult problem.

I yield the floor now. I hope that my distinguished friend, Mr. HATFIELD, will seek the floor and speak.

Let me say again that I cannot be more grateful than I am to Senator HATFIELD. I would daresay that had it been left up to the two of us, this matter would have been brought to the floor a week ago. And I have to say as I have said in the meeting, had it been left up to the Members on both sides of the table, the working group, we would have resolved this long before we resolved it.

I can understand, on the other side of the table, that there is a necessity for them to touch base with the White House. Sometimes that, I suppose, took longer than it might otherwise have taken. It wore upon my patience, I have to admit, of which I have a tremendous store, patience and tenacity. To my colleagues who put in their time, I daresay that their patience was worn, also.

So we would have done it faster.

The PRESIDING OFFICER (Mr. DECONCINI). The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I affirm the analysis of this proposal before the Senate as presented by the chairman of our task force, Senator BYRD, the chairman of the Appropriations Committee. I also associate myself with his evaluation of the extraordinary effort that went into this proposal, and the efforts of multiple numbers of staff and Members.

I have been in many negotiations over my public life period. I must say I think in these negotiations, which dealt with probably the most important issue facing the American public today, the drug problem, and with the intensity of feeling that we all have in raising up an army to combat this drug problem, an army of experts, of law enforcement officials, of counselors, and of treatment centers, and with all of the pressure and leverage that was put on this task force from all sides to get this job done and done quickly, I must say, I say to Senator BYRD, that I thought that there was an absolutely phenomenal discipline amongst all the Members. We kept our frustrations and tempers in check.

But I must say that I think it was probably the most professional session of this kind that I have engaged in. I think a tremendous amount of that credit goes to the chairman. Leadership is always the key to any effort.

And Senator BYRD, you have provided that leadership. I am proud to be a part of that effort that you led and to bring this product to the floor.

Mr. President, I do think that at this point we have to focus not so much on the description of this plan which has already been offered, but let me say that when the Congress mandated the President of the United States to come up within a timeframe with a strategy to deal with his war on drugs, the President complied with that mandate.

President Bush offered that in the first period of September, and it was a plan that was hammered out by his staff people. Formulation of the plan was led by William Bennett, the drug czar, or the leader of the anti-drug effort. Mr. Bennett is a man of great intellect, a man who comes into this job with a proven record as former Secretary of Education, and as the holder of other public trusts.

Congress received that strategy, that plan. The President also offered an implementation of that plan through a funding system of selective offsets.

We may differ on the funding system. But there is not one iota of difference in our determination to wage this war. I say that commitment has no center aisle separating the Democrats from the Republicans, or the Congress from the White House, or the political leadership of the Congress and the White House from the people. This is one of those issues where there is unanimity.

I know of no citizen who has written me or has called my office saying, "I am opposed to the war on drugs." And we do not find many issues which have the kind of unanimous support and willingness to respond to the call to arms that the war on drugs has.

But I think there are and can be very sincere, valid differences as to methods of implementation. So let me point out, the problem was not differences in commitment to a war on drugs that caused us to have to go through this period of negotiations to come up with this package today. There was no difference of opinion as to that commitment.

The difference was how best to implement the strategy, how to define our goals, and how to make certain we all understand the marching orders that we, in turn, will depend upon the people to respond to. Because this is not a battle that can only be waged by the politicians, the Members of Congress, the White House, the President of the United States, the agencies of the Federal Government, the local agencies, or the political leadership at the State, county, or city levels.

This war calls to arms all of our people. It is a total war. It is not a selective war to be fought by the professionals or by the uniformed soldiers. It incorporates all the people of this country and all the institutions of this country.

I have often attempted to describe this problem and this issue. To me, the drug problem is like a cancer that has metastasized. You cannot identify it simply as cancer of the liver or cancer of the throat or some specific part of the body because it has metastasized, it has permeated every facet of our society today.

We used to think of drugs as an urban problem. I realized that especially on a trip a couple of years ago which began at the mouth of the Columbia River at the town of Astoria, in the northwestern part of our State. I went through 3 days of writing and visitations, down the entire Oregon coast, 429 miles of coastline, every town—and most of them are small towns—every town along that coastline. And there was not one coastal community that did not indicate that they have a drug problem. Not one. Every one of those towns in terms of their leadership and the persons I met within in business or in agriculture or in the professions or in the mills, or the workers, not one failed to recognize that they had a drug problem. This problem was even recognized some 300 miles from Portland, down at the southern point of the State in the town of Brookings, on the California border. From this one experience, so I do believe we can say this drug problem has metastasized in the society of America.

Mr. President, when the President of the United States, Mr. Bush, submitted his drug plan, he suggested that certain programs be offset to fund the drug strategy. I must say that, as Chief Executive of the United States, I can understand his philosophy. I must say, as Governor of Oregon for 8 years, I faced the Oregon Legislature with requests for reduction of budgets in order to meet our State constitutional requirement for a balanced budget and the legislature often sent up an across-the-board cut for me to sign, and I refused to sign it.

In refusing to make such an across-the-board cut, I say that when we are dealing with, say, a budget of only $30,000 a year, which was the watchmaker's licensing board composed of one person, namely a secretary, and an

office, and we reduce that budget by the same percentage that we reduce the budget of, maybe a $300 million special highway construction program, it was not equitable. It was not fair. It was highly inequitable because the base lines of reduction are totally different and the meritoriousness or importance of each program varies.

I can see reducing, maybe, some highway construction program by postponing expenditures. But I was not ready to reduce mental health or aid to the poor by the same percentage.

In fact, I used to refer to the legislature as using the meat-axe approach to budgeting. They did not want to make the tough decisions. I will tell my colleagues what the tough decisions are, they are selecting between important programs.

Having that background as a Governor, and I am only speaking from that background, I think it can be argued that we in the Appropriations Committee make those tough decisions every single year. We have to set priorities through the 302(b) allocation process, between this program and that program. We involved in the appropriations process do that all the time.

So I think one can say from a philosophical point of view we can argue the benefits of an offset of selected programs as against simply making across-the-board cuts.

But the problem I had with the President's initial package, and the problem I think many of us had, was answered by the original Byrd amendment, which provided that there should be burden-sharing for the war on drugs on an across-the-board basis which impacts every agency, no exceptions, because of the totality of this problem.

The perception was the President's plan in its selective offsets had gone easy on defense, the largest of all the budgets that the Appropriations Committee and ultimately the full Senate and House have to act upon year after year; a $305 billion budget for fiscal year 1990 alone.

So, the across-the-board method of funding which, more accurately I suppose, should be expressed as total burden-sharing by all Departments, was the strength, was the appeal of the Byrd amendment.

When Senator BYRD called me, after having put this amendment together in data form and before introducing it, as a very gracious courtesy to me, I indicated I would be willing to cosponsor his amendment because I felt it was very important to broaden the base of funding this drug strategy, especially in the very largest of budgets.

Frankly, if I were speaking from my personal philosophy, I would have advocated funding the whole drug war from the Defense Department budget. I would have easily found that money in one or two weapons systems. But I had to be realistic, as we all have to be realistic in this body. If we had initially come out of our conversations and introduced a drug proposal on the floor and stated that we are going to fund the whole drug war out of the defense budget, I think we would have ended up on the minority side of that vote.

I suppose then the argument could have been made that it was just as inequitable to fund the drug package from only one part of the Federal budget as it was to try to fund it by using across-the-board cuts for each account. So I think we have here again one of those compromises that, if I personally wrote it, I could have written it better. If any one of my colleagues here on the floor, Senator BYRD or Senator BIDEN or Senator KENNEDY, had each had the individual right to write this proposal solely on their own and make it the proposal of the Senate, we could have all written it better.

But we have a distillation process here. We are a collegial organization. We have to have 51 votes. We might have a perfect bill, but without sufficient support, the effort becomes moot.

Consequently, what we have here is a happy melding of across the board cuts, with certain cuts to be instead, determined by the chairman and the ranking member in consultation with the chairman and ranking members of the authorizing committees.

It is interesting that when we first proposed this method to certain individuals in the administration there was, I could sense, an immediate reaction, a negative reaction. But I could also see that when we indicated the names of the leaders from both sides of the aisle who could be charged with the responsibility of hammering out a plan, there was also a recognition that there would be a very responsible role played by those leaders and the rest of the Senate. Those leaders have tremendous stature and much confidence was placed in them.

Yes, we consulted with the administration all along the way. I want to thank Dick Darman of OMB. I want to thank Bill Bennett, the drug czar. I want to thank Governor Sununu, Chief of Staff. And I also want to thank Secretary of Defense Cheney, former Congressman Cheney, who had, of course, tremendous interest in this. Their spirit of cooperation was very evident from the beginning because, I say to Senator BYRD, they wanted a solution and they wanted to get on with this war just as much as you and I and all the Members of this body.

Mr. President, I want to take a couple of minutes just to apply this plan to a couple of specific situations. When one looks at numbers of this scope and magnitude, it is very difficult for the average person outside this body to translate these huge figures, billions of dollars, into the front line of this war on drugs.

I come from a State with about 2.7 million people. When Los Angeles began to put the pressure on the gangs roaming their streets many of them moved north. We have today counted and documented 1,000 gang members in our city of Portland, which is a city of a little over 400,000. They have terrorized neighborhoods; they have terrorized individuals as they ply their drug trade. We can count the assaults and the murders, and the wounds. All of these things indicate that we have a very high ratio of gangs to population, and it is one of our major problems.

Mr. President, we are now going to have an infusion of money to fight this war on drugs. But, sometimes we get lost in dollars. We think one more dollar is going to buy one more dollar's worth of security, or one more dollar's worth of solution to a problem. That does not necessarily follow. We have to recognize the requirement of cost-effective spending. The dollars are but a tool, but a method, but a medium to achieve these goals. We are going to have an infusion of financial support to expand the law enforcement resources across the country and my State of Oregon.

Mr. President, Oregon is the third highest producer—I hate to say this—of marijuana. We have thousands of acres of wilderness, thousands of acres of public forest lands and BLM lands that have become a growing place for marijuana. The third largest producer. Now it is so competitive on these public lands that the marijuana growers literally have established arsenals and military defenses around their growing operations—barbed wire, booby traps—so that if you invade their territory, which is all public land, you are risking your life. Out of this drug package, we are going to have the opportunity to get control of such situations.

I also hate to say that my State ranked the second in the Nation last year in methamphetamine laboratory seizures. The second highest of any State in this country.

A few years ago, I got an appropriation of $500,000 to set up a demonstration project in my State for the clean-up of these drug labs. It is not just a matter of arrests. What do you do with the toxic chemicals that are produced in these labs and how do we protect the lives of our firemen and our police?

We had little protective clothing; we did not know what to do with the house after we raided it and shut down the lab; or what to do with the

toxic residue from that lab. There was no standard; there was no formula. Now we are developing guidelines that will aid law enforcement agencies in the cleanup of these dangerous labs. There now is a fund in our appropriations bill of $2 million to provide demonstration project cleanup grants to local jurisdictions, and this amendment is going to add another $2 million to that fund.

Mr. President, in the ADAMHA Program, our largest treatment and prevention block grant to State governments and local institutions to fight this war, I am pleased to say that $463 million will be added to the Senate mark of $815 million. Oregon received about $8 million in fiscal year 1989. Under this amendment, the State will receive an estimated $12 million, $4 million above last year. That is going to be very helpful for expanding treatment of drug abuse victims and for broadening education and prevention efforts in my State.

Let me make a point concerning the amount of spending; we have studies that indicate that additional resources only can be absorbed at a certain rate. One study shows that a 20-percent increase per year can be absorbed in these programs. You may want to argue whether 20, 25, 40, or 60 percent is the absorption rate is not the issue. The issue is that under this package, if we are going to be able to expand treatment, we have to have people who are trained professionals to provide the treatment. We have to expend the resources necessary, to support the centers, the equipment, and all of the things that are required for meaningful treatment and prevention programs.

You cannot simply add more treatment dollars and expect to get more persons treated. You must have sufficient personnel and the facilities to carry out that treatment. So this now adds to the expansion of the infrastructure. Some of these grants in the drug package have a percentage match requirement—75 percent Federal, 25 percent State. Without this amendment that match will increase to 50 percent Federal, 50 percent State. However, legislatures are not meeting at this particular time in States that have a biennial session, so those States cannot adjust their formulas immediately. This amendment delays implementation of this new match for 1 year, so these States will have the opportunity and the time to do so.

So I think we have to recognize that we are not just dealing in dollars. We are dealing with how they meet a certain demand and how they can be utilized in this war most effectively. I wish we could stand here today and say there is a known treatment that is going to cure every addict. We cannot say that. There is a rate of success that we can determine, but this calls for more research, which is a part of our war on drugs. This package increases funding for drug and alcohol abuse research.

I hope out of these specifics we can see that this is a total effort to deal with a total war. As a result of this package we are going to be able to expand the number of NIH grants awarded for researching effective treatment for drug and alcohol abuse and addiction. I think research is one of the most significant, and probably will be the least reported, part of this bill. The expansion of research grants will help us develop a better system of treatment and a higher success record for those we are treating.

Mr. President, I will bring my remarks to a close. I think any one of us can cite all kinds of examples of tragedies that we have within our local constituencies, within our families or within our realm of friendships, people who are victimized by drugs. I do feel that as the President gives leadership to this war, as the Commander in Chief not only of the military forces but of every cause that we are fighting, and considering the kind of generals and admirals represented by the leadership in this body and that of the House, and by the mayors and the Governors and all the other public officials we do not have to put a draft call out. We do not have to adopt a selective service system to form the troops. The troops are already out there. All they are waiting for is the plan of attack, the orders, and they are ready to march. We now have that plan of attack.

Senator BYRD has mentioned the cooperation we had amongst our colleagues. I will not repeat all of their names on both sides of the aisle. Anytime we may be reflecting on this day or this period in our public service and this event, I think it will be noted by all of us as probably one of the most significant time investments we have ever made and what leadership we have provided has been significant for the long-term interests of this country.

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BYRD. Mr. President, will the distinguished Senator yield to me for no more than 2 minutes.

Mr. BIDEN. Yes.

Mr. BYRD. I thank the Senator from Oregon. He has explained the concept in a way that brings it right down to the local level so that the people out there can have a better understanding of how the moneys are being applied and how the infrastructure is being put into place by this package. I think that was very necessary and I thank him for that.

I also, Mr. President, want to state that there are certain legislative areas of this package that could only be dealt with in my opinion by the distinguished Senator from Delaware [Mr. BIDEN], chairman of the Judiciary Committee, and others with whom he kept in constant contact—Senator KERRY, Senator KENNEDY, and on the other side Senator THURMOND. Those amendments relate to the uses of the drug funding. They have to do with requiring the agencies to issue the guidelines and the regulations, and so forth, to set the standards that State and local governments will have to meet in order to receive the funds. So I think that was a side of this whole effort that I must give total credit to the Senators that I have mentioned. I depended on Senator BIDEN almost for the whole part within the working group in this area, for reasons that are understandable and obvious. I thank him for the excellent work he did.

I thank them all, but also I have to thank Senators INOUYE and SASSER and NUNN and WARNER and THURMOND and TED STEVENS, those who were probably along toward the last most involved, along with Senator BIDEN.

Finally, if the Senator will allow me, let me thank all the staff people. There has been an extraordinary staff effort on both sides of this aisle, utilizing a great number of people. I will try to put into the RECORD a list of the staff. I will have to have help with the names but for now I want to mention Barbara Videnieks, my chief of staff; Jim English, who sits here with me on these matters. He is the director of the Appropriations Committee in the Senate; Keith Kennedy on the other side, his counterpart; Jack Conway and Ron Klein of the Judiciary Committee; Dave Williams of the Budget Committee; David Lyles of the Armed Services Committee; Martha Pope and Kim Wallace in the majority leader's office, and Bill Hoagland of the Budget Committee; Sheila Burke in the minority leader's office; Mary DeWald of the Appropriations Committee staff. There are others. I will not take time of the Senate now. Their names will be printed in the RECORD. I deeply thank the staff people. They have put in hours and hours. Jim English has been in on Saturdays; he has been in on Sundays; I have been with him on those Saturday and Sundays, not all of them. As Milton said, "He also serves who only stands and waits." These are people who do more than stand and wait. They really render tremendous service to the Nation. Out of the depth of my heart, I express my very warm appreciation and gratitude for people like these who give beyond the call of duty who give beyond the measure of their salaries, give because they, too, want to serve and are professionals in every sense of the word. They are able, they are congenial, and in many instances

they do not have to be asked to come in. They know there is work to be done. They are there. I thank the distinguished Senator for yielding.

Mr. BIDEN. I thank the Senator.

As the distinguished chairman knows, almost all of us would yield to the distinguished chairman whenever he asks, we particularly if I knew he was about to praise us, praise that is not deserved in my case, but let me speak to staff for a minute. I will not take a lot of time at this moment, but the fellow sitting next to the Senator, Jim English, I was dumfounded during this entire process in that when Senator BYRD would turn to him and say, "Jim, can you run these figures off in the next 10 minutes?"—and the figures we are talking about were billions of dollars, crossed accounts, determining what was appropriation and what was outlays and what was authority—Jim would calmly look at you and say, "Yes, Mr. Chairman." The first time he said that I thought he was just patronizing, but in fact he was not. Ten minutes later he came back.

There are a number of people; Ron Klain, and Scott Green from my staff were here all the time, as we know, and others. But I would like to make a special reference—and I guess you are not supposed to do this so much, but I really think one of the reasons this package was put together, beyond the Herculean efforts and the negotiating skills of the chairman of the Appropriations Committee, Senator BYRD, was because of Jim Whittinghill and Sheila Burke over on the other side. When the other team does not want to play, they can make it awfully difficult for you, but I have always found whenever I have dealt with either Jim or Sheila they are completely straight. You never have to worry about whether or not you are getting the straight facts.

I am probably ruining their reputation by praising them. They will become suspect, I expect. But, I have complete and total trust in anything they tell me. It is nice, going into a negotiation, knowing that the team with whom you are negotiating, their chief negotiators in terms of staff, are people you never have to wonder about. So I pay public tribute to them and to a number of others.

I am going to engage in one other piece of praise.

In my view, had the negotiating team been headed by anyone other than Senator BYRD or Senator HATFIELD, we would not have had an agreement for two, I might add for the record, at least from my perspective, totally different reasons. In the case of Senator BYRD, everyone here knows—and I suspect everyone in the White House knows—when he sits down and says "That is as far as I am going to go; I have made what I believe to be a fair and considerate offer; this is it" everybody knows this is not a poker player. This is a fellow who came to play, made his best effort, and he is prepared to play by the rules. If the rules cannot be worked out down in that negotiation, they are going to have to come up and play them on a field that he has mastered, in fact, better than any man that I am aware of in the 17 years that I have been here, and I suspect as well as any man or woman who has ever served in the U.S. Senate.

So quite frankly, Mr. President, this would not have been a deal no matter how well conceived had he not been negotiating.

As far as MARK HATFIELD, MARK HATFIELD is decent and open, so forceful in his views and his convictions that you never have to doubt where he is either.

So I thank them both for making what I believe to be what has been characterized as a very significant step, a very positive addition to the President's well-intended and well-conceived start on this new effort that the Nation—not just the President—as a whole has concluded we must undertake which is a serious, genuine, all front attack on the drug problem.

The points I want to make to go beyond the negotiation because no one could have explained it better than Senators BYRD and HATFIELD. They have done that well as they always do. But the debate here has never been about need.

I am not going to take the Senate's time any more than I have any time on this floor on this issue over the last about 11 years now. We all know the need. We all know every one of our hamlets, villages, towns, cities, and counties, big and small, are in trouble with regard to the drug issue. We all know without any question whether you are in a household that makes a million dollars a year or a household that is on welfare, you are not immune to the problem of drug abuse and the violence that it spawns.

So I will not go into the need. The need is clear. The debate here on this floor now, and for the next several years—a legitimate, honest constructive debate—will be not about the need but about sufficiency. That is the issue. That is the reason Chairman BYRD came along, and said, "Mr. President, I am not only going to find you a way to fund your drug proposal, every penny that you want." He said, "We Democrats promised we would fund that. And we will. Everything you want. Every single thing you want." He said "I will find you a way to do that." He then went on to say, by implication at least, "But the question of sufficiency has not been met, the test of sufficiency has not been met. Therefore, Mr. President"—and I am not being facetious when I say this—"in an effort to help you command that war, we are going to give you more ammunition."

And the interesting thing is I do not think there are 15 Republicans and 2 Democrats in this entire body that disagrees with the need for more than what the President was asking for.

The distinguished ranking member from Oregon, MARK HATFIELD, Senator HATFIELD, said a moment ago he traveled the 400 and some miles of his coastline from village to village. He said there was not a place where there was not a drug problem. Then he said in Portland, OR, a beautiful city, there are over a thousand gang members. Then he said Oregon, that magnificent State, is the third largest producer of domestic marijuana.

Well, let me take just those two points to make my case about sufficiency. The President's proposal unfortunately did nothing to deal with those gang members. The President's proposal, in order to fund his proposal, suggested that the very institution we set up years ago, the juvenile justice program, which is a vehicle that the Federal Government uses to try to make progress against gang violence and juvenile delinquency in America, that is the very vehicle the President proposed to cut in his drug strategy.

I say to the Presiding Officer, if there are 1,000 gang members in Portland, how many do you think there are in Los Angeles, Houston, Philadelphia, Miami, New York, or Chicago?

So I want to make a point crystal clear. When we Democrats responded to the President's proposal, we did not do so in a partisan way.

We said, Mr. President, what you offer, we will take all of it but, Mr. President, you are not being ambitious enough. We have a fundamental disagreement. We fundamentally disagree with his strategy. You will hear people say, "Well, there is no real disagreement on the strategy." I disagree. There is a fundamental disagreement on the strategy.

For example, the President sets as a goal. He wants to reduce—I say to my friend who is not here from Oregon—he seeks to accomplish in terms of domestic eradication of marijuana, he seeks to reduce in 2 years 10 percent of the marijuana produced and grown in Oregon and the rest of the Nation.

I wonder if the Senator from Oregon thinks that is a sufficiently ambitious goal. I wonder if the people of Oregon agree with that strategy. Do they only want a 10-percent reduction?

In fairness to the President and Dr. Bennett, the amount of resources they are willing to commit to their position will probably only reduce it 10 percent.

But the issue is, if you commit more resources and more imagination, can you reduce it by 30 percent in 2 years, or 50 percent? So make no mistake

about this. This is a fundamental debate about sufficiency and about the strategy.

Let me move on to another point. This is, in fact, a first step. What everyone should understand is this very important addition, this very important correction, this very important addendum that Democrats and Republicans unanimously agreed to, saying that the President's proposals was insufficient, insufficient, because the President's ambitions as to what he thinks we can do are not as broad as what the Senate thinks we can do. No question the President would want to do it. It is a question of what we think we can do.

This body came along, as Senator HATFIELD points out—and is about to make, I predict, very significant changes in the President's approach, in his strategy. We are putting more, for example, in this very small addition; we are adding 2,000 more police officers to the President's strategy. In this change we are making, to reduce these to practical terms, if we took the President's strategy, it would only allow us in the next year to have the hope of maybe reaching one out of every four pregnant addicted women, all of whom within the next calendar year will give birth to addicted babies, drug-addicted babies.

Under this proposal, under the leadership of Senator KENNEDY—who I might add, knows more about education and treatment, what works and what does not work, than anyone else in this body. He has devoted more time to it, and as we will soon see, as this debate begins to unfold over the next year as to the degree of sufficiency, he will, in fact, be able, to educate us all, as well as the White House, on what more we can do.

On the pregnant women issue, this small change will be able to have the prospect of getting one in two of those pregnant women, instead of one in four. That is a big deal. That is a lot of difference.

Senator KENNEDY and I will—I will not speak for him because he is here on the floor and will speak in a moment—I think he shares my view believing that if we were willing, we should have a program in place within 2 years where all pregnant women who are addicted could, on demand, have access to treatment.

We do not have that capability now, not because we are incapable, but because we are not willing. So we have fundamental disagreements here on the strategy, but we have gone part way, and I might add with the enthusiastic support of our Republican colleagues, to the best of my knowledge, at least the ones who were part of the negotiating team.

We will also, with this change, undertake the largest expansion of drug education programs in our history.

Let me suggest to you what this agreement does not—I emphasize does not—encompass. It expressly states that this debate about sufficiency and goals that we are about to resolve is only for the purpose of getting us by these appropriations bills, or to put it another way, the next several weeks. This Senator, and others, fully intend to continue to try to bolster the defenses available to the mayors and Governors and mothers and fathers and police officers and treatment people for the remainder of this year.

It should not be interpreted as in opposition to the President. It is not. It is because we believe strongly that we need to do more, be bolder and have more imagination, and have higher expectations. It is a little like if the President came forward, as he did in 1978-79, and the Senate came along and said, Mr. President, your defense strategy is not sufficient, and they insisted that he take more money, that he build more planes, that he build more ships. No one suggested then that the Senate at the time and the Congress at the time was somehow against the President.

This is not about the President, about the Congress; it is about the prospect over the next 2, 4, 6, 8 years, so we can make life a little more livable in our inner cities, and we can offer a little more hope to those parents trapped in inner cities; and their children will have some prospect of escaping, escaping the scourge of drugs, that we will be a little bit safer in our neighborhoods; that we will have a little bit better chance; that we will have a society that will not begin to come apart and decide to trade in its civil liberties and its civil liberties at home for what they think will be a little greater guarantee of their safety. Those tradeoffs do not have to be made.

So what you are going to be hearing from the Senator from Delaware and others for a while, after this debate is over, is that there is still much more to do.

The President sets out goals, his strategy, in the goals he seeks to accomplish. The President, for example, says in terms of overall use, he wants to see drug use dropped by 10 percent by 1991. We believe there should be a 37-percent reduction by 1991.

That is not an arbitrary figure that the Senator picked out of the blue. That relates to the degree, the decline, what we have been having over the last 4 years and what is possible, because it is already happening, approximately 2 percent per year in so-called casual use.

The President says his ambition is to see that adolescent drug use drop by 10 percent by 1991.

We believe it is possible based upon the past track record that it should be a 47-percent drop by 1991, based upon the current drop over the last year from the previous 2 years.

The President says on so-called occasional cocaine users, those people who use less than once a month, he says he wants that figure to drop by 10 percent. It is already dropping by more than 10 percent per year, and he says he wants it dropped by 10 percent in 2 years.

We believe and the medical experts with whom I have spoken believe that should be a 30- to 32-percent drop in the next 2 years as a reasonable goal, achievable. And then the so-called hardcore drug users, cocaine users, currently there are over 850,000 hardcore, which we refer to in parlance as the addicted cocaine users.

The President's goal is—to use his phrase; it sounds good—to cut the rate of increase by 50 percent. Let me translate what that means. That means the President will deem he has been successful in dealing with hardcore addicts if the number of cocaine addicts is increased by only 110,000 new addicts by the year 1991.

We believe that is not an ambitious enough goal. I do not call it success if 2 years from now we stand here and say we have won, and let me tell you why we have won. Two years ago, we had 850,000 cocaine addicts, and now we have almost 1 million; that is victory. We have to disagree with the goal.

Admittedly, that is probably all the President will be able to do given the resources he is willing to commit. But we want to debate the goal, the strategy. We believe there should be a 10,000 net cut of hardcore cocaine use in the next 2 years, and it should drop from there.

With regard to another goal, and that is the question of monthly adolescent cocaine users, we are much closer to the President. We think his goal is more realistic there. He says 20 percent in 2 years. The medical experts we speak to say it should be closer to 27, but that is not arguable. Everybody is in the ballpark there.

With regard to drug-related medical emergencies, he wants to see that drop by 10 percent in 2 years. These are measurable statistics. We think that should be 20 percent, and we have reason to state why we think that.

Again, with regard to education, one of our problems with the President's proposal, as the Senator from Massachusetts on the floor knows better than me, he does not set many goals in his proposal. He does not set out in here what he hopes to attain. So we believe we should set it out.

For example, we believe by the start of the 1991 school year, we should be able to establish comprehensive drug education programs in every school, grades K through 12. Maybe that is too ambitious, but we should debate it.

It is not even part of the President's strategy, yet as the Senator from Massachusetts will tell us all later, education we know works. You do not have to guess about it. We know it works.

I will not take the time to go into the rest of these, but let me just mention a couple areas and I will conclude; because this is to foreshadow what will be a genuine spirited, I suspect, but completely honest, well-intended difference of opinion that we have with the President's proposal, and Mr. Bennett's.

In law enforcement, we think in 6 of every 10 cases involved, 6 out of every 10 people who are arrested on a drug offense have their case dropped. Six out of ten arrestees—they are not guilty, necessarily; they are just arrestees—but 6 out of 10 cases are dropped.

We think we should set a goal, in means by which we can measure it, that that number changes. The reason being if it changes, we know that what the President intends and what we intend is working. In other words the more prosecutors, and more judges, and more jails, have helped.

To put this in perspective, we believe on the law enforcement side we should be doing more to help the State and local law enforcement communities.

Granted, the President is doing more. He has upped it to $350 million and we have today, increased it another $100 million that is eligible for State and local law enforcement. But as the Presiding Officer knows, there are conditions set upon States being able to have access to that money.

For example, one of the conditions set out in strategy, if we are to accept it and adopt it, a precondition for any locality, any city, any State to get any money for their criminal justice system would be that they would have to spend an estimated $244 million minimum on a drug testing program in order to qualify to get the $350 million.

Maybe we should do that. I think there is a straightforward, honest approach being taken by the President which says, hey, look; the Federal Government should take less of this burden and the States should take more of the burden. That may be right. I disagree with it, but maybe that is right. But we are going to debate that. That is a fundamental difference in strategy.

With the President's proposal, for example, if all this drug strategy the President is proposing, and we will pass it all, all of it in terms of dollars, all of it is being passed, you know how many more police officers will go to the city of Los Angeles to help fight drugs? Not very many and Richmond, VA, won't get many either.

The point being here that we should have a little bit of truth in advertising, because I am the chairperson of the Judiciary Committee and deal so much with the law enforcement agencies around the country. I get all kinds of calls, "Senator, great, what is coming our way?"

I will bet you if I say to the Presiding Officer that when he goes into his State, as he does all the time, the next four cities or towns he goes into if he asks his local chief of police whether or not he thinks help is on the way for his department from the strategy, I will bet him lunch in the dining room downstairs—I guess I am not allowed to do that. That is a joke; I am not allowed to do that. I revise that. I figuratively speaking bet him lunch in the dining room downstairs that everyone will look at him and say, gee, Senator, when is the help coming?

I bet you they expect that help from the Federal Government is coming to them in terms of being able to augment their police agency, just like LEAA used to do, and other programs. I respectfully suggest to the Presiding Officer, and he already knows this, he should tell them: Hang on; I am not sure much is coming.

Maybe that is a good strategy. I think not. I think the Federal Government should be playing a bigger role in helping the States, notwithstanding they have surpluses. They should be doing more, too.

Let me say to my colleagues that there has been a very positive step taken by the Republican leadership, as well as the Democratic leadership here, to see to it that we move forward on the President's drug strategy.

We on this side of the aisle promised when the President spoke that we would give him everything that he wanted in terms of the resources, and we would pay for it. We have kept that commitment. The press corps, when I make that statement on behalf of the Democrats, asked me how I was going to do that, I had to tell them I do not know yet. But I know there is a will in this body to do it, and we will find a way. Through Senator BYRD's leadership, we found the way.

The second piece here is that we have concluded at the outset that the President's progam was not sufficient, and this first fora of an addition here is one that just deals with the most glaring insufficiencies in the President's progam, and we are going to deal with those today.

There is a third piece that is part of this overall compromise that will not be debated today, and I hope no one will confuse it from this point on. The President speaks often of this crime bill, his crime bill, as if it's something fundamentally different than his drug bill, and he has been known to say of late that the Senate, the Senate Judiciary Committee in particular, yours truly in particular, has held up his crime bill.

I want my colleagues to know that practically all of the money and programs that the President wants in his crime bill, were also included in the President's drug strategy. And no one ever told the chairperson of the Judiciary Committee, yours truly, that the crime bill was supposed to be added on top of the drug bill strategy. I am prepared to do that if he wants. But I have been informed of what I knew all along, that the crime bill was made part of the drug strategy. They are one and the same, but for three provisions that have little to do with drugs. One is capital punishment. The second is habeas corpus reform. The third is the exclusionary rule.

So when the President speaks of the crime bill, let everyone understand that that is what he is talking about. He is not talking about more police officers. He is not talking about fundamental changes in prosecution. He is talking about those three incredibly controversial issues here that over the 17 years I have been here never fail to tie this body up in filibuster.

One last point I am going to make as it relates to the crime bill and the drug strategy. I have held hearings on this in the committee, but it is one of the things—and I admit I almost claim a point of personal privilege because it irks me so much, it frustrates me so much. I am going to say it here.

The President and some of his spokespersons constantly say in speeches that they want the Congress to move on in providing the death penalty for drug kingpins. So we had a hearing. The head of the criminal division, Mr. Dennis, speaking for the administration and the Justice Department, appeared before my committee several days ago on a much broader death penalty bill introduced by Senator THURMOND.

I said, and I am paraphrasing, "Mr. Attorney General, are you aware that the U.S. Senate and House of Representatives passed a bill, signed by President Reagan, that is now law and has been law for almost 10 months that provides the death penalty for drug kingpins?" He said, "Yes, I am." I said, "Are you aware that that covers any murder that is related to one that is ordered by a drug dealer, one that is committed in the commission of certain drug crimes," et cetera, and I went through the list. He said, "Yes."

I said, "Then I am confused. For the President of the United States either has speech writers who have no notion of what the law is"—which I suspect is the fact—"or the President, when he says he wants the death penalty for drug kingpins, is talking to you and the Attorney General and not to us." And he said, "What do you mean?" I said, "Is it not true that you have had this law for 10 months and you have not brought one single solitary case

asking for the death penalty? Not one single solitary case. So he must be talking about you."

And he said, "No, he is not." I said, "Well, there have been over 300 murders in Washington, DC, most drug related. Are you telling me none of them qualifies under this?" He said, "No, I am not telling you that." Then I decided that it was more fair and merciful to drop the subject.

But let me just make one other point. I said to the Attorney General's office—and, please, I want my colleagues' staffs to hear this so that they can inform Senators of this. Please, as a personal favor.

I said, "Is there any change at all, is there any legislation, anything, no matter how small, that the President is asking the Congress to do to change the law with regard to the death penalty for drug kingpins?" And the answer was, "No."

So I do not know what the President is talking about when the President says he wants the death penalty for drug kingpins. He has it. They have not enforced it. I am not criticizing them for doing that. That is their judgment, not ours. But he has it.

And so the last part of this package relates to the crime bill which we will debate at a later point. But when you hear the crime bill mentioned, understand we are talking about habeas corpus, exclusionary rule, et cetera; we are not talking about a big old bill called the crime bill that deals with helping police officers, et cetera.

Anyway, I thank my colleagues for their indulgence. Once again, I compliment my colleagues on the Republican side of the aisle, for they had a difficult job. They had to negotiate not only for their own views but protecting the White House interests at the time, which I think they did both well. I enjoyed being with them.

I yield the floor.

Mr. KENNEDY. Mr. President, I join with those on the floor this morning in commending the chairman of the Appropriations Committee, Senator BYRD, in bringing these negotiations to a successful conclusion with Senator HATFIELD and in the bipartisan effort that hopefully will be accepted this morning by the U.S. Senate.

Senator BYRD had stated earlier in the year that he was committed to try to find a funding mechanism for funding a down payment on the war on drugs. And that is really, as Senator BIDEN has pointed out, what we are doing on this day. He has, through his energy and insight and resourcefulness, developed an approach on this issue which I think meets some of the important areas which had not received the full attention and the commitment in the war on drugs, and has done it in a way which will add an important infusion of resources to this effort.

So I commend Senator BYRD. As I have seen over the period of time that I have been a Member of this body in the area on the substance of various issues, he is openminded to the interests of the various membership as well as to the committees. I have valued very much his strong commitment and support, particularly in the areas of education and research and the prevention aspects of the war on drugs.

I also wish to commend Senator BIDEN. He has an extraordinary understanding of the challenges we are facing in our society. He understands the importance of interdiction and law enforcement. He understands the relationship between law enforcement and education and rehabilitation. There are important opportunities for linkage there that can make an important difference in the war on drugs. I think he has a balanced view about how we ought to allocate resources, and I think he has really an understanding about the scope of the challenges that we are facing and what is really needed in our Nation if we are really going to come to grips with this particular challenge.

Mr. President, the outcome of these negotiations will be to provide some extremely important resources in the areas of education, prevention, rehabilitation, and some important money in terms of research. Effectively, 75 percent of the funds recommended by President Reagan are going to be what we consider the law enforcement function. This is in spite of the fact that the President had signed the omnibus bill over a year ago, which basically allocated about 50 percent in terms of demand and 50 percent in terms of supply.

Then under the Bush administration, when we had their recommendations to this Congress and to the American people, it again followed the 75-to-25 proportion.

The only difference was they defined the problem somewhat differently. They said what we will do is give a third to the international efforts on interdiction, we will give a third in terms of law enforcement, and a third in terms of the demand side.

When we basically move those particular items under the supply and demand side, we know that it moved it very heavily, in terms of the interdiction, and in terms of the law enforcement.

There is an important role for interdiction. There is an important role for law enforcement. But any effective program must have a balance which I think ought to skew that particular balance in the way of dealing with the demand side.

I believe if we eliminated every coca plant in the world tomorrow and were able to extinguish it for 6 months and did nothing in terms of the demand side, should those plants come back in 6 months we would have the exact same problem we are facing today. We are going to have to deal with the root causes.

Frankly, Mr. President, I am not as pessimistic as some of our colleagues and others, in trying to deal with the demand side of the particular challenge. We have seen a dramatic change in behavior among American people, for example in the area of smoking. With the exception of teenage girls and inner-city youths, there has been a dramatic decline by the American people in smoking. We are seeing a significant decline nationwide, in the consumption of alcohol.

In my part of the country, up in New England, it is even in greater decline than other parts of the Nation. People will respond to these kinds of behavioral changes. I think it is essential that we have that same kind of alteration in terms of the demand side for abused substances. And we ought to be about it.

We have impressive evidence that when we do provide information, particularly to young people, about the dangers of substance abuse, as the Michigan study and other studies have demonstrated, there is a significant decline in use among young people in this Nation. We cannot get away from it. And still we are only, now, at the tip of the iceberg in terms of the numbers of people actually receiving education: About 70 percent. All students receive some education. But in evaluating the various education programs it is about half of that that receive decent education programs.

We are not just talking about education isolated. We are talking about an education program that is going to be combined and tied in to community activities and community groups. That is the kind of education program that is really effective.

Just teaching about the dangers of drugs in the classroom, just exhorting young people about the various challenges they are going to face, is really not going to work. It will not work. But we do find important evidence that resourceful and creative educators have had a dramatic effect; we have seen dramatic changes and alterations.

For example, yesterday in our Human Resources Committee the principal, Jeff Miller, of an important high school in Dade County in the inner city, in what is known as basically drug alley, with perhaps one of the highest rates of school dropouts of any school in Florida, was able through the support of the community, support of the city, support of Dade County, support of the State, support of the business community, to move the dropout rate to 1 percent

last year, and not have one drug-related expulsion in that school last year. It was a dramatic change.

In listening to the young people who had been tied into drugs and how they were coping with their particular challenges, the whole movement and turnaround in terms of that school, this principal believes that the war on drugs can be won. But, as Senator BIDEN has pointed out the strategy and the way he approaches this issue is different than what has been announced in terms of the national strategy.

We are very hopeful through the committee, working in a bipartisan way, that we will be able to demonstrate some of the important success stories, not only in that high school but the Kansas City program which has an important and dramatic impact in reducing substance abuse; the Seattle program dealing with gateway drugs, marijuana, alcohol, cigarettes—that has had an important outcome as well.

We have to be able to demonstrate to the American people what programs work, what programs do not. We have to be able to build into any of these areas important accountability. And that has been built into this particular proposal: Important accountability.

Mr. President, I want to express, again, our appreciation to the chairman of the Appropriations Committee, not only for the allocations of resources, but also for the way that those resources are going to be utilized; to insist on accountability, to try to use the various success stories that we have had, to build on that, to not let another year go by where we would just be adding additional resources. And to do that in the area of education and also in the area of prevention.

As was pointed out frequently, there will be no magic silver bullet. We are going to deal with each challenge, whether it is crack addiction, cocaine addiction, or otherwise. But we can make important progress dealing with those individuals and treating those individuals and reducing crime dramatically; in ensuring those who free themselves will not repeat.

I will include in my full statement some of the important statistics that have been done, not just in a handful of cases, 10,000 individuals, 25,000 individuals, 10 years out. Maybe they are not cured in the complete sense, in the way most of us would think a particular ailment is cured, but what we have seen in a dramatic reduction of crime, a dramatic increase in employment, dramatic increases in being free from returning to crime.

That to me is impressive progress. It does not do all the things we can do but it does help free ourselves from the kind of violence that is taking place in the communities across this country, the explosion of crime, the dramatic increase we have seen now in terms of child abuse in the last 3 years. There has been a dramatic increase in just about every major city of the country going right up through the roof.

We have vastly overburdened child counseling agencies. We are not only getting child abuse, we are getting a dramatic explosion of parent abuse, with individuals having this addiction going back to their homes, assaulting their parents and grandparents—crimes, frankly, I find just beyond imagination.

If we talk to some of those involved in local law enforcement, Bob Morganthau in New York, read through or listen to his testimony about what is happening across our landscape, it is something we just cannot minimize.

So, we have to try to find programs and emphasize and stress accountability; find those programs that are working. In the meantime we have, as Senator BIDEN and as Senator BYRD and others have pointed out, to try to deal with the particular problems of expectant mothers who have addiction. We do make important progress in that area.

In reviewing what is happening in the State of Florida, if we take those children who are born addicts, children of mothers who had an addiction 2 years ago, preparing them for kindergarten is going to cost the State of Florida for that 1 year, $700 million. So, we, as a society, are eventually going to have to understand we are going to spend on the front end or we are going to spend on the back end.

It makes no sense to spend and just throw money at the problem. But what we are doing now, I think, with this particular amendment, is strong accountability, strong commitment in a bipartisan way toward recognizing the importance of continued research but importantly in the areas of education and also rehabilitation and treatment.

Mr. President, again I commend Senator BYRD, Senator HATFIELD, Senator BIDEN, and the leadership on both sides of the aisle for the constructive bipartisan compromise we have achieved.

Many of us felt from the beginning that the drug strategy was a good start, but that it failed to match the goals we share with resources adequate to meet them.

The shortfall was particularly serious in two key areas—prevention and treatment. If we have learned anything from the failures of recent years, it is that law enforcement and interdiction—important as they are—cannot do the job alone. Treatment and prevention are at least as important, and at least as cost effective.

The compromise before us is an impressive vindication of that fundamental point. Virtually all of the additional funds allocated to the war on drugs above the administration's original proposal are earmarked for programs in treatment and prevention.

In a sense, the compromise for fiscal year 1990 is a victory for a more enlightened approach to the war on drugs, but it is also a challenge. I hope that a year from now, when the appropriations for fiscal year 1991 are debated, these programs will have proved their effectiveness so convincingly that we can continue to close the gap that has denied them fair priority in the past, and that has caused us to lose ground in a war we must win.

I also commend the leadership for the satisfactory compromise they have developed to finance these additional resources. None of us likes across-the-board cuts.

Some of us don't like cuts in social programs, because they have already been cut to the bone in past years.

Others don't like cuts in defense, although it is hard to see why programs like the B–2 bomber and star wars should continue to enjoy extravagant funding, when other parts of the budget have been decimated so much. This compromise is a realistic resolution of that controversy; it is appropriate that many programs should give up a little, in order to fund the war on drugs that we all agree deserves more resources.

There is no problem that is of more concern to the American people than drug abuse. And with good reason. The drug epidemic is turning neighborhoods across the country into war zones. Forty percent of all high school seniors have used an illegal drug in the past year. An estimated 375,000 babies are born every year to women who have abused drugs during their pregnancies, and the evidence is mounting that many of these children may face life-long disabilities. Child protective services throughout the country are sinking under a tidal wave of drug abuse, child abuse, and neglect.

The news about the drug war—bad as it is—is not all bad. Casual use of drugs has dropped almost 40 percent in just 3 years. The evidence is strong and growing that prevention/education efforts have been working and can work better if more schools and communities can be helped to adopt the best model programs.

Between 1986 and 1987, cocaine use among high school seniors dropped 19 percent. Between 1987 and 1988, it dropped another 23 percent. This dramatic decline in use was the direct result of a growing national recognition that even occasional use of cocaine is dangerous.

Well-constructed demonstration programs have shown even greater success. Young students enrolled in the

Seattle Social Development project reduced their use of the gateway drugs of cigarettes, alcohol, and marijuana by one-third compared to students not in the program. Among older students who went through the Kansas City comprehensive school and community based prevention program, use of marijuana and cocaine was less than half as high as among those not in the program.

The news about the effectiveness of treatment programs is also good. A National Institute of Drug Abuse study of 24,000 drug abusers who entered treatment in the late 1960's and early 1970's showed that treatment sharply reduced drug use and crime and increased employment—even when users were studied 12 years after the initial treatment. The just-released treatment outcome prospective study of 10,000 abusers entering treatment in the 1980's found similar positive results.

But despite the proven effectiveness of prevention and treatment, current resources are woefully inadequate. More than 70 percent of current Federal spending goes for law enforcement—not prevention or treatment. Only 50 to 75 percent of schoolchildren receive any drug education—and the proportion receiving effective education is much lower. The Federal Government spends less than $4.40 per student per year on drug prevention.

The record is no better for treatment. According to the National Institute for Drug Abuse, only about 15 percent of addicts can be treated annually at current spending levels—and we would need to increase spending 40 percent just to provide the same quality of treatment we provided in the 1970's—even if we did not treat one additional addict.

The President's plan to fight the war on drugs said all the right words about the importance of prevention and treatment, but it did not match the rhetoric with the resources needed if we are to fight the war on drugs effectively. Priorities under the President's plan would still be tipped 70 percent to law enforcement and only 30 percent to prevention and treatment. School-based prevention programs would increase only by 70 cents per child. Treatment resources would expand by only enough to treat an additional 2 percent of drug abusers.

As a result of this bipartisan agreement, the amendment we are considering today will enable us to wage the war on drugs in a more realistic and balanced way, with more appropriate emphasis on the critical areas of prevention and treatment.

I commend Senator BYRD and Senator HATFIELD, the bipartisan leadership of the Senate and the many others who have worked skillfully over the past 10 days to reach this successful compromise. I urge the Senate to adopt it.

I urge a favorable vote on this amendment. The Nation needs and wants an all-out war on the scourge of drug addiction. This amendment begins to give us the weapons we need to fight that war.

So, Mr. President, I just again want to commend those who have provided leadership. We recognize that with scarce resources, we are going to have to show results. We understand that. We are going to try and work with our colleagues to be able to do it. Again, I thank the Senator from Delaware for his kind remarks and for his constancy in terms of this whole effort and for the leadership he has provided.

Mr. President, I ask for the yeas and nays on the amendment, as modified.

The PRESIDING OFFICER. Is there a sufficient second? At this time, there is not a sufficient second.

Mr. KENNEDY. Mr. President, did we get the yeas and nays on the amendment, as modified?

The PRESIDING OFFICER. There was not a sufficient second when it was requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Nebraska [Mr. KERREY].

Mr. KERREY. Mr. President, do I understand correctly the current business is the amendment of the Senator from West Virginia? Am I in order to speak to that amendment?

The PRESIDING OFFICER. The Senator is correct. It would be in order to speak to that amendment.

Mr. KERREY. Mr. President, at the moment of the vote on the drug agreement, let me join my colleagues in expressing my appreciation to the distinguished President pro tempore of the Senate, the Senator from West Virginia, who is also the chairman of the Senate Appropriations Committee.

He has performed a very valuable service to our Nation as we try to confront this terrible problem in our midst. He has found a way for us to reallocate needed resources without the need for new tax revenues. And he has gotten all this done after having started with less than 30 days remaining in our fiscal year.

It is a remarkable accomplishment, worthy of praise, and recognition. His work will save lives and improve the chances that America will succeed in triumphing over this terrible enemy.

Mr. President, let me take this opportunity to make several other observations that I believe are worthwhile.

First, this across-the-board spending reduction that have us $2 billion of savings was endorsed by all 55 Democratic Senators. Fifty-five Democratic Senators agreed to reduce the budget by $2 billion and to apply the money to the solution of a problem that carries a higher priority—in this case, the violence and destruction that are a consequence of illegal drug usage in America.

I think it is clear that Democrats are willing and able to match their priorities with discipline.

We offered a $2-billion reduction in spending to be reallocated to a higher priority. But the administration said no. They would only agree to allocate $800 million more to drug programs.

Mr. President, I have suggested that we take that $1 billion and spend that money on another American problem that has a high priority: growing U.S. debt. I have suggested that we in the Congress show the American people that we know how to pay off the debt, that we know it is done a little at a time, that we know it is done by exerting the discipline not to spend the money on things that have a lower priority.

My suggestion, however, is not acceptable. It is not practical, I am told, because it will break this agreement that was put together after much work. I am told that our procedures will not allow us to take this action. And I regret this very much.

The distinguished chairman of the Appropriations Committee has convinced me that there is a better and more appropriate place to fight this battle. I have unequaled respect for the Senator from West Virginia and have heeded his advice. However, I want to put my colleagues on notice that I will be back.

There is a second observation that I believe is worth nothing, Mr. President. I also believe the action we are taking is significant because it is the legislative branch exerting spending constraint upon the executive branch. It is the legislative branch, specifically the chairman of the Senate Appropriations Committee, who found the realistic and acceptable way of providing the off-setting funds to finance the drug program additions so that our actions would not contribute to the deficit. He did not propose cuts which he knew could not be adopted. Instead, he asked all appropriations subcommittees to contribute to a reallocation of resources.

In this case it is the executive branch that is out of control. Our President wants to go to the Moon and to Mars. He wants us to declare war on drugs. He is worried about our children. And he is concerned about our environment. He says we need to do something—for gosh sakes—about Poland and Hungary.

There seems to be something new every day that the President wants to spend money on. Yesterday it was Third World debt. Today it is education. Tomorrow, who knows.

The President has more good causes than most occupants of the White

House, and for this I am sincerely grateful. Unfortunately, he also has less money. The U.S. debt almost tripled while he was helping President Reagan recover from the wasteful spending of President Carter.

Again, I restate my gratitude to my colleagues for exercising the fiscal discipline needed to find the money for this new, higher priority.

As I have said, I believe there is a higher purpose in our need to pay off the growing U.S. debt. The interest payments—particularly the foreign payments that reduce our standard of living—are growing faster than any line in the budget. The Federal Government is broke and cannot adequately respond to any new international or domestic problem that has not incorporated itself as a savings and loan.

I also believe there is a higher purpose in challenging some other assumptions which produce Federal spending that would not be necessary if the assumption fell. Consider, for instance, the claim that accompanies the strong antichemical weapons statements made by President Bush: the United States intends to continue producing new chemical weapons to modernize its stockpile at a reduced level. Modern chemical weapons will be sold as safer, cleaner, and more reliable—able to overcome the problems in the old weapons.

The main problem with the old will be in any new: We do not like the way they kill people, except in executions. Modernized or not, Americans find these weapons abhorrent and would not support their use. Libya and other countries know that. Therefore, I do not believe that these weapons deter. The Soviets are willing to eliminate all of theirs and we should be willing to do likewise. This is another opportunity to find savings that will reduce the deficit.

Let me challenge another assumption. The President says he is willing to drop his insistence, in arms control negotiations with the Soviets, on a ban on mobile weapons provided Congress makes available funds for such a weapon. Consider the opposite proposition: Congress refuses to make funds available, therefore the U.S. position is that we insist on a ban. What happens then to the "we need this new weapon, or new modernization," as a bargaining chip?

In reality, we are deterring an enemy that is facing a public that wants food, soap, housing, and other essentials. The Soviet public wants a little more than the stuff they have seen at May Day parades for the past 70 years. The assumption which needs to be challenged is this: The Soviets are more dangerous now than before. The facts cause me to reach the opposite conclusion.

What is a danger to us now is our inability to effectively address growing internal problems: rising despair amongst poor Americans; less than desired performance in our schools; a health care system that is inhumane and irrational. The great danger is that our leaders will convince us that the enemy is still external to us.

Mr. President, I join my colleagues, both Republican and Democrat, who have praised the distinguished President pro tempore, the senior Senator from West Virginia, the chairman of the Appropriations Committee who has worked very hard to put together a compromise agreement. I congratulate as well all who participated in putting together this particular agreement.

Mr. President, I would like to make several observations about what has just transpired. There are several things about it that I consider to be remarkable, and I consider to be as well very noteworthy, not just for my colleagues but also for the American people. First of all, the Congress of the United States, the Senate of the Congress of the United States has made a judgment to exercise fiscal discipline, to make a reduction in one area and then to reallocate that savings into an area of higher priority. Perhaps most significant, Mr. President, is that 55 Democrats in the Democratic Caucus agreed to support the proposed reduction of spending to be allocated to a higher priority as presented to us by the distinguished Senator from West Virginia. It runs against a common myth, in fact it runs against many things that are being said about Members in the Democratic Party in the U.S. Senate. We exercise fiscal discipline because we see a higher priority. It was identified, in fact, in this case by the President of the United States in his September address to the Nation, a higher priority. He calls upon us to exert some discipline, to make reductions in other areas and then reallocate them into this area, this drug problem that all Americans want to solve and we have, I think, done a good thing.

All Americans should thank the distinguished chairman of the Appropriations Committee, I believe, Mr. President, because there will be Americans who will receive treatment who otherwise would not without this allocation. There will be Americans who will be educated as to the dangers of drug and they would not have been educated without his effort to bring some discipline to the process at hand.

The administration unfortunately, I believe, has made the judgment that $2 billion is too much; that the savings that we proposed of $2 billion was too much; that more like $800 million dollars is all that we should spend on this top priority the Nation faces. I think it was a mistake.

Further, Mr. President, I have suggested to my distinguished colleague, the distinguished chairman of the Appropriations Committee, that we should take that extra billion dollars that we have saved, and we have indicated we are already willing to reduce, we have an agreement to make the reduction, we should take that billion dollars and allocate that to a very high priority as well, and that is the reduction of debt that the United States of America continues to accumulate. That should be our bag of crack cocaine that we hold up to the Nation and say, "This is how we reduce debt." We understand that in order to reduce debt, we have to exercise fiscal constraint; we have to find some reductions in order to be able to reduce the debt that the United States of America continues to accumulate.

I know, Mr. President, that you have campaigned hard and spoken very eloquently to the people of Virginia and to the people of this Nation about what our Federal Government is going to itself, about how the Federal Government of the United States of America not only is broke in its current condition, but continues to borrow in order to fund our current consumption because we do not have the will either to make the reductions or to pay for the things we need.

Mr. President, it is a significantly high priority for this Nation to address that debt because our standard of living in the future is imperiled if we do not. In the 1980's, this Government borrowed $800 billion, to buy the things we said were desperately needed. We borrowed $800 billion and it is not enough that we borrowed it just from the American people. We also began to borrow it from foreigners. Today, Mr. President, 6 cents out of every dollar that is spent by the Federal Government is borrowed from foreign borrowers.

Last week, we were notified that we are currently paying more in interest and dividend to foreign investors than foreign investors are paying to us. Mr. President, that is going to mean that our standard of living is going to decline, and it is connected to this problem of drugs that we have identified as a high priority because the people who will pay the biggest price, the ones who will suffer the most are lower- and middle-income Americans whose standard of living will decline first. It is apt to affect the people in Congress the last who are paid $89,500 a year. We are apt to be affected by our borrowing patterns last. It is a first priority for me, Mr. President, and I wish that we could have found a way to take that billion dollars and burn a billion dollar bond and retire a billion dollars worth of debt and show the American people we know how to do it

and show that Democrats know how to do it in particular.

I appreciate the advice my distinguished colleague from West Virginia has given me that now is not the right time and place to be offering such an amendment. But I promise my colleagues I will be back because the problem, it seems to me, is growing and it troubles me deeply that we permit it to go on without addressing it as I think we all know that we should,

There is a second observation that I would make, Mr. President, that has occurred right now that I think is remarkable and that is that it is the legislative branch exerting fiscal constraint. It is the legislative branch saying things have gotten out of control. And we are going to apply across-the-board cuts in order to restore some order to the process.

Typically, in these sorts of situations, it is Congress that is out of control, and the executive branch must step in and exert some constraint and say, "You are spending too much. I have got to control you. You have an appetite that exceeds our ability to feed, and you have to slow down."

In this case it is Congress acting in the presence of an executive branch, that has gone out and talked about all kinds of things that the American people ought to be buying, we ought to go to the Moon, to Mars, we ought to fight a drug war, fight a war on crime, help Poland and Czechoslovakia, we have to be doing something in all sorts of areas.

I am grateful that the President of the United States has all kinds of good causes. Unfortunately, Mr. President, we do not have the money for the causes that the President has identified. It is remarkable, it seems to me, for us to be standing here right now with the Congress, the body that is typically thought of as the one that is out of control when it comes to spending, saying this must stop.

We have to exert some discipline so that we are able to say to the American people that we have been fiscally responsible. It is a remarkable event. Again I give full credit to the distinguished Senator from West Virginia, the Republicans and Democrats who participated in this agreement. I think it is an agreement that will benefit America. It is one that I support fully on the fiscal side and for what this additional spending will enable us to do.

I yield the floor.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from Utah [Mr. HATCH].

Mr. HATCH. Mr. President, what we are about to do is very important. I have enjoyed some of the comments I have heard from the distinguished Senator from Nebraska. He does raise some interesting points.

We are spending this country right into bankruptcy. That is why the President did the best he could to come up with an aggressive, decent, antidrug abuse program. I always thought that $7.9 billion was a lot of money. But no sooner did he file his program, which almost everybody has said is comprehensive, covers the matter, does a good job, and all we have had is criticism ever since by certain people in this body as well as in the other body.

I want you to know, Mr. President, I rise in support of President Bush's plan to attack drugs in America. He has sent to Congress a comprehensive strategy to wage our fight against the epidemic of illegal drugs. I support the President's program. I think most people who have read it feel the same way. There is a lot of effort that has gone into this plan.

Most Americans, the polls show, support the President's plan. I think they are sick of what is happening. They want something positive to be done. They want it coordinated and they want a comprehensive plan, not just a helter-skelter spending bill.

Today, we take an unprecedented step in affirming our support of President Bush in a rapid manner. Only 22 days ago we received the national drug control strategy. It has been a short time. Today we help to fund that strategy and will debate four major proposals contained in the legislative strategy.

I applaud all of my colleagues in the Senate for their willingness to work together to see this package debated and discussed.

Mr. President, I was also pleased to be asked by the minority leader to work on our task force that created the compromise we have before us. The primary issues were; how much money is needed to add to the Bush plan, and when would we debate various propositions contained in the President's drug strategy.

What we agreed to was full funding of the President's budgetary request of up to $7.9 billion. In addition, we have added $800 million in budget authority for treatment, prevention and education programs and $100 million for local law enforcement activities. That translates to about $400 million in budget outlays in fiscal 1990. That is considerably less than the $2.2 billion for which the distinguished former majority leader has asked.

This is—and thanks to both leaders on the Appropriations Committee, Senators BYRD and HATFIELD—a good faith bipartisan compromise. I personally want to thank Senator HATFIELD for his leadershiap in the negotiations. Senator BYRD is also to be commended for his diligence in bringing the final package together.

I am pleased to have done it expeditiously because, even as we speak, drug deals are going down, teenagers are getting high on crack, 10-year-olds are getting drunk, and unborn children are becoming addicted. We must do whatever we can to stop this societal suicide.

First, I do not think we can tolerate indiscriminate use of drugs and alcohol for the obvious safety reasons. Even if an individual is willing to throw away his or her own health, it does not mean that an individual should jeopardize the health and safety of others.

There is substance abuse by pregnant women, women whose children begin life with an addiction because their mothers were addicted. These babies never had a chance to say no. Rather, these babies whose chances of being born with a birth defect are greatly increased.

How can we say that substance abuse only affects the user? We cannot. Clearly, it affects others, and in the case of babies, they certainly have had nothing to do with the terrible conditions in which they find themselves.

Second, society should not sanction drug use or alcohol abuse. What happens to our culture, Mr. President, when people cannot survive without a hit of crack or many drinks of alcohol? What kind of an example are we setting for our Nation's youth if we, as leaders, do not speak out strongly against substance abuse?

As a people, we are better than this. Drugs are tearing our neighborhoods apart. And as I attended my task force meetings throughout Utah, I learned that drug abuse is affecting both urban and rural America. There is a county in rural Utah that had over 400 drug arrests last year; about 10 percent of the arrests were Utah citizens, 90 percent were not. The remainder were people running drugs through our State. Not one community in our country is immune from the scourge of drug abuse.

I hope that today's action does more than just give lip service to our commitment to fight the war on drugs. After today, we must then tackle the harder questions and issues like the death penalty, drug testing, and modifications in the various criminal statutes. Addressing these issues in a constructive manner will be a significant step forward battling drug abuse in America.

Mr. President, these are going to be important issues. If we are going to get tough on crime, tough on these pushers, and tough on the drug lords and the kingpins, then it seems to me that we have to get tough on some of the criminal laws that have been used as escape hatches for some of these criminals to get away from serving time or suffering any punishment as a result of their illegal activities.

I can tell you these drug lords, as the President said, do deserve the death penalty. I can tell you if we will use the death penalty, we will not have as many drugs being pushed in America. In a couple of countries in this world where they do have the death penalty for drugs, they have no drugs. I believe it is something, if everybody here is serious about stopping the drug epidemic and the drug problems, we have to consider doing.

Mr. President, I urge my colleagues to support this amendment today. Specifically, it will increase programs at the Alcohol, Drug Abuse and Mental Health Administration to expand State treatment efforts, to research new treatment therapies, to provide greater insight into appropriate therapies for substance abusing women who are pregnant, and to expand community-based prevention efforts. This amendment further expands funding for the Drug-Free Schools Act which funds school and community-based education programs. And, this legislation provides $100 million more for local law enforcement efforts so that we can get more prosecutors into Utah and every State to get drug traffickers off the streets.

Mr. President, I hope this amendment will pass overwhelmingly and that it will help every State, community, school, church, club, business, police department, and family to deal out the drug dealers with strict law enforcement, eliminate the demand for drugs through education and prevention, and help those who have fallen into this trap through treatment programs.

I hope as we debate this matter that we get a little bit away from the partisanship that has controlled this body through the years on these issues.

I think it is time for all of us to admit this is a pretty fine comprehensive package if we are going to try to improve it today with this amendment. I agree with the amendment. I have helped to work out the details and the language as have a number of other Senators here. I think it improves the program that the President said is the basic program. We will improve on this year after year, I hope. If we need more funds in fiscal years 1991 and thereafter, we will raise those funds. The fact of the matter is it is a national scandal, it is a national problem, and it is something we need to resolve.

But I am proud of this President. I am proud that he has had the guts to stand up and say we want a comprehensive strategy, he is going to put everything he has behind it, we are going to do what we can to solve these problems, and this is a good beginning. It is not the ending, but it is a good beginning. I want to thank every colleague who has worked on this bipartisan amendment, and I hope that all of our colleagues will support it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, for those who are waiting their turn, I will not be long, at least I hope.

Mr. President, let me first say I think the President of the United States and in particular his new drug czar, Secretary Bennett, have done an excellent job on behalf of the American people.

We hear a lot about the deficiencies in the plan from some quarters. Many would like to do much more. But I would like to take just 1 minute and put into perspective where we were when we received the mandated new policy and strategy from Secretary Bennett on behalf of the President.

About 180 days after Secretary Bennett was confirmed, the President delivered his drug strategy plan to the U.S. Congress as mandated by law. That was 26 days by mandate of Congress—not by choice of the administration—before October 1, the end of the fiscal year, the year we are called upon to appropriate money to implement a plan.

So I hope everyone knows that we had only 26 days to complete all our work and appropriate money from the taxpayers and the American people for a drug policy. There were 26 days to get it done—no more, no less.

We are going to have difficulty, apart from the drug plan, getting our work done on time. The public now knows or will soon know that we are not going to get the appropriations done on time. We are going to have a continuing resolution. We are probably going to have a sequester, an across-the-board cut, after that because we did not get the budget reduction plan put together on time either.

So it seems to me we ought to look at this drug plan from the perspective of having 26 days to implement it, change it, or modify it. So we will get a myriad of ideas. The President received hundreds. The drug czar had thousands. But essentially when you put it into that perspective, it seems to me we received a very good plan.

No one is seeking to deny the implementation of the President's plan as it related to money and programs. Almost without any discord this body is going to fund the President's plan. I think that bodes well for the future of the drug czar, and the President leading the effort.

The second point I would like to make is that it seems quite logical to me that, with the drug issue being the most significant social problem in America—maybe even the most serious one we have ever faced as a people—we would want to do more, and we would want to in some way put our mark on this first step in a declared war on this scourge.

I am very pleased and proud that, as the distinguished junior Senator from Nebraska just said a while ago, whether one likes or dislikes the method of funding the President's plan and an additional $900 million in program authority, we have shown if we want to put something in a high enough priority position we do not have to raise taxes. We can look to the body of appropriate programs, in this case including defense, and say "Let us take a little bit from everything and pay for it."

I myself, as one Senator, would have preferred to look for cuts in the spending programs of this country. I am absolutely convinced that we act as if a program once on the books, as President Bush has said, is vested with immortality—that it should never change, and it should never disappear. For all the commotion about changing the programs of this country during the entire Reagan era, we got rid of only 5 programs out of an inventory of more than 2,400. There are so many we cannot even count them.

So I would have preferred to go back through and see what we could alter, what we could change, what we could get rid of. Nonetheless, in the waning days of the session we found a way to pay for this program without raising taxes and without breaking the mandated targets set by Congress and the President working together many months ago in the so-called economic summit.

I think on that front this was a pretty good exercise by this body of a very, very complicated process here in the U.S. Senate.

Having said that, what we are going to do is take an across-the-board cut from many programs, and certain defense programs will be cut or terminated and the money transferred to this war on drugs for its share. The burden sharing between defense and discretionary programs might not be to my liking, but I think it is adequate under the circumstances.

So I compliment those who initiated this effort, and those who have brought it to conclusion.

I was privileged to be part of the small group that worked on that. I think both the package and the plan for financing it are reasonably good under the circumstances that I have just described.

However, I would like to put in a word of caution. The funding of this program requires amending appropriation bills that have already passed the U.S. House. These bills do not have some of this program in them because the President's program was underfunded in the House, and we have

even added to it above the President's request.

So I am very hopeful, yet I am not at all certain, that as we work our way through the U.S. House committees they are going to concur either in the add-ons that we have accomplished here in the last couple of weeks, or in the way of paying for them, for they will have to reduce programs across the board or otherwise—programs that they have already funded and appropriated.

I do not intend that to be cold water on an otherwise reasonable package, but that is a concern. It could become very serious, and very significant.

My last comments have to do with the front line of defense in this war on drugs. I believe that we in the Congress cannot turn law enforcement in the United States on its head. We already have a front line of defense called local law enforcement. Every city in America has a system of providing police, and counties have a system of providing sheriffs. They have district attorneys that prosecute, they have jails in which criminals are incarcerated, and they have probation officers. The Federal Government is not the leader in this area. We have never been. We have an FBI, a Federal court system and the other weapons, but, Mr. President, the front line of this war on drugs is local law enforcement, from the policeman on the beat to the investigators, right through the district attorneys that prosecute, the local and State judges to which criminals are sent, I believe the one really significant thing we are doing in law enforcement is to provide substantially more money to local law enforcement so that they can do their job, which is apprehending those who violate the drug laws of this country, be they users, street sellers, or kingpins. It is obvious to me, from my State, that most of the war is going to be conducted by them. The victories, if they are to be real and significant and reliable and consistent, will be won by that part of American law enforcement.

Mr. President, they are overburdened. They cannot get the job done. I have, on a number of occasions, met with the leaders in local law enforcement in my State, and, I tell you and fellow Senators, they guarantee us that they can do their job. They know that drugs are in the streets, drugs are in places that they know about. They are aware of sellers and dealers and users, and they do not have the resources to apprehend them consistent with our due process, to take them to district attorneys, and send them to jail.

Mr. President, district attorneys would like nothing more than to concentrate for 3 or 4 years in a concerted effort on apprehension across the board, including users, not just kingpins. District attorneys are already overburdened. They do not have enough prosecutors, enough staff, enough resources.

Mr. President, State district judges, those with general jurisdiction who try these cases, nothing would please them more than to be able to say we are conducting a war on drugs. We are trying these cases rapidly. We are being sure that these drug offenders are not out on bond when they should be in jail. We want to send them off to jail when they are convicted, and would like to do that with more rapidity, consistency, and to do our share in a much more significant manner.

We say to them, engage yourself in the war, and then we invent all kinds of new programs to help in this war, when the tried and true weapon is left muzzled, without resources, as if it should conduct its own war.

So the National Association of Police Organizations has urged us in their 1989 national convention to enact the President's plan and, equally as important, to help them in the war by giving them adequate resources so they can enhance their efforts against the expanding menace of drugs.

I am very, very pleased that the President of the United States increased funding for local law enforcement matching programs from $150 million to $350 million. And I am equally pleased that we took one-ninth of all the add-ons, another $100 million, putting it in that program, making it a total $450 million for local law enforcement matching grants.

I am also hopeful that before we leave this issue—not on this bill, but one of the other appropriation bills—we will modify the match program that establishes how many dollars of local money are needed to get Federal dollars, or conversely, how many dollars will we give them for the dollars they spend in this war.

If we do not change the law, we will give them $1 for each $1 that the State and local governments put up. I do not think that is a good proportion. I think it should be $2 or $3 to $1, our dollars to theirs. It is the best dollar we can spend. I urge that our drug czar encourage areas, cities, and regions to put together comprehensive drug teams, and that we help them all, that we give them resources for additional district attorneys, even for temporary judges, if they need them, to expedite a docket that is directed at this war and not sidetracked by all the other burdens of the judiciary. We need to target additional resources into local law enforcement as part of the overall criminal apparatus.

As a matter of fact, if they do it right there, and if we force them by this mechanism to meet and discuss their problems jointly, from judges to district attorneys to law enforcement men on the street, if we begin to have them talking together on how they can get a match program put together so they can use our money, just getting together and discussing a unified approach will accomplish a great deal.

So I am very pleased that we are about to complete this task. I hope that in the next couple of weeks the House will concur in funding this program and that we will not get ourselves out there talking about our inability to pay for this program because we do not have enough resources.

Mr. President, we have enough resources. Ten days of talking has found the resources. We have gone back and said that everybody is going to take a little bit less so we can fund a little bit more of this very, very serious war that we are engaged in. That is the way we are going to have to do it for quite some time, in this Senator's opinion.

We cannot do everything we did in the past, do new things that are paramount, and every time we turn around, say we need more taxes. I think, first, we have to prove that we can set priorities, and we have done that here. I compliment the chairman and ranking member of Appropriations, and those that served with me on the task force, for getting us to this stage where we can all say we have a significant amount of money and are funding significant programs to engage in this war.

I yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, it is very clear, and I think from all of the statements that we have heard from so many people, that the No. 1 problem facing America at this time is clearly the drug problem. It is not a Democratic problem, nor is it a Republican problem; it is an American problem, a problem that really cries out for a bipartisan solution.

The President's declaration a couple weeks ago of a war on drugs was a welcome initiative on the part of the President. If one looks at the fine print, it hardly represented an all-out war. In fact, it had only the tools for a minor skirmish.

We need to do a great deal more, and we need to build on the program that the President proposed. The amendment that was crafted initially by the distinguished President pro tempore of the Senate, ROBERT BYRD from West Virginia, who serves as chairman of the Appropriations Committee, was a major step in the right direction. I wholeheartedly support the compromise that was developed working with Members of the other party to come together today with what represents a true bipartisan initiative.

I was deeply concerned, when I read the President's proposal, that so many

of the areas that desperately needed the help of the Federal Government were actually going to find themselves getting less than they did before the proposal was announced. There is probably no area in America that is more inundated by the concentration of illegal drug trade than the Nation's Capital, right here in Washington.

But under the original proposal of the President of the United States, if you look at the money that the District was going to get and took away the money that the proposal was going to eliminate going to the District of Columbia, something like 70 percent more would be lost than would be gained under the program. There are other examples.

California, for instance was going to get a little bit, but they were going to lose four times more than they were going to receive.

The State of Texas was going to lose almost twice what they were going to get.

So while the proposal and the declaration of war was a wonderful thing, it got the ball rolling—and I commend the President for that—it also did not do nearly enough and, in many cases, did more harm because of money lost over and above the money that would be received under that initial proposal.

Mr. President, the proposal we are considering today calls for sacrifice from everybody. It is not the proper approach to say that we want American families and American individuals to sacrifice out there but that we in Washington are not willing to ask your own Government to make sacrifices as well.

Some have said, well, to cut spending across the board is just too much of a sacrifice. It is going to hurt my program or it is going to hurt this particular program of our Federal Government.

Mr. President, I know that every family in America would be more than willing to say that we are going to cut our family budget this year by four-tenths of 1 percent if it meant that the children of that family would be able to be free of drugs and free of the crime that drugs are causing throughout America. And yet all we are asking all departments of our Federal Government to do here today with this amendment is to reduce their spending just a little, 0.43 percent, four-tenths of 1 percent less spending on programs so that we may fight a real war, and all-out war with the necessary tools, the necessary equipment, the necessary people to make a difference in what is the No. 1 concern of everybody in America in 1989.

So, Mr. President, I think this amendment is a good one. There are many who have said, well, do not cut my program, do not cut housing, do not cut this, do not cut that.

I will say that unless we solve the drug problem, we are going to do far, far greater damage to these other individual programs no matter how much money we spend on housing, or other areas that are currently being adversely affected because of the huge human misery that is being caused, because of the crimes being perpetrated, because of the drug epidemic in this country.

So it is appropriate to say to the Federal Government in Washington that we need you to sacrifice a little so that much can be accomplished.

I know as a Democrat many people say, well, Democrats cannot find a program unless they find a way to tax it; if it moves, tax it; if it sits still, let us tax it.

Let me point out, Mr. President, this is not a tax increase; it represents across-the-board spending that was brought to this floor by the initiatives of the chairman of the Appropriations Committee, the honorable BOB BYRD, from West Virginia. This represents a true across-the-board reduction in spending. It calls for Washington to sacrifice as well as calling for the people in middle America to sacrifice.

So I do not buy those who say, do not cut my program, find another way to pay for it. Everybody has to be involved. I think every family, every individual in America is willing to make that sacrifice.

The final point: Most of the drug interdiction, most of the arrests, most of the busts in law enforcement procedures are being done not by people here in Washington, as good as they are, but are being done by the State and local law enforcement officials, who work every day, every night in the 50 States trying to solve this incredible problem.

Under the original Bush plan we would have given them $6 million. Under the Byrd proposal we are able to target $100 million to State and local officials, to State and local law enforcements officers, to sheriffs' departments, to city police departments, to State police departments in order that they can do what they know how to do best, and that is to enforce the laws and put the drug pushers and the violators in prison, and if you take what the President has proposed for new prison construction, I think it is $1 billion, I think we are going to have a program that is going to work. It is going to work not just for a political party, it is going to work for all Americans, and I think that bipartisan spirit is producing the good program that you have seen enacted here today.

I yield the floor.

The PRESIDING OFFICER. Senator GRAMM.

Mr. GRAMM. Mr. President, I am going to have the honor later this afternoon to introduce an amendment to implement the President's drug-free school program, so I will try to be brief. There are just a couple points I want to make.

First, I had the pleasure, though it did not seem it some of the time in these negotiations in the last week, to work on this compromise. I totally support the compromise. Had I been writing this proposal alone, I would have written it differently. But I think, given the reality of the situation, we have put together a good package.

Mr. President, I think the fact that we decided here to basically go with the modified across-the-board reduction approach really indicates more than anything else the central problem that we face in American Government, and that is the inability to tell any organized special interest group no.

I think it is interesting also, Mr. President, that when President Bush proposed an offset to take money out of the program SLIAG to pay for part of his antidrug initiative by picking something that at least the President deemed to be of lower priority, we ended up taking the money out of SLIAG and spending it on things other than antidrug activities and then went on to impose the across-the-board cut to finance the drug bill.

Still, Mr. President, I think the across-the-board cut is far preferable than the long debate that could have ensued about raising taxes. I think it indicates while we are not willing to say no to any organized special interest group that has existed in the last three-quarters of this century that we are willing to make decisions and to at least set a positive priority, and the positive priority that we are here to talk about today is trying to deal with the drug problem.

I am especially proud of the $100 million for local law enforcement.

I think it is fair to say that Senator DOMENICI and I fought hard to try to provide funding for local law enforcement. At one point in the negotiations we were up to $200 million. The final product ended up with a $100 million addition for State and local law enforcement.

When we started out with zero in the package, I will choose to be happy by forgetting the intermediate step we went through to get there.

I have met with sheriffs and police chiefs and people working in narcotics and rural drug task forces in 90 counties in my State. There are some here in Washington who argue the people on the front lines cannot spend more money than we have given them. I want to assure you, Mr. President, that the people who make that argument have never gone out into the small towns and rural areas of Texas. I can assure you in every single area we have too little equipment and we have

too few men and women working to solve this problem.

This $100 million represents a good-faith effort to support law enforcement officials.

I think it is vitally important that we preserve the current formula allocation where the money goes to the States to allocate. We have had in the past a dispute with the House about the allocation of funding.

Their proposal almost always has been to give all the money to the big cities. I have argued and I will continue to argue that to do that will make small towns and rural areas safe havens for drug trafficking and will guarantee that we lose the war on drugs, first in the small towns and rural areas and then in the big cities.

Finally, let me say, Mr. President, that I continue to be concerned by the fact that we took funding that was aimed at law enforcement in our appropriations process and transferred that funding to a lot of other programs. We have now done an across-the-board cut to fund law enforcement, but in many cases a constant frustration for me, and I am sure for others, is that we take money intended for a purpose, spend it on another purpose, and then we end up trying to find a way to come up with the money for the original purpose. It is a game that we play constantly.

We cut the Space Program to fund HUD, and then we complain that not enough money is provided for the Space Program. We cut the Coast Guard to fund other programs, and then we try to find ways to fund the Coast Guard. We have done the same thing here with drugs.

Finally, I cannot let it pass without saying something about the overall level of funding. Congress last year cut the President's proposed level of funding for the law enforcement end of the war on drugs by $600 million.

Congress last year provided $100 million less for the FBI than the President sought; $33 million less for DEA; $52 million less for INS and the border patrol; and $300 million less for prison construction.

This year, we have a fight about trying to give the President more money than he sought. Now what happened between last year and this year? Well, what happened is, suddenly Congress started hearing the voice of the people and it decided that it wanted to go further than the President.

I happen to believe in a faith where if you are saved at the last moment, you still go to heaven. So I welcome all those that have been converted on the road to Damascus to this effort. I am hopeful that the conversion sticks, that we not only provide full funding for our war on drugs this year but that we do it next year.

I commend, Mr. President, all those that worked on this compromise. I do not think anybody got all that they wanted. But I am delighted that we are getting on with the task. I thought it looked a little silly to the public that the President had proposed a program and then we were sitting around here for weeks fighting about it, rather than getting on with the job. I think we have reached a reasonable compromise. I vigorously support it and urge my colleagues to vote for it. I yield the floor.

Several Senators addressed Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I am glad to join my colleagues in what I see as a bipartisan effort to support the Byrd-Hatfield amendment. I strongly support this compromise. Of course, this Senator would like to see it have gone to an even greater amount of dollars and more commitment.

We hear a lot about commitment and a lot about the war on drugs. I cannot help but look back in history, the brief history, on hearings that I have held on this subject matter over the years. A couple of years ago, 2½, I think, to be exact, the Senator from California, Senator WILSON and I held hearings in Los Angeles. We had a number of law enforcement people come and testify about what they needed in the local government, the problem of gangs, of drug cartels moving in, of murders and havoc coming to their community.

I remember then Chief of Police Gates of the Los Angeles Police Department stopping me or Senator WILSON or both of us when I made reference to the war on drugs that we are involved in here. He pointed out very respectfully and nicely—I have worked with that man for a long time, even before I was in the Senate, as a prosecutor in Arizona. We did some drug cases from his office. So I knew him. He said, "Senator, you know we never had a war on drugs." He said, "We do not have a war on drugs now and we all use that term including you in public office and those of us in law enforcement." He said, "The reason it is used is very well known because it excites and brings about the imagination in peoples' minds about what a war is."

And yet when you think about the war, think about the wars that the United States has had, particularly those that they have won, clear victories, they have done certain things. One is that they have mobilized their military and their civilian resources to the maximum. They have educated their public. They have brought to the public's attention real and truthful information about the problem, who the enemy is, what needs to be done to get at that enemy, how it can be done and what the sacrifice is going to be, including what it might cost in dollars and cents as well as what the ultimate cost for failure to act will be in human costs.

And in that sense, those are the two parts of a real war.

The third part, of course, is an objective, something to conquer and control. And that is, of course, the enemy. Here we have an enemy and the enemy is large, it is fragmented, it is powerful, it is vicious, it is everything that you can conceive of the worst in enemies.

And so we have these possibilities of putting together a war. This compromise amendment is a staging process for that war. We really keep saying we are at war. But imagine if we were about to go to war with a foreign country that might invade the United States or, if we felt it was in our national interest to deploy thousands of troops in the Middle East to protect our national interest, imagine how quickly we would decide to appropriate the necessary funds to get the troops there to mobilize and do the logistics so we could be prepared to defend ourselves. We would do it in a moment's notice, I dare say.

Thank God that is not the case with a military intervention or a military conflict. But I submit that that is the case with the drug battle that is before us. It is time that we respond and we respond forcefully; that we respond with goals and commitments and ideals even of what we want to achieve in the use of drugs, the curtailment of drugs and the enforcement of our present laws, and that we treat our population as a partner and ask them, as political leaders, to be part of this war, to join us, to understand and to receive from them their input and their ideas of what needs to be done to win the war on drugs.

The American people are responding to that. They understand the problem. They probably do not understand why we have not acted, even though we have said we are acting. But I am certain that they will support a genuine effort, a genuine effort to go after this problem, both on the suppliers' side, those who raise the crops, those who transform those crops into drugs, those who transport those drugs into the United States, those on the border who help smuggle it in, and, of course, those who peddle it to the citizens of this country or any other country.

This is the criminal element and the enemy, and this is what a war on drugs has to attack on the demand side.

In the area of enforcement, we have to be prepared to put a full court press—as they say in basketball—on the area of cultivation, on the area of the laboratories and the production, on the area of transportation, on the area of smuggling, on the area of the ability to transport the chemicals from this country, the weapons to kill

the military, the judiciary and the political people and the police in the foreign countries by the drug cartels, to put some stops on it here, to do something about the dissemination of the drugs throughout our schools and cities and countrysides. That is where the problem comes together on enforcement.

This compromise bill moves in that direction. And I say guardedly it moves in that direction. It is not going to accomplish everything. We are going to have to ask the citizens to sacrifice themselves. The State governments are going to have to ask their citizens to pay some more taxes, to allocate resources more on the enforcement side.

Then you come to the demand side, those who use it. Now that is an enemy also. That is why this war is really a little different. In the formal sense of a war, you do have some small part of your citizenry that is disloyal and you have to treat that in one manner or another. But here we have the citizenry that is uneducated, I believe, in the real understanding of what this kind of substance abuse will do to their bodies and souls and what it does to a country. And that is the enemy that we need to spend time and resources on.

This amendment, offered by a number of us, Senator BYRD and Senator HATFIELD, strikes at that in a meaningful way.

President Bush laid out his strategy and policy a couple of weeks ago. Secretary Bennett, the national drug coordinator, worked hard to put that together. He did what the Congress told him to do. He analyzed and surveyed the problem around this country. He looked carefully at good solutions and bad solutions, what needed to be done. And he put together a battle plan, you might call it, a strategy of how far do you go to war. It was not a victory celebration that you have achieved a victory and now it is all over or will be in a short period of time.

He set some goals. It is a beginning; that is what it is. Yes, we could all improve on it. I would like to see the goals much greater. I would like to see the capacity of understanding the problem of treatment much greater. I would like to see the effort to determine what programs work and which do not much broader. There is a lot more in that program that I might have been able to put in.

But I think Secretary Bennett approached it in a very important way and, indeed, brought us to where we are today. The problem is that we cannot do this war on drugs with just good intentions and with just talking about where we should go and what we should do. We know what we need to do, I think. We need to educate people. We need to offer treatment. We need to have rehabilitation programs. We need to have deterrent programs. We need to have strong enforcement. We understand that and now we have to put that together. This amendment moves in that direction, in a meaningful way, $800 million more meaningful than before. It think it is important to just review the amendment offered by the distinguished chairman of the Appropriations Committee to add $3.2 billion to fully fund President Bush's drug strategy, the President's crime package, and the majority of the unfunded portion of last year's comprehensive Anti-Drug Abuse Act.

As a member of the bipartisan Senate task force that negotiated this funding package, I want to give special recognition to the tireless efforts of Senators BYRD and HATFIELD; to Tim Carlsgaard, Patty Lynch, Jim English, and so many more who spent so much time. I want to give special recognition to these people who really put in the time to make this possible. Because of their dedication and commitment to addressing this country's drug epidemic, the task force was able to adopt a funding package that will, for the first time, allow the United States to mount a major offensive against illegal drugs.

In every single poll—every one—Americans are saying the same thing: The drug crisis concerns them more than any other issue in this Nation. It concerns them more than the deficit—more than AIDS—more than nuclear war.

Make no mistake—we have a crisis on our hands. Recent reports by Federal prosecutors reveal that drug cartels, motorcycle gangs, and street posses have organized drug operations in every State in this Nation—every State. The reports describe Arizona as a major drug trafficking and distribution point for illegal drugs.

We all saw the recent Federal study that casual drug use in American is down by a third. But what does that statistic mean when cocaine addiction and drug-related violence is on the rise.

Here in our Nation's Capital, just blocks from the Senate Chambers, the street violence resembles Beirut or Belfast. It has become a disgrace for the minorities, for all of us, that have witnessed what is going on in this particular area.

The police chief from San Diego was in my office last week and told me that his jails are so overcrowded that when his officers make drug arrests, many times the drug dealer is back on the corner before the officers return to their beat.

Law-abiding citizens in this country are shot dead in their own kitchens—killed by stray bullets from drug warfare in the streets. These are the innocent victims of drugs. And the list goes on. Crack babies are causing a crisis in hospital nurseries across the country. As many as 375,000 infants may be at risk every single year.

IV drug use—a terrible crisis in itself—now poses an additional horror which is the threat of spreading AIDS. IV drug abuse accounts for nearly one-third of the recent AIDS cases. Tragically, many of these are children. Seven out of every 10 babies born with AIDS have mothers who are IV drug abusers or have mothers who have had sex with IV drug abusers.

This is the hard and brutal fact: We are outgunned and outmanned by the drug lords. The situation cries out for bold and meaningful action.

I compliment President Bush on his drug plan. While I do not believe it goes far enough, it is an honorable attempt on the part of the President to provide a plan for action.

I agree with the President that we need more police officers on the street to catch drug criminals, more prosecutors to convict them, and enough prison cells to put them away for a long, long time. I commend his stand on casual drug use and the idea of boot camps for drug offenders. I applaud his decision to send U.S. military trainers into the South American jungles where the drugs originate. Secretary Cheney has now pledged to beef up our military's role in the drug war. I welcome that pledge and hope deeply that the Secretary will follow through on his promise.

Of course, we also need to address the demand for drugs. The President is right on target when he says we need to continue our efforts with drug education and treatment. But we must go further. We must increase these efforts. We simply do not have enough treatment beds in this country.

As a result, only one out of every eight addicts who wants help can get it. We need to have a goal of drug treatment on demand, especially for all pregnant women and juvenile offenders.

It's also important that we do more with drug education. I would like to see more Federal funds go to the DARE program. That program sends specially trained police officers into fifth and sixth grade classrooms to teach kids to say no to drugs.

The DARE program is in 49 States in America. It's a good start. But we also need to consider the possibility of new, expanded drug education programs which would reach every classroom in America from kindergarten on.

In terms of supply, I was disappointed that the President's strategy did not identify any high intensity drug areas. The situation along the southwest border is critical. The 2,000-mile United States/Mexico border is this Nation's No. 1 trafficking and distribu-

tion point of illegal drugs entering the United States.

According to the State Department's 1989 International Narcotics Control Strategy report, Mexico is the No. 1 source of marijuana and heroin coming into this country and the transshipment point for a third of the cocaine. Presently, there is only one border patrol unit for every 22 miles of the Arizona/Mexico border.

By concentrating additional Federal assets and personnel in high intensity drug areas like the southwest border and south Florida, we will see a positive effect on the rest of the country.

President Bush has requested total funding of $7.9 billion for drug control in fiscal year 1990. This amount is an increase of approximately $2.2 billion over the estimated $5.7 billion appropriated in fiscal year 1989.

I am deeply concerned that President Bush's plan to fund the war on drugs falls far short of what is needed. The President has called for $716 million in offsets from current Federal programs. You cannot take money from juvenile justice grants, public housing, or other equally important social programs for the Nation's disadvantaged to fund the drug war.

If you do, you are hurting the very individuals that we have to do something about. I do not believe the $2.2 billion increase is sufficient to address this Nation's antidrug efforts.

The Byrd amendment, as I mentioned, adds $900 million in critically needed Federal grants to State and local governments for drug treatment, education, and law enforcement. The Byrd amendment and Hatfield amendment does not slash funding for programs for the needy or vital defense programs.

The Byrd-Hatfield amendment produces real money by taking 0.43 of 1 percent across-the-board cut from all discretionary programs. It is done fairly and without prejudice. The war on drugs can be won. We have a long way to go, Mr. President.

We are in a war, all right, and the stakes are very high. The world I grew up in was not necessarily better, but it was certainly safer than the world we live in now. Many of our citizens have good reason to fear stepping outside their own doors. And the reason? It can be summed up in one word—drugs.

I think we can win the war on drugs if we dare to take the battle to the enemy, if we marshal all our resources, and if we all work together. The battle will be tough. Ultimately, it will be won, I believe, as President Bush says—neighborhood by neighborhood, block by block, family by family.

As elected officials, we in Congress have the responsibility to put politics aside. There is an old saying that there is no limit to what lawmakers can do so long as we do not take credit for it. If we ever needed to remember that saying, we need to remember it now.

The drug war will not be won by Democrats. It will not be won by Republicans. Our only chance is to win it together. We cannot—we must not—make the fatal mistake of political grandstanding.

If we do, we deserve to be remembered as the politicians who cared not about the next generation but rather the next election. If we do, we will discover, like Pogo, that the enemy is us. I urge my colleagues to support the Byrd amendment.

And, again, I want to commend the tireless efforts of Chairman BYRD in formulating this bipartisan amendment. Without his leadership we would not be debating this drug funding amendment which is critical to fighting this growing epidemic.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on pending amendment occur at 2:15 p.m., that the time between now and 2:15 p.m. be equally divided under the control of the majority leader and the minority leader or their designees.

The PRESIDING OFFICER (Mr. ADAMS). Without objection, it is so ordered.

Mr. DOLE. Mr. President, after the Senator from Arizona, I would yield, then, 10 minutes to the Senator from Washington [Mr. GORTON].

Mr. MITCHELL. Mr. President, on our side, I did yield 5 minutes to the Senator from Arizona [Mr. DECONCINI], 10 minutes to the Senator from New York [Mr. MOYNIHAN], 7 minutes to the Senator from Wisconsin [Mr. KOHL], 5 minutes to the Senator from Alabama [Mr. HEFLIN], and 15 minutes to the Senator from Massachusetts [Mr. KERRY].

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

Mr. GORTON. Mr. President, today we have heard a great deal of talk about funding for a national drug program; discussions about whether to take funding from other programs across the board, how to make tough choices, the degree to which to declare the war on drugs a top priority. These discussions are appropriate as we consider Federal spending levels for 1990; the amendment we are considering represents a good start.

But an event which took place in Tacoma, WA, this weekend provides a graphic illustration that funding discussions are the easy part of this battle. The real battle is being waged not here but in our communities. Saturday night an antidrug block watch party in Tacoma's working class Hilltop neighborhood turned into a shootout with neighbors suspected of drug dealing. Miraculously, no one was hurt. But that confrontation points out the growing unease with Federal and local government responses to the growing drug problem.

A careful look at our national scourge of drugs reveals that its great, insidious danger comes not from without but from within—but one of our problems is that we want to look away rather than to face the danger resolutely. This will not do. To win the drug war, we must confront ourselves, and test our values and national character.

I offer no excuses for Colombian drug lords, and believe they and their ilk are important targets in this war. But they are nothing compared to the individual drug user in this country. Without the user, not an ounce of cocaine would cross our borders. Without the user, no gangs of pushers would terrorize our cities. And without the user, no babies would be born addicted to crack.

In fighting poverty, I am largely a supply sider. In fighting drugs, however, I am primarily a demand sider. No child will be safe, no community will be safe, until we effectively eliminate demand.

Among those who have yet to unflinchingly recognize this danger, some say the way to solve the problem is to legalize access. But drugs are not destructive because they are illegal. They are illegal because they are destructive.

Of course, if drugs were made legal they would cease to be a legal problem. But drugs would still help destroy the social fabric of this Nation. Some might argue that legalizing drugs would simply bring them to par with alcohol. But despite the dangers of alcohol and its highly destructive effects, it is something with which we have 5,000 years of familiarity, and we have cultural defenses against it. Crack is new, it is overwhelmingly addictive and destructive, and we have no means for accommodating it even if we wish to do so.

Unfortunately for the country as whole, though perhaps fortunately for the upper crust of Medellin, another well-attended school of thought is that people who use drugs are victims. I do not think they are victims: I am convinced that they are partners in crime; they victimize the rest of us.

They victimize their children, who in some cases they condemn to a birth of addiction and the torture of withdrawal, and in nearly all cases they condemn their children to lives of unrelieved misery.

Drug users victimize anyone who sets foot on the streets. They propel the wave of crime. They are responsible for the deaths of police, the murder of innocent citizens, and the violation of our homes.

The people who think that the users are victims give no credit to our traditional American values of innocence or

self-discipline. And besides that, their approach can bring only one thing—destruction—ours or theirs. If we continue to consider the users as victims, then we will simply perpetuate their crimes and all its horrors.

Mr. President, we have entered, albeit slowly, a national crisis. The Nation is decaying from within, and we cannot stop that decay merely by warring with bandits in South America. We are the engine of the drug trade, the drug lords only our willing servants. If we want to stop it dead, we will have to pay a steep price at home. No other way exists, and reluctance to pay the price will cost us far more dearly, at the end of many years of neglect, in lives, property, liberty, and the elemental values by which we live.

President Bush has sent the Congress his drug war plan and he soon will forward concrete proposals for the necessary statutory authority to carry it out. I commend the President, for his plan is practical, achievable and balanced. The President is correct that we must proceed on all fronts at once, and further correct that law enforcement must receive the largest share of the resources.

This amendment, by the same token, provides an appropriate supplement to the President's program. It does emphasize the supply side here in the United States. It does so in a somewhat different fashion than I might do had I written it myself, but it does concentrate here in the United States.

We must resolve, as a nation, to pursue better drug education and treatment programs. Happily, the latest national survey on drug abuse shows that education and treatment and society's hardening attitude toward drugs have brought about a dramatic drop in total drug use in the past 4 years. Total cocaine use dropped by half. But at the very same time, frequent use of cocaine doubled.

As a consequence, we must be willing to understand that education and treatment will fail for some, and we must be ready to enforce the law, assist the courts, expand our police forces, and build the prisons necessary to reestablish the domestic tranquility to which we are entitled. We are going to have to pay for it, but the sooner we do it, the less it will cost. Besides, I believe most of us are quite willing, if only we can move decisively off dead-center. For underneath the present weakness of our resolve is something very great and powerful, something that sleeps, the spirit that made us. It will awaken when those who have written it off are most certain that they are safe.

And the spirit will move us back to core values: individual responsibility and discipline. Society will demand that users be held accountable for their actions.

We, in the Senate as part of the Federal Government, should be willing to follow the lead of our State and local counterparts, to pay the price and involve our communities in a solution. Then we will see what is ineradicable and what is not. The life of this Nation is at stake, if not immediately, then soon enough, and the Nation is rightly and properly in the mood for decisive action.

Mr. President, I look forward to working with Members from both sides of the aisle to support, and expand as necessary, the President's program.

This amendment is a good start. The debate we will have next month on substantive law changes will be an important supplement. Now there is no time to waste.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise in support of the Byrd-Hatfield amendment.

While my distinguished and learned friend from Washington is on the floor, I might take this opportunity both to congratulate him for his remarks and to offer one small interpretation. He observed that we have had 5,000 years' experience with alcohol, which is true enough—he might have said 10,000—but we certainly have recorded 5,000 years. Yet we only have 250 years experience with abundant quantities of distilled alcohol. That is something new. And the species has still not learned to deal with it, although the ravages of the first century are well behind us, nonetheless, it remains a new experience. In the same way, we have had many centuries of experience with coca. Recorded Inca images give you that.

We have had a century's experience with cocaine which was developed in German laboratories in the late 19th century. And we have had exactly 6 years' experience as a species with free base cocaine which first appeared in the Bahamas in 1983.

Its appearance was reported to us—as I shall try to describe—yet we paid no attention. We are paying attention now.

I would suggest that if we think of the appearance of "crack" in these public health terms, we will find more useful outcomes to this epidemic than if we resourt to more emotional rather than research-based inquiry.

Again, let me thank the Senator for his very generous and intelligent remarks as is invariably the case.

Mr. President, I opened by saying I would like to speak about the potential that the Byrd-Hatfield amendment and the funding it involves gives us to pursue the subject of treatment of the particularly epidemic form of drug abuse in this country today—that of crack cocaine.

If I could just repeat, these concentrations of chemical substances which affect the brain are very new to the human species. They are part of the impact of technology on society. The development of techniques of distillation and the agricultural surpluses that made it possible to have something to distill produced the gin lanes of London, Europe, and our own country in the 18th century and right down to our time.

We went through the convulsive experience of prohibition in this country, adopted on this floor in an effort to deal with the impact on society of this new thing called distilled alcohol. And in much that pattern we are now groping toward an understanding of a new experience for the species which is the use of and addiction to the concentrated forms of the active ingredients in the coca leaf.

It all may seem abstract, but only the abstractions, in the end, get us to the fundamental questions and answers associated with these matters. Emotional talk and vigils and the various forms of incantation with which we deal with things we do not understand and are fearful of may make one feel better but the do not solve anything; at least we have not found that to be true. In the end, medical problems are dealt with by medical persons and medical research, or such at least is the feeling of this Senator. Indeed, such was the view that we brought to the task force which Senator BYRD, then majority leader, established on May 17, 1988.

The then majority leader, Senator BYRD, established a working group on substance abuse, and he asked our very distinguished chairman of the Armed Services Committee, Mr. NUNN, to be cochairman, and asked me to be the other cochairman. Although we were very much of the common view on these matters, we divided our work between the subject of supply and the subject of demand—supply being the question of how do drugs arrive in this country; how are they distributed and with what consequences. Demand being the use of drugs, the desire for them, and after awhile, the compulsion of certain drug users to have that drug.

In the Anti-Drug Abuse Act of 1988, we established a national coordinator, a "drug czar," and we gave him two deputies, one for supply reduction and the other for demand reduction, and demand came first. I am happy to note that one of the members of the faculty of the Yale Medical School, Dr. Kleber, who helped us think through our demand side prescriptions, has now come to Washington and is the Deputy Director for Demand Reduction. We are trying to bring the public

health profession into this field. It has not been here before, Mr. President.

Let me remind the Senate of something I have said before and which I would like to have heard again. It is that this epidemic broke out in the Bahamas in 1983. It is an epidemic as sure as any other form of lethal or pathologic agent would be. By 1985, a Bahamian doctor had come to this country and in Atlanta, which is where the Centers for Disease Control is located, said, ladies and gentlemen, an epidemic is about to strike you from the offshore islands of the Bahamas. And I might add, as surely as Hurricane Hugo recently struck us.

I have an item here, Mr. President, from the Atlanta Journal from December 31, 1985. It says:

NASSAU, BAHAMAS.—A highly addictive practice of smoking cocaine "rocks" has swept this chain of islands off the coast of Florida. * * *

It goes on:

In a country of 230,000 people, the number of cocaine users treated at mental health clinics has zoomed from zero in 1982 to 209 in 1984 according to Dr. David Allen, a Harvard-trained psychiatrist who heads the National Drug Council.

This is what Dr. Allen said:

What we have is the world's first free-basing epidemic (which) could be preceding an epidemic in the industrialized United States. Anywhere there is readily available high-quality cocaine, there is this potential.

Here we have an epidemiologist, a psychiatric epidemiologist, telling us an epidemic was coming our way, and such is the low status of drug research that nobody in our country at the level of officialdom made any response at all. It was about 6 weeks after this letter appeared that the New York City Police Department made their first arrest related to free-base cocaine. The police had been noticing people standing on street corners, according to New York City Police detective Charles Bennett, cracking their wrists. Although no one at first knew the meaning of this signal—a motion like the cracking of a whip—it was later determined to be the symbol for crack cocaine.

Mr. President, I ask unanimous consent that I may proceed for another 10 minutes.

The PRESIDING OFFICER. The Chair would like to do this, but he must request it of the minority leader, Mr. DOLE, since the time has been allocated on the majority side. It has not been allocated on the minority side.

Mr. DOLE. Five minutes.

Mr. MOYNIHAN. Five minutes will do.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. MOYNIHAN. Mr. President, I thank the Senator. But the Senator from New York would also like to take note of the fact that if I were here talking about "frying the kingpins," I could have 90 minutes at any time I asked. But if I wish to talk about an epidemic—talk about health, talk about doctors—it does not quite get our attention, save the attention of the distinguished minority leader, without whom we would never have had last year's bill.

To go back to the point. On March 1, 1986, in The Lancet, a most prestigious British medical journal, there appeared an article entitled "Epidemic Free-Base Cocaine Abuse," the first formal statement that there was an epidemic.

It describes how beginning in 1983 a sharp increase was noted in the number of new admissions for cocaine abuse at the psychiatric hospital and the primary outpatient psychiatric clinic in the Bahamas. This article told the world what was coming.

That is what The Lancet did. It described the various psychotic reactions, many of which we see on our streets. The murdering you are reading about on the streets of Washington was all there in The Lancet when it first appeared 3 years ago.

That is why in The Anti-Drug Abuse Act of 1988 we specifically provided for treatment on request. We said we have a public health emergency which requires treatment. I wrote those words. I wish now I had written "treatment on application." It does not matter. It is in the statute. It is section 2012.

It reads: "to increase, to the greatest extent possible, the availability and quality of treatment services so that treatment on request may be provided to all individuals desiring to rid themselves of their substance-abuse problem." That is part of the statement of the purpose of the act.

That is law. It is a goal. How do we make it a reality?

There is only one thing to do; that is, to follow, as I see it, from where we were last year. Over and again, I would state on this floor that we are fighting for treatment on request. We have no effective treatment. We have to develop it. We had none for polio when it first appeared. We had none for the whole range of epidemics and diseases. This is a disease of the brain. The neurochemistry of the brain is what is at issue.

I would think it would be in the range of normal expectations that, if you put enough capable people to work, you would get some response. We are aready learning some things. Anticonvulsive drugs seem to have some effect.

Very well; what do we do? It seems to me the first thing to do, or one of the first things to do, is to make drug addiction—crack cocaine addiction—eligible for Medicaid funds. We learned from The Lancet 3½ years ago that people using crack will quickly come and ask for help. It is instantly addictive. Normal cocaine is not. Crack is instantly addictive. People come and ask for help. Hospitals turn them away.

Treatment of cocaine addiction is not a service for which there are any Medicaid funds available. Treatment for heroin addiction, for which there is a pharmacological treatment—methadome—is eligible for funding under Medicaid. The drug addicted, elementally indigent—those least able to obtain help—have a clear health problem. I am not excusing their health problem, but they have it nonetheless. In turn, this becomes a community problem. And we are going to have to treat them in hospitals and clinics and learn to do so, or very little else will have any consequence.

Such, sir, is my view. Yesterday I introduced legislation, S.1673, that would make drug addition treatment eligible for Medicaid funding. In our city hospitals and emergency rooms, which are overwhelmed by 19-year-old youths walking in and saying, "I am on this stuff; I want to get off it; help," there is no help.

If you have a heart attack, they can help you. If you have been shot by your pusher, they can help you. But not if you simply wish to do what the law provides—not if you request treatment.

Mr. President, I hope we will pursue this. I hope to see this legislation added to the next bill which Senator DOLE will be bringing up in a few days.

Again, I want to thank Senator DOLE for his courtesy in allowing me to conclude these remarks. I thank the Chair.

Mr. President, I ask unanimous consent that a number of items be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Atlanta Journal, Dec. 31, 1985]

BAHAMAS "FREE-BASING EPIDEMIC" CITED

NASSAU, BAHAMAS.—A highly addictive practice of smoking cocaine "rocks" has swept this chain of islands off the coast of Florida, a side-effect of the South American-based drug trade that uses the islands as steppingstones for the journey to the United States.

In a country of 230,000 people, the number of cocaine users treated at mental health clinics has zoomed from zero in 1982 to 209 in 1984, according to Dr. David Allen, a Harvard-trained psychiatrist who heads the National Drug Council.

"What we have is the world's first free-basing epidemic (which) could be preceding an epidemic in the industrialized states," Allen said. "Anywhere there is readily available high-quality cocaine, there is this potential."

Dr. Henri Podlewski, director of the Sandilands Hospital where a special unit was created this year to treat free-basers, said free-based cocaine may be the most addictive drug known.

[From the Lancet, Mar. 1, 1986]

EPIDEMIC FREE-BASE COCAINE ABUSE—CASE STUDY FROM THE BAHAMAS

(By James F. Jekel, Henry Podlewski, Sandra Dean-Patterson, David F. Allen, Nelson Clarke, Paul Cartwright with assistance from Department of Epidemiology and Public Health, Yale University, School of Medicine, New Haven, Connecticut, USA; Community Psychiatry Clinic, Nassau, Bahamas, National Drug Council, Nassau; and Sandilands Rehabilitation Hospital and Sandilands Hospital Drug Clinic, Nassau)

SUMMARY

Beginning in 1983, a sharp increase was noted in the number of new admissions for cocaine abuse to the only psychiatric hospital and to the primary outpatient psychiatric clinic in the Bahamas. For the two facilities combined, new admissions for cocaine abuse increased from none in 1982 to 69 in 1983 and to 523 in 1984. Although there was some evidence for a rise in cocaine use during this time, as the drug became cheaper and more available, a primary cause of this medical epidemic seemed to be a switch by pushers from selling cocaine hydrochloride, which has a low addictive potential, to almost exclusive selling of cocaine free base, which has a very high addictive potential and causes medical and psychological problems. Although the use of free cocaine base is rising around the world, this is the first report of a nationwide medical epidemic due almost exclusively to this form of the drug, although similar problems are reported with smoking cocapaste in South America.

INTRODUCTION

The past decade has seen an increase in the use of cocaine in the United States and UK. This drug is not generally perceived as being as harmful as heroin.[1-4] However, data are accumulating to suggest that cocaine is indeed, a very dangerous drug.

Data from the US National Institute on Drug Abuse point to a 91% increase in cocaine-related deaths between 1980 and 1983.[5] Kleber and Gawin [7] have suggested that certain drugs have low productivity for producing compulsive-addictive behaviour, so that, say less than 15% of people using such drugs become addicted; examples are alcohol and marijuana. At the other extreme are drugs such as heroin and nicotine that lead to a compulsive-addictive use pattern in most users. Cocaine may lie at either of these extremes, depending on the method of use.[7] For example, nasal inhalation of cocaine ("snorting") or chewing coca leaves is unlikely to lead to addiction while smoking ("freebasing") or injecting ("shooting") the drug is. A switch in the pattern of cocaine use from snorting to freebasing could thus produce a big increase in the number of addicts without a change in the prevalence of cocaine use.

Some are talking now of cocaine "epidemic" because use of the drug seems to be rising steadily.[2] It would be more accurate to talk of a "long-term secular trend" because "epidemic" suggests a sudden imbalance between the forces that promote and retard a disease. However, a change in cocaine use in the Bahamas does meet a criteria for an epidemic of cocaine abuse.

Our study as initiated by physicians in the Bahamas who were concerned about an apparent rapid increase in cocaine abuse in clinical settings. Several sources were examined retrospectively to see if this clinical perception of a recent large increase in cocaine-related admissions to psychiatric facilities was accurate.

METHODS

The only psychiatric hospital in the Bahamas is the government run Sandilands Rehabilitation Hospital (SRH) on New Providence. Patients are referred there from the other islands. In 1980, almost two-thirds of the Bahamian population lived on New Providence, most of them in Nassau. The other three hospitals in the Bahamas (two on New Providence and one on Grand Bahama) seldom accept drug abuse patients and have few psychiatric patients.

The main community mental health clinic in the Bahamas is the Community Psychiatry Clinic (CPC) in Nassau. Most patients who do not go to private psychiatrists or other private physicians use the SRH outpatient services or the CPC. The two small government clinics in Freeport and Eight Mile Rock saw 47 cocaine addicts in 1984, only 14% of the total seen by Bahamian mental health clinics and only 9% of those seen at all government facilities. Drug abuse patients seen in emergency rooms are referred to SRH. Data from the CPC and the SRH on psychiatric cases provide a more complete picture than could be obtained in most areas of the world. Unfortunately, age and sex specific population data from the 1980 census were not yet available so we could not calculate incidence rates. However, because the population was stable over the period of this study, data on trends of new cases are almost as interpretable as rates. An incident case of cocaine abuse was defined as the first admission to the CPC or the SRH for cocaine abuse, even if other diseases were present. If the predominant drug in a polydrug user was cocaine, the case was considered a cocaine abuse admission.

Data Sources

The CPC publishes a monthly summary of cases. We focused on new patients. Alcoholism, non-cocaine-related drug abuse, and cocaine-related drug abuse were studied from the beginning of adequate records in 1982 up to June 30, 1985. Monthly admission to the SRH were available for 1980–84 and these data indicated the number admitted for alcoholism and/or drug dependence (and whether or not cocaine was the primary drug) and distinguished first from repeat admissions. Admissions to CPC and SRH for alcoholism showed a slow, steady increase and will not be discussed further.

Drug abuse patients among the wealthy minority on the Bahamas will usually seek care outside the CPC or SRH (including the United States) and some cases from the family islands are treated by local physicians. However, there is no evidence of a change in the accessibility of care or the referral patterns in the Bahamas so changes in the pattern of new admissions reported here do reflect changes in the scale of cocaine abuse in the community. Some patients may have been admitted to both the CPC and the SRH, there being no central data system to exclude such duplicate entries. However, doctors who work at both places feel that overlap will have been very small. During the study period, only 4 drug patients admitted to the SRH were referred from the CPC. Likewise, in discussion with most of the few private psychiatrists on New Providence, it was clear that few of the Bahamian drug abusers they see are not referred to the CPC or the SRH. We conclude that the combined incidence data on new drug abusers from the CPC and the SRH cover most people in the Bahamas whose use of cocaine or other drugs caused problems severe enough for them to seek medical assistance.

RESULTS

Community Psychiatry Clinic

The CRC opened in 1980 but new and returning patients were not distinguished in the clinic statistics until 1982. Quarterly numbers of new cocaine-related admissions have risen from none in 1982 to 299 in 1984, there being a probable decline in 1985. During the early phases of cocaine apearance in the CPC, some of the cocaine use may have been recorded only as "drug abuse" or "drug dependence", but the number of such cases would have been small. If the patient used several drugs (as most did), the drug that seemed to have precipitated the problems for which they sought help was recorded.

Drug abuse increased from 1% of the clinic's patients in 1982 to 9% in 1983 to 39% in 1984, and was 31% in the first 6 months of 1985. The big increase in 1984 was due almost entirely to cocaine dependence. Cocaine-related new admissions really begin in the third quarter of 1983. New cases of depression and/or schizophrenia have been fairly stable over time, suggesting that the increase in drug patients was not primarily due to increased clinic awareness.

Sandilands Rehabilitation Hospital

SRH has a long tradition of treating acutely ill alcholics and drug addicts from the whole of the Bahamas. 86% of the 1984 drug admissions were from New Providence.

Although there were a few cocaine-related admissions during the first three quarters of 1983, a marked increase began in the last quarter of 1983. The number of first drug admissions for which cocaine was the primary cause increased sharply from 1 in 1980 to 224 in 1984. The number of first admissions due primarily to other drugs was more stable. So great was the increase in admissions for cocaine abuse that recording of admission numbers became less complete after November, 1984; numbers for the last quarter of 1984 are estimated from those for October and November.

Often a patient would be admitted with drug abuse and symptoms suggestive of underlying psychiatric disease. Usually the paranoia, halucinations, and so on were due to the drug use, so whenever cocaine or other drug abuse was indicated as being important, the patient was considered a drug admission.

Mode of Cocaine Use

Smoking (freebasing) accounted for 98% of cocaine-related referrals in 1984. Cocaine base (known in the Eastern USA as "crack") is produced when cocaine hydrochloride power is treated with alkali. It is a volatile with modest heating and is easily absorbed through the lungs and rapidly transmitted to the brain. Some experienced addicts made their own freebase cocaine in the early 1980's but most did not know how to do it or did not bother, and the predominant form used to be snorting. By 1984 the pushers were selling only the freebase form, smoked using a home-made pipe ("camoke"). When cocaine is smoked up to 80% of it reaches the brain, and the "rush" can begin in 8-12 s, producing a short period of ecstasy. This fleeting sensation is most powerful on the first use of cocaine and though addicts seek to repeat it the same sensation is not experienced again.

The most common patterns of usage varies from a few hours, during which time the user may consume 4–5 g cocaine, to a few days of intermittent use, usually over a weekend, during which time up to 10 g may be consumed. Most patients report using the drug at freebasing parties or "base houses".

Clinical Spectrum

Cocaine-dependent individuals usually seek help during or after some crisis, financial, social, medical, or psychological. For example, an addict whose money had gone might seek help on his own initiative or under pressure from family, friends, or employers. Others, who had had to steal to support the habit or whose addiction had made them violent, were referred by the courts.

The most common physical problems were seizures, severe itching ("the cocaine bug"), loss of consciousness ("tripping out"), cardiac arrhythmia, vertigo, pneumonia, gastrointestinal symptoms, and avitaminosis associated with severe malnutrition. Several addicts were referred from maternity wards.

The cocaine addicts often presented with severe depression, manifest by unkempt appearance, insomnia, anorexia, withdrawal, and suicidal ideation. There were at least 10 cocaine-associated deaths, 5 of which were suicides. Cocaine psychosis was common; the patient would present with severe agitation, impaired judgment, paranoid ideation, intense denial, violent behaviour, threats of suicide or homicide, and hallucinations. In periods of lucidity they would try to mislead the physician, and a relative or friend was needed to confirm the psychotic state.

Demographic Characteristics

For 1984, 81% of cocaine admissions to SRH were males and male drug abusers in general were aged 11–56 years (mean 25). Cocaine users tended to be slightly older than other drug users (26 *vs* 22.5 years). Female drug addicts were aged 15–39 years (mean 24 years). Almost all patients were Bahamian.

Other Forms of Surveillance

Most patients seen at the Sandilands Hospital drug clinic were referred after discharge from the SRH so data from this clinic were not included. About 60% of the patients seen were using both cocaine and cannabis, although it had usually been cocaine that had precipitated the hospital admission. Neither suicide nor drug-related death is usually recorded on death certificates in the Bahamas so we decided not to use vital statistics as a surveillance method. Police statistics showed some increase in street drug arrests in 1984, but not of the magnitude suggested by the clinic and hospital admission data. In 1980–83 drug arrests averaged 1094 a year with no clear trend over time. There were 1501 arrests for 1984, an increase of 37%.

DISCUSSION

In the Bahamas, data from public psychiatric services demonstrate an epidemic of cocaine abuse requiring medical care. Cannabis and alcohol were often used to control adverse symptoms from cocaine use. In early 1983 something—a major change in the incidence of new drug users, especially cocaine users, or in the method of use—upset the previous drug-use equilibrium, suddenly forcing hundreds of people to seek treatment for complications of drug abuse.

The most obvious explanation is that cocaine was suddenly introduced to the islands or that its price fell. Former addicts, who were on cocaine in the 1970s, confirm that cocaine powder had been available, if expensive, for years, but that in late 1982 or early 1983 the drug suddenly became much more plentiful as production in South America increased. The street price cocaine in Nassau fell to one-fifth of its former level.

Ex-addicts also told us that at about the time that cocaine became more plentiful and cheaper drug pushers switched from selling powdered cocaine ("snow") for nasal inhalation or injection to the pure alkaloid form ("rocks" or "freebase") which is used exclusively for smoking. It suddenly became very difficult to obtain powder in Nassau. By making this change, the drug pushers were forcing all cocaine users to become addicts. Many pushers are themselves addicts and have to sell the drug to feed their own habits. Selling freebase guarantees an eager market for the increasingly available cocaine.

Smith [10] claims that an important reason for the increase in cocaine deaths in the San Francisco area was higher potency cocaine. Siegel [1] reported that the recovery of cocaine freebase from pure cocaine hydrochloride, using various street kits, ranged from 41% to 72% and, although the kits removed some of the adulterants, some lignocaine and ephedrine, for example, was often left with the cocaine. Ex-addicts indicated that the street cocaine powder in Nassau had usually been "cut" (diluted) about 50% before sale. Although we have no direct data about cocaine purity, the sources for the cocaine remained similar; nor is the extraction process perfect. Changes in levels of purity seem to be an inadequate explanation for our findings.

We conclude that the medical epidemic of cocaine-related physical and psychiatric problems in the Bahamas was related to the interaction of the availability of cheaper cocaine and a switch from powder to freebase.

Monitoring the method of selling may be critical both for Western nations, the targets of the cocaine market, and for developing nations such as the Bahamas via which the drug is shipped and those South American countries that produce it. We found surveillance of medical services to be a quick and effective way of monitoring some aspects of the drug situation in the Bahamas, and it could be in the self-interest of target nations to assist producer and trans-shipment countries not only to control drug abuse but also to maintain an intensive surveillance system. As cocaine freebasing becomes more popular and particularly if the vending pattern switches to the freebase form (as is starting to happen in some US cities), emergency rooms, mental health clinics, and psychiatric hospitals will need to prepare for an unprecedented influx of drug addicts.

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THE ANTI-DRUG ABUSE ACT OF 1988

Sec. 2012. PURPOSES.

The purposes of this subtitle with respect to substance abuse are—

(1) to prevent the transmission of the etiologic agent for acquired immune deficiency syndrome by ensuring that treatment services for intravenous drug abuse are available to intravenous drug abusers:

(2) to continue the Federal Government's partnership with the States in the development, maintenance, and improvement of community-based alcohol and drug abuse programs;

(3) to provide financial and technical assistance to the States and communities in their efforts to develop and maintain a core of prevention services for the purpose of reducing the incidence of substance abuse and the demand for alcohol and drug abuse treatment;

(4) to assist and encourage States in the initiation and expansion of prevention and treatment services to underserved populations;

(5) to increase, to the greatest extent possible, the availability and quality of treatment services so that treatment on request may be provided to all individuals desiring to rid themselves of their substance abuse problem; and

(6) to increase understanding about the extent of alcohol abuse and other forms of drug abuse by expanding data collection activities and supporting research on the comparative cost and efficacy of substance abuse prevention and treatment services.

[From the New York Times, Sept. 17, 1989]

COMMITMENT TO DRUG TREATMENT IS THE LAW

To the Editor:

Anthony Lewis calls upon President Bush to make a commitment to provide treatment to drug users (column, Sept. 10). This proposal is frequently heard, but the commitment has already been made. Section 2012 of the Anti-Drug Abuse Act of 1988 states it is the act's intention "That treatment on request may be provided to all individuals desiring to rid themselves of their substance abuse problems."

I know the provision is there; I put it there. On May 31, 1988, I proposed to the Democratic task force drafting the act that we declare a national policy of "treatment on request," and this was agreed to. (Wish I

had written "on application," but there.) I bring this up only to make a further point. The senators involved knew that while we were establishing treatment on request as law, there was in fact no treatment available for crack cocaine addition. I stated this repeatedly. In passing the act, we were in effect committing the nation to developing a treatment.

I believe it fair to say that the details of the Anti-Drug Abuse Act were sketchily reported at the time. This is understandable. The bill drew heavily on a private communication from Prof. James Q. Wilson. It was drafted by ad hoc committees, without the usual apparatus of hearings and mark-up and passed in the final hours of the 100th Congress. But it is time to be clear that the legislation set forth a strategy beginning with treatment.

The executive summary of the President's proposal cites four "fundamental themes" without mentioning treatment. Perhaps because the statute is so little known, it is little noticed that the President's proposal does not really follow through. On the other hand, Mr. Bush has appointed Dr. Herbert Kleber of Yale University Medical School as deputy director for demand reduction. Dr. Kleber was of great help in drafting the act.

DANIEL PATRICK MOYNIHAN,
U.S. Senator from New York,
WASHINGTON, *Sept. 11, 1988.*

[From the New York Times, Feb. 26, 1989]

YES, WE DO NEED A "METHADONE CLONE"

(By Daniel Patrick Moynihan)

WASHINGTON.—Recent calls for developing a "methadone clone" for cocaine are altogether right. We have a public health emergency on our hands, and there is no prospect of an effective response without some pharmacological treatment.

May I offer two comments in the context of the Anti-Drug Abuse Act, which passed in the closing hours of the 100th Congress? The basic thrust of the legislation was to get beyond the definition of drug abuse as a law enforcement problem. It is surely that. But it is also, and more importantly, a public health problem.

Conceptually, we spoke of reducing "supply on the one hand and demand on the other." Supply is the realm of law enforcement: smuggling, dealing. Demand is finding a way to reduce drug use. We put these ideas in the statute. There was to be a "Director of National Drug Control Policy." The celebrated czar William J. Bennett has been confirmed in this post. He is to have two deputies: Deputy Director for Demand Reduction and a Deputy Director for Supply Reduction. Note that demand comes first.

The central policy initiative embodied in the act calls for "treatment on request." Specifically, Section 2011, entitled "Purposes," calls on the Federal Government "to increase, to the greatest extent possible, the availability and quality of treatment services so that *treatment on request* may be provided to all individuals to rid themselves of their substance abuse problems." [My emphasis.]

This was and is a sweeping proposal. We understood this. And we had no illusion that large-scale treatment could be provided by existing therapies. A pharmacological block for cocaine will be indispensable. Until one appears, "treatment on request" must remain an aspiration rather than a program.

I believe we also understood that a "methadone clone" for cocaine, while absolutely necessary, would not in itself be sufficient. Few cocaine addicts, it should be noted, use cocaine alone. For them, overcoming addiction means swearing off alcohol, heroin, PCP, marijuana. Drug addiction is a chronic relapsing disease.

But crack is the most vicious form that the species—us, that is—seems ever to have encountered. It appeared in the Bahamas in 1983, in New York in 1985 and has since spread in a classic epidemiological pattern. From first use to debilitation takes only about six weeks. At that point victims are likely to look for treatment or at least to be prepared to try treatment if it's offered. A pharmacological block will be needed to mount any effort proportionate to the size of the afflicted population.

And the size? No one knows, but responsible estimates put the number of crack users in New York City alone at as many as 600,000. The city has only 1.1 million inhabitants between the ages of 15 and 24. That much I offer as fact. What follows comes under the heading of conjecture. Important, as the saying goes, if true. It has to do with prestige in science.

Treatment in the form of methadone maintenance was developed by Drs. Vincent P. Dole and Marie Nyswander in New York City in the early 1960's. The drug works by "blocking" the effect of heroin—a trade name, incidentally, of the Bayer aspirin folk. Tested on employees in Germany a century ago, it made them feel "heroisch."

Once a patient is taking methadone, the various "talking" therapies have a chance. The medication works. Arguably, it broke the heroin epidemic of the 1960's. Were Dr. Dole and Dr. Nyswander thanked? Shall we say, sort of? The medical profession cared little about the disease, and correspondingly little about its treatment. Last year, Dr. Dole received a Lasker Award, his partner (and wife) having, in the meantime, died. That's about it.

There is such a thing as prestige in science and it tends to allocate resources. The person who cracks the AIDS puzzle will get a Nobel Prize, We should make it clear that we will be just as appreciative of those who discover a pharmacological block for cocaine. There is work in progress. And some clues. But no guarantee.

In the meantime, Ronald Reagan's last budget cut the research funds available to the National Institute on Drug Abuse.

The PRESIDING OFFICER. In an unusual move, the Chair wishes to state to the Senator that he thinks his remarks were magnificent, and I hope they are heard by all parties in the Senate and elsewhere. They were to the point on the subject that is very, very unknown and very difficult for the American people to understand.

I thank the Senator. I am sorry the time is up.

The Senator from Kansas.

Mr. DOLE. Mr. President, I too want to congratulate the Senator from New York. We will take a look at his proposal. It makes sense to me. I do not know what the cost would be. But certainly it deserves our look.

I thank the Senator from New York for his thoughtful comments.

Mr. President, I yield myself about 5 minutes. I know of no other request for time on this side. It would be my hope after I complete to yield back the time on this side, which might move the vote up a little earlier because I know the majority leader would very much like to finish this bill and get back on the Defense appropriation bill.

I thank him for the requests for time and for the opportunity to speak again on the amendments. So I hope we can accommodate the majority leader.

DRUG NEGOTIATIONS

Mr. President, for the past 1½ weeks, 18 of our colleagues having been meeting for hours on end, well into several nights, on the so-called drug bill.

It has been a tremendous effort to craft an agreement.

I want to first state very clearly that these negotiations were undertaken following the lead of President George Bush and his Drug Control Director Bill Bennett. As I have stated previously, the President's strategy is sound, will be effective, and deserves bipartisan support.

THE AGREEMENT

The President called for increasing antidrug and crime activities by the Federal Government by $2.7 billion over last year's level, to a total of about $8.4 billion. The Senate agreement will increase this amount by $410 million—that is $400 million for treatment and education and $10 million for State and local law enforcement.

The bottom line, as far as the American people are concerned, isn't how much money we can spend: It is how effective are we going to be in a real crackdown on drugs and crime.

There are four matters contained in the President's drug strategy that will be offered on the Transportation appropriations bill—increased accountability and data assimilation by treatment providers, requiring drug-free school plans in all elementary, secondary, and higher education institutions, providing transfers to the special forfeiture fund for use by the Drug Control Director, as well as a waiver of two provisions of current law to permit the Andean cocaine reduction initiative to go forward.

While the negotiators were unable to agree on the final request of the President—a requirement that all State and local arrestees, prisoners, and those on probation and parole be drug tested. Again, the agreement contemplates a future drug bill for consideration of this and other antidrug amendments.

Mr. President, the agreement also calls for consideration of the President's crime bill this year. We simply cannot adjourn for the year talking tough on drugs without addressing the fact that the drug problem in our

country is also a crime problem; that violent crime increases are directly attributable to drug activity, and that it is well past time to get tough on drug manufacturers, traffickers, dealers, and users. We have agreed to the money portion of the crime bill, now it is time to back up the rhetoric and the spending by giving police, prosecutors, and the courts the tools they are crying out for to combat crime—starting with habeas corpus reform, a good faith exemption in the exclusionary rule and the Federal death penalty. The American people are way ahead of us on this one—they know you cannot win the war on drugs if you won't wage a war on crime.

I would also like to get some agreement on supplemental appropriations, to prevent future "piling on" as we have witnessed on the drug strategy. In my view, we have done all the spending the American taxpayer can stand. It is time to deliver—on drugs and crime.

I would like to pay tribute to the Republican negotiators—Senator MARK HATFIELD, who served as the Republican chairman, Senators STROM THURMOND, TED STEVENS, JOHN WARNER, PHIL GRAMM, WARREN RUDMAN, PETE DOMENICI, ORRIN HATCH, and AL D'AMATO along with their Democratic counterparts, led by Appropriations Committee Chairman ROBERT BYRD.

The President, Bill Bennett, OMB Director Dick Darman, Chief of Staff, John Sununu, Defense Secretary, Dick Cheney, and others in the Cabinet including Attorney General Dick Thornburgh and Treasury Secretary Nick Brady deserve our highest respect and admiration for the countless hours they spent in preparing the strategy as well as assisting with the negotiations here in the Senate.

They did a remarkable job on a very difficult and wide ranging set of issues which are of paramount importance to the American people. The Senate has been well served, but more importantly, so have the citizens of our country.

I think it has been said earlier on the floor by the distinguished Senator from West Virginia [Mr. BYRD] and the distinguished Senator from Oregon [Mr. HATFIELD], who pretty much explained the compromise, that there was a lot of effort. Everybody deserves to be commended for their efforts.

I think it is clear to all of us and most everyone else that the negotiations were undertaken following the lead of President Bush and his Drug Control Director, Bill Bennett.

As I have stated before, I think the President's strategy is sound. It is going to be effective. It deserves bipartisan support. I think it has had bipartisan support. We may nibble around the edges. We may have different ideas on some programs, but all and all we mandated the President to give us the strategy, and he will have to in fact. The drug czar, Mr. Bennett, has to report again next February with more goals, and whether or not he has been able to meet his early strategy. So we pretty much outlined what the President should do. He did it.

We have also outlined by statute what the so-called drug czar should do, and he will do it. In the meantime, we will have ideas. We may want more money for certain things and less for others.

But it seems to me that the President called for increasing antidrug crime activities by the Federal Government by about $2.7 billion over last year's level, to a total of about $8.4 billion.

I am not naive enough to think if we are still here 5 years from now we will be talking about $40 billion, $50 billion, or more. We are not going to whip this problem in 1 year, 2 years, 3 years, or 4 years.

But the President's approach was, let us find out what works. Let us spend what money we need to spend, and then we will have some experience to build on the Senate agreement.

Senator BYRD, chairman of the Appropriations Committee, who has had a long history of involvement on this floor with drug legislation—1986, 1988—it was his view and the view of others on the Democratic side that, well, $8.4 billion was not enough.

So we had the Byrd amendment. We had about 7 or 8 days of negotiations by Republicans and Democrats. And the bottom line is we are going to increase the amount in outlays about $410 million, about $400 million for treatment and education, and $10 million for State and local law enforcement.

I think the bottom line to the American people is not how much money we can spend but how we spend it. Can it be effectively spent? We are going to have a real crackdown on drugs and crime. A lot of things we can do to crack down on drugs and crime do not cost a lot of money; certainly treatment does, education does, interdiction does. A lot of things that we will have to do will cost a great deal of money, but the counties and States have some responsibilities; the parents have responsibilities, as do the churches and the schools. So you put in all the resources we have available, and it is going to be an enormous effort on behalf of all of us.

There are four matters contained in the President's drug program to be offered on the Transportation appropriations bill: Increased accountability and data assimilation by treatment providers; requiring drug-free schools in all elementary, secondary, and higher education institutions; providing transfers and a special forfeiture fund for use by the director, as well as a waiver of two provisions of current law to permit the Andean cocaine reduction initiative to go forward.

We were not able to agree to the final request of the President, the request that all State and local arrestees, prisoners, and those on probation and parole be drug tested. The agreement contemplates a further drug bill for further contemplation of this and other drug amendments.

Mr. President, what I am saying is that we are off to a pretty good start. we are going to have differences on both sides. I do not think every Republican or Democrat will agree with the President. We will not all agree. So I just conclude by saying that we have started, and we are going to continue to wage this fight against drugs. We want to save a generation, if we can, and it may take a generation to do it.

So I thank the negotiators on this side—Senator MITCHELL has thanked the negotiators on that side—led by Senators MARK HATFIELD, THURMOND, STEVENS, WARNER, GRAMM, RUDMAN, DOMENICI, HATCH, and D'AMATO, along with their Democratic counterparts led by Appropriation Committee chairman, ROBERT BYRD. They worked hard. I do not know how many hours they put in last week in addition to their regular work, 30, 40, 50 hours.

I also want to recognize the efforts of the drug czar, Bill Bennett, OMB Director, Dick Darman, Chief of Staff John Sununu, Defense Secretary Dick Cheney, and others, because we had a number of meetings in my office while the others were meeting, as well as the Attorney General, Dick Thornburgh, and Treasury Secretary Nick Brady for their help in putting this package together.

So I am pleased that we are moving forward. I am pleased we have been able to do it without slowing down any appropriations bills, and I know that my colleagues will soon vote on this amendment. I would assume that the vote will be unanimous.

Mr. President, I yield back any time on this side.

The PRESIDING OFFICER. The Chair now recognizes the senior Senator from Alabama for 5 minutes.

Mr. HEFLIN. Mr. President, I rise to support this plan to fight drugs in America. I have been supportive of all of the proposals that have come out to try to rid this Nation of the disease that we see that is striking this country and causing a great deal of harm, a great deal of ills, and it certainly could be called a drug plague.

When the President came out with his proposal, I embraced it and pledged my support. I said I felt that it could be improved, particularly in regard to education. This amendment improves the President's plan; it provides more for law enforcement, more for education, more for rehabilitation, and I think that these additions which

the President has agreed to now will add to our ability to be able to combat this war. As a member of the Judiciary Committee, I held hearings in my State in three large cities. We had law enforcement groups that represented the entire area of law enforcement. We had those in charge of the gulf coast, pertaining to the Coast Guard, the Director pertaining to customs in the gulf coast; FBI agents in charge; DEA agents that were in charge of the entire gulf coast relative to trying to fight drugs and to see that drugs do not come into this country.

In addition to this, at the hearings there were a great number of other law enforcement officers, sheriffs, police chiefs, the policemen on the beat. Every one of these law enforcement officials told me at the hearings that if we were going to win the war on drugs, that it had to be won in the schools. They approached the problem realizing that they would do everything they could in law enforcement, but if we are going to win the war on drugs, we have to cut down on the demand side, and the schools are the areas that could have the most effect pertaining to the cutting down on the demand side.

So I am pleased to add my voice to support this amendment that has come out. I think we now have a good overall plan dealing with drugs. We must have the cooperation of the American people, the cooperation of the family, the cooperation of the church, the cooperation of the teachers in the schools, in order to try to turn peer pressure around from where it has been in the past, where peers have tried to make their counterparts use drugs; we must now turn it around, where in effect school children ostracize those who even think about using drugs. So I am hopeful that we are starting on a new era relative to drugs, and that is the eradication, eventually, of the use of drugs in this country.

Thank you, Mr. President.

The PRESIDING OFFICER. The time of the Senator from Alabama has expired. The Senator from Iowa is recognized for 7 minutes, yielding time from the minority leader.

Mr. HARKIN. Mr. President, I want to thank the distinguished minority leader for yielding me this time. I want to voice my strong support of the revised amendment offered by Senator BYRD on behalf of all of us who worked so hard on the antidrug package before us.

I congratulate Senator BYRD for his leadership and his diligence, his continuing tireless efforts to get all of us together. I was fortunate and proud enough to be on the task force with Senator BYRD which was responsible for drafting this compromise antidrug package. He kept us all there and kept us together until we worked out this package which represents a very commendable compromise. I also want to recognize and to thank Senator HATFIELD for his strong efforts, and again, his stick-to-itiveness to make sure we reach this compromise. To all my colleagues, both Republicans and Democrats on that task force, fighting the war on drugs is not a partisan issue. It is something that ought to be totally bipartisan, and that is the spirit of what we have here before us today.

As others have said when the President announced his national drug strategy package I was very supportive and I still support President Bush's proposal to fight drugs. However, there was a gap in his program in that not one new dollar was added for education. That is what we have taken care of here. The President's package added only a small amount for treatment and rehabilitation.

The Byrd package adds more. The Byrd amendment is a real call to battle on the drug war. It does not hide behind rhetoric and unrealistic expectations. The Byrd amendment seeks to fight the drug war with real bullets and not words. This amendment puts our money where our mouth is, and pays for it through realistic and achievable savings. The Byrd amendment will provide a total for our war on drugs that is necessary and is meaningful and is one that will go a long way toward really answering the problem that we have.

But putting all the money on interdiction alone cannot solve the problem. I am convinced that we must reduce the demand for these drugs and we can achieve this, in part, by seeing that drug addicts enter treatment programs and that all children of all ages, regardless of income, where they may be born or raised, are educated about the danger of drugs.

This year under the drug-free schools a total of about $14,000 a year will go to each school district in America. That is not even enough money to hire one drug counselor in each school district. The Byrd amendment before us boosted that by about 70 percent. That will give the school districts the ability to not only hire a counselor but plan, program, and fund ongoing educational programs in all of our schools across America.

As a result of the Byrd amendment, my home State of Iowa will see the level of drug education funding increase from $3.2 million to more than $5.5 million, putting real dollars in hands of those who seek to set our children on the right path. Our children are on the front lines of the war on drugs; we must get to them before the druggers do.

Earlier this year, President Bush went to Pennsylvania, where he pointed out that drugs are not just an urban problem, they are also a rural problem. I am glad that he said that because the Byrd amendment includes an adequate level of funding to reach all areas of the country including the rural States where the problem has also grown.

Lastly, I point out that the Byrd amendment also includes more money for treatment.

Mr. President, I ask unanimous consent to print in the RECORD at this point a listing of all of the amounts of money and the programs to which the money goes and a description of those programs that fall under my jurisdiction under the Labor, Health, Human Resources and Education Subcommittee of the Appropriations Committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEW DRUG INITIATIVES—LABOR, HHS, EDUCATION APPROPRIATIONS SUBCOMMITTEE

[In thousands of dollars]

	Fiscal year 1990				
	Request	Authorized	Committee mark	Byrd increase	New total
DEPARTMENT OF LABOR					
Employee substance abuse program		$5,000		+$2,000	$2,000
HEALTH AND HUMAN SERVICES					
HRSA	$63,600	63,600	$22,230	+10,000	32,230
CDC, Preventive Health Block Grant	89,716	SS	84,704	+3,150	87,854
ADAMHA:					
Block grant	800,000	[1]SS	815,000	+462,584	1,277,584
New treatment crises grant	30,000	SS	15,000	+10,000	25,000
Drug Abuse:					
Research	288,489	SS	293,444	[2] +25,000	318,444
Treatment demos	7,000	SS	7,500	[2] +40,000	47,500

NEW DRUG INITIATIVES—LABOR, HHS, EDUCATION APPROPRIATIONS SUBCOMMITTEE—Continued

[In thousands of dollars]

	Fiscal year 1990				
	Request	Authorized	Committee mark	Byrd increase	New total
Alcohol abuse:					
Research	116,313	SS	122,270	+20,000	142,270
Homeless demos	17,000	SS	9,090	+8,000	17,090
Office of Substance Abuse:					
Prevention	42,193	SS	42,856	[3] +45,000	87,856
Pregnant women				(25,000)	
Community youth	15,000	SS	15,000	+7,500	22,500
New community prevention grants	35,000	SS	40,000	+20,000	60,000
training	5,300	SS	7,300	+25,000	32,300
Improving the quality of drug abuse treatment				[3] +40,000	
Indian program		SS		+5,000	5,000
OASH [2]	300,000				
FSA:					
Community Services block grant counseling and referral				+10,000	10,000
National youth sports substance abuse	3,000		3,000	+1,000	4,000
OHDS:					
Programs for children, youth, and families, family crises program:					
Runaway and homeless youth	26,923	SS	28,923	+2,500	31,423
Abandoned infants assistance			4,000	+6,000	10,000
Human Services research, training, and demonstrations:					
Runaway youth, transitional living		SS	5,000	+5,000	10,000
Runaway youth activities-drugs	15,000	SS	10,000	+5,000	15,000
Youth gang substance abuse	15,000	SS	12,000	+3,000	15,000
Temporary childcare/crises nurseries	4,940	SS	5,940	+3,000	8,940
EDUCATION					
Drug-free schools and communities:					
State grants	297,513	SS	319,194	+172,000	491,194
Teacher training	7,238	20,000	7,500	+7,500	15,000
National programs:					
Regular programs	61,802	SS	66,306	+2,000	68,306
Innovative alcohol abuse		SS	500	+2,000	2,500
Urban/Rural emergency grants (Non-add)	25,000	None		(+25,000)	(25,000)
RELATED AGENCIES					
ACTION, citizen participation and volunteer demonstration program	1,600	5,000	1,600	+1,500	3,100
Total	2,204,027		1,916,127	943,734	2,859,861

[1] $1.5 billion authorized for 1989.
[2] President's September request.
[3] Bush.

JUSTIFICATION/DESCRIPTION

DEPARTMENT OF LABOR

Department Management

Employee Substance Abuse Program—+$2,000,000.

This program provides grants to employers for developing or expanding substance abuse prevention activities in the workplace including employee assistance programs that focus on treating and preventing drug and alcohol abuse. Funds are also used for training activiites on the interaction of drugs and hazardous chemicals.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Health Care for the Homeless—+$10,000,000.

This program provides grants to local public and private non-profit entities for the delivery of primary health care services, substance abuse services, and mental health services to homeless people.

Centers for Disease Control

Preventive Health Services Block Grant—+$3,500,000.

An additional $3,150,000 has been provided for the Preventive Health Services Block Grant to be used by the States and the network of county health offices for counseling, referral, demand reduction/information and outreach for substance abuse programs.

Alcohol, Drug Abuse, and Mental Health Administration

Grants to states

Consolidated Alcohol, Drug Abuse, and Mental Health block grant—+$462,584,000.

The Alcohol, Drug Abuse, and Mental Health Services block grant provides funds to states for substance abuse prevention, treatment, and rehabilitation services.

New Treatment Grants, crisis areas—+$10,000,000.

This new program, proposed by the administration, would provide treatment grants to areas with highest incidence of drug abuse. The Committee has increased funds to expand the capacity of high-impact areas to treat drug addicts.

National Institute on Drug Abuse (NIDA)

Research—+$25,000,000.

The Committeee has increased funds for NIDA research on the effectiveness of drug abuse treatments, prevention, the effects of drug abuse, and other relevant projects.

Treatment demonstrations—+$40,000,000.

The additional funds have been provided to support community-based projects providing drug treatment and vocational training, treatment for pregnant and postpartum women and their infants, and prevention and education for incarcerated IV drug abusers.

National Institute on Alcohol Abuse and Alcoholism (NIAAA)

Research—+$20,000,000.

These additional funds will support research on the biological and behavioral elements of alcohol abuse, the interaction of alcohol and drug abuse, effective treatments, alcohol-related medical disorders, and other relevant projects.

Substance abuse homeless demonstrations—+$8,000,000.

The Committee has provided an additional $8,000,000 to this program, which is jointly administered by the NIDA and NIAAA, to support demonstrations that include outreach services, treatment and recovery, case management, transitional housing, and vocational training.

Office of Substance Abuse Prevention (OSAP)

Prevention programs—+$45,000,000.

The Committee has provided an additional $45,000,000 to support grants for substance abuse prevention targeted to high-risk youth, and pregnant addicts and their infants.

Pregnant Women Substance Abuse Demonstrations—(+$25,000,000).

In FY89, approximately $4,500,000 is available for model projects for treatment, prevention, and education of pregnant and post-partum women and their infants. The Committee has added $45,000,000 for OSAP prevention demonstrations in FY90, of which not less than $25,000,000 shall be available for projects for pregnant and postpartum women and their infants.

Community youth activity program—+$7,500,000.

The Committee has increased by $7,500,000 the amount provided to this program, which funds block grants to States, competitive State grants, and projects of national significance.

New community prevention grants—+$20,000,000.

The Committee has provided an additional $20,000,000 for grants to establish programs operated by community-based coalitions representing parents, schools, businesses, and youth in developing comprehensive prevention programs.

Training—+$25,000,000.

The Committee is concerned that shortages of substance abuse counselors sharply limit the ability to expand treatment programs. The additonal funds will support continuing education for substance abuse prevention for counselors, health professionals, social workers and community orga-

nization staff; and training of faculty at health professions schools to develop model teaching curricula.

Treatment improvement project—+$40,000,000.

The Committee has provided $40,000,000, as requested by the administration, for a new treatment improvement project. The funds will be used to expand treatment capacity by 6,000-7,000 treatment slots for adolescents, minorities, pregnant and postpartum women and their infants, and residents of public housing projects. Projects funded under this program will be evaluated to determine their effectiveness and to seek means of improving treatment services.

ADAMHA/IHS Program on Substance Abuse Treatment—+$5,000,000.

The extensive Indian Health Service primary care service system has the capacity to diagnose and treat alcohol abuse, but lacks the ability to effectively diagnose and treat drug abuse. The Committee has included $5,000,000 to allow ADAMHA and IHS to develop a program to enhance treatment capacity for drug abuse and to improve the efficacy and efficiency of treatment delivered to the American Indian population. The effort would be combined with an existing intra agency agreement.

Family Support Administration

Community Services Block Grant—+$10,000,000.

A variety of anti-poverty services are provided through a nation-wide network of more than 900 local Community Action Agencies, including assistance to the homeless and emergency feeding activities. The $10,000,000 recommended would permit these agencies to launch new efforts providing drug counseling and referral services for low-income persons.

National Youth Sports Program—+$1,000,000.

The National Youth Sports Program provides young people with the opportunity to be involved in a positive sports and educational program as an alternative to involvement in drugs and crime in their communities. The additional $1,000,000 recommended will allow these local programs to expand existing activities, emphasizing drug abuse education.

Human Development Services

Program for Children, Youth and Families, Family Crisis Program

Abandoned Infants—+$6,000,000.

The number of abandoned infants born addicted to drugs or with other serious problems because of substance abuse by their mothers is growing daily. An additional $6,000,000 is provided for programs to begin to deal with this problem.

Runaway and Homeless Youth—+$2,500,000.

The Committee has provided an additional $2,500,000 for Runaway and Homeless Youth. The Committee is concerned that there is an inadequate program to shelter homeless youth. Too young for adult shelters, youth are being turned away from runaway and homeless youth shelters because of a lack of capacity. This additional funding will provide expanded facilities.

Human Services Research, Training, and Demonstration

Runaway Youth Activities—+$13,000,000.

The homeless youth situation is exacerbated by the limitation on the number of days which a youth may remain at a runaway and homeless youth shelter. This problem, coupled with a lack of sufficient funding for drug counseling and prevention efforts, more often than not leave homeless youth particularly vulnerable to prostitution and involvement in selling and/or using drugs. The Committee has, therefore, provided $5,000,000 for Transitional Living, $5,000,000 for Runaway Youth Activities-Drugs, and $3,000,000 for Youth Gang Substance Abuse programs.

Temporary Child Care-Crisis Nurseries—+$3,000,000.

An additional $3,000,000 has been provided for temporary child care-crisis nurseries. This program provides grants to states to support the establishment, maintenance and expansion of programs to provide care to children who are abused or neglected or at high-risk. Unfortunately, cases of abuse or neglect are on the increase as a result of substance abuse.

DEPARTMENT OF EDUCATION

Drug Free Schools and Communities Act

State Grants—+$172,000,000.

This program is the primary federal effort in assisting local school districts in educating the nation's children as to the dangers of drugs. This additional amount will bring the total Senate recommendation for this program to $491,194,000. While the President cited a major initiative in his recent national address for drug education, his budget request was not amended above the original Reagan request for a $10,000,000 increase for the Drug Free Schools program. Since the State grant funds flow by formula to almost all of the nation's 16,000 school districts, the additional $172,000,000 will still result in relatively small payments to individual school districts.

Urban and Rural Emergency Grants—(+$25,000,000).

President Bush's February budget request included $25,000,000 for "Urban Emergency Grants" as a free-standing authorization for grants to urban school districts with especially acute drug abuse problems. The amendment expands the use of these funds to include grants to rural areas facing similar problems. Funds for these expanded purposes are provided to each Governor as part of the State Grant program. The expanded focus and distribution mechanism for these funds reflects the authorizing legislation for this activity as reported unanimously by the Senate Committee on Labor and Human Resources. The amendment anticipates that regulations controlling the use of these funds by the Governors will reflect the authorizing legislation.

National Programs—+$2,000,000.

This line-item supports regional technical assistance centers which assist local school districts in developing and implementing drug prevention curricula. Model demonstrations are also supported out of this program including programs at colleges and universities and programs for Indian youth and Native Hawaiians. The amendment anticipates that the funding provided will be allocated on a pro-rata basis among the authorized activities within the "National Programs" account.

Teacher Training—+$7,500,000.

This program was first authorized in the 1988 Drug Act and funded in fiscal year 1989 at $7,000,000. The additional amount provided will bring the total Senate recommendation for this program to $15,000,000, $5,000,000 below the authorized ceiling for fiscal year 1990. Funds are used to support grants to establish, expand, or enhance programs that train teachers, administrators and other school personnel concerning drug abuse education and prevention.

Innovative Alcohol Abuse Programs—+$2,000,000.

This program was also first authorized in the 1988 Drug Act within the Education Department's Fund for Innovation (Title IV of Public Law 100-297). Fiscal year 1990 will be the first year of funding for this activity. Funds will be used to develop and disseminate model programs addressing alcohol abuse, especially for the children of alcoholics. Alcohol remains the "drug" of choice for America's youth in almost all areas of the country. It is also the "drug" with which children have the earliest contact. The children of alcoholics are far more likely to abuse alcohol than their peers.

RELATED AGENCIES

ACTION

Drug Prevention Volunteer Demonstrations—+$1,500,000.

This activity has been funded for the last three fiscal years and was originally authorized in the Omnibus Drug Act of 1986. It was reauthorized in the 1988 Drug Act. The additional funding would bring the total recommended by the Senate to just below the authorized ceiling. This program supports model community-based programs involving volunteers in drug prevention activities. Ten percent of the funds provided may be utilized by the agency for staff support needs related to these drug prevention efforts.

Mr. HARKIN. In Iowa, for example, about 125,000 people in my State are in need of drug abuse treatment according to the Iowa Department of Public Health. But Iowa only has slots for 25,000. As a result, there are people who are knocking on our doors asking for treatment. There are a whole host of other people out there who have not knocked on the door yet and we wanted to reach out. That is true in Iowa, I know it is true in the President's home State of Kentucky, in Wisconsin, New York, or other States. There are waiting lists of 6 weeks and some up to 6 months.

We all heard the story of people who come in for treatment, get sent out on F Street and told to come back in 6 months or 7 months because that is how long the waiting list is. We have to treat these people. We should have a goal in this country of treatment on demand. If someone who is addicted to drugs wants treatment, that individual ought to get treatment at that point in time and not be sent back on the street. In 40 States, there are about 1.2 million people currently in treatment, but about 10.2 million on the waiting list just for treatment.

This amendment increases treatment money so we can reduce waiting lists and get the people who are presently waiting to get treated, treated.

Last Mr. President, the Byrd amendment not only fully funds the President's request but goes on to give the States the funds needed to do this job. Congress envisioned in its 1988 anti-drug bill that 50 percent of the money would go to address supply side problems with, 50 percent for the demand

side—education, treatment, rehabilitation.

The only flaw that I saw in President Bush's proposal was that 70 percent went for interdiction and law enforcement, while only 30 percent went for education, treatment, and rehabilitation. The Byrd amendment intends to right that. Fifty-three percent of the money in the Byrd amendment goes to law enforcement, 47 percent goes to education, treatment, and rehabilitation.

I believe that is closer to the mark that Congress established last year and that President Reagan agreed to. We cannot win the war on drugs alone just by drying up the cocaine field in Colombia and Bolivia. They will move someplace else and ship their illegal drug across our borders. We have to mount a determined and full frontal attack on demand for drugs. That required helping our children early on in their lives with continuing education, so that they can really learn how to say no to drugs.

Mr. President, I rise to voice my strong support to the revised amendment now offered by Senator BYRD which would provide almost $3.2 billion in additional funding for drug programs over funding included in the regular fiscal year 1990 appropriations bills. Almost $1 billion of this total, $944 million, is for programs under the jurisdiction of the Appropriations subcommittee that I chair, the Labor, HHS, Education Subcommittee. I was very pleased to work with Senator BYRD, the chairman of the full Appropriations Committee, as well as Senator SPECTER, the ranking minority member of the Labor-HHS Subcommittee, in the development of this effort.

The Byrd amendment is a real call to battle for the drug war. It does not hide behind rhetoric and unrealistic expectations. The Byrd amendment seeks to fight the drug war with real bullets, not words. This amendment put our money where our mouth is, and pays for it through realistic and achievable savings. The Byrd amendment will provide a total for our war on drugs in fiscal year 1990 which will be $1.1 billion more than the amount requested by President Bush as part of his September drug strategy.

Mr. President, in the interest of time, I would like to confine my comments of support to those programs within the jurisdiction of my Labor-HHS-Education Subcommittee. These are the programs that help reduce demand for drugs. They do this by providing treatment and counseling, and by providing education to school-age children. While all the efforts to reduce the flow of drugs into this country are of critical importance, this alone cannot solve the problem. I am convinced that we must reduce the demand for these drugs. And we can achieve this at least in part by seeing that drug addicts enter treatment programs and children of all ages are educated about the dangers of drugs.

The largest single item included in the $1 billion package is an increase of $462.6 million for the Alcohol, Drug Abuse, and Mental Health Services Block Grant Program. This will bring the total Senate recommendation for the block grant up to $1.278 billion, considerably closer to the authorized level for this program. These funds go to each of the States by formula and support, along with State funding, drug treatment and rehabilitation programs. In my State of Iowa, for example, we have 29 such drug treatment centers that serve all 99 counties of Iowa. The waiting list for treatment in these programs has doubled and tripled in the last several years, and an expansion to the fully authorized level is well justified. The Byrd amendment will go a long way toward attacking the waiting list in my State.

The next largest increase included in the $944 million subcommittee package is for the Drug Free Schools Program in the Department of Education.

The Byrd amendment includes a $183,500,000 increase for State grants to schools. At the current funding level, each school district receives roughly $14,000, not even enough to hire one trained counselor. This increase will give a significant boost of more than 70 percent to our various school districts across the country. As a result of the Byrd amendment, my home State of Iowa should see its level of drug education funding go from $3.2 million to more than $5.5 million, getting some real dollars in the hands of those that seek to set our children on the right path.

Earlier this year, President Bush traveled to Conestoga Valley High School in Lancaster, PA, to highlight the fact that drugs are threatening the quality of life throughout America, not just in our major cities. President Bush said:

> You know we often think of drug abuse as an urban inner-city phenomenon. Millions of Americans think of their own communities and they say, "it can't happen here." Well, the people of rural Pennsylvania know that's not true.

Well, all I can say is that the people of rural Iowa know it just as well. So I am glad that the Byrd amendment includes an adequate level of funding to reach all areas of the country including the rural States where the problem is also growing.

Mr. President, this package of drug demand reduction programs includes many other smaller initiatives.

Drug and alcohol abuse research funding is increased, as well as additional drug treatment demonstration projects needed to document the effectiveness of new treatment protocols. The Office of Substance Abuse Prevention is increased over $97 million for community youth programs, community prevention grants and training for additional drug counselors.

Within the additional amounts provided in the amendment, I wish to make special mention of a number of initiatives designed to address the needs of addicted pregnant and postpartum women and their infants.

Twenty-five million dollars is set aside for prevention grants within the Office of Substance Abuse Prevention solely for demonstration programs involving pregnant women. There are also a number of other programs in the Alcohol, Drug Abuse, and Mental Health Administration which are receiving additional funds under this amendment and specifically address the needs of pregnant women.

Mr. President, President Bush requested an increase of $165 million for the Alcohol, Drug Abuse, and Mental Health Services Block Grant Program, and $135 million for other drug abuse research and demonstration programs. While I applaud the President for his initiative, I believe that more must be done to reduce demand, to reduce the interest of our children in experimenting with and using drugs, and to reduce the long waiting lists for people who want to cure their addiction by enrolling in a drug treatment program. The Byrd amendment fully funds the President's request, then goes beyond that request to give the Federal Government and the States the funds urgently needed to do this job.

Finally, Mr. President, I wish to take a moment to commend the very hard work of the chairman of the Appropriations Committee, Senator BYRD, who also chaired the bipartisan task force which developed this revised amendment. Chairman BYRD demonstrated extraordinary patience and perseverance through numerous meetings of the task force until a deal could be hammered out. The amendment before us is a testament to his very hard work as well as his deep concern for the drug issue which I share.

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. FORD). The Senator from Wisconsin [Mr. KOHL] is recognized for not to exceed 7 minutes.

Mr. KOHL. Mr. President, I rise today to support the agreement reached by the leadership.

Now that we have resolved the broad issue of whether we are going to spend more money on the drug war, we need to make sure that we spend it wisely—that we target what are very limited resources to programs which will work and which address critical problems created by substance abuse. This agreement, which I hope will be approved by our colleagues, is an attempt to do just that.

For the last few months, we have heard a great deal about what we have come to call "crack babies." I chaired a hearing on this issue in the Governmental Affairs Committee. Along with almost 30 of our colleagues, we wrote to President Bush and asked him to address this at-risk population in his drug plan. And, in his speech to the Nation, the President responded to that request. His efforts to focus attention on this issue have been most helpful.

A number of Senators have also attempted to address this problem. Senator KENNEDY, as chairman of the Labor Committee and Senator DODD as chairman of the Subcommittee on Children, Family, Drugs and Alcohol, have been leaders on this issue long before it became the subject of popular discussion. Their work has been absolutely essential. Senator GLENN used his position as chairman of the Governmental Affairs Committee to allow me to focus on this issue. His support and cooperation made it possible for all of us to learn a good deal more about this issue. Indeed, after participating in hearings I chaired in the Governmental Affairs Committee, Senator WILSON also became concerned about this problem and has proposed increased funding for it.

Building on that work and taking advantage of the increase in funding, there is a consensus that we ought to do more—and this amendment does that.

When the distinguished chairman of the Appropriations Committee, Senator BYRD, made it clear that he wanted to find ways to increase spending on treatment and prevention programs, a number of us began to think of ways we could use those additional resources to get at the problem of parental substance abuse. In that process, I have worked closely with Senator SIMON, in particular, whose concern for "crack babies" and whose desire to address the needs of addicted pregnant women are beyond question. The Office of Substance Abuse Prevention demonstrations that he initiated last year are the backbone of our efforts here today.

In any event, Mr. President, I am very appreciative of the fact that this agreement includes three proposals that I have authored. I strongly believe that funding of these three programs will allow us to redouble our efforts against maternal substance abuse.

First, we will provide $50 million for a grant program for comprehensive treatment of substance abusing women and their children. The attention paid to the "crack baby" issue has revealed that far too many women are endangering the lives and health of their children by doing drugs while they are pregnant. We also know that those children, once exposed, often lead lives which are diminished in terms of mental and physical development. We have to deal with this problem. And we know how to deal with it. We just have not had the resources to do it well. In my own State of Wisconsin we have one residential treatment program for pregnant women and children. It has done some marvelous work. But it only has the resources to work with 10 women at a time—even though in Milwaukee County alone there are 500 pregnant women who need drug treatment this year.

Even this grant program will not provide comprehensive treatment on request to all women who are seeking it, but it will dramatically strengthen our effort.

Second, this agreement will increase grants to States for emergency child protective services. As recent events demonstrate, the child protective service system is overwhelmed by infants born exposed to drugs, and children living with a parent abusing drugs or alcohol. Despite this crisis, States now have access to only $9 million in grants under the Child Abuse Prevention and Treatment Act. My proposal increases those grants by roughly $40 million to encourage States and local agencies to address this crisis.

Third, the amendment would target existing child abuse prevention grants to community-based efforts to reach substance abusing parents before they abuse or neglect their children.

And finally, the amendment includes a proposal by Senator SIMON to authorize a National Resource and Information Center for Perinatal Addiction. The Center will serve as an invaluable resource to hundreds of thousands of health care professionals confronting the crisis of maternal substance abuse. In addition to the coordination and dissemination of research, the Center will develop and distribute training and educational information, will act as a treatment program clearinghouse, and will develop and manage a national toll-free hotline.

There are few victims of cocaine and crack that are as vulnerable or as in need of our help as are pregnant women and their infants, Mr. President. I urge my colleagues to support the amendment.

I thank the Chair.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KERRY] is now recognized for not to exceed 15 minutes.

Mr. KERRY. Mr. President, point of parliamentary inquiry. I believe the Senator from Nebraska has pressing commitments, if I could just yield to him for a moment.

The PRESIDING OFFICER. Would the Senator be yielding some of his time?

Mr. KERRY. I hope not, Mr. President.

Mr. EXON. Mr. President, the distinguished minority leader has yielded me 3 minutes of his time.

The PRESIDING OFFICER. The Senator may proceed.

Mr. EXON. Mr. President, I rise in support of the bipartisan congressional acceptance of the Byrd amendment that I have strongly supported from the beginning. Right after the President's speech, I saluted the President for bringing the attention to the Nation, as only the President of the United States can, to the drug menace that faces this country.

At that time, I said I had some misgivings about some of the balance to the program. I predicted at that time that there would be a bipartisan agreement between the leadership of those on the majority side and the minority side of the aisle. It has come to pass.

I salute and thank Senator BYRD for his leadership in this area. I was a cosponsor of his amendment. Many of the other Senators here addressed the problems that all the States have. We in Nebraska have vivid evidence. The experts have told us that there is a crying need for more treatment for those who are crying out for help right now. Education was shortchanged. This measure I hope goes far enough. I suspect that we are going to be doing some more in the future. But this has come to pass.

I thank those that have been involved in this. I believe this is an important step in the right direction. I assume we will have near 100-percent support for the amendment that is being offered by Senator BYRD that I have cosponsored.

I thank the minority leader for offering me a portion of his time and I yield the floor.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Massachusetts [Mr. KERRY] is now recognized for not to exceed 15 minutes.

Mr. KERRY. I thank the Chair.

Mr. President, I first of all would like to express my appreciation and admiration both to Senator BYRD and to Senator HATFIELD for their leadership in the negotiating process and to Senator BYRD for his leadership with respect to this initiative. As a member of the negotiating effort, I was privileged to be able to watch these two veterans of the Senate work their magic in this process. I must say, it was both educational as well as interesting.

I also want to thank Senator BYRD for fulfilling a promise that he made here on the floor of the Senate when we had a confrontation over the question of transferring star wars for drug wars prior to the summer recess. At that time, when the Senate declared its intent to try to fully fund the bill, the drug bill, Senator BYRD made a commitment that he was going to try

to find that money somewhere else but that he would try to do it. And indeed he has done that.

Mr. President, I have listened to the comments of both sides. I would like to simply add this Senator's perspective to where I think we are and what the meaning of this particular amendment of Senator BYRD's is.

I heard the distinguished minority leader suggest that most people are now in agreement and that there will be some nibbling at the edges but that nibbling at the edges is all that this is really about. In the previous weeks, we have heard discussion about Democrats who want to throw money at the drug problem. This is not about nibbling at the edges, Mr. President. This is about gobbling up the whole pie, about the pie of the so-called war on drugs.

This is not about money. It has absolutely nothing to do with money exclusively except insomuch as money reflects a strategy and goals sufficient to win a war.

We heard that we declared war on drugs in 1982. We heard it again in 1983, 1984, 1985, and 1986, right through 1989. This is not the first declaration of war on drugs that the American people have heard. It is time for the Senate and the House and the administration to face up to the fact that the Amercan people are going to judge us not by the rhetoric, not by the promises, but by the reality of whether or not there is in fact improvement in this situation and whether or not there is a real war on drugs.

I respectfully suggest to the distinguished minority leader that this is about goals and about strategy and about the sufficiency of what the President has proposed.

I support what the President has proposed. But I do not believe that what the President has proposed is adequate to permit this country to be able to wage a full-fledged war on drugs. I believe that what Senator BYRD has done is take us a step closer to that but, because of the restraints within which the negotiating team was operating; that is, the limit on available resources, even this negotiating effort is insufficient to be able to permit the full promise of a full war on drugs.

What do we mean specifically when we say that there is a difference in strategy and a difference in goals? Well, Mr. President, in the first place, the mere fact that we have taken a significant amount of money that was earmarked for eradication and interdiction in law enforcement and shifted it into narcotics education and treatment means we have already shifted the strategy. We have decided that the strategy was not sufficient in those areas and that it could be changed and shifted in order to deal with treatment and education.

But, Mr. President, if you have a war on drugs, presumably, as to law enforcement, criminal justice, treatment and education, you are going to undertake a streategy that declares goals that meet the demand of a war.

Well, look at the criminal justice system. The criminal justice system of our country is near bankruptcy with respect to its ability to wage a war. Forty-five of the 50 States of this Nation are currently with prison systems that are under court order or about to be under court order. Criminals all over this country know that if they are caught the chances of being found guilty are negligible, the chances of going to jail for a lengthy period of time are negligible, and in fact we are undermining the very notion of deterrence in a system that has revolving doors with respect to prison sentences.

If you are going to declare war, you say to the criminals and the people of America, if you commit this crime you will go away and you will fulfill the full sentence. That requires Federal assistance in terms of building State prisons. There is none in this strategy.

Mr. President, in 1979, when I was prosecuting, we had priority prosecution units and we had goals. And the goals said that we will take any major criminal off the streets of America and try that criminal's case within 90 days from date of arrest until date of conviction. There is no such promise with respect to drug cases.

We have housing courts, we have traffic courts, we have night court sessions for traffic and housing and other matters. But there is no promise in this bill that any drug case that has to be tried will find a special court session or a special courtroom in order to be able to be prosecuted within those 90 days from date of arrest until date of conviction.

Mr. President, there is a promise in the President's strategy of $350 million to the States for assistance in law enforcement, $350 million in 1989 money. In 1975, 14 years ago, the Federal Government was willing to spend $875 million as part of the Law Enforcement Assistance Administration in order to assist the States to be able to prosecute and find the judges and find the court personnel to make the criminal justice system work. So here we are supposedly declaring war in 1989 with $350 million when in 1975, without a declaration of war, we were ready to put up $875 million in 1975 money.

Mr. President, in addition to that, there is no promise about the transfer of information between jurisdictions. There is no goal to have a criminal justice system that will actually be able to deal with the numbers of prisoners that you will have once you have the increased law enforcement.

What about education? The Senator from Iowa has pointed out how there was not one new dollar for education in the President's strategy. Moreover, there is no mandate on the States.

It suggests that the States should have certain programs in place.

Mr. President, I believe, if we are serious about declaring war, we do not start educating in the 8th, 9th, or 10th grade. We start, as most of the experts have suggested we should, in kindergarten, and we deal with peer pressure and values and choices, escalating as they grow older into real choices about drugs and other things where communities are not providing those standards today.

We do not make it a pie-in-the-sky hope that all communities will join in this effort. We say to them: If you do not meet these Federal standards of 15 hours minimum per year of education, we are going to deny you the other Federal assistance that comes from the Federal Government.

It seems to me that is a worthwhile and appropriate strategy and goal.

Mr. President, what about drug treatment?

Under the President's plan—his goal, his strategy—19 out of 100 addicts in this country will get treatment. Mr. President, if you declare war on drugs you cannot be selective about treating people. You treat all the people who need the treatment.

The great anomaly in this strategy is the President suggests steps that will increase the number of people who will come and ask for treatment but does not provide for the capacity to be able to treat them.

So today in America we have something like 58,000 addicts who say they need help and, under the President's plan, of those who already asked for help, we are only going to be able to serve about half of those. And that is not all the addicts in the United States. That is just those asking for help.

Recently, in Massachusetts, we had an addict who came into a center, asked for help, was told by the center: I am sorry, 6 weeks' waiting list; went away, 1 week later, dead.

What is going to happen, Mr. President, is that those who seek help are going to be disappointed by the system. Those within the criminal justice system and those outside, expecting it to work, will be disappointed; those who we are supposed to be educating will not be reached and will not be educated. Indeed, we will fuel another cycle of cynicism and disappointment because we have not, once again, been willing to reach out and do enough.

Mr. President, I believe—and I think Democrats who have been looking for

an alternative believe—we ought to have treatment on demand. Is it expensive? Yes, Mr. President, it is going to cost more, probably four times more than we are already willing to spend on treatment alone. But the fact is, if we are saying this is the No. 1 priority in this country and it is the No. 1 national security threat and it is tearing apart Colombia and has helped to lose us Panama and lose a lot of other interests that we have in foreign terms, not to mention the domestic losses in terms of human suffering and our health care costs and our families torn apart, it would seem to me that, measured against the $300 billion that we spend for the defense of this Nation, to be quibbling over the now $7.9 plus the additional that we have spent, around $9 or so billion, is to really say to the American people we still have not got our priorities straight with respect to a war on drugs.

With respect to the strategy in the foreign commitment, in the interdiction, Mr. President, the President's strategy does not set as a goal that we will have the Defense Department fully operational in the interdiction border system within 6 months. It does not deal with the question of international money laundering, suggesting that the banks of other countries must comply and we will take steps to specifically seek their compliance with our own restrictions placed on our banks with respect to money laundering.

Mr. President, this is the not time or place, because we will debate the strategies and goals of this bill. We will debate them with specificity. But this is the time to assert what this negotiation has been about.

I reiterate, this negotiation has not been about mere additional dollars. It is not about a desire to simply throw money at a problem. It is about a desire to be honest with the definition of this problem and the nature of the solution to it, Mr. President. We cannot resolve the problem of education, of treatment, of a criminal justice system that will not work, of international interdiction, of money laundering, without taking some risks and without spending some money.

But, more importantly, we have to set the goals that the American people themselves have made clear they want us to set. The American people have said, again and again and again, they are ready to fight the war. They are ready to pay more in order to do it. They are tired of seeing communities torn apart, tired of seeing family life changed, of seeing all kinds of costs thrown onto them because of higher insurance, risks of going out, health care, and a host of other things.

Mr. President, it seems to me there is much that many of us believe we could have done as a matter of strategy, as a matter of goals in order to make more clear to those who commit the crimes and to those who wish to be free from them, that the United States has a better sense of how to fight a war than we have currently set out for ourselves.

It seems to me, based on the experience of what we call low-intensity conflict in Southeast Asia, where we were willing to leave troops out in the field without a clear definition, strategy, without a winning policy, without support from the Nation, without the resources necessary, that we are dangerously close to being on the same path with respect to this, our newest definition of war and our newest conflict.

My hope is that we will recognize beyond rhetoric the importance of really fighting a genuine war. It seems to me if we would do so we would reduce the cost to society enormously.

A real war, Mr. President, would have said: Anyone caught committing the crime of selling drugs will, indeed, be taken off the street, even if it means finding the Federal space to do so.

It is my hope as the debate goes on in the next several days the Senate will find its definition for the war on drugs and will provide funding for it.

The PRESIDING OFFICER. Who seeks recognition?

The time under the control of the majority leader has expired.

Mr. KERRY. Mr. President, is it in order to suggest the absence of a quorum?

The PRESIDING OFFICER. It requires unanimous consent at this time.

Mr. KERRY. Mr. President, I ask unanimous consent that a quorum call be in order, with time to be taken from the one side who remains having time.

The PRESIDING OFFICER. The remaining time allocated is in the control of the Republican leader.

Mr. KERRY. Mr. President, I ask unanimous consent the time be taken from the Republican leader. Seeing no other Senator, I think it is unanimous.

The PRESIDING OFFICER. The unanimous-consent request is agreed to.

Mr. KERRY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I do want to indicate that I was asked by the leader, during the course of the negotiations on the drug bill to sit in and to monitor those proceedings. I certainly want to state that I am deeply appreciative of what Senator BYRD accomplished. He, indeed, was exceedingly patient and guided as to where he wanted to go.

Senator HATFIELD, on our side of the aisle, was superb in his dealings and negotiations. I know that without his patience and the patience of Senator BYRD, it would not have been accomplished, without any question on that. So I commend them both and appreciate that they have eased our burden.

I did sit in on one of the joint sessions and many of the sessions with those on our side of the aisle. One of the frustrating things to all of us as we negotiate money here is that we always seem to be never quite appropriate with our numbers when we look back a year later, 2 years or 3 years later. I made the comment during one of the deliberations that I had been here 11 years and I had never yet seen any figures that were correct, as we look at something 4 years back or 3 years back.

I would not want to have that reflected as a criticism of Senator BYRD or Senator HATFIELD or their committee. It was just a very real observation on my part that it seems to me we spend a great deal of time either passing or killing legislation on the basis that it is going to cost too much or that there is not enough in it. The issue is not money; the issue is a serious national problem, and it was not a good pattern, as we saw developing, where we were simply seeing people of both parties upping the ante for no purpose whatsoever but political gain.

I just want to, in the 2 or 3 minutes before the vote, say that the President presented us a pretty nice package. I would not want to leave that goal unaddressed. The President and Bill Bennett spent many months on a package and how to fund it. And Dick Darman assisted in educating on how that should be funded, and there it was. It was not something ill-considered. It was not something done without good, thoughtful consideration.

I think that is important as we look at this good result which is good to pass unanimously, I would think, that the President and the drug czar and Dick Darman presented an awfully nice package. That should not be lost in this package. I think it did get a little lost in the process with both parties involved in the discussion of money.

The thing I think the American people want to remember is that we have discussed this and now we come to a vote and I have not heard anybody on either side of the aisle throwing harpoons into this particular piece of legislation. No one has really talked about the substance of this legislation. I think that is an awfully important part of the debate. It seems to me it has been somewhat overlooked. I have not heard a single soul in committee; I have not heard it at hearings with Dr.

Bennett, that anybody was really zeroing in on the bill itself as an improper or bloated or impossible piece of legislation.

I do again commend Senator BYRD and Senator HATFIELD and all of those on both sides of the aisle who gave us, indeed, a very important bill based on a lot of tough negotiations and based upon a bill which was very good in its substance and remains so. I thank the Chair.

Mr. LAUTENBERG. Mr. President, I want to express my strong support for the amendment offered by the distinguished chairman of the Appropriations Committee, Senator BYRD. I am pleased to be a cosponsor.

Mr. President, it is time to put real resources into the war against drugs. The plague of drug abuse is infesting every region of our country—from impoverished inner cities to affluent suburbs, to small, rural towns. It is a plague that must be addressed, and it must be addressed now.

President Bush's antidrug plan is a good starting point. But it is only that—a first step. Even if fully funded, the plan would leave too many addicts without treatment, too many children uneducated about the dangers of drugs, too many young mothers with babies born addicted to drugs.

Senator BYRD—and his counterpart, Senator HATFIELD—deserve enormous credit for putting some punch behind this plan. They have worked long and hard. And they have produced a funding scheme that I think can be supported by Senators on both sides of the aisle. Is it perfect? Of course not. Is it enough? I do not think so. But it's the most for which we can get bipartisan support.

This plan will ensure that the President's plan is fully funded—right down to the last penny requested. The focus of that plan is on law enforcement. So, for example, we are going to provide a billion dollars for the Federal prison system; $97 million for the FBI; $64 million for the Drug Enforcement Administration.

But we are going to go well beyond the President's plan. First, we are going to strengthen support for law enforcement. The $100 million in additional funds for law enforcement should put about 2,000 more police on the streets.

We are also going to go after demand—the root of this problem. The amendment will provide an additional $800 million for treatment of drug addicts, for education of our children, for rehabilitation.

Mr. President, I am particularly pleased that the amendment includes funding for a program I developed last year, the Public Housing Drug Elimination Act. As drug dealers have taken over many public housing projects, tenants have been forced to live in virtual war zones. It is a particularly serious problem in many of our depressed urban areas.

The Public Housing Drug Elimination Act gives tenants and housing authorities the tools they need to fight back. Funds can be used not only for additional security personnel, but for innovative programs designed to reduce the use of illegal drugs. Public housing authorities and tenants already are clamoring for these much-needed resources.

Mr. President, as a member of the Appropriations Committee, I have worked to strengthen the war on drugs. I urge my colleagues to support this major expansion of our efforts.

Mr. CRANSTON. Mr. President, I support the Byrd amendment, which would add $1.1 billion to the amount requested by President Bush 3 weeks ago.

Mr. President, I am particularly pleased that this amendment would provide the majority of new funding for treatment and prevention activities. I was very disappointed that the Bush proposal maintained the current inequities in the relative amount of money being spent on the supply side of the drug problem versus the demand side. I have long advocated that we need to put greater emphasis on drug treatment and prevention activities if we are going to have a realistic chance at turning the tide on the drug crisis.

The Byrd amendment before us recognizes that fact and would add $800 million for prevention and treatment programs.

Mr. President, I am particularly pleased that $50 million would be provided to the Department of Veterans Affairs for substance abuse treatment programs for veterans. This builds on efforts I began in 1986 to increasee VA's capacity to provide drug and alcohol abuse treatment to veterans. The 1988 drug law included, at my request, a $15 million special authorization of appropriations for VA substance abuse treatment activities. The Senate version of the fiscal year 1990 VA-HUD Appropriations Act provided $10 million for those efforts.

Thus, I believe that the additional $50 million provided by this legislation would help ensure that VA efforts can be expanded. Like community drug treatment programs, VA is unable to provide care to all veterans seeking treatment on an immediate basis. This additional funding should help meet those needs.

Mr. President, I would like to clarify with the Senator from West Virginia one issue concerning drug abuse prevention activities. First, I would like to congratulate the Senator from West Virginia for substantially increasing drug prevention programs, which I believe must be a cornerstone to our overall efforts against drugs. I have been very concerned that inadequate resources have been placed on drug abuse prevention programs—particularly those that focus on community efforts. Communities represent an untapped resources in our war against drugs. I believe, with some assistance, community coalitions would be a very effective force in helping young people stay off of drugs.

Last year, in the 1988 drug law I authored a provision giving authority to the Office for Substance Abuse Prevention to provide assistance to communities to develop comprehensive long-term strategies for the prevention of substance abuse. I was delighted when President Bush proposed providing funding for such community prevention efforts, and congratulate the Chairman of the Labor-HHS Appropriations Subcomittee for including $40 million for these programs in the fiscal year 1990 Labor-HHS Appropriations Act, which the Senate passed last night.

The legislation before us would further increase funding for community prevention programs by $20 million. I understand under the original Byrd amendment, $40 million in additional funding would have been provided.

Mr. President, I believe that this money will be well invested. However, this is a substantial amount of new money for which very little Congressional direction is provided. I believe—to ensure that the program has the greatest chance to succeed—we should more clearly spell out its intended use.

Early this summer I introduced legislation—S. 1233, the Comprehensive Community Substance Abuse Prevention Act of 1989—that would provide a blueprint for a program to support community prevention efforts. My legislation would complement the appropriations action. It would provide direction for what community prevention coalitions should be composed of and provide guidelines for assigning priority to grants. It would also stipulate that 35 percent of the funding must go to communities to populations of no more than 250,000 individuals. Finally, my bill would set up a substance abuse prevention training program.

Specifically, it would authorize for 3 years an initiative to assist communities in planning, developing and implementing a substance abuse prevention and intervention program. Recent research has found that a comprehensive community program—involving schools, businesses, parents, community organizations and leaders, and the media—is the most successful in preventing drug and alcohol use.

I have seen such coalition in action, and I have been greatly impressed by their ability to rally people to develop innovative responses to the drug problem. Through such coalition efforts, parents band together to learn more

about drugs and to get more involved with their children's schooling, businesses and civic clubs develop after-school programs to provide young people with real alternatives to the drug culture, and the media cooperates to reinforce the anti-drug message.

My legislation would help ensure that Congress knows how the funding for community prevention efforts is spent. I had intended to offer my bill as an amendment to the pending legislation. However, I understand that another bill dealing with drug issues will be coming before the Senate in the next couple of weeks. I want to clarify with the Senator from West Virginia [Mr. BYRD] if it is his understanding that my bill in the form of an amendment would be in order to be considered in the context of that legislation.

Mr. BYRD. The Senator from California [Mr. CRANSTON] is correct. Any amendment concerning drug issues would be considered germane to that bill. I thank the Senator for waiting for that vehicle to have his legislation considered.

Mr. CRANSTON. I thank the Senator from West Virginia and again congratulate him on his outstanding efforts to bring this legislation before the Senate. I look forward to working with him on the forthcoming drug bill.

Mr. BURNS. Mr. President, I first want to commend my colleagues, both Republican and Democrat alike, for all of the work they did to fashion this compromise. I know they worked long, hard hours and that there was a lot of give and take. Each and everyone of them deserves a lot of credit.

The other person who deserves much of the credit is President Bush. It is his national drug control policy which served as a catalyst for this agreement. His attention to this issue and the seriousness with which he attacked the problem inspired the Congress to act quickly. Now, we not only have a comprehensive strategy to fight the war on drugs, but we have a way to pay for it. I am also pleased that we have included the President's crime initiatives in this package.

Mr. President, I have said before that drugs are a cancer, and cocaine is a white cancer, eating away at our kids. And that we must do everything we can to cut it out of our society. So I am pleased that we are taking the President's lead and approaching this problem from all angles: criminal justice; treatment; education; community involvement; research; interdiction; intelligence; and international affairs.

We are funding initiatives to make such that drug offenders, users and sellers alike, are punished. I commend the efforts of some of my Republican colleagues to include additional funds for State and local law enforcement. These are the people who are on the front lines and they need our support.

The additional funds for Federal drug enforcement are also welcome. It seems that the drug lords have discovered that the Big Sky country with its wide open spaces is a perfect location for stashing and manufacturing drugs. The additional funds provided under this legislation will help the State of Montana curtail these activities.

However, it is most important to remember that demand is what creates supply, and the war on drugs will only be won with the involvement of the family, schools, churches, community-based groups, and the State and local governments. The funds provided in this bill for education and prevention programs will help facilitate this involvement. We must further encourage these efforts by calling on concerned parents and community leaders in our States to get involved.

I think that the key to our success will be the commitment of all Americans to fight this war. The President, the leadership, and all members of this Senate have demonstrated our commitment to overcoming the drug problem. The funds allocated today will go to worthwhile programs to start the work, but it is only with the commitment of every concerned citizen to do their part that we will win this war.

Mr. BINGAMAN. Mr. President, I rise today to commend and congratulate my good friend and distinguished colleague, Senator BYRD, and all of my colleagues who have worked tirelessly during the past several days to craft a comprehensive, bipartisan funding strategy for the Nation's anti-drug abuse effort. The plan before us today—which strengthens efforts to reduce the demand, as well as supply, for illegal drugs—is a noble and realistic one. It is worthy of our strong support.

We all know how serious America's drug problem is. The people of my home State of New Mexico and of every other State in this country know the devastation that it has caused. Indeed, in a Washington Post-ABC News Poll last month, 44 percent of those polled ranked drugs as the number one problem facing our Nation today.

But when the President unveiled his national drug control strategy earlier this month, once again we saw a proposal that focused the bulk of its resources—nearly 70 percent—on interdiction efforts. Once again, we were going to try to turn the tide on the drug problem by limiting the flow of drugs into our country, our communities, and our schools. Yet, virtually everyone is in agreement that our Nation's drug epidemic will not be eradicated, or even lessened, until the demand for drugs is controlled. This end can be achieved only through education.

Effective and comprehensive strategies intended to change both behaviors and attitudes are essential if we are to reduce the mounting economic and societal costs associated with the drup epidemic. Perhaps the greatest of these costs is the threat to the health and well-being of our children. But the President's strategy included no new money for education and very little for treatment and rehabilitation.

The strategy before us today seeks to correct these crucial deficiencies. It fully funds the President's drug control plan. But even more importantly, it increases our commitment to education, rehabilitation, and treatment. I am pleased that nearly half—47 percent—of the funding proposed in the Byrd amendment would go toward strengthening programs in these key areas. This split is much more in line with the strategy we in the Congress committed ourselves to last year when, with much fanfare and talk, we passed the Anti-Substance Abuse Act of 1988. Unless we accept the Byrd amendment today, all of our talk about winning the war against drugs will be just that: Talk. And it is far too late for talk. We need action, commitment, and education.

Currently, the Federal Government spends $2.4 billion on drug abuse prevention programs. The State of New Mexico spends approximately $5.8 million. Yet, drug rates among adolescents have risen 10 to 30 times in my State since the early 1960's. New Mexican youth are reporting the use of alcohol and drugs at alarmingly younger ages. Local studies have revealed that 42 percent of sixth graders surveyed report the use of alcohol; 22 percent of high school youth report having used hallucinogens; and approximately 10 percent have used cocaine. These statistics underscore the need for effective education and prevention efforts that target this key segment of our population. These programs must begin early—when children are entering school—and must extend throughout the educational process.

To be most effective, these programs must also extend into the community, the home, and the family. Drug abuse is not a problem that is suffered by individuals. It is suffered by all of us: Individuals, families, communities, employers, governments, and nations. It is not a problem that will be solved with simple solutions. If we are ever to make any progress, we must reduce the demand, as well as supply for illegal drugs. We must commit ourselves to working together to find solutions and create lasting change. We must do it for this generation and for all those to follow. Thank you.

Mr. DURENBERGER. Mr. President, I rise to address the insidious plague and national tragedy of substance abuse, which has become the

common enemy of all Americans. There is not a community or a family in the Nation that has not been affected by substance abuse. It cripples individuals, destroys families, torments communities, and undermines nations. I know from personal experience the trauma drugs inflict upon our young people. With the leadership of our President, we are watching a nation rise to the challenge of rescuing itself from a genuine threat to our personal freedom and national survival.

The substance abuse statistics are staggering. Approximately 37 million people in the United States used illegal drugs in 1987. This works out to 1 in every 10 Americans. According to a recent national household survey on drug abuse, 29 million Americans used marijuana at least once in 1985, and 18 million had used it within a month of answering the survey question. The same survey found that nearly 6 million Americans use illegal amphetamines, barbiturates, and hallucinogens. Although recent studies indicate that drug abuse has stabilized as their evils are made known and the population gets older, the use of cocaine, particularly in its most dangerous crack, form is rising. It is estimated that 12 million Americans used cocaine in 1985, and over 3 million used it more than 12 times that year. And most disturbing, is that these figures do not include those who abuse alcohol or prescription drugs.

The effects of substance abuse are severe and many. It contributes to early death, social dependence, frequent unemployment, deep poverty, incapacity to meet responsibilities, and crime. Drug abuse affects our youth and future generation in ways that not only are destructive to themselves, but also to society. Nationally, drugs are a factor in: 67 percent of all street crime; 56 percent of all traffic accidents; 65 percent of all drownings; 80 percent of all high school dropouts; 90 percent of all teenage pregnancies; 60 percent of all teen suicides and homicides; and 90 percent of all incest cases.

In a study conducted by the Cocaine National Hotline dated July 10, 1988, 64 percent of the callers had stolen from their families, friends, or employers to buy drugs either for themselves or for their friends. Drug use in schools is particularly destructive as it ruins the learning process.

Thus, substance abuse takes a physical, emotional, and economic toll on everyone. The user risks everything, job, reputation, health, and life. Loved ones and others are emotionally seared, they fear for the user's well-being and for themselves due to the resulting crime. Ultimately, society must bear the costs of law enforcement, lost productivity, and health care. This cost was estimated as being $60 million in 1983 by the Research Triangle Institute while the June 1988 Final Report of the White House Conference for a Drug Free America estimate the total cost of drug abuse, indirect and direct, is $100 billion.

Mr. President, I come to this issue with great concern and exposure. I know first hand the pain and suffering millions of families experience when a member of their family abuses drugs. There can be nothing more heartwrenching to a parent than to have a child struggle with chemical dependency. I also know that with love, prayer, and proper help, families and individuals can overcome a chemical dependency problem. And in so doing become stronger for it. Coming from Minnesota, a State known for its chemical dependency education, prevention, and treatment I appreciate the power of education and treatment to overcome the often overpowering attraction of drugs, both legal and illegal. My wife, Penny, is pursuing a professional career in chemical treatment.

Although I have considerable exposure to chemical dependency issues on a personal level, my positions on the Senate Labor and Health and Human Resources Committee and Senate Finance position give me a unique perspective to the chemical dependency problem. I view it as a health care problem, that needs to be treated just as cancer and heart disease are treated.

I have listened to my State. Last summer I toured the State of Minnesota with Surgeon General C. Everett Koop holding informal hearings on substance abuse. At these hearings the Surgeon General and I were told repeatedly of the need to address not only illegal drugs, but also the problem of alcohol abuse and cigarette smoking. In Rochester, MN, Jane Hendricks, who coordinates drug awareness programs, said that while illegal drugs are a problem, alcohol abuse is much more pervasive and damaging. At the same hearing, Bill Walker made the profound statement that, "we need to treat the person, not the amount of dollars a person has." I agree, completely. Similarly, Anna Griesbach, a teacher at Red Lake Falls, stressed the importance of aftercare for substance abusers if the individual is to be truly rehabilitated. This view was echoed by Betsy Inger Diver at the Duluth hearing.

This year, I have listened to many Minnesotans react to President Bush's national drug strategy. While supporting the goal and pleased with the President's focus on the issue, Minnesotans feel that drugs are not a problem that Government can solve by itself. It results from a broad set of problems that involves values, economics, self-esteem, and self-identity. Much of the work to solve the problem must be done on an individual basis and involve families and friends, neighborhoods, and churches.

Thus, it is from this personal, individual level that Minnesotans are very skeptical of politicians touting this drug plan or that drug plan. They have heard this song too many times. Their primary concern is that the Federal Government does not get in the way of good State and local programs, like those in Minnesota. The good initiatives of State and local governments must not be suffocated by Federal requirements; rather they should be encouraged. Innovation is needed. There is no silver bullet to the drug problem. Therefore, I am a strong supporter of a well-funded and unhindered Federal grant program.

Minnesota is lucky when it comes to dealing with chemical dependency because the State has many treatment facilities. In fact experts say we have more than enough—an indication of the importance we place on treatment. With so many resources committed to treatment, Minnesota experts have learned that direct treatment alone may not succeed without aftercare or posttreatment care. Individuals who have kicked a drug habit often need to have continued reinforcement to assist them in staying drug free. Yet, such reinforcement or aftercare is not available. The Federal Government should step in to provide this essential service.

Minnesotans believe in a drug-free environment, and they include all addictive substances like alcohol and nicotine. Besides having adverse health affects, alcohol and cigarettes have been found to serve as introductions for our young people to other drugs.

Finally, the only answer to the drug problem is to show people that drugs are not an escape from their personal woes, from poverty, or a way up the social ladder. This can only be done through a long-term effort to build self-esteem and self-worth of our children. This can be done by drawing a direct link between the youth serves program and drug prevention.

Reacting to this threat, the Nation has been waging a war on drugs. Yet, Mr. President, I believe the war cannot be solved overnight, through legislative fiat. The experience of the last several years has taught us that the drug problem is not merely a law enforcement problem. No amount of police, prosecutors, jails, penalties, including the death penalty, border guards, international task forces, and financial incentives to other nations will clear the scourge of drugs while America has a multibillion-dollar appetite. Instead, we must curb the Nation's appetite for drugs and this can best be done by taking a long-term, big picture view and promoting a drug-free society through education and rehabilitation.

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Solving the Nation's drug abuse problem cannot be done through quick fixes and throwing billions of dollars at it. Rather, it requires complete attitudinal changes. We must work toward a drug-free society that does not tolerate the abuse of drugs, including alcohol and prescription drugs.

We must use all options: Our homes, schools, communities, businesses, churches, and media to make our children aware that drug use is not acceptable, that it is dangerous. The Federal Government should develop effective standard drug education programs and provide educators and community leaders the resources they need to implement the program. In addition, we must provide greater rehabilitative opportunities to those who wish to cure themselves of their addiction.

Mr. President, since 1961 Congress has passed at least 91 different pieces of legislation addressing the drug problem. The legislation focuses on three issues: interdiction and international drug production, crime prevention, and treatment and education. Simultaneously, Presidential executive and administrative moves have been taken to streamline the Federal Government's drug enforcement efforts. Many bills build upon previous efforts as well attempt to address the problem in a comprehensive manner.

Legislation that addresses the international aspect of the drug problem takes a carrot and stick approach to those nations that produced drug crops. The Foreign Assistance Act—Public Law 92-129—authorized the suspension of U.S. foreign assistance to nations that did not cooperate in efforts to stop the flow of drugs to the United States.

The act was extended and strengthened frequently in the following years. The International Security and Development Acts of 1980, 1981, and 1985—Public Law 96-533, Public Law 97-113, and Public Law 99-83—provided drug-producing countries, particularly Colombia and Bolivia, drug eradication equipment and funding.

The connection between drugs and crime has been a key attack point for Congress. Such legislation attacked the production, distribution, and use of illegal drugs. Bills like the Organized Crime Control Act of 1970—Public Law 91-452—which included the Racketeer Influenced and Corrupt Organizations provisions, made it easier to attack drug dealing networks. The Comprehensive Drug Abuse Prevention and Control Act of 1970 was the Nation's first effort at across-the-board control of drugs combining many of the previous drug-related statutes. Among other things the act identified and classified illegal drugs which assisted in the standardization of penalties for use and possession. It further made the arrest and conviction of drug violators easier. The Crime Control Act of 1973 and 1976—Public Law 93-83 and Public Law 94-503—amended the Omnibus Crime Control and Safe Streets Act of 1968 to provide greater Federal funding to State and local law enforcement agencies as well as money for treatment.

In 1984 Congress passed the Comprehensive Crime Control Act that revamped Federal criminal laws applicable to those involved in the trafficking, production, and distribution of drugs. It stiffened penalties and expanded the definition of illegal drugs to include chemicals used to create synthetic drugs. It also places reporting and licensing requirements on companies that produced such precursor chemicals. Attacking the large organized drug trafficking and distribution networks, the act made it more difficult for the networks to move their profits by money laundering schemes. Finally, it created the National Drug Enforcement Policy Board, an inter-agency council to coordinate Federal drug law enforcement activities.

Again in 1986, Congress passed the Anti-drug Abuse Act of 1986—Public Law 99-570. This omnibus legislation addressed nearly every aspect of the Federal anti-drug effort. It included provisions tightening money laundering laws, sanctions for uncooperative drug-source countries, new programs and funding for State and local law enforcement, treatment, and education, additional penalties for drug-related crimes, and expanded the Customs Service's drug-interdiction authorities. It authorized increased spending of $1.7 billion for fiscal year 1987.

Treatment, rehabilitation, and education, though not given the priority international interdiction and crime prevention are given, has also been addressed by previous Congress'. Although previously mentioned in legislation like the Narcotic Rehabilitation Act of 1966—Public Law 89-793—the first expansive treatment legislation came with the passage of Drug Abuse Office and Treatment Act of 1972. This Act created the Special Action for Drug Abuse Prevention [SAODAG] within the Office of President which is to coordinate and direct Federal drug abuse control efforts related to rehabilitation of drug-dependent persons, education, training, and research. In 1976 SAODAG was replaced by the Office of Drug Abuse Policy. In 1979 drug abuse prevention duties were given directly to the President by the Drug Abuse Prevention, Treatment, and Rehabilitation Amendments—Public Law 96-181. Simultaneously, the amendments brought State and local officials into the Federal drug abuse decision-making process as well as giving greater research authority to the National Institute of Drug Abuse.

Just as Congress was acting to stem drug abuse, the President was acting through executive and administrative order to streamline the Federal Government's drug enforcement efforts. In 1973, the Drug Enforcement Agency was created within the Department of Justice to handle Federal activities relating to the prevention of drug trafficking. In 1982 the Federal Bureau of Investigation was given concurrent jurisdiction with the Drug Enforcement Agency.

To coordinate Federal interdiction efforts President Reagan announced in 1983 the creation of the National Narcotics Border Interdiction System headed by Vice President Bush. Recognizing that international drugs and the threat they pose to the Nation, President Reagan signed a National Security Decision Directive designating the international drug trade as a national security threat. On March 23, 1987, the President created the National Drug Policy Board, with the Attorney General as chairman, and Secretary of Health and Human Services as vice chairman.

Most recently, the Federal Government has been pursuing a zero tolerance policy. Based on the principle that there is no level of acceptable drug use and that those who use illegal drugs must be held accountable for their illegal activity. Thus, all individuals found with drugs in their possession regardless of amount would be arrested and their possessions seized. This was a change in previous Federal policy and has been controversial.

An additional tactic is drug testing. There is evidence that people who use drugs are adversely affected in their work, and in some cases threaten public safety.

The military, specifically the Navy, has led the way. After a 1980 survey of Navy enlisted men showed that 48 percent of them used drugs. This was confirmed after half of those killed in an accidental explosion on U.S.S. *Nimitz* showed traces of marijuana use. This led the Navy to institute sweeping drug testing, which was followed quickly by the Air Force and the Army. The results were significant, by 1987 random drug testing showed that only 3 percent of Navy personnel used drugs.

Using this evidence that on-the-job drug use is a problem that can be solved through drug testing has led the Reagan administration to push for its use throughout the Federal Government. Blanket Government drug-testing has been controversial and yet to be implemented. However, Congress has supported drug-testing for those employees that are involved in activities that directly affect public safety such as airline pilots and railroad engineers.

An additional facet of the drug war is the use of the military's manpower and expertise to assist interdicting and eradicating drugs. In May 1988, Congress approved a limited military role, primarily using the military's superior surveillance and identification equipment and personnel to assist civilian law enforcement agencies.

I have supported most of Congress' drug-efforts since arriving in the Senate in 1978. However, I oppose the death penalty and across the board drug-testing. Similarly, I believe Congress' emphasis on interdiction, eradication, and crime-prevention, at the expense of education and rehabilitative treatment, is off-base. In fiscal year 1986, according to the Government Accounting Office, the Federal Government spent $1,877.7 million and in fiscal year 1987 $2,971.2 million on interdiction, eradication, and law enforcement. By contrast, the Federal Government spent only $391.8 million in fiscal year 1986 and $959.9 million in fiscal year 1987 on prevention and treatment. Yet, despite the amount of money being spent on interdiction and law enforcement, the amount of drugs imported into the country has increased for all drugs but marijuana.

This leads me to believe that interdiction is not the answer to the Nation's substance abuse problem. While those involved in drug-related crimes need to be punished severely, we should not do the same for those who are addicted to drugs and seek rehabilitation. Instead, society has a responsibility to assist the addicted user to kick his or her drug habit and become a productive member of society. Simultaneously, we must educate our children through our schools and by family and community example that drugs are not cool, and are dangerous.

Pursuing my view that rehabilitative treatment needs to be available, I sponsored an amendment to the 1986 drug bill that set up drug and alcohol education, prevention, treatment, and rehabilitation programs for Federal employees. It also required all Federal agencies to establish employee assistance programs and contained a sense of the Senate resolution that private employers should provide adequate coverage for substance abuse treatment for their employees. Finally, it called for a study to determine the feasibility of private-sector health insurance plans cover substance abuse treatment.

I believe the best way to address the Nation's substance abuse problem is to stem the demand. And the best way to do this is to deter people using drugs in the first place and education is the place to start. The most effective educational programs are administered at the elementary school level because they get information to children before they use drugs. Drug abuse most commonly starts in elementary school or soon after as a result of peer pressure. The results of a questionnaire given by Weekly Reader in 1987 to a sample of American fourth through sixth grade students show that the number one reason why kids use drugs is to fit in with others. The second reason was to have fun, and the third was that drugs made the kids feel older.

To be successful, education programs must deal with personal and social pressures connected with drug abuse. Purely factual programs are not as successful according to testimony in 1986 before the House Select Committee on Narcotics Abuse and Control.

A drug-free environment must also exist for drug-free education to be successful. A study found that children who are brought up to value individual responsibility and self-discipline are less likely to use drugs than those who are not. Communities also need to take part in the war on drugs to help create the right atmosphere and attitude toward drugs. This has been done in some places already with drug-free activity centers. Drug-free parties and activities have been set up to encourage abstinence from drugs. Therefore, educational and community programs should stress self-discipline and personal accountability, as well as reinforce the family structure where these attributes are ingrained.

Another way you educate young people is the volunteer advertising program done by the Media-Advertising Partnership for a Drug Free America today. This program has proved successful in creating a negative image of drug use and has increased awareness of the dangers of drugs.

Yet, Mr. President, education alone will not solve our current drug problems. To do this we must recognize that once an individual abuses drugs, it is often difficult to kick the habit without professional assistance and treatment.

Treatment programs generally have a 50 percent success rate after 1 year. In-patient treatment centers are very structured and intensive, but are also expensive and not always accessible for lower-income individuals and families. A variety of out-patient treatment programs are available which are less expensive and more obtainable for lower-income individuals and families but often there are not enough to meet the demand. Historically, treatment programs have been aimed at the older, hard-drug abusing individuals in the past. But recently these programs have shifted to the younger group to catch drug problems at earlier stages acknowledging that the earlier a drug problem is caught, the easier it is for the user to recover. I believe this trend should be continued.

Because the connection between drug use and crime is so pervasive. Drugs are a factor in 63 percent of all street crime. Thus, we cannot overlook the role the criminal justice and penal systems can serve in creating a drug-free society. Washington, DC tests all those arrested for drugs, those who are or promise to remain drug-free are given preferential treatment, i.e., are more likely to be released before trial. Failure means longer stays in jail. While this may not deter drug use, it does deter crime and reduces the burden on the judicial system. Yet, using drug tests and threats of jail is not a long-term solution to stopping the individual's drug use nor does it benefit society. Jail is expensive and often counter productive.

The hardcore incorrigible criminal needs to be removed from society for punishment and public safety. However, for those that are not incorrigible, particularly the young, the judicial and penal systems must provide adequate treatment rehabilitative programs. Such treatment should assist inmates to overcome their addiction, teach them the dangers, and provide them the education and job training they may need.

Mr. President, in the final analysis, what the Federal Government must do is encourage and reenforce efforts, both public and private, that lead to a drug-free society. This cannot be done by closing our borders to drugs, even if it were possible. Nor can it be done by arresting, prosecuting, and giving long-term prison sentences to everyone who uses drugs. Instead, the Federal Government must redirect its effort.

First, we must reinforce family, school, and community efforts to educate their children of the hazards of drugs and alcohol. The most important determinant of drug use is each person's sense of community values. We each need to shoulder our own responsibility, as parents, teachers, bosses, religious leaders and community leaders to communicate the message that substance abuse destroys lives and cannot be tolerated. And the younger the child who gets that message the better.

Second, the Federal Government must support rehabilitative and treatment programs for drug users. Such programs must be made available to all drug users who want it. If we do not welcome, and give them access to the help they seek, we are sending them back to the enemy.

And perhaps most importantly, we need to acknowledge that 535 drug plans will not win the war on drugs. President Bush and National Drug Coordinator Bennett are to be commended for developing our first national drug strategy. If ever we needed a genuine bipartisan effort, and a unified effort between the President and the Congress, it is now. The President has put a plan on the table, the Congress

today helps provide the resources to carry it out. That is a good start, but it is only that.

We begin today a battle that will be with us for decades to come. And the measure of our success will not be the number of dollars we spend. It will be the change we can bring to many young children to value a life free of chemicals. It will be the number of current substance abusers who can find and benefit from treatment. It will be the degree to which Americans learn to respect the laws of our land, or pay the price. And it will be the unity of these United States, in every walk of life and region and age, to taking responsibility for their own part of this problem. Individually, this is a hopelessly large task, but working together, there is nothing we cannot accomplish.

Mr. SASSER. Mr. President, I rise in strong support of the amendment before us. This amendment is the product of a long and careful negotiation between Senators on both sides of the aisle and represents a sound and effective plan for escalating the Nation's war on drugs.

Mr. President, when the President sent his national drug control strategy to Congress earlier this year he signaled his commitment to fighting the war on drugs. No one can doubt that his funding proposals would allow us to win more of the drug battles which plague our Nation. However, many of us felt that he had not proposed enough funding to truly win the war.

This amendment takes us a step closer to winning that war. When Congress passed the Anti-Drug Abuse Act of 1988 it set forth the goal of equal funding for demand and supply activities. Congress recognized that fighting drugs would take more than increases for guns, prisons, and DEA agents. What we also need is treatment, education, and prevention programs. No matter how much law enforcement we provide, in the end we have to destroy the demand for drugs in order to solve our problems.

In 1986, I served as a member of the Democratic Working Group on Drug Abuse which drafted the first comprehensive drug abuse law. That law was a valuable first step inasmuch as it addressed all aspects of the drug control problem—interdiction, enforcement, education, and treatment—and avoided the piecemeal approach which had failed in the past.

Last year, the Democratic Substance Abuse Working Group, on which I also serve, reviewed the 1986 law and recommended a number of changes which were enacted into law. The new law includes additional resources, both for law enforcement and for education and treatment.

The 1988 law recognized that there are no simple answers to the drug problem. Congress looked at each area of the drug abuse problem in terms of what is needed and what concrete steps we can take now.

The 1988 law also included increased funding for education and treatment. I am pleased to have served as cochairman of the group that drafted this section of the 1988 law. I think we all realize that in the long run the only real solution to the drug problem is to teach our citizens to avoid drugs.

Tennessee received $3.7 million for drug and alcohol education in 1988. That sounds like a lot of money—in fact, it is a lot of money. But it is only $2.50 per child. The additional education money included in the 1988 law will allow us to give each school system enough money to develop a realistic education program.

By the same token, our unmet needs in alcohol and drug treatment are staggering. In Tennessee, for every person in a treatment program, there are six people waiting. The average wait for treatment is 10 to 12 weeks. The funds we are providing in today's amendment will enable use to significantly increase the number of treatment slots available in Tennessee.

The President proposed to spend 73 percent of his total $7.9 billion antidrug package on the law enforcement side—leaving only 27 percent for programs aimed at reducing demand for drugs. Recognizing the need to provide additional support for education, treatment, and prevention activities, the distinguished chairman of the Appropriations Committee proposed to increase total antidrug funding to $10.1 billion—$2.2 billion over the President's original proposal. The original Byrd amendment attempted to correct the imbalance in the President's plan by allocating 57 percent for supply and 43 percent for demand.

Mr. President, I believe that fighting the war on drugs is not and should not be a partisan issue. While we may disagree on how we achieve them, we all share the same goals. That is why Senator BYRD and other Democratic sponsors of his amendment agreed to sit down with our Republican colleagues and negotiate a bipartisan drug package. The result of that negotiation is before us today.

This proposal is entirely funded through spending reductions. When finally implemented it will not add a single dime to the Federal deficit. We are serious about the war on drugs and we are willing to pay for it.

Furthermore, we are committed to the principle that everyone must bear a fair share of the pain. This amendment fairly apportions the cuts necessary to offset the spending increases by applying a 0.43 percent across-the-board reduction to every appropriations subcommittee. There are no special gimmicks and no slights of hand. Everyone will share the tab.

Mr. President, arriving at this bipartisan compromise took some time. It also took a great commitment. As I voice my support for this amendment, let me also praise the efforts of the distinguished President pro tempore, Senator BYRD who has worked so diligently to reach this point. Let me also extend my congratulations to Senator HATFIELD, the head of the Republican negotiating team, as well as to all the Members of the bipartisan negotiating teams.

Mr. President, this amendment takes a step in the right direction. It fully funds the President's antidrug and crime proposals while at the same time providing additonal money for critical education, treatment, and prevention activities. Furthermore, the amendment provides real offsets for these spending increases, thereby ensuring that the amendment will not add to the deficit. I fully support the amendment and I commend Senators BYRD and HATFIELD for their leadership.

Mr. CHAFEE. Mr. President, last year when we enacted the Anti-Drug Abuse Act we made a commitment to attacking the problems of drug use in our country. We agreed to remove drug dealers from our streets; to treat crack-addicted pregnant women; and to punish casual drug users. Unfortunately, because it was passed so late in the year, we were unable to provide the resources to fully fund the drug bill.

However, if we approve the compromise agreement before us today we can live up to the commitment we made last year. I commend the President and those Senators who served on the Drug Funding Task Force for their diligent struggle to reach this compromise.

This agreement will fully fund the President's national drug strategy which includes many of the initiatives passed in the Anti-Drug Abuse Act of 1988. It will increase support for State and local law enforcement, penalize casual drug users, provide additional foreign aid to coca-producing countries, and most importantly, increase funds for treatment, education, and prevention programs. The President has developed a sound national drug policy designed to simultaneously reduce both the demand for and supply of drugs. I wholeheartedly support the President's efforts this compromise agreement that will fully fund his drug strategy.

The compromise agreement provides an additional $900 million for antidrug programs, $100 million of which will go to local law enforcement efforts. Our police are the front-line offense against the drug war in our communities and these funds will provide critical additional support for their efforts.

The remaining $800 million will be allocated to drug treatment, education and prevention programs. As long as there is a demand for drugs, there will be a supply of drugs. It is essential that we prioritize on programs which discourage drug use. Prevention and education programs can turn our children away from using drugs before they become addicted. Treatment programs can help addicts get back on track. It is imperative that we continue to increase funding for these successful programs, as the drug compromise will do.

My support for the agreement does not come without concern. I have strong reservations about the across-the-board cut that we are using to fund the drug war.

The proposed 0.43 percent across-the-board cut may resolve our drug funding problem, but it does not reflect any budget priorities. Instead of targeting wasteful Government spending, it calls for cutting all discretionary domestic and international programs regardless of their worth. This is not the approach I would have preferred.

It will result in reductions in some programs which indirectly help fight the war on drugs. For example, the Even Start Illiteracy Program teaches children and their parents how to read. Children who are literate and have confidence in their reading and writing skills are much less likely to drop out of school and fall victim to drug use.

The Teen Care Program educates and counsels youngsters to help build their self-esteem and steer them away from suicide, dropping out, unwanted pregnancies and drug use. The program is not considered as a drug program. Thus, although subject to the across-the-board cut, it will probably not receive additional funding under the drug compromise because it is not viewed as a program which directly attacks the drug scourge—its indirect value in fighting the war on drugs will likely be overlooked.

When the President submitted his national drug strategy to Congress, he suggested several funding reductions to offset its cost. He targeted programs such as the Economic Development Administration and the Single Channel Ground and Airborne Radio System. I support the President's efforts to eliminate or reduce funding for programs that are ineffective and wasteful. If we are going to establish the drug war as a national priority, then we must be willing to reduce spending for programs that do not warrant such priority. Unfortunately, that is not what this plan calls for.

I will support the compromise agreement, but I do so with reservation. We must live up to the commitment we made last year by funding the President's national drug strategy as well as other important antidrug programs—and we must do it now. It is my hope, however, that in the future we will make the difficult decisions and cut those programs which are less deserving of support.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Is there objection to proceeding with the vote at this time?

Hearing no objection, the question is on agreeing to the Byrd amendment No. 727, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. SASSER] is necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. SASSER] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 207 Leg.]

YEAS—97

Adams	Fowler	McClure
Armstrong	Glenn	McConnell
Baucus	Gore	Metzenbaum
Bentsen	Gorton	Mikulski
Biden	Graham	Mitchell
Bingaman	Gramm	Moynihan
Bond	Grassley	Murkowski
Boren	Harkin	Nickles
Boschwitz	Hatch	Nunn
Bradley	Hatfield	Packwood
Breaux	Heflin	Pell
Bryan	Heinz	Pressler
Bumpers	Helms	Pryor
Burdick	Hollings	Reid
Burns	Humphrey	Riegle
Byrd	Inouye	Robb
Chafee	Jeffords	Rockefeller
Coats	Johnston	Roth
Cochran	Kassebaum	Rudman
Cohen	Kasten	Sanford
Conrad	Kennedy	Sarbanes
Cranston	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dixon	Levin	Thurmond
Dodd	Lieberman	Wallop
Dole	Lott	Warner
Domenici	Lugar	Wilson
Durenberger	Mack	Wirth
Exon	Matsunaga	
Ford	McCain	

NAYS—2

Garn	Symms

NOT VOTING—1

Sasser

So the amendment (No. 727), as modified, was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the pending question now is on agreeing to the underlying committee amendment, as amended.

The committee amendment, as amended, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the committee amendment, as amended, was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. I designate Senator KENNEDY to offer the amendments on our side, and I ask unanimous consent that he be permitted to offer these amendments en bloc, that they not be subject to further amendment, and that there be 20 minutes of debate on the amendments, equally divided between Senators KENNEDY and HATCH.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

AMENDMENT NO. 867

(Purpose: To establish a National Resources and Information Center for Perinatal Addiction and to provide grants for substance abuse treatment for pregnant and post-partum women and their infants)

AMENDMENT NO. 868

(Purpose: To provide for emergency protective child services grants)

AMENDMENT NO. 869

(Purpose: To provide grants for the training of drug treatment professionals)

Mr. KENNEDY. Mr. President, I send three amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes amendments numbered 867 through 869 en bloc.

The amendments are as follows:

AMENDMENT No. 867

At the appropriate place, insert the following new section:

SEC. . (a)(1) The Secretary of Health and Human Services, acting through the Administrator of the Alcohol, Drug Abuse and Mental Health Administration or his designee, shall use amounts made available under paragraph (4) to make a grant to an institu-

tion of the type described in paragraph (20 for the establishment of a National Resource and Information Center for Perinatal Addiction.

(2) The grant under paragraph (1) shall be awarded, after a competitive search, to a private nonprofit institution that has an extensive background and experience in performing research on maternal substance abuse and in disseminating such information to professionals, policymakers, the general public and the media, as well as experience in proving educational services to maternal substance abusers and their exposed infants.

(3) The Center established under paragraph (1) shall—

(A) coordinate and disseminate research on maternal substance abuse, treatment options for such women and infants of such women, and prevention strategies;

(B) develop and distribute training and educational information and materials concerning maternal substance abuse;

(C) act as a clearinghouse for information on treatment programs for pregnant women who are addicted to illegal substances;

(D) develop and manage national toll free hotline to provide information and referrals;

(E) provide policy analysis and program evaluation to the Secretary of Health and Human Services; and

(F) provide any other services designed to carry out the purposes of this subsection.

(4) There are authorized to be appropriated to carry out this paragraph, $2,500,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991.

(b) Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new section:

"SEC. 509H. GRANTS FOR SUBSTANCE ABUSE TREATMENT FOR PREGNANT AND POST-PARTUM WOMEN.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration or his designee, shall make grants to entities to provide assistance to outpatient and residential substance abuse treatment programs relating to pregnant and post-partum women and their infants, that meet the requirements of subsection (b).

"(b) REQUIREMENTS.—

"(1) DISTRIBUTION.—In making grants under subsection (a), the Administrator shall ensure that grants are reasonably distributed among projects that provide outpatient and residential treatment.

"(2) SERVICES.—An entity shall not be eligible for a grant under subsection (a) unless such entity provides the Administrator with an assurance that such entity will use assistance provided under such grant to provide, arrange for the provision of, or refer individuals to, services that shall include—

"(A) intervention services for pregnant and post-partum women, including—

"(i) substance abuse and addiction treatment services;

"(ii) support services (such as child care and transportation services);

"(iii) education and skill building services (such as parenting and job seeking skill services);

"(iv) integration and coordination of substance abuse treatment services with prenatal or post-partum health care services;

"(v) innovative methods of outreach to identify and recruit target populations for services early in the pregnancy of individuals of such populations;

"(vi) medical screening procedures of pregnant women for past and present substance use and abuse; and

"(vii) after care services;

"(B) interventions where infants are at risk, including—

"(i) direct intervention, treatment, or rehabilitation of infants, which may include other siblings, to reduce or prevent the impact of maternal substance abuse on such children; and

"(ii) supportive services for biologic or foster parents of infants affected by maternal substance abuse;

"(C) service delivery strategies that may include—

"(i) strategies for the coordination, for purposes of identification or service delivery, of family violence and homeless shelter programs, programs under part A of title IV of the Social Security Act, and section 17 of the Child Nutrition Act of 1966, crisis pregnancy centers programs, public housing programs, and prison programs, with other likely points of access for high risk women;

"(ii) strategies concerning the involvement of significant others (such as male partners of pregnant women) as direct intervention targets or strategies to aid in the outreach and service delivery processes for women;

"(iii) strategies for co-locating multiple facilities to facilitate the delivery of services; and

"(iii) innovative strategies (such as case management) to ensure the coordinated utilization of generally unrelated service systems; and

"(D) other services necessary to improve pregnancy outcomes, reduce substance abuse among women of childbearing age, and increase the stability of the family home environment.

"(c) APPLICATION.—The Administrator shall not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Administrator determines to be necessary to carry out this section; and

"(4) the application contains an assurance that the applicant will provide funds, other than Federal funds, in an amount that is not less than 10 percent of the amount of the grant under subsection (a).

"(d) CONSTRUCTION.—Nothing in this section shall be construed to permit the Secretary to discriminate in the awarding of grants under subsection (a) against applicants that propose or provide residential or outpatient rehabilitation services under applicable requirements of State law, including applicants that provide services to substance abusing pregnant and post-partum women that receive treatment by order of a court or other appropriate public agency, so long as all such applications include measures that encourage substance abusing pregnant and post-partum women to seek prenatal care and rehabilitation.

"(f) There are authorized to be appropriated to carry out this section, $50,000,000 in fiscal year 1990, and such sums as may be necessary in fiscal year 1991.".

AMENDMENT No. 868

At the appropriate place, insert the following new section:

SEC. . (3) The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101) is amended by adding after section 8 the following new subsection:

"SEC. 8A. EMERGENCY PROTECTIVE CHILD SERVICES GRANTS.

"(a) ESTALBISHMENT.—The Secretary shall establish a grant program to make grants to eligible entities to enable such entities to provide services to children whose parents are substance abusers.

"(b) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under this section shall be State or local agencies that are responsible for administering protective child services or child abuse intervention services. Such agenices shall include those agencies responsible for administering foster care, child welfare, child protective services, and child abuse intervention programs.

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.

"(2) ASSURANCE OF USE.—An application submitted under paragraph (1) shall—

"(A) contain an assurance that the applicant operates in a geographic area where substance abuse has placed substantial strains on social service and law enforcement agencies and has resulted in substantial increases in the need for services that cannot be met without funds available under this section;

"(B) identify the responsible agency or agencies that will be involved in the use of funds provided under this section;

"(C) contain a description of the emergency situation with regard to children of substance abusers who need services of the type described in this section;

"(D) contain a plan for improving the delivery of such services to such children;

"(E) contain assurances that such services will be provided in a comprehensive multidisciplinary and coordinated manner; and

"(F) contain any additional information as the Secretary may reasonably require.

"(d) USE OF FUNDS.—Funds received by an entity under this section part shall be used to improve the delivery of services to children whose parents are substance abusers. Such services may include—

"(1) the hiring of additional personnel by the entity to reduce caseloads;

"(2) the provision of additional training for personnel to improve their ability to provide emergency child protective services related to substance abuse by the parents of such children;

"(3) the provision of expanded services to deal with family crises created by substance abuse;

"(4) the recruitment of additional foster care famlies;

"(5) the recruitment of additional adoptive families; and

"(6) the establishment or improvement or coordination between the agency administering the grant and—

"(A) child protection and welfare organizations;

"(B) hospitals and health care providers;

"(C) public health and mental health professionals;

"(D) judicial and law enforcement officers;

"(E) child advocates;

"(F) public educational institutions;

"(G) community-based organizations that serve substance abusing parents, including pregnant and post-partum females and their infants;

"(H) public housing officials;

"(I) providers of shelter to abused and homeless females and families and

"(J) parents and representatives of parent groups.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $40,000,000 in fiscal year 1990, and such sums as may be necessary in each subsequent fiscal year.".

(b)(1) Section 402(A) of the Joint Resolution entitled "A Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes", (approved October 12, 1984, Public Law 98-473, 98 Stat. 2198, 42 U.S.C. 5116d) is amended—

(A) by inserting after paragraph (3), the following new paragraph:

"(4) parental substance abuse places children at great risk of abuse and neglect;"; and

(B) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8) respectively.

(2) Section 405(4)(A) of such Act (98 Stat. 2198, 42 U.S.C. 5116c) is amended by inserting "services to substance abusing parents, including pregnant and post-partum women," after "perinatal bonding,".

AMENDMENT NO. 869

At the appropriate place, insert the following new section:

SEC. . Title V of such Act is amended by inserting after section 508 (42 U.S.C. 290aa-6) the following new section:

"SEC. 508B. GRANTS FOR TRAINING OF DRUG TREATMENT PROFESSIONALS.

"(a) ESTABLISHMENT.—The Secretary shall establish a grant program to make grants to eligible institutions to enable such institutions to provide training services to increase the supply of drug treatment professionals.

"(b) ELIGIBLE INSTITUTIONS.—Institutions eligible to receive a grant under this section shall include medical schools, schools of osteopathy, school of nursing, schools of public health, school of chiropractic services, schools of social work, and other appropriate educational institutions that submit an application in accordance with subsection (c).

"(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible institution shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FISCAL YEAR 1990.—The Secretary shall use amounts appropriated under section 508 for the fiscal year ending September 30, 1990, to carry out this section in fiscal year 1990.

"(2) SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated to make grants under this section in each of the fiscal years 1991 and 1992, such sums as may be necessary.".

Mr. KENNEDY. Mr. President, I understand that there is a time limit of 20 minutes to be equally divided, so I will just yield myself 3 minutes.

The first amendment would bring assistance to a group that should have the highest national priority: pregnant drug abusers and their children.

Babies whose mother use illegal drugs are often born irreparably damaged—and the problem of pregnant drug abusers has reached epidemic proportions. According to Dr. Ira Chasnoff, the director of the National Association for Perinatal Addiction, Research, and Education, as many as 375,000 infants are born annually to mothers that use illegal drugs.

What is the impact on the child of prenatal drug use? According to Neal Halfon, director of the Center for the Vulnerable Child Ambulatory Services at the Children's Hospital in Oakland, CA:

Direct effects of perinatal drug exposure include: * * * premature delivery in twenty top forty per cent of cases, intrauterine growth retardation and reduced brain growth, anomalies and malformations of the heart and urinary tract, and strokes and cerebral infarctions. Associated risks include infection with HIV and other sexually transmitted diseases.

The National Center for Clinical Infants Programs found that—

Four facets of the babies' exposure to drugs deserve special mention. First if the sheer increase in the number of babies born in the United States who have been exposed to drugs in utero. * * * Second, HIV infection in young children is inextricably linked to drug use in adults. * * * Third, the explosion in the numbers of drug exposed babies and drug using parents is threatening to overwhelm already overtaxed foster care systems. * * * Finally, drug-exposed babies are being born in times that are difficult for mental health and social services programs.

Dr. Chasnoff adds to this sad litany the finding that such children have a high rate of prematurity and seizures and are at risk for congenital malformations and strokes and long-term developmental disabilities appear frequently.

The most important cost of drug abuse during pregnancy is the human tragedy it creates for both mother and child. But the financial cost to society is far from negligible. Dr. Chasnoff estimates that the additional medical costs of caring for cocaine affected infants at $60 million—just in the State of Illinois and just in the immediate post partum period.

The sad fact is that the tragedy of drug-affected babies is frequently avoidable—but only infrequently avoided. Dr. Chasnoff's program of comprehensive care for pregnant drug abusers costs only $7,000 per mother, but has an extremely good record of success in keeping mothers clean throughout the pregnancy and after. The key is the comprehensiveness of the program provided. There are other exemplary programs around the country, but they are few and far between. Indeed, one survey of hospitals found that two-thirds reported that they had no place to refer substance abusers for treatment.

This amendment will address this shameful and shortsighted lack of treatment opportunities directly. It will provide a new, $50 million program of grants to assist in the provision of comprehensive drug treatment, parenting, and social services to pregnant drug abusers and their babies. In addition, it will authorize the establishment of a national center to study this problem and help develop and disseminate solutions.

I am indebted to Senators KOHL, SIMON, and DODD for their contributions to this amendment. They have been working in this area for many months to document the need and develop solutions to the problem. Senator KOHL's July 31 hearing analyzed this subject in depth and helped bring the problem of drug addicted pregnant women to national attention. Senator DODD has long been a leading defender of children. Senator SIMON has been laboring in this vinyard since last year, when he proposed the current demonstration program for substance abusing women. All these Senators have made an immense contribution to designing this important new grant program and insisting that it be included in this bill. I also appreciate Senator HATCH's contribution to the development and acceptance of this amendment. Senator WILSON is the cosponsor of the amendment.

At a recent hearing chaired by Senator KOHL, a drug abusing mother who had been helped by one exceptional treatment program, the Family Center at Jefferson Medical College in Philadelphia, made this statement:

Drug addicted mothers love their children just like any other mother. I love my children. But it is not easy to stop using drugs.

This mother and her baby found the help they needed. But hundreds of thousands of women across this country can find no help—and they, their children, and society pay a heavy price for this lack of care. This amendment will bring hope and help to these women and their children.

The second admendment deals with providing help and assistance to the social service agencies that are dealing with the abused children that are a result of drug addiction. There are no more tragic victims of the drug epidemic than the abused and neglected children of drug addicts.

All over the country, child protective service agencies are overwhelmed by the demands created by the drug epidemic. This amendment responds to those needs.

It establishes a new, $40 million program of grants to assist agencies in areas that are especially hard hit by the drug amendment to cope with these problems.

All abused and neglected children have a special claim on the compassion and help of this Nation. This amendment provides the help the children of drug addicts need and deserve.

I would like to thank Senator DODD, in particular, for his contribution to the development of this amendment.

He is a tireless defender of children in a number of areas, and the drug crisis is no exception. This amendment is offered for myself, Mr. HATCH, Mr. WILSON, and Mr. BIDEN.

The final amendment deals with the training of drug treatment professionals. This amendment would provide essential troops for our Nation's war on drugs.

The Nation currently suffers from a serious shortage of drug treatment professionals, a shortage that can be expected to worsen as we expand badly needed treatment resources. This amendment establishes a new grant program to help establish and expand drug treatment training programs in our Nation's medical schools, schools of nursing, schools of social work, and other educational facilities.

I appreciate the assistance of Senator HATCH in developing this amendment.

This amendment is offered by myself, Mr. WILSON, Mr. HATCH, and Mr. BIDEN.

So I want to again express appreciation to all of our colleagues. These amendments have been worked out by Republican and Democrat. Especially, I want to thank the members of our committee who have been very much involved in both the amendments for pregnant women and child abuse. The latter has been an area of special need, special concern to our subcommittee under Senator DODD. I know Senator WILSON has been active both in the expectant mothers and child abuse areas.

With regard to training of drug abuse professionals, I see Senator ADAMS who has been active, and I want to thank Senator HATCH, who is our ranking minority member; in all of these areas, he has been extremely constructive and positive, not only in the fashioning and shaping of this amendment but in dealing with these problems in our committee.

I yield 3 minutes to the Senator from Connecticut and then whatever remaining time to Senator ADAMS.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I want to express my support for this amendment sponsored by Senators KENNEDY, KOHL, SIMON, HATCH, and myself to expand and improve critical drug prevention and treatment programs. I would also like to thank Senator BYRD and the other Senate negotiators who have worked so hard to ensure that additional Federal funds will be available next year to fund these and other new treatment initiatives, including the amendment before us.

As chairman of the Subcommittee on Children, Family, Drugs and Alcoholism, I have a particular interest in those provisions of the pending amendment which affect drug treatment for women and children, an area which must be addressed as our Nation escalates the war on drugs in America.

Without a doubt, the most tragic victims of the current drug crisis are also the most defenseless members of society—our children. An estimated 375,000 infants a year are born with traces of illicit drugs in their bloodstream. Many more are affected by their mothers' substance abuse some time during pregnancy. In New Haven, an estimated 10 percent of all newborns are exposed to drugs. Fetal alcohol syndrome continues to affect many children, and exposure to multiple drugs—alcohol, crack, heroin—is common. But a large part of this epidemic is due to infants exposed to cocaine.

Cocaine-exposed infants are at risk for a host of problems, including low birth-weight, prematurity, and neurological impairment. Many of these children spend their first few months struggling for life at the end of respirator and intravenous tubes. We are only beginning to guess at the long term effects on their development and the corresponding implications for our educational system.

The effects of drug exposure are compounded by the inadequate prenatal care the mothers receive. A recent study of cocaine-exposed infants in Connecticut found that only 6 percent of their mothers had anywhere near the recommended number of prenatal care visits. Not surprisingly, few had received drug treatment services either. In parts of New Haven, more than 15 percent of all births are to women who obtained no prenatal care or received care late in their pregnancy. Most of these women, by the way, are drug abusers.

Research has shown that providing prenatal care and stopping cocaine abuse early in a pregnancy significantly reduce the infant's risk of complications. One study suggests that this is the ideal time to intervene, as women may be motivated by their pregnancy and the prospects of child-rearing responsibilities. Yet, we do not reach out to ensure these women receive the care they need. Only a handful of programs are available to provide treatment and support to pregnant addicts. Even fewer have residential facilities where a woman can live with her children while receiving treatment. Many women may not seek treatment and vital prenatal care because they meet with misunderstanding in the doctor's office or they are afraid of losing their children to foster care.

The risk to children does not end at the neonatal ward. We have all read newspaper accounts of small children found in crack house raids. In my own State of Connecticut, I have heard from social workers, educators, and pediatricians who tell of children coming to school dirty and hungry because their parents do not see to their basic needs; children who are badly injured or even killed by parents on drugs; children 10 and 11 years old who are so accustomed to being rejected that they no longer ask for help. They turn to dealing drugs to buy their own food and clothes instead.

Child welfare agencies in many cities around the country are overwhelmed by drug-related cases of abuse and neglect. Frequently, their choices are to remove the child from the home—often with no satisfactory foster home waiting—or to leave the child in the home and hope for the best. These are choices, frankly, we cannot afford for our children.

Senator KOHL, and particularly I want to thank him and his staff, sponsored a provision, along with Senators KENNEDY, HATCH, SIMON, and myself now part of the Democratic initiative before the Senate, to amend the Child Abuse Prevention and Treatment Act to better help child abuse agencies cope with exploding caseloads due to drug abuse.

Under this initiative, agencies receiving grants could hire more workers to reduce their caseloads. They could train their staff to work with families where substance abuse is present. They could recruit more foster parents to care for children who must be removed from their homes. And they could recruit adoptive families where no hope exists for keeping the family together. Finally, these agencies could promote coordination among the organizations that affect these children and their families—health care providers, the courts, schools, community organizations serving substance abusing parents, and housing authorities. These people and organizations must work together if we are to protect our children and address substance abuse as a family problem.

Another vitally important aspect of this initiative is the establishment of a national clearinghouse for information on treatment programs for pregnant, addicted women. The treatment of crack addiction is an emerging field. The capability of sharing information and matching resources to the needs of these women in a timely manner is particularly critical for this population of substance abusers. I am pleased to see that an organized national effort is underway.

Although perinatal addiction is on the rise in this country, there is at present a dearth of comprehensive treatment facilities. This initiative will direct that 40 percent of the new grant program funds in the Office of Substance Abuse Prevention [OSAP] be for the establishment and expansion of full continuum treatment services for addicted women and their affected children.

Mr. President, I urge the adoption of the amendment.

I thank specifically the staff who worked hard: Patty Cole, from my office; Sherry Hayes, along with Marsha Renwanz, from Senator KOHL's office; David Nexon and Mary Jeka from Senator KENNEDY's office; Vicky Otten from Senator SIMON's office; Nancy Taylor from Senator HATCH's office; and Paul Bland from Senator BIDEN's office. They did an excellent job and we thank them for their assistance in drafting this language.

The PRESIDING OFFICER. Who yields time?

Mr. ADAMS. Mr. President, I ask the time be extended by Senator KENNEDY for 30 additional seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ADAMS Mr. President, I just rise in strong support of this amendment. The work that has been done is very, very important. In my home city of Seattle as you visit the abused children that resulted from this crack epidemic we know that prevention treatment and research into the basics of this are as important as law enforcement.

I support the amendment and I am very pleased we are here today passing it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from California is recognized.

Mr. WILSON. Mr. President, I ask unanimous consent as acting manager I be permitted to allocate the time on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILSON. Mr. President, I will allocate myself 10 minutes for such time I may require.

Mr. President, this is going to be, I think, a very useful piece of legislation to agencies throughout the country who have been somewhat ahead of their time but not ahead of need, ahead of public recognition but decidedly not ahead of need been dealing with the problem of child abuse through the umbilical cord which is to say the problem of pregnant women abusing substances, alcohol to exess and dangerous drugs.

We do not need, I think, any further elaboration of the seriousness of that practice. It can lead to tragic results. It can lead to not only the innocent addiction of the newborns themselves but producing in them a virtual guarantee they will go through life without a decent break.

The problem has been that we have frankly been unable to offer to those in need of help seeking to clean themselves of this habit before or early in their pregnancy the kind of outreach, the kind of educational and treatment opportunities that would offer them some realistic hope of avoiding injury.

If that sounds strange to people who are listening, they need to understand that with a substance as fiercely addictive as crack it is not an easy thing for the addict to overcome the addition. In fact, it is very, very difficult if not impossible to do it without assistance.

It is for that reason essentially that if we are to be realistic about preventing a recurrence of the birth of children with addiction and all of the consequences that flow from it, the mental retardation, the possible physical deformities, the emotional dysfunction, then there has to be aggressive outreach and the ability across the land to provide rehabilitation and rehabiliation of all kinds.

We have to be able to deal with the situation of the young mother who discovers that she is in fact to be a mother who while using drugs learns that she is pregnant and decides rightly and properly and with some courage that she will go and seek treatment. There clearly must be an opportunity for her to find treatment to engage in the kind of rehabilitation that is necessary to minimize the damage to her child as well as to herself, and it will not be an easy thing for many to do so.

There is ample testimony in the hearings before the Government Affairs Committee where we heard eloquent testimony from users who had undergone residential round the clock rehabilitation for a period of 14 to 18 months. We heard from those in Philadelphia. We heard from those from Oakland and indeed the testimony of one of the recipients of assistance of that kind of the Mandella House in Oakland was that though very strong she could not have cured herself. She needed the kind of help that she found in that supportive setting away from the temptation that lurked outside the very doors of Mandella House, a residential rehabilitation facility for only 6 women.

Mr. President, that kind of care is expensive. It is not nearly so expensive as the failure to provide it because this woman and many like her, like the pathetic Cheryl, who was the focal point of a front page story in the Wall Street Journal some 2 months ago, have without this kind of help produced one addicted child after another; in Cheryl's case seven.

It is not an easy thing to beat this addiction. Help is required, and under this legislation there will be help provided for those who are strong enough to come early in their pregnancy and seek the treatment that they need.

There will also be treatment for those who are not strong enough to come and seek it voluntarily but who are referred by a public agency, by a court, by the Child Protective Services, by a district attorney, and that has already happened across the land, and it seems to be increasingly the trend. The reason is that of the difficulty of cure. It does require help even with an established success like the Phoenix House where they are a achieving a success rate of about 75 percent with people who have been there for 18 months in an around the clock residential setting. It is very difficult, very difficult, I have been told by women who have given birth to these children for them to break the habit without a great deal of support and a great deal of care.

So I thank the sponsor of the amendment, my friend from Massachusetts, for accepting an amendment which I do not have to offer which in fact will lead to providing both inpatient and outpatient care both for voluntary referral, self-referral and for those who are referred by a public agency.

Mr. President, we are making a beginning. This money which is more than a tenfold increase over what we have thus far authorized and actually spent for this purpose is only a beginning and I will repeat to you that it will be necessary for us to spend this money if we are not to spend much more and if we are to avoid the incalculable misery that will otherwise be visited upon innocent children.

The clearing house of which Senator KENNEDY spoke is a highly desirable opportunity for us to make known to those throughout the land the success stories that have occurred in other places. It will be an opportunity for the sharing of information so that a great deal of time can be saved. But what we have done here, in short, is to encourage to the maximum extent the seeking of prenatal care which I must say is a bargain in terms of what it avoids. We are also encouraging to the maximum extent the seeking of rehabilitation as early as possible and to the extent that it is required in the event of those who are not strong enough there will be in some cases by referral of public agencies mandatory rehabilitation.

Let me say an explicit word on that point. There are some who are concerned that rehabilitation not be mandatory, that instead come about only as result of being sought voluntarily by the recipient. I mentioned earlier the success of Phoenix House. It has become a prototype for many other like establishments. The founder of that institution, Dr. Mitch Rosenthal has been very clearly on record as stating do not let anybody tell you that those who are bought to rehabilitation cannot success in becoming rehabilitated. To the contrary many who did not seek it have benefited from it and we do have to be realistic and understand the difficulty often taking that

first step to seek treatment. Many will not. Many will in fact be referred against their will to the kind of treatment which in fact will benefit not only them but far more importantly prevent the recurrence of the tragedy of innocent addicts and of lifelong affliction.

Mr. President, this is a good beginning, but it is only a beginning. If you consider what it cost per day per recipient of rehabilitation, if you consider that a thousand plus addicted children are being born across the United States every day, we are looking at major, major costs.

I repeat: Far better that we come to an understanding of what is necessary in a preventive way than to face the virtual certainty that thereafter, for failure to prevent, we are compelled to engage in far more expensive, far less humane and far less probable of success measures that are remedial.

This is an effort at prevention. It is humane. It is cost effective. It is the right way to proceed.

Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from California has 18 seconds remaining.

Mr. WILSON. I reserve those 18 seconds.

The PRESIDING OFFICER. The Senator from Massachusetts has 2 minutes remaining.

Mr. KENNEDY. I yield the remainder of my time to the Senator from Delaware.

Mr. BIDEN. I thank the Senator for yielding and I thank him, by the way, for his leadership on this issue. I do not know as much of the detail about the program as the Senator from Massachusetts does, but I would like to make one observation.

I think the Senator from California just made a compelling case. He points out the cost to help these women is significant but the cost in failing to help is considerably more.

That is why I want to once again rise and make the point: Many of us disagree with the President's strategy. There are 375,000 women per year—375,000 women per year—that fall in the category the Senator from California and the Senator from Massachusetts are speaking to. And with all the money that we are adding to this bill, all the money that the President initially opposed, if every single woman voluntarily marched in and said "I want treatment," we would not be able to treat as many as 50,000 of them. But I am sure the Senator from California joins me in pointing out that the President's program is inadequate.

We heard today the Senator from Wyoming standing on the floor saying he had not heard anybody disagree with the goals of the administration. We have a fundamental disagreement. This is one small step, to steal a phrase from another circumstance—I want it noted I acknowledged that—one small step but many more have to be taken. And that is why I hope when we are back here in a supplemental, if we are, we will have the help from the Senator from California and other Republicans who feel strongly about this to help the President do the job we know must be done.

We cannot even talk about coercive treatment for these women. There are 50,000 out there with their hands raised now saying "I need help," and we cannot help them. And there is another 300,000 that we have to get to.

So I am going to keep reiterating, I am going to sound like a broken record over the next days, weeks, months, and year. We must deal with this straight up. We made a small incremental gain here in helping these women thanks to the help of the Kennedy amendment and others. But there is a lot of distance to go. This, at most, will get the 50,000 of the 350,000 women out there who need help.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. May I have some time?

Mr. WILSON. Mr. President, I yield to the Senator from Utah 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, as I understand we have effectively exhausted the time on the amendments. I have certainly no objection to the Senator from Utah having 5 minutes. Maybe we might have 10 minutes evenly divided. I do not expect to use up that time but there are others who are cosponsors who want to speak.

The PRESIDING OFFICER. Is there objection?

Mr. WILSON. Mr. President, let me direct an inquiry to the Chair. My understanding was that there were 40 minutes equally divided.

The PRESIDING OFFICER. There were 20 minutes equally divided and the Senator from California has only 17 seconds remaining.

Mr. WILSON. Twenty minutes equally divided?

The PRESIDING OFFICER. That is correct.

Mr. WILSON. I had the understanding it was 40 equally divided. I join the Senator form Massachusetts in seeking additional time because it was my understanding that we had double the time that apparently was allotted.

I ask that the Senator from Massachusetts or that the majority be granted an additional 10 minutes and the minority be granted an additional 10 minutes.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

Mr. HATCH. Mr. President, I am pleased to rise in support of the Kennedy-Wilson-Hatch amendment. This amendment expands services to pregnant women who abuse drugs and to their babies, as well, who suffer as a result of this drug abuse.

This legislation targets additional child abuse service for children who are victims of abuse by parents who are addicted to drugs. This amendment authorizes programs to train substance abuse professionals. In that regard, I want to compliment my distinguished colleague and friend from Massachusetts for always being at the forefront, the vanguard, of this type of issue and for having such great concern. It is a pleasure to work with him. We work on these issues in a very bipartisan way.

I think it is safe to say that both of us have been proud to do so and have been stimulated by the work of the distinguished Senator from California, who I think deserves a great deal of praise with regard to this amendment and so many other things as he serves here in the U.S. Senate.

But I am pleased to join my distinguished colleague from Massachusetts and again express my appreciation to him personally for being able to always work out the difficulties that we have on these public health issues that are in the best interests of the people at large.

One of the great tragedies of the drug epidemic is the effect on the children delivered by women who use illegal drugs. Our understanding of the impact of the cocaine and the crack epidemic is currently where we were in the early seventies with the fetal alcohol syndrome. Preliminary studies suggest that cocaine-addicted mothers are more likely to:

One, lose their fetuses or have smaller, less healthy babies;

Two, the baby is more likely to have permanent brain damage, retarded growth, abnormalities of the urinary organs, seizures, and neurological problems;

Three, the baby has low birthweight, is shorter in length, and has a smaller head circumference; and

Four, the baby is frequently left in the hospital as a boarder baby by their addicted mother.

There are currently 375,000 or 1 in 10 babies born in the United States each year to mothers who abuse drugs of one kind or another. In addition to the physical problems associated with children born to mothers who are using drugs, there are additional public health issues associated with this population. It has a higher incidence of sexually transmitted diseases than among the non-drug-using population; that is, the rate for gonorrhea is 36 percent among crack users versus 6 percent among a control group. In addition, they are at a greater risk of HIV infection through increased promiscuity and intravenous drug use.

I am pleased to note that we have agreed to set aside funds to assist pregnant women who are using illegal drugs. This is just the beginning of addressing this problem, but it is a very auspicious beginning.

According to OSAP, many drug treatment programs refuse to treat women who are pregnant. Also, many maternal health care clinics are not prepared to treat women with alcohol and drug problems. In addition, it is difficult to get the abusing women to come into the clinic and retain them after they are identified. Today we have taken the first step toward addressing these problems.

So I want to thank my distinguished colleagues, Senator KENNEDY, Senator WILSON, Senator KOHL, Senator DOLE, Senator DODD, and others and their various staff members who have contributed so much to seeing that this legislation has this very important add-on that will make it even better legislation.

I think the President, it is safe to say, will be very pleased with this amendment and I am proud of being part of putting it together and again thank my colleagues for having done so.

I yield the floor and yield back whatever time I have remaining.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I am prepared to yield back the time, but I will yield 30 seconds to the Senator from Delaware.

Mr. BIDEN. Mr. President, I compliment the minority and majority on this. I played no part on this, I want the record to show, but I am glad to be able to be here and witness the changes taking place.

I want to compliment the Senator from Utah. I am not being facetious when I say it is reassuring to know the President would support this and I hope we are going to be able to do something about the other 300,000 pregnant women who are out there. I am confident working with the Senator from Utah and the leadership of the Senator from Massachusetts we will be able to make some progress.

Mr. HATCH. Will the Senator yield?

Mr. BIDEN. I yield.

Mr. HATCH. I would certainly like to compliment my distinguished colleague, the chairman of the Judiciary Committee, for the work he has done trying to put together this bipartisan agreement. So many people have worked on this. I know at all times he has been concerned about the feelings of the distinguished chairman of the Labor and Human Resources Committee and myself as the ranking minority member and in this case equally the distinguished Senator from California. I want to compliment him and thank him for his help in this matter.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from California.

Mr. WILSON. Mr. President, first I want to thank the Senator from Utah for his very generous comment. Second, I would say to my friend, the distinguished chairman of the Judiciary Committee, this document, with which I am sure he is well familiar, "National Drug Strategy," there is indeed Presidential support. It is especially aimed at trying to deal with this most frightening aspect of the problem.

I will have to agree, I think neither the Congress nor the administration yet has fully come to grips with it. We will, because we will have no choice.

Mr. President, let me say I am grateful, too, that the legislation I introduced earlier, S. 1444, Child Abuse During Pregnancy Prevention Act, is largely contained in this Kennedy-Wilson-Hatch amendment. We are seeking to provide to the pregnant woman all of the assistance that she will, in fact, require in order to change a lifestyle, and literally to change the life of the child that she will bring into the world.

Our purpose is not just to prevent tragedy. Our purpose is, in fact, to deal with the reality that in terms of these costs, in this case not an ounce of prevention, but let us say at $50 a day, we are going to prevent far more expensive neonatal intensive care, not to mention all of the costs in special education, all of the costs that are associated through life which, in my State, on average work out to be about $134,000 per year.

The fact of the matter is for every one of these children in whom we can prevent suffering, innocent addiction from birth, and all the afflictions that may flow from that condition, we will find we are able to provide the funding for the rehabilitation of three to four pregnant women. That is a pretty good cost-benefit ratio.

Let me conclude by saying I think this is a good beginning. I commend those who have been involved, the chairman and ranking members of Health-Labor-HHS. When we revisit it, as inevitably we must, it will be with additional information, hopefully gained by that time.

It will be with the understanding, I think, because of the comparative basis provided, as grants are awarded for inpatient and outpatient care as we are able to determine the success of voluntary seekers and those who are referred by public agency, we will have a basis for knowing what really works.

Mr. President, I am happy to yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I yield to my colleague.

Mr. BIDEN. Mr. President, I am going to be a broken record on this. The President's rhetoric supports this. His actions do not support this. The funding to do the job the President states he wishes to do is not provided for nor suggested by the President. The rhetoric is there. The substance is not there. This goes an additional step toward providing that substance.

Mr. HATCH. Mr. President, may I add 30 seconds more?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I do not want to disagree with my distinguished friend from Delaware, but let me just say something. The President wanted a $35 million increase for OSAP which is targeted primarily to pregnant women, and he got it. Maybe the distinguished Senator from Delaware would like even more above that, which is not unusual around here. But the President has argued pretty forcefully and vociferously for these types of treatment.

That does not mean we in a bipartisan way cannot improve upon this bill, which is what this does. And I give the distinguished Senator from Delaware great credit, along with the others I mentioned, for helping to bring that about. But I think we ought to be careful about being too critical of the President.

First of all, he has come up with this plan that almost everybody admits is a good, broad, comprehensive plan. I guess anybody can argue you can always put more money on everything, but he decided to go with it. He understands that we are going to try to improve it up here.

I suspect he will support this strongly. I think his heart is with us, and I personally want to correct the RECORD to make sure nobody takes shots at the President that are unjustified under the circumstances.

Mr. KOHL. Mr. President, we wish to engage in a short colloquy with the distinguished chairman of the Labor-HHS Appropriations Subcommittee, Senator HARKIN. Now that we have completed a vote authorizing several new programs and modifying others with respect to parental substance abuse and children at risk, we would like to visit the issue of appropriations. Given the crisis before us, it is imperative that we fund these programs. We congratulate our distinguished colleague from Iowa for his attention to this.

Mr. KENNEDY. It is our understanding that under the leadership package we have just enacted, $45 million is dedicated to the Office for Substance Abuse Prevention [OSAP]. Of this additional funding for OSAP, $25 million is earmarked—at a minimum—for the Model Projects for Pregnant and Postpartum Women Program. Is that correct?

Mr. HARKIN. The Senators are correct. And, $15 million of the original

$57.8 million from the Committee recommendation for OSAP will also be targeted for this program. I can therefore assure my good friends that $40 million at a minimum will be earmarked for this population.

Mr. KOHL. We thank our distinguished colleague and also draw his attention to the child abuse initiatives in this package.

Mr. HARKIN. I thank my colleagues and share their concern over the countless children at risk of abuse and neglect due to parental substance abuse.

Mr. KOHL. Mr. President, I appreciate the good faith efforts that have been made by both sides to strike a compromise on the amendment dealing with pregnant, substance-abusing women. I want to especially thank my colleague from California for his perseverance and patience in our discussions earlier today. It is clear that he is deeply committed to doing everything that he can to address the crisis posed by cocaine and crack use by pregnant women.

In an effort to keep the leadership package together, and with the help and support of Senators KENNEDY and HATCH we have hopefully struck a balance to address the concerns of the Senator from California with regard to the availability of mandatory treatment.

The language contained in the compromise amendment explicitly clarifies that grant applications for programs that involve mandatory treatment in compliance with State laws shall not be subject to discrimination on the basis of that type of treatment. At the same time, those programs are required to fulfill the comprehensive requirements laid out in the amendment and are subject to the same peer review and standards of quality as are the competing grants.

In the July 31 hearing held by the Senate Governmental Affairs Committee, numerous reservations and concerns were expressed by several witnesses about the efficacy and potential effectiveness of mandatory treatment programs.

Teresa Hagan, supervisor of clinical services at the Family Center in Philadelphia operates a comprehensive program that includes outpatient and residential care serving individuals on both a voluntary and mandatory basis. She testified that those individuals who are mandated to treatment, "* * * are very resentful about the fact that they have been mandated. They are not ready. * * * Those individuals who are not highly motivated, sir, to be honest, are not going to have good outcomes. And there is no magic in this. There is no magical way that anybody in the treatment system is going to be able to have a good outcome for someone who simply is not ready to face the challenges that confront them."

Molly McNulty, National Health Law Program, Inc., writes:

> Punitive sanctions probably would be ineffective, if not downright counterproductive. In the States that have attempted to criminally punish women for harmful behavior during pregnancy, or which have policies of automatically depriving women of their newborn babies, reports abound of frightened women who refuse to come into treatment for fear that they will lose their children, their liberty, or both. If the goal of legislative attention is to prevent birth defects and to halt maternal drug use, the sole way to achieve that end is to provide treatment and education for needy women.

In a letter concerning the bill proposed by our colleague from California, representatives from the National Council on Alcoholism write:

> These punitive sanctions * * * will serve to discourage alcoholic and drug addicted women from seeking either prenatal care or help with their drug program for fear of criminal prosecution.

Clearly reflected in the statements above, is a concern that promising pregnant women help on the one hand—while threatening them with jail sentences on the other—may not be the best way to encourage people to seek treatment.

My other concern is that we are trying to fix something that is not broken, Mr. President. The bill before us expands the money which can be spent on programs which help substance abusing women and their children. There is nothing in present law which discriminates against States or programs which require mandatory treatment. It is my understanding that there is not a program receiving funding which does not accept women referred to them by judges.

It is my understanding of this proposal, Mr. President, that what we are doing there today, and all that we are doing here today, is to maintain those programs' access to these vitally needed funds. This Senator is not endorsing the validity of mandatory treatment. By adopting this language, the Senate is not sanctioning mandatory treatment as a effective means of drug intervention. All we are saying is that programs that are functioning in compliance with existing State laws shall not be discriminated against as a result of those State laws. And that such programs shall not be given preferential treatment, but rather shall compete, under a strict review process, with all other grant applicants.

In evaluating grant proposals involving mandatory treatment, the Director should consider the comparative quality of the proposals submitted for funding; the probable impact of mandatory treatment requirements on the utilization of such programs by pregnant and postpartum substance abusing women in a given geographic area served by the proposed grant and the available scientific evidence of the impact of mandatory treatment requirements on the effectiveness of such programs.

These considerations should apply to the consideration of all grants and it is with this understanding that I reluctantly support the added language.

It is my sincere hope that the Senate will be able to more seriously and thoughtfully address this issue and that we might somehow address the difficult issues surrounding such treatment programs in the near future.

Mr. SIMON. Mr. President, I rise to support this amendment to expand Federal support for programs reaching out to substance abusing pregnant women and their children. I applaud all those who have worked so hard, spurred on by the compassion and commitment of my colleague from Wisconsin, Senator KOHL, to develop a program that makes sense, a program that will really begin to address the tragedy of substance abusing pregnant women and what happens to the children of these women.

Last year, for the first time, we in Congress recognized the uniqueness of this population. This year, we go a step further in recognizing the interrelationship between the issue of drug abuse and other problems—poverty, lack of adequate health care, lack of education or job skills. We must address all of these issues together if we are going to begin to break the horribly destructive cycle of addictions. The new categorical grant program included for substances abusing women and their children does exactly that in allowing for a mix of treatment options, prenatal and postnatal care, after care services, and support services like child care, transportation, education, and job training assistance. We can make a difference, with this level of money and a comprehensive approach to these women and their children.

We have also included money to establish a national resource center on perinatal addiction. There is greater and greater demand for a central source of information on how to train professionals to not only detect substance abuse in women but to work with these women, information on what kinds of treatment programs work, what type of treatment programs are available, Federal and State grants that might be available, laws and programs that have an effect on this population. Those dealing with this problem in their communities and in their States are desperately seeking advice and guidance and the designation of a national resource center would help make this an easier task.

Mr. President, in recent weeks, two different studies were released that fly in the face of earlier assumptions

about substance abusing pregnant women and their children who are born addicted. The results of both of these studies make the need for additional resources and creative, coordinated approaches to the problems of substance abusing women and their children even more compelling.

The National Association for Perinatal Addiction Research and Education [NAPARE], a Chicago-based organization that has been in the forefront of efforts to reach out to this special population, has been involved in two studies looking at different aspects of the problem.

The first study is really the first follow up study of children exposed to drugs prior to birth. My office has heard from Head Start workers in Illinois who are seeing these children in early childhood education programs for the first time—the country's first generation of cocaine babies are about to enter school. NAPARE's intensive study of these children found that, unlike other children who were exposed to other drugs during pregnancy, babies exposed to cocaine and to crack do not appear to catch up with their peers over time. In fact the NAPARE study showed that by age 2, children exposed to crack and cocaine tended to have smaller heads, which may be directly related to long-term development problems, can't concentrate, become easily distracted and frustrated with slightly complex tasks, lack basic socializing skills and the ability to interact with either peers or adults. Talking with people in Illinois, it is becoming clear that the problems of these children are different enough that our present system of special education may not be equipped to reach out to this special population. The good news is that these children are not brain damaged and the vast majority are within the normal intelligence range. They can and must be brought into the education system—it will most likely take some new and creative approaches to working with those with developmental disabilities.

The second study looked at drug usage among 715 women in Pinellas County, FL, in both public and private obstetric care in the county.

In conjunction with a Florida based drug treatment program, Operation PAR, researchers conducted blind urine tests on every woman enrolled in prenatal classes at five Pinellas County public hospitals and every woman enrolled in similar care at 12 private obstetric practices between January 1 and June 30 of this year. According to Dr. Ira Chasnoff, president of NAPARE and director of a treatment program for substance abusing pregnant women and their babies at Northwestern Memorial Hospital in Chicago, Pinellas County was chosen because it approximates many other American States and communities—with both an urban and rural population, and a good racial and ethnic mix as well.

The researchers found a slightly higher rate of drug use among white women (15.4 percent) as compared to that among black women (14.1 percent). Marijuana was the drug most used, with white women having a higher rate of marijuana use (14.4 percent for white women as compared to 6 percent for black women) and the reverse for cocaine (7.5 percent cocaine use during pregnancy for black women as compared to 1.8 percent for white women). Perhaps the most startling result of the study was the difference in reporting rates for child abuse (Florida has a mandatory reporting law): Minority women who used drugs or alcohol during pregnancy were 10 times more likely to be reported to child abuse authorities than white women.

Mr. President, I know that some view efforts to criminalize the problem of substance abusing women as one of several options we as a Nation, and individual States should be pursuing. It is my strong belief that this is the wrong way to go—we do nothing to move these women away from their destructive addictions and back into lives that allow them to care for themselves and their children. In those areas where there is mandatory treatment—involuntary placement in a treatment program, which may or may not be appropriate for the individual or mandatory incarceration—we are already beginning to see that women will not receive prenatal health care. As long as women are keeping themselves out of the health care system there is not a hope that professionals—doctors, nurses, social workers, educators, job training specialists, and so forth—can reach out to these women and help them break the cycle. And the Pinellas County study shows that, while there appears to be a fairly comparable rate of usage among white and minority women and among poor women and middle class and wealthy women, mandatory reporting, treatment and incarceration will involve a much higher rate of poor and minority women.

Again, I applaud all who have worked on this series of initiatives to reach out in a comprehensive, nonpunitive manner to bring these women into a health care system that cannot only help take them through a pregnancy drug-free, but also provide the additional services that will allow these woment to become independent of drugs and, ultimately, of the Government and take care of themselves and their families. Let us not lose another generation of Americans to drugs and let us use all the resources we can garner to bring those currently dependent on drugs back into society.

Mr. BRADLEY. Mr. President, I rise as a cosponsor of this amendment offered by my colleague from Massachusetts [Mr. KENNEDY] to authorize $40 million for a vital new program to coordinate care for drug-addicted pregnant women and their infants. Making sure these women and infants receive the social and health care services they need is absolutely critical if we are to make any headway in getting these women off drugs. The emphasis of this amendment is appropriately on the coordination of services because we know that without addressing the many needs of this population, any one treatment program or service is unlikely to succeed.

For several years now I have worked in Congress to help make medicaid health care services available for more poor pregnant women and infants. I think policymakers as a whole have recognized the importance of prenatal care and its link to successful births. The National Commission to Prevent Infant Mortality has helped educate the public about the problem of infant mortality and the fact that the United States ranks behind 18 other industrialized countries in its infant death rate. Many of us in Congress continue to work to improve the availability of prenatal care for all pregnant women and primary care for children. But we know that for many poor families adequate health care is only a part of the solution; this is especially true for drug-addicted pregnant women.

Our efforts to decrease the U.S. rate of infant mortality will not fully succeed unless we address the problem of drug addiction. A recent survey of hospitals showed that 11 percent of all pregnant women use illicit drugs. One expert estimated that 75 percent of these women are using either cocaine or crack—the most difficult addiction to treat. As many as 375,000 infants each year may be affected and, for those who are, the effects are heartbreaking.

Babies born to drug-addicted women are much more likely to be born prematurely or at low birth weight, which dramatically raises the risk of infant mortality. Those who survive often have serious medical and developmental problems. Many are addicted to their mother's drug and suffer from withdrawal.

The economic and social costs are enormous. Hospital treatment for these babies in neonatal intensive care units can be as much as $1,768 a day. And some of these babies stay hospitalized for months. Just recently the Washington Post exposed this city's "boarder baby" problem. Many hospitals are having to rear the babies of drug-addicted mothers because, after providing the intensive care treatment the babies need, their mothers never return to bring them home. The prob-

lem is burdening the health care system and overwhelming foster care services.

Mr. President, we must make sure that comprehensive treatment programs are available to drug-addicted pregnant women and infants. We must get these women off drugs, for the sake of their babies, their families, and themselves.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. It is the understanding of the Chair that all time has been yielded back.

If there be no further debate, the question is on agreeing to the amendments of the Senator from Massachusetts.

The amendments (Nos. 867, 868, and 869) were agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. WILSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senate Republican leader.

Mr. DOLE. Mr. President, I think under the order the Republican leader can designate a Member to offer an amendment. I designate Senator GRAMM for the drug-free school amendment.

I think we can get a time agreement; 10 minutes equally divided? Is that agreeable to the Senator from Delaware?

Mr. BIDEN. Mr. President, that is fine.

Mr. DOLE. Oh, there are second degrees?

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Senator HOLLINGS and I have a second-degree amendment. We would take maybe 3 minutes if the Senator wants to incorporate that; 3 minutes to a side.

Mr. DOLE. Senator MITCHELL is coming right in.

Mr. COATS. Mr. President, I also have a second-degree, but 10 minutes equally divided on each side is sufficient.

The PRESIDING OFFICER. Without objection, it is so ordered. Ten minutes equally divided on this amendment.

The Senator from Texas is recognized.

AMENDMENT NO. 870

(Purpose: To require Drug-Free School plans)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 870.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. .DRUG-FREE SCHOOLS AND CAMPUSES.

(a)(1) Title XII of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended by adding at the end thereof a new section 1212 to read as follows:

"DRUG AND ALCOHOL ABUSE PREVENTION

"SEC. 1212. (a) Notwithstanding any other provisions of law, no institution of higher education shall be eligible to receive funds or any other form of financial assistance under any Federal program, including participation in any Federally funded or guaranteed student loan program, unless it certifies to the Secretary that it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that, at a minimum, includes—

"(1) the annual distribution to each student and employee of—

"(A) standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities;

"(B) a description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;

"(C) a description of the health risks associated with the use of illicit drugs and the abuse of alcohol;

"(D) a description of any drug or alcohol counseling, treatment, or rehabilitation programs that are available to employees or students; and

"(E) a clear statement that the institution will impose sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct required by paragraph (1)(A); and

"(2) a biennial review by the institution of its program to—

"(A) determine its effectiveness and implement changes to the program if they are needed; and

"(B) ensure that the sanctions required by paragraph (1)(E) are consistently enforced.

"(b) Each institution of higher education that provides the certification required by subsection (a) shall, upon request, make available to the Secretary and to the public a copy of each item required by subsection (a)(1) as well as the results of the biennial review required by subsection (a)(2).

"(c)(1) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

"(A) the periodic review of a representative sample of programs required by subsection (a); and

"(B) sanctions, up to and including the termination of any form of financial assistance, for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions.

"(2) The sanctions required by subsection (a)(1)(E) may include the completion of an appropriate rehabilitation program.".

(2) The provisions of paragraph (1) shall take effect on October 1, 1990.

(b)(1) Part D of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.) is amended by adding at the end thereof a new section 5145 to read as follows:

"CERTIFICATION OF DRUG AND ALCOHOL ABUSE PREVENTION PROGRAMS

"SEC. 5145. (a) Notwithstanding any other provisions of law, no local educational agency shall be eligible to receive funds or any other form of financial assistance under any Federal program unless it certifies to the State educational agency that it has adopted and has implemented a program to prevent the use of illicit drugs and alcohol by students or employees that, at a minimum, includes—

"(1) mandatory, age-appropriate, developmentally based drug and alcohol education and prevention programs (which address the legal, social, and health consequences of drug and alcohol use and which provide information about effective techniques for resisting peer pressure to use illicit drugs or alcohol) for students in all grades of the schools operated or served by the applicant, from early childhood level through grade 12;

"(2) conveying to students that the use of illicit drugs and alcohol is wrong and harmful;

"(3) standards of conduct that are applicable to students and employees in all the applicant's schools and that clearly prohibit, at a minimum, the possession, use, or distribution of illicit drugs and alcohol by students and employees on school premises or as part of any of its activities;

"(4) a clear statement that sanctions (consistent with local, State, and Federal law), up to and including expulsion or termination of employment and referral for prosecution, will be imposed on students and employees who violate the standards of conduct required by paragraph (3) and a description of those sanctions;

"(5) information about any available drug and alcohol counseling and rehabilitation programs that are available to students and employees;

"(6) a requirement that parents, students, and employees be given a copy of the standards of conduct required by paragraph (3) and the statement of sanctions required by paragraph (4);

"(7) notifying parents, students, and employees that compliance with the standards of conduct required by paragraph (3) is mandatory; and

"(8) a biennial review by the applicant of its program to—

"(I) determine its effectiveness and implement changes to the program if they are needed; and

"(II) ensure that the sanctions required by paragraph (4) are consistently enforced.

"(b) Each local educational agency that provides the certification required by subsection (a) shall, upon request, make available to the Secretary, the State educational agency, and to the public full information about the elements of its program required by subsection (a), including the results of its biennial review.

"(c) Each State educational agency shall certify to the Secretary that it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by its students and employees that is consistent with the program required by subsection (a) of this section. The State edu-

cational agency shall, upon request, make available to the Secretary and to the public full information about the elements of its program.

"(d)(1) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

"(A) the periodic review by State educational agencies of a representative sample of programs required by subsection (a); and

"(B) sanctions, up to and including the termination of any form of financial assistance, for local educational agencies that fail to implement their programs or to consistently enforce their sanctions.

"(2) The sanctions required by subsection (a)(1)(4) may include the completion of an appropriate rehabilitation program.".

(2) The Drug-Free Schools and Communities Act of 1986 is further amended in section 5126(c)(2) by—

(A) striking out subparagraph (E), (F), and (G); and

(B) redesignating subparagraphs (H) through (M) as subparagraphs (E) through (J), respectively—

(3) The provisions of paragraphs (1) and (2) shall take effect on October 1, 1990.

Mr. GRAMM. Mr. President, this amendment is the President's amendment. This amendment is the result of the work of Secretary Bennett, the Department of Education, the administration, and those of us who have worked to help put this package together.

This is an accountability package. We are on the verge of providing tremendous assistance and increases in that assistance, to try to provide for drug-free schools.

I submit there is no more fundamental an area to attack the drug problem than in our schools.

I taught for 12 years and I can assure my colleagues, teaching is hard under the best of circumstances. It has to be impossible when people are using illegal drugs or using illegal alcohol.

The objective of this amendment is to have some accountability standards to go along with the money. The amendment is very simple. It establishes a policy of having zero tolerance in our colleges and universities, and in our school systems. It sets out standards that have to be met by those school systems, those colleges and universities that want to have public funding.

It establishes a procedure whereby they have to set out a policy that can include up to and in fact include expulsion of students, termination of employees; it sets up a procedure to review these policies to see that they are effective. It has penalty provisions for those colleges and universities that refuse to comply. It sets up a procedure in the States, and basically it is a straightforward program that seeks to rid our schools and our colleges and universities of illegal drug use.

It is a policy that says we will accept no use of illegal drugs on campus. Those who violate the rules are going to be punished. We are going to require that there be a policy in place. That policy will include the listing of various counseling programs that people can go to if they have a problem.

But what it says in the simplest of all terms is we will not tolerate illegal drug use in the schools of America. I think it is a good amendment. I do not think there is anything controversial about it. I think it is a reasonable complement to providing more money. We need really two policies: First, to provide more resources; and, second, to have a get-serious, get-tough policy to go with it. This is the get-serious, get-tough policy that goes with funding on education. I think it is vitally important; I think it is well thought out; I think it is reasonable. I think we should adopt it.

I reserve the remainder of my time.

Mr. DOLE. Mr. President, this amendment requires that both elementary and secondary schools as well as institutions of higher learning submit drug-free school plans to their State departments of education, and for the State departments to certify to the Department of Education that drug-free plans are in place at all schools receiving any Federal assistance.

This language has caused some concern, since all education funds—not just those related to drugs—could be withheld from institutions which refuse to submit plans to the State departments of education.

However, there is a big difference between this amendment and the amendment which would withhold treatment money unless plans are in place. For treatment, the plans must be approved by the Federal Government. There is not similar requirement for schools.

Therefore, even if the Secretary of Education believed a plan to be inadequate, no funds could be withheld unless a school cavalierly refused to submit any plan. I cannot imagine any schools would risk the loss of funds for failing to draft its own strategy to eliminate, or at least address, drug abuse among students, faculty, and employees.

Quite frankly, this amendment may appear to be without any teeth, but it is a start. It will force schools to begin to focus attention on drug abuse at schools throughout our country.

Mr. HATCH. Mr. President, after parents, the school is one of the most important influences in the life of a child. It is where they spend most of their time; next to the family, and perhaps the church, and it is where we have the greatest opportunity to have a positive influence on our children. Unfortunately, it is also where many of our young people obtain their first exposure to drugs.

America's schools have been voluntarily educating their students about drugs for 20 years. About 75 percent of the students have had at least one drug education course by the time that they graduate from high school. The President's proposal addresses the remaining 25 percent that we have been missing.

I would like to note my support for the President's plan as outlined in the drug strategy. One in three of American children has been approached to buy or use drugs by the age of 16. I understand that the age of first approach is going down, making elementary education very important. The President proposes a stronger program to help children develop refusal skills. These skills will be reinforced by tough, fair policies on use, possession, and distribution of drugs. We all know that when expectations are high they are frequently met.

The President proposes that we have a firm program in our colleges and universities as a condition of eligibility for the receipt of Federal funds. I recently had an opportunity to review a copy of Peterson's "Drug and Alcohol Programs and Policies at Four-Year Colleges." I was dismayed to see the large number of schools that do not have policies on substance abuse on their campuses for either employees or students. The President's proposal will result in the establishment of clear policies that will lead to an understanding by employees and students alike on how a drug-free campus will be maintained.

It is important to note that the President's proposal also establishes a requirement that local educational agencies receiving Federal funds also adopt and implement a program to prevent the use of illicit drugs and alcohol by students and their employees. These programs will provide a clear statement of standards of conduct for agency employees and students, sanctions, counseling, and rehabilitation programs, parental involvement, and a biennial review of program effectiveness. I have been told by a number of people that the key to successful programs is the linking of school, home, and community all working together for this to succeed. We have made major strides in supporting this linkage in both the 1988 Anti-Drug Abuse Act and the action that we have taken today. It can be further strengthened by supporting the President's legislative proposal.

The proposal goes further to outline the requirements for the educational component of these programs while retaining local autonomy for designing these programs. In Utah we have had a great deal of success with our K-Through-12 Program, an approach that is very similar to the concept provided for the President's plan. In addition, the Labor Committee just yesterday heard about the success of a pro-

gram at the W.R. Thomas Middle School in Miami. This program involved an increased emphasis on resisting drug use and increased community involvement. Jeffrey Miller the principal at W.R. Thomas reported on the dramatic turnaround as a result of tough policies with community support.

In closing, I am pleased to note that the President's plan acknowledges that alcohol must be addressed on an equal basis in these programs. We have been told by the experts about the role that alcohol plays as a gateway drug for a majority of users and its involvement in polysubstance abuse. Across this Nation most of those with drug problems also have a problem with alcohol.

Mr. President, I asked that my colleagues join in supporting the President's plan.

The PRESIDING OFFICER. Who yields time? The Senator from Delaware.

Mr. BIDEN. I will be as brief as I can. The Senator from Texas is absolutely right.

The PRESIDING OFFICER. Who yields time? The Senator from Missouri [Mr. DANFORTH].

Mr. DANFORTH. Mr. President, on behalf of Senator HOLLINGS, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Before the Senator acts, is all time yielded back on the first-degree amendment? Is all time yielded back on the first-degree amendment?

Mr. GRAMM. Mr. President, it is my understanding we never had a unanimous-consent agreement. I would be happy to yield back the remainder of my time but none was ever agreed to.

The PRESIDING OFFICER. I believe there was a unanimous-consent agreement for 10 minutes equally divided on this amendment.

Mr. GRAMM. Mr. President, I yield back the remainder of my time.

Mr. BIDEN. Mr. President, this side yields back the remainder of the time on the Gramm amendment.

AMENDMENT NO. 871 TO AMENDMENT NO. 870

Mr. DANFORTH. Mr. President, on behalf of Senator HOLLINGS, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. DANFORTH], for Mr. HOLLINGS (for himself, Mr. DANFORTH, Mr. EXON, Mr. DOLE, Mr. WILSON, Mr. LOTT, Mr. BOND, Mr. DOMENICI, Mr. WARNER, Mr. COATS, Mr. KASTEN, Mr. D'AMATO, Mr. HATCH, Mr. GRAMM, Mr. BURNS, and Mr. CHAFEE) proposes amendment No. 871.

Mr. DANFORTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DANFORTH. Mr. President, this amendment provides for drug and alcohol testing for safety related transportation personnel. It is virtually identical, with only very minor and technical changes, to a bill which was passed by the Senate twice during the 100th Congress, once on a rollcall vote of 83 to 7.

The drug-testing aspects are substantially the same as regulations already promulgated by the Department of Transportation. Therefore, with respect to drug testing, it does little more than codify Department of Transportation regulations. It does add alcohol testing to the Department of Transportation Testing Program.

Mr. President, I think that the need for this legislation is obvious. It has been widely recognized by the Senate and the 100th Congress. Since the Chase, MD, disaster, in which 16 people were killed 3 years ago, there has been an average of one train wreck every 10 days in which testing has subsequently disclosed drug or alcohol use.

The incident with the USAir plane where the pilot and copilot disappeared last week raises further questions of drug and alcohol use in transportation.

Obviously, this is a matter whose time has come. Therefore, on behalf of Senator HOLLINGS and 14 other cosponsors, I offer this amendment. I say on behalf of Senator HOLLINGS because this legislation has been reported unanimously out of the Commerce Committee this year.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, once again we passed that in the 1988 drug bill. I compliment the Senator from Missouri and the Senator from South Carolina. It was dropped in the House. I hope it does not meet a similar fate. I know of no one on our side who wishes to speak against the amendment. I am willing to yield back time and vote on the amendment.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me say I support this amendment, and I ask unanimous consent I may be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. I thank the Chair.

Mr. HOLLINGS. Mr. President, I rise to urge my colleagues to join us in our fight to improve the safety of the traveling public by ending drug and alcohol abuse by transportation workers. Right to the point, there is a critical need for increased testing, including mandatory random testing, to deter such abuse. That is the point of this amendment, and I urge its adoption.

Twice during the 100th Congress, the Senate passed legislation virtually identical to this, mandating random drug and alcohol testing for safety-sensitive employees in the rail, motor carrier, and commercial airline industries. Support was overwhelming, as the provisions of our bill were adopted on an 87-to-3 vote in late 1987, and without debate during consideration of the omnibus drug bill late last year. Both times, however, our efforts were stymied by our colleagues in the House.

It is impossible to ignore the presence of alcohol and illegal drugs in the transportation workplace. The facts speak for themselves. This year alone, there have been 13 rail accidents in which either alcohol or drugs were found to be present in employees responsible for safe passage. Last year, on average, there was a rail accident in which drugs or alcohol were involved every 12½ days. And we cannot forget the tragic January 1987 accident in Chase, MD, in which an engineer's use of marijuana was the probable cause for an accident between a Conrail freight train and an Amtrak passenger train that resulted in 16 fatalities and 174 injuries.

Mr. President, other examples show this is not an isolated problem:

In 1986, an insurance industry study found that 30 percent of some 300 truck drivers randomly sampled tested positive for drugs.

Investigators determined that a pilot's cocaine use was a contributing factor in a January 1988 crash of a commuter aircraft in rural Colorado in which nine people died.

In April 1987, a bus struck a bridge on the George Washington Parkway in Virginia, killing 1 and injuring 32 passengers. The driver tested positive for cocaine, valium, and marijuana.

The grounding of the *Exxon Valdez* earlier this year in Prince William Sound, AK, in which the captain's history of alcohol use is at issue, is another vivid reminder of the extent of this problem.

Fortunately, our efforts have borne some fruit. Last year, the Department of Transportation issued rules mandating testing of safety-sensitive workers for illegal drugs in the rail, motor carrier, aviation, maritime, pipeline, and mass transit industries.

However, enactment of legislation to mandate drug and alcohol testing for transportation workers remains my objective and top priority. Very simply, the DOT rules do not go far enough, failing to include alcohol in industry testing programs. Accident statistics prove alcohol abuse a threat to the safety of the American traveling public at least as big, if not bigger,

than illegal drugs. For example, over a 7-year period, the Department of Transportation found 10,300 individuals who had previously had their drivers licenses suspended or revoked for driving while intoxicated became certified pilots. Clearly alcohol is an issue that necessitates our action.

Second, the DOT rules lack the statutory backing that regulations of this importance must have. Without having such statutory backing, the existing drug testing rules are subject to the whimsical interpretations and revisions of future DOT administrations.

Mr. President, this amendment will accomplish these objectives. It will mandate random and other types of testing for both illegal drugs and alcohol. And it protects the rights of those tested by incorporating guidelines established last year by the Department of Health and Human Services on laboratory accuracy, as well as protections for individual privacy and innocent employees.

I am heartened by the recent Supreme Court decisions on drug testing—both on the constitutionality of Federal Railroad Administration post-accident testing of rail workers, and Customs Service requirements for drug screening of certain workers seeking promotions in the Service. I have long been convinced that given the compelling need for public safety, carefully crafted testing programs would be found to be within the limits of the Constitution.

The key component to our amendment is random testing. Without it, we do not have the deterrence needed to stop drug and alcohol abuse. Experience has established this as fact. For example, the Coast Guard has seen its rate of positive tests drop from 10.3 percent in 1983 when random testing was initiated, to 2.8 percent in 1988.

Call it intimidation. Call it whatever you will. But the fact is that random testing is the only method we have to reasonably ensure that transportation employees will not use drugs on the job.

Mr. President, if you drink alcohol and use illegal drugs, you have no business operating a train, plane, truck, or bus. You have no business assuming responsibility for innocent lives.

I urge my colleagues to join me in supporting this measure today.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 871) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Indiana, Mr. COATS, is recognized.

AMENDMENT NO. 872 TO AMENDMENT NO. 870

(Purpose: To provide for voluntary random drug testing of students participating in voluntary, extracurricular activities in schools that voluntarily choose to participate in a drug testing program)

Mr. COATS. Mr. President, I send a second-degree amendment to the Gramm amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS] proposes an amendment numbered 872 to the amendment No. 870.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment insert the following new section:

No local educational agency shall use any of the funds which are released by this section unless funds are made available for each fiscal year to the chief executive officer of a State which may be used with existing power for random drug testing programs for students voluntarily participating in extracurricular activities and using existing power such testing is done only in schools which voluntarily choose to participate in such a program.

Mr. COATS. Mr. President, Dr. Joseph Pursch, an expert on illegal drugs, talks of the tragic irony of abuse—as the user gets sicker, he is less able to see it. The magic of the powder is that every noseful tells you that you really don't have a problem at all.

This is the peculiar challenge of our drug crisis. And it is the fact which makes drug testing so vital. Testing can help isolate and confront those who are going to smiling and ignorant self-destruction. It can deter others from making that first experiment with illegal drugs. And it can support our efforts at rehabilitation by increasing accountability.

Drug testing, when employed with proper safeguards, is not a means of punishment, but a tool of compassion. It directs help toward those who need it most desperately. And it is a practice that most successful prevention and treatment programs have in common.

In fact, this is really the only way to determine if such a program is successful in the first place. At the labor and human resources hearing on drug abuse education and prevention this week, I discussed with Senator KENNEDY the need to isolate those programs which work best. We must be concerned for both funding and effectiveness. And in treatment and prevention programs there must be some objective measure of our success or failure.

Drug testing is the measure, or standard, we adopted in a bill that Senator PAUL SIMON introduced and I cosponsored for the testing of those on parole, probation, or supervised release.

And now it is my hope we can make this standard of success, and instrument of help, available to schools and parents who are in urgent need of it. I rise today to offer an amendment to provide for random drug testing programs in extracurricular school activities, for students in schools which voluntarily choose to initiate such a program.

This amendment is specifically designed to meet a need without placing unbearable burdens on schools. It applies only to extracurricular activities. And it allows them to craft their own approaches, appropriate to their own needs.

I have seen the proof that programs like this work. In my home State of Indiana a high school randomly tested its baseball team for drugs and found that a third had marijuana in their systems. The purpose was not to punish, but enforce a drug-free standard and provide help to those who fall short. Rather than just wringing their hands, wondering why their education programs were not working, they did something about it.

At McCutcheon High School in Tippecanoe County, IN, athletes and cheerleaders are now drug tested. When athletes from McCutcheon High School say they are drug free, other students, as well as their community, know precisely what that means. At McCutcheon they know their athletes are less likely to be risking injury because of drug abuse. At McCutcheon they know that ahletes are less likely to use drugs to relieve pain, contributing to major injuries.

This drug-testing policy was tested in court, and the program passed legal challenge. In fact, the U.S. Court of Appeals, Seventh Circuit, was so clear cut in their decision that the case was not appealed.

According to Tippecanoe County School Corp., the tests that they used cost just $12 each. Part of the court's ruling was based upon the fact that the test is 95-percent accurate. Even if a school created a program in which all students of a particular extracurricular group are tested initially, this is not an expensive program. After the initial testing, Tippecanoe has sustained the program with random testing. Costs have become minimal.

By making available funds to schools that are willing to voluntarily participate, we can begin to have a dramatic impact on students' attitudes. If stu-

dents can stand up and say: "we not only claim to be drug free but we proved it," it may ignite a trend that past rhetoric has been powerless to start.

So I urge, Mr. President, that my colleagues endorse this amendment and add it to the Gramm amendment which is pending. With that, I ask for the yeas and nays.

The PRESIDING OFFICER. The request has been made for the yeas and nays. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAMM. Mr. President, I strongly support the amendment. I think it makes eminent good sense. This is something we should decide and not the courts. I think the distinguished Senator from Indiana has proposed an amendment that deals with any concern that anybody would have. I think it is very important that it be adopted. It certainly strengthens what I am trying to do in terms of drug-free schools, and I commend him for it.

Mr. BIDEN. Mr. President, I compliment the Senator from Indiana as well and I reiterate what is on the face of the amendment, but I would like to restate it anyway. It is voluntary. The school board in the particular school district must conclude that it wants to sign on to this voluntary effort, and it relates to extracurricular activities. So I think it is a wise approach. It leaves the decision where it should be, at the school board level, and in fact I think it can be very helpful if done well. I have no doubt that the school boards will attempt to do that. I compliment the Senator from Indiana. I yield all time.

Mr. COATS. Mr. President, I thank the Senator.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Indiana. The yeas and nays have been ordered.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I think we are ready to vote on the amendment of the Senator from Indiana.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. SASSER] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 208 Leg.]

YEAS—99

Adams	Fowler	McCain
Armstrong	Garn	McClure
Baucus	Glenn	McConnell
Bentsen	Gore	Metzenbaum
Biden	Gorton	Mikulski
Bingaman	Graham	Mitchell
Bond	Gramm	Moynihan
Boren	Grassley	Murkowski
Boschwitz	Harkin	Nickles
Bradley	Hatch	Nunn
Breaux	Hatfield	Packwood
Bryan	Heflin	Pell
Bumpers	Heinz	Pressler
Burdick	Helms	Pryor
Burns	Hollings	Reid
Byrd	Humphrey	Riegle
Chafee	Inouye	Robb
Coats	Jeffords	Rockefeller
Cochran	Johnston	Roth
Cohen	Kassebaum	Rudman
Conrad	Kasten	Sanford
Cranston	Kennedy	Sarbanes
D'Amato	Kerrey	Shelby
Danforth	Kerry	Simon
Daschle	Kohl	Simpson
DeConcini	Lautenberg	Specter
Dixon	Leahy	Stevens
Dodd	Levin	Symms
Dole	Lieberman	Thurmond
Domenici	Lott	Wallop
Durenberger	Lugar	Warner
Exon	Mack	Wilson
Ford	Matsunaga	Wirth

NAYS

NOT VOTING—1

Sasser

So the amendment (No. 872) was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the first-degree amendment of the Senator from Texas, as amended.

The amendment (No. 870) as amended, was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. DOLE. I move to lay that on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator DOLE now be recognized to offer two of his four listed amendments en bloc, specifically the amendment relating to drug treatment plans and to waivers for international narcotics assistance, that they be considered and agreed to without any intervening action or debate; that following the disposition of the Dole amendments, Senator WARNER be recognized to offer an amendment regarding the special forfeiture fund for the drug czar on which there be 2 minutes equally divided; with the following second-degree amendments being the only amendments in order and limited to the following times, and in the following order. First, a Warner amendment regarding disposition of forfeiture property, 15 minutes equally divided. Second, a Cranston amendment regarding restriction on designation of high intensity drug areas, 15 minutes equally divided. Third, a Wilson amendment regarding asset forfeiture, 15 minutes equally divided, and fourth, a Graham amendment regarding asset forfeiture, 10 minutes equally divided. And other amendments relating to the allocation of resources and agreed to by the chairman and ranking member of the Appropriations Committee, pursuant to the previous order, and a Cranston amendment relating to a California highway project—I will complete the reading of the request, and I believe the distinguished Republican leader has an objection—which the two managers will accept. That, thereafter, the Senate proceed, without intervening action or debate to third reading and final passage of the bill.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, reserving the right to object, I understand the Cranston amendment is not the one that Senator D'AMATO thought to have been cleared. I wonder if we might take that one out of the agreement, and then we can work it out.

Mr. CRANSTON. Mr. President, can we do that with the understanding that I am not precluded from offering it? I will work it out.

Mr. DOLE. I think there is a consent agreement that precludes any other amendment which we entered into yesterday. Somebody else might object, but I would not. The original consent agreement on DOT.

Mr. WALLOP. Mr. President, reserving the right to object and I do not anticipate that, but were it to be handled under the circumstances as described by the Senator from California, under the consent agreement as it is currently phrased, we would still have the vote on final passage without any intervening business at a time certain?

Mr. MITCHELL. Mr. President, I will have to yield to the distinguished Republican leader as to whether anyone wants a rollcall vote on final passage. With respect to the time certain, there is no request for time certain.

Mr. WALLOP. What I was concerned with is if that amendment were not satisfactory and we were boxed on both the time and the debate to it, but that not being the case——

Mr. MITCHELL. There is no time certain.

Mr. LEVIN. Reserving the right to object, Madam President.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from Michigan.

Mr. LEVIN. My question is this—and forgive me if you covered this territory—I am trying to work out an amendment now which I believe will be worked out. If it is, is that covered without being identified?

Mr. MITCHELL. No, it is not.

Mr. LEVIN. I thought it said all amendments which the Appropriations Committee——

Mr. MITCHELL. That refers only to amendments relating to the allocation of resources under the drug program, which is a reference to a provision in the previous order that limits those to that subject, and only when approved by the chairman and ranking member of the Appropriations Committee.

Mr. LEVIN. I am hopeful—and we are trying to work this out right now with staff, and if it is necessary to list it there, so if it is worked out, it can be added, and I would appreciate the Senator giving me 10 minutes equally divided on that. Does that create problems for you for the Senator?

Mr. MITCHELL. Will the Senator indicate whether his amendment is one that falls within the description of amendments relating to the allocation of resources?

Mr. LEVIN. In a generic sense, yes. I am not sure technically it is. What it does is allocate $20 million of the $700 million that is allocated to the Alcohol and Drug Abuse Administration to the development of a crack inhibitor. If that falls in the description of the two bottom lines, the answer is yes. Otherwise, I ask protection of it.

Mr. DOLE. Put it on the next bill.

Mr. LEVIN. I believe it is covered in the bill.

Mr. MITCHELL. I am advised by staff that that does. The amendment the Senator has described does fall within that description or the phrase relating to allocation of resources.

So the Senator is fully cognizant, under that order, in order to be accepted, it would have to be approved by the chairman and ranking member of the Appropriations Committee.

Mr. LEVIN. Or the managers of the bill?

Mr. BIDEN. No.

Mr. MITCHELL. The chairman and the ranking member of the Appropriations Committee. It is explicit in the order.

Mr. DOLE. We are going to try to work it out.

Mr. LEVIN. Should I identify it or not?

Mr. DOLE. If it is agreed to, it is automatic.

Mr. LEVIN. If it is the managers agree to it.

Mr. MITCHELL. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Madam President, I renew my unanimous-consent request as stated.

Would the Chair like me to restate it or does the Chair have it?

The PRESIDING OFFICER. The Chair would like the majority leader to restate it to ensure accuracy.

Mr. MITCHELL. Madam President, I ask unanimous consent that Senator WARNER be recognized to offer the special forfeiture fund for the drug czar amendment on which there will be 2 minutes equally divided with the following four second-degree amendments being the only amendments in order and limited to the following times and in the following order:

First, a Warner amendment regarding disposition of forfeiture property, 15 minutes equally divided; second, a Cranston amendment regarding restrictions on designation of high intensity drug areas, 15 minutes equally divided; third, a Wilson amendment regarding asset forfeiture, 15 minutes equally divided.

Madam President, I amend my request to say three second-degree amendments rather than four because Senator GRAHAM has just informed me that he will not need to offer his amendment.

Mr. WILSON. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. WILSON. There will be no Wilson amendment. I am going to join Senator CRANSTON, and I believe 15 minutes per side will suffice for what I wish to contribute to the debate.

Mr. MITCHELL. I thank the Senator.

Then, Madam President, I further amend my request to say, with the following two second-degree amendments being the only amendments in order, and again they would be the Warner amendment on disposition of forfeiture property, 15 minutes equally divided, and a Cranston amendment on the restriction on designation of high intensity areas, 15 minutes, equally divided; that upon the disposition of those amendments, Senator DOLE be recognized to offer two of his four listed amendments en bloc, specifically the amendments relating to drug treatment plans and to waivers to international narcotics assistance; that they be considered and agreed to without any intervening action or debate; that following disposition of these listed amendments and other amendments relating to the allocation of resources and agreed to by the chairman and ranking member of the Appropriations Committee pursuant to the previous order, and a Cranston amendment relating to a California highway project which the two managers will accept, that the Senate then proceed without intervening action or debate to third reading and final passage of the bill.

The PRESIDING OFFICER. Is there objection? Without objection, the majority leader's unanimous-consent request is agreed to.

Mr. DOLE. We have had a request for a rollcall if the Senator wants to get the yeas and nays now.

Mr. MITCHELL. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. I thank the distinguished Republican leader and all Senators involved for their cooperation.

Mr. WARNER. Madam President, while the leadership is still present, I wish to thank them personally and members of their staffs for expediting the requirements of the several Senators covered by this unanimous-consent request.

It was my privilege for several days to work with Senator HATFIELD, Senator BYRD, and 16 other Members of the Senate in negotiating the compromise that made possible the consideration in this timely fashion of this important piece of legislation.

AMENDMENT NO. 873

(Purpose: To provide for transfers of funds to the special forfeiture fund)

Mr. WARNER. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from Virginia, [Mr. WARNER] proposes an amendment numbered 873.

Mr. WARNER. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

SEC. . AMENDMENT RELATING TO THE SPECIAL FORFEITURE FUND.

(a) ASSETS FORFEITURE FUND AMENDMENT.—Section 524(c)(9) of title 28, United States Code, is amended to read as follows:

"(9) There are authorized to be appropriated such sums as necessary for the purposes described in subparagraphs (A)(ii), (B), (C), (F), and (G) of paragraph (1). For each of fiscal years 1990, 1991, 1992, and 1993, the Attorney General shall transfer not to exceed $150,000,000 in unobligated amounts available in the Fund to the Special Forfeiture Fund: *Provided*, That such amounts will be transferred on a quarterly basis: *Provided further*, That an amount not to exceed $15,000,000 or, if determined by the Attorney General to be necessary to meet asset specific expenses, an amount equal to one-tenth of the previous year's obligations, may be retained in the Fund and remain available for appropriation.".

(b) SPECIAL FORFEITURE FUND AMENDMENT.—Section 6073(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is amended to read as follows:

"(b) DEPOSITS.—In each of fiscal years 1990, 1991, 1992, and 1993, there shall be transferred to and deposited in the Fund, from the Department of Justice Assets Forfeiture Fund pursuant to 28 U.S.C. 524(c)(9), not to exceed $150,000,000: *Provided*, That amounts specified in the second proviso of said section may be retained in the Assets Forfeiture Fund and remain available for appropriation.".

Mr. WARNER. Madam President, this amendment extends the authorization for the special forfeiture fund. The 1988 drug bill provided that up to $150 million in excess funds from the asset forfeiture fund be transferred to the special forfeiture fund controlled by the Director of Drug Control—the so-called drug czar. This amendment provides for that transfer for the next 4 fiscal years, and is consistent with language in the Byrd-Hatfield amendment which was inserted at the request of Senator DECONCINI to provide $115 million for prison construction and $25 million for high-intensity drug areas.

Mr. CRANSTON. Madam President, I send a second-degree amendment to the desk.

Mr. WARNER. Madam President, I believe the order of the amendments is the Senator from Virginia yields back the time under this underlying amendment.

Mr. BIDEN. Madam President, I compliment the Senator from Virginia. When we wrote the change in the law last year, quite frankly, when I wrote that, I did not contemplate and take into consideration what is being offered here now, the ability to spend down this money more rapidly. It works well. It makes sense in light of the needs that are available. I compliment the Senator from Virginia and I yield back my time on the amendment.

Mr. WARNER. Madam President, I thank the distinguished manager of the bill and I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. WARNER. Madam President, I send to the desk an amendment in the second degree.

The PRESIDING OFFICER. Under the consent agreement the Senator from Virginia is to be recognized for that purpose.

Mr. WARNER. I thank the Chair. I believe my distinguished colleague from California immediately follows the Senator from Virginia.

AMENDMENT NO. 874 TO AMENDMENT NO. 873

(Purpose: To amend section 6077 of the Anti-Drug Abuse Act of 1988 relating to the disposition of forfeited property and State law)

Mr. WARNER. Madam President, I send to the desk an amendment on behalf of the Senator from Virginia [Mr. WARNER], the Senator from California [Mr. WILSON], the Senator from Virginia [Mr. ROBB], the Senator from New York [Mr. D'AMATO], and the Senator from South Carolina [Mr. THURMOND], and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. WILSON, Mr. ROBB, Mr. D'AMATO, and Mr. THURMOND, proposes an amendment numbered 874 to amendment No. 873.

Mr. WARNER. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate section in the amendment, add the following new section:

(a) section 511(e)(3) of the Controlled Substances Act (21 U.S.C. 881(e)(3)) is amended by—

(1) striking subparagraph (B);

(2) striking the dash and "(A)"; and

(3) striking "; and" and inserting a period.

(b) Section 6077 of the Anti-Drug Abuse Act of 1988 is amended by striking subsection (c).

(c) The amendment made by subsection (a) shall be effective with respect to fiscal years beginning with fiscal year 1990.

Mr. WARNER. Madam President, at the time the Congress considered the Anti-Drug Abuse Act of 1988 certain language was provided by the House of Representatives which put in question the ability of local law enforcement agencies to continue to receive a portion of the funds resulting from drug forfeitures, particularly in those cases where there was joint action by Federal and local law enforcement officers.

Madam President, local law enforcement throughout America is doing its very best to carry its heavy burden of this drug war. We in the Congress must do everything, absolutely everything, we can to help these brave officers and other officials involved in risk to their bodily safety, indeed risk of loss of life.

The U.S. Senate now on two occasions has passed legislation comparable to this measure. The Senator from California [Mr. WILSON] incorporated it and I was jointly associated with him on that measure in the authorization bill for the Armed Forces for the fiscal year 1990, a provision comparable. The Senator from Virginia asked this Senate to accept, and the Senate did, a freestanding provision to cure it. So on two occasions the Senate has addressed this.

The distinguished Senator from South Carolina [Mr. HOLLINGS] in his bill in committee has put in a comparable provision.

That bill will soon be considered by this Senate, an appropriations bill.

So, there has been strong bipartisan effort in this body to remedy the deficiency that we now find in the Anti-Drug Abuse Act of 1988.

Madam President, I thank my colleagues who have cosponsored this measure. There are many other States affected.

I ask unanimous consent that, until the hour of 6 p.m. tonight, additional Senators might come forward and indicate their willingness to cosponsor.

I will put into the RECORD, and I further ask unanimous consent at this point, the listing of those States which, in the judgment of the Senator from Virginia, are affected by the language currently in the Anti-Drug Abuse Act of 1988, and urge Senators to look at that list and see if their State is affected. Perhaps they would desire to cosponsor this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IMPACT OF FAILURE TO REPEAL SECTION 6077

District	Major	Moderate	Minor	None
Alabama	X			
Alaska	X			
Arizona				X
Arkansas	X			
California	X			
Colorado				X
Connecticut			X	
Delaware			X	
District of Columbia	X			
Florida				X
Georgia	X			
Hawaii			X	
Idaho	X			
Illinois			X	
Indiana	X			
Iowa			X	
Kansas	X			
Kentucky	X			
Louisiana	X			
Maine	X			
Maryland	X			
Massachusetts	X			
Michigan				X
Minnesota	X			
Mississippi		X		
Missouri	X			
Montana			X	
Nebraska	X			
Nevada			X	
New Hampshire	X			
New Jersey		X		
New Mexico			X	
New York	X			
North Carolina	X			
North Dakota				X
Ohio	X			
Oklahoma	X			
Oregon			X	
Pennsylvania		X		
Puerto Rico			X	
Rhode Island	X			
South Carolina	X			
South Dakota	X			
Tennessee	X			
Texas	X			
Utah			X	
Vermont	X			
Virgin Islands		X		
Virginia	X			
Washington	X			
West Virginia			X	
Wisconsin	X			
Wyoming	X			
Total	32	4	12	5
Percent of 53 responses	60.38	7.55	22.64	9.43

Sources: Evaluations based on information received from U.S. Attorneys.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. Madam President, I will rise briefly to commend my friend

from Virginia. As he has indicated, the legislation he is pursuing this afternoon has a widespread following already on this floor, as indeed it should, because the Senate has made it clear, first in the enabling legislation which created the asset forfeiture program, that we greatly value this.

We do so because local law enforcement, quite rightly, feels entitled to share in the fruit of what has been a very dangerous effort to protect those citizens whom they are sworn to protect.

There is a poetic justice to asset forfeiture in that the ill-gotten gain of drug traffickers under this program is shared with those police officers at the local level who have been engaged in raids or busts, and it allows them to enhance their antidrug efforts.

What the Senator from Virginia is seeking to do, most simply stated, is to prevent a spectacularly ill-advised amendment, now in the law, from curtailing the maximum use of that money. It would be a distinct injustice to allow those who have labored long and hard to achieve a better climate for the citizens whom they are trying to protect, to be deprived of this money they have earned many times over.

I commend him. We should support him. I think this is a matter of the broadest bipartisan support in this House. The mischief arose in the other House. We should see to it that this barrier to the equitable sharing, as it is also termed, is removed once and for all.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I would also like to extend my appreciation to the entire Virginia delegation, particularly my colleague Mr. ROBB, and Mr. BOUCHER, who sponsored in the House a bill identical to the one the Senator from Virginia has sponsored in this body.

Unfortunately, the leadership of the House has not as yet come to grips with this problem, in my judgment. I urge them to do so at the earliest opportunity.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, when Senator THURMOND and I drafted this bill originally in 1984, it was envisioned to work precisely as the distinguished Senator from Virginia has now seen to it that it once again functions. And, frankly, for years it worked well.

For a little piece of history, just for a brief moment, the reason why Senator THURMOND and I drafted the bill in the first instance was we constantly heard from local police agencies that they work and work and work with the Federal agencies, help make significant—to use the slang "busts"—help make significant arrests that resulted in the forfeiture of large amounts of money or things of value, and received none of the benefit.

So Senator THURMOND and I sat down with the local police agencies and said: OK, what do we need to do about this? We came up with what we thought was a very logical approach. It worked.

As the Senator from Virginia points out, when we passed the drug bill last year and it got to the House, one of my colleagues with whom I almost always agree on the other side, probably, if not the most knowledgeable, one of the most knowledgeable people on criminal justice issues in the House, thought that this was not the appropriate way for it to work. He prevailed on the House side.

He has called me a number of times. We have had disagreement. We seldom disagree, but we do on this one. So I would like to ask permission of the Senator from Virginia, if he would kindly add me as a cosponsor to his legislation. And, once again, I compliment him for correcting what would in fact turn around what we intended to do in the first place.

Fortunately it has not taken effect yet, so if this goes into law, we will prevent what happened in the House from ever having become law and we will have satisfied the local police agencies and, I might add, the Federal Government no longer opposes what they used to oppose.

The Senator has made a significant contribution here and I compliment him on it, and I yield back the time.

Mr. WARNER. Madam President, I thank the distinguished manager and my friend from Delaware. Indeed, first I ask unanimous consent he be made a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Indeed, he has carefully stated the legislative history. I would only add that it is October 1 of this year, but days away, when the hammer falls and precludes these courageous law enforcement officers from getting a portion of these proceeds.

This action is timely. The leadership of this body has consistently assisted this Senator, the Senator from Delaware, the Senator from California, and others who have repeatedly come forward. And Senator HOLLINGS, who has repeatedly come forward to try to correct this measure.

I would also like to pay special recognition to the Federal Law Enforcement Organization, the Fraternal Order of Police, the National Troopers Organization, the International Brotherhood of Police Organizations, the Police Management Association, the Major City Chiefs of Police, and the National Organization of Black Law Enforcement Executives. All of them deserve the credit for working with their respective Members of Congress to see that this measure was passed.

The PRESIDING OFFICER. The Chair, speaking as the Senator from Maryland, would also like to be added as a cosponsor.

Mr. WARNER. Madam President, it is an honor to have the Chair included.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. BIDEN. Yes, I yield back my time.

Mr. WARNER. The Senator from Virginia yields back his time.

The PRESIDING OFFICER. All time having been yielded back, the question occurs on agreeing to the amendment of the Senator from Virginia.

The amendment No. (No. 874) to amendment No. 873 was agreed to.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 875 TO AMENDMENT NO. 873

(Purpose: To require the Director of the Office of National Drug Control Policy to designate high intensity drug trafficking areas no later than February 1, 1990)

Mr. CRANSTON. Mr. President, on behalf of myself and the Senator from California [Mr. WILSON] I send an amendment to the desk and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from California, [Mr. CRANSTON], for himself and Mr. WILSON, proposes an amendment numbered 875 to amendment numbered 873.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the pending amendment, insert the following: *Provided*, That, none of the funds made available under this Act for the Office of National Drug Control Policy from the special forfeiture fund may be used by the Director of National Drug Control Policy after February 1, 1990, if the Director has not by that date designated high-intensity drug trafficking areas pursuant to section 1005(c) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690).".

Mr. CRANSTON. Madam President, this amendment is quite simple.

The pending amendment and the Byrd amendment itself provide additional funds for the Director of National Drug Control Policy which can be used by the Director for Activities in High-Intensity Drug Trafficking Areas.

The 1988 Anti-Drug Abuse Act authorized the Director to designate specific areas of the United States as high-intensity drug trafficking areas and to send Federal task forces to those areas to help deal with the special problems these areas face. The law requires the Director to take into consideration the extent to which an

area is a center for illegal drug production, manufacturing, importation, or distribution and the extent to which drug-related activities in the area are having a harmful impact in other areas of the country.

It has been nearly a year since the law was enacted, yet the administration still has not exercised its authority under these provisions. The administration says it will not make any such designations until next February, at the earliest.

Madam President, my amendment would effectively require that the director make these designations by February 1, 1990, at the latest. Why appropriate millions of additional dollars if the Director will not act on a timely basis?

Frankly, Madam President, I do not want to be standing on the Senate floor a year from now complaining that the Director still has not made the designations. I do not want to wait until the end of the next fiscal year to see the money that we are appropriating today get out where it is needed.

We have a crisis in this country, particularly in areas like Los Angeles and San Diego where high-intensity drug trafficking is taking place.

We will lose the war against drugs if we do not start moving faster in striking at the center of the problem.

For months and months, I and other Senators have been pressing the administration to make the designations. I have joined the Senator from Arizona, Mr. DECONCINI, and others in urging a designation for the southwest border area. In June, I introduced legislation, S. 1234, which would require the designations to be made and specify four of the cities—Los Angeles, San Diego, Miami, and New York—which are the areas of the highest levels of drug trafficking activity. I have urged that they be included in the designations. I considered offering an amendment today that would have required the designations to be made within 45 days. There was some concern expressed that such an amendment would be difficult to comply with. I thus have modified my amendment so that it simply requires that the administration make the designations by February 1—the date that the drug czar has indicated he would be able to do so.

This amendment would thus guarantee that we do not have to wait until the end of the next fiscal year before the funds we are going to appropriate for activities in high-intensity drug activities can be obligated and used in the war against drugs.

IMPORTANCE OF DESIGNATIONS

Madam President, I want to speak for a few moments about how important getting additional resources into these high-intensity drug areas is to the entire country and the ultimate success of the war against drugs.

If we are going to cut off the supply of drugs into this country, we have to deal with these areas of high-intensity drug activity.

Madam President, I am very proud of my State and the many contributions that Californians make to our Nation. But I am not proud of the role that drug traffickers who have a death grip on a number of California communities play in spreading the plague of drug abuse throughout the Nation.

The reports of the Drug Enforcement Administration [DEA], the Federal Bureau of Investigation [FBI], and the National Narcotics Intelligence Consumers Committee, known as the NNICC Report, indicate that major drug trafficking activity—including either importation or distribution or manufacturing or some combination of these activities—exists in Los Angeles and San Diego along with cities like New York and Miami.

In the case of Los Angeles, local and Federal officers seized over 40,000 pounds of cocaine during 1988—which some officials estimate is only 10 percent of the total amount flowing through the area to the rest of the country. By some estimates, 40 percent of all the cocaine entering this country is routed via Los Angeles. That is in addition to the crack, heroin, and other illicit drugs that are distributed through Los Angeles. As a result of this substantial drug activity, Los Angeles is now widely regarded as the drug-money laundering capital of the Nation.

Federal officials estimate several billion dollars a year is being laundered from Los Angeles through Panama and other countries and back to Colombia. Last year, Federal and local drug agents seized more assets from drug dealers in Los Angeles—more than $200 million—than anywhere else in the country.

The Los Angeles-based drug activity involves gang-activity which is spreading throughout the country. The Los Angeles gangs—the Bloods and the Crips—have spread their drug trafficking activities up and down California, into neighboring States, and even attempted to establish operations as far east as York, PA. These two gangs have established a far-reaching drug trafficking network that has made itself known throughout the country. They extend their activities by recruiting retail-level distributors from the local area and using gang members as couriers for both the drugs and income generated from crack sales.

Often these gangs traffick in crack cocaine. The history of this drug is that it was first available in 1981 in Los Angeles, San Diego, and Houston. Later, it became a serious problem in New York. Crack cocaine literally exploded on the drug scene during 1986 and was reported available in 28 States and the District of Columbia. It is currently available in almost every State.

Madam President, if you think the exportation of crack cocaine throughout the country from the Los Angeles-based drug network is a problem, you are not going to like what is coming next much better. The clandestine laboratory production of methamphetamines and amphetamines is become another serious problem in this country. A significant amount of the production of these drugs takes place in the San Diego area. Methamphetamine laboratory seizures in the DEA's San Diego field division area have increased dramatically during the past several years. DEA's San Diego, Los Angeles, San Francisco field divisions along with the Seattle and Houston field divisions account for over 80 percent of the methamphetamine laboratories seized in 1988.

Madam President, all the data I have been able to gather regarding the supply of drugs into this country indicates that the drug trafficking in and through Los Angeles and San Diego, along with New York and Miami, has a dramatic impact upon the entire country. We can advance the war on drugs significantly by cutting off the supply in these cities. If we can cut back the activity in these high-intensity drug areas, we will help not only the residents of these communities, but the rest of the country as well.

Los Angeles and San Diego need additional resources to deal with the special problems they face. These cities and the people who live in them are on the front lines of the war against drugs. Their communities are the principal drug supply centers for the rest of the country. If we can cut off the supply lines of the enemy, we can gain a significant victory in this war.

The designations provided for in the 1988 antidrug abuse law will enable the administration to send in special task forces to work with the overtaxed local law enforcement agencies, to apprehend the drug dealers and speed them through the criminal justice system and into prison, off our streets and communities.

If we are going to win the war against drugs, we need to get moving now. My amendment would guarantee that we do what is necessary to get these funds out to the communities that are in desperate need before the next fiscal year is over.

For all these reasons, I urge the adoption of the amendment.

The PRESIDING OFFICER. The Senator from California [Mr. WILSON].

Mr. WILSON. Madam President, I rise in enthusiastic support of the amendment, for all the reasons you just heard. I looked across the aisle at the distinguished manager, the chairman of the Judiciary Committee. For

many years he sought to create in law the position that we now identify as drug czar. He also was the sponsor and author of the idea of these high intensity drug activity areas.

Senator HEINZ and I last year in collaboration with him and his staff worked in the 1988 bill to try to develop criteria to define what a high-activity area would be. Basically, it is what your common sense would tell you it would be; an area afflicted in the ways that make it not only a problem in terms of the suffering of local residents, but one that is important nationally because the area so designated enjoys the very doubtful distinction of exporting this poison throughout the land. The criteria that were developed were that such an area be a center of the manufacture of dangerous drugs; that it be a place of mass importation and redistribution, transshipment to other parts of the Nation. Unhappily, that happens to fit both Los Angeles and the entire Southwest border area much too closely. It is no accident that it does. It also fits Miami; it fits Houston; it fits New York.

Madam President, what we are seeking to achieve here is a designation which the drug czar has indicated will occur at approximately the time that we have set as a deadline. What we are trying to do is to deal with this problem at its head and to cut through it. To use a metaphor that I think in this case is applicable, we have in several of these high-activity areas, high-intensity areas, an octopus reaching out with tenacles across the land.

The FBI met in Kansas City in the middle of last year—not this past summer, but a year or so ago—and at that point, because of the activity of the drug gangs headquartered in Los Angeles, the so-called crack gangs, they found that they were dealing with this problem not just in Los Angeles, not just in the larger cities, but in virtually every urban center from Anchorage and Honolulu on the west to New York and Washington on the east. Singularly unhappy but successful entrepreneurship had taken place. Crack had become an epidemic throughout the land. The thing to do is to deal with that problem at its head, not at the tenacles. The purpose of designating a high-intensity area was to bring the resources to bear upon such a high-intensity area in a way that gave promise of eliminating that activity and thereby eliminating the ability to export the danger throughout the land.

Madam President, I inquire how much time remains? I wish to retain some for Senator HEINZ.

The PRESIDING OFFICER. About 3½ minutes.

Mr. WILSON. I reserve the remainder of the time. I am advised the Senator from Pennsylvania [Mr. HEINZ] who is a collaborator in that effort, is on the way to the floor.

HIGH-INTENSITY DRUG TRAFFICKING AREAS

Mr. HEINZ. Madam President, I want to thank Senator BIDEN and Senator WILSON for their kind words. And, as the author of the amendment to last year's Anti-Drug Act which provided criteria for the designation of high-intensity drug trafficking areas and required the drug czar to report to the Congress on the use of this authority, I want to state that I share the Senator from California's interest in getting Bill Bennett to designate high-intensity drug trafficking.

I cannot speak for Bill Bennett, but since the drug strategy states that he intends to use this authority next February, I suspect he has few reservations about this amendment.

Madam President, there are communities throughout this country which desperately need the Federal resources a designation would provide: Philadelphia, southern California, the southwest border, Miami, and New York just to name a few.

Such a designation in no way reflects failure on the part of local officials to address their drug crises. It in no way sends a signal to businesses and tourists to stay away. It simply means that those areas will get additional tools to fight the war on drugs.

Mr. BIDEN. Madam President, is the 4½ minutes all that is left on this amendment?

The PRESIDING OFFICER. It is actually now 3 minutes 40 seconds.

Mr. BIDEN. For the entirety of the debate that remains?

The PRESIDING OFFICER. There was 15 minutes equally divided. We are now down to 3 minutes and 30 seconds.

Mr. BIDEN. Three minutes and thirty seconds controlled by the Senator from Delaware?

The PRESIDING OFFICER. That is correct.

Mr. WILSON. If it is equally divided——

Mr. BIDEN. Parliamentary inquiry. I am confused. Who was controlling the time on the other side?

Mr. WILSON. Madam President, the inquiry, in which I join my friend from Delaware, is who is controlling time on the other side. Earlier this afternoon I sought and retained unanimous consent to do that as the acting manager before the current occupant of the Chair was presiding.

The PRESIDING OFFICER. The author of the amendment, Senator CRANSTON, controls 7½ minutes and the opposition 7½ minutes.

Mr. BIDEN. I see. I ask unanimous consent that we have 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. That will leave 3½ minutes for the Senator from Pennsylvania.

Madam President, I would like to make two fairly brief points and one acknowledgement. I thank my colleague from California for his referencing my efforts, but there were many people involved. I thank him though, very much, for being so gracious.

Let met make two points. what both Senators from California, the Senator from Pennsylvania, and the Senator from Delaware are all attempting to do is ask the Drug Director to make a very difficult decision. That is why we created the post in the first place. Let me state for the record what the problem is.

On the one hand if the Drug Director follows the law that is in place and designates high intensity areas with the limited funds he has asked for, he is going to make a lot of cities angry. He does not want to designate San Diego, Los Angeles, and Houston and not designate Chicago, Miami, Atlanta, New York, Boston, and Philadelphia.

Now, that creates a problem. That in my humble opinion is one of the reasons why he has not complied with the law.

There is a second reason. If he designates all those areas, which I suspect the Senator from California and I agree would qualify and do qualify as high intensity areas, he would have to change his strategy. He would have to change the drug strategy. He would have to ask for a lot more resources.

Let me put this in perspective. The drug czar came in. The first act he engaged in under the law, which he was allowed to do, was declare, in essence, Washington, DC, a high-intensity area. The way he paid for that was to go out and take an agent from San Diego and one from Philadelphia and two from Miami and three from Chicago, et cetera. So it is called robbing Peter to pay Paul.

Now he is going to be required to designate certain areas. We will then know, once that designation is made, how intense this war on drugs is because everyone acknowledges that there are a number of high-intensity areas.

The third point I would like to make, the Senator from California is absolutely correct. As that old saying goes, if you think there is a problem with crack coming from California, you have seen nothing yet. "Crank" is on its way. "Crank" is a synthetically produced crack. It has a feature that makes it more appealing. The high lasts longer and it greatly intensifies sexual potency, two strong selling items in the drug trade.

We can laugh and smile about it, but it is devastating. Mark my words.

Unless we impact upon the metamphetamine industry that is booming under the hands of southern California gangs where they are producing it, mainly in Montana and the Dakotas now, we are in deep, deep, deep trouble. That is why we have to do what the Senator from California insists, designate the areas, move on them, and move quickly.

I assume my 3 minutes is up so obviously I will yield the floor.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

So the amendment (No. 875) to amendment No. 873 was agreed to.

Mr. BIDEN. I move to reconsider the vote by which the amendment was agreed to.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Madam President, I yield the floor.

The PRESIDING OFFICER. The question now is on agreeing to the Warner amendment, as amended.

The amendment (No. 873), as amended, was agreed to.

Mr. BIDEN. I move to reconsider the vote by which the amendment as amended was agreeed to.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 876

(Purpose: To require treatment accountability and to waive certain restrictions on international assistance)

AMENDMENT NO. 877

The PRESIDING OFFICER. Under the previous order, the Republican leader is recognized.

Mr. DOLE. Madam President, I send two amendments to the desk and ask that they be immediately considered en bloc.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes amendments 876 and 877 en bloc.

Mr. DOLE. Madam President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 876

At the appropriate place, add the following:

SEC. . (a) Title XIX of the Public Health Service Act is amended by inserting after section 1916A (42 U.S.C. 300x-4a) the following new section:

"SEC. 1916B. STATEWIDE DRUG TREATMENT PLAN.

"(a) NATURE OF PLAN.—To receive the drug abuse portion of its allotment for a fiscal year under section 1912A, a State shall develop, implement and submit, as part of the application required by section 1916(a), an approved statewide Drug Treatment Plan, prepared according to regulations promulgated by the Secretary, that shall contain—

"(1) a single, designated State agency for formulating and implementing the Statewide Drug Treatment Plan;

"(2) a description of the mechanism that shall be used to assess the needs for drug treatment in localities throughout the State including the presentation of relevant data;

"(3) a description of a Statewide plan that shall be implemented to expand treatment capacity and overcome obstacles that restrict the expansion of treatment capacity (such as zoning ordinances), or an explanation of why such a plan is unnecessary;

"(4) a description of performance-based criteria that shall be used to assist in the allocating of funds to drug treatment facilities receiving assistance under this subpart;

"(5) a description of the drug-free patient and workplace programs, that must include some form of drug testing, to be utilized in drug treatment facilities and programs;

"(6) a description of the mechanism that shall be used to make funding allocations under this subpart;

"(7) a description of the actions that shall be taken to improve the referral of drug users to treatment facilities that offer the most appropriate treatment modality;

"(8) a description of the program of training that shall be implemented for employees of treatment facilities receiving Federal funds, designed to permit such employees to stay abreast of the latest and most effective treatment techniques;

"(9) a description of the plan that shall be implemented to coordinate drug treatment facilities with other social, health, correctional and vocational services in order to assist or properly refer those patients in need of such additional services; and

"(10) a description of the plan that will be implemented to expand and improve efforts to contact and treat expectant women who use drugs and to provide appropriate follow-up care to their affected newborns.

"(b) SUBMISSION OF PLAN.—The plan required by subsection (a) shall be submitted to the Secretary annually for review and approval. The Secretary shall have the authority to review and approve or disapprove such State plans, and to propose changes to such plans.

"(c) SUBMISSION OF PROGRESS REPORTS.—Each State shall submit reports, in such form, and containing such information as the Secretary may, from time to time, require, and shall comply with such additional provisions as the Secretary may from time to time find necessary to verify the accuracy of such reports and not overly burdensome on the State.

"(d) WAIVER OF PLAN REQUIREMENT.—At the discretion of the Secretary, the Secretary may waive any or all of the requirements of this section on the written request of a State, except that such waiver shall not be granted unless the State implements an alternative treatment plan that fulfills the objectives of this section.

"(e) DEFINITION.—As used in this section, the term 'drug abuse portion' means the amount of a State's allotment under section 1912A that is required by this subpart, or by any other provision of law, to be used for programs or activities relating to drug abuse.".

(b)(1) The Secretary of Health and Human Services shall promulgate regulations necessary to carry out section 1916B of the Public Health Service Act (as added by subsection (a)) not later than 6 months following the date of enactment of this section.

(2)(A) Sections 1916B(a)(4) and (a)(5) of such Act (as added by subsection (a)) shall become effective on October 1, of the second fiscal year beginning after the date that final regulations under paragraph (1) are published in the Federal Register.

(B) The remaining provision of such section 1916B shall become effective beginning on October 1, of the first fiscal year beginning after the date final regulations under paragraph (1) are published in the Federal Register.

AMENDMENT NO. 877

At the appropriate place insert:

SEC. . WAIVER AUTHORITY FOR INTERNATIONAL PROGRAMS.

(a) Funds appropriated to carry out the Foreign Assistance Act of 1961, as amended, or the Arms Export Control Act may be made available for any narcotic's related activities in Colombia, Bolivia and Peru to carry out any provision of such Acts notwithstanding the provisions of:

(1) Section 620(q) or section 660 of the Foreign Assistance Act; or

(2) Section 518 of the Foreign Operations, Export Financing, and Related Appropriations Act, 1989, or any other provision that similarly restricts the furnishing of assistance to countries in default on payment to the United States of principal or interest on any loan.

Mr. DOLE. Madam President, the first amendment will put accountability into treatment delivery by requiring each State to submit plans to the Secretary of Health and Human Services before ADAMHA block grant funds are released to the States.

The plans must address improved coordination between local treatment facilities to improve the referral process, as well as to improve coordination between treatment providers and social, health and employment agencies.

This amendment will, for the first time, require a comprehensive collection of data on what types of treatment systems are being employed, and what success rates the various types of systems are achieving. Since we are dramatically increasing funds for treatment, common sense dictates that we hold treatment providers accountable to standards that will be promulgated by the public health service.

The second amendment allows assistance to be provided to countries which have defaulted on loans, and allows for training of anti-drug police and military in the andean countries.

These amendments are essential components to the President's strategy, and I know of no amendments or objections to either.

Mr. BIDEN. Madam President, the Senator from Kansas is absolutely correct.

The PRESIDING OFFICER. Under the previous order, the amendments have been presented and are agreed to.

Amendments numbered 876 and 877 were agreed to.

AMENDMENT NO. 878

(Purpose: To provide for substance abuse prevention and treatment programs)

Mr. BIDEN. Madam President, I send an amendment to the desk on behalf of the majority leader, Mr. MITCHELL, and the minority leader, Mr. DOLE, and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for Mr. MITCHELL, (for himself, Mr. DOLE, Mr. BIDEN, and Mr. SIMPSON), proposes an amendment numbered 878.

Mr. BIDEN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new sections:

SEC. . Of amounts made available under this Act, $462,584,000 shall be used for the block grant program under part B of title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) to make grants to carry out substance abuse programs, except that such amount shall not be used to calculate amounts to be used for programs and activities relating to substance abuse as required by section 1916(c)(7)(B) of such Act.

SEC. . Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) in paragraph (2), by inserting "and those infants who are victims of parental substance abuse" before the semicolon;

(2) in paragraph (3), by inserting "and those infants who are victims of parental substance abuse" before ", to reside";

(3) in paragraph (4), by inserting "and those infants who are victims of parental substance abuse" before the semicolon;

(4) in paragraph (5), by inserting "and those infants who are victims of parental substance abuse" before the semicolon;

(5) in paragraph (6), by inserting "and those infants who are victims of parental substance abuse" before the semicolon; and

(6) in paragraph (7), by inserting "and those infants who are victims of parental substance abuse" before the period.

SEC. . Section 1912A of the Public Health Service Act (42 U.S.C. 300x-1a) is amended—

(1) in subsection (a)(4)(B)(i)—

(A) by striking out "0.4" in subclause (I), and inserting in lieu thereof "0.2"; and

(6) by striking out "indicated by the most recent data collected by the Bureau of the Census" in subclause (II), and inserting in lieu thereof "determined by multiplying the percentage of the State's population that resides in urbanized areas of the State (as indicated by the most recent dicennial census compiled by the Bureau of the Census) by the most recent estimate of the total population of the State";

(2) in subsection (a)(4)(B)(ii)(I), by striking out "0.2" and inserting in lieu thereof "0.266";

(3) in subsection (a)(4)(B)(iii) (I), by striking out "0.2" and inserting in lieu thereof "0.266";

(4) in subsection (a)(4)(B)(iv)(I), by striking out "0.2" and inserting in lieu thereof "0.267";

(5) in subsection (b) to read as follows:

"(b)(1) In fiscal year 1989, each State shall receive a minimum allotment under this subpart of the lesser of—

"(A) $8,000,000; and

"(B) an amount equal to 105 percent of the sum of—

"(i) the amount the State received under section 1913 for fiscal year 1988 (as such section was in effect for such fiscal year); and

"(ii) the amount the State received under part C for fiscal year 1988.

"(2) In subsequent fiscal years, each State shall receive a minimum allotment under this subpart that is equal to the amount that such State received in fiscal year 1989 under paragraph (1) for the minimum amount that such State was entitled to under such paragraph) plus an amount equal to such minimum multiplied by the percentage increase in the amount appropriated under section 1911(a) in such subsequent fiscal year above the amount appropriated for the immediately preceding fiscal year."; and

(6) in subsection (f), to read as follows:

"(f) For purposes of subsection (e), the applicable amount for each fiscal year is $330,000,000.".

SEC. . (a) Section 5111(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.) is amended by striking "$350,000,000" and inserting "$375,000,000".

(b) Section 5122 of the Drug-Free Schools and Communities Act of 1986 is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively;

(2) by inserting the following new subsection (a) after the section designation:

"(a) EMERGENCY GRANTS TO SCHOOLS IN URBAN AND RURAL AREAS.—

"(1) IN GENERAL.—From the amount available to carry out this section pursuant to section 5121(a), 33.3 percent of such amount shall be used by the chief executive officer in consultation with the State educational agency or the chief State school officer of a State, to make contracts with, and emergency grants to, local educational agencies serving urban and rural communities with severe drug problems.

"(2) REQUIREMENTS.—

"(A) INITIAL GRANTS.—In awarding grants under this subsection the chief executive shall first award grants to local educational agencies serving the largest city in the State to develop and implement comprehensive approaches to eliminating the serious drug problem that affects schools and students within the boundries of the local educational agency. Such grant shall be of sufficient size, scope, and quality to be of value and effective.

"(B) LOCAL AGENCIES.—After satisfying the requirements of subparagraph (A), the chief executive officer of a State receiving a grant under this section shall make grants to urban and rural local educational agencies with severe drug problems as determined by the incidence of drug abuse in relation to the size of the school age population. Such grants shall be of sufficient size, scope, and quality to be of value and effective. Such grants to the local educational agency shall be used for the development and implementation of comprehensive approaches to eliminating the serious drug problems that affects schools and students within the boundaries of the local educational agency.

"(3) WAIVER.—The Secretary may waive the provisions of this subsection for States in which there is no concentration of drug problems."; and

(3) in subsection (b) (as amended in paragraph (1)) by striking out "IN GENERAL.—Not" and inserting in lieu thereof "REMAINDER.—From the remainder available to carry out this section, not".

Mr. BIDEN. Madam President, these are basically technical amendments that have been agreed to by all parties. I yield back the time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 878) was agreed to.

Mr. WILSON. Madam President, I wonder if the Senator from Iowa, the distinguished chairman of the Senate Appropriations Subcommittee on Labor, Health and Human Services and Education, and my good friend from Pennsylvania, the ranking member of that subcommittee, would engage in a discussion with regard to the leadership and its funding provisions for the treatment of substance abusing pregnant and postpartum women and their infants.

Mr. HARKIN. Yes, I would be happy to accommodate my colleague.

Mr. SPECTER. Yes, of course.

Mr. WILSON. I thank my good friends.

From my understanding of the leadership drug amendment before us, $45 million will be provided for the Demonstration Grant Program administered by the Office of Substance Abuse Prevention, or as it is more commonly known, OSAP, at the Department of Health and Human Services. Of this additional amount of funding, OSAP must allocate a minimum of $25 million to provide grant assistance for the treatment, including residential treatment, of pregnant and postpartum women and their infants. Is that the Senators' understanding as well?

Mr. HARKIN. Yes, that is correct. As the Senator knows, the subcommittee shares your concern for these women and their infants. I believe I can speak on behalf of the subcommittee when I say that we believe the additional funds provided in the leadership amendment, supplemented by the initial subcommittee recommendation, represents an important first step toward addressing the needs of this population.

Mr. WILSON. I will say to my colleague that I agree that additional funding for the treatment of substance abusing pregnant and postpartum women and their infants is essential.

As the Senator knows, in the present fiscal year, OSAP received 138 applications for funding to treat pregnant and postpartum women and their infants, 72 of which were deemed worthy of Federal support. However, because of OSAP's funding priorities, only 18 grants were awarded.

OSAP's present effort is wholly inadequate when compared to the cost

both in terms of human suffering and tax dollars which will be required to care for these mothers and their infants, 1,000 of whom are born each day.

For example, I am told that if we were to place the estimated 400,000 drug-addicted mothers and their drug-exposed infants in residential treatment today, the cost of getting them drug free will exceed $10 billion.

Mr. WILSON. In view of this tremendous need for resources, I would ask the chairman and ranking member whether it is the expectation of the subcommittee that OSAP should provide no less than $15 million of the original $57.8 million committee recommendation for the OSAP demonstration grant program be utilized for treatment for substance abusing pregnant and postpartum women and their infants?

Mr. SPECTER. Yes, I believe the chairman and I would agree with the Senator from California. Anyone who has witnessed the pain and suffering of these infants and their drug-addicted mothers would agree that they are a priority in our battle to fight the drug scourge.

Mr. HARKIN. I associate myself with the remarks of my good friend from Pennsylvania. It is our expectation that this minimum level of $15 million, coupled with the $25 million provided under the leadership amendment, will ensure that no less than $40 million be spent assisting this vulnerable population.

Mr. WILSON. I thank my colleagues for engaging in a discussion of this matter of mutual concern. Let me close by indicating my interest in working with the subcommittee on this and related matters in the future.

Madam President, I yield the floor.

Mr. KENNEDY. Madam President, I want to thank my colleagues for their commitment to this important issue. It is critical that we establish this program immediately to assist women and their children in need. I am hopeful that my colleagues will be able to provide the full $40 million as authorized by my amendment.

Mr. DOLE. Madam President, I just point out one of the amendments agreed to is what I think is a contribution in the ADAMHA grant program. There was an obvious urban bias that has been corrected to some extent. We appreciate that in rural areas. We have drug problems too. It is an important change from many States. I thank the managers as well as the chairman of the Appropriations Committee, Senator BYRD, and the ranking Republican, Senator HATFIELD, for approving the amendment.

Mr. BIDEN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Madam President, I ask unanimous consent that the order for the quorum call be recinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CHICAGO CUBS

Mr. DIXON. Madam President, I ask the distinguished manager and the distinguished miniority leader if I may have a valuable moment as though in morning business to extole the virtues of the great Chicago Cubs?

Mr. BIDEN. Madam President, I will not object on the condition that the Senator from Illinois not read what he has to say.

Mr. WILSON. I second the objection. [Laughter.]

Mr. DOLE. No. objections.

Mr. DIXON. Madam President, I would like to take this opportunity to congratulate the Chicago Cubs for clinching the National League East Title last night with a 3 to 2 victory over the Montreal Expos. Under manager Don Zimmer, the Cubs were transformed from a 77-85 team last year to the champs in the National League East.

At the beginning of this season no one gave the Cubs a chance but their tough spirit and aggressive play turned many doubters into believers. Ryne Sandberg's score from first last night off of a single by Dwight Smith was indicative of the aggressive play that turned the Cubs into champions this season.

Its been a long time since 1984, the last time the Cubs won their division, and an even longer time since 1945, the last time the Cubs won the pennant. This year the Cubs have a true championship caliber team and this Senator expects to be attending a victory parade in Chicago at the end of October.

The Cardinals made a run at them toward the end, but make no mistake about it Madam President, this season belonged to the Cubs. I know everyone in Illinois will be rooting and much of America will be rooting for the Cubs as they go to the playoffs.

Holy Cow, Madam President, Harry Caray sums up this season the best when he says Cubs win! Cubs win! Cubs win!

Cry your eyes out, Madam President, I know you are still worried about the Orioles. [Laughter.]

I thank the manager. I yield back the floor.

Mr. BIDEN. Madam President, I would like the RECORD to show that during the entire—how shall I describe it, I shall not describe it—that the entire time the Senator from Illinois had the floor that the Presiding Officer, the Senator from Maryland, the resident of Baltimore, one who was raised as they say in the shadows of the stadium, one who has been an Orioles fan for all of her short life, showed more restraint than I have ever seen her show as long as I have known her. I understand why the restraint was necessary because of the high office she now holds and the particular position within the Senate. But if I can speak for her only briefly to suggest that "He ain't seen nothing yet," Madam President.

I yield the floor.

The PRESIDING OFFICER. The Chair is sorry to hear that, speaking as a Senator from Maryland.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

The Senate continued with the consideration of the bill.

Mr. BIDEN. Madam President, we are awaiting the appearance of the distinguished Senator from New Jersey, the manager of this appropriations bill, who will be proposing the amendment, a remaining amendment under the unanimous-consent agreement for the Senator from California at which time I think we will wrap this up. If he arrives quickly, maybe we will have final passage on this entire matter in the next 2, 3 or 10 minutes. I might say if there is anyone from Senator CRANSTON'S office here who is willing to entrust the amendment to the Senator from Delaware, I would be happy to move it forward in the interest of time. Otherwise, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I would ask the chairman of our Subcommittee on Transportation of the Committee on Appropriations if he would be willing to respond to a brief question as a colloquy to the bill?

Mr. LAUTENBERG. I certainly would accommodate the Senator from Oregon on that.

Mr. HATFIELD. Mr. President, I would like to say to the chairman of the committee first of all this is an outstanding piece of work he has brought to the floor and I fully support it. I am very proud to be a part of that activity of this Appropriations Committee in general.

There has been basically, and I will be right up front about it, a slip-up on a point that I was going to raise

during the consideration of the bill in committee and then much to my dismay I found that I forgot to do that. So I merely wanted to say this is not the committee's responsibility. It is my full responsibility.

I would like to have added in that FAA priority list within the report to the bill on behalf of Congressman BEVILL of Alabama to have the Walker County Airport Authority to be considered for a $300,000 safety equipment for that airport.

We have this list within the report and I merely want to get this to the conference committee as a matter of conference and so I would like to ask the chairman if there is a possibility of accommodating this request as a part of the committee report?

Mr. LAUTENBERG. The ranking member of the Appropriations Committee, Mr. HATFIELD, has been very helpful to us in moving this legislation along, including the recently agreed-to drug amendment. We talked about this listing and we recommend that it be included in the priority listing, that it be treated like all others that have a request there and it be considered based on the value that it represents in terms of all of those communities asking for help, and I am happy to have that included in the list without any problems.

Mr. HATFIELD. I thank the Senator. He is very accommodating.

Thank you, Mr. President.

AMENDMENT NO. 880

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk on behalf of Senator CRANSTON to H.R. 3015, as discussed on page S11071 of the RECORD of September 14, 1989, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for Mr. CRANSTON, proposes an amendment numbered 880.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

SEC. . SONOMA, MARIN, MENDOCINO, AND NAPA COUNTIES, CALIFORNIA.

Section 149(a)(41) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended—

(1) by striking "SONOMA AND MARIN COUNTIES, CALIFORNIA" and inserting "SONOMA, MARIN, MENDOCINO, AND NAPA COUNTIES, CALIFORNIA";

(2) in subparagraph (B) by striking "HEALDSBURG" and inserting "SAN RAFAEL TO WILLITS AND NOVATO TO SHELLVILLE"; and

(3) in subparagraph (B) by striking "Healdsburg, California." and inserting "Willits, California, and a highway project for the purpose of demonstrating the extent to which traffic congestion is relieved on a major east-west segment of a California State highway which connects Novato, California, and Shellville, California, by construction of high occupancy vehicles lanes along a right-of-way which is parallel to such major east-west segment.".

Mr. CRANSTON. Mr. President, I rise to offer a technical amendment to the appropriations bill before us.

The 1987 Surface Transportation and Uniform Relocation Assistance Act authorized $24 million for the acquisition of 52 miles of the Northern Pacific Railroad [NWP] right-of-way from San Rafael, CA, to Healdsburg, CA. The right-of-way runs parallel to Highway 101, the major artery north of the Golden Gate Bridge. Local governments along the corridor are on the verge of an agreement to purchase this right-of-way with the goal of constructing a high-occupancy vehicle [HOV] or bus lane to relieve congestion on Highway 101.

The owner of the NWP Railroad now wants to sell the entire railroad corridor, from San Rafael all the way to Willits to the north, which is an additional 50 miles.

This is a technical amendment that would allow the local governments to purchase the additional right-of-way. It does not call for any additional Federal funds whatsoever; it merely changes the termini so that the local governments can take advantage of the railroad's offer.

Mr. LAUTENBERG. Mr. President, this amendment does not involve spending, but provides that local governments in California may purchase a right-of-way in addition to the right-of-way specifically designated in section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987. This amendment has been cleared by both sides of the authorizing committee, and has been agreed to by my ranking member, Senator D'AMATO. I know of no objection and urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (No. 880) was agreed to.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that title IV and amendments related thereto be printed at the proper place in H.R. 3015, the transportation appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

A LETTER OF INTENT FOR THE NEW DENVER AIRPORT

Mr. WIRTH. Again, I would like to commend the distinguished Senator from New Jersey for his leadership in getting the new Denver airport closer to ground breaking this fall. Although the other body did make the new Denver airport specially eligible for Airport Improvement Program [AIP] grants-in-aid funds, it overlooked including $102 million that had been requested by the administration for fiscal 1990 to begin acquisition of the Federal Aviation Administration's [FAA] airways installations for the facility. This was most disturbing since the Secretary of Transportation has been clear that the new airport could not open in 1993, as planned, if Congress did not provide funds in this budget to begin the procurement of the air traffic control tower and other facilities and equipment that must be designed for the new airport.

Mr. President, the recommendation by the Senator from New Jersey's subcommittee that the Senate restore $50 million of the President's budget request for FAA procurements at the new Denver airport site is most helpful. Also, his committee's action to increase the AIP funding level $150 million above the original administration budget request should make it easier for the Department of Transportation [DOT] and FAA to provide substantial assistance to the city and county of Denver for the new airport without reducing funds from other deserving capacity projects across the Nation.

Mr. LAUTENBERG. I thank the distinguished Senator from Colorado for his kind remarks concerning the subcommittee's recommendations. The Nation needs new airport capacity at major hub locations. Denver would be the first major new airport to be constructed since Dallas-Fort Worth, which was more than 20 years ago. We support the Denver project and hope that it can begin without delay.

The committee also noted that the remaining facilities and equipment [F&E] funds requested by the administration for fiscal 1990, but not funded at this time, can be reprogrammed later in the fiscal year. The committee did not agree with the House's language since it would have allowed individual airlines to control the content and timing of the FAA's procurement schedule. The Senate report makes clear that Denver must consult with the airlines and other users concerning the financing of the new airport, but will prevent the cancellation of important capacity projects for reasons which are not based on the broader public interest. The committee report language requires the DOT Secretary to assure that these consultations with users have been undertaken before more F&E funds will be released.

Mr. WIRTH. I thank the Chairman for his efforts to find a fair and equitable balance between proper consultation with airport users and allowing one or two major users to veto an important capacity project for the Nation.

If I may inquire further, has the committee worked out a procedure with the administration for approving

letters of intent for financing multiyear airport capacity projects, such as for Denver?

Mr. LAUTENBERG. Yes. The fiscal 1989 DOT appropriations bill contained language which is repeated in this year's bill, which requires that letters of intent which obligate more than $10 million for an airport capacity-enhancing project must be reviewed by the Senate Transportation Appropriations Subcommittee, its House counterpart and by the authorizing committees.

This is the process that could be used to provide multiyear assistance to Denver for its replacement airport, subject to available appropriations. This procedure should provide assurance to the financial markets that the Congress and the administration plan to provide substantial amounts of AIP funds for this project over a number of years from the aviation trust fund. Following the practice developed over the past year, the subcommittee would review the administration's proposed letter of intent for Denver.

Mr. WIRTH. I thank the Senator for his guidance and for his leadership on transportation funding matters.

Mr. President, I yield the floor.

Mr. ADAMS. Mr. President, I would like to ask the chairman of the Transportation Appropriations Subcommittee a question. Early this year he informed me that it would not be possible to fund an HOV project in the I-5 corridor of my State. This funding initiative was something I developed by bringing in the participation of my State transportation department and other interested congressional offices. Would the chairman respond as to why this request was denied?

Mr. LAUTENBERG. Mr. President, let me begin by saying that it had nothing to do with any votes in the subcommittee or committee meeting. But the Senator is correct that this particular project was not doable. Now let me explain why.

First, he needs to understand the overall setting. I received 450 funding requests from 78 Members that were close to $4 billion above the budget.

Second, as a result of all of these requests, and in an effort to reduce overall Federal spending, the allocation for this subcommittee provided pursuant to section 302(b) of the Budget Act did not allow for a number of different items. So funding was denied for all requests concerning HOV lanes. We, in fact, deleted a Virginia HOV project that the House had included and was basically identical to Washington State's HOV project.

Third, while every State wants to get every dollar it can for construction, here we are talking about funding for design and environmental assessment work. I understand that the State transportation department would have had to come back to the Federal Government for $250 million in additional construction money.

Fourth, as subcommittee chairman, I look at many factors when deciding priorities. In this instance, I noted that the Washington State Transportation Department chose to spend over $400 million—including $238 million in discretionary Interstate construction funding received in October 1985—in Federal dollars in 1989, while choosing not to spend any of it on design and environmental assessment work for I-5 HOV use. I would ask, why is that? It is difficult for me, with limited funds, to fund a project when the Senator's own State transportation department is not addressing HOV lanes as a priority in prior years.

Last, as my friend from Washington State knows I am not trying to starve Washington State. I did agree to provide $4 million for radar VTS equipment in Puget Sound. I also agreed to do a number of other projects which the Senator requested and urged me to do. In fact, if he goes back to the 1989 supplemental, I was able to help him with his antiapartheid amendment offered at that time.

Mr. ADAMS. Mr. President, let me thank my friend for clarifying his position on this project. As the Senator mentioned, Washington State came out very well in his subcommittee. We not only obtained funds to protect the waters of Puget Sound from potential oil spill catastrophes, but we also obtained added funds for airports in Sea-Tac and Ephrata-Moses Lake and directions to study light rail in Clark County. Again, I thank my friend from New Jersey for his help and assistance.

HIGHWAY RIGHT-OF-WAY OPTIONS

Mr. GRAHAM. Mr. President, State and local governments are facing increasingly limited highway corridor options because land costs are becoming prohibitive and availability of corridor locations scarce. Delayed decisions exacerbate these problems and often contribute to environmental damage. We need to provide means for strategic planning which can moderate these adverse circumstances.

As the Secretary of Transportation develops the National Transportation Policy, I would encourage the Secretary to include an analysis of current corridor preservation and acquisition practices and research innovative methods for maintaining State and local authorities' right-of-way options.

In particular, I would suggest that the Secretary study the differences in the treatment of reimbursement for right-of-way acquisition between the Airport and Airway Improvement Act and the Federal-aid Highway Program with the goal of encouraging the early identification of corridors to protect environmental and other public values while most effectively meeting public transportation needs.

Mr. LAUTENBERG. Mr. President, I agree with the Senator from Florida that maintaining right-of-way options is essential for meeting future transportation needs. I would also encourage the Secretary of Transportation to expeditiously pursue this issue as part of the National Transportation Policy.

Mr. HARKIN. Mr. President, I want to congratulate Senator LAUTENBERG, the chairman of the Transportation Appropriations Subcommittee for the masterful job that he has done with the Transportation appropriations bill. It has, I know, been very difficult to balance all of the considerable needs for transportation within the limited funds that are available. Transportation is not an issue which usually creates heated passion. But, it is crucial for the economic health of our Nation. And, I believe that Chairman LAUTENBERG has more than met the challenge within the parameters that he faced. I also want to thank the chairman for the considerable courtesy that he has shown to me and to my State of Iowa. I am especially thankful for his inclusion of $7 million for the Local Rail Service Assistance Program. The program was not funded in fiscal year 1989. I am hopeful that we will soon see the enactment of both this provision and a reauthorization bill, both being needed for this important program to meet our rail improvement needs.

I also want to congratulate Senator D'AMATO for his very real contribution toward the development of the bill.

THE SOUTHEAST LIGHT, BLOCK ISLAND, RI 1989

Mr. CHAFEE. Mr. President, I would like to take a moment to discuss an historic property owned by the Coast Guard that is very important to the people of my home State: the Southeast Light.

Built in 1873, the Southeast Light is one of the most recognizable symbols of Rhode Island, and its image is often used to represent the State. The Light is being threatened by the Erosion of the bluff on which it stands, however, and needs to be moved back from the cliff edge.

In the last Congress and again this year, I introduced legislation to transfer ownership of the Southeast Light from the Coast Guard to the Block Island Southeast Lighthouse Foundation, and to provide for matching funds for the relocation of the Light.

I had seriously considered proposing an amendment to the transportation appropriations bill that would provide matching funds to relocate the light. After review of the bill, it became clear that such an amendment would not be appropriate. The resources available for the Department of Transportation are limited, and I certainly do not wish to take much-needed funds out of the already tight Coast Guard budget.

Instead, I hope to work with both Coast Guard and Transportation officials and my Senate colleagues to find an agreeable solution as soon as possible. I would prefer to have the authorizing legislation approved, and then work for the necessary funds. The measure is a priority of mine, and I intend to push hard for its passage and full funding.

In addition, although no earmarked funds may be available for the Southeast Light this year, I hope that the Secretary of Transportation will keep the Light in mind should there be extra discretionary funds.

Mr. LAUTENBERG. Mr. President, we will shortly be voting on the transportation bill and I will just take this opportunity to make a few comments before that action takes place.

I believe that this bill represents a good balanced funding approach for various and often competing modes of transportation.

I take the opportunity we have to thank my colleague, the distinguished ranking member of the subcommittee, Senator D'AMATO, for his support and advice. This bill was done in a full bipartisan spirit in which all members of the subcommittee and the full committee worked so that we could move this bill.

I also acknowledge and thank the committee staff who worked so hard to get us to this point: On the majority side the full committee staff director Jim English and the subcommittee staff Patrick McCann, Don Knowles, and Joyce Rose; on the other side of the aisle Keith Kennedy, minority staff director, and subcommittee staff Anne Miano and Dorothy Pastis.

In addition, I recognize and thank for their work Mitchell Ostrer and Jeff Morales of my personal staff and thank some people who were of tremendous help in relation to the smoking ban amendment.

There were a great number of volunteers, working through health groups and the flight attendants, who put in a lot of time to help in this effort. To all of them, I offer my thanks—in particular: Arnita Hannon of the American Lung Association; Cliff Douglas of the Coalition on Smoking or Health; and Juliette Lenoire and Jo Ellen of the Association of Flight Attendants. Their efforts were critical, and I thank them.

But their real reward is in the accomplishment. They can be proud of their work. Hopefully, they will be breathing easier, and I will be counting on their continued efforts as we head in conference with the House.

I understand that the yeas and nays have been ordered. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LAUTENBERG. I urge passage of the transportation bill.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER (Mr. LIEBERMAN). Are there any other Senators in the Chamber who desire to vote?

The vote was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 209 Leg.]

YEAS—99

Adams	Garn	McClure
Baucus	Glenn	McConnell
Bentsen	Gore	Metzenbaum
Biden	Gorton	Mikulski
Bingaman	Graham	Mitchell
Bond	Gramm	Moynihan
Boren	Grassley	Murkowski
Boschwitz	Harkin	Nickles
Bradley	Hatch	Nunn
Breaux	Hatfield	Packwood
Bryan	Heflin	Pell
Bumpers	Heinz	Pressler
Burdick	Helms	Pryor
Burns	Hollings	Reid
Byrd	Humphrey	Riegle
Chafee	Inouye	Robb
Coats	Jeffords	Rockefeller
Cochran	Johnston	Roth
Cohen	Kassebaum	Rudman
Conrad	Kasten	Sanford
Cranston	Kennedy	Sarbanes
D'Amato	Kerrey	Sasser
Danforth	Kerry	Shelby
Daschle	Kohl	Simon
DeConcini	Lautenberg	Simpson
Dixon	Leahy	Specter
Dodd	Levin	Stevens
Dole	Lieberman	Symms
Domenici	Lott	Thurmond
Durenberger	Lugar	Wallop
Exon	Mack	Warner
Ford	Matsunaga	Wilson
Fowler	McCain	Wirth

NAYS—0

NOT VOTING—1

Armstrong

So the bill, H.R. 3015, as amended, was passed.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I move that the Senate request a conference with the House and that the Chair appoint the conferees on the part of the Senate and insist on its amendments.

The motion was agreed to; and the Presiding Officer appointed Mr. LAUTENBERG, Mr. BYRD, Mr. HARKIN, Mr. SASSER, Ms. MIKULSKI, Mr. D'AMATO, Mr. KASTEN, Mr. DOMENICI, Mr. GRASSLEY, and Mr. HATFIELD, conferees on the part of the Senate.

Conferees for the sole purpose of the drug amendment title IV: Senators BYRD, INOUYE, and HATFIELD, for all items in title IV, and the chairman and ranking minority member of each subcommittee for items falling within the jurisdiction of each subcommittee, and are as follows:

From the Subcommittee on Agriculture and Related Agencies, Senators BURDICK and COCHRAN; from the Subcommittee on Commerce, Justice, State, and the Judiciary, Senators HOLLINGS and RUDMAN; from the Subcommittee on Defense, Senators INOUYE and STEVENS; from the Subcommittee on the District of Columbia, Senators ADAMS and GRAMM; from the subcommittee on Energy and Water Development, Senators JOHNSTON and HATFIELD; from the Subcommittee on Foreign Operations, Senators LEAHY and KASTEN; from the Subcommittee on VA, HUD, and Independent Agencies, Senators MIKULSKI AND GARN; from the Subcommittee on Interior, Senators BYRD and MCCLURE; from the Subcommittee on Labor, Health and Human Services, Senators HARKIN and SPECTER; from the Subcommittee on Legislative Branch, Senators REID and NICKLES; from the Subcommittee on Military Construction, Senators SASSER and GRASSLEY; from the Subcommittee on Transportation, Senators LAUTENBERG and D'AMATO; and from the Subcommittee on Treasury, Postal Service, and General Government, Senators DECONCINI and DOMENICI.

UNANIMOUS-CONSENT AGREEMENT—SENATE CONCURRENT RESOLUTION 74

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of a concurrent resolution authorizing congressional assistance to the new Polish Senate to be offered by Senator DOMENICI and others; that there be 15 minutes for debate to be equally divided between the majority and minority leaders; that there be an additional 15 minutes under the control of Senator HELMS; that no amendments or motions be in order with respect to the concurrent resolution; and that immediately upon the expiration or yielding back of time, the Senate, without any intervening action, proceed to vote on agreeing to the concurrent resolution.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, does the leader contemplate a rollcall vote on this?

Mr. MITCHELL. No, I do not and I am about to announce that, immediately upon the acceptance of this agreement.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators, there will be no further rollcall votes this evening. We will proceed to the disposition of this now pending concurrent resolution with adoption of that by voice vote. Then I understand from the distinguished manager of the DOD bill that there are three amendments that will be offered and accepted and that will complete action for this evening.

It is my intention to have the Senate return to session at 9:30 tomorrow and be back on the defense appropriations bill at 10. The pending business then will be the SDI amendment.

We attempted this evening to gain an agreement limiting the amendments to the DOD appropriations bill but have been unable to do so. It is my hope and my intention to try again tomorrow morning to get a list of amendments on both sides so that we could at least identify the remaining amendments to the bill and limit consideration to those amendments during the day tomorrow.

I note the presence of the distinguished Republican leader on the floor.

Mr. DOLE. We will be happy to cooperate with the majority leader and see if we can put together a list.

Mr. MITCHELL. I thank my colleague. I repeat for the benefit of Senators, there will be no further rollcall votes this evening. There will be rollcall votes beginning tomorrow morning, and likely to be several votes during the day and into the evening tomorrow. Senators should be prepared for a late evening tomorrow.

If I might ask the distinguished Republican leader, who is present on the floor—I spoke to him briefly earlier today—it is my hope when we complete action on the DOD appropriations bill we could then go to the remaining appropriations bill, which is the State-Commerce-Justice bill which I understand the committee reported out today.

Mr. DOLE. Will the committee report be filed today on this?

Mr. MITCHELL. I believe it will be filed today if it has not already been filed.

Mr. DOLE. We are checking. We may have one problem that I would like to discuss privately with the majority leader. It also occurs to me the Senator from Pennsylvania wants a rollcall vote on his amendment. He could discuss that tonight. We could have that vote first thing in the morning, which would get people going.

Mr. SPECTER. That would be entirely agreeable.

Mr. MITCHELL. That would be excellent.

Mr. DOLE. It would keep them moving in the morning.

Mr. MITCHELL. Indeed, if the managers could work out an agreement that would have the debate this evening and the vote at 10 tomorrow, that way we could get started. So Senators should be on notice, therefore, that there may be a rollcall vote at 10 a.m. tomorrow.

Mr. INOUYE. There will be.

Mr. MITCHELL. The distinguished manager just advises me there will be a vote at 10 a.m. tomorrow on a Specter amendment that will be debated this evening.

Mr. SPECTER. I thank the Senator.

Mr. MITCHELL. I thank the Senator for his courtesy and all Senators. We will return with a vote at 10 tomorrow.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GIFT OF DEMOCRACY

Mr. DOMENICI. Mr. President, is the concurrent resolution regarding Poland the subject matter before the Senate at this time?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, I send to the desk a concurrent resolution in behalf of myself, the majority and minority leaders, Senators KASTEN, SIMON, CRANSTON, and others and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 74) authorizing the "Gift of Democracy" from the United States Congress to the new Senate and Sejm in Poland.

The Senate proceeded to consider the concurrent resolution.

Mr. DOMENICI. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. Without objection the Senator from New Mexico is recognized for 5 minutes.

Mr. DOMENICI. Mr. President, last weekend I was very privileged to attend a meeting in Warsaw, Poland. It was an international conference, sponsored by the National Democratic Institute for International Affairs under the aegis of the National Endowment for Democracy, with the concurrence of the Republican Institute. In attendance from the United States with me were some distinguished parliamentarians, as they call them in Poland: former Vice President Mondale, former Senate majority leader Howard Baker, former Senator Tom Eagleton, and former Member of the Congress from the State of Oklahoma, Jim Jones. They have joined me in a letter to the leadership of the Congress with reference to the issue that is before the Senate now. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC, September 26, 1989.

Hon. GEORGE J. MITCHELL,
The Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: We have just returned from an unprecedented international conference in Poland. Together with veterans of eight West European parliaments, we met for three days with 50 leaders of the new Sejm and Senate to discuss the role and conduct of national legislatures.

The conference was a dramatic and deeply moving experience for each one of us, and we came back convinced that the United States Congress has a unique opportunity to help the newly democratic Polish Parliament.

Among the many challenges facing Poland over the coming months is the utter lack of resources available to its new Parliament. These new citizen-legislators—many of them farmers or workers whose only experience with government is a jail term for supporting freedom—lack equipment, training, and staff.

In a country where two or three jobs are needed to support a family, most of our Polish colleagues are stretched to their physical limits working full time on a salary of $12 per month. We came to realize that the lack of basic support items, such as copying machines, typewriters, simple computers, and a library, unnecessarily complicates their task of rebuilding Poland.

The United States Congress can provide a unique first gift of democracy to the new Polish Parliament by taking the lead in equipping it with the appropriate tools and training.

We recommend that the Leadership dispatch a small team of experts to Poland to assess the immediate equipment and training needs of the Sejm and Senate, then report back to the Senate and House of Representatives within 30 days. We propose that the findings of the team of experts be used by us and other congressional veterans to raise the necessary private or public funds to help Poland develop an effective legislature.

Each of us stands ready to discuss this proposal with you at your convenience.

Sincerely,

PETE V. DOMENICI.
JAMES R. JONES.
WALTER F. MONDALE.
HOWARD BAKER, JR.

THOMAS F. EAGLETON.

Mr. DOMENICI. Mr. President, seldom does one have an opportunity as we five had during this 3-day meeting. Having been born and raised and lived under a democracy and an economic system that produces substantial goods and wealth, that has as its underpinning a competitive, free economic system, it is quite exciting to go to a country like Poland and see the birth of a new democracy. It was my privilege to experience that last weekend.

This was not a meeting to discuss macroeconomics or foreign aid. It was a meeting with parliamentarians, members of their House and Senate, few, if any, having had any experience in the art of politics or in serving in a legislative body during their lifetime.

Many of those we met and talked with and ate with there have been in jail for long times during the last decade. Some have been recently in jail. Many come from tractor companies and small farms, businesses of one type or another that they have worked in as common laborers or managers for most of their lives. The average pay is between $10 and $12 a month when they are on the job, and I gather they will receive that amount as they struggle with this new democracy and new Parliament.

Mr. President, we thought we were going to go there and be beseiged with questions about big issues, but what we found was a fantastic spirit and a hope that they could create a system as free as America's. Their hope was that they could run a Parliament, with committees, with order, and with the rule of law. It was, indeed, refreshing to see people of such genuine humility bent on making a new system work, who wanted so much to learn.

In the final analysis, what we found was that the Polish legislators did not have the basic equipment to run a Parliament. They have no computers. They have no real library system. They have no means or method of reproducing documents. They have few, if any, typewriters.

They are not even sure what the laws of Poland are today. One got up and said he spent a whole day and a whole night looking at the laws of Parliament to see what the law was on a particular subject.

We have in our country the expertise and equipment to give them a real start in this venture in democracy.

So today, what we are asking the Senate and House to do, when they pass this resolution, is to give what we call a "gift of democracy" from the U.S. Congress to this new Parliament.

Essentially, we are asking that our professional experts be dispatched to make an inventory of what they have and what they do not have. They will tell us what basic equipment and basic expertise is needed to help these truly humble people do their job better. Vice President Mondale, Senator Howard Baker, and the rest of us recommend this as the best way to help in their quest for freedom and in their quest to make a Parliament that has a chance of working.

So what we are providing in this concurrent resolution is that the joint leadership of the United Sates House and Senate forthwith assign the requisite experts to go to Poland, inventory their needs, and report back to our leadership forthwith. Then we will find ways and means, both through gifts from our private sector and, if need be, from the public sector, of the basic equipment that the Polish Parliament needs in order to do its job. The members would love this.

Mr. CRANSTON. Will the Senator yield?

Mr. DOMENICI. I am pleased to yield to my good friend from California.

Mr. CRANSTON. Mr. President, I rise to applaud the Senator from New Mexico for his efforts. And I am delighted to be a cosponsor with him. I, too, visited Poland at the very moment of transition in August from a Communist-led nation to one where others are now running significant parts of the Government. It is very important that they succeed in their experiment with democracy. They need help. As the Senator from New Mexico indicated many have had no experience. Many of them have spent a lot of years in jail, and, incidentally, they were in jail for fighting for democracy. Now they have democracy in their hands.

Their success is important not only to Poland but to central Europe and, indeed, to the entire world. Communism failed there. If democracy now in turn fails, Lord knows what could come next. The Communists might get a second chance. It might be a Fascist military dictatorship or something else.

It is vitally important that we do all we can to help the people of Poland to make their democracy work. They need technical advice. They need equipment.

I am delighted to join the Senator in this effort, and will do all I can with him and others to ensure that this prospect of help reaches them, and is fulfilled to the total degree necessary to aid them in their new democracy.

Mr. DOMENICI. I thank the gentleman for his support. Let me close my remarks, Mr. President, by saying there were present in Warsaw other parliamentarians from France, Italy, Germany, and others of our Western allies. They, too, were genuinely impressed by the experience. Our resolution would ask that our team of experts coordinate with some of them. They might be part of the gift of democracy to this budding Parliament of equipment, staff and expertise to get them started on the right foot.

Frequently, it is not the big things that count. Sometimes it is the small gifts that carry with them not only great symbolism, but a real spirit, a kinship, and that is what motivates this first gift of democracy from a premier Parliament in the world, the U.S. Congress, to an older Parliament which is changing into a brandnew model for others. Poland may be on the verge of causing a tidal wave of new democracies, if, indeed, they succeed.

Having said this, I reserve the balance of my time.

I ask unanimous consent that Senator KENNEDY be made a cosponsor, and also Senator INOUYE.

I yield to my good friend from Illinois who has been most encouraging to me on this issue and desires to address the Senate.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, my colleagues, first of all, I want to join in commending Senator DOMENICI. The only flaw I know Senator DOMENICI has is he happens to belong to the wrong political party. But let me tell you, as one Member of the U.S. Senate, I am very proud to serve with him. He has led in this matter, he has led on the matter of the homeless, he led on the matter of mental health. He has made contributions to this Nation, and I am very proud to be his colleague.

When he describes the spirit in Poland as a fantastic spirit, he is absolutely correct. I spent 6 days there visiting with everyone, from the new Prime Minister to the President, to Lech Walesa, to a great variety of people to get some feel for what they are going through and why this resolution is important. Imagine the U.S. Senate with no Xerox machines, none of the basic equipment, and all freshmen Members. That is what we are talking about; no tradition to go by, just starting out brand spanking new.

The Presiding Officer from Nebraska right now probably thinks having all freshmen Members would be a very desirable goal. But there are some limitations to that, I want to assure the Senator from Nebraska.

I think we ought to do everything we can, first of all, just as a gesture, to say, we are interested, we want to help. Senator DOMENICI is not suggesting this is the answer. This is part of the answer.

I am pleased to say that I have legislation that will be coming to the Senate very shortly after we get through the appropriations that I am negotiating with the administration on. I hope we can get bipartisan support behind that administration for a substantial aid program to Poland.

But in the meantime, this is one of these things that is meaningful, that is helpful.

I commend my colleague. I commend the people of Poland who have made this dramatic gesture, who have for the first time in history moved from a Communist dictatorship to an opposition party being in control of the government.

It is an amazing thing. I would add—and I do not know whether my colleague from New Mexico would concur with me on this or not—as I met with various leaders I thought there probably has been no new government formed where the leadership has so much potential, has gone through so much of a struggle, since our own country was formed more than 200 years ago. I was just very, very much impressed.

Again, I commend my colleague. I hope we will adopt this without any objection whatsoever.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico has 1 minute left.

Mr. DOMENICI. I thank my friend from Illinois for everything he said except for his lament about the party that I belong to. I have no comment with reference to that as I think about my friendship and kinship and appreciation for all his work.

Mr. DOLE. Mr. President I want to commend Senator DOMENICI for this very worthwhile initiative.

Both Senator DOMENICI and I have recently visited Poland, and I think we came away with much the same impressions. When you are there, you get the feeling that you are witnessing something akin to what happended in the United States 200 years ago: A whole bunch of very talented and committed people—but very inexperienced people—knowing where they want to go; but still not very sure how to get there.

The upper Chamber of the Parliament, the Senate, didn't even exist until this year. Only three members of the Solidarity parliamentary bloc have had any legislative experience. Only six of the Communist members have served in parliament before.

Institutionally, and individually—they are starting frcm scratch.

They needed help—and it happens to be the kind of help we can provide. Suggestions on organizing parliament, and its committees and staff; advice on parliamentary procedures and techniques; an evaluation of resource needs, both human and technological; and a host of other matters that we take for granted—because they are part of our everyday life; but which are all new and somewhat bewildering to people embarking on the first steps of a road to democracy.

I should also add: This proposal by Senator DOMENICI has the additional merit of costing very little.

There is kind of a bidding contest going on these days—who can do the most for Poland; I am not sure every idea is entirely well thought out.

But this one is. It is right on the mark. I am pleased to join Senator DOMENICI in urging adoption of this concurrent resolution.

Mr. DOMENICI. Mr. President, let me close by saying I can express the hope, the enthusiasm, and the heartfelt concern that those of us who visited with these parliamentarians came away with. We did see the beginnings of a new democracy with a new economic system. To succeed, it must bring new hope and new opportunity to millions of people in Poland.

If it works, I submit, the experiment could spread like wildfire among those countries that have been part of the Eastern bloc.

Clearly the ideals that we have cherished in America—individual opportunities, freedom, the ballot box as a part of governance, and some checks and balances in government by the representatives of the people—may indeed flourish in a land where a few years ago we did not conceive that such could happen. They want to make it work.

Tonight we begin a very, very small step in helping Poland. I hope they know it is intended as a true gift. I hope we will let them know that it is a gift from the heart, hoping that it will be a small part of their achievement of freedom and democracy, and a new economic system.

I yield the floor.

The PRESIDING OFFICER. All time has expired.

The Senator from North Carolina has 15 minutes reserved. The majority leader has 2 minutes 46 seconds.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senator FORD be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I ask unanimous consent that this resolution be open for the rest of the evening for any other cosponsors that desire to be added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I yield the floor to the distinguished Senator HELMS.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. May I inquire of the Chair, is there an allotted amount of time for me?

The PRESIDING OFFICER. There is. The Senator has 15 minutes.

REPRIVATIZING POLAND

Mr. HELMS. Mr. President, this week we have had visiting the Senate the Deputy Prime Minister for Financial Affairs, Mr. Leszek Salcerowicz. The Deputy Prime Minister was proposed for his post by Solidarity and is one of the first representatives of the new government to visit the United States. As Deputy Prime Minister for Financial Affairs, he is assisting the Polish people in an unenviable task—namely, the social and financial reconstruction of Poland.

Mr. President, the spirit of the American people is with the Polish people as they struggle forward in their effort to reestablish freedom in Poland, and to root out the elements of Communist domination that have caused such sorrow and hardship in that country since the close of World War II.

The distinguished Senator from Maryland spoke eloquently of this yearning the other night when we were debating my amendment which was intended to keep United States financial assistance in the hands of loyal Poles and away from the Communist masters who have dominated them so long. I will remember for a long time when Senator MIKULSKI stated:

> Poles everywhere, whether we live here, fully American citizens, or our cousins abroad, know that the heart and soul of Poland lie with democracy, lie with free enterprise, and lie with the West. They want to be free. They have just had a nonviolent coup. They had been forced to be Communists for almost 40 years because of the Yalta-Potsdam policy.

Unfortunately, Mr. President, I believe that the distinguished Senator misunderstood my amendment. She somehow thought, because I was proposing that no United States assistance go to Communist-dominated enterprises in Poland, that I was working at cross-purposes with the desires of the Polish people.

Indeed, a number of Senators seemed to take up the same chorus. In rereading the debate, it strikes me that the questions they asked on the Senate floor were totally irrelevant, and had nothing to do with the purpose of my amendment. In fact, I defy anyone to read the RECORD and make heads or tails out of the arguments raised against my amendment. They were absolutely irrelevant and beside the point.

No, Mr. President, I was raising a question that will have to be faced by anyone who wants truly to help the Polish people.

It would be nice to think that the battle for control of Poland had been settled in the last election, and in the formation of a Solidarity government. But it is not quite that simple. There are 39 million people in Poland, but less than 2 million of the Polish United Workers Party, that is to say, the Communist Party of Poland. My judgment is that we must do everything possible to let the 37 million

non-Communists run their own affairs.

It must be remembered that President Jaruzelski, the military dictator and party boss of Poland since the days of martial law, still holds the strongest position in the country. Although not a member of the government, he occupies a position that was created just for him by a new amendment to the Polish Constitution. I doubt that many Senators know about that.

Under the new article 32 of the Constitution, the President may dismiss the Parliament, dismiss the government, and countermand laws. He has already set up a Presidential office of over 400 Communist Party members who function under his authority like a White House staff. They work directly with local Communist Party leadership to implement President Jaruzelski's directives—thereby short-circuiting the parliamentary system. They have the power to inquire into any matter in the running of the country, and they can report back to the President on any matter that seems to be taking Poland away from a socialist future.

Moreover, the President has the right to appoint alternate ministers without portfolio to oversee the work of any of the Solidarity government ministers. The non-Government ministers have the authority to negate the actions of the government ministers. I am informed that he has already begun the appointment of such ministers.

Mr. President, we should not be surprised at this structure. It is a typically Communist pattern of party structure paralleling and controlling State structure. In any Communist state, the work of the government and its organs, even a Communist government, is overseen by the Communist Party through trusted commisars. So the same system has been adapted to the new Solidarity government. In short, there is nothing that Solidarity can do of its own volition except ask the West for money.

The problem is that no amount of funding can help an economy that is organized on Communist principles, that is to say, with ideological or political officials making decisions that ought to be made by the marketplace. The problem of investing in Poland is constrained by the reality that exists. We may not like that, but that is the way it is. That reality is as follows:

According to official Polish Yearbook statistics, in 1982, there were 56,700 socialized industrial enterprises in Poland and 177,300 nonsocialized industrial enterprises. However, the real thrust of the economy does not appear until you see that the socialized enterprises employ 4,776,000 persons and the nonsocialized enterprises employ only 63,000 persons. These figures were for 1982, but they are the latest the Library of Congress has.

What is clear is that the overwhelming majority of Poles are employed by a socialist system that is bankrupt, unproductive, and inefficient. It is also controlled by the Communist Party, either directly through the government, or by Communist Party directors, managers, and commisars. Solidarity does not have the power to dismiss the Communist bureaucracy that runs industry, and has no effective way to eliminate the Communist managers and commisars who are working under strict Communist Party discipline.

If members of the U.S. Senate allow our decisions to be made by the heart—that is, to see only the thin veneer of Solidarity members in the government who are desperately trying to cope with this losing system, then we are causing Solidarity to fall in its task to free the Polish people.

What does the United States need to do to help the Polish people? The answers are not hard to find. They will be difficult to implement, but we must use all the leverage of our economic assistance to bring them about.

And that is what the purpose of the amendment the other night was.

Let me offer a few suggestions.

First. We should use our leverage to urge that the political system in Poland be opened up to allow all political parties to operate freely. An open political system will result in an open financial system, making investment worth while. At the present time, only Solidarity's political arm has been allowed to operate freely. Other political parties, although legal, have been harassed by censorship, brutalized by goon squads, and starved of outside funds.

Second. The Polish currency must be made convertible, with a single exchange rate based on the fluctuation of international markets like any free currency. At the present time, exchange rates are set by ideological determinations with different rates for dollar countries and the ruble zone.

Third. Foreign trade must be based on freely negotiated prices only in convertible currencies. At the present time, exchange rates and prices are established so as to subsidize trade with the Soviet Union—a tremendous loss of exchange for Poland.

Fourth. The Polish Government must take steps to restore private property and guarantee that ownership will be guaranteed in perpetuity. There can be no investment without this security, unless American taxpayers provide the guarantee. This Senator cannot see why American taxpayers should provide OPIC guarantees without such assurances. It makes far more sense for the Polish Government to make this guarantee, since it will cost Poland nothing.

Fifth. Private enterprises must be given full and unimpeded access to credit and supplies, based on market feasibility and productivity considerations. The minuscule size of the private sector is one result of Communist Party policy for dividing available assets among socialist enterprises only.

Mr. President, may I inquire how much time I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes and 45 seconds.

Mr. HELMS. I thank the Chair. I shall complete in that time.

Sixth. The Polish Government must immediately reprivatize the retail trade and service sector. Socialist organization of distribution has completely collapsed due to inherent inefficiency at coping with what should be, clearly, a market mechanism. Reprivatization of retail trade could be accomplished quickly without enormous investment.

Seventh. There must be an end to subsidies to inefficient state industries. The Polish Government does not have the funds to continue the current collapsed industrial system.

Eighth. There must be no limitation to the size of private industries. For years, Poland limited private enterprises to 20 employees, a fact that I do not believe many Senators knew. Steps have been taken to lift this limitation, but there is little guarantee that there will be future nationalizations of successful enterprises.

Ninth. The banking and credit system must be reprivatized. No one in Poland has confidence in the state banks. It is reliably estimated that there is at least $2 billion in United States currency in Poland that remains outside of the economic system. If these funds were made available through a private banking system for new industrial investment, it would provide all the cash, and more, that Poland could absorb.

Tenth. Last, but not least, all state enterprises must be reprivatized. They must be turned into stock corporations, with the stock available for purchase to any person who has the funds. Of course, the only requirement should be that members of the Communist Party and its surrogates should be prohibited from ownership or control. Just as after World War II, West Germany took steps to root out Nazis, Poland must set up special barriers to control members of the Communist Party. The hard dollar currency that is already in Poland could be used by individuals to purchase stock and capitalize these institutions—with the new owners acting like new owners in any corporate takeover. They would no doubt shut down inefficient and outmoded properties, change the management completely, do market analysis both in Poland and internationally, and seek reliable credits abroad.

29-059 O-90-13 (Pt. 16)

Mr. President, it is for these reasons that we must help reform in Poland with our heads, not just our hearts. My amendment last week was a modest attempt to address the situation rationally, rather than emotionally. Indeed, it will require considerably more actions than I have already proposed. As the Senate considered a Polish aid program, Senators will need to address these issues. We cannot avoid them. We should not avoid them. If we really want to help Poland to become truly free, then we must do everything possible to restore freedom of economic activity in that brave country.

Mr. President, I yield back such time as I may have remaining, and I thank the Chair and I yield the floor.

The PRESIDING OFFICER. All time has been yielded back or has expired.

The Senator from Hawaii.

Mr. INOUYE. What is the pending business?

The PRESIDING OFFICER. The pending business is the concurrent resolution which must be voted on at this time.

The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 74) was agreed to.

The preamble was agreed to.

The concurrent resolution with its preamble, reads as follows:

S. CON. RES. 74

Whereas Poland is undertaking the historic process of organizing its new Sejm and Senate, the first parliament in Poland where a majority of its members were democratically elected in more than half a century;

Whereas these new citizen-legislators, from many walks of life, are taking on the tremendous responsibility of forming the legislative branch of their government without the benefit of previous legislative experience;

Whereas these new legislators are united in their commitment to dramatically reform the social and economic structure of Poland;

Whereas these new legislators are dedicated to permanently establishing individual freedom and a renewed hope and confidence for the future of Poland;

Whereas the new legislators are faced with reviving the economy and creating the necessary government entities to facilitate an efficient means of governing the country;

Whereas among the many other challenges facing Polands Parliament over the coming months is the lack of equipment, research and legislative resources; and

Whereas the United States Congress has a well established system for operating a legislative body and an impressive research capability in the form of the Library of Congress and the Congressional Research Service: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) This concurrent resolution may be cited as the "United States Congressional Gift of Democracy to Poland Resolution".

(2) That the Speaker of the House, the minority leader of the House and the majority and minority leaders of the Senate, and the Librarian of the Congress shall assign staff having expertise in software, office equipment, legislative research and parliamentary procedure and other lawmaking skills to travel to Poland. The congressional staff assigned to this mission shall assess the training and equipment needs of the Polish Sejm and Senate, and assist Poland in developing an effective Parliament. Not later than thirty days after completing the assessment, such staff shall submit a report to the Congress and the Librarian of Congress on its findings.

(3) Upon receipt of the report of the congressional staff, the leadership of Congress shall endeavor to identify and secure the ways and means to implement an appropriate United States congressional gift of democracy to Poland in the form of equipment and training for the new Senate and Sejm.

(4) The leadership is encouraged to coordinate this effort with private and public sector experts such as the National Democratic Institute for International Affairs and the National Republican Institute for International Affairs and with parliaments in Western Europe.

(5) Travel expenses incurred by the Senate and the House of Representatives to carry out subsections 2 and 3 shall be reimbursed out of the respective contingent funds of the two Houses of Congress in accordance with rules governing such funds.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I thank the leadership for helping us expedite this concurrent resolution and for their agreement to help us with it and their support of it.

I yield the floor.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1990

Mr. STEVENS. What is the pending business?

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 3072) making appropriations for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes.

The Senate resumed consideration of the bill.

EXCEPTED COMMITTEE AMENDMENT BEGINNING ON PAGE 36, LINE 22

The PRESIDING OFFICER. The pending business is the committee amendment on page 36, line 22.

The Senator from Hawaii.

Mr. INOUYE. Mr. President, I ask unanimous consent that we temporarily set aside the pending amendment for the purpose of considering an amendment by Senator PRYOR and Senator GRASSLEY.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 881

(Purpose: To limit the use of appropriated funds for the procurement of the Airborne Self-Protection Jammer (ASPJ)

Mr. INOUYE. Mr. President, I send an amendment to the desk on behalf of Senators PRYOR and GRASSLEY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. PRYOR (for himself and Mr. GRASSLEY) proposes an amendment numbered 881.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 108, between lines 4 and 5, insert the following:

SEC. . (a)(1) Except as provided in paragraph (2), none of the funds appropriated by this Act may be obligated for the procurement of the Airborne Self-Protection Jammer (ASPJ) until further operational testing of the ASPJ is conducted and completed and the reports required by subsection (b) have been submitted in accordance with that subsection.

(2) Paragraph (1) does not limit the obligation of funds for the production, maintenance, and operation of 18 Airborne Self-Protection Jammer (ASPJ) production verification units for the purpose of conducting further operational and developmental testing.

(b) Upon the completion of the operational testing conducted in connection with the Airborne Self-Protection Jammer (ASPJ) program, the Under Secretary of Defense for Acquisition, the Director of Operational Test and Evaluation and the Comptroller General of the United States shall each submit to the Committees on Appropriations and Armed Services of the Senate and the House of Representatives a report on the conduct and results of such testing.

Mr. INOUYE. Mr. President, this amendment would restrict the obligational funds in this act for the procurement of airborne self-protection jammers for the Navy and Air Force aircraft, and this amendment has been cleared by both sides and we believe it should be adopted.

Mr. STEVENS. Mr. President, the Senator is correct. It is consistent with the Senate report language, and it has been cleared on this side of the aisle.

ASPJ—STRONGER RESTRICTION NEEDED

Mr. PRYOR. Mr. President, the Pentagon is trying to rush a seriously flawed $4.8 billion weapon system into production before Congress can take action. The Pentagon's action is in direct contravention of Senate Appropriations Committee report language. My amendment will put this troubled $0.8 billion program on hold until its bugs can be worked out.

Mr. President, the weapon system is a radar jammer called the Airborne

Self-Protection Jammer or [ASPJ]. It is supposed to be used by F-16, F-18, F-14, and AV-8B jet fighters to deceive and jam enemy radar.

Imagine, for a moment, a young American pilot flying his F-16 into battle. He receives an enemy radar warning and turns on his ASPJ radar jammer. Confident that the jammer is cloaking his location, he turns to other aspects of his mission.

Mr. President, if that pilot were using the ASPJ recently tested by the Navy, he would stand a very good chance of being spotted and blown out of the sky. He would perish unaware that the jammer had flunked its tests—unaware that Pentagon politics and contractor greed had forced it into production before it has proved itself.

That, however, is exactly what is happening to the latest Pentagon turkey. Despite failed test results, in August, the Navy and Air Force moved to begin limited production of the ASPJ.

The Appropriations Committee wisely included report language in the bill before the Senate directed that production not begin until tests are conducted.

Despite this committee direction, the Office of the Under Secretary of Defense for Acquisition has indicated that the Pentagon plans to go ahead with ASPJ production contracts.

Mr. President, this disregard for congressional direction is a direct challenge to Congress' budget authority and the integrity of the Appropriations Committee.

These are actions of desparation and cover up, not reasoned and logical weapons procurement.

Clearly, the Appropriations Committee report restriction is not being taken seriously by the Pentagon. Accordingly, my amendment puts the committee's restriction into the law and adds oversight of tests by the Operational Test Office and the GAO.

I would like to mention three other aspects of the Pentagon's apparent effort to conceal problems with the $4.8 billion ASPJ program from Congress.

One, I challenge anyone to find an ASPJ line item in the basic budget documents presented to Congress. The estimated $200 million production costs in this year's bill are hidden in the spending accounts for several jet fighters.

Two, certain offices at the Pentagon have resisted or refused giving me test results on this program. Around here that usually means the program is in trouble.

And finally, some contractors and Pentagon officials are telling people in Congress that further tests on the ASPJ cannot occur unless another $200 million or so are appropriated.

This is false, according to testing officials in both the operational test office and the developmental test office. Only 14 ASPJ units are needed to complete further testing and these units have been already funded and are under production.

My amendment permits production of all of these ASPJ units.

Now, Mr. President, let me say a few words on the results of the last tests run on ASPJ.

According to unclassified sections of the Navy operational test report:

The ASPJ failed on effectiveness standards, which is its ability to perform its required jamming mission; the ASPJ was roughly 50 percent below reliability standards, which measures its likelihood of failure; the ASPJ failed minimum maintainability standards; and the probability of correct fault detection in the ASPJ was 30 percent, far below the 90-percent requirement.

At the end of the report, the Navy testers recommended against limited fleet introduction until corrections are made and verified through further testing.

Mr. President, further testing is not scheduled for another year. By then well over 100 of these $2 million per copy systems will be built. We all know the power game around here; after 1 year of production, after we dump another quarter billion dollars into the jobs and factories associated with the production, it will be almost impossible to stop.

The Appropriations Committee and I are not the only people concerned about the ASPJ. I am told that the Defense Department inspector general has self-initiated an audit of ASPJ and last week the General Accounting Office began its review of the program.

Mr. President, I am not opposed to the ASPJ radar jammer. Our pilots need this protection. I am saying, however, and the Appropriations Committee is saying, that before we begin a $4 billion production run, we should make sure the product works.

I urge my colleagues to support this amendment.

SON-OF-DIVAD

Mr. GRASSLEY. Mr. President, I would like to address the issue raised by my good friend from Arkansas [Mr. PRYOR].

This is a question of whether or not we are ready to produce the airborne self-protection jammer, not whether or not we support it.

The ASPJ is clearly not ready for production. If we move ahead with production at this time, we will give birth to "Son-of-Divad."

It certainly passes the Divad test: If it walks like a Divad, and it talks like a Divad, then it's indeed a Divad.

DOD wants to move this program too quickly into production—just like the Divad; the total production costs are $4.2 billion—just like the Divad; and, this program has failed to successfully pass its operational tests—just like the Divad.

In fact, the only test it has passed thus far is the Divad test.

Mr. President, if you would open your committee report to the first page of the procurement title, you will see that the committee put restrictive language on production of the ASPJ. It says no funds absent successful operational tests.

There's a reason why this language is in here, Mr. President, it's because the test results have been disappointing.

Notwithstanding the signals sent to the Department through this language, it is our understanding DOD intends to move ahead with production. It is for that reason that the Senator from Arkansas offers this amendment. As a member of the Appropriations Committee and a supporter of this bill, I believe it is appropriate at this time to speak a bit louder and clearer. And one way to do that is to codify the committee report language.

If I may get a bit more specific, Mr. President, based on the test results conducted at the end of last year for reliability, the requirement for the system's mean time between failure was 33 hours. The system tested at only 19 hours. This is just one example. And it is by no means the worst.

In addition, according to the Navy's own data, there are numerous operational issues that have yet to be resolved. They are the following: Survivability, ECCM vulnerability, reprogrammability, tactical employment, maintainability, availability, logistic supportability, compatibility, interoperability, and reloadability.

Now, Mr. President, I have no problem giving the Department the benefit of the doubt on this system. I will concede that this is the only new and the most promising jammer. It's when they follow up that comment with the one about "we'll fix the problems later" that I start feeling the hand in my pocket. This country has been bit much too often to fall for that one again.

We learned too late on the Divad, the AMRAAM, the B-1 and other programs. So we were justifiably skeptical on the B-2. This year we passed an amendment to ensure close scrutiny and effective checks and balances before further B-2 production. In my view, this should be a new standard for the way Congress does business with the Pentagon. At a minimum, it should be the way we do business on the ASPJ.

We don't want a Son-of-Divad, Mr. President. Instead, we want to make

this program an example of how Congress has learned to avoid the problems associated with Divad. I commend the Senator from Arkansas for his leadership on this amendment and, as a member of the Appropriations Committee, I urge my colleagues to support it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment (No. 881) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXCEPTED COMMITTEE AMENDMENT BEGINNING ON PAGE 36, LINE 22

Mr. INOUYE. Mr. President, I ask unanimous consent that the pending amendment be set aside in order that we may be able to consider an amendment to be proposed by Mr. SPECTER.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 882

(Purpose: To make funds available for multilateral anti-narcotics efforts)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. President, this amendment is being submitted on behalf of myself, Senators NUNN, KERRY, INOUYE, BIDEN, DECONCINI, D'AMATO, DIXON, and HEFLIN.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself, Mr. NUNN, Mr. KERRY, Mr. INOUYE, Mr. BIDEN, Mr. DECONCINI, Mr. D'AMATO, Mr. DIXON, and Mr. HEFLIN proposes an amendment numbered 882.

Mr. SPECTER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title IX of the bill insert the following:

"It is the sense of the Senate that United States participation in a multilateral anti-narcotics strike force, as called for in sections 4101 and 4103 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690), should include the full range of appropriate law enforcement and anti-drug abuse agencies, and that consideration be given to aiding such a strike force by funding from appropriate sources for multilateral intelligence-sharing, multilateral training of law enforcement personnel, and multilateral support for crop substitution, drug treatment, drug research and drug education programs.

"Funds made available under this Act for Department of Defense drug interdiction activities may be expended to fund the participation of United States Armed Forces in conjunction with appropriate United States law enforcement and anti-drug abuse agencies, in accordance with other applicable laws, in such a strike force.".

Mr. SPECTER. Mr. President, the shortest way to describe this amendment is to read it. It is relatively brief and has two sections.

"It is the sense of the Senate that United States participation in a multilateral anti-narcotics strike force, as called for in sections 4101 and 4103 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690), should include the full range of appropriate law enforcement and anti-drug abuse agencies, and that consideration be given to aiding such a strike force by funding from appropriate sources for multilateral intelligence-sharing, multilateral training of law enforcement personnel, and multilateral support for crop substitution, drug treatment, drug research and drug education programs.

"Funds made available under this Act for Department of Defense drug interdiction activities may be expended to fund the participation of United States Armed Forces in conjunction with appropriate United States law enforcement and anti-drug abuse agencies, in accordance with other applicable laws, in such a strike force.".

Mr. President, in essence, this amendment calls for use of Department of Defense funds for the implementation of a multinational drug strike force as called for in the 1988 Drug Act. That is the range of expenditures on this specific appropriations bill and the amendment then calls for a full-scale attack on the drug issue which would be funded under the other appropriate appropriations bills.

Mr. President, the events in South America since August 18, the date on which Colombian Senator and Presidential candidate Luis Galan was assassinated, have brought into sharp focus the need for a multinational strike force. This is one facet of the need for internationalization of law enforcement generally.

Mr. President, the rise of international terrorism and international drug dealing require such an international response. The United States has moved in a variety of ways to try to solve the problems of drug dealing and terrorism with the application of extraterritorial jurisdiction. In 1984, for example, enacted in the Omnibus Crime Control Act extraterritorial jurisdiction which would apply to hostage taking and to hijacking. In 1986, our antiterrorism laws reached the full extent of jurisdictional latitude by making it a violation of U.S. law for a terrorist to attack, maim, or murder a U.S. citizen anywhere in the world.

In 1986, the Senate passed a resolution calling on the President to negotiate with other nations for the organization of an international court to try terrorists. In 1988, the Congress enacted legislation calling for a multinational force and requested that the President negotiate within the Organization of American States to create such a force and to provide for an international court.

The necessity for an international approach to problems like drugs and terrorism are demonstrated by the nationalism and understandable national pride in other countries which resent any foreign intervention.

A few years ago, when the United States obtained custody of a notorious international drug dealer named Mata, from Honduras, there were riots outside the United States Embassy in that country. When the United States forced down an Egyptian airliner carrying Abu Abbas and others who were implicated in the hijacking of the *Achille Lauro* and the murder of Leonard Klinghoffer, there were cries of imperialism, and there was resistance to extradition by Italy and later Yugoslavia. These examples illustrate the need for an international approach to terrorism and the creation of a variety of procedures, including an international court.

Mr. President, the impetus for this multinational drug strike force has come with the events in Colombia and the heroic action taken by the Colombians under the leadership of President Barco. The idea has had many sponsors, one of the most prominent of whom is Prime Minister Michael Manley, of Jamaica, who has taken the lead on the proposal for such a strike force. The strike force would be established under the umbrella of multinational participation. I have had a chance to discuss the matter with Prime Minister Manley. I have suggested his leadership is key because he is from the Caribbean, from Latin America, and it is not the United States taking the lead or being big Uncle Sam coming in and trying to throw its weight around in Latin America.

Mr. President, we are joined on the floor by Senator NUNN, who has other commitments, and I was asked to yield to him and I am glad to do so at this point. I want to express at this time my appreciation for Senator NUNN's participation on this matter. This is a subject which he and I have been discussing for some time, more than a year.

Last fall I made a trip to Latin America, and came back and discussed it with the leadership involved in the drug bill, and Senator NUNN was a leader in that venture, as he is a respected leader on defense matters generally. Events have occurred in the course of the past year, including many conferences and a hearing yesterday. Senator NUNN is an indispensable player here, and I am delighted to yield to him at this time.

Mr. NUNN. Mr. President, I thank my friend from Pennsylvania. I am pleased to be a cosponsor of this amendment. I commend him on his efforts in the overall drug arena trying to prevent this terrible plague on our

Nation. He was very active in the bill last year, the bill that took several months to put together that really has been the foundation of what has been done this year.

This amendment is a good amendment. It is carefully crafted to follow the amendment that the Senator from Pennsylvania sponsored last year, which is now part of the law, that encourages the President to negotiate with the Latin American countries about cooperative efforts in fighting drugs.

This amendment that we will be voting on tomorrow that we are discussing now basically says that the interdiction funds that are in the defense bill for the Defense Department can be used for this purpose. It does not waive any existing laws relating to how those military forces will be used.

I know the Senator from Pennsylvania agrees with me that the only place this multinational force could be used would be in a country that wanted that force to come in and assist them. I think some countries will want to do that. I think some countries will not want to do that. The idea here is not to set up any kind of multinational group that is going to invade a country against its will. The idea is to have a group of highly trained, well paid, qualified people, either in the police type activity or, if necessary, in a higher degree of capability in terms of violence, if necessary, to be able to be available if needed.

We had Ambassadors from Peru and Bolivia and Colombia this morning that testified before our committee. They detailed the problems in their countries, which are considerable. It was the view of the Ambassador from Colombia that they would not want this type force or any other military force, that their primary problems related to equipment and they had plenty of manpower. I can visualize other countries that would take a different view, depending on the seriousness of the situation.

I also believe that this kind of effort can lead to much more cooperation in training, much more cooperation in communication, much more cooperation in intelligence sharing, and it may very well be that in these areas this may very well be the most important part of this forward push.

I commend the Senator from Pennsylvania, and I urge may colleagues to support the amendment.

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. SPECTER. I yield.

Mr. INOUYE. Mr. President, as a cosponsor of this amendment I urge its adoption. I wish to commend my dear friend from Pennsylvania for bringing this matter to our attention.

Mr. President, I believe it is very important to recall that this multinational drug strike force was authorized in the Omnibus Anti-Drug Abuse Act of 1988. A similar amendment regarding the funding was included in the Senate in the foreign operations bill just last week. The Specter amendment simply allows the Department of Defense to use funds appropriated in this measure to take part in a multinational drug strike force and it further requires that such DOD participation be in concert with existing laws.

As my friend from Georgia indicated, this bill is carefully structured. I think that it meets all the requirements of the rules of the Senate, and I would urge that all of us stand up and vote for its adoption.

Mr. STEVENS. Mr. President, I would inquire of the Senator from Pennsylvania, this is a sense-of-the-Senate provision, is that correct?

Mr. SPECTER. If I may respond, the provision as to DOD funds is not a sense of the Senate. The provision as to the Department of Defense funds authorizes the expenditures of those funds now available for drug interdiction to be used in connection with a multinational strike force.

There is a sense-of-the-Senate provision as it relates to training, to education, and to crop eradication because those funds would be not reachable directly in this bill.

Mr. STEVENS. The section, Mr. President, that the Senator has just referred to states:

> Funds made available under this act for the Department of Defense drug interdiction activities may be extended to fund the participation of the United States Armed Forces in conjunction with appropriate United States law enforcement and Anti-Drug Abuse Act agencies in accordance with other applicable laws in such a strike force.

It is not the intention of this amendment to authorize a strike force, is it, Mr. President? May I ask that to the Senator from Pennsylvania?

Mr. SPECTER. The paragraph that the Senator has referred to has a line omitted from it. There has to be a correction on that. There will have to be a modification.

But, as I explained the amendment, it does call for, and is intended to call for, funds from this act to be used for implementing the Drug Act of 1988, which calls for the creation of a multinational drug force.

Mr. STEVENS. Mr. President, if I may further, I would be pleased to see such an amendment; the Senator has a right to amend his amendment and I do believe it leads to some misunderstanding, the way it is stated now.

I am familiar with the Anti-Drug Abuse Act of 1988 which authorizes creation of the drug strike force. But to my knowledge that has not been created yet. I would like to support the Senator's amendment but I do not want to support an amendment that is in effect a mandate to support something that has been authorized but has not been done yet.

I have no problem with the concept of using funds of the Department of Defense to fund the United States participation in accordance with the laws, the 1988 law. But I am concerned about the reference "in accordance with other applicable laws."

Could the Senator from Pennsylvania give us an explanation, what are the other applicable laws to such a strike force? I only know of one and that is the Anti-Drug Abuse Act of 1988.

Mr. SPECTER. Yes, I would be glad to respond to that. The "other applicable laws" which I am referring to are contained in title 18, United States Code, section 1385, which prohibits use of the Army and Air Force as a posse comitatus; the provisions of title 10, United States Code, section 375, which has a restriction on direct participation by military personnel in conducting a search, seizure, or arrest; and the provisions of title 22, United States Code, section 2291, which has a limitation on the use of military personnel for an arrest, but has an exception for assisting foreign officers.

If I may respond more elaborately, the drafting of the second paragraph does not contain an omitted line. I have checked with my staff and am informed that the intention here, in the concluding phrase, "such a strike force," was to refer back to the first paragraph calling for a "multinational antinarcotics strike force." So the structure is that it is our intent to move forward with a multinational antinarcotics strike force as called for in the drug law of 1988.

Last year we debated this matter and made a provision where the Congress went on record calling for a multinational drug strike force.

Today we are making a provision to be able to use funds from this appropriations bill to fund United States participation in that multinational, antidrug strike force.

Mr. STEVENS. Mr. President, I thank the Senator from Pennsylvania for his explanation of the limitations that would be included in that phrase "in accordance with other applicable laws." I had misinterpreted that, thinking the Senator was implying there were other applicable laws that would create a strike force.

The Senator's last statement might also lead to some difficulty. Let me ask this question.

Is it the intention of the Senator from Pennsylvania that this amendment mandate the creation of a strike force? Or that it fund the strike force when it is created pursuant to the law of 1988?

Mr. SPECTER. If the Senator will yield, it is the latter. It is to authorize

expenditure of funds, once it is created.

I do not think it is realistic to mandate the creation of a multinational strike force because that is largely an executive function. Of course, the executive of the United States cannot do it unilaterally. Before there can be a multinational strike force there is going to have to be agreement among a number of nations.

What this amendment seeks to do is to authorize the expenditure of funds already in this bill for interdiction, in a variety of contexts, and to say that the Congress authorizes the use of those funds in such a multinational force. But it is going to take considerable activity by the President, by the State Department, and the executive branch to establish such a multinational force.

Prime Minister Manley, for example, has made representations about the willingness of other countries, like Venezuela and Canada, to enter into such a multinational force. But the negotiations will be complicated and I do not intend and do not realistically think we could mandate such a force by this appropriations bill.

Mr. STEVENS. Mr. President, I am pleased to have the explanation of the Senator from Pennsylvania.

With the understanding that this is a sense-of-the-Senate resolution that we should participate in the concept of a multinational antinarcotics strike force and that if we do, the funds in this act should be used under the authorization contained in the second paragraph of the amendment of the Senator from Pennsylvania, I would have no objection to the amendment and would support its adoption.

Mr. SPECTER. I thank the distinguished Senator from Alaska for those comments.

I might say, in amplification of the groundwork which was laid for this amendment, that I have had an opportunity to discuss this matter with President Bush. On September 5 a number of Senators and Members of the House of Representatives met with the President, in advance of his speech on the drug strategy, at which time this Senator made a suggestion regarding this idea. I ask unanimous consent to incorporate into the RECORD the full text of my letter to President Bush, dated August 22, 1989.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 22, 1989.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: In light of the current developments in Colombia, I urge you to consider a U.S. initiative to organize a multinational anti-narcotics military force for the Western Hemisphere. Section 4101 of the 1988 Drug Act calls upon the President to direct our Ambassador to the Organization of American States to initiate diplomatic discussions to form such a multinational force.

Last year, I visited Colombia, Bolivia and Peru and discussed this idea with the leaders of those nations, including President Barco. In general, the responses were guarded, but worth pursuing. You may remember that then-Attorney General Meese talked about such a force when he made a trip to Latin America in the spring of 1988.

When I visited a training camp in Chimore, Bolivia, I was surprised to find that DEA agents, who were both overweight and not young, were permitted to accompany Bolivian military forces on raids against chemical laboratories while Special Forces personnel, who were well trained and in excellent physical condition, were prohibited from doing so by U.S. law. When the Senate considered the Drug Bill, I sought to change that provision of U.S. law but was unsuccessful because my colleagues wanted hearings on the subject.

The current events in Colombia make it especially timely to push this proposal at this time. In the last two days, I have discussed the idea with Attorney General Dick Thornburgh, National Security Advisor Brent Scowcroft, his Deputy Bob Gates, Director Bill Bennett, Deputy Secretary of State Larry Eagleburger, Vice Chairman of the Joint Chiefs of Staff Robert Heres, Chairman of the Joint Chiefs of Staff-designate Colin Powell, Assistant Secretary of State for Latin America Bernard Aronson, Assistant Secretary of State for International Narcotics Matters Melvyn Levitsky, and our Ambassador to Colombia Thomas E. McNamara. While some were non-committal, most expressed the view that it was an option worth pursuing.

As I believe you know, I have pressed for the past five years for an International Court and expanded U.S. action around the world on terrorism and drug traffickers including expanded use of extraterritorial jurisdiction such as that employed in the successful prosecution of Fawaz Younis. Our experience with terrorists like Abu Abbas suggests that even friendly nations like Egypt or Italy might have been willing to turn him over to an International Court for prosecution but not to the United States. An international "Devil's Island" to hold terrorists like Hamadei would spare nations like West Germany the problems of being blackmailed by terrorists who then seize West German hostages. Latin American countries like Colombia would find their sovereignty much less threatened by an invitation to a multinational police force and an International Court to try drug traffickers would make extradition much easier.

I realize that you are taking a very few days of well-earned vacation, but this matter is so important and so timely in view of your September 5 speech on drugs that I wanted to call this matter to your personal attention.

My best.

Sincerely,

ARLEN SPECTER.

Mr. SPECTER. I think it further appropriate to make a comment that I am seeking a rollcall vote on this amendment. I discussed this with the distinguished chairman, Senator INOUYE, because I believe the executive branch will be very interested to see a strong vote in support of this amendment, and they will act on it.

I have had occasion to question Drug Director Bennett on the record and he has stated that this is an option which is very well worth exploring. As my letter to President Bush points out, I discussed the matter with Attorney General Thornburgh, National Security Adviser Scowcroft, deputy Secretary of State Eagleburger and Chairman of the Joint Chiefs of Staff Colin Powell.

I might say Colin Powell was reserved in his response, understandably, in advance of confirmation. But I think it is fair and I know it is accurate to say that there is considerable interest in this measure in the executive branch and it is the view of the Senate, which I hope to memorialize by our vote tomorrow, that this multinational force ought to be established. But this, to repeat, is not something which the Senate can direct or mandate.

This has to come out, not only by action of the executive branch of the United States, but also in conjunction with other countries.

Mr. President, I think it also appropriate to ask unanimous consent to have printed in the RECORD the statement and proposal of Prime Minister Manley on a multilateral antidrug strike force.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE PRIME MINISTER,
JAMAICA HOUSE,
Kingston.

MULTILATERAL DRUG PROPOSAL

Considerable attention has been given to the multilateral strike force aspect of my proposal for international action in relation to drugs. This is misleading, for, while it is a critically important issue, the strike force is only one component of a comprehensive international strategy which I am proposing to combat this scourge. I therefore set out the elements of this broader, proposal, which is gathering support throughout the Caribbean, in the United States and in countries like Venezuela and Spain.

(1) We will introduce a Resolution into the United Nations calling for the creation of an international capability in various areas of the drug struggle and inviting particular countries to become signatories and to pledge support and finance. It is to be noted that the U.S. Senate has already voted unanimously for a Resolution approving the idea and inviting the U.S. Administration to provide funds now allocated to the U.N. system to assist in the financing of this idea.

(2) Acting under the Resolution, to set up an organisation devoted to the development of the following capabilities:

(i) a central intelligence-gathering operation which would collate and coordinate all information on drug trafficking worldwide including financial flows which are a principal means of tracking the operations of the drug cartels;

(ii) A training facility devoted to (a) narcotics agents in both the investigative and interdiction aspects, and (b) agents trained in narcotics intelligence.

(iii) A reserve pool of narcotics agents and intelligence operatives with experience in different parts of the world. This pool could be used to make available to countries with inadequate resources in this field, on-the-ground support for specified periods of time.

This reserve capability would be particularly valuable for countries which are having their own people undergo training and would help strengthen the anti-drug operations in different countries while they are training to increase the effectiveness of their operations.

(iv) A division devoted to public education and other elements of the demand management side of the drug operations. There is a growing body of experience in different parts of the world about drug education in schools, in communities and in more general public relations programmes. A means of cross fertilising research and knowledge in this field and having small groups of experts who could go to countries with the will to tackle this aspect of the matter could be invaluable.

(v) A central body of expertise in the mounting and maintenance of rehabilitation programmes. Already this aspect of the matter receives attention from a U.N. Agency with headquarters in Geneva.

A technical question would be whether to leave this under its present auspices or incorporate it into a single programme even if its headquarters remain in Geneva. I happen to favour the second course of action.

(vi) A central source of advice in the planning and administration of income substitution programmes. This could include levels of support that would make even seed finance available.

This programme is also in existence with headquarters in Geneva and receives considerable financial support, particularly from the Government of Italy.

Alternative sources of income for peasants who have spent their lives taking their children through the production of the ganja plant or the coca leaf, deserve and need help in adjusting after eradication programmes and in any event, represent a hugh potential source of passionate opposition to any anti-drug operation.

(vii) A multilateral strike force under U.N. command and consisting of specially trained military personnel having regard for the nature of the drug operations which have reached the scale of virtually civil war or gang operations beyond the capacity of local security forces to handle.

Apart from the opportunity this would provide for developing appropriated expertise in this kind of fighting, the great advantage of the multilateral strike force is that it gets around the problem of sovereignty. For example, both the Colombian and the United States Governments have hesitated long over the question of whether to invite U.S. troops to help the Colombian Forces fight the Medellin cartel. In the end, both Governments retreat from the idea because the troops of a foreign power would immediately provoke a controversy about sovereignty. No such difficulty would arise if a Government were to invite a multilateral strike force under the United Nations command and sponsorship.

It is to be understood that all of these facilities which would be developed from small beginnings and grow as commitment, resources and experience expand, would be subject to the overriding principle that assistance would only be in response to a formal request from the Government of a particular country.

This plan has been introduced and won the support of CARICOM, received the unanimous backing in principle from both the Senate and House in Washington, has been endorsed in principle by the Presidents of Venezuela and Spain, and will be introduced at the Non-Aligned Summit and at the Commonwealth Heads of Government Meeting in September and October of this year, respectively. It will be introduced as a formal Resolution in the United Nations immediately after the Commonwealth Heads of Government Meeting.

Mr. SPECTER. Mr. President, I have considerably more which could be said at this juncture, but the hour is late. I thank my colleagues for their participation and for their support. A rollcall vote is scheduled for tomorrow at 10 o'clock. It may be that other cosponsors may have brief statements and maybe at that time we can face that alternative if or when such requests are made for additional statements.

Mr. INOUYE. Mr. President, I ask for the yeas and nays on the Specter amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. INOUYE. Mr. President, pursuant to the direction of the joint leadership of the Senate, I ask unanimous consent that the vote on the Specter amendment occur at 10 a.m. tomorrow morning and that no amendments be in order to the Specter amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. INOUYE. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 737) to authorize the Secretary of the Interior to acquire certain lands adjacent to the boundary of Rocky Mountain National Park in the State of Colorado, with an amendment, in which it requests the concurrence of the Senate.

At 4:13 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1312) to revise and extend the programs of the Domestic Volunteer Service Act of 1973; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. HAWKINS, Mr. OWENS of New York, Mr. KILDEE, Mr. MARTINEZ, Mr. SAWYER, Mr. PAYNE of New Jersey, Mrs. UNSOELD, Mr. GOODLING, Mr. TAUKE, Mr. BARTLETT, and Mr. GRANDY as managers of the conference on the part of the Senate.

ENROLLED BILL SIGNED

The PRESIDENT pro tempore (Mr. BYRD) reported that he had signed the following enrolled bill, which was previously signed by the Speaker of the House:

S. 85. An act to authorize the acceptance of certain lands for additional to Harpers Ferry National Historical Park, WV.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs and the Committee on Rules and Administration, jointly, with an amendment in the nature of a substitute:

S. 978. A bill to authorize the establishment within the Smithsonian Institution of the National Museum of the American Indian, to establish a memorial to the American Indian, and for other purposes (Rept. No. 101-143).

By Mr. HOLLINGS, from the Committee on Appropriations, with amendments:

H.R. 2991. A bill making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes (Rept. No. 101-144).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second time by unanimous consent, and referred as indicated:

By Mr. BOSCHWITZ:

S. 1677. A bill to amend the Railroad Retirement Solvency Act of 1983 to provide a 3-year extension of the transfer of revenues attributable to taxation of tier 2 benefits to the Railroad Retirement Account; to the Committee on Finance.

By Mr. COCHRAN (for himself and Mr. LOTT):

S. 1678. A bill to provide for the establishment of the Margaret Walker Alexander National African American Research Center; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN:

S. 1679. A bill to amend Title XIX of the Social Security Act to provide for substance abuse treatment services on request for individuals desiring to rid themselves of substance abuse problems, and for other purposes; to the Committee on Finance.

By Mr. MITCHELL (for himself, Mr. COHEN, Mr. PELL, Mr. KERRY, Mr. KENNEDY, and Mr. CHAFEE):

S. 1680. A bill to amend the Magnuson Fishing Conservation and Management Act as to enhance the enforcement of laws concerning American lobster; to the Committee on Commerce, Science, and Transportation.

By Mr. HUMPHREY (for himself, Mr. ARMSTRONG, Mr. COATS, Mr. GRASSLEY, Mr. HELMS, Mr. KASTEN, and Mr. MCCLURE):

S. 1681. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with knowledge that such abortion is being performed solely because of the gender of the fetus, and for other purposes; to the Committee on the Judiciary.

By Mr. BENTSEN (for himself, Mr. MITCHELL, Mr. CRANSTON, Mr. PRYOR, Mr. DASCHLE, Mr. MATSUNAGA, Mr. MOYNIHAN, Mr. BAUCUS, Mr. BOREN, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. DODD, Mr. BUMPERS, Mr. ADAMS, Mr. BINGAMAN, Mr. BREAUX, Mr. BRYAN, Mr. BURDICK, Mr. DECONCINI, Mr. EXON, Mr. FORD, Mr. GRAHAM, Mr. HOLLINGS, Mr. INOUYE, Mr. JOHNSTON, Mr. KERRY, Mr. KOHL, Mr. LEAHY, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Mr. REID, Mr. SANFORD, Mr. SASSER, and Mr. SIMON):

S. 1682. A bill to amend the Internal Revenue Code of 1986 to encourage savings by increasing the amount of deductible contributions which may be made to an individual retirement account, to allow distributions from individual retirement accounts to be used without penalty to purchase a first home or to pay for higher education expenses, and for other purposes; to the Committee on Finance.

By Mr. SIMON:

S. J. Res. 208. Joint resolution designating February 16, 1990 as "Lithuanian Independence Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOMENICI (for himself, Mr. MITCHELL, Mr. DOLE, Mr. CRANSTON, Mr. KASTEN, Mr. SIMON, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. LEVIN, Mr. STEVENS, Mr. MOYNIHAN, Mr. MACK, Mr. GLENN, Mr. KENNEDY, Mr. INOUYE, Mr. FORD, Mr. KERREY, Mr. ROBB, and Mr. GRAHAM):

S. Con. Res. 74. Concurrent resolution authorizing the "Gift of Democracy" from the United States Congress to the new Senate and Sejm in Poland. This gift is comprised of equipment and training that is determined to be most useful in helping Poland establish effective parliamentary system; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOSCHWITZ:

S. 1677. A bill to amend the Railroad Retirement Solvency Act of 1983 to provide a 3-year extension of the transfer of revenues attributable to taxation of tier 2 benefits to the railroad retirement account; to the Committee on Finance.

EXTENSION OF TRANSFER OF REVENUES WITHIN THE RAILROAD RETIREMENT ACCOUNT

● Mr. BOSCHWITZ. Mr. President, I rise today to introduce a bill to amend the Railroad Retirement Solvency Act of 1983. My amendment will allow tax revenue from tier 2 benefits to be applied to the railroad retirement account for 3 more years.

I am sure that some of my colleagues will remember our efforts at the beginning of the decade to save the railroad retirement system. In 1980, it was evident that the railroad retirement fund was running a deficit due to the disproportionately large number of retirees compared to railroad workers.

In 1983, Congress passed the Railroad Retirement Solvency Act, a bill designed to bring the pension fund back into balance. The measure included a temporary tax on the pension benefits, the proceeds of which were applied to the railroad retirement pension fund. However, the bill prohibited the States from taxing these same pension benefits.

Mr. President, I assumed this matter was settled until the legislature in my own State of Minnesota decided in 1987 to raise taxes in general and to begin taxing railroad retirement benefits despite the 1983 bill. I wrote to the Governor to complain, pointing out that the tax was illegal and urging him to stop collecting it. However, Minnesota continued collecting the tax until a railroad pensioner filed suit against the State. The Minnesota tax court eventually declared the State tax on railroad pensions illegal.

I, along with the railroad retirees in my State, remain concerned about maintaining a healthy level of reserves in the railroad retirement fund. That is why I am introducing this legislation today. The revenue collected from the taxation of railroad retirement benefits is scheduled to be directed into the U.S. Treasury general fund beginning October 1 of this year. While I am aware that the House Ways and Means Committee has included a 1-year extension of the revenue transfer to the railroad retirement fund in its version of the budget reconciliation bill, I am proposing a 3-year extension to allow time for the ongoing railroad retirement system reform studies to be completed, the findings analyzed, and a plan of action implemented.

In closing, Mr. President, I want to say that we have an obligation to finish what we started in 1983 when we sought to keep the pension fund solvent and protect the long-term interests of railroad retirees who have contributed so much to our society. I strongly request support from all of my colleagues for this worthy initiative.●

By Mr. COCHRAN (for himself and Mr. LOTT):

S. 1678. A bill to provide for the establishment of the Margaret Walker Alexander National African-American Research Center; to the Committee on Labor and Human Resources.

MARGARET WALKER ALEXANDER NATIONAL AFRICAN-AMERICAN RESEARCH CENTER

● Mr. COCHRAN. Mr. President, I am introducing legislation to provide for the establishment of the Margaret Walker Alexander National African-American Research Center. My distinguished colleague, Mr. LOTT, is joining me as an original cosponsor of this bill.

This national research center, located at Jackson State University, will be named for Margaret Walker Alexander, professor emeritus in the department of English at Jackson State University and a noted author and poet, perhaps best known for her civil war novel "Jubilee" and her volume of verse "For My People."

The purpose of the center will be the preservation of 20th century African-American materials and archival resources. The facility will serve as a national center for research and teaching in African-American literature and history and as a repository for papers and memorabilia relating to the life of Margaret Walker Alexander and other individuals noted for their work in African-American literature, history, and civil rights.

Since there is currently no national archival oral history research facility focusing exclusively on 20th century African Americans, this center is needed to inform present and future generations of African-American contributions to our Nation.

Mr. President, I urge other Senators to join me in this effort and to cosponsor this bill establishing the Margaret

Walker Alexander National African-American Research Center.●

By Mr. MITCHELL (for himself, Mr. COHEN, Mr. PELL, Mr. KERRY, Mr. KENNEDY, and Mr. CHAFEE):

S. 1680. A bill to amend the Magnuson Fishing Conservation and Management Act so as to enhance the enforcement of laws concerning American lobster; to the Committee on Commerce, Science, and Transportation.

CONSERVATION OF AMERICAN LOBSTERS

Mr. MITCHELL. Mr. President, I am introducing legislation intended to strengthen the conservation and management of lobsters in the United States.

Maine and the rest of the New England States are famous for lobsters. Maine, Massachusetts and Rhode Island lead the region in lobster landings, accounting for 93 percent of all lobsters landed in the United States, followed by Connecticut and New Hampshire.

A careful balance of scientific and technical considerations is necessary to preserve lobsters as a vital and abundant ocean resource. New England lobsters—also known as American lobsters—are a distinct species, homarus americanus, found in waters of the Northwest Atlantic Ocean. Lobster stocks are concentrated in the Gulf of Maine and in waters off southern New England.

Conservation and management of the lobster fishery occurs under a combination of Federal and State law. State laws regulate inshore catches up to 3 miles from the coast. Under the Magnuson Act, Federal regulations apply to catches from 3 to 200 miles offshore. However, Federal regulations require that anyone holding a State lobster permit which is endorsed for lobstering in Federal waters must observe the more restrictive—that is, Federal—requirements for all lobsters caught.

Federal regulations for the American lobster fishery are contained in the Code of Federal Regulations (50 CFR 649). One of the most important conservation measures in the management plan is a minimum legal size for a harvested lobster's body shell length. The current minimum size is 3¼ inches. It is scheduled to increase to 3$^{9}/_{32}$ inches in 1991; and 3$^{5}/_{16}$ inches in 1992.

The Federal regulation follows the schedule of minimum size increases established by State law in Maine, Massachusetts, and Rhode Island. These increases are intended to strengthen and enhance the conservation of American lobster stocks.

In New Hampshire and Connecticut, where State laws have not yet matched the increases scheduled for 1991 and 1992, only a small number of lobster fishermen are not already subject to the Federal minimum size requirements. In New Hampshire, for example, which accounts for less than 3 percent of total New England lobster landings, 75 percent of all lobsters are landed by fishermen holding Federally-endorsed permits.

Unfortunately, foreign imports are undermining the Federal conservation and management system for American lobsters. Approximately 50 percent of lobsters sold in the United States are imported. Of these imports, 10 percent were estimated in 1988 to be below the Federal minimum size. As the minimum size increases over time, the number of imports estimated below the minimum size will increase to approximately 30 percent.

In the U.S. market, where domestic and imported lobsters are intermingled in the stream of commerce, it is virtually impossible to enforce compliance with the Federal minimum size—particularly in places outside of New England, such as Chicago or Los Angeles. There is an open risk of a "black market" developing in subminimum lobsters of U.S. origin.

Moreover, New England lobstermen sees themselves as forced to comply with minimum size requirements which do not apply to imports. From the point of view of basic fairness, this does not make sense. Let any foreign nation observe whatever minimum size it wants within its own waters. But within the United States, such a nation should respect our laws and our minimum lobster size.

In 1988, I introduced legislation to prohibit imports of lobsters which did not meet U.S. conservation standards. The Senate Finance Committee recommended that the provision be specifically included in enabling legislation for the United States-Canada Free-Trade Agreement. However, the provision was dropped from the final legislation that President Reagan signed into law.

The issue of undersized lobsters did not end with the debate over the United States-Canada Free Trade Agreement. The problem of undersized lobsters has continued, and the basic unfairness has threatened the stability of the Federal lobster management plan.

As early as March 1988, the Fisheries Council of Canada had requested Canada's Department of Fisheries and Oceans to increase Canada's minimum size. Over a year later, Canada announced a plan to increase its size—but not in all areas of Canada, and without matching the United States increases scheduled for 1991 and 1992.

Canada's increase was supposed to become effective on July 1, 1989. But then, Canada postponed it indefinitely. On August 30, 1989, President Bush personally raised the issue with Canadian Prime Minister Brian Mulroney during the Prime Minister's visit to Kennebunkport, ME. They agreed that the problem needed to be solved, but gave no indication of a solution.

On September 14, 1989, the Nova Scotia/Bay of Fundy Lobster Advisory Committee formally decided to oppose any increase in Canada's minimum size. As a result, Canada's Department of Fisheries and Oceans has indicated that no increase will occur.

Even if Canada should implement the increase previously announced for July 1, 1989, it will not be enough. In Canada, there are 14 minimum sizes, 9 of which are only 3 inches or smaller. The proposed increase will still not affect 15 lobster-producing areas which account for as much as 35 percent of the lobsters imported from Canada into the United States.

New England lobstermen will not accept unfairness. In recent months, the Maine Lobstermen's Association petitioned the New England Fisheries Management Council [NEFMC] to postpone the next scheduled increases in the Federal minimum lobster size. The NEFMC turned down the MLA petition, but controversy surrounding the Federal plan is unlikely to diminish unless the basic unfairness is corrected.

The legislation I am introducing today is intended to strengthen the lobster conservation and management plan. It would prohibit the sale or transportation of lobsters in interstate commerce within the United States—unless they meet the U.S. minimum size. It also would apply to "berried" or "scrubbed" lobsters, which are repsectively, egg-bearing lobsters, or lobsters with visible evidence of eggs having been forcibly removed.

The prohibition would apply both to whole lobsters and lobster parts from undersized lobsters; whether fresh, chilled, frozen, or otherwise preserved or prepared.

I emphasize that the purpose of the legislation is conservation. It would apply to all lobsters sold or shipped in interstate commerce within the United States, regardless of whether or not they are of foreign or domestic origin. One of the effects clearly will be to stop undersized lobsters at our borders, but it will not stop those lobsters that meet our standards. The legislation is not a trade restriction.

Under the legislation, domestic and foreign lobsters are treated equally. The legislation would eliminate the present unfairness, and strengthen the integrity of the U.S. lobster management plan. Legislation of this nature is clearly allowed under article 20 of the General Agreement on Tariffs and Trade [GATT] and chapter 12 of the United States-Canada Free Trade Agreement.

I also wish to make clear that the legislation does not seek to establish

the Federal minimum lobster size per se. Under the Magnuson Act, the proper authority for that determination is the NEFMC and the individual States. The current minimum size is 3¼ inches. Increases of one thirty-second of an inch are scheduled for 1991 and 1992. These sizes depend on a careful balancing of scientific and technical considerations.

Greater scientific research is needed both for lobsters and other fisheries. Good fisheries management depends on good science, and our system needs to be always dynamic and flexible. Most of all, fisheries conservation and management needs to be fair. For Maine lobstermen and the American lobster fishery, that is what this legislation is intended to achieve.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1680

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 307(1) of the Magnuson Fishing Conservation Act (16 U.S.C. 1857) is amended (1) by deleting "or" at the end of subparagraph (H), (2) by deleting the period at the end of subparagraph (I) and inserting in lieu thereof a semicolon and the word "or", and (3) by adding immediately after subparagraph (I) the following new subparagraph:

"(J) to ship or transport, or cause to be shipped or transported, or to sell, in interstate commerce or foreign commerce as defined in section 10 of title 18, United States Code, any whole lobster, or any part thereof, of the species homarus americanus (whether fresh, chilled, frozen, or otherwise preserved or prepared) that is smaller than the minimum possession size in effect at the time under the American Lobster Fishery Management Plan (50 CFR 649), or any successor to that plan, implemented under title III of the Magnuson Fishery Conservation and Management Act, or is bearing eggs attached to its abdominal appendages, or bears evidence of the forcible removal of extruded eggs from its abdominal appendages.".

Mr. COHEN. Mr. President, I am pleased to join Senator MITCHELL and my colleagues from New England in introducing legislation to establish a nationwide uniform minimum size standard for lobsters shipped or sold in interstate commerce. While current U.S. fisheries conservation law prevents lobstermen in Maine, Rhode Island, and Massachusetts from landing lobsters below a certain minimum size, there is presently no mechanism for insuring that imported undersized lobsters from Canada do not show up in Dallas, Chicago or Los Angeles. In fact, the need for this legislation has become even more compelling in recent months as the United States has been flooded with undersized lobster imports which threaten to undermine longstanding U.S. conservation efforts.

Frankly, I was disappointed last year that the administration refused to include language in the United States-Canada Free Trade Agreement to promote the conservation of American lobsters. New England lobstermen must observe existing Federal and State regulations which set a minimum legal size for a harvested lobster's body shell length to insure that only mature lobsters can be caught. Even though some 50 percent of the lobsters consumed in the United States are imported from Canada, Canadian lobstermen do not have to meet the minimum size requirements for their export sales. This situation clearly undermines the U.S. conservation system and places U.S. lobstermen at a competitive disadvantage.

Federal management of the U.S. lobster fishery falls under the Magnuson Fisheries Conservation and Management Act which regulates the catch from 3 to 200 miles offshore. Individual State laws govern the inshore harvesting out to 3 miles. Under current Federal conservation regulations, those American lobsters with a body shell smaller than 3¼ inches—or about 1⅛ pounds—cannot be landed. In addition, to insure the continued reproduction of the species, it is illegal to land egg bearing females or those females whose eggs have been forcibly removed. While these regulations restrict the actions of U.S. lobstermen, they do nothing to prohibit the sale of undersized imported lobsters—thus creating a dangerous two-tiered system which could irrevocably damage our U.S. conservation efforts.

The legislation we are introducing today fills in the enforcement cracks presently existing in Federal conservation law by banning the sale or shipment of undersized lobsters in interstate commerce. For the first time, both United States and foreign lobstermen would be required to maintain the same minimum size standard for interstate sales in the United States. It is important to remember that this legislation does not violate U.S. obligations under international law as both article 20 of the General Agreement on Tariffs and Trade and chapter 12 of the United States-Canada Free Trade Agreement clearly allow such governmental actions for conservation purposes.

Maine lobstermen have a long and proud heritage of battling the elements to harvest food from the sea. They have made the sometimes painful sacrifices necessary to ensure the continued abundance of their catch. Therefore, it is simply a matter of fairness and equity to apply a uniform minimum size standard to all lobsters shipped or sold in interestate commerce in the United States. In this era of diminishing resources, I believe that we should be rewarding sound fisheries conservation practices, not pushing those who practice them.

Mr. KERRY. Mr. President, I am pleased to be a cosponsor of this very important bill that will help conserve the American lobster and at the same time protect our New England lobstermen from unfair competition from imports.

The American lobster is managed under a combination of Federal and State laws. Limits on the size of lobster that may be taken and prohibition of harvest of egg-bearing females are the principle mechanisms for conservation. Federal size restrictions are defined by the American lobster fishery management plan as implemented under the Magnuson Fishery Conservation and Mangement Act. These restrictions apply to all lobster caught in Federal waters and to those caught in State waters by lobstermen holding a permit that applies to Federal as well as state waters. State regulations apply within the 3-mile State jurisdiction and are generally consistent with Federal regulation. The Federal size limit is currently 3¼ inches and is scheduled to be increased by one thirty-second of an inch in 1991 and again by one thirty-second of an inch in 1992.

About 50 percent of the lobsters sold in the United Stats are imported from Canada. The Canadians were scheduled to increase their size limits to the current U.S. level of 3¼ inches, but have indenfinitely postponed this action.

Mr. President, this places us in a difficult position. We would like the proposed size increases go into effect because these were developed with conservation of the fishery in mind. However, we do not wish to place our lobstermen at a competitive disadvantage by raising United States standards while Canadian standards remain below our current levels. It is estimated that imports that do not meet the U.S. minimum size requirements will increase from 10 percent to about 30 percent when our size standards are raised.

Our previous efforts to remedy this problem by prohibiting importation of undersized lobsters were unsuccessful because some felt it violated our Free Trade Agreement with Canada.

The legislation that we are introducing today would amend the Magnuson Fishery Conservation and Management Act so that all lobsters that are either sold or shipped in interstate commerce in the United States would be subject to Federal regulations. These regulations would then apply to both foreign and domestic lobsters. This legislation will strengthen Federal and State conservation and management efforts while protecting our lobstermen from an influx of undersized

lobsters. Mr. President, this measure is urgently needed by our New England lobster fishery.

By Mr. HUMPHREY (for himself, Mr. ARMSTRONG, Mr. COATS, Mr. GRASSLEY, Mr. HELMS, Mr. KASTEN, and Mr. MCCLURE):

S. 1681. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with knowledge that such abortion is being performed solely because of the gender of the fetus, and for other purposes; to the Committee on the Judiciary.

CIVIL RIGHTS OF INFANTS ACT

● Mr. HUMPHREY. Mr. President, there is a new and gruesome form of discrimination in America. The purpose of this legislation is to end it.

What am I talking about? Let me read something from the New York Times of December 25, 1988. The title of the article is "Fetal Sex Test Used as Step to Abortion."

In a major change in medical attitudes and practices, many doctors are providing prenatal diagnoses to pregnant women who want to abort a fetus on the basis of sex alone.

The article goes on to say:

Geneticists say that the reasons for this change in attitude are an increased availability of diagnostic technologies, a growing disinclination of doctors to be paternalistic, deciding for patients what is best, and an increasing tendency for patients to ask for the tests. Many geneticists and ethicists say they are disturbed by the trend.

George Annas, a professor of health law at Boston University School of Medicine is quoted in the article with this statement:

I think the profession should set limits and I think most people would be outraged and properly so at the notion that you would have an abortion because you don't want a boy or don't want a girl. If you're worried about a woman's right to an abortion, the easiest way to lose it is not to set any limits on this technology.

Mr. President, that is what I urge this Congress to do—set a limit on abortion—set a limit on discriminatory abortion. Sex-selection abortion is a heinous form of abortion. Talk about equal rights, a sex-selection abortion kills a human being for simply being a gender which is not to the liking of the child's parents.

There have been other reports in the press on this horror.

This one is from USA Today, February 2, 1989:

In a break with past medical attitudes, more geneticists are open to identifying gender for expecting parents early—so they can decide whether to abort.

The change has ethicists debating where a parent's right to information ends and the rights of the unborn begin.

A recent national survey of 212 medical geneticists found 20 percent approved of performing prenatal testing for sex selection; in a 1973 survey, only 1 percent approved.

The article continues and describes who is more likely to be affected by the sex-selection abortion:

"Probably 99 percent of nonmedical requests for prenatal diagnosis are made because people want a boy," says Dr. Mark Evans, an obstetrician and geneticist at Wayne State University, Detroit. Some experts are concerned about the social impact.

Evans turns down nonmedical sex-selection requests. "Being female," he says, "is not a disease."

Quite so. Let me read a section from an article that appeared in U.S. News & World Report, January 9, 1989. The title of this article is "Baby Boys, To Order."

Some demographers and feminists, for instance, are likely to oppose the practice. Looked at as a worldwide phenomenon, sex selection is the natural successor to female infanticide as a method of increasing the ratio of males to females.

Tens of thousands of fetuses, perhaps hundreds of thousands, have already been destroyed in Third World countries for the offense of being female. A few feminists are gingerly using the term "femicide," a rare appearance of the suffix "cide" in a movement that tends to regard abortion as the simple shedding of an unnecessary body part, such as an appendix or a hangnail.

Let me read from an article that appeared in Newsweek, January 30, 1989. This article is called "In India, They Abort Females." You see, in India, a female child is considered a liability, a male, an asset.

The article cites one study indicating that of 8,000 cases of abortion in Bombay, 7,999 involved female fetuses. The article continues:

All very sad and very compelling but for one large fact: Feminists (in India and all over the world, for the feminist community is at one on this issue) are speaking out of both sides of their mouths. When the issue is sex determination and the "selective" abortion of girls, they call it female feticide. But when the issue is reproductive freedom and the abortion of male and female fetuses, they call it a "woman's right to choose." It won't work. They can't have it both ways. Either they accept abortion or they don't.

The American Medical News in February 1989 reported:

A 1988 survey showed that about 10 percent of U.S. geneticists had no qualms about performing genetic testing—developed to detect disease—for sex selection. Another 10 percent accepted the practice with varying degrees of reservation.

The results mark a significant shift from a 1973 survey that found only 1 percent of geneticists approved of prenatal diagnosis for couples who want to abort on the basis of sex alone.

An article appearing in Childbirth Educator, summer 1988, had this interesting thought. The article was called "A Bias for Boys."

It is also easy to see how a radical gender imbalance might affect our society's attitudes toward war. We know that males, for reasons at least partly biological, are more given to aggression than are females.

It's hardly inconceivable that a modern nation with an excess of 10 or 15 million adult males could, through voting and other expressions of public opinion, turn more readily to military action.

Mr. President, I could go on and on with article after article, but I think you get the point. That point is, we have new ground to break in the area of civil rights. We have new ground to break in the area of equal rights.

The Hastings Center is a nonpartisan, nonprofit, organization which carries out educational and research programs on ethical issues in medicine, the life sciences, and the professions. In the latest Hastings Center report appeared an article titled "Fatal Knowledge? Prenatal Diagnosis and Sex Selection." Dorothy C. Wertz, a research professor in the School of Public Health at Boston University coauthored the article with John C. Fletcher, director of the center for biomedical ethics at the University of Virginia.

They begin their report by saying:

Examining the ethical arguments on sex selection through prenatal diagnosis and their implications for social policy is now an urgent task for three reasons: (1) recent data suggest that physicians in the U.S. and some other nations may comply with prenatal requests for sex selection, (2) advances in genetic knowledge, such as international projects to map the human genome, beg a question whether sex selection is a precedent for direct genetic "tinkering" with human characteristics having little or nothing to do with disease, and (3) preconceptual sex determination may become scientifically reliable in the future.

Three different cases are cited where someone would tend to have a sex selection abortion:

Case 1: A couple with four healthy daughters desire a son. They request prenatal diagnosis solely to learn the fetus's sex, in the absence of any medical indications. They tell the doctor that if the fetus is a female they will abort it. Further, they say that if the doctor will not grant their request for prenatal diagnosis they will have an abortion rather than risk having a fifth girl.

Case 2: A couple with three sons in their late teens think their family is completed, but the woman finds herself unexpectedly pregnant at age 42. She has always wanted a daughter. Still, the couple is ambivalent; though they are not eager for a fourth child, they are tempted by the possibility of continuing the pregnancy long enough to have prenatal diagnosis, which is medically indicated at the woman's age, finding out the fetus' sex, and then making their decision about abortion.

Case 3: An immigrant woman from an Asian nation where sons are strongly preferred requests prenatal diagnosis for fetal sex testing. She already

has three daughters and says her husband will divorce her, send her home, and "throw her on the dung heap" if she has another.

Now, here are the results when doctors were presented with that information: In contrast to past practice, today doctors are much more willing to comply with such requests. When presented with case 1, 62 percent in a 1985 survey of 295 U.S. geneticists said that they would either perform prenatal diagnosis for the couple—34 percent—or would refer them to someone who would perform it—28 percent.

Mr. President, there is not one reason to have a sex selection abortion. In fact, there are only reasons against it; like, unbalancing the sex ratio and diminishing the status of women. In the Hastings report article, it points out that, "Preconceptual sex selection could contribute to gender stereotyping before birth and perpetuate sexism in society."

I started by talking about civil rights. I hope all Senators can clearly see the need to extend some of those rights to the unborn. That is why I am introducing a bill that would provide that an unborn baby has the civil right not to be aborted on the basis of his or her sex. I might add, this is a bill that mostly protects women. Appropriately, this bill is titled, "Civil Rights of Infants Act." The bill would amend title 42 of the United States Code which contains most of the civil rights statutes.

Mr. President, because the right not to be sex selection aborted would be a civil right, a series of remedies for civil rights violations would be invoked. The scope of these remedies would be as broad or narrow as the remedies for other civil rights violations.

I urge my colleagues to speedily enact this bill into law. The issue is not a Democrat issue or a Republican issue; not a liberal issue or a conservative issue. It is fundamentally an issue of civil rights.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1681

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights of Infants Act".

SEC. 2 DEPRIVING PERSONS OF THE EQUAL PROTECTION OF LAWS BEFORE BIRTH.

Section 1979 of the Revised Statutes (42 U.S.C. 1983) is amended by adding at the end thereof the following new section:

"SEC. 4. For purposes of section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), and for purposes of other provisions of law, it shall be a deprivation of a 'right' secured by the laws of the United States for an individual to perform an abortion with the knowledge that the pregnant woman is seeking the abortion solely because of the gender of the fetus. No pregnant woman who seeks to obtain an abortion solely on the basis of the gender of the fetus shall be liable in any manner under this section.".

By Mr. BENTSEN (for himself, Mr. MITCHELL, Mr. CRANSTON, Mr. PRYOR, Mr. DASCHLE, Mr. MATSUNAGA, Mr. MOYNIHAN, Mr. BAUCUS, Mr. BOREN, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. DODD, Mr. BUMPERS, Mr. ADAMS, Mr. BINGAMAN, Mr. BREAUX, Mr. BRYAN, Mr. BURDICK, Mr. DECONCINI, Mr. EXON, Mr. FORD, Mr. GRAHAM, Mr. HOLLINGS, Mr. INOUYE, Mr. JOHNSTON, Mr. KERRY, Mr. KOHL, Mr. LEAHY, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Mr. REID, Mr. SANFORD, Mr. SASSER, and Mr. SIMON):

S. 1682. A bill to amend the Internal Revenue Code of 1986 to encourage savings by increasing the amount of deductible contributions which may be made to an individual retirement account, to allow distributions from individual retirement accounts to be used without penalty to purchase a first home or to pay for higher education expenses, and for other purposes; to the Committee on Finance.

SAVINGS AND INVESTMENT INCENTIVE ACT

● Mr. BENTSEN. Mr. President, my friend TERRY SANFORD tells the story about two men sitting together on an airplane. After a while, one man musters his courage and says: "One of our deodorants isn't working."

"It must be yours," says the other. "I don't use any."

I think of this when I see the debates over the alarming investment and productivity performance turned in by the United States during the 1980's. Each side finds some way, no matter how tortured, of arguing that it's the other side's fault.

In fact, there's plenty of blame to go around. And no one side has a monopoly on solutions, either. For example, the President's people want to spur investment by cutting the capital gains tax. That could help, even though the benefits would be felt most by the wealthiest Americans.

But in this age of limited resources, why not get the same effect—in fact, a much bigger bang for the buck—by giving a tax break to millions of average families?

That's why, Mr. President, I am pleased to introduce S. 1682 along with 33 Members of the Senate. This bill restores the individual retirement accounts—IRA's. This was one retirement account that never should have been retired. In fact, this bill expands IRA's to help people with the two biggest investments of their lives: Buying a house and sending their children through college or trade school.

Why are IRA's so good?

First, they stimulate savings. There were some economists who used to argue that the old IRA's didn't spur savings. New studies, though, particularly an analysis by David Wise of Harvard's Kennedy School and Steven Venti of Dartmouth, show that that is wrong. Net national savings are increased by as much as half the size of total IRA deposits, which in 1986 were $38 billion.

That is important because the household savings rate in America last year was a woefully low 4 cents on the dollar. In Japan it's 16 cents on the dollar.

And while budget deficits and other factors pushing real interest rates up have also hurt, a major factor stunting American investment is that the pool of money available to invest in manufacturing new products just isn't big enough. You can't swim in a wading pool. IRA's offer us a chance of making that pool big enough for investors to dive right in—not to mention helping keep the American economy afloat.

Second, if we're going to cut taxes, why not give a tax break to the broadest segment of American taxpayers, the middle-income earners who bear the brunt of the tax—paying burden? These are precisely the families that need the expanded IRA that I've proposed.

Since 1949 the monthly cost of owning a house with a mortgage has gone from 14 percent of the average 30 years old's income to 44 percent. No wonder that since 1980 the homeownership rate in America has fallen for the first time since World War II.

The figures for college education are even scarier; the Education Department estimates that 18 years from now, getting a bachelors degree even at a State-run school will cost families $60,000.

For these purposes—all of which still require the kind of long-term savings our economy needs—why not let people withdraw their IRA funds penalty-free?

In the past, nobody argued more strenuously than I for a capital gains cut. In the last week many people have come up to me and asked if we could have both. That would be nice. But we can't. Not this year. The drain on the Federal Treasury would simply be too great.

For while some economists have correctly pointed to the fact that a capital gains cut would gain revenue for the first year, that's only part of the story. After that first year, the capital gains cuts now being proposed would lose an incredible amount of money—the administration's proposal would cost $11 billion a year by 1994. To tout that brief, initial revenue gain is a little bit like the remark by that pitch-

er who served up a homerun ball to Willie Mays: "For 60 feet it was a helluva pitch," he said.

The point is what happened next. And what happens next with these particular capital gains proposals? An increase in the deficit, more interest to pay off each year—with the taxes of average folks, struggling to write the next mortgage check. That's not right. We need a proposal that helps families buy a house, not one that slams the door shut on them.

The IRA would help. In a way, it is America's real capital gain. It would allow average families to invest capital in America's future while savings for their own future—a gain for all Americans. That's why it's so important to them. And that's why in the next few weeks, it should be so important to Congress.

Mr. President, I encourage my colleagues to join us as cosponsors of this important piece of legislation. I ask unanimous consent that the text of S. 1682 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Savings and Investment Incentive Act of 1989".

SEC. 2. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES OR TO PAY HIGHER EDUCATION EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(t) of the Internal Revenue Code of 1986 (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

"(E) DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR FIRST HOME PURCHASES OR EDUCATIONAL EXPENSES.—The following distributions to an individual from an individual retirement plan:

"(i) FRIST-TIME HOMEBUYERS.—Qualified first-time homebuyer distributions (as defined in paragraph (6)).

"(ii) HIGHER EDUCATION EXPENSES.—Distributions to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year."

(b) DEFINITIONS.—Section 72(t) of such Code is amended by adding at the end thereof the following new paragraphs:

"(6) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(E)(i)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by a first-time homebuyer from an individual retirement plan to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence for such individual.

"(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) *Date of acquisition.*—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

"(i) any amount is paid or distributed from an individual retirement plan to an individual for purposes of being used as provided in subparagraph (A), and

"(ii) by reason of a delay in the acquisition of the residence, the requirements of subparagraph (A) cannot be met,

the amount so paid or distributed may be paid into another individual retirement plan as provided in section 408(d)(3)(A)(i) without regard to section 408(d)(3)(B), and, if so paid into such other plan, such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

"(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(E)(ii)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(2)).

"(B) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after the date of the enactment of this Act in taxable years ending after such date.

SEC. 3. ACTIVE PARTICIPANTS ALLOWED DEDUCTIONS FOR 50 PERCENT OF CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) GENERAL RULE.—Paragraph (1) of section 219(g) of the Internal Revenue Code of 1986 (relating to limitation on deduction of active participants in certain pension plans) is amended to read as follows:

"(1) IN GENERAL.—If (for any part of any plan year ending with or within a taxable year) an individual or the individual's spouse is an active participant, the amount as a deduction under subsection (a) for such taxable year shall be the sum of—

"(A) 100 percent of the amount which would have been allowable for such taxable year if each of the dollar limitations contained in subsections (b)(1)(A) and (c)(2) were reduced (but not below zero) by the amount determined.

"(B) 50 percent of the excess of—

"(i) the amount which would have been allowable for such taxable year without regard to this subsection, over

"(ii) the amount determined under subparagraph (A)."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (o) of section 408 of such Code is amended by striking paragraphs (1), (2), and (3) and inserting the following:

"(1) IN GENERAL.—Qualified nondeductible contibutions may be made on behalf of an individual to an individual retirement plan.

"(2) QUALIFIED NONDEDUCTIBLE CONTRIBUTIONS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified nondeductible contribution' means the portion of any contribution for a taxable year beginning after December 31, 1989, to an individual retirement plan which is not allowable as a deduction under section 219 solely by reason of subsection (g)(1) thereof.

"(B) YEARS BEFORE 1990.—The term 'qualified nondeductible contribution' includes any contribution to an individual retirement plan for any taxable year beginning before January 1, 1990, which was a designed nondeductible contribution (as defined in this subsection as in effect on the day before the date of the enactment of the Savings and Investment Incentive Act of 1989).

"(C) TAXPAYER MAY ELECT TO TREAT DEDUCTIBLE CONTRIBUTIONS AS NONDEDUCTIBLE.—If a taxpayer elects not to deduct any contribution which (without regard to this subparagraph) is allowable as a deduction under section 219, such contribution shall be treated as a qualified nondeductible contribution.

"(3) TIME WHEN CONTRIBUTION MADE.—In determining for which taxable year a contribution is made, the rules of section 219(f)(3) shall apply."

(2) Paragraph (7) of section 219(f) of such Code is amended by striking "408(o)(2)(B)(ii)" and inserting "408(o)(2)(C)".

(3) Sections 408(o)(4) and 6693(b) of such Code are each amended by striking "designated nondeductible" each place it appears (including in any heading) and inserting "qualified nondeductible".

(4)(A) The section heading for section 6693 is amended by striking "DESIGNATED" and inserting "QUALIFIED".

(B) The item relating to section 6693 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "designated" and inserting "qualified".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions for taxable years beginning after December 31, 1989.●

● Mr. BAUCUS. Mr. President, today I rise to cosponsor legislation offered by Senate Finance Committee Chairman BENTSEN that I think will help resolve one of the most pressing economic problems facing the United States: our low, personal savings rate.

I believe that one of the first steps we as a nation must take to restore our international competitiveness is to increase our personal savings rate. It is only through our savings that we will have the pool of capital necessary for investment in new plants, new equip-

ment, and a more productive work force.

Senator BENTSEN's bill would restore some of the tax incentives for individual retirement accounts that were eliminated by the Tax Reform Act of 1986. I strongly support restoring those tax incentives. The bill we introduce today would revive the deduction for certain IRA contributions by individuals who now cannot deduct their IRA contributions. It also offers individuals additional incentives to make IRA contributions by permitting early withdrawals from IRA's for education and home purchases.

I introduced similar legislation in May. My bill, S. 1069, also would permit early withdrawals for education and home ownership. The idea behind these early withdrawal provisions is twofold. They create an additional incentive for people to save. And they provide a source of funds for people to meet rising costs of education and housing. But while the IRA's are accumulating interest, they provide a source of funds for capital investment. And that is important to our international competitiveness.

I know there are people who ridicule the idea that we as a nation should or can pass legislation to improve our competitive position in international markets. But I believe those people are wrong; they are gambling with our future and with the future of our children. There are some things that we can do through legislation. For one, we can create an environment that is more conducive to growth than our current business conditions.

In some cases, that means reallocating our Federal spending priorities. In other cases, it means creating incentives for action by the private sector. One of the more effective means of creating incentives is through the Tax Code. That is what this legislation does. It creates tax incentives to encourage savings, to encourage investment, and to improve the productivity of the American worker.

During the Reagan administration, the game in Washington was to raise revenue without calling it a tax increase. The President had declared tax increases forbidden. So we raised taxes but called it something else. Sometimes we called it revenue enhancement, sometimes we called it compliance measures, sometimes we called it tighteners. And, in 1986, we called it tax reform.

Now I am not here to undo those bills. But I fear that in our efforts to go along with President Reagan's position against tax increases, we may have acted without enough consideration of the impact of our actions on the Nation's competitiveness. I am especially concerned that when we acted in 1986 to make the rate cuts revenue neutral, we lost some of the savings and investment incentives that would make us more competitive.

Now is the time for action to restore American competitiveness. Some of the proposals will sound familiar to you. For instance, today we are calling for tax incentives to increase the domestic savings rate and to encourage domestic investment in plant and equipment.

Look at our national savings rate. Since 1981, Congress and the administration have been talking about and trying to increase the national savings rate. But the rate has been falling. From 1960 to 1980, the national savings rate averaged 7.4 percent of GNP. In recent years, it has averaged 2.3 percent. In 1986, it was less than 2 percent of GNP. You heard me right; I said less than 2 percent. That is less than half the rate of England, less than a third that of Germany, and about 10 percent of the rate in Japan.

There are clear explanations for our relatively low national savings rate. We generally must have a reason to save rather than to consume. We save for old age or retirement; we save for emergencies; we save to buy a new house or new cars; or we save to leave something to our children or grandchildren.

But what happens if the Government has encouraged the development of good retirement systems, or if insurance takes care of emergencies, or if the availability of credit replaces savings for houses and cars. What happens is that there is no incentive to save. And that has happened to us. We have lost the incentive to save. So, we simply don't save.

The evidence on the effectiveness of the 1981 savings incentives is inconclusive. But recent work by Larry Summers of Harvard indicates that criticisms of the effectiveness of IRA's may have been premature. In fact, according to Summers, significant evidence indicates that in fact IRA's have encouraged new savings.

I find his evidence persuasive. That is why I think we need to give IRA's another chance. And because our international competitiveness depends in large part on the quality of the U.S. workforce, I am cosponsoring this legislation to allow IRA withdrawals for education. When it comes to international competitiveness, the factors of production that we must focus on are those that develop human capital and technology. We cannot compete with developing industrial nations based on labor costs or equipment costs. But we can compete based on worker skills and technology.

We cannot abandon U.S. manufacturing, but we should prepare for the certain growth in service industries. Contrary to the cynics, these jobs will not all be flipping hamburgers and taking in laundry. They will be in health care, education, retailing, and Government. And they will require higher skill levels than are required of today's jobs. Also, in the future, many jobs are likely to change with advances in technology. The pace of technological development has already created problems for us in the obsolescence of capital equipment. Treasury's Office of Depreciation Analysis is wrestling with the problem of how to depreciate equipment that becomes technologically obsolete before it physically wears out. But what about human capital. The same technological advances that make equipment obsolete also make employee skills obsolete. What are we doing about that? How many of our firms have begun to think about that problem?

The Federal Government needs to lead on this issue. But we need to recognize that basic skills will not be enough to maintain U.S. economic leadership. We also need to encourage advanced education. And we need to encourage continuing education—or retraining—so that U.S. workers are prepared for jobs that change with technological advances.

And the bill we are introducing today does that by exempting premature distributions from the 10 percent excise tax if the funds are used for education.

The second preferred use would be for first-time home buyers. As the baby boomers have reached the stage in life where they want to buy homes, they are finding that their resources are not keeping up with the cost of housing. For these individuals, the rapid increase in housing costs has quickly outpaced their ability to come up with the downpayment for a home. Our bill would make it easier for the first-time home buyer to generate the necessary savings to buy a home by exempting premature withdrawals for home buyers from the 10 percent tax.●

● Mr. DECONCINI. Mr. President, I am proud to cosponsor the Finance Committee chairman's bill to restore and enhance the individual retirement account [IRA]. Senator BENTSEN deserves praise for an outstanding proposal which encourages both planning for retirement while increasing our dismal savings rate.

While some who have looked at the Bentsen proposal consider it to be an alternative to lowering the capital gains rate, I look at is as an addition to the capital gains proposal. I think we can pass both proposals and in so doing stimulate both savings and investment.

There are many important provisions of the Bentsen proposal. First it restores IRA's to all working Americans at a level of at least 50 percent deductibility. Second, it allows IRA funds to be withdrawn for postsecondary education or training as well as for

first home purchases. I do not know of two more dearly held goals of Americans than home ownership and educational opportunity. With this new, improved IRA program we will bring these goals within the grasp of many more Americans while, at the same time, increasing our shabby savings rate.

This country's savings rate is abysmal, and the 1980's has seen a continued worsening of an already bad situation. In 1981 the personal savings rate as a percentage of GNP was 5.2 percent, last year that figure had eroded to 3 percent and there are no encouraging signs on the horizon.

Again, I would strongly state that the IRA and capital gains proposals are not mutually exclusive. Rather they can work together in mathematical symmetry to build an even stronger economy.●

● Mr. EXON. Mr. President, I rise to support the bill to restore and expand individual retirement accounts—IRAs. I am pleased to be a cosponsor of this bill and commend by colleague and friend Senator LLOYD BENTSEN for his leadership on this issue.

This legislation helps average Americans deal with three of their biggest and most fundamental economic hurdles: First, saving for retirement; second, paying for a college education; and third, being able to buy a first home.

Under this legislation, the limits created in 1986 on deducting contributions to an IRA are partly restored, so at least half would be tax deductible. Currently, the deductions are not available at all to many taxpayers and this bill corrects that. Also, in addition to use for retirement purposes, the funds could be used without penalty for higher education costs of the taxpayer and his child or to meet the down payment and closing costs of a first home.

Passing the retirement, college, first home savings legislation is a big move in the right direction to help average working Americans, If budget conditions allowed it, I would prefer it to be expanded even further. For example, it would be even better to allow full deductibility of IRA contributions for all taxpayers. It would be even better to also let grandparents, aunts and uncles, and others use their IRA to help a child's education. However, I recognize that the Federal budget can only afford so much this year. This bill is not a cure-all, but it does take some big steps forward.

I still believe that the 1986 Tax Reform Act made a big mistake when it disallowed IRA deductions for many middle income taxpayers. That was a major reason I voted against the 1986 tax bill. Unfortunately, Congress and the President threw out the baby with the bathwater when it cut back on IRA savings incentives in 1986. I am glad I voted against that. Today we can begin to correct the 1986 mistake on IRAs and do something to help average Americans save for college or a first home.

Middle income Americans have big concerns about their retirement needs, paying for college, and buying their first home. They are doing all they can to pay the monthly bills. They work hard for a living. They go to work every day in Omaha. They work on farms from dawn to dusk in Buffalo County. The don't have time to write letters to Washington. They don't have high-paid lobbyists. They don't travel to Washington on tax-deductible expense account trips to say they need more tax breaks. They are the backbone of my State and our Nation. They deserve a break. They deserve to win one in Congress, for a change. That is why I support this bill.

Finally, Mr. President, I should note that this bill has been mentioned as an alternative to a capital gains tax proposal currently being debated by the House. I want to be clear that I am not opposed as a matter of principle to changes in capital gains tax laws if they make good economic sense and are fair to taxpayers. I voted against the 1986 tax bill which raised taxes on capital gains. However, I think the particular capital gains proposal currently being considered in the House raises some serious questions. For example, it does not seem to make good ecnomic or business sense to lower capital gains rates for a short period, then automatically hike them back up again as the House version proposes. Such a policy seems more directed at short-term revenue gain, instead of the long-term economic well being of our Nation. There are other concerns, as well. However, those issues are not before us today. I will look forward to future debate in the Senate on those issues.

In summary, Mr. President, the working people of our Nation need the retirement, college, first home savings bill being introduced today. I urge my colleagues to join me in supporting it.●

ADDITIONAL COSPONSORS

S. 272

At the request of Mr. LEAHY, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 272, a bill to eliminate the exemption for Congress from the application of certain provisions of Federal law relating to employment, and for other purposes.

S. 346

At the request of Mr. WIRTH, the names of the Senator from Nebraska [Mr. KERREY] and the Senator from Nevada [Mr. BRYAN] were added as a cosponsors of S. 346, a bill to amend the Alaska National Interest Lands Conservation Act, and for other purposes.

S. 435

At the request of Mr. REID, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 435, a bill to amend section 118 of the Internal Revenue Code to provide for certain exceptions from certain rules determining contributions in aid of construction.

S. 670

At the request of Mr. ARMSTRONG, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 670, a bill to recognize the organization known as the Retired Enlisted Association, Incorporated.

S. 1006

At the request of Mr. LEAHY, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1006, a bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States.

S. 1237

At the request of Mr. GLENN, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 1237, a bill to require the Administrator of the General Services Administration to encourage the use of plastics derived from certain commodities and to include such products in the General Services Administration inventory for supply to Federal agencies, and to establish an Interagency Council on Biodegradable Standards for the development of uniform definitions, standards, and testing procedures for degradable plastic products made from certain commodities and for other purposes.

S. 1365

At the request of Mr. COATS, the names of the Senator from Mississippi [Mr. LOTT] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 1365, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize grants to States for projects to demonstrate innovative alternatives to the incarceration of persons for nonviolent offenses and drug-related offenses.

S. 1406

At the request of Mr. HEINZ, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 1406, a bill to amend the United States Housing Act of 1937.

S. 1466

At the request of Mr. PRYOR, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1466, a bill to amend title XVIII of

the Social Security Act to make certain modifications in the Medicare Program with respect to payments made under such program to rural referral centers and high medicare volume hospitals located in rural areas, to improve the delivery of health services to individuals residing in such areas, and for other purposes.

S. 1511

At the request of Mr. PRYOR, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1511, a bill to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

S. 1661

At the request of Mr. PRYOR, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 1661, a bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for qualifying disability expenses.

SENATE JOINT RESOLUTION 164

At the request of Mr. NICKLES, the names of the Senator from Utah [Mr. GARN], the Senator from Texas [Mr. GRAMM], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of Senate Joint Resolution 164, a joint resolution designating 1990 as the "International Year of Bible Reading."

SENATE JOINT RESOLUTION 168

At the request of Mr. MCCLURE, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 168, a joint resolution to designate the week of October 2 through 8, 1989, as "America's Gold Week."

SENATE JOINT RESOLUTION 184

At the request of Mr. HATCH, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Utah [Mr. GARN], the Senator from Oregon [Mr. PACKWOOD], the Senator from New Jersey [Mr. BRADLEY], the Senator from North Dakota [Mr. CONRAD], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of Senate Joint Resolution 184, a joint resolution to designate the periods commencing on November 26, 1989, and ending on December 2, 1989, and commencing on November 28, 1990, and ending on December 2, 1990, as "National Home Care Week."

SENATE JOINT RESOLUTION 186

At the request of Mr. MCCLURE, the names of the Senator from Montana [Mr. BURNS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Vermont [Mr. JEFFORDS], the Senator from Illinois [Mr. SIMON], the Senator from Oklahoma [Mr. BOREN], the Senator from Maine [Mr. COHEN], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Arkansas [Mr. PRYOR], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 186, a joint resolution designating the week of March 1 through March 7, 1990 as "National Quarter Horse Week."

SENATE JOINT RESOLUTION 187

At the request of Mr. HATCH, the names of the Senator from Missouri [Mr. BOND], the Senator from Utah [Mr. GARN], the Senator from Connecticut [Mr. DODD], the Senator from Washington [Mr. GORTON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Wisconsin [Mr. KASTEN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Arizona [Mr. DECONCINI], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Idaho [Mr. MCCLURE] were added as cosponsors of Senate Joint Resolution 187, a joint resolution to designate the periods commencing on November 19, 1989, and ending on November 26, 1989, and commencing on November 18, 1990, and ending on November 25, 1990, as "National Adoption Week."

SENATE JOINT RESOLUTION 194

At the request of Mr. LAUTENBERG, the names of the Senator from Tennessee [Mr. SASSER], the Senator from Utah [Mr. HATCH], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of Senate Joint Resolution 194, a joint resolution designating November 12-18, 1989, as "National Glaucoma Awareness Week."

SENATE JOINT RESOLUTION 198

At the request of Mr. SIMON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 198, a joint resolution designating November 1989 as "An End to Hunger Education Month."

SENATE JOINT RESOLUTION 204

At the request of Mr. NUNN, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from New Mexico [Mr. DOMENICI], the Senator from Michigan [Mr. RIEGLE], the Senator from Illinois [Mr. SIMON], the Senator from Louisiana [Mr. JOHNSTON], the Senator from California [Mr. WILSON], the Senator from Nebraska [Mr. KERREY], the Senator from Alaska [Mr. STEVENS], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of Senate Joint Resolution 204, a joint resolution designating October 28, 1989, as "National Women Veterans of World War II Day."

SENATE JOINT RESOLUTION 206

At the request of Mr. GORE, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Joint Resolution 206, a joint resolution calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty consultative parties, for the full protection of Antarctica as a global ecological commons.

SENATE CONCURRENT RESOLUTION 60

At the request of Mr. MOYNIHAN, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of Senate Concurrent Resolution 60, a concurrent resolution expressing the sense of the United States Senate that the Soviet Union should release the prison records of Raoul Wallenberg and account for his whereabouts.

SENATE CONCURRENT RESOLUTION 62

At the request of Mr. DODD, the names of the Senator from Vermont [Mr. JEFFORDS] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Concurrent Resolution 62, a concurrent resolution commending the decision of the Board of Immigration Appeals to allow Joseph Patrick Doherty to apply for political asylum, expressing concern at the Attorney General's June 30, 1989, decision to deny Joseph Patrick Doherty a political asylum hearing, and asking the Attorney General to respect the BIA decision on political asylum and immediately to release Joseph Patrick Doherty on bond pending final completion of the immigration proceedings.

SENATE RESOLUTION 180

At the request of Mr. SANFORD, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Resolution 180, a resolution to encourage schools and civic enterprises to observe the 200th anniversary of the Bill of Rights on September 25, 1989.

AMENDMENT NO. 727

At the request of Mr. BYRD, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of amendment No. 727 proposed to H.R. 3015, a bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes.

SENATE CONCURRENT RESOLUTION 74—AUTHORIZING A GIFT OF EQUIPMENT AND TRAINING TO THE NEW SENATE AND SEJM IN POLAND

Mr. DOMENICI (for himself, Mr. MITCHELL, Mr. DOLE, Mr. CRANSTON, Mr. KASTEN, Mr. SIMON, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. LEVIN, Mr. STEVENS, Mr. MOYNIHAN, Mr. MACK, Mr. GLENN, Mr. KENNEDY, Mr. INOUYE, Mr. FORD, Mr. KERREY, Mr. ROBB, and Mr. GRAHAM) submitted the following

concurrent resolution; which was considered and agreed to:

S. CON. RES. 74

Whereas Poland is undertaking the historic process of organizing its new Sejm and Senate, the first parliament in Poland where a majority of its members were democratically elected in more than half a century;

Whereas these new citizen-legislators, from many walks of life, are taking on the tremendous responsibility of forming the legislative branch of their government without the benefit of previous legislative experience;

Whereas these new legislators are united in their commitment to dramatically reform the social and economic structure of Poland;

Whereas these new legislators are dedicated to permanently establishing individual freedom and a renewed hope and confidence for the future of Poland;

Whereas the new legislators are faced with reviving the economy and creating the necessary government entities to facilitate an efficient means of governing the country;

Whereas among the many other challenges facing Poland's Parliament over the coming months is the lack of equipment, research and legislative resources; and

Whereas the United States Congress has a well-established system for operating a legislative body and an impressive research capability in the form of the Library of Congress and the Congressional Research Service. Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) This Concurrent Resolution may be cited as the "United States Congressional Gift of Democracy to Poland Resolution".

(2) That the Speaker of the House, the Minority Leader of the House and the Majority and Minority Leaders of the Senate, and the Librarian of the Congress shall assign staff having expertise in software, office equipment, legislative research and parliamentary procedure and other lawmaking skills to travel to Poland. The Congressional staff assigned to this mission shall assess the training and equipment needs of the Polish Sejm and Senate, and assist Poland in developing an effective Parliament. Not later than thirty days after completing the assessment, such staff shall submit a report to the Congress and the Librarian of Congress on its findings.

(3) Upon receipt of the report of the congressional Staff, the Leadership of Congress shall endeavor to identify and secure the ways and means to implement an appropriate United States congressional gift of democracy to Poland in the form of equipment and training for the new Senate and Sejm.

(4) The Leadership is encouraged to coordinate this effort with private and public sector experts such as the National Democratic Institute for International Affairs and the National Republican Institute for International Affairs and with parliaments in Western Europe.

(5) Travel expenses incurred by the Senate and the House of Representatives to carry out subsections (2) and (3) shall be reimbursed out of the respective contingent funds of the two House of Congress in accordance with rules governing such funds.

AMENDMENTS SUBMITTED

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1990

KENNEDY (AND OTHERS) AMENDMENT NO. 867

Mr. KENNEDY (for himself, Mr. WILSON, Mr. KOHL, Mr. SIMON, Mr. DODD, Mr. HATCH, Mr. BRADLEY, Mr. CHAFEE, and Mr. LAUTENBERG) proposed an amendment to the bill (H.R. 3015) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes, as follows:

At the appropriate place, insert the following new section:

SEC. . (a)(1) The Secretary of Health and Human Services, acting through the Administrator of the Alcohol, Drug Abuse and Mental Health Administration or his designee, shall use amounts made available under paragraph (4) to make a grant to an institution of the type described in paragraph (2) for the establishment of a National Resource and Information Center for Perinatal Addiction.

(2) The grant under paragraph (1) shall be awarded, after a competitive search, to a private nonprofit institution that has an extensive background and experience in performing research on maternal substance abuse and in disseminating such information to professionals, policymakers, the general public and the media, as well as experience in providing educational services to maternal substance abusers and their exposed infants.

(3) The Center established under paragraph (1) shall—

(A) coordinate and disseminate research on maternal substance abuse, treatment options for such women and infants of such women, and prevention strategies;

(B) develop and distribute training and educational information and materials concerning maternal substance abuse;

(C) act as a clearinghouse for information on treatment programs for pregnant women who are addicted to illegal substances;

(D) develop and manage a national toll free hotline to provide information and referrals;

(E) provide policy analysis and program evaluation to the Secretary of Health and Human Services; and

(F) provide any other services designed to carry out the purposes of this subsection.

(4) There are authorized to be appropriated to carry out this paragraph, $2,500,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991.

(b) Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new section:

"SEC. 509H. GRANTS FOR SUBSTANCE ABUSE TREATMENT FOR PREGNANT AND POST-PARTUM WOMEN.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration or his designee, shall make grants to entities to provide assistance to outpatient and residential substance abuse treatment programs relating to pregnant and postpartum women and their infants, that meet the requirements of subsection (b).

"(b) REQUIREMENTS.—

"(1) DISTRIBUTION.—In making grants under subsection (a), the Administrator shall ensure that grants are reasonably distributed among projects that provide outpatient and residential treatment.

"(2) SERVICES.—An entity shall not be eligible for a grant under subsection (a) unless such entity provides the Administrator with an assurance that such entity will use assistance provided under such grant to provide, arrange for the provision of, or refer individuals to, services that shall include—

"(A) intervention services for pregnant and post-partum women, including—

"(i) substance abuse and addiction treatment services;

"(ii) support services (such as child care and transportation services);

"(iii) education and skill building services (such as parenting and job seeking skill services);

"(iv) integration and coordination of substance abuse treatment services with prenatal or post-partum health care services;

"(v) innovative methods of outreach to identify and recruit target populations for services early in the pregnancy of individuals of such populations;

"(vi) medical screening procedures of pregnant women for past and present substance use and abuse; and

"(vii) after care services;

"(B) interventions where infants are at risk, including—

"(i) direct intervention, treatment, or rehabilitation of infants, which may include other siblings, to reduce or prevent the impact of maternal substance abuse on such children; and

"(ii) supportive services for biologic or foster parents of infants affected by maternal substance abuse;

"(C) service delivery strategies that may include—

"(i) strategies for the coordination, for purposes of identification or service delivery, of family violence and homeless shelter programs, programs under part A of title IV of the Social Security Act, and section 17 of the Child Nutrition Act of 1966, crisis pregnancy centers programs, public housing programs, and prison programs, with other likely points of access for high risk women;

"(ii) strategies concerning the involvement of significant others (such as male partners of pregnant women) as direct intervention targets or strategies to aid in the outreach and service delivery processes for women;

"(iii) strategies for co-locating multiple facilities to facilitate the delivery of services; and

"(iii) innovative strategies (such as case management) to ensure the coordinated utilization of generally unrelated service systems; and

"(D) other services necessary to improve pregnancy outcomes, reduce substance abuse among women of childbearing age, and increase the stability of the family home environment.

"(c) APPLICATION.—The Administrator shall not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Administrator determines to be necessary to carry out this section; and

"(4) the application contains an assurance that the applicant will provide funds, other than Federal funds, in an amount that is not less than 10 percent of the amount of the grant under subsection (a).

"(d) CONSTRUCTION.—Nothing in this section shall be construed to permit the Secretary to discriminate in the awarding of grants under subsection (a) against applicants that propose or provide residential outpatient rehabilitation services under applicable requirements of State law, including applicants that provide services to substance abusing pregnant and post-partum women that receive treatment by order of a court or other appropriate public agency, so long as all such applications include measures that encourage abusing pregnant and post-partum women to seek prenatal care and rehabilitation.

"(f) There are authorized to be appropriated to carry out this section, $50,000,000 in fiscal year 1990, and such sums as may be necessary in fiscal year 1991.".

KENNEDY (AND OTHERS) AMENDMENT NOS. 868 AND 869

Mr. KENNEDY (for himself, Mr. HATCH, Mr. BIDEN, and Mr. WILSON) proposed two amendments to the bill H.R. 3015, supra; as follows:

AMENDMENT No. 868

At the appropriate place, insert the following new section:

SEC. . (a) The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101) is amended by adding after section 8 the following new subsection:

"SEC. 8A. EMERGENCY PROTECTIVE CHILD SERVICES GRANTS.

"(a) ESTABLISHMENT.—The Secretary shall establish a grant program to make grants to eligible entities to enable such entities to provide services to children whose parents are substance abusers.

"(b) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under this section shall be State or local agencies that are responsible for administering protective child services or child abuse intervention services. Such agencies shall include those agencies responsible for administering foster care, child welfare, child protective services, and child abuse intervention programs.

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.

"(2) ASSURANCE OF USE.—An application submitted under paragraph (1) shall—

"(A) contain an assurance that the applicant operates in a geographic area where substance abuse has placed substantial strains on social service and law enforcement agencies and has resulted in substantial increases in the need for services that cannot be met without funds available under this section;

"(B) identify the responsible agency or agencies that will be involved in the use of funds provided under this section;

"(C) contain a description of the emergency situation with regard to children of substance abusers who need services of the type described in this section;

"(D) contain a plan for improving the delivery of such services to such children;

"(E) contain assurances that such services will be provided in a comprehensive multidisciplinary and coordinated manner; and

"(F) contain any additional information as the Secretary may reasonably require.

"(d) USE OF FUNDS.—Funds received by an entity under this section part shall be used to improve the delivery of services to children whose parents are substance abusers. Such services may include—

"(1) the hiring of additional personnel by the entity to reduce caseloads;

"(2) the provision of additional training for personnel to improve their ability to provide emergency child protective services related to substance abuse by the parents of such children;

"(3) the provision of expanded services to deal with family crises created by substance abuse;

"(4) the recruitment of additional foster care families;

"(5) the recruitment of additional adoptive families; and

"(6) the establishment or improvement of coordination between the agency administering the grant; and—

"(A) child protection and welfare organizations;

"(B) hospitals and health care providers;

"(C) public health and mental health professionals;

"(D) judicial and law enforcement officers;

"(E) child advocates;

"(F) public educational institutions;

"(G) community-based organizations that serve substance abusing parents, including pregnant and post-partum females and their infants;

"(H) public housing officials;

"(I) providers of shelter to abused and homeless females and families; and

"(J) parents and representatives of parent groups.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $40,000,000 in fiscal year 1990, and such sums as may be necessary in each subsequent fiscal year.".

(b)(1) Section 402(A) of the Joint Resolution entitled "A Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes", (approved October 12, 1984, Public Law 98-473, 98 Stat. 2198, 42 U.S.C. 5116(d) is amended—

(A) by inserting after paragraph (3), the following new paragraph:

"(4) parental substance abuse places children at great risk of abuse and neglect;"; and

(B) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8) respectively.

(2) Section 405(4)(A) of such Act (98 Stat. 2198, 42 U.S.C. 5116c) is amended by inserting "services to substance abusing parents, including pregnant and post-partum women," after "perinatal bonding.".

AMENDMENT No. 869

At the appropriate place, insert the following new section:

SEC. . Title V of such Act is amended by inserting after section 508 (42 U.S.C. 290aa-6) the following new section:

"SEC. 508B. GRANTS FOR TRAINING OF DRUG TREATMENT PROFESSIONALS.

"(a) ESTABLISHMENT.—The Secretary shall establish a grant program to make grants to eligible institutions to enable such institutions to provide training services to increase the supply of drug treatment professionals.

"(b) ELIGIBLE INSTITUTIONS.—Institutions eligible to receive a grant under this section shall include medical schools, schools of osteopathy, school of nursing, schools of public health, school of chiropractic services, schools of social work, and other appropriate institutions that submit an application in accordance with subsection (c).

"(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible institution shall submit an application to be Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FISCAL YEAR 1990.—The Secretary shall use amounts appropriated under section 508 for the fiscal year ending September 30, 1990, to carry out this section in fiscal year 1990.

"(2) SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated to make grants under this section in each of the fiscal years 1991 and 1992, such sums as may be necessary.".

GRAMM (AND PRESSLER) AMENDMENT NO. 870

Mr. GRAMM (for himself and Mr. PRESSLER) proposed an amendment to the bill H.R. 3015, supra, as follows:

At the appropriate place, insert the following:

SEC. . DRUG-FREE SCHOOLS AND CAMPUSES.

(a)(1) Title XII of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended by adding at the end thereof a new section 1212 to read as follows:

"DRUG AND ALCOHOL ABUSE PREVENTION

"SEC. 1212. (a) Notwithstanding any other provisions of law, no institution of higher education shall be eligible to receive funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan programs, unless it certifies to the Secretary that it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that, at a minimum, includes—

"(1) the annual distribution to each student and employee of—

"(A) standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities;

"(B) a description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;

"(C) a description of the health risks associated with the use of illicit drugs and the abuse of alcohol;

"(D) a description of any drug or alcohol counseling, treatment, or rehabilitation programs that are available to employees or students; and

"(E) a clear statement that the institution will impose sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the employ-

ment and referral for prosecution, for violations of the standards of conduct required by paragraph (1)(A); and

"(2) a biennial review by the institution of its program to—

"(A) determine its effectiveness and implement changes to the program if they are needed, and

"(B) ensure that the sanctions required by paragraph (1)(E) are consistently enforced.

"(b) Each institution of higher education that provides the certification required by subsection (a) shall, upon request, make available to the Secretary and to the public a copy of each item required by subsection (a)(1) as well as the results of the biennial review required by subsection (a)(2).

"(c)(1) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

"(A) the periodic review of a representative sample of programs required by subsection (a); and

"(B) sanctions, up to and including the termination of any form of financial assistance, for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions.

"(2) The sanctions required by subsection (a)(1)(E) may include the completion of an appropriate rehabilitation program.".

(2) The provisions of paragraph (1) shall take effect on October 1, 1990.

(b)(1) Part D of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.) is amended by adding at the end thereof a new section 5145 to read as follows:

"CERTIFICATION OF DRUG AND ALCOHOL ABUSE PREVENTION PROGRAMS

"SEC. 5145. (a) Notwithstanding any other provisions of law, no local educational agency shall be eligible to receive funds or any other form of financial assistance under any Federal program unless it certifies to the State educational agency that it has adopted and has implemented a program to prevent the use of illicit drugs and alcohol by students or employees that, at a minimum, includes—

"(1) mandatory, age-appropriate, developmentally-based drug and alcohol education and prevention programs (which address the legal, social, and health consequences of drug and alcohol use and which provide information about effective techniques for resisting peer pressure to use illicit drugs or alcohol) for students in all grades of the schools operated or served by the applicant, from early childhood level through grade 12;

"(2) conveying to students that the use of illicit drugs and alcohol is wrong and harmful;

"(3) standards of conduct that are applicable to students and employees in all the applicant's schools and that clearly prohibit, at a minimum, the possession, use, or distribution of illicit drugs and alcohol by students and employees on school premises or as part of any of its activities;

"(4) a clear statement that sanctions (consistent with local, State, and Federal law), up to and including expulsion or termination of employment and referral for prosecution, will be imposed on students and employees who violate the standards of conduct required by paragraph (3) and a description of those sanctions;

"(5) information about any available drug and alcohol counseling and rehabilitation programs that are available to students and employees;

"(6) a requirement that parents, students, and employees be given a copy of the standards of conduct required by paragraph (3) and the statement of sanctions required by paragraph (4);

"(7) notifying parents, students, and employees that compliance with the standards of conduct required by paragraph (3) is mandatory; and

"(8) a biennial review by the applicant of its program to—

"(I) determine its effectiveness and implement changes to the program if they are needed; and

"(II) ensure that the sanctions required by paragraph (4) are consistently enforced.

"(b) Each local educational agency that provides the certification required by subsection (a) shall, upon request, make available to the Secretary, the State educational agency, and to the public full information about the elements of its program required by subsection (a), including the results of its biennial review.

"(c) Each State educational agency shall certify to the Secretary that it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by its students and employees that is consistent with the program required by subsection (a) of this section. The State educational agency shall, upon request, make available to the Secretary and to the public full information about the elements of its program.

"(d)(1) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

"(A) the periodic review by State educational agencies of a representative sample of programs required by subsection (a); and

"(B) sanctions, up to and including the termination of any form of financial assistance, for local educational agencies that fail to implement their programs or to consistently enforce their sanctions.

"(2) The sanctions required by subsection (a)(1)(4) may include the completion of an appropriate rehabilitation program.".

(2) The Drug-Free Schools and Communities Act of 1986 is further amended in section 5126(c)(2) by—

(A) striking out subparagraphs (E), (F), and (G); and

(B) redesignating subparagraphs (H) through (M) as subparagraphs (E) through (J), respectively—

(3) The provisions of paragraphs (1) and (2) shall take effect on October 1, 1990.

HOLLINGS (AND OTHERS) AMENDMENT NO. 871

Mr. DANFORTH (for Mr. HOLLINGS), (for himself, Mr. DANFORTH, Mr. EXON, Mr. DOLE, Mr. WILSON, Mr. LOTT, Mr. BOND, Mr. DOMENICI, Mr. WARNER, Mr. COATS, Mr. KASTEN, Mr. D'AMATO, Mr. HATCH, Mr. GRAMM, Mr. BURNS, and Mr. CHAFEE) proposed an amendment to amendment 870 proposed by Mr. GRAMM (and Mr. PRESSLER) to the bill H.R. 3015, supra, as follows:

At the end of the amendment add the following new subsection:

(c) Notwithstanding any other provision of this section, this section shall not take effect until enactment of a law containing the following provisions:

SEC. 1. (a) This section may be cited as the "Transportation Employee Testing Act of 1989".

(b) The Congress finds that—

(1) alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;

(2) millions of the Nation's citizens utilize transportation by aircraft, railroads, trucks, and buses, and depend on the operators of aircraft, railroads, trucks, and buses to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, railroads, trucks, and buses;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

(5) the testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increased testing, including random testing;

(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(7) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

(c)(1) Title VI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1421 et seq.) is amended by adding at the end thereof the following:

"ALCOHOL AND CONTROLLED SUBSTANCES TESTING

"TESTING PROGRAM

"SEC. 613. (a)(1) The Administrator shall, in the interest of aviation safety, prescribe regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as determined by the Administrator) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"(2) The Administrator shall establish a program applicable to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions. Such program shall provide for preemployment, reasonable suspicion, random, and post-accident testing for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulations.

"(3) In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to such an individual, or the disqualification or dismissal of any such individual, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such individual has used, in violation of law or Federal regulation, alcohol or a controlled substance.

"PROHIBITION ON SERVICE

"(b)(1) No person may use, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section and serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(2) No individual who is determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section shall serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions unless such individual has completed a program of rehabilitation described in subsection (c) of this section.

"(3) Any such individual determined by the Administrator to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section who—

"(A) engaged in such use while on duty;

"(B) prior to such use had undertaken or completed a rehabilitation program described in subsection (c) of this section;

"(C) following such determination refuses to undertake such rehabilitation program; or

"(D) following such determination fails to complete such a rehabilitation program,

shall not be permitted to perform the duties relating to air transportation which such individual performed prior to the date of such determination.

"PROGRAM FOR REHABILITATION

"(c)(1) The Administrator shall prescribe regulations setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of employees referred to in subsection (a)(1) of this section in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or controlled substances. Each air carrier and foreign air carrier is encouraged to make such a program available to all of its employees in addition to those employees referred to in subsection (a)(1) of this section. The Administrator shall determine the circumstances under which such employees shall be required to participate in such a program. Nothing in this subsection shall preclude any air carrier or foreign air carrier from establishing a program under this subsection in cooperation with any other air carrier or foreign air carrier.

"(2) The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

"PROCEDURES

"(d) In establishing the program required under subsection (a) of this section, the Administrator shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(B) establish the minimum list of controlled substances for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"(3) require that all laboratories involved in the controlled substances testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportuntiy to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"EFFECT ON OTHER LAWS AND REGULATIONS

"(e)(1) No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury or damage to property, whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public.

"(2) Nothing in this section shall be construed to restrict the discretion of the Administrator to continue in force, amend, or further supplement any regulations issued before the date of enactment of this section that govern the use of alcohol and controlled substances by airmen, crewmembers, airport security screening contract personnel, air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), or employees of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(3) In prescribing regulations under this section, the Administrator shall only establish requirements applicable to foreign air carriers that are consistent with the international obligations of the United States, and the Administrator shall take into consideration any applicable laws and regulations of foreign countries. The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit the use, in violation of law or Federal regulation, of alcohol or a controlled substance by crewmembers in international civil aviation.

"DEFINITION

"(f) For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Administrator.".

(2) That portion of the table of contents of the Federal Aviation Act of 1958 relating to title VI is amended by adding at the end thereof the following:

"Sec. 613. Alcohol and controlled substances testing.
"(a) Testing program.
"(b) Prohibition on service.
"(c) Program for rehabilitation.
"(d) Procedures.
"(e) Effect on other laws and regulations.
"(f) Definition.".

(d) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end thereof the following:

"(r)(1) In the interest of safety, the Secretary shall, within twelve months after the date of enactment of this subsection, issue rules, regulations, standards, and orders relating to alcohol and drug use in railroad operations. Such regulations shall establish a program which—

"(A) requires railroads to conduct preemployment, reasonable suspicion, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation, of alcohol or a controlled substance;

"(B) requires, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used or to have been impaired by alcohol while on duty; and

"(C) requires, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law and any rules, regulations, standards, or orders issued under this title.

The Secretary may also issue rules, regulations, standards, and orders, as the Secretary considers appropriate in the interest of safety, requiring railroads to conduct periodic recurring testing of railroad employees responsible for such safety-sensitive functions, for use of alcohol or a controlled substance in violation of law or Federal regulation. Nothing in this subsection shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any rules, regulations, standards, and orders governing the use of alcohol and controlled substances in railroad operations issued before the date of enactment of this subsection.

"(2) In carrying out the provisions of this subsection, the Secretary shall develop requirements which shall—

"(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(B) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(i) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this subsection, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(ii) establish the minimum list of controlled substances for which individuals may be tested; and

"(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this subsection;

"(C) require that all laboratories involved in the controlled substances testing of any employee under this subsection shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(D) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any employee shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(E) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(F) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(G) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this subsection; and

"(H) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(3) The Secretary shall issue rules, regulations, standards, or orders setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of railroad employees responsible for safety-sensitive functions (as determined by the Secretary) in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or a controlled substance. Each railroad is encouraged to make such a program available to all of its employees in addition to those employees responsible for safety-sensitive functions. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this paragraph shall preclude a railroad from establishing a program under this paragraph in cooperation with any other railroad.

"(4) In carrying out the provisions of this subsection, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"(5) For the purposes of this subsection, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.".

(e)(1) The Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.) is amended by adding at the end the following:

"SEC. 12020. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) REGULATIONS.—The Secretary shall, in the interest of commercial motor vehicle safety, issue regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires motor carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of the operators of commercial motor vehicles for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such operators for such use in violation of law or Federal regulation.

"(b) TESTING.—

"(1) POST-ACCIDENT TESTING.—In issuing such regulations, the Secretary shall require that post-accident testing of the operator of a commercial motor vehicle be conducted in the case of any accident involving a commercial motor vehicle in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

"(2) TESTING AS PART OF MEDICAL EXAMINATION.—Nothing in subsection (a) of this section shall preclude the Secretary from providing in such regulations that such testing be conducted as part of the medical examination required by subpart E of part 391 of title 49, Code of Federal Regulations, with respect to those operators of commercial motor vehicles to whom such part is applicable.

"(c) PROGRAM FOR REHABILITATION.—The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of operators of commercial motor vehicles who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such opertors shall be required to participate in such program. Nothing in this subsection shall preclude a motor carrier from establishing a program under this subsection in cooperation with any other motor carrier.

"(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a) of this section, the Secretary shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples:

"(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliablity and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(B) establish the minimum list of controlled substances for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"(3) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tamper-

ing, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

"(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this section, except that the regulations issued under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to commercial motor vehicle employees, or to the general public.

"(2) OTHER REGULATIONS ISSUED BY SECRETARY.—Nothing in this section shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by commercial motor vehicle employees issued before the date of enactment of this section.

"(3) INTERNATIONAL OBLIGATIONS.—In issuing regulations under this section, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"(f) APPLICATION OF PENALTIES.—

"(1) EFFECT ON OTHER PENALTIES.—Nothing in this section shall be construed to supersede any penalty applicable to the operator of a commercial motor vehicle under this title or any other provision of law.

"(2) DETERMINATION OF SANCTIONS.—The Secretary shall determine appropriate sanctions for commercial motor vehicle operators who are determined, as a result of tests conducted and confirmed under this section, to have used, in violation of law or Federal regulation, alcohol or a controlled substance but are not under the influence of alcohol or a controlled substance, as provided in this title.

"(g) DEFINITION.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.".

(2) The table of contents of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end thereof the following:

"Sec. 12020. Alcohol and controlled substances testing.".

(f)(1) The Secretary shall design within nine months after the date of enactment of this subsection, and implement within fifteen months after the date of enactment of this subsection, a pilot test program for the purpose of testing the operators of commercial motor vehicles on a random basis to determine whether an operator has used, in violation of law or Federal regulation, alcohol or a controlled substance. The pilot test program shall be administered as part of the Motor Carrier Safety Assistance Program.

(2) The Secretary shall solicit the participation of States which are interested in participating in such program and shall select four States to participate in the program.

(3) The Secretary shall ensure that the States selected pursuant to this section are representative of varying geographical and population characteristics of the Nation and that the selection takes into consideration the historical geographical incidence of commercial motor vehicle accidents involving loss of human life.

(4) The pilot program authorized by this section shall continue for a period of one year. The Secretary shall consider alternative methodologies for implementing a system of random testing of operators of commercial motor vehicles.

(5) Not later than thirty months after the date of enactment of this section, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the results of the pilot program conducted under this subsection. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for the random testing of operators of commercial motor vehicles.

(6) For purposes of carrying out this subsection, there shall be available to the Secretary $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304) for fiscal year 1990.

(7) For purposes of this subsection, the term "commercial motor vehicle" shall have the meaning given to such term in section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2716(6)).

COATS AMENDMENT NO. 872

Mr. COATS proposed an amendment to amendment No. 870 proposed by Mr. GRAMM (and Mr. PRESSLER) to the bill H.R. 3015, supra; as follows:

At the end of the amendment insert the following new section: "No local educational agency shall use any of the funds which are released by this section unless funds are made available for each fiscal year to the chief executive officer of a State which may be used with existing power for random drug testing programs for students voluntarily participating in extracurricular activities and using existing power such testing is done only in schools which voluntarily choose to participate in such a program.".

WARNER AMENDMENT NO. 873

Mr. WARNER proposed an amendment to the bill H.R. 3015, supra, as follows:

At the appropriate place, add the following:

SEC. . AMENDMENT RELATING TO THE SPECIAL FORFEITURE FUND.

(a) ASSETS FORFEITURE FUND AMENDMENT.—Section 524(c)(9) of title 28, United States Code, is amended to read as follows:

"(9) There are authorized to be appropriated such sums as necessary for the purposes described in subparagraphs (A)(ii), (B), (C), (F), and (G) of paragraph (1). For each of fiscal years 1990, 1991, 1992, and 1993, the Attorney General shall transfer not to exceed $150,000,000 in unobligated amounts available in the Fund to the Special Forfeiture Fund: *Provided,* That such amounts will be transferred on a quarterly basis: *Provided further,* That an amount not to exceed $15,000,000 or, if determined by the Attorney General to be necessary to meet asset specific expenses, an amount equal to one-tenth of the previous year's obligations, may be retained in the Fund and remain available for appropriation.".

(b) SPECIAL FORFEITURE FUND AMENDMENT.—Section 6073(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is amended to read as follows:

"(b) DEPOSITS.—In each of fiscal years 1990, 1991, 1992, and 1993, there shall be transferred to and deposited in the Fund, from the Department of Justice Assets Forfeiture Fund pursuant to 28 U.S.C. 524(c)(9), not to exceed $150,000,000: *Provided,* That amounts specified in the second provisio of said section may be retained in the Assets Forfeiture Fund and remain available for appropriation.".

WARNER (AND OTHERS) AMENDMENT NO. 874

Mr. WARNER (for himself, Mr. BIDEN, Mr. WILSON, Mr. ROBB, Mr. D'AMATO, Mr. THURMOND, Ms. MIKULSKI, and Mr. KOHL) proposed an amendment to the bill H.R. 3015, supra, as follows:

At the appropriate section in the amendment, add the following new section:

(a) section 511(e)(3) of the Controlled Substances Act (21 U.S.C. 881(e)(3)) is amended by—

(1) striking subparagraph (B);

(2) striking the dash and "(A)"; and

(3) striking "; and" and inserting a period.

(b) Section 6077 of the Anti-Drug Abuse Act of 1988 is amended by striking subsection (c).

(c) The amendment made by subsection (a) shall be effective with respect to fiscal years beginning with fiscal year 1990.

CRANSTON (AND OTHERS) AMENDMENT NO. 875

Mr. CRANSTON (for himself, Mr. WILSON, Mr. MOYNIHAN, and Mr. GRAHAM) proposed an amendment to the bill H.R. 3015, supra, as follows:

At the end of the pending amendment, insert the following: "*Provided,* That, none of the funds made available under this Act for the Office of National Drug Control Policy from the special forfeiture fund may

be used by the Director of National Drug Control Policy after February 1, 1990, if the Director has not by that date designated high-intensity drug trafficking areas pursuant to section 1005(c) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690).".

DOLE AMENDMENT NOS. 876 AND 877

Mr. DOLE proposed two amendments to the bill H.R. 3015, supra, as follows:

AMENDMENT No. 876

At the appropriate place, add the following:

SEC. . (a) Title XIX of the Public Health Service Act is amended by inserting after section 1916A (42 U.S.C. 300x-4a) the following new section:

"SEC. 1916B. STATEWIDE DRUG TREATMENT PLAN.

"(a) NATURE OF PLAN.—To receive the drug abuse portion of its allotment for a fiscal year under section 1912A, a State shall develop, implement, and submit, as part of the application required by section 1916(a), an approved statewide Drug Treatment Plan, prepared according to regulations promulgated by the Secretary, that shall contain—

"(1) a single, designated State agency for formulating and implementing the Statewide Drug Treatment Plan;

"(2) a description of the mechanism that shall be used to assess the needs for drug treatment in localities throughout the State including the presentation of relevant data;

"(3) a description of a Statewide plan that shall be implemented to expand treatment capacity and overcome obstacles that restrict the expansion of treatment capacity (such as zoning ordinances), or an explanation of why such a plan is unnecessary;

"(4) a description of performance-based criteria that shall be used to assist in the allocating of funds to drug treatment facilities receiving assistance under this subpart;

"(5) a description of the drug-free patient and workplace programs, that must include some form of drug testing, to be utilized in drug treatment facilities and programs;

"(6) a description of the mechanism that shall be used to make funding allocations under this subpart;

"(7) a description of the actions that shall be taken to improve the referral of drug users to treatment facilities that offer the most appropriate treatment modality;

"(8) a description of the program of training that shall be implemented for employees of treatment facilities receiving Federal funds, designed to permit such employees to stay abreast of the latest and most effective treatment techniques;

"(9) a description of the plan that shall be implemented to coordinate drug treatment facilities with other social, health, correctional and vocational services in order to assist or properly refer those patients in need of such additional services; and

"(10) a description of the plan that will be implemented to expand and improve efforts to contact and treat expectant women who use drugs and to provide appropriate follow-up care to their affected newborns.

"(b) SUBMISSION OF PLAN.—The plan required by subsection (a) shall be submitted to the Secretary annually for review and approval. The Secretary shall have the authority to review and approve or disapprove such State plans, and to propose changes to such plans.

"(c) SUBMISSION OF PROGRESS REPORTS.—Each State shall submit reports, in such form, and containing such information as the Secretary may, from time to time, require, and shall comply with such additional provisions as the Secretary may from time to time find necessary to verify the accuracy of such reports and not overly burdensome on the State.

"(d) WAIVER OF PLAN REQUIREMENT.—At the discretion of the Secretary, the Secretary may waive any or all of the requirements of this section on the written request of a State, except that such waiver shall not be granted unless the State implements an alternative treatment plan that fulfills the objectives of this section.

"(e) DEFINITION.—As used in this section, the term 'drug abuse portion' means the amount of a State's allotment under section 1912A that is required by this subpart, or by any other provision of law, to be used for programs or activities relating to drug abuse.".

(b)(1) The Secretary of Health and Human Services shall promulgate regulations necessary to carry out section 1916B of the Public Health Service Act (as added by subsection (a)) not later than 6 months following the date of enactment of this section.

(2)(A) Sections 1916B (a)(4) and (a)(5) of such Act (as added by subsection (a)) shall become effective on October 1, of the second fiscal year beginning after the date that final regulations under paragraph (1) are published in the Federal Register.

(B) The remaining provision of such section 1916B shall become effective beginning on October 1, of the first fiscal year beginning after the date final regulations under paragraph (1) are published in the Federal Register.

AMENDMENT No. 877

At the appropriate place, insert:

SEC. . WAIVER AUTHORITY FOR INTERNATIONAL PROGRAMS.

(a) Funds appropriated to carry out the Foreign Assistance Act of 1961, as amended, or the Arms Export Control Act may be made available for any narcotics-related activities in Colombia, Bolivia, and Peru to carry out any provisions of such Acts notwithstanding the provisions of:

(1) Section 620(q) or section 660 of the Foreign Assistance Act; or

(2) Section 518 of the Foreign Operations, Export Financing, and Related Appropriations Act, 1989, or any other provision that similarly restricts the furnishing of assistance to countries in default on payment to the United States of principal or interest on any loan.

MITCHELL (AND OTHERS) AMENDMENT NO. 878

Mr. BIDEN (for Mr. MITCHELL), (for himself, Mr. DOLE, Mr. BIDEN, and Mr. SIMPSON) proposed an amendment to the bill H.R. 3015, supra, as follows:

At the appropriate place, insert the following new sections:

SEC. . Of amounts made available under this Act, $462,584,000 shall be used for the block grant program under part B of title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) to make grants to carry out substance abuse programs, except that such amount shall not be used to calculate amounts to be used for programs and activities relating to substance abuse as required by section 1916(c)(7)(B) of such Act.

SEC. . Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) in paragraph (2) by inserting "and those infants who are victims of parental substance abuse" before the semicolon;

(2) in paragraph (3), by inserting "and those infants who are victims of parental substance abuse" before ", to reside";

(3) in paragraph (4), by inserting "and those infants who are victims of parental substance abuse" before the semicolon;

(4) in paragraph (5), by inserting "and those infants who are victims of parental substance abuse" before the semicolon;

(5) in paragraph (6), by inserting "and those infants who are victims of parental substance abuse" before the semicolon; and

(6) in paragraph (7), by inserting "and those infants who are victims of parental substance abuse" before the period.

SEC. . Section 1912A of the Public Health Service Act (42 U.S.C. 300x-1a) is amended—

(1) in subsection (a)(4)(B)(i)—

(A) by striking out "0.4" in subclause (I), and inserting in lieu thereof "0.2"; and

(6) by striking out "indicated by the most recent data collected by the Bureau of the Census" in subclause (II), and inserting in lieu thereof "determined by multiplying the percentage of the State's population that resides in urbanized areas of the State (as indicated by the most recent dicennial census compiled by the Bureau of the Census) by the most recent estimate of the total population of the State";

(2) in subsection (a)(4)(B)(ii)(I), by striking out "0.2" and inserting in lieu thereof "0.266";

(3) in subsection (a)(4)(B)(iii)(I), by striking out "0.2" and inserting in lieu thereof "0.266";

(4) in subsection (a)(4)(B)(iv)(I), by striking out "0.2" and inserting in lieu thereof "0.267";

(5) in subsection (b), to read as follows:

"(b)(1) In fiscal year 1989, each State shall receive a minimum allotment under this subpart of the lesser of—

"(A) $8,000,000; and

"(B) an amount equal to 105 percent of the sum of—

"(i) the amount the State received under section 1913 for fiscal year 1988 (as such section was in effect for such fiscal year); and

"(ii) the amount the State received under part C for fiscal year 1988.

"(2) In subsequent fiscal years, each State shall receive a minimum allotment under this subpart that is equal to the amount that such State received in fiscal year 1989 under paragraph (1) for the minimum amount that such State was entitled to under such paragraph plus an amount equal to such minimum multiplied by the percentage increase in the amount appropriated under section 1911(a) in such subsequent fiscal year above the amount appropriated for the immediately preceding fiscal year."; and

(6) in subsection (f), to read as follows:

"(f) For purposes of subsection (e), the applicable amount for each fiscal year is $330,000,000.".

SEC. . (a) Section 5111(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.) is amended by striking "$350,000,000" and inserting "375,000,000".

(b) Section 5122 of the Drug-Free Schools and Communities Act of 1986 is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively;

(2) by inserting the following new subsection (a) after the section designation:

"(a) EMERGENCY GRANTS TO SCHOOLS IN URBAN AND RURAL AREAS.—

"(1) IN GENERAL.—From the amount available to carry out this section pursuant to section 5121(a), 33.3 percent of such amount shall be used by the chief executive officer in consultation with the State educational agency or the chief State school officer of the State, to make contracts with, and emergency grants to, local educational agencies serving urban and rural communities with severe drug problems.

"(2) REQUIREMENTS.—

"(A) INITIAL GRANTS.—In awarding grants under this subsection the chief executive shall first award grants to local educational agencies serving the largest city in the State to develop and implement comprehensive approaches to eliminating the serious drug problem that affects schools and students within the boundaries of the local educational agency. Such grant shall be of sufficient size, scope, and quality to be of value and effective.

"(B) LOCAL AGENCIES.—After satisfying the requirements of subparagraph (A), the chief executive officer of a State receiving a grant under this section shall make grants to urban and rural local educational agencies with severe drug problems as determined by the incidence of drug abuse in relation to the size of the school age population. Such grants shall be of sufficient size, scope, and quality to be of value and effective. Such grants to the local educational agency shall be used for the development and implementation of comprehensive approaches to eliminating the serious drug problems that affect schools and students within the boundaries of the local educational agency.

"(3) WAIVER.—The Secretary may waive the provision of this subsection for States in which there is no concentration of drug problems."; and

(3) in subsection (b) (as amended in paragraph (1)) by striking out "IN GENERAL.—Not" and inserting in lieu thereof "REMAINDER.—From the remainder available to carry out this section, not".

COMPREHENSIVE DRUG CONTROL LEGISLATION

COATS AMENDMENT NO. 879

(Ordered to lie on the table.)

Mr. COATS submitted an amendment intended to be proposed by him to a bill to be introduced by Mr. DOLE dealing with drug control, as follows:

On page , line , strike the period and insert "of which the Bureau of Justice Assistance shall provide funds for demonstration grants to the States to establish shock incarceration programs as alternatives to imprisonment for first-time offenders who have committed nonviolent offenses and nonviolent drug offenses, 90 percent of which funds shall be reserved and set aside in a special discretionary fund for use by the Director to make grants, and the remainder of which funds to make grants to provide compulsory drug treatment, as required, and literacy education, vocational education, and job training programs by the State or jointly by the State and private entities which shall be made available to nonviolent offenders selected for confinement in boot camp programs: *Provided*, That no grants shall be expended for more than 70 percent of the cost of the project for which such grant is made and no Federal funds made available to the State shall be used to supplant State or local funds that would otherwise be used to carry out such project.".

● Mr. COATS. Mr. President, it is my intention to offer an amendment to a bill to be offered by Senator DOLE that solely incorporates the remaining legislative initiatives of the President's drug strategy.●

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1990

CRANSTON AMENDMENT NO. 880

Mr. LAUTENBERG (for Mr. CRANSTON) proposed an amendment to the bill H.R. 3015, supra, as follows:

At the appropriate place, insert:

SEC. . SONOMA, MARIN, MENDOCINO, AND NAPA COUNTIES, CALIFORNIA.

Section 149(a)(41) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended—

(1) by striking "SONOMA AND MARIN COUNTIES, CALIFORNIA" and insering "SONOMA, MARIN, MENDOCINO, AND NAPA COUNTIES, CALIFORNIA";

(2) in subparagraph (B) by striking "HEALDSBURG" and inserting "SAN RAFAEL TO WILLITS AND NOVATO TO SHELLVILLE"; and

(3) in subparagraph (B) by striking "Healdsburg, California." and inserting "Willits, California, and a highway project for purpose of demonstrating the extent to which traffic congestion is relieved on a major east-west segment of a California State highway which connects Novato, California, and Shellville, California, by construction of high occupancy vehicles lanes along a right-of-way which is parallel to such major east-west segment.".

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1990

PRYOR (AND GRASSLEY) AMENDMENT NO. 881

Mr. INOUYE (for Mr. PRYOR, for himself and Mr. GRASSLEY) proposed an amendment to the bill (H.R. 3072) making appropriations for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes, as follows:

On page 108, between lines 4 and 5, insert the following:

SEC. . (a)(1) Except as provided in paragraph (2), none of funds appropriated by this Act may be obligated for the procurement of the Airborne Self-Protection Jammer (ASPJ) until further operational testing of the ASPJ is conducted and completed and the reports required by subsection (b) have been submitted in accordance with that subsection.

(2) Paragraph (1) does not limit the obligation of funds for the production, maintenance, and operation of 18 Airborne Self-Protection Jammer (ASPJ) production verification units for the purpose of conducting further operational and developmental testing.

(b) Upon the completion of the operational testing conducted in connection with the Airborne Self-Protection Jammer (ASPJ) program, the Under Secretary of Defense for Acquisition, the Director of Operational Test and Evaluation, and the Comptroller General of the United States shall each submit to the Committees on Appropriations and Armed Services of the Senate and the House of Representatives a report on the conduct and results of such testing.

SPECTER (AND OTHERS) AMENDMENT NO. 882

Mr. SPECTER (for himself, Mr. NUNN, Mr. KERRY, Mr. INOUYE, Mr. BIDEN, Mr. DECONCINI, Mr. D'AMATO, Mr. DIXON, and Mr. HEFLIN) proposed an amendment to the bill H.R. 3072, supra, as follows:

At the appropriate place in title IX of the bill insert the following:

"It is the sense of the Senate that U.S. participation in a multilateral anti-narcotics strike force, as called for in sections 4101 and 4103 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690), should include the full range of appropriate law enforcement and anti-drug abuse agencies, and that consideration be given to aiding such a strike force by funding from appropriate sources for multilateral intelligence-sharing, multilateral training of law enforcement personnel, and multilateral support for crop substitution, drug treatment, drug research and drug education programs.

"Funds made available under this Act for Department of Defense drug interdiction activities may be expended to fund the participation of United States armed forces in conjunction with appropriate United States law enforcement and anti-drug abuse agencies, in accordance with other applicable laws, in such a strike force.".

WARNER AMENDMENT NO. 883

(Ordered to lie on the table.)

Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3072, supra, as follows:

At an appropriate place in the bill, add the following new section:

SEC. . FEASIBILITY STUDY OF LAND TRANSFER FOR USE AS A CORRECTIONAL FACILITY.

(a)(1) The Secretary of Defense, in consultation with the United States Attorney General, shall conduct a study of the feasibility of selling or otherwise transferring to the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, a parcel of land approximately 100 acres not more than 100 miles from the southern boundary of Arlington County, from the military installations within Virginia which encompass land that may be suitable for use by the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, as a site for a

medium security correctional facility for persons sentenced in the courts of Virginia or in the United States District Court in Virginia.

(2) The study required by paragraph (1) shall address, at a minimum, the following issues:

(A) Whether there are parcels of land within those installations of the size described which could be released from Federal control without severely affecting the present missions of such installations.

(B) A description of the parcels of land described in subparagraph (A).

(C) A description of the effects, if any, transfer of such parcels of land from Federal control would have on the ability of the Secretary of Defense to effectively carry out the mission of the Department of Defense.

(D) An analysis of the risk, if any, that might be posed to military personnel and their dependents housed on such installations by the operation of such a correctional facility on the parcels of land described in subparagraph (A).

(E) An estimate of the date on which the parcels of land described in subparagraph (A) would be available for transfer from Federal control.

(b) The report of the study described under subsection (a) shall be delivered to the Committees on Armed Services of the Senate and House of Representatives not later than 60 days after enactment of this Act.

● Mr. WARNER. Mr. President, in the past 2 weeks, the President and the Senate have been working on an agreement to fund the Nation's war on drugs. I was privileged to be one of the negotiators and now we have reached an agreement to increase funding over that of the proposal forwarded to Congress by the President.

Since January 1989, I have been working with law enforcement agencies to get Congress to pass legislation that will allow State and local law enforcement agencies to retain resources seized in enforcing State and Federal laws.

Up until October 1, 1989, local and State law enforcement officials have the legal right to share drug assets seized under the Federal asset forfeiture law. Nationwide, the Department of Justice during fiscal year 1988 returned $104 million from seized assets to local and State law enforcement officials under this program. This next fiscal year, the Department of Justice estimates that the total may well top $175 million.

Local community budgets are stretched to, and beyond the breaking point because of the increased cost of law enforcement activities in the war on drugs. These assets provide critically needed resources for drug enforcement activities of local and State law enforcement. Officers are risking their safety—their lives—every day; we have an obligation to give them the support and equipment they need.

Unfortunately, last year the House of Representatives passed language to the Anti-Drug Act of 1988 that will dramatically curtail the local participation in the seizure asset program. While intended to address a narrow problem regarding adoptive forfeitures in a few States, the provision in last year's legislation was drawn so poorly as to put in jeopardy joint Federal-State-local drug enforcement efforts in many States. Virginia is one of those States and I am fighting to correct this bad law.

Unless legislative action is taken before September 30, the Department of Justice may have to curtail the seized asset sharing programs with local officials in many States, including Virginia.

The General Assembly of Virginia is moving to make the needed changes to Virginia's Constitution to avoid any problem under present law. However, the necessary changes to the Constitution cannot be completed until November 1990 at the earliest.

Unless the Congress acts now—before October 1, 1989—local law enforcement officials in Virginia stand to lose millions of dollars. In the eastern district of Virginia alone, State and local officials may lose more than $10 million in 1989.

Other States will also be dramatically affected by the cutoff of these funds to law enforcement officials. I'm sure my colleagues have been contacted by law enforcement officials in their own States about how they will be affected unless there is a change in the law.

Mr. President, the Senate has already acted twice on this matter. First in August, the Senate passed S. 976, a bill I introduced that would defer the effective date of the language in the 1988 Act for 2 years. This would allow my own State of Virginia adequate time to change its constitution to address the problem. However, while this approach would address Virginia's problems, there are other States that this extension will not help.

Second during consideration of S. 1352, the National Defense Authorization Act, the Senate joined Senator WILSON and offered an amendment passed by the Senate which replaces the absolute prohibition against asset sharing with a rule allowing asset sharing if it will serve to further cooperation between State or local law enforcement officals and Federal law enforcement agencies.

Additionally, the distinguished Senator from South Carolina, Senator HOLLINGS, put in an amendment that was added by subcommittee to H.R. 2991, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for fiscal year 1990. This language would repeal the prohibition on asset forfeiture sharing.

These actions clearly document that the U.S. Senate, in a bipartisan effort, is ready to help local law enforcement retain their fair share of seized assets.

But Mr. President, the Democratic leadership in the House of Representatives has not taken the legislative action to correct this bad law which originated in the House of Representatives. I understand that the House Subcommittee on Crime reported a bill that still does not adequately address the problem. In any event, it does not appear that the House will be in position to consider that bill until early October. Even should that bill become law, it would take some time for the Department of Justice to implement. During this time, State and local law enforcement officials in my State and others could lose badly needed resources for the war against drugs.

Mr. President, time is short. It is clear that the House cannot act on this matter on its own before October 1. The Commerce, State, Justice appropriations bill may not be acted on before that date. The Department of Defense authorizations bill may not be resolved in time.

Mr. President, the Senate has already acted twice on this matter, but I will continue to explore every avenue until this problem is addressed.

My amendment is similar to the language attached to the Commerce, State, Justice appropriations bill reported by the Appropriations Subcommittee except for the addition of language to assure that, whenever passed, it will apply to all forfeitures in fiscal year 1990.

I believe this is the most direct and straightforward resolution of this problem. This approach is supported by the Department of Justice and numerous law enforcement agencies including the Federal Law Enforcement Officers Association, the Fraternal Order of Police, the National Troopers Coalition, the International Brotherhood of Police Organizations, the Police Management Association, the Major City Chiefs of Police, and the National Organization of Black Law Enforcement Executives.

I urge my colleagues to join me in this effort to resolve the problem before September 30.●

CONTINUATION OF PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM

PRYOR (AND OTHERS) AMENDMENT NO. 884

Mr. INOUYE (for Mr. PRYOR) (for himself, Mr. STEVENS, and Mr. SASSER) proposed an amendment to the bill (H.R. 3282) to amend title 5, United States Code, to authorize the continuation of the performance management and recognition system through

March 31, 1991, and for other purposes; as follows:

On page 3, line 4, isnert "equal or" before "exceed".

On page 5, after line 21, add the following:

SEC. 6. TEMPORARY CONTINUATION OF PROVISION RELATING TO THE SCHEDULE FOR PAYING THE LUMP-SUM CREDIT TO CERTAIN ANNUITANTS.

Section 6001(a) of the Omnibus Budget Reconciliation Act of 1987 (5 U.S.C. 8343a note) is amended by striking "October 1, 1989" and inserting "December 3, 1989".

NOTICES OF HEARINGS

COMMITTEE ON VETERANS' AFFAIRS

Mr. CRANSTON. Mr. President, I announce, for the information of Senators, that the Committee on Veterans' Affairs, which I am privileged to chair, is scheduled to hold a hearing Wednesday, October 4, 1989, in SR-418 at 10 a.m. to consider the nominations of JoAnn K. Webb to be Director of the National Cemetery System, Edward G. Lewis to be Assistant Secretary of Veterans' Affairs for Information Resources Management, and any other nomination on which the paperwork is completed. This hearing replaces the hearing previously scheduled for this Friday, September 29.

SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources to receive testimony on Glen Canyon Dam operations.

The hearing will take place on October 14, 1989, at 11 a.m., in the Shrine of the Ages Auditorium, Grand Canyon Village, AZ.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the subcommittee, SD-364, Washington, DC 20510.

For further information, please contact Tom Jensen, counsel for the subcommittee at (202) 224-2366.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 27, at 10 a.m. to hold a hearing on international money laundering: Law enforcement and foreign policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FOREIGN COMMERCE AND TOURISM

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Foreign Commerce and Tourism, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on September 27, 1989, at 10 a.m. to hold a hearing on the state of the U.S. tourism industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, September 27, 1989, to hold hearings on the U.S. Government's anti-narcotics activities in the Andean region of South America.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, September 27, beginning at 9 a.m., to conduct a hearing to hear testimony regarding pending Clean Air Act nonattainment legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Wednesday, September 27, 1989, at 10 a.m. to conduct hearings on the General Accounting Office's audit of FHA.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 27, at 2 p.m., to hold a hearing on State Department nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BIDEN. Mr. President, I ask unanimous consent that the full Committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, September 27, 1989, at 9:30 a.m. for a business meeting pending calender business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTE ON LABOR AND THE SPECIAL COMMITTEE ON AGING

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Labor and the Special Committee on Aging be authorized to meet during the session of the Senate on Wednesday, September 27, 1989, at 10:30 a.m. to conduct a joint hearing on S. 1511: Older Workers Benefit Protection Act, and S. 1293: Age Discrimination in Employment Act Amendments of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, September 27, 1989, at 2 p.m., to hold a hearing on the death penalty.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate from 10 a.m. to 12 noon, and from 2 to 5 p.m. on Wednesday, September 27, 1989, to hold a hearing on the nomination of James E. Cason as Assistant Secretary for Resources and the Environment.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COLORADO HISPANIC AGENDA AND "AGENDA PEAK"

● Mr. WIRTH. Mr. President, I am very pleased to commemorate Hispanic Heritage Month by calling the Senate's attention, once again, to the good work of the Colorado Hispanic Agenda, a nonprofit organization dedicated to the economic, educational, and political progress of Hispanic Americans.

I think the Colorado Hispanic Agenda can serve as a useful model for other States and I commend this outstanding organization to anyone who cares deeply about our Nation's goals of civil rights, equal opportunity, economic progress, educational excellence and the political empowerment of Hispanic Americans.

Following the Agenda's successful publication of a 21-page report on spe-

cific goals for the Hispanic community's progress in areas like economic development, education, housing, political participation, and employment, the Agenda officially launched a grassroots effort in the Hispanic community to implement these goals. The result has been a galvanizing force for positive social and political change in Colorado—a force that has established links of cooperation between Hispanic leaders from all parts of the State, all sectors of the community and all walks of life.

I am very proud to be associated with this effort. And I am particularly pleased that the spectacular beauty of Colorado's mountains have also played a part in forging this progress. This summer, 22 members of the Agenda participated in a special outward bound leadership program in Colorado's high Rocky Mountains. This experience combined the rigors of mountain climbing and the challenge of surviving in the wilderness with communal soul-searching and group discussions that helped to forge a renewed sense of unity among the participants.

This outward bound experience culminated in a group climb up Mount Galena, one of Colorado's 13,000-foot peaks along the Continental Divide. On the climb to Mountain Galena, this group christened a smaller mountain peak, "Agenda Peak"—and this spot, located high above timberline in the Colorado Rockies, will always serve as a geographical reminder of the challenges that Hispanic Americans have faced. The climb up Galena came to represent, in a metaphorical sense, the Hispanic community's struggle for equality, opportunity, and political identity. It also represents a long-term commitment by Agenda members to the future development of leadership among young Colorado Hispanics.

I think it is fitting for the Senate to recognize Agenda Peak in Colorado—and to close with the words of one of the outward bound participants, a noted Colorado poet, Ramon Del Castillo, who has written:

Como una familia grande,
They said their "hasta luegos" to los primos
Los hermanos, las hermanas, y los compadres
Of this newly formed family.

The struggle to the mountain
Individually encapsulated and burst open
Like medicine from la curandera.

They planted the tree of life
At Mount Galena.
They placed una bandera
Destined to fly forever.

On return from their journey,
They were greeted con gusto y amor.
Hermanos y Hermanas
Today we have become one!●

COMMENDING THE EFFORTS OF BANK SECRECY ACT COMMITTEE AND WELLS FARGO BANK

● Mr. WILSON. Mr. President, I rise today to commend the Bank Secrecy Act Committee of the Bank Administration Institute and Wells Fargo Bank of California for their leadership in the effort to expose and eliminate the laundering of drug money.

The Bank Secrecy Act Committee, founded in 1985, consists of bankers from across the Nation who are dedicated to eliminating money laundering through the development of a warning system that identifies potential laundering activities. I am pleased to note that Wells Fargo Bank was instrumental in forming this committee.

When the scope of the problem became clear, the committee determined that an active role should be taken to ensure that drug money laundering would be detected. The committee's foresight proved to be a tremendous asset as it worked with banking regulators and the drug enforcement community to provide useful information to expose the deposits of drug money.

Wells Fargo Bank proved to be so effective and diligent in its efforts, that its reporting of suspicious cash transactions in California led to Operation Polar Cap—the largest money laundering identification effort in history.

Mr. President, the efforts of the Bank Secrecy Act Committee and Wells Fargo Bank are indeed laudable. I offer my sincere support for the continuation of the leadership and innovation that these bankers have brought to the fight against drugs and corruption in our society.●

A REPORT BY THE U.S. DEPARTMENT OF ENERGY'S INSPECTOR GENERAL ON CONTRACTOR INDEMNIFICATION

● Mr. GLENN. Mr. President, I wish to bring attention to an important report done by the U.S. Department of Energy's [DOE] Inspector General [IG]. At my request, the IG performed an audit which reviewed the DOE's practices and policies regarding the indemnification of its management and operating [M&O] contractors. Currently, the Department has 52 such contracts which have generated $11 billion in obligations—or about 65 percent of DOE's total obligations of $17 billion.

For several decades, the DOE and its predecessor agencies have maintained a blanket policy to completely indemnify its M&O contractors, bear almost all nuclear and nonnuclear risks, and pay all costs of running those facilities. The rationale for this policy, according to DOE, is based on three concerns.

First, without indemnification the DOE believes that it cannot find qualified contractors to run its facilities because of the extraordinary potential hazards associated with DOE activities. Also, because DOE contractors receive relatively low fees this is supposed to offset the absence of financial risk. Finally, it is assumed that without indemnification, private insurance would be difficult to obtain and would be very costly.

While there may be some merit to these underlying policy decisions, the IG has identified some disturbing deficiencies in the DOE contract system which have important ramifications for the Government and the taxpayer. These deficiencies are quite significant, particularly as DOE begins to spend the enormous sums of public funds projected over the coming decades for nuclear weapons production modernization and cleanup. For example:

Despite the passage by Congress of a provision to the Price-Anderson Act last year requiring DOE to assess civil penalties against contractors for violation of DOE rules, DOE contracts are written in a way which allows the contractor to pass these penalties on to DOE to pay them. Recently, DOE has issued proposed rules to levy civil penalties under the Price-Anderson Act. However, once these rules are promulgated and once penalties are levied, the IG has pointed out that contractors are corporate subsidiaries with little or no assets which could prevent the Government from obtaining penalties.

The DOE does not appear to have a standard definition in its contracts for willful misconduct. In some instances, liabilities due to criminal behavior are allowable costs for the DOE to assume. The IG has pointed out that the DOE had to pay over $3 million, including $420,000 in stolen money, which was fraudulently awarded by the DuPont Corp. at the Savannah River plant [SRP] to a subcontractor, in spite of the high position of the contract employee who participated in the fraud.

There are deviations from existing policies in some contracts that may extend the risk of the Government beyond congressional intent. For instance, DOE's contract with the Sandia Corp. has no requirement at all that costs must be reasonable in order to be allowable.

DOE's use of award fees as a means to require contractor accountability is limited. Only 29 out of 52 M&O contracts contain provisions for award fees. The remainder of the contracts are either fixed fee or nonprofit, and thus, financial incentives for contractor accountability are minimal in several cases. Additionally, nonprofit contractors have been exempted by Con-

gress from being levied civil penalties under the Price-Anderson Act, which further limits the Government's leverage.

Finally, DOE contracts, for the most part, do not give DOE the power to demand removal of contract employees. For example, the DOE's contract with the Westinghouse Corp. at the Savannah River plant does not provide DOE with the same minimal powers it had with DuPont, to demand removal of an employee for incompetence and/or behavior which is contrary to the public interest.

In order to correct these problems, the IG recommends that the Department, at the appropriate time in the contract cycle:

First. Modify all M&O contracts, as necessary and appropriate, to recognize DOE's statutory right to assess civil penalties under the Price-Anderson Act.

Second. Ascertain the extent that civil penalties, under the Price-Anderson Amendment Act of 1988, could in fact be collected from M&O contractors subject to such penalties. If necessary and appropriate, modify the M&O contracts to make parent corporations liable for such penalties.

Third. Modify all M&O contracts so that in the event a contractor fails to remove any employee from the contract work who DOE deems incompetent, careless, or insubordinate, or whose continued employment on the work is deemed by DOE to be contrary to the public interest, the Government reserves the right to require the contractor to remove the employee.

Fourth. Consider modifying M&O contracts, as necessary, to subject all costs incurred under these contracts to a test of reasonableness, including the exercise of prudent business judgment, and disallow all costs failing such a test.

Fifth. Assess the merits of modifying the Department's current indemnification policy and practices to: First, increase the number of contract employees for whose actions the contractors will be held financially responsible in the event of willful misconduct or acts of bad faith; and second, identify additional circumstances for which contractors will be held financially responsible—that is environmental fines and penalties, and so forth).

Sixth. Establish administrative procedures necessary to implement a civil penalties program as authorized by the Price-Anderson Act Amendments of 1988.

These recommendations are minimal and don't require legislation. I am urging DOE Secretary Watkins to adopt the IG's recommendations. The IG clearly indicates the need for the DOE and the Congress to make reform of DOE's system of contracting a high priority. These reforms, at the minimum, should require more financial incentives for contractor accountability. They should also open the contract system so that the Government can draw from a larger pool of innovative and responsible corporations to help deal with the enormous challenges facing our nuclear weapons production complex.

The lesson of the past tell us that to a major extent, the enormous and costly problems facing the DOE's nuclear program are due to a basic failure to adopt normal practices of accountability that are commonplace in the business community. It is time for the DOE to operate in a more businesslike fashion so that the mistakes of the past won't be repeated.●

S. 874, UNIVERSAL VOTER REGISTRATION

● Mr. HATFIELD. Mr. President, the goal of expanding the opportunities, and eliminating the barriers, to registering to vote in Federal elections is one that I share. My home State of Oregon has led the way in making registration a simple and available process.

S. 874 contains a number of provisions that seek to attain this goal on a national basis, and thereby encourage States to adopt similar approaches to the registration of voters. I do not oppose most of these provisions.

However, no one involved in the election process can ignore the potential for abuse and fraud in the registration process. The integrity of our political system depends upon confidence in the results of free elections. That confidence is undermined not only by low voter turnout, but by real—or perceived—corruption of the voting process.

For this reason, in connection with my support for the concept of universal voter registration sought by S. 874, I support protection of the integrity of the voter registration rolls. An amendment proposed by the minority would have required periodic examination of voter rolls to remove deceased persons and those who could be documented to have moved from the voting district. This amendment was not intended to be a "killer" amendment, but a necessary guarantee that the ease of registering to vote promoted by other provisions of the bill would not be manipulated by unscrupulous campaign or electoral officials.

It became clear during the debate of S. 874 in committee that the majority would not accept this amendment and that the minority did not have the votes to prevail on this amendment. As a result, the bill remains fatally flawed and I could not support reporting it favorably to the Senate.

Should this oversight in S. 874 be corrected, I am ready to give it my approval.●

BEST WISHES TO POLISH AMERICAN CONGRESS

● Mr. LEVIN. Mr. President, on October 1, the Polish American Congress celebrates 45 years in the service of freedom with a banquet in a city that has become a landmark for Polish Americans, Hamtramck, MI.

The city and the Congress come together at the start of Polish American Heritage Month and at a turning point in history.

For Polish Americans and all Americans who love freedom, there could hardly be more exciting times as we look to Eastern Europe. The changes are dramatic, but the daily news from Poland reminds us of nothing so much as the long and difficult road to freedom carved out by the Polish American Congress. For 45 years, it has stood for the values of patriotism here at home, for pride in the Polish heritage, for the education of children, for aid and comfort of refugees and immigrants, and for support of the Solidarity movement.

For Hamtramck, Polish American culture has always been a major influence. Its own road, from its founding in 1798, has been a sometimes difficult one, but it has led to a renaissance.

There is indeed no better place than this city of hope and confidence for the Polish American Congress, the voice of more than 1 million Americans of Polish ancestry in Michigan, to meet, to celebrate, to pray for the future, and for its many friends to come and cheer it on and sing "Stolat".●

LOVE AT WORK

● Mr. DURENBERGER. Mr. President, I stand today to describe for my colleagues the work of some very special people in St. Paul, MN. It was once said that "the one real object of education is to have a man in the condition of continually asking questions."

The Guadalupe area project has accepted that challenge of eduction and today, is a private alternative high school committed to teenagers in need of special support and acceptance. Considered by many to be a human dynamo, Sister M. Giovanni, the project's founder and leader, rests at the core of today's success of the school.

Sister "G," as she is known to her friends, represents the total commitment to good and the Lord's word. Having recently met with Mother Theresa of Calcutta, I was moved by the full and focused devotion of this woman who has pledged her whole life to helping the poor and diseased in India.

That experience reminded me of the treasure we have in Sister G, and how

the laughter, tears, prayers, and dreams we have shared over the years hold even greater meaning today. The realization of Sister G's dream, the continued and secure GAP presence in the lives of young people, is marking a milestone in the lives of many believers and critics.

A GAP student is a special individual with often a lifetime of experience under his or her belt by adolescence. But these young people are not victims of society, as much as they are victors of the love of a growing network of people.

The young people at GAP are enrolled because they have not given up on themselves and need the chance to explore, learn, and develop the self-confidence to ask questions. Affected by the complexity of growing up in an urban setting, these teens realized that second chances—and the love and concern of good people, don't come around often.

An education at GAP is a positive mix of personalized instruction geared toward not only learning standard high school fare, but also learning about themselves, as individuals. All too often, a turbulent childhood saps the self esteem and enthusiasm for creativity, disarming a young person who requires those social and development skills to continue asking questions.

Last year was a landmark year for all of those affiliated with GAP—with increased fundraising, ground breaking on an addition to the small school building on Robie Street in St. Paul and a crucial curriculum recognition. GAP received accreditation by the Minnesota Non-Public School Accreditation Association after 1 year of intense assessment and evaluation. We are especially proud because GAP is the first private alternative school in Minnestoa to garner such distinction.

Donors and contributors of course are a vital aspect of the continued success of Sister G's school. Support for this endeavor has come from individuals, corporations, foundations, and churches. The list of friends continues to grow as the word about the GAP experience spreads through the Twin Cities, our State, and region.

Last month, GAP held an open house as a celebration of the new building. Hundreds of people have taken interest in this particular goal, and I truly regret not being able to visit with Sister G, the GAP staff, students, and friends. However, in my dear friendship with Sister G, I have learned that every day at GAP is an open house—that the doors and hearts of all those involved are open to any individual seeking to improve, learn, and dare to ask questions.●

WORKERS' COMPENSATION LAW

● Mr. MOYNIHAN. Mr. President, 75 years ago in July 1914, the New York State constitution was amended to allow for the workers' compensation law. This law provides benefits and medical care for workers who incur a disability on the job. Survivors benefits are also included within this law.

In order to fully appreciate the elemental change created by the workers' compensation law, one need only examine the situation of the New York worker before its 1914 enactment. When a worker was injured, the only available recourse was a lawsuit. This process was often ineffective, expensive, and time-consuming.

At the same time, accidents were so much more common then than they are today. We have recently noted the 78th anniversary of the "Triangle Fire," in which 146 young immigrant garment workers were killed in a sweatshop. No other tragedy so vividly revealed the vulnerability of our workers in the early 20th century. Many faced life-threatening situations in the workplace on a daily basis.

As the New York State workers' compensation law is celebrating its 75th anniversary this year, I would like to note the success of our compensation laws for disabled employees. Today, the workers' compensation law protects almost 7.2 million employees in New York State. It provides for a full range of benefits, including medical treatment, wage replacement, and rehabilitative services. And I should add that the administrative responsibilities of the board include not only the workers' compensation law, but also the disability benefits law, volunteer firefighters' benefit law, the workmen's compensation act for civil defense, and the volunteer ambulance workers' benefit law.

Although workers have made much progress since 1914, dangers to our workers still remain. Indeed, the nature of the dangers are constantly changing, especially given the growth in the number of hazardous substances exposed to workers. The workers' compensation law is as necessary now as it was 75 years ago to maintaining the health and dignity of the American worker.

I hope my colleagues will join me in celebrating the 75th anniversary of this very important New York State law.●

JOE DOHERTY

● Mr. D'AMATO. I am pleased to join with my colleagues, Senators DODD and HATCH, in supporting Senate Concurrent Resolution 62, concerning Joe Doherty.

Joe Doherty has been imprisoned in the Metropolitan Correctional Center in New York City since June 18, 1983. For the entire 6 years and 3 months that Mr. Doherty has been confined to his pretrial detention facility, he has been denied bail. Yet, Mr. Doherty has been convicted of no crime in this country, and has been charged with nothing more serious than illegal entry.

Joe Doherty is being confined in an American prison because he is being sought by the British Government. The Justice Department attempted to extradite Mr. Doherty when he was first arrested in 1983. The basis of the extradition was a murder conviction in Northern Ireland arising out of a 1980 ambush in Belfast in which a British captain was killed.

In December 1984, however, U.S. District Judge John E. Sprizzo denied extradition on the ground that Joe Doherty's offenses were "of a political character." Twice the Justice Department sought to have this ruling overturned, and both times Mr. Doherty prevailed.

The Justice Department then sought to deport Mr. Doherty to the United Kingdom based upon his invalid visa, attempting to achieve through a deportation proceeding what the courts denied in the extradition proceeding.

Joe Doherty once again resisted the Justice Department's efforts and the courts once again sustained him. On November 14, 1988, the Board of Immigration Appeals held that Joe Doherty was entitled to apply for political asylum in this country; however, on June 30, 1989, the Attorney General overruled that decision and denied Mr. Doherty a political asylum hearing.

Senate Concurrent Resolution 62 commends the Board of Immigration Appeals for its decision that Joe Doherty be permitted to apply for political asylum, calls on the Attorney General to reverse his order overruling the BIA's decision, and calls on the authorities to immediately address Mr. Doherty's bail application pending the outcome of his proceedings.

I support this concurrent resolution, and look forward to its swift adoption.●

STUNG TRENG, CAMBODIA

● Mr. MOYNIHAN. Mr. President, this week, the last Vietnamese units officially withdrew from Cambodia. In this, one bloody decade of utter devastation is drawing to a close. It is hardly an ending, though. Cambodia's future is too uncertain and too difficult for sighs of relief. The Vietnamese are leaving, but the murderous Khmer Rouge remain.

Newsday's renowned and talented columnist, Sydney H. Schanberg, has

captured the historic importance of the Vietnamese withdrawal in a portrait of Stung Treng, Cambodia. Mr. Schanberg gives us a glimpse of the withdrawal in its elemental human terms. Among his valuable observations is the following one worthy of our special consideration. He states: "[A]ny time the people of two nations who have been tense or adversarial or downright hostile for centuries share a kindly experience together, it is progress and it is worth recording." Indeed.

Mr. President, I recommend Mr. Schanberg's report, "Time To Go, Time To Be Friendly," to my colleagues and ask unanimous consent that it be printed in the RECORD.

The report follows:

[From Newsday, Sept. 25, 1989]

TIME TO GO, TIME TO BE FRIENDLY

(By Sidney H. Schanberg)

(Sidney H. Schanberg, associate editor and a columnist for Newsday, won a Pulitzer Prize in 1976 for his reporting for The New York Times on the Khmer Rouge takeover of Cambodia. His book, "The Death and Life of Dith Pran," was made into the Academy Award winning movie. "The Killing Fields," Last month, Schanberg returned to Cambodia for the first time since 1975. This is his sixth report.)

PHNOM PENH.—In the capital, the ceremonies seem stylized rituals—programmed, necessary for appearances at home, important to be seen on television abroad. But in a dusty province town 150 miles northeast of Phnom Penh, some of the friendly emotions felt genuine this weekend as the final units of the Vietnamese army in Cambodia began their pullout to go home after 10 years of controlling and defending this country's soil.

True, Stung Treng had its full share of stiff banquets and long formal speeches—with their obligatory positive references to solidarity and fraternity, and their equally obligatory negative ones about the murderous Khmer Rouge, whom the Vietnamese drove out of power in Cambodia in 1979. But when the good-bye parade began on Saturday morning—a caravan of hundreds of trucks filled with Vietnamese soldiers who had been posted in this region—their 10 years together seemed to seize both the Vietnamese and the Cambodian townspeople.

It's presumptuous for a westerner to believe he knows with any degree of certainty the thoughts of people so culturally different from him, but on some occasions, emotions cross those barriers. And the atmosphere in that town square became one of mutual likability. The Vietnamese smiled and laughed and waved flags and rice stalks. The Cambodians lining the long street surged forward to touch the soldiers and shake their hands and give them flowers and cigarettes and coconuts.

Little girls in blue and white uniforms, who had been part of the ceremonies on the reviewing stand, were too small to reach the soldiers' outstretched hands, so they asked a foreign journalist to lift them up. One who was raised high gave a rose to a soldier. Another gave a pin with a national emblem.

Still other children, giggling with excitement, ran to the jeeps of Vietnamese officers and placed around the officers' necks the red scarves the children had been wearing for the formalities. There was no mistaking the officers' emotions as they spread their arms and hugged the children tight.

Maybe it was just because of the moment. And maybe part of it was because a few—though only a few—cameras of the foreign press were there. Nonetheless, any time the people of two nations who have been tense or adversarial or downright hostile for centuries share a kindly experience together, it is progress and it is worth recording.

Stung Treng is one of those remote towns in Cambodia, where the people appear to have little emotional link to the central government. The town has a population of 16,000, so it's not a hamlet, but it's in the middle of a jungly, heavily forested area in the northeast, where hunters trap boas and leopards and sell the skins. Monster-size river bass are caught here regularly. Stung Treng sits on a wide tributary, just about 500 yards from a junction with the surging Mekong. In a sense, you could call it wild country.

It's also an area of minorities. Many Laotians live here—the border with Laos is only 35 miles to the north—as do clusters of several tribal peoples.

Stung Treng's remoteness is accentuated by the absense of television antennas, at a time when the rooftops of most Cambodian towns are sprouting them like bean shoots. The town is too far away from Phnom Penh's station or any other television signal in Southeast Asia.

Other artifacts from the outside world do reach here, though. Like motorbikes and stereo boxes and Heineken beer and Pepsi, all of which arrive by strange routes from Singapore and Thailand.

Gold is here, too, but that's common everywhere in Cambodia. It's what people do with their savings, since there is little trust in banks. Lots of Vietnamese soldiers were in the Stung Treng market on their last day, buying small amounts of gold. For some reason, it's cheaper here than in Vietnam.

They were also buying other mementos to take home. Their favorite thing was parrots, which abound here. So on the eve of the pullout, as one walked through streets clogged with Vietnamese military trucks, every third truck had a soldier playing with a parrot on his hand or should. Other men strummed guitars and sang romantic songs from home.

Stung Treng was one of those provinces in Cambodia that were taken by the Khmer Rouge almost immediately when their original war begain in 1970 against the American-supported government of Lon Nol. Thus, the people here lived under that barbaric regime for nearly nine years, before the Vietnamese swept in and installed a Cambodian government friendly to Hanoi.

Hanoi's troops then stayed on to keep the Khmer Rouge from coming back to power—meanwhile training and building a Cambodian army to take over for them. But as the Vietnamese skirmished and sometimes battled with the Khmer Rouge, who had assumed their earlier guerrilla form, the years stretched on and they were drained by casualties.

According to Hanoi's figures, Vietnam has lost 55,000 of its soldiers in the fighting against the Khmer Rouge since 1977. It's almost as many as America lost in the war against the Vietnamese. Add another statistic: The Khmer Rouge, when they ruled Cambodia from 1975 to 1979, were responsible for the deaths of more than a million Cambodians—by execution, forced marches, slave labor and starvation. This region is a graveyard.

But in places ravaged by war, people reach away from death to hold on to life. That's why soldiers buy parrots and play guitars.

The Stung Treng area has not been one of the regions of heavy fighting during the time of the Vietnamese presence, but the war is never really out of mind. On the afternoon before the departure ceremonies, as Cambodian provincial and village militia rehearsed their role by drilling in the streets, other soldiers holding mine detectors slowly and carefully swept the parade ground, where the Vietnamese troops and the Cambodians who will replace them would stand at attention the next morning.

On their last night in Stung Treng, most of the Vietnamese soldiers—2,600 were massed in the town from all over the region—spent the hours quietly, cooking dinner over campfires and preparing their gear for the two-day trip east to their own country. But some, those with a little cash left over, took themselves to the local bars for a few final beers in Cambodia.

At one of these makeshift spas, which had run out of chairs, four soldiers scrunched over and shared their seats with some foreign journalists. However, our convivial time—over warm Tsingtao beer cooled with chunks of ice—was cut off abruptly at 9 o'clock. That was when the political officer from the soldiers' unit showed up with one of the world's sourest faces and directed them to head for their hammocks. He refused to be wheedled out of his wet-blanket attitude. In fact, he wouldn't even speak to us.

Morning broke clear and sweltering. The townspeople started gathering as early as 6 a.m. The loudspeaker on the reviewing stand began playing taped music to get everyone in the mood. There were traditional songs, nationalistic songs, songs from Vietnam and then bizarrely, a German rendition of a song from the '40s in America—"Chattanooga Choo-Choo." No one seemed to find it out of place.

Anyway, shortly thereafter came the speeches and the exchange of gifts and finally the parade that made everyone feel good. It lasted—the cheering and clapping and touching and hugging—for just a little more than an hour. And then the Vietnamese were gone.

It would be nice to think that the good feeling will cling to Stung Treng for some time to come. But chances are that while it will probably remain as a memory, the civil war or some other hardship will get in the way of its spirit fairly soon.●

THE CONTINUING MENACE OF HATE CRIMES

● Mr. SIMON. Mr. President, I rise today to bring your attention to two recent articles from the Washington Post. Each of these articles focuses on incidents of hate-related attacks. In addition, one of the articles specifically suggests the need to initiate a national data base to record the occurrences of hate crimes. I have introduced and urge you to support S. 419, the Hate Crimes Statistics Act. These articles emphasize how harmful hate crimes are to society, and how statistical monitoring can help in the effort to find solutions to this national problem.

I believe my colleagues would find it beneficial to review these news stories. For this reason I ask to have both articles inserted into the RECORD in their entirety.

The articles follow:

GAY ACTIVISTS SAY ASSAULTS ON HOMOSEXUALS ARE RISING

(By Kara Swisher and Brooke A. Masters)

It is only after some time talking to Rod Johnson that you stop looking for the scars. On his scalp, which required dozens of stitches. On his hand and each of his fingers, smashed and shattered. On his arm and shoulder, broken in three places.

Last September, just before dawn, Johnson walked near a section of Rock Creek Park known as a sexual rendezvous spot for homosexual men. Johnson, 37, said he was on his way home from his job as a waiter in Georgetown when he turned a blind corner and encountered a gang of "skinheads"—three or more. "They came out of the shadows," he said, ". . . and I was totally encircled—there were people on front, back and sides," slamming him with baseball bats and taunting him with anti-homosexual epithets that he still cannot bring himself to repeat. "They weren't waiting for me, just for someone."

Three young men were arrested 48 hours after the beating and are awaiting trial after pleading not guilty.

In an interview last winter, Mark Hyder, 18, one of those charged, told The Washington Post that he and his friends went to the park that night specifically looking for someone gay, which Johnson is, to beat up. "I have a hatred for gays," Hyder said.

Such incidents of "gay bashing," a class of hate crime, are on the rise nationwide, according to law enforcement officials and gay activities. "Gay bashing is a problem in the city and all over the country," said D.C. police Inspector Melvin Clark.

Accurate statistics on gay bashing and other hate crimes—those motivated by racial, religious, ethnic and other prejudices—do not exist, but bills pending in Congress, the District and state and county legislatures across the United States would mandate the collection of such data and increase the penalties for hate-motivated crimes. The Hate Crimes Statistics Act, a national data collection bill, passed the House in June and awaits actions on the Senate floor this fall. In the District, a more far-reaching bill that includes stiffer penalties will be voted on this fall.

The inclusion of anti-homosexual crimes in those bills is controversial, and many efforts, including one last year in Congress, founder on this point. Those opposed to including homosexuals view the bills as an attempt to legitimize homosexuality. "Sexual preference has no business being elevated to the same status as race, color, religion or national origin," said Rep. William Dannemeyer (R-Calif.) on the House floor earlier this year.

Ensuring that hate crime laws also protects homosexuals is second only in priority to AIDS for most homosexual groups. "If it does not stay in, it sends out a dangerous signal that this kind of crime is less reprehensible," said Kevin Berrill, who heads the National Gay & Lesbian Task Force's Anti-Violence Project. "It makes us second-class citizens."

Even as politicians and advocacy groups wrangle, gays and lesbians continue to be menaced by acts ranging from simple verbal attack to murder. Stories abound, though many do not appear in the mainstream media.

Locally, cars filled with young men regularly cruise around Dupont Circle—dubbed "Fruit Loop" by detractors—shouting slogans such as "Die, faggots." In 1987, four teenagers came into Lambda Rising, a gay and lesbian bookstore on Connecticut Avenue NW, and threw books all over the floor and shouted, "You faggots . . . have got AIDS," according to employee Jim Bennett.

Phase 1, a lesbian bar in Southeast Washington, installed a wooden barrier near its door because so many people had thrown bottles and rocks at the patrons.

In Doylestown, Pa., two men were sentenced to death for driving a homosexual man they had met in a bar to an open field and slashing his throat. "There's no question that they killed him only and solely because he was gay," said Bucks County District Attorney Alan M. Rubenstein, who prosecuted the case.

Last month, a California appeals court overturned the murder conviction of three men who attacked and killed a gay man in San Francisco five years ago, ruling that they should have been charged with manslaughter because no murderous blows had been struck before victim's head fatally struck the pavement.

The crime that shocked the homosexual community the most this last year concerned two lesbians gunned down while camping. Last summer, Stephen Roy Carr stalked Claudia Brenner and her lover, Rebecca Wight, as they hiked along the Appalachian trail and shot them at point-blank range with a rifle. Wight died within minutes. Seriously wounded in the face, Brenner walked four miles to a road for help.

In July, Carr, who said he shot the women because they were lesbians, was sentenced to life imprisonment without the possibility of parole for first-degree murder.

"I thought it was probable I would be harassed all my life, maybe even physical harassment. But I never thought it would be an issue of life and death," Brenner said. "He followed us all day, hunted us. He tried to kill both of us, and he succeeded with Rebecca. But I won't let him kill me in spirit."

Most law enforcement officials don't group these crimes together, and without solid statistics cannot assign more officers to the problem. But gay groups do try to record the violence.

The task force released a report in June, which it dubbed a "wake-up call to the American people," claiming more than 7,000 cases of harassment in 1987, 42 percent more than the year before. Verbal abuse accounted for 67 percent of the total. It also reported 70 homicides.

Locally, a yearlong study by the Lesbian and Gay Anti-Violence Task Force, a coalition of area gay advocacy groups, conducted polls in the homosexual community and asserted that 44 percent of male and female homosexuals have suffered harassment or attacks. A Maryland anti-violence hot line project recorded 175 incidents in 1988. There were no statistics for Virginia.

Gay activists said the poll also shows an uneasiness with law enforcement officials. They said two-thirds of D.C. attacks were not reported to police. Of those who reported, 74 percent said they lacked confidence in the U.S. Attorney's Office.

They cite the experience of Ed Hassell. In 1983, two high school students he met in a local bar took him to a deserted park, where they beat and tried to castrate him. They pleaded guilty to assault with a deadly weapon and were put on probation. "I would never file any charges again," Hassell said.

In the trial, the defense attorney and the judge said that Hassell made a sexual advance on his attackers, which Hassell denied.

While homosexual groups say there has been a lull recently in violence, they criticize D.C. government attempts to keep statistics. Only one report of anti-homosexual violence and four reports of hate-related crimes have reached the Office of Human Rights since July 1987.

D.C. police and the U.S. Attorney's Office blame part of the problem on reluctance among victims to report, and the absence of a special space on the crime forms to indicate a hate crime. The form is now being revised, and the Metropolitan Washington Council of Governments plans to recommend that all local governments use a reporting form that includes anti-homosexual violence, said Michael Cash, deputy director of the Fairfax County Human Rights Commission.

"It's hard to tell if the program is at fault or it's the lack of reporting by the gay and lesbian community," said the District's Inspector Clark. "We are not any magicians, and need everyone to be as open as possible." Said Janice Smith of the D.C. Human Rights Office, "We are looking into producing educational seminars for the police, because we're committed to this."

Area gay groups acknowledge that many homosexuals who should report crimes do not. They meet with the police monthly to work together on the problem. "Gay citizens are still paranoid about it," said Chris Bates, co-chairman of the Mel Boozer Roundtable, a black gay group. "It's all got to do with the closet mentality."

Collecting data is the point of the Hate Crimes Statistics Act that passed the House by a vote of 383 to 29. The bill authorizes the Justice Department to collect data on hate-motivated homicides, assaults, robberies, burglaries, thefts, arsons, vandalism, trespassing and threats. The FBI already publishes a Uniform Crime Report from 16,000 state and local police departments on many crimes, but does not separate hate crimes. The bill aims to help law enforcement officials spot trends and formulate enforcement and educational strategies. "We ought to know the level of the poison that is in our system," said Sen. Paul Simon (D-Ill.), the bill's sponsor.

This bill has attracted much wider support than anti-discrimination bills that protect gays. More than 100 national groups are fighting hard to keep homosexuals in. "We're not just talking about the Bidens and the Kennedys," said Michael Lieberman, associate director of the Anti-Defamation League. Indeed, congressional supporters include such conservatives as Sens. Orrin Hatch (R-Utah) and Alan Simpson (R-Wyo.).

But the Senate leadership has not yet scheduled the bill for a vote on the Senate floor because Sen. Jesse Helms (R-N.C.) has threatened to attach amendments deemed unacceptable by the bill's supporters. A copy of Helms' amendment obtained by The Washington Post says, in part, that "the homosexual movement threatens the strength and the survival of the American family." Helms derailed a hate crimes statistics bill last year, Helms' office did not return repeated phone calls.

In the District, the Bias-Related Crime Act of 1989, proposed by council member

John A. Wilson (D-Ward 2) and expected to reach the full council this month, would go a step further by increasing penalties for hate crimes and providing appropriate civil relief for the victims. Among the provisions: Criminals would face 1½ times the maximum punishment and, in some juvenile cases, parents could be held responsible for civil damages. "It's a real and symbolic statement . . . because there is a lack of an explicit signal saying this is wrong," said Roger Doughty, the president of the Gay and Lesbian Activists Alliance.

Maryland and Virginia have reporting laws and impose additional penalties for hate crimes, but neither includes anti-homosexual violence. Montgomery County is poised to become an exception this fall when the County Council votes on a measure, introduced by its president, to extend the protections to homosexuals.

Nationwide, five states—California, Oregon, Minnesota, Wisconsin and Connecticut—formally monitor anti-gay crimes, though many cities and counties do.

None of the laws will come soon enough for Johnson, who still vividly remembers his assault in Rock Creek Park. He is now preparing for the trial and plans to file a civil suit against Hyder, of Sutherland, Va., and the others charged with assault with intent to kill and armed robbery, David M. McCall, 18, of Dale City, and Richard C. Grimes, 18, of Montgomery County. "There was no warning. It's not like I had two minutes to stand there and watch," he said. "And I honest to God didn't feel a thing. I felt implosions and heard reverberations and sound. . . . But I didn't say a thing—it was like I moved myself to a higher plane or something."

After the attack ended, Johnson managed to get up and flag help. "I was so enraged that just a simple cry of help was so minimal," he said. "I had to express anger or get out some primal scream. I think everyone in Northwest heard me yell."

It took Johnson months to recover physically, and emotional scars remain. There is the fear of being alone in the dark, a childhood kind of terror most people ultimately shed, but is back again for Johnson. A man who loves the fresh air, he now keeps his windows tightly locked. He takes cabs door to door and pays the cabdriver an extra dollar to wait for him to get inside safely. He moved to a new house in upper Northwest when he found it too painful to live near the scene of his attack.

A year later, Johnson has nightmares. His doorbell rings and there's a man there about to attack him. "Sometimes I run, sometimes I stand my ground, sometimes I slam the door," he said. But the outcome is always the same—Johnson is brutally beaten. "I'm always the victim."

[From the Washington Post, Sept. 17, 1989]

HATRED INTRUDES ON COMMUNITY—JEWISH HAVEN HIT BY VANDALISM

(By Sue Anne Pressley)

If it's Saturday in the Kemp Mill community, the streets are filled with families walking to synagogue. Cars are not driven, phones go unanswered, money can't be touched. And the Nut House is closed until dark.

The neighborhood, near Silver Spring in Montgomery County, is the largest Orthodox Jewish community in the Washington area, and is considered to be the largest between Baltimore and Miami. It is a newer, suburban version of an ethnic community, where the Hebrew bookstore and the kosher butcher are found in a strip shopping center, and the Nut House, the region's only kosher pizza parlor, closes on Friday evenings for the Sabbath.

"Everything that is needed for the total Jew is right here," said Rabbi Herzel Kranz, after counting off the neighborhood services available to Jewish families—the Hebrew Day School, the Yeshiva High School, the Hebrew shelter for the homeless, the two synagogues on the same street. In fact, only 25 percent of Kemp Mill's 2,000 families are Orthodox Jews, but their presence is quite visible—the men in their yarmulkes, the women in their head covers, the Sabbath parade along the sidewalks to synagogue.

In recent weeks, however, the normal rhythms of the middle-class neighborhood have been disturbed by a series of burglaries and acts of vandalism, leading to widespread rumors of a siege by "skinheads" or other racist groups. One night, swastikas were spray-painted on several vehicles, including some belonging to non-Jews; on another night, about 40 car windows were shot out with BB guns. Two weeks ago, in scenic Kemp Mill Park, the statement "All Jews Must Die Now" was painted on a sidewalk.

Already, residents of the area had been shaken by a March incident in which a young Asian man was beaten in nearby Sligo Creek Park by a group of youths and young adults who shouted racial epithets.

The new concerns brought more than 300 residents to a community meeting last week, where county police and other authorities insisted that the neighborhood is not the target of any organized hate group.

"In none of the cases have we any evidence to allow us to factually attribute these cases to an organization of neo-Nazis or skinheads," said Lt. Richard Swain of the county police. "It just doesn't exist. They didn't even know how to make a swastika."

Instead, police believe most of the latest damage has been caused by youths who live in the community, "your neighbors' children," Swain said. The case resulting from the March beating, in which 10 people were arrested, is in the courts, and a neighborhood man was recently charged with the vandalism in Kemp Mill Park; police say his inspiration was apparently the recent movie "Betrayed," which details the actions of a white supremacist group.

Residents of Kemp Mill, many of whom lost relatives to the Holocaust, agree that no hateful acts—no matter how young or ignorant the offenders—can be allowed to intrude upon the peace of their community. "I've lived here since 1959," said Nathan Blitzstein, a retired businessman. "Until now, everything is nice, a quiet neighborhood. This is our home."

The second-graders at the Hebrew Day School are having a lesson in ancient law. They sit attentively in a room at the Silver Spring Jewish Center, one of two Orthodox synagogues on Arcola Avenue. The boys are wearing yarmulkes, some embroidered with their names, one decorated with Ghostbuster cartoons.

At the front of the classroom, Ellen Shames, a blue sports jacket over her arm, is explaining the ancient biblical law that forbids Jews to wear garments containing both linen and wool. Her task is to check for the offending *shatnos*, she said, ripping out linings and sending snippets of material to a special lab in New York for testing.

Rabbi Kranz breaks in to explain. "You see, students," he said, "God wanted not to mix the different parts of the world he created, the animal kingdom with the vegetable kingdom. For whatever reasons. And I guess God has His reasons."

The life plan for the Orthodox, who make up about 5 percent of the region's 160,000 Jews, is laid out in the five Books of Moses in the Old Testament. There are 613 commandments, "a whole ancient system, a whole kaleidoscope; the Bible touches everything," Kranz said. From there, for example, come the dietary laws that forbid eating shellfish or pork or mixing meat and dairy foods, and the strict guidelines for observing the Sabbath.

Kemp Mill's reputation as the center for Orthodox life is a fairly recent development. Initially, the region's Jewish community was established in the District, near Capitol Hill, but the migration to the suburbs after World War II brought several synagogues to eastern Montgomery County. Because Orthodox Jews do not drive cars on the Sabbath, they try to live within walking distance of the synagogue; thus, the Orthodox community, including lawyers, teachers, and business executives, began to spring up.

In 1962, Rabbi Gadaliah Anemer was the first to begin services in his home near the new Kemp Mill subdivision, which was then under construction. Several years later, he founded Yeshiva High School. Eventually, Anemer's Young Israel congregation and the Silver Spring Jewish Center would occupy synagogues within a stone's throw of each other on Arcola Avenue.

"Orthodoxy is the religion that Jews have practiced for thousands of years," Anemer said. "The numbers may be small, but we are strong."

At the Nut House, a customer may order a pepperoni pizza—but the meaty ingredient is vegetable pepperoni.

The region's only kosher pizza parlor, on Georgia Avenue, strictly follows Jewish dietary laws, and a rabbi appears daily to inspect the preparation of food. For 25 years, the business was a Planters Peanut outlet—thus the name—but about five years ago, owners Ira Fieldman and Harry Atkin decided to introduce pizza. It is now the dominant item on the menu.

The restaurant is located in what amounts to the Orthodox shopping district. Around the corner is the Shalom Strictly Kosher Meats and Delicatessen, where the signs over the meat counter read "Lots of Lox," and "Cry Me a Liver." The only two Hebrew bookstores in the Washington region are nearby, as well as a couple of kosher bakeries.

At the Nut House, there's a no frills, New York-style operation. An Israeli poster decorates the wall. Tacked on the bulletin board are a flier for Jewish Vegetarians of North America and a notice about an "Analysis of Israel's Current Political Situation."

"There aren't many dining options around," said Fieldman, who closes the restaurant for the Sabbath, which is observed from sunset Friday until sunset Saturday. "A lot of Orthodox people are just getting used to being able to eat out."

In Montgomery County, acts of racial or ethnic harassment are on the rise, Kemp Mill residents were told at their community meeting Wednesday night. Through August, 133 such incidences were reported, authorities said, compared with 88 for the same period last year.

A teacher's aide at the Hebrew Day School, who found a white swastika painted on her car door one recent morning, said she cannot think about the sight without crying.

"Both of my parents are survivors of the labor camps in Poland," she said. "We really have no relatives; my uncles, my aunts, they all died over there. At first, I thought this thing was directed specifically at me, and then I heard it was random.

"But I've thought about it a lot," she said, "and it still makes me sad."●

CONTINUATION OF PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3282, a bill to authorize performance management and recognition system through March 31, 1991, now at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3282) to amend title 5, United States Code, to authorize the continuation of the performance management and recognition system through March 31, 1991 and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 884

Mr. INOUYE. Mr. President, I send an amendment to the desk on behalf of Senators PRYOR, STEVENS, and SASSER.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk will read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. PRYOR (for himself, Mr. STEVENS, and Mr. SASSER) proposes an amendment numbered 884.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 4, insert "equal or" before "exceed".

On page 5, after line 21, add the following:

SEC. 6. TEMPORARY CONTINUATION OF PROVISION RELATING TO THE SCHEDULE FOR PAYING THE LUMP-SUM CREDIT TO CERTAIN ANNUITANTS.

Section 6001(a) of the Omnibus Budget Reconciliation Act of 1987 (5 U.S.C. 8343a note) is amended by striking "October 1, 1989" and inserting "December 3, 1989".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 884) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, "Shall the bill pass"?

So the bill (H.R. 3282), as amended, was passed.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEFENSE PRODUCTION ACT EXTENSION

Mr. INOUYE. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 262, S. 1672, a bill to extend the expiration date of the Defense Production Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1672) to amend the Defense Production Act of 1950.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. RIEGLE. Mr. President, I rise to speak on behalf of S. 1672, a bill reported by the Banking Committee on September 20, 1989. This bill simply extends the expiration date of the Defense Production Act [DPA] for 1 year, from September 30, 1989, to September 30, 1990, and authorizes appropriations under the act of $50 million for the Defense Department to carry out its existing DPA programs for an additional year. Let me briefly explain, for those who are not familiar with this statute, what the DPA is and why the committee wants a 1-year extension in its present authorities.

The Defense Production Act was initially enacted in 1950 to mobilize the Nation's productive capacity after the outbreak of the Korean war. The act has been reauthorized and amended a number of times, most recently in 1986. When first enacted, the DPA contained seven titles. After the Korean war, authorities in four of the act's seven titles were permitted to expire. Presently, only three titles of the DPA are in effect, and they are due to expire on September 30, 1989, unless renewed.

Title I grants to the President the power to prioritize performance of specific contracts to meet urgent defense requirements, and to allocate resources to industries to optimize the production of defense materials. Title III authorizes the President to use loans, loan guarantees, purchase commitments, and grants to encourage contractors to establish or expand activities to provide increased industrial capacity for defense needs. Title III programs are presently managed by the Department of Defense with the Air Force serving as executive agent. The bill authorizes $50 million for the Defense Department to continue its title III programs during 1990.

Under title VII, the President is authorized to provide antitrust defenses to private entities conducting joint activities under voluntary agreements aimed at solving production and distribution problems impairing national defense preparedness. The creation of such voluntary agreements must be initiated by the President, and must be approved by the Attorney General and the Chairman of the Federal Trade Commission before any antitrust protections are accorded to the participants.

Since the last renewal of DPA authorities in 1986, a number of reports have been issued by the Department of Defense, the Defense Science Board, the Center for Strategic and International Studies, and the Office of Technology Assessment expressing concern that the United States is experiencing a substantial decline in industrial sectors necessary to support defense production. A 1988 report entitled "Bolstering Defense Industrial Competitiveness" authored by the Under Secretary of the Department of Defense stated:

Many basic industries of importance to defense production have declined, threatening the responsiveness of our industrial base. Left unchecked, such erosion could rob the U.S. of industrial capabilities critical to national security.

That report argued that certain industries such as semiconductors, telecommunications, and computers are of strategic importance because they are linked to so many other important elements of the industrial base.

In October 1988, in a report that received front page coverage in the New York Times, the Department of Defense's Science Board released its own examination of this issue entitled "A Study of America's Defense Industrial and Technology Base." That Board, made up of distinguished American industrial and financial leaders, stated that in the years since its last report in 1980:

The global, political and economic scene has changed considerably, America's technological superiority has diminished. Many countries including Japan and the Soviet Union challenge our leadership in technologies essential to defense. We are losing out in the semiconductor field * * * these technologies are the foundation of our very defense system * * * more and more of our defense systems require manufactured components from foreigners.

The Defense Science Board also stated that our allies "make a concerted effort to directly tie their nation's industrial policy to national security

goals," and called upon the U.S. Government to identify and support "those technologies where our country should be a leader or competitive to assure national security and economic competitiveness."

The Center for Strategic and International Studies in a recently completed analysis entitled "Deterrence in Decay" written under the leadership of Senators BINGAMAN and MCCAIN, stated:

> The U.S. defense industrial base faces significant challenges and little is being done to address them. If present trends persist, the once-mighty arsenal of democracy could become * * * perhaps even incapable of manufacturing the material required for deterrence or for protecting U.S. national interests around the globe.

The Office of Technology Assessment [OTA] issued its own study on the decline of U.S. high technology industries needed for the Nation's defense. That report entitled "Holding the Edge" states that U.S. leadership in high technology industries that are vital to defense is eroding in the face of strong international competitiveness. It further stated that "longstanding industrial and trade policies may have to be reformed if the United States is to maintain the industrial capacity necessary to support essential dual use technologies."

Facing the expiration of basic DPA authorities this year, the Banking Committee had planned, in preparation for a multiyear reauthorization of the act, to hold a series of hearings to examine such concerns and to determine whether the Nation's industrial and technological base is adequate to ensure the Nation's defense. Due to the need to devote most of its attention in 1989 to legislation dealing with the savings and loan crisis, the committee has so far been able to hold only two hearings on these issues.

On July 11, 1989, the committee heard from three former officials who had major responsibilities for ensuring the adequacy of our Nation's national defense: Mr. Frank Carlucci, former Secretary of Defense and presently vice chairman of the Carlyle Group in Washington, DC; Adm. Bobby Inman, former Deputy Director of the Central Intelligence Agency and presently chairman and CEO of Westmark Systems, Inc., of Austin, TX; and Dr. Robert Costello, former Under Secretary of Defense and presently at the Hudson Institute in Indianapolis, IN.

On July 19 the committee heard from: Mr. Robert Galvin, chairman of the board of the Motorola Corp.; Mr. Norman Augustine, chairman of the board and CEO of the Martin-Marietta Corp.; and Mr. Stanley Pace, chairman of the board and CEO of the General Dynamics Corp.

On July 24, 1989, Senator DIXON of the Banking Committee introduced S. 1379, a bill to make amendments to the authorities accorded to the President by the DPA. The administration has also requested that a number of amendments be made to the DPA.

Many of the witnesses at the July 11 and 19 hearings urged the committee to use the occasion of renewing the DPA as an opportunity to carry out a thorough examination of issues related to the competitiveness of our key industries and the adequacy of our defense industrial base. In order to provide adequate time for such an examination, the bill reported by the committee reauthorizes the current law for 1 year.

Mr. GARN. Mr. President, I rise today in support of the legislation to extend the authorities of the Defense Production Act. The authorities of the act will terminate, unless extended, on September 30, 1989.

The Defense Production Act has been used during the last few years to deal with critical defense production problems. Two recent examples illustrate the importance of these authorities. In March 1989 the rocket propellant mixing facility at the Hercules Aerospace Co. in Magna, UT, was destroyed. The title I authorities of the act were used to assemble a temporary mixing plant. In May 1988, an explosion in Henderson, NV, destroyed Pepcon, one of the two domestic producers of ammonium perchlorate, an essential ingredient for solid rocket fuel. This explosion affected strategic and tactical missiles used by the military, and launch vehicles used by NASA. The DPA authorities are now being used to provide for the production and distribution of this chemical to meet U.S. defense and commercial space program requirements.

The authorities are also being used to give priority to the construction contract for a new facility to produce ammonium perchlorate of highest quality for space program use. By using the priority and allocations authorities of the Defense Production Act, work on that facility is being completed within a year after it began. Without the priority status, it has been estimated that construction would have required 2 to 3 years to complete.

The continuation of these authorities is essential to our industrial readiness and vital to our national defense. It is critical that the Senate act today, and vote to extend the Defense Production Act.

Mr. INOUYE. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of the House companion, H.R. 3281; that all after the enacting clause be stricken and the text of S. 1672 be substituted in lieu thereof, that the bill be read the third time and passed and the vote to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 3281), as amended, was passed.

BILL INDEFINITELY POSTPONED—S. 1672

Mr. INOUYE. Mr. President, I ask unanimous consent that S. 1672 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, and upon the recommendation of the Republican leader, pursuant to Senate Resolution 171 (101st Congress, 1st session), appoints the following Senators as Republican Party members of the special delegation of Members of the Senate that shall host an International Conference on Global Environmental Issues: the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Pennsylvania [Mr. HEINZ].

ORDERS FOR TOMORROW

RECESS UNTIL 9:30 A.M. AND MORNING BUSINESS

Mr. INOUYE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Thursday, September 28; and that following the time for the two leaders, there be a period for morning business until 10 a.m. with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. INOUYE. Mr. President, the Senate will be voting at 10 a.m. tomorrow with a strong possibility of other votes occurring throughout the day and into the evening. Mr. President, it is my hope that we can complete action on the DOD bill tomorrow, as well as the remaining appropriations bills—State, Commerce, Justice and the VA-HUD bill—and the short-term continuing resolution.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. INOUYE. Mr. President, if my dear friend from Alaska has no further business, and if no Senator is

seeking recognition, I ask unanimous consent that the Senate stand in recess, under the previous order, until 9:30 a.m., Thursday, September 28.

There being no objection, the Senate, at 6:56 p.m., recessed until Thursday, September 28, 1989, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 27, 1989:

DEPARTMENT OF AGRICULTURE

BRUCE L. GARDNER, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE, VICE EWEN M. WILSON, RESIGNED.

ENVIRONMENTAL PROTECTION AGENCY

E. DONALD ELLIOTT, OF CONNECTICUT, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE LAWRENCE J. JENSEN, RESIGNED.

FEDERAL MEDIATION AND CONCILIATION SERVICE

BERNARD E. DELURY, OF NEW JERSEY, TO BE FEDERAL MEDIATION AND CONCILIATION DIRECTOR, VICE KAY MCMURRAY, RESIGNED.

EXTENSIONS OF REMARKS

SOVIET DRAFT LAWS ON CONSCIENCE

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. SMITH of New Jersey. Mr. Speaker, the Congressional Human Rights Caucus recently held a briefing on the proposed drafting of the new Soviet law regarding religion—the freedom of conscience.

The Soviets have been promising for about 2 years that a new law offering protection for religious believers would be forthcoming. The prospects, Mr. Speaker, are still uncertain but they have at least two drafts on the drawing board, and I understand the third draft is near completion.

During a recent trip to the Soviet Union with my colleague, Congressman FRANK WOLF, we had several lengthy discussions with Soviet officials about the possible ramifications of the second draft language. Although the Soviets acted surprised and distraught that we had copies of their so-called secret second draft, we questioned a number of the provisions and pressed the authorities on point after point.

In reading the draft, several questions come to mind:

What regulations would govern the registration of synagogues and churches? Would it require approval of a legal document, thus setting the congregations up to arbitrary denial? Or, would registration be merely a pro forma procedure?

Would the new law adequately protect religious believers against discrimination in their education, jobs, and career?

Are provisions made for conscientious objectors? Would alternative community service be available? The draft law suggests that a court decision would be required prior to an individual being relieved of "legally established duties," that is conscription in the Army.

What would be the role of the Council on Religious Affairs in protecting the rights of religious believers?

Mr. Speaker, I believe that codification of a new Soviet law guaranteeing freedom of conscience will be an important step in making the welcome changes of glasnost and perestroika systemic and not simply arbitrary. A well written law will offer the religious believers a legal recourse should local authorities decide to be heavy-handed. Most importantly, the religious activists will have a document on which to depend for legal protection.

Mr. Speaker, the drafting of a new law on conscience should fit into the equation leading up to the 1991 Moscow Human Rights Conference. Secretary of State James Baker has again and again reiterated that U.S. participation in—and sanction of—the conference is contingent on the release of prisoners of conscience, removal of certain obstacles to free emigration, abolition of objectionable provisions of the criminal code and the approval of legislation regarding freedom of the press and freedom of religion.

The changes in the Soviet law on conscience are very important and we must be very conscious of the proposed language. Mr. Speaker, for the benefit of my colleagues I would like to insert for the RECORD the testimony given at the hearing by Rev. Stan DeBoe, O.SS.T. I believe his summary of the changes in the Soviet Union on behalf of the religious community and his concise presentation of the concerns which remain regarding the Soviet law on conscience would be beneficial for my colleagues:

FREEDOM OF CONSCIENCE FOR ALL SOVIET CITIZENS

(Statement by Rev. Stan De Boe, O.SS.T.)

The changes that are taking place at unprecedented rates in the Soviet Union under the policies of glasnost have had a great effect on religious believers. Although all citizens have benefited from the reforms, religious believers, being the largest group, have also been the greatest beneficiaries.

Some of the changes which are most evident include:

1. The return of church buildings and monasteries. According to researchers at Keston College in the last year and a half 1,715 "cult buildings" have been returned to religious associations, permission to build 229 new structures has been given and 257 buildings are being re-equipped for religious usage.

2. The increased availability of Bibles and religious literature. Customs and postal regulations have been relaxed to allow people to carry more religious literature into the Soviet Union and several Western Christian organizations have received permission to import large quantities of literature. It has also been reported that the most popular exhibit at the recently concluded Moscow Book Fair was the religious literature booth.

3. The increased permission for emigration of Jews and Pentecostals.

4. The amount of coverage that religious events receives in the Soviet press. These include interviews with religious leaders, reporting on religious activities and the printing of letters which report of continued problems that believers have with local officials.

As welcomed as these changes are, it should be remembered that none of them are as of yet guaranteed by a change in the Soviet laws on religion. The Law on Religious Associations of 1929 is still on the books, although it is not being followed. New laws have been promised and several drafts have been circulated and discussed. Two drafts have been reported by and commented on by Keston College. The first was written by Yuri Rozenbaum, the second was submitted by Konstantin Kharchev, the former Chairman of the Council for Religious Affaris.

According to researchers at Keston, the following points would be changes for religious believers under the new laws, if enacted:

1. Freedom of conscience appears to have a broader interpretation, with greater freedoms given to religious education. This would expand the understanding of freedom of conscience and remove the unequal position which believers now have and allow for freedom of religious and anti-religious propaganda.

2. Guarantees against discrimination, preventing the bringing of any civil or criminal cases against citizens simply on the grounds of their religious faith.

3. Restore to religious organizations the right of juridical person.

4. Greater scope for charitable activities and literature production. Both drafts omit the ban on religious organizations carrying out charitable activities, make provisions for religious groups to participate in public life and social organizations and allow all citizens to "freely acquire and use" religious literature in the language of their choice.

There are still some questions left unanswered by the drafts such as:

1. The matter of atheistic education as a part of school curriculum.

2. Atheistic education funded by taxes, which are paid by believers, also.

3. The registration of church bodies. Registration gives permission for churches to be open and function. The drafts continue to use registration as a form of sanctioning rather than as recognition of an existing community. Also, there seems to be two different forms of registration. In the draft by the CRA, all religious institutions from parish to Patriarchate are defined as "religious associations," "religious groups," or "religious societies," which may apply for registration if a group of ten (10) adult citizens apply with the local soviet. The Rozenbaum version allows for registration of statutes rather than associations.

Also unanswered is the question of the status of the Ukrainian Catholic Church, the largest illegal religious body in the Soviet Union. Though neither draft explicitly permits many of the activities that believers would like to involve themselves in, the current climate seems to be that everything that is not expressly forbidden is permitted.

The Supreme Soviet has placed discussion of the draft laws on its calendar for this session, as the twenty first of twenty three items, although they do not have to be discussed in any particular order.

To conclude, I would like to quote Dr. John Anderson, a researcher at Keston College from his March, 1989 commentary: The new law seems likely to be a significant improvement on its predecessor, especially as the last article of the CRA draft states that should the USSR accede to an international treaty whose provisions differ from the Law on Freedom of Conscience then the former shall be applied. Yet one must express certain reservations about the ambiguous phrasing of some of the CRA draft and note that while Gorbachev has expressed the desire to create a "law governed state", many officials remain reluctant or psychologically unable to commit themselves to such a formula. For this reason party policy seems likely to remain more important than law for the immediate future.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Speaker, I also would like to include for the RECORD excerpts from the testimony presented by Pamela Braun Cohen, national president, Union of Councils for Soviet Jews:

THE STATE OF JEWISH RELIGION AND CULTURE IN THE SOVIET UNION

(Remarks of Pamela Braun Cohen, National President Union of Councils for Soviet Jews)

It is said that laws will be introduced and debated in the next session of the Supreme Soviet and the Congress of Peoples' Deputies that would reform and democratize basic human rights and freedoms in the Soviet Union, including emigration, expression, thought, press, and religious conscience. All of these have long been matters of priority concern to the United States Congress in general, and particularly to the members of the Congressional Human Rights Caucus. They are of paramount concern to Soviet Jews, Pentacostals, and other religious believers in the Soviet Union.

Today's briefing has focused on the draft of the proposed new Soviet law regarding religion and freedom of conscience. The threshold question, of course, is whether or not such a law will be enacted in today's Soviet Union. Equally important, however, is to understand the context for such legislation: the conditions of Soviet society that make institutional reform so vital, and its implementation the acid test of true reform.

I am therefore pleased to respond to your request for information on the state of Jewish religion and culture in the Soviet Union.

Like the more than half-million evangelical Pentacostals, and unlike most of the other 100 or so ethnic nationality groups in the USSR, Soviet Jews have been singled out for religious and cultural persecution the Bolshevik Revolution. They have been the target of the government's virulent policy of anti-Semitism. And absent geographical and political representation, Jews do not have either resource as a unifying base to conduct an adequate defense.

Religious believers in the USSR share a history of religious persecution. They also share a common concern that only institutionalized reform of the laws on freedom of religion, conscience, and emigration will prevent anti-reform elements from reversing even the slight progress that has recently been observed.

The last 70 years of Soviet rule have been characterized by an unremitting, governmental onslaught on Jewish culture and religion amounting to an attempted, and nearly successful, cultural genocide. A succession of hammer blows annihilated all but traces of Jewish life in the Soviet Union. Jewish religious activity was suppressed, institutions closed, religious and cultural leaders arrested, Jewish self-expression denied. That a spark of Jewish consciousness and tradition remains alive today in the Soviet Union is a near miracle.

Jewish tradition, education, self-definition and regularized institutional contact with the world Jewish community were ripped from Russian Jewry, leaving them defenseless against the government's anti-Semitic policy; defenseless to pass Jewish identity to succeeding generations; defenseless to form a community.

The current situation reflects some progress. The Soviet policy of "cultural autonomy" was adopted at the 19th All-Union Party Conference in the summer of 1988. It provided. . . . "Ethnic groups that have no (national) territories should be granted their national cultural needs . . . and to satisfy their religious requirements. . . ."

However, such "autonomy" has not been officially extended to Jews, and positive changes have affected only the surface of the Jewish community, i.e., those few Soviet Jews who have already developed Jewish consciousness.

Today, Jews are especially vulnerable to the broader instability of economic, interethnic and nationalist tensions in the Soviet Union. As we continue to await governmental action on reforms of emigration and freedom of conscience statutes, we also see a refusal by President Gorbachev to include the Jewish Problem in the Supreme Soviet or Communist Party debates concerning the nationalities crisis, despite the fact that nearly 200 Peoples Deputies have urged him to do so, and despite the fact that these deputies have joined the Jewish leaders in seeking a governmental commission to deal with mounting anti-Semitism. So while it is unclear whether there is either sufficient support or time for reformers to make substantive reforms, it is clear that the Soviet Union remains a profoundly anti-Semitic and officially atheistic nation.

Permit me to close with the observations of Vladimir Dashevsky, head of the Moscow Jewish organization "Machanayim", a leader of the Jewish religious community in the Soviet Union, and one of the Soviet Jewish leaders with whom I have discussed these remarks to assure accuracy. He has asked me to tell you:

"These are times of enormous instability in the Soviet Union. In terms of freedom of conscience and religious practice, there has been some partial progress, particularly in the reduction of official intimidation of religious believers. But this progress is given as a favor to demonstrate the "good will" of the authorities; it is not accorded as a matter of right to Soviet Jews and other religious communities. Therefore, we cannot perceive the progress as substantive or real until or unless it is based on rights guaranteed by institutionalization into law and then implemented."

NATIONAL ENDOWMENT FOR THE ARTS HONORS JOSE GUTIERREZ

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. TORRES. Mr. Speaker, every year the National Endowment for the Arts honors distinguished master folk artists with a fellowship grant for their exemplary artistic traditions in music, crafts, and dance. Today, I stand before my colleagues as the proud representative of Jose Gutierrez, 1 of the 70 recipients selected by his peers as a National Heritage Fellow for 1989.

Jose Gutierrez, a Mexican jarocho musician-singer from Norwalk, CA, began his music career more than 30 years ago. Born on a ranch known as La Costa de la Palma—the Palm Tree Coast—in the State of Veracruz, Mr. Gutierrez is from the region of the jarochos, the local name for the people of the southeastern coastal plain of Mexico.

He grew up surrounded by music. Both his grandfathers were experienced instrumentalists and singers, as was his father and several of his uncles. At the age of 8 he was given his first guitar, a mosquito, the smallest of the rhythm guitars in the characteristic jarocho ensemble. From this early age, Jose has fond memories of staying up till all hours of the night listening to the men of his family making their music, until at last he would fall asleep still clutching his beautiful little guitar.

At the age of 15, Mr. Gutierrez took up the requinto, a small four string melody guitar that plays off against the jarocho harp in explosions of rapid fire syncopations. He recalls hearing of a jarocho group in need of a player, and upon applying, being laughed at for his youth. He tried out nonetheless, and outplayed the other musicians. "I left them waiting," he said, recalling that tryout performance. That particular incident marked the beginning of his professional career in Veracruz.

In the early 1960's, Jose Gutierrez was invited to Mexico City where he was soon performing and recording with what was then considered to be, and still is, the best jarocho ensemble in Mexico.

The late 1960's saw the beginning of Jose Gutierrez' remarkable touring career. He visited and played in almost every European country spending more than a year in Germany alone. He also toured Asia, the Philippines, Australia, all of South and Central America, and Canada. He settled in the United States in the early 1970's where he has made his home in California while continuing his remarkable music career. He was an artist-in-residence at the University of Washington in Seattle for a year, and the master artist/instructor for numerous individual apprenticeships funded through State and Federal sources. He has performed both at the National Folk Festival and at the Smithsonian's Festival of American Folklife, at the Old Town School of Folk Music in Chicago, and for the World Music Institute in New York City.

Even with all these activities he has been unable to support himself and his family through his musical talents alone; and today he works as an automobile mechanic. His dream is to eventually start a small recording studio.

His impeccable technique, the depth and solidity of his musical sensibility, and his wide-ranging comprehension of the complexities of the jarocho tradition make him one of the truly remarkable musicians of our Nation.

Mr. Speaker, I urge my colleagues to join me in honoring Jose Gutierrez for his artistic and artisan accomplishments. He is truly worthy of the national recognition bestowed to him by the Folk Arts Program of the National Endowment for the Arts.

"THE BELL OF DAWN," FROM A CUBAN PRISON

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. HYDE. Mr. Speaker, Ernesto Diaz Rodriguez has been imprisoned for many years in a Cuban prison. His crime is principled opposition to Fidel Castro.

He has written a book of poetry that is both moving and significant, and the Miami Herald, on September 12, 1989, published an appropriate editorial which deserves to be read by Members of this House:

FROM A CELL, BEAUTY

Inexplicably, poetry has flourished in prisons for centuries, Peru's Cesar Vallejo wrote poems in his jail cell that do not betray a caged existence. Renaissance Italy's Torquato Tasso and Russia's Osip Mandelstam transformed their captors cruelty into works that join wisdom to the loveliest diction.

In our own "dark times," jailed Cuban poet Ernesto Diaz Rodriguez continues the tradition of heroic captives who defy wardens and prison guards with works of unsparing lyricism and hopeful simplicity. The recent publication of a bilingual edition of Mr. Diaz's extraordinary collection of children's poems, *The Bell of Dawn*, will go unnoticed in fashionable literary circles. That is to be lamented for many reasons.

Ernesto Diaz Rodriguez has been one of Cuba's plantados—prisoners who refuse to "reform"—for more than 20 years. He is from a family of humble fishermen. Initially set at 15 years in prison, his term was extended to 40 years after he was charged in a surrealist indictment with "conspiring to overthrow the Cuban regime"—from his dank, vile prison cell!

Mr. Diaz has been beaten and deprived of basic rights in all the Cuban jails that he has inhabited. PEN, an international group of writers, has taken up his cause. A Washington-based group, Of Human Rights, published the collection. His sons, whom he has not seen in years, live in Miami. Former political prisoner Julio Hernandez Rojo, now of Miami, illustrated the book.

Mr. Diaz wrote the *The Bell of Dawn* for his sons and for children everywhere. Wholly devoid of bitterness and anger, *The Bell of Dawn* is written in the key of hope. Images of life's renewal in Nature abound: "Oh my son, if only I could/with a plough of frost/scratch furrows in the night/that holds my throat so tight/do you know what I would do? First/I'd plant white roses."

Astonishingly, these lines were smuggled on minuscule sheets of paper from one of Cuba's worst prisons. And Mr. Diaz has not stopped writing. The Cuban regime must free him. Surely it realizes by now that it will never break the spirit of a man who sings to children from his punishment cells. Cuba's jailers have succeeded only in making Ernesto Diaz Rodriguez's voice purer and his universal message deeper.

THE BUREAUCRACY DOES WORK

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. SWIFT. Mr. Speaker, the motivational technique that is least used in politics and government is positive reinforcement. The electorate tells us more frequently what we've done wrong than what we've done right. And, in turn, Members of Congress tend to berate the bureaucracy far more often than we praise it. That's too bad. It is as useful to let people know what they do that pleases us as it is to identify what does not.

I recently got a letter from a constituent who understands this very well. The objects of his praise were the people in his local Social Security office in Everett, WA. I asked his permission to put this letter in the CONGRESSIONAL RECORD where others could see that usually Government does work the way it is supposed to.

The letter was addressed, importantly, not to me but to "Dear helpful and concerned staff." I thank Mr. Leonard Gurian for writing the letter and I'm happy to share it with all of my colleagues.

I would like to thank you people for your concern and advice in my recent "misunderstanding" with the Social Security Administration. Even if there was no direct part in the resolving of the problem on your part the fact that you were there to give me some encouragement and advice was certainly comforting. You helped to give perspective that I did not have and could not have achieved elsewhere at so "little" cost.

I would also like to put on paper my feelings about the people at the local office of the Social Security office. With no exception they were polite, tolerant (of a man who was quite angry when he first went out to the office) informative, patient, straightforward, and actually, I felt, wanted to help me.

Too often we hear of bureaucrats who want to chalk up one more for the team (or for themselves) having shot down Joe Citizen. No so here. I wish I had the name of the person who helped me at the window out there—she was excellent. Mr. Ron Ferwerda who ultimately passed judgment on my case could not have been any more fair. Perhaps he went by the book but how refreshing it was to be told that if I were prepared to culminate the business right then and there I would not have to come back for the second session.

When I went in for the appointment I felt quite strongly that I should not have to pay for three months of the over-payment because I had been advised when I applied for S.S. to ask for those months. Mr. Ferwerda agreed. Although I felt that someone, somewhere fouled up in sending me the money for the months I did not deserve, the fact is that the money was not mine and should be paid back.

Well, enough already. One hears so many horror stories about people trapped in the labyrinth of government red-tape over "sins" never committed it was indeed heartening to have come out of this business with a judgement that I felt was the only fair one. Thank you.

Sincerely,

LEONARD GURIAN.

VINELAND'S ITALIAN-AMERICANS HONORED

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. FLORIO. Mr. Speaker, I would like to take this opportunity to share with my colleagues the accomplishments of four exemplary Italian-Americans that hail from Vineland, NJ. Cesarina DeCesero, Aldo Fiocchi, Dr. Nicholas Marchione, and Elsie Lovecchio have worked hard over the years to improve their communities and, as an Italian-American myself, I am proud to recognize the accomplishments of these individuals and urge my colleagues to join me in honoring their contributions.

This coming Saturday, September 30, these four individuals will be honored with the 1989 Italian Heritage Spirit of Achievement Award at the Italian-American Heritage Gala Ball in Vineland, NJ. The awards were announced by the chair of the Quincentennary Jubilee Commission in recognition of the respect for traditional Italian values that Cesarina, Aldo, Nicholas, and Elsie have demonstrated. As a member of a congressional task force that will act as liaison to the Christopher Columbus Quincentennary Commission, I am pleased to join in calling attention to the accomplishments of my fellow New Jerseyites.

Also Joseph Fiocchi has dedicated much of his life to helping Vineland's youngsters grow to appreciate the art of sportsmanship and has stood as a positive and influential model for many generations. Aldo was born 78 years ago to a hard-working Italian family from Vineland. As a young man, he enjoyed playing baseball for his Vineland team and in later years, gave much service to the East Vineland Little League. His career took many paths including working at Polmonari's Bakery, farming his property, and working as an Invader Oil dealer. Generations of schoolchildren will remember him as the schoolbus driver for 23 years. He has been active in his community and he, and his wife, Dorothy, have three daughters and five grandchildren.

Aldo Fiocchi's name has become synonymous with dedication to helping local youth grow and learn to handle the responsibilities of adulthood. His efforts will be remembered by many generations of baseball players.

Although Elsie Lovecchio is no longer with us, I know her family will be proud of her when she is given, posthumously, the Heritage Spirit of Achievement Award. In her life, Elsie made many contributions to improving her community and helping her neighbors. A native of New York City, Elsie was particularly proud of her Italian heritage. Learning both Italian and Spanish, she became the first official Spanish interpreter in the South Jersey area's court system. She gave 27 years of service to the municipal, county, State, and Federal court systems and often was called upon to help many of our area Italian residents who needed assistance with the language. Elsie found the time to volunteer on behalf of many civic and charitable organizations, including the Vineland Jaycettes, the American Cancer Society, the Heart Association, the Women's Auxiliary of Newcomb Medical Center, and the Lion's Club Auxiliary. She and her husband Sonny had two children. To her family and to the countless men and women that came into contact with Elsie, her life was a blessing.

Cesarina DeCesero emigrated from Italy with her family in 1956 and soon adapted to her new community and country. Rina pursued her lifelong dream to become a teacher at Saint Francis of Assisi School, and at Vineland Public Schools. She has been instrumental in strengthening the Italian program at Vineland High School and her student can experience the language and culture of Italy

through her efforts. Every 2 years, she organizes student trips to Italy and helps further their understanding of the rich cultural traditions of our ancestors. She is truly a credit to her profession and her community and I am pleased that she is being honored through this award.

And last, but not least, Dr. Nicholas Marchione has spent more than half a century as a physician, serving his community with untiring devotion and unstinting humanitarian efforts. Dr. Marchione has been a member of the medical-dental staff of Newcomb Hospital in Vineland, as well as medical director at the Bishop McCarthy Residence for Skilled and Intermediate Care and at the Cumberland Community Adult Medical Day Care Center. A member of many professional associations, he is also the secretary for the Newcomb Foundation Board of Trustees and is on the advisory board of the Vineland Senior Center.

I take special pride in knowing that these Vinelanders will be honored Saturday night. They have met the challenges of daily life while upholding their devotion to their families and their communities and demonstrating pride in their heritage and their roots. I urge my colleagues to join me in commending Aldo Fiocchi, Elsie Lovecchio, Cesarina DeCesero, and Nicholas Marchione.

UNITED STATES FOREIGN POLICY TOWARD A PEACEFUL SETTLEMENT OF THE ANGOLAN CIVIL WAR

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. WOLPE. Mr. Speaker, I am today introducing a sense-of-Congress resolution urging a reassessment and modification of American policy toward Angola. The resolution seeks to strengthen the bond of the African heads of state who are attempting to mediate an end to the fighting between the Government of Angola and the UNITA insurgency. My hope is that this resolution epitomized a bipartisan group of over sixty Members of Congress will stimulate a long-overdue policy debate on this vital question.

The 14-year Angolan war, as we all recognize, has been a massive human disaster. It has left in its wake over 100,000 dead, 50,000 amputees, 400,000 refugees, and 600,000 internally displaced. This large human loss I believe, has to get our attention, and strongly influence the formulation of our policies. Years of efforts by both sides, fueled by outside interests, to settle this conflict by military means have failed. In the meantime, Angolan society has been devastated. Other means—by that I mean diplomatic means—must now be emphasized.

Let me also state from the outset: It is no secret that I and many other Democrats have strongly opposed United States military involvement in what is essentially an internal conflict in Angola.

Repeatedly, I have emphasized that the support which the United States has provided UNITA since late 1985 was ill-conceived: It placed us in an unholy alliance with South Africa; it catered to overly simplistic East-West ideological labels which look even more irrelevant in the Gorbachev era; it was counterproductive to both the exit of Cuban forces from Angola and an eventual reconciliation between the Government of Angola and UNITA, and it hindered the United States from pursuing an even-handed diplomacy.

Nonetheless, these important differences between myself and the administration have not prevented us from cooperating at other levels in seeking peace in Angola.

I applauded the administration's work in brokering the Angola-Namibia accord which laid the basis for the withdrawal of South African and Cuban forces from the region and provided for the transition to independence of Namibia.

In June 1987, I, late Congressman Mickey Leland, and Congressmen MURTHA and RAHALL traveled to Angola to retrieve an American pilot. During that trip, we pressed the Angolan Government to present new proposals for the withdrawal of Cuban forces, and not simply to wait until more time had elapsed. That intervention contributed to advancing the Reagan administration's quest for an Angola-Namibia accord.

It is in this context, then, that I wish to reassess where American policy toward Angola currently stands. While much of what I have to say will be critical of the administration's approach, we nonetheless share common goals. Moreover, my concerns are driven by the urgency of the human disaster in Angola, and by an appreciation that the peace process begun in June at the Gbadolite summit has indeed virtually broken down.

United States policy toward Angola is simply not working. Now is an appropriate moment to advance the public debate of U.S. policy—to question whether policy should be determined by rigid ideological commitments and well-connected public relations firms, or whether there is the possibility for greater rationality and balance in U.S. foreign policy.

In this regard, I have been heartened by the response of Democrats and Republicans alike to this sense of Congress resolution concerning United States relations with the Angolan Government.

This resolution acknowledges important steps taken by the Angolan Government at the urging of the United States—in terms of Cuban troop withdrawal, macroeconomic reform, and entering negotiations with UNITA—and calls on the administration to reciprocate by taking steps to begin normalizing relations with Angola—through the establishment of a United States liaison office in Luanda, support of Angola's entry into the IMF and World Bank, and delivery of humanitarian assistance to all Angolans.

The resolution is not intended to be anti-UNITA, or to deny that UNITA represents a real constituency, and that the Government of Angola must continue to take difficult steps in reconciling with UNITA. It is intended rather to signal the vital need for more balance and moderation in U.S. policy. And apparently, that is a theme which resonates strongly among a large bipartisan segment of Congress: The resolution has 46 Democratic cosponsors and 15 Republican cosponsors.

Any solution to the crisis in Angola requires a realistic compromise that bridges the maximum demands of the Angolan Government and UNITA. Critical to any success are African mediation efforts, centered in the southern African region, that aim at pressing the two sides to moderate their demands; these initiatives, above all other developments, require the strong support of the United States and others.

Unfortunately, however, the administration's evolving diplomatic approach in Angola has begun to fall short in this regard, something which I find deeply disturbing.

After first seeming to support African-led efforts, the administration has drifted into a posture where it now increasingly backs UNITA leader Jonas Savimbi's maximum demands and his refusal to comply with the agreements he made at the historic Gbadolite summit last June. In effect, U.S. policy seems to have become hostage to Savimbi's personal agenda. Lost in the process is any sense of where United States national interests and goals lie, with respect to Angola and the surrounding region.

The administration has moved into a closer and closer embrace of Savimbi, with little apparent regard for: First, how cynical this appears to the other major parties to the negotiations; second, how threatening it is to the ability of the African heads of state to bring the Government of Angola and UNITA soon to a fair compromise; third, and how this contributes to the prolongation of the massive human suffering of innocent Angolans, so long as the fighting continues and real negotiations are postponed.

This approach by the administration has begun to do serious damage to the African-led efforts for peace and a fair compromise in Angola. If the administration continues along its current course, I fear it will systematically undermine the prospects for peace in Angola.

When the United States appears so biased in its perspective, it is hardly surprising that Mr. Savimbi and UNITA become ever more hardline, militaristic, dismissive, and obstructive in the peace talks.

Reaching a peaceful solution in Angola will require sacrifice by both sides. Yet we reportedly provide increasing military assistance to UNITA at the same time that we refuse to pressure Mr. Savimbi to compromise. However much the administration truly desires to see a reconciliation in Angola, its approach has nonetheless proved terribly ineffective: We should not be surprised that the peace process has in recent weeks virtually broken down, partly as a consequence of U.S. policy, and principally due to Savimbi's hardline actions. Savimbi has refused to accept Mobutu's proposal for a cease-fire, rejected what he agreed to at Gbadolite, and now spurned a direct appeal from President Bush and Assistant Secretary Cohen to appear at the September 18 round of talks in Kinshasa.

Contrary to what the administration told us when the peace process began at the Gbadolite summit in June, the administration has not stood to the side and respected the integrity of the negotiations as they unfolded under the direction of African leaders.

Instead, the administration has recently begun to intervene directly in the negotiations, prescribing the exact contents of an eventual settlement.

It has reinterpreted the understandings reached at Gbadolite—strictly in line with Savimbi's preferences—in a way that directly contradicts both the communiques issued by the African heads of state at Gbadolite in June, Harare in August, and Kinshasa in September, as well as the individual statements of Presidents Mobutu, Kaunda, Bongo, Perreira, and others. We are led to believe that Savimbi in fact did not commit himself to negotiate an integration of UNITA into the Angolan political structure and a temporary and voluntary retirement, something altogether different from the opinion of the respected and friendly African leaders who have participated in the talks.

The administration has aggressively intervened in the negotiating process by demanding that any final settlement be in line with Savimbi's position that the Angolan Government be dissolved, a national unity government be established, and an election be held to write a new constitution.

Finally, the administration has not followed through on its expressed desire not only to continue supporting Savimbi, but at the same time to demonstrate a degree of balance and impartiality through steps which would begin to normalize relations with the Government of Angola.

Instead, there is continued, strained communication with the Government of Angola and no evidence whatsoever of a commitment by the administration to reward the Government for the withdrawal of Cuban forces under the United States-brokered Angola-Namibia accord, for its extensive macroeconomic reforms, and for its decision to negotiate with UNITA. There is still no United States liaison office in Luanda. Nor has the administration supported Angola's full participation in the IMF and World Bank. This implicitly denies us any serious leverage in our dealing with the Angolan Government.

In closing, let me simply reiterate my desire for a serious reappraisal of United States policy toward Angola. The moment has arrived for a far more balanced, informed, and rational policy, one less partisan in conception, less driven by narrow ideological passions or narrow political pressures here in Washington. The human disaster in Angola has gone on for far too long.

IN HONOR OF THE MOST REVEREND FRANCIS JOHN MUGAVERO

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. MANTON. Mr. Speaker, I rise today to pay tribute to the Most Reverend Francis John Mugavero on the occasion of his retirement. For the past 21 years, Reverend Mugavero has served the community where he was born and raised as Bishop of the Diocese of Brooklyn, NY. Since his ordination in 1940, Reverend Mugavero has devoted his time and energy to improving the lives of the people of New York.

During his distinguished career, the Most Reverend Francis John Mugavero has accomplished more than many Americans who devote their lives to serving God and mankind. In honor of his work on behalf of the retarded, Reverend Mugavero has received the humanitarian award from the Association for Help of Retarded Children, and the Man of the Year Award from the Community Mayors of New York State. But his work with the retarded is just one facet of Reverend Mugavero's career. In fact, it would be difficult to list all the honors which Reverend Mugavero has been accorded. In 1987 alone, Reverend Mugavero received the family of New York award from Governor Cuomo, the Laguardia medal from Mayor Koch and was honored by resolution in the New York State Senate.

Mr. Speaker, I know my colleagues in the House join me in commending the Most Reverend Francis John Mugavero for his service and dedication to the people of New York. His commitment to lightening the burden of the poor and less fortunate among us has been an inspiration for us all.

REPEAL SECTION 89—SUPPORT THE DORGAN AMENDMENT BUDGET RECONCILIATION

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. ROHRABACHER. Mr. Speaker, I am proud to support the amendment offered by the gentleman from North Dakota [Mr. DORGAN]. His amendment would repeal the unfair section 89 of the Tax Reform Act of 1986.

The goal of section 89 was to expand the benefits of health insurance to cover more workers. The result of section 89? Many businesses have been forced to drop their plans altogether.

When Congress passed section 89, it saddled businesses, large and small alike, with huge administrative costs, increased paperwork, and possible tax penalties. It is obvious that Congress must repeal section 89.

Section 89 was designed to prevent fringe benefits such as health insurance from being provided only to highly paid employees. If a small business offers health, life, or accident plans to their employees, they are subject to a series of complicated nondiscrimination tests for each individual plan.

Section 89 is excessively expensive and complicated, and is causing many employers to reduce or eliminate benefits completely, rather than risk noncompliance. Regulations were finally issued for section 89 on March 7 by the Treasury Department. These regulations were described as "the size of a short but intricate novel." Witnesses in hearings before the Committee on Small Business estimated that aggregate compliance costs will range from $1 billion to $5 billion. The answer is not revision, the answer is repeal.

I urge my colleagues to support the repeal of section 89. I include the following article on section 89 in the RECORD.

SECTION 89: TAX CODE LIMITS WORKERS' CHOICES

(By Roy E. Cordato)

Over the last decade workers have come to benefit by an invigorating dose of competition and choice with respect to health insurance plans. While most companies once offered their employees one health insurance policy—take it or leave it—most workers now have the opportunity to choose among dozens of options. Workers can now make trade-offs between higher or lower wages and more or less extensive health care insurance coverage. They can tailor their compensation packages to their own needs. If they are young, single, and at low risk, they have the opportunity to accept more of their compensation in the form of wages and less in the form of extensive health care insurance coverage. Conversely, if they have a family or are older workers who may be at higher risk, they can make other trade-offs. Clearly, these kinds of options have helped the average wage earner.

One section of the Internal Revenue Code threatens to take a good part of that freedom away by penalizing both employers and employees in workplaces where these kinds of options are available. The justification for Section 89, instituted as part of the Tax Reform Act of 1986, is based on knee-jerk egalitarianism. The tax system is being used here to reduce "employee-benefit discrimination" i.e., to see to it that lower paid workers get the same health care coverage as higher paid workers. In order to comply with Section 89, employers will have to correct disparities in health care coverage that is freely chosen by lower and higher paid workers. If these disparities are not corrected, those higher paid workers with more extensive plans will have to pay a tax penalty. The virtues of free choice are turned into vices by the tax code.

There are many problems with the Section 89 requirement, not the least of which is the underlying assumption that all employees within a workplace should have the same level of health insurance coverage. The fact is that when free choice is allowed, it is likely that equality of result will never be achieved. People make choices based on their own needs and preferences, which always differ from one person to another. Policies that attempt to force quality of result at the expense of free choice can never make people better off. Section 89 is no exception.

But even from an egalitarian perspective, this provision in the tax code doesn't make much sense. Its intent is not to ensure that everyone's level of compensation is the same, but to equalize one component of everyone's compensation package in a given workplace. In fact, however, the after-tax dollar value of workers' compensation packages isn't likely to be any more "equitable" after than before Section 89's leveling process takes place.

If lower paid workers are forced to take more extensive health insurance coverage, it will be at the expense of money wages or some other benefits. The issue for employers is how much it costs them to compensate labor, not what form that compensation takes. The value of a worker's compensation package is determined by how much the worker contributes to the production process. Without an increase in productivity from the worker, there is no reason to expect that the dollar value of his compensation package would be increased.

This would be especially damaging to very low paid employees, working at or near the minimum wage. Since their wages could not be lowered, those whose productivity does not justify a higher valued compensation package would lose their jobs. In cases where higher paid workers have to take less extensive coverage, wages or other benefits would have to be increased in order for employers to retain their services. Section 89 would neither make compensation among workers more equitable nor make workers better off.

Obviously Section 89 is no deal for employers either. Many companies offer their employees hundreds of health insurance options. Remember, simply offering health insurance plans in a nondiscriminatory way is not good enough for the social engineers who crafted Section 89. Companies will have to determine if the dollar value of the insurance plans that their employees actually choose is distributed among them in such a way that lower paid employees do not have lower valued plans. As with nearly all government programs, free choice is the enemy of Section 89.

Given that the administrative costs of this process will be very high, it may be cost effective for companies to take what might best be called the noncompliance option. If a company decides not to put itself through the battery of tests that the IRS requires, or if the IRS determines that inequities still exist, those employees earning over $75,000 (as low as $45,000 under some circumstances) who have higher valued plans will be taxed on a portion of those benefits. Since this would be tantamount to a pay cut for these workers, it is likely that employers, in order to retain them, would increase their wages to compensate for the added tax burden. It may be less expensive for an employer to do this than to bear the costs associated with strict compliance. Of course the Treasury is hoping that many employers will take this option because it is these tax penalties that are supposed to make Section 89 a $300 million revenue raiser for the government.

This suggests that Section 89 was put in the tax code more for its possibilities as a revenue raiser than as a means of achieving social justice. The government benefits from Section 89 to the extent that it is not complied with. This could provide the logic behind why it has been made so complicated.

Section 89 also might be a back-door method of implementing a mandated health insurance program. As with proposals to mandate health insurance, the formula that is used to determine if the values of health insurance policies are distributed equally includes part-time employees working more than 17.5 hours per week. This means that many part-time employees, who typically haven't qualified for health insurance benefits, must be provided with the same plans as full-time workers.

This could impose real hardships on these workers. In particular, it would create an incentive for employers to offer part-time employment that entails less than 17.5 hours of work per week. Workers who desire less than full-time employment, but more than just a few hours a week, may have to piece together an income from several different sources. Those employees who remain part-time, but work more than 17.5 hours per week, will probably have to trade off lower wages in exchange for their health insurance benefits. Since most people who work at part-time jobs do so for the extra cash, not for the benefits, this kind of trade-off would clearly make them worse off.

As social policy, Section 89 of the IRS Code has no justification. It presumably is meant to improve living standards for lower paid workers. But in reality it will make workers in all income categories worse off by restricting their liberty to choose the compensation package that best fits their needs and to freely negotiate labor contracts. In addition it will raise labor costs to business, which will mean slower growth and job creation rates for the economy as a whole.

CENTENNIAL CEREMONY HONORS CENTRAL RAILROAD TERMINAL IN JERSEY CITY

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. GUARINI. Mr. Speaker, ceremonies marking an important page in America's history will be held in Jersey City on Saturday, September 30, 1989, at 10 a.m. in Liberty State Park. The event will be a celebration commemorating the 100th anniversary of the Central Railroad of New Jersey terminal, which ceased operation on April 29, 1967.

This great railroad station carried tens of thousands of passengers daily in the New Jersey rail systerm. Its train base emptied into a ferry house which allowed passengers to take short boat rides to Manhattan.

Just a few hundred feet from the point where the Hudson River meets upper New York Bay, the terminal offers perhaps the most exciting view of New York City's skyline to the east, and the Statue of Liberty to the south. It performed its greatest task during the heavy migration periods when individuals from all over the world were taken from Ellis Island by ferry to the train station. It was from this terminal that thousands of men, women, and children ventured forth to communities throughout the country to start new lives.

The train terminal served as a tremendous people mover and was saved from destruction or conversion as commercial or industrial property on several occasions. The Jersey City terminal was one of several railroad-maritime passenger terminals that once existed in the New York Harbor area. It was a harborside facility, serving both train and ferry traffic. The existing Jersey City terminal complex dates to 1914, when a new train shed and ferry house were built around the remodeled 1889 station house.

The pride of the terminal was the corrugated steel ferry house. According to the Jersey Journal of March 25, 1975:

Completed in 1893, it was the marvel of its time. Like the rail yards behind it, the terminal stands on the filled-in salt marsh that was called South Cove by early Dutch settlers.

It was from this ancient inlet, from a dock at what is now Phillip Street in the village of Communipaw, that the first ferry moved across the harbor. The gleaming CNJ terminal, like the others to the north, was the East Coast railhead of the nation's train network. Short of spanning a mile-wide river, Jersey City was as close to New York as you could get.

The main terminal building is topped by a huge lantern-like beacon, similar to the one atop the historic Metropolitan Life Building across the river.

On each side of this centerpiece, four gables protrude from the mansard roof, from which eager tourists could get an unusual view.

Behind it lies the train shed, which once shielded 20 trains from the weather. The steel and concrete ribs of its roof are supported by more than 250 cast iron ionic columns. One of these is missing, though.

As the first few passengers hopped off the steam-powered trains in 1893, this column was shipped to Chicago as an example of American manufacturing skill at the Columbian Esposition. After an 18-month display, it was sent back, but never made it. There was a train wreck, and the column was badly damaged.

The beautiful station was saved in 1965–66 by then-Governor of New Jersey, Richard J. Hughes, who arranged for financial assistance to save the railroad property.

On November 17, 1966, an auction was to be held, conducted by the famous Joseph P. Day Co., of New York City. It was canceled by the Governor of New Jersey.

In 1975, the railroad terminal was placed on the National Register of Historic Places and the State Register of Historic Places, as plans were being made for a new Liberty State Park, State Environmental Protection Commissioner David J. Bardin said "It is a fitting tribute to a unique part of our State's heritage."

Governor Byrne said,

The terminal exemplifies several facets of New Jersey's heritage. It reflects the State's industrial development. It symbolizes the great immigrant era. And it stands as a notable accomplishment of our 19th century architects, engineers and construction trades.

Bardin said,

During the migration period three ports received immigrants processed at Ellis Island, New York, Hoboken and Jersey City—and many opted for Jersey City because it was closest to Ellis Island and the Statue of Liberty.

These ethnic groups contributed to the cultural and industrial development of the city for many decades afterward.

In 1990, there were 125 boats, with 45 routes, creating a spider web of crossing on the Hudson and East Rivers and the upper bay.

Quoting from an article, "Moving People in the Port," by Norman Brouwer, an 1888 article in Harper's Weekly noted:

All around the ends of these cabins were locker-seats of mahogany, without arms. The rest of the cabin was finished in walnut and mahogany or bird's-eye maple. In some of these boats, the cabin floor was covered with oil-cloth or carpet, and the seats were cushioned and upholstered with crimson velvet. Besides the seats around the cabin ends, there were three-legged stools which, when the voyage was prolonged, the passengers gathered around the stoves in cold weather, and calling for a hot toddy, would tell stories or play whist, or call Ben the fireman, who was a famous fiddler in his day.

As the boats increased in size, the cabins moved to the main deck, gaining still more headroom. Stained-glass transoms were fitted above the doors, and stained-glass windows ran around the ceilings. By the 1880's, the darker woodwork was giving way to elegant cream-colored paneling trimmed with gold; steam piping or radiators were replacing stoves for heating, and gas or electric lighting was replacing the earlier kerosene lamps. The benches around the sides remained, usually built of cherry or maple. When upper deck cabins were added, similar benches ran around the exterior, lining a continuous promenade circling the deck. This arrangement last survived on the Staten Island ferries, "Miss New York," and "Mary Murray" retired in the early 1970's.

The Central Railroad terminal is now a center for many community activities. It has been upgraded and its vast covered terminal is used annually for an ethnic festival, which attracts tens of thousands of individuals in September.

There is also an excellent flag day program, which has been conducted by Morris Pesin, volunteer director of the City Spirit of Jersey City. The flag program brings people of all cultures and backgrounds to the area for a day of arts and crafts, music, dance, and an exchange of the best which the people from many lands have given to America.

The terminal is part of beautiful Liberty State Park, which is considered by many the jewel of the Hudson. It was my pleasure, along with Congressman JAMES J. FLORIO, in 1979, to welcome Congressman John F. Seiberling, of Ohio, who as a member of the Committee of the National Park Service announced a large grant which began the reincarnation of this beautiful park.

The park is developing beautifully. Thousands of visitors come each weekend, to see the Statue of Liberty which is but 600 yards from the Jersey City shoreline.

With the help of the New Jersey State Department of Environmental Protection, Division of Parks what was once a cathedral to train travel will become a place to reflect upon what America was, what America is, and what America could be in the future.

Rededication ceremonies will be at 12 noon, with live entertainment, an exhibit, ethnic foods, and ferry rides.

I am deeply pleased to represent the 14th District where this commemoration is taking place. I am sure my fellow Members of this House want to join in this grand salute.

WSM: A HISTORY OF EXCELLENCE

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. CLEMENT. Mr. Speaker, I rise today to pay tribute to a radio station in my hometown, Nashville, TN, that has played an integral role in the history of broadcasting—radio station WSM.

Many of my colleagues are familiar with those call letters. WSM radio, a vanguard of the broadcasting industry, has been a pioneer in radio history since the 1920's.

WSM's stature in broadcasting history is best illustrated through the following outline of accomplishments:

In 1925 WSM makes its first broadcast from the Capitol Hill Building in Nashville. It carries a world series game, announced by Jack Keefe, which is heard via loudspeakers on the capitol building. The call letters, reflecting insurance company ownership, stand for "We shield millions."

In 1927 the "WSM Barn Dance" is given the name "Grand Ole Opry."

In 1932 the Federal Radio Commission awards WSM a clear channel license at 650 kilocycles, and grants the station permission to increase from 5,000 to 50,000 watts.

WSM erects an 878-foot tower in Williamson County. It is one of four diamond-shaped towers built by Blaw Knob Co. of Pittsburgh, PA. The tower is still in use today.

In 1939 the "Grand Ole Opry" moves to the new war memorial auditorium, and in November the "Grand Ole Opry" premiers on the NBC radio network.

In 1941 WSM's experiments with FM operation debut on W47NV, the first commercially operated FM station in the country.

In 1943 the "Grand Ole Opry" moves to Ryman Auditorium.

In 1947 FCC rulings allow W47NV to redesignate itself WSM-FM.

From 1951-86 WSM radio 650 has the longest running, daily, live in-studio orchestra show in radio history.

In 1966 WSM-AM moves it operations from Capitol Hill to the new Knob Hill facility in west Nashville.

In 1968 WSM-AM, with FCC approval, buys WLWW-FM. Operating at the frequency of 95.5 WSM debuts at 100,000 watts.

In 1972 WSM becomes incorporated, bringing together WSM AM/FM, WSM-TV, Opryland USA, the "Grand Ole Opry," and later, Opryland Productions.

In 1974 the "Grand Ole Opry" moves into the new Opry House at the Opryland entertainment complex on March 16.

In 1981, in December, WSM and AP radio announce plans to form the country music network, later to become the music country radio newtwork, a late-night programming service to broadcast via satellite with WSM-AM as the flagship station.

In 1982, in March, WSM AM/FM moves its operations to a site on McGavock Pike adjacent to the Opryland complex.

WSM and AP radio debut music country network on April 1.

WSM becomes Nashville's first AM stereo station on December 6, during ceremonies on the stage the Grand Ole Opry House.

In 1983 WSM-FM makes its debut as Nashville 95FM, "The New Country," on Monday, January 23. Veteran radio personality Charlie Douglas joins music country network as primary host on Monday, June 30.

On September 1, Opryland USA, Inc., which includes WSM/FM, the Grand Ole Opry, the Nashville Network, Opryland USA Theme Park, and the Opryland Hotel is purchased by Gaylord Broadcasting Co. of Dallas, TX.

In 1984 Nashville 95FM takes country music to the top in the fall arbitron ratings book.

In May the music country radio network moves into a new studio located in the lobby of the Opryland Hotel.

Some of the accomplishments I've listed as part of WSM's history represent corporate achievements, while others reflect true milestones in broadcasting history. But, they all display an excellence in management, commitment, and dedication to service for millions of listeners WSM has served throughout the years.

Earlier this month, on September 14, 1989, WSM-AM received the National Association of Broadcasters' Crystal Award for excellence in local achievement. WSM was one of 10 recipients chosen from 50 finalists from across the Nation to be recognized for its ongoing air commitment and community involvement. According to NAB, "The award is achieved through tremendous levels of coordination of management, programming, sales/marketing, promotion, and engineering staff on behalf of the community interest and well being."

In 1989 WSM became the first radio station ever to win the Scripps Howard Award, the Edward R. Murrow Award, and the Peabody Award in the same year, for a news program on violence in Nashville.

WSM also became the sole winner of a radio award from the President's Committee on Handicapped Employment for a new series called. "I Love Life," which focuses on people who have overcome adversity.

I am very proud to boast that I grew up listening to WSM radio, the home of the Grand Ole Opry in "Music City U.S.A."

I am also very proud to be able to pay tribute today to this historical broadcast entity.

To the management and staff of WSM radio in Nashville, and to everyone ever associated with WSM radio, I offer my thanks and congratulations for a job very well done.

TRIBUTE TO THE VERY REVEREND DONALD J. HARRINGTON

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. RANGEL. Mr. Speaker, I would like to extend a special welcome to the newly appointed president of St. John's University in New York, the Very Reverend Donald J. Harrington, C.M. He officially assumed his stewardship of our Nation's largest Catholic university on August 7. Father Harrington will be joining a group of 25 top students in Washington for the annual Insider's View of the Capital, sponsored by the SJU Washington Alumni Chapter.

A native of Brooklyn, Father Harrington returns to the city of his birth with a tremendous record of accomplishment in the field of higher education. He most recently served as president of Niagara University, a Vincentian Fathers school located in Buffalo, NY. He was the youngest president of Niagara in over 120 years.

In the tradition of St. Vincent DePaul, Father Harrington has stressed the use of university resources and facilities for the betterment of the community at large. At Niagara, he partici-

pated in local efforts to improve education, health care, economic development, and environmental problems. We look forward to his involvement in the Greater New York area.

Since St. John's was founded in 1870, the university has grown to serve 20,000 students, primarily commuters from middle class families throughout the Metropolitan New York area. Tens of thousands of students have benefited from the affordable and high quality education St. John's has offered to students of every race, creed, and color.

I am a graduate of St. John's School of Law, and four of our other colleagues in the House have attended or graduated from various schools in the university. Over the years I have been privileged to participate in many university activities in New York and Washington. I look forward to working with Father Harrington on issues of regional and national concern. I know that the entire membership of the 101st Congress joins me in welcoming him and wishing him well in the challenges which lie ahead at St. John's.

IN HONOR OF THE 78TH ANNIVERSARY OF TAIWAN'S INDEPENDENCE

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. MANTON. Mr. Speaker, I rise today to congratulate the people of Taiwan as they mark the 78th anniversary of the founding of their Government. Taiwan's achievements are indeed worthy of celebration. Since 1911, Taiwan has been transformed from an agrarian society to a modern, commercial, and industrial economy. Today, Taiwan is the 12th largest trading entity in the world. Taiwan's remarkable economic success is a tribute to the effective policies undertaken by the Taipei government. Through the leadership of the Kuomintang Party, Taiwan has succeeded where many nations have failed. Trade in Taiwan has tripled every 5 years since 1955, and Taiwan has one of the highest standards of living in the world. The United States economy has benefited from certain aspects of the success of Taiwan. The United States is Taiwan's largest trading partner and supplies 22 percent of all imports in Taiwan.

Mr. Speaker, on this important anniversary, let us honor Taiwan for the important accomplishments this island nation has made in the last 78 years. Taiwan's economic growth and democratic ideals should be a shining example for other nations in that part of the world.

CONGRESSIONAL SALUTE TO JOSEPH A. FERNANDEZ

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mrs. ROS-LEHTINEN. Mr. Speaker, it is with great pride and admiration that I rise today to salute an outstanding public servant from my 18th Congressional District of Florida who, in 2 years as superintendent of Dade County public schools, has earned a national reputation as an innovator and risktaker.

I am speaking of Dr. Joseph A. Fernandez. As the superintendent of the Nation's fourth largest school system, Dr. Fernandez has restored the gift of learning to students and teachers alike.

He is a man who gets things done through energy and sheer force of personality. He has forged links between the business community and schools, invested schools with more decisionmaking power, and spearheaded a successful drive for a $980 million bond issue to build 49 schools to alleviate an overcrowded school system.

During his tenure as superintendent, the Dade County school system's dropout rate fell 5.5 percent. Through his school-based management program, he simultaneously raised morale among teachers and won a reputation of excellence for Dade County schools.

Other innovative programs include: a teacher evaluation program administered by other teachers, voluntary Saturday classes, and shorter class periods to free teachers to work with students on personal and academic problems.

In a school district which is about 45 percent Hispanic, 33 percent black and the remainder non-Hispanic white, he has been the great unifier. He understands the delicate ethnic balance and has gotten the parents of each group to work together by stressing the importance of education to the community and the Nation.

Mr. Speaker, it is my hope that all the Members in this exalted Chamber will rise with me to wish Mr. Fernandez good luck as he leaves south Florida to continue his work in education as the chancellor of the New York school system, the Nation's largest school system.

A LIFETIME OF SERVICE

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. FLIPPO. Mr. Speaker, on Saturday, October 7, 1989, the King's Memorial United Methodist Church of Decatur, AL, will celebrate the 112th anniversary of the church. As part of this celebration, a very special member of the congregation, Mrs. Mable Collier Lockhart, will be honored for her community service.

In a time where volunteerism is needed in our communities throughout our Nation, Mrs. Lockhart is a shining example of how one person can make a difference and influence the lives of thousands of individuals.

Mrs. Lockhart is now 80 years old; however, age has not slowed her enthusiasm and determination to help her community, her church, and the young people in Alabama.

Mrs. Lockhart began teaching in Alabama at the age of 15 and continued teaching while attending college. For 42 years Mable Lockhart taught thousands of children in the State of Alabama and specifically the Tennessee Valley area. Her devotion to education, her leadership and vigor provided a stimulus to children to strive for greater achievements and explore the vast world in which we live.

Over the years she has served her church in numerous capacities as well as civic organizations that assist the hungry, the lonely, the homeless, and others with special needs. Young and old have benefited from Mrs. Lockhart's hard work. As a Scout den mother and Girl Scout leader, young men and women have benefited from her wisdom and leadership. Through the Meals on Wheels Program and the Retired Senior Volunteer Program, Mrs. Lockhart has cared for her neighbors who are in need. Her service to her church over the years has provided comfort and friendship to many in the Decatur region.

It is indeed an honor for me to join with the members of the Decatur, AL, community and the congregation of King's Memorial United Methodist Church in saluting a lifetime of service by Mrs. Mable Collier Lockhart.

CUBS CLINCH DIVISION TITLE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. PORTER. Mr. Speaker, every spring Sports Illustrated issues its baseball scouting report for the coming season. This year it said that the New York Mets couldn't be beaten. Their lineup was "an embarrassment of riches." So good that the Mets second stringers could take fourth in the division all by themselves.

By contrast, it said the Cubs were lousy. They'd finish fifth at best. The article snidely remarked that "the Cubs [are] still in the thick of their 90-year plan," referring to their last World Series victory in 1908.

But last night the Cubs tossed out that 90-year plan as they became the first team in baseball to clinch a division title. They finished ahead of St. Louis, Philadelphia, Pittsburgh, Montreal, and, oh yes, the wonder boys from New York.

Mr. Speaker, now that the Cubs have conquered their east coast rivals, they are poised to vanquish the west coast Giants and then win the World Series.

HAPPY 78TH ANNIVERSARY TO TAIWAN

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. COLEMAN of Texas. Mr. Speaker, as Taiwan—the Republic of China—gets ready to celebrate her 78th anniversary on October 10, my colleagues and I wish to congratulate Taiwan's President, Dr. Lee Teng-hui, and commend him for his leadership of his country.

Mr. Speaker, much has been written about Taiwan's economic achievements, and we are proud of her economic successes. In fact, Taiwan is our fifth largest trading partner and a major market for our goods as well as major supplier to our markets. Until last year, Taiwan

was running large trade surpluses with us. Last year, however, this trend was reversed and the surplus was reduced by 35 percent. It is my belief that Taiwan will continue to cut her surplus with us, as Taiwan's representative Ding Mou-shih told us that his Government is fully committed to balancing her trade with us. Ding specifically mentioned Taiwan's detailed timetable for the elimination of Taiwan's surplus with us by 1992. I believe Taiwan is the only country that has made such a clear commitment.

Congratulations, President Lee. We wish you all the best.

THE INTRODUCTION OF LEGISLATION FOR TUOLUMNE COUNTY, CA, REGARDING LONG-TERM WATER CONTRACTS

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. LEHMAN of California. Mr. Speaker, today I am introducing legislation that will allow the Tuolumne Regional Water District in my district to enter into a long-term water contract with the Bureau of Reclamation for delivery of water from the New Melones Reservoir.

Normally, this legislation would not be needed. Normally, the Bureau has the authority to negotiate and enter into water delivery contracts as long as the appropriate Federal and State requirements have been met. However, with the approval of the energy and water appropriations bill, a water contracting moratorium went into effect that placed a prohibition on all new Central Valley project water contracts. I agree with my good friend and chairman of the authorizing committee, Mr. MILLER, that the controversies surrounding the contracting of remaining CVP yield in the delta warrant slow and careful consideration. Unfortunately, I disagree that every contract regardless of its impact on the delta must be held up until the moratorium expires on October 1, 1990.

Tuolumne Regional Water District's right to its allocation of New Melones water is based in the Flood Control Act of 1962, sec. 203 and in the final supplemental environmental impact statement. The act reads, "* * * before initiating any diversion from the Stanislaus River basin in connection with the operation of the Central Valley project, the Secretary of the Interior shall determine the quantity of water required to satisfy all existing and anticipated future needs within the basin and the diversions shall at all times be subordinate to the quantities so determined." What this means is that New Melones water cannot be used to settle any water contracting disputes in the rest of the CVP, including the delta, until the in-basin users' needs are met. Holding the Tuolumne contract is contrary to the spirit and intent of this act.

Mr. Speaker, Chairman MILLER has assured me, as a member of the authorizing subcommittee, that the committee will consider my legislation as quickly as possible and I appreciate assistance and cooperation.

TRIBUTE TO CAREY WELT

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. McGRATH. Mr. Speaker, I would like to take this opportunity to pay homage to a brave firefighter from my district. On August 22, 1989, explosions rocked a propane plant in New Cassel, NY. Fire and debris fell among the surrounding residential neighborhoods and police evacuated nearly 10,000 people from their homes.

Among the dozens of firefighters who responded to the emergency call was Nassau County Fire Inspector Carey Welt. As the fires burned, it was discovered that a half-full 15,000 gallon propane tank was feeding surrounding flames with the highly combustible gas. Fire officials at the scene said that an explosion of that tank would have had the destructive equivalent to a small atomic blast. Structures within a quarter-mile radius would have been leveled. Inspector Welt, at great personal risk, crawled on hands and knees to the tank to shut an open gas valve leaking propane.

Fire Inspector Welt's selfless, heroic action saved many lives and millions of dollars worth of residential property. I ask all of my colleagues to join me in honoring this courageous and dedicated public servant.

HAPPY BIRTHDAY, PRESIDENT LEE

HON. HAROLD L. VOLKMER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. VOLKMER. Mr. Speaker, on October 10, 1989, President Lee Teng-hui of the Republic of China on Taiwan will join his countrymen in a grand celebration of their country's 78th birthday. Taiwan truly has much to celebrate. Its citizens enjoy a high standard of living and its economy continues to boom. With a severe labor shortage, people all have good jobs and in a recent survey, people from all walks of life expressed a high level of satisfaction with their leaders and their environment. In fact, President Lee Teng-hui received a 97-percent job approval rating, making him one of the most popular leaders in Chinese history.

Yes, we here in the U.S. Congress observe the efforts of President Lee Teng-hui and his countrymen with pride and confidence. To Ambassador Ding Mou-shih here in Washington, we wish to say:

Keep up with the good work. You are doing an excellent job representing your government and your people. It is always rewarding whether listening to you explain your government's policies or having a genuine Chinese dinner at Twin Oaks. You are superb!

Happy birthday, President Lee.

THE GOOD NEIGHBOR ACT

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. SCHAEFER. Mr. Speaker, all of us are concerned about crime. According to the U.S. Department of Justice, we have good reason to be. At current crime rates, the Department estimates that over 83 percent of all Americans will be victimized by a violent crime at some point in their lives. This is a sobering statistic. Unfortunately, with drug abuse rampant across the country, this statistic is not unrealistic.

However, there is hope. Studies have shown that in order to win the war against crime we must move away from our lopsided dependence on the Government and its enforcement agencies and move toward a partnership between the Government and the people. This partnership should have two goals. First, to encourage the people to provide the police with any information that might assist them in solving a crime. Second, the Government must ensure the people that when individuals are convicted of crimes, they will serve their time.

In the hopes of moving this partnership forward I have introduced the Good Neighbor Act of 1989. This bill would designate as tax-exempt moneys received by citizens in recognition for their assistance in solving a criminal investigation. In order to qualify for the tax-exempt status, an award must be sponsored by a qualified nonprofit organization, and the arresting agency must certify that the information provided by the taxpayer materially contributed to the arrest. It is my hope that this measure will encourage more people to come forward and participate in the various crime stopper programs which exist throughout the country.

In addition, I have cosponsored H.R. 2529 which would increase penalties against criminals and others who wrongfully use or possess firearms. For instance, this measure would create a mandatory 5-year minimum sentence without opportunity for parole for the unlawful possession of a firearm by a convicted felon, fugitive from justice, unlawful user of a controlled substance, or one who deals in stolen firearms.

While these two measures alone are not going to solve the problems of crime in America, I believe they are a step in the right direction.

I urge my colleagues to join me in cosponsoring the Good Neighbor Act which I am introducing today. By doing so we are recognizing the courage which is required when a citizen is willing to individually stand up against crime.

THE COMMUNITY TOWNSHIP LIBRARY IN CONCORD TOWNSHIP, PA

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. WELDON. Mr. Speaker, this Sunday afternoon, October 1, 1989, the Community Township Library in Concord Township, PA will be cutting the ribbon on its new library. This library will serve the residents of the towns of Bethel, Birmingham, Chester Heights, Concord, and Thornbury.

This ribbon cutting is a culmination of years of hard work and efforts by many people. It was through the joint efforts of private citizens, local elected officials, business and labor that the dream of this library became a reality. The Community Township Library certainly has come a long way. It began in a closet in an elementary school 10 years ago and for the past 3 years has been housed in four trailers behind the Concord Township Municipal Building.

It is with great pleasure that I rise today before my colleagues of the 101st Congress to officially recognize the efforts of all those individuals who worked tirelessly to see this library built.

I am extremely proud of the system of libraries we have in Delaware County and I am certain that this library will be an important participant in our system. With the rapid development and growing population in western Delaware County, I look forward to this library serving as a hub for the community, providing a cohesive force as our county grows.

As much as this project was the work of many, I do feel the need to recognize one individual in particular. Rachel Kohl has been the librarian of the Community Township Library since its inception on January 15, 1979. It has been her fortitude, commitment, and dedication that has brought the library to this wonderful stage. It is my understanding that this library is to be re-named the Rachel Kohl Community Library. This is a fitting tribute to such a special person.

Mr. Speaker, I conclude by saying congratulations for a job well done to all those whose hard work allowed this ribbon-cutting ceremony to occur.

COMMEMORATING FRANKIE SUE DEL PAPA AS ITALIAN-AMERICAN OF THE YEAR

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. BILBRAY. Mr. Speaker, I rise today to pay tribute to a preeminent civic and community leader of Nevada, Secretary of State Frankie Sue Del Papa. On Saturday, October 7, 1989, the Augustus Society and the Nevada Society of Italian-American Lawyers will honor this exceptional Las Vegan as the Italian-American of the Year. She is truly deserving of this recognition.

Frankie Sue Del Papa is a native Nevadan. She was raised in Tonopah, but went to junior high and high school in Las Vegas. She was very active in her student days. As student body vice president of her high school she organized a magazine drive to raise the money to build a cover for the school cafeteria.

While attending the University of Reno on a Sons of Italy scholarship, she served as her dorm president, was a student senator, and ultimately study body president. She organized a clean-up of Manzanita Lake on campus and among other things, urged the planting of trees as a gift to the campus from the graduating class.

Elected to a 6-year term in 1980 as a regent of the University System, again she served in many capacities. She helped organize the push for question 5 in the 1986 general election, passage of which has resulted in millions of additional dollars flowing to education in Nevada. She also chaired the search committee that brought UNLV President Bob Maxson to Nevada.

Frankie Sue Del Papa has always been recognized as a leader in our community. She has generously served the State of Nevada in a variety of ways, sharing a special interest in involving youth, advancing the rights of women, the arts and the environment.

She has been a long-time supporter and participant with Nevada Girl's State. She served as vice-chair of the 1977 Nevada Conference on Women and was a delegate to the national conference. She has supported many efforts to improve the rights of women. She helped with the organization of the Nevada Women's Fund. Also, in this regard, as a law student, she helped save the Sewell-Belmont House in Washington, DC, the long-time headquarters of the National Women's Party that led the fight for women's suffrage.

She has served on the founding board of directors of the Nevada Institute for Contemporary Arts of UNLV. She has served many years in many different capacities and helped with fundraising for both the Sierra Arts Foundation and the Nevada Museum of Art.

She currently serves on the national advisory committee for the Trust for Public Lands and is secretary of the National Secretaries of State organization.

Mr. Speaker, by any standard—be it community service, civic leadership or professional contributions—Frankie Sue Del Papa represents the finest in southern Nevada's commitment to excellence. I urge my colleagues to join me today in honoring Ms. Del Papa for her well-deserved recognition as the Italian-American of the Year. Her contributions and commitment to Nevada have earned her respect and recognition throughout the State as one of Nevada's finest citizens.

TRIBUTE TO SACRED HEART RETREAT AND RENEWAL CENTER

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the Sacred Heart Retreat and Renewal Center on the occasion of their 50th anniversary. Since 1939, Missionaries of the Sacred Heart have provided a variety of retreat and renewal programs to the poor, lonely, and broken hearted.

The Missionaries of the Sacred Heart were founded in Issodun, France, in 1854 by Father Jules Chevalier. He was deeply touched by the need to address all that was morally bad. Father Chevalier became convinced that only God's love could touch people's lives and change them in a way that happiness could be found. Father Chevalier's dream expanded to the United States on July 22, 1939, when the U.S.A. province was given canonical approval. Youngstown, OH, was no exception to that dream. The Sacred Heart arrived in Youngstown on September 29, 1951. In 1953, the retreat house was built, enabling the organization to have a base for their various relief programs.

For 36 years, the Missionaries of the Sacred Heart have kept Father Chevalier's spirit alive. They have motivated others to reach out to those in need. The volunteers of the Sacred Heart make a large difference in the success of their organization. It is difficult to measure the time and energy provided by these dedicated individuals. They have made tremendous contributions to the smooth operation of the retreat house. The organization offers many inspirational programs to their community, such as the Retrouvaille Program, or "Rediscovery," designed to help, heal, and renew couples who are drfiting apart from each other. Other such programs include Life's Healing Journey, Women's Reflective Retreat, Reflective Retreat Weekend, and a Goals Program. Each of these retreats provide the guidance and motivation for those who feel desperate and lonely.

Mr. Speaker, I would like to take this opportunity to congratulate the Sacred Heart and Renewal Center for their impeccable service to their community. The reason for the Sacred Heart's success stems from their understanding and compassion for other people's problems. We are deeply indebted to these members for their dedication and the contributions they have made to our area's causes. I am honored to represent these outstanding individuals.

UKRAINIAN GRADUATES OF WINDSOR AND DETROIT

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. HERTEL. Mr. Speaker, I rise today to recognize the Ukrainian Graduates of Windsor and Detroit, an outstanding group who were very active in the Detroit and Windsor area and who take great pride in their ethnic heritage. I am asking to honor them on the occasion of their 50th anniversary.

The Ukrainian Graduates of Windsor and Detroit was founded in 1939 by a group of university graduates who wanted to form an organization that would be dedicated to the interests of the Ukrainian community in the Detroit and Windsor area. They succeeded in

doing so and have maintained an active membership of 150 over the past 50 years. The members are a diverse group comprised of teachers, doctors, engineers, and other professionals.

The organization serves as a professional link with community affairs and intercultural projects with other ethnic organizations. There is also a monthly publication entitled "The Bulletin" which is an important link among the members keeping them abreast on monthly events, activities, graduations, weddings, and so forth. Members often refer to The Bulletin as a way into a close knit family since members are not exclusively in the Detroit and Windsor area. It also features Ukrainian history and current events in the Ukraine.

Education plays an important role in the goals and objectives of the club. Twelve scholarships are awarded annually to high school students of Ukrainian descent who show promising futures.

Ukrainian culture also plays an important role in the organization. One of their major activities is a type of folk egg decorating called pysanky. Members have taught classes and have had displays at museums and at shopping malls. One ambitious member even wrote a book about it.

The Ukrainian Graduates of Detroit and Windsor truly deserve to be recognized on their 50th anniversary since this organization has become such a vital part of the lives of Ukrainians living in the area and have brought them closer to their roots. I am very honored to be selected as their recipient of the Honorary Ukrainian of the Year Award for 1989 especially on their 50th anniversary.

My dear colleagues, please join me in recognizing such an active group that promotes ones' ethnic heritage. I congratulate them on their 50th anniversary and thank them for presenting me with such a prestigious award.

I SALUTE THE REPUBLIC OF CHINA

HON. ROBERT F. (BOB) SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. ROBERT F. (BOB) SMITH. Mr. Speaker, a small democratic nation on the verge of world prominence will be celebrating her 78th National Day soon. I am speaking of Taiwan, the Republic of China, whose anniversary on October 10 this year will celebrate not only founding of the first democratic nation in Asia, but also nearly eight decades of unparalled growth and democratic advocacy.

If the world at large has not yet taken sufficient notice of this tiny but mighty island republic, it soon will have cause to, because Taiwan is changing drastically, improving itself economically, politically, and socially at a very rapid pace.

We admire Taiwan's successes to date and congratulate Dr. Lee Teng-hui, Taiwan's youthful and vigorous President and Ambassador Ding Mou-shih, Taiwan's top representative in Washington.

RESOLUTION TO DESIGNATE MONARCH BUTTERFLY AS THE NATIONAL INSECT

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. PANETTA. Mr. Speaker, I rise today to introduce a House joint resolution designating the Monarch butterfly as our national insect.

The majestic Monarch butterfly is indeed the monarch of all insects and worthy of special acknowledgment. Insects play a crucial, yet often uncelebrated, role in maintaining the ecological balance of our planet. Unfortunately, excessive human intrusion into the environment has threatened the existence of many species of insects. Such is the case with the Monarch butterfly.

The Monarch butterfly, native to North America, has inhabited this continent for over 1,000 years—long before the Europeans ever set foot on North American soil. The Monarch has been able to survive this millennium through its unique ability to sequester the poison from its host plant, the milkweed, thus making the Monarch toxic to its predators. Tragically, the urbanization of America has resulted in a great reduction of the milkweed host plant, as well as in a reduction of the groves of trees the Monarch overwinters upon in California and Mexico. At one time this loss of habitat threatened the very existence of the Monarch.

Despite the intrusion of humans on its sensitive environment, the enduring Monarch continues to flourish and returns triumphantly every year to its overwintering sites in the central California coast, particularly in Pacific Grove, CA. Each fall millions of Monarch butterflies return to the towns of Pacific Grove, Capitola and others, where they are greeted by annual festivals and parades held in honor of their return.

I believe the Monarch butterfly stands as an important reminder to all of us of the breauty of our environment and the need for the protection and conservation of our natural wonders. I urge my colleagues to join me in honoring the Monarch by cosponsoring my resolution to designate the Monarch as our national insect.

A copy of the resolution follows:

H.J. RES. —

Whereas the monarch butterfly, native to North America, is found throughout the United States;

Whereas the monarch is a unique representative of over 60 species of butterflies and nearly 90,000 other insects that are an integral part of the natural heritage of the United States;

Whereas the great numbers and diversity of insects play a vital role in the daily lives and ecology and the environment;

Whereas the population of monarchs is declining under pressure from urbanization and loss of habitat which results in the reduction of the host plant (milkweed) and overwintering groves of trees in California and Mexico;

Whereas conservation efforts are underway in both California and Mexico to maintain these overwintering sites;

Whereas Pacific Grove, California, holds an annual festival celebrating the return of the monarchs to overwinter until spring when the monarchs begin a northward flight; and

Whereas the monarchs enhance the beauty of the environment and signals the need for protection and conservation of the natural wonders: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the monarch butterfly is designated and adopted as the national insect of the United States, and the President is authorized and requested to declare each such fact by proclamation.

YARMOUTH'S 350TH BIRTHDAY

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. STUDDS. Mr. Speaker, this week the people of Yarmouth are joining with friends from across Cape Cod, and from sister Yarmouths in Maine, Nova Scotia, and as far as Great Britain to observe the town's 350th birthday.

Those who first came to this land could not have possibly envisioned the community that would flourish here more than three centuries later.

The town, originally called Mattacheese, was settled along an old Indian path in the village which we now know as Yarmouth Port. Throughout its early days as an active seaport for fishing and merchant trade, Yarmouth sea captains and their families helped establish the honored tradition of Yankee shrewdness and ingenuity which went a long way toward helping the community grow and prosper.

Nothing boosts our capacity and courage to confront new challenges today like the knowledge that those who preceded us also braved—and overcame—their own hardships. Yarmouth's legacy is a vibrant heritage of which we can all be very proud. It is with pride and pleasure that we salute the past—and future—of the town of Yarmouth, as we celebrate this historic occasion.

EMPLOYEE TRUSTEES ON PENSION BOARDS

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. SYNAR. Mr. Speaker, today I voted against an amendment by Representative MARGE ROUKEMA which struck a provision originally included in the budget reconciliation bill by Representative PETER VISCLOSKY. The Visclosky amendment required that single-employer pension plans have an equal number of employers and employees on their boards of trustees.

I want to point out that I am unhappy about the manner in which the Visclosky amendment came to the floor. I would have appreciated having the benefit of hearing records on this issue.

Nonetheless, I believe that giving employees some discretion in where their pension funds are invested is good policy. Pensions are the deferred income of employees. It is thus only fair that all employees should have a say in where their money is invested.

During the debate, those who supported striking the Visclosky provisions stated that there is no precedent for joint trusteeship. In fact, multiemployer plans have been managed in this fashion for over 40 years. Other opponents cited their concerns about the performance of these pension plans under joint trusteeship. It is important to note that multiemployer plans generally perform as well as single-employer plans.

Quite simply, this is a fairness issue. The democratic process is invigorated by giving employees a voice in where their pension funds are invested.

FIGHTING ON THE FRONT LINES OF THE DRUG WAR

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. SMITH of Texas. Mr. Speaker, recently I flew over some of this Nation's most beautiful country.

My plane flight over the United States-Mexico border provided breathtaking views of mountains, mesas, and the mighty Rio Grande.

I was flying into Marfa to attend the dedication launch of Texas' first aerostat radar balloon, deployed along the border to deter drug smuggling aircraft from penetrating U.S. airspace.

As the plane followed the Rio Grande, I could look down and clearly see the land to two countries on either side. Nothing but water stands between American and Mexican soil.

The trip brought home to me both the importance of protecting our country from drug smugglers and apparent ease with which they may enter.

I am working toward two goals for the drug war in Texas:

First, supporting local community efforts, and second, stopping drug trafficking along the Southwest border.

We would not be here today without the commitment and hard work of the local communities.

The people who make all this happen are the ones who deserve the greatest thanks. Without local residents, there would be no aerostat and no troops to win the war on drugs.

In west Texas, local residents and the Federal Government are joining forces to beat drugs at the border.

No trespassing—that is what the radar balloons tell those drug traffickers on the other side. For you, no trespassing, no vacancy, no thanks. We simply do not want your business.

Cooperation and community action help keep the dealer's business out of our daily business.

We must recognize that funding without community action is like building a house without a foundation.

After working on the aerostat project with the people of west Texas, I can assure you that the foundation there is rock solid.

Over 3 years ago I was campaigning for Congress in San Angelo. I was there with a California Congressman to discuss the virtues of having odd-looking balloons along the south Texas skyline.

We were in a small room, with a map pinned to the wall.

As we talked, we drew circles on the map with coffee cup saucers to designate radar boundaries. That day I saw evidence of the kind of support that would lead to the completion of the Texas project.

When I arrived in Washington I began work on the aerostat. I have been involved in site selection and have tracked the balloon's progress.

All involved have played a significant role in this project.

Our actions are part of the battle plan we will use to attack drugs in this country.

It is support like that I saw in west Texas that will allow the war on drugs to be successful. And it is this support that demonstrates our collective strength.

But for all this strength, we need something more. We need the enlistment of others.

Without the enlistment and resolve of parents, teachers, friends, and community leaders, our interdiction, prosecution and treatment efforts will prove powerless.

Ultimately, it is what is said in the living rooms, the classrooms and the community rooms across America that will make the real difference. It will make the difference because it will teach values.

Values that tell our young people that they can do better than drugs.

Values that say there is a stark difference between right and wrong.

And values that say offenders will not go unpunished.

There are already critics of our efforts. They say we are not spending enough money. Or they say we are spending too much money. Or worse, they say this Nation is too hooked on drugs to quit.

Well, I have one thing to tell these people: Americans are too determined, too ambitious, too smart to let us languish.

Can we succeed? Yes.

If our national community exhibits anything like the community support I saw in west Texas, then I will be convinced that we can, together, accomplish extraordinary things.

REFUGEES

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mrs. BENTLEY. Mr. Speaker, it is with immense regret that I bring the tragic issue of the innocent Khmer refugees who are living along the Khmer-Thai border to the attention of my colleagues.

These refugees have been controlled by various factions of the Coalition Government of Democratic Kampuchea. These people are extremely scared and worried after hearing rumors about repatriation which is likely to occur in the next few months. This does not mean that those people do not want to return to their homeland, but that they are afraid of being forced to repatriate by the factions who have controlled them for years.

If Khmer people, who live in the camps in Thailand, want to go back to Cambodia with Khmer Rouge, they should be able to do so. Just the same, if they want to go back to Cambodia with Son Sann, they to should retain that right. Forcing these refugees into repatriation is self-damning.

Condoning such action does nothing for the progression of human rights, it only inhibits this process which we are continually striving for. Once again, it is time to truly recognize the needs of these war stricken refugees. Let us take quick action before this forced repatriation transpires.

DOBROSLAVE PARAGA—A BRAVE ADVOCATE OF HUMAN RIGHTS IN YUGOSLAVIA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. BROOMFIELD. Mr. Speaker, I call the attention of my colleagues in the Congress to a resolution that I recently introduced concerning Mr. Dobroslave Paraga, a Croatian human rights advocate from Yugoslavia. My resolution, House Resolution 240, is identical to one that was introduced by Senator DON RIEGLE of Michigan. I want to commend my good friend for his leadership on the issue of human rights violations in Yugoslavia. The story of Mr. Paraga's struggle for human rights in that country should be known by all Americans who cherish basic human freedoms.

Mr. Paraga has distinguished himself by bravely calling upon the Government of Yugoslavia to respect the human rights of all ethnic groups in that multiethnic country. I salute his dedication to promoting basic human liberties. I believe that this resolution will call the attention of Yugoslave officials to the fact that Congress does care about the freedoms of a young man and that this institution resents state-sponsored oppression anywhere in the world. Soon, Mr. Paraga will return home and I want Yugoslav authorities to know that Congress will be watching. I hope that this resolution sends a signal to those who want to improve the human rights posture of that country.

In brief, House Resolution 240 calls upon the Government of Yugoslavia to respect human rights in that country and honor Yugoslavia's commitments to international human rights accords. It also calls upon the Government to free political prisoners and end its abuses of Mr. Paraga.

The story of Mr. Paraga is a heart rending one. He was sentenced for speaking out against the Government of Yugoslavia and he spent part of his prison time on the notorious "Naked Island." He believes that a young human rights advocate who was arrested with

him was tortured to death by Yugoslav prison authorities. Mr. Paraga was also exposed to the madness of a Yugoslav mental institution as part of his punishment for speaking the truth. That, however, was not the end of his ordeal.

In 1987, the Government of Yugoslavia sentenced him to 6 months conditional imprisonment and ordered him to remain silent about his experiences as a political prisoner until 1991. Mr. Paraga recently left Yugoslavia and has been telling the American public about the cruelties that he endured for speaking the truth about the refusal of the Government of Yugoslavia to craft and implement a credible human rights policy.

His story is well known by Amnesty International and by other international human rights groups. He is an eloquent spokesman for the cause of human rights in Yugoslavia and has risked his life so that his countrymen can experience the basic freedoms which we enjoy every day.

I am disappointed that Yugoslavia, a country that claims to be modern and Western-looking, has such an abominable human rights record. The story of Pjeter Ivezaj, the recent bloodshed against ethnic Albanians in the autonomous Province of Kosovo, and the Paraga story lead me to believe that Yugoslavia needs to put its human rights house in order. The Government of Yugoslavia can start an internal healing process by ending the harassment of Mr. Paraga and allowing him and his family to return to their home in Croatia.

FOR CONTINUED NEA SUPPORT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, September 27, 1989 into the CONGRESSIONAL RECORD.

THE CONGRESS AND THE ARTS

The Congress generally does not pay much attention to the arts. Since its creation in 1965, the National Endowment for the Arts (NEA) has never constituted more than one-half of one percent of the federal budget. Nevertheless, NEA-supported art affects Americans in many ways. The NEA provides grants and loans to individuals, groups, states, or organizations involved in the arts. Loan and grant recipients range from painters and photographers to opera and ballet companies.

The NEA serves several purposes. First, it encourages and rewards artistic merit. No other organization makes such a systematic effort to define and identify artistic excellence. Second, the NEA provides public exposure to art which otherwise would not be available. Many artistic undertakings, such as opera or the symphony, require a great deal of initial funding. Third, agency grants, which carry enormous prestige, serve as a catalyst to generate private donations to the arts. Every dollar of NEA support brings in at least three dollars in private donations. Without this initial NEA support, many art programs would not be able to operate.

Government support for the arts is not a new venture. As early as 1817 the Congress appropriated funds in order to adorn the Capitol with works of art. The Smithsonian Institution was chartered in 1846 to set up a national art collection. In 1935, Federal Project Number One was created to provide unemployment relief in the fields of art, music, writing, and theater. The NEA is the most recent government agency to support the arts. The NEA considers what types of art to support through a "peer-review" system. Panels of experts in a specific field of the arts are authorized by the NEA to judge artists' applications for grants and loans in that field. The review panels decide which proposals are worthy of being funded.

Over the years, NEA grants and loans have been widely reviewed as successful and have received little public criticism. During the past year, however, the funding mechanism of the NEA has come under increased scrutiny. Several NEA-supported projects made national news because of the explicit or obscene nature of the art work. This controversy has prompted some Members of Congress to call for an overhaul in the peer-review process.

Critics of the NEA make several points. First, the number of Americans who actively patronize art galleries or symphonies is quite small, and many citizens are not aware of art projects supported by the NEA. Second, the peer-review panels are frequently dominated by "old-boy" networks. Sometimes the peer-review panels represent their own artistic and scholarly cliques and dole out money to allies and proteges. Unknown artists often unable to receive funding from the NEA panels. Third, members of the review panels are neither directly accountable to the public nor subject to congressional scrutiny. The arts community often wants generous public support for the arts, but no public voice in how the support is used. Allowing an agency to act regardless of public support or opinion is a risky precedent. Fourth, although designed to preserve artistic freedom, the broad nature of the NEA's grant policy does not preclude the possibility of art being produced that may be deeply offensive to many Americans.

Based on concerns about the nature of some of the art recently funded by NEA, some Members of Congress have proposed a broad restriction on what art the agency could support. Their amendment would prohibit NEA funding for any art which "denigrates the objects or beliefs of the adherents of a particular religion or non-religion; or which denigrates, debases, or reviles a person, group, or class of citizens on the basis of race, creed, sex, handicap, age, or national origin." This proposal makes a good point; there is legitimate concern about the kinds of art that public funds are allocated to underwrite. Taxpayers ought not have to pay for art that most Americans find offensive or indecent.

The question raised by the amendment is not whether government should censure the arts (all agree it should not), but what kind of art should receive public funding. As it stands, the proposal is too restrictive. It would be difficult to find any art, whether in dance, theater, photography, film, opera, or painting, that does not violate the specific language of this amendment. I think the government has to be careful about imposing standards of conformity and respectability. Congressional control of the type of art the NEA may support will hinder the artistic process. Creative arts require exploration and risk; artists must be free to explore strong, provocative, and controversial themes. Art would not be served under a process that makes the Congress the judge of what is art.

When the NEA was first created it was provided complete discretion in deciding what art it would support. The Congress deliberately set up the peer-review panels to create a buffer between arts and politics. By providing the NEA with a strong measure of autonomy it was hoped that all forms of art would have equal opportunity to receive support. The peer-review process is fallible; the panels have made mistakes, and they will probably make more. But it does seem to me that this amendment imposes an unacceptable burden on art.

For the most part, the NEA selection process created by the Congress has worked remarkably well. Of the more than 85,000 NEA grants awarded over the years, only a handful have been seriously questioned. Moreover, most public funds spent on the arts do not follow the latest fancy to hit the art world but advance the great traditions of art.

It would be a mistake to junk the entire system because of a few mistakes, serious as they might be. The peer-review process can, of course, be improved and strengthened. But overall the process has proven a good means of maintaining objectivity, balance, and professional standards in the awarding of grants to artists. The NEA performs the important function of elevating art in our society and should continue to receive support as long as adequate steps are taken to insure proper accountability.

TRIBUTE TO GENERAL HONEYWILL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. LAGOMARSINO. Mr. Speaker, I ask my colleagues to join me in recognizing Brig. Gen. Thomas W. Honeywill in his retirement after many years of service in the U.S. Air Force. General Honeywill is retiring as commander in chief of the Space and Missile Test Organization, Vandenberg Air Force Base, CA.

General Honeywill earned a bachelor of science degree in business administration from the University of Akron in 1959 and a master of business administration degree from Auburn University in 1973.

He was commissioned as a second lieutenant through the Air Force Reserve Officers Training Corps Program in June 1959. After completing pilot training the general was assigned as a C-118 pilot and aircraft commander at McGuire Air Force Base, NJ. He was subsequently transferred to Hickam Air Force Base, HI, and then to Dover Air Force Base, DE, where he served as an instructor pilot, flight examiner, and wing aircrew standardization and evaluation officer.

From July 1971 to July 1972, General Honeywill served as a training advisor to various air force bases in Vietnam, and later as adviser to three Vietnamese air force C-7A squadron commanders at Phu Cat Air Base.

General Honeywill completed the program management course in June 1976, and then served as executive officer to the chief of staff of Air Force Logistics Command at Wright-

Patterson Air Force Base. In April 1978 he became the deputy program commander manager of logistics in the EF-111A Tactical Jamming System Program Office, and eventually became director of the EF-111A System Program Office. In December 1982, he was assigned responsibility for all stealth programs, including the B-2 and F-117A.

General Honeywill became chief of staff, Air Force Systems Command, Andrews Air Force Base, MD, in July 1984, and was later assigned to the strategic defense initiative project. He was also responsible for the Air Force's science and technology program at Air Force headquarters.

In March 1987 he became director of program management and technology, Office of the Assistant Secretary of the Air Force for Acquisition, Washinton, DC. He assumed his present duties in June 1988.

The general is a command pilot with nearly 9,000 flying hours and has been honored with numerous military decorations and awards. He was promoted to brigadier general October 1, 1986.

General Honeywill has done an outstanding service to our country and deserves recognition at this time of his retirement.

NATIONAL EMPLOYEE-OWNERSHIP WEEK

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. APPLEGATE. Mr. Speaker, in a time when we are witness to a seemingly endless struggle between industry owners and employees, I rise to recognize the third annual National Employee Ownership Week, October 1-7, 1989. The week is to recognize employee-owned companies across the Nation for the contribution they make to American's economy. Throughout the country and in the 18th District of Ohio, employee stock ownership plans [ESOP's] have been preserving jobs and helping to avoid the rash of closings that have been sweeping through America's industries.

In 1974 when Congress enacted its first ESOP legislation, there were few employee-owned companies. Today there are over 200 employee-owned businesses in Ohio alone and more than 10,000 such enterprises across the United States.

In 1986, the E.W. Bliss Co. of Salem, OH in my congressional district, was on the verge of a shutdown. Citing general decline in the steel industry, the heavy equipment manufacturer laid off 300 employees and demanded wage concessions from the 100 that remained. Instead, Steelworkers local 3372 rejected concessions and suggested an employee buyout. Since the institution of the ESOP in 1986, Bliss-Salem Inc. has seen profits improve steadily. Over 150 new employees have been hired, sales have tripled, and employees received their first bonus this September.

Management attributes the recovery of Bliss-Salem to its ESOP. By expanding the workers' role and encouraging employees to participate in the decisionmaking process, the owner employees find they have an interest in the results of problem resolution.

Employee-owned businesses tend to outperform their non-ESOP competitors. When you work for yourself, you find more efficient and more productive ways of getting the job done. Management attributes the recovery of Bliss-Salem to its ESOP. By expanding the workers' role and encouraging employees to participate in the decisionmaking process, the owner employees find they have an interest in the results of problem resolution. Bliss-Salem works.

AMERICANS FRUSTRATED WITH THREAT OF TERRORISM

HON. ALAN B. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. MOLLOHAN. Mr. Speaker, not long ago, Lee Guy, editor of the Panhandle Press in my home district, wrote an editorial expressing the frustration that many Americans feel regarding the threat of terrorism. Mr. Guy's editorial follows:

I do not remember the exact details of the story because I read it many years ago, but the following incident actually happened during the administration of President Theodore "Teddy" Roosevelt in the very early years of this century.

It seems that a Middle Eastern sheik, actually more of a desert maurauder or what we might call a terrorist today, had kidnapped a wealthy Amerian heiress and was holding her for a huge ransom which the kidnappers demanded from the United States Government.

For want of remembering the lady's actual name, we'll call her Mrs. Smith for this re-created account. The kidnappers sent their ransom demand to the U.S. Government. President Roosevelt sent the following 12-word reply in a telegram to the sheik: "24 hour stop Mrs. Smith stop Or your head on a stick." Within 24 hours, the U.S. Government received notification of where Mrs. Smith would be waiting to be picked up.

During the war with the Japanese, 50,000 U.S. Marines stormed the beaches of Okinawa, which was fortified to the hilt with several hundred thousand Japanese soldiers and enough supplies to last for months. Enormously outnumbered, the Marines relentlessly drove the numerically superior hordes of Japanese back across the island until the last 3,000 of them jumped over a cliff and into the ocean. From several hundred thousand Japanese, the U.S. Marines took approximately 1,300 prisoners.

On the cruel, barren Pacific volcano island of Iwo Jima, outnumbered U.S. Marines doggedly slugged it out with the enemy until five bloodied and battle-weary Americans firmly planted Old Glory on top of Mount Suribachi. And that, thank you very much, was all she wrote for the Japanese. You all remember the picture—the world-famous photograph was the model for the U.S. Marine Corps Memorial at Arlington National Cemetery.

On June 6, 1944, Allied forces—American, British and French—stormed the beaches at Normandy and Omaha in the face of unbelievable, deadly, withering gunfire from the firmly-entrenched and fortified German army. Today, such a scenario might cause modern soldiers to "fall back and re-group." But, our men relentlessly drove forward through the lethal onslaught, overran the enemy, and that was the beginning of the end of the world-conquest dreams of Adolph Hitler.

Where have all our soldiers gone? Where is the guts and backbone of the American fighting man and his leaders? Throughout the history of the United States of America, from Valley Forge and Bunker Hill to Baltimore Harbor; from the Marne to Belleau Wood; from Pearl Harbor to Okinawa to Iwo Jima; and from the Thirty-Eighth Parallel to Pork Chop Hill and Heartbreak Ridge, the American fighting man has faced insurmountable odds and has always prevailed against the most aggressive and determined enemies. During this century, the accomplishments of the American fighting man have become legend, as well as fact, in our history books.

Now, America lowers her eyes and stares at the ground like a subservient slave when an unspeakable act is performed against one of her citizens in a foreign land. Witness the alleged brutal murder of Lt. Col. William R. Higgins, USMC, in Beirut. Col. Higgins was an American fighting man who faced hostility and aggression in the service of his country, and he did so without backing down or compromising with the enemy. Now that this brave soldier has been taken from the service of our nation by a cowardly act of terrorists, the United States must not back down from exacting the last ounce of justice from his kidnappers.

When is the United States of America going to stand up to these cowardly acts of terrorism and punish them severely, instead of holding hysterical talk sessions on television in which our national leaders mumble inane phrases like "delicate situation", . . . "can't upset the balance" . . ., "negotiations are going on" . . ., etc.?

How long is it going to be before United States military forces see to it that terrorists in the Middle East are afraid to so much as snatch an American woman's purse?

How long do we have to tolerate the mosquitoes without being allowed to use the simple solution of insecticide? How long?

TRIBUTE TO DOROTHA FREDERICK

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to an outstanding woman, Dorotha Frederick, on the occasion of her retirement from over a half-century of practice as a licensed cosmetologist in Mount Clemens.

Even more than this distinguished professional accomplishment. Dorotha's humanitarian spirit and commitment to the disadvantaged in our community have made her a touchstone in the hearts of family, friends, and countless others.

Known as a "whirlwind of activity and action," Dorotha's volunteer and fundraising work with the Salvation Army has set new standards of energy and devotion to the Army's charitable mission.

Her leadership as president of the women's auxiliary and active participation on the advisory board only underscore Dorotha's willingness to meet new challenges and assume new responsibilities. In 1987, her efforts were recognized when she received the prestigious Army of Stars Award for "faithful and outstanding service" to the Army and the needy in the community.

At St. Hubert's Church, she has served as president of both the ladies council and ladies parish. Her charisma made her a natural for the new position of greeter coordinator and added to the success of the receptions and social functions at St. Hubert's.

She has worked closely with the Mount Clemens Art Association and volunteered for Turning Point—the shelter for battered spouses in Mount Clemens. As a businesswoman, Dorotha helped the community and her colleagues through ther involvement in the Business and Professional Womens Club of Mount Clemens. And for her professional achievements, she was recognized as "Woman of the Year" for 1984.

Mr. Speaker, it doesn't look like retirement is going to slow Dorotha down. Though she is closing her shop and moving to Florida, I understand she has already contacted the local Salvation Army looking for ways to help.

Dorotha Frederick's impact on our community has been inspiring and she will long be remembered as a true friend of Mount Clemens.

L. MENDEL RIVERS AWARD FOR LEGISLATIVE ACTION

HON. W.G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. HEFNER. Mr. Speaker, I have just learned that our colleague, GERRY SOLOMON, has been selected to receive this year's L. Mendel Rivers award for Legislative Action from the Non Commissioned Officers Association. Let me be among the first to congratulate him. GERRY is well deserving of this recognition for his work on behalf of veterans and military personnel.

As a past recipient of this award I find myself in very distinguished company. Some past recipients include SAM NUNN, JOHN WARNER, BOB DOLE, SONNY MONTGOMERY, CHARLIE BENNETT, the late Mel Price, and the late Bill Nichols. It is a group with which I am proud to be associated and one to which I welcome GERRY. The Non Commissioned Officers Association's 160,000 members can be proud of their selection of this outstanding patriot to receive this award.

A CONGRESSIONAL SALUTE TO THE CLEVELAND JOB CORPS ACADEMIC OLYMPIC TEAM

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. STOKES. Mr. Speaker, it is a special honor for me to rise today to salute Lisa Alexander, Deanna Diehl, Christopher Schmittle, and LeShawn Scott. These four talented young people from my congressional district were recently selected to represent our region in the Job Corps "Academic Olympics" held in St. Paul, MN.

As many of my colleagues know, Job Corps recently celebrated the 25th anniversary of its founding. In conjunction with the celebration, the organization sponsored the "Academic Olympics" on a regional level, with the winning teams going on to compete in the finals in Washington, DC. I am proud to report that the Cleveland Job Corps team finished first in the regional competition. The team received the "Traveling Trophy" and went on to compete in the final competition in Washington, DC.

Mr. Speaker, I had an opportunity to meet with the Cleveland Job Corp "Academic Olympic" Team and their coach while they were in our Nation's Capitol for the final competition. I was impressed with the incredible amount of team spirit the group exhibited. More importantly, however, they had the determination and pride to do their very best in representing our city throughout the competition. While visiting with the group, I learned that they had set goals, not just for the competition, but for their future as well.

Lisa Alexander plans to enter Cuyahoga Community College and major in emergency medical technology. Her long range goal is to become a politician or psychologist. Lisa believes that "you have to stay positive and show a sense of responsibility" to accomplish your goals.

Deanna Diehl is studying building and apartment maintenance with the Homebuilders Institute. She plans a career in communications. Deanna stressed the importance of "having friends, but in the long run, being your own person and making your own decisions."

Christopher Schmittle would like to one day attend the U.S. Air Force Academy. He is credited with boosting the team spirit and being their emotional support throughout the grueling competition. He, too, maintained the importance of ignoring peer pressure.

LeShawn Scott is studying data entry and has career plans of becoming a sociologist. LeShawn believes strongly in "setting goals and doing your very best to be the best."

When I spoke with the coach of the team, Mr. Paul Weber, he explained that these individuals were selected for the Job Corps Olympic Team not just on test scores, but on their attitude and willingness to work together as a team. He stated, "I've seen a lot of young people for whom Job Corps was a last chance. These four young people have taken that opportunity and done wonders for themselves."

Mr. Speaker, I share our community's pride in Lisa, Deanna, Chris, and LeShawn. They not only did an outstanding job of representing our city, but they showed us what it takes to be the best. They showed us what winners are made of.

Again, I congratulate and take great pride in saluting the Cleveland Job Corp "Academic Olympic" Team.

THE NEW DENVER AIRPORT

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. SKAGGS. Mr. Speaker, today is an important day for our Nation's aviation system. This morning, after giving his final OK to the environmental impact statement, Secretary of Transportation Samuel Skinner presented the city and county of Denver with a check for $60 million for construction of the new Denver International Airport.

This money is a vital downpayment. But there's a long road ahead of us and it'll take a long-term commitment from both the Congress and the administration to complete this critical project. And that's what I'm asking for today.

I'm asking my colleagues for your help in leading our aviation system into the 21st century—your help in getting the system up to speed. And the new Denver airport sets the course.

Yes, this new airport will be located in Colorado, but it will be used by citizens throughout the Nation and the world. Where the constituency is the Nation, there is no room for parochialism, and it is the Nation that cries out for improved air service.

Since deregulation airline travel has skyrocketed from 275 million to somewhere around 418 million passengers a year. If national airway capacity is going to keep pace with demand we'll need several more new airports like Denver's around the country in the first part of the next century.

Denver is just the first. Other places will look to the Denver experience to see how seriously they can take the pledges of the Federal Government to help them meet their responsibilities to the national air transportation system. Secretary Skinner has made good on the administration's end—let's do our part. Let's work together to assure success in Denver.

FREEDOM ARTS FESTIVAL

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Mr. HUNTER. Mr. Speaker, while the city of San Diego is hosting a Soviet Art Festival this fall, some of us have helped organize a Freedom Arts Festival, to showcase the arts and cultures of some of the new citizens of this area. These are the people who, at great risk to themselves, fled from the oppression of the Communist systems of the Soviets and their clients throughout the world.

Prominent among these people who are seeking a new life in the United States are many from Southeast Asia, and they are achieving recognition as people of great talent, industry, and culture. The Freedom Arts Festival has on display in the library at San Diego State University an outstanding collection of photographs, courtesy of Le Van Khoa,

president of the Vietnamese Artistic Photography Association. Le Van Khoa is a man of many talents, a noted composer, arranger and conductor of Vietnamese music as well as being head of the Photography Association.

The Vietnamese Artistic Photography Association was founded in 1968 in Vietnam, with headquarters in Saigon and chapters scattered about the country from Hue to Saigon, down through the Mekong River Delta, up to Long Xuyen, Chau Doc, and then to Da Lat in the highland. The association organized national and international photography contests until April, 1975, when it went into exile. In 1978, some of the old members and new friends, meeting in southern California, formed the new association, with a name that evolved into the present one. There are now chapters in several States in America.

Members living in Vietnam are still active also, although they have to submit pictures to censorship and requirements of the Communist Government there. As Le Van Khoa wrote in the introduction to a recent photo exhibition,

Though far apart and in different environments, we share one thought: to portray the feelings of humanity and work together deliberately on the endless road of art.

The Freedom Arts Festival is indebted to Le Van Khoa for providing this outstanding collection of pictures, the focal point of its exhibit at San Diego State University. There is also a sample of pictures and photographs from other countries such as Afghanistan, Czechoslovakia, Laos, Cambodia, Poland, and other countries oppressed by communism, a prelude to the larger exhibit that will open in San Diego in October.

The current Freedom Arts Festival exhibit occupies the second, third, forth, and fifth floors of San Diego State's Malcolm A. Love Library. Sincere appreciation is due Don L. Bosseau, the university librarian, and to Ruth Leerhoff and Lyn Olsson, of the library's special collections section. It is through their cooperation that this outstanding display is available, without charge, to the people of our community, as well as the students of San Diego State University.

PRESERVATION OF WETLANDS

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 1989

Ms. SCHNEIDER. Mr. Speaker, given our efforts to promote the preservation of wetlands, I want to share with my colleagues our efforts in Rhode Island to preserve wetlands through water efficiency improvements.

Demand for water services within the jurisdiction of the Providence Water Supply Board [PWSB] has been growing at 2.2 percent per year. This implies a need to double water supplies over thee next 35 years. The Big River Reservoir project is being promoted by the U.S. Corps of Engineers as the answer to the greater Providence area's growing water needs. Big River would provide a maximum of 26 million gallons of water per day. PWSB is projected to need 10 million gallons per day of this water by 1996, to supplement its 72 million gallons per day supply now obtained from the Scituate Reservoir.

Two important concerns, however, have been raised about this approach. First, there are irreversible environment damages that will inevitably result from the project. Second, consumers will incur excessive costs from this water project, compared to less expensive options.

The first concern has been raised by the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, and a number of Rhode Island citizens and civic organizations. These individuals and groups have detailed the destruction to 570 acres of irreplaceable wetlands if the project proceeds. The Corps of Engineers readily acknowledges the importance of wetlands, noting in their 1987 report on Rhode Island projects that:

Wetlands provide a food chain resource and habitat for an abundance and diversity of life not rivaled by most other types of environments. They are breeding, spawning, feeding, cover, and nursery areas for fish. They are important nesting, migrating, and wintering areas for ducks and geese.

In addition to being an abundant wildlife habitat, wetlands store flood waters, preventing millions of dollars' worth of damage to downstream citizens and companies. They also recharge and discharge ground water, remove pollutants from surface and ground water, and maintain water quality and drinking water supplies.

Already, an estimated half of all wetlands in the United States have been destroyed in the wake of development. This permanent loss has led to national concerns, expressed most recently by President Bush, who announced as a top priority "no net-loss" of the Nation's remaining wetlands. Legislation, of which I am cosponsor, is now pending in Congress (H.R. 1746 /S. 804) designed to slow wetlands destruction.

What are we at risk of losing if the Big River Reservoir goes forward? Not only would we eliminate 570 acres of productive wetlands, but destroy 20 miles of cold water streams, and some 2,000 acres of upland forest. The U.S. Fish and Wildlife Service estimates that it would require the acquisition and management of nearly 6,000 acres of wetlands elsewhere in Rhode Island to offset the wetland losses caused by the Big River project. Some experts question whether an ecosystem replacement would ever achieve the richness of this natural site. Others more pointedly wonder where the upwards of $70 million of replacement wetlands is going to be secured. As EPA so accurately noted:

Big River, Mishnock Swamp, and the south branch of the Pawtuxet comprise the largest, most diverse wetland complex in the 230 square mile Pawtuxet River Basin.

The diversity of wildlife attests to the biological richness of this site. Some three-fourths of the more than 200 species of mammals, birds, amphibians and reptiles depend upon the wetlands for some portion of their life cycle. These include native brook trout, the great horned owl, blue heron, red tailed hawk and songbirds, and an abundance of mink, fox, otter, weasel, deer and beaver. This biodiversity would sharply decline if the wetlands were to become a 25-feet-deep shallow lake. An area of exceptionally high scenic and recreational value would be lost for such pasttimes as fishing, canoing, bird watching, and waterfowl hunting. The State's citizens would lose what Rhode Island Wild Plant Society trustee, Lisa Gould, so eloquently called, a "living museum of organisms."

In addition to the loss of this wildlife habitat, cold water fisheries, freshwater ponds, vernal pools and lakes, and groundwater drawdown, Rhode Island's other waterways would be further stressed as a result of reduced downstream water flow. Flow on the Flat River Reservoir would be nearly halved, the flow on the south branch of the Pawtuxet would drop by one-third, and the mainstream of the Pawtuxet River would decline by one-eight. This raises serious questions of whether there will be adequate flows to dilute effluents to the safe levels required by the Safe Water Drinking Act and the Clean Water Act for achieving fishable and swimmable water conditions.

Given these facts it is not at all surprising to learn from EPA that:

The loss of—Big River/Mishnock—wetlands alone would be unprecedented in New England, greater than any project in the region since the inception of the Clean Water Act 17 years ago.

The importance of wetlands notwithstanding, and in spite of repeated EPA alerts to the Army Corps of Engineers since 1982 that the project could not comply with Federal wetland protection regulations, the corps insists the wetlands must go if Rhode Island homes and businesses are to satisfy rising demand for more water. The corps persists in largely ignoring section 404(b)(1) of the EPA guidelines under the Clean Water Act, which "prohibit discharges which are avoidable or which could cause or contribute to significant degradation of the aquatic environment."

The corps cavalier dismissal of so much evidence to the contrary smacks of the very same arguments put forward by engineers intent on flooding upward of 200,000 square kilometers of tropical rainforests in the Amazon River Basin for 50 giant hydroelectric dams. Many organizations, from the World Bank to the U.S. Congress, have challenged the need for these dams, detailing a broad range of lower cost options for deriving electricity without destroying the rainforests. It is hypocritical, however, for us to oppose such actions abroad, while supporting similar actions in our own backyards.

The corp's position, however, has been forcefully challenged before Rhode Island's Public Utility Commission in proceedings regarding a tariff increase requested by the Providence Water Supply Board to begin the Big River project. The $384 million project will increase water costs at least 270 percent, and probably higher than that if several hundred million dollars in tax-exempt bond financing is not forthcoming to subsidize the project.

The cost of the water also depends on the final level of demand. If all 26 million gallons per day of Big River water is consumed, the water would cost roughly 74 cents per gallon per day. If water demand for the greater Providence area only increases 10 million gallons per day—which could easily happen in the

wake of a 270-percent cost increase—then the cost of water would be 540 percent higher. The water would cost nearly $4 per gallon, in order for this smaller volume of water sales to pay off the Big River's construction costs.

However, as the testimony made quite clear, if one takes a fiscally prudent position, then the Big River Reservoir project ranks relatively low on the scale of cost-effective options even at the seemingly low cost of 74 cents per gallon of water per day.

This becomes evident when the whole spectrum of water service options are assessed and compared with one another. Analysts refer to this process as "least-cost utility water planning." The least-cost utility planning approach has more than a decade's rigorous experience in the electricity sector, and in recent years has been applied to the water sector. In practice, it ranks all available supply and demand side options in order of their cost effectiveness. As a growing number of communities and States around the Nation are discovering after performing such analyses, demand-side efficiency improvements require a fraction of the investment cost compared to constructing new water projects.

A few examples sharply illustrate this point. Instead of flooding the wetlands so that the Big River Reservoir can supply inefficient water devices, we can also replace inefficient showerheads, faucets aerators, and toilets with high quality, efficient ones. The improved devices would deliver the same water services while consuming upwards of 75 percent less water. This freed-up water can then be used to satisfy demand by new or expanding homes and businesses in the State. The cost of the water-saving upgrades works out to between 7 and 53 cents per gallon per day. This is 72 to 98 percent less cost than Big River.

There are at least half a dozen additional benefits that accrue beyond these capital investment savings. For example, as the amount of water that must be supplied decreases, so do the pumping requirements, as well as the cost of water treatment. More efficient water use also reduces distribution costs. Much of the $13 million projected to be spent on expanding distribution lines through 1994 could be avoided.

More efficient water use would also reduce sewage flows, cutting the operating costs of the Narragansett Bay Commission's [NBC] sewage treatment facilities. Reducing wastewater flows into treatment plants have been found to enhance the treatment process and, as a result of this improved performance, extend the useful life of the facility. Reduced sewage flows also would enable NBC to defer construction of additional costly capacity.

One of the most impressive benefits results from substantial energy savings. High-efficiency showerheads and faucet aerators save oil, gas, and electricity by reducing hot water usage. According to estimates presented to the Public Utility Commission by least-cost utility planning expert Paul Chernick,

the low-flow devices more than pay for themselves in energy savings, in addition to more than paying for themselves in water savings.

Installation of water-efficient devices also help to avert a planning nightmare of water shortages, followed by excess capacity. Big River Reservoir will take years to complete, whereas installation of efficient devices can be done within a matter of months. Big River's long lead-time raises the risk of water shortages, which short lead-time efficiency measures can entirely avoid. Similarly, once Big River is completed, it will provide expensive excess capacity that will not be needed for years to come. Efficiency investments, on the other hand, closely match the growth demand, eliminating this costly problem of overbuilt capacity.

Given this wealth of low-cost, low-risk efficiency options for satisfying water needs, the bottom line question then presents itself: can we ensure their timely installation? The answer is an unequivocal yes, given the evidence gathered from water retrofits around the Nation.

Take the case of the city of San Jose, CA. Faced with expensive capacity expansion, the city government, with the support of the chamber of commerce whose member businesses would suffer soaring water—and energy—bills, implemented a residential water conservation retrofit program. The program delivered and installed, at no cost to residences, low-flow shower heads, toilet dams, and toilet leak detection tablets. Between 1986 and 1988, retrofit kits were installed in 170,00 single family homes and 47,000 multfamily homes built before 1981. The retrofits achieved impressive savings of between 6 and 9 million gallons per day, and will eventually save residents $46 million on their water and energy bills. For comparison, Providence Water Supply board services roughly 135,000 single-family residences and 31,000 multifamily dwellings.

Other cities and States have tried other approaches. A common approach is to establish high-efficiency standards for water devices installed in new construction, renovation, or installed as replacements. For example, Rhode Island, Massachusetts, and other States, have upgraded the State building codes to require high-efficiency toilets in new buildings that consume a maximum of 1.6 gallons per flush—nearly 70 percent more efficient than average models.

The city of Los Angeles has adopted a more far reaching ordinance that requires all existing buildings to install toilets that use no more than 3.5 gallons per flush—30 percent more efficient than the average toilet—5 gallons per flush. Showerheads must use no more than 3 gallons per minute—30 percent more efficient than the average showerhead—5 gallons per minute. New construction must install toilets that use 1.5 gallons per flush or less. To enforce the ordinance, a surchage is assessed on the water bills of buildings not in compliance. The surcharge increases with time so that within 2 years the surcharge is equal to the water bill.

A novel approach in Morrow Bay, CA, requires any builder constructing a home to first save more water than the new home will use. This can be done by refitting existing homes with water efficient hardware, or paying to replace a specific length of the city's leaky water main. Builders installed efficient hardware in more than 4,000 Morrow Bay homes, a third of the city's total, within the first 2 years of the program.

The Conservation Law Foundation of New England has proposed another method of installation: have Rhode Island's gas and electric utilities underwrite part or all of the cost of installation. The basis for this recommendation is the cheap energy savings that can accrue from the use of highly efficient water devices. For example, the yearly electricity savings from a highly efficient toilet, showerhead, bathroom faucet aerator, and kitchen faucet aerator are, respectively, $67, $62, $8.55 and $5.65. The annualized investment necessary to capture this $143 of yearly savings through these four water devices amounts to $28, $1.30, $1.40, and $1.25. As is quite evident, the electricity savings far exceed the cost of each device.

This situation presents a very valuable win-win opportunity for the utilities, the ratepayers, and the environment. For the utility, this is equivalent to purchasing oil at a fraction of the current world price. For the ratepayer it means lower energy and water bills. For the environment it means indefinitely deferring the destruction of 570 acres of wetlands.

More modest, although still robust, savings of $50 per year are available from devices installed in homes that heat water with gas or oil.

These energy savings are above and beyond the substantial water savings, which range between 40 and 86 percent, depending on the device. The energy savings are also considered an underestimate, since the new devices would eliminate costly leaks. According to the American Water Works Association [AWWA], leaks in toilets alone waste over 4 gallons per day per person. That represents over 2 million gallons per day in potential savings from the 166,000 dwellings within the jurisdiction of the Providence Water Supply Board.

The AWWA estimates that toilet leaks in multifamily housing of 24 gallons per day per person is not unusual. Leakage in rental housing is particularly a problem, since the occupant does not typically pay the water bill, hence lacks the incentive to fix the leak. Rental units comprise over 40 percent of Rhode Island housing stock.

The energy and water saving devices noted above do not exhaust the range of opportunities by a long shot. Even more efficient showerheads are available which use only half a gallon per minute, 80 percent less than the 2.5 gallons per minute efficient ones notes above. Likewise, some toilet designs use half a gallon per flush, two-thirds less than the 1.5 gallons per flush considered above. Dishwashers and clothes washers present additional savings. Major brand dishwashers of comparable cost and quality use 20 percent less water than their inefficient counterparts. Thirty percent savings are available in dishwashers and clothes washers at a cost no more than $30, with the energy savings quickly recouping the extra costs.

Similarly attractive savings are available in the toilets and lavatories, clothes washers and dishwashers, located throughout the commercial and institutional sectors—offices, stores, hotels, motels, hospitals, schools, health clubs

and gyms, dormitories, laundries, restaurants, cafeterias, and numerous public and private workplaces. Commercial high-efficiency faucets use 60 to 85 percent less water than inefficient models. Many designs also minimize waste by automatically shutting off the flow after a preset amount of time, preventing water loss when faucets are typically left running long after the user leaves.

Industrial facilities also harbor large water saving opportunities. Advances in water recycling enable car wash businesses, which typically use 25 gallons of water per car washed, to recycle 60 percent of washwater and 95 percent of rinse water. In some industrial facilities the American Water Works Association found water savings as high as 95 percent, with a 45-percent average for 45 firms in Los Angeles, principally through recycling.

Rhone Island's jewelry industry has developed considerable experience in using water-conserving techniques, largely as a result of discharge standards applied to the electroplating and surface finishing processes set by the Federal Clean Water Act. Numerous case studies have been complied, verifying water savings of 80 to 90 percent. Many of these practices are cost-effective options for many other Rhode Island industries simply looking for ways to cut costs. Not untypical was one of Providence's top 25 water users, which reduced its flow by 82 percent, from 70,000 gallons per day to roughly 13,000 gallons per day. The investment cost $10,000, but saved $4,000 per year on water and sewer charges, providing a 30-month payback. It also cut the cost for pretreatment equipment from $186,000 to under $50,000.

The question naturally arises, given the ready availability of water-saving technologies, and the rapid payback period for these investments, why aren't more businesses taking advantage of these opportunties? Eric Salomon, project manager for Armbrust Chain, and one of Rhode Island's leading industrial water efficiency experts, pinpointed several reasons. In his testimony before the Public Utility Commission, Salomon cited as a critical factor the lack of information on available technologies. He estimates this is a problem for two-thirds of businesses in the Greater Providence area. Quality information is indispensable for a company to identify what product are commercially available, who are reliable suppliers, and how the technologies perform. In many cases, there is also a need for additional technical assistance to help resolve the special needs of individuals companies.

Lack of quality information is also a pervasive problem for homeowners, building managers, and building developers. Access to good information is essential, but may not be enough in many situations. In the case of renters of residential and commercial buildings, they may pay the water bills but lack adequate incentive to make hardware improvements in a building they don't own. Lack of money is another problem that may prevent low-income households, elderly on fixed incomes, and businesses with tight cash flows from purchasing water-efficient hardware.

However, as was noted above, these problems can be oversome by having either or both the water and energy utilities, perhaps in conjunction with the State or community governments, finance part or all of the installation costs. This least-cost approach is being repeated in cities and States across the Nation. There are a diverse set of ways to finance installations. These range from San Jose's free home installations, to rebates that pay part or all of the cost of the upgrade. Nor are the opportunities and rebates limited to inside buildings. A number of cities, like Glendale, AZ, are giving cash incentives to anyone who remakes a landscape into a low-water-use one or installs a timer on an existing underground sprinkler.

Clearly the level of participation by water consumers will depend on how hassle-free the process is. Experience has shown, for example, that direct consumer contact, installation assistance, and partial to total financing are essential for high levels of participation. In sharp contrast, programs that require people to request information on receiving water-saving kits to be self-installed have incredibly low participation rates.

While not exhaustive by any stretch of the imagination, I think my comments nonetheless indicate an enormous opportunity for Rhode Island to secure water services in a highly efficient manner, that simultaneously guarantees economic growth and the preservation of our rich natural endowment.

In this light, I strongly support EPA's consistent and persistent efforts to prohibit the use of Big River, Mishnock River, their tributaries and adjacent wetlands as disposal sites in connection with construction of the Big River Reservior. The good stewardship efforts of this agency, as well as of the U.S. Fish and Wildlife Service, in opposing the Big River Reservoir project provide an exemplary model by which the State of Rhode Island can greatly advance the art of water stewardship through comprehensive water efficiency improvements.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 28, 1989, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 29

9:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine U.S. Government anti-narcotic activities in the Andean region of South America.
SD-342

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on the national science and technology policy, focusing on emerging national priorities in science and technology and the institutions which both make policy and perform research.
SR-253

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings to review the implementation of HUD's Section 8 Moderate Rehabilitation Program, to provide affordable housing for low-income families and to rehabilitate deteriorating properties and revitalize neighborhoods, and to consider S. 1091, the United States Coast Guard Bicentennial Medal Act, and pending nominations.
SD-538

Environment and Public Works
Environmental Protection Subcommittee
To hold hearings to review the Department of Interior report to Congress concerning the Coastal Barrier Resources System.
SD-406

Finance
To hold hearings on proposed legislation to expand and restore the Individual Retirement Account by making deductible IRAs available to all Americans.
SD-215

Foreign Relations
Business meeting, to consider the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Treaty Doc. 101-4).
SD-419

Labor and Human Resources
To hold hearings on the homeless situation in America.
SD-430

2:30 p.m.
Foreign Relations
To hold hearings on the nomination of Evelyn Irene Hoopes Teegen, of Minnesota, to be Ambassador to Fiji, and to serve concurrently as Ambassador to the Kingdom of Tonga, Ambassador to Tuvalu, and Ambassador to the Republic of Kiribati.
SD-419

OCTOBER 2

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 11, to provide for the protection of public lands in the California desert.
SD-366

Foreign Relations
To hold hearings on the nominations of Marion V. Creekmore, Jr., of Virginia, to be Ambassador to the Democratic

Socialist Republic of Sri Lanka, and to serve concurrently as Ambassador to the Republic of Maldives, Chas. W. Freeman, Jr., of Rhode Island, to be Ambassador to the Kingdom of Saudi Arabia, Charles W. Hostler, of California, to be Ambassador to the State of Bahrain, and Michael Ussery, of Virginia, to be Ambassador to the Kingdom of Morocco.

SD-419

2:30 p.m.
Judiciary
To resume hearings on the imposition of the sentence of death.

SD-226

OCTOBER 3

9:30 a.m.
Agriculture, Nutrition, and Forestry
To resume hearings on the nomination of James E. Cason, of Virginia, to be Assistant Secretary of Agriculture for Natural Resources and the Environment.

SR-332

Banking, Housing, and Urban Affairs
Securities Subcommittee
To hold hearings on the impact of institutional investors on corporate governance, takeovers, and the capital markets.

SD-538

Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on international investment in the U.S. airline industry.

SR-253

Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on proposed legislation to strengthen air quality standards, focusing on acid rain.

SH-216

10:00 a.m.
Foreign Relations
To hold hearings on U.S. policy options toward South Africa.

SD-419

Judiciary
To hold hearings on the international supply of drugs.

SD-226

Special on Aging
To hold hearings to examine proposals to make the Social Security Administration an independent agency and other administrative issues.

SD-628

2:00 p.m.
Foreign Relations
To hold hearings on the nominations of Charles E. Cobb, Jr., of Florida, to be Ambassador to the Republic of Iceland, Alan Green, Jr., of Oregon, to be Ambassador to the Socialist Republic of Romania, Sally J. Novetzke, of Iowa, to be Ambassador to the Republic of Malta, and John G. Weinmann, of Louisiana, to be Ambassador to the Republic of Finland.

SD-419

Judiciary
To hold hearings on the nomination of Gene McNary, of Missouri, to be Commissioner of Immigration and Naturalization, Department of Justice.

SD-226

OCTOBER 4

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 583, to establish national water efficiency standards for the manufacture and labeling of plumbing products sold in interstate commerce.

SR-253

Energy and Natural Resources
Business meeting, to resume consideration of S. 371, to designate certain National Forest System lands in the State of Idaho for inclusion in the National Wilderness Preservation System, to prescribe certain management formulae for certain National Forest System lands, and to release other forest lands for multiple-use management, and other pending calendar business.

SD-366

Environment and Public Works
Environmental Protection Subcommittee
To continue hearings on proposed legislation to strengthen air quality standards, focusing on acid rain.

SH-216

10:00 a.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on the Japanese space industry.

SD-562

Finance
To hold hearings on changes in economic relationships between the U.S. and U.S.S.R.

SD-215

Foreign Relations
To continue hearings on U.S. policy options toward South Africa.

SD-419

Judiciary
To hold hearings on the impact of drugs on children and their families.

SD-226

Veterans' Affairs
To hold hearings on the nominations of Edward G. Lewis, of Virginia, to be Assistant Secretary of Veterans Affairs for Information Resources Management, and Joanne K. Webb, of Virginia, to be Director of the National Cemetery Service, Department of Veterans Affairs.

SR-418

10:15 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the activities of the Resolution Trust Corporation (RTC).

SD-538

OCTOBER 5

9:30 a.m.
Energy and Natural Resources
To hold hearings on the Department of Energy's efforts to improve the operations and management of its atomic energy defense activities and its efforts to restore public credibility in the Department's ability to operate its facilities in a safe and environmentally sound manner, and on S. 972, S. 1304, and other related measures with respect to the environment, safety, and health aspects of operation of the Department of Energy's nuclear facilities.

SD-366

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the condition of the banking system.

SD-538

Environment and Public Works
Environmental Protection Subcommittee
To hold hearings to review the National Acid Precipitation Assessment Program and the scientific understanding of acid precipitation.

SD-406

OCTOBER 17

9:00 a.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on S. 1007, to examine the reduction in apportionment of Federal-aid highway funds to certain States, relating to highway fatality and injury reduction.

SD-406

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on advanced transportation systems, focusing on magnetic levitation and high-speed rail.

SD-253

Energy and Natural Resources
To hold oversight hearings on the appropriate role of methanol as a potential alternative fuel in our future energy policy.

SD-366

OCTOBER 18

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 952, to stimulate the design, development, and manufacture of high definition television technology.

SR-253

9:30 a.m.
Budget
To hold joint hearings with the Committee on Governmental Affairs on budget reform issues.

SH-216

Governmental Affairs
To hold joint hearings with the Committee on the Budget on budget reform issues.

SH-216

10:00 a.m.
Foreign Relations
To hold hearings on the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (Treat Doc. 100-20).

SD-419

2:15 p.m.
Environment and Public Works
To hold hearings on the nominations of Forrest J. Remick, of Pennsylvania, to be a Member of the Nuclear Regulatory Commission, and David C. Williams, of Illinois, to be Inspector General, Nuclear Regulatory Commission.

SD-406

OCTOBER 19

9:30 a.m.
Energy and Natural Resources
To resume hearings on the Department of Energy's efforts to improve the operations and management of its atomic energy defense activities and its efforts to restore public credibility in the Department's ability to operate its

facilities in a safe and environmentally sound manner, and on S. 972, S. 1304, and other related measures with respect to the environment, safety, and health aspects of operation of the Department of Energy's nuclear facilities.

SD-366

Small Business

To hold hearings on the nomination of Kyo R. Jhin, of Maryland, to be Chief Counsel for Advocacy, Small Business Administration.

SR-428A

2:00 p.m.

Select on Indian Affairs

To hold hearings on S. 1289, to improve the management of forests and woodlands and the production of forest resources on Indian land.

SR-485

OCTOBER 24

9:00 a.m.

Agriculture, Nutrition, and Forestry

Conservation and Forestry Subcommittee

To hold hearings on the protection of water quality.

SR-332

OCTOBER 25

9:00 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on cable carriage of local broadcast signals.

SR-253

OCTOBER 26

10:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Production and Stabilization of Prices Subcommittee

To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on cotton.

SR-332

2:00 p.m.

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold hearings on proposed legislation to promote and encourage travel in the U.S., and to review the National Tourism Policy Act (P.L. 97-63).

SR-253

NOVEMBER 1

10:00 a.m.

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold oversight hearings on programs administered by the U.S. and Foreign Commercial Service.

SR-253

NOVEMBER 2

2:00 p.m.

Select on Indian Affairs

To hold oversight hearings on Indian health facilities.

SR-485

POSTPONEMENTS

OCTOBER 17

10:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Production and Stabilization of Prices Subcommittee

To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on wheat.

SR-332

OCTOBER 18

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on the international decade of natural disaster reduction.

SR-253

HOUSE OF REPRESENTATIVES—*Thursday, September 28, 1989*

The House met at 9 a.m.

Rev. Anthony L. Evans, pastor, First Baptist Church, Olean, NY, offered the following prayer:

Unless the Lord builds the house, those who build it labor in vain. * * *—Psalm 127:1.

God of our fathers and mothers, their stay in trouble, their strength in conflict, their guide and resource, we honor You. Be to us what our forebears said You were to them. Like the faithful and brave who have gone before, we are pilgrims of a modern era and thus we seek Your face.

Call our Nation once again to the task of great moral responsibility which is commensurate with the great freedom that we enjoy. This land which we love is the envy of the nations and we would ask that she be kept strong and free.

Lead this honorable body. Lead them and our Nation in the paths of righteousness, truth, and justice, for Your name's sake we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SYNAR. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. SYNAR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 283, nays 91, not voting 58, as follows:

[Roll No. 252]

YEAS—283

Ackerman	AuCoin	Boggs
Akaka	Barnard	Bonior
Alexander	Bartlett	Borski
Anderson	Bates	Bosco
Andrews	Bellenson	Boucher
Annunzio	Bennett	Boxer
Anthony	Bereuter	Brennan
Archer	Berman	Brooks
Aspin	Bevill	Broomfield
Atkins	Bilbray	Browder
Brown (CA)	Horton	Pease
Bruce	Houghton	Pelosi
Bryant	Hoyer	Penny
Byron	Hubbard	Perkins
Callahan	Huckaby	Petri
Campbell (CA)	Hughes	Pickett
Campbell (CO)	Hutto	Pickle
Cardin	Jenkins	Porter
Carper	Johnson (CT)	Poshard
Carr	Johnson (SD)	Price
Chapman	Johnston	Pursell
Clarke	Jones (GA)	Quillen
Clement	Jones (NC)	Rahall
Coleman (TX)	Jontz	Rangel
Collins	Kanjorski	Ravenel
Combest	Kaptur	Regula
Condit	Kasich	Rhodes
Conte	Kastenmeier	Richardson
Costello	Kennedy	Rinaldo
Coyne	Kennelly	Robinson
Craig	Kildee	Roe
Darden	Kolter	Rose
de la Garza	Kostmayer	Rostenkowski
DeFazio	LaFalce	Roth
DeLay	Lancaster	Rowland (CT)
Dellums	Lantos	Rowland (GA)
Derrick	Laughlin	Roybal
Dicks	Lehman (CA)	Sabo
Donnelly	Lehman (FL)	Sangmeister
Dorgan (ND)	Levin (MI)	Sarpalius
Downey	Levine (CA)	Savage
Dreier	Lewis (GA)	Sawyer
Duncan	Lipinski	Saxton
Durbin	Livingston	Schaefer
Dwyer	Lloyd	Scheuer
Dymally	Long	Schneider
Early	Lowey (NY)	Schulze
Eckart	Luken, Thomas	Schumer
Edwards (CA)	Madigan	Sharp
Edwards (OK)	Manton	Shumway
Emerson	Martin (NY)	Shuster
Engel	Martinez	Sisisky
English	Matsui	Skaggs
Erdreich	Mavroules	Skeen
Evans	Mazzoli	Skelton
Fascell	McCloskey	Slattery
Fawell	McCurdy	Slaughter (NY)
Fazio	McDade	Smith (FL)
Feighan	McDermott	Smith (NE)
Fish	McEwen	Smith (VT)
Flippo	McHugh	Smith, Denny (OR)
Foglietta	McMillan (NC)	Snowe
Ford (TN)	McMillen (MD)	Spratt
Frank	McNulty	Staggers
Frenzel	Meyers	Stallings
Frost	Michel	Stenholm
Gallo	Miller (CA)	Stokes
Gejdenson	Miller (WA)	Studds
Gephardt	Mineta	Swift
Geren	Moakley	Synar
Gibbons	Mollohan	Tallon
Gillmor	Montgomery	Tanner
Gilman	Moody	Thomas (GA)
Gingrich	Morella	Torres
Glickman	Morrison (WA)	Torricelli
Gonzalez	Mrazek	Towns
Gordon	Murtha	Traficant
Gradison	Myers	Traxler
Grant	Nagle	Unsoeld
Gray	Natcher	Valentine
Green	Neal (MA)	Vento
Guarini	Nelson	Visclosky
Gunderson	Oakar	Volkmer
Hall (TX)	Oberstar	Walker
Hamilton	Obey	Watkins
Hammerschmidt	Olin	Waxman
Harris	Ortiz	Weldon
Hatcher	Owens (UT)	Williams
Hayes (IL)	Packard	Wilson
Hayes (LA)	Pallone	Wolpe
Hefner	Panetta	Wyden
Henry	Parker	Wylie
Hertel	Parris	Yates
Hiler	Patterson	
Hoagland	Payne (VA)	

NAYS—91

Armey	Hawkins	Roberts
Baker	Hefley	Rogers
Ballenger	Herger	Ros-Lehtinen
Barton	Holloway	Roukema
Bentley	Hopkins	Schiff
Bilirakis	Hunter	Schroeder
Billey	Hyde	Sensenbrenner
Boehlert	Inhofe	Shays
Brown (CO)	Ireland	Sikorski
Buechner	Jacobs	Slaughter (VA)
Bunning	James	Smith (TX)
Burton	Kolbe	Smith, Robert (NH)
Chandler	Kyl	Smith, Robert (OR)
Clay	Lagomarsino	Solomon
Clinger	Leach (IA)	Spence
Coble	Lewis (CA)	Stangeland
Coleman (MO)	Lewis (FL)	Stearns
Coughlin	Lightfoot	Stump
Cox	Lowery (CA)	Sundquist
Dannemeyer	Lukens, Donald	Tauke
DeWine	Machtley	Thomas (CA)
Dickinson	Martin (IL)	Thomas (WY)
Douglas	McGrath	Upton
Fields	Miller (OH)	Vucanovich
Gallegly	Molinari	Walsh
Gekas	Moorhead	Wheat
Goodling	Murphy	Whittaker
Goss	Nielson	Whitten
Grandy	Pashayan	Wolf
Hancock	Paxon	
Hastert	Ridge	

NOT VOTING—58

Applegate	Hansen	Russo
Bateman	Hochbrueckner	Saiki
Bustamante	Kleczka	Schuette
Conyers	Leath (TX)	Shaw
Cooper	Lent	Smith (IA)
Courter	Markey	Smith (NJ)
Crane	Marlenee	Solarz
Crockett	McCandless	Stark
Davis	McCollum	Tauzin
Dingell	McCrery	Udall
Dixon	Mfume	Vander Jagt
Dornan (CA)	Morrison (CT)	Walgren
Dyson	Neal (NC)	Weber
Espy	Nowak	Weiss
Flake	Owens (NY)	Wise
Florio	Oxley	Yatron
Ford (MI)	Payne (NJ)	Young (AK)
Garcia	Ray	Young (FL)
Gaydos	Ritter	
Hall (OH)	Rohrabacher	

□ 0927

Mr. GILMAN changed his vote from "present" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Georgia [Mr. BARNARD] please come forward and lead the House in the Pledge of Allegiance.

Mr. BARNARD led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3281. An act to extend the expiration date of the Defense Production Act of 1950.

H.R. 3282. An act to amend title 5, United States Code, to authorize the continuation of the performance management and recognition system through March 31, 1991, and for other purposes.

THE REVEREND ANTHONY L. EVANS

(Mr. HOUGHTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOUGHTON. Mr. Speaker, and friends, I would like to introduce to you Pastor Tony Evans and his son, Sean, from Olean, NY. Pastor Evans just gave the prayer here. He and Jim Ford are members of a profession of which we are all very proud. In this day and age in this exciting country of ours, and this not so exciting development in church membership, there are a handful of men and women who stand out as leaders in our church. Tony Evans is one of these. He is a strong believer. He is a strong force in our country and we are very proud to have him and his son here with us today.

REAPPOINTMENT AS MEMBER TO ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE

The SPEAKER. Pursuant to the provisions of section 491 of the Higher Education Act, as amended by section 407, Public Law 99-498, the Chair reappoints on the part of the House the following member to the Advisory Committee on Student Financial Assistance:

Mr. Stephen C. Biklen, Pittsford, NY.

APPOINTMENT AS MEMBER OF COMMISSION ON INTERSTATE CHILD SUPPORT

The SPEAKER. Pursuant to the provisions of section 126(b) of Public Law 100-485, the Speaker and minority leader jointly appoint to the Commission on Interstate Child Support on the part of the House the gentlewoman from New Jersey [Mrs. ROUKEMA] to fill the existing vacancy thereon.

□ 0930

OMNIBUS BUDGET RECONCILIATION ACT OF 1989

The SPEAKER. Pursuant to House Resolution 245 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3299.

□ 0931

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3299) to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990, with Mr. MAVROULES in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, September 27, 1989, the amendment offered by the gentleman from California [Mr. ANDERSON] had been disposed of.

It is now in order to consider amendment No. 4 printed in section 2 of House Report 101-261.

AMENDMENT OFFERED BY MR. ROSTENKOWSKI

Mr. ROSTENKOWSKI. Mr. Chairman, I offer an amendment.

Mr. Chairman, if I may be heard to make a unanimous-consent request, the minority and I have agreed to allocate a certain amount of time to the gentleman from Georgia [Mr. JENKINS] to participate in the debate.

Mr. Chairman, I ask unanimous consent that I control 52 minutes of the time, allocating 8 minutes to the gentleman from Georgia [Mr. JENKINS], and that the minority be allowed to give the gentleman from Georgia [Mr. JENKINS] 20 minutes, which would mean that I would control 52 minutes of the time, the gentleman from Georgia [Mr. JENKINS] would control 28 minutes of the time, and the gentleman from Texas [Mr. ARCHER] the remaining time.

Mr. ARCHER. Mr. Chairman, that is acceptable to me, and I would also join in the unanimous-consent request that 20 minutes of the time that would ordinarily come to me be allotted at the beginning to the gentleman from Georgia [Mr. JENKINS], so that he may yield time at his discretion.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ROSTENKOWSKI: Strike so much of subtitle J of title XI as precedes part III thereof and insert the following:

Subtitle J—Expansion of IRA Deduction; Elimination of Provision Reducing Marginal Rate for High-Income Individuals

PART I—EXPANSION OF IRA DEDUCTION

SEC. 11951. ACTIVE PARTICIPANTS ALLOWED DEDUCTION FOR 50 PERCENT OF CONTRIBUTIONS.

(a) GENERAL RULE.—Paragraph (1) of section 219(g) (relating to limitation on deduction of active participants in certain pension plans) is amended to read as follows:

"(1) IN GENERAL.—If (for any part of any plan year ending with or within a taxable year) an individual or the individual's spouse is an active participant, the amount allowed as a deduction under subsection (a) for such taxable year shall be the sum of—

"(A) 100 percent of the amount which would have been allowable for such taxable year if each of the dollar limitations contained in subsections (b)(1)(A) and (c)(2) were reduced (but not below zero) by the amount determined under paragraph (2), plus

"(B) 50 percent of the excess of—

"(i) the amount which would have been allowable for such taxable year without regard to this subsection, over

"(ii) the amount determined under subparagraph (A)."

(b) DISALLOWANCE OF DEDUCTION FOR INTEREST ON LOAN INCURRED TO MAKE IRA CONTRIBUTION.—Subsection (h) of section 163 (relating to disallowance of deduction for personal interest) is amended by adding at the end thereof the following new paragraph:

"(6) INTEREST ON LOAN INCURRED TO MAKE IRA CONTRIBUTION.—In the case of any interest which is paid or accrued on indebtedness incurred for purposes of making a contribution to an individual retirement plan—

"(A) for purposes of this subsection, such interest shall be treated as personal interest (and the provisions of paragraph (5) shall not apply), and

"(B) such interest shall not be treated as investment interest for purposes of subsection (d)."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (o) of section 408 is amended by striking paragraphs (1), (2), and (3) and inserting the following:

"(1) IN GENERAL.—Qualified nondeductible contributions may be made on behalf of an individual to an individual retirement plan.

"(2) QUALIFIED NONDEDUCTIBLE CONTRIBUTIONS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified nondeductible contribution' means the portion of any contribution for a taxable year beginning after December 31, 1989, to an individual retirement plan which is not allowable as a deduction under section 219 solely by reason of subsection (g)(1) thereof.

"(B) YEARS BEFORE 1990.—The term 'qualified nondeductible contribution' includes any contribution to an individual retirement plan for any taxable year beginning before January 1, 1990, which was a designated nondeductible contribution (as defined in this subsection as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1989).

"(C) TAXPAYER MAY ELECT TO TREAT DEDUCTIBLE CONTRIBUTIONS AS NONDEDUCTIBLE.—If a taxpayer elects not to deduct any contribution which (without regard to this subparagraph) is allowable as a deduction under section 219, such contribution shall be treated as a qualified nondeductible contribution.

"(3) TIME WHEN CONTRIBUTION MADE.—In determining for which taxable year a contri-

bution is made, the rules of section 219(f)(3) shall apply."

(2) Paragraph (7) of section 219(f) is amended by striking "408(o)(2)(B)(ii)" and inserting "408(o)(2)(C)".

(3) Sections 408(o)(4) and 6693(b) are each amended by striking "designted nondeductible" each place it appears (including in any heading) and inserting "qualified nondeductible".

(4)(A) The section heading for section 6693 is amended by striking "DESIGNATED" and inserting "QUALIFIED".

(B) The item relating to section 6693 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "designated" and inserting "qualified".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions for taxable years beginning after December 31, 1989.

SEC. 11952. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOME OR TO PAY HIGHER EDUCATION EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

"(E) DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR FIRST HOME PURCHASERS OR EDUCATIONAL EXPENSES.—The following distributions to an individual from an individual retirement plan:

"(i) FIRST-TIME HOMEBUYERS.—Qualified first-time homebuyer distributions (as defined in paragraph (6)).

"(ii) HIGHER EDUCATION EXPENSES.—Distributions (other than distributions described in subparagraph (A) or in clause (i)) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year."

(b) DEFINITIONS.—Section 72(t) is amended by adding at the end thereof the following new paragraphs:

"(6) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(E)(i)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by a first-time homebuyer from an individual retirement plan to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence for such individual.

"(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, construction, or reconstructing the residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if such individual (and, if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date on which a binding contract to acquire, construct, or reconstruct the principal residence to which subparagraph (A) applies is entered into.

"(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

"(i) any amount is paid or distributed from an individual retirement plan to an individual for purposes of being used as provided in subparagraph (A), and

"(ii) by reason of a delay in the acquisition of the residence, the requirements of subparagraph (A) cannot be met,

the amount so paid or distributed may be paid into another individual retirement plan as provided in section 408(d)(3)(A)(i) without regard to section 408(d)(3)(B), and, if so paid into such other plan, such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

"(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(E)(ii), the term 'qualified higher education expenses' has the meaning given such term by section 135(c)(2), reduced—

"(A) as provided in section 135(d)(1), and

"(B) by any amount excludable from gross income for the taxable year under section 135 (relating to income from United States savings bonds used to pay higher education expenses)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1989, in taxable years ending after such date.

PART II—ELIMINATION OF PROVISION REDUCING MARGINAL TAX RATE FOR HIGH-INCOME INDIVIDUALS

SEC. 11961. ELIMINATION OF PROVISION REDUCING MARGINAL TAX RATE FOR HIGH-INCOME INDIVIDUALS.

(a) IN GENERAL.—Section 1 (relating to tax imposed) is amended—

(1) by striking the item beginning "Over $29,750" and all that follows in subsection (a) (relating to married individuals filing joint returns and surviving spouses) and inserting the following new items:

"Over $29,750 but not over $71,900.	$4,462.50, plus 28% of the excess over $29,750.
Over $71,900	$16,264.50, plus 33% of the excess over $71,900.",

(2) by striking the item beginning "Over $23,900" and all that follows in subsection (b) (relating to heads of households) and inserting the following new items:

"Over $23,900 but not over $61,650.	$3,585, plus 28% of the excess over $23,900.
Over $61,650	$14,155, plus 33% of the excess over $61,650.",

(3) by striking the item beginning "Over $17,850" and all that follows in subsection (c) (relating to unmarried individuals, other than surviving spouses and heads of households) and inserting the following new items:

"Over $17,850 but not over $43,150.	$2,677.50, plus 28% of the excess over $17,850.
Over $43,150	$9,761.50, plus 33% of the excess over $43,150.",

(4) by striking the item beginning "Over $14,875" and all that follows in subsection (d) (relating to married individuals filing separate returns) and inserting the following new items:

"Over $14,875 but not over $35,950.	$2,231.25, plus 28% of the excess over $14,875.
Over $35,950	$8,132.25, plus 33% of the excess over $35,950.",

and

(5) by striking the item beginning "Over $5,000" and all that follows in subsection (e) (relating to estates and trusts) and inserting the following new items:

"Over $5,000 but not over $13,000.	$750, plus 28% of the excess over $5,000.
Over $13,000	$2,990, plus 33% of the excess over $13,000."

(b) REPEAL OF PHASEOUT.—

(1) IN GENERAL.—Section 1 is amended by striking subsection (g) (relating to phaseout of 15-percent rate and personal exemptions).

(2) CONFORMING AMENDMENT.—Subparagraph (a) of section 1(f)(6) (relating to adjustments for inflation) is amended by striking "subsection (g)(4),".

(c) PERCENT MAXIMUM CAPITAL GAINS RATE.—Subsection (j) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(j) MAXIMUM CAPITAL GAINS RATE.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

(1) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(A) taxable income reduced by the amount of the net capital gain, or

"(B) the amount of taxable income taxed at a rate below 28 percent, plus

"(2) a tax of 28 percent of the amount of taxable income in excess of the amount determined under paragraph (1).

For purposes of the preceding sentence, the amount taken into account as the net capital gain for any taxable year shall not exceed the amount which would be the net capital gain for such year if gains and losses from sales and exchanges of collectibles (as defined in section 408(m) without regard to paragraph (3) thereof) were not taken into account."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 11962. ACCELERATION OF DEPOSIT REQUIREMENTS.

(a) IN GENERAL.—Section 6302 (relating to mode or time for collection), as amended by section 11504, is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eighth-month periods, such person shall make deposits of such taxes on the 1st banking day after any day on which such person has $500,000 or more of such taxes for deposit. Rules similar to the rules of section 5061(e)(3) shall apply to the dollar amount applicable under the preceding sentence."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on January 1, 1990.

(2) SPECIAL RULE FOR 1990.—In the case of any amount which (but for this paragraph) would be required to be deposited during calendar year 1990 under the amendment

made by subsection (a), the amendment made by subsection (a) shall apply only to 60 percent of such amount.

(3) SPECIAL RULE FOR 1991.—In the case of any amount which (but for this paragraph) would be required to be deposited during calendar year 1991 under the amendment made by subsection (a), the amendment made by subsection (a) shall apply only to 70 percent of such amount.

PART III—DEFICIT REDUCTION TRUST FUND

SEC. 11971. DEFICIT REDUCTION TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Deficit Reduction Trust Fund".

(b) TRANSFER TO ACCOUNT OF NET ADDITIONAL REVENUES.—

(1) IN GENERAL.—The Secretary of the Treasury (hereinafter in this section referred to as the "Secretary") shall, from time to time, transfer to the Deficit Reduction Trust Fund the amount of the qualified net additional revenues received in the Treasury.

(2) QUALIFIED NET ADDITIONAL REVENUES.—For purposes of this subsection—

(A) IN GENERAL.—The term "qualified net additional revenues" means the net amount by which the amendments made by parts I and II of this subtitle increase the amount of revenue received in the Treasury.

(B) SPECIAL RULE FOR FISCAL YEARS BEFORE 1995.—In the case of any fiscal year before fiscal year 1995, the amount of the qualified net additional revenue for such year shall be determined under the following table:

In the case of fiscal year:	The qualified net additional revenues are:
1990	$1,021,000,000
1991	1,140,000,000
1992	3,997,000,000
1993	8,641,000,000
1994	10,460,000,000.

(3) ESTIMATES.—For fiscal years after 1994, the amounts transferred to the Deficit Reduction Trust Fund shall be made on the basis of estimates made by the Secretary of the qualified net additional revenues. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) USE OF AMOUNTS IN TRUST FUND.—The Secretary shall use the amounts in the Deficit Reduction Trust Fund to redeem, or buy before maturity, obligations of the Government which are included in the public debt. Any obligation of the Government which is paid, redeemed, or bought with money from the Deficit Reduction Trust Fund shall be cancelled and retired and may not be reissued.

Redesignate part III of subtitle J of title XI of the bill as part IV.

Strike section 11632 of the bill.

Amend the table of contents accordingly.

The CHAIRMAN. Under the rule and the unanimous-consent request just agreed to, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 52 minutes, the gentleman from Texas [Mr. ARCHER] will be recognized for 40 minutes, and the gentleman from Georgia [Mr. JENKINS] will be recognized for 28 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Chairman, the President of the United States in his inaugural address said that "we are more than the sum of our possessions, a very noble and startling theme coming from a man who had spent 8 yeas in an administration that celebrated wealth as one of the major social ethos of our Republic. It was a wonderful concept, and it is now turned upside down by his urgent desire to have capital gains cut.

This particular tax holiday for the rich will not result in any new growth. Face it, my friends, a fire sale on old assets is not going to make this economy grow. It will only cost the Treasury a great deal of money.

Read the headlines in the Washington Post today: The FHA, $4.2 billion in the hole; an S&L crisis that will cost us $150 billion to $180 billion; nuclear powerplants that have to be cleaned up, cost unknown.

In the face of these painful realities, what does the President suggest we do? That we cut the taxes on the rich only to be made up in the future by the middle class. How completely preposterous can we be? How can we ignore the essential reality that the pressing problem of this country is not that the rich are taxed too high but that there is not enough revenue to run the Government of the United States? If we are to be lowering taxes it should be for working men and women.

For the last 10 years, the bottom 20 percent of the people in this country have seen their real incomes decline. The top 5 percent of income earners have seen almost a 20-percent increase in their incomes just in the incremental increase in the last 10 years is larger than the bottom 20 percent possess. We should be about correcting that injustice. Sadly, we do not do that.

Mr. Chairman, what we do offer is an alternative that is useful and important. It will stimulate savings. It will be paid for by the rich, and it will help the middle class, to realize the American dream a new home or a college education. It is the prudent and responsible thing to do.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, perhaps the first words that I will say in my comments today will be the most important of the few minutes that I will undertake, and I hope the Members of this body will listen well, and I hope the people of this country will listen.

The present tax treatment of capital gains and losses is both inequitable and a barrier to economic growth. The tax on capital gains directly affects investment decisions, the mobility and the flow of risk capital from static to more dynamic situations, the ease or difficulty experienced by new ventures in obtaining capital and thereby strength and potential for growth of the economy.

Those could be my words, ladies and gentlemen. They are not my words. They are the words that were spoken by President John F. Kennedy in 1963 in his message to the Congress of the United States. He certainly did not view capital gains as a partisan issue nor do the 19 members of the Committee on Ways and Means who formed the strong bipartisan majority which adopted the Jenkins-Archer-Flippo capital gains rate reduction and indexing provision in the committee.

Our amendment had nothing to do with party affiliation. It had nothing to do with pitting one group of taxpayers against another. It is simply the right thing to do for our economy, as Jack Kennedy said, to improve on the longest peacetime economic expansion in our Nation's history.

But the Democratic leadership has chosen to adopt the tired, wornout, failed rhetoric of another candidate for the Presidency, Michael Dukakis, and that argument lost last year. I would hope today that the majority of this House, if they had to choose, would choose Jack Kennedy over Michael Dukakis.

The Rostenkowski amendment, an expansion of IRA's, which just 3 years ago the Democrat leadership denounced as a tax giveaway and all but ran out of the Tax Code on a rail, now finds itself resurrected. They have to hide from their old rhetoric, so they are trying to paint the proposal to be something that it is not.

Mr. Chairman, let us face it, it is really difficult to sell something as a blow for the little guy when 84 percent of the people who would get the benefit from the Rostenkowski IRA proposal earn over $50,000 a year.

□ 0940

And besides, you cannot have an IRA if you do not have a job. And if you do not have a good-paying job, which is brought about by greater capital investment, then you are going to have difficulty finding the money to invest in your own IRA.

But his amendment, which is a combination of a huge tax increase and a partial restoration of the IRA deductions, really is not an alternative to the bipartisan committee capital gains provision. As desirable as IRA's may be, this is no more than classic tax and spend politics designed to attract votes to beat captial gains.

The committee plan, on the other hand, was designed to help improve on the Nation's record of peacetime economic expansion, and it does so in a way that is fairer to taxpayers at all income levels.

Much of what we currently tax as capital gains really represents nothing but inflation itself. To reduce that

penalty and stimulate investment, there should be a rate differential now. We need the indexing of the cost basis of capital assets to eliminate the taxation of pure inflation. That is a provision I have worked on for 15 years, and the time is right for its adoption.

The Archer-Jenkins rate differential raises $9.4 billion in new revenue over the next 3 years. And no one should give any credence to the inflated out-year guesstimates that the proponents of the Rostenkowski amendment and the opponents of the capital gains rate reduction have been waving around as if they are fact. The history of capital gains tax estimating simply does not bear that out.

The in-house Government estimators on which the opponents to the capital gains rate reduction in 1978 based their argument cited that in each year after the rate reduction we would lose revenue, so that over a 4-year period there would be a $4.6 billion revenue loss. We hear that same rhetoric today. We see the same in-house, so-called official estimators, providing information that is relied upon by the opponents of capital gains rate reductions.

But what really happened after the 1978 rate reduction? The facts are that we got increased revenues of $7.4 billion over that 4-year period, not a reduction or a loss of $4.6 billion as the opponents said would occur. The next 3 years saw continued increases in revenues.

For 7 solid years after 1978 we had revenue increases as a result of capital gains rate reductions until they unwisely were increased in 1986. We have every reason to believe that will happen again with a lower rate on capital gains these increased revenues will not cause a need to raise taxes on middle-income taxpayers but rather provide an opportunity to lower their taxes.

The opponents will tell you in their rhetoric that only the wealthy benefit from a rate reduction, but in the most recent IRS data, 75 percent of the taxpayers who had capital gains on their tax returns had under $50,000 of other income. Those people are middle-income Americans, and middle-income Americans do not want their nest egg taxed at a higher rate.

Do not be misled by the outrageous charts and tables that you have seen from capital gains opponents which classify many low- and middle-income individuals who happen to realize that one-time gain in their life by the sale of their home, or the sale of their farm, or the sale of their small business, or the sale of a stock accumulation as being somehow rich for the rest of their lives. The choice before the House today is a clear one. We can tax away America's future. We can encourage investment to preserve and enhance the Nation's core of capital. That is our greatest hope for a secure economic future, as President Kennedy said. That is the choice, and it is a very important one to all of the workers of this country.

Among industrialized nations, we stand virtually alone in taxing the nest eggs of our middle-income citizens. Our major international competitors have either no capital gains tax whatsoever, or a very nominal one. The cost of capital in the United States is three times higher than Japan, to a major extent because of the high capital gains tax in this country.

It is important to the competitiveness of America, if we want jobs financed by domestic capital and not dependent upon foreign sources of capital to reduce the capital gains rate. Every time we have to depend on foreign investment for our business or our farms, we create an obligation to future generations to pay service charges which takes money out of the productive sector of our economy and sends it overseas.

Let us make America competitive. Let us build a thriving economy. Let us create better jobs and more jobs for American workers. Let us follow what Jack Kennedy said in 1963.

Vote against the Rostenkowski amendment and for the committee bipartisan capital gains rate reduction.

The CHAIRMAN. The gentleman from Texas [Mr. ARCHER] has consumed 9 minutes.

Mr. JENKINS. Mr. Chairman, I yield 3 minutes to the gentleman from Alabama [Mr. FLIPPO].

Mr. FLIPPO. Mr. Chairman, I wanted to review for just 1 moment my view of why we are at this point here today in regard to the capital gains area. Our Committee on Ways and Means was asked to produce $5.3 billion for this year's budget purposes, and we completed that activity in committee, and when we completed that activity we found that we had many other programs that were set to expire at the end of this year.

We had the industrial development bonds set to expire, and those bonds are used by cities and countries throughout the Nation to build small manufacturing plants and create jobs for our people. They are set to expire at the end of this year.

Mortgage revenue bonds that are used by first-time home buyers in my State and in many States throughout this Nation, and are important to people, were set to expire at the end of this year.

Research and development costs that are very important to the new firms that are starting up in this country, and by the way, that is where all of the new jobs are being created in this country, are in the small firms where they have less than 20 employees, that research and development cost is set to expire at the end of this year, and that is very important to those programs.

Also we had very important new programs that the gentleman from New York [Mr. DOWNEY] and others, all of us are interested in such as the child care provisions. We had to find some way to fund those programs without increasing taxes and without increasing the deficit, and the capital gains is a good way to do that.

We found that we could have a temporary reduction in the capital gains rate, that it would produce some revenues over the period of time that we needed the revenues, and we could fund the extenders, and some child care provisions.

There will be those who say it is not connected. They can say any portion of the revenues raised are not connected to any particular type of expenditure, but I can say to Members that if we did not have the funds provided by the capital gains we would not be able to meet our targets.

I think those programs are important. Child care is important. This is a progrowth, projobs proposition, and I think it is worthy of passing.

I hope Members of this body will consider the fact that if someone made a $100 purchase in 1968, it would have to multiply more than 400 percent in order to maintain the purchasing power today.

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So this is not a bill that goes only to the wealthy. Seventy-four percent of the tax returns that are filed that contain capital gains, 74 percent of those returns have income less than $50,000. I urge support.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, it has not been that long ago that our leadership got together and decided at some kind of a summit that we were not going to deal with the deficit, we were not going to talk about taxes, and that somehow next year all these problems would be decided.

Now people have broken from the ranks, they believe that we should have a tax giveaway to the rich at the expense of the poor and at the expense of the social needs of our Nation. I think it is disgraceful that this issue would have to be on the floor at this time. And I think that the alternative is one that the Democrats have really broken that contract intended to raise the taxes and instead of dealing with the problem of drugs and fighting for affordable housing, education, prevention, and health care we are now going to give that money to the individual retirement funds.

It is a heck of a choice that has to be made, but it seems to me that the Rostenkowski substitute makes one heck of a lot more sense than to hemorrhage the entire economy to make certain that profits become more important than people and that timber becomes the issue rather than the social needs of our country.

I do hope that the President is sincere in saying that he is going to veto this. I hope it passes. I hope that this Nation never has to really look to the Congress and say that we were supposed to wait until next year to do something, but this time we found out that the capital gains tax reduction for the richest people we have in the United States was far more important than keeping our pledge of the economic summit and say that next year would be a year for all people.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I thank the gentleman for yielding.

The gentleman is aware of President Kennedy's proposal. I think one of the first political axioms must be that when conservative Republicans invoke President Kennedy's name that we had all better beware.

President Kennedy suggested a tax cut on capital gains and to pay for it he suggested that we tax capital gains to death.

I would like to know from the gentleman from Texas whether he is in favor of the whole Kennedy plan.

MR. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. THOMAS], a valued member of the committee.

Mr. THOMAS of California. Mr. Chairman, it is interesting the name of JFK is being invoked. We heard what he said when he was alive in terms of his position on capital gains. From our colleague from Texas, Mr. ARCHER.

To try to defend the jerry-rigged operation the Democrats are presenting, I understand a Member of the other body, the brother of the late President, is circulating a letter saying that as a matter of fact, if JFK were alive, he would not support capital gains as embodied in the Ways and Means' proposal.

My father-in-law is named Meredith Hamilton. We believe he is a distant relative of Alexander Hamilton. And my father-in-law believes that Alexander Hamilton, if he were alive, would be supporting the capital gains change.

My neighbor is named John Lincoln. He believes he is a direct descendant of Abraham Lincoln. He sent a letter to me stating that he believed that if Abe Lincoln were alive today, he would be supporting the capital gains position before us.

I also have a letter from Jimmy Roosevelt. Now I will admit it is not about capital gains. He is berating me about Social Security. But if you read between the lines, I think you can reasonably infer that Franklin Delano Roosevelt would have supported the capital gains proposal before us.

I think these kinds of approaches, rather than arguing the merits, exactly show the jerry-rig nature of the Democratic proposal. But in case you're interested—the vote from the cemetery precinct is in, and it's 3 to 1 for capital gains.

Mr. JENKINS. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. I thank the gentleman from Georgia for yielding.

Mr. Chairman, this is supposed to be the easy year budget reconciliation. We are talking about some $16 billion in the bill before us.

Next year was supposed to be the tough year, some $40 billion to $60 billion of cuts.

Yet here we are today, we have evolved into a confrontation of probably the greatest political power struggle in this House since the early days of Gramm-Rudman.

The choices before us, capital gains reductions, reinstating to some degree IRA's; I like both choices. Most Members in this House like both choices. But we must choose.

I come down on the side of capital gains. I come down on this side because I think it gives us the opportunity to keep this economy expanding for as far in the future, in the 1990's, as far as the eye can see.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Just let me try to clarify the Chair's position here.

There are two Members in opposition, and then there is the proponent of the amendment. The Chair will do his very best to allocate the time so that the three can come together at the end. Presently the time remains: The gentleman from Texas [Mr. ARCHER] has 30 minutes, the gentleman from Georgia [Mr. JENKINS] has 24 minutes, which makes 54, and the gentleman from Illinois [Mr. ROSTENKOWSKI] has 48 minutes.

Therefore at this point the Chair is going to call upon the gentleman from Texas to yield time.

Mr. ARCHER. I thank the Chair.

Mr. Chairman, I certainly accept that procedural goal.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of lowering the tax rate on capital gains. The Budget Reconciliation Act is a deficit reduction bill, and the proposal to cut the capital gains tax is a deficit reducer. We all agree that a lower tax rate will induce more transactions and bring in more revenue to the U.S. Treasury. In fact, almost $9 billion in revenue will be the result of the Jenkins-Archer proposal in just 2 years. That's $9 billion extra in tax revenue, coming from American investors rather than American paychecks.

Nevertheless, some are painting a cut in the captial gains tax rate as a partisan political issue. We cannot let the Jenkins-Archer proposal fall victim to political bickering. A lower capital gains tax is a necessity, not only for the Federal budget but for the American economy.

Products and equipment from America's foreign competitors are winning more and more space on store shelves, on highways, and in American homes. Part of the reason is our foreign competitors know that a lower capital gains tax means higher rates of savings and investment. Higher savings and investment rates means more available capital, and more capital means more economic growth and job creation. For example, Japans savings rate is twice that of the United States. While capital in Japan costs only half as much as it does in the United States. I am certain that we all agree on the dangers that these figures reveal, and I am also certain that lowering the capital gains tax rate is an important step in eliminating those dangers.

I am disgusted with the rhetoric that is being used to turn Americans against each other on this issue. I support President Bush's pledge against raising taxes, and this plan to lower the tax on capital gains sticks to that pledge 100 percent, while increasing revenue by almost $9 billion. Why should Americans be set against each other over a proposal that leaves everone's normal income free from the hands of the Internal Revenue Service?

In fact, most of the beneficiaries of a lower tax on capital gains are middle-income Americans. The Department of the Treasury reports that over 70 percent of the taxpayers who report capital gains on their tax forms earn other income of less than $50,000. One-third of the taxpayers who report capital gains have other income of less than $20,000 per year. Many of these taxpayers are elderly. The elderly, who represent only 11 percent of all tax returns, represent 26 percent of all tax returns reporting capital gains. As these figures clearly demonstrate, many, many Americans from all walks of life realize capital gains every year, and they will all benefit from this tax cut.

On the other hand, according to the Joint Committee on Taxation's analysis of the Democratic IRA proposal, the vast bulk of the beneficiaries of this proposal would be those Americans with incomes over $50,000. The

simple reason for that is that most taxpayers with incomes under $50,000 already qualify for IRA's under current law.

It is also important to remember that the revenues resulting from this proposal will go to pay for valuable programs that might otherwise go unfunded, including child care, low-income housing, educational assistance, targeted job credits, and tax relief for the working poor. Americans participating in and supporting these programs will directly reap the benefits of increased investment transactions.

I urge my colleagues to support this sound and sensible policy that will spur both investment in America and revenue for the U.S. Treasury without raising taxes.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I rise in support of the amendment to lower the capital gains tax rate.

Mr. Chairman, the Democrats have been furiously backpedalling to come up with an idea to offset President Bush's desire to cut capital gains tax rates and encourage investment. Their idea, to stimulate greater savings through encouraging Individual Retirement Accounts isn't a bad one if considered in a vacuum. The problem is, the reconciliation bill is not a vacuum, rather it's part of the budgetary process, the part that is mandated to raise revenue.

Now, encouraging investment in IRA's does not raise revenue. Even the Democrats understand this. So they propose also to simply raise the income tax rate at the far end of the scale to 33 percent. Since they love to tax, this fits exactly with their philosophy and the populists among them—almost all of them—are having a field day representing their proposal as one to protect middle-income Americans and make the wealthy pay.

I suggest that whenever you raise the tax rates, we all pay. If you want to encourage savings and investment you lower the tax rate, not raise it. But more than this, the Democrats represent that their tax rate increase is merely carrying out the original intent of the Tax Reform Act of 1986 and correcting an anomoly in the reform provisions that caused the top tax rate of 33 percent to reduce for the far end of the scale to 28 percent after a certain level of income was reached ($200,000).

No, Democrats, this is wrong. There was no anomoly. There was an agreement to provide equity to those at the far end who, under the reform provisions, were losing almost all deductions in order to achieve the lower rate.

I believe that the proposal to lower capital gains taxes is an economically sound one. In honesty, however, I don't feel very comfortable finding it in the reconciliation package, either. Obviously, the members of the Ways and Means Committee fished around for a way to find revenue in the President's proposal in order to make the budget numbers come out right. They found sufficient revenue if they limited the lower capital gains rate to a short 2-year period, but after that the economists predicted a net revenue loss. So Ways and Means limited the lower rate to the first 2 years to gain the revenue and make the numbers look good. Can't Congress ever do anything because it's the right policy rather than because it makes the numbers look artificially good?

Still, the remainder of the proposal to index capital gains to inflation after the 2-year period is so equitable, so compelling as tax policy, that this provision, even though supported by some Members for the wrong reason, deserves the support of the House.

I'm completely amazed at how weak the Democrats are as an opposition party. I used to believe that they were simply cowed by the great communicator, President Reagan. But it's clear that they're no better under George Bush and that the problem isn't so much the Republican leader as it is a bankruptcy of ideas and political philosophy on the other side of the aisle. Most of the Democrats have their hearts and minds locked in the Great Depression and sound economic thinking has totally passed them by. I wonder when someone in their party will figure this out. Until then, listening to them on the House floor is a case of deja vu, a dream from days past, with ideas which didn't work then and never will work, locked in time.

Mr. JENKINS. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Chairman, competition: That's what this issue is about. This debate should not be snarled in partisan politics—Democrats and Republicans have championed capital gains treatment for over a quarter of a century. President John F. Kennedy said:

> The tax on capital gains directly affects investment decisions, the mobility and flow of risk capital from static to more dynamic situations, the ease of difficulty experienced by new ventures in obtaining capital, and thereby the strength and potential for growth in the economy.

How well America competes today in an international marketplace will determine our standard of living for the next generation. Lower capital gains rates will make America more competitive in the very industries and technologies where we must win.

The cost of investing in new equipment is higher in the United States than anywhere else in the industrial world. There is a penalty for investment in the United States. In Japan, the cost of business invesment is twice as low as in the United States. Or in the United Kingdom, where the cost of new investment is 3.56 percent, or West Germany where the cost of investment is 4.39 percent. Many of our competitors—Belgium, Italy, The Netherlands, Hong Kong, Taiwan, South Korea, and Singapore—do not tax capital gains at all. And our other competitors—such as Japan, Canada, France, and Sweden—tax capital gains at a much lower rate than in the United States. The link between cost of new investment and capital gains taxes is clear: A recent study shows that a permanent reduction of the capital gains rate to 15 percent would lower the cost of capital by 14 percent.

Let's look at our savings rate. Our national savings rate is much lower than those of our competitors. United States savings averaged only 5.3 percent, compared to 10.3 percent in West Germany, 18.6 percent in Japan, 9.4 percent in Canada, and 9 percent in France. IRA's can facilitate savings, but lower capital gains will reduce the tax on savings, thus raising our national savings rate. IRA's do not have a direct impact on the cost of new business equipment. A capital gains tax rate will have a greater positive effect on investment and the economy.

Some have suggested that a capital gains rate is unfair because a disproportionate share of the benefit would go to the rich. Yet the opponents fail to mention that their statistics are not based upon earned income, but rather their numbers include the capital gains income itself. So that a farmer who earns $40,000 a year and who sells his farm at a profit of $60,000 is considered to have earned $100,000 for that year. The opponents also ignore the fact that a greater number of taxpayers benefiting from the capital gains reduction are not rich—but middle class. Three-fourths of all tax returns with capital gains were reported by taxpayers whose incomes are under $50,000.

The elderly especially benefit from capital gains. While the elderly represent only 11 percent of all tax returns, they represent 26 percent of all tax returns reporting capital gains.

The family who owns some stock or real estate and who sells this asset when their children go to college, or for their retirement, want to make the most of their investment. This issue is clearly not a Republican or Democratic idea. It is an idea that makes sense for all Americans.

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Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. SUNDQUIST].

Mr. SUNDQUIST. Mr. Chairman, I thank my distinguished colleague from Texas for yielding time to me on this important issue.

My friends, today we have a choice to make. I do not think it is a very difficult choice. I deplore those on the other side of the aisle who are trying to make a class war out of it, pitching one group against the other. Today we have a choice that is very simple. We can extend IRA's for individuals. Eighty-four percent who make more than $50,000 benefit. Reduce the capital gains tax, 75 percent making less than $50,000 benefit. It is that simple.

High capital gains are a penalty on middle-class savings and investments.

For most people, a home, a farm, a small business. That is the biggest investment we will make in our lifetime. The Government does not take any risks when we buy that home, farm, or small business. However, the Government currently is taking properly a third of the sale on that piece of property. That is not fair.

The liberals say capital gains benefit only the rich. That is just not true. This tax cut will benefit middle-class American families, farmers, homeowners, and small businesses. If we want to encourage productive jobs creating investment in this country, the best way to do it is to lower the tax rate on capital gains.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. OLIN].

Mr. OLIN. Mr. Chairman, I thank the gentleman for yielding, and I rise in strong support of the Rostenkowski amendment.

Mr. Chairman, The President's proposal to provide a temporary, 2-year cut in the capital gains tax is not only wrong, it's dangerous. If passed, it will create enormous instability in our economy. Rather than produce investment, it will encourage investors to cash in their assets to take advantage of a short-term tax benefit. A large sell-off could depress the stock market, which could depress the economy, at large. We would risk a recession that would end economic growth and make the deficit dramatically worse. The capital gains cut proposal takes our focus off what should be our primary economic goal, reduction of the deficit. It is the wrong proposal, at the wrong time, for the wrong reasons. It should be defeated.

While I would prefer to simply delete the capital gains cut from the bill, I do endorse the Democratic alternative. It is a responsible plan that appropriately focuses tax relief on the middle class. But most importantly, it will reduce the deficit, not increase it as the President's plan does. I support restoring individual retirement accounts for average Americans. I support allowing funds in IRA's to be used for home ownership and education. And I support removing the regressive provision that allows those earning more than $150,000 a year to pay a lower marginal tax rate than those making less than that. But most of all, I support reducing the deficit, which the Democratic plan does. I urge my colleagues to support it.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, I rise in strong support of the Rostenkowski-Gephardt-Stenholm measure.

Mr. Speaker, although we are the lowest taxed country in the industrialized world, it is supposed to give a $25,000 tax windfall to the wealthiest among Americans. The grounds have been that this will increase the health of our economy, our competitiveness, our productivity.

Well, this is a case of feeding the horse to feed sparrows.

Mr. Speaker, there are far more direct ways to improve American competitiveness. We can invest $6 or $7 or $8 billion in the Head Start Program, to help most educationally deprived young kids in America, 2- and 3-year-olds, to give them the enriched preschool experience, and to help them make it in school, and not become dropouts.

We could reverse the trends of the Reagan years to convert education grants and scholarships into loans, thus discouraging participation of bright young minority members, for example, and add to scholarships for secondary education.

Mr. JENKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. THOMAS].

Mr. THOMAS of Georgia. Mr. Chairman, I rise in support of the Jenkins proposal.

Mr. Chairman, it was quite a coincidence that just a few minutes ago I received the first phone call that I have gotten from a broker in my district. I was a former stockbroker myself before coming here to the Congress, and being a farmer as well. The people I have heard from have not been people in investments, or wealthy people, but the landowners who worked the forest land in my district. These are independent people.

We have watched very closely, and we documented for this committee since 1986, when I worked against that provision of the Tax Code becuase it simply took away capital gains. I knew the damage it would bring into the reforestation effort in this country. We documented this clearly to the committee, the shortfall in reproduction of timber that this country is now faced with.

I want to call it to mind again here today because we are dealing with a renewable resource that is essential to this country and this country's economy. It is an environmental asset to Americas, a tool in the global warming problems, and we all recognize this. The forests are well-managed, and they are habitat to wildlife. With a loss of capital gains, we deal a direct blow to the reforestation of our lands.

Simply stated, if Members are faced with one person with $10,000 and a couple hundred acres of land, and he is talking abut whether or not to put it in the bank and let it compound interest where it is secure and protected by the Federal Savings and Loan Deposit Insurance Corporation, versus putting it back on the land where he would put it into the future production of timber, there is no insurance against forest fire or weather, or Hurricane Hugo, which destroyed over $1 billion worth of timber in South Carolina. It is a long-term proposition of 25 to 30 years, and most landowners cut a crop of timber only once in their life.

These are the people that I speak for. They are a component in the need for a capital gains provision, but surely there is no more clear indication of the need and importance of returning this capital gains provision to those who own and work our land.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, this has traditionally been a nonpartisan issue. Capital gains has been a part of our Tax Code since 1922 and was a part of the 1986 House tax reform proposal. It has enjoyed broad bipartisan support because everyone recognized that we needed to reward risk investors differently than people who invested in a sure thing.

As I have watched the factories of my district reduce inventory costs, work smarter and harder, improve productivity and quality, diversity of product, I see them bumping hard against the cost of capital, a cost of production that they cannot control, and a burden that their counterpart workers in other nations do not carry. Adopting a capital gains tax cut will not alone reduce the cost of capital but it is an important step in the right direction.

I urge support of the Archer-Jenkins capital gains proposal so that our Tax Code will support the hard work of America's people to assume strong, competitive industry.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, there are days when I especially understand why the people of America elected a Democratic House and Senate, despite the Ronald Reagans and the Lee Atwaters. There are days when I clearly understand the difference between Republicans and Democrats. Today is such a day.

Today is the day we make a choice between helping the average American family or helping those who earn millions of dollars a year. It is not difficult for me to make that choice, even though I represent one of the richest districts in this country. However, my people understand that selfishness does not help the economy. They understand that a good capital gains proposal would have attached the deficit, would not have added to it. I would have supported such a capital gains proposal.

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But this Republican proposal will add to the deficit. We cannot afford to do that. We borrow and spend and pass the bills on to our kids. There they go again.

Our Democratic proposal attacks the major problems of the day. They are a lack of savings, but we can encourage

IRA's. We can address the high cost of housing by allowing IRA's to be used for housing; we can address the high cost of education by allowing IRA's to be used for that purpose. And the deficit can be reduced by closing a terrible loophole in the Tax Code.

Today millionaires and billionaires pay a rate of 28 percent on the majority of their income while those earning between $70,000 and $150,000 pay the marginal rate of 33 percent. Our Republican friends do not view that as an injustice, that Leona Helmsley and Donald Trump can now come forth and get away with tax murder at the expense of our average constituents.

Mr. Chairman, I am proud to be a Democrat in the tradition of John Kennedy who called for a tax differential at a time when the top rate, I say to my friends, was over 90 percent.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, for over a year now, some of us who have been interested in the timber provisions that currently are in the Jenkins-Archer bill have fought long and hard to bring us to this point today. But the reason those of us who are interested in timber are where we are today is because the Jenkins-Archer provisions brought us to this point.

Now, on the eve of the passage of this historical legislation, we see a carrot dangled in front of us by those who just a few weeks ago were in opposition to the timber provisions that are included in the Jenkins-Archer bill.

Let me say to the Members that in the South we have an old saying, that if you go to a dance with a lady, you dance with her, and my message to those who are interested in the timber provisions is that I encourage you to "dance with the one who brung you," and Jenkins-Archer has brought us to this point. The Jenkins-Archer provisions will accomplish those things that the people in the timber industry have fought so hard to get.

So, Mr. Chairman, let me encourage the Members to vote down the Rostenkowski substitute and vote for the Jenkins-Archer provisions that are in this historical piece of legislation.

Mr. JENKINS. Mr. Chairman, I yield 4 minutes to the gentleman from Arkansas [Mr. ANTHONY].

Mr. ANTHONY. Mr. Chairman, I thank the gentleman from Georgia for yielding time to me.

Mr. Chairman, I rise in support of the Jenkins-Flippo-Archer proposal.

When we start talking about capital gains versus IRA's, we really ought to be for both of them. For people who invest, people who save their money and put it in some type of property, that would give them a capital gains break, and those are people who care about their futures. They want to make their futures more secure. They would like to sell that asset, and once they sell that asset they would like to put more of the money in their bank account rather than in the Treasury's bank account. Under the Jenkins-Archer proposal, that is exactly what would happen.

The homeowner, the farmer, the person who had bought stocks and bonds or a multitude of other assets, once held and once sold, under that proposal would be able to keep more money, put it in a savings account, earn interest on it, and know that he was building toward a safer, more secure retirement income. That is what we ought to be doing. We ought to be encouraging people to do that.

We cannot live on Social Security alone. Unfortunately, a lot of people have to do that. But we would all like to do better, and I think that is what the Tax Code should be used for, to encourage that type of activity.

IRA's do the same thing. IRA's encourage us to invest. If we can invest in a bank account and save that money, when we retire, we are going to have a more comfortable lifestyle. I applaud both of those concepts, and I know that many of my constituents would like to be able to do both. Unfortunately, today we are forced to choose between one or the other.

The problem I have with the alternative is that in order to get the break on the IRA, I have to say that I am willing to raise taxes. Let me tell the Members what disturbs me about raising taxes. No. 1, all year long we have been told that we would not be asked to vote on taxes until we get the President to come forward in a grand budget accord so that we could all step out together, hold hands, and show America that we are working toward reducing the budget deficit together.

Those who are in the lower income category say, "That is not going to bother me because you are only going to tax 600,000 wealthy Americans." I can only say to those people that once that is accomplished, if it is accomplished, "How far back will it be before the hand reaches down to get you because all you will have out of the way then is one stumbling block."

That is one reason we should look with some chagrin at this if a tax increase is added. What really bothers me, though, is that when we really get all of the covering off all the arguments and we look at the difference, we are down here arguing heart and soul, dividing friends, over 8 percentage points on the argument over capital gains. The substitute locks it in at 28, and Jenkins-Archer locks it in at 28. For a 2-year period, Archer-Jenkins goes down to 19.8, 20 percent. That is 20 percent versus 8 percent. So we are going to pour in a lot of capital for a 2-year period over an 8-percent tax break.

We do one other thing, though, that is not picked up in the other package, and that is that we go into inflation. My position is simply this: I know that a lot of people in high-growth areas, New York, Boston, even Washington, DC, Chicago, Los Angeles, and San Francisco, are living in places where homes just escalate in value so much that it really runs the average cost up so high that a young family cannot afford a home today.

Mr. Chairman, people are forced to pay tax on the inflated value, not the real value, and that is just not the American way.

Mr. CHAIRMAN. The Chair will inform the Members that the gentleman from Illinois [Mr. ROSTENKOWSKI] has 45 minutes remaining, the gentleman from Georgia [Mr. JENKINS] has 14 minutes remaining, and the gentleman from Texas [Mr. ARCHER] has 25 minutes remaining.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, as I was sitting here listening to this debate, it reminded me of something that was said by the grandson of Sigmund Freud. His name was Clement Freud. He said:

> When you hit someone over the head with a book and get a hollow sound, it doesn't necessarily mean the book was empty.

The book on this issue is that it is, purely and simply, nuts. We are $3 trillion in debt, we have a $200 billion annual deficit, and when we strip away all the music and bunting, we are on the floor of this House today prepared to vote on a proposal that will give a tax cut of $25,000 a year to those Americans earning over $200,000 a year. To those in this Chamber who think that the economic health of the rest is dependent on the benevolence of the rich, I say, "Why don't you go all the way? Just go ahead and take the rich off the tax rolls."

That is what some would like to do. The good old wage earners will pay the taxes. They are going to pay for what we lose today. You bet your life they are going to pay—not with my vote, but they will pay.

I say, open the book, and that is what we have got—$25,000 a year in tax cuts to those with over $200,000 in income. We can cloak it any way we want, we can wrap it and we can sing it any way we like, that is what we are doing here today, and I frankly think it is crazy.

Mr. Chairman, that is why I am going to vote against the Jenkins pro-

posal and I am going to vote for the alternative.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Chairman, I rise in support of the substitute to the capital gains cut.

Many Members, myself among them, have viewed this as a tough issue and a tough vote. This is especially true for those of us who have specific industries, such as timber, in our districts that could benefit from the capital gains cut.

But we should also look at it as a historic opportunity. We face the clearest philosophical choice before the House since I came to the Congress nearly 7 years ago.

We can either give additional tax relief primarily to the wealthiest Americans or restore a program that benefits mainly middle-class citizens.

We can either add to the long-term budget deficit or make a real start on permanent deficit reduction.

We can either rehabilitate the theory of trickle-down economics or directly expand the ability of millions of average Americans to purchase homes and educate their children.

This should not be a partisan issue. I have never hesitated to oppose the leadership of my party when I believed the circumstances or the interests of my constituents require such opposition.

In this case, the Democratic leadership is right. Restoring and expanding the use of individual retirement accounts for middle-class taxpayers and reducing the long-term deficit is far superior to providing a tax break for rich citizens, making the Tax Code less equitable, and increasing the crushing burden of the deficit.

We have heard much rhetoric about a tax hike because the substitute eliminates the so-called bubble in the income tax rate structure. The fact that individuals with incomes over $104,000 and families of four with incomes over $200,000 will no longer enjoy the bubble benefit seems to be a cause for a great deal of finger-pointing and name-calling. No one wants to raise taxes—or even be accused of doing so by those who would substitute slogans for substance.

We should be able to go beyond the "read my lips" level of debate and look at the relative merits of the two proposals. What do we get in return for eliminating the bubble?

First, we will reinstate individual retirement account deductions for middle-class taxpayers who lost full access to this popular program in the 1986 tax reform.

Second, we will expand the use of IRA's to allow penalty-free withdrawals for the purchase of first homes or for college expenses.

Third, we will generate additional savings and capital formation, a development that is essential to economic growth.

Fourth, we will get guaranteed deficit reduction. The revenues generated by this legislation, after paying for the IRA program, would be placed in a new deficit reduction trust fund dedicated to that single purpose. Compared with the bill as presently written, including the capital gains cut, the alternative would produce an additional $25 billion in deficit reduction over the next 5 years.

What is the alternative? What can we accomplish through the capital gains cut?

Cutting capital gains would produce a major windfall for the wealthiest Americans while transferring more of the burden to the rest of us.

Cutting capital gains temporarily would unleash a frenzy of economic activity, much of it unproductive, that is bound to have unintended consequences. Who can predict the effect of the inevitable headlong rush to sell assets on the financial markets or the industries most involved?

Cutting capital gains is a gimmick that promises momentary relief in exchange for yet larger deficits in the future.

The capital gains cut is a mirage that looks good from a distance but will turn out to be budgetary quicksand a year or two from now. We would be making our own jobs tougher, and we would be making the lives of most Americans, who must pay for the deficit, much tougher.

The choice is clear to me. At a time when we are mired in a budgetary quagmire, it seems particularly irresponsible to add to the deficit, especially when we can reduce it, make the Tax Code more equitable, encourage savings and capital formation, and assist the middle class—all at the same time.

Mr. Chairman, if we reject this reasonable substitute, we will be condemning middle and lower income Americans to pay a higher percentage of the revenues collected by the Federal Government. That will be the real tax increase—and it will be borne by those less able to afford it. The vast majority of Americans will ask—with justification—whether they are being represented in this House.

I urge my colleagues to support the Democratic substitute.

□ 1020

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just cannot let this go, that a capital gains rate reduction is going to cost revenue. Overwhelming consensus of the economists in this country has regularly said that the optimum rate for maximizing the revenue into the Federal Treasury is between 15 and 22 percent on capital gains.

Mr. Chairman, all of these comments are purely demagoguery that tries to create the impression that we are going to lose money by lowering the capital gains rate. It just is not so. History does not support that, and the American people understand the empirical data, experience data, and not the rhetoric.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I am absolutely appalled at the direction this debate has gone.

First of all, there was an attempt in this House to make this a partisan issue. That did not work because there are many of our colleagues on both sides of the aisle that recognize the benefit that this Nation will receive from reduced capital gains rate.

Then they start a class warfare saying that this is only going to benefit the wealthy, as if by bringing down the wealthy that it will help the middle class.

Mr. Chairman, I say to my colleagues, "You cannot do that. The Soviet Union has tried it. Many of the Communist countries have tried it. Their capital structure is in shambles."

My colleagues, we are still a capitalistic nation, and, as a capitalistic nation we depend upon the formation of capital to produce jobs. There is nothing wrong with that. There is nothing sleazy about that. That does not happen in the backroom. That happens on Main Street. That happens all across this country.

Mr. Chairman, if we are going to produce jobs for the next century, if we are going to be competitive, if we are not going to wake up day, after day, after day finding that our resources are being sucked up by the Japanese and other foreign investors, as we did today with Sony taking over Columbia Pictures, we are going to have to protect capital formation in this country. That is what produces jobs, and let us get over this demagoguery and this class warfare of people trying to show this is something for just the wealthy. This is not. This is good for all of America.

To take something like the IRA's and try to put that into this debate, we would be leaving the elderly out of the Democratic alternative. What benefit is that going to be to them?

So, I think we ought to look very carefully at what is before us and what the Jenkins-Archer proposal is trying to do. The Jenkins-Archer proposal is good for America. The Jenkins-Archer proposal is good for working America.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. McCURDY].

Mr. McCURDY. Mr. Chairman, I rise in support of this amendment, which not only is a step in the right direction toward deficit reduction. But it prevents a step in the wrong direction—an increase in the deficit.

The capital gains tax cut in this bill would increase the deficit over the next 5 years by $21 billion. This amendment would cut the deficit during that time by $24.5 billion. The deficit is the single most important and difficult problem this Congress and this country faces. Everything we need to do, in both domestic and foreign affairs, is hostage to it. And we have this opportunity to address the problem in real terms. This is not a smoke and mirrors solution. It is real money that will be set aside specifically to lower the deficit.

In addition, this amendment, which restores the individual retirement account for middle income Americans, will encourage savings, which is essential for the economic health of the Nation.

Under this amendment, every worker could set up an individual retirement account and could deduct 50 percent of the $2,000 contribution allowed. The money could be withdrawn without penalty for education expenses or for the purchase of a first home.

Mr. Chairman, I support this amendment with enthusiasm. I believe that it will make a real contribution toward saving our children from the crushing debt that now threatens their futures and will help wage earning, tax paying Americans build better lives. I urge my colleagues to vote in favor of this amendment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Chairman, let's take a moment to consider how it is even possible that we are seriously debating a capital gains tax cut. We assumed an obligation to raise $5.3 billion in new revenues for fiscal 1990 by agreeing to the budget resolution. Proponents of a capital gains cut have argued that the idea would raise some revenue over the short term.

Many of us think this approach to raising revenue is simply unfair. Common sense tells you that a capital gains cut will accrue disproportionately to the highest income taxpayers.

Proponents of the cut tell you, "No! This proposal will help everybody. It's not targeted on upper income taxpayers." The rate cut is nondiscriminatory on its face, but de facto it is squarely aimed at those at the topmost reaches of the income scale.

The proof is in the revenue projections. If this ill-advised and unnecessary tax cut is going to produce the kind of revenues promised by its proponents, it absolutely depends on the wealthy selling their assets at a feverish pace.

Finally, I think it's worthwhile to say a brief word about progressivity. I think what "progressive" has traditionally meant to most people is that those with higher incomes pay at a higher rate. What proponents of the cut are arguing is that the system will be progressive because those with higher incomes will pay a larger share of the total income tax paid by all individuals. This may be true, but it is not progressive.

When a wage earner realizes that he is paying 28 percent on his next dollar while a millionaire is cashing in investments like crazy—as he will surely do if taxes are more important to him than the economic performance of his assets—and paying just 19.6 percent tops on the proceeds, that wage earner is going to think the situation is unfair. And he will be absolutely right.

If you are confused by conflicting claims of who benefits from the Bush-Archer-Jenkins capital gains proposal, the following may help clear the air.

President Bush claims that "over 70 percent of the taxpayers, who report capital gains, have other income of less than $50,000."

What that carefully crafted statement means is that of the 8 million tax returns annually which show any capital gains activity, roughly 70 percent—about 5.5 million—are filed by those with incomes below $50,000.

Bear in mind that about 110 million tax returns are filed each year. Since only 8 million do have some capital gains, that means that 100 million returns have no capital gains at all and thus do not benefit at all from a lower capital gains rate.

President Bush's statistics count each tax return with capital gains—8 million—equally—whether a return has $10 of capital gains "little old widow" or $250 million of capital gains "little old Donald Trump types".

You get an entirely different picture if you consider how much each return has in capital gains and thus how much taxpayers in various income tax categories save from a lower capital gains rate.

Using Joint Tax Committee figures—Bush uses Treasury figures—there were 4.5 million returns containing capital gains filed by those earning under $50,000 per year. Under Bush-Archer-Jenkins, they would save $1.2 billion in taxes for an average of $280 each.

That's 8 percent of the tax break under Bush-Archer-Jenkins.

In contrast, there are 376,000 tax returns with capital gains filed by those earning over $200,000 per year. Under Bush-Archer-Jenkins, they would save $9.4 billion in taxes for an average of $25,000 each.

Listen carefully, Mr. and Mrs. Average American. If you earn under $50,000 a year, you get an average cut of $280. But you get a $25,000 tax cut if your income is over $200,000.

To me, at least, that seems patently unfair. We ought not go down the ill-advised path of a low rate on capital gains.

Mr. JENKINS. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Chairman, I join others in lamenting the character of this debate in some instances. I think we all ought to be more mature than to engage in this "good guys" and "bad guys" business.

Mr. Chairman, I heard one Member saying that the suggestion of the gentleman from Georgia [Mr. JENKINS] is madness. That means insane. That means that he is not competent to serve in the Congress. I want to see the hands of those who believe that about the gentleman from Georgia [Mr. JENKINS], including the man who said it. On the other hand Mr. Chairman, I heard someone say that the people who oppose this Ways and Means proposal are like the Communists. I want the see the hands of all the people in this Chamber who believe that any Member of this body is in any way near the Communist doctrine. We are talking about honest differences of opinion here—opinion about what is fair in the Tax Code.

My mother says "there is so much good in the worst of us and so much bad in the best of us that it hardly becomes any of us to say anything about the rest of us," and it seems to me that we ought to talk more in precise facts and stop name calling.

I have heard suggestions that people, Democrats who support the gentleman from Georgia [Mr. JENKINS], a fellow Democrat, are somehow disloyal to their party. Last time I head that it was over the Vietnam war.

Mr. Chairman, I ran in 1964 with Mr. Johnson. We all ran and said that we were going to get out of Vietnam, the Democrats are going to do that. Mr. Goldwater indicated otherwise. Somebody said, "They told me if I voted for Goldwater, the war in Vietnam would escalate. I voted for Goldwater, and, sure enough, the war in Vietnam escalated." Next thing I knew, I come to Congress, I stayed right with Lyndon Johnson's platform, I stayed right with my platform. I am against the Vietnam war, and Mr. Johnson changes his mind. Suddenly I am a traitor to my party.

A former Governor of Indiana once told a Chief Justice of the Supreme Court, "I just took an oath to uphold whatever you have in your head." Now my leadership in this body 3 years ago had in their head in the 1986 act there

would be a capital gains differential. The leaders who were for it then, are against it now. I am in about the same position that they were in then, but suddenly I am a traitor to my party.

□ 1030

Now, the only thing I proposed last June in the committee was that we index for capital gains. It just plain is not fair for someone to own a house or a farm or whatever or a business for 30 years and then sell it and be told he or she had a gain when in fact the difference in price is nominal—only inflation. Not real. Such a person—rich or middle income—has no gain. In fact, he or she loses because taxes are paid on the inflation. Correction of that is all I ever wanted.

Well, no, some of the people on the committee were not interested in it, so I made a deal with the gentleman from Georgia [Mr. JENKINS], 2 years of the 20 percent in lieu of indexing—a little catch-up ball because you cannot index during those 2 years—and then I have my way; indexing at 28 percent into perpetuity, into eternity; a pretty good deal, I thought.

The next thing I hear some of my fellow party members say, "Well, we could have got it for you wholesale. We're for indexing now."

I said, "Well, it's a little bit late." Mr. PICKLE said the same thing—more colorfully—a little bit late. We already made our commitment.

Suddenly, indexing was fair and that is what it ought to be.

Now today I look at the alternative. Where is the indexing? Suddenly it is not moral anymore. It is gone.

So I just say in closing for those who are moralizing, there is no sin being fair with people who are rich as well as with the average person who has built up lifetime savings and does not want to have it taken away from him just because the Government could not prevent inflation.

It ill behooves those who voted in 1986 to give Lee Iacocca a $4 million ordinary tax cut to complain about a capital gains tax rate today that at least requires people to invest in order to get the differential.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, I rise in strong support of the President's position on capital gains and applaud the good work of my colleagues, the gentleman from Georgia [Mr. JENKINS] and the gentleman from Texas [Mr. ARCHER].

Mr. Chairman, I am in opposition to the Gephardt amendment and I want the record to reflect my support for the President's position on capital gains.

Setting aside the partisan rhetoric, I ask my colleagues to get the facts straight. We, the Congress, have historically used the Tax Code to encourage certain kinds of economic and social conduct. The conduct we are encouraging through a reduction in the capital gains tax is to the benefit of the overall economic growth of this country. We need to encourage this Nation's entrepreneurs, its risk takers, its small businessmen—the leaders who are creating good jobs, expanding our markets and improving our technologies.

History clearly tells us that when we have reduced the rate of tax on capital gains that growth has occurred and jobs are created. Revenue to the Federal Government does not remain static. Instead, revenue is increased to all levels of Government. After the capital gains cut to 28 percent in 1978, revenues to the Government increased by 42 percent over revenues at the 49 percent capital rate in 1976. From 1982 to 1985, capital gains revenues at the new lower 20 percent top rate almost doubled in constant dollars before tax reform nearly doubled capital gains taxes again in 1986.

The facts also show us that our major competitors in the international marketplace, the Germans, others in the European Economic Community, and the Japanese have little or no capital gains tax—they encourage investment in their country's future. In 1985, a study done by Paul Craig Roberts, of the Center for Strategic and International Studies, showed the United States' cost of capital was already 55 percent higher than that of Japan. The United States cannot and will not compete effectively at such a disadvantage—a disadvantage perpetrated by shortsighted Government policy.

Setting aside even more of this partisan rhetoric, it is an established fact that more people with moderate incomes realize capital gains than those in higher income levels. Three-fourths of all tax returns reporting capital gains were filed by taxpayers with wage and salary income of less than $50,000. Just as importantly, include among the high-bracket taxpayers in IRS reports, are many low- and middle-income families and individuals who realize a one-time gain from the sale of a once-in-a-lifetime asset. So, we should dismiss the seductive notion that a capital gains cut is just a handout to the rich.

Little discussion has been given in the last few weeks to one important part of this capital gains reduction package. I refer to the importance of indexing the capital gains tax to inflation. This is essential to preventing taxpayers from being taxed on gains due solely to inflation. In fact, some taxpayers must pay capital gains tax on what is really a loss. If a family in northwestern Pennsylvania purchased a house for $40,000 in 1978, and now they want to or need to sell this house 11 years later for $47,000—they will pay a capital gains tax on the $7,000. But, that ignores the fact that their investment failed to keep pace with inflation. Considering inflation, they had a negative return on their investment. Yet this modest family, who may be selling their house to pay the bills or cannot afford to defer the gain, will pay a 33-percent capital gains tax because of inflation. Small business, homeowners, farmers, should not be taxed on inflationary gains and the Government should not make a profit based on inflation.

The amendment before the House this morning, offered by my colleagues from Missouri and Illinois, have some equally attractive features. I support using IRA deductions to encourage savings as does President Bush. I support the use of IRA savings for college educations, health care, and home ownership. I support reducing the marginal tax rate "bubble" which taxes many middle-income and upper middle-income taxpayers at a rate higher than upper income taxpayers. But, I do not support an increase in the income tax rates we just reduced in 1986. Make no doubt about it, the Gephardt-Rostenkowski amendment would be the final undoing of the lower rates provided in tax reform just as they become important to millions of Americans. Some of the deductions in the 1986 tax reform package are still being phased out and, yet, we're already increasing rates.

I might be more inclined to consider such a proposal if I believed that we might realize a considerable reduction in our budget deficit. This amendment offers no such reductions.

I am equally concerned that the capital gains reduction offers nothing in terms of deficit reduction—America's most urgent economic problem. But, a capital gains reduction is good economic growth policy and simple politics. I urge my colleagues to vote for good policy instead of good politics by defeating the Gephardt-Rostenkowski amendment.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CAMPBELL], a gentleman who fully understands the need of venture capital, the gentleman from the Silicon Valley in California.

Mr. CAMPBELL of California. Mr. Chairman, I just want to begin by aligning myself with the Hoosier wisdom of our colleague. I think that was one of the finest speeches I have heard in my short time in the House.

Mr. Chairman, we have today an unfair choice. There is no logic why we have to choose capital gains or IRA's. Indeed, I think the American public and taxpayer finds it offensive that this issue is put to us as either/or.

I stand firmly in favor of restoration of IRA's. I think it is excellent to improve the savings rate of the United States, but that does not mean you must therefore be against capital gains tax reduction. Capital gains tax reduction is the way we have of forming capital in this country.

Let me speak for just a moment about northern California, because northern California was mentioned by one of my colleagues this morning, the gentlewoman from northern California. She spoke about that region about which I know a fair degree. Northern California and the Silicon Valley is composed of entrepreneurs, risk-takers who are willing to put their effort and their money on the line.

Now, there used to be a day when there was only one place where risk would be rewarded in the world, and that was the United States. That is no

longer true. If you have a good idea and you would like to see it developed, you could take it to West Germany. You could take it to Japan, or you could keep it in America. Take it to West Germany and your capital gains will be taxed as zero percent. Take it to Japan, and your capital gains will be taxed at 5 percent, or keep it in America and if you are successful you will be rewarded with a 33-percent marginal tax rate.

Competitiveness means keeping American risk-taking in America. Now, I recognize capital gains is only the start. We need to do more. We need to restore fully R&D tax credits and make them permanent, but capital gains reduction is an important start and one which we should take today, whatever our position on IRA's.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. MOODY].

WHOSE TAXES RAISED, WHOSE LOWERED?

Mr. MOODY. Before making my points, Mr. Chairman, I want to remind the previous speaker that in those countries where they have zero capital gains, they have huge payroll taxes, up to 40 percent, and they have huge value-added taxes or sales taxes, up to 20 percent. Is that the kind of tax system we want to lead to by cutting capital gains here? Let us move to the tax system of Japan or Belgium? I would hope not.

Let us talk for a minute about whose taxes would be cut and whose would be raised under the Jenkins-Bush plan. Mr. Darman and the gentleman from Texas [Mr. ARCHER] said on TV last night that the Democrats want to raise taxes. Well, the proposal is not a general tax raise, of course. It is only for those people who make $150,000 or more a year—only 2 or 3 percent of the taxpayers. Nor does the proposal create a new, higher rate. Those with incomes between $75,000 and $150,000 are already paying at 33 percent. It simply says those people who are richer than that should pay at that same level. Mr. Darman and the gentleman from Texas [Mr. ARCHER] characterize that as a general tax increase, but it is not. No one else's taxes would be raised, and those super-income people should be paying at least at the same level as those who make less than they.

And whose taxes would be lowered under the Gephardt plan? Well, everyone who needs an IRA, that's who. And bear in mind that this IRA that we are proposing is far better than the old IRA, because it would allow you to unlock your IRA for three purposes, the big ticket items that the middle class faces: College tuition, medical costs, and home buying. The Gephardt plan, in effect, lowers taxes for the middle class.

And whose taxes would be raised by the Bush-Jenkins plan? Everybody's taxes would be raised, that's who. For the deficit is a tax. The Jenkins-Bush plan consciously, and I might say almost cynically, raises the deficit, at least $5 billion in the third year and then it explodes thereafter. The deficit is a tax on everybody who has a mortgage, everybody who finances a car, everybody who has a credit care. We have an interest rate structure in America that is two or three points higher than any other industrialized country because of the deficit. If you have a $50,000 mortgage, and that is not a lot, the 2- to 3-percent extra on interest rates means that you are paying a thousand dollars a year extra in interest costs on your home mortgage. That is a tax. If you are financing a $10,000 car, you pay $200 extra. That's a tax. But it's a tax that doesn't make you mad at the politicians because we did not explicitly raise your tax. We implicitly raised your tax by voting to enlarge the deficit, as the Bush-Jenkins plan does. The deficit is a tax, and this capital gains cut is a tax just as sure as I am standing here, because it enlarges the deficit and therefore interest costs.

So let us be very clear on whose taxes are actually raised, and whose lowered by the two plans before us. The super-income people have their taxes cut by the Jenkins-Bush capital gains plan. The middle-income people have their taxes cut by the Gephardt IRA plan. Everybody with a mortgage has their taxes raised by the deficit-enlarging Bush-Jenkins plan.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, we are here today fighting a fight that should not have been. We should not be debating whether to read somebody's lips or conjuring up an image of the Rockefellers against the Little Fellers. The issue before us now is more serious than that and deserves more than clever sound bites. This debate should be about investment, sound economic policy, and the long-term implications of the vote we are taking today, because the issue at stake is the economic future of America.

Some folks have asked me why I have changed on the capital gains issue. I have not changed, this proposal has changed.

The capital gains tax cut before us is not the kind of permanent well-thought-out proposal that would encourage long-term investment in productive assets.

In fact this is the wrong proposal, at the wrong time, and there is a better alternative—a long-term investment.

I know supporters of the 2-year, temporary capital gains cut have characterized this approach as the capital gains camel's way of getting its nose under the legislative tent.

We have all heard about the camel that was really a horse designed by a committee. This camel is really a race horse designed by a political compromise. The only problem is, this horse—or camel—does not run.

Instead, it limps its way along under the baggage of $21 billion in additional Federal deficits over 10 years.

Sometimes we seem to forget what the purpose of a reconciliation bill is supposed to be every year—deficit reduction.

This is the sixth year in a row that we have been told: Next year will be the year we really tackle deficit reduction. And for almost that long, we have been playing one version or another of "no new taxes."

Once again this year, we have a reconciliation bill full of nothing tougher than some "cats and dogs" user fees, moving the Postal Service and the Farm Credit Agency off budget, shifting funds from one fiscal year to another, new spending programs—and a $21 billion capital gains tax cut.

I have always believed, and I still believe, that deficits do matter.

And I become gravely concerned when I look at the testimony the Director of the Congressional Budget Office recently gave to the Budget Committee. When you look at the operating budget of the Government—when you take away the growing Social Security surpluses—the remaining, on-budget deficit for the next few years, in billions is: 206, 219, 227, 242, in fiscal year 1993 and on up to 268 in the year 2000. We see large—and still growing—deficits.

Those of us who believe there will be dire consequences from sustained, massive, deficit spending have been accused time and again of crying wolf by those who do not.

Of course, we all know what happened to the boy who cried wolf. It was only his timing that was off and, as soon as folks stopped listening, the wolf ate him.

We do not know how many years of deficits in the $140-billion range the economy can take—and we will not know until it is too late.

We may not hear the wolf scratching at the door—yet—but when I look at these numbers—206, 219, 227, 242, and on up to 260 and 268—I am pretty sure I see someone coming up the driveway with a fuzzy nose and a hungry look.

It is time we stop calling each other the tax and spend party on my side of the aisle, or the borrow and spend party on the other side. It's time we come together in a bipartisan spirit to initiate a sound, long-term policy of save and invest.

That is precisely what the IRA/deficit reduction alternative to the capital gains provision does: Increases national savings by reducing the deficit by

$24.5 billion over 5 years and encourages personal savings by restoring expanded individual retirement accounts for much of the middle class.

Why do I, as a longtime supporter of a capital gains tax rate differential, oppose the capital gains cut now before Congress? Three reasons: First, This is the wrong proposal; second, this is the wrong time; and third, there is a better alternative.

First, a capital gains tax cut should be permanent, not temporary. It should be carefully drafted to promote capital formation, ensure market stability, and take a long-range perspective.

The argument for a capital gains differential is that it would spur long-term investment in productive assets and move resources away from current consumption and short-term, short-sighted alternatives. However, this capital gains proposal would only be in effect for 2 years, sending a clear signal that those owning capital assets should try to churn twice in the next 2 years to take a quick tax break.

I am aware that supporters say the 2-year window was intended, as a compromise, to get some capital gains change passed. The irony is that a 2-year, temporary tax cut undermines the very principles that underlie such a differential, in the first place. The very substance of the language, plus the uncertainty introduced by the fact that supporters and opponents will try to reopen this same debate next year, removes the very incentives and Tax Code stability needed to encourage long-term investment.

A 2-year window will cause a rush to sell; for many assets in many parts of the country, this glut will cause a buyer's market. The buyer, with the promise of law that he or she will face a steeper capital gains rate again after 1991, will further bid down prices. It won't do much good to sell the farm for an 8-percent tax break if these factors combine to force the selling price down 8 percent.

Second, this is the wrong time. This proposal at this time undermines budget negotiations for fiscal year 1991.

The current capital gains proposal gains about $9 billion in revenue for the Federal Treasury over the next 3 years, but loses a net $21 billion over 10 years. When we cut capital gains taxes, we should do so as part of a long-term, sustainable, deficit-reduction package that takes care of the revenue loss in those out-years.

The administration and the Congress—and I accept my ⅛₈th share of the blame—decided early on that this was the year of the "fudge-it," not the budget. But there is a lot of optimistic whispering that next year will produce the "Everybody-Bites-the-Bullet Budget." If that is the case—and it's long overdue—the administration's No. 1 tax priority should be saved for those negotiations, so that all sides bring their strongest deficit-reduction hand to the bargaining table.

Third, the proposed IRA/deficit reduction alternative is not only equitable tax policy, it is also responsible budget planning.

Passage of the IRA/deficit reduction alternative reduces the Federal deficit by $24.5 billion over 5 years, while the capital gains tax cut increases the deficit by $21 billion over 10 years.

If we must open up the Tax Code this year, then we should couple sustainable deficit reduction—equitably, through repeal of the 33 percent bubble—with a proinvestment tax benefit targeted with precision to the middle class—expanded individual retirement accounts.

America's ability to compete internationally and maintain our standard of living for ourselves, our children, and our grandchildren at home, are directly related to our national savings. Yet America's savings levels have hit historic lows in the late 1980's. There are two ways to increase savings: The Federal Government can reduce its deficit spending and individuals and businesses can defer consumption and save more. The IRA/deficit reduction alternative promotes both.

One study cited by LLOYD BENTSEN, chairman of the Senate Finance Committee, has estimated that 80 percent of IRA contributions represent new savings. Another estimate is that IRA's added $138 billion to private liquid savings in the 1982 to 1986 period. The prosavings impetus of IRA's is further bolstered by the penalties that would attach to withdrawals for purposes other than retirement, home buying, or financing college.

In every introductory economics course, students are taught the equation "S=I," meaning savings equals investment. The IRA/deficit reduction alternative promotes both. By increasing the available pool of capital and reducing the deficit, it would reduce interest rates. The 2-year, temporary capital gains cut would do none of these things.

About 60 percent of the revenues raised through the IRA proposal would be put into a deficit reduction trust fund—in other words, read my lips: No new spending.

The main engine driving the deficit reduction in the IRA proposal is repealing the so-called 33 percent tax rate bubble. This would not raise the top marginal tax rate now in current law—which is 33 percent. What it would do is simply apply to single taxpayers earning more than $93,000 and joint filers earning more than $155,000, that same 33 percent marginal tax rate currently applied to taxpayers earning $45,000 and $75,000, respectively.

If we pass a proinvestment tax incentive this year, it makes sense that it be as broadly based as possible. About 7.4 million taxpayers, virtually all middle class, will become eligible for expanded IRA's. From 1982 to 1986, when IRA's were fully deductible to all taxpayers, about 20 percent of all IRA dollar contributions came from taxpayers with adjusted gross incomes [AGI's] of less than $25,000 and 83 percent came from taxpayers with AGI's of less than $75,000.

I do look forward to Congress passing a capital gains tax cut—a permanent and stable cut, next year, as part of a long-term economic strategy and comprehensive, bipartisan, budget.

□ 1040

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I rise in strong support of the Jenkins-Archer position.

Mr. Chairman, I raise today in strong opposition to this amendment. Like many who oppose this package, I believe that the IRA provisions in this substitute are laudable. However, I also believe that if the accompanying tax increase is passed and a capital gains cut is defeated, it will hurt the very people that the supporters of this amendment would lead us to believe it helps.

Make no mistake about it, if a capital gains cut is not included in this reconciliation bill, not only will it be a missed opportunity to achieve a desperately needed boost in investment in small businesses and job creation, but also, it will be a blow to the little guy; the homeowner, the pension plan participant—the average American that we are all trying to help.

There is no argument that we all wish to help the low- to middle-income American, who so very often gets squeezed by Federal spending and taxes. No, the debate is over the best way—and the most realistic way—to look after the concerns of this part of America, while improving the climate for a strong national economy that is middle America's best ally.

Some of my friends on the other side of the aisle keep talking about how this new capital gains differential is nothing more than a tax break for the rich, that their alternative, this amendment, is a blow to justice for the little guy against the wealthy. They claim that by raising taxes, new money will come in to cut the deficit. Well, anybody who thinks that this new money—some $35 billion in new taxes—will actually be used toward deficit reduction, is not familiar with the history of what Congress does with new money—it spends it like a kid with a shinny new quarter.

Should this amendment pass, Congress would continue to spend—and, at the same time—investment in this country, small business startups, and job creation would smother under the burden of heavy taxes and disincentives to invest and take a chance at the American dream. Last, and most unfortunate, as

the economy slows down, so will Federal revenues from a dwindling gross national product to tax. The result; the best tool against the budget deficit—a strong economy—is weakened and our budget woes continued.

But something else happens. Something much closer to home—to your constituents and mine. If we do not keep the capital gains tax cut, approved by the Ways and Means Committee, it will be the factory worker, the senior citizen on a fixed income—the little guy—that opponents of the cut spend so much time talking about, who gets the raw end of the deal. Here is how:

Most experts agree that the underlying cause of the stock market crash in 1987, was an unfavorable reaction to parts of the Tax Reform Act of 1986—which pushed the tax on capital gains as high as 33 percent. Some would say so what, who cares if all those rich guys investing in the stock market lose money?

Well, the "so what" is that the aggregate wealth of the stock market is not owned by the wealthiest part of the population that has been bashed around out here today. No, the vast majority of the wealth in the market—some 65 percent is institutionally owned—not by individuals. Of this 65 percent, nearly 40 percent is owned by pension plans all across America. Pension plans which are the safety net for millions of Americans when they retire.

In the last 2 years since the stock market crash, the market has reached new record heights. It is worth over $1 trillion. This raise has largely been the result of speculation that a preferential treatment of capital gains will be returned to the Tax Code in the near future. Accordingly, as the market has grown, so has the strength of these pension plans whose health directly effects the standard of living those reliant upon them can expect to enjoy in their retirement.

If we fail to adopt this cut, it is very possible that the market will slump badly; again, a slump which directly affects the viability of these plans. Consider this; if the market were to react negatively to a failure of this House to adopt this capital gains cut, and the market fell off just half of the 1987 crash, it would cost pension plans billions of dollars in funds to support their promises to elderly Americans. I do not have to tell you what happens next. You got it; many pensioners would receive scaled back benefits because of the losses.

So, it is very simple. Let us do the right thing here today:

If you want to vote to stifle investment and impair the health of the Nation's pension plans, among other evils, then vote for this amendment. If you want to do the responsible thing, the realistic thing, then vote to defeat this counterproductive tax increase disguised as a populist measure against the rich. The reality here is that a capital gains cut is as good for the economy as a whole as it is for the average American.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas [Mr. ROBINSON].

Mr. ROBINSON. Mr. Chairman, I want to thank the gentleman from Texas for yielding me this time.

Mr. Chairman, my colleagues, earlier my friend, the gentlewoman from California, stood up and said that she was proud to be a Democrat. I want the Members to know that I am proud to be a Republican today, but that has nothing to do with this debate. Let me set the record straight: The Republican Party did not take away the IRA deduction. The Republican Party did not take away income averaging. The Republican Party did not take away interest deductions. The Republican Party did not take away some of those middle-class benefits that we all enjoyed. Your policy on this is what I call yo-yo economics.

Mr. Chairman, here is what the real issue is today: The issue is whether or not we want to see this country's economic ills cured.

My colleagues on my right over here have one basic misunderstanding about economics. The Government does not create wealth in this country. Private enterprise creates wealth. The Government takes wealth away from people. Each time we try to create wealth in this body through tax increases, we lose in the economy.

Mr. PEASE. Mr. Chairman, will the gentleman yield?

Mr. ROBINSON. I am happy to yield to the gentleman from Ohio.

Mr. PEASE. Mr. Chairman, the gentleman was saying before that the Republican Party did not do a lot of things. As I recall, the 1986 Tax Act was passed by a Democratic House, a Republican Senate, and signed by a Republican President.

Mr. ROBINSON. Reclaiming my time, I was a Democrat at that time, and I voted no on that tax bill, because it was wrong. If we would give our President the line-item-veto authority, he would not have to sign some of these miserable tax-and-spend bills into law.

I urge my colleagues to vote "yes" on the capital gains tax reduction.

Mr. JENKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, this Congress has approved a favorable capital gains tax rate session after session after session. It is not something new.

Nearly every speaker here today who decried this capital gains proposal or the Jenkins plan has voted for capital gains at one time or another. The only difference now is they are asked to choose between it and the change in income tax rates.

Mr. Chairman, I think it is a bit ironic that the issue of capital gains will not even be given to us, the Members, to vote on. We will not even have a vote on capital gains, because the leadership is fashioning an alternative that says we can have IRA's instead of capital gains.

If we could have a straight vote on capital gains, I think it would pass by a very favorable margin. But as it is, they have offered the IRA as a substitute and I say to the Members that this alternative has been trotted out here by the leadership just as a means of derailing capital gains.

The IRA's are commendable. I was one of those who was an original sponsor of IRA's. They appropriately should be considered in another context. Although, I must say to the Members that the facts within the last 10 years have developed to show that in some respects there are as many questions about IRA's that ought to be raised. But I do support them as a good savings incentive.

Right now though, if we vote for IRA's, then we are going to be voting against capital gains.

I simply say to those Members who favor capital gains who think it is a very appropriate, legitimate, honorable way to go about raising capital to recognize that we have to vote against IRA's. Just measure up, vote against IRA's, not because you are against IRA's or even that you would not want to erase the bubble, but because you are for capital gains.

Mr. Chairman, I appeal to the Members who are listening and not on the floor that when the time comes for them to vote that they vote no on that alternative, or else they will be voting against capital gains.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, let me at the outset suggest to the gentleman from Arkansas [Mr. ROBINSON] that he does not keep his records very well. The items that he addressed in his colloquy were items that were in a bill that was passed by this House, sent over to the Senate, and the items he addressed were knocked out by the Senate, and by the way, if I remember correctly, there was a Republican President in the White House.

Mr. Chairman, the Bush-Jenkins-Archer proposal to temporarily cut the capital gains rate is bad tax policy and bad budget policy. First, it savages tax reform. It will create confusion and reinstate tax shelters for the wealthy. Second, it undermines the quest for stability in our tax system—stability that all Americans and all business leaders are pleading for. Finally, it showcases the administration's bankrupt budget policies.

The administration and its supporters know the validity of these objections—and yet, they persist in blind pursuit of a shallow political victory.

The President and his economic advisors have simply abandoned all their principles. The OMB Director and the Secretary of Treasury give speeches against "now-nowism" and the need for encouraging long-term investment,

but they're actively supporting—pulling out all stops—for a proposal that epitomizes short-term, instant gratification—a proposal that rewards past investments. It may pick up a few dollars in the short run, but loses a bundle in the longer term.

By 1993, the capital gains cut will lose more than $5 billion a year. It will reduce revenues by more than $20 billion in the next decade. Yet, it is endorsed by Presidential advisors who criticize the voters for demanding instant gratification—how ludicrous, how hypocritical.

Unfortunately, this decision is part of a larger, sadder pattern. This administration's budget policies are nothing but blue smoke and mirrors and slide-by budgets. They insist on off-budget financing to elude the discipline of deficit reduction. And, now we have a temporary feel good revenue gimmick—a temporary revenue surge—at the expense of massive deficit increasese in 3 years. All of this in the face of a $130 billion deficit. Where is their sense of responsibility as stewards of the Government's finances?

The administration claims that it wants long-term economic growth. But it is really promoting a national fire sale. For the next 2 years, sellers will be rushing to market stocks, bonds, timber, and real estate so they can take the money and run before the tax cut window slams shut. Rather than stimulate the economy, this fire sale will depress prices and values in the stock market and in the real estate market, and will create enormous pressures to clear cut American timber during the next 2 years.

The administration claims this dynamic will create new jobs. Jobs for whom? The only job creation benefit from this capital gains cut will be for the tax shelter peddlers on Wall Street who were put out of work by the 1986 Tax Reform Act. I challenge advocates of this plan to show me where the other new jobs are to be found.

The administration's theory is faulty, but this isn't just a debate about theories. It is a discussion about people and who in our society will benefit from our choice today. Who will benefit from an IRA? Who will benefit from a preferential capital gains rate?

The choice we make today is about our priorities. It is a question of whether we want to reward the rich who need it the least, or help those who are trying to make it from paycheck to paycheck.

Do we really want to reward the west coast financial wizard who made an unsuccessful bid for United Airlines? If we pass the capital gains cut today, he will win by losing. His latest failed takeover attempt will yield a $90 million profit.

Now this investor is asked to pay tax on his windfall, but the Bush capital gains plan will give him a $7 million tax reduction on this one transaction alone. Let me repeat that, a $7 million tax reduction for this one individual. But of course, he is not alone. Several others involved in this same transaction will also get a capital gains tax cut that exceed $1 million each.

Contrast this multimillionaire and his $7 million tax cut with the young constituents in your districts who are straining to buy their first home. They're frustrated because mortgage interest rates are so high. Their problem is caused by our collective unwillingness—and particularly the unwillingness of the President—to responsibly confront the deficit. Allowing an IRA to help finance that first home is one way for us to address their needs and concerns.

Compare that multimillionaire with our middle-aged constituents who are desperately struggling with soaring college costs to educate their kids. They believe in the American dream and they know that higher education can be the key that opens the door to success. We can help them by allowing them to use an individual retirement account for college expenses.

And, finally, think of the thousands of middle-income wage earners who want to save for retirement and could use an IRA. They don't have $90 million to sock away. They are concerned about the future and want to prepare for it. They know that retirement won't be a golden age unless they act now to make it one. We should encourage their prudence by expanding IRAs.

Ultimately, we must decide who needs our help the most. I find the choice an easy one. The rich don't need our help. They've had 8 great years. They don't need any more tax relief.

But the people in our districts who want to buy a house—the people who are stretching to pay college costs—and the people throughout our Nation who want to prepare for a comfortable retirement could use some help and deserve a break.

These are the people I represent. And my colleagues, they are people who sent all of us to serve in this Congress. I am proud to fight for the interests of these middle-income taxpayers, and will proudly vote for the leadership amendment.

□ 1050

The CHAIRMAN. The gentleman from Illinois [Mr. ROSTENKOWSKI] yields back 30 seconds.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, I implore the House to stop this class warfare. I rise in strong support of the Jenkins-Archer amendment.

Mr. Chairman, as one who has sponsored legislation to index gains to take into account the effects of inflation, I am particularly gratified that the Jenkins proposal provides for such indexation after 2 years, making this a permanent reduction in the capital gains tax, not a temporary one as many are suggesting.

As I have tried to make clear in recent months, without inflation protection investors end up paying a tax on gains that are illusory because of the effects of inflation. This amounts to an inflation tax. So despite what we have heard, the current system does not treat capital gains the same as ordinary income, it taxes capital gains punitively. The fact is that though all types of income are taxed at the same nominal rate, capital gains are now taxed at a higher real rate. Investors are thus being punished for risking their money on long-term investments.

Further, the current capital gains treatment actually promotes the leveraged buyouts and megamergers that have rocked Wall Street and upset so many of my colleagues. The rise in the capital gains rate in the Tax Reform Act has hurt equity values and has helped put an unhealthy emphasis on immediate income. Investors thus have less of an incentive to invest for the long term, and are more apt to load up on income-producing assets. I don't think a bias toward income was supposed to be built into a tax bill whose main goal was to level the playing field.

The report accompanying that Tax Reform Act states:

> The Congress believed that as a result of the Act's reduction of individual tax rates on such forms of capital income as business profits, interest, dividends, and short-term capital gains, the need to provide a reduced rate for net capital gains is eliminated. This will result in a tremendous amount of simplification for many taxpayers since their tax will no longer depend upon the characterization of income as ordinary or capital gain.

As we have seen, this last statement is untrue. Investors care a great deal how their income is characterized. And that is why we need to correct this bias against capital gains by supporting Jenkins-Archer. After 2 years, Jenkins-Archer would merely bring capital gains into line with other forms of income. In that respect, it is in keeping with the spirit of tax reform.

Mr. Chairman, I am also bothered by the quality of today's debate. Instead of debating a capital gains tax reduction on its economic merits, my colleagues on the other side of the aisle insist on making this an issue of class warfare, of rich versus poor. It appears that socialism is in retreat everywhere in the world but the House Chamber.

Reducing capital gains is not a one-way street. The benefits accrue also to those who may never realize a capital gain. For some it might mean a new job. For others it might mean a better job. Still for others it might mean better equipment and increased productivity, leading to higher wages. In short, the working man has just as much, maybe more, to gain from a reduction in the capital gains tax as the wealthy.

It is also especially galling to hear my colleague, Mr. GEPHARDT, who professes concern about U.S. competitiveness, oppose a proposal with such obvious benefits for our competitive position. For it is a simple economic proposition that if you lower the price of something people will buy more of it. Therefore, if you lower the price of investment, that is, the capital gains tax, people will buy more of it. And increasing investment will lead to higher productivity, the key to improving U.S. competitiveness. So while Mr. GEPHARDT will no doubt continue bashing Japan with his rhetoric, he will be bashing United States business with his vote.

Currently, of the 10 countries comprising the industrialized group—the United States, Australia, Belgium, Canada, France, Germany, Italy, Japan, Netherlands, Sweden, and the United Kingdom—only Australia and the United Kingdom have a higher maximum long-term capital gains rate. However, both those countries have special provisions which mitigate the maximum rate, such as inflation protection. Of the six countries comprising the Pacific Basin group—Hong Kong, Indonesia, Malaysia, Singapore, South Korea, and Taiwan—only Indonesia has a higher long-term rate, and that only by 2 percentage points. In fact, the other five Pacific Basin countries do not tax long-term gains at all. Indeed, once we reduce our rate to a maximum of 19.6 percent, we will still have a higher rate than all but the three countries I just mentioned.

The fact is that if those opposing the reduction in the capital gains tax were willing to give up their special interest and corporate welfare programs—such as Amtrak, the REA, the EDA, the LSC, and others—we could afford to finance both IRA deductions and a reduction in the capital gains tax.

Mr. Chairman, we have an opportunity today to raise some much-needed revenue and, more importantly, promote long-term investment. We must not be dissuaded from our task by the socialist, class warfare rhetoric of the other side. Reducing the capital gains tax is good for everybody. Please, let's do the right thing and support Jenkins-Archer.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, I rise in strong support of the Jenkins-Archer proposal.

Mr. Chairman, by our vote today to adopt President Bush's capital gains tax-cut package, we have a tremendous opportunity to help America's small businesses and family farms. Perhaps more than any other in our economy, these two sectors represent the financial backbone of America's heartland. It is fitting then, that we act quickly to ease the financial burdens facing the average small business and the family farm.

In general terms, a cut in the capital gains tax will help businesses overcome the toughest hurdle in starting up or expanding—that is, raising capital. Capital investment in startups, or to help small companies expand, is risky. These investments become more attractive, however, when Uncle Sam agrees to siphon off less of any profit margin. The fact is, small business represents the most productive sector in the American economy and is responsible for 70 percent of the new jobs started in America over the last 10 years. It's also a fact that the majority of capital for small businesses—72 percent in one study—comes from individual investors. We should keep this in mind as we act today.

Small businesses are hurt by a higher capital tax rate in even more immediate terms. Consider the business owner who, after years of successfully building up a business, wants to retire and enjoy the fruits of his or her labor. This used to be called an American success story. But can that person afford to sell the business since capital gains rates were raised a couple of years ago? How about the small businessman who wants to sell his plant and move to another State. He feels his health will improve in a better climate, but he risks losing too much at the higher capital tax rate to start up a new business in another part of the country.

How about a firm aggressive enough to export goods on the world market? What chance does that firm have against Japanese, West German, or British firms which sell the same product but operate under much lower capital gains rates? Under the present tax law, capital costs for American businesses are twice that of Japanese firms. No wonder Americans are investing so heavily in foreign businesses while the small business owners of America find it difficult to raise capital at all.

Does lowering the current rate mean only the rich will benefit? Not at all. In fact, that's the fallacy in this whole debate. When a business owner, after 20 or 30 years of nurturing the business and scraping by to stay afloat, decides to retire, should he be considered rich because he profits from the sale? When you remove the 30 years of inflationary gains from that sale, and when you consider that whatever is left must pay for years of retirement, is it fair for the Government to take one-third away? In 1985, nearly three-fourths of all tax returns with reported capital gains were from individuals with wage and salary income below $50,000.

Our family farmers would also benefit a great deal from a reduction in the capital gains tax rate. Take, for example, a Wisconsin livestock producer who sells 20 breeding cows this year at $600 per head. On the $12,000 taxable gain from this farmer's sale, he would owe $3,360 at the present 28-percent capital rate.

By cutting the rate to the proposed 19.6 percent, this same farmer would save over $1,000 in taxes. Thirty percent of the farmer's $12,000 taxable income would be excluded from taxes, leaving only $8,400 of income open for tax. At the new tax rate, this farmer would now have to pay only $2,352 in taxes, a savings of $1,008.

This same benefit holds true for a family farmer who started 30 years ago with the intent of farming until retirement, then selling the farm to pay for retirement. Not only will the rate cut reduce the amount of taxes he will pay on the sale of the farm, it will also make it easier to pass this farm from one generation of the family to the next, allowing new farmers a better opportunity to get started.

Mr. Chairman, please don't tell us this is a rich man's tax break when these examples clearly show that the greatest beneficiaries of this rate cut will be America's working class.

SMALL BUSINESS ADMINISTRATION,
Washington, DC, September 26, 1989.

Hon. STEVE GUNDERSON,
Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR CONGRESSMAN GUNDERSON: Since becoming the Administrator of the Small Business Administration four months ago, one of my top priorities has been the reinstatement of the capital gains differential. After last week's vote in the Ways and Means Committee, existing and potential small business owners across the country have good reason to be encouraged.

As you know, businesses in the United States appear to be faced with a higher cost of capital than our foreign competitors. A recent study by economists with the New York Federal Reserve Bank shows that American industry pays from 55 percent to as much as 90 percent more for their capital equipment, factories and research than either Japan or West Germany.

Most of our major trading partners provide some form of capital gains relief. Given America's high cost of capital, the real issue in this debate is not tax cuts for the wealthy, but ensuring that investors are willing to invest in small businesses—businesses which have created nearly two of every three new jobs over the past decade.

I believe it is important to emphasize that capital gains reduction affects not just stockholders, but also family farmers and senior citizens with retirement savings that are affected by a strong stock market.

Moreover, research commissioned by the SBA demonstrates that informal equity investors are a much larger financing factor for small businesses than are institutional venture capital firms. Most of these informal investors who would benefit from a lower capital gains rate are entrepreneurs themselves—individuals who recognize the potential for a new business and new jobs.

I have participated in White House working groups on this issue and have joined President Bush in making this a number one priority for small business.

As the debate moves to the House floor, I know that your strong leadership presents small businesses with their best chance for success. I hope that the SBA will be able to assist you on achieving this important objective.

The Office of Management and Budget informs me that there is no objection to the

submission of this report from the standpoint of the Administration's program.

Sincerely,

SUSAN ENGELEITER,
Administrator.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL], a respected member of our committee and the ranking member on the Budget Committee.

Mr. FRENZEL. Mr. Chairman, the recent debate over capital gains has tended to obscure the issue of economic benefits in favor of an argument over whether this is a fair tax. Fairness is always important in tax policy, but most taxpayers never paid a fair tax.

The central issue is the need for a capital gains differential. Our economy faces serious long-term problems—a low savings rate, inadequate investment and productivity—which need to be addressed in the near term. Capital gains can't do it all, but it can give us a leg up on solving these problems.

First, we need to look at savings. A majority of economists agree that raising the after tax return on personal savings—that is, lowering the capital gains rate—will induce more total savings. In contrast, the available evidence on IRA's indicates that these accounts lead to substantial shifting of savings to avoid taxes, but generate little new savings.

Since by all accounts, an IRA Program would cost much more than a capital gains differential, capital gains seems to be a much more efficient way to encourage more private savings.

Furthermore, the current capital gains tax now fully taxes gains which are attributable only to inflation. Under this regime tax liability can occur in cases where the actual value of a person's savings has declined. This confiscatory tax on savings is eliminated if capital gains are taxed at a lower rate or the basis is indexed as is provided in the Jenkins-Archer language.

Second, we need to consider investment. The current capital gains rate can add up to 33 percent to the cost of a business' investment capital. At a time when U.S. companies are faced with high interest rates and stiff international competition, it is inexcusable that the Federal Government is saddling them with the added burden of a high capital gains rate.

Lower capital costs caused by a reduced capital gains rate will have their most pronounced effect on the sectors which are on the forefront of technology development and job creation. Small, high risk startup companies rely exclusively on equity financing to provide seed investment capital. Studies show that the majority of this risk capital comes from individual investors whose investment decisions are most affected by capital gains rates. A lower capital gains rate will make more and cheaper risk capital available for these companies who are at the cutting edge of our economic and employment growth.

On the other hand, raising the tax rate to 33 percent to finance more IRA's will force investors to seek higher pretax rates of return. That means, in simple terms, that interest rates will rise. As far as I know, nobody here really wants to be responsible for higher interest rates.

Third, we must consider competitiveness. For our high-wage economy to compete against low-wage foreign competitors, it is imperative that we invest in the technology which will make our workers more productive. Currently however, the United States rates of investment per worker and productivity growth lag well behind most of our foreign competitors, including Germany and Japan.

It should come as no surprise that the competitors who are beating us in investment and productivity growth also have significantly lower capital gains rates than the United States. Germany, Taiwan, and Korea have zero percent capital gains rates. Japan's rate is much lower than ours and will remain so even if the reduction we are considering is adopted.

Lower overseas capital gains rates not only mean that foreigners can afford to invest more in their own economies, it also means that foreigners have an advantage when investing in the United States. Foreign investors who pay no capital gains tax can accept a rate of return which an American investor paying 33 percent capital gains tax finds unacceptable. A lower capital gains rate and a lower domestic cost of capital will reduce our dependence on foreigners to fund our investments.

Fourth, we must look at economic efficiency. A high capital gains rate prevents capital from flowing to where it can be used most efficiently. Investors who would otherwise move their money into higher returning assets, are locked in to their current assets because the higher returns cannot make up for the capital gains tax the investor must pay. With a capital gains differential in place, funds which would otherwise languish in lower returning, less efficient investments will be unlocked for use in more productive sectors.

Finally, we must get back to fairness. In this regard, I think the key questions are: First, who pays capital gains tax and thus will benefit from the creation of a differential and second, who will pay the most capital gains tax once a differential is implemented?

Capital gains are spread throughout income brackets with 74 percent of those claiming capital gains having ordinary incomes $50,000 and below. The Democrat tax increases—IRA amendment—gives its benefit to 84 percent having ordinary income over $50,000 annually. These powerful statistics destroy the class warfare argument of the tax increases. Most statistics which seek to prove the unfairness of a capital gains differential, include large, one time gains in income determinations. These statistics put a person earning $20,000 who realizes a once in a lifetime capital gain in the same category as a person earning hundreds of thousands of dollars. A more careful analysis shows that a differential benefits taxpayers at all income levels.

Higher income groups will, however, end up paying more capital gains tax when rates are lowered. The proposed rate cut will raise $9 billion dollars in increased tax revenues over the next 3 years. The vast majority of this money will come from high-income people.

High-income taxpayers have the most discretion over when and whether to realize capital gains. If rates are high, these individuals will choose either to defer their gains or to avoid paying capital gains altogether by passing on their assets at death. A lower capital gains rate raises revenue by unlocking these otherwise untaxed gains.

A capital gains differential is not a panacea for all of our economic ills. The Government must spend less; individuals still need to save more; companies must invest more, and workers produce more. Capital gains does, however, point us in the right direction and does so, at least in the near term, without raising the deficit. Our economy needs a lower capital gains rate. I urge that all Members support the Ways and Means Committee proposal.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of the Rostenkowski-Gephardt substitute. I think it is a sad commentary that we are even taking seriously the administration's capital gains tax proposal, and I think we all know what is happening here.

What we are seeing is testimony to the extraordinary influence of some individual contributors and some special interests, nothing more and nothing less.

I do not know of a single Member of this body who would publicly defend increasing the Federal deficit, but that is exactly what the capital gains tax cut will do. I do not know of a single Member who would publicly defend giving 60 percent of the benefits of a tax cut to the 365,000 wealthiest families in America, but that is what this capital gains tax cut will do.

What we should be doing is cutting the Federal deficit. But what we should also be doing is encouraging savings. What we should be doing is helping the middle class and encouraging new investment in education and housing, and that is what the IRA deficit reduction alternative will do.

I urge support for its passage.

Mr. JENKINS. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Chairman, I love this institution, this House of Representatives, and I have never been so disappointed in a debate as I am with the one we have had here today. It has degenerated into a debate about which taxpayers some Members like or do not like. Also, I do not remember a time when I voted differently than the chairman of this committee, and I believe in working these matters out in the committee, and again today I am the one who is going to vote with the Ways and Means Committee.

I do not like to hear arguments on the Tax Code based on who is affected. It should be on what is fair rather than who is involved. It should be fair no matter who is affected. Of course people who do not pay taxes are not going to be either benefited or lose by any amendment to the Tax Code. And the more someone pays in taxes, the more they are affected, either losing or gaining. Of course, that is basic.

In Iowa, most of the people who have investments, almost all that I know, farmers, small business people, whoever they may be, people who work in a factory and save a little each month or year, they have 15-year, 20-year, 30-year investments which they sell when they retire or need money for a special purpose. If they sell today, in 1989, something they bought in 1969, they pay a tax on the loss in purchasing power, because they pay the taxes on the inflated dollars they receive even though they may have less in purchasing power than when they bought it. That is simply not fair. We should do what is fair in the Tax Code, and the people I am talking about are at least 75 percent of the people who pay capital gains taxes. I am talking about the number of taxpayers and 75 percent of them are those kind of people, and it is being unfair to tax the inflation in their selling price in order to get at somebody some people do not like. That is the effect of some of the arguments that I have been hearing today.

The language in the bill reaches indexing in 2 years. That is where we should end up. That is where I have always wanted to go. We have had 40 percent exclusions, 50 percent, and 60 percent since I have been here, always on the excuse that it is not fair to tax inflation. That method treats those who hold investments for 20 years the same as if they had held them 1 year. It favors those who churn short-term investments in stocks and penalizes those who have long-term investments. The right way and fair way to keep from taxing inflation is to index the basis. We should do what is fair, do it once, get it over with, and after that, if we would get the Tax Code to where it is fair, then we could have a surtax up or down according to the amount of revenue that is needed.

But we are not going to help ourselves in the long run by arguing the Tax Code on the basis of who is benefited or who is not benefited. We should be arguing on the basis of what is fair, and do what is right, and what is right is to go to indexing on investments as fast as we can. So I am supporting the bill rather than the amendment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, I would like to make it very clear that I agree with those who say that this issue is not a bipartisan issue. It is a human issue, and therefore I support the revised substitute bill that is before us.

Where is our compassion, our feeling for those people in this great Nation of ours who are in need, the hungry, the homeless, the sick who need health care, including hospitalization and have no insurance, or our children who are suffering today from malnutrition? Do we not think about them? Are they going to be helped through this kind of a tax proposal that is facing us?

I am sick and tired. For the last 8 years we have gone through this trickle down theory of helping the poor by feeding more to the rich.

Mr. Chairman, I rise today to join my distinguished colleagues to speak in opposition to the Bush administration's proposal for a 30-percent cut in the capital gains tax. I have heard over and over again about how this tax cut would help stimulate the economy. However, in reality, a temporary capital gains cut might at best produce a one-time revenue gain. Where is our compassion for the needy of this country? Our children who want to go to college cannot because parents do not have the resources to finance their education. There are many in our society who are suffering; the hungry, the homeless and the infirmed. Yet, instead of providing needed assistance for the least among us, this Congress is considering a proposal to provide a further tax break for the rich. It is hypocritical for us to even assume that this reduction in the capital gains tax is going to create jobs for the unemployed or improve the position of the underemployed.

The trickle down theory of the Reagan administration has not worked. The numbers of people out of work in our Nation are played down. Those who have exhausted their unemployment benefits and have stopped looking for nonexisting jobs are no longer counted. Persons who reside in the inner cities, particularly blacks and hispanics, are really hard hit. Many factories have moved out of major cities like Chicago and into the suburbs. Transportation from the city to the suburbs can be very costly for low-income persons.

It has been shown before that changes in capital gains rates do not significantly affect the decisions of investors to cash in stocks and other assets. There is no assurance that such a tax break will ensure greater investments in productive activities. Instead, it is a tax giveaway to those income groups which need it the least. Instead of concentrating on those individuals who already hide their real income from the IRS, we should be trying to assist poor and middle-income Americans, who only a couple of months ago were denied an increase in the minimum wage. How can we justify denying an increase in the minimum wage and in the same breath say yes to giving the rich a tax break?

Remember the savings and loan bailout? How many jobs did this create? The Bush administration should stop trying to kid the American people. In the long run, our children and grandchildren will be paying for this temporary break. We do not need to enhance leveraged buyouts or corporate mergers, by giving more tax breaks to those whose only interest is to increase their own profits. Let us not forget the plight of airline employees who have made concessions under the false promise of job security. Lorenzo and Eastern Airlines are still in bankruptcy, yet he is making money by spinning off parts while workers are suffering.

We are faced with other more important crises such as child care and a shortage of affordable housing. As long as we are faced with these issues there is no way to justify giving the rich a break while sticking it to poor and middle-income Americans. Let's stop this destruction of American families through greed. Let's stop playing Santa Claus for the filthy rich and vote against this capital gains tax reduction. Let's now begin to support the truly needy.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2½ minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I have always supported sound capital gains cuts, always for the length of time I have been in the Congress.

□ 1100

But I have got to oppose the Jenkins proposal today. I come from timber country. I represent a high-technology area in the State of Oregon, and I do not buy, with all due respect, the populist arguments of some of my Democratic colleagues when it comes to capital gains tax cuts.

Mr. Chairman, I have voted for a reduction of capital gains in 1978 over the opposition of a Ways and Means chairman who was the dean of my delegation. I have had a bill in the hopper to cut capital gains for 2 years.

But I oppose the Jenkins proposal because instead of doing what it should do, to help this Nation's economy, and that is to give an incentive for long-term productive investment in this economy, it proposes instead a 2-year window, a 2-year window within which people can massively sell off assets—and believe me they will—instead of putting bets down and investments down into the long-term future of this country's economy.

To call the Jenkins proposal a capital gains proposal in the truest sense of the word, which means to me long-term productive investment, is in my judgment an abuse of a brand name. It is an invitation to sell off assets.

You want to compete with the Japanese? Promote long-term investments. Do not call for a 2-year period in which you liquidate assets. As for timber, we hear so much about timber. Let me tell you what Jenkins will do on timber.

It will encourage the liquidation of private timber stands. The Jenkins plan will set up a 2-year window in which private timber owners will have an incentive because they have only 2 years to liquidate their private stands and this will come at a time when the national forests are losing supply for the market to produce timber for housing. This is the opposite of what we ought to achieve. We ought to be encouraging the promotion of private timber.

Finally, supporters say, "Listen, if you support capital gains, this is not so great," they have told me this, "this is imperfect, it is not long term, but vote for it because it is your only chance."

I say to them you wrote this proposal, you gave this as a gimmick. I am not voting for a bad bill just because that is the only one you brought before us.

Vote against the Jenkins proposal.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. I thank the chairman.

Mr. Chairman, I rise today as a Member who favors a preferential tax rate for capital gains and have during my congressional career. But it must be permanent and it must be paid for. And the Bush-Jenkins proposal before us fails on both counts.

It is ridiculous for us to cut capital gains tax rates for 2 years, which will do nothing but stimulate a lot of churning on Wall Street while at the same time compounding and worsening the deficit problem over the long term.

This proposal will increase the deficit, it is going to increase interest rates in this country, it is going to reduce the national savings rate and, to add insult to injury, the big winners, ladies and gentlemen, are going to be the quick-buck artists on Wall Street who are making millions today through leveraged buyouts and all the merger mania that is going on in New York.

In closing, like all tax cuts, Mr. Chairman, it is easy to vote for the Bush-Jenkins proposal; it is a tax cut. It is bad fiscal policy, bad tax policy, and ladies and gentlemen, it should be defeated.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. JOHNSTON].

Mr. JOHNSTON of Florida. Mr. Chairman, I have not participated in debate on the floor of the House before but I have chosen this time because of the extreme importance of the Rostenkowski-Gephardt amendment.

I spent the last week agonizing about the choices offered here, and was undecided until last night. But after researching both proposals, I reached some conclusions.

I am philosophically in favor of a differential in rates, but the Bush plan is simply the wrong scheme at the wrong time.

We have got to start looking at the next decade and the next century instead of the next election. The fact is that the Bush capital gains plan will have a devastating effect on the budget deficit in 1993 and 1994. Over a 10-year period, it will have a $21 billion shortfall.

The Rostenkowski-Gephardt amendment will not only help families purchase a first home or send a child through college, but according to the Joint Committee on Taxation, it will also earmark over $25 billion for the deficit reduction trust fund.

Accordingly, I'm casting my vote for this amendment and I have no reservations about the political or fiscal consequences.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of Jenkins-Archer and echo the comments of NEAL SMITH of Iowa, who said the indexing provisions in this bill alone are important enough for the Democrats as well as Republicans to support the measure.

Mr. Chairman, make no mistake about it, my colleagues, capital gains tax reduction is a winner for America. It provides seed corn for our jobs and for our future. Right now, the United States has the highest capital gain tax in the industrialized world and we've been beaten to the punch too often by foreign competition.

Senior citizens, small business people, average citizens selling assets—a business, a farm, a property—whose increase in value is packed with inflationary gains will benefit from the capital gains indexing in Jenkins-Archer.

The Democratic leadership just doesn't realize how many middle-class Americans benefit from capital gains and thus would benefit from this reduction.

The Democratic leadership doesn't talk about that.

Instead, they challenge the President and many of their own hardworking, knowledgeable Members with a jerry-rigged, last-minute appeal for class warfare. They don't talk about how capital gains revenue to the Government increased when rates have been reduced in the past.

They talk competitiveness, but won't reduce the cost of capital.

They rail against Japanese R&D intensive industries and the inroads they've made into our markets, but back down when something could be done about it.

On the other hand, I understand some of their other reservations.

I believe we could have crafted a better capital gains tax reduction—more like the President's original idea for a 15-percent rate or more like what Treasury Secretary Brady has been talking about to spur longer term investment.

But the political process is not always so easy and compromise comes into play. We are, in this case, hamstrung by static economic models being used for Gramm-Rudman number crunching where the numbers themselves are often far from real. We are forced not to recognize the growth-creating, revenue-increasing stimuli that all previous capital gains reductions have provided.

Nevertheless, Jenkins-Archer is a step in the right direction. It has the exceedingly important feature of indexing capital gains for inflation and making long-term investment that much more attractive to the American people.

As the gentleman from Iowa [Mr. SMITH], a Democrat, stated, it's fair because it doesn't force people to pay excessive taxes on gains which are the result of inflation. He implored his colleagues to do what's right and support the capital gains measure.

Indexing capital gains for inflation, I say to my colleagues on the Democratic side of the aisle, is, in and of itself, solid, substantive rationale for supporting Jenkins-Archer.

Finally, many in this House believe as I do that America needs to look to the long term rather than the next quarterly report. America has too long underinvested in the plant and equipment, research and development, and the technologies of the future which lead to better jobs, higher living standards, and an enhanced quality of life. Jenkins-Archer should be viewed as an initial step in enhancing longer term thinking about our economy. It's a foot in the proverbial door of a rational, longer term savings and investment tax policy.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Chairman, the debate over the frills and whistles and bells on this reconciliation bill has lost track of the bill's only point: to reduce the deficit. With the straitjacket of Gramm-Rudman around us and the gun of sequestration at our heads, I want to ask

one simple question: If we're trying to raise revenues, why are we handing out tax breaks?

I know tax breaks are popular. But a budget reconciliation bill shouldn't be popular.

Tax breaks are good politics, but they don't raise revenues. Neither a capital gains cut nor a renewed IRA will help us do that job.

Our deficit problem is so big that I don't know whether anyone has a grasp on it. It is making the functions of government close to impossible. The programs we have now—whether health, education, or environmental cleanup—haven't got the money to do what they should.

And that's just routine business. Two of the most expensive problems in our history are on the horizon—the savings and loan bailout and the Department of Energy nuclear waste cleanup.

There are proposals for new spending that we all want—for the drug war, for space exploration, for aid to Poland and Hungary, for acid rain.

There are natural disasters every year that we have to be prepared for—whether it's the drought of 1988, or the hurricane of 1989. That costs money too.

And now, for political advantage, we see proposals that are going to make it harder for us to meet every one of those needs.

The Jenkins-Archer proposal on capital gains is not a good one. It raises money now and helps us meet the Gramm-Rudman targets. But in the long run, it loses tens of billions more than it gains. In fiscal year 1990, 1991, and 1992, it raises $9 billion, as people rush to sell off assets before the rate jumps back up. But in the fiscal years 1993 and 1994, it will cost us almost $11 billion. And $5 billion or more every year after that.

That makes the long-term budget deficit problem even harder to solve. There's no reason to do it. It's a bad idea and I oppose it.

The Democratic leadership alternative doesn't impress me either. It is another tax break at a time when the Treasury can't afford it. We had a $160 billion deficit last year; we have a deficit that's well over $100 billion right now and getting worse; and it's just the wrong time to be making the deficit bigger.

Now, I like IRA's. But now is not the time to hand out another tax break. Now is not the time to drain the last few drops from the federal Treasury. Mr. Speaker, now is not the time.

I cannot accept either of these proposals. We cannot afford an easy political applause line. I will vote against the amendment under consideration, and I will vote against the bill.

A day doesn't go by around here without someone saying how important it is to reduce the budget deficit. Let's put our money where our mouth is. Let's defeat this bill, send it back to committee and do it right.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. Cox].

Mr. COX. Mr. Chairman, I have been listening to the debate with particular interest because before I arrived in the House of Representatives I spent some time teaching at Harvard a course called "Tax Factors in Business Decisions."

One of the fundamental lessons of the course focused on the difference between pretax and aftertax rates of return. The debate in this body today is fundamentally between those who believe that in the real world investment decisions are made on the one hand on the basis of pretax returns and on the other hand on the basis of aftertax returns.

I must say those who chose the latter did a lot better in my course.

The fact is that reducing the rate of tax on capital gains does increase work, savings, and investment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, today we will cast one of the most important votes of the first session of the 101st Congress. It is not a vote to take lightly, and there are strong and respected Members of Congress on both sides—in fact, there are few Members I think more highly of than ED JENKINS.

Nevertheless, I think a reduction in the capital gains tax is wrong at this time. It is bad tax policy and is more likely to lead to increased economic and budget problems than it is to ease them as my friends on the other side of this issue claim. Ever since I came to Congress in 1982 I have learned more and more to accept the overriding need to gradually dispose of the deficit problem facing this Nation in a meaningful way. George Bush's budget this year avoids the problem, the congressional budget agreement avoids the problem, and a cut in the capital gains rate will only make the problem worse.

According to the Joint Tax Committee, and we all work off of Joint Committee numbers, the capital gains proposal will lose $5.7 billion in 1993, and $5.2 billion in 1994, after the effects of the speedup of asset sales are over. This is bad economic policy for the long run, and will give us a greater problem to deal with just as we are supposed to be balancing the budget. For an administration that is into long-term planning and not short-term "now-nowism", they have picked a peculiar example to set for the country. And for the special interest groups next year.

For the short term, the proposal raises revenue. But a danger exists. I suspect the assumption being made around here is that people will sell assets to get the temporary lower tax rate, and turn around and buy those same assets once again. However, if people sell stocks and bonds and no one is buying, you have a clut on the market leading to a market fall. In the same way, if people are selling real estate in a market like New England where sales are already sluggish, you may create a market dislocation leading to a fall in housing prices. So by no means is a vote for capital gains a safe vote in these terms.

Let me just conclude by saying that this is the wrong debate at the wrong time. Let us drop the capital gains proposal by voting for the Gephardt amendment, and keep the deficit from growing in the outyears.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. TORRICELLI].

□ 1110

Mr. TORRICELLI. My Republican colleagues have proved their point. They can lower taxes, they can increase spending, they can plunge the Nation into debt, and they can win elections. I do not quarrel with your politics. My colleagues may win again today. However, just ask this question: What kind of people have we become in this institution? The Democratic alternative asks the people, on the one-half of 1 percent of the highest incomes in America pay the same tax rate as middle Americans, and my colleagues rise in indignation at a tax rise.

Our Nation is $3 trillion into debt, our schools are failing, we do not have homes for our children, and Members propose losing $20 billion in new revenue.

Mr. Chairman, we all understand that there is a capital crisis in America, but there are two differences: IRA's open to all Americans, and the Democratic alternative pays for it.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. GUARINI].

Mr. GUARINI. Mr. Chairman, I rise in favor of a capital gains cut, but in opposition to the Jenkins amendment, and in support of the IRA alternative.

I have joined with the gentleman from Texas [Mr. STENHOLM] in a letter stating our position and I submit it for the RECORD at this time.

HOUSE OF REPRESENTATIVES,
Washington, DC, September 27, 1989.

DEAR COLLEAGUE: Why do we, as supporters of a cut in the capital gains rate, intend to vote against the Jenkins amendment and for the alternative that will be offered on the floor?

1. Enacting the Jenkins amendment now will dramatically harm budget negotiations for fiscal 1991.

a. We will soon have to write a fiscal 1991 budget that requires up to $40 billion of real deficit reduction. A 1991 budget without revenue or a sequester would involve Draconian cuts in conventional defense and important domestic programs.

b. We support a capital gains cut but we adamantly believe it should be part of a broad, fair, honest deficit reduction package. To pass the Jenkins amendment now would sabotage budget negotiations for 1991, when major deficit cuts will be forced during the legislatively difficult election year session.

2. A capital gains cut should be permanent, not short-term.

a. To meet the competitive challenge from nations such as Japan, our country must have incentives for stable, long-term investment. That's why we support the concept of a permanent, broad-based capital gains cut. But the last thing we need is a capital gains rate that shoots downward and then upward during a 2-3 year cycle. This creates tax code instability and reinforces short-term speculation and short-term investment.

b. By including currently-held assets in a short window for a sharp capital gains cut, there is a danger of sending a dramatic "sell signal" that creates instability and uncertainty in financial markets. We do not predict another Black Monday; we do warn that it would be much wiser and less risky to pass a permanent cut in capital gains.

Finally, we regret the general tone of the debate. This should be a debate about capital formation, about strengthening the American economy, about dealing with the deficit so we don't pass on the cost to America's children. It should not be a debate that re-states the shallow and superficial platitudes of the 1988 campaign.

This is not a debate about "read my lips" or "soak the rich"; it is a debate about the economic future of America. Capital formation will not be achieved by short-term economics or short-term politics—by either party, for any reason.

Therefore, we support a capital gains cut, but it should be permanent, it should be carefully drafted, it should be part of a long-term economic strategy and a bipartisan budget agreement.

Sincerely,

CHARLES W. STENHOLM.
FRANK J. GUARINI.

Mr. Chairman, at one point, before there was a "gang of six" on the Ways and Means Committee, there was a "gang of five." I almost became the sixth. I decided against it. Let me explain why.

To meet the competitive challenge from nations such as Japan and European Community, our country needs incentives for stable, long-term investment policy.

That is why I support a permanent, broad-based cut in the capital gains rate.

What we do not need is speculation.

What we do not need is a short-term mentality.

What we do not need is more instability or more uncertainty in the Tax Code.

What we do not need is a capital gains rate that goes up and down every 2 years.

That's why I strongly oppose the Jenkins amendment.

To meet the competitive challenge, we need a budget that's honest and a fiscal policy that's rational. For fiscal 1991, we will have to cut the deficit by some $40 billion. A time for major tax considerations.

What we do need is a balanced, honest, bipartisan budget agreement.

What we do not need is budget gridlock and we have that today.

What we do not need is partisan politics and there is plenty in this House today.

What we do not need is the usual resort to gimmicks, games, and copouts.

What we do not need is repeat the shallow and superficial rhetoric of the 1988 campaign.

We desperately need a 1991 budget agreement, a key to our future success. Until we get one, there should be no capital gains cut.

We need stable financial markets. Real capital formation. Long-term investment.

What we do not need is a fire sale of assets triggered by a 2-year window.

What we do not need is a super short-term capital gains cut.

What we do not need is a giant sell signal that could drive down the value of assets.

Mr. Chairman, I support a permanent capital gains cut but not this one.

But the Jenkins amendment is harmful budget policy, bad tax policy, and dangerous financial policy.

I oppose the Jenkins amendment, and support the IRA alternative.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. RUSSO].

Mr. RUSSO. Mr. Chairman, this is not a question of productivity. It is not a question of jobs. This is not a question of competition. This is a question of outright greed.

We have people starving in the streets. We have a problem in our school systems. We have the scourge of drugs going through this country. We have an infrastructure that is decaying. We have a national debt that is choking our country. What is our response? What is this administration's response? Give the wealthiest people in this country a $25,000 tax cut.

We cannot help poor people. We cannot help starving people. Why? Because we need the time and the ability to keep the rich richer. They have gotten richer since the 1981 tax cut, the big Kemp-Roth tax cut that would give them money to trickle down to the poorest. It never gets down, folks. History has proven trickle down never works. But we are doing it again, giving it to the rich, making them wealthier. Maybe, just maybe the next generation, or the generation after that will feel the trickle down.

This is outright disgusting greed. Do not maintain that it is any other way.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Chairman, I rise in strong support of the proposed capital gains tax reduction. The Jenkins-Archer proposal is not the best possible proposal we could be discussing, but it certainly is an important step toward developing a tax policy that rewards savings and investment and encourages economic growth.

A permanent, deeper reduction would further these goals to an even greater extent—but the step we take today is a good start.

During this debate we have heard considerable rhetoric about tax cuts for the rich. Such appeals to the politics of envy and attempts to provoke some sort of class warfare are terribly unfortunate.

The fact is the capital gains tax reduction will help all Americans. History has shown that lowering the maximum rate of taxation on capital gains stimulates investment and creates new job opportunities for the working poor and the middle class.

Economic growth is an incoming tide that raises all boats.

But the capital gains reduction does more than boost our economy in an aggregate sense. The reduction will directly benefit individuals from all levels of society—

Consider the senior citizen who needs to sell off assets to finance retirement and adjust to life on a fixed income;

Consider the middle aged and older couples who sell their larger homes to move into a smaller house or condominium once their children have grown up;

Consider the young couple just starting a family who needs to sell their home and reinvest in a larger one; and

Consider the middle class couple who needs to sell stocks and bonds to send their children to college.

A capital gains cut is good for all of these people. It is good for the real estate industry; it is good for the construction industry; it is good for the financial community and most of all it is good for the small businessman struggling to get a new business off the ground.

In economics 101 we learned a basic tenet of economic common sense: When you tax something you get less of it. When you pare down the bureaucracy and cut taxes you get more. A capital gains tax cut reduces taxes on productivity, investment and savings. It is sound economic policy.

There is also a larger question we must come to terms with. Throughout this intense discussion I have been puzzled by a major inconsistency in the argument of those who oppose the capital gains tax reduction. We have heard countless eloquent speeches on the issue of fairness—that a capital gains tax reduction is unfair.

Yet many of the same Members who have argued that point have, it seems to me, missed the point on another critical issue facing this Congress—that of repealing the badly flawed Catastrophic Health Care Act—which imposes an incredibly unfair tax increase on our senior citizens.

I have to ask how a capital gains tax reduction that benefits all Americans can be considered unfair, while a catastrophic surtax that singles out one group of citizens is considered to be fair.

I ask my colleagues to consider these issues and take advantage of the opportunities presented to us in the reconciliation bill. I urge my colleagues to join me in casting two very important votes for fairness.

Today we must support the Jenkins-Archer proposal to reduce the capital gains tax—and next week we must support the Donnelly

amendment to repeal the Catastrophic Health Care Act.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. MILLER].

Mr. MILLER of Ohio. Mr. Chairman, I rise today in support of the Jenkins capital gains provision as contained in the Ways and Means bill, and in opposition to the Gephardt-Rostenkowski amendment, which would mean higher taxes for retired people, homeowners, family farmers, and many other average Americans. Close analysis indicated that 74 percent of the taxpayers who show a capital gain on their tax returns have total incomes of under $50,000. When looking at the results of lower capital gains tax rates that came into being at the beginning of the Reagan administration, one can't help but conclude that these lowered rates are one of the reasons we are now enjoying the longest peacetime economic expansion in U.S. history. In my judgment, we should not only be lowering the capital gains rate in the short-term, but also legislating laws that would encourage more long-term investing by making this reduction permanent instead of for just 2 years. A high capital gains tax rate negatively affects our Nation's ability to save. It inhibits capital formation and thereby leaves the private sector with less capital with which to build new plants, and purchase new equipment. Without the ability to pursue such opportunities for expansion the potential for new employment opportunities likewise suffers.

I have heard Members state that this reduction in the capital gains tax rate will flood the market with assets sold by people wanting to take advantage of this short-lived tax break. My response to such comments is why limit this change to 2 years. After all, hasn't it been the erratic and inconsistent behavior of Congress in changing the Tax Code so many times, that has left the American public dangling at the end of an economic yo-yo. We need to approach tax legislation and economic policy on a more consistent and permanent basis, so that the private sector and individual taxpayer can plan their respective financial futures with the assurance that an action they take today won't be overturned by an action that Congress might take tomorrow. Speaking of consistency, the majority leadership has now proposed universally restoring individual retirement accounts [IRAs] to the Tax Code. In 1986 it was that same leadership that called for limitations being placed on their purchase. Now they have resurrected IRAs and made them part of this amendment not because they necessarily feel they made a mistake in 1986 in restricting IRAs, but because they view them as a popular vehicle to gather votes for their alternative proposal. Personally, I support restoring IRAs for all, and feel they shouldn't have been cut back in the first place and I only wish that we could have both the full restoration of IRAs and the lowering of the capital gains tax contained in this bill. But unfortunately, if one was to vote in support of bringing back the universal IRA, he would at the same time have to support the provisions contained in the Gephardt-Rostenkowski amendment calling for an increase in the personal income tax, and I do not believe such a vote would be in the best interests of the American people.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana [Mr. MCCRERY].

Mr. MCCRERY. Mr. Chairman, I rise in support of the Jenkins/Archer capital gains proposal as contained in the reconciliation bill.

In Louisiana, what we need most is jobs. And the Capital gains proposal before us today will help us in Louisiana to create those jobs. The Jenkins/Archer capital gains proposal is good, smart tax policy for the United States, and will be an important tool for the creation of jobs in Louisiana.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, this has been an interesting debate, but it is unfortunate that we have seen this "us versus them" mentality emanating from my friends on the other side of the aisle.

During the debate we have been running to talk of the Presidents and would-be Presidents. My friend from California, Mr. THOMAS, talked about Alexander Hamilton, President Lincoln. Some talked about President Johnson, Senator Goldwater, who was attempting to be President. Several other people have been talking about, on this historic account, but I cannot help but think of George McGovern in 1972, when he said he wanted a $1,000 tax for everyone who earned more than $30,000, and figured he had a real winner, because 65 percent of the American people earned under $30,000 a year. Therefore, he thought he would have all their support.

What happened? He obviously lost the election, found he did not have their support, because a major percentage of those 65 percent wanted to be making over $30,000.

We found from talking to many constituents, who will not benefit immediately, that they do not want to preempt the opportunity because they want to have this opportunity. I believe it is important that we support this differential, and I urge my colleagues to join in support of the Jenkins amendment.

Mr. Chairman, the Gephardt amendment will undermine the most important economic reform since the Economic Recovery Tax Act of 1981. If enacted, the Gephardt amendment will result in higher taxes, lower productivity, reduced competitiveness, and a lower standard of living for all Americans.

A reduction in the capital gains tax rate is needed to stimulate long-term capital investment and job creation. The most critical aspect of the capital gains reform package is the indexation of gains to inflation. Inflation results in a significant overtaxation of long-term investments.

Under current law, a taxpayer with an investment held for 10 years, with a nominal gain of 50 percent and an inflation rate of 4 percent, would pay an effective tax rate of 1,049 percent. The Gephardt amendment would do nothing to alleviate long-term investors from this confiscatory taxation. Instead, it would add an additional kick in the stomach—an increase in the top marginal rate from 28 to 33 percent.

Even worse, the Gephardt tax increase will achieve nothing in terms of deficit reduction. Instead, the revenues that would be raised will serve simply as camouflage for the fictitious deficit reduction numbers contained in this budget reconciliation bill. If my colleagues on the other side seriously intended to use the $24 billion that would supposedly be raised by this amendment for deficit reduction, then the amendment would contain provisions to lower, by $24 billion, the Gramm-Rudman deficit reduction targets for the next 3 fiscal years.

It is obvious, Mr. Chairman, that by raising taxes, the deficit would not decrease. It would only result in an increase in Federal spending up to the Gramm-Rudman targets. This tax increase could be disasterous to our economy and will make our goal of a balanced Federal budget significantly more difficult to attain.

Finally, Mr. Chairman, as I listen to my colleagues on the other side of the aisle debate the merits of their IRA-tax increase proposal, I am somewhat taken back by the argument that expanding IRA's will somehow provide a private savings incentive. I share this view and, in fact, voted against the Tax Reform Act of 1986 because of its disincentives for savings. But the debate leads me to question the sincerity of the arguments made in defense of the Gephardt amendment.

For example, the following quotes are contained in the report on the Tax Reform Act prepared by the majority staff: "Congress determined that, since 1981, the expanded availability of IRA's had no discernible impact on the level of aggregate personal savings." It went on to say: "Congress believed that those taxpayers for whom IRA utilization was the largest—that is, higher income taxpayers—would generally have saved without regard to the tax incentives."

This leads me to ask: Should the Gephardt amendment be adopted, how long will it be before the Ways and Means Committee discovers that Congress can pick up a quick $7 billion by repealing these IRA provisions. How much longer are we going to treat the savings of working Americans as a yo-yo to satisfy the reckless budgetary whims of Congress.

If proponents of the Gephardt amendment were serious about encouraging private savings and helping middle-income Americans, then they would fashion an amendment that would repeal outright the restrictions on IRA deductions. And the amendment wouldn't discriminate against women who work either in the home or in lower paying jobs. Spouses working in the home should have the same individual retirement rights as those working outside the home. Yet, under this amendment, a nonworking spouse is not permitted a full $2,000 deduction for IRA contributions.

Mr. Chairman, the Gephardt amendment is a reckless and inane proposal that could do irreparable harm to our economy and to our deficit reduction efforts. It is bad fiscal policy,

and I strongly urge opposition to this amendment.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Chairman, I thank the gentleman for yielding time to me, and I want to compliment him for his leadership on this issue.

Mr. Chairman, in examining the relative merits of the committee bill and the pending amendment, we must brush aside the myths and misconceptions and consider the facts. Let us act today not on the basis of prejudice, but on the basis of principle.

It is easy to assert that restoring a differential for capital gains would benefit the rich. But to do so requires overlooking the plain, simple facts.

It is a fact that in 1985 nearly three-quarters of all tax returns with capital gains were reported by taxpayers with wage and salary income below $50,000.

It is a fact that nearly half of all of those gains went to people with wage and salary income below $50,000.

No, Mr. Chairman, the committee bill does not provide a tax break for the rich.

Most of the revenue derived from this proposal will come from upper income taxpayers. Of the $2.4 billion to be raised in 1990, $2 billion will come from taxpayers with incomes above $100,000. In fact, taxpayers with incomes in excess of $200,000 will pay $1.5 billion.

No, Mr. Chairman, the committee bill does not provide a tax break for the rich. If my colleagues want to support a tax break for the rich, they will have to vote for the Democratic substitute.

The Ways and Means Committee's bill cuts taxes on capital gains for all taxpayers. The pending amendment provides a tax break for capital gains, too, but only for the wealthiest taxpayers. Mr. Chairman, today may very well be remembered as the day when the Democratic Party sold its soul to win a needlessly partisan skirmish.

Those who think this is a tax break for the rich should try explaining that to the fellow who bought a little capital stock when he was 25 and wants to sell it to put his kids through college.

The Ways and Means provisions aren't regressive. They raise revenues from upper income taxpayers and use them to fund progressive programs—for instance, expanding the earned income tax credit to assist child care, the low-income housing credit, employer provided tuition assistance, the targeted jobs tax credit and health insurance for the self-employed.

But, Mr. Chairman, this measure represents more than an opportunity to fund these programs, and it represents more than an opportunity to correct an inequity for middle-income taxpayers who can't afford to pay taxes on inflation. What we are really talking about today, above all else, is jobs.

United States capital costs are the highest in the industrial world and twice as high as in Japan. Does anyone really believe that having the highest level of long-term capital gains tax rates helps us compete with our trading partners, most of whom don't tax the long-term gains of private investors?

We can't compete with the lower labor costs of the developing countries, but we can compete on the basis of innovation and creativity. But developing innovation takes risk capital.

What kind of sense does it make to tell taxpayers that we are going to tax earnings from the safest investments at the same rate as earnings from newer, risky investments? We need to encourage taxpayers to commit their resources to the risky ventures—which may fail—the ventures that, when successful, create the jobs of the future.

We made a mistake in 1986. We decided to cut taxes for short-term speculators and corporate raiders—we nearly cut their taxes in half—and raise taxes for long-term investors. Is it any wonder that hostile takeovers seem to have taken the place of innovation as the most prominent characteristic of American free enterprise?

Each company uses a different mix of equity and debt to finance its assets. Younger companies rely more on investment capital to finance their equity, because they don't have the retained earnings that big businesses do. As a result, according to Coopers & Lybrand, companies formed since 1981 require $51,000 of investment capital for each job created.

At a time when the capital threshold is rising, we have raised taxes on capital investment. That simply doesn't make sense.

Here's what people outside the beltway have to say about taxing capital gains:

"This is extremely important for small companies," says Mitchell E. Kertzman, president of Computer Solutions, Inc., a Burlington, MA, software developer. A cut in capital gains, he adds, would produce "a very direct benefit to the startup of new companies."

Norton Garfinkle, a New York venture capitalist, says the proposed capital gains tax cut would prompt him to increase his investments in startups and small entrepreneurial companies. Under the existing tax structure, Garfinkle says, he maintains a large part of his assets in fixed income investments like bonds and Treasury bills "because the returns are attractive." But if a tax cut made projected returns from capital gains investments more attractive, he would invest more money in small companies, he says.

A tax cut would help small and mid-sized companies lure executives from large companies with promises of stock, says Michael Levinthal, partner in Mayfield Fund, a Menlo Park, CA, venture capital concern. With the current tax structure, executives leaving large firms want more current income to match what they are giving up, Levinthal says. As a result, young companies lately have had to rely on costly salaries to attract experienced managers, says Richard Allen, president of Photonics Corp., a Campbell, CA, maker of data communications equipment. "But if we can pay a significant part of their compensation through stock options, we can use the capital we save elsewhere," he says.

"You might as well go for the safer and more current return because you do have the time value of money," says Steven Gilbert, who heads Chemical Bank's $250 million-plus venture fund. "I am being penalized for being a long-term investor * * * we're hesitant to look at startup under the current tax system."

"There's no marginal incentive for startups," says David Marquist, a general partner at Technology Venture Investors, a Silicon Valley venture-capital firm, which funded Sun Microsystems and Microsoft in their earliest stages.

Mr. Chariman, it is no fund to be forced to choose between reasonable taxes on capital gains and individual retirement accounts. My record on retirement income policy is clear; I don't take a back seat to anyone when it comes to supporting IRA's.

But these proposals aren't mutually exclusive. There is no good reason why we should have to choose between the two. The House Democratic leadership has decided to require Members to choose one over the other. It might be a lot easier to vote for IRA's, but with such a strong level of support for IRA's within the leadership, I have no doubt that we will get a vote on IRA's on another day. I have no reason to believe that we will have another chance to vote for a capital gains tax cut. As much as I would like to vote for IRA's, I am going to vote for jobs, while I have the chance, and I urge my colleagues to do the same.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Nebraska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Chairman, in addition to the other things that have been said in favor of the Rostenkowski-Gephardt alternative today, we have a chance to especially help the majority of Americans, to help working and middle class Americans. We can help them today by restoring the deduction for IRA's, and to help families save for their retirement, realize a dream of homeownership and of sending their kids to college.

Now, all of this, and we can help reduce the budget deficit at the same

time. Now, in reducing the deficit, we are paying for deduction which the Archer proposal does not do. The Archer proposal merely results in every more revenue loss, and only worsening our country's budgetary insanity.

People in Nebraska pride ourselves on common sense. I was elected to reflect that common sense. The Rostenkowski-Gephardt plan makes common sense. So let Members vote for it, and we as a country will realize real capital gains by helping our families realize their dream.

Mr. JENKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. EARLY].

Mr. EARLY. Mr. Chairman, I rise in strong support of the gentleman's amendment.

Mr. JENKINS. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, I rise in support of the Jenkins legislation for one reason, and one reason alone. I think this is the best opportunity to lower the cost of capital in America.

Who is having problems getting capital right now? It is small business. If you lower the cost of capital for the small business people, then they can put our citizens to work.

If our citizens are not working, if they do not have a good job, they are not going to be in a position to afford an IRA. Jobs have to come first. That is No. 1.

Also I wanted to mention, we heard talk on the floor that if we support the Jenkins legislation, we will have clearcutting of our forests. Environmentalists are not for clearcutting the forests and the environmentalists are not outside today opposing the Jenkins legislation. In fact, the environmental community is supporting what is in the Jenkins legislation that would help woodland owners write off their expenses.

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Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I remind my colleagues that I am new here, but I have been listening to this debate for about an hour and a half, and I really cannot believe what I hear. At a time when our seniors are crying for a catastrophic health care program that really helps them, at a time when we have so much that we need to do in this country, at a time when we have so much in deficit in this country, what are we doing? We are talking about giving a further tax break to the rich.

It is absolutely unbelievable that the American people send us here and we do this. What do we do? We do not take care of the middle class, we do not take care of the poorest who need our help, but again the wealthy, the country club set, the very, very rich are the ones we help again and again.

Today there is a poll in the Wall Street Journal which says that even among Republicans they prefer the IRA proposal over capital gains. Eleven percent of independents prefer IRA over capital gains, and of the American people an 11-percent majority propose it.

Mr. Chairman, the American public is watching us. Are we going to help the wealthy, or are we going to help our constituents?

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I rise in strong support of the Rostenkowski-Gephardt proposal.

Mr. Chairman, I am a Southern Democrat who is concerned about our Nation's chronic deficit and our low rate of savings. I feel that the more responsible way to begin solving these twin problems is to strengthen IRA's and to eliminate the bubble problem that was left over from tax reform in 1986.

The Jenkins capital gains plan is certainly popular with a host of Washington special interest groups. But that doesn't mean it's good economic policy.

I have voted with the Bush administration on many issues, but on this one they are against the interests of the average middle-class American. I liked the original Bush administration capital gains proposal and the Rostenkowski compromise, but the Jenkins plan will needlessly increase the deficit, cause a sell-off in the markets, reward short-term traders who are not investing for the future, and offer little chance for the average citizen to gain any benefit.

The better policy is to encourage all Americans to save more money and to restore the progressivity of the marginal rate of the U.S. Tax Code.

In today's Washington Post, the columnist Charles Krauthammer frames the issue very well:

[From the Washington Post, Sept. 28, 1989]

STEALING FROM THE FUTURE

(By Charles Krauthammer)

Budget czar Richard Darman has been waxing eloquent lately on the subject of "now-now-ism." Now-now-ism, explains Darman, is a "shorthand label for our collective shortsightedness, our obsession with the here and now, our reluctance adequately to address the future." It afflicts not just business and culture, argues Darman, but government too. The result? We are "engaged in a massive backward Robin Hood transaction—robbing the future to give to the present."

Darman is, as usual, right. But the administration for which he is the chief economic thinker is offering the American people what may be the most egregious now-now budget trick of the decade: the two-year capital gains tax cut. The administration, to be fair, wants a permanent cut, but in its uncompromising pursuit of compromise, is foursquare behind a compromise plan that would cut capital gains taxes to 19.6 percent through 1991, then, in 1992, return them to 28 percent, with gains now indexed to inflation.

A two-year capital gains cut is nothing more than a quick-buck device to raise cash for the Treasury. Everyone agrees that during these two years the Treasury will take in a few billion more dollars in taxes, as people prematurely sell stock and bonds and real estate in order to benefit from the temporarily lower rate. And what happens after those two years? Tax revenues will, of course, decline. Since so many capital gains will have been prematurely cashed in, they won't be around in the 1990s to provide tax revenues. As Robert S. McIntyre wrote in The New Republic, "It is exactly like offering people 30 percent off next year's taxes, provided they pay in advance, then claiming you've found a great new revenue source."

It is hard to imagine a purer example of stealing from the future to pay for the present. The purpose of the quick fix is to reach, artificially, the Gramm-Rudman deficit target for 1990 and 1991 without having to do anything real, such as cutting spending or raising taxes.

Democrats have turned the issue into an us/them, rich/poor class war. The rich do benefit vastly more from a capital gains tax cut than everyone else. But if, as the capital gains fundamentalists claim, this tax cut would increase savings and productivity, it would certainly be worth it. If while lifting all boats a few yachts get lifted too, so what?

The problem with the fundamentalists' claim is that it does not hold up. It is contradicted by a 1985 Congressional Budget Office study of the last round of capital gains cuts. And by Herbert Stein, former chairman of the Council of Economic Advisers under presidents Nixon and Ford, who says flatly that we don't know whether such a cut will increase savings. The question is simply unanswered.

Moreover, says Stein, the claim that cutting capital gains will stimulate "risk-taking" investment is an odd one. Why, after all, should government substitute for the market in telling investors what kind of risks to run? "What's so great about risk taking, after all?" he asks. "A good tax system would neither prefer nor penalize risk taking." If you believe in the market, let the market decide.

The best tax code is one that is neutral, that best imitates a world in which there were no taxes at all. It allows the investor to make his decision based on market factors, rather than on Washington's political preferences. By artificially lowering the tax on one kind of income, the investors' decision-making is skewed. And, if you believe in a free market, the more skewed are investors' decisions, the more inefficient is the market, the worse off everyone is in the long run.

We all know what will happen with the capital gains loophole. The only industry it is sure to rebuild is the tax-shelter industry. The cut invites economically pointless schemes, like investing in see-through office towers, for turning present income (high tax) into capital gains (low tax).

A preferential tax on one kind of income corrupts the free market. But it is even more corrupting to the political system. It opens the door to the kinds of special interest tax advantages that were largely swept away by the tax reform of 1986. The current capital gains tax proposal, for example, will

treat all sales of timber as capital gains. Timber—but not, say, medicines or motor scooters. Why is the sale of timber a capital gain and thus a preferentially treated transaction? Because Congress says so. And why does Congress say so? Because the key congressmen needed to get the capital gains cut passed are timber-state Democrats (mostly from the South).

The capital gains tax cut is but an opening wedge. It invites corruption and inefficiencies in future tax writing that will only get worse. That is because the general good—lower rates for everyone and no loopholes for special interests—is no match for the determined efforts of well-funded special interests to promote their own good.

The principle that underlay the tax reform of 1986 was that the best tax code is that which gets the government off the backs of the people and out of the minds of investors. Once that principle is undermined, there is no stopping the loophole writers. The capital gains plan will kill tax reform. Free marketeers, as Republicans claim to be, should be stopping the crime, not abetting it.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, I rise in strong support of the Rostenkowski-Gephardt amendment.

Mr. Chairman, this morning's headlines were quite revealing. They were revealing not only by what they reported but by what they did not report. On the front page there was no mention of financial aid for education, there was no news about housing the homeless and no news about providing health care for the uninsured. But there was a big story concerning the Sony Corporation of Japan and how it was offering $3 billion in cash to purchase columbia Pictures Entertainment, Inc. The papers reported that because of this possible buy out, the Columbia stock jumped about 25 percent in one day.

I believe it is interesting to analyze this financial news in light of the proposals to cut the capital gains rate. If approved, the sale would be the largest Japanese acquisition ever made in the United States. Future profits from Columbia's entertainment activities would go to Sony Corporation of Japan. And the shareholders of Columbia Pictures would realize a large profit on the sale of their stocks.

I must admit that I do not consider this good news, or in the interest of the United States. But Sony of Japan is allowed to make offers to the directors of Columbia, and the shareholders are allowed to sell their stock. However, I do not understand how the President of the United States and his colleagues in Congress can support a cut in the capital gains rate that would just encourage more buyouts such as this. This buyout will not increase our national savings. It will not provide money for education, at least not education for Americans. And it will not put money into small businesses. Providing a capital gains rate cut will only guarantee large profits for wealthy stockholders. It makes no other guarantees.

The President and congressional supporters of a cut in the capital gains rate say that a cut is necessary to increase savings and reduce the Federal deficit. They argue that cutting the rate will bring more money into the Federal treasury and will encourage investors to provide money for new businesses. But the only guarantee this proposal really makes is to relieve the very wealthy of paying their fair share of taxes. If their goal is to spur investment in new businesses, why wouldn't they give special tax treatment only to transactions involving new stocks and new companies. Under the current proposal the owner of stock in a new innovative business is treated no differently for capital gains purposes from the owner of stock in GM. But investing in the new company does provide funds for new jobs and new opportunities. Investing in circulating shares of GM does not build American capital.

The capital gains cut is just another attempt to reward the wealthy on the middle class' tab. Over the past decade, Federal taxes on the richest 1 percent of the population have been slashed by 25 percent, due in large part to capital gains tax cuts enacted in 1978 and 1981. Meanwhile taxes are up on 95 percent of all families. This shift in the tax burden away from the rich and onto almost everyone else failed miserably to increase savings and created a huge budget deficit. Under Reagan and now Bush we are sending a message to the American people that the way to keep America on the road to economic prosperity is to trust the rich's economic sense, for they will know where to invest their money if we allow them to keep all the profits. Well, that approach has given us the lowest savings rate in the industrial world. Their common sense has turned us into the largest debtor nation in the world.

Mr. Chairman, I think it is high time to avoid the rich's economic sense and pay attention to the middle class' common sense. While one group is easily sending American assets to Japan, the other is struggling to send their children to school. There is a better way than cutting the capital gains tax to achieving what we all say we need to achieve. If our goal is more savings and a smaller deficit today and in the future than we should follow the lead of majority leader GEPHARDT and Senator BENTSEN. Their proposal gives the rewards to those Americans who have been bearing too much of the burden for too long.

The first thing the Democratic tax alternative would do is strike the misdirected and unfair 30 percent cut in capital gains taxes. Second it would expand the availability of Individual Retirement Accounts. I agree with the majority leader that the best way to make savings more attractive is to make them less expensive and more available, the Democratic alternative does this. The other way to increase savings is to reduce the deficit. The Democratic alternative does this considerably more than the committee-reported bill does.

Most Americans cannot comprehend a $3 billion cash buyout of a company. Most Americans are not aware that cutting the rate at which capital gains are taxed will encourage further such buyouts. What they do understand though is that money is too expensive too borrow to send their children to school, to buy a home or to start their own business. Now they are looking to Members of Congress for help. They are not looking for a tax cut that turns assets into gold mines, just a chance to have their hard earned dollars provide for their dreams. The ability to use IRA's for home purchases and college education fosters the middle American dream.

Mr. Chairman, the Democratic alternative which promotes fairness should be adopted for it builds on this American dream of home ownership and a college education. Our failure to adopt this proposal and instead to accept the tax cut for the wealthy puts a campaign promise over American's promise.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Chairman, I rise in support of the Rostenkowski amendment.

Mr. Chairman, I rise in support of the Rostenkowski-Gephardt amendment. Some Members have attempted to make this a purely partisan debate. So have some editorial boards. I think that is a mistake. There is unquestionably partisanship in a great deal of what we debate, but in this instance, we are talking first and foremost about fairness.

This is not a question of what we can afford. Under Ronald Reagan, we got so used to creative bookkeeping and budgeting that we now can delude ourselves that we can afford anything. Under George Bush, the American people have been told that Government will buy them all manner of things—the B–2 bomber, flights to Mars, the superconducting super collider, and two kinds of intercontinental ballistic missiles. Even more astounding, the American people have been told that we can do all this without new revenues.

This is not a question, as I see it, of whether or not there should be a capital gains differential. The issue today is whether we should restore a capital gains differential at a time when more Americans than ever before are living below the poverty level.

The Rostenkowski-Gephardt substitute does a great many things in the name of fairness. The elimination of those quirks in the Internal Revenue Code which have allowed individuals with higher incomes to pay their taxes at lower marginal rates than those with lower incomes is a fair provision. The restoration of a deduction for individual retirement accounts is clearly a fair provision. The allowance of incentives for the purchase of a first home or for higher education are not only fair, they are desirable.

The desire to buy a home and the desire of parents to send their children to college are two of the most fundamental aspirations that exist in this country. They are a large part of the definition of the American dream. I cannot see what is divisive in this proposal.

Congress passed the 1986 Tax Reform Act in part because David Stockman and Ronald Reagan managed to convince the American people that they were going to get a simplification of the Tax Code. Just ask those small businesses that have struggled with all of the regulations written since the enactment of that bill if what they got was simplification. What the advocates of that bill said at the time was that we wanted to tax capital gains in the same way we treated income from other sources. The capital gains rate cut proposal

now says that we no longer believe in that kind of consistency.

The issue here is whether a cut in the capital gains rate at this time is either fair or advisable—and whether we should monkey around with the Tax Code on a short-term basis as a way out of our budgetary mess. The rate cut provision is temporary. It is intended to last just long enough to get us to the 1992 elections. That is cynical and it is wrong.

I hope that the American people understand what a reduction in the capital gains rate really means. Because only a relative small percentage of the American people find themselves in a position to consider taking a capital gain, only a relatively small number will find themselves saving and investing the extra dollars we all want to see them saving and investing.

Make no mistake, the capital gains rate cut would stimulate the sale of capital assets. That is a far different proposition than saying that it would stimulate capital formation. In fact, in this era of leveraged buyouts, I wonder if it will not lead to an even more rapid turnover of profitable capital assets. In my own State of Texas, where we are struggling to rebuild after hard hits in the energy and real estate sectors, why would we want to flood the market with still more assets?

The leadership amendment is a good amendment and as tax policy it is both fair and responsible. It says that the revenue earned from the elimination of the most basic unfairness in the current Tax Code, the so-called bubble, will go directly to reduce the Federal budget deficit. If we really want to reduce that deficit and if we really want to bring down interest rates, this is the way to do it. I urge you to pass this amendment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, everybody in the country is saying that Congress has done nothing this year. I have watched the debate, and what is really funny is that Congress today will repeal everything we have done in the last 2 years.

The truth of the matter is that Gramm-Rudman has everybody hurting. We are robbing Peter to pay Paul. Nothing is working. I ask, "Why don't we listen to the American people? Why don't we cut the fat cats at the Pentagon and get on with our business?"

We should stop paying $120 billion a year to protect Western Europe and Japan's oil and then have them ship us Toyotas.

Think about it. We should stop changing economic policy every 6 months. Even Philadelphia attorneys cannot figure this out. It is bad enough that the American people cannot figure out their tax duplicate.

Mr. Chairman, I am going to vote for the proposal of the gentleman from Illinois [Mr. ROSTENKOWSKI], simply for this reason: I think it is the best one, and I think if we had listened to him in the last 5 years, we would be in better shape than we are today.

But Congress deserves this. Our economic policies are so misdirected that if we put them in a pile and threw them at the ground, they would probably miss.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Jenkins-Archer approach to the subject at hand, and I would like to associate myself with the outstanding statement of the gentleman from Iowa [Mr. SMITH].

Mr. Chairman, I put before you a common scenario: A young farmer in the Midwest bought a modest acreage 15, 20, or even 30 years ago. Each season since that time, he's spent countless hours, from dawn to dusk, in the fields. He's invested much more than money; he's invested a lifetime in that soil. If he's lucky, he will realize a confortable but modest income. He's not considered wealthy by anyone's standards.

Now, he's getting on in years, and he wants to reap the benefits of those many years of sweat and labor. He wants to sell the farm and settle into retirement. His many years of tending the land should afford him a small measure of comfort; his land was also his investment for this retirement. Imagine his surprise when he discovers that because of inflation, his land has increased tremendously in value. He cannot afford to retire after paying the capital gains taxes from the sale.

Farmers are not alone in this situation. The many small businesses that populate the Main Streets across this country are run by folks who are not rich, but who have worked tirelessly over many, many years to carve out a comfortable living for themselves and their families. Again, their businesses are their retirement investments. When it comes time to sell the business and retire, however, the capital gains tax hits hard.

Mr. Chairman, we're trying to help folks plan for retirement. These folks are not rich. These folks are not wealthy investors who wheel and deal on Wall Street. These folks are solid, middle-class Americans who have worked to build a small nest egg over many years. But we're not helping them if we tax the inflated value of their land and their businesses. We're not helping them if we allow the capital gains tax to chip away at the gain they realize from the fruits of their labor. I urge all of my colleagues to support the Jenkins-Archer capital gains proposal. Support the middle class.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, I thank my friend, the gentleman from Texas, for yielding time to me, and I rise in strong support of the Jenkins-Archer approach. This is the approach the American people want and the approach the American people need if we are going to be competitive in the world.

Mr. Chairman, it is unfortunate that the Democrat leadership in this House is forcing us to choose between cutting taxes and restoring IRA's. For the sake of the American people and our country's future, we should be doing both.

That's what this debate is really about here today. Those of us who believe that the American economy must be able to grow and compete are fighting for a tax cut that will directly benefit millions of American families, farmers, small business people and investors. Our proposal for lower taxes will create new jobs, allow our industry to compete in world markets and help every American prepare for a more comfortable retirement. How can anyone argue against our goals?

The simple fact is, our economic future depends on savings and investment. Personal savings not only proivde for every family's future, but also provide an essential pool of capital for our economy. Similarly, capital investment is essential to economic growth. Without savings and investment, the great engine of the American economy is starved for the financial fuel it needs.

The need for greater savings and investment is painfully clear. Our savings rate is now 5.3 percent of GNP. Look at two of our biggest competitors: Germany and Japan. Germany's savings rate is 10 percent, twice ours. And Japan's is 18.6 percent, more than three times ours. This difference is crucial. A higher savings rate translates into greater financial resources and a lower cost of capital. In Japan, for example, capital costs half of what it costs here. This gives Japanese companies a great advantage in financing their growth and undercutting Americans in world markets. And if you want to find the reason why Japanese are buying up American assets, look directly to the Japanese savings rate which is fueling those purchases.

A capital gains cut would benefit millions of Americans. It would put $9.4 billion back into the economy in 2 years; 10 to 15 percent of all taxpayers would benefit in the first year alone. That's up to 14 million taxpayers. It the cut were made permanent, half of all taxpayers would benefit eventually, when they sell their house, their farm, land or other assets.

A capital gains cut is especially important to senior citizens. One senior in five would get a tax cut in the first year, giving them more for their retirement years. What better step could we take for the 634,000 seniors in my State of Wisconsin and the millions of seniors in other States?

Farmers would be helped as well. In Wisconsin, for example, we have 82,000 farms, mostly owned by families. Their average income is $16,400, but they own $21 billion in assets. What better way to help our farmers than to allow them to keep more of the proceeds from sale of land, livestock or other assets?

We should be restoring the IRA as well. It made no sense to cut them back, and it was done only to raise new revenues to cover the stubborn refusal of the majority in Congress to restrain Federal spending.

Restoring the IRA—even partially, as has been proposed—would put $15 billion back into the savings accounts of American families. They would be better prepared for retirement, and the economy would have a larger pool for capital investment. Those of us who want a better life for our retirees and a stronger economy will keep fighting for IRA's for every American family.

At least let's cut taxes while we have the chance. This is what every American wants and needs. We have a great opportunity here today to do something positive for the American people and our country's future. Let's take that step and help our people.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, I rise in support of the Archer-Jenkins proposal.

Mr. Chairman, I rise in opposition to the amendment. I have long supported efforts to expand the use of IRA's and restore the full deductibility of contributions to them. It's good to see my colleagues on the other side of the aisle realize that more needs to be done to help older Americans supplement their Social Security checks with outside support.

The Democrat-sponsored amendment before us would help the next generation of Americans dependent on Social Security checks for survival. But many seniors need help right now.

Sadly, on a party-line vote, the Democrat leadership killed an amendment in the Rules Committee that would have allowed working seniors, who may have never been able to afford to contribute to an IRA or a savings plan, to work for a modest income without the Government reducing their Social Security checks.

Incredibly, for every dollar a senior earns over $8,880, the Social Security earnings limit reduces Social Security benefits by 50 cents; it's like a 50-percent marginal tax.

A study prepared by the National Center for Policy Analysis and the Institute for Policy Innovation finds that as the earnings limit is raised, net Federal revenue increases due to the added work effort of seniors. My amendment would have set the earnings test at its revenue-maximizing point at $39,360, which would generate a net Federal revenue of $3.2 billion annually.

If the Democrat leadership truly wanted to help older Americans, they would have allowed the rest of the Congress an opportunity to raise the Social Security earnings limit. We should look at the amendment before us for what it really is: a bait-and-switch tactic to prevent a cut in the capital gains tax.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. COURTER].

Mr. COURTER. Mr. Chairman, I thank the gentleman very much for yielding time to me.

Mr. Chairman, I believe we have a great opportunity today to say yes to the American people. We will not have to read people's lips anymore after this vote; we will be able to watch their vote.

We can vote yes on jobs, yes on moving ahead, yes on the people who need badly to have some capital so they can stay in business. We can vote for the small businessman. We can vote yes for the farmer. I think this is one of the most crucial votes that we will be facing this year.

In our States, hundreds of thousands of people are working now who were not working a few years ago. In the United States tens of millions of peole are working who were not working a few years ago.

Mr. Chairman, let us build on that record. Let us make sure that we have more investments. Let us make sure that we have more plant openings, not closings. Let us make sure that we give real opportunity to New Jersians and to people all over this country. Let us vote yes on this tax proposal that gives real growth for America.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to our beloved Republican leader of the House, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, let me say to my colleagues that we are coming to the end of another classic battle over tax policy. For decades we have been arguing over the merits of capital gains taxes. The battles have been drawn on both political and philosophical lines.

This latest bout is no exception. Each side seeks to achieve both philosophical and political objectives.

We have fought over tax policy and tax politics. We have talked much of fairness, not only as it relates to the tax code, but also as it relates to the rules and procedures under which we are forced to legislate, particularly in this case.

The Jenkins-Archer proposal is indeed a tax reduction and a revenue raiser. It fits well with the economic and tax policies which have guided this country through 82 record months of growth, creating hundreds of thousands of new, productive, and lasting jobs in our Nation.

Ultimately, this is a struggle not between two policies but between two philosophies.

The Democratic leadership believes in redistributing this wealth; the bipartisan coalition believes in creating wealth.

The Democratic leadership subscribes to the rancid rhetoric of class warfare, and we have heard it time and time again today. The bipartisan coalition approach will give us more growth and more jobs and will help us all to be more competitive in an increasingly competitive world economy.

Mr. Chairman, I urge the Members on my side particularly to support our President's position on this one. His credibility and ours is on the line.

But more important for Members on both sides, including discerning Democrats in good number to reject this effort on the part of the Democratic leadership to sidetrack the proven philosophy of growth that has given us the longest period of sustained growth and prosperity that we have experienced since World War II.

That is the message today, Mr. Chairman.

At this point I will insert a letter from the President urging our support for the Jenkins-Archer proposal and against the majority leadership tax increase alternative:

THE WHITE HOUSE,
Washington, September 26, 1989.

Hon. ROBERT H. MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR BOB: The House of Representatives will soon have the opportunity to vote on legislation that will ensure continued economic prosperity and provide powerful incentives for investment and jobs.

I firmly believe a capital gains reduction is the right policy for all Americans. This is an opportunity to restore an incentive for saving and investment, to create new jobs and build a better future. All Americans will benefit.

Middle-income Americans who invest wisely, farmers selling off a piece of the family farm, the elderly widow who is living off the assets she and her husband struggled to accumulate, the couple who planned ahead and saved so their children could go to college, the small business entrepreneur who sank his savings in an idea he alone believed would work—these are not wealthy Americans. Over 70 percent of the taxpayers who report capital gains have other income less than $50,000.

In this intensely competitive world, almost all major industrial nations tax capital gains lightly or not at all. This is important to the American factory worker whose job may be on the line unless his company can bring down its capital costs.

Reestablishing a capital gains differential, which was part of our tax laws for over six decades, provides the needed incentives for those willing to take a risk on new products and research that are the result of American ingenuity.

Reducing the capital gains tax means Americans who have capital gains at some time in their lives—about half of our population—will be able to keep more of their savings to invest for the future.

You will be offered an alternative to the Jenkins-Archer capital gains proposal. No matter how you dress it up, that alternative is a tax increase—plain and simple. That's no alternative, and my response will be equally plain and simple—veto.

The timing for this vote is excellent. The Nation is enjoying its 82nd consecutive month of economic expansion—the longest in peacetime history. Support for a capital gains differential is a vote to continue that prosperity, and I ask for your support when the Jenkins-Archer proposal comes to a vote.

Sincerely,

GEORGE BUSH.

The CHAIRMAN. The Chair will remind all persons in the gallery that they are here as guests of the House, and that any manifestation of approv-

al or disapproval of our proceedings is in violation of the rules of the House.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, I say to my colleagues that we should come to our senses. The Jenkins-Archer amendment is a fraud. Its basic premise that unearned income should be taxed at a lower rate than earned income is an insult to working people.

The notion that the way to help the poor and middle income people is to give a tax break to the rich has no credibility. When the history of this period is written, this idea will be seen as the epitome, the high water mark, of the spend-now-pay-later deficit orgy that characterized the 1980's.

Think about it. In the face of a $2.5 trillion deficit, the Jenkins-Archer amendment reduces the tax burden of those most capable of paying. It rewards land speculators at the expense of wage earners.

This represents the abandonment of any effort to have a fairer, simpler tax structure. The proponents of the amendment would have us believe that those who receive this tax cut are going to take their savings and invest them in business ventures. They will not. It will be given away to land speculators, takeovers, and other unproductive things.

The CHAIRMAN. It is the understanding of the Chair that the gentleman from Texas [Mr. ARCHER] has one remaining speaker. The Chair also understands that the gentleman from Georgia [Mr. JENKINS] will speak for himself.

Therefore, at this time the Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

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Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, the distinguished minority leader is simply wrong. I hate class warfare, and this is not an issue of equity, distribution versus growth. We simply have not been shown that the capital gains differential will stimulate growth. The Treasury study of 1985 refutes it.

Mr. Chairman, I ask my colleagues: One-quarter of 1 percent over 50 years; is that growth:

A recent study from the CRS says that the capital gains proposal could actually reduce the overall capital stock in investment by half a percent. Is that growth?

I decided to look up the figures on timber, and they are very interesting. Here is what they show. The last 2 years before tax reform, when we had a differential in capital gains, the increase in private forest plantings went up 20 percent, and since we eliminated the differential in capital gains, the private plantings have gone up 80 percent.

Mr. ANTHONY. Mr. Chairman, will the gentleman yield?

Mr. LEVIN of Michigan. I yield briefly to the gentleman from Arkansas.

Mr. ANTHONY. Mr. Chairman, I think there should be noted that under the farm bill set-aside lands allow farmers to plant, and that is the reason for that.

Mr. LEVIN of Michigan. Mr. Chairman, that is one of the reasons, but do not sell the capital gains differential on the basis of stimulating national growth. That is a smokescreen, my colleagues.

Whatever the good intentions of the sponsors, the likely beneficiary of this capital gains proposal is not national economic growth, but personal greed.

I urge that we adopt the proposal of the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY. Mr. Chairman, there are only three questions that every Member ought to ask today.

The first one is: Who is going to get the most relief? Under the Democratic leadership plan 70 percent of all the benefits go to those making under $100,000. Under the Bush proposal the benefits go 80 percent to those making over $100,000, and listen to this. Sixty percent of the benefits go to those making over $200,000.

I say to my colleagues, "Let me tell you what that means. If you're from Georgia, it means only 13,000 taxpayers are going to get that relief. If you're from Alabama, it means 7,800 taxpayers. When you're making tax policy, decide which one you want to be with."

Second question: Which policy is the best fiscal policy? The Bush proposal will increase the deficit by $21 billion in 5 years. The Democratic proposal will reduce the deficit by $25 billion over the same period of time.

Finally, the third question: Who is going to pay for the relief? Well, listen to Richard Darman, the director of OMB of the President who is quoted in the newspaper this morning. He says that we are engaged in a massive, backward, Robin Hood transaction, robbing the future to give to the present.

I will tell my colleague who pays for Bush. It is going to be middle and working class Americans who will pay over the next 5 years.

Who pays for the Democratic plan? It is tax reform that says to Donald Trump, Malcolm Forbes, "You ought to be paying the same rate as middle income Americans."

Finally, I say to my colleagues, "When you look at those three questions, you know one thing has happened. The real George Bush has finally stood up with the wealthiest Americans with a proposal worthy of his party's heritage, and that is to give to the top," and we say, "Give to the most, not to the top. That insures economic growth."

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I rise today in opposition to the Bush-Jenkins plan to temporarily reduce the capital gains tax and in support of the alternative offered by Chairman ROSTENKOWSKI and Majority Leader GEPHARDT to the fiscal year 1990 budget reconciliation bill (H.R. 3229).

The No. 1 crisis facing our Nation today is the Federal deficit. Yet, the Bush-Jenkins plan will allow the deficit to balloon by over $21 billion during the next decade and that's unacceptable. I am not opposed to a permanent reduction in the capital gains tax; but I am opposed to short-term band-aids that are put in place at the expense of meaningful long-term solutions.

The Bush-Jenkins plan of cutting the capital gains tax for 2½ years will not spur investment, reinvigorate the economy, or increase revenues in the long run. But it will weaken our economy, depress the stock market, and the real estate industry.

By limiting the tax discount period to just 27 months, the bill will encourage an enormous number of properties to be dumped on the market. This will come at precisely the wrong time as $100 billion worth of real property is put on the block by the Resolution Trust Corp. This figure does not include the current dumping of property by the Federal Deposit Insurance Corporation, the Federal Housing Administration, and the Veterans Administration. Today, a 2-year audit by the General Accounting Office and Price Waterhouse, reported that the FHA suffered losses of $4.2 billion in fiscal year 1988, nearly five times more than the Reagan administration reported at the time. We cannot afford to add an additional $21 billion to the deficit just to reduce the capital gains tax for the weathiest segment of our society.

In addition, the 2-year "cash it all in" window will force a plunge in the stock market as individuals rush to liquidate their stocks instead of holding onto them as long-term investments.

We need to increase the availability of private capital by providing additional incentives for long-term investment and savings in order to reduce the deficit which now stands at over $140 billion. While I support indexing the capital-gains tax to inflation and thus putting an end the taxation of illusory profits, I cannot condone a proposal which further increases our Federal deficit.

The Rostenkowski-Gephardt alternative, on the other hand, will establish a maximum capital tax rate of 28 percent; allow individuals who do not currently qualify for tax-deductible contribution to an individual retirement ac-

count [IRA] to contribute $2,000 a year to such a plan with 50 percent of the contribution being tax deductible; waive the current 10-percent tax penalty applied to early withdrawals from an IRA if the funds are used to finance a college education or first-time purchase of a home. The Rostenkowski-Gephardt alternative will raise $37.9 billion over 5 years by correcting the anomaly which permits those earnings more than $155,000 to pay a lower tax rate than middle income taxpayers earning between $45,000 and $94,000. Of the funds raised, about $22.5 billion would be set aside for a deficit-reduction trust fund and the remainder would fund the partial restoration of tax-deductible IRA's.

This proposal will encourage savings, reduce the deficit, and restore tax equity to the middle class. I urge my colleagues to support the Rostenkowski-Gephardt amendment to the fiscal year 1990 budget reconciliation bill.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, at a news editors' meeting in Minneapolis last week, Speaker FOLEY called the proposed capital gains tax break "ill-advised, ill-timed, inequitable, unfair, undesirable and generally pernicious. Other than that, its a good idea."

The Speaker is right. Like many Democrats, I could support some sort of capital gains tax differential if designed properly. While generally producing a simpler, fairer Tax Code, the 1986 tax reform did not provide enough incentives for saving. A capital gains break could spur investment. Further, a capital gains reduction would benefit many middle class retirees and others who experience a one time gain on the sale of assets like a farm, home or business.

However, the relative merits of a capital gains tax break do not justify voting for just any capital gains proposal that comes along. The current plan is ill advised. It provides an incentive to sell off assets in the next 2 years to benefit from a temporary drop in tax rates. That's bad economics. Why should we invite so much liquidation of capital in such a short period of time? It's also bad budgeting. We may get a 2-year bump in revenue but over time we lose revenue and increase the deficit. And it's bad policy. The 2-year break makes new long-term investment relatively less attractive.

The Jenkins-Bush plan is ill-timed. The budget blueprint for fiscal year 1990 is a joke. We all know we need a real deficit reduction plan. So why should we give the President what he wants most, a capital gains tax break, without getting in return what this country needs most, a serious deficit reduction plan?

Simply put, cutting the deficit is more important to the economy than cutting the capital gains tax rate.

Now is not the time for a capital gains break. This idea should be discussed as part of an overall plan to cut the deficit.

The Jenkins-Bush plan is inequitable. Upper income taxpayers, particularly high paid executives, could quickly move to take advantage of the capital gains tax break. Middle income taxpayers don't and can't move money around as easily. This would tend to further the regressivity of effective tax rates to the detriment of middle income taxpayers.

The Jenkins-Bush plan is unfair. Any way you look at it, this capital gains tax break is primarily targeted to the rich. While middle income taxpayers may benefit, on occasion, from the sale of a home or other assets, upper income taxpayers will benefit year in and year out from the availability of a lower tax rate on capital gains. It is a basic fact that those in upper income levels make money by investing, those in low and middle income levels make money by working and earning a paycheck.

While lowering the capital gains tax would certainly spur investment, it would not appreciably encourage new investment by low and middle income workers. On the other hand, an expanded IRA would also foster investment and savings, but the benefits would be spread to all income levels, not just the wealthiest Americans, The IRA also helps respond to the need for better retirement planning on the part of the American work force.

The Jenkins-Bush plan is undesirable. Assets held for no more than 1 year would qualify for a tax break. Why? We don't need to reward short-term profit taking. We ought to reward long-term investment. The effect of the Jenkins-Bush plan would be to perpetuate the shortsighted business policies which were the trademark of the 1980's.

If we are to lower capital gains rates, it ought to be available only for assets held 3 years or more, perhaps with a declining rate for assets held even longer.

The Jenkins-Bush proposal is pernicious in two ways. First, it has precipitated a breakdown in bipartisanship. We are now pitted in a fierce, largely partisan, fight at the worst possible time as the start of the next fiscal year approaches.

Cooperation between the White House and Congress is essential to achieve deficit reduction. Instead of risking a breakdown of the 1990 budget process at the last minute, we should front-load the question of capital gains into the fiscal year 1991 budget cycle, giving us plenty of time to address this issue carefully as part of an overall budget and tax package to cut the deficit.

Second, we undermine public confidence with a plan to cut capital gains now. Many Americans were suspicious of the lower tax rates offered by the 1986 tax reform. The tradeoff for lower rates was the elimination of credits, deductions, and loopholes primarily available to the wealthy. Now they'll feel their suspicions are confirmed if, in addition to lower rates for the wealthy, we restore tax breaks.

Further, most Americans know that the Federal Government is floating in red ink. They will not understand how Congress can increase the deficit by adopting a major tax break, when, frankly, spending cuts and additional revenues are needed to attain a balanced budget. Fundamentally, the credibility of Congress with the American voter is on the line.

Finally, the Rostenkowski-Gephardt substitute is the better option. Unlike the Jenkins-Bush capital gains plan which benefits primarily the wealthy, the benefits of expanded IRA's are spread to all income levels. Unlike the Jenkins-Bush plan which increases the deficit, the Rostenkowski-Gephardt plan actually cuts the deficit. Unlike the Jenkins-Bush plan, the Rosenkowski-Gephardt proposal would enhance, not undermine, the objective of the 1986 tax reform bill to make our tax system more fair.

Eliminating the bubble will keep upper income earners paying the same rate as middle income taxpayers, not a lower rate. Incidentally, capital gains would stay at a 28-percent rate providing some incentive for wealthy Americans to make such investments.

Today, we must make a choice. We can't choose both capital gains breaks and IRA's. For now, the best choice is the Rostenkowski-Gephardt substitute. It furthers the goals of tax reform and deficit reduction. Conversely, if the Jenkins-Bush plan is adopted by this Congress now, and in its current form, it would begin the process of dismantling tax reform and derailing our deficit reduction efforts.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Hawaii [Mr. AKAKA].

Mr. AKAKA. Mr. Chairman, I rise in support of the Rostenkowski-Gephardt Democratic IRA/deficit reduction alternative to the capital gains giveaway.

Today's debate offers us all a clear choice: a 2-year bonazana for the rich, or fairness and a secure future for everyone. In cannot in good conscience support a cut in the capital gains rate knowing full well that the $21 billion tab will be passed on to the middle class over the next 10 years. It is incredible and irresponsible to give the 375,000 richest families in America, already earning over $200,000 annually, a $25,000 windfall, with the knowledge tha our budget difficulties will force us to drastically reduce Government services or raise taxes for millions of middle class Americans in the coming years if this giveaway is passed today.

The Rostenkowski-Gephardt substitute, in contrast, helps the average American family. Restoration of the IRA deduction would help encourage personal savings, would help young families realize their dream of owning a home, would help parents pay for their children's college education, and would help everyone save for their golden years.

The Rostenkowski-Gephardt substitute also takes positive steps to reduce the deficit. The amendment would reduce the deficit by $24.5 billion over 5 years. The deficit is of paramount importance to the ability of our Nation to invest in the future and compete in the world market. The Jenkins-Archer amendment would postpone consideration of serious deficit reduction and sound economic policies. The substitute deals with the deficit head-on and conveys a sense of Federal fiscal responsibility that is essential to business confidence and long-term investment planning.

Mr. Chairman, I urge my colleagues to support the Democratic alternative, to support deficit reduction and sound economic and budgetary policy, and to support young families and students in realizing their dreams.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may con-

sume to the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. Mr. Chairman, I would like to have voted on a permanent capital gains rate reduction today. Unfortunately, the capital gains rate reduction proposal in the budget reconciliation bill which we are voting on today is a 2-year gimmick designed not to spur new investment or create new jobs but to force divestiture of assets and create one-time capital gains revenues to the government.

The temporary 2-year capital gains fix would do nothing in the long run for deficit reduction and economic development. Studies show that after the first 2 years the proposal will lose revenues and cause the deficit to skyrocket, forcing massive future tax increases to pay for it.

Passing a tax bill forcing owners to sell real estate in the next 2 years to take advantage of capital gains would further depress land values in my district that are far too low today.

To those who say that the Rostenkowski-Gephardt-Stenholm proposal is bad because it makes families who earn over $200,120 pay the same rate as those who actually make less, I say: "Yes, I'm sorry, but it's just plain fair."

We must be honest with ourselves in cutting the Federal budget deficit. Budget gimmicks that disguise the long-term deficit problem are not the answer.

Ms. OAKAR. Mr. Chairman, to paraphrase a popular commercial, many decisions central to our Nation's survival and strength become tax decisions, which means that tax policy is often the heartbeat of America.

No concientious politician likes to raise taxes and I certainly do not. It is far more attractive to propose tax reductions, as the President did with capital gains, and as the Secretary of the Treasury is now hinting about with regard to dividends.

Nevertheless, in my opinion, any tax proposals that would enhance capital formation and U.S. competitiveness deserve to be considered on their merits, whether they recommend increases or decreases. So, what are the merits of the bill currently before the House?

First and foremost, the context of the proposal to reduce taxes by billions of dollars a year is a string of Federal budget deficits—more than $1½ trillion in the past 9 years—that threatens the financial stability of the country and an adamant refusal by the President to consider tax increases under any circumstances, either to reduce these deficits under the Gramm-Rudman-Hollings law, or to respond to the most significant national needs and opportunities. This position has brought the U.S. Government to virtual paralysis or tokenism in the face of some of the most historic developments of the past 50 years. In short, this position lacks realism and responsibility. It plays politics with tax policy, and among other things, detracts from the credibility of the administration's capital gains proposal.

Second, I respectfully disagree with the form of the capital gains proposal as it emerged from the Ways and Means Committee (subtitle J, part 1, section 11951 of H.R. 3299). In my opinion, what capital gains policy is all about is encouraging long-term investment where risks are multiplied by uncertainty. Accordingly, a short-term 27-month reduction in capital gains rates seem contrary to the spirit of what capital gains policy should be. The indexing system—that would take effect thereafter, for newly purchased assets under the Ways and Means proposal—might also be worthy of consideration in some form. However, it would apply to only to one class of assets and not others, and would create a compound treatment of property that seems unduly complicated to me.

Third, the Ways and Means proposal would lose further revenue that the country desperately needs. After a short-term pickup of $9.4 billion over the first 3 years, it would lose $30.3 billion in revenues for the next 7 years, for a net loss over 10 years of $20.9 billion. We taxpayers would have to make up that revenue in some other way. The alternative proposal in fact does raise revenues—$12.5 billion in the first 5 years—and more thereafter—which would be specifically earmarked for deficit reduction.

Fourth, according to the Congressional Budget Office, the 3.3 percent of U.S. taxpayers whose incomes are more than $100,000 would enjoy 79.7 percent of the cuts from the committee proposal. While that fact is not automatically disqualifying, since investment generally parallels wealth and income, it is also a matter of history that in the past decade, maximum tax rates on long-term capital gains have fallen from 49 percent to 28 percent and on short-term gains from 70 percent to 28 percent. To add another tax reduction concentrated on this group of wealthy taxpayers on top of what they are already enjoying, at a time of severe budget stringency, seems to me to be basically unfair to the rest of us. As my distinguished colleague from North Dakota recently pointed out, capital gains cuts could be structured in a different way to focus more upon the middle class ("A Tax Cut For Those Who Really Need It," by Rep. BYRON DORGAN, Washington Post, September 12, 1989, page A21).

The alternative proposal—to allow a deduction for one-half of an individual retirement account contribution of up to $2,000—benefits all income classes and would also encourage national savings and investment.

My preference would be to have no tax reductions and no tax increases this year, so that Congress and the administration could work out a major, legitimate reduction of the budget next year, in order to address the critical budget deficit program.

At that time, in my opinion, there are several fairness problems which capital gains tax policy should address, such as the situations of operators of small and other long-term businesses, homeowners, farmers, and risk-taking high-technology entrepreneurs, and venture capitalists.

For example, small business persons work for a lifetime, reinvesting heavily in their enterprises to remain competitive over the years. It seems unfair that in the year that the business is sold, the owner must pay tax on the proceeds of this reinvestment all at one time and at ordinary income rates.

Homeowners and farmers are in the same position. In the year they sell their prime asset they become subject to tax at the highest rate, which falls on 20 or 30 years of inflation that has already eroded the purchasing power of the assets.

Risk capital is the likeblood of new enterprise. It is a source of pride, I believe, that the 1978 and 1981 reductions on capital gains taxes caused an increase in the amount of formal venture capital in this country from $3 billion to $30 billion. Informal risk capital may have grown to approximately twice that amount.

A recent report of the National Venture Capital Association and the American Electronics Association documents the benefits to our economy of companies that have received investments of these larger pools of capital. The study examined 200 companies financed by venture capital investment between 1981 and 1985 and found that they had created 38,616 jobs. Every $100 invested in these companies generated $22 in research, $12 in taxes, and $34 in export sales ("Generating Economic Growth Through Young Technology Companies." 1989).

These companies paid almost no dividends, because their earnings were plowed back to finance growth, employment, and research. The reward for these leading-edge companies, their executives, and their investors, is capital appreciation and the risks of organization, product development, market development, and competition are extraordinary. I feel that an appropriate capital gains policy should have a role in compensating for the risks of extended investment periods and uncertainties of this kind of economically valuable activity.

But the Ways and Means Committee proposal is, in my view, not the answer. I hope that we can try again in the near future to formulate such a wise and beneficial policy.

Mr. FORD of Michigan. Mr. Chairman, I rise in strong support of the Democratic substitute and in opposition to the Bush-Jenkins capital gains proposal.

The Democratic alternative will restore one of the most popular middle-class tax deductions eliminated by the 1986 Tax Act—the IRA. Moreover, it will make IRA's more useful as a vehicle for savings by allowing them to be used not just for retirement income, but for college expenses and the cost of a new home, as well.

In stark contrast, the Bush-Jenkins amendment is designed to benefit the very wealthiest Americans. It provides a 30 percent tax cut for people who sell stocks, bonds, timber, real estate, and certain other capital assets—but nothing for people whose income is derived from wages or salaries.

Fully 80 percent of the savings from the Bush-Jenkins proposal will go to taxpayers with incomes in excess of $100,000—less than 4 percent of all taxpayers. And, as the Washington Post points out, the richest 1 percent of Americans, who make $200,000 a year or more and who need Government help the least, would get $25,000 each from the President's tax break.

Who will pay for that $25,000 grant to the wealthiest 1 percent? My constituents. My autoworkers, teachers, secretaries, steelwork-

ers, office workers, construction workers, and nurses will pay.

What could be more unfair?

Mr. Chairman, I ask that today's Washington Post editorial be printed in the CONGRESSIONAL RECORD, and I urge my colleagues to vote for the Democratic alternative.

$25,000 APIECE FOR THE RICH

The capital gains tax cut before the House today boils down to this simple proposition: whether the representatives will give an average grant of more than $25,000 apiece next year to the 375,000 richest families in America. Stripped of all the made-to-order rationalizations about economic growth and the cost of capital and trickle-down and the budget deficit, that is what this proposal that President Bush is so ardently pressing amounts to. The defense is in macroeconomic terms, but it is a distributional device. It moves money in the wrong direction, and vastly more of it than the conventional method of measurement suggests.

On transactions they might normally be expected to make during the next two years, without the impetus of the rate cut that would be in effect, holders of capital assets would gain $34 billion. That is how much the respected staff of Congress' Joint Committee on Taxation estimates their taxes on these transactions would be reduced and their incomes accordingly increased. Eighty percent of this money would go to the fewer than 5 percent of all families with incomes of more than $100,000 a year, and 60 percent (more than $20 billion) to those with incomes of more than $200,000.

The belief is that holders of assets would then be induced by the lower rate to engage in still more transactions. On these, congressional aides estimate that their tax savings—to say nothing of the underlying gains—might be $20 billion.

The Treasury comes out ahead in the short run because there are more transactions, but in the long run it loses. The income of the rich is enormously increased. The ability of the government to finance necessary services, including national defense, is correspondingly reduced. The administration is new, but the feel-good policy is not. It is the same policy that during eight years nearly tripled the national debt, produced a numbing deficit, left the country dependent on foreign loans, forced the Federal Reserve Board to hold interest rates well above what they would otherwise have been and greatly increased the income gap between the rich and poor.

The Democrats instead would raise the marginal tax on the richest Americans, redistribute part of the proceeds and use the rest to *reduce* the deficit that is so insidious a drag on the economy. House members, some of them, are afraid of voting for a tax increase. Their alternative is to vote for another deficit increase. The House is like a fat boy in front of another jelly doughnut. Does it eat again or finally have the self-respect and discipline to say no? That is the question of character it will be answering today.

Mrs. LOWEY of New York. Mr. Chairman, I rise in support of the IRA amendment to H.R. 3299.

I would like to make clear from the outset that I am not opposed to a capital gains tax cut. In fact, I strongly feel that we should index capital gains. This is a reform that make eminent sense for all Americans. And a properly targeted, long-term capital gains tax cut may actually help increase the availability of capital, spur new investment, and increase the rate of savings.

On the other hand, the capital gains tax cut before us today is not good long-term policy. Because of the way it is crafted, it will not expand the availability of capital nor spur new investment. Its short duration adds to the stop and start nature of tax policy that harms long-term planning. And the alternative that is being offered—increased availability of IRA's, more opportunities for students, and first-time homebuyers, and a large reduction in the Federal deficit—will clearly do more to improve our Nation's long-term economic prospects.

Under the administration-supported plan, the 30 percent exclusion for capital gains will be available only for assets sold in the next 2 years. Therefore, new assets are likely to make up only a tiny fraction of the assets that benefit. This means that the Bush tax plan is almost entirely a reward for investments made previously, rather than an incentive for new investments. In fact, the Congressional Research Service [CRS] has determined that the Bush capital gains tax plan could actually reduce overall capital investment by 0.6 percent.

A capital gains rate that shoots downward and then upward during a short period will stimulate the immediate sales of capital assets and threaten uncertainty in the financial markets. It will also create Tax Code instability and reinforce short-term speculation and short-term investment. Capital formation will not be achieved by short-term economics. Rather, if we adopt changes in the Tax Code aimed at increasing investment, we should do so in a permanent and broad-based fashion.

This Nation is faced with enormous economic challenges in the coming years. If we hope to remain competitive in the global marketplace, we must pursue policies that will increase savings and investment. A capital gains tax cut, including the indexation of capital assets, may be among these policies. But a convincing case has not been made that this specific plan for a temporary capital gains tax cut will really contribute to our Nation's economic future.

While economists battle about the drawbacks and benefits of a capital gains tax cut, there are some economic precepts that remain unquestioned. We know beyond any shadow of a doubt that the enormous Federal deficit is sapping the economic strength of our Nation. We know that increasing the rate of personal savings will help spur economic growth. We know that if we hope to compete effectively in the 21st century, we are going to have to improve educational opportunities for our Nation's young people. And we know that one of the most important economic quests of young families is the quest to own their own home.

These are basic concepts. And the IRA amendment before us today gets back to the basics. It will cut the Federal budget deficit by $25 billion over the next 10 years. It will restore the deduction for IRA's, which are proven to dramatically increase the rate of personal savings. And because the plan will permit withdrawal of funds without penalties for a college education or the purchase of a first home, this plan will help Americans across the Nation fulfill their dream of receiving a quality education and owning their own home.

In short, Mr. Chairman, the choice we face today is between a capital gains tax cut which, because of the way it is crafted, may actually endanger our economic future, and an IRA alternative that we can rely on not only to significantly improve our Nation's economic prospects, but to help Americans everywhere fulfill their dreams.

Importantly, it accomplishes this without raising new taxes. Despite the shrill cries of those who are seeking to gain partisan advantage from the debate over America's economic future, the financing of the IRA-deficit reduction amendment is achieved by correcting an anomaly in the 1986 Tax Code that mistakenly provides a lower rate to those with the highest levels of income in our Nation. This lower rate was never intended. Furthermore, the new rate will still be less than half the top tax rate in 1981.

As the Gannett Westchester newspapers indicated, this plan does not impose new taxes. It will, however, protect Americans everywhere from a massive future tax increase that very likely would be necessary as a result of the revenue shortfall created by the administration's capital gains tax cut, which is estimated to lose $21 billion over 10 years.

Given this choice, I must vote in favor of the IRA alternative. But in doing so, I do not rule out the possibility that a capital gains tax cut could be crafted that would contribute to the future of this Nation. In fact, I believe that the indexation of capital assets is appropriate and should be pursued.

I look forward to a future debate about America's economic needs that will focus more on the real economic problems we face as a nation and less on partisan politics. And I can assure all of my constituents that I will wholeheartedly support changes in fiscal, monetary, and tax policy that will maximize America's economic potential and the personal economic opportunities available to American citizens.

Mr. LEVINE of California. Mr. Chairman, I rise to express my wholehearted support for a reduction in the capital gains tax, as long as it is clear that the cut will result in greater productivity and longer term investment for American industry.

Unfortunately, the current Bush-Jenkins proposal falls far short of those goals, and would in the end weaken America's industrial base. The proposal's integrity has been sacrificed to special interest concerns, in particular the timber industry. And contrary to its authors' claims, the Bush-Jenkins proposal won't encourage new investment. Instead, it will principally provide an unearned windfall to old investments, and in particular would largely benefit assets other than venture capital investments.

Most significantly, by applying the exclusion only for assets disposed of during the period from September 14, 1989, through the end of 1991, the Bush-Jenkins proposal gets capital gains backward. Instead of encouraging long-term investment, their proposal would encourage the churning that now plagues our capital markets.

And finally, Bush-Jenkins doesn't address the serious fiscal implications of a capital gains cut, and is estimated to boost the deficit by $5.7 billion in 1993 alone.

In contrast, the Democratic leadership's IRA proposal is a valuable alternative to Bush-Jenkins that would encourage savings and allow middle-class Americans a better chance to build a home, educate their children, and retire with security. I do not, however, consider it a substitute for future consideration of a carefully constructed capital gains reduction.

Unlike the Bush-Jenkins plan, the IRA proposal will pay for itself by closing the bubble and reducing the deficit by an estimated $25 billion over the 5-year period from fiscal year 1990 to fiscal year 1994.

Although I cannot abide the current Bush-Jenkins capital gains plan, I have proposed, and will continue to strongly support, a sliding-scale, revenue neutral, targeted capital gains proposal that would increase productivity, encourage long-term investment, and prove fair to all taxpayers. I believe that the current capital gains debate too broadly painted a picture of capital gains support being a purely upper income phenomena. In my district, for example, there are a number of moderate income citizens who own homes of significant value, and clearly stand to benefit from a properly constructed capital gains proposal.

My proposal would include: First, taxing gains on assets held less than a year at a 50-percent rate, but only at a 10-percent rate for those holding assets for more than 5 years, perhaps zeroing out after a 10-year holding period; second, recouping revenue losses by an increase in taxes on upper income earners to ensure that benefits and costs are shared progressively.

America needs both strong savings and investment strategies; today's IRA's proposal will fill in half the equation, but unfortunately, we must wait for the other half. America cannot afford to take risks with the shortsighted capital gains tax tinkering currently being considered.

Mr. BORSKI. Mr. Chairman, I rise in full support of the Rostenkowski amendment to H.R. 3299. The choice between IRA and capital gains tax reduction as vehicles for boosting our economy comes down to two questions. Do we want prosperity to trickle down from our wealthiest citizens, or do we want America's financial strength to surge upward, empowering every family?

Do we want to encourage a short-term financial fire sale which will enrich a few with a shower of dollars, or to enhance the ability of every American to gain the true long-term benefits of a college education, a home, and a stable, dignified retirement?

On these simple issues on national policy IRA's are clearly preferable to reducing the capital gains tax.

A capital gains rate reduction would also undermine the Tax Reform Act of 1986 and our long-term commitment to reducing the budget deficit.

In light of that deficit any new tax preference must be scrutinized for its impact on Federal revenues, its economic effect, and most importantly, for whether it meets the test of treating all of our taxpayers with basic fairness, regardless of their incomes. The capital gains tax rate cut fails all three tests.

First, it claims to raise $9.4 billion in the next 2 years to aid us in reducing the deficit.

What we're not told, is that over a 5-year period, the Treasury would lose revenues estimated at $2 to $25 billion, which would contribute to increasing the Federal deficit, not solving it.

Second, a temporary rate cut for currently held assets actually reduces savings and investment in the short run, since realizations will result in consumption of some portion of the gain. We must encourage savings but not at the expense of eroding the hard-won 1986 Tax Reform Act that cut tax rates in return for reducing tax deductions and elimination of loopholes.

Third, over 80 percent of the benefits of the capital gains rate cut will go to the individuals with incomes in excess of $100,000. Such a windfall fails the test of basic tax fairness.

Unlike the capital gains cut, the Rostenkowski amendment reduces the deficit in the short and long term, a total of $2.5 billion over 5 years. This is achieved by restoring the 50-percent deductions for individual retirement accounts and eliminating the current "bubble" tax rate structure which, in turn, provides relief to the middle-class, not just the rich.

Mr. Chairman this vote is a clear choice between enriching individuals and enriching our Nation and its future.

I urge my colleagues to vote for the Rostenkowski amendment.

Mr. BRENNAN. Mr. Chairman, we have some important issues facing this Nation, and this Congress. People want us to reduce the appalling national debt—and rightly so. People in Maine, and, I think, around the Nation, want us to clean up our environment. People are willing to spend more on education, because they know how critical a good education is to our children and to our future. People want us to fight a real war, not a phony slogan war, against drugs. They want us to work on providing affordable health care, and affordable housing.

But when we try to come up with aggressive, meaningful plans to address these issues, we run into a red light. Where is the money? Congress is almost paralyzed by the national debt and by the artificial, short-term limits of the Gramm-Rudman Act, which is prompting short-term solutions that make no long-term sense, that in fact cost the taxpayers extra money in the long run.

So what do we do? We vote today on a plan to give a special tax break to the very wealthy. President Bush's own Office of Management and Budget admits that this will cost the U.S. Government money after a brief, 2- or 3-year windfall. It will increase the deficit. It will do nothing to address the felt human needs, the serious problems facing ths country.

In fact, if you were to ask average Americans what Congress should be doing, I don't think that giving a tax break to the very rich would even show up on the list.

Eighty percent of the benefit of this capital gains tax cut would go to people making over $100,000 a year. Sixty percent would go to those making over $200,000—less than 1 percent of the people in this country. Only 8 percent of the benefit would go to people making less than $50,000. As the Washington Post said today, this legislation is the equivalent of giving a $25,000 grant to the 375,000 richest families in the Nation.

Mr. Chairman, I know a lot of families who could use a $25,000 grant. None of them makes over $100,000 a year. For most of them, $25,000 would be more than they would see after a full year of hard work, day in and day out. But for some reason, the proponents of this tax break think that the U.S. Government should be in the business of giving a break to the rich. Somehow, it will trickle down to the rest of us, they seem to say. I do not believe it.

President Bush wrote a letter. I think some of my colleagues may have received one, too. He said that this legislation "will ensure continued economic prosperity and provide powerful incentives for investment and jobs." But how can this be true, when the special break is scheduled to end 2½ years? Are we interested in creating businesses and jobs that will be quickly sold off, and lost, before the tax break ends in two years? Or is this, pure and simple, a quick fix to encourage people to sell their investments quickly, right now, so we get some cash in the U.S. Treasury to meet the Gramm-Rudman target and avoid raising taxes this year? Why should we worry about 2 years from now? Why should we worry about the incredible, growing debt we are passing on to our children? Just as the administration is adding to the true deficit, while trying to hid it, by putting the huge savings and loan bailout off budget, it is now adding to the long-term deficit for the sake of a short-term gimmick that will benefit the very richest Americans, at the expense of the average taxpayer.

If this bill were designed to help average, middle class Americans who had worked hard to make long-term investments, it would be worthy of serious consideration. But we were not given the opportunity to vote on a proposal designed with those people in mind. The proposal before us does not differentiate between an individual in a nursing home who must sell his lifelong home to pay for his care, and a Donald Trump or Malcolm Forbes.

There is a serious issue of fairness here. This administration vetoed an increase in the minimum wage for the working poor. But it can hardly control its eagerness for a break for the very rich. It isn't the rich who need our help, its the poor, and the middle class. Wealthy Americans got a break in the 1986 tax law changes. The tax rates for the wealthy were lowered drastically. In return, many tax loopholes and breaks, such as the capital gains tax break, were eliminated. Now Congress may act to give the rich back their tax break, too.

I cannot support this capital gains tax break, and I sincerely hope my colleagues will not support it either.

Mr. JONES of Georgia. Mr. Chairman, I supported the Jenkins-Archer proposal to reinstate the capital gains rate differential, and I am pleased the House voted to include this provision in the reconciliation bill before the House today.

I do not consider this to be a partisan issue. I consider it a mainstreet, mainstream Demo-

cratic position in the tradition of John F. Kennedy.

The Fourth District of Georgia has many small business persons who communicate with me daily on the importance a capital gains rate differential is to their continued growth and economic competitiveness. I also hear from the elderly and the middle class who cannot afford to sell their house, or the stocks they have invested in over the years for retirement without a capital gains rate differential.

I am frustrated that I was forced to choose between a capital gains rate differential or a reinstatement of IRA's. I think both are good for business, both are good for all Americans, and both are good for the Democratic Party. I do not think, though, one is a substitute for the other, it is like comparing apples and oranges. First and foremost, I support a reinstatement of the capital-rate differential, and I hope the Senate will agree with the House and send a bill to the President with the capital gains rate differential.

Mr. VENTO. Mr. Chairman, I rise in opposition to reduction in the taxation of capital gains and in support of the amendment to restore the opportunity for all Americans to contribute to new individual retirement accounts and to allow those such savings to be accessed without tax or penalty if used to help purchase a first home, pay medical costs, or afford rising college tuitions.

Study after study has attempted to determine whether proposals to lower the tax rate on capital gains will increase revenues by encouraging transactions or decrease revenues through a lower tax rate. The studies have yielded conclusions supporting both premises. The spinmasters and statisticians have the ability to show us both.

However, it is clear that although the initial cut in the capital gains tax rate will likely yield increased revenues, projected revenue losses are, without question, in the billions for the future. With the immobilizing national and annual deficits we face today; with a national debt that stretches to almost $3 trillion; with massive funding needs in housing, drug abuse prevention, child care, health insurance, environmental protection—we cannot afford such a giveaway to the wealthy in our Nation. "Trickle down" did not work when the Reagan supply siders forced it through the front door in 1981. It will not work when the Bush clones try to slip it through the back door in 1989.

This capital gains cut proposal will create a host of loopholes that were closed in the 1986 tax reform law. The rates were lowered and the tax loop holes closed in 1986 we should not open them today. Eighty percent of the capital gains tax cut will go to but 5 percent of the taxpayers. Those with incomes in excess of $200,000 will see cuts averaging around $24,000. Most families can't convert their income into capital gains, so they will continue to pay the higher 28 to 33 percent rates in the law. They will pay even more as the revenue shortfall overtakes that short-term revenue increase that is hoped for by the capital gain cut proponents.

On the other hand, the IRA proposal will encourage savings and assist more middle-class Americans in achieving the American dream while saving for their futures. The Rostenkowski-Gephardt alternative will encourage savings for education and savings for a future home. This measure also eliminate the unintended rate reduction in the 1986 tax law which causes the rates to rise to 33 percent for some taxpayers and then to drop back to 28 percent for the upper income taxpayer, the so-called tax bubble rate affect. This amendment will not only fund the new IRA savings plan, but will provide sufficient new revenue in a fair and equitable manner to meet the deficit budget goals for 1990, 1991, and 1992. It is surely time to begin to address the deficit and budget realities instead of passing forward to another year, the next Congress, or future generations, the massive unchecked deficits from the decade of the eighties.

My choice and my vote will not be for borrowing against our future for the 1 or 2 percent that will save almost $25,000 a year from a capital gains cut. It will be for a proposal that will eliminate a gross inequity in the Tax Code known as the bubble—that taxes some at a 33 percent rate while those earning above $150,000 pay at the 28 percent rate—and will in its stead, create additional incentives for savings and for deficit reduction. I would urge my colleagues to consider this matter carefully and support the Rostenkowski-Gephardt amendment.

Ms. PELOSI. Mr. Chairman, I rise today in opposition to the reduction in the capital gains tax rate contained in H.R. 3299, the budget reconciliation bill.

I believe that we must take steps on the national level to promote investment and savings in order to make the American economy more competitive. I am not convinced that this reduction in the capital gains tax is either the most appropriate or the most effective mechanism through which to achieve that goal.

Proponents and opponents of the capital gains tax rate cut are citing conflicting facts and figures to support their arguments. There are several specific facts which do stand out. Cutting the capital gains tax is projected to raise some revenue in the short run—up to $9.4 billion because of increased asset sales. It is estimated that the long-term cost to the Treasury, however, is much greater. The capital gains rate cut would contribute to the deficit by costing the Treasury $21 billion through the fiscal year ending September 30, 1999 and would achieve little in terms of spurring new investment and savings.

The most comprehensive study on the impact of a capital gains tax reduction was done by the Reagan Treasury Department. This study found that an across-the-board capital gains tax would increase annual income by about $1 per taxpayer. Such a reduction would actually hurt the economy by increasing the deficit in 1993 alone by $5.7 billion. The upward pressure on interest rates will swamp any marginal benefit of a short-term rate cut.

There are also real questions about the impact of a capital gains reduction on increasing venture capital investment. Venture capital is important, but it only constitutes a small fraction of equity markets in this country—probably less than 1 percent. The fact that the capital gains reduction would be across-the-board means that assets other than venture capital would probably be the prime beneficiaries.

Individual investors contribute only a small—and getting smaller—share of new venture capital. In 1987, individuals accounted for only 12 percent of new venture capital commitments. In percent share, venture capital investments were as high from 1981 through 1983—between 20 and 23 percent share—when the top rate was 20 percent, as it was in 1979, when the top rate was 28 percent. The dollar volume of commitments by individuals rose steadily through 1983, dropped in 1984, dropped again in 1986 and rose in 1987, the first year after tax reform eliminated the capital gains differential.

Pension funds, which are untaxed, account for the largest share of venture capital commitments and their share is growing. In 1987, they accounted for nearly 40 percent of venture capital commitments. Other institutional investors, including endowments, foundations and insurance companies account for about 20 percent; corporations about 11 percent.

These statistics indicate that the impact on venture capital of a capital gains reduction would be negilible. The facts do not bear out the argument that such a reduction would result in increased and improved productivity.

To promote new small business investment, a capital gains reduction would have to be selective, limiting the advantages to those investing in small businesses; applicable only to new issues and for investments held for a long period of time. The Bush across-the-board capital gains reduction does not meet any of these criteria.

I believe that reducing our Federal deficit is the single most important thing we can do to increase the productivity of our economy and improve our competitiveness. The current proposed capital gains reduction would, over the long-run, increase the Federal deficit and have an adverse impact on our deficit reduction efforts.

It is important to reduce the cost of capital for new businesses. I urge my colleagues to support a plan which could actually do this by opposing the capital gains rate reduction contained in the budget reconciliation bill.

Mr. SABO. Mr. Chairman, today we will cast a very important vote. We have two distinct options from which to choose. One gives another big tax break to the very rich and adds to the budget deficit. The other helps average Americans and reduces the deficit.

I urge my colleagues to vote against the capital gains tax cut plan. It's bad tax policy, bad economic policy, and bad budget policy. Any way you look at it, its the wrong thing to do.

BAD TAX POLICY

It's bad tax policy because it will overwhelmingly benefit the very wealthy in this society. Four-fifths of the capital gains tax cuts would go to people earning more than $100,000 a year, a group that constitutes only 3.2 percent of all taxpayers. Those earning $200,000 or more would get three-fifths of the savings and an average tax cut of almost $25,000 a year. Conversely, the 85 percent of the taxpayers who earn less than $50,000 would receive less than 10 percent of the tax savings.

It is especially inappropriate to give the richest people another tax break now when economic disparity is growing in this country. In fact, the gap between the rich and poor is now larger than at any time in the 40 years since the Government began compiling those statistics.

This capital gains tax cut is also bad tax policy because it would promote an uneconomic churning of capital assets as people rapidly sell assets just to take advantage of this tax break.

The purpose of the Tax Reform Act of 1986, adopted just 3 years ago and not yet fully implemented, was to provide an economically neutral Tax Code. In exchange for lower tax rates for everyone, we did away with many tax breaks and loopholes that tended to benefit upper income people and encouraged one type of investment over another. The lower rate on capital gains was one of the biggest and most significant tax preferences that was eliminated. If we adopt this proposal we will again see a significant transfer of capital assets whether it makes economic sense or not.

BAD ECONOMIC POLICY

It's bad economic policy because this particular capital gains tax cut is so poorly designed. It cuts the tax rate for just 2 years. That is supposed to raise revenue briefly because it will promote a fire sale of assets in the next 2 years. But that very characteristic will almost certainly create chaos in markets as everyone rushes to sell assets. It could wreak havoc in sectors throughout our economy and artificially lower the value of assets.

This capital gains tax cut won't contribute to economic growth as proponents claim. Their rationalization that it will encourage savings and risk-taking investments is dubious at best. We were told that the big tax cuts of the early 1980's would increase savings; they didn't. In fact, the savings rate has gone down in this decade. This capital gains tax cut won't encourage "venture capitalism," because it is available for all kinds of assets, not just new assets.

BAD BUDGET POLICY

It's bad budget policy because it would be another case where we accept a short-term revenue gain that complicates our long-term deficit problem. The Joint Committee on Taxation estimates that the tax cut will increase revenue slightly for 2 or 3 years when many people are expected to sell assets. But it will cost the Treasury dearly after that.

If we are really serious about reducing the deficit, we should not make the job more difficult in the years ahead. Cutting the deficit will be tough enough. We should not make it even tougher. The capital gains tax cut will soon be a major revenue loser. Then we will face some very difficult and unpleasant choices: Either have to live with a bigger deficit that violates the Gramm-Rudman law, make significant cuts in other Government spending, or face serious pressure to raise the average taxpayer's taxes.

A vote for the capital gains tax cut is clearly a vote for increasing the deficit. It is a vote for instant gratification that will cause long-term pain.

As the Washington Post summed it up today:

> It is the same policy that during 8 years [of the Reagan Administration] nearly tripled the national debt, produced a numbing deficit, left the country dependent on foreign loans, forced the Federal Reserve Board to hold interest rates well above what they would otherwise have been and greatly increased income gap between rich and poor.

A BETTER ALTERNATIVE

Fortunately, we do not have to continue down this path. Today we can reject this unwise, unfair, and irresponsible proposal and adopt a better, fairer, and more responsible alternative.

The Democratic alternative helps the average taxpayer by expanding the tax deductibility of individual retirement accounts [IRA's]. That will help middle-class Americans achieve the dream of home ownership, pay for their children's college education, and plan for a secure retirement. Encouraging the use of IRA's will also help the economy by increasing savings.

But, most importantly, this alternative will cut the deficit—not add to it. Over 5 years, the Democratic plan will cut the deficit by $25 billion more than the capital gains cut plan.

It reduces the deficit by eliminating the bubble in our current tax structure that taxes families with incomes of more than $200,000 in a lower tax bracket than families with incomes between $75,000 and $200,000. Now those in the richest group pays at a marginal rate of only 28 percent, while the other group pays at a marginal rate of 33 percent. Our plan extends the 33-percent rate to the richest taxpayers.

The Democratic plan is the responsible thing to do. It is better tax policy, better economic policy, and better budget policy. I urge my colleagues to reject the tax cut for the rich and vote for the tax plan that shows we are serious about reducing the deficit.

Mr. BUSTAMANTE. Mr. Chairman, I rise in support of the amendment.

Two days ago I fully expected to vote in favor of the capital gains provision contained in this bill. I support a cut in the capital gains tax and notwithstanding my position today, I still do.

But having been courted by both sides of the issue, as I have been, I had to review the issue more closely.

Both a capital gains tax and restoration of the IRA deductibility increase savings and investment.

I believe a capital gains differential spurs business development, especially small business development.

I believe a capital gains cut will spur economic development along the Texas border.

However, I also believe that restoration of IRA tax deductibility is more apt to yield a more immediate payoff for individual taxpayers than will a cut in the capital gains rate.

Mr. Chairman, if I had the option to vote today for both a capital gains cut and expanded IRA deductibility, I would. But political questions seldom afford a broad range of options, and this question is no different. We are limited to a single choice. And on that question I have decided to cast my vote for the position that will benefit the greatest number of taxpayers and that is to expand the deductibility for IRA contributions.

Mr. BUECHNER. Mr. Chairman. I rise today in opposition to the Gephardt-Rostenkowski amendment and in support of the Jenkins-Archer proposal.

Mr. Chairman, it has been stated repeatedly that this issue, more than any other issue, delineates the differences between our two great political parties. And on the surface, this is probably true. But it also represents the continuation of a drama that has run continuously throughout recorded history—the conflict between the morality of achievement and the morality of resentment.

You see, when the former flourishes, and when individual effort and hard work are respected, the society grows and prospers and economic mobility abounds. But when the latter predominates, the society and the economy stand still, and soon decline.

Mr. Chairman, the essence of both a growing economy and a dynamic society has been known for almost 90 years, ever since the late Austrian economist, Joseph Schumpeter, identified innovation as the driving force behind economic growth, and the entrepreneur as the agent behind innovation. For it is the entrepreneur who moves resources from the old to the new, and from the obsolete to the productive.

But unfortunately, it is the entrepreneur and the small businessman who suffers the most from our adversely high taxes on capital gains. For the entrepreneur is a person who assumes the risk of starting a business and works long hours nurturing that business, a business which might not produce a profit for many years. However, that entrepreneur, if successful, may then see the value of his or her assets rise sharply. And if that entrepreneur then disposes of those assets, he or she should be allowed to reap the rewards associated with both the risk and the hard work.

Now, those who favor the politics of resentment will most certainly discount this logic. However, it will be difficult for even them to discount the following facts: In 1977—before the capital gains tax was cut—there were only two initial stock offerings in the United States. By 1983, new stock offerings reached 304. Furthermore, new business formations went from 280,000 in 1978 to over 600,000 in 1983. And best of all, the tax cut actually paid for itself.

So, Mr. Chairman, I urge my colleagues not to view this issue in terms of a zero sum game. Rather, it represents an opportunity to unleash the creative talents of the American people. And in the process, we will create jobs, and growth, and upward economic mobility.

Mr. HUGHES. Mr. Chairman, I rise in support of restoring the deduction for individual retirement arrangements (IRA's], and against restoring the capital gains exclusion.

I think there is room in our Tax Code for a carefully crafted capital gains exclusion, designed to spur investment and research in critical areas.

Unfortunately, that is not what is before us. What we have before us now is nothing more than a window of opportunity for speculators and Wall Street traders to have big profits and low taxes.

This is just bad tax policy all the way around. It is going to add to the deficit in the

long run, while being counterproductive to the economic health of the Nation in the short run.

I frankly fear what is going to happen, with the real estate market depressed in so many parts of the country, if we enact the juicy inducement for investors to sell their real estate in order to take advantage of the 2-year opportunity to enjoy a maximum 19.6 percent tax rate on capital gains.

Moreover, although restoring the capital gains exemption will produce more revenues in the short run, in the long run its going to be a real loser.

I don't have to tell you that, with horrendous deficits staring us in the eye, the last thing we need is another revenue loser. We don't need any more temporary expedients that make us feel good today but which will give us excruciating choices in the future.

Frankly, I voted against the rule because I am not happy with the choices we are given. However the more sound alternative, in my judgment, is to restore the deduction for individual retirement arrangements [IRA's].

It will be a bonanza to no one, but a help to many.

It will encourage people to make plans for their retirement, as well as for their childrens' education or a first home.

It will boost our Nation's dismally low savings rate.

Just as importantly, this particular legislative option will burst the bubble—that anomoly in the 1986 act that actually gives wealthy taxpayers a maximum marginal tax rate of 28 percent, while certain others in lower income categories have a 33-percent maximum marginal rate.

By extending this 33-percent rate through to all high-income taxpayers, we will eliminate this fundamental unfairness and generate enough revenues to not only offset any losses brought about by restoring the IRA deduction but will significantly reduce our deficits.

While neither option is perfect, I strongly urge my colleagues to reject restoration of the capital gains exclusion, and support the alternative which will do far more good for the economy and for the large numbers of middle-income taxpayers who are the backbone of our economy.

At the same time, I look forward to supporting a carefully crafted renewal of the capital gains exclusion which will be targeted toward our Nation's most pressing economic needs.

Mr. WEISS. Mr. Chairman, there's been a lot of talk about the differences between this administration and the previous one. This week, however, we're seeing one major similarity. The return of trickle-down economics.

The capital gains tax giveaway that will be considered this week in the House is the Bush administration's Trojan horse. We've been through this all before.

We've had 8 years to learn a very important lesson. Tax breaks for the rich don't pay for themselves. Everyone in this Chamber knows that cutting the capital gains tax is a money loser. Furthermore, we know that the reasons given to support this plan are specious, if not deceptive. Economic growth will not make up for the loss in revenue that will result from the President's proposal.

Behind all the rhetoric is a simple political motive. Candidate Bush knew that cutting the capital gains tax would be popular with big business and other wealthy individuals. Trickle-down theory might be good politics for my Republican colleagues, but recent history has shown that it is also, without a doubt, disasterous economics.

Mr. President, stop pretending that we can have our cake and eat it too. Trickle-down is bad economics, bad tax policy, and unfair to most Americans. Let's be responsible. Vote against the capital gains tax cut. Vote for the Rostenkowski-Gephart substitute.

Mr. GREEN. Mr. Chairman, I rise in opposition to the Gephart/Rostenkowski tax alternative to a reduction in the tax on capital gains and in support of the Jenkins-Archer capital gains language as reported in the budget reconciliation bill.

I believe that the essential unfairness of the current capital gains tax is that it taxes unreal, inflation-caused gains. I am pleased that the budget reconciliation bill includes a provision with respect to the disposition of assets acquired after December 31, 1991. That provision enables individuals to index the basis of assets for inflation. Ultimate indexing of capital gains will eliminate the unfairness of taxing unreal gains and ensure that only real economic gain is taxed.

While I enthusiastically endorse the indexing provision, I do believe that the temporary rate reduction from 28 percent to 19.6 percent is plainly Gramm-Rudman driven, but fine for the New York City economy which is heavily reliant on the securities industry. The Joint Tax Committee estimates that the rate reduction will increase revenue by $2.9 billion in fiscal year 1990, $3.8 billion in fiscal year 1991, and $2.7 billion in fiscal year 1992. No one can argue that our Government does not need the additional $9.4 billion in revenue, especially for domestic discretionary spending.

In the long term, lowering the capital gains tax will improve America's competitive strength in the international marketplace by reducing capital costs and stimulating investments. Traditionally, U.S. companies have perceived the cost of capital to be higher than that of our competitors overseas. A recent study conducted by George N. Hatsopoulos, chairman of Thermo Electron Inc., and Stephen H. Brooks, an economic consultant, examines debt and equity as the foundation of capital. The study concludes that United States managers rely heavily on costly equity, such as stock, whereas their Japanese counterparts have turned to debt, such as bank loans and corporate-issued bonds, to finance capital. As Hatsopoulos and Brooks point out, the bottom line is that the cost of capital is almost three times higher in the United States than in Japan and that cost of capital can be attributed directly to differences in capital gains taxes.

In the United States, investors pay the same proportion of taxes on capital gains as they do on income from interest; in Japan, investors pay very low capital gains taxes and, therefore, do not need to require future corporate earnings to be as high as United States investors do. In fact, the United States taxes long-term capital gains at a higher rate than nearly all of its European and Asian competitors. The higher gains tax coupled with higher costs of capital have placed American companies at a competitive disadvantage. While there are no quick fixes or easy solutions to that problem, a reduction in the capital gains tax will bolster equity financing, which American companies rely upon for capital. By lowering the costs of capital, America will be better able to compete. In addition to enhancing our Nation's ability to compete, and stimulating investment, a reduction in the capital gains tax rate will generate new and better jobs in our economy.

While individual retirement accounts have a favorable effect on cost of capital by lowering the interest rate, they have failed to trigger investment which can be directly attributed to a lower tax on capital gains. Furthermore, on the basis of aggregate data, IRA's do not appear to have stimulated overall saving. Instead, there appears to have been a major shift in the allocation of existing saving between taxable and nontaxable accounts. When IRA's expanded after 1981, other forms of savings declined, and when they were cut back in rate was nearly 8 percent, whereas by 1986 it had declined to 4 percent. Essentially, IRA's have failed to increase long-term savings and provided the necessary capital for economic growth.

A great deal of misinformation has been spread about the distributional effects of a cut in the capital gains tax rate. Let me take a moment to dispel the notion that a cut in the capital gains tax rate will disproportionately benefit those whose income exceeds $100,000. The Treasury Department has conducted an analysis, of the most recent tax data available, which concludes the vast bulk of taxpayers who would benefit from a capital gains differential are those with ordinary incomes of less than $50,000. The analysis verifies that 74 percent of the taxpayers who show capital gains on their tax returns have incomes under $50,000. It is abundantly clear that the capitals gains provision will benefit a significant number of taxpayers across the economic spectrum.

Today, as we choose between new taxes or a capital gains package, let us keep in mind that the Jenkins-Archer capital gains proposal will work to stimulate economic growth for all Americans while the consequences of a tax increase are quite unclear. Not only will the capital gains proposal restore an essential fairness by taxing only real economic gain, it also will promote investment in general and venture capital in particular. Ultimately, the reduction will help mitigate risk and increase investment, which will contribute to economic growth, expansion, and a more competitive America. In closing, I should like to urge my colleagues to vote against the tax increase and in support of a bill that will enhance the economic prosperity of our Nation.

Mr. BAKER. Today we have an opportunity to vote on two competing tax plans which both claim to reduce disincentives for savings and investment. Today we have an opportunity to encourage long term savings and enhanced opportunities for American farmers, timber owners, small businesses, young homeowners, and a number of middle class Americans. The major question confronting us

today is: Do we want to improve the ability of Americans to invest in America; or do we want to continue the pattern of increasing foreign investment in America?

When the U.S. Government reduced the capital gains tax from 49 percent to 28 percent in 1978, the U.S. Treasury Department documented that revenue collections increased from $8.5 billion in 1978 to $20 billion by 1984. Once again, Americans saw that lower taxes actually generate more business activity and increased taxable income. We should work to reopen this type of growth, to lessen our dependence on foreign investment, and enhance economic growth.

While the Archer/Jenkins plan temporarily reduced the maximum tax on capital gains, I believe its best feature is the provision to index capital gains for inflation after 1991. It is simply inequitable to tax capital gains that result for inflation. With inflation rates changing nearly everyday, capital gains should be taxed at their true value. For this reason, I am one of 53 cosponsors of H.R. 719, the Inflation Tax Relief Act of 1989, a part of the Archer/Jenkins capital gains plan. Indexation of capital gains income serves as a very important complement to tax reform by preserving the real value of investments.

We are now in the midst of the longest peacetime period of prosperity in our history largely as a result of the economic reforms put in place by the Reagan-Bush administration. We should continue this growth and support the Archer/Jenkins plan and a reduction in taxes on capital gains.

Mr. SHUMWAY. Mr. Chairman, I have come to view budget reconciliation packages with much the same distaste as I view continuing resolutions. Like the unwieldy continuing measures, this enormous package seems to have everything in it but the proverbial kitchen sink. However, if there is a redeeming feature to this bill, it is the capital gains reduction. I have always endorsed tax policies which encourage savings and investment, and there is no doubt in my mind that reducing the capital gains tax rate will do just that. In fact, if it were up to me, the reduction would go much further; it would be permanent.

Congress has a poor record of credibility with the American public, because we keep changing the rules in the middle of the game. Via the so-called tax reform bill, which I did not support, we pulled the rug out from under a great many Ameicans attempting to plan ahead. Since this cut is not permanent, thos rules will be subject to change in the future. Nonetheless, the Jenkins-Archer-Flippo amendment is the best we are going to be offered, at least in this Congress. I strongly urge my colleagues to support it, and to disregard the confusing rhetoric which is circulating concerning the alternative to be proposed.

Make no mistake, I strongly support reinstatement of tax deductibility for contributions to individual retirement accounts [IRAs]. Certainly, such a step would increase and encourage savings, and I have introduced legislation of my own to accomplish just that end. However, this alternative is nt simply reinstatment of that desirable tax treatment. Instead, it is a wolf in sheep's clothing. Thiks alternative is yet another indication that many of our colleagues cannot shake their allegiance to the old tax-and-spend thinking which got us into serious trouble in the first place. It is a tax increase, plain and simple. No tax increase in our history has ever been use to retire old debts. I cannot support revenue increases, no matter how noble or attractive the package they come in may be.

I am amased by the arguments set forth by opponents of capital gains tax rate reduction that only the rich will benefit. My office has been barraged with anxious phone calls and letters from individuals who are far from rich, but who strongly support the reduction. Some are senior citizens with modest incomes who want to sell the home they have lived in all their lives. Others are individuals who tried to invest in an plan for their own futures. Still others are parents attempting to salvage as much as they can of what they earn to pay for their children's educations. Small business people, small investors, family owners—those are the people I am hearing from, and no doubt my colleagues are having similar experiences. They all say the same thing: Cut the captial gains tax rate. And they are right.

Today, we have a choice. We can vote to cut capital gains and encourage economic prosperity. Or, we can vote for the alternative, guaranteeing an unwanted tax increase. To me the choice is simple.

Mr. GALLO. Mr. Chairman, in his special message to the Congress on tax reduction and reform, the President of the United States said: "The tax on capital gains directly affects investment decisions, the mobility and flow of risk capital from static to more dynamic situations, the ease or difficulty experienced by new ventures in obtaining capital, and thereby the strength and potential for growth of the economy."

The President who wrote those words was John F. Kennedy who, in that special message, proposed a capital gains tax rate reduction which brought the top rate down to 19.5 percent from 25 percent.

Reducing capital gains tax rates enjoys bipartisan support around the Nation. This is true, not just today, but in years past as well. After all, the capital gains tax reduction which was enacted in 1978 was the product of a Democrat-controlled Congress, with a Democrat in the White House.

The image has been promoted that only the wealthy receive capital gains, and that is simply not true. Every person who owns a home, if he or she should sell it for more than he or she paid for it, realizes a capital gain. In the 11th Congressional District of New Jersey, where the prices of homes are high and ever-rising, it is not at all unusual for middle income individuals selling homes to realize gains of tens of thousands of dollars. if those individuals do not qualify for a deferral or exclusion, they are hit by a capital gains tax. Are they fat cats? Hardly. They are the people who make America thrive, by their hard work and dedication.

Therefore, it is not correct to say that this reduction will just benefit the wealthy. Indeed, Treasury Department figures show that those taxpayers whose ordinary income is below $50,000 will comprise 74 percent of those who will benefit from this cut.

The Democratic leadership has tried to put up a smokescreen on this issue with its IRA proposal, claiming it will help the middle class. But the Joint Committee on Taxation reports that 83.9 percent of those who would benefit from their proposal have incomes over $50,000. The Democratic leadership's plan would also increase taxes. I am not against looking at the question of restoring deductability of IRA contributions. However, if we are going to do so, we ought to make sure that the rhetoric matches the reality, and that the benefit truly extends to the middle class. The Gephardt-Rostenkowski amendment does not accomplish that.

Additionally, if the United States is going to be competitive in the world market, we need to ensure that we are playing on as level a playing field as possible. Japan taxes capital gains at 5 percent. West Germany doesn't tax them at all, if they are held for at least 6 months. South Korea and Taiwan, two economies that are enjoying sustained growth, also do not tax capital gains.

I regret that some have tried to turn the debate on this issue into a battle between the haves and the have-nots. That sort of posturing does not contribute to an understanding of the merits of the question on either side of the issue. The bottom line is that a capital gains tax reduction is good for everyone in America—good because it helps us reduce our deficit, and good because it will help unharness even more of the productive capacity of the American people.

Mr. MARLENEE. Mr. Chairman, I rise in opposition to the amendment offered by Mr. ROSTENKOWSKI, which will only cut the capital gains tax rate to 28 percent. The American public needs and wants a lower cut in capital gains tax to 19.6 percent as passed in the Ways and Means Committee thanks to the leadership of my good friends, Mr. ARCHER and Mr. JENKINS.

Those on the other side of the aisle claim that this is a tax break for the rich. Not just the rich will enjoy the benefits from a capital gains, but the average American will also benefit. In fact, 70 percent of those paying capital gains tax earns under $50,000 per year. I do not consider grandma and grandpa who sell their home so they can move to a smaller place and retire as rich. I do not consider people that work hard all their lives and invest their money wisely so they have a better life for themselves as rich.

By reducing the capital gains tax rate, we are also providing an incentive for Americans to start a small business of their own or make stock investments so they can realize the American dream. A capital gains tax cut will make startup money easier and cheaper to obtain for Americans willing to start their own business. Eighty percent of future job creation will come from these smaller, newer enterprises. Americans would be more willing to invest in venture capital if they pay low capital gains tax.

If America can compete in international markets effectively, the whole country benefits. As a result, we need the cut in the capital gains tax rate because it will help America compete against countries like Japan and West Germany who have very low or no tax on capital gains. If we can compete in international markets, companies would expand,

create jobs, and put more money into the American economy.

The other side seems to worry about foreign investment all the time. If they want to discourage foreign investment, I encourage my colleagues to make it easier for Americans to invest in America by lowering capital gains tax to 19.6 percent.

This tax cut will also help average Americans to realize the American dream. The average American wants to make sure the IRS does not gobble up all of their savings through a high capital gains tax. I have inserted this article into the record which I hope all my colleagues will read. I urge my colleagues to support the Jenkins-Archer bipartisan proposal as passed in Committee, and vote against the Rostenkowski amendment.

[From the Washington Times, Sept. 20, 1989]

CAPITAL GAINS HYSTERIA

(By Patrick Buchanan)

"Soak the poor! Trash the economy!" wailed The New York Times. "A financial disaster for the country," bellowed Democratic Rep. Dan Rostenkowski of Illinois. An "immoral" subsidy for the rich, says the Rev. Jesse Jackson, "abandoning the poor."

Why the hysteria? Well, the Ways and Means Committee just voted to reduce the tax rate on capital gains to about 20 percent, where it stood in 1986.

Smearing on the war paint, sharpening the tomahawks, liberals are behaving as though the GOP and the Boll Weevils just ran a herd of cattle across their ancestral burial ground.

Why? Consider the benefits:

Smith, a cab driver, working 14 hours a day, earns $48,000; his wife, a teacher, brings in $25,000. Having saved in a mutual fund for 15 years to send his daughter to the Ivy League, Mr. Smith wants to sell his stock, which has gone up $50,000. Under the Ways and Means plan, his tax falls from $14,000 to $9,800; now, Mr. Smith can finance a car for his girl for school. How does this soak the poor?

Next is Jones, whose eight-unit rental appreciated from $500,000 to $1.5 million in 10 years. If the new tax rate survives, Mr. Jones will sell, and retire. Taking his million-dollar profit (part of it mythical, due to inflation), Mr. Jones sends $196,000 to Uncle Sam, and heads for Palm Beach. How does Mr. Jones soak the poor?

Third is billionaire Brown, who, celebrating Ways and Means, unloads the company he built over 40 years for a cool profit of $1 billion. Mr. Brown sends the Treasury $196 million (thus covering the entire budget for the National Endowment for the Arts), and departs for Biarritz. Instead of $1 billion in stock, Mr. Brown has $804 million in cash. How has Mr. Brown soaked the poor?

From each transaction, Uncle Sam, who took none of the risk, would take one-fith of the profit.

Smith, Jones and Brown will benefit; the Treasury will benefit; brokers and real estate dealers will benefit; the buyers who think they got a swell deal will benefit. Who is hurt? How do more deals, more income, more tax revenue add up to "financial disaster"?

Why is Jesse Jackson sending his Rainbow Coalition after the six Democrats who supported the cut? Not because U.S. economic interests will suffer, but because his political interests are at risk.

As Americans, black, white, red or yellow, come to rely on their own talent to produce their income, on their own capital to increase their wealth—rather than on government redistribution—the politics of envy and the gospel of greed cease to appeal. Who needs Jesse Jackson, if you're sharing in the wealth?

Capitalism is killing liberalism; and panicked Democrats arfe resorting to deception and demagoguery to counter its appeal.

When capital gains taxes (beginning in '78) were cut from 49 percent to 20 percent, tax revenues did not fall; they exploded. Only when the rate was raised, back to 28 percent, did revenues fall off (one reason the little Duke's revenue projections in the Bay State went south in 1988).

The same holds for income taxes. Under President Ronald Reagan, the top tax rate fell from 70 percent to 28 percent. Did the rich now escape? According to the Tax Foundation:

In 1979, the top 5 percent of Americans paid 37.6 percent of all income taxes; by 1987, that had jumped to 43 percent.

In 1979, the top 10 percent of taxpayers paid 49.5 percent of the income-tax load; by 1987, their share had risen to 55.4 percent.

In 1979, the top 50 percent paid 93.2 percent of all income taxes; after the Reagan reforms, that rose to 94.1 percent.

In 1979, the bottom 50 percent paid 6.8 percent of total income taxes; that fell to 5.9 percent after Mr. Reagan.

Under Mr. Reagan, the income tax burden shifted toward the upper class and the rich; for the working class it was reduced; for the poor, it was eliminated.

Yet, you can put burning coals under the fingernails of liberals, and they will not concede what statistics plainly show.

Why? Because socialism, the Democratic ideology that dare not speak its name, is a religious belief, impervious to evidence, the hidden agenda of which is the constant transfer of power from producers to politicians.

The left demeans Mr. Reagan's boom, the 20 million jobs, because to concede that Reaganomics works is to question the political faith that directs their lives. If Ronald Reagan was right, the left is not just wrong, it is the primary roadblock to freedom and progress.

Which is why the GOP politics of compromise is foolish. If you are going to be hanged for rustling a pony, why not steal the whole herd? Democratic Rep. Richard A. Gephardt of Missouri will charge Mr. Bush with favoring the rich, no matter the size of the tax cut; so do it right. The capital gains cut that came out of Ways and Means was not too risky; it is too timid.

At 19.6 percent, that tax remains a constipating factor in the U.S. economy, crippling efforts to compete with Germany and Japan, whose capital gains tax is zero.

How can Americans whine about a savings and investment rate that is the lowest in the West, when the taxes we impose on the return from savings and investments are near the highest in the West?

Rushing to recover, Democrats are rallying behind Sen. Lloyd Bentsen's proposal for new IRAs for the middle class. Good idea. Mr. Bush should tell Lloyd to go right ahead and tack it onto the capital gains tax cut; we're delighted to have both. A bidding war over tax cuts is a war America cannot lose.

Mr. LEWIS of Florida. Mr. Chairman, I rise today in strong opposition to the Rostenkowski amendment, and in strong support of the capital gains proposal as outlined in the Budget Reconciliation Act.

I have always felt that we must do everything possible to encourage saving and investing in the United States. Our economy is driven by people who invest in businesses so that they have the capital to grow and create jobs.

Although I would have preferred a permanent exemption, I believe the indexing is a major victory. In my view, this change will help to encourage the investment our country needs to remain a world economic power.

It has long been said that the business of America is business. I firmly believe that this is true, and Government must make every possible effort to foster business so that all Americans benefit. Lowering the capital gains tax will do this.

I urge my colleagues to keep the capital gains exemption as outlined in the Ways and Means bill.

Mr. McMILLEN of Maryland. Mr. Chairman, for those of us who have been longtime supporters of capital gains, this has been a difficult fight, and not one without its price. But nevertheless I am a supporter of the Jenkins-Archer proposal and I oppose the Rostenkowski amendment. I do so for some very simple reasons, first of which is the issue of competitiveness.

If the rest of the world continues to have a capital gain differential and the United States doesn't, America loses.

If the rest of the world continues to have tax policies which provide disencentives for consumption and energy use and the United States doesn't, America loses.

If the rest of the world continues to have a global economic perspective and the United States doesn't, America loses.

It's time to wake up. The stock market crash of October 1987 proved that we live in a world economy. That our economic growth is interdependent on the economic policies of other nations. Well other nations have capital gains differentials. The Japanese, who have become technological leaders, have a cost of capital that is almost 2 percent lower than that of the United States their lowest capital gains rate is a major reason for that difference.

I'm not enamored completely with the Jenkins-Archer proposal because it only provides a temporary 2-year reduction. I would prefer not to address our Tax Code in a piecemeal approach and I would like to have longer holding periods. But we must make a start in the right direction. I believe that if we reject the Democratic proposal, that the Senate will make the reduction in the rate permanent. Nevertheless, the distortion effects of a temporary rate reduction are overblown. Twenty-eight months is more than enough time for the markets to compensate.

I commend the leadership for much of their substitute proposal, but I cannot agree with its' proposal on capital gains. Is it fair, as outlined in the Democratic alternative, to give only the top 33 percent a capital gains cut to 28 percent while everyone else continues to pay the present rates? At least the Jenkin's proposal provides a capital gains cut for everyone. While expanding the IRA deduction is good, is it fair that 84 percent of the benefits

of the Democrats' IRA proposal go to individuals who make $50,000 and more? Furthermore, the cost of expanding the IRA's under the substitute proposal is $15 billion over 5 years. In the capital gains debate there is considerable disagreement as to whether a cut in the capital gains rate would increase or decrease revenue. On the other hand, no one disagrees that the Democratic IRA proposal will cost the taxpayer $15 billion, I therefore ask my fellow Democrats, if we had the choice to spend $15 billion, would expanding IRA's be our preference or would the war on drugs, increase funding for education, or money for the homeless be our choice.

However, today's debate is not about IRA's, it's about capital gains and growth. On that issue, the entrepreneuers of America have spoken and are seeking this body's help in providing the spark needed to fuel investment. Let us give them that spark and the help they need to build a stronger and more competitive America.

Mr. FRENZEL. Mr. Chairman, I rise in vehement opposition to this amendment. This proposal, by attempting to raise income tax rates, is in clear violation of the Bipartisan Budget Agreement signed by the President and congressional leaders in March. Furthermore, as an alternative to a capital gains differential, the IRA portion of this amendment is wholly inadequate. I hope that my colleagues will reject this amendment not only on tax policy grounds, but also to avoid an otherwise inevitable veto of our reconciliation bill.

Item 10 of the BBA states that "revenue legislation pursuant to this agreement will be advanced legislatively when supported by the President." Item 10 constitutes a promise by Congress not to defy the President by proposing a tax increase. It is not a pretty description, but, in plain terms, the Rostenkowski amendment welshes on Congress' promise.

While the Bipartisan Budget Agreement clearly ruled out any tax increase opposed by the President, it in no way precluded a capital gains reduction. Democrat leaders knew full well when they signed the BBA that a capital gains cut was part of the Bush program and would be one of the revenue items under consideration.

While a capital gains differential may have seemed less likely in March than it does now, this is no excuse for breaking the deal. The Democrat leadership thought it could take the $5.3 billion in increased revenues in the Bush budget, but not accept the tax policy. Now, faced with the possibility of the policy, it is simply welshing on its agreement.

If we are to have any hope of concluding future budget summit agreements there has to be some sense of assurance that one side will not simply renege when it does not get its way. If only to preserve accountability for any future agreements between the White House and Congress, we should reject this proposal.

Even notwithstanding our prior agreements, this amendment is not acceptable from an economic policy standpoint. Allowing greater contributions to IRA's fall short of a capital gains differential in its beneficial effect on investment, competitiveness, capital costs for new business, and encouraging equity financing.

This IRA proposal has merit on its own, but it is not an adequate replacement for capital gains. History shows that its savings and investment incentives would be reduced by the ample opportunities to shift existing savings rather than to make new savings.

This amendment is a deal-breaker and it's veto bait. If the House does not want a capital gains differential, it should act within the confines of our budget agreement and have an up-or-down vote on capital gains. We should not break our promises by raising income tax rates.

Mr. FLAKE. Mr. Chairman, I would like to rise in support of the Rostenkowski, Gephardt, and Stenholm amendment. As I consider the impact of a tax break for the rich, I remember the recent hearing I heard where four children between the ages of 14 and 17 who lived in homeless shelters stated that they could not do their homework because they did not have adequate reference materials at their disposal, including a basic dictionary. As we try to achieve an equitable society for them as well as middle-class America, I cannot in good conscience vote for a capital gains tax cut to benefit the very rich who need it the least.

The capital gains tax cut issue is just one more step in ignoring those Americans who need the most help, the poor who have no money to buy, sell, save, or invest. Eighty percent of all capital gains go to only 5 percent of Americans, clearly meaning that the country's richest will become richer. At least the alternative plan attempts to aid a large majority of middle-income families by encouraging long-term savings through expansion of the availability of IRA's, a fundamental investment in the future. In addition, the alternative will eliminate the unjust present tax bracket "bubble."

This capital gains tax reduction is a cruel twist of Mr. Bush's, "Read My Lips * * * No New Taxes." This is watch my action, the poor must suffer * * * "No New Programs." I was pleased by Mr. Bush's call for a war on drugs, yet there has been little concrete and/or effective action since then. But for the benefit of the rich, he summoned members to his office and made the necessary promises to secure the needed votes. I say that action should be used to resolve our real problems such as drug abuse, homelessness, hunger, minimum wage, and the plight of America's children.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I truly regret the debate that goes on here today. We are talking about taxes and tax policy when we are dealing with the reconciliation bill that ought to be reducing the deficit. That is what the purpose of the reconciliation is all about. And yet the danger we are embarked upon is the danger of increasing the very deficit that everyone says they are worried about.

In our system, in our democracy, we solve problems through leadership or through crisis. In the last 8 years, we have had no leadership on the deficit issue. We have had crisis. Now we are in danger of choosing crisis again, political crisis and fiscal crisis.

Instead of the leadership we need, it is the same old partisan game of seeking a short-term political goal in exchange for long-term economic policy. The danger here is that we will embark on another riverboat gamble that will borrow from tomorrow in order to spend it today.

The capital gains tax cut is yet another freight car on the overburdened locomotive of budget reconciliation. Reconciliation should not be the occasion for a debate over capital gains. By insisting that this controversial issue of capital gains be part of reconciliation, its supports have undermined the bipartisan spirit which is needed to achieve significant permanent deficit reduction now and in the future.

But the administration has insisted on making this fight and so those of us interested in reducing the deficit and truly promoting saving and investment have no choice but to support the Democratic leadership alternative—the Rostenkowski-Gephardt amendment.

On every test that should be applied to this vote, the capital gains provision fails and the leadership amendment passes.

First, the deficit test. The capital gains provision does not provide permanent deficit reduction. Indeed, it ultimately increases budget deficits and the national debt. The capital gains cut raises revenue only temporarily through a cynical 2-year manipulation of the tax rate. According to the Joint Committee on Taxation, the proposal loses revenue steadily after 1993.

The leadership amendment produces long-term deficit reduction rather than a long-term deficit increase. This graph compares the two proposals and clearly shows the difference. Compared to current law, the capital gains provision increases the deficit by $21 billion over the next 10 years. The leadership proposal decreases the deficit by $64 billion, resulting in a difference of $85 billion between the two plans.

A capital gains tax cut hurts rather than improves the Nation's future, because the resulting revenue loss forces the Government to borrow and use up far more private savings than can be stimulated by the tax cut. This leaves the Nation further short and further behind our historic savings rate, our needs for the future, and our international competitors. It is time to reject the delusion that more revenues can be raised by cutting taxes.

With the capital gains provision, the budget reconciliation bill as a whole does not achieve substantial permanent deficit reduction. This is simply not what reconciliation was meant to do, nor what this year's bipartisan budget agreement and budget resolu-

tion were intended to do. While they fell short of a bold package, at least they were intended to produce permanent deficit reduction. The leadership amendment restores this. It increases the deficit reduction in reconciliation by $25 billion over 5 years.

Next is the fairness test. The leadership amendment gets rid of the unfair bubble rates in the current law. The marginal tax rate on the wealthy is now 28 percent, but for the upper-middle class, it is 33 percent. The leadership amendment says that the superrich should be treated no better by the Tax Code than those less well off. There is no reason why the middle class should be more heavily taxed, relative to the rich, for making investments or earning a higher salary, as is true under current law.

The leadership amendment applies the same 33 percent marginal tax rate to the ordinary income of the wealthy as to that of the middle class. It also applies the same maximum rate of 28 percent to the capital gains of the middle class as to the rich.

Unlike the capital gains provision, which is a temporary quick-fix that will force a future tax increase to replace lost revenue, this proposal is fair and straightforward. Unlike the capital gains tax cut that is skewed toward the rich, the leadership amendment responds in a responsible and fair way to the concerns Members and the American people have about savings.

The vast majority of the capital gains cuts to the wealthy in our society, a direct reversal of one of the critical compromises on the Tax Reform Act of 1986. According to the Joint Committee on taxation, 70 percent of tax relief from a 30-percent capital gains exclusion will go to taxpayers with incomes of $100,000 or more, the richest 16 percent among all who benefit. At a time when there is a growing gap between the incomes of the rich and poor, how can we even consider enacting a tax break for the rich that increases budget deficits?

Instead, the leadership amendment restores 50 percent deductions for individual retirement accounts, responsibly pays for the tax benefit by eliminating the current bubble tax structure, and delivers the benefits to the middle class not just the rich.

Finally, there is the test of how each proposal affects the Nation's economic future. The economy is not going to be improved by an ill-advised capital gains tax cut. It does not make economic sense to increase deficits. It does not make sense to move money around from less tax-favored investments to more tax-favored investments, reviving the inefficiencies that the Congress tried to discourage with tax reform. It does not make sense to encourage corporate takeovers. It does not make sense to encourage corporate takeovers. It does not make sense to squander revenue by adding to the profits on investments that have already been made. It does not make sense to create a 27-month fire sale that encourages the wealthy to shift their investments around for the greatest tax advantage—not make the kind of new, long-term investments that can benefit the economy.

It does make sense, however, to reduce the deficit and expand our national saving, which is what the Rostenkowski-Gephardt amendment does.

For those of my colleagues that vote for this proposal, do not come back tomorrow and ask, "Where are the funds for education? Where are the funds for housing? Where are the funds for defense? Where are the funds for economic disasters? Where are the funds for all of these priorities we care about?" Mr. Chairman, they will have already been spent on this tax cut.

In 30 days we are going to have to vote to increase the debt ceiling in this country to $3.1 trillion. That is the legacy, the legacy of trickle-down economics. The false promise that somehow by cutting taxes we can balance the budget.

Are we really going to repeat that lesson again?

The choice is clear. Continue the legacy of the last 8 years, or vote to reverse it.

Vote for Rostenkowski.

Mr. ARCHER. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. VANDER JAGT].

Mr. VANDER JAGT. Mr. Chairman and members of the committee, the winds of political controversy are blowing hard on the House of Representatives today. There is a poem that goes something like this:

One ship sails east, and another west, with the self-same winds that blow/
'Tis the set of the sail, and not the gale, that determines which way you go.

□ 1140

The vote that we cast in just a few moments on the tax increase amendment will tell the world and your districts the set of your sails and which way you want to go to obtain more revenue, the way of economic growth and expansion or the way of higher taxes. Setting sail over the banner of higher taxes I think represents a change in game plan for the Democratic majority. I had thought that in the wake of Walter Mondale the idea was to distance congressional Democrats as much as possible from the tax and tax label, and the Democrat leadership insisted that the budget summit agreement contain this sentence: "Legislatively revenue will proceed legislatively only when supported by the President of the United States."

I do not blame you for that. You did not want to get out on a tax increase limb without the President there with you. Well, this tax increase amendment, which is all we are going to be voting on, changes that game plan and it sure rips up the summit agreement, paragraph 11.

But what mystifies me is why in the world is there this irresistible impluse to vote for higher taxes when a rate reduction provides us with the revenue necessary to meet the reconciliation targets?

It all began when Ways and Means needed $2.8 billion in additional revenue in order to pay for the worthwhile tax benefits we added to the package. The solution seemed almost too good to be true. By lowering the capital gains rates for 2 years, people would be induced to sell their assets, pay a tax on the gain, rather than sit on their assets and pay no tax whatever. That produced $2.9 billion, and the most beautiful part was that almost two-thirds of all the additional tax revenue would be paid by wealthy individuals. It is a way of soaking the rich to pay for the tax benefits that we had extended to struggling students and working mothers; but there is just one little problem to a tax and tax liberal. A taxpayer is also a tax beneficiary, and even though there are three beneficiaries earning under $50,000 for every beneficiary over $50,000 in the Jenkins-Archer capital gains reduction, the drafters of this tax increase amendment said;

We would rather deny relief to the small business man, to the farmer, to the senior citizens who worked and saved a lifetime for a nest egg and didn't want government to tax away the gain as they try to enjoy the fruits of their labors, we would rather deny any relief to those people than give any kind of benefit to a successful achiever and producer.

The class warfare would not permit the relief to that middle-income and lower-income bulk of the American population that would be receiving the benefit, and thus history is ignored.

A little over 8 years ago I stood here and pleaded with my colleagues to vote for the 25-percent rate reduction across the board for every American, rich and poor alike, and that was to stimulate the sagging economy that had been left behind by Jimmy Carter. Democrats joined with Republicans to launch that economic expansion, which now in its 82d month is the longest, strongest, most sustained economic expansion by any country in the history of the world; 20 million additional jobs added and black unemployment at the teenage level at the lowest level in the history of our country as that economic expansion provided jobs and opportunity for all Americans.

And you know what? The rich are paying dramatically more total dollars in taxes and a bigger percentage of the tax pie than before the cut in rates,

and that trend continued in the tax reform of 1986, when under the vision, the courage and the leadership of the gentleman from Illinois [Mr. ROSTENKOWSKI] tax benefits were sacrificed to drive those rates down to 15 percent and a top rate of 28 percent, and economic expansion continued, jobs were created and the rich paid a still greater percentage of the total tax pie.

The Ways and Means tables tell us that 2 years of capital gains reductions continue that same trend, with the rich paying more total dollars in taxes and a bigger percentage of the total tax pie.

We, to be consistent with tax reform, should continue in that reduction of reducing the rates to provide incentives, but no matter what you think of capital gains reduction, for heaven sakes, do not vote yes on this tax increase that is the opposite of tax reform and the unraveling, putting back into the Tax Code tax benefits of timber and IRA's and then raising the taxes and adding a higher tax bracket in order to pay for it. That is the unraveling surely of tax reform.

As our Ways and Means Committee chairman told us in the Ways and Means Committee, when you start down that slippery slope, there is no stopping, and we have to constantly raise the rates on more and more people to pay for the benefits we put into the Tax Code.

Surely, surely we want to continue in the direction that we have been traveling of stimulating the economy, to expand it so lower rates produce even more revenue from an expanding economy, rather than a tax increase which would take $35 billion out of the private sector in the next few years, so that we would then have to tax more and more people higher and higher rates to produce the same amount of tax revenue from a shrinking economy.

Let us continue to set our sail in the direction that we have been traveling for 8 years that has been so successful of initiative to expand the economy and create greater jobs and opportunity for all Americans. To vote for this tax increase when the revenue is not necessary to meet reconciliation is to announce to your constituents, in the paraphrased words of Irving Berlin:

You can count on it. I will be taxing you always. Not just for this day, not just for a year, but I will be taxing you always, forever more and more and higher and higher.

The CHAIRMAN. The gentleman from Georgia [Mr. JENKINS] is recognized for 6 minutes.

Mr. JENKINS. Mr. Chairman and my colleagues, in listening to this debate today, I do not think there is any institution or organization that uses or needs the first amendment more than this institution, because every possible statement has been made here today from both sides, not much of it totally accurate. We really need the benefits of the first amendment, and I hope our successors will forever defend it for the benefit of this institution.

Now, I want to talk for a few moments about capital gains. I want to say this to those people who have always opposed capital gains on principle. I have never asked you to change. You do not believe in it, and I respect you for your views.

□ 1150

For those on this side of the aisle who do believe in capital gains including the six people on the Committee on Ways and Means who voted for it on the Democratic side, I pay tribute to you, because you have withstood all the pressure there is, all the party wrangling, everything in the world, but you stood by your principles without asking for a single thing, you other five, and to those Democrats today who are going to vote for this because they believe in it, because it is good for their district, because they believe it is good for America, I tip my hat to you, but to those others who say, "Well, I am for a little bit of capital gains but I do not like this plan; I am for indexing, but I am not going to take this plan; I am for all of these other things, but it is the wrong time, the wrong place," my friends, this is the only vote you are going to get. You have to decide whether you are for capital gains or you are against it. If you want to improve it, if you wanted to eliminate the 2-year window, if you wanted to make capital gains permanent, if you wanted to just leave indexing, why is it not being offered on the House floor today? You draft the rules, our leadership does. We could substitute, if that is what the majority of us want, indexing, and have it for the future. But you do not have that opportunity, do you? No, you do not.

You have the opportunity because we have polled the people. We live by polls today. We have polled the people, and we think we have found something not even related to capital gains that will be popular today. Are we going to govern by polls?

The IRA is popular. Of course, it is, but it has nothing to do with capital gains and capital formation and cost of capital. It is apples and oranges. It means absolutely nothing.

If you are going to offer something in the field of capital gains, do it. Let us vote on it. If this is a bad proposal, let us have a vote up or down and eliminate this proposal in its entirety if it is bad or place your substitute for us to vote upon. That seems fair to me. But we shall not have that opportunity.

I hear that we are going to have a deficit trust fund out of the $80 billion in the next 10 years, and I am not saying that tax is all bad. It is against the higher income that the alternative has come up with. When we look at my budget chairman's chart, he shows that there is some $75 billion or $80 billion difference in the next 10 years between the two plans. Of course there is. Because there are $75 billion or $80 billion in increased taxes over the next 10 years. Why did you not take that and make indexing or permanent tax, capital gains, cut, or whatever you want in the field of capital formation? That seems logical to me. That seems to be the direction that we ought to go.

I challenge my leadership to explain to us why we do not have a vote on indexing, why we do not have a vote on permanent capital gains reduction if the 2-year thing is bad. They need to explain to all us. No, I am for reduced rates in capital gains because I believe in it, because I believe it is good for this Nation, and I believe it is good for the Democratic Party.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Mr. Chairman, I rise in support of the Rostenkowski amendment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I rise in support of the Rostenkowski-Gephardt amendment.

When the smoke has cleared and the rhetoric has cooled, we may be surprised to find that there's actually a good deal that most of us here can agree upon within these two competing alternatives.

For example, indexing productive assets, acquired in the future and held for multiyear periods of time, against inflationary increases in their value makes sense, as does capping the capital gains rate at 28 percent.

Similarly, encouraging families to increase savings through expanded IRA participation makes sense.

And, it makes sense to pay for these changes, as well as to reducing our budget deficits, by asking people earning over $200,000 per year to pay the same marginal tax rates as families earning $75,000.

In a few minutes, this debate in this Chamber will end, but in reality this process is still in its early stages. My hope is that most of us in the Congress and in the Bush administration now will begin to focus on those areas in this debate where we can and do agree. If we do so, I believe there is ample time, and more than ample reason, to craft a compromise which encourages capital formation and savings, is arguably fair to taxpayers and is fiscally sound, as well.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 6½ minutes, the remainder of my time, to the majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. MFUME. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I am happy to yield to the gentleman from Maryland.

Mr. MFUME. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of the Rostenkowski-Gephardt Democratic alternative to the capital gains tax-cut. This vote is very critical to this Congress and the American people. The choice between the two proposals is very clear, we can either give a tax break giveaway to the rich, or we could support the backbone of our Nation's economy, the middle class.

We have heard all of the arguments in favor of the rich getting this tax break, and we are all aware that President Bush has expended an inordinate amount of time and energy attempting to convince our Democratic colleagues and the voting public that a cut in capital gains is necessary for increased national revenues. Well, now it is time for the voices of the American people to be heard. Their message is the message of the Democratic Party. And our one voice shall be heard through the support and passage of the Democratic alternative.

The plan that the administration is pushing, 80 percent of the tax giveaway would go to those making in excess of $100,000. This group represents a mere 3 out of every 100 taxpayers. On the other hand, the Rostenkowski-Gephardt plan benefits millions of hard-working American families who make considerably less by providing them with the means to be able to buy their first home, send their son or daughter to college and save their hard-earned money for other American dreams.

A key component of the Democratic alternative is the expansion of the individual retirement account. Under the proposed IRA expansion, families and individuals who presently are not allowed a deduction for amounts placed in an IRA, will be permitted to deduct 50 percent of their contributions. This would inevitably make IRA savings available for use by families seeking to buy their first home or send their children to college. Additionally, the Democratic alternative eliminates the "bubble loophole" of the present income tax structure by which the tax-rate on the very highest incomes is really less than the tax-rate for lower income persons. When the rich get richer, and the poor get poorer, and we can do something about this inequity, then it is time to act. Now is that time and the action is to vote for the Democratic alternative.

Mr. Chairman, it is long past time that the middle class started benefiting from their hard work. The Democratic alternative will reduce the deficit, run up by the Republicans over the past 8 years, while generating needed money for pressing domestic problems.

I urge all of my colleagues to accept the alternative for the sake of the great majority of hard-working Americans.

Mr. GEPHARDT. Mr. Chairman, I first want to give a bouquet to the chairman of the Committee on Ways and Means who has brought a major part of this bill to the floor. There has been a lot of second-guessing about what he did or how he did it on this issue or that in the last few days. I simply want to thank the chairman for the work that he has done in a very difficult circumstance. I do not think many people understand the difficulty of the issues that the committee has dealt with, and I think his leadership has been remarkable.

Mr. Chairman, what we have today is not a choice between people, not a choice between parties, and not a choice between personalities. What we face today in the House of Representatives is a choice between two different visions of what it will take to make our country strong. First, we have a choice about what kind of tax policy we will follow in the days ahead.

Back in 1986 there was a bipartisan agreement about tax reform. It was historic. A Republican President and a Democratic Congress came together and built, as the gentleman from Michigan said, the most important historic change in tax laws we have ever had in the history of the country. It was difficult to achieve. We had a conference on that bill, and there were two different visions of how to do tax reform, and a compromise was reached. As always in this country, it was difficult to do. Democrats on our side and from the House had a vision of what it should be and gave up individual retirement accounts, which we wanted to have in the final bill. We gave up a progressive rate system so that people earning $150,000 or more had a lower rate than people earning less than that, and in return for that, we got something that tax reformers have advocated and fought over for 50 years, which was to have the tax on capital gains to be the same as the rate on ordinary income, and now before the ink on the bill is barely dry, the President comes back to the American people and says, "Let us break the deal. Let us have the rate on capital gains again be lower."

What was a historic compromise is now jeopardized if this proposal which is in the committee bill passes, because we all know what comes next. Next the people who want the investment tax credit will be on this floor wanting to bring that back in, and then it will be the passive loss provisions, and they will come back in.

□ 1200

And before we know what has happened, we will be back at a top rate of 50 percent, or 60 percent, or 70 percent to accommodate the erosion of the tax base which is represented by this change which is suggested today.

So we have two visions of what kind of a tax policy we want in this country, and this is the decision on tax policy that Members will have to make. Do Members want to go backward or do they want to go forward?

Second, we have a decision about what kind of savings and investment policy we will have. Most economists, both conservative and liberal today say that our greatest need is to increase savings for the long term. Investment in the future is what we need.

Members have two very different visions to choose from today on that very important issue. If they choose the plan that the chairman and I have proposed, they will be saying that they want to give about $350 a year to about 5 million families in the country, many of them middle-income and lower income families to save for education, to save for housing, to save for retirement, and it is an incentive to save in the future, not for something they did in the past.

If Members vote for the committee version, they will be voting to give $25,000 a year on the average to the 375,000 American families, the wealthiest families in America for some decisions and investments that they have already made, not for something that they might decide to do in the future.

I do not have to explain why I think ours is the better vision.

Finally, Members have to ask what vision they want with regard to where our country shall go, with regard to its own public savings, with regard to its own fiscal situation, and this chart tells the entire story. How much longer are we going to put ourselves in a position where we are borrowing billions of dollars a day, a week, a month, a year from foreign investors?

I do not know why my colleagues came here. I am sure I know why I came here, and I did not come here to be a trustee in bankruptcy. But each of you knows in your heart and your mind that is what has happened.

I was in Japan in November and I had a meeting with the Keidanren, which is like their business round table. At the end of the meeting one of their top people said:

Congresmen, we have a suggestion. Our investors are now lending 40 percent of your debt. They are getting worried about the stability of your economy. If they pull out of your money markets, they will destroy our country because your interest rates will go from 12 to 20 in a day, so we have a respectful suggestion.

He said:

We are asking that you denominate your U.S. Treasury securities in yen instead of dollars.

How much longer will we go on? How long will we postpone the fiscal decisions that we all know we have to make?

If Members vote for the committee bill, if they vote against the alternative, they will be voting to increase that deficit, increase that borrowing, increase the dependence that we have on foreign countries, and be eroding the strength of our country.

So today we make a decision about our future. That is what this vote is about, and I am here in the well today asking, pleading with Members to make that decision based on what in their heart and mind is the best for the future of this country. Do not listen when some contributor, a well-meaning contributor may call and say please vote for capital gains, it helps my own situation. I know the temptation to do that. But do not give into it, and do not give into a threat that there will be a TV ad coming in the fall that will say: "You voted to raise taxes."

Do not be cowed by political messages. Stand up for what you think in your heart and your mind you know is right for your country and your future. This is the chance for the right vision for America. Let us stand up for it.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Illinois [Mr. ROSTENKOWSKI].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ARCHER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 239, not voting 3, as follows:

[Roll No. 253]

AYES—190

Ackerman	Donnelly	Kanjorski
Akaka	Dorgan (ND)	Kaptur
Annunzio	Downey	Kastenmeier
Applegate	Durbin	Kennedy
Aspin	Dwyer	Kennelly
Atkins	Dymally	Kildee
AuCoin	Eckart	Kleczka
Bates	Edwards (CA)	Kolter
Bellenson	Engel	Kostmayer
Bennett	Espy	LaFalce
Bereuter	Evans	Lancaster
Berman	Fascell	Lantos
Bevill	Fazio	Lehman (CA)
Bilbray	Feighan	Lehman (FL)
Boggs	Flake	Levin (MI)
Bonior	Foglietta	Levine (CA)
Borski	Ford (MI)	Lewis (GA)
Boucher	Ford (TN)	Lipinski
Boxer	Frank	Lowey (NY)
Brennan	Frost	Manton
Brown (CA)	Gaydos	Markey
Bruce	Gejdenson	Matsui
Bryant	Gephardt	Mavroules
Bustamante	Gibbons	McCloskey
Cardin	Glickman	McCurdy
Carper	Gonzalez	McDermott
Chapman	Gordon	McHugh
Clay	Gray	McNulty
Clement	Guarini	Mfume
Coleman (TX)	Hall (OH)	Miller (CA)
Collins	Hamilton	Moakley
Condit	Hawkins	Mollohan
Conyers	Hayes (IL)	Moody
Cooper	Hefner	Morrison (CT)
Costello	Hertel	Murphy
Coyne	Hoagland	Murtha
Crockett	Hochbrueckner	Nagle
de la Garza	Hoyer	Neal (MA)
DeFazio	Hughes	Neal (NC)
Dellums	Johnson (SD)	Nelson
Dicks	Johnston	Nowak
Dingell	Jones (NC)	Oakar
Dixon	Jontz	Oberstar
Obey	Savage	Torres
Olin	Sawyer	Torricelli
Owens (NY)	Scheuer	Towns
Pallone	Schroeder	Traficant
Panetta	Schumer	Traxler
Payne (NJ)	Sharp	Udall
Pease	Sikorski	Unsoeld
Pelosi	Sisisky	Valentine
Penny	Skaggs	Vento
Poshard	Slattery	Visclosky
Price	Slaughter (NY)	Volkmer
Rahall	Smith (FL)	Walgren
Rangel	Solarz	Waxman
Richardson	Spratt	Weiss
Rose	Staggers	Wheat
Rostenkowski	Stark	Williams
Roybal	Stenholm	Wise
Russo	Stokes	Wolpe
Sabo	Studds	Yates
Sangmeister	Swift	
Sarpalius	Synar	

NOES—239

Alexander	Gradison	Moorhead
Anderson	Grandy	Morella
Andrews	Grant	Morrison (WA)
Anthony	Green	Mrazek
Archer	Gunderson	Myers
Armey	Hall (TX)	Natcher
Baker	Hammerschmidt	Nielson
Ballenger	Hancock	Ortiz
Barnard	Hansen	Owens (UT)
Bartlett	Harris	Oxley
Barton	Hastert	Packard
Bateman	Hatcher	Parker
Bentley	Hayes (LA)	Parris
Bilirakis	Hefley	Pashayan
Bliley	Henry	Patterson
Boehlert	Herger	Paxon
Bosco	Hiler	Payne (VA)
Brooks	Holloway	Perkins
Broomfield	Hopkins	Petri
Browder	Horton	Pickett
Brown (CO)	Houghton	Pickle
Buechner	Hubbard	Porter
Bunning	Huckaby	Pursell
Burton	Hunter	Quillen
Byron	Hutto	Ravenel
Callahan	Hyde	Ray
Campbell (CA)	Inhofe	Regula
Campbell (CO)	Ireland	Rhodes
Carr	Jacobs	Ridge
Chandler	James	Rinaldo
Clarke	Jenkins	Ritter
Clinger	Johnson (CT)	Roberts
Coble	Jones (GA)	Robinson
Coleman (MO)	Kasich	Roe
Combest	Kolbe	Rogers
Conte	Kyl	Rohrabacher
Coughlin	Lagomarsino	Ros-Lehtinen
Courter	Laughlin	Roth
Cox	Leach (IA)	Roukema
Craig	Leath (TX)	Rowland (CT)
Crane	Lent	Rowland (GA)
Dannemeyer	Lewis (CA)	Saiki
Darden	Lewis (FL)	Saxton
Davis	Lightfoot	Schaefer
DeLay	Livingston	Schiff
Derrick	Lloyd	Schneider
DeWine	Long	Schuette
Dickinson	Lowery (CA)	Schulze
Dornan (CA)	Luken, Thomas	Sensenbrenner
Douglas	Lukens, Donald	Shaw
Dreier	Machtley	Shays
Duncan	Madigan	Shumway
Dyson	Marlenee	Shuster
Early	Martin (IL)	Skeen
Edwards (OK)	Martin (NY)	Skelton
Emerson	Martinez	Slaughter (VA)
English	Mazzoli	Smith (IA)
Erdreich	McCandless	Smith (NE)
Fawell	McCollum	Smith (NJ)
Fields	McCrery	Smith (TX)
Fish	McDade	Smith (VT)
Flippo	McEwen	Smith, Denny (OR)
Frenzel	McGrath	Smith, Robert (NH)
Gallegly	McMillan (NC)	Smith, Robert (OR)
Gallo	McMillen (MD)	Snowe
Gekas	Meyers	Solomon
Geren	Michel	Spence
Gillmor	Miller (OH)	Stallings
Gilman	Miller (WA)	Stangeland
Gingrich	Mineta	Stearns
Goodling	Molinari	Stump
Goss	Montgomery	Sundquist
		Tallon
		Tanner
		Tauke
		Tauzin
		Thomas (CA)
		Thomas (GA)
		Thomas (WY)
		Upton
		Vander Jagt
		Vucanovich
		Walker
		Walsh
		Watkins
		Weber
		Weldon
		Whittaker
		Whitten
		Wilson
		Wolf
		Wyden
		Wylie
		Young (AK)
		Young (FL)

NOT VOTING—3

Florio	Garcia	Yatron

□ 1224

Mr. MARLENEE and Mr. MARTINEZ changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. PANETTA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MAVROULES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3299) to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990, had come to no resolution thereon.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and a resolution of the House of the following titles:

H.R. 2088. An act to revise and extend the programs established in the Tempory Child Care for Handicapped Children and Crisis Nurseries Act of 1986;

H.R. 3015. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes; and

H.J. Res. 407. Joint resolution making continuing appropriations for the fiscal year 1990, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3015) "an act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LAUTENBERG, Mr. BYRD, Mr. HARKIN, Mr. SASSER, Ms. MIKULSKI, Mr. D'AMATO, Mr. KASTEN, Mr. DOMENICI, Mr. GRASSLEY, and Mr. HATFIELD.

For the sole purpose of the drug amendment (title IV): Mr. BYRD, Mr. INOUYE, and Mr. HATFIELD, for all items in title IV.

The chairman and ranking minority member of each subcommittee for items falling within the jurisdiction of each subcommittee:

Mr. BURDICK and Mr. COCHRAN from the Subcommittee on Agriculture and Related Agencies;

Mr. HOLLINGS and Mr. RUDMAN, from the Subcommittee on Commerce, Justice, State and the Judiciary;

Mr. INOUYE and Mr. STEVENS, from the Subcommittee on Defense;

Mr. ADAMS and Mr. GRAMM, from the Subcommittee on the District of Columbia;

Mr. JOHNSTON and Mr. HATFIELD, from the Subcommittee on Energy and Water Development;

Mr. LEAHY and Mr. KASTEN, from the Subcommittee on Foreign Operations;

Ms. MIKULSKI and Mr. GARN, from the Subcommittee on HUD and Independent Agencies;

Mr. BYRD and Mr. MCCLURE, from the Subcommittee on Interior;

Mr. HARKIN and Mr. SPECTER, from the Subcommittee on Labor, Health and Human Services;

Mr. REID and Mr. NICKLES from the Subcommittee on Legislative Branch;

Mr. SASSER and Mr. GRASSLEY, from the Subcommittee on Military Construction;

Mr. LAUTENBERG and Mr. D'AMATO, from the Subcommittee on Transportation; and

Mr. DECONCINI and Mr. DOMENICI, from the Subcommittee on Treasury, Postal Service and General Government; to be the conferees on the part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 2990, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. NATCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2990) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1990, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

MOTION OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. CONTE moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2990, be instructed to insist on the House position concerning Low Income Home Energy Assistance.

The SPEAKER. The gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. NATCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. CONTE].

□ 1230

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is one key issue our subcommittee must deal with that I believe deserves the special attention of our conferees.

That issue is the Low Income Home Energy Assistance Program.

Over the years, LIHEAP funding has been whacked and whacked again to the point where the whole program is on the verge of crashing down and hurting millions of needy people. Since fiscal year 1985, LIHEAP funding has been cut by a third.

Almost 2 million people have been dropped from the rolls, including young mothers and their children. Entire families have been forced out of their homes because they could not pay their heating or cooling bills. That is why I am proposing that the House go on record in support of the House position of $1.4 billion. I say it's time to fight back and restore funding for this very worthy program.

I was heartened to see that 57 Members of the Senate and 234 Members of this body signed a letter of support for LIHEAP, calling for $1.44 billion, the current services level. The House mark of $1.4 billion is already below that level and the Senate mark is $121 million below us.

It's clear that the support for energy assistance in both Houses is broad and deep. Some Senators worked hard to bring LIHEAP to a reasonable level where we can make some significant progress in the conference. Unfortunately, they failed to come up all the way to the House position, although my friends, Senator HARKIN and Senator SPECTER, expressed their strong support for the program in conference. I will be looking forward to working with them to bring LIHEAP up to the House level. In the meantime, the House and the 234 Members who signed the letter can make their preference clear by voting for this motion.

As we swing into action on this bill, I would like to point out some important issues for our Members to consider.

One argument I heard was that, once again, oil overcharge money is available to the States to help pay for energy assistance. Well, that money is no longer available and the administration no longer claims that overcharge funds are sufficient to make up for future cuts.

Some are saying that we have to cut LIHEAP because energy prices were supposedly stable and the need for the program has somehow evaporated. Nothing could be further from reality.

This coming winter the Department of Energy is predicting that fuel oil and natural gas prices will rise significantly over last year. Meanwhile, needy families are still paying 14 percent or more of their income on heating, four times the percentage paid by middle and high income families. With energy costs rising, the low-income families are again facing their own budgetary crunch.

High energy costs put the needy at risk of losing their homes and their livelihoods. I think it is outrageous to see people forced out of their homes because they could not pay their heating or cooling bills. We end up paying more for emergency health and housing costs. LIHEAP is good, strong preventive medicine against homelessness and illness.

The social safety net is getting tattered, torn and frayed. Year after year the budget cutters have ripped so much fiber out of the net—the holes are now so big you could drive an oil tanker through them. Entire families are falling through the net and we are paying the price, a painful price, for not maintaining energy assistance at a decent amount.

Now is the time to repair the safety net. Now is the time to vote to hold LIHEAP at the House level.

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, as the gentleman from Massachusetts [Mr. CONTE], my friend, knows, ordinarily I am against the instruction of conferees.

Under the circumstances now existing this request is very much in order, and, Mr. Speaker, I ask that the request of the gentleman from Massachusetts be accepted.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. CONTE], my colleague, for yielding me this time.

Mr. Speaker, I want to advise the membership that at the conclusion of the debate on this motion I will ask the body to defeat the previous question, and my purpose in doing that will be in order that I might be permitted to offer a motion to instruct conferees on this HHS appropriations bill that I think expresses an issue that in this country today needs to be addressed by those of us in a policy making body on specifically what we teach our children in the schoolrooms of America.

Mr. Speaker, we all know that the Federal Government is deeply involved in assisting education in the public schools of America through ap-

propriations in this HHS appropriations bill, and Senator HUMPHREY, our colleague on the Senate side, was successful last year in getting an amendment into the appropriations bill that none of the funds could be used for the purpose of advancing homosexuality as a normal lifestyle or normal practice. Unfortunately, that restriction that was adopted by a vote, I think of 82 to 15, last year in the Senate was cut out in conference. Senator HUMPHREY was successful in getting this restrictive language in this appropriation bill this year, and I think it is appropriate that we also addressed the issue in this House.

For example, in my State of California, in the Los Angeles school district, one of the largest in the country, they have embarked on a program called Project Ten. The rationale for this program is to say to the children in that school district in America that homosexuality is a normal thing, that it is a practice which should be tolerated and condoned in our society.

Mr. Speaker, I want to make clear to my colleagues that what two men, or two women, or a man and a woman do in the privacy of their domicile is none of my business and none of the Government's business, but when the proponents of this alternative lifestyle come into the public square of debate and seek through the political process to use taxpayers' money to subsidize a perversion that most Americans consider to be abnormal, I think they have got the attention of this Member of Congress, and they should have the attention of any person serving in a State legislature around this country or serving in the Congress of the United States.

We today in this Nation are witnessing one of the most brutal frontal attacks on traditional family values for the assertion of this alternative lifestyle. Our friends on the Democratic side have embraced this movement totally. They have amended the bylaws of the national Democratic Party so that there is antidiscrimination statutes in those bylaws for all members of the Democratic Party. The national Democratic Party has directed every State Democratic Party in America to have an affirmative action program for every committee and subcommittee of the State Democratic Party.

Totally the Democratic Party has been taken over by this movement. I hope that the Republican Party in this country does not succumb to that same temptation for the crass appeal to votes.

There is an element, a political constituency, out there that seeks approval, and I do not think we should be tolerating it, and this is the reason that I will ask to defeat the previous question, so that I will have an opportunity of offering this motion to instruct.

Mr. NAGLE. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Iowa.

Mr. NAGLE. Mr. Speaker, what group has taken over my party and me?

Mr. DANNEMEYER. Mr. Speaker, if the gentleman from Iowa [Mr. NAGLE] would care to take a look at the bylaws of the Democratic Party, he will find on reading them that they do exactly what I have said.

I say to the gentleman from Iowa [Mr. NAGLE]:

> Your party has adopted amendments to its bylaws in the decades of the eighties which say very clearly there's antidiscrimination against homosexuals, and every State Democratic Party in America is directed by the bylaws of the national Democratic Party to have an affirmative action program for homosexuals in every committee and subcommittee.

Mr. NAGLE. Mr. Chairman, is the gentleman from California [Mr. DANNEMEYER] saying that the Democratic Party has been taken over by homosexuality? I just do not understand.

Mr. DANNEMEYER. No, Mr. Speaker, I think it is the other way around. I think the national Democratic Party has looked to this political movement on the part of homosexual activists and welcomed them into their tent. In effect they have said:

> It's O.K. You're one of us. We're going to work to achieve the political objective of changing the culture of America so that we will accept and equate homosexuality on par with a heterosexual lifestyle.

Mr. Speaker, that is what this bill is all about.

Mr. NAGLE. Mr. Speaker, if the gentleman from California [Mr. DANNEMEYER] will yield further, I think the gentleman does himself no honor in attacking members of my party with those types of spurious allegations.

Mr. DANNEMEYER. Mr. Speaker, let me observe to the gentleman from Iowa [Mr. NAGLE], my friend, that actions have consequences. When the national Democratic Party has done what I have described, and it is factually correct, the consequences of that political action must be accepted by all.

Mr. NATCHER. Mr. Speaker, I join with the gentleman from Massachusetts [Mr. CONTE] in his request, and I yield back the balance of my time.

Mr. CONTE. Mr. Speaker, I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 270, nays 148, not voting 14, as follows:

[Roll No. 254]

YEAS—270

Ackerman	Gallo	Mollohan
Akaka	Gaydos	Montgomery
Alexander	Gejdenson	Moody
Anderson	Gephardt	Morella
Andrews	Geren	Morrison (WA)
Annunzio	Gibbons	Mrazek
Anthony	Gillmor	Murtha
Aspin	Gilman	Nagle
Atkins	Glickman	Natcher
AuCoin	Gonzalez	Neal (MA)
Bates	Gordon	Nowak
Beilenson	Gradison	Oakar
Bennett	Green	Oberstar
Berman	Guarini	Obey
Bevill	Gunderson	Olin
Bilbray	Hamilton	Ortiz
Boehlert	Harris	Owens (NY)
Boggs	Hatcher	Owens (UT)
Bonior	Hawkins	Pallone
Borski	Hayes (IL)	Panetta
Bosco	Hefner	Parker
Boucher	Hertel	Parris
Boxer	Hoagland	Payne (NJ)
Brennan	Hochbrueckner	Payne (VA)
Brooks	Hopkins	Pease
Browder	Horton	Pelosi
Brown (CA)	Houghton	Penny
Bruce	Hoyer	Perkins
Buechner	Hubbard	Pickett
Bustamante	Huckaby	Pickle
Callahan	Hughes	Porter
Campbell (CO)	Johnston	Price
Cardin	Jones (GA)	Pursell
Carper	Jones (NC)	Rahall
Carr	Jontz	Rangel
Chapman	Kanjorski	Ravenel
Clarke	Kaptur	Regula
Clay	Kastenmeier	Richardson
Clement	Kennedy	Roberts
Clinger	Kennelly	Roe
Coleman (MO)	Kildee	Rogers
Coleman (TX)	Kleczka	Rose
Collins	Kolbe	Rostenkowski
Condit	Kolter	Rowland (CT)
Conte	Kostmayer	Rowland (GA)
Conyers	LaFalce	Roybal
Cooper	Lancaster	Russo
Costello	Lantos	Sabo
Coughlin	Laughlin	Saiki
Coyne	Leach (IA)	Sangmeister
Crockett	Leath (TX)	Sarpalius
Darden	Lehman (CA)	Savage
de la Garza	Lehman (FL)	Sawyer
DeFazio	Levin (MI)	Saxton
DeLay	Levine (CA)	Scheuer
Dellums	Lewis (CA)	Schneider
Derrick	Lewis (GA)	Schroeder
Dicks	Lightfoot	Schumer
Dingell	Lipinski	Sharp
Dixon	Long	Shays
Donnelly	Lowery (CA)	Sikorski
Dorgan (ND)	Lowey (NY)	Sisisky
Downey	Luken, Thomas	Skaggs
Durbin	Machtley	Slattery
Dymally	Manton	Slaughter (NY)
Early	Markey	Smith (FL)
Eckart	Martin (IL)	Smith (IA)
Edwards (CA)	Martinez	Smith (VT)
Engel	Matsui	Solarz
Erdreich	Mazzoli	Spratt
Espy	McCloskey	Staggers
Evans	McCrery	Stallings
Fascell	McCurdy	Stark
Fazio	McDermott	Stokes
Feighan	McHugh	Studds
Fish	McMillen (MD)	Swift
Flake	McNulty	Synar
Flippo	Mfume	Tanner
Foglietta	Miller (CA)	Thomas (CA)
Ford (MI)	Miller (OH)	Thomas (GA)
Ford (TN)	Miller (WA)	Torres
Frank	Mineta	Torricelli
Frost	Moakley	Towns

Traficant	Walgren	Whitten
Traxler	Watkins	Williams
Udall	Waxman	Wilson
Unsoeld	Weiss	Wise
Valentine	Weldon	Wolpe
Vento	Wheat	Wyden
Visclosky	Whittaker	Yates

NAYS—148

Applegate	Hefley	Ritter
Archer	Henry	Robinson
Armey	Herger	Rohrabacher
Baker	Holloway	Ros-Lehtinen
Ballenger	Hunter	Roth
Barnard	Hutto	Roukema
Bartlett	Hyde	Schaefer
Barton	Inhofe	Schiff
Bateman	Ireland	Schuette
Bentley	Jacobs	Schulze
Bereuter	James	Sensenbrenner
Bilirakis	Jenkins	Shaw
Bliley	Johnson (CT)	Shumway
Broomfield	Johnson (SD)	Shuster
Brown (CO)	Kasich	Skeen
Bunning	Kyl	Skelton
Burton	Lagomarsino	Slaughter (VA)
Byron	Lent	Smith (NE)
Campbell (CA)	Lewis (FL)	Smith (NJ)
Chandler	Livingston	Smith (TX)
Coble	Lloyd	Smith, Denny (OR)
Combest	Lukens, Donald	Smith, Robert (NH)
Cox	Madigan	Smith, Robert (OR)
Craig	Marlenee	Snowe
Crane	Martin (NY)	Solomon
Dannemeyer	McCandless	Spence
Davis	McCollum	Stangeland
DeWine	McDade	Stearns
Dickinson	McEwen	Stenholm
Douglas	McGrath	Stump
Dreier	McMillan (NC)	Sundquist
Duncan	Meyers	Tallon
Dyson	Michel	Tauke
Edwards (OK)	Molinari	Tauzin
Emerson	Moorhead	Thomas (WY)
Fawell	Murphy	Upton
Fields	Myers	Vander Jagt
Frenzel	Nelson	Volkmer
Gallegly	Nielson	Vucanovich
Gekas	Oxley	Walker
Gingrich	Packard	Walsh
Goodling	Pashayan	Weber
Goss	Patterson	Wolf
Grandy	Paxon	Wylie
Grant	Petri	Young (AK)
Hall (OH)	Poshard	Young (FL)
Hall (TX)	Quillen	
Hammerschmidt	Ray	
Hancock	Rhodes	
Hansen	Ridge	
Hastert	Rinaldo	

NOT VOTING—14

Bryant	Florio	Mavroules
Courter	Garcia	Morrison (CT)
Dornan (CA)	Gray	Neal (NC)
Dwyer	Hayes (LA)	Yatron
English	Hiler	

□ 1259

Messrs. McMILLAN of North Carolina, VANDER JAGT, DAVIS, and SKELTON changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from Massachusetts [Mr. CONTE].

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. TAUKE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 388, noes 18, not voting 26, as follows:

[Roll No. 255]

AYES—388

Ackerman	Eckart	Kolter
Akaka	Edwards (CA)	Kostmayer
Alexander	Edwards (OK)	LaFalce
Anderson	Emerson	Lagomarsino
Andrews	Engel	Lancaster
Annunzio	Erdreich	Laughlin
Anthony	Espy	Leach (IA)
Applegate	Evans	Lehman (CA)
Aspin	Fascell	Lehman (FL)
Atkins	Fawell	Lent
Baker	Fazio	Levin (MI)
Ballenger	Feighan	Levine (CA)
Barnard	Fish	Lewis (CA)
Bateman	Flake	Lewis (FL)
Bates	Flippo	Lewis (GA)
Beilenson	Foglietta	Lightfoot
Bennett	Ford (MI)	Lipinski
Bentley	Ford (TN)	Livingston
Bereuter	Frank	Lloyd
Bevill	Gallegly	Long
Bilbray	Gallo	Lowery (CA)
Bilirakis	Gejdenson	Lowey (NY)
Bliley	Gephardt	Luken, Thomas
Boehlert	Geren	Lukens, Donald
Boggs	Gibbons	Machtley
Bonior	Gillmor	Madigan
Borski	Gilman	Manton
Bosco	Gingrich	Markey
Boucher	Glickman	Marlenee
Boxer	Gonzalez	Martin (IL)
Brennan	Goodling	Martin (NY)
Broomfield	Gordon	Martinez
Browder	Goss	Matsui
Brown (CA)	Gradison	Mazzoli
Brown (CO)	Grandy	McCandless
Bruce	Grant	McCloskey
Buechner	Gray	McCollum
Bunning	Green	McCrery
Burton	Guarini	McCurdy
Bustamante	Gunderson	McDade
Byron	Hall (OH)	McDermott
Callahan	Hall (TX)	McEwen
Campbell (CA)	Hamilton	McGrath
Campbell (CO)	Hammerschmidt	McHugh
Cardin	Hansen	McMillan (NC)
Carper	Harris	McMillen (MD)
Carr	Hastert	McNulty
Chandler	Hatcher	Meyers
Chapman	Hawkins	Mfume
Clarke	Hayes (IL)	Miller (CA)
Clay	Hayes (LA)	Miller (OH)
Clement	Hefley	Miller (WA)
Clinger	Hefner	Mineta
Coble	Henry	Moakley
Coleman (MO)	Herger	Molinari
Coleman (TX)	Hertel	Mollohan
Collins	Hiler	Montgomery
Combest	Hoagland	Moody
Condit	Hochbrueckner	Moorhead
Conte	Holloway	Morella
Conyers	Hopkins	Morrison (WA)
Cooper	Horton	Mrazek
Costello	Houghton	Murphy
Coughlin	Hoyer	Murtha
Coyne	Hubbard	Myers
Craig	Huckaby	Nagle
Crockett	Hughes	Natcher
Darden	Hutto	Neal (MA)
Davis	Hyde	Neal (NC)
de la Garza	Inhofe	Nelson
DeFazio	Ireland	Nielson
DeLay	Jacobs	Nowak
Dellums	James	Oakar
Derrick	Jenkins	Oberstar
DeWine	Johnson (CT)	Olin
Dickinson	Johnson (SD)	Ortiz
Dingell	Johnston	Owens (NY)
Dixon	Jones (NC)	Oxley
Donnelly	Jontz	Packard
Dorgan (ND)	Kanjorski	Pallone
Douglas	Kaptur	Panetta
Downey	Kasich	Parker
Dreier	Kastenmeier	Parris
Duncan	Kennedy	Patterson
Durbin	Kennelly	Paxon
Dymally	Kildee	Payne (NJ)
Dyson	Kleczka	Payne (VA)
Early	Kolbe	Pease
Pelosi	Schulze	Tallon
Penny	Schumer	Tanner
Perkins	Sharp	Tauke
Petri	Shaw	Tauzin
Pickle	Shays	Thomas (CA)
Poshard	Shumway	Thomas (GA)
Price	Shuster	Thomas (WY)
Quillen	Sikorski	Torres
Rahall	Sisisky	Torricelli
Rangel	Skaggs	Towns
Ravenel	Skeen	Traficant
Ray	Skelton	Traxler
Regula	Slattery	Udall
Rhodes	Slaughter (NY)	Unsoeld
Richardson	Slaughter (VA)	Upton
Ridge	Smith (FL)	Valentine
Rinaldo	Smith (IA)	Vander Jagt
Ritter	Smith (NE)	Vento
Roberts	Smith (NJ)	Visclosky
Roe	Smith (TX)	Volkmer
Rogers	Smith (VT)	Vucanovich
Ros-Lehtinen	Smith, Denny (OR)	Walgren
Rose	Smith, Robert (NH)	Walsh
Rostenkowski	Smith, Robert (OR)	Watkins
Roth	Snowe	Waxman
Roukema	Solarz	Weber
Rowland (CT)	Solomon	Weiss
Rowland (GA)	Spence	Weldon
Roybal	Spratt	Wheat
Russo	Staggers	Whittaker
Sabo	Stallings	Whitten
Saiki	Stangeland	Williams
Sangmeister	Stark	Wilson
Sarpalius	Stearns	Wise
Savage	Stenholm	Wolf
Sawyer	Stokes	Wolpe
Saxton	Studds	Wyden
Schaefer	Sundquist	Wylie
Scheuer	Swift	Yates
Schiff	Synar	Young (AK)
Schneider		Young (FL)
Schroeder		
Schuette		

NOES—18

Archer	Dornan (CA)	Kyl
Armey	Fields	Porter
Bartlett	Frenzel	Rohrabacher
Barton	Gekas	Sensenbrenner
Cox	Hancock	Stump
Dannemeyer	Hunter	Walker

NOT VOTING—26

AuCoin	Florio	Morrison (CT)
Berman	Frost	Obey
Brooks	Garcia	Owens (UT)
Bryant	Gaydos	Pashayan
Courter	Jones (GA)	Pickett
Crane	Lantos	Pursell
Dicks	Leath (TX)	Robinson
Dwyer	Mavroules	Yatron
English	Michel	

□ 1319

Mr. BARTON of Texas and Mr. FRENZEL changed their vote from "aye" to "no."

Mr. SMITH of Texas changed his vote from "no" to "aye."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HERTEL). Without objection, the Chair appoints the following conferees: Messrs. NATCHER, SMITH of Iowa, OBEY, ROYBAL, STOKES, EARLY, DWYER of New Jersey, HOYER, WHITTEN, CONTE, PURSELL, PORTER, YOUNG of Florida, and WEBER.

There was no objection.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, due to official business I was unavoidably absent on September 28 for rollcall No. 254,

motion to instruct conferees on H.R. 2990, and rollcall No. 255, motion to instruct conferees on the Labor-HHS appropriations bill. Had I been here, I would have cast the following votes: "aye" and "aye."

□ 1320

MEETING OF RULES COMMITTEE SCHEDULED TO CONSIDER A RULE PROVIDING FOR CONSIDERATION OF LEGISLATION ON ARMS CONTROL

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, I rise to inform Members of the House that the Committee on Rules has received a request from the Chairman and the ranking minority member of the Committee on Foreign Affairs that a rule be granted for the consideration of a bill authorizing appropriations for the Arms Control and Disarmament Agency.

This bipartisan request is for an open rule with the restriction that only amendments be in order which are printed in the CONGRESSIONAL RECORD on or before Wednesday, October 4, 1989.

Mr. Speaker, the Rules Committee will schedule a meeting to consider a rule on this bill for next Tuesday, October 3d. While it is impossible to say with certainty what type of rule the Committee will grant, I wish to advise members that—in light of the bipartisan request for a rule with a printing requirement—they have their amendments prepared and printed in the RECORD on or before Wednesday, October 4, 1989.

The bill has been introduced in the House today and will be available in printed form by tomorrow so that Members may have their amendments properly drafted. In addition, Chairman FASCELL will have the bill printed in today's RECORD so that it will be available to Members in that form on tomorrow.

I thank the Members for their attention and their cooperation.

CONTINUING APPROPRIATIONS, 1990

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 407) making continuing appropriations for the fiscal year 1990, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendment, as follows:

Senate amendment: Page 8, after line 2, insert:

SEC. 107. For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), an additional $1,108,000,000 for fiscal year 1989, to remain available until expended.

The SPEAKER pro tempore (Mr. HERTEL). Is there objection to the request of the gentleman from Mississippi?

Mr. CONTE. Mr. Speaker, reserving the right to object, I will not object, but I do wish to permit the chairman of the committee and other Members to clarify what we are doing here.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, this is the same continuing resolution that was adopted on Tuesday with one amendment—a $1,108 million fiscal year 1989 supplemental for disaster relief. The supplemental will permit the Federal Emergency Management Agency to provide disaster assistance to those States and territories ravaged by Hurricane Hugo last week.

Mr. Speaker, may I advise the House that the Senate adopted this continuing resolution by a vote of 100 to 0.

Mr. Speaker, the House has passed all 13 bills.

The Senate has now passed 11 bills. The energy and water is awaiting signature of the President.

The resolution goes through October 25.

The resolution provides three rates: For bills passed by the House—House or current rate, whichever is lower, with terms and conditions in effect in fiscal year 1989; for bills passed by House and Senate—House or Senate rate, whichever is lower, with terms and conditions in effect in fiscal year 1989; and for energy and water—the conference rate.

Each bill comes out from under the continuing resolution upon the regular Appropriations Act becoming law.

Mr. Speaker, during House consideration of House Joint Resolution 407 on Tuesday, I laid out the record of the Committee and the House in moving appropriations bills. It is found on page H5911 of the RECORD of Tuesday. I will not restate that, but I do recommend that it be read again.

Mr. TALLON. Mr. Speaker, will the gentleman yield?

Mr. CONTE. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from South Carolina.

Mr. TALLON. Mr. Speaker, I would like to thank the ranking minority member for yielding to me, and I also wish to express my deep appreciation to the Chairman of the Appropriations Committee.

Mr. Speaker, when we in South Carolina stumbled out of our shelters and basements last Friday we saw a world that had been brutally shattered by Hurricane Hugo.

By approving this $1.2 billion in emergency funding Congress is giving South Carolina's people and communities the glue we need to begin the long, slow process of putting our world back together. And we are grateful.

This money will be allocated to the Federal Emergency Management Agency (FEMA) and will better enable FEMA to provide immediate relief to those individuals and communities crippled by the hurricane.

In South Carolina, we've got a half million people displaced, a quarter of million out of work and damage to physical property exceeding $4 billion. That's not taking into account the effect on agriculture, tourism, and daily increases in clean up costs.

Even today much of our State does not have power, communications, or even adequate food and shelter. There's not a person in my congressional district that hasn't been touched by this disaster.

This storm hit us head on and now we've got to hit back. With this funding, people in South Carolina who have suffered hurricane-related damage to their homes and businesses can get help rebuilding and coping and local governments can begin repairing roads, bridges, and other damaged public facilities.

To me, this is what government should be about. Reaching out and helping people who need it desperately.

I have heard it said that it is the set of the sails and not the gales which tells us the way to go. I appreciate my fellow Members for setting the sails in the right direction.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. Mr. Speaker, continuing my reservation of objection, I yield to my good friend, the chairman of the subcommittee.

Mr. TRAXLER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we are pleased, of course, that the Senate added the $1,108 million for the disaster. This is for the Caribbean area, South Carolina, and North Carolina.

I would say that on the basis of the preliminary information that is available to us, the probabilities are that this sum will not be adequate. Let me say that again. This sum will not be adequate when the total bills are presented.

That means that at some point in the future we will hear again from Hugo, and this time it will not be in terms of wind but, rather, in terms of the clank of additional dollars.

What I am interested in most specifically is to first advise the Membership that these kinds of sums, both what we are looking at in this continuing resolution, the $1 billion-plus, and the additional billion or two that may be

necessary when the final check is presented for Hugo, cannot be handled inside the budget allocation for the VA-HUD-Independent Agencies Subcommittee, either for 1990 or for 1991.

Having made that statement and appreciating the fact that this section 107 is a supplemental for 1989, therefore, my information is that it is not scored against the committee in terms of the 1990 bill. So this is outside the scoring process.

I am pleased to see that a very distinguished member of the Budget Committee is here, and I refer to our good friend, the gentleman from Minnesota [Mr. FRENZEL]. What I would like to extract from the Budget Committee, while Hugo is still fresh in our minds and while we are all concerned about the human tragedy of that hurricane, is some further information and discussion and promise from the members of the Budget Committee that the next appropriations for Hugo will be treated in a similar fashion. This subcommittee cannot deal with an additional $1 billion or $2 billion being tacked on to either the 1991 or 1992 bill. We are going to have to rely upon the compassion and the understanding of the Members when we are counting the beans, totaling it up, and what we want more than anything else is an understanding, not in relationship to this amount, because it is taken care of and it is not going to be scored against us, although it will add to the deficit and it will show up across the board later on, but in terms of the understanding that there will be more coming.

So, Mr. Speaker, we are going to need the help of the Members at that time, and I anxiously await the good comments of my colleague, the gentleman from Minnesota.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New York, the ranking minority member of the subcommittee.

Mr. GREEN. Mr. Speaker, I thank the distinguished ranking member of the full committee for yielding to me.

Mr. Speaker, I would like to join in the remarks of our distinguished chairman of the subcommittee. I think it is extremely difficult to estimate what the final cost to FEMA will be in dealing with this great tragedy.

When I was regional administrator of HUD in the years 1970 to 1977, I was involved in the aftermath of two very similar kinds of events. Eloise which struck Puerto Rico in the mid-1970's, and Agnes, which a few years earlier had hit Pennsylvania and the southern tier of New York State. I know from my experience there that it is extremely difficult at this point, so far removed from the storm to have any realistic evaluation of what this will ultimately cost FEMA in terms of its responsibility.

For the sake of those Members who may not be as familiar as our subcommittee is with the FEMA programs, let me say that they provide both emergency assistance to the people who have been left homeless and without shelter by the disaster, and they are required under law to provide at least 75 percent of the funding for repair or replacement of State or local government buildings which have been damaged or destroyed by the disaster.

Again, we really do not have any idea at this point of what that will amount to. It will be a very large amount.

I would like to make one other observation on the budget process which I think this situation that we are facing today makes much in point. I have on a couple of occasions urged the Budget Committee to establish as part of the budget process some contingency account so that we are not left with trying to have to deal with one gimmick or another toward the end of the year with crises of this sort. There are always contingencies coming along at the end of the fiscal year that were not anticipated a year or a year and a half earlier when the budget resolution was adopted.

□ 1330

Last year it was the drought and the tremendous difficulties that brought to the agricultural community. We have had the drug program. Now we have this great disaster that has to be dealt with, and I think it is just foolish each year to start on course with a budget resolution which does not anticipate the reality that there are always going to be unexpected moneys to appropriate and expend, and the budget process ought to have some process of dealing with those rather than these kinds of jerrybuild structures we put together at the end of the process in order to accommodate something we know in one form or another is always going to be with us.

So, Mr. Speaker, I am happy to support the continuing resolution. With this amendment from the Senate it is the first, and I hope the largest, part of the money that we will need to deal with this disaster.

However, Mr. Speaker, I think for the future that we should certainly try to run our budget operation in a way that these events, though singly unanticipated, that they will occur, should be anticipated, that those events are dealt with and we can deal with them in an orderly way from a budget point of view rather than the way we are doing it today.

Mr. CONTE. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, I want to point out that at the time I was chairman of the Committee on Small Business in 1977, the gentleman from Massachusetts [Mr. CONTE] was the ranking member, and we established in the Small Business Administration a revolving fund which worked very well for low-interest loans to businesses so they could get started again, to the local communities so they could become whole again, to the home owners and others at a low-interest loan. That program has worked very well. We have a cadre of people who move in right away after the disaster and take care of those kinds of problems.

Mr. Speaker, that revolving fund is now getting very, very low because over the past 6 or 8 years there has not been support for that approach. But that is still the best approach.

I say to my colleagues, "If you have a low-interest loan and can move in right away to help these people, as they pay it back it keeps the revolving fund going," and that is the best approach, but we are going to run out of money. We may not have enough money in the revolving fund just for this major thing.

Mr. Speaker, I think we ought to be prepared for that.

Mr. CONTE. Mr. Speaker, further reserving the right to object, I yield to my good friend, the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, there have been a couple of comments made, one by the distinguished gentleman from Michigan, as to how we are going to score this matter. For the purpose of the continuing resolution, it has been thrown in as a 1989 item so that it does not disrupt the allocations of the gentleman from Michigan.

However, most of that money is going to be spent; that is, converted to outlay in 1990, and, therefore, it is ultimately going to require some kind of special treatment under Gramm-Rudman. One kind of special treatment would be a waiver of Gramm-Rudman. No one likes that precedent, but this is a genuine emergency.

All of this, I think, relates back to the statement of the gentleman from New York [Mr. GREEN] which says, "Why don't we set aside some money against these emergencies?" That, I believe, is not the function of the Committee on the Budget. It is the function of the appropriators who know that these emergencies occur every year.

In the gentleman from Michigan's budget, he has less than $200 million for FEMA. My colleagues know that FEMA could not fight a bonfire with $171 million, much less take on real emergencies.

Mr. Speaker, the fact is that those of us in the House have a lot of programs we like, and so we wedge out of our poor, abused appropriations all of the money they have available for these wonderful programs. We leave nothing

for emergencies, and now we are stuck with a real problem.

The only reason I did not object to this amendment in the first place is because we have an obvious emergency, and we have to take care of it. Nobody in his or her right mind is going to tell the people of the affected area that we are not going to help them right away.

Mr. Speaker, this is another example of the chickens coming home to roost and we are not prepared to deal with it. We have not made the proper setasides in the past to take care of it, and something is going to hurt. Usually the first purple-hearted victim is the U.S. taxpayer.

Either we are going to have to punch a hole in Gramm-Rudman and set a precedent that will haunt us forever, or we are going to be crazy bookkeepers, another bad precedent, or we are going to let Gramm-Rudman bite and let it affect other programs we do not want it to affect, or we can do the right thing in the future by cutting back on discretionary programs and setting up some kind of a revolving pot.

Certainly, however, this is a perfect example of our own past unwillingness to set aside necessary amounts of money for emergencies we knew were going to occur.

Mr. CONTE. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, as you know, this temporary continuing resolution provides for very restrictive rates of funding, and is therefore tens of billions below the amount allocated to the Appropriations Committee. The continuing resolution also contains about $1 billion in disaster assistance, to be used by the Federal Emergency Management Administration—FEMA—to help communities devastated by Hurricane Hugo. The administration supports this funding, and has estimated that at least this much, and very probably more, will be needed. I support this disaster assistance funding and commend the committee for moving so rapidly to meet this urgent need.

A question has been raised about this disaster funding and the 302(b) allocation for appropriation subcommittees. While the full amount of the continuing resolution is below the total allocation to the Appropriations Committee, the VA–HUD Subcommittee is above its allocation of discretionary budget authority, but solely because of the disaster assistance funding. As you know, House enforcement of 302 allocations is based upon the amount of discretionary budget authority in an appropriation bill. (Likewise, the caps set on budget summit agreements are based on discretionary budget authority.) Therefore, a point of order lies against this bill because of the disaster assistance money. I support waiving that point of order—by unanimous consent or by granting a rule.

Both the administration and the Senate also support waiving the budget allocations to allow this essential disaster assistance funding to go forward. The Senate has achieved this end by reclassifying this funding as "mandatory" so that it would not count against the discretionary caps. In my view, that is the wrong way to proceed. We should not make unilateral, ad hoc changes in scorekeeping classifications and rules. We should not change the rules in the middle of the session. We should not misclassify a budget account by pretending that discretionary funding is mandatory. For that reason, the House Budget Committee will continue to score this funding as discretionary; this is legally correct, conforms to 14 years of precedent, and conforms to the budget summit agreement of last spring. Of course, as I have already said, I will support all necessary waivers.

Mr. CONTE. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Speaker, I think the comment on the part of the chairman is correct, and I think earlier in a private conversation with the gentleman from Minnesota [Mr. FRENZEL] he also indicated that a waiver would have been a correct approach. I regret the Senate did not take that approach. It is clear that they did not want to vote on that kind of an approach for obvious reasons on their side, but it would have been much cleaner and much neater.

I hope if this issue comes back before us in the coming months that it will be more carefully addressed on that side of the Capitol.

Mr. CONTE. Mr. Speaker, I rise in support of the motion to agree to the Senate amendment to House Joint Resolution 407.

Mr. Speaker, the Senate has once again done the unexpected. This time they did the sensible thing.

They passed the clean, short-term, noncontroversial continuing resolution that we passed Tuesday with only one change. They added a sweetener of $1.1 billion as a 1989 supplemental for the costs of cleaning up from Hurricane Hugo in Puerto Rico, the Virgin Islands, and North and South Carolina.

I support that action, I know many of my constituents are extremely concerned with what has happened, particularly in Puerto Rico and the Virgin Islands, and I want to do everything I can to make sure those areas get the assistance they need in the shortest time possible.

Mr. Speaker, this seems too good to be true, but fiscal year 1990 may come and go on midnight Saturday without anyone even noticing. The lights illuminating the Washington Monument can keep on shining. The wheels of government can keep on turning. The Social Security checks can keep on securing. And the block grants can keep on blocking.

If this motion passes, we will have averted an emergency by more than 48 hours. The American democracy will not come to a grinding halt. What happened to the cataclysm, the thunder and lightning, the seven horsemen of the apocalypse?

Have we lost our flair for the dramatic? Is there no longer a fascination with looking into the abyss?

Mr. Speaker, a continuing resolution, is never a good thing, but it is a necesary thing.

The wheels of progress on appropriations are turning a little slower than they should. We need a little more time to finish our work. But I remind the Members that our wheels, slow as they may be, are spinning a whole lot faster than the other big wheels around here.

Any time the Senate keeps a clean bill clean, and a simple bill simple, we ought to take it and run.

I want to wish all of my colleagues, and all members of the Federal family a happy fiscal new year.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HERTEL). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the consideration of the Senate amendment to House Joint Resolution 407.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 3012, MILITARY CONSTRUCTION APPROPRIATION, 1990

Mr. HEFNER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3012) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. CONTE moves that the Managers on the part of the House at the conference on the disagreeing vote of the two Houses on the bill H.R. 3012, be instructed to insist on the House position on Senate Amendment number 29 with regard to the Base Closure and Realignment Accounts.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. CONTE] is recognized for 30 minutes.

Mr. CONTE. Mr. Speaker. This is a motion to instruct the conferees to the Senate amendment No. 29 with regard to the base closure and realignments accounts. We have voted on this, and I hope the House will accept it.

Mr. Speaker, I am always disheartened to propose measures which affected other Members unfavorably. Base closing has been a torment for most of those whose bases have been recommended for closure by the law we passed last July.

Tuesday of this week, the other body voted 86 to 14 to turn back an amendment to have the GAO determine whether or not a base should be closed.

It is my belief that the action of the other body, once and for all, affirms the unflinching, uncompromising support for the Base Closing Program.

Be that as it may, the base closing and realignment account is in the Defense appropriations bill in the other body. That account is in the Milcon appropriations bill on our side. It seems to me, that the execution of base closing and realignment is most appropriate in the Milcon bill.

The $500 million requested for this year, as well as the $500 million for next year which goes into the base closing account, is primarily for new construction for realignment. As we begin to implement the Base Closing Program, providing for the smooth close out of installations, movement of troops, and integration of units and functions will be uppermost concerns. We should put those Members who are most familiar with the housing stocks and facilities on our bases in control of overseeing the implementation.

In addition we need to have a unified effort in the Congress to make this all happen more efficiently.

Mr. Speaker, I think the Milcon Subcommittee is the group that should do this job. We should go on record supporting them as they meet in conference on this issue. I believe that we can enhance our position on this issue if we instruct our conferees to hold that position.

Mr. HEFNER. Mr. Speaker, if the gentleman will yield, we have no problem.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. HEFNER] is recognized for 30 minutes.

Mr. HEFNER. Mr. Speaker, the gentleman from Massachusetts [Mr. CONTE] may rest assured that we have no problems with this, and we are going to pursue the House position and see that we pursue it with all vigor.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Massachusetts [Mr. CONTE].

The motion was agreed to.

□ 1340

The SPEAKER pro tempore (Mr. HERTEL). Without objection, the Chair appoints the following conferees:

Mr. HEFNER;
Mr. ALEXANDER;
Mr. THOMAS of Georgia;
Mr. COLEMAN of Texas;
Mr. BEVILL;
Mr. DICKS;
Mr. DIXON;
Mr. FAZIO;
Mr. WHITTEN;
Mr. LOWERY of California;
Mr. EDWARDS of Oklahoma;
Mr. KOLBE;
Mr. DELAY; and
Mr. CONTE.

There was no objection.

GENERAL LEAVE

Mr. FAZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the consideration of the conference report on the bill (H.R. 3014) making appropriations for the legislative branch for the fiscal year ending September 30, 1990, and for other purposes, and that I may include extraneous and tabular material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON H.R. 3014, LEGISLATIVE BRANCH APPROPRIATIONS ACT 1990

Mr. FAZIO. Mr. Speaker, I call up the conference report on the bill (H.R. 3014) making appropriations for the legislative branch for the fiscal year ending September 30, 1990, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 25, 1989)

The SPEAKER pro tempore. The gentleman from California [Mr. FAZIO] will be recognized for 30 minutes, and the gentleman from California [Mr. LEWIS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are bringing to the floor the conference agreement on the Legislative Branch Appropriations Act for 1990. The House and Senate conferees have reached an agreement on 41 amendments of the Senate to the House bill. That agreement provides for about $50 million short of $2 billion in new budget authority for Congress and other agencies of the legislative branch for the upcoming fiscal year to begin October 1.

In reaching our agreement with the Senate, we met and even surpassed our budget ceiling goals. We are $48 million below our budget authority ceiling and right at our outlay ceiling as well.

Except for the Senate items and the Government Printing Office, the agreement is either below the Gramm-Rudman-Hollings base lines, or below the amounts provided in the current fiscal year. I intend to insert in the RECORD a tabulation of the conference agreement.

There were several amendments that related to the Library of Congress, the Government Printing Office, the operations of the Senate, and various other activities in the legislative branch. These differences were all resolved and none of them, I believe, are controversial. That leaves, however, the mail issue, which has become highly controversial.

I think that is unfortunate, because we did come out of this conference with significant reforms on mass mailings, but we did preserve at the same time our ability to communicate effectively with our constituents. I would like briefly to describe the mail agreement to my colleagues.

We have agreed to reduce postal patron newsletters from six to three a session, a 50-percent reduction. We have exempted town meeting notices for Member appearances, however, from that, making clear, however, that we do not believe it is appropriate to exempt notices for Senate staff to appear in lieu of a Senator.

We have allowed the Senate, however, to continue their office account loophole, giving them additional opportunity to mail when they reach limits on this general appropriation.

We will limit mass mailings to two sheets of paper, four sides. There will be no abuses in that area. Apparently there were allegations that Members were sending overly large bulk mail.

We have agreed to tighten up the 60-day before election rule by using a postmark criterion that augments the work that the gentleman from California [Mr. THOMAS] led us to do on the House floor on the issue of passage of this bill by the House.

All of these changes caused the Postal Service to estimate that we could save up to $40 million on our appropriation for next year as the result of the changes made in conference.

We have also reduced the appropriation and set up separate accounts to accommodate our Senate colleagues. In fact, this year we are reducing by some 26 percent the Postal Service estimate for fiscal year 1990 mail. We have split the account between the House and the Senate, allowing the House $54.6 million, which is actually almost 10 percent below this year's amount, and at the same time allowed the Senate almost $30 million, which is, I might add, 16 percent above this year's amount, giving the Senate conferees, I believe, a well won victory on

this significant issue, at least significant to our Senate colleagues.

Most importantly, perhaps, for future fiscal prudency, we have adopted procedures that will allow us to control spending on the Postal Service franking privilege when it begins to be evident that we have an inclination to go beyond our limit. The Postal Service will provide quarterly statistics on House and Senate mail volumes and costs. After the second quarter of the year, if the Postal Service projects shortfall in funding, the Senate Rules Committee and the House Franking Commission and the House Administration Committee will be advised and are authorized to issue regulations to bring congressional franking spending under control.

We also have provided, and we may hear more about this later, a fiscal year 1989 supplemental to make up for the $31.7 million shortfall which has occurred in the current fiscal year for 1989.

It is my opinion that we should never fail to pay our bills. This should be considered a mandatory payment, one that I hope all of us will agree we should make at the earliest opportunity.

I will go on to say, however, that we did not accept the Wilson amendment. I believe that amendment was a straw man. It was not well drafted. It would have put us over our budget ceilings and the Senate would have been able to ignore entirely the amendment by utilizing their own rules and statutory loopholes to take care of problems that relate specifically to the Senate and not to the House.

I think it is important that we consider the flawed Wilson amendment from three standpoints; first of all, the procedure. It is highly unlikely that if Members of the other body had been alert, the Wilson amendment would have been offered in the first place, because it was out of order under Senate rules. It was offered and adopted, I think, because of the emotional content of crack babies, which brings us to the second point. We all understand the dilemma that pregnant women who are hooked on drugs face and certainly the dilemma that faces children born to them. That emotional fact, I think, carried the day in the Senate.

I want to report that we have made a great deal of progress in meeting this real national need. Currently I can tell my colleagues that there will be at least $40 million provided to deal with this problem of prevention and treatment of pregnant women and their high-risk babies, women and children who are addicted to drugs.

There was at the time of the consideration of the bill on the House floor $15 million which had been allocated for this problem area, and subsequently as a result of the agreement between the Senate Democrats and President Bush, the so-called Byrd amendment, an additional $25 million has been made available for pregnant women and infants. As a result of an amendment that was agreed to last night on the Senate floor, agreed to by such individuals as Senators KENNEDY, WILSON, HATCH, BIDEN, and KOHL, we may well find an additional sum will be appropriated. Certainly a higher figure has been authorized.

So for those who are concerned about dealing with crack babies, we have seen both before and subsequent to the vote here on the House floor attention given to this problem.

Third and last, I would like to concentrate for a moment, however, on the question of equity between the two bodies. Under the Wilson amendment, Senators would have a loophole. They would be allowed to charge their Senate contingency fund for nonfranked mass mailings. The Senate would be in a position, for example, to charge its office account when the Senate ran short of its overall appropriation for franking purposes. Senators would be able to resort to personal funds and to campaign funds. Many Members are not aware of that because campaign funds have been prohibited in the House since the late 1970's, but Senators can commingle campaign funds and their legitimate expenses as Members of the Senate. Senate offices can be supplemented by paid employees who are paid out of campaign funds. Senators can drive automobiles on so-called official duties, paid for out of campaign funds, and Senators are certainly in a position to supplement their franking needs using postage meters or other forms of postage to avoid a prohibition on the use of franked mail.

I think it is important that we operate honestly and above board in this area. I think it would have been particularly destructive had we continued to develop the additional levels of cynicism about this institution if we had agreed to an amendment that would not have accomplished its upfront purpose. There were several methods of bypassing the Wilson prohibition, and I think it is important that we not agree to this amendment for that reason alone.

Some Members of the House would be surprised, perhaps, to know that the House mail budget was reduced by some 40 percent by that amendment, while the Senate budget was reduced by only 6 percent.

□ 1350

I think many Members of the House would be surprised to know that, unlike the way we operate, the Senate subsidizes their mailing programs by causing the printing expenses to be allocated to the budget of the Sergeant at Arms, and the purchase of paper costs to be allocated to the Government Printing Office.

We did not have a level playing field, and I think it was particularly important that the House reject that amendment and move on to other reforms that can be rationally agreed to and which really go to the essence of the criticism that we have been hearing from some quarters.

With respect to the Wilson amendment, the elimination of "unsolicited" mass mailings are unfair to the American public who need information from Congress on catastrophic, budget deficit, changes in retirement, health care, legislative agenda. It would be unfair to Congressmen whose only opportunity to acquire public opinion is by using questionnaires or surveys. It would be unfair to House Members because, while WILSON says no more frank for mass mailings, the Senate created a loophole in their own financing to use their office accounts and campaign funds for metered mass mailings. There are many ways to get around the mass mailing ban, for example, generate "planted" general solicitation from interest groups; many 499 volume mailings; many more costly first-class addressed mailings; and so forth. Thus, the Wilson ban could lead to more expensive mailings, or methods to avoid which would yield public and media resentment and cynicism.

To recap the spirit of WILSON is achieved by reforms agreed to by conferees: Reduced newsletters, tightened 60-day rule, Postal Service tabulations, elimination of staff meeting notices, and projected overrruns will be referred to appropriate Senate committee or House committee or the Franking Commission.

The Wilson amendment would have been a bad deal for the House and a bad deal for the American public.

We have newsletter reform. We reduced the appropriation significantly. And we have instituted controls. We have a good and responsible compromise.

Mr. Speaker, the agreement worked out with the Senate conferees is a fair one and one that I believe can be supported by all Members.

I ask for an aye vote on the conference report.

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared with Enacted
TITLE I - CONGRESSIONAL OPERATIONS						
SENATE						
Mileage and Expense Allowances						
Mileage of the Vice President and Senators	60,000	60,000	---	60,000	60,000	---
Expense allowances						
Vice President	10,000	10,000	---	10,000	10,000	---
President Pro Tempore of the Senate	10,000	10,000	---	10,000	10,000	---
Majority Leader of the Senate	10,000	10,000	---	10,000	10,000	---
Minority Leader of the Senate	10,000	10,000	---	10,000	10,000	---
Majority Whip of the Senate	5,000	5,000	---	5,000	5,000	---
Minority Whip of the Senate	5,000	5,000	---	5,000	5,000	---
Chairmen of the Majority Conference Committee	3,000	3,000	---	3,000	3,000	---
Chairmen of the Minority Conference Committee	3,000	3,000	---	3,000	3,000	---
Representation allowances for the Majority and Minority Leaders	20,000	20,000	---	30,000	30,000	+10,000
Total, expense allowances	76,000	76,000	---	86,000	86,000	+10,000
Total, Vice President and Senators	136,000	136,000	---	146,000	146,000	+10,000
Salaries, Officers and Employees						
Office of the Vice President	1,168,000	1,216,000	---	1,216,000	1,216,000	+48,000
Office of the President Pro Tempore	156,000	296,000	---	296,000	296,000	+140,000
Office of the Deputy President Pro Tempore	23,000	---	---	---	---	-23,000
Offices of the Majority and Minority Leaders	1,416,000	1,474,000	---	1,474,000	1,474,000	+58,000
Offices of the Majority and Minority Whips	440,000	458,000	---	458,000	458,000	+18,000
Conference committees	1,135,000	1,323,000	---	1,323,000	1,323,000	+188,000
Offices of the secretaries of the Conference of the Majority and the Conference of the Minority	279,000	290,000	---	290,000	290,000	+11,000
Office of the Chaplain	117,000	122,000	---	147,000	147,000	+30,000
Office of the Secretary	8,165,000	8,852,000	---	8,852,000	8,852,000	+687,000
Office of the Sergeant at Arms and Doorkeeper	24,987,000	52,020,000	---	28,000,000	28,000,000	+3,013,000
Offices of the secretaries for the Majority and Minority	944,000	983,000	---	983,000	983,000	+39,000
Agency contributions	10,425,000	18,770,000	---	11,980,000	11,980,000	+1,555,000
Total, salaries, officers and employees	49,255,000	85,804,000	---	55,019,000	55,019,000	+5,764,000
Office of the Legislative Counsel of the Senate						
Salaries and expenses	1,799,000	3,036,000	---	2,079,000	2,079,000	+280,000
Reappropriation	---	---	---	100,000	100,000	+100,000
Office of Senate Legal Counsel						
Salaries and expenses	646,000	676,000	---	676,000	676,000	+30,000
Expense allowances of the Secretary of the Senate, Sergeant at Arms and Doorkeeper of the Senate, and secretaries for the Majority and Minority of the Senate	12,000	12,000	---	12,000	12,000	---
Contingent Expenses of the Senate						
Senate policy committees	2,203,000	2,203,000	---	2,203,000	2,203,000	---
Inquiries and investigations	62,673,000	69,442,000	---	69,442,000	69,442,000	+6,769,000
Expenses of United States Senate Caucus on International Narcotics Control	325,000	325,000	---	325,000	325,000	---
Secretary of the Senate	727,200	727,200	---	727,200	727,200	---
Sergeant at Arms and Doorkeeper of the Senate	65,643,000	81,520,000	---	74,389,000	74,389,000	+8,746,000
Reappropriation	3,600,000	---	---	---	---	-3,600,000
Miscellaneous items	6,180,000	7,506,000	---	7,506,000	7,506,000	+1,326,000
Senators' official personnel and office expense account	151,065,000	161,124,000	---	161,124,000	161,124,000	+10,059,000
Stationery (revolving fund)	13,000	13,000	---	13,000	13,000	---
Senate Offical Mail Costs	---	---	---	32,000,000	---	---
Total, contingent expenses of the Senate	292,429,200	322,860,200	---	347,729,200	315,729,200	+23,300,000
Total, Senate	344,277,200	412,524,200	---	405,761,200	373,761,200	+29,484,000
HOUSE OF REPRESENTATIVES						
Payments to Widows and Heirs of Deceased Members of Congress						
Gratuities, deceased Members	447,500	---	89,500	89,500	89,500	-358,000
Mileage of Members						
Mileage of Members	210,000	210,000	210,000	210,000	210,000	---
Salaries and Expenses						
House Leadership Offices						
Office of the Speaker	902,000	938,000	1,019,000	1,019,000	1,019,000	+117,000
Office of the Majority Floor Leader	828,000	854,000	940,000	940,000	940,000	+112,000
Office of the Minority Floor Leader	926,000	962,000	1,041,000	1,041,000	1,041,000	+115,000
Office of the Majority Whip	733,000	769,000	755,000	755,000	755,000	+22,000
Office of the Minority Whip	635,000	661,000	654,000	654,000	654,000	+19,000
Total, House leadership offices	4,024,000	4,184,000	4,409,000	4,409,000	4,409,000	+385,000

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared with Enacted
Members' Clerk Hire						
Clerk hire	178,828,000	189,974,000	188,074,000	188,074,000	188,074,000	+9,246,000
Committee Employees						
Professional and clerical employees of standing committees	51,067,000	71,338,000	55,000,000	55,000,000	55,000,000	+3,933,000
Committee on the Budget (Studies)						
Salaries and expenses	336,000	390,000	354,000	354,000	354,000	+18,000
Contingent Expenses of the House						
Standing Committees, Special and Select						
Salaries and expenses	54,092,000	73,579,000	57,716,000	57,716,000	57,716,000	+3,624,000
Allowances and Expenses						
Official Expenses of Members	82,068,000	82,341,000	76,341,000	76,341,000	76,341,000	-5,727,000
Supplies, materials, administrative costs and Federal tort claims	21,193,000	19,577,000	19,577,000	19,577,000	19,577,000	-1,616,000
Office equipment	---	16,276,000	9,276,000	9,276,000	9,276,000	+9,276,000
Furniture and furnishings	1,265,000	1,130,000	1,130,000	1,130,000	1,130,000	-135,000
Stenographic reporting of committee hearings	800,000	800,000	800,000	800,000	800,000	---
Reemployed annuitants reimbursements	1,380,000	1,380,000	1,380,000	1,380,000	1,380,000	---
Government contributions	69,835,000	86,361,000	77,973,000	77,973,000	77,973,000	+8,138,000
Miscellaneous items	622,000	622,000	622,000	622,000	622,000	---
Total, allowances and expenses	177,163,000	208,487,000	187,099,000	187,099,000	187,099,000	+9,936,000
Total, contingent expenses of the House	231,255,000	282,066,000	244,815,000	244,815,000	244,815,000	+13,560,000
Committee on Appropriations (Studies and Investigations)						
Salaries and expenses	4,429,000	4,712,000	4,660,000	4,660,000	4,660,000	+231,000
Salaries, Officers and Employees						
Office of the Clerk	15,905,000	18,439,000	17,514,000	17,514,000	17,514,000	+1,609,000
Office of the Sergeant at Arms	951,000	1,084,000	1,001,000	1,001,000	1,001,000	+50,000
Office of the Doorkeeper	7,525,000	8,972,000	8,747,000	8,747,000	8,747,000	+1,222,000
Office of the Postmaster	2,610,000	3,028,000	3,028,000	3,028,000	3,028,000	+418,000
Office of the Chaplain	78,000	81,000	81,000	81,000	81,000	+3,000
Office of the Parliamentarian	746,000	772,000	772,000	772,000	772,000	+26,000
Office of the Parliamentarian	(526,000)	(552,000)	(552,000)	(552,000)	(552,000)	(+26,000)
Compilation of precedents of the House of Representatives	(220,000)	(220,000)	(220,000)	(220,000)	(220,000)	---
Office of the Historian	261,000	279,000	279,000	279,000	279,000	+18,000
Office of the Law Revision Counsel	954,000	1,032,000	1,032,000	1,032,000	1,032,000	+78,000
Office of the Legislative Counsel	3,222,000	3,601,000	3,400,000	3,400,000	3,400,000	+178,000
Six minority employees	521,000	543,000	543,000	543,000	543,000	+22,000
House Democratic Steering Committee and Caucus	803,000	937,000	967,000	967,000	967,000	+164,000
House Democratic Steering Committee	(644,000)	(776,000)	(682,000)	(682,000)	(682,000)	(+38,000)
House Democratic Caucus	(159,000)	(161,000)	(285,000)	(285,000)	(285,000)	(+126,000)
House Republican Conference	803,000	937,000	967,000	967,000	967,000	+164,000
Other Authorized Employees	1,182,000	1,399,000	1,264,000	1,264,000	1,264,000	+82,000
Technical assistant, Office of the Attending Physician	(66,000)	(115,000)	(115,000)	(115,000)	(115,000)	(+49,000)
L.B.J. Interns and Former Speakers' staff	(1,014,000)	(1,181,000)	(1,046,000)	(1,046,000)	(1,046,000)	(+32,000)
Miscellaneous items	(102,000)	(103,000)	(103,000)	(103,000)	(103,000)	(+1,000)
Total, salaries, officers and employees	35,561,000	41,104,000	39,595,000	39,595,000	39,595,000	+4,034,000
Total, salaries and expenses	505,500,000	593,768,000	536,907,000	536,907,000	536,907,000	+31,407,000
Total, House of Representatives	506,157,500	593,978,000	537,206,500	537,206,500	537,206,500	+31,049,000
JOINT ITEMS						
Joint Committees						
Joint Committee on Inaugural Ceremonies of 1989	775,000	---	---	---	---	-775,000
Contingent Expenses of the Senate						
Joint Economic Committee	3,330,000	3,555,000	3,518,000	3,518,000	3,518,000	+188,000
Joint Committee on Printing	1,143,000	1,326,000	1,191,000	1,191,000	1,191,000	+48,000
Total, contingent expenses of the Senate	4,473,000	4,881,000	4,709,000	4,709,000	4,709,000	+236,000
Contingent Expenses of the House						
Joint Committee on Taxation	4,346,000	4,422,000	4,372,000	4,372,000	4,372,000	+26,000
Office of the Attending Physician						
Medical supplies, equipment, expenses, and allowances	1,414,000	1,414,000	1,405,000	1,405,000	1,405,000	-9,000
CAPITOL POLICE BOARD						
Capitol Police						
Salaries:						
Sergeant at Arms of the House of Representatives	25,673,000	29,627,000	27,548,000	27,548,000	27,548,000	+1,875,000
Sergeant at Arms and Doorkeeper of the Senate	27,249,000	29,826,000	28,105,000	28,150,000	28,105,000	+856,000
Contingency	---	---	600,000	600,000	600,000	+600,000
General expenses	1,887,000	2,292,000	1,884,000	1,884,000	1,884,000	-3,000
Total, Capitol Police Board	54,809,000	61,745,000	58,137,000	58,182,000	58,137,000	+3,328,000

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared with Enacted
Official Mail Costs						
Expenses	53,926,000	134,731,000	124,532,000	48,000,000	---	-53,926,000
1989 Supplemental (in H.R. 3014)	31,721,000	---	---	---	---	-31,721,000
Senate Official Mail Costs	---	---	---	---	29,379,000	+29,379,000
House Official Mail Costs	---	---	---	---	54,561,000	+54,561,000
Total, Official Mail Costs	85,647,000	134,731,000	124,532,000	48,000,000	83,940,000	-1,707,000
Capitol Guide Service						
Salaries and expenses	1,220,000	1,397,000	1,335,000	1,397,000	1,345,000	+125,000
Special Services Office						
Salaries and expenses	---	---	237,000	---	237,000	+237,000
Statements of Appropriations						
Preparation	20,000	20,000	20,000	20,000	20,000	---
Total, joint items	152,704,000	208,610,000	194,747,000	118,085,000	154,165,000	+1,461,000
OFFICE OF TECHNOLOGY ASSESSMENT						
Salaries and expenses	17,937,000	19,655,000	18,705,000	19,000,000	18,900,000	+963,000
BIOMEDICAL ETHICS BOARD AND BIOMEDICAL ETHICS ADVISORY COMMITTEE						
Salaries and expenses	---	2,359,000	1,500,000	1,500,000	1,500,000	+1,500,000
Reappropriation	241,000	---	---	---	---	-241,000
Total, Biomedical Ethics Board	241,000	2,359,000	1,500,000	1,500,000	1,500,000	+1,259,000
CONGRESSIONAL BUDGET OFFICE						
Salaries and expenses	18,361,000	19,950,000	19,580,000	19,580,000	19,580,000	+1,219,000
ARCHITECT OF THE CAPITOL						
Office of the Architect of the Capitol						
Salaries	6,532,000	6,936,000	6,860,000	6,860,000	6,860,000	+328,000
Contingent expenses	100,000	100,000	100,000	100,000	100,000	---
Total, Office of the Architect of the Capitol	6,632,000	7,036,000	6,960,000	6,960,000	6,960,000	+328,000
Capitol Buildings and Grounds						
Capitol buildings	15,471,000	24,916,000	15,938,000	16,190,000	16,122,000	+651,000
Capitol grounds	3,771,000	4,536,000	4,049,000	4,331,000	4,331,000	+560,000
Senate Office Buildings	24,086,000	45,118,000	---	35,320,000	35,320,000	+11,234,000
House Office Buildings	28,895,000	49,295,000	27,875,000	27,875,000	27,875,000	-1,020,000
Capitol Power Plant	26,735,000	37,558,000	27,913,000	27,913,000	27,913,000	+1,178,000
Offsetting collections	-1,950,000	-2,300,000	-2,300,000	-2,300,000	-2,300,000	-350,000
Net, Capitol Power Plant	24,785,000	35,258,000	25,613,000	25,613,000	25,613,000	+828,000
Total, Capitol buildings and grounds	97,008,000	159,123,000	73,475,000	109,329,000	109,261,000	+12,253,000
Total, Architect of the Capitol (except items in Title II)	103,640,000	166,159,000	80,435,000	116,289,000	116,221,000	+12,581,000
LIBRARY OF CONGRESS						
Congressional Research Service						
Salaries and expenses	44,684,000	49,806,000	46,670,000	47,518,000	46,895,000	+2,211,000
Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives						
Expenses	---	3,280,000	---	---	---	---
Total, Library of Congress (except items in title II)	44,684,000	53,086,000	46,670,000	47,518,000	46,895,000	+2,211,000
GOVERNMENT PRINTING OFFICE						
Congressional printing and binding	72,000,000	84,900,000	77,830,000	79,230,000	77,830,000	+5,830,000
JOHN C. STENNIS CENTER						
John C. Stennis Center fund for Public Service Training and Development	7,500,000	---	---	---	---	-7,500,000
Total, title I - Congressional Operations	1,267,501,700	1,561,221,200	976,673,500	1,344,169,700	1,346,058,700	+78,557,000

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared with Enacted
TITLE II - OTHER AGENCIES						
BOTANIC GARDEN						
Salaries and expenses	2,521,000	3,161,000	2,638,000	2,638,000	2,638,000	+117,000
LIBRARY OF CONGRESS						
Salaries and expenses	153,042,000	174,814,000	164,075,000	166,046,000	164,186,000	+11,144,000
Authority to spend receipts	-5,000,000	-5,700,000	-5,700,000	-5,700,000	-5,700,000	-700,000
Net, Salaries and expenses	148,042,000	169,114,000	158,375,000	160,346,000	158,486,000	+10,444,000
Copyright Office, salaries and expenses	19,697,000	21,129,000	20,373,000	20,556,000	20,373,000	+676,000
Authority to spend receipts	-8,034,000	-8,139,000	-8,139,000	-8,139,000	-8,139,000	-105,000
Net, Copyright Office, salaries and expenses	11,663,000	12,990,000	12,234,000	12,417,000	12,234,000	+571,000
Books for the blind and physically handicapped, salaries and expenses	36,474,000	39,205,000	37,801,000	37,801,000	37,801,000	+1,327,000
Furniture and furnishings	3,381,000	4,378,000	2,579,000	2,579,000	2,579,000	-802,000
National Film Preservation Board	250,000	---	---	---	---	-250,000
Total, Library of Congress (except items in title I)	199,810,000	225,687,000	210,989,000	213,143,000	211,100,000	+11,290,000
ARCHITECT OF THE CAPITOL						
Library Buildings and Grounds						
Structural and mechanical care	7,500,000	8,825,000	7,167,000	7,287,000	7,167,000	-333,000
COPYRIGHT ROYALTY TRIBUNAL						
Salaries and expenses	633,000	674,000	674,000	674,000	674,000	+41,000
Authority to spend receipts	-510,000	-539,000	-573,000	-573,000	-573,000	-63,000
Net, Salaries and expenses	123,000	135,000	101,000	101,000	101,000	-22,000
GOVERNMENT PRINTING OFFICE						
Office of Superintendent of Documents, salaries and expenses	13,731,000	25,500,000	17,188,000	17,188,000	17,188,000	+3,457,000
Reappropriation	---	---	3,000,000	3,000,000	3,000,000	+3,000,000
(By transfer)	(11,424,000)	---	(4,312,000)	(4,312,000)	(4,312,000)	(-7,112,000)
GENERAL ACCOUNTING OFFICE						
Salaries and expenses	347,339,000	385,354,000	364,720,000	364,720,000	364,720,000	+17,381,000
(By transfer)	---	(5,564,000)	(5,564,000)	(5,564,000)	(5,564,000)	(+5,564,000)
GENERAL SERVICES ADMINISTRATION						
Expenses, Presidential Transition	2,000,000	---	---	---	---	-2,000,000
Total, title II - other agencies	573,024,000	648,662,000	605,803,000	608,077,000	605,914,000	+32,890,000
TITLE III						
GENERAL PROVISIONS						
House of Representatives						
Payments to Widows and Heirs of Deceased Members of Congress						
Gratuities, deceased Members	---	---	---	179,000	179,000	+179,000
Model Project Programs for Pregnant and Post Partum Women and Their Infants						
Expenses	---	---	---	45,000,000	---	---
Total, title III - General Provisions	---	---	---	45,179,000	179,000	+179,000
Grand total:						
New budget (obligational) authority	1,840,525,700	2,209,883,200	1,582,476,500	1,997,425,700	1,952,151,700	+111,626,000
Appropriations	(1,836,684,700)	(2,209,883,200)	(1,579,476,500)	(1,994,325,700)	(1,949,051,700)	(+112,367,000)
Reappropriations	(3,841,000)	---	(3,000,000)	(3,100,000)	(3,100,000)	(-741,000)
(By transfer)	(11,424,000)	(5,564,000)	(9,876,000)	(9,876,000)	(9,876,000)	(-1,548,000)
RECAPITULATION						
TITLE I - CONGRESSIONAL OPERATIONS	1,267,501,700	1,561,221,200	976,673,500	1,344,169,700	1,346,058,700	+78,557,000
TITLE II - OTHER AGENCIES	573,024,000	648,662,000	605,803,000	608,077,000	605,914,000	+32,890,000
TITLE III - GENERAL PROVISIONS	---	---	---	45,179,000	179,000	+179,000

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared with Enacted
TITLE I - CONGRESSIONAL OPERATIONS						
Senate	344,277,200	412,524,200	---	405,761,200	373,761,200	+29,484,000
House of Representatives	506,157,500	593,978,000	537,206,500	537,206,500	537,206,500	+31,049,000
Joint Items	152,704,000	208,610,000	194,747,000	118,085,000	154,165,000	+1,461,000
Office of Technology Assessment	17,937,000	19,655,000	18,705,000	19,000,000	18,900,000	+963,000
Biomedical Ethics Board (includes reappropriation in 1989)	241,000	2,359,000	1,500,000	1,500,000	1,500,000	+1,259,000
Congressional Budget Office	18,361,000	19,950,000	19,580,000	19,580,000	19,580,000	+1,219,000
Architect of the Capitol (except Library buildings and grounds)	103,640,000	166,159,000	80,435,000	116,289,000	116,221,000	+12,581,000
Library of Congress:						
Congressional Research Service	44,684,000	49,806,000	46,670,000	47,518,000	46,895,000	+2,211,000
Civic Achievement Award Program in honor of the Speaker of the House of Representatives	---	3,280,000	---	---	---	---
Congressional printing and binding, Government Printing Office	72,000,000	84,900,000	77,830,000	79,230,000	77,830,000	+5,830,000
John C. Stennis Center	7,500,000	---	---	---	---	-7,500,000
Total, title I - congressional operations	1,267,501,700	1,561,221,200	976,673,500	1,344,169,700	1,346,058,700	+78,557,000
TITLE II - OTHER AGENCIES						
Botanic Garden	2,521,000	3,161,000	2,638,000	2,638,000	2,638,000	+117,000
Library of Congress (except items in title I)	199,810,000	225,687,000	210,989,000	213,143,000	211,100,000	+11,290,000
Architect of the Capitol (Library buildings and grounds)	7,500,000	8,825,000	7,167,000	7,287,000	7,167,000	-333,000
Copyright Royalty Tribunal	123,000	135,000	101,000	101,000	101,000	-22,000
Government Printing Office (except congressional printing and binding)	13,731,000	25,500,000	17,188,000	17,188,000	17,188,000	+3,457,000
Reappropriation	(3,600,000)	---	(3,000,000)	(3,100,000)	(3,100,000)	(-500,000)
(By transfer)	(11,424,000)	---	(4,312,000)	(4,312,000)	(4,312,000)	(-7,112,000)
General Accounting Office	347,339,000	385,354,000	364,720,000	364,720,000	364,720,000	+17,381,000
(By transfer)	---	(5,564,000)	(5,564,000)	(5,564,000)	(5,564,000)	(+5,564,000)
General Services Administration	2,000,000	---	---	---	---	-2,000,000
Total, title II - other agencies	573,024,000	648,662,000	605,803,000	608,077,000	605,914,000	+32,890,000
TITLE III - GENERAL PROVISIONS						
Payments to Widows and Heirs of Deceased Members of Congress	---	---	---	179,000	179,000	+179,000
Model Project Programs for Pregnant and Post Partum Women and Their Infants	---	---	---	45,000,000	---	---
Total, title III - General Provisions	---	---	---	45,179,000	179,000	+179,000
Grand total, new budget (obligational) authority	1,840,525,700	2,209,883,200	1,582,476,500	1,997,425,700	1,952,151,700	+111,626,000
Appropriations	(1,836,684,700)	(2,209,883,200)	(1,579,476,500)	(1,994,325,700)	(1,949,051,700)	(+112,367,000)
Reappropriations	(3,841,000)	---	(3,000,000)	(3,100,000)	(3,100,000)	(-741,000)
(By transfer)	(11,424,000)	(5,564,000)	(9,876,000)	(9,876,000)	(9,876,000)	(-1,548,000)

Mr. Speaker, I reserve the balance of my time.

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before discussing the bill before us, I would ask my colleagues to focus for just a moment upon a related but not exactly on-target consideration as we address this measure. From time to time, the gentleman from California [Mr. DELLUMS] and I spend a little time together in another room in this building, and there frequently we have occasion to spend some casual time with my chairman, the gentleman from California [Mr. FAZIO]. I wanted to mention to the body, as we are considering this measure, that it is appropriate that once in a while we step back and take a direct look at colleagues who are of special service to this House. My chairman, the gentleman from California [Mr. FAZIO], like very few among us, spends a lot of his energy and time not just in that room where the gentleman from California [Mr. DELLUMS] and I are, but, rather, in the House serving its membership.

This bill is not a simple bill. It is a difficult one in part because the House loves to beat itself on the chest individually and collectively as to how tough we can be on our own budget, this legislative branch bill contains items which are of interest to the membership. Few in this House make the contribution that the gentleman from California [Mr. FAZIO] does to all of those efforts, and so at the beginning of these comments, both the gentleman from California [Mr. DELLUMS] and I wanted to come together and express our support and appreciation for the work of our chairman.

Having said that, Mr. Speaker, let us hear it for the gentleman from California [Mr. FAZIO]. He does not get those pictures in the Washington Post easily, friends.

Having said that, Mr. Speaker, I have indicated that this is not an easy bill. The report that is before us, coming from the conference committee, is not perfect by any matter or means, and with it, I am not entirely satisfied. My chairman did refer to what is now being called the Wilson amendment, and I had hoped that our final product would have been closer to the direction that the Wilson amendment would have taken us.

Essentially Senator WILSON from California raised the reality on his side that within this bill we do spend an awful lot of the taxpayers' money essentially tooting our own forms. We spend a lot of mail money sending missiles to our individual districts that are designed more than anything to build our own name identification, and it was the Senator's point that maybe we ought to recognize that reality, and that within this bill, as well as many others, we can afford to look at cutting back to see if we cannot meet other major challenges that are before us. He highlighted the tragic problem of crack babies and suggested that if we eliminate unsolicited junk mail we would reallocate the savings—some $45 million—to help with the problem of crack babies. Indeed, we would be making a significant contribution to that very critical problem.

Our citizens have figured out that these mass mailings are primarily designed to drive up name-identification. The valuable public services that newsletters could provide—by detailing the legislative process, setting forth public-policy challenges, or sketching compelling world trends—are usually ignored in the bipartisan quest for more photos, more political calling cards, and more incumbency protection.

I had hoped to see a much greater implementation of the Wilson amendment.

My colleague and chairman suggest that there are measures moving through the process that address that crack-baby problem, for example. I must say, as he points to that current reality, it also raises another point that is important for me to mention regarding this conference. There were aspects of our conference discussion that I am not very happy with or about.

When one comes into conference with the other body, they hope to have a candid and open discussion. As I talked about the Wilson amendment, for example, in that meeting, one of my colleagues from the other body, with information coming then from his staff, suggested that adequate funds already exist, in another appropriations bill providing $43 million for the crack-baby problem.

In trying to verify that statement over the last 24 hours, I concluded that it was, at best, misinformation.

One, minuscule amounts are in fact proposed—in a bill which has yet to complete the legislative process.

Two, of those sums, a minor $4.5 million might—and I emphasize might—be available for drug babies.

This is hardly an adequate response to the vote in the other body of 83 to 8 in support of Wilson—or to the 245 to 137 House vote directing our conferees to accept the Wilson proposal.

$4.5 million is a long ways away from the Wilson objective and from my objective. That sort of is misleading information in conference and does not lead to strengthening the comity that should exist between the two bodies.

Mr. Speaker, I point to that, because I want to say to my chairman that we have been able to work very, very closely together, and comity has existed. If we have that sort of what I consider to be misleading direction in conferences in the future, I may not be so readily aboard this train of comity as I have in the past.

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of California. I am happy to yield to the gentleman from California.

Mr. FAZIO. Mr. Speaker, I wanted to make sure our colleagues understood that the gentleman's concern related to statements made by people from the other body, and that the comments I have made today on the floor about where we stand in meeting this real human need are accurate. Is that correct? The situation is even better today having had the Senate agree to a compromise with the administration on drug funding yesterday. The gentleman is correct that on Monday some of the things that were said were, at best, prospective. They had not already occurred, but today I think it is fair to say we do stand in better position to deal with the crack-baby issue than we did on Monday. Is that the gentleman's gist?

Mr. LEWIS of California. Mr. Speaker, I think there is no question about that. But I must say to my chairman that at the time of our conference the gentlemen from the other body had no way of knowing what was going to occur, and they absolutely, in my judgment, were providing information for convenience to make a point that was misleading to the members of the conference. That is the point that I really want to make. I appreciate the gentleman's concern about the issue.

Mr. Speaker, we will have some further discussion regarding particularly the frank and those services available to the membership in this conference report.

During the earlier discussion of this measure when we brought it out of committee for its first hearing before the Members, I had planned to present an amendment which would have reduced frank mailing. It was my objective to reduce what is known as postal patron from currently available six mailings per year to two. I found that there was a good deal of concern about moving that far within the House on both sides of the aisle. I was encouraged by many on my side of the aisle not to go as far as a reduction to two. In response my amendment was changed so that it would have reduced newsletters from 6 to 4. As a result of, in part, the Wilson amendment pressure and in part the work of my chairman, this conference report reduces the postal patron services available from 6 to 3, further than my earlier amendment.

Progress has been made that is significant progress. My colleague, the gentleman from California [Mr. THOMAS], proposed an amendment that would make sure that such bulk mailing was out of our folding room and on its way to patrons' homes, by the current 60-day limitation prior to an election.

That 60-day amendment designed by the gentleman from California [Mr. THOMAS], indeed, is a significant improvement.

□ 1400

We are taking steps progressively to make certain that our mail is used to communicate with our citizens about those subjects of which they have serious concern rather than just to service ourselves for the sake of election politics.

The bill is not a perfect bill. We are progressively moving down the right path. Because of that, I urge my colleagues to look closely at what we have done, and support the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. FAZIO. Mr. Speaker, I yield 8 minutes to my good friend, the gentleman from Wisconsin. [Mr. OBEY].

Mr. OBEY. Mr. Speaker, first of all let me express my thanks to the chairman for his time, and to express my admiration to both gentlemen from California, both the chairman and the ranking member of the subcommittee. They do a lot of yeoman work on behalf of this institution and the people we serve, and I appreciate that fact.

Mr. Speaker, I want to talk a little bit about the philosophical questions involved in limitations on the frank. I will not take what is I suppose a popular view, but nonetheless it is my view, and it is honestly held.

I do not know if Members saw "Nightline," but last night we had one of the most revealing discussions that I have ever seen on national television at least on a non-PBS network discussing the institutional arrangements between the press and the White House. And Michael Deaver, who used to handle press relations for President Reagan, said this about the national networks, he said:

> I found the network press fairly manageable. We gave you plenty of theater. We looked 6 weeks down the road and thought about what the picture would be. If you could figure the visual angle, you can make the evening news every night.

I thought those comments were very revealing. They do not say anything about partisan politics, but they do say a lot of things about institutional politics, the politics which goes on every day between the executive and the legislative branches.

I would simply point out that Mr. Deaver points out how easy it is for the President, whatever party he is, to be on the evening news every single night if he wants in communication with every single family in America who has the boob tube on.

In addition to that, the President has access, almost automatic access, to every single family any time he asks the networks for time. It is only on rare occasions when he is turned down.

Larry Grossman, president of NBC, on that same program last night after Mr. Deaver comments said:

> Well, frankly, that doesn't bother me much.

He said:

It's the President's job to set the agenda and our job in the press to follow it.

I do not agree that it is the way it ought to be, but I do agree that is the way it is. And it seems to me that has some implication for the Congress as an institution. Because what it means is that while the President has instant access to the mind and soul of America every night on network television, under our limited franking ability it means that up until now we have had the ability six times during the year, six times a year, once every 60 days to enter the dialog, if we choose, with a newsletter of our own telling people how we see the issues. I have here every postal patron newsletter that I have published the last 4 years in case anybody wants to take a look at them. That is what I have in the main tried to do. I do not pretend to be Percy Pureheart, but I have tried in the main to keep my newsletters focused on issues.

So I would point out that every time the President wants to he can go on national networks and talk to the American people. He gets to have his picture of things presented to the American people virtually every night. He can roll out good old Air Force One every time he wants and use that to help him in his effort to communicate. And I do not begrudge him any of that, because he is the President of the greatest country in the free world, and he needs access to the people he is supposed to lead. But so do we.

If we are to be anything other than lilliputian partners in establishing that dialog, we need to be able to enter the fray once in a while, and the only communication tool we have, since we do not have instant access to network television, and we speak in 435 different voices, the only tool that we have is to communicate our views through the use of the frank. And I would submit that philosophically postal patrons are a much better way to do that than individually targeted mail, because individually targeted mail usually winds up going to those folks who are on some list. The State of California, for instance, provides every Member, if they want it, it is my understanding a computerized list of every registered voter. My State does not do that.

But if you send to a postal patron you are getting to everybody, you are telling everybody the same thing, and you are getting to those folks who are not registered to vote, you are getting to the people who move too often to be on anybody's list, and you get to the people who are not so well connected that they are on every organized group list that can be pulled together. I submit it is a much more Democratic way to communicate with people, and it is a much more equitable way.

I would also suggest one other thing. People say the Congress ought to stand up and have more guts and do what is right and oppose special interests. Thats right. But special interests can flood your district with mail. The chamber of commerce can tell you and your district how you should vote on an issue; the AFL-CIO can tell you and your district how you should vote on an issue; the S&L people can tell how to vote on savings and loans; and if you are going to cast a tough vote, the only device you have to explain to everybody, not just the organized few, the only device you have to explain those votes is the use of a special parton newsletter. And we are supposed to eliminate the one tool which gives us the ability to do that?

Ladies and gentleman, I do not think that is institutionally the right thing to do. I do not think that serves the interests of the country.

I would make one other point. Before we become too guilt-ridden about our refusal to cave in to the Senate, I would suggest that this House does not need any lectures from the U.S Senate when, as the chairman pointed out, they have the cute ability to hide the true costs of their communications by charging off to the entire institution rather than to there own office accounts the cost of their printing, the cost of their paper. The also have the ability to go to a PAC, take $5,000 from that PAC, put it in their campaign fund and then again put that money from their campaign committee right into their office account and mail what is supposed to be official mail out of what is essentially political contribution money. That makes an institution that allows that either a wholly-owned or a partially-owned subsidiary of every Senator's favorite private contributor, and I do not think that is the way to do business.

The business we do here ought to be public business that ought to be paid for publicly. I thought not be privately financed by somebody's favorite campaign contributor.

So I would simply say, I do not like this compromise, and I did not sign the conference report because I did not think we went at the Senate enough in terms of closing their loopholes. But I recognize the spot that the gentleman are in on both sides of the aisle. It is a reasonable compromise. On occasion I do not go along with reasonable compromises. But this one is more reasonable I suppose than could have been expected, given the action on the part of the other body.

I would simply ask that Members to do one other thing. Vote today publicly the way you talk to me privately. Do not do what so many of you did last week when you voted for an amendment on franking and then came to us and said, "Look, I didn't want to vote for that amendment. I hope you guys turn it around in conference."

If you belong here you ought to have guts enough to vote today, on the board, publicly the way you talk privately when the vote machine is turned off. If you cannot do that, you ought to go home and stay home.

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Speaker, I hope I can concur with the gentleman's last statement. I hope my public position is the same, and I think the gentleman knows, as my private position, which is that when the House instructed the conferees there was meaning to it. Now were there Members who may have voted one way and meant another thing? Perhaps. If they all came to see the gentleman, perhaps that is so.

□ 1410

I thought our votes were supposed to mean something around here. I thought when we instructed conferees, that was supposed to mean something.

So I am going to suggest a difference in viewpoint. This is not meant to in any way diminish the members of the committee. I understand the difficult jobs they have. Legislative appropriations are not fun, and I must say I have been working with a number of them and have learned to respect and like them. But you can differ and in this case you are wrong.

Using the other body's wrongs as a rationalization for what we do is not the way mature adults must behave. I think that we must look at what our actions are. This House said that we were willing to give up newsletters. Are some of them real good? Yes. I will bet the gentleman from Wisconsin's are. I think mine are.

I even write most of them. So I take credit for the bad and the good.

But do we have to have a lot of them? The answer to that is a quick "No."

I did hear many Members saying this is awful, we should not be doing this; some of the same Members who said, "Let's take from defense to give to the drugs."

If you take from defense but you cannot take from newsletters, have we not gotten something a little worked out here?

Now the gentleman, the ranking member, says it has been a good compromise because we got down to three. That moves me a bit.

Why not get it down to one? Why not do a newsletter if that is what you have to have, that at the end you tell people what we have done and have not done around here?

But I would like to disagree almost totally with the gentleman from Wis-

consin who says, "How else do you communicate?"

I believe in my district and in other districts there are radio, television, newspapers that do a job. It may not be NBC or the "Today Show," it may not be a CBS show that is cabled around the country, but they do fine work.

I think that is enough.

Remember, House, what you asked our conferees to do and which they ignored almost totally. I hope we change this back.

Mr. FAZIO. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I would like to rise to rebut the comments of the distinguished gentlewoman from Illinois and make the following observation: Whatever we do here in this body takes place in the context of a very fragile frame work. That is a representative form of government committed to democratic principles. It would seem to me that one of the significant principles upon which we operate here is the ability of people's Representatives to communicate directly with their constituency, unencumbered by a third party, not filtered through the eyes of a reporter or a television camera.

We should have the opportunity to communicate unencumbered by any other party. That is what representative government is all about.

The second observation that I would make is this: To associate newsletters that give us the opportunity to directly communicate, to keep the American people knowledgeable about what it is we do on a daily basis here, and the military budget is a flight into fantasy.

If we want to help babies born addicted to cocaine, then why do we not cut the B-2 bomber program where each plane will cost us in excess of $600 million per copy, a ludicrous notion at best, a plane that looks like a Batmobile, that serves no useful purpose, and has no useful function in defending the United States or bringing us major security?

What we have done, Mr. Speaker, members of the committee, is to deny ourselves significant concern.

I came here from the civil rights movement in the 1960's, to Congress in 1971, because people said to bring my concerns, to bring my pain to the floor of Congress, operate within the framework of the political system.

I am here to do it. So now you are denying me the opportunity to communicate effectively with my constituency. That is bizarre in the extreme.

This is a precious responsibility we have, a precious gift that we have been given, and that is to represent our constituency faithfully.

I choose not to want to keep them in ignorance. They have a right to know what it is we do and have a right to know what we do faithfully. They should not have to go to the press who are financed by commercials, to the television, financed by corporations. Public money in a democratic society to communicate with our constituency; we should not deny ourselves this precious right, and that is to communicate with our people, and the American people do support that.

Mrs. MARTIN of Illinois. Mr. Speaker, will the gentleman yield?

Mr. DELLUMS. I yield to the gentlewoman from Illinois.

Mrs. MARTIN of Illinois. I thank gentleman for yielding.

Mr. Speaker, no one is ever going to accuse the gentleman from California of not being able to communicate.

Mr. DELLUMS. I thank the gentlewoman for her comment.

Mrs. MARTIN of Illinois. But this gentlewoman, who has also come representing groups that years ago were not represented in this place, believes there are better ways to do it than to continually do it at the public expense.

Mr. DELLUMS. I thank the gentlewoman.

Mr. LEWIS of California. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, it is with a notable lack of enthusiasm that I rise to discuss this conference report.

We have achieved a partial victory, which is somewhat akin to kissing your sister. Postal patron mailings will be cut from a limit of six per year to three, effective January 1, 1990. The official mail costs appropriation is nearly $9 million below the House amount. And the strengthened 60-day rule for mailing newsletters before an election has been retained in essentially the same form as the Thomas amendment adopted by the House.

Also, there is watered-down language in here designed to bring some restraint on mailings when appropriations are running out. Under this provision, the Postmaster General is to alert Congress after the second quarter of the year, if it looks like we are overspending the appropriation for mail. The respective committees in the House and Senate are to consider regulations to assure that the amounts available are not exceeded. We shall see what that means when it happens.

This is all well and good, but what happened to the Wilson amendment? You remember that one. It prohibited any postal patron mailings, both newsletters and town meeting notices, and it provided $45 million of the savings from such mailings for treatment and prevention of crack babies. You also remember that 245 of you voted for my motion to instruct the conferees to agree to the Wilson amendment, which earlier had been adopted by the Senate by a vote of 83 to 8.

So what happened to it? Not 2 hours after the House vote, the conferees dumped it. Dumped it.

I tried to save it. I even offered an alternative amendment. After all, that is what conferences are all about—compromise. I offered an amendment which would have applied the Wilson amendment only to the Senate. Since they had voted 83 to 8 to eliminate their newsletters and spend the money on the war on drugs, I thought they would jump at the chance I was giving them. They could have applied the $21 million in savings to crack babies.

But they didn't bite. They didn't even nibble. They laughed. Can you believe that? They laughed at the thought of applying their own amendment to themselves. I'm disillusioned.

And it wasn't just the Wilson amendment they backed away from. Except for the ranking Senate Republican conferee, they didn't utter a word when the proposed compromise dropped Senate provisions calling for mail-cost allocations to individual Members and Senators. It dropped individual disclosures in the CONGRESSIONAL RECORD of what Members and Senators are spending on mail. It even dropped the requirement that newsletters carry the legend, "Prepared, Published, and Mailed at Taxpayer Expense" on the cover page.

No protest was heard when those provisions were dropped. Can you believe that?

Mr. Speaker, I have been around here long enough to know that half a loaf is half a loaf. What you see here is what you get. It's a start. For the first time, some reasonable restraint will be placed on postal patron mailings. Some restraint will be placed on overspending our mail-cost appropriation. And some restraint will be placed on the practice of winking at the 60-day rule on mailings prior to elections.

Furthermore, this half a loaf is probably all the campaign reform this Congress is going to get. Here it is, Mr. Speaker, campaign reform 1989. Is the system broken? Don't worry. We'll fix it. And here's the fix. Three newsletters instead of six.

We can build on this start in the coming years. We can depend on the leadership and wisdom of the chairman and ranking member of the subcommittee, my good friends VIC FAZIO and JERRY LEWIS. They will lead us to responsibility.

I am not going to tell anyone else how to vote, but I cannot in good conscience support the conference report. A majority of the conferees totally ignored the House and Senate votes on the Wilson amendment. I think we can do better.

□ 1420

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I am glad to yield to the chairman of the subcommittee.

Mr. FAZIO. Mr. Speaker, I appreciate the gentleman's review of what happened in the committee.

I was listening carefully, and do I understand that he said that when the compromise was offered with the Senate, with the exeption of the ranking Republican member, the gentleman from Oklahoma, they said absolutely nothing in opposition? Is that what the gentleman said?

Mr. CONTE. Yes, that is absolutely so. There was no opposition.

Mr. FAZIO. Mr. Speaker, I appreciate that response. And at various times there were a number of the committee there; is that correct? There were prehaps 10 or 11 Members who were conferees?

Mr. CONTE. There were other Members there, but the biggest shock of the day was when I offered my amendment and they laughed at me. I cannot figure that one out.

Mr. FAZIO. Mr. Speaker, I thank the gentleman for his response.

Mr. Speaker, I reserve the balance of my time.

Mr. LEWIS of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, at the conclusion of this debate and before the vote on the conference report itself, I will offer a motion to recommit the conference report to the committee of conference.

The reason that I will do that is the same reason the gentleman from Massachusetts [Mr. CONTE] gave us for not being able to support the conference report. The conferees fell short of the desires clearly expressed by the House in its instruction to them, and the desires expressed, in the vote of the Senate on the Wilson amendment, and other amendments to the bill in the Senate.

Mr. Speaker, I yield to no one in my admiration for the chairman of the subcommittee, the gentleman from California [Mr. FAZIO]. I was pleased to join in the ovation given him earlier in the day. I also realize that my position on franking costs may not be typical. I suppose that for every time I go to him and gripe about the unnecessary expense and the political self-glorification by the Members of themselves, perhaps more Members than that go to him and tell him they need this vital service to communicate with their constituents.

Nevertheless, I think the House expressed its will, and the conferees did not follow that instruction. Therefore, I shall offer the motion to recommit. I do not expect it to be successful, and yet it is the only way I have to express my objection to the actions of the managers.

Mr. Speaker, the managers did not come up empty. To be sure, they lowered by one newsletter the amount in the House. More importantly, they accepted the Thomas amendment and tried to close that window of opportunity given to Members who, if they were lucky enough to get their newsletters to the folding room late, could have them sent after the 60-day period was supposed to have begun after which they were not supposed to send newsletters.

Nevertheless, the public believes, and so do the editorialists, that the abuse of the frank is one of the prime abuses by Members of Congress of their privileges. I think a number of us saw the editorial in the New York Times of September 28 which indicated that this conference report is resulting in a loss of congressional credibility. Both bodies voted strongly to reduce the use of nonsolicited bulk mail and both bodies, at least the managers on the part of both bodies, revoked that decision. I think most people think that was a serious error.

Yes, we have reduced our postal patron mailings, but we have reduced our total mailing cost hardly at all. As I compute the savings of going from six mailings to three, based on the report of out postmaster to the Clerk's office last year, it looks to me like we are saving only a few million dollars in this effort.

The actual fact is that postal patrons letters account for less than half of the 460 million pieces of bulk rate mail mailed by the Congress last year. That leads me to believe that most of that mailing is notices of town meetings. They are simply used to clog the mailboxes of our constituents so they will remember what our names are on election day.

No effort was made by the managers to make any reduction in that kind of mail. As we hear from some of the other Members who have expressed themselves today, apparently hell hath no fury like an unstuffed constituents mailbox. Many of our colleagues, and the managers of this bill, insist they must go forward with all their congressional mailings.

Therefore, Mr. Speaker, I am going to move to recommit this conference report to the committee of conference so that our managers can make another effort to see if they can do a little better.

Mr. FAZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, if there are no Members who wish to speak, I will close at this point. I think we are about to move to a vote. Many Members want to catch airplanes and go back to their districts.

I would simply like to say that I have as great respect for my Republican colleagues as any.

Mr. Speaker, I believe I am getting a signal perhaps from some of my Republican colleagues now, and I understand that the gentleman from Pennsylvania [Mr. WALKER] wants to be heard. So let me state that I will suspend my remarks at this point, and after the gentleman from Pennsylvania has had his say, I will close.

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

I must say, Mr. Speaker, that the gentleman from California [Mr. DELLUMS] spoke very eloquently from his point of view on this issue a few minutes ago, and I want to say to him that my understanding of representative democracy may be just slightly different than his. I think what the Constitution says is that this is a representative form of government where I am sent here to cast a vote. I cast that vote on behalf of 550,000 people. Those 550,000 people expect that vote to have some meaning, I believe.

The fact is that I cast my vote along with 245 other Members on the House floor for instructions to the conferees to say that we want to stick to an amendment added in the Senate that reduced the mailing costs by reducing franked mail. I think that vote should mean something. I do not think the House would go on record the same way in suggesting that what we ought to be doing is expending precious taxpayers' money for self-promotion.

Some of us are concerned that much of what we do around here with taxpayers' money ends up being more promotion than communication. I do not expect than in the final analysis we are going to get everything that I would like to see in a bill that comes to this floor. It seems to me, though, if we are sincere about the business of communicating with our constituents, that we could get one thing much further along than what the committee has come up with, and that is disclosure. It seems to me logical that we ought to be able to say to Members of Congress, "We think you ought to publicly reveal each year how much mailing you are doing and how much it is costing the taxpayers for you do that mailing." If in fact the object is communication and we feel strongly that we should be able to communicate, when the taxpayers ought to be informed as to what the cost of that communication is.

□ 1430

Mr. Speaker, we ought to be embarrassed by that sum of money if we feel that communication is valuable and important. So, I would like to see the conference committee have this bill back. I would like to see us get something a little bit stronger in terms of disclosure, and then maybe we can have a vote on the whole bill.

Mr. FRENZEL. Mr. Speaker, this House, along with the other body, had an opportunity to make a sacrifice. The question was: "Are we willing to give up our own mass mailings in order to help 400,000 suffering infants?" The conference agreement expects us to say no. This Congress has made the choice to "toot our own horns" versus adding treatment dollars for suffering babies. Shame on us!

There is no greater abuse in Congress than the abuse of the franking privilege. We had an opportunity to give $45 million to infants, and instead we saved not even a measly $5 million by cutting back on postal patron mailings from 6 to 2. That's not a very good record to bring home to our constituents.

We know that the frank has been used by both bodies as election tools. Statistics prove that. Election year mailings are nearly double those of nonelection years. It is no wonder why 98 percent of this body gets reelected.

Not only did we give up the opportunity to cut all mass mailings, including town meeting notices, but we also gave up the chance to provide for disclosure and publication of self-aggrandizement. We also gave up an opportunity to mandate that Congress' Postal Service credit card should have a credit limit equal to the annual appropriation and the Post Office should stop handling congressional mail when the credit limit is reached. I am outraged and I hope our constituents are, too.

The Wilson amendment would have deleted all mass mailings over 500 pieces. The conference agreement doesn't even address mass mailings. It is business as usual. Congressional computers will continue to generate mail to constituents at ever increasing speed and rapidity—probably at even higher, first-class postal rates.

In 1988, an election year, this House mailed over 460 million pieces of third-class mail. We know that approximately half that mail was in the form of newsletters, or third-class postal patron mailings. The other half of the third-class mailings in the House is presumed to be in the form of town meeting notices. If we assume that the Senate has the same ratio, notices of appearances or the so-called town hall meeting notices cost taxpayers some $30 million in 1988. Another opportunity passed up.

Mr. Speaker, we could have made some genuine reforms in franking abuse. The House voted to support reforms. We had a splendid opportunity to exercise some self-control over our own mailing expenses. Instead we chose to perpetuate our own allowances. This conference agreement is like an elephant giving birth to a mouse.

Mr. FORD of Michigan. Mr. Speaker, I want to commend the chairman, Mr. FAZIO, and the ranking minority member, Mr. LEWIS, for doing a splendid job in a difficult situation. The issue has been the frank. But I suspect the issue was forced because of what was essentially a prank.

The debate here has centered on the franking privilege. And if you will excuse the play on words, frankly speaking, as a member of the Franking Commission and as chairman of the Post Office and Civil Service Committee which has jurisdiction over the franking laws, I have been puzzled by the many assertions, claims, and inferences that there are widespread abuses of the franking privilege.

Mr. Speaker, since 1974, the law has provided that any citizen, and I stress any citizen, may file a complaint with the Franking Commission alleging that the franking laws have been violated and an abuse of the frank has occurred. Now, given the debate which has raged in this Chamber and in the media during the last few days, you would expect that the Franking Commission has been very, very busy; that it has been drowned in a deluge of franking complaints filed by angry citizens citing franking abuses.

But the record shows this is not the case. In the 15 years during which complaints have been filed, there have been only 92—an average of fewer than 6 per year. This hardly suggests a major problem. And, lo and behold, the number of complaints filed each year seems to be decreasing. In 1987 no complaints were filed; in 1988 there were only three; and so far this year there has been only one complaint filed.

One must remember that inevitably some of the complaints filed are politically motivated and are generated by election campaigns. Given this fact, it is obvious that the number of legitimate complaints are even fewer than the 92 recorded.

So, I have to wonder if the franking problem is really as big as some would have us believe; or, for that matter, is there a problem at all. The record suggests there is no problem, and I am inclined to believe the record speaks the truth.

COMPLAINTS FILED BY YEAR

1974, 18; 1975, 0; 1976, 9; 1977, 2; 1978, 9; 1979, 3; 1980, 12; 1981, 2; 1982, 11; 1983, 1; 1984, 8; 1985, 2; 1986, 11; 1987, 0; 1988, 3; 1989, 1; Total, 92.

Mr. LEWIS of California. Mr. Speaker, how much time is remaining on both sides?

The SPEAKER pro tempore (Mr. HERTEL). The gentleman from California [Mr. LEWIS] has 5½ minutes remaining and the gentleman from California [Mr. FAZIO] has 9 minutes remaining.

Mr. FAZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not believe there are any more requests for time on my side, but I want to make several points.

Mr. Speaker, I have a high regard for my Republican colleagues, particularly those who have spoken on this issue, and I mean no mean partisanship as I comment in the next minute or two about the relative use or misuse, depending on my colleagues' point of view, of the franking privilege.

I do think, however, that all of us should be aware that we may well develop opposition or have constituents who will be sensitive to the fact that some of us vote here against the use of newsletters and continue to use them, assuming they remain available to the Members. That is a concern that I think we should all have, lest we somehow seem to be hypocritical in the ways we deal with these issues. If I were going to mail newsletters I'd question the wisdom of voting against them consistently here.

I had a number of Members of Congress come to me Tuesday after the conference completed its work, and its work was reported in the newspaper, indicating to me that they were supportive of the work of the conference committee. I had not one Member come to me and offer criticism. There were 15 members of the Republican Party among this large contingent—I kept track of that group only—one had voted with me against the instruction of the conferees; 14 of them had voted to instruct the conferees to support the Wilson amendment. They congratulated me and the conference on the work we did, and I suppose that would not be surprising if one were to review the data provided by the Franking Commission to determine who sends five and six newsletters. We determined, for example, that of those Members who mailed four or more, now the number that would be illegal under our compromise, they were by a 2 to 1 margin Republican Members.

So, Mr. Speaker, there is no corner on the use of the frank here. We use it regardless of partisanship. We use it in all kinds of districts, Republican and Democratic, and that is understandable as well because public opinion polls show us that 77 percent of the American people think they do not get enough mail from Congress, and only 15 percent believe they get too much mail from Congress.

So, Mr. Speaker, the frank has a role in American political life. It is a historical privilege that we have, and I will be the first to say that there are some who abuse it. I would be one who is an advocate for the very existence of a Franking Commission on the Senate side because there is no such entity there, but even on the House side I would advocate a more aggressive role, filtering out more politically contrived documents, eliminating the abusive town hall meeting notices, et cetera.

I think we have come a long way this year. I realize that the Wilson amendment had a lot of emotional content. I think I made clear in my earlier comments the money for crack babies, at least $40 million, is going to be enacted this year, and maybe more. The House should not encumber itself in relation to the Senate by enacting an amendment that places us at a strong disadvantage as it relates to mail.

With that, Mr. Speaker, I would ask my colleagues to reject the motion to recommit the bill and urge its adoption.

Mr. LEWIS of California. Mr. Speaker, I would like to again thank the chairman of my subcommittee for his courtesy as we have gone through this very difficult process. In closing I

would like to mention that while it is easy for us to stand in this body and point fingers at ourselves as a body and as individuals about the amount of mail that we send. However, I think it is very important for us to realize, as well, that our constituents do expect us to communicate with them.

Mr. Speaker, the postal patron we have been discussing today involves a general mailing to all postal locations in our districts. In my case, usually once a year I send a questionnaire to my constituency by way of postal patrons. I usually outline in that series of questions issues, and provide the precise costs of printing that questionnaire, what the anticipated cost is for mailing, so that they have a clear picture of the total cost of that communication. I then ask them to respond to whether I should continue with such questionnaires. In my district, and I suspect in districts around the country, my people say—well in excess of 70 percent of those responding, that they want that questionnaire, that opportunity for exchange. Often we use another similar mailer to send out to postal patrons the results of what their response has been to the questionnaire.

Mr. Speaker, this bill has been described as one that makes significant progress in cutting back upon that sort of bulk mailing. We have cut from six to three. The purpose then is to send the questionnaire, perhaps a response, perhaps a general information mailer, to the public at large. We have made significant progress in trying to get a handle on this item.

Mr. Speaker, as we go about voting and for final passage on this measure or consider the motion to recommit, I would ask the Members to consider that some communication is required, and indeed this is the bill that allows us to do that communicating or choose not to do it.

Mr. Speaker, I ask for my colleagues' support for the conference report.

Mr. FAZIO. Mr. Speaker, I want to thank once again my ranking member, the gentleman from California [Mr. LEWIS], for his good friendship, loyalty, and support.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. FRENZEL. I am opposed, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. FRENZEL moves to recommit the conference report on the bill H.R. 3014 to the committee of conference.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of the conference report.

The vote was taken by electronic device, and there were—yeas 137, nays 280, not voting 15, as follows:

[Roll No. 256]

YEAS—137

Archer	Hancock	Ritter
Armey	Hansen	Robinson
Ballenger	Henry	Rogers
Bartlett	Hiler	Rohrabacher
Barton	Holloway	Ros-Lehtinen
Bateman	Hopkins	Roth
Bennett	Houghton	Rowland (CT)
Bereuter	Hunter	Sangmeister
Bilirakis	Hutto	Schiff
Billey	Inhofe	Schroeder
Broomfield	Ireland	Schuette
Brown (CO)	Jacobs	Schulze
Buechner	James	Sensenbrenner
Bunning	Johnson (CT)	Sharp
Callahan	Kasich	Shaw
Campbell (CA)	Kolbe	Shumway
Carper	Kyl	Shuster
Chandler	Lagomarsino	Slaughter (VA)
Coble	Leach (IA)	Smith (NE)
Combest	Lent	Smith (TX)
Conte	Lewis (FL)	Smith, Denny (OR)
Coughlin	Lightfoot	Smith, Robert (NH)
Cox	Lukens, Donald	Smith, Robert (OR)
Craig	Machtley	Snowe
Crane	Marlenee	Solomon
Dannemeyer	Martin (IL)	Spence
DeLay	Martin (NY)	Stearns
DeWine	McMillan (NC)	Stump
Dornan (CA)	Meyers	Sundquist
Douglas	Miller (OH)	Tauke
Dreier	Miller (WA)	Thomas (CA)
Emerson	Moorhead	Thomas (GA)
Fawell	Nelson	Thomas (WY)
Fields	Nielson	Upton
Frenzel	Packard	Vander Jagt
Gallegly	Pallone	Vucanovich
Gekas	Parker	Walker
Gilman	Paxon	Watkins
Gingrich	Petri	Weber
Goss	Poshard	Weldon
Gradison	Pursell	Wolf
Grandy	Quillen	Wylie
Grant	Ravenel	Young (FL)
Green	Ray	
Gunderson	Regula	
Hall (TX)	Rhodes	
Hammerschmidt	Ridge	

NAYS—280

Ackerman	Anderson	Anthony
Akaka	Andrews	Applegate
Alexander	Annunzio	Aspin
At'kins	Hastert	Olin
AuCoin	Hatcher	Ortiz
Baker	Hawkins	Owens (NY)
Barnard	Hayes (IL)	Oxley
Bates	Hayes (LA)	Panetta
Beilenson	Hefley	Parris
Bentley	Hefner	Pashayan
Berman	Herger	Patterson
Bevill	Hertel	Payne (NJ)
Bilbray	Hoagland	Payne (VA)
Boehlert	Hochbrueckner	Pease
Boggs	Horton	Pelosi
Bonior	Hoyer	Penny
Borski	Hubbard	Perkins
Bosco	Huckaby	Pickett
Boucher	Hughes	Pickle
Boxer	Hyde	Porter
Brennan	Jenkins	Price
Brooks	Johnson (SD)	Rahall
Browder	Johnston	Rangel
Brown (CA)	Jones (GA)	Richardson
Bruce	Jones (NC)	Rinaldo
Burton	Jontz	Roberts
Bustamante	Kanjorski	Roe
Byron	Kaptur	Rose
Campbell (CO)	Kastenmeier	Rostenkowski
Cardin	Kennedy	Roukema
Chapman	Kennelly	Rowland (GA)
Clarke	Kildee	Roybal
Clay	Kleczka	Russo
Clement	Kolter	Sabo
Clinger	Kostmayer	Saiki
Coleman (MO)	LaFalce	Sarpalius
Coleman (TX)	Lancaster	Savage
Collins	Lantos	Sawyer
Condit	Laughlin	Saxton
Conyers	Leath (TX)	Schaefer
Cooper	Lehman (CA)	Scheuer
Costello	Lehman (FL)	Schneider
Coyne	Levin (MI)	Schumer
Crockett	Levine (CA)	Shays
Darden	Lewis (CA)	Sikorski
Davis	Lewis (GA)	Sisisky
de la Garza	Lipinski	Skaggs
DeFazio	Livingston	Skeen
Dellums	Lloyd	Skelton
Derrick	Long	Slattery
Dickinson	Lowery (CA)	Slaughter (NY)
Dicks	Lowey (NY)	Smith (FL)
Dingell	Luken, Thomas	Smith (IA)
Dixon	Madigan	Smith (NJ)
Donnelly	Manton	Smith (VT)
Dorgan (ND)	Markey	Spratt
Downey	Martinez	Staggers
Duncan	Matsui	Stallings
Durbin	Mavroules	Stangeland
Dwyer	Mazzoli	Stark
Dymally	McCloskey	Stenholm
Dyson	McCollum	Stokes
Eckart	McCrery	Studds
Edwards (CA)	McCurdy	Swift
Edwards (OK)	McDade	Synar
Engel	McDermott	Tallon
English	McEwen	Tanner
Erdreich	McGrath	Tauzin
Espy	McHugh	Torres
Evans	McMillen (MD)	Towns
Fazio	McNulty	Traficant
Feighan	Mfume	Traxler
Fish	Miller (CA)	Udall
Flippo	Mineta	Unsoeld
Foglietta	Moakley	Valentine
Ford (MI)	Molinari	Vento
Ford (TN)	Mollohan	Visclosky
Frank	Montgomery	Volkmer
Frost	Moody	Walgren
Gaydos	Morella	Walsh
Gejdenson	Morrison (CT)	Waxman
Gephardt	Morrison (WA)	Weiss
Geren	Mrazek	Wheat
Gibbons	Murphy	Whittaker
Gillmor	Murtha	Whitten
Glickman	Myers	Williams
Gonzalez	Nagle	Wilson
Goodling	Natcher	Wise
Gordon	Neal (MA)	Wolpe
Gray	Neal (NC)	Wyden
Guarini	Nowak	Yates
Hall (OH)	Oakar	Young (AK)
Hamilton	Oberstar	
Harris	Obey	

NOT VOTING—15

Bryant	Courter	Fascell
Carr	Early	Flake

Florio	McCandless	Solarz
Gallo	Michel	Torricelli
Garcia	Owens (UT)	Yatron

□ 1457

Mr. SAXTON, Mrs. BOGGS, and Messrs. PENNY, SCHEUER, EDWARDS of Oklahoma, and RANGEL changed their vote from "yea" to "nay."

Messrs. HAMMERSCHMIDT, HALL of Texas, PAXON, and HUTTO changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HERTEL). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 274, noes 137, not voting 21, as follows:

[Roll No. 257]

AYES—274

Ackerman	Derrick	Houghton
Akaka	Dicks	Hoyer
Alexander	Dingell	Hubbard
Anderson	Dixon	Huckaby
Andrews	Donnelly	Hughes
Annunzio	Dorgan (ND)	Hutto
Anthony	Downey	Hyde
Aspin	Durbin	Jenkins
Atkins	Dymally	Johnson (CT)
AuCoin	Dyson	Johnson (SD)
Baker	Eckart	Johnston
Barnard	Edwards (CA)	Jones (GA)
Bateman	Edwards (OK)	Jones (NC)
Bates	Engel	Jontz
Beilenson	English	Kanjorski
Bentley	Espy	Kaptur
Bevill	Evans	Kastenmeier
Bilbray	Fazio	Kennedy
Boehlert	Feighan	Kennelly
Boggs	Fish	Kildee
Bonior	Flippo	Kleczka
Borski	Foglietta	Kolter
Bosco	Ford (MI)	Kostmayer
Boucher	Ford (TN)	LaFalce
Boxer	Frank	Lancaster
Brennan	Frost	Lantos
Brooks	Gaydos	Laughlin
Browder	Gejdenson	Leath (TX)
Brown (CA)	Gephardt	Lehman (CA)
Bruce	Geren	Lehman (FL)
Buechner	Gibbons	Lent
Bustamante	Gillmor	Levin (MI)
Byron	Gilman	Levine (CA)
Campbell (CO)	Glickman	Lewis (CA)
Cardin	Gonzalez	Lewis (GA)
Carper	Goodling	Lipinski
Chapman	Gordon	Livingston
Clarke	Gray	Lloyd
Clay	Green	Long
Clement	Guarini	Lowery (CA)
Clinger	Hall (OH)	Lowey (NY)
Coleman (MO)	Hamilton	Luken, Thomas
Coleman (TX)	Harris	Madigan
Collins	Hastert	Manton
Conyers	Hatcher	Markey
Cooper	Hawkins	Martinez
Coyne	Hayes (IL)	Matsui
Crockett	Hayes (LA)	Mavroules
Darden	Hefner	Mazzoli
Davis	Hertel	McCloskey
de la Garza	Hoagland	McCrery
DeFazio	Hochbrueckner	McCurdy
Dellums	Horton	McDade
McDermott	Porter	Staggers
McGrath	Price	Stallings
McHugh	Rahall	Stangeland
McMillen (MD)	Rangel	Stark
McNulty	Rhodes	Stenholm
Mfume	Richardson	Stokes
Mineta	Ridge	Studds
Moakley	Rinaldo	Swift
Mollohan	Roberts	Synar
Montgomery	Roe	Tallon
Moody	Rose	Tanner
Morella	Rostenkowski	Tauzin
Morrison (CT)	Roukema	Thomas (GA)
Morrison (WA)	Rowland (GA)	Torres
Mrazek	Roybal	Towns
Murtha	Russo	Udall
Myers	Sabo	Unsoeld
Nagle	Saiki	Valentine
Natcher	Sangmeister	Vento
Neal (MA)	Sarpalius	Visclosky
Neal (NC)	Savage	Volkmer
Nowak	Sawyer	Walgren
Oakar	Scheuer	Walsh
Oberstar	Schneider	Watkins
Obey	Schroeder	Waxman
Olin	Schumer	Weiss
Ortiz	Sikorski	Weldon
Owens (NY)	Sisisky	Wheat
Panetta	Skaggs	Whittaker
Parker	Skeen	Whitten
Parris	Skelton	Williams
Pashayan	Slattery	Wilson
Payne (NJ)	Slaughter (NY)	Wise
Payne (VA)	Smith (FL)	Wolf
Pease	Smith (IA)	Wolpe
Pelosi	Smith (NJ)	Wyden
Perkins	Smith (VT)	Yates
Pickett	Snowe	
Pickle	Spratt	

NOES—137

Applegate	Hammerschmidt	Ray
Archer	Hancock	Regula
Armey	Hansen	Ritter
Ballenger	Hefley	Robinson
Bartlett	Henry	Rogers
Barton	Herger	Rohrabacher
Bennett	Hiler	Ros-Lehtinen
Bereuter	Holloway	Roth
Billrakis	Hopkins	Rowland (CT)
Bliley	Hunter	Saxton
Broomfield	Inhofe	Schaefer
Brown (CO)	Ireland	Schiff
Bunning	Jacobs	Schuette
Burton	James	Schulze
Callahan	Kasich	Sensenbrenner
Campbell (CA)	Kolbe	Sharp
Chandler	Kyl	Shaw
Coble	Lagomarsino	Shays
Combest	Leach (IA)	Shumway
Condit	Lewis (FL)	Shuster
Conte	Lightfoot	Slaughter (VA)
Costello	Lukens, Donald	Smith (NE)
Cox	Machtley	Smith (TX)
Craig	Marlenee	Smith, Denny (OR)
Crane	Martin (IL)	Smith, Robert (NH)
Dannemeyer	Martin (NY)	Smith, Robert (OR)
DeLay	McCollum	Solomon
DeWine	McEwen	Spence
Dickinson	McMillan (NC)	Stearns
Dornan (CA)	Meyers	Stump
Douglas	Miller (OH)	Sundquist
Dreier	Miller (WA)	Tauke
Duncan	Molinari	Thomas (CA)
Emerson	Moorhead	Thomas (WY)
Erdreich	Murphy	Traficant
Fawell	Nelson	Upton
Fields	Nielson	Vander Jagt
Frenzel	Oxley	Vucanovich
Gallegly	Packard	Walker
Gekas	Pallone	Weber
Gingrich	Patterson	Wylie
Goss	Paxon	Young (AK)
Gradison	Penny	Young (FL)
Grandy	Petri	
Grant	Poshard	
Gunderson	Quillen	
Hall (TX)	Ravenel	

NOT VOTING—21

Berman	Fascell	Miller (CA)
Bryant	Flake	Owens (UT)
Carr	Florio	Pursell
Coughlin	Gallo	Solarz
Courter	Garcia	Torricelli
Dwyer	McCandless	Traxler
Early	Michel	Yatron

The Clerk announced the following pair:

On this vote:

Mr. Miller of California for, with Mr. McCandless against.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM REAUTHORIZATION ACT OF 1989

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3282) to amend title 5, United States Code, to authorize the continuation of the performance management and recognition system through March 31, 1991, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendments:

Page 3, line 3, after "not" insert "equal of".

Page 6, after line 2, insert:

SEC. 6. TEMPORARY CONTINUATION OF PROVISION RELATING TO THE SCHEDULE FOR PAYING THE LUMP-SUM CREDIT TO CERTAIN ANNUITANTS.

Section 6001(a) of the Omnibus Budget Reconciliation Act of 1987 (5 U.S.C. 8343a note) is amended by striking "October 1, 1989" and inserting "December 3, 1989".

The SPEAKER pro tempore (Mr. HERTEL). Is there objection to the request of the gentleman from New York?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I will not object, but I do this so as to allow the distinguished chairman of the subcommittee to describe the bill, and I yield to the gentleman from New York, [Mr. ACKERMAN] for that purpose.

Mr. ACKERMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, H.R. 3282 passed the House on September 19, 1989. The Senate has approved the bill with two amendments. The first amendment corrects a technical error involving the inadvertent omission of two words in section 3 of the bill.

The second amendment extends the application of the existing 60-40 split distribution of lump sum benefits to civil service annuities commencing before December 3, 1989.

The amendment is intended to continue existing law until Congress has had the opportunity to fully address pending policy changes in the lump sum retirement benefit which are contained in the Omnibus Budget Reconciliation Act of 1989. Enactment of the short-term extension would also pro-

vide continuity and allow Federal employees to adequately plan for their retirement.

Mr. Speaker, the Senate amendments are acceptable to the committee and I urge the House to concur in the Senate amendments.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I reserved the right to object initially in the name of the ranking member of the subcommittee, the gentleman from New York [Mr. GILMAN].

Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we have no objection to the matter before the House.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, from a budget standpoint it is absolutely essential that this bill be passed.

I seldom agree with the distinguished chairman of the Committee on Post Office and Civil Service, but this is a matter of great importance.

Mr. Speaker, I rise in support of H.R. 3282, the Preformance Management Recognition Systems Reauthorization Act of 1989, as amended by the Senate. Among other provisions, this bill extends the current law requirement that retiring Federal employees can receive only 60 percent of their lump sum distribution the first year and 40 percent the second year. If this provision is not enacted, the law would revert to allowing employees to claim a full 100-percent lump sum distribution in the first year of their retirement.

Reversion to this 100-percent lump sum treatment would increase budget outlays compared to what has been contemplated in the bipartisan budget agreement, the budget resolution and the reconciliation bill. In fact, the reconciliation bill would further amend the law to allow only 50 percent of the lump sum to be distributed in the first year and 50 percent the second year. This reconciliation provision would reduce Federal outlays by $700 million in fiscal year 1990 and $40 million in fiscal year 1991 compared to reverting to the 100-percent distribution in the first year.

Therefore, I believe that we have no choice but to support this temporary extension of the 60-40 lump sum treatment until the reconciliation bill can be enacted.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 3282, as amended by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CONFERENCE REPORT ON H.R. 3014, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1990

AMENDMENT IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 1: Page 2, after line 1, insert:

SENATE

MILEAGE AND EXPENSE ALLOWANCES

MILEAGE OF THE VICE PRESIDENT AND SENATORS

For mileage of the Vice President and Senators of the United States, $60,000.

EXPENSE ALLOWANCES

For expense allowances of the Vice President, $10,000; the President Pro Tempore of the Senate, $10,000; Majority Leader of the Senate, $10,000; Minority Leader of the Senate, $10,000; Majority Whip of the Senate, $5,000; Minority Whip of the Senate, $5,000; and Chairmen of the Majority and Minority Conference Committees, $3,000 for each Chairman; in all, $56,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, *$15,000 for each such Leader; in all, $30,000.*

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, and others as authorized by law, including agency contributions, $55,019,000 which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $1,216,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For the Office of the President Pro Tempore, $296,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $1,474,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $458,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $661,500 for each such committee; in all, $1,323,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $290,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $147,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, $8,852,000.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $28,000,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $983,000.

AGENCY CONTRIBUTIONS

For agency contributions for employee benefits, as authorized by law, $11,980,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $2,079,000: *Provided*, That $100,000 of the amount appropriated to the Office of the Legislative Counsel of the Senate for fiscal year 1989 shall remain available until September 30, 1990.

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, $676,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, $3,000; Sergeant at Arms and Doorkeeper of the Senate, $3,000; Secretary for the Majority of the Senate, $3,000; Secretary for the Minority of the Senate, $3,000; in all, $12,000.

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $1,101,500 for each such committee; in all, $2,203,000.

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96-304 and Senate Resolution 281, agreed to March 11, 1980, $69,442,000.

EXPENSES OF UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, $325,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $727,200.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $74,389,000 of which $6,000,000 shall remain available until expended.

MISCELLANEOUS ITEMS

For miscellaneous items, $7,506,000.

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT

For Senators' Official Personnel and Office Expense Account, $161,124,000.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, $8,500; in all, $13,000.

SENATE OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the Senate, $32,000,000, to be disbursed by the Secretary of the Senate, to be available immediately upon enactment of this Act, and to remain available until expended.

ADMINISTRATIVE PROVISIONS

SECTION 1. The Chairman of the Majority or Minority Conference Committee of the Senate may, during the fiscal year ending September 30, 1990, at his election, transfer not more than $50,000 from the appropriation account for salaries for the Conference of the Majority and the Conference of the Minority of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6). Any transfer of funds under authority of the preceding sentence shall be made at such time or times as such chairman shall specify in writing to the Senate Disbursing Office. Any funds so transferred by the chairman of the Majority or Minority Conference Committee shall be available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6).

SEC. 2. Funds appropriated to the Conference of the Majority and funds appropriated to the Conference of the Minority for the fiscal year ending September 30, 1990, may be utilized in such amounts as the Chairman of each Conference deems appropriate for the specialized training of professional staff, subject to such limitations, insofar as they are applicable, as are imposed by the Committee on Rules and Administration with respect to such training when provided to professional staff of standing committees of the Senate.

SEC. 3. Subsection (d) of section 2 of Public Law 100-123 (2 U.S.C. 58a-1), is amended by inserting immediately after "by the Sergeant at Arms)," the following: "and all other moneys received by the Sergeant at Arms as charges or commissions for telephone services,".

SEC. 4. (a) The Sergeant at Arms and Doorkeeper of the Senate is authorized to establish an Office of Senate Health Promotion.

(b)(1) In carrying out this section, the Sergeant at Arms and Doorkeeper of the Senate is authorized to establish, or provide for the establishment of, exercise classes and other health services and activities on a continuing and regular basis. In providing for such classes, services, and activities, the Sergeant at Arms and Doorkeeper of the Senate is authorized to impose and collect fees, assessments, and other charges to defray the costs involved in promoting the health of Members, officers, and employees of the Senate. For purposes of this section, the term "employees of the Senate" shall have such meaning as the Sergeant at Arms, by regulation, may prescribe.

(2) All fees, assessments, and charges imposed and collected by the Sergeant at Arms pursuant to paragraph (1) shall be deposited in the revolving fund established pursuant to subsection (c) and shall be available for purposes of this section.

(c) There is established in the Treasury of the United States a revolving fund within the contingent fund of the Senate to be known as the Senate Health Promotion Revolving Fund (hereinafter referred to in this section as the "fund"). The fund shall consist of all amounts collected or received by the Sergeant at Arms and Doorkeeper of the Senate as fees, assessments, and other charges for activities and services to carry out the provisions of this section. All moneys in the fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate for promoting the health of Members, officers, and employees of the Senate.

(d) Disbursements from the revolving fund shall be made upon vouchers signed by the Sergeant at Arms and Doorkeeper of the Senate.

(e) The provisions of section 4 of the Act of July 31, 1946 (40 U.S.C. 193d) shall not be applicable to any class, service, or other activity carried out pursuant to the provisions of this section.

(f) The provisions of this section shall be carried out in accordance with regulations which shall be promulgated by the Sergeant at Arms and Doorkeeper of the Senate and subject to approval at the beginning of each Congress by the Committee on Rules and Administration of the Senate.

SEC. 5. (a) Paragraph (3) of section 506(a) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)) is amended to read as follows:

"(3)(A) postage on, and fees and charges in connection with, mail matter sent through the mail under the franking privilege in excess of amounts provided from the appropriation for official mail costs, upon certification by the Senate Sergeant at Arms and subject to such regulations as may be promulgated by the Committee on Rules and Administration, (B) postage on, and fees and charges in connection with official mail matter sent through the mail other than the franking privilege upon certification by the Senate Sergeant at Arms and subject to such regulations as may be promulgated by the Committee on Rules and Administration, and (C) reimbursement to each Senator for costs incurred in the preparation of required official reports, and the acquisition of mailing lists to be used for official purposes, and in the mailing, delivery, or transmitting of matters relating to official business;".

(b) Receipts paid to the Sergeant at Arms from sales of postage on, and fees and charges in connection with mail matter sent through the mail by Senators, Senate committees, or other Senate offices (including joint committees and commissions funded from the contingent fund of the Senate), other than under the franking privilege, as cash or check payments directly from such Senators, committees, or offices, or as reimbursement from the Financial Clerk of the Senate pursuant to certification by the Sergeant at Arms of charges to be made to such funds available to such Senators, committees, or offices for such postage, fees and charges shall be used by the Sergeant at Arms for payment to the United States Postal Service for such postage, fees, and charges.

SEC. 6. On and after the date this Act becomes law, the Secretary of the Senate, subject to the approval of the Committee on Appropriations of the Senate, is authorized to provide up to $1,000,000 for capitalization purposes to the revolving fund established by the last paragraph under the heading "Contingent Expenses of the Senate" appearing under the heading "SENATE" in chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 46a-1), by transferring to such revolving fund any funds available from any Senate appropriation account, with respect to which he has disbursement authority, for the fiscal year in which the transfer is made (or for any preceding fiscal year) or which have been made available until expended; and any moneys so transferred shall be available for use in like manner and to the same extent as the moneys in such revolving fund which were not transferred thereto pursuant to this section.

SEC. 7. The Secretary of the Senate may enter into an agreement with the Secretary of Education to provide closed captioning of the Senate floor proceedings, subject to the approval of the Senate Committee on Rules and Administration. The Senate authorizes the Secretary of Education to have access to the audio and video broadcast of the Senate floor proceedings for the purpose of captioning. Such funds as may be necessary to carry out the purposes of this section are authorized to be paid from the appropriation account for "Miscellaneous Items" within the contingent fund of the Senate.

SEC. 8. (1) The Secretary of the Senate and the Sergeant at Arms and Doorkeeper of the Senate are authorized to acquire goods, services, or space from government agencies and units by agreement under the provisions of the Economy Act, 31 U.S.C. 1535, and to make advance payments in conjunction therewith, if required by the providing agency or establishment.

(2) No advance payment may be made under paragraph (1) unless specifically provided for in the agreement. No agreement providing for advance payment may be entered into unless it contains a provision requiring the refund of any unobligated balance of the advance.

(3) No agreement may be entered into under paragraph (1) without the approval of the Senate Committee on Rules and Administration and the Senate Committee on Appropriations.

SEC. 9. The provisions of Senate Resolution 89, of the One Hundredth Congress, agreed to January 28, 1987, are hereby enacted into law, effective on the date such Senate Resolution 89 was agreed to.

SEC. 10. The second proviso, under the headings "SENATE" and "OFFICE OF THE CHAPLAIN", of the Legislative Branch Appropriation Act, 1970 (Public Law 91-145) is amended by striking out "a secretary" and inserting in lieu thereof "such employees as he deems appropriate, except that the amount which may be paid for any fiscal year as gross compensation for personnel in such Office for any fiscal year shall not exceed $147,000".

SEC. 11. (a) For purposes of subchapters I and II of chapter 37 of title 31, United States Code (relating to claims of or against the United States Government), the United States Senate shall be considered to be a legislative agency (as defined in section 3701(a)(4) of such title), and the Secretary of the Senate shall be deemed to be the head of such legislative agency.

(b) Regulations prescribed by the Secretary of the Senate pursuant to section 3716 of title 31, United States Code, shall not

become effective until they are approved by the Senate Committee on Rules and Administration.

MOTION OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FAZIO moves that the House recede from its disagreement to the amendment of the Senate numbered 1 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

SENATE

MILEAGE AND EXPENSE ALLOWANCES

MILEAGE OF THE VICE PRESIDENT AND SENATORS

For mileage of the Vice President and Senators of the United States, $60,000.

EXPENSE ALLOWANCES

For expense allowances of the Vice President, $10,000; the President Pro Tempore of the Senate, $10,000; Majority Leader of the Senate, $10,000; Minority Leader of the Senate, $10,000; Majority Whip of the Senate, $5,000; Minority Whip of the Senate, $5,000; and Chairmen of the Majority and Minority Conference Committees, $3,000 for each Chairman; in all, $56,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, *$15,000 for each such Leader; in all, $30,000.*

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, and others as authorized by law, including agency contributions, $55,019,000 which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $1,216,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For the Office of the President Pro Tempore, $296,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $1,474,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $458,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $661,500 for each such committee; in all, $1,323,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $290,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $147,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, $8,852,000.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $28,000,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $983,000.

AGENCY CONTRIBUTIONS

For agency contributions for employee benefits, as authorized by law, $11,980,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $2,079,000: *Provided,* That $100,000 of the amount appropriated to the Office of the Legislative Counsel of the Senate for fiscal year 1989 shall remain available until September 30, 1990.

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, $676,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, $3,000; Sergeant at Arms and Doorkeeper of the Senate, $3,000; Secretary for the Majority of the Senate, $3,000; Secretary for the Minority of the Senate, $3,000; in all, $12,000, which shall remain available until September 30, 1991: *Provided,* That at the end of the paragraph preceding the heading "Contingent Expenses of the Senate" in subtitle A of the Congressional Operations Appropriations Act, 1989, strike the period and insert the following: ", which shall remain available until September 30, 1991."

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $1,101,500 for each such committee; in all, $2,203,000.

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96-304 and Senate Resolution 281, agreed to March 11, 1980, $69,442,000.

EXPENSES OF UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, $325,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $727,200.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $74,389,000 of which $6,000,000 shall remain available until expended.

MISCELLANEOUS ITEMS

For miscellaneous items, $7,506,000: Provided, That effective in the case of fiscal years beginning after September 30, 1989, section 120 of Public Law 97-51 is amended by striking out "$40,000" and inserting in lieu thereof "$50,000".

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT

For Senators' Official Personnel and Office Expense Account, $161,124,000.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, $8,500; in all, $13,000.

ADMINISTRATIVE PROVISIONS

SECTION 1. The Chairman of the Majority or Minority Conference Committee of the Senate may, during the fiscal year ending September 30, 1990, at his election, transfer not more than $50,000 from the appropriation account for salaries for the Conference of the Majority and the Conference of the Minority of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6). Any transfer of funds under authority of the preceding sentence shall be made at such time or times as such chairman shall specify in writing to the Senate Disbursing Office. Any funds so transferred by the chairman of the Majority or Minority Conference Committee shall be available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6).

SEC. 2. Funds appropriated to the Conference of the Majority and funds appropriated to the Conference of the Minority for the fiscal year ending September 30, 1990, may be utilized in such amounts as the Chairman of each Conference deems appropriate for the specialized training of professional staff, subject to such limitations, insofar as they are applicable, as are imposed by the Committee on Rules and Administration with respect to such training when provided to professional staff of standing committees of the Senate.

SEC. 3. Subsection (d) of section 2 of Public Law 100-123 (2 U.S.C. 58a-1), is amended by inserting immediately after "by the Sergeant at Arms)," the following: "and all other moneys received by the Sergeant at Arms as charges or commissions for telephone services,".

SEC. 4. (a) The Sergeant at Arms and Doorkeeper of the Senate is authorized to establish an Office of Senate Health Promotion.

(b)(1) In carrying out this section, the Sergeant at Arms and Doorkeeper of the Senate is authorized to establish, or provide for the establishment of, exercise classes and other health services and activities on a continuing and regular basis. In providing for such classes, services, and activities, the Sergeant at Arms and Doorkeeper of the Senate is authorized to impose and collect fees, assessments, and other charges to defray the costs involved in promoting the health of Members, officers, and employees of the Senate. For purposes of this section, the term "employees of the Senate" shall have such meaning as the Sergeant at Arms, by regulation, may prescribe.

(2) All fees, assessments, and charges imposed and collected by the Sergeant at Arms pursuant to paragraph (1) shall be deposited in the revolving fund established pursuant to subsection (c) and shall be available for purposes of this section.

(c) There is established in the Treasury of the United States a revolving fund within the contingent fund of the Senate to be known as the Senate Health Promotion Revolving Fund (hereinafter referred to in this

section as the "fund"). The fund shall consist of all amounts collected or received by the Sergeant at Arms and Doorkeeper of the Senate as fees, assessments, and other charges for activities and services to carry out the provisions of this section. All moneys in the fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate for promoting the health of Members, officers, and employees of the Senate.

(d) Disbursements from the revolving fund shall be made upon vouchers signed by the Sergeant at Arms and Doorkeeper of the Senate.

(e) The provisions of section 4 of the Act of July 31, 1946 (40 U.S.C. 193d) shall not be applicable to any class, service, or other activity carried out pursuant to the provisions of this section.

(f) The provisions of this section shall be carried out in accordance with regulations which shall be promulgated by the Sergeant at Arms and Doorkeeper of the Senate and subject to approval at the beginning of each Congress by the Committee on Rules and Administration of the Senate.

SEC. 5. (a) Paragraph (3) of section 506(a) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)) is amended to read as follows:

"(3)(A) postage on, and fees and charges in connection with, mail matter sent through the mail under the franking privilege in excess of amounts provided from the appropriation for official mail costs, upon certification by the Senate Sergeant at Arms and subject to such regulations as may be promulgated by the Committee on Rules and Administration, (B) postage on, and fees and charges in connection with official mail matter sent through the mail other than the franking privilege upon certification by the Senate Sergeant at Arms and subject to such regulations as may be promulgated by the Committee on Rules and Administration, and (C) reimbursement to each Senator for costs incurred in the preparation of required official reports, and the acquisition of mailing lists to be used for official purposes, and in the mailing, delivery, or transmitting of matters relating to official business;".

(b) Receipts paid to the Sergeant at Arms from sales of postage on, and fees and charges in connection with mail matter sent through the mail by Senators, Senate committees, or other Senate offices (including joint committees and commissions funded from the contingent fund of the Senate), other than under the franking privilege, as cash or check payments directly from such Senators, committees, or offices, or as reimbursement from the Financial Clerk of the Senate pursuant to certification by the Sergeant at Arms of charges to be made to such funds available to such Senators, committees, or offices for such postage, fees and charges shall be used by the Sergeant at Arms for payment to the United States Postal Service for such postage, fees, and charges.

SEC. 6. On and after the date this Act becomes law, the Secretary of the Senate, subject to the approval of the Committee on Appropriations of the Senate, is authorized to provide up to $1,000,000 for capitalization purposes to the revolving fund established by the last paragraph under the heading "Contingent Expenses of the Senate" appearing under the heading "SENATE" in chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 46a-1), by transferring to such revolving fund any funds available from any Senate appropriation account, with respect to which he has disbursement authority, for the fiscal year in which the transfer is made (or for any preceding fiscal year) or which have been made available until expended; and any moneys so transferred shall be available for use in like manner and to the same extent as the moneys in such revolving fund which were not transferred thereto pursuant to this section.

SEC. 7. The Secretary of the Senate may enter into an agreement with the Secretary of Education to provide closed captioning of the Senate floor proceedings, subject to the approval of the Senate Committee on Rules and Administration. The Senate authorizes the Secretary of Education to have access to the audio and video broadcast of the Senate floor proceedings for the purpose of captioning. Such funds as may be necessary to carry out the purposes of this section are authorized to be paid from the appropriation account for "Miscellaneous Items" within the contingent fund of the Senate.

SEC. 8. (1) The Secretary of the Senate and the Sergeant at Arms and Doorkeeper of the Senate are authorized to acquire goods, services, or space from government agencies and units by agreement under the provisions of the Economy Act, 31 U.S.C. 1535, and to make advance payments in conjunction therewith, if required by the providing agency or establishment.

(2) No advance payment may be made under paragraph (1) unless specifically provided for in the agreement. No agreement providing for advance payment may be entered into unless it contains a provision requiring the refund of any unobligated balance of the advance.

(3) No agreement may be entered into under paragraph (1) without the approval of the Senate Committee on Rules and Administration and the Senate Committee on Appropriations.

SEC. 9. The provisions of Senate Resolution 89, of the One Hundredth Congress, agreed to January 28, 1987, are hereby enacted into law, effective on the date such Senate Resolution 89 was agreed to.

SEC. 10. The second proviso, under the headings "SENATE" and "OFFICE OF THE CHAPLAIN", of the Legislative Branch Appropriation Act, 1970 (Public Law 91-145) is amended by striking out "a secretary" and inserting in lieu thereof "such employees as he deems appropriate, except that the amount which may be paid for any fiscal year as gross compensation for personnel in such Office for any fiscal year shall not exceed $147,000".

SEC. 11. (a) For purposes of subchapters I and II of chapter 37 of title 31, United States Code (relating to claims of or against the United States Government), the United States Senate shall be considered to be a legislative agency (as defined in section 3701(a)(4) of such title), and the Secretary of the Senate shall be deemed to be the head of such legislative agency.

(b) Regulations prescribed by the Secretary of the Senate pursuant to section 3716 of title 31, United States Code, shall not become effective until they are approved by the Senate Committee on Rules and Administration.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 2: Page 2, after line 1, insert:

SEC. 12. There shall be available to meet any unpaid expenses incurred by any duly authorized individual, prior to the first day of the 101st Congress, under authority of section 31a-1 of title 2, United States Code, (1) any unexpended and unobligated funds appropriated for the fiscal year ending September 30, 1988, which were available to such individual as an expense allowance under section 31a-1 or section 31a-3 of such title, plus (2) in case such individual was authorized to incur expenses under authority of section 31a-1 of such title 2 on the last day of the 100th Congress but was not authorized to incur expenses under such authority on the first day of the 101st Congress, 25 percent of the funds appropriated for the fiscal year ending September 30, 1989, under authority of section 31a-2 and section 31a-3 of such title 2.

MOTION OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FAZIO moves that the House recede from its disagreement to the amendment of the Senate numbered 2, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. FAZIO].

The motion was agreed to.

Mr. LEWIS of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. FAZIO].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 3: Page 2, after line 1, insert:

SEC. 13. (a) There is established in the Treasury of the United States a revolving fund within the contingent fund of "Records Revolving Fund" (hereafter in this section referred to as the "revolving fund").

(b) All moneys received on and after October 1, 1989, by the Senate Office of Public Records from fees and other charges for services shall be deposited to the credit of the revolving fund. Moneys in the revolving fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate for use in connection with the operation of the Senate Office of Public Records, including supplies, equipment, and other expenses.

(c) Disbursements from the revolving fund shall be made upon vouchers approved by the Secretary of the Senate.

(d) The Secretary of the Senate is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

(e) To provide capital for the revolving fund, the Secretary of the Senate is authorized to transfer, from moneys appropriated for fiscal year 1990 to the account "Miscellaneous Items" in the contingent fund of the Senate, to the revolving fund such sum as he may determine necessary, not to exceed $30,000.

MOTION OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FAZIO moves that the House recede from its disagreement to the amendment of the Senate numbered 3, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. FAZIO].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 6: Page 12, line 10, strike out "$124,532,000" and insert: "$48,000,000".

POINT OF ORDER

Mr. FRENZEL. Mr. Speaker, I make a point of order against the language in the pending motion as a violation of section 311(a).

The SPEAKER pro tempore. The gentleman will suspend and let the motion be read first.

MOTION OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Speaker, I offer a substitute motion.

The SPEAKER pro tempore. First the Clerk will report the original motion.

The Clerk read as follows:

Mr. FAZIO moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: "$115,661,000, of which $29,379,000 is available only for Senate official mail costs, to be disbursed by the Secretary of the Senate, $54,561,000 is available only for House official mail costs, to be disbursed by the Clerk of the House, and $31,721,000 is an additional amount for fiscal year 1989".

Mr. LEWIS of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. HERTEL). Is there objection to the request of the gentleman from California?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I want to hear the amendment. I object to the request of the gentleman from California.

The SPEAKER pro tempore. The Clerk will read the motion.

The Clerk read the balance of the motion.

The SPEAKER pro tempore. The Clerk read the original motion, not the substitute motion of the gentleman from California [Mr. FAZIO].

Does the gentleman from Minnesota [Mr. FRENZEL] have a point of order on that motion?

Mr. FRENZEL. Mr. Speaker, I do have a point of order against the original motion.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. FRENZEL. Mr. Speaker, I make a point of order against the language in the pending motion under section 311(a) and section 302(f)(1) of the Congressional Budget Act of 1974.

This language violates the abovementioned sections of the Budget Act because it contains $31.7 million in new budget authority for fiscal year 1989.

Section 311(a) of the Budget Act provides a point of order against any bill, amendment, or conference report which provides new budget authority that would cause the appropriate level of total new budget authority for a fiscal year to be exceeded. According to the Parliamentarian's status report filed in the CONGRESSIONAL RECORD of September 19, 1989, the appropriate level of total new budget authority contained in House Concurrent Resolution 268, the concurrent budget resolution for fiscal year 1989, has been exceeded by $16.6 billion. This language would add an additional $31.7 million to the amount of this excess.

Section 302(f)(1) of the Budget Act provides that it shall not be in order to consider a bill, amendment, or conference report providing new budget authority which would cause the appropriate committee allocation to be exceeded. The Appropriations Committee has exceeded its committee allocation for fiscal year 1989 by $1.3 billion. This language would add $31.7 million new budget authority to this overage, thereby violating section 302(f)(1) of the Budget Act.

I believe the motion before us constitutes a violation of both of those sections.

The SPEAKER pro tempore. Does the gentleman from California [Mr. FAZIO] wish to be heard on the point of order?

Mr. FAZIO. Yes, I do, Mr. Speaker.

The SPEAKER. The gentleman is recognized.

Mr. FAZIO. Mr. Speaker, this is simply an effort to keep our commitment to pay for the bills that have been incurred. We are paying in this supplemental appropriation for the current fiscal year, $31.7 million which has already been expended. Rather than carry that forward into the future as has been the case in the past on occasion, we felt it was most appropriate to pay it in this fiscal year as part of the supplemental attached to this bill. This money ought not to be paid by the public through postal rates. It certainly has been incurred by the Congress. We believe that we ought to keep faith with the Postal Service and pay every one of the bills that come due for services rendered. I hope we will be willing to continue our record of having paid all our bills.

Therefore I would hope the gentleman would withdraw his point of order.

The SPEAKER pro tempore. Does the gentleman from Minnesota insist on his point of order?

Mr. FRENZEL. Mr. Speaker, I do insist.

Mr. FAZIO. Mr. Speaker, I concede the point of order.

The SPEAKER pro tempore (Mr. HERTEL). For the reasons stated by the gentleman from Minnesota, the point of order is sustained by the Chair based on the estimate furnished by the Budget Committee.

MOTION OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Speaker, I offer a substitute motion.

The Clerk read as follows:

Mr. FAZIO moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert the following: "$100,229,000, of which $23,978,000 is available only for Senate official mail costs, to be disbursed by the Secretary of the Senate, $44,530,000 is available only for House official mail costs, to be disbursed by the Clerk of the House, and $31,721,000 which may only be expended in fiscal year 1990: *Provided*, That, of the amounts appropriated heretofore or in this Act, the following sums that would have otherwise been expended in fiscal year 1990, according to estimates made by the Congressional Budget Office under section 308(a)(2) of the Congressional Budget and Impoundment Control Act of 1974, as amended (P.L. 93-344), shall not be obligated or expended during fiscal year 1990: $998,000 of the amounts provided heretofore or in this Act to the accounts under the heading "Senate", the amount for each to be determined by the Secretary of the Senate, with the concurrence of the Senate Committee on Appropriations; $580,000 of the amounts provided in this Act for reprogramming under the headings "Capitol Police Board", "Capitol Police", "Salaries"; $195,000 of the amounts provided in this Act under the headings "Office of Technology Assessment", "Salaries and Expenses"; $900,000 of the amounts provided heretofore or in this Act under the headings "Biomedical Ethics Board and Biomedical Ethics Advisory Committee", "Salaries and Expenses"; $184,000 of the amounts provided in this Act under the headings "Architect of the Capitol", "Capitol Buildings and Grounds", "Capitol Buildings", with the concurrence of the House and Senate Committees on Appropriations; $282,000 of the amounts provided heretofore or in this Act under the headings "Architect of the Capitol", "Capitol Buildings and Grounds", "Capitol Grounds", with the concurrence of the House and Senate Committees on Appropriations; $6,934,000 of the amounts provided heretofore or in this Act under the headings "Architect of the Capitol", "Capitol Buildings and Grounds", "Senate Office Buildings", with the concurrence of the

Senate Committee on Appropriations; $225,000 of the amounts provided in this Act under the headings "Library of Congress", "Congressional Research Service", "Salaries and Expenses"; $2,302,000 of the amounts provided heretofore or in this Act under the headings "Government Printing Office", "Congressional Printing and Binding", as approved by the Joint Committee on Printing, with the concurrence of the House and Senate Committees on Appropriations; $111,000 of the amounts provided in this Act under the headings "Library of Congress", "Salaries and Expenses"; and $3,578,000 of the amounts provided heretofore or in this Act under the headings "Government Printing Office", "Office of the Superintendent of Documents", "Salaries and Expenses", the balance".

Mr. FAZIO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. FRENZEL. Reserving the right to object, Mr. Speaker, does the gentleman mind if the reading clerk reads for a while until I read it? I have just been given a copy of the amendment and I had not seen it before.

The SPEAKER pro tempore. The Clerk will read.

The Clerk continued to read the motion.

□ 1520

Mr. LEWIS of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. HERTEL). Is there objection to the request of the gentleman from California?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I asked the gentleman from California [Mr. LEWIS] to go ahead with that unanimous consent on the motion in the hope that one of the two gentlemen would be able to explain the amendment.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. FAZIO] is recognized for 30 minutes.

Mr. FAZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, what this amendment does is move the supplemental for fiscal year 1989 forward into the fiscal year 1990 bill which we have just adopted. Essentially we reached the $31.7 million outlay figure which is required to pay for mail already mailed and costs already incurred by reducing outlays only in a number of items in the bill which are either conference add ons or are above the Gramm-Rudman baselines.

We have in the House kept our own expenditures below the baseline. But that is not the case with several other items in the bill. So we have reduced a number of items which we believe are above the baseline, and we have reduced official mail by approximately half the total amount of the $31 million that the gentleman's point of order requires us to provide in the fiscal year 1990 bill. That essentially is the way we have to meet the 302(b) requirements imposed upon us by the full committee and by the budget process.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I am happy to yield to my colleague, the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I believe the gentleman has presented an ingenious substitute, and we have already dispatched a number of our colleagues to their home districts, so I am not going to ask for a vote on this.

Mr. Speaker, I am glad there has been a reduction, if I am correct, of about $15 million from this account.

Mr. FAZIO. That is correct.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for his explanation, and I wish both the gentlemen well in their work in the future to keep our franking costs under control.

Mr. FAZIO. Mr. Speaker, I appreciate the gentleman's assent.

The SPEAKER pro tempore. The gentleman from California [Mr. Lewis] is recognized for 30 minutes.

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to say that while the gentleman's decision to not call for a vote at this moment does help to maintain comity within this House, however, it may very well be the procedure that will make a comedy out of our relationships with the other body as it relates to the legislative branch matters. Nonetheless, I reluctantly support the substitute.

Mr. FAZIO. Mr. Speaker, if the gentleman will yield, in conclusion let me say that I believe the reductions we made are fair. They do relate basically to those items that were above the baseline. We were very careful to use the CBO estimates of the Gramm-Rudman baseline. They effect accounts across all the agencies in the legislative branch, and, therefore, I would ask the support of my colleagues for this solution that we have had presented.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. FAZIO].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 8: Page 13, strike out lines 1, 2, and 3.

MOTION OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FAZIO moves that the House recede from its disagreement to the amendment of the Senate numbered 8 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

"Special Services Office

For salaries and expenses of the Special Services Office, $237,000, to be disbursed by the Secretary of the Senate: Provided, That none of these funds shall be obligated until the Sergeant at Arms and Doorkeeper of the Senate and the Clerk of the House jointly report to the Appropriations Committees of both Houses their recommendation for the establishment, funding, staffing, support, and administration of a Congressional Special Services Office, or December 1, 1989, whichever first occurs."

Mr. LEWIS of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. FAZIO].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 12: (2) Page 15, line 4, after "$1,500,000" insert: *"Provided,* That no part of these funds may be obligated or expended until the Biomedical Ethics Board has selected a Chairman and Vice Chairman and all members of the Biomedical Ethics Advisory Committee".

MOTION OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FAZIO moves that the House recede from its disagreement to the amendment of the Senate numbered 12, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. FAZIO].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 18: Page 17, after line 23, insert:

SENATE OFFICE BUILDINGS

For all necessary expenses for maintenance, care and operation of Senate Office Buildings; and furniture and furnishings, to be expended under the control and supervision of the Architect of the Capitol, $35,320,000, of which $7,800,000 shall remain available until expended: *Provided*, That none of the funds made available herein for improvements to the Senate subway system shall be obligated or expended until a design and financing plan for such system improvements have been approved by the Committee on Appropriations.

MOTION OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FAZIO moves that the House recede from its disagreement to the amendment of the Senate numbered 18, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. FAZIO].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 24: Page 35, line 16, after "Administration" insert "and for the Senate issued by the Committee on Rules and Administration".

MOTION OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FAZIO moves that the House recede from its disagreement to the amendment of the Senate numbered 24, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. FAZIO].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 34: Page 45, after line 21, insert:

SEC. 314. Effective in the case of this act and any subsequent Act making appropriations for the Legislative Branch, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, the accounts under the general heading "Senate" shall be considered to be one appropriation account and one "program, project, and activity".

MOTION OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FAZIO moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 315. Effective in the case of this Act and any subsequent Act making appropriations for the Legislative Branch, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, or any other Act which requires a uniform percentage reduction in accounts in this Act and any subsequent Act making appropriations for the Legislative Branch, the accounts under the general heading "Senate", and the accounts under the general heading "House of Representatives", shall each be considered to be one appropriation account and one "program, project, and activity".

Mr. LEWIS of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. FAZIO].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 35: Page 45, after line 21, insert:

SEC. 315. (a) The Senate Committee on Rules and Administration and the House Commission on Congressional Mailing Standards shall prescribe for their respective Houses rules and regulations governing any franked mail. Such rules and regulations shall include an allocation among Senators and among Members of the House of Representatives of the amount appropriated for the Senate and the House, respectively, for official mail. The costs for postage for such franked mail mailed by or for a Senator or a Member in excess of the amount of his allocation shall be charged to such Senator or Member and shall be paid by him (in the case his allocation is from the Senate) in accordance with rules and regulations as may be prescribed by the Senate Committee on Rules and Administration, and (in the case his allocation is from the House) in accordance with such rules and regulations as may be prescribed by the House Commission on Congressional Mailing Standards.

(b)(A) The total number of pieces of mail which may be mailed as franked mail under section 3210(d) of title 39, United States Code, during any calendar year by a Senator entitled to mail franked mail may not exceed an amount equal to two multiplied by the number of addresses two which such mail may be delivered in the State from which the Senator was elected (as determined on the basis of the most recent statistics, from the United States Postal Service, available prior to such calendar year). Any mail matter which relates solely to a notice of appearance or a scheduled itinerary of a Senator or such Senator's personal staff representative in the State from which such Senator was elected shall not count against the limitation set forth in the preceding sentence.

(B) The total number of pieces of mail which may be mailed as franked mail under section 3210(d) of title 39, United States Code, during any calendar year by a Member of the House of Representatives entitled to mail franked mail may not exceed an amount equal to two multiplied by the number of addresses to which such mail may be delivered in the area from which the Member was elected (as determined on the basis of the most recent statistics, from the United States Postal Service, available prior to such calendar year). Any mail matter which relates solely to a notice of appearance or a scheduled itinerary of a Member of such Member's personal staff representative in the area from which such Member was elected shall not count against the limitation set forth in the preceding sentence.

(c)(A) Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Sergeant at Arms and Doorkeeper of the Senate shall send to each Senator a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Senator during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the State. A compilation of all such statements shall be sent to the Committee on Rules and Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the semiannual Report of the Secretary of the Senate. Such summary tabulation shall set forth for each Senator the following information: the Senator's name, the total number of pieces of mass-mail mailed during the quarter, the total cost of such mail, and the cost of such mail divided by the total population of the State from which the Senator was elected.

(B) Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the House Commission on Congressional Mailing Standards shall send to each Member of the House of Representatives a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Member during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the area from which such Member was elected. A compilation of all such statements shall be sent to the House Committee on House Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the quarterly Report of the Clerk of the House. Such summary tabulations shall set forth for each member of the following information: the Member's name, the total number of pieces of mass-mail mailed during the quarter, the total cost of such mail, and the cost of such mail divided by the total population of the area from which the Member was elected.

(C) A mass mailing (as defined in section 3210(a)(6)(E) of title 39, United States Code) by a Senator or a Member of the House of Representatives shall contain the following notice in a prominent place on the cover page of the document: "PREPARED, PUBLISHED, AND MAILED AT TAXPAYER EXPENSE".

(D) A mass mailing (as defined in section 3210(a)(6)(E) of title 39, United States Code) by a Senator or a Member of the

House of Representatives shall be limited to 2 sheets of legal size paper (or their equivalent), including any enclosure that—

(i) is prepared by or for the Senator or Member who makes the mailing; or

(ii) contains information concerning, expresses the views of, or otherwise relates to the Senator or Member who makes the mailing.

(d) Effective October 1, 1989, section 3216 of title 39, United States Code, is amended by striking out "by a lump sum appropriation to the legislative branch" and inserting in lieu thereof "by appropriations for the official mail costs of the Senate and the House of Representatives".

MOTION OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FAZIO moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 316. (a)(A) Effective January 1, 1990, the total number of pieces of mail which may be mailed as franked mail under section 3210(d) of title 39, United States Code, during any calendar year by a Senator entitled to mail franked mail may not exceed an amount equal to three multiplied by the number of addresses to which such mail may be delivered in the State from which the Senator was elected (as determined on the basis of the most recent statistics, from the United States Postal Service, available prior to such calendar year). Any mail matter which relates solely to a notice of appearance or a scheduled itinerary of a Senator in the State from which such Senator was elected shall not count against the limitation set forth in the preceding sentence.

(B) Effective January 1, 1990, the total number of pieces of mail which may be mailed as franked mail under section 3210(d) of title 39, United States Code, during any calendar year by a Member of the House of Representatives entitled to mail franked mail may not exceed an amount equal to three multiplied by the number of addresses to which such mail may be delivered in the area from which the Member was elected (as determined on the basis of the most recent statistics, from the United States Postal Service, available prior to such calendar year). Any mail matter which relates solely to a notice of appearance or a scheduled itinerary of a Member in the area from which such Member was elected shall not count against the limitation set forth in the preceding sentence.

(b) Effective January 1, 1990, a mass mailing (as defined in section 3210(a)(6)(E) of title 39, United States Code) by a Senator or a Member of the House of Representatives shall be limited to 2 sheets of paper (or their equivalent), including any enclosure that—

(i) is prepared by or for the Senator or Member who makes the mailing; or

(ii) contains information concerning, expresses the views of, or otherwise relates to the Senator or Member who makes the mailing.

(c) Effective October 1, 1989, section 3216 of title 39, United States Code, is amended by striking out "by a lump sum appropriation to the legislative branch" and inserting in lieu thereof "by appropriations for the official mail costs of the Senate and the House of Representatives".

Mr. LEWIS of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The Speaker pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. FAZIO].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 36: Page 45, after line 21, insert:

SEC. 316. Section 3216(c) of title 39, United States Code, is amended to read as follows:

"(c) Payment under subsection (a) or (b) of this section shall be deemed payment for all matter mailed under the frank and for all fees and charges due the Postal Service in connection therewith. If, at any time during a fiscal year, the Postal Service determines that the postage on and fees and charges in connection with matter mailed under the frank during that year have exhausted the full amount appropriated for payment to the Postal Service during that fiscal year under subsections (a) and (b) of this section, then no more franked mail may be accepted by the Postal Service during the remainder of that fiscal year unless additional funds are appropriated under subsection (a) or (b) of this section and paid to the Postal Service.".

MOTION OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FAZIO moves that the House recede from its disagreement to the amendment of the Senate numbered 36 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 317. At the end of section 3216 of title 39, United States Code, add the following new subsection:

(e)(1) Not later than two weeks after the last day of each quarter of the fiscal year, or as soon as practicable thereafter, the Postmaster General shall send to the Clerk of the House, the House Commission on Congressional Mailing Standards, the Secretary of the Senate, and the Senate Committee on Rules and Administration a report which shall contain a tabulation of the estimated number of pieces and costs of franked mail, as defined in section 3201 of this title, in each mail classification sent through the mail for that quarter and for the preceding quarters in the fiscal year, together with separate tabulations of the number of pieces and costs of such mail sent by the House and by the Senate.

(2) Two weeks after the close of the second quarter of the fiscal year, or as soon as practicable thereafter, the Postmaster General shall send to the Clerk of the House, the House Commission on Congressional Mailing Standards, the Committee on House Administration, the Secretary of the Senate, and the Senate Committee on Rules and Administration a statement of the costs of postage on, and fees and charges in connection with, mail matter sent through the mails as described in subsection (1) of this section for the preceding two quarters together with an estimate of such costs for the balance of the fiscal year. As soon as practicable after receipt of this statement, the House Commission on Congressional Mailing Standards, the Committee on House Administration, and the Senate Committee on Rules and Administration shall consider promulgating such regulations for their respective Houses as may be necessary to ensure that total postage costs, as described in subsection (1) of this section, will not exceed the amounts available for the fiscal year.

Mr. LEWIS of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. FAZIO].

The motion was agreed to.

The SPEAKER. pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 37: Page 45, after line 21, insert:

SEC. 317. Section 3210(a)(6) of title 39, United States Code, is amended—

(1) in subparagraph (A)(i) by striking out "is mailed fewer" and inserting in lieu thereof "is postmarked fewer"; and

(2) in subparagraph (A)(ii)(II) by striking out "is mailed fewer" and inserting in lieu thereof "is postmarked fewer";

(3) in subparagraph (c) by striking out "is mailed fewer" and inserting in lieu thereof "is postmarked fewer"; and

(4) by adding at the end thereof the following new subparagraph:

"(F) For purposes of subparagraphs (A) and (C) if mail matter is of a type which is not customarily postmarked, the date on which such matter would have been postmarked if it were of a type customarily postmarked shall apply.".

MOTION OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FAZIO moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein with an amendment, as follows: In lieu of the first section number named in said amendment, insert "318".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. FAZIO].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of and amendment is as follows:

Senate amendment No. 38: Page 45, after line 21, insert:

SEC. 318. (a) The Architect of the Capitol shall be appointed, for a term of 10 years, by the President by and with the advice and consent of the Senate. An individual appointed to the office of Architect of the Capitol shall be eligible for reappointment to such office.

(b) The provisions of subsection (a) shall be effective in the case of appointments made to fill vacancies in the position of Architect of the Capitol which occur on or after the date of enactment of this Act. If no such vacancy occurs within the 6-year period which begins on the date of enactment of this Act, no individual shall, after such period hold the position of Architect of the Capitol, unless he is appointed in accordance with the provisions of subsection (1).

MOTION OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FAZIO moves that the House recede from its disagreement to the amendment of the Senate numbered 38 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 319. (a)(1) The Architect of the Capitol shall be appointed by the President by and with the advice and consent of the Senate for a term of 10 years.

(2) There is established a commission to recommend individuals to the President for appointment to the Office of Architect of the Capitol. The Commission shall be composed of—

(A) the Speaker of the House of Representatives,

(B) the President pro tempore of the Senate,

(C) the majority and minority leaders of the House of Representatives and the Senate, and

(D) the chairmen and the ranking minority member of the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate.

The Commission shall recommend at least three individuals for appointment to such office.

(3) An individual appointed Architect of the Capitol under paragraph (1) shall be eligible for reappointment to such office.

(b) Subsection (a) shall be effective in the case of appointments made to fill vacancies in the Office of Architect of the Capitol which occurs on or after the date of the enactment of this Act. If no such vacancy occurs within the six-year period which begins on the date of the enactment of this Act, no individual may, after the expiration of such period, hold such office unless the individual is appointed in accordance with subsection (a).

Mr. LEWIS of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. FAZIO].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will read the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 39: Page 45, after line 21, insert:

SEC. 319. Section 119(a)(7) of Public Law 100-458 is amended to read as follows: "To make other necessary expenditures including official reception and representation expenses.".

MOTION OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FAZIO moves that the House recede from its disagreement to the amendment of the Senate numbered 39 and concur therein with an amendment, as follows: In lieu of the first section number named by said amendment, insert "320".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. FAZIO].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 40: Page 45, after line 21, insert:

SEC. 320. For payment to Alison Leland, widow of Mickey Leland, late a Representative from the State of Texas, $89,500. For payment to Shelia A. Smith, widow of Larkin Smith, late a Representative from the State of Mississippi, $89,500.

MOTION OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FAZIO moves that the House recede from its disagreement to the amendment of the Senate numbered 40 and concur therein with an amendment, as follows: In lieu of the section number named by said amendment, insert "321".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. FAZIO].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

DESIGNATION AS CHAIRMAN OF THE SELECT COMMITTEE ON HUNGER

The SPEAKER. Pursuant to the provisions of section 103, House Resolution 84, 101st Congress, the Chair designates the gentleman from Ohio. [Mr. HALL], as chairman of the Select Committee on Hunger to fill the existing vacancy.

EXPRESSION OF APPRECIATION BY NEWLY APPOINTED CHAIRMAN OF THE SELECT COMMITTEE ON HUNGER

(Mr. HALL of Ohio asked and was given permission to address the House for 1 minute.)

Mr. HALL of Ohio. Mr. Speaker, I want to thank the Speaker of the House for his appointment of me as chairman of the Select Committee on Hunger. I thank him for that responsibility and for the trust he has put in me. I thank my friends who have spoken so highly of me, and I appreciate their comments very much.

We have a tremendous job to do when we consider there are 1.3 billion people in this world who are seriously sick and malnourished. Mickey Leland gave his life for this cause. During my time in Congress I have spend a good portion of my time working on this issue at it relates to malnutrition and hunger and the tremendous number of deaths that occur for those reasons.

The interesting thing about this is that it does not take any new technique and it does not take any new technology. We have everything available to make it happen. It just takes the will of all of us and the will of the Third World countries. The provisions are here. It just means that we must work together. I am committed to doing that, and again I want to thank the Speaker and note the friendship of many Members on both sides of the aisle who have helped me attain this position.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. HALL of Ohio. I am glad to yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I want to take this opportunity to congratulate the gentleman from Ohio [Mr. HALL] for this deserving appointment, and I commend the Speaker for his consideration of the work the gentleman has done in the past in promoting resolutions and trying to find resolutions to the problem of world hunger.

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Mr. Speaker, I know that the spirit of Mickey Leland must be with us today, and, if Mickey were here, he would be smiling at this point, knowing of the good, hard effort that the gentleman from Ohio [Mr. HALL] has given over the years in trying to work toward a resolution of world hunger.

Mr. Speaker, we commend the gentleman from Ohio [Mr. HALL] and look forward to working with him in the days ahead.

Mr. HALL of Ohio. Mr. Speaker, I thank the gentleman from New York [Mr. GILMAN] for his kind words. The start of the Select Committee on hunger was his idea, along with

MICKEY LELAND, and I thank him very much.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. HALL of Ohio. I yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, as a member of the Select Committee on Hunger I want to congratulate the new chairman, the gentleman from Ohio [Mr. HALL]. I know that he will follow in the footsteps of Mickey Leland. He has been committed to dealing with hunger problems of the world, as well as throughout this country, and I want to thank him very much for that commitment,

THE ANNIVERSARY OF THE PASSAGE OF THE BILL OF RIGHTS

(Mrs. BOGGS asked and was given permission to address the House for 1 minute.)

Mrs. BOGGS. Mr. Speaker, the First Congress faced the extraordinary challenge of completing the work of the Federal Convention which drafted the Constitution in 1787, 200 years ago today, on September 28, 1789. The First Congress made its most significant contribution to the new order of constitutional amendments that we know as the Bill of Rights, and earlier today, Mr. Speaker, the gentleman from Georgia [Mr. JENKINS] referred to the efficacy of its efforts in providing this body with the freedom of speech guaranteed in the first amendment.

Following a campaign pledge to his constituents, Representative James Madison of Virginia, often referred to as the "Father of the Constitution," prepared the text of a proposed Bill of Rights and was largely responsible for the House's consideration of the amendments in the summer of 1789. The ratification by the States of the Bill of Rights in December 1791 silenced the most serious criticism of the new system of government and allowed Americans to pursue this great experiment in republican government.

At 6 o'clock this evening, for the anniversary for the passage of the Bill of Rights the Library of Congress will hold a special opening of a major bicentennial exhibition, "To make all laws: the Congress of the United States, 1789-1989," which will tour 30 cities over the next 2 years. Present-day Members have the opportunity there to celebrate this special day this evening, and I urge that we take advantage of it.

OILSPILL LEGISLATION

(Mr. MILLER of Washington asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Washington. Mr. Speaker, in the last 2 weeks, I have heard from a lot of people in my district. They all want what I want today—action on oilspill legislation.

There are two major issues of great concern:

First, Mr. Speaker, we should raise liability levels to meet those in the Senate bill. Those limits better reflect the level of liability insurance needed to protect the public and the environment.

Second, let's not preempt State laws. While I would have preferred to have one Federal system and one Federal law, I do not believe the bill coming before us guarantees my State the full protection it wants and needs. Many States—including Washington State have specially designed their oilspill laws to meet local needs and concerns.

Most importantly, Mr. Speaker, let's bring this bill to the floor. Let's improve it. And, let's pass it into law.

LEGISLATIVE PROGRAM

(Mr. GINGRICH asked and was given permission to address the House for 1 minute.)

Mr. GINGRICH. Mr. Speaker, I asked for this 1 minute for the purpose of taking the schedule from the majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. Mr. Speaker, I am happy to yield to the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman from Georgia [Mr. GINGRICH].

Mr. Speaker, obviously we have finished voting for today. We will adjourn until Monday next, October 2, and on that day we will have suspensions on the Calendar, eight bills.

First, H.R. 1335, the Veterans' Compensation Amendments of 1989; second, H.R. 88, regarding unmarked cremated remains in Arlington National Cemetery; third, H.R. 2594, naming the Department of Veterans Affairs Outpatient Clinic in Daytona Beach, FL; fourth, H.R. 2987, naming the Department of Veterans Affairs Medical Center in Leavenworth, KS; fifth, H.R. 2983, naming the Department of Veterans Affairs Outpatient Clinic in Mount Vernon, MO; sixth, H.R. 1358, Montgomery GI bill amendments; seventh, H.R. 1662, Torture Victim Protection Act of 1989; and H.R. 3275, Steel Trade Liberalization Program Implementation Act.

On Tuesday, October 3, the House will meet at noon, take up H.R. 3299, the Budget Reconciliation Act of 1989. We will be continuing consideration on that day. The prime matter upon that day will be the consideration of the Catastrophic Health Program.

On Wednesday, October 4, we will meet at 10 a.m. We will recess immediately and reconvene at 11 to receive the President of Mexico at a joint meeting. Following the joint meeting the House will reconvene for legislative business, continuing consideration of H.R. 3299, the Budget Reconciliation Act of 1989, and on that day we will be considering, among other things, the provision concerning the Child Care Program and attempting on that day to complete work on the Reconciliation Act.

On Thursday, October 5, the House will meet at 10 a.m. We will attempt to take up three bills: H.R. 2748, the Intelligence Authorization Act for fiscal year 1990, subject to a rule; H.R. 1495, the Arms Control Authorization Act of 1989, again subject to a rule, and H.R. 1465, the Oil Pollution Prevention, Response, Liability and Compensation Act of 1989, subject to a rule.

On Friday, October 6, the House will meet at 10 a.m., however there will be no legislative business, and of course on Monday, October 9, the House will be in recess because of the Columbus Day holiday.

Votes will occur again on October 10, but they will occur at 4:30.

I would also note that on Monday, October 2, we will attempt to hold votes until 4:30 in the afternoon to accommodate Members who are traveling back to Washington from their districts.

Mr. GINGRICH. Mr. Speaker, I thank the majority leader, the gentleman from Missouri [Mr. GEPHARDT], and I was going to ask a couple of questions, if I might, on some topics.

First of all, Mr. Speaker, does the gentleman from Missouri [Mr. GEPHARDT] have any new information on when we might see the Nuclear Regulatory Commission bill on the floor?

As my colleagues know, there are a number of Members, including the gentleman from Pennsylvania [Mr. RITTER], who are very concerned about that and feel it has a very timely amendment, and I wonder if there is any information as to whether that bill might come to the floor.

Mr. GEPHARDT. Mr. Speaker, as the gentleman from Georgia [Mr. GINGRICH] knows, we have been extremely busy trying to complete the reconciliation bill. We will attempt to contact the committee that is involved and communicate with him about the plans for that legislation.

Mr. GINGRICH. Mr. Speaker, second, as the gentleman from Missouri [Mr. GEPHARDT] knows, the President's drug and crime package is still in the Committee on the Judiciary, and it is something which President Bush sent up in June, and I just wonder if there are any plans possibly in October to try to report that package to the floor.

Mr. GEPHARDT. Mr. Speaker, the committee is considering that legislation. It obviously has a connection

with the drug package which we are going to be working on in the appropriation bills. We will attempt to see if activity will come out of that committee on the crime package.

□ 1540

Mr. GINGRICH. Lastly, there is a very real danger since we will technically be in sequester when we come back on Monday and within 2 weeks, on the 16th of October, there will be a real sequester cutting Federal spending. As I understand the procedure, the majority leadership on both sides will have an opportunity in both the House and in the Senate to offer an expedited procedure during the last 10 days immediately following the beginning of that sequester, and I just wondered if there are any plans to try to develop a bipartisan approach, if there are going to be expedited efforts to minimize or avoid the sequester.

Mr. GEPHARDT. Mr. Speaker, will the gentleman from Georgia yield to the gentleman from California [Mr. PANETTA], the distinguished chairman of the Budget Committee, for an answer.

Mr. GINGRICH. Mr. Speaker, I am glad to yield to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding to me.

Right now I believe we feel that the reconciliation bill, obviously with some of the changes occurring today, but nevertheless, we still feel that the numbers in the reconciliation bill are sufficient to meet the Gramm-Rudman target. Our hope is to complete reconciliation by next Wednesday, and hopefully the Senate will try to expedite their procedures so that we can go into conference very soon after that. At least as far as I know, there is no effort on this side to try to do any kind of expedited procedure, because reconciliation would basically respond to that.

Mr. GINGRICH. As we know, the other body has indicated that they may well be in recess for the week I think of the 9th. We just wanted to offer on our side that we would very much like to work on a bipartisan basis if we do decide that we are in a situation where we need some kind of expedited procedure, and we just wanted to say to the leadership on that side that we would like to be helpful in any way that we can on that.

Mr. PANETTA. Mr. Speaker, if the gentleman will yield further, it certainly is my intent, and I am sure it is the intent of the gentleman from Minnesota [Mr. FRENZEL] that we expedite this measure as quickly as possible once it has been passed by the House. That is certainly my intent, because I do think any time we enter into sequestration that represents a failure on the part of the House and of the Senate to respond to that responsibility.

Mr. GINGRICH. If I might say one last thing to the distinguished majority leader, something I said to the press awhile ago. I just want to go on record as saying that this was a very hard fought and difficult day and obviously of great importance to both sides. I cannot remember in my 11 years here a tone of collegiality and comity and, frankly, friendly competition that was as positive and as healthy for this institution as the one that Speaker FOLEY and the gentleman from Missouri [Mr. GEPHARDT], the gentleman from California [Mr. PANETTA] and the gentleman from Pennsylvania [Mr. GRAY] have fostered.

I just want to give my personal thanks. I think the whole tone of the House has changed and these gentlemen deserve a great deal of the credit for that and we look forward to working with you. We are going to win some, we are going to lose some, but if we all do it together in this positive way, I think it is very, very healthy, and I want to thank the gentleman from Missouri personally.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for his comments. I think it is obvious that we can have strong disagreements about the substance of policy without having personal bitterness or rancor. The House of Representatives is here so that these deep disagreements can be discussed and resolved. I think that is the House working at its finest.

We also appreciate the attitude and the amount of comity and good will that has transpired during this entire debate and we hope it will continue with other issues that will be hard fought.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES ON OCTOBER 4, 1989, TO RECEIVE IN JOINT MEETING THE PRESIDENT OF THE UNITED MEXICAN STATES

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that it may be in order at any time on Wednesday, October 4, 1989, for the Speaker to declare recesses, subject to the call of the Chair, for the purpose of receiving in joint meeting His Excellency Carlos Salinas de Gortari, President of the United Mexican States.

The SPEAKER pro tempore. (Mr. EVANS). Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALL OF THE PRIVATE CALENDAR ON TUESDAY, OCTOBER 3, 1989

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar be dispensed with on Tuesday, October 3, 1989.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ADJOURNMENT TO MONDAY, OCTOBER 2, 1989

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

WORLD FOOD DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 138) designating October 16, 1989, and October 16, 1990, as "World Food Day" and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. GILMAN. Reserving the right to object, Mr. Speaker, as the sponsor of House Joint Resolution 267, the companion House measure, I am pleased to rise in support of Senate Joint Resolution 138, which would designate October 16, 1989, as "World Food Day."

I want to take a moment to note that it is with great sadness that we bring World Food Day to the floor without our cosponsor our good friend, the gentleman from Texas Mickey Leland. Mickey was always a strong supporter of the many important education activities that took place on World Food Day. His leadership and smiling face is sorely missed by all of us.

Congressman Leland took an active role in legislative efforts to alleviate

world hunger. Under his leadership the committee held numerous hearings and seminars on domestic and international hunger issues. Among the many areas explored were: Primary health care and nutrition initiatives, including support of UNICEF's child survival efforts and vitamin A activities; provision for United States emergency relief assistance overseas; use of United States surplus commodities in alleviating hunger; the linkage of population growth to hunger and the use of appropriate technology to promote family food production in Africa.

Representative Leland introduced the Food Assistance and African Agriculture Act to establish a special fund for small farmers in sub-Saharan Africa through the International Fund for Agricultural Development, as well as provide regular replenishment of funds for the multilateral agency which provides credit to poor farmers.

The food needs of Americans equally concerned Representative Leland. To better inform Congress of domestic food needs, Representative Leland led investigations into the nutritional status of the homeless, the elderly, the rural poor, migrant workers, Native Americans, infants and children, and other vulnerable populations.

Representative Leland introduced the first legislation addressing the comprehensive needs of the homeless—nutrition, health and other services, as well as housing. He also was dedicated to expanding Medicaid services and the special supplemental food program for women, infants, and children [WIC]. Representative Leland introduced legislation to set up farmers' market demonstration projects in low-income neighborhoods. He also worked to improve access to Federal assistance programs and to simplify their application procedures.

Since 1979, the National Committee for World Food Day under the leadership of its chairwoman, Patricia Young, has undertaken hundreds of projects and programs related to the world's hunger problem. Without World Food Day and the organizations involved with its celebration, the groundswell needed that made all the media events possible concerning hunger would never have existed.

Yet, despite the impressive outpouring of support, the problem of world hunger persists. According to recent reports 2 million people are at risk of starving in Sudan.

The worsening famine and misery there was of great concern to Mickey and it was during one of his many visits to Sudanese refugee camps in Ethiopia that he was taken from us. Estimates for the number of deaths range as high as 1 million, and perhaps as many as 3 million people remain at risk of starvation. In Aweil, southeast of Khartoum, 2,481 people died in May and June of hunger. An additional 8,000 people died of starvation there between June and September. The 1988 deaths from starvation in the Sudan are now estimated to be as high as 500,000.

These grim statistics underscore the critical need for a continued commitment of private and Government funds to ending hunger. But emergency relief aid is not enough. A concerted effort must be made to improve the deteriorating conditions that result in tragedy after tragedy—the same conditions that allow famine and starvation to persist and remain a reality in a world with more than enough resources to feed its population. It is time for us, for our Nation and the world of nations to work to prevent disasters from occurring—to solve the problems.

World Food Day has been an effective way to raise global consciousness concerning this issues.

Accordingly, I urge my colleagues to support Senate Joint Resolution 138.

Mr. Speaker, I am pleased to yield to the gentleman from Ohio [Mr. HALL], who has now been appointed as chairman of our Select Committee on Hunger.

Mr. HALL of Ohio. Mr. Speaker, 5 minutes ago I was appointed as chairman of the Select Committee on Hunger, and I am excited to find this resolution before us, a most important reminder of what the problem and what the issue is.

I want to thank the gentleman from New York [Mr. GILMAN] for his great effort on this issue. Even long before we formed the select committee, the gentleman from New York [Mr. GILMAN] was always in there pitching and working hard for this issue to try to save many, many lives. He is one of the founders, of course, of the Select Committee on Hunger.

Again, of course, he reminds us of the problem with this resolution. I cannot think of a more important thing that we can do in the Congress of the United States than to save lives. What more important thing can we do as Members of Congress than to speak out on this issue and do something about it through legislation. When the world and the media turns its attention away from famine and drought, which for the most part it has in the last few months, who is left really to focus on this tremendous problem?

I think this is one way to bring focus to it, because as attention moves away from the problem, the problem still remains, and it is 40,000 children who are dying every day, today, yesterday and tomorrow, as a result of hunger and malnutrition.

So I want to thank the gentleman from New York [Mr. GILMAN] for reminding us about this problem through this most important resolution.

Mr. GILMAN. Mr. Speaker, I thank the distinguished chairman of our Select Committee on Hunger, the gentleman from Ohio [Mr. HALL] for his supporting remarks, and I am pleased to yield to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for leadership with respect to this resolution.

I also want to commend the gentleman from Ohio [Mr. HALL] who has just been named the chairman of the Select Committee on Hunger. It has been my privilege and pleasure to work with him as the ranking member of the International Hunger Subcommittee within that committee. His leadership will continue to make an outstanding contribution.

I think that as we prepare to pass this resolution with respect to World Food Day, it might be well to remember that only about 2 months ago the House took action to pass legislation, to pass a resolution with over 80 original cosponsors.

□ 1550

All of the members of the Select Committee on Hunger including the gentleman from New York and the gentleman from Ohio, of course, plus many members of the Foreign Operations Subcommittee, the Committee on Appropriations, and the Committee on Foreign Affairs encouraged the President and Secretary General of the United Nations to act upon recommendations coming to them and to the world from U.N.-related conferences, from private voluntary organizations around the world, and from a variety of church and other leaders active in child survival and hunger issues. They have concluded on several occasions with unanimous support that we have the capacity to end basic hunger in this world if we simply take the resources that we have available from the private sector, from our governments, bilaterally, multilaterally with the help of the private voluntary organizations, concentrating our effort, that we have the capacity to eliminate the basic elements of hunger by the year 2000. I think that is a worthy goal, and I certainly would encourage the President to move ahead as our resolution indicated to establish a commission in the United States to work with the Secretary General and to provide his leadership in the international forum as well.

Mr. Speaker, I think that the passage of this resolution today will be one more step to point out how important this subject and a solution of basic hunger is to the world.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Nebraska [Mr. BEREUTER] for his supporting work.

Mr. Speaker, I withdraw my reservation of objection.

Mrs. MORELLA. Mr. Speaker, it is an honor for me to support House Joint Resolution 267 which designated October 16 as "World Food Day." This date coincides with the founding of the U.N. Food and Agriculture Organization [FAO] in October 1945. This is the eighth consecutive year that Congress has supported this important measure to increase public awareness of the devastation of malnutrition and hunger throughout the world.

The global population is growing geometrically; agricultural efforts to keep pace with this growth is not fast enough, even though scientific research and technology in producing crops is progressing. Farmers are dependent on climatic and seasonal conditions. Soil erosion, decertification, and poor irrigation also contribute to the acute food shortage. Education in farming is essential in many parts of the world—overcomig centuries of farming customs is another hurdle which must be met. For example, food production has dropped over 20 percent per capita since 1969 in Africa.

We know that our colleague from Texas, MICKEY LELAND, was concerned about the hunger, malnourishment, and suffering that so many face each day. He will be remembered for his work in this field. I would also like to commend the sponsor of this bill, the gentleman from New York, Congressman GILMAN, who has diligently worked on the issue of world hunger for many years.

Hunger is a problem throughout the world—we find it everywhere, even in the shadows of the Capitol. No matter where it exists, it should not. We must join together and help to eradicate this scourge.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 138

Whereas hunger and malnutrition remain daily facts of life for hundreds of millions of people throughout the world;

Whereas the children of the world suffer the most serious effects of hunger and malnutrition, with millions of children dying each year from hunger-related illness and disease, and many others suffering permanent physical or mental impairment because of vitamin or protein deficiencies;

Whereas the United States and the people of the United States have a long tradition of demonstrating humanitarian concern for the hungry and malnourished people of the world;

Whereas there is growing concern in the United States and around the world for environmental protection and the dangers posed to future food security from misuse and overuse of precious natural resources of land, air, and water and the subsequent degradation of the biosphere;

Whereas efforts to resolve the world hunger problem are critical to the maintenance of world peace and, therfore, to the security of the United States;

Whereas the Congress is particularly concerned with the continuing food problems of Africa and is supportive of the efforts being made there to reform and rationalize agricultural policies to better meet the food needs of Africans;

Whereas the United States, as the largest producer and trader of food in the world, has a key role to play in assisting countries and people to improve their ability to feed themselves;

Whereas although progress has been made in reducing the incidence of hunger and malnutrition in the United States, certain groups, notably Native Americans, migrant workers, the elderly, and children, remain vulnerable to malnutrition and related diseases;

Whereas the Congress is acutely aware of the paradox of enormous surplus production capacity in the United States despite the desperate need for food by people throughout the world;

Whereas the United States and other countries should develop and continually evaluate national policies concerning food, farmland, and nutrition to achieve the well-being and protection of all people and particularly those most vulnerable to malnutrition and related diseases;

Whereas improved agricultural policies, including farmer incentives, are necessary in many developing countries to increase food production and economic growth;

Whereas private enterprise and the primary of the independent family farmer have been basic to the development of an agricultural economy in the United States and have made the United States capable of meeting the food needs of most of the people of the United States;

Whereas increasing farm foreclosures threaten to destroy the independent family farmer and weaken the agricultural economy in the United States;

Whereas conservation of natural resources is necessary for the United States to remain the largest producer of food in the world and to continue to aid hungry and malnourished people of the world;

Whereas participation by private voluntary organizations and businesses, working with national governments and the international community, is essential in the search for ways to increase food production in developing countries and improve food distribution to hungry and malnourished people;

Whereas the member nations of the Food and Agriculture Organization of the United Nations unanimously designated October 16 of each year as World Food Day because of the need to increase public awareness of world hunger problems;

Whereas past observances of World Food Day have been supported by proclamations by the Congress, the President, the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States, and by programs of the Department of Agriculture, other Federal departments and agencies, and the governments and peoples of more than 140 other nations;

Whereas more than 400 private voluntary organizations and thousands of community leaders are participating in the planning of World Food Day observances in 1989, and a growing number of these organizations and leaders are using such day as a focal point for year-round programs; and

Whereas the people of the United States can express their concern for the plight of hungry and malnourished people throughout the world by fasting and donating food and money for such people: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 16, 1989, and October 16, 1990, are designated as "World Food Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe World Food Day with appropriate ceremonies and activities, including worship services, fasting, education endeavors, and the establishment of year-round food and health programs and policies.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 133) designating October 1989 as "National Domestic Violence Awareness Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I yield to the gentlewoman from New York [Ms. SLAUGHTER], who is the chief sponsor of House Joint Resolution 320 designating October 1989 as "National Domestic Violence Awareness Month."

Ms. SLAUGHTER of New York. Mr. Speaker, I thank the gentleman for allowing me the opportunity to speak on behalf of a resolution that I have introduced to declare this coming October as "National Domestic Violence Awareness Month."

Domestic violence is an insidious crime that does not discriminate; it affects families from all racial, social, and economic backgrounds. In this country, a woman is battered every 15 seconds. And in half the families where a woman is abused, so are the children. This is appalling.

Domestic violence programs throughout this Nation have provided shelter for more than 375,000 women and children. However, for every woman provided shelter, two needy women may be turned away for lack of space. Currently, the Family Violence Protection and Services Act, the only Federal program specifically created to fund services for domestic violence shelters, has been severely underfunded. In 1988, it was authorized at $26 million, but only $8.14 million was appropriated. At a time when these shelters turn away 40 percent of all families that approach them due to a lack of space, it seems to me that the Federal Government must do more. "National Domestic Violence Awareness Month" demonstrates our commitment to expand programs that assist the victims of domestic violence and provide increased prevention efforts so

that we can end this tragic family violence.

Yesterday, the House Judiciary Committee on Immigration, Refugees and International Law held a hearing on immigration reform and discussed the increased incidence of domestic violence occurring in marriages between immigrants and American citizens. The present law can trap an immigrant spouse in an abusive relationship for up to 2 years. I have introduced legislation, the Marriage Fraud Amendments Act of 1989, that will address this terrible crime. This simple clarification of present law potentially will aid thousands of victims of domestic violence. I urge you to support this bill.

I thank everyone who has supported "National Domestic Violence Awareness Month" and I ask them to support additional measures currently pending before the House to bring this scourge to an end.

Mr. MILLER of California. Mr. Speaker, as an original sponsor of House Joint Resolution 320, which declares October as "National Domestic Violence Awareness Month," I am extremely pleased to see that it has received such enormous support. I would like to commend my esteemed colleague from New York, Ms. SLAUGHTER, for her efforts in ensuring passage.

While Members and advocates in communities across the country have been celebrating "Domestic Violence Awareness Month" for nearly a decade, this is the first time Congress has officially recognized it. Its passage today sends out a strong message that domestic violence is not just a woman's problem, or a family's problem, or even a community's problem, but a national problem. As such, it is a problem for which we all share a responsibility to solve.

In addition, passage of this legislation pays tribute to the tireless efforts and commitment of battered women's advocates, including the National Coalition Against Domestic Violence, and those of shelter staff, like those at Battered Women's Alternatives in my own community of Contra Costa County, CA, who struggle to provide services to battered women and their families.

Perhaps most importantly, its passage acknowledges the pain and suffering of the victims themselves, many of whom were brave enough to share their stories so that others might be spared the same anguish.

For, despite these exemplary efforts, domestic violence continues to claim millions of victims annually and resources to help them remain scarce.

As the Select Committee on Children, Youth, and Families has learned, at least 3 million women are beaten by their husbands, ex-husbands, or boyfriends each year. One in 12 is beaten while pregnant. About one-third of the women killed in 1986 were murdered by their boyfriends or spouses.

According to NCADV, nearly 2 million calls were received by State-run or local domestic violence hotlines in 1987; an additional 105,000 calls have been made to "Shelter Aid," a nationwide hotline supported by Johnson & Johnson's "Personal Products," since it began 2 years ago.

In my district, BWA received approximately 8,500 calls from victims in fiscal year 1989, as compared to about 7,600 calls the previous year. In fiscal year 1989, 169 women and the 218 children who accompanied them were sheltered at BWA, and another 277 women and their 363 children were sheltered in safe homes throughout the community. Nearly 2,000 women participated in BWA's legal program, 425 women in its jobs program, and about 1,500 women were involved in its support groups in the county. Nearly 500 men were engaged in BWA's model men's treatment program.

While domestic violence is widespread, resources to assist victims and treat batterers are limited.

Nationwide, there are only 1,300 shelters and safe homes for battered women, which housed only 175,000 women and about 200,000 of their children in 1987. Nearly 40 percent of women and their children in need of emergency housing were denied it due to a critical lack of space. My Sister's Place, the largest shelter program in the District of Columbia, for example, is forced to turn away seven out of every eight women—and her children—seeking refuge, or 30 women per month.

Shelters are called upon to do more than just provide a roof and a warm meal for victims. They are also faced with the difficult task of addressing critical medical, housing, and legal needs of battered women, as well as serious substance abuse and nutritional problems. In most cases, shelters are asked to assist battered women in getting back on their feet economically as well as emotionally and to help them live independently once they leave a shelter.

Federal support for these efforts is inexcusably inadequate. The House recently approved only $8.2 million in fiscal year 1990 for domestic violence prevention and treatment efforts, the same level as last year.

Equally meager is legal protection against domestic violence. Police are still reluctant to get involved in family disputes. Only a handful of States have mandatory arrest laws for domestic violence, even though arrest has been shown to be a strong deterrent to abuse. To the extent that such laws exist, they are not uniformly enforced.

By declaring October as "National Domestic Violence Awareness Month" we have the opportunity to bring this problem out into the open so that we might better assist its victims, and ultimately, prevent its occurrence. I thank my colleagues for their support of House Joint Resolution 320 and encourage them to help spread the word that we, as a nation, will not tolerate domestic violence.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 133

Whereas it is estimated that a woman is battered every fifteen seconds in America;

Whereas domestic violence is the single largest cause of injury to women in the United States, affecting three million to four million women;

Whereas urban and rural women of all racial, social, religious, ethnic, and economic groups, and of all ages, physical abilities, and lifestyles are affected by domestic violence;

Whereas 30 per centum of female homicide victims in 1986 were killed by their husbands or boyfriends;

Whereas one-third of the domestic violence incidents involve felonies, specifically, rape, robbery, and aggravated assault;

Whereas in 50 per centum of families where the wife is being abused, the children of that family are also abused;

Whereas some individuals in our law enforcement and judicial systems continue to think of spousal abuse as a "private" matter and are hesitant to intervene and treat domestic assault as a crime;

Whereas in 1986, over three hundred and eleven thousand women, plus their children, were provided emergency shelter in domestic violence shelters and safehomes and the number of women and children that were sheltered by domestic violence programs increased by nearly one hundred thousand between 1983 and 1986;

Whereas for every one woman sheltered nationwide, two women in need of shelter may be turned away due to a lack of shelter space;

Whereas the nationwide efforts to help the victims of domestic violence need to be coordinated;

Whereas there is a need to increase the public awareness and understanding of domestic violence and the needs of battered women and their children; and

Whereas the dedication and successes of those working to end domestic violence and the strength of the survivors of domestic violence should be recognized: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1989 is designated as "National Domestic Violence Awareness Month". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe this month by becoming more aware of the tragedy of domestic violence, supporting those who are working to end domestic violence, and participating in other appropriate efforts.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL HOSTAGE AWARENESS DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 400) designating October 27, 1989, as "National Hostage Awareness Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I yield to the gentleman from Michigan [Mr. HENRY], who is the chief sponsor of House Joint Resolution 400, designating October 27, 1989, as "National Hostage Awareness Day."

Mr. HENRY. Mr. Speaker, I would like to thank Mr. SAWYER, chairman of the Subcommittee on Census and Population, and Mr. GILMAN, the gentleman from New York, for their efforts in bringing this resolution to the floor. While it is legislation for which I wish there would be no cause, I am truly honored to have the opportunity to bring it before the House of Representatives.

In the early months of 1985, while working as the chief Middle East correspondent for the Associated Press, Terry Anderson was taken captive in Beirut, Lebanon. At the time, he was 37. Next month, on October 27, he will turn 42—marking his fifth birthday in captivity. This resolution (H.J. Res. 400) seeks to commemorate this day by designating it as "National Hostage Awareness Day." It is my hope that through appropriate observances on the 27th, we will continue to keep the plight of the hostages in our thoughts and our prayers.

It should also be noted that during that week we will also see the passage of the 1,000th day of captivity for three American professors seized at Beirut University College in West Beirut: Alann Steen, Jesse Turner, and Robert Polhill. In addition, Thomas Sutherland, dean of agriculture at the American University of Beirut, Frank Reed, headmaster of the Lebanese International School, Joseph Cicippio, deputy comptroller at AUB, and Edward Tracy, an illustrator continue to be held hostage by various other extremist Islamic groups.

Two additional Americans, William Buckley and Col. William Higgins, may no longer be among those who are held hostage, as they are presumed to no longer be alive.

To honor these hostages, this resolution calls for the ringing of bells at noon on the 27th and other appropriate observances—the display of yellow ribbons, and the lighting of porch lights, to name a few of the ways that Americans can demonstrate their solidarity.

I am sure that I speak for all of us when I extend to the hostages and their families our sincerest hopes for the captives' speedy release. In the meantime, we will all keep them in our thoughts and our prayers—especially on this day that this resolution will set aside in their honor.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I thank the distinguished gentleman for yielding.

Mr. Speaker, I want to compliment the major sponsor for this legislation. We should never forget the hostages, and we ought to be hopefully fostering diplomatic activities to release the hostages.

Terry Anderson happens to be, among others, from northeast Ohio, and I can tell the Members that the people in our region every day grieve for him and pray for him along with the other hostages.

I want to congratulate the gentleman. I think it is very important that we keep this issue on the front burner.

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman for her supporting comments.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I am pleased to have this opportunity to bring before my colleagues House Joint Resolution 400, designating October 27, 1989, as "National Hostage Awareness Day."

At the outset, let me acknowledge the assistance of the distinguished chairman of the Committee on Foreign Affairs, Congressman FASCELL, in bringing this resolution to the floor today. House Joint Resolution 400 was referred jointly to Chairman FASCELL's committee and I would like to submit for the RECORD, at this point, the chairman's letter waiving jurisdiction without prejudice, to allow the Committee on Post Office and Civil Service to facilitate action on the resolution in a timely manner.

Mr. Speaker, October 27 will be the 42d birthday of Terry Anderson, who served as the chief Middle East correspondent for the Associated Press until his kidnaping on March 16, 1985. Since that day, nine other Americans in Lebanon have been seized as hostages; one has been killed and another is presumed dead.

Adoption of a resolution to intensify our Nation's continuing awareness of the terrible plight of American and other foreign hostages in the Middle East is enormously important. As we set aside 1 day to remember Terry Anderson in his fifth year of captivity, we must increase our efforts every day to secure the release of all innocent people held hostage in Lebanon.

The turmoil in the Middle East, both among and within nations, is historically deep and culturally complex. Too many forces with epic dimensions—religious, political, and military—have divided the region for too long, but the quest for peaceful coexistence and stability goes on.

But the seizure of innocent people as hostages will do nothing to further the cause of those who seek recognition in the Middle East. To the contrary, the United States and its allies can do little to promote genuine peace and understanding in the region in an environment where innocent people are held as pawns at the balance point in a frightful game of international coersion.

As we set aside 1 day to remember and pray for those who have become innocent victims of the unrest in the Middle East, let us renew our efforts at the national and international levels to win the release of our hostages and bring them home safely.

The letter follows:

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, September 21, 1989.

Hon. WILLIAM D. FORD,
Chairman, Committee on Post Office and Civil Service, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to inform you that the Committee on Foreign Affairs will forego action on H.J. Res. 400, designating October 27, 1989 as "National Hostage Awareness Day", without prejudice to the Committee's jurisdiction.

It is my understanding that due to the timeliness of this resolution, the Committee on Post Office and Civil Service would like to bring this matter before the House under suspension of the rules as soon as possible. Therefore, I have no objection to the consideration of this measure and would request that you make our correspondence on this issue a part of the record during Floor consideration.

With best wishes, I am,

Sincerely yours,

DANTE B. FASCELL,
Chairman.

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Mr. GILMAN. Mr. Speaker, further reserving the right to object, I rise to express my strong support for House Joint Resolution 400, designating October 27, 1989, as "National Hostage Awareness Day" and I commend the gentleman from Michigan [Mr. HENRY] for sponsoring this resolution.

Our Nation has had enough, Mr. Speaker. Eighteen American citizens have been kidnaped in Lebanon since 1982. Seven have escaped or been released, Peter Kilburn was found dead in April 1986, and 10 remain in captivity or are presumed dead.

Terry Anderson, Thomas Sutherland, Frank Reed, Joseph Cicippio, Edward Tracy, Jessee Turner, Alann Steen, and Robert Polhill will not be forgotten. The scourge of state-sponsored terrorism must end. Iran has a moral obligation to call upon Hezballah to release these innocent individuals.

Efforts by national and international organizations have failed to win the hostage's release. Lt. Col. William Higgins and William Buckley have been brutally murdered. This resolution will help make the American people think about the plight of their brethren in Lebanon and I strongly urge its adoption.

Mr. Speaker, along with a number of my colleagues, we recently returned

from the 33d exchange between Members of Congress, and members of the European Parliament. At that meeting, I presented a paper on international terrorism which I request be entered at this point in the RECORD.

TERRORISM: A MORE PROACTIVE STANCE

(A paper presented by Representative Benjamin A. Gilman at the 33d Interparliamentary Meeting between Members of the United States Congress and members of the European Parliament on September 23, 1989 at Los Angeles, CA)

Chairman Hoon, Chairman Lantos, and my colleagues, once again we take up an issue of profound concern to all of us and yet none of our nations have been able to propose any sort of reasonable solution. The West has been at loose ends. We were all appalled at Hezballah's apparent execution of Lieutenant Colonel Higgins, as well as by the notorious activities of the Abu Nidal organization. Yet, during our last few meetings the subject of international terrorism has been relegated to the miscellaneous category because we cannot mutually agree that it is an important enough issue to give it greater prominence on our main agenda.

When we last met, I implored our delegation to put pressure on state sponsors of terrorism such as Iran, Cuba, North Korea, Nicaragua, Iraq, Syria, South Yemen, and Libya to cease their support for international terrorist organizations. We all know who the culprits are, and we know how to punish them. Combatting terrorism must include a broad spectrum of responses. It is obvious that diplomacy alone is not enough, but it is certainly a place to start. We must consider the possibility of denying visas to citizens and representatives of any country that uses or supports terrorist tactics. We must consider canceling landing rights and port access of state sponsors of terrorism, within the limits of international agreements and regulations. These measures have been employed before, and on some occasions have been quite successful.

Permit me to share with you a quotation from a New York Times editorial dated August 2, 1989. The editorial deals with the Salman Rushdie Affair:

"In February, Iran offered $1 million dollars for the murder of Salman Rushdie, author of Satanic Verses, a book that offended many Muslims. In protest, Western nations withdrew their ambassadors from Teheran; most have drifted back, quietly.

"Terrorists and states sponsoring terrorism, like Iran, Syria and Libya, can only be emboldened by such irresolution."

It is essential for nations to follow through on such initiatives. Ministries of State, and diplomats, however, panic at the thought of complicating bilateral relations through such measures and often opt to do nothing.

In 1978, the United States joined with West Germany, Canada, Britain, France, Italy and Japan in declaring a willingness to suspend commercial airline service between those countries, and any country harboring hijackers. This is an example of a proactive measure that has a reasonably good chance for success.

Economic sanctions are another important weapon at our disposal, but we must bear in mind that economic sanctions require the cooperation of several countries to make them effective. The United States and the European Community must come together to place restrictions on trade; technology transfer; foreign assistance; export credits; foreign exchange; capitol transactions and economic access to any and all state sponsors of terrorism.

Let me briefly address another related issue which deeply troubles me. International terrorist incidents provide a staged drama for worldwide media coverage with the specific objective of embarrassing the victim nations. The media role in such cases is a matter of judgment and balance between the public's right to be informed, and the media's responsibility not to provide the terrorists with important benefits and advantages.

Legislative bodies are limited in their direct role in these matters, but some individuals in the United States have suggested passing legislation that would encourage voluntary media constraints. The following are some examples of voluntary standards adopted by the Chicago Sun Times and daily news:

(1) Paraphrasing terrorist demands in order to avoid unbridled propaganda; (2) Banning the participation of reporters in negotiations with terrorists; (3) Coordinating coverage through sponsoring editors who are in contact with the police; (4) Providing restrained coverage of events through supervising editors who are in contact with the police; and (5) Providing thoughtful and restrained coverage of stories.

The media is a critical link in the terrorist problem. Terrorism is a form of communication, and terrorists thrive on grief, fear and their ability to coerce others. We all must work together to reduce the role of the media in exacerbating the international terrorist problem.

Let me conclude by reiterating a theme I dwelled upon last January. We must all work together to eliminate safe havens for international terrorists. Virtually every operational terrorist group is linked to at least one government. This connection helps these groups access better weapons and intelligence information. We must continue to work together to combat international terrorism on all fronts and we must be ready and willing to adopt a more proactive stance. Let us not await the next mindless, wanton act of terrorism.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. EVANS). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

S.J. RES. 400

Whereas 10 innocent citizens of the United States have been held hostage in Lebanon;

Whereas it is reported that 1 of the hostages, Lieutenant Colonel William R. Higgins, taken February 17, 1988, was killed by his captors;

Whereas another hostage, William Buckley, political officer at the United States Embassy in Beirut, seized March 18, 1984, is presumed dead;

Whereas the remaining hostages from the United States are: Terry Anderson, chief Middle East correspondent for the Associated Press, seized March 16, 1985; Thomas P. Sutherland, dean of agriculture, American University of Beirut, taken June 9, 1985; Frank Herbert Reed, headmaster of the Lebanese International School, seized September 9, 1986; Joseph James Cicippio, deputy comptroller of the American University of Beirut, seized September 12, 1986; Edward Austin Tracy, illustrator, seized October 21, 1986; Jessee Jonathan Turner, computer and mathematics professor, Beirut University College, seized January 24, 1987; Alann Bradford Steen, professor of journalism at Beirut University College, seized January 24, 1987; and Robert Bruce Polhill, business professor at Beirut University College, seized January 24, 1987;

Whereas efforts by national and international organizations have failed to end the terrible plight of the hostages in Lebanon;

Whereas the fate of other hostages seized in Lebanon of British, West German, Irish, and Italian nationalities is uncertain; and

Whereas Terry Anderson has been held for the longest period of time of all foreign hostages in Lebanon: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) October 27, 1989, is designated as "National Hostage Awareness Day" in recognition of the 42d birthday of Terry Anderson, his 5th in captivity;

(2) efforts should be made to have October 27 declared International Hostage Day by the United Nations;

(3) all Federal agencies and international agencies should increase efforts to secure the release of the remaining hostages;

(4) adherents of all faiths in the United States should pray for the release of all United States and foreign hostages in Lebanon on such day; and

(5) bells be rung beginning at noon on October 27, 1989, for one minute to honor the hostages in Lebanon.

AMENDMENT OFFERED BY MS. OAKAR

Ms. OAKAR. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. OAKAR: Page 3, strike lines 10 through 12 and insert the following:

(3) all nations and international agencies should work to secure the prompt, safe, and unconditional release of the hostages by exerting influence, either directly on the hostage-takers, or indirectly on other involved nations;

Page 3, line 16, strike "bells" and insert "in addition to appropriate observances throughout the day, bells should".

Ms. OAKAR (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentlewoman from Ohio [Ms. OAKAR].

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and the motion to reconsider was laid on the table.

NATIONAL JOBS SKILLS WEEK

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be

discharged from further consideration of the Senate joint resolution (S.J. Res. 148) to designate the week of October 8, 1989, through October 14, 1989, as "National Job Skills Week", and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I yield to the gentleman from California [Mr. MARTINEZ], who is the chief sponsor of House Joint Resolution 195, designating the week of October 8, 1989, through October 14, 1989, as National Job Skills Week.

Mr. MARTINEZ. Mr. Speaker, I wish to thank the gentleman from New York for the opportunity to speak in support of House Joint Resolution 195, National Job Skills Week. I want to take this opportunity also to thank Chairman SAWYER and Chairman FORD for discharging House Joint Resolution 195, and I also wish to thank the 282 cosponsors of House Joint Resolution 195 for their support of this legislation.

Mr. Speaker, industry is telling us that we are on the edge of a job disaster because our work force lacks the skills employers need. Congress and the administration have a responsibility to ensure that as we move into the next decade we have done everything we possibly could to minimize the shortage of skilled employees.

With that in mind we offer this resolution in an effort to make our colleagues and the general public more aware of this challenge. "National Job Skills Week" will highlight many of the dramatic changes currently underway in America's workplace. The week will specifically focus on both private- and public-training efforts and will increase public awareness about present and future work force needs.

We will also increase awareness via a reception to be held Tuesday, October 10, from 6 p.m. to 8 p.m. in the Montpelier Room of the Library of Congress' Madison Building. I would like to invite my colleagues to attend this reception.

Therefore, to make "National Job Skills Week" a reality, I urge my colleagues to approve House Joint Resolution 195 by supporting the unanimous-consent request pending before you.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 148

Whereas the ability to maintain an internationally competitive and productive economy and a high standard of living depends on the development and utilization of new technologies;

Whereas new technologies require skills that are currently lacking in the national workforce;

Whereas experts in both the public and private sectors predict that a shortage of skilled entry-level workers will exist through the remainder of this century;

Whereas young people in the United States are experiencing higher than normal unemployment rates because many of them lack the skills necessary to perform the entry-level jobs that are currently available;

Whereas these young people will continue to experience higher than normal unemployment rates unless they develop the skills necessary to perform the entry-level jobs that become available;

Whereas American workers who face dislocation due to plant closures and industrial relocation need special training and education to prepare for new jobs and new opportunities; and

Whereas a National Job Skills Week can serve to focus attention on present and future workforce needs, to encourage public and private cooperation in job training and educational efforts, and to highlight the technological changes underway in the workplace: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 8, 1989, through October 14, 1989, is designated as "National Job Skills Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL FAMILY WEEK

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 117) to designate the week of November 19, 1989, through November 25, 1989, and the week of November 18, 1990, through November 24, 1990, as "National Family Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I rise in strong support of Senate Joint Resolution 117, designating the week of November 19, 1989, and November 18, 1990, as "National Family Week." I would also like to commend my friend and colleague from Indiana [Mr. MYERS] for introducing the House version of this resolution, House Joint Resolution 126, and to recognize his past efforts establishing the week including Thanksgiving Day as "National Family Week" for nearly 20 consecutive years.

This resolution serves as a reminder of the important obligation each of us has to promote and protect the strong traditions and values represented by the family. These are the very traditions and values upon which the foundation of our Nation is based. It is most appropriate that the week including Thanksgiving Day is designated as "National Family Week," for this is the traditional time in America when families come together for the purpose of giving thanks for the blessings which have come to them. Our Nation should also give thanks for the blessings of strong family ties and loyalties as a source of strength and freedom for our society.

Mr. Speaker, I urge my colleagues to join in support of this important resolution.

Mr. MYERS of Indiana. Mr. Speaker, I rise in support of Senate Joint Resolution 117, legislation requesting the President of the United States to proclaim the week of November 19, 1989, and November 18, 1990, as National Family Week.

I am proud to have originally introduced the National Family Week legislation in 1970, and continue to push for the annual observance.

The 19-year history of this particular commemorative is truly fascinating. Since its inception in 1970, more than 678 different House Members and 117 Senators have cosponsored National Family Week. In addition, each year a majority of the 50 States and the District of Columbia issues proclamations recognizing the annual Family Week observance.

The goal of National Family Week is simple; it serves to remind us all of the important obligation each of us has to promote and protect the strong traditions and values represented by the family.

One Presidential proclamation summed it up nicely when it stated:

America's families are a tremendous source of strength and faith and freedom for our children and our country, and during National Family Week we recognize this truth and pay glad tribute to the families of our land.

I wish to extend my appreciation to my colleagues who agreed to cosponsor National Family Week and urge passage of this resolution.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 117

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week of November 19, 1989, through November 25, 1989, and the week of November 18, 1990,

through November 24, 1990, as "National Family Week", and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL HEALTH CARE FOOD SERVICE WEEK

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 81) to designate the week of October 1 through 7, 1989, as "National Health Care Food Service Week", and ask for its immediate consideration.

The clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I yield to the gentleman from Illinois [Mr. HASTERT], who is the chief sponsor of the House bill designating October 1 through October 7, 1989 as "National Health Care Food Service Week."

Mr. HASTERT. Mr. Speaker, I thank the gentleman for yielding and the gentlewoman from Ohio [Ms. OAKAR] for helping in bringing this resolution before the House.

Mr. Speaker, today, with the support of 221 of my colleagues, we celebrate the passage of House Joint Resolution 141, to designate the week of October 1 through 7, 1989, as "National Health Care Food Service Week."

This legislation recognizes the efforts of all health care food service employees and honors them for their commitment to the well-being of all people. These hard-working professionals seek to assist those in health care facilities back to good health.

Health care food service workers provide a vital function by assisting in the care and treatment of hospitalized patients. Their knowledge of nutrition is an essential component of the care and recovery of those who are ill.

The passage of this resolution expresses our awareness and appreciation for the hard work and caring that is shown daily by the hundreds of thousands of health care service employees working in America's hospitals and nursing homes.

To all of you who serve our great Nation as health care food service workers, please accept our thanks.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 81

Whereas health care food service is a vital function of the provision of care and treatment of hospitalized persons;

Whereas health care food service workers, chefs, dietitians, dietary assistants, and administrators work in concert with other health care professionals to provide the best possible patient care; and

Whereas the provision of nutrition and sustenance is an essential component of the care and recovery of hospitalized persons: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 1 through 7, 1989, is designated as "National Health Care Food Service Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several joint resolutions just passed.

The SPREAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

REAUTHORIZING THE NATIONAL FLOOD INSURANCE PROGRAM, THE FEDERAL CRIME INSURANCE PROGRAM, THE DEFENSE PRODUCTION ACT OF 1950 EXTENDING CERTAIN HOUSING PROGRAMS

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance, and Urban Affairs be discharged from further consideration of the joint resolution (H.J. Res. 412) to reauthorize the National Flood Insurance Program, the Federal Crime Insurance Program, and the Defense Production Act of 1950, to extend certain housing programs, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WYLIE. Reserving the right to object, Mr. Speaker, I do so for the purpose of yielding to the distinguished gentleman from Texas [Mr. GONZALEZ], chairman of the Committee on Banking, Finance, and Urban Affairs to explain what we are doing.

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Mr. GONZALEZ. Mr. Speaker, I thank my equally and perhaps more distinguished colleague, the ranking member of the full Committee on Banking, Finance and Urban Affairs, the gentleman from Ohio [Mr. WYLIE].

Mr. Speaker, this is a very simple resolution. It would reauthorize several programs that expire this weekend. As my colleagues will recall, last week the House passed legislation extending several programs contained in this legislation. The Senate amended those bills and added authorizations for four housing programs. The resolution before us today contains modifications to the original House-passed bill which we believe will be accepted by the Senate.

This bill would reauthorize the flood and crime insurance programs—as required by the budget resolution—the Defense Production Act, and several housing programs which expire this Saturday.

I don't believe that there is any objection to this resolution in the House, and I thank my ranking member, Mr. WYLIE, for his support on this measure.

This bill reauthorizes the National Flood Insurance Program and the Federal Crime Insurance Program for fiscal years 1990 and 1991 and creates savings of $213 million, $9 million more than required under the budget reconciliation agreement. Both programs are due to expire at the end of this month and unless we reauthorize both programs today, we risk putting in jeopardy homeowners and business owners across the country who are unable to secure flood or crime insurance on the private market. This bill makes a simple reauthorization of both programs. No changes are made to the Crime Insurance Program, and only minor changes are made to the Flood Insurance Program to allow FEMA to conduct sea level rise studies and to issue reports concerning the effective implementation of the program.

The National Flood Insurance Program was enacted in 1968 and has served an important role in providing property owners with affordable coverage against flood and storm damage. The program encourages appropriate land development in flood-prone areas as a way to reduce the exposure of properties to flood and storm damage. The Federal Crime Insurance Program was enacted in 1970 and has become an important part of our national urban policy by providing homeowners, tenants, and small businesses with affordable coverage against burglary. The Crime Insurance Program encourages these families and businesses to remain in their neighborhoods and

allows them to contribute to the economic viability of their communities.

This legislation also extends five expiring housing authorizations: The Emergency Homeownership Counseling Program, a key element in preventing foreclosures and safeguarding the FHA insurance fund; the major rental housing construction program in rural areas, the section 515 Loan Program, along with the Mutual and Self-Help Low-Income Housing Grant and Loan Program under section 523, and the demonstration of HUD section 17 rehabilitation grants in rural areas; section 520 defining rural areas that are eligible for all rural housing assistance.

Mr. Speaker, as Members will recall, the House last week approved a 9-month extension of the Defense Production Act until June 30 of next year. Implicit in the action was continuation of the present authorization level of $50 million. The House has already approved the same amount in the Defense appropriation bill.

The Senate acted on its own temporary extension yesterday calling for a 1-year extension and a specific authorization of $50 million. This is totally in agreement with the implicit action taken in the House bill, so we have no objection to actually stating it.

However, the length of the extension the Senate seeks—1 year—is too long and would put the expiration date only a month before next year's election.

This legislation would extend the Defense Production Act until August 10, which we feel is a reasonable compromise.

Mr. WYLIE. Mr. Speaker, further reserving the right to object, as Chairman GONZALEZ stated, this resolution essentially incorporates the provisions of H.R. 2771, which the House passed extending the Flood and Crime Insurance Programs for 2 years, and the provisions of H.R. 3281, extending the Defense Production Act. We have previously passed both bills. The resolution also includes extensions for three rural and one HUD program.

FLOOD AND CRIME INSURANCE

Mr. Speaker, it is my understanding that the 2-year reauthorization provisions for the National Flood Insurance Program and the Federal Crime Insurance Program are virtually identical to those contained in H.R. 2771 as passed by the House on September 19, However, there are two amendments that were added by the Senate to the flood insurance reauthorization that I would like to briefly address.

The first pertains to a permanent authorization of certain flood insurance provisions that affect the collection of flood data. I have checked with the Federal Emergency Management Administration and it has no objection to this amendment.

However, a second amendment that would authorize a study of sea level rise is somewhat problematic. While this is an appropriate subject which should be studied, it would require FEMA to also gauge the economic consequences of a sea level rise. This estimation is not generally within the purview or expertise of FEMA. Moreover, the cost of the study—which may easily run over $1 million—is not provided for in this bill. Given the drain on the flood insurance fund this year from Hurricane Hugo and other disasters, it is inappropriate to pay for this study by taking it from the flood insurance fund, which is already strapped for cash.

With regard to the Federal Crime Insurance Program, many of us remain opposed to it, especially the caps on premium increases. With the assurance of the acting chairman of the subcommittee, Mr. ERDREICH, and the ranking minority member, Mr. BEREUTER, the Banking Committee has been assured that this issue will be thoroughly addressed if the crime insurance program is reauthorized.

So, while I have opposed the reauthorization of this program in the past, I will not object at this time with these assurances.

HOUSING EXTENSIONS

When the Senate considered and passed H.R. 2771, our flood and crime insurance bill, on September 25, an amendment extending certain rural housing authorities which expire September 30, 1989, was added. This resolution includes those rural housing extensions added by the Senate, but instead of a 2-year extension, we provide a 1-year extension.

Specifically, House Joint Resolution 412 provides for a 1-year extension of authority to permit the Farmers Home Administration to continue to operate the following basic and necessary rural housing assistance programs:

Section 515: Rural rental housing loans to provide continued assistance for low- and moderate-income multifamily projects in rural areas.

Section 520: Rural area classification extension for 1 year to permit FmHA to continue to establish low- and moderate-income eligibility determinations.

Section 523: Mutual and self-help housing grants. Extends the authority for FmHA to continue to provide grants for assistance to low- and very low-income families through nonprofit organizations to obtain decent and affordable housing.

Section 311: Rural rental rehabilitation demonstration. Extends authority for FmHA to continue existing pilot demonstration program to improve and upgrade substandard housing in rural areas to be made available for eligible low-income families.

In addition, Mr. Speaker, the House bill extends for 1 year the Emergency Home Ownership Counseling Program first authorized in our 1987 housing authorization bill. This program requires creditors of certain delinquent home loans to notify the homeowner of the availability of homeownership counseling offered by the creditor, as well as counseling services provided by HUD-approved counseling agencies and the Department of Veterans Affairs.

DEFENSE PRODUCTION ACT

House Joint Resolution 412 also incorporates H.R. 3281, the Defense Production Act Amendments of 1989. These provisions simply extend the expiration date of the Defense Production Act from September 30, 1989, to August 10, 1990, so as to prevent a lapse in the important authorities of the act.

The Defense Production Act is the Government's primary source of authority for defense industrial mobilization in time of crisis and maintenance of industrial preparedness in peacetime. The administration agrees that these authorities should not be allowed to expire.

On Tuesday of last week, the House passed H.R. 3281, to extend the act 9 months. Yesterday, the Senate approved an extension of 12 months. A compromise has now been reached to extend the act for about 10½ months, to August 10, 1990. That is the provision contained in this bill.

Further reserving the right to object, Mr. Speaker, I yield to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I thank the distinguished gentleman for yielding.

Mr. Speaker, it is absolutely critical for the House to approve the proposed extension of the Defense Production Act. We simply cannot permit the act to lapse on September 30, as it is it would expire on that date by its terms. The Defense Production Act of 1950, as amended many times since, is the cornerstone of U.S. defense industrial preparedness.

It contains vital authorities enabling the President to require priority performance of defense contacts and the allocation of materials for the production of weapons systems that are used by American and allied forces in the field to defend against and deter armed attack. These authorities must be in place and continuously operating in the event of any emergency that might arise.

Mr. Speaker, the House amendment contained in my chairman's motion is more than a reasonable compromise. As Chair of the Subcommittee on Economic Stabilization, which has historically maintained jurisdiction over the Defense Production Act, I would have preferred a shorter extension. But, I

feel certain that the Senate Banking Committee can complete its planned hearings, markup sessions, and floor action just as we intend to do within the August 10, 1990, extension period provided by the legislation before us.

Mr. Speaker, I have been advised that the Senate will accept this expiration date as contained in today's House amendment, and I urge the House to approve this measure.

Mr. WYLIE. Mr. Speaker, further reserving the right to object, since the Crime Insurance Program was brought up I will comment on that.

I do remain opposed to extending that program, especially to the caps on premiums. But I have had assurances from the acting chairman of the subcommittee, the gentleman from Alabama [Mr. ERDREICH] and the ranking member, the gentleman from Nebraska [Mr. BEREUTER] that this issue will be thoroughly discussed in subcommittee and that the program will be addressed and we will have another opportunity to vote on it on the House floor in the not-too-distant future.

Further reserving the right to object, I yield to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of House Joint Resolution 412 which will reauthorize the Federal flood and crime insurance programs for 2 years.

As the distinguished gentleman from Ohio [Mr. WYLIE] has indicated, all of the provisions reauthorizing the flood and crime insurance programs which were contained in the bill H.R. 2771 on September 19, are also included in this resolution.

I have received information from the Federal Emergency Management Agency [FEMA] that they do oppose the sea level rise study which was included by the other body. While I can appreciate some of the problems they may have with the study, they undoubtedly are not insurmountable.

To address the cost issue which has been raised, I would only say that under the leadership of the acting chairman of the subcommittee, Mr. ERDREICH, and the gentleman from Delaware [Mr. CARPER], who has given us some very helpful input, I intend to support and help move a flood insurance bill through the Banking Committee as soon as possible. If we do make some of the statutory changes which are needed in the Federal Flood Insurance Program, then we will be able to achieve one of the long-sought goals of FEMA which is to increase the participation in the program. In doing so, we will more than offset the costs of the sea level study authorized in this resolution.

Concerning the Federal Crime Insurance Program, I would only reiterate my previous position which I believe also reflects the opinions of many on my side of the aisle. First, the Crime Insurance Program has been a waning Federal program over the last several years as more States opt out of the program and begin to provide insurance alternatives on the State and local level. While the cost of the current Federal Crime Insurance Program is relatively small, and serves relatively few States—almost 60 percent of all policies are written for New York City alone—it is no less important to the small business people and churches in those States that can afford no other insurance.

Furthermore, it may be premature to terminate the Crime Insurance Program prior to addressing the importance of this insurance program to the concept of economic enterprise zones and the implementation thereof.

FEMA, and many of the members of the Banking Committee, have objected to the caps on the insurance premium increases. This is an appropriate objection. However, the approach which we have taken with regard to the Flood Insurance Program is also applicable here. Rather than debate a series of amendments to these programs during the waning hours of this fiscal year, it is more appropriate to address reforms in separate legislation after the subcommittee has had a full opportunity to review all of the relevant issues, including the information from the hearings so capably conducted by the gentleman from Alabama [Mr. ERDREICH].

Mr. WYLIE. Mr. Speaker, I thank the gentleman for his contribution and appreciate the fact that he has become one of the experts in the House on the Flood Insurance Program.

Further reserving the right to object, I yield to the gentleman from Alabama [Mr. ERDREICH].

Mr. ERDREICH. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to assure the gentleman from Ohio [Mr. WYLIE] that our subcommittee is going to move forward. We hope to go to mark up in the next 2 or 3 weeks as soon as we conduct the additional hearings. I will assure the gentleman that the concerns he raised will be addressed in subcommittee and in the full committee for full action by the entire House.

I thank the gentleman for yielding.

Mr. WYLIE. I thank the gentleman for those assurances.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 412

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF FLOOD INSURANCE PROGRAM.

(a) IN GENERAL.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(b) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(c) STRUCTURES ON LAND SUBJECT TO IMMINENT COLLAPSE OR SUBSIDENCE.—Section 1306(c)(7) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(7)) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(d) LIMITATION ON PREMIUMS.—Section 541(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 4015 note) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

SEC. 2. FLOOD ZONE DATA.

Section 1360(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(a)) is amended by striking paragraph (2) and inserting the following:

"(2) establish or update flood-risk zone data in all such areas, and make estimates with respect to the rates of probable flood caused loss for the various flood risk zones for each of these areas until the date specified in section 1319.".

SEC. 3. REPORT ON FEDERAL ASSUMPTION OF FLOOD INSURANCE PROGRAM.

Section 1340(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4071(b)) is amended to read as follows:

"(b) Upon making the determination referred to in subsection (a), the Director shall make a report to the Congress and, at the same time, to the private insurance companies participating in the National Flood Insurance Program pursuant to section 1310 of this Act. Such report shall—

"(1) state the reason for such determinations,

"(2) be supported by pertinent findings,

"(3) indicate the extent to which it is anticipated that the insurance industry will be utilized in providing flood insurance coverage under the program, and

"(4) contain such recommendations as the Director deems advisable.

The Director shall not implement the program of flood insurance authorized under chapter I through the facilities of the Federal Government until 9 months after the date of submission of the report under this subsection unless it would be impossible to continue to effectively carry out the National Flood Insurance Program operations during this time.".

SEC. 4. AUTHORIZATION FOR STUDIES.

Section 1376(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4127(c)) is amended by striking the first sentence and inserting the following: "There are authorized to be appropriated for studies under this title not to exceed $36,283,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991".

SEC. 5. SEA LEVEL RISE STUDY.

The Director of the Federal Emergency Management Agency shall conduct a study to determine the impact of relative sea level rise on the flood insurance rate maps. This study shall also project the economic losses associated with estimated sea level rise and aggregate such data for the United States as a whole and by region. The Director shall report the results of this study to the Con-

gress not later than one year after the date of enactment of this Act. Funds for such study shall be made available from amounts appropriated under section 1376(c) of the National Flood Insurance Act of 1968.

SEC. 6. EXTENSION OF CRIME INSURANCE PROGRAM.

(a) GENERAL AUTHORITY.—Section 1201(b) of the National Housing Act (12 U.S.C. 1749bbb(b)) is amended by striking "September 30, 1989" in the matter preceding paragraph (1) and inserting "September 30, 1991".

(b) CONTINUATION OF EXISTING CONTRACTS.—Section 1201(b)(1) of the National Housing Act (12 U.S.C. 1749bbb(b)(1)) is amended by striking "September 30, 1990" and inserting "September 30, 1992".

(c) LIMITATION ON PREMIUMS.—Section 542(c) of the Housing and Community Development Act of 1987 (12 U.S.C. 1749bbb-10c note) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

SEC. 7. EXTENSION OF RURAL HOUSING AUTHORITIES.

(a) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

(b) RURAL AREA CLASSIFICATION.—Section 520 of the Housing Act of 1949 is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

(c) MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.—Section 523(f) of the Housing Act of 1949 is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

(d) RURAL RENTAL REHABILITATION DEMONSTRATION.—Section 311(d) of the Housing and Community Development Act of 1987 is amended by striking "September 30, 1989" and inserting "September 30, 1990".

SEC. 8. EXTENSION OF EMERGENCY HOMEOWNERSHIP COUNSELING PROGRAM.

Section 106(c)(9) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(9)) is amended by striking "September 30, 1989" and inserting "September 30, 1990".

SEC. 9. DEFENSE PRODUCTION ACT OF 1950.

(a) EXTENSION OF PROGRAMS.—The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "September 30, 1989" and inserting "August 10, 1990".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 711(a)(4) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)(4)) is amended to read as follows:

"(4)(A) There are authorized to be appropriated for fiscal year 1990, not to exceed $50,000,000 to carry out the provisions of section 303.

"(B) The aggregate amount of loans, guarantees, purchase agreements, and other actions under sections 301, 302, and 303 during fiscal year 1990 may not exceed $50,000,000.".

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and the motion to reconsider was laid on the table.

□ 1620

SUPPORT FOR THE STENHOLM CHILD CARE SUBSTITUTE

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, next week the final issue to be resolved as part of the budget reconciliation package will be child care. At that time, I will offer a compromise substitute, which meets many of the concerns that previously had gone unanswered by earlier child care proposals.

Although my substitute has not been around as long as the so-called ABC bill and other proposals, it has quickly gained significant outside support from a wide variety of organizations.

Because each of these groups has taken time to carefully analyze the competing proposals and comment on their various provisions, I wanted to share with my colleagues their comments. I respectfully request that the letters of support from the following organizations be included in the record: the National Child Care Association, the Society for Human Resource Management, the Christian Life Commission of the Southern Baptist Convention, the National Conference of Catholic Bishops, the U.S. Chamber of Commerce, the National Federation of Independent Business, and the Business Coalition for Fair Competition.

In addition, several other groups have pledged their support and I anticipate receiving their letters of endorsement within the next few days. When these letters are available, I will share their contents with my colleagues, as well.

Many people, both inside and outside the House are recognizing that the Stenholm-Shaw child care substitute is the moderate compromise they have been seeking. I urge all of my colleagues to study their options and vote for this substitute next week.

NATIONAL CHILD CARE ASSOCIATION,
Washington, DC, September 25, 1989.

Representative CHARLES STENHOLM,
Longworth House Building,
Washington, DC.

DEAR MR. STENHOLM: The members of the National Child Care Association (NCCA), representing 30,000 tax paying, small-business child care centers nationwide, heartily endorse your efforts to craft a bipartisan childcare, alternative bill.

We endorse your basic two-fold approach to a well-targeted, national childcare initiative based on increases in the Earned Income Tax Credit, and also the Title XX Social Services Block Grant program.

The genius of your bipartisan approach is that it eliminates both the ABC grant approach of Titles III and IV of H.R. 3, and most importantly, the extremely dangerous and shortsighted approach of Title II, the public school based initiative for four year olds and before and after school programs. This initiative flies in the face of the best thought out and tested theories of early childhood development coming from a wide variety of early childhood educators and pyschologists. In particular, warnings about the harm and inadvisability of placing 4 year olds in the structured atmosphere of public schools have been voiced by the immediate Past-President of the NAEYC, David Elkind, Dr. Norton Grubb of the School of Education at the University of California (Berkeley) and the National Task Force Report of the National School Boards Association issued in October 1988.

We applaud your alternative as the best approach to national child care policy.

Sincerely,

DR. WILLIAM J. TOBIN,
Director of Government Affairs.

SOCIETY FOR HUMAN RESOURCE MANAGEMENT,
Alexander, VA, September 26, 1989.

Hon. CHARLIE STENHOLM,
Member of Congress, Longworth Office Building, Washington, DC.

DEAR CONGRESSMAN STENHOLM: Representing over 40,000 human resource professionals nationwide, the Society for Human Resource Management [SHRM], formerly the American Society for Personnel Administration, would like to applaud you for your efforts to improve the availability of affordable quality child care through legislation which provides for maximum local control. We support your approach because it creates incentives for quality child care without creating a federal entitlement or imposing unnecessary federal standards (or rigid state requirements) in an area best left to local control.

SHRM believes that the availability of quality and affordable child care is one of the most pressing issues facing Congress and the nation. Accordingly, we are proud to have been a forerunner in the business community articulating positions supportive of legislative action in the child care area. As early as January 1988, the SHRM Board of Directors approved the following principles with regard to federal legislation:

I. SHRM supports efforts intended to increase the availability and affordability of quality child care services through tax incentives and programs which provide for maximum local control.

II. SHRM believes that federal legislation addressing the child care issue should create incentives for providing quality child care but should not create a federal entitlement or impose unnecessary federal standards in an area best left to local control.

A survey of our membership indicated that cost and liability were the two greatest barriers to providing on-site child care. Specifically, we found that 77% of the human resource practitioners cited expense as a major obstacle to child care involvement and 76 percent viewed liability as a major obstacle to care. Therefore we support funding to assist states in establishing liability insurance risk pools for child care providers. This would ease the existing difficulty for businesses in obtaining liability insurance. We are encouraged that your Title XX Social Security Block Grant increase allows the states to use the funds for liability risk pools.

Additionally, in light of our concerns with costs and liability, we also support your provision for grants to small businesses which participate in a single child care facility or program. These grants will foster community resource coordination and cooperation as small organizations work together to ad-

dress the work and family needs of their employees.

Employers have voluntarily begun to support programs to help parents deal with the care of children before and after school and while they are sick. We are encouraged that your initiative includes grants for these types of programs which would encourage such creative efforts.

We are also pleased that your proposal will encourage elder-tot programs by exempting income earned from child care from consideration under the Social Security earnings test for elderly recipients. Although the elderly are some of the most reliable and capable child care providers, they are often discouraged from providing child care because the extra income would cause their social security benefits to be reduced. By removing this barrier, one of the largest available pools of child care workers could be tapped. In addition to addressing the shortage of child care providers this provision would also encourage valuable interactions between generations.

Our child care survey found that the primary reason that employers have not implemented various work and family policies is because they have not yet considered them. Therefore, we also support legislation provision which foster information programs and encourage voluntary business participation in child care programs.

Finally, we strongly urge you not to limit or eliminate child care as a benefit under flexible spending accounts for employees (under Section 129 of the Internal Revenue Code). If there's one word that sums up the key to productivity in the workforce of the future—it's flexibility. Human Resource professionals are constantly challenged to best spend available dollars to meet employee needs. They must have the flexibility to shape overall benefit programs and policies with the various needs of their workforce in mind. We need more options for working families, not fewer.

Again, Congressman STENHOLM, we recognize that child care is an extremely complex issue. We applaud you for your efforts to carefully craft thoughtful legislation in this area and hope that you will continue to turn to us for human resource expertise.

Sincerely,

SUSAN R. MEISINGER, SPHR,
Vice President Government Affairs.

THE CHRISTIAN LIFE COMMISSION,
Nashville, TN, September 22, 1989.

DEAR REPRESENTATIVE: Within the next few days, the House of Representatives will debate child care legislation. I am writing to share with you the concerns and perspectives of the Christian Life Commission of the Southern Baptist Convention.

The Christian Life Commission serves the 37,000 churches cooperating as the Southern Baptist Convention and their nearly 15 million members on issues related to moral concerns and public policy. The Commission does not address church-state issues, which are addressed for Southern Baptists by the Baptist Joint Committee on Public Affairs and the Southern Baptist Public Affairs Committee.

At the 1988 annual meeting of the Southern Baptist Convention, a child care resolution was adopted overwhelmingly without any apparent opposition. This resolution expressed the perspective that any child care legislation adopted by Congress should emphasize tax credits, state and local as opposed to federal regulation, principal benefit to low-income families, and separation of church and state. The legislation must be sensitive to the needs of the "stay-at-home-mom" and provide financial benefits that do not discriminate against parental home-based child care.

By these criteria, the proposal of Rep. Stenholm (D-TX) (which enjoys the support of Members of Congress in both parties), and the proposal which will be offered by Rep. Edwards (R-OK), most adequately address these deep concerns of Southern Baptists as expressed through their resolution process. They both rely primarily upon an expansion of the Earned Income Tax Credit and they both utilize existing programs rather than creating a new bureaucracy which would be more conducive to federal, as opposed to local and state regulation.

Thank you very much for your attention to the serious concerns of Southern Baptists regarding this most pressing matter.

Sincerely yours,

RICHARD D. LAND.

NATIONAL CONFERENCE
OF CATHOLIC BISHOPS,
OFFICE OF THE GENERAL SECRETARY,
Washington, DC, September 27, 1989.

DEAR REPRESENTATIVE: I am writing to share the views of the United States Catholic Conference (USCC) on the various child care proposals now pending before the House of Representatives. It is our understanding that three major legislative proposals will be considered by the House under the rule dealing with H.R. 3299, the "FY 90 Budget Reconciliation Act."

First, let me address the childcare provisions contained in H.R. 3299. These provisions are a combination of two bills, H.R. 3 as reported by the Committee on Education and Labor and additional provisions approved by the Committee on Ways and Means [the "Downey/Miller" bill]. This package is totally unacceptable to the U.S. Catholic Conference primarily because of the restrictive provisions incorporated in H.R. 3.

The USCC has consistently advocated an inclusive and comprehensive approach to meeting the child care needs of the country which we believe was reflected in the recently passed Senate bill, S.5. Earlier this year on July 24 the U.S. Catholic Conference communicated to the members of the House its concern about the following unacceptable provisions of H.R. 3:

"H.R. 3 limits assistance to certain providers and gives no direct financial aid to families or parents. This approach would severely limit parents' choices in determining the best and most suitable care for their children.

In addition, H.R. 3 places severe restrictions on the participation of religious providers to the extent that, in our opinion, most child care offered by religious groups for qualifying families would be ineligible unless they significantly altered their programs to conform to rigid and unwarranted standards of complete secularization. To exclude these religious providers in this much needed program would significantly reduce the options for families, especially in inner city and rural areas where the needs are greatest."

In addition, both the Education and Labor Committee bill and the Ways and Means bill authorizes a new program of pre-school education in public schools. We believe this is an ill advised diversion of scarce child care resources into a program which merely duplicates the Head Start and Chapter I programs that are already significantly underfunded. This Title should be dropped from consideration as part of this legislation.

We understand that the House rule will allow only two amendments to be offered on the House floor. Both amendments are substitutes for the provisions contained in H.R. 3299. The First will be offered by Mr. Edwards (R-OK) and the second by Mr. Stenholm (D-TX). Mr. Edwards' amendment, as we understand it, provides for additional tax relief to low income families with children and does not contain any program initiatives with respect to child care. Although we believe that the tax proposal is meritorious, in our opinion, this alternative does not provide a complete response to the nation's child care needs. On the other hand, the "Stenholm Amendment" combines a similarly generous expansion of the earned income tax credit (EITC) with a significant increase in new funding for child care services through Title XX, the Social Service Block Grant Program.

It should be noted that the EITC provision in the Stenholm package is identical to the tax provisions in the "Downey/Miller" bill. However, unlike the "Downey/Miller" proposal the Stenholm substitute is part of an overall child care package which has none of the problems related to parental choice or religious providers described above. Consequently, we urge you to support the Stenholm alternative as a substitute for the child care provisions in H.R. 3299.

Sincerely yours,

REV. MSGR. ROBERT N. LYNCH,
General Secretary.

U.S. CHAMBER OF COMMERCE,
Washington, DC, September 25, 1989.

MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES: The U.S. Chamber of Commerce urges you to support the Stenholm substitute to H.R. 3, the "Early Childhood Education and Development Act." The Chamber strongly supports high-quality child care and believes that the Stenholm substitute is more conducive to achieving this goal.

The Stenholm substitute provides states with money that would assist in assuring that adequate child care is available. However, it does not mandate the multitude of regulations that H.R. 3 does.

H.R. 3 requires states to contract only with "community based non-profit organizations" for before- and after-school programs. Under this provision, small business for-profit child care centers would unjustly suffer unfair competition.

The Chamber would hope that an improvement could be made in Title III of the Stenholm substitute by the deletion of the provisions that place a cap on the use of Section 129, "flexible spending accounts," for child care. Such a cap sets a bad precedent for employee benefit plans and may impede the use of this increasingly popular employee benefit.

Thank you for your consideration of the Chamber's views.

Sincerely,

ALBERT D. BOURLAND.

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, September 21, 1989.

Congressman CHARLIE STENHOLM,
Longworth HOB,
Washington, DC.

DEAR CHARLIE: On behalf of the over 570,000 members of the National Federation of Independent Business, I would like you to

know that the NFIB will be actively supporting and using a key small business vote in favor of the Stenholm amendment on the Reconciliation bill. In addition to supporting your child care amendment, NFIB will actively oppose H.R. 3 and the Downy-Hawkins amendment.

NFIB opposes H.R. 3 and the Downey-Hawkins amendment. This amendment jeopardizes the very existence of small day-care providers. Not only does the Downey amendment seek to create stringent federal standards, without regard to regional or state concerns or needs but also places the emphasis on school-based child care to the exclusion of small, for-profit daycare centers. The dual issue of unwarranted federal standards and the bias against small, for-profit centers make both H.R. 3 and the Downey-Hawkins amendment unacceptable.

NFIB supports the Stenholm amendment. Your amendment not only avoids the pitfalls of the above approach, it also contains an important increase in the earned income tax credit (EITC) and grants to small firms to sponsor consortium daycare centers, at a substantially lower cost than Downey-Hawkins. The expansion of EITC is a particularly effective device to help the working poor.

Please be assured that the Stenholm childcare amendment will be used as a Key Small Business Vote during the 101st Congress. I look forward to working with you and your supporters to see that your amendment is enacted into law.

Sincerely,

JOHN J. MOTLEY,
Director, Federal Government Relations.

BUSINESS COALITION FOR FAIR COMPETITION,
September 25, 1989.

To: All Members of the U.S. House of Representatives.
Jody Wharton, Executive Director.
Re H.R. 3.

The Business Coalition for Fair Competition (BCFC) strongly oppose Title II, the School-Based Initiative, contained in H.R. 3. This provision would essentially legislate unfair competition by restricting before and after school care contracting only to nonprofit organizations. This would be economically devastating to the tax-paying, for-profit child care centers across the country.

BCFC supports efforts to eliminate Title II, such as the substitute offered by Congressman Charles Stenholm. His proposal would allow the present mix of day care options; church-based, family day care, nonprofit and for-profit to continue.

BCFC is a growing alliance of trade and professional associations representating thousands of U.S. businesses in all areas of the economy. Since 1983 the Coalition has been working on the problems caused by nonprofits engaged in commercial activities in direct competition with existing taxpaying businesses. We urge your support of for-profit, tax-paying day care centers as H.R. 3 is considered this week.

PRESIDENT BUSH MEETS WITH THE GOVERNORS IN HIS SUMMIT ON EDUCATION

The SPEAKER pro tempore (Mr. EVANS). Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

Mr. OWENS of New York. Mr. Speaker, the second day of the President's summit on education, where the President is meeting in Virginia with the Governors of the States to discuss the very important subject of education, has been overshadowed here on the floor by our discussion of capital gains taxes and other matters relating to the budget reconciliation. I hope that next week we will have an opportunity to focus our attention on this important conference being held by the President.

One of the crucial matters that must be discussed is why, before this summit began, there was almost a prohibition of a discussion of money, dollars, funding. It was understood that there should be no discussion of funding. It almost seemed that there was a threat to any Governor who came and mentioned money that he would be thrown out of the conference.

Mr. Speaker, I know from experience in the 7 years that I have been here in Washington that when a problem is really taken seriously, when the Members of this House or of the other body or the White House really want to solve a problem, the first thing they talk about is money. They never use that old phrase, "You can't solve problems by throwing dollars at them" until we talk about social programs or educational programs or programs that do not involve the expenditure of very large amounts of dollars but which benefit very few people.

For example, when the President brought the savings and loan bill to the floor, when he brought it to Congress, the first thing he mentioned was the need for $150 billion. They needed $50 billion right away. They talked very, very big money when they were considering subsidizing the crooked and corrupt bankers who had ruined the savings and loan associations deposits.

There are a lot of mechanics related to bailing out the savings and loan associations, but many of those mechanics were pushed aside. The Senate discussed the bill for less than 3 weeks. The discussion here was very limited. The mechanics of how to do it, the goals, the objectives, and all the kinds of things that are being discussed in this issue of education were not nearly as important as the amount of money that would be made available, and the emphasis was on making that money available as rapidly as possible.

I do know this: If we are serious about solving the problem of education, we have to talk about money also. I think we can take heart and be proud of the fact that our President is on record in a number of ways in favor of very important improvements in education.

No child should be deprived of a higher education for financial reasons. This was stated in a Bush issue paper some time ago. So the President is on record as wanting all children, regardless of their financial capability or the financial capability of their families, to get a higher education. So I hope the President also understands that in order to achieve that objective we will have to appropriate more money in the Higher Education Assistance Act.

Every child should attend a school which is clean, orderly, and safe and which provides an appropriate environment for learning. This is another Bush issue paper. That objective can only be achieved also with the expenditure of funds, either at the local level or the State level and probably the Federal level, because there are many school districts that are not able to deal with just providing adequate school buildings for the children who are attending school.

Every young person should complete high school and should leave high school fully literate, able in math and knowledgeable in the sciences, the humanities, and the arts. This is taken from another Bush issue paper.

Head Start should reach all eligible 4-year-old children. This is Bush on the issues of 1988. Everybody loves Head Start. Our last President, Ronald Reagan, loved Head Start. Head Start was his favorite program, but under Ronald Reagan, despite the fact that it was his favorite program, we never got enough funding to serve even half of the children in America who are eligible for Head Start benefits.

President Bush also committed himself to wiping out illiteracy in 8 years. He did that this year on March 29.

He committed himself to supporting a new GI bill. He did that on January 20 of this year.

Increasing research and development spending. He committed himself to increasing research and development spending on August 7 of this year.

Making a full-scale investment in high school dropouts and increasing and targeting money for chapter 1 aid to schools. On January 10, 1988, he made that amendment.

Increasing the Federal vocation educational role. On February 8, 1988, he made that commitment.

Annually addressing the state of American education, meeting with all the Governors to discuss the most urgent problems facing our schools. These last two, annually addressing the state of education in our Nation and meeting with the Governors to discuss the most urgent problems facing our schools, are apparently being addressed now. That obligation, I assume, is being met in this conference, this summit that is being held this week, yesterday, today, and, I believe, on part of tomorrow. That does not cost very much money. There is no outlay involved in that.

But for all these other improvements, we will have to spend money. We cannot take seriously the results of this conference if we do not make a commitment to spend more funds.

Under the last administration the Federal commitment to spending for education of the Federal level went down. We hope this President, after having this summit, will guarantee a forward movement by making a commitment to increase the Federal expenditure to education to some degree.

GEORGE THATCHER: A LEADER IN THE MAGNOLIA STATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, just prior to his death, our colleague Larkin Smith was preparing remarks in honor of a constituent of his, George Thatcher of Gulfport. George has been one of the most trusted and effective leaders on our Mississippi Gulf Coast. Since Larkin can't submit those remarks, I want to enter into the RECORD this tribute to George.

TRIBUTE TO GEORGE THATCHER

(By Hon. Larkin Smith)

Mr. Speaker, it is my pleasure to direct the attention of the House to Mr. George Thatcher of Gulfport, Mississippi.

In January of 1989, the Gulfport city council unanimously appointed George Thatcher to serve as interim Ward 2 councilman of Gulfport, following the death of the ward 2 councilman. Upon completing his interim appointment, Mr. Thatcher chose not to be a candidate for that post and concluded his service on July 1, 1989. During those months, George Thatcher ably served Gulfport.

Upon concluding his term, George Thatcher offered the following poignant comments, which reflect considerable leadership and wisdom:

Serving on the Gulfport City Council for five months has been an interesting and enlightening experience for me.

The mayor, other councilmen, the staff, the new mayor and new councilmen—all have been pleasant and unanimous in wanting the best for Gulfport and its people.

So the following comments are not critical of anyone.

As one who has an abiding love for this community, I have been asked to set forth some considerations for the new administration to evaluate.

Taxes: The taxpayer needs relief. Every year taxes are increased. New economics must be found even if it means eliminating some services. Too, it is burdensome for Gulfport taxpayers to pay high taxes to Harrison county for which they receive little benefit.

Objectives: City government should take the leadership in developing both long-term and short-term community objectives in writing. There should be a community consensus in which private citizens, as well as the chamber of commerce and civic clubs, under city leadership set high, specific, attainable, stretch objectives.

We should strive to give purpose and direction to a great deal of unused talent now latent in the community. With teamwork much can be accomplished.

A general objective should be to aim high, to make Gulfport the most attractive, best community in the state.

Metro government: Metropolitan government is the wave of the future! If local governments consolidate, they could benefit from economics of scale (i.e. one police department, one water system, etc.) The consolidation of the chambers of commerce is a harbinger of what should happen with enlightened leadership in government.

Annexation: Bounded on the east by Biloxi, the west by Long Beach, the south by the Mississippi Sound, Gulfport can expand only to the north. Municipalities must grow, or they wither. The mayor and council should move ahead to complete annexation. Recent state supreme court decisions favor annexation, increasing the probability that annexation will be approved.

City services: Contracting with outside firms to perform services should be considered. Private companies provide services for less tax dollars than government. Garbage collection is now performed very efficiently by a private company. Why not consider expanding the practice?

Bond issues: All bond issues should be submitted to the people in public elections.

Executive sessions: Meetings of the City Council should be open so that any citizen or media representative may attend. Only in the most unusual circumstances should the council operate privately, and then the text of the meeting should be revealed to the public at the earliest moment. Let the sun shine in!

City attorney: Although I felt the city should continue to be represented by outside legal counsel, I understand the council's reason for creating a legal department staffed by a lawyer-employee and legal secretary. This department should take care of all city legal work, including bond issues.

Care should be taken to keep the legal office from mushrooming into a large bureau. The city attorney should be readily terminated so as not to permit entrenched mediocrity in the future.

Community Development Commission: This agency and the Economic and Development Services office should be reorganized as a department of the city, so that the mayor and council can exert proper managerial oversight of their activities.

Public schools: The Gulfport Separate School District spends a large percentage of the taxes levied by the City of Gulfport. Under state law, the mayor and council must accede to the school's request for funds without question.

Each year the schools require more tax money. This year is no exception.

The school board should be asked to reexamine the curriculum and the expenditures for possible economics. The product of the school should be proficient graduates who can read, write and do arithmetic effectively.

Taxpayers should expect no less. Gulfport needs innovative leadership to find better ways of setting and achieving lofty education objectives, including adult literacy.

Accounting: The mayor and council should require a better financial reporting system than they now have. Reports should be clear and detailed for easy understanding. Summary reports, comparing current year with past years, are necessary. The mayor and council cannot make reasoned, responsible decisions unless they have the financial data upon which to make them.

City employees: Every city employee, including elected officials, should remember that he is a public servant. The employees should be encouraged to be polite, helpful and understanding at all times in their dealings with the public. Taxpayer deserve no less.

Cooperation: It is essential that the mayor and the council develop good working relationships with each other. All have a common goal—the welfare of Gulfport. There is no room for pettiness or anger or egos. Need of the common good should rise above personalities.

Form of government: The strong mayor-council form of government is best for Gulfport. It is comparable to a corporation in the private sector. The mayor is chief executive. The council sets broad policy and acts as a board of directors—the legislative arm of the city. It is the mayor who implements policy. Even with the approval of annexation, consideration should be given to limiting council membership to five—the smaller the better.

Beautification: The city's garden clubs and civic clubs should be enlisted in an organized long-term program to clean up, plant flowers and beautify, encouraging all homeowners to participate. Consideration should be given to enrolling Gulfport in the "Tree City USA" program sponsored by the National Arbor Day Foundation.

When I was a boy, and later too, Gulfport was the dominant city of the Mississippi Coast. There was a pride of place, a feeling of confidence in the future, a conviction that Gulfport would continue to grow and flourish.

Now once again I sense a renaissance here. There is resolve to build a better community. We are looking beyond the reality of today and dreaming of the future.

All to what end? The creation of a better place to live and work, a place for our children and grandchildren to live happy and rewarding lives.

The people of Gulfport are ready to respond enthusiastically to the challenge of new leadership.

Gulfport was indeed fortunate to have the service of George Thatcher. Active in civic and church affairs, Mr. Thatcher is Chairman of the coast division of Magnolia Federal Bank. He is past president of the Gulfport Area Chamber of Commerce, and he is a director of the new Mississippi Coast Chamber of Commerce. George Thatcher represents the highest quality of leadership in Mississippi, and we are very proud of him.

PROTECTION OF OFFICERS AND EMPLOYEES OF THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina [Mr. DERRICK] is recognized for 5 minutes.

Mr. DERRICK. Mr. Speaker, at the suggestion of a Federal judge in my district I am today pleased to introduce legislation which will make it a Federal offense to assault, attempt to kill, or to kill a Federal public defender engaged in or on account of the performance of his official duties. I hope my colleagues will support this worthwhile measure.

Section 1114 of title 18, United States Code, entitled "Protection of Officers and Employees of the United States," makes it a Federal offense to kill or attempt to kill certain U.S. Government employees while engaged in or on account of their official duties. Congress

designed section 1114 to protect Federal employees whose jobs bring them into contact with individuals who may wish to use any means at their disposal to prevent them from performing their duties. Now included within the purview of section 1114 are such officials as judges, magistrates, U.S. attorneys, agents of the Federal Bureau of Investigation and the Drug Enforcement Administration, postal workers, customs agents, game wardens, probation and pre-trial services officers, corrections officers, and numerous other law enforcement and related employees of our Government. Clearly these employees and others included in the section perform crucial functions under extremely dangerous conditions and literally put their lives on the line. However, recent events demonstrate that Federal public defenders face similar dangers in the course of their defense duties. I believe they should enjoy the protections of section 1114 as well.

For example, just last month a defendant in the court of Senior Judge Charles Simons, Jr., of the District of South Carolina threatened to kill his attorney, a Federal public defender, during the course of a criminal trial. Judge Simons pointed out in a recent letter to me that since Federal public defenders are not included in section 1114, it would not have been a Federal offense for the defendant to carry out his threat.

An informal survey of public defenders across the country recently conducted by Mr. Parks Small, the Federal public defender for the district of South Carolina and a member of the Federal Defender Advisory Committee, reveals that there have been at least three other cases in the last year in which defenders have become the subjects of serious threats. Another incident involved an assault with a firearm upon a defender.

Unfortunately, these events prove that Federal public defenders, like the other Federal officers and employees enumerated in section 1114, do in fact encounter in the course of their official duties individuals who may pose some degree of threat to them because of those duties. Congress should act quickly to add Federal public defenders to the list of officers and employees protected by section 1114, which is why I propose this legislation today. Although section 1114 itself prohibits only the killing or attempted killing of the enumerated officers and employees, this legislation will also act through section 111 of title 18 to prohibit forcible assaults upon or interference with Federal public defenders engaged in the performance of their official duties.

Mr. Speaker, I urge my colleagues to give this important measure their serious consideration. Federal public defenders are vital to the Federal courts as the officers who give effect to the sixth amendment right to counsel in cases involving the indigent. Theirs is difficult work, even under the best of circumstances; this Government owes those dedicated attorneys willing to undertake it to the fullest protection the law can provide.

I would like to thank Judge Simons for bringing this matter to my attention and Parks Small for his assistance in preparing this legislation.

INTRODUCTION OF THE CONSUMER SEAFOOD SAFETY ACT OF 1989

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. GLICKMAN] is recognized for 5 minutes.

Mr. GLICKMAN. Mr. Speaker, each year, we eat over 3 billion pounds of seafood. The seafood industry generates nearly $8 billion dollars annually in sales and altogether, the fish and seafood industries are responsible for some $30 billion each year in economic activity. Over the past 15 years, fish and seafood consumption has risen gradually, until in 1988 when annual per capita consumption dropped from its peak the previous year of over 15 pounds.

In spite of growing health consciousness among most Americans and a gradual diversity in diets to include a wider variety of proteins, which spurred the growth in fish consumption, it has been, ironically, the same concern which has caused the downturn in fish consumption.

Today, I am introducing legislation, the "Consumer Seafood Safety Act of 1989," which I believe will go far toward alleviating these concerns and will assure all Americans of the wholesomeness of fish and seafood.

Unlike other beef, pork, or poultry, fish and seafood are not subject to mandatory inspection programs to assure consumers of their safety. The consequences of not having in place such a program are disturbing. The numbers speak for themselves: Seafood is 25 times more likely to cause food-borne illnesses than beef and 16 times more likely than poultry. According to further studies by the Centers for Disease Control, between 1982 and 1986, contaminated fish was responsible for over one-half of the food-related illnesses in the United States.

In spite of these alarming figures, the Food and Drug Administration, which is responsible for inspecting all fish and seafood in interstate commerce, does, at best, a spotty job of catching problems. Barely one-quarter of the businesses handling seafood and fish are inspected each year to protect the public from contamination. Compare this to the inspection programs in place for the beef, pork, and poultry industries, which I admit and recognize need improvements, which require facilities to be inspected each day.

Other efforts fare little better: In 1987, four of five of the top shellfish-producing States were out of compliance with FDA's guidelines and another Federal effort, the Commerce Department's program of inspection, is voluntary and not comprehensive.

Not only has the public grown concerned about this problem, as reflected in dropping levels of consumption, but so too has the industry. The industry trade association agreed earlier this year that mandatory seafood inspection on a Federal level is vitally needed, joining health and consumer groups who have for long advocated such a program.

To date, several pieces of legislation have been introduced to correct the holes in the present food inspection system in the United States. They take various approaches, some building on existing programs and bolstering those efforts. My approach is, I believe, somewhat different and will bring together the strengths and expertise that different Federal agencies have and can bring to bear to solve this pressing health problem.

This bill, "The Consumer Seafood Safety Act of 1989," will vest primary responsibility for a water to dinner table inspection program with the Department of Agriculture. However, in developing and implementing this program, the Secretary of Agriculture will be required to rely upon the expertise of the FDA in developing standards for keeping contaminated fish from the food chain. Further, the Secretary of Agriculture will rely on the advice and consultation of the Secretary of Commerce, who has expertise in marine issues, to prevent harvesting of seafood from contaminated areas.

Let me point out one key component of my legislation, the developing of standards of adulteration. The Agriculture Secretary will be required to determine adulteration based on standards developed by the FDA, in conjunction with the National Academy of Standards. These standards will contain limits on microbiological and chemical residues, which the General Accounting Office has identified as one of the primary causes of contamination in fish. This GAO report indicated that fish, of all foods in the average household market basket, have the highest levels of these contaminants. I believe the detecting of these toxins and keeping products from being adulterated by them must be of top priority, especially as the threat of chemical and microbiological contaminants grows.

In drawing on the scientific expertise of the FDA and NAS in the development of these standards, my legislation will likewise draw on the experience and expertise of the Agriculture Department for carrying out a comprehensive seafood inspection effort. USDA has a demonstrated and proven capacity to meet the challenge of keeping our food supply the most wholesome and secure in the world, and it is the strength of this infrastructure upon which this program will rest.

I also want to comment on another piece of legislation which will be introduced today on this same subject that I am also going to support. Today my good friend and respected chairman, the chairman of the Agriculture Committee, Mr. DE LA GARZA, will introduce a bill which will require the same comprehensive system of fish inspection. His is a tough and fair piece of legislation, which I am pleased to support and will work with him to enact. We have minor differences of opinion which I am confident we, and the rest of us in this House with an interest in this issue, can resolve as we move through the legislative process. As we go through that process, however, I believe it important to have under active consideration the approach I am advocating and am taking with my bill.

Mr. Speaker, all of us are concerned about food safety. We have the best food supply in the world, let us keep it that way and assure all Americans of its wholesomeness. This legislation will do that and I am confident with the committed effort of the House and with compromise, we can have in place by the end of this Congress a program to protect American consumers from adulterated fish and seafood.

A summary of the key points of the legislation I am introducing follows:

SUMMARY—THE CONSUMER SEAFOOD SAFETY ACT OF 1989

1. Applies to vessels and to establishments.

2. Applies to all stages of processing from harvesting to packing and transportation.

3. Authority is with Secretary of Agriculture unless otherwise indicated.

4. Prohibited acts include: processing or sale of adulterated fish and fishery products; refusal to permit entry to our inspection of vessel or establishment; copying or destruction of an official stamp or official certificate; creating or maintaining false records; processing of fish or fish products in an establishment or vessel that does not have an official certificate; and importing adulterated fish or fish products.

5. Penalties include: Fine of up to $10,000 for first violation with 5% increase in penalty for each subsequent violation. Identifying vessel or establishment in Federal Register. Secretary can refuse to provide inspection services to curb persistent violations. Intentional adulteration is a felony punishable by two years in prison.

6. Adulteration includes: fish or fish products determined by Secretary to contain a substance that is hazardous to health including chemicals, parasites such as bacteria and viruses, and microbiological toxins (all of which will be identified in regulations issued by HHS in conjunction with the National Academy of Sciences) or determined by Secretary not to have been processed properly. (Thus, standard setting will be done by FDA, and inspection by Agriculture.) Shellfish harvested in a growing area that Secretary of Commerce determines to contain substances that will cause shellfish to be harmful; Fish or fish products imported from country that does not have an approved safety program.

7. Regulations will be issued by the Secretary for each stage in the processing.

8. Secretary shall issue official certificates for vessels and establishments when they meet sanitation and storage requirements and adopt a quality assurance program.

9. Secretary shall authorize official stamp for products that are processed at all stages in vessels and establishments with official certificate.

10. Certificate suspension: For failure to comply with requirements; summarily suspended for failure to permit inspection access of where "undue risk of imminent harm."

11. Inspection criteria are established.

12. Requirement that labelling and packaging be accurate.

13. Hearing procedure established.

ANNUNZIO LAUDS CHICAGO CUBS ON WINNING NATIONAL LEAGUE EAST TITLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the Chicago Cubs, once the doormat of the National League, have clinched the championship of the National League East, and will open the playoffs at Wrigley Field next Wednesday night against the San Francisco Giants. There has always been a nationwide passion for the Cubs, perhaps because they play baseball the old-fashioned way. But now there is a Cubs' fever in Chicago. And nowhere is it more fervent than in my 11th District—the heartland of Cubs' territory.

The Cubs were given little chance at the start of the 1989 baseball season. The club went 77–85 last year, stumbled to a 9–23 spring training record, and then suffered numerous injuries in the early going. The fantastic Cubs then streaked to a 90–66 season, and became the first team, on Tuesday night, to clinch a spot in the playoffs—their second National League title in six seasons.

Earlier, I mentioned they reached their lofty perch in the playoffs by overcoming injuries to key players. In May, Andre Dawson, Jerome Walton, and Mitch Webster went on the disabled list within a span of 5 days. Dwight Smith, Lloyd McClendon, and Doug Dascenzo were brought up from the minors and did the job. So did rookie catcher Joe Girardi after Damon Berryhill was lost for the season in late August.

And it was fitting that Ryne Sandberg, the only everyday player from the Cubs' last title team in 1984, scored the go-ahead run in the title clincher.

Mr. Speaker, one cannot say enough about the job done by Don Zimmer, surely an odds-on favorite to be named National League Manager of the Year. In winning, the Cubs made Zimmer, Chicago's eighth manager in the 1980's, a champion for the first time in 11 seasons.

The fans of Chicago, especially in my district, and across the country, cheer the Cubs who have not been in the World Series since 1945, and have not won it since 1908.

This may be the year for the Chicago Cubs.

THE NEED TO RESTORE ECONOMIC PROSPERITY IN RURAL COMMUNITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina [Mr. TALLON] is recognized for 30 minutes.

Mr. TALLON. Mr. Speaker, the rural areas of our Nation have not been a part of the economic recovery of the 1980's. In fact, many communities in the heartland of this country and in the extremely rural areas of many areas are losing population.

They are losing population to the Nation's urban centers and the reasons are numerous.

First, young people completing their education cannot find opportunities for employment in their rural hometowns.

Second, the small family farmer can no longer make it in agriculture without outside employment, and those jobs are becoming harder and harder to find.

Third, small businesses in rural areas are closing up shop.

They simply can't compete for capital and market share. And, businesses are not moving into rural areas, partly because of infrastructure deficiencies and partly because it's cheaper for businesses to take their operations overseas, where they can exploit the availability of lower costs and cheaper labor.

If this trend in rural America continues, Mr. Speaker, we're going to have some parts of the country where we'll have to ask the last one to leave to please turn out the lights.

That would be highly undesirable.

It is undesirable because our cities are already overburdened.

It is undesirable because when some people leave the community, the businesses and essential services are weakened. Let me cite but one example. When people emigrate from a small rural area, that means there are that many fewer people for the local hospital to draw from, and so, the hospital gets into financial trouble and closes. And with that closing go a number of jobs, and when those jobs are gone, the people who had them have to look elsewhere—and elsewhere is an urban area where there is more opportunity.

Not only does this cycle create an overburden for the urban center, it intensifies the deterioration of the rural areas.

And so, Mr. Speaker, in order to preserve those rural areas, in order to pursue the prudent policy of having our population spread all over the land rather than concentrated in a few congested locations—in order to accomplish these things, we must concentrate our time and attention on economic development in rural areas.

Today, I am introducing legislation that would begin to accomplish just that. I am introducing the Rural Revitalization Act, which will address some of the problems facing rural areas.

Let me describe for a moment some of those problems.

In extensive hearings conducted by the Subcommittee on Conservation, Credit and Rural Development, we heard a continuing refrain: Rural communities are capital poor and the infrastructure is not adequate to support many business activities.

Let me use my home district in South Carolina as a prime example of what I am describing. We have a surplus labor force, lower taxes, an availability of cheap land and plenty of natural resources.

What we don't have is the lifeline for any economic development, water, and sewer services.

That problem is not unique to my district, for I could cite example after example of rural areas suffering the same conditions.

The legislation I introduce today would address some of these problems. In the area of water and sewer funding, this bill would provide $95 million in increased funding for the Farmers Home Administration, $94 million for the rural electric cooperatives to bring water and sewer facilities to communities where they don't exist now. As

well, the legislation would provide the authority for the Farm Credit system to make water and sewer loans.

These three steps will begin to make it possible for our rural communities to improve their water and wastewater treatment facilities to the degree that they can support increased business activity.

Equally important, Mr. Speaker, this legislation will make it possible for rural communities to meet increasingly stringent water quality standards to come into compliance with existing law. Without the kind of assistance provided in my legislation, many of our rural communities simply cannot achieve compliance.

A second obstacle to rural economic development is the lack of technical assistance. Many a good idea for a new rural business or for the expansion of existing businesses is stopped in its tracks because the entrepreneur just does not have access to the kind of technical assistance that would help him make the next step.

For example, a successful small rural entrepreneurial venture may be capable of achieving market share outside the community. But, the entrepreneur simply doesn't have the time, the marketing expertise, or the ability to buy it, and so any hope of expansion is stopped dead in its tracks.

My legislation provides for a nation "rural development" hotline through the National Agricultural Library where individuals and businesses can acquire this much-needed technical assistance. It also provides for areawide strategic planning assistance and for technical small business assistance through the rural electric cooperatives.

The availability of capital is an additional impediment to rural development. For a variety of reasons, rural enterprise looks like risky business to the banking community. It is not unusual to have a small rural borrower be told by the big city bank to go home and figure out how to borrow more because they don't want to be troubled with servicing the kinds of small loans that rural enterprises require.

And so, my legislation provides $300 million to the U.S. Department of Agriculture for revolving loan funds in risk capital to emerging small businesses. This would be administered over 3 years through nonprofit organizations, rural cooperatives, investor owned utilities, chambers of commerce, and State and local governments.

These revolving loan funds would be leveraged to the maximum, so that the funds from the revolving funds would be matched by local funds, including loan funds from local banks, to achieve the most development out of the fewest Federal dollars.

This is a partnership program. It involves the Federal Government's providing a helping hand—not a hand out—to complete a vital link in the circle.

Finally, Mr. Speaker, I want to express my grateful appreciation for the insight and support of my 108 colleagues who have agreed to be cosponsors for the Rural Revitalization Act. These Members come from all over this great Nation, and they represent diverse population, urban as well as rural.

I am indeed gratified that so many of my colleagues understand the importance of restoring economic prosperity in the Nation's rural areas.

Mr. HARRIS. Mr. Speaker, I rise today in support of the Rural Revitalization Act, of which I am an original cosponsor, which was introduced today by my friend and colleague Mr. TALLON of South Carolina.

Mr. Speaker, It's an ironic development that almost every poll I've seen in recent years shows that the great majority of Americans prefer to live in rural areas, yet, more than three-quarters of our national population is concentrated in the cities.

There's a reason for this, and the Rural Revitalization Act gets right to the heart of the matter. The reason most people live in cities is that there are not the same opportunities for employment in rural America, and many of the services those in urban areas take for granted, are just not available.

The central issue here is quite simple, it is quality of life. What is the quality of lifestyle that rural citizens deserve? Do they deserve the same access to adequate health care, a good education, communication technology, and business opportunities?

This, Mr. Speaker, is the question that the Rural Revitalization Act attempts to answer. In our consideration of rural issues in the Agriculture Committee we came face to face with our Nation's need for the construction of water and sewer systems, and the need for technical assistance in business development. There is no question that it is in the best interest of our Nation to provide these services to make rural America competitive. In addition, rural America has the abundant resources required to spur trade in value added, more refined, products around the world.

I believe this legislation shows the good sense, the forward planning that is needed to proceed with the revitalization of our rural areas. Any economic development is ultimately local in nature. If it isn't, it is unlikely to be effective. I have heard a great deal about the budget constraints this Congress operates under, but Mr. Speaker, the time is right, to reinfuse capital and economic life into rural areas. This bill has outlined specific strategies in technology and basic services in rural America, in such areas as water and sewer construction.

Mr. Speaker, the Rural Revitalization Act is a budget conscious bill. It has budget restraint. This bill allows local entities, such as local governments, electric cooperatives, and nonprofit organizations, as well as investor owned utilities to play a role in developing their own areas and communities. Finally Mr. Speaker, we realize that rural development is diverse, it means different things to different regions of our Nation and different people. This bill recognizes this diversity and accepts the challenge it poses by providing for more flexibility and local input. We recognize that rural development in Alabama and Mississippi may be different than Oregon or Nevada. Mr. Speaker, this bill puts the Congress on record, as being committed to rural development.

The Rural Revitalization Act is this body's first attempt in this session to keep its promise and bring the economic expansion of the eighties to small town America, I encourage my colleagues to step forth with enthusiasm and give rural America the boost it deserves.

Mr. JOHNSON of South Dakota. Mr. Speaker, I am pleased to join Mr. TALLON in cosponsoring the Rural Revitalization Act. This legislation is exactly the catalyst needed for many rural areas to proceed with the rebuilding of their communities and towns. This legislation offers hope that there are viable, concrete means, and methods in which rural Americans can bring about brighter futures for themselves and for their future generations, without having to leave their communities and towns.

In the 3 years that I have been in Congress, I have seen struggling communities—not just in my own State of South Dakota, but in others across the Nation—which, despite their best plans and best-intentioned hopes, have failed at revitalization efforts simply because they lacked the means and the technical know-how needed to develop basic, adequate water, and sewer facilities. No matter how beautiful and inexpensive your land is, or how much of an able-bodied, willing work force you have, or how magnanimous your tax incentives—if a developing or expanding business cannot get clean water and adequate wastewater treatment facilities from your community, then there's no deal.

Dozens of small towns and communities in the rural State of South Dakota that I am privileged to represent, have had these same obstacles and hurdles which they could not overcome.

I have watched rural area residents leaving for the big cities, in droves, for a number of years and I think it's high time to stem this tide. Certainly, these people are leaving not because they don't like the State or their hometowns, but they leave primarily because there is very little in the way of opportunity to look forward to for the future. The towns are deteriorating, and there is little hope for revitalization.

How ironic it is that in this day of advanced technological wonders and achievements, many rural towns across the Nation and particularly a number in my home State, do not have water that is clean by city standards, nor do they have the adequate sewage treatment facilities that we here in the big city take for granted.

I am particularly pleased that the Rural Revitalization Act will address this issue by enabling the rural electric cooperatives—the people who already live and work in rural America, the people who are familiar with utility operations and, more importantly, the people who care about the quality of life in rural America—to play a significant role in

bringing in water and sewer facilities to these communities.

I have had the opportunity to work with the REA and with the folks at the rural electric cooperatives in South Dakota in the years that I have represented South Dakota in the State legislature and now in Congress, and I am confident that the rural electric systems can tackle this new undertaking with the same determination and will to succeed as they displayed in bringing reliable, affordable electric power to rural Americans across the country.

This very weekend in South Dakota, I will be hosting my colleague from New York, GEORGE HOCHBRUECKNER, for the biennial "Congress to the Country" program sponsored by the Sioux Valley Empire Electric Cooperative. Through this long-running and very successful effort, Members of Congress from various parts of the country—especially Members who represent urban areas—have the opportunity to see first-hand what rural electric cooperatives mean to the lives of America's farmers, ranchers, and small town residents.

I urge my colleagues in the House who have not yet expressed their support for Representative TALLON's legislation to speak up, and to join us in securing passage of this important initiative. Enactment of the Rural Revitalization Act will help to improve the lives of many millions of our friends and relatives living in rural America.

Mr. GRANDY. Mr. Speaker, I share the sentiments of the gentleman from South Carolina [Mr. TALLON]. As you may know, Iowa is one of those States in which a number of areas are reporting population losses. My district experienced a population loss of about 1 percent between 1970 and 1980, and I wouldn't be surprised if that percentage is increasing.

Part of this is because of the decline of the family farm, but a lot of it has to do with the fact that young people just out of school come home and can't find anything to do.

And so, they go off to Chicago and St. Louis and Des Moines, where there is a better prospect of well-paid employment.

Their gain is rural America's loss, and, Mr. Speaker, I would say today that the problem is becoming more than important, it is approaching critical.

The rural population is aging. About 25 percent of the rural population is of retirement age. These are the people who have served on the county commissions, as mayors of their communities, as elders in the churches, on the school boards.

They are wise, and canny, and devoted to their communities. But a lot of them think it's time for them to step down. But they can't.

There's no one to succeed them. We're losing a whole generation of rural youths.

Let me tell you what we're giving up. We're giving up energy and good ideas. We're giving up the restless enthusiasm of our youthful population, the kind of youthful persistence that will ultimately get the bucket filled, even if we have to do it a teaspoon at a time.

The United Negro College Fund has a motto, a very good motto: "A Mind is a Terrible Thing to Waste."

Unless we begin the revitalization of our rural areas, unless we bring modern telecommunication facilities, modern water and wastewater treatment, jobs and capital, to our rural communities, we are about to waste, for rural America, a whole generation of minds.

And that is a terrible thing.

The legislation we discuss today will help to begin that process. And I should emphasize process. Rome wasn't built in a day, and rural America won't be revitalized in a day, or a week, or a year, or maybe 5 years.

The Rural Revitalization Act is a very, important beginning to that process, but I want to emphasize that it is but the beginning, and when the legislative effect of this act is completed, the process must continue.

I think it will, and the reason is fairly simple.

What we are doing with the rural revitalization is laying some groundwork, providing some help and some capital for economic development to begin in rural America.

I think this will have just the opposite effect of what we have seen in rural areas in recent years, the spiral of economic decline, the cycle in which the implement store closes and two people are out of jobs, and they can't farm and make a living. So they shut down the farm, sell it off, and move to town, and so the grocery store loses a couple of customers, and things get a little tighter, and on we go.

I can imagine a very different scenario as a result of the legislation we are considering today, a scenario in which our local rural communities—and I want to emphasize that word local—create a job here, a job there, two jobs here, and three jobs there, and do it a thousand times over.

For there to be a solid, sustained rural economic recovery, the initiative must be local, and the development efforts must be locally administered. This legislation provides for local administration.

In the Rural Revitalization Act, we have also acknowledged that the Federal Government has a role in rural economic development, and we have scaled that role, in terms of both technical assistance and funding, appropriately.

I am delighted and honored to speak on behalf of this legislation. I would commend the gentleman from South Carolina for his insight and sensitivity to the problems of our rural areas, and pledge my wholehearted efforts on behalf of this legislation.

Thank you.

□ 1630

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Goss) to revise and extend their remarks and include extraneous material:)

Mr. WELDON, for 60 minutes, on October 11 and October 12.

Mr. BARTON of Texas, for 30 minutes, on October 4.

Mr. MCEWEN, for 5 minutes, today.

(The following Members (at the request of Mr. OWENS of New York) to revise and extend their remarks and include extraneous material:)

Mr. MONTGOMERY, for 5 minutes, today.

Mr. DERRICK, for 5 minutes, today.

Mr. GLICKMAN, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Goss) and to include extraneous matter:)

Mr. PAXON.

Mr. GEKAS.

Mr. BROOMFIELD.

Mr. PACKARD.

Mrs. ROUKEMA.

Mr. BARTON of Texas in two instances.

Mrs. ROS-LEHTINEN.

Mr. MARLENEE.

Mr. LAGOMARSINO.

Mr. SCHULZE.

Mr. MCCANDLESS.

Mr. BALLENGER in two instances.

Mrs. MEYERS of Kansas.

Mr. DUNCAN.

Mr. HOUGHTON.

Mr. FIELDS.

Mr. BEREUTER.

(The following Members (at the request of Mr. OWENS of New York) and to include extraneous matter:)

Mr. GUARINI.

Mr. CROCKETT.

Mr. DOWNEY.

Mr. GORDON.

Mr. MONTGOMERY.

Mr. COLEMAN of Texas.

Mr. ROSE in two instances.

Mr. JONES of Georgia.

Mr. SCHEUER.

Mr. MOODY.

Mr. MCMILLEN of Maryland.

Mr. KOSTMAYER.

Mr. EDWARDS of California.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2835. An act to provide for the relocation of certain facilities at the Gateway National Recreation Area, Sandy Hook, NJ, and for other purposes; and

H.J. Res. 407. Joint resolution making continuing appropriations for the fiscal year 1990, and for other purposes.

ADJOURNMENT

Mr. TALLON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 38 minutes p.m.), under its previous order, the

House adjourned until Monday, October 2, 1989, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1753. A letter from the Assistant Secretary Legislative Affairs, Department of State, transmitting the sixteenth 90-day report on the investigation into the death of Enrique Camarena, the investigations of the disappearance of United States citizens in the State of Jalisco, Mexico, and the general safety of United States tourists in Mexico, pursuant to Public Law 99-93, section 134(c) (99 Stat. 421); to the Committee on Foreign Affairs.

1754. A letter from the Attorney General, transmitting notice that the Department of Justice will appeal the district court's decision in *American Library Association, et al.* v. *Thornburg,* et al., Civ. A. No. 89-0661 (D.D.C. May 16, 1989), pursuant to Public Law 96-132, section 21 (93 Stat. 1049); to the Committee on the Judiciary.

1755. A letter from the Acting Secretary of State and the U.S. Trade Representative, transmitting the views of the administration in support of H.R. 1233, the Caribbean Basin Economic Recovery Expansion Act of 1989; to the Committee on Ways and Means.

1756. A letter from the Secretary of State, transmitting suggested reprogramming authority language for assistance for the promotion of democracy in Nicaragua; jointly, to the Committees on Foreign Affairs and Appropriations.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FLIPPO:

H.R. 3360. A bill to add approximately 500 miles to the National System of Interstate and Defense Highways for construction of an interstate route to connect Memphis, TN, with Huntsville, AL, and with Chattanooga, TN, and Atlanta, GA, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. FASCELL (for himself and Mr. BROOMFIELD):

H.R. 3361. A bill to amend the Arms Control and Disarmament Act to authorize appropriations for the Arms Control and Disarmament Agency, and for other purposes; to the Committee on Foreign Affairs.

By Mr. SCHEUER (for himself, Ms. SCHNEIDER, Mr. HOCHBRUECKNER, Mr. VENTO, Mr. BROWN of California, Mr. BOEHLERT, Mr. AKAKA, and Mr. KASTENMEIER):

H.R. 3362. A bill to establish a national policy of "no net loss of forests," to direct the President to work for a declaration of a state of emergency for global forests, to establish forest protection and forest restoration programs as a national priority, to support a global forest resource survey, to create an endangered forests research initiative, and to initiate a joint United States-Japan effort for global forest restoration; jointly, to the Committees on Agriculture, Interior and Insular Affairs, Foreign Affairs, and Science, Space, and Technology.

By Mr. ANTHONY:

H.R. 3363. A bill to amend the Internal Revenue Code of 1986 to permit deferred compensation plans of State and local governments and tax-exempt organizations to make certain distributions; to the Committee on Ways and Means.

By Mr. BALLENGER (for himself, Mr. BAKER, Mr. BLILEY, Mr. BUNNING, Mr. COBLE, Mr. CRANE, Mr. HANCOCK, Mr. DANNEMEYER, Mr. GINGRICH, Mr. HASTERT, Mr. HERGER, Mr. HOLLOWAY, Mr. HUNTER, Mr. INHOFE, Mr. IRELAND, Mr. KYL, Mr. MCCRERY, Mr. RHODES, Mr. SMITH of Vermont, Mr. UPTON, and Mr. WEBER):

H.R. 3364. A bill to amend the Internal Revenue Code of 1986 to restrict the partial exclusion from income of interest on loans used to acquire employer securities to cases where employees receive a significant ownership interest in a corporation, and for other purposes; to the Committee on Ways and Means.

By Mr. COLEMAN of Texas (for himself, Mr. PERKINS, Mr. BRYANT, Mr. TOWNS, Mrs. COLLINS, Mr. BUSTAMANTE, Mr. RICHARDSON, Mr. MILLER of California, Mr. SMITH of Florida):

H.R. 3365. A bill to amend the Elementary and Secondary Education Act of 1965 to require that 10 percent of amounts appropriated for basic skills improvement and school dropout prevention and reentry programs be reserved for purposes of school dropout prevention and reentry programs operated by community-based organizations; to the Committee on Education and Labor.

By Mr. DERRICK:

H.R. 3366. A bill to amend section 1114 of title 18, United States Code, to extend the protections of that section to attorneys in Federal public defender organizations; to the Committee on the Judiciary.

By Mr. EDWARDS of Oklahoma (for himself, Mr. MICHEL, Mr. GINGRICH, Mr. LEWIS of California, Mr. HUNTER, Mr. VANDER JAGT, Mr. MCCOLLUM, Mr. WEBER, Mr. HOLLOWAY, Mr. SCHULZE, Mr. ARMEY, Mr. BARTLETT, Mr. GRANDY, Mr. GUNDERSON, Mr. PETRI, Mr. SHAW, and Mr. SMITH of Vermont):

H.R. 3367. A bill to amend the Internal Revenue Code of 1986 to expand the earned income tax credit, and for other purposes; to the Committee on Ways and Means.

By Mr. FORD of Michigan (for himself, Mr. HAWKINS, Mr. WILLIAMS, Mr. CLAY, Mr. SAWYER, Mr. OWENS of New York, Mr. RAHALL, Mr. JONTZ, Mr. MARTINEZ, Mr. FUSTER, Mrs. UNSOELD, Mr. DELLUMS, Mr. STARK, Mr. FAUNTROY, Mr. OBERSTAR, Ms. PELOSI, Mr. BERMAN, Mr. BATES, Mr. KASTENMEIER, Ms. OAKAR, Mr. FAZIO, Mr. POSHARD, Mr. KLECZKA, Mr. FRANK, Mr. TRAFICANT, Mr. DWYER of New Jersey, Mr. STUDDS, Mrs. COLLINS, Mr. CONYERS, Mr. FOGLIETTA, Ms. SLAUGHTER of New York, Mrs. BOXER, Mr. KILDEE, Mr. PALLONE, Mr. LEVIN of Michigan, Mr. BONIOR, Mr. DINGELL, and Mr. MILLER of California):

H.R. 3368. A bill to strengthen the protections available to employees against reprisals for disclosing information to protect the public health and safety, and for other purposes; jointly, to the Committees on Education and Labor and Post Office and Civil Service.

By Mr. GLICKMAN (for himself, Mr. BROWN of California and Mr. JONTZ):

H.R. 3369. A bill to develop a comprehensive safety program in order to protect public health and to ensure the wholesomeness of all fish products intended for human consumption in the United States; jointly, to the Committees on Energy and Commerce, Merchant Marine and Fisheries, and Agriculture.

By Mr. GORDON (for himself, Mr. COOPER, Mr. DORGAN of North Dakota, Mr. JONTZ, Mrs. BOXER, Mr. CLEMENT, Mr. BUECHNER, Mr. FOGLIETTA, Mrs. COLLINS, Mr. LEWIS of Georgia, Mr. ROBINSON, Mr. OWENS of New York, Mr. ECKART, Mr. HAWKINS, Mr. KENNEDY, and Mr. DELLUMS):

H.R. 3370. A bill to require local educational agencies to conduct testing for radon contamination in schools, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HAYES of Illinois (for himself, Mr. MFUME, Mr. CONYERS, Mr. TORRES, Mr. LANCASTER, Mr. POSHARD, and Mr. FLAKE):

H.R. 3371. A bill to provide for centralized certification by the Small Business Administration of socially and economically disadvantaged and women-owned business enterprises for purposes of participation in certain Federal, State, and local programs; to the Committee on Small Business.

By Mr. KANJORSKI:

H.R. 3372. A bill to amend the National Housing Act of 1934 to limit eligibility for mortgage insurance based on borrower income, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LAGOMARSINO (for himself, Mr. SOLARZ, Mr. FALEOMAVAEGA, Mr. YOUNG of Alaska, Mrs. SAIKI, and Mr. BLAZ):

H.R. 3373. A bill to support the Tarawa Declaration which calls for the negotiation of a regional convention to establish a drift-net free zone in the South Pacific region; to the Committee on Merchant Marine and Fisheries.

By Mr. MORRISON of Connecticut:

H.R. 3374. A bill to amend the Immigration and Nationality Act with respect to the changes made by titles I and II of the Immigration Reform and Control Act of 1986; to the Committee on the Judiciary.

By Mr. NOWAK (for himself and Mr. LAFALCE):

H.R. 3375. A bill to amend the Toxic Substances Control Act to increase the criminal penalties, and for other purposes; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. PAXON:

H.R. 3376. A bill to amend the Controlled Substances Act to eliminate a provision that prohibits transfers of certain forfeited property to State or local law enforcement agencies in circumvention of State law; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mrs. ROUKEMA:

H.R. 3377. A bill to provide for improved procedures regarding Federal and housing assistance programs, and for other purposes; jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

By Mr. SCHULZE:

H.R. 3378. A bill to require the Government Development Bank for Puerto Rico to make available low-interest loans for the re-

development of certain areas affected by natural disasters; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SHAW (for himself, Mr. BLILEY, Mr. SMITH of New Jersey, Mr. SCHUETTE, Mrs. MARTIN of Illinois, Mr. TAUKE, and Mr. OBERSTAR):

H.R. 3379. A bill to amend the Internal Revenue Code of 1986 to authorize a deduction for the expenses of adopting a special needs child and to amend title 5, United States Code, to establish a program providing assistance to Federal employees adopting a special needs child; jointly, to the Committees on Ways and Means and Post Office and Civil Service.

By Mr. SIKORSKI (for himself, Mr. WYDEN, and Mr. NIELSON of Utah):

H.R. 3380. A bill to prohibit the disposing of untreated waste on tracks by the National Railroad Passenger Corporation; to the Committee on Energy and Commerce.

By Mr. ROBERT F. SMITH:

H.R. 3381. A bill to authorize expansion of the Malheur National Wildlife Refuge; to the Committee on Merchant Marine and Fisheries.

By Mr. TALLON (for himself, Mr. SKELTON, Mr. DERRICK, Mr. JONTZ, Mr. WHITTAKER, Mr. ESPY, Mr. WEBER, Mr. HARRIS, Mr. VOLKMER, Mr. JOHNSON of South Dakota, Mr. YOUNG of Alaska, Mr. BUSTAMANTE, Mr. DYSON, Mr. HATCHER, Mr. WISE, Mr. DARDEN, Mr. PARKER, Mr. RICHARDSON, Mr. GAYDOS, Mr. OBEY, Mr. BEVILL, Mr. SPENCE, Mr. ALEXANDER, Mr. BOUCHER, Mr. SPRATT, Mr. HAYES, of Louisiana, Mr. MOLLOHAN, Mr. HUCKABY, Mr. VALENTINE, Mr. WATKINS, Mr. SLATTERY, Mrs. PATTERSON, Mr. CHAPMAN, Mr. GRANT, Mr. FLIPPO, Mr. LANCASTER, Mr. EVANS, Mr. RIDGE, Mr. JONES of North Carolina, Mr. PENNY, Mr. OBERSTAR, Mr. PERKINS, Mr. MOODY, Mr. HEFNER, Mr. GORDON, Mr. BARNARD, Mr. RAY, Mr. MCEWEN, Mr. CALLAHAN, Mr. STAGGERS, Mr. BROWDER, Mr. THOMAS of Georgia, Mr. TANNER, Mr. JONES of Georgia, Mr. COOPER, Mr. HALL of Texas, Mr. SARPALIUS, Mr. ANTHONY, Mr. STENHOLM, Mr. MONTGOMERY, Ms. LONG, Mr. DORGAN of North Dakota, Mr. RAHALL, Mr. COLEMAN of Texas, Mr. PAYNE of Virginia, Mr. ROSE, Mr. SISISKY, Mr. TRAFICANT, Mr. DURBIN, Mr. WHEAT, Mr. ORTIZ, Mr. TAUZIN, Mr. HUTTO, Mr. COBLE, Mr. PICKETT, Mr. JENKINS, Mr. NELSON of Florida, Mr. BATEMAN, Mr. NEAL of North Carolina, Mr. COSTELLO, Mr. MURPHY, Mr. LEWIS of Georgia, Mr. ROBERT F. SMITH, Mr. ERDREICH, Mr. TOWNS, Mr. ECKART, Mr. LIGHTFOOT, Mr. LLOYD, Mr. HAYES of Illinois, Mr. SMITH of Iowa, Mr. WILSON, Mr. SAVAGE, Mr. BROOKS, Mr. ANDREWS, Mr. LEATH of Texas, Mr. KASTENMEIER, Mr. HAMMERSCHMIDT, Mr. RHODES, Mr. GRANDY, Mr. DEFAZIO, Mr. KENNEDY, Mr. KILDEE, Mr. STALLINGS, Mr. WYDEN, Mr. BRUCE, Mr. HOPKINS, Mr. HUBBARD, Mr. ROGERS, Mr. DICKINSON, Mr. RAVENEL, and Mr. LAUGHLIN):

H.R. 3382. A bill to provide grants to aid rural business and job creation in rural areas, to provide grants for emergency water assistance projects, and for other purposes; to the Committee on Agriculture.

By Mr. VENTO (for himself and Mr. LIGHTFOOT):

H.R. 3383. A bill to authorize the National Park Service to conduct a study of park system boundaries, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. VUCANOVICH (for herself, Mr. HANSEN, Mr. NIELSON of Utah, Mr. OWENS of Utah, Mr. SHUMWAY, and Mr. STALLINGS):

H.R. 3384. A bill relating to the establishment of a Western Shoshone judgment roll and providing for the apportionment and distribution of the award in Indian Claims Commission docket numbered 326-K, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GONZALEZ:

H.J. Res. 412. Joint resolution to reauthorize the National Flood Insurance Program, the Federal Crime Insurance Program, and the Defense Production Act of 1950, to extend certain housing programs, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. McCOLLUM (for himself and Mr. LANCASTER):

H.J. Res. 413. Joint resolution designating March 3, 1990, as "United States Naval Reserve Day"; to the Committee on Post Office and Civil Service.

By Mr. JONTZ:

H. Con. Res. 204. Concurrent resolution expressing the sense of the Congress regarding the entering into of bilateral arrangements with foreign countries to achieve fair and open international trade in steel products; to the Committee on Ways and Means.

By Mr. TORRICELLI (for himself, Mr. BROOMFIELD, Mr. GILMAN, Mr. FEIGHAN, Mr. DONALD E. LUKENS, Mr. ACKERMAN, Mr. OWENS of Utah, and Mr. LEVINE of California):

H. Con. Res. 205. Concurrent resolution in support of the United Nations Secretary General's peace initiatives regarding Cyprus; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 215: Mrs. VUCANOVICH, Mr. DOWNEY, Mrs. JOHNSON of Connecticut, Mr. HENRY, Mr. HOAGLAND, and Mr. SHAW.

H.R. 529: Mr. JENKINS, Mr. CONYERS, and Mrs. LOWEY of New York.

H.R. 530: Mr. JENKINS and Mr. CONYERS.

H.R. 683: Mr. DELLUMS.

H.R. 1136: Mr. INHOFE, Mr. GOSS, and Mr. HOUGHTON.

H.R. 1175: Mr. HATCHER, Mr. MORRISON of Washington, Mr. NEAL of North Carolina, Mr. ROWLAND of Connecticut, Mr. PENNY, Mr. NAGLE, Mr. AUCOIN, Mr. MCNULTY, and Mr. SIKORSKI.

H.R. 1176: Mr. DEFAZIO.

H.R. 1197: Mr. PALLONE, Mr. THOMAS of Wyoming, and Mr. COURTER.

H.R. 1216: Mr. WATKINS, Mr. WILLIAMS, Mr. SABO, and Mr. BILBRAY.

H.R. 1515: Mr. SCHIFF.

H.R. 1710: Mr. ROSE and Mr. WALGREN.

H.R. 1725: Mr. BORSKI.

H.R. 1730: Mr. GEKAS, Mrs. SCHROEDER, Mr. THOMAS of Wyoming, Mrs. COLLINS, and Mr. NAGLE.

H.R. 2055: Mr. PARRIS.

H.R. 2104: Mr. POSHARD.

H.R. 2192: Mr. SWIFT and Mr. GOODLING.

H.R. 2274: Mr. SIKORSKI and Mr. GLICKMAN.

H.R. 2283: Mr. SIKORSKI.

H.R. 2335: Mr. MCMILLAN of North Carolina.

H.R. 2351: Mrs. BYRON, Mr. GALLO, and Mr. NEAL of Massachusetts.

H.R. 2373: Mr. PAYNE of New Jersey, Mr. FALEOMAVAEGA, and Mr. SMITH of Florida.

H.R. 2407: Mr. MORRISON of Washington, Mr. WEBER, and Mr. NIELSON of Utah.

H.R. 2460: Mr. THOMAS of Wyoming, Mr. RAY, and Mr. FALEOMAVAEGA.

H.R. 2635: Mr. STUDDS, Mr. KOSTMAYER, Mr. WEISS, Mr. JOHNSTON of Florida, Mr. SOLARZ, Mr. GEJDENSON, Mr. DELLUMS, Mr. NEAL of North Carolina, and Mr. BOSCO.

H.R. 2720: Mr. MCCLOSKEY.

H.R. 2756: Mr. MARTINEZ.

H.R. 2836: Mr. GONZALEZ, Mr. LIPINSKI, Mr. POSHARD, Mr. PORTER, Mr. BOSCO, Mrs. MARTIN of Illinois, Mr. HYDE, Mrs. COLLINS, Mr. ACKERMAN, Mr. DURBIN, and Mr. HAYES of Illinois.

H.R. 2870: Mr. WOLF.

H.R. 3101: Mr. COX and Mr. CHANDLER.

H.R. 3106: Mr. HANSEN, Mr. VISCLOSKY, Mr. MILLER of California, Mr. LIPINSKI, Mr. FALEOMAVAEGA, Mr. DWYER of New Jersey, Mr. LEWIS of Georgia, and Mr. ATKINS.

H.R. 3136: Mr. ECKART.

H.R. 3164: Mr. HEFNER, Mr. DEFAZIO, Mr. WILSON, Mr. WEBER, Mr. TALLON, Mr. SPRATT, Mr. OLIN, Mr. DERRICK, Mr. BRUCE, Mr. SARPALIUS, Mr. TOWNS, Mr. BARTON of Texas, Mr. BATEMAN, Mr. KOLTER, Mr. KASTENMEIER, Mr. BEVILL, Mr. CLINGER, Mr. SKELTON, Mr. AUCOIN, Mr. THOMAS of Wyoming, Mr. TANNER, Mr. ROSE, Mr. PENNY, Mr. ESPY, Mr. JOHNSON of South Dakota, Mr. DORGAN of North Dakota, Mr. ENGLISH, Mr. YOUNG of Alaska, Mr. ROBERT F. SMITH, Mr. THOMAS of Georgia, Mr. MCEWEN, and Mr. SLATTERY.

H.R. 3212: Mr. JONTZ, Mr. ATKINS, Mr. POSHARD, and Mr. BILBRAY.

H.R. 3220: Mr. FAUNTROY, Mrs. COLLINS, and Mr. LANCASTER.

H.R. 3223: Mr. ATKINS, Mr. WILSON, and Mr. DELLUMS.

H.R. 3251: Mrs. SCHROEDER and Mr. BOEHLERT.

H.R. 3257: Mr. BEILENSON and Mr. WILSON.

H.R. 3276: Mr. SYNAR and Mr. LEWIS of Florida.

H.R. 3290: Mr. FUSTER.

H.R. 3292: Mrs. SMITH of Nebraska.

H.R. 3322: Mr. PACKARD, Mr. STANGELAND, Mr. BATES, Mr. RANGEL, Mr. GALLEGLY, Mr. COSTELLO, and Mrs. ROS-LEHTINEN.

H.J. Res. 126: Mrs. LOWEY of New York.

H.J. Res. 141: Mr. BRUCE, Mr. BOUCHER, Mr. LEWIS of Florida, Mr. EMERSON, Mr. MCNULTY, Mr. JACOBS, Mr. LAGOMARSINO, Mr. HERTEL, Mr. DURBIN, Mr. POSHARD, Mr. RINALDO, Mr. TAUKE, Mr. SAXTON, Mr. IRELAND, Mr. BARNARD, Mr. BARTLETT, Mrs. BENTLEY, Mrs. BOGGS, Mrs. BOXER, Mr. BROOMFIELD, Mr. BROWN of California, Mr. BUECHNER, Mr. CLINGER, Mr. COBLE, Mr. COUGHLIN, Mr. CRAIG, Mr. CRANE, Mr. DELAY, Mr. DEWINE, Mr. DOUGLAS, Mr. GALLO, Mr. GOSS, Mr. GRADISON, Mr. GUNDERSON, Mr. HUNTER, Mrs. JOHNSON of Connecticut, Mr. KOLBE, Mr. KYL, Mr. LEWIS of California, Mr. LIGHTFOOT, Mr. DONALD E. LUKENS, Mr. MARTIN of New York, Mr. MILLER of Ohio, Mr. MOLINARI, Mr. MOORHEAD, Mr. PARRIS, Mr. PAXON, Mr. RITTER, Mr. ROHRABACHER, Mr. SKEEN, Mr. SLAUGHTER of Virginia, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. SMITH of Vermont, Mr. SMITH of New Hampshire, Mrs. SMITH of Nebraska, Mr. SOLOMON, Mr. SPENCE, Mr. STEARNS, Mr. STUMP, Mr. THOMAS of Wyoming, Mr. WALSH, Mr. WEBER, Mr. WHITTA-

KER, Mr. WYLIE, Mr. YOUNG of Florida, Mr. NIELSON of Utah, Mr. ENGEL, Mr. MCCLOSKEY, Mr. BARTON of Texas, Mr. EDWARDS of California, Mr. GALLEGLY, Mr. RIDGE, Mr. ROGERS, Mr. VANDER JAGT, Mr. YOUNG of Alaska, Mr. TRAFICANT, Mr. MOLLOHAN, Mr. WILSON, Mr. YATRON, Mr. GEKAS, Mr. LEWIS of Georgia, Mr. HOCHBRUECKNER, Mr. TOWNS, Mr. ACKERMAN, Mr. HEFNER, Mr. HUBBARD, Mr. PERKINS, Mr. FUSTER, Mr. BEVILL, Mr. MARKEY, Mr. LANCASTER, Mr. WOLPE, Mr. DREIER of California, Mr. JONTZ, and Mr. SYNAR.

H.J. Res. 146: Mr. BLILEY, Mr. WOLF, Mr. SAVAGE, Mr. WALGREN, Mr. TOWNS, Mr. GEJDENSON, Mr. KOLTER, Mr. TRAFICANT, Mr. CLARKE, Ms. SLAUGHTER of New York, Mr. CLEMENT, Mr. YATRON, Mr. DYSON, Mr. WATKINS, Mr. STENHOLM, Mr. GUNDERSON, Mr. ROBERT F. SMITH, Mr. ROBERTS, Mr. LEVIN of Michigan, Mr. WILSON, Mr. AKAKA, Mr. STANGELAND, Mr. FLIPPO, Mr. YOUNG of Alaska, Mr. GRANT, Mr. GREEN, Mr. POSHARD, Mr. BORSKI, Mr. CALLAHAN, Mrs. COLLINS, Mr. COSTELLO, Mr. CROCKETT, and Mr. SKELTON.

H.J. Res. 195: Mr. APPLEGATE, Mr. FLIPPO, Mr. GONZALEZ, Mr. RAHALL, Mr. ROBINSON, Mr. STARK, Mr. TORRES, Mr. VALENTINE, and Mr. VISCLOSKY.

H.J. Res. 230: Mr. COYNE, Mr. MICHEL, Mr. WALGREN, Mr. STAGGERS, Mr. MFUME, Mr. MCDADE, Mr. BERMAN, Mr. DONALD E. LUKENS, Mr. WALSH, Mr. MANTON, Mr. BUSTAMANTE, Mr. TOWNS, Ms. LONG, Mr. EMERSON, Mr. PAYNE of New Jersey, Mr. BRUCE, Mr. YATES, Mr. TRAXLER, Mr. HUBBARD, Mr. SUNDQUIST, Mr. DWYER of New Jersey, Mr. MCCOLLUM, Mr. SOLARZ, Mr. HUTTO, Mr. KOLTER, Mr. ANNUNZIO, Mr. NELSON of Florida, Mr. LANCASTER, Mr. HERTEL, Mr. SHUMWAY, Mr. ANTHONY, Mr. MCCRERY, Mrs. KENNELLY, and Mr. DICKS.

H.J. Res. 248: Mr. CAMPBELL of Colorado, Mr. ENGEL, and Mr. SCHIFF.

H.J. Res. 256: Mr. FALEOMAVAEGA, Mr. GEJDENSON, Mr. ROWLAND of Connecticut, Mr. CROCKETT, Mr. LANCASTER, Mr. SHAYS, Mr. PETRI, Mrs. BOXER, Mr. CALLAHAN, and Mr. HARRIS.

H.J. Res. 320: Mrs. VUCANOVICH.

H.J. Res. 381: Mr. CARR, Mr. QUILLEN, Mr. EARLY, Mr. RAY, Mr. SPENCE, Mr. OBEY, Mr. BILBRAY, Mr. OWENS of New York, Mrs. MORELLA, and Mr. GOODLING.

H.J. Res. 388: Mr. COBLE, Mr. JONTZ, Mr. BILIRAKIS, Mr. HANCOCK, Mr. CALLAHAN, Mr. VALENTINE, Mr. DERRICK, Mr. BOSCO, Mr. MANTON, Mr. NEAL of North Carolina, Mr. RICHARDSON, Mr. ERDREICH, Mr. BEVILL, Mr. MINETA, Mr. LAGOMARSINO, Mr. EVANS, Mr. HEFNER, Mr. CONTE, Mr. TALLON, Mr. LEHMAN of Florida, Mr. BATES, Mr. SKEEN, Mr. RAVENEL, Mr. HORTON, Mr. ROE, Mr. GREEN, Mrs. PATTERSON, Mrs. VUCANOVICH, Mr. BRENNAN, Mr. SMITH of New Hampshire, Mr. OLIN, Mr. ROBINSON, and Mr. LANCASTER.

H.J. Res. 405: Ms. KAPTUR, Mr. WEISS, Mr. CONYERS, Mr. DEFAZIO, Mr. DE LUGO, Mr. DONNELLY, Mr. DYMALLY, Mr. FAUNTROY, Mr. GARCIA, Mr. HAYES of Louisiana, Mr. STUDDS, Mr. EMERSON, Mr. TRAFICANT, Mrs. COLLINS, Mr. STOKES, Mr. HEFNER, Mr. ROE, Mr. HENRY, Mr. GRAY, Mr. FOGLIETTA, Mr. CARPER, Mr. STARK, Mr. BATES, Mr. CONDIT, Mr. TOWNS, Mr. KOLTER, Mr. LAGOMARSINO, Mr. VENTO, Mr. YATES, Mr. OWENS of New York, Mr. DINGELL, Mr. WAXMAN, Mr. JONTZ, Mr. MCCLOSKEY, Mr. MARTINEZ, Mr. BEILENSON, Mr. GREEN, Mr. BROWN of California, Mr. WALSH, Mr. MCGRATH, and Mr. SKAGGS.

H. Con. Res. 45: Mr. YOUNG of Florida.

H. Con. Res. 57: Mr. CAMPBELL of California, Mrs. LOWEY of New York, Mr. YOUNG of Florida, Mr. CARPER, and Mr. MRAZEK.

H. Con. Res. 92: Mr. PORTER.

H. Con. Res. 130: Mrs. LOWEY of New York.

H. Con. Res. 149: Mr. BRENNAN, Mr. CARR, Mr. COLEMAN of Texas, Mr. CONYERS, Mr. CROCKETT, Mr. DELLUMS, Mr. ENGEL, Mr. HALL of Texas, Mr. HOYER, Mr. HOPKINS, Mr. JOHNSON of South Dakota, Mr. MARTINEZ, Mr. MILLER of Ohio, Mr. MINETA, Mr. OWENS of Utah, Mr. RINALDO, Mr. UDALL, and Mr. WOLF.

H. Con. Res. 195: Mr. RIDGE, Mr. GAYDOS, Mr. SLATTERY, Mr. WALGREN, Mr. BROOMFIELD, Mr. PURSELL, Mr. DICKINSON, Mr. BAKER, Mr. GEKAS, Mr. HARRIS, Mr. MCDADE, Mr. TRAFICANT, Mr. INHOFE, Mr. KOLTER, Mr. RAY, Mr. DANNEMEYER, Mr. WALKER, Mr. DUNCAN, Mr. SKEEN, Mr. LIVINGSTON, Mr. OXLEY, Mr. VALENTINE, Mr. PAYNE of Virginia, Mr. MILLER of Ohio, Mr. OBERSTAR, Mr. GILLMOR, Mrs. MARTIN of Illinois, Mr. GUNDERSON, Mr. EMERSON, Mr. ERDREICH, Mr. SCHULZE, Mr. REGULA, and Mr. JENKINS.

H. Con. Res. 203: Mr. HAMILTON.

SENATE—*Thursday, September 28, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable HERBERT KOHL, a Senator from the State of Wisconsin.

PRAYER

The Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

For thus saith the Lord God, the Holy One of Israel: In returning and rest shall ye be saved: in quietness and in confidence shall be your strength.—Isaiah 30:15.

Come unto me, all ye that labour and are heavy laden, and I will give you rest.—Matthew 11:15.

Gracious Father in Heaven, thank Thee for the invitation to rest. We are grateful for physical and mental renewal, but often our spirits are weary in ways that do not yield to conventional rest. Sometimes, hard work on the part of Senators and staff do not produce the desired end, with resulting frustration.

Objective by nature, elected officials know how to accept defeat when they do not prevail in debate; in spite of which the experience is spiritually enervating. Benevolent Lord, grant to Thy servants, laboring under the urgent necessity of the fiscal deadline, relief from tension. Teach them the wisdom of godly rest, available, however busy or distracted. Help Thy servants to seek rest for their souls by turning to Thee midst pressures.

We pray this in His name who was never in a hurry yet finished His work against overwhelming odds. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 28, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERBERT KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approached to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, following the time for the two leaders, there will be a period for morning business until 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

At 10 this morning there will be a rollcall vote on Specter amendment No. 882 to the Department of Defense appropriations bill. Other votes relative to the DOD bill are expected throughout the day.

Shortly, I will seek unanimous consent to turn to the continuing resolution immediately following the vote on the Specter amendment, and then to proceed to the VA-HUD appropriations bill. We will then return to the DOD bill, complete that one, and then it is my hope and expectation that we will be able to go to the State-Justice-Commerce appropriations bill, which is the last of the appropriations bills.

Senators should be prepared for rollcall votes throughout the day and a session into the evening as we attempt to complete action on all of these matters today if at all possible.

Mr. President, I reserve the remainder of my leader time, and I reserve the time for the distinguished Republican leader.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. ADAMS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

CHANGES IN REFUGEE ADMISSIONS

Mr. HATCH. Mr. President, the State Department has proposed drastic changes in its long-standing policy on refugee admissions from the Soviet Union. This policy change may, in effect, prevent thousands of individuals who live under the constant threat and fear of persecution because of their race and religious beliefs from emigrating to the United States. The State Department claims the new policy is based on budget reality. Such a policy change, I feel, is based on mistaken premises and is ill-timed, as it comes during a period of great instability and uncertainty in the Soviet Union. As a democratic people we should not shut our doors to those who have suffered and been persecuted.

For the past two decades, the United States has demanded that Moscow allow those citizens who wish to emigrate to freedom to do so. We have pressed the Soviets to live up to their responsibilities as a world power and to start respecting the basic premises of human rights. Moreover, we have sought to leverage Soviet emigration by linking trade and credit to emigration performance through the Jackson-Vanik amendment (section 402, Trade Act of 1974). This amendment prohibits granting most-favored-nation [MFN] status or trade credits to any nonmarket country that denies its citizens the right and opportunity to emigrate as they choose.

Throughout this period marked by sharp rises and falls in Soviet emigration numbers, the United States has remained steadfast in efforts to give Soviet emigres the freedom to determine where they choose to live. In the face of repeated suggestions by some to funnel Soviet Jews to Israel, the United States' response has been that Soviet emigrants must have the freedom of choice.

Until September 1988, Soviet Jews were almost automatically assumed to be refugees. Lawyers at the State De-

partment and the Justice Department, however, concluded last year that such an assumption was improper. They insisted that Soviet applicants be more closely reviewed to see if they could demonstrate that they are victims of persecution or have a well-founded fear of persecution.

After applying moral pressure, stressing human rights, and promoting freedom throughout the world, the State Department has decided to continue this policy of turning its back on some who want to share the American dream that we expressly advocate. Where we once had an open door for peoples fleeing the tyranny and oppression of Communist regimes, we are battening down the hatches. So long as the Soviet Government refused to let these individuals leave, or jailed them for asking to go, or kept them waiting for a visa, made them dissidents and refuseniks, the U.S. Government considered them persecuted. It automatically offered refugee status under those circumstances.

Now, due to Mikhail Gorbachev's move toward openness and restructuring, and perhaps somewhat influenced by our moral suasion and humanitarian appeals, the Soviets are granting exit visas by the thousands. Yet the conditions in the Soviet Union remain bleak. The inability to practice and teach religion openly in the Soviet Union remains a reality. Discrimination in employment and education continue, and restrictions on cultural and literary expression remain relatively unchanged. In short, persecution remains unabated.

Recent tentative liberalizations have magnified political instabilities in the Soviet system. Most visible are the nationalities problems. Demands for independence and autonomy are serious problems without visible solutions. The failure to control this situation could exacerbate ideological divisions in the Soviet leadership and provoke a return to more hard-line policies.

Where does this leave Soviet Jews and other religious minorities who already face persecution and harassment in their efforts to practice and express their religious beliefs? Soviet Jews are subject to virulent anti-Semitic sentiments by grassroots organizations, such as Pamyat (Memory), an organization in that particular category. The new policy of openness, combined with emerging forms of extremist Russian nationalism, has liberated latent Russian anti-Semitism. If perestroika fails, Soviet Jews and other religious minorities may well face increased repression and violence.

Let us not forget the Soviet Union is far from being a free and open democratic society where freedom of choice, freedom of religion, and freedom of speech are the norm rather than the exception. Also, let us not forget the lessons history has taught us about reform in the Soviet Union. Time and again, periods of reform and liberalization have been followed by some of the most brutal and repressive crackdowns.

I can understand the need to enhance the screening process in light of the recent influx of refugee applications. But we must remember a few basic considerations. First, many of these individuals take for granted the anti-Semitic burdens they face. In many ways they have learned to live under these harsh conditions, and they assume the immigration officers understand this. Second, think of the courage it takes for these individuals to walk into the U.S. Embassy. They are anxious and afraid and may be reluctant to detail their claims of persecution while knowing that they must return to Soviet soil under the rule of these authorities. To subject these individuals to an arbitrary process and to place the burden of proof on these individuals under these conditions flies in the face of this country's refugee policy. These people are deemed persecuted just by nature of the fact that they belong to a clearly persecuted group.

Under the current State Department plan, not every Soviet Jew seeking entry into the United States is assured the opportunity to be admitted as a refugee. At least half of the applicants would fall under the category known as priority six, the lowest level in the U.S. ranking system. What do we do with these people? What if it disqualifies some of the leaders of the Soviet emigration movement? Was our traditional open-door policy toward anyone fleeing communism mere rhetoric? Now that the numbers are increasing, are we going to give up our fight against persecution and our advocacy of a better way of life?

To cope with the new challenges, American Jewish agencies are mobilizing all their forces. They are expanding the sizes of their staffs and raising funds to help settle the growing numbers. But another significant change contemplated by the State Department would gradually end the use of Rome and Vienna as way-stations for Jews leaving the Soviet Union and would cause all determinations of refugee status to be conducted in the Soviet Union. This action would cut the nonprofit organizations from direct access to the emigration process and obstruct their abilities in the area of resettlement. They would be seriously hindered in determining the needs of would-be refugees, how best to help them, and where to resettle them. What are the implications?

I believe the United States has an obligation to admit refugees into our country to escape persecution and to begin a life of religious freedom. I personally have been involved in adopting and assisting several Soviet Jewish families in their emigration efforts, and I plan to continue to fight for these people who have endured and continue to endure persecution in many ways that many of us do not always consider. Persecution includes blatant brutality, torture, and other forms of physical violence, but many of us overlook that fact that persecution includes the inability to practice and become educated in one's cultural and religious beliefs as well. As a nation committed to and founded upon the ideals of freedom, the United States should not justifiably turn its back to those who are eagerly seeking rights that we advocate and uphold.

Mr. President, let me add in closing. I remember through history, having watched it through innumerable newsclips and having lived through that period of time that shortly before the Second World War and throughout that whole period of time German Jews just were unable to really go anywhere and frankly, 6 million just suffered death because we were unwilling to open our doors and to help them, not just the United States but all of the free countries in the world.

I do not want that to happen again. In our zeal to be happy about perestroika and glasnost, I do not think we should be penny-wise and pound-foolish here. These people are still persecuted under the present regime, and if perestroika and glasnost falls they will be persecuted under the future regimes.

Mr. ADAMS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Washington [Mr. ADAMS].

Mr. ADAMS. I thank the Chair.

(The remarks of Mr. ADAMS pertaining to the introduction of Senate Joint Resolution 209 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

CUTTING THE TAX RATE ON CAPITAL GAINS

Mr. METZENBAUM. Mr. President, very soon, all eyes will be focused on the House of Representatives, and the scheduled vote to cut the tax rate on capital gains.

At the moment, we do not know precisely how the votes line up—it is reported to be close.

But I can speak with a little more certainty on the larger issue at stake here. A capital gains cut is bad enough on its face—but it could prove even more damaging if it serves as a dinner bell, calling every tax lobbyist in town to the table. If a capital gains cut is accomplished, the ringing call will go out to K Street—"come and get it."

The special interests will be back in business.

In 1986, Congress passed an historic reordering of our tax policy. We made

a deal. On one side, we would bring down tax rates, on the other side, we would close loopholes. We would take the high-priced lawyers and creative accountants out of the equation, and put everyone on a level playing field.

It was a good compromise. It was never the most politically appealing issue, but most good compromises never are. Apparently, however, our ability to resist the temptation of tampering with the tax code is about to end. And once the code is cracked for one special interest provision—in this case, to benefit America's wealthiest few—then we'll be trampled by a stampeed of cats and dogs.

Every loophole we were able to chase out of the Tax Code will be back at the door.

And for what? What is the enormous emergency that makes it necessary to threaten the delicate balance struck in 1986?

Is a half-backed, hocus-pocus, hit and run giveaway to the ultrarich. The capital gains cut will result in a huge taxpayer subsidy for "The lifestyles of the rich and famous."

This temporary cut in capital gains rates would encourage wealthy investors to cash in their chips now, during a window of opportunity.

Obviously, more revenues will be collected by the Government while the fire sale is under way. And that will look good on the Government books—while the selling frenzy lasts. But what about the future?

What about those revenues we would have collected over time? Those revenues will be gone—lost. a stimulation of the economy. It is a simple raiding of our own future revenues.

Mr. President, when will we find it within ourselves to resist passing the buck on to our children and grandchildren? We can not continue to defer on the tough questions. We simply cannot have it all—and the capital gains cut is a good place to start saying no.

Now, I do not argue that the Tax Code is sacred, Mr. President. It is far from perfect. But all too often, tax amendments tend to benefit a well-connected few. That is certainly the case with the capital gains cut.

But for once, we are being offered an alternative. The proposal sponsored by the chairman of the Finance Committee is a refreshing departure from the status quo.

The IRA proposal will restore a savings incentive to middle-income families. It will help those families educate their children, or buy a first home. It is as different from the capital gains cut as night and day. Seventy percent of the IRA benefits would go to the savings accounts of families with incomes under $100,000. Eighty percent of the capital gains benefit will fall into the pockets of Americans making over $200,000 a year.

Let us look at the folly of the administration's own capital gains cut proposal. After a brief surge in revenues brought on by a selling spree, the bottom falls out.

In the years 1991-99, we lose $71 billion. Mr. President, the last time I checked the deficit numbers around here, we did not have $71 billion to lose.

That is more than the entire Stealth Bomber Program. It is money that we need to spend on the war on drugs, or on child care, or on health care, or to educate our kids.

Mr. President, our country cannot afford a capital gains cut. The average American cannot afford a capital gains cut. For your average taxpayer, the prospects are lose-lose. For the rich, it is a win-win scenario.

Capital gains are the single largest source of income for the very rich. Altogether, profits from selling stocks and bonds and real estate account for more than a third of the income of people making more than $200,000. Again, an incredible 80 percent of all capital gains go to the richest 5 percent of the population.

Mr. President, those are the only people who stand to gain here. The vast majority of taxpayers have no capital gains at all. For the 4 out of 5 families earning $50,000 a year or less, the average tax savings from the Jenkins plan is about 15 bucks.

That is the real difference here. Fifteen bucks versus unlimited gains and discount tax rates for the rich. What we are really talking about, Mr. President, is caviar for the haves and peanuts for the have-nots. Money for Jaguars and Rolls Royces and bigger and more plush yachts for those who need tax relief the least.

To those families in America struggling to make ends meet—to pay the doctor's bill, to meet the mortgage payment, to send their son or daughter to college, to pay the higher and higher grocery bills, there is not a penny—not one single penny for those who own no stocks, no bonds, no real estate. For shame! How can our President and those in Congress who would cut the capital gains tax face the people of this country with heartless and unfair proposals.

The average $15 that the average family will save under the Jenkins plan could buy a large pizza with four toppings. With the windfall of the capital gains cut, the wealthy can dine in a restaurant with four stars every night for 4 years.

The average American will save enough to pay a parking ticket. Wealthy Americans will save enough to buy a parking garage.

Mr. President, the only business that will benefit from the capital gains cut is the tax shelter business. We will see the return of all kinds of creative gimmicks to convert ordinary taxable income into capital gains. It is a license to abuse the Tax Code, and we will not be able to stop it.

And we will not be able to stop the flood of special interest amendments to the Tax Code, either. I have been around here long enough to know that once we start down that road, we will never get back to where we started.

Mr. President, we made our deal in 1986. If we renege on capital gains, the sky is the limit. Let us keep the lobbyists and the lawyers and the accountants out of it. But more importantly, let us keep the promise we made to the American people.

Mrs. KASSEBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Kansas.

EDUCATION: OUR RESPONSIBILITY

Mrs. KASSEBAUM. Mr. President, yesterday, President Bush and the Nation's Governors began their 2-day education summit—only the third meeting of its kind in the history of the country. The summit provides an important and needed focus on education and the critical role it plays in the vitality of our Nation.

The stakes are high. Our productivity and ability to compete in a sophisticated international market relies upon a skilled and flexible work force. The continued vitality of democratic government relies on the active participation of an informed citizenry.

Unfortunately, somewhere along the line, we seem to have lost our sense of direction. We maintain a strong faith in education. At the same time, there is increasing concern that the system for delivering education is letting us down.

We should perhaps consider that we are all a part of that system and that we are letting it down. One of the major themes emerging from the summit is accountability. The other side of the accountability coin is the personal responsibility each of us holds for assuring excellence.

The true test of the success of the summit will lie not so much in the papers or recommendations it produces as in its capacity to renew our commitment. Our vision for education may be national in scope, but its delivery rests squarely in our hands at the local level.

I hope that the summit will stimulate action on the local level to consider specific educational goals and the role that each individual has to play in accomplishing them. National goals are important, but they must be defined in a way which makes sense for a local community. Division of responsi-

bility is not merely sorting out the respective obligation of Federal, State, and local regulations and funding sources—but also the obligations of parents, students, teachers, administrators, school board members, and business leaders.

Our school system is perhaps one of the most democratic institutions in our country. As our Nation has grown more urban and the scope of government expanded, the number of individuals and institutions layered between citizens and final decisionmakers has simply exploded. Sadly, this has created a sense of frustration and impotency which causes individuals to question whether any one person can really accomplish anything.

The point we must emphasize is that the local school is one place where enormous power and autonomy remains at the local level. Decisions about what our children will study, who will teach them, and what additional programs and services will be available are made at the local level. For the most part, these are not directives handed to local schools by anonymous bureaucrats miles away.

Our schools are places where it is still possible to deal face-to-face on a routine basis with policy setters and decisionmakers. Information, which is key to sound decisions, is far more accessible. Schools rely heavily on local funding sources, giving the community a powerful tool to assure accountability. School board members are elected by people who know them personally.

In short, individuals at the local level have a broad range of means directly available to them for influencing the quality of their schools. There is no need to wait for a Federal grant to launch innovative ideas. Communities which identify a need to establish after school programs to offer supervision for latchkey children can do so, and many have. Many other schools have not awaited a national directive or commission to develop programs where children can be made more aware of the needs of their own communities through service opportunities.

Local schools can also define their educational goals and establish specific measurable outcomes to assess progress in areas of particular importance to the school and community. For example, the broad goal of fostering good citizenship could be broken down into specific targets—such as having a given percentage of 18-year-old seniors who are registered to vote, seeking to achieve a given number of hours in student community service projects, or setting a target pass rate on a test of basic constitutional principles.

A school with a high proportion of at-risk students might choose a different set of goals related to educational quality—things like reducing the dropout or absenteeism rate by 5 percent per year or increasing the percentage of parents who attend parent-teacher conferences. Instituting such measures at the local level offers the advantage not only of reflecting community needs and priorities but also offers stronger opportunities for accountability. By having a specific target, a community can focus resources and determine whether or not the measures they have selected are effective.

In charting the path toward these goals, it is important to maintain a rational division of labor. Schools cannot be expected to singlehandedly address every societal problem which finds its way into the classroom.

School boards and school administrators need to work together, with the board establishing overall policy without dealing with the day-to-day management of the schools. Teachers must be able to teach without constant interruptions of class periods, and parents need to once again become involved in the education of their children.

I think perhaps one of the most distressing trends of recent years is the decline in parental involvement in education. Ultimately, it is the parent who can motivate a child to do well in school and the parent who can determine how well that school is performing.

There are few other areas in which one individual can have such an enormous impact. Those of us in Washington have the power to pass billion dollar programs and launch national initiatives, but we are totally powerless in creating those caring, committed individuals on whom every success depends. We cannot legislate or manufacture such people; we can only hope they rise from among us.

Columnist Robert J. Samuelson perhaps summed it up best in noting:

> What's most needed to improve U.S. education is a sense of purpose * * * school policies ultimately reflect popular attitudes. Improvements will come if the political climate exists for them. * * * We will get quality schools only if students and parents are willing to work for them. It's as simple and difficult as that.

The ACTING PRESIDENT pro tempore. I am required to report and will advise Senators that morning business is scheduled to conclude at 10 o'clock and we will vote on the pending business.

The Senator from Illinois.

EXTENSION OF MORNING BUSINESS

Mr. DIXON. Mr. President, I ask unanimous consent that the time for morning business be extended to 10:15 a.m. with Senators permitted to speak for up to 2 minutes each, and that at 10:15 the vote occur on the Specter amendment No. 882.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. SPECTER. Mr. President, reserving the right to object, and I do not intend to object, I believe there are five of us who wish 2 minutes each. Could we amend that to 10:10? I know of Senators who plan to be here and had other business.

The ACTING PRESIDENT pro tempore. Will the Senator amend the request?

Mr. DIXON. The Senator has no objection to that. I am advised by the distinguished President pro tempore he needs about 5 minutes. I am trying to accommodate all colleagues I see on the floor here. I think 10:15 would be about right if my colleague would yield to that.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. SPECTER. No objection, five times two plus five that is it.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

(The remarks of Mr. MURKOWSKI pertaining to the introduction of S. 1684 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Illinois.

BUTCH McGUIRE OF CHICAGO

Mr. DIXON. Mr. President, on November 18, 1989, Butch McGuire will be honored by his friends for his continued dedication to the city of Chicago. This salute will benefit the cardiology programs at Northwestern Memorial Hospital.

Twenty-eight years ago, Butch opened a saloon at 20 West Division Street on Chicago's near North Side. Since that time, Butch McGuire's has become a landmark, renowned throughout the United States as a place where people, no matter where they come from, can feel at home in Chicago. Butch McGuire's has obtained this reputation because of the man behind the name.

In addition to supplying Chicago with a great place of entertainment, Butch McGuire has been active in numerous charitable organizations, many of which he has headed over the years.

Butch will be forever remembered for his hard work and determination in making Santa Claus Anonymous, a program designed to distribute Christmas cheer to underprivileged children throughout the Chicago area, the success that it is today. He has also been actively involved in the Chicago chap-

ter of the American Ireland Fund and the Heart Foundation, to name a few.

Butch can be proud of his many accomplishments and we thank him for his seemingly never-ending dedication to Chicago and its citizens.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Washington.

Mr. GORTON. I thank the Chair.

(The remarks of Mr. GORTON pertaining to the introduction of Senate Joint Resolution 209 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ADAMS. Mr. President, if the Senator will yield, I commend my colleague on the statement.

THE BUYING OF AMERICA

Mr. BYRD. Mr. President, every month we focus on the trade figures, the deficits between America and our foreign trading partners in merchandise and in services. The figures are precise, the trend lines charted, and attempts to correct it a matter of deep interest to all Senators. The omnibus trade bill which passed last year addressed this issue and, among other things, set into motion a process, known as Super 301 dealing with unfair trading practices by other nations. Less well understood, with no reliable regular data, is the steady acquisition of American companies by citizens and companies of other nations, particularly Japan. The last administration successfully fought off even the most modest attempts of Congress to get regular data about this practice, and without data it is impossible to evaluate the specific impact of such purchases of valuable American assets.

Yesterday, Mr. President, the latest of such acquisitions was widely publicized. A venerable American institution, Columbia Pictures, whose logo is reminiscent of our Statue of Liberty, was bought for cash by a Japanese company, Sony Corp. The Japanese just walked in with $3.4 billion in cash and walked out with Columbia Pictures. It is a familiar story in the entertainment business, as in the hotel business, and in a host of other businesses and industries. The U.S. entertainment business is one of the crown jewels of American industry. It is a business in which U.S. supremacy has been unchallenged. Everybody in the world watches American movies—most everybody—and films. Columbia Pictures is the third of seven Hollywood studios to go abroad. Two weeks ago MGM was sold to an Australian concern, and 20th Century Fox was also sold to an Australian company. A fourth company, Warner Communications, as well as Paramount Communications are rumored "takeover" candidates.

I do not mean to imply some diabolical plot to tailor movies and whatever messages they send to American audiences by a sinister foreign cabal. But these assets are now being bought on the cheap, because the dollar is low in order to allow us to compete more effectively in the global market. My concern is that by the time the dollar's devaluation has the effect of making us once again truly competitive and our trade balances get back into the black ink, America will no longer own the crown jewels of our economy.

There are some controls over the acquisition of American companies in some sectors, but they are sporadic, without real rationality. The Congress does not even have the basic data to make judgments about the ownership of our economy: where the dangers of foreign ownership are, where the benefits are, how we control the mix, and what kinds of measures we should be taking when things have gone too far in one industry or another.

A specific case in point is the airline industry. Airlines are being acquired by investors on speculation, carrying very large debt, in so-called leveraged-buyouts. Airlines, however, do have some regulatory framework, but it is vague and needs to be sorted out with the American national interest in mind. The Senate has recently had a bruising fight over the FSX issue, the transfer of technology from another crown jewel, our aerospace industry, to the Japanese, who are clearly bent on building a world class aerospace industry and competing directly with us. Foreign airlines are being used to provide up-front cash in the buy-outs of U.S. carriers. For instance, an investor group recently bought Northwest Airlines and most of the up-front cash was put up by a Dutch airline, KLM. As well, United Airlines, is being acquired by an employee-management group, with most of the up-front cash, or equity, provided by British Airways. How do we differentiate among these acquisitions? Which ones are good, which should be curtailed, which should be encouraged?

In the case of our airlines, the law requires that no more than 25 percent of the ownership of an airline be foreign. The legal definition of "ownership" regarding airlines is in terms of "voting interest." The Department of Transportation has recently engaged in some creative freelancing regarding the definition of ownership and has been pressuring those investors who would acquire an airline on the matter of safety and ownership. The issue is complicated because some ownership is acquired by cash, some is acquired by debt, and in the case of United, some is acquired by labor concessions. A very welcome and healthy development, in my judgment, is the acquisition of United Airlines by the employees of that airline, in particular the airline pilots. They are purchasing about three-fourths of the carrier by putting their livelihood and future earnings on the line in order to control their company. For these purposes, an employee stock ownership plan has been created. In the process the long-term future of the company is virtually guaranteed to remain a truly American asset. When this acquisition is closed, in about 3 weeks, United Airlines will be the largest employee-owned company in our Nation's history. I strongly support his development, based on my own knowledge of the very positive experience of Weirton Steel in West Virginia. I am personally, intimately acquainted with this major success story of employee ownership.

I would certainly think that the concerns that we all have over airline safety will be attended to assiduously by the employees, who are the owners of an airline, and I take more comfort in this prospect than placing the safety of our passengers in the hands of an investor group which just wants to turn a quick profit. I cannot think of any arrangement that would do more to foster airline safety than the joining of management and labor as owners. We are all aware of numerous instances of labor/management conflict in the airline industry. This constant state of confrontation obviously contributes to the safety problems facing many companies. It is comforting to see a deal like the United buy-out, where labor/management confrontation will be replaced by labor/management cooperation.

Mr. President, some concerns have been expressed because up front cash for purchase of United Airlines has been put forward by a foreign airline, British Airways, but the percentage of ownership, about 15 percent, is well within the statutory 25-percent limit. I am concerned, however, over the attitude of the energetic Secretary of Transportation toward the United takeover and believe it would be imprudent of him to attempt to disrupt the timely completion of this rather exciting development. For once, a buy-out of an airline is being accomplished by someone other than an investor group with the short-term profit line uppermost in mind. If some adjustments in the financing provided by British Airways need to be done, that can be accomplished later, through clearly conceived changes in the law as might be proposed by Senator FORD'S Aviation Subcommittee, and not by the creative energies, well meaning as they may be, of a new Secretary of Transportation.

Mr. President, I have touched upon only a couple of the tips of the iceberg regarding the ownership and control of our vital national assets. We obviously do not have any coherent policy

in this matter, and the last administration's head-in-the-sand attitude may well bring us some nasty returns in the future. It is a matter which should be of increasing concern to all Senators, and to the new administration.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from today's Washington Post entitled "Columbia Acceptance of Bid Puts Sony Into the Big Time"; another article, which is entitled "Thatcher Reported to Protest, Tighter Airline Rule Target of Objections"; another article entitled "Reports of Bid by Sony Raise Questions"; and another article from today's New York Times entitled "Northwest Deal Seen Changing."

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 28, 1989]

NORTHWEST DEAL SEEN CHANGING: MOVE BY UNITED STATES MAY REDUCE KLM'S STAKE

(By Agis Salpukas)

The Secretary of Transportation has persuaded the group that acquired Northwest Airlines to reduce the investment of a foreign airline in the deal, and is expected to use the case as a precedent for a new policy on how much equity a foreign carrier can put up in the buyout of a domestic airline, an airline-industry official said.

The official said Transportation Secretary Samuel K. Skinner wanted to use the Northwest case as a guideline in which other foreign airlines would be limited to putting up no more than 25 percent of the equity in a buyout.

Federal law limits a foreign carrier to no more than 25 percent of the voting stock of a domestic carrier, but does not address the question of equity capital invested in the deal.

POLICY ANNOUNCEMENT EXPECTED

Such a stand, which Mr. Skinner was said to be considering announcing within a few days, could affect a deal to acquire the UAL Corporation, parent of United Airlines, that has been approved by the company's board.

In that deal, British Airways is putting up $750 million, or 78 percent of the equity of the $6.75 billion buyout, which includes the airline's pilots and a group of UAL executives. In return British Airways would end up with 15 percent of the voting stock in the airline as well as preferred stock and a seat on the company's board.

While Mr. Skinner has not yet asked the UAL management to change its deal, industry people said UAL executives were already gearing up to resist the 25 percent guideline if Mr. Skinner seeks to extend it to the UAL buyout. A UAL spokesman said the company expected the buyout to be completed. A British Airways spokesman said the company needed more details before it could comment.

At a news conference yesterday, Mr. Skinner declined to discuss the Northwest agreement but said he hoped he would soon be able to discuss new policies regarding leverage buyouts and foreign investment in United States carriers.

In a speech on Sept. 19 Mr. Skinner said he was concerned about the investment of foreign carriers in domestic airlines, particularly in buyouts where foreign carriers were investing large amounts of equity even if they received a much smaller percentage of the stock. He implied that the foreign carrier could exert control beyond its voting stake in the airline and beyond its seat on the board.

An airline-industry executive said that Prime Minister Margaret Thatcher of Britain had expressed through the State Department her concern about any attempt to limit the investments of foreign airlines in American carriers. The executive said Mrs. Thatcher noted that many American companies have made large investments in British firms.

In the Northwest deal, KLM/Royal Dutch Airlines agreed to contribute $400 million in equity—representing 57 percent of the buyout—in return for 5 percent of the voting stock as well as additional preferred stock.

The industry official, who did want to be identified, confirmed a report in The Wall Street Journal yesterday that Northwest and Alfred A. Checchi, the Los Angeles investor who led the $3.65 billion buyout of Northwest, had agreed with Mr. Skinner to have KLM cut its investment to $175 million, or 25 percent of the new equity. KLM would also lose its seat on the Northwest board, the industry official said.

Whether Mr. Checchi can carry out the agreement with Mr. Skinner could depend on what KLM does. A person familiar with the talks noted that KLM has a legally binding agreement with the investor.

That person said KLM therefore thought it had legal grounds not to go along with the changes but was concerned about the reaction of other investors who had put up money for an equity stake and did not want to alienate top people in the United States Government.

The airline official said that Mr. Checchi was raising the money to make up for the loss of $225 million that KLM would be asked to cut back.

A KLM spokesman said the company would have a statement today.

Industry people said any attempt by Mr. Skinner to reinterpret the Federal Aviation Act could raise concern in Congress and that such opposition might give the leaders of the UAL buyout a strong position to resist.

Mr. Skinner's concern about leveraged buyout and foreign investment developed during the Northwest takeover and then extended to the UAL buyout, under which current stockholders would get $300 a share and UAL employees would end up with 75 percent of the stock. In his Sept. 19 speech, he said that "when a foreign airline is willing to contribute a large share of the equity capital in return for a relatively small percentage of voting stock, we need to examine all aspects of control. What does the foreign airline think it is buying?"

He said that when an airline of another country holds a substantial equity position in a United States airline, the way the Government negotiates with other governments over rights of airlines could be altered radically.

Mr. Skinner met with Stephen M. Wolf, the chairman of UAL, on Sept. 6 and was informed on the progress of the buyout.

On Sept. 22, Jeffrey N. Shane, the Assistant Secretary for policy and international affairs in the Transportation Department, asked Mr. Wolf, in a letter, for detailed information on the transaction, particularly on the $750 million put up by British Airways.

Mr. Shane said the Transportation Department needed the information "to analyze whether the acquisition will affect United's fitness and citizenship."

Mr. Shane also noted in the letter that Section 401 of the Federal Aviation Act requires the department "to modify, suspend or revoke the authority of such carriers if they are found to have failed to comply with the continuing fitness requirements or to supply such reports as we deem necessary to determine the carrier's fitness."

In an earlier interview Mr. Shane raised the possibility of using the law to monitor leveraged buyouts of airlines and investments by foreign carriers.

"The United Airlines employee ownership plan was carefully structured to comply with all applicable United States laws," said Lawrence M. Nagin, senior vice president of corporate and external affairs. "Therefore we are confident that we will be able to complete this transaction."

[From the Washington Post, Sept. 28, 1989]

COLUMBIA ACCEPTANCE OF BID PUTS SONY INTO THE BIG TIME

(By Paul Farki)

Columbia Pictures Entertainment Inc., parent of the Hollywood studio that produced such classics of the American cinema as "It Happened One Night" and "On the Waterfront," agreed yesterday, as expected, to be bought by Sony Corp., the Japanese electronics giant.

The purchase will cost Sony $3.4 billion in cash, plus the assumption of Columbia's $1.4 billion in debt, making it by far the most expensive acquisition of a U.S. company by a Japanese concern. The transaction, widely rumored since Monday but unconfirmed until yesterday, makes Sony the first Japanese company to buy one of the seven big firms that dominate the production of movies and television programs.

Coupled with its $2 billion purchase of CBS Records in 1987, the Columbia acquisition would boost Sony into the same league as the handful of diversified media and entertainment companies that are expected to dominate the worldwide market in the 1990s.

However, unlike such competitors as Time Warner Inc., Bertelsmann A.G. of West Germany and News Corp. of Australia, Sony would be the only one able to produce both programming, or "software," and manufacture the hardware—televisions, stereos, videocassette recorders and camcorders—on which it is played.

By acquiring Columbia, which also owns the 820-screen Loew's movie-theater chain, Sony will have a role in almost every step of an entertainment property's life—from producing a movie and its soundtrack album, playing them in its theaters and then selling them to the home video and audio markets. Columbia is also the leading producer of network television programs.

Analysts expect Sony, because it can package hardware and software together, to be a leader in introducing such new entertainment technologies as videodiscs, high-definition TV, digital audio tape and 8mm videocassettes. The purchase is also likely to spur other hardware manufacturers, such as Phillips, NV of the Netherlands, to consider purchasing the remaining major movie studios that may be vulnerable to a takeover—MCA Inc. and Paramount Communications.

"Sony learned a lesson when they tried to sell the Betamax," said Liz Buyer, an analyst with Prudential Bache, referring to Sony's pioneering VCR technology that lost out to competing brands employing a differ-

ent format. "They discovered that you can have the best hardware and no one will want it if the software's not there. . . . They're going to be the tail that wags the dog."

Federal officials said yesterday that the combination of Sony and Columbia is not likely to be challenged on antitrust grounds because the two companies don't have overlapping lines of business.

A source of CBS Inc. said the takeover was "another log on the fire" for the three broadcast networks in their efforts to repeal federal regulations that prevent them from owning a studio or entering the lucrative business of syndicating television programs.

"After Time-Warner, it was clear that any number of combinations were possible for American companies except for [the three networks]," the CBS source said. "Now, it's clear any combination is possible for companies around the world except for [the networks]."

Sony is likely to increase Columbia's spending on production, much as it did after it purchased CBS Records, said Douglas Gomery, a University of Maryland economist who studies the entertainment industry. "It's not obvious that Sony will do a great job," he said, adding that Coca-Cola Co., which owns 49 percent of Columbia, had invested heavily in the studio since 1982 with few hits to show for it.

Columbia yesterday confirmed reports that its two top executives, Victor A. Kaufman and Lew Korman, will leave the company once Sony's tender offer is completed.

The company is negotiating with Peter Guber, the independent producer who produced "Batman" for Warner Brothers, to replace Kaufman. Guber's partner, Jon Peters, is expected to join Columbia, most likely as the second-ranking executive behind Guber, if Guber signs on, said Michael Schulhof, vice chairman of Sony Corp. of America.

THATCHER REPORTED TO PROTEST

(By Martha M. Hamilton)

British Prime Minister Margaret Thatcher has expressed concerns to U.S. officials over the possibility of tighter Transportation Department restrictions on such foreign investments in U.S. airlines as British Airways's proposed purchase of a stake in United Airlines, several sources said yesterday.

A White House spokesman said no telephone call had been received nor had there been any other type of communication, but several other sources said Thatcher had waded forcefully into the debate over foreign investment in U.S. airlines.

The Department of Transportation confirmed last night that the British government has contacted DOT and State Department officials about the proposed buyout of United Airlines's parent company, UAL Corp., that would give British Airways a 15 percent interest in the company.

The reported intervention by Thatcher comes as the airline industry is awaiting a report by DOT on the buyout of NWA Inc., Northwest Airlines's corporate parent, by an investment group headed by Alfred Checchi and including KLM Royal Dutch Airlines. Although Transportation Secretary Samuel K. Skinner said last week that he had made a decision on the transaction, it has not been announced.

According to several sources, DOT is seeking both a reduction in KLM's investment and an agreement by KLM not to seek a seat on the NWA board of directors. Those demands represent even tighter restrictions on foreign investment than federal law requires. Under federal regulation, foreign investors are restricted to a 25 percent stake in a U.S. carrier and to no more than a third of the seats on the board.

The fact that DOT is reported to be going beyond existing restrictions on foreign investment as a price for approving the Northwest deal has confounded airline industry officials and observers. For one thing, other airlines already have representatives of foreign investors on their boards. For instance, Scandinavian Airlines Systems President Jan Carlzon is a director of Texas Air Corp., in which SAS holds a 10 percent stake.

It also has raised concerns about possible retaliation against U.S. carriers that have investments abroad. "It has major implications for all future transactions," said Jon Ash of Global Aviation, an arline consulting firm. Ash added: "The U.S. may find it fairly unfriendly when some of their carriers want to make deals in Europe."

Europe is moving toward unifying its airline industry in 1992 with the advent of the single European Community market. European carriers, seeking to strengthen themselves to meet the increased competition, have been looking for merger partners worldwide. At the same time, U.S. carriers have been aggressively seeking to expand their operations in Europe and Asia.

Skinner refused to comment yesterday on the contents of his report on the NWA buyout, indicating that he hoped to unveil a done deal that might set the standard for future transactions. "We're going to withhold public comment 'til we've reached whatever agreement we're going to reach," he said.

[From the Washington Post, Sept. 27, 1989]

REPORTS OF BID BY SONY RAISE QUESTIONS

(By Paul Farh and Stuart Auerbach)

On the subject of Japanese investment in America, Akio Morita, Sony Corp.'s chairman, recently wrote that the best investment is one that "will get Americans on Japan's side.

"If the number of Americans [who] view things the way Japan does increases," he wrote, then American politicians would probably stop "bashing Japan."

With Sony apparently on the verge of buying Columbia Pictures Entertainment Inc., one of the United State's largest and most venerable movie and television producers, Morita's comment has taken on some unexpected significance. The anticipated $3.4 billion purchase of Columbia is becoming a lightning rod for a debate about whether Americans will lose control of the entertainment industry, one in which U.S. supremacy is unchallenged around the world.

Most analysts believe foreign companies are seeking American entertainment properties merely for their investment value. In fact, Sony, which already owns CBS Records, has permitted its American-based management to make all of the major creative decisions.

But some observers are questioning whether this hands off policy will last and whether the trend presents an opportunity for foreign companies to exert influence on American public opinion and politics.

"It's not bad for the movie business and it's not bad for Columbia, but I wonder if its bad for America," said David Geffen, chief executive of the Geffen Co., an independent record and film company based in Los Angeles.

"It offers a potential for propaganda," added Pat Choate, an economist with TRW Inc., who is writing a book on Japanese influence in U.S. politics. Choate suggested that the government consider challenging Sony's proposed purchase. He compared the deal to a foreign purchase of an American television station, which is prohibited by federal regulations because of fears that a foreign owner could use his station to broadcase propaganda.

Columbia, which is 49 percent owned by Coca-Cola Co., said yesterday that its board will reconvene today and may act on a buyout offer from an unidentified suitor, widely unidentified as Sony. Sources said yesterday that the offer would be $27 a share, or about $3.4 billion. Sony declined comment yesterday.

If the deal is completed, Columbia—which made such movies as "Ghostbuster" and TV shows like "Who's the Boss?"—would be the third of Hollywood's seven major studios to be sold to a foreign company. An Australian company, Qintex Entertainment Inc., bought MGM/UA Communications Co. two weeks ago for almost $1.5 billion. Rupert Murdoch's News Corp., another Australian-based concern, owns 20th Century Fox. Japanese companies, meanwhile, have been pouring tens of millions of dollars into the production of independent films.

A fourth major studio, Warner Communications, merged with New York-based Time Inc. this summer, while MCA Inc., owner of Universal Studios, and Paramount Communications have been rumored takeover candidates.

In addition to their forays into the movie and television business, foreign companies have purchased four of the five largest record companies since 1985, including Sony's $2 billion purchase of CBS Records in 1987. Such prestigious book publishers as Doubleday, Harper & Row and Bantam Books also have been sold to companies abroad, as have several large song publishers.

As in other American industries, foreign takeovers in the entertainment industry have surged as the dollar's value has shrunk in relation to other currencies, making foreign purchases of U.S.-based assets relatively cheap. But the American entertainment industry also is the only one that consistently turns out worldwide hits, making ownership of an American producer essential to any company that hopes to compete globally.

Most analysts say Sony would be unwise to tamper with the content of movies and television shows made by Columbia. "If they are smart, they will let the people who know how to make movies make the movies," said Jack Jorgens, an American University professor familiar with the Japanese film industry. "If they are stupid, they will step in and try to run it like a car factory. That will be a disaster for everybody."

So far, there are few examples of manipulation of American-made movies by foreign-owned companies. The most celebrated incident involved a Tokyo film distributor that tried to censor newsreel footage of atrocities committed by Japanese troops in China during World War II from Bernardo Bertolucci's award-winning movie, "The Last Emperor." The distributor, however, was forced to restore the cuts after Bertolucci raised a public outcry.

But Jorgens and others said there is a possibility that Japanese owners would still

bring some influence to bear on the movies and TV shows that Columbia produces.

"I don't think they would try to censor film, but I'm not sure what subtle pressures they might exert," said Eric Gangloff, associate executive director of the Japan-United States Friendship Commission.

"There is no question that if they do own Columbia Pictures there will be no films coming out that are stinging exposes of Japan," added Jorgens. "There is no question that they would object to a really juicy portrayal of the sexual behavior of their recent leaders. A film about World War II could become sensitive."

Some analysts point out that foreign takeovers of American media and entertainment companies are occuring at a time when foreign governments are moving to protect their own entertainment properties, often by imposing "content" limitations on their media. The European Community, for example, is considering a restriction on the amount of American-made television that can be broadcast throughout the continent following economic unification in 1992.

"So much of this investment is happening so fast that we have to stop and hold this up to the light and ask ourselves whether it's a good idea from a public policy standpoint," said Susan Tolchin, the co-author of "Buying into America," a book critical of foreign investment. Tolchin disputed the idea that foreign companies would unduly influence the content of American-made movies. But she said that when foreign companies buy U.S.-based firms they repatriate their profits, thus worsening the trade deficit.

"The question is, where does it all stop?" said Geffen, whose company produced the movie hits "Beetlejuice" and "Risky Business" and records by Guns 'N Roses and Don Henley. "If the Japanese came in and bought all the textbook manufacturers in this country, you can be sure someone in Congress would complain about the potential for abuse. Well, a giant part of the education of young people in this country comes from film and TV and someone should be paying attention to what's going on."

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, today marks the 1,657th day that Terry Anderson has been held captive in Beirut.

I ask unanimous consent that a Washington Post article which appeared on the date marking the fourth year of Terry Anderson's ordeal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 17, 1989]

HOSTAGE BEGINS FIFTH YEAR—ANDERSON SYMBOLIZES LEBANON'S DESPAIR

(By Nora Boustany)

BEIRUT, March 16.—It was a sunny morning in March four years ago today when American journalist Terry Anderson, shaking off suspicions that he was being observed and followed, decided to go ahead with his tennis game in a city where he felt he belonged.

But within minutes, gunmen intercepted his car, dragged him out and bundled him into a Mercedes with drawn curtains.

After covering the news of tragedies in Lebanon as The Associated Press bureau chief here, Anderson, now 41, became the news himself, as threatening statements from his pro-Iranian captors, the Islamic Jihad, shaped fears and expectations about his fate.

Today, he began his fifth year in captivity as the longest-held foreign hostage in Lebanon. Except for occasional messages, pictures and videocassettes distributed by his captors and containing appeals to the U.S. government and public, Anderson now rarely makes headlines, having become yet another nearly forgotten symbol of Lebanon's despair and chaos.

During his captivity, Anderson's father and a brother have died. A daughter, born shortly after his capture, has never seen him. Four other American hostages have been freed, as have all the French hostages.

One of the released Frenchmen, journalist Jean-Paul Kauffmann, freed last year after being held three years, made an impassioned plea today for rekindled public interest in the hostages, The Associated Press reported from Paris.

In the daily newspaper Le Monde, Kauffmann lamented that the hostages are no longer objects of mass compassion, no longer bargaining chips, no longer even political pawns.

"The truth is that the hostages in Lebanon today have become the damned of the West," he wrote. "Without hope of being saved, imprisoned in silence and darkness, deprived of the sight of the world of the living, forgotten, they no longer represent anything. . . .

"The most tragic thing is that this torment is administered as much from the outside by countries and people indifferent to their fate as on the inside by their captors."

Trapped in an unending game of conflicting interests involving Iran, Syria and local Lebanese groups that specialize in the business of hostage taking, Anderson and the eight other Americans still held hostage have become the only constant factor—their captivity a kind of insurance policy for their captors.

Although prospects of their release seemed to improve with a cease-fire in the Persian Gulf war last summer, Tehran's crisis with the West over a book many Moslems consider blasphemous to Islam has dashed hopes that Anderson and other hostages will soon be freed.

The controversial book, "The Satanic Verses," by British author Salman Rushdie, led to a reversal of Iran's moves toward rapprochement with western powers. The row over the book, deemed deeply offensive by Moslems, overshadowed the significance of detente between Iran and the West and the importance of the liberation of foreign hostages.

The other Americans still held captive are Thomas Sutherland, kidnaped in June 1985; Frank Herbert Reed, Joseph James Cicippio and Edward Austin Tracy, kidnaped in 1986; Alann Steen, Jesse Jonathan Turner and Robert Polhill, held since 1987, and Marine Lt. Col. William Higgins, kidnaped in 1988. Other hostages include Terry Waite, a representative of the Church of England, seized in 1987.

The kidnaping of Anderson has had a devasting effect on first-hand western press coverage of Lebanon, driving most foreign journalists from the country. The virtual absence now of outside journalists in a country that once served as a window for understanding the forces at play in the Middle East has had grave implications for international understanding and press freedom in the region.

Anderson—and the others—have become casualties in a struggle against a kind of darkness that has set in. In a desperate country that is daily at war or on the brink of war, the cause of absent journalists is fading. Concern over blockades, airport closures, safety and the bare instincts of life and death now predominate.

REFUGEE ADMISSIONS IN 1990

Mr. KENNEDY. Mr. President, as required by the Refugee Act of 1980, the Judiciary Committee has recently met with the President's representatives to consult on the admission and assistance of refugees during the coming fiscal year. As required by the act, the committee has authorized me, as stipulated in section 207(d)(2), "to have printed in the CONGRESSIONAL RECORD the substance of such consultation" with the President.

On September 15, the Judiciary Committee held a public hearing to receive the President's proposal and to review the many refugee and other humanitarian problems we face around the world. As I noted at the hearing, this was the 10th occasion over the past decade we have consulted with the President's representatives on the admission of refugees to our country. But never, in recent years, has the number of refugees seeking shelter and protection been greater, nor have the root causes of the problem been more complex or international in scope, than it is today. An estimated 13 to 14 million refugees have sought shelter in every region of the globe. And never since the passage of the Refugee Act have the choices in the program been more difficult, or the budget more limited.

Daily we see their tired, weary, and beleaguered images—of men, women, and children fleeing their homes and lands for all the reasons that lie behind the violence and conflict that persists among peoples and nations. Refugees have almost become a permanent feature of the world's landscape.

As in the past, refugees are of concern to the American people not only because of our Nation's long and proud tradition of humanitarian concern, but because they also represent critical international and foreign policy problems. We know from recent history that massive refugee movements can unbalance peace and stability in the world as much as any arms race or political or military confrontation.

Mr. President, for both humanitarian and foreign policy reasons, we must help relieve the plight of refugees. That is why the Judiciary Committee takes seriously its mandate under the law to annually review our worldwide refugee programs.

Not too long ago, when we faced a refugee emergency we could respond through emergency appropriations, obtaining supplemental funds based solely upon the genuine needs of refugees. Today, because of rigid budgetary structures and ceilings, new humanitarian needs in one area of the world are pitted against equally urgent needs in other areas.

For those of us who care deeply about helping refugees, this imposes some difficult choices, and the need to balance carefully and wisely our different refugee programs—to assure that what we do in resettling refugees here does not reduce our ability to assist starving refugees overseas.

From Indochina to Afghanistan, Africa, and Central America—as well as the Soviet Union and Eastern Europe—the flow of refugees grows, and the complexity of the problems we face all the more difficult. The United States has a critical role to play in helping refugees. Literally millions of lives are at risk, and the leadership of our country has never been more essential in marshaling the resources of the world community—which, in the end, will make all the difference in our fellow human beings in so many distant lands.

Mr. President, for the RECORD, as required by Public Law 96-212, the Refugee Act of 1980, I would like to share with the Senate the President's request for refugee admissions and assistance in 1990, as presented in testimony to the committee by Deputy Secretary of State Lawrence Eagleburger and Ambassador Jewel Lafontant, U.S. coordinator for refugee affairs.

In addition, I ask unanimous consent that the concluding correspondence from the committee on the issues and concerns raised at the consultation hearing also be included at this point in the RECORD, with three accompanying tables outlining refugee admissions in recent years, and more particularly over 1989 and for the coming fiscal year.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 1A.—REFUGEE ADMISSIONS TO THE UNITED STATES (ACTUAL ARRIVALS)

Region	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990 (proposed)
1. Asia (mostly Indochina)	135,000	15,000	7,000	20,574	76,521	163,799	131,139	73,522	39,408	51,960	49,970	45,454	40,112	38,000	48,000	51,500
2. Eastern Europe	1,947	1,756	1,755	2,245	3,393	5,025	6,704	10,780	12,083	10,285	9,350	8,713	8,606	15,000	45,000	50,000
3. Soviet Union	6,211	7,450	8,191	10,688	24,449	28,444	13,444	2,756	1,409	715	640	787	3,694			6,500
4. Latin America	3,000	3,000	3,000	3,000	7,000	6,662	2,017	602	668	160	138	173	315	3,500	3,300	3,500
5. Africa	0	0	0	0	0	955	2,119	3,326	2,648	2,747	1,953	1,315	1,994	3,000	1,700	3,000
6. Near East/South Asia	0	0	0	0	0	2,231	3,829	6,369	5,465	5,246	5,994	5,998	10,107	9,000	7,000	6,500
7. Unallocated (private)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1,600	4,000
Totals	146,158	27,206	19,946	36,507	111,363	207,116	159,252	97,355	61,681	71,113	68,045	62,440	64,828	[1] 68,500	106,600	125,000

[1] Plus 15,000 emergency arrivals for a total of 83,500.

TABLE 1B.—U.S. MIGRATION AND REFUGEE EXPENDITURES

[Dollars in millions]

Year and number of refugees worldwide [1]	Admissions	Overseas assistance	Total
1984—9.1	98.4 actual	$205.8	$333.8
1985—10.1	103.2 actual	204.4	350.3
1986—11.7	114.6 actual	180.5	324.4
1987—13.3	108.7 actual	194.7	346.9
1988—14.4	119.5 actual	176.2	338.5
1989—15.2	225.0 appropriated	188.0	461.0
1990	156.0 proposed	175.0	370.0

[1] Millions (rounded).

Source: U.S. Committee for Refugees.

U.S. MIGRATION AND REFUGEE EXPENDITURES

	Percent of change in—			
	Number of refugees	Admissions (increase)	Overseas assistance (decrease)	Total expenditure (increase)
1984–88	58.2	21.4	−14.4	1.4
1984–89	67.0	128.7	−8.6	38.1
1984–90		58.5	−15.0	10.8

Source: U.S. Committee for Refugees.

Refugee admissions in fiscal year 1989

Refugee admissions to the United States for FY 1989 are expected to be about 106,575 (see below).

TABLE 2.—ESTIMATED U.S. REFUGEE ADMISSIONS IN FISCAL YEAR 1989

	Authorized levels	Estimated arrivals
Africa	2,000	1,700
East Asia:		
From first asylum countries	28,000	28,000
From Vietnam under ODP	22,000	[1] 20,000
Eastern Europe and the Soviet Union	50,000	45,000
Latin America and the Caribbean	3,500	3,300
Near East and South Asia	7,000	7,000
Total	112,500	105,950
Unallocated numbers (private sector)	4,000	1,600
Total	116,500	106,600

[1] Includes Amerasian immigrants.

Resettlements needs in fiscal year 1990—Proposed U.S. admissions and anticipated resettlement by other countries

The President proposes to respond to the humanitarian needs of refugees by establishing for FY 1990 an admissions ceiling of 125,000 refugees for permanent resettlement in the United States.

Table 3.—Proposed U.S. refugee admissions in fiscal year 1990

Area of origin	*Proposed ceiling*
Africa	3,000
East Asia:	
First asylum	25,000
Orderly departure program	[1] 26,500
Soviet Union	[2] 50,000
Eastern Europe	6,500
Latin America and the Caribbean	3,500
Near East and South Asia	6,500
Subtotal	121,000
Unallocated privately funded	[3] 4,000
Total	125,000

[1] Includes Amerasian immigrants.

[2] Includes 10,000 privately funded admissions.

[3] Of the 125,000 admissions places proposed, 121,000 are allocated by region. In addition, the proposed ceiling includes an unfunded, unallocated reserve of 4,000 numbers, the use of which is contingent upon the availability of private funding.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 25, 1989.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: As required by Section 207 of The Refugee Act of 1980 (P.L. 96-212), members of the Committee on the Judiciary have now consulted with your representatives on the proposed refugee admissions level for fiscal year 1990.

While we continue to support the objectives of your proposal—as we have in years past—we are very concerned that this year's proposed budgetary support will simply not meet refugee needs around the world. It was clear from the Committee's hearing on September 15th that the funds budgeted for 125,000 admissions falls short some $110 million from what will actually be needed to implement it, both here and abroad.

In short, without a reallocation of resources midway during the year, the pending refugee admissions proposal will clearly face serious fiscal or program problems.

We also want to once again express our concern that we maintain an appropriate balance as we allocate our resources between the resettlement of refugees in the United States and the provision of assistance to refugees in first asylum countries. As our refugee admissions have increased,

our contributions to refugee assistance abroad have declined. It is important to keep in mind that for the $7,000–$8,000 we spend for each refugee resettled in the United States, more than 100 refugees in camps could be sustained. For many of the 14 million refugees around the world, our humanitarian assistance is a matter of life or death.

However, we commend you for your humanitarian leadership regarding refugee admissions for the coming year, even during difficult budgetary times. And while we concur in your proposal, we do so with the understanding that refugee numbers, and related budgetary limits, will require us to consult again with your representatives to make adjustments later in the fiscal year. In separate correspondence to Secretary of State James A. Baker, III, from members of the Subcommittee on Immigration and Refugee Affairs, these concerns will be outlined in more detail. We will remain in close contact with the Secretary and the U.S. Coordinator for Refugee Affairs as the refugee program is implemented during the course of the year.

Many thanks for your consideration, and best wishes.

Sincerely,

JOSEPH R. BIDEN, Jr.,
Chairman.
STROM THURMOND,
Ranking Member,
Committee on the Judiciary.
EDWARD M. KENNEDY,
Chairman.
ALAN K. SIMPSON,
Ranking Member,
Subcommittee
on Immigration
and Refugee Affairs.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 28, 1989.

Hon. JAMES A. BAKER III,
Secretary of State, Main State Department Building, Washington, DC.

DEAR MR. SECRETARY: Attached is a copy of the letter the Judiciary Committee has sent to the President concluding this year's annual refugee consultations, under the terms of The Refugee Act of 1980. It offers our support, with reservations, for this year's proposed program of refugee admissions.

At the outset, we would like to note that this was the 10th annual consultation since The Refugee Act brought a significant degree of structure and permanence to our programs for admitting refugees to the United States. And while we greatly appreciated the appearance and contribution of Deputy Secretary Lawrence Eagleburger, and that of Ambassador Jewel Lafontant, U.S. Coordinator for Refugee Affairs, we deeply regret you were unable to testify at our long-scheduled hearing and meet the statutory requirement that a cabinet-level representative consult with the Committee.

With two exceptions, the President's annual presentation to the Congress on our refugee programs has been made, appropriately, by the Secretary of State—from Cyrus Vance under President Carter to George Shultz under President Reagan. We believe the appearance of the Secretary of State is appropriate because our refugee programs and policies toward them are fundamentally foreign policy issues—not procedural questions for resolution by the Attorney General responsible for the Immigration and Naturalization Service. Refugee programs also represent one of the largest portions of the Department of State's budget—often as high as one-fifth.

As several members noted at the hearing, we strongly feel that the Secretary of State, as the chief spokeman for our foreign policy, should represent the President at annual Judiciary Committee hearings on one of our Nation's principal foreign policy issues—our assistance and help to refugees. We will not accept this year's departure from that tradition as a precedent for the future. To do so, would risk the broad and bipartisan support our refugee programs have always enjoyed.

Regarding the key issues and concerns expressed during this year's consultations—which are reflected in the Committee's letter to the President—they center on two points: first, refugee numbers, whether they are sufficient, properly allocated, and how they will be administered; second, budgetary, whether funds will be adequate to the task and what adjustments will have to be made to meet both refugee resettlement needs here and refugee assistance programs abroad.

There was a clear consensus at the hearing that the proposed refugee admission numbers will be inadequate, particularly in light of developments in the Soviet Union. While the 50,000 set for Soviet refugees is a respectable proportion of the 125,000 proposed for resettlement worldwide, it will hardly deal with the backlog that already exists, much less respond to those already requesting or seeking interviews. After years of promoting the exodus of Soviet Jews and others who have faced persecution in the past, the United States cannot now close the very door it has tried to open for decades. Clearly, additional numbers must be forthcoming this fiscal year—which, in turn, will probably mean additional funding. We cannot take funds from equally urgent refugee programs in other areas, (which are already $58 million short), nor can we ask the private sector to fund more than the 10,000 from the Soviet Union they are already expected to assist, given the severe financial strain the private voluntary organizations have faced over the past year.

The only realistic answer is supplemental funding for the Soviet program during the fiscal year—a recognition that was clearly supported by the Senate during its consideration on September 20th of the Foreign Operations Appropriations bill. Hence, we would urge the Department to consult at the earliest possible date with the Committee to determine when and how much additional funding will be required in fiscal year 1990.

A second issue relating to the Soviet program deals with processing. As the Committee noted during the emergency consultations last April, and in our letter of May 26, 1989 to the President, we have been troubled over the continuing problems that have plagued the processing of Soviet refugee applicants. Since our consultations in May, the ensuing confusion, daily, and escalating costs of the program, particularly in Rome, have cost the State Department nearly $38 million in unnecessary but scarce refugee resources. We understand new initiatives are underway, and hope that the backlogs and uncertainty in Rome will be a thing of the past. In moving Soviet refugee processing to Moscow we urge the Administration to approach this transition with caution and flexibility, along the lines mandated by the Senate in the Foreign Operations Appropriations bill. If we are to avoid further delays, backlogs and inconsistent treatment of applicants, we must be generous and more flexible until new guidelines and new procedures are established in Moscow for the future. In this regard, we find it of utmost importance for the voluntary agencies to have a significant counseling role in the Moscow processing.

When (and not if) supplemental funding requests are formulated by the Administration for additional refugee assistance, we ask that you remain vigilant, as we have expressed before, that refugee resettlement needs here not be allowed to squeeze refugee assistance programs around the world—which help millions of refugees overseas in order to sustain refugee resettlement for a few thousand here. We can and should be able to do both.

In conclusion, there are three other refugee issues deserving of greater consideration by the Administration but, because of time constraints, could only briefly be discussed at the hearing.

The first relates to Cambodia, where the French-led diplomatic peace effort in Paris has temporarily failed and the conference adjourned until future notice. Over 350,000 Cambodian refugees along the border, and millions more inside Cambodia, are desperately awaiting for peace to return to their troubled land after nearly three decades of conflict. Our overriding policy should be to promote a peaceful future for Cambodia. This can only be achieved by preventing a return to power by the Khmer Rouge and Pol Pot. All Americans are thoroughly repulsed by the Khmer Rouge's history of butchery toward its own people and its continuing abuse even today of the refugees under its control along the border. There is strong support in Congress for a policy which opposes any future role for the Khmer Rouge and which will work aggressively without allies to cut off military and political support for the Khmer Rouge.

On its face, our policy today seems to be caving into pressure from the opposite direction. Our continued tolerance of the Khmer Rouge, via Prince Sihanouk's ever more mercurial leadership, undermines the peace process and can only prolong a civil war. It would be helpful to receive your views on our current policy objectives toward Cambodia following Vietnam's withdrawal and what actions the Administration has to isolate the Khmer Rouge.

Similarly, in Afghanistan, it is time to shift gears from a policy of supporting armed resistance to something that might be called a peace process. Continued military support only fuels a civil war when a military "victory" is not attainable. Soviet troops are gone—as is the basis for our original military assistance program. What American purpose justifies prolonging a civil conflict that has produced 5 million refugees desiring to return home, and an already devastated Afghan countryside? What is our current policy towards achieving peace in Afghanistan and promoting the repatriation of millions of refugees?

Finally, in Sudan, peace talks between the Khartoum Government and the southern Sudanese People's Liberation Army have also reached a standstill. Despite pledges to the contrary, the military government of General Al-Bashir seems to have failed to take advantage of efforts to bring the long civil war between north and south to a negotiated end. What are the prospects for the peace process being resumed and when? Earlier this year, after a Subcommittee staff missison to the field, we urged that the United Nations Secretary-General appoint a

U.N. peace envoy if current negotiations then underway failed. Clearly, talks have not progressed since then, and the suffering of refugees throughout Sudan persists; is it not time to reconsider that recommendation for a special U.N. envoy, or some other international diplomatic initiative to end the conflict in Sudan?

There are many other refugee and humanitarian issues we will want to be in touch with you during the days ahead—particularly the problem of Indochinese refugees, such as the current crisis in Hong Kong, and the need to fully implement the Comprehensive Plan Action on Indochinese refugees adopted by the Geneva Conference in June. But we did want to flag these refugee questions at this time before meeting with you later.

With best wishes,

Sincerely,

EDWARD M. KENNEDY,
Chairman.
PAUL SIMON,
Member,
Subcommittee on Immigration and Refugee Affairs.

TESTIMONY OF LAWRENCE S. EAGLEBURGER, DEPUTY SECRETARY OF STATE

Thank you, Mr. Chairman.

I am pleased to be here this morning to represent Secretary Baker at the annual consultations on the refugee admissions program. I will keep my opening statement brief in order to ensure that there is ample time for questions. At the second panel, Ambassador Lafontant, the U.S. Coordinator for Refugee Affairs, and Ambassador Lyman, the new Director of the State Department's Bureau for Refugee Programs, will present testimony covering the entire program.

I plan to concentrate on two subjects of particular concern to this Administration's foreign policy—Indochinese asylum seekers and Soviet emigration. As is apparent from the President's proposal for refugee admissions, the situations in these two regions are creating the greatest demands on our refugee policies and on our resources. Before turning to these issues, however, I would like to say a word about how our refugee programs relate to U.S. foreign policy.

REFUGEES AND U.S. FOREIGN POLICY

Refugees result from government oppression. One of the fundamental goals of U.S. foreign policy is to promote democratic values, human rights, and individual freedoms throughout the world. In every country where we identify a refugee problem, our first effort is to seek political change in that country so as to guarantee the respect for and protection of universally recognized human rights.

The ideal solution for any refugee situation is that the conditions which caused the refugees to flee be brought to an end. If and when political developments make it possible, refugees who have not been permanently resettled should return—voluntarily—to their homelands. To reconstruct a life in one's own land, with one's own language and culture, is for the great majority a far more humane solution than to become an outsider in a foreign land, however hospitable it may be.

Our humanitarian dilemma in responding to refugee situations lies in the uncertainty of the time frame in which political change will make the voluntary repatriation solution possible. We have had great hopes for the Afghans, yet the fighting in their homeland continues and the refugees remain in Pakistan and other neighboring countries. We have hopes for the Central American peace accord, so that Nicaraguans can return home in peace and safety. We hope that the recent repatriation to Namibia will be part of the successful birth of a new nation founded on democratic principles. We hope that a way to a peaceful future can be found for Cambodia. And we hope that political change in Poland and Hungary will remove those nations from their long-held position on the list of refugee-producing countries.

Almost all of the world's refugees and displaced persons are thus caught in limbo until such major political change occurs. The task facing the United States Government and the American people is to respond with our advocacy, with our leadership, and with our available resources to work toward the desired political change and, in the interim, to sustain the life and welfare of the refugees.

Within this context we must acknowledge that our refugee admissions program—which is separate from and in addition to the normal U.S. immigration program—gives a small minority of the world's refugees the extraordinary opportunity to become Americans. Yet, here too we are presented with a dilemma. To some degree it is the very promise of America that causes people to seek to leave their countries in search of the freedom and better life which America represents. We therefore must not create false expectations that are beyond our capacity to fulfill, lest we cause people to abandon their homes only to be left in limbo without any place to go. Moreover, as stated in the Refugee Act of 1980, we must encourage other nations to do their share in providing assistance and resettlement opportunities.

Let me now turn to the two most prominent refugee producing countries—Vietnam and the Soviet Union.

VIETNAMESE ASYLUM SEEKERS

Since 1975, over 1.5 million Vietnamese have been resettled in third countries: 900,000 of them in the United States alone. Not only has the flow of Vietnamese asylum seekers continued for 14 years, it has increased in the past two years. The enormous pressure that this has placed on the countries in the region led to their call for the International Conference on Indochinese Refugees that I attended in Geneva this past June. The principles endorsed by that conference, as set forth in the document called the Comprehensive Plan of Action (or "CPA") are of critical importance and can be summarized briefly.

First, in order for there to be a truly viable alternative to clandestine flight, Vietnam must allow the legal emigration of all persons eligible for resettlement country programs.

Second, nations in the region must allow asylum seekers to arrive safely and must treat them humanely.

Third—and this point is essential for our discussion today—there must be a legitimate process, in full compliance with international standards, to determine who is a bona fide refugee. In other words, the era of automatic resettlement for anyone who leaves Vietnam is over. Persons determined not to be bona fide refugees will not be resettled. Instead, they will be offered voluntary repatriation under a program administered by the United Nations High Commissioner for Refugees (UNHCR).

For the U.S. admissions program, there are two key elements in the CPA—one short-term, one long-term. In the short-term, we have made a commitment to join a multilateral three-year effort to resettle all of the Vietnamese asylum seekers who had arrived in first asylum countries prior to agreed cutoff dates. The U.S. share will be some 22,000 out of a total population of approximately 55,000—or 40 percent. I am pleased to report that our embassies, INS offices, and voluntary agency partners in the region are already vigorously at work to achieve half of the total U.S. offtake commitment in the first year. The United States is also committed to resettle our share of the new arrivals who are determined to be bona fide refugees.

The long-term goal is to expand and improve our Orderly Departure Program (ODP) so that Vietnamese qualified for U.S. immigration and refugee programs will have—and will believe that they have—full access to the avenue of legal emigration. To that end we have recently taken three initiatives. First, we have expanded the interviewing capacity of our consular and INS teams to a rate of 4,500 persons per month in Ho Chi Minh City. Second, we are pressing the Vietnamese to allow the departure of up to 20,000 immigrant beneficiaries per year—persons who would not require refugee numbers. And third, a new, historic agreement between the United States and Vietnam came into force on August 28 which provides for the resettlement in the United States of former reeducation center detainees and their families. This population, to which we have sought access through sustained negotiations for the past seven years, represents those Vietnamese who have suffered most due to their association with the United States or the Government of South Vietnam during the war period. These are the individuals with the strongest claim to U.S. resettlement, and it is therefore an extremely important development that they, too, will now have access to the ODP system. We hope to start interviewing these individuals as soon as October, beginning at a rate of 1,000 per month.

In sum, the Vietnamese refugee problem is longstanding and extraordinarily complex. It will not disappear simply because of the International Conference. Our response—indeed, the response of the 56 nations that participated in the International Conference—is an effort to gain control over the problem with a comprehensive set of policies and principles. We are trying to bring the numbers down to manageable proportions. We are trying to convey an honest and responsible message to persons still in their country of origin, so that they do not make life-changing decisions based on false expectations. And we are trying to expand the U.S. capacity to handle an orderly, legal emigration program in the country of origin.

SOVIET EMIGRATION

I would characterize our approach to the Soviet emigration problem in the same manner. We are trying to manage the surge in Soviet emigration in the most humane and orderly way possible within the limits of expanded refugee and immigration programs. We are trying to expand the U.S. capacity to deal with Soviet emigrants while still in their country of origin. And we are trying to avoid giving false expectations to potential emigrants.

The enormous increase in Soviet emigration over the past two years should be celebrated for the benefit it offers to people long deprived of this right. The Administra-

tion, the Congress, and the American people should be proud of our sustained and forceful advocacy of human rights for Soviet citizens, and particularly our insistence on freedom of emigration for Soviet Jews. This is a great success for our American foreign policy. In addition to the evidence of numbers, we now expect that the Supreme Soviet will soon act on new emigration legislation which would bring the Soviet Union far closer to acceptable international standards.

While we applaud these developments, we must be honest in appraising our national ability to respond to unprecedented, unpredictable, and previously unmanaged flows of people.

In FY 89 we have taken a series of interim measures to respond to this situation. Through the emergency determination process, the President more than doubled the refugee admissions ceiling for the Soviet/Eastern European region from 24,500 to 50,000. Congress responded promptly to the President's request for $85 million in supplemental funds. And Attorney General Thornburgh announced that he would exercise his parole authority to benefit all Soviet applicants who were determined not to qualify under the refugee provisions of the statute. In addition to these programs for refugee applications, the U.S. Embassy in Moscow also expects to issue approximately 500 regular immigrant visas in FY 89.

For FY 90, we are proposing a further increase in the refugee ceiling to 50,000 for the Soviet Union alone, plus 6,500 for Eastern Europe. We realize that there is a funding gap to be closed, which we estimate to be $58 million. The Administration is committed to working with the Appropriations Committees to find the necessary funds for the President's program, recognizing that we must do so without infringing upon other important foreign policy programs and priorities.

Finally, the Administration has introduced legislation which could take effect in FY 90 to provide for the admission as special interest immigrants of up to an additional 30,000 persons per year. This would replace use of parole as a vehicle for the admission of applicants from the Soviet Union and other countries who may be of special interest to the United States but who are unable to qualify as refugees. Our legislation would also adjust the status of parolees who have arrived in the United States over the past year to that of permanent resident.

These measures, however, will not suffice for the longer-term. The problem cannot be solved as long as the primary route for Soviet nationals seeking resettlement in the United States is through Vienna and Rome. The situation in Rome is extremely costly, requiring more than $34 million for care and maintenance in FY 89. Unfortunately, we are all familiar with the problem of Soviet emigrants in Rome who have not been found eligible for refugee admission and have not accepted the opportunity to enter the United States as parolees. We will certainly work to resolve the situation of these people—some 5,000 as of August 31. It is important that we institute a policy which ensures that no one leaves the Soviet Union in the future with false expectations as to the U.S. immigration laws and resettlement commitments.

For these and many other reasons, the administration has decided to put in place, effective October 1, a set of measures to ensure that new Soviet applicants for refugee admission are dealt with in Moscow rather than in Vienna and Rome. This involves expanding our processing capability at Embassy Moscow, and establishing a Washington center to assist the embassy with processing the application paperwork, in addition to diplomatic initiatives with the Soviet Union and other visa granting countries.

Accordingly, after October 1, Soviet emigrants seeking admission to the United States will be required to apply at the U.S. Embassy in Moscow, unless they possess an Israeli visas predating October 1. Persons departing the Soviet Union with Israeli visas dated on or after October 1 will be assumed to have left the Soviet Union with the intention of emigrating to Israel; they will not be eligible to apply in a third country for refugee admission to the United States.

Those who are already in the pipeline as of October 1—a number we estimate may be well over 30,000—will continue to be adjudicated according to current procedures.

Finally, because we anticipate that the demand for scarce refugee admissions numbers may exceed our proposed admissions ceiling of 50,000, we will have to put in place some system of priority for scheduling interviews in Moscow. In accordance with our customary practice in refugee admissions processing throughout the world, we shall give first priority to cases of family reunification. We will continue to interview and accept for U.S. admission persons without family ties in the United States. Since we can neither control nor predict demand, we can give no guarantee that everyone who wishes to apply can be processed in any given time period.

CONCLUSION

In closing, I would like to return to the point—which certainly applies both for Vietnam and for the Soviet Union—that the United States must make every effort to match our policies to our promises, and our promises to our resources. As foreign governments reform their treatment of legal emigration, we will continue to seek to expand our capacity to manage the orderly migration of people of concern to the United States. At the same time, we will endeavor to convey an honest and responsible message to persons still in their country of origin so that they do not make life-changing decisions based on false expectations.

The United States is the acknowledged world leader in the promotion of human rights in countries around the world. The generosity of the United States toward the world's refugees is a deeply rooted, bipartisan policy, which goes far beyond Washington to the beliefs of individual Americans and the activities of a myriad of voluntary, religious and community organizations. The trend toward liberalization and democratization in the Soviet Union and Eastern Europe is an historic departure. Emigration is one manifestation—indeed, a central symbol—of the success of U.S. human rights polices. We now face the challenge of managing this success in accordance with our foreign policy interests, our humanitarian objectives, and our national priorities for utilizing scarce federal resources.

We believe the President's proposed admissions program for FY 90, combined with our new policy for Soviet emigration, will constitute the most responsible and consistent national policy for dealing with this challenge.

STATEMENT OF AMBASSADOR-AT-LARGE JEWEL S. LAFONTANT, U.S. COORDINATOR FOR REFUGEE AFFAIRS, BEFORE THE SENATE JUDICIARY COMMITTEE, SEPTEMBER 15, 1989

It is a pleasure for me to be here this morning as the Administration's witness in these formal refugee consultations for Fiscal Year 1990. This is the first annual refugee consultations hearing of this Administration and my first such hearing as well.

We are consulting at an historic moment. As we meet today, thousands of East Germans are moving across the borders from Hungary to Austria and into West Germany where they have a chance for the first time to live in freedom. As the barriers to emigration fall throughout the Soviet Union and Eastern Europe, more and more people are having the opportunity to emigrate to the West.

These trends are a tribute to the policies the United States has followed over the past years. We are pleased with these developments and take pride in the role the United States has played in helping create the conditions that brought them about.

Of course, the increased refugee flows bring problems in their wake. That is to be expected; but how much better it is to have to deal with the problems caused by the success of one's policies than to deal with problems caused by failure.

Although this hearing marks the beginning of the formal consultations process, it is not the first step in the process. Over the past few months, I have met with members and staff of Congressional committees concerned with refugee issues. I have had meaningful consultations with representatives of state and local governments, private voluntary agencies, public interest groups, the Office of Management and Budget, the Department of State, the Immigration and Naturalization Service, the Department of Health and Human Services, and others.

I have also consulted with the heads of international organizations who play such an important role in providing assistance to refugees overseas.

I recently travelled to Geneva and Rome where I met with host government officials and renewed my acquaintance with representatives of international organizations. During my trip to Italy, I had an opportunity to observe first hand the on-site processing of Soviet emigres. I visited the seaside town of Ladispoli where so many Soviet emigres are located. I talked to them in their cultural center and in the schools where they study English. The message they all conveyed was "please help us."

REFUGEE POLICY

Before providing an overview of some of the major refugee situations and the links between concerns and our refugee admissions proposals, let me briefly review the major tenets of our refugee policy, which are a manifestation of our nation's traditional humanitarian concern and assistance.

Our refugee policy embodies the fundamantal values of the American people: compassion, humanitarianism, idealism. We offer assistance to refugees not merely out of compassion but to promote stability in geographic regions of concern

Relief

An important part of our refugee policy is the mobilization of international relief assistance to the more than 14 million refugees scattered throughout the globe. For many of these people, international assist-

ance is a life or death matter. The international assistance program encompasses a wide range of activities, including education, health and vocational training. Increasingly,international agencies are recognizing that care and maintenance are not enough if refugees are going to return to their homeland some day as productive members of society.

Over the years, the United States has taken the lead in establishing and supporting an international network of organizations whose purpose is to assist refugees to cope with their current situation and to give them hope for the future. The United States remains committed to continue our support for the vital programs these organizations carry out.

Resettlement

The second pillar of U.S. refugee policy is resettlement. Our policy is to support voluntary repatriation when conditions permit; to facilitate resettement in country of asylum or in a third country; and, when resettlement in the United States is the only alternative, to admit refugees who are of special humanitarian concern to the United States or whose admission to the United States is in our national interest.

U.S. ADMISSIONS PROGRAM

As you know, this is the eve of the tenth anniversary of the Refugee Act of 1980 which sought to establish a more uniform and equitable basis for refugee admissions to the United States. To this end, Congress adopted the definition of refugee as used in the U.N. Convention and Protocol relating to the status of refugees to which we became party in 1968, and removed the geographic and ideological limits found in the Immigration and Nationality Act definition of 1952.

The Act of 1980 established the procedure of formal Congressional consultations and specified the type of information required by the Congress. We have prepared this information for you in our Report to the Congress on Proposed Refugee Admissions for Fiscal Year 1990.

At this time, I would like to share with you a brief overview of some of the major refugee situations which require resettlement in the United States.

For Fiscal Year 1990 the President is recommending the admission of up to 125,000 refugees. That ceiling includes the subceiling for the following refugee groups of special humanitarian concern to the United States:

3,000 refugees from Africa,

25,000 from first asylum countries in East Asia,

26,500 from Vietnam through the Orderly Departure Program,

50,000 from the Soviet Union,

6,500 from Eastern Europe,

3,500 from Latin America and the Caribbean,

6,500 from the Near East and South Asia, and

4,000 unallocated privately funded.

Of the total proposed admissions number of 125,000, 14,000 are to be privately funded, including 10,000 from the Soviet Union.

Africa

As the Committee is aware, Africa is a region with serious refugee problems. There is a vast and growing number of refugees and displaced persons in need of life-sustaining support. Many African countries continue to provide opportunities for asylum, local resettlement and at times, voluntary repatriation. Malawi, for example, provides asylum for thousands of Mozambicans despite the impact on its own economy. Our major effort in Africa has been to provide assistance for emergency care and feeding in refugee camps.

With regard to refugee processing, we now have an INS post in Nairobi which has improved our ability to process refugees in Africa. In the Sudan, where asylum has been provided for hundreds of thousands of refugees, with the cooperation of the host government, we anticipate an early movement of some 2,000 Ethiopian refugees who are already in the pipeline.

The proposed ceiling of 3,000 is an increase of 1,000 over last year's ceiling of 2,000 and will provide opportunities for the admission of refugees already in the pipeline in addition to others.

East Asia

In meeting our commitments undertaken under the Comprehensive Plan of Action at this summer's International Conference on Indochinese Refugees, the President is proposing to admit from East Asia 25,000 refugees from first asylum and 26,500 refugees from ODP. The admissions from first asylum will allow the United States to continue its commitment to ease the burden of first asylum countries in Southeast Asia while encouraging broad participation in this international effort.

The proposed ODP refugee admissions ceiling of 26,500 includes an estimated 7,000 former reeducation center detainees to be admitted as refugees under the agreement recently concluded with the Vietnamese. This number will also include Amerasian immigrants who enter the United States under the provisions of separate legislation.

Soviet Union

We stand now in the midst of dramatic improvements with regard to emigres from the Soviet Union. This fiscal year, the United States will have admitted over 35,000 Soviet refugees. The liberalization of Soviet exit/entry is expected to further expand next year's flow.

Because of the substantially increased opportunities for emigration from the Soviet Union, the administration is increasing the ceiling from last year's 43,500 to 50,000. Of this number, 10,000 are to be funded by the private sector.

Eastern Europe

The President's proposal adopts the suggestion that separate ceilings be indicated for the Soviet Union and Eastern Europe. The proposed refugee ceiling for Eastern Europe is 6,500 and should enable us to make a substantial inroad on cases presently registered for our program. The vast majority of persons registered by voluntary agencies and awaiting INS interviews are Poles and Hungarians.

Near East and South Asia

The proposed ceiling of 6,500 will provide for the admission of Iranians, Afghans and Iraqis as well as other nationalities on a case-by-case basis. Our concern for the persecution of religious minorities in Iran continues despite the death of Khomeni and the accession of a new regime. With regard to Afghans, we do not anticipate that their eventual repatriation will have a significant impact on our U.S. resettlement program.

Latin America and the Caribbean

The proposed ceiling for this region is 3,500. We are committed under the migration agreement of 1984 with Cuba to resettle all qualifyng former political prisoners and their families from Cuba each year. The proposed celing would also permit admission of up to 500 refugees from the region including former political prisoners in Nicaragua who were recently released from prison.

Our refugee admissions numbers are only a small part of the total numbers who enter the United States each year. During Fiscal Year 1988 over 391,834 immigrant visas were issued, of which number 270,000 were used.

Funding

It is apparent that the President's proposal carries with it important funding implications. Largely as a result of increased refugee flows that Soviet Union, the current budget requests for the State Department and HHS for FY 90 did not anticipate arrivals of this magnitude when setting funding levels for admissions and resettlement needs.

The recommended level for consultations is higher than that assumed in the State Department budget and will require about $58 million more for admissions than originally requested. The Department of State is addressing the international budget issues and is working with the Appropriations committees in an attempt to meet as much of our refugee admissions requirements as possible without an adverse funding effect on other important foreign policy programs and priorities. Once the appropriations process is complete, the administration will have to consider how it can best meet the unfunded requirements, if any. There is room on the domestic side, within the 1990 Bipartisan Budget Agreement, for Congress to provide necessary funding for the HHS costs of refugee resettlement. In addition, I plan to consult with my former colleagues in the corporate world to ask for their assistance in evaluating the potential for private sector input in refugee programs.

DOMESTIC RESETTLEMENT

I would like to turn briefly now to the domestic implications of our refugee policy. By the very act of admitting refugees to this country, we assume a certain level of responsibility for their successful integration into a new culture and a new environment. We are sensitive to the fact that refugees are a special class of immigrant, requiring, for an initial period of time, special forms of support and assistance. Many refugees who come here suffer the trauma of separation from their culture, their way of life, their home, their family members. Although overseas orientation programs help prepare refugees for resettlement, without the support of the private voluntary organizations and state and local governments, resettlement could not be effectively accomplished.

Mr. Chairman and members of the Committee, we will continue to work to resolve the root causes of refugee flows and strive to provide a refugee program to meet our international and domestic concerns within a humanitarian framework.

Thank you again.

I would be happy to answer your questions.

DAIRY POLICY

Mr. LEAHY. Mr. President, I am deeply concerned about two bills recently introduced by Senator KASTEN. These bills pose a growing threat to Vermont and Northeast dairy farm families.

If enacted, this policy would cut farm income and throw even more New

England farmers off the land. Vermont farmers would see a cut of over a dollar a hundredweight in the price they receive for their milk.

The Kasten bills would change the current market order system by restricting differentials, changing to multiple basing points, and allowing reconstitution of milk.

The result of all these proposals would be to reduce milk prices in Vermont and could bring a flood of milk from other parts of the country into New England.

I am determined to block this attack.

Both Senator KASTEN's bills give me great concern. His first bill, S. 1639, would repeal the 1985 class I differentials and establish multiple basing points in the marketing of milk. The second bill, S. 1640, would require that reconstituted milk be treated as a fluid milk product under the milk marketing orders.

Changing the established market order system has long been a goal of certain groups in the upper Midwest. Some have called for one nationwide order or individual State orders. The Great Lakes States are concerned about production growth in the South and argue that the only way to meet this problem is through drastic changes in market orders.

I disagree.

Although New England has high differentials, we are not contributing to excess milk production. While I share some of Senator KASTEN's concern about growing milk production in nontraditional areas, I will oppose any effort to close down the Northeast in an effort to control States like Texas, Florida, or Washington. I also should add that his bills would do nothing to control the California problem.

I urge Senators from other States to look carefully at the Kasten bills and talk with their local dairy leaders. As I read the policy behind the Kasten approach, I see a price cut in every region except for Wisconsin. This is not the way to go in dairy policy.

I urge my friend from Wisconsin to stop his attack on the Northeast and to work with the Senate Agriculture Committee to develop a sound and fair national dairy policy.

GEN. AL BREWSTER RETIRES

Mr. HEFLIN. Mr. President, I take the floor to congratulate a patriotic American upon his retirement and to thank him for a distinguished career in dedicated service to his country. I would like to recall some of the highlights of Brig. Gen. A.E. Brewster's 37 years of tireless professional service, first as an officer in the Marine Corps and then as the senior legislative affairs representative of the Northrop Corp.

Al Brewster joined the Marine Corps in 1952 and for the next 16 years served as a junior officer in a number of positions, which included commanding a ground platoon in combat in Korea and flying 105 combat missions in Vietnam. Subsequent assignments saw him posted to the Joint Service Command in Anchorage, AK, as operations and training officer; and to various command positions within Marine Aircraft Group 11 of the 3d Marine Aircraft Wing at El Toro, CA, before being elevated to air group commanding officer in August 1973. In July 1974, he commenced study at the Army War College and in 1975 was one of six marines graduating from this program. Next, he served in the 1st Marine Aircraft Wing in Japan before returning to El Toro as Chief of Staff for the 3d Marine Aircraft Wing. His final military assignment was as legislative assistant to the Commandant from 1977 to 1980.

General Brewster has followed up this impressive military career with equally distinguished professional service to the Northrop Corp., one of America's foremost aerospace contractors. He retires as Northrop's vice president for legislative affairs. Al Brewster has many friends in the House and the Senate. They wish him well but hope that he will be near at hand for counsel and fellowship. I salute Al Brewster for a job well done.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

Mr. MITCHELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that, immediately following the rollcall vote on the Specter amendment, the Defense appropriations bill be temporarily set aside and the Senate proceed to the immediate consideration of House Joint Resolution 407, the continuing resolution.

I further ask unanimous consent that there be 10 minutes of debate on the resolution; that the only amendment in order be one to be offered by Senators BYRD, HOLLINGS, and THURMOND, on which there be 30 minutes of debate, with 2 minutes for Senator BYRD and the remainder to be equally divided and controlled between Senator HOLLINGS and Senator THURMOND; that no motions to commit be in order; that the agreement be in the usual form; and that no points of order be in order.

I further ask unanimous consent that, following the disposition of the continuing resolution, the Senate return to the consideration of H.R. 2916, the VA-HUD appropriations bill; that the bill be immediately read for the third time and, without any intervening action or debate, the Senate then proceed to a vote on final passage of the bill.

Mr. DOLE. Mr. President, reserving the right to object, and I shall not object, it occurs to me that perhaps Senator HELMS and Senator SANFORD may want to join as cosponsors. I assume they would be entitled to part of the time under this agreement since North Carolina is devastated quite badly, too.

Mr. MITCHELL. I see no problem whatsoever with that. I anticipate and assume that the distinguished Senators from South Carolina—I see neither of them present now—I assume that they would be willing to divide the time with the Senators from North Carolina.

Mr. DOLE. No objection

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I would also like to add, for the benefit of Senators, that it is my hope, upon completion of the Defense appropriations bill, that we can proceed to the last of the 13 appropriations bills, that being the State, Commerce and Justice appropriations bill.

I know I have discussed this with the distinguished Republican leader. I will, at an appropriate time this morning or during the day, seek consent to proceed to that measure upon completion of the DOD appropriations bill.

I think it important that we do complete action on these. Not only because, obviously, we are trying to proceed with all the appropriations bills as close to the end of the fiscal year as possible but also, under the previous order, we have to complete them before we can proceed to the legislative action on the drug bill.

I know Members on both sides are very anxious to proceed to that, and I hope we do not get held up on moving to the drug legislation or the State, Commerce, and Justice appropriations bill. We do have the 48-hour rule with respect to the report. That would be required to be waived and I will be requesting that. I wonder if the distinguished Republican leader might comment on that?

Mr. DOLE. I think the record should indicate we do have an objection to waiving the 2-day rule, which I assume would mean bringing the bill up on Saturday.

Mr. MITCHELL. That is correct. We have to bring the bill up this week. If we are unable to gain consent to waive the 2-day rule, then the Senate would have to wait until Saturday to bring the bill up and debate and enact it.

Mr. DOLE. I thank the majority leader.

Mr. MITCHELL. I thank the distinguished Republican leader.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1990

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 3072) making appropriations for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes.

The Senate resumed consideration of the bill.

Pending: Specter amendment No. 882, to make funds available for multilateral anti-narcotics efforts.

Mr. SPECTER. Mr. President, in a few moments we will be voting on an amendment to authorize the expenditure of funds under this bill for U.S. participation in a multilateral antinarcotics strike force as called for in the 1988 Drug Act, and further to provide for the sense of the Senate that multilateral action is also necessary with respect to drug treatment, drug research, and educational programs.

Mr. President, this amendment is offered to the Department of Defense appropriation bill because interdiction funds are included there. As to the demand side, it is the sense of the Senate that the appropriation can come from other appropriate sources.

Mr. President, yesterday the distinguished Senator from Georgia [Mr. NUNN], chairman of the Armed Services Committee spoke in favor of this amendment, as did the distinguished Senator from Hawaii [Mr. INOUYE], chairman of the Appropriations Subcommittee.

We have, at the present time, the anomalous situation in Latin America where Drug Enforcement agents are going out into the field and are assisting, for example, Bolivia, a country I visited last year. They are not really trained for this kind of activity. They are not in the best condition for training.

At the same time the anomalous situation exists where special forces personnel who are equipped and are able to carry out such a function are not being utilized for this important purpose.

This authorization follows up on the lead taken by Prime Minister Michael Manley of Jamaica. So there is support from a Latin American country. The participation of the United States obviously is indispensable, and when we have declared war on drugs, this is not arrest, this is not search and seizure, this is an appropriate function for the military within the applicable laws enacted by the Congress.

I urge my colleagues to give a very solid vote in support of this provision to demonstrate to the President and the executive branch that the congressional support for this proposal is overwhelming.

Mr. BIDEN. Mr. President, I want to congratulate my colleague from Pennsylvania [Mr. SPECTER] for offering this amendment.

Drug trafficking is—without question—the No. 1 security threat in this hemisphere. The enormous profits generated in the underground economy of the international drug trafficking market allow the major kingpins to hire and equip armies, buy elections and intimidate foreign governments. The full diplomatic, economic and military power of the United States must be marshalled in response.

International drug traffickers show no respect for the integrity of national borders—in fact, the traffickers have frequently exploited the limits that national boundaries and excessive concerns about sovereignty have placed on drug enforcement efforts.

To counter this international threat, we need a truly international response. Last year, Congress directed the President and the Secretary of State to initiate negotiations to establish multinational antidrug strike forces to attack the major drug cartels.

Since that time, the Prime Minister of Jamaica, Michael Manley, has endorsed this idea and the heads of state in Venezuela and Spain have expressed general support.

Unfortunately, the administration has shown little interest in this approach. In response to my written questions to attorney General Dick Thornburgh, the administration stated that they have not initiated any type of negotiation to establish international strike forces, despite the clear support of several heads of state and the specific congressional directive in last year's drug bill.

Critics of the strike force approach have cited the political and practical obstacles to forming what would be international SWAT teams to attack the drug cartels. However, a strong precedent for such cooperative efforts already exists.

Last year, the International Drug Enforcement Conference [IDEC]—which is composed of the heads of the drug enforcement agencies of numerous governments, including the United States, Colombia and others—successfully coordinated joint multinational drug enforcement efforts in South America. DEA chief Jack Lawn labeled these operations an unqualified success.

The success of the IDEC operations demonstrate that multilateral drug enforcement can work. That is why the administration should immediately comply with the mandate in last year's drug bill by initiating negotiations to establish multilateral antidrug strike forces. And the United States should encourage other nations—particularly Jamaica, Venezuela, and others that have endorsed the strike force concept—to take a lead in developing the international strike force concept.

And these negotiations should begin immediately. The President, in his National Drug Control Strategy, proposed to convene an "Andean drug summit," with the heads of state of Colombia, Peru, and Bolivia to discuss the drug issue. The President and the Secretary of State should put the issue of multinational strike forces at the top of the Summit's agenda.

This amendment is a step in the right direction. It authorizes the administration to use funds in the Defense appropriations bill to pay for any U.S. participation in multilateral drug efforts, including multilateral antinarcotics strike forces.

However, this amendment is only a first step. Congress can authorize and direct the administration to act, but that is no substitute for the strong political commitment of the President and the Secretary of State to pursue every possible means to counter what has become the single greatest threat to our national security.

I congratulate my colleague from Pennsylvania for offering this amendment, and look forward to working with him on this issue in the future.

Mr. President, I ask unanimous consent that a letter from Michael Manley, the Prime Minister of Jamaica, dated September 5, 1989, with an enclosure, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE PRIME MINISTER,
JAMAICA HOUSE,
Kingston, September 5, 1989.

Senator JOSEPH R. BIDEN,
Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR JOE: Recent events in Colombia bring into dramatic focus the monumental proportions of the crises we face in the struggle against drugs in the Latin-American and Caribbean region.

Earlier this year, it became clear to me that the region was on the verge of a major crisis if we did not act decisively and quickly. In response to this, I introduced, at the start of my administration, a series of multilateral proposals to fight the drug menace. These proposals included centralized intelligence, training for narcotics agents, education, rehabilitation and economic development to provide alternatives to the poverty stricken growers of plants that are the basis of the different drugs. It also included the creation of a Multilateral Strike Force as a last resort to combat the drug armies.

I am gratified by the response of the United States Congress and Senate to these proposals and wish to thank you for the personal interest you have shown in this initiative. Given the most recent developments, I have elaborated on my initial proposals which I am sending to you for your review and reaction.

I believe it is a programme which is desperately needed to begin the counter-attack against the drug cartels in this region and worldwide. I hope when Congress reconvenes you will consider such proposals as part of a regional response to the major challenge we all now face.

Sincerely,

MICHAEL MANLEY,
Prime Minister.

MULTILATERAL DRUG PROPOSAL

Considerable attention has been given to the multilateral strike force aspect of my proposal for international action in relation to drugs. This is misleading, for, while it is a critically important issue, the strike force is only one component of a comprehensive international strategy which I am proposing to combat this scourge. I therefore set out the elements of this broader proposal, which is gathering support throughout the Caribbean, in the United States and in countries like Venezuela and Spain.

(1) We will introduce a Resolution into the United Nations calling for the creation of an international capability in various areas of the drug struggle and inviting particular countries to become signatories and to pledge support and finance. It is to be noted that the U.S. Senate has already voted unanimously for a Resolution approving the idea and inviting the U.S. Administration to provide funds now allocated to the U.N. system to assist in the financing of this idea.

(2) Acting under the Resolution, to set up an organisation devoted to the development of the following capabilities:

(i) a central intelligence-gathering operation which would collate and coordinate all information on drug trafficking worldwide including financial flows which are a principal means of tracking the operations of the drug cartels;

(ii) A training facility devoted to

(a) narcotics agents in both the investigative and interdiction aspects, and

(b) agents trained in narcotics intelligence.

(iii) A reserve pool of narcotics agents and intelligence operatives with experience in different parts of the world. This pool could be used to make available to countries with inadequate resources in this field, on-the-ground support for specified periods of time.

This reserve capability would be particularly valuable for countries which are having their own people undergo training and would help strengthen the anti-drug operations in different countries while they are training to increase the effectiveness of their operations.

(iv) A division devoted to public education and other elements of the demand management side of the drug operations. There is a growing body of experience in different parts of the world about drug education in schools, in communities and in more general public relations programmes. A means of cross-fertilising research and knowledge in this field and having small groups of experts who could go to countries with the will to tackle this aspect of the matter could be invaluable.

(v) A central body of expertise in the mounting and maintenance of rehabilitation programmes. Already this aspect of the matter receives attention from a U.N. Agency with headquarters in Geneva.

A technical question would be whether to leave this under its present auspices or incorporate it into a single programme even if its headquarters remain in Geneva. I happen to favour the second course of action.

(vi) A central source of advice in the planning and administration of income substitution programmes. This could include levels of support that would make even seed finance available.

This programme is also in existence with headquarters in Geneva and receives considerable financial support, particularly from the Government of Italy.

Alternative sources of income for peasants who have spent their lives taking their children through the production of the ganja plant or the coca leaf, deserve and need help in adjusting after eradication programmes and in any event, represent a huge potential source of passionate opposition to any anti-drug operation.

(vii) A multilateral strike force under U.N. command and consisting of specially trained military personnel having regard for the nature of the drug operations which have reached the scale of virtually civil war or gang operations beyond the capacity of local security forces to handle.

Apart from the opportunity this would provide for developing appropriated expertise in this kind of fighting, the great advantage of the multilateral strike force is that it gets around the problem of sovereignty. For example, both the Colombian and the United States Governments have hesitated long over the question of whether to invite U.S. troops to help the Colombian Forces fight the Medellin cartel. In the end, both Governments retreat from the idea because the troops of a foreign power would immediately provoke a controversy about sovereignty. No such difficulty would arise if a Government were to invite a multilateral strike force under the United Nations command and sponsorship.

It is to be understood that all of these facilities which would be developed from small beginnings and grow as commitments, resources and experience expand, would be subject to the overriding principle that assistance would only be in response to a formal request from the Government of a particular country.

This plan has been introduced and won the support of CARICOM, received the unanimous backing in principle from both the Senate and House in Washington, has been endorsed in principle by the Presidents of Venezuela and Spain, and will be introduced at the Non-Aligned Summit and at the Commonwealth Heads of Government Meeting in September and October of this year, respectively. It will be introduced as a formal Resolution in the United Nations immediately after the Commonwealth Heads of Government Meeting.

Mr. ADAMS. Mr. President, I rise to commend the Senator from Pennsylvania for this amendment and to urge my colleagues to support it.

The drug problem we face in America is part of a global crisis. As we have seen in the nation of Colombia, the drug trade not only affects our lives here in the United States, but threatens the stability of those countries that find themselves confronting powerful organizations engaged in the production and distribution of drugs. While interdiction and strikes against drug production facilities and drug cartels are not the sole answers to our drug problem by any means, they are essential elements. If we are to successfully restrict the production and distribution of drugs, we must work with those countries affected by this evil trade especially those within whose borders these activities originate.

Last month, I represented the United States Senate at the Inter-Parliamentary Union Centenary Conference in London, England. That important meeting of the association of the world's parliamentary bodies adopted a resolution condemning the violence threatening the survival of the Government of Colombia. It also urged all governments to take immediate action to assist Colombia, including measures to finance the conversion of land currently used for drug production.

Mr. President, I asked unanimous consent that the text of the Inter-Parliamentary Union resolution be made a part of the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Accordingly, as it commemorates the Centenary of the Inter-Parliamentary Union and thus reaffirms its founding principles, the 82nd Inter-Parliamentary Conference solemnly declares that it:

Condemns and deeply deplores the killings and the campaign of violence unleashed by the drug mafias in Colombia in recent weeks which threatens to destroy social order and cause the nation's disintegration;

Stresses the particularly heinous nature of the murder of Senator Luis Carlos Galán committed in a public place while he was engaged in the wholly democratic exercise of addressing his electors;

Supports unreservedly the appeal made by President Virgilio Barco and the Colombian authorities in defence of the nation's constitutional institutions, the rule of law and the system of freedoms;

Urges Parliaments, as institutions representing the people, to make their voices heard in condemnation of violence and in support of democracy and freedom in Colombia, and to press their Governments to take immediate steps, including measures to finance the conversion of land currently used for drug production, to co-operate effectively with the Government and people of Colombia and demonstrate their international solidarity.

Mr. ADAMS. Mr. President, this amendment would assure that the United States could participate in multinational strike forces as envisioned in the Inter-Parliamentary Union's challenge. We must assist those countries whose very survival is threatened not only to help reduce the supply of drugs on the streets of America, but because we must help stop the killing and suffering of citizens in the drug producing nations. As I understand the amendment, the multinational strike force would not be sent into any country that did not request it, nor are any existing laws changed relating to how U.S. military forces may be used.

We must marshal all available resources if we are to effectively fight a

war against drugs. I am pleased that the Senator from Pennsylvania has proposed this amendment. It is precisely the kind of reponse that we envisioned during our Inter-Parliamentary Union meetings in London and I urge its adoption.

. The ACTING PRESIDENT pro tempore. The question is one agreeing to the amendment of the Senator from Pennsylvania. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced, yeas 95, nays 5, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—95

Adams	Ford	McClure
Armstrong	Fowler	McConnell
Baucus	Garn	Metzenbaum
Bentsen	Glenn	Mikulski
Biden	Gore	Mitchell
Bingaman	Gorton	Moynihan
Bond	Graham	Murkowski
Boren	Gramm	Nickles
Boschwitz	Grassley	Nunn
Bradley	Harkin	Packwood
Breaux	Hatch	Pressler
Bryan	Heflin	Pryor
Bumpers	Heinz	Reid
Burdick	Hollings	Riegle
Burns	Inouye	Robb
Byrd	Jeffords	Rockefeller
Chafee	Johnston	Roth
Coats	Kassebaum	Rudman
Cochran	Kasten	Sanford
Cohen	Kennedy	Sarbanes
Conrad	Kerrey	Sasser
Cranston	Kerry	Shelby
D'Amato	Kohl	Simon
Danforth	Lautenberg	Simpson
Daschle	Leahy	Specter
DeConcini	Levin	Stevens
Dixon	Lieberman	Symms
Dodd	Lott	Thurmond
Dole	Lugar	Warner
Domenici	Mack	Wilson
Durenberger	Matsunaga	Wirth
Exon	McCain	

NAYS—5

Hatfield	Humphrey	Wallop
Helms	Pell	

So the amendment (No. 882) was agreed to.

CONTINUING APPROPRIATIONS, FISCAL YEAR 1990

The PRESIDING OFFICER (Mr. PRYOR). Under the previous order, the Senate shall now proceed to the immediate consideration of the continuing resolution (H.J. Res. 407) which the clerk will now report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 407) making continuing appropriations for the fiscal year 1990, and for other purposes.

The PRESIDING OFFICER. The time for debate on the resolution is limited to 10 minutes equally divided between the managers. In addition, there will be 30 minutes of debate on the Byrd-Hollings-Thurmond amendment with 2 minutes controlled by the Senator from West Virginia [Mr. BYRD] and 14 minutes controlled by the Senator from South Carolina [Mr. THURMOND] and 14 minutes controlled by the Senator from South Carolina [Mr. HOLLINGS]. Who yields time?

Mr. BYRD. Mr. President, I yield myself such time as I may require from the 5 minutes.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, less than a week ago, on September 22, 1989, Hurricane Hugo slammed into the southeastern coast of the United States mainland near Charleston, SC after wreaking havoc in the Virgin Islands and Puerto Rico in the Caribbean.

Hugo caused unprecedented devastation to the islands in its path and the coastal and inland areas of South and North Carolina. As the storm moved ashore it brought with it several inches of rain and winds in excess of 100 miles per hour. As the storm moved north over land during the day it dropped several more inches of rain from Charleston to central Pennsylvania and New York State, including over my State of West Virginia.

Mr. President, the amendment which I will offer on behalf of myself, Mr. HATFIELD, Mr. HOLLINGS, Mr. THURMOND, Mr. SANFORD, and Mr. HELMS will continue the direct Federal presence in the region of greatest devastation. It provides $1.1 billion to help clear debris, restore power, and protect public safety.

These funds are to be scored as mandatory under the bipartisan budget agreement and therefore neither the budget authority nor the outlays will be scored against the VA-HUD and Independent Agencies Subcommittee's 302(B) allocations.

Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 1 minute 55 seconds.

Mr. BYRD. I reserve that time.

Mr. HATFIELD. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Oregon has 5 minutes.

Mr. HATFIELD. Mr. President, I would like to say one word on the matter of the reason for the continuing resolution. I think it ought to be clearly understood that at this date the Senate Appropriations Committee has responded, acted upon, and reported every one of the appropriations bills to the floor. We have three to complete with floor action. There are those that have been sent to conference. There is one on the President's desk.

I should like to make a point of record on behalf of our committee, and certainly commend the chairman at the same time I make this point, that the Senate Appropriations Committee and the House Appropriations Committee have certainly acted in good time to try to avoid this continuing resolution. I think it ought to be pointed out that an ordinary problem of the drugs and that issue that superseded procedures and dates and all certainly is the reason, legitimate reason, for us having this particular continuing resolution

I join, as the Senator from West Virginia has indicated, in support of this one amendment relating to the disaster of Hugo in the Carolinas. I think it is straightforward, effective, October 25, no hidden agendas or anything else. It is a very straightforward formula, a classic extension of the fiscal year time in order to keep the Government running. I support the amendment.

Mr. BYRD. Mr. President, may I say that the House leadership has informed us that the House will accept this amendment if it is the only amendment, and the resolution will be quickly sent to the White House so that the devastated areas can receive relief quickly.

Mr. President, my remaining time I yield to the distinguished Senator from South Carolina [Mr. HOLLINGS].

Mr. HOLLINGS. Mr. President, I thank our distinguished chairman, Senator BYRD, for his leadership, as well as our majority and minority leaders. Likewise, it is good to work with my distinguished senior Senator, Senator THURMOND, on the same problem. I also thank the distinguished chairman of our Budget Committee, Senator SASSER, and the extraordinarily capable efforts of the outstanding Senator from Maryland [Ms. MIKULSKI].

In this amendment, we are providing under the Budget Act for mandatory expenditures outside of the 302(b) allocation. Let me emphasize that this is not only for the Carolinas; it is also for Puerto Rico and the Virgin Islands. Everyone should grasp the magnitude of the blow inflicted by Hugo. At Charleston Air Base they clocked winds of 166 miles an hour. The hurricane hit at high tide. It threw up a 20-foot surge of water, which not only covered totally the Barrier Islands but back miles behind by the Inland Waterway, wiped away houses in McClellanville and Awendaw

It has now left 40,000 people with homes uninhabitable or totally destroyed. It has severed electric power and communication lines. In the affected counties, 36 percent of trees are on the ground. Seventy percent of trees in the national forests are down. One-third of the highway system is damaged. Crop losses stand at $100 million, and that number will rise.

Yet, amidst this wreckage and ruin, the word generosity has taken on new meaning. Sam Walton, of Arkansas, called all his suppliers and sent 14 tractor trailers with food and diapers

along with the experts to help us in the distribution of relief supplies.

Amoco, Metropolitan, and Philip Morris, to name just a few, have been extremely generous. The cities of Greenville in my own State, and Virginia Beach have sent firefighters. Wilmington has sent food. It has been one magnificent response. The Red Cross, the Salvation Army, the National Guard, right on down the list. And Washington was immediately responsive; Secretary Skinner of Transportation sent the Coast Guard into action. We had choppers sent in to rescue people who had been caught on the islands. The Marines, the Army have both pitched in generously.

Yet there is one glaring exception to this excellent performance, and that exception is exactly the agency which is supposed to spearhead assistance in time of a disaster; namely, the Federal Emergency Management Agency.

As they say back home, "I didn't come to town on a turnip wagon." I know something about civil defense, having started with Gov. Nelson Rockefeller 30 years ago, when we had the Office of Civil Defense mobilization. That effort evolved into the Office of Emergency Planning and finally into FEMA, Federal Emergency Management Agency.

I was on the phone as soon as I came back to Washington late Friday night and on Saturday morning with Mr. Robert Morris of FEMA. I said, "We need generators. It will be weeks before we can restore electric lines." He said, "I don't have any generators." I said, "Man, come on. Let's quit kidding. I do not expect you to have them in the office. But surely you know how and where to get them." He said, "We don't have any."

Just to follow that thought, I pursued it even on Sunday with him. He said local officials had not filled out the necessary forms. Then he said local people had not said they needed generators. This is just plain obtuse. Right this minute, Berkeley County needs 44 generators to get a sewer system to prevent disease, and every one of those island areas and small towns have obvious, self-evident needs for generators. FEMA shouldn't have to wait for requests. And spare me this application-form nonsense.

On Saturday, I turned to General Gray and the Marines. Thanks to General Gray and Lieutenant General Cook out of Norfolk, VA, who was flown immediately down to South Carolina, we received a shipment of equipment from Camp Lejeune, NC. We used it immediately to keep the hospitals going.

On Sunday FEMA continued to stonewall me. I appealed to the White House, to Governor Sununu, and then to Gen. Colin Powell and Secretary Cheney, who were all most helpful. The National Guard has done a magnificent job, but we need additional manpower.

I fought from Monday until last night. We finally obtained a supply company out of Fort Stewart to help us distribute the massive supplies coming in. The media has done a magnificent job of reporting the scale and tragedy of this disaster.

Food aid is coming in. We do not want it to spoil. We can move it to other places. For instance, on Sunday when the city of Wilmington sent two truckloads of food to Charleston, the mayor of Charleston sent them up to Summerville. Yesterday morning the sea food company at Beaufort called and said "I know you are working on the evacuation. We have 1,000 hot fish meals coming to all of your workers there in Charleston." The mayor said, "My crowd can eat sandwiches. Send them to Awendaw where they were totally wiped out where there is no store, no food, no housing. They are huddled in the cold and wet as it continues to rain."

So there has been a magnificent sharing of resources, and if we can get that distribution shortstopped in all of these other towns, then we can get supplies going into all 17 impacted counties in South Carolina: Dorchester, Charleston, Berkeley, Georgetown, Horry, Orangeburg, Sumter, Calhoun, Lee, Clarendon, Florence, York, Williamsburg, Chester, Lancaster, Kershaw, and Fairfield.

Mr. HOLLINGS. FEMA said with pride, "We are going to announce the opening of five FEMA offices to service 17 counties. So you ought to feel good in Charleston, where you have two." I said, "Where are those two?" They said "Over on Sam Rittenberg Way and across at East of the Cooper." I said, "That is the suburbs. What is the poor fellow down in the city to do, walk to the blooming suburbs to apply? Come on, now. You need five offices in Charleston alone. What are the people in North Charleston going to do, nothing? Eighty thousand people, and no office." They countered that there is "no application," no need.

It is an outrage. These are supposed to be the experts. They knew Hugo was coming. They could track it across St. Croix and Puerto Rico. This is the outfit we count on to take charge in a catastrophe. Instead they install themselves as the chief bottleneck. It is the sorriest bunch of bureaucratic jackasses I have ever encountered in my life. And now I receive telephone calls from within FEMA from people who said "Senator, you are exactly right. I have been here 17 years, and they just don't do anything. They study how to deliver the mail after a nuclear disaster." What in the world good is that going to do?

I appreciate the President's decision to visit South Carolina tomorrow. It will educate him to see the magnitude of the destruction. Maybe he will witness the wonderful cooperative spirit, and the excellent response of the Corps of Engineers, the Army, Marines, and Coast Guard. But we need still more troops. We need still more generators. We need temporary shelter and housing. The trailers are all bottlenecked in Atlanta, GA.

They are giving me the application-bureaucratic-red-tape routine when they ought to be moving those trailers right now to take care of the homeless. I tell you there is one disaster worse than Hugo, and that disaster is the FEMA crowd up here in Washington.

Senator THURMOND and I went down last Friday, and said the President has declared the disaster, everything is coming. Then every time I turn around there is another roadblock, bottleneck, and stonewall, another stupidity by that FEMA crowd.

So let me thank the leadership once again. FEMA cannot say they are short of money. There is now $1.1 billion for the Virgin Islands, Puerto Rico, and the Carolinas. This is only the beginning. I can tell you here and now that the total damage is going to be nearly $3 billion to $4 billion and some estimates are as high as $5 billion. You have no idea of the damage. The military alone have damage of $200 to $300 million on their various bases, although they took extensive measures to secure the equipment.

The Forestry authorities are ready to go in and salvage the forests, but FEMA said we do not need it yet. All this emergency effort is being bottlenecked right here in Washington, and the people of America ought to understand.

I yield to the distinguished chairman of our committee.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

AMENDMENT NO. 885

Mr. BYRD. Mr. President, with the understanding that the time consumed here is to be charged in accordance with the agreement, I send the amendment to the desk on behalf of myself, Mr. HATFIELD, Mr. HOLLINGS, Mr. THURMOND, Mr. SANFORD, and Mr. HELMS.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. HATFIELD, Mr. HOLLINGS, Mr. THURMOND, Mr. SANFORD, and Mr. HELMS, proposes an amendment numbered 885.

On page 8 after line 2 insert the following:

SEC. 107. For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), an additional $1,108,000,000 for fiscal year 1989, to remain available until expended.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized. The Senator from South Carolina has 14 minutes.

Mr. THURMOND. Mr. President, I rise today in strong support of the amendment sponsored by the distinguished chairman of the Appropriations Committee, Senator BYRD; Senator HATFIELD, ranking minority member; Senator HOLLINGS; Senator HELMS; Senator SANFORD, and myself.

I am extremely pleased that this amendment provides an additional $1.1 billion for the Federal Emergency Management Agency to be used for disaster relief. This money will benefit the areas that were recently devastated by Hurricane Hugo. I am deeply gratified that the administration responded so promptly to my request of several days ago to do this.

As my colleague are aware, last week, Hugo ripped through South Carolina, North Carolina, Puerto Rico, and the Virgin Islands. The hurricane which was one of the worst in history, has caused severe, damage. In South Carolina the damage estimate has already surpassed $3 billion. In recent days, the outpouring of support from people around the Nation in the form of contributions of food, clothing, technical assistance, and money, has been incredible. The disaster victims deeply appreciate the generosity of their fellow man.

This additional funding, today, will further aid these people in the slow process of rebuilding their communities, homes and, most important, their lives. I want to take this opportunity to personally thank all the public and private agencies who have contributed to the disaster relief effort. Among these public agencies are the Federal Emergency Management Agency, the Army Corp of Engineers, the Department of Labor, and the Department of Housing and Urban Development. The Department of Defense has also been helpful—Robert Page, the Assistant Secretary of the Army for Civil Works went with me to Charleston last Monday, and he showed all the necessary support from the Defense Department.

Further, I have contacted the Department of Justice, and asked them to expedite the request submitted by Governor Campbell for $1.1 million to assist law enforcement. The Department of Agriculture is also cooperating. We had a meeting here yesterday in my Capitol office with Department of Agriculture officials, and they are trying to help in every way they can. The Small Business Administration [SBA] has been involved. Last Monday, at my request, they sent a representative to South Carolina to join us when we met with mayors and other groups. Additionally, Susan Engeleiter, the Administrator of the SBA has been to South Carolina.

In addition, I want to thank the Red Cross and the Salvation Army for their cooperation and assistance. Both organizations have been raising funds to help in this effort.

I want to commend Governor Campbell of South Carolina for the fine way in which he has handled this matter. He declared an emergency and mandated that people move out from the beaches. This action saved hundreds of lives. If this had not been done, I am sure we would have had a great loss of life. The only figures we have on loss of life so far is around 18.

I want to thank President Bush for agreeing to go to South Carolina tomorrow. I made a request to the White House a few days ago, and they said they would work it in, if they could. Senator Hollings and I will be going down with him on this trip tomorrow.

Additionally, I would like to thank the President, Governor Sununu, and others at the White House for their support. Governor Campbell's request for designation as a Federal disaster area was approved in record time.

I am pleased that this funding by the administration is being provided in this vehicle, so it will be able to reach the areas that so desperately need it in the most timely fashion. I know my colleagues realize the urgency of this situation, and I hope they will support this amendment.

I also want to express my appreciation to the Alabama Baptist Convention. Additional, the utilities, have been diligent in their efforts to restore power and telephone service to South Carolina.

I want to especially thank South Carolina Electric and Gas, South Carolina Electric Cooperation, Southern Bell as well as many other companies from outside the region.

I want to express my appreciation to the following towns that have adopted towns in South Carolina for the purpose of providing assistance: Marion, IA—Marion, Middleburg, VA—Moncks Corner, and Travelers Rest, SC—McClellanville.

Many companies have assisted in various ways—Mead Johnson, Philip Morris, General Mills, the Ross Co., the Northwest Lumber Association, Northern Telecom, Home Insurance Co., Robinson Lumber Co., and many others. I do not want to exclude some, but fortunately they are too numerous to name all of them. We wish to express our sincere appreciation to all of them.

I also want to express my appreciation to the people that have assisted in the food drive that will be conducted this weekend. I contacted the Atlantic Coast Conference, and the Southern Conference and they have agreed to collect canned goods at 10 games that will be played on Saturday, September 30. They are asking those who attend those games to bring canned goods. Trucks will be sent to haul the food that is collected down to the areas that are so badly affected.

Mr. President, I want to say that in my lifetime I have not seen as much damage as I saw in this disaster area. South of Charleston, from Kiawah, there was a little damage. I do not believe Hilton Head was damaged or the area toward Savannah. However, the beaches, beginning with Folly Beach on up to Isle of Palms, Litchfield, Myrtle Beach, Cheny Lake, and extending to the North Carolina line, were severely damaged.

I went to South Carolina last Friday and surveyed the entire coast of South Carolina, from the beginning of the devastation in Charleston up to where it ended at the North Carolina line. I am sure Senator HELMS will tell about the damage to North Carolina. I have never seen so much damage in my life. It looked like there had been a war. The section is entirely ravaged, and we need all the help we can get down there.

In addition to the water and wind damage along the beaches, the storm, along with tornadoes, turned inland and severely damaged the eastern section of the State.

I visited the air base in Myrtle Beach, and there were some roofs taken off there. I went to Shaw Air Force base in Sumter, and every building and home there was heavily damaged. Trees, 3 and 4 feet in diameter, were popped off like toothpicks. I have never seen such devastation.

Senator HOLLINGS and I are working hard to get all the help we can down there. I want to mention that we have worked with Congressman RAVENEL who has been most diligent in serving his congressional district.

I have also been in contact with the following mayors in South Carolina and I commend them for their efforts: Mayor Gisson, Myrtle Beach; Mayor Riley, Charleston; Mayor Cockfield, Lake City; Mayor Creech, Sumter; and Mayor Pearce, Florence.

We are very appreciative of the cooperation of all concerned in connection with this effort and I am now going to yield several minutes, whatever he requires, to Senator HELMS of North Carolina.

The PRESIDING OFFICER (Mr. DIXON). The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the able Senator from South Carolina.

Mr. President, this amendment provides $1.1 billion in additional funds for the Federal Emergency Management Agency [FEMA]. These funds will help the people in North Carolina, South Carolina, Puerto Rico, and the

Virgin Islands recover from the Hurricane Hugo disaster. This emergency money will help many North Carolinians get back on their feet.

Mr. President, we all watched as Hurricane Hugo sowed a path of destruction from the Virgin Islands to Puerto Rico, to the Carolina coast. The people in North Carolina and South Carolina prepared for the worst. They boarded up their homes and their businesses and they evacuated coastal areas.

No one was prepared for the magnitude of the destruction. Hurricane Hugo wreaked havoc in North Carolina. In all, 51 counties were affected by the hurricane. The Charlotte area was among the hardest hit—70- to 90-mile-per-hour winds battered our State's most populous region. After the hurricane swept through, over 500,000 people were left without electricity. Over 200,000 will be without electricity for 2 weeks. About 120,000 are without water.

Many homes and businesses were damaged by fallen trees and the high winds. Here is a summary of the preliminary reports about the number of homes and businesses that sustained damage. Mecklenberg County: 675 homes damages, 6 destroyed, 89 businesses damaged, 4 destroyed. Gaston, Union, and Lincoln: 185 homes damages, 10 destroyed; 914 businesses damaged, 5 destroyed.

Mr. President, another hard-hit area was Brunswick County, which is on North Carolina's coast. The hurricane devoured a lot of the sand and many of the dunes that protect oceanside property. Between Holden Beach, Long Beach, and Ocean Isle, over 135 homes were destroyed and about 350 were damaged. These numbers are staggering.

The damage estimates are almost beyond belief. The preliminary damage estimates for four counties in North Carolina already tops $883 million. I have been informed that the final damage estimates could exceed $1 billion.

In light of the magnitude of the damage in North Carolina, as well as other areas, Senator THURMOND and I requested an additional allocation of $1.1 billion for FEMA. These additional funds will be used to help people rebuild their homes and their businesses.

Governor Martin requested President Bush to declare North Carolina eligible for disaster relief. I supported the Governor's request, and on Monday President Bush declared four counties disaster areas.

Mr. President, after Hugo hit North Carolina I called the officials in North Carolina to offer my assistance. I was on the phone most of Sunday and Monday trying to help out where I could. We were able, for example, to get more generators for Charlotte and expedite other aid.

The folks at the White House and at FEMA have been very helpful. I am especially grateful to Bob Morris, acting director of FEMA, and John Sununu, Chief of Staff to the President. They have done everything within their power to help us get the assistance that we need. I also thank President Bush and Richard Darman for supporting this additional $1.1 billion for FEMA. The allocation of these additional funds is the first step toward recovery for disaster stricken North Carolina.

Mr. President, I ask unanimous consent to print in the RECORD a letter written by Gov. Jim Martin, to the President requesting disaster designation and my own letter on September 25, supporting that request.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATE OF NORTH CAROLINA,
OFFICE OF THE GOVERNOR,
Raleigh, September 23, 1989.

The PRESIDENT,
The White House, Washington, DC.

Through: Mr. Major P. May, Regional Director, Federal Emergency Management Agency, Region IV, 1371 Peachtree Street, N.E., Atlanta, GA.

DEAR MR. PRESIDENT: Under the provisions of Section 401, Public Law 93-288 as amended by Public Law 100-707, as implemented by 44 CFR 206.36, I request that you declare a major disaster for the State of North Carolina as a result of Hurricane Hugo, September 21-22, 1989, which caused damages that are estimated to be in the millions.

In response to the situation I have taken appropriate action under State law and directed the execution of the State Emergency Plan on September 20, 1989.

On September 22, 1989, I requested a joint Federal, State, and local survey of the damaged areas. Preliminary assessments are incomplete at this time.

I have determined that this incident is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that supplementary Federal assistance is necessary. I am specifically requesting Temporary Housing, Disaster Unemployment Assistance, the Disaster Loan Program of the Small Business Administration, Food Stamp Program, and Public Assistance. Preliminary estimates of the types and amounts of assistance needed under Public Law 93-288, as amended, will be provided when known. Detailed documentation of our situation is being prepared and will be submitted as soon as possible.

The following information is furnished on the nature and amount of State and local resources that have been or will be used to alleviate the conditions of this disaster: Activation of the National Guard and Highway Patrol for security and support for evacuation and rescue; and activation of all other State Emergency Response forces for support of Emergency Operations.

I intend to implement the Individual and Family Grant Program (IFGP).

I certify that, for this major disaster, the State and local governments will assume all applicable non-Federal share of costs required by Public Law 93-288, as amended by Public Law 100-707.

I have designated Joseph F. Myers as State Coordinating Officer for this request. He will work with the Federal Emergency Management Agency in damage assessment and may provide further information or justification on my behalf.

See attachment for preliminary list of affected counties.

Sincerely,

JAMES G. MARTIN.

U.S. SENATE,
Washington, DC, September 25, 1989.

The PRESIDENT,
The White House,
Washington, DC.

MY DEAR MR. PRESIDENT: I don't believe anyone will need any persuasion that the State of North Carolina suffered disastrous circumstances when the so-called Hurricane Hugo swept through the Central and Western Piedmont sections of North Carolina on September 22.

I certainly join our Governor Martin in formally requesting that you issue a disaster declaration for those counties that were so severely damaged.

Needless to say, the Governor and I are absolutely persuaded that assistance is needed from the Federal Emergency Management Agency, and other appropriate federal agencies, to help the citizens in those areas to begin their recovery from this disaster.

I do hope that there can be swift approval of Governor Martin's formal request.

Many thanks, and kindest personal regards.

Sincerely,

JESSE HELMS.

Mr. HELMS. I thank the Senator for yielding to me and I yield the floor.

INCREASED FUNDING FOR FEMA

Mr. SANFORD. Mr. President, I rise today to express my strong support for this special appropriation of $1.1 billion for the Federal Emergency Management Agency [FEMA]. It is certainly pleasing that the Federal Government has acted in a quick manner to provide assistance to those affected by Hurricane Hugo.

As you all know, after the terrific damage in our Virgin Islands, the Carolinas were devastated by the worst hurricane to hit the eastern coast in two decades. While the South Carolina coast bore the initial blow from the storm, the coastline of North Carolina and the western part of the State also sustained terrible damage. Fifty-one North Carolina counties sustained wind and flood damage from the hurricane, 5 counties in the State have been declared national disaster areas. Storm damage estimates for the State of North Carolina will exceed $400 million.

I have visited areas hit by Hurricane Hugo and have heard numerous stories of personal tragedies and heroic relief efforts, and I am pleased that the Federal Government will lend a badly needed hand to the determined people of North Carolina.

Mr. President, I have been very impressed with the quick action and excellent cooperation that has been provided by FEMA to my office and most importantly, to the people. FEMA has acted in a professional, efficient manner, and I look forward to working with the Agency to ensure that those affected by the storm receive priority assistance.

Thank you, Mr. President.

Mr. GARN. Mr. President, this appropriation of $1,108,000,000 is the amount that the committee has been advised by the administration will be required to address the currently estimated disaster relief needs of those areas devastated by Hurricane Hugo. It should be noted that once a disaster declaration has been made, no specific limitation on assistance levels are determined, and all eligible claims are honored within the total budgetary resources available to FEMA. So even if it is later determined that this estimate of $1.1 billion is too high or too low, all eligible costs will be covered. Again these eligible costs will be covered from this appropriation, or if the $1.1 billion is insufficient, from funds carried over from prior years, or from the $100 million appropriation contained in the regular fiscal year 1990 appropriations bill.

Mr. President, it is my understanding that this extraordinary appropriation is being treated, for budgetary scorekeeping purposes, as a mandatory item and as such will not affect current scoring of the fiscal year 1990 Appropriations Act. This means that budget authority and outlays flowing from this appropriation will not be added to amounts provided in that bill for the purpose of determining compliance with the section 302(b) subcommittee budget allocation, nor will an adjustment for possible later requirements be added to the $100 million appropriation included in both the House and Senate versions of H.R. 2916.

This is important to understand because the conference committee on that measure already confronts extremely constrained budgetary limitations within which to accommodate the differing priorities of the House and the Senate. Reaching a satisfactory compromise between the two versions of this bill may already be virtually impossible, given our limited allocation. But it is clear that there is no way to even partially include the costs of addressing the devastation of Hurricane Hugo within the parameters of the subcommittee's budget allocation.

Ms. MIKULSKI. Mr. President, I rise in support of this continuing resolution, and in particular for the $1.1 billion we have made available to relieve the victims of Hurricane Hugo.

In the past few days, the hearts of all Americans have gone out to the people of the Virgin Islands, Puerto Rico, and North and South Carolina because of Hurricane Hugo.

As the storm approached our coast, we all recognized that it would cause severe damage. But it was only in the storm's aftermath that our country realized that Hugo's destructive force was probably worse than any hurricane in this century.

This supplemental appropriation will go a long way to providing these effected areas with the resources they need to recover from this terrible tragedy.

It will provide FEMA with money:

To assist those individuals and families who have lost their homes and all the possessions they have spent a lifetime accumulating;

To continue the direct Federal presence in the Carolinas and the Caribbean in helping to clear debris, restore power and basic infrastructure, reduce threats to public safety, and protect private property; and

To pay for basic supplies that will be used to provide food and shelter to those victims of Hugo who have no where else to go but their local disaster relief office.

In providing this supplemental, the Senate is saying that the budget and appropriations process can anticipate many things, but that we cannot anticipate, or budget for, an act of God.

None of us knows if the funds we are providing today will be enough for our country to recover from this storm. In all candor, I suspect we will need more funding for this purpose in the future. But this special appropriation is a substantial downpayment on the responsibility which we have as a nation to aid our fellow citizens in their time of need.

As chair of the subcommittee that oversees FEMA's disaster relief program, I want to especially commend my distinguished colleague on the Appropriations Committee from South Carolina, FRITZ HOLLINGS, for his work on this funding proposal.

Without his persistence and skill, this special supplemental appropriation simply could not have been acted upon in such a timely fashion.

His efforts in this time of great need for the Carolinas have been extraordinary, and the people of South Carolina are very fortunate to have such a forceful and resourceful advocate for them in the Senate.

I pledge to work with him, and all those who represent areas affected by Hugo, in the coming months to make sure that we do all that we can to repair the damage and destruction caused by Hugo.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, how much time remains?

The PRESIDING OFFICER. Six minutes on the side of the Senator from South Carolina.

Mr. HOLLINGS. Let me yield 2 or 3 minutes to my distinguished colleague from Nevada [Mr. REID].

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, in this morning's news I heard the junior Senator from South Carolina criticize FEMA. I heard that and I wanted to take a few minutes on the floor this morning to indicate as to the experience that the Senator from South Carolina has had with FEMA, he does not stand alone. We have had experience in the State of Nevada with FEMA and it has not been good.

With the PEPCON explosion which was devastating in the loss of human life, injury, and absolute devastation of personal property we found FEMA not responsive. We found them extremely political. For example, they were leaking to a person who was running for public office some of their reports as to whether or not there would be aid. Then there was aid. Then there was no aid. Then there was aid, and then there was no aid. This was all leaked through political sources.

When I served in the House of Representatives I served on then the subcommittee chaired by Senator GORE, then a Member of the House, where we held hearings on FEMA and their efficiency, and it was not good.

So in short, Mr. President, I report to the people of South Carolina and the people of this country that they better keep an eye on FEMA because FEMA has not been responsive to the people of the State of Nevada and I hope that the people of South Carolina are treated in a more responsive, a more professional, and a more precise fashion than in fact the people of Nevada have been treated in the past.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the Federal Emergency Management Agency is the group expressly tasked with preparing for disasters and responding to them with expert contingency plans, equipment, food, you name it. The idea is that, when a catastrophe hits, you press the button and FEMA springs into action with an elaborately planned relief effort. That is the theory. But the reality is that FEMA is a bureaucratic morass. It has descended on South Carolina with an army of form-pushers and nay-sayers.

Yet you cannot even get to Sullivan Island or Isle of Palms to find a form to fill out. There is no city hall left in all these other places to get the appropriate form.

At the same time, my friends in Puerto Rico are calling me; they are having trouble down there filling out forms. They say that in Puerto Rico they cannot get anything out of FEMA.

I spent all day Monday down in my State. I asked, "Where is that FEMA fellow; I am going to wring his neck," because every time I would get things moving in the Pentagon for assistance, FEMA would say we do not need it or you have not filled out the necessary forms.

FEMA is totally inadequate and shot through with politics. It is a tragedy in South Carolina. We have had enough of delegations coming to South Carolina and expressing their concern. We want results. Enough of this blizzard of forms. The mayors and public entities can maintain accountability. We know how much we owe. Senator THURMOND and I can take care of it at the Federal level.

The military are yearning to help, the Corps of Engineers and the Seabees, right down the line. Fort Bragg is calling my office and saying: "It would be a wonderful readiness drill. Can you arrange it? It would be a good exercise." We need them.

The question is whether it is going to take 10 weeks to get South Carolina back on its feet, or is it going to take 10 days. We could use all that military manpower and right this minute.

They sent that FEMA fellow up in a helicopter surveying, surveying, surveying; he did not have any answers to anything. He was hiding. I can tell you what he was doing. They stay clear of me. I cannot catch them. So do not come around here praising that FEMA crowd and thanking them. I tell you that they are the bottleneck.

What a contrast to the tremendous generosity and response South Carolina is receiving from all over this country. Last night at 10 o'clock I obtained the donation of 120 portable toilets from Waste Management Association. We need them in areas where we do not have sewers. There are countless basic needs of this kind. Hungry people are still standing in line; they still need food.

This is not a weekend drill for the National Guard. It is a long haul. But we can expedite relief by bringing the military in with a responsible command entity. I assure you that they have the expertise to take over and move the relief supplies and manpower.

The local officials are keeping an accounting, and they can give us the bill at the State and Federal level. We can handle it from there. This is no time to stand in line and fill out forms and jump through hoops. Our people ought to be given the grants now. They are in desperate circumstances and we are choking on redtape and bureaucracy.

I thank the distinguished Chair.

Mr. President, I ask for the yeas and nays on the resolution.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, in closing, again, I wish to thank the Government agencies for all that they have done to help. We will continue to call upon them and I am sure we will get the necessary cooperation.

I wish to thank everyone again for all the help we have received. If anybody wishes to contribute food or anything else to help in this disaster, I put a statement in the RECORD this past Monday that lists where they can send food, money, or other assistance (Page 21434).

Again, we appreciate the cooperation of people all over the country for everything they have done to help us in this time of catastrophe, suffering, and trouble.

The PRESIDING OFFICER. All time has expired on the amendment.

The question is on agreeing to the amendment.

Mr. HOLLINGS. Mr. President, I believe I asked for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested on the amendment.

Mr. HOLLINGS. I withdraw that request.

Mr. HATFIELD. Mr. President, parliamentary inquiry. I understand the yeas and nays had already been ordered on the amendment, as might be amended. The Senator has now withdrawn his request on the amendment.

Mr. HOLLINGS. I stand corrected.

Ms. MIKULSKI. Mr. President, the VA-HUD appropriations bill for 1990 as reported by the Senate Appropriations Committee provided $100 million in new budget authority for FEMA's disaster relief programs. These new resources, coupled with an estimated $60 million in unobligated 1989 funds and $50 million in estimated recaptures during 1990 were expected to meet FEMA's disaster relief needs for 1990. No one could have anticipated a hurricane with the destruction of Hugo.

FEMA now estimates that the costs of disaster relief to the Virgin Islands, Puerto Rico, and the Carolinas will exceed $938 million. Mr. President, it is clear that we must provide funds well in excess of the $100 million in the continuing resolution. Today we are providing an additional $1.1 billion as an amendment to the continuing resolution and we will provide whatever additional resources are needed in the future as the actual extent of the damage becomes clearer.

Mr. President, I would like to enter into a colloquy with the distinguished chairman of the Budget Committee, Senator SASSER, to discuss the budget treatment of the additional funding for FEMA necessitated by Hurricane Hugo. In particular, I would like to discuss with the Senator from Tennessee whether the Budget Committee will treat these additional funds as mandatory or discretionary appropriations.

Mr. SASSER. I thank the Senator. Under our current scorekeeping conventions, the FEMA disaster relief accounts are classified as discretionary. Thus, the $100 million already provided in the continuing resolution for FEMA is classified as a discretionary expenditure, and was so scored in the Senate Budget Committee's scoring of the VA-HUD appropriations bill when the Senator from Maryland brought that bill to the floor. Given the unforeseen nature of the expenditures for Hurricane Hugo, and the urgency of the situation, the Budget Committee has decided to alter the classification of the FEMA disaster relief account, and treat the funds needed for Hurricane Hugo as mandatory expenditures in 1990. Therefore, the Budget Committee will not score the budget authority and the outlays associated with the Hurricane Hugo moneys against the 302(b) allocations for the VA-HUD Appropriations Subcommittee. Any additional funds provided in the future for this disaster will also be considered mandatory expenditures, and therefore outside of the 302(b) limits imposed under the Budget Act.

I would like to note, however, that this treatment of the FEMA disaster program as a hybrid mandatory/discretionary account is relevant only to the funding for damages relating to Hurricane Hugo given the extraordinary needs that give rise to this decision. Any proposed increases in 1990 in the FEMA disaster relief account for expenses not related to Hurricane Hugo will be considered as discretionary spending. The Budget Committee plans to revisit the future mandatory or discretionary treatment of all the disaster-related programs later this fall.

Ms. MIKULSKI. I would like to thank the chairman for his assistance on this matter. This ruling by the Budget Committee makes it possible to provide the urgent relief needed without delays that would otherwise follow. I also want to note that I know the Senator is concerned about the overall deficit picture and I would like to assure the Senator from Tennessee that despite the differences in outlays between the House and Senate VA-HUD appropriations bills, that it is my intention to return from conference with the House with a bill that will remain within the Senate's 302(b) limits for both BA and outlays.

Mr. SASSER. I thank the distinguished Senator from Maryland for her assurances.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 885) was agreed to.

ESSENTIAL AIR SERVICE

Mr. BYRD. Mr. President, the committee recognizes that the terms of this continuing resolution as applied to the Essential Air Service Program would not provide sufficient funding through October 25, 1989, if funds were apportioned on a pro rata basis. Therefore, the committee intends that the administration recognize the seasonal patterns of the essential air service obligations and apportion sufficient funds to enable the program to continue without interruption.

The committee understands that the Essential Air Service Program would require $2 million to provide 1 month of subsidized air service. The committee expects that sufficient funds will be made available under the terms of the continuing resolution to enable the program to continue without interruption.

I yield to Mr. LAUTENBERG, who is the chairman of the Appropriations Subcommittee on Transportation.

Mr. LAUTENBERG. I thank the Senator.

Mr. President, very quickly, both the Department of Transportation and OMB recognize the need for this approach on a temporary basis. They have agreed to proceed following the committee's intentions. I yield the floor.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the joint resolution.

The amendment was ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

So the result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—100

Adams	Conrad	Grassley
Armstrong	Cranston	Harkin
Baucus	D'Amato	Hatch
Bentsen	Danforth	Hatfield
Biden	Daschle	Heflin
Bingaman	DeConcini	Heinz
Bond	Dixon	Helms
Boren	Dodd	Hollings
Boschwitz	Dole	Humphrey
Bradley	Domenici	Inouye
Breaux	Durenberger	Jeffords
Bryan	Exon	Johnston
Bumpers	Ford	Kassebaum
Burdick	Fowler	Kasten
Burns	Garn	Kennedy
Byrd	Glenn	Kerrey
Chafee	Gore	Kerry
Coats	Gorton	Kohl
Cochran	Graham	Lautenberg
Cohen	Gramm	Leahy
Levin	Nickles	Sasser
Lieberman	Nunn	Shelby
Lott	Packwood	Simon
Lugar	Pell	Simpson
Mack	Pressler	Specter
Matsunaga	Pryor	Stevens
McCain	Reid	Symms
McClure	Riegle	Thurmond
McConnell	Robb	Wallop
Metzenbaum	Rockefeller	Warner
Mikulski	Roth	Wilson
Mitchell	Rudman	Wirth
Moynihan	Sanford	
Murkowski	Sarbanes	

NAYS—0

So the joint resolution (H.J. Res. 407), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution, as amended, was passed.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENTS OF VETERANS AFFAIRS, HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES, BOARDS, COMMISSIONS, CORPORATIONS, AND OFFICES APPROPRIATIONS 1990

The PRESIDING OFFICER. Under the previous order, the clerk will now report the VA-HUD appropriations bill, H.R. 2916.

The assistant legislative clerk read as follows:

A bill (H.R. 2916) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes.

The Senate resumed consideration of the bill.

Mr. GORE. Mr. President, I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MURKOWSKI. Mr. President, as ranking minority member of the Senate Committee on Veterans' Affairs, I am most pleased to rise in support of H.R. 2916, the proposed "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Bill, 1990."

I commend Senators MIKULSKI and GARN, the chairman and ranking minority of that important subcommittee of the Appropriations Committee, for their outstanding work on this bill. They have worked hard to send to the floor of the Senate a reasonable bill.

Specifically, with regard to the proposed fiscal year 1990 appropriations for VA medical care, I note that the bill proposes to increase that account by $773 million over the President's request. The total for VA medical care programs under this legislation is $11.5 billion. This is truly an extraordinary amount of money.

Some Members of Congress will argue that this is not enough. To those I say, we may never have enough to do all we would like. However, we must live within the fiscal realities which we face.

I thank the Appropriations Committee members for their fair treatment of VA programs as outlined in this legislation.

Mr. WILSON. Will the Senator from Maryland, the distinguished subcommittee chairman, yield for a question and brief discussion regarding the Department of Housing and Urban Development's Technical Assistance Program?

Ms. MIKULSKI. I would be happy to yield to the Senator for a question.

Mr. WILSON. As the Senator may know, the city of East Palo Alto is a small, recently incorporated low-income minority community with inferior resources and inadequate staffing. Nevertheless, the city is faced with extraordinary community development opportunities in the area of high technology. In vast contrast to its neighboring Palo Alto and other communities located in San Mateo County, East Palo Alto is in dire need of technical assistance in order to plan and manage community development block grant supported development activities and housing programs.

While I know it is very late in the legislative process to raise this issue, I do seek the managers' assistance in asking HUD to work with East Palo Alto because, typically, we do not earmark technical assistance funds.

In my view, the type of assistance and expertise available under the HUD Secretary's technical assistance fund can provide the valuable support this city needs to take full advantage of its CDBG Program and to purse what I see it really needs in terms of building assessed valuation so that this community can begin helping itself.

Ms. MIKULSKI. I would like to comment very briefly on my friend from California's remarks. The Senator is correct in stating that our subcommittee prefers not to earmark technical assistance funds out of the Secretary's discretionary fund for specific projects. Nonetheless, we recognize that the Secretary has broad discretion in administering technical assistance grants to distressed communities such as East Palo Alto, and I join with Senator WILSON in hoping that HUD would give an application from East Palo Alto every consideration so that block grant funding can be used to increase its tax base and provide jobs and housing for its low-income residents.

Mr. GARN. I would also like to offer my assistance and look forward to

working with Senator WILSON, another former mayor, as East Palo Alto seeks Federal relief and guidance.

Mr. WILSON. I thank the distinguished managers.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that an errata sheet that outlines minor typographical errors in Senate Report 101-128, the report accompanying the 1990 appropriations bill for VA, HUD, and independent agencies be printed in the RECORD.

There being no objection, the errata sheet was ordered to be printed in the RECORD; as follows:

ERRATA

The following items are corrections to Senate Report 101-128, the report accompanying H.R. 2916, the Fiscal Year 1990 Appropriations bill for VA, HUD, and Independent Agencies as reported by the Senate Appropriations Committee.

(1) On page 11, the boxhead for the Committee Recommendation for "Medical Care" should read "11,514,546,000" rather than "11,495,546,000".

(2) On page 23, the Committee reduction from the Major Construction advance planning fund should read "$3,000,000" rather than "$1,000,000".

(3) On page 29 of the report, under Committee Recommendation: Change "$1,125,979,060" to "$125,979,060".

(4) On page 30, bottom of the table and page 31, top of page, change:

Subtotal, amendments.....	$1,344,760,000
Subtotal, section 8 and other.....	5,344,990,925
Total, public housing and section 8.....	5,926,221,525

(5) On page 34, second paragraph, change: "500 incremental units" to "500 non-incremental units".

(6) On page 35, third paragraph, delete sentences beginning with "The Committee recommends * * *" and insert: "The Committee recommends $1,344,990,925 for various forms of amendment activity in fiscal 1989. This amount is $56,399,798 below the House allowance, but 80,000,000 above the budget request."

(7) On page 36, second to last paragraph, change: "up to $50,000,000" to "up to $5,000,000".

(8) On page 37, second paragraph, change: "of August 2, 1989' to "on August 2, 1989".

(9) On page 40, second to last paragraph, change: "provided $355,500,000" to "provided $355,509,000".

(10) On page 43, under Committee Recommendation, change: "$178,092,000" to "$101,400,000".

(11) On page 45, on the heading, change: "Federal Hgusifg * * *" to "Federal Housing * * *".

(12) On page 49, first paragraph. Insert at end of paragraph: "The Committee has included bill language allowing a transfer of $10,000,000 from Transitional and Supportive Housing to the Secretary's Discretionary Fund under the Community Development Grants account for homeless assistance activities."

(13) On page 51, second paragraph, delete sentence beginning with "This is $98,000,000 * * *" and insert: "This is $98,000,000 above the House allowance and the same as the fiscal 1989 enacted level."

(14) On page 51, third paragraph, change: "$104,400,000" to "$79,400,000".

(15) On page 52, fifth item, change: "$1,250,000" to "$1,450,000"; and after sixth item, add a seventh item: "−$200,000 from special projects, to be taken at the agency's discretion."

(16) On page 54, third paragraph, change: "at least 665 single family" to "at least 730 single family".

(17) On page 57, first paragraph, change: "Hgusifg" to "Housing".

(18) On page 57, second paragraph, change: "Housifg" to "Housing" and "steam" to "stream".

(19) On page 57, third paragraph, the sentence beginning "It is a matter * * *", change: "penalize" to "penalizes" and "deny" to "denies".

(20) On page 58, the Staff-Year Summary, under Office of General Counsel, Change to Agency Request, change: "+17" to "−3" and

On page 59, Total, Senate Recommendation: "14,351" to "14,355" and,

On page 59, Total, Change from Agency Request: "+1,134" to "+1,140".

(21) On page 59, second paragraph, change: "528 FTE's" to "528 staff years".

(22) On page 105, under Interagency Council on the Homeless, Program Description, change: "15 designated Federal agencies" to "17 designated Federal agencies" and "an executive director appointed by the chairman." to "an executive director appointed by the council members."

(23) On page 106, the boxhead figure for the Committee recommendation under NASA's "Research and Development" should read "$5,367,600,000" instead of "$5,324,600,000."

(24) On page 108, second paragraph, should read "$200,200,000 below the budget request," instead of "$200,000,000." In addition, the summary table on the space station should reflect this $200,000 adjustment in both the "Development" and the "Total" lines. Finally, in the third paragraph on page 108, "$200,000,000" should be changed to "$200,200,000."

(25) On page 114, the "−$13,000,000 general reduction" should read "−$10,300,000 general reduction."

(26) On page 116, under "Comittee recommendation": the "−$399,200,000" should read "−$399,800,000".

(27) On page 119, the general reduction on Construction of Facilities should read "−$24,800,000" instead of "−$14,000,000."

(28) On page 119, the amount provided in the bill for the initial construction of facilities for the advanced solid rocket motor at Yellow Creek, MS, should read "$10,000,000" rather an "$10,000,000,000."

Mr. WALLOP. Mr. President, I rise in opposition to the bill now before the Senate, the fiscal year 1990 VA/HUD/independent agencies appropriations bill. I do so with great reluctance, however, because there are a number of provisions in the bill which merit the support of this body.

Notwithstanding those provisions, I am very concerned about the expensive budgetary gimmicks hidden in this bill. For starters, the Congressional Budget Office and the Office of Management and Budget score this bill differently. While CBO finds the bill to be consistent with the 302(b) allocation in both budget authority and outlays, the Office of Management and Budget estimates that the Senate bill is $427 million above the 302(b) allocation for discretionary budget authority. The majority of this increase is a result of VA lease-purchase contracting arrangements for five construction projects. These lease-purchase arrangements are much more costly and are inconsistent with the administration's general policy of federally financed construction projects. Mr. President, I do not oppose or question the need for new VA facilities. My opposition is strictly targeted to a method of financing which costs the Federal Government more money than we can afford to spend while we are struggling to meet our Gramm-Rudman targets.

Unless I miss my guess, Mr. President, I don't believe we will meet those targets and the ensuing sequester will result in more dramatic cuts across the board than anyone would like. I think we should take this opportunity to reject this legislation and put forth a more sensible proposal to help prevent that sequester.

The second provision which I have great reservations about is the inclusion of language which authorizes lifting the current limitation on Federal Housing Administration loans. At a time when the FHA is having severe difficulty in bringing any rhyme or reason to its current budgetary situation, I must question our rationale in adopting this unsound provision. In effect, we are financing homes for middle income Americans who can readily obtain mortgage loan from private lenders. This is unwise fiscal policy and will only compound FHA's financial problems.

Also, Mr. President, it has been brought to my attention that there are a number of construction projects in this bill for which the committee has provided budget authority, but the outlays for these various projects are not obligated until late in the fiscal year, so we do not get the full charge for their expenditures in the accounting year in question. This is one of the worst examples of budgetary gimmicks that I can think of and I hope that we will have the foresight to defeat it.

In closing, Mr. President, I must admit that it disturbs me greatly to vote against this legislation because it contains funding for veterans benefits. As a veteran myself, I feel strongly about their needs and have been particularly concerned in recent months about the shortfall in funds for VA medical care which has dramatically reduced the VA's ability to treat patients. To address that growing need, the committee has included $11.5 billion for medical care for fiscal year 1990. I commend the committee for recognizing the needs of our aging veteran population and wholeheartedly support efforts to accommodate their health care needs.

Once again, I will stress that my vote is not cast in opposition to veterans' benefits, Federal housing programs, the space station, or any one particular provision of this bill. These are necessary programs which I advocate. Instead, I am voting against this legislation because it is not sound fiscal policy and will jeopardize our chances of reducing a deficit which is an even greater threat to the overall economy of this Nation and the veterans who have so bravely served it.

Mr. LAUTENBERG. Mr. President, I rise in support of the fiscal year 1990 VA, HUD, and independent agencies appropriations bill.

Mr. President, I first want to express my thanks to the Chair of the VA, HUD, and Independent Agencies Appropriations Subcommittee, Senator MIKULSKI, for her outstanding work on this bill and for her help in securing funding for several items that I had personally requested. Senator MIKULSKI has taken on one of the most difficult subcommittee assignments in the Senate, and has done a remarkable job in a very short time. Her excellent staff, led by Kevin Kelly, Carrie Simmons, and Michelle Burkette, also deserves enormous credit. I would also like to thank our distinguished ranking minority member, Senator GARN for his efforts to shape this bill, and to note the fine work of Stephen Kohashi of his staff.

Mr. President, I am especially pleased that this bill includes $50 million for the Public Housing Drug Elimination Act, a program I developed in the 100th Congress. The problem of drugs in public housing has reached crisis proportions. Many housing projects are virtual war zones. Tenants are afraid to leave their apartments, and violence has become routine.

The Public Housing Drug Elimination Act will provide tenants and housing authorities with much-needed tools to fight back. The act establishes a competitive grant program, under which funding is provided for additional security, tenant patrols, physical improvements designed to enhance security, and innovative antidrug programs.

Earlier this year, the Congress approved $8.2 million for the program in the fiscal year 1989 supplemental appropriations bill. Fifty million dollars therefore represents more than a 500-percent increase.

Since the supplemental appropriations bill was enacted, HUD reports that it is being inundated with inquiries from housing authorities around the country. I know in New Jersey there has been a tremendous response to the program. Clearly, the need for such funding is enormous.

Mr. President, I am also pleased that the bill includes $1.2 million for the planned Newark, NJ, Performing Arts Center. The center promises to contribute significantly to the revitalization process now underway in Newark.

Mr. President, this bill also does a very good job of addressing many of our environmental priorities. While I would have liked more for Superfund, I realize the constraints under which the subcommittee labored. The bill achieves the highest Superfund appropriation in the history of the program, funding the program at $1.575 billion. That's $150 million more than the House and last year's appropriation.

We achieved this Superfund level while increasing construction grants by $800 million above the President's budget, and overall EPA funding by $700 million over the budget request. The administration's failure to request sufficient resources for construction grants and other programs made it very difficult to address the growing needs of the Superfund program. I hope President Bush will respond to this bill by realizing that future budgets must address not only Superfund, but construction grants and other vital programs at EPA.

I would like to note a number of provisions in this bill to which I have given special attention.

The bill has a special provision for the Lipari Landfill, the No. 1 site in the Nation. The measure includes $273,000 to study the health consequences on area residents of exposure to Lipari Landfill.

The bill also includes what would be the highest appropriation to date for implementation of the Emergency Planning and Community Right to Know Act (title III). I have sponsored a series of measures that raise total funding for this program to about $34.74 million, including $3.84 million for State grants by the Federal Emergency Management Administration under section 305 of title III. The measures I sponsored in the EPA accounts provide additional headquarters and regional resources and personnel for the Office of Solid Waste and Emergency Response, the Office of Pesticides and Toxic Substances, the Office of Enforcement and Compliance Monitoring, and the Office of Research and Development for priority activities identified in the report, including enhanced implementation of the emergency planning and emissions inventory requirements of title III. I also note that, like the House report, the Senate report includes language clarifying that funds requested in the budget for assistance to States for AHERA and funds for assistance for State efforts under title III, including those of State emergency response commissions and local emergency planning committees, should be provided pursuant to section 28 of the Toxic Substances Control Act.

The bill includes necessary statutory authority to allow EPA to receive a Defense Department helicopter to perform medial waste surveillance flyovers to the New Jersey-New York Shore. This is in addition to a $3.9 million increase over the President's budget for ocean dumping, medical waste tracking, and plastics pollution programs.

I am encouraged by the $50 million increase in the measure for the Clean Water Act's nonpoint pollution program to provide money to States to address water pollution due to such causes as runoff from land. Nonpoint pollution is a major threat to coastal waters, and this bill would do much to boost support to States to attack this threat.

The bill raised the funding for pollution prevention and waste minimization to $19.6 million. As the sponsor in the authorizing committee of the pollution prevention legislation, I am pleased that we are increasing EPA's funding level for programs to prevent the creation of pollution.

We increase EPA's radon programs to $23.2 million. This pervasive threat continues to be a significant environmental problem, and we are providing funds to enhance our ability to address radon contamination.

We have also provided a $52 million increase for EPA's asbestos mitigation loans and grants program for school. Although the administration was content to ignore this program, Congress is not.

Another effort for which we provided increased funding of $2.5 million is oilspill assessment, monitoring, research, and prevention programs. As the recent spills have shown, we must do more to prevent spills from occurring and to deal with the problems they create.

As a continuation of our previous support for the development of a hazardous waste laboratory in Edison, NJ, the bill includes statutory authority for the New Jersey Institute of Technology to lease space from EPA for a joint university—EPA hazardous waste facility, previously funded through provisions in prior appropriations measures. This statutory language should clear the way for the project to move forward.

We have also continued support of $250,000 for a group of eight Northeastern States, including New Jersey and New York, for coordinated efforts to address interstate ozone and air pollution problems. Interstate transport of pollution is a problem for my State and the Nation, and I am hopeful that these coordinated efforts will help us achieve some progress on this problem.

Mr. President, this bill also includes several provisions aimed at assisting New Jersey veterans' facilities. The measure provides $10.7 million for renovations and improvements to the

Lyons Veterans Hospital and $3.1 million for expansion of the clinic at the VAMC in East Orange.

Mr. President, I do want to express concern that the committee report does not specifically direct HUD to use $750,000 for continuation of the district heating and cooling program. I have been a supporter of that program for some time, and am hopeful that the conference committee will keep it alive. It is an important program and one that holds great promise for cities such as Camden, NJ.

I also want to express my support for funding that has been provided in this bill for NASA, and more specifically the ACTS Program and the space station. I am a strong supporter of the space program, which is so essential to our technological future. The ACTS Program and the space station are especially important components of our space program, and deserve continued support.

Also, I am pleased that funding is included for stratified charge rotary engine development.

Finally, I want to express my support for funding that has been included for the National Science Foundation—though I would have preferred a higher level. The NSF plays a vital role in supporting the vital scientific advances upon which our Nation depends.

Mr. President, on the whole, I believe this is a strong bill, and I am committed to working with the subcommittee chair and ranking minority member as we proceed to the conference with the House.

Mr. ADAMS. Mr. President, I rise as a member of the Senate Appropriations Committee to congratulate Senator MIKULSKI, Chairman of the VA, HUD, and Independent Agencies Subcommitee, on a job well done. Particularly, I would like to thank her for the vast amount of cooperation she has provided in working with me to insure that the needs of Washington State are met.

It is important to note that many people rely on the housing, medical, and environmental services encompassed by this bill. For instance, there will be $11.495 billion allocated to veterans medical delivery services. This represents a signficant increase over the administration's request. Over $15 billion has been provided for housing programs greatly enhancing the housing options of our most needy citizens. We have also passed an increase over the House budget for the space station project in the NASA budget.

As I previously stated, this bill does much to provide for the critical needs of the residents of Washington State.

First, I have worked closely with the Seattle Housing Authority to see that over $800,000 in additional funding and funding transfer authority be provided the authority for their efforts in antidrug and elderly service programs. As a close friend of this organization, I know that they will use these new resources in an effective manner to improve their residents' health, safety, and welfare.

I have also advocated and received funding for important environmental projects in the State. This includes $1 million for the Spokane Aquifer and full funding for the National Estuary Program, which includes cleanup and environmental maintenance dollars for Puget Sound.

Additionally, funds have been provided for the economic development and revitalization of Dayton, WA.

Mr. President, I am proud to have worked with the chairman of this subcommittee, Senator MIKULSKI. Passage of this bill would go a long way in assisting the homeless, our veterans, and people living in rural America.

The PRESIDING OFFICER. The question is on the engrossment of the amendments.

The amendments were ordered to be engrossed.

The PRESIDING OFFICER. Under the previous order, the bill is deemed to have been read a third time.

The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The results were announced—yeas 92, nays 8, as follows:

[Rollcall Vote No. 212 Leg.]

YEAS—92

Adams	Fowler	McClure
Baucus	Garn	McConnell
Bentsen	Glenn	Metzenbaum
Biden	Gore	Mikulski
Bingaman	Gorton	Mitchell
Bond	Graham	Moynihan
Boren	Gramm	Murkowski
Boschwitz	Grassley	Nickles
Bradley	Harkin	Nunn
Breaux	Hatch	Packwood
Bryan	Hatfield	Pell
Bumpers	Heflin	Pressler
Burdick	Heinz	Pryor
Burns	Hollings	Reid
Byrd	Inouye	Riegle
Chafee	Jeffords	Robb
Coats	Johnston	Rockefeller
Cochran	Kassebaum	Rudman
Cohen	Kennedy	Sanford
Conrad	Kerrey	Sarbanes
Cranston	Kerry	Sasser
D'Amato	Kohl	Shelby
Danforth	Lautenberg	Simon
Daschle	Leahy	Simpson
DeConcini	Levin	Specter
Dodd	Lieberman	Stevens
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Durenberger	Mack	Wilson
Exon	Matsunaga	Wirth
Ford	McCain	

NAYS—8

Armstrong	Humphrey	Symms
Dixon	Kasten	Wallop
Helms	Roth	

So the bill (H.R. 2916), as amended, was passed.

Ms. MIKULSKI. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. MIKULSKI. I move that the Senate insist upon its amendments to H.R. 2916 and request a conference with the House on the disagreeing vote of the two Houses, and that the chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Ms. MIKULSKI, Mr. LEAHY, Mr. JOHNSTON, Mr. LAUTENBERG, Mr. FOWLER, Mr. KERREY, Mr. BYRD, Mr. GARN, Mr. D'AMATO, Mr. GRASSLEY, Mr. NICKLES, Mr. GRAMM, and Mr. HATFIELD, conferees on the part of the Senate.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1990

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The clerk will report the pending business, H.R. 3072, the defense appropriations bill.

The assistant legislative clerk read as follows:

A bill (H.R. 3072) making appropriations for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes.

EXCEPTED COMMITTEE AMENDMENT BEGINNING ON PAGE 36, LINE 22 THROUGH PAGE 37, LINE 2

The PRESIDING OFFICER. The pending question is the second excepted committee amendment beginning on page 36, line 22, of the bill.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I yield to the Senator from Alaska.

AMENDMENT NO. 886 TO EXCEPTED COMMITTEE AMENDMENT BEGINNING ON PAGE 36, LINE 22

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration. It is offered by Senator HEFLIN, myself, and others. It is Senator HEFLIN's amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. HEFLIN (for himself, Mr. STEVENS, Mr. SHELBY, Mr. WARNER, Mr. NUNN, Mr. WALLOP, Mr. DOLE, and Mr. BOND), proposes an amendment numbered 886 to excepted committee amendment beginning on page 36, line 22.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 37, line 2, strike the period, and add: ": *Provided further,* That of the funds appropriated in this Title, $4,301,904,000 shall be available only for the Strategic Defense Initiative: *Provided further,* That the Secretary of Defense shall provide the House and Senate Committees on Armed Services and Appropriations a revised Research, Development, Test and Evaluation Programs (R-1) exhibit reflecting all adjustments to programs in this title.

Mr. STEVENS. Mr. President, this is a technical amendment to the amendment of the Senator from Louisiana, which is pending, that being the pending business now, but the Senator has not had an opportunity to explain his amendment. I would be pleased to withhold any comments on this amendment to his amendment until he has had a chance to explain his amendment. I do hope we could get an agreement from the distinguished manager of the bill so that we would vote on this amendment that is offered on behalf of Senator HEFLIN at 2:15.

Mr. JOHNSTON. Is the Senator making a unanimous-consent request?

Mr. STEVENS. The Senator from Hawaii is privileged to get the time agreement if he wishes to do so.

Mr. INOUYE. Does the Senator wish that I withhold?

Mr. JOHNSTON. For the time being.

Mr. President, parliamentary inquiry: Is the amendment offered by the Senator from Alaska on behalf of Mr. HEFLIN a first-degree amendment?

The PRESIDING OFFICER. It is a second-degree perfecting amendment to the committee amendment.

Mr. JOHNSTON. It is a second-degree amendment and, therefore, no longer amendable?

The PRESIDING OFFICER. The Senator is correct.

Mr. JOHNSTON. Mr. President, if the Senator from Hawaii wishes to make a unanimous-consent request that the vote occur on the Heflin amendment at 2:15, I would have no objection.

Mr. INOUYE. Mr. President, I ask unanimous consent that the vote on the Heflin amendment occur at 2:15 this afternoon.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, the Committee on Appropriations adopted an amendment which provides that the spending for directed-energy weapons within the SDI account not be less than the amount spent this past year. The amount spent last year was $820 million. So that the $820 million is less than 25 percent of the total SDI account.

The Strategic Defense Initiative Organization, the SDIO, has proposed to spend more than last year's amount; that is, they have proposed to spend $831 million. To be sure, that was out of a larger requested budget. Nevertheless, their plans as submitted to the Congress would spend more than my amendment would require. They would spend $831 million in their request. My amendment would require only $820 million.

Mr. President, there are those who say that this is a micromanagement amendment. To the contrary, it is not, Mr. President. It is a management directional amendment, to be sure, but not a micromanagement amendment. Because, if my colleagues will look through this bill and through this report, they will find that the management of every other account in the Department of Defense is much more detailed, much more precise, offers much more specific direction than our management of SDIO.

Indeed, Mr. President, President Reagan made a special exception for SDI, because in his dream to get the astrodome over the United States, he gave the SDI a special exemption from what we might call accounting accountability within the Department of Defense and gave them an exemption from what amounts to the usual oversight within the Department of Defense.

So, in fact, SDI today has much greater freedom, much greater flexibility much greater ability to put its resources in those places where it wishes than any other department of the Department of Defense. And the amendment which the Appropriations Committee adopted does not take that away.

What, Mr. President, is the purpose of an amendment which gives the SDIO the direction to do what they say they would, that is not to spend less this year than they did last year on directed-energy weapons? It is because this Congress has adopted what we might call a mandate, a goal for the strategic defense initiative, which is well explained by the following legislation, which has been adopted in the previous 2 years and, indeed, finds its way into the instant bill.

What we have said is that it is the sense of the Congress that:

The Strategic Defense Initiative should be a long-term and robust research program to provide the United States with expanded options for responding to a Soviet breakout from the 1972 Antiballistic Missile Treaty, and to respond to other future Soviet arms initiatives that might pose a grave threat to the United States' national security.

The resolution which is the governing legislation on SDI in the United States further says that:

Future research plans and budgets for SDI must be established using realistic projections of available resources in the overall defense budget, and must not undercut other important Department of Defense programs.

So, Mr. President, what our amendment does is to provide for the long-term robust research program that is specifically called for in the law. The problem, I tell my colleagues, is that this SDIO has indicated that they want to rush towards a phase I deployment decision by 1994. That is what General Monahan has stated in writing, in a letter to Senator WILSON. Their goal is to get a deployment decision on phase I by 1994.

In order to do that, Mr. President, they would have to shortchange the long-range objectives in order to get the short-range objective. The short-range objective is to get phase I deployed. Why is that a mistake, It is a mistake, first, Mr. President, because it is totally unachieveable and would, in effect, break the bank.

As our resolution, the blueprint that we, the Congress—and which was signed into law by the President—have proposed for SDI says:

Budgets for SDI must be established using realistic projections of available resources in the overall defense budget and must not undercut other important Department of Defense programs.

In order to reach that 1994 deployment decision, Mr. President, it requires, according to the budget submissions of the SDIO, that spending rise from present levels—last year it was $3.7 billion for SDI—that it rise from that to $9 billion by 1994. In other words, to reach this goal we almost have to triple spending for SDI between fiscal year 1990 and fiscal year 1994.

Mr. President, if that does not violate the blueprint and constitute a dream as figmentized as the old astrodome concept of SDI, then I do not know what is dreaming and what is not dreaming. It is totally unrealistic.

But, in order to try to do that, Mr. President, whether they get the $9 billion or not—and I can tell my colleagues they will not get the $9 billion. Where is it going to come from? Are we going to cancel everything else in the defense budget in order to fund SDI? I think not, Mr. President.

So, where are they going to get it from? They would get it from the long-range directed energy weapons; those weapons that would be necessary in phases II and III of the strategic defense initiative.

What is this all about, phases I, II, and III? Mr. President, they have not been very well defined. The only definition we have of phase I is a requirement of the Joint Chiefs of Staff which defines the requirement of phase I, not in terms of the kind of architecture, the kinds of weapons or the kinds of devices of which it would be made, but rather it defines it in terms of the number of warheads which it would be required to shoot down in any given time.

It happens that the number of warheads works out to be 16 percent of total Soviet warheads. So in order to get phase I, we need to be able to knock out 16 percent of the number of Soviet warheads which is now, I guess over 10,000. Part of it is a definitional problem about what are ICBM's and what constitutes strategic warheads. But I would say probably a figure of 11,000 would be a good one. But use the lower figure, 10,000 Soviet warheads.

That means if we financed and put into operation phase I without anything else, it would mean that the United States would only be subject to 8,400 Soviet warheads because SDI, phase I, would knock out the first 1,600.

That is, if we meet the definition and requirement of phase I.

We say, well, is that what this is all about, knocking out 1,600 warheads? And SDI would say: No; it is not. Because this is a phased deployment. First, we have phase I and simultaneously with developing phase I we are working on phase II. Because we have to have phase II, otherwise phase I does not make any sense.

I asked General Monahan about this at our hearings. I asked him this. I said:

> All the testimony from people like General Abrahamson, General Herres, and the others that it would not be feasible or proper to deploy phase I without some degree of confidence in phase II and phase III because of the degradation that everyone predicts for phase I; isn't that correct?

General Monahan said: "I agree. Yes, sir, that's true."

In effect, what General Monahan was saying was this, that phase I, which gets only about 1,600 Soviet warheads, the technology for that degrades. That is, the Soviets can find a way around that phase I very easily, or relatively easier over time, and therefore we must be ready with phase II and phase III, those phases being, as yet, undefined.

Mr. President, how do we get around phase I? The obvious, easiest way is to build more warheads.

If it is going to take out 1,600 warheads, then you add 1,600 to the inventory and you have ipso facto canceled out phase I because these are in phase I what we call kinetic kill weapons. They are literally orbiting rockets of some measure. We have not defined what kind of rockets, whether they would be Brilliant Pebbles or another kind of space-based interceptor. They would knock them out and, by definition, if you are going to count on something knocking something else down, it can do so only one time. It is not like a beam weapon which can shoot innumerable beams, if one weapon knocks down one warhead, if it works, so that obviously you get around phase I by building more warheads or by a number of other devices which are not here pertinent.

Suffice it to say the director of the SDIO in his testimony—I think this was a couple of months ago, May 11—stated that phase I degrades very rapidly. So if phase I degrades very rapidly and if you must simultaneously work on phase II and phase III, then the question is, what is phase II and phase III and how much should you be prepared for? Mr. President, phase II and phase III, in terms of architecture, are also very unclear, but one thing is virtually certain, and that is that phase II and phase III would involve some kind of directed energy weapon.

The kind of directed energy weapons we are talking about are probably some kind of laser or a neutral particle beam which is another kind of directed energy weapon that has some other special characteristics. It can shoot through a surface and destroy the inside of a weapon and all its mechanisms without actually having to fracture the outside of the weapon.

In any event, directed energy weapons are essential in order to have a phase II and a phase III. The problem with directed energy weapons is that they are slower in development. They travel at the speed of light; they have the ability to have what we call interactive discrimination, to discriminate between those warheads that are real and those which are drones or fakes or decoys, and it would be a much more flexible lethal weapon if it could work and be developed, but most would say that that would not be developed until perhaps the next century. Early in the next century we hope or SDI might have some hope that it would be available sooner. Clearly, it could not be developed for a 1994 deployment decision date for phase I.

So, Mr. President, if the SDIO took the money away from these directed energy weapons in order to build it into phase I, then we would be making a fateful decision. If it all worked out and which it would not for reasons which I have explained, if it all worked out, we would be getting into phase I which degrades rapidly, which the Soviet Union could defeat, which leaves room for a minimum of 8,400 warheads coming into the United States. Talk about your nonleak approved astrodome, phase I leaks through, at least by definition, 8,400 warheads, probably more like 9,000 warheads. So does that make you feel safer at night? Does that do away with the doctrine of mutually assured destruction? Not at all. It hardly makes a whit of difference in that calculation, Mr. President. All it does is spend between $100 and $200 billion which the Soviets could defeat with a fraction of that expenditure and, in the process, we break the ABM Treaty and launch into new spending rates.

Mr. President, if we are going to do that, we ought to at least be ready with what General Monahan himself says is necessary. He says you have to have a simultaneous development of phase II and phase III while you are developing phase I, while you are building or researching or attempting to deploy, determining if Brilliant Pebbles works, you also have to be doing your beam weapons because if you are going to go from more than 16 percent lethality against Soviet warheads, it has to involve the beam weapons. He has also said that. By the way, it costs a lot of money. I asked him this: "So we're talking about at least a doubling of the number of dollars that would be spent during phase I for things that are not related to phase I."

General Monahan states: "I don't know if it's double, or exactly where. But it is more, there is no question about that. We would have to spend dollars for the technical work that supports both phase I and phase II, and then, of course, development work for phase III."

So it is very clear and it is not subject to disagreement, Mr. President, that you must spend money on phase II and phase III in order to make a sensible decision to deploy phase I.

All the amendment of the committee does is guarantee that we not mortgage the future of phase II and phase III in order to rush to a deployment decision for phase I. It is not an attempt to defeat the strategic defense initiative. It is not an attempt to undermine the force of the strategic defense initiative. Quite to the contrary, Mr. President. It means that if we are ever to deploy the strategic defense initiative, we should do so as the Congress has stated, as all the experts agree, in a phased way that when phase I is beginning to be deployed, we know we have the technology for phase II and can look forward with some degree of confidence to phase II actually being deployed and working.

So that is what this is all about, Mr. President; a way to make SDI a sensible program.

One final word before I turn it over to my friend from Alaska who will explain his second-degree amendment to my amendment. A number of my colleagues have said during debate that I have been an opponent of SDI. It is perfectly true, Mr. President, that I have had a whole series of amendments over a period of years to bring the spending levels of SDI down to levels that did not cannibalize everything else in the Department of Defense. It is true, Mr. President, that I have felt that the administration's request in SDI was too much. It is also true, Mr. President, that I have stated repeatedly that I had signed on to the mandate, to the resolution as adopted by the Congress, authored by the Sen-

ator from Alaska, Senator STEVENS, which does state what the goal of SDI is: A long-term and robust research program. And, indeed, I stood on this floor as the acting manager of the Defense appropriations bill last year and added $250 million to the SDI account on my amendment because I felt at that time that the level of SDI was not sufficient to achieve these goals, considering the legislative posture of the legislation at that time.

That continues to be the goal of this Senator. Not to abolish SDI at all, but to make a program that is sensible and affordable, to grant to this country what we in the Congress have said we wanted: The ability to provide for expanded options for responding to a Soviet breakout from the 1972 ABM Treaty and of future Soviet arms initiatives which might pose a grave threat to the United States.

That ought to be our goal. That is our stated goal. That is the legislation which has been adopted as the blueprint by this country. We ought to adhere to that, and that is what the Appropriations Committee amendment does.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Virginia.

Mr. WARNER. Mr. President, I have just come from another session of the conference between the House and the Senate on the respective authorization bills. The SDI figure is literally the pivotal decisions around which all other decisions at this time are evolving.

I am pleased that our distinguished colleague from Louisiana has brought up this amendment and that once again this body can direct its attention to it, because the decision on this amendment will have a profound impact on the outcome of the conference between the House and Senate on the authorization bills.

The negotiations at this point—and momentarily I will be joined by the chairman of the Armed Services Committee and we will engage in a colloquy on this issue—between the House and the Senate on the authorization bill historically, traditionally, and otherwise should focus on the numbers reached by each of those bodies on the SDI account, but the House is quite clearly taking a tact that they are going to deal with the numbers that were reached by the two Appropriations Committees.

As the record reflects, the House Appropriations and Armed Services Committees have funded SDI at $2.8 billion for the Department of Defense. The Senate Armed Services Committee at this time, with the support of this body—and I might add after considerable debate—funded SDI at $3.7 billion. The Senate Appropriations Committee has marked SDI at $4.3 billion.

I am going to wait for the chairman to join me on the floor, but I want to impress upon the Members of this body the importance of the decision they are about to make on this amendment, because it will have a profound impact on the decisions we are endeavoring to resolve, and in a timely fashion it is essential I believe that the Armed Services conference report a bill to both bodies such that the valuable work by these committees over the past 7 months can be considered in the context of the appropriations bill.

Mr. President, I will suggest the absence of a quorum until such time as the chairman of the Armed Services Committee joins me.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I will go ahead and use this time to talk about the amendment. I thought perhaps Senator STEVENS wanted to explain the amendment first. Let me use this time quickly to do so.

Mr. President, we had a first-class debate night before last on SDI funding levels. An amendment was proposed to raise the funding level on SDI from $3.7 billion to $4 billion, a $300 million increase. There were, to be sure, other parts of that amendment. However, the linchpin of that amendment I think was the SDI funding level. It was debated as such. The debate on that issue took up the majority of time. The Senate resoundingly, Mr. President, by a margin of almost 2 to 1, beat that amendment. So now here we are two nights later saying the Senate might have beaten back an increase of $300 million by a margin of 2 to 1, so now we are going to try to double the amount of increase to $600 million and add that on to SDI.

We are told, Mr. President, we do not expect to get it, that this is only a bargaining chip.

We keep hearing this bargaining chip business, but I think the Senator from Illinois [Mr. DIXON] put it very well the other night when he said, "It is a complete absolute waste of time to try to increase spending for SDI in light of House opposition."

Mr. President, Members of Congress know about this program now. We have appropriated some $20 billion, including that which is in this bill this year. The Congress has reined in this political jargon as it has been described about this astrodome over the United States. It took us $20 billion to find out that it was not realistic. Of course, we are told now that we never did believe that. It was only political jargon.

The President just the other day said, "The original broad, idealistic, wonderfully idealistic proposal of the impenetrable shield has been abandoned."

Catch this language, Mr. President. The President of the United States talks about this astrodome idea as a "wonderfully idealistic proposal of the impenetrable shield."

Mr. President, on this floor, we were subjected to month after month of propaganda, to cartoons, to this huge propaganda proposal, experiments, attenuated by a great deal of hype and now we are told that was wonderfully idealistic. Wonderfully idealistic. That is matched by the Vice President who says it was political jargon. And now we are told, well, nobody believed it anyway.

If they did not believe it, why did they try to fund it as such? If they did not believe it, why did they tell us that they believed it? We were told on the floor of this Senate—Mr. President, I have stood here hour after hour on SDI and debated that question of the impenetrable shield, and that was the hope. There are probably still some in this body who say, yes, we can make an impenetrable shield, maybe not this year but it is out there in the future somewhere. Indeed, some members of the administration, the Secretary of State, is still talking about the impenetrable shield.

So let us talk about something realistic. That is what the Appropriations Committee is doing, something realistic. I submit, Mr. President, to try to double the increase in SDI that we defeated by a 2-to-1 margin the other night is just that kind of wonderful political jargon to which we have been subjected time after time.

We are not, in my judgment, spending enough on research and development in other parts of the armed services. The account which we call the tech base, which is basically basic research in areas like DARPA, the Defense reseach agency, is down to $3.6 billion.

It is all we spend on our tech base. That is in all of the services. The R&D budget is, of course, much higher than that. Indeed the R&D budget is $38 billion. But, of course, the R&D budget is a little bit misleading because most of the R&D budget is on weapons-specific research.

For example, there is the huge R&D component on the B-2 Stealth bomber. It is already in being but that is R&D which flies the plane, tests the equipment, and it is hundreds of millions of dollars in scope for a weapons system already in being. The same is true for the B-1 bomber. The same is

true for many, many other weapons systems; in fact most weapons systems that we have.

Basic research or the so-called tech base is only $3.6 billion. That is probably the fund from which this $600 million would come, or at least we do not know where it would come from. It would come from somewhere in research. But I guess tech base would be part of that.

Mr. President, that is wrong. We need basic research in our Armed Forces to talk about where tomorrow's weapons are going to come from, and we should not sacrifice that in order to increase SDI.

Mr. President, there is another place where it may come from. When you talk about going to conference and getting leverage in the conference committee, what I fear is if we adopted this amendment, and we had to take R&D money the House would take the R&D money away from the Midgetman because they already stated they want to cancel the Midgetman, and they have also stated they want to cut back and indeed they have adopted figures which cut back on the rail-mobile MX. I believe that the House would like to cancel both of those weapons systems.

So in terms of bargaining in the conference committee in order to give the Armed Services Committee something they regard as a bargaining chip in their conference, we go in the Appropriations Committee losing the bargaining power on Midgetman and on rail mobile.

So what is sought to be obtained by the Armed Services Committee on the one hand would be taken away by the Appropriations Committee with the other hand. I can tell my friends on the Armed Services Committee if they want a higher level in SDI, the way to do it is hold for a higher number. There can be no conference agreement in armed services without this agreement. If they think anything less than $3.7 billion is too low for SDI, hold out. We have adopted the $3.7 billion level.

But to come in at this time and double the amount of increase which was defeated by this body 2 nights ago by a 2-to-1 margin, I think, is unrealistic, it is unwise, and would take away from the Appropriations Committee the bargaining leverage which it needs.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Once again, I will endeavor to invite my distinguished colleague, the chairman of the Armed Services Committee, to join me on the floor and lay before the Senate our perspectives on the direction in which the conference between the House and the Senate on the authorization bill is now taking and how this decision on SDI is progressing.

Once again, to refresh the recollection of our colleagues, the Senate Armed Services Committee reached a figure of $4.3 billion; the House Armed Services Committee $2.8 billion; the House Appropriations Committee coincidentally, came in at the same figure, $2.8 billion, and, of course, the Senate Appropriations Committee at $3.7 billion.

The difficulty we are having in our conference is that the focus of attention is not on the figures arrived at by the authorization committees but the figures as arrived at by the Appropriations Committees thereby leaving us with what I regard as an untenable position in terms of our conference.

At this point, I would like to invite the attention of my distinguished chairman to provide me with his views because, as I said, this decision is going to control the outcome in many respects of the conference we are now in on the authorization bill.

There has been considerable discussion respecting the issue raised by the Senator from Louisiana; namely, the advisability of earmarking certain percentages of these funds for a category which he feels very strongly about, and that to me is the subsidiary issue which possibly could be resolved if we could get support for increasing the dollar value of the figure we are working on in the conference between the House and Senate on the Armed Services Committees.

Mr. President, it appears to this Senator that more time is needed for private consultation. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I see Senator NUNN has joined us. We have discussed this matter many times. I state to my colleague from Georgia that I have given the Senate the full figures and indicated that our conference is now waiting for a decision on this amendment, because it is pivotal to many decisions that we are about to make in our conference, and that the drift, as this Senator from Virginia views it, is that the conference on the House side is focusing only on the SDI numbers as reached by the two Appropriations Committees of the House and Senate; leaving us, namely, the Senate, which has strongly supported the higher figure, in somewhat of a difficult position.

I invite the observations of my distinguished chairman.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I rise in support of the pending amendment, and the Senator from Virginia has basically stated the case accurately. What we have here is a novel situation, and only in America, only in the Senate, only in this kind of Government can we reach these kind of dilemmas. Of course, this is the positive side of our system, as well as sometimes the frustrating side.

What we have here are two different sets of negotiations going on. We have the Appropriations Committee that has reported out this bill that we have before us in the Senate. We have the House appropriations bill that has already passed, a bill that is waiting to go to conference, and in addition to that set of negotiations, which will soon take place—hopefully the Senator from Hawaii will be able to get this bill passed today or tomorrow—we have the House and Senate authorization committees that are in conference and have been in conference for several weeks.

We are here on the same things. We are here in our conference, and we just met a few minutes ago; we met yesterday and we met over and over again. We are trying to solve the strategic issues, strategic programs. That includes the two missiles, the Midgetman and the MX rail mobile, and the B-2 and the strategic defense initiative.

I believe that the Senator from Louisiana has made a number of valid points about SDI. I am not a cheerleader for SDI, and I never have been. I have always voted to cut some of the program from the administration's request, but I also felt it was a valuable resource program, and I have also felt—and we have never succeeded in this, and I hope that the options are still open—that the way that the administration really should look at this program is not only as a long-term research program, but a buffer against the Soviet breakout in this area. And they are doing their own research.

I have always hoped that we would get some people over in the Pentagon and SDI and in the White House, to take a look at a system that would not be a defense against a massive attack, but a defense against a lesser attack, whether by accident or by some form of unauthorized launch.

It seems to me that is the kind of system that really would be stabilizing. That is an argument for another day.

SDI funding is important for a number of reasons, including, but not limited to, arms control. There are valid programmatic reasons. Whatever one's view is of SDI, and there are many different views, we put an enor-

mous amount of time and effort into it.

If we are going to phase into a different direction—and I believe the administration is at a juncture where they are going to have to rethink some of the basic premises of SDI—the support in this body and the support in the House is clearly eroding, no doubt about that. I think they are going to have to do that between now and early next year. I do not think they have 2 or 3 more years.

I think they are going to have to take a hard look at SDI as to what they really want, and decide on the goals. If they do not know the goals and cannot state them clearly, then it is very hard to sell the program on Capitol Hill.

The Vice President made some statements the other day that I found encouraging. He basically talked about a system that would be, as I viewed what he said to the Los Angeles Times, less than a masked attack system, but more designed along the line of an ALP's system.

I think the administration has to get its own act together and state the goals of SDI with some clarity, and clearly the time is running out. Where are we now? In this bill we have a level of SDI spending of $3.7 billion. That is $600 million less than passed in the authorization bill.

This is not a jurisdictional question. The Appropriations Committee has every right to make cuts in not only this program but any other program. Our authorization bill is a ceiling, not a floor. This has nothing to do with jurisdiction whatsoever.

In the Senate authorization conference, we are being confronted with House conferees who are unwilling to look at our $4.3 billion as a negotiating point. They are instead taking the $3.7 billion that is in the Senate appropriations bill that is on the floor, and they are saying to us, not only did the appropriations come up with that number, but also the Senate of the United States, the other night, ratified that number by an overwhelming vote.

So they are saying, "We are not going to negotiate between 4.3 and 2.8. We are going to negotiate between 3.7 and 2.8." Where does that leave us? It leaves us in a situation where we can sit there until Thanksgiving in an authorization conference—and maybe we will do that—and say we do not want to deal, we do not have to agree with them; or it leaves us in a position, if we really want to go ahead and finish our conference, of giving some guidance to the appropriators, and finishing particularly the strategic issues, which include the two missiles. The administration has a lot of decisions to make on that that directly impact the START talks, so they need to know where Congress is going to go on those two missile programs.

It is very important that they know where we are going to go on the B-2. I do not think we should wait until Thanksgiving—we cannot—but if we are going to have a chance to come out of this with approximately last year's level of SDI spending or maybe slightly below, if we are going to come out of it somewhere in the 3.6-to-3.8 range in terms of the Department of Defense SDI funding, I am convinced there is only one way to do it; and that is to send a signal to the House conferees, both authorization and indeed Appropriations, that we want to come out at about that level. If we leave it like it is right now, there is no way we can come out at that level.

What has happened, I think, the Appropriations Committee—and I understand this; all of us are searching for funds, and it is very difficult to find them. I think the appropriators, our very fine Appropriations Committee, in their 3.7 number, have basically anticipated the outcome of the authorization conference, saying that the House is 2.8; the Senate is 4.3; let us go down to 3.7, because that is where that gang is going to come out anyway.

What has happened? The authorization conferees on the House side are anticipating the outcome of the appropriation conference, saying that they are at 2.8, and the Senate is at 3.7. Let us split the difference, and that will be 3.2. So what we have are three things: We have an erosion of support for SDI, no doubt about that. We have a lack of clarity in the program, a lack of definitive goals.

In addition to that, we have a strange kind of conference going on between two different bodies' committees, and it is having a ratcheting down effect. I do not know whether the Senate wants to come out at 3.2 or not.

But in a few minutes what we are going to be voting on in effect—they will not write it up in the history books this way; maybe it will not be reported in Current Events this way—but in effect what we are going to be voting on is whether you want to come out with SDI at about 3.25 or 3.3, which is what we are going to do if you leave it like it is now and that is going to be about a $600 million cut from last year, if you want to cut SDI $600 million from last year or essentially freeze SDI to last year's spending. That is what it amounts to in pragmatic terms. You want to freeze it to 3.6 or 3.7, and then we are going to have to add back this number.

There is the third choice and that is to still be negotiating this around Thanksgiving Day and maybe even the middle of December.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. NUNN. I am glad to yield.

Mr. JOHNSTON. Mr. President, I understand what my dear friend from Georgia is saying. But I am sure he recalls the first-class debate we had here on this floor when the authorization bill was up and I offered an amendment to bring down the level of SDI funding which was $4.3 billion in the authorization bill, and we had a really big debate. I pointed out that was too big an increase, that we should not be giving that big amount to SDI, given the scarce resources, and the Senator from Georgia, as I remember, and the Senator from Nebraska, said, "Look, unless we have this money we are going to go to conference and we are going to get this lower figure."

So the Senate, by a 50-47 margin, said, in effect, to the Senator from Georgia, "OK, here is your $4.3 billion; go to conference and get a reasonable figure."

Now we are told that all that was not so, that the Senate conferees on the armed services bill are in effect being led around like a horse with a ring in his nose because the House conferees now are ignoring the Senate-passed figure on the authorization bill.

Mr. NUNN. If that is a question, I say to my friend from Louisiana the appropriators have put the ring in our nose. It is not the House.

Mr. JOHNSTON. How many times do we have to give these astronomical figures in order to give you the bargaining chip you need?

Mr. NUNN. Just keep the figures the same. We are asking about the same amount of money we asked for when we came through here on the authorization bill.

What the appropriation number does before we get through our conference you have basically cut out any negotiating position we have. I know it was inadvertent. I know it was not intended by most people.

The Senator from Louisiana has a devious expression. Maybe he intended this.

But, nevertheless, I do not think most people really wanted to cut SDI by $600 million from last year's level. Maybe they did. We will have a vote in a few minutes to determine that because this vote in practical effect will determine whether you want to virtually freeze SDI at last year's level, no inflation, no program growth, or whether you want to have a very big cut. It is the only way we are going to be able to get it.

Mr. JOHNSTON. Mr. President, I think again in answer to my friend, why cannot he go in the conference and tell the House conferees what he told us on the floor, that is, that he has 4.3 and the House conferees split the difference?

Mr. NUNN. I have attempted that, and the Senator from Nebraska has attempted this over and over again. He has been in there negotiating. He heads up our strategic panel. Time

after time we met with them and basically told them that and frankly they say, "Well, look at what your Appropriations Committee does, the 4.3 is phantom, it is gone, it does not mean anything, it is no longer relevant. That is why."

Maybe the Senator from Louisiana can go in with us and tell them they ought to split the difference and come out and help us out on that. We would be happy to have him as a guest at our conference, and when he does that maybe he can tell them how the appropriators really intend this to come out at 3.6 or 3.7, and that would be a big help. Short of that we are going to have a hard time reaching agreement.

Frankly, I do not know how the Senator from Nebraska feels about it, but I am willing to be patient for a long time.

If we are going to have a clear direction for our country in terms of the missile program, I do not believe we are going to clarify SDI in the next 30 days no matter what, but on the missile programs I think it is very important. There are a lot of arms control considerations that go into the question whether we have two missiles or no missiles. I think it is important we move on.

Frankly, I say to my friend from Louisiana, the appropriators are very skillful in the conference; no doubt about that. The Senator from Hawaii has vast experience, and the Senator from Alaska, but I do believe it would be helpful to them if our authorization committee can make a settlement on SDI, on the two missiles and on the B-2 before they start struggling with it next week.

It may be that the House appropriators will cave in to you and you will bowl them over, but on our conferences it is a little tougher than that. If we can be of help today, I think this will unlock a lot in the defense arena.

Mr. JOHNSTON. Could I ask the Senator one more question?

Mr. NUNN. Yes.

Mr. JOHNSTON. Is it not true in the last 4 years you have not always split the difference on SDI? To the contrary, in 1988, the split was Senate-House 54-46, in 1987 it was 48-52, in 1988 it was——

Mr. NUNN. Which way?

Mr. JOHNSTON. The Senate is the first number. That is the percentage of difference.

Mr. NUNN. First more than 50 percent, second year less; is that right?

Mr. JOHNSTON. Yes, 54 percent the first year, the next year 48 percent, the next year 59 percent, and the next year 51 percent, which means that it makes the obvious point that——

Mr. NUNN. We are good negotiators.

Mr. JOHNSTON. That is right, and you do not always split the difference. If you do split the difference, you come out where you say you ought to. You already have that. We already did it for you. We had a big debate, and by a close margin we did it for you. Now we have to do it again but not on the authorization bill, on the appropriations bill.

Mr. NUNN. Could I ask the Senator a question?

Mr. JOHNSTON. Yes.

Mr. NUNN. What number does he want to come out with on DOD? I cannot remember. What is the number the Senator from Louisiana wants? Does he want to come out with 3.7, which is his position on this bill or, does he want to come out around 3.2?

Mr. JOHNSTON. Mr. President, I have been in enough conferences to know that the best way to go into conference is not to have your exact figure trotted out in advance.

If the Senator is asking about 3.2, I think 3.2 is too low. I would urge the Senator in his authorization conference not to go to 3.2.

Mr. NUNN. The Senator ought to vote for this amendment then. He should vote for this amendment because what happens if we come out with 3.2 in the authorization, then if you go by our bill as the ceiling, no matter what you think is the right number, you are not going to come up with 3.2. So we are in a practical situation and I believe it has to be acknowledged and taken into account.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I do think it is a very difficult position for those of us who are asked to manage appropriations bills to deal with items such as this without an agreement from the authorizing committee because we really do get whipsawed.

This is a classic example of the Senate being asked to pass on an appropriations bill before the authorizing conference is over.

The statement of the Senator from Georgia is exactly correct, as I understand it. We anticipated in the appropriations process the outcome of negotiation between the Senate bill with an authorized level of $4.3 billion and the House bill with an authorization level of $2.8 billion and we funded that approximately on the average of the past settlements between the House and Senate in the authorizing process, and we settled on $3.7 billion.

If you want to look at it as a freeze in SDI, it is keeping the same level with almost a factor for inflation, not quite total, because there is a very high level of inflation when you are dealing with this esoteric research.

But as a practical matter we could, I think, honestly state that the $3.7 billion in the program for SDI would be substantially the same as 1989.

Mr. JOHNSTON. Mr. President, will the Senator yield at that point?

Mr. STEVENS. Yes.

Mr. JOHNSTON. Mr. President, the Senator has said that the committee took the $3.7 billion as averaging these things and as if it were some kind of compromise figure.

Mr. STEVENS. Between the authorizations bill is what I said.

Mr. JOHNSTON. He is not talking about the appropriations bill.

Mr. STEVENS. I am talking about the appropriation level as being anticipation of the compromise between the two authorizing committees.

Mr. JOHNSTON. I would beg to disagree, and I will ask my friend if in fact we did not have a letter signed by a majority of the members of the committee setting the level at $3.7 billion. We had the votes. It was not averaging. We had the votes. Is that not correct?

Mr. STEVENS. The figure was reached by the process I just mentioned. It was reached by anticipating what the authorizers would come out at. We did not pick that figure out of the air.

Mr. JOHNSTON. I would suggest to my friend that he was not part of the majority, that the majority had the figure set at 3.7, and I think that those who wanted to have a higher level, and I thought that included the Senator from Alaska, they recognized they did not have the votes. Is that not right?

Mr. STEVENS. I do not know what world the Senator from Louisiana has been working in. I am talking about what went on in the Subcommittee on Defense in terms of the figure of the Senator from Hawaii when it was presented. This Senator looked at it and said, that is true; that is the maximum we can anticipate would come out of the authorization conference, and if it came out it would be a level of what amounts to a freeze on the 1989 expenditure rate.

I hope the Senator from Louisiana realizes we look at situations like that, and I think he has too, in terms of the appropriations process, when we do not have an authorization bill.

This Senator wants to fund the amount of the authorization process on SDI, I go back to what the Senator from Georgia has said. Those of us who spent a great deal of time trying to act as Senate observers to the arms control negotiations know full well what SDI means in that total spectrum of the negotiations between the United States and the Soviet Union on arms control and even in the conventional field.

SDI is the one item, I would say to the Senate, that the Soviet negotiators have mentioned to this Senator personally more than any other subject in connection with this ongoing negotiation. As such, it is the centerpiece of the negotiation. If we change

it, we, in effect, undermine the negotiating capability of the executive branch. We will send a signal to the Soviets which I believe is wrong.

Under the circumstances, we thought we were funding what would come out of the negotiations on the authorizing bill. We were told, and it was graphically demonstrated to us last night by the Senator from Georgia as he showed the dilemma they face, the dilemma they face is that the House authorizing committee is looking to the level of the compromise figure that is in the appropriations bill and not looking at the action of the Senate when it voted on July 27 to sustain the level of 4.3.

All we are saying is, for the purpose of this bill going into conference, we ought to be in the same position as the authorizers are for the Senate of saying to the House, the level the Senate has approved, approved it on July 27 of this year, is $4.3 billion. That is all this amendment does.

In doing so, it says to the Secretary of Defense, we want you to fund the authorized level. Should it happen that the authorizers come out above 3.7, which I cannot anticipate, but if they do, this amendment would cover that emergency also.

I would say to my friend, to get beyond that, the Senator from Louisiana will recall that in committee I opposed the basic pending committee amendment. I did so because of the fact that it assumes that the level of funding for defense on SDI will be 3.7 or better. If it is not, the amendment of the Senator from Louisiana would earmark more moneys for directed energy research than is warranted by history in terms of the operation of this program.

If the amendment that has been offered now to the pending amendment, the amendment of the Senator from Louisiana, is adopted, then the amendment of the Senator from Louisiana makes eminent good sense. It says from the 4.3, we expect no less to be allocated to directed energy than has been made available in 1989 for directed energy. And I certainly would not oppose the pending amendment if this amendment in the second degree to his amendment is adopted. Because I would join the Senator from Louisiana in saying directed energy should get no less from their amount in 1990, if it is at least equal to 1989 or better.

Now that is what we are saying to the Senator from Louisiana. I am, frankly, surprised that from a point of view of a negotiating tactic with the House—and that is what it is. We are baring our soul here in saying this is the way we have to deal with numbers. This is not a matter of principle. It is a matter of numbers now. And we are negotiating to try and get the numbers that will sustain the level of directed energy the Senator from Louisiana wants. And his amendment was adopted by the committee on the basis of a $3.7 billion allocation which we now know is not possible to achieve unless the negotiators at the authorizing level are able to tell the House the Senate's position is 4.3, period.

Mr. JOHNSON addressed the Chair.

Mr. STEVENS. Does the Senator seek to ask me a question or seek the floor?

Mr. JOHNSTON. I seek the floor briefly.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, my dear friend from Alaska has painted the picture in the Appropriations Committee as if we anticipated a split, as if we really wanted 4.3 but sort of as a compromise went to 3.7.

Mr. STEVENS. If the Senator would yield, and I did yield to him. That is not what I said. We set a level of 3.7 and the committee adopted the Senator from Louisiana's earmarking of directed energy on that basis. I was arguing in the committee that we could not assume we would hold the 3.7 and, therefore, his amendment earmarking the same amount in 1990 that was spent in 1989 on directed energy was premature and I opposed it.

We are now saying to the Senator if he will let us go to the House to negotiate on both the authorization bill and the appropriations bill at the $4.3 billion, his amendment makes sense and probably will result in at least $3.7 billion being allocated to SDI or at least a continuation at the level, in which event, I would not argue with the Senator's amendment.

Mr. JOHNSTON. Mr. President, the answer to the Senator's question, if that was a question, is yes and no.

Mr. President, just to set the record straight, I ask unanimous consent that a copy of a letter addressed to the chairman of the subcommittee, Senator INOUYE, and signed by 13 Senators, which says, among other things, "To mark SDI to $4.3 billion now would needlessly constrict the subcommittee on other programs." The 13 Senators, together with 2 others who thought the 3.7 level requested was too high, that is, Senator HATFIELD and Senator LEAHY, constituted a majority of the Appropriations Committee. I ask unanimous consent that that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, September 5, 1989.

Sen. DANIEL K. INOUYE,
Chairman, Subcommittee on Defense, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR CHAIRMAN INOUYE: As the Defense Appropriations Subcommittee soon will mark up the FY 1990 defense bill, we want to assure you of our cooperation in fashioning that legislation. We particularly appreciate the difficulty of meeting the agreed upon limits on defense budget outlays for FY 1990.

In this regard we understand that when the Subcommittee marks up the Appropriations bill, the DOD Authorization conference may not yet be complete on many items, including the Strategic Defense Initiative. In the absence of that information, we would strongly encourage you not to mark SDI to the SASC reported level of $4.3 billion, as everyone, including the SASC itself, anticipates a lower number from the conference.

To mark SDI to $4.3 billion now would needlessly constrict the Subcommittee on other programs. If the SDI conference agreement is unknown, and you don't intend to anticipate the outcome of the Conference by splitting the difference between the House and Senate authorization levels, then we strongly encourage you to mark to no more than last year's SDI funding level plus inflation.

Last year, and the year before, the following language was reported by the Committee and thereafter enacted as a sense of the Congress resolution:

". . . (4) in matching research priorities against available resources, the primary emphasis of SDI should be to explore promising new technologies, such as directed energy technologies, which might have long-term potential to defend against a responsive Soviet offensive threat."

Mr. Chairman, SDIO is apparently not complying with this Congressional direction. If they received their full budget request, about $2 billion more than the actual FY 1986 appropriation, SDIO would spend *less* in real terms in FY 1990 on directed energy weapons that they did in FY 1986, FY 1987, FY 1988, or FY 1989. During those years, although SDIO enjoyed massive funding increases overall, the funding it allocated to directed energy weapons—the lasers and energy beams of the future that we were led to believe were synonomous with SDI—generally declined in real terms.

Instead, SDIO concedes, the emphasis is on obtaining a deployment decision by the President within the next four years. And the focus for such a decision is on the near-term kinetic kill technologies of Phase I and in particular, the so-called "Brilliant Pebbles". Yet, with all this emphasis on "Brilliant Pebbles", SDIO won't decide until November, well after the Appropriations bill is enacted, whether Brilliant Pebbles is worth incorporating into the Phase I architecture. As you know, neither Brilliant Pebbles nor any other space-based kinetic energy weapon in Phase I is considered to have had "long-term potential to defend against a responsive Soviet offensive threat".

The SDIO Director has indicated he will further reduce funding of Directed Energy and Advanced Technology programs, if Congress does not provide SDIO the billion-dollar budget increase it requested overall. Mr. Chairman, we urge you to prevent further loss of balance in the program between the expedient near-term technologies and those technologies with long-term potential. One way might be to establish a minimum funding level for Directed Energy Weapons at the current level.

We thank you for your attention to our request and look forward to working with you on the defense appropriations bill.

Sincerely,

Dennis DeConcini, Bob Kerrey, Brock Adams, J. Bennett Johnston, Tom

Harkin, Harry Reid, Barbara A. Mikulski, Dale Bumpers, Frank R. Lautenberg, Wyche Fowler, Jr., Quentin N. Burdick, Charles E. Grassley, Jim Sasser, U.S. Senators.

Mr. JOHNSTON. Those Senators on that letter, together with Senators HATFIELD and LEAHY who thought the 3.7 was too high, together with other Senators who did not sign the letter, but who voted for the level, constituted a big margin in the Appropriations Committee. And as that letter indicated, we knew precisely what we were doing. We thought $4.3 billion was too high and $3.7 billion was overwhelmingly adopted.

Mr. President, I will yield in just a moment to my friend from Nebraska, but let me just make this point. We have already given the Armed Services Committees the number they need which they said they needed as a bargaining chip. They said we need to split the difference and come back at about 3.7, I recall the Senator from Nebraska said.

Mr. President, we are told that that was a meaningless gesture, that we have got to do it on the appropriation bill as well.

Mr. President, this assumes that the House is both weak willed and weakminded, that somehow the House will not be aware of what is going on here. When our friends from the Armed Services Committee say we want you to give us 4.3 again, but we really do not mean 4.3, I do not know what they mean, something less—then just how weakminded is the House supposed to be? Why is this second statement of 4.3, if you do not mean it, why is that any more meaningful than the first 4.3 which apparently they did not mean?

Mr. President, bargaining chips, in the first place, is a little bit of a silly process. But if that is in fact the process, then use what you already have. Do not constrict the Appropriations Committee. Because by taking the 4.3, you restrict the Appropriations Committee's ability in other areas, such as Midgetman, such as the V-22, such as the rail mobile MX, such as all the other weapons programs that we have included in research and development in our bill.

I simply say, Mr. President, the Armed Services Committee has all the bargaining chips they need. They have $4.3 billion, if that is what they want, already in their bill.

To close, Mr. President, I think the Senator from Georgia [Mr. NUNN], put it very well, if he was correctly quoted by the Wall Street Journal.

On September 27, the Wall Street Journal said, quoting Senator NUNN:

"SDI is a perishable commodity, and it is going downhill on both sides of Congress," said Armed Services Committee Chairman SAM NUNN, who backed the restoration of funds but said he hadn't crafted the specific amendment. "It's a big pot of money," said the Georgia Democrat, "and the goals are elusive and vague."

So well said, Mr. President. So well said. Those goals have always been elusive and vague. I have stood on this floor saying they were elusive and vague for years: $20 billion ago they were elusive and vague. They have not defined what the purpose is. We were told the other day it was to defend against Brazilian or Indian—the country of India—ICBM's. I am not kidding, Mr. President. That is what the Wall Street Journal editorial, at least, said.

We have spent $20 billion for that? Maybe not, Mr. President. We are told now it is not for the astrodome. Nobody ever believed the astrodome, we are told. The President did not believe it. The Vice President did not believe it. The now Vice President, Vice President QUAYLE, did not believe it. It is all elusive and vague, according to the Armed Services Committee. And we are asked, again, to pile money on, a $600 million increase when we defeated a $300 million increase by a 2-to-1 margin the other night.

Mr. President, as I yield the floor I would like my friend from Nebraska, and I hope he speaks, to tell us why we should put $600 million into a program that remains, $20 billion later, with elusive and vague goals, where we do not know what we are doing, why we are doing it or what we would build if we build it, while at the same time taking money away from all the rest of the R&D programs of our armed services which are already short. I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I have been listening to the debate and watching the developments between the House and the Senate on the defense appropriations bill and the defense authorization bill, that seem to be moving in tandem, or somewhere near in tandem, which is not, of course, the way it is supposed to be.

I have been listening to the debates, to people who voted in different ways on this matter in the past. I noticed the other day the Senate voted overwhelmingly to make a substantial cut in the SDI program. I have just been sitting here and I was reminded of a story that the late, great Ralph Brooks, the former Governor of Nebraska used to tell. I think it fits very aptly the procedures that we go through here.

The story was that a freight train and a passenger train ran together right at a railroad crossing. There was a terrible accident and, of course, lawsuits followed. The man who was standing there with a lantern in his hand, waving away traffic, was testifying on the stand and the plaintiff's attorney was questioning him.

He said, now, the picture was the freight train was coming 50 miles an hour this way and the passenger train was coming 60 miles an hour the other way and they met head on while you were standing out there waving that lantern. He said: Could you describe it just a little bit better for the jury?

The watchman said: Well, really, No, I can't. That is about what happened.

The plaintiff's attorney said: Well, what was going through your mind as you stood there waving that lantern and keeping the cars away and saw the freight train coming this way at 50 and the passenger train coming the other way at 60 miles an hour. What went through your mind?

And the watchman replied: Well, nothing.

And the plaintiff's attorney pressed him a little further and he recited and said: What went through your mind?

The watchman finally said: Well, I did think that was a heck of a way to run a railroad.

I cannot think of any better or more apt description of how we run this railroad than what we are going through right now. The matter at hand was in the strategic subcommittee, as far as the Armed Services Committee was concerned. The chairman of that subcommittee of jurisdiction was totally surprised by this latest move. I have been warning those involved to be careful of what they do.

My credentials, I think, are very clear with regard to SDI. Certainly my friend from Louisiana knows where I have stood on this on numerous occasions when we have debated the issue, and once or twice won or lost by one or two votes.

From the very beginning, as the Senator from Louisiana said very correctly, I have been up front with the statement that I feel we should fund the SDI program at about last year's level. Not the $1 billion increase or so that the President requested. Not even more than that that the former President wanted to spend on SDI. But I wanted to have it somewhere in that area. And all of the marks that we have been working for in the authorization process were to try to get to that approximate figure, given what we knew the House was likely to do.

What happened? As we were going into conference with the House of Representatives in the defense authorization bill, our Senate measure, after debate and votes here, was $4.3 billion. The House position was $2.8 billion—a big difference.

As I went into that conference and sat down at the table across from the House conferees—this gives my colleagues a little bit of insight into how these things happen—I was handed a note that said the Senate Appropriations Committee in its wisdom or lack

thereof, had reduced the amount to $3.7 billion.

Anybody who has been in conference with the House in a leadership position knows full well that the legs were cut out from under this Senator by the actions of the Appropriations Committee. Now it seems that certain members of that Appropriations Committee who took that ill-advised action are now about ready to reverse themselves and say: We made a mistake.

Well, I suggest it is about time. It seems to me, Mr. President, we probably had best let well enough alone. Mr. President, the Senate expressed itself the other day on a whole series of issues, and some of the votes that cut SDI were because there were other funding mechanisms that some people had to be for. A heck of a way to run a railroad or a House and Senate or Senate conference committee.

I have mixed feelings what to do about this. I suspect even with my past credentials on SDI, the Senator from Louisiana assumed the Senator from Nebraska would not be casting his vote with the position of the Senator from Louisiana. Well, he may have thought that and frankly I had some ideas along those lines.

But I simply say that, as it stands now, I hope the amendment that has been offered will pass the U.S. Senate because, indeed, it will strengthen our position and allow us to get back to some funding level on SDI around where it was last year or a little bit lower than that. If we do not have that then I do not think there is any question but that we are going to have our legs cut out from under us even further by the actions of the Appropriations Committee.

I am very pleased to see that certain leaders of the Appropriations Committee that I understand voted to cut SDI to $3.7 billion are now beginning to have a change of mind. So I very likely will vote in support of the amendment but with the clear understanding that I am doing that only, not to increase SDI funding above what it was, but to try to keep it at some appropriate level, in that area which is about, just over or just below last year's funding level.

And why is that, Mr. President? Because I believe that SDI is not fully understood or appreciated by many. My particular belief is that it is important that we continue research and development on SDI, not from the standpoint of an immediate deployment of that vastly overrated system that was originally sold to us, the one that the President in the Chair will remember showed a little girl with a red crayon and a yellow coloring book, drawing a oval like this and then bombs coming down and dropping off to the side. That particular ad, and that particular philosophy, has done more to kill legitimate interests in what SDI I hope some day can do anything else.

So I have never tried to oversell or undersell the SDI Program. I have always supported some reasonable funding level.

I simply say, Mr. President, that SDI is important in research and development simply because whether or not we make an agreement with the Soviet Union on START and then proceed on down the line, it seems to me the United States of America has to have some form of SDI, a limited form of SDI at a minimum that protects this country and gives us at least 95 percent assurance that some Third World nation, a Qadhafi, if you will, could not get their hands on at least, maybe a rudimentary type of ICBM without accuracy, but use it to blackmail the United States or some of our allies.

We simply have to have something, aside from the real, imagined, or potential threat from the Soviet Union to protect this country from nonsuperpowers who may threaten us at some time in the future or try and threaten the President of the United States now or in the future, under conditions that far too many people have not yet envisioned.

I, therefore, say, Mr. President, I do hope that the Senate will agree to the amendment, even though it will be interpreted, as it should be: A reversal of the vote that was cast just 2 days ago.

I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Senator from Alabama.

Mr. HEFLIN. Mr. President, I am pleased to rise to speak of my amendment. I appreciate the Senator from Alaska introducing it on my behalf as I could not be here.

I want to point out that I do not think that the recent vote which occurred September 26 in which there was a vote of 66 nays and 34 yeas pertaining to a substitute to the committee amendment provided a true vote on SDI. That amendment, while it prevented increases in SDI, was a mixture of many things. There were matters pertaining to space and helicopters that placed some Senators in the position that they could not vote for it even though it provided additional funding for the SDI Program.

This amendment is an effort to try to have a straightforward, up-and-down SDI where there is none of the other matters that would divert.

Some wanted to know where the offset was. This amendment takes the additional funding out of the general research and development where the Secretary has the authority to make certain discretionary decisions so there is no specific offset that comes out of another program. Some people, if I have talked to them about this, have had some question as to where it is going to come out.

So I think you can be assured that really nothing is changed from the bill, as a whole, other than the discretionary amount for DOD R&D that the Secretary of Defense has. It is more than $37 billion provided to R&D in the bill. This amendment would cause only a very small percentage decrease in other R&D programs to provide the addition for SDI.

The true vote, I think, on SDI was cast when we had the authorization bill when the amendment to cut funding for SDI was defeated. With that the Senate authorized $4.3 billion—the same level as in my amendment. I think at that time when the SDI won is more indicative than this vote only a day or so ago in which SDI appeared to have lost 2 to 1. As we all know many other programs were considered in that vote also.

I have noticed that the chairman of the Appropriations Subcommittee and the manager handling this, the distinguished Senator from Hawaii, has not spoken on this amendment.

If he would respond to my question with regard to it. Would the distinguished Senator from Hawaii, the floor manager of the DOD appropriations bill that we are handling now, make a statement on his opinion relative to this amendment?

Mr. INOUYE. Mr. President, if I may respond, the record will clearly show that over the years I have supported the lower numbers, and on many occasions I have supported my friend from Louisiana. Having said that, I am also well aware that the outcome of the conference now being held between the authorizers of the House and the Senate will have a significant impact upon the work of the appropriators in their conference.

Second, I have been called upon by the chairman of the Senate Armed Services Committee asking me to assist him in this matter because it will serve to expedite and conclude the conference so that we can have an authorization bill before we proceed with our conference.

Third, Mr. President, as I announced when the debate opened on this bill, I have made every effort to work as closely as possible with the chairman of the authorizing committee to avoid the disunity which has been demonstrated on this floor for too many years, and I believe that now is the time when I should come to the aid of my friend from Georgia.

Finally, having participated in conferences for the past 27 years, I know very well that the number $4.3 billion will not be the final number. I would anticipate that with that number, if we do well, it would be somewhere in the vicinity of $3.6 billion, which would be just about where our bill calls for at this time. Therefore, I will

be casting my vote in favor of the Heflin amendment.

Mr. HEFLIN. Mr. President, I appreciate the remarks of the distinguished chairman of the Defense Appropriations Subcommittee. That is certainly a welcome vote. That the manager and chairman of the subcommittee who deals with military appropriations will vote for the Heflin amendment is very much appreciated. So I greatly appreciate his statement and his words there.

I know there are others who want to speak. I do want to make this statement. I was originally opposed to the Johnston amendment on fencing directed energy weapons because I think that it would have meant that other important SDI programs would suffer if the overall funding level went too low. If the Helfin amendment passed, adding $600 million to SDI, bringing it to the Senate-passed level in the DOD authorization bill, I do not believe that the fencing for directed energy will be harmful to the SDI Program overall.

But if my amendment is adopted, then I believe that the Johnston amendment will be acceptable to many Senators who would have otherwise opposed it.

In that regard, I hope the Johnston amendment will carry if my amendment carries in this instance.

Mr. President, I urge my colleagues to support my amendment and support the SDI Program.

I yield the floor.

Mr. WALLOP. Mr. President, I say the Senator from Louisiana appears as though he wishes to respond. I have no desire to interfere with that.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. I thank the Senator from Wyoming. I think the vote is going to occur at 2:15.

Mr. President, I ask unanimous consent that the time between now and 2:15 be split between the Senator from Wyoming and myself.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I would just say, I think it is not exactly an accurate characteristic of the events of the other evening that SDI was the linchpin of that 66-to-34 vote.

I think an examination of who voted in which direction clearly demonstrates that SDI was not the linchpin. For some it was NASA, for Senator GARN and Senator GRAMM, who are both long-time SDI supporters, and for example, Senator MACK as well. For others it was the Apache helicopter, Senator MCCAIN and Senator BOND.

I am not going to characterize the votes of anybody on the other side. But these were clearly votes based on what I described at the time as hometown economics. I understand that as well as anybody else.

The Senator from Louisiana asks a decent question: Why do we need a high SDI figure now when in the past we have not needed it?

For one good reason. Not in the recent history of these events, probably since the Budget Act, has the Senate Armed Services Committee and the Senate Appropriations Committee been so far apart going into conference on SDI and a good many other issues.

Our ability to narrow these things in previous years was clearly more powerfully stated than it is today, and also the timing of those events was much more closely coincidental than it is today.

I think it was true, as my friend from Alaska tells me, that they were told that we would have this conference by the time we got to the appropriations bill. It has not worked out that way. All I say is that if we had such a strong bargaining position today, we would not have the Senators from Georgia, Alaska, Virginia, and Nebraska saying this is important to the posture that we have in the authorizing committee's conference.

Mr. President, I yield the floor.

Mr. JOHNSTON. Mr. President, what we are involved in is a political hangover from the Reagan days when an unattainable dream was sold to the American people with hype, attendant with all of the great television ads and cartoons which said we can free this country from the threat of nuclear weapons by building SDI, and we dedicated $20 billion to the program, deluding ourselves as well as the American people in the process.

Mr. President, two nights after having defeated an increase in SDI of $300 million, we are now asked to go $600 million in increase. Mr. President, the proponents of this amendment ask us to engage in an exercise in self-delusion twice as big as they tried the other night. Why? Simply because they say we must demonstrate again that SDI is a more important program than the Senate and House believe it is. Why do we have to have such fealty, so much loyalty to these unattainable goals? Mr. President, the chairman of the Senate Armed Services Committee himself said it better than anybody else can say it I think, that it is a big pot of money and the goals are elusive and vague.

We have already armed these negotiators in this conference with a number bigger than anybody thinks they ought to have, $4.3 billion. That is what they asked for as a bargaining chip in the conference committee. They have it, Mr. President. We gave it to them. I say to the authorizers, go use the bargaining leverage you already have. This is the world of appropriations. We should not be trying to create some phony bargaining chip which House Members can see through as they can the clear air of a cloudless day. I ask my colleagues to recognize that the House has sense enough to be able to see through a phony bargaining chip, that this program with elusive goals should not cannibalize all the other good programs in the Department of Defense. The head of the Strategic Defense Command, General Chain, just recently testified before our committee, talking about the needs of strategic deterrence and his prepared statement did not mention SDI one time, not one word.

Mr. President, I ask my colleagues to do what they did the other night and hold to this figure of $3.7 billion, which is a big increase over last year.

The PRESIDING OFFICER. The time allotted to the Senator from Louisiana has expired.

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. WALLOP. Mr. President, I yield such time as remains to the distinguished chairman of the Armed Services Committee.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia [Mr. NUNN] for 1 minute.

Mr. NUNN. I thank my friend from Wyoming.

Mr. President, I will make mine very short. This is a very pragmatic question. The Senator from Louisiana himself said that $3.2 billion as an outcome would be too low. What we are talking about is whether we are going to end up after all is said and done, both conferences, appropriations, and authorization, with somewhere in the neighborhood of $3.6, $3.7 billion. If we go the way the Senator from Louisiana is talking about, which is to keep this bill like it is, we are going to end up at a level below what he believes is wise.

Mr. President, I think this is the ultimate in pragmatism. I read a story the other day about a fellow who was called by the credit card company. The company told him somebody was out with his stolen credit card and spending money, and they asked him if he knew about it. He said, "Yes, I have known about it for a few months." They said, "Why didn't you notify us? He said, "Because I figured very carefully and the fellow was spending less money than my wife had been spending."

Mr. President, this is the ultimate pragmatic decision and I hope the Senate will be pragmatic.

Mr. HEFLIN. I ask unanimous consent that the Senator from Wyoming be allowed to have a couple minutes to speak.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON addressed the Chair.

Mr. HEFLIN. I withdraw that.

SOVIET RESPONSES TO SDI

Mr. BUMPERS. Mr. President, one aspect of the SDI question that the executive branch has consistently given short shrift to is the question of Soviet responses to SDI. This issue is extremely important because there is abundant evidence that there are a whole host of relatively simple countermeasures to SDI that are available to the Soviets.

Soviet incentives to counter SDI are very strong, because if it were not for their strategic weapons, the Soviets would not be a superpower. As the National Intelligence Council's Assistant National Intelligence Officer for Science and Technology, Dr. Arthur Manfredi, Jr., has said:

Certainly the strategic defense initiative, by threatening the Soviet Union's basis for superpower status, its land- and sea-based ballistic missiles, threatens core Soviet military doctrine. Therefore, their defense industry will be called upon to meet the challenge.

Dr. Manfredi analyzed the issue of Soviet responses to SDI in a very useful article that if anything understates the threat to SDI posed by Soviet countermeasures. I ask unanimous consent that his article from National Defense of February 1989, "Soviet Defense Industry Response To SDI," be placed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

NUCLEAR REALITY FAVORS OFFENSE OVER DEFENSE

Mr. BUMPERS. Strategic reality shows us that it is easier for the offense to overcome defense than for defense to defend successfully against offense. Look at the world of strategic bombers. We have all heard the argument that the Air Force makes about the B-2, how this $70 billion investment is going to offset $350 billion in Soviet spending on air defenses.

Did anyone stop to think this same logic may apply to SDI? That it is easier to offset missile defenses than it is to pay for them? Actually, it is probably even worse for SDI than the 5:1 cost ratio between offense and defense for air defense and bombers. It is much easier to shoot down a bomber than a missile. It takes a bomber 10 to 15 hours to reach its target, while it takes an ICBM one-half hour.

If people want to know what a world with no limits on missile defenses would look like, look at bombers. Ask the commander in chief of the Strategic Air Command whether 40 years of Soviet air defenses has kept his forces from being able to deliver a horrendous retaliation against the Soviets. The fact is, our bombers are more potent than ever, even though the Soviets have spent one-third of a trillion dollars in air defenses, five times more than we have spent on bombers.

SLBM's: We must not delude ourselves about countermeasures to SDI. There is an important lesson to be learned from our experience with submarine launched ballistic missiles [SLBM's] as well. Lockheed's missile and space division has designed and built every one of our SLBM's, from the Polaris A-1 up to the Trident II D-5. And now they are reluctantly going out of the new SLBM business because we do not need a new SLBM as long as the ABM Treaty stays in place. The Trident II does it all.

But Lockheed has missile designers just itching to develop countermeasures to SDI. And if both sides deploy SDI, we will need them. And the arms race would just accelerate. After all, if the Soviets did not have any air defenses, we would not need any bombers like the B-1 and B-2. We could just modify 747 airliners at a fraction of the price.

As one SDI scientist has said. "I'd rather have the Soviets' problem of figuring out how to defeat SDI than our job of trying to figure out how to make it work."

That statement should tell us something. With responses to SDI being so easy, if we go forward with SDI we will be getting on a treadmill that we will never get off, and the cost of staying on the treadmill will keep on going up and up.

OVER $1 TRILLION FOR A DEFENSE THAT WON'T DEFEND

SDI phase I will cost $69 billion, according to the Pentagon. If you add operating costs, inflation, and a few other things, it comes up to about $100 billion. And that is for an SDI that, even if it works as advertised, will be obsolete as soon as the Soviets deploy a few straightforward countermeasures.

What is more, phase 1 would just be a down payment. A report by Lawrence Livermore Laboratories said that a phase 2 of SDI lasers and beam weapons which we would need before the end of the first decade of the 21st century, would cost $541 billion. And that would become obsolete after a few more years, too. If phase 3 of SDI cost no more than phase 2, the first three phases of SDI would cost about $1.2 trillion.

In the meantime, we should not forget what Adm. William Crowe, Chairman of the Joint Chiefs of Staff, told the Defense Appropriations Subcommittee this year:

Even if we could [deploy a perfect SDI], the United States would be vulnerable to an attack by cruise missiles launched by Soviet bombers or submarines.

That is great. If we go forward with SDI, we will spend $640 billion to $1.2 trillion for about 25 years' worth of very leaky and vulnerable SDI protection. And on top of that, it will not help us one whit against the fastest growing part of the Soviet threat: Bombers and cruise missiles. It is like putting 20 locks on your front door and leaving your back door wide open.

EASIEST WAY TO KILL SOVIET WARHEADS IS AT THE NEGOTIATING TABLE

Press reports say that one of the performance criteria the joint chiefs have laid down for SDI's phase 1 is that it be cable of destroying 50 percent of the Soviets' SS-18 warheads. As I see it, there are two ways to accomplish this. One is to spend $100 billion on SDI phase 1, followed by hundreds of billions more when phase 1 is quickly made obsolete by Soviet countermeasures.

The other way costs very little. Just sign a START treaty. We have already gotten the Soviets to agree to cut their SS-18 force by 50 percent in Geneva. With a little pushing, we may even get more and unlike SDI, it will not cost hundreds of billions in the future to maintain those cuts.

NOT ENOUGH MONEY FOR SDI IN THE BUDGET

But SDI has a bigger problem than Soviet countermeasures. It is the budget deficit. Even Bush's scaled back 5-year SDI plan calls for spending $9 billion in fiscal year 1994. Now does anyone think that we can afford that?

SDIO Director Monahan says that the 5-year plan's $33 billion is "the minimum needed to meet the goals established for the SDI by the President." If SDI gets $4.5 billion in each of the next 5 years, that would be $22.5 billion, or about one-third less than what General Monahan described as the minimum needed. And I think SDI would be lucky indeed to get that much funding.

BRILLIANT PEBBLES: A COST ESTIMATING FANTASY

We will hear a lot on the floor about Brilliant Pebbles. I am no expert on it, but let us keep a few things in mind.

First, we spent $46 million on Brilliant Pebbles in fiscal year 1989. That is slightly more than 1 percent of SDI's $4 billion in funding. Second, they are claiming that each Brilliant Pebble, crammed to the gills with a shrunken supercomputer, sensors that take the place of multihundred million dollar satellites, and ultrasophisticated communications gear, will cost about $500,000 each.

To put that cost in perspective, that is the Air Force's cost goal for the advanced medium range air-to-air missile [AMRAAM]. And the Air Force is having trouble keeping the AMRAAM within its cost goal. The AMRAAM missile is infinitely simpler than a Brilliant Pebble. It is an air-to-air missile with a vastly simpler computer, far simpler sensors, it gets carried by

its fighter plane and doesn't need to be put in orbit, and it can be given frequent maintenance, unlike a space-deployed Brilliant Pebble.

And we are supposed to believe that a Brilliant Pebble will meet the same cost goal that a vastly simpler missile is having trouble meeting?

What does it say about a program that after you have already spent $17 billion on it, you suddenly turn it around completely when some flashy new idea is thought up. All the attention that Brilliant Pebbles is getting is not so much an endorsement of Brilliant Pebbles—it is an indictment of SDI.

Let us not get carried away by Brilliant Pebbles. Even the head of the SDI office, General Monahan, calls Brilliant Pebbles a concept, not a weapon. In these tighter fiscal times, there is enough money to do a good research program that hedges against a Soviet ABM Treaty breakout and exploits some of these new technologies. Or enough to do a bad development program, on an SDI system that is easily overcome by Soviet countermeasures, or that may well not work anyway.

HOW TO SPEND HUNDREDS OF BILLIONS IN 30 SECONDS

Keep in mind what we are talking about. Whether it is "Smart Rocks" or "Brilliant Pebbles," those things will have to start firing about 30 seconds after we get our first warning that the Soviets have started to attack. SDI officials have told me that we would have to start firing 60 seconds after the Soviets launch in order to let our "Smart Rocks" get to the Soviet missiles in time. And if the Soviets choose a cloudy day to unleash Armageddon, it takes those missiles 30 seconds to break cloud cover.

And unless we want to turn the fate of the world over to computers, we have to squeeze time for a senior official to say "OK, shoot." All in 30 seconds.

Just imagine if you had to make that decision. If you fire, and it turns out to be a false alarm, it would cost many billions, perhaps hundreds of billions, to refurbish the SDI system after that false alarm. And if you don't fire, but the attack was real, the whole system would be a waste. All to be decided in 30 seconds.

So the choice is ours. We can try to chase this SDI mirage, spending even greater sums of money, and cutting far more worthy defense programs in the process, to get a system that will do no more than we could accomplish by just signing a START agreement. Or we can fund a vigorous and robust research program at about $3 to $3.5 billion per year.

Let us make the obvious choice. We cannot afford the fantasy any longer. Let us cast a vote for sanity. Let us cap SDI funding and stop the self-delusion.

Mr. President, I ask unanimous consent that two additional articles be placed in the RECORD. One is an excellent piece from the Journal of Legislation written by our esteemed colleague from Illinois, PAUL SIMON, entitled "The Future of SDI." This article, written last year, concisely highlights the most important shortcomings of SDI and makes clear that the appropriate way for us to go on with this program is a prudent research program only.

The other article is a piece written by my Defense aide, Bruce McDonald, that appears in this month's issue of "Arms Control Today." This piece, entitled "Lost in Space: SDI Struggles Through Its Sixth Year," is a fine review of the noteworthy SDI issues and developments that became prominent during 1988-89. I commend both of these excellent articles, as well as Dr. Manfredi's fine article, to my colleagues' attention.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXHIBIT 1

SOVIET DEFENSE—INDUSTRY IN RESPONSE TO SDI

(Dr. Arthur Manfredi, Jr.)

There is understandably much concern about how the Soviet Union will respond to the Strategic Defense Initiative. Much effort is being spent in postulating the likely response options the Soviets would choose. Because we do not know yet what components and architecture a strategic defense system would have, assessments of possible Soviets responses are usually done considering a range of possible U.S. strategic defense systems.[1] Even though predicting Soviet responses is thus somewhat of an academic behavior, one can inject some practical constraints. It is useful to array potential Soviet responses against the strengths and weaknesses of that country's defense industry, which will be tasked with actually producing whatever responsive weapon systems are chosen by the Soviet military leadership.

CATEGORIES OF RESPONSES

Potential Soviet military responses to SDI fall into five broad categories:

Proliferation. This is adding more ICBMs and SLBMs, the target of strategic defense, including mobile land-based systems. The goal would be to overwhelm the defense in order to ensure that a sufficient percentage of missiles would successfully make it through their various trajectory phases to release and deliver their reentry vehicles (which could also proliferate on each missile through higher payload fractionation levels) with their nuclear weapons.

Evasion. This involves using countermeasures to evade the defense. Potential techniques include fast-burn, specially-coated, rotating or decoy boosters to evade defense system elements that operate during boost phase; reentry vehicle decoys to confuse the strategic defense during the mid-course phase of the attack, and reentry vehicle decoys or maneuvering reentry vehicles that operate in the atmosphere near the target area during the terminal part of the attack.

Avoidance. In contrast to evasion, which continues reliance on ballistic missiles, adoption of avoidance would shift dependence to "air breathers:" aircraft and cruise missiles. SDI at present does not plan to defend against these types of weapon systems.

Suppression. This is the so-called "active" response, actually attacking the strategic defense to weaken or destroy it.

Emulation. Under this response, the Soviet Union would develop its own comprehensive strategic defense, emulating the United States. Under President Reagan's vision, this would be a desirable outcome, because it would shift the basis for the superpower relationship from mutual assured destruction to mutual assured survival.[2]

The above five categories will be discussed below. There are technical responses, responses which the Soviet defense industry could provide in some measure. There are other responses ("non-technical") that are not discussed herein, such as political, arms control, and propaganda. Any comprehensive assessment of Soviet responses to SDI should include these categories as well.

SOVIET DEFENSE INDUSTRY CHARACTERISTICS

The Soviet Union's weapons industry is the largest in the world.[3] It out-produces the United States by substantial margins in almost all classes of weapons system.[4]

The historical success of the Soviet defense industry can be traced to several factors, most notably its priority over the civilian sector is a command economy.

Centralized management has provided a strong link with the military customer.

Continuity of personnel has provided stability as well as an experience factor in the management structure.

The defense sector has both first claim on resources as well as institutional protection from diversion of resources to the civilian sector.

Authorization for weapons programs is done early and only once. If done in the same fashion in the United States, this would be the same as combining in a single decision Department of Defense approval, presidential approval, and congressional appropriation of multi-year funding.[5]

The military systems that the Soviet defense industry has produced share some common attributes.

The designs tend to be relatively simple, based on standardized components and proven technologies.

The systems are easily manufactured, using a relatively poor (by Western standards) base of both equipment and labor force.

The large numbers of systems produced are the result of very long production runs.

Already-developed Soviet systems frequently are improved by incremental upgrades rather than by replacement with new systems. This approach allows quick incorporation of new technologies, helps hold down costs, eases manufacture by often using existing production lines, and fits in nicely with the management continuity noted earlier.[6]

There are weaknesses associated with these attributes. The strong, centralized management, continuity, and early decisions make major change difficult, especially rapid change. This is true even when the national leadership wants change, and often requires personal intervention from above.[7] The fundamental flaw, of course, is the sti-

Footnotes at end of article.

fling of any entrepreneurial spirit, the hallmark of our free-market system, which is responsive to market forces.

The emphasis on proven technologies and incremental upgrades discourages risk-taking at all levels, from the designer to the producer.[8] Simple designs often have resulted in less sophisticated weapons than Western counterparts, in employment.[9] (This is an arguable point. Some would argue that the United States should shift more in the Soviet direction.)

There are several indicators that some changes are in the offing for the Soviet defense industry. These changes are being driven by a combination of factors, including economic pressures on the civilian side, the inexorable advance of technology, and U.S. initiatives,[10] not the least of which is SDI. Some of these trends are:

The priority of the defense industry will come under increasing scrutiny. While defense will continue to have high priority on a relative basis, that priority will be brought more in balance with civilian needs.

There is a slight but perceptible shift from almost total dependence on proven technologies to more advanced technologies, especially in the field of computer-aided design and manufacture.

There is a more pronounced shift from simple to more complex weapon designs. With this comes smaller numbers of systems and lower production rates. As the Soviets make this shift, they will buy multimission capabilities at the cost of higher procurement costs and maintenance needs.

The Soviets are trying to promote renovation and upgrade of existing defense industry facilities in contrast with their past practice of building new plants.

The Soviet have begun to make some changes in defense industry management practices, such as introducing incentives to encourage innovation and emphasizing quality over quantity. These changes are "around the edges." The centralized planning system remains.

The Soviets are adding to their aggressive program to acquire Western technology by attempting to upgrade the S&T capabilities of their East European allies. It is hard to believe that the Soviets would depend to any great extent on the East European countries to help them respond to SDI. Those countries are notoriously weak in high technology. The Soviets undoubtedly will continue to attempt to acquire Western technology by both legal and illegal means; history argues that they will continue to be successful in the acquisition but have difficulty in the assimilation of such technology into their production lines.[11]

THE MATCH-UP

How do the needs of the potential responses to SDI match up against the strengths and weaknesses of the Soviet defense industry? In some cases, pretty well; in others, not very.

Proliferation appears to be the Soviet Union's strong suit. The Soviet Union's land-based ballistic missile force is their premier service,[12] and will not roll over easily in the face of the challenge posed by SDI. The Soviet navy operates the world's largest strategic ballistic missile submarine force.[13] Both forces have been continually improved in the past,[14] and new generations of missiles are forecast for the 1990s. Many of the land-based missiles are projected to be mobile.[15] The Soviets' historical dependence on ballistic missiles to validate their superpower status coupled with the large and vested design and production establishment argue that this option will play a strong role in any U.S. deployment of a strategic defense system.

Evasion holds some promise for the Soviets, but in some areas they are weak. Major modifications to ballistic missile boosters would present problems for them. Wholly new boosters designed for fast-burn, having special coatings, or rotating would depart from their incremental upgrade approach to varying degress. On the other hand, adding decoys for boosters, decoys for reentry vehicles, or maneuvering reentry vehicles are options more in line, to varying degrees, with historical Soviet approaches.

Avoidance also holds some promises for the Soviets. They are working on new air- and sea-launched cruise missiles,[16] and a new long-range cruise missile is projected for the next century.[17] Here, too, the Soviet penchant for large numbers of systems would be an advantage. However, if the United States were to proceed with an Air Defense Initiative to complement a strategic defense system, Soviet incentives here might diminish.

Suppression, attacking the defense, is consistent with the Soviet "brute force" approach common in many areas. They have the world's only operational antisatellite system,[18] but it would be no match for components of a well-designed U.S. strategic defense system. Much effort is being devoted by the SDIO to anticipating potential Soviet attacks, and technically sophisticated counters to defense suppression will no doubt be incorporated into any U.S.-deployed system.[19] Thus, Soviet systems designed to attack a U.S. strategic defense system would necessarily also need to be sophisticated, and this area would be one of probable Soviet weakness.

Emulation would be fully consistent with Soviet military doctrine. Indeed, the Soviets already accord strategic defense a role equal to that of offensive forces.[20] The Soviet Union has worked on wide-ranging strategic defense programs since World War II.[21] They have the world's only operational antiballistic missile system[22] (around Moscow and fully compliant with the ABM Treaty). More important, they have a robust and expanding R&D program in the strategic defense area.[23] However, they are behind the United States in many key technologies,[24] so a head-to-head competition would put them at a disadvantage. The Soviets would probably not engage in a head-to-head competition. They would rather give the appearance of being equal while pursuing strategic defense systems which are less "high tech" than a U.S. system is likely to be.

OUTLOOK

Certainly the Strategic Defense Initiative, by threatening the Soviet Union's basis for superpower status, its land- and sea-based ballistic missiles, threatens core Soviet military doctrine.[25] Therefore, their defense industry will be called upon to meet the challenge. Challenged they will be, because this challenge will come on the heels of many others.

Many systemic problems of the Soviet defense industry will persist. The absence of strong support service industries, the lack of flexibility in the planned economy, the inefficiency of the entrenched bureaucracy, and the stifling excess of pervasive secrecy, all will hamper any Soviet efforts to expand broadly into high-technology weapon systems.[26]

On the other hand, several factors are in the Soviets' favor. The SDI program has been scaled back, primarily because of congressional funding cuts. This has slowed the pace of the research and thus extended program timeliness. This buys the Soviet defense industry precious time to research responses and be better prepared when U.S. intentions firm up. The Soviet Union as well has the advantage of the exceptional openness with which the SDI program is being conducted. Also, although generally lagging behind the West in key military technologies, the Soviet Union excels in some narrow areas such as some types of lasers and particle beam weapons, applicable to developing their own strategic defense systems as well as attacking elements of a U.S. strategic defense system.[27] Finally, the sheer size of the Soviet defense industry will allow their military establishment to continue to compensate with large numbers of weapons for shortfalls in capabilities.[28]

On balance, the Soviet defense industry will remain potent. It will continue to receive a large share of the best resources, and its leaders will continue to be influential.[29] The confluence of growing economic constraints[30] and continued advance of technology will present an uprecedented challenge to the Soviet defense industry. The Soviet Union may be especially vulnerable to vigorous U.S. R&D advances, and thus, perhaps, more anxious to make an arms control deal.

FOOTNOTES

[1] "Report to the Congress on the Strategic Defense Initiative" (Washington, DC: The Strategic Defense Initiative Organization, 1988), p. B-16.

[2] Cosmo DiMaggio and Arthur F. Manfredi, Jr., "The Strategic Defense Initiative: Program Description and Major Issues (Report No. 86-8 SPR)" (Washington, DC: Congressional Research Service, The Library of Congress, 1986), p. 25.

[3] "The Soviet Weapons Industry: An Overview" (Washington, DC: Central Intelligence Agency, Directorate of Intelligence, 1986), p. iii.

[4] U.S. Department of Defense, "Soviet Military Power 1988" (Washington, DC: U.S. Government Printing Office, 1988), p. 37.

[5] "The Soviet Weapons Industry: An Overview," op. cit., p. iii, 11-15.

[6] Ibid., p. iii, 19, 21-24.

[7] Ibid., p. 15.

[8] Ibid., p. 19.

[9] Ibid., p. 23.

[10] Ibid., p. iii-iv, 37.

[11] Ibid., p. iv-v, 37-38.

[12] "Report to the Congress on the Strategic Defense Initiative," op. cit., p. B-10; and "Soviet Military Power 1988," op. cit., p. 44.

[13] "Soviet Military Power 1988," op. cit., p. 47.

[14] Ibid., p. 45-6, 48.

[15] Ibid., p. 47.

[16] Ibid., p. 51, 53.

[17] "Gorbachev's Economic Program: Problems Emerge." A paper prepared by the Central Intelligence Agency and the Defense Intelligence Agency for the Subcommittee on National Security Economics of the Joint Economic Committee, Congress of the United States (Washington, DC, 1988), p. 34.

[18] "Soviet Military Power 1988," op. cit., p. 65.

[19] "Report to the Congress on the Strategic Defense Initiative," op. cit., p. B-15 to B-17.

[20] Ibid., p. B-1.

[21] Ibid.

[22] "Soviet Military Power 1988," op. cit., p. 55.

[23] Ibid., p. 59; and "Report to the Congress on the Strategic Defense Initiative," op. cit., p. B-2.

[24] "Soviet Military Power 1988," op. cit., p. 143; and "Report to the Congress on the Strategic Defense Initiative," op. cit., p. B-12.

[25] "Report to the Congress on the Strategic Defense Initiative," op. cit., p. B-10.

[26] "The Soviet Weapons Industry: An Overview," op. cit., p. 40.

[27] "Soviet Military Power 1988," op. cit., p. 145.

[28] "The Soviet Weapons Industry: An Overview," op. cit., p. 40

[29] Ibid.

[30] "Gorbachev's Economic Program: Problems Emerge," op. cit., p. 1-3, 33.

THE FUTURE OF SDI

(By Paul Simon)

INTRODUCTION

I welcome the opportunity to discuss the Strategic Defense Initiative (SDI), which I oppose.

As in so many other things, the public has grasped the obvious, and that is why the negative phrase "Star Wars" has stuck (much to President Ronald Reagan's chagrin): neither the Soviet Union nor the United States can afford to let the other side get the upper hand militarily. If our lasers go up into space, theirs will soon follow. It will truly be Star Wars on a terrible scale.

In 1983, President Reagan invited the American people to glimpse the future. The President's vision of a total defense was enthralling and hopeful. He bid us to walk with him straight into a brave new world of futuristic space shields, a world where Soviet nuclear-tipped missiles were made "impotent and obsolete."

He asked for a down payment of twenty-six billion dollars over a five year period. After that money had been spent, his successors and the Congresses of the 1990's would sift through the facts and make an informed decision.

In theory, there is nothing objectionable to spending scarce resources on new ways to improve our nation's security. We routinely do this. The Constitution says that Congress shall provide for the common defense, and that has come to include a hefty annual sum for defense research and development.

But not every idea that comes down the pike makes sense politically or militarily, even if there is a glimmer of technical optimism. And SDI just does not make sense as presently constituted.

I support a research program on antimissile technologies. Almost everyone in Congress does. But a limited, prudent, research-only program consistent with the terms of the Anti-Ballistic Missile Treaty of 1972 is one thing; SDI is a crash program to build and deploy a questionable system of dubious merit. As Attorney General Edwin Meese has said, the Reagan Administration wants to "lock in" future Presidents and congressmen to its own particular SDI program.

The U.S.-Soviet nuclear standoff is cause for great concern, but SDI is the wrong way to go. The program is more likely to fuel the arms race than control it. For the foreseeable future, political solutions involving negotiations will build a safer world—not orbiting space shields armed with lasers and particle beams.

Each side has acquired approximately 25,000 nuclear warheads. We are locked in a stalemate. That stalemate is sometimes called "mutual assured destruction," or MAD. Both sides are deterred from striking the other because devastating retaliation would follow. This is the basic condition of life in the nuclear age.

For over forty years the world has lived with the terrible destructive power of nuclear weaponry. Our best scientists and engineers, our military commanders and civilian strategists, tell us that nuclear weapons are of a completely different nature than conventional weapons.

Unfortunately, too many people continue to think of nuclear weapons as if they were only slightly different from the bombs we dropped during World War II—more powerful, perhaps, but really not that different. Too many national security officials believe that nuclear warfare is practical. A few even believe that victory is possible.

But Hiroshima was destroyed by a single nuclear bomb with a yield of just thirteen kilotons (the blast of which is equal to 13,000 tons of TNT). An entire city wiped off the face of the earth by a single blast. Today's weapons are many times as destructive, and there are 50,000 such weapons around the globe. Nuclear weapons, especially today's multi-megaton devices, are so potent that a mere handful can effectively destroy the northern hemisphere in a matter of hours.

EXPLODING SOME SDI MYTHS

The invincibility myth

Let me take on some of the myths about SDI.

The first is that we can, in the words of former Defense Secretary Caspar Weinberger, erect a "thoroughly reliable defense."

It does not matter how good our technology becomes. There has never been a defense that has proven foolproof or leakproof, and there is no prospect that such a defense can be erected. SDI does not contemplate stopping all methods of delivering nuclear weapons—cruise missiles, for example.

Any defense can be directly or indirectly attacked, or it can be overcome. A wall can be breached, torn down or circumvented. Once that happens, all the computer simulations and wargaming will go right out the window, because the system will break down.

We are told that Star Wars might stop ninety or ninety-five percent of incoming warheads. But the nerve-center holding any strategic defense together—the advanced computers—can never be realistically tested. The only true test can be nuclear war itself, because testing individual parts of the defense will not tell how it will function as a whole under immense stress and direct attack. The French Maginot Line, a wonderful piece of advanced technology for its day, was out-flanked. And, just like the Maginot Line, SDI is not being "perfectly" designed. SDI will not protect us against cruise missiles, manned bombers, ballistic missiles that never leave the earth's atmosphere, and "suitcase" bombs. These weapons of mass destruction will continue to threaten civilization regardless of SDI.

The most likely result of SDI is a greater number of Soviet offensive nuclear weapons. Soviet leaders want to be sure that they can overwhelm or evade any U.S. defense. Given the substantial current lag in Soviet ballistic missile defense technology, it seems clear that the Soviet military would achieve this goal by building up and diversifying their current strategic arsenal. We would probably do the same if the Soviet Union deployed their own Star Wars system.

The affordability myth

Another myth is that a space defense can be built "on the cheap." One leading conservative group, the Marshall Institute, estimates total costs at $120 billion; still others give lower estimates. The reality is that our best independent estimates put the cost at well over one trillion dollars, and perhaps over two trillion, because any SDI system will have to be constantly maintained and upgraded.

Now, two trillion dollars is a mind-boggling sum. The most expensive construction project to date in the history of humanity has been the U.S. interstate highway system, where initial construction costs totaled $123 billion over a number of years. Two trillion dollars is approximately sixteen times the cost of the interstate highway system. The reality is that initial SDI costs will be at least eight times as high as the interstate highway system. The Congressional Research Service has estimated that a Star Wars deployment beginning in the years 1997-2000 could cost as much as 1 trillion for launch costs alone.

In fiscal year 1988 the SDI program will spend $3.9 billion. The Reagan Administration wants more than one billion dollars additionally, for a total of five billion dollars, for fiscal year 1989. Most experts believe a well-run basic research effort can be had for far less money. In short, we are spending too much on SDI research. I am deeply troubled about our nation's sense of priorities. The current budget level for SDI research is approximately three times as much as the federal government spends on cancer research.

And how would a space defense be financed? There are only three ways to do it. Number one, you substantially increase taxes. Number two, you cut other defense and our social programs substantially. Or number three, run up astronomical deficits, far greater than any we have seen to date, and send the bills to our children and grandchildren.

These are not responsible choices. Would it not be far cheaper to negotiate arms reductions? Every missile and warhead we remove through verifiable arms control is a missile and warhead that cannot be used against us. The cost of sending a negotiating team to Geneva is incomparably less than the cost of building, deploying, and maintaining a defense in space.

The arms control myth

The third myth is that SDI will help bring about arms reductions. SDI proponents argue that it is, or will become, a bargaining chip in arms talks. But unless you cash in your bargaining chip, it provides you no negotiating leverage. President Reagan and his followers are serious about deploying a space defense. They have gone well beyond research. This unduly complicates our negotiations with the Soviet Union.

I have proposed a much cheaper alternative to SDI, and a much safer one: a ballistic missile flight test ban. It is fully verifiable. A flight test ban will remove Soviet confidence in planning a first strike.

Think of a marksman. If he or she is somehow prevented from going down to the range for target practice, odds are very great that that person will do poorly at the meet. He or she will hit something, but it will not be the bullseye.

A flight test ban will have the same effect. The United States and the Soviet Union will still deter one another—we know, after forty years of flight testing, that we can hit the other country and destroy major cities and installations—but neither they nor we will have the pinpoint accuracy to take out the other side's nuclear missiles. We will both take a step back from the hair-trigger, the "use them or lose them" problem, and the arms race will slow down as a result.

CONCLUSION

Time and again, the United States has turned to technological advances to provide its citizens a measure of security. Each time the Soviet Union has caught up, and each time we go back to the labs for a bigger and better solution. Paul Warnke, President Carter's SALT II negotiator, captured the essence of the arms race when he wrote that we have become "apes on a treadmill."

SDI will not get us off that treadmill. No technological solution, by itself, could possibly do so. If we want to build a safer future,

if we truly wish to see nuclear weapons greatly reduced and gradually eliminated, we have no other choice but to negotiate them away. And at the same time we will create more understanding, and reduce fear—the ultimate cause of the arms race.

[From Arms Control Today, September 1989]

LOST IN SPACE: SDI STRUGGLES THROUGH ITS SIXTH YEAR

(By Bruce W. MacDonald)

In the last twelve months, the Strategic Defense Initiative (SDI) has encountered the roughest sailing of its six-year existence. Taking on more technological and political water than it could discharge, SDI has changed course several times in the last year in an increasingly desperate attempt to reach program milestones in the face of slackening fiscal and political winds.

From the program's basic justification to technical goals to budget prospects, every aspect of SDI has been buffeted by the winds of change. The Bush administration has shorn the program of its greatest political appeal by acknowledging that SDI cannot provide the near-absolute protection against the Soviet thermonuclear threat that President Reagan has envisioned. In giving SDI instead the mission of enhancing deterrence, the Bush administration has chosen a crowded playing field offering numerous alternatives to near-term missile defenses.

Technically, the Strategic Defense Initiative Organization (SDIO) has drastically revised its plans for "Phase I" missile defenses, with a new focus on the previously obscure "Brilliant Pebbles" space rocket concept.

At the same time, the Bush administration in one stroke cut President Reagan's five-year projected SDI budget by more than the entire amount Congress had cut from the program over the past six years of contentious debate. Congress is cutting President Bush's proposal still further: for the first time, the Fiscal Year 1990 funding level for SDI may be less than the previous year's. In the face of these multiple blows, it is clear that SDI's future prospects are dimmer than ever.

NO MORE ASTRODOME

In the past, SDI for the most was considered separately from other items in the strategic weapons part of the defense budget. None of them could pretend to offer what SDI pretended to offer: the prospect of "thoroughly reliable defenses" against nuclear missiles. But now, the unrealistic pretense that such perfect or near-perfect defenses will be feasible in the foreseeable future has been effectively abandoned.

That process began while President Reagan was still in office. In a revealing interview in the Seattle Post Intelligence late last year, then-Secretary of Defense Frank Carlucci admitted that SDI would not be the "impenetrable shield" envisioned by President Reagan, portraying the program instead as strengthening deterrence by increasing uncertainty in Soviet war planning.

Similarly, John Tower, President Bush's ill-fated first choice for secretary of defense, acknowledged early on in his confirmation process that the Bush administration did not consider it possible to "devise an umbrella that can protect the entire American population from nuclear incineration." This view, which was nothing new to those who had been following the program over the years, nontheless created headlines across the country because it came from a previously strong SDI supporter who clearly was speaking on behalf of the administration.

The point was reiterated by Admiral William Crowe, chairman of the Joint Chiefs of Staff, who told the Senate's Defense Appropriations Subcommittee that "we will never be able to deploy an SDI that is 100 percent effective under all circumstances and even if we could, the U.S. would be vulnerable to an attack by cruise missiles launched by Soviet bombers or submarines." Defense Secretary Dick Cheney called a missile umbrella based on SDI "an extremely remote proposition," acknowledging that SDI has been "oversold." The Bush administration was now saying openly what SDI critics were taken to task for saying just a year earlier.

STRENGTHENING DETERRENCE

By abandoning the fiction that SDI could provide an "astrodome" defense against nuclear attack, the Bush administration was only recognizing the realities of offensive weapons capabilities. And by retreating to more intellectually defensible position for SDI—that a limited Phase I system would strengthen deterrence by complicating Soviet planning for an attack—the Bush administration would avoid looking naive when defending the program, and bring expectations into line with the actual design requirements for the first-phase missile defense that is now the focus of the SDI program.

Those requirements set by the Joint Chiefs of Staff (JCS), call for only a very partial defense—what JCS Vice Chairman General Robert Herres has called "the minimum capability required to begin making a contribution to deterrence . . . the least militarily significant capability." While the specifics of these JCS requirements for the Phase I missile defense remain classified, there have been several published reports on them, most recently in late June, when the magazine Aviation Week and Space Technology reported that they call for the system to "be effective against 50 percent of the Soviet SS-18 warhead force and 30 percent of a first wave attack of 4,700 warheads."

It is important to note that the liquid-propellant SS-18 ICBM, on which these JCS requirements focus, has a booster burn time about 60 percent longer than solid-propellant missiles such as the U.S. Minuteman III and MX, or the Soviet SS-24 and SS-25. If the Soviets were to replace their SS-18s with harder-to-intercept solid-propellant missiles, it is likely that the performance of Phase I of SDI would be seriously degraded. In other words, Phase I can be defeated by missile technology which the United States has had for over 20 years and which the Soviets are now deploying.

Moreover, as pointed out in last year's Senate staff report on SDI, such a Phase I defense would do significantly less to reduce the number of Soviet warheads that could hit the United States in a nuclear war than would a START agreement—particularly when one considers the likely Soviet offensive buildup in response to missile defense deployments.

The Bush administration's decision to settle on more modest objectives for SDI, focused on enhancing deterrence, is again made explicit in President Bush's recent classified National Security Directive 14 on "ICBM Modernization and Strategic Defense Initiative," signed on June 14. In an unclassified paragraph, the directive calls for the development of "options for strengthening deterrence and stability through the deployment of strategic defenses based on advanced technologies."

But this shift to a deterrence rationale has opened up a whole new avenue for congressional scrutiny. Here, SDI finds itself in the midst of a budgetary jungle competing for scarce program resources against a host of other programs with the same objective. The Midgetman ICBM and the B-2 "Stealth" bomber are only the most obvious of many deterrence-strengthening programs. Senator Sam Nunn (D-GA), chairman of the Senate Armed Services Committee, raised this very issue in remarks he made in mid-June to the Institute for Foreign Policy Analysis, where he pointed out that MX rail-garrison and Midgetman as well as SDI sought to increase the uncertainty facing Soviet war planners, and could probably do so for far less than SDI would cost.

Five members of the Senate Defense Appropriations Subcommittee made this same point in a letter sent to Senator Nunn in late June:

"The administration's explicit, and long overdue rejection of SDI's original goal of an "astrodome" defense that substitutes for deterrence should alter the way the program is viewed. SDI is now only another means of achieving deterrence . . . MX-rail garrison and Midgetman seek to accomplish that same objective through mobility . . . We do not believe the Congress should provide any additional increase in funding for SDI until it can identify what gap in future strategic deterrence SDI would fill, or what ICBM modernization program it seeks to displace."

Unless the Bush administration can provide convincing answers to such questions, the likelihood that Congress will provide funding for deployment of a Phase I missile defense will be virtually nil.

AN ALPS ALTERNATIVE?

The administration still has the option of pursuing even more restricted goals, such as a thin defense against accidentally launched or Third World missiles. However, this concept has recently received much less attention than many predicted when Senator Nunn raised the idea of an Accidental Launch Protection System (ALPS) in January of 1988. As Nunn has acknowledged, an ALPS system within the bounds of the ABM Treaty would be inadequate even against such limited attacks. But modifying the treaty to permit a more widespread system could seriously undermine its contribution to U.S. security.

In the unlikely event of an accidental or unauthorized launch, the launch could just as well involve 10 or several tons of missiles, each having as many as 10 warheads, since in the United States, and presumably in the Soviet Union, the smallest unit of command and control over offensive missiles deals with 10 ICBMs, or 16 SLBMs. A thin ALPS system would probably not make much of a dent in such a large accidental attack. And any significant degree of offensive countermeasures such as decoys, chaff, etc., carried by such missiles would reduce ALPS's effectiveness still more. In addition, limitations on radar and interceptor coverage would prevent an ALPS system from effectively covering the U.S. coasts against submarine-launched or some Third World missiles.

At the same time, the proposal by some SDI contractors to modify the ABM Treaty to allow a larger number of sites and interceptors could increase the danger of a rapid

Soviet breakout from the accord. Under a modified treaty, the Soviet Union would have to be permitted at least as many ABM sites as the United States—possibly more, since providing ALPS protection for the Soviet Union's larger territory would be more difficult. With a nationwide ABM infrastructure already in place, the Soviet Union would then be well-equipped to expand its defenses, a situation which could have a substantial negative impact on U.S. security. Senator Nunn himself has rejected modifying the treaty so substantially for ALPS.

Despite these hurdles, the White House Panel on the Strategic Defense Initiative in September of 1988 recommended a form of ALPS "as a near-term objective." But calmer heads in the Bush administration prevailed, probably strengthened by the decidedly cool response to ALPS from the Joint Chiefs. JCS Chairman Crowe testified last year that the probability of an accidental missile launch is "very, very low," and told a Senate panel in March that "we must bear in mind, however, that a system of this type would have to deal effectively with random and unforeseen events and achieve nearly 100 percent effectiveness to be worthwhile as an investment."

The growing recognition in military and technical circles of ALPS's shortcomings, coupled with an apparent lack of administration enthusiasm for the idea, has resulted in relatively little congressional interest in 1989. A thin SDI in the form of ALPS thus seems unlikely to emerge as a consensus goal for the SDI program in the next year.

AN SDI BARGAINING CHIP?

Another possible mission for SDI is as a bargaining chip or lever in the Geneva negotiations on reducing nuclear arms. In times past, SDI supporters were able to make effective use of the argument that Congress should not undercut the negotiations by cutting SDI funding. But with President Bush himself making substantial cuts in proposed SDI spending, and word leaking out that the Joint Chiefs have favored even deeper cuts, this argument has faded greatly. Indeed, many in Congress have recognized that the prospect of SDI deployment is now more a barrier to agreement than a useful bargaining lever, and that Congress has played an essential role by insisting that the SDI program remain within the traditional bounds of the ABM Treaty.

In the arms talks themselves, little has changed with respect to SDI. The Bush administration's public position has shown none of the change that has swept through other aspects of the SDI program. President Bush announced on May 12 that he will preserve the U.S. option to deploy SDI in the Defense and Space Talks in Geneva. Press reports indicate that there has been no substantial change from the Reagan administration's negotiating position calling for Soviet acceptance of the discredited "broad" interpretation of the ABM Treaty, and of a U.S. "right" to deploy SDI after an agreed period of years. These positions were left unchanged despite the warnings by the Joint Chiefs that such a right-to-deploy clause could leave the Soviets in a better position to deploy missile defenses than the United States. Reports of the JCS recommendation against the President's SDI negotiating position further weakened the "don't undercut the President" argument for approving SDI funding.

Predictably, given this unyielding position on SDI, the stalemate in Geneva over the future of the ABM Treaty continues. When the talks recessed on August 7, the U.S. and Soviet negotiators agreed that little progress has been made on the issue. Soviet negotiator Yuri Nazarkin repeated the Soviet position that maintaining the ABM Treaty was critical to Soviet acceptance of offensive reductions, a point also emphasized by Marshal Sergei Akhromeyev, former chief of the Soviet General Staff, in his recent visit to the United States.

A SHIFTING TECHNICAL COURSE

In the last years of the Reagan administration, SDI put an ever-increasing emphasis on development of a near-term Phase I missile defense, using space-based and ground-based rocket interceptors, at the expense of longer-term technologies. This first phase of SDI, which has become the central focus of the program, has undergone major revisions over the past year.

As recently as mid-1988, plans for Phase I presented to Congress called for: as many as 300 space-based interceptor (SBI) garages, each containing about 10 interceptors; a large number of ground-based hit-to-kill rockets called ERIS (Exoatmospheric Reentry vehicle Interceptor Subsystem); and assoicated sensor satellites. The total cost of that architecture, or collection of components, was estimated at $115 billion by JCS Vice Chairman General Herres.

Doubts about this version of Phase I were growing, however, even within the Reagan administration. Though composed largely of SDI advocates, the White House Panel on the Strategic Defense Initiative criticized SDIO's approach to Phase I deployment in September 1988, calling it "technically risky," and warning that it "would call for more budgetary and other resources than appear to be available."

These concerns culminated in the Defense Department presenting a major revision of this Phase I proposal in October 1988. The number of orbiting SBI garages was halved to roughly 150, while the number of ground-based ERIS rockets was increased by about 70 percent. Much of the battle management, communication, fire control, and other functions were removed from the SBI garages and put elsewhere in the system, primarily on the Space-based Surveillance and Tracking System (SSTS) satellites, which were reduced in number and sensor capability. Coupled with alleged increases in space interceptor performance, this led to a 65 percent reduction in the estimated cost of the SBI component, from $52 billion down to $18 billion. Other system cost savings resulted in a revised total Phase I cost estimate of $69 billion, a $46 billion reduction from that presented just months earlier. This covers only the direct costs of Phase I—basic research costs during the same period for follow-on phases of SDI as well as additional development costs for Phase I will cost at least $28.8 billion, and possibly more. Operational costs would also add to the total.

While reducing costs, this revised architecture also appeared to increase the vulnerability of Phase I by concentrating the key battle management and fire control functions in far fewer satellites. Indeed, after taking office in early 1989, the new director of SDIO, Lieutenant General George Monahan, referred to the redesigned SSTS satellities as "fat, juicy targets," saying, "We have a dependency here that I'm not real wild about." In addition, cutting the number of SBI carrier vehicles would allow more launched ICBMs and SLBMs to survive at least into the mid-course of their trajectories, giving the missiles time to dispense decoys and other countermeasures. This would complicate the already major challenge facing mid-course sensors in discriminating decoys from real reentry vehicles. Yet the need to reduce the cost of the system in the face of growing budget austerity seems to have made SDIO willing to accept these substantial risks.

This new architecture faced considerable skepticism in Congress. Senator Nunn pointed out that costs often fall when the Defense Department is selling a new system, only to rise again when it comes time to pay the bill. Nunn also wondered, "Given what has seemed to be a constantly shifting architecture, how confident can we be that this latest plan won't also undergo significant revisions in the coming months?" The seeds of such a change were sown in the testimony given that day, where small mention was made of a radically different approach to near-term defenses enigmatically named "Brilliant Pebbles."

BRILLIANT PEBBLES TAKES CENTER STAGE

Spawned in the fertile minds of Lawrence Livermore scientists about two years ago, the Brilliant Pebbles concept would take virtually all of the Phase I components involved with intercepting ballistic missiles in their boost phase and concentrate them into one type of small, high-tech space rocket, the "pebble." Anywhere from several thousand to 100,000 pebbles would be placed in several different low earth orbits. Given a command to activate by an early warning sensor, each one would scan its vicinity for missiles. Those pebbles that were within range of the missiles would activate and home on the missiles' hot plumes, intercepting them by direct collision.

Advocates claim that microminiaturization would allow each pebble to be substantially smaller than the previously-planned space-based interceptors, even though the pebble and its "cocoon" housing would be crammed with high-technology sensors, a small computer with the computing power of a Cray I supercomputer, and other equipment. Supporters argue that each pebble would weigh only 88 pounds. SDIO Director Monahan has said that Brilliant Pebbles, if feasible, could begin flight testing within two years.

Perhaps the most extraordinary claim being made for "Pebbles" is its projected cost—the target is for each pebble to cost $1 million, which includes operating costs, or about $500,000 in production costs. This is far less than even the most optimistic estimates for space-based interceptors, though engineers at Rockwell and Martin Marietta have been working diligently for years to reduce the cost for that system.

To put this hoped-for price in perspective, it is useful to recall that the Air Force is today having difficulty in producing its Advanced Air-to-Air Missile (AMRAAM) at a cost of $480,000, about the same cost as a Brilliant Pebble. In fact, developmental problems in the program were threatening to cause AMRAAM to exceed its cost goal by several hundred thousand dollars, and so some performance degradation was accepted to keep the lid on the price.

Brillant Pebbles would be procured in roughly the same numbers as AMRAAM—24,000 AMRAAMs are planned for production—and yet AMRAAM's million is trivially simple in comparison to Brilliant Pebbles. AMRAAM does not have to "acquire" its

target, a task performed by the aircraft that carries it, unlike a pebble, and AMRAAM receives guidance instructions from its mother aircraft for the first part of its flight path. AMRAAM's computer is not remotely comparable to a Cray computer in its complexity. AMRAAM does not require the extremely high level of accuracy that a pebble does because AMRAAM has a high-explosive warhead while Brilliant Pebbles relies upon direct impact with its target to destroy it.

And AMRAAM missiles can be maintained, checked, and overhauled routinely, while Brillant Pebbles must survive unattended in space for years. If Pebbles is compared to other military satellites which must meet such long-term space operation requirements, the price contrast is even more stark: the price tag for the NAVSTAR system, the cheapest satellite in the current Air Force inventory, is roughly $50 million per satellite, 50 to 100 times the currently-projected price per pebble. For this and many other reasons, it seems unlikely that the cost of each Brillant Pebbles will be anything like $500,000.

Moreover, as with the SBI, the range of each Brillant Pebbles would be limited by how far it could fly during the boost and post-boost phase of Soviet missiles' flight, when the pebbles are designed to do their work. Soviet fast-burn boosters could dramatically undermine the effectiveness of such space rockets, particularly if clustered in areas of a few hundred miles, so that only a small fraction of the orbiting pebbles would be within range at any given time. As a result, even if the Brillant Pebbles idea were to meet all the cost, miniaturization, and effectiveness targets its advocates have set for it, it would not provide protection against the long-term Soviet threat.

Nevertheless, Brilliant Pebbles has become the rhetorical and technological centerpiece of the SDI program—though the Phase I architecture presented in October 1988 is officially still in place. This shift to Brilliant Pebbles was foreshadowed in a remarkable "swan song" memorandum from Lieutenant General James Abrahamson, the outgoing director of SDIO. Abrahamson shined the strongest possible spotlight on Brilliant Pebbles. What had previously been almost a curiosity in the SDI program was now given top billing: although only months before Abrahamson had personally outlined and advocated the revised Phase I system before Congress, he now claimed that Brilliant Pebbles could do the same job much sooner at far less cost, implicitly a devastating critique of the previous system. Abrahamson argued that such a system "can be proven in two years, with deployment starting three years later," and that a full-up Brilliant Pebbles system, complete with warning satellites, command and control, and full research, would cost just $25 billion—less than the cost of the B-1 bomber.

Although Abrahamson has been replaced as captain of the SDI ship by Lieutenant General George Monahan, an experienced program manager of a more pragmatic, less evangelical stripe, the rhetorical emphasis on Brilliant Pebbles remains. Monahan told the Senate this spring that "SDI will continue toward deployment of a system that will meet the requirements of Phase I by focusing on evaluating the potential of the most rapidly advancing technologies such as Brilliant Pebbles." These words echoed those of Defense Secretary Cheney several weeks before, which were themselves similar to Vice President Quayle's strong endorsement of Brilliant Pebbles in March.

In answers to questions, however, Monahan was more circumspect about Brilliant Pebbles, a refreshing change from Abrahamson's fervid advocacy. He repeatedly referred to Brilliant Pebbles as a "concept," and told reporters: "I wonder about its feasibility." He described the idea as being in the "very, very early stages of research and development," and announced that the revolutionary claims made by advocates needed "a sanity check," which would be provided by outside, independent reviews of the program.

Funding for Brilliant Pebbles was a modest $46 million in Fiscal Year 1989, but that will probably be increased sharply in Fiscal Year 1990. Pending the results of Monahan's reviews, Brilliant Pebbles could be funded at as much as $150 million in FY 1990, according to one source. Indeed, so great is the interest in Brilliant Pebbles that SDIO will decide by Thanksgiving whether to drop the space-based weapons that are currently the heart of the Phase I architecture entirely, replacing them with Brilliant Pebbles.

For a weapon that is still in the concept stage, the attention given to Brilliant Pebbles is unprecedented, given that about $17 billion has already been spent on program elements that Brilliant Pebbles would largely replace. The attention currently devoted to this new weapons concept is not so much an endorsement of Brilliant Pebbles as it is an indictment of the work that has gone on before it.

PROGRESS IN TESTS?

In the technical realm, SDIO claimed great progress in technology over the last year. There have been three major SDI tests to date in 1989. The Delta Star test launched on March 24 is taking measurements of rocket plumes and space background environments, to collect basic data needed to design SDI sensors. The cover for one of the experiment sensors did not open quickly enough to gather data from the deorbit burn of the second stage of the Delta launching rocket, demonstrating that, like any program, SDI has its share of errors. The BEAR test (Beam Experiment Aboard Rocket) was delayed by a launch failure, but eventually demonstrated the operation of a low-power experimental particle beam in space. The Kinetic Kill Vehicle, the heart of the SBI concept, was tested in a 21-second duration hover inside a hangar in May, and again in mid-summer. In the second test, its sensor observed the burning of a strapped-down rocket nearby, and successfully "handed off" from the rocket flame to a simulation of the missile itself, which the SBI would have to hit. While SDIO touted its results in these tests, they are all basic research experiments, not developmental tests with the earmarks of a program that will be deployed in less than a decade.

POLITICS AND BUDGETS

Ronald Reagan's unswerving commitment to his SDI dream provided substantial political protection for the program through SDI's first few years. But last year's defense bill saw SDI's smallest increase in funding since the program's inception, a sign that congressional support had eroded from its previous peaks. And by the end of 1988, even the Reagan administration was no longer as generous toward SDI funding as it has been. While once the Reagan administration had expected to request $8.7 billion in Fiscal Year 1990 Department of Defense funding for SDI, budget stringency forced a reduction in proposed SDI funding down to $5.6 billion.

The presidential campaign produced some heat but little light on SDI. Michael Dukakis opposed near-term deployment, while then-Vice President Bush gave strong support to the program. But soon after the election, Bush selected Brent Scowcroft, a known SDI critic, as his national security adviser. As long ago as March 1984, one year after President Reagan's televised SDI speech, Scowcroft had written to the President that "no move in the direction of the deployment of active defense should be made without the most careful consideration of possible strategic and arms control implications . . . the strategic implications of ballistic missile defense and the criticality of the ABM Treaty to further arms control agreements dictate extreme caution to proceeding to engineering development in this sensitive area." In 1988, Scowcroft and three colleagues from the Aspen Strategy Group condemned much of the current structure of the SDI program, rejecting near-term deployment and endorsing the ABM Treaty in its traditional interpretation.

The appointment of Scowcroft presaged setbacks to come for SDI. In the end, reading the President's lips ended up not being as reliable a guide to the fortunes of SDI in the Bush adminstration as reading the President's budget, and here SDI encountered its most serious setback yet.

In the revised Fiscal year 1990 budget that President Bush sent to Congress, SDI was cut by $1 billion for FY 1990 alone, for a reduced figure of $4.6 billion. The Joint Chiefs of Staff and the State Department reportedly recommended even lower 1990 funding levels for the program. And this was just the tip of the fiscal iceberg that SDI had struck. Funding for FY 1991 was cut $1.3 billion, and SDI's projected budget for the five-year period stretching out to 1994 was reduced by $8 billion. This was far more than Congress had cut from the SDI program since its inception. With Ronald Reagan, SDI's patron and protector, out of the decision process, SDI has reentered the real world of budgetary restraints and hard-headed program review which it had been largely able to elude for its first five years.

The rhetorical abandonment of the nuclear "astrodome," the shifting of the technical focus of the program, the reports of JCS efforts to constrain SDI in favor of other military programs, and the cutbacks in proposed funding produced a very different eliminate in Congress for SDI. This was nowhere better seen than in the atmosphere of the spring budget hearings. The air of contentiousness and fervor that surrounded previous hearings when General Abrahamson testified was replaced by one of frankness and relative modesty, for which Senate panel members voiced their appreciation. General Monahan made no great promises for his program; indeed, he expressed caution on a variety of important issues.

As was true in the second Reagan term, the budget deficit has been arms control's best friend in the Bush administration, and this has certainly been true for SDI. Pressure on the defense budget has forced Congress and the executive branch to make wrenching defense choices that have led to cutbacks in many popular defense programs. Even SDI supporters in this environment have gone along with SDI funding reductions.

At this writing, the House of Representatives has cut SDI to $3.1 billion overall, or

about $2.8 billion for the Department of Defense and $300 million for the Department of Energy (DOE). The Senate has approved $4.5 billion for SDI ($4.3 billion for DOD and $200 million for DOE), a $400 million cut from the administration's request. An amendment proposed by Senators Bennett Johnston (D-LA), Dale Bumpers (D-AR), and others sought to freeze SDI funding at last year's level, but was narrowly defeated by a vote of 50-48.

The House and Senate will probably split the difference on SDI funding in their conference on the defense bill, which would mean a compromise figure of $3.8 billion (including DOE funding), a reduction of about 10 percent (counting inflation) from last year. This $300 million cut would be the first time since SDI's inception in 1983 that funding would be lower than in a previous year, a major turning point in SDI's political fortunes.

Secretary of Defense Cheney has already threatened a presidential veto of the defense bill, which could give the White House extra leverage in boosting SDI funding. But with the Senate and House deeply split on a large number of major defense issues, President Bush cannot get everything he wants. Programs such as the rail MX, Midgetman, and B-2 bomber may well be higher priorities for such a high-risk veto strategy.

BUDGET IMPACT

In the past it has been difficult to gauge how SDI funding cuts would affect the program. Congress has rarely attempted and never succeeded in dictating SDI priorities. However, in a remarkable instance of SDIO glasnost, Director Monahan has in a letter spelled out for the first time how he would apportion various levels of congressional SDI funding cuts.

According to the Monahan letter, a 10 percent cut in SDI's five-year funding plans would force SDIO to consider cancellation of only one SDI program, the Extended Ranger Interceptor (ERINT). This is one of several antitactical ballistic missile systems under development. A 20 percent cut would/could lead to cancellation of the Exoatmospheric Interceptor (ERIS), the Space Surveillance and Tracking System satellite (SSTS), and the High Endoatmospheric Interceptor (HEDI), in addition to ERINT. While ERIS might be threatened, the broader program to develop long-range exoatmospheric interceptors as possible components of a Phase I architecture or an ALPS system would continue, under the aegis of the new Ground-Based Interceptor (GBI) program.

A 30 percent reduction in SDI funding would force SDIO to contemplate cancellation of many more projects, including the Space-Based Interceptor, the Chemical Laser, Free Electron Laser, and Neutral Particle Beam projects, and several others. With the Space-Based Interceptor and ERIS canceled, the Phase I architecture as presented last October would be dead.

But by preserving Brilliant Pebbles and the Ground-Based Interceptor, SDIO would maintain its focus on near-term deployment. Indeed, while Monahan's letter acknowledged that longer-term technologies would be essential to combat Soviet countermeasures that would eventually defeat a Phase I system, he explicitly acknowledged that at the 70 percent level, he would make "no provision for follow-on systems to offset Soviet countermeasures." This appears to directly contradict the direction of the Joint Chiefs of Staff, who have told the Congress that they would not support Phase I without assurance that follow-on technologies will be available.

While the current five-year defense plan includes $33 billion for SDI, the chances are extremely low that Congress will provide the rapid increases in funding envisioned, rising to $9 billion by 1994. If we assume that SDI receives constant annual funding at the FY 89 level of $4.1 billion during the FY 1990-94 period, this would amount to $20.5 billion, a 38 percent cut in the five-year spending plan, deeper than any of the cuts envisioned in Monahan's letter. And even this level seems optimistic, given SDI's likely funding of $3.8 billion for 1990, and the likelihood that budget constraints could force further reductions by both the Bush administration and Congress in the next few years. As a result, SDI is in for major program upheaval even if all the technologies work perfectly.

Even the SDI funding now included in the five-year defense plan is probably insufficient to support a Phase I deployment based on the October 1988 architecture. With current budget restraints, deployment of any widespread defense is certain to be substantially delayed from current plans.

This highlights another issue that last year's Senate staff report on SDI identified: with the likely deployment date of SDI's Phase I now slipping into the 21st century, the Soviets will have more time to develop simple but effective countermeasures to Phase I. In 1987, SDIO acknowledged that if a Phase I system were deployed "significantly later" than the mid-1990's, it might not be effective, because Soviet countermeasures, would already be available. But SDIO is now planning on a deployment that will not be complete, according to JCS Vice Chairman Herres, until after the turn of the century—even if funding were available and all went as planned. More than ever, it appears that Phase I would be obsolete by the time of deployment.

Indeed, the first-ever cutback in SDI funding, combined with continuing strong support for the ABM Treaty, is a sign that Congress is very unlikely ever to provide the funds necessary for a widespread SDI deployment beyond the treaty's bounds. At the level of funding that currently seems likely, a Phase I deployment would be impossible unless Brilliant Pebbles could somehow deliver on all the promises its advocates have made for it—probably a forlorn hope, but one which likely accounts for the unusually intense interest shown in this immature technology.

After six years of debate, it is clear that Congress is willing to support a robust research for SDI but it is also clear that Congress will not support SDI annual outlays on the order of $10 billion. Thus the policy choice is between a good research program that meshes with fiscal reality or an inadequate and wasteful development program that continues to focus on preparing for a Phase I deployment for which the funds simply will not be available. The Bush administration so far seems trapped by its own rhetoric from coming to grips with the implications of the new SDI reality.

The responsibility for getting SDI on a steadier course toward more realistic research objectives thus seems to lie with Congress in the near term. Since Congress has been reluctant to earmark SDI research funds for specific objectives, it will take a change in administration perceptions before SDI program goals can be changed away from Phase I deployment. The only likely way this could happen in the near term would be as a result of a Congress-executive branch "summit agreement" on SDI objectives and funding levels. In the absence of such an agreement, SDI will be sailing under ever weaker fiscal and political winds and runs the risk of finding itself becalmed, working ceaselessly toward goals that will never be fulfilled.

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 886. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 47, as follows:

[Rollcall Vote No. 213 Leg.]

YEAS—53

Armstrong	Gore	McConnell
Bingaman	Gorton	Murkowski
Bond	Graham	Nickles
Boren	Gramm	Nunn
Boschwitz	Hatch	Packwood
Bryan	Heflin	Robb
Burns	Heinz	Roth
Coats	Helms	Rudman
Cochran	Hollings	Shelby
Cohen	Humphrey	Simpson
D'Amato	Inouye	Specter
Danforth	Kassebaum	Stevens
Dole	Kasten	Symms
Domenici	Lott	Thurmond
Exon	Lugar	Wallop
Ford	Mack	Warner
Garn	McCain	Wilson
Glenn	McClure	

NAYS—47

Adams	Durenberger	Metzenbaum
Baucus	Fowler	Mikulski
Bentsen	Grassley	Mitchell
Biden	Harkin	Moynihan
Bradley	Hatfield	Pell
Breaux	Jeffords	Pressler
Bumpers	Johnston	Pryor
Burdick	Kennedy	Reid
Byrd	Kerrey	Riegle
Chafee	Kerry	Rockefeller
Conrad	Kohl	Sanford
Cranston	Lautenberg	Sarbanes
Daschle	Leahy	Sasser
DeConcini	Levin	Simon
Dixon	Lieberman	Wirth
Dodd	Matsunaga	

So the amendment (No. 886) was agreed to.

Mr. HEFLIN. I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WHERE ARE WE GOING WITH THE TRIDENT?

Mr. BUMPERS. Mr. President, a commonsense pillar of U.S. strategic policy over the years has been that our strategic weapons planning and arms control goals should be consistent. Yet our current policy of buying one Trident submarine each year through 1994 runs the serious risk of forcing us to dismantle relatively new

Tridents worth billions in just a few years, or else leaving us with fewer ICBM warheads than our defense chiefs believe wise.

The problem is that we may be trying to put 10 pounds' worth of Trident into the 5-pound bag of START—strategic arms reduction talks. Under the START framework that both sides have already agreed to, each side will be allowed 4,900 ballistic missile warheads. If we maintain the same 70 to 30 ratio of submarine warheads to ICBM warheads as we have at present, which is what our defense leaders want, we will have room for 18 Trident submarines under the current START framework. Yet the fiscal year 1990 defense bill contains full funding for the 17th Trident submarine and long-lead procurement funding for the 19th Trident—long-lead funding for the 18th Trident was in last year's bill.

If we buy all 5 of the Tridents planned in the 5-year defense plan, we will have a fleet of 23 Tridents overall. And the Navy, which has refused to say what their force objectives are for Trident, appears to want more than 23. Under START, the 4,032 warheads on just 23 Tridents as currently configured would leave us three choices, all undesirable:

We could scale back our ICBM force to just 484 warheads, one-fifth the number we have now, leaving no room for any Midgetman or Minuteman missiles and even forcing us to dismantle 2 of our 50 MX's;

We could dismantle some of our oldest Trident subs, which were first deployed only a few years ago in the early eighties; or

We could be forced by the momentum of our arms programs to renege on what we have already agreed to in START. We would be compelled to renegotiate a higher START warhead number, dimming START's bright promise of major reductions. In return for this concession, we might well have to make a substantial concession to the Soviets in return.

Last year Congress recognized this potential collision between our arms control goals and strategic weapons plans when it called for the administration to report on "the implications such a [START] treaty or agreement might have on the strategic force postures of the United States," in the words of last year's authorization bill. The Armed Services Committee report this year also recognized this problem, calling for a study of reducing the warheads on Trident missiles. This is good, but it is not enough. We should have high confidence that there are verifiable and negotiable ways of resolving this problem before we gamble billions of taxpayer dollars on Tridents we may have to scrap.

This is why I am particularly pleased at the action taken by the Appropriations Committee in fencing the long-lead funds for the 19th Trident submarine in this bill until the Secretary of Defense certifies that the projected Trident construction schedule of one per year either "would not necessitate early retirement of existing submarines, or that the President will request a new production profile in the fiscal year 1991 budget which matches the United States negotiating position and prevents retirement prior to the end of the useful life of ballistic missile submarines."

The Pentagon recognizes this problem as well. But their answer is to have START solve this problem by exempting three submarines from the START totals, a major departure from past arms control practice. Such a step would erode the joint United States-Soviet pledge to 50 percent reductions in nuclear warheads embodied in the START framework. It would also significantly increase the number of nuclear warheads the Soviets would target at the United States because they would be allowed extra missile firing submarines as well.

Mr. President, I ask unanimous consent that the testimony of Defense Secretary Cheney appear at this point in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF DEFENSE SECRETARY CHENEY

Secretary CHENEY. Right.

I am very aware of that, Senator.

One of the provisions that we're looking at—and I don't recall whether this has been agreed to yet; I mean, there have certainly been some preliminary discussions in the talks—is the notion that at any given time you would only be allowed to have three boats in effect stand down, in for overhaul, for resupply, and so forth, and that those would not count against your total sailings.

Senator BUMPERS. That worries me a little, too, because the Soviets always have a lot more in for overhaul than we have.

Secretary CHENEY. That's true. But if we'd agree that they count, except for three, that is, you'd allow for ——

Senator BUMPERS. That's three on a side?

Secretary CHENEY. Three on a side. They'd have to count the others that they had in port. But that would give us some flexibility in terms of deployment and managing the force.

Mr. BUMPERS. The Soviets have not agreed to this "three free submarines" position, and it is unclear how it will be resolved. But even if they accepted it, this bonus would be insufficient to offset the ICBM reductions that 23 Tridents would require. The United States could face wrenching strategic force choices within a year or two, unless we act now, which this bill wisely does. No one has more strongly supported the Trident Program over the years than I, but we must ask overselves if we are serious about what we have agreed to in Geneva. If so, then we need to ensure that our weapons plans and START's ceilings are consistent. I am pleased at the committee's action and I urge the administration to reconcile our Trident plans with the START ceilings.

Mr. President, I ask unanimous consent that the committee report language on advance procurement for the Trident submarine, a chart describing possible ballistic missile warhead mixes, a response from the Navy on the 22d and 23d Trident submarines, and an article from the New York Times entitled "Treaty Within the Pentagon Is Elusive" that describes the internal battle over how we should divide up START's 4,900 warhead ceiling between the Navy and Air Force, be placed in the RECORD at this point.

I thank the Chair.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE RECOMMENDED ADJUSTMENTS

Trident ballistic missile submarine advance procurement.—The Committee recommends $100,600,000 in advance procurement funds, a reduction of $40,000,000 from the budget request and the House allowance. The Trident program has been the most stable leg of the strategic modernization program and has been well supported by the Congress. While the Committee strongly supports the Trident program, it is concerned that the projected schedule for production of Trident submarines does not match strategic arms reduction goals.

The Committee notes that the 5-year defense plan for fiscal years 1990-94 contains long-lead funding for Trident submarines through the 23d Trident. The construction of this many Trident submarines would leave little room for ICBM warheads under the projected ceiling of 4,900 ballistic missile warheads. Most likely, this situation would lead to premature dismantling of relatively new Trident submarines, or force an increase in the ballistic missile warhead ceiling. The latter would undercut the logic behind agreeing to deep reductions and also allow the Soviets to have more warheads.

The Committee would not support building additional ballistic missile submarines, if that forces the retirement of other strategic submarines prior to the end of their 30 year useful service life. It appears that the forces goals for the Trident fleet require a procurement profile of approximately two Trident submarines every 3 years, instead of the one per year which has been approved for the past 7 years.

The Committee has included language in the bill which would not allow obligation of fiscal year 1990 advance procurement funds until the Secretary of Defense has certified to the Congress that the procurement of additional Trident submarines, at a rate of one per year as forecast in the request, is consistent with negotiating goals and U.S. policy on strategic arms reductions. Furthermore, the recommended bill language would require the Secretary to certify either that the projected schedule would not necessitate early retirement of existing submarines, or that the President will request a new production profile in the fiscal year 1991 budget which matches the U.S. negotiating position and prevents retirement prior to the end of the useful service life of ballistic missile submarines. Finally, the Committee language would require certification that fiscal year 1990 advance procurement

funds are required to meet this adjusted schedule.

U.S. Warhead Mix—Today

SLBM's:	
448 Poseidon (28 boats)	4,480
192 Trident I (8 boats)	1,536
48 Trident II (2 boats)	384
Total	6,400
ICBM's:	
50 MX	500
500 Minuteman III	1,500
450 Minuteman II	450
Total	2,450
Total ballistic missile warheads	8,850

72 percent on SLBM's. 28 percent on ICBM's.

Under START (mid-late 1990's)

(4,900 warheads permitted) (Notional—Assumes 18 Tridents)

SLBM's: 432 Trident I/II, total	3,456
ICBM's:	
50 MX	500
350 Midgetman	350
394 Minuteman II	394
100 Minuteman III	300
Total	2,454
Total ballistic missile warheads	4,900

71 percent on SLBM's. 29 percent on ICBM's.

Under START (mid-late 1990's)

(4,900 warheads permitted) (Notional—Assumes 23 Tridents)

SLBM's: 552 Trident I/II, total	4,416
ICBM's: 48 MX, total	480
Total ballistic missile warheads	4,896

90 percent on SLBM's. 10 percent on ICBM's.

DEPARTMENT OF DEFENSE INFORMATION PAPER

Service/Agency: Department of the Navy.
Appropriation Account: Shipbuilding and Conversion, Navy (SCN).
Budget Activity: 1.
Subject: Trident submarine.

Question. Is there any long lead procurement funding in FY 1993 and FY 1994 for the 22nd and 23rd TRIDENT submarines? If so, how much?

Answer. Yes. Included in the FY 1993 advance procurement request is $149.0 million for the 22nd TRIDENT while $152.8 million in FY 1994 is included for the 23rd TRIDENT.

"TREATY" WITHIN PENTAGON IS ELUSIVE

(By Richard Halloran)

WASHINGTON, June 21.—Reaching an agreement with Russian negotiators to cut the number of nuclear warheads in United States and Soviet arsenals is one thing. Settling disputes between the Navy and the Air Force over which weapons will be eliminated is another.

As a result, Defense Department officials, Congressional staff aides and specialists in arms control say, the Bush Administration may have an easier time in Geneva than in Washington, where both services have been lobbying hard to influence civilian officials in the Pentagon and White House.

"Who gives up what and how much they give up is what the argument is all about," said a senior Navy officer. "It's an emotional minefield."

Part of what will be kept and what given up will be decided in Geneva. One issue American and Soviet negotiators are working to resolve is what limits, if any, would be placed on sea-launched cruise missiles. Thus, the Navy and Air Force have been seeking to have their positions taken into account before any deal is made with the Russians. But considerable leeway is expected under the treaty, leaving it to the White House and the Pentagon to decide how many ballistic missiles the Navy and Air Force would each deploy.

GETTING POINTS ACROSS

To get their points across here, Pentagon officials said, Navy and Air Force officers have been aiming at Defense Secretary Dick Cheney, who argues the Defense Department's case in the National Security Council, and at Paul Wolfowitz, the Under Secretary of Defense for Policy, who has been in charge of the staff work putting together the department's position to present to the White House.

The President's principal military adviser, Adm. William J. Crowe Jr., Chairman of the Joint Chiefs of Staff, has also been a target, as has Brent Scowcroft, the retired Air Force lieutenant general who is President Bush's national security adviser.

The second stage will come after an agreement. Depending on its shape, military bases will be closed, contracts will shrink and, presumably, jobs will be lost. Members of Congress are usually susceptible to such arguments. In this maneuvering, the Navy appears more anxious than the Air Force. The Navy fears that the retirement of older ballistic-missile submarines will be accelerated and construction of new submarines halted. Navy officers also assert that the Administration's budget support for Air Force missiles and bombers jeopardizes Navy programs. "We're being squeezed out," a Navy officer lamented.

The United States and Soviet Union each have 12,000 warheads in their arsenals. Preliminary agreements call for a limit of 6,000 on ballistic missile warheads, air-launched cruise missiles and bombs carried by bombers. Today, the United States has 8,100 warheads on ballistic missiles with 2,450 of those on Air Force missiles and 5,650 on Navy submarines, including those on a new submarine already built and scheduled to become operational next March.

If that ratio is kept, the Navy's allocation would be reduced over a period of seven years to 3,430 warheads. Since a Trident submarine carries 192 warheads, according to agreed-upon counting rule—actually, each of its 24 missiles could carry 12 warheads, or 288 per submarine—the Navy would be limited to 17 Trident submarines.

FACING EARLY RETIREMENT

With 9 Trident submarines at sea, a 10th in sea trials and 6 being built, the Navy would be required to retire 27 Poseidon submarines earlier than expected and to make the Trident requested in the 1990 budget the last to be built. The Navy has been planning to build 21 Tridents, arguing that the program should be continued with funds and warheads shifted from the Air Force.

The Navy has also been urging the Administration to resist a Soviet proposal to limit nuclear cruise missiles aboard ships and submarines. The Navy has limited interest in such weapons but plans to acquire missiles with conventional warheads "in the tens to hundreds of thousands," said one officer. They would permit ships and submarines to attack targets on land and at sea from great distances.

But an agreement to limit nuclear cruise missiles, the Navy argues, would curtail those plans because conventional and nuclear cruise missiles look almost identical; thus, which is which could not be verified.

The Air Force, on the other hand, would keep its 50 MX missiles under the draft agreement, each with 10 warheads, and either get 500 new Midgetman missiles with two warheads apiece or retain 375 of its 500 Minuteman III missiles, which carry three warheads each.

Under the counting rules, moreover, the Air Force could retain all 97 of its B-1 bombers and the 132 stealth bombers the Administration plans to buy for $70 billion. Older B-52 bombers would be retired or modified to identify them as armed only with conventional weapons.

Only the Air Force's 450 Minuteman II missiles, each with but one warhead and expensive to maintain, would be phased out. Richard S. Norris, an advocate of arms control at the Natural Resources Defense Council, put it this way: "An agreement would allow both sides to get rid of a lot of junk."

EXCEPTED COMMITTEE AMENDMENT ON PAGE 36, LINE 22, THROUGH PAGE 37, LINE 2 AS AMENDED

Mr. INOUYE. What is the pending business, Mr. President?

The PRESIDING OFFICER. The pending business is the second excepted committee amendment, as amended.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana, Senator JOHNSTON.

Mr. JOHNSTON. I congratulate the SDI proponents. It has been another good fight, I think a good debate, and they were successful once again in keeping what is, in my view, a bankrupt program with elusive goals, with elusive architecture, formless, without substance, funded at a higher level than the Senate thinks is proper, again, for bargaining chip purposes. The money we have spent in this body pursuing bargaining chips is incredible. We used to be told, and it used to be the substance of SDI that we needed SDI as a bargaining chip in Geneva, so we kept shoveling money at it, some $20 billion to date; and we still do not have a program or a purpose for SDI.

Nevertheless, Mr. President, I recognize that SDI has a lot of support in the Congress. Whether that support is defined in terms of a purpose, I think the answer to that question is in the negative. Nevertheless, the support in terms of dollars is there very strongly, and I hope now that we have armed the Armed Services Committee again with unrealistically high numbers, that they will be satisfied, and that we will not come back to still higher numbers.

Mr. President, there are now, I believe, two parts to the pending committee amendment, as amended, am I correct? My question is to the Parliamentarian, Mr. President, and I ask a parliamentary inquiry, whether the

pending committee amendment, as amended, is divisible.

The PRESIDING OFFICER. The pending committee amendment, which is the third excepted committee amendment, the Chair is informed that it will take a moment to examine this particular amendment as it has been presented.

Mr. JOHNSTON. Mr. President, I suggest to the Parliamentarian that one part deals with funding levels, and the other part deals with the directed energy weapons, and I would purpose that the amendment be divided between funding and directed energy weapons and would ask that as a parliamentary inquiry.

Mr. STEVENS. Once it is amended it cannot be divided.

The PRESIDING OFFICER. If the Senator is asking if the amendment can be divided where the second-degree amendment was agreed to, the Parliamentarian informs the Chair it cannot be divided at that point.

Mr. JOHNSTON. And is that because it was amended?

The PRESIDING OFFICER. The Senator is correct.

Mr. JOHNSTON. Mr. President, what I wanted to get a record vote on was the question of directed energy weapons not to be confused with the question of funding levels. I do not intend to relitigate that question of funding levels. I think that question is clear. If it meets with my colleagues' approval I would like to ask unanimous consent—and I do not make this request at this time—that we divide the amendment into funding levels which I would propose that we approve by voice vote, the vote just already having been made, and the second part, the directed energy weapons so that we can get an expression of the Senate on the question of directed energy weapons.

I ask my colleague if that procedure would be suitable.

Mr. INOUYE. Mr. President, if I may respond, I believe that the amendment that was just adopted does not in any way affect the directed energy portion of the committee amendment.

So, in essence, is the Senator trying to reinforce the Senate's position on this?

Mr. JOHNSTON. On directed energy weapons I would like to get an expression so that when we go to conference we do not give away directed energy weapons at the behest of the Armed Services Committee. I think the Senate ought to be able to express itself on directed energy weapons.

Mr. INOUYE. As chairman of the delegation that will be sitting in conference with the House would my assurance suffice?

Mr. JOHNSTON. If the Senator can assure me that we will stick to that language on directed energy weapons in the conference, yes, of course.

Mr. INOUYE. I will do everything within my power to do so.

Mr. STEVENS. Mr. President, will my colleague yield at that point?

The PRESIDING OFFICER. Does the Senator yield to the Senator from Alaska?

The Senator from Louisiana has the floor.

Mr. JOHNSTON. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska.

Mr. STEVENS. Mr. President, this Senator's vote on the directed energy item is contingent upon the level of funding. That was the reason that the amendment was offered to directed energy.

I will state that I will agree with the statements made by the distinguished manager of the bill so long as the funds are sufficient. Directed energy should get a continuation of the program that it has had. But if the funds go down below the figure that was originally in the appropriations bill then, as the Senator from Louisiana knows, I have opposed the directed energy earmarking and would continue to do so.

So I would oppose separating the amendment because I think the amendment now directed to energy I will support with the level of funding that is contained in the bill.

I would hope that the Senator will take our word for it that we will do both, try to hold up the funding level for SDI to the point of the bill at least where it came out of the committee, and that we will on that basis hold up the Senator's earmarking for directed energy.

But if it comes down to earmark, Mr. President, the funds in 1990 for directed energy research at the level of 1989, that would cause a serious problem in the other portions of SDI research and make the program in my judgment unbalanced.

I hope my good friend, the manager of the bill, will understand I join in the support of the statement he made so long as the funding level stays in the vicinity of 3.6 to 3.7.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I do not know exactly how to get an expression on this question of directed energy funding levels. The fact of the matter is that directed energy funding has been cut every year in the last 4 years. In other words, we have mortgaged the future. This is the only program that promises to really pay off for SDI, if indeed they can, and nobody knows whether they can, but they have mortgaged those programs. They have cannibalized those programs in order to get the immediate short-term payoff in order that they can make a deployment decision by fiscal year 1994.

Listen, if my colleagues will, as to what has happened to directed energy weapons: In fiscal year 1987, $853 million; in fiscal year 1988, $832 million; in fiscal year 1990, $820 million; and I guess if we get any figure less—indeed General Monahan has stated that if their original request which was I believe $4.6 billion was cut they intended to cut directed energy weapons still further.

They are trying to get the quick fix payoff, the political shmaltz. It is nonsense to talk about deployment decisions by fiscal year 1994, and it is certainly wrong to cannibalize directed energy weapons in order to do that.

So, Mr. President, I guess I have gotten one indication from the Senator from Alaska, as I understand it, that he would support the directed energy weapons at last year's level of $820 million, provided the conference level on SDI is $3.7 billion. And as I understood the Senator from Hawaii he will in any event support the level of the fence, that is the $820 million, whatever the level we come in in conference.

Do I understand that?

Mr. INOUYE. The Senator is correct.

Mr. JOHNSTON. I think that is all I could ask for, Mr. President. So I yield the floor and I am willing to go with a voice vote.

Mr. INOUYE. I move that the excepted committee amendment, as amended, be adopted.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the excepted committee amendment, as amended.

The excepted committee amendment as amended, was agreed to.

EXCEPTED COMMITTEE AMENDMENT BEGINNING ON PAGE 65, LINE 16, THROUGH PAGE 67, LINE 6.

The PRESIDING OFFICER. The clerk will report the third excepted committee amendment.

The assistant legislative clerk read as follows:

On page 65 beginnning with line 16 insert new language through page 67 line 6.

Mr. INOUYE. I move its adoption.

The PRESIDING OFFICER. The Chair will observe there is a preamble which is part of that particular amendment and it would be consequently out of order.

Mr. INOUYE. I wish to accept the ruling of the Chair.

May we proceed to the next?

The PRESIDING OFFICER. The next would be the fourth excepted committee amendment.

Mr. INOUYE. I accept the ruling of the Chair.

EXCEPTED COMMITTEE AMENDMENT ON PAGE 83, LINE 1 THROUGH 5

The PRESIDING OFFICER. The clerk will report the next excepted committee amendment.

The legislative clerk read as follows:

On page 83 strike lines 1 through 5.

The PRESIDING OFFICER. The question is on agreeing to the fourth excepted committee amendment.

Mr. INOUYE. Mr. President, the Senator from Massachusetts has an amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts, Senator KERRY.

Mr. BUMPERS. Will the Senator from Massachusetts yield for 50 seconds for a couple of questions of the floor manager?

Mr. KERRY. Yes.

Mr. BUMPERS. I was not here for the full SDI debate, but one of the things I have been curious about since we have been talking about SDI is the fact that every military planner—the most recent being Admiral Crowe, who for 2 more days, anyway, is our top military person in the country—has pointed out that SDI is not and will not be effective against bombers and cruise missiles. Considering the fact that the Soviet Union, just like us, is moving in the direction especially of cruise missiles, I am wondering if we have any strategy.

I do not understand why it is going to help us to destroy something that goes above the stratosphere and has to come back down when, as Senator MOYNIHAN has pointed out, cruise missiles can come in under the Brooklyn Bridge, and SDI won't do a thing about that.

I am wondering: Do we have any kind of a plan to build any kind of a defense system against bombers and cruise missiles, for example, let alone clandestinely introduced weapons?

Mr. INOUYE. Mr. President, we have funds in our committee bill and a section in our committee report for a program called the "Air Defense Initiative." That is where we have the principal research and development efforts for the advanced weapons systems and sensors to counter cruise missiles and bombers.

Mr. BUMPERS. How much money is in that account?

Mr. INOUYE. Right now, we are recommending $110,765,000 for R&D in fiscal 1990.

Mr. BUMPERS. In research and development?

Mr. INOUYE. Yes.

Mr. BUMPERS. And what is the current level for SDI spending? Is it $4 billion something?

When we just added this last $600 million a moment ago, what does that make the total SDI appropriation?

Mr. INOUYE. Is the Senator asking for the R&D for everything in SDI?

Mr. BUMPERS. Yes, everything in SDI.

Mr. INOUYE. We just voted on that. It was $4.3 billion.

Mr. BUMPERS. That is what I wanted to know; $4.3 billion?

Mr. INOUYE. Yes.

Mr. BUMPERS. And $110 million to defend against bombers and cruise missiles?

Mr. INOUYE. That is what we have in the bill at this moment for the air defense initiatives program.

Mr. BUMPERS. Well, Mr. President, here is what the committee report said on that. It said:

Unfortunately, ADI suffers from changing priorities, low obligation and expenditure rates, uncertain requirements, and pursuit of probably unaffordable air defense architectures. Therefore, the Committee recommends $110,765,000 for ADI, a reduction of $142,386,000 from the budget request.

We say the air defense initiative program apparently is in a shambles and we cut $142 million from the request. And here is a system that the Soviets already have. They have bombers and they have cruise missiles and we cut the money for the air defense initiative by more than half.

Mr. INOUYE. We did this because we are at a very, very early stage in the research phase of that program. We felt that it would be prudent at this early stage to be spending no more than $111 million.

Mr. BUMPERS. Would the Senator agree with me that in 1994 the President is asking in the outyears for over $9 billion for SDI and the Soviets already have a capability of hitting the United States with cruise missiles and bombers? Would the Senator agree with me that at least for the foreseeable future SDI does not really mean much? If we could deploy the thing today and be reasonably sure it was going to destroy every Soviet ballistic missile, we would still be very vulnerable in this country, would we not?

Mr. INOUYE. The Soviets would be very vulnerable also to our own bombers and cruise missiles.

Mr. BUMPERS. Of course, just as we have now and have always been and in my opinion will be in the future, if we have the most perfect air defense systems and the most perfect ballistic missile defense systems, there still would not be any reason why the Soviets could not clandestinely introduce weapons and plant them at the foot of the Washington Monument, would there? We cannot keep tons and tons of cocoa and marijuana out of the country. Is there any reason to believe we could keep them from introducing weapons into this country?

Mr. INOUYE. I also would point out to my colleague that, at the present time in this bill, we also are providing funds to purchase F-15's and F-16's which have significant air defense capabilities. The program that we have is to try to integrate all of these systems—the F-15's, F-16's, and the missiles. And the total program represents about $5 billion.

Mr. BUMPERS. I have no further questions.

I thank the Senator from Massachusetts very much for yielding and I thank the distinguished floor manager.

AMENDMENT NO. 887 TO COMMITTEE EXCEPTED AMENDMENT ON PAGE 83, LINES 1 THROUGH 5

Mr. KERRY. Mr. President, I send an amendment to the desk and I ask for its immediate consideration and that it be placed at the appropriate place in the current legislation.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for himself, Mr. JEFFORDS, Mr. HARKIN, Mr. SIMON, Mr. CONRAD, Mr. KENNEDY, Mr. CRANSTON, and Mr. BUMPERS, proposes an amendment numbered 887.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be stricken insert the following:

Congress makes the following findings:

The United States Government relies on satellites for communications, early warning of attack, monitoring compliance with arms control agreements, and many other vital national security functions;

Such satellites constitute vital integral parts of many United States weapons systems, command, control and communications systems, and other military systems;

It is essential to the national security of the United States that United States Government satellites not be vulnerable to antisatellite attacks;

It is in the national security interests of the United States and its allies to inhibit the development and testing of antisatellite weapons by the Soviet Union;

It is in the national security interests of the United States to undertake a balanced response to Soviet antisatellite capabilities, which includes a measured Asat program;

Key agencies of the executive branch are examining options for specific antisatellite arms control measures, and the Department of Defense has concluded that the greatest potential for Asat arms control lies in limits on specific weapons and rules of the road for space activities;

The executive branch should conclude its examination of specific antisatellite arms control options and rules of the road for space activities without delay and include its recommendations and conclusions from this examination in the report to Congress already required by the conference report on the fiscal year 1989 Dire Emergency Supplemental Appropriations Act;

The President shall—with a view toward considering how to improve United States Asat arms control monitoring capabilities—assess the national security implications for the United States of a mutual deployment of cooperative monitoring and verification technologies; the results of such assessment

shall be included in the above mentioned report; and

The President should take advantage of the forum provided by the ongoing defense and space talks with the Soviet Union to explore—as a high priority matter—adequately verifiable limitations on the development, testing, production, and deployment of weapons capable of directly threatening United States military satellites.

Mr. KERRY. Mr. President, I send this amendment to the desk on behalf of myself, Senator JEFFORDS, Senator HARKIN, Senator SIMON, Senator CONRAD, Senator KENNEDY, Senator CRANSTON, Senator BUMPERS, and myself.

This amendment is a compromise for the original amendment I intended to offer regarding this issue, reached between the sponsors of this amendment and the chairman of the Senate Appropriations Committee and manager of this bill, Senator INOUYE. I am grateful to Senator INOUYE for his assistance and thoughtfulness in working out the compromise language, which we hope will help make possible serious negotiations on controlling antisatellite weapons between the United States and the Soviet Union.

On May 12, 1989, President Bush called for an expansion of the "open skies" plan of President Eisenhower, asking all nations, beginning with the United States and the Soviet Union, to open up their skies to surveillance flights and satellites of other nations. President Bush said we must "open up military activities to regular scrutiny and, as President Eisenhower put it, 'convince the world that we are lessening danger and relaxing tension.' "

The single most important means we have of monitoring the Soviet Union are our satellites. The biggest impediment to implementing the President's "open skies" policy are antisatellite weapons or Asat's. Among those weapons to be considered for development are land- and sea-based interceptor rockets and ground-based lasers.

Yet, ironically, at the same time that the President has called for "open skies," this appropriations bill contains what the committee describes as "at least $184 million in new funding" for a totally new antisatellite weapons program, to replace the F-15 MHV program that the Pentagon killed last year.

Right now, these funds will mostly be used for research. But in the long run, they can be used to develop kinetic kill antisatellite weapons and laser antisatellite weapons, intended to take out Soviet satellites.

As a result of compromise, nothing in this amendment restricts the movement on these programs at this point in time. There is no restriction here. What this simply does is express the desire of the Senate to see us examine the strategy behind our own direction in the development of our program and to measure where the Soviet Union is at this time in their program and to try to decide, through a debate, through an open examination of this policy, where we are going and whether we are heading down the right path.

Mr. President, it is clear that the decision to expend this money now has not been made in the context of a large strategic view about space and space weaponry. The fact is that this decision was made in the absence of any real strategic analysis.

Mr. President, I think it is important for us, in the interests of the security of our Nation, and indeed in fulfilling our role as a leader in the world with respect to the possibilities of arms control, to try to measure what happens if a decade from now all United States satellites at all altitudes become at risk from Soviet antisatellite weapons.

Today we have no position as to how to make our satellites survivable in a hostile environment. As we sit here today we are far more dependent on our satellites for command and control, for verification, for communications, than are the Soviets. And as we sit here at this moment in our strategic balance, we are, in fact, advantaged because there is no way by which our higher altitude satellites are vulnerable.

If, on the other hand, we proceed forward without analyzing the repercussions, in terms of cost and effectiveness, on the United States, of hardening our satellites or making them invulnerable or creating counter-antisatellite weaponry and so forth, we may, in fact, have done the very kind of thing we did when we put on multiple independently targetable reentry vehicles and found ourselves disadvantaged.

I would like to quote the Senate Armed Services Committee report itself on the defense authorization bill. It said:

A U.S. Asat capability alone could be a weak deterrent unless or until the nation substantially improves satellite survivability, jamming resistance, launch responsiveness and the way we approach satellite construction. Yet, while the administration has a program in place for acquiring an Asat capability, no apparent plan has been submitted to Congress to develop the other essential ingredients of a sound space control strategy.

It is not only the Senate Armed Services Committee that found that but, last year, the committee required the Pentagon to provide the Congress with detailed information about the cost effectiveness, military effectiveness, and arms control implications of various Asat's and that still has not happened at this point in time.

In addition to that, Mr. President, there have been a number of statements, one from Paul Nitze, one from the President's own National Security Adviser, Brent Scowcroft, which raised serious questions about the lack of analysis and the current direction we are proceeding in.

I reiterate, the language here does not restrain research. It does not restrain the current program. But what it does do is try to force the debate on the question of strategy and try to narrow for us a perspective as to whether or not we are proceeding down the right road and, if we are, precisely what it means in terms of other expenses, other strategies that may be affected, and try to put it into a larger strategic picture of our current posture, vis-a-vis the Soviet Union.

As the Senate Armed Services Committee stated in its report this year, "what is required [in considering the Asat program] is extensive analysis, planning, and debate, with due regard for budgetary realities."

The compromise amendment I have sent to the desk is designed precisely to make such a debate possible, Mr. President. It urges the President to negotiate with the Soviets on specific constraints on antisatellite weapons, and notes the concern of the Congress over the prospects for United States national security if such constraints are not achieved.

As the Office of Technology Assessment has found, the United States is more dependent on satellites to perform important military functions than is the Soviet Union. Current Soviet Asat capabilities are very limited. Our satellites face a far more serious threat from future Soviet Asat's if development is not halted now. As this amendment recommends, we must undertake a comprehensive review of the implications of antisatellite weapons for the national security of the United States. We must understand what the threat is from the Soviets—and how best to meet it.

We must undertake this review now, because we currently have scheduled testing of the next U.S. Asat, the MIRACL, to being as early as mid October 1990. That means that when we consider the defense bill next year, we will clearly face the issue of whether or not such testing is in the interests of the United States.

The Congress stopped all testing of the now-defunct U.S. Asat system for 2 years because of concerns about the potential injury to U.S. national security if both sides move forward with the testing, development, and deployment of Asats.

And it is not just Democrats or rabid arms controllers who worry about what will happen if we go forward with developing Asat's. Ambassador Paul Nitze was among those who lead the charge against the SALT II Treaty because he felt it did not protect United States national security interests, and he was chosen by President Reagan to participate in some of the

most significant arms control negotiations of our time with the Soviets.

And what is the opinion of Ambassador Nitze, who spent 50 years in dealing with the hard realities of the cold war and nuclear weaponry and arms control regarding Asat's? Ambassador Nitze told the New York Times on May 3 of this year that the administration "should try to negotiate a ban on the deployment of antisatellite weapons."

That's right. Ambassador Nitze does not merely want to limit Asat's. He believes we must ban them.

The President's own national security advisor, Brent Scowcroft, recently coauthored an Aspen Study Group report which concluded that "we find it hard to identify a set of circumstances in which the benefits of using the limited existing Asat systems markedly outweigh the potential risks." Scowcroft wrote that "all scenarios involving the use of Asat's, especially those surrounding crises, increase the risks of accident, misperception, and inadvertent escalation."

As Scowcroft wrote in a coauthored essay for the Aspen Institute, "at high levels of tension, attacks on satellites could easily be interpreted as a signal of an impending nuclear strike. For this reason alone, a move of this sort would be foolhardy * * * the instabilities of this situation in a crisis would be enormous. Fearing preemption, each side might be driven to nuclear alert levels that were inherently unstable. An accidental collision of spacecraft in [geosychronous orbit] or an unexplained manuever could prompt a decision to attack the other side's Asat. * * * Like the prospect of a nuclear first strike that has so worried strategists, it would be a seemingly crazy act made logical by desperate circumstances."

In recognition of this problem, the lead editorial in the New York Times commented in July, "funds to sustain modes research on Asat's and to protect satellites from them are warranted, but testing Asat's against objects in space is not. Congress * * * now needs to renew that curb and encourage negotiation of a verifiable ban on Asat's." I ask unanimous consent that the New York Times editorial in support of an Asat moratorium be printed in the RECORD in full.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KERRY. Now in the past, opponents of restraints on antisatellite testing have suggested that we cannot allow the Soviet Union to possess what they term "the world's only operational Asat system," referring to the rather primitive Soviet coorbital Asat system at Tyuratum.

And frankly, I agree with them. We should enter into negotiations with the Soviet Union on Asat's, and one of the terms of an Asat treaty should be that they tear that system down.

But because the Tyuratum system has had no tests against satellites in 7 years, its operational status has to be considered questionable—just as we would consider questionable the operational status of any system we had not been able to test in 7 years.

Opponents of Asat arms control have also always pointed to the Soviet laser test facility at Sary Shagan, which the Department of Defense in 1988's edition of "Soviet Military Power," referred to as a "high-energy, multimegawatt class laser device, and pictured again and again in the Pentagon's publications with the beam director pointed at the sky and a giant beam flooding heavenward.

The opponents of Asat arms control have argued that you cannot verify what the Soviets are doing with lasers. They have contended that the Soviets are ahead of the United States in lasers. They have cited again and again statements by Pentagon officials that—and I quote, "the directed-energy R&D site at Sary Shagan proving ground includes ground-based lasers that could be used in an antisatellite role today and possibly a ballistic missile defense role in the future." (From "Soviet Strategic Defense Programs," October 1985, released by the Department of Defense and the Department of State.)

The Strategic Defense Initiative Office just last year in its annual "Report to the Congress," stated that "at Sary Shagan alone, the Soviets are estimated to have lasers for air defense and two lasers probably capable of damaging some components of satellites in orbit."

General John Piotrowski, head of the United States Space Command, has stated that the Soviets possess laser capabilities that could kill a satellite in low Earth orbit, would kill a satellite as high as 750 miles, and do "in-band" damage to those in geosynchronous orbit at 22,300 miles. Last year's edition of Soviet Military Power reiterated that the Soviets possessed "at least one laser believed capable of an antisatellite mission." And again and again, those statements have been accompanied by a picture of the Sary Shagan facility illustrating the site of these dangerous lasers.

The former director of the Strategic Defense Office, Lt. Gen. James Abrahamson, testified before the Congress in March 1987 that the Soviets are "clearly ahead" of the United States in ground-based lasers.

These public characterizations of the Soviet laser program have been a significant factor in congressional consideration of United States antisatellite programs, and in connection with the strategic defense initiative. However, the unprecedented opening of the Sary Shagan site by the Soviets to a delegation of United States scientists, journalists, and Congressmen on July 8, 1989, suggests that these characterizations may well have been wrong.

This delegation—which included three Congressmen, a highly regarded physicist from Princeton University, the chief scientist for the Natural Resources Defense Council, and several journalists—was taken by the Soviets to this previously secret Soviet research facility, and permitted to inspect the laser transmitter, receiver, transformer, and beam director at the Sary Shagan laser site. At the site, Soviet Academy of Sciences Vice President Yevgeny Velikhov stated that the Supreme Soviet's new commission on the military budget may even order the laser to be abandoned when it issues a report in the fall.

Remember, we were told that the Soviets possess "multimegawatt capable lasers," of a quality equivalent to or better than the MIRACL [Mid-Infrared Advanced Chemical Laser] under development at White Sands by the United States. We were told that the Soviets could use this to damage United States satellites—according to General Piotrovsky, even satellites in geosynchronous orbit could sustain some damage.

The reality, if the apparent facts of the site visit prove to be correct following formal, detailed inspections by our Government, is that the Soviet lasers at Sary Shagan are somewhere between 1 percent and one hundredth of a percent as powerful as had been claimed by our military.

What is the power of the lasers at the Soviet Sary Shagan facility? Well, according to the Soviets who accompanied the delegation, the most powerful laser at the Sary Shagan facility, the carbon dioxide laser, is capable of between 2 and 20 kilowatts of output, power ratings a tiny fraction of that needed to sustain minimal antisatellite capabilities.

At that power, the Soviet laser would have the illuminating power of a large searchlight—capable not of destroying satellites, but merely of tracking objects in space, which is precisely what the Soviets say they have used it for.

But were the Soviets telling the delegation the truth? Scientists who have studied the technical data provided by the Soviets to the scientists in connection with the visit, and photographs of the laser equipment, power sources, beam director, cooling systems, mirrors, computers and related technologies, say that all the information they have is consistent with these statements by the Soviets.

For example, the optical materials used by the beam director appear to be made of materials that could only handle the heat of the power levels described by the Soviets. Similarly, the

cooling system shown the delegation by the Soviets appears to be large enough only to handle heat at the kilowatt rather than megawatt level. The computers at the facility are hard-wired transistors—not silicon chips—of 1960's vintage. The Soviets contended that their military establishment lost interest in the facility with the signing of the ABM Treaty in 1972, and have done little with it since. There is no technology at the site that would indicate the contrary.

But could the Soviets have been deceiving the delegation? Did they show the delegation some fake site, while they are maintaining their lasers elsewhere? The problem with that theory is that the site visited corresponded exactly to the very buildings at Sary Shagan which were pictured in edition after edition of Soviet Military Power and other Pentagon publications, as the booklet I have here shows. If you look at the booklet on the United States "Strategic Defense Initiative," published by the SDIO, the illustration of Sary Shagan shows three buildings associated with the Soviet laser program. The delegation visited all three, and went wherever they wanted, viewing everything from power sources to beam directors to mirrors and optics to cooling systems.

R. Jeffrey Smith of the Washington Post was among those who visited the Sary Shagan site. As he wrote in an article which appeared this past Sunday in the Post, "how did we know this was indeed the legendary Sary Shagan laser? The Pentagon's sketches, apparently drawn from satellite photos, were a perfect match. Did we see the whole thing? Some of us counted steps to verify that most of the building was open to our inspection, including the computer center and—at our spontaneous request—the basement power supply."

According to Smith, "the highlight was scrambling over the laser's 'beam director' and peering through the mirrors of this alleged satellite killer, which the visiting scientists said were incapable of focusing more than normal solar heat on objects in outer space."

Smith wrote, "not only did this military dog not bark, it seemed to be on its last legs. Velikhov said out of earshot of the managers that he hoped their marginal endeavor would be eliminated from the budget later this year by a vote of the Supreme Soviet."

Smith then quoted an unnamed U.S. military official, who asked not to be identified, who told Smith that the Pentagon's mistake was "to draw exaggerated conclusions from sketchy information about Sary Shagan, and then print its reports with language that could be readily misunderstood. Smith quoted this current U.S. official as saying, "a lot of [news] stories said it could destroy satellites, and that's certainly not true."

Here's a United States military official saying anonymously what the Defense Department has not been willing to say publicly—that reports that the Soviet facility at Sary Shagan could destroy satellites are "certainly not true."

Instead of lasers with the ability to damage our satellites, the delegation saw what the New York Times editorial called a laser: "better suited for guiding shoppers to Count Potemkin's used car lot than for destroying U.S. satellites."

The information from the Sary Shagan site visit forces us to gaze at an issue some might wish to avoid—whether past assessments of the Soviet laser program indeed significantly overestimated the military capability of the lasers themselves and of the program overall. If the information provided in the course of the site visit proves to be correct, it suggests either an intelligence failure of substantial proportions, or the political manipulation of intelligence to influence public debate.

Whether intelligence failure or a case of threat inflation by policymakers, the implications are profound. If the Soviet laser program is as primitive as it appears to be, it undermines the very foundation of the rationale for the billions we have spent on the strategic defense initiative and the current crash program that is being pushed for directed energy antisatellite weapons.

The implications for verification are also profound. For a number of years, I have advocated that the United States seek to negotiate a comprehensive verification accord with the Soviets to establish overall procedures for verifying all relevant military technologies.

I remember when in 1984, the Congress passed an amendment prohibiting antisatellite weapons tests until the President certified that he had entered into negotiations with the Soviets on the strictest possible controls on antisatellite weapons, because we were so concerned about the effect on our satellites if the arms race went forward.

The executive branch never entered those negotiations. Instead, they took the position that no antisatellite weapon agreement was in the interests of the United States, because no agreement was verifiable. Accordingly, they certified that no controls were possible, no negotiations necessary, and they went and tested the MHV Asat until Congress passed a moratorium.

The importance of the new Soviet attitude cannot be underestimated. The Reagan administration, in rejecting Asat arms control, said the chief reason we could not negotiate such a treaty was because we could never verify it. Now, the Soviets are saying to us—we are ready to join you at the bargaining table on antisatellite weapons, and we are already willing to open up our most significant military test sites to demonstrate our openness to verification.

As the Senate Armed Services Committee has recognized in its report, it is increasingly clear that the Soviet Union may be willing to accept the principle of onsite inspection as part of verification, to supplement national technical means. They accepted this principle in the INF Treaty, and they are demonstrating the probability of their accepting it in the realm of Asat's by opening up Sary Shagan in this dramatic way.

We shouldn't accept the testimony of the Soviets on the capability of their lasers at Sary Shagan. We should not even accept the testimony of the U.S. scientists who went on the trip. We should test the Soviets directly, by insisting on further inspections of all suspect Soviet laser test sites, by our best trained military and intelligence analysts. If the statements made by the Soviets about Sary Shagan are not true, the Soviets should pay the price for seeking to mislead us. If they are, we should recognize reality and not base our own military programs on an inflated assessment of the Soviet threat.

Some here will say that the Soviets do have more powerful lasers—that the Americans were duped by being sent to the wrong site—that somewhere else, the Soviets have more modern, powerful lasers which are usable as weapons.

Well, if that is true, all the more reason to ask the Soviets for onsite inspections on a government-to-government basis.

No one can predict what course events may take in the Soviet Union. But it is clear that there are opportunities for the United States now to achieve limits on the threat to the United States from the Soviets. We should take advantage of glasnost first to monitor Soviet military research and development programs in the area of lasers and then to secure limits on Soviet military developments in the area of antisatellite weaponry. We should push for the dismantlement of the one primitive Soviet Asat system that exists, the coorbital system, and we should begin negotiations banning the development, testing and production of Asat's, with strict verification provisions, including onsite inspections.

While no single arms control measure can rid us of all Soviet antisatellite threats, even limited forms of restraint could protect U.S. satellites, and reduce the risk that the use of Asat's could initiate or escalate a crisis

and threaten the security of our Nation.

I thank the distinguished manager of this bill for working out this compromise agreement, which I hope will make a modest contribution to pushing forward antisatellite arms control.

EXHIBIT 1

[From the New York Times, July 26, 1989]

A MIRACL WEAPON BETTER LEFT UNTRIED

Congress this week will consider a Bush Administration request to begin testing a laser weapon for disabling or destroying satellites in orbit. But the U.S. depends on satellites for military communication far more than the Soviets do. That makes a competition in anti-satellite weapons potentially self-defeating.

Funds to sustain modest research on ASAT's and to protect satellites from them are warranted, but testing ASAT's against objects in space is not. Congress has banned such tests since 1985. It now needs to renew that curb and encourage negotiation of a verifiable ban with the Soviets.

The Pentagon seeks more than $200 million for ASAT's. It also wants to begin testing the Mid-Infrared Advanced Chemical Laser, or MIRACL, a beam of light generated on earth and focused by mirrors at a satellite in space.

Congress has long appreciated the risks that anti-satellite weapons pose to American communications. So have the armed services, which have never quite believed in MIRACL's, or other ASAT's. But they are now pressed by Star Wars enthusiasts to test some weapons—any weapons—in space. These advocates are looking for ways to circumvent testing restrictions in the Antiballistic Missile Treaty. And killing satellites exploits many of the same technologies used to intercept missiles.

ASAT's are needed, proponents say, to deter a Soviet ASAT threat against U.S. satellites. Never mind that the primitive Soviet ASAT can't reach most U.S. satellites, or that Moscow has refrained from testing it since 1983. Never mind that the most effective counter to a Soviet ASAT would be to protect U.S. satellites, not to threaten Soviet satellites. And never mind that the Soviets seems eager to close off this area of military competition by treaty. The Soviets are ahead in ASAT's, the ASAT lobby claims, so the U.S. must catch up.

The Pentagon says Soviet gains on ground-based lasers require U.S. tests now. They warn of a laser "with some capability to attack U.S. satellites." This month, American experts saw this vaunted Soviet laser with their own eyes and found it better suited for guiding shoppers to Count Potemkin's used car lot than for destroying U.S. satellites.

The House Armed Services Committee has approved a bill granting the Pentagon's funding request but barring space tests of MIRACL without Congressional authorization. A separate bill urges President Bush to negotiate strict limits on ASAT testing and deployment. Congress would be prudent to pass both, deleting funds for tests.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I would like to speak in favor of the amendment and commend the Senator from Massachusetts for his efforts here. I know both he and I would have liked stronger language. On the other hand, because of the progress that is being made in the area of arms negotiations, it seems more appropriate at this time, perhaps, to urge and to persuade the administration to include in their disarmament talks the questions of Asat's.

I believe it is important we do that, or, actually, it is correct to say we have more to lose than the Soviets do in this respect because we do have an advantage in the area of our satellite communications systems right now and, thus, the development of Asat's would be more detrimental to our interests than it would be to the Soviets.

I am also hopeful, because the Bush administration is working hard on other aspects, that they will consider the merits of the proposals we have in this amendment, to bring forward the Asat determination and, hopefully, come to a treaty agreement on that.

I wish to indicate my support for the amendment we have before us. While my colleague from Massachusetts and I had hoped to put somewhat stronger language before this body, but this amendment expresses the essential point that we wished to make—that the time is ripe for movement on antisatellite arms control.

The recent meeting between Secretary of State James Baker and Soviet Foreign Minister Eduard Shevardnadze has produced some very positive steps toward renewed momentum on arms control issues. President Bush and President Gorbachev now plan to meet next year. The Soviets have indicated that they are finally willing to separate discussions on SDI limitations from the main START talks in Geneva. New methods of verifying limits on nuclear-armed sea-launch cruise missiles are now being discussed, and the Soviets seem willing to satisfy United States concerns about a radar facility that the Pentagon claims violates the ABM treaty. The Bush administration has also announced that it will no longer insist that a START treaty ban mobile ICBM's.

I applaud the administration and the Soviets for these positive steps. Congress should support these moves and encourage substantive progress in the arms talks to reflect these new commitments.

However, I am concerned that antisatellite weapons are being forgotten by arms negotiators. We now have a unique opportunity to prevent a full-scale arms race in Asat's. The United States has refrained from testing an antisatellite weapon [Asat] for the last 4 years. Two years in a row, Congress enacted legislation banning the testing of Asat's against an object in space, providing the Soviet Union also refrained from testing. The Soviet Asat system is antiquated, unreliable and has not been tested in more than 6 years.

Partly because of our superior communications technology, the United States is considerably ahead of the Soviet Union in development of satellite communications and surveillance techniques. The Office of Technology Assessment recently concluded that the United States is also more dependent upon its satellites for essential military functions than is the Soviet Union. It therefore seems to me that we should have an even greater interest in limiting the development of antisatellite weapons and instead direct our resources toward reducing the vulnerability of our existing command, control, communications and intelligence systems. Yet the United States and the Soviet Union have not negotiated on possible Asat limitations in a decade.

The unfolding of glasnost and perestroika in the Soviet Union have had a positive affect upon the Soviet leaders' willingness to engage in arms control discussions. Clearly, severe economic problems are forcing President Gorbachev to cut back on investment in military hardware and technology. Gorbachev's approval of a recent visit by United States Congressmen and scientists to the Sary Shagan Asat site is an encouraging sign that the Soviets may be willing to discuss the possibility of onsite inspections, a prerequisite for any verifiable Asat limitation agreement.

This amendment urges the administration to seize upon this moment of opportunity in an attempt to make substantive progress toward arms control and ensuring the survivability of our critical satellite capabilities. In the rush to make progress in other areas of arms control, we must not forget to protect the key to our defense systems—our satellites.

I urge my colleagues to support the Kerry-Jeffords amendment.

Mr. CHAFEE. Mr. President, I support this effort by the Senator from Massachusetts and the Senator from Vermont to attach this important sense-of-the-Senate language concerning antisatellite testing to the Defense appropriations bill.

In 1985, 1986, and 1987 I joined the distinguished Senator from Massachusetts as a cosponsor of legislation to mandate a moratorium on the testing of antisatellite weapons against objects in space, unless the Soviets conduct a test. In 1987, we offered such an amendment to the Defense authorization bill. Although our amendment was not successful then, the House and Senate conferees on the bill agreed to restructure the F-15 launched Miniature Homing Vehicle [MHV] Asat Program to complete all remaining research and development

activities not related to testing in space or production.

The Air Force subsequently terminated the MHV Program, and included no funding for the MVH in the administration's fiscal year 1989 budget request.

I was pleased with those actions, and was optimistic that we had made some progress on the road to arms control through our work on Asat legislation.

Unfortunately, this year the administration requested the following funds to develop an Asat capability. For directed energy: $15 million to Army Asat development, $275 million in SDI for laser Asat, $16 million to Air Force for DEW Asat; for kinetic energy: $95 million to Navy Asat development, $250 million in SDI for kinetic kill Asat, $38 million to Air Force for kinetic kill Asat.

The bill we are debating today recommends nearly full funding of the administration's request, and deletes House-recommended language preventing the testing of the mid-infrared advanced chemical laser [MIRACL] against objects in space unless such testing is subsequently authorized and funded. The Senate bill does tie two thirds of the Asat funding to certain reporting requirements.

In my view, the administration should be nudged not merely to produce required reports on Asat development and testing, but to consider carefully the importance of pursuing Asat arms control. That is why I believe this additional language is necessary.

Clearly, the Department of Defense places a high priority on development and deployment of an Asat capability. Indeed, former Secretary of Defense Frank Carlucci wrote in March that the lack of an Asat capability is the single most serious deficiency in the U.S. military posture. This renewed, energetic pursuit of Asat funding on the part of the administration puzzles me. It does not make sense to me in terms of our defense requirements. Rather, it appears to be an ideological leftover from the previous 8 years.

I am not convinced that an Asat capability would enhance our security. Conversely, the United States has far more to lose than the Soviet Union by entering an Asat arms race, as we have a far greater reliance on our satellite capability. I believe that national security would be best served by refraining from testing an Asat, and by taking advantage of the current climate in East-West relations to secure Asat arms control concessions from the Soviet Union.

Therefore, I hope this modest and prudent amendment, which is designed to encourage movement toward Asat arms control without inhibiting the flexibility of the President on this issue, is adopted.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I would like at this time, if I could, to ask the sponsor of the amendment a few questions and just clarify in my own mind the intent behind the amendment. I do not object to the amendment as I understand it, but I want to be clear we have general agreement on it.

The question I have really relates to what is possible in this area. I think all of us are anxious to pursue arms control where it is feasible and where the agreement that might be reached is verifiable. But I think that my concern comes down to one of the findings which is here where it says, "It is essential to the national security of the United States that the U.S. Government satellites not be vulnerable to antisatellite attacks."

Would the sponsor agree with me that it may not be possible to render our satellites at low orbit invulnerable to antisatellite attacks, the problem being that any ICBM, and a great many weapons that now exist, are capable of destroying low-orbit satellites and therefore those low-orbit satellites generally are not the ones that are crucial to our defense communications capability?

Mr. KERRY. The Senator is correct that low level, particularly weather satellites and certain imaging satellites would be subject currently to attack from the Soviet Union by, first of all, their coorbital, very rudimentary system that they have that they have not tested in about 6 years, which is a dedicated satellite system. These satellites could also conceivably be subject to attack from some residual capacity such as a missile or something, as the Senator has described.

What we are really focusing on here is the effort to try to limit the dedicated satellite systems, particularly because the residual satellite capacity would not have the ability to seriously threaten those satellites most important to the United States, and it is only if they develop a dedicated system that could get at the higher altitude that we would then be threatened at that higher tier of threat.

Mr. BINGAMAN. If I could ask the sponsor, the Senator from Massachusetts, to yield once more on this bill, is it fair to say that the main thrust of what we are trying to accomplish or what the sponsor is trying to accomplish by this amendment is to move the administration toward a more serious look at the possibility of negotiating an agreement that would restrict those Asat's that could reach the high altitude geosynchronous, the satellites in geosynchronous orbit?

Mr. KERRY. The Senator is correct, but let me also encompass it in, again, the larger language that I think is very important here. That is the question of whether either of us wants to have a dedicated system. That is the greatest threat and that is really where we are focused at. There are means of getting at this. I think the Senator is well aware of the trip that was taken last summer by a delegation of U.S. scientists, U.S. journalists, and U.S. Congressmen on July 8. This delegation visited the well-known Sary Shagan site. That is a site that has been consistently referred to in unclassified documents as a principal location of laser capacity antisatellite weaponry of multimegawatt capacity by the Soviet Union.

In fact, upon close inspection by that delegation, they found the most rudimentary transformer; they found in the very building that has been depicted in the SDIO photographs which have been used to press this strategy, they found the most rudimentary computerization, wire hookups rather than chips. They found a total output capacity that could not be deemed to endanger even low-level satellites.

That is an opening of a window of opportunity for onsite inspection for the measuring of power capacity and ultimately conceivably for a regime or protocol which allows us to limit the dedicated antisatellite weaponry that could leave us in the position of having superior satellite verification command and control capacity. I think this is to the advantage of the United States in our national security interests.

Mr. BINGAMAN. Let me just conclude with one more question to the Senator from Massachusetts. I guess my concern is that the capability that we have to verify an agreement that relates to the low-orbit/low-altitude satellites is not particularly great. For example, on SDI, we just had quite a debate on SDI systems.

I think there is no question that SDI systems have an Asat capacity long before they have an SDI capability.

There are many other weapons that potentially have an Asat capability. I certainly favor going forward and trying to negotiate what we can that is verifiable, but I think the problems are very great indeed when you try to verify an agreement that relates to the low-altitude satellites.

I just want to make that point, and I gather from what the Senator is saying, that is generally consistent with the point of view that the Senator holds.

Mr. KERRY. The Senator brings up a very important point. But it is one that I think, if you measure it against the other concerns here, is at least a manageable problem. I think the Senator, in raising the verification needs

here, puts his finger right on the most critical element.

We have had a history in the arms control race of always putting verification as sort of the back consideration. So what happens is as we develop a new system, we suddenly find ourselves in arms control negotiations trying to negotiate a verification regime for a system that is stepped far beyond our ability to do so. And then we tend to get trapped, as the cruise missile brings home only too well.

What I think we are arguing here with antisatellites is that before we get behind the curve, as we are in cruise missiles, or before we get behind the curve, as we did with MIRV's, let us try to force this moment which is propitious with respect to the Soviet Union to try to articulate an adequate verification regime to at least limit the next generation of antisatellite weaponry which is dedicated and can threaten your upper level satellites.

I agree, some of the lower ones have a residual threat that exists today and, indeed, certain of the SDI components do contain a primary antisatellite capacity far ahead of their antimissile capacity.

Mr. BINGAMAN. I appreciate that response, and I just wanted to finally point out that I think the Senator is in agreement with me that our greatest concern, the greatest potential we have for agreement is with regard to limiting or controlling the possibility of an instantaneous attack on the high-altitude satellites and that, of course, is a goal that I certainly support. I intend to vote for the amendment.

Mr. KERRY. I thank the Senator, and I thank him for pointing out an important distinction of the process.

Mr. INOUYE. Mr. President, the committee recommends almost full funding for the several antisatellite weapons research and development programs requested by the Department of Defense for fiscal 1990. However, 67 percent of the funds are fenced until the DOD complies with the fiscal 1989 supplemental conference report and submits results of a meeting this December on the kinetic energy Asat program.

The committee also deletes a House restriction preventing testing of the mid-infrared advanced chemical [MIRACL] laser Asat against an object in space until such a test is subsequently authorized and appropriated.

Senator KERRY's amendment puts the Senate on the record in favor of a balanced approach to responding to Soviet antisatellite capabilities. In my opinion, this approach is a "dual track" approach embodying both continued research and development on antisatellite weapons capabilities and increased emphasis on adequately verifiable, mutual Asat arms control limitations.

The committee required the Defense Department to submit a full report on the cost effectiveness, military effectiveness and arms control implications of its laser and nonlaser Asat programs.

We enforce this requirement through a fence on obligating more than 33 percent of any Asat funds if this report is not filed. We also extend the deadline to permit DOD to report on its critical December Asat meeting. We provide more than enough money to fund all Asat programs through January 1990.

Any prudent research program should plan for realistic tests to demonstrate the taxpayers are getting their money's worth.

We also can begin Asat arms control negotiations as well as carry out a reasonable Asat program until, and if, arms control limits make such a program unnecessary.

The committee heard clear evidence that the Soviets have an operational and militarily useful Asat weapon, even without a test of the complete system since 1982. That system threatens very important U.S. satellites.

The Soviets also have modest Asat capabilities inherent in their ground based lasers and antiballistic missile interceptors.

It is not unreasonable to pursue a modest Asat capability of our own to deter Soviet Asat attacks—or to deny the Soviets the operational benefits we expect their military satellites to give them in the future.

The amendment also urges the executive branch to increase its priority on Asat arms control efforts with the Soviets.

The committee's position encourages the executive branch to address the arms control implications of antisatellite weapons. This amendment reinforces the accomplishment of that objective.

I urge the adoption of this amendment.

Mr. President, I ask unanimous consent that this amendment and the committee amendment be temporarily set aside in order that we may take up an amendment by Senator WARNER.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 888

(Purpose: To provide for a feasibility study of land transfer for use as a correctional facility)

Mr. McCAIN. Mr. President, I send an amendment to the desk on behalf of Senator WARNER and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for Mr. WARNER, proposes an amendment numbered 888.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At an appropriate place in the bill, add the following new section:

Sec. . FEASIBILITY STUDY OF LAND TRANSFER FOR USE AS A CORRECTIONAL FACILITY.

(a)(1) The Secretary of Defense, in consultation with the United States Attorney General, shall conduct a study of the feasibility of selling or otherwise transferring to the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, a parcel of land approximately 100 acres not more than 100 miles from the southern boundary of Arlington County, from the military installations within Virginia which encompass land that may be suitable for use by the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, as a site for a medium security correctional facility for persons sentenced in the courts of Virginia or in the United States District Court in Virginia.

(2) The study required by paragraph (1) shall address, at a minimum, the following issues:

(A) Whether there are parcels of land within those installations of the size described which could be released from Federal control without severely affecting the present missions of such installations.

(B) A description of the parcels of land described in subparagraph (A).

(C) A description of the effects, if any, transfer of such parcels of land from Federal control would have on the ability of the Secretary of Defense to effectively carry out the mission of the Department of Defense.

(D) An analysis of the risk, if any, that might be posed to military personnel and their dependents housed on such installations by the operation of such a correctional facility on the parcels of land described in subparagraph (A).

(E) An estimate of the date on which the parcels of land described in subparagraph (A) would be available for transfer from Federal control.

(b) The report of the study described under subsection (a) shall be delivered to the Committees on Armed Services of the Senate and House of Representatives not later than 60 days after enactment of this Act.

Mr. HELMS. May I ask the Senator a question? Where do we stand as far as MIRACL on this bill? Did you lay it aside?

Mr. McCAIN. The amendment proposed by Senator KERRY has been temporarily laid aside until such time as Senator WALLOP, expressing an interest in the amendment, can get over here and look at it.

Mr. HELMS. This is a subsequent amendment to excepted amendment No. 3?

Mr. McCAIN. By Senator WARNER. It has to do with land transfer.

Mr. HELMS. I have no objection.

Mr. McCAIN. Mr. President, I yield to my friend from Virginia.

Mr. WARNER. Mr. President, this amendment requires just a study.

Mr. President, 2 months ago I was approached by a delegation of representatives of northern Virginia jurisdictions who have demonstrated to me a compelling need for the construction of a regional correctional facility. Northern Virginia, like most suburban areas, has experienced a remarkable increase in jail population, far beyond its capacity to construct suitable facilities on current sites. In fact, most correctional institutions in northern Virginia are housing approximately twice the number of prisoners for which these jails were designed. Over the last 4 years, the regional jail population has increased by 125 percent. With the initiation of enhanced drug enforcement efforts in the northern Virginia and Fredericksburg area, jail space will become even more scarce.

This creates a hazardous situation, both within and outside the institution. When jails are overcrowded, security within the institution is strained, the atmosphere is tense and potentially violent. Moreover, such overcrowded conditions invite costly litigation, ultimately at the expense of the taxpayer. A case in point is Prince William County, VA. Here a recent consent decree has resulted in closure of this facility on 10 separate occasions in the last 2 months.

When local jails are overcrowded, there is a natural tendency for violent offenders to displace those who pose a lesser risk. This, in effect, means that our courts have less sentencing options. While I support the general notion that our communities must explore innovative alternatives to incarceration for nonviolent, low-risk first offenders, I believe that with respect to those who defraud our citizens, breach the public trust, commit violent crimes or distribute drugs, swift, firm punishment is a vital element of deterrence. While the costs of incarceration are admittedly high, they are not nearly as high as permitting crowded jail conditions to emasculate our criminal justice system. It simply makes no sense to spend the vitally needed money for better enforcement and prosecution, and then have no place to imprison the criminals we catch.

To accommodate the burgeoning jail population of northern Virginia, I support the construction of a regional correctional facility. To keep this project within the range of reasonable affordability, I am proposing that a study be conducted by the U.S. Department of Defense to determine the feasibility of situating this detention center on public lands in the Commonwealth of Virginia, such as Fort A.P. Hill in Caroline County. While this facility is primarily designed to house prisoners from northern Virginia, I would expect that it will provide space for inmates from the Fredericksburg to Richmond areas as well. I understand that local jails in that area are either filled beyond or at their comfortable capacity. For northern Virginia, collectively as of May 1, 1989, there were approximately 900 prisoners in local jails actually sleeping on floors.

This regional detention facility will be operated as a joint venture between the State of Virginia and local jurisdictions. I anticipate that it will be composed of a consortium of resources contributed by Arlington County, Fairfax County, the city of Alexandria, Prince William County, Loudoun County, and any other jurisdiction that wishes to participate. Legislation that will become effective on December 1, 1989, will make these jurisdictions eligible for reimbursement of up to 50 percent of the total cost from the Commonwealth of Virginia.

A regional correctional facility will not only serve to alleviate the overcrowded jail conditions that hinder effective law enforcement in each of our local communities for citizens in the area in which it will be situated. While correctional facilities are always greater by citizens with mixed emotions, I join the representatives from northern Virginia jurisdictions in their belief that this project is a central ingredient in our future law enforcement strategy. In the short run, at least, the criminals are not going to go away. The only question is whether we would rather pay the costs of building prisons to hold them or the much higher costs of leaving them on our hometown streets.

Mr. President, the Senate has already passed this amendment once on the National Defense Authorizations Act. I hope my colleagues will join me in supporting this amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, this amendment on behalf of Senator WARNER has been agreed to by both sides. I ask that it be adopted.

Mr. INOUYE. The amendment has been studied. We have no objection to it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 888) was agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I will be sending an amendment to the desk in a short period of time. First, I would like to describe the contents of the amendment and my reasons for proposing the amendment. I will be glad to provide my friend from Hawaii ample warning as to when I will be sending my amendment to the desk since I understand he will be seeking a quorum call at that time. I choose to let him have ample time.

I suggest to my friend from Hawaii it will take about 15 minutes for me to describe my amendment that I am going to propose.

Mr. INOUYE. Will the Senator yield back the floor to me to suggest the absence of a quorum?

The PRESIDING OFFICER. Does the Senator suggest the absence of a quorum?

Mr. McCAIN. Mr. President, I cannot do that, I say to my friend from Hawaii. I have been recognized, as I believe is the right of a Senator.

The PRESIDING OFFICER. Senator from Arizona does have the floor.

Mr. McCAIN. Might I say to my friend from Hawaii, I can understand why he would exercise the rules of the Senate at the time that the amendment is read by the clerk, but up to that time I believe I have the floor. I think it is very important to me and to about 20 million other seniors that I be able to describe my amendment. I say that with all due respect to my friend from Hawaii.

Mr. INOUYE. Go right ahead.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I am here with this amendment, first with a note of apology to my friend from Hawaii and to the distinguished ranking Republican, Senator STEVENS. I know that we would like to move forward with the Department of Defense appropriations bill, and I will explain, I hope to their satisfaction, the reason why I will be proposing this amendment.

Basically, Mr. President, this surtax that has been laid on senior citizens across this country must be repealed. Frankly, on October 1, those seniors who pay taxes ahead of time will be again levied another burden to pay for coverage that they neither want nor need.

The first time I proposed a similar amendment to this, Mr. President, was on June 7. It lost by a narrow vote of 51 to 49 on the Finance Committee premise that it would fix the problem that exists, which we all now acknowledge, by September.

Later, it became apparent that the committee would not act. I offered the amendment again before we recessed. I again narrowly lost, with the chairman of the committee promising, and I quote from the CONGRESSIONAL RECORD, "We are prepared when we come back in September to present to this body what we think will be major changes in catastrophic illness."

Mr. President, the date is September 28. Tomorrow will be a shortened day,

and of course October 1 arrives and, frankly, we have seen the Finance Committee and the House of Representatives in basically a state of gridlock over this issue.

I am also terribly concerned, Mr. President, about the likelihood now increasing that this issue will be attempted to be resolved in reconciliation, where those of us who are not members of the Finance Committee will have basically no input into whatever decision is made in the reconciliation process.

This issue is far too important to allow only a handful of the Members of this body to make the decisions affecting catastrophic illness insurance.

Mr. President, what have we seen in the intervening weeks? We have seen the chairman of the House Ways and Means Committee chased down the streets of his own district by seniors; we have seen Members of our own body assaulted by similar sentiment in their home States. We have seen numerous Finance Committee sessions postpone taking action because they could not decide what to do.

Frankly, the reason they cannot decide what to do is they cannot bite the bullet of repealing the surtax. It is the surtax that is the evil that must be eliminated.

I also hasten to add it would be a terrible thing for us to deprive seniors of many of the benefits that we promised them when we do not have to. We have seen the commitment by the committee to fix this in September. It is not going to be met. As we see October 1 arriving and a new quarterly tax payment, thousands of seniors are going to have to make for a program they did not want.

Mr. President, I promised to be back. I promised to be back twice, and I am back again—I hope for the last time, because I hope at this point in time we will have reached a point where we can repeal the surtax, maintain benefits of catastrophic illness insurance, spousal impoverishment, and others for senior citizens who both deserve and need those benefits and which will be paid for by the $4.80 premium that seniors are already paying.

I am aware, although I have not been informed, that my friend from Minnesota has a proposal that will, frankly, not be acceptable to this Member, nor to seniors in this country, I will tell you very frankly, because it does not elimiante the surtax. My friend from Minnesota recognizes that there will not be any significant number of seniors who will support such an action until we eliminate the surtax.

I understand also I have another colleague who may have a perfecting or second-degree amendment on this amendment seeking total repeal—total repeal of the legislation.

Very frankly, Mr. President, around the country there are many seniors whose emotions have been stirred by certain special-interest organizations which I will not name, which are well known to all of us, that are seeking repeal.

I think that would be a dangerous course of action, Mr. President, and I will tell you why. If we totally repeal this legislation, we will be taking seniors out of hospitals where they are under catastrophic illness care. We will be depriving seniors of spousal impoverishment, one of the most terrible and tragic things that I see in my State from time to time.

Mr. DANFORTH. Mr. President, will the Senator yield on this point?

Mr. McCAIN. I will be glad to yield to my colleague for a question without losing the floor.

Mr. DANFORTH. I would only say to the Senator from Arizona that the amendment that will be offered by the Senator from Missouri does not do what the Senator describes. In other words, the spousal impoverishment provisions, the Medicaid provisions, would be maintained similarly for those benefits that have already gone into effect. The repeal would not occur until January 1, 1991. So that people who are now receiving those benefits would continue to receive them.

The repeal, the immediate repeal, would be for those provisions that have not yet gone into effect, such as the drug benefit and such as the part B benefit; and the provisions that have already gone into effect, including the hospitals and the skilled nursing homes, would be repealed effective January 1, 1991.

Mr. McCAIN. Let me say to my friend, he and I are not as far apart as perhaps some may believe. I again, as we have discussed in the past, ask him to give consideration to the proposal and the amendment that I am making which basically retains core catastrophic benefits, long-term hospitalization protection, spousal impoverishment, Medicaid buy-in the pregnant mothers and infants programs, retains skilled nursing facility benefits, with modifications of reimposing a 3-day prior hospitalization rule, increasing the number of copayment days from 8 to 30, retains the blood deductible, home health, respite, mammography screening, the so-called Mitchell drugs and hospice in return for repeal of outpatient prescription drug programs beyond the Mitchell drugs, and the part B out-of-pocket program.

I would suggest to my friend from Missouri that being able to retain all of those benefits with simply $4.80 that seniors are now paying is a viable option that I hope most of my colleagues will consider at the time I propose this amendment.

Also, let me point out to my friend from Missouri that we can pay for this proposal, as I said, not only by the $4.80 per month, but also we will have an increasing cushion of moneys paid for by the flat premium in the years ahead that will accommodate for expansion in costs of the program.

I would like to point out that under the present program the costs have risen from an initial estimate of some $31 billion to $45 billion just in the intervening year since the legislation was passed. And there is, of course, no sign of any reduction.

Let me also again talk about the issue of addressing the deficit problem. The administration, I understand, is not only opposed, has been opposed, and will continue to oppose repeal or even dramatic revision of this program not because they do not recognize it is a bad piece of legislation, not because they cannot see the continuing cost escalations and misestimates on the part of the committee when the proposal was originally made, but because of the fact it will impact the budget deficit.

I say again, since when do we make bad laws and support bad legislation so that we can use the taxes that we take from seniors which we tell them are for their benefit and indeed turn them into ways to disguise the real size of the deficit?

Mr. President, recently the Director of the Office of Management and Budget has gotten some notoriety for talking about now-nowism, how Americans only seek gratification now and are not concerned about the pain that may be caused in the future because of spending or other lack of savings and other practices that seem to be prevalent in our society.

I have to say in response to the Director fo the Office of Management and Budget, there is no greater example of now-nowism than to stick to a bad policy that seniors do not want in order to address the size of the budget deficit for 1 year, and now that the new estimates of the cost of the program have been revealed, the following year it will increase the size of the deficit.

So I have to say to my friends at the Office of Management and Budget the worst example of now-nowism is to disguise the budget deficit for 1 year and defend a program that the overwhelming majority of those affected by it neither support nor want.

Let me point out again, Mr. President, 4 months ago when I brought up this amendment the first time, no one, not the Republican leadership, not the Democratic leadership, not the administration, thought that there would be any possibility of change. Now there is a total admission on the part of all that there will be significant changes. The question is what are those

changes? I suggest to you it is no one inside the beltway that has made these changes that has brought about this change in attitude in environment. It is the millions and millions and millions of senior citizens who are affected by this legislation who are outraged to a degree that few of us have ever seen in whatever short or long time we have spent in public office.

First, Mr. President, let me talk about some of the other proposals. The Ways and Means proposal—I am glad to yield to my friend from North Dakota for a question and I would like to say he has been one representative who has been heavily involved and concerned about this issue, and one who has been in close contact with the people that he represents. I appreciate the active role he has been playing on this issue.

Mr. CONRAD. I thank the Senator very much for his generosity and graciousness.

Might I inquire of the Senator from Arizona? Does the Senator intend to present his amendment at this time? In other words, at the end of the time that the Senator from Arizona describes the amendment, is it his intention to move to a vote on the amendment?

Mr. McCAIN. It will be my intention, I answer my friend from North Dakota, to propose the amendment. As he knows, parliamentary procedures are such I then lose my right to the floor. I understand at that time my friend from Hawaii will seek a quorum call. I then will lose all control of what follows.

But I am sure of one thing, I say to my friend from North Dakota. We will vote on this issue. I remember the two previous times. Once we spent nearly 2 days in a quorum call, and then the last time we spent about a day in a quorum call while various flailings around took place. But we will vote on this issue. We will vote, and we will see justice done. I have every assurance of that. I appreciate my friend.

Mr. CONRAD. I thank the Senator from Arizona very much for his graciousness in allowing me to get that question in.

Mr. McCAIN. I thank my friend.

Let me mention a couple of proposals. I do not want to take too much more time. If any of my colleagues happened to see the front page of the New York Times this morning, it is stated that the Ways and Means Committee was going to come up with a proposal. "Their proposal for cutting back protection under the Medicare Catastrophic Coverage Act would leave intact only reimbursement payments for prescription drugs as well as some health benefits for the poor."

I repeat that. "* * * leave intact only reimbursement payments for prescription drugs as well as some health benefits for the poor."

If that is the case, I suggest we change the name of that legislation to the prescription drug benefit program rather than the catastrophic illness insurance.

I received a letter from my friends, the National Committee to Preserve Social Security and Medicare. According to the poll that was recently taken on September 5, hospital and skilled nursing home benefits are rated as very or somewhat valuable by a solid majority of National Committee members but only 37 percent of the members rate the doctor and drug benefits as very or somewhat valuable.

Again, Mr. President, they have missed the target.

The Ways and Means proposal does not eliminate the surtax. It raises the level of the flat premium. It increases deductibles for various benefits under the program. It increases the obligations to this Nation's workers for Medicare, and it keeps many of the benefits seen by the senior citizens as less important than long-term care in place. It does not eliminate the surtax. Mr. President, the focus of the anger of seniors, I will will say over and over again is the surtax. The surtax is what needs to be eliminated.

There is a lot I would like to say. There is a lot more that I probably will in the course of this debate.

Let me mention a couple more items. "Greedy seniors," everybody has heard. I have heard responses from elected officials of whom I have the highest respect, and affection. One is, "They do not understand," which I will not even bother to respond to since there is no better educated, better informed group of Americans than our seniors. Second, "It is greedy seniors. Only the wealthy who are complaining."

Mr. President, I ask unanimous consent to have printed in the RECORD at this time members of the Coalition for Affordable Health Care.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COALITION FOR AFFORDABLE HEALTH CARE
(MEMBERS AS OF SEPTEMBER 22, 1989)

National Association of Retired Federal Employees.
The Retired Officers Association.
American Foreign Service Association.
Mail Handlers.
National Association of Postal Supervisors.
National Association of Government Employees.
National Association of Letter Carriers.
National Association of Postmasters of the U.S.
National Association of Postal Supervisors.
International Federation of Professional and Technical Engineers.
American Foundation for the Blind.
Florida Seniors for Medicare Equity, Inc.
Marine Corps Reserve Officers Association.
EXPOSE.
Rural Letter Carriers Association.
U.S. Army Warrant Officers Association.
National Association for Uniformed Services.
Air Force Association.
Non-Commissioned Officers Association.
National League of Postmasters.
National Treasury Employees Union.
Marine Corps League.
Naval Reserve Association.
Council of Sacramento Senior Organizations.
Association of Military Surgeons of the U.S.
International Association of Fire Fighters.

Mr. McCAIN. Mr. President, the National Association of Retired Federal Employees, American Foreign Service Association, Mail Handlers, National Association of Postal Supervisors, National Association of Letter Carriers, Florida Seniors for Medicare, Rural Letter Carriers of America, Noncommissioned Officers Association, National Treasury Employees Union, Marine Corps League—these are not greedy seniors. These are not greedy or rich seniors. They are everyday hard-working men and women of America who have worked and saved for their retirement, and they now see an assault on their savings. I think they deserve better treatment.

Finally, let me summarize what I am seeking in the end, Mr. President, that I will propose. That is as follows: to retain the catastrophic benefits, long-term hospitalization protection, spousal impoverishment protection, the medicaid tie-in, and pregnant moms and infants program, retain skilled nursing facility benefits, but make the following modifications: reimpose a 3-day prior hospitalization rule which was in effect until this legislation, the present legislation, went into effect; increase the number of copayment days from 8 days to 30 days; retain other benefits in the act, such as the blood deductible, such as home health care, such as respite care, such as mammography screening, Mitchell so-called drugs, and hospice.

We repeal the remaining benefits in the act which are the outpatient prescription drug program, the beyond the Mitchell drugs and the part B out-of-pocket provision of the program.

Mr. President, the $4.80 pays for all of these benefits. It is a $4.80 flat premium, and it repeals the surtax. That is what Americans want.

Let me caution my colleagues again, if I might, if we totally repeal this legislation, it will remove benefits that some seniors are now receiving. I think they deserve particularly spousal impoverishment, particularly catastrophic hospitalization, as well as the others.

Mr. DANFORTH. Mr. President, will the Senator yield on that point?

Mr. McCAIN. I am glad to.

Mr. DANFORTH. I want to correct the Senator from Arizona. That is not the proposal that will be made by this Senator. There is no intention at all of pulling the rug out from under current beneficiaries. In fact, the program would be kept alive to cover them.

Furthermore, the spousal impoverishment provisions, the Medicaid provisions, the provisions that are targeted at poor people, would be kept in. My only point, however, is that the program basically is flawed, that our senior citizens do not want it, that instead of trying to somehow Scotch tape it back together again—and there are all kinds of proposals to do that—the time has come to start from scratch.

That is the essence of the proposal that I have made, not to deny benefits to people who are now beneficiaries of the program; we will take care of those people.

We will keep the espousal impoverishment provisions. We will keep the provisions that I think the older people of this country welcome. With respect to the rest of it, my idea is that the time has come to review the bidding, review where we are, and to start over again. So that is the sole point I make. I do not believe that the point that has been made by the Senator from Arizona is an accurate description.

Mr. McCAIN. I appreciate the comments of my friend from Missouri. I was talking about the overall generic repeal, which, as the Senator knows, is one of the options being considered by the House of Representatives, probably on Monday. Also I want to remind my friend, although we will have plenty of time to debate his perfecting amendment, or whichever form it comes in, that it does eventually take some of these benefits away, although it may not at the time, and also it does not retain so many of the other benefits which I think are important. If we can maintain them under the present $4.80 that is taken care of by part B, we will have plenty of time to do that.

Mr. President, I think this is an important issue. I apologize to my colleagues for disrupting the Department of Defense appropriations bill. I was very concerned, and remain concerned, about this issue being decided in the reconciliation process, where none of the Members who are not members of the Finance Committee would have had input into the changes that we know are going to be made in the catastrophic insurance legislation. I also appreciate the indulgence of my good friend from Hawaii.

Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

Mr. McCAIN. I ask unanimous consent to be recognized when the quorum call is rescinded.

The PRESIDING OFFICER. Is there objection? There is no objection. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SASSER). Is there objection?

Mr. McCAIN. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I yield to the distinguished majority leader.

Mr. MITCHELL. Mr. President, I have discussed the matter with the distinguished Senator from Arizona, the distinguished Senator from Minnesota, and the managers. It is our common understanding that the best way to proceed in terms of expediting the Senate's business, and in fairness to all concerned, is to permit the Senate to proceed to dispose of the pending or the remaining excepted committee amendments and other defense-related amendments to this bill, following which Senator McCAIN as he has every right to do, would be recognized to offer his amendment dealing with the catastrophic health insurance program.

At that point, as he understands, we will put in a quorum call and make a determination on how best to proceed with respect to a second-degree amendment to his amendment. Senator DURENBERGER and Senator DANFORTH have both expressed an interest in offering a second-degree amendment to his amendment. There may be others.

If the defense-related amendments are not completed by 8 o'clock this evening, then we understand that those interested will reassemble here and assess where we stand at that point.

It is our common understanding and intention that no Senator will be disadvantaged or prevented from offering any amendment and speaking to whatever issue the Senator chooses to raise. Senator McCAIN has been gracious enough to permit us to do this so that we can move forward on the defense appropriations bill, which all Senators, of course, are concerned about proceeding with as rapidly as possible.

So I am not going to seek a unanimous-consent agreement. I merely state it is the understanding which we have discussed. I would ask if the Senator from Arizona would indicate if my statement here comports with his understanding of what it is that we discussed and agreed.

Mr. McCAIN. Mr. President, I appreciate the courtesy of the majority leader, not only to me but to other Senators who are interested in this legislation, such as my friend from Minnesota and the Senator from Missouri [Mr. DANFORTH]. I think it is in the best interest of the Senate to proceed with the germane amendments. I appreciate his courtesy in arranging this schedule, and also the indulgence of the Finance Committee chairman.

Mr. BENTSEN. Mr. President, I would say, so far as discharging our responsibility, it is quite important that we have a chance to evaluate this amendment. We had not seen it before it was proposed today. It is substantially different from the one Senator McCAIN had proposed before. It is somewhat closer to what had been proposed in the Finance Committee insofar as trying to arrive at a compromise. Having this additional time would give us a better chance to evaluate and see how we shall proceed on it.

Mr. DURENBERGER. Will the leader yield?

Mr. MITCHELL. Yes.

Mr. DURENBERGER. Mr. President, I want to indicate to my colleagues that other than the Senator from Arizona and perhaps the Senator from Missouri, we did not choose this particular moment to debate the issue of catastrophic. However, I must also say the Senator from Arizona has made it clear for many months that, at some point in time, given the prospect of failure of reconciliation, if that were in his mind a prospect, he would be here on the floor. So we all recognize that he has given us some substantial warning about his concern on Medicare catastrophic.

But let me also say that I do not agree with his approach. I hope that a majority of our colleagues do not agree with that approach. I hope that no one agrees with the approach of doing health care policy, Medicare policy, on a defense appropriations bill.

I will, at the appropriate time, later this afternoon or this evening, have an amendment which I would hope comes even closer to where the Finance Committee has been at its own determinations pending reconciliation than does either the amendment of the Senator from Arizona or the Senator from Missouri.

I believe that, given the time, the Senate Finance Committee would have come up with a catastrophic proposal on reconciliation. We are having now to consider the prospect of foregoing that opportunity on the Finance

Committee because of the actions of the Senator from Arizona.

For that reason I am grateful to the majority leader for his consideration to the Senator from Arizona, to all of us who were in one way or another involved in process, because I suppose we could have stood here complicating everybody's lives, especially those here with their primary business. But as I understand the agreement enunciated by the majority leader it is the agreement to which all of us have been party and to which all of us will accommodate our own wishes.

Mr. BENTSEN. Mr. President, the Finance Committee has worked long and hard trying to establish a bipartisan compromise, and the staffs and every member of that Finance Committee, Republican and Democrat, trying to bring that about.

Throughout that process we were told by the administration that they preferred no change at all. At one point they stated they would support the staff report, which would have cut the cap to $400, and would have cut the percentage premium on the supplemental to 10 percent flat, which were very dramatic changes in that, but would have protected the core benefits in catastrophic. In all candor, I much prefer something like that to what the Senator from Arizona is proposing. It goes a long way, trying to do what we, some of us, think is essential and basic.

I think what we are seeing now with something like this offered on a Defense bill, which I disagree with, I think we are seeing the administration paying a price for not being active in supporting a compromise and trying to sell that point of view. And I regret that because we tried very much to bring that about.

So, this is the result of that kind of inaction.

Mr. McCAIN. Mr. President, I would state as I did in opening my remarks, I did not enjoy putting this amendment on the Defense appropriations bill. I do have knowledge of the calendar and that reconciliation should take place sometime next week. If there was an agreement for a freestanding bill that is amendable at a date certain I would be more than happy to have used that vehicle. That option was never presented as a viable one.

I understand the commitment and belief in the reconciliation process on the part of the Finance Committee members. Those of us who are not on that committee recognize we have no real input into a change, fundamental change, or any kind of change that would have been made in catastrophic in the reconciliation process. So I felt very strongly that every Member should have an opportunity to discuss and debate this bill, since all of us have seniors in our States. Seniors do not live just in the States of the Finance Committee members. They live in all of our States and all of us, I think, should be involved in the debate on this issue.

If there had been an opportunity for a freestanding bill I would have much preferred that than this method. I understand the agony which the Finance Committee has gone through. I have the deepest and greatest respect for what my colleague from Texas has been through, and my friend from Minnesota, and all others.

But let me point out we will, eventually I am sure, end up with a proposal much like this one, and that is the elimination of a surtax because that is what our constituents want. I happen to believe that we reflect the views of our constituents.

So I would again like to thank my friends and apologize for having to do this on an appropriations bill. If there was another vehicle I could have used which would have been more appropriate, I certainly would have done so.

Mr. BENTSEN. Will the Senator yield so I can make a point?

Mr. McCAIN. I yield.

Mr. BENTSEN. I say to the Senator from Arizona, with his thoughts in mind and what he might propose, I talked to the leadership on both sides and said if we could work out something in the way of a bipartisan approach, if we could arrive at some agreement insofar as the number of amendments that would be offered so we were not facing needles and whatever else someone might bring up, that I would be delighted to allow my colleague a vote on the McCain amendment. I stated that to them.

Mr. McCAIN. I thank my colleague. I also recognize that some things are not exactly totally under his control. For example, the commitment that my friend made that this would be done in September. Today is the 28th.

Mr. BENTSEN. That is true. I am fully aware of that.

Mr. McCAIN. I also appreciate his consideration and courtesy on that.

Mr. BENTSEN. I read in the New York Times an unnamed White House source said they were going to hold the chairman of the Finance Committee hostage on catastrophic until he agreed to some things on capital gains. I think we are reaping the results of that.

Mr. McCAIN. I believe I still have the floor. I would like to remind my friend from Texas, the administration and I have not exactly been in lockstep on this issue as well. In fact, I do agree with the distinguished chairman, the role of the administration has been sadly lacking on this whole issue, which I think has not helped us at all in trying to resolve the issue.

I will be happy to yield.

Mr. DURENBERGER. An observation based on what the chairman of the committee just said. It has been difficult during the process of developing a Finance Committee position to protect the interests of the Senator from Arizona since, as he says, he is not on the committee and reconciliation has its own set of rules.

But first the Republican leadership on the committee enunciated the Senator's concerns to the chairman of the Democratic majority. And, as the Senator from Texas just indicated, at our last session together on this subject the chairman of the committee made a commitment to all of us that Senator McCAIN would have an opportunity to present his amendment; despite whatever the rules may be, he would see the Senator had that kind of an opportunity at the appropriate time in the reconciliation process.

So, as someone who does not necessarily agree with the position of Senator McCAIN but who has represented to the committee that position as best as I could, and his right to bring it up on the floor, I must say the chairman is absolutely correct that he did desire to give the Senator that opportunity and did make a commitment to the rest of us that the Senator would have that opportunity at the appropriate time.

Mr. McCAIN. I believe I still have the floor. If I might respond to that, I am deeply appreciative of those courtesies. This is the first time I am informed of that. I am very interested to hear of that. It might have affected my decision to bring this amendment up at this time, since, obviously, I do not attend the sessions of the Finance Committee. I was not there. Nor did anyone relay that information to me.

I yield to my friend from Washington.

Mr. GORTON. As is so often the case, the distinguished Senator from Arizona has made exactly my point. From the very beginning of this session of Congress, he has attempted to get a vote on the merits of his proposal. And for one reason or another, not usually due to the deliberate policy of any other Member, he has been frustrated in that.

The opportunity to amend a reconciliation bill, which is so limited by the law and the rules relating to reconciliation bills, simply did not offer him the opportunity which this bill does and it was for that reason that he and his friends and allies attempted to move in this direction.

Absent unanimous consent, I doubt seriously that a reconciliation bill could deal fully with the full scope of what he wishes to do and perhaps what the Senator from Missouri wishes to do.

In any event, I simply wanted the body to note that the Senator from Arizona——

Mr. McCAIN. Mr. President, I cannot hear the Senator.

The PRESIDING OFFICER. The Chair will observe the Senator from Delaware is rubbing his finger over the microphone which makes it almost impossible to hear the Senator from Washington.

Mr. BENTSEN. That is a good trick.

Mr. ROTH. I assure the Senator it is not deliberately done for that purpose.

Mr. GORTON. That is often the way it is with members of the Finance Committees and nonmembers, and that is perhaps the reason the Senator from Arizona and I are here today.

In any event, I simply wanted the body to know that the Senator from Arizona and his many friends and allies indicate that he has never sought to do more than simply be allowed to debate his particular proposition, which is that of so many of the rest of us and so many of the people of the United States, on its merits.

Mr. BENTSEN. Let me say to the Senator from Arizona, I also agree that I will support a separate vote for either the Senator from Missouri or the Senator from Delaware, whoever wants to lead on the effort to repeal, because I thought they were entitled to that. We tried to structure it, but by the same token we tried to keep those things germane to the legislation. Of that I am surprised, because the Senator did have people speaking up for him there, and I assume his Republican colleagues would have advised him of it.

Mr. McCAIN. I thank the distinguished chairman and I yield, Mr. President.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I would like to urge upon our distinguished chairman of the Finance Committee that we try to reach some kind of agreement whereby this could be considered either independently or as part of reconciliation, but if part of reconciliation that we protect the rights of Members like the distinguished Senator from Missouri.

I said on several occasions that I intend to offer an amendment calling for the revocation, but what concerns me, Mr. President, is that this is a very, very important matter of great concern to our senior citizens. The one thing that bothers me is that if we piecemeal this, whatever action we take, we may later regret it so that I would like to urge and ask our distinguished chairman, might it not be possible between now and 8 o'clock to see if we could not reach some kind of agreement as to how we would proceed, thereby protecting the rights of those who want to offer amendments and those of us—Senator DANFORTH and myself—who are believers that the appropriate action is to terminate the current legislation. I really am very concerned. We have already angered the senior citizens, and for us to act hastily now without giving full opportunity to everyone to have their say I think is a serious mistake.

Again, I wonder if it would not be possible to try to come to some kind of an agreement between now and 8 o'clock as to how we might proceed that would protect the rights of those who want to offer amendments and those who want to revoke.

Mr. BENTSEN. I will be delighted to try to sit down with the leadership on both sides—Senator McCAIN, the Senator from Delaware, the Senator from Missouri, and the Senator from Minnesota, and I am sure two or three on this side of the aisle.

The one thing I would hope we would not do is subject this piece of legislation to all kinds of extraneous amendments that do not deal with the concerns of the people that will have the benefits of such legislation. But if we could do that and do this then in an orderly manner where we could thoroughly explore the amendments and debate it, I would be delighted to try to do that.

Mr. MITCHELL. If the Senator will yield, as the distinguished Senators from Delaware and from Missouri and from Minnesota know, that is precisely what the chairman of the Finance Committee offered a week ago, to do just exactly that which the Senator from Delaware is now asking for. There was no response other than the amendments today to the defense appropriations bill.

Let me just comment briefly on what the Senator from Minnesota said about reconciliation. I think the phrase he used was the failure of reconciliation. Of course, anything is possible and particularly something as difficult as that. As far as I am concerned, I am determined to proceed to meet our responsibility to enact reconciliation legislation. We have a responsibility to do so.

It is my hope and intention that we will attempt to do so, the chairman of the committee is seated there, all three Senators are seated there, and were made precisely that offer a week ago. No response whatsoever was made other than to come down a week later and offer the amendment here.

I join the chairman; I am not surprised, I am astonished to hear the Senator from Arizona say that he did not even know about that until just now, because my understanding of the discussion is that the Senator's view was being represented at the Finance Committee meeting, and the response was made to the Senator's view as presented by Republican Senators on the committee.

Mr. DURENBERGER. Will the majority leader yield for a point of clarification?

Mr. MITCHELL. I yield.

Mr. DURENBERGER. Most of this went on outside the public arena. It strikes me that you are correct up to a point, and that is that the chairman of the committee was never able to give us on behalf of the Senator from Arizona the assurance that in the reconciliation process that he would be guaranteed a vote.

Any Member here might be able to change it. The promise or the commitment that the chairman made, to the best of my recollection, occurred early this week at a point in time in which the proposal by the Senator from Texas, our chairman——

Mr. MITCHELL. I think it was sometime last week. Perhaps the best thing to do is to try now to do that. Of course, we will not know if we can get consent unless we seek consent.

Mr. DANFORTH. Could I just enter into the fray here for a moment? I think we are making real progress. Here is the situation as I have observed it.

First, I do not know of anyone in the Senate who is better able to put together a diverse group of opinions and work things out than the chairman of our committee, Senator BENTSEN. I have had a wonderful experience on this committee working with him for the past 12 or 13 years.

In this particular circumstance, however, he has made a valiant effort to put together a kind of consensus package within the Finance Committee. That effort has been like trying to hold quicksilver in your hand. The harder he tries to squeeze it, the more the little pieces are falling out.

So as the days go on in the Finance Committee, the number of strongly held views keeps increasing and there are probably about a half a dozen mutually exclusive, very strong opinions within the Finance Committee. Those opinions keep multiplying so that now we have everything from repeal, which is the position that Senator ROTH and I take, to the administration's approach of doing nothing or as little as possible, to various permutations and combinations.

There is the McCain position; there is the Chafee-Heinz position; the Durenberger position; the position that Senator BENTSEN does not want to call the Bentsen position; and, who knows? Maybe in another day or two, there will be three or four more ideas cropping up.

So I think that the breakdown has occurred because the condition precedent to going to the floor has been that the Finance Committee somehow do what it has been doing the opposite of, and that is to form some sort of uniform position. I do not think we are going to do that.

I think, second, what has caused tremendous concern on the part of a number of us is that the fear that anything that is on a reconciliation bill is

subject to a motion to strike and nothing else on the floor of the Senate.

I was there when Senator BENTSEN did say that he would try to work something out. That would take unanimous consent. The concern was the difficulty in getting the unanimous consent and also the condition precedent of trying to form some sort of package within the Finance Committee which, as I say, is going in the opposite direction.

Somehow we are going to have to start voting on this. I agree that it really should not be this afternoon, and probably not 8 o'clock tonight.

But it would strike me that perhaps the majority leader could set up some sort of sequencing so that we are not talking about sterile needles, we are not talking about other worthy subjects such as, for example, the completed account method of accounting or other things that might come to the floor of the Senate but limit it to the question of what to do about catastrophic, put together a list in order. Maybe we can start with repeal, then go to McCain and on to doing nothing if that is what we want to do, and see if we cannot get a time agreement.

This is not going to take, I do not think, a long time to debate. It really should not. Everybody has thought about it. Senator MCCAIN can state his position in 15 minutes. Senator ROTH and I can state ours in the same amount of time. I encourage our leader and the chairman of our committee to see if we could put together some sort of sequencing for bringing this matter to the floor of the Senate, perhaps without going through—it is in the nature of discharging the Finance Committee, and I do not like that idea either but we really are at loggerheads with it.

Mr. BENTSEN. If I might comment—and I appreciate the statement of the Senator from Missouri—on that last package, I have the commitment of the Democrats. I was also fully knowledegable on the point that if we went to the floor without bipartisan support this could not be done because it is a tough decision that has to be made on what is right. I fully understand that. But it is one that I thought we should have support on both sides of the aisle in order to be able to put it through.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. FORD). The Senator from Arizona.

Mr. MCCAIN. Mr. President, I agree with the statement of my friend from Missouri. I think it would be well if we went about this in an orderly process. Also, if I could, let me help cure some of the astonishment of the majority leader.

First of all, Senator DOMENICI had a colloquy on July 27 with the distinguished chairman of the Finance Committee. At the time, the distinguished chairman said he could not guarantee that the McCain amendment would be the last. I know the rules of the Senate have not changed and despite the good will and good effort on the part of Senator BENTSEN to allow my amendment, if it is objected to by any one Senator, that would require unanimous consent, of which I certainly have no guarantees.

I also wish to point out that the chairman of the Finance Committee said the Finance Committee would act in September. That statement was made on the floor of this Senate. I am sorry that they did not. That makes me move to act, however.

I should also like to point out to my friend from Missouri, yes, there are lots of proposals. Mine is supported by some 20 million seniors, a coalition of people that I have been working together with for 8 or 9 months. I am sure that there is probably a hundred different proposals how to solve this issue. I have been working on it since February and I have about 20 million seniors supporting my position.

That is why I am going to make sure, no matter what it takes, exercising my rights as a Senator, nothing more, nothing less, I get a vote on a proposal that is supported by an overwhelming number, millions of senior citizens in this country.

So, yes, there are a variety of proposals, and I have great respect for all Senators. The one I have is one on which I have worked with a coalition of seniors for many months.

The reason why, I will again say to my friend, the Finance Committee has not come to a reasonable conclusion on this issue is because, even though all consideration was given to my views, they have not come to the logical conclusion on this issue and that is the elimination of the surtax. Until they do, there will not be any conclusion. That is why they did not reach a conclusion in the Finance Committee in September as the distinguished chairman said would happen back in July.

So I certainly support the proposal of the Senator from Missouri and also my friend from Texas. But I hope that the distinguished majority leader is not astonished when my proposal was never put up for a vote in the Finance Committee, recognizing that it has been basically the same even though my friend from Texas thinks it is considerably different. In my view it basically changes from delay to repeal.

I again thank my friend from Texas and the other members of the Finance Committee for their valiant efforts. But, as I also said before, there are others of us who are not on the Finance Committee who have a deep, abiding and vested interest in this issue, and we view it as too important to be left within the purview of a committee that has failed to act for a long period of time.

I thank the majority leader.

Mr. MITCHELL. Mr. President, to my knowledge, no one has suggested that Senators not on the Finance Committee should be precluded from addressing this issue. I have not been aware of any rule, custom, practice, or tradition in the Senate that deprived a Senator not on a committee of relevant jurisdiction of the opportunity to address an issue in any form a Senator chooses.

Second, my astonishment was that the Senator from Arizona was unaware of the offer that had been made by the chairman of the Finance Committee in the Finance Committee. It was not intended as a reflection on the Senator from Arizona. I was surprised the Senator was not told about it.

Third, as to the Senator's determination to get a vote on this, as I said at the outset of this now overly long exchange of views, the whole purpose was, when I was asked to come in and participate in this, to ensure that the Senator's rights were fully protected, as the rights of every Senator should be fully protected.

Mr. MCCAIN. And I thank the majority leader.

Mr. MITCHELL. That is what we are trying to do. So I suggest, Mr. President, if everyone has had the opportunity to express their views fully, we follow the original intention, which was to permit us to proceed on the defense bill. And might I make a parliamentary inquiry. What is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the distinguished Senator from Massachusetts [Mr. KERRY] to the language to be stricken by the language of the fourth committee amendment.

Mr. MITCHELL. Accordingly, Mr. President, if I might have the attention of my colleagues from Arizona and Texas, then we will proceed as we discussed at the beginning of this exchange.

Mr. DANFORTH. Could I say to the leader, I wonder—I do not want to second guess the leader, but it seems to me——

The PRESIDING OFFICER. The Chair is going to ask that we follow procedure. The Senator has not yielded and Senators should address the Chair.

Mr. MITCHELL. I yield to the Senator from Missouri.

The PRESIDING OFFICER. We will have uniform procedure. The Senator may proceed.

Mr. DANFORTH. I thank the Chair. I wonder if it would not be a good idea to have a little meeting. Maybe the leader could convene a meeting and see if we can figure out some process of bringing this to the floor and se-

quencing votes, because if this comes back at 8 o'clock, we are going to be exactly where we are now except 2½ hours later.

In other words, there is going to be a mad scramble for the floor, and we are still going to be on the defense appropriations bill. Everybody is going to try to hustle over to the floor with a second-degree amendment to see if he can get in first.

It strikes me that there really should be some fair and orderly way of hearing everybody out and then acting on this matter. So I hope that maybe we could have a little pow-wow on this.

Mr. MITCHELL. I am certainly agreeable to that. Of course, if we go to 8, at least we will be that much closer to completion on the defense bill. I, personally, will have had a chance to read the amendment of the Senator from Arizona, which I have not had the chance to do yet.

Finally, the other problem is, as is so often the case, we all already have a full schedule of meetings between now and 8. But I agree this is of importance and we ought to do it. I hope to discuss it with the distinguished Republican leader, the Senator from Arizona, the chairman, and others to see if we cannot figure out some way to proceed in a manner that is fair to all individual Senators and all points of view. I thank the Senator and I thank my colleagues.

I yield the floor, Mr. President.

MEDICARE CATASTROPHIC COVERAGE ACT

Mr. SYMMS. Mr. President, I think we can all agree that the Medicare Catastrophic Coverage Act has become something more than we bargained for. The rising cost estimates make it virtually impossible for us to make an educated decision and, rather than take a wild stab at a catastrophic insurance program, we should stop and take a good look at what we are doing.

I would like to see this committee repeal the act and start again. Maybe we should look at a different approach, but let us admit we made a mistake. Unfortunately, it is at the expense of the senior citizens.

When the law passed last year, it constituted the single largest expansion of a federal social program since Medicare was created in 1965, and now the cost has far exceeded original expectations of $30 billion.

I remember discussing this issue on the Senate floor back in October 1987. I expressed several concerns as to what the projections were for future years. Specifically, I questioned whether this bill would open up incentives to pour more benefits into catastrophic costs. I questioned whether this would ultimately lead to cost controls and rationing of the available medical products to the beneficiaries. It seems to me this is exactly the direction we are heading.

At that time, Mr. President, I questioned my colleagues as to where we would end up in 10–15 years, concerned that we would have more Federal involvement and the Federal Government paying for medical programs that it cannot afford.

The point was also raised, I believe by Senator ARMSTRONG, that there will be pressure to find revenues from other sources and the issue of self-financing would be eliminated. Many were concerned as to what this would do to the Federal budget.

Mr. President, I voted against this program, and as I stated then, it was not because I was unconcerned about the problems many Americans face with catastrophic illness. It was because we had no idea what this program would become in 5 years. And now, the cost estimates are staggering.

I realize that there are some very good benefits in this program; however, because of the problems with the Catastrophic Coverage Act, I believe we should repeal it and start again.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I wonder if the Senator from Idaho is aware of a very fine editorial I have run across published in the Idaho Press Tribune on Tuesday, September 26, 1989, saying "Symms was right." Is the Senator familiar with that?

Mr. SYMMS. I have seen that.

Mr. HELMS. Mr. President, it is an excellent editorial concerning catastrophic insurance. I ask unanimous consent that this editorial from the above stated newspaper be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Idaho Press-Tribune, Sept. 26, 1989]

SYMMS WAS RIGHT

When the 1988 Medicare Catastrophic Coverage Act was passed by Congress last year it was touted as a great step forward in providing insurance to cover catastrophic illnesses among the nation's elderly.

In fact, at the time, a vote against the act was seen by many as a vote denouncing motherhood and apple pie.

Well, all that's changed. Congress is currently trying to alter the act to meet a growing and meaningful dissatisfaction with it from the nation's elderly.

And we remember 10 senators who had the intestinal fortitude to say "no," one of them being Idaho's Republican Sen. Steve Symms.

Symms voted against the measure, and now it appears that many others in Congress wish they too had just said no.

The act set up new protections for costly catastrophic illnesses, and among its provisions is a requirement mandating some 40 percent of recipients to pay a premium of $800 per person. These 40 percent are the more affluent elderly but by no means should "affluent" be interpreted as wealthy. Rather, they are seniors with some money, but most are not rich. The premium is used to build up reserve funds, and pay the costs of the program for the poorer elderly.

Many of the elderly maintain that is unfair, that they are paying more than the value of the insurance, a contention substantiated by the Congressional Budget Office. They also argue that the legislation fails to provide protection against the costs of long-term nursing home care, which is really what most seniors fear.

Symms said so and voted accordingly even though at the time he was accused of being anti-senior citizen. Now, advocacy groups for the elderly across the U.S. have organized a strong campaign against the plan.

Symms is calling for the complete repeal of the act. "I believe that the current program, the so-called catastrophic health care plan, is a catastrophe. I also believe that we can provide protection for all age groups from true catastrophic illness if we just back up and start over."

Symms was right in 1988 and he's right this year.

Hopefully, Congress will repeal this misguided plan, and devise one that is fair to most (fair to all is never possible), one that actually offers protection against seniors truly fear and one in which the cost of the users more fairly reflects who is getting what benefits.

The PRESIDING OFFICER. Is there further debate?

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that the Kerry amendment and the underlying four excepted committee amendments be temporarily set aside, in order that we may take up an amendment to be proposed by Senator METZENBAUM.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, on May 29, 1989, President Bush proposed the return of 30,000 U.S. troops from Europe as part of the NATO negotiating position at conventional forces reduction talks in Geneva. The President also said that talks should be speeded up and that we should have an agreement by May 1990, at the latest.

The President said his plan would dramatically increase stability on the continent and transform the military map of Europe.

I support the President because I believe that when he was saying that there should be a return of 30,000 United States troops from Europe as part of that negotiating position, he was right. When he said that the talks should be speeded up and that we

should have an agreement by May 1990 at the latest, he was right.

It is time to reduce our force levels in Europe. It is time that the European began paying their own way. We have been trying for 22 years to persuade our allies to accept a greater share of the burden in providing for their own defense.

Mr. President, we will hear today, "Senator, there is merit to what you are saying. We do not take issue with the substance or the thrust of your amendment but this is not the time."

Mr. President, this amendment would do exactly what we have been talking about doing for 22 years and that is to require our allies to accept a greater share of the burden in providing for their own defense.

In the event we are unable to reach a CFE force reduction agreement by October 1, 1990, as the President requested, this amendment would bring those 30,000 troops home—and I emphasize the "unless"—unless our allies agree to pay the cost associated with stationing them there in Europe.

It is time for our allies to pay their own way. If they refuse, we should bring our troops home.

This amendment is simple. It is about fairness. For over four decades, the taxpayers of the United States have paid more money out of their pockets for the defense of Europe than all of the taxpayers in Europe combined. I want to repeat that. For over 40 years, the taxpayers of our country have paid more money to defend the Europeans than all the taxpayers in the European community together have paid.

Our presence in Europe cost the United States taxpayers $150 billion to $170 billion every single year.

In 1986, we spent $1,164 per capita on defense while our allies and partners spent an average of only $324—$1,164 we paid, $324 they paid, as far as the defense of our countries are concerned.

We have defense responsibilities that go beyond the North Atlantic Treaty area, and our greater spending reflects that. Nevertheless, 60 percent of our defense spending goes to defend Europe, $170 billion. That comes to $693 for every American man, woman, and child.

That amount alone is just to defend Europe. That is more than double the $324 the average European spends to defend his or her own country.

These figures are not my figures. These figures are not made up by some author who is writing an article. These figures did not come out of the sky. They came from the Department of Defense report on allied contributions to the common defense in the April 1988 report to the Congress of the United States.

How can we justify such an outrageous subsidy? Their standard of living is higher than ours. Their health care is free. Their education is free. Free day care is provided at Government expense. They do not have homeless people sleeping in the streets. They spend their taxes taking care of themselves. We spend our taxes taking care of them, defending them. Our defense dollars have created the stable and secure environment which has helped the European economy to prosper.

While we have been building tanks and guns and airplanes to defend them, they have been building cars, stereos, and appliances to sell to American consumers. Our 325,000 American GI's stationed in Europe spend their paychecks there. We support their local economies.

In 1988, we had a combined trade deficit with our Western European trading partners that exceeded $12.5 billion, a deficit and outflow of $12.5 billion from this country to Europe. And over the period from 1984 to 1988 that trade deficit totaled $102.6 billion. That is incredible. That is incredible.

Yet there will be opposition here on the floor of the Senate today to our calling upon the Europeans to pay their fair share of the burden.

It is not even a fair share that I am providing in this amendment. It is but a token. It is a step in the right direction. It is incredible. The fact is we have lost sight of our own national interest. We are defending them when it is we who are suffering.

I have no quarrel about the fact that we defended them and picked up the tab after the war but that war was concluded over 40 years ago and we are still picking up the tab for the Europeans. While our economic security is being weakened, we are being taken for a ride.

The combined economies of our Western European allies are larger and stronger than that of the United States. Every day there is a story in the newspaper about some European company or corporate raider buying another American corporation. Last year European companies spent $33 billion buying up American companies. Our newspapers are filled about the fact that the Japanese are buying up America.

But look overseas to Europe and see what kind of buying has been taking place as far as the European sector is concerned. I have here a list of 100 of the biggest deals of European-United States transactions for the year 1988.

Mr. President, I ask unanimous consent that the entire list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

THE TOP 100 LARGEST EUROPE-TO-UNITED STATES TRANSACTIONS BY PURCHASE PRICE, 1988

[In millions]

Acquiring company (nationality)	Acquired/merged company (transaction date)	Value
1. B.A.T. Industries Plc—United Kingdom	Farmers Group Inc (12-16-88)	$5,168.7
2. Maxwell Communication Corp Plc—United Kingdom	Macmillan Inc (12-16-88)	2,642.1
3. CS First Boston Inc—Switzerland	First Boston Inc (12-22-88)	1,677.3
4. Hanson Plc—United Kingdom	Kidde Inc (1-4-88)	1,605.3
5. BNS Inc (vehicle of Beazer Plc)—United Kingdom	Koppers Co Inc. (11-14-88)	1,553.0
6. Tate & Lyle Plc—United Kingdom	Staley Continental Inc (6-6-88)	1,452.0
7. Memorex International NV—United Kingdom	Telex Corp (6-29-88)	911.3
8. National Westminster Bank Plc—United Kingdom	First Jersey National Corp (2-1-88)	820.0
9. Carlton Communications Plc—United Kingdom	Technicolor Holdings Inc (10-10-88)	780.0
10. Marks & Spencer Plc—United Kingdom	Brooks Brothers Plc (5-2-88)	750.0
11. Pergamon Holding Foundation Ltd—United Kingdom	Official Airlines Guides Inc (12-22-88)	750.0
12. Sulzer Bros. Ltd—Switzerland	Intermedics Inc (9-16-88)	743.1
13. Hachette SA—France	Diamandis Communications Inc (6-1-88)	712.0
14. Total Cie Française des Pètroles—France	CSX Oil & Gas Corp (4-22-88)	612.0
15. Thomson SA—France	General Electrics Co (consumer electronic business) (1-4-88)	500.0
16. Multiple acquirers—United Kingdom	Covia Corp (8-5-88)	500.0
17. Schindler Holding AG—Switzerland	Westinghouse Elevator (1-1-89)	500.0
18. Hachette SA—France	Grolier Inc (5-18-88)	450.4
19. Fisons Plc—United Kingdom	Pennwalt Corp (pharmaceuticals division) (10-14-88)	442.0
20. Compagnie de Saint-Gobain—France	Certain Teed Corp (5-31-88)	386.9
21. Bank of Ireland of Dublin—Ireland	First NH Banks Inc (12-16-88)	369.5
22. Television South Plc—United Kingdom	MTM Entertainment (8-22-88)	320.0
23. Plessey Co Plc—United Kingdom	Singer Co (electronic systems division) (7-14-88)	310.0
24. Tate & Lyle Plc—United Kingdom	Amstar Sugar Corp (12-22-88)	305.0
25. Pearson Plc—United Kingdom	TRW Inc (Reda Pump and TRW oil well cable division) (10-12-88)	303.0
26. Agnelli Group—Italy	Fireman's Fund Corp (11-1-88)	300.0
27. Rheinisch-Westfälisches Elektrizitätswerk AG—Germany	Web Press Group (10-6-88)	300.0
28. AB Electrolux—Sweden	Roper Corp (outdoor-power equipment business) (12-31-88)	295.0

THE TOP 100 LARGEST EUROPE-TO-UNITED STATES TRANSACTIONS BY PURCHASE PRICE, 1988—Continued

[In millions]

Acquiring company (nationality)	Acquired/merged company (transaction date)	Value
29. AEG AG—Germany	Gould Inc (industrial automation division) (7–1–88)	290.0
30. Pentland Industries Plc—United Kingdom	Parker Pen USA Ltd (9–9–88)	287.0
31. Enterprise Oil Plc—United Kingdom	Texas Eastern Corp (10 percent interest in oilfield blocks) (7–22–88)	276.0
32. Siemens AG—Germany	Bendix Electronics Group (9–30–88)	275.0
33. Pearson Plc—United Kingdom	Addison-Wesley Publishing Co Inc (3–31–88)	273.2
34. Repsol SA—Spain	Repsol Occidental Corp (3–31–88)	272.0
35. Pilgrim House Group Plc—United Kingdom	Kidde Inc (Walter Kidde Fire Protection operations) (11–30–88)	253.7
36. Tomkins Plc—United Kingdom	Murray Ohio Manufacturing Co (8–5–88)	212.1
37. Peninsular & Oriental Steam Navigation—United Kingdom	Sutmar Cruises (7–28–88)	210.0
38. Algemeine Bank Nederland NV—Netherlands	Lane Financial Inc (6–13–88)	199.9
39. Industrie Pirelli SpA—Italy	Armstrong Tire Co (5–31–88)	197.0
40. Tarmac Plc—United Kingdom	Tarmac-Lone Star Inc (1–27–88)	188.0
41. Unilever NV—Netherlands	Durkee Industrial Foods Corp (12–16–88)	185.0
42. Panfida Group Plc—United Kingdom	Tenneco Inc (450 convenience stores) (12–16–88)	152.0
43. Maxwell Communication Corp Plc—United Kingdom	Science Research Associates Inc (7–18–88)	150.0
44. General Electric Co Plc—United Kingdom	IGX Corp (8–15–88)	150.0
45. British Petroleum Co Plc—United Kingdom	Lear Petroleum Corp (6–22–88)	132.1
46. Porcher Textile SA—France	Burlington Industries Inc (glass fabrics division) (3–22–88)	128.0
47. Alfa-Laval AB—Sweden	Pennwalt Corp (Sharples-Stokes division) (12–15–88)	119.0
48. Bayer AG—Germany	Matrix Corp (11–10–88)	116.4
49. Royal Insurance Plc—United Kingdom	Maccabees Mutual Insurance Co (1–1–89)	110.0
50. National Freight Consortium Plc—United Kingdom	Allied Van Lines Inc (1–27–88)	100.0
51. AB Volvo—Sweden	Park Ridge Corp (8–8–88)	100.0
52. BOC Group Plc—United Kingdom	Spectramed Inc (9–6–88)	99.6
53. Trelleborg AB—Sweden	Allis-Chalmers Corp (solids processing equipment & minerals units) (1–4–88)	97.9
54. Nordisk Fjerfabrik A/S—Denmark	Chatham Manufacturing Co (6–8–88)	92.4
55. Crédit Suisse—Switzerland	First Boston Inc (4–21–88)	87.0
56. Plessey Co Plc—United Kingdom	Sippican Inc (1–20–88)	78.1
57. BOC Group Plc—United Kingdom	Selox Inc (5–12–88)	77.0
58. Saatchi & Saatchi Co Plc—United Kingdom	Gartner Group Inc (9–7–88)	76.3
59. Compagnie de Saint-Gobain—France	Wolverine Technologies Inc (7–25–88)	75.5
60. Amstrad Plc—United Kingdom	Micron Technology Inc (10–14–88)	75.0
61. English China Clays Plc—United Kingdom	J.L. Shiely & Co (1–5–88)	73.0
62. Société Nationale Elf Aquitaine—France	Kallestad Diagnostics (11–30–88)	72.0
63. Morgan Crucible Co Plc—United Kingdom	Babcock & Wilcox Co (insulating products group) (1–20–88)	68.0
64. Dyckerhoff AG—Germany	Glens Falls Portland Cement Co (7–28–88)	67.3
65. Akzo NV—Netherlands	Diamond Crystal Salt Co (salt division) (3–31–88)	65.0
66. B.A.T. Industries Plc—United Kingdom	Kevex Corp (4–29–88)	64.9
67. Software AG—Germany	Software AG Systems Inc (3–31–88)	64.2
68. Sulzer Bros Ltd—Switzerland	Bingham International Inc (8–1–88)	60.0
69. Degussa AG—Germany	Ashland Chemical Co (carbon black & synthetic rubber division) (11–29–88)	60.0
70. Wolseley Plc—United Kingdom	Familian Northwest (4–29–88)	59.5
71. Beiersdorf AG—Germany	Technical Tape Inc (9–20–88)	56.9
72. Rank Organisation Plc—United Kingdom	Ahnert Enterprises (3–7–88)	52.0
73. Hawker Siddeley Group Plc—United Kingdom	Dranetz Technologies Inc (9–30–88)	50.1
74. George Wimpey Plc—United Kingdom	Orange Quarry Co (12–13–88)	50.0
75. Burmah Oil Plc—United Kingdom	Chem-Trend Inc (11–17–88)	46.0
76. Hanson Plc—United Kingdom	Cummins Engine Co Inc (stake) (12–21–88)	44.8
77. United Newspapers Plc—United Kingdom	Thalheim Exposition Group (2–9–88)	40.0
78. Cookson Group Plc—United Kingdom	Neptco (4–28–88)	40.0
79. Grand Metropolitan Plc—United Kingdom	Vision Express (5–9–88)	40.0
80. Yale & Valor Plc—United Kingdom	Rixson Firemark Inc (9–2–88)	40.0
81. Caparo Group Ltd—United Kingdom	Bull Moose Tube Co (10–18–88)	39.0
82. Compagnie Générale des Eaux—France	Sierra Spring Water Co (5–10–88)	37.9
83. Redland Plc—United Kingdom	Western-Mobile Inc (6–15–88)	36.4
84. Thorn EMI Plc—United Kingdom	FTS Inc (7–19–88)	35.0
85. IFM Group—France	Fischer Packing Co (10–27–88)	35.0
86. Jefferson Smurfit Group Plc—Ireland	Dinographics Inc (5–2–88)	33.0
87. IMI Plc—United Kingdom	Conax Buffalo Corp (8–31–88)	33.0
88. Delta Holding Plc—United Kingdom	FL Suprenant (11–7–88)	33.0
89. T&N Plc—United Kingdom	Bentley-Harris Manufacturing Co (4–21–88)	32.0
90. Smith New Court Plc—United Kingdom	Carl Marks & Co (3–7–88)	31.8
91. Ellis & Everard Plc—United Kingdom	United Chemicals Inc (10–31–88)	30.5
92. GB-INNO-BM SA—Belgium	Scotty's Inc (8–26–88)	28.4
93. Carlton Communications Plc—United Kingdom	Modern Video Production Inc (3–25–88)	28.0
94. Lucas Industries Plc—United Kingdom	Epsco Inc (10–3–88)	26.6
95. WPP Group Plc—United Kingdom	HLS Corp (12–15–88)	25.7
96. Life Sciences International Plc—United Kingdom	Savant Instruments Inc (12–30–88)	23.5
97. Lucas Industries Plc—United Kingdom	Amfac Supply Co (fluid power segment) (5–4–88)	23.0
98. Rank Organisation Plc—United Kingdom	Video Technology Services (8–15–88)	23.0
99. Bunzl Plc—United Kingdom	Stanline Inc (6–28–88)	22.9
100. Stavely Industries Plc—United Kingdom	Qualcorp Inc (four units) (4–21–88)	22.0

Alphabetical listing of top acquirers

Acquirer	*Deal rank*
AEG AG	29
Agnelli Group	26
Akzo NV	65
Alfa-Laval AB	47
Algemeine Bank Nederland NV	38
Amstrad Plc	60
Bank of Ireland of Dublin	21
B.A.T. Industries Plc	1, 66
Bayer AG	48
Beiersdorf AG	71
BNS Inc (vehicle of Beazer Plc)	5
BOC Group Plc	52, 57
British Petroleum Co Plc	45
Bunzl Plc	99
Burmah Oil Plc	75
Caparo Group Ltd	81
Carlton Communications Plc	9, 23
Cookson Group Plc	78
Crédit Suisse	55
CS First Boston Inc	3
Degussa Ag	69
Delta Holding Plc	88
Dyckerhoff AG	64
Electrolux	28
Elf Aquitaine, Société Nationale	62
Ellis & Everard Plc	91
English China Clays Plc	61
Enterprise Oil Plc	31
Fisons Plc	19
GB-Inno-BM SA	92
Générale des Eaux, Cie	82
General Electric Co Plc	43
George Wimpey Plc	74
Grand Metropolitan Plc	79
Hachette SA	13, 18
Hanson Plc	4, 76
Hawker Siddeley Group Plc	73
IFM Group	85
IMI Plc	87
Industrie Pirelli SpA	39
Jefferson Smurfit Group Plc	86
Life Sciences International Plc	96
Lucas Industries Plc	94, 97
Marks & Spencer Plc	10
Maxwell Communications Corp Plc	2, 43
Memorex International NV	7
Morgan Crucible Co Plc	63
Multiple acquirers	16
National Freight Consortium Plc	50
National Westminster Bank Plc	8
Nordisk Fjerfabrik A/S	54
Panfida Group Plc	42
Pearson Plc	25, 33
Peninsular & Oriental Steam Navigation	37
Pentland Industries Plc	30
Pergamon Holding Foundation Ltd	11
Pilgrim House Group Plc	35
Plessey Co Plc	23, 56
Porcher Textile SA	46
Rank Organisation Plc	72, 98
Redland Plc	83

Acquirer	Deal rank
Repsol SA	34
Rheinisch-Westfälisches Elektrizitätswerk AG	27
Royal Insurance Plc	49
Saatchi & Saatchi Co Plc	58
Saint-Gobain, Cie de	20, 59
Schindler Holding AG	17
Siemens AG	32
Smith New Court Plc	90
Software AG	67
Stavely Industries Plc	100
Sulzer Bros Ltd	12, 68
Tarmac Plc	40
Tate & Lyle Plc	6, 24
Television South Plc	22
Thomson SA	15
Thorn EMI Plc	84
Tomkins Plc	36
Total Cie Francaise des Pétroles	14
Trelleborg AB	53
T&N Plc	89
Unilever NV	41
United Newspapers Plc	77
Volvo AB	51
Wolseley Plc	70
WPP Group Plc	95
Yale & Valor Plc	80

Mr. METZENBAUM. The first one I notice is B.A.T. Industries Plc bought Farmers Group Inc. on December 16, 1988, a deal involving over $5 billion. Maxwell Communications of the United Kingdom bought Macmillan Inc. in a deal involving $2.6 billion. CS First Boston Inc. bought First Boston Inc. of the United States on December 22, 1988 for $1.677 billion. Hanson Plc of the United Kingdom bought Kidde Inc., January 4, 1988, $4.6 billion. BNS of United Kingdom bought Coppers Co. Inc., November 14, 1988 for $1.553 billion.

I will not read further. I will put the entire list of the top 100 in and that comes up to $33 billion.

British investments in the United States now total $102 billion.

The Dutch ranked third in U.S. investment. They own Shell Oil, Norelco, Lever Brothers, and Dutch investments in this country which have a book value of $49 billion.

Those old American brands—Magnavox, Sylvania—they are Dutch. Calvin Klein perfume, Vaseline, Q-Tips, they are all owned by Unilever, a Dutch company.

And how about the hotel market? Hilton. We always think of Hilton as the great American hotel chain. That is owned by Ladbroke Group, a British company.

Holiday Inn. That is being sold to BASS PLC. I think a British company.

And how about food? Del Monte. It was sold to Polly Peck, a British company.

According to the CIA's world fact book for 1988, the combined gross national product of our NATO allies totaled $4.5 trillion. The gross national product of the United States totaled less than that, $4.1 trillion. Yet, we still contribute 65 percent of NATO's budget. As a percentage of gross domestic product, U.S. defense spending is nearly double that of our large NATO allies—6.54 percent against 3.66 percent.

The Congressional Budget Office calculated that this amendment would save a minimum of $9 billion over the next 5 years. Even greater savings would be realized as a result of the weapons procurement cuts associated with the force demobilization.

With that kind of money, we could double our expenditures on AIDS research, fully fund a child care program serving a million children, pay for adult literacy and worker retraining programs to put this country back on the cutting edge of competitiveness. $9 billion would pay for more than half a million units of new housing in this country.

Despite our efforts to persuade our allies to accept a greater share of the burden, despite our initiatives, I am frank to say that we are making no progress.

I am not the only one who thinks so. My friend, the very well-respected chairman of the Senate Armed Services Committee 2 months ago stated here on the Senate floor—and I am now quoting Chairman SAM NUNN:

> Despite our initiatives, no significant progress is in sight on the burden-sharing front.

Furthermore, he said,

> If our allies in NATO are not serious about conventional defense, then we do not need 325,000 American servicemen and servicewomen deployed there. If all our armed forces in Europe are going to do is provide a tripwire for a NATO nuclear response, then we can make do with substantially lower U.S. troop levels.

Then he further said:

> Although our allies have talked a good deal about increasing their burden-sharing effort, very little concrete progress has been made in reducing the U.S. defense share.

He further stated:

> Adjustments in burden-sharing are long overdue.

Mr. President, those are not my words. Those are not the words of some editorial writer. Those are not the words of just any Senator. Those are the words of one of the most respected Members of this body, our distinguished chairman of the Armed Services Committee, Chairman SAM NUNN.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

Mr. METZENBAUM. This is 1989, 22 years after Senator Mike Mansfield stated from that chair over there and offered his first NATO troop cut resolution. Twenty-two years ago, Mike Mansfield, as the leader of the Senate, attempted to cut our troops in Europe—16 years after the mutual balance force reduction talks began; 15 years after the first Jackson-Nunn troop cut amendment was offered; 5 years after the Nunn-Roth amendment proposed a permanent ceiling on U.S. troops in Europe as a means of encouraging a greater European commitment to NATO. And after all of these, offered by the leaders of the Senate, we still have no significant progress in sight.

Eighteen years ago, Senator Mansfield stood on the Senate floor and said:

> Few in this body will forget the general alarm that was sounded across this nation and around the globe last May by those who opposed (my) original effort to reduce troops in Europe. * * * It was irresponsible, so they said, for America to withdraw unilaterally half its troops from Western Europe. * * * It has been 6 long months. It is now late November and the cost burden of Europe's defense has not been reduced by a single cent. No such plan has emerged.

Those were the words of Senator Mike Mansfield 18 years ago, talking about 6 long months 18 years ago.

We still have no plan. The State Department says we are close to a conventional arms agreement. They said that 18 years ago. We could put it to music; they have been saying it for 22 years.

Listen to the words of Senator Mansfield again:

> As for mutual balanced force reductions we negotiate and we talk and we thrash over these problems. We do not decide. We do not act. I wait now for it to be revealed right here on this floor today that indeed, once again that we are on the brink of a decision that will accomplish mutual balanced force reductions. * * *

End of the quote of the Senator Mike Mansfield, leader of the Senate.

It never happened and Mike Mansfield knew it was not going to happen. The MBFR talks collapsed under their own weight after 16 years of fruitless negotiations that accomplished absolutely nothing.

President Bush, for whom I have great respect, says he is committed to the new conventional forces in Europe talks. He wants a reduction of 30,000 U.S. troops and he wants a treaty by May 1990.

I agree with the President. That is what this Senator wants, too. But we may not get an agreement. If that is the case, then I believe our allies should bear the cost of continuing to maintain those American soldiers in Europe if they want them to stay in Europe.

I am concerned about the fact that both the Germans and the Belgians are currently considering troop cuts of their own, unilateral troop cuts, regardless of what we do.

The chairman of the Armed Services Committee's burden-sharing amendment in the authorizing bill seeks to address that issue. It would direct proportional cuts in U.S. forces if our allies move forward with unilateral cuts. But as I read the amendment of

the Senator, the earliest we could remove our troops in response to a cut by our allies is 1992. This is 1989.

But whether or not the committee amendment becomes the law, and I would guess it will, that is not the issue to which I am addressing myself today. I have no problems with the Chairman's amendment. It is a good amendment that seeks to shore up our allies continued commitment to NATO. The issue is: should we bring our troops home? Or, if not, should not the Europeans pay the cost to maintain those 30,000 troops in Europe?

The Europeans are beating us economically. In 1992, when the European Economic Community achieves full integration, we will be facing a trading partner with very substantial resources. The European Economic Community's 12 member nations will meld into a sole market with 125 million people and a combined gross national product of $4.5 trillion.

Yet we still contribute 65 percent of the cost of their defense. It makes no sense. It is time for us to show some resolve.

We have shouldered the burden of Europe for too long. I urge my colleagues to support the amendment.

Mr. President, in order that I may discuss with a colleague of mine—who is on the floor and wishes to offer an amendment, I believe—that amendment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 889

(Purpose: To limit the use of appropriated funds for maintaining United States military personnel in NATO member countries in Europe)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 889.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 108, between lines 4 and 5, insert the following:

SEC. 9100. (a) None of the funds appropriated by this Act may be used for the purpose of supporting an end-strength level, as of September 30, 1990, of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO) at any level greater than the number equal to 30,000 less than the end-strength level, as of September 30, 1989, of members of the Armed Forces of the United States assigned to permanent duty ashore in such nations.

(b) It is the sense of Congress that (1) a declaration of war by Congress or a declaration of a national emergency by Congress or the President authorizes the President to obligate and expend funds appropriated by this Act for the purpose of supporting any end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO) that is necessary to prosecute the war or to resolve the national emergency, (2) any amount that is obligated subject to full reimbursement of the United States by any European member nation of NATO should not be considered as obligated in violation of subsection (a), and (3) if an agreement is entered into by the United States and its NATO allies and the Soviet Union and its Warsaw Pact allies on the reduction of conventional armed forces in Europe (CFE) by October 1, 1990, subsection (a) shall be null and void.

AMENDMENT NO. 890 TO AMENDMENT NO. 889

(Purpose: To require the transfer of amounts saved as a result of the limitation on the use of appropriated funds for maintaining United States military personnel in NATO member countries in Europe)

Mr. CONRAD. Mr. President, I have a perfecting amendment to send to the desk on behalf of myself, Senator PELL, Senator ADAMS, and Senator FORD. I ask for its immediate consideration.

The PRESIDING OFFICER. The Amendment will be stated.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD, for himself, Mr. PELL, Mr. ADAMS, and Mr. FORD, proposes an amendment numbered 890 to amendment No. 889.

Mr. CONRAD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 3, strike out "(a)" and all that follows through the end of the amendment, and insert in lieu thereof the following:

(a) None of the funds appropriated by this Act may be used for the purpose of supporting an end-strength level, as of September 30, 1990, of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO) at any level greater than the number equal to 30,000 less than the end-strength level, as of September 30, 1989, of members of the Armed Forces of the United States assigned to permanent duty ashore in such nations.

(b) It is the sense of Congress that (1) a declaration of war by Congress or a declaration of a national emergency by Congress or the President authorizes the President to obligate and expend funds appropriated by this Act for the purpose of supporting any end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO) that is necessary to prosecute the war or to resolve the national emergency, (2) any amount that is obligated subject to full reimbursement of the United States by any European member nation of NATO should not be considered as obligated in violation of subsection (a), and (3) an obligation of any amount for the purpose of supporting an end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO in order to carry out a comprehensive agreement entered into by the United States and its NATO allies and the Soviet Union and its Warsaw Pact allies on the reduction of conventional armed forces in Europe (CFE) should not be considered as an obligation in violation of subsection (a).

(c)(1) The Secretary of Defense shall transfer funds appropriated by this Act for the fiscal year ending September 30, 1990, as provided in paragraphs (2) and (3). The amounts transferred shall be derived from funds that, except for subsection (a), would have been available for the purpose of supporting a higher end-strength level, as of September 30, 1990, of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO) than the maximum end-strength level for which obligations and expenditures are permitted under such subsection.

(2) The Secretary of Defense shall transfer $941,475,000 to the Department of Education. The amount so transferred shall be available as follows:

(A) For programs under chapter 1 of the Elementary and Secondary Education Act, $499,307,000.

(B) For the Pell grant program, $331,000,000.

(C) For the Fund for the Improvement and Reform of Schools and Teaching (FIRST) for family-school partnerships, $5,000,000.

(D) For vocational education programs authorized by parts C, D, and E of title III of the Carl D. Perkins Vocational Education Act, $30,000,000, of which—

(i) $10,000,000 shall be available for the programs authorized by part C;

(ii) $10,000,000 shall be available for the programs authorized by part D; and

(iii) $10,000,000 shall be available for the programs authorized by part E.

(E) For adult education workplace literacy partnerships authorized by the Adult Education Act, $20,000,000.

(F) For the Office of Educational Research and Improvement, $8,000,000, of which—

(i) $6,000,000 shall be available for the rural schools program administered through regional laboratories; and

(ii) $2,000,000 shall be available for general research activities.

(G) For education of the handicapped grants to States authorized by Public Law 94-142, $40,000,000.

(H) For higher education special programs for the disadvantaged (TRIO), $8,168,000.

(3) The Secretary of Defense shall transfer $60,000,000 to the Department of Health and Human Services. The amount so transferred shall be available for the Head Start program.

(4) The amounts made available under this subsection for programs specified in paragraphs (2) and (3) are in addition to other amounts made available under other

appropriation Acts for such programs for the fiscal year ending September 30, 1990.

(5) The amounts transferred pursuant to this subsection shall be merged with the appropriations available under other appropriation Acts for the programs specified in paragraphs (2) and (3) for the fiscal year ending September 30, 1990, and shall be available for the same time period as such appropriations.

Mr. CONRAD. Mr. President, I ask at this point for unanimous consent that a member of my staff, Dr. Ziegler, be permitted floor privileges during the pendency of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I commend the Senator from Ohio for his amendment.

My amendment builds on his. But I want to commend the Senator from Ohio for raising what I believe to be one of the central questions of our time, and that question is, Mr. President: Is it not time to tell our allies in Europe that it is time for them to start taking on a more fair share of our common defense burden?

Mr. President, is it not time to work here at home to bring home some of those resources to use in educating our children and reducing our deficit?

Mr. President, I often wonder, when the history of our time is written, what will people think, those who read our history?

I assume they will think us a curious lot, because they will read, Mr. President, that during this decade we have tripled the national debt in this country; we have multiplied the trade deficit fourfold; we have gone from being the largest creditor Nation in the world, more countries owing us more money than any other country in the world, to being the largest debtor Nation with us owing more than any other country in the world.

Mr. President, we have proceeded to pile debt on top of debt. Even as we speak, the deficit is $150 billion this year. While we are unable to pay our own bills, we are off paying the bills of others, some $100 billion for Europe, almost $50 billion for our friends in Japan because we are paying for their defense umbrella, even though we have to borrow the money from them to do it.

Mr. President, this makes no sense. Someone reading this history, the history of our time 40 years from now and 50 years from now, would look back at this period in American history and wonder why America allowed its strength to dribble away. These are the questions they will be asking: Why did America allow its strength to dribble away? Why was America asleep?

Forty years after the last war, we are still paying the bills for our allies, as well as those who were our enemies in the last war.

Mr. President, my colleague from Ohio quoted quite correctly, I think, from the statement of the chairman of the Armed Services Committee. Let me just repeat what the chairman said.

Despite the growing economic wealth of our European and Pacific allies, the United States continues to bear too large a share of the burden for the common defense. Although the combined gross national product of our NATO allies is larger than that of the United States, we spend almost twice as much on defense as those same NATO allies.

I quote from the chairman:

Corrections in this situation are long overdue.

Mr. President, in 1987, the United States devoted over 6 percent of our gross national product for defense; nearly, $1,200 for every man, woman, and child in this country. Our NATO allies, the subject of the amendment before us, spent about 3⅓ percent of their gross national product, less than $400 for every man, woman, and child.

So, Mr. President, in our country we are devoting almost three times what our allies in Europe are devoting on a per-person basis for defense. Japan is even more egregious; there, they are devoting about 1 percent of their gross national product, about $200 for every man, woman, and child.

Mr. President, even our European allies recognize the need for a change. In an editorial in The Economist from June 11, 1987, this quote appears, and this is the lead editorial of The Economist on that date, Mr. President.

Two hundred forty-one million Americans with an income a bit over $4 trillion do not see why 374 million Europeans with nearly $3.5 trillion should need 300,000 American servicemen and about $100 billion a year of the American defense budget to guard them.

Mr. President, I think they have got that question about right. Why is it that we here in this country, with about 240 million people, need to be subsidizing to the tune of $100 billion a year the 320 million people in Europe against 280 million Soviets 40 years after the last war?

Mr. President, the Secretary of the French Parliament's National Defense Committee said last year:

Do you think 320 million Europeans can continue forever to ask 240 million Americans to defend us against 280 million Soviets?

That was not the Senator from North Dakota. That was not the Senator from Ohio. That was the Secretary of the French Parliament's National Defense Committee. He asked a good question. It deserves an answer. And that is what this amendment seeks to do, to provide an answer or the beginning of an answer, at least.

Some will say: No, no, go slow; the President might veto.

Some will argue that what we are trying to do will interfere with the conventional force talks now going on in Vienna.

Mr. President, I did not hear one single Member of this body raise that question when the Soviets announced unilateral cuts of their own. The head of the Soviet Union has indicated they are going to cut their forces by 500,000 men under arms. I did not hear anyone in this body stand up and say: Oh, that threatens the conventional force talks.

What did we hear? What we heard was voice after voice say: Ah, this is a breakthrough. This tells us that perhaps the Soviets are serious. This tells us that perhaps we are on the verge of a breakthrough.

Mr. President, if that was true of the Soviets when they announced cuts of 500,000, 240,000 of them in the European theater, can we in this country not do one-eighth as much? Can we not send a signal back that we, too, are serious?

Mr. President, this amendment does not cut one military person out of Europe if the Europeans are willing to pay for them.

As we have indicated, the statistics indicate clearly that the Europeans have the full capacity to start making these payments themselves.

Mr. President, why should we not propose a reduction in troops one-eighth the size of Gorbachev's in Europe? And a cut that only occurs if the Europeans decide themselves that they are not necessary and that they are not willing to pay for them.

The truth is, Mr. President, reality is rapidly changing, and we are still locked into a policy that is 40 years old and does not fit the reality of today.

Mr. President, United States civilian and military installations employ nearly 500,000 people in Europe. We have one of the biggest economic development projects on the face of the globe, sponsored by the United States taxpayer, going on in Europe. All the time that we are paying their bills, unable to pay our own, we are faced with growing problems here at home. The budget deficit is out of control; we have serious unmet educational needs. Mr. President, I say to my colleagues, I believe that now is the time to start to make the change, for the U.S. leadership to demonstrate to the American public that it understands these new realities.

Major changes are under way in the Soviet Union with perestroika and glasnost. Changes are going on in Poland, Hungary, and all across the globe. The Soviets recognize that their economy is not working and that their internal priorities have to change.

Mr. President, under this amendment, NATO allies have the option. If they consider these 30,000 troops important to their security, they can pay the bill. To those who say we need to give our allies adequate notice, I say we already have. Two years ago I

stood on the floor of this Chamber and offered an amendment that required the United States to negotiate with our allies and report back to Congress on our progress. Mr. President, every 6 months the Deputy Secretary of Defense, William Howard Taft, came and reported to me on the results of those negotiations. Mr. President, every 6 months he would come back and he would tell me of the marginal changes that our allies had agreed to, and I mean marginal changes. The fact is, nothing much happened. That was 2 years ago.

Under the measures adopted this summer in the DOD authorization bill, we would be asked to wait another 2 years to see any change. Mr. President, when do we stop waiting? When do we start bringing home just a small fraction of our troops in Europe, 30,000 out of 325,000 and only if the Europeans refuse to pick up the cost so we can start dealing with some of our pressing needs at home. I believe now is the time to start reducing our deficit, to tell the allies to start paying more of a fair share of the cost of our mutual defense and to strengthen our national investment in education.

Mr. President, the amendment that I have sent to the desk is a second-degree amendment that seeks the return of 30,000 United States troops from Europe, unless the NATO countries are willing to pay the cost of keeping them there. My amendment would transfer $1 billion of the savings in budget authority to programs that address serious education problems here at home. The amendment would also reduce the budget deficit because the outlay savings will exceed the education program costs.

Mr. COHEN. Will the Senator yield for a question?

Mr. CONRAD. I am not finished, and I will be happy to yield at the time I conclude my statement. I would like to proceed and conclude the full thrust of my statement, and then I will be happy to yield.

This bill yields fiscal 1990 savings of just over $1 billion in budget authority, $630 million in outlays, transfers $1 billion of these budget authority savings to education programs, requiring $180 million in outlays and leaving $450 million for deficit reduction.

The amendment produces long-term savings of approximately $10 billion over the next 5 years. Budget priorities in the 1980's, if you look at them, education has been shortchanged. We now have just concluded, quite close to here, the President of the United States meeting with the Nation's 50 Governors to talk about the problems of the education system in America. The problems are deep, and while Federal spending is just a small part of the support for education in this country, the signal that the Federal Government sends is an important one. Since 1980, Federal spending for education has decreased 4 percent in real terms. Over that same period, real defense spending has risen approximately 47 percent. In fiscal 1980, education represented 2.5 percent of the Federal budget. By fiscal 1989, its share had fallen to 1.8 percent. Mr. President, this amendment, the perfecting amendment to the amendment of the Senator from Ohio, transfers those funds, that $1 billion in budget authority, right where they are needed, exactly where the Secretary of Education says they should go.

Last weekend on the McLaughlin show, the Secretary of Education was asked what he would do if the President provided him an additional $2 billion for education. His reply: Chapter 1, Pell grants. That is two things. The two go hand in hand. The Secretary of Education was right. We in this country have serious problems that cry out to be addressed. The dropout rate in this country now approaches 25 percent. A number of weeks ago I was riding in my car and heard on the radio that for the first time in the city of Baltimore the dropout rate exceeds the graduation rate. Several days ago I was in Jacksonville, FL. The man who picked me up at the airport taught in the local schools, and I told him what I had just heard about what was happening in Baltimore. That man said, "You know, precisely the same thing is happening in Jacksonville. The dropout rate is beginning to exceed the graduation rate."

Mr. President, these are serious matters. What does it mean to the strength of a country when 25 percent of the students are not graduating with their class? Oh, I know, some of them go back. I know that is the case. But the fact is 25 percent are not graduating with their classes.

What happens, Mr. President, when they test our children against the students of the countries with whom we compete? What happens? We just had that kind of test. Seventeen countries. They were tested on math and science.

Do you know where our students came out? American 17-year olds, dead last in biology; American 17-year-olds, dead last in mathematics; American 17-year-olds, second to last in chemistry.

Mr. President, what is it going to take for America to decide it is time to act? What is it going to take? One in five American workers can read at only the eighth grade level, 50 percent of high school seniors lack the reading ability necessary to perform moderately complex tasks, and 80 percent have inadequate writing skills.

In a 1988 Gallup poll of 16 countries, respondents were asked 16 questions. American 18- to 24-year-olds scored below their counterparts in all other countries including Mexico. Fewer than half could guess that the population of this country is in the range of 150 to 300 million people. More respondents in Sweden, Japan, and Canada knew the size of the United States population than Americans.

According to the testimony of former Education Secretary William Bennett, in a 1984 test more than 20 percent of 12-year-olds could not locate the United States on a world map. Twenty percent of our 12-year-olds could not point out America on a world map. In a 1986 survey of college students, 25 percent could not find the Soviet Union on a map. We can do better than that.

Mr. President and my colleagues, we must do better than that. That is why we should put more resources into chapter 1. Evaluations show this program improves elementary student reading and math ability, increases of 4 to 7 percent in reading and 5 to 7 percent in math.

Five hundred million dollars under my amendment would go to chapter 1. Six hundred thousand more children in this country would become eligible and receive compensatory education under this program if this additional funding were provided—again, Mr. President, right where the Secretary of Education says it ought to go.

Other countries are surpassing us in their ability to educate their work forces. They are recognizing the jobs will be requiring people with good educational and technical skills, not people barely able to read and write and count.

The United States must also broaden access to higher education. That is why additional resources for the Pell Grant Program are so important. The number of very low income students eligible for Federal aid has rapidly increased from 1980 to 1985. Recipients from the poorest families who cannot contribute anything toward the cost of a college education rose by nearly 500,000 in this country. During this period the maximum award from Pell grants has gone from covering 50 percent of college expenses to under 30 percent. The Pell Grant Program is experiencing in this fiscal year a shortfall of $331 million, which my amendment would restore.

Mr. President, altogether 80 percent of the funds transferred by the amendment would go to chapter 1 and Pell grants. Additional amounts are also provided for Head Start—some $60 million. With that $60 million we would increase the number who could be served by 15,000 to 17,000 additional children. We would provide $40 million for handicapped education. We would provide $30 million for vocational education.

I would point out to my colleagues that there has been a 31-percent loss in the purchasing power of Federal vocational education dollars over the last

decade. We would provide $20 million for adult education, $8 million for the THEO programs, $6 million for small rural schools and $5 million for family school partnerships.

Mr. President, the question before us as a society and before us as a Congress is how do we use the precious resources that are available to us? That is what this amendment addresses. This amendment simply says it is time to say to our allies in Europe it is your turn now. Either you pick up the tab for these troops, you start to take on a more fair share of our common defense burden or they are coming home, they are coming home so that we can finance the rebuilding of this country that is so critical to our future. No place is more important than the educational foundation of our children.

Mr. President, for 2 days the President of the United States and the 50 Governors have concentrated on the problems of our educational system, the deterioration in quality that is occurring. We have an opportunity to act tonight to do something meaningful. I hope we do not lose that opportunity.

Mr. President, I yield the floor.

Mr. COHEN. Will the Senator yield for a question?

Mr. INOUYE. I will be very happy to yield.

Mr. COHEN. I pose a question to the chairman of the Appropriations Committee. As I read this amendment, none of the funds appropriated under this act may be used for the purposes of supporting an end strength level of September 30, 1990. I do not see anything in this particular amendment, either the underlying amendment or the perfecting amendment, that says these troops will be inactivated. Does the Senator from Hawaii have a different understanding?

Mr. INOUYE. I would assume that these troops would be shipped back to the United States together with their dependents.

Mr. COHEN. And left on active duty.

Mr. INOUYE. And left on active duty. If that is the case, it would mean at least an additional cost of $120 million to transport wives and children and the soldiers back to the United States. Then you add to this housing. Assuming that the best we can provide for our troops would be barracks, it will still cost in excess of $50 million to provide this barracks housing. Then the other matter such as hospitals, clinics, other personnel to support this, and all this to be done in 4 days unless the intention is to discharge the troops in Europe and just leave them there with their wives and children and tell them you find your way back at your own cost.

Mr. COHEN. So as I understand what the chairman is saying, this is to fire 30,000 troops and leave them in Europe or else, inccur an additional $120 million in responsibility in the next 4 days?

Mr. INOUYE. I would estimate it would cost at least a quarter of a billion dollars.

Mr. COHEN. If the the chairman will yield further, there are two things that trouble me about the amendment. No. 1, it is held out saying that we are going to save $1 billion by this amendment, which in fact it will not do unless we are talking about inactivation of the troops. No. 2, it suggests that that $1 billion is all going to be achieved in 1 year. According to what I have heard on the Senate floor this evening, it is going to take at least over a 5-year period of time in order to achieve the so-called reductions in spending.

Yet, according to this amendment they take it all out in 1 year. Assuming the figures were even accurate which they are not they take $1 billion out in a very first year of savings that do not exist. So it seems to me it fails on two accounts. No. 1, it does not accurately reflect the situation that the troops would be deactivated, or inactivated is the proper term, and, No. 2, it assumes a billion-dollar savings in 1 year because this amendment would transfer $1 billion out and to the educational budget in a 1-year period of time. Is that not the case?

Mr. INOUYE. The Senator is correct.

Mr. METZENBAUM. Will the Senator from Maine yield for a question?

Mr. COHEN. I do not have the floor.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, the debate we are engaged in at this moment is a very important one. I regret very much that there are only five of us here because it affects the defense of the United States. Much has been said this afternoon about we defending Europeans, that we are sending our men and women overseas to defend Germans, French, Italians, and British. Mr. President, we are in Europe to defend ourselves. We are not in Europe because we want to defend the Swedes and the Norwegians. We are in there because of our national welfare and our national interest. Imagine if we decided that at the end of World War II to say to ourselves we won the war, now let us all go home. Let the Europeans who have been devastated fend for themselves. Imagine how long after that we would have had a Sovietized Europe. Imagine if we had followed our beloved leader, Mike Mansfield, and began withdrawing our forces 15 years ago at a time of Krushchev and Brezhnev. You did not have a Gorbachev at that time. They had no intentions to reduce their forces.

We are there to make certain that the Europeans remain strong to check the Warsaw Pact nations and to keep the Soviets in check.

Speaking of costs, I believe most every Member in debating this issue would suggest that we are spending approximately $30 billion in Europe. That is $120 per citizen in the United States. That is 10 percent of what we are considering at this moment. It is not $1,200 as suggested by some. Keep in mind that the cost the Europeans are bearing for the defense of their nations are all in Europe.

I do not suppose that the troops that we have deployed in the Philippines are part of the European defense or troops in Okinawa are for the European defense. Our taxpayers pay heavily, yes; $120 per person. But as I said, we are there to defend ourselves.

In the past several months we have experienced much euphoria in the United States. The statements of Mikhail Gorbachev have excited all of us. He has made stunning announcements of reducing Warsaw Pact troops and Soviet troops by large numbers. But, Mr. President, as of this moment, Warsaw Pact nations have 52,000 tanks. We have, that is NATO, 22,000. Warsaw Pact nations at this moment have in place, ready to fire, 43,400 artillery pieces. On the other side of the border, NATO, that is including the United States, has 17,300 artillery pieces; 17,000 against 43,000, 52,000 against 22,000 tanks.

Warsaw Pact has 55,100 armored troop carriers. They are very mobile. We have 28,000. This is after Gorbachev's reductions.

That is why the President of the United States is presently together with our allies in NATO engaged in negotiations on a conventional force reduction in Europe. That is on our President's agenda. If he were to unilaterally, as proposed by this amendment, cut our troops we would be undercutting the President of the United States and our allies in the midst of this negotiation. Yes, the President has indicated that he would be willing to reduce U.S. soldiers and sailors in Europe by 30,000 but under a negotiated and verifiable agreement between NATO and the Warsaw Pact. That is a big difference. If we are to reduce our forces by 30,000, then they should reduce their tanks by more than what they have now.

So, Mr. President, the issue before us is not that simple. As my dear friend from Maine has pointed out, much as I applaud Senator CONRAD for his desire to add to our educational funds, my amendment together with that of the amendment of my dear friend from Ohio will not bring about any savings. It costs $4,000 per service person now and dependents to be just shipped back to the United States—

$4,000 times 30,000 troops: $120 million. That is landed in New York. What do we do after that? We need transportation to take them somewhere. We need housing. We need hospitals. We need doctors, nurses. It is not that simple and conservatively we figure that if this amendment were to pass and become law instead of saving money we would be adding for this fiscal year an additional half a billion dollars. Furthermore, we would be undercutting, cutting our President at his ankles.

Mr. President, the President of the United States is of another political party. But he is my President and he is the President of the United States. And he is in charge of our negotiations. As long as I can stand here as chairman of the Defense Appropriations Subcommittee, I will fight any attempt made by any Member of this body to undercut his efforts to negotiate a troop reduction in Europe.

This is not the way to do it. And so I hope that my colleagues will, by resounding vote, reject the Metzenbaum and the Conrad amendments.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, there has been some discussion as to how much this would save and how much more it would cost. I am not sure what the authority of my good friend from Maine is or of my good friend from Hawaii is as to the cost, but I can say that when the President made the proposal about bringing home 30,000 troops, the chairman and ranking member of the Budget Committee asked the Congressional Budget Office to make a determination as to what economic impact that would have.

I should point out that they assume that which the President had apparently indicated he expected to be the case, and they say in their response, these forces—the President called for a ceiling on United States and Soviet ground and air force personnel stationed outside of national territory in the Atlantic to the Eurozone at approximately 275,000. These forces are to be demobilized.

Furthermore, the President stated that the U.S. withdrawal would be designed to reduce U.S. combat manpower in Europe by 20 percent.

Now, what about the savings? Reduction in U.S. forces could include demobilizing 30,000 troops now stationed in Europe, as well as destroying some U.S. tanks, armored personnel carriers, artillery, helicopters and land-based combat aircraft. I am reading from the Congressional Budget Office.

If not offset by other policy changes, the President's proposal would reduce future U.S. defense budgets. Under one of many plausible assumptions about how the President's proposal would be carried out, the reduction in personnel and operating costs would amount to about $2 billion a year, and extended, that would mean $2 billion for each of the 5 years.

But the fact is that they put a note on it. There is an offset against the first year.

They put a note on which reads as follows: If the entire reduction, all 30,000 people, were implemented in fiscal year 1990, savings in that year would be approximately half this amount or $1 billion; this assumes that the reductions could be attained through normal rotation and attrition, which might be difficult, if the entire reduction took place in a single year.

In subsequent years, annual savings would be about $2 billion annually, plus inflation. To me that means when you bring back the 30,000 troops and demobilize them, as the President of the United States anticipates doing, we would be saving $9 billion.

It further means that the $1 billion, to which my colleague from North Dakota has been addressing himself, it means that that billion dollars is available for the educational purposes about which he has been speaking.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, the Senator from Maine, for whom I have enormous respect, raises the question of the savings numbers that was raised by the chairman of the subcommittee as well.

We have not come out here and just taken numbers out of the air. We have official CBO estimates, which the Senator from Ohio has referred to, and we think those are very clear. They take into account moving the troops back home. They do assume that end strength is reduced. They make that assumption, and we make that assumption. But I do not think anyone should leave here with the notion that somehow these numbers that we have cited are not correct. They are the official numbers of the Congressional Budget Office.

No. 2, the chairman of the subcommittee said our troops are in Europe for our defense. I would amend that with one additional word—our "common" defense. That is the question that is before us, Mr. President.

We are part of an alliance, we are part of an alliance and should there not be an equitable sharing of the burden of maintaining that alliance? That is one of the questions before us here to day. There clearly is not an equitable sharing of the burden. The chairman of the Armed Services Committee has said that himself.

When we, 2 years ago, asked the administration—required the administration to negotiate with our allies to see if there was an equitable sharing of the burden, the administration came back and said there was not an equitable sharing. When do we ask our allies to take on a fair share of this burden?

All we hear is wait. We have waited 2 years since this Senate overwhelmingly passed a measure asking our administration to negotiate with our allies. Now we are being asked to wait again. Wait, wait, wait. It has been 40 years, Mr. President, and the taxpayers of this country deserve us to act now.

The chairman of the subcommittee raises the question of unilateral action. I addressed that earlier. I will simply say that the Soviets took unilateral action; 240,000 troops they are pulling out of the European Theater—500,000 troops in an overall cut. They have made a decision that unilateral action does not preclude or prevent conventional force reduction talks. In fact, it enhances those talks, because it builds trust.

Worldwide study several years ago concluded that the big winner in the conflict between the Soviet Union and the United States are our European economic competitors and the Japanese economic competitor, and what could be more clear.

It was announced that the Japanese assets worldwide now exceed the value of United States assets worldwide for the first time. The standard of living in Germany, a study recently released, indicated for the first time surpasses our own.

Mr. President, I refer to the questions and problems in education. If we look at the challenges facing this country, deficits, the withering of the educational system, this amendment addresses those questions.

This amendment says it is time to tell the allies it is time for them to take on a more fair share of this burden. This amendment says it is time to address the deficit problem that weakens this country. We want to talk about threats to the security of this Nation. I believe the overwhelming evidence is that our economic vulnerability is a key threat to our national security. This amendment addresses that vulnerability.

Mr. President, finally, instead of undercutting the President, I believe this strengthens the President because I believe it sends a signal to the Soviets that we, too, are serious. Two hundred and forty thousand Soviet troops were cut from the European theater unilaterally. Cannot we do one-eighth as much?

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. If the Senate will suspend, is the Senator from Ohio asking for the yeas and

nays on the amendment in the first degree or in the second degree.

Mr. METZENBAUM. I am asking for the yeas and nays on the Conrad amendment to the amendment in the second degree.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays are ordered to the amendment in the second degree. That is the understanding of the Chair.

Is there further debate?

The Senator from Maine.

Mr. COHEN. Mr. President, I will take 2 minutes to make a point made already.

First, I commend the Senator from Hawaii. As one who fought and fought valiantly, heroically, and courageously during World War II, I think he has as great appreciation of the national security interests of the United States as any person who walked on the floor of the Senate. I have enormous respect and admiration for him.

Second, it seems to me that this particular amendment, as he pointed out, does not do what it purports to do. While the rhetoric is such it is going to save us money, the reality is there is nothing in the amendment, underlying amendment or the perfecting amendment which calls for the inactivation or the demobilization of the forces and, therefore, although the rhetoric is we are going to cut 30,000 troops, the amendment does not say that.

The projection is you are going to save $1 billion in the first year. That is a matter of great dispute assuming you are going to even cut the forces which this is not going to do.

The third point I make is we are witnessing vast change as the authors of these amendments have suggested. A hurricane wind passed through the United States recently. We are still recovering from it. There is a hurricane wind that is blowing through a good part of the world today and in the midst of a hurricane wind the last thing we want to have is either an impetuous hand or petulant hand. What we want is a steady hand.

It seems to me what the President of the United States is doing is he is agreeing to reduce the size of our force structure in Europe and perhaps even elsewhere provided we do it systematically, provided we do it in a balanced, responsible, rational fashion and one in which we can actually verify the results, all of which are missing in this particular amendment.

So I urge my colleagues to vote against the amendment, well intentioned as it might be, noble as it would be, and I would support efforts to enhance our educational endeavors, but not through a process which holds out really an illusory $1 billion to transfer to the education budget. It will not produce it. Indeed, it will only impose additional cost. So I urge the defeat of the amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I join in support of the thoughts voiced by the senior Senator from Hawaii and the distinguished Senator from Maine in connection with this amendment.

It is curious that just today those of us on the arms control observer group are making preparation for what we believe and hope if the recess does occur in the first part of October to go to Europe, not only to Geneva to see those talks but also to Vienna where the talks on the conventional forces in Europe are taking place. Those are talks I am greatly interested in because what they deal with, as the name says, it is a reduction in the conventional forces, and it is odd that we should be undertaking on the floor of the Senate now unilaterally on behalf of the United States to reduce our forces in Europe, part of our NATO forces, when our negotiators in Vienna at this very time are working with the Soviets on a reduction which can be worked out, balanced reductions, reductions on the part of the Soviets and reductions on the part of the United States.

So it seems to me there could be no more inappropriate time for us to plunge in on the floor of the Senate with this cut of 30,000 members of our Armed Forces in Europe at this particular time. These are things which should be negotiated and are being negotiated.

So I think the points the Senator from Maine and the Senator from Hawaii make are absolutely right on target there. And also, of course, all of us are for spending more money on education but, as has been so well pointed out, this is illusory; it is not there.

First of all we have to bring the forces back if indeed that is to take place, and I think that has been pretty well documented just the savings are not there.

So I hope we will all join in supporting the position of the Senator from Hawaii on this particular matter.

Mr. President, this amendment troubles me because it is misleading. The Senator from North Dakota would have us believe that $1 billion in outlays will be available for education if we call 30,000 American troops home from Europe.

These savings are based on a CBO estimate of President Bush's proposal to demobilize those 30,000 troops. And yet, this amendment says nothing about deactivating those troops—it merely brings them home. As the senior Senator from Hawaii has pointed out, the amendment would not make available additional funds to help us meet pressing national education goals, but instead would cost money, perhaps as much as a quarter of a billion dollars in the next fiscal year.

If money were truly being made available to chapter 1, Pell grants, adult literacy, education of the handicapped, and the other worthy programs enumerated in the amendment, then this would be an different and important debate.

Unfortunately, no such funds exist here. Instead, one of our most precious values is being used as a smokescreen for an opportunity to bash our NATO Allies and undermine ongoing negotiations that promise real troop reductions and real savings.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I might just briefly respond by reading from an interview with the Secretary of Defense on Sunday on "This Week With David Brinkley." He said:

> There is evidence that in fact Mr. Gorbachev is following through on his announced unilateral move to reduce troops in Eastern Europe, take out tanks, and so forth. There is evidence that the production rates of certain conventional systems such as tanks are in fact declining.

Those are the words of the Secretary of Defense of the United States, Secretary Cheney, on "This Week With David Brinkley."

That was a unilateral move to cut the Soviet forces by 240,000 in the European theater.

This amendment does not cut one soldier unless the Europeans are unwilling to pay a more fair share of this common defense burden. Not one soldier leaves if they are willing to pick up the tab.

The question is who ought to pay? Why should the American taxpayer continue to be sent the bill? Why should they be asked to pick up the tab when they are already paying $1,200 for every man, woman, and child in the United States and our European friends who have an economy as large as ours now are paying one-third as much? It is not fair.

If we go and see what is happening in Europe and see how their children are doing in competition with our children, what can be more clear than that we need to direct more resources into our educational system and insist that our allies start picking up more of this common defense burden?

Mr. President, in terms of whether or not the savings are there at this point, I ask unanimous consent to print in the RECORD the official estimate of the Congressional Budget Office which says the savings are there, the savings are there. These are not illusory savings. The cost of sending the troops back home has already been calculated. That is in the num-

bers. These are the official savings calculated by the Congressional Budget Office.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ESTIMATED ANNUAL SAVING FROM EUROPEAN TROOP WITHDRAWAL

[In millions of current dollars]

	1990		1991		1992		1993		1994		1990–94	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
2 armored brigades	880	520	1,840	1,210	1,920	1,450	2,000	1,620	2,080	1,740	8,720	6,540
4 F–16 Squadrons	180	110	380	260	390	310	410	340	420	360	1,780	1,380
Total	1,060	630	2,220	1,470	2,310	1,760	2,410	1,960	2,500	2,100	10,500	7,920

Note.—Savings include military pay and allowances and equipment related operations and support and assume total end strength is reduced. Savings exclude any 1 time costs of severance pay, terminal leave, base closure or transfer, and equipment transport or storage, as well as any recurring costs of verification. Calculations assume mid-year fiscal year 1990 withdrawal.

ESTIMATED FISCAL YEAR 1990 SAVINGS FROM EUROPEAN TROOP WITHDRAWAL

[In millions of dollars]

	Budget authority	Outlays
2 armored brigades	880	520
4 F–16 squadrons	180	110
Total	1,060	630

Note.—Savings include military pay and allowances and equipment related operations and support and assume total end strength is reduced. Savings exclude any 1 time costs of severance pay, terminal leave, base closure or transfer, and equipment transport or storage, as well as any recurring costs of verification. Calculations assume mid-year withdrawal.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I regret I have not been here to hear the debate but I would like to just speak briefly on this. I was tied up in two other meetings.

I think it is important that we recognize we have some major problems. We just had an educational summit climax today. The President stressed how important doing better in education is for the future of this country.

No one can doubt that. I am a political realist. I recognize what the probability is on this amendment. But I also recognize the validity of the basic thrust of this amendment.

We are talking about, for example, our No. 1 economic competitor is Japan. Japan has a 2-percent dropout rate. The United States has a 28-percent dropout rate. You look at the dropout rates in urban America, I do not care whether it is Cleveland, I say to Senator METZENBAUM, or Atlanta, I say to Senator FOWLER, or Chicago, or you name the urban area and you will see very high dropout rates, particularly among minorities, astronomical in some cases. In some cases the majority of Hispanic and black young people are not graduating from high school. And then you look at the statistics: 18 percent of the work force today is composed of minorities. By the end of the century, not very far off, it is going to be 29 percent.

What kind of a future are we building for this country? I think we have to do better.

The answer is not all for the Federal Government. Much of the answer is frankly raising standards for teachers and raising pay for teachers. In Japan, teachers are paid approximately the same as lawyers, doctors, and engineers. They are in the top 10 percent in terms of income. I do not need to tell you what the situation is in the United States.

In Japan, teachers go in and they make a career out of teaching. The average teacher in the United States teaches for 6½ years, then goes into another field.

We have to do better. We are going to have to get serious about education. When you graduate from secondary school in the Soviet Union, you have 4 years of physics. Sixteen percent of those who graduate from high school in the United States have 1 year of physics.

One of the most startling statistics that I know is that we have more school districts in the United States than we have physics teachers in the United States. It is incredible. Are we going to be competitive? We have the only Foreign Service in the world you can get into without the knowledge of a foreign language. When I talk to George Shultz and Jim Baker about this, they say, "You can't expect us to do what our educational system has not done."

In our educational system, we are the only country on the face of the Earth where you go through grade school, high school, college, get a Ph.D, and never have a year of foreign language. We wonder why we have a trade deficit. It is a very simple rule in business. I see my friend, Senator LAUTENBERG, walking on the floor, who is a leader in the field of business. There is an old rule in business. You can buy in any language. If you want to sell, you have to speak the language of your customer. Very, very simple. We are not speaking the languages of our customers, and so we are losing out.

And Senator CONRAD's remarks about asking our friends in Western Europe, particularly, and Japan, to bear more of the burden, I think that that just makes sense. We are spending, we, the American people, are spending three times as much per capita for the defense of Western Europe as our friends in Western Europe are spending. That made sense in 1950, maybe in 1960. It does not makes sense in 1989.

Again, my friends, I recognize what is going to happen to this amendment. But I hope the signal will go forward that we have to do more than just have public relations kinds of gimmicky meetings, educational summits that are really not educational summits.

If we really want to have an educational summit that is meaningful, the President of the United States ought to get together with leaders of Congress of both political parties who want to do something about education. Here we can do something. But we avoid doing that. I hope we will at least give a strong indication in a vote on this amendment that we are concerned about the educational future of this country.

We are going to have to raise standards. We are going to have to do better. This amendment is not going to do it by itself, but it is a small step on a journey that we have to take.

Mr. President, I yield the floor.

Mr. CONRAD. Mr. President, I would like to introduce into the RECORD a letter from the Committee for Education Funding. The Committee for Education Funding is a coalition of some 100 organizations. Let me just read the first two paragraphs.

During Senate consideration of the FY 1990 Defense Appropriations Bill, the Committee For Education Funding [CEF], a coalition of 100 education organizations, urges you to vote for a Conrad amendment that would transfer $1 billion from the Department of Defense to education.

If this nation is to regain its stature as an internationally competitive economy, provide the personnel for a strong defense, and lay the foundation for future economic growth and prosperity, we must make the education of our young people a clear priority. The Conrad amendment is fiscally responsible and urgently needed to restore lost value to our key education programs.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE COMMITTEE FOR
EDUCATION FUNDING,
Washington, DC.

DEAR SENATOR: During Senate consideration of the FY 1990 Defense Appropriations Bill, the Committee for Education Funding (CEF), a coalition of 100 education organizations, urges you to vote for a Conrad amendment that would transfer $1 billion from the Department of Defense to education.

If this nation is to regain its stature as an internationally competitive economy, provide the personnel for a strong defense, and lay the foundation for future economic growth and prosperity, we must make the education of our young people a clear priority. The Conrad amendment is fiscally responsible and urgently needed to restore lost value to our key education programs.

The amendment would increase funding for vital education programs such as Chapter 1, Pell Grants, Education of the Handicapped, Family-School Partnerships, Head Start, Vocational and Adult Education, Adult Literacy, TRIO programs, and Rural Small Schools. To continue to deny eligible children access to proven federal education programs is an act of national negligence that accepts increased dropout rates and lives spent in a fruitless search for jobs at the margins of an economy.

The Committee for Education Funding member organizations urge you to vote for the Conrad education amendment that will be offered to the Defense Appropriations Bill.

Sincerely,

Committee for Education Funding, Executive Committee: Gerald Morris, CEF President, American Federation of Teachers; Nicholas J. Penning, CEF Treasurer, American Association of School Administrators; Edward R. Elmendorf, American Association of State Colleges and Universities; Carol C. Henderson, American Library Association; Edward R. Kealy, National School Boards Association; Julianne Still Thrift, National Association of Independent Colleges and Universities; Brenda Welburn, National Association of State Boards of Education; Patricia M. Hawkins, National Association of College Admission Counselors; Becky H. Timmons, CEF Vice President, American Council on Education; Clyde C. Aveilhe, California State University; Carnie C. Hayes, Council of Chief State School Officers; Moses D. Holmes, National Education Association; Richard A. Kruse, National Association of Secondary School Principals; Robin Vink, New York State Education Department; Nan S. Wells, Princeton University; Richard Yep, American Association for Counseling and Development.

Mr. CONRAD. Mr. President, I would also like to repeat the argument one more time. We in this country have a deficit that is out of control. We have an education system that needs to be strengthened. And we are paying the bills for our allies when we are unable to pay our own.

Some of us believe that the key vulnerability of our country is the vulnerability created by an economy that is not strong. This is an attempt to move in a new direction.

Mr. President, I would just close by quoting President Johnson in a special message to Congress on January 12, 1965, 24 years ago. He said:

Every child must be encouraged to get as much education as he has the ability to take. We want this not only for his sake, but for the Nation's sake. Nothing matters more to the future of our country—not military preparedness, for armed might is worthless if we lack the brainpower to build a world of peace; not our productive economy, for we cannot sustain growth without trained manpower; not our democratic system of Government, for freedom is fragile if citizens are ignorant.

Mr. President, I believe this amendment speaks to the highest ideals of this country. I urge my colleagues to support it.

I yield the floor.

Mr. INOUYE. Mr. President, this debate has been a very exciting one for me and for many of us here. We have spent much time on this, nearly an hour and a half. I would like to suggest that everything that should be said has just about been said.

So, I ask unanimous consent that a vote be held no later than 6:40 this evening.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from North Dakota [Mr. CONRAD].

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. GRASSLEY. Mr. President, I rise to indicate my support for the intent of the Conrad amendment, and my opposition to the underlying Metzenbaum amendment.

There are few congressional initiatives with as much merit as deficit reduction and educational excellence. The effort to place more funds into crucial education programs is obviously worthy. Our American education system has not been able to keep up with the needs of increasing numbers of at risk children, nor with the competition of an international marketplace. Unfortunately, as the Senator from North Dakota has eloquently delineated, the Federal commitment to education has diminished in recent years.

Certainly, with the President's and Governors' education summit in Charlottesville, such a commitment from Congress would be most timely. I commend the Senator from North Dakota for utilizing the offset from Senator METZENBAUM's amendment in this manner.

Indeed, the education programs targeted by Senator CONRAD are entirely consistent with my view of the Federal role in education. That is, that the Federal Government should assist States and local school districts with educating the handicapped and less fortunate. Pell Grants, Adult Literacy, Head Start, Trio, and Rural Small Schools are all programs which I endorse and support.

It would be a worthy amendment to dedicate more funds to these programs.

It is my understanding, however, that the Conrad amendment, while drafted as a perfecting amendment, also contains the substance of the Metzenbaum amendment. I am therefore unable to support the amendment.

Mr. President, I certainly agree that our NATO allies, as well as other allies around the world, need to increase their support for American troops stationed abroad. I have voted for greater allied burden sharing in the past. However, as we are all well aware, President Bush is currently in the midst of negotiations between NATO and the Warsaw Pact to reduce conventional arms in Europe.

Mr. President, any forced cut as sizable as 30,000 troops should only take place within the context of these negotiations, and not as a result of some unilateral action by Congress. Therefore, I do not support this amendment. I do, however, urge President Bush to continue working toward a mutual agreement that will lead to sizable multilateral conventional force reductions.

I also urge the President to press hard toward increasing the burden share of our allies, and therefore reducing the lopsided burden of the American taxpayer in maintaining these troops on foreign shores.

Mr. President, I regret having to oppose this amendment. I want it to be understood, however, that I would have supported the Conrad amendment had it not also contained the language of the Metzenbaum amendment.

Mr. SIMPSON. I announce that the Senator from Montana [Mr. BURNS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 23, nays 76, as follows:

[Rollcall Vote No. 214 Leg.]

YEAS—23

Adams	Dodd	Pell
Baucus	Ford	Pressler
Burdick	Fowler	Reid
Byrd	Harkin	Riegle
Conrad	Jeffords	Rockefeller
Cranston	Lautenberg	Sanford
Daschle	Metzenbaum	Simon
DeConcini	Mikulski	

NAYS—76

Armstrong	Bond	Breaux
Bentsen	Boren	Bryan
Biden	Boschwitz	Bumpers
Bingaman	Bradley	Chafee

Coats	Hollings	Murkowski
Cochran	Humphrey	Nickles
Cohen	Inouye	Nunn
D'Amato	Johnston	Packwood
Danforth	Kassebaum	Pryor
Dixon	Kasten	Robb
Dole	Kennedy	Roth
Domenici	Kerrey	Rudman
Durenberger	Kerry	Sarbanes
Exon	Kohl	Sasser
Garn	Leahy	Shelby
Glenn	Levin	Simpson
Gore	Lieberman	Specter
Gorton	Lott	Stevens
Graham	Lugar	Symms
Gramm	Mack	Thurmond
Grassley	Matsunaga	Wallop
Hatch	McCain	Warner
Hatfield	McClure	Wilson
Heflin	McConnell	Wirth
Heinz	Mitchell	
Helms	Moynihan	

NOT VOTING—1

Burns

So the amendment (No. 890) to amendment 889 was rejected.

Mr. HELMS. Mr. President, I support the amendment of the Senator from Ohio. In fact, this is a matter I brought up during the debate on the Treaty on Intermediate Nuclear Weapons, the INF Treaty.

I said that the INF Treaty would inevitably weaken NATO. I said that the Soviets would cheat on the treaty, and were cheating on the treaty, because they had already concealed far greater numbers of the weapons to be eliminated than they had declared.

I pointed out that the treaty would not destroy any nuclear weapons, but only the obsolete launchers, leaving the Soviets the option to use the weapons on more modern launchers.

Moreover, I said that the treaty was not verifiable because our national technical means was inadequate.

And, contrary to prevailing wisdom in the United States, I stated that our Pershing missiles were strategic weapons from the Soviet point of view, not tactical weapons. Their elimination would leave the defense of Europe dependent upon the United States willingness to launch a nuclear holocaust if the Soviets marched in. Since most observers, including the Soviets, think that is improbable, the result means that Europe is for all practical purposes strategically defenseless.

For this reason, I proposed an amendment to the treaty which would require the withdrawal of all 300,000 U.S. forces as the missiles were destroyed. Of course, that was just a rhetorical exercise, but my point was to emphasize that the INF treaty would leave NATO in a shambles and we might as well take our troops home.

Unfortunately, too many of the events taking place today read like my predictions during the treaty debate. My fears that the Soviets had a stockpile of concealed missiles seems to be borne out by recent press reports. Credible newspaper stories report that the Soviets have more ground-launched cruise missiles than they declared or destroyed. Other press reports state that the DIA has now almost doubled its estimate of the Soviet SS-20 stockpile from 1,200—the official number claimed during the treaty debate—to 2,200, the number I claimed during the debate.

Today we hear much about on-site inspection. But we hear little about the fact that the main technical inspection device, the Cargo-Scan x-ray machine, has just been shipped from the United States to the SS-20 factory at Votkinsk. Who knows how long it will be before it is operational? It is a year late now. Without the x ray, we have no idea what is coming out of the factory in those big metal containers.

Moreover, the President's report to the Senate last December confirmed that the Soviets had committed five violations of the INF Treaty in the first year. The violations were corrected under pressure from the United States, but they could occur again. The President's report confirms the Soviet willingness to violate when it suits their purposes.

Finally, the strategic posture of NATO is a sham, and the allies are in confusion. It is freely admitted that NATO ground forces could withstand Warsaw Pact forces for about 2 days. The deterrence provided by the Pershing missiles has been removed. The West Germans and other NATO members are reluctant to modernize the short-range Lance missiles. And I can certainly sympathize with their reluctance. With a range of only 80 miles, the Lance missiles would most likely be exploded on German territory, not Soviet territory. If the INF Treaty had never been signed, Germany would still have had strategic protection deterring invasion and moving the battlefield to Soviet territory.

Mr. President, that is why the United States is moving toward the position I advocated in the INF Treaty debate, that is to say, bring the American troops home. They literally have no function anymore. NATO has become a ceremonial ritual, a meaningless gesture of friendship that consumes half of our defense budget. We are engaged in talks for the mutual reduction of ground forces in Europe with the Soviet Union, which calls for a phased withdrawal of about 10 percent. But I suspect that other events will overtake us, and U.S. troops will be brought home sooner than any of us really think.

I should emphasize that I do not favor diminishing our relations with Europe. What I am saying is that we are just playing out the decisions inherent in the INF Treaty which I opposed.

Mr. LEVIN. Mr. President, I support the goal of the Metzenbaum amendment. We should begin to bring some of our overseas troops home. But, we must do it right—to help accomplish the removal of Soviet troops where possible.

The economic realities of today dictate that the United States act to shift the defense burden that we bear relative to our NATO Allies. We can no longer afford to pay more for the defense of Europe than the Europeans do. For example, while the United States pays $1,164 per American citizen on defense, Britain pays only $481 per capita and West Germany only $454 per person. So, there can be no question that our defense burdensharing must become more equitable.

But, at present, we are currently faced with an opportunity to reduce the number of our forces abroad while also reducing the number of forces aligned against NATO. In the CFE negotiations the President has proposed to remove 30,000 United States troops from Europe and if his proposal is agreed to the Soviet Union would have to remove 350,000 troops from the territory of Eastern Europe.

The CFE talks show promise of making early and significant progress. We should recognize that we may have an opportunity at hand to trade relatively small numbers of United States troops for disproportionately large Soviet reductions. The removal of Soviet troops from Eastern Europe will reduce the threat of surprise conventional attack against NATO and thereby increase our security. We should allow the CFE negotiations to proceed toward this goal.

Then we could see our way to substantial cuts saving a large percentage of our defense expenditures in Europe.

Mr. HEINZ. Mr. President, the amendment by the distinguished Senator from Ohio contains a kernel of sentiment with which most of us would agree.

The self-admitted bankruptcy of the Communist system, the success of market-oriented democracies, and consequent realignment of economic strength among us, are cause for a fundamental appraisal of old policies, new dangers, and new opportunities.

Certainly, we face severe constraints on our own resources, particularly due to our own towering deficits in the Federal budget and in our balance of trade.

Most of us agree that the European allies must bear a greater share of the burden for the common defense of the West. We must reduce the U.S. portion of NATO's defense effort. Our finances, our trade situation, make this change inevitable.

Unfortunately, the amendment seeks to advance this desirable objective through means that are ill-advised, and which would merely undermine the negotiations now underway to reduce both the NATO and Warsaw Pact conventional forces. It seeks to force the European allies to increase

their support payments through ultimatum, at a time when NATO is slogging through the tough talks with the Soviets to reduce the conventional military confrontation in Europe.

Many attempts have been made in the Congress to cut the U.S. troop presence in Europe over the last two decades. All have failed. We are now in sight of the first significant mutual force cut in Europe since World War II. This is an extremely poor time to fiddle with our allied security arrangements, all in the name of budget savings.

Mr. President, this amendment is mischievous in terms of our alliance with Europe and in terms of our arms control negotiating position. Even worse, the amendment will not accomplish the savings it promises. So all of the political damage we can do ourselves through this sort of ultimatum will not even yield us a budget windfall as compensation.

The amendment will not deliver, Mr. President, because it would only remove troops, not demobilize them. If you house these troops here at home, it will actually cost more. In Europe, keeping our forces in active status costs less thanks to the host nation support arrangements whereby our allies provide services and other items for free or below market cost.

But let's assume you demobilize these 30,000 troops we would bring home under this amendment. That will cost you as well, and besides that demobilization implies a restructuring of our defense resources that I do not see explained anywhere in the amendment. There are costs to such a transfer of troops and their demobilization. These costs do not yield more funds for education or deficit reduction.

If we want to really save money in the short run, we should insist on greater burden-sharing by our NATO Allies. I support that. And I support an eventual reduction of the U.S. military presence in Europe. However, this reduction must come as result of negotiations which yield more security, and smaller military deployments, in Europe. Those negotiations are underway. They may bear fruit in the near future. We should not endanger those negotiations for illusory budget savings. We should reject the amendment now before us.

Mr. LEAHY. Mr. President, I sympathize with the good intentions of the authors of this amendment. I share their concerns about the need for serious troop reductions in Europe and increasing our commitment to education programs at home. However, I will oppose this measure because it seriously undercuts our position at the negotiation on conventional Armed Forces in Europe.

Last May, I welcomed President Bush's long overdue proposal to reduce United States and Warsaw Pact combat forces in Europe. Since this announcement, negotiators from the United States, our NATO Allies and the Warsaw Pact have begun to engage in serious talks on reaching an agreement between NATO and Warsaw Pact proposals. Much remains to be done, but U.S. negotiators have been instructed to complete an agreement within 1 year and implementation by 1992.

Mr. President, Senator METZENBAUM has proposed that 30,000 U.S. personnel be withdrawn from Europe by the end of 1990, regardless of whether an agreement has been reached. If no agreement has been signed, our NATO Allies must reimburse the United States for the cost to keep 30,000 troops in Europe or else the personnel will be withdrawn.

I agree that there is presently a golden opportunity to reduce NATO and Warsaw Pact forces in Europe but we do not need to go about withdrawing our forces unilaterally. If this amendment were approved by the Senate, the Soviet Union would have little incentive to complete an agreement in 1990. They would know that with or without an agreement, U.S. troops will be cut by 30,000 in 1990.

This amendment also poses a serious threat to U.S. relations with our NATO Allies. The Soviet Union probably could not resist postponing a treaty simply to see the ensuing argument between NATO countries over who would foot the bill for 30,000 troops.

Mr. President, I agree with the authors of this amendment that the education of our children must be a clear priority. During consideration of the fiscal year 1990 budget resolution, I voted for an amendment offered by Senator SIMON that would have transferred $3 billion from defense to education programs. But I cannot support an amendment that poses such a serious threat to efforts to reduce United States and Soviet forces in Europe.

The PRESIDING OFFICER. The question is on agreeing to the underlying amendment offered by the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. KERREY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 25, nays 75, as follows:

[Rollcall Vote No. 215 Leg.]

YEAS—25

Adams	Bumpers	Byrd
Baucus	Burdick	Conrad
Daschle	Jeffords	Reid
DeConcini	Metzenbaum	Riegle
Dodd	Mikulski	Rockefeller
Ford	Packwood	Sasser
Fowler	Pell	Simon
Harkin	Pressler	
Helms	Pryor	

NAYS—75

Armstrong	Gore	Mack
Bentsen	Gorton	Matsunaga
Biden	Graham	McCain
Bingaman	Gramm	McClure
Bond	Grassley	McConnell
Boren	Hatch	Mitchell
Boschwitz	Hatfield	Moynihan
Bradley	Heflin	Murkowski
Breaux	Heinz	Nickles
Bryan	Hollings	Nunn
Burns	Humphrey	Robb
Chafee	Inouye	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Cranston	Kennedy	Shelby
D'Amato	Kerrey	Simpson
Danforth	Kerry	Specter
Dixon	Kohl	Stevens
Dole	Lautenberg	Symms
Domenici	Leahy	Thurmond
Durenberger	Levin	Wallop
Exon	Lieberman	Warner
Garn	Lott	Wilson
Glenn	Lugar	Wirth

So the amendment (No. 889) was rejected.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the Kerry amendment No. 887 to excepted committee amendment on page 83, lines 1 through 5, relating to Asat.

Mr. STEVENS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

AMENDMENT NO. 887, AS MODIFIED

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I ask unanimous consent that I be permitted to send to the desk a modified amendment in behalf of Senator KERRY.

The PRESIDING OFFICER. Is there objection?

If not, the amendment is so modified.

The amendment, as modified, is as follows:

In lieu of the Congress supposed to be stricken insert the following:

Congress makes the following findings:

The United States Government relies on satellites for communications, early warning of attack, monitoring compliance with arms control agreements, and many other vital national security functions;

Such satellites constitute vital integral parts of many United States weapons systems, command, control and communications systems, and other military systems;

It is essential to the national security of the United States that United States Government satellites not be vulnerable to antisatellite attacks;

It is in the national security interests of the United States and its allies to deter the development and testing of antisatellite weapons by the Soviet Union;

It is in the national security interests of the United States to undertake a balanced response to Soviet antisatellite capabilities, which includes a measured Asat program;

Key agencies of the executive branch are examining options for specific antisatellite arms control measures; Therefore:

The executive branch should conclude its examination of specific antisatellite arms control options and rules of the road for space activities without delay, and include its recommendations and conclusions from this examination in the report to Congress already required by the conference report on the fiscal year 1989 Dire Emergency Supplemental Appropriations act;

The President shall—with a view toward considering how to improve United States Asat arms control monitoring capabilities—assess the national security implications for the United States of a mutual deployment to cooperative monitoring and verification technologies; the results of such assessment shall be included in the above mentioned report;

As soon as practicable, the President should take advantage of the forum provided by the ongoing defense and space talks with the Soviet Union to explore—consistent with the conclusions of the above-mentioned report—adequately verifiable limitations on the development, testing, production, and deployment of weapons capable of directly threatening United States military satellites.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I have no intention of taking the time of the Senate more than just for a couple of minutes here to express my anxieties and my dislikes about this as a procedure in general, but not in particular on this amendment or anything else.

But I think the Senate has little place in counseling the President of the United States in the middle of negotiations especially after a session such as Jackson Hole in which the plate of the negotiators was generally filled up and directing our judgment as to what now should take place next. I bring it to the attention of the Senate as a generic complaint.

Having said that, I must say that Senator KERRY and the cosponsors have been agreeable in the negotiations. But I want to make a couple of points.

One is that just in the last couple of months the President of the United States has made major arms control negotiation initiatives. He has the open labs, and the followup proposal inviting the Soviets to visit Los Alamos and Capistrano.

The Soviet foreign minister replied favorably to it. This was the brainchild of our current space negotiator. The President has made at least one new proposal in every negotiating forum from Geneva, the START verification, the chemical warfare at the U.N., Threshold Test Ban Treaty.

Specifically to the amendment at hand of Senator KERRY, I say to the Senate that it is important to recognize that the Joint Chiefs of Staff have made the specific statement that America needs an Asat capability, irrespective of Soviet Asat capabilities. It seems to me that in this process we undercut the President in yet another area at a time when he is making significant progress on arms control.

Mr. President, I would like to place in the RECORD, and I ask unanimous consent to place in the RECORD, a letter from Secretary Cheney to the chairman of the Senate Armed Services Committee, Senator NUNN, dated July 12. Just to quote briefly from it, "This report states that to ensure our freedom of action in space, the Department of Defense must have enduring space systems. Specifically, the DOD needs an operational Asat capability to deter and to counter the Soviet space systems in low-Earth orbit."

Mr. President, second, in a letter to Senator MCCLURE, dated today, September 28, from Brent Scowcroft, the President's National Security Adviser, he says, "In sum, it is essential for the United States to develop an operational Asat system to deter the Soviets from exploiting their space control and space-based targeting capabilities."

Third, a letter from the Secretary of Defense, again to the chairman of the Senate Armed Services Committee, Senator NUNN, dated August 1, in which he says, "As Admiral Crowe, the Chairman of the Joint Chiefs, has stated, to correct this imbalance, the report mandates that the United States develop and deploy an effective deterrent-in-kind Asat capability; not for space supremacy or superiority, but to ensure a measured, balanced response to Soviet space-based weapons systems and Asat capability."

I ask unanimous consent that those three letters be placed in the RECORD, Mr. President.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, DC, July 12, 1989.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter forwards the 1989 Report to Congress on Space Control Capabilities, as required by Section 243 of the Fiscal Year 1989 Department of Defense Authorization Act.

Space control—the ability to conduct friendly operations in space and, when necessary and directed by the National Command Authority, to deny any adversary the use of those space systems which support hostile military forces—requires an integrated combination of anti-satellite capability, space surveillance and surviving and enduring assets.

This report states that to ensure our freedom of action in space, the Department of Defense must have enduring space systems. Specifically, the DoD needs an operational ASAT capability to deter and to counter the threat Soviet space systems in low-earth orbit pose to U.S. and Allied space and terrestrial forces. We must also provide for the survivability of critical space assets (including associated terrestrial components) to support essential command and control functions and operational military forces across the spectrum of conflict. Finally, we must have an integrated and effective attack warning and reaction capability which can detect and react to threats to U.S. space systems.

The report also addresses Soviet activity related to space control. The Soviet Union has a massive and expanding program. In the Soviet view, military superiority in outer space is achieved first, by the use of ASAT systems to degrade or destroy the space-based command, control and communications and intelligence systems of an enemy; and second, by the successful use of space to support military operations including the use of satellites to target an opponent's forces. We must not allow the Soviets to view space as a sanctuary from which they can threaten not only valuable U.S. and Allied space assets, but also the ground, sea and air forces so critical to our ability to deter both conventional and nuclear conflicts.

This report does not address arms control. However, the United States continues to consider space arms control options.

This report outlines the initial, fiscally prudent steps toward building an essential U.S. space control capability. The United States must build a solid foundation to ensure freedom of operations in space and an ability to deter and, if necessary, deny an adversary unrestricted use of space.

Another version of the Net Assessment of U.S. and Soviet Space Control Capabilities, at a higher level of classification, is being sent separately to the secure storage of the House and Senate Armed Services Committees.

Sincerely,

DICK CHENEY.

THE WHITE HOUSE,
Washington, DC, September 28, 1989.

Hon. JAMES MCCLURE,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCLURE: As the Senate considers funding the Administration's request for our ASAT program, I hope that you and your colleagues will bear in mind the importance of this program to the future of U.S. and Allied security. As a result of our review of national security strategy, undertaken earlier this year, the Administration reached important conclusions about the need for an ASAT program.

First, the Soviet Union has a massive military space program. It has the capability to interfere with key U.S. satellites, particularly those critical ones which operate at low altitude. Failure to provide a response in kind would perpetuate the existing situation in which the Soviet Union might attack U.S. and Allied systems, believing their space systems are not vulnerable to counterattack.

Second, and of possibly greater concern, the Soviets maintain military satellites whose sole purpose is to help defeat U.S. and Allied terrestrial forces in the event of conflict. If deterrence fails, the U.S. must be

able in some manner to deny the force enhancements that the Soviets gain by the use of such over-the-horizon targeting of our naval and ground forces.

In sum, it is essential for the U.S. to develop an operational ASAT system to deter the Soviets from exploiting their space control and space-based targeting capabilities.

I appreciate your efforts to see that Congress addresses this serious gap in our overall ability to deter aggression.

Sincerely,

BRENT SCOWCROFT.

THE SECRETARY OF DEFENSE,
Washington, DC, August 1, 1989.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for the opportunity to comment on S. 1328, the "Satellite Survivability Act of 1989". I share the view that the survivability of our key satellites is critical to U.S. national security, and the Department places a high priority on its efforts to enhance the survivability of those systems.

The basic premise of this bill is that the national security of the United States would be served if we were to forego the development and deployment of an antisatellite (ASAT) system, provided the Soviets avoid the three actions listed in the legislation. I strongly disagree with that premise. The United States needs an ASAT capability to counter Soviet targeting satellites in low earth orbit that pose a threat to our naval and ground forces and those of our allies, and to deter the use of existing Soviet ASAT systems. The proposed legislation is simply incorrect when it states that the co-orbital system is the only Soviet ASAT; the Soviets possess ASAT capabilities in ground-based lasers and ABM interceptors. Currently, a serious imbalance exists. As Admiral Crowe, the Chairman of the Joint Chiefs, has stated, to correct this imbalance "mandates that the United States develop and deploy an effective deterrent-in-kind ASAT capability; not for space supremacy or superiority, but to insure a measured, balanced response to Soviet space-based weapon systems and ASAT capability." Accordingly, we have requested funds to develop both kinetic and directed energy ASAT systems.

S. 1328 in effect would give the Soviets veto power over development and deployment of a U.S. ASAT system. As long as the Soviets avoid the three actions specified in the proposed legislation that would lift the testing prohibition, we could not test an ASAT weapon. Such limits on U.S. ASAT testing would not preclude the Soviets from maintaining their own ASAT capabilities and thus would not make our critical satellites more survivable. In addition, such limits would not reduce the threat posed by Soviet space-based targeting systems. Therefore, the proposed legislation would not only fail to make our satellites more survivable (its stated purpose), but it would preclude us from addressing a very serious threat to our security. Finally, the proposed prohibition on the use of any funds "to test any weapon against an object in orbit" also could limit severely the testing of SDI technologies with potential for intercepting nuclear warheads in space. Such unilateral limitations would go well beyond the restrictions contained in the 1972 ABM Treaty, and other Congressionally mandated provisions.

The Administration is conducting a thorough and ongoing study of ASAT arms control issues. The problems associated with ASAT arms control, including verification, definition, breakout, disclosure of information, and the need to counter Soviet targeting satellites, contribute to the conclusion that a comprehensive ban that would seek to eliminate testing and deployment of all specialized ASAT systems is not in the interest of U.S. national security. We are continuing to study options for specific ASAT arms control measures.

Finally, I object to the requirement for yet another report. The proliferation of reporting requirements are absorbing too much of the Department's time and resources. I believe that the close consideration of ASAT issues to be expected in the normal Congressional review of our funding requests would make the proposed ASAT report a redundant exercise.

In sum, I strongly opposed this bill. The United States urgently needs an operational ASAT capability. This bill, if enacted, would frustrate our efforts to obtain one.

The Office of Management and Budget advises that there is no objection to the submission of these views for your consideration and the consideration of the Committee.

Sincerely,

DICK CHENEY.

Mr. WALLOP. I thank the proposers of the amendment for their cooperation and courtesy in negotiating out what I think to be a satisfactory conclusion to it.

Again, I just express my view that this is not an appropriate role for the Senate of the United States to indulge itself in.

The PRESIDING OFFICER. Is there further debate?

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. To follow up one argument raised by the Senator from Wyoming, that President Bush has made some very dramatic strides or taken some dramatic strides in trying to pursue some innovative initiative in the field of arms control, one of them, according to all reports, has to do with chemical weapons, probably the most difficult area that we will have to contend with in the field of verification.

For several years, a number of us have been working on trying to put money into the defense budget to stimulate some research and development of new technologies that will help in the verification of a chemical weapons treaty, in the event we ever have one. I wanted to commend the members of the Appropriations Subcommittee who have dealt with this, because there is money in this budget; $15 million was included in the Senate version and House version, subject to a fence. The fence is very important, because the Defense Department, as of last year, was required to submit a report outlining a well-defined program for research and development to pursue these initiatives for verification of chemical weapons. They have yet to file that report, even though they were mandated to do so under last year's bill.

So it seems to me, if President Bush wishes to take this initiative—and I commend him for it—at the very least, we have to have a report from the Defense Department. I think the fencing arrangement is one that is wise. I would hope that the Defense Department would take it very much into consideration. We are saying that we are not going forward with the appropriation for this very important type of research and development unless you give us the report that is required.

I want to commend my friend from Hawaii and also my friend from Alaska.

Mr. INOUYE. Thank you very much.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, may I inquire what the pending business is; excepted amendment No. 4?

The PRESIDING OFFICER. No. The Kerry amendment to the excepted committee amendment. We are on the Kerry amendment to the excepted committee amendment No. 4.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Just a couple of words. It is for the reason stated by the Senator from Wyoming that we very substantially modified the original amendment proposed by Mr. KERRY and myself, with the recognition that we are in a very sensitive time with respect to negotiations and, thus, we worked it out with the members of the administration, as well as the Senator from Wyoming and others, so that we would not have any controversy, and hopefully have an amendment which was satisfactory to both sides.

It is satisfactory to us, because it does accentuate the need both of our own national security perspective as well as for peace in space, to be able to bring forward the discussion and the report that is required and has been required under the appropriations bill in the area of ASAT's. So I want to thank those that worked with us. I believe what we are doing now will in no way injure the ability of the President to continue in the tremendous efforts he is making in pursuing the various negotiations on START and others, and hopefully we will have a voice vote and be on to the next issue. I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. INOUYE. Mr. President, this modified amendment has been cleared by the administration, by the Department of Defense, by the Armed Services Committee, the Appropriations

Committee, and both managers. I urge its adoption.

Mr. McCLURE. Mr. President, there are a lot of weapons systems in this bill. Hundreds of them, maybe thousands. And I believe that, possibly with a few exceptions, these are all important and worthwhile systems. But there are very few weapons in here, maybe only one, that are real war winners. By that I mean, if we have them, we win. If we do not have them, we lose.

If there is one such weapon in this bill, it is the antisatellite system. Or more precisely, the two components of our ASAT R&D effort, the kinetic and directed energy weapons systems. This system is important because it would redress a critical imbalance in our military posture vis-a-vis the Soviets: the Soviet monopoly on antisatellite weapons. This monopoly gives the Soviets a sanctuary in space. They can destroy our satellites without fear of retaliation. And they can use their satellites to target our land and sea forces with impunity.

In one of his final statements as Defense Secretary, Frank Carlucci described the lack of an ASAT as "the single most serious deficiency in our military posture." The Joint Chiefs expressed a similar view in their 1989 Joint Military Net Assessment.

What is interesting is that this same Joint Net Assessment took such a generally mellow view of Soviet intentions and capabilities, that it was cited by Fred Kaplan of the Boston Globe as an indication that the Pentagon had succumbed to "Gorbymania." But even this "kinder, gentler" Pentagon is sufficiently concerned about the Soviet ASAT threat that it identifies our lack of an ASAT as one of our most serious deficiencies.

To really appreciate the role of an ASAT, you have to talk to the commander in chief of the U.S. Army in Europe, Gen. Crosbie Saint. Because if the Soviets can use space with impunity to target our ground forces in Europe, and the naval forces we rely on to bring over reinforcements and supplies, then we will probably lose the war. Likewise, if the Soviets are able to deny us the use of space to support our operations in Europe, we will be unable to carry out the deep-strike attacks we would rely on to defeat a Soviet attack. A future land battle in Europe would in all likelihood be won or lost in space. As General Saint says, "I see an effective ASAT system as the key to the control of space and also conceivably as the key to victory."

Let me stress something here. A lot of my colleagues here have been very vocal in their support for conventional arms and the need to improve our conventional deterrent in Europe. And frequently they have opposed systems like ASAT because these allegedly fancy high-technology systems supposedly took funds away from the troops in Europe.

But here we have the commander in chief of U.S. Forces in Europe, the commander of NATO's critical Central Army Group, our top ground-pounder in Europe, telling us that victory on the ground depends on support from space.

After all, control over the high ground is not exactly a new concept in military thinking. The imperative of seizing the high ground, for surveillance or attack, has been around since the first caveman hit another caveman on the head with a club.

The Soviets are ahead of us in applying this ancient concept to the use of space. Sure, we use space for military surveillance and communications. But the Soviets have gone a lot further than we have in thinking through the concepts of space and space control. It's not enough to capture the high ground. You have to be able to hold it. Or at least, keep the enemy from holding it.

So it is unfortunate that we now find ourselves under pressure from the arms control lobby to cede control of space to the Soviet Union. I appreciate the willingness of the sponsors of the amendment to modify it to meet the concerns of the administration and the committee. But the original amendment they planned to offer included a ban on testing against an object in space. So I think it's appropriate at this time to consider the implications of such a ban.

The Soviets have been very upfront on how they would use space in wartime. According to the Soviet military dictionary, their goals are to "deny the use of space to other states, and to assure maximum space-based military support for Soviet * * * combat operations on land, at sea, in air, and in outer space."

In other words, use space to support attacks on enemy ground, naval, and air assets, and deny the enemy the use of space to target Soviet forces.

And the Soviets have, and are developing, the hardware to match their doctrine. They continue to maintain an operational coorbital ASAT in a constant state of readiness. They maintain ABM and electronic warfare systems with ASAT capabilities. They have lasers with ASAT potential.

Which brings us to all the old myths about the Soviet ASAT: It is, we are told, primitive. It was not very impressive in tests, we are told, and it hasn't been tested since 1982. Therefore, we are told, it does not pose a threat.

Consider the facts. The Soviet coorbital ASAT is primitive the same way a baseball bat is primitive. I have used this analogy on the floor before, but I will repeat it because I think it makes the point. If you are in a fight, and the other guy has a baseball bat and you do not, it does not matter how primitive that baseball bat is.

As for the test results, without getting into classified material, let us just say this: The Soviets have enough ASAT's on deck so that, even with their observed probability of kill, they have the capability to destroy enough of our high-value satellites to cripple our reconnaissance, intelligence, and other capabilities.

What about testing? The Soviets have not conducted an end-to-end test of their coorbital ASAT since 1982. But they do routinely test the components, including the launch vehicle, tracking radars, and on-orbit command techniques. And they maintain their ASAT fleet in a constant state of readiness.

What about the infamous Soviet laser at Sary Shagan? There has been a lot of back and forth between the members of the NRDC delegation and the Defense Department about which laser the NRDC delegation saw. And we have had some discussion with the Defense Department over just how much we can say about what the NRDC saw and didn't see. The NRDC says it saw the laser that the Pentagon has identified as the major ASAT threat. The Defense Department points out that the delegation visited only one of the four major laser research areas at Sary Shagan, and that the area they visited was not the area that contains the most modern equipment.

The NRDC says the building they saw is the building that the Pentagon depicted as housing the most threatening Soviet laser. The Pentagon will only confirm, for open discussion, that just because that building was depicted in Soviet Military Power, does not mean that that building houses the laser that the Pentagon had identified as the most significant ASAT threat.

What about the underlying premise of an ASAT test ban, which seems to be this: since the United States is supposedly more dependent on space-based assets, we supposedly have more to lose than the Soviets, so we should not develop an ASAT because that will cause the Soviets to develop even more ASAT's and we will be the net loser. Development of a U.S. ASAT, we are told, would be destabilizing

But what is destabilizing is the current state of affairs, where the Soviets have an ASAT and we do not! I cannot see why our satellites are safer, why we are somehow better off, if the Soviets have an ASAT and we do not. We lose both ways. Since there is nothing to deter an attack on United States satellites, we jeopardize our own ability to use space in support of our military operations. And we give the Soviets a sanctuary from which they can target our terrestrial forces with impunity. What's so stabilizing about that?

Of course, as in any wartime situation, space operations would require some difficult decisions about the relative values of deterrence and warfighting. ASAT opponents say you cannot have an ASAT for deterrence and for warfighting too. That is just not true. Why do we have nuclear weapons? Why do we have any weapons? To deter aggression, but if deterrence fails, to win. There is no contradiction there. It could be that in wartime the United States would elect not to use its ASAT against Soviet satellites because we felt the long-term exchange ratio would be unfavorable. But that would be our choice. Supporters of this amendment want to place the fate of our satellites, and to a great extent our ground and naval forces, in Soviet hands.

As I said earlier, the Soviets have thought this issue through. As the Chairman of the Joint Chiefs of Staff, Admiral Crowe, told the Defense Appropriations subcommittee: "The Soviets * * * have prepared themselves and are ready, especially with the coorbital interceptor, to fight and fight successfully. We have nothing aproaching that capability—thus the need for a U.S. ASAT capability is essential."

Admiral Crowe concludes, "We cannot relinquish control of space to an adversary whose intent is clear."

Mr. President, we need to keep Admiral Crowe's remarks in mind as we debate the ASAT issue.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts, as modified.

The amendment (No. 887), as modified, was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXCEPTED COMMITTEE AMENDMENT BEGINNING ON PAGE 107, LINE 12, THROUGH PAGE 108, LINE 4

The PRESIDING OFFICER. The committee amendment is disposed of. The question is on agreeing to the fifth excepted committee amendment.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 891 TO EXCEPTED COMMITTEE AMENDMENT ON PAGE 107, LINE 12, THROUGH PAGE 108, LINE 4

Mr. HELMS. Mr. President, I have an amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 891 to excepted committee amendment on page 107, line 12, through page 108, line 4. At the end of the amendment add the following:

It is the sense of the Senate that the conferees on H.R. 2788 should insist on that amendment numbered (7) to H.R. 2788 which states "None of the funds authorized to be appropriated pursuant to this Act may be used to promote, disseminate, or produce—

"(1) obscene or indecent materials, including but not limited to depictions of sadomasochism, homoeroticism, the exploitation of children, or individuals engaged in sex acts; or

"(2) material which denigrates the objects or beliefs of the adherents of a particular religion or nonreligion; or

"(3) material which denigrates, debases, or reviles a person, group, or class of citizens on the basis of race, creed, sex, handicap, age, or national origin.".

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, a lot of games have been played in connection with the amendment that was approved by a voice vote July 26 in the Senate on the interior appropriations bill.

The House of Representatives ducked vote and the conferees are tied up trying to decide how they can avoid taking a stand on this important issue. The conferees want to water it down. They want to misrepresent it. There have been all sorts of declarations by various House Members as well as the liberal news media of this country, saying this is censorship, which is not true. The people who are saying that know it is not the case. The Senate should stick by its amendment. Therefore, I want the Senate to vote on it.

Mr. President, the controversy surrounding the improper use of Federal funds by way of the National Endowment of the Arts [NEA], to support so-called works of art by people like Andres Serrano and Robert Mapplethorpe, is about to be emasculated in conference.

The Interior appropriations conferees are finished for today, but sometime tomorrow they will take it up again and they will diddle around with language trying to water it down. If Senators want to do that, fine, but I think the Senate should vote to instruct the Senate conferees to insist on the Senate amendment. I am willing to take as much time as Senators want me to to discuss this amendment.

The amendment I sent to the desk is in fact a sense-of-the-Senate resolution that the Senate conferees should support the Senate's amendment to the interior appropriations bill to ensure that the American taxpayers' money will never be used again to pay for pornography or attacks on religion.

I believe most Senators are familiar with the amendment that I offered to the Interior appropriations bill and that it would prevent the NEA and other Federal so-called arts agencies from using Federal funds to pay for art that is obscene or indecent or which degrades religion. If artists want to go in a men's room and write dirty words on the wall, let them furnish their own crayons; let them furnish their own wall. But do not ask the taxpayers to support it with their hard-earned money. That is all the amendment says. No tax fund shall be used for garbage just because some self-appointed experts have been foolish enough to call it art.

The efforts of my distinguished colleagues from West Virginia [Mr. BYRD] and from Idaho [Mr. MCCLURE] to address this issue in both the Appropriations Subcommittee on the Interior and the full Appropriations Committee by cutting off funding to specific institutions for 5 years have met with the same unfounded outcry from the self-appointed, self-proclaimed arts community that my amendment has confronted for the past several weeks.

Let me make it clear that I did not offer my amendment to the Interior appropriations bill because I disagreed with those efforts, but because I felt that the committee's provision would not prevent such blasphemous and immoral behavior by all the other institutions or artists using Government funds in the future.

Mr. President, the Government's official approval functions as an automatic guarantee of artistic competence and excellence.

Back in 1981, Frank Saunders, who was on the staff of vice president for cultural affairs for the Philip Morris Co. told the Senate and the House back in 1981, and I quote him:

Few businesses are adventurous and few are prepared to stick the company money on creative, speculative art forms. But when given the stamp of approval of the National Endowment, such art does have a chance at the board room.

That means that artists can get corporate money if they can get respectability—even if it's undeserved—from the National Endowment for the Arts.

And that is what this is all about. It is an issue of soaking the taxpayer to fund the homosexual pornography of Robert Mapplethorpe, who died of AIDS while spending the last years of his life promoting homosexuality.

If any Senator does not know what I am talking about in terms of the art that I have protested, then I will be glad to show him the photographs. Many Senators have seen them, and without exception everyone has been sickened by what he saw.

Mr. President, these self-proclaimed art experts, under the banner of art, would have us view pornography on aesthetic but never moral grounds. But do we really believe that the experts themselves view this filth with

the moral neutrality that they have urged upon the public? I think not.

I have taken some of these pictures around to various groups, and I said, if you really want to see what I am talking about, do not read the Washington Post; do not read the New York Times; look at the pictures. The Washington Post and the New York Times and other knee-jerk editors around the country have erroneously asserted that restricting Federal funding for the arts constitutes censorship.

I do not care what so-called artists do on their own time with their own money. But I do say, Mr. President, that when they start saying to the Congress of the United States: "Butt out and just hand over the money," this Senator says "No." That is the crux of the problem, Mr. President.

The critics of my amendment would have us leave the discretion of who to fund to experts like this. If we do that, I can guarantee you that Mapplethorpe will not be the last pornographic show funded by the NEA. We must tell these experts that the NEA is not to be on the offending edge and that the public purse was never meant to fund obscene, indecent, or blasphemous works of art.

Mr. President, to indicate how phony some of these so-called art experts are, let me read you a letter I received. I do not know Mr. Joseph Lovece, Jr., of New Rochelle, NY, but he wrote me as follows. He said:

DEAR SENATOR HELMS: I support your views regarding the taxpayers financial support of the art world. I have a little story to tell you:

Not long ago I moved into a contemporary residence and used this situation to commit a hoax upon my learned friends. I invited them over for a cocktail party in order to obtain their help in selecting modern art for this residence. My friends were aware of the fact that I know very little about art, and I made it known to them that I did not care for the so-called modern art. I had a number of modern art paintings available that evening to select from. I told my friends that the paintings looked like garbage to me. I was told I just don't understand what the artist meant, they went on to explain their interpretation of the artists work. They asked me how much the artist wanted for various paintings. One painting I said was worth 11, and my friend said I shouldn't pay more than 6,000 for it. Another one of my friends asked me about another, I said was worth 5, and he said more than 6,000 for it. Another one of my friends asked me about 5,000 is a good buy. What they didn't realize when I said 11 and 5, was that I meant $11.00 and $5.00. It was at this time that I told them I was the artist.

Then Mr. Lovece concludes by saying:

I painted all this garbage in less than three hours. All my learned friends were telling me what the artist meant. I (the artist) still don't know what I meant when I put the paint on the canvas. End of story.

Good luck.

Sincerely,

JOSEPH LOVECE, Jr.

Mr. President, Mr. Lovece's little game is played out time and again by the NEA and the arts community. But when the NEA does it, the hoax is pulled on the American taxpayer.

Mr. President, when I offered my amendment in July that was approved on a voice vote in the Senate, the papers declared that Mr. HELMS had slipped into the Senate Chamber and got this amendment passed in the dead of night.

The truth of the matter is that I walked into this Chamber, sat in that chair until I had a propitious moment with the distinguished chairman of the Appropriations Committee, Mr. ROBERT C. BYRD, former majority leader of this Senate and a distinguished American. I went over to Senator BYRD, I said, "Senator, I've got a little amendment I wish you to look at." I showed it to him. He looked up at me. I said, "Now let me show you where I am coming from." And I showed him the pictures. And he said, "Good Lord, I will take the amendment." And he did and it passed on a voice vote. I did not ask for a rollcall vote. But since so many misrepresentations have been floating across the land, I decided the Senate of the United States should vote on this question of whether or not we want this kind of garbage to be funded with the American taxpayers' money.

Mr. President, I realize that at 8 o'clock we are supposed to turn back to the catastrophic insurance matter. I did not think that a unanimous consent order has been agreed to, but I am perfectly willing to abide by whatever the leadership wants.

In the meantime, however, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? Is there a sufficient second?

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair must first determine if there is a sufficient second.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, before I yield the floor, I have the photographs here at my desk. So any Senator who thinks that I am attacking aesthetic art needs to come over here and look at the photos. Do not just take the word of the Washington Post or the New York Times. Do not believe the multitude of editors who have been so careless with the truth. See for yourself what the NEA calls art worthy of taxpayer support. I yield the floor.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXCEPTED COMMITTEE AMENDMENT BEGINNING ON PAGE 107, LINE 12, AS MODIFIED

Mr. INOUYE. Mr. President, I ask unanimous consent that the fifth excepted committee amendment be modified with the understanding that the Helms amendment in the second degree retain its status.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. INOUYE. Am I correct that with this unanimous consent the yeas and nays have been ordered on the Helms amendment?

The PRESIDING OFFICER. The yeas and nays have been ordered on the Helms amendment.

Mr. INOUYE. I send to the desk the modified amendment.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is as follows:

SEC. . (a) Of the amounts appropriated for research development, test and evaluation under title IV of this Act, not more than $26,552,000 may be made available through the National Defense Stockpile Transaction Fund for grants to support ongoing projects for strategic materials research, facilities, equipment, and related activities at institutions of higher education;

(b) The Secretary of Defense may make the grant awards pursuant to subsection (a) without regard to the requirements of sections 2361 and 2304 of title 10, U.S.C., which are superceded specifically by this section for the purpose of making the above mentioned grants: *Provided*, That the Secretary of Defense shall transmit a report, within sixty days of enactment of this Act, to the Committee on Appropriations and Armed Services of the Senate and House of Representatives which contains an evaluation on whether such grant supports the objectives established by the Strategic and Critical Materials Stock Piling Act as amended: *Provided further*, That no funds shall be obligated for grant awards pursuant to subsection (a) until thirty days after receipt of such report by the above-named Committees: *Provided further*, That, notwithstanding any other provision of law, no funds provided in any other appropriation act for fiscal year 1990 may be obligated for strategic materials research facilities.

Mr. INOUYE. Mr. President, this amendment proposes a substitute provision for a general provision in our bill, section 9099, which relates to strategic materials research and development grants. This substitute addresses several concerns raised by various Members of the Senate regarding the practice of earmarking defense budget funding for specific institutions of higher education.

The committee's original provision set aside $37,552,000 of funds made available for defense research, development, test and evaluation for grants

for strategic materials research, facilities, equipment, and related activities at eight institutions of higher education. The grants funds would be provided through the national defense stockpile transaction fund for both ongoing and new projects.

The substitute amendment eliminates $11,000,000 for three new projects and provides $26,552,000 through the stockpile transaction fund for five ongoing projects in strategic materials research and development.

The intention of this amendment to is protect these five ongoing projects from the unintended impacts of recent congressional initiatives to increase competition among colleges and universities for defense department research funds.

These congressional initiatives were intended to increase the competition among colleges and universities for research funds in the future. They were not intended to penalize or interrupt ongoing projects for which funds were appropriated previously and which are well underway.

Several of these ongoing projects include significant contributions from non-Federal sources. These contributions from State governments and private sources represent a willingness to enter into partnerships with the Federal Government to reduce the Nation's dependence on foreign strategic materials and to advance the quality of public and private higher education.

The Federal Government should not renege on its share of these existing partnerships, Mr. President, even as it takes the laudable step of increasing future competition among colleges and univesities for Federal research dollars.

The Federal Government should not help erect the four walls and floor of a house built partially in its own interest, and then deny the assistance needed to put a good roof over the structure.

These partnerships were entered into in good faith by the State governments and private donors. This amendment enables the United States to take advantage of these non-Federal contributions and to fulfill its role in these partnerships.

The grants for the Unversities of Utah, Hawaii, Idaho, and Texas-El Paso, and for Loyola College of Maryland, are for projects funded before through the stockpile transaction fund.

The grants would be for the following amounts: First, University of Utah, $8,900,000; second, University of Hawaii at Manoa, $6,000,000; third, University of Texas at El Paso, $4,152,000; fourth, University of Idaho, $4,000,000; and fifth, Loyola College of Maryland, $3,500,000.

Mr. President, the stockpile transaction fund was used as a mechanism to provide grants for strategic materials research activities, including purchase of sophisticated equipment and construction of facilities, when it was administered by the General Services Administration.

Responsibility for the transaction fund was transferred to the Defense Department by Executive order in 1988, and administration of it has been assigned to the Defense Logistics Agency.

The committee believes it is reasonable to increase the amount of congressional oversight over the use of the stockpile transaction fund for these ongoing projects. Therefore, the substitute amendment retains the language of the original provision which provides the Secretary of Defense the opportunity to review and report on these projects.

Within 60 days after enactment of the Fiscal Year 1990 Defense Appropriations Act, the Secretary of Defense is to report to Congress an evaluation whether the grant supports the objectives established by the Strategic and Critical Materials Stock Piling Act, as amended.

The provision directs that the report be submitted to the Committees on Appropriations and Armed Services of the Senate and House of Representatives.

The general provision further provides that no funds shall be obligated for these grant awards until 30 days after the committees receive the Secretary's report. The substitute language, however, addresses the concerns expressed by some that the original language contained a requirement that the committee approve the Secretary's report. That requirement is eliminated from the substitute provision.

Mr. President, this amendment has been discussed with the distinguished chairman of the Committee on Armed Services, who has been a leader in increasing competition for defense-related research funds.

I move the adoption of the amendment.

Mr. HELMS. It is a modified committee amendment having nothing to do with the Helms amendment?

Mr. INOUYE. Nothing to do with the Helms amendment.

Mr. President, I notice that in 2 minutes we will reach the hour of 8. We had an earlier understanding that at 8 p.m. the McCain amendment would be in order for consideration. And so to comply with that understanding, I ask unanimous consent that the present matter be temporarily set aside to consider the McCain amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from North Carolina.

Mr. HELMS. Mr. President, I would advise the distinguished manager of the bill that it is my present intent to suggest after the catastrophic matter is resolved the Helms amendment again become the pending business. I am going to ask that all the pages and all the ladies, maybe all the staff leave the Chamber so that Senators can see exactly what they are voting on. There has been so much misrepresentation about this matter that I want Senators at least to know exactly what I have been talking about all along. So I advise the Senate that is my present intent.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard. The clerk will call the roll.

The assistant legislative clerk continued the call of the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader be authorized to lay before the Senate a bill to be introduced by Senator McCAIN described as the Catastrophic Reform Act prior to the Senate's consideration of the reconciliation bill, but in any event not later than 2 p.m. on Saturday, October 7.

Mr. McCAIN. Mr. President, reserving the right to object, and I will not object, I would like to thank the distinguished chairman of the Finance Committee for allowing this issue to be brought up in the form of a freestanding bill; I would like to thank the majority and minority leaders for their efforts; and I would like to assure the distinguished chairman of the Finance Committee that once this bill and issue is resolved, disposition of the freestanding bill, I will not propose any amendment to the reconciliation bill that has anything to do with catastrophic.

Mr. BENTSEN. My understanding was that if the Senator had the opportunity to bring up a freestanding vehicle, he would not then thereafter bring it up on reconciliation; is that correct.

Mr. McCAIN. I believe that is what I said, Mr. President. I thank the Senator for clarifying it.

Mr. FORD. Reserving the right to object, Mr. President, may I ask the

distinguished Senator from Arizona, his bill will be basically the amendment he was attempting to offer this evening?

Mr. McCAIN. That is correct.

Mr. FORD. Then that means it is just a delay and not elimination of the catastrophic illness health insurance?

Mr. McCAIN. No. The amendment as it was very briefly described in a preserving of many of the benefits including catastrophic hospitalization and most others, repeal of prescription drugs and some other parts of the bill in order to eliminate the surtax, yet maintain the $4.80 part B payment that is being kept now. I will be glad to run through them.

Mr. FORD. No, I do not want the Senator to do that.

Mr. McCAIN. It is not delay, it is repeal of some portions, maintaining of others.

Mr. FORD. But it is basically the amendment.

Mr. President, still reserving the right, this bill can be amended to eliminate catastrophic, can it not.

The PRESIDING OFFICER. It is the understanding of the Chair that the bill will be open for amendment.

Mr. BENTSEN. Further let me comment, as the Senator was explaining the provisions of this bill, our information from CBO is that it is approximately $6 billion and we will be making a point of order on that.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Maryland seek recognition to object to the unanimous-consent request by the majority leader?

Mr. SARBANES. The Senator from Maryland seeks recognition to make a reservation in order to make an inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Maryland is recognized for reservation and a point of order.

Mr. SARBANES. Is it my understanding that part of the unanimous-consent request is that this issue will not be brought up on reconciliation once the freestanding bill and any amendments thereto are considered?

Mr. BENTSEN. It is not my understanding. My understanding is that it will not be brought up by the Senator from Arizona. He cannot speak for other Members of the Senate, obviously; nor can I.

Mr. SARBANES. Is it the chairman's desire that that be included as part of the request?

Mr. BENTSEN. I would be pleased with it but that was not the agreement. It was not the agreement that others could not bring it up on reconciliation. That was not the agreement. Obviously, it is going to be subject to the Byrd rule.

Mr. SARBANES. Subject to what?

Mr. BENTSEN. Subject to the Byrd rule. We get into questions of germaneness and questions of revenue, it remain revenue neutral, remain subject to all of those things if they try to do it on reconciliation.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the majority leader?

Hearing none, it is so ordered.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. What is the pending business?

The PRESIDING OFFICER. The regular order is the Helms amendment to the fifth excepted committee amendment.

Mr. MITCHELL. Mr. President, I ask unanimous consent that upon disposition of the Helms amendment and the underlying amendment, that no further amendments be in order to H.R. 3072, that the bill be read a third time, and a vote on final passage occur without any intervening action or debate.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DOLE. Reserving the right to object, I understand there is another amendment that has been agreed to, a Hatfield amendment for the Secretary of Labor.

Mr. INOUYE. It has been agreed to.

Mr. STEVENS. That is correct.

Mr. MITCHELL. Then, Mr. President, I modify my request to add upon disposition of the Helms amendment, the underlying amendment and the Hatfield amendment, the Hatfield amendment being described as an amendment to the McKinney Homeless Act, that the request be modified to add that to the two amendments that I described earlier, and I renew my request.

Mr. METZENBAUM. Reserving the right to object, and I do not intend to object, did I understand that the McKinney amendment that is being proposed by Senator HATFIELD has impact on labor matters concerning the building of housing? Can we be apprised as to what it is?

Mr. STEVENS. It is cosponsored by Senator KENNEDY, Senator HATCH and offered by Senator HATFIELD as the ranking minority member of the Appropriations Committee.

Mr. METZENBAUM. I thank the Senator.

Mr. DANFORTH. Mr. President, reserving the right to object, it was my understanding that Senator NUNN was working on an amendment and I thought that the terms of the amendment had been worked out. But I am not sure of that.

Mr. MITCHELL. I am advised that is the underlying committee amendment to which I referred in my unanimous-consent request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request by the majority leader. Hearing none, it is so ordered.

Mr. MITCHELL. I thank the Chair and I thank my colleagues.

The PRESIDING OFFICER. Who seeks recognition?

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Everybody in the body should understand where we are. The amendment offered by the Senator from North Carolina, the so-called Mapplethorpe amendment, is an issue that came onto the floor, Senators will remember, in the dark of the night. People really did not know what was happening at that time, and the amendment went through. Since then, Members are aware of the extraordinary storm that has arisen, not only from the arts community but from all of those who believe in the first amendment to the Constitution of the United States. I need not remind my colleagues of what the first amendment says. What we have is a resolution in front of us that relates directly to the first amendment. Senators tonight have no opportunity to do anything but vote up or down. There is no place to go on this one, and it seems to me that what we must do in all good conscience as defenders of the Constitution is to clearly vote no.

Now, I understand what is going to transpire out of this is that our good friends in the media on the negative world are going to have a field day with this particular amendment. The time has come for us to make very clear we understand that is going to go on, we understand that presumably Senators in the greatest deliberative body in the world should not be allowing ourselves to be diverted with this kind of activity but, rather, should belly up and be serious about the defense of the Constitution of the United States.

Here we are in the Senate, and I have now been here for 2½ years. I will say that I have enormous respect for this institution and the way in which this institution respects minorities, the way in which this institution protects small States, and the whole way in which this institution was set up.

But it seems to me, Mr. President, we are getting to the point where we are being asked to cast a lot of votes, make a lot of alleged political statements for the purpose of not what the body was set up to do, but rather for a variety of other reasons.

I understand and respect the right of every individual in the Senate to be

able to get up and offer whatever amendments he or she wants to. But after a time, it seems to me the time has come to begin to think how we are going to go about drawing the line on this sort of thing.

I, for one, am really fed up with it. I think we ought to take this one on up or down, and then take on the issue overall, seeing what other kinds of amendments get added when this sort of thing come up again and seeing what other kinds of steps we are going to take when this comes up again because we have gotten to the end of the rope. We are here in egregious violation of the first amendment.

I hope everyone will vote no on the Helms amendment very clearly understanding that we know precisely what this is all about.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, the distinguished junior Senator from Colorado would like to make this an issue about the first amendment to the Constitution. I think the only way you can do that is to not read the amendment of the Senator from North Carolina.

The Senator from North Carolina is not saying anything about the ability of artists to express themselves in any way they please. In fact, in no way does he address their freedom of action. What he says is that the taxpayers should not pay for things that basically represent what is considered by the great majority of taxpayers to be pornography or to be offensive.

Basically what we are talking about here is that a person was paid $15,000 for 10 photographs, one of which is a photograph of a crucifix in a bottle of urine. I submit to Members of the Senate that if somebody wants to take pictures of a crucifix in a bottle of urine, it may be terribly offensive to most of us in the Senate, but they have every freedom to do that. What we are talking about here is the taxpayer being forced to subsidize the $15,000 to do it.

I submit that the working men and women of America strenuously object to that, and I think every taxpayer in America looked at these pictures that they have helped pay for involuntarily, they would feel nauseated, and they would demand that we act. The distinguished Senator from North Carolina has given us an opportunity to do that.

This issue has absolutely nothing to do with freedom of speech. We have been hearing for a month now all this business about how the Helms amendment would have banned parts of Chaucer. I submit, Mr. President, that the Helms amendment bans nothing. But I also submit that probably the taxpayers should not have paid for the writing of the "Tales of the Wife of Bath."

The issue is very clear-cut, and I do not think we ought to be distorting the issue. The issue is should we be taking the fruits of the labor of the working men and women of America and spending that money on the photos that we have all seen. I submit we should not.

I think if the American people saw these pictures, and I am grateful that my children will not, they would find them revolting, and I think it is very important that we stop funding this so-called art.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I am a member of that conference, which is a job that is unenviable at this point. I think there are a number of things we can all agree upon.

First, I think most of us would agree there should be a National Endowment for the Arts, that there should be money in this country to seek to get the best art we can.

Second, I think that endowment should have procedures calculated to produce significant art, not junk, not abusive, not insulting art.

Third, we as Members of Congress should avoid censorship because censorship and fine art simply do not go together. I think most would agree with that.

Fourth, I think we would agree that the two examples, the Serrano piece, that is the crucifix in the urine, was unacceptable, insulting to the basic principles of everybody in the country, including everybody in this body; that the Mapplethorpe photograph collection was without redeeming social value, was obscene, absurd, and without any justification whatsoever by any standard; that next, that should be avoided in the future.

The question is, the basic question, How did it happen, and how can it be prevented in the future? As I understand it, Mr. President, it happened not because the NEA has some set of standards that says we should fund this kind of outrage.

To the contrary, I think it happened because of a laxity in procedure whereby the NEA not only would allow a mistake like this to get through the sieve, but because they had a procedure not calculated to produce the best of art. If they did, these kinds of examples would have violated everybody's sense, anybody's sense of that which is proper, that which is acceptable, that which not only should be subsidized by the taxpayers but that which should be acceptable in any art gallery anywhere in the country.

So the question is, What do we do about it? Mr. President, I have a lot of sympathy for the amendment of the Senator from North Carolina. And my initial inclination was to say let us go with it, the way he has these things phrased in there about you should not have something that offends someone's religion, or race, or whatever, sounds like a good test.

Then I started reading it more closely, and then I realized that it is not only censorship going in—that is, censorship that is hard to define and that is before the work of art if ever produced—but it is dealing in an area that is so hard to define that to attempt to put it in words is very difficult.

I tried to do the same thing. I thought, well, maybe he has not quite achieved the proper results, so I put my hand to it yesterday, and then today I read my own words, and said, well, that is not tough enough and yet it is too tough. It is the kind of censorship that in the hands of a censor they would not look at it in the same way I would, which might restrict some of the world's greatest art. Or on the other hand, it might let through the sieve a Serrano situation.

So, Mr. President, all I can tell you is that it is very difficult. But to adopt this formulation, I think, is probably the wrong formulation, that if you give us time on the conference committee, I think there are members of that conference who are entirely in sympathy with the goal of the Senator from North Carolina; that is, to prevent a repetition of the Serrano and Mapplethorpe excesses, and who will try to design a system calculated to prevent that without at the same time endowing somebody with the power of censorship who might not apply that censorship for that which is artistically and socially significant, and yet, in balance, does not do damage to the sensibilities of most Americans, a very difficult balancing act. I do not know whether we can do it. I think we can do better than the amendment of the Senator from North Carolina, and I think we ought to be given a chance. The control of the Senate conferees, I can tell you, is in the hands of people who are sympathetic with the goal of the Senator from North Carolina. I think that if you give us a chance, we will try to carry that out and prevent a repetition of these excesses to which his amendment is addressed.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President in many ways this debate is a little bit silly. We have before us the Department of Defense appropriations bill. We do not have before us a catalog of the Corcoran Art Gallery or anywhere else. We are, after all, the most powerful Nation in the world. We are debating how the United States spends over $300 billion to keep troops worldwide.

We have a Navy able to go in any ocean anywhere in the world, and the ability to maintain a nuclear arsenal that our parents never could have conceived. We have before us the questions of what kind of Air Force we will have, what kind of a Navy, Marine Corps, and what kind of Army.

We have worldwide responsibilities to our allies and to nations that require our protection, as well as the protection of our own citizens on U.S. soil. Now, Mr. President, what do we suddenly have before us? A question of judgment by somebody using the aegis of the National Endowment for the Arts, to bring it up. It certainly has nothing to do with the Department of Defense.

As one who holds his own religion dearly, as a Catholic, I find very, very offensive the Serrano piece of what he calls art. I cannot help but think, as I watch interviews that go on with him and others, that he delights in what is happening because he has received so much publicity, even if it might mean destroying the National Endowment for the Arts as he does it.

Apparently, the issue is no longer how we defend the United States; it is no longer the Department of Defense. It is really not free speech, because we have the right of free speech, all of us, and we will protect that no matter how difficult it might seem at times. Any artist is able to do what he or she wants with his or her own money and time. The question basically is: Do we destroy the National Endowment of the Arts? Do we throw the baby out with the bath water?

The National Endowment of the Arts has been in existence for a quarter of a century. It has distributed more than 85,000 grants around this country. During that 25 years, we probably have not had 25 times in those 85,000 grants where there was controversy over them. In my own little State of Vermont—my administrative assistant Ellen Lovell pointed out to me tonight—NEA grants have brought poets into classrooms; they made children in my State of Vermont eager to read and write; they brought film series into towns, and they showed people in Vermont towns a truly American art form. They bring music to our mountains, and they bring grace to our lives. Much of what we have, the sense of culture that all of us in this body would embrace we have received in my own little State of Vermont through NEA grants.

Now, we find the Serrano work offensive, of course. I do, and I cannot believe that there are Members of this body, no matter what their religions might be, that do not find it offensive. The crucifix happens to be a very revered symbol of my own religion. I would be just as offended if I found a symbol of any other person's religion as the subject matter, whether Jew, Christian, Moslem, or anything else. But that is not the issue.

We stand here with the possibility of destroying, in effect, the NEA. We created it to have independent review panels—not to be second guessed on every decision. Really, is there any work of art that somebody could not attack one way or the other? So we have to ask ourselves: Do we want the NEA or not?

You know, Mr. President, the part of the debate that we do not hear on the floor is the part of the debate going on in the Cloakrooms, going on in the Senate dining room, going on as some of us talk to our political advisers, and that is the part about what 30-second ad might come out of this. If you vote against this amendment, can you not see the 30-second ad: "Senator So-and-So voted for pornography tonight. Senator So-and-So wants to waste taxpayers' dollars so that you do not have enough money to buy your home. He wants that money to go to produce pornographic pictures of children, or people performing what would be labeled as unnatural sex acts or whatever. That is what Senator So-and-So wants." You can imagine these political ads as well as I can.

Mr. President, there are really two issues here, beyond free speech, and beyond the question of the defense of the United States, because I can imagine somebody at the Pentagon who is looking at this and saying, "Wait a minute, what does this have to do with the MX, Trident II, F-16's, or deployed forces in Europe or anything else? But there are two issues. The practical issue, first and foremost, is do we destroy the NEA, and its review system, the NEA that has distributed 85,000 grants, and made art so accessible to millions of Americans for nearly a quarter of a century? Do we destroy its ability to function without politicians deciding what is and what isn't acceptable art?

The other issue, Mr. President, is the issue nobody wants to come up here and talk about. It is that someday, if you vote against this amendment and do the right thing, if you protect the National Endowment for the Arts, then somebody is going to run that 30-second ad and say, "Senator So-and-So supports pornography; Senator So-and-So wants your tax dollars spent for pornography."

Mr. President, in many ways, the press has set the scene for this debate. I read editorials in newspapers across this country questioning why the U.S. Senate had a voice vote; why the U.S. Senate has not stood up and voted forthrightly on this. If you asked them, do they want to print the pictures in question in their newspapers or poll their readers, they would say, we cannot do that, of course, because that might affect us, and our circulation. But of course, we want you to be brave and bold.

Well, it is one thing to sit in an ivory tower and make that point, but the fact is that tomorrow or the next day the press will go on to some other issue; this one will not be revisited, and the message that will be left to fill in for them will be the 30-second ads. That is really where we are. A lot of Senators know what is the right thing to do here, if you want to protect NEA and I want to protect the NEA. I think the NEA is good for this country.

I also happen to think the NEA has made a few mistakes. I find many of these photographs very, very offensive. I certainly find it offensive to my religion, and offensive to me as a person.

But I also find that I am enriched and my State is enriched and the people of my State are enriched by the National Endowment for the Arts, as has this country and as have all the other 49 States.

I think what we are saying here is, do we spell the death knell for the NEA or not, or do we, as the distinguished Senator from Louisiana has suggested and I think quite rightly decide this matter in the committee of conference and let us work on the issue there. There is no member on that committee of conference that is not a patriotic American, nobody on there that is somehow some sort of sexual pervert or pornographer. There is no member on that committee of conference that embraces the subjects of the photographs and all that we have talked about here. Why not let the system work, and get on with the Department of Defense appropriations bill here.

I will close with this Mr. President, because I know other Senators want to talk. Let us not as U.S. Senators, as those who are supposed to be the conscience of this Nation, kill the NEA because we are terrified of somebody's 30-second ad in our next election.

This debate is not about free speech. Even though it is the Defense bill it is not about defense. It is whether we will have a National Endowment of the Arts. We decided that nearly 25 years ago. Let's not reverse the decision tonight.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I have unfortunately had the opportunity to look very briefly at the exhibits that the Senator from North Carolina has brought to the floor and everything that has been said about them is true. These are gross. These are terrible. These are totally indefensible. I do not think they are art.

Mr. President, however I do not believe that the issue before us tonight is whether we like or do not like these pictures. I do not like them and my

guess is that not a single resident of my State would like them. They would not like the idea of the Government paying for them. I am sorry Government did pay for them.

That is not the issue before us. The issue is very simple: The Senator from Texas used the expression, and I think it was very well chosen, the question is: What is suitable art? And the issue before the Senate is very simple, and it is whether we in the U.S. Senate should attempt to make definitions of what we consider to be suitable art.

Maybe there should not be any National Endowment for the Arts. Maybe the Government should never be in the business of making judgments of taste, because that is what the NEA does. I think that is an arguable position. But the question is not whether the NEA should do it or not do it. We have already decided that. The NEA is in that business.

The question is whether we in the Congress of the United States should try to establish some criteria by which we define what is or is not suitable art. That is what the Senator from North Carolina does by his amendment. His amendment does not say that the Mapplethorpe exhibition is pornography and it should not be funded. He does not say that. He goes much more broadly than that. He does not say that Mr. Serrano should or should not be funded by the NEA.

He goes much more broadly than that in the terms of his amendment, and I want to read a couple paragraphs because we have been focusing on obscenity and I think everybody knows that obscenity has been a problem for the Supreme Court of the United States. But he also says in paragraph 2 that the amendment covers material which denigrates the objects or beliefs of the adherents of a particular religion on nonreligion.

Mr. President, consider what that means: Material which denigrates the object or beliefs of the adherents of a particular religion or nonreligion.

Does it denigrate the object of a religion to portray Christ as a clown? Well, the musical Godspell did just that. It portrayed Christ as a clown. Could it be found by some administrator that the portrayal of Christ as a clown denigrates the object of somebody's religion? Of course it could.

Godspell probably would be covered by the breadth of this amendment.

How about a portrayal of Christ as a wild animal? Would that portrayal denigrate a person's religion? Well, C.S. Lewis did that in "The Lion, the Witch and the Wardrobe." It was a book about Christianity and the Christ figure was a lion and some administrator, some bureaucrat could have said that denigrates a person's religion. C.S. Lewis spent his academic and literary life describing his religious beliefs which were very, very profound beliefs.

How about in the world of music? Could it be said that the beliefs of the Quaker faith are denigrated by Onward Christian Soldiers Marching as to War?

And then how about the question of race. I remember from my own part of the country, "Tom Sawyer" and "Huckleberry Finn." There have been those throughout the last number of decades who have tried for one reason or another to get "Tom Sawyer" and "Huckleberry Finn" off of the shelves of our schools.

This amendment would say that "Tom Sawyer" would not have qualified for an NEA grant and "Huckleberry Finn" because it could be argued that they denigrated an individual, namely Nigger Jim, as he was called according to his race.

Or how about creed? Can we think of anything in the annals of literature that denigrates an individual because of his religion? How about the "Merchant of Venice"? How about William Shakespeare himself? Would that be covered by this amendment? I think it would be. This amendment is not just about Mapplethorpe. It is also about Shakespeare.

And in our own time in American literature Alice Walker's great little book, "The Color Purple," made into a movie, clearly denigrates men.

And this amendment says that material that denigrates or reviles a person on the basis of sex falls within the parameters. I take it that "The Color Purple" would not have qualified for an NEA grant.

How about age? I do not remember the name of the book, but I do remember that Bill Cosby, the famous comedian, wrote a book about kids. It is a spoof of children, and his television programs are always doing that. And I take it that those programs and that book denigrate people on the basis of age.

Then there is national origin which is also covered, material that denigrates or reviles on the basis of national origin. Perhaps "The Godfather"—the head of Paramount Theaters was visiting with me recently. I said what is the greatest movie you ever made? He said the two Godfather movies taken together, absolutely the essence of American art, and it would be covered by this amendment.

I am not for Mapplethorpe. I am sick that a dollar of taxpayer money went to pay for this kind of junk. I am sick about it. I could just see the faces of the people of Sedalia, or Cabool, or Mountain Grove, MO, if they were told that they had to pay for this. It truly is outlandish. That is not the issue.

The issue is: How good are we at defining whether something is suitable art or not suitable art and how do we draw those definitions? And should we really write definitions on the floor of the Senate which cover "Godspell," and "Tom Sawyer," and the "Merchant of Venice," and "The Color Purple," and "The Godfather?" Mr. President, I think the answer is no.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. DANFORTH. Of course.

Mr. JOHNSTON. First of all, I want to congratulate the Senator from Missouri for one of the more eloquent speeches I have heard on the floor of the Senate. Really outstanding. I congratulate him for that. Second, he dealt with the difficulties of religion and definitions. But he also mentioned, quoted in the amendment, that it also covers a nonreligion.

Now, would the Senator care to talk about what a nonreligion is? Would that include Ku Klux Klan? Would it include one of these Nazi cults? What does nonreligion include?

Mr. DANFORTH. Well I would certainly think that it would include cults. I would think that it would include organizations that had a kind of pseudoreligious bent to them; cross burning might be one.

It could include literally anything under the Sun. I suppose that what is not religious in nonreligion.

Mr. JOHNSTON. Well the Ku Klux Klan for example can get protection from the Federal courts in the first amendment. I am a strong supporter of the first amendment. Surely under this language the Ku Klux Klan would be able to find some support, does the Senator not believe, because of the broadness of this language?

Mr. DANFORTH. I would think that their lawyers would be looking into it the day after this becomes law.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. I hesitate to speak after the eloquence of our colleague from Missouri, but I will for just a moment or two because what Senator JOHNSTON just talked about is extremely important.

That paragraph 2 says, "Material which denigrates the objects or beliefs of the adherents of a particular religion or nonreligion." That would mean you cannot have any art that in any way denigrates the Ku Klux Klan. You could not have any anticommunist literature or painting or art production.

For example, Michelangelo, much of his work was of a religious nature.

Groups who are adherents to a nonreligion, let us say, the organized atheists would object to Michelangelo getting any subsidy from the National Endowment for the Arts. Or let us say that someone wants to do an art work about the Holocaust, the devastation

that was meted out to the Jewish people. Well, we have these neo-Nazi groups who are adherents of a particular nonreligion who could object to that.

I just do not think we want to go in this direction. I do not question the intent of the Senator from North Carolina. But this is far, far too sweeping.

Yes, there was an outrage in funding of these two pieces and there would not be a Member of the Senate who would vote for funding those. But let us not just massively do harm to this Nation because of two mistakes made by the National Endowment for the Arts.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I wish to join the Senator from Illinois in commending my friend from Missouri. I would take only a slightly different approach to the point which he made. Beginning by saying that I agreed with almost everything which my distinguished friend from Texas said, except for his conclusion, and disagreed with much of what the first speaker, the Senator from Colorado, said, except for his conclusion.

I do not believe that there is any duty under the first amendment for the taxpayers of the United States to support Mapplethorpe or Serrano, or for that matter, any art. If the Senator from North Carolina had simply suggested striking the appropriation for the National Endowment for the Arts we could have had a debate over that subject. He did not. He simply restricts what the Government, through the National Endowment for the Arts, can accomplish.

I have already spoken at length and I hope with some eloquence on the total inappropriateness of funding either of these exhibits, or either of these so-called artists, on the part of the National Endowment for the Arts. I have advocated that the entities which were subsidized by the National Endowment for the Arts be deprived from any further grants for a period of 5 years, and that is exactly what the committee in the bill which this body has passed and has in conference now did. A highly appropriate response to a highly inappropriate use of Federal money through the National Endowment for the Arts.

But it is totally inappropriate for the proponents of this amendment to equate an opposition, first, either to the so-called art which they criticize or to a Federal subsidy for the arts with this amendment. This amendment goes so far beyond our natural and appropriate objections to those two particular art exhibits as to be absolutely absurd and totally dangerous, whether or not it is constitutional. And I do not express any view on that subject right now.

I want to concentrate a little bit more precisely perhaps than even the Senator from Missouri did on a few of the operative words in this amendment. This amendment does not simply prohibit the National Endowment for the Arts from spending money to produce this or any other kind of art. The operative words in the beginning are "promote or disseminate." And then when we drop down to the third subsection material which denigrates—a very broad term—a person, a group or class, on the basis of race, creed, sex, handicap, age, or national origin. Obviously as the Senator from Missouri said that would prohibit the National Endowment for the Arts from distributing a book of Mark Twain's novels or Shakespeare in any volume certainly, which included the "Merchant of Venice." But it would go far beyond that.

In fact, Mr. President, we have in the rotunda of the Russell Building an exhibit now which would violate the theory of this particular amendment were it to apply to the Congress as well as to the National Endowment for the Arts. If you will look at that exhibit of the history of the Senate, and the larger exhibit which begins today in the Library of Congress on the history of the Congress, you will see political cartoons from the 19th century which denigrate Irish, Catholics, and many other groups in the standard form of 19th century political attack. But individuals are attacked on the basis of their national origin or their religion.

This amendment would prohibit even in an exhibit of the history of politics in the United States the famous cartoon from late 19th century, "Rum, Romanism, and Rebellion," as my friend the Senator from New York well understands. It would certainly prohibit any current exhibit of political cartoons attacking Jim and Tammy Bakker, or for that matter the Ayatollah Khomeini could not be disseminated even after they were produced as examples of American art or American political cartooning by any money from the people of the United States.

This amendment is not connected with Serrano and Mapplethorpe. It is not connected with them. It deals with an area so much more broad as to be fatally flawed for that overbreadth.

I commend to the Members of this body a view of exactly what the Appropriations Committee did, quite appropriately, to discipline the National Endowment for the Arts for its terribly flawed judgment in connection with these two exhibits. That kind of prohibition against any money for a 5-year period for the two organizations which promoted and disseminated and caused or aided in the production of these exhibits will be a salutary discipline indicating to the National Endowment for the Arts that there are certain standards which the people of the United States and the Congress of the United States demand.

But, to say that a wide range of the fine arts and the literature and the politcal cartooning of the history of the Western World cannot so much as be disseminated by the use of any Federal money is simply to deny our own history and our own culture.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Idaho.

Mr. McCLURE. Mr. President, I am not at this hour going to attempt to go into all of the issues that are brought about by this discussion. I do take the time only to correct a misapprehension that I find in much of the mail that I am getting on this subject.

The question whether it is appropriate or not for the Senate of the United States or the Congress of the United States to attempt to set standards is not the issue. I agree with the Senator from Missouri. He was very eloquent indeed and he was addressing the right question, that we ought to be talking about in this amendment. But there are others who have not done so.

Mr. President, I am angry. I am angry, and I think all of the people who are concerned about Government funding of the arts ought to be angry also. I am angry because an error of judgment or errors of judgment have reduced the public support that is essential for public support for the arts.

I believe that instead of saying we should not discuss this issue, people out in the art community should be saying: Those people that made that decision to produce and disseminate this art did something fundamentally to hurt public support for the arts of this country. And I am angry that they did that.

What is the appropriate answer to that question? I thank the Senator from Washington for pointing to the provision in the Senate bill that provides for a ban on the funding of two particular institutions for a period of 5 years. I think that is appropriate. I am the author of that provision. I did that because I want to focus on those who caused the problem and not upon the arts more broadly.

But the misapprehension to which I wish to draw attention tonight is that this is somehow constitutionally banned infringement of first amendment rights. This is not my opinion.

I want to read from an opinion of the Supreme Court of the United States in the case of *Regan* v. *Taxation With Representation of Washington*, a 1983 case, 461 U.S. 540 and following. I read from page 548 and 549.

The court of appeals, in discussing first amendment rights on a discre-

tionary basis, suggested that "strict scrutiny applies whenever Congress subsidizes some speech, but not all speech. That is not the law."

That is the Supreme Court, in a unanimous decision.

Or, later in the same opinion, it says, "We have held in several contexts that a legislature's decision not to subsidize the exercise of a fundamental right does not infringe the right, and thus is not subject to strict scrutiny."

In the Buckley versus Valeo case, it was argued that the provision that allowed "Federal funds for candidates for public office who enter primary campaigns, but does not provide funds for candidates who do not run in party primaries * * *" was subject to challenge under first amendment and equal protection provisions. The Court said, "We rejected first amendment and equal protection challenges to the provision without applying strict scrutiny."

After listing a number of other Supreme Court cases they said in these cases they "considered legislative decisions not to subsidize abortions, even though other medical procedures were subsidized. We decline to apply strict scrutiny and rejected equal protection challenges to the statutes."

I take a little bit of time to read from this unanimous decision of the Supreme Court in 1983 so we do not divert ourselves into the question of whether or not we are unconstitutionally infringing with rights of free speech guaranteed under the first amendment.

It is clear under this decision that the Congress can, if they desire, establish standards. As to the question of the wisdom of whether to apply standards or whether or not the standards applied are wise, that is a different debate. And that is an appropriate debate.

I will conclude only by saying: If, indeed, if the conclusion of some, as it may well be, that we should fund the arts and not establish any standards, then we begin to trouble the Senator from Idaho and I know we trouble the people I represent, because they are not very anxious to have their money, taken from then, to be given to someone else to spend with absolutely no standards.

Mr. JOHNSTON. Will the Senator yield?

Mr. McCLURE. I will be happy to yield to my friend from Louisiana.

Mr. JOHNSTON. Mr. President, I very much appreciate the Senator's remarks and I think the Senator should know the Senator from Idaho is one of the leaders on this conference. The Senator from Alaska, Senator STEVENS, is one of the strong leaders in this conference, along with Senator RUDMAN, one of the strong leaders in this conference, as is Senator BYRD.

We do now have what is traditionally called the more liberal side of this body who is leading on this issue. We have those who tend to be in sympathy with those who would criticize Serrano and Mapplethorpe, and who will try to do that which is appropriate to prevent it.

Would the Senator agree with that point?

Mr. McCLURE. I certainly agree with my good friend from Louisiana, indeed, there are many on the conference who are very thoughtful and I hope will try to take the appropriate action.

I think the Senator knows from our discussions in the conference this afternoon that I believe we ought to attempt, in statute, to set some standard. I am not comfortable with the idea that it is our duty to provide money, but it is not our place to say how it should be spent. I am not comfortable with that notion.

As difficult as it is to set standards, I think we must. I, again, quote from the Court, Justice Rehnquist, writing the opinion on behalf of the Court in the Regan case when he said: "For the purposes of these cases appropriations are comparable to tax exemptions and deductions, which are also a matter of grace that Congress can, of course, disallow. * * *"

I think it is within our power to do it. I hope we have the wisdom to do it well. And I am going to vote for the Helms amendment, knowing that even with this direction to the conferees, the conferees will be challenged in the conference with the other body to uphold the Senate position but, nevertheless, in the spirit of compromise, which is always there in a conference, to come up with language which is acceptable to both bodies. That is our challenge. That is what I will try to do as a member of the conference.

I do not believe that voting for the Helms amendment deprives us of that opportunity and it certainly underscores that responsibility.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. McCLURE. I will be happy to yield to the Senator from West Virginia.

Mr. BYRD. Mr. President, I am the chairman of the conference. And those Senators who have been most active in trying to develop language to deal with this matter are Senators JOHNSTON and McCLURE and RUDMAN and STEVENS. There are two sides sitting at that table. We are very conscious of our duties as conferees. We always attempt to uphold the Senate's position on a matter. It is a matter of give and take when you go to conference. You cannot have everything your way no matter who instructs whom. But I want to say to my colleagues that this matter has probably been the most thorny matter to confront our conference.

We have been talking about this matter from the beginning, mostly other Senators, I say. I have had other things to consume my time and my energies. Staffs have discussed this from the beginning, and we have been meeting over a period of many days in preconference meetings, preconference sessions. Senator McCLURE and I have been in those preconference sessions with Mr. YATES and Mr. REGULA.

Mr. McCLURE. For hours.

Mr. BYRD. Hours. I think it is obvious to anyone who has sat in on the conference that this matter is something of genuine concern to all the conferees. I have been just as offended as anyone could be by the so-called art, but what we are trying to do is to develop something that is workable, effective, something that gets to the heart of the matter.

We are not talking about first amendment rights. Nobody can keep an artist from drawing whatever he wishes or painting whatever picture he wishes or sculpting whatever image he wishes, but it is whether or not the taxpayers of this country are going to subsidize that which is offensive. And I should think what we are talking about here would be offensive certainly to an overwhelming majority of the American people—offensive. It is obnoxious. It is disgraceful, in my view. But to say that is not to say that it is easy to work out with other conferees, considering the fact that there are Members of both bodies who will probably have to contend with this issue again when the conference report goes back to the two bodies. We have to get something that will be passed by both bodies, and that will get to the crux of the matter and prevent the use of the taxpayers' money in the future.

So I say to the distinguished Senator from North Carolina, we conferees take just as seriously our responsibilities as does the author of the amendment, and I sympathize with what he is trying to get out. I accepted that amendment here when the Interior appropriations bill was before the Senate. When the bill was before the Senate, I accepted the amendment and said we would take it to conference. I am in sympathy with the amendment, and had there been a vote on it, I would have voted for it. But developing a piece of legislation that will meet the court tests and get to the gravamen of the problem is an extremely difficult thing.

Having said that, may I say to my friend from North Carolina that the appropriate time for him to raise this question would be when amendments are brought back in disagreement, and this is probably one that will be brought back in disagreement. He certainly has a right to raise it here, but

as a conferee, I will pay no attention whatsoever to this instruction. Conferees are not bound by the instructions of the Senate. The Senate can instruct all it wants. Those instructions are not binding on the conferees. They are still exercising their own free will, and Senate conferees normally try to uphold the Senate's position. That is what we are trying to do. That is what we are trying to do in conference.

These Senators who I have named have given the best of their talents, and they are very talented men in word craftsmanship, and they are trying to take into consideration all of the pros and cons that might be advanced by Members on both sides of the aisle, on all sides of the question. So to offer another instruction here is really an exercise in futility, as far as I am concerned.

As a Senate conferee, I am going to do my job to the best of my ability to uphold the views of the Senate, but I am not going to follow the instructions of this amendment or any other amendment or resolution that might be introduced on this subject. We are going to do the best we can, and that is all we can do.

So I would say to my friend, he can perhaps get a vote here. Perhaps that is what he wants. I do not mind voting on it, but as far an instructing these conferees, it is a waste of time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho retains the floor.

Mr. McCLURE. Mr. President, as I indicated earlier, certainly the conferees have a very difficult task, and I accept the move by the Senator from North Carolina in the motion to instruct the conferees as an extraordinary action, something which we do not ordinarily do. While certainly the Senate cannot bind the conferees in a way which makes it impossible for us to act in the conference, this Senator will attempt to carry out, as best I can, whatever the instructions of the Senate may be.

As I said earlier, I will vote for the motion to instruct knowing the difficulty of trying to accomplish in the conference what the motion will set before us as our task.

Mr. JOHNSTON. Will the Senator yield?

Mr. McCLURE. But knowing as I do from the discussions we have already had in the conference that the conferees on the part of the other body are not going to simply take what we take into the conference. That is the nature of the conference.

Mr. HATCH. Will the Senator yield?

Mr. McCLURE. But I guess I differ a little with my friend from West Virginia in that I do not believe a motion by any Senator voted upon by the full Senate means nothing. It means something, but it certainly cannot bind us.

Mr. HATCH. Will the Senator yield?

Mr. McCLURE. I will be happy to yield.

Mr. HATCH. I would like to ask some questions. I personally believe the distinguished Senator from North Carolina has done the whole country a service. This morning the Labor and Human Resources Committee, upon which I am the ranking member, unanimously passed a new head of the National Endowment for the Arts, John Frohnmayer. Everybody agrees that he is going to be a wonderful leader of the National Endowment for the Arts. I strongly support him; I strongly support the Endowment.

I want to ask the distinguished Senator from Idaho, does he believe it helps for this body to send a message to the other body that we want you to not only consider the Helms amendment, but if you can improve upon it, as the distinguished Senator from Louisiana says he will, that you will do so? Does that not have efficacy, at least to the distinguished Senator from Idaho, as to the wishes of not only the distinguished Senator from North Carolina but millions and millions of people across this country who are sick of this type of stuff? All they are saying is artists can do whatever they want to do, and I uphold their rights to do, but they do not have a right to come to us and say, "Fund us. Send us $15,000 here, $12,000 here, $35,000 here," and then use the funds to denigrate things people in America value greatly. Basically my question is, if we vote for this motion tonight, does it not help us in dealing with the House?

Mr. McCLURE. I think it is obvious, in answer to the Senator from Utah, that a vote for the Helms motion this evening will strengthen the position of the Senate conferees in negotiating with the other body with respect to this issue.

If the motion is defeated in this body tonight, then the position of the Senate will be diminished in our conference with the other body.

Mr. HATCH. Again, another question. I have seen the hue and cry all over this country by those who are strong supporters of the arts, and I happen to be a strong supporter of the arts. Many of them have tried to justify what has gone on. We see one of the major galleries down here lose a $1 million gift because they had the temerity to cancel the Mapplethorpe exhibition.

Mr. McCLURE. Will the Senator yield on that point? I very much commend the directors of the Corcoran for canceling——

Mr. HATCH. I do, too.

Mr. McCLURE [continuing]. The exhibit. I recognize that whoever was in the position to make a gift to them has the right to give it or withhold it on the basis of how they exercise their judgment. And that is what we seek to give to the Congress of the United States, the same right that that individual donor exercised.

Mr. HATCH. Would not the distinguished Senator from Idaho agree, despite the hue and cry about this amendment, its objective is really quite reasonable, and that is that the taxpayers should not be forced to subsidize this type of awful material?

Mr. McCLURE. I agree.

Mr. HATCH. I do not see how anybody who looks at those photographs can say this is the type of stuff we ought to be subsidizing.

Mr. McCLURE. I agree.

Mr. HATCH. That is what this is all about, and that is why the distinguished Senator from North Carolina brought this particular motion at this time. He wants us to vote not because he thinks the conferees are going to have to adopt the Helms amendment word for word. He wants us to vote to help the American people understand that we in the Senate are concerned that sometimes the Endowment goes too far, and maybe this is a very appropriate day to send that message, since today we reported out of committee the next head of the National Endowment for the Arts, who I believe will do what is right. But this message goes out on behalf of every taxpayer in America who is sick of that type of stuff. Would that not be a fair appraisal?

Mr. McCLURE. Yes. I see the issue in the same way the Senator does. The Senator from Washington earlier commended the position that the Senate had taken in focusing on two offending institutions that had misused the trust and abused the trust of the American public.

The other body, I would say, is opposed to those provisions, and therefore we are in the conference likely to be faced with a demand. We have been faced with a demand on the part of the conferees, on the part of the other body, to drop those provisions. I am very reluctant to drop those provisions, if indeed we have not attempted at all to set any kinds of standards. And they are asking us not to set any standards and not to take any direct action either.

I think our position in the conference will be strengthened if the Helms motion is adopted this evening.

Mr. HATCH. I have watched with a great deal of interest the utter calumny that has come down upon the head of the distinguished Senator from North Carolina, once the Senate adopted this amendment.

There has been screaming and shouting all over this country by people whose views on this matter, I think, fly in the face of what the average American really believes.

Mr. McCLURE. I say to the Senator from Utah I think a great deal of the criticism of the actions being taken are without any reference to the kind of material which was produced and disseminated. I think many, many, many of those people who have contacted us and said take no action, set no standards, have no idea of the kind of debased material that we have seen as a result of these two exhibits.

Mr. HATCH. They have no idea. I want to compliment the distinguished Senator from West Virginia. He hit the nail on the head. I also compliment the distinguished Senator from Missouri, who made very eloquent remarks.

There is no question that the National Endowment for the Arts, even if this amendment were adopted in toto, word for word, would be able to put out Shakespeare's "Taming of the Shrew" or "Huckleberry Finn," Mark Twain's great classic.

The fact is the distinguished Senator from West Virginia hit the nail on the head. We should not be subsidizing offensive material. And those photographs recently funded by the Endowment are offensive.

Mr. FOWLER. Will the Senator from Utah yield?

Mr. HATCH. I cannot yield.

Mr. FOWLER. Will the Senator from Idaho let me ask a question?

Mr. HATCH. If I can finish what I am trying to do. Let me just say this. Even if the distinguished Senator from Missouri was right, so what? We are talking about the National Endowment for the Arts and their limited role with limited funding to subsidize worthwhile projects of today.

Now, I prefer that issue to never come up, and I hope the conferees will resolve it to everyone's satisfaction. But do not tell me that this amendment is unconstitutional because it is not, nor is it a first amendment problem. It is not.

The fact is we have the right to do this if we want. It may be advisable, it may be inadvisable, and I think there are plenty of arguments on both sides. But my basic question is this. Should the taxpayers be forced to subsidize material denigrating religious beliefs or artifacts as we have seen attacked here in the material which has led to the introduction of this amendment?

Mr. McCLURE. Mr. President, I would say that the real question that was addressed by the Senator from Missouri with respect to what kind of standards should we set or can we set any is that we are debating, not the question of whether we have the legal right or the constitutional capacity. I think that is beyond question.

But I do think that the question of whether we can write a statute that allows us to have more confidence in the expenditure of the taxpayers' money is really the gravamen of this argument.

We were in the conference wrestling with that today. We will be again tomorrow. We are going to do our level best to answer that question in a way that satisfies not only this body but the American people.

I do not think the Helms motion of this evening will harm us in that effort. I think it will help us in that effort.

Mr. HATCH. Let me ask——

Mr. METZENBAUM. Regular order, Mr. President. One Senator may not yield to another.

The PRESIDING OFFICER. The Senator from Idaho has the floor unless he is about to yield it.

Mr. McCLURE. I say to my friend from Ohio, I was not yielding to anyone else. I was seeking to yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island [Mr. PELL], is recognized.

Mr. PELL. Mr. President, I think we all start out equally revolted, disgusted by the Serrano picture of the crucifix in urine and Mapplethorpe's deeply digusting pictures. We all agree on this.

However, I find this debate of particular interest because I am the only survivor in the Congress amongst the principal sponsors of the legislation that established the NEA in 1965. We held at that time exhaustive hearings starting in 1963 in previous Congress.

We were concerned at that point over the problem of Government censorship. We did not want to become like Iran or Nazi Germany, and the fear amongst us as we drew up the charter or the legislative language of the National Endowment of the Arts was to make sure there could be no Government interference or censorship.

As President Johnson said in 1965:

We fully recognize that no government can call artistic excellence into existence. It must flow from the quality of the society and the good fortune of the nation. Nor should any government seek to restrict the freedom of the artists to pursue his calling in his own way. Freedom is an essential condition for the artist, and in proportion as freedom is diminished so is the prospect of artistic achievement.

I recognize there that license should not be confused with freedom, as it may have been in the two instances under consideration. We sought at the time, though, to incorporate these cautions of President Johnson in the very language of the legislation.

Thus the legislation reads today:

In the administration of this act no Department, agency, officer or employee of the United States shall exercise any direction, supervision, or control over the policy determination, personnel, or curriculum or the administration or operation of any school or non-Federal agency, institution, organization, or association.

Over the years since that time there have been some 85,000 grants made, of which half a dozen, maybe a dozen, have been questionable or in very bad taste like Serrano and the Mapplethorpe ones. Early in August, concerned with this problem, I wrote a formal letter to the acting chairman of the Arts Endowment to the effect that the National Council on the Arts should undertake a full-scale review of grant procedures, and report to me. Their conclusions will be incorporated into the Endowment's reauthorization process, which to my mind is the place where this discussion should occur.

This is an authorizing problem, not an appropriating problem, and in the reauthorization, which will be coming along before too long, this matter will obviously be discussed.

As it is now, if the amendment passed, if it is followed literally, we would find sculpture like Rodin's The Kiss or Michelangelo's figures in the Sistine Chapel forbidden. I do not think we mean to do that.

So my own hope is that we should defeat the pending amendment.

Finally, I ask unanimous consent that a letter from the Senator from Massachusetts [Mr. KENNEDY] and me written to the Senator from West Virginia [Mr. BYRD] on this subject be inserted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON LABOR
AND HUMAN RESOURCES,
Washington, DC, September 12, 1989.

Hon. ROBERT C. BYRD,
Chairman, Subcommittee on the Interior, Washington, DC.

DEAR MR. CHAIRMAN: As Chairman of the Labor and Human Resources Committee and its Subcommittee on Education, Arts and Humanities, which have legislative jurisdiction over the National Foundation on the Arts and Humanities, we are writing to express our deep concern over the pending Interior Appropriations bill and its effect on the Foundation.

We oppose the provision which would prohibit the National Endowment for the Arts from supporting any proposals by the Southeastern Center for Contemporary Art in Winston-Salem, North Carolina and the Institute for Contemporary Art at the University of Pennsylvania for a five-year period, regardless of the merit or quality of their prospective proposals. While the Endowment's oversight procedures were too lax in permitting the grants in question to be made, this provision is unreasonably punitive and we object to the proposal on policy grounds, and we also believe that it is subject to serious constitutional objections.

A second provision, proposed by Senator Helms and adopted by the full Senate, jeopardizes protections for freedom of speech and expression and raises additional questions of constitutionality. This amendment, which also proscribes limitations on use of Endowment funds, is vague and overbroad.

Virtually any work of art under the provision could be rejected as offensive to one group or another. Since no objective standards are established, the provision is an invitation to abuse through the application of subjective and arbitrary standards.

We support the peer panel review system at the Endowment and feel it has achieved an exemplary record for the agency over the past 24 years. The study mandated by the bill on the grant process, along with appropriate limitations on subgranting, will effectively address accountability and oversight requirements of the Endowments. We intend to continue to work closely with the Endowment during the upcoming reauthorization deliberations to ensure that effective guidelines and standards are applied.

We support the Committee's recommendations on funding levels for the Endowments, but we strongly urge the Conference Committee to delete the unwise provisions we have mentioned.

Thank you for your consideration and courtesy in this regard. With best wishes,

Sincerely,

CLAIBORNE PELL,
EDWARD M. KENNEDY.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire [Mr. RUDMAN] is recognized.

Mr. RUDMAN. Mr. President, I thank the Chair.

Mr. President, I am a member of the conference the distinguished chairman of the Appropriations Committee referred to a few moments ago. That conference has in fact been laboring mightily to try to meet the wishes generally expressed by the Senator from North Carolina. I might say that there has been substantial movement in that conference. The Senator from North Carolina came to this floor on the appropriations bill and submitted this amendment which was accepted. I dare say with great respect to my friend from West Virginia that, had more of us been on the floor, we might have had a debate about that. We might have convinced the Senator from North Carolina that if he had limited that amendment in some way, we might not be here tonight because I submit several things to you: that we ought not to get too hysterical about this because there is one section of the Senator from North Carolina's amendment that not only makes sense but is easily dealt with.

There is a landmark decision in this country in the area of obscenity called Miller versus the United States. The Miller case, decided in 1973, and modified in some way, sets a standard of obscenity. If the art community truly believes that the U.S. Congress does not have the right to say that appropriated moneys should not be used for production of obscene material, called art or otherwise, then they do not understand the Constitution or the powers of the Congress. Certainly we can do that. That is not a first amendment issue. The issue is what standard do you use?

The Senator from Louisiana, the Senator from Idaho, and others have been discussing taking the exact language of the Miller case, which is the law of the land, not just for NEA, but for anyone, and simply saying that is a standard which we would like the NEA to use.

I think we are fairly close to getting some agreement on having that happen. There is nothing wrong with that. The Congress of the United States has every right to say that art or works of alleged art produced with taxpayers' funds should meet the U.S. Supreme Court standard for obscenity. It is not unreasonable.

Unfortunately, the Senator from North Carolina went beyond that, and had I been on the floor that night, I would have strongly urged him to drop sections 2 and 3 of this resolution we have here before us.

With all great respect to my learned friend from Utah, who just spoke, who I know is an experienced lawyer, I must say as one who practiced law for a long time as attorney general of my State, argued many cases in every appellate court you can think of, that if you read these two phrases, if two ever qualified to get struck down for vagueness and imprecision, it is these two: "material which denigrates the objects or beliefs of the adherents of a particular religion or nonreligion." Or, three: "material which denigrates, debases, or reviles a person, group, or class of citizens on the basis of race, creed, sex, handicap, age, or national origin."

Mr. President, let us get down to the facts here. I do not think anyone can ask any agency to enforce that kind of a standard. It is unenforceable. Everybody knows unless this is just a political vote as someone suggested here earlier, it is going to cut both ways. Nobody could enforce that standard.

Somebody may get up here on the floor in a few moments and say they can, but if they say that, I want to ask them the simple question, How many cases have they tried in the obscenity area and how many cases have they briefed? Because I have and I know others on this floor have. I know the majority leader heard such cases as a U.S. district court judge. You cannot meet that standard. But you could meet the standard in paragraph 1, because the standard in paragraph 1 is in fact inclusive within the Miller language. There is no question. If anybody doubts it, read the Miller language. We have it. We read it this afternoon.

Mr. MITCHELL. Will the Senator yield?

Mr. RUDMAN. I am pleased to yield to the distinguished majority leader.

Mr. MITCHELL. Will the Senator agree that the word "indecent" in the first paragraph is not in the Miller language?

Mr. RUDMAN. Absolutely.

Mr. MITCHELL. Will the Senator agree that the first paragraph with the word "indecent" stricken would be enforceable?

Mr. RUDMAN. As usual, my friend from Maine as a Federal judge and majority leader has great precision. He is absolutely correct. The word "incident" does not appear. As a matter of fact, the Miller language sets forth a number of standards and then sets forth a model statute, unusual for the U.S. Supreme Court, and says if you follow this statute it will be OK with us.

Mr. MITCHELL. If the Senator will yield further, will the Senator agree that the phrase "incident" is not a standard which is now susceptible to definition by the Supreme Court precedent as is the phrase "obscene?"

Mr. RUDMAN. The majority leader is precisely correct. That is exactly in the Miller case.

Let me conclude by simply saying this: If the Senator from North Carolina wants to get at the Mapplethorpe exhibit—which, frankly, Mr. President, we have talked about, and it is trash. I must say to the arts community in my State that has written to me, please do not write me any more letters defending that trash. It is trash. Do not call it art. If it is art, it is art to people with twisted minds. But do not throw out the baby with the bathwater.

If my friend from North Carolina came to this floor with the language of the Miller, case, which is right on point, and everybody knows what it means, then I could support that easily. And I would have supported this as it is in article I, even though I think it is a bit vague. But I cannot in good conscience vote for a resolution that contains Nos. 2 and 3.

One last thing: The Senator from North Carolina, I am sure, is going to say that the Congress has the power to narrow beyond the Miller case, and we do. Let me simply say that if we want to do something that is enforceable, I suggest we use a standard that everybody understands. I would like to think we would pass laws around here that can be enforced, and achieve a purpose.

I commend the Senator from North Carolina for raising the issue. It is an important issue. I think the obscenity aspect of it can be treated with, and I believe the Senator from Louisiana and the Senator from Idaho and others tomorrow in the conference will meet that issue. I do not think we can meet issues 2 and 3 because they are impossible to define, and I respect the Senator for what he is trying to do. I just do not think he did it with Nos. 2 and 3.

Mr. HELMS. Will the Senator yield?

Mr. RUDMAN. I am pleased to yield for a question.

The PRESIDING OFFICER. The Senator from New Hampshire has the floor, yielding to the Senator from North Carolina for a question.

Mr. HELMS. First of all, let me confess I have never tried a case in court. I am not a lawyer, and I am very proud of it most of the time.

Mr. RUDMAN. Sometimes, I say to my friend, being a lawyer does help around here.

Mr. HELMS. But not much. Is the Senator familiar with the 1951 decision Beuharnis versus Illinois?

Mr. RUDMAN. I read it some years ago, yes, I did.

Mr. HELMS. It has never been challenged, is that correct?

Mr. RUDMAN. I would not accept that. I would accept the 1973 Miller case as the landmark case. If the Senator wants to give me about 10 minutes to shephardize that case, I can answer the question, but I do not believe that case stands on all four squares today. No; that is my answer.

What particular holding in that case does the Senator believe still exists in light of the Miller case? Can you tell me that?

Mr. HELMS. Let me proceed a moment—and I thank the Senator for his remarks, and I thank him for the favorable things he said about my intent, but the Senator is addressing the first prong of my amendment and I am trying to address the third prong.

Now, as I understand it, and I think I am correct about this, because I have checked it carefully. Beuharnis claimed that an Illinois statute violated his right to free expression. The Supreme Court rejected his argument, and to this day that decision is the law of the land.

Now, the Illinois statute that the U.S. Supreme Court upheld in the Beuharnis case made it unlawful to display pictures or distribute information "which said publication or exhibition exposes the citizens of any race, color, creed, or religion to contempt, decision, or obloquy." My amendment does not prohibit material—just Federal funding for it—if it "denigrates, debases, or reviles a person, group, or class of citizens on the basis of race, creed, sex, handicap, age, or national origin." It should be apparent that the statute upheld in Beuharnis served as the model for the third prong of my amendment.

In rejecting Beuharnis' argument that the statute violated his first amendment right to free speech, Justice Frankfurther, for the Court, said, "There are limits to the exercise of these liberties of speech and press."

Mr. RUDMAN. That is a defamation case, Senator. I know what you are talking about. You cannot equate that with an obscenity case.

I suggest to the Senator, taking his language out again, that, if he wants to talk about defamation, that is one thing. That is not what paragraph 2 says, clearly. That is citing the wrong case for the wrong reason.

Mr. HELMS. Again, the Senator is addressing the first prong of my amendment. I was refuting the criticisms aimed at the third prong of the amendment.

As for the Miller case, the Supreme Court's holding in *Regan* v. *Taxation with Representation* (461 U.S. 650) makes it inapplicable to my amendment. The Supreme Court's strict definition of obscenity in the Miller case was only for first amendment purposes—that is, when the Government wishes to totally preempt publication or distribution of materials. But that is not what my amendment proposes to do. My amendment would still allow any and all materials to be produced or distributed, but not with Federal funds.

The holding in Regan was merely a reiteration of a long line of cases holding that Congress has the right to restrict the funds it dispenses from the Federal purse. In 1977, the Supreme Court stated that "Congress' decision not to subsidize the exercise of a fundamental right, such as free expression, does not infringe upon that [first amendment] right." As Justice Rhenquist stated in Regan, "Although the Government may not place obstacles in the path of a person's freedom of speech [like banning it], it need not remove those [obstacles] not of its own creation [like lack of funding]."

I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. RUDMAN. I have not yielded the floor as yet.

Mr. FOWLER. Will the Senator yield——

The PRESIDING OFFICER. Excuse me, Senator.

Mr. RUDMAN. Let me just say to my good friend from North Carolina, I know how deeply disturbed he is personally by this exhibit, and I am, too. We are working very hard in this conference to set that correct.

I want to make an observation to my friend from North Carolina, that the history of the world is replete with good-intentioned people, putting limitations on the actions of others and getting totally unintended results.

If the Senator from North Carolina could draft provisions two and three in a way that was precise, I might support them. I am saying here tonight I do not believe that is possible.

I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, on the early evening of July 26, I rose to say—as I say now—"I rise in opposition," and I went through some remarks and said of the bill with its amendment, "Mr. President, I will vote no." I believe I was the only Member of the body to do so, and with that in mind I ask just a few moments to say why I did.

Mr. STEVENS. Will the Senator yield on that point?

Mr. MOYNIHAN. I will be happy to yield for a question. Will the distinguished Senator from Alaska say it is for a question?

Mr. STEVENS. I would be pleased to ask the question. Does the Senator from New York realize that Senator METZENBAUM, Senator CHAFEE, Senator COATS, Senator WIRTH, Senator JEFFORDS, as well as yourself, addressed the question that was before the Senate that night?

Mr. MOYNIHAN. I said no other thing but that I would vote no. I believe you are making a personal matter of this which is not intended to be made.

Mr. STEVENS. No.

Mr. MOYNIHAN. Mr. President, I yielded for a question. I answer that my statement said, "Mr. President, I will vote no." That is what I said.

I thought, sir, that at the time I was not trying to be too solemn about the subject of support for the arts, and I cited that lovely New York painter, John Sloan, who said, a half century ago in 1939, that "* * * it would be good to have a Ministry of Fine Art. Then we would know where the enemy is." That tension between government and the artist has been here with us as long as there has been government and artists is not in question. Indeed, this is nothing new.

Yet, how we address it on this occasion seems to me to say something about this time—our time—and it is a useful moment to reflect on it. I have been thinking about the descriptions of the crucifix. We are a body with many denominations, and at least two religions. In my religion, Roman Catholicism, the crucifixion always begins with the experience of the degradation of Christ. I repeat, the degradation of Christ. His clothes are gambled away. He is given vinegar. He is mocked. On the top of the cross, as it states in the Bible there is that mocking assertion in Latin, Iesus Nazarenus Rex ludaeorum, "Jesus of Nazareth, King of the Jews." Then follows death and the resurrection.

That is a deeply held tenent of one religion, and I can imagine many ways in which artists might choose to represent it. I do not speak to this particular representation in question, however. I have not seen it.

But, tonight, I asked for a Bible. Opening it, as chance would have,

thinking I would be toward the end of the New Testament, I found myself in the Revelations of St. John the Divine. Chapter 17; exactly where this page fell open. Chapter 17 of Revelations.

And there came one of the seven angels which had the seven vials, and talked with me, saying unto me, Come hither; I will shew unto thee the judgment of the great whore that sitteth upon many waters:

Verse 2:

With whom the kings of the earth have committed fornication, and the inhabitants of the earth have been made drunk with the wine of her fornication.

Verse 3:

So he carried me away in the spirit into the wilderness: and I saw a woman sit upon a scarlet coloured beast, full of names of blasphemy, having seven heads and ten horns.

Verse 4:

And the woman was arrayed in purple and scarlet colour, and decked with gold and precious stones and pearls, having a golden cup in her hand full of abominations and filthiness of her fornication.

Verse 5, as the distinguished Presiding Officer who is a scholar of the text will remember:

And upon her forehead was a name written, "Mystery, Babylon the Great, the Mother of Harlots and Abominations of the Earth."

Mr. President, this is part of our civilization. How would one respond if scenes from the Bible were precluded by some government agency? Some might judge so; others not, certainly not those who wrote the text.

Mr. President, it is not just or primarily this thought which I address but, instead, to the wilder, indiscriminate proposition offered in this amendment, and to which the distinguished majority leader went right to the heart of.

Clause one speaks of indecent materials. What are indecent materials? Is this a society which goes about judging indecency? We do have, in fact, a court decision on obscenity, Miller, and there is a definition there, broad enough. But "indecency"—the court would never think of deciding what was decent or indecent.

We go a long way back with this. In those early remarks last July I invoked Milton and his great defense against censorship. He wrote,

As good almost kill a man as kills a good book: who kills a man kills a reasonable creature, God's image; but he who destroys a good book kills reason itself.

Have we not fought these matters long enough in the West to know we have come the judgment that let the public taste prevail; let the public sense prevail?

The first great judicial decision of its kind, I believe, came in 1933 when Judge Woolsey in the Southern District of New York decided a case under the Smoot-Hawley Tariff. Senator Smoot was a great man very much opposed to smut. I can remember a few lines from my youth somehow:

Senator Smoot, a Republican ut,
Is planning a ban on smut.
Rooty-toot-toot
For Smoot of ut
And his reverend occiput.

Under the Smoot-Hawley Tariff, James Joyce's "Ulysses" was kept out of this country. "Ulysses" is surely read in every high school. If there is a high school in the land which does not teach it they would not wish it known. It is an elementary, extraordinary book. But Woolsey said of it in 1933 that:

The words which are criticized as dirty are old saxon words known to almost all men and, I venture, to many women, and are such words as would be naturally and habitually used, I believe, by the types of folk whose life, physical and mental, Joyce is seeking to describe. In respect of the recurrent emergence of the theme of sex in the minds of his characters it must always be remembered that his locale was Celtic and his season spring.

Mr. President, as I read the amendment before us, the statement "that his locale was Celtic and his season spring" would clearly be in violation of article three and so we would have the question whether, if Judge Woolsey were about today would he too be in violation of it. I do not know. But I would hope the Senate would save itself embarrassment; save itself ridicule; save itself disparagement; and save itself disgrace by voting to table this amendment tonight.

Mr. President, I thank the Chair. I thank the Chamber, and I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska, Mr. STEVENS, is recognized.

Mr. STEVENS. Mr. President, I hate to get mundane and go back to the fact that the Senator from Hawaii and I are trying to manage a defense bill on the floor. And I would like to just briefly state to the Senate what has happened and urge the Senate to come back to dispose of this amendment.

It is the sense-of-the-Senate amendment that we should insist on an amendment that has already been passed and is in another bill in conference. At the end of the consideration of that bill, on July 26, the Senate as we usually do, insisted on our amendments and appointed conferees. I am one of those conferees.

Contrary to what my good friend from Colorado has said it was not in the dark of the night. I remember standing here on July 26 and looking at this amendment which was on the desk and wondering what the devil are we going to do with that when we get to conference and listening to my friend from West Virginia say, "the Senator has discussed the amendment with me, I am ready to accept it and take it to the conference."

How many of us in managing a bill have done that in order to get something in conference where we could work on it? It obviously was dealing with something that was a matter of great national concern and still is.

If you have not seen Mapplethorpe, I challenge you to go see his photographs. They are in there. If there is anyone of you that can say you would approve money for it then I would say without any hesitancy they should not be in the Senate. It is so obscene, totally so obscene that it never should have had a dollar spent from taxpayers' funds. That is not the question.

You cannot amend this amendment before us. It is a sense-of-the-Senate resolution that we should be instructed to do what we already have been instructed to do. When we first faced it I urged the distinguished majority leader to just let it go to a vote. It is a vote that is meaningless as stated by the Senator from West Virginia because we have already been instructed to uphold the Senate.

We have been working now I would say literally for a month at least trying to find a way to uphold the intent of the Senate as expressed by the amendment of the Senator from North Carolina.

I wonder who we are trying to kid that somehow or other those people speaking for or against the amendment that already passed by the Senate somehow could be affected here tonight.

Someone asked why do not we move to table the amendment which expresses the sense of the Senate that we should do what we are doing. I assume that would carry. It should not carry. We should just say, "OK, you want to reaffirm your position that you passed an amendment, pass it the same way."

The only thing I am sorry is my friend from North Carolina will not let it go without a RECORD vote. He has a right for a RECORD vote and he asked for a RECORD vote. I will just say this to the Senate, Mr. President, let us get back to the defense bill, and let us get back to it without this on another bill. You know, that is what you are liable to do if you start trying to bend this amendment.

I am perfectly willing, as a conferee, to try to work this out. We have tried. We are going to do it and we are going to bring back to the Senate something some of you may disagree with, but it will find a way to deny the use of taxpayers' money to exhibits like Mapplethorpe. I think that could be done.

As I told the Senator from North Carolina, I am sure that when I come back as one of the conferees with that amendment, he is going to disagree with it. I am prepared for that time.

But why should we stand here and argue about something that has already been passed and, with due respect to everybody, why can we not vote on our defense bill, Mr. President? I would like very much to vote on the defense bill.

I will tell you all just a strange circumstance. About 4 months ago, I was asked to have a call-in show for Alaska and Alaskans are sitting up there now—and it is 7 p.m.; it is 6 p.m. in Nome, I said, "OK, we will do it, but let us do it on Thursday. I know we will be in session, but we are bound to be out of session by 11:30."

And since I have paid $5,000 for an hour for a call-in show to Washington from Alaska that starts at 11:30, please vote by 11:30. Will you please? [Laughter.]

Mr. MITCHELL. Mr. President, it is obvious that this issue is an important one and one which has generated a great deal of interest and debate.

To enable the managers and myself and the distinguished Republican leader to plan on how best to proceed, I wonder if I might inquire how many of the Senators feel the need to discuss this matter this evening.

Seven. I think there goes 11:30.

Could I inquire from each Senator what length of time they would intend to discuss this?

Senator WILSON?

Mr. WILSON. I should think 3 or 4 minutes would be adequate.

Mr. MITCHELL. Senator ARMSTRONG?

Mr. ARMSTRONG. Mr. President, if the leader would yield to me, I am uncertain as to how long I will take. I had not expected to speak on this issue. But, in fact, as I listened to the debate, I have been impressed by so much that has been said that I am called on to comment on it. So exactly how long I will take to speak will depend on how I feel when the moment comes and what might be said between now and then.

I have some reason to think I will be recognized first because I think I have been on my feet longer than any other Senator seeking recognition. So if I am not provoked further, I might not speak very long. [Laughter.]

Mr. MITCHELL. Mr. President, I hope the Senator does not regard my inquiry as a provocation.

Mr. ARMSTRONG. If the leader will yield further, I certainly do not regard it as such. But I must say that what some Senators have said here tonight was fraught with so many strawmen that strawmen could be erected and stacked around this Chamber. It is truly extraordinary.

Mr. MITCHELL. The Senator does not need to place a time limit on the length of time he intends to speak. He will have, obviously, plenty of time to debate this subject.

Senator CRANSTON?

Mr. CRANSTON. Two minutes.

Mr. MITCHELL. Senator CHAFEE?

Mr. CHAFEE. If I could have 3 minutes. I think I was ahead of Senator ARMSTRONG, but I think I better go after Senator ARMSTRONG. We do not want to encourage him too much here.

Mr. MITCHELL. I am not intending to cut anybody off or to suggest anybody speak less than they would like. I am merely trying to get an idea of what is in store for us, either this evening or tomorrow, to enable me to make a judgment on how much further we ought to pursue this matter.

Mr. FOWLER. Mr. President, I say to the Senator from Colorado that a lot of us have been here since the beginning of this debate, over an hour and a half ago, seeking recognition, not only myself, but the Senator from Ohio and the Senator from California. We have been here the whole time. We are glad he joined in.

Mr. ARMSTRONG. If the Senator will yield, if I was mistaken about this, I would be glad to speak at any moment. But at the exact time when the leader, who now has the floor, was seeking recognition, there was only one other Senator on his feet seeking recognition, and I was that Senator, I believe. But I am not trying to get ahead of the Senator from Georgia or anybody else.

As I said at the outset, I did not intend to speak in the first place. But I do intend to now.

Mr. FOWLER. I thank the Senator.

Mr. President, I guess in answer to the leader's question, I do not want to make a speech, but I would like to direct some questions to the author of the amendment, which has not been possible during this whole hour and a half of debate, to try to clarify the language and the intent of his amendment.

Mr. MITCHELL. Senator METZENBAUM?

Mr. METZENBAUM. Five minutes.

I would say, Mr. President, I think everybody's mind has been made up. My guess is that if other Senators would be willing to give up their time, this Senator would be willing to give up his time. I am just trying to give some suggestion to some others.

Mr. MITCHELL. That is very kind, but you have already spoken.

Mr. METZENBAUM. No, I have not. I have been on my feet a number of times, but I have not spoken this evening.

Mr. MITCHELL. It is so late, I am confusing this with other issues. [Laughter.]

Mr. DOLE. Mr. President, I think we have another question. If we are going to spend another hour on this, is it necessary that we do it tonight? Why not do it tomorrow morning? It is 11 o'clock at night.

It seems to me we ought to go home. If you want to get consent on the next bill, I am not going to stay here all night and get consent for 9 o'clock in the morning to start on the State, Justice, Commerce bill.

SEVERAL SENATORS. Vote.

Mr. DOLE. We ought to vote. If Senators would go look at the pictures, they would all vote not to table and we would be out of here.

Mr. MITCHELL. Mr. President, let me say that, in fairness to those who have not spoken, it is simply not fair to say that Senators who have spoken somehow have some priority over those who have not. The hallmark of this institution is fairness to all. If a Senator feels it is important enough that he wants to speak, he or she ought to have the opportunity to do so.

The reason I asked the question was to determine whether we ought to go on this evening.

We have at least seven Senators who expressed an interest in speaking and no absolute limit on the length of time. It seems to me prudence indicates that we are better off doing this in the morning.

What I would like to suggest is that we now get an agreement on an aggregate amount of time for tomorrow, equally divided, so that we do not have a repeat of this tomorrow, and Senators who wish to speak can be here present and seeking recognition. In that way we will be able to complete action on this.

Mr. STEVENS. Reserving the right to object, if the Senator made a request. We do have an agreement. There are no more amendments.

(Mr. BRYAN assumed the Chair.)

Mr. MITCHELL. I am talking about a time limitation on the remaining debate on this amendment, so that we could do this in a way that does not deprive any Senator who has not yet had the chance to speak from doing so.

As I look at the list here, it looks like about half or better would be in opposition to the amendment and a number of speakers, better than half in time, in support of the amendment.

May I suggest to my colleagues who want to speak that we agree to 2 hours of debate in the morning, equally divided, on the issue. That would give each side an hour and would enable us to vote by a time certain and dispose of this matter and then, hopefully, do the State, Commerce, Justice bill.

I think the minority leader is quite correct. I just do not see the point of going on now for maybe an unlimited time. As we all know from past experience, people tend to speak longer late than they do early.

If no Senator expresses any intention to object, I will propound that request.

Mr. FOWLER. Mr. President, just for myself, I would be willing to give

up my time. I spoke to the Senator from California, the Senator from Ohio, and all Senators on our side who stood. If we get an agreement with the other side, we are perfectly willing to vote this evening, right now, with no further debate on our side if our colleagues on the other side agree. We have had an exceptionally good debate, I must say, on all sides.

Mr. ARMSTRONG. Mr. President, if the leader will yield to me, I am not disposed to agree to his request. I think this is one occasion where horsing around trying to get a time agreement will lengthen rather than shorten the process. For my own part, had I been speaking, I would have been done by now.

I do not expect to speak at any great length, but I am not prepared at this moment to enter into a time agreement on the length of my remarks or on the remarks of other Senators. I do not care whether we do it tonight, early tomorrow, or late tomorrow, or when. Everybody should have a chance to make their statement. The Senator has correctly stated that fairness to everybody is the hallmark of this body.

May I point out that fairness is the hallmark of the majority leader. I am grateful to him for making that point. It would be very easy for the leader to say well, we have had a good debate, a lot of people have talked. This is true. But the leader correctly stated not everyone who wishes to speak has had an opportunity to do so and I respect the understanding of the majority leader.

Mr. CHAFEE. Mr. President, it seems most of those who wanted to speak were in opposition to the amendment. The Senator from Colorado was one of the few who were in favor of the amendment.

Mr. ARMSTRONG. How does the Senator know my proposition? I have not stated it.

Mr. CHAFEE. Well, I took a chance and guessed.

It seems to me, thus, you have a good share of that hour that the leader suggested be an hour on each side.

Would an hour not satisfy my colleague?

Mr. ARMSTRONG. Mr. President, if whoever has the floor would wish to yield, I am not prepared to enter into a line agreement. I am perfectly glad to have those who wish to stay do so and have a vote for tomorrow. If the Senator from Ohio does not wish to stay and hear whether he is correct in his surmise on the Senator's position on the matter, that is fine with me. I am going to say my piece. It will not be too long but if it is too long for Senators who want to go home, that is fine with me.

Mr. MITCHELL. Will the Senator from Colorado agree for a specific time for the vote?

Mr. ARMSTRONG. No; Mr. President, I will not. I would be willing to agree to a time for the vote tomorrow if we can continue to stay tonight. That would permit those wishing to leave to do so.

Mr. MITCHELL. Would the Senator agree to that if the Senator may speak as long as he wishes?

Mr. ARMSTRONG. My thought would be any Senators wishing to speak tonight. If the leader wants to get a time for a vote tomorrow, permitting others to speak tonight, that would be fine for me. I am not wishing to hold anybody in the Chamber.

Mr. MITCHELL. Mr. President, then what I will suggest to my colleagues is that tomorrow morning we have 1 hour of debate on this subject, equally divided, with a vote set at a time certain.

Then, tonight, any Senator who wishes to do so may address the subject for as long as he or she wishes to do so.

Mr. INOUYE. Mr. President, I will be here. Since my night has been spoiled, I will be here all night long. I want to get this out of the way.

Mr. HELMS. Will the Senator yield?

Mr. MITCHELL. Yes, sir.

Mr. HELMS. Mr. President, it depends on whether we continue this rediculous charade of crying censorship, that the amendment is going to ban the Bible and all that. I have to be sure I have some time to answer this foolishness.

I suggest that a minimum of 2 hours tomorrow, and whatever time Senators want to spend tonight, I will be here.

I will say to the leader, I was prepared to vote without any debate tonight. All I wanted was for the Senators to look at the pictures and then vote as they please and then answer to the people back home. That is all I was saying.

Mr. MITCHELL. I thank the Senator.

Then the obvious only alternative available is to permit continuation of the debate this evening for as long as Senators wish to debate, to have 2 hours equally divided in the morning. I would suggest that we begin at 8:30 in the morning on the bill and vote at 10:30, and that then we will attempt to complete the State, Justice, Commerce if we can do so tomorrow at that time. Does any Senator here object to that before I propound the unanimous-consent request?

Mr. PRYOR. Mr. President, I wonder if the majority leader would yield for one moment for a parliamentary inquiry to the Chair?

Mr. President, my inquiry is this. Does the unanimous-consent agreement controlling the second-degree amendment offered by the Senator from North Carolina preclude, before final action is taken on this measure, a motion to recommit the amendment, instructing that items 2 and 3, or paragraphs 2 and 3 be excluded from instructions to the conferees?

The PRESIDING OFFICER. In response to the question of the Senator from Arkansas, that would require a unanimous-consent agreement.

Mr. PRYOR. Mr. President, I am wondering if the Senator from North Carolina would consider such?

Mr. HELMS. Not one bit.

Mr. PRYOR. I did not think he would, but I was just trying to find a way out of this thicket. I thank the Senator.

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Accordingly, Mr. President, I ask unanimous consent that when the Senate completes its business this evening it stand in recess until 8:30 a.m., on tomorrow; that there be 2 hours of debate tomorrow on the pending amendment with a vote on or in relation to the amendment at the conclusion of or yielding back of that time; the time to be controlled by the distinguished Senator from North Carolina and the distinguished Senator from Hawaii, or their designees; and that the time for the majority and minority leaders be deferred until later in the day.

I can state before the Chair acts on this request, it would be my intention, as stated in my discussion with the Senator from Colorado, that the debate would continue this evening until such time as any Senator who wished to address the Senate on the subject has the opportunity to do so.

The PRESIDING OFFICER. Is there objection? The Senator from New Mexico.

Mr. DOMENICI. Reserving the right to object, the Senator from New Mexico may not be available if the yielding back in the morning occurs at 9. That might occur under the unanimous-consent request of the majority leader. Could it be we will not vote before 10, even if time is yielded back?

Mr. MITCHELL. If that would accommodate the Senator, I will be pleased to do so. My expectation is there will be plenty of debate tomorrow morning as well.

Mr. DOMENICI. I understood that, but the majority leader also said "unless yielded back."

Mr. MITCHELL. Then I modify my request to ask that, if the time is yielded back, that the vote in any event not occur prior to 10 a.m.

Mr. DOMENICI. I thank the leader.

Mr. HELMS. Reserving the right to object, I have a confession to make, Mr. Leader. My 17-month-old granddaughter is visiting me and I want to feed her breakfast. Could we start at 9?

Mr. MITCHELL. Would the Senator be willing to cut it to an hour and half then, so we can complete?

Mr. HELMS. No. I mean here we are at 11:19.

We have family life. I do not have much family with me up here but I do have a granddaughter up here visiting me. If the majority leader will make it 9 he will have himself a deal.

Mr. MITCHELL. I would say to the Senator from North Carolina I have tried very hard to do this in a manner that is fair to everyone. I do not want to infringe upon his time with his granddaughter. But is it not possible? The Senator does not have to be here during the first half hour of debate. Perhaps it would be persons that have stated things that have otherwise been said.

Mr. HELMS. Why must we start at 8:30?

Mr. MITCHELL. Because we hoped to finish this bill at 6 this evening. What is sacrosanct is I tried to do it in 1 hour and it is the Senator who insisted on doing it in 2 hours. We also have the State, Justice, Commerce bill.

Mr. HELMS. I was ready to vote when you were clustered with all your colleagues at the well trying to find a way to circumvent this amendment.

Mr. MITCHELL. The Senator is incorrect in stating what my intention was.

Mr. HELMS. I can hear. The House did circumvent a vote on the amendment when many Members of the House wanted to vote.

Mr. MITCHELL. The Senator from North Carolina knows a lot of things, but there is one thing he does not know: What is in my mind. He was characterizing my intentions.

Mr. HELMS. I did not mean to imply that I knew what was in the mind of the Senator.

Mr. MITCHELL. Well, I hope we can get this done in a way that will complete action. We have already wasted—not wasted, but used up a substantial amount of time just trying to move this matter forward. I attempted to accommodate every request by every Senator. It is just very difficult to do.

Mr. INOUYE. If my leader will yield, we have alredy gotten the unanimous consent to go to a third reading and final passage of this measure; with no amendments thereafter.

That being the case, I would like to advise the leadership that I would be willing to sit here all night long and finish this. I think most of us are here.

Mr. MITCHELL. Will the Senator agree then to have 3 hours with 1½ hours of it this evening and 1½ hours tomorrow morning, and anybody can say anything they want for as long as they want, including the Senator? Then those who wish to remain for that portion of the debate this evening could do so. Those who wish to may remain and participate in that portion of the debate in the morning, can do so. We have already had a couple hours; 3 more hours is fair to everyone. We will start at 9 and vote at 10:30.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. MITCHELL. Mr. President, I have the floor. I yield to the Senator from South Carolina.

Mr. THURMOND. President Bush is going to South Carolina in the morning on the disaster matter, and I am getting up at 4 and leaving at 5 o'clock in the morning. I just am wondering if these votes can be put off until say 11 o'clock or 11:30, or could you stack the votes? Senator HOLLINGS and I feel compelled to go. You can understand.

Mr. MITCHELL. We certainly understand that.

Mr. THURMOND. If you stack the votes, I was hoping maybe we could do that.

Mr. METZENBAUM. Let us vote tonight.

Mr. MITCHELL. It is impossible with so many conflicting demands to accommodate everybody. I apologize. It is simply impossible. We have 100 Senators, each of whom insistently insist that the operations of the Senate be conducted in a manner to accommodate his or her schedule interests. It is understandable. It is human nature. The Senator from South Carolina has been among the least.

Mr. THURMOND. If it is going to go beyond that, if it can be stacked. I do not ask you to hold up and wait.

Mr. MITCHELL. We will do the best we can.

Mr. HELMS. If you will accede to the distinguished Senator from South Carolina, I will take the proposition of an hour and a half tonight, and tomorrow morning.

Mr. MITCHELL. Can I get consent to go to the State, Justice, Commerce bill as soon as we finish debate, so we do not have 3 or 4 hours consumed by this?

Mr. HELMS. I do not think I can comment on that. That will be up to our leader.

Mr. MITCHELL. He has asked only that the vote be stacked at a time in the future. If we cannot go to State, Justice, Commerce, then there is nothing to stack. I wonder if the distinguished Republican leader is here.

Mr. HELMS. I will see if he is.

Mr. MITCHELL. So we can go to that, and then stack the vote to accommodate the Senator from South Carolina but permit us to proceed with the other business.

Mr. DOLE. Would that be the only business we take up tomorrow, then?

Mr. MITCHELL. I do not know that. I want to discuss that further with the distinguished Republican leader.

Mr. METZENBAUM. Mr. President, I would object to the first vote and the second. We are willing to vote tonight and vote first thing tomorrow morning. I would object to any hiatus arrangement. Let us vote tonight.

Mr. MITCHELL. I understand the Senator's frustration, and we are all very tired and frustrated. We have to try to move the business of the Senate forward, impossible as that frequently seems. I hope the Senator would defer.

If we can amend the unanimous-consent request to say that the debate on this matter will be 1½ hours this evening equally divided, 1½ hours between the hours of 9 and 10:30 tomorrow and at 10:30 we will go to the State, Justice, Commerce bill. The Senator from Sorth Carolina says he will be back at 11.

Mr. THURMOND. I think we will get back about 11:30, actually.

Mr. MITCHELL. At 11:30, we will interrupt the State, Justice, Commerce bill to vote on this amendment and then this bill, and then return to State, Justice, Commerce and hopefully complete action on that shortly thereafter.

I know the Senator is frustrated. We all are. That will accommodate still another Senator's interest.

Mr. ARMSTRONG. If the leader will yield, it seems to me, for reasons we previously discussed, there is no need to put a limit on the time for debate this evening. The limit you suggest for tomorrow accomplishes his purposes, but to limit the debate tonight is unduly restrictive.

Mr. MITCHELL. I have the health and interests of the managers in mind.

Mr. INOUYE. I will stay all night long.

Mr. MITCHELL. I modify my request to place no limit on the length of the debate tonight.

Mr. ARMSTRONG. I thank the leader. Let me assure him and other Senators, I do not expect to speak at length.

Mr. HATFIELD. Will the leader yield for a question? I did not quite understand when we would finish the Defense appropriations bill.

Mr. MITCHELL. We would complete all action, other than the actual votes, at 10:30 a.m., and we would stack the votes until 11:30 to accommodate the Senator from South Carolina, so the votes would occur, and I understand the votes to be on or in relation to the Helms amendment, and then final passage at 11:30.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. One further question on that. Does that wrap the unanimous-consent agreement on my technical amendment?

Mr. MITCHELL. Yes. Yours does not require a rollcall vote.

Mr. HATFIELD. No, it will not require a rollcall vote.

Mr. DOLE. Will the majority leader yield? Since I am the one who raised it about staying here tonight, I might just make one suggestion. Maybe if we could just hear the Senator from Colorado, and if the Senator from North Carolina wants any rebuttal, because most of the time has been consumed by those who are against the amendment, then we might get a vote here in the next few moments.

If everybody else desists, we can wrap this up in about 30 minutes and then would not have that problem in the morning. Then we could give consent on State, Justice, and Commerce. I understand there would be no conference report on legislative appropriations.

Mr. MITCHELL. It is not my intention to proceed to the legislative conference report tomorrow. It is not my intention.

Mr. DOLE. Does anybody else feel they have to speak other than the Senator from Colorado, who has been waiting?

Mr. DECONCINI. How long does the Senator from Colorado propose to speak?

Mr. MITCHELL. He will not say.

Mr. INOUYE. I will stay here all night long.

Mr. DOLE. We might have disposition of this, and you can sleep a little longer in the morning.

Mr. MITCHELL. Let us try it and hope that the Senator from Colorado can be as concise as his point permits him to be, and then as soon as he finishes——

Mr. CHAFEE. I was hoping I could speak for 3 minutes. After hearing this, I may give up.

Mr. MITCHELL. I think the Senator should be permitted to speak for 3 minutes. There is no limit on him. Let us go ahead and see if we can do it. We will yield to the Senator from Colorado and hope we can be out of here in a reasonably short time.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The request for the unanimous-consent agreement is withdrawn, if the Chair correctly understands the majority leader's position?

Mr. MITCHELL. I withdraw my unanimous-consent request.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I do want to speak about the bill. Then I want to say a word about the process we have just been through. I have two observations. First, I want to say we have really wasted time. This is not an uncommon practice, but it seems to me that more often than not, going the extra mile to seek a unanimous-consent agreement ends up wasting more time than it saves.

That is a judgment call, and every Senator has their own opinion. I, for one, think that the majority leader has really been gracious, not only tonight, but night after night, in trying to accommodate the desires of Senators. I am appreciative of him trying to do it.

But I have long believed, not just for a month or this year, but for years and years, that the better course of action would be to seek fewer unanimous-consent agreements, spend less time wrangling over who is going to speak in what order and what amendment we would call up and when we would vote, and just go ahead and let Senators stand up and speak if they were in the Chamber seeking recognition, let them offer amendments if that is their desire, and go from there.

Mr. President, I have noticed through the course of this evening's debate Senator after Senator has come to the floor to declare their wholehearted agreement with the idea, the underlying concept of the amendment of the Senator from North Carolina. I agree with the Senator from North Carolina; speaker after speaker has said it in so many words or substance. One of them said I sympathize with the Senator from North Carolina. Senator after Senator has gone out of his way to associate himself with the underlying idea of Senator Helms' amendment and yet has found some reason, some excuse, some premise, some incremental value which prevents the Senators from voting for this amendment.

There is a serious double standard here, Mr. President, because we do not ordinarily subject an amendment or a piece of legislation to that kind of analysis unless deep down inside we really are not very sympathetic to the amendment after all.

Mr. President, as I think about this issue about which I did not intend to speak, I recall a jury trial I heard of one time which was gory and distasteful and the details of it were shocking to the conscience of the community. The jurors sat day after day, week after week, for a very long period of time, listening to the case put on by the prosecution, and it was really pretty awful stuff. Then the defense got up and put on its case and that also went on for several days. They had finally sat there for several weeks listening to the presentation of evidence and then the closing arguments, and then they listened to the judge, who took quite a long time to give his instructions to the jury.

Presently, Mr. President, the jury retired to the jury room for their deliberations and returned in 5 minutes. The judge turned to the foreman of the jury, and he said, "Can it be, Mr. Foreman, that you have arrived at a conclusion?" The foreman said, "Yes, Your Honor, we have. We have decided we don't want to get mixed up in this thing."

That is exactly how I feel. This is not a subject which so far as I can remember I have ever addressed publicly before, and I am not eager to do so now. It is distasteful to me in the extreme. But, Mr. President, it is also distasteful to me to leave unanswered the arguments which have been presented in this Chamber tonight. I said a moment ago that I had seen a lot of straw men erected in this Chamber but never so many, I think, as through the course of this evening.

Mr. President, the arguments which have been presented here tonight in my view, and I say this cautiously because I have the greatest respect for any colleagues, simply do not hold water. They are excuses, they are excuses for people who do not, regardless of what they may have said, support the main idea of the Senator's amendment.

There may be exceptions to this, and I recognize that it is not up to me to judge what is in somebody's heart, but, Mr. President, let us not be bamboozled. The arguments that have been presented against this argument, frankly, do not make a lot of sense. We have been told this is a great first amendment issue. In my view that is utter nonsense. This is not a first amendment issue. This is a question of what we are going to buy and pay for. Nobody is saying whether or not some artist, real or imagined, shall be permitted to paint a certain kind of painting or take a certain kind of photograph or even to desecrate the objects of religious faith.

That is not the issue in the amendment presented by our colleague from North Carolina [Mr. HELMS]. The question is whether or not the Federal Government ought to pay for it. My answer to that is, no.

Senators can dance all around that issue, and they can find every excuse under the Sun to get into whatever position they want but that is the question. I do not think in their hearts there are very many in this Chamber who see it very much differently than that. Maybe I am wrong. Maybe when I get up in the morning I will see it differently myself, but I do not think so. Out home I doubt very much if there are very many people who will be taken in, fooled or confused by the straw men in this Chamber tonight. This is not a first amendment issue.

Somebody said that under this amendment NEA would not have been able to fund Huckleberry Finn. Mr. President, I do not know whether that is true or not, but the reason that was given specifically why Huckleberry Finn could not be funded is because it contained a racially offensive remark.

Honest to Pete, Mr. President, I do not know why the National Endow-

ment for the Arts or anybody else using taxpayers' money should fund that kind of a remark.

Now, that is not a judgment on Mark Twain. It is not a judgment on Huckleberry Finn. I do not think, as one of my colleagues remarked earlier, that the Federal Government ought to buy the paint that Huckleberry Finn used to paint the fence or the raft that he used to sail down the river, but I am absolutely convinced that we should not fund a racially offensive remark. I am dumbfounded to think that somebody would suggest that that would be an appropriate course of action.

Mr. FOWLER. Will the Senator yield?

Mr. ARMSTRONG. No, because I discovered a long time ago that the Senator from Georgia is so skilled in debate that if I were to yield at this point for a question he might embarrass me, and I do not want that to happen.

Mr. FOWLER. The Senator is correct, and I will withdraw the request.

Mr. ARMSTRONG. I think at this point, I would prefer to try to state my own argument and then I will be happy to yield later if someone wants me to do so.

Second, Mr. President, we have been treated to the explanation that voting for the amendment of the Senator from North Carolina would somehow constitute censorship.

That is so obviously false that it is hard to know how to address it. We are not prohibiting anybody from doing anything, even from the production, even from the exhibition of the objects of so-called objects of art which every Senator, I think, who has discussed them has said are revolting, are barbaric, or art for twisted minds, as, I think, one of our colleagues characterized them. What we are talking about is only whether or not the taxpayers ought to pay for such production and exhibition.

Well, it is a very difficult decision to make, we are told. One of the most distinguished Members of this body who has made, I believe, the most eloquent statement on this subject tonight made the point that picking suitable art is a very difficult task. I agree with that. Mr. President, it is very difficult. Trying to decide what art is worthy and what is not is a task which requires great judgment, great discernment, great understanding, a capacity to evaluate objects of art that really requires a high order of understanding of art. Picking suitable art is difficult but, Mr. President, somebody is going to do that. In every case, somebody will make that decision because we have an absolutely unlimited demand for free Federal money and really by comparison only a tiny amount of such funding available to subsidize the works of art which would seek such support. That is just a fact. Somebody is going to make the decision, and we are not going to fund half of the projects that come before the Federal Government in one way or another for funding. We are not going to fund 5 percent. We are probably not going to fund 10 percent.

The fact is, if we appropriated maybe 100 times as much as we are going to appropriate now or in the future in support of the arts, we still could not fulfill the demand. Somebody is going to have to make these decisions.

The question is not whether or not the Senate should make those decisions. Obviously, we are not going to decide on a case-by-case basis. The question is whether or not we should express to those to whom we have delegated the responsibility for making this decision some notion of standards.

One of the Senators who has spoken tonight suggests that to hold up a standard of decency is inappropriate because courts have found that difficult to define. Mr. President, that reveals an attitude of mind that is very different from my own. It reveals an attitude that says anything which is not legally obscene ought to be therefore at least eligible for funding. I do not feel that way. I feel there is an enormous amount of worthy art, worthy literature, a tiny amount of funding available, and we do not have to see how close we can come to the line funding indecent or obscene works of art.

There is a lot of art, and you know the people who want to see how close they can come to the line or even want to step over the line are not limited to doing this with Federal funds. They would do this with their own money or with many of the private foundations that are in that business. The question is what is the Federal Government going to pay for?

Mr. President, it has been said that the amendment of the Senator from North Carolina goes too far, that in effect it is a good idea, we are sympathetic to it, none of us likes this kind of trash, that it is art for twisted minds, that this is overly broad, and it is too vague. That may be. I am not sure of that. I do not find it hard to understand. I do not find it vague particularly.

But if somebody thinks that, let them come forward with something that is better. I am ready to listen to that.

I think that the Senator from North Carolina and the sponsors of this amendment are ready to listen to a proposal. But to simply say this is no good, we agree with you, this is not going to get the job done. It does not seem to me that is the quality of legislation. If somebody has a better idea, let us hear it. I am not a sponsor of this amendment. I am not obligated to vote for the amendment. If somebody has a better idea, I am ready to hear it.

Mr. President, one of the things that we have heard tonight is about this issue of the extreme difficulty of definition and how hard it is for us to really know where that line is drawn. I want to emphasize that I do not think that is a question of going back and agonizing over somebody's interpretation of court decisions.

You know, we do not have any notion of such a standard in the other kinds of legislation which we write when we write legislation relating to air pollution, or national defense, or housing, or agriculture. We just do not do it that way. We set forth in the statute in terms that reasonable people can understand the benchmarks and the guidelines. But with respect to the Agriculture Department and the Defense Department or the Department of Housing and Urban Development, and HHS and the others, to administer programs and where there is a close call of somebody, not necessarily a Senator but a citizen, defense contractor, farmer, or whoever it is, environmental interest, thinks there is a term that needs to be defined, they can take it to court. It gets defined. But we do not try to agonize over that there.

If we did, we would never get any business done. We use words commonly understood by people in everyday conversation.

It seems to me to try to hold this amendment to a different standard is simply an attempt to find an excuse for voting against it.

Mr. President, I guess the bedrock question that has not really been asked but I would like to ask Senators to think about it is what difference does it make anyway? Does a dirty picture matter? This is almost the 21st century, late in the 20th century. We are men and women of the world, sophisticated people. Do dirty pictures make any difference?

A lot of people do not think so. As a matter of fact, today it is quite common to see on television in the popular media things that would have been shocking a generation ago. Our sons and daughters work in retail stores where they sell the kind of things which are euphemistically termed "softcore," things that they would have been arrested for possessing a generation ago, 20, 25 years ago, and which police officers spent a fair amount of their time suppressing a generation ago. Today we take them for granted.

In fact, as I pointed out a moment ago, our sons and daughters, if they want to work in certain kinds of retail establishments, have to not only agree to be around those things but actually have to have commerce in them. Does

it make any difference? I am convinced it does.

I have spent some time reading the history of such things, and it appears to me very clearly that pornography—that is what we are talking about here, and I did not say obscenity. I am not trying to get into the question of where the lines between what is indecent and what may be pornographic, but not legally obscene, lies. I am not trying to hinder that debate at all. But it is pornography, much of it, and part of what we are talking about here tonight is pornography. It is dirty pictures, and things that corrupt the human mentality.

When we honor that, when we permit it, when we pretend it does not matter, when we allow it to be sold in our stores, when we, heaven forbid, require Federal Government funds be expended for such projects we are degrading ourselves. We are degrading our families, and we are degrading our communities.

I do not know how many Senators are aware of the television program about the man who was executed a few months ago in Florida after committing many heinous murders. But he made a very interesting interview with a journalist telling what prompted him to get into this life of heinous crimes and multiple murders.

In essence, I do not want to be guilty of oversimplifying but he blamed it on pornography. He said it obsessed him. I do not know whether that is true, but that is what he said less than 24 hours before he was executed in the Florida penitentiary. Others have given similar testimony. I do not know if they are right. I am sure not an authority on this.

I will never forget what one person told me much to my surprise, a man whose name would be known instantly to many of us in the room. I will not identify him because he has not chosen to identify himself publicly. But he is a man who has held positions of responsibility in the Government. In fact, he is a fine public servant.

He confided to a group of us on one occasion that he himself had been obsessed by pornography for a number of years, and that he had managed to escape this obsession, but that for 9 years he had been in the grip of it.

I am convinced dirty pictures do make a difference. I am convinced that what the Senate is willing to tolerate, what standard we set not in terms of censoring what someone may wish to do, not in terms of trying to settle tonight what is protected by the first amendment but just in terms of what we want to pay for, in terms of what we want to put our stamp of approval on, does make a difference. That is why, unless somebody has a better idea or a better amendment, I intend to support the Senator from North Carolina.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I briefly want to make a couple of comments since I was one of the few here on July 26 who spoke against the amendment of the Senator from North Carolina at that time.

It seems to me this is a totally unnecessary firestorm we are going through here this evening. The National Endowment for the Arts has been in existence for 25 years. It has funded 85,000 different projects, and of those a total of 25 have been brought into question. That is a pretty darned good record.

The problem is not with the first amendment or anything like that. It is just that this action we are taking if supported tonight is going to cast a pall, is going to cast a chill over all exhibits in the future. Is this exhibit going to meet the standards as set forth by the Senate in this amendment? You have an exhibit that shows Hitler as a wicked man, a pathological liar. Now, is that all right? Let us look at No. 3. That is denigrating him on the basis of a handicap saying that he is a pathological liar.

That is a violation. What nonsense. What is going to happen in the exhibits? We have decided here that it is legitimate for the Government to fund some of these exhibits to encourage the arts in the Nation.

What is going to happen is those who put on the exhibits, if this should be adopted, will only feel that they should have safe exhibits, those that reach the lowest common denominator.

I do not think that is what we want in our Nation. Come on. We can do better than that. Eighty-five thousand exhibits, and only twenty-five have been questionable.

So there is no need for this amendment. I think we ought to let the fires of imagination and originality in the Nation burn. There is liable to be some singeing. Yes. There is. There are going to be some mistakes. But it seems to me that is a risk well worth taking, taking to encourage the flames of genius that we hope exist in this country.

I want to thank the Chair.

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. FOWLER. Mr. President, I see the Senator from North Carolina is on the floor, the author of the amendment.

I wonder if he would allow me to ask him a couple of clarifying questions.

Mr. HELMS. If the Senator will come over here and look at these photographs, and tell me that he has any question about the amendment, then I will consider being grilled by him. The Senator may not cross examine another Senator.

Mr. FOWLER. The Senator from Georgia has seen the pictures. I have a question about the amendment.

Mr. HELMS. I do not wish to engage in any debate with the Senator, it is late. If he will make his statement, I will make mine.

Mr. FOWLER. I simply want to ask about the Senator's own words in his amendment in order to find out the legislative intent. I thought that was the purpose of our body, to seek clarification and do the best job we can so we know what language we are voting on.

Mr. HELMS. I say to the Senator that the amendment has been nitpicked for almost 2 months and I am not going to contribute to having it nitpicked further.

Mr. FOWLER. I say to my friend from North Carolina, in all sincerity, and I say it—I preface by agreeing with the Senator from North Carolina in his paragraph No. 1, that what he has attempted to do is to prohibit material, photographs, so-called art that is deeply offensive to the spirit and to the dehumanization of man. And for that effort, he has my support. But if the Senator would reply, I am concerned, as I think every thoughtful Christian would be concerned, by the language of his amendment in article two and article three, which I submit is unnecessary to the attempt to get rid of smut, which we all share. But I also raise some questions about Christianity and Judaism and the faith of Americans that I do not believe the Senator from North Carolina would want to violate. For instance, the language of the Senator's amendment says, and I specifically quote, "No funds may be used to promote, disseminate or produce material which denigrates the objects or beliefs of the adherents of a particular religion or nonreligion." Would not the Senator admit that the Holy Scripture itself, that the words of Jesus in the Sermon on the Mount, in all of the Gospels, Mathew, Mark, Luke, and John, depictions in this Bible, in any written work, much less 700 years of Christian art, can be conceived as being offensive to Jews, who are being asked to follow a man that we as Christians believe is the Son of God, but their faith, Judaism, denies that special status.

Would not the Senator, who knows this Bible, know that when Jews deny that Jesus is the Son of God, the absolute rock on which all Christian faith is founded, that that denial by Jews, throughout all of the literature in our libraries, funded by public moneys, depicted in religious films, depicted in art, that that denial by Jews is deeply offensive in the words of the Senator's

amendment to the particular religion of Christianity? I implore the Senator to think on those things, because I know he is a Christian and would not deliberately do offense to the Senator from Utah, who happens to be a professing and believing Mormon, the Jewish Members of this body, as well as those of us, who try—though, Lord, we fail—to practice the precepts of the Gospel in our public service. Eight hundred, 900 years of art and of literature is literally covered by the Senator's amendment, paragraph No. 2.

Others have spoken tonight far more eloquently than I. The Senator from Missouri, the Senator from New Hampshire, the Senator from Washington, about the last clause, section 3; and I will not try to cite book, except to say that language can be written to cover pornography and obscenity, but when we get into these areas, exploitation of children, what about the great Titian depiction of Herod slaughtering the first born? Is that not a depiction of exploitation of children? Why did Sampson, blinded, pull down the temple on his head? Is that not self-masochism, a man who believed his faith so strongly that he would kill himself by pulling down the temple.

We cannot let some bureaucrat decide these questions, because these questions, which are as deeply rooted and as old as all of our faiths, are not necessary to reach the intent of the Senator's amendment. I ask the Senator—I do not want to prolong this. We can use example after example after example. But the Senator from Colorado is right, these words may be, in a lawyer's sense, vague and imprecise and may be ambiguous legal meanings, but they are clear to anyone not a lawyer who reads them. If we vote this amendment Nos. 2 and 3, we cannot disseminate any material which offends the beliefs of any religion, or nonreligion—I will not even get into that. Jesus said, "Go you therefore into all the world, teach the Gospel, baptize. Go then in the name of the Father, the Son and the Holy Ghost." What do you think that does to secular humanism, the great nonreligion that you and I and the Senator from North Carolina have tried to put aside? If that is not offensive to them, the word of Jesus, I do not know what is.

Mr. COATS. Will the Senator yield for a question?

Mr. FOWLER. Yes.

Mr. COATS. Does not the Senator's argument about the dissemination of religious material—Is the Senator for elimination of the funding of any material, whether it is promotion of Christian religion or Jewish religion, does he not argue for the examination of the separation of church and state clause of the first amendment? Perhaps we should not be utilizing or sending funds to the National Endowment for the Arts for this purpose at all.

It seems to me the argument is an eloquent one for eliminating all funding for the National Endowment for the Arts because it is promoting some religion. We would avoid any question of censorship, any question of Government involvement in any of this altogether, if we were not putting forth funds for these purposes. I am asking a question.

Mr. FOWLER. I say to the question, that would not be my interpretation because that is not what the words say. Quite the contrary, and I apologize to the body. I want to conclude but I will be glad to discuss it. Quite the contrary. What I wanted to ask the Senator from Colorado, but he would not yield, in being offended by Huckleberry Finn and stopping just short of advocating no funding for a library that had Huckleberry Finn, that is what you get into.

The question down the road if we adopt this amendment is whether or not we are going to fund libraries that have any literature that is covered under this act. The question down the road is whether or not we repeal the charitable deductions of taxpayers who give to their religion in order to disseminate, produce, and promote their religion which happen to be offensive to the nonreligion. That is where the public policy leads.

All of you forgive me for sounding like I am preaching. I am not trying to do that. I am just trying to say as we said 2 hours ago there is a very easy way to deal with this and accomplish, I submit, the complete purposes of the Senator from North Carolina and that is to voluntarily delete sections 2 and 3 that covers areas totally extraneous to obscenity or pornography and art.

We can adopt the strong language minus the word if you would, "indecent" because that has been the subject of all sorts of interpretations by the Supreme Court, and what the U.S. Senate would say is "No public money shall be authorized to promote, disseminate, or produce obscene materials, any obscene materials, including but not limited to depictions of sado-masochism, homoeroticism, the exploitation of children or individuals engaged in sex acts." What could be stronger or more explicit to tell the country no money for that, tell the bureaucrats you are gone if you do that, tell the NEA that you have to get back in touch with the American people, our values; we are not going to tolerate this?

I do not know how this thing got here. I honestly do not know how this thing got here. There are 1 million artists every year that produce in this country. A lot of them paint trash like these two guys. But you know what usually happens, it does not get seen. If 1 million people paint in this country, they all go on their hands and their knees to a gallery and museum and say "Please show our stuff." The galleries, because of space, turn away 99 percent of it. But if there is going to be the judgment, it has to be at the gallery level.

And I agree with the Senator from North Carolina that if we adopt section 1 of his amendment, we will let every gallery that has any public funds know that if they cannot use better judgment than they used in these two cases you are going to have a lot of people say no money. But that will do the job, my friends. That will do the job and not open the doors, pitting religion against religion, getting into this whole area of creed, or national origin where we had 2,000 years of recorded history and literature which we would not or could not overturn in this body.

Mr. WILSON. Mr. President, will the Senate yield?

Mr. FOWLER. I yield.

Mr. DOLE. Mr. President, will the Senator yield to me first?

Mr. FOWLER. I am glad to yield.

Mr. DOLE. I do not see the majority leader. I wonder if we could agree to vote at 12:30. I renew the objection I made at 11 o'clock.

Mr. WILSON. The Senator from Georgia wants to move——

Mr. DOLE. We are going to have two speakers on this side. Can we vote?

SEVERAL SENATORS. Vote right now.

Mr. HELMS. Five minutes.

Mr. DOLE. Vote at 12:15. I so ask unanimous consent.

Mr. HELMS. I want to talk about censorship.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. What?

Mr. DOLE. Vote at 12:15.

Mr. FOWLER. May I ask the Senator from North Carolina if he would consider modifying his amendment.

Mr. HELMS. I did not understand the Senator.

Mr. FOWLER. Would the Senator from North Carolina consider modifying his amendment by dropping section 2?

Mr. HELMS. No, because not until tonight did I realize that Matthew, Mark, Luke, and John might be an applicant for Federal funds.

Mr. FOWLER. It is the depiction of what happened in Matthew, Mark, Luke, and John and art and literature, I say to the Senator that are the subjects to the amendment.

Mr. HELMS. I thought I answered the Senator's question. But this is typical of the kind of extraneous argument that has been voiced ever since the amendment was approved by the Senate. And let me make two or three points and then we can vote, as far as I am concerned.

First of all, much has been said tonight about the second prong, the distinguished Senator from Georgia and others have referred to it, Biblically, and otherwise.

I would point out to him that I put the term "nonreligion" in at the suggestion of several constitutional scholars to protect the rights of atheists, agnostics, and others the same as those of religious individuals. Since we hear so much about the rights of those groups and so little about the rights of millions of religious men, women, and children, I am somewhat astounded at the outcry against my including that term in my amendment. I am sure the cry would have been just as loud had I left it out.

As for indecency, there is a 1989 Supreme Court case, Sable Communication versus FCC, on that very point. The case says that the FCC can and could regulate indecent Dial-A-Porn, for example, and if the FCC can do it, why cannot the NEA do it?

As to censorship, Senator ARMSTRONG and Senator GRAMM, Senator HATCH, and this Senator from North Carolina have made it clear that censorship is not involved in any shape, fashion or form and I think Senators know that. And yet what do you see? All across this land you read editorials, written by knee-jerk editorial writers saying censorship, and People for the American Way has bought page ads in newspapers in my State charging that Mr. HELMS is going to censor art. It is not only untrue, it is a vicious falsehood.

Mr. ARMSTRONG. Will the Senator yield for a question?

Mr. HELMS. Yes.

Mr. ARMSTRONG. The Senator makes an interesting point. I wonder if it occurred to the Senator from North Carolina that the same people who suggest that it would be censorship in some way for the Senator's amendment to pass and say that the Federal Government should not fund this kind of so-called art are precisely the same people who have argued in some cases successfully in the courts that when private citizens using private funds wish to erect a creche or display a symbol of the Jewish faith, say at city hall or out in front of the municipal building, somehow that violates the first amendment. You talk about sophistry. It is amazing to me that such a glaring inconsistency is not obvious to everyone.

Mr. HELMS. I think, it is obvious, but they do the best with what they have, and they do not have much. Censorship is not involved. I say it over and over again. The issue is solely this: Any artist can produce anything he wants to but nobody has a preemptive right to raid the pocketbook of the American taxpayer. That is the point of this amendment, all three prongs of it.

I say to Senators, you are going to have a chance to vote one way or another. Let us remember we become a part of what we condone. We have condoned too much and so much has been said about who is going to decide. We have had an organization that we have been funding for a long time called the National Endowment for the Arts. Sure, I want to put the blocks to them. I want them to exercise responsibility instead of exercising irresponsibility.

I am not prepared to condone forcing the taxpayers to support this kind of thing. The amendment is supported by Supreme Court decisions on all three prongs. Senators can vote as they please but a vote against this amendment is a vote for pornography and blasphemy.

● Mr. JEFFORDS. Mr. President, I have stated here before that I have very deep concerns regarding the Helms amendment and its implications for Federal support of the arts. The very issues raised by this controversy are complex, and it is understandable that the conferees on this matter are having difficulty reaching agreement. But I would like to remind those involved of a few facts.

Since its inception in 1965, the National Endowment for the Arts has made approximately 85,000 grants. Only 20 complaints have been issued regarding these grants; less than one-fourth of 1 percent of the total number of grants have caused any degree of controversy. The success of the NEA speaks for itself.

I fear, however, that if we pass the restrictive language currently in the Senate bill that we will find ourselves restricting unnecessarily many works of art that the public would like to see, and would not find offensive. We will be restricting the atmosphere in which the creative process occurs. We will be injecting an element of fear into the creative process, and adding an unprecedented and I believe unconstitutional layer of censorship. We will be discouraging, not encouraging, the promotion and creation of art.

Artists who receive funding for their work from the National Endowment receive matching private funds as well. I am afraid that the restrictions in the Helms amendment will cause a further decline in private support for the arts, for fear of becoming embroiled in controversy.

There are many controversies that we create each time we fund Federal programs. That we can discuss these matters freely is at the heart of democracy. I hope that the conferees on this matter and this entire body will agree to keep the essence of democracy in our Federal support for the arts. The vast majority of projects supported by the NEA are embraced by appreciative audiences and are not questioned. In short order, the process works. The current controversy, I hope, will fade in comparison to the many great works that can be created if we will support an atmosphere of encouragement, of excellence, and one without the shackles of censorship.●

Mr. KOHL. Mr. President, this is one of those amendments which is extremely popular and extremely dangerous. The amendment is popular because almost all of us are offended by the works of Mr. Serrano and Mr. Mapplethorpe. But it is extremely dangerous because it violates the Constitution, ignores our inability to define "obscene or indecent" in any meaningful way, and is drafted so broadly that almost any work of art could be declared ineligible for funding because it might "denigrate the objects or beliefs of the adherents of a particular religion or nonreligion"—whatever a "nonreligion" means.

You know, Mr. President, under the terms of this language, I fear that we take a step forward the Iranian model of literary criticism: A model which declares that a book like Salman Rushdie's "The Satanic Verses" is heresy. Unlike Iran, we would not pronounce a sentence of death on the author—but we would prohibit the NEA from funding it. We would not banish an author like Alexander Solzhenitsyn, but we would banish him from being eligible for Federal funding. You know, Mr. President, we ridicule the Soviets and the Iranians, but we take this amendment seriously. And you know why? Politics, Mr. President, politics. We live in fear of how someone could portray our votes in a 30 second political ad. And we should be afraid because there are some pretty vile and misleading ads which can be made. But the men who signed the Constitution were also afraid—afraid of the sort of rash actions which could happen if we didn't have a body like the U.S. Senate which could consider basic issues free of the political passions of the moment.

I do not approve of the works of Mr. Seranno or Mr. Mapplethorpe. But I do approve of the Constitution and I do approve of the concept of a National Endowment for the Arts. We may need to review the way the National Endowment makes decisions—and we are. We may need to make it clear that we do not approve of the decision to fund these particular works—and we have. But we do not need to abandon the basic principles of our country, we do not need to demean the arts, we do not need to ignore the Constitution in order to make our concerns clear or to make reforms in the system effective.

Mr. President, this is a simple vote—it may not be easy, it may not be popular, it may not be understood—but it is a simple vote. We have to vote for the Constitution, we have to vote for

freedom, we have to vote for meaningful reforms rather than meataxe symbolic acts which lay waste to the values which we all share.

Mr. GRASSLEY. Mr. President, a few weeks ago, Tony Snow, an editor at the Washington Times, wrote an editorial in praise of Senator HELMS' effort to restore the National Endowment for the Arts sense of direction.

The NEA has clearly lost its way. The U.S. Government manual for 1989 states that the NEA is supposed to award grants to those, and I quote, "Representing the highest quality in the fields of design arts, dance, etc." The manual speaks of goals of "excellence" and support of "art forms that reflect American heritage."

This controversy has absolutely nothing to do with the first amendment protection of free speech. It deals only with whether or not American taxpayers should foot the bill for this obscene trash. Be assured, that is not a right guaranteed by the first amendment.

The reason I mention the Tony Snow editorial is that he stated what the NEA was doing was, and I quote, "the artistic equivalent of the $600 toilet seat."

I cannot go back to my tax-paying constituents at home, and tell them they must foot the bill, for NEA-backed trash, any more than I can tell them they should pay for $600 toilet seats.

Adding this amendment to instruct to the Defense appropriations bill, therefore, could not be more appropriate. I commend the Senator from North Carolina and I wholeheartedly support his amendment.

I ask that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IN PRAISE OF JESSE HELMS

(By Tony Snow)

America's art studios, faculty lounges, hair salons and op-ed pages have buzzed this summer with gossip about the possible demise of art in America. It seems that the heathen Jesse Helms wants to deny federal funding to art that oversteps the bounds of bourgeois morality.

Mr. Helms got the idea after seeing the late photographer Robert Mapplethorpe's celebration of homosexuality, an exhibition that included such poignant sights as a man urinating into another's mouth and the artist posing with the long end of a bullwhip dangling from a well-known body cavity. Mr. Helms also probably had in mind Andres Serrano's "Piss Christ," a large photograph of a crucifix immersed in the artist's most recent medium, his own urine. The Mapplethorpe and Serrano works both got money from the National Endowment for the Arts, and Mr. Helms wants to see that it doesn't happen again.

Mr. Helms' crusade has stirred many grant recipients to action. Some accuse him of crumpling up the First Amendment. Some joke that he wants to clothe every naked man, woman and child in art history. An earnest few even note that arts agencies have done such worthy things as purchasing a large magnifying glass to help Dumas Malone complete his mammoth biography of Thomas Jefferson. All this misses the point. Mr. Helms doesn't want to eliminate art. He just wants to make it voluntary.

If artists have a beef, it ought to be that Mr. Helms hasn't gone far enough. Even if you ignore the moral controversies swirling around the Mapplethorpe and Serrano exhibits, the fact remains that they're unimaginative and stupid, and they don't do anything to crush the growing suspicion that art has become a con game, practiced only by professors, weirdos and fools.

Nobody much minded this fact when the Serranos of the world relied solely on gullible millionaires. Art patronage always has been a dicey game and for every genius Medici there have been legions of aristocrats who wasted money on buffoons with berets. What angers people today is that the federal endowments for arts and humanities have made it possible for rich arts patrons to dump their losses on service station attendants, janitors and other working stiffs.

This is the artistic equivalent of the $600 toilet seat, except that there's virtually no overhead. The bad artist, unlike the venal defense contractor, pockets almost all of the loot and gets praised for his fraud.

There are only two ways to go with "federal" art, and both are bad. If you want "democratic" art, the sort of stuff that will appeal to everyone, you'd demand that the federal government subsidize Elvises and prints of wide-eyed puppies. If on the other hand you want the federal government to promote "good" art, you turn everything over to an elite, which often will make a point of funding things that "average" people don't like.

The second model describes what's going on today. Small committees, filled with nice enough political appointees, decide what kinds of music, painting, photography, sculpture and writing to promote, and what kind to throw to the wolves of public opinion. Quite often professors and critics seize control of these organizations by lecturing their peers on the latest advances in human expression and then daring citizen-appointees to disagree.

Some defenders of public art have been quite explicit about this sort of snobbery, claiming that federal art is good because smart people have picked it out. But smart people can fall for stupid things, as Stalin's intellectual shills demonstrate, and there's no guarantee that a Ph.D. magically broadens one's soul.

The other problem is that federal art, being a leisure activity of political appointees, tends to follow academic or political conventions. No serious critic would deny that the Mapplethorpe exhibit was funded primarily for its political, and not its artistic, content.

The same sort of thing applies to writing supported by federal money. No one would dare today to subsidize Ezra Pound's hauntingly beautiful translations of Chinese poetry because Pound was a fascist and an antisemite. Yet arts bureaucrats haven't hesitated to flood our libraries, bookstores and classrooms with "postmodern" dreck, which is little more than footnotes masquerading as literature. By rewarding "artists" whose chief skill lies in filling out application forms, we have brushed aside people who wander the streets in search of vital detail in favor of professors whose novels reek of library molds.

Federal art funding rests on the weird presumption that popular art can't be good and good art can't be popular. That would have been news to Tolstoy, Dickens or Dostoyevsky, who enjoyed huge popularity in their time. Masterpieces are popular because they capture the essence of sensations and emotions that we all feel, but can't properly express.

Rather than subjecting struggling artists to the dominion of second-rate arts czars, we ought to set them free to compete for the public's adoration and support, leaving rich folks and their foundations to subsidize the silly stuff. Such a move probably would improve the quality of our art and might even inspire a few grateful aesthetes to erect a statue in honor of Jesse Helms.

Mr. LEVIN. Mr. President, I can't imagine that any Member of the Senate supports the use of taxpayers' funds for the two projects in question. I find them repulsive. However, the Helms amendment goes way beyond prohibiting funding for obscene material. For instance, it would not allow Federal funds to produce materials "which denigrates the objects or beliefs of * * * a particular * * * nonreligion." It would thereby deny NEA funding for works which would denigrate the beliefs of the advocates of satanism, communism, or nazism. The Helms amendment is so broad that it would prohibit such funding, and it is for that reason that I will vote against the Helms amendment.

Mr. CRANSTON. Mr. President, I oppose this amendment. I urge its defeat.

It is itself indecent and obscene.

It is a gross overreaction to something that many find very objectionable and highly inappropriate.

I personally find the despicable objects that led to this amendment deeply offensive and in awful taste.

But it is an even greater mistake to take legitimate outrage and use it as an excuse to create massive censorship of artistic creations.

It is ironic that the Senator from North Carolina offers this amendment to a national defense measure. For this type of overreaction would serve only to move our country toward the kind of system of state censorship and control of thought and expression that we have fought wars against at great cost in blood and treasure.

I have personally seen this sort of state censorship in Nazi Germany, Fascist Italy, and in the Soviet Union when it was still in its Stalinist mode. I do not want to see it in the land of the free.

Let us leave this kind of censorship to the dictatorships. Let us maintain the artistic freedom that the hapless citizens of those countries long for, and hope to find someday in democracy. So let us repudiate this amendment.

Mr. KERRY. Mr. President, yes, I was offended by the works of Andres Serrano and Robert Mapplethorpe.

Many of my constitutents and many of my friends were offended by these works. But Mr. President, I do not want ours to be a government which seeks to punish those whose art work offends some citizens, or those whose creative license stretches the sense of decency of many but not all.

It is my firm opinion that the amendment offered by the Senator from North Carolina represents punitive action on the part of Congress and, indeed, sets an undesirable and dangerous precedent. Should this provision become law, it would mark the first time in the 25-year history of the NEA that Congress will have imposed its will on that body's grant process. Such action could severely damage the ability of the Endowment to bring to the American people that art which is valuable precisely because of its ability to invoke thought and discussion. The guaranty of freedom means that we must tolerate the possibility of being offended.

In this case I believe the NEA made a mistake. And I would hope that this episode serves to remind the NEA, and those art experts who we trust to administer the NEA, that the taxpayers work hard to pay their salaries and that the taxpayers, through their representatives, ultimately control whether or not the NEA functions at all.

But let us not insult the taxpayers either. I don't think that the taxpayers want the Government telling them what they can and cannot look at in museums. I don't think that the taxpayers trust Congress to tell them what is, and what is not, art. I certainly do not.

Mr. President, we live in a country vast enough, and enlightened enough to allow people to disagree and to offend. In fact, one of the primary responsibilities of this Government is to protect the rights of those who wish to do so.

This amendment is worse than just the usual smoke and mirrors which has become all too common around here. This amendment represents politically motivated intimidation. It will have a chilling effect within the art world and raise serious questions about standards which Congress should not be defining and, in fact, is ill equipped to define. This amendment, quite frankly, violates the spirit and the intent, if not the very letter, of the first amendment of the Constitution.

Mr. SIMPSON. Mr. President, the material which is sought to be reached by this amendment has been most carefully and accurately described by my fine and conscientious friend Senator HELMS and he is absolutely correct. It is grossly repugnant, patently offensive, and thoroughly obscene. If my friend would have simply placed before this Senate section 1 of his amendment, I would have spoken in favor of it and voted in favor of it with great energy and sincerity. However, sections 2 and 3 are wholly impossible of definition in the world of visual art, literature, music, the performing arts, or the law—especially as to the definition of what constitutes a "nonreligion" in section 2 or the interpretation of the entire breadth of section 3.

For those reasons I supported the motion to table, but I shall work vigorously and tirelessly to see that language which is contained in section 1 of the amendment is enacted during this session of Congress.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. May I now address my question to my friend from Georgia, who as far as I know, still has the floor.

Mr. FOWLER. Mr. President, I do still have the floor. I asked Senator HELMS a question, but I still have the floor.

Mr. WILSON. Does my friend yield for a question?

Mr. FOWLER. I yield to the Senator from California.

Mr. WILSON. I thank my friend from Georgia.

Mr. FOWLER. For a question. We only have 5 minutes left. I want the other Senator from California to have a chance.

Mr. WILSON. Mr. President, let me ask my friend from Georgia, first I gather he agrees this is not a question before us having to do with first amendment rights but rather with the propriety of the spending tax dollars to promote or to at least permit the exhibition of art.

If he agrees with that, in light of the question that he has asked the Senator from North Carolina, I would like to direct our attention to the third paragraph or the third standard that dealing with "material which denigrates, debases, or reviles a person, group, or class of citizens on the basis of race, creed, sex, handicap, age, or national origin."

The question really is this: Should we, as the body that is responsible for deciding whether or not to fund the NEA——

Mr. FOWLER. I say to the Senator from California, what is your question? I am not going to yield for a speech.

Mr. WILSON. Let me put the question. I will be happy to do that if I am permitted to continue.

Mr. FOWLER. I yield to the majority leader.

Mr. WILSON. I thank the Senator for his courtesy.

Mr. FOWLER. I yielded for a question, not a speech.

I yield to the majority leader.

Mr. MITCHELL. Mr. President, we only have a couple of minutes. I would simply like to say to the Senators that before I entered the Senate I spent most of my adult life in the criminal justice system. One of the most difficult, vexing questions in criminal justice and in virtually every other aspect of life is to devise a response that is appropriate to the offense. Judges, juries, legislators, deliberate over it and we do have a successful answer to it. But it is very important, when something happens that is wrong, that the response to it bears some proportion to the offense.

The only message I want to give here is that this amendment is an extreme overreaction to the perceived offense or wrong. It is impossible of definition. Is there any Senator who can stand here and say what is a nonreligion? What are the beliefs of the adherents of a nonreligion? What are the objects of a nonreligion?

Many words that we use in laws are difficult to apply. We have courts to apply them on a case-by-case merit. But here, as everywhere in life, there are degrees. And this is an attempt to place a definition on that which is inherently nondefinable. Is there a person on Earth capable of defining nonreligion? What does it mean?

I do not quarrel with the motives involved by those who pursue this amendment. These are difficult questions. These are not easy questions. What, if anything, is the role of Government is supporting the arts? That is an important question. It is worthy of debate. It is worthy of discussion.

But I say to the Members of the Senate that if we write a standard into law which says "material which denigrates the beliefs of the adherents of a nonreligion," we are writing something that not one of us can possibly define. No one here tonight has attempted to describe a nonreligion or the beliefs of a nonreligion or the objects of a nonreligion.

So whatever the offense, I urge my colleagues to consider the extreme nature of this overreaction to it. And I remind my colleagues that the conferees, most of whom have spoken here tonight, are at work and expect to have what we hope will be a sensible, rational, limited, applicable and appropriate response possibly by tomorrow.

What is there that compels us to act at this hour when we already have in place a mechanism and trusted and respected Members of the Senate and the House from both sides of the aisle who are close to a resolution which we perhaps all can support? That is as irrational as an attempt to write into law a definition of nonreligion.

I apologize to Senators. The time is nearly up. But I simply say I hope all members will join in tabling this resolution, not because they are unconcerned about the problem. I thought, frankly, that the statement made by the Senator from Missouri was one of

the finest and most rational, logical, and eloquent statements I have heard in the Senate in many years. Does anyone here believe that he, an ordained minister, is unconcerned about the subjects of the amendment? I think he raised valid points, and others have.

I understand a motion to table is to be made.

Mr. President, I move to table the amendment.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine, Mr. MITCHELL, to table the amendment of the Senator from North Carolina, Mr. HELMS. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN] and the Senator from Georgia [Mr. NUNN] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS] is necessarily absent.

The PRESIDING OFFICER. Are there other Senators in the Chamber who desire to vote?

The result was announced—yeas 62, nays 35, as follows:

[Rollcall Vote No. 216 Leg.]

YEAS—62

Adams	Glenn	Mikulski
Baucus	Gore	Mitchell
Biden	Gorton	Moynihan
Bingaman	Graham	Packwood
Bond	Harkin	Pell
Boren	Hatfield	Pryor
Boschwitz	Heinz	Reid
Bradley	Inouye	Riegle
Bumpers	Johnston	Robb
Burdick	Kassebaum	Rockefeller
Chafee	Kennedy	Roth
Cohen	Kerrey	Rudman
Cranston	Kerry	Sanford
D'Amato	Kohl	Sarbanes
Danforth	Lautenberg	Sasser
Daschle	Leahy	Simon
Dixon	Levin	Simpson
Dodd	Lieberman	Specter
Domenici	Lugar	Warner
Durenberger	Matsunaga	Wirth
Fowler	Metzenbaum	

NAYS—35

Armstrong	Garn	McClure
Breaux	Gramm	McConnell
Bryan	Grassley	Murkowski
Burns	Hatch	Nickles
Byrd	Heflin	Pressler
Coats	Helms	Shelby
Cochran	Hollings	Stevens
Conrad	Humphrey	Symms
DeConcini	Kasten	Thurmond
Dole	Lott	Wallop
Exon	Mack	Wilson
Ford	McCain	

NOT VOTING—3

Bentsen	Jeffords	Nunn

So the motion to table amendment (No. 891) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FOWLER. Mr. President, I ask unanimous consent to offer an amendment which would consist of title I.

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. NUNN. Mr. President, the amendment as originally reported by the Appropriations Committee had the effect of earmarking Defense Department research and development funds for eight specifically named universities in seven States. This included five ongoing projects, and three new projects.

I was concerned that the amendment, as originally drafted, was inconsistent with the principle that defense research funds should be awarded on a merit basis with all universities in all States eligible to compete.

On at least three occasions in the past year, the Senate has stated its support for competition and affirmed its commitment to merit-based awards of research contracts and grants to universities and colleges. The Senate has voted in opposition to the type of legislative earmarking of defense funds for specific universities as is reflected in the original committee amendment.

Let me restate the primary actions the Senate has taken in the past year.

First, in the fiscal year 1989 Defense Authorization Act, the Congress approved legislation mandating the use of competition in awarding Defense Department grants and contracts to universities and colleges. That legislation was designed to discourage the type of earmarking that was reflected in the original committee amendment. That new legislation takes effect on October 1—less than 1 week from today.

Second, during consideration of the fiscal year 1989 conference report on the Defense appropriation bill, the Senate deleted a provision which earmarked $81 million in funds for specific institutions. The Senate took this action even though it meant returning the conference report to the House in the waning hours just prior to sine die adjourned.

Third, in the fiscal year 1990 national Defense authorization bill, the Senate reaffirmed the prohibition on statutory earmarking of research funds to universities and colleges. We revised last year's legislation to ensure that the provisions of the Competition in Contracting Act [CICA] are applied to research contracts for universities and colleges. That provision mandates competition while providing certain merit-based standards for flexibility if DOD chooses to use it.

I hope the Senate will insist that the research funds included in the bill before us are governed by merit selection procedures and not by the process of specific earmarking.

Despite this clear and strong record, the committee amendment as originally drafted proposed to divert $37.5 million from other DOD research funds to the national defense stockpile fund so that it can then be further allocated for the eight specifically named institutions. The funding shift was required in the bill and the specific earmarking was outlined in the report language.

The original committee amendment did not give the Secretary of Defense any discretion in awarding these eight grants even if he was to report negatively on the above projects. If he found duplication in the research, no other university or college with expertise in these areas in the other 43 States could compete for this $37 million.

But this is not just the issue of funding these eight universities. It is the issue of earmarking versus competition.

The Department of Defense firmly opposes earmarking. In a letter from Secretary of Defense Cheney which I received on September 27, he indicated that since fiscal year 1986 DOD has been directed either by statute or in report language to award more than $300 million in university grants on a noncompetitive basis. He further indicated that during that time, Congress has also used the national defense stockpile as a vehicle to earmark more than $81 million for 15 projects at 10 universities.

Mr. President, I ask unanimous consent that a letter from Secretary Cheney on this subject be printed in the RECORD at the conclusion of my remarks and also a letter I received from Senator BYRD opposing earmarking.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NUNN. Mr. President, the Defense Department's opposition to earmarking is clear. The American Association of Universities, and the National Association of State Universities and land-grant colleges oppose earmarking. I have received letters from the presidents of the National Science Foundation, from the National Academy of Science, and from the heads of many universities—all opposed to earmarking. At a hearing on the university research program which the Armed Services Committee held this spring, testimony was provided by witnesses from DOD, the National Science Foundation and the American Association of Universities—all decrying the practice of legislative earmarking.

I do not need to review for the Members of this body the critical role our universities and colleges play in defense-related research. The challenge that we face today is as great as ever and contribution that these institutions make in providing our future scientists, engineers, doctors, managers, and leaders cannot be underestimated.

Earmarking of scarce Defense funds does not advance this cause in the long run and it may not be the best use of these funds since other universities have been excluded from submitting competing proposals. How much of the $300 million that has been earmarked in the last 4 years should have gone to other universities? If we accepted the committee amendment as originally drafted, then we would have reopened a Pandora's box of every Senator being expected to deliver funds to home-State universities through this procedure.

If we are going to earmark—and I remain solidly opposed to it—then everyone should have the opportunity to earmark. I cannot keep turning down schools in my State and opposing earmarking or floors in the authorizing process when everyone isn't playing by the same rules. I have previously stated, only partly in jest, that perhaps each State should be allocated a certain amount of money and each Senator given an opportunity to earmark the funds as he or she sees fit. Then each Senator can be in the enviable position of deciding which college or university gets the funds in their State and which ones do not. I, for one, prefer to have DOD make those decisions on a merit basis.

Mr. President, that is exactly what the modification to the committee amendment submitted by the distinguished chairman of the Defense Appropriations Subcommittee accomplishes.

First, the modified amendment strikes the funds for the new projects contained in the original committee amendment.

Second, the amendment as modified reflects the fact that the earmarking of funds for new projects is inconsistent with the letter and spirit of the statutory requirement for merit-based selection procedures.

At the same time, the amendment as modified provides funds that could be used for the five ongoing projects if the Secretary of Defense decides that these projects should be funded. This reflects the fact that we are in a transitional situation—changing from the earmarking era to the competitive era. In this transitional environment, it is appropriate to give the Secretary of Defense the opportunity to exercise his discretion to determine whether these projects should be completed.

He is not required to fund any of these projects.

With this approach, Mr. President, I can support the amendment as modified.

Exhibit 1

THE SECRETARY OF DEFENSE,
Washington, DC.

Hon. SAM NUNN,
Chairman, Armed Services Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN. Congressional earmarking of Defense Department appropriations for university research has become a growing problem. In fact, since FY 1986, the Department has been directed either by statute or in report language to award more than $300 million in university grants on a noncompetitive basis. During that time, Congress has also used the National Defense Stockpile as a vehicle to earmark more than $81 million for 15 projects at 10 universities.

The Senate Appropriations Committee recommends in Section 9099 of the FY 90 Department of Defense Appropriations bill (H.R. 3072) that the Stockpile Transaction Fund be used to earmark $37,552,000 in Research, Development, Testing and Evaluation (RDT&E) appropriations for grants for "strategic materials research, facilities, equipment, and related activities at institutions of higher education." While specific institutions are not named in the bill, the accompanying report language does name eight universities. Notably, six of those eight universities have received a total of $39 million in earmarked research over the past four years.

During this period of budgetary constraint, the Department strongly opposes any such diversions of its resources to unrequested programs for which the Department has not identified a requirement. Where we do identify requirements, the Department strongly believes that a merit-based selection process is necessary to ensure that we receive the best available products.

Sincerely,

DICK CHENEY.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, July 28, 1989.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is to assure you of my strong support for Section 223 of the Defense Authorization Bill. As you know, this section will require universities and colleges to compete for research and development funds provided to the Department of Defense.

I have serious concerns about the past practice of earmarking funds for non-competitive, sole-source grants through the National Defense Stockpile Transaction Fund to particular colleges or universities. Therefore, I urge you to resist any attempt to amend the Defense Authorization Bill for such purposes. I will join you in opposition to any such amendment, and I would appreciate being informed in advance of any attempt to bring such a proposal before the Senate.

With kind regards, I am

Sincerely,

ROBERT C. BYRD,
Chairman.

The question is on agreeing to the underlying amendment.

The excepted committee amendment beginning on page 107, line 2, was agreed to.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 892

(Purpose: To amend the Stewart B. McKinney Homeless Assistance Act to make a technical change, and for other purposes)

Mr. HATFIELD. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration. On behalf of Senator KENNEDY and Senator HATCH, I offer this technical amendment.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for himself, Mr. KENNEDY, and Mr. HATCH, proposes an amendment numbered 892.

At the end of the bill insert the following:

SEC. . STEWART B. McKINNEY HOMELESS ASSISTANCE ACT TECHNICAL AMENDMENT.

(a) IN GENERAL.—Section 739 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11449) is amended—

(1) by striking subsection (b);

(2) by striking "; AVAILABILITY OF FUNDS" in the section heading;

(3) in subsection (a) by striking "(a) AUTHORIZATION OF APPROPRIATIONS.—";

(4) by striking "(1)" and inserting "(a) AUTHORIZATION OF APPROPRIATIONS.—";

(5) by striking "(2)" and inserting "(b) RATABLE REDUCTION.—"; and

(6) by striking "(3)" and inserting "(c) SPECIAL RULE.—".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to funds obligated during fiscal year 1988 and each fiscal year thereafter.

Mr. STEVENS. Mr. President, I ask that my vote be changed. I thought I was voting an up-or-down vote.

Mr. MOYNIHAN. Mr. President, may we hear?

Mr. STEVENS. Mr. President, I wish to be recorded against the motion to table. It will not change the vote.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska?

Mr. MOYNIHAN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HATFIELD. Mr. President, this is a technical amendment on behalf of Senator KENNEDY and Senator HATCH at the request of the Secretary of Labor, Elizabeth Dole. In passing the McKinney Act, we had precluded a carryover of unexpended funds for the demonstration programs for the homeless. We have some unexpended funds from 1988, and what this technical amendment does is permit the Secretary of Labor to continue these demonstration projects for funds appropriated in 1988. That is all it does, and I ask the Senate to adopt this amendment.

Mr. KENNEDY. Mr. President, I support passage of the McKinney technical amendment. This proposal would amend the McKinney Act to allow funds appropriated for job train-

ing for the homeless demonstration projects to be available until expended. It is supported by the administration, the Department of Labor, and Senator HATCH.

Under current law, McKinney job training funds may only be expended during the year the funds are obligated and the succeeding fiscal year. The change set forth by this amendment is necessary to prevent interruption or termination of many worthwhile demonstrations currently underway with funds obligated during fiscal year 1988. Without these amendments, availability of such funds would terminate September 30, 1989. We cannot allow this to happen. These demonstrations are providing valuable services to homeless people and contributing essential information relating to how best to provide job training to the homeless.

There are several reasons—all of them legitimate—that a significant portion of funds will remain unexpended at statutory deadline. For instance, the Department of Labor has required additional time to evaluate a large number of the applications for grants. In addition, the innovative nature of the projects funded by this act has required significant startup time for staffing and coordination by grantees.

Funds appropriated for most other programs under the McKinney Act and for national demonstrations under JTPA are available until expended. This amendment is therefore consistent with provisions governing expenditures of funds for similar programs. This amendment would provide important flexibility which would allow current and future job training demonstration projects under the McKinney Act to be completed in an effective and orderly manner.

Mr. President, interim reports on these projects are encouraging. It seems that this relatively small program is resulting in considerable gains for homeless people around the Nation. I urge my colleagues to support this technical amendment and allow this success to continue. The Nation's homeless are counting on us.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 892) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE CHANGE ON AMENDMENT NO. 891

Mr. STEVENS. Mr. President, I ask unanimous consent that I be recorded in the negative on the motion to table.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

MOLDED CASE CIRCUIT BREAKERS

Mr. SPECTER. Mr. President, I wish to discuss the status of the procurement of replacement molded case circuit breakers for Navy ships.

In 1983 and 1984 the Navy conducted shock trials of electromechanical circuit breakers on Navy combatants. I have been informed that the trials revealed that the circuit breakers tripped. Such a tripping would cause a shutdown, during combat or collision, of a ship's electrical systems and could be catastrophic for Navy ships and their crews.

In recognition of this demonstration of the need for replacement circuit breakers, the conference report on the fiscal year 1989 Defense Appropriations Act included the following agreement:

> The conference agree that the Navy should review the requirement for molded case circuit breakers and submit a plan for addressing any requirement within the fiscal year 1990 budget request.

The fiscal year 1990 budget request did not mention the replacement circuit breakers. On March 30, 1989, however, then-Acting Secretary of the Navy Garrett wrote to the Senate and House Appropriations Committees in response to the conference report:

> I am responding to the requirement in the FY-89 DOD Appropriations Conference Report that directed us to submit a plan for molded case circuit breakers.
>
> We are proceeding with state of the art, solid state circuit breaker trip units to improve maintainability, provide selective protection and improve continuity of electrical service to electronics, weapons, and other critical systems. An effort is now being made to use current year funding to start the program and meet these requirements.

Unfortunately, Mr. President, it appears that the Navy's support for the procurement of the replacement molded case circuit breakers was not included in its fiscal year 1990 budget request. The absence of this information apparently contributed to the absence of the $6 million in funding needed for this program in the fiscal year 1990 authorization bill.

If, however, the authorizing committees had been notified of the Navy's position through its budget request, the replacement molded case circuit breaker program surely would have been given due consideration. It seems to this Senator that a special case exists for inclusion of the funding for the program in the fiscal year 1990 appropriations bill. I hope that the $6 million will be accepted by the appropriations conferees.

DEPARTMENT OF DEFENSE COAL PURCHASES

Mr. SPECTER. Mr. President, I take this opportunity to focus the Senate's attention on a matter of extreme importance to the U.S. coal industry. The fiscal 1990 Defense appropriations bill which we consider today amends provisions in title IX, section 9013, subsections (b) and (c) regarding mandated coal and coke purchases for Department of Defense facilities in Europe.

The amended versions of these subsections would permit conversions of heating plants and facilities in Europe to oil or natural gas only if they are cost effective. I am advised that this proviso mitigates the total conversion ban which was included in the fiscal year 1989 appropriations bill. The purpose of the ban was to safeguard the Pentagon's current energy policy while opportunities for utilizing alternative means for U.S. energy generation were considered.

I am advised that even if this proviso were to be stricken from the bill, the Department of Defense intends to go ahead with conversions of 21 more facilities in Europe. I am concerned that such conversions will jeopardize the regional energy master plan recently completed for the Kaiserslautern and Ramstein military communities in the Federal Republic of Germany. This plan represents a cooperative effort between local German heating interests and the American anthracite industry. The plan emphasizes the cogeneration, the simultaneous production of both heat and electricity, and takes special care to comply with local environmental standards.

Mr. President, I believe the U.S. coal industry deserves a commitment on the part of the Department of Defense to comply with the spirit of the 1989 statute. Such a commitment necessarily will entail measures to delay conversions of U.S. facilities in Europe pending a fair evaluation of the master plan.

V-22 OSPREY

Mr. SPECTER. Mr. President, I take this opportunity to bring to the Senate's attention to a matter of special importance. I am concerned that the fiscal year 1990 Defense appropriations bill does not contain fiscal year 1990 funds for advanced procurement of the V-22.

I believe the decision to eliminate fiscal year 1990 funding for the V-22 does not reflect sensible procurement planning. Delaying procurement of the V-22 will only lead to higher per unit costs should a determination be made at a later date to proceed with the program. This decision appears particularly unwise given that the Navy's designated alternative to the V-22—increased purchase of modified

CH-53E Chinooks—did not receive the funding called for in the administration's request.

I believe the position taken by the House Armed Services Committee with respect to the V-22 is the correct one: allow the program to continue in research and development, and begin gearing up for production with a small amount of advanced procurement funding, while providing for an independent evaluation of the program by the Secretary of Defense.

The question has been asked, why should the V-22 Program receive any procurement funding in the new fiscal year's defense budget, given that funding was provided in the bill for research and development, and the program is about 10 months behind schedule? As my colleagues know, the transition from research and development to production is not a simple turning on of a switch, but is just that, a transition. As such, a transition requires lead time and planning to make it as smooth and efficient as possible.

Advanced procurement of the V-22 in fiscal year 1990 is necessary to protect production options for fiscal year 1991 and initial delivery plans for spring 1993. Furthermore, advanced procurement will keep the V-22 industry infrastructure intact and ensure that the V-22 is a production program, as originally envisioned, and not simply a technology demonstrator.

The V-22 represents an essential future component in short-range tactical air operations. No helicopter in our current fleet can match the V-22's combination of speed, range, and deployability. These vital attributes will permit the conducting of amphibious assaults from protected distances and provide the speed and maneuverability to survive close-in combat.

Mr. President, I realize there has been much debate regarding the military usefulness of this weapon system. I am advised that three major studies, dating from 1982 to as recently as January 1988, have focused on the V-22's cost, operational effectiveness and survivability in sustained warfare operations. These studies conducted for the Secretary of the Navy were a joint technical assessment, a cost and operational effectiveness analysis, and a subsequent operations ashore study conducted for the Secretary of the Navy. All three studies concluded that the V-22 is the most cost-effective solution to meet the joint services requirements.

Much concern also has been expressed regarding the commercial viability of the V-22. I am advised that to date private industry has expended at least $366 million on tilt-rotor technology. This investment has included composite manufacturing, rotor and dynamics development and testing, digital fly-by-wire technology, engine technology development, and capital investment.

Finally, I take this opportunity to notify my colleagues that on September 14, 1989, the V-22 reached its most important development milestone to date: it accomplished full conversion from helicopter mode to airplane mode while in flight.

Mr. President, as we are all aware, our country faces a period of great uncertainty regarding future conflict scenarios and mission requirements. One thing we do know, however, is that flexibility in mission will be an essential criterion for all of our services. I am convinced the Osprey is an aircraft which fulfills this need, and urge my colleagues to support this vital defense program.

IMPROVED RECOVERY VEHICLE

Mr. SPECTER. Mr. President, I wish to focus the Senate's attention on the requirement for $13 million to finish testing the technical data package for the M88A2 Improved Recovery Vehicle [IRV]. Further tests are required to determine whether the IRV meets certain technical specifications with regard to hoisting and removing M1A1 main battle tanks from the battlefield. Furthermore, if the Army decides to retrofit the M88, the current recovery vehicle, with the technical data package for the IRV, it would only be prudent to first validate the technology.

The IRV was conceived mainly to perform four primary functions and fulfill one secondary role. The primary functions include: towing of disabled vehicles, preparing disabled vehicles for evacuation, recovering mired vehicles, and righting tipped/nosed-in vehicles. When not employed for these primary missions, the recovery vehicle fills a secondary function of providing lifting and movement capabilities for maintenance operations.

Another issue of concern is a provision in the fiscal year 1990 Defense Appropriations bill which reallocates $120.4 million in fiscal year 1988 and fiscal year 1989 procurement funds, originally designated for advanced procurement of the IRV, for additional procurement of M1A1 tanks.

Mr. President, while the Army continues to experience a shortage of its current recovery vehicle, the M88, it does not seem sensible to this Senator to transfer funds designated for procurement of the follow-on to this vehicle, the IRV, to a separate account for additional procurement of the very weapon system this vehicle is intended to recover. Furthermore, I am advised that in the absence of a sufficient number of recovery vehicles, surprisingly the current military plan is to use functioning M1 tanks to tow damaged tanks off the battlefield.

Mr. President, I find this reallocation of funds unwise, not to mention wasteful. Why should the battlefield capability of a sophisticated asset such as the M1A1 tank be jeopardized to help remove another M1A1 from the battlefield? Moreover, towing operations performed by other tanks would place unacceptable strain on their powertrains, which are not designed to perform this strenuous task.

The efficient removal and recovery of damaged tanks is a battlefield mission with a compelling history. The Israelis, during the Yom Kippur War, for example, practiced the recovery of damaged tanks with tremendous success. The Israelis suffered 75 percent losses within the first 18 hours of battle. A high percentage of the damaged vehicles were recovered, and 80 percent of the damaged vehicles were returned to the battle within 24 hours. Reports indicate that as the campaign continued, some Israeli vehicles were recovered, repaired, and returned to service as many as five times.

Mr. President, I am concerned when the U.S. Armed Forces do not have at their disposal the necessary capabilities to fulfill their designated mission. Accordingly, I urge my colleagues that it would be unwise to discontinue testing of the IRV, the only vehicle capable of recovering the 61-ton M1A1 tank, when no feasible alternative exists.

Mr. President, I ask unanimous consent that an article from the October 1989 issue of the Armed Forces Journal International regarding this subject be printed in the RECORD. While it is somewhat long, I believe it is worth inclusion in the CONGRESSIONAL RECORD, because of its value in explaining the importance of a viable tank recovery capability.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Armed Forces Journal, Oct. 1989]

SEVEN YEARS AFTER M-1 FIELDING, ARMY STILL CAN'T YANK TANKS

(by John G. Roos)

If U.S. Army armor units had to fight today, their combat effectiveness would be sharply diminished by a tank recovery fleet incapable of retrieving disabled M-1 Abrams tanks. In order to safely get battle-damaged tanks out of harm's way, recovery crews would each need two of the currently fielded M-88A1 tank recovery vehicles or one M-88 and an operational M-1 tank—the second vehicle serving as a rear restraint.

The problem isn't new. When 61-ton M-1s began replacing 56- to 59-ton M-60s in 1982, the Army realized that its M-88A1 recovery vehicles—designed to pull M-60s—couldn't safely retrieve the heavier M-1s. Seven years after the Abrams tanks entered service, the Army remains unable to efficiently recover those vehicles.

According to a GAO report released in July, the Army has recognized that it has "urgently" needed an improved tank recovery vehicle since 1981. "With the growth in weight of the Army's main battle tanks to 65, and eventually to 70, tons," the current recovery vehicle "does not have the traction or the power to tow tanks weighing 60 tons

or more over unpaved slopes, and it must work in pairs to safely tow these tanks."

In a May message to several four-star Army commanders, former Army Armor School Commandant Maj. Gen. Thomas Tait (now deputy commander of Second Army) said that the M-88A1's inability to safely recover Abrams tanks "has been a high priority TRADOC [Training and Doctrine Command] Battlefield Development Plan (BDP) deficiency for the past six years. With each improvement to the Abrams, and consequent weight growth, the situation becomes worse." Directives requiring two vehicles to recover an M-1 were "intended as a short-term fix, pending the imminent fielding of an improved recovery vehicle. This practice is inefficient in peacetime and would be unacceptable in combat."

In response to plans for armor forces to use operational tanks to tow battle-damaged vehicles. Tait said: "We cannot afford to withdraw mission-capable tanks from combat to recover each disabled vehicle to a repair site. This would be an unwarranted draining of our combat power. We cannot afford to have disabled tanks on the battlefield and initiate like vehicle recovery after the fight.

"Our tankers generally have more tasks to do than they have time to accomplish. Furthermore, the longer a disabled tank remains stationary and exposed, the more likely it is to sustain multiple hits. Tanks which would likely be repairable if quickly recovered, therefore, may become catastrophically destroyed when recovery is delayed."

Tait also pointed out that the M-1's compartmentation and venting of fuel and ammunition make it "much more likely than the M-60 and older tanks to withstand hits with only localized damage rather than high-order destruction. More importantly, the crewmen of a disabled tank are more likely to survive and return to battle if we execute timely recovery operations."

Craig Ireland, TRADOC Systems Staff Officer for recovery vehicles, told AFJI that the prospect of a disabled tank receiving additional hits from enemy gunners is high: "Both US and Soviet tank training calls for shooting tanks until they burn."

TRADOC has generated a number of studies bearing out the importance of the Army's logistical "tail" to its combat "teeth." One such effort, done by the Ordnance Center and School, used a three-day AirLand Battle simulation. Using current recovery and maintenance capability, a four-battalion tank brigade which began the "battle" with 232 M-1s had 99 operational tanks at the end of the third day. With the addition of armored maintenance vehicles—part of the "package" to complement new recovery vehicles—the brigade ended the third day with 163 tanks, a 60% increase in fighting capability.

NOT FOR LACK OF TRYING

Two years ago, it looked as though the Army was about to tackle the tank recovery problem, which by then had become a regular entry on the Service's annual list of its top 20 battlefield deficiencies. A long-term acquisition strategy was developed, based on projected requirements of next-generation (Block III) M-1s and follow-on "future tanks."

In 1986 the Army was told by Congress to hold a comparative test to select a successor for the M-88A1s. The test, held in May and June 1988, was a two-month face-off between BMY's M-88A1E1 and a General Dynamics Land Systems Division contender. On December 16th the Army announced its selection of the BMY vehicle. The M-88A1E1, at 69.3 tons, is about 13 tons heavier than its 56-ton predecessor. Most of the additional weight—eight tons—is in the armor for increased ballistic protection; the remainder is spread out in such subsystems as the boom and winch.

Concurrent with the announcement, the Army added an additional $3.6 million (to cover new work) to the $18.9 million firm, fixed-price, full-scale development (FSD) contract under which BMY had been developing its candidate since January 1987. That FSD contract indicated that the Army planned to purchase an initial batch of 849 product-improved M-88s through Fiscal Year 1994.

NEW DOD TEAM, NEW PRIORITIES

In January, then Under Secretary of the Army Michael P. W. Stone (now Secretary of the Army) apparently needed a "bill payer" for Field Artillery Ammunition Support Vehicles (FAASV) for mechanized artillery forces. The armored FAASVs, which will replace the current family of "soft" M-548 ammunition carriers, can deploy forward in the same areas as the howitzer units which they support. The vulnerable M-548s, on the other hand, have to remain about 500 meters behind their assigned howitzers.

According to a January 17, 1989, memo to Stone from Lt. Gen. Donald Pihl, military deputy to the assistant secretary of the Army for research, acquisition, and logistics. "If the improved recovery vehicle [program were] killed now, it is estimated the resultant funds could procure about 80% of the FAASVs required to support the howitzer improvement program (total HIP procurement is 1,700 howitzers)."

Forewarned that the Pentagon planned to cut off funds for the recovery vehicles, on April 6th five Senators and 16 Congressmen signed a letter to Secretary of Defense Richard Cheney stating their strong support for the improved recovery vehicle (IRV) program. The letter said that "the fact that one of the Army's premier combat systems, the M-1 tank, has been in service for over five years without [adequate] support reflects a major flaw in the acquisition system. A recent survey of key Army commanders again validated the basis and urgency of the requirement. They stressed that we cannot afford to continue to endanger the lives of our soldiers and our allies through the use of unsafe procedures. Nor can we accept the operational consequences of not being able to sustain our armed force in combat. The current makeshift M-1 tank recovery means is highly dangerous and should be eliminated as soon as possible."

Unmoved by the appeal, a few days later Cheney announced to the House Armed Services Committee that he was canceling the contract with BMY for the convenience of the government. Cheney told the HASC that the BMY M-88A1E1 recovery vehicle "never served its purpose in being able to perform the mission assigned to it, and I couldn't find many people in the [Defense] Department who were advocates of the M-88 recovery vehicle for tanks."

Deputy Secretary of Defense Donald Atwood amplified Cheney's comments when it was his turn to testify before the House Armed Services Committee in mid-June:

We terminated the Army's improved recovery vehicle program, which had experienced testing problems, and for which existing tracked vehicles provide feasible alternatives. The last Reagan FYDP program included $311-million for 215 IRVs. The total proposed program of 291 IRVs was insufficient to equip all active forces, let alone equip the Reserves or provide war reserve stocks. Alternatively, one could generate about $300-million by delaying for three years the modification of our M-1 tank inventory with the Block-II improvements, which are needed to counter projected armor improvements in Warsaw Pact tanks. The basic judgement here is that it is preferable to avoid damage to our tanks in the first place than to spend heavily on pulling a few more damaged tanks from battlefields that we might not control for long.

Cheney's decision, according to Ireland, apparently boiled down to a choice between funds for systems that provide offensive combat capability or those that sustain the forces. "The question is, do you want something that can influence the first hour or the first day of battle, or the fourth day of battle?" The Army's approach to heavy force modernization follows a straightforward set of priorities: "rearm, refuel, recover, and maintain," he said.

A Pentagon official told AFJI that the recovery vehicle program was canceled "because of other priorities." He said that although the Army tests of the BMY and General Dynamics vehicles had found that both candidates were "adequate," a "better way to put that would be that both vehicles were marginally adequate."

He said that the "Heavy Force Modernization Program effort is where the Army has focused its recovery future. The IRV is not one of the top six priorities; it's about number 18 on the list. Indications from TRADOC are that when we next prioritize, the recovery variant will be very high."

BACK TO SQUARE ONE

The program cancellation threw Army armor officials back to square one. After informing senior Army leaders that he was "very concerned" about the loss of the recovery vehicle program. Tait sent a message to affected units reiterating critical safety items. "I fear the 68-ton M-1A1 to be fielded in USAREUR [US Army Europe] this fall will not be forgiving to violators. Don't let our soldiers get hurt needlessly." he wrote.

The three-page message informed readers that, "regrettably, for the foreseeable future, we must continue to use a rear restraint vehicle when towing the Abrams tank with the M-88A1."

Concerning on the practical, day-to-day implications of Cheney's decision, Tait reminded readers that, when retrieving an M-1 with another Abrams," soldiers must be protected from the Abrams exhaust heat when hooking and unhooking towing devices. Special care should be taken to avoid exposed skin contact with hot tow bars. If towing for extended distances, or if hooked up to a running vehicle for a prolonged time, additional heat protection to towed vehicle headlights, vision blocks, and driver's compartment must be considered." When cresting hills, or traversing ditches, he warned, excessive speeds will cause the tow bar to snap "and a catastrophic accident may result."

Ten soldiers have received minor injuries during tank recovery operations during the past year, according to a US Army Safety Center spokesman.

An Army official involved with the IRV program stressed that the Service is very concerned about soldiers' safety, and feels that present recovery procedures, if followed, are reasonable alternatives to obtaining a new IRV fleet. "Things are going on to

fix the heat problem, for instance. The Army is developing a thermal blanket to cover the fronts of towed tanks. We're also developing a new tow bar," he said. "These [alternative] procedures, however, would create combat limitations," he added.

But Tait's message also touched upon a much broader implication of Cheney's decision: "While the armor force must bear the immediate brunt of this setback, the impacts are much farther-reaching—the Army's entire battlefield recovery strategy, formulated in 1985, is now badly out of kilter.

"As armor units [would have] received M-88A2s, our M-88A1s would have gone to fill existing Army-wide recovery vehicle shortages and to displace overmatched M-578s in Bradley and HIP howitzer battalions. Now there are no assets forthcoming to fulfill these needs."

RIPPLE EFFECT

The Army figures that it needs about 4,200 armored recovery vehicles of various types for all of its combat forces. This figure includes not only seven tank recovery vehicles for each M-1 tank battalion, but also armored recovery vehicles capable of retrieving 155-mm self-propelled howitzers, M-113 personnel carriers, and Bradley M-2 and M-3 infantry fighting vehicles. But the retrieval capability for all of this equipment has suffered from the same malady as that which afflicts tank units. Heavier new and "product improved" tracked combat equipment made its way to Army units without corresponding improvements in retrieval capability.

Had the Army's plans for new recovery vehicles materialized, the older M-88A1s would have replaced M-578 recovery vehicles in self-propelled howitzer and Bradley fighting vehicle units. The 578s, in turn, were slated to go to M-113 units and US-based Bradley units.

TRADOC is now putting together a new plan to address retrieval deficiencies throughout the armor force. Tackling the problem from "immediate," "near-term," and "far-term," perspectives, the plan puts procurement of an improved recovery vehicle in the last category.

A July Army memorandum outlining the M-88A1E1 cancellation sums up the action's impact on heavy artillery forces: "None of the alternatives, with the exception of the HFM [Heavy Force Modernization] recovery variant, will increase recovery assets for artillery howitzer improvement (HIP) vehicles (need a medium recovery vehicle—M-99A1 in lieu of light recovery vehicle, M-578). The only other alternatives are to procure more M-88A1 medium recovery vehicles for the HIP requirement or reallocate exisitng M-88A1s."

But, also in July, Congressional overseers of the on-again, off-again recovery program ruled out any interim purchase of M-88s. In its markup of the FY90-91 DOD authorization bill, the legislators expressed concerns over M-88 safety deficiencies. They recommended a provision be included in the final bill requiring the Army to complete a new round of technical and operational testing before making an FY91 production decision. The Army was told to use $13 million in prior-year funds to complete the tests.

BMY: BAD NEWS

First, the contract cancellation, and now the prospect of a new round of testing have all but taken BMY out of the running for producing the Army's improved recovery vehicle. "Today, BMY has the edge [over General Dynamics] because of its production line," Dan Harvey, BMY-Combat Systems program manager for heavy force modernization told *AFJI*. "However, the firm that makes the castings for our hulls—Rogers Olympic Corporation [ROC] in Seattle—is ready to close its production line by October. We've been told that once the line is shut down, they won't start it up again." A BMY memo sent to M-88 subcontractors in August said that "without additional M-88A1 sales, Rogers Olympic will go out of business, leaving a minimum two-year gap in production while a new source is qualified. During this period, no recovery vehicles (M-88A1 or M-88A2) can be produced."

Harvey said that BMY has told the Army that ROC will keep its line open if there is a market for three sets of castings a month. "BMY stretched out the M-88 production line to September 1989, a year beyond the Army's original plan," he said. "We were making 20 hulls a month under a 1983 contract, and we slowed the line from 20, to 15, then to seven. While we're hoping for some foreign sales, which would let us take the three a month, those contracts are still pending." Even those sales, Harvey added, might not be adequate to keep the line open, since ROC has about 50 completed hulls ready for shipment.

To date, 20 overseas customers have ordered 496 M-88A1s; all but four have been delivered.

M-88 SUPPORTERS CLOSE RANKS

In a last-ditch effort to continue M-88 production, the vehicle's supporters have launched an all-out assault on Capitol Hill. Tom Druce, an aide to Senator John Heinz (R-PA), told *AFJI* that keeping those production lines operating is the first priority. "As we get into the [House/Senate Authorization] conference process, you can expect Senator Heinz to lead the fight to keep the burners going for BMY. We're just looking for enough time to let the Army certify this vehicle."

M-88 program supporters also are orchestrating an all-out lobbying campaign involving the system's 17 subcontractors. The group has targeted 16 Congressmen and five Senators, including nine members of the House and Senate Appropriations Committees, in their effort to keep the program alive.

The group's ultimate goal is to see language in the final DOD appropriations bill directing the Army "to procure a minimum of three M-88A1s per month using prior year (FY88 and FY89) IRV procurement funds offset by future foreign sales."

Letter writers are suggesting that the Committee include language in its report indicating that the legislators are "concerned about the ability of the Army to maintain a warm IRV production base."

Michael Morris, IRV program Manager for General Dynamics, agrees with BMY's Harvey on one key point: "It might put us in a better position if BMY's production line is closed down."

Morris said that during the Army's source selection process. General Dynamics pitted its IRV against BMY's M-88A1E1. The GAO reported that production models of the systems, as tested, would cost $2.2- and $1.2-million, respectively. But Morris said his company's contender has increased capabilities to match the higher price tag. Using the same chassis as the tank it is designed to tow, the General Dynamics IRV offered an "NBC [nuclear biological, chemical] protection system and the ability to tow a 70-ton tank at 30 miles per hour. And there's another significant point—our IRV has more than 50 percent commonality with the M-1A1 tank."

The Army's original requirement document, according to Morris, called for an NBC system and tough mobility requirements, so the retriever could stay with supported tanks even if they had to traverse a contaminated area. "Based on our operational cost analysis," Morris said, "our vehicle will recover many more tanks during a typical day of combat" before the crew needs to rest.

Donald Gilleland, Communications Director for Land Systems Division, feels that the Army's initial selection of the BMY contender over this company's vehicle was driven primarily by financial considerations. "Unfortunately, sometimes technology loses out to financial considerations. But we pointed out to the Army that buying recovery vehicles with chasis common to the Abrams could result in savings over both programs. They'd save money throughout the system's life cycle, in supply, maintenance, and logistics."

Gilleland said that General Dynamics is "in contact with several foreign countries that want the Abrams, and that also want our recovery vehicle. We're convinced that there's a need for our recovery vehicle."

Karl Oskoian, General Dynamics Land Systems Division Communications Manager, said that if the Army were to hold a Cost and Operational Effectiveness analysis, the higher price tag on his company's vehicle would be seen as money worth paying. "We offer performance equal to M-1 tanks, commonality with fielded equipment, use of nondevelopmental items, and growth capability similar to that of future main tanks." Morris added, "The M-88 has seen its day. It's been around for 30 years."

Unless the Army comes up with funds for a successor to the M-88A1, it looks as though the early-'60s-vintage recovery vehicles will be around for many more years—trying to keep up with tanks they are unable to retrieve.

IMPACT AID: AN URGENT NEED

Mr. PELL. Mr. President, I wish to call attention to a worthy provision in the House version of the Defense appropriation bill which I hope can be accepted in conference; namely, a provision of impact aid, or assistance to local school districts which are shouldering the burden of educating the children of military personnel from nearby bases.

This is an issue of great importance in the State of Rhode Island. The Navy and DOD payroll in the State increased by $11.1 million in 1988 over the previous year, and a total of 12 surface ships are now homeported at Newport. Permanent active duty military personnel in the Newport area totaled 5,682 in 1988; in addition, attendance at the 10 schools comprising the Navy Education and Training Center totaled 9,986 over the course of the year.

With this influx of service personnel have come military families with children in numbers exceeding the planned capacity of local schools. The impact has been particularly hard felt in the town of Middletown which lies

immediately north of the city of Newport on Aduidneck Island. As a result, Middletown must build additional classrooms.

For this reason, I was delighted to note that the House Appropriations Committee recommended the sum of $10 million in impact aid for school districts which would be unable to provide a minimum level of education without such assistance. The House report noted that the School Improvements Amendments Act of 1988 provided for assistance to such schools from Department of Defense section 6 funds, but that no such assistance was budgeted by the Department.

I am very sorry indeed that the Senate Defense Appropriations Subcommittee did not see fit to follow the lead of the House and in fact deleted the provision for $10 million in impact aid. This is a lamentable omission, in my view, and one which if not corrected can exacerbate relationships between our military establishments and surrounding communities across the country.

Mr. President, education is as essential as housing and health care for military dependents. It is an established obligation on the part of the Federal Government which must keep pace with the changing needs of the armed services. The amount in question at this time is extremely modest in the context of this appropriation bill, but it could have an impact many times over in the school districts where it is most needed.

I urge the Senate conferees of Defense appropriations to keep faith with communities serving our Armed Forces and accept the House provision for $10 million in section 6 impact aid.

BASE CLOSURES

Mr. DECONCINI. Mr. President, on Tuesday of this week, the Senate overwhelmingly voted to remove a requirement from the Defense appropriations bill that would have required the Comptroller General to certify to Congress that each realignment or closure would result in savings before the Secretary of Defense could use appropriations to implement these realignments.

I followed with interest the discussion between our chairman, Senator INOUYE, Senator LEVIN of Michigan, and Senator WARNER, the distinguished ranking minority member of the Senate Armed Services Committee, the committee that authored the Base Closure Act. Senator INOUYE noted that the fiscal year 1990 Senate Armed Services bill, S. 1352, already contains a provision that requires the Comptroller General to review the findings of the Secretary's Commission on Base Realignment and Closure.

Is that the understanding of the chairman of the Defense Appropriations Subcommittee?

Mr. INOUYE. Let me respond to my friend from Arizona that this is the case. The Senate Defense authorization bill as passed by the Senate on August 4 contains a provision, section 331, that requires the Comptroller General to submit to the Secretary of Defense and the Armed Services Committees of the House and Senate, not later than November 15, 1989, a report on the methodology, findings, and recommendations of the Base Closure Commission.

Mr. President, I am providing a copy of this section to be printed in the RECORD. I note that this provision requires the Comptroller General to assess inaccuracies in the data used by the Commission that may affect the Commission's recommendations.

Mr. DECONCINI. I ask my good friend the distinguished chairman of the Senate Armed Services Committee, Senator NUNN, would he be willing to make the report of the Comptroller General called for in the Defense authorization bill available to members of the Defense Appropriations Subcommittee?

Mr. SIMON. Might I also inquire if the chairman of the Armed Services Committee will make these findings available to interested Senators who are not on the relevant defense committees but have bases that are affected by the Commission's recommendations?

Mr. NUNN. I can assure the Senators that the findings will be available to any Member of the Senate. Obviously, the recommendations of the Commission are of interest to many Members not on my committee. It is not our intent to restrict these results to the Armed Services Committee.

Mr. DECONCINI. Let me ask the distinguished chairman, what should happen if the Comptroller General reports back that the Commission made significant errors?

Mr. NUNN. Obviously, if significant errors were made, one would expect the Secretary of Defense to reconsider whether these realignments should proceed. As Senator WARNER stated on Tuesday, Secretary Cheney is fair and a man of good conscience. If significant errors are identified by the Comptroller General in the report required under S. 1352 indicating that a base should not be closed, our committee at least would expect the Secretary to come forward with a proposal that redresses these mistakes.

Mr. DECONCINI. I thank the Senator and look forward to the Comptroller General's assessment.

Mr. INOUYE. I ask unanimous consent that the text of the section in question be printed in the RECORD.

There being no objection, the section was ordered to be printed in the RECORD, as follows:

PART C—BASE CLOSURE AND REALIGNMENT MATTERS

SEC. 331. BASE CLOSURE REPORT

(a) REPORT REQUIREMENT.—Not later than November 15, 1989, the Comptroller General of the United States shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives a report on the methodology, findings, and recommendations of the Commission on Base Realignment and Closure.

(b) CONTENT OF REPORT.—(1) The report shall include an analysis of the following:

(A) The adequacy and accuracy of the information relied upon as a basis for the Commission's recommendations.

(B) The process used in the determination of military missions and requirements and the military value of the bases in meeting such missions and requirements.

(C) The criteria used to select bases to be closed or realigned.

(D) The findings regarding military and civilian personnel reductions and associated relocation and termination expenses.

(E) The findings regarding nonrecurring costs, including expenses such as costs of construction, personnel, and logistics.

(F) The findings regarding long-term, annual savings, including the estimated cost amortization period.

(G) The findings regarding assumed proceeds from property sales for each applicable initiative.

(H) The findings regarding any environmental restoration costs that must be incurred in order to make it possible to sell or transfer excess property.

(2) Where any inaccuracies in the information referred to in paragraph (1)(A) are noted in the report, the Comptroller General shall include in the report an assessment of the effects of such inaccuracies upon the ranking of installations by the Commission within functional categories.

HARM MISSILE

Mr. GRAMM. Mr. President, comments have been made on the Senate floor that could imply that the HARM missile manufacturer has been recommended for suspension by the Navy for fraudulent actions associated with a printed wiring board called a stator switch, in the safe and arm device (fuze). This is not the case. Texas instruments, the missile manufacturer, is not involved with any pending suspension associated with the printed wiring board used in the safe and arm fuze.

Over the past several months there has been an ongoing investigation of a tactical missile fuze manufacturer, Asher Engineering. Micronics has produced fuzes for several tactical missiles other than HARM. HARM fuzes are built by Piqua, Raymond & Bomar. However, the HARM fuze did use a printed wiring board built by Asher. When concern over the printed wiring board came to light, Texas Instruments, the HARM prime contractor, and the Navy conducted an in depth evaluation of the printed wiring board and after extensive testing by four independent certified labs and one Navy laboratory, determined the boards to be acceptable. The Navy has

stated that "No HARM missile has ever failed due to the Asher printed wiring board, not in the lab testing, flight testing, or any other case."

To support present and future safe and arm printed wiring board requirements, Texas Instruments has qualified a second source, and they are on line without an impact to present production missile delivery schedules. Asher Engineering has suspended operations.

The safe and arm mechanism of the various tactical missiles have stator switches of different complexities, with the HARM board being the simplest, a sing-sided, one inch square circuit card with no components. With respect to the HARM part, the only concern was related to documentation and omission of several tests during the board manufacturing. The test program, which included the analysis and testing of 269 circuit boards from several production lots, was designed to validate the omitted tests and verify the reliability and performance. In addition, samples were pulled from storage representing all the previous production lots. The results of the test program showed that the printed wiring boards for HARM meets the requirements for performance and reliability.

The key points of this issue are: First, Asher Engineering, a second tier subcontractor, has suspended operations; not the missile contractor. Second, there is no reliability issue with the HARM safe and arm fuze; there has never been a failure attributed to the Asher board.

NATO DEFENSE BURDEN-SHARING

Mr. PRESSLER. Mr. President, I would like to comment on the proposed amendment to the Department of Defense appropriations bill that would have brought home 30,000 American troops from Europe unless our NATO allies increased their support for the maintenance of our forces in Europe.

I voted for that amendment because of my longstanding position in favor of greater burden-sharing by our allies. It is time for our wealthy NATO and Pacific allies to begin paying their fair share of their own defense. This was a difficult decision for me because we are in the midst of conventional arms reduction negotiations, and I don't want to interfere with that process. But this amendment would not have unilaterally withdrawn American troops from Europe. Those troops would have been withdrawn only if the Europeans refused to increase their support for their own defense.

The United States provides over $130 billion in defense of Western Europe, consuming nearly one-half of total U.S. defense spending. It does not make sense for the United States to subsidize the defense of the rest of the free world while our allies profit from our trade deficit and invest their earnings in American land and businesses. It is unfair to expect American taxpayers to continue carrying more than their fair share of this burden.

A few years ago I offered an amendment to reduce U.S. troop strength in Europe by a substantial amount. That amendment was not adopted. I supported efforts to include overseas bases in the base-closing legislation passed in the last Congress. Those efforts also failed. I supported a successful amendment to this year's Defense authorization bill to encourage a greater financial commitment by Japan to its own defense. I also supported a stronger amendment that would have required Japan to pay 100 percent of the cost of our forces stationed there, but that amendment was not adopted.

We need to let our wealthy European allies know that we are serious about greater defense cost-sharing by them. This amendment would have done that.

MANUFACTURING TECHNOLOGY PROGRAM

Mr. BYRD. Mr. President, if I may have the attention of the chairman of the Defense Appropriations Subcommittee and its ranking minority member, I would like to briefly comment on a program of importance to the advancement of the productivity and preparedness of the U.S. defense industrial base as well as improved competitiveness of this country vis-a-vis other industrial nations. This program is the Manufacturing Technology Program, the Mantech Program.

In deliberating on the National Defense Authorization Act for fiscal year 1990 and 1991, the Senate Armed Services Committee increased funding for the Department of Defense Mantech Program by $60 million overall and at my request included report language urging the Department of the Navy to carefully review the merits of establishing a "center of excellence for advanced manufacturing systems" that could serve as a national demonstration project and model for the development and transfer of new manufacturing technologies in support of Navy and other Defense Department needs.

In its consideration of the fiscal year 1990 Defense appropriations bill, the Senate Appropriations Committee provided full funding for the Navy Mantech Program and directed "* * * that $2,893,120 shall be available solely for establishing a center of excellence for advanced flexible manufacturing systems."

The purpose of the above-mentioned effort is to assure the establishment of a pilot regional teaching factory employing flexible computer integrated manufacturing systems in conjunction with Marshall University in Huntington, WV. This new institute would be a regional center of excellence which would serve as a national demonstration model for the development and transfer of new manufacturing technologies in support of the U.S. Navy and other Department of Defense needs. It would be designed to be a practical organization integrated with and responsive to the needs of local industry and would transfer technologies developed at the institute and elsewhere to the industrial base. It would also enhance the competitive posture of an economically depressed area to assure successful competition in regional, national, and world markets. The institute would be organized into four basic areas: education and training; operations and technical services; information resources and research; and research and development.

Since the above reports and directives were issued, discussions have transpired which may indicate that the Air Force Mantech Program, which has had an ongoing working relationship with the National Center for Manufacturing Sciences [NCMS], an industrial not-for-profit research and development consortium established by the President's machine tool action plan in 1986, may be a more appropriate mechanism for developing the "center of excellence," endorsed by both the authorizing and appropriations committees. It would appear that using the existing administrative structure, already established by the Air Force Mantech Program with the NCMS, could be a more effective and efficient way to fund such a center. These funds are provided to the National Center for Manufacturing Sciences on a matching basis with funds provided from the private sector.

I recommend that consideration be given in conference to enlarging the Air Force Mantech Program to enable NCMS to begin the establishment of the center of excellence for advanced flexible manufacturing systems and that the above-mentioned $2.9 million included in the Senate bill for the Navy Mantech Program be made available to the Air Force Mantech Program to permit it to increase its matching transfers to the NCMS for the purposes already stated.

I would be very appreciative if I could secure from both the distinguished chairman and the ranking minority member some assurances that they would work with me to see if a workable solution to the problem could be arranged in conference, which would be based on this emerging new avenue of approach.

Mr. INOUYE. I would be glad to work with the distinguished chairman of the Appropriations Committee and President pro tempore in considering this matter in conference.

Mr. STEVENS. I would be happy to cooperate with the distinguished chairman of the Appropriations Com-

mittee and President pro tempore in considering this matter in conference.

MEDICAL FOLLOW-UP AGENCY APPROPRIATION

Mr. CRANSTON. Mr. President, I would like to discuss with the distinguished chairman of the Appropriations Subcommittee on Defense, Mr. INOUYE, the issue of funding for the Medical Follow-Up Agency [MFUA] of the National Academy of Sciences. I note that I discussed this issue with the chairperson of the Appropriations Subcommittee on VA, HUD, and Independent Agencies, Ms. MIKULSKI, on September 19, 1989, during the consideration of S. 2916, the fiscal year 1990 appropriations bill for these agencies.

This Agency was created more than 40 years ago in order to conduct long-term clinical research and collect health-related data on war veterans. In addition to its epidemiologic research which has contributed to medical knowledge in a number of different areas, MFUA has developed resources which include access to, and familiarity with, the service and medical records of all three armed services as well as of VA. MFUA's capabilities in this regard are unique, which increases the importance of its comprehensive data.

In prior years, MFUA received a small amount of annual core funding to maintain its ongoing activities. However, for the past several years MFUA has been supported solely through individual projects. This loss of core funding has reduced MFUA's capacities to carry out its mission and is threatening its every existence.

On February 2, 1989, I wrote to VA's Chief Medical Director [CMD], NIH's Director, and DOD's Assistant Secretary for Health Affairs, urging that they provide a proportionate share of $500,000 per year for a 5-year period for core funding for MFUA and a proportionate share of $100,000 to support a search for a new physician-epidemiologist as Director—40 percent from both VA and DOD and 20 percent from NIH.

Although Dr. Wyngaarden, then NIH Director responded that NIH would be willing to participate in further discussions regarding MFUA's future, both Dr. Gronvall, VA's CMD, and Dr. Mayer, then DOD's Assistant Secretary for Health Affairs, indicated that resources were not available for this purpose. The texts of these letters were printed in the RECORD at the conclusion of my discussion with Senator MIKULSKI on September 19, 1989 (S11371).

Mr. President, as the Senator from Hawaii is aware, in a June 7, 1989, letter, I urged him and the chairs of the full Appropriations Committee, the Subcommittee on VA, HUD, and Independent Agencies, and the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies to develop a proposal under which VA, DOD, and HHS would fund the MFUA at a level of approximately $500,000 for fiscal year 1990 and annually thereafter for 4 years. The text of this letter was also printed in the RECORD on September 19, 1989 (S11372), following the responses from the involved agencies to my February 2 letter.

Mr. President, in the Appropriations Committee's report on the proposed fiscal year 1990 Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, the committee stated that it "requests that NIH take the lead in working with the Department of Defense [DOD] and the Veterans' Administration—[VA] by providing Federal funding of $700,000" for the support of the MFUA. The committee further stated that it would not expect NIH to make a contribution unless it were generously matched by DOD and VA.

Mr. President, Senator MIKULSKI and I will be writing a letter to Secretary Derwinski encouraging VA to provide funds to match such an NIH contribution. I would like to request that Senator INOUYE write to Defense Secretary Cheney to urge DOD to evaluate the role of MFUA in its health-research programs and, if appropriate, provide funds to match an NIH contribution as well.

Mr. INOUYE. Mr. President, I want to assure my good friend, the senior Senator from California, that I have been and continue to be a staunch supporter of health activities in the Department of Defense. I also believe it is important to fully understand the Medical Follow-Up Agency's [MFUA's] contributions for enhancing DOD health research.

While contributions of MFUA may enhance the wealth of medical knowledge of certain diseases, I would like DOD to assess the degree to which MFUA can augment the medical research already ongoing within the Department. In order to initiate this assessment, I will send a separate letter to the Department of Defense requesting an evaluation of the mission of MFUA. My letter would be written with a view toward urging the DOD to consider joining the NIH in contributing funds for MFUA's support and the search for a highly qualified director if a jointly funded program is militarily justified.

THERMIONIC SPACE POWER SYSTEMS

Mr. HEFLIN. Mr. President, I would like to take a moment to discuss a matter of great concern to me with the distinguished chairman of the Defense Appropriations Subcommittee. Specifically, I would like to see the Senate improve upon the House position on advanced spacecraft technology. As I am sure the chairman knows, the House directed the Air Force to allocate $10 million for thermionic space power.

Unfortunately, the House did not add the necessary funds to the applicable line in the House report. I am concerned that without such a designation the Air Force will not follow the directions in the report or will take the funds from inappropriate accounts. Accordingly, I would not only simply urge the chairman to agree with the House that $10 million needs to be spent for thermionic space power research but also to add the funds to the appropriate account. Mr. President, let me just just one moment to expand upon the program.

Over the last 2 years, the Air Force has been examining the strategically serious problem of the vulnerability of high-value military satellites. The solar power systems have been identified as a major week point because of the large areas of the arrays required for spacecraft that need more than about 5 kilowatts. The solar arrays complicate the maneuverability of the spacecraft and I understand that techniques to harden solar panels are relatively limited.

Air Force studies have shown a great deal of promise for a very compact thermionic power system. The majority of the requirement is in the 5- to 50-kilowatt range. The entire power system would be about the size of a household trash can and can be adequately hardened.

The results of the Air Force studies were not available when they submitted their budget request. In my judgment, it is important for work in this type of technology to begin without further delay; $10 million was added to the Air Force Program called advanced spacecraft technology in the House authorization bill. While this provision was not included in the Senate authorization bill, I understand that the matter has been agreed to in conference and that the $10 million for thermionic space power will be authorized. These funds would be used to initiate a program managed by the Air Force Space Technology Center. This seed money would pave the way for a joint program with the Department of Energy that makes these vital power systems available. I understand that the Soviet Union is currently using similar power systems on their satellites.

The House Appropriations Committee directed the Air Force to allocate at least $10 million to this effort from within available research and development funds. I believe we should take the initiative by including the funds in the appropriate account for the program in order to ensure that this important initiative gets off to good start.

Mr. President, I would simply ask my good friend from Hawaii, the

chairman of the subcommittee, if he will consider my request when he goes to conference with the House.

Mr. INOUYE. Mr. President, I am aware of this program. I also fully understand the need for efficient and effective means of generating power in space, particularly with regard to important military satellites. In that regard, I would be pleased to consider the request for the Senator from Alabama. In addition, I will work with him to try to accomplish his request.

Mr. HEFLIN. Mr. President, I think my good friend, the distinguished Senator from Hawaii and chairman of the Defense Appropriations Subcommittee. With that assurance, I feel very confident that this important space power research program will get every possile consideration in the conference on this bill with the House.

ADVANCED LAUNCH SYSTEM

Mr. HEFLIN. Mr. President, I would like to take a moment to discuss a matter of great importance and concern to me with the chairman of the Defense Appropriations Subcommittee, the distinguished Senator from Hawaii. This is the matter of the funding in the Defense appropriations bill for the advanced launch system [ALS].

As my friend knows, this is a joint DOD/NASA program. According to the ALS Report to Congress of January 4, 1988, which was signed by then-President Ronald Reagan, overall management responsibility and funding of this program is assigned to a joint DOD/NASA Program Office. The Program Office has a DOD director and a NASA deputy director. However, the management responsibility for the propulsion systems was assigned to NASA.

Mr. President, this program management plan was the result of considerable negotiations and compromise between DOD, NASA, and the Congress. The program was initiated by the urgent supplemental appropriations bill for fiscal year 1987, now Public Law 100-71, and the report for that bill required the report to Congress. The law actually required the transfer of ALS propulsion research and development funds to NASA and stipulated the exact amount. The Congress took this position with regard to NASA for one reason—it wanted to ensure that the more than 30 years of NASA expertise the country had built in rocket propulsion technology would be used effectively in a joint ALS Program.

Air Force expertise in liquid rocket propulsion pales in comparison to the demonstrated track record of NASA over the past 30 years. In my judgment, it made absolutely no sense to fund the ALS Program and duplicate propulsion efforts in one part of the Government, when another part of the Government already had that expertise. Congress recognized this and wisely required that this very important program be a joint DOD/NASA program fully utilizing capabilities from both agencies with the goal of meeting foreseeable requirements of both military and civilian space programs.

Each Defense appropriations bill since the fiscal year 1987 supplemental appropriations bill has required in bill language that the transfer for propulsion technology be made and stipulated the exact amount. This has, in the past, been a strongly held position of the Senate Appropriations Committee. In fact, this was the only earmarking for SDI funding that survived the conference of last year's Defense appropriations bill. However, this bill does not address the transfer to NASA for its portion of the ALS Program as it has in the past. Could the chairman of the Defense Appropriations Subcommittee explain the reason the subcommittee did not include a similar provision in this year's bill?

Mr. INOUYE. I thank the Senator from Alabama for raising this issue and I fully understand the history behind this program and the Senator's interest in it.

The subcommittee did not include this transfer as it has in the past for several reasons. First, this program has been moving along under the joint Program Office for at least 2 years, and the subcommittee feels confident that DOD and NASA are comfortable with the division of work. Second, the subcommittee has studied this program very carefully and finds no reason to believe that the Air Force will not make the transfer to NASA for its portion of the program. I understand this amount to be about $100 million to maintain ongoing research in this very important technology. However, the subcommittee continues to oversee this program in order to insure that it continues to be managed according to the January 4, 1988, ALS Report to Congress, and that NASA is not shortchanged in the process.

Mr. HEFLIN. I thank the distinguished Senator. With regard to the transfer, can the chairman of the Defense Appropriations Subcommittee give this Senator an assurance that if the subcommittee finds that the Air Force is not forthcoming with this transfer to NASA to properly conduct the propulsion portion of this program, the subcommittee would be willing to take appropriate steps to try to correct the situation?

Mr. INOUYE. Mr. President, let me assure the Senator from Alabama that the subcommittee will continue to follow this matter with great interest. If the subcommittee finds that the Air Force does not provide for an expeditious transfer to NASA for its portion of this program, the subcommittee would be willing to take appropriate action to correct the situation and to insure that this program is properly managed as traditionally intended by the Congress. I will be happy to work with the senior Senator from Alabama toward that goal.

Mr. HEFLIN. Mr. President, I thank the distinguished Senator from Hawaii and chairman of the Defense Appropriations Subcommittee. With that assurance, I feel confident that this program will continue as planned and that NASA will receive the funding it needs to manage the propulsion portion of this important defense and civilian program.

NONACOUSTIC ASW RESEARCH

Mr. DOMENICI. Mr. President, I would like to engage the chairman of the Defense Appropriations Subcommittee in a brief discussion concerning an R&D funding issue of potential importance to our national weapons laboratories.

Mr. Chairman, the House Defense appropriations bill added $28 million to fund research in nonacoustic antisubmarine welfare [ASW] to be used in support of a cooperative venture between the Department of Defense and a Department of Energy national laboratory. No funds were requested in the President's budget for this purpose, and none are provided in the bill we are considering today. If funds for a cooperative research program are approved in conference and the Defense Advanced Research Project Agency, or DARPA, begins a program to work with a national laboratory, is it the chairman's intention that his subcommittee be informed well in advance about the initiation of such an effort?

Mr. INOUYE. I thank the Senator from New Mexico for bringing this issue to the attention of the Senate. Our bill has no funds for a cooperative research program in this area. However, my subcommittee is very interested in reviewing and working with DARPA if a DOD-DOE program in this area is initiated.

Mr. DOMENICI. My concern in this matter is to insure that DARPA examines the prospects for cooperative nonacoustic ASW research available at all three of DOE's national weapons laboratories. I am not suggesting that any one of them—including the two in my State—has a monopoly on expertise in this area, nor am I suggesting that DARPA has already decided to enter into such a venture with any of them. I am strongly urging that all three labs be given an opportunity to demonstrate their resources and propose a cooperative arrangement with DARPA, if DARPA chooses to go this route. Does the chairman agree with this approach?

Mr. INOUYE. I certainly do agree with the Senator from New Mexico, that in considering cooperative arrangements for nonacoustic ASW research between DOD and the DOE

weapons labs, DARPA should give full and careful consideration to the merits of each laboratory program. I further would note that the Defense Department also may be in the process of refining its overall approach to research into nonacoustic antisubmarine welfare. I understand that new memorandums of agreement are under discussion among the principal Government organizations involved in this important effort.

The committee believes it would be helpful to receive a full report about the status and conclusions of this refinement process. It would expect such a report to address the cooperative arrangements between DOD and the Energy Department laboratories referred to by my distinguished committee colleague from New Mexico. To ensure that all Energy Department laboratories are given due consideration, as my colleague urges, I would indicate that the Defense Subcommittee expects the Defense Department report will describe fully any proposed cooperative programs. This report should indicate clearly the merits of a DOD-DOE cooperative program in nonacoustic ASW research and the methodology by which programs at the DOE laboratories were reviewed and evaluated.

Mr. DOMENICI. I thank the chairman for his attention to this matter. I look forward to his assessment of DARPA's plans if funds for a joint DOD-DOE program are approved in conference.

GEOGRAPHIC DIVERSITY IN RESEARCH

Mr. SHELBY. Mr. President, I would like to discuss with the manager of the bill a matter of interest to this Senator, and, I believe, to a number of Senators. It has been brought to my attention that the House Committee report includes a section entitled "Geographic Diversity in Research." This section focuses upon a small program of the National Science Foundation known as the Experimental Program to Stimulate Competitive Research [Epscor]. This program has achieved some significant results in aiding less competitive States to compete more effectively for Federal research grants, and the House report asks DOD for an assessment of the potential for using the Epscor model to help expand our national research and science education base.

I understand that the President's new Science Adviser, Dr. Allan Bromley, commented favorably upon the idea of expanding Epscor to other agencies during his confirmation hearings before the Commerce, Science, and Transportation Committee. In addition, the major higher education associations, including the Association of American Universities, have endorsed this concept. Accordingly, I would ask that the distinguished manager examine this part of the House report carefully in conference and, hopefully, give it favorable consideration.

Mr. INOUYE. I appreciate the Senator's remarks. I do understand that the Epscor Program at NSF has been successful and that it would be well for other departments to consider whether this kind of approach can benefit their own research activities. I can assure the Senator that we will give this matter every consideration during the conference.

Mr. SHELBY. I thank the Senator for his remarks.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

Mr. WARNER. Mr. President, I would like to ask my good friend from Hawaii about the Army's $5.3 billion research, development, test and evaluation account and its provision for continuing research into the adaptability of degradable plastics to military product packaging.

We are, in the eighties, a plastic society—we use plastic food packaging, diapers, and even money. This has not come without its cost.

Statistics—and there are a lot of them—document the vast scope of this problem. The average American generates 3.5 pounds of discards each day, or some 1,300 pounds a year. The Environmental Protection Agency estimates that by the year 2000, more than 190 million tons of municipal solid waste will be generated annually in the United States.

There are no quick fix solutions to waste management. The public is very much aware of this and in many locations, is electing officials who support mandatory recycling laws and bans on certain products. Landfills are running out of space to accommodate this tidal wave of trash. Tempers flare as resentment grows in localities, including some in Virginia, at attempts to export trash from other States. Add to that the fact that we also do not have adequate recycling programs or incineration capabilities to answer the problem.

Plastic, because of its high visibility and common use, has come under a more concerted attack.

Plastics account for a steadily increasing proportion of this mountain of waste—2.7 percent in 1970, according to EPA, but an estimated 9.2 percent by the turn of the century.

I say troubling because plastics—packaging wrappers, six-pack rings, carry bags, you name it—are practically indestructible. Left in landfills or dumped into the sea, these products do not degrade, literally, for centuries. Our environment, our wildlife, even ourselves—all are threatened.

Modern science gave us plastic—convenient, lightweight, and long lasting. Luckily, science now is beginning to yield promising solutions to the environmental dangers of the road we as a society are traveling.

From laboratory test tubes have come signs that a blend of plastics and corn starch can produce a material sufficiently durable to be used in, say, a supermarket carry bag, but sufficiently biodegradable to be much more environmentally sound.

Forward-thinking commercial enterprises have already begun to use such bags, but the Federal Government certainly has an obligation to be in the forefront of environmental solutions.

To that end, during committee consideration of the DOD authorization bill, I recently introduced an amendment encouraging the military to step up significantly its use of biodegradable products.

The Defense Department has almost unlimited potential to become an environmental leader. The Pentagon buys more than 400 million plastic trash bags a year. Army commissaries alone use more than 95 million plastic grocery bags annually.

Under my amendment, which subsequently passed the Senate, the Pentagon would allot 10 percent of its bag purchases to biodegradables as these products become available to the Federal Government. If there are no problems with the purchases, the percentage would rise by 5 percent a year, to a maximum of 30 percent.

Purchase of biodegradables carry bags for military commissaries and exchanges, as well as waste recycling on military installations, also would be encouraged.

On a related point, the DOD authorization bill also orders the Defense Department to study ways to substitute other compounds, where possible, for chlorofluorocarbons [CFC's], which have been identified as a major cause of harmful ozone depletion in the atmosphere.

If we hope to eliminate ozone-depleting substances from military uses, those uses must first be identified by listing all DOD military specifications that directly and indirectly required the use of CFC's. Our CFC provision in title III of the DOD authorization bill requires that those lists be completed within 9 months of enactment.

Based on the findings of such a list, DOD will work with an advisory committee comprised of representatives from DOD, the Environmental Protection Agency and manufacturers of military products manufactured with CFC's to identify processes and specifications where available CFC alternatives can be substituted safety and expeditiously.

Given our present understanding of the adverse environmental impact CFC's have on the Earth's ozone layer, it is essential that DOD, in concert with its suppliers, reduce its use and change requirements to use CFC's in those areas where safe substitutes have been made available. At the same

time, it is crucial to our national defense interest to maintain the highest product quality as well as an adequate supply of essential parts and materials to the military.

Mr. President, today, degradable plastics research is a reality. The Department of Defense, at its U.S. Army Natick Research, Development, and Engineering Center at Natick, MA, has been conducting significant research into the application of degradable packaging materials to military rations. Use of such materials has the potential of minimizing the problem of waste disposal on land and at sea. Research to date has:

Helped determine the potential usefulness of degradable bags in the extreme climatic conditions in which military forces are sometimes required to operate;

Determined which types of degradable films deteriorate most quickly in water and soil;

Determined which degradable films are thick enough to be heated sealed into a food pouch, yet thin enough to quickly degrade; and

Provided pertinent information to the Hazardous Materials Technical Center [HMTC] for a state-of-the-art report on biodegradable plastics.

Continued support by the Congress will allow this fine institution to continue its work on a variety of other projects, including:

Continued research on new types of degradable materials to test their use in ration packaging designs;

Closely monitoring industrial proposals to FDA for use of degradable plastics in direct food contact packaging;

Testing the physical properties of degradable plastics such as impact, tensile and tear strength, and the barrier properties necessary for food preservation and comparing these properties to their nondegradable counterparts;

Determining shelf life of degradable packages by running long-term storage study of rations under various climatic conditions;

Continuing soil burial testing of degradable materials to examine rates of degradation and the effects it has on the integrity of the packaging material; and

Continuing to provide data and necessary support to other organizations involved in degradable plastics research.

Today, we are nearing capacity in our ability to dispose of our Nation's wastes. The new frontiers lie in our technological prowess, and our willingness to care for and respect the environment which will be the most important inheritance we can pass on to our children and future generations.

Degradable plastics are not the only answer to the Nation's environmental ills, but they can make a significant contribution.

Knowledge is the key. Knowledge on how fast degradable plastics decompose in landfills and at sea. Knowledge on what if anything the environment side effects might be from decomposing plastics. And, knowledge on how degradable plastics could affect efforts to recycle waste products.

I would ask my very good friend from Hawaii if he can assure me that the DOD appropriations we are considering today will allow this important research to continue, and if so that the conference report on this bill will reflect that fact?

Mr. INOUYE. I say to my good friend from Virginia that I can give him those assurances.

SOLID ROCKET MOTOR DEMILITARIZATION

Mr. WIRTH. Mr. President, the Senate Armed Services Committee authorized appropriations of up to $6 million in fiscal year 1990 for research in environmentally acceptable methods of solid rocket motor demilitarization. This issue came to my attention last year during a dispute between the Department of the Army and the Colorado Department of Health concerning the environmental and public safety impact of open detonation at the Pueblo Army Depot in Pueblo, CO, of Pershing rocket motors being disposed of under the terms of the INF Treaty. In the course of resolving that dispute, it became clear that there are no readily available technologies for mitigating the environmental damage caused by the static firing of rocket motors.

Earlier this year, I asked the Department of Defense what research is being conducted in this area, and found that very little is in fact being done. Future arms control treaties will likely require the destruction of even greater numbers of missiles—and we are doing very little to prepare us for this responsibility.

This problem is real, Mr. President, yet there is no focused effort within DOD to address this problem, there is very little investment in the relevant technologies, and there is little appreciation of the potential impact of State and Federal environmental regulations on our arms control flexibility in this area. I might add that the development of environmentally benign rocket motor destruction techniques is of great potential application also to contractors who test rocket motors in areas where there are strict limits on atmospheric effluents.

The Senate Armed Services Committee recognized this problem in its report and created a new program under the direction of the Office of the Under Secretary of Defense for Research and Engineering to consolidate research efforts to identify cost-effective and environmentally benign alternatives to open detonation. The committee's report noted:

The Committee believes that the DOD is directing insufficient attention to R&D activities for the demilitarization of solid propellant rocket motors of all types in an environmentally benign manner. The current approach, open detonation or static firing, is not an environmentally acceptable approach to demilitarize these solid propellant rocket motors; however, no other environmentally acceptable approach has been demonstrated. The Committee is aware of alternate technologies that are being investigated at a moderate level of effort by the military services which may provide the desired capability. The Committee believes that these efforts should be coordinated and given overall management by the Director, Defense Research & Engineering [DDR&E]. The Committee directs the Director to establish a consolidated, environmentally benign, solid rocket demilitarization research and development program and, to implement this activity, adds $6 million and $7.5 million to the amended defense budget requests for fiscal years 1990 and 1991, respectively.

This program is necessary and important, Mr. President, and it will not occur if we do not make it happen. In a shrinking defense budget, environmental and arms control concerns such as this are unlikely to be fully appreciated without our direction, and for this reason I am disappointed that the Defense Subcommittee of the Senate Appropriations Committee declined to fund this program.

Mr. INOUYE. Mr. President, I have reviewed the proposal discussed by the Senator from Colorado and agree with him that there is a legitimate need to proceed with a research program for cost-effective, environmentally acceptable alternatives to the present destruction method of static firing. We do not disagree on the need for this program. I do believe, however, that greater definition of the scope and nature of the proposed effort is necessary before we can commit specific program funding. I also have been informed that the Department has yet to conclude its examination of the possible alternative solutions to this problem, and is only beginning to create a multiservice and civilian management structure to implement any proposed solutions. These important tasks need to be completed so Congress can be confident that the taxpayers' investment will be effectively expended.

I would suggest, Mr. President, that we direct the Director of Defense Research and Engineering to submit to Congress the results of a study on large rocket motor demilitarization by March 1. I would expect this report also to outline the full extent of the problem and to include technological approaches for environmentally benign disposal, and an investment strategy to develop the most cost-effective technology alternatives. This study should also address the impact of current arms negotiations on this

issue, and indicate how the proposed research effort relates to our specific arms control negotiating positions and the likely timeframes for implementing the expected agreements which would require disposal of solid rocket motors. The Department also should report on how the executive branch is ensuring that our arms control negotiators and negotiating positions are coordinated fully with the technologists and operations personnel who will be responsible for developing and implementing any new technologies required for U.S. compliance with likely arms agreements.

Mr. WIRTH. Mr. President, I thank the distinguished manager of the bill, the senior Senator from Hawaii, for his understanding. I welcome his suggestion that a report be submitted to Congress by March 1, 1990, but remain concerned that we begin work in this area as soon as practicable. How does the Senator propose to fund this activity, assuming the Department sends a report to us next March which clearly outlines a coherent and time-sensitive requirement?

Mr. INOUYE. Depending on the outcome of the report to the committees, and on the Defense Department's ability to efficiently obligate and expend any funds in fiscal 1990, I would consider a strong letter to the Secretary of Defense urging him to provide modest funding under his "below threshold reprogramming" authority. I have been informed that the Department would not be able to effectively use any funds for this effort until late fiscal 1990 in any case. I would hope that the Secretary will be sensitive to our concerns should any fiscal 1990 funding be required.

Mr. WIRTH. I thank the distinguished chairman of the Defense Appropriations Subcommittee for his understanding and support of this issue, and look forward to working with him on this matter.

THE FUTURE OF U.S. DEFENSE: SPACE BASED WIDE AREA SURVEILLANCE

Mr. ARMSTRONG. Mr. President, in this year's budget, the administration requested funding for a new program to develop a capability that would be as revolutionary today as the radar was during World War II, but one based in space. It's called a space-based wide area surveillance system, and let me explain for my colleagues briefly a few of the capabilities of this new system:

A wide area surveillance system, based in space, will represent a huge leap forward in the U.S. military's ability to track aircraft and cruise missiles around the globe. Currently, our best system is the airborne AWACS, but it is only able to cover very small areas of the globe at any one time. This revolutionary space-based system, I am told by the Defense Department, will give us an ability for round-the-world coverage of flying aircraft every 15 minutes.

A wide area surveillance system, functioning much like our eyes in space, will greatly enhance our protection of carrier battle groups, increase the accuracy of military airlift and airdrop missions, and virtually eliminate "Plausible Denial" by our enemies: such as Qadhafi's denial of Libyan involvement in air raids on Khartoum, Sudan.

Of special importance, a space-based wide area surveillance system will be a major benefit to our drug interdiction efforts. It is envisioned as a system that will be able, once developed, to constantly monitor airborne aircraft, giving us a 95 percent probability of detection of planes traveling the normal inbound course for drug-runners within 6 minutes of lift-off. Imagine that! With cocaine use in the United States skyrocketing, a system like this is absolutely essential.

Unfortunately, this exceptional system might never make it off the drawing boards. Both the House and the Senate have eliminated all funding for completion of the first phase of research on a space-based wide area surveillance system.

It has come to my attention that canceling all funding would prevent further study of the merits of the system, making the required December 1989 Defense Advisory Board decision absolutely impossible. The Defense Department relates that they need at least $5 million to be set aside in the Air Force budget to complete the review required by the Senate.

I think we should fund the President's entire request on this system. If not, it certainly seems a bit shortsighted to not even include the $5 million necessary to complete the studies required by Congress. I urge the committee to reexamine funding for the space based wide area surveillance system, and especially reconsider the $5 million necessary for the next few months of study.

Mr. McCLURE. Will the Senator yield for a moment?

Mr. ARMSTRONG. Mr. President, I would be happy to yield to my distinguished colleague from Idaho.

Mr. McCLURE. Mr. President, I must agree with my colleague that the time has come for the United States to begin investing in a space-based wide area surveillance system. Never before has the need for such a system been so great. In addition to our traditional national security needs, we now find ourselves under virtual attack by aircraft entering our airspace carrying cocaine. The surveillance satellites that will be a part of this program will not only provide great benefit to our military commanders in a conventional battle, they will also be a major contributor in our war on drugs.

The Defense Department intentionally established separate funding lines in the Air Force and the Navy to support concept exploration for alternate technologies. That's not a duplication of effort as many assert. It looks to me more like free market competition, the foundation of our economy. Such an arrangement appears prudent, especially in the preliminary stages of a program that will eventually be as important as this one will be.

I must agree with my distinguished colleague from Colorado: This decision needs to be looked at again in conference. It just doesn't make sense to eliminate funding for the very study we cite as a requirement for an informed decision by Congress.

I hope my colleagues on the Appropriations Committee will look carefully at this in conference.

Mr. ARMSTRONG. Mr. President, I thank my friend from Idaho for his insightful remarks. Would the distinguished Senator from Alaska agree to look at this again in conference?

Mr. STEVENS. Mr. President, I would be happy to take another look at the Defense Department's request for $5 million for the space-based wide area surveillance system during the conference on the bill.

Mr. ARMSTRONG. Mr. President, I thank the Senator from Alaska for his kind consideration of our request.

Mr. DURENBERGER. Mr. President, I rise to comment on the final passage of the fiscal year 1990 Department of Defense appropriations bill. As is the usual practice in this body and with this bill, there were several hard-fought and hotly contested issues that I and my esteemed colleagues had to resolve.

I won't take the time at this late hour to express my views on the many individual issues on which the U.S. Senate has voted. I do, however, wish to clarify a vote I cast on September 26.

Mr. President, as you will recall, on September 26, the Senate voted for a $8.49 billion amendment, proposed by Senators Wallop and Warner, to an Appropriations Committee amendment that funded several, major defense programs. That amendment, which I supported, deleted excessive and unrequested funding for Navy sealift, restored funding for Trident D-5 SLBM's; increased funding for space-based wide area surveillance radar; and increased funding for a number of conventional weapons programs as well as affected several other programs.

I supported each of those elements in the package amendment. In this $8.49 billion package, there was also a provision to slightly increase SDI funding. In many media reports, however, that complex package was portrayed as a simple "yes or no" vote on

only the SDI element of the package. Not coincidentally, that is also the way the opponents of the amendment attempted to portray it.

Many Senators, myself included, would likely have voted differently if each of the programs in the package were presented individually. In this particular case, they were not, leaving no option but to vote yes or no on the whole amendment.

Regarding the SDI funding increase, had that issue been presented separately, I and others would have voted against it. However, the other elements of the program, as noted above, were sufficiently important and worthy of my support. Therefore, I voted for the overall package.

I am pleased, Mr. President, that the Senate has had today, the opportunity to vote directly on the SDI funding issue. And today, the relevant amendment was in fact a straight "yes and no" on increasing SDI funding by $600 million. As I have in the past, I opposed this latest effort to significantly increase SDI funding.

Mr. President, I have a number of reservations about this bill. I believe it fails to make the most of our defense dollars. I also have a number of strong objections to the bill sent over to us by the House. But I do believe that the likely result of its passage will be a conference report that will strike a proper balance between national security and budgetary responsibility. I will therefore vote for passage of this appropriations bill.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, "Shall the bill pass?"

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 2, as follows:

[Rollcall Vote No. 217 Leg.]

YEAS—96

Adams	Garn	McConnell
Armstrong	Glenn	Metzenbaum
Baucus	Gore	Mikulski
Biden	Gorton	Mitchell
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boren	Grassley	Nickles
Boschwitz	Harkin	Nunn
Bradley	Hatch	Packwood
Breaux	Heflin	Pell
Bryan	Heinz	Pressler
Bumpers	Helms	Pryor
Burdick	Hollings	Reid
Burns	Humphrey	Riegle
Byrd	Inouye	Robb
Chafee	Johnston	Rockefeller
Coats	Kassebaum	Roth
Cochran	Kasten	Rudman
Cohen	Kennedy	Sanford
Cranston	Kerrey	Sarbanes
D'Amato	Kerry	Sasser
Danforth	Kohl	Shelby
Daschle	Lautenberg	Simon
DeConcini	Leahy	Simpson
Dixon	Levin	Specter
Dodd	Lieberman	Stevens
Dole	Lott	Symms
Domenici	Lugar	Thurmond
Durenberger	Mack	Wallop
Exon	Matsunaga	Warner
Ford	McCain	Wilson
Fowler	McClure	Wirth

NAYS—2

Conrad	Hatfield

NOT VOTING—2

Bentsen	Jeffords

So the bill (H.R. 3072), as amended, was passed.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer, Mr. DASCHLE, appointed Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BYRD, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Mr. REID, Mr. STEVENS, Mr. GARN, Mr. MCCLURE, Mr. KASTEN, Mr. D'AMATO, Mr. RUDMAN, Mr. COCHRAN, Mr. SPECTER, and Mr. HATFIELD conferees on the part of the Senate.

Mr. INOUYE. I thank you very much.

Mr. MITCHELL. Mr. President, I thank the distinguished managers for their patience and perseverance through a controversial time.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL ALZHEIMER'S DISEASE MONTH

Mr. PRESSLER. Mr. President, I want to thank my colleagues for passing Senate Joint Resolution 16 which designates the month of November 1989 as "National Alzheimer's Disease Month." The month of November is associated with efforts to increase public awareness about Alzheimer's disease and its effect on victims, families, caregivers, and society.

Currently more than 4 million people suffer from Alzheimer's disease. Alzheimer's, because of its correlation with aging, presents a serious social and economic challenge for America. Every effort must be made to stem the tide of this tragic disease. Awareness through education and experience with someone who has Alzheimer's is an important contribution. Setting aside 1 month to emphasize the tragic effects of Alzheimer's can do much to place Alzheimer's disease higher on the American agenda.

I call on all Americans to join with me and the thousands of dedicated volunteers, caregivers, and researchers in helping society understand the extensiveness of Alzheimer's and its economic cost to society. I want to thank the Alzheimer's Disease and Related Disorders Association and the American Health Assistance Foundation for their efforts to secure passage of this resolution.

Mr. President, I believe that Federal and private funding for Alzheimer's research has been extremely helpful in our understanding the cause of Alzheimer's. However, further funds are critical in order to expedite a discovery of the cause and treatment for Alzheimer's. To that end, I ask my distinguished colleagues to join me and Senators HATFIELD, COCHRAN, and D'AMATO to secure the passage of S. 1321, "Comprehensive Alzheimer's Assistance, Research and Education Act of 1989 [CARE]." That legislation would ensure continued assistance for education, research, and treatment programs related to Alzheimer's.

As we work to increase Federal support, I encourage all organizations involved with Alzheimer's disease to increase their public education efforts and support for victims and caregivers. Our labors will produce results and bring comfort to those affected by Alzheimer's. I ask unanimous consent that one of many letters I have received on this topic be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR SENATOR PRESSLER: Saturday while I was reading our local newspaper, I saw an

article about your effort to find a cure for Alzheimer's. As I am very familiar with this terrible disease, I was so glad when I saw that someone besides the late Congressman Pepper is concerned to find a cure for this illness. My father also suffered from Alzheimer's. He was a brilliant attorney and a professor of law originally in our native Cuba and after Castro at the Inter-American University in San Juan, Puerto Rico. It was terribly sad to see that intellect being destroyed. For over ten years he suffered with the disease and the last eight in bed. Only a dedicated wife as my mother, with love and affection took care of such a situation. He finally passed away last summer. At that time, my mother's health deteriorated so much that we almost lost her too.

I sympathize very much with you, your father and family. My best wishes on your crusade. You are doing something great.

RURAL REFERRAL CENTERS, FISCAL YEAR 1990 CONTINUING RESOLUTION

Mr. NICKLES. I would like to enter into a colloquy with the chairman and ranking member of the Labor, HHS Appropriations Subcommittee on behalf of myself and Senator McCLURE in regard to the status of rural referral centers in our respective States.

We would like to bring to the attention of the chairman of the Labor, Health and Human Services Subcommittee, as well as the ranking member, the situation which will affect several rural referral centers across the Nation. Rural referral centers are designated hospitals which are reimbursed by Medicare at a rate which falls between that of rural and urban hospitals. These rural referral centers provide valuable service to rural areas by increasing access to quality health care services.

The committee included provisions in the fiscal year 1990 Labor, Health and Human Services appropriations bill which would extend the current status of rural referral centers for 1 year. However, the problem is that several rural referral centers have an October 1 reporting requirement and thus until the Labor, HHS appropriations bill becomes effective, these centers could lose their rural referral center status and their higher level of reimbursement. For those affected, losing that status for even a short period of time could be financially devastating. For these reasons, I seek on behalf of myself and Senator McCLURE that the chairman and ranking member comment on a procedure to retain the status of these centers until the appropriations bill has become law.

Mr. HARKIN. The Senator from Oklahoma raises an important point. The ranking member and I agree that this would create a burden upon several hospitals and agree to provide help to the Senator to relieve this burden.

Mr. NICKLES. I thank the Senator. It is my hope that at this time we can agree that no portion of the sums appropriated under House Joint Resolution 407, the continuing resolution, be used to implement the prospective payment system regulation provision relating to the classification of rural referral centers, in order to protect RRC status until further action is taken by Congress.

Mr. HARKIN. Mr. President, as chairman of the Labor, HHS Appropriations Subcommittee, I can state that the position outlined by the Senator from Oklahoma is our position. The Labor, HHS appropriations bill (H.R. 2990) contains provisions relating to rural referral centers and it would be inappropriate for a change in the status of a rural referral center to occur between now and the time H.R. 2990 becomes law. Ultimately, I hope that this issue will be resolved favorably as part of the reconciliation bill.

Mr. SPECTER. As ranking member of the Labor, HHS Appropriations Subcommittee, I concur with the remarks of the chairman with respect to the concerns and position expressed by the Senator from Oklahoma.

REMARKS OF THE PRESIDENT OF COLOMBIA, DR. VIRGILIO BARCO

Mr. MITCHELL. Mr. President, on behalf of the Republican leader and myself I wish to place into the RECORD the remarks which the President of Colombia, Dr. Virgilio Barco, presented today in a meeting with our Senate colleagues.

President Barco gave us a firsthand assessment of the tragic events that have occurred in his country. The President and the people of Colombia are waging a valiant frontline battle against the international drug traffickers and they deserve our steadfast support and gratitude. It is through the example of the courageous leadership of President Barco and his government that we can hope to successfully confront and ultimately win the war on drugs.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF DR. VIRGILIO BARCO AT CONGRESSIONAL MEETING

Mr. Majority Leader; Mr. Minority Leader: I want to thank you for inviting me here this afternoon on such short notice. I hope we can have a more informal discussion, but if I may make some brief remarks on the issues I intend to discuss with President Bush tonight and at the United Nations tomorrow.

Let me begin by thanking many of you for the personal support you have provided us. At a critical time in this struggle, I received a letter from Senator Specter and 15 of your colleagues expressing support. It was front page news in our newspapers, and it has helped to strengthen the resolve of our people.

Over the years, many of your allies have come to this city to report from the frontline. Here, there are no apparent signs of the scars and horrors of war—no gutted buildings, no curfews, no troops on the street.

Winston Churchill must have been struck by the same thing, and by the same challenge I face—how to communicate the toll of being on the frontline. It has always been a measure of this city's greatness that despite its detachment, your leaders understood.

This afternoon, I am here to tell you of a war that is much closer to home—a war that has reached deep into the streets of Washington and every other city in this country.

Of course, I am talking about illegal narcotics, and the insidious effects their trade has on both our countries.

As all of you know, my country is at war. And I come here, as an ally in an earlier war might have done, to warn you of what you may not yet fully see. Both my government and yours have steadily escalated our efforts to combat the global criminal enterprise of narcotics. It has absorbed evermore attention and resources from both our governments. We understand that we can only win this war together.

In recent weeks, however, the final hope that this could be dealt with as a traditional, if severe, law and order problem has been removed.

All of you know the sacrifices many Colombians have made—and are willing to continue to make—in this war. I will not spend time to enumerate the countless acts of heroism here.

But you should understand what my country is going through now.

Six weeks ago, Luis Carlos Galan, a leading presidential candidate and an outstanding figure in our new generation of political leaders, was gunned down by the cartels for continuing to speak out against them.

He was shot as I was preparing to speak to the nation to announce that I would employ the powers available to me under the state of seige to begin mass seizures of suspects, property and equipment. Despite the fact that my address was given under the shadow of this tragic act, the cartels failed if their intention was to intimidate. Yes, we all felt the pain and the loss; just as when your young leaders, Martin Luther King and Robert F. Kennedy, were killed—and Americans were brought together. So it was that Colombians too felt the shock. Galan still had so much to give, so much to do.

Yet in his death lies part of his political testament. He has united us. Colombians are determined to rid themselves of these murderers. These men who would turn Latin America's oldest democracy and soundest economy into their private killing fields. But tomorrow at the U.N. they will hear me well—they will fail. In the end, we will prevail.

Now, let me be specific and tell you what we need to win the war—and what we do not need.

The speed with which the United States provided assistance is greatly appreciated. I have been regularly in touch with President Bush and many of you, and I want to thank you again for your support. Your action yesterday in passing the Drug Bill moves us another step forward.

Tomorrow, I will raise a number of specific issues which demand immediate international actions. They include stopping the supply of chemicals which are required to produce cocaine—most of which comes from the United States and Europe. I will discuss the need to control money laundering where

we simply must have a high level of international cooperation. I will discuss the collapse of the International Coffee Agreement which will cost Colombia $400 million in income this year, and the need to support legitimate economic development if we are to have any hope of stopping illegal economies like narcotics.

But I do not want to use this opportunity to speak to you primarily of coffee or helicopters. Both have their part in an anti-narcotics strategy. Neither, however, is the decisive weapon in winning this war. Rather, the key is for all of you here today to acknowledge that the United States, like Colombia, is at war.

The single most important thing you can do for us—and for yourselves—is to reduce consumption of these drugs. As long as the demand is there, even if we rid Colombia of the cartels, they will just move on to somewhere else. The profits are too great. The only law the cartels respect is the law of supply and demand.

You cannot rely on persuasion alone to curb demand for narcotics. However powerful the appeal to the individual conscience, it cannot root out the drug habit which is now so deeply sewn into the fabric of your neighborhoods. It must be brought home to every user of narcotics, however ingrained or casual his or her habit, that use is a crime. It is a crime that must be punished. Deterrence must join choice as the impulse for saying "NO."

The reason I presume to make such a direct appeal to you is that we believe that each user, however much an innocent personal choice he or she may consider their habit, is funding the killing of Colombian officials who seek to uphold the law. Their habit is the trigger finger. And, as you know, far more than half the world's illegal cocaine is consumed in the United States.

Another issue is important to understand here. While demand for narcotics lies at the heart of the crisis, America must also examine its role in the violence this illegal trade spawns. The weapons used by the cartels to intimidate, maim, and kill my people do not come from Colombia. They are legally and easily bought in an international market and most of these weapons originate here in the United States.

Make no mistake, those who support this arms market, those who advocate the free sale of arms, are no different from the addicts whose demand fuels this violence. Each one of us, and every nation, has a moral obligation to stop this madness and stop it now.

We also view with extreme seriousness the activities of foreign mercenaries in training and assisting narco-terrorists in Colombia. We have not only condemned their presence, we have also criminalized their activities and ordered their capture. Tomorrow, I will be asking the United Nations to approve a Convention outlawing these activities.

Last, let me touch on what we do not need. There has been much discussion of sending troops to Colombia. We do not want or need troops from the United States, or any other foreign country. President Bush understands this. I hope you will understand that we take pride in our professional army and police which are under civilian control and which must have responsibility for law enforcement and the protection of our national security.

We understand how difficult it is to reduce demand quickly. We understand that there are deep-rooted social problems and cases of individual addiction that cannot be solved overnight. But unless you mobilize to fight an intensive internal campaign against narcotics demand you leave us out on a limb and indeed may never succeed in ending the scourge of drug use.

I hope you understand my need for speaking in blunt terms this afternoon. We truly do appreciate your support, but we have a long way to go in this battle. Together, if we can mobilize international action, I know we will prevail.

Thank you so much for your time.

MESSAGES FROM THE HOUSE

At 3:22 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2990) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1990; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. NATCHER, Mr. SMITH of Iowa, Mr. OBEY, Mr. ROYBAL, Mr. STOKES, Mr. EARLY, Mr. DWYER of New Jersey, Mr. HOYER, Mr. WHITTEN, Mr. CONTE, Mr. PURSELL, Mr. PORTER, Mr. YOUNG of Florida, and Mr. WEBER as managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to the joint resolution (H.J. Res. 407) making continuing appropriations for the fiscal year 1990, and for other purposes.

The message further announced that pursuant to the provisions of section 126(b) of Public Law 100-485, the Speaker and minority leader jointly appoint Mrs. ROUKEMA to the Commission on Interstate Child Support on the part of the House, to fill the existing vacancy thereon.

The message also announced that pursuant to the provisions of section 491 of the Higher Education Act, as amended by section 407 of Public Law 99-498, the Speaker reappoints Mr. Stephen C. Biklen of Pittsford, NY, as a member from private life of the Advisory Committee on Student Financial Assistance on the part of the House.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 2835. An Act to provide for relocation of certain facilities at the Gateway National Recreation Area, Sandy Hook, NJ, and for other purposes; and

H.J. Res. 407. Joint resolution making continuing appropriations for the fiscal year 1990, and for other purposes.

The enrolled bill and joint resolution were subsequently signed by the President pro tempore [Mr. BYRD].

At 5:24 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following resolutions, without amendment:

S.J. Res. 81. Joint resolution to designate the week of October 1 through 7, 1989, as "National Health Care Food Service Week";

S.J. Res. 117. Joint resolution to designate the week of November 19, 1989, through November 25, 1989, and the week of November 18, 1990 through November 24, 1990, as "National Family Week";

S.J. Res. 133. Joint resolution designating October 1989, as "National Domestic Violence Awareness Week";

S.J. Res. 138. Joint resolution designating October 16, 1989, and October 16, 1990, as "World Food Day";

S.J. Res. 148. Joint resolution to designate the week of October 8, 1989, through October 14, 1989, as "National Job Skills Week."

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 3282) to amend title 5, United States Code, to authorize the continuation of the performance management and recognition system through March 31, 1991, and for other purposes.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3012) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. HEFNER, Mr. ALEXANDER, Mr. THOMAS of Georgia, Mr. COLEMAN of Texas, Mr. BEVILL, Mr. DICKS, Mr. DIXON, Mr. FAZIO, Mr. WHITTEN, Mr. LOWERY of California, Mr. EDWARDS of Oklahoma, Mr. KOLBE, Mr. DELAY, and Mr. CONTE as managers of the conference on the part of the House.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3014) making appropriations for the legislative branch for the fiscal year ending September 30, 1990, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 2, 3, 12, 18, and 24 to the bill, and agrees thereto; and it recedes from its disagreement to the amendments of the Senate numbered 1, 6, 8, 34, 35, 36, 37, 38, 39, and 40 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 412. Joint resolution to reauthorize the National Flood Insurance Program, the Federal Crime Insurance Program, and the Defense Production Act of

1950, to extend certain housing programs, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents which were referred as indicated.

EC-1705. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Review—Panama Canal Commission's Financial Statements for 1988"; to the Committee on Armed Services.

EC-1706. A communication from the Secretary of Defense, transmitting, pursuant to law, certification that the current Five Year Defense Program fully funds the support costs associated with the F-16 and AV-8B aircraft and M1 tank multiyear programs; to the Committee on Armed Services.

EC-1707. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Audit—Federal Home Loan Mortgage Corporation's 1988 Financial Statements"; to the Committee on Banking, Housing, and Urban Affairs.

EC-1708. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Federal Aviation Act of 1958 to expand the class of airports covered by the Airport Certification Program; to the Committee on Commerce, Science, and Transportation.

EC-1709. A communication from the President of the Air Transport Association of America, transmitting, pursuant to law, the comments of the Association about the Civil Penalty Assessment Demonstration Program of the Federal Aviation Administration; to the Committee on Commerce, Science, and Transportation.

EC-1710. A communication from the Secretary of the Interior, transmitting, pursuant to law, the 16th annual report on the operation of the Colorado River; to the Committee on Energy and Natural Resources.

EC-1711. A communication from the Deputy Associate Director for Collection and Disbursements Minerals Management Service Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1712. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the Agency's report entitled "Effectiveness of the Innovative and Alternative Wastewater Treatment Technology Program"; to the Committee on Environment and Public Works.

EC-1713. A communication from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend the Internal Revenue Code of 1986 to authorize a deduction for the expenses of adopting a special needs child; to the Committee on Finance.

EC-1714. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Social Security Act to authorize fees for use of the Parent Locator Service, to require provision of child support enforcement services to children receiving food stamps, to make administrative improvements in the AFDC program, and for other purposes; to the Committee on Finance.

EC-1715. A communication from the Acting Administrator of General Services, transmitting a draft of proposed legislation to amend section 204 of the Federal Property and Administrative Services Act of 1949, to authorize the use of proceeds of dispositions of surplus real and related personal property to cover costs of land use services; to the Committee on Governmental Affairs.

EC-1716. A communication from the Acting Chairman of the Consumer Products Safety Commission, transmitting, pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for calendar year 1988; to the Committee on Governmental Affairs.

EC-1717. A communication from the Assistant Comptroller, Insurance, of the Army and Air Force Exchange Service, transmitting, pursuant to law, the Retirement Annuity Plan for Employees of the Army and Air Force Exchange Service and the Supplemental Deferred Compensation Plan for Members of the Executive Management Program for calendar year 1988; to the Committee on Governmental Affairs.

EC-1718. A communication from the Chairman of the Commission on the Bicentennial of the United States Constitution, transmitting, pursuant to law, the sixth annual report of the Commission; to the Committee on the Judiciary.

EC-1719. A communication from the Acting Staff Director of the United States Commission on Civil Rights, transmitting, pursuant to law, the second release of a report "The Immigration Reform and Quality Control Act: Assessing the Evaluation Process"; to the Committee on the Judiciary.

EC-1720. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, a report of the Ad Hoc Committee on Federal Habeas Corpus in Capital Cases; to the Committee on the Judiciary.

EC-1721. A communication from the Secretary of Education transmitting, pursuant to law, the Kuhry Bequest Program; to the Committee on Labor and Human Resources.

EC-1722. A communication from the Chairperson of the National Council on Disability, transmitting, pursuant to law, a report entitled "The Education of Students With Disabilities: Where Do We Stand?"; to the Committee on Labor and Human Resources.

EC-1723. A communication from the Chairman of the National Council on Vocational Education, transmitting, pursuant to law, a report entitled "America's Hidden Treasure"; to the Committee on Labor and Human Resources.

EC-1724. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Air Force's proposed letter of offer to Saudi Arabia for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-1725. A communication from the Assistant General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-1726. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Superfund Contractors Are Being Too Liberally Indemnified by the Government"; to the Committee on Environment and Public Works.

EC-1727. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the 16th 90-day report on the investigation into the death of Enrique Camarena, the investigations of the disappearance of United States citizens in the State of Jalisco, Mexico, and the general safety of United States tourists in Mexico; to the Committee on Foreign Relations.

EC-1728. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of the reports issued by the General Accounting Office during the month of August 1989; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-328. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION No. 49

"Whereas, In enacting Section 89 of the Internal Revenue Code, Congress intended to encourage employers offering accident or health plans or group-term life insurance to provide those benefits to a broad range of employees; and

"Whereas, Section 89 of the Internal Revenue Code imposes complex new nondiscrimination rules and qualification standards which require public school districts to incur great effort and expense to implement; and

"Whereas, The utility of applying Section 89 of the Internal Revenue Code to public school districts is far exceeded by the compliance burden imposed; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact legislation amending Section 89 of the Internal Revenue Code so as to exclude public school districts from the requirements of that section; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-329. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION No. 39

"Whereas, The Immigration and Reform and Control Act (IRCA), which brought the most sweeping change in United States Immigration laws for the last 30 years was signed into law on November 6, 1986 (Public Law 99-603); and

"Whereas, IRCA has two major provisions: sanctions against employers who knowingly hire undocumented workers; and legalization of undocumented residents who can establish continuous residency in the United States since 1982 and satisfy a

number of the other eligibility requirements; and

"Whereas, IRCA also established the State Legalization Impact-Assistance Grants Program to provide, for four fiscal years, grants to states to pay for classes in English and United States history and government and for health and other services for immigrants seeking to legalize their status through the amnesty program; and

"Whereas, Various proposals are pending in Congress, including the rescinding of $600,000,000 of that appropriation in order to reduce the general deficit or for other general purposes, the diversion and reallocation of $200,000,000 thereof and a temporary loan of $100,000,000 from the State Legalization Impact-Assistance Grants Program Fund to assist in the resettlement of an unanticipated surge of refugees from the Soviet Union; and

"Whereas, Any apparent surplus in those funds is illusory in that the delay in spending the appropriated funds derives not from a lack of demand or need for the funded services, but rather from administratively delayed implementation of the program at both the federal and state levels which have resulted in the program being a year behind schedule in certain parts of the country and from undue and attenuated claims procedures and because of the disbursement of the grants on the basis of reimbursing service providers for past expenditures and services rendered; and

"Whereas, In California the demand for services, especially English and civics classes, has exceeded expectations by 50 percent and more than 150,000 immigrants are on the waiting lists and once the programs in other states are under way similar demands will be likely; now, therefore, be it

"*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Congress and the President of the United States to oppose any attempt to diminish or divert any funds currently appropriated for the State Legalization Impact-Assistance Grants Program; and be it futher

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-330. A joint resolution adopted by the Legislature of the State of Oregon; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION 26

"Whereas the Legislative Assembly of the State of Oregon pursuant to Article V of the United States Constitution, hereby ratifies an amendment to the Constitution of the United States proposed by resolution of the First Congress of the United States in New York, New York, on September 25, 1789, which reads as follows:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both Houses concurring, that the following (Article) be proposed to the Legislatures of the several States, . . . which (Article), when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution, viz:

"'Article the second . . . No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives, shall have intervened.'; and

"Whereas the Legislative Assembly of the State of Oregon acknowledges that the above-quoted Article of Amendment to the United States Constitution has already been ratified by the legislatures of the following states on the dates indicated, to wit: Maryland on December 19, 1789; North Caroliona on December 22, 1789; South Carolina on January 19, 1790; Delaware on January 28, 1790; Vermont on November 3, 1791; Virginia on December 15, 1791; Ohio on May 6, 1873 (70 Ohio Laws 409-10); Wyoming on March 3, 1978 (124 Cong. Rec. 7910; 133 Cong. Rec. S12949); Maine on April 27, 1983 (130 Cong. Rec. H9097, S11017); Colorado on April 18, 1984 (131 Cong. Rec. S17687; 132 Cong. Rec. H6446); South Dakota on February 21, 1985 (131 Cong. Rec. H971, S3306); New Hampshire on March 7, 1985 131 Cong. Rec. H1378, S3597); Arizona on April 3, 1985 (131 Cong. Rec. H2060, S4750); Tennessee on May 23, 1985 (131 Cong. Rec. H6672, S20797, S13540); Oklahoma on July 10, 1985 (131 Cong. Rec. H7263, S13504); New Mexico on February 13, 1986 (132 Cong. Rec. H827, S2207-8, S2300); Indiana on February 19, 1986 (132 Cong. Rec. H1534, S4663); Utah on February 25, 1986 (132 Cong. Rec. S6750, S7578; 133 Cong. Rec. H9666); Arkansas on March 5, 1987 (134 Cong. Rec. H3721, S7518); Montana on March 11, 1987 (133 Cong. Rec. H1715, S6155); Connecticut on May 13, 1987 (133 Cong. Rec. H7406, S11981); Wisconsin on June 30, 1987 (133 Cong. Rec. H7106, S129148, S13359); Georgia on February 2, 1988 (134 Cong. Rec. H2638, S5239); West Virginia on March 10, 1988 (134 Cong. Rec. H2492, S4784); Louisiana on July 6, 1988 (134 Cong. Rec. H5783, S9939); Iowa on February 7, 1989; and Idaho on March 23, 1989; as well as by the House of Representaitves of the State of North Dakota on January 26, 1987, and on February 3, 1989; the House of Representatives of the State of Texas on April 23, 1987; the House of Representatives of the State of Illinois on June 22, 1988; and the Assembly of the State of Nevada on March 28, 1989; and

"Whereas the Legislative Assembly of the State of Oregon acknowledges that the above-quoted Article of Amendment to the United States Constitution may still be ratified by states' legislatures as a result of the ruling by the United States Supreme Court in the landmark case of *Coleman v. Miller,* (307 U.S. 433 (1939)) in which it was opined that Congress is the final arbiter on the question of whether too much time has elapsed between Congress' submission of an amendment and the most recent state legislature's ratification of same if Congress did not specify a deadline on the amendment's consideration; now, therefore,

Be it *Resolved by the Legislative Assembly of the State of Oregon:*

"(1) That the Secretary of State shall notify the Archivist of the United States (pursuant to 1 U.S.C. 106b; 1 U.S.C. 112; as amended by P.L. 98-497, 98 Stat. 2291) of the action of the Sixty-fifth Legislative Assembly by sending to the archivist one copy of this resolution.

"(2) That the Secretary of State shall also send one copy of this resolution to each member of the Oregon Congressional Delegation, the Secretary of the United States Senate and the Clerk of the United States House of Representatives with the request that it be printed in full in the Congressional Record."

POM-331. A petition from a citizen of Tustin, California favoring the adoption of a balanced budget constitutional amendment; to the Committee on the Judiciary.

POM-332. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources.

"ASSEMBLY JOINT RESOLUTION NO. 33

"Whereas, The key to successful economic development for California and the nation is the availability of a well-educated, skilled, trained, motivated, and productive work force; and

"Whereas, California has a historic commitment to providing both educational and economic opportunity to the broadest possible segment of the population through a strong system of public and private postsecondary education; and

"Whereas, Equal access to the state's diverse educational offerings in both public and private educational institutions is dependent upon the availability of state and federal financial assistance to those who would otherwise have the resources to attend college or vocational school; and

"Whereas, An integral component of the financial assistance available to the state's postsecondary students are funds provided by the Robert T. Stafford Student Loan Program, a federally guaranteed program under which more than 300,000 California students have borrowed more than five billion dollars ($5,000,000,000) in loans as of 1988, of which amount six hundred and fifty million dollars ($650,000,000) has entered default; and

"Whereas, Of those who default, many do so because they enter programs with insufficient academic preparation, receive inadequate consumer information, receive substandard education and training, and are subsequently unable to obtain gainful employment; and

"Whereas, The state has a fundamental responsibility to ensure adequate consumer protection from substandard educational practices, insufficient disclosure of consumer information, and fraud or misrepresentation in the sale or promotion of educational programs, whether accredited or unaccredited; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President and the Congress of the United States, as part of the reauthorization of the Higher Education Act of 1965, to reconsider and revise as necessary the guidelines for institutional participation and for student eligibility that apply to the granting of student loans under the federal Title IV financial aid programs; and be it further

"Resolved, That eligibility for institutional participation in state and federal financial aid programs should be contingent upon clear evidence that students are benefiting from a quality education that leads to a reasonable likelihood of gainful employment or certification of license in a professional field; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Secretary of Education, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-333. A joint resolution adopted by the Legislature of the State of California; to

the Committee on Labor and Human Resources:

"ASSEMBLY JOINT RESOLUTION No. 9

"Whereas, The federal minimum wage of $3.35 per hour has been in effect since January 1, 1981, and in those eight years the federal minimum wage level has fallen far behind the rate of change in the average wage of workers contrary to the stated intent of Congress; and

"Whereas, The purchasing power of the federal minimum wage has fallen to its lowest level since 1955 with today's minimum wage equaling only $2.46 per hour in inflation-adjusted 1981 dollars; and

"Whereas, A full-time worker paid the federal minimum wage would earn only $6,700 per year (at 40 hours a week for 50 weeks), an amount that is $2,500 a year less than what it takes to support a family of three at the official poverty level; and

"Whereas, The overwhelming percentage of people earning wages at or around the federal minimum are adults, nearly half of whom are heads of households; and

"Whereas, Federal action to increase the national minimum wage floor would greatly decrease the disparity of minimum wage levels among the various states; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take immediate steps to raise the federal minimum wage level to a level not lower than that recently adopted in California and to a level sufficient to restore the lost purchasing power of the federal minimum wage; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative in the Congress of the United States, and to the Secretary of Labor."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. 1521. A bill to amend Public Law 91-34 relating to the police force of the National Zoological Park of the Smithsonian Institution, and for other purposes (Rept. No. 101-145).

S.J. Res. 199. A joint resolution providing for the reappointment of Samuel C. Johnson as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 101-146).

S.J. Res. 200. A joint resolution providing for the reappointment of Jeannine Smith Clark as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 101-147).

S.J. Res. 202. A joint resolution providing for the appointment of Robert James Woolsey, Jr., of Maryland, as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 101-148).

S.J. Res. 203. A joint resolution providing for the appointment of Homer Alfred Neal, of Michigan, as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 101-149).

H.R. 2358. A bill to authorize appropriations for fiscal years 1990 and 1991 for the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives, and for other purposes (Rept. No. 101-150).

S. Res. 99. A resolution requiring the Architect of the Capitol to establish and implement a voluntary program for recycling paper disposed of in the operation of the Senate.

S. Res. 181. A resolution to authorize printing of the Regulations Governing the Use of the Mailing Frank.

By Mr. FORD, from the Committee on Rules and Administration, without recommendation; without amendment:

S. Res. 185. A resolution relative to reading of a measure for the third time.

Mr. FORD. Mr. President, today, on behalf of the Committee on Rules and Administration, I am submitting the report on Senate Resolution 185, relative to the reading of measures, which the committee reports without recommendation.

The resolution proposes a temporary standing order of the Senate, effective for the remainder of the 1st session of the 101st Congress only, requiring that no amendment may be offered to any measure after 15 or more minutes have passed since the disposition of an amendment to, or conclusion of debate on such measure. Upon expiration of such time period, the Chair would direct the Clerk to read any pending bill or joint resolution for the third time, or declare any simple or concurrent resolution no longer amendable. The change would be temporary in nature and would automatically sunset at the end of this session.

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 187. An original resolution to amend Rule XL of the Standing Rules of the Senate to correct the citation referring to Title 39, U.S. Code.

S. Res. 188. An original resolution authorizing the revision and printing of the Senate Manual for the use of the One Hundred First Congress.

S. Con. Res. 68. A concurrent resolution authorizing a concert by the American Soviet Youth Orchestra on Capitol grounds.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

John E. Frohnmayer, of Oregon, to be chairperson of the National Endowment for the Arts for a term of 4 years.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

Margaret P. Currin, of North Carolina, to be U.S. Attorney for the Eastern District of North Carolina for the term of 4 years.

By Mr. BIDEN, from the Committee on the Judiciary:

Stanley E. Morris, of the District of Columbia, to be Deputy Director for Supply Reduction, Office of National Drug Control Policy.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. FORD, from the Committee on Rules and Administration:

John Warren McGarry, of Massachusetts, to be a member of the Federal Election Commission for a term expiring April 30, 1995; and

John D. Aikens, of Pennsylvania, to be a member of the Federal Election Commission for a term expiring April 30, 1995.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KOHL:

S. 1683. A bill for the relief of Paula Grzyb; to the Committee on the Judiciary.

By Mr. MURKOWSKI:

S. 1684. A bill to promote an international ban on large scale driftnet fishing on the high seas; to the Committee on Foreign Relations.

By Mr. DODD:

S. 1685. A bill to suspend temporarily the duty on 6 t-butyl 2,4 xylenol; to the Committee on Finance.

S. 1686. A bill to suspend temporarily the duty on 2,4 Diamino-6-phenyl-1,3,5 triazine,; to the Committee on Finance.

By Mr. BAUCUS:

S. 1687. A bill to repeal section 89 of the Internal Revenue Code of 1986 (relating to rules for coverage and benefits under certain employee benefit plans); to the Committee on Finance.

S. 1688. A bill to repeal section 2036(c) of the Internal Revenue Code of 1986, relating to valuation freezes; to the Committee on Finance.

By Mr. ROTH:

S. 1689. A bill to clarify that individuals evicted from assisted housing because of drug-related criminal activity are ineligible for preferential treatment; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DODD (for himself, Mr. SIMON, Mr. PELL, Mr. JEFFORDS, and Mr. MATSUNAGA):

S. 1690. A bill to establish programs to improve foreign language instruction, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROTH:

S. 1691. A bill to strengthen the authority of the Director of National Drug Control Policy to improve and revise budget requests of National Drug Control Program agencies; to the Committee on the Judiciary.

By Mr. NUNN (for himself, Mr. HEFLIN, Mr. FOWLER, Mr. SHELBY, Mr. GORTON, and Mr. HATFIELD):

S. 1692. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain timber activities under passive loss rules; to the Committee on Finance.

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 1693. A bill to temporarily suspend the duty on iopamidol; to the Committee on Finance.

By Mr. HEFLIN (for himself and Mr. SHELBY):

S. 1694. A bill to add approximately 500 miles to the National System of Interstate and Defense Highways for construction of an interstate route to connect Memphis, TN, with Chattanooga, TN, and Atlanta, GA, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HARKIN (for himself, Mr. CONRAD, Mr. LEAHY, Mr. DASCHLE, Mr. BOSCHWITZ, Mr. BURDICK, Mr. FOWLER, Mr. GLENN, and Mr. SIMON):

S. 1695. A bill to provide financial assistance to conduct agricultural research and to commercialize such research, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KENNEDY (for himself, Mr. HATFIELD, Mr. SPECTER, Mr. SIMON, Mr. MOYNIHAN, Mr. METZENBAUM, and Mr. LEVIN):

S. 1696. A bill to amend title 28 of the United States Code to prohibit racially discriminatory capital sentencing; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself, Mr. CHAFEE, Mr. BRADLEY, Mr. MOYNIHAN, Mr. LIEBERMAN, Mr. CONRAD, Mr. HEINZ, Mr. PELL, and Mr. DODD):

S. 1697. A bill to require local educational agencies to conduct testing for radon contamination in schools, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GORE (for himself, Mr. FORD, Mr. BUMPERS, Mr. SASSER, Mr. BURDICK, Mr. COHEN, Mr. DASCHLE, Mr. MCCONNELL, Mr. PRESSLER, Mr. PRYOR, Mr. WARNER, and Mr. JEFFORDS):

S. 1698. A bill to amend the Communications Act of 1934 to provide for fair marketing practices for certain encrypted satellite communications; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN (for himself, Mr. CONRAD, Mr. LEAHY, Mr. DASCHLE, Mr. BOSCHWITZ, Mr. BURDICK, Mr. FOWLER, Mr. GLENN, and Mr. SIMON):

S. 1699. A bill to provide financial assistance to conduct agricultural research and to commercialize such research, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ADAMS (for himself, Mr. GORTON, Mr. MOYNIHAN, Mr. LAUTENBERG, Mr. DURENBERGER, Mr. KERRY, Mr. HEFLIN, Mr. GORE, Mr. THURMOND, Mr. HATCH, Mr. BOSCHWITZ, Mr. LUGAR, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. BAUCUS, Mr. BURNS, Mr. SYMMS, Mr. MCCLURE, Mr. CONRAD, Mr. METZENBAUM, Mr. KOHL, Mr. DECONCINI, Mr. WILSON, Mr. PRYOR, and Mr. NUNN):

S.J. Res. 209. Joint resolution to designate November 11, 1989, as "Washington Centennial Day"; to the Committee on the Judiciary.

By Mr. DOLE:

S.J. Res. 210. Joint resolution to designate the month of October 1989 as "National Spina Bifida Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD:

S. Res. 187. An original resolution to amend Rule XL of the Standing Rules of the Senate to correct the citation referring to Title 39, United States Code; from the Committee on Rules and Administration; placed on the calendar.

S. Res. 188. An original bill authorizing the revision and printing of the Senate Manual for the use of the One Hundred First Congress; from the Committee on Rules and Administration; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI:

S. 1684. A bill to promote an international ban on large-scale driftnet fishing on the high seas; to the Committee on Foreign Relations.

LARGE SCALE DRIFTNET FISHING ON THE HIGH SEAS PROHIBITION PROMOTION ACT

Mr. MURKOWSKI. Mr. President, today I am introducing a bill to ban driftnet fishing on the high seas. I have taken the Senate floor numerous times in the past to address the growing international concern with large-scale driftnet fishing in the North Pacific Ocean. As my friends and colleagues know, this is a dangerously efficient method of fishing that does not distinguish the type or quantity of marine life that it kills. While our recent agreements with Japan, Korea, and Taiwan demonstrate an increased international awareness of driftnet fishing, it is imperative that we demonstrate our commitment to the future of our natural resources by endorsing an international ban on all high seas driftnet fishing.

Our marine resources are invaluable, and irreplaceable. They serve as the basis for a wide range of complex biological functions in our marine ecosystem, and are vitally important to commercial and recreational interests. These marine resources are in danger of depletion, Mr. President, and it is our responsibility in the Senate to stop this widespread destruction.

Almost every day throughout the year, Japanese, Korean, and Taiwanese squidfishers lay out over 30,000 miles of net in the North Pacific Ocean. Although they are fishing for squid, it is impossible to discern what type of marine life is entangled in these nets. Consequently, hundreds of thousands of seabirds, marine mammals, immature salmon and steelhead trout are killed. These are unintended deaths, Mr. President, and can only be prevented by the eradication of this method of fishing.

My bill will amend the Magnuson Act to require the Secretary of State to secure an international ban on large-scale driftnet fishing on the high seas as soon as possible. The Secretary will furnish a report on the progress of these negotiations within 18 months of the passage of this act, and subsequent annual reports until an agreement is reached.

As I have said before, we must demonstrate our responsibility to the future of marine resources by endorsing a large-scale ban on driftnet fishing worldwide. South Pacific nations; namely, Australia and New Zealand, have already established a ban in the South Pacific Ocean. While we believe the damage incurred in South Pacific waters has been relatively small compared to the destruction in the North Pacific, these environmentally conscious nations have established a precedent. These nations have admirably responded to the potential threat that this fishing poses in their waters.

This is an excellent move toward the wise management of our resources, Mr. President, a move that should be extended worldwide. I urge my colleagues to cosponsor this bill, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Large Scale Driftnet Fishing on the High Seas Prohibition Promotion Act."

INTERNATIONAL BAN

SEC. 2. Section 206 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1826) is amended to read as follows:

"SEC. 206. INTERNATIONAL BAN ON LARGE SCALE DRIFTNET FISHING.

"(a) NEGOTIATIONS.—The Secretary of State shall seek to secure, as soon as possible after the date of the enactment of the Large Scale Driftnet Fishing on the High Seas Prohibition Promotion Act, an international ban on large scale driftnet fishing on the high seas.

"(b) REPORT.—Not later than 18 months after the date of the enactment of such Act, and every year thereafter until such a ban is secured, the Secretary of State shall transmit to the Congress a report—

"(1) describing the steps the Secretary has taken to initiate and complete negotiations pursuant to subsection (a);

"(2) detailing the progress of those negotiations;

"(3) listing those nations which have refused to enter into those negotiations and which engage in large scale driftnet fishing on the high seas; and

"(4) making recommendations for legislative action which could be taken to encourage the nations listed pursuant to para-

graph (3) to cease large scale driftnet fishing.".

SEC. 3. Section 2(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(c)) is amended by—

(1) striking "and" at the end of paragraph (4);

(2) striking the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) adding at the end the following:

"(6) to achieve international agreement on banning large scale driftnet fishing on the high seas as soon as possible.".

DEFINITIONS

SEC. 4. Section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802) is amended by adding at the end the following:

"(28) The term 'large scale driftnet fishing' means a method of fishing in which a gillnet composed of a panel or panels of webbing with a total length of one and one-half miles or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.".

GREAT LAKES FISHERY ACT OF 1956 AMENDMENT

SEC. 5. The Great Lakes Fishery Act of 1956 (16 U.S.C. 931 et seq.) is amended by inserting immediately after section 12 the following new section;

"SEC. 12A. It is the sense of the Congress that at the 11th Annual Meeting of the Commission and thereafter, the Secretary, in consultation with the Secretary of State, should seek support for a recommendation by the Commission to ban large scale driftnet fishing (as that term is defined in section 3(28) of the Magnuson Fishery Conservation and Management Act) in the Convention area.".

By Mr. ROTH:

S. 1689. A bill to clarify that individuals evicted from assisted housing because of drug-related criminal activity are ineligible for preferential treatment; to the Committee on Banking, Housing, and Urban Affairs.

FAIRNESS IN FEDERAL HOUSING ADMISSIONS ACT

● Mr. ROTH. Mr. President, I am introducing a bill to correct an anomaly that plagues our efforts to eliminate the scourge of drugs from the Nation's public housing and to make that housing safe and livable for the large majority of law-abiding public housing residents.

Currently, the law does not prohibit a person evicted from public or assisted housing for drug-related activity from quickly regaining Federal housing assistance. Indeed, unbelievable as it may seem, persons who have been evicted for drug-related activities may actually be given preferential treatment in receiving housing assistance. Existing law essentially allows residents whose drug activity cost them their leases to be placed at the top of long waiting lists for Federal assistance, above many law-abiding citizens who are going through the normal application procedure. It is incumbent upon the Congress to eliminate this loophole, if we are to send a message to the American public that we are at all committed to cleaning the scourge of drugs out of our Nation's federally assisted housing. My bill would explicitly prohibit any preferential treatment for those evicted from public or assisted housing due to drug-related activity.

As ranking minority member of the Permanent Subcommittee on Investigations, I presided over a hearing last May examining the problem of drugs and public housing. During that hearing, residents of public housing painted a grim picture of the pervasiveness of drugs and violence in their buildings and neighborhoods.

PSI found that the overwhelming majority of residents of public housing are decent, law-abiding Americans. However, a small number of residents involved in drug-related activity can infect an entire neighborhood with drug-related violence, theft, and vandalism. Their activities terrorize neighborhoods and housing developments, making victims of all nearby residents.

Some residents who testified before PSI emphasized that a good way to rid public and assisted housing of drugs is to keep people involved with drugs out of public and assisted housing in the first place. Greater emphasis on screening applicants can prevent problems before they have a chance to get in the door.

But current law requires waiting list preference for persons falling under certain hardship categories, such as those who have been involuntarily displaced, and allows public housing agencies to place such people at the front of the line. These provisions exist for the legitimate reason of providing assistance first to the people who need it the most.

My bill simply prohibits persons who have been evicted from federally assisted housing, by reason of a drug-related activity, from receiving any preferential status in the awarding of Federal public and assisted housing. This legislation does not seek to ban these persons from Federal housing assistance. It merely mandates that they will not be given unwarranted special treatment and will wait their turn at the end of the line. Mr. President, I see no reason why known drug users or traffickers should be given preference in admission to Federal housing assistance, while an estimated 800,000 families are on the waiting list.

I applaud the efforts that are already underway in the Congress to clean up the scourge of drugs from our Nation's public housing. The repeal of section 404 of the dire emergency supplemental appropriations bill is a critical step in the war on drugs in public housing, and that repeal is imminent. However, to move even further, we must close the existing loophole in public housing admissions that currently rewards drug-related activity.

But based on the testimony at our PSI hearings, I can tell you that the people demanding most vigorously that drugs be eliminated from public housing are the public housing residents themselves. They are the people who suffer most from the depredation of drug dealers.

I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1689

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fairness in Federal Housing Admissions Act of 1989".

SEC. 2. AMENDMENTS TO THE UNITED STATES HOUSING ACT OF 1937.

(a) IN GENERAL.—Section 3(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)) is amended by adding at the end the following new sentence: "Any individual or family who is evicted from housing assisted under this Act by reason of drug-related criminal activity (as defined in section 6(1)) is not eligible for a preference under this paragraph".

(b) MAXIMUM INCOME LIMITS, ETC.—Section 6(c)(4)(A) of such Act (42 U.S.C. 1437d(c)(4)(A)) is amended by striking "and (ii) the public" and inserting "(ii) any individual or family evicted from housing assisted under this Act by reason of drug-related criminal activity (as defined in subsection (1)) is not eligible for a preference under any provision of this paragraph, including clause (iii); and (iii) the public".

(c) REQUIRED PROVISIONS AND DURATION OF CONTRACTS FOR ASSISTANCE PAYMENTS.—Section 8(d)(1)(A) of such Act (42 U.S.C. 1437f(d)(1)(A)) is amended by striking "and (ii) the public" and inserting "(ii) any individual or family evicted from housing assisted under this Act by reason of drug-related criminal activity (as defined in section 6(1)) is not eligible for a preference under any provision of this subparagraph, including clause (iii); and (iii)".

(d) AMOUNT OF ASSISTANCE; ELIGIBLE FAMILIES, ETC.—Section 8(o)(3) of such Act (42 U.S.C. 1437f(o)(3)) is amended by adding at the end the following: "Any individual or family who is evicted from housing assisted under this Act by reason of drug-related criminal activity (as defined in section 6(1)) is not eligible for a preference under any provision of this paragraph".●

By Mr. DODD (for himself, Mr. SIMON, Mr. PELL, Mr. JEFFORDS, and Mr. MATSUNAGA):

S. 1690. A bill to establish programs to improve foreign language instruction, and for other purposes; to the Committee on Labor and Human Resources.

FOREIGN LANGUAGE COMPETENCE FOR THE FUTURE ACT

● Mr. DODD. Mr. President, as the Congress, the President and the Governors move to bolster our Nation's commitment to educational excellence,

I am pleased to have my colleagues, Senators SIMON, PELL, JEFFORDS, and MATSUNAGA join me in introducing the Foreign Language Competence for the Future Act of 1989. This measure will attempt to meet two of the goals put forth by the Democratic leaders of Congress last week, to "annually improve the foreign language performance of American students until our students exceed the performance of students from other industrialized nations," and to "alleviate the pending teacher shortage."

According to the National Governors' Association report entitled "America in Transition," there are valid reasons for us to be concerned about the state of affairs of our foreign language programs. At least 26 States are experiencing shortages in foreign language teachers, only 17 percent of elementary schools offer any foreign language instruction, and only 1 in 5 high school graduates take more than 2 years of a foreign language.

We are experiencing these shortages at the most inopportune time. As the countries of the world become more interdependent economically, politically and culturally we should be making the best effort to guarantee that the education of our citizens extends beyond our borders.

It is a fact that English is widely spoken—not just by us, but by our economic competitors and foreign diplomats. This, however, should be an incentive, not a disincentive, for Americans to learn their languages as well. We do not want to take a back seat to our economic competitors. However, we will jeopardize our ability to compete if we do not learn the language of the customer. Our foreign competitors who understand our language and culture are better prepared to do business with us. They are working with two hands, their native language and English, while we struggle with only one.

Unfortunately, the United States does lag behind its economic competitors in foreign language competency. There are more teachers of English in the Soviet Union than there are students of Russian in the United States. Educational systems in Europe begin foreign language instruction in the elementary school and many require proficiency in at least a second language. And now, European nations are discussing making the study of a second language a requirement for all students in Europe beginning in 1992.

American students will find that the study of foreign languages would have a positive impact on their academic, cultural and professional interests. My fluency in Spanish has enabled me to better communicate with my Hispanic constituents, to read important political articles written in Spanish and to conduct meetings with leaders of Central and South American countries in their native language. I cannot stress enough the advantages of speaking a foreign language.

Fortunately, Americans are beginning to realize the importance of international education. I credit the Governors for their efforts to draw attention to the need for geographic literacy, international awareness and foreign language competency. However, it will require the participation of all levels of government and the private sector to assure that our youth receive the finest, most comprehensive education. To achieve the goal of educational excellence, we must protect our system from further erosion. We must help meet the needs of our school systems before they become crises. And, the shortage of foreign language teachers and resources is already a problem. We must act now.

The foreign language competence for the future act proposes a variety of ways to combat the problem of teacher shortages and improve the delivery of foreign language instruction. In response to the shortage of teachers, my proposal would provide Federal assistance to institutes of higher learning to establish foreign language institutes for the training and retraining of foreign language educators. The act will also give Federal funds to States, experiencing shortages of foreign language teachers, to offer teacher incentive grants to college students majoring in foreign languages.

The limited availability of foreign language instruction is not only the result of too few teachers. Often schools do not have enough students interested in a critical language to justify hiring a teacher. To combat problems of this nature, my proposal would also make demonstration grants available to institutes of higher learning or nonprofit education associations for the development of the technology necessary for distance learning programs. Federal assistance would also be available to institutes of higher learning and secondary schools interested in forming foreign language consortia. Finally, States could qualify for Federal grants to establish foundations to provide foreign language services to small- and medium-size businesses trying to compete in the international marketplace.

In closing, I would like to add that Congressman PANETTA introduced a similar measure in the House of Representatives earlier this year.

Mr. President, this measure will provide the support schools need to make our educational system the finest in the world. It does not solve all of the problems schools and educators are facing. It does, however, offer a comprehensive approach to the shortages of foreign language teachers and resources that we need so desperately to reduce.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1690

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Language Competence for the Future Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the future economic welfare and national security of the United States will substantially depend upon our ability to educate our citizens to communicate in other languages;

(2) 26 States currently have severe foreign language teachers shortages and others predict severe shortages in the next decade;

(3) only 17 percent of United States public elementary schools offer any form of language instruction;

(4) instruction in major languages such as Russian, Japanese, Chinese, and Arabic are rarely offered at any educational level;

(5) many small- and medium-sized United States firms with export capacity and potential fail to take advantage of international markets because of lack of cross-cultural skills and expertise; and

(6) many small school districts in rural areas are unable to offer foreign languages except through technology for distance learning.

SEC. 3. FOREIGN LANGUAGE INSTITUTES.

(a) PROGRAM AUTHORIZED.—The Secretary is authorized to provide grants to institutions of higher education or consortia of such institutions for the establishment and operation of foreign language institutes for the professional development of the proficiency of elementary and secondary foreign language teachers.

(b) PROGRAM PARTICIPATIONS.—Programs operated with grants under this section shall—

(1) provide a preference for elementary teacher development and the retraining of secondary teachers for elementary schools;

(2) allow teachers from other fields to retrain as foreign language teachers; and

(3) provide summer in-service programs for elementary and secondary foreign language teachers.

(c) GRANT LIMITATIONS.—Grants pursuant to this section shall—

(1) not exceed $3,000 per teacher;

(2) not exceed 300 teachers per institute;

(3) not provide less than one institute in each State; and

(4) not exceed $400,000 to any institution.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 to carry out this section for fiscal year 1991 and for each of the 4 succeeding fiscal years.

SEC. 4. FUND FOR THE ADVANCEMENT OF FOREIGN LANGUAGE TEACHING.

(a) STATEMENT OF PURPOSE.—Section 415A(a) is amended by—

(1) striking "education and" and inserting "education,"; and

(2) striking the period at the end thereof and inserting a comma and "and teacher incentive grants to eligible students in accordance with section 415E.".

(b) APPLICATIONS FOR STATE STUDENT INCENTIVE GRANT PROGRAMS.—Section 415C(b) of the Higher Education Act of 1965 is amended by—

(1) striking "and" at the end of paragraph (9);

(2) striking the period at the end of paragraph (10) and inserting a semicolon and "and"; and

(3) inserting the following new paragraph (11):

"(11) provides for the awarding of teacher incentive grants in accordance with the provisions of section 415E.".

(c) TEACHER INCENTIVE GRANTS.—Subpart 3 of part A of title IV of the Higher Education Act is amended by—

(1) redesignating section 415E as section 415F; and

(2) inserting the following new section 415E:

"SEC. 415E. ADDITIONAL REQUIREMENTS TEACHER INCENTIVE GRANTS.

"(a) IN GENERAL.—Each State receiving a payment under this subpart with respect to funds to be used for teacher incentive grants under this subpart shall—

"(1) award a maximum of $10,000 in teacher incentive grants to each eligible student;

"(2) only award teacher incentive grants to—

"(A) undergraduates in their sophomore, junior, or senior years who are majoring in a foreign language, or

"(B) students pursuing a graduate degree in education or teaching who have the intention of teaching a critical foreign language upon completion of such degree;

"(3) use a maximum of 20 percent of the State's allotment under this subpart to award eligible students teacher incentive grants if the Secretary determines the State is experiencing a shortage of foreign language teachers on the basis of the information submitted pursuant to paragraph (4);

"(4) include in the application submitted pursuant to section 415C(a) information regarding the ratio of the total number of foreign language teachers in the State as compared to the total number of elementary and secondary students in the State;

"(5) require that eligible students receiving teacher incentive grants enter into an agreement with the Secretary in accordance with the provisions of subsection (b);

"(6) establish a system for the collection of grant awards from students who fail to meet the conditions of the grant agreement set forth in subsection (b); and

"(7) provide for the placement of teacher incentive grant recipients in teaching positions within the State upon completion of their educational training with priority being given to placing grant recipients in schools receiving assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(b) AGREEMENT.—The agreement required by subsection (a)(1) shall—

"(1) provide that the eligible student, after completing the post-secondary education for which the teacher incentive grant was awarded, teach in a public elementary or secondary school located in areas of the State experiencing the greatest shortage of foreign language teachers, for a period of not less than 1 year for each $2,500 in teacher incentive grant assistance received;

"(2) provide that in the event the conditions of paragraph (1) are not complied with the eligible student will repay all or part of any teacher incentive grant received under this subpart plus interest within 10 years of the failure to comply with the conditions of paragraph (1);

"(3) set forth the consequences of the eligible student's failure to satisfy the teaching commitment described in paragraph (1);

"(4) set forth the consequences of the eligible student's failure to comply with repayment provisions provided for in paragraph (2); and

"(5) provide assurances that the eligible student will provide the State with such information as the Secretary may reasonably require.

"(c) LIMITATION.—No State receiving a grant under this subpart may award teacher incentive grants pursuant to this section unless the appropriation for this subpart exceeds $80,000,000.".

SEC. 5. FOREIGN LANGUAGE FOUNDATIONS.

(a) PROGRAM AUTHORITY.—The Secretary is authorized to make grants to States and major metropolitan areas on a matching basis to establish foreign language foundations, and for units within world trade councils, to provide language training, translation services, and information about other cultures and markets for small- and medium-sized businesses seeking to enter export markets.

(b) GRANT LIMITS.—No grant under this section shall exceed $200,000 per State or city.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1991 and for each of the 4 succeeding fiscal years.

SEC. 6. DEMONSTRATION GRANTS FOR DISTANCE LEARNING.

(a) PROGRAM AUTHORITY.—The Secretary is authorized to make demonstration grants to State education agencies, institutions of higher education, and nonprofit education and professional associations to provide technology for distance learning in cooperation with foreign language teachers and specialists to serve small and rural school districts, small colleges, community colleges, and adult business education classes through video tapes, cassettes, satellite linkages, cable programs, teleclasses, and computer-assisted-instruction.

(b) GRANT LIMITATION.—No grants under this section shall exceed $200,000 in any fiscal year.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1991 and for each of the 4 succeeding fiscal years.

SEC. 7. DEMONSTRATION GRANTS FOR CRITICAL LANGUAGE AND AREA STUDIES.

(a) PROGRAM AUTHORITY.—The Secretary is authorized to make demonstration grants to eligible consortia to operate critical languages and area studies programs, develop and acquire educational equipment and materials, and develop teacher training programs, texts, curriculum, and other activities designed to improve and expand the instruction of foreign languages at elementary and secondary schools across the Nation.

(b) STUDY ABROAD REQUIRED.—Each program receiving a grant under this section shall include a study abroad or cultural exchange program (or both).

(c) GRANT LIMITATION.—No grant under this section shall exceed $2,000,000 to any consortium in any fiscal year.

(d) ELIGIBLE CONSORTIA.—For the purposes of this section the term "eligible consortia" means a cooperative effort between schools that must include at least 3 schools of which—

(1) one shall be a college or university,

(2) one shall be a secondary school with experience in teaching foreign languages, and

(3) one shall be a secondary school in which 25 percent of the students are eligible to be counted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1991 and for each of the 4 succeeding fiscal years.

SEC. 8. REGULATIONS.

The Secretary shall prescribe such regulations as may be necessary to carry out this Act within 90 days after the date of enactment of this Act. Such regulations shall establish procedures for the selection of grant and loan recipients, for the distribution of funds, and for the evaluation and review of the results of the programs authorized by this Act.

SEC. 9. DEFINITIONS.

As used in this Act—

(1) the term "Secretary" means the Secretary of Education;

(2) the term "institution of higher education" has the meaning provided by section 1201 of the Higher Education Act of 1965; and

(3) the term "State education agency" has the meaning provided by section 1201 of the Higher Education Act of 1965.●

● Mr. SIMON. Mr. President, I am pleased to join my colleague from Connecticut, Senator DODD, as an original cosponsor of the Foreign Language Competence for the Future Act of 1989.

We are living in a world that becomes smaller every day. Now, we are at a point where our children are no longer only citizens of the United States but of the world. Given that fact, it is more important today than ever before that the leaders of tomorrow have the ability to communicate in other languages. As the world begins to enter an increasingly global market, Americans are forced to compete, understand, and learn about our international community. Transactions ranging from simple business deals to negotiating foreign debt all require a knowledge of another culture's language.

The ability to communicate with all our neighbors is vital to our future if America is to maintain its economic and political strength in the modern world. But the numbers demonstrate that our students lag far behind their foreign counterparts.

Mr. President, only one in five American high school graduates has more than 2 years of a foreign language. Japan requires 6 for all their students. Just one sixth of America's 4-year colleges have a foreign language requirement for entrance. Only 3 percent of high school graduates and 5 percent of college graduates in the United States reach a meaningful proficiency in a second language. The United States remains as the only foreign service in

the world that a person may join without being proficient in a foreign language. These statistics must change.

Despite modest growth in foreign language studies in the past decade, 26 States currently report a shortage of language teachers. And without sufficient numbers of teachers, we will never have sufficient numbers of students.

I commend Senator DODD on this timely legislation. If this legislation were enacted, it would provide grants to States for the construction of institutes designed to train elementary and secondary teachers in foreign languages. It would also provide incentives in the form of loan forgiveness to students who plan to teach foreign languages. This is definitely a step in the right direction.

Combined with provisions for language services to business, remote areas, and rural communities, this act signifies an important step for American students and the future of the Nation.

Mr. President, in Botswana, the average fourth grader has had more language study than the average college graduate in the United States. That is a trend that must be reversed, and with the Foreign Language Competence for the Future Act of 1989, that reversal could be closer to reality.●

By Mr. ROTH:

S. 1691. A bill to strengthen the authority of the Director of National Drug Control Policy to approve and revise budget requests of National Drug Control Program agencies; to the Committee on the Judiciary.

DRUG CZAR'S BUDGET AUTHORITY

● Mr. ROTH. Mr. President, a few weeks ago the Bush administration released the first truly comprehensive battle plan for the Federal war on drugs. While the national drug strategy reflects the wisdom and expertise of literally hundreds of contributors, the task of following through on its recommendations will be largely the responsibility of Dr. William J. Bennett, the Director of National Drug Control Policy, or the drug czar as he has come to be known.

If Dr. Bennett, or anyone else holding his position, is to have any chance at success in this essential and enormously difficult task, he needs the tools to accomplish that task.

The bill I am introducing today would do just that by enhancing the drug czar's budget authority, allowing him to approve or revise drug-related budget requests. My bill would give to the drug czar the power that would have been granted him under legislation passed by this body last fall, legislation which was subsequently weakened in the negotiations with the House before final passage.

Mr. President, I don't have to convince any of my colleagues of the severity of the drug problem in this Nation. I certainly don't have to convince the American people; in survey after survey, they have consistently identified drugs as the No. 1 problem facing our country. And though a recent report of the National Institute on Drug Abuse indicates that we are finally making some progress in reducing the number of casual drug users, hardcore addiction and the human misery caused by it are continuing to climb. As Dr. Bennett himself recently pointed out, "Drug crime is up, drug trafficking is up, drug deaths are up [and] drug emergencies in our hospitals are up * * *."

Confronting a problem as formidable and far-reaching as drug abuse demands leadership and cooperation at every level, from local to international. These principles are especially important at the Federal level, where over 30 agencies are involved in some aspect of drug control. We have already spent billions, and will need to spend billions more, to support the antidrug programs of these agencies. Since so much has been invested, and so much is at stake, we must ensure that Federal drug control efforts are coordinated and effective.

But the sad truth is, Mr. President, those efforts have been hampered at times by interagency duplication and infighting. Agencies have all too often been operating at cross purposes, competing with one another instead of coordinating their responsibilities. Indeed, in many agencies, there seems to be a misunderstanding as to who the real enemy is in the drug war—the traffickers or rival agencies. One of the most egregious examples of agency infighting has been taking place in Miami, a critical hotspot in the drug war. There, relations between the local DEA and Customs agents have been so bad that in recent months the two offices have publicly waged a war of words in the local newspapers. Mr. President, this is outrageous.

The necessity of putting a stop to these turf wars and coordinating the Federal drug effort was the principal impetus behind the establishment of the office of the Director of National Drug Control Policy. I was pleased to work closely on the development of this position with several Senators, including my distinguished colleague from Delaware, Senator BIDEN. Those of us who helped develop the drug czar position envisioned an official who would rise above the interests of any one agency to chart the best course in the Federal effort against drugs. At the same time, we were realistic in understanding that the drug czar could not be expected to fulfill this responsibility purely on the basis of friendly persuasion. Therefore, we gave the drug czar the authority to approve or revise budget requests, to ensure that funds are targeted to the areas of greatest priority.

As was pointed out last fall, there is a precedent for this kind of budget authority. The Director of Central Intelligence was given the power to approve or revise budget requests from the various foreign intelligence agencies by President Reagan in Executive Order 12333. There is a basic principle behind this kind of budget authority: in an area, like foreign intelligence, or drug control, where multiple Federal agencies are involved, it is unrealistic to expect one agency to willingly lower its budget request to fund another agency's programs, even if the other agency's programs are arguably more effective. What's needed is an official who can, if necessary, resolve budgetary gridlocks in a way that will best serve the Nation rather than a particular agency. And who is more qualified to make these kinds of tough decisions than an official, like the drug czar, who is spending full time on the issue? Mr. President, the logic behind meaningful budget authority for an official in the drug czar's position is clear. Indeed, not a word of objection was heard to this provision on the Senate floor when the bill passed last fall.

Yet when it came time for the two Houses to reconcile their versions of drug control legislation late last session, the drug czar's authority was dealt a crippling blow. Instead of the power to approve or revise drug-related budget requests, the drug czar's authority was watered down to a certification process, in which the drug czar simply registers his approval or objection to the various budget requests in writing. Although this process establishes a paper trail documenting an agency's adherence or nonadherence to drug strategy priorities, it has no binding power over any agencies. In short, it is a far cry from genuine budget authority.

The legislation that I am introducing today would restore budgetary power to the drug czar, giving him the authority to approve or revise all drug-related budget requests. With this authority, we can reasonably expect the drug czar to fulfill his legislative mandate of coordinating and overseeing Federal drug policy. This authority is essential to give him the leverage and influence he needs over each agency with drug control responsibilities. Without it, the drug czar may face an insurmountable task. As I have pointed out, history gives Federal drug control agencies poor marks for coordination among themselves.

Mr. President, Bill Bennett may have the toughest job of any official in the Federal Government. He needs every tool that we can give him. My legislation would ensure that he has the most useful tool, budget authority.

I urge my colleagues to support this legislation.

I ask unanimous consent that the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1691

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraphs (3), (4), and (5) of section 1003(c) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1502(c)) are amended to read as follows:

"(3) The Director shall approve or revise requests transmitted under paragraph (2) in consultation with the appropriate program manager and agency or department head.

"(4) No National Drug Control Program agency shall submit to the Congress a reprogramming or transfer request with respect to any amount of appropriated funds greater than $5,000,000 which is included in the National Drug Control Program budget unless such request has been approved by the Director.

"(5) The head of any National Drug Control Program agency may appeal to the President any decision of the Director on budget, reprogramming or transfer matters relating to such agency." ●

By Mr. NUNN (for himself, Mr. HEFLIN, Mr. FOWLER, Mr. SHELBY, Mr. GORTON, and Mr. HATFIELD):

S. 1692. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain timber activities under passive loss rules; to the Committee on Finance.

AMENDING THE INTERNAL REVENUE CODE WITH RESPECT TO CERTAIN TIMBER ACTIVITIES

● Mr. NUNN. Mr. President, I am introducing a bill today that would protect small timberland owners from the unintended impact of the passive activity loss rules issued as a result of the Tax Reform Act of 1986. It would revise the "material participation" test for timberland owners and help foster the efficient management of private forest land.

To the credit of Representatives THOMAS, JENKINS, WYDEN, MORRISON, and CALLAHAN, this legislation has become a part of the fiscal year 1990 budget reconciliation bill as reported by the Ways and Means Committee. All are to be commended for their efforts in this area.

In introducing this bill, I want to make it clear that I do not offer this proposal as an alternative to a capital gains differential. That issue will be considered at a later time as we debate the Senate reconciliation language. Both a reduction in the capital gains tax and a change in the passive activity loss rules are important to timber producers and should be viewed separately.

The bill I am introducing today would correct a flaw in the passive activity rules as they relate to the timber industry. Congress, as part of the comprehensive 1986 tax reforms, passed legislation to curb the widespread and abusive use of tax shelters. Shelters are typically investments in business enterprises that may or may not be bona fide activities. The enterprises were structured to generate losses which were passed through to the taxpayer, because the businesses were operated in partnership form—or in some other form of passthrough entity.

The passive activity loss rules as enacted by Congress provide that if the taxpayer-investor in the business activity does not "materially participate" in the business, the losses from the business that "flow through" to him are passive activity losses [PAL]. These PAL losses are not deductible against the taxpayer's income from other sources, but may only offset against income from other business activities in which the taxpayer does not materially participate. Therefore, if the taxpayer does not have this special kind of income with which to offset the PAL, the losses are not currently deductible but are held in suspense for use in later years when income is generated from passive business activities or when the business activity is sold.

These special rules largely accomplish the intended purpose of discouraging investment in tax shelters since the losses generated, in most instances, do not represent economic out-of-pocket expenditures, but are paper losses generated through use of leveraged acquisitions or other similar arrangements. These antitax shelter rules do not apply if the taxpayer materially participates in the business sustaining the loss. The temporary regulations issued by the Department of the Treasury contain seven tests, one of which must be passed, before the taxpayer is deemed to materially participate in the business. Unfortunately, because of the unique nature of the tree growing business for many small timberland owners it is frequently difficult, if not impossible, for them to meet any one of the seven quantitative tests.

Of the seven tests, the two hourly tests are the ones the small timberland owners have the best chance of passing in order to be treated as material participants. One test requires them to work over 500 hours a year in the tree growing activity. The other allows them to qualify, if they work over 100 hours and can show the "right" facts and circumstances. The temporary regulations shed little light on what may qualify as appropriate facts and circumstances.

The fact is, that in the intervening years between tree harvests, most small timberland owners do not donate 500 hours or even 100 hours per year to their tree growing activities. The actual physical work incurred in managing timberland is done at the direction of the timberland owners by employees or independent contactors. The hours worked by the latter are not counted as hours of participation by the timberland owners. Thus, their annual timber management expenses, to the extent they exceed gross income, cannot be currently deducted.

In between tree harvests there is apt to be little or no gross income from the tree growing activity. In year when there are tree harvests, should the timberland owners work over 100 hours, he may not be able to offset the gain from the timber sales by the prior years' suspended expenses, because the gain may be treated as "active" income from business because he has materially participated. It is potentially a catch 22 situation with the small timberland owner never being able to deduct any of his accumulated suspended timber management expenses.

My bill is identical to the provision for the relief of small timberland owners from the passive activity loss rules contained in the Budget Reconciliation Act for fiscal year 1990—H.R. 3299—now pending in the House of Representatives. My bill provides that timberland owners need not meet a material participation test, if their business activity consists of holding qualified timber property. In this legislation, qualified timber property is defined to mean timberland which contains trees in significant commercial quantities.

The bill is supported by the Forest Farmers Association, the Southeast Lumber Manufacturers Association, the National Forest Products Association, the Southern Forest Products Association, Georgia Pacific, the Georgia Forestry Association, and the Forest Industries Council for Timber Valuation and Taxation.

Enactment of this relief provision in no way weakens the antitax shelter thrust of the passive activity loss rules contained in section 469 of the Internal Revenue Code. It will allow thousands of small timberland owners to return to the practice of deducting their business expenses as they are incurred which will allow them to efficiently manage their timber stands. The bill does more than just provide relief for small timberland owners, it addresses the policy issue of future timber supply and the very important policy of encouraging conservation.

In my home State of Georgia, the timber industry is the State's leading industry. While the industry includes large mills and pulp companies, by a large margin, most of the timber is owned by individuals who are relatively small operators. Many of them own 500 acres or less. Most of the timber for making lumber, paper, and other wood products comes from the timber

stands of these small, individual owners. To deny these owners the right to currently offset their cash expenditures against other sources of income essentially requires them to capitalize their timber management expenses until they sell their trees, which may not occur for many years. This will deter them from engaging in efficient management of their trees and that, in the long run, will reduce future supplies of wood.

I am pleased to be able to join with my colleagues from the House in offering this legislation, and I hope that it can be enacted as a part of the reconciliation legislation this year.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1692

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN TIMBER ACTIVITIES UNDER PASSIVE LOSS RULES.

(a) GENERAL RULE.—Subsection (c) of section 469 of the Internal Revenue Code of 1986 (defining passive activity) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) CERTAIN INTERESTS IN TIMBER PROPERTY.—

"(A) IN GENERAL.—The term 'passive activity' shall not include any interest in qualified timber property (as defined in section 194(c)(1)) held by a natural person directly or through an entity which does not limit the liability of such person with respect to such interest.

"(B) INCOME IN SUBSEQUENT YEARS.—If any taxpayer has any loss for any taxable year from an interest in any qualified timber property (as so defined) which is treated as a loss which is not from a passive activity, then any net income from such property (or any other property the basis of which is determined in whole or part by reference to the basis of such property) for any succeeding taxable year shall be treated as income of the taxpayer which is not from a passive activity."

(b) TECHNICAL AMENDMENT.—Paragraph (5) of section 469(c) of such Code (as redesignated by subsection (a)) is amended by striking "(2) and (3)" each place it appears and inserting "(2), (3), and (4)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.●

● Mr. GORTON. Mr. President, I am pleased to join Senator NUNN, as an original cosponsor of his legislation amending the Internal Revenue Code of 1986 with respect to the treatment of certain timber activities under passive loss rules. This legislation is vital to future timber supply problems and conservation practices.

I would like to highlight that this legislation is a derivative of legislation promoted by Congressman MORRISON, who represents the Fourth District in Washington State. Congressman MORRISON, and Congressman RON WYDEN, of Oregon, had the foresight to introduce the "Farm and Woodland Owners Tax Simplification Act" in February 1989. Later a measure modeled after this legislation was incorporated into the fiscal year 1990 budget reconciliation package as reported by the House of Representatives Ways and Means Committee.

In Washington State over 4.5 million acres would be affected by this legislation, which provides important incentives to keep this private, nonindustrial land in timber production. The 4.5 million acres owned by family-size tree farmers comprises of approximately one half of all private timber land in Washington State. In the Pacific Northwest we are especially concerned with these incentives due to ever-increasing population growth. The land most likely to be encroached upon for development is now forested. It is important for Congress to realize the environmental benefits of encouraging private land owners to remain in forest management. These private land owners often have other careers and manage their tree farms as long term investments.

The 30,000 family size tree farmers in Washington must now accumulate their annual management costs, property taxes, and mortgage interest year after year, and can only deduct them from a harvest that comes once in a lifetime. Many land owners are discouraged or financially unable to grow trees under such a rule. This bill would allow an owner—who makes the management decisions—to deduct the tree farm expenses in the year the bills are paid. Current rules require the owner to work 500 hours per year on the tree farm to deduct these costs. Management costs including fertilization, thinning, and other intensive management activities make this land more productive, further enhancing its value as tree farms. This increased productivity contributes to overall timber supply.

Many older couples or surviving spouses manage their tree farms and hire others to do the heavy work. Yet, present rules disallow a deduction of these tree farm expenses until the timber is harvested. This change in the passive loss rules would allow those deductions annually from other income.

This legislation makes sense economically and environmentally. It promotes sound forest management and importantly promotes an incentive to our nonindustrial private timber land owners to remain in the business of forestry. With this legislation, land owners can do what is important to them—provide jobs, practice wildlife conservation, and exercise sound forest management practices. All are vital to protecting the integrity of the Pacific Northwest. These people deserve our appreciation for retaining their land in tree production, and this legislation is an important step in that direction.●

By Mr. HEFLIN (for himself and Mr. SHELBY):

S. 1694. A bill to add approximately 500 miles to the National System of Interstate and Defense Highways for construction of an interstate route to connect Memphis, TN, with Chattanooga, TN, and Atlanta, GA, and for other purposes; to the Committee on Environment and Public Works.

TENNESSEE VALLEY INTERSTATE HIGHWAY SYSTEM

● Mr. HEFLIN. Mr. President, I am pleased to rise today to introduce legislation which will authorize funds to add approximately 500 miles to our National System of Interstate and Defense Highways by constructing an interstate route connecting Memphis, TN, with Chattanooga, TN, and Atlanta, GA.

Much has happened in the city of Huntsville, the communities of north Alabama and the Tennessee Valley since the 1950 Census precluded Huntsville and all other north Alabama cities from being directly connected with the Interstate Highway System. With the lone exception of I-65 which connects Birmingham and Nashville, this region has grown without the benefit of interstates.

Today, Huntsville is the home of the Army Missile Command at Redstone Arsenal where the strategic defense initiative and other sophisticated Army weapons systems are conceived, designed, contracted for, deployed and maintained; home for NASA's Marshall Space Flight Center where our country's exploration into space began and continues; where several Fortune 500 high-technology companies have been started and maintain headquarters; where the Huntsville-Madison County Airport operates as one of the top facilities in the United States; and where the Huntsville Port of Entry is the second busiest in the U.S. Customs Southeastern Region's 8th District.

Mr. President, today Huntsville, AL, is the growth center of the State of Alabama and the metropolitan area which ranks seventh in economic growth nationwide. This city and this area of the State require further interstate linkage for the good of our national defense, Federal, State, and local governments and the traveling public. I strongly urge my colleagues to support this legislation.●

● Mr. SHELBY. Mr. President, I rise today in support of the bill introduced by my friend and colleague Senator HEFLIN which will add approximately 500 miles to the National System of Interstate and Defense Highways for construction of an interstate route to

connect Memphis, TN, with Chattanooga, TN, and Atlanta, GA.

In 1956, north Alabama was left out of the Interstate System with the exception of I-65, which passes through the region and connects Nashville and Birmingham. Thirteen years later, however, the predicted industrialization of the Tennessee Valley became fact. With the mounting importance of the Army Missile Command at Redstone Arsenal, the establishment of NASA's Marshall Space Flight Center where our country's space exploration began, and the opening of the Huntsville-Madison County Airport, north Alabama qualified at the top of the list for the I-565 connector out of the 1,500 miles added as a cap to the Nation's Interstate System.

Today, 20 years later, I-565 is under construction. The Army Missile Command is now a fixed military installation, Marshall Space Flight Center is the heart of our Nation's space program and the technology and limitless capability represented by individuals and industries located there is recognized worldwide.

Mr. President, I believe it is imperative that we realize the connection of north Alabama with Atlanta, Chattanooga, and Memphis for reasons associated with our national defense, public necessity and convenience. I urge my colleagues to support this bill.●

By Mr. HARKIN (for himself, Mr. CONRAD, Mr. LEAHY, Mr. DASCHLE, Mr. BOSCHWITZ, Mr. BURDICK, Mr. FOWLER, Mr. GLENN, and Mr. SIMON):

S. 1695. A bill to provide financial assistance to conduct agricultural research and to commercialize such research, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION ACT

● Mr. HARKIN. Mr. President, I am very pleased to be introducing today along with Senator CONRAD, the Alternative Agricultural Research and Commercialization Act. Senator CONRAD has taken a major leadership role in the area of developing new uses for our agricultural commodities. Our bill enjoys as cosponsors Senator LEAHY, chairman of the Senate Agriculture Committee, Senator DASCHLE, chairman of the Agricultural Research Subcommittee, Senator BURDICK, chairman of the Agriculture Appropriations Subcommittee, and Senators GLENN, BOSCHWITZ, SIMON, and FOWLER, all of whom have long been interested in expanding the range of end uses for our agricultural products.

The Alternative Agricultural Research and Commercialization Act would establish a comprehensive program of agricultural research that would facilitate the development and delivery to the marketplace of new nonfood uses for our agricultural products. The measure brings together the objectives of both the Alternative Agriculture Products Act and the Agricultural Research Commercialization Act—two measures which have attracted a lot of attention in recent years. We have developed a comprehensive measure that will both support the research and development of industrial and commercial products from crops and crop materials and provide financial assistance to businesses and other entities who are interested in bringing new industrial and commercial products to the marketplace.

Both functions would be placed under the jurisdiction of a single corporation, the Alternative Agricultural Research and Commercialization Corporation, which would be overseen by a single board. It is my belief that this will maximize coordination between the research and commercialization activities. Members of the board would be appointed by the Secretary of Agriculture, the Secretary of Commerce, and the Director of the National Science Foundation. Peer review of proposed research projects would be required and a system of regional centers would be established to provide for local input on commercialization activities.

We are all aware of the fact that our agricultural factory, with its level of technology, superior natural resouce base, and the amazing productive of the American farmer, can outproduce most of the other countries of the world combined. Such a reality is both a blessing and a curse.

As the capacity to produce traditional commodities such as corn or soybeans increases, our farmers face three choices. First, there can be greater and greater levels of production in excess of demand, but this means lower prices that will not cover the costs of production. Second, we can leave part of our farm land idle. Or, we can find new uses for our crops. I believe that this is the best solution.

Current research being conducted at USDA is too often directed at improving yields of existing crops. While it is important to remain competitive, we must recognize and address the problem of overproduction. We must develop new plants or plant varieties capable of producing new industrial and commercial products that can compete in the marketplace. We need to develop the means to modify plant materials so they can be used in industry. These developments will allow us to expand production without running into problems with excessive surpluses.

But research, while essential, is not enough. We must take that research and see that it actually has a chance in the marketplace. The scientific journals are full of solid concepts that have never seen the light of day. The key is "technology transfer" so that we can move these ideas and products from the laboratory into the marketplace. AARCC would provide technical and financial assistance—both essential ingredients for growth in this, or in any, new industry.

American agriculture has to move beyond just being the largest exporter of raw farm commodities into the forefront of a whole new industrial frontier. We can utilize the U.S. advantage in research and technological know-how to add value to our commodities and create entirely new products.

Diversification isn't just a good idea any more, it's a necessity. The steel and auto industries, which are struggling to survive on old technology, illustrate this point all too clearly. American agriculture, America's largest industry, faces a choice—it can go on in the same way and risk stagnation, perhaps even decline. Or, it can grow and adapt with new technology.

Our future depends not only on what we grow in the ground, but what we develop in our laboratories, our universities and our factories. The potential is almost limitless. Many things that can be produced from a barrel of oil can be produced from a bushel of corn.

Let's get on with the job of pushing agriculture's limits—and see what we can accomplish.

I ask unanimous consent that a summary of the measure be inserted into the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION ACT

Section 1: Short Title.—This Act is entitled the "Alternative Agricultural Research and Commercialization Act of 1989."

SUBTITLE 1: ESTABLISHMENT OF ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION CORPORATION

Section 101: Findings and Purpose.—Congress recognizes the potential of three related forces in the U.S.—our scientific capacity to modify plants and plant materials, the inventiveness of our agricultural research sector, and our unmatched agricultural production capacity—to develop new nonfood, nonfeed industrial products derived from agricultural commodities. However, Congress finds that many of the emerging new ideas, products and processes resulting from agricultural research will not be developed and commercialized because of high initial financing costs and high risk.

Therefore, Congress believes that a major increase in targeted research to develop new industrial products derived from agricultural commodities is necessary. Congress also believes that the careful targeting of financial assistance to entrepreneurs for the commercialization of new industrial products will be a cost effective means of redeveloping the rural economy and stabilizing the agricultural sector.

It is the purpose of this Act to lend a hand in the difficult process of developing and

commercializing nonfood, nonfeed products and processes using agricultural and forestry crops. It will provide the vital coordination of cooperative development efforts among manufacturers, financiers, universities and private and public laboratories to speed the commercialization of these products and processes. The goals are to strengthen the rural economy; to create jobs, to expand the market for traditional crops and new crops which are suitable for production on family-sized farms; and to enhance U.S. competitiveness in international markets.

Section 102: Definitions.—This section defines terms used in this bill, including "new industrial product development," which means targeted research necessary to make a product available for the marketplace and "commercialization" which means all activities related to product commercialization from the development of prototype products or industrial plants to the market development of new industrial uses.

Section 103: Establishment of Corporation.—A nonprofit corporation is established within the United States Department of Agriculture, entitled the "Alternative Agricultural Research and Commercialization Corporation" (AARCC). The Corporation shall serve as the hub for 4 to 9 Regional Centers, where its main activities shall be carried out.

Section 104: Powers of the Corporation.—AARCC shall have general corporate powers. As a wholly-owned government corporation, AARCC shall be subject to the more stringent standards of auditing and oversight under the Government Corporate Control Act.

Section 105: Corporate Board of Directors.—The Board of Directors shall be composed of nine members, including the Assistant Secretary for Science and Education and the Undersecretary of Agriculture for Small Community and Rural Development. The Secretaries of Agriculture and Commerce shall appoint two and three members, respectively, and two members shall be appointed by the Director of the National Science Foundation. These Directors, serving five-year terms, shall represent the agricultural, scientific, financial, and managerial sectors. They may hold full-time jobs while serving as Directors and at least three members shall be from the private sector. The Board of Directors shall elect a Chairman.

The Board of Directors shall recommend research projects to the Secretary for funding, and shall approve applications for financial assistance for commercialization projects, including the type and amount of assistance.

Section 106: Powers and Duties of the Corporate Board.—The Board has the authority to delegate to the Regional Centers the bulk of the activities of the Corporation. The Corporation shall adopt bylaws, develop an organizational structure, and hire a limited number of staff members, which may include a General Counsel, Treasurer, and Executive Director, who shall be considered federal employees. The choice of officers and employees shall be nonpartisan.

The Board may establish boards of experts to provide advice, and may hold hearings when appropriate.

Section 107: Compensation.—Board members, except for the Assistant Secretary and the Undersecretary, shall receive compensation equivalent to the daily prorated amount of Level II of the Executive Schedule, plus reimbursement for reasonable expenses. If absolutely necessary, the Board may, with the Secretary's approval, pay one officer or employee above the federal pay scale.

Section 108: Financial Disclosure and Conflicts of Interest.—Members of the Board of Directors and all other officers and employees are subject to the Ethics in Government Act.

A Director or a member of an Advisory Council is precluded from voting on any matter in which such individual has a financial interest. Directors who violate this rule shall be removed from the Board.

Section 109: Authorization of Administrative Expenditures.—Administrative expenses are required to be kept to a minimum in order to make available more money for research grants and financial assistance for commercialization projects.

Section 110: Criminal Sanctions.—The Corporation and its Directors, officers and employees are subject to criminal sanctions for releasing proprietary information.

SUBTITLE 2: RESEARCH AND DEVELOPMENT

Section 201: Research Projects.—The Secretary shall select research projects to develop and produce new industrial products, based on the recommendations of the Board. The projects shall be peer reviewed.

Criteria for selection shall include the potential to enhance economical production methods for new industrial products, the potential market size of the new industrial product proportional to the funding requested, the time needed to develop and commercialize the product, and the potential profitability of the crop used in the product to the farmer. Additional criteria include the potential to reduce agricultural subsidies, the inavailability of non-federal funding, the impact on resource conservation and the environment, and the likely benefit to family-sized farmers and rural communities.

The funding provided under this subtitle may go to the projects proposed by consortia, but may not be used to acquire, build or repair a building or facility. Grants may be made for a minimum or three years. The Board may review the progress of and make recommendations to the Secretary concerning continued research.

SUBTITLE 3: ESTABLISHMENT OF REGIONAL CENTERS

Section 301: Regional Centers.—Each Regional Center shall be located in a different state, which reflects to the extent possible the regional climatic conditions and rural economic stress. States which apply for a Center must demonstrate the ability to develop a partnership between private and public sector and universities to commercialize new industrial products made from agricultural commodities. The location of Regional Centers shall be competitively awarded based on proposals submitted to the Board of Directors of AARCC.

Regional Centers must be located at host institutions, which include universities or other institutions of higher education, Agricultural Research Service laboratories, State Agricultural Experiment Stations, Extension Service facilities, or other organizations which are involved in the development of commercialization of new industrial uses for agricultural commodities, or in rural economic development.

In addition, states must provide for the matching of funds provided by the federal government for administrative costs, which may include in-kind support such as office space, equipment and staff support.

Each Regional Center shall be headed by a Regional Director, selected by the Board, to carry out the activities of the Corporation, who will work in consultation with an Advisory Council appointed by the Board of Directors and a broad network of volunteers available for project review. Each Regional Director shall have a small support staff.

Section 302: Activities of the Regional Center.—The Regional Centers shall (1) develop a network of scientists, engineers, financiers, business managers, and other specialists to assist in project review; (2) provide business and technical counseling to small businesses to commercialize new industrial uses of agriculture and forestry products; (3) seek out new, nonfood, nonfeed agricultural product ideas which can contribute to rural economic growth; and (4) evaluate and recommend applicants for financial assistance for commercialization. The Regional Centers shall coordinate their activities with the Small Business Development Centers.

SUBTITLE 4: FINANCIAL ASSISTANCE FOR COMMERCIALIZATION

Section 401: Provision of Financial Assistance.—The Corporation is authorized to provide low-interest loans, loan guarantees, interest subsidies, repayable grants matched by private, state or local public funds, umbrella bonding and debentures to eligible applicants to commercialize industrial products using agricultural and forestry crops.

The Board may establish a discretionary fund for each Regional Center to be used for activities related to the financial assistance described above. The Regional Directors shall account for expenditures from these funds twice a year.

The Corporation, through the Regional Centers, shall monitor the progress of ongoing projects and provide supportive business and technical counseling as needed, assisted by the Advisory Council.

Section 402: Eligibility Criteria for Financial Assistance.—An applicant may be eligible for financial assistance if such applicant's proposal to commercialize a new, nonfood, nonfeed industrial product or process is scientifically sound, technologically feasible and marketable. Priority shall be given to proposals which create jobs in economically distressed rural areas, and have financial participation by state or local government or the private sector.

The entities eligible for assistance shall be small businesses as defined under the Small Business Act, universities or other institutions of higher education, nonprofit organizations and cooperatives.

The applicant must show that the proposal has broad application, will create net new jobs in rural areas, and that the applicant's own resources are invested in the project, but that adequate public or private sector funding is not available without AARCC participation. The Corporation shall ensure the confidentiality of proposals.

The Corporation shall establish additional criteria for use when choosing among equivalent applications. These criteria shall emphasize the quantity and quality of jobs created, the level financial participation by state or local government or private entities, the qualifications of the management, and the level of market demand for the product. Criteria also includes the quantity and quality of jobs created, the potential market demand for the new industrial product proportional to the financial assistance requested, the likely financial return to the Corporation, the potential to reduce federal crop

subsidies, the impact on resource conservation and the environment, and the likely benefits to family-sized farmers and rural communities.

Section 403: Repayment of Financial Assistance.—A business entity shall repay the financial assistance it receives from the Corporation according to its contract with the Corporation. The Corporation is given great flexibility in negotiating the amount and type of this repayment. The maximum repayment period for financial assistance shall be 12 years. The Board may waive the repayment of financial assistance if necessary.

SUBTITLE 5: REVOLVING FUND

Section 501: Revolving Fund.—The Corporation is designed to be self-funding. A revolving fund is established to receive sums from the repayment of financial assistance and contribution to the Corporation. Administered by the Board, the fund shall be used to provide financial assistance authorized by this section and pay operational costs.

SUBTITLE 6: AUTHORIZATION OF APPROPRIATIONS

Section 601: Authorization of Appropriations.—The Corporation is authorized to receive such sums as may be appropriated through fiscal year 1999. Of that sum, $10 million shall be made available in 1990, $20 million in FY 1991, $30 million in FY 1992, $50 million in FY 1993, and $75 million in each of the following fiscal years to implement Subtitle 2: Research and Development.●

By Mr. KENNEDY (for himself, Mr. HATFIELD, Mr. SIMON, Mr. SPECTER, Mr. MOYNIHAN, Mr. METZENBAUM, and Mr. LEVIN):

S. 1696. A bill to amend title 28 of the United States Code to prohibit racially discriminatory capital sentencing; to the Committee on the Judiciary.

RACIAL JUSTICE ACT

Mr. KENNEDY. Mr. President, I am pleased to join with my colleagues Senators HATFIELD, SIMON, SPECTER, MOYNIHAN, METZENBAUM, and LEVIN in introducing the Racial Justice Act.

Race discrimination is unacceptable everywhere, and it is particularly unacceptable in capital punishment—the awesome decision by a free society of those whom Government can legally kill. If that decision is to be made at all, it must be made without racial bigotry.

There is compelling evidence that race discrimination infects capital sentencing decisions in jurisdictions throughout the country.

In study after study, experts have found that defendants who kill whites are more likely to receive the death penalty than those who kill blacks, and that black defendants are more likely to be given a death sentence than white defendants.

A recent example is the evidence before the Supreme Court in the case of McCleskey versus Kemp. Warren McCleskey, the defendent in that case, was a black man charged with murder for killing a white police officer in Fulton County, GA.

In challenging his death sentence, McCleskey placed into evidence two studies conducted by teams led by Prof. David Baldus of the University of Iowa College of Law which analyzed over 2,400 homicide cases in Georgia between 1973 and 1979. From official State records, the Baldus studies collected data about more than 500 factors in each case such as the characteristics of the defendant and the victim, the circumstances of the crime, the strength of the evidence, and a range of mitigating and aggravating factors in each case. Using sophisticated statistical techniques, the studies took account of the effects of up to 230 nonracial sentencing factors.

The conclusions are striking: When the characteristics of the crime and the defendant were controlled for, those who killed whites were 4.3 times more likely to receive the death penalty than killers of blacks.

This pattern of racial effects on sentencing is repeated in jurisdiction after jurisdiction around the country.

In Florida, a study published in the Stanford Law Review found that defendants convicted of killing whites were eight times more likely to receive a death sentence than those convicted of murdering blacks. Another study found that blacks who kill whites received the death penalty 22 percent of the time, while whites who kill whites received the death penalty only 4.6 percent of the time.

In Georgia, blacks who kill whites received the death penalty 16.7 percent of the time, while whites who killed whites received the death penalty only 4.2 percent of the time.

In Illinois, that same study found that killers of whites were six times as likely to receive a death sentence as killers of blacks.

In Maryland, defendants convicted of murdering whites received the death sentence eight times more frequently than killers of blacks.

In Ohio, a 1980 study found that blacks who kill whites received the death penalty 25 percent of the time, while whites who kill whites received the death penalty only 4.6 percent of the time.

In Texas, one 1980 study found that killers of whites were 20 times more likely to receive a death sentence, while a 1985 study found that they were over four times more likely to do so. Meanwhile, blacks who kill whites received the death penalty 8.7 percent of the time, while whites who killed whites received the death penalty only 1.5 percent of the time.

This pattern also appears in California and Pennsylvania, and nationally as well. A 1985 study of capital sentencing conducted by a Dallas newspaper found that killers of whites were nearly three times more likely to receive death sentences than killers of blacks.

Race discrimination is pervasive in capital punishment. The facts are irrefutable, and they should be unacceptable to each and every member of the Senate.

The five members of the Supreme Court who voted to affirm McCleskey's sentence did not dispute the accuracy of the Baldus studies. They admitted that statistical evidence of the kind contained in the studies would be sufficient to provide intentional race discrimination in other areas, such as housing, and jury selection.

But the majority concluded that the death penalty is "different," because individual juries and prosecutors make sentencing decisions, and because it would be inappropriate to require the States to call on these individuals to rebut a showing of discrimination.

I believe that the McCleskey decision is a mistake. The compelling evidence that McCleskey's sentence was affected by racial considerations should have been sufficient to set aside his sentence. In its zeal to expedite proceedings in capital cases, the Court failed to recognize a glaring injustice that Congress should not tolerate, even if five justices of the Supreme Court are willing to permit it.

I oppose the death penalty in all cases, but that is not the issue here. The Members of the Senate have the authority, and the responsibility, to ensure that racial disparities of the kind I have described do not occur in State or Federal death penalty cases.

The Racial Justice Act is intended to meet that responsibility. The act prohibits the imposition of the death penalty under State or Federal law if the sentence is part of a "racially discriminatory pattern."

If a discriminatory pattern exists—if a defendant can establish that the race of defendants or victims is playing a role in sentencing—then the Government must show by clear and convincing evidence that the racial disparities are not the result of discrimination, but reflect nonracial factors, such as the presence or absence of mitigating or aggravating circumstances.

For example, if a defendant offers statistical evidence demonstrating that blacks receive death sentences in a particular State at a rate higher than whites, and the defendant shows that the death sentence was imposed in furtherance of this racially discriminatory pattern, then the State must show by clear and convincing evidence that the statistical disparity results from other, nonracial factors, such as differences in the nature of the crimes or in the conviction records of the defendants.

If the Government cannot meet that burden, the death sentence must be

vacated. If we are serious about ending race discrimination in capital sentencing, no other result is acceptable.

By permitting statistical evidence of a pattern of racial disparities to be used to establish a claim of race discrimination, the act makes the standard of proof in capital sentencing cases analogous to that under other Federal antidiscrimination statutes.

In order to ensure that adequate data are available to determine whether or not race discrimination exists, the amendment also requires jurisdictions which have the death penalty to collect and maintain data about the nature of crimes for which the death penalty may be imposed, the details of those crimes, and the demographic characteristics of the victims and the defendants.

The Racial Justice Act is supported by a number of leading organizations, including the American Bar Association, and the Leadership Conference on Civil Rights.

If we are to live up to our responsibility to fulfill the Constitution's promise of equal protection of the laws, we must ensure that race discrimination in capital punishment is eliminated. The Racial Justice Act is a practical step to achieve a goal that our system of justice must seek if it is to be worthy of the name.

Mr. President, I ask unanimous consent that a copy of the Racial Justice Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1696

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Racial Justice Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) section 5 of the fourteenth amendment of the United States Constitution calls upon Congress to enforce the Constitution's promise of equality under law;

(2) equality under law is tested most profoundly by whether a legal system tolerates race playing a role in the determination of whether and when to administer the ultimate penalty of death;

(3) the death penalty is being administered in a pattern that evidences a significant risk that the race of the defendant, or the race of the victim against whom the crime was committed, influences the likelihood that the defendant will be sentenced to death;

(4) the Constitution's guarantee of equal justice for all is jeopardized when the death penalty is imposed in a pattern in which the likelihood of a death sentence is affected by the race of the perpetrator or of the victim;

(5) the United States Supreme Court has concluded that the Federal judiciary is institutionally unable to eliminate this jeopardy to equal justice in the absence of proof that a legislature, prosecutor, judge, or jury acted with racially invidious and discriminatory motives in the case of a particular defendant;

(6) the interest in ensuring equal justice under law may be harmed, not only by decisions motivated by explicit racial bias, but also by government rules, policies, and practices that operate to reinforce the subordinate status to which racial minorities were relegated in our society;

(7) the institutional need of courts to identify invidiously motivated perpetrators is not shared by Congress, which is empowered by section 5 of the fourteenth amendment to take system-wide, preventive measures not only to eliminate adjudicated instances of official race discrimination but also to eradicate wide-scale patterns and practices that entail an intolerable danger that persons of different races would be treated differently; and

(8) the persistent racial problems pervading the implementation of the death penalty in many parts of this Nation require the Government of the United States to counteract the lingering effects of racial prejudice in order to enforce the constitutional guarantee of equal justice for all Americans.

SEC. 3. AMENDMENT TO TITLE 28.

(a) PROCEDURE.—Part VI of title 28, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 177—RACIALLY DISCRIMINATORY CAPITAL SENTENCING

"Sec.
"2921. Definitions.
"2922. Prohibition on the imposition or execution of the death penalty in a racially discriminatory pattern.
"2923. Data on death penalty cases.
"2924. Enforcement of the chapter.
"2925. Construction of chapter.

"§ 2921. Definitions

"For purposes of the chapter—

"(1) the term 'a racially discriminatory pattern' means a situation in which sentences of death are imposed more frequently—

"(A) upon persons of one race than upon persons of another race; or

"(B) as punishment for crimes against persons of one race than as punishment for crimes against persons of another race,

and the greater frequency is not explained by pertinent nonracial circumstances;

"(2) the term 'death-eligible crime' means a crime for which death is a punishment that is authorized by law to be imposed under any circumstances upon a conviction of that crime;

"(3) the term 'case of death-eligible crime' means a case in which the complaint, indictment, information, or any other initial or subsequent charging paper charges any person with a death-eligible crime; and

"(4) the term 'Federal or State entity' means any State, the District of Columbia, the United States, any territory thereof, and any subdivision or authority of any of these entities that is empowered to provide by law that death be imposed as punishment for crime.

"§ 2922. Prohibition on the imposition or execution of the death penalty in a racially discriminatory pattern

"(a) PROHIBITION.—It is unlawful to impose or execute sentences of death under color of State or Federal law in a racially discriminatory pattern. No person shall be put to death in the execution of a sentence imposed pursuant to any law if that person's death sentence furthers a racially discriminatory pattern.

"(b) ESTABLISHMENT OF A PATTERN.—To establish that a racially discriminatory pattern exists for purposes of this chapter—

"(1) ordinary methods of statistical proof shall suffice; and

"(2) it shall not be necessary to show discriminatory motive, intent, or purpose on the part of any individual or institution.

"(c) PRIMA FACIE SHOWING.—(1) To establish a prima facie showing of a racially discriminatory pattern for purposes of this chapter, it shall suffice that death sentences are being imposed or executed—

"(A) upon persons of one race with a frequency that is disproportionate to their representation among the numbers of persons arrested for, charged with, or convicted of, death-eligible crimes; or

"(B) as punishment for crimes against persons of one race with a frequency that is disproportionate to their representation among persons against whom death-eligible crimes have been committed.

"(2) To rebut a prima facie showing of a racially discriminatory pattern, a State or Federal entity must establish by clear and convincing evidence that identifiable and pertinent nonracial factors persuasively explain the observable racial disparities comprising the pattern.

"§ 2923. Data on death penalty cases

"(a) DESIGNATION OF AGENCY.—Any State or Federal entity that provides by law for death to be imposed as a punishment for any crime shall designate a central agency to collect and maintain pertinent data on the charging, disposition, and sentencing patterns for all cases of death-eligible crimes.

"(b) RESPONSIBILITIES OF CENTRAL AGENCY.—Each central agency designated pursuant to subsection (a) shall—

"(1) affirmatively monitor compliance with this chapter by local officials and agencies;

"(2) devise and distribute to every local official or agency responsible for the investigation or prosecution of death-eligible crimes a standard form to collect pertinent data;

"(3) maintain all standard forms, compile and index all information contained in the forms, and make both the forms and the compiled information publicly available;

"(4) maintain a centralized, alphabetically indexed file of all police and investigative reports transmitted to it by local officials or agencies in every case of death-eligible crime; and

"(5) allow access to its file of police and investigative reports to the counsel of record for any person charged with any death-eligible crime or sentenced to death who has made or intends to make a claim under section 2922 and it may also allow access to this file to other persons.

"(c) RESPONSIBILITY OF LOCAL OFFICIAL.—(1) Each local official responsible for the investigation or prosecution of death-eligible crimes shall—

"(A) complete the standard form developed pursuant to subsection (b)(2) on every case of death-eligible crime; and

"(B) transmit the standard form to the central agency no later than 3 months after the disposition of each such case whether that disposition is by dismissal of charges, reduction of charges, acceptance of a plea of guilty to the death-eligible crime or to another crime, acquittal, conviction, or any decision not to proceed with prosecution.

"(2) In addition to the standard form, the local official or agency shall transmit to the

central agency one copy of all police and investigative reports made in connection with each case of death-eligible crime.

"(d) PERTINENT DATA.—The pertinent data required in the standard form shall be designated by the central agency but shall include, at a minimum, the following information:

"(1) pertinent demographic information on all persons charged with the crime and all victims (including race, sex, age, and national origin);

"(2) information on the principal features of the crime;

"(3) information on the aggravating and mitigating factors of the crime, including the background and character of every person charged with the crime; and

"(4) a narrative summary of the crime.

"§ 2924. Enforcement of the Chapter

"(a) ACTION UNDER SECTIONS 2241, 2254, OR 2255 OF THIS TITLE.—In any action brought in a court of the United States within the jurisdiction conferred by sections 2241, 2254, or 2255, in which any person raises a claim under section 2922—

"(1) the court shall appoint counsel for any such person who is financially unable to retain counsel; and

"(2) the court shall furnish investigative, expert or other services necessary for the adequate development of the claim to any such person who is financially unable to obtain such services.

"(b) DETERMINATION BY A STATE COURT.—Notwithstanding section 2254, no determination on the merits of a factual issue made by a State court pertinent to any claim under section 2922 shall be presumed to be correct unless—

"(1) the State is in compliance with section 2923;

"(2) the determination was made in a proceeding in a State court in which the person asserting the claim was afforded rights to the appointment of counsel and to the furnishing of investigative, expert and other services necessary for the adequate development of the claim which were substantially equivalent to those provided by subsection (a); and

"(3) the determination is one which is otherwise entitled to be presumed to be correct under the criteria specified in section 2254.

"§ 2925. Construction of chapter

"Nothing contained in this chapter shall be construed to affect in one way or the other the lawfulness of any sentence of death that does not violate section 2922.".

(b) AMENDMENT TO TABLE OF CHAPTERS.—The table of chapters of part VI of title 28, United States Code, is amended by adding at the end thereof the following new item:

"177. Racially Discriminatory Capital Sentencing ..... 2921.".

SEC. 4. ACTIONS PRIOR TO THE DATE OF ENACTMENT.

No person shall be barred from raising any claim under section 2922 of title 28, United States Code, as added by this Act, on the ground of having failed to raise or to prosecute the same or a similar claim prior to enactment of the Act, nor by reason of any adjudication rendered prior to its enactment.

By Mr. LAUTENBERG (for himself, Mr. CHAFEE, Mr. BRADLEY, Mr. MOYNIHAN, Mr. LIEBERMAN, Mr. CONRAD, Mr. HEINZ, Mr. PELL, and Mr. DODD):

S. 1697. A bill to require local educational agencies to conduct testing for radon contamination in schools, and for other purposes; to the Committee on Environment and Public Works.

RADON TESTING FOR SAFE SCHOOLS ACT

● Mr. LAUTENBERG. Mr. President, today I am introducing the Radon Testing for Safe Schools Act to address the health threat that radon poses in our country's schools. I am pleased that Senator CHAFEE, the ranking minority member of the Senate Environment and Public Works Committee, is the prime cosponsor of this bill. Similar legislation has been introduced by Congressman BART GORDON in the House. I want to commend Congressman GORDON for his initiative.

Mr. President, radon is one of the most serious environmental health risks facing the country today. EPA estimates that as many as 20,000 people die of lung cancer each year from exposure to radon. Last September, EPA and the Surgeon General's Office issued a national health advisory urging people to test their homes after survey results showed that 1 in 4 homes in 17 States surveyed has elevated radon levels.

In April, EPA completed a pilot survey to measure radon levels in 130 schools across the country. This survey found that one in five classrooms has elevated radon levels and that over half of the schools tested have at least one classroom with elevated radon levels. Our Nation's children are needlessly exposed to dangerous radon levels, which may be especially hazardous to their developing lungs.

The Congress has consistently expressed its concern about radon in schools. Legislation I wrote, which was included in the 1986 Superfund Amendments and Reauthorization Act, requires EPA to "identify the locations in the United States where radon is found in structures where people normally live or work, including educational institutions." And in 1988, the Congress passed legislation introduced by Senator CHAFEE, Senator MITCHELL, myself, and others requiring EPA to conduct a national survey of radon in schools. EPA has begun its national survey of residences and, this winter, will conduct a more extensive national assessment of radon in schools.

The bill I am introducing today builds on this national assessment of radon in schools. This bill requires that, once EPA has identified areas where schools exhibit high radon levels, as required by the State Radon Program Development Act of 1988, local educational agencies in those areas test all their buildings for radon by September 30, 1993. Test results would be made available to the public. The bill also requires that school radon testing and mitigation in these high-radon areas be done with devices and methods consistent with EPA guidelines and conducted by firms approved by either EPA or State proficiency programs.

Second, the bill addresses the need to help schools that need financial assistance to address their radon problems. The legislation establishes in EPA a Radon Testing and Mitigation Assistance Program to provide loans and grants to local educational agencies is high radon areas to test and mitigate their buildings. The bill also establishes civil penalties for local educational agencies that do not comply with this legislation or that falsify testing results.

Last, the bill authorizes $5 million to EPA through 1993 to help local education agencies test their buildings. In addition, the bill authorizes $5 million annually from 1992 through 1996 to mitigate radon in school buildings in high radon areas that have been tested.

The bill I am offering will expand our efforts to address the health threat that radon poses to our country's children. Testing and mitigating schools, where children spend hours every day, will significantly reduce their chances of contracting lung cancer. This legislation has been endorsed by both the National Education Association, the National Parent-Teacher Association, the Consumer Federation of America, the American Lung Association, and the Coalition For Consumer Health and Safety, a coalition of 20 insurance companies and associations and 16 consumer and health organizations working to improve consumer health and safety. I urge my colleagues to support this bill.

I ask unanimous consent that the bill, a section-by-section analysis, and letters from the American Lung Association and the Coalition For Consumer Health and Safety be included in the RECORD.●

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1697

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Radon Testing for Safe Schools Act".

SEC. 2. REQUIREMENT FOR NATIONWIDE RADON TESTING IN SCHOOLS.

(a) TESTING BY LOCAL EDUCATIONAL AGENCIES.—After completion of the testing required by section 307(a)(4) of the Toxic Substances Control Act (15 U.S.C. 2667(a)(4)), the Administrator shall promulgate regulations requiring each local educational agency to test each school building under the authority of the agency that is in an area identified as having elevated levels of radon. The testing required by this subsection shall be completed no later than September 30, 1993.

(b) AVAILABILITY OF RESULTS.—In the case of any school building that is tested pursu-

ant to this section, the results of the testing shall be available in the administrative offices of the local educational agency with authority over the school building for inspection by the public, including teachers, other school personnel, and parents. The local educational agency shall notify parent, teacher, and employee organizations of the availability of such results and shall send the results to the Administrator and to the State radiation office.

SEC. 3. TESTING AND MITIGATION.

Testing required under section 2 and any radon mitigation devices and methods which are implemented as a result of such testing shall be carried out consistent with any guidelines established by the Administrator and conducted by a firm or individual which has been approved—

(1) by the Administrator pursuant to the voluntary proficiency program established pursuant to section 305(a)(2) of the Toxic Substances Control Act (15 U.S.C. 2665(a)(2)), or

(2) by a State pursuant to a State radon proficiency program.

SEC. 4. FINANCIAL ASSISTANCE.

(a) RADON TESTING AND MIGITATION ASSISTANCE PROGRAM.—There is hereby established within the Environmental Protection Agency a Radon Testing and Mitigation Assistance Program (hereinafter in this Act referred to as the "Assistance Program"), to provide financial assistance to implement the program established by section 2 and for any radon mitigation devices and methods determined to be necessary as a result of such testing. The Assistance Program shall be administered in accordance with this section.

(b) SUBMISSION OF APPLICATIONS.—(1) Applications for financial assistance shall be submitted by a local educational agency to the Governor, or the Governor's designee, who shall establish a priority list based on the nature and magnitude of the potential exposure to radon.

(2) Applications shall be submitted by the Governor to the Administrator who shall review and rank such applications, without regard to the public or private nature of the school involved, pursuant to subsection (c)(1) and propose financing pursuant to the financial need of the local educational agency.

(c) ADMINISTRATOR'S REVIEW.—(1) The Administrator shall review and list in priority order applications for financial assistance. In ranking applications, the Administrator shall consider—

(A) the priority assigned to the testing or mitigation program by the Governor;

(B) the nature and magnitude of the potential exposure to radon; and

(C) the extent to which the testing or mitigation proposed by the applicant is cost-effective compared to other techniques.

(2) In determining whether an applicant is eligible for assistance, and the nature and amount of financial assistance, the Administrator shall consider the financial resources available to the applicant as certified by the Governor.

(d) FINANCIAL NEED.—In no event shall financial assistance be provided under this Act to an applicant if the Administrator determines that such applicant has resources adequate to support an appropriate radon testing or mitigation program.

(e) LOANS AND GRANTS.—(1) An applicant for financial assistance may be granted a loan of up to 100 percent of the cost of a testing or mitigation program or, if the Administrator determines the applicant is unable to undertake and complete a testing or mitigation program with such a loan, such applicant may also receive a grant (alone or in combination with a loan) not to exceed 50 percent of the total cost of the testing or mitigation program, in the amount which the Administrator deems necessary.

(2) In approving any grant, the Administrator shall state with particularity the reasons why the applicant is unable to undertake and complete the testing or mitigation program with loan funds.

(f) LOAN AGREEMENTS.—Loans under this section shall be made pursuant to agreements which shall provide for the following:

(1) The loan shall not bear interest.

(2) The loan shall have a maturity period of not more than twenty years (as determined by the Administrator) and shall be repayable during such period, at such times, and in such amounts as the Administrator may specify in the loan agreement.

(3) Repayment shall be made to the Secretary of the Treasury for deposit in the general fund.

(4) Such other terms and conditions that the Administrator determines necessary to protect the financial interest of the United States.

(g) APPLICATION REQUIREMENTS.—(1) No financial assistance may be provided under this section unless an application has been submitted to the Administrator in accordance with any procedures developed by the Administrator.

(2) The Administrator shall not approve an application unless—

(A) the application contains such information as the Administrator may require, including but not limited to information describing—

(i) the nature and extent of the radon problem for which the assistance is sought;

(ii) the methods which will be used to test for or mitigate radon contamination;

(iii) the amount and type of financial assistance requested;

(iv) a description of the financial resources of the local educational agency; and

(v) a justification for the type and amount of the financial assistance requested;

(B) the application contains a certification that all activities to be conducted with the financial assistance will be performed in accordance with section 3 of this Act; and

(C) the application contains assurances that the local educational agency will furnish such information as the Administrator requires.

SEC. 5. REGULATIONS.

The Administrator shall promulgate rules and regulations as necessary to implement the authorities and requirements of this Act.

SEC. 6. ANNUAL REPORT.

During each of the six calendar years after the year in which this Act is enacted, the Administrator shall prepare and submit not later than June 1 of each year to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the loan and grant program authorized by section 4. The report shall—

(1) describe the number of applications received;

(2) describe the number of loans and grants made in the current calendar year and specify each applicant for and receipt of a loan or grant;

(3) specify the number of loan or grant applications which were disapproved during the current calendar year and describe the reasons for such disapprovals;

(4) describe the types of programs for which loans or grants were made;

(5) specify the estimated total costs of such programs to the recipients of loans or grants and specify the amount of loans or grants made under the assistance program; and

(6) estimate the number of schools still in need of assistance, including schools not located in an area identified as having elevated levels of radon, and the amount of resources needed by such schools, categorized by State, to mitigate all remaining school radon contamination.

SEC. 7. ENFORCEMENT.

(a) CIVIL PENALTIES.—Any local educational agency which fails to conduct the testing required pursuant to this Act or which knowingly submits false information regarding such testing to the Governor is liable for a civil penalty of not more than $500 for each day during which the violation continues. For purposes of this subsection, "violation" means a failure to comply with respect to a single school building. The court shall order that any civil penalty collected under this subsection be used by the local educational agency for purposes of complying with this subsection.

(b) AMOUNT OF PENALTY.—In determining the amount of a civil penalty to be assessed under this section against a local educational agency, the Administrator shall consider—

(1) the significance of the violation;

(2) the culpability of the violator, including any history of previous violations under this Act;

(3) the ability of the violator to pay the penalty; and

(4) the ability of the violator to continue to provide educational services to the community.

(c) ASSESSMENT OF PENALTY.—A civil penalty for a violation of this Act shall be assessed by the Administrator by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Administrator shall give written notice to the person to be assessed a civil penalty under such order of the Administrator's proposal to issue such order and provide such person an opportunity to request, within fifteen days after the date on which notice is received by such person, such a hearing on the order.

(d) MODIFICATION OF PENALTY.—The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

(e) JUDICIAL REVIEW.—Any person who requested in accordance with this section a hearing respecting the assessment of civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the thirty-day period beginning on the date the order making such assessment was issued.

(f) FAILURE TO PAY CIVIL PENALTY.—If any person fails to pay an assessment of a civil penalty—

(1) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with this section, or

(2) after a court in an action brought under this section has entered a final judgment in favor of the Administrator,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the thirty-day period referred to in subsection (e) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(g) CITIZEN COMPLAINTS.—Any person may file a complaint with the Administrator or with the Governor of the State in which the school building is located with respect to radon in a school building. If the Administrator or Governor receives a complaint under this subsection containing allegations which provide a reasonable basis to believe that a violation of this subsection has occurred, the Administrator or Governor shall investigate and respond (including taking enforcement action where appropriate) to the complaint within a reasonable period of time.

SEC. 8. PREEMPTION.

(a) CONSTRUCTION OF PROVISIONS AS NOT PREEMPTING OTHER LAWS.—Nothing in this Act shall be construed, interpreted, or applied to preempt, displace, or supplant any other State or Federal law, whether statutory or common.

(b) AWARD OF COSTS AND DAMAGE AWARDS.—Nothing in this Act shall be construed or interpreted to preclude any court from awarding costs and damages associated with the testing or mitigation of radon contamination, or a portion of such costs, at any time.

(c) CONSTRUCTION OF PROVISIONS AS NOT PROHIBITING MORE STRINGENT STATE REQUIREMENTS.—Nothing in this Act shall be construed or interpreted as preempting a State from establishing any liability or more stringent requirements with respect to radon in school building within such State.

(d) CREATION OF CAUSE OF ACTION.—Nothing in this Act creates a cause of action or in any other way increases or diminishes the liability of any person under any other law.

(e) EFFECT OF PROVISIONS IN CIVIL ACTIONS FOR DAMAGES.—It is not the intent of Congress that this subsection or rules, regulations, or orders issued pursuant to this subsection be interpreted as influencing, in either the plaintiff's or defendant's favor, the disposition of any civil action for damages relating to radon. This subsection does not affect the authority of any court to make a determination in any adjudicatory proceedings under applicable State law with respect to the admission into evidence or any other use of this Act or rules, regulations, or orders issued pursuant to this Act.

SEC. 9. DEFINITIONS.

In this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "local educational agency" means—

(A) any local educational agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854),

(B) the owner of any private, nonprofit elementary or secondary school building, and

(C) the governing authority of any school operated pursuant to section 6 of the Act of September 30, 1950 (64 Stat. 1107), relating to impact aid for children who reside on Federal property.

(3) The term "nonprofit elementary or secondary school" means any elementary or secondary school (as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854)) owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(4) The term "radon" means the radioactive gaseous element and its short-lived decay products produced by the disintegration of the element radium occurring in air, water, soil, or other media.

(5) The term "school building" means—

(A) any structure suitable for use as a classroom, including a school facility such as a laboratory, library, or school eating facility used for the preparation of food,

(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education,

(C) any other facility used for the instruction of students or for the administration of educational or research programs.

SEC. 10. AUTHORIZATION.

(a) TESTING.—There is authorized to be appropriated to the Administrator not more than $5,000,000 for purposes of carrying out testing required by this Act. Such amount shall remain available for expenditure until September 30, 1993.

(b) MITIGATION.—There is authorized to be appropriated to the Administrator not more than $5,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 for the purposes of implementing any radon mitigation devices or methods determined to be necessary as a result of testing carried out under section 2 of this Act.

RADON TESTING FOR SAFE SCHOOLS ACT—SECTION-BY-SECTION ANALYSIS

Section 1—Provides that the Title of the bill is the Radon Testing for Safe Schools Act.

Section 2—Requires local educational agencies in high radon areas identified by EPA pursuant to the State Radon Program Development Act of 1988 to test all their school buildings by September 30, 1993, and make those results available to the public.

Section 3—Requires that school radon testing and mitigation in high radon areas be done with devices and methods consistent with EPA guidelines and conducted by firms approved by either EPA or State proficiency programs.

Section 4—Establishes a Radon Testing and Mitigation Assistance Program for EPA to provide loans and grants to local educational agencies in high radon areas to test and mitigate their buildings.

Section 5—Requires EPA to promulgate necessary rules and regulations to implement this Act.

Section 6—Requires EPA to report to Congress annually for the next six years on the loan and grant program.

Section 7—Establishes civil penalties for local educational agencies that do not comply with the Act or that falsify testing results.

Section 8—Establishes that this bill neither preempts other State or Federal law nor prevents a State from establishing more stringent requirements with respect to radon in school buildings.

Section 9—Defined the terms "Administrator", "local educational agency", "nonprofit elementary or secondary school", "radon", and "school building".

Section 10—Authorizes $5 million to EPA for testing through September, 1993. Authorizes $5 million annually from 1992-1996 to mitigate school buildings in high radon areas that have been tested.

THE COALITION FOR CONSUMER HEALTH SAFETY,
Washington, DC, September 28, 1989.

Hon. FRANK R. LAUTENBERG,
Chairman, Subcommittee on Superfund, Ocean and Water Protection, Environment and Public Works Committee, U.S. Senate.

DEAR SENATOR LAUTENBERG: As part of its concern about indoor air pollution, the Coalition for Consumer Health and Safety is writing to express its support of the Radon Testing for Safe School Act.

We are a coalition of 20 insurance companies and trade associations and 16 consumer and health organizations working to improve consumer health and safety. As our written Agenda explains—a copy of which we are pleased to enclose—indoor air pollution is one of the seven key issues we are focusing our efforts upon. And radon, which the Environmental Protection Agency estimates causes between 5,000 and 20,000 lung cancer deaths annually, is certainly one of the major indoor air contaminants in the country today.

Radon in school buildings, of course, is of particular concern because recent research suggests that children are even more vulnerable than adults to the hazards of radon. And testing done earlier this year by the EPA found unexpectedly high radon levels in schools in many parts of this country.

We believe that the Radon Testing for Safe Schools Act is a prudent, measured response, based on the currently available scientific evidence, to the problem of radon in schools. It does not require testing of all schools in the country, but rather only of schools in areas identified by the EPA as having elevated levels of radon. And by establishing a modest program within the EPA for the provision of loans and grants to local educational agencies in high radon areas, the legislation makes it possible for targeted schools to test for and, if necessary, mitigate hazardous radon levels.

We commend you for your leadership on this important issue.

Sincerely,

Al Parsons, American Insurance Association, David Swankin, Consumer Federation of America, Co-Chairs, Committee on Indoor Air Quality, on behalf of the Coalition for Consumer Health and Safety.

AMERICAN LUNG ASSOCIATION,
OFFICE OF GOVERNMENT RELATIONS,
Washington, DC, September 8, 1989.

Hon. FRANK LAUTENBERG,
U.S. Senate,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: On behalf of the American Lung Association, I am writing to support legislation which you plan to introduce to require local educational agencies to conduct testing for radon contamination in schools. "The Radon Testing for Safe Schools Act" represents a significant

step toward addressing and rectifying the health threat posed by radon exposure, particularly in our nation's schools.

The ALA continues to be particularly concerned that the potential for increased exposure to indoor contaminants is exacerbated by the onslaught of energy conservation techniques and efforts to reduce heating and cooling costs through the reduction of infiltration and ventilation. Radon is among the indoor pollutants of primary concern to the ALA. Others include carbon monoxide and nitrogen oxides, formaldehyde and asbestos.

The ALA also continues in its strong support for increased research on the health effects of indoor and outdoor air pollution. The increase and integration of research are essential to permitting the development of appropriate control strategy. The testing and radon mitigation activities mandated in your legislation are just as critical. We know that you share this perspective, and again, we congratulate you on the foresight shown in the introduction of the "Radon Testing for Safe Schools Act."

Sincerely,

FRAN DU MELLE,
Director.

● Mr. CHAFEE. Mr. President, I would like to join my colleague from New Jersey [Mr. LAUTENBERG], in introducing the Radon Testing for Safe Schools Act of 1989.

Two years ago I introduced the Radon in Schools Detection Act, a bill which required EPA to determine the extent of radon contamination in the Nation's schools. This bill was later combined with legislation introduced by Senator MITCHELL, to form the Radon Program Development Act of 1988. The Senate unanimously approved this legislation, and it was signed into law by the President last year.

The bill we are introducing today is important because it builds on the work we began last year. It requires schools located in radom high risk areas, identified by EPA pursuant to the Radon Program Development Act, to test all their school buildings for radon by September 1993. This provision should not be onerous for a school system because radon testing is relatively inexpensive, and can be easily accomplished during a school break.

The legislation further provides a loan and/or grant program of $5 million a year for 5 years for schools which need to mitigate radon, and need financial assistance to do so. Although some mitigation work can be costly, most mitigation consists of adjustments to ventilation, installation of fans, or depressurizing and sealing a foundation. These techniques do not usually cost a great deal.

It is important that we take steps to protect our children from radon gas, which could be claiming as many as 20,000 lives per year. Radon has been identified by the Environmental Protection Agency as the largest single source of lung cancer other than smoking.

It is frightening to learn that, for several reasons, children may be more at risk from the adverse effects of radon than adults. Studies of other types of radiation indicate that children, because they are still in the developmental stages, are more susceptible to radiation damage. Also, radon experts believe that one-story elementary schools are more likely to have a radon problem than other public buildings. The problem is heightened if the school uses basement areas for cafeterias or gymnasiums. And children may receive a double exposure—at school and at home—to radon.

Mr. President, there is a real need for this legislation. I urge my colleagues to join me in supporting this important measure to rid our schools of the dangers posed by radon contamination.●

By Mr. GORE (for himself, Mr. FORD, Mr. BUMPERS, Mr. SASSER, Mr. BURDICK, Mr. COHEN, Mr. DASCHLE, Mr. MCCONNELL, Mr. PRESSLER, Mr. PRYOR, Mr. WARNER, and Mr. JEFFORDS):

S. 1698. A bill to amend the Communications Act of 1934 to provide for fair marketing practices for certain encrypted satellite communications; to the Committee on Commerce, Science, and Transportation.

SATELLITE TELEVISION FAIR MARKETING ACT

Mr. GORE. Mr. President, I rise today to introduce the Satellite Television Fair Marketing Act, designed to finally bring a modest measure of equity to the distorted marketplace for backyard satellite dish programming and decoder equipment.

I am joined today in this initiative by Senators FORD and BUMPERS, who have devoted so much energy to this issue over the past years. In addition, I am extremely pleased to note that nine more of our colleagues have joined us as original cosponsors of the bill—Senators SASSER, PRYOR, PRESSLER, COHEN, BURDICK, DASCHLE, MCCONNELL, WARNER, and JEFFORDS. This is clear bipartisan evidence of enthusiastic support for a measure that has been debated in the Congress since 1983.

The bill is similar to S. 889 in the 100th Congress, which nearly passed the Senate. The new bill updates the remedies needed to address severe problems in the marketing of satellite dish decoding equipment.

In summary, the Satellite Television Fair Marketing Act accomplishes the following:

First. Prevents programmers from denying home dish owners access to satellite television programming;

Second. Requires satellite television programmers to establish their own criteria for distribution and provide programming to distributors on a nondiscriminatory basis. Programmers would have total flexibility to protect their product with any reasonable restrictions;

Third. Toughens the penalties for illegal piracy of satellite television programming by those who manufacture, distribute, or sell unauthorized decoder equipment;

Fourth. Authorizes the FCC to undertake action to broaden the availability of network television in rural areas currently unable to receive network signals;

Fifth. Requires the Federal Trade Commission to conduct an investigation into the pricing and distribution of satellite television programming; and

Sixth. Requires the FCC to conduct an inquiry into the availability of decoders required to receive satellite television programming and specifically addresses the potential economic harrassment of owners of legal decorders who may be forced to bear the entire burden of manufacturers' costs of improving security against piracy.

During the 100th Congress, the Commerce Committee, voting 12 to 2, gave this legislation overwhelming approval, recognizing that the marketplace for satellite television programming is still distorted and anticompetitive. Committee hearings revealed vigorous efforts by many in the cable industry to restrain the growth of the satellite dish industry and the work of those trying to bring programming to dish owners at a fair price.

Since 1984 concentration of ownership in the cable industry has drastically increased. In 1985, 50 cable companies controlled 70 percent of cable subscribing. In 1989, 20 companies control 70 percent of the market. Of those 20 companies, only 10 control 54 percent of the market. These same 10 companies also own the largest and most popular programming services. It is not a coincidence that in the 2½ years after programmers began scrambling signals, not a single noncable distributor was allowed to serve dish owners.

The National Rural Telecommunications Cooperative has been allowed to sell these services only if they restrict sales to areas served by electric cooperatives, under terms favorable to cable companies within those areas.

The NRTC deal is an extremely minor concession to home dish owners—and no concession at all to the majority of dish owners who will not be able to buy the NRTC services because of the restrictive, anticompetitive contracts. Our colleagues should not be misled by claims from opponents of the legislation that the NRTC contract is a "breakthrough" or "evidence that the marketplace is working fine."

The fact is, in May before the Senate Commerce Committee the

NRTC cited massive distortions and anticompetitive practices of many programming services and called for legislative intervention to bring about honest third-party program distribution. Again in June, Bob Phillips, the chief executive officer of NRTC, reported to the committee that the NRTC pays up to 444 percent more than small cable systems for the same programming. The NRTC, despite being heralded as the solution to the anticompetitive practices in the industry, cannot obtain programming at reasonable terms and rates.

For a variety of reasons, cable companies have refused to serve the overwhelming majority of home dish owners, most of whom live in rural areas. Instead, home dish owners have paid thousands for their receiving equipment, only to be subjected to continuing barriers to competition. It is clearly the right of cable programmers to protect their signals, but they have consistently acted in concert with major cable corporations to prevent the evolution of a competitive programming marketplace for home dish owners.

In addition to continuing problems in the programming distribution marketplace, consumers are facing massive confusion and potential unfair cost burdens if they are forced to pay for security upgrades by the manufacturers. The legal decoders currently in use cost several hundred dollars, and they may be forced to pay much more to upgrade their decoders to meet the manufacturers new security procedures. Improving decoder security is important and necessary, but owners of legal decoders should not have to pay for the manufacturer's inability to supply secure equipment. This bill requires the FCC to undertake an inquiry to produce a remedy for this likely and unfair consumer burden.

The Satellite Television Fair Marketing Act is a modest effort to correct—without heavy handed Federal regulation—the vast inequities in the satellite television marketplace.

Mr. President, there are more than 25 million Americans living in rural areas who suffer poor off-air reception. Many of these families are also denied access to cable services. The time has come for the Congress to ensure that these families will not be denied the informational services they need and deserve.

As I noted earlier, this is a bipartisan effort. Many of our colleagues on both sides have spoken eloquently on the problems facing home satellite dish owners as well as cable customers. For instance, I ask unanimous consent that the RECORD include a column by Senator PRESSLER, who has also introduced legislation in this area at the end of my statement.

We encourage our colleagues to take a close look at the Satellite Television Fair Marketing Act. We believe it is a reasonable, moderate approach requiring no new regulatory measures. Instead, it takes the commonsense view that—if you sell satellite television programming, you should do it in a nondiscriminatory manner. And, if you manufacture satellite television decoder equipment, you should not force consumers of legal equipment to bear the entire burden for measures to secure that equipment.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1698

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled.

SHORT TITLE

SECTION 1. This Act may be cited as the "Satellite Television Fair Marketing Act".

FAIR MARKETING OF CERTAIN SATELLITE COMMUNICATIONS

SEC. 2. Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) Any person who encrypts any satellite cable programming for private viewing shall—

"(A) make such programming available for private viewing by home satellite antenna users; and

"(B) when making such programming available through any other person, establish reasonable financial and character criteria under which distributors may qualify to distribute such programming to home satellite antenna users and not discriminate between the distribution of such programming to distributors for cable television subscribers and distributors for satellite antenna users, nor among different distributors offering similar distribution services to home satellite antenna users, except that this subparagraph shall remain in force for a period not to exceed 5 years after the date of enactment of this subparagraph.

"(2) No person shall promote, manufacture, market, or sell equipment which enables or assists in enabling the reception of encrypted satellite delivered programming without the authorization of the person encrypting such programming.

"(3) Any person aggrieved by any violation of paragraph (1)(A) of this subsection may bring a civil action, against any other person who encrypts any satellite cable programming for private viewing, in a United States district court or in any other court of competent jurisdiction. Such court may grant temporary and final injunctions or other equitable relief on such terms as it may deem reasonable and appropriate to prevent or restrain such violations.

"(4) Any person aggrieved by any violation of paragraph (1)(B) or (2) of this subsection may bring, in any United States district court or other court of competent jurisdiction, a civil action against any other person who encrypts any satellite cable programming for private viewing and unreasonably discriminates among distributors. Such court may—

"(A) grant temporary and final injunctions on such terms as it may deem reasonable and appropriate to prevent or restrain such violations; and

"(B) direct the recovery of full costs to a prevailing plaintiff, including actual damages, or statutory damages for all violations in a sum of not more than $500,000, as the court considers just.

"(5) As used in this subsection, the term—

"(A) 'satellite delivered programming' means video programming transmitted by a domestic communications satellite intended for reception by cable television system subscribers and does not include the signal of an affiliate of a national broadcast network that is retransmitted by satellite or any internal satellite communication of any broadcaster or broadcaster network; and

"(B) 'reasonable financial and character criteria' means commonly prudent business standards designed to facilitate payment to the programmer and maintenance of the business reputation of the programmer, and which are designed to facilitate the existence of multiple noncable distributors.".

FEDERAL COMMUNICATIONS COMMISSION NOTICE OF INQUIRY INTO DECODER AVAILABILITY

SEC. 3. (a) The Federal Communications Commission shall undertake a notice of inquiry into the degree to which consumers are being unreasonably denied access to satellite television programming as a result of the price or availability of satellite television decoding equipment.

(b) Such an inquiry shall examine—

(1) the economic impact on consumers resulting from manufacturers' measures to secure encryption technologies in existing and future devices required to receive satellite television programming:

(2) whether lack of competition in the manufacture of home satellite television encryption equipment has produced artificially high consumer prices for such equipment; and

(3) whether a single manufacturing licensing source restricts the evolution of competition among various providers of such equipment to distributors, retail entities, and consumers.

(c) The Commission shall include the development and integration of satellite television encryption and transmission standards in any current and future inquiries regarding high definition television technologies.

(d) The Commission shall complete such inquiry not later than 120 days following the effective date of this Act.

(e) The Commission shall conduct a semiannual review and report to Congress on the effect of decoder price and availability on the ability of consumers to receive satellite television programming.

FEDERAL TRADE COMMISSION INVESTIGATION INTO PROGRAM MARKETING PRACTICES

SEC. 4. (a) The Federal Trade Commission shall conduct and complete an investigation within 120 days following the effective date of this Act into the pricing and distribution terms and practices of persons selling satellite television programming to home satellite antenna owners to determine whether the market for such programming is developing competitively.

(b) Should the Federal Trade Commission determine, after such investigation, that this market is not developing competitively, it is empowered to establish any remedies, which it deems necessary to produce adequate competition for such programming.

AVAILABILITY OF NETWORK PROGRAMMING TO RURAL AREAS

SEC. 5. The Federal Communications Commission shall initiate a rulemaking to facilitate, to the maximum possible extent, the provision of network broadcasting signals to persons unable to adequately receive a signal over the air from a local licensee. In undertaking such rulemaking, the Commission shall take into consideration the following:

(1) the extent to which individuals in rural, underserved areas are unable to receive broadcast television transmissions;

(2) the extent to which existing Federal rules have prevented local broadcast entities from providing signals to such persons unable to adequately receive a signal over the air from a local licensee;

(3) the potential for serving these persons, and others who cannot receive such transmissions, using home antennas to receive satellite-delivered network programming which might be otherwise encrypted to prevent private reception; and

(4) methods by which network programmers may protect certain portions of satellite-transmitted signals not intended for public viewing, while providing unencrypted signals to those persons living outside Grade B contours as defined by the Commission.

EFFECTIVE DATE

SEC. 6. The foregoing provisions of this Act shall take effect upon the expiration of the 30-day period following the date of its enactment.

[From the Mitchell (SD) Daily Republic, Sept. 19, 1989]

CABLE TELEVISION RATES ARE OUT OF CONTROL

(By Larry Pressler)

South Dakotans are upset about sky rocketing cable television rates. They should be. As I traveled around South Dakota this summer, I heard more and more about the rising cost of cable television. Local governments feel helpless since they are not allowed to regulate rates. People want action.

I serve as a member of the Senate Subcommittee on Communications. We held hearings in June and will conduct a more extensive investigation this fall (probably in October) to find the best solution to this problem.

DOUBLE MONOPOLY

A number of bills aimed at ensuring reasonably priced, quality programming to the public have been introduced in this session of Congress. I authored the first. Some propose returning rate regulation to the cities. This may be necessary. But the underlying problem in the cable TV industry is monopolization.

A small handful of the largest cable companies in the country enjoy a monopoly on not only the cable franchises, but also the most popular programs on which other cable operators depend. These multi-system operators (MSOs) have too much power. The largest MSO, Tele-Communications Inc. (TCI), controls approximately one out of every five cable subscribers in the U.S. It also owns or has a substantial interest in a large number of programmers, including The Discovery Channel, American Movie Classics, Black Entertainment Television, Cable Value Network and TBS.

Time-Warner owns both American Television and Communications Corporations (ATC), the country's second largest MSO, and HBO and Cinemax, two of the most popular movie channels.

Viacon, another large cable MSO, owns or has a substantial interest in Showtime, The Movie Channel, MTV, VH-1, Nickelodeon, Lifetime and TBS.

PROGRAM COSTS ARE THE KEY

Because of this cross-ownership, the large MSOs have ready access at reasonable rates to the programming which they control. This is called "volume discounting." They also dictate the prices other, smaller cable operators will be charged for programming. Small, independent cable companies, such as most of those in South Dakota cannot get "volume discounts" and in many cases pay twice as much or more for this premium programming. Of course, this is passed on to the consumer.

Cable customers want HBO. They want MTV. The small cable company must deliver this programming. The programmers know they can charge what they want and get it. The large MSOs that own these programmers get "volume discounts," but their customers don't see the benefits. Very few communities have competing cable systems, so these MSOs can charge what they want.

The profits from high rates in small towns are passed through the local cable company to the programmer, which is owned by an MSO. The profits from high rates in towns served by MSOs go to those MSOs. An oligopoly of several large MSOs controls the industry.

PRESSLER PROPOSALS

Perhaps rate regulation by local communities would help solve this problem. But I also believe that the problem needs to be attacked at its root.

I was the first to introduce legislation regulating the cable industry in this Congress. My legislation, S. 168, the Cable Television Programming Competition and Consumer Protection Act of 1989, would require programmers to sell their programming to all programming retailers at comparable rates, thus eliminating the discriminatory practice of "volume discounting." It also would attack the practice of exclusive distributorships, often used by programmers to deny their programming to competitors of cable, such as "wireless cable" operators.

Also, I have advocated a Teddy Roosevelt style of trust-busting which would prohibit cross-ownership of cable and programming interests. What we need to do is break up the stranglehold that the large MSOs have on the cable programming and delivery industry. We need a truly competitive marketplace.

'WIRELESS' CABLE ALTERNATIVE

I have not been relying on legislation alone to correct this problem. For the last five years, I have worked to bring to South Dakota a new technology called "wireless cable." This allows farm and ranch families and residents of very small towns to have access to the same type of programming available through traditional wired cable in the larger towns. Working with REA cooperatives and private industry, we have met with some success.

The Mitchell area has had wireless cable for about four years now. Over the last year, I have helped six additional wireless cable broadcasting sites get on the air in South Dakota. As a result, our state now leads the nation in the availability of cable programming to rural areas. Nearly the entire eastern third of the state is covered. I was proud to attend the ceremonies at Bath and Colman inaugurating the services there.

But wireless cable faces a similar problem to that faced by the small cable companies in South Dakota—availability and price of programming. In the case of wireless cable, programmers sometimes simply refuse to sell their product. It is a frustrating problem. There have been some successes, but some popular programming, such as HBO, still is not available to rural wireless cable companies.

The best answer to the problem of rising cable rates is to have truly effective competition. That does not exist today. I believe that legislation of some sort is necessary to create that type of effective competition, and will be working in the Senate to see that it is enacted.

Mr. PRYOR. Mr. President, I stand today to speak in support of the Satellite Television Fair Marketing Act introduced by the distinguished Senator from the State of Tennessee, Senator GORE.

As my colleagues will recall, Senator GORE has been in the forefront of the effort to bring competition into the satellite television programming marketplace. For the past 5 years Senator GORE has championed legislation that is not designed nor intended to regulate programmers or cable companies but merely to provide the 2 million home dish owners, over 40,000 in Arkansas alone, with affordable satellite programming. I am proud to again be an original cosponsor of this bill as I was in the last Congress.

This proposal was only narrowly defeated last year when it was attempted to be added as an amendment to the Technical Corrections Act. The margin of defeat that day was only 7 votes and with 21 members not voting, I believe the prospects for passage this year as a freestanding bill are much better.

Mr. President, I became interested in this bill after I began hearing from many of my constituents who own a home satellite dish and have been unable to purchase a fair and affordable package of program services.

Keep in mind, these folks for the most part live in the rural areas of Arkansas and have invested a large part of their hard-earned and limited incomes on purchasing the dish itself. Assuming they have located a program package and can afford it, they must also purchase an upgraded security decoder, about $400, to enable them to make the dish operable. This whole process represents a sizable financial investment for rural folks who oftentimes must install a satellite dish in order to receive any over-the-air television signals. It is unfortunate that these people must go through such effort and expense to secure basic television service, but what is more unfortunate as well as unfair is that these home dish owners are apparently being denied a fair market price for the purchase of premium program services such as HBO, Cinemax, Showtime, etc.

Why are programmers charging higher rates to dishowners for their

package of services? Why do dish-owners pay one rate and cable subscriber's another? Hearings held last year by the Senate Commerce Committee on this subject showed that a very intimate relationship exists between the major programmers and the big cable companies. I am not going to go so far as to suggest that there is a true monopoly or that there have been antitrust violations, but apparently the cable television industry exerts enough control over the premium programmers to prevent independent non-cable distributors from competing.

Everyone is aware of the fact that consumers are held hostage by high prices when no competition exists. Those in control take advantage of their superior position knowing that in the absence of competition, they may charge whatever they wish. This is exactly what has happened and is happening in the for-pay television industry. Home satellite dish owners who want to purchase premium programming are being charged significantly higher rates for these services than are cable subscribers. This is done because of the considerable influence wielded by the cable companies over the programmers, an influence that is due very often to the fact that the cable companies and programmers are both part of a very large corporate conglomerate.

There are certain industries and markets that must be regulated by Government but I think most folks would generally agree that it is in everyone's best interest to leave market forces to their own devices. In this case, however, it is quite evident that the market is being manipulated, not totally, but to the extent that some limited congressional action is necessary to promote a more vigorous and efficient marketplace. This bill will do just that by eliminating the current programmers pro cable bias.

To assure competition, this legislation spells out to the HBO's, ESPN's, Cinemax's and so forth, that if you provide your programs for cable customers and also offer them for distribution for satellite dishes, no discrimination between the two type distributors may occur.

There are other provisions which will enhance the ability of satellite dish owners to secure dependable, affordable satellite television programming. For example, it prevents programmers from denying home dish owners access to satellite television programming as well as requiring the Federal Communications Commission to conduct an inquiry into the availability of decoders required to receive satellite television programming. Additional language calls for the Federal Trade Commission to conduct an investigation into the pricing and distribution of satellite television programming.

Mr. President, I realize that some of my colleagues believe this bill represents an unwarranted Federal Government intrusion into the free enterprise marketplace. They feel as though given enough time competition will eventually evolve and they may be correct. However, I do not believe that to be a realistic expectation given the present conditions that exist in the for-pay television industry. While I am sensitive to the charge of unnecessary Federal involvement, the prevailing circumstances call for some type of intervention.

The Satellite Television Fair Marketing Act represents a moderate and fair approach to resolving a problem that in my opinion can only grow worse. I applaud the persistence and determination of my friend from Tennessee to come to the aid of satellite dish owners everywhere and urge my colleagues to support this worthy legislation.

Mr. BURDICK. Mr. President, many rural residents have spent hundreds or even thousands of dollars on satellite dishes and descramblers to receive good reception of network television shows and other programming. I have heard from many dish owners who complain that cable companies and programming services are shutting them out with higher rates, expensive new descramblers or other barriers. Service to rural customers is slipping in many areas while cable companies rush to add urban subscribers to their systems. I can understand why rural dish owners are upset. Despite their investment, they can't take for granted that they will continue to enjoy good television reception and their favorite programming.

I believe all consumers deserve access to reliable, reasonably-priced programming, whether they receive their signal off the airwaves, through cable, or by satellite dish. There is a need for legislation to encourage competition in the expanding market for cable and satellite dish television consumers and to establish fair marketing practices for these services. The Satellite Television Fair Marketing Act being introduced by the distinguished Senator from Tennessee addressed many of these inequities. I am pleased to be a cosponsor of his legislation.

I would like to share with my colleagues an article by Bob Phillips of the National Rural Telecommunications Cooperative. I ask unanimous consent that the article from the September 1989 North Dakota REC magazine be printed in the RECORD at this point. Thank you.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SATELLITES DISH UP TV AND RURAL DISCRIMINATION

(By Bob Phillips)

It's an increasingly common rural American story—geographical discrimination.

Railroads abandon all but the most lucrative main lines. Rural educational opportunities for bright young students shrink with declining populations. Country hospitals close and life-saving health care lags behind urban centers. Without farm-supply co-ops, some communities would not even have a gasoline station. And in North Dakota, airline service cut-backs mean you must fly through Minneapolis to go from Bismarck to Fargo.

Even the simple delivery of a clear off-air television signal has not been improved in many rural areas since the advent of this powerful medium. Only with the development of the home satellite dish did the picture brighten for TV viewers in the vast reaches of rural America.

In the late 1970s, the satellite dish opened the new world of broadcasting, taking rural consumers from one or two channels of reception to 100. Although rural America was devastated by increasing geographical isolation in many service areas, at least there was an opportunity to bring equal television access to rural consumers over the backyard dish.

For the past two years, the rural utility-owned National Rural Telecommunications Cooperative (NRTC) has been nationally distributing network, superstation and cable programming services to rural consumers through 300 rural electric and rural telephone systems. Today, it serves 35,000 rural families. And it's brought a rural voice to a market controlled by urban interests unfamiliar with the needs of rural areas.

NRTC is a strong supporter of satellite delivery of educational, informational and entertainment programming to the home. Major manufacturers have solved many early problems of equipment quality and ease of use. And, system prices have come down to more affordable levels.

But while the equipment improves, the market for rural consumers has not. Based on our experiences, we must conclude that today, rural satellite dish owners are suffering unjust discrimination in access and pricing of the same video products delivered over urban cable systems.

On June 21, I testified before the U.S. Senate Commerce Committee as the only representative of the home dish satellite industry on the issue of cable television control and its effect on competitive technologies such as the home dish market.

I told the committee that cable service will never reach 10 million rural homes. We cited examples where cable has thwarted the development of the home satellite dish market because the dish system poses a perceived threat to cable systems—despite the fact a home satellite dish is the only way these millions of rural homes will ever receive access to today's television.

I gave specific cases where rural home satellite dish owners are paying four or five times more a month to receive programming compared to prices paid by cable homes. I told the committee that NRTC pays 444 percent more than small cable systems for the same programming.

And I cautioned that, left unchecked, the highly concentrated power of the cable industry will further thwart the generation of smaller and more affordable direct broad-

cast satellites because they, too, pose a threat to cable systems.

These issues—combined with general instability in the dealer base and lingering local stories of poor equipment equality—have thwarted consumer interest in technology that holds great promise for rural residents.

Access is a key element in rural development, whether it's access to information, education or entertainment. It's integral to practical applications such as rural education and important to the quality of life. Certainly, with 98 percent of all households owning at least one set, television is a universal service. And it will not diminish in importance.

Throughout the nation, rural electric and rural telephone systems are beginning their efforts to make satellite television available to rural consumers in fair and affordable ways. NRTC has only begun its work to assist and help rural utilities bring universal television access to rural areas. Television cannot be another area where rural Americans suffer from geographical discrimination. Nor should its distribution be controlled by large entities who view rural America as the market of last resort.

I ask that you consider satellite television as a real option. But whether you do or not, support the effort of those Rural TV electric and telephone co-ops in North Dakota who are building a base of fair and affordable television for the future.

Mr. BUMPERS. Mr. President, once again, I am pleased to join Senator GORE and my other distinguished colleagues in introducing the Satellite Telecommunications Fair Marketing Act. This bill amends section 705 of the Communications Act of 1934 and is vital to ensure that the public interest is served by a fully competitive market in the direct satellite broadcast market.

The debate on this issue rages on, year in and year out. For nearly 5 years now, the Senate has debated the merits of legislative proposals aimed at restoring some equity and fairness in the market for satellite programming and decoder equipment. I hope the Senate will exercise sound judgment and pass this legislation.

While many people have mistaken the satellite dish to be the State flower of Arkansas, I assure my colleagues that it is the apple blossom. But, there are approximately 2.6 million home satellite dish owners across our Nation and over 35,000 in Arkansas. Currently, 5 million Americans depend on satellite dishes to receive programming, and 80 percent of the dishes are in rural areas. Unlike their city counterparts, rural dwellers are not able to pick up the phone and call the local cable company to request service. In fact, there are 20 to 30 million Americans living in rural areas who suffer poor off-air reception and will never be served by cable.

These citizens have two legitimate concerns: First, assured access to satellite-delivered cable programming; and second, a fair and reasonable price. Consumers in rural America aren't asking for a Federal giveaway. They simply want the benefits that reasonable and very minimal Government regulations would provide. This legislation provides those assurances.

Every year, I listen to opponents of this legislation make claims that fair conditions for satellite-delivered programming will evolve. But another year has passed, and the current market for scrambled television programming continues to be unfair and confusing. After 5 years of review, analysis, and marketplace observation, the public interest is still not being served. The market continues to be distorted by dominant forces and actively manipulated by the supply of programming and hardware.

The chief executive officer of the National Rural Telecommunications Cooperative [NRTC], Bob Phillips, delivered some very distressing testimony to the Senate Subcommittee on Commerce, Science, and Transportation earlier this year, but it doesn't surprise me. He noted that satellite dish sales are down by 40 percent, attributing the decline to consumer confusion about the legality, access, and cost associated with satellite dishes. The consumer fright which developed after scrambling began in 1985 was inevitable. Satellite dish sales have failed to adequately recover from the scare. This has been a serious problem in Arkansas where satellite manufacturers and retailers are an endangered species.

Perhaps the most troubling and clearest evidence of market distortion was Mr. Phillips testimony about programming price discrimination. He stated that NRTC's wholesale cost for its basic package is, on average 444 percent higher than the wholesale cost to cable for the same programming. Given this tremendous disparity. I think any argument that the satellite dish programming market is evolving and working efficiently is pure hogwash. I agree with those who claim that the huge gaps in wholesale prices is directly linked to the vertical integration of programmers, satellite carriers, and large cable operators.

Without effective competition, prices for scrambled programming will remain much higher than the reasonable price that would be available in a truly competitive market. In addition, some scrambled satellite programming is not available at any price. These continued discriminatory practices in access and pricing for scrambled programming do not encourage market efficiency at all, and it is not sound policy for the Senate to allow these market distortions to continue. The result of these practices is detrimental to both rural satellite dish owners as well as programmers.

I do not support, condone, or encourage pirating or scrambled programming. With the current conditions in the home dish market, however, it is not surprising that some dish owners resort to these illegal practices. Creating a competitive market for scrambled programming would lead to a decrease in the illegal theft of signals, and I strongly support the piracy provisions in this legislation. The Senate should end this self-defeating process in the marketplace and foster competition in this arena.

Another important issue this legislation tackles is the availability of decoders. There are serious questions of decoder distribution policy. I also strongly support the provision in this legislation mandating an inquiry by the Federal Communications Commission into the potential economic harassment of the owners of legal decoders who may be forced to shoulder the entire burden of manufacturers' costs of improving security against piracy.

Mr. President, a person doesn't have to be a psychic to see the many problems still confronting home satellite dish owners. And a person doesn't need to be a doctor to figure out the cure for those problems. A little common sense is all it takes.

I continue to receive daily calls from dissatisfied consumers, both from my constituents in Arkansas and from dish owners across the Nation.

I continue to see evidence of active market manipulation.

I continue to find a concentration of industry.

I continue to find a lack of competition.

The legislation we have introduced will provide an adequate remedy to these ills.

In summary, this legislation accomplishes two objectives which are critical to a stable, fair, and competitive cable television market: First, it establishes a right of access to scrambled programming under competitive market conditions that rural satellite television antenna owners should have under section 705 of the Cable Communications Act of 1984; and second, it takes an essential first step toward allowing a truly competitive market for scrambled television signals to flourish.

Senator GORE has described the details of this bill, and I don't see the need to repeat them now. But I do know this is not a problem that will disappear.

For the record, let me remind my colleagues that the Commerce Committee overwhelmingly approved similar legislation during the 100th Congress, and I am sure that the members of the committee will approve this bill as well. Rural Americans deserve nothing less. They should not have to suffer under the heavy-hand of unfair competition just because they live in a rural area.

I urge the Senate to pass the Satellite Television Fair Marketing Act and

to begin the process of acknowledging and protecting the rights of satellite television antenna owners.

Mr. JEFFORDS. Mr. President, in my scenic hometown of Shrewsbury, which is nestled by the beautiful green mountains of Vermont, we depend as do many Vermonters on satellite dishes to receive television programming.

For this personal reason, as well as for compelling professional reasons, today I am proud to be an original cosponsor of the Satellite Television Fair Marketing Act. This legislation is designed to create a fair marketplace for backyard satellite dish programming and decoder equipment. I was a cosponsor of earlier similar legislation and I am more confirmed than ever in my belief that it is needed and necessary.

The Satellite Television Fair Marketing Act prevents programmers from denying home dish owners access to satellite television programming, provides programming to distributors on a nondiscriminatory basis, and tightens the penalties for illegal piracy of satellite television programming by those who manufacture, distribute, or sell unauthorized decoder equipment.

The bill also authorizes the FCC to undertake action to broaden the availability of network television in rural areas not now able to receive network signals, and requires the FCC to conduct an inquiry into the pricing and distribution of satellite television programming.

Very importantly, this legislation addresses the potential economic harassment of owners of legal decoders who may be forced to bear the entire burden of manufacturers' costs of improving security against piracy. It also requires an FCC investigation of the availability of these decoders.

At this time, Mr. President, I would like to urge all of my colleagues to support the Satellite Television Fair Marketing Act. This would make it possible for all communities, not only rural ones, to receive satellite television transmission on a fair and equitable basis.

● Mr. McCONNELL. Mr. President, today I rise as an original cosponsor of the Satellite Television Fair Marketing Act. I am in wholehearted support of Senator GORE's bill and commend my colleague from Tennessee for once again offering this important legislation. In my State alone, there are approximately 36,000 satellite dish owners.

Over the past 5 years I have visited every county and held town meetings across the entire Commonwealth of Kentucky. During those visits, one of the questions I was most frequently asked was "What is going to be done about scrambling?" Many rural Kentuckians who will never be hooked up to cable and have purchased expensive dishes are concerned that they will be denied access by scrambling or that the cost of the monthly service fee will be prohibitive, thereby rendering their investment worthless.

As I have said numerous times, the problem is no longer the issue of scrambling; most dish owners recognize the right of programmers to scramble their signals. They are resigned to the fact that they must purchase a decoder and are willing to pay a monthly charge as long as the fee is reasonable and fair. In my opinion, that is where the problem exists. Current market constraints are preventing the delivery of competitively priced programming.

I believe that this legislation is eminently fair and is not a "knee jerk" reaction to the problem. While some individuals feel that this represents overregulation of the satellite television marketplace, it simply represents a good faith attempt to ensure that home dish owners receive fair and equitable pricing of programming. It is important to note that this bill still allows programmers to have flexibility in protecting their product by using reasonable restrictions and strengthens the penalties for illegal piracy of programming by those who, manufacture, distribute, or sell unauthorized decoder equipment. Certainly, these are very reasonable provisions.

While I was disappointed that this legislation failed to pass last year, I was hopeful this delay would give programmers the opportunity to follow through in allowing third parties to distribute their signals to rural dish owners. However, this did not occur. I recognize that program packages are now available, but I think everyone agrees that more can be done. For this reason, I strongly support this legislation and again urge my Senate colleagues to support expedited passage of the Satellite Television Fair Marketing Act.●

Mr. PRESSLER. Mr. President, I would like to add my voice in support of the legislation introduced today by Senator GORE, myself, and nine other Members of the Senate. The Satellite Television Fair Marketing Act is an attempt to introduce some fair play into the home satellite dish programming market.

I was a strong supporter of last year's version of this legislation. That bill was defeated near the end of the session by a vote of 43 to 36. Twenty-one Senators were not present. I would hope that this year's bill will be allowed to come to the floor in a manner that would permit a vote of the full membership, who, I believe, would now support such legislation.

This legislation does several things. First, it requires satellite television programmers to establish their own criteria for programming distribution and then sell their programming on a nondiscriminatory basis to those distributors who meet those criteria. The programmers say that this is unnecessary, that this is already being done. The famous National Rural Telecommunications Cooperative [NRTC] deal of last year is used to try to prove the point. But the NRTC itself, in testimony before the Commerce Committee this spring, stated that third-party program distribution was not developing any further, and that programming is not being provided at reasonable terms and rates to the NRTC.

Perhaps the situation is improving. It is improving with regard to wireless cable in South Dakota. Within the last year, two rural wireless cable companies that had been seeking programming from ESPN worked out contracts. In addition, HBO agreed to sell its programming to another wireless cable company in the State that had been seeking HBO's programming for the last 4 years. So I have seen some progress within one technology. But before I'm willing to say that the marketplace is working properly, we need to see some improvement across the board. I don't think that is happening yet.

Second, the legislation requires the Federal Communications Commission to conduct an inquiry into the availability of decoders. There is a great concern among backyard satellite dish owners over the possibility of being forced to bear the entire cost of improving decoder security against piracy through the purchase of new decoders and improvements to old decoders. It is essential that the FCC investigate this situation.

Third, the bill requires the FCC to act to broaden the availability of network television in rural areas currently unable to receive network signals. Satellite-transmitted network programming should be unencrypted for those persons living outside of the range of broadcast network television.

This legislation also requires the FTC to investigate the pricing and distribution of satellite television programming, and increases the penalties for illegal piracy of satellite television programming.

As I traveled around my home State of South Dakota this summer, I kept hearing about skyrocketing cable television rates. People are upset and local governments feel helpless to do anything about it. One of the primary reasons for high cable rates is the vertical integration in the cable television and cable programming industry. That vertical integration results in higher prices for the programming sold to small independent cable operators as well as third-party satellite television distributors and other competing technologies, such as wireless cable.

The large multisystem operators [MSO's], such as Tele-Communica-

tions Inc., and American Television and Communications Corp., receive what is known as volume discounts from their programming suppliers, who are owned in part or in whole by these MSO's or their mutual parent companies. Independent cable companies and competing technologies pay more for the same programming, sometimes twice as much or more.

I have advanced in the past a Teddy Roosevelt style of trust-busting which would prohibit cross-ownership of cable and programming interests. We need somehow to break the stranglehold of the large MSO's on the cable programming and delivery industry. We need a truly competitive marketplace. This legislation would help accomplish that worthwhile objective.

By Mr. HARKIN (for himself, Mr. CONRAD, Mr. LEAHY, Mr. DASCHLE, Mr. BOSCHWITZ, Mr. BURDICK, Mr. FOWLER, Mr. GLENN, and Mr. SIMON):

S. 1699. A bill to provide financial assistance to conduct agricultural research and to commercialize such research, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION ACT OF 1989

● Mr. CONRAD. Mr. President, it is with particular pleasure that I rise today, along with my colleague Senator HARKIN and our cosponsors, to introduce the Alternative Agricultural Research and Commercialization Act of 1989. This bill is the culmination of vigorous efforts by myself and Senator HARKIN to establish a Federal commitment to the development and commercialization of new nonfood, nonfeed, industrial uses for agricultural commodities. I want to commend Senator HARKIN for his extraordinary leadership on this issue.

This bill is intended to bridge a serious gap that impedes the ability of American industries to develop and commercialize new industrial products derived from our farm and forest products. In simple terms, there are three obstacles to commercialization: Long-term high risk, financing, and coordination. This landmark legislation would, for the first time, coordinate the efforts of the Federal, State, and private sectors to develop and commercialize new industrial products, help bridge the financing gap, and take on part of the initial risk.

This legislation combines two bills: S. 621 and S. 1387. S. 621 establishes the Agricultural Research Commercialization Corporation, which we have renamed in the bill we are introducing today as the Alternative Agricultural Research and Commercialization Corporation [AARCC]. It would provide business financing and technical assistance to businesses seeking to commercialize new industrial uses. It would also coordinate the efforts of the Federal, State, and private sectors that necessarily play a role in commercialization. AARCC is modeled after the highly successful Corporation for Science and Technology, a State-chartered government agency in Indianapolis, IN. AARCC has earned the support of the National Governors Association, the National Association of State Departments of Agriculture, the National Association of Development Organizations, and National Rural Electric Cooperative Association, and numerous farm and commodity groups. It is also supported by universities and researchers around the country.

I first introduced AARCC in the 100th Congress as S. 2413. We met with considerable success in moving this important legislation. I held three hearings on the legislation while I was chairman of the Subcommittee on Agricultural Credit and General Legislation. My colleagues on the Senate Agriculture Committee agreed to include it in S. 1729, the Rural Economy Act. Unfortunately, that bill was not reported out of committee.

In the House, Congressman TIM PENNY introduced AARCC, and we succeeded in passing it in the House as part of H.R. 5056, the Agricultural Research Act of 1988.

Senator HARKIN's legislation, S. 1387, establishes a Peer-Reviewed Research Grant Program to provide much-needed funding for the development of new industrial uses. His bill was first introduced in the 100th Congress and overwhelmingly passed the Senate three times.

Mr. President, many Members are familiar with the potential use of new industrial products derived from agricultural and forestry commodities. Many of our traditional agricultural commodities—corn, soybeans, sunflowers, and rapeseed—and new crops—kenaf, meadowfoam, crambe, and guayule, for example—can be used to produce substances which replace chemicals and other industrial products currently derived from nonrenewable resources, much of which we import. These products include plastics from cornstarch, paints and transmission fluid from rapeseed, and nylon from meadowfoam.

Many Members are also familiar with the potential of new industrial products development to overcome two serious national problems—the economic decline of our rural communities and the failure to fully develop and commercialize the fruits of our agricultural research. They know that the development and commercialization of these products will: First, create new jobs in manufacturing, processing, and management; second, increase the demand for agricultural and forestry crops, benefiting rural businesses and communities; and reducing the need for Federal crop subsidies; third, make us more competitive in the world economy, reducing our trade deficit; and fourth, provide industrial products derived from renewable resources which are safer for the environment.

AARCC establishes a national policy to make this potential a reality. For the first time, we will match the efforts of our competitors in Japan and elsewhere, who, supported by their governments, are very successful in commercializing new technologies.

How will AARCC work?

AARCC will establish a vital partnership between the Federal Government, private industry, universities, and State and local governments to overcome the financial and technical barriers to development and commercialization of new uses. It will establish the Agricultural Research Commercialization Corporation within the U.S. Department of Agriculture. AARCC will be headed by a Board of Directors, appointed by the Secretaries of Agriculture and Commerce and the Director of the National Science Foundation. This Board has two primary responsibilities. First, it shall recommend peer-reviewed "new uses" research proposals to the Secretary of Agriculture for funding. These proposals shall be evaluated on the basis of their potential to modify a plant or its material to produce an industrial product, their potential to develop or enhance production methods for these products, and the potential market size for the product, along with other criteria.

Second, the Board shall make the final evaluation and decision on whether and how to fund commercialization project applications. It shall establish regional centers around the country which will: First, develop a network of experts who must play a role in the commercialization of agricultural research; and second, provide financial assistance and business and technical guidance to companies seeking to commercialize new industrial products.

These four to nine regional centers will be responsible for providing financial assistance to carefully screened commercialization projects. This assistance can be used for all aspects of the commercialization process, from prototype testing and market development to factory construction and worker training. The products to be commercialized may be the result of research projects funded by AARCC.

AARCC will assume part of the initial risk of these commercialization ventures. It will help finance commercialization projects through low-interest loans, loan guarantees, convertible debentures, repayable grants matched by other funds, and umbrella bonding. This financing does not compete with

private financial institutions. Instead, it fills a financing gap in the early growth period of innovative firms. In fact, I have learned that such early public financing actually attracts private venture capital which would not be available otherwise.

Each regional center will accept applications from companies or other entities seeking to commercialize new industrial products and processes using agricultural and forestry commodities. Applications will be evaluated for scientific soundness, technical feasibility, and market potential. Applicants must also demonstrate that they have committed their own resources to the project. They must show that adequate private sector funding is not available without AARCC participation. Proposals demonstrating that matching funds are available from the public or private sector will receive priority.

Finally, each applicant must show that once started, the business project can be self-sustaining. AARCC is designed to provide short-term assistance to get a company off the ground—not perpetual aid.

Regional centers will develop a network of experts from the scientific, financial, managerial, engineering, agricultural, and marketing sectors. This network will review proposals and provide expert advice and information on all aspects of product commercialization to assist applicants with their projects. In addition, the regional centers can help coordinate commercialization and research projects around the country to help prevent duplication and to identify market needs.

The regional director of each regional center, in consultation with an advisory council and other expert project reviewers, shall make recommendations on the applications. The Board of Directors of the Corporation, appointed by the Secretary of Agriculture, shall review the recommendations and shall vote on whether and how to assist the applicants.

After an initial appropriation over several years, AARCC is designed to be self-financing through a revolving fund.

Successful companies are required to repay AARCC for the financial assistance it provides. These repayments, in addition to other contributions from State and private sources, are to be used solely for the continuation of AARCC's activities.

Mr. President, this bill logically links our research activities with our commercialization activities. Senator HARKIN and I are convinced that this linkage will result in a powerful and successful program to move new industrial product ideas from the laboratory to the marketplace.

Legislation which recently passed Congress will complement this bill. Our current farm program discourages farmers from planting alternative crops because by doing so, they reduce the number of acres they can enter into the commodity support programs. This law allows farmers to plant alternative crops on permitted acreage for the 1990 crop-year without losing their base acres for farm program purposes. I want to note the leadership of Senator BOND in establishing flexible planting provisions, and I hope that we will extend this law to future crop-years in the 1990 farm bill.

It is time to take advantage of the benefits that new industrial product commercialization can provide. It is time for the passage of this bill. I urge my colleagues to join Senator HARKIN, myself, and the cosponsors in pushing for its enactment.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1699

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alternative Agricultural Research and Commercialization Act of 1989".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

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Sec. 101. Findings and purpose.
Sec. 102. Definitions.
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Sec. 601. Authorization of appropriations.

TITLE I—ESTABLISHMENT OF ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION CORPORATION

SEC. 101. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) with the advances made in biotechnology and other advances in science, there is a far greater capability of modifying plants and plant materials in order to produce commercially viable nonfood products;

(2) the diversification of agriculture is crucial for the long term economic health of that sector and for the economy of rural America;

(3) the use of agricultural and forestry products for nonfood, nonfeed industrial uses can reduce the United States trade deficit and be environmentally beneficial;

(4) a major increase in targeted research in the area described in paragraph (3) is necessary to maximize the number and value of nonfood products;

(5) many of the emerging new ideas, products, and processes resulting from agricultural research will not be commercialized because of high initial financing costs and high risk; and

(6) the careful targeting of financial assistance to entrepreneurs for the commercialization of new industrial uses of agricultural and forestry products will be a cost effective means of stabilizing the agricultural sector and redeveloping the rural economy.

(b) PURPOSE.—It is the purpose of this Act through the Corporation established pursuant to section 103—

(1) to authorize research in modification of plants and plant materials, and associated research, in order to develop and produce marketable products other than food, feed or traditional forest or fiber products;

(2) to commercialize new nonfood, nonfeed uses for traditional and new agricultural crops in order to create jobs, to enhance the economic development of the rural economy, and to diversify markets for raw agricultural and forestry products;

(3) to encourage cooperative development and marketing efforts among manufacturers, financiers, universities, and private and government laboratories in order to accelerate the commercialization of new industrial uses for agricultural and forestry products; and

(4) to direct, to the maximum extent possible, commercialization efforts toward the development of new industrial products from crops that can be raised by family-sized agricultural producers.

SEC. 102. DEFINITIONS.

As used in this Act:

(1) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary of Agriculture for Science and Education.

(2) BOARD.—The term "Board" means the Board of Directors established pursuant to section 105.

(3) COMMERCIALIZATION.—The term "commercialization" or "commercialize" includes—

(A) activities associated with the development of prototype products or manufacturing plants;

(B) the application of technology and techniques to the development of industrial production; and

(C) the market development of new industrial uses of new and traditional agricultural and forestry products and processes that will lead to the creation of goods and services that may be marketed for profit.

(4) CORPORATION.—The term "Corporation" means the Alternative Agricultural Research and Commercialization Corporation established in section 103.

(5) HOST INSTITUTION.—The term "host institution" means an entity that is located in the region that is—

(A) a university or other institution of higher education;

(B) an Agricultural Research Service laboratory;

(C) a State Agricultural Experiment Station;

(D) an Extension Service facility; or

(E) another organization that is involved in the development or commercialization of new industrial uses for agricultural commodities, or is involved in rural economic development.

(6) NEW INDUSTRIAL PRODUCT DEVELOPMENT.—The term "new industrial product development" means targeted research, including fundamental research and applied research necessary to make a product available for the marketplace and necessary research on the plant, modification of plant materials, new methods, if any, needed to cultivate the plant, the commercial separation and purification of the new industrial product, and any research on the uses of the new product.

(7) NEW INDUSTRIAL PRODUCT.—The term "new industrial product" means an item that is primarily not a food, feed or traditional forest or fiber product, including an item that exists but is not commercially available from a plant source.

(8) REGIONAL CENTER.—The term "Regional Center" means a Center established pursuant to title III.

(9) RESEARCH PROJECT.—The term "research project" means a project that is directed toward the development of a new marketable industrial or commercial product, other than a food, feed or traditional forest or fiber product, through biotechnology or other modification of a plant, and includes all of the various research tasks necessary to develop a new industrial product.

(10) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(11) TRADITIONAL FOREST OR FIBER PRODUCT.—The term "traditional forest or fiber product" means a forest or fiber product that does not have substantial new properties and that is derived from agricultural materials.

SEC. 103. ESTABLISHMENT OF CORPORATION.

(a) IN GENERAL.—There is established within the Department of Agriculture a body corporate to be known as the "Alternative Agricultural Research and Commercialization Corporation".

(b) CENTRAL OFFICE.—The Secretary shall provide facilities for the principal office of the Corporation that are within the Washington, D.C. metropolitan area.

(c) PURPOSE.—The Corporation shall carry out the purposes of this Act through the provision of grant assistance, contracts and cooperative agreements, loans, interest subsidies, technology transfer, information collection and dissemination, participation in cooperative projects, search for industrial materials that may be produced from agricultural commodities and for processes to produce such materials, and other activities described in this Act.

SEC. 104. POWERS OF THE CORPORATION.

(a) NONPROFIT CORPORATE POWERS.—To carry out this Act, the Corporation has the powers conferred on a nonprofit corporation under the District of Columbia Nonprofit Corporation Act.

(b) GENERAL POWERS.—In addition to any specific power granted to the Corporation elsewhere in this Act, the Corporation shall have the power—

(1) to adopt, alter, and rescind bylaws and to adopt and alter a corporate seal, which shall be judicially noticed;

(2) to make agreements and contracts with persons and private or governmental agencies, except that the Corporation shall not provide any financial assistance unless specifically permitted under this Act;

(3) to lease, purchase, accept gifts or donation of, or otherwise to acquire, and to use, own, hold, improve, or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property, real, personal, or mixed, or any interest therein;

(4) to sue and to be sued in its corporate name and to complain and defend in any court of a competent jurisdiction;

(5) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings, except actions cognizable under the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), in which actions it will be represented by the Attorney General;

(6) subject to this title, to select, employ, fix the compensation of, and discharge any such officers, employees, attorneys and agents as shall be necessary for the transaction of the business of the Corporation;

(7) to make provision for and designate such committees, and the functions thereof, as the Board of Directors may consider necessary or desirable;

(8) to indemnify Directors and officers of the Corporation, as the Board of Directors may consider necessary or desirable;

(9) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out this Act and to pay for such use, such payments to be credited to the applicable appropriation that incurred the expense;

(10) to obtain the services and fix the compensation of consultants;

(11) to use the United States mails on the same terms and conditions as the executive departments of the United States Government; and

(12) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation, to carry out this section, and to the exercise of its powers, purposes, functions, duties, and authorized activities.

(c) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Corporation is authorized to accept and utilize voluntary and uncompensated services.

(d) GOVERNMENT CORPORATE CONTROL ACT.—The Corporation shall be considered a wholly-owned corporation for the purposes of the Government Corporate Control Act.

SEC. 105. CORPORATE BOARD OF DIRECTORS.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The Board shall consist of nine members, who shall be citizens of the United States, of which—

(A) one member shall be the Assistant Secretary;

(B) one member shall be the Under Secretary of Agriculture for Small Community and Rural Development;

(C) two members shall be appointed by the Director of the National Science Foundation, at least one of whom shall have expertise in appropriate areas of applied research;

(D) two members shall be appointed by the Secretary; and

(E) three members shall be appointed by the Secretary of Commerce.

(2) EXPERIENCE.—In appointing the members to the Board under paragraph (1), the Secretary, the Secretary of Commerce, and the Director of the National Science Foundation shall assure that the members appointed under subparagraphs (C), (D), and (E) are representative of the agricultural, scientific, financial, and managerial community, and that at least three such members are members of the private scientific, agricultural, financial, or managerial sector.

(3) CHAIRPERSON.—The Board shall elect a Chairperson from among the members of the Board referred to in paragraph (1).

(4) OTHER EMPLOYMENT.—A Director may hold a position in the public or private sector at the same time as such director is serving on the Board.

(b) TERM OF OFFICE.—

(1) IN GENERAL.—A member of the Board appointed under subparagraphs (C), (D), and (E) of subsection (a)(1) shall be appointed for a term of 5 years.

(2) INITIAL MEMBERS.—The initial members of the Board appointed under subparagraphs (C), (D), and (E) of subsection (a)(1) shall serve as follows:

(A) Two members shall serve a term of 4 years.

(B) Two members shall serve a term of 3 years.

(C) Two members shall serve a term of 2 years.

(D) One member shall serve a term of 1 year.

(c) OATH.—Before assuming office, each member of the Board shall take an oath to faithfully discharge the duties of the individual's position as a member of such Board.

(d) MEETINGS, QUORUM, ACTIONS.—

(1) MEETINGS.—The Board shall meet in accordance with the bylaws of the Corporation, and at any time pursuant to the call of the Chairperson, but the Board shall not meet less than four times annually to review research and financial applications. For the purpose of section 552b of title 5, United States Code, the Board shall be considered to be an agency.

(2) QUORUM AND ACTIONS.—A majority of the Board members shall constitute a quorum. Any action by such Board shall require a majority vote of all members of the Board.

SEC. 106. POWERS AND DUTIES OF CORPORATE BOARD.

(a) POWERS.—

(1) VESTING.—The powers of the Corporation shall be vested in the Board.

(2) OFFICERS.—The Board shall establish the offices and appoint the officers of the Corporation (which may include a General Counsel, Treasurer, and an Executive Director) and define the duties of such offices.

(b) DELEGATION OF AUTHORITY.—

(1) CORPORATE BOARD.—The Board may, by resolution, delegate to the Chairperson and any other director any function, power, or duty assigned to the Corporation under this section other than those expressly vested in the Board.

(2) CHAIRPERSON.—The Chairperson may, by written instrument, delegate such function, power, or duty as is assigned to the Chairperson pursuant to this section, to such other director, officer, or employee of the Corporation as the Chairperson considers appropriate.

(c) DELEGATION NOT PERMITTED.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary and

any other officer or employee of the United States shall not make any delegation to the Board, the Chairperson, or the Corporation of any power, function, or authority not expressly authorized by this Act, except where such delegation is pursuant to an authority in law that expressly makes reference to this Act.

(2) REORGANIZATION ACT.—Notwithstanding any other provision of law, chapter 9 of title 5, United States Code, shall not apply to authorize the transfer to the Corporation of any power, function, or duty.

(d) BYLAWS.—The Board shall adopt, and may from time to time amend, such bylaws as are necessary for the proper management and functioning of the Corporation.

(e) ORGANIZATION.—The Board shall provide a system of organization to fix responsibility and promote efficiency within the Corporation.

(f) GOVERNMENT EMPLOYMENT LAWS.—Directors, officers, and employees of the Corporation shall be subject to all laws of the United States relating to governmental employment, including the provisions of title 5, United States Code, relating to compensation.

(g) POLITICAL QUALIFICATIONS.—No political test or qualifications shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation.

(h) EXPERTS.—The Board shall establish boards of farm and industry representatives, to advise the Board on matters that are determined to be appropriate by the Board.

(i) HEARINGS.—The Board may, for the purpose of carrying out this Act, hold such hearings, and sit and act at such times and places, as the Board considers appropriate.

SEC. 107. COMPENSATION.

(a) CORPORATE BOARD.—Members who serve on the Board, except for the Under Secretary identified in section 105(a)(1)(B) and the Assistant Secretary, shall receive compensation at a rate equivalent to the daily rate paid under Level II of the Executive Schedule under section 5312 of title 5, United States Code, as well as reasonable expenses incurred in carrying out the business of the Corporation, as approved by the Board.

(b) OFFICERS AND EMPLOYEES.—The Board may, if determined necessary and approved by the Secretary, fix the rate of compensation of no more than one officer position or other position at a rate or rates in excess of that prescribed for Level II of the Executive Schedule under section 5312 of title 5, United States Code.

SEC. 108. FINANCIAL DISCLOSURE AND CONFLICTS OF INTEREST.

(a) FINANCIAL DISCLOSURE.—The Ethics in Government Act of 1978 (2 U.S.C. 701 et seq.) shall apply to the Directors and all of the other officers and employees of the Corporation as if such individuals were Federal employees.

(b) CONFLICTS OF INTEREST.—

(1) IN GENERAL.—Except as permitted in paragraph (3), no member of the Board shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to the knowledge of the member, such member, spouse or minor child of such member, partner or organization (other than the Corporation) in which such member is serving as officer, director, trustee, partner, or employee, or any person or organization with whom such member is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(2) REMOVAL.—Action by a member of the Board that is contrary to the prohibition contained in paragraph (1) shall be cause for removal of such member pursuant to the powers of the Corporation in section 104, but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the member or officer participated.

(3) INFORMED CONSENT.—The prohibition contained in paragraph (1) shall not apply if—

(A) the member of the Board—

(i) advises the Board of the nature of the particular matter in which such member proposes to participate in; and

(ii) makes a full disclosure of such financial interest, prior to any participation; and

(B) the Board determines, by majority vote, that the financial interest is too remote or too inconsequential to affect the integrity of such member's services to the Corporation in that matter.

The member involved shall not participate in such determination.

SEC. 109. AUTHORIZATION OF ADMINISTRATIVE EXPENDITURES.

(a) CORPORATE EXPENDITURES.—In each fiscal year the Corporation is authorized to expend amounts for—

(1) reasonable and necessary administrative expenses, not to exceed 5 percent of amounts made available in any fiscal year; and

(2) generic studies and specific reviews of individual proposals for financial assistance and research projects, which shall not exceed 3 percent of amounts made available in any fiscal year.

(b) ADMINISTRATIVE EXPENDITURES.—For purposes of this section, administrative expenditures shall include—

(1) all ordinary and necessary expenses (including all compensation for personnel and consultants, expenses for computer usage, or space needs of the Corporation and similar expenses); and

(2) reimbursement to members of the Board for reasonable expenses that are incurred in connection with the service of the Corporation.

(c) LIMITATION.—Expenditures authorized under subsection (a)(2) shall not be available—

(1) for administrative expenses;

(2) for the reimbursement of governmental agencies for the salaries of personnel of such agencies detailed to the Corporation; or

(3) for operating expenses.

(d) REAL PROPERTY.—Funds authorized for administrative expenditures shall not be available for the acquisition of real property.

SEC. 110. CRIMINAL SANCTIONS.

Section 1905 of title 18, United States Code, shall apply—

(1) to Directors, officers, and employees of the Corporation as if they were officers or employees of the United States; and

(2) to the Corporation as if it were a Federal agency.

TITLE II—RESEARCH AND DEVELOPMENT

SEC. 201. RESEARCH PROJECTS.

(a) AUTHORIZATION.—The Secretary shall select research projects that are to receive funding under this Act that are recommended by the Board, for purposes of research to develop and produce new industrial products.

(b) APPROPRIATE PROJECTS.—

(1) DEVELOPMENT.—Each project shall target development of a new crop, or modification of an existing crop or agricultural material, that meets the criteria listed in paragraph (2).

(2) CRITERIA.—Projects should be selected on the basis of—

(A) the prospect of developing technologies that could make it possible to use or modify existing plants or plant products to provide an economically viable quantity of new industrial products;

(B) the potential market size of the new industrial product proportional to the amount of funding requested, the likely time period needed to bring the new industrial product into the stream of commerce for general use, and the likely ability to grow the plant used to produce the product at a profit;

(C) the potential for job creation in an economically distressed rural area;

(D) the anticipated State or local financial participation;

(E) the anticipated financial participation of private entities;

(F) the likely impact on reducing Federal crop subsidies and other Federal agricultural assistance program costs;

(G) the likely unavailability of appropriate funding from non-Federal sources;

(H) the likely positive impact on resource conservation and the environment; and

(I) the likely positive affect of helping family-sized farmers and communities near the affected agricultural areas.

(c) FUNDING.—

(1) PURPOSE.—Funding shall only be provided under this Act to those projects that have as the principal purpose the development of new industrial products, with priority given to biotechnological research projects.

(2) CONSORTIA.—The Secretary may fund projects proposed by consortia.

(3) LIMITATION.—No funds authorized to be appropriated under this Act shall be used to plan, repair, rehabilitate, acquire, or construct a building or facility.

(4) PERIOD OF FUNDING.—Funding—

(A) shall cover the proposed research necessary for not less than 3 years, or until a marketable product is developed or determined to be unattainable or unnecessary; and

(B) may be extended, subject to satisfactory review, for additional 3-year periods or until a marketable new industrial product is developed or determined to be unattainable or unnecessary.

(d) CONTRACTS.—The Secretary may sign contracts that assign research responsibilities to an appropriate consortium or other entity capable of conducting the appropriate research over the applicable research period.

(e) PEER REVIEW.—The Board shall establish peer review committees of technical experts who shall review each project proposal based on technical review and report the results of such reviews to the Board.

(f) REVIEW AND REPORTING.—

(1) GRANT RECIPIENTS.—Grant recipients shall report on the progress of the group to the Board annually or as otherwise required by the Board.

(2) BOARD.—The Board shall review the progress of the projects approved by the Secretary and report to the Secretary on the projects with recommendations concerning continued research.

TITLE III—ESTABLISHMENT OF REGIONAL CENTERS

SEC. 301. REGIONAL CENTERS.

(a) ESTABLISHMENT OF REGIONAL CENTERS.—The Corporation shall establish a minimum of four and a maximum of nine Regional Centers in the United States, as provided for in this section.

(b) LOCATION.—

(1) IN GENERAL.—Each Regional Center established by the Corporation pursuant to this section shall be located in a different State, reflective of regional climatic conditions, rural economic stress, and the qualifications of the applicant to serve as the host institution for a Regional Center and to carry out the duties of the Corporation.

(2) COMPETITIVE AWARDING.—Host institutions desiring to have a Regional Center located in their region shall submit a proposal for such location to the Board. The Board shall determine the location of such centers based on a competitive review of the contents of such proposals.

(3) HOST INSTITUTIONS.—Each Regional Center shall be located at a host institution in the region.

(4) MATCHING OF FUNDS.—

(A) IN GENERAL.—Each candidate host institution submitting a proposal for a Regional Center under this section shall provide assurances—

(i) that adequate funds or in-kind support (including office space, equipment and staff support) shall be provided to match the amount of funds used for administrative costs that are provided by the Federal government under this Act;

(ii) that it is qualified to carry out the activities required of a Regional Center;

(iii) concerning such other factors as the Corporation shall determine appropriate.

(B) APPLICANTS.—The matching funds required under subparagraph (A) may be provided by a consortia that may include the host institution and other public or private entities existing within various regions of the United States, including State and local governments, entities created by State and local governments, charitable organizations, public and private universities and other institutions of higher education, cooperatives, and economic development organizations.

(c) ACTIVITIES.—Each Regional Center shall carry on activities provided for in this Act and such other activities as the Board shall from time to time delegate to such Centers.

(d) REGIONAL DIRECTOR.—Each Regional Center shall be headed by a full-time Regional Director who shall—

(1) be selected by the Board;

(2)(A) have a scientific or engineering background; or

(B) have experience in the new industrial product development of new industrial products or processes in the public or private sector.

(e) ADVISORY COUNCILS.—

(1) APPOINTMENT.—The Board shall appoint an Advisory Council for each Regional Center. Such Council shall advise the Regional Director concerning all applications for assistance.

(2) COMPOSITION.—An Advisory Council shall be comprised of representatives of the public sector, the financial sector, the private business community, State and local governments, educational institutions, private and Federal laboratories, the agricultural sector, scientists, and engineers. An Advisory Council shall be subject to the Federal Advisory Committee Act (5 U.S.C. App. 2).

(3) DUTIES.—

(A) PRIMARY DUTY.—The primary duty of the members of an Advisory Council shall be to review or coordinate the review of the technical, engineering, financial, and managerial soundness and marketing potential of the applications for assistance received under this Act.

(B) MONITORING ACTIVITIES.—An Advisory Council may assist a Regional Director in monitoring the progress of ongoing projects by providing technical and business counseling when needed.

(C) TECHNICAL AND BUSINESS COUNSELING.—An Advisory Council may provide technical and business counseling to entities not seeking financial assistance from the Corporation, but that are engaged in commercializing nonfood, nonfeed uses of agricultural and forestry commodities.

SEC. 302. ACTIVITIES OF THE REGIONAL CENTERS.

A Regional Center shall—

(1) encourage interaction among private and Federal laboratories, National Science Foundation centers, Department of Agriculture research programs, and other Federal resources, State and local regional economic new industrial product development programs, universities, colleges, the private sector and the financial community, for the purpose of evaluating and commercializing new, nonfood, nonfeed uses of agricultural and forestry products;

(2) identify broad areas where commercialization of new industrial products and processes can contribute to the economic growth in rural areas of the United States, through the development of new, nonfood, nonfeed uses for farm and forest products by private companies and businesses;

(3) provide technical assistance and related business and financial counseling for small American businesses to commercialize new, nonfood, nonfeed uses of agricultural and forestry products;

(4) identify new nonfood, nonfeed products and processes that are worthy of financial assistance for future commercialization;

(5) make use of existing programs in scientific, engineering, technical and management education that will support the accelerated commercialization of new, nonfood, nonfeed products and processes using farm and forest products;

(6) advise the Corporation on the viability of specific proposals submitted for financial assistance for future commercialization and on the type of assistance, if any, to be provided; and

(7) coordinate their activities with the Small Business Development Centers authorized by section 21 of the Small Business Act (15 U.S.C. 648).

TITLE IV—FINANCIAL ASSISTANCE FOR COMMERCIALIZATION

SEC. 401. PROVISION OF FINANCIAL ASSISTANCE.

(a) IN GENERAL.—The Corporation, through the Regional Directors, in accordance with the criteria provided for in section 402, may provide, to projects for the commercialization of new, nonfood, nonfeed products using agricultural and forestry commodities, financial assistance in the form of—

(1) loans made or insured by the Corporation (backed by the full faith and credit of the United States);

(2) interest subsidy payments made by the Corporation to the lender equal to an amount determined pursuant to an agreement between the Corporation, the lender, and the borrower;

(3) venture capital invested by the Corporation in the form of a convertible debenture;

(4) repayable grants that are matched by private, State or local public funds and that are repaid as agreed in a contract between the Corporation and entity; and

(5) umbrella bonding.

(b) DISCRETIONARY FUNDS.—The Board may establish a discretionary fund for each Regional Center of not more than 1 percent of the amounts made available to carry out this section. Such funds shall be used for activities related to financial assistance described under this section and section 402. Each 6 months, a regional Director shall prepare and submit to the Board a report that accounts for expenditures made from this fund.

(c) OVERSIGHT OF PROJECTS.—

(1) IN GENERAL.—The Corporation shall monitor the progress of the projects that receive financial assistance under this Act.

(2) TYPE OF OVERSIGHT.—Such oversight may include on-site reviews, written reports, and supportive business and technical counseling, as needed. The Director may call on the Advisory Council to assist in such monitoring.

(3) DEMONSTRATION BY APPLICANTS.—The Corporation may require that applicants demonstrate that the use of financial assistance is in compliance with the contractual agreement.

SEC. 402. ELIGIBILITY CRITERIA FOR FINANCIAL ASSISTANCE FOR COMMERCIALIZATION.

(a) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—To obtain financial assistance for commercialization of industrial products from the Corporation, an entity shall—

(A) be a university or other institution of higher education, a nonprofit organization, a cooperative, or a small business concern; and

(B) file an application with the Regional Director of a Regional Center.

(2) DEFINITIONS.—As used in paragraph (1):

(A) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means an organization that is—

(i) described in section 501(c) of the Internal Revenue Code of 1986; and

(ii) exempt from taxation under section 501(a) of such Code.

(B) SMALL BUSINESS CONCERN.—The term "small business concern" shall have the same meaning given such term in section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and in implementing rules issued by the Administrator of the Small Business Administration under such section.

(b) APPLICATION.—An application submitted to the Regional Director under subsection (a) shall—

(1) describe the proposal of the entity for the commercialization of a new industrial product consistent with this section, including documentation that such proposal is—

(A) scientifically sound;

(B) technologically feasible; and

(C) marketable;

(2) provide documentation that adequate private sector funding is not available, but that the applicant has the ability to obtain matching funds from the public or private sectors;

(3) provide documentation that the applicant's own resources, including time and money, have been invested in the project;

(4) provide documentation that the product or process has broad application and has

the potential to be commercially viable without continual assistance;

(5) provide documentation that the proposal will be carried out with broad participation by representatives of the sectors described in section 301(e)(2);

(6) provide documentation that the managerial ability or an established relationship exists between the applicant and other entities to give the applicant access to sufficient private business assistance;

(7) provide assurances of legal compliance by the applicant with the terms and conditions for the receipt of assistance under this Act; and

(8) provide assurances that the proposal will result in the creation of new jobs in rural areas.

(c) SELECTION CRITERIA.—

(1) IN GENERAL.—The Board shall give priority to—

(A) applications that create jobs in economically distressed rural areas;

(B) applications that have State or local government financial participation; and

(C) applications that have significant private financial participation.

(2) ADDITIONAL CRITERIA.—The Board shall establish additional criteria for use in selecting among equivalent applications. Such criteria shall emphasize—

(A) the quantity and quality of jobs that are likely to be created;

(B) the amount of the financial participation by State or local governments or private entities;

(C) the qualifications of the management to be used in the project;

(D) the potential market demand for the potential product to be marketed proportional to the financial assistance requested; and

(E) the likely level of returns to the revolving fund established under section 501, and the items described in section 201(b)(2)(B), (F), (H), and (I).

(d) APPLICATION REVIEW PROCESS.—

(1) IN GENERAL.—A Regional Director shall work in consultation with an Advisory Council to review and evaluate the proposals submitted to the Regional Center.

(2) ADVISORY COUNCIL.—The Advisory Council shall review proposals submitted to the Regional Centers. The Advisory Council shall, by majority vote, make a nonbinding recommendation on the proposal to the Regional Director. No member of the Advisory Council shall participate in making recommendations concerning proposals in which, to the knowledge of such member, such member, spouse or minor child of such member, partner or organization in which such member is serving as officer, director, trustee, partner, or employee, or any person or organization with whom such member is negotiating or has any arrangement with concerning prospective employment, has a financial interest, as determined by the Regional Director.

(3) REGIONAL DIRECTOR.—The Regional Director, on consideration of the Advisory Council's recommendation and any other comments received from interested parties, shall make and submit the Director's recommendation to the Board along with the recommendation of the Advisory Council.

(4) CORPORATE BOARD.—The Board shall, by majority vote, make the final decision on whether and how to provide assistance to the applicant.

(5) CONFIDENTIALITY.—The Board shall establish procedures that shall ensure the confidentiality of applications submitted under this section.

(e) NOTICE OF APPLICATIONS.—The Board shall publish in the Federal Register a notice that it is receiving applications for assistance under this Act not later that 30 days prior to the period established for receipt of such applications.

SEC. 403. REPAYMENT OF FINANCIAL ASSISTANCE.

(a) REPAYMENT.—An entity receiving financial assistance under this Act shall repay the Corporation in accordance with the contract between the Corporation and the entity.

(b) WAIVERS.—The Board may waive the repayment of financial assistance for such reasonable grounds as the Board may from time to time determine.

(c) MAXIMUM REPAYMENT TIME LIMIT.—Financial assistance made available under this Act shall have a maximum repayment period that is not in excess of 12 years.

TITLE V—REVOLVING FUND

SEC. 501. REVOLVING FUND.

(a) ESTABLISHMENT.—There is established a revolving fund to be administered by the Board as provided for in this section.

(b) CONTENTS.—Funds received by the Regional Centers under section 403 as a result of any financial assistance made pursuant to this Act, shall be converted into and become a part of the revolving fund established under subsection (a).

(c) USE OF FUND.—The revolving fund established under subsection (a) shall be available, as provided in appropriation Acts, to provide financial assistance under sections 401 and 402, and to pay for the costs of operation as provided for in section 109.

(d) CONTRIBUTIONS.—Amounts received from contributions from State tax check-off programs, or other independent sources, may also become part of the revolving fund established under this section. Such amounts may be specified by the donor for any form of financial assistance for a project in a particular region or State.

TITLE VI—AUTHORIZATION OF APPROPRIATIONS

SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act for each of the fiscal years 1990 through 1999. Of amounts so appropriated, $10,000,000 shall be made available for fiscal year 1990, $20,000,000 shall be made available for fiscal year 1991, $30,000,000 shall be made available for fiscal year 1992, $50,000,000 shall be made available for fiscal year 1993, and $75,000,000 shall be made available in each of the 6 fiscal years thereafter, to carry out title II.●

By Mr. ADAMS (for himself, Mr. GORTON, Mr. MOYNIHAN, Mr. LAUTENBERG, Mr. DURENBERGER, Mr. KERRY, Mr. HEFLIN, Mr. GORE, Mr. THURMOND, Mr. HATCH, Mr. BOSCHWITZ, Mr. LUGAR, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. BAUCUS, Mr. BURNS, Mr. SYMMS, Mr. MCCLURE, Mr. CONRAD, Mr. METZENBAUM, Mr. KOHL, Mr. DECONCINI, Mr. WILSON, Mr. PRYOR, and Mr. NUNN):

S.J. Res. 209. Joint resolution to designate November 11, 1989, as "Washington Centennial Day"; to the Committee on the Judiciary.

WASHINGTON CENTENNIAL DAY

Mr. ADAMS. Mr. President, I rise today to introduce a resolution to designate November 11, 1989, "Washington Centennial Day." I am pleased to be joined by my colleague and fellow Washingtonian, Senator SLADE GORTON.

Mr. President, 1989 marks the 100th year of statehood for our home State of Washington. On November 11, 1889, at 3:09 p.m., the first Governor of Washington State, Elisha P. Ferry, received a telegram from President Benjamin Harrison announcing the designation of Washington as the 42d State in the Union. A story in the Tacoma Daily News the following day exemplifies the pride and joy felt by the people of Washington State:

Occupying, as it does, the very richest section of the whole country, with its wealth of inland shores lined with timber enough to supply the world, with its rich veins of valuable ores, with its valuable agricultural lands and its unparalleled scenery for beauty and grandeur, combined with its unequalled climate, it starts out on its life of statehood with not only the eyes of this land, but the whole world upon it.

In addition to the obvious resource wealth of our State, we have been blessed by a population that has always shown a tremendous ability to overcome adversity and lend a hand to fellow Washingtonians in times of need. We have celebrated all of these treasures throughout the centennial year with hundreds of festivals, exhibits and other special events that signify all that is Washington. These activities will remind the residents of Washington and people around the Nation of our resources.

We will also recall the tremendous economic and population growth of the 1700's and 1800's. We often hear the stories of fur traders and goldseekers who came West seeking fame and fortune. First came the rugged travelers, then the brides, and finally, whole families, determined to brave the hardships of a new life. The completion of a railroad with the East in 1883 eventually brought many of the luxuries and innovations of an advancing nation to the Northwest.

Since statehood in 1889, Washington has witnessed tremendous growth. Washington State has become a leader in aviation, shipbuilding, trade, forestry, agriculture, and energy resources. The population has reached over 4.4 million. The Puget Sound area flourishes as a gateway to the Pacific. Eastern Washington consists of rich agricultural land that has made our State famous worldwide for its Washington apples and many other crops.

At the same time we look upon the past with pride, we must recognize we have made a good start and use this momentum to lay the groundwork for future excellence. While Washington's vibrant economy remains a source of

pride, we must acknowledge that we have some very real problems. The urban and rural areas of Washington share the same problems felt across the country. In these periods of difficulty, it is fitting that we reflect on our history and culture as we strive toward a better future. While this centennial year should be a time of celebration, it should also be used to rededicate ourselves to the improvement of our State. With the same perseverance Lewis and Clark had as they searched for the Pacific Ocean, we can take this opportunity to find solutions to some of our State's problems.

As our State experiences the dawn of a new century, we look to the past with pride and make a commitment to work to ensure a bright future for our children and our children's children. We remain the trustees of great natural resources, beauty and opportunity and we will do our best to protect these things for the Nation's Evergreen State.

Mr. GORTON. Mr. President, it is with special pleasure that I join my colleague Senator Adams in introducing and supporting the joint resolution marking the centennial of my home State of Washington. We are honored to share this centennial year with five other Western States: Idaho, Montana, North Dakota, South Dakota, and Wyoming. These six Western States have added greatly to the richness and diversity of our Union.

Washington became the first and only State named after a President on November 11, 1889, when Benjamin Harrison signed a proclamation with a pen made of Washington gold and a holder of Washington laurel. The Western Union telegram announcing this event sent to Gov. Elisha P. Ferry was, appropriately enough, sent collect.

Washington had been inhabited by Native Americans for thousands of years, but was not well known to the rest of the world until 1778 when Captain Cook explored the area and returned with tales of the richness of the land, timber, and fur of the Pacific Northwest. More explorers followed and in 1804 the young United States of America sent out an expedition led by Lewis and Clark to explore the area for the new Nation. Missionaries and pioneers began to flow across the continent to settle in the fertile Oregon territory. Among those first settlers was Marcus Whitman, a missionary whose statue is located here in our Nation's Capitol.

In 1889, Washington had just 350,000 people, well under the current population of present day Seattle. Over the last century the State has grown to nearly 4.5 million people. These residents, like the pioneers before them, were attracted to the State by its soaring forests, rich waters, grand mountains, and mild climate. These hardy inhabitants came from around the globe, with many early settlers hailing from Scandanavia and more recent immigrants coming from Asia and Latin America.

Let us for a moment Mr. President, turn back the clock 100 years, to the events leading to statehood that are commemorated by the resolution.

On July 4, 1889, a constitutional convention convened in Olympia to write a State constitution. The convention finally adjourned at 9:30 p.m. on August 22, 1889, and referred a State constitution to the people for ratification on October 1.

That election would also select the site of the State capital, and decide who would be Governor of Washington if it achieved statehood.

It will hearten my Republican colleagues, at least, to know that on, September 19, 1889, the Democratic candidate for Governor boasted that he would win the October election, and that a Democratic landslide would eradicate the Republicans in the Washington Territory "like a Kansas cyclone." I am just partisan enough to be delighted the Democrats lost, shall we say, "as if buried by a Cascade avalanche."

The October election arrived and the constitution was ratified, Olympia was chosen as the State capital and Republican Governor Elisha Ferry was elected.

Only one thing stood in the way of achieving statehood: the Territorial Governor forgot to certify to President Harrison that the constitution that was sent to Washington, DC, was a true copy of the original. Properly, the President refused to sign it. Amid the ensuing uproar, the Governor dispatched on November 4, the proper certificate by something called fast mail.

I must say, Mr. President, we have not improved much in the last 100 years. The certificate arrived at the White House on November 9, a scant 5 days later. Today, a letter mailed from the State is likely to take at least that long.

Two days later, on November 11, 1889, President Harrison signed the constitution, and Washington was officially proclaimed a State.

Mr. President, in the ensuing 100 years, Washington State has grown to be the second most populous State in the West and a national leader in many areas such as aviation, computer software, forestry, and agricultural products. As we enter our second century of statehood we will strive to live up to the theme of the Washington State Centennial Commission to "Celebrate the heritage of the past, the energy of the present, and the promise of the future."

ADDITIONAL COSPONSORS

S. 464

At the request of Mr. SANFORD, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 464, a bill to promote safety and health in workplaces owned, operated, or under contract with the United States by clarifying the United States' obligation to observe occupational safety and health standards and clarifying the United States' responsibility for harm caused by its negligence at any workplace owned by, operated by, or under contract with the United States.

S. 479

At the request of Mr. HATCH, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 479, a bill to amend the Internal Revenue Code to allow for deduction of qualified adoption expenses, and for other purposes.

S. 695

At the request of Mr. PELL, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Illinois [Mr. SIMON], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 695, a bill to promote excellence in American education by recognizing and rewarding schools, teachers, and students for their outstanding achievements; enhancing parental choice; encouraging the study of science, mathematics, and engineering, and for other purposes.

S. 720

At the request of Mr. BOREN, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 720, a bill to amend the Internal Revenue Code of 1986 to extend and modify the targeted jobs credit, and for other purposes.

S. 1193

At the request of Mr. MOYNIHAN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1193, a bill to establish a comprehensive program for the rehabilitation of drug dependent Federal offenders.

S. 1207

At the request of Mr. PACKWOOD, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1207, a bill to amend the Communications Act of 1934 to reform the radio broadcast license renewal process, and for other purposes.

S. 1237

At the request of Mr. GLENN, the names of the Senator from Illinois [Mr. SIMON] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 1237, a bill to require the Administrator of the General Services Administration to encourage the use of plastics derived from

certain commodities, and to include such products in the General Services Administration inventory for supply to Federal agencies, and to establish an Interagency Council on Biodegradable Standards for the development of uniform definitions, standards, and testing procedures for degradable plastic products made from certain commodities, and for other purposes.

S. 1338

At the request of Mr. GRASSLEY, his name was withdrawn as a cosponsor of S. 1338, a bill to amend title 18, United States Code, to protect the physical integrity of the flag of the United States.

S. 1591

At the request of Mr. MOYNIHAN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1591, a bill to amend title XVIII of the Social Security Act to provide coverage of clinical workers, psychiatric nurses, and marriage and family therapists when provided on-site at a community mental health center or off-site as part of a treatment plan.

S. 1632

At the request of Mr. ROTH, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1632, a bill to establish a Federal Strategic Drug Intelligence Center.

S. 1636

At the request of Mr. BRYAN, the names of the Senator from Maine [Mr. COHEN], the Senator from Pennsylvania [Mr. SPECTER], the Senator from California [Mr. WILSON], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 1636, a bill to amend the Internal Revenue Code of 1986 to extend the period for issuing small issue bonds for manufacturing facilities through 1991.

S. 1653

At the request of Mr. BAUCUS, the names of the Senator from New Jersey [Mr. BRADLEY] and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of S. 1653, a bill to preserve the solvency of the Railroad Retirement System.

S. 1676

At the request of Mr. PELL, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1676, a bill to strengthen the teaching profession, and for other purposes.

SENATE JOINT RESOLUTION 102

At the request of Mr. D'AMATO, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of Senate Joint Resolution 102, a joint resolution designating September 1989 as "National Library Card Sign-Up Month."

SENATE JOINT RESOLUTION 122

At the request of Mr. LUGAR, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of Senate Joint Resolution 122, a joint resolution to designate October 1989 and 1990 as "National Down Syndrome Month."

SENATE JOINT RESOLUTION 164

At the request of Mr. NICKLES, the names of the Senator from Arkansas [Mr. PRYOR] and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of Senate Joint Resolution 164, a joint resolution designating 1990 as the "International Year of Bible Reading."

SENATE JOINT RESOLUTION 180

At the request of Mr. GRASSLEY, his name was withdrawn as a cosponsor of Senate Joint Resolution 180, a joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States.

SENATE JOINT RESOLUTION 182

At the request of Mr. DOLE, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Joint Resolution 182, a joint resolution to commemorate the 50th anniversary of Little League Baseball.

SENATE JOINT RESOLUTION 186

At the request of Mr. MCCLURE, the names of the Senator from Delaware [Mr. ROTH], the Senator from Tennessee [Mr. SASSER], the Senator from Georgia [Mr. NUNN], the Senator from Utah [Mr. HATCH], the Senator from South Carolina [Mr. THURMOND], the Senator from South Dakota [Mr. PRESSLER], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Missouri [Mr. BOND] were added as cosponsors of Senate Joint Resolution 186, a joint resolution designating the week of March 1 through March 7, 1990, as "National Quarter Horse Week."

SENATE JOINT RESOLUTION 188

At the request of Mr. D'AMATO, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Joint Resolution 188, a joint resolution designating the week of October 23, 1989, through October 29, 1989, as "Eating Disorders Awareness Week."

SENATE JOINT RESOLUTION 194

At the request of Mr. LAUTENBERG, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Massachusetts [Mr. KERRY], the Senator from Nebraska [Mr. EXON], the Senator from Arizona [Mr. DECONCINI], the Senator from Nevada [Mr. BRYAN], the Senator from Michigan [Mr. LEVIN], the Senator from North Carolina [Mr. HELMS], the Senator from North Dakota [Mr. CONRAD], the Senator from Connecticut [Mr. DODD], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Indiana [Mr. LUGAR], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Oklahoma [Mr. BOREN], the Senator from Washington [Mr. ADAMS], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Joint Resolution 194, a joint resolution designating November 12-18, 1989, as "National Glaucoma Awareness Week."

SENATE JOINT RESOLUTION 204

At the request of Mr. NUNN, the names of the Senator from Washington [Mr. ADAMS], the Senator from Wisconsin [Mr. KOHL], the Senator from Ohio [Mr. GLENN], the Senator from Idaho [Mr. MCCLURE], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of Senate Joint Resolution 204, a joint resolution designating October 28, 1989, as "National Women Veterans of World War II Day."

SENATE CONCURRENT RESOLUTION 52

At the request of Mr. HATFIELD, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Concurrent Resolution 52, a concurrent resolution to express the sense of the Congress that science, mathematics, and technology education should be a national priority.

SENATE CONCURRENT RESOLUTION 60

At the request of Mr. MOYNIHAN, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of Senate Concurrent Resolution 60, a concurrent resolution expressing the sense of the U.S. Senate that the Soviet Union should release the prison records of Raoul Wallenberg and account for his whereabouts.

SENATE CONCURRENT RESOLUTION 63

At the request of Mr. BREAUX, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Concurrent Resolution 63, a concurrent resolution to recognize the uniqueness of and express strong support for the maritime policy of the United States and to urge the President in the strongest possible terms to ensure that the United States does not propose maritime transportation services for inclusion in the General Agreement on Tariffs and Trade discussions and that any proposal that would consider maritime transportation as an area for negotiation is actively opposed by the United States.

SENATE RESOLUTION 99

At the request of Mr. BOSCHWITZ, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of Senate Resolution 99, a resolution requiring the Architect of the Capitol to establish and implement a voluntary program for recycling paper disposed of in the operation of the Senate.

AMENDMENT NO. 882

At the request of Mr. LEVIN, his name was added as a cosponsor of amendment No. 882 proposed to H.R. 3072, a bill making appropriations for

the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes.

At the request of Mr. GRAHAM, his name was added as a cosponsor of amendment No. 882 proposed to H.R. 3072, supra.

SENATE RESOLUTION 187—ORIGINAL RESOLUTION REPORTED AMENDING THE STANDING RULES OF THE SENATE

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

S. RES. 187

Resolved, That (a) Paragraph 1 of rule XL of the Standing Rules of the Senate is amended by striking out "section 3210(a)(5)(D)" and inserting in lieu thereof "section 3210(a)(6)(E)".

(b) Paragraph 3 of rule XL of the Standing Rules of the Senate is amended by striking out "section 3210(a)(5)(D)" and inserting in lieu thereof "section 3210(a)(6)(E)".

SENATE RESOLUTION 188—ORIGINAL RESOLUTION REPORTED RELATING TO REVISION AND PRINTING OF THE SENATE MANUAL

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

S. RES. 188

Resolved, That the Committee on Rules and Administration hereby is directed to prepare a revised edition of the Senate Rules and Manual for the use of the One Hundred First Congress, that said manual shall be printed as a Senate document, and that two thousand additional copies shall be printed and bound, of which one thousand copies shall be for the use of the Senate, and one thousand copies shall be bound and delivered as may be directed by the Committee on Rules and Administration.

AMENDMENTS SUBMITTED

CONTINUING APPROPRIATIONS, FISCAL YEAR 1989

BYRD (AND OTHERS) AMENDMENT NO. 885

Mr. BYRD (for himself, Mr. HATFIELD, Mr. HOLLINGS, Mr. THURMOND, Mr. SANFORD, and Mr. HELMS) proposed an amendment to the joint resolution (H.J. Res. 407) making continuing appropriations for the fiscal year 1989, and for other purposes, as follows:

On page 8 after line 2 insert the following:

SEC. 107. For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), an additional $1,108,000,000 for fiscal year 1989, to remain available until expended.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1990

HEFLIN (AND OTHERS) AMENDMENT NO. 886

Mr. STEVENS (for Mr. HEFLIN, for himself, Mr. STEVENS, Mr. SHELBY, Mr. WARNER, Mr. NUNN, Mr. WALLOP, Mr. DOLE, Mr. WILSON, and Mr. THURMOND) proposed an amendment to reported amendment on page 36 of the bill (H.R. 3072) making appropriations for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes; as follows:

On page 37, line 2 strike the period, and add: ": *Provided further,* That of the funds appropriated in this Title, $4,301,904,000 shall be available only for the Strategic Defense Initiative: *Provided further,* That the Secretary of Defense shall provide the House and Senate Committees on Armed Services and Appropriations a revised Research, Development, Test and Evaluation Programs (R-1) exhibit reflecting all adjustments to programs in this Title.".

KERRY (AND OTHERS) AMENDMENT NO. 887

Mr. KERRY (for himself, Mr. JEFFORDS, Mr. HARKIN, Mr. SIMON, Mr. CONRAD, Mr. KENNEDY, Mr. CRANSTON, and Mr. BUMPERS) proposed an amendment, which was subsequently modified, to the language proposed to be stricken in the reported amendment on page 83, lines 1 through 5 of the bill H.R. 3072, supra, as follows:

In lieu of the language proposed to be stricken insert the following:

Congress makes the following findings:

The United States Government relies on satellites for communication, early warning of attack, monitoring compliance with arms control agreements, and many other vital national security functions;

Such satellites constitute vital integral parts of many United States weapons systems, command, control and communications systems, and other military systems;

It is essential to the national security of the United States that United States Government satellites not be vulnerable to antisatellite attacks;

It is in the national security interests of the United States and its allies to deter the development and testing of antisatellite weapons by the Soviet Union;

It is in the national security interests of the United States to undertake a balanced response to Soviet antisatellite capabilities, which includes a measured Asat program;

Key agencies of the Executive Branch are examining options for specific antisatellite arms control measures; Therefore:

The executive branch should conclude its examination of specific antisatellite arms control options and rules of the road for space activities without delay, and include its recommendations and conclusions from this examination in the report to Congress already required by the Conference Report on the Fiscal Year 1989 Dire Emergency Supplemental Appropriations Act;

The President shall—with a view toward considering how to improve United States Asat arms control monitoring capabilities—assess the national security implications for the United States of a mutual deployment of cooperative monitoring and verification technologies; the results of such assessment shall be included in the above mentioned report; and

As soon as practicable, the President should take advantage of the forum provided by the ongoing defense and space talks with the Soviet Union to explore—consistent with the conclusions of the above-mentioned report—adequately verifiable limitations on the development, testing, production, and deployment of weapons capable of directly threatening United States military satellites.

WARNER AMENDMENT NO. 88

Mr. McCAIN (for Mr. WARNER) proposes an amendment to the bill H.R. 3072, supra; as follows:

At an appropriate place in the bill, add the following new section:

SEC. . FEASIBILITY STUDY OF LAND TRANSFER FOR USE AS A CORRECTIONAL FACILITY.

(a)(1) The Secretary of Defense, in consultation with the United States Attorney General, shall conduct a study of the feasibility of selling or otherwise transferring to the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, a parcel of land approximately 100 acres not more than 100 miles from the southern boundary of Arlington County, from the military installations within Virginia which encompass land that may be suitable for use by the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, as a site for a medium security correctional facility for persons sentenced in the courts of Virginia or in the United States District Court in Virginia.

(2) The study required by paragraph (1) shall address, at a minimum, the following issues:

(A) Whether there are parcels of land within those installations of the size described which could be released from Federal control without severely affecting the present missions of such installations.

(B) A description of the parcels of land described in subparagraph (A).

(C) A description of the effects, if any, transfer of such parcels of land from Federal control would have on the ability of the Secretary of Defense to effectively carry out the mission of the Department of Defense.

(D) An analysis of the risk, if any, that might be posed to military personnel and their dependents housed on such installations by the operation of such a correctional facility on the parcels of land described in subparagraph (A).

(E) An estimate of the date on which the parcels of land described in subparagraph (A) would be available for transfer from Federal control.

(b) The report of the study described under subsection (a) shall be delivered to the Committees on Armed Services of the Senate and House of Representatives not later than 60 days after enactment of this Act.

METZENBAUM AMENDMENT NO. 889

Mr. METZENBAUM proposed an amendment to the bill H.R. 3072, supra, as follows:

On page 108, between lines 4 and 5, insert the following:

SEC. 9100. (a) None of the funds appropriated by this Act may be used for the purpose of supporting an end-strength level, as of September 30, 1990, of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO) at any level greater than the number equal to 30,000 less than the end-strength level, as of September 30, 1989, of members of the Armed Forces of the United States assigned to permanent duty ashore in such nations.

(b) It is the sense of Congress that (1) a declaration of war by Congress or a declaration of a national emergency by Congress or the President authorizes the President to obligate and expend funds appropriated by this Act for the purpose of supporting any end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO) that is necessary to prosecute the war or to resolve the national emergency, (2) any amount that is obligated subject to full reimbursement of the United States by any European member nation of NATO should not be considered as obligated in violation of subsection (a), and (3) if an agreement is entered into by the United States and its NATO allies and the Soviet Union and its Warsaw Pact allies on the reduction of conventional armed forces in Europe (CFE) by October 1, 1990, subsection (a) shall be null and void.

CONRAD AMENDMENT NO. 890

Mr. CONRAD proposed an amendment to amendment No. 889 proposed by Mr. METZENBAUM to the bill H.R. 3072, supra; as follows:

On page 1, line 3, strike out "(a)" and all that follows through the end of the amendment, and insert in lieu thereof the following:

(a) None of the funds appropriated by this Act may be used for the purpose of supporting an end-strength level, as of September 30, 1990, of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO) at any level greater than the number equal to 30,000 less than the end-strength level, as of September 30, 1989, of members of the Armed Forces of the United States assigned to permanent duty ashore in such nations.

(b) It is the sense of Congress that (1) a declaration of war by Congress or a declaration of a national emergency by Congress or the President authorizes the President to obligate and expend funds appropriated by this Act for the purpose of supporting any end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO) that is necessary to prosecute the war or to resolve the national emergency, (2) any amount that is obligated subject to full reimbursement of the United States by any European member nation of NATO should not be considered as obligated in violation of subsection (a), and (3) an obligation of any amount for the purpose of supporting an end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO in order to carry out a comprehensive agreement entered into by the United States and its NATO allies and the Soviet Union and its Warsaw Pact allies on the reduction of conventional armed forces in Europe (CFE) should not be considered as an obligation in violation of subsection (a).

(c)(1) The Secretary of Defense shall transfer funds appropriated by this Act for the fiscal year ending September 30, 1990, as provided in paragraphs (2) and (3). The amounts transferred shall be derived from funds that, except for subsection (a), would have been available for the purpose of supporting a higher end-strength level, as of September 30, 1990, of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO) than the maximum end-strength level for which obligations and expenditures are permitted under such subsection.

(2) The Secretary of Defense shall transfer $941,475,000 to the Department of Education. The amount so transferred shall be available as follows:

(A) For programs under chapter 1 of the Elementary and Secondary Education Act, $499,307,000.

(B) For the Pell grant program, $331,000,000.

(C) For the Fund for the Improvement and Reform of Schools and Teaching (FIRST) for family-school partnerships, $5,000,000.

(D) For vocational education programs authorized by parts C, D, and E of title III of the Carl D. Perkins Vocational Educational Act, $30,000,000 of which—

(i) $10,000,000 shall be available for the programs authorized by part C;

(ii) $10,000,000 shall be available for the programs authorized by part D; and

(iii) $10,000,000 shall be available for the programs authorized by part E.

(E) For adult education workplace literacy partnerships authorized by the Adult Education Act, $20,000,000.

(F) For the Office of Educational Research and Improvement, $8,000,000, of which—

(i) $6,000,000 shall be available for the rural schools program administered through regional laboratories; and

(ii) $2,000,000 shall be available for general research activities.

(G) For education of the handicapped grants to States authorized by Public Law 94-142, $40,000,000.

(H) For higher education special programs for the disadvantaged (TRIO), $8,168,000.

(3) The Secretary of Defense shall transfer $60,000,000 to the Department of Health and Human Services. The amount so transferred shall be available for the Head Start program.

(4) The amounts made available under this subsection for programs specified in paragraphs (2) and (3) are in addition to other amounts made available under other appropriation Acts for such programs for the fiscal year ending September 30, 1990.

(5) The amounts transferred pursuant to this subsection shall be merged with the appropriations available under other appropriation Acts for the programs specified in paragraphs (2) and (3) for the fiscal year ending September 30, 1990, and shall be available for the same time period as such appropriations.

HELMS AMENDMENT NO. 891

Mr. HELMS proposed an amendment to the reported amendment on page 107 of the bill H.R. 3072, supra; as follows:

At the end of the amendment add the following:

It is the sense of the Senate that the Conferees on H.R. 2788 should insist on that amendment numbered (7) to H.R. 2788 which states "None of the funds authorized to be appropriated pursuant to this Act may be used to promote, disseminate, or produce—

"(1) obscene or indecent materials, including but not limited to depictions of sadomasochism, homo-eroticism, the exploitation of children, or individuals engaged in sex acts; or

"(2) material which denigrates the objects or beliefs of the adherents of a particular religion or non-religion; or

"(3) material which denigrates, debases, or reviles a person, group, or class of citizens on the basis of race, creed, sex, handicap, age, or national origin.".

HATFIELD (AND OTHERS) AMENDMENT NO. 892

Mr. HATFIELD (for himself, Mr. KENNEDY, and Mr. HATCH) proposed an amendment to the bill H.R. 3072, supra, as follows:

At the end of the bill insert the following:

SEC. . STEWART B. McKINNEY HOMELESS ASSISTANCE ACT TECHNICAL AMENDMENT.

(a) IN GENERAL.—Section 739 of the Stewart R. McKinney Homeless Assistance Act (42 U.S.C. 11449) is amended—

(1) by striking subsection (b);

(2) by striking "; Availability of Funds" in the section heading;

(3) in subsection (a) by striking "(a) AUTHORIZATION OF APPROPRIATIONS.—

(4) by striking "(1)" and inserting "(a) AUTHORIZATION OF APPROPRIATIONS.—";

(5) by striking "(2)" and inserting "(b) RATABLE REDUCTION.—"; and

(6) by striking "(3)" and inserting "(c) SPECIAL RULE.—".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to funds obligated during fiscal year 1988 and each fiscal year thereafter.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on Tuesday, October 17, 1989, on the Regulatory Flexibility Act of 1980 and its impact on small business. The hearing will be held in room 428A of the Russell Senate Office Building. For further information, please call Bill Montalto, procurement policy counsel for the committee at 224-5175, or Marian Jacob of Senator WALLOP's staff at 224-0804.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Agricultural Research and General

Legislation of the Committee on Agriculture, Nutrition, and Forestry will hold a joint hearing with the House Agriculture Subcommittee on Department Operations, Research and Foreign Agriculture, to review the National Initiative for Research on Agriculture, Food and Environment. The hearing will be held on October 17, 1989, at 1 p.m., in 1300 Longworth House Office Building.

Senator THOMAS A. DASCHLE and Representative GEORGE E. BROWN, Jr., will chair the hearing. For further information, please contact Fritz Koppatschek at 224-2321.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. INOUYE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, September 28, 1989, at 2 p.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, September 28, at 9:30 a.m., for a hearing on the subject: Inspector General Act implementation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. INOUYE. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on September 28, 1989, 2 p.m., for a hearing to consider the following nominations: Dennis Underwood to be Commissioner, Bureau of Reclamation; John Sayer to be Assistant Secretary, Water and Science, DOI; David O'Neal to be Assistant Secretary, Land and Minerals Management, DOI; and Curtis McVee to be Federal Cochairman of the Alaska Land Use Council.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. INOUYE. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on September 28, 1989; at 9:30 a.m., to hold an oversight hearing on national science and technology policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on September 28, 1989, beginning at 2 p.m., in 485 Russell Senate Office Building, on S. 1124, the American Indian Religious Act Amendments of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. INOUYE. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on September 28, 1989, 10 a.m., for an oversight hearing to receive testimony on hydroelectric regulation under the Federal Power Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. INOUYE. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, September 28, beginning at 9 a.m., to conduct a hearing to hear testimony regarding pending Clean Air Act nonattainment legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Thursday, September 28, 1989, at 9:30 a.m. to conduct hearings on the HUD section 8 Moderate Rehabilitation Program, focusing on coinsurance.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 28, at 4 p.m., to hold a hearing on pending State Department nominations.

The PRESIDING OFFICER. Without objection, it is so ordred.

COMMITTEE ON FOREIGN RELATIONS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 28, at 2 p.m., to hold a hearing on pending ambassadorial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. INOUYE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, September 28, 1989, at 4:30 p.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on September 28, 1989, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

AMERICANS WITH DISABILITIES ACT

● Mr. INOUYE. Mr. President, I am most pleased that the Senate recently passed the Americans With Disabilities Act. In my judgment, this is truly landmark legislation, and I wish to commend my colleague, Senator HARKIN, chairman of the Subcommittee on the Handicapped, for his pivotal role in developing this comprehensive bill.

At this time, I would specifically like to address title I, section 101(5), on the prohibition of discrimination against individuals because of a relationship to, or association with, an individual with a disability. There is one group of people who continually face discrimination because of their relationship with people who have contracted the HIV virus or AIDS—they are our Nation's health care workers. Perhaps no group knows or understands the devastation of AIDS better than those who provide health care to the AIDS patients. Nurses provide continuous care for AIDS patients, from the initial stages of hospitalization, to home care, to the hospice stage of this fatal disease.

The AIDS epidemic has produced fear—both nationally and internationally. The fear has generated emotional and sometimes irrational responses by the public. In March 1987, the Supreme Court ruled that a person with a currently contagious disease may be considered "handicapped" under section 504 of the Rehabilitation Act of 1973. In other words, contagious diseases are covered by Federal laws which prohibit discrimination against disabled persons. Dr. Louis Sullivan, Secretary of Health and Human Services, has stated, "Discrimination against those infected with HIV virus is unacceptable. Fear and ignorance must be overcome, not accommodated." This discrimination also extends to persons who associate with disabled individuals—whether they be a family member, a partner, a teacher, or a

health care worker. Registered nurses have been in the forefront of providing quality care to AIDS patients. Yet, nurses' access to training, services, and even insurance, have been denied because they are the caregivers of AIDS patients. It is critical that we maintain our commitment to nurses by ensuring they are not discriminated against because they provide the essential and needed care for AIDS patients.●

JAMES W. SEWALL CO.

● Mr. COHEN. Mr. President, I would like to call my colleagues' attention to an article in a recent edition of the Bangor Daily News on the James W. Sewall Co., one of my State's most innovative and successful businesses.

This family-run corporation is respected as one of the Nation's foremost land surveying companies. Beginning in the 1950's, the reins of the company have passed through four generations of Sewalls, and, in the process, the business has grown from a local service to a major company with 110 employees and clients all over the country.

In order to produce maps portraying everything from tree diseases to land uses to electrical power grids, the Sewall Co. makes use of sophisticated aerial photography and satellite imagery. Its archives have grown to include more than 500,000 photographs, mostly of areas in New England and New York, and over 600 communities have used the company's expertise to create their tax maps.

The chairman of the company is Joe Sewall, a former four-term president of the Maine senate and a close friend of mine. It was Joe's experience as a World War II navigator that exposed him to the new technologies that came to fundamentally alter the surveying business.

Coordinating the company's day-to-day operations is Joe's son, David, who is carrying on the family tradition of growth and sound management.

The James W. Sewall Co. represents a fine example of a Maine business that is not resting on its laurels. I think many of you will find the following article of interest:

[From the Bangor (ME) Daily News]

IN THE SPOTLIGHT: JAMES W. SEWALL CO.—AERIAL PHOTOGRAPHY REVOLUTIONIZED SURVEYING COMPANY

(BY ANDREW KEKACS)

OLD TOWN.—Let's imagine that you just won the Tri-State Megabucks and are now the proud owner of $6 million.

Being both incredibly lucky and reasonably shrewd, you decide that Maine real estate is a good place to sock away some of that cash.

You buy a 10,000-acre parcel somewhere east of Lincoln. Now you need a company to produce an aerial survey of the place; prepare an inventory and map of its tree species, wetlands and other natural resources; engineer the wood roads that lead into your lakeside retreat; and design water and septic systems at the lodge to handle up to 250 guests.

To generate a little good will with the neighbors, you also ask the company to put together a new set of tax maps for the nearest town.

It's likely that the James W. Sewall Co. of Old Town is the only firm in the nation that can meet all of those needs without hiring people from outside the company.

The business traces it roots to the late 1850s. James W. Sewall Sr., a civil engineer who was born in Old Town, was supervising the construction of a sewer system in Tennessee. But he contracted malaria—then an incurable disease—and was advised by a doctor to get plenty of fresh air.

Sewall knew that Maine offered more fresh air than any other place in the East. He returned to the city of his birth and set up shop as a surveyor and forester.

He and his son, James Jr., provided a number of services for landowners. They surveyed parcels of land and prepared inventories to the size, type, age and quality of trees on them. Information collected in the field was used to create maps that helped owners decide how to cut their land.

The company also designed dams that provided water to float the trees to the mill. When trucks began to be used in the woods, the Sewall Co. engineered the roads.

Such field-based work kept the company busy for most of a century. Technology pioneered during World War II, however, played a major role in changing the way the Sewall Co. gathered information.

That technology was aerial photography, and Joseph Sewall had a chance to see its potential first-hand. The son of James Sewall Jr., he flew as a navigator during the war.

After V-J Day, Joseph Sewall brought the idea home to Old Town. The company began to experiment with it, while the younger Sewall made plans to earn a graduate degree in forestry.

Those plans were ended when his father died in 1946. Joseph Sewall took over the company and began to build an in-house capability for aerial photography.

"It revolutionized our business," said his 34-year-old son, David Sewall, who is executive vice president of the company. "It literally brought the field into the office."

David Sewall coordinates day-to-day operations of the company and, with his father, determines overall corporate policy. Joseph Sewall, 67, is the chairman. The two are sole owners of the company, which has about 110 employees.

Rapid changes in technology and the elder Sewall's involvement in politics—he was a four-term president of the Maine Senate—led to the development of an uncommon management structure at the firm.

"This is a uniquely cooperative effort," said David Sewall. "My father was away at the Legislature for almost 16 years . . . the departments have operated with a lot of autonomy."

Six managers oversee the unusual mix of services provided by the company. The group includes: Earl Raymond, senior vice president for surveying and mapping; William Ryan, vice president for engineering: Leroy Klitch, vice president for air surveys and chief pilot; David Edson, vice president for forestry and natural resources; Gerald Thurlow, vice president for municipal mapping; and Mark Jadkowski, assistant vice president for digital data base development.

"Information gathering is the basis of the business," said the younger Sewall. "Data from aerial photography (and other sources) is transformed into usable information in two main areas: mapping and civil engineering."

When the Sewall Co. performed its first aerial survey, most of its equipment was surplus military gear. Today, a good camera system can cost as much as $300,000.

The company's first aerial survey was completed in 1947. Since then, its archives have grown to include more than 500,000 photographs. Most of the surveys have been done in New England and New York, but the company has worked all over the world.

Using the photographs and other information, the company creates maps that portray everything from spruce budworm damage to land uses and electrical power grids. More than 600 communities have used the Sewall Co. to create their tax maps.

The overflights are also used by the civil engineering side of the business. They provide information that can help to site oil and gas lines, highways, power lines and other major projects.

The civil engineering department has worked on projects as varied as an assessment of potential salmon aquaculture sites, the design of a waste-water treatment plant for Dover-Foxcroft and the creation of a 68-acre industrial park in East Millinocket.

The integration of new technology has helped the Sewall Co. to survive and prosper as an information company in the Information Age. Much of the raw data it collects is now stored on computers; finished products are also produced electronically. Satellite imagery is becoming an important source of data for the firm.

Sewall sees no end to society's hunger for information.

"The government already has detailed mapping of the moon, and there will be satellite mapping of Venus soon," he said. "The government is soon to be overwhelmed with information, and it may need private contractors to help deal with it . . . In 20 or 30 years, I foresee us doing work (relating to) other planets."

Timing is critical in deciding when to make use of new technology or pursue new business opportunities, according to Sewall.

"It's instinctive," he said. "We've made some correct guesses, and some incorrect guesses. So far, the correct guesses have run slightly ahead."●

DR. GEORGY BELITSKY A REFUSENIK IN LITHUANIA

● Mr. EXON. Mr. President, I rise today to call the attention of my colleagues, and to respectfully request their assistance in making the voice of the United States Senate heard on behalf of Dr. Georgy Belitsky, a refusenik in Lithuania.

All of us have watched as General Secretary Gorbachev has traveled the world to deliver his message of change in the Soviet Union. We have watched and listened as he talks of perestroika and glasnost. We have applauded the first, tentative moves he has made in withdrawing arms from Eastern Europe, and we take heart in the steady stream of pronouncements from the Kremlin that indeed, the winds of change are blowing in the Soviet Union.

In the face of all of the public acclaim, and the new image of the Soviet Union as the vanguard of progressive forces, it is important for us to recognize that there still remain many pieces of unfinished business on the Soviet agenda for reform. Foremost among these are those issues relating to human rights and the right of individuals to emigrate from the Soviet Union in an orderly and expeditious manner.

The case of Dr. Belitsky is exemplary of many in the Soviet Union, where humanitarian deeds have yet to fully match humanitarian rhetoric.

As with many refuseniks, Dr. Belitsky's application for a visa has been refused on the grounds that his employer, the Ministry of Public Education, had objected on the grounds of secrecy.

Dr. Belitsky had worked in the Institute of Mechanics until 1979, developing measuring instruments. When developing these instruments, he had contact with many enterprises through which he obtained parts and details and tested measuring tools. A few of these contacts were military and entrance to them required a clearance form and passport certification. Georgy applied for the lowest form which allowed him to enter military areas, but not access to any secret documents. With such forms, one is not allowed to leave the country for 5 years after their return. Georgy returned his forms in 1979, and all of his projects had the official stamp "nonsecret," but his refusal was extended until 2010. He has not been permitted to work in his area of qualification since he applied to emigrate and now is employed as a bookbinder.

In March 1989, Dr. Belitsky was informed that his secrecy limitation was being removed and thus there was no objection to his emigration. Then suddenly, the Ministry of Defense objected and Dr. Belitsky has had his secrecy limitation extended until the year 2010, when he will be 75 years old.

It is my belief that Dr. Belitsky's activities as an activist in support of human rights in the Soviet Union are the real reason that Soviet officials have refused him permission to emigrate to Israel and allow him to join his family in Haifa.

Recently I have drafted a letter to Secretary Gorbachev, calling his attention to this situation, and asking him to take positive action on behalf of Dr. Belitsky. I ask that this letter be included into the RECORD and I urge you to join me in signing this letter, and letting your voice be heard on behalf of human rights in the Soviet Union.

The letter follows:

U.S. SENATE,
Washington, DC, September 11, 1989.

General Secretary Mikhail Gorbachev,
Secretariate of the CPSU Central Committee, Moscow 103132, Staraya Ploshchad '4, U.S.S.R.

DEAR SECRETARY GORBACHEV: Your leadership has significantly contributed to developments in the Soviet Union which foster a climate of optimism among Americans concerning the future of U.S.-Soviet relations. The terms Glasnost and Perestroika have found their way into the hearts and minds of the American people and signal positive change in the Soviet Union.

Freedom of emigration should be a cornerstone of these policies and it is in light of this that we would like to inform you of a tragic situation regarding Georgy Belitsky's application for a visa.

Dr. Belitsky first applied for a visa in 1979 and was refused on the grounds of secrecy. Yet he has had no contact with secret documents since 1978. In May of 1989 he received a notice that his secrecy restriction was being lifted, but as of this date, he has not yet been granted a visa.

It appears that his activities as an activist in the Jewish emigration movement may be influencing the decision to allow him to join his wife and family in Israel. In the spirit of the changes taking place within the Soviet Union under your leadership, he should be allowed to emigrate.

We urge you to become involved in this case and expedite granting of his visa.

Sincerely,

J. JAMES EXON,
U.S. Senator.●

THE DONATED DENTAL SERVICES PROGRAM

● Mr. BRADLEY. Mr. President, every American should have access to the best possible health care. Yet as we all know, we are still far from achieving this goal. We need to encourage and support innovative means of filling the gaps in our health care system.

I am proud that in New Jersey, health care professionals have formed a partnership that is providing badly needed dental care to some of the most vulnerable members of society. The Donated Dental Services [DDS] Program is jointly sponsored by the New Jersey Dental Association, the National Foundation of Dentistry for the Handicapped, the New Jersey Foundation of Dentistry for the Handicapped, and the New Jersey Dental Laboratory Association. These organizations work together to provide comprehensive dental care for people who would otherwise go without. Individuals donate their lives and skills, and private companies help to support their efforts. This partnership of corporations and individuals will be able to improve the health and the quality of life for thousands of New Jerseyites.

The program is designed to help those who would otherwise fall through the cracks of our health care system—the special cases who might qualify for government assistance, but who could not afford badly needed dental care without some assistance.

The program is now operating in several States. These health professionals embody the highest ideals of their profession. They deserve our encouragement and our support.●

REFORM OF THE TORT SYSTEM

● Mr. DANFORTH. Mr. President, earlier this year the American College of Trial Lawyers published a report outlining its recommendations for legislation to reform the tort system. Many of this country's finest lawyers, including former Attorney General Griffin Bell and former Solicitor General Erwin Griswold, wrote this report. They believe that litigants often are not treated fairly by the tort system.

The report focuses on the awarding of punitive damages. The purpose of awarding punitive damages is not to compensate injured victims. It is to punish wrongdoers. However, the principal goal of the tort system should be to compensate victims—to make them whole. The report concludes that awarding excessive punitive damages on one plaintiff may deny others compensation. Subsequent plaintiffs with claims against a defendant who has paid this excessive judgment may not be compensated for their economic damages if the defendant exhausted his resources by paying the initial claim. Other victims would be out of luck; the principal goal of the tort system would be thwarted.

The report recommends limiting the awarding of punitive damages to those circumstances when a defendant should be punished. The authors believe that punitive damages should not exceed $250,000 or twice the amount of compensatory damages, whichever is greater. They would require a plaintiff to prove that a defendant acted with a wanton, willful, or malicious intent to harm by clear and convincing evidence. They suggest that a defendant be allowed to call for a bifurcated trial so that a plaintiff could not introduce evidence admissible only for assessing punitive damages during the compensatory damages phase of the trial. Finally, they recommend that plaintiffs not be permitted to include a specific monetary amount in their pleading for punitive damages.

The inequities of the tort system are so pronounced that Federal reform legislation is essential, according to the report. If left to the States, the authors conclude, reform could be slow and incomplete. They say that congressional action would solve the problem quickly and completely.

Mr. President, Senators KASTEN, INOUYE, ROCKEFELLER, and I have introduced S. 1400, the Product Liability Reform Act. This bill incorporates many of the College of Trial Lawyers'

recommendations with respect to product liability law. S. 1400 is essential because the current product liability system is wasteful and often fails to deliver just compensation to injured victims. It can be likened to a lottery. For example, slightly injured victims fare well. They receive almost nine times their losses on average while the most seriously injured receive only 15 percent of their losses. While some victims may hit the jackpot and win this lottery, most cannot afford to gamble. In addition, victims generally must wait years to be compensated. The average product liability case takes 3 years to complete. Most victims cannot afford this delay.

Now is the time to reform the tort system. S. 1400 will address these problems. The bill encourages litigants to resolve their disputes out of court. And, it will assure that a "deep pocket" cannot be raided for noneconomic damages, except to the extent it is at fault. The bill also creates a more equitable system for awarding punitive damages, incorporating many of the recommendations in the American College of Trial Lawyers' report.

Mr. President, I commend the College of Trial Lawyers for this report. Their analysis of the inequities of the tort system is thorough, and their recommendations, if enacted, will make the system fairer. The distinguished authors of this report recognize that the system must be reformed in order to serve the interests of justice better. I hope their good work will enlighten those members of the trial bar who continue to resist all efforts to reform the tort system. I urge my colleagues to support S. 1400.●

ANNIVERSARY OF BATTLE OF KOSOVO

● Mr. LEVIN. Mr. President, on Saturday, September 30, Serbian Americans from across this Nation and Canada will gather in Dearborn, MI, to commemorate the 600th anniversary of the Battle of Kosovo.

In that battle, the Serbians were defeated by the forces of the Ottoman Empire after a tremendous struggle that saw the death of the Serbian leader Prince Lazar. Four centuries passed before the Serbians avenged the death of Lazar and the Turkish rulers were evicted in the Second Battle of Kosovo.

This year's Kosovo celebration is being held in St. Lazarus Serbian Orthodox Church, the only church on this continent to be named for the martyr Lazar.

The combination of faith and nation that carried the Serbians into battle continues to live in the hearts of these warriors' descendants. For them and for all of us, Kosovo remains a symbol of perseverance. On this anniversary, I congratulate those who gather to honor the memory of this battle and this ultimate victory.●

HAZEL MINNEFIELD

● Mr. LUGAR. Mr. President, "A most admirable person is one who reaches down to help someone rather than reaching up to boost someone in hopes of raising herself." Certainly, this applies to Hazel Minnefield. Hazel has spent her entire life in the manifestation of helping others. The daughter of a small town doctor, who often took money out of his pocket and slipped it under the pillow of his patient, was raised in a giving atmosphere.

In her early years, Hazel took a great interest in teenage girls—her organization presented debutantes and cotillions. She was a "second mother" to 12-18 girls annually, for over 5 years.

Hazel has been an active volunteer with the Red Cross, the Salvation Army, various nursing homes, and the NAACP Youth Groups Red Cross. She served as a screening clerk for the Salvation Army, a guardian for elderly church members, director of the Madison County Food Bank, and currently serves as the national vice-chairman of the Women NAACP.

Included in the many awards received by Hazel are Outstanding Black Women in Indiana History, Twentieth Century Honor Roll of Fame National NAACP, Outstanding Achievement—Red Cross, and One of Twenty Outstanding Black Women in the Country.

I ask my colleagues to join me in honoring one of Indiana's great citizens.●

CALL TO CONSCIENCE STATEMENT

● Mr. KOHL. Mr. President, today I would like to join a number of my colleagues in commending Senators ALAN DIXON and BILL ARMSTRONG and the Union of Councils for Soviet Jews for the tremendous work they have done on this year's Call to Conscience Vigil. We all must remember that despite the tremendous changes in the Soviet Union brought about by glasnost, there are still people in that country who are subject to persecution.

We have recently seen a remarkable improvement in the number of Soviet Jews allowed to emigrate from the Soviet Union. Only 8,155 Jews left in 1987. In 1988, that number rose to 19,286, and this year it will probably reach over 50,000. It seems that, finally, the doors of emigration are opening for many Soviet Jews. This trend is encouraging but, it ought not blind us to continuing problems. There are alarming reports of growing anti-Semitism in Soviet society. And there are too many confirmed cases of Soviet Jews being denied the right to emigrate. The reasons given by Soviet authorities for their denial range from knowledge of State secrets to the inability of the individual's family to support themselves if that person were to leave. I would like to take this opportunity to highlight the plight of one such Soviet Jew, Boris Kelman.

Mr. Kelman, his wife and his two sons have been in refusal since 1979 for reasons of state secrecy. Although Boris left his job in 1978, the Soviets once again refused to issue the Kelman family Israeli visas on July 13, 1989. This time, they can't even apply again until 1995. Boris is, in his own words, "at the end of my rope."

President Gorbachev has stated that no one should be refused permission to emigrate on grounds of secrecy for longer than 7 years. By 1995, Boris and his family will have been denied visas for 16 years; that's over three times the limit that the Soviets say will be incorporated into their new emigration laws.

Just recently, the Union of Councils held "Kelman Rescue Week," during which they invited activists and other concerned parties in this country to publicize Boris' plight and to put pressure on the Soviet Government. I want to continue to emphasize the injustice of his refusal, and I urge President Gorbachev to allow Boris Kelman and others like him to exercise their basic human right to emigrate.●

THANKS TO OUR STAFF

● Mr. LEAHY. Mr. President, Tuesday night the Senate approved the foreign operations appropriations bill for fiscal year 1990. I just want to let my colleagues know that getting this bill approved in the Senate would have been impossible without the assistance of a number of Senate staff.

On the minority side, Jim Bond was an immense help, drawing on his years of experience on the Appropriations Committee to help craft a bipartisan bill supported by Senator KASTEN and me. His assistant, Juanita Rilling, worked tirelessly to help prepare the bill.

On the majority side, Fred Kenney, an indefatigable Vermonter, worked days, nights, and weekends as our subcommittee clerk making sure that this bill was ready for committee and floor action. This is Fred's first of what I hope will be many years on the subcommittee.

Rand Fishbein has also done an excellent job as a professional subcommittee staff person. His institutional memory and wide-ranging expertise were very important.

Tim Rieser, a Vermont native, has worked with me for a number of years. Tim has spent much of the last 9 months working, writing, and listening in preparing for putting this bill together. I value Tim's quiet but insight-

ful advice, and feel fortunate to have him on our subcommittee staff. He is indispensible.

Finally, I want to thank the staff director of the Foreign Operations Committee, Eric Newsom. Eric has been a trusted adviser and close friend for 7 years. He brings a brilliant mind and a cool professionalism to his job. He is a public servant in the truest meaning of the words, and I owe him my gratitude for his selfless efforts.

Naturally I am indebted to my colleague and friend, BOB KASTEN for his patience, expertise, and cooperation were essential, and I applaud him.●

RETIREMENT OF JOHN F. DATENA

● Mr. LUGAR. Mr. President, after 16 years as State forester and 39 years of service to the State of Indiana, John F. Datena is retiring with the assured confidence that forest conservation and the proper management of Indiana's forestlands is alive and well and interest by both landowners and industry is growing.

John was born in New York State and moved to Elkhart, IN, with his family where he attended high school. He attended Purdue University in 1944, but World War II delayed his completion of a bachelors degree in forest production until January 1950. Upon graduation he went to work for the Indiana Department of Conservation, Division of Forestry, as a property manager of Owen-Putnam State Forest. His first duties were to purchase land for the newly developing State forest and to see that old pastures and crop fields were reforested. Subsequently, John moved to Linton as district farm forester where he was responsible for working with private forestland owners, management of all State forest land within this district and supervising fire suppression efforts.

During that period—early 1950's—the division had a fire warden system and it was the district forester's job to hire, train, equip, and supervise the fire wardens and their crews. Back in those days, foresters didn't have as many programs as today, but they still remained fully occupied. John always says: "Those were the days when men were men and foresters were supermen."

In 1953 John became Indiana's first watershed forester and worked in Pike County on Flat Creek Watershed which was Indiana's pilot Public Law 566 small watershed project. In 1957, John again became a district forester. His duty station was located just west of Jasonville on the corner of Shakamak State Park in a new building created to house the coal lands forester, the post commander for enforcement, and the district forester. John stayed at Jasonville as district forester until he was promoted to CFM supervisor in 1969 and moved to the central office in Indianapolis where he gave on-the-job training to 47 young foresters many of whom have become property managers, district foresters, and teachers—at least one is a university professor. In 1973 he was appointed as State forester and has spent the past 16 years in that capacity.

John should be proud of his many accomplishments. Due to his persistence, the Indiana Forestry and Woodland Owners Association, Inc., was founded in 1977. In 1979, Gov. Otis Bowen made him a Sagamore of the Wabash. He served as Indiana's director of the Young Adult Conservation Corps—a Federal program—from 1977 through 1980 when the program ended. In 1981, he served as chairman of the Northeastern Area State Foresters' Association. He was chairman of the first Governor's Conference on Indiana's Forestry and the Wood-Using Industries which was held in Indianapolis in September 1984. The ultimate result of this conference was the formation of the Indiana Forest Industry Council, Inc., which is made up of loggers, timber buyers, and sawmill owners and is dedicated to growing high quality hardwood forests through self-improvement and the promotion of proper forest management with private forestland owners.

Through the State forestry planning committee, which he has chaired since becoming State forester, and through his many contacts with Indiana's forest industries, John encouraged the idea of an Indiana Wood Expo. This idea became reality in February 1989 when the first Indiana Wood Expo entertained over 10,000 people during a 2-day run at the Indianapolis Downtown Convention Center. Plans are already underway for next year's Wood Expo in April 1990.

In July of this year, John was named "Forest Conservationist of 1989" by the Indiana Wildlife Federation.

John is an active member of the Indiana Society of American Foresters. He owns a farm in eastern Greene County where he manages 100 acres of hardwood forestland and raises Christmas trees. Now that John is retiring, he plans to spend more time tending his farm and just doing the things he wants.●

EL SALVADOR PEACE

● Mr. DODD. Mr. President, last week the issue of El Salvador came to the forefront of our proceedings in the Senate. We had a healthy, and much-needed debate about the situation in that strife-torn country and what our strategy should be in promoting a negotiated, political solution to that civil war.

Against the background of this debate was the recent agreement between the Government of El Salvador and the rebels which has institutionalized the negotiation process. Therefore, the debate was not over the goal of our policy—that if a negotiated, political solution to the conflict—but over what signals should be sent which would assist the Salvadorans in achieving that goal.

The choices we voted upon last week were difficult choices. They were not easy for many of us. This dilemma is perhaps best epitomized by the decisions made by two of our Democratic colleagues representing the Commonwealth of Massachusetts. Each took a different path in the hope that it would accomplish the same goal. The dilemma each faced, and the reasons which led our colleagues to part company on two votes, but not on the principle, is captured perfectly in an op-ed piece written by Thomas Oliphant for the September 24, 1989, edition of the Boston Globe.

I ask that the piece be printed in the RECORD.

The article follows:

[From the Boston Sunday Globe, Sept. 24, 1989]

KERRY TAKES A LONELY ROAD FOR SALVADOR PEACE

(By Thomas Oliphant)

WASHINGTON.—Two roads diverged on the Senate floor Thursday night.

They represent different avenues for the American role in war-ruined El Salvador at a time when the grounds for hope that a negotiated peace is possible are real, but tempered as always by the lessons of a decade of horror and failure.

What spiced the debate over which road to take is that one course was ardently advocated by liberal Sen. Edward M. Kennedy, and the other just as ardently advocated by another liberal, Sen. John F. Kerry.

For now, the Kerry-supported position has prevailed—continued aid to the Salvador government on what Kerry called the "gamble" that it will help produce a settlement soon. A coalition of Bush administration-supporting Repubicans and Democrats, encouraged by recent peace-negotiation progress, prevailed 2 to 1 in the key votes.

The Kennedy-supported position—that only clear restrictions on the aid, requiring measurable progress in curbing human rights abuses and staying on the negotiations track, will keep the right-wing Salvadoran military in check—remains, however, as a warning that the United States is going down a risky road. Putting tough strings on US aid was the position that came out of the Senate Foreign Relations Committee, but it was set aside on the floor.

"I am taking a position that would clearly be different and even somewhat surprising to some of those who might have anticipated my vote on this matter." Kerry said correctly.

His argument was based on an observation that the recently lifted hopes for a settlement—a negotiating breakthrough by the government and its leftist enemies in Mexico City—"were based on the status quo, hopes that are based on the current [US] aid, on the current unattached aid, and on the current acceptance of the political realities of the situation in El Salvador."

One of those realities is the new right-wing president. Alfredo Cristiani. He appears to represent more the economic than the military right, interested more in economic development than killing communists. He governs, however, in the midst of military figures with direct links to the nun-murdering savages of the recent past.

To date, he has been a responsible participant in Central American diplomacy, and there is no denying the risks (including personal risks) he has taken in helping to institutionalize the negotiating process. (The next meeting is already scheduled for Costa Rica in October, and each side is pledged not to walk out.)

Accordingly, Kerry argued that it is important "to encourage and support this process rather than creating potential obstacles to the achievement of a goal that all of us share."

Kerry's hopes, based simply on the Mexico City breakthrough, are real. Additionally, those of us not born yesterday should assume that there are negotiating back-channels involving the government and guerrilla armed forces that for now are supporting the public process.

"Believe me, if I am wrong I will return to the floor of the Senate to cut off aid completely to that country, and I know I will be joined by others," Kerry said.

After a generation spent opposing unjust wars, Kennedy had a liberal veteran's experience with the political impracticability of cutting off aid to repressive regimes in the face of certain presidential vetoes. That is one source of his support for putting clear strings on the new aid for El Salvador.

"I understand the desire of many of my colleagues to demonstrate support for President Cristiani as he enters into peace negotiations," Kennedy said. "We all support him in that effort."

"But President Cristiani is not the problem—the Salvadoran military is. Increased military aid at this time sends the wrong signal to those we most need to influence in these negotiations—the Salvadoran armed forces. Unless we keep the pressure on the military to respect human rights and support these negotiations, they will never succeed. . . . Strong US pressure to keep them on track can be a vital element in ensuring they do."

Now, it won't be. When the two roads diverged on the Senate floor, Kerry took the one least traveled by liberals in the hope, but not the knowledge, that it will make all the difference.●

CONGRATULATIONS TO RICHARD D. MORGAN ON THE OCCASION OF HIS RETIREMENT FROM THE FEDERAL HIGHWAY ADMINISTRATION

● Mr. SYMMS. Mr. President, I would draw my colleagues' attention to the September 22, 1989, retirement of a fine civil servant, a man who has spent much of his life in the service of the United States, Richard D. Morgan. For the past 32 years of service in the Federal Highway Administration [FHWA], Dick has exhibited outstanding leadership and excellence. He has established a reputation throughout the Department of Transportation and the highway transportation community as an effective, innovative manager, dedicated to the mission of the Federal Highway Administration. Dick has been the Executive Director and top career official in the FHWA since 1982.

Richard Morgan graduated with honors from Michigan State University and the Franklin Law School. He began his career with the FHWA in 1957 as a trainee and moved up the organizational ranks through positions of successively higher responsibility within the FHWA. Throughout his career, he has played a key role in shaping the Federal-Aid Highway Program.

One of Dick's key accomplishments was the improvement of design/construction standards in Federal aid programs. He has enthusiastically promoted a back-to-basics approach to State highway officials, Governors, State legislators, and industry representatives. Under his direction, application of new technology and management improvements combined to yield impressive advancements in a number of areas.

Over the years, Dick has been personally involved in development of highway legislation. He has effectively worked with congressional staff and with the highway community to explore alternatives allowing States maximum flexibility in the management of various highway programs. These alternatives have provided pragmatic approaches for meeting the Nation's highway transportation needs. Recently he has been instrumental in the development of major highway legislation to carry the FHWA through the second half of the 1980's.

Throughout his tenure as executive director, Dick emphasized cost savings, safety, efficiency, and effective management of highway programs. Largely through his personal efforts, these activities have been successfully integrated into the management process throughout the FHWA.

Dick Morgan's achievements and exceptional managerial ability have been recognized over the years. A recipient of the Secretary's Award for Superior Achievement, he also has received outstanding performance ratings every year since 1979 and numerous other awards.

I commend Dick for his dedicated service to America's transportation system. His commitment and devotion were important in the building and maintaining of the infrastructure system, so vital to a free market society. It will be difficult to replace his professionalism and work ethic.

Dick, congratulations on your retirement.●

CONGRATULATIONS, STEPHANIE DENISE SMITH

● Mr. LUGAR. Mr. President, the Young Men's Christian Association of Michigan, Inc., recently held its 12th annual Outstanding Minority Student Program which brings recognition to deserving students in northeast Indiana. Charles Martin, Sr., the director of the YMCA's Urban Youth Services, initiated a citywide search to locate the top minority student in South Bend, IN. The overall achiever, based on grades, SAT scores, and criteria, is Stephanie Denise Smith. Stephanie graduated magna cum laude from South Bend LaSalle High School where she was a National Honor Society member, Dr. Benjamin E. May awardee, YMCA Academic Gold awardee, Martin Luther King, Jr., academic grant recipient, and the National Association of University Women academic scholarship winner. She is a leader and will represent the State of Indiana in good fashion as she enters Johns Hopkins University this fall to study engineering. I ask my colleagues to join me in saluting a fine Hoosier student.●

RELIGIOUS ORGANIZATIONS SUPPORT RELIGIOUS LIBERTY IN THE DISTRICT OF COLUMBIA

● Mr. ARMSTRONG. Mr. President, I am pleased to report to the Senate that a dozen religious organizations held a press conference this afternoon to voice their support for the Nation's Capital Religious Liberty and Academic Freedom Act. The Senate attached the Religious Liberty Act to the District of Columbia Appropriations Act on September 14 of this year.

This year's version of the Religious Liberty Act amends the D.C. Code so that religiously affiliated schools will be able to decide for themselves—as their own religious tenets direct—whether they will extend recognition or benfits to homosexual individuals or groups. The Religous Liberty Act is a simple reaffirmation of religious liberty, and both the Senate (July 11, 1988; September 14, 1989) and the House of Representatives (September 30, 1988) have already agreed that religious schools in the District of Columbia need the protections of the act.

Last year's version of the act required the D.C. Council to amend the District's laws. This year's version uses Congress's exclusive legislative power over the seat of government to make the change directly. When this year's version of the Religious Liberty Act is enacted, the D.C. Code will be amended; this year's version does not require the Congress of the United States to wait on the local city council or the Federal courts.

The following organizations support the Religious Liberty Act and participated in this afternoon's press conference:

National Association of Evangelicals;

Public Affairs Committee of the Southern Baptist Convention;

Luthern Church-Missouri Synod;

Christian College Coalition;

Association of Christian Schools International;

American Association of Christian Schools;

The Catholic League for Religious and Civil Rights;

Christian Legal Society;

Presbyterian Lay Committee;

The National Committee of Catholic Laymen;

The Forum for Scriptural Christianity within the United Methodist Church—known as the Good News movement;

Center for Catholic Policy; and

Christian Legal Defense & Educational Foundation, Inc.

It is gratifying, of course, to see this kind of support for the Religious Liberty Act. On the other hand, I must say that I am troubled for my country when religious groups must hold press conferences in their pursuit of elementary religious liberty. I had thought and hoped that the United States had reached a point in its history where a religious school could decide for itself—without government decree—that is either would or would not extend recognition, benefits, or privileges to homosexual students or homosexual groups.

The religious groups at today's press conference made eloquent presentations on behalf of religious liberty. I ask that their statements be included in the RECORD and hope that they will be studied by Members and other who cherish our religious liberties.

The statements follow:

STATEMENT OF ROBERT P. DUGAN, JR., DIRECTOR, OFFICE OF PUBLIC AFFAIRS, NATIONAL ASSOCIATION OF EVANGELICALS

The National Association of Evangelicals has called this press conference to announce, along with other organizations concerned for religious liberty, our combined support for the Religious Liberty and Academic Freedom Amendment. This would directly amend the District of Columbia code to free religious schools from the existing mandate of support gay rights organizations on the school campus. Introduced by Sen. William Armstrong, adopted by the Senate on September 14 as an amendment to the D.C. Appropriations bill, it has passed the Senate and awaits action in House-Senate conference.

Let me say at the outset that this is not a homosexual issue—it's a religious liberty issue. As the Rocky Moutain News put it, "Can the government force a religious organization to subsidize practices contrary to its fundamental beliefs"? Should Hebrew Union College be forced to subsidize a Campus Crusade for Christ group? That would be as absurd as forcing Howard University to subsidize a campus chapter of the Ku Klux Klan.

Last year a similar amendment by Senator Armstrong passed Congress. It required the D.C. City Council to change the law or face losing its congressional appropriation. Instead, the Council went to court, contending on First Amendment grounds that Congress couldn't force the Council to enact legislation as a condition of an appropriation. The District Court for the District of Columbia upheld the Council's view, and was affirmed on appeal.

This time around Senator Armstrong's amendment has exactly the same operative language as before, but directly amends D.C. law. Congress clearly has that right under its consitutional power to legislate for the District of Columbia.

It is one thing for student organizations to insist on toleration from those who disagree with their beliefs; it is quite another to demand a subsidy to spread them. Over 200 years ago, Thomas Jefferson wrote that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical." If Jefferson was right, Congress must restore to religious educational institutions in the District of Columbia the ultimate civil right—free exercise of religion.

STATEMENT OF DR. NORRIS W. SYDNOR, JR., PUBLIC AFFAIRS COMMITTEE OF THE SOUTHERN BAPTIST CONVENTION

My name is Norris Sydnor. I am here today to speak on behalf of the Public Affairs Committee of the Southern Baptist Convention concerning Senator William Armstrong's Amendment to the District of Columbia Appropriations Bill. As a member of the Committee I speak at the request of the Chairman, the Honorable Albert Lee Smith, former Congressman from the State of Alabama.

First, let me say, the Committee supports this amendment. The issue which the Armstrong Amendment addresses is religious liberty. As pastor of the Riverside Baptist Church and president of the Riverside Baptist College and Seminary, we have a fear that the present situation in Washington, D.C. (including a recent court decision) would not allow us the protection to practice the freedom of religious expression which is our guarantee under the First Amendment of the Constitution of the United States. This would indeed hinder the operation of our educational institution.

The absence of the Armstrong Amendment is truly a violation of our civil rights. The issue is not homosexuality, but separation of church and state. We are concerned that a government institution, in this case the District of Columbia, has a right to force a religious institution, in this case Georgetown University, a Roman Catholic Jesuit institution, to subsidize the propagation and promulgation of beliefs diametrically opposed to its religious convictions.

Homosexuals are not forbidden to attend Georgetown University or participate in University life. The question is whether Georgetown University as a religious institution must subsidize a group which promotes beliefs totally contrary to the religious convictions of the institution's founders and supporters.

To allow the District of Columbia or any government body to coerce people to support, financially and otherwise, ideas that violate their conscience is mere oppression, not freedom of conscience; it is religious discrimination, not religious liberty.

We are adamant in our opposition to such coerced support in the form of tax-supported official state churches, just as our forbearers were. As Baptist we would betray the sacred heritage of liberty bequeathed to us by our Baptist forebearers if we did not object in the strongest terms to this egregious court decision and the extremely dangerous precedent it represents. Further, we would be false to our religious and political heritage if we did not avidly support the Armstrong Amendment's reaffirmation of religious freedom in our nation's capital.

The Armstrong Amendment is nothing more, and nothing less, than a defense of, and insistence upon, the protection from government coercion guaranteed by the First Amendment of the Constitution of the United States.

THE SOUTHERN BAPTIST CONVENTION

Apart from Roman Catholicism, the Southern Baptist Convention is the nation's largest religious demonation, with approximately fifteen million members. There are over 37,000 Southern Baptist churches in the 50 states and the District of Columbia.

The Southern Baptist Convention operates six theological seminaries, with well over 11,000 students and its affiliated state conventions operate more than 50 colleges and universities nationwide. Its cooperating churches operate hundreds of Christian primary and secondary schools.

BIOGRAPHICAL INFORMATION

Norris Sydnor has been a member of the Public Affairs Committee of the Southern Baptist Convention since 1987. He is also a member of the Executive Committee.

Dr. Sydnor is currently pastor of the Riverside Baptist Church, Fort Washington, Maryland, where he has served since 1982. He is also president of the Riverside Baptist College and Seminary.

STATEMENT BY ROBERT G. MORRISON, EXECUTIVE DIRECTOR, OFFICE OF GOVERNMENT INFORMATION, THE LUTHERAN CHURCH—MISSOURI SYNOD

Once again, we are privileged to lend our support to the efforts of Senator William Armstrong of Colorado in his principled attempt to secure religious liberty for Christian educational institutions and for all Americans. The actions of the District of Columbia government in requiring a major university to recognize and fund homosexual advocacy organizations stands in sharp contrast to our nation's best traditions of tolerance and respect for the rights of religious free exercise. The Religious Liberty Amendment proposed by Senator Armstrong is an appropriate response to the District of Columbia's actions.

This issue is one primarily of the right of all Americans to establish educational institutions which reflect their most deeply held beliefs and to maintain the integrity of those institutions. For a Christian college to be compelled to give support to groups which advocate sexual activity outside of marriage would violate thousands of years of church teaching and two centuries of constitutional practice.

We respect the rights of the people of the District of Columbia. But the constitutional guarantees of religious liberty cannot be abrogated by local elected legislatures. We also offer no condemnation of homosexual persons nor do we advocate a denial of their constitutional rights as citizens. But those rights cannot be so construed as to require Christians to approve of—and even to subsidize—homosexual conduct.

We hope that Senator Armstrong's Religious Liberty Amendment will once again be supported by strong majorities in both parties in Congress. The revision of the amendment to meet judicial objections should clear the way for its speedy enactment.

STATEMENT OF THE CHRISTIAN COLLEGE COALITION

The Christian College Coalition hereby expresses its support of The Nation's Capital Religious Liberty and Academic Freedom Act, amending Section 1-2520 of the District of Columbia Code (1981 edition).

The Christian College Coalition is a North American association of seventy-seven denominational and interdenominational colleges and universities. We are committed to securing religious freedom for all persons and institutions in our pluralistic society and to holding each institution accountable to maintaining its integrity as it excercises this freedom.

The Religious Liberty and Academic Freedom Act sends an important message to those who would ignore the Constitutional right of the free exercise of religion that we enjoy. This Act is an effort to secure for religious educational institutions in the District of Columbia their legitimate right to withhold recognition and funding to student groups which advocate positions inimical to their institution's religious beliefs. We are compelled to support the Act because of the current history of judicial rulings regarding Georgetown University and the 1988 Armstrong Amendment. Our purpose is not to deny any party their basic civil rights nor the District of Columbia the ability to govern itself. We ask that all hear us when we state that our concern here is that of religious freedom.

Finally, we believe that religious institutions should not be in the business of coercing public institutions into accepting a morality that is based on religious tenets. We therefore ask that those same public institutions respect the right of religious institutions to be free from being coerced into submitting to the prevailing winds of public policy that violate religious freedom.

(By Bradley P. Jacob, Esq.)

STATEMENT OF THE CENTER FOR LAW AND RELIGIOUS FREEDOM CONCERNING THE 1989 ARMSTRONG AMENDMENT

Religious freedom is not a partisan matter. Democrats and Republicans alike have called it America's First Liberty. Free exercise of religion is an inalienable right, guaranteed to all Americans by the First Amendment to the Constitution. A central aspect to religious liberty is the right of religious schools and colleges to teach religious values to their students.

The issue before us today is whether religious institutions, including universities, are free to withhold financial support and other services from groups whose views and practices violate the religious tenets of the institution.

The Center for Law and Religious Freedom of the Christian Legal Society believes that the action of the United States Senate in adopting Senator William Armstrong's amendment to the District of Columbia appropriations law is consistent with the spirit of America's First Liberty. All levels of government have a duty to protect fundamental First Amendment freedoms and to interfere with those freedoms only when a governmental interest is truly compelling.

Religious schools and colleges enjoy no less protection under the Constitution than other private institutions in our society. The NAACP cannot be forced to subsidize an organization promoting racial discrimination. The Washington Post cannot be forced to accept advertising that offends its editorial policy and community standards. Similarly, it is unconstitutional to force religious institutions to subsidize groups that promote lifestyles and practices that violate their religious beliefs.

The Georgetown University decision in the District of Columbia Court of Appeals was incorrect not only in ignoring the constitutional rights of that University, but also in misconstruing the local statute. A correct reading of the law would have recognized that Georgetown did not discriminate against any person because of homosexual orientation or even homosexual practice, but rather declined to support groups that advocated and promoted behavior held to be immoral by the Roman Catholic Church. Georgetown's opposition would have been the same if the student group in question had been one composed entirely of heterosexuals who advocated pre-marital sex or any other practice inconsistent with Catholic moral and religious teaching.

The District of Columbia Human Rights Act undermines the constitutional rights of religious educational institutions, a defect which the Armstrong amendment seeks to correct. This amendment is in harmony with the decisions of the Supreme Court. The Court has ruled that a private person or organization may not be forced to subsidize or endorse speech with which it disagrees. Thus, in *Miami Herald Publishing Co.* v. *Tornillo*, 418 U.S. 241 (1974), a Florida statute requiring newspapers to give free reply space on their editorial pages to political candidates who had been criticized in the press was declared unconstitutional as a violation of the First Amendment rights of newspaper editors to choose what to print. Similarly, in *Pacific Gas & Electric Co.* v. *Public Utilities Commission*, 475 U.S. 1 (1986), the Supreme Court struck down a state regulatory requirement that utility companies include in their billing envelopes flyers prepared by a ratepayers' organization. *Abood* v. *Detroit Board of Education*, 431 U.S. 209 (1977), applies the same principles to prohibit an employer from requiring a non-union employee as a condition to continuing employment, to contribute to the support of an ideological cause that he opposes. These cases, and others, stand for the proposition that a private entity, like a religious university, may not be required to provide services, facilities or financial support to groups advocating values and practices that undermine the institution's beliefs.

Under the Supreme Court's decisions, including *Corporation of the Presiding Bishop* v. *Amos*, 483 U.S. 327 (1987), it seems likely that Congress could have gone much further in protecting the religious beliefs of private religious schools without violating any constitutional provision. Permissible legislation might include an amendment permitting such schools to refuse to admit avowed homosexuals as students, when this is required by religious tenets. This amendment, however, is very limited. It gives to religious institutions only what they already have under the First Amendment: The right not to be forced to promote and encourage speech that advocates violation of their sincerely-held religious beliefs.

On Tuesday of this week, the United States Court of Appeals for the District of Columbia Circuit held that the 1988 version of the Armstrong amendment unconstitutionally violates the First Amendment rights of the members of the D.C. Council. That ruling was surprising given the fact that Congress has used the same procedure to amend District laws on many occasions. However, regardless of whether the court's decision is correct, it clearly has no relevance to the current amendment, which will amend the Human Rights Act directly without any action or speech on the part of Council members.

The United States Senate, by passing the Armstrong amendment, has taken a much needed first step to protect religious schools from the harsh and constitutionally defective District of Columbia statute.

[NOTE.—The Christian Legal Society is a non-profit professional association of approximately, 4,000 judges, attorneys, law professors and law students, founded in 1961. The Center for Law and Religious Freedom is a division of the Christian Legal Society founded in 1975 to protect the free exercise of religion, and the rights of all persons—regardless of religious affiliation—to freedom of speech and association on issues of political, moral, social or religious importance. The Society is committed to the free and open competition of ideas, and vigorous exchange of views on all issues. Bradley P. Jacob serves as Director of Membership Ministries of the Christian Legal Society. He is a graduate of the University of Chicago Law School and is a member of the Bar of the State of Maryland, the District of Columbia and the United States Supreme Court.]

STATEMENT OF DR. JOHN C. HOLMES, ASSISTANT TO THE EXECUTIVE DIRECTOR FOR GOVERNMENT INFORMATION, ASSOCIATION OF CHRISTIAN SCHOOLS INTERNATIONAL

The Association of Christian Schools International, an association of more than 2,700 evangelical Protestant religious schools throughout the United States and in the District of Columbia, commends Senator Armstrong for proposing and the U.S. Senate for passing the "Nation's Capital Religious Liberty and Academic Freedom Amendment." For many years ACSI has supported attempts by government through the legislative process and in the court proceedings to exempt religious institutions from unconstitutional governmental control.

No religious school, whether it is church owned, church affiliated or with a lay religious board, should be forced by government to comply with laws hostile to basic religious beliefs. A religious school in the District of Columbia must have the right to set reasonable rules and policies which protect the common good of its community of faith based on the school's understanding of God's Word, the Bible. No school should be forced to advocate or support an opposite moral position to its own sincerely held belief system.

No religious school, whether it is church owned, church affiliated or with a lay religious board, should be forced by government to comply with laws hostile to basic religious beliefs. A religious school in the District of Columbia must have the right to set reasonable rules and policies which protect the common good of its community of faith based on the school's understanding of God's Word, the Bible. No school should be forced to advocate or support an opposite moral position to its own sincerely held belief system.

Senator Armstrong's Religious Liberty and Academic Freedom Amendment allows those groups advancing contrary views that the religious school to continue to do so. But such groups are not subsidized by the religious school on its campus. Our hope is that the Senator's amendment will set an example for state and local governments to

use as they increasingly deal with the progressive infringement of the First Amendment Rights of religious institutions.

The Association of Christian Schools International stands ready to do whatever we can to support the principle of religious freedom here adopted by the Senate to defend Religious Freedom on the District of Columbia and throughout this fair land of ours.

STATEMENT OF GOOD NEWS—A FORUM FOR SCRIPTURAL CHRISTIANITY WITHIN THE UNITED METHODIST CHURCH

(By James V. Heidinger II)

We heartily support the Armstrong Amendment to Section 1-2520 of the District of Columbia Code, which is Section 141 and was adopted by the Senate on 9/14/89.

We are glad we can let our voice be heard on this matter.●

IRA'S AND CAPITAL GAINS: WE CAN AFFORD BOTH

● Mr. KASTEN. Mr. President, I rise today to applaud the distinguished chairman of the Finance Committee, Senator LLOYD BENTSEN, for offering a proposal to expand the tax benefits for individual retirement accounts [IRA]. The chairman's IRA proposal is an important step toward reducing the Tax Code's bias against saving and investment.

Regrettably, Senator BENTSEN views IRA's as an alternative to the capital gains tax cut proposal now pending in the House of Representatives, claiming that we cannot afford both of these measures.

I believe that we should enact both proposals. Expanding IRA's and cutting the capital gains tax would attack the most severe economic problem in America—the Tax Code's multiple taxation of income that is saved and invested.

Generally speaking, funds for saving and investment come from income that has already been taxed at ordinary income tax rates. This income is taxed once again when the investment produces income in the form of interest, dividends or capital gains. The result is that individuals are discouraged from saving for their retirement and investing in America's competitive future. Instead, income is channeled into current consumption which is free of Federal income tax.

We can afford both a properly crafted IRA and a capital gains tax cut. Our distinguished colleague, Senator WILLIAM ROTH has proposed an IRA bill, S. 1256, the "Save America Act of 1989." This bill would actually raise revenues in the early years after enactment, as opposed to the Bentsen IRA plan, which would lose roughly $8 billion a year for the first 3 years.

The Roth IRA would allow tax benefits at the time of withdrawal, instead of the up-front tax deduction proposed in the Bentsen plan. It raises revenue by taxing previously deductible IRA contributions if depositors chose to transfer the funds into the new IRA-Plus account. The money saved in the IRA-Plus and all interest earnings will be tax free upon retirement. IRA-Plus savers can also withdraw funds tax free before retirement to buy a home, pay for catastrophic illness, or cover education costs. IRA-Plus offers a tax credit for low-income taxpayers of up to 25 percent of their contribution.

More importantly, the Roth proposal would actually provide greater benefits to America's middle-income workers than the Bentsen plan. According to the Treasury Department, 84 percent of the tax benefits under the Bentsen IRA plan would go to those with incomes of $50,000 and up. I highly recommend that my colleagues read the cogent article by Senator ROTH in the September 27 Wall Street Journal, which provides further details on how his proposal would work. I will ask that it be included in the RECORD following my remarks.

Mr. President, the combination of the Roth IRA-Plus plan and the Bush-Jenkins capital gains tax cut plan would actually raise over $3 billion in tax revenues a year for each of the first 3 years. As savings and investment rates rise, the expanding economy will bring in a permanent stream of rising tax revenues. Clearly, we can afford both an expansion of IRA benefits and a cut in the capital gains tax.

Mr. President, our tax system is holding our economy back. The multiple layers of taxation on savings and investment is robbing America of its future economic potential. We must solve this problem by enacting a revenue-winning cut in the capital gains tax—and expanding IRA's along the lines proposed by Senator ROTH. These two proposals will result in a flood of savings and investment which in turn means more jobs, more financial security and a higher standard of living for all Americans.

Again, I want to commend Senator BENTSEN for supporting an expansion in IRA's. I look forward to working with him in crafting an affordable tax plan that combines both IRA's and the capital gains tax cut when the Senate begins consideration of the budget reconciliation package.

I ask that the article to which I referred be printed in the RECORD.

The article follows:

A BETTER PLAN THAN BENTSEN'S

(By Wiliam V. Roth)

Americans need the Individual Retirement Account. When Congress passed the 1986 Tax Reform Act that pulled the teeth from the effective IRA program, then in place, my office rang loud with phone calls from angry Delawareans who had trusted Congress's earlier IRA legislation. These people were upset that a program which had grown to represent a quarter of personal saving was being cut. They were upset that Congress was attacking their nest egg, stripping them of a good program that led toward self-reliance.

CONGRESS'S MISTAKE

Congress has seen the consequence of the mistake it made by cutting the program: Annual contributions declined by almost $25 billion, a serious drop that adversely affects our gross national product and America's ability to compete in the global community. The time has come to bring back the IRA. To correct the mistake, in June I introduced an expanded IRA, known as the IRA-Plus, and earlier this month Senate Finance Committee Chairman Lloyd Bentsen (D., Texas) also supported the expansion of IRAs. Both plans represent significant steps toward reviving this important program.

However, the Bentsen plan is proposed as an alternative to President Bush's capital gains tax cuts, another measure needed to encourage investment in America. To exchange one for another would be like trading the tires on a car for a tank of gas. Both are needed if the machine is to work properly and progress is to be made. More important, the IRA, if properly crafted, could be combined with the capital gains tax cut, instead of being a substitute for it. Handled correctly, the IRA-Plus could actually raise revenues in the early years after enactment, a necessary and attractive feature in this time of deficits.

Where Sen. Bentsen's plan will cost the federal government around $8 billion in its first three years, my IRA-Plus should actually raise revenue for the government while providing a greater payoff for the contributor. This is done by shifting the contributor's benefit to the time of withdrawal, rather than offer the tax deduction up front, and by allowing current IRA depositors to transfer their funds to an IRA-Plus—provided that they pay a tax on the previously deductible contributions. My IRA-Plus requires after-tax contributions, but then allows the contributor to withdraw the earnings after age 59½, completely tax free. This gives our senior citizens the security of knowing that once they have paid taxes on the earned income during their working years, the money saved in an IRA-Plus, and all interest, will be tax free at the time of retirement. Also, the IRA-Plus offers a tax credit for low-income taxpayers of up to 25% of their contribution.

Even if the money is withdrawn before retirement—to purchase a home, pay for education, or cover catastrophic health care bills—the withdrawal remains tax free. Sen. Bentsen's proposal allows for early withdrawal, without penalty, only for paying for a home and/or for education.

The differences between my IRA-Plus option and the Bentsen plan seem even more poignant with this example:

If a couple contributes $2,000 a year from the time they're 30, and receives an 8% yield on their investment, they could, under my plan, withdraw $23,080 tax-free each and every year after reaching 59½. Under the Bentsen plan, the same investment would yield $19,618 in annual after-tax retirement income, if the couple is in the 15% bracket; $16,617, if the couple is in the 28% bracket, and $15,454 a year if they are in the 33% bracket.

These examples do not take into account the effect of the future value of the annual tax deduction offered under the Bentsen plan. If the tax saving were invested, the Bentsen IRA might prove more attractive, but still would not yield as well as the IRA-Plus. And the sad truth is that for most workers the income from saving with the current IRA program, or through the Bent-

sen plan, will be taxed more heavily after retirement than it would have been taxed during the earning years, largely due to the Social Security Benefit Tax and the Medicare surtax. Consequently, at a time when American seniors need a tax break the most, they will be faced with a higher tax bill on their retirement income.

The IRA-Plus rewards thrift, encourages self-reliance and creates incentives to save for retirement while providing the flexibility to cover many of life's necessary demands. And by helping Americans save, the IRA-Plus, combined with the capital gains tax cut, will help America secure its industrial leadership into the future.●

MEXICO'S LIVESTOCK IMPORT REGULATIONS

● Mr. DOMENICI. Mr. President, I rise to call your attention to a matter of great importance to livestock producers in my State of New Mexico as well as throughout the country. In the past few months, the Republic of Mexico has issued new regulations concerning the importation of livestock from the United States. These new regulations banned female slaughter animals going into Mexico. Excessive requirements for health testing, branding, and other forms of animal identification were also imposed. I am very pleased to let you know that representatives of Mexico's department of agriculture have written to the administration to formally announce changes in these provisions.

In a September 26, 1989, letter to Jo Ann Smith, Assistant Secretary for Marketing and Inspection Services at USDA, Mexico announced changes which will be effective on October 1, 1989. Of great importance for sheep producers in my State of New Mexico, the ban on slaughter ewes will be lifted. Female slaughter goats, hogs, and cattle will also be allowed into Mexico. Cattle destined for slaughter in an approved facility in Mexico will not require testing for turberculosis. Further, all cattle destined for slaughter will not be required to be branded with a "U."

Mr. President, I would like to commend officials in both the United States and Mexico for their actions on this matter. Secretary Yeutter, Ms. Jo Ann Smith, and their staff have done a fine job of negotiating with their counterparts in Mexico. Their representation of the concerns of the livestock industry in the United States must be recognized. I also appreciate the work of the Secretary of Agriculture in Mexico, Lic. Jorge de la Vega Dominguez and his staff for their efforts toward the elimination of trade barriers between our countries.

There remains, however, a very problematic issue which has not been resolved. Mexico has designated livestock crossing quarantine facilities in the United States through which all livestock must pass enroute to Mexico. To date, five facilities in Texas, three in Arizona and one in California have been approved.

As a matter of fairness, I think this situation where New Mexico is the only border State without livestock facility designation should be corrected. Otherwise, more than 400 miles of the border will not be served by a livestock crossing facility. In fiscal year 1987, $2.7 million was appropriated by Congress to maintain and upgrade the port of entry at Columbus because of the importance of this site to trade between the United States and Mexico.

Mr. President, my distinguished colleague Senator GRAMM is joining me today in sending letters to President Bush and the Trade Representative outlining our concerns about livestock quarantine facility designation. I ask that you include our letter to President Bush in the RECORD.

The letter follows:

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC, September 27, 1989.

Hon. GEORGE BUSH,
President, The White House, Washington, DC.

DEAR MR. PRESIDENT: As you prepare for your meeting with President Salinas of Mexico next week, we want to make you aware of a problem between our two countries concerning livestock exports to Mexico.

Earlier this year, the government of Mexico imposed a series of restrictive trade regulations on livestock entering that country from the United States. Subsequent negotiations between the United States and Mexico have resulted in the removal of many of the original restrictions; however, a severe problem remains unresolved.

The government of Mexico has issued unprecedented demands that all livestock moving into that country be reinspected at and shipped from designated quarantine facilities in the United States. To date, Mexican officials have designated a mere nine facilities: five in Texas, three in Arizona and one in California. New Mexico is the only border state which has not received any designation of livestock facilities.

Historically, livestock shipments from the United States have been exported through more than forty privately owned, commercial facilities in Texas, New Mexico, Arizona and California. Due to this reduction in eligible facilities, we anticipate unnecessary and costly bottlenecks in exporting animals.

In Texas, only those facilities owned and operated by the Texas Department of Agriculture have been approved. On a per-head basis, fees charged at these state-owned export facilities are five times greater than those charged by private enterprises. We cannot allow any government entity to usurp the functions successfully performed by the private sector.

While we support efforts by the United States Trade Representative to reach a Framework Understanding between the United States and Mexico, we consider this trade restriction an impediment to reaching such an agreement. In your meetings with President Salinas next week, we urge you to seek his commitment to eliminate this obstacle to trade between our two countries.

Sincerely,

PETE V. DOMENICI.
PHIL GRAMM.

Mr. GRAMM. Mr. President, I rise today to reemphasize the signficance of the problems our distinguished colleague from New Mexico, Senator DOMENICI, has just discussed and the impact they have had on livestock producers in my State of Texas.

But first, I would like to thank him for his leadership on this issue. Senator DOMENICI was the first Member of the U.S. Senate to recognize the significance of these new trade restrictions and the damage they would inflict upon our livestock producers. Back in early August, during the Senate debate on the Disaster Assistance Act of 1989, Senator DOMENICI authored Senate Resolution 168, which I cosponsored, to address this matter. Senate Resolution 168 called upon Secretary of Agriculture Clayton Yeutter and U.S. Trade Representative Carla Hills to review this situation and to work with the appropriate officials in Mexico to achieve free livestock trade between our two countries. This resolution was adopted as an amendment to the Senate disaster bill.

As my distinguished colleague from New Mexico has just indicated, the Bush administration has been responsive to this roadblock to trade with Mexico. Through pressure from the United States Department of Agriculture and the United States livestock industry, the Government of Mexico has agreed to eliminate or substantially modify many of these new trade restrictions effective October 1, 1989.

Unfortunately, however, this relief has not come soon enough to help some sectors of the U.S. livestock industry. Most notably, estimates indicate that sheep producers have lost over 41 million due to the regulation imposed August 1, 1989, prohibiting importation of female livestock into Mexico for slaughter. In recent years, a full 75 percent of the old ewes produced in Texas have been shipped to Mexico. Although this restriction will be lifted on October 1, the vast majority of old ewes are sent to Mexico during August, September, and October. It doesn't take an economist to understand why old ewe prices have been knocked way down this year when the major market for these animals was totally closed off during the peak marketing season.

Finally, Mr. President, I want to express my deep concern over the greatest remaining restriction imposed by the Government of Mexico. As Senator DOMENICI stated, Mexico is demanding that all livestock shipped from the United States to Mexico be reinspected at and shipped through designated quarantine facilities in the United States.

In Texas, only those export pens owned and operated by the Texas Department of Agriculture [TDA] have been approved. I have been contracted

by many cattle, sheep, goat, and hog producers from Texas who are deeply concerned about the unfairness and impracticality of this requirement.

Texas producers who export to Mexico have typically had the inspections necessary for export health certification conducted at any one of 15 or 20-privately owned, commercial export facilities located along the border. Fees charged at these private pens generally run around 25 cents per head, compared to $1.25 to $1.50 per head at the five TDA facilities that have recently been designated by Mexico.

The TDA pens were not designed for the exportation of large numbers of slaughter animals; they were designed for handling small groups of breeding animals that require strict quarantine facilities. As evidence, the Texas pork Producers Association has told me that each TDA pen has only one loading and unloading ramp; there are no scales available to use in sorting groups to be loaded onto trucks; and the TDA facilities basically operate on an 8 a.m. to 5 p.m. schedule even though slaughter livestock are typically exported through commercial facilities at any time of the day or night.

Mr. President, it makes no sense to allow Government bureaucracies to consume, by regulation, the performance of services successfully provided by the private sector. If we permit the Government of Mexico to require this in the United States, we would be surrendering the principles of capitalism and private enterprise upon which this great nation was founded. For this reason, Senator DOMENICI and I have written President Bush and U.S. Trade Representative Carla Hills requesting their support in resolving this serious problem.●

PROPOSALS TO PROTECT THE PHYSICAL INTEGRITY OF THE FLAG OF THE UNITED STATES; SENATE JOINT RESOLUTION 180 AND S. 1338

● Mr. GRASSLEY. Mr. President, I ask that my name be removed as a cosponsor of S. 1338, the Flag Protection Act of 1989.

The Senate Judiciary Committee has completed its hearings regarding the various proposals to protect the physical integrity of the flag of the United States. I believe that they have been very helpful to both the committee and to the Senate.

Our deliberations have focused on whether or not last June's Supreme Court decision should be overturned.

And, if so, by what method—constitutional amendment or statute.

Mr. President, the Judiciary Committee, the Senate, and the Congress have the responsibility to exercise leadership on important issues. We should not habitually check the latest public opinion polls to dictate how to act. However, I think it is compelling to note that recent surveys indicate that the vast majority of Americans believe that the Supreme Court was wrong. They want us to act. This sentiment has been confirmed by many of our witnesses.

Some will suggest that passions have cooled on this issue. Or that Gregory Johnson's act was a one-time-only stunt by a crackpot.

Quite the contrary, there are many budding Gregory Johnsons out there. Indeed, a recent news account told of a Penn State University college professor who burned a flag in her classroom, to promote discussion.

Our hearings and recent events have reinforced my belief that we are obliged to respond to the Supreme Court. I don't take such a responsibility lightly.

I was an original cosponsor of S. 1338, the Flag Protection Act of 1989, which is intended to protect the flag by amending section 700 of title 18, the Federal Flag Desecration Statute. I supported the bill because if a statute would suffice, that route might be preferable.

However, like Senator THURMOND—I am not certain that a statute will survive a further legal challenge.

A statute lacks the certainty of an amendment. The fact is that no statute is guaranteed either expeditious review in the courts or automatic constitutionality. The article the courts cannot hand down advisory opinions. Rather, courts decide only a specific case in controversy; in other words, a proper test case. Thus, at the very least, it will take a number of years to determine whether any statute will pass constitutional muster.

And, like Senator HATCH, I am uncomfortable with attempting to overturn a Supreme Court decision—which is grounded in the Constitution—by the passage of a mere statute. We have had some very persuasive testimony on this point.

I prefer the proposed constitutional amendment before us—Senate Joint Resolution 180—as the only real vehicle capable of protecting the flag.

In my view, it will not change the Constitution—as many critics have charged—rather it will return us to the status quo, one day before the Court's decision.

I appreciate the concern that Congress should not act in haste by amending the Constitution. Of course, nothing the Congress does regarding an amendment to the Constitution is automatic or pro forma.

By very thoughtful and intentional design, the passage of an amendment signals only the beginning of the process—one that is cumbersome at best.

As we all know, the States must have their opportunity to speak to the issue through ratification. That is how it should be, and thankfully, that is how it is.

I know many of my colleagues fear the effect that an amendment might—in theory—have on some first amendment rights.

And of course we must be serious and thoughtful in our deliberations about a change in the Constitution. But remember, that great document is not inviolate. The Founding Fathers—to their credit—provided for amendments, albeit through a most cumbersome process—and properly so.

Indeed, a number of the amendments are a direct response to Supreme Court decisions. These include the 11th—prohibiting the exercise of Federal Judicial power over a case brought by a citizen of one State against another State; the 13th—abolishing slavery in the United States; the 14th—granting the former slaves citizenship and all rights and privileges pertaining thereto; and the 16th—establishing the Federal income tax.

On thoughtful reflection, and having cited my serious reservations regarding S. 1338—based on the testimony—I voted against the passage of S. 1338 in the Judiciary Committee. As you know, the committee voted to report S. 1338 favorably to the full Senate.

However, I did vote for Senate Joint Resolution 180 as the only real solution to restore the law to the status quo prior to the Supreme Court's June decision in Texas versus Johnson. Unfortunately, the committee determined to report the proposed amendment unfavorably to the full Senate.

I look forward to the Senate's consideration of both measures in the near future.●

THE MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976 REGARDING AMERICAN LOBSTER

● Mr. CHAFEE. Mr. President, yesterday I joined with many of my distinguished New England colleagues to introduce a bill that will continue last year's efforts on an important fishing matter: the conservation of American lobster.

As my colleagues know, the waters of and around the United States have an abundance of renewable fishery resources that are extremely valuable to the economy of the country. To fully realize the potential of this resource, the Congress approved the Magnuson Fishery Management and Conservation Act of 1976. The key words are conservation and management. We recognized then that to make the most of this vast resource, we can't abuse it.

To keep the U.S. lobster population at a steady level, U.S. lobster fishermen have agreed to State and Federal

minimum-size requirements, as well as a prohibition against the taking of eggbearing lobster. For these fishermen, these requirements are a long-term economic and environmental investment: they guarantee a steady, healthy lobster population. But the requirements also mean giving up potentially lucrative short-term benefits and losing some ability to compete with foreign fishermen.

I do not believe that U.S. fishermen should be penalized for being conservation-minded. Last year, during Finance Committee discussions, I worked hard for a provision in the United States-Canada Free Trade Agreement that would have required lobster-exporting countries to comply with United States lobster minimum size standards. This provision was approved by the committee, but wasn't included in the final enabling legislation.

The measure we have introduced will amend the Magnuson Act to prohibit in interstate commerce the shipping or selling of lobster or lobster parts that do not meet U.S. minimum-size standards. As the same time, it preserves States' ability to set minimum size and other standards under the Magnuson Act.

I believe this is an important bill that promotes responsible fishery management and conservation principles, and restores a fair economic balance for U.S. fishermen.●

ORDERS FOR FRIDAY

ORDER FOR CONSIDERATION OF RECESS; STATE, JUSTICE, COMMERCE APPROPRIATIONS; AND RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 a.m. tomorrow, Friday, September 29; I further ask unanimous consent that at that time, at 10 a.m., tomorrow, the Senate begin consideration of the State, Justice, Commerce appropriations bill, H.R. 2991; and that the time for the two leaders be reserved for their use later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M.

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order until 10 a.m. on Friday, September 29.

There being no objection, the Senate, at 12:56 a.m., recessed until Friday, September 29, 1989, at 10 a.m.

EXTENSIONS OF REMARKS

GLOBAL FOREST EMERGENCY ACT

HON. JAMES H. SCHEUER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. SCHEUER. Mr. Speaker, today I am introducing the Global Forest Emergency Act, a bill aimed at reversing the catastrophic decline of the world's forests. The Global Forest Emergency Act sets a national policy of no net loss of forests. It directs the President to work with international leaders for a declaration of a global forest emergency and for a global policy of no net loss of forests. The bill directs the President to invite Japan to join with us in a joint United States-Japan Commission on Global Forest Restoration. Because precise figures on deforestation are not available, the bill directs U.S. participation in a global survey of forests and forest resources. Because present knowledge of forests is inadequate, the bill also creates an Endangered Forest Research Initiative to study forest ecology, sustainable yield forestry, and forest restoration.

Our forests are becoming disaster areas. Overcutting, acid rain, nonnative pests, and creeping development are devastating our forest resources. Forests worldwide are in critical condition—a state of emergency.

We are now aware of the destruction of the rich tropical rainforests with their treasure chests of biological diversity. Yet, we perceive this as a problem that could only occur far from the shores of the United States. Not true. Last January, Congressman AKAKA and I held a field hearing in Hawaii. We learned how the rainforests of Hawaii are being turned into wood chips. Rightly, we decry the destruction of the Amazon forests, but we fail to note that the rate of deforestation in Florida exceeds that of Brazil.

Ancient North American forests are being destroyed before our eyes as they are logged at unsustainable rates in the Pacific northwest and in the Tongass National Forest of Alaska. In the eastern United States and in Europe, forests are being ruined by acid rain and nonnative pests such as gypsy moths, hemlock woolly adelgids, pear thrips, and red pine scales. It is time for a national policy of no net loss of forests in the United States.

Just as the President's policy of no net loss of wetlands has directed action toward these valuable ecosystems, we need similar action in forest conservation.

Once we have a national policy of no net loss of forests, then we can carry that policy throughout the world. The situation is desperate in the nonindustrialized world where people deplete their forests in a daily search for cooking and heating fuel. They engage in unsustainable practices of deforestation to fulfill needs for agricultural lands and to produce export commodities to fight a crushing debt burden. In degrading the land for short-term gains, they deplete their biological capital—the forests with their life-sustaining biological diversity.

We are now aware of the importance of forests in the fight against global warming, one of the most serious threats facing our planet. Forests are the lungs of the world. They remove carbon dioxide from the air, thus alleviating a primary cause of the greenhouse effect. They return oxygen to the atmosphere, which makes life possible. We need to take dramatic steps to conserve existing forests, restore degraded forests, and plant more trees to fight the global warming.

Forests protect watersheds, prevent erosion, and provide the vast majority of natural products used by humans. All of these virtues are threatened by forest destruction. The costs of deforestation are staggering. We must plant trees to meet local needs for fuel wood in nonindustrialized countries. We must also support intensive use of industrial forests to take the pressure off the world's endangered virgin forests. According to British ecologist Norman Myers, if we made full use of the lands that have already been deforested or degraded, we would not have to cut another acre of forest primeval.

President Bush recently extolled the virtues of forests and reforestation, planting trees around the Nation, symbolically leading a new campaign to restore our American forests. Now it is time to go beyond symbolic gestures and take steps to save our forests.

Japan and the United States are the major users of forest products around the world. We must work together to help less prosperous countries ensure a sustainable supply of wood and other forest products. My bill would invite Japan to participate in a United States-Japan Commission to conduct reforestation projects around the world. I look forward to discussion with Japanese officials about how we can move forward in this endeavor.

We know that world forest acreage has been decreased by at least 15 percent in this century and that this rate is accelerating. Deforestation has reached critical proportions in many parts of the world. However, precise figures on forest cover and forest loss are not available. We need this information to target our efforts. My bill calls for U.S. participation in a global forest survey that will combine the use of satellite imagery and ground-based surveys. This will provide much better information than is currently available.

In order to conserve our forests and use them as renewable resources, we must increase our understanding of forests. The bill also calls for the Office of Science and Technology Policy to organize an Endangered Forest Research Initiative in forest ecology, sustainable yield forestry, and forest restoration.

The Global Forest Emergency Act will provide the leadership necessary to save our endangered forests. It provides the global perspective that is needed to save the forest for the trees, as a weapon against global change, and for other values that make forests indispensable to human existence. Along with my National Biological Diversity Conservation Act, which will soon be marked up by the Science Committee, this bill will create the American example of wise use of our forest resources that is vital as we lead the world toward forest conservation. I urge my colleagues to join with me as cosponsors of the Global Forest Emergency Act.

A section-by-section analysis of this bill follows:

GLOBAL FOREST EMERGENCY ACT

SECTION-BY-SECTION SUMMARY

Title

A bill to establish a national policy of "no net loss of forests," to direct the President to work for a declaration of a State of Emergency for Global Forests, to establish forest protection and forest restoration programs as a national priority, to support a global forest resource survey; to create an Endangered Forests Research Initiative and to initiate a joint United States-Japan effort for global forest restoration.

SECTION 1. SHORT TITLE.

Sets out the short title of the bill as the "Global Forest Emergency Act."

SECTION 2. FINDINGS.

States that Congress finds that: Forests serve a vital purpose in moderating global climate change by storing carbon compounds; deforestation is a significant contributor to global climate change; the conditions of the world's forests are such that immediate action is needed to conserve existing forests and restore degraded forests; forests and wooded ecosystems are a vital resource for human well-being, providing wood and other products, climate moderation, oxygen production, watershed protection, habitat for plants and animals including people, scientific understanding, recreation and aesthetic value; world forest acreage has declined by more than 15% in the last century and the decline is accelerating toward catastrophic consequences; tropical forests are being destroyed at rates that significantly threaten the viability of these rich ecosystems; global deforestation is causing a loss of biological diversity unprecedented in human history; the quality of world forests is declining due to airborne pollutants, invasion by non-native pests, and loss of biological diversity; deforestation and forest degradation is leading to loss of homes and livelihood for people and is a significant contributor to poverty; continued deforestation and forest degradation is likely to lead to increased environmental problems (including global climate change and extinctions of massive numbers of plant and animal species) and economic and political instability caused by resource shortages; reforestation programs are presently unable to compensate for the loss of forests and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

will never be able to fully recreate forests in natural conditions with a full range of biological diversity; a major effort toward forest inventory, forest research, forest conservation, sustainable yield forestry and forest restoration including appropriate reforestation is necessary to maintain a healthy planet.

SECTION 3. PURPOSES.

States that the purposes of this Act are: to declare a national policy of no net loss of forests; to direct the President to declare a national forest emergency and to work toward an international policy of no net loss of forests globally; to direct appropriate agencies of the U.S. Government to work with the U.N. Food and Agricultural Organization in a global survey of forest resources; to support a special research initiative with international cooperation in forest ecology, sustainable yield forestry and forest restoration; to establish a joint United States-Japan commission on Global Forest Restoration to develop, support, and initiate a global program in forest restoration; to direct the appropriate agencies of the United States to work with appropriate international organizations and foreign nations in undertaking a sophisticated and diverse global effort to restore the forests of the planet and halt destruction of natural forests.

SECTION 4. DEFINITIONS.

Contains definitions of terms including "forest', "conserve" and "no net loss". The term "no net loss" is defined as meaning that for each forest that is destroyed, a forested area of equal size and with species diversity appropriate to the local conditions is to be restored within the same region.

SECTION 5. NATIONAL AND GLOBAL FOREST POLICY.

States that it is the policy of the United States that there shall be no net loss of forests within the United States and its territories and that forest conservation and sustainable use of forests, domestically and internationally, shall be a national priority. Directs the President to declare a national forest emergency and to work with other nations and international organizations for similar declarations. Directs all agencies of the United States to take all actions within their authority to conserve forests and support forest regeneration and restoration as appropriate to their mission. Directs the Council of Environmental Quality to establish national objectives to implement and promote the "no net loss of forests" policy.

SECTION 6. RESEARCH.

Directs the Administrator of the National Oceanic and Atmospheric Administration, the Chief of the Forest Service, the Administrator of the Agency for International Development and the heads of other appropriate agencies to work with the U.S. Food and Agricultural Organization and other international bodies toward a global survey of the world's forests and forest resources. Directs the Agency for International Development and the U.S. Forest Service to work together to support and provide technical assistance for national-level forest inventories around the world.

Directs the Director of the Office of Science and Technology Policy (OSTP) through the Federal Coordinating Council on Science, Engineering, and Technology (FCCSET) to prepare a comprehensive research program in forest ecology and related fields, sustainable yield forestry, forest restoration, and reforestation, to be known as the Endangered Forest Research Initiative.

States that the Initiative shall include research roles for the National Science Foundation; U.S. Department of Agriculture, including the U.S. Forest Service; the National Park Service; the U.S. Fish and Wildlife Service; the Environmental Protection Agency; the U.S. Agency for International Development; and other agencies, and shall include cooperative scientific programs with other Nations. States that the Initiative shall include research toward understanding the role of forests in ameliorating climate change, in preserving biological diversity, in preventing erosion, and in protecting watersheds shall include development of technologies and methodology for sustained yield forestry and forest restoration, especially the use of indigenous tress in reforestation, and development of indigenous crops in sustained yield agroforestry. Directs FCCSET to submit this Initiative to Congress within one year after passage of this Act. The recommendations contained in this Initiative are to be represented in the annual budget requests of the participating agencies and departments.

SECTION 7. UNITED STATES-JAPAN GLOBAL FOREST RESTORATION PROGRAM.

Directs the President to extend an invitation to the Government of Japan to participate in a joint United States-Japan Commission on Global Forest Restoration. This Commission is to provide financial and technical assistance to nations, international organizations, local and national nongovernmental organizations and industry to undertake a global forest restoration effort in order to conserve existing forests and to meet the demand for forests and forest products;

States that the objectives of this Commission are to develop, initiate and support a global forest restoration program and that this program shall seek to implement a global policy of no net loss of forests through conservation of existing forests, natural regeneration, and planting of additional trees in order to reduce the demand for wood from natural forests and to meet other human needs;

States that this program shall include forest restoration for all purposes including: amelioration of global climate change; conservation of biological diversity of natural forests; watershed protection and control of erosion; provision of wood for fuel and other local uses; and industrial forestry;

States that this program shall include training and education activities in forest conservation and restoration techniques;

States that the U.S. members of this Commission shall include: the Assistant Secretary of State for Oceans and International Environmental and Science Affairs; the Assistant Secretary of State for East Asian and Pacific Affairs; the Administrator of the Agency for International Development; the Chief of the Forest Service; and other members as selected by the President.

CONGRATULATIONS TO TAIWAN

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. BALLENGER. Mr. Speaker, as the 1980's draw to a close, one great and powerful nation, a trusted ally and valuable trading partner, appears ready to assume major status as a contributor to the global economy and to global polity—the Republic of China on Taiwan.

Only a great nation could have accomplished so much in so short a time, and continue to do so. Only a great leader like Taiwan's President Lee Teng-hui could gather such extensive political support so soon after taking office on January 13, 1988. And only great things will continue to come forth from a country such as the Republic of China, with its booming economy and firm foundation for democratic free enterprise.

As we prepare to celebrate Taiwan's 78th National Day, Tuesday, October 10, congratulations are due her leaders and her people for their achievements to date. A special word of thanks, also, to Taiwan's Representative Ding Mou-shih and Madame Ding Mou-shih. They have made the task of understanding Taiwan, our Asian ally, so much easier through their hospitality, wit, and charm.

SOME EFFECTIVE AID FOR THE POLISH ECONOMY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. BROOMFIELD. Mr. Speaker, anyone who works in an up-to-date office in America knows how hard it would be to go back to the days before copy machines and electric typewriters, not to mention personal computers.

Yet that's where many business organizations in Poland find themselves today.

A constituent of mine, Mr. Reynold Hendrickson, has come up with an idea that would give American business men and women who believe in free market economics a chance to give their counterparts in Poland more than just moral support.

Give them those outdated but still very useful Selectric typewriters and Xerox copiers that are fast gathering dust in corporate storerooms, he says.

Direct American aid is one answer, but here is another way to give Polish entrepreneurs the tools to fashion a brighter, more productive future for their country.

IN HONOR OF FATHER GILBERT V. HARTKE, O.P.

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mrs. MORELLA. Mr. Speaker, the Hartke Theatre of the Catholic University of America is embarking on its 20th season of offering high-quality, affordable drama productions to residents of the Washington metropolitan area. On this 20th anniversary, I would like to remember the inspiring work of Rev. Gilbert V. Hartke, the Dominican priest whose visionary leadership guided the CUA drama department he founded more than 50 years ago.

At 10 p.m., Wednesday, October 4, 1989, WETA-TV 26, is airing an hour-long documentary of Father Hartke's life and work. Actress Helen Hayes, actors Larry Luckinbill and Jon

Voight, and playwright John Pielmeier are among those in the film recalling Father Hartke's humor, kindness, and wisdom.

Father Hartke's traditions of hard work and religious and esthetic values helped shape the lives of several thousand students of diverse races, colors, and creeds and those students share their talents with others around the world.

Each year since President Harry S. Truman asked Father Hartke to put together a troupe of young actors and actresses to entertain American military forces abroad, CUA students have brightened the winter holidays of U.S. armed services stationed overseas by performing in musical revues on U.S. military basis in Europe and other far-flung locations.

Every summer, CUA drama majors teach English, drama and American popular culture to university students in Poznan, Poland.

Father Hartke founded the National Players in 1949. The Nation's oldest continuous repertory touring company, the Players enters its 41st year of bringing Shakespeare and other dramatists to audiences throughout the country. In addition, the drama department, which Father Hartke established, operates community outreach programs and offers special performances for high school and other groups.

Mr. Speaker, I congratulate the Catholic University's Hartke Theatre on its 20th anniversary. The theater is a fitting tribute to Father Hartke's service as priest and teacher.

BEST WISHES TO THE REPUBLIC OF CHINA ON TAIWAN

HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. ROSE. Mr. Speaker, I am most honored to convey my best wishes to my friends in the Republic of China on Taiwan as they celebrate their 78th National Day on Tuesday, October 10, 1989.

The whole world has watched Taiwan's development from a poor island country into a major economic power today—all within a short period of 40 years. Today Taiwan is our fifth largest trading partner, enjoying $75 billion in foreign reserve and a per capita GNP of more than $6,500.

While enjoying its wealth, Taiwan is very much aware of the importance of sharing its "Taiwan experience" with less developed countries. Recently Taiwan established a $1 billion overseas fund; the goal is to aid those less developed countries to promote their economies and industrial growth.

I hope Taiwan, under the guidance of President Lee Teng-hui, Premier Lee Huan, State Minister Fredrick Chien, and Foreign Minister Lien Chan, will continue to prosper. I also hope that Taiwan's overseas fund will achieve the objective of helping less developed nations to help themselves.

TEDDY DOWNEY REMEMBERS HIS FRIEND, MICKEY LELAND

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. FIELDS. Mr. Speaker, I recently had the privilege of reading a moving article about our former colleague, Mickey Leland, which was prepared by an enterprising young journalist here in Washington, DC.

The journalist is Teddy Downey, 7-year-old son of Congressman TOM DOWNEY of New York. Teddy is a student at Brent Elementary School here in Washington, and is the editor, publisher, reporter, and circulation manager of "The Children's Newspaper," which he began recently and which he circulates to young people in his neighborhood.

When Mickey Leland died, many Americans were deeply saddened at the loss. Teddy Downey was one of those Americans. As his article makes clear, over the years, Mickey Leland had become an important part of the Downey household—coming to dinner often and sharing his love, good humor, and optimism with young Teddy.

With Mickey's passing, Teddy felt the need to express his sorrow and sense of loss. That's when his mother, Chris, suggested that he write down some remembrances of his friend, "Uncle Mickey." The result is the following article which I commend to the attention of my colleagues.

I'm reliably informed that Teddy already has announced his plan to write a book about Mickey. And judging from what this young man has accomplished in his brief 7 years, I'm pretty sure that it will be appearing in bookstores soon.

MICKEY LELAND

(By Teddy Downey, Age 7)

My mom was crying when he died. My dad was too. Mickey Leland was a great man. He was a congressman like my dad. My mom, my dad, Lauren and I treated him like one of the family. Mickey died in a plane crash. He crashed into a mountain. He was on a plane to Ethiopia to save starving hungry children. My mom and dad went to the funeral in Houston, Texas. That is three and a half hours from here. He has a wife, a boy, and a baby in her stomach.

We used to go out with him on Tuesdays for dinner. One time at dinner he brought his friend, Famous Amos, who makes wonderful, terrific cookies. His best friend is Ron Dellums.

One time Mickey Leland gave a speech on the floor of the House of Representatives and he spoke it in Spanish. He wanted to show the Members how difficult it was to speak one language. One other time Mickey flew to Ethiopia to unload one hundred pound bags of food for the starving people.

One other time Mickey Leland slept on the street on a cold winter's night to draw attention to the many homeless people. One of the best things about him is that he was very funny.

THE TRAGEDY OF OUR PUERTO RICAN BROTHERS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mrs. ROS-LEHTINEN. Mr. Speaker, the tragedy of the people of Puerto Rico is felt by all of us in south Florida but especially in the areas of my congressional district known as Allapattah and Wynwood. These two neighborhoods are home to most of Dade County's Puerto Rican population and it is here where the anguish and the frustration is felt the deepest.

I have had many constituents call our office in great despair because their loved ones are without food, water, adequate shelter and other basic necessities. They are crying out to their families but are unable to communicate due to lack of a functioning phone system or telegraph service.

This devastating hurricane has been doubly troublesome for the frail, the sick, and the elderly. They are confused about the chaos around them and are worried that they will soon run out of the medicine and the medical attention that they normally require.

Our brothers and sisters in Puerto Rico need our help very badly now. All of us should unite in showing our compassion and our willingness to help.

Puerto Ricans need just about everything right now, but after talking to the person in charge of the hurricane relief effort in the Puerto Rican Governor's office, I find that there are some basic staples which are in desperately short supply.

Among these such items are: Food such as cereal, crackers, canned goods, juices and milk; baby goods such as disposable diapers, milk formula and food, evaporated milk, baby wipes, and Pedialite (for upset stomachs); medicine such as Tylenol, Panadol, Keopectate, Donage, Maalox, and suppositories; clothes including underwear and shoes for both adults and children; hygiene products such as toothbrushes and toothpaste, combs, shaving cream, towels and soap; and household products including paper towels, gas lanterns, matches, batteries, plastic bags and propane gas.

Many from south Florida have already shown your compassion for others and have contributed financially as well as by giving of your time. For those who can do more, please consider donating some of the previously mentioned items to our unfortunate neighbors in Puerto Rico.

RADON TESTING FOR SAFE SCHOOLS ACT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. GORDON. Mr. Speaker, today, I am introducing a revised version of the Radon Testing for Safe Schools Act. I am pleased that

Senator LAUTENBERG is introducing the companion bill in the Senate and hope that we can move quickly to enact this important legislation to protect children and teachers exposed to high radon levels in schools.

Radon is an odorless, colorless gas that results from the decay of uranium. The EPA estimates that radon exposure is the second largest cause of lung cancer in America, and children are particularly vulnerable. But radon is an unseen killer. Until you test, you don't know if there is radon in your home or in you child's school. Unless you test, you may only discover radon's deadly effects 15 or 20 years from now when your doctor diagnoses lung cancer.

I originally introduced this bill, H.R. 2210, in May in response to the alarming results of EPA's initial survey of radon levels in our schools. In this survey, middle Tennessee schools showed the highest radon levels in the Nation. The survey also revealed dangerous radon levels in schools in Washington, Montana, New Mexico, Maine, New Jersey, Illinois, Minnesota, Wyoming, Missouri, and Georgia.

I believe that parents, teachers, and school officials have a right to know about radon hazards in our schools. This is the premise behind my Radon Testing for Safe Schools Act. It is far better to invest a little money today on testing for radon than to spend a great deal of money in the future on treatment for lung cancer.

Since May, I have listened to suggestions made by concerned organizations and have worked with Senator LAUTENBERG to make some improvements which strengthen my original bill. The revised Radon Testing for Safe Schools Act requires all schools in EPA-designated radon hot spots to test for radon. Test results must be made available to parent, teacher, and citizen groups and testing must be conducted by EPA or State-approved radon testing firms or individuals. The bill authorizes $30 million over 5 years to fund loan or grant assistance for needy schools to cover the costs of radon testing and mitigation. Testing is required; mitigation is strongly encouraged. The bill also calls for followup reports from the EPA so we can continue to track radon levels in schools throughout the country.

I believe we have an obligation to let parents and teachers in high-risk radon areas know how much radon exists in our schools. I invite my colleagues to join me in supporting this important health care legislation.

REFORMS STILL NEEDED IN THE SOVIET UNION

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. KOSTMAYER. Mr. Speaker, as cochairman, along with my colleague JOHN MILLER, of the Congressional Call to Conscience, it is appropriate at this time, as the Jewish holidays approach, that we consider those of the Jewish faith in the Soviet Union.

In recent months, we have noticed some progress in the Soviet Union. Jewish emigration has increased. And although there is still much room for improvement, 33,444 Soviet Jews have emigrated from January thru August, 1989.

We have also seen recent openings of cultural institutions, such as the Mikhoels Jewish Cultural Center. These are notable. In some cases, however, institutions have been established as concessions to Western Jewish leaders and not by the demands of independent Soviet Jews.

We also have taken note of the new Soviet policy of cultural autonomy which was adopted in the summer of 1988. This policy provides that "ethnic groups that have no national territories should be granted their national cultural needs * * * and to satisfy their religious requirements * * *." But, Mr. Speaker, such autonomy has not been officially extended to Jews.

In the next session of the Supreme Soviet and the Congress of Peoples' Deputies, laws will be introduced and debated that would reform and institutionalize basic human rights and freedoms in the Soviet Union, including emigration, expression, thought, press, and religious conscience. Soviet Jews have been singled out for religious and cultural persecution since the Bolshevik revolution. They have been the target of the government's virulent policy of antisemitism. Because they do not have political representation, Jews have not had the ability to conduct an adequate defense.

People of faith in the Soviet Union share a common concern that only real reform of the laws on freedom of religion, conscience, and emigration will prevent antireform elements from reversing even the slight progress that has been made. The last 70 years of Soviet rule have been characterized by an unremitting governmental onslaught on Jewish culture and religion amounting to attempted cultural genocide. Jewish religious activity has been suppressed, institutions closed, religious and cultural leaders arrested.

For the Soviet Union's estimated three million Jews, there are less than 90 active synagogues. For Moscow's 250,000 Jews, there exists only the Moscow Choral Synagogue and the Marina Roshad Synagogue. The Rabbi at the Choral Synagogue, Adolph Shayevitz, is a member of the Anti-Zionist Committee, the Soviet appointed organization which propounds the government's antisemitic policy.

The hunger for Jewish knowledge and national self-identity has led to the emergence of several Jewish organizations, but they are understandably weak and terrified by popular anti-Semitism which is tolerated by the Government. Many of these groups are afraid of having any connection with Israel, fearing official accusation as being agents of the international Zionist conspiracy. Authorities have a policy to control the development of Jewish cultural activity. In this policy, the Government supports groups led by anti-Zionist committee members or official Jews who represent government interests.

Who knows what the future holds for Soviet Jews, Mr. Speaker. The issues of religious and cultural freedom and the history of State-sponsored anti-Semitism are not inseparable problems. How Gorbachev deals with anti-Semitism and to long overdue demands by Jews for religious freedom is key to his credibility of promised reforms in many areas of Soviet society and in dealings with the West.

The Department of State has confirmed that "while government harassment of Jewish religious and cultural activities has abated" under glasnost, "widespread anti-Semitic discrimination is still encountered at the lower levels of government bureaucracy throughout the Soviet Union, and in the general Russian populace. This type of antisemitism has increased markedly in the context of Glasnost * * *" It is also ironic that "groups such as pamyat today appear to have picked up, to a more intense level, the antisemitism that the Soviet Government policy is downplaying." Many Jews in the Soviet Union today have reason to fear not only that the fall of Gorbachev and the reformers allied with him would bring back the kind of official anti-Semitism that was in vogue prior to 1987, but that this institutional anti-Semitism would be exacerbated by populist and virulent pamyat activity. It is clear that the Soviet Union remains a profoundly anti-Semitic and officially atheistic nation.

Mr. Speaker, Vladimir Dashevsky, a leader of the Jewish religious community in the Soviet Union summarizes the situation as follows:

"These are times of enormous instability in the Soviet Union. In terms of freedom of conscience and religious practice, there has been some partial progress particularly in the reduction of official intimidation of religious believers. But this progress is given as a favor to demonstrate the good will of the authorities; it is not accorded as a matter of right to Soviet Jews and other religious communities. Therefore, we cannot perceive the progress as substantive or real until or unless it is based on rights guaranteed by institutionalization into law and then implemented."

We hope that someday in the very near future, Soviet Jews will be able to practice their religion openly, without fear or persecution and hatred. Mr. Speaker, during the Jewish holidays, we should all remember the continuing plight of Jews in the Soviet Union and pray that they will soon be able to enjoy the religious freedoms that we enjoy. Mr. Speaker, to Jews in the Soviet Union, as the Chairs of the Congressional Call to Conscience, Congressman JOHN MILLER and I say, "L'shanah tovah."

SUPPORT BALLENGER ESOP BILL

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. BALLENGER. Mr. Speaker, later today I will be introducing legislation to improve upon proposals to limit the broad ownership of corporate stock. This bill will specifically aid the establishment of Employee Stock Ownership Plans [ESOP's].

My bill will do three things:

First require the ESOP to hold at least 20 percent of the corporation's stock before the ESOP lender interest exclusion is available;

Second, limit the ESOP lender interest exclusion—even if the 20-percent threshold is met—to loan proceeds of $100 million or less; and

Third, allow an exception to the $100 million limit for ESOP's which would hold over 50 percent of the corporation's stock.

This legislation is being introduced to ensure current law continues to promote employee ownership. I want to encourage this concept. Unfortunately, ESOP's are under attack by some in Congress for short-term revenue gains. I believe Congress should continue to foster public policy that promises hard-working Americans a say in our free enterprise system. With the support of my legislation, employees will have this chance.

SECTION 89; REPEAL, NOT REPAIR

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. BROOMFIELD. Mr. Speaker, last night by a vote of 390 to 36, the House of Representatives approved the repeal of section 89, the controversial section of the Tax Code which attempted to equalize benefits between all levels of employees. This victory could be the first retreat in what many see as an unprecedented assault on American small enterprise.

Small businessmen and women will sleep easier tonight knowing that, in this case, their voices were finally heard. Yesterday's vote came after a concerted effort by small business throughout the Nation to put an end to a section of the Tax Code both unfair and impossible. The letters poured into my office and the message registered loud and clear. Congress had made a mistake. Chairman of the House Small Business Committee, JOHN LAFALCE, introduced the main piece of repeal legislation which gained over 300 cosponsors in the House. I am proud to have been an original cosponsor of the repeal bill.

Despite this solid opposition the Ways and Means Committee was more concerned with repair, not with repeal. While I am not aware of any nationwide survey of the popularity of section 89, I will venture a guess that among our business community, you could not find a more unpopular tax. Like it or not, the social engineers and tax advocates in Washington are forced to accept another defeat at the hands of the American people.

I hope this repeal vote will come as the first of many victories for Tax Code reform. High capital gains tax rates, and the catastrophic care surtax, represent other battles against taxes American's don't want and don't need. It's late in the game but it seems Congress is finally recognizing that the survival of small business, and the middle class has a great deal to do with our own survival.

WELCOME TO THE SEVENTH-DAY ADVENTISTS

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mrs. MORELLA. Mr. Speaker, I take great pleasure in welcoming the gereral conference of Seventh-Day Adventists' world headquarters to Montgomery County, MD. The Seventh-Day Adventists have, of course, been our good neighbors for years, and they have served the residents of Montgomery County well. The Washington Adventist Hospital, Shady Grove Adventist Hospital, and Columbia Union College are well-known in Maryland's Eighth Congressional District. These institutions are but three among the ministries of the Seventh-Day Adventists worldwide. The Adventist development and relief agency is assisting victims of Hurricane Hugo in Puerto Rico with emergency supplies of tents, powdered milk, and other essentials. Other devastated Caribbean areas are also receiving funds from the Adventist relief agency.

The world headquarters bring an international presence to our community. One hundred and ninety countries and 700 different languages are represented at the world headquarters.

Mr. Speaker, I am proud that the conference of Seventh-Day Adventists' world headquarters is now a part of our community. I congratulate the members of the general conference and President Neal C. Wilson on this move. I wish them many happy years in Silver Spring, MD. I thank them for their loving, faithful service to the residents of the Washington metropolitan area.

TRIBUTE TO CONGRESSMAN HUGH ALEXANDER

HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. ROSE. Mr. Speaker, I rise today to pay tribute to Congressman Hugh Q. Alexander who died on Sunday, September 17, 1989, in his hometown of Kannapolis, NC. Hugh was a tireless and dedicated public servant who is well remembered in Washington for his 10 years of service in the U.S. Congress and his long tenure as the chief counsel for the U.S. Senate Rules Committee. After his retirement from Washington in 1976, Hugh returned to North Carolina and continued his work as an outstanding community leader and philanthropist. His distinguished service as a lieutenant commander in the U.S. Navy made him a knowledgeable, active and strong advocate of veterans.

Although Hugh was a man of superlative character and deed, he was a very modest man. Hugh's warmth and intelligence endeared him to everyone that had the good fortune to meet him.

I very much admired Hugh and valued his friendship and advice over the years. He will be sorely missed by his family, his friends, and the State of North Carolina.

ANDY JESSUP NAMED BOY SCOUT MAN OF THE YEAR

HON. ALFRED A. (AL) McCANDLESS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. McCANDLESS. Mr. Speaker, a prominent resident of the 37th Congressional District, and longtime friend of mine, will be honored as the 1989 Boy Scout Man of the Year in Palm Springs, CA.

Andrew T. Jessup, Eagle Scout, Scout leader, devoted family man, and president of Plaza Motors, is the kind of person everyone wants to having living next door.

Andy always seems to have the time for whatever needs to be done in the community. He is the embodiment of the old saying, "When you want to get the job done, ask the busiest person you know to do it." As the past president of such outstanding organizations as the Palm Springs Kiwanis Club, the United Way of the Desert, the Palm Springs Chamber of Commerce, the Palm Springs Convention and Visitors Bureau, and the California Inland Empire Council of the Boy Scouts of America, Andy has had a positive impact on the lives of hundreds, and probably thousands of people. In his role as the past district chairman of the Palm Springs District of the Boy Scouts of America, Andy has been an outstanding role model for our young people, and he richly deserves this award.

I ask my colleagues to please join me in saluting Andrew T. Jessup, the 1989 Boy Scout Man of the Year, for a job well done. Congratulations, Andy.

WE SHOULD BE LISTENING TO CHINA'S EXILES

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. BARTON of Texas. Mr. Speaker, I would like to call to the attention of my colleagues the following article, entitled "We Should Be Listening to China's Exiles," which appeared in the September 26, 1989, edition of the Washington Post. As champions of democracy in the world, we in America must realize how vital it is to support the democratic aspirations of the Chinese people. We have an obligation to provide moral and physical support whenever possible. Please read it.

WE SHOULD BE LISTENING TO CHINA'S EXILES

(By Jim Hoagland)

PARIS.—On the morning of June 4, 1989, Chen Yizi became a political orphan. Horrified by the massacre of civilians in Beijing's Tiananmen Square, a sobbing Chen sat down and wrote an angry letter of resignation from the Chinese Communist Party. He abandoned in bitter disillusionment a party and an ideology that had been at the center of his life for 30 years.

Friends talked Chen out of going to party headquarters to hand in the letter. He would meet arrest or worse, he was told. Instead, Chen fled, going into exile in Paris.

So did Wan Rannan, a party member for 24 years and China's most successful business executive. So did Su Xiaokang, a party member for two years and co-author of China's most celebrated television series, "The Yellow River." These three former Communists and more than 100 other prominent exiles gathered here in Paris this past weekend to organize a political opposition group to give form to their now amorphous yearnings for change in China.

Like Chen, many of these exiles were until June 4 leading figures in China's reform movement. Now they are described by Chinese government spokesmen as "poisonous weeds." They were "planted" in China by the United States as part of a conscious and ongoing plot to destroy China's Communist party, the Beijing media claims. These ludicrous accusations are directed against people who had believed until the last moment that it was possible to reform "their" party from the inside.

Talk to these exiles and you understand why the Beijing Communists tar them with the American brush. American values have played a positive role in shaping their views on democracy and economic freedoms. It is these values that threaten Prime Minister Li Peng and the old guard behind him, who seem to harbor a 1950's vintage Chinese hatred for America.

Why then did these exiles have their conference in France and not in the United States? Because, Chen and others tell me, the Bush administration is hesitant to deal with China's exile movement, showing concern instead about relations with Beijing's government.

While France was clearing away obstacles to the convening of this conference of dissidents, Bush's Commerce Department was receiving an official Chinese trade delegation. The decision surprised even the Chinese Embassy in Washington. It had predicted that U.S. anger over the Tiananmen Square killings would make it impossible for the delegation to be received.

This reversal of traditional priorities—the French showing concern for human rights in China, the Americans stubbornly keeping in touch with the Communist leadership—is not merely perverse. It is also self-defeating. Washington needs to hear what the exiles have to say and to ignore official rhetoric.

The Bush administration's wary attitude to the Chinese exiles resembles in some disturbing ways a reaction in the West to an earlier generation of political orphans; the intellectuals and politicians who fled Eastern Europe four decades ago to tell the West what they had learned about the nature of Stalinism.

But the European emigres were frequently treated as politically inconvenient. Apologists for Stalin and his successors said that the emigré activists had their own axes to grind, did not understand the realities of foreign affairs and the needs of world peace, or were simply agents for Washington's Cold Warriors. Today, it is the Gorbachev media that tell us how right the European emigrés were.

Today, it is the former Communists of China who risk becoming inconvenient to the Bush administration. Their ranks contain some of the leading reformers of the past decade. These disillusioned Communists know it is senseless to talk about resuming reforms under the present government while it is under the control of the Moscow-trained Li Peng.

The public statements of the Chinese rulers themselves demonstrate this reality. Deng's denunciation of the Polish Communist Party for sharing power with non-Communists is testimony to how shallow his commitment to reform is. His belated effort to promote the careers of relative "moderates" after the massacre is a sign of his instinctive distrust of all his subordinates. He is now trying to balance the power Li Peng has accumulated.

Or listen to Li Peng himself, who, in an interview in the Paris daily Le Figaro, recently showed why a policy of trying to placate Beijing by ignoring the dissidents will fail anyway:

"Someone who is very close to the president of the United States told me that the president is delighted that the American system can benefit from recruiting skilled people from among Chinese students" who will stay in exile, Li asserted. "The former American secretary of State, Foster Dulles, said . . . that three or four generations would be needed to produce a peaceful change in China. The United States has never abandoned that idea."

The subliminal suggestion that the president of the United States approves of stealing Chinese youth away from the homeland are the words of a man who harbors a long-burning hatred against an American establishment that fought China in Korea and Vietnam. He is not a reformer. Talks on trade and benign neglect of China's exile movement by Washington will not change that. Washington should not cling to illusions about what is happening in Beijing.

CHARLESTON VETERANS' HOSPITAL STAFF DISPLAYS COURAGE AND PROFESSIONALISM DURING HURRICANE HUGO

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. MONTGOMERY. Mr. Speaker, I am proud to share with my colleagues a brief account of the courageous efforts of personnel at the Department of Veterans Affairs [DVA] Medical Center at Charleston, SC, which ensured the safety and proper care of its patients and contributed to the readiness of the community during Hurricane Hugo.

News photographs and television reports from Charleston have shown us in vivid detail the aftermath of the storm's ferocity, hints of the tremendous adversity faced by those who remained in the area and who continued to carry out their duties. In the face of this adversity, the DVA hospital staff did much more than simply function, they performed with an impressive measure of dedication and professionalism.

At 8 a.m., September 18, the Charleston veterans' hospital began preparing for Hurricane Hugo and, by day's end on September 21, windows had been boarded, the first floor had been cleared and all medical records had been moved in anticipation of flooding.

One hundred fourteen veteran patients were evacuated—61 to the veterans' hospital in Columbia, SC; 49 to the DVA hospital in Augusta, GA; and 4 to the Charleston Naval Hospital. Only 14 patients were considered by their physicians to be too sick to move.

Three hundred employees, family members of employees, and veterans were given shelter at the medical center.

The Charleston Coast Guard established its command post at the hospital when their facilities became flooded.

By 8 p.m. September 21, the winds and rain had intensified and were considered severe. At 11 p.m., windows on the hospital's fourth floor began to shatter and the walls began to buckle as the hurricane passed. The medical center staff sealed off the area to contain the damage. Fourth floor patients were moved to the operating room and recovery suites. County powerlines were downed, necessitating use of the hospital's emergency power generator.

At 1 a.m., after the eye of the hurricane had passed, windows on the opposite side of the facility blew out. Patients and family members were once again moved, this time to the center corridors of the building for protection. At 5 a.m., the facility lost its water pressure and continued to operate without water until September 23.

Shortly after daylight, officials conducted an assessment of damage to the facility. The roof had blown off of the engineering building. The group found considerable water damage in the facility's main building due to broken windows and a damaged roof.

Thankfully, due to the careful planning and vigilance of medical center employees, there were no casualties or injuries. Under humanitarian circumstances, the medical center has taken in two nonveteran patients from the community.

The hospital reports that its dietetic service continues to serve meals, electricity is functioning, and patients are being kept warm and dry.

Mr. Speaker, I know my colleagues will want to join with me in commending Charleston DVA Medical Center director, Michael M. Linder; acting associate director and disaster response coordinator, Robert Snow; staff assistant to the director, Robert Shimp; chief of staff, Robert A. Boudet; the service chiefs; and each of the hospital's employees for their heroism, humanity, and professionalism under very trying and dangerous circumstances. We should also thank employees from the DVA medical centers at Columbia, SC, and Augusta, GA, who are assisting the Charleston staff by helping repair structural damage and by providing clean water and supplies.

Well done, Charleston.

B'NAI B'RITH TO HONOR FORMER CONGRESSMAN BILL WHITEHURST

HON. OWEN B. PICKETT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. PICKETT. Mr. Speaker, on Wednesday, October 18, the B'nai B'rith Foundation of the United States will present its Great American Traditions Award to former Congressman Bill Whitehurst.

This is a tremendous honor for Bill, and all of us from eastern Virginia are very proud of him. Recipients of this award are part of a select group of people who through their life's work serve as role models for young people.

Anyone who knows Bill Whitehurst, and most of us do, can understand why he is a natural choice for this award.

As a college professor, journalist, nine-term member of this House, and now professor and journalist again, Bill Whitehurst has always taken a special interest in young people and has been a role model for them.

Throughout his long House career, he was always available to speak to schools and colleges in the second district. Students enjoy Bill because he brings common sense, humor, and a wealth of practical experience to the study of American government. He also was extremely supportive of projects and activities involving young people. His support for ROTC programs and his efforts to showcase the accomplishments of particular cadets come immediately to mind.

B'nai B'rith has made a truly outstanding choice for the Great American Traditions Award. I know that my colleagues join me in wishing Bill and Janie all the best on this important occasion.

JAKE STOCK—STAR OF THE SHOW

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. PANETTA. Mr. Speaker, I rise today to pay tribute to a very talented jazz musician, Mr. Jake Stock, who has entertained thousands during his career over half a century.

Starting his career in the early 1920's, Mr. Stock played the circuit at the height of the jazz period. He played with the Emerson Gill band in Cleveland, OH, from 1926 to 1927. Stock then went north to Canada to play with a number of musicians at a variety of clubs and radio stations before forming his own nine-piece band in Champlain, Canada. In 1935, Stock brought his band to California to play their first gig at Jack Moor's White Cap Cafe on Catalina Island. After marrying Grace Nelson in Long Beach, CA, the newlyweds moved to the Monterey Peninsula in 1937.

Perhaps one of the biggest highlights of Stock's career was opening the first Monterey Jazz Festival in 1957 with such jazz greats as Louie Armstrong, Dizzy Gillespie, and Lizzie Miles. The Monterey Jazz Festival has since gone on to become one of the most revered musical events in the world. Over the years, Jake Stock's Abalone Stompers played in nearly every club in the Monterey area. For 12 years Stock has played Fridays at the Catalyst in Santa Cruz and Sundays at the River Inn in Big Sur, also participating in the host of Dixie festivals throughout the State of California, including the Sacramento Dixieland Jubilee, Pismo Beach Mardi Gras, Los Angeles Classic, and, of course, the Monterey Dixie.

In 1978, Jake was honored by the City of Monterey's Pacheco and Paisano Clubs with a dinner coined Jake's Bake. Over 500 people packed into the warehouse on Cannery Row to honor this man who has spread so much happiness over the years. In 1982, Monterey's Parade of Nations named Jake the Citizen of the Year.

Mr. Speaker, Jake Stock has inspired and nourished hungry jazz enthusiasts with a talent and energy that are intense and timeless. I ask my colleagues to join me now in congratulating Jake Stock on his life's accomplishments.

H.R. 3361—THE ARMS CONTROL AUTHORIZATION ACT OF 1989

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. FASCELL. Mr. Speaker, today I have introduced the bill, H.R. 3361, the Arms Control Authorization Act of 1989 and I include it in its entirety in the CONGRESSIONAL RECORD:

H.R. 3361

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1 SHORT TITLE.

This Act may be cited as the "Arms Control Authorization Act of 1989".

TITLE I—ARMS CONTROL AND DISARMAMENT AGENCY

SEC. 101. AUTHORIZATIONS OF APPROPRIATIONS.

Subparagraph (A) of section 49(a)(1) of the Arms Control and Disarmament Act (22 U.S.C. 2589(a)(1)(A) is amended to read as follows:

"(A) $35,881,000 for fiscal year 1990 and $37,316,000 for fiscal year 1991; and".

SEC. 102. ARMS CONTROL IMPLEMENTATION AND COMPLIANCE BUREAU.

The Director of the United States Arms Control and Disarmament Agency should study, and report to the Congress on, the advisability of establishing in the Agency an Arms Control Implementation and Compliance Resolution Bureau which would be responsible for—

(1) managing the implementation of existing and future arms control agreements;

(2) coordinating the activities of the Special Verification Commission and the Standing Consultative Commission; and

(3) preparing comprehensive analyses and policy positions regarding the effective resolution of arms control compliance questions.

SEC. 103. ARMS CONTROL VERIFICATION WORKING GROUP.

The President should establish a working group—

(1) to examine verification approaches to a strategic arms reduction agreement and other arms control agreements; and

(2) to assess the relevance for such agreements of the verification provisions of the Treaty between the United States and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (signed at Washington, December 8, 1987).

SEC. 104. EXPENSES OF TRAVEL CONTINUING BEYOND THE END OF THE FISCAL YEAR.

Section 48 of the Arms Control and Disarmament Act (22 U.S.C. 2588) is amended by inserting after "personal effects" the following: "(including any such travel or transportation any part of which begins in one fiscal year pursuant to travel orders issued in that fiscal year, but which is completed after the end of that fiscal year)".

TITLE II—ON-SITE INSPECTION ACTIVITIES

SEC. 201. ON-SITE INSPECTION AGENCY.

The Arms Control and Disarmament Act is amended by adding at the end the following:

"TITLE V—ON-SITE INSPECTION ACTIVITIES

"SEC. 61. FINDINGS.

"The Congress finds that—

"(1) under this Act, the United States Arms Control and Disarmament Agency is charged with the 'formulation and implementation of United States arms control and disarmament policy in a manner which will promote the national security';

"(2) as defined in this Act, the terms 'arms control' and 'disarmament' mean 'the identification, verification, inspection, limitation, control, reduction, or elimination, of armed forces and armaments of all kinds under international agreement to establish an effective system of international control';

"(3) the On-Site Inspection Agency was established in 1988 pursuant to the INF Treaty to implement, on behalf of the United States, the inspection provisions of the INF Treaty;

"(4) on-site inspection activities under the INF Treaty include—

"(A) inspections in the Soviet Union, Czechoslovakia, and the German Democratic Republic,

"(B) escort duties for Soviet teams visiting the United States and the Basing Countries,

"(C) establishment and operation of the Portal Monitoring Facility in the Soviet Union, and

"(D) support for the Soviet Inspectors at the Portal Monitoring Facility in Utah;

"(5) the personnel of the On-Site Inspection Agency include civilian technical experts, civilian support personnel, and members of the Armed Forces; and

"(6) the senior officials of the On-Site Inspection Agency include representatives from the United States Arms Control and Disarmament Agency and the Department of State.

"SEC. 62. POLICY COORDINATION CONCERNING IMPLEMENTATION OF ON-SITE INSPECTION PROVISIONS.

"(a) INTERAGENCY COORDINATION.—OSIA should receive policy guidance which is formulated through an interagency mechanism established by the President.

"(b) ROLE OF THE SECRETARY OF DEFENSE.—The Secretary of Defense should provide to OSIA appropriate policy guidance formulated through the interagency mechanism described in subsection (a) and operational direction, consistent with section 113(b) of title 10, United States Code.

"(c) ROLE OF THE DIRECTOR.—The Director should provide to the interagency mechanism described in subsection (a) appropriate recommendations for policy guidance to OSIA consistent with sections 2(d), 22, and 34(c) of this Act.

"SEC. 63. AUTHORIZATION OF APPROPRIATIONS FOR ON-SITE INSPECTION AGENCY.

"There are authorized to be appropriated $49,830,000 for fiscal year 1990 and $48,831,000 for fiscal year 1991 for the expenses of the On-Site Inspection Agency in carrying out on-site inspection activities pursuant to the INF Treaty.

"SEC. 64. DEFINITIONS.

"As used in this title—

"(1) the term 'INF Treaty' means the Treaty between the United States and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (signed at Washington, December 8, 1987); and

"(2) the term 'OSIA' means the On-Site Inspection Agency established by the President, or such other agency as may be designated by the President to carry out the on-site inspection provisions of the INF Treaty.".

SECTION 89: THE HOUSE FINALLY ACTS

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. GEKAS. Mr. Speaker, it is with great pleasure that I discuss the passage yesterday of the Dorgan-Conte-Watkins amendment to repeal section 89 from the Tax Code and reiterate my strong support for that repeal effort and my affirmative vote on the repeal amendment.

Section 89 grew out of an idea for equity and eventually became a quagmire of confusing and expensive regulations that were impossible to interpret or follow. The Tax Reform Act of 1986 added section 89 "nondiscrimination" requirements to the Tax Code. Under these requirements, employers must prove that their plans do no unduly favor highly compensated employees. While well intentioned, the specifics of the law and its implementation cause burdens that are completely inconsistent with the goal. That is why section 89 has to be repealed: It makes no sense and costs everybody time and money.

I have been a proponent of repeal of section 89 from the moment it appeared before the Congress. I opposed the passage of the Tax Reform Act of 1986 on the grounds that there was too much in the bill that we in the Congress did not understand and would come to regret. But my constituents did. From the moment the IRS submitted regulations that were convoluted unintelligible—and they indicated that they doubted if they could improve upon them—I was besieged by calls and letters from the business, labor, and accounting professionals requesting, demanding, even pleading, for the Congress to solve their dilemma and repeal section 89.

Responding to their calls, I went to the Committee on Rules on May 24, 1989, asking them to allow the House of Representatives to vote on the repeal of section 89. Failing to get the approval of the Committee on Rules, I attempted a parliamentary move to allow the House a chance to vote on repeal. While that attempt lost by a mere seven votes, it focused the eyes of the Congress and the business community on the complete dissatisfaction with section 89 and the strength of the repeal effort. My next step was to introduce legislation, and file a discharge petition on May 31, 1989, to bring to the floor of the House a bill calling for the repeal of section 89.

The House was now on notice that the effort to repeal section 89 would be full throttle. On July 7, 1989 the House of Representatives passed a measure barring the Treasury Department from enforcing section 89 in fiscal year 1990; that measure, the Treasury, Postal Service, and General Government Appropriations Act, passed the Senate on August 4.

Which brings us to this day. After going before the Committee on Rules on behalf of the repeal amendment, I now express my extreme pleasure in voting for that repeal. Presuming similar Senate action and Presidential approval, we will soon put an end to a glorious concept that was never fully understood, thought out or properly delivered. Let us take this complete exercise as an educative example, a reminder that we in the Congress need to consider and reconsider again those concepts which sound too good and too simple to be true—and usually are.

REPRESENTATIVE FLIPPO INTRODUCES INTERSTATE LEGISLATION

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. FLIPPO. Mr. Speaker, I am here today to introduce legislation that addresses a dire need in this country.

Inadequate transportation systems are stifling some of the Nation's most dynamic growth areas. Cities like Atlanta, GA; Memphis, TN, and Huntsville, AL, are stymied in a gridlock of deficient travel systems that hamper achievement of their economic potential.

The measure I am introducing today, the High-Technology Corridor Development Act of 1989, would remedy this grievous situation. It would add roughly 500 miles to the National System of Interstate and Defense Highways to link Memphis with Chattanooga and Atlanta.

It is important to remember that in the 1950's and 1960's when the Interstate System was developed, this Southeastern block was completely overlooked because, at that time, the population count did not merit an extensive surface transportation system.

Times certainly have changed. Atlanta now is the home of one of the largest airports in the world and has become a Southern center of commerce. Huntsville, AL, is the headquarters of the Army Missile Command and home of NASA's Marshall Space Flight Center and Memphis, TN, has become a hub for business enterprise. The population in this block of Southeastern States has surged in the last two decades and the passage from Huntsville to Iuka, Mississippi has become a high-technology corridor, yet there is no east-west interstate highway accessible within 100 miles or more.

Undeniably, surface transportation routes in this region are sadly lacking. The bill I am introducing would ensure a gravely needed improvement over the present circuitous, congested and hazardous routes.

This new segment of interstate highway would simply extend the current east-west Interstate System. The addition is a natural expansion of the world's safest and most efficient highway network. It will transverse one of the fastest growing regions of the country, but a region that includes some of the most economically depressed pockets of the Nation.

This extension of the interstate is not just a boon for the South. It will facilitate domestic trade and make southern growth centers more accessible for the rest of the country, providing a solid foundation for future growth in commerce.

In this age of global economy and international competition we cannot afford to repress promising cities like Atlanta, Memphis, Chattanooga, and Huntsville.

The lock on interstate mileage since 1969, has held these cities hostage for two decades. It is high time we set them free. I hope that the Public Works Committee will bear this in mind as it begins deliberation on the future direction of the Federal highway programs.

INTRODUCTION OF THE LEGISLATION TO PREVENT THE DUMPING OF HUMAN WASTE BY AMTRAK

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. SIKORSKI. Mr. Speaker, I am introducing legislation today to bring the National Railroad Passenger Corporation—Amtrak—into the 20th century, at least their toilets. This short and simple bill requires that Amtrak halt a practice that would have Americans—if they knew—storming their local depots to demand reform: The routine dumping of human waste directly on railroad tracks. Amtrak is the only railroad in this country that persists in this foul habit, and it's time it stopped.

For decades now, the technology has existed for railroads to store and safely and sanitarily dispose of human waste. This is nothing more than what is required of every vehicle in every mode of transportation in America—except Amtrak. Amtrak's policy is simply to macerate—or grind—human waste and spray it directly, untreated, on the tracks, the railroad workers, and the kids in our backyards, and communities.

If you were to pull up to a railroad crossing in an R.V. and do what Amtrak does routinely, you would rightly be arrested on a host of public health violations and public nuisance charges. But Amtrak does it day in and day out.

Amtrak's license exists as the result of a special law which explicitly exempted that railroad from health and hygiene practices mandated of all other railroads. Today Amtrak officials cite a 1978 Department of Health and Human Services study which found no "identifiable disease outbreaks"—but this is anything but a clean bill of health. Scientists, public health officials, doctors, and ordinary citizens, even grade schoolers, know that the practice of transcontinental dumping of human waste puts our families and our children at risk of cholera, dysentery, infectious hepatitis, and any number of other parasitic and communicable diseases. It is a medieval practice which must end.

Amtrak dumps directly on our communities: On the backyards of America where our children play, on the tracks where hikers walk and most immediately, on maintenance of way employees who repair and maintain the tracks and often have no place to go when a liner comes by and sprays them with a fine mist.

Over 10 States, when informed of Amtrak's policy, have written that it is in violation of their public health statutes and entreated Amtrak to desist. Amtrak has been hauled into courts across the country: By the State of Florida, for dumping human waste directly into rivers and waterways and on an elderly couple fishing; by public health officials in Montana; by maintenance of way workers who were dumped on in Oregon; in Washington, Utah, California, and Nevada. As an editorial in the Portland Oregonian notes, "Amtrak has no business flushing its toilets onto tracks, rivers and, sometimes, workers and fishermen below the tracks."

Nevertheless, Amtrak persists, citing the 1976 congressional exemption as justification for this heinous practice. Today I call on Congress to "Just Say No." Support this legislation to end this foul practice once and for all.

JOANNE PUGLISI CHRISINGER: 16 YEARS OF SERVICE TO THE HOUSE OF REPRESENTATIVES

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. DOWNEY. Mr. Speaker, I take this opportunity to pay a special tribute to Ms. Joanne Louise Puglisi Chrisinger who leaves the House of Representatives today to begin another career.

Joanne first came to this body in 1973, when she began working in the office of Congressman George E. Shipley of Illinois. Previously, she had worked at the Bureau of the Census, and before that at the National Association of Letter Carriers. In 1979, Joanne came to work as my personal secretary and scheduler. I cannot speak highly enough of her commitment to her job, to the people of the Second Congressional District of New York, and to the House of Representatives.

A native Washingtonian, Joanne typifies the many dedicated staff members who make the House a special place, a small town really, where everyone helps a neighbor, where good turns are not forgotten, and where people care about each other.

So often, Mr. Speaker, the spotlight falls on the Members and the House. But we stand in the spotlight because we stand on the shoulders of staff. We keep impossible schedules because there are people like Joanne who devise ingenious ways to get us to two places at once. This body would be far less effective if the people who generally remain nameless were not willing to devote their energy and talents, their good humor and common sense, their sense of what is right and wrong to make this House the greatest legislature in the world.

I will miss Joanne as will the other members of my staff and all the constituents who have come to know her over the past 10 years. The work of the House goes on and there will be others who share the same belief in our political system, who are excited about working here, who don't care about the long hours, and who are proud of the chance to serve the House and the American public. Joanne Puglisi Chrisinger joins the thousands upon thousands of staff who have left the House a richer, more humane place. I am proud to call myself her friend and I am grateful, Mr. Speaker, to have this opportunity to give her this well-deserved public recognition.

EGGERS, AN EXCELLENT SCHOOL

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. VISCLOSKY. Mr. Speaker, I would like to commend the representatives of Henry Eggers Middle School of Hammond, IN, who have come to Washington today to accept an award from the Department of Education which recognizes the school as a school of excellence.

The Schools of Excellence Program honors institutions that demonstrate extraordinary community involvement, innovation and attention to the learning environment they create. Each year, 218 schools are chosen as examples of outstanding dedication to the development of our youth. This year, Eggers Middle School has been named to the ranks of the Nation's finest secondary schools.

A successful school needs dedicated administrators, caring teachers, and committed parents. The Hammond School District is a pioneer in returning responsibility to parents. Mrs. Chris Fladeland is here as a representative of the Eggers parent council which has proven that experiment successful. The parents of Eggers regard the success of their school as a personal duty. Their involvement is the foundation of the solid education Eggers provides.

Middle schools have a special clientele, children who have passed the elementary stage where a close relationship with a single teacher is necessary, yet are not ready to study subjects in departments as high school students do. Recognizing that difference, Eggers has developed a team-teaching system, in which groups of teachers work closely with each other to meet the special needs of students grouped by learning level and not by age. Counselor Joyce Irminger reflects the commitment and the care which the Eggers' faculty gives to individual students in creating this innovative educational environment.

There is a certain elan a visitor can sense just in walking the halls of an excellent school—an audible murmur that the visitor recognizes as learning. We must credit Dr. Jane Kendrick, because as principal, she has made sure that the murmur is audible above the din that students sometimes raise. When every teacher knows the students coming into the classroom have just left a learning environment in the room next door, that certain knowledge makes the day's lesson much easier to impart. Dr. Kendrick gives her teachers that security.

I am sure that these educators and the schools they represent are proud of their achievement and excited at this opportunity to meet and share their wisdom with the most successful educators of the country. Eggers School has given Hammond, and indeed our Nation, a reason to look to its future with confidence and pride.

SUPPORT THE RURAL REVITALIZATION ACT

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. ESPY. Mr. Speaker, I want to commend the gentleman from South Carolina for his initiative in introducing the Rural Revitalization Act, and I am proud to be an original cosponsor of this legislation.

The need for this legislation is urgent. What could be more urgent than employment rates in the high teens, even higher for minorities? What could be more urgent than per capita income of less than $10,000? In my district, 154,000 people still make about $5,000 a year in 1989. What could be more urgent than illiteracy rates and infant mortality rates compared to Third World countries? In my district, out of every 1,000 babies born, 16 of them will not live to blow out the candles on their first birthday.

So the issue before us today is not whether to throw more Federal money at a problem; rather, it is how to use our money more effectively and how to combine the private and public sector communities into a solid partnership targeted to rural America. This legislation that we are discussing today addresses some of the important initiatives we need to undertake in order to ignite the economic recovery of our rural areas. The amounts of money proposed is modest by just about anyone's standards, and the design of this legislation is to make these modest sums work to generate jobs and economic activity and tax revenues in rural America.

I would like to address one component of this legislation, the $300 million revolving loan fund that will be available through nonprofit entities, rural electric and investor-owned utilities, and others. This fund would be available for 3 years, and would involve working with local entities that are in place and doing business in rural America. These entities know how to take these Federal funds and put it with local and State money, private capital, and other moneys.

Mr. Speaker, I represent an area known as the Mississippi Delta. This area has some of the richest, most fertile agricultural land in the world. Farm-raised catfish is an increasingly important agriculture product in my district which provides a large employment base. My district could face what a lot of other rural areas are facing. Without functional infrastructure, and what I mean by that is water and wastewater treatment, we could face the possibility that our product would be grown in my

district and processed somewhere else. This is not the case now, and I hope it never will be.

This bill we are discussing here today provides for some sensible, inexpensive ways for rural areas to begin the process of building those critical water and wastewater treatment plants. It provides for the kind of technical advice and support that will help our rural communities develop systems that make sense now and in the future.

Again, Mr. Speaker, I am honored to be able to speak in support of this legislation and am honored to be an original cosponsor. I commend the gentleman from South Carolina for his initiatives.

HONORING COUNCILMAN JOHN SUTTON

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. CONDIT. Mr. Speaker, I rise today to honor a distinguished public servant from my district, Mr. John Sutton, and his wife Donna Sutton, who were tragically killed yesterday when the sightseeing aircraft they were riding in crashed over the Grand Canyon National Park.

Mr. Sutton was a distinguished community leader and city councilman in Modesto, CA. He was active in several community pursuits including Scouting, PTA, and the Modesto YMCA. He once said, "Some people play golf. Some men hunt and fish. I get a lot of satisfaction in being with people. To me it's a hobby like others have their sports."

A World War II veteran, Mr. Sutton served his country in the South Pacific aboard a destroyer. He was active in his church and a respected member of the Modesto business community.

Mrs. Sutton was very involved in community affairs in her own right. She was active in the local symphony guild, the Townsend Opera Players, the Women's Refuge Center, ecology groups, and the PTA.

Mr. Speaker, my district has lost two fine citizens. We grieve the loss and send our deepest condolences to the Sutton family and their many friends.

FEDERAL DRUG SECURITY SURCHARGE

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. DUNCAN. Mr. Speaker, I have received a copy of a letter from one of my constituents, Dr. Edward Tauxe of Knoxville, TN, to the Director of National Drug Control Policy, William Bennett.

Dr. Tauxe proposes a Federal security surcharge on the filing of all income tax forms. This revenue would go to fund our national war on drugs. Additionally, he suggests a system for better management of handling drug dependent persons.

I commend this thoughtful and insightful letter to my colleagues in the House, and I would like to submit it to be printed in the CONGRESSIONAL RECORD. I believe that all Members would gain insight from reading this letter.

KNOXVILLE, TN, *September 7, 1989.*

Mr. WILLIAM BENNETT,

Director of Office of National Drug Control Policy, Office of Secretary of Education, Washington, DC.

DEAR MR. BENNETT: I congratulate you on your new comprehensive program to attack the drug problem in the country. I am indeed grateful to President Bush for his support in purposing this and for his timely speech introducing this to the nation.

I will be sending a copy of this letter to my Senators and friends in the House of Representatives in the hopes of strong bipartisan support for a terrible non-partisan problem. As you know partisan politics can certainly stifle this program. We have to guard against that. It would be rare indeed for the bill to go unamended and if the political powers that be are indeed able to give useful amendments; then I think this may be useful in helping make this a bipartisan bill.

The purpose of this letter is to propose a couple of considerations that I would hope may improve the bill. As you know, the Democratic leadership seems to be saying, it does not go far enough. I am sure that all Democrats and Republicans in our national leadership would like for it to go further, but, we must start somewhere. It is obviously the will of the nation that we do not increase taxes. I do see a way, however, that some partial funding can be made if the President will agree not to veto and if the Democrat leadership agree not to attempt to capitalize on the idea of tax increase, and if the bipartisan leadership would agree such that the vote would be so dramatic the President would be unable to veto a bit of extra funding. I am proposing a surcharge for every household in the country who files income tax forms. I would propose that every household be given a $20.00 (plus or minus) federal drug security surcharge. As you have brought out, this is a multi-factorial problem. The grower, the manufacturer, the importer, the pusher and the user, as well as the person who is aware of this going on and does nothing to stop it.

We talk about disincentives and this is true. The average citizen, however, is not getting a direct disincentive, that I really see, that would be interpreted as such in the present bill proposed.

I do not see the average citizen really doing anything, except perhaps small talk. If we are not a part of the solution, we are a part of the problem.

A federal security surcharge, however, would be a direct disincentive and coupled with "hot lines" can certainly encourage the citizenry to do more toward being a part of the solution to the problem.

As you know, the problem has been with us for many scores of years and will always be a problem as a result of the drug dependent personalities, etc., with which we are born. The problem becomes one of management. When I began to practice medicine, back in early 1952. We had a system of federal hospitals. When our doctors found a person abusing drugs, they were simply reported to federal authorities, and in our area they would be taken to the hospital in Lexington, Kentucky. There they may go voluntarily or involuntarily for a "cure". This really worked quite well. While there were a large number of failures, the problem was indeed managed relatively well; realizing the problem can never be totally gone. I would suggest looking into this system of federal hospitals that were "on the line" back in those days.

I am sure there will be many other considerations and possible amendments. I think this should be encouraged so the final bill will still have the appropriate direction yet, the support of both parties and hopefully a 100% vote in both Houses to support the final bill.

I want to emphasize a surcharge would not be a new tax and should not be construed as a new tax. While incomes of a certain level, perhaps could be "excused" from such a surcharge. It is important, in my mind, that this be a surcharge paid equally by everyone, that it be coupled with a possible means of everyone being able to report, and to be encouraged to report drug offenders and possible verbal supportive criticism to improve the problem and that the surcharge vary from year to year according to the necessity for over and above normal law enforcement. Also, that it have an end point, such as five years.

With kindest personal regards and sincere good wishes.

Yours very truly,

EDWARD L. TAUXE, M.D.

THE FEDERAL ASSISTANCE PROCEDURES REFORM ACT

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mrs. ROUKEMA. Mr. Speaker, over the last several months all of us have been dismayed by the revelations of scandal coming out of the Department of Housing and Urban Development. As the ranking minority member of the Subcommittee on Housing and Community Development, I have been particularly appalled at the abuses which occurred and the neglectful attitude which was pervasive throughout the top management of the Department.

Our own Housing Subcommittee of the Banking, Finance and Urban Affairs Committee has looked into the scandal. In addition, the Subcommittee on Employment and Housing, chaired by the distinguished gentleman from California [Mr. LANTOS], has conducted a superb series of hearings which has produced extensive information which has been both relevant and disturbing. I have attended many of those hearings and can attest to the completely professional, nonpartisan methodology the committee has used in uncovering this mushrooming scandal.

Just this week we witnessed the unfortunate spectacle of former Secretary Pierce and the man who was his chief assistant refusing to answer questions from a congressional committee and invoking their fifth amendment privileges. This just underscores the seriousness of this matter and the complexity of the investigation.

Today, I am introducing legislation to address some of the abuses which have come to light. This bill is not an attempt to implement sweeping programatic changes at HUD.

That will wait until the Housing Subcommittees of the House and Senate write a comprehensive housing bill. Rather, this legislation is a commonsense measure designed to close the loopholes and systemic abuses that have been uncovered at HUD to date. However, before I explain the provisions of my proposal, I want to comment on what led us to this situation.

Clearly, new legislation is needed, but a legislative response cannot hope to solve all the problems we have discovered. Many of those problems had less to do with program structure than with the attitude of those who ran the Department.

Obviously, the programs at HUD were the lowest priorities of the last administration. Many of the people appointed to serve in the Department either lacked experience in housing or were antagonistic toward the programs or both. In that atmosphere, morale among career employees plummeted, and many of the best employees retired or transferred to other agencies. When a Department's top managers are hostile toward the Department's mission, it is not surprising to find poor oversight and abuses in programs. To a large degree, we must rely on the faithful and professional management of the department. Legislation cannot solve such management problems. One of the lessons of the current scandal is that lack of sufficient oversight by the administration and the Congress is likely to lead to trouble.

Having said that, I do think that certain immediate legislative changes are appropriate. The bill which I have introduced today addresses several different problems.

It would require public disclosure whenever any applicant for Federal funds hired a consultant to contact any Department or Agency. It would require the name and address of the consultant to be reported, as well as the amount of the fee and the activities for which the payment is made. Had such disclosure requirements been in place over the last several years, I do not think we would have seen incidents where a well-connected consultant could make hundreds of thousands of dollars for making a couple of phone calls.

This proposal would also create a new position at HUD of Chief Financial Officer and Under Secretary for Management. The position would be filled by a nonpartisan Presidential appointee who would be accountable, by law, to the Secretary for HUD's management systems and general management functions. This position is styled to a degree after the Inspector General Act of 1978, which requires notifying both Houses of Congress of the reason for removal.

This new position was recommended by the General Accounting Office in a report it issued in 1984. That report said, in part:

GAO recognizes that a nonpartisan (financial and management officer) may be a departure from our traditional political system. However, this option is particularly attractive because it can professionalize and enhance HUD's managerial leadership and provide a benchmark for the Congress to use when considering ways to improve management in other Federal agencies.

Quite simply, this new Chief Financial Officer would serve as HUD's official "watchdog." The person filling this position would oversee all revenue—incoming and outgoing—to ensure its proper handling and disposition. In this way, we hope to prevent a recurrence of such disturbing episodes as the recent problems in the HUD coinsurance program and the FHA deficits.

The bill would also prohibit fee arrangements which are tied either to the number of housing units or to success in obtaining a grant. This provision would apply only to HUD. Further, it would require proper advertising whenever HUD benefits are available and consultation with localities before the awarding of any units. In the Coinsurance Program, this legislation would require the lender to cover all of any loss which is the result of fraud by any party. Under current law, the lender is liable only if the lender engages in fraud.

This legislation would require the Secretary of any Department to issue an "accountability report" whenever he is given a report with recommendations by his inspector general. In that "accountability report" the Secretary would have to list for the Congress which recommendations were being rejected, which accepted, and why. He would also have to lay out a time line for the actions he intended to take so that the Congress would have a standard by which to judge progress. This is very similar to a current requirement when GAO makes recommendations.

Finally, the proposal would make certain changes in the authority given inspectors general throughout the Government. They must have the tools and the teeth to operate as independent and aggressive "whistleblowers."

This legislation would give inspectors general's subpoena power to compel testimony. At present, they have such power only to compel collection of documents.

Current law requires an inspector general to bring to the Secretary's attention any serious matter he discovers, the report on which the Secretary is required to forward to the appropriate committees of the Congress within 7 days. My bill would require the inspectors general to forward that information directly to the Congress should the Secretary fail to act during the 7 days. The legislation would also give inspectors general a fixed term of 10 years with the option of reappointment at the end of that term. This is designed to increase the independence of the inspectors general's.

The disclosure provisions of my bill are, in many ways, similar to those already contained in the Senate version of the Interior appropriations bill and in H.R. 3136, which was introduced by the gentleman from California [Mr. LANTOS] and which I cosponsored. I do think that my bill provides a simpler, cleaner approach to disclosure than those other proposals, but I am certainly willing to work with other Members to fashion a final version on which we can all agree.

Secretary Jack Kemp inherited more problems than any of us could have guessed at the time of his appointment. To his great credit, he has met these challenges head on, and, at the same time, has pushed to move his Department in new and productive directions. I know that Secretary Kemp is working on a package of reforms which is likely to be ready in the next few weeks. Certainly, the other leaders of the Housing Subcommittee and I will be working with the administration to try to fashion a bipartisan, consensus bill, which may incorporate features from several different proposals. I have every hope that we can achieve such a common purpose in short order.

In the meantime, I hope introduction of this legislation today will help move us along toward that end.

STATEMENT ON CAPITAL GAINS VOTE

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. EMERSON. Mr. Speaker, I don't believe we should have to choose between either the benefits of capital gains on the one hand or the benefits of IRA deductions on the other. Rather, I believe that by enacting both of these proposals, we can achieve the best formula to stimulate our economy and to help the middle-income Americans make the most of the money they have.

First of all, I voted to reduce the capital gains tax for all Americans. Contrary to what some folks say, this reduction is not a reduction for the rich. As a matter of fact, a recent U.S. Treasury analysis verifies that 75 percent of the taxpayers who show capital gains on their tax returns have other incomes of less than $50,000—with almost 17 percent reporting less than $10,000 in wages and salary.

And, while the majority Leadership claims that the capital gains tax reduction is a plan for the wealthy while their plan is a proposal that will benefit the working class, the facts indicate otherwise. The Treasury analysis also shows that the vast bulk of the beneficiaries of the Democratic proposal would be those with income over $50,000—in fact, almost 84 percent. The simple reason for this is that most taxpayers with incomes under that level already qualify for IRA's.

I, too, have cosponsored legislation to allow folks to tap into their IRA's for down payments on their first homes, for education purposes, and for emergency medical expenses. This current proposal, on the other hand, would have restored only 50 percent of the deduction for IRA's. Under present law, families with incomes under $40,000 can already deduct 100 percent of their IRA contributions. These are the folks who wouldn't be helped at all by the Democratic leadership's IRA proposal, but who would stand to benefit by the capital gains reduction.

THE 100TH ANNIVERSARY OF THE CHRISTIAN STREET BRANCH OF THE YMCA OF PHILADELPHIA AND VICINITY

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. FOGLIETTA. Mr. Speaker, I rise today to salute the Christian Street Branch of the

YMCA of Philadelphia and vicinity. One hundred years ago, the Christian Street YMCA was built to provide a social and sports facility for Afro-American youth. Since then, the Christian Street YMCA has served Philadelphians of all races.

Today, this fine institution wishes to reaffirm its commitment of service and leadership to the city of Philadelphia. The Christian Street YMCA has long sought to develop the mind, body, and spirit of those who entered its doors. The Christian Street YMCA pledges to continue this tradition for the next 100 years.

I commend the individuals who built the Christian Street YMCA and maintain its strong tradition. I wish them a happy and healthy 100th anniversary.

CAPITAL GAINS

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. HOUGHTON. Mr. Speaker, I voted against the Rostenkowski-Gephardt amendment. I don't like it, and frankly I don't like its alternatives. I wish the bill were crafted differently, but it isn't. The sad part is that these are very important issues to which we are giving the back of our hand.

I believe in dramatically lower capital gains taxes. They are outdated. Our major competitors on the world state have virtually no such tax. But what sort of yo-yo plan is this, whereby the program presented to us for an up or down vote applies for only 2½ years and in the long term loses revenue?

I also believe in increased savings. This is probably as important a subject as we can attack. But the IRA provision here doesn't help at all the working families earning less than $50,000 a year. What sort of a plan is that?

There is still another problem, maybe the most important of all. This amendment shoots holes through the 1986 Tax Act as well as the budget. The 1986 Tax Act, frankly, wasn't much—mainly because it was revenue neutral. It didn't fix our financial plight. But it is a relatively predictable law which has a philosophy. Namely, to eliminate gimmicks and loopholes in return for lower overall rates. Now this all starts to unravel. And as far as the budget deficit is concerned, aside from a questionable tax increase, we lose even more money in our national operating budget.

This is bad legislation.

It's bad economics.

I voted against it.

TRIBUTE TO MAURICIO ARENZON

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. MOODY. Mr. Speaker, I am privileged to honor Mr. Mauricio Arenzon, president of Wisconsin Knitting Co., who was recently named the SBA Minority Small Business Person of the Year.

As president of Wisconsin Knitting Co., Mr. Arenzon provides the leadership and guidance which has resulted in an impressive growth in sales and profits over the last 4 years. This firm, which manufactures textile mill products and apparel, has grown from a modest 3-employee business in 1979, to a company which employs 94 people and can compete successfully in the private sector as well as providing quality products for our Department of Defense.

Wisconsin Knitting Co. employs minority and handicapped individuals in a variety of positions in labor, office, and management departments. The company promotes from within and encourages personal growth and responsibility in all its employees. It has received official recognition by the city of Milwaukee for its development efforts, as well as recognition by Milwaukee County for its continued support of low-income and minority employment programs.

Mr. Arenzon has instilled in the company the same values and ideals that have made him so successful. Wisconsin Knitting has played an increasing role in improving the lives of the citizens of Milwaukee by supporting numerous charitable organizations and providing many people with their greatest dignity, the means to support themselves.

Mr. Speaker, I am pleased that the Small Business Administration has recognized the contributions of Mauricio Arenzon by awarding him this most deserved honor.

CONNIE CHIMPKY, HAYWARD, CA, 1989 FINALIST OF JAMES CASH PENNEY AWARD FOR COMMUNITY SERVICE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. EDWARDS of California. Mr. Speaker, if anyone ever doubts whether a single individual can make a difference, they should take a look at Connie Chimpky.

Ms. Chimpky, a collector with J.C. Penney's credit service center in Fremont, CA, and one of a handful honored September 14 as a finalist for the 1989 James Cash Penney Award for Community Service, has made a difference; a heartfelt, communityfelt difference.

It started with her job. In handling a delinquent account, she learned the individual was disabled with a family, which included four young children and a wife who was employed part time. And with that, Ms. Chimpky turned the challenge of her daily job into a call to service to the needy of her community. She reached out a helping hand to that family and helped provide the food they desperately needed. Soon, she and her friends were helping not one but eight needy families.

That proved to be only the beginning of Connie's service to her community. She went on to help organize and put up fences at an El Zocalo shelter for women and children and energetically spearheaded drives for food and clothing for the homeless.

In recommending Ms. Chimpky for the James Cash Penney award, the executive director of El Zocalo Shelters, Inc., said; "If I could only clone Ms. Chimpky we would be able to get a lot more done at one time, since she is such an excellent volunteer."

Ms. Chimpky well deserves the special honor that has been bestowed upon her and it is a privilege for me to join JCPenney in recognizing the contribution she has made to our community. We thank you, Connie, for your exemplary voluntarism. We wish there were more like you.

COWBELLES CELEBRATE 50TH ANNIVERSARY

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. KOLBE. Mr. Speaker, it is with great honor and enthusiasm that I rise today to give tribute to the Cowbelles of Douglas, AZ. Founders of the Arizona State Cowbelles and the National Cattlewomen organizations, the Cowbelles of Douglas, AZ are celebrating their 50th anniversary on Tuesday, October 17, 1989. This occasion gives me the opportunity to voice my admiration for this worthwhile organization.

At the suggestion of Mrs. Will Glen, on October 17, 1939, 16 women gathered in the home of Mrs. Ralph Cowan in order to plan meetings and dances for the local cattle people. They formalized their association with the election of Mrs. Cowan as president. This marked the beginning of the Cowbelles and a tradition of charity and promotion of the cattle industry.

While the purpose of the organization was initially to encourage goodwill and friendship among the wives of the cattlemen of Cochise County, AZ, the women quickly became involved in devoting their time to charitable endeavors. They made generous contributions to the Arizona Boys Ranch and the Arizona Children's Home for which they also made afghans and quilts.

The news of this unique organization soon spread to neighboring communities. Wilcox, Santa Cruz, and Greenlee Counties, among others, joined Cochise County by forming their own local chapters. In 1947, the Arizona State Cowbelles came into being. Shortly thereafter, in 1952, nationwide interest prompted the formation of the American National Cow Belles.

Since its inception, the American National Cow Belles has grown to almost 7,000 members in 30 States. One of the 25 State organizations, Arizona boasts 300 members at the State level and nearly 700 members at the local level. In cooperation, these dedicated women work hand in hand with the cattlemen's organization, the Beef Council and National Livestock and Meat Board in the promotion of beef and other projects for the betterment of the cattle industry. My mother, Helen Kolbe, was a member of the Sonoita-Elgin Cowbelles for many years, so I know first hand of the good work this group does to promote our Arizona cattle industry.

That small group of women that met in 1939 never imagined that their organization would meet with such success. Through commitment and competent leadership, the Cowbelles of Douglas, AZ have not only positively affected their community and Arizona, but also one of our country's oldest and most important industries. I extend my sincere appreciation and congratulations to the Cowbelles.

INTRODUCTION OF A BILL SUPPORTING THE TARAWA DECLARATION'S CALL FOR ESTABLISHING A DRIFT NET FREE ZONE IN THE SOUTH PACIFIC

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. LAGOMARSINO. Mr. Speaker, in July of this year, 15 nations of the South Pacific issued the Tarawa Declaration, to urge the international community to support and cooperate in the negotiation of a regional convention to establish a drift net free zone in the South Pacific region. The magnitude of the threat of these nets to the South Pacific countries is without parallel in the United States.

The income from tuna caught within the islands' 200-mile extended economic zones often represents up to 10 or 20 percent of the annual budgets of some of the island states. Their government operational funding and the very vitality of their economies are inextricably tied to the islands' marine resources.

The United States has seen the continued existence of certain domestic fish species, such as salmon, threatened in the past by drift net fishing. The actual cost of the potential loss of the salmon industry in the United States would be enormous. Congress recognized the gravity of the use of drift net fishing for salmon in the North Pacific and enacted the Drift net Impact Monitoring, Assessment, and Control Act of 1987.

Although of significant environmental value as well, the total potential dollar loss of salmon represents a small fraction of the annual budget of the United States, less than 1 percent. However, tuna is a primary resource of many of the South Pacific countries with devastating consequences if lost.

Drift nets are plastic nets up to 20 or 30 miles long. They have been referred to as the wall of death by some due to the indiscriminate trapping of all species of fish, including mammals such as porpoise, dolphin, seals, and whales. The impact of the drift net on the tuna stocks can be tremendous as the drift nets float vertically at the top of the ocean where the younger fish swim. The mature tuna generally migrate at much lower depths. Therefore, the drift nets are eliminating future generations of tuna. Eventually there would be no significant number of adults to regenerate the population. It is as conceivable that the tuna could become extinct as the millions of buffalo almost did in the United States due to uncontrolled killing.

The nations of the South Pacific met in July 1989, in Tarawa, the capital of the island nation of Kiribati, whose numerous small islands are scattered across an area of the Pacific Ocean larger than that of the continental United States. They met to discuss issues of mutual concern and formulate a consensus of what action should be taken.

They agreed that prompt action needed to be taken to eliminate the use of driftnet fishing in the South Pacific. Their concerns were enunciated in a document which was signed by 15 nations and which is known as the Tarawa Declaration.

I am introducing a bill today in support of the unified stance of the Pacific nations for the negotiation of a regional convention to establish a driftnet free zone in the South Pacific. The Congress recognized the wicked effect of these nets in the North Pacific, and surely the impact is equally severe in the South Pacific.

The bill is as follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) In July, 1989, the South Pacific Forum issued the Tarawa Declaration, which calls on the international community to support and cooperate in the negotiation of a regional convention to establish a drift net free zone in the South Pacific region.

(2) Pending the negotiation of such a convention, the Tarawa Declaration calls for the immediate cessation of drift net fishing in the region by the Japanese and Taiwanese vessels.

SEC. 2. POLICY.

It is the sense of Congress that the policy of the United States should be to achieve international agreement on banning large-scale driftnet fishing on the high seas as soon as possible including by supporting the Tarawa Declaration and other international efforts to achieve such a ban.

The Tarawa Declaration referenced in the resolution expresses the concerns of the nations of the South Pacific regarding driftnet fishing. Several countries are cited regarding their involvement in driftnet fishing. Korea is commended for its decision to cease driftnet fishing in the region. However, Japan and Taiwan are called upon to immediately cease their damaging drift net operations. The following is the Tarawa Declaration in full:

TWENTIETH SOUTH PACIFIC FORUM TARAWA DECLARATION

TARAWA DECLARATION

The South Pacific Forum meeting at Tarawa on 10-11 July 1989.

Recognising the crucial dependence of the Pacific Island peoples on marine resources;

Profoundly concerned at the damage now being done by pelagic drift net fishing to the economy and environment of the South Pacific region;

Convinced that this indiscriminate, irresponsible and destructive fishing technique threatens the survival of the Albacore tuna resource, and so the economic well-being of forum island countries;

Deeply regretting that Japan and Taiwan have failed to respond to the concerns of regional countries about the most serious issue;

Noting that it is in the mutual interest of the major fishing nations active in the region, and the forum, to conserve fisheries stocks;

Noting that all countries inside and outside the region are affected by the mismanagement of the resources of the world's oceans, by the environmental dangers of drift net fishing and by the threat to safe navigation;

Recalling the relevant provisions of the 1982 United Nations Convention of the Law of the Sea, and in particular articles 63, 64, 87, 116, 117, 118, and 119;

Recognising that the use of drift nets as presently employed in the Southern Pacific Albacore Tuna Fishery is not consistent with international legal requirements in relation to rights and obligations of high seas fisheries conservation and management and environmental principles;

Resolves for the sake of this and succeeding generations of Pacific peoples to seek the establishment of a regime for the management of Albacore Tuna in the South Pacific that would ban drift net fishing from the region: Such a ban might then be a first step to a comprehensive ban on such fishing;

Determines, to this end, to convene an urgent meeting of regional diplomatic, legal and fisheries experts to develop a convention to give effect to its common resolve to create a zone free of drift net fishing;

Resolves that individual member states of the South Pacific Forum will take all possible measures in the interim to prevent drift net fishing within their waters, and otherwise actively to discourage the operations of drift net fishers;

Further resolves that member states acting individually and collectively will take what action they can within relevant international organisation to contribute to the cessation of this harmful form of fishing;

Commends the Republic of Korea for its decision to cease drift net fishing in the region; and

Calls on Japan and Taiwan to follow this example, and abandon immediately their damaging drift net operations.

All countries of the Pacific Basin, including the United States, are members of what one Pacific Island Ambassador called the aquatic continent of the Pacific. We must work together to preserve the fragile environment both on land and above and below the ocean surface. The international community's support of a regional convention to establish a driftnet free zone in the South Pacific would represent a major marine ecological achievement. I urge my colleagues to join in support of our aquatic environment through the elimination of the monster drift nets.

NATIONAL SCHOOLS OF RECOGNITION AWARDS

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. BUECHNER. Mr. Speaker, I rise today to call attention to three schools in my district, and one right next door, who will be receiving the National School of Recognition award from the President of the United States: Brentwood Middle School in Brentwood, MO; Parkway Central Junior High School in Chesterfield, MO; Ursuline Academy in Oakland, MO; and Cross Keys Middle School, in Floris-

sant, MO which is attended by young people from my district.

At a time in our history when many are examining the basic precepts which govern our educational system we can learn by the example that these schools have set. Others may settle for mediocrity but these schools have committed themselves to no less than excellence. While many of our Nation's schools seem to be in decline, these schools remain robust. And while many question what constitutes a viable educational standard, these schools have not only shown they know, but by their outstanding efforts have pushed the standard even higher.

The National School of Recognition Awards are given to individual schools, but it is not a building or a place to which they will be given. Although a school may be located in a building, it is more than the roof and walls which define its physical location. Rather, this award will be given to honor the manifestation of a commitment by concerned individuals dedicated to an educational ideal. This commitment is exemplified by the principal and administrators who work to provide the structural decisionmaking framework to form a cohesive system, but perhaps equally so by the custodians who maintain clean, well-lighted classrooms, or cafeteria workers who serve nutritious meals each day.

It is a collective effort, the product of the hard work of concerned teachers trying to ignite the spark of learning in a young mind—as well as of the hard work and acceptance by that young mind of the gift that is being conferred. It is by the dedication of the community—both parents and other concerned individuals alike—who understand that the educational costs today are an investment in the future for all of us.

In a day and age when many judge our educational system by what is wrong, I submit that perhaps a more appropriate measure would be to look at what is right. In this we need look no farther than the example set by these schools. They have demonstrated that the most important criteria for achieving excellence is by refusing to accept no less.

Mr. Speaker, I am proud of these schools and I ask each of my colleagues to join me in saluting their accomplishments. To the administrators, teachers, faculty, staff, students, parents and communities in which these schools are located, we extend our heartfelt congratulations.

H.R. 3383, TO AUTHORIZE THE NATIONAL PARK SERVICE TO CONDUCT A STUDY OF PARK SYSTEM BOUNDARIES—WHERE DO WE DRAW THE LINE

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. VENTO. Mr. Speaker, through a wide-ranging series of laws and administrative actions the National Park System, with its treasure of valued natural, cultural, historic, scenic, and recreational resources, has been formed. While the National Park System, as a whole, transcends political and geographical boundaries, individual park units have, in various instances, evolved that reflect those considerations to a greater degree than the resource needs. Many park units have been carved out of an ecosystem or fragmented to focus on only a few of the many natural or historical resources within an area. Numerous park boundaries follow roads, section lines, or political boundaries bisecting these resources. The administrative and ecological problems that result from such a pattern can be viewed in a multitude of park units today, with the Manassas National Battlefield being only the latest example of this regrettable occurrence.

The United States Code is replete with boundary adjustments that have been made to nearly 200 national park units. In the 100th Congress alone, over a dozen laws dealt with such adjustments. Unfortunately, many of those boundary adjustments were and continue to be made only in the face of an eminent danger or threat to the purposes for which a park unit was established. Permitting park boundary questions to go unaddressed until they result in serious confrontation or damage to the resource is illogical.

Today I am introducing legislation, along with Congressman JIM LIGHTFOOT, which attempts to move us out front of the problem in a position leading to good national park policy before crisis decisions are necessary. This legislation directs the National Park Service to undertake a comprehensive and systematic review of current boundaries of units of the National Park System. The National Park Service will be directed to prepare a detailed report within 3 years of enactment containing specific recommendations regarding boundary adjustments and other methods which may be available to protect the resources integral to such units, including related resources on adjacent lands, to preserve the viewsheds of the park unit concerned, and to improve management at such units. Such recommendations have been fragmented and inconclusive in the past.

Despite the extensive changes in use and development within and around existing park units that have occurred over the years, the National Park Service has never made an attempt to review park boundaries in any sort of systematic manner. The National Parks and Conservation Association, a nonprofit organization dedicated to national park issues recently issued a well-documented study report that revealed that 69 percent of the boundaries of primarily natural areas and 41 percent of the primarily cultural areas of the National Park System need adjustment. The constant and recurring park boundary questions brought to the attention of Congress add validity to that assessment. This initiative will review such conclusions and propose necessary action by the Congress and executive.

This legislation should not be construed as a subterfuge for expansion of the National Park System. Any modification of park boundaries, after careful analysis of the information developed by this legislation will be to assure that the purposes for which these units were designated are fulfilled. I don't anticipate recommendations for a wholesale rewrite of park boundaries developing from this legislation. Rather, we should be seeking to correct those instances where a resource is partially within or without current boundaries, complicating its protection and use on both sides of the boundary.

We need the professional data base provided by this legislation to make informed decisions on a systematic basis rather than addressing boundary questions on a piecemeal or crisis basis. I hope we can move quickly to put this commonsense process into law and I seek the support of my colleagues for this endeavor.

MAINE SOUTH HONORED BY PRESIDENT BUSH

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. HYDE. Mr. Speaker, I want to take the opportunity to honor the students, teachers, parents, and administrators of Maine Township High School South on this special day.

Representatives of the school, led by Principal Dr. Thomas J. Cachur, met this afternoon with President George Bush at a White House ceremony to receive the Secondary Schools of Recognition Award. This gold medal honor is presented by the President and the U.S. Department of Education to a few select schools which meet rigorous academic standards.

The Department of Education rated Maine South superior in all academic areas, particularly in the teaching of geography, which was a focus of this year's award criteria.

May I suggest that there is no more useful and rewarding profession than that of a teacher, and the excellence of the Maine South administrative and teaching staff sets a standard and example that we should all applaud.

This award is the result of the work by many other individuals, too, including engaged and caring parents and community taxpayers who have said yes to good schools.

Among those representing the school at the White House today, in addition to Dr. Cachur, are Otto M. Kohler, Jr., chairman of the school's social science department; Kaye Pierce, former chairperson of the girl's physical education and athletic department; Virginia Feurer, a college and career counselor; Karen Pflederer, an English teacher at the school; and Corrinne Duerkop, a parent representative.

MEDICARE BAN ON DOCTORS WHO ABUSE EXPERIMENTAL DRUG TESTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. STARK. Mr. Speaker, I am introducing a bill today to make doctors who abuse new drug experiments on human subjects ineligible for Medicare payments. This measure would strengthen the Federal Government's role as a force for safety and quality in medicine by

linking important activities of two units of the Department of Health and Human Services, the Food and Drug Administration and the Health Care Financing Administration.

The agency that administers Medicare, the Health Care Financing Administration, HCFA, has a statutory mandate to ensure that only qualified physicians and hospitals deliver medicine to senior and disabled citizens. I believe that to ensure quality medical care, HCFA should ban physicians who break the rules when they experiment with drugs on their patients.

The Food and Drug Administration requires doctors to experiment in accordance with approved regulations and protocols. These protocols and regulations are designed and intended to safeguard the public's health and safety. They protect those individuals to whom the drugs are administered during the experimentation; and, second, they protect the general public which benefits when ineffective and harmful drugs are screened and not approved for general use, and when beneficial drugs are discovered and made available. Doctors who break the rules regarding use of drugs during experiments show callous disregard for the health of the public and the patients whom they ask to participate.

Mr. Speaker, this bill is only common sense. Why should a doctor, who breaks a fundamental ethical commitment when experimenting on a patient with a new drug, the equivalent of treating him like a guinea pig, be allowed to bill the Government for his purported "treating" of that patient? This principle goes beyond the immediate care of that patient. Violations of drug protocols and FDA drug testing regulations are grave, going to the solemn Hippocratic Oath a doctor takes before being allowed to practice. They reflect on a physician's fitness to practice. Such offenses taint what a doctor does as a doctor: his commitment and ability to truly heal. They are not confined merely to the care given a specific patient. Thus, I believe that Medicare should bar offending physicians from treating Medicare patients—who are the disabled and elderly.

DR. HERSCHEL ZACKHEIM AND MR. MICHAEL REGO

Mr. Speaker, this situation was first brought to my attention by a constituent, Mr. Michael Rego. Mr. Rego was an unwitting participant in an experiment by a physician who administered a new drug to Mr. Rego.

The physician, Dr. Herschel Zackheim, breached FDA protocols and regulations in multiple ways. I have previously referred on the floor, last October 14, to Dr. Zackheim's treatment of Rego as "Jekyll and Hyde" medicine. Dr. Zackheim, even after he had given written assurance to the FDA that he would not conduct the experiments, used the drug for 2 years in violation of FDA protocol. One of the most fundamental violations was Dr. Zackheim's failure to obtain consent from patients before experimenting on them. I think that if any of us had been experimented on without our knowledge or consent, that we would be outraged. Certainly we would wonder how another person could be so cavalier with our health. I also think we would be outraged if the Federal Government went on to pay the doctor to "treat" other patients.

In Mr. Rego's case, rather than apply the drug to a small area of the body as required by the protocol, Dr. Zackheim slathered the drug over large areas of Mr. Rego's body, possibly causing him severe nerve damage. Dr. Zackheim also failed to keep adequate and accurate case histories of patients under experimentation. Of course, this means that the effects of under or overdosage would be more difficult to track and, if needed, to treat. It also disqualifies the experiments as evidence which could establish the safety and efficacy of the drug. Consequently they are useless for any purpose but harming the patient. They might even delay the introduction of a useful and beneficial drug.

Why should Dr. Zackheim now be permitted to treat—or mistreat—Medicare patients who are generally in less of a position than Mr. Rego to knowledgeably assert their rights to respectful, quality care?

Unfortunately, the FDA which found Dr. Zackheim violated protocol cannot bar him from being eligible for Medicare reimbursements. However, Congress can.

I believe Congress should bar from the Medicare Program doctors like Dr. Zackheim, who have been made ineligible to receive investigational new drugs, or have agreed to restrictions regarding their use following FDA allegations that they have violated protocols.

I have arrived at this conclusion not merely as a result of Mr. Michael Rego's situation, but after reviewing many specific cases involving doctors who have violated FDA rules or have had their access to investigational new drugs restricted.

DR. FLOYD K. GARETZ AND NURSING HOME PATIENTS

One case involves Floyd K. Garetz, a doctor who experimented on elderly residents in nursing homes. Because his patients were confined to nursing homes it is very likely that they were on Medicare or Medicaid and Dr. Garetz' abusive treatments were paid for by the Federal Government. Incidentally, Dr. Garetz also appears to an owner of one of the nursing homes, which, in essence, provided more or less captive subjects for Dr. Garetz' experimentation.

One of these Garetz' patients, an elderly woman, after having agreed to take part in the study and having done so for a period, wished to withdraw and communicated this desire to Dr. Garetz. Rather than comply with her wishes, Dr. Garetz—secretly and with obvious disdain for the rights of this patient—crushed the experimental drug and put it in her food. As bad as this may appear it was not the only patient whom the FDA found Dr. Garetz gave drugs to after being told to stop.

Is this the type of activity we, as a Nation, should be financing? And by financing without question, accepting as a standard of practice high enough for some 32 million Medicare patients? I think not. That is what my bill attempts to say—and put teeth into.

DR. STEVEN STEEN'S EXPERIMENTAL TREATMENT OF A RETARDED INDIVIDUAL

Another example involves Steven Steen, M.D., who was practicing at Harbor General Hospital in Torrance, CA. The FDA allowed Dr. Steen to administer two drugs in an experimental clinical program. One drug had not yet been approved for general commercial sale. The other drug, Alnovin, was being tested to determine its efficacy and safety for the treatment of post-surgical pain.

The FDA found that Doctor Steen failed to maintain "adequate and accurate" case histories in the Alnovin study. Among the FDA charges was Dr. Steen's failure to record a "possible adverse reaction (screaming and hallucination) after administration * * *" If that was not enough, the FDA also wrote Dr. Steen saying "there is evidence that you may have repeatedly or deliberately submitted false information * * *" There was also evidence that Dr. Steen failed to get consent of patients before experimenting on them and, like Dr. Garetz, patients were unaware of their participation in the experiment. According to the FDA, patient signatures on Dr. Steen's purported consent forms for the Alnovin study were not those of the patients. The FDA even found that one patient was mentally retarded and therefore unable to give consent. Since he was mentally retarded, his medical care was very likely provided by Medicare or Medicaid. This means Dr. Steen may have even had the audacity to bill and have the Federal Government pay for this Jekyll- and Hyde-like treatment.

We, as legislators and as a Nation, can be proud we have put in place the Medicare System that cares for those least able to take care of their own medical needs, such as this retarded individual. We will be even more proud if we improve the program with this next step—making sure our system does not reward a person who exploits and experiments with such defenseless participants.

DR. LINKER'S UNINFORMED CANCER PATIENTS

Another example of the need for this bill is the case of Dr. Daniel Linker, M.D., who worked at the University of California Medical Center in San Francisco, a major public medical school in my State and very close to my district. The FDA found Dr. Linker violated FDA protocol involving a study of many patients with a form of acute leukemia.

The FDA determined that Dr. Linker treated patients with several drugs not called for by the protocol. It also found that Dr. Linker used drugs on patients who were ineligible for the experiment—including a patient who did not have acute leukemia. The consents of 29 patients—out of 36 sampled—were either not obtained or obtained after the patient had already been administered the experimental drug therapy. Dr. Linker also started giving patients the drugs before he received approval from the hospital's human subjects committee—for example, Dr. Linker began testing one patient more than a year before the hospital's committee gave permission to use the drug on humans.

THE PSYCHIATRIST WITH THE PATIENT RECORDS IN HIS HEAD

In another example, a group of senior citizens with Alzheimer's disease had the bad fortune to be experimented on by Dr. William K. Summers, a physician from Arcadia, CA. Dr. Summers avowed purpose was to feed a drug, THA, to patients to see if it was useful in treatment of Alzheimer's disease. Unfortunately, a number of the patients don't appear to have known what Dr. Summers was up to. Although the FDA requires that doctors have written consent from patients before they can

be given experimental drugs, for numerous patients Dr. Summers appears to have only obtained undated consent forms or written consent after the patient was already on the drug.

Dr. Summers wrote an article on his study for the New England Journal of Medicine. Apparently the article caused quite a stir because when Dr. Summers claimed his results demonstrated that patients with Alzheimer's showed "significant improvement during oral THA therapy * * *" However, when the FDA audited his records it didn't see it that way.

FDA investigators compared the claims made in the article with Dr. Summers' records and found "numerous statements in your (New England Journal of Medicine) article that appear to be false." The article had stated that slowing of memory loss and other signs of Alzheimer's had been demonstrated by daily tests given each patient, which were summarized and graphed in the article. However, when questioned by the FDA, Dr. Summers admitted that "no records were in writing. * * *" Dr. Summers had the temerity to tell the FDA that he maintained all the records in his head. No premature signs of senility in Dr. Summers.

The FDA wasn't impressed. It told Dr. Summers in rather deadpan language, "It does not seem plausible that you precisely remembered multiple observations of the entire patient population without a written record * * *." Because the human guinea pigs in Dr. Summers' "study" of THA and Alzheimer's had a mean age of 70, the Federal Government was probably paying Dr. Summers for some of this treatment.

These examples of doctor-turned-experimental-zealot go on and on. Some 99 doctors have violated protocol or have been disqualified in some way from experimental FDA drug programs. The list includes doctors who have "deliberately falsified records," doctors who submitted the same altered EKG for multiple patients, and a doctor who did not report that the "Subject * * * apparently suffered an acute myocardial infraction (heart attack) immediately upon receiving the * * * drug." One doctor "reported to the sponsor that patient 25 had taken all the test medication." However, the FDA found that "Medication for patient 25 was found intact in your office."

These doctors are dangerous and the Federal Government should not reward their actions with other people's hard earned cash.

THE LACK OF SUBSTANTIAL FDA SANCTIONS

In reviewing the FDA actions to date, I am impressed not only with the outrageous acts by physicians, but with the toothless sanctions issued by the FDA. Dr. Zackheim was let off with a mild rebuke—he must work under a proctor and "treat" no more than 20 patients at a time. I mention the FDA's weak sanctions because I believe it is important and underscores the need for vigorous penalties.

The lack of substantive disciplinary measures is more remarkable in light of the powers given the FDA by Congress. For instance, the Food and Drug laws place the "burden of proof" on doctors to show they have complied with drug experiment protocols and regulations. As an example, doctors, not the FDA, must prove that they have obtained written consent before administering drugs in experimental programs. This unusual shifting of the burden of proof is a powerful tool and few agencies have it. It expresses Congress' intent that the public's health and safety should be of paramount importance.

Despite both the intent and the power to back it up, the FDA routinely appears to merely slap doctors' wrists. Penalties for baleful actions are minuscule, such as disbarring doctors for short periods, or allowing them to "agree" to not test new experimental drugs. Very common is asking the doctor agreeing "not to do it again." So much for deterrence. This means that every doctor gets a free shot at other people's bodies when it comes to drug experiments.

The FDA's benign approach extends to how it handles the results of doctors' sloppy experiments. The FDA usually leaves it to the company to see that sloppy and unethical research is not used as a basis to approve new drugs and new drug treatments. Given the recent revelations that the FDA was asleep at the switch while the drug industry falsified its generic drugs, we can guess that companies feel little complusion to pull Claus von Bulow type "research" results from their applications for new drug approvals. After all, who's going to do anything about it?

This is not to minimize the complexity and size of many of the investigations undertaken by the FDA office handling these matters. The reason for weak sanctions probably lies in a combination of regulatory topor and political philosophy at the top, and a lack of resources, uncompetitive salaries and inadequate staffing at the bottom. Those are issues that this proposed legislation does not address directly, but ones that bear looking into by this body.

In the meantime, this bill should have immediate and beneficial effect on the national health. It will cost the taxpayer nothing. But it will cost a tiny minority of doctors who practice a malignant form of medicine—if they are callous with handling people's health and experimental drugs they won't have an automatic hand in the taxpayers' pockets. It is my experience that doctors react to financial incentives—and disincentives. By threatening doctors financially, the bill prevents patient abuse and favorably affects the quality of new drug experimentation. It should make us all healthier in ways that cannot be precisely measured. It will also make the government more efficient because the painstaking and, no doubt, costly existing FDA program to ferret our misbehaving doctors—even if it isn't seriously sanctioning them—will identify, without additional cost, those doctors whom Medicare should ban.

I welcome your thoughts on this legislation.

CARGO PREFERENCE HURTS POLAND RELIEF EFFORTS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. BEREUTER. Mr. Speaker, the exorbitant costs of United States cargo preference requirements threaten to swallow a large share of United States funds that will soon be available to purchase grain and food products for our Polish food aid relief efforts. Therefore, I am calling upon the administration and this Congress to waive cargo preference requirements on current emergency food aid to Poland.

Private estimates—including those provided by the Poles themselves—indicate that as much as 40 to 50 percent of United States funds devoted to current food aid relief efforts in Poland may be swallowed up in subsidizing the higher freight rates charged by United States shipping companies.

This scandalous situation arises from the requirement that 75 percent of all U.S. bulk food aid shipments be carried on U.S. flag vessels regardless of higher U.S. shipping costs. Grain industry sources estimate United States cost of shipping to Poland at $70 to $90 per ton, compared with non-United States rates of between $15 and $25 per ton.

United States taxpayers—and friends of Poland—should be outraged that so little of the funds provided by the United States will be used to purchase desperately needed food—and so much squandered on subsidizing a handful of greedy United States maritime shippers.

Again, the waiver of cargo preference requirements on Polish food aid is desperately needed to meet the American taxpayers' interests, and to meet the announced United States commitment to provide the maximum food relief possible to Poland within the $100 million sum announced by the Bush administration.

REMEMBERING BOB PARKER

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. BROWN of California. Mr. Speaker, tomorrow a grieving community will bury one of my dearest friends, Bob Parker. Bob was highly esteemed in San Bernardino, in my congressional district, because he was a man of honor and integrity, a man who devoted his community efforts to the empowerment of the poor and of ethnic minorities. But Bob represented even more to me than the public man that our community knew. Bob was an American hero—a quiet hero of the type we do not often recognize.

Bob was born January 11, 1931 in Indiana. As a young man he proudly served his country in the U.S. Air Force from 1949 to 1953. He retained his love of flight and of airplanes throughout his life. He collected models of Air Force planes, and often threatened to "appropriate" the model of the National Aerospace Plane that sits behind my desk in Washington.

Bob married his wide, Stella, on September 11, 1956. He often talked about his 33 perfect years of marriage. Bob often spoke of his greatest accomplishments: his children Jeffrey, Philip, David, Nancy, Elaine, and Vickie. As the center of his family's life, Bob instilled in his children the same high standards for decency and integrity that he held for himself.

Bob moved with his family to San Bernardino 25 years ago. He owned several small

businesses and he was a good example of the small town American entrepreneur. While Bob provided for his family, he also provided leadership for his community. He founded the West Side Action Group in the early 1970's to escort black children to school during desegregation. The group matured to become a force in the political and economic activities of the community.

Bob was involved in community service groups, such as the Muscott School PTA and the Kiwanis Club. But Bob's real interest was in local politics. He served as administrative assistant to Assemblyman Terry Goggin in the early 1980's, and has been a consultant to all of my reelection efforts since my early years in the 36th Congressional District.

Bob's special skill was telecommunications. He was happiest in a room filled with phones and young volunteers, reaching out to voters and urging them to participate in the electoral process. In his business, Bob touched many lives. He was often a surrogate father for his employees and for his friends' children. Bob always had a joke on his lips, but the joke often imparted a serious message about growing up, accepting responsibility, and participating in government. We'll never know how many young people became active citizens in our democracy because of Bob's influence in their lives.

Bob also knew that ethnic groups were being denied full participation in our society and in our government. He has long been known as the primary force behind voter registration efforts in our area, and he was chair of the Jesse Jackson campaign in the Inland Empire. Bob brought many previously disenfranchised persons into the political process.

Bob's son Jeffrey has said his father probably would want to be remembered as "Honest Bob . . . That's the way he lived." That is indeed the way Bob lived, and the legacy he leaves behind are the lives he enriched during his sojourn among us. Bob was an American hero—a quiet hero who touched the lives of the next generation and, for those he met, exemplified our most basic American values. We will miss him.

COMMUNITY SERVICE IN DROPOUT PREVENTION ACT

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. COLEMAN of Texas. Mr. Speaker, today I am introducing a bill requiring 10 percent of all funds appropriated for basic skills improvement and school dropout prevention and reentry programs be reserved for dropout programs operated by community-based organizations.

These days, the mandate of America's schools extend far beyond the brass tacks of education. Somehow our teachers combine the three R's with a tacit responsibility for the health, nutrition, and mental well-being of our children. Our schools administer everything from breakfast at daybreak to free school lunches to clinics for counseling of our kids. It's the teachers who watch for signs of abuse, involvement with drugs, or social problems in and out of school and it is the teacher who must intervene when a problem gets out of control.

The teachers and administrators I have spoken with about dropout prevention strategies have all been enthusiastic and willing to contribute what they can. The problem is time. There is a common myth that a teacher's day ends at 3 o'clock when the kids go home. In fact, there are many more hours of paper grading, test scoring, lesson preparation and the completion of progress reports. There is little time left for new programs and initiatives.

There are, however, community organizations that are willing and able to help. I have watched with satisfaction as groups in my district such as the El Paso Education Alliance have organized to work constructively with schools on the dropout issue. Community involvement—the commitment of individuals to solving social problems—is the only answer for the host of social ills we as a nation must face. It is not enough for the public to sit passively by waiting for the Government to solve problems of this nature and it is foolish when the Government thinks it can. It will take a bigger effort, a combination of Government and community support to make things happen.

As a result, I am introducing the "Community Service in Dropout Prevention Act." The idea is to provide community organizations who have the time, the people, and the commitment to assist with or develop dropout prevention programs an opportunity for financial assistance.

I am not proposing that we take money away from schools and give it to community groups—I have already introduced legislation creating a new program of matching grants to States for the schools and mandating a moderate increase in existing dropout prevention legislation. I also do not intend to create a cash account for private firms wishing to provide advice to community organizations. My purpose is to direct a moderate amount of assistance toward community groups who are providing concrete assistance in stopping the loss of America's lifeblood, our future—our children's decision to drop out.

Over 4.2 million children dropped out of school last year. Without the minimal requirement of a high school education these kids are destined for a permanent economic underclass. Our democratic ideals mean little to those who have no hope for the future. We must do everything we can to ensure that we, as a caring society, join together to make that hope a reality.

KANSAN ENDS DISTINGUISHED NAVAL CAREER

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mrs. MEYERS of Kansas. Mr. Speaker, I would like to pay tribute to a resident of my district who has served a distinguished naval career. This Saturday, Naval Reserve Rear Adm. D.O. Smart of Overland Park, KS, will relinquish command of the 17,000-person Reserve Naval Construction Force.

Rear Admiral Smart, who has enjoyed a naval career spanning 35 years, will be honored here in Washington at the Navy Memorial. This ceremony will be a fitting tribute to a man who has proudly served his country.

Rear Admiral Smart started his naval career in 1955 upon commissioning as an ensign. After 4 years of active duty, he joined the Naval Reserve. In 1987, he became the commander of the Reserve Naval Construction Force.

While serving in his post, Rear Admiral Smart was responsible for seventeen 650-man battalions located throughout the United States. In time of a national emergency, the reserve construction forces would constitute almost 70 percent of the Navy's total construction capability.

The construction forces, which are known as the "Seabees" among Navy personnel, are the Navy's combat engineers. Their nickname is derived from the initials "CB" for construction battalion. The Seabees are renowned for their contruction work during World War II in the South Pacific.

In addition to his distinguished naval career, Rear Admiral Smart was, until recently, the vice president of Award Flooring in Lenexa, KS. He is a registered professional engineer in Missouri.

Upon retirement as Commander of the Reserve Naval Construction Force, Rear Admiral Smart will continue to reside in Overland Park, KS.

Mr. Speaker, although I will not be able to attend Rear Admiral Smart's retirement ceremony this Saturday at the Navy Memorial, I want to take this opportunity to acknowledge his dedicated service, and that of his wife, Beverly, and to express the gratitude of his fellow Kansans and countrymen for those 35 years of abiding commitment.

And now, may he enjoy his change of pace with this family and friends, and all the abundant blessings he so richly deserves.

50TH ANNIVERSARY OF THE HAMMOND HARWOOD HOUSE

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to acknowledge a national historic landmark, the Hammond Harwood House, a museum that has preserved the heritage of 18th century Annapolis for the past 50 years. I also wish to commend the efforts of the Hammond Harwood Association, a volunteer group, that has taken it upon themselves to purchase and restore this historical site.

In 1774 Maphius Hammond commissioned the renowned English architect William Buckley to design this home. The house remained within the Hammond family until the death of the last heir in 1926, when St. John's College became the owner. The house remained relatively empty until 1938 when the Hammond Harwood Association was created with the goal of restorating and purchasing the historic

home. In 1940, through its dedication, it raised enough funds so that it was able to purchase the Hammond Harwood House from St. John's College.

Since 1940 the Hammond Harwood Association has been committed to restoring this golden age monument as closely as possible to its original 18th century atmosphere. The architecture retains its original carved woodwork, without any modern alterations, and the house also retains contents original to the era. Notably, the works of local craftsman John Shaw, and Charles Willson Peale, an 18th century Annapolitan artist, are displayed. In the drawing room, a former colonial music program is offered which allows opportunities for the public to learn about music of the time period and local musicians to perform music of the 18th century. This exact preservation allows the community to fully experience this era.

It is with great pride that I extend my sincerest congratulations to the Hammond Harwood House and the Hammond Harwood Association for the 50 years of historic community service. I know that my colleagues will be pleased to join me in offering best wishes for the continued preservation and success of this prestigious landmark.

A CONGRESSIONAL SALUTE TO COMMUNITY REHABILITATION INDUSTRIES OF LONG BEACH AND TEXACO INC.

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. ANDERSON. Mr. Speaker, I rise in order to bring to the attention of the House an event taking place in Long Beach, CA, which will illustrate for those who are not aware the excellent ties that exist between industry and education,and between industry and community programs. On October 7, 1989, the Community Rehabilitation Industries [CRI] of Long Beach will honor Texaco Inc. for their commitment to people with disabilities. CRI is a not-for-profit agency providing vocational training and job placement to people with disabilities. Since opening their doors in 1956, CRI has provided services to thousands of individuals with disabilities.

Texaco has been committed to CRI's programs over the past 3 years and this year they became the title sponsor of the November 12, Texaco Long Beach Shoreline Half Marathon. According to Chuck Walz, plant manager of Texaco Refining and Marketing, Inc. Los Angeles plant stated, "We are proud to support CRI and their efforts for persons with disabilities and we are equally excited about being involved with the race. It was realizing what a contribution CRI makes to the community combined with the employees enthusiasm for the race that convinces Texaco to make such a heavy commitment."

Not only has Texaco made a huge financial commitment to CRO, but their employees have become extremely involved as volunteers. Two Texaco employees are members of CRI's board of directors; in addition, many employees volunteer for the half marathon or run in the actual race.

Mr. Speaker, I take great pleasure in entering these comments into the CONGRESSIONAL RECORD. Texaco Inc. is to be commended at the same time that we commend the board of directors, executive director Judith Pierson, the staff and personnel of Community Rehabilitation Industries. It is an honor to have this community oriented facility in my district.

FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989 (FIRREA)

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Ms. OAKAR. Mr. Speaker, In an effort to clarify my amendment that is contained in the FIRREA Act of 1989, I submit the following explanation.

New section 5(d)(3) of the Federal Deposit Insurance Act, adopted in FIRREA (pp. 19–21 of the August 4 Conference Report), contains an "optional conversion" procedure under which a bank holding company may, with Federal Reserve Board approval, merge a thrift it owns into a bank it owns. This is commonly referred to as the "Oakar Amendment". The Board may approve the merger only if five conditions are met.

One of the requirements of my amendment is that the Board of Governors of the Federal Reserve System may not approve an application unless the Board determines that, for transactions occurring during the first year after enactment of FIRREA, the savings association had tangible capital of less than 4 percent "during the preceding quarter". The phrase "during the preceding quarter" refers, of course, to the quarter preceding the acquisition of the savings association by the bank holding company. A thrift that has less than 4 percent capital during the quarter preceding acquisition by a bank holding company, but that subsequently has been capitalized to higher levels, would therefore meet this requirement in my amendment. Any contrary result would unfairly penalize those institutions whose capital positions had been improved after acquisition, and indeed would encourage acquirors not to improve the thrift's tangible capital position. That result would be contrary to the fundamental thrust of the legislation, which I strongly supported, toward higher capital requirements.

HURRICANE HUGO DISASTER RELIEF ACT

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. SCHULZE. Mr. Speaker, today I am introducing the Hurricane Hugo Disaster Relief Act of 1989.

My legislation would require the Government Development Bank for Puerto Rico—which manages section 936 funds allocated by the U.S. Government—to make available up to $1 billion in the form of low-interest loans to provide disaster relief in the Caribbean Basin region. This includes Caribbean Basin beneficiary countries or U.S. territorial possessions which are declared disaster areas due to damages caused by natural disasters—Hurricane Hugo being the most recent case in point.

Importantly, this measure will not undermine section 936's role in fueling infrastructural development in the region. Indeed, by ensuring that a portion of the 936 reserve funds are used for disaster relief, we actually promote the infrastructural development and redevelopment so essential to picking up the pieces left behind by this natural disaster.

REPEAL OF SECTION 89

HON. BEN JONES

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. JONES of Georgia. Mr. Speaker, I rise today to salute the House for voting overwhelmingly to repeal section 89. I was an early supporter of repeal of section 89, and despite the Wall Street Journal's claims to the contrary, I have never wavered in my support for repeal.

Section 89 was designed to encourage employers to give rank-and-file workers the same benefits as top executives, but the regulations required companies to do complicated tests of their benefits plans to determine whether they discriminated. Hundreds of small businesses in the Fourth District complained to me that the provisions were overly complicated, too costly, and would force them to stop offering health plans altogether. Repeal was clearly needed.

I am pleased the House acted in the best interest of small business by supporting repeal, and I hope my colleagues in the Senate will support the House and vote the repeal.

WESTERN NEW YORK CAPTIVE NATIONS WEEK

HON. BILL PAXON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. PAXON. Mr. Speaker, I rise today in honor of the 30th Annual "Captive Nations Week" held in the city of Buffalo and the county of Erie in New York from July 17 to July 22, 1989.

Thirty years ago, in 1959, the U.S. Congress passed unanimously Public Law 86–90 which not only called for a halt to further Communist expansionism, but also clearly acknowleged the just and rightful claims to independence of all nations that fell into the Soviet Communist orbit.

Since the end of World War II, when many nations lost their independence and were submerged into the Soviet bloc, the citizens of

those nations have looked to the United States as the citadel of freedom.

Recent events in Poland and Hungary, upheavels in the Baltic States and the Ukraine, as well as the bloodbath in China, once again prove that nations refuse to accept the yoke of enslavement and have demonstrated clearly the bankruptcy and illegitimacy of Communist rule.

The Captive Nations Week Law is expressly designed to encourage and support the rightful aspirations of the enslaved nations in their just struggle to regain their national freedom and independence.

I congratulate Buffalo Mayor Jimmy Griffin and Erie County Executive Dennis Gorski for proclaiming Captive Nations Week.

I would also like to take this opportunity to congratulate the Buffalo Chapter of the Ukrainian Congress Committee of America, and its chairman, Dasha Procyk. For the past 30 years, the Ukranian Congress has spearheaded the work of the Western New York Captive Nations Committee.

I am pround, Mr. Speaker, to honor today in the House of Representatives the 30th Annual Captive Nations Week in western New York.

SOUTH CAROLINA DISASTER

HON. ARTHUR RAVENEL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. RAVENEL. Mr. Speaker, not since the tragic war between the States has South Carolina suffered a disaster even approaching the destruction wrought in just hours by the hurricane called Hugo. Winds, sometimes approaching 200 miles an hour, rain horizontally driven like missiles, tidal waves exceeding 20 feet at the time of high tide, and an apparent line of vicious tornadoes have all left our dear city of Charleston and a vast area of South Carolina in a condition of almost unbelievable destruction.

Only the superb actions by local, State, and Federal officials, collectively preparing our people to survive this killer hurricane, minimized the loss of life. These preparations included an order of mandatory evacuation of the barrier islands and low areas. Resolutely, South Carolinians, further battered by driven rains, have begun the task of renewal, cheered by the massive assistance flowing to us from a compassionate Federal Government.

I applaud the inclusion in this continuing resolution of $1.1 billion by Senators THURMOND and HOLLINGS and am proud that this House has approved the appropriation by a unanimous vote.

DEVELOPMENTS IN THE NICARAGUAN ELECTORAL PROCESS

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. CROCKETT. Mr. Speaker, this is another in a series of statements about the Nicaraguan electoral process, in which I am sharing with my colleagues objective information about that process in order to help us judge its legitimacy.

In response to a request by the Nicaraguan Government, the Government of Venezuela sent a mission to Nicaragua in March, comprised of Venezuela's Supreme Electoral Council and representatives of Venezuela's three main political parties, for the purpose of studying electoral conditions in Nicaragua, making recommendations for improvements, and identifying ways in which Venezuelan aid could be helpful.

The Venezuelan study mission produced a report in April, the conclusions and recommendations of which I wish to include in the RECORD. I would call my colleagues' attention to the statement in the report that "There is currently a climate of political opening in Nicaragua that makes it possible to initiate an electoral process and to seek agreements to enable such a process to be conducted under satisfactory conditions."

Last month the Center for International Policy distributed a report on Nicaragua's electoral reforms, which included a chart showing which of the Venezuelan recommendations have been implemented by Nicaragua. I include this chart following the excerpt from the Venezuelan report.

The material referred to follows:

CONCLUSIONS AND RECOMMENDATIONS

In view of the situation described throughout this report, it is possible to draw the following conclusions:

(A) There is currently a climate of political opening in Nicaragua that makes it possible to initiate an electoral process and to seek agreements to enable such a process to be conducted under satisfactory conditions.

Fundamental factors in the success of this process have been the peace agreements promoted by the Central American Presidents, the end of military operations in Nicaraguan territory, and the development of democratic positions within Nicaragua, together with the imperative need of the Sandinista Government to promote a strategy of political and economic coordination that will make national recovery possible.

In particular, the El Salvador agreement signed last February has made it possible to specify measures and approaches to facilitate the functioning of a party system and the holding of elections within an appropriate legal and political context in the country.

(B) It is possible to specify the set of conditions that are considered fundamental for the execution of the process and which involve the following aspects: Balanced composition of the electoral bodies; creation of a reliable voter registration list; equitable access to the media; modification of the rules governing political parties; and progress of the electoral campaign.

These conditions, which are discussed at length in the body of the report, constitute the basis for the best possible management of the electoral process. The Mission believes it is perfectly reasonable to think that these conditions can be achieved in the current political climate of Nicaragua.

Naturally, many of them require significant reforms of the Electoral Law and the media law, which must be undertaken by the competent bodies.

Other conditions are only a matter of specific political compromises and they can all form the basis for a comprehensive political agreement between the government and the opposition that can be achieved over the short term.

(C) It is highly advisable to maintain international support and cooperation to make it possible to attain the above mentioned conditions and to help the electoral process proceed satisfactorily.

The role of countries like Venezuela and Costa Rica, for example, is of particualr importance, given the good relations these countries have with Nicaragua.

In the case of Venezuela, it is necessary to develop a program of actions so that support and cooperation can produce concrete measures to be undertaken from now until the time the elections are held.

The program should be structured to cover the following aspects: Electoral technical assistance to Nicaragua; logistical support; participation as observers of the electoral process; and involvement in the international arena.

In each of these areas, the actions being proposed are indicated below:

1. Electoral technical assistance—

(a) provide any support Nicaragua considers necessary to: Provide methodical arrangement of the reforms of laws and electoral regulations; create a voter registration list; establish the voting, vote counting, and calculation systems; use mechanized elements in the processs; and issue regulations on specific matters related to the electoral campaign.

(b) Organize a series of seminars for government employees, members of the opposition, and electoral officials, in which the Venezuelan electoral experience will be described in order to illustrate the diversity of issues involved in the process and possible solutions.

This series could begin with first seminar to be led by Dr. Carlos Delgado Chapellin, President of the Venezuelan CSE.

(c) Bring officials from the Nicaraguan CSE to the Venezuelan CSE for visits and training.

2. Logistical support—

(a) Determine in detail the logistical support that Venezuela can provide in terms of: Materials; equipment; and services. Schedule the sending of the respective supplies.

(b) Support any démarches undertaken in the international arena to create a comprehensive aid package, establishing some coordination mechanism to ensure maximum efficiency in the allocation of resources.

3. Participation as observers—

(a) In order to track the process continuously from the beginning, it seems advisable to create a group of observers (three or four people) assigned to the Embassy of Venzuela in Nicaragua.

This group must maintain relations and contacts with the government and the opposition to comply with the objective of acting as honest witnesses of the situation as it develops.

In addition, the group must act as a center to coordinate the technical assistance and logistical support provided to Nicaragua.

(b) As the date of the election approaches, the number of observers should be increased to perhaps some 25 or 30 people so they can cover the various aspects of "the process and be present in the various geographical areas.

In general, it is advisable that these observers be chosen with a pluralistic representation from various political currents.

CHART 2.—VENEZUELAN RECOMMENDATIONS

Issues	Recommended by Venezuela	Implemented by Nicaragua	Not implemented by Nicaragua
Registration	Identification through documents listed in Electoral Law or two witnesses.	Identification through documents listed in Electoral Law (civic booklet) or two witnesses.	
	Keep electoral record (one copy as record book, one to be sent to Supreme Electoral Council).	Keep electoral record (one to be sent to Supreme Electoral Council).	
	Limit number of voters to 400–500 per board	Set up 4,000 voting boards	
	Registration period can last six months	Registration within four months	
	Registration lists to be published once a month, open access for all parties..		Registration lists not to be published, access upon request by parties.
	Allow registration for citizens abroad	Allow registration for citizens abroad	
Electoral Councils	For Supreme Electoral Council two members from government, two from opposition including also those parties not represented in National Assembly, one notable to be president chosen by mutual agreement, same balance for all lower electoral bodies.	Recommended 2–2–1 composition was implemented (one from parties outside the assembly).	Fifth "impartial" member not president and was not appointed by mutual agreement.
Voting	Design ballots consulting all political parties.	Supreme Electoral Council designs ballots consulting representatives of all registered political parties, to be published in advance.	
Parties	Lower 5% vote limit for parties to receive seats	Eliminate percentage limit for parties to receive seats	
	Facilitate formation and financing of parties (also for opposition parties not represented in National Assembly) by requiring party organization only in percentage of municipalities instead of nation-wide, speeding up granting of legal status, allowing foreign financing, and guaranteeing no government majority in Council of Parties..	Lower threshold for formation of parties. Include opposite parties not represented in National Assembly in allocation of government funds for parties, allow foreign financing of campaigns of which 50% will be used to cover costs of elections.	No change of provision on granting legal status for parties.
Campaigning	Guarantee freedom to demonstrate	Guarantee freedom to demonstrate	
Media	Transfer second TV channel to impartial organization and equip it with full national coverage.		

Sources: Republic of Venezuela, Consejo Supremo Electoral, "Report of the Electoral Mission to Nicaragua" (mimieo, Caracas, March 1989); Niciaragua, Asamblea Nacional, Law No. 43 (Electoral law, August 24, 1988); ibid., Ley No. 56 (Reforms to electoral law, April 22, 1989); ibid., Law No. 57 (The general law on the media and public communication, April 21, 1989).

THE 30TH ANNIVERSARY OF THE SOUTH COAST MEDICAL CENTER

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1989

Mr. PACKARD. Mr. Speaker, this month marks a very important anniversary in the distinguished history of the South Coast Medical Center—a very special hospital that serves the residents of the 43d Congressional District.

It was 30 years ago this September that South Coast began its dedication to providing quality health care to the community and that dedication has manifested itself on repeated occasions throughout the past three decades.

Several special events have been held to celebrate the 30th anniversary of the hospital and at each one the community has responded with continued strong support and enthusiasm for this quality institution.

South Coast Medical Center is a 268-bed, not-for-profit general acute care hospital that provides patient services ranging from critical care, same-day surgery, maternity services, and a 24-hour emergency room. In addition, the hospital has been a leader in chemical dependency treatment, as well as mental health services.

The hospital's Women's Pavilion and Resource Center, an information and referral source for women of all ages on health care issues, is another fine example of how this facility meets the needs of the communities it serves.

To the hospital president, T. Michael Murray, the board of directors and all the staff at South Coast Medical Center, I would like to offer my personal congratulations on 30 years of excellent health care services.

SENATE—*Friday, September 29, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

And I will make of thee a great nation, and I will bless thee, and make thy name great; and thou shalt be a blessing: And I will bless them that bless thee, and curse him that curseth thee: and in thee shall all families of the earth be blessed.—Genesis 12:2, 3.

** * * I have loved thee with an everlasting love: therefore with lovingkindness have I drawn thee.*—Jeremiah 31:3.

God of Abraham, Isaac, and Israel, on this eve of Rosh Hashanah, first of the Jewish high holy days, as their new year begins, we recall with gladness and gratitude Your remarkable promise to Abraham and the assurance of Your everlasting love through Jeremiah. Thank Thee for the promise of universal blessing through Your Old Testament people, for their unprecedented perseverance despite repeated efforts throughout history to destroy them. Let Thy blessing rest upon them through these days of penitence and spiritual renewal in anticipation of Yom Kippur, the Day of Atonement. Be glorified in them and in all who have faith in Thee, O Lord our God. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The Senate will be in order.

Under the previous order, the time which is ordinarily used by the two leaders at the beginning of the session has been reserved.

Does the majority leader wish to be recognized?

THE JOURNAL

Mr. MITCHELL. I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, there will be no time for morning business, and the time for the two leaders, as the President pro tempore has noted, will be reserved for use later today.

The Senate will now begin consideration of H.R. 2991, the State, Justice, Commerce appropriations bill.

It is my hope and intention that we will be able to complete action on this measure today. I note that the distinguished chairman and the ranking member are present to proceed to the consideration of that measure. So I encourage them in their efforts.

I yield the floor.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1990

The PRESIDENT pro tempore. Under the order, the Senate will now proceed to the consideration of H.R. 2991.

The clerk will report.

The assistant legislative clerk read as follows:

The Senate proceeded to consider the bill (H.R. 2991) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

H.R. 2991

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I—DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, *including not to exceed $2,000 for official entertainment,* **[**$28,429,000**]** *$28,250,000.*

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 3 as amended by Public Law 100-504), **[**$14,045,000**]** *$13,500,000.*

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, **[**$101,314,000**]** *$101,288,000.*

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $1,322,967,000, *to remain available until expended.*

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, **[**$32,861,000**]** *$31,150,000.*

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $194,482,000: Provided, That during fiscal year 1990 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: Provided further, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: Provided further, That the Secretary of Commerce or his designees shall not promulgate or enforce any rule, regulation, or grant agreement provision affecting programs authorized by the Public Works and Economic Development Act of 1965, as amended, unless such rule, regulation, or provision is either required by statute or expressed as the explicit intent of the Congress or is in substantial conformity with those rules, regulations and provisions in effect prior to December 22, 1987.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, **[**$26,061,000**]** *$25,500,000: Provided, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977: Provided further, That none of the funds appropriated by this Act shall be available to enable the Economic Development Administration, Department of Commerce, to implement any of recommendations outlined in Final Audit Report No. D-184-8-024 issued by the Department of Commerce or to delay or otherwise adversely affect any grant application for fiscal year 1990 by the City of Chicago as a result of negotiations on the grant described in such audit report: Provided further, That none of the funds appropriated by this Act shall be available to enable the Economic Development Administration, Department of Com-*

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

merce, to delay or otherwise adversely affect any grant application for fiscal year 1990 by the State of Oregon, or to which the State of Oregon will contribute funds, on the basis that the contribution by the State of Oregon does not conform with law or regulation. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1990, and such positions shall be maintained in the various States within the approved organizational structure in place on December 1, 1987, and where possible, with these employees who filled those positions on that date.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce, provided for by law, *and including demonstrating new alternatives to providing services domestically and engaging in trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and implementation of section 406(b) of the U.S.-Canada Free-Trade Agreement Implementation Act of 1988, notwithstanding section 406(b)3 of said Act; full medical coverage for dependent members of immediate families of employees stationed overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $300,000 for official representation expenses abroad; and purchase of passenger motor vehicles for official use abroad; obtain insurance on official motor vehicles, rent tie lines and teletype equipment;* [*$179,579,000*] *$181,296,000, to remain available until expended: Provided, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment of assessments for services provided as part of these activities: Provided further, That of the funds provided in this Act or any previous Acts for the International Trade Administration, including those amounts provided in advance to recipient organizations, not less than $10,877,000 shall be available for the Trade Adjustment Assistance Program during fiscal year 1990. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: Provided further, That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed eight.*

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $5,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $41,800,000, to remain available until expended, of which $1,000,000, including $775,000 previously appropriated, shall be available for additional regional export control assistance offices to be located in the Northern California area, in Portland, Oregon, and in the Boston/Nashua area: Provided, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $39,741,000, of which $25,321,000 shall remain available until expended: Provided, That not to exceed $14,420,000 shall be available for program management for fiscal year 1990.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $12,000 for representation expenses abroad; $14,300,000.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; *439 commissioned officers on the active list;* as authorized by 31 U.S.C. 1343 and 31 U.S.C. 1344; construction of facilities, including initial equipment as authorized by 33 U.S.C. 883i; and alteration, modernization, and relocation of facilities as authorized by 31 U.S.C. 883i *and acquisition of land for facilities;* [$966,932,000] *$1,216,830,000, to remain available until expended, of which $1,500,000 shall be available for construction and renovation of facilities at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas; and of which $550,000 shall be available for operational expenses at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas; and in addition, $30,000,000 shall be derived from the Airport and Airways Trust Fund as authorized by 49 U.S.C. 2205(d); and in addition, $51,900,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $4,500,000 shall be derived by transfer from the Coastal Energy Impact Fund: Provided, That grants to States pursuant to section 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: Provided further, That in addition to the sums appropriated elsewhere in this paragraph, not to exceed $500,000 shall be available from the receipts deposited in the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries" for grant management and related activities.*

FISHERIES PROMOTIONAL FUND

Of the funds deposited in the Fisheries Promotional Fund pursuant to section 209 of the Fish and Seafood Promotion Act of 1986, $2,000,000, to remain available until expended, shall be made available as authorized by said Act.

FISHING VESSEL AND GEAR DAMAGE FUND

For carrying out the provisions of section 3 of Public Law 95-376, not to exceed $1,000,000, to be derived from receipts collected pursuant to 22 U.S.C. 1980(b) and 1980(f), *to remain available until expended.*

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $736,000, to be derived from receipts collected pursuant to that Act, *to remain available until expended.*

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $1,986,000, *to remain available until expended.*

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, *and including defense of suits instituted against the Commissioner of Patents and Trademarks;* [$101,912,000] *$85,900,000* and, in addition, such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, *to remain available until expended.*

TECHNOLOGY ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Technology Administration. $4,100,000.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $175,600,000, to remain available until expended, of which not to exceed $3,430,000 may be transferred to the "Working Capital Fund"; and of which not to exceed $1,300,000 shall be available for construction of research facilities.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $14,200,000 of which $700,000 shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, [$20,449,000] *$20,200,000*, to remain available until expended as authorized by section 391 of said Act, as amended: *Provided*, That not to exceed $1,500,000 shall be available for program administration as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further, That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year: Provided further, That notwithstanding sections 391 and 392 of the Communications Act, as amended, up to $200,000 appropriated in this paragraph shall be available for the establishment and administration of the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT).*

NATIONAL ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISION

For grants authorized by Sec. 394(a) of the Communications Act of 1934, as proposed in S. 797 or similar legislation, $2,500,000, to remain available until expended: Provided, That not to exceed $450,000 shall be available for program management and the expenses of the Advisory Council on Children's Educational Television.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, *and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.*

SEC. 102. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 103. No funds in this title shall be used to sell to private interests, except with the consent of the borrower, or contract with private interest to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974.

SEC. 104. Hereafter, the National Institute of Standards and Technology is authorized to accept contributions of funds, to remain available until expended, from any public or private source to construct a facility for cold neutron research on materials, notwithstanding the limitations contained in 15 U.S.C. 278d.

SEC. 105. None of the funds appropriated in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such action in accordance with the Committees' reprogramming procedures.

SEC. 106. The Congress finds that failure to recognize natural resource depletion causes current systems of economic statistics to provide distorted representation of many nation's economic conditions.

(a) The Secretary of Commerce shall participate fully in the international efforts to develop standardized techniques for calculating national income accounts that recognizes the negative impact the degradation of natural resources can have on long term economic development.

(b) The Secretary of Commerce shall seek to adopt the use of such standardized accounts and make an annual circulation of Gross Sustainable Productivity in the United States to be issued in conjunction with the release of annual Gross National Product figures.

This title may be cited as the "Department of Commerce Appropriations Act, 1990".

TITLE II—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $90,664,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $20,673,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; and for the acquisition, lease, maintenance and operation of motor vehicles without regard to the general purchase price limitation.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $10,261,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $262,491,000, of which not to exceed $4,882,000 shall be available for the operation of the United States National Central Bureau, INTERPOL; and of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1991: Provided, That of the funds available in this appropriation, not to exceed $6,474,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through Salaries and expenses, General Administration: Provided further, That for fiscal year 1990 and hereafter the Chief, United States National Central Bureau, INTERPOL, may establish and collect fees to process name checks and background records for noncriminal employment, licensing, and humanitarian purposes and, notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: Provided further, That for fiscal year 1990 and hereafter the Attorney General may establish and collect fees to cover the cost of identifying, copying and distributing copies of tax decisions rendered by the Federal Judiciary and that any such fees shall be credited to this appropriation notwithstanding the provisions of 31 U.S.C. 3302.

CIVIL LIBERTIES PUBLIC EDUCATION FUND

For payments to eligible individuals as authorized by sections 105 and 106 of the Civil Liberties Act of 1988, $50,000,000, to remain available until expended as authorized by section 104(c) of said Act.

Subject to the limitations of section 104(e) of the Civil Liberties Act of 1988 (Public Law 100-383) and for the maximum amount provided for under such section, effective in the fiscal year beginning on October 1, 1990, and continuing each fiscal year thereafter, such sums as hereafter may be necessary are appropriated from money in the Treasury not otherwise appropriated, for payments to eligible individuals entitled to such payments under the provisions of the Civil Liberties Act of 1988 (Public Law 100-383).

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $42,222,000.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, $444,862,000, of which not to exceed $5,000,000 shall be available until September 30, 1991, for the purposes of (1) providing training of personnel of the Department of Justice in debt collection, (2) providing services related to locating debtors and their property, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations, and (3) paying the costs of sales of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs: Provided, That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses.

UNITED STATES TRUSTEE SYSTEM FUND

For the necessary expenses of the United States Trustee Program, $60,729,000, to remain available until expended and to be derived from the Fund, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554): Provided, That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109; allowances and benefits similar to those allowed under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens; $440,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft; $217,027,000 as authorized in Public Law 100-690 (102 Stat. 4513): Provided, That notwithstanding the provisions of title 31 U.S.C. 3302, for fiscal year 1990 and hereafter the Director of the United States Marshals Service may collect fees and expenses for the services authorized by 28 U.S.C. 1921 as amended by Public Law 100-690, and credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: Provided further, That not to exceed $6,000 shall be available for official reception and representation expenses.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, $137,034,000, to remain available until expended; of which not to exceed $5,000,000 shall be available under the Cooperative Agreement Program.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances; $56,784,000, to remain available until expended, of which not to exceed $1,690,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites: Provided, That for fiscal year 1990 and hereafter the Attorney General may enter into reimbursable agreements with other Federal Government agencies or components within the Department of Justice to pay expenses of private counsel to defend Federal Government employees sued for actions while performing their official duties: Provided further, That for fiscal year 1990 and hereafter the Attorney General, upon notification to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act, may authorize litigating components to reimburse this account for expert witness expenses when it appears current allocations will be exhausted for cases scheduled for trial in the current fiscal year.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $29,334,000, of which not to exceed $21,500,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: Provided, That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F) and (G), as amended [$76,513,000] *$75,000,000* to be derived from the Department of Justice Assets Forfeiture Fund.

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For necessary expenses of agencies of the Department of Justice, for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, $168,560,000, notwithstanding the reimbursements procedure contained in section 1055 of Public Law 100-690: Provided, That any amounts obligated from this appropriation may be used under authorities available to the organizations reimbursed in this Act: Provided further, That this appropriation may be used to reimburse Department of Justice agencies for any costs incurred by Organized Crime Drug Enforcement Task Forces between October 1, 1989 and the date of this Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,600 passenger motor vehicles of which 1,850 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,423,340,000, of which not to exceed $25,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1991; of which not to exceed $8,000,000 for research and development related to investigative activities shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism and drug investigations: Provided, That for fiscal year 1990 and hereafter the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records and name checks for non-criminal justice, non-law enforcement employment and licensing purposes and for certain employees of private sector contractors with classified Government contracts, and notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services, and that the Director of the Federal Bureau of Investigation may establish such fees at a level to include an additional amount to establish a fund to remain available until expended to defray expenses for the automation of fingerprint identification services and associated costs: Provided further, That not to exceed $30,000 shall be available for official reception and representation expenses: Provided further, That not to exceed $7,500,000 for a language translation system shall remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; expenses for conducting drug education programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 703 passenger motor vehicles of which 489 are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $492,180,000, of which not to exceed $1,200,000 for research shall remain available until expended; and of which not to exceed $1,700,000 for purchase of evidence and payments for information, not to exceed $9,638,000 for contracting for ADP and telecommunications equipment, and not to exceed $2,000,000 for technical and laboratory equipment, shall remain available until September 30, 1991: Provided, That not to exceed $30,000 shall be available for official reception and representation expenses.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed 525, for replacement only) without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $823,486,000, of which not to exceed $400,000 for research shall remain available until expended: Provided, That none of the funds available to the Immigration and Naturalization Service shall be

available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: Provided further, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: Provided further, That for fiscal year 1990 and hereafter capital assets acquired by the Immigration Legalization account may be made available for the general use of the Immigration and Naturalization Service after they are no longer needed for immigration legalization purposes: Provided further, That title 8, United States Code, section 1356(n) is amended by deleting "in excess of $50,000,000" after "Immigration Examinations Fee Account," and by deleting "At least annually, deposits in the amount of $50,000,000 shall be transmitted from the 'Immigration Examinations Fee Account' to the General Fund of the Treasury of the United States": Provided further, That not to exceed $5,000 shall be available for official reception and representation expenses.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 159 of which 55 are for replacement only) and hire of law enforcement and passenger motor vehicles; $1,097,631,000: Provided, That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: Provided further, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: Provided further, That not to exceed $3,000 shall be available for official reception and representation expenses.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351-4353 of title 18, United States Code, which established a National Institute of Corrections, $10,112,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase, leasing and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $401,332,000, to remain available until expended: Provided, That labor of United States prisoners may be used for work performed under this appropriation: Provided further, That not to exceed 10 per centum of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act: Provided further, That of the amount appropriated under this heading, $14,000,000 shall be for the expansion of Oakdale II to 1,000 beds for the custody of criminal aliens.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $2,857,000 of the funds of the corporation shall be available for its administrative expenses for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amount shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended by the Anti-Drug Abuse Act of 1988, including salaries and expenses in connection therewith, [$81,150,000] *$80,783,000,* to remain available until expended as authorized by section 6093 *and 7289* of Public Law 100-690 (102 Stat. 4339-4340 *and 4461*).

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by parts D and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, including salaries and expenses in connection therewith, $150,000,000, to remain available until expended as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340).

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, [$69,693,000] *$69,193,000,* to remain available until expended as authorized by section [6093] *7625* of Public Law 100-690 (102 Stat. [4339-4340] *4448 and 4449*), of which $350,000 is for expenses authorized by section 241(f) of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, and of which $2,000,000 is for expenses authorized by part D of title II of said Act.

[In addition, $5,000,000 for the purpose of reimbursement to States for costs of incarcerating illegal aliens and certain Cuban Nationals as authorized by section 501 of the Immigration Reform and Control Act of 1986 (Public Law 99-603).]

In addition, $5,000,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1989, through September 30, 1990, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: Provided, That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1990, a listing of names of such Mariel Cubans incarcerated in their respective facilities: Provided further, That the Attorney General, not later than April 1, 1990, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: Provided further, That the amount of reimbursements per prisoner per annum shall not exceed $12,000.

PUBLIC SAFETY OFFICERS BENEFITS

For payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, $25,000,000, to remain available until expended as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340).

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed $30,000 from funds appropriated to the Department of Justice in this title shall be available only for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 202. During fiscal year 1990 and hereafter, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.

SEC. 203. For fiscal year 1990 and hereafter, appropriations for "Salaries and expenses, General Administration", "Salaries and expenses, United States Marshals Service", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Drug Enforcement Administration", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Federal Prison System", shall be available for uniforms and allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 204. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) With respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1990, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the

United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1990, may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1990, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1990—

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operations, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are conducted, or

(ii) covert activities are concluded, whichever, occurs later,

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operations" and "undercover operation" means any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

SEC. 205. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: Provided, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 206. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 207. Nothing in the preceding section shall remove the obligation of the director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: Provided, That nothing in this section in any way diminishes the effect of section 206 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 208. Section 6077 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690, 102 Stat. 4324-25) is amended—

(1) in subsection (a) by striking "; and "(B) is not so transferred to circumvent any requirement of State law that prohibits forfeiture or limits use or disposition of property forfeited to State or local agencies.";

(2) in subsection (a) by striking "— "(A) has a value" and inserting "has a value"; and

(3) by striking subsection (c).

SEC. 209. The Civil Liberties Act of 1988 (Public Law 100-383) is amended by adding at the end thereof the following new section:

SEC. 110. ENTITLEMENTS TO ELIGIBLE INDIVIDUALS.

"Notwithstanding any other provision of this title, beginning on October 1, 1990 the payments to be made to any eligible individual under the provisions of this title shall be an entitlement as defined in section 401(c)(2)(C) of the Congressional Budget Reform and Impoundment Control Act of 1974 (Public Law 93-344).".

SEC. 210. Pursuant to the provisions of law set forth in 18 U.S.C. 3071-3077, not to exceed $100,000 of the funds appropriated to the Department of Justice in this title shall be available for rewards to individuals who furnish information regarding acts of terrorism against a United States person or property.

SEC. 211. Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 6091 of the Anti-Drug Abuse Act of 1988, is amended by striking "1989" and inserting in lieu thereof "1991".

SEC. 212. Section 506(a) of part D of title I of the Omnibus Crime Control and Safe Streets (42 U.S.C. 375(a)) is amended to read as follows:

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.".

This title may be cited as the "Department of Justice Appropriations Act, 1990".

TITLE III—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Department of State and the Foreign Service, not other-

wise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945) and expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, conventions, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674, except that passenger motor vehicles with additional systems and equipment may be purchased without regard to any price limitation otherwise established by law as authorized by 31 U.S.C. 1343(c), $1,743,967,000, of which $33,498,000 is for the construction security program, to remain available until expended, and in addition not to exceed $500,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 38(b)(3)(A) of such Act (section 1255(c) of Public Law 100-204). In addition, not to exceed $29,152,000, to remain available until expended, may be transferred to this appropriation from "Acquisition and Maintenance of Buildings: Provided further, That the level of service provided through the Foreign Affairs Administrative Support System (FAAS) shall be commensurate with the amounts appropriated, or otherwise made available therefore in Appropriations Acts Abroad."

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $18,672,000.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), and for representation by United States missions to the United Nations and Organization of American States, $4,600,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956, and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,100,000.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), and the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), [$129,200,000] $348,100,000 to remain available until expended as authorized by 22 U.S.C. 2696(c): Provided, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $4,700,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), $11,300,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $106,034,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress $668,011,000: Provided, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, including arrearages incurred through fiscal year 1989, $111,184,000.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations, including arrearages incurred through fiscal year 1989, and representation to such organizations as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, $6,340,000, to remain available until expended as authorized by 22 U.S.C. 287(e), of which not to exceed $200,000 may be expended for representation as authorized by 22 U.S.C. 2269 and 4085.

INTERNATIONAL COMMISSIONS

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, conventions or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section including not to exceed $6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, including preliminary surveys, operations and maintenance of the interceptor system to be constructed to intercept sewage flows from Tijuana and from selected canyon areas as currently planned, and the operation and maintenance upon completion of the proposed Environmental Protection Agency and Corps of Engineers pipeline and plant project to capture Tijuana sewage flows in the event of a major breakdown in Mexico's conveyance system, $10,460,000: Provided, That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89).

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $11,500,000 to remain available until expended as authorized by 22 U.S.C. 2696(c).

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, including not to exceed $9,000 for representation expenses incurred by the International Joint Commission, $4,500,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, as amended, for necessary expenses for international fisheries commissions, not otherwise provided for, $12,300,000: Provided, That the United States' share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 529.

OTHER

U.S. BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For necessary expenses, not otherwise provided, for Bilateral Science and Technology Agreements, as authorized by section 105 of Public Law 100-204, $4,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation as authorized by section 601 of Public Law 100-204, $14,100,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses, not otherwise provided for, to enable the Secretary of State to carry out the provisions of title VIII of Public Law 98-164, $4,600,000.

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of section 7 of the Fishermen's Protective Act of 1967, as amended, $900,000 of which $450,000 shall be derived from the receipts collected pursuant to that Act, to remain available until expended.

OTHER

FISHERMEN'S PROTECTIVE FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $1,000,000.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 301. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 302. Reprogrammings submitted by the Department of State to the Committees on Appropriations pursuant to the repro-

gramming provisions of this Act shall include an explanation and crosswalk providing information regarding the impact of the reprogramming on the program, project, activity, subactivity, or bureau from which funds and/or positions are proposed for transfer.

SEC. 303. For fiscal year 1991, the Department of State shall submit a budget justification document to the Committees on Appropriations which provides function, subfunction, and object class information for each program, project, activity, subactivity, and bureau within the Department.

This title may be cited as the "Department of State Appropriations Act, 1990".

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344 [$17,313,000] *$17,434,000, of which not to exceed $15,000 shall be available for the procurement of an oil portrait of former Chief Justice Warren E. Burger to be placed in the United States Supreme Court Building; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve.*

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), [$3,300,000] *$5,547,000, of which $3,338,000 shall remain available until expended: Provided, That for fiscal year 1990 and hereafter, funds appropriated under this heading shall be available for improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended), and for snow removal by hire of men and equipment or under contract, and for the replacement of electrical transformers containing polychlorinated biphenyls both, without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5).*

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, [$8,830,000] *$8,600,000.*

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $8,272,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrates, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, [$1,349,803,000] *$1,289,924,000 (including the purchase of firearms and ammunition): Provided,* That such sums as may be available in the fund established pursuant to 28 U.S.C. 1931 may be credited to this appropriation as authorized by section 407(c) of the Judiciary Appropriation Act, 1987 (Public Law 99-591; 100 Stat. 3341-64)*: Provided further, That of the total amount appropriated, $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions: Provided further, That, notwithstanding any other provision of law, not to exceed $2,500,000 for expenses of the Claims Court associated with processing cases under the National Childhood Vaccine Injury Act of 1986 shall be reimbursed from the special fund established to pay judgements awarded under the Act.*

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)), and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d), [$133,260,000] *$118,787,000, and the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, and the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences,* to remain available until expended as authorized by 18 U.S.C. 3006A(i).

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h))*; and refreshment of jurors;* [$58,700,000] *$54,700,000, to remain available until expended: Provided, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.*

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100-702); $43,090,000 to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel, as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), [$32,670,000] *advertising and rent in the District of Columbia and elsewhere, $34,670,000 of which an amount not to exceed $5,000 is authorized for official reception and representation expenses.*

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $12,648,000.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIAL OFFICERS' RETIREMENT FUND

For the payment to Judicial Officers' Retirement Fund, as authorized by Public Law 100-659, *and to the Judicial Survivors Annuity Fund, as authorized by Public Law 99-336, $6,500,000.*

UNITED STATES SENTENCING COMMISSION

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $6,520,000.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

SEC. 403. For fiscal year 1990 and hereafter, the position of Trustee Coordinator in the Bankruptcy Courts of the United States shall not be limited to persons with formal legal training.

SEC. 404. Notwithstanding any other provision of law, for fiscal year 1990 and hereafter, (a) The Administrative Office of the United States Courts, or any other agency or instrumentality of the United States, is prohibited from restricting solely to staff of the Clerks of the United States Bankruptcy Courts the issuance of notices to creditors and other interested parties. (b) The Administrative Office shall permit and encourage the preparation and mailing of such notices to be performed by or at the expense of the debtors, trustees or such other interested parties as the Court may direct and approve. (c) The Director of the Administrative Office of the United States Courts shall make appropriate provisions for the use of and accounting for any postage required pursuant to such directives.

SEC. 405. For fiscal year 1990 and hereafter, such fees as shall be collected for the preparation and mailing of notices in bankruptcy cases as prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. 1930(b) shall be deposited to the

"Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses" appropriation to be used for salaries and other expenses incurred in providing these services.

SEC. 406. Pursuant to section 140 of Public Law 97-92, during fiscal year 1990, Justices and judges of the United States shall receive the same percentage increase in salary accorded to employees paid under the General Schedule (pursuant to 5 U.S.C. 5305).

SEC. 407. Appropriations made in this title which are available for salaries and expenses shall be available, notwithstanding the limitations in 31 U.S.C. section 1345, for the Judicial Conference of the United States to sponsor and host the Fifth International Appellate Judges Conference in the United States, provided that an amount shall be available only if the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of any obligation or expenditure. The Judicial Conference may supplement such appropriations with other funds made available by any department or agency for the purposes of technical foreign aid, educational and cultural programs with the people of foreign countries, or commemorating the bicentennial anniversary of the United States Constitution and the Bill of Rights, provided that any supplementation shall be only for the expenses of the Fifth International Appellate Judges Conference. The Director of the Administrative Office may also accept and utilize gifts of funds, to be deposited as a special deposit account in the Treasury, for the expenses of the Fifth International Appellate Judges Conference for reimbursement of appropriations or direct expenditure, provided that any unexpended balance of the special deposit account shall be returned to the donor or donors. For the purpose of the conference, the Director is authorized to pay for local travel and incidental expenses of foreign participants and dependent members of their immediate household, to pay for per diem to such persons in lieu of subsistence at rates prescribed by the Director, and to conduct and pay for the activities set forth in subsections (1), (2), (9), (15), and (18) of section 804 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. section 1474). Appropriations for commemorating the bicentennial or for salaries and expenses of the Judiciary shall not be made available by this section for the travel and incidental expenses of dependents. Nothing in this section precludes payment for the travel and other expenses of foreign participants and their dependents by any other department or agency, or by the Director on their behalf, as authorized by law.

SEC. 408. Section 1930(a)(1) of title 28, United States Code, is amended by striking out "$90" and inserting in lieu thereof "$120". Pursuant to section 1930(b) of title 28, the Judicial Conference of the United States shall prescribe a fee of $60 on motions seeking relief from the automatic stay under 11 U.S.C. section 362(b) and motions to abandon property of the estate. All fees as shall be hereafter collected for any service enumerated after item 18 of the bankruptcy miscellaneous fee schedule prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. section 1930(b) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(1) shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931 and the Judicial Conference shall report to the Committees on Appropriations of the House of Representatives and the Senate on a quarterly basis beginning on the first day of each fiscal year regarding the sums deposited in said fund.

This title may be cited as "The Judiciary Appropriations Act, 1990".

TITLE V—RELATED AGENCIES

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $225,870,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $66,300,000, to remain available until expended, of which $2,250,000 shall be derived from unobligated balances of "Ship Construction": Provided, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

READY RESERVE FORCE

For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, $106,600,000, to remain available until expended: Provided, That reimbursement may be made to the Operations and Training appropriation for expenses related to this program.

ADVISORY COMMISSION ON CONFERENCES IN OCEAN SHIPPING

SALARIES AND EXPENSES

For necessary expenses of the Advisory Commission on Conferences in Ocean Shipping, including services as authorized by section 18(d) of Public Law 98-237, $300,000.

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $55,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended et seq.), $33,876,000.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International broadcasting, including grants to Radio Free Europe/Radio Liberty, Incorporated as authorized by the Board for International Broadcasting Act of 1973, as amended (22 U.S.C. 2871-2883), $195,000,000, of which not to exceed $52,000 may be made available for official reception and representation expenses as authorized by section 304(a)(8) of the Board for International Broadcasting Act of 1973, as amended.

ISRAEL RELAY STATION

For an additional amount for the Board for International Broadcasting for the purpose of making and overseeing grants to Radio Free Europe/Radio Liberty, Incorporated, and its subsidiaries and of making payments as necessary in order to implement the agreement signed on June 18, 1987, between the United States Government and the Government of Israel to establish and operate a radio relay station in Israel for use by Radio Free Europe/Radio Liberty and the Voice of America, $183,500,000, to remain available until expended.

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission as authorized by Public Law 98-375, $220,000, to remain available until December 31, 1993 as authorized by section 11(b) of said Act, as amended by section 8 of Public Law 100-94.

COMMISSION ON AGRICULTURAL WORKERS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Agricultural Workers as authorized by section 304 of Public Law 99-603 (100 Stat. 3431-3434), [$500,000] *$300,000, to remain available until expended.*

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Commission on the Bicentennial of the United States Constitution as authorized by Public Law 98-101 (97 Stat. 719-723), $14,300,000, *to remain available until expended, and in carrying out the purposes of this Act, the Commission is authorized to enter into contracts, grants, or cooperative agreements as directed by the Federal Grant and Cooperative Agreement Act of 1977 (92 Stat. 3; 31 U.S.C. 6301), of which $705,000 shall be available to the National Park Service to carry out provisions of Public Law 100-421, and* of which $7,500,000 is for carrying out the provisions of Public Law 99-194, including $3,142,000 for implementation of the National Bicentennial Competition on the Constitution and the Bill of Rights and $4,358,000 for educational programs about the Constitution and the Bill of Rights below the university level as authorized by such Act.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles $5,707,000, of which $2,000,000 is for regional offices and $700,000 is for civil rights monitoring activities: Provided, That not to exceed $20,000 may be used to employ consultants: Provided further, That not to exceed $185,000 may be used to employ temporary or special needs appointees: Provided further, That none of the funds shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner whose compensation shall not exceed the equivalent of 150 billable days at the daily rate of a level 11 salary under the General Schedule: Provided further, That not to exceed $40,000 shall be available for new, continuing or modifications of contracts for performance of mission-related external services: Provided further, That none of the funds shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days. Provided further, That the General Accounting Office shall audit the Commission's use of this appropriation under such terms and conditions as deemed appropriate by the Comptroller General and shall report its findings to the Appropriations Committees of the Senate and House of Representatives.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For necessary start-up costs for the Commission for the Preservation of America's Heritage Abroad, $200,000 as authorized by Public Law 99-83, section 1303.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $850,000, to remain available until expended as authorized by section 3 of Public Law 99-7.

COMMISSION ON THE UKRAINE FAMINE

For necessary close out expenses of the Commission on the Ukraine Famine, $100,000.

COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Commission for the Study of International Migration and Cooperative Economic Development as authorized by title VI of Public Law 99-603, $1,290,000, *to remain available until expended.*

COMPETITIVENESS POLICY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the Competitiveness Policy Council as authorized by Sec. 5209 of the Omnibus Trade and Competitiveness Act of 1988, $1,000,000, to remain available until expended.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $20,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; $184,926,000*: Provided, That the final rule regarding unsupervised waivers under the Age Discrimination in Employment Act, issued by the Commission on August 27, 1987 (29 CFR sections 1627.16(c)(1)-(3)), shall not have effect during fiscal year 1990: Provided further, That none of the funds may be obligated or expended by the Commission to give effect to any policy or practice pertaining to unsupervised waivers under the Age Discrimination in Employment Act, except that this proviso shall not preclude the Commission from investigating or processing claims of age discrimination, and pursuing appropriate relief in Federal court, regardless of whether an unsupervised waiver of rights has been sought or signed.*

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $300,000 for land and structures; not to exceed $300,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed fourteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $109,831,000, of which not to exceed $300,000 of the foregoing amount shall remain available until September 30, 1991, for research and policy studies: Provided, That none of the funds appropriated by this Act shall be used to repeal, to retroactively apply changes in, or to continue a reexamination of, the policies of the Federal Communications Commission with respect to comparative licensing, distress sales and tax certificates granted under 26 U.S.C. 1071, to expand minority and women ownership of broadcasting licenses, including those established in the Statement of Policy on Minority Ownership of Broadcasting Facilities, 68 F.C.C. 2d 979 and 69 F.C.C. 2d 1591, as amended 52 R.R. 2d 1313 (1982) and Mid-Florida Television Corp., 60 F.C.C. 2d 607 Rev. Bd. (1978), which were effective prior to September 12, 1986, other than to close MM Docket No. 86-484 with a reinstatement of prior policy and a lifting of suspension of any sales, licenses, applications, or proceedings, which were suspended pending the conclusion of the inquiry: Provided further, That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for non-commercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): Provided further, That none of the funds appropriated by this Act may be used to repeal, to retroactively apply changes in, or to begin or continue a reexamination of the rules and the policies established to administer such rules of the Federal Communications Commission as set forth at section 73.3555(c) of title 47 of the Code of Federal Regulations.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46, App. U.S.C. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02; $15,650,000*: Provided, That not to exceed $1,500 shall be available for official reception and representation expenses.*

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $64,580,000: Provided, that the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374).

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $39,000,000.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,350,000; and an amount of Japanese currency not to exceed the equivalent of $1,610,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94-118.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $321,000,000 of which $275,306,000 is for basic field programs, $7,313,000 is for Native American programs, $10,100,000 is for migrant programs, $1,146,000 is for law school clinics, $1,041,000 is for supplemental field programs, $650,000 is for regional training centers, $7,528,000 is for national support, $8,168,000 is for State support, $901,000 is for the Clearinghouse, $531,000 is for computer assisted legal research regional centers, and $8,316,000 is for Corporation management and administration.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $960,000.

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Martin Luther King, Jr. Federal Holiday Commission, as authorized by Public Law 98-399, as amended, $300,000, to remain available until expended.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $18,830,000, of which $1,000,000 shall remain available until expended: Provided, That not to exceed $89,000 shall be available for official reception and representation expenses.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $3,000 for official reception and representation expenses, $168,707,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions: Provided, That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of 1 per centum to one-fortieth of 1 per centum and such increase shall be deposited as an offsetting receipt to the general fund of the Treasury.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Admin-

istration as authorized by Public Law 100-590, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, [$240,045,000] *$239,136,000* of which [$50,000,000] *$45,000,000* is for grants for Small Business Development Centers as authorized by section 21 of the Small Business Act, as amended: *Provided,* That not more than $350,000 of this amount shall be available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act: *Provided further,* That none of the funds appropriated or made available by this Act to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648), nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987: *Provided further,* That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased loan guaranty fee or debenture guaranty fee: *Provided further,* That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased user fee or management assistance fee. In addition, [$96,160,000] *such sums as may be necessary* for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund" as authorized by Public Law 100-590.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 3 as amended by Public Law 100-504), [$7,400,000] *$7,552,000.*

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", $77,500,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund", [$87,000,000] *$78,000,000,* to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note: *Provided,* That no funds appropriated under this Act may be used to sell direct loans which are held by the Small Business Administration or any loan guaranty or debenture guaranty made by the Small Business Administration under the authority contained in the Small Business Investment Act of 1958, and which was held by the Federal Financing Bank on September 30, 1987.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $11,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

[POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

[For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $13,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.]

ADMINISTRATIVE PROVISIONS

(1) Section 405 of the Small Business Investment Act of 1958 (15 U.S.C. 694) is hereby repealed. Any monies remaining in the Pollution Control Equipment Contract Guarantee Revolving Fund on the date of enactment of this Act shall be transferred to the Small Business Administration's business loan and investment fund.

(2) Section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended to read as follows:

"(2) In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration, except as provided in paragraph (6), shall be—

"(A) not less than 90 percent of the balance of the financing outstanding at the time of disbursement if such financing does not exceed $155,000: Provided, That the percentage of participation by the Administration may be reduced below 90 percent upon request of the participating lender; and

"(B) subject to the limitation in paragraph (3)—

"(i) not less than 70 percent nor more than 85 percent of the financing outstanding at the time of disbursement if such financing exceeds $155,000: Provided, That the participation by the Administration may be reduced below 70 percent upon request of the participating lender; and

"(ii) not less than 85 percent of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16);

The Administration shall not use the percent of guarantee requested as a criterion for establishing priorities in approving guarantee requests nor shall the Administration reduce the percent guaranteed to less than 85 percent under subparagraph (B) other than by determination made on each application. Notwithstanding subparagraphs (A) and (B), the Administration's participation under the Preferred Lenders Program or any successor thereto shall be not less than 80 percent, except upon request of the participating lender. As used in this subsection, the term 'Preferred Lenders Program' means a program under which a written agreement between the lender and the Administration delegates to the lender (I) complete authority to make and close loans with a guarantee from the Administration without obtaining the prior specific approval of the Administration, and (II) authority to service and liquidate such loans.".

(3) Section 7(a)(19) of the Small Business Act (15 U.S.C. 636(a)(19)) is amended to read as follows:

"(19)(A) In addition to the Preferred Lenders Program authorized by the proviso in section 5(b)(7), the Administration is authorized to establish a Certified Lenders Program for lenders who establish their knowledge of Administration laws and regulations concerning the guaranteed loan program and their proficiency in program requirements. The designation of a lender as a certified lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or that the loss experience of the lender is excessive as compared to other lenders, but such suspension or revocation shall not effect any outstanding guarantee.

"(B) In order to encourage all lending institutions and other entities making loans authorized under this subsection to provide loans of $50,000 or less in guarantees to eligible small business loan applicants, during fiscal years 1989, 1990, and 1991, the Administration shall (i) develop and allow participating lenders to solely utilize a uniform and simplified loan form for such loans, and (ii) allow such lenders to retain one-half of the fee collected pursuant to section (7)(a)(18) on such loans. A participating lender may not retain any fee pursuant to this paragraph if the amount committed and outstanding to the applicant would exceed $50,000 unless the amount in excess of $50,000 is an amount not approved under the provisions of this paragraph.".

(4) The last sentence of subparagraph (A) of section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended to read as follows: "In the case of cosponsored activities which include the participation of a Federal, State, or local public official or agency, the Administration shall take such actions as it deems necessary to ensure that the cooperation does not constitute or imply an endorsement by the Administration of or give undue recognition to the public official or agency, and the Administration shall ensure that it receives appropriate recognition in all cosponsored printed materials, whether the participant is a profit making concern or a governmental agency or public official.".

(5) Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended by adding at the end thereof the following new subsections:

"(d) The Administration is authorized to make, and to contract to make, periodic interest reduction payments to the holder of a debenture or the appropriate fiscal agent of a small business investment company described in section 301(d) to cover the difference, if any, between—

"(1) the amount of interest the company is required to pay on debentures issued by it (other than debentures issued to the Administration), and

"(2) the amount of interest the company would be required to pay on debentures purchased by the Administration, as determined under section 317.

Amounts authorized for direct purchases of debentures and preferred securities under this title shall also be available for interest payments under this subsection, or to purchase capital notes from section 301(d) licensees.

"(e) Notwithstanding any other provision of law, amounts available for guarantees of debentures issued by small business investment companies may be used for guarantees of debentures issued by companies licensed under section 301(d) and financed by issuance and guaranty of certificates under section 321.".

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by The State Justice Institute Authorization Act of 1988 (Public Law 100-690 (102 Stat. 4466-4467)), [$11,233,000] *$12,000,000, to remain available until expended: Provided, That section 607 of the Judicial Improvements and Access to Justice Act, Public Law 100-702, amending section 215 of the State Justice Institute Act of 1984 is hereby repealed and section 7321(a) of the Anti-Drug Abuse Act of 1988, Public Law 100-690, is hereby revived.*

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000, of this appropriation), as authorized by 22 U.S.C. 1471, expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928 and 22 U.S.C. 287e-1; and entertainment, including official receptions, within the United States, not to exceed $20,000 as authorized by 22 U.S.C. 1474(3); $647,875,000, none of which shall be restricted from use for the purposes appropriated herein: Provided, That not to exceed $1,210,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: Provided further, That not to exceed $12,902,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: Provided further, That not to exceed $500,000 shall remain available until expended as authorized by 22 U.S.C. 1477(b), for expenses (including those authorized by the Foreign Service Act of 1980) and equipment necessary for maintenance and operation of data processing and administrative services as authorized by 31 U.S.C. 1535-1536: Provided further, That not to exceed $6,000,000 may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion picture, television, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended:

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $3,675,000.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship, Private Sector, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636) $160,300,000, including up to $1,500,000, to remain available until expended, for the Eisenhower Exchange Fellowship Program.

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $85,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a), of which not to exceed $16,000,000 may be available for the completion of testing and first-year operations of television broadcasting to Cuba, including, but not limited to the purchase, rent, construction, improvement and equipping of facilities, operations, and staffing: Provided, That such funds for television broadcasting to Cuba may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment.

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti Program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $12,700,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a).

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $20,700,000: Provided, That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the rate authorized for GS-18 of the Classification Act of 1949, as amended, exclusive of any cap on such rate.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $15,800,000.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. The Attorney General and the Commissioners of the Federal Trade Commission shall establish a fee schedule for filing premerger notification reports required by the Hart-Scott-Rodino Antitrust Improvement Act of 1976 within one hundred and eighty days after approval of this Act, such fees to be collected by the Federal Trade Commission and divided evenly between and credited to the appropriations Federal Trade Commission "Salaries and expenses" and Department of Justice "Salaries and expenses, Antitrust Division": Provided, That immediately following approval of this Act, a temporary fee of one-fiftieth of 1 per centum of the value of the transaction shall be levied pending the establishment of a fee schedule with proceeds distributed as shown above: Provided further, That fees in excess of $30,000,000 in fiscal year 1990 shall be deposited to the credit of the Treasury.

SEC. 606. (a) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $250,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advances of such reprogramming of funds.

SEC. 607. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 608. Funds appropriated to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1990 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1990 at not less than $8.98 per poor person within the geographical area of each grantee or contractor under the 1980 census or 9 cents per poor person more than the annual per-poor-person level at which each grantee and contractor was funded in fiscal year 1989, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under (1) above, falls below $16.68 per poor person within its geographical area under the 1980 census:

Provided, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government unless—

(1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient;

(2) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and

(3) that prior to filing such an action, the recipient project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interest of the clients:

except that this proviso may be superseded by regulations governing the bringing of class action suits promulgated by a majority of the Board of Directors of the Corporation who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act: Provided further, That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used—

(1) to pay for any publicity or propaganda intended or designed to support or defeat legislation pending before Congress or State or local legislative bodies or intended or designed to influence any decision by a Federal, State, or local agency;

(2) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State, or local agency, except when legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case, which directly involves the client's legal rights or responsibilities;

(3) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official—

(A) to favor or oppose any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council or any similar governing body acting in a legislative capacity,

(B) to favor or oppose an authorization or appropriation directly affecting the authority, function, or funding of the recipient or the Corporation, or

(C) to influence the conduct of oversight proceedings of the recipient or the Corporation;

(4) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or similar legislation, except that this proviso shall not preclude funds from being used to provide communication directly to a Federal, State, or local elected official on a specific and distinct matter where the purpose of such communication is to bring the matter to the official's attention if—

(A) the project director of a recipient has expressly approved in writing the undertaking of such communication to be made on behalf of a client or class of clients in accordance with policy established by the governing body of the recipient; and

(B) the project director of a recipient has determined prior to the undertaking of such communication, that—

(i) the client and each client is in need of relief which can be provided by the legislative body involved;

(ii) appropriate judicial and administrative relief have been exhausted; and

(iii) documentation has been secured from each eligible client that includes a statement of the specific legal interests of the client, except that such communication may not be the result of participation in a coordinated effort to provide such communications under this proviso; and

(C) the project director of a recipient maintains documentation of the expense and time spent under this proviso as part of the records of the recipient; or

(D) the project director of a recipient has approved the submission of a communication to a legislator requesting introduction of a private relief bill:

except that nothing in this proviso shall prohibit communications made in response to a request from a Federal, State, or local official: Provided further, That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used to pay for any administrative or related costs associated with an activity prohibited in clause (1), (2), (3), or (4) of the previous proviso: Provided further, That none of the funds appropriated under this Act for the Legal Services Corporation will be expended to provide legal assistance for or on behalf of any alien unless the alien is present in the United States and is—

(1) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)):

Provided further, That an alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of the previous proviso, to be an alien described in clause (3) of the previous proviso: Provided further, That none of the funds appropriated for the Legal Services Corporation may be used to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients or to advise any eligible client as to the nature of the legislative process or inform any eligible client of his rights under statute, order, or regulation: Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to insure that financial assistance under this Act shall not be terminated, and a suspension of financial assistance shall not be continued for more than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing and, when requested, such hearing shall be conducted by an independent hearing examiner, subject to the following conditions—

(1) such request for a hearing shall be made to the Corporation within thirty days after receipt of notice to terminate financial assistance, deny an application for refunding, or suspend financial assistance and such hearing shall be conducted within thirty days of receipt of such request for a hearing;

(2) the Corporation shall make such final decision within thirty days after completion of such hearing; and

(3) hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation:

Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to ensure that an application for refunding shall not be denied unless the grantee, contractor, or person or entity receiving assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing to show cause why such action should not be taken and subject to all other conditions of the previous proviso: Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (1) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (2) a qualified nonprofit organization chartered under the laws of one of the States, a purpose of which is furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance, or, with regard to national support centers, the locality where the organization maintains its principal headquarters: Provided further, That none of the funds appropriated in this Act for the Cor-

poration shall be used, directly or indirectly, by the Corporation to promulgate new regulations or to enforce, implement, or operate in accordance with regulations effective after April 27, 1984, unless the Appropriations Committees of both Houses of Congress have been notified fifteen days prior to such use of funds as provided for in section 606 of this Act: Provided further, That none of the funds appropriated to the Legal Services Corporation for fiscal years prior to fiscal year 1986 and carried over into fiscal year 1990, either by the Corporation itself or by any recipient of such funds, may be expended, unless such funds are expended in accordance with the preceding restrictions and provisos, except that such funds may be expended for the continued representation of aliens prohibited by said provisos where such representation commenced prior to January 1, 1983, or as approved by the Corporation: Provided further, That if a Presidential Order pursuant to Public Law 100-119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is issued for fiscal year 1990, funds provided to each grantee of the Legal Services Corporation shall be reduced by the percentage specified in the Presidential Order: Provided further, That if funds become available to the Legal Services Corporation because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs to be distributed in the manner specified by this Act: Provided further, That none of the funds appropriated by this Act or prior Acts or any other funds available to the Corporation or a recipient may be used by an officer, board member, employee or consultant of the Corporation or by any recipient to implement or enforce the 1984 and 1986 regulations on legislative and administrative advocacy (part 1612) or to implement, enforce or keep in effect provisions in the regulation regarding legislative and administrative advocacy and training (part 1612, 52 FR 28434 (July 29, 1987)) which impose restrictions on private funds except to the extent that such restrictions are explicitly set forth in sections 1007 (a)(5), (b)(6), (b)(7), and 1010(c) of the Legal Services Corporation Act, as amended: Provided further, That the Corporation shall not impose requirements on governing bodies of the recipients that are additional to, or more restrictive than, the provisions of this Act and section 1007(c) of the Legal Services Corporation Act, as amended, including, but not limited to (1) the procedures of appointment, including the political affiliation and the length of terms of board members, (2) the size, quorum requirements and committee operations of such governing bodies, and (3) any requirements on appointment of board members of national support centers that would preclude the bar associations in the States in which the center's principal offices are located from making all appointments required to be made by bar associations: Provided further, That none of the funds appropriated under this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion: Provided further, That the Corporation shall utilize the same formula for distribution of fiscal year 1990 migrant funds as was used in fiscal year 1989: Provided further, That the fourteenth and fifteenth provisos of this section (relating to parts 1607 and 1612 of the Corporation's regulations) shall expire if such action is directed by a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate: Provided further, That none of the funds appropriated under this Act or under any prior Acts for the Legal Services Corporation shall be used to consider, develop, or implement any system for the competitive award of grants or contracts until such action is authorized pursuant to a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate, except that nothing herein shall prohibit the Corporation Board, members, or staff from engaging in in-house reviews of or holding hearings on proposals for a system for the competitive award of all grants and contracts, including support centers, and that nothing herein shall apply to any competitive awards program currently in existence; subsequent to confirmation such new Board of Directors shall develop and implement a proposed system for the competitive award of all grants and contracts: Provided further, that the Corporation shall insure that all grants and contracts made for calendar year 1990 to all grantees receiving funds under sections 1006(a) (1)(A) and (3) of the Legal Services Corporation Act as of September 30, 1989, with funds appropriated by this Act or prior appropriations Acts, shall be made for a period of at least twelve months beginning on January 1, 1990, so as to insure that the total annual funding for each current grantee or contractor is no less than the amount provided pursuant to this Act: Provided further, That such grants or contracts shall not be subject to any amendments to regulations relating to fee-generating cases (45 CFR part 1609) or the use of private funds (45 CFR parts 1610 and 1611) not in operational effect on October 1, 1988: Provided further, That any changes in procedures in operational effect as of September 1, 1989, that would have the effect of imposing timekeeping requirements on recipients must be adopted as rules or regulations in accordance with section 1008(e) of the Legal Services Corporation Act and all of the requirements of this Act: Provided further, That any new rules or regulations, or revisions to existing rules or regulations adopted by the Board of the Legal Services Corporation after October 1, 1989, shall not become effective until after October 1, 1990, or until authorized pursuant to a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate: Provided further, That, notwithstanding any decision or action of the President of the Corporation after September 7, 1989, funds appropriated under this Act or any prior Acts shall not be denied, for the period October 1, 1989 through December 31, 1990, to any grantee or contractor which in fiscal year 1989 received funding appropriated under any prior Act, as a result of activities which have been found by an independent hearing officer appointed by the President of the Corporation prior to October 1, 1989, not to constitute grounds for a denial of refunding, and any decisions or action of the President of the Corporation reversing or setting aside such decision of an independent hearing officer concerning section 1010(c) of the Act rendered in fiscal year 1989 shall be null and void.

SEC. 609. (a) Not more than $9,901,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of Commerce; not more than $9,858,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of State; not more than $15,361,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory and assistance services by the Department of Justice; and not more than $1,500,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory and assistance services by the Small Business Administration.

(b)(1) Not later than 20 days after the end of each fiscal quarter, the head of each department and agency named in subsection (a) shall (A) submit to Congress a report on the amounts obligated and expended by the department or agency during that quarter for the procurement of advisory and assistance services, and (B) transmit a copy of such report to the Comptroller General of the United States.

(2) Each report submitted under paragraph (1) shall include a list with the following information:

(A) All contracts awarded for the procurement of advisory and assistance services during the quarter and the amount of each contract.

(B) The purpose of each contract.

(c) The Comptroller General of the United States shall review the reports submitted under subsection (b) and transmit to Congress any comments and recommendations the Comptroller General considers appropriate regarding the matter contained in such report.

SEC. 610. (a) The Secretary of State, in consultation with the Secretary of Commerce, shall, with respect to those species of sea turtles the conservation of which is the subject of regulations promulgated by the Secretary of Commerce on June 29, 1987—

(1) initiate negotiations as soon as possible for the development of bilateral or multilateral agreements with other nations for the protection and conservation of such species of sea turtles;

(2) initiate negotiations as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which, as determined by the Secretary of Commerce, may affect adversely such species of sea turtles, for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species of sea turtles;

(3) encourage such other agreements to promote the purposes of this section with other nations for the protection of specific ocean and land regions which are of special significance to the health and stability of such species of sea turtles;

(4) initiate the amendment of any existing international treaty for the protection and conservation of such species of sea turtles to which the United States is a party in order to make such treaty consistent with the purposes and policies of this section; and

(5) provide to the Congress by not later than one year after the date of enactment of this section—

(A) a list of each nation which conducts commercial shrimp fishing operations within the geographic range of distribution of such sea turtles;

(B) a list of each nation which conducts commercial shrimp fishing operations which may affect adversely such species of sea turtles; and

(C) a full report on—

(i) the results of his efforts under this section; and

(ii) the status of measures taken by each nation listed pursuant to paragraph (A) or (B) to protect and conserve such sea turtles.

(b)(1) IN GENERAL.—The importation of shrimp or products from shrimp which have been harvested with commercial fishing technology which may affect adversely such species of sea turtles shall be prohibited not later than May 1, 1991, except as provided in paragraph (2).

(2) CERTIFICATION PROCEDURE.—The ban on importation of shrimp or products from shrimp pursuant to paragraph (1) shall not apply if the President shall determine and certify to the Congress not later than May 1, 1991, and annually thereafter that—

(A) the government of the harvesting nation has provided documentary evidence of the adoption of a regulatory program governing the incidental taking of such sea turtles in the course of such harvesting that is comparable to that of the United States; and

(B) the average rate of that incidental taking by the vessels of the harvesting nation is comparable to the average rate of incidental taking of sea turtles by United States vessels in the course of such harvesting.

SEC. 611. No monies appropriated by this Act may be used to review or approve any export license applications for the launch of United States-built satellites on Soviet- or Chinese-built launch vehicles.

SEC. 612. Any country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979 shall cease to be considered designated a "beneficiary developing country" for purposes of receiving benefits under the Generalized System of Preferences [GSP].

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990".

The PRESIDENT pro tempore. The pending question is on the first committee amendment which will be found on page 2, line 5.

Mr. HOLLINGS addressed the Chair.

The PRESIDENT pro tempore. The Senator from South Carolina [Mr. HOLLINGS] is recognized.

Mr. HOLLINGS. Mr. President, let me thank the distinguished President pro tempore. He has got us on course here and me on station here this morning, so we can complete all the appropriations bills on the Senate before the new fiscal year begins. That was a goal of the distingushed chairman of our Appropriations Committee, which I am confident we will have done—namely, pass both Houses, at least the U.S. Senate, every appropriations bill before the end of the fiscal year.

In order to do that, I will, as my ranking member comes to the floor, be highlighting my statement. I will make certain motions to correct some printing errors in the committee amendments and then put the bill in order, without anybody waiving any rights or points of order.

In that vein, Mr. President, let me thank Senator RUDMAN of New Hampshire. He chaired this subcommittee in a distinguished fashion. He knows it by heart. He is very, very cooperative. He affords the leadership when we get in these legislative snarls; he is brilliant of idea and just the best help anyone could possibly have.

I want to publicly thank my colleague, Senator BUMPERS, who worked until 2 o'clock this morning. He was going to manage this bill until I found all of these amendments, and then determined for the better order of business that I better stay on station here rather than go into the Hugo disaster area with the President of the United States. I regret that I was not able to do that.

The President will see first hand the extensive nature of that, and I am confident he will get at the bottleneck, get the Federal Emergency Management Administration on the ball. It is like a new organization hit the country, and it is totally inept.

Mr. President, H.R. 2991 is the last of the 13 appropriations bills for fiscal year 1990. I am reminded that it is also the 13th annual appropriations bill for the Departments of Commerce, Justice, and State, the Judiciary and 27 related agencies that I have been privileged to present to the Senate either as chairman, or ranking minority member of the subcommittee. Over the years we have developed this bill in a completely bipartisan fashion with the other side, starting with former Senators Weicker and Laxalt, and over the last several years with the distinguished ranking minority member and former chairman, the junior Senator from New Hampshire [Mr. RUDMAN].

We have an outstanding subcommittee that includes Senators INOUYE, BUMPERS, LAUTENBERG, SASSER, ADAMS, STEVENS, HATFIELD, KASTEN and GRAMM. In fact, we startled the Attorney General at our opening hearing when he looked up from reading his statement to find he was faced with Gramm, Rudman, and Hollings.

Mentioning hearings reminds me that Senator Mansfield would be proud of us today. He always asked if the printed hearings were available and we can answer affirmatively. Both our volumes are printed, a claim no other Appropriations Subcommittee can make.

Mr. President, the Committee on Appropriations reported out the bill yesterday. The total new budget authority in the bill as reported is $17,384,263,000. This is $11,582,862,000 over what the House approved. I regret the large number of amendments but the House bill provided for only 30 percent of the requests for 1990. Fortunately the Senate takes a less stringent view, or otherwise a large part of this bill would be on the continuing resolution. I think it is very important that the Congressional Budget Office has certified that the bill is within the 302(b) allocation for both discretionary budget authority and outlays.

WAR ON DRUGS

The day before yesterday, the Senate approved the Byrd amendment to the Transportation Appropriations Act which adds $1,916,940,000 to the Department of Justice, the Judiciary, and the State Justice Institute to carry out the war on drugs. When we add that to the amounts in this bill for those agencies we have provided the following major programs in our commitment to save a generation from the deadly effect of drug abuse.

FEDERAL PRISON SYSTEM—BUILDINGS AND FACILITIES

The total for new prison construction is $1,401,332,000: 24,000 new prison beds; 7 complexes (maximum, medium, minimum); 3 medium security prisons; 4 metropolitan detention centers; 2 military acquisitions; lease/purchase of one medium prison; expansion of Oakdale II; and existing prison expansions.

FEDERAL PRISON SYSTEM—SALARIES AND EXPENSES

The total provided for staffing Federal prisons is $1,152,554,000—an increase of $199,542,000 over last year: Activation of one new prison (Three Rivers, TX); activation of six housing units (Milan, MI; Bastrop, TX, Lewisburg, PA, Sandstone, MN, Rochester, MN, Memphis, TN); acquisition of five prison camps; and acceleration of prison activations.

DRUG ENFORCEMENT ADMINISTRATION

The total of $556,481,000—an increase of $77,301,000—the same as the President's request. Some highlights: Additional State and local drug task forces; new intelligence computer for the El Paso Intelligence Center [EPIC]; cleanup of clandestine laboratories; and additional staff, including 164 agents.

FEDERAL BUREAU OF INVESTIGATION

That total of $1,550,385,000 is available for the FBI—an increase of $97,045,000 above base—which is the same as the President's request: 224 new FBI agents; $15,000,000 R&D of sophisticated surveillance equipment; and savings and loan initiative.

ORGANIZED CRIME DRUG ENFORCEMENT [OCDE]—$214,361,000

This is a new account created in the 1988 drug bill which all agencies involved in drug law enforcement have transferred moneys (FBI, DEA, U.S. attorneys, U.S. Marshals, Customs, ATF, and Coast Guard).

DEA	$68,366,000
FBI	51,589,000
U.S Marshals	1,014,000

U.S Attorneys	45,788,000
INS	8,000,000
Criminal Division	662,000
Tax Division	1,141
U.S. Customs	14,461,000
U.S. Coast Guard	662,000
IRS	14,413,000
BATF	8,612,000
Total OCDE	$214,361,000

STATE AND LOCAL LAW ENFORCEMENT GRANTS

A total of $450,000,000—an increase of $300,000,000 over last year. We went along with the Stevens initiative and included language to continue through 1991 the current 75-25 percent Federal-State match.

THE JUDICIARY

For the Judiciary, a total of $1,767,023,000 is provided—an increase of $310,723,000 over fiscal year 1989—for the drug-related accounts of the Judiciary—courts of appeals, district courts, and other judicial services; defender services; fees of jurors and commissioners; and, court security.

Later today Senator BENTSEN will offer an amendment that I am pleased to cosponsor. What it does is direct the President, Attorney General and drug czar to place an emphasis on providing adequate increased resources on drug enforcement programs in rural areas and smaller towns across the country.

Urban areas are not the only localities suffering under the siege of drugs. In my own State of South Carolina, a pilot study of drug use among public school students in 1989 reveals that South Carolinians are more likely to use drugs than the national average.

Mr. President, I submit for the record a chart detailing preliminary results of the South Carolina study as it compares to the 1988 survey of high school students conducted by the National Institute on Drug Abuse.

[In percent]

	South Carolina age 13 to 18, 1989 Public School	United States age 12 to 17, 1988 NIDA survey
Marijuana	9.2	6.4
Cocaine	1.5	1.1
Stimulants	3.5	1.2
Inhalants	3.0	2.0
Opiates	2.2	.9
Hallucinogens	2.1	.8
Tranquilizers	1.8	.2
Sedatives	1.7	.6

COMPETITIVENESS AND TECHNOLOGY

Mr. President, drugs, are certainly our No. 1 priority, but we have not lost sight of other national priorities. Last year we enacted the Trade and Competitiveness Act and in this bill we have provided for expansion of trade and competitiveness activities. For example:

We establish the National Trade Data Bank at the Bureau of Census.

We fund the Executive Secretariat and the chapter 18 and 19 binational panels of the United States-Canada Free Trade Agreement.

Increases for the antidumping/countervailing duty caseload, and to implement the unfair trade practice provisions of the Trade Act, are provided the International Trade Administration, as well as the full $6,000,000 increase of the U.S. Foreign and Commercial Service.

The support is maintained of the Tailored Clothing Technology Corporation to keep our apparel industry competitive.

The $7,500,000 funding level is maintained for the regional centers for Transfer of Manufacturing Technology; as well as $10,000,000 to initiate the new Advanced Technology Program, and $1,300,000 for the Technology Transfer Program of the National Institute of Standards and Technology.

The $1,000,000 to establish the Joint Legislative/Executive Council on Competition created in the Trade Act.

The full budget of the U.S. Trade Representative plus an additional $1,000,000 for the USTR's additional workload in implementing the Trade Act, the Canada Free Trade Agreement, as well as the Uruguay round of multilateral trade negotiations.

HURRICANE HUGO

Yesterday the Senate approved my amendment adding an additional $1.1 billion for FEMA on the continuing resolution for Hurricane Hugo disaster relief. We're eventually going to have a Hugo assistance bill, but while the damage assessments are being completed and the overall relief programs formulated, we are doing all we can.

In this bill we have increased EDA's title IX assistance for sudden and severe dislocations from $12,454,000 to $40,000,000. This will help the communities rebuild their devastated public facilities such as the sewer treatment plant on Sullivan's Island that was completely eliminated.

We also increased Justice's emergency assistance funds by $5,000,000. This will make $6,000,000 available for the additional overtime and replacement of equipment of the law enforcement agencies impacted by Hugo. Mr. President, in this regard, there is a printing error in our report. The line for emergency assistance in the chart on page 53 shows no amount where the $5,000,000 should be indicated.

The Small Business Administration has indicated to me that there is approximately $1,050,000,000 in the disaster loan fund and that will be sufficient to get started on rebuilding the businesses and homes that fell in Hugo's horrible path. SBA estimates $1,000,000,000 in disaster loans to Hugo. We have also provided for sufficient SBA personnel to process the disaster loans.

Mr. President, those are three of the main themes of the bill. We have not lost track of the many other responsibilities of the agencies and I will take a few minutes to highlight the bill.

DEPARTMENT OF COMMERCE

For the Department of Commerce we recommend $3,547,326,000, an increase of $819,764,000 over 1989 which is primarily due to the $1,244,544,000 for the Decennial Census next April which is the same as the House—$57,000,000 below request.

We restored certain entities that were redlined in the President's, budget again. We restored EDA, $194,482,000; NOAA's marine research program, $200,000,000; and the public TV facilities grants, $20,000,000 that the administration annually zeroes out.

Let me hasten to emphasize at this point that the Senator from New Hampshire and the Senator from South Carolina have disciplined ourselves; there are no EDA earmarkings here at all, and I know that makes me very unpopular with my colleagues. I have gotten letters personally written for the first time up here in 23 years, handwritten, with tears you can see smearing the ink. I am with them and they are justified, and I will work with the Economic Development Administration and the administration on these requests.

Again, there are no earmarks in the bill. We have held fast on that one.

In NOAA we restored $29 million to maintain the weather stations. We also provided $26 million in increases to expand global climate change and the new coastal/ocean initiative.

As indicated earlier, we also funded several of the new initiatives in the trade bill such as the Free Trade Agreement with Canada, antidumping/countervailing duties and unfair trade practices by an increase of $13,723,000 to $181,296,000 for the International Trade Administration.

For the National Institute of Standards and Technology we recommend $175,600,000, to cover most of their increases in addition to the funds for the new Advanced Technology Program and the regional centers

Finally, we provide $2,500,000 to establish a National Endowment for Children's Television.

DEPARTMENT OF JUSTICE

While I have already mentioned our efforts in the war on drugs let me say that for the Department of Justice we recommend $6,250,138,000, an increase of $401,754,000 over fiscal year 1989. In addition we have $53,582,000 in offsetting receipts credited the Department for increased fees created in the bill—$30 million for the FBI fingerprint fee, $15 million for the antitrust premerger filing fee, and $8,582,000 for the Immigration and Naturalization Service examination fee. So you can see we worked it over pretty good, trying to milk every dime we could possibly find to stay within our alloca-

tion, and at the same time provide the money for law enforcement. The amount recommended maintains existing services for all programs within the Department of Justice.

However, when we add the $1,792,597,000 increase provided in the drug amendment for the Department of Justice we bring the total increase for the Department to $2,247,879,000.

We did not provide funding for Japanese reparation payments for which the House appropriated $50,000,000. However, the committee approved language making these payments an entitlement in fiscal year 1991.

DEPARTMENT OF STATE

We recommend a total of $3,095,868,000 for the Department of State, which is $176,109,000 below the requests. The bipartisan budget agreement required an overall $367 million outlay reduction from the requests in international affairs spending. In the 302(b) allocations the committee directed that this bill take $167 million of the reduction and foreign operations the other $200 million. Because the other foreign affairs agencies in the bill are relatively fixed, or in the case of the radio modernization programs, are low outlay programs, the bulk of the reduction was necessarily applied to the Department of State.

For the Department's basic salaries and expenses appropriations we recommend a total $1,773,619,000. This includes: $16,465,000 for the telecommunications network [DOSTIN]; $9 million for the Beltsville Information Center; and $10,365,000 for construction security.

I think we have taken care of Secretary Baker's needs there in exemplary fashion.

For contributions for international organizations the subcommittee recommended $668,011,000, the full amount required for the 1990 assessments. Due to the 302(b) outlay reduction we did not provide the $45,916,000 requested for U.S. arrearages to international organizations due to the Kassebaum amendment and other restrictions on U.S. contributions.

Otherwise we appropriated the full amounts requested by the Department except that we added $1,300,000 to the Great Lakes Fisheries Commission for sea lamprey control; as well as $5,800,000 over the Department's request of the Asia Foundation.

ASIA FOUNDATION

Mr. President, we are completely baffled by the Department's consistently underfunding of the Asia Foundation. Every United States Ambassador to an Asian nation that I have talked to over the last 13 years has praised the Asia Foundation. It does an outstanding job and I think we ought to get in step on these efforts.

Ambassador Mansfield, in Japan, was particularly supportive of the foundation. Last week I received a letter supporting the full $18 million authorized the foundation from his successor, Ambassador Armacost. I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMBASSADOR OF THE UNITED STATES
OF AMERICA, TOKYO,
September 11, 1989.

Hon. ERNEST F. HOLLINGS,
U.S. Senate.

DEAR MR. CHAIRMAN: In recent years I have had the opportunity to see firsthand in the field, as well as to judge from a Washington vantage, how a private organization like The Asia Foundation, working quietly off center stage, can effectively support U.S. Government objectives that are shared by our friends in Asia. In Manila, I admired the way in which the Foundation has bolstered the underpinnings of democratic institutions, responding to Asian initiatives. It is impressive to see how many Filipino leaders have been touched in one way or another by Asia Foundation programs. The same is true in most of the developing countries in Alaska.

Here in Japan, the Foundation has been doing an effective job in reaching rising young leaders, especially in the political arena, where a generational change is now in progress. By enhancing understanding about the United States and respect for American views, problem-solving becomes that much less emotional.

I strongly urge that the Congress appropriate the full authorized amount for The Asia Foundation for FY 1990.

Sincerely,

MICHAEL H. ARMACOST.

Mr. HOLLINGS. Mr. President, I will continue.

THE JUDICIARY

For the Judiciary, we recommend $1,613,692,000, an increase of $157,419,000 over fiscal year 1989. In addition we provide $33 million in offsetting receipts credited to the courts of appeals, district courts, and other judicial services for increased fees created in the bill. The Supreme Court and Administrative Office received their full request.

As I said earlier, in the drug amendment an additional $120,323,000 was provided to the drug-related accounts of the Judiciary—courts of appeals, district courts, and other judicial services; defender services; fees of jurors and Commissioners; and, court security. These additional resources will provide these accounts with their requested increases in fiscal year 1990.

RELATED AGENCIES

A total of $2,875,839,000 was approved for the 27 related agencies in this bill. By and large the related agencies are maintained at their base levels. The notable items are:

MarAd: A total of $170,650,000 is recommended, a reduction of $134,680,000 from the requests. The reduction mainly comes in the Ready Reserve Force appropriation where only $107,900,000 of the $239,030,000 is recommended. OMB transferred this account out of the Defense 050 category, and we can't give up anymore from our domestic allocation.

BIB: We recommend a total of $378,500,000, including $183,500,000 for the Israel Relay Station account.

Civil Rights Commission: We have funded the Commission at last year's level of $5,707,000 and continued the restrictions in force.

FCC: Full budget request of $109,831,000 which includes restoration of 40 work years lost to inflation. Continues restrictions on minority ownership, swaps, and cross ownership.

FTC: We recommend the full budget of $69,580,000 plus $10 million more from the new premerger filing fee on Hart-Scott-Rodino filings.

Legal Services Corporation: We have provided LSC an increase of 4.1 percent bringing their total to $321 million. We have basically continued the program as it was last year, with separate funding for State and National support centers, migrants, and so forth.

SEC: The full request of $168,707,000 which will be offset by a change in the filing fee. Our report directs eight additional positions for processing the filings of public utility holding companies.

SBA: A total of $413,188,000. We are basically same as house on the salaries and expenses with some juggling around at request of the Small Business Committee. We provide $78 million for direct loans. We also have technical language to the authorization bill requested by the Small Business Committee.

USIA: A total of $946,050,000 which pretty much tracks the authorization bill. We recommend $160,300,000 for the exchanges; and included $85 million for radio construction, of which $16 million is for TV-Marti. NED is held at current and budgeted level of $15,800,000.

GENERAL PROVISIONS

The general provisions are basically the same as carried previously in the bill except that we made some technical changes to language in the bill with regard to Legal Service Corporation. We also put in a limitation on expenditures for consulting services by the Departments of Commerce, Justice, State, and the Small Business Administration that Senator PRYOR requested.

We also added Senator JOHNSTON's amendment requiring the Secretary of State to initiate negotiations for the development of international agreements to protect endangered and threatened sea turtles. It calls for a ban on imports of shrimp from any nation that: First, fails to adopt a regulatory program for turtle protection which is comparable to that of the United States; and second, has higher

incidental catches of sea turtles than U.S. shrimpers.

At the full committee we added two new general provisions. One, that I sponsored on behalf of myself and the distinguished junior Senator from Tennessee [Mr. GORE], the chairman of the Space Subcommittee of the Commerce Committee, protects the emerging United States-satellite launch industry from unfair Soviet and Chinese competition. The other, by the distinguished senior Senator from Hawaii [Mr. INOUYE], clarifies the statutory prohibition against trade benefits to countries supporting international terrorism.

Those are the highlights, and I will await making these corrections of printing errors motions plus the original motion for the bill to be considered as original text after I yield to my ranking member, Senator RUDMAN.

The PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

Mr. RUDMAN. Mr. President, I thank the Chair.

Mr. President, I am very pleased to once again join the junior Senator from South Carolina in presenting bipartisan recommendations for fiscal year 1990 appropriations for the Departments of Commerce, Justice, and State, the judiciary, and related agencies. This is a balanced bill that meets the priorities of the Congress and the administration.

Within the allocation initially provided to the subcommittee we were able to restore many of the programs traditionally supported by the Congress that were proposed for elimination or substantial reduction by the administration. At the same time we were able to fund the Justice Department and the judiciary at levels that would allow them to continue in 1990 at operating 1989 levels.

Both Senator HOLLINGS and I realized that this level of funding would be insufficient, so we proposed a separate drug funding title to provide the President with his full request for the Justice Department and the judiciary in 1990. With very little change, that title was incorporated into the drug funding amendment that passed the Senate as part of the Transportation appropriations bill.

For the Justice Department, the funding provided in this bill and in the drug amendment represents an increase of 36 percent over the 1989 enacted level and 56 percent over the 1988 enacted level. For the Federal judiciary, the increase is 10.5 percent over 1989 and 21 percent over 1988.

This will allow for a number of important Presidential initiatives in the Justice Department, including: $1.4 billion for prison construction and renovation; $215 million for the establishment of organized crime drug enforcement task forces, which will include personnel from throughout the Justice Department and from the Departments of Treasury and Transportation; funding to allow the Drug Enforcement Administration to establish 7 new State and local task forces, bringing the total number to 50 in 1990; and an increase from $160 million in 1989 to $450 million in 1990 for grants to State and local law enforcement agencies to help combat crime on the street; in addition, the committee recommends retaining the current maximum State matching requirement of 25 percent for the next 2 years rather than allowing the match to increase to 50 percent as would occur absent a change in the law.

The subcommittee recommendations support other important priorities for 1990, including: 95 percent of the funds requested for the decennial census; a $6 million increase to fully fund the needs of the United States and Foreign Commercial Service; continuation of the ocean, coastal, and fishery programs of the National Oceanic and Atmospheric Administration, with important enhancements for the global change program and the coastal ocean initiative; $10 million to initiate the advanced technology program of the National Institute of Standards and Technology; a provision to completely fund the civil liberties public education fund beginning in 1991 to provide for the long-delayed payments to Japanese-Americans interred during World War II; funding of $183.5 million to virtually complete the Israel radio relay station of the Board for International Broadcasting and the Voice of America; a modest but important inflationary increase of 4.1 percent for the Legal Services Corporation; and full funding of $168.7 million for the important work of the Securities and Exchange Commission in policing our Nation's securities markets.

Once again, I salute my chairman for the leadership and skill he has shown in preparing this bill. it is a pleasure to work with him and his fine staff.

Senator HOLLINGS and I are open for business; we hope we can complete action on this legislation quickly, and I encourage any Member with an amendment to come to the floor as soon as possible.

Mr. President, let me just say something on a personal note about my colleague from South Carolina. I know that he would much rather be in South Carolina this morning with the President and his constituents looking at the enormous damage and human suffering that has occurred in South Carolina and other States. I deeply appreciate the fact that, recognizing the complexity of this bill, my friend from South Carolina, the chairman of this subcommittee, decided to stay here in Washington to finish this bill by the end of the fiscal year.

I am very delighted that he is here and I thank him for being here this morning because it is important. We have an enormous amount of funding here for the fight against drugs, in NOAA, in the Commerce Department, the judiciary, the FBI, the State Department, and the Senator is an expert in the field. He has been handling it for years and I am delighted he is here this morning, but I know his heart is someplace else.

Mr. President, we have a number of amendments that Senators have advised they were going to bring to the floor and I think a great number of these are going to be accepted. I know it is the interest of both leaders that we finish this bill in good time this morning. I would simply say to my colleagues and their staffs who may be watching in their offices that we would like to keep this moving because it will take very little time to accept most of these amendments and I think there may be rollcalls on possibly two or three. I notice that one Member of the Senate is here this morning, Senator ADAMS, who I believe may have an amendment. Others on this list are known to themselves, so I would certainly hope that there will be prompt action to come to the floor and offer the amendments. I know the distinguished President pro tempore makes that plea rather regularly. I do not expect to meet with any more success than we usually do, but possibly we will get people here on time.

Finally, let me just make an announcement to my colleagues that we had a very intense debate last night, I thought a very good debate, on the whole issue of obscenity in the arts. Senator HELMS moved to instruct. That was defeated. Senator HELMS has advised me this morning that he intends to offer, or ask me to offer on his behalf section 1 of his instruction, which of course is the one which I think most of us late night would have liked to have voted on but could not vote on, given the very broad instruction. It is his intention to either offer that himself or have me offer it on his behalf and that will take a rollcall vote, I am advised.

I will now yield the floor. I notice that the chairman may wish to move to the committee amendments first and then I believe we will be able to handle the first amendment.

I yield the floor.

Mr. BYRD. Mr. President, today we are considering H.R. 2991, the Commerce, Justice, and State, the judiciary, and related agencies appropriations bill for fiscal year 1990. This measure provides necessary funding for three departments, the judiciary, and 27 related agencies, including the U.S. Information Agency, the Arms Control and Disarmament Agency, the

Board for Internal Broadcasting, and the Small Business Administration.

The bill as recommended by the Committee on Appropriations provides $17,384,689,000 for fiscal year 1990. The bill is $1,782,747,000 below the President's request. For the benefit of my colleagues, I note that $1,916,940,000 for anticrime and antidrug abuse activities in the jurisdiction of this subcommittee were provided in the emergency drug funding amendment that we adopted on the Department of Transportation appropriation bill for fiscal year 1990. Enactment of these two measures will assure necessary funding for law enforcement and Federal correctional activities, the conduct of foreign policy, international peacekeeping activities, and the decennial census, as well as longstanding congressional priorities such as: Economic development assistance; small business; legal services; and juvenile justice and delinquency prevention programs. The bill also maintains in full the Nation's weather stations as well as other programs of the National Oceanic and Atmospheric Administration.

With respect to the subcommittee 302(b) allocation, the bill as recommended is within both the budget authority and outlay ceilings.

I wish to commend Mr. HOLLINGS, chairman of the subcommittee and Mr. RUDMAN, the ranking member, for their excellent work in accommodating the priorities of the Senate within the difficult constraints of the budget agreement.

I also commend the staff of the subcommittee, Warren Kane, John Shank, Dorothy Seder, Liz Blevins, and Judee Klepec. These professionals have worked tirelessly to get this measure before us today.

The managers have explained in much greater detail the contents of the measure as recommended. The bill as reported by the Appropriations Committee deserves the support of the Senate.

This is the last of the 13 fiscal year 1990 appropriation bills, and I am hopeful that it can be passed expeditiously so that the bill can go to conference and the committee complete our conferences on all bills quickly so that there will be no need for another continuing resolution.

CORRECTIONS

Mr. HOLLINGS. Mr. President, there are several errors in the printing of the committee amendment. I ask unanimous consent that the committee amendments be corrected in accordance with the list that I send to the desk.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The corrections are as follows:

On page 5 line 4 change "these" to "those";

On page 15 line 13 change "recognizes" to "recognize";

On page 16 line 6 "Office of Inspector General" should be italics;.

On page 18 line-type all that appears on lines 4 through 7;

On page 31 line 6 change "7625" to "7265";

On page 41 after line 24 insert:

"SEC. 506. (a) Of the total amount appropriated for this part in any fiscal year, the amount remaining after setting aside the amount to be reserved to carry out section 511 of this title shall be set aside for section 502 and allocated to States as follows:

"(1) 0.4 percent shall be allocated to each of the participating States; and;

On page 43 line 16 after "ings" insert "Abroad";

On page 43 line 19 change "therefore" to "therefor";

On page 48 lines 12 and 13 delete "as authorized by section 105 of Public Law 100-204,";

On page 48 line 8 restore "Other" to Roman type;

On page 48 lines 17 and 18 delete "as authorized by section 601 of Public Law 100-204";

On page 49 line 7 delete "Other";

On page 55 line 21 after "Public Law 100-659," insert "$4,000,000" with line-type;

On page 61 line 13 after "amended" insert "(22 U.S.C. 2551";

On page 86 line 22 change "advances" to "advance";

Mr. HOLLINGS. Mr. President, I also ask, and this has been cleared on both sides, unanimous consent that the committee amendments, as corrected, save and excepting, and this is on the Japanese internment that we had a request on the other side so we want to hold up on, page 18, lines 4 through 16; page 41, lines 4 through 10, that these committee amendments as corrected with those exceptions be considered and agreed to en bloc and that the bill as amended be considered as original text for the purpose of further amendment with the understanding that no point of order shall be waived by reason thereof.

Mr. RUDMAN. Right.

The PRESIDENT pro tempore. Without objection, the committee amendments will be considered and agreed to en bloc with the exceptions enumerated by the manager of the bill, Mr. HOLLINGS.

The committee amendments were agreed to en bloc, except the committee amendments on page 18, lines 4 through 16, and page 41, lines 4 through 10.

The PRESIDENT pro tempore. The Senator from Washington [Mr. ADAMS].

Mr. ADAMS. Mr. President, I do not want to start with the amending process if the managers have anything further.

Mr. HOLLINGS. Yes, we want you to proceed.

Mr. ADAMS. But I, like the President pro tempore, wish to start early in the morning and hope that the amendments will be agreed to.

EXCEPTED COMMITTEE AMENDMENT ON PAGE 18, LINES 4 THROUGH 16

The PRESIDENT pro tempore. The pending question is on page 18, lines 4 through 16.

AMENDMENT NO. 893

(Purpose: To express the sense of the Senate that the Secretary of State should take immediate steps to secure an international moratorium on the use of driftnets on the high seas)

Mr. ADAMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. Does the Senator offer his amendment to the pending committee amendment?

Mr. ADAMS. Yes, I do.

The PRESIDENT pro tempore. He does?

Mr. ADAMS. Yes.

The PRESIDENT pro tempore. Does he wish the pending committee amendment set aside temporarily?

Mr. HOLLINGS. Mr. President, I ask unanimous consent the pending committee amendment be set aside. We have to do that before we get to the Japanese internment, so the Senator from Washington can submit the amendment.

The PRESIDENT pro tempore. The pending amendment is set aside.

The Senator sent his amendment to the desk.

Mr. ADAMS. Mr. President, I thank the chairman. I will send the amendment to the desk and ask that the pending amendment be set aside so I may offer the amendment at this time.

The PRESIDENT pro tempore. The Senator has sent an amendment to the desk that was incorrectly drafted, and for that reason it would be out of order.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ADAMS. Mr. President, I ask unanimous consent that the amendment that I have sent to the desk be modified in the form that it now appears at the desk.

The PRESIDENT pro tempore. The amendment is so modified.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. ADAMS], for himself, Mr. GORTON, Mr. STEVENS, Mr. PACKWOOD, Mr. WILSON, Mr. KERRY, Mr. MURKOWSKI, and Mr. BOND, proposes an amendment numbered 893.

Mr. ADAMS. Mr. President, I ask unanimous consent that that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert:

the marine life inhabiting the world's oceans is one of our plant's most important resources;

there has been a major increase in the last several years in the use of long plastic driftnets as a fishery technique;

finding that the use of these driftnets is a wasteful, indiscriminate, and destructive fishing technique that results in the entanglement and death of enormous numbers of target and nontarget fish, marine mammals, seabirds, and other living marine resources, Congress passed and the President signed into law the Driftnet Impact Monitoring, Assessment, and Control Act of 1987.

pursuant to that law, the United States has just, after two years of negotiations, entered into bilateral agreements with Japan, Korea, and Taiwan to allow some monitoring and control of driftnet fleets in the North Pacific;

in that same two year period, use of the driftnet fishery technique has spread to the South Pacific Ocean and the Mediterranean Sea;

the continued use of this fishing technique could decimate entire regional fisheries, and also results in the interception of North American salmon in violation of accepted principles of international law;

the continued use of driftnets presents a worldwide ecological crisis of such complexity and magnitude that cannot be met by a continued series of bilateral monitoring agreements;

this worldwide crisis must be addressed through a multinational effort: Now, therefore

it is the sense of the Senate that:

The Secretary of State is encouraged to take immediate steps to secure an international multilateral ban on the use of driftnets (as defined in Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (16 U.S.C. 1822 note) on the high seas. In this effort the Secretary is encouraged to bring before the United Nations a resolution calling for a worldwide moratorium on the use of driftnets on the high seas until such time as the adverse impacts of driftnet fishing can be prevented and the conservation of the world's living resources can be ensured.

Mr. ADAMS. Mr. President, I hope this amendment will be accepted by the managers on both sides and the rest of my colleagues. It is one that is of great importance to all of us that border on the Pacific Ocean. I think it will be of great importance in later years to those who border on all the oceans of the world.

Mr. President, this amendment is a resolution expressing the sense of the Senate on the worldwide crisis posed by drift net fishing on the high seas.

It encourages the Secretary of State to take immediate steps to secure an international moratorium on the use of driftnets on the high seas. In this effort the Secretary is encouraged to bring before the United Nations a resolution calling for a worldwide moratorium on the use of driftnets on the high seas until such time as the adverse impacts of driftnet fishing can be prevented and the conservation of the world's living resources can be ensured.

This resolution is consistent with a letter sent by members of the National Ocean Policy Study Committee of the Senate Commerce Committee to our Ambassador to the United Nations, Thomas R. Pickering. As an at-large ex-officio member of NOPS, I signed that letter, and would like to express my gratitude for the leadership shown by my colleagues from the Northwest, Senators STEVENS, GORTON, and HATFIELD, in putting that letter together.

And they have joined also with me in this resolution which I have offered on behalf of myself, Senators GORTON, STEVENS, PACKWOOD, and WILSON.

This resolution gives the full Senate an opportunity to do what NOPS has already done—and I think that is terribly important—encourage the State Department to work toward a worldwide ban on drift nets through a U.N. resolution.

It is likely that this concept will soon be officially codified into law. The House has already inserted a similar provision, sponsored by my good friend from Washington Congresswoman UNSOELD, into their version of the Magnuson Act reauthorization. I fully expect the Senate Commerce Committee and my good friend and long-time colleague, Chairman HOLLINGS of the Commerce Committee, to do the same thing over here.

The Magnuson Act reauthorization, however, may take some time to complete. In the meantime I believe it is important to have the Senate on record on this issue.

I do not believe I have to go into great detail for my colleagues about the horrors of driftnet fishing. Driftnet fishing is not about harvesting a portion of a renewable resource; it is wanton massacre. Uncontrolled driftnet fishing will drain the world's oceans of fish, mammals, and seabirds in less than a generation. If we are to survive on this planet we must summon the strength to ban destructive technologies that injure our living planet beyond repair.

This Congress has been aware of this problem for a long time. In 1987 we passed the Driftnet Impact Monitoring, Assessment, and Control Act, and directed a reluctant administration to enter into agreements with the driftnetting nations of Japan, Korea, and Taiwan.

These agreements, which are of varying quality—and I stress varying quality—are now in place for the next year or so. As one who has followed this issue closely, it is clear that to me that pursuing bilateral piecemeal agreements will not adequately resolve this crisis. Even in the last year, driftnetting has spread to the Mediterranean Sea. If we take too long, our planet's fisheries resources will be decimated.

Instead, we must immediately seek a multilateral solution of worldwide scope to this issue, and the United Nations is the perfect forum for that effort. I urge all my fellow Senators to join me in adopting this resolution, and sending a message to the world that the United States means business on banning driftnets.

Mr. HOLLINGS. Mr. President, we are checking one important concern that we have, but momentarily we are prepared to accept the amendment if we can clear up that concern.

What the distinguished Senator from Washington does is provide for a moratorium that the Secretary is encouraged to support the U.N. resolution calling for a worldwide moratorium. The amendment does not affect present law and it goes right to the heart of something that both sides of the aisle have been concerned about for the last several years.

Our distinguished ranking colleague, Senator HATFIELD, had hearings last month out on the west coast on this thing. A lot of the pollution you just do not immediately see, but if you can see these nets in the sea, with the marine mammals and sea birds ensnarled, your heart just goes out and you know that is wrong, wrong, wrong and we have got to get some kind of international approach to it.

The amendment of the Senator from Washington goes I think right to the heart of the present law to encourage even further action by the administration and the Secretary of State.

I have one check to make sure that we can accept it. If there is nothing further, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the amendment of the Senator from Washington be temporarily laid aside.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HOLLINGS. I ask unanimous consent now the committee amendment be temporarily set aside so we can proceed with Senator HELMS' and Senator FOWLER's arrangement with respect to the initiative they had on the floor last evening again.

The PRESIDENT pro tempore. Without objection the committee amendment will be temporarily set aside.

The Senator from North Carolina.

Mr. HELMS. Mr. President, momentarily I shall send an amendment to the desk which addresses the central issue that we debated last night. This is a modified form but it is limited to specific language which I think all Senators surely must agree to and agree with.

AMENDMENT NO. 894

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 894.

It is the sense of the Senate that the conferees on H.R. 2788 should agree to modify amendment numbered (7) to H.R. 2788 to read as follows:

"None of the funds authorized to be appropriated pursuant to this Act may be used to promote, disseminate, or produce indecent or obscene materials, including but not limited to depictions of sadomasochism, homo-eroticism, the exploitation of children, or individuals engaged in sex acts.".

Mr. HELMS. Mr. President, this amendment if adopted and enacted with the underlying legislation will absolutely forbid by law any further instance of Mapplethorpe or Serrano or any other polluted mind that would claim that the taxpayers are obliged to subsidize such garbage. This was the central point of the amendment which we discussed at length last night. The second and third parties of the amendment I put in at the suggestion of distinguished constitutional lawyers who persuaded me that both were supported by actions and rulings by the U.S. Supreme Court.

But the important thing of this point—since most Senators seemed agreeable to it last night—is to make sure that $30,000 subsidies don't go to exhibitions like Mapplethorpe's, or to honor artists like Mr. Serrano with $15,000 subsidized by the taxpayers by forbidding such NEA expenditures from now on. The NEA needs to be put on notice that the Congress of the United States will not tolerate this kind of activity.

In the interest of time, there is no point going over the arguments again. If anybody wants to hear the arguments, they can read it in the CONGRESSIONAL RECORD this morning.

Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

Mr. RUDMAN. I want to thank the Senator from North Carolina for offering the amendment this morning. It was the central issue that was debated last night. Many of us were uncomfortable voting against the Senator's other amendment. We found two parts of its we could not support.

My understanding is the Senator's amendment is about to be subjected to a second-degree amendment offered by the Senator from Georgia, which I will join in as well. I can support either one.

The difference will be that the word "indecent" as well as "obscene" appears in the amendment of the Senator from North Carolina. The Senator from Georgia will offer an amendment that strikes the word "indecent" because many feel that word is not susceptible of accurate interpretation under a U.S. Supreme Court case called Miller. I disagree with that yet I can support either of these amendments.

I believe what we will then have is a vote first at the time appointed on the Fowler amendment, which I believe will be offered by the Senator from Georgia. I thank, again, the Senator from North Carolina for clearing the air this morning. Because his basic purpose is not disagreed with by the overwhelming number of people in this body.

The PRESIDENT pro tempore. The Senator from Georgia [Mr. FOWLER].

AMENDMENT NO. 895 TO AMENDMENT NO. 894

Mr. FOWLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. FOWLER], for himself, Mr. RUDMAN, and Mr. PRYOR, proposes an amendment numbered 895 to amendment No. 894.

Strike all after the first word of the amendment and insert the following:

is the sense of the Senate that the conferees on H.R. 2788 should agree to an amendment in lieu of that in amendment numbered (7) to H.R. 2788 as follows:

"None of the funds authorized to be appropriated pursuant to this Act may be used to promote, disseminate, or produce obscene materials, including but not limited to obscene depiction of sadomasochism, homo-eroticism, the sexual exploitation of children, or individuals engaged in sexual intercourse."

Mr. FOWLER. Mr. President, we did have a long and thorough debate last evening, on this extraordinarily difficult subject. As I said to the Senator from North Carolina [Mr. HELMS] last night, those of us in this body, inadequately prepared for the crafting of legislative language in this extraordinarily difficult area of public policy, do know in our hearts that there is such a thing as obscenity.

We do know in our hearts that there are community standards and values which we all share and which we must uphold as public policymakers and as Americans. In the statute of the United States, as interpreted in the Miller case, there are criteria outlined as to those standards which, under the laws of the United States, are obscene.

Those of us who could not support the extra language in the original Helms amendment ought to thank the Senator from North Carolina for dropping that language, not because he does not feel so strongly about it, but because there were serious questions raised as to unintended consequences. I want to thank the Senator from North Carolina as a legislator for dropping that language. It may appear at a later date, I understand that, when it can be clarified and the consequences determined. But the amendment that he offers this morning is straightforward.

The only question that I have causing this amendment is that I believe by making sure the obscenity standard applies not only to the exclusive clause, but the inclusive clause; that the language I offer prohibiting public moneys to be used for the promotion, dissemination or production of obscene materials strengthens the statute, if adopted. It expresses the outrage of this Senate that public funds would ever be used to promote or disseminate materials determined to be obscene. I thank my colleague, the Senator from New Hampshire, for joining me on this. I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. Mr. HELMS is recognized.

Mr. HELMS. Mr. President, I shall be brief. Just for the record, what we are doing is taking out any reference to indecent depictions. There is a good faith disagreement about that. The Federal Communications Commission is authorized by the U.S. Supreme Court to enforce standards against certain broadcasts which are considered improper.

There is already justification by the U.S. Supreme Court for the enforcement of standards prohibiting indecent material. So what Senators will be voting on is whether they want to remove the word "indecent" and thereby give a loophole to staff people who want to continue to abuse the trust the public has placed in them. I hope the Federal "arts" agencies will zealously guard against using the taxpayers' pocketbook for indecent "art."

My underlying amendment includes a limitation on indecent art as well as obscene art. I included the word "indecent" from the very beginning because the Court has held that the Government may constitutionally regulate indecent material.

Just for the record, Mr. President, there are two cases on this. One is the Sable Communications versus FCC de-

cided this year, 1989, which upheld the regulation of Dial-A-Porn. The second case is *FCC* v. *Pacifico* (438 U.S. 726), which was decided back in 1977 regarding indecent broadcast material.

The question occurs to me, Mr. President, that if the FCC can regulate indecent material, in a constitutional manner as upheld by the Court, why cannot this Congress say that the same thing applies to the NEA?

Mr. President, that is all I really need to say. The effect of the second-degree amendment will be to take the prohibition against Federal funding for indecent materials out of my amendment and that will create a giant loophole. If Senators want to permit funding of "indecent" (art), they vote for the second-degree amendment. If they want to leave the word "indecent" in and prohibit such so-called art, they need to vote against the second-degree amendment of the Senator from Georgia [Mr. FOWLER]. Otherwise, the amendments are virtually identical.

The fundamental difference will be whether or not Senators think the Congress should restrict indecent art in terms of receiving Federal funds appropriated via the National Endowment for the Arts. If you want indecent art funded, vote for the Fowler amendment. If you want to say no way, to such funding, then vote no on the Fowler amendment and then vote aye on the Helms amendment. I thank the Chair, and I yield the floor.

The PRESIDENT pro tempore. The Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished President. Mr. President, I have a comment in mind. I am also awaiting the attendance of my senior Senator who was down in South Carolina with the President. Air Force One landed at 10:25. I am confident he should be here momentarily. Maybe I should make the request to terminate debate and we set a time certain like 11:15 to vote. So both sides are on notice, I really want to wait on Senator THURMOND.

But pending that, let me say this. It was very interesting last evening to watch the dog chase its tail. First, the Supreme Court said, look, religious displays by a public body, like a nativity scene or a creche, that promote or endorse religion, are unconstitutional. Now, we are being told that when a public body; namely, the Congress, restricts funding for religious art, then the restriction on the funding itself is unconstitutional. So you are either in violation of the establishment clause or the freedom of speech clause. That cannot be the case, and is not the case. Clearly, Congress has the power, the right and the duty to regulate any taxpayer dollar spent on art or anything else.

I think the Senator from North Carolina is on target. Don't give this red herring about censorship, if this is censorship, then every vote cast in this body is a form of censorship.

When I vote for the B-1 bomber, I censor the lack of defense and, therefore, I vote for an additional weapon. Or, if I vote against the B-2, I censor the B-2 itself; I say it is not needed. If I vote for aid to the Contras, then I censor the lack of our initiative and policy in Central America. If I vote against it, I censor the policy itself and say we should not be involved. Every time you and I stand to vote yes or no, the vote is one of censorship.

In that vein, we really have to go right to what the Senator from North Carolina has provided. I was shocked when I saw that public funds were going for that filth, and I want to make sure that my name is not attached to that kind of nonsense. Do not give me the ethereal nonsense about censorship. We are required as a public servant in the legislative branch to provide or not to provide, to approve or to disapprove. When they are talking, they can go merrily along their way and have all the obscene art they want. Just do not ask this Senator to vote for the taxpayer to finance that smut and cry censorship when I refuse.

I understand the point my colleague from Georgia has made, and I commend my ranking member, Senator RUDMAN, for his eloquent statement about his trial experience in this area. So I will support Senator FOWLER and then, of course, one way or the other, I will support Senator HELMS. I commend them both for their understanding and cooperation this morning. Mr. President, to cut it short, I think the other Senator from Washington would like to say a word. Let me yield at this time.

Mr. GORTON. I thank the distinguished manager.

The PRESIDENT pro tempore. The Senator from Washington, [Mr. GORTON] is recognized.

Mr. GORTON. I wish to speak not on this amendment but on the amendment which has been set aside by my distinguished colleague from the State of Washington.

Do I understand correctly that the managers of the bill are prepared to accept that amendment at the end of these remarks?

Mr. HOLLINGS. Then I ask—the President pro tempore knows better than any of us—can we momentarily ask unanimous consent to set aside these two amendments to return to the amendment of the Senator from Washington so we can accept it?

The PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 893

The PRESIDENT pro tempore. The Chair recognizes the distinguished junior Senator from Washington.

Mr. GORTON. Mr. President, I am pleased to join with my colleague, Senator ADAMS, in support of a resolution which calls on the Secretary of State to seek an immediate ban on the use of driftnets on the high seas.

I look forward to the day on which the piracy of salmon and the slaughter of innocent birds and marine mammals by these curtains of death comes to a halt. I am encouraged that this issue has begun to receive the high visibility it so rightly deserves. The country is waking up to the damage and destruction caused to our ocean ecosystems by the indiscriminate use of driftnets.

This summer, the United States successfully completed bilateral agreements with Japan, Taiwan, and Korea to monitor and collect data on driftnet fisheries in the North Pacific. This was an important first step because it will provide needed scientific data on the fisheries and will give the United States better means to enforce our laws against the illegal taking of salmon. But, our ultimate goal must not be simply to monitor driftnets; it must be to rid the world of their use.

Two days ago, I joined with Senator STEVENS and others in writing a letter to our Ambassador to the United Nations, Thomas Pickering, asking him to help bring before the United Nations a resolution seeking a moratorium on the use of driftnets on the high seas beyond the Exclusive Economic Zone of any nation.

Next month, I intend to work with my colleagues on the Commerce Committee—during the reauthorization of the Magnuson Act—to include a provision which will lead to the banning of driftnets on the high seas.

Mr. President, driftnet fishing must be stopped. The preservation of the world's fisheries and marine resources is at stake. I intend to work toward the goal of banning driftnets at every available opportunity. I am delighted to join my colleague in taking this opportunity to do so.

Mr. ADAMS. Mr. President, I thank my colleague from Washington [Mr. GORTON] for an excellent statement. I ask unanimous consent that Senator CRANSTON's name be added as a cosponsor of the amendment.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ADAMS. I have nothing further in the way of debate, Mr. President.

Mr. HOLLINGS. Mr. President, I urge adoption of the amendment.

Mr. KERRY. Mr. President, I rise in support of the pending amendment calling on the Secretary of State to take immediate steps to secure an international moratorium on the use

of driftnets on the high seas until such time as the adverse impacts of driftnet fishing can be mitigated and conservation of our marine resources ensured.

This amendment is critical to protect our vast ocean resources. Currently we are witnessing a fundamental pirating of our marine resources across the global seas. Earlier this week a number of my colleagues and I sent a letter to Ambassador Thomas Pickering requesting that he present to the United Nations a resolution calling for a worldwide moratorium in the use of driftnets, and I think that this amendment if passed will seek to strengthen that request.

Mr. President, the international fishing community has not been responsible in harvesting the world's valuable fishing resource. In fact the practice of driftnetting is both wasteful and destructive, and could ultimately lead to a depletion of fish stocks for future generations.

The facts are alarming. During the fishing season 30,000 miles of nets are set out each night—enough to go around the world 1½ times, and well over 1 million miles a year. Not only are tens of thousands of marine mammals and hundreds of thousands of sea birds killed each year trapped in driftnets, but it is thought to be the number one killer of northern fur seal in the North Pacific. Furthermore, of the fish caught for harvest in these nets, 30 to 50 percent of the catch is estimated to be lost when fish ensnared in the net drop out and die before they are retrieved by the fishermen. Moreover, one-third of the fish that is brought aboard vessels does not even have any commercial value.

One of the most egregious aspects of driftnetting and its consequences on our marine environment is ghost fishing. Ghost fishing occurs when sections of driftnets lost or discarded float around the ocean indiscriminately killing anything in its path. These nets that can take decades to centuries to break down, float around the seas, entrapping marine mammals, sea birds, and fish. The nets then fall to the ocean floor from the weight of its prey, only upon decay of the animal to float back to the surface to resume its destructive annihilation.

Driftnetting is the consequence of serious greed displayed by the South Koreans, Taiwanese, and Japanese which far outweighs any conservation ethic. Fishermen from these nations are taking short term advantage of the bounty of the sea and must be stopped.

I recognize that under the Driftnet Impact Monitoring, Assessment and Control Act, a law that we passed 2 years ago, negotiations with these nations are occurring that have resulted in some bilateral agreements on fishing in the North Pacific. Although I appreciate the fact that discussions and agreements have taken place, they frankly do not go far enough.

Furthermore, discussions in the South Pacific have proven wholly inadequate. In the South Pacific for example the supposed concessions of the Japanese to cut back on their fleet by two-thirds represents nothing more than a shell game in these phantom reductions negotiations. They are based on unreal levels of fishing reductions due to the tremendous increase of driftnet fleets in the past year. In 1987 the Japanese had 20 driftnet vessels in the South Pacific. Today that number has increased to 60. A two-thirds reduction merely brings it back to its still destructive 1987 level.

Mr. President, I do want to commend the Government of New Zealand and other South Pacific nations for their hard line against driftnetting. New Zealand has banned entry of any driftnet vessels into its port and I believe the United States Government should work cooperatively with our friends in the South Pacific to achieve an international moratorium on driftnet fishing.

Lastly, on the domestic front, I want to note that the Commerce Committee is currently rewriting the Magnuson Act and I plan to add a provision which will ban the use of any drift nets longer then the 1.5 miles in U.S. waters.

I want to commend the Senator from Washington for offering this excellent amendment, and I urge its immediate adoption.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Washington [Mr. ADAMS].

The amendment (No. 893) was agreed to.

Mr. ADAMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, what is the pending business?

The PRESIDENT pro tempore. The question now recurs——

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 895 TO AMENDMENT NO. 894

Mr. METZENBAUM. Mr. President, will the Senator from New Hampshire yield for a question?

Mr. RUDMAN. I will be pleased to yield.

Mr. METZENBAUM. As I read the amendment it provides that:

> None of the funds authorized to be appropriated pursuant to this Act may be used to promote, disseminate, or produce obscene materials, including but not limited to obscene depiction of sadomasochism, homoeroticism, the sexual exploitation of children, or individuals engaged in sexual intercourse.

Is the Senator from Ohio correct in his understanding of the reading of that sentence that the word "obscene," which is used immediately prior to the word "depiction"—is meant to be an adjective which also refers to the depiction of obscene sado-masochism, the depiction of obscene homo-eroticism, the obscene depiction of the sexual exploitation of children, and the obscene depiction of individuals engaged in sexual intercourse; that the obscenity reference is to be applicable to each of the phrases?

Mr. RUDMAN. Mr. President, the Senator from Ohio I think describes it correctly. The author, Senator FOWLER, is on the floor, if he wishes to respond. I would simply say it is a well-structured grammatical sentence, and the words "obscene depiction of" obviously apply to each and every activity following those three words.

Mr. METZENBAUM. I am not questioning the draftsmanship of the author. Rather I want to be certain that there could be no misinterpretation as to what is intended. It is my understanding that the author's intent is to have the obscene depiction reference applicable to each of the groups: described in the amendment.

Is the Senator from Ohio correct in his interpretation?

Mr. FOWLER. The Senator is correct.

Mr. METZENBAUM. I thank the Senator.

Mr. HELMS. Will the Senator yield?

Mr. METZENBAUM. I yield the floor.

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from North Carolina?

Mr. METZENBAUM. I yielded the floor.

The PRESIDENT pro tempore. The Senator from Ohio yields the floor.

Mr. HELMS. Mr. President, I was going to say to my friend, the Senator from Ohio, that it occurred to me, and the thought may have occurred to him, as it did to me, that the word "obscene" may be somewhat redundant. How can you engage in sadomasochism, homo-eroticism, the sexual exploitation of children, or individuals engaged in you-know-what without its being obscene? It is a given.

But I thank the Senator for getting the clarification for the RECORD.

Mr. METZENBAUM addressed the Chair.

The PRESIDENT pro tempore. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I would like to advise my colleague from North Carolina, and certainly I am sure he would agree, that all depiction of individuals engaged in intercourse—a subject of art going back 2,000, maybe 5,000 years, is not all obscene. The only limitation about which we are speaking is the obscene depiction of individuals about engaged in sexual intercourse because, to the best of my knowledge, the mere portrayal of individuals engaged in intercourse has been a subject of some of the greatest artists of the world, and certainly not all of it would be considered obscene.

Mr. HELMS. I will tell you what is obscene about it—is to require the taxpayers to subsidize it. That is what is obscene about it. That is the whole issue of what we are talking about today.

I thank the Senator.

Mr. METZENBAUM. I have to say to my colleague from North Carolina that is not the issue. Certainly the Senator from North Carolina would not be standing on the floor saying that something that Michelangelo did, something that was done 2,000 years ago, and is portrayed in some of the finest art museums of this country is obscene just because it portrays sexual relations between two human beings.

Mr. HELMS addressed the Chair.

The PRESIDENT pro tempore. The Senator from North Carolina [Mr. HELMS].

Mr. HELMS. Mr. President, I think we ought to move to a vote. But what is obscene is the whole point that I have made from the very beginning; that is, the taxpayers ought not to be required to furnish the money. That has been my point from the beginning.

I do not know if Michelangelo received any Federal funds for what he did.

[Laughter in the galleries.]

The PRESIDENT pro tempore. The galleries will please be in order.

Mr. DOLE. Mr. President, like many other Senators, I have had the misfortune of examining some of the so-called works of art produced by the self-proclaimed artists, Andres Serrano and Robert Mapplethorpe. And like most other Senators, I found these works repulsive, vulgar, and nothing more than gutter trash.

THE FIRST AMENDMENT STRAW-MAN

During the course of the debate, I have heard several Senators echo this observation, but then argue against placing any restrictions whatsoever on the ability of the National Endowment for the Arts to dispense tax dollars to those who produce obscene material. If my understanding is correct, these Senators fear that the Senate would be acting as a censor—and that we would somehow be doing violence to the first amendment.

Well, I have read the first amendment, and nowhere in the text of the first amendment does it mention Federal financing. The first amendment does not entitle artists—or anyone for that matter—to use tax dollars to finance the exercise of their free speech rights. The Supreme Court made this point abundantly clear in its 1983 unanimous decision, Regan versus Taxation With Representation.

So the first amendment agrument that has been raised by some Senators is—in my view, at least—a straw-man. It misses the point completely. So-called artists can produce as much obscene material as they want. No one will stop them. And no one is trying to infringe their rights to express themselves as artists.

THE REAL ISSUE: TAXPAYER FINANCING

But the real question here is whether the hard-working taxpayers of this country should be forced to finance works of art that they consider not only distasteful but deeply, deeply offensive. Should the taxpayers, for example, be forced to finance a picture that portrays Jesus Christ submerged in a bottle of the artist's urine? Should the taxpayers be forced to finance child pornography?

In my view, the answers to these questions are very simple, and they have more to do with common sense than with the first amendment or with artistic freedom.

THE QUESTION OF STANDARDS

Now, I have also heard some Senators argue that Congress should not be in the business of setting artistic standards, that we should not try to determine what art is acceptable and what art is unacceptable for purposes of receiving Federal funding. I respect this point of view. And I can certainly understand the difficulties involved when making judgments of this nature.

But should Congress have no role in this area? Should Congress simply give artists absolute freedom to use tax dollars as they wish—without regard to how offensive their works may be to millions and millions of Americans? And more importantly, does Congress have no obligation to monitor how federally appropriated funds are spent?

Of course, the answer to these questions is a resounding "No." Congress has the right, if not the obligation, to ensure that Federal funds are spent properly and for their designated purpose. It has a right—in other words—to set some standards with respect to the use of our tax dollars.

The standards outlined in the Helms amendment are not sweeping. The funding restrictions are not overbroad. They simply prohibit the use of Federal funds to finance the production and distribution of indecent and obscene materials. I repeat: Indecent and obscene materials—nothing more and nothing less.

CONCLUSION

So I commend Senator HELMS for his efforts in this area and for offering his amendment. I suspect that the overwhelming majority of Americans will thank him for protecting their tax dollars from those pornographers who like to pass themselves off as legitimate members of the artistic community.

Mr. SIMPSON. Mr. President, last night I voted—along with 61 of my colleagues—to table Senator HELMS' amendment. The material which he sought to reach by this amendment has been most carefully and accurately described by my fine and conscientious friend Senator HELMS—and he is absolutely correct.

To display a picture of a crucifix immersed in urine entitled "Piss Christ" and a series of homoerotic photos, one of which disclosed a whip sticking out of a leering man's anus, is grossly repugnant, patently offensive, and thoroughly obscene.

If my friend would have placed the modified amendment which is offered today before the Senate last night, I would have spoken in favor of it and would have voted in favor of it with great energy and sincerity.

Senator HELMS has responded sensitively to the debate of last night and has now placed before the Senate an amendment which has excluded the overly broad language which was so troublesome to me and to a majority of my colleagues in the Senate.

I have long promoted Government support of the arts—having sponsored creation of the Wyoming Council of the Arts when I was a member of the Wyoming Legislature. And, I come from the "Athens of the West"—Cody, WY!

I have served as a board member of the renowned Buffalo Bill Historical Center and the famous Grand Teton Music Festival. My dear wife, Ann has also done so much in support of the arts at the University of Wyoming and here in this city.

However, I will not support the use of taxpayers' money to display the Mapplethorpe exhibit or the Serrano exhibit. These folks can display that stuff anywhere they want to—in any forum they wish—as long as their patrons and fans want to pay for it. I know of no reason whatever why taxpayers should have to pay for such exhibits.

And so Mr. President, I rise in support of Senator HELMS' amendment as modified which would prohibit the use of funds appropriated to the National Endowment for the Arts—"to promote, disseminate, or produce obscene materials, including but not limited to depictions of sadomasochism, homo-

eroticism, the exploitation of children, or individuals engaged in sex acts." That language now covers the issue quite acceptably.

I thank the Chair.

The PRESIDENT pro tempore. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I believe the distinguished Senator has yielded. The body is prepared to vote. I would appreciate the Chair putting the question.

The PRESIDENT pro tempore. The question is on agreeing to the amendment in the second degree offered by the Senator from Georgia [Mr. FOWLER].

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nebraska [Mr. EXON] and the Senator from Hawaii [Mr. MATSUNAGA] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Texas [Mr. GRAMM] and the Senator from Vermont [Mr. JEFFORDS] are necessarily absent.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 65, nays 31, as follows:

[Rollcall Vote No. 218 Leg.]

YEAS—65

Adams	Dodd	Lugar
Baucus	Durenberger	Metzenbaum
Bentsen	Ford	Mikulski
Biden	Fowler	Mitchell
Bingaman	Glenn	Nunn
Boren	Gore	Packwood
Boschwitz	Gorton	Pell
Bradley	Graham	Pryor
Breaux	Harkin	Reid
Bryan	Hatfield	Riegle
Bumpers	Heinz	Robb
Burdick	Hollings	Rockefeller
Byrd	Inouye	Rudman
Chafee	Johnston	Sanford
Cohen	Kennedy	Sarbanes
Conrad	Kerrey	Sasser
Cranston	Kerry	Simon
D'Amato	Kohl	Simpson
Danforth	Lautenberg	Specter
Daschle	Leahy	Warner
DeConcini	Levin	Wirth
Dixon	Lieberman	

NAYS—31

Armstrong	Helms	Nickles
Bond	Humphrey	Pressler
Burns	Kassebaum	Roth
Coats	Kasten	Shelby
Cochran	Lott	Stevens
Dole	Mack	Symms
Domenici	McCain	Thurmond
Garn	McClure	Wallop
Grassley	McConnell	Wilson
Hatch	Moynihan	
Heflin	Murkowski	

NOT VOTING—4

Exon	Jeffords
Gramm	Matsunaga

So the amendment (No. 895) to amendment No. 894 was agreed to.

AMENDMENT NO. 894

The PRESIDENT pro tempore. The question now occurs on the underlying amendment, as amended, and the yeas and nays have been ordered.

The Senator from North Carolina [Mr. HELMS].

Mr. HELMS. I thank the Chair. There is no point putting the Senate through a second vote on the same question, so I ask unanimous consent that the yeas and nays be vitiated.

The PRESIDENT pro tempore. Is there objection to the request, that the yeas and nays be vitiated?

Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from North Carolina, as amended.

The amendment (No. 894), as amended, was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXCEPTED COMMITTEE AMENDMENT BEGINNING ON PAGE 18, LINE 4

The PRESIDENT pro tempore. The question occurs on the committee amendment on page 18, line 4.

The Senator from Florida is recognized.

AMENDMENT NO. 896

(Purpose: To continue the provision permitting immigration of certain adopted children)

AMENDMENT NO. 897

(Purpose: To provide appropriations for the immigration emergency fund authorized by section 404(b) of the Immigration and Nationality Act)

Mr. GRAHAM. Mr. President, I send to the desk two amendments.

Mr. RUDMAN. Mr. President, if the Senator will yield for a moment, we have to move to set aside the committee amendment in order to consider the next amendment.

Mr. GRAHAM. Mr. President, I ask unanimous consent that we set aside the committee amendment for purposes of considering the two amendments which I have sent to the desk.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RUDMAN. Mr. President, if the Senator from Florida will yield for 30 seconds, while we have a number of Senators here, I know people are anxious to leave today, and Senator HOLLINGS and I have things lined up here.

So if those Senators who have amendments that they know could be accepted would be on the floor, we could do them very rapidly. And we could have maybe no more than two other rollcall votes and have people out of here in good time to make their connections if we could get that cooperation.

I thank the Senator from Florida for yielding.

Mr. GRAHAM. Mr. President, that is exactly the pattern which I hope will be followed with the two amendments which I have offered en bloc, both of which, I understand, have been accepted.

The PRESIDENT pro tempore. Is there objection to the consideration of the amendments en bloc? The Chair hears none, and the clerk will report the amendments.

The bill clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes amendments numbered 896 and 897.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 896

At the appropriate place in the bill, insert the following:

ADOPTION OF FOREIGN BORN ORPHANS

SEC. . (a) IN GENERAL.—Section 101(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(2)) is amended by inserting before the period at the end the following: ", except that, for purposes of paragraph (1)(F) (other than the second proviso therein) in the case of an illegitimate child described in paragraph (1)(D) (and not described in paragraph (1)(C)), the term 'parent' does not include the natural father of the child if the father has disappeared or abandoned or deserted the child or if the father has in writing irrevocably released the child for emigration and adoption"

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989, upon the expiration of the similar amendment made by section 210(a) of the Department of Justice Appropriations Act, 1989 (title II of Public Law 100-459, 102 Stat. 2203).

AMENDMENT NO. 897

At the appropriate place in the bill, insert the following:

IMMIGRATION EMERGENCY FUND

For necessary expenses of the immigration emergency fund as authorized by section 404(b) of the Immigration and Nationality Act, $35,000,000.

Mr. GRAHAM. Mr. President, these are two amendments which I have offered to be considered en bloc. The first relates to the definition of "orphan" for the purposes of the Immigration Act. This language is the same language which has been included in the legal immigration bill which passed the Senate. This language will facilitate the adoption by U.S. couples of orphans in foreign countries.

The second amendment provides funding for a contingency program which the Senate and the House passed several years ago and which is to be available in the event of an emergency relative to refugees. It is legislation that has already been passed by the Congress and is in the law. This will provide funding. We have a CBO statement to the effect that there would be no expenditure from this fund during fiscal year 1990.

Mr. GRAHAM. Mr. President, the problem this amendment addresses was created by a 1987 memorandum by the General Counsel of INS interpreting a provision of the Immigration Reform and Control Act of 1986 [IRCA]. The effect of the memo was to apply a provision in IRCA clarifying the definition of an "illegitimate" child to the definition of "orphan."

This provision was not intended to affect the definition of "orphan." It was intended to extend the rights enjoyed by American mothers of illegitimate children born overseas to American fathers in similar circumstances. The mothers could bring their illegitimate children into the country; fathers could not. The IRCA provision gave American fathers of illegitimate children the right to bring their children to America.

INS expanded this articulation of the rights of American fathers to include foreign fathers. The problem regarding orphans arose since orphan eligibility for adoption purposes was based on one parent only—the mother. Even if a father joined a mother to relinquish their illegitimate child for adoption, an illegitimate child with two parents could no longer be considered an orphan for immigration purposes due to the INS interpretation.

Mr. President, this is a noncontroversial amendment that will permit loving parents in the United States to adopt foreign born orphans until a permanent change in the authorizing statute is signed into law.

I urge my colleagues to support the amendment.

Mr. MACK. Mr. President, I am pleased to cosponsor the amendment to appropriate section 113 of the Immigration Reform and Control Act [IRCA].

Section 113 is a provision which Congress designed for "immigration emergencies." Section 113 authorizes the Attorney General to release up to $35 million for the purposes of reimbursement to the State and localities in providing assistance for immigration emergencies.

The recent flood of Nicaraguans into this country has caused a severe drain on Florida's economy.

For example, in fiscal year 1988, Jackson Memorial Hospital wrote off $5.9 in health care costs for illegal aliens—$3.4 million was attributed to Nicaraguans. Another $1.5 has been written off for Nicaraguans during fiscal year 1989.

The impact on the education system is especially alarming; 17,000 Nicaraguan students are presently enrolled in the Dade County public schools. Nicaraguan students are enrolling at the rate of 418 per month; 51 percent of these are illegal. The estimated cost to accommodate Nicaraguan students arriving during 1987-88 and 1988-89 is nearly $15 million. Estimated long-range costs hit $104 million. This is the equivalent of two new teachers per day and one new school per month just for the Nicaraguan children.

The Federal Government's failure to reimburse Florida for costs incurred by this crisis is outrageous.

The States take no part in establishing the policy that contols or causes illegal immigration. The Federal Government, therefore, has the responsibility to reimburse the States 100 percent for the consequences of failed Federal immigration policy.

Appropriating section 113 of IRCA should be the first step toward acknowledging this Federal responsibiity. It will then be in the hands of the Attorney General to use his discretion to finally reimburse Florida for the millions of dollars it has spent for this failed Federal policy.

Mr. GRAHAM. Mr. President, State governments do not have a Coast Guard. Local governments do not have a border patrol. Nor do they have a role in determining who should or should not enter this country.

The fact is that States and local governments do not have a formal role in forming Federal immigration policy. Yet they are forced to deal with the very human consequences of the failure of these policies.

Mr. President, immigration control is a Federal responsibility. Consequently, it is my belief that any costs associated with a failure to control U.S. borders should be borne by the Federal Government.

However, a handful of State and local governments in this country have historically been forced to shoulder these responsibilities with minimal assistance from the Federal Government.

This amendment addresses one aspect of the Federal Government's responsibility in this area—its ability to assist States and local governments in an immigration emergency.

It would appropriate $35 million to the Immigration Emergency Fund authorized at that level in section 113 of the Immigration Reform and Control Act of 1986 [IRCA].

I ask unanimous consent that the text of section 113 be printed in the RECORD at this point.

SEC. 113. IMMIGRATION EMERGENCY FUND.

Section 404 (8 U.S.C. 1101 note) is amended by inserting "(a)" after "SEC. 404." and by adding at the end the following new subsection:

"(b) There are authorized to be appropriated to an immigration emergency fund, to be established in the Treasury, $35,000,000, to be used to provide for an increase in border patrol or other enforcement activities of the Service and for reimbursement of State and localities in providing assistance as requested by the Attorney General in meeting an immigration emergency, except that no amounts may be withdrawn from such fund with respect to an emergency unless the President has determined that the immigration emergency exists and has certified such fact to the Judiciary Committees of the House of Representatives and of the Senate.".

The Congressional Budget Office [CBO] estimates that there will be no outlays for this program in fiscal year 1990 and, therefore, no budgetary impact.

I ask unanimous consent that a CBO memo to my staff containing outlay estimates for this fund be printed in the RECORD at this point.

There being no objection, the memo was ordered to be printed in the RECORD, as follows:

September 28, 1989.

MEMORANDUM

To: Bob Rogan, Sen. Bob Graham's Office.

From: Michael Sieverts, MIS, Congressional Budget Office.

Subject: Immigration Emergency Fund Amendment.

The table below shows the estimated budget effect of the proposed amendment for funding the Immigration Emergency Fund.

ESTIMATED COST OF EMERGENCY FUND AMENDMENT

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993
Budget authority	35			
Estimated outlays		21	14	

This estimate is based on information provided by the Department of Justice and is consistent with CBO estimates of spending from the State Department's refugee and immigration emergency fund.

Since the Commerce, State, Justice Appropriations Subcommittee estimates that it is some $400 million under its 302(b) ceiling for budget authority [BA], it is my understanding that it is not necessary to offset this amendment. This fund was designed to give the Government the financial capability to respond to a domestic immigration crisis.

It is essentially a contingency fund to be used in the event of an immigration emergency—such as a mass influx of undocumented aliens. It gives the Federal Government the ability to respond immediately and to reimburse States and communities for their expenditures in responding to the emergency.

Mr. President, I view this situation as analogous to the Federal Emergency Management Agency [FEMA]. This Federal agency receives regular appropriations and is ready to respond in the event of a hurricane, tornado, or other similar disaster.

In the case of the recent onslaught of Hurricane Hugo in the distinguished manager's State, FEMA responded immediately with assistance. If we are fortunate enough to have no such emergencies for a significant amount of time, I doubt Congress would refuse to continue appropriations for FEMA. Why?

Because we know that these disasters will unfortunately happen again, and because the Federal Government has an obligation to be ready to respond with assistance. Some would say that a hurricane and an immigration emergency are like apples and oranges. "We know a hurricane or tornado will happen, but an immigration emergency is highly unlikely," they might say.

I respectfully disagree and suggest that we should be prepared for such an emergency, regardless of the odds of it occurring. A glance at recent history offers convincing evidence which supports the need for an emergency fund.

During a 5-month period in 1980, 135,000 Cubans and Haitians arrived by boat on the shores of Florida. Since June 1988, thousands of Central Americans have crossed the border in Texas on their way to cities such as Los Angeles, Miami, Chicago, New York, Newark, and Washington, DC.

Jackson Memorial Hospital in Miami provided services to 7,000 Nicaraguans in 1988 at a cost to Dade County of $5 million. The city of Miami spent $200,000 housing Nicaraguans in the municipal stadium. The county estimates that it will spend more than $1 million on social services and law enforcement for this population in 1989. In Dade County public schools, over 6,000 Nicaraguan-born students registered for classes between July 1988 and May 1989.

Mr. President, the Immigration and Naturalization Service estimated in January that as many as 100,000 undocumented Nicaraguans will enter the U.S. this year. Recent decisions regarding the demobilization of the Nicaraguan resistance could make this prediction a reality. In fact, some leaders of the Contra forces have already applied for political asylum in the United States.

Mr. President, I am not an alarmist. I believe I am a realist.

My State and others such as Arizona, Texas, and California have historically borne the brunt of failed Federal immigration policy and understand the economic and social consequences of these failures. Millions of State and local tax dollars in these and other States have been spent on emergency care, shelter, law enforcement, education, health care, and a variety of other services. This issue is not a regional concern. While only a few States would experience the initial impact of a sudden influx of undocumented aliens, many other States are vulnerable to secondary impacts due to migration.

This amendment will give the Federal Government the capability to provide immediate assistance in an emergency and help prevent impacts beyond the affected region.

I urge my colleagues to adopt the amendment.

Mr. HOLLINGS. Mr. President, these amendments have been cleared on our side. We are delighted to accept the amendments.

Mr. RUDMAN. Mr. President, they are acceptable on this side. I would ask that they be considered en bloc and accepted.

The PRESIDENT pro tempore. Without objection, the amendments will be considered en bloc.

The question is on agreeing to the amendments numbered 896 and 897.

The amendments (Nos. 896 and 897) were agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside in order to consider an amendment which will be accepted.

The PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 898

(Purpose: To Redesignate the Federal Building/Courthouse Located in Baton Rouge, LA)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for himself, Mr. BREAUX, and Mr. DODD, proposes an amendment numbered 898.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

A. The Federal Building/Courthouse located in Baton Rouge, Louisiana, is hereby redesignated as the Russell B. Long Building.

B. Any and all references in Federal law and documents to the old name shall be conformed and referred to as the Russell B. Long Building.

Mr. JOHNSTON. Mr. President, Senator BREAUX and I submit this amendment to name the Federal courthouse building in Baton Rouge, LA, after Russell B. Long.

I will not go into a long speech, because I know it is Friday. But suffice it to say that Russell Long's 38 years in the U.S. Senate were some of the most illustrious years ever spent by anybody ever to grace this body. He served our State well. He served the Nation well. We all miss him and are delighted still with his company because he is in the area frequently. This is an appropriate honor for him, Mr. President.

I wish to emphasize that he did not come up with this idea. We did.

I called him this morning and said we were going to do this. He said, "Well, Bennett, that is awfully nice, but I didn't ask for this and I am a little bit embarrassed about it." I said, "Well, Russell, I think it is something we ought to do."

Mr. President, I know my colleagues will want to do this, as well, and I commend it to the body.

Mr. HOLLINGS. Mr. President, the real pleasure of serving could not be more highlighted than that service I have had with the distinguished former Senator, Russell Long, of Louisiana.

The fact of the matter is, when I first came to this body, I went to him and asked for the John C. Calhoun desk. He said, "My mama had this desk and so did my daddy." I said, "Excuse me. I didn't know anyone had served in the United States whose mother and father had served in the U.S. Senate."

He came over to me as a friend when he was going to leave, and he said: "I remembered you. I told the Sergeant at Arms to move it over right quick like." And I have it today.

That is the kind of friend I had in Russell Long.

Mr. President, we are delighted to accept this amendment.

The PRESIDENT pro tempore. The junior Senator from Louisiana [Mr. BREAUX].

Mr. BREAUX. Thank you, Mr. President, I am delighted to now know for the first time where Russell's desk went. I was delighted to find out where it went. I was looking for it. I am delighted to know the chairman of the Commerce Committee received the desk before I got here. I am delighted to join with my colleague, the senior Senator from Louisiana, in cosponsoring this amendment.

The work of Russell Long will be why people remember him. The Tax Code and so many things he contributed to this institution and this country will be the works the people of this country will remember him by. So that is very appropriate.

How appropriate it is that this Federal building in his home town is also going to be named in his honor, and I enthusiastically endorse it.

Mr. DODD. I wish to be added as cosponsor and join with my colleagues from Louisiana and South Carolina.

Mr. President, I am pleased and honored to cosponsor this amendment naming the new Federal Courthouse in Baton Rouge after our distinguished former colleague, Senator Russell B. Long.

This is a fine tribute to a remarkable man. It will come as no surprise when I share with my colleagues the personal note that Russell Long is about as

close as you can come to being a member of the Dodd family, and I am highly honored to be associated with this fitting gesture.

I will not recite Senator Long's many outstanding legislative and civic achievements, including his skillful guardianship of the Federal Tax Code in his many years as chairman of the Finance Committee. These achievements are well known to the Members of this body and the American public. On their own merits, they fully merit the honor we would accord our former colleague.

Let me also cite the friendship and encouragement Senator Long extended to me in my early days in this body. A great friend of my mother and father's, Russell Long was really a mentor to me when I arrived here. He has taught me more than any other colleague about the legislative process, the art of debate and the value of collegiality in the cause of good government.

Russell Long's knowledge, compassion and integrity made him a Senator of unusual gifts and accomplishments. They earned him a special place in my heart, and in the hearts of all who served with him. It is those qualities and accomplishments that we most appropriately honor by naming this courthouse after Senator Long, and I urge adoption of this amendment.

The PRESIDENT pro tempore. Without objection, the request is agreed to.

Mr. DODD. This is a fine tribute to a remarkable man. It will come as no surprise when I share with my colleagues the personal note that Russell Long is about as close as you can come to being a member of the Dodd family, and I am highly honored to be associated with this gesture.

The PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I only served with the Senator from Louisiana, Senator LONG, for 6 years. But I would say my contacts with him indicated to me this was truly a remarkable human being and a great U.S. Senator, and I am delighted to join with my colleagues.

The PRESIDENT pro tempore. The Senator from North Carolina [Mr. HELMS].

Mr. HELMS. I think some more folks on this side of the aisle will want to speak in favor of this. Russell Long is a favorite with all of us who ever served with him. In addition to all the other compliments paid to Russell here this morning, I would add the most important one: He is married to a North Carolina girl.

I thank the Chair.

The PRESIDENT pro tempore. The question is on the adoption of the amendment offered by Mr. JOHNSTON.

The amendment (No. 898) was agreed to.

Mr. HOLLINGS. I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXCEPTED COMMITTEE AMENDMENT ON PAGE 41, LINES 4 THROUGH 10

The PRESIDENT pro tempore. The question now is on agreeing to the excepted committee amendment on page 18, lines 4 through 16.

The Senator from North Carolina [Mr. HELMS].

EXCEPTED COMMITTEE AMENDMENT ON PAGE 41, LINES 4 THROUGH 10

Mr. HELMS. Mr. President, I ask unanimous consent the first excepted committee amendment be set aside in order that we may proceed to the excepted committee amendment on page 41, lines 4 through 10.

The PRESIDENT pro tempore. Is there objection? The Chair hears none.

The first committee amendment that was excepted is laid aside temporarily and the Senate will proceed to the second committee amendment, which was excepted.

Mr. HELMS. Mr. President, on a personal basis, I am reluctant to do what I am about to do because of my great affection for DANIEL INOUYE and SPARK MATSUNAGA. But thinking of the American people, and this business of creating one new entitlement after another, compels me to raise a point of order against the pending amendment.

I am not sure how many Americans understand what happened in April of last year when the Senate passed the authorization to pay $20,000 to each Japanese American who was relocated or interned during World War II, including many who were interned before President Roosevelt signed Executive Order No. 9066.

Before the Senate passed the bill, an amendment was added in committee specifically to make payments under the bill subject to the availability of appropriations, that is, to make them discretionary funds rather than to create a new entitlement.

As a matter of fact, I recall Senator GLENN made the point on the floor, he said:

> Titles II and III of the bill do not create new entitlement funds. Rather, the bill directs that the authority to enter into contracts and make payments under titles II and III is subject to the availability of appropriations.

As great an affection as we all have for our two distinguished Senators from Hawaii, I do not believe many Senators would have voted as they did in April 1988 if they had been aware that they were in the process of creating a new entitlement.

Senator RUDMAN, who is the distinguished ranking member of the Appropriations Committee, also made it clear at that time that these payments would have to be weighed among the other financial obligations. Let me quote Senator RUDMAN. He said:

> Mr. President, in an effort to comply with the terms of the Budget Act, the bill, as reported by the Government Affairs Committee, was amended to make the payments of compensation to Japanese Americans through a civil liberties public education fund subject to the availability of appropriations.

Then he went on to say:

> Realistically in the current budget climate, it is not possible to absorb a new $500 million within the allocation the Commerce, Justice, State Subcommittee will receive.

Then, Mr. President, my dear friend from South Carolina, the chairman of the Commerce, Justice, State Subcommittee put it quite succinctly, when he said back in 1988: "The Government is broke. We do not have money to finance this new program." That was Senator HOLLINGS.

Senator HOLLINGS and Senator RUDMAN were exactly right when they predicted that we cannot afford to make these payments. Their subcommittees, after carefully weighing all the priorities, were unable to find the funds within their allocation to make these discretionary payments. So what was the subcommittee's solution to all this? They totally avoided the issue for fiscal year 1990 and turned these payments back into an entitlement for 1991; an explicit contradiction of the commitment that was given, in my judgment, to the Senate and to the American people when the authorization was passed. In addition, the subcommittee and the committee created a permanent appropriation for fiscal year 1991 and subsequent years, so they will not have to deal with the issue again.

I ask myself: Have I missed something in the translation? Since April of 1988, did the U.S. Government come into a windfall of money that I am not aware of? I think the answer is no. And the result is that if we create this new entitlement today, we will be adding up to $500 million to the fiscal year 1991 deficit.

It is painful for me to say all of this, and I reiterate that I was reluctant to get into it because of my friendship for, If I can be informal, Mr. President, DANNY and SPARK.

The fact is, we recently voted to cut all discretionary appropriations across the board to fund what every Senator agreed was the most important issue facing this country today: the war on drugs. We did not make that an entitlement. We have voted to cut wasteful programs, not enough but some, to help babies who are born addicted to drugs. We did not create an entitlement for them.

So, if we are going to add $500 million to the deficit in 1991 and for several years thereafter, I think we better

know what we are doing. That is the reason I am on my feet today.

The creation of an entitlement for fiscal year 1991 is a direct violation of section 303(a) of the Budget Act, and I intend to raise that point of order at the appropriate time. But I am going to withhold because I have been advised that the distinguished Senator from New Mexico [Mr. DOMENICI] wants to speak on this matter.

I wonder if staff would inquire if he is on his way to the floor so we will not hold up the distinguished managers of the bill.

In the meantime, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HOLLINGS. I know my distinguished colleague from North Carolina and I always have an understanding. It is my hope he would not make that point of order which is obvious. If the distinguished Senator makes his point of order, I would try to move under section 904 under the Budget Act to waive section 303(a). So the Senator from North Carolina would know my intent if he does make that point of order.

Mr. HELMS. I understand.

Mr. HOLLINGS. Let me just say this to the distinguished Senator, the senior member of our subcommittee, Senator INOUYE, knows we had a dickens of a time. We tried every twist, every turn but were limited by our allocation. The distinguished Presiding Officer knows about this because he has been chairing the drug matter.

It just so happens we have 27 different related agencies and the 3 departments, and the entire Judiciary. We have the trade representative, the Securities and Exchange Commission which has problems, the USIA, everyone has more and more problems. This one, of course, fits in our particular bill and right when you get some reparations under the section of the Department of Justice, we were presented with a summit agreement. That is why we cut short and had to provide this kind of language so we would not continue to delay the acknowledged act of the U.S. Government itself in making these reparations payments with the families waiting and diminishing each day and some will never see it. So we wanted to honor it and found out this was the best way to do it. We compromised on a tough situation. That is why we put this language in there as an entitlement commencing the next fiscal year.

Mr. HELMS. I thank the Senator. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Hawaii [Mr. INOUYE].

Mr. INOUYE. Mr. President, the matter of redress for Japanese-Americans who were interned in the Federal Government internment camps during World War II has been before us and debated for over a decade. And my participation in these debates, as many have been aware, has been rather minimal. So it is most difficult for me to admit that I have been inhibited and reluctant to say much about this because of my ethnic background. I reached the conclusion that as a result of this reluctance to participate, I may have performed a great disservice to many of my fellow Americans with whom I served in the Army during World War II.

So, Mr. President, I believe the time has come for me to tell my colleagues what has been in my heart for all these many years.

Mr. President, I was a very young 18-year-old high school graduate when I volunteered and put on the uniform of my country. At that moment, because of wartime censorship in Hawaii and other restrictions, I was not made aware of the strange plight of my fellow Americans of Japanese ancestry who were then residing on the mainland United States. However, I was made aware of their unbelievable problems soon after I joined them in a training camp in Mississippi. I learned that over 120,000 Americans were given 48 hours to settle their accounts, businesses and they were required by law to leave their residences and be sent to barracks and makeshift camps in distant parts of the United States. History now shows that their only crime was that they were born of parents of Japanese ancestry. History also shows that there was no evidence of any fifth column sabotage activities carried out by any of these Americans of Japanese ancestry.

So when our special infantry regiment was being formed, I was aware that half of this regiment was made up of men from Hawaii and the other half from the mainland United States. Mr. President, all of our volunteers were of Japanese ancestry. These mainland men volunteered from behind barbed wire in these camps. They did not volunteer, as other Americans did, in free American communities. So to this day, I look back with awe and disbelief that these men who had been denied their civil rights, deprived of their worldly goods and humiliated with unjust incarceration would, nonetheless, stand up and take the oath to defend the country that was mistreating them without due process of law.

So, Mr. President, I have oftentimes asked myself the question: Would I have volunteered under these circumstances? In all honesty, I cannot give you a forthright answer. The men who volunteered from these camps were very reluctant to share their unfortunate internment experiences. They would just shrug their shoulders and mutter, "I suppose that is the way life is." But in a rare moment, one of them would open up and tell us about some episode in his camp. For example, I remember a story I heard on a cold night on the field. One of my mainland buddies told us about his experiences in the Manzanar camp where soldiers shot and killed 3 internees and wounded about 10 others because they were demonstrating for the release of a fellow internee who had been arrested for allegedly assaulting another internee. Just because they were demonstrating, they were shot. According to the provisions of this bill, these three men who were killed would not receive any redress payments. And then while we were training in Mississippi to prepare us for combat in Europe, word came to several of my buddies from California that their State had just begun to implement a strange law which authorized the seizure and resale of idle farm machinery. Obviously, idle farm machinery that was found in the State of California during that time was almost always those that the internees were forced to abandon. Needless to say, these California internees were not around to bid for them.

Further, we were at times told about the great losses that these young volunteers and their families had to incur. For example, it was commonplace for residences, farms and personal items to be sold for a fraction of their market value. In fact, one of those men in my squad sold his almost brand new 1941 Ford for $100. He had no choice. Although it was in good condition, that was all he could get from his neighbors. And now we are told that these losses have exceeded $6 billion.

Most of the Members of the Senate have been in this body for at least 10 years, and during that time we have given our vote and our support for other reparations programs.

Mr. President, redress and reparations are not unique in our history. For example, in 1980—that is less than a decade ago—we in the Senate appropriated funds to provide $10,000 to each of the 1,318 anti-Vietnam war demonstrators who were found to have been wrongly jailed for 1 weekend. They spent 2 days and 1 night and we paid $10,000; no fuss.

More recently, in 1986, we appropriated sums to give each American hostage $22,000 for his or her bitter experience in Iran. We were not the ones who incarcerated these hostages, but we felt that they were entitled to $22,000.

Mr. President, the internment of most of the families of those with whom I served in combat was for over 3 years. My mainland buddies were silent because they could not bring themselves to share their humiliation with those of us from Hawaii.

Mr. President, as a footnote, I should point out that during the 1 year of almost continuous and intensive combat in Europe, over 200 of those mainland volunteers from internment camps went through the ranks of my company; that is, Company E 2d Battalion, 442d. Of that number, all with the exception of about 20 were either seriously wounded or killed in action. That is a very high percentage of Purple Hearts, much higher than one would find in any other unit.

Incidentally, Mr. President, the regiment with which I was privileged and honored to serve was the most decorated unit in World War II.

That is about all I have to say, Mr. President. I hope my colleagues will support the action that will be made by the chairman of this committee to make this proper, and as my dear friend from New Hampshire said during the markup, it is the right thing to do.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from New Hampshire is recognized.

Mr. RUDMAN. Mr. President, there are times that we deal with fiscal reality, and there are certainly times during this month that we will deal with extraordinary fiscal reality. But there are also times, Mr. President, that one must set fiscal reality aside, as in the event of the disaster in the Carolinas that we had to meet, and look at what is the right thing to do.

This committee tried mightily to find appropriated funds to fund this program, and we could not. It was suggested to us there was certainly a legal basis to say that any claim against the United States which had a color of correctness would be paid as an entitlement if judgment were rendered. That is unquestionably the law.

Thus, we decided to in some modest way recompense those loyal Japanese-Americans who were subjected to a treatment that most of our country either still does not know about or, if they know about it, they do not understand it.

Does anybody really understand what it might be like living up in Manchester, NH, tonight to be told you have 48 hours to leave your home—loyal citizens, part of the community—your business, your land—the Senator from Hawaii did not talk about the land that was stolen from those people. That is not too strong a word—and be bused off to a concentration camp for 3 years. It is probably the darkest day in terms of the treatment of citizens of this country since the days of slavery.

Mr. President, there is a time when one whose name is part of the Deficit Control Act of 1985 believes the Budget Act ought to be waived, and this is one of those times.

The Senator from Hawaii in his usual, very modest way talked about his Army unit. The Senator from Hawaii has never spoken publicly to any extent that I can remember about this issue and has essentially remained silent.

The Senator from Hawaii paid his dues many times over. The Senator from Hawaii did not mention to those Americans who might be watching or listening that he received the second highest award for valor this country can give. He was awarded the Distinguished Service Cross for events in Italy which led to the loss of his arm. And thousands of other valiant young Japanese-Americans, whose parents and grandparents were in American concentration camps, fought in Germany and in Italy for the freedom of this country.

Mr. President, there comes a time when something is the right thing to do, and this is one of those times. I hope we would have overwhelming support to waive the Budget Act to redress finally for the now elderly Americans, the justice that money will never recompense.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER] is recognized.

Mr. SPECTER. Mr. President, I associate myself with the remarks of the distinguished Senator from Hawaii [Mr. INOUYE] and the distinguished Senator from New Hampshire [Mr. RUDMAN].

We in this body allocate many funds for many purposes and we are generous with the bookkeeping as we take care of many matters which come before the Congress, the most recent of which was the savings and loan bailout. We have responded as we should to the tragedy in the Carolinas. We go on at great length about our expenditures.

For me, Mr. President, this is not a close question at all. There is no bigger black mark in American history, at least in this century, than that which was perpetrated on American citizens of Japanese extraction and Japanese descent. I think my colleague from New Hampshire is exactly right when he says the people in this country do not know about the atrocious treatment that was received by our fellow citizens at that time. They were victimized, they were treated like criminals, they were herded off, they were deprived of their property, and they were deprived of their liberty without due process of law. They were treated like criminals except they were not given trials or due process or an opportunity to be heard or an opportunity to defend themselves; all in the name of some wartime hysteria.

Finally, the Congress has responded very slowly and not generously, very modestly with the allocation of funds along this particular line.

Mr. President, I consider it a privilege to serve in this body with Senator INOUYE whose heroism in World War II is legendary, and really whose heroism in this Congress is also legendary.

I noted in USA Today a few months ago that Senator INOUYE had served 30 years in the Congress, was the first Member of the House of Representatives from Hawaii when Hawaii received statehood was admitted to the union, and sent its first Representatives to Washington, DC.

His activities are characteristic of the contribution of his people. A great injustice was done in World War II. It is my hope that we will not be forced to a vote on this issue. The Appropriations Committee has acted properly in presenting the matter to the floor today for the kinds of payments which are required. I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who wishes to be recognized? The Senator from Hawaii.

Mr. INOUYE. Mr. President, I thank my dear colleagues from New Hampshire and Pennsylvania. I have been advised the Senator from New Mexico wishes to be heard. He is not here. May I suggest the absence of a quorum?

Mr. BUMPERS. Will the Senator withhold?

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I will be very brief. And when the Senator from New Mexico arrives, I will yield the floor.

We all know the eloquence of our distinguished colleague from Hawaii [Mr. INOUYE] who surprisingly said this is the first time he had spoken publicly on the issue.

When I make speeches in my home State, people often ask me who are the best-liked Senators. That is easy. The Senators from Hawaii, are easily two of the most revered Senators in the U.S. Senate, and both are decorated many times for valor in World War II.

I rise to put a slightly different slant on this because my State was the location of two Japanese internment camps. I have heard from people who lived in the area—the camps are not there anymore—since I have been in the Senate. We built a monument in

memory of those who died in those camps, and there were many who did. Many died because of the unspeakable conditions under which they lived; families, husbands, wives and children, many families in one barracks with scarcely a sheet hanging between them. No privacy. Unbelievable indignities suffered. And who were they? American citizens, not even aliens, picked up because they were easily defineable due to their physical characteristics.

There may have been people who were even sympathetic to the Japanese, but as long as they were not Oriental nobody bothered them.

It sort of reminds me of when Hitler sent word to Mussolini that he wanted Mussolini to start discriminating against Jews. This was very difficult. So they started trying to pick Jews out in Italy based on physical characteristics. They wound up jailing a lot of Italians. So they had to discontinue to some extent the programs against the Jews in Italy because they became confused. But here it was fairly easy to pick out people of Japanese descent in this country.

So there they were, American citizens. And many of the people in Senator INOUYE's unit suffered the highest number of casualties of any unit, I believe, in the European Theater. There they were dying, losing arms, and limbs and their families were interned in these unspeakable conditions all over the country—in California and in Arkansas.

Do you know my children know nothing about this? I am old enough to know it, but I did not know it at the time. It is one of the most shameful episodes in the history of our country.

My mail, unhappily, after the last vote on this, asked: "How can you vote for something for the people who bombed Pearl Harbor or killed my son?"

I write back and I say I am not voting for those people, but I am voting for redress in a very small way, for American citizens. Nobody here would even suggest that a small pecuniary payment to these people could ever come close to redressing the indignities which I have just described, to say nothing of the humiliation of being an American citizen and being interned.

So as the Senator from New Hampshire has correctly said, it is an issue widely misunderstood even by people who remember it. But it is a shame that I will be happy to do my very best to redress. And in the future when I get mail from my constituents on this issue, I intend to have copies of Senator INOUYE's speech printed, and say, "Enclosed is the reason I voted as I did."

Mr. President, I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware [Mr. BIDEN] is recognized.

Mr. BIDEN. Mr. President, I did not intend to speak on this issue but I feel I should say just a few things.

Mr. President, the road of history of most nations is paved with sometimes incredible, startling, and unbelievable paving stones. In this case we are coming to an end of a road I hope, a road that went from fear to justice today.

Today, justice; at the outset, fear. Irrational fear, explicable, but irrational fear on the part of a nation under siege, which it is explainable how this irrational fear could have erupted.

I was not born until November 1942. I know nothing of this, other than from an historical perspective. But that road from fear and prejudice to justice is a road that we heard this morning, and it has been paved with the bodies of American citizens, American citizens who had to prove not only their loyalty by demonstrating a commitment and a bravery beyond what was expected of other Americans, but to do it at a time when there must have been a feeling of a seething anger and frustration, and I am embarrassed to say, if it were me, probably a little bit of hate, while all that was being asked of every American was being asked of them and then a lot more.

Every once in a while when serving in this body, one likes to think that we will be able to be rational and just, that we will be able to put aside, at least on occasion, our petty—sometimes not so pretty—prejudices; that we will be able to lay aside the hate that exists in some quarters in this country, just long enough to see the facts, as they say in the law, "and do justice."

Those of us who know Senator INOUYE and Senator MATSUNAGA, know that they, unlike many of us that are in the same circumstances, grew from this ordeal.

I believe one of the reasons why DAN INOUYE is the man that he is today in the Senate is not merely because he saw death; he came within a whisker's hair of it himself. He obviously suffered greatly physically, as a consequence of his efforts. Not only because of that, but because he was asked or felt he was obliged to do something at a time and for a reason—I guess to be more precise, for a reason no one should have been asked, and the reason being, having to demonstrate something that was put in question that never should have been put in question.

I suspect that the reason why he is held in such high regard, the reason why he is able to act with such equanimity around this place in cases that few of us can, is that what he undergoes here, as we all do, is not anything compared to what he was weaned on as a young man in World War II.

So I just hope, before change, we can serve one of the purposes for which this body exists, and that is to educate our constiuency, as well as respond to them, to the fact that it is time that we do justice, even if there were only one Japanese American alive, even if there were only one Japanese American alive who went through the ordeal of what we have heard others speak on, we, in my view, would be obliged to summon the majesty of this government to speak to the injustice that was done and demonstrate to that one person that we understood and understand now what we had done; and most important, it seems to me, that in the future we will have learned from our lesson and we will never repeat what was done; it will not be repeated to Japanese Americans or Asian Americans. It may be repeated in a way that deals with other ethnic Americans and if we fail to acknowledge it now, if we fail to rectify it now, what record are we leaving for history?

So, although I would like to—and as you can tell, I am inclined to speak much more on this subject than I already have—let me close by saying that this country is better for the fact that there are so many Japanese American citizens. This body is enriched by the fact that two Japanese American citizens serve in it, and this Senator has been enriched, his life has been enriched by the fact that he has come to know and respect and understand one of them in a way that makes me realize how inadequate my contribution to my country has been.

I sincerely hope we get on with this quickly and do justice. It is time.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. Mr. President, I, too, would like to speak this morning. I understand we are trying to expedite this bill, so I will try to be brief.

First of all, I want to make it very clear that the Budget Act and the budget process are designed to have procedures to address unanticipated events or changed circumstances. There are very good procedures and precedents under the waiver provisions of the Budget Act.

Now, Mr. President, if there were not circumstances that prompted the waiver, we would not have put a provision in the act to waive. So right up front, I want the Senate to know that I have been, to the best of my ability, one who enforces the process; but I am going to vote to waive the Budget Act in this instance, because it appears to me that from time to time, occasions

arise which justify waiving the Budget Act. I think this is one such occasion.

Frankly, I have been very lucky in my life. My ancestry is Italian American. We, too, to some extent, in the Second World War, had our share of problems in this country because our loyalty was suspect.

As a matter of fact, when I was 8 years old a lawyer made a mistake and told my father that when he married my mother, she would be an American citizen. He read the wrong law, I say to my friend from Delaware. Even though renowned, this lawyer did not look at the most current immigration laws. They change all the time.

He said, "When you marry, your wife is a citizen." She was Italian.

Twenty-two years later, with five children in the backyard, the Immigration Service arrived and arrested my mother as a dangerous illegal alien, and took her off while we stood there in tears. My father was an immigrant who did not learn to write English, although he was intelligent. He quickly called the same lawyer who was a renowned New Mexican. He arrived simultaneously with my father before they took my mother away. That worked out quite well, because he insisted that they arrest him also. They were befuddled, and they arrested him also. As a consequence, my mother did not spend a lot of time in jail.

But that only goes to the point that we make mistakes. In the case of my family it was a little mistake, nonetheless there were lot of tears when they took my mother off to jail. We were kind of worried about it because three big black limousines with lots of people converged upon our house. It was a bad mistake.

We could all come back to the floor today and say we made a mistake when we passed the authorizing bill. We need not address again today the issue of America's response to its injustice to Japanese-Americans during World War II by saying we are going to try in a small way to recompense for a very bad mistake. We have done that. We passed a law. We said this is what we are going to do. The reason I think we should waive the Budget Act is because it has become clear that we will not in a timely way fund this act of civility. So the committee of jurisdiction in their wisdom looked at the facts and said we only have two ways to go. We either offer false promise, and false hope, or we will change this method of funding to an entitlement. We have all cosponsored a measure that will be totally ineffective to accomplish the goals of small recompense to a group that was not treated justly by a country which strives to be just. We have a great record of justice and civility. The United States of America is the envy of the world. So we are not here arguing whether it is meritorious to make these reparation payments, although it has been exhilarating to hear our friend, the distinguished Senator from Hawaii, who is more personally involved in this situation.

So I say to my fellow Senators, the reason that there is a waiver provision in the Budget Act is so that we do things up front and acknowledge a changed or unanticipated circumstance. So that everybody understands clearly when we change something that affects fiscal matters in a significant way, and Congress acknowledges that fact by waiving the Budget Act. It is appropriate to raise a point of order in this instance. The Congress made the original bill authorizing these payments subject to appropriations. In so doing, the Governmental Affairs Committee was not charged with creating new spending authority in the form of an entitlement, and a point of order under the Budget Act did not apply. Today, the Senate will affirm that it wants these payments to be made to those Japanese-Americans wrongfully interned. If we do not, we will have made another act of incivility, passing a law, saying we are going to do something, and then not doing so. If the Senate wants to make these payments, and do what we said we were going to do when we enacted the original bill, the Senate can vote to waive the Budget Act.

Having said that, let me suggest that there are other occasions when we should have been more forthright and waived the Budget Act rather than doing nothing. I believe we probably should have done so on Hugo disaster relief yesterday. We should recognize that our action means something fiscally, confront it forthrightly, and vote when there is an occasion appropriate to waive. I believe this is such an occasion. It will take 50 votes to waive, and I hope there are as many votes for the bill itself. To be for the bill that created the right and not be for the waiver today borders close to hypocrisy. From the standpoint of the United States Government, it would compound the injustice to say we are going to make reparations, and then to say you may all die before we recompense you under the law that we all support. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I sincerely regret that the Senator from North Carolina has chosen to raise this issue at this time.

Mr. President, I do not begrudge him the right to do that. Under the rules of the Senate he clearly has that right. But I hope that we will not continue to reopen old wounds, to fan the flames of those aspects of our culture which I think many of us would like to think we are beyond, and I would implore him to use some restraint when it comes to issues as sensitive as this in a society and diverse and pluralistic as ours.

Mr. President, one of my good friends spent the first several years of his life in one of the internment camps. After that, he lived a normal American life. In high school, he was a great football player, an A student and active in his church. he went away to college, not speaking a word of Japanese, but learned Japanese in college. He went to Japan on an intern program between his junior and senior year to learn Japanese. He did not learn it in his home. His father was a Methodist minister who wanted his son to be raised to speak English, which he did eloquently.

He eventually wrote a book appropriately entitled "American in Disguise." And as many people do when they write a book, he decided to talk about it around the country.

I remember one night when he came to a large midwestern city. He was on a television show, a talk show, that took questions and answers. He talked about what it was like to grow up in that internment camp. And then the questions came. "Why don't you go back to Japan? You bombed Pearl Harbor." This was the essence of the questions.

As I heard these questions I had to come to terms with that. What is going on here? Obviously, the people who made the telephone calls did not want to hear the bad news, did not want to hear that this had ever happened in American history, did not want to hear about mistakes that we might have made in our past.

Mr. President, I would like to believe the best of the Senate. I believe in its patriotism. But patriotism has also given rise to mistakes. And I believe that when we have made mistakes, that patriotism is in particular admitting those mistakes, and especially those that infringe upon individual liberty. If we do stand for anything in this country, we ought to stand for that.

Mr. President, this provision in question is a small attempt to tell 80,000 people of the 120,000 who were interned that we know it was a mistake and that we do not want to do the normal political thing—to make a big speech and then do nothing—but that we want to back up our statements with a little bit, to compensate for the pain, suffering, indignity, and infringement on individual liberty that they endured.

So, Mr. President, I would hope we would waive the Budget Act, get on with business, and move this entitlement.

The PRESIDING OFFICER (Mr. REID). The Senator from Illinois.

Mr. SIMON. Mr. President, I rise in strong support of the motion by the

senior Senator from Hawaii. There is an old saying that we all accept, justice delayed is justice denied. We all know the truth of that and for a great many of these people that is literally true. Many of them are in their eighties. At least one person I know is in his nineties. We have to move on this thing.

We did the right thing when we passed the legislation. Now let us fund it.

And let me just add, I speak from a little bit of personal history in this. I grew up in the State of Oregon, something I do not stress in the State of Illinois. While I grew up in the State of Oregon, my parents were active in what we then called race relations. I was 13 years old when I remember my father made a—my father was a Lutheran minister—make a talk on a local radio station, KORE, in which he said what is happening to Japanese-Americans is wrong. I remember the phone calls we got and I remember my friends shunning me.

I would love to tell this body that I stood up for my father. He had explained to my brother and me why we had done it. I regret to say I was embarrassed; I wished my father had not done it. But now when I look back it is one of the things I am proudest of my father for.

The ACLU did not stand up and defend the right of Japanese-Americans, I regret to say, at that point. I do not recall—of course, in fairness, I was only 13—but I do not recall very many voices at all standing up for justice. And so we impose this massive injustice on people.

For the same reason I think it is important to remember the Hollocaust, to know what humanity can do, I think it is important that we do the right thing here; not just for Japanese-Americans, but to signal the future generations that this can never happen again. I hope we support resoundingly the motion of the senior Senator from Hawaii.

Mr. ADAMS. Mr. President, I also rise in strong support of the underlying proposition of an entitlement for eligible individuals of the Civil Liberties Act of 1988. Like my good friend from Illinois, I was on the west coast in 1940, 1941, 1942, 1943, and 1944, attending my high school in Seattle, WA. When I was a sophomore, one third of the students were moved out of that high school in one day because they were of Japanese-American descent. The names still ring in my memory, Mr. President—Shig Murao and Johnny Okamoto, men that I spent a lot of time with. We lost our entire basketball team, we lost half our football team, we lost nearly half of our top scholars. These were students that had been with us for many years, that we had grown up with on the playgrounds of Seattle and in elementary school and high school.

This country promoted a great wrong by establishing Executive Order 9066. It is a wrong that cannot be fully measured in terms of absolute dollars that were lost. There is a matter of emotionally injuring the pride and conviction of very loyal Americans. There is a matter of stigmatizing a people for years to come. It is therefore important Mr. President, that we mend these wounds. By passing this entitlement we say: "We care for you, you are part of us. You are not only part of us, but you proudly represent a great diverse group of citizens living in America."

I have always said that if what we did in 1942 was not correctly rectified by this country, it could be another group that will be in trouble in the future. We need to remove what happened officially and clearly. We need to be certain that this stain on our honor is cleansed. This entitlement language does that.

I cannot tell you how many of my classmates did not come back, Mr. President. Many were killed in Italy fighting for the United States. This is a sacrifice we cannot ignore.

My good friends, I hope that on this day we will stand for what is good in this country, a pluralistic society encompassing many different races, creeds, ethnic backgrounds. This is the great experiment and the great historical hope of the 20th and the 21st century. We should today reaffirm it.

So I hope that we listen to what my good friend, the Senator from Hawaii is saying. I am very much in support of assured reparations payments beginning in 1991, and I am hopeful that we will move promptly on it.

I compliment the committee for having arrived at a fair solution to a difficult problem.

I yield the floor.

Mr. CRANSTON. Mr. President, I want to express my support for the provision in the committee-reported bill which would establish a mechanism by which the redress payments that Congress approved in enacting the Civil Liberties Act of 1988 would actually be made to the intended beneficiaries.

Mr. President, it would be a cruel irony for the United States, having finally taken action to redress one of our Nation's greatest acts of injustice, to fail to carry out the commitment it made to provide partial compensation for their pain and loss of liberty. Mr. President, each day we delay means that fewer and fewer internees are alive to accept what we all recognize is merely a symbolic gesture at best.

Japanese-Americans and Aleutian islanders should not have to agonize at the end of each fiscal year as to whether the American Government will fulfill its commitment. These citizens need to know that we will meet our commitment, year after year, until the obligation has been satisfied. The committee provisions are designed to ensure that we do meet that commitment.

This episode in American history should never have happened. It is our responsibility to set the record straight and the way to do that is by supporting the committee's efforts. The tarnish on our Constitution can never be completely removed but our actions today can go a long way toward showing that our words are consistent with our deeds.

Mr. MATSUNAGA. Mr. President, I rise in support of the committee amendment relating to Americans of Japanese ancestry who were interned by the United States Government during World War II, and the motion to waive provisions of the Budget Act.

I was the principal sponsor of the authorizing legislation, S. 1009, which passed the Senate in April 1988 by a vote of 69 to 27. That bill, which was cosponsored by 74 other Senators, was intended to repair one of the most notorious violations of civil liberties in our Nation's history—the incarceration for periods of up to 4 years, without trial or hearing, of some 120,000 native-born American citizens and permanent alien residents of Japanese ancestry. Summarily removed from their homes on the west coast in 1942, they lost everything—their livelihoods, real and personal property, educational and career opportunities. Today, the Federal Government's wartime action is viewed as a blot on our Nation's generally good record with respect to civil liberties and human rights.

S. 1009 and its House companion, H.R. 442, assumed that funds for modest compensatory payments to the surviving former internees would be made available in fiscal year 1990. As finally passed, the bill provided for appropriations of up to $500 million per year, with payments to be made to the oldest surviving internees first.

Earlier this summer, the House agreed to a fiscal year 1990 appropriation of $50 million—10 percent of the authorized amount—enough to pay only those former internees who are over the age of 85. The Senate Appropriations Committee declined to provide any funding in 1990, but agreed to make these compensatory payments an entitlement, beginning in fiscal year 1991.

Mr. President, while I was deeply disappointed that the Senate failed to provide even a token amount of funding in fiscal year 1990, I am hopeful that the Appropriations Committee amendment will result in the prompt payment of compensation to those internees who are still alive, starting next year.

Prompt funding of the Civil Liberties Act is crucial because 200 former internees are dying every month—2,400 a year. If Congress fails to keep the promise it made in 1988, many internees now aged 70 to 106, will never see the official national apology and token compensation provided under our bill.

It is significant to note that Canada, following our lead, enacted similar legislation to benefit Canadians of Japanese ancestry over 1 month after President Reagan signed the Civil Liberties Act into law last year. To date, about one-half of the approximately 14,000 surviving Canadian internees have received benefits under the legislation, while not one United States beneficiary has been paid.

Last year, we proved that the United States is such a great Nation that it can acknowledge its errors and seek to make right a grave injustice. This year, we must follow through on that commitment. Therefore, I urge that this point of order be defeated, and that the Senate adopt the Appropriations Committee amendment.

Mr. REID. Mr. President, I rise today in support of waiving the budget to provide needed funds in fiscal year 1991, under the provisions of the appropriations bill before us to fulfill our promise to provide reparations to those Americans of Japanese descent who were interned during World War II.

That internment is a wound that Japanese-Americans have had to endure for many, many years. And indeed, it has been a wound on the body of all Americans, because it exemplifies what can happen to our rights if we are not vigilant.

As you know, the relocation and internment during World War II violated constitutional rights including the denial of due process of law, arrest without probable cause and detention without trial. It included unlawful searches, and the loss of property and jobs, as well as freedom. Equal protection under the law was denied based solely on racist grounds. And the Supreme Court failed in its duty to protect the rights of Japanese-Americans. This failure is a wound we all bear.

But the internment did not defeat the spirit of the Japanese-American community. Many men volunteered for the military, including my colleagues Senators DANIEL INOUYE and SPARK MATSUNAGA. They fought with the famous 442d Regiment, the entirely Japanese-American military unit which has been called the most highly decorated unit in the history of American fighting forces. Included among the awards earned by the unit is a Medal of Honor, 52 Distinguished Service Crosses, 560 Silver Stars, 5,200 Bronze Stars, and over 9,400 Purple Hearts. Other Japanese-Americans fought in other units including the military intelligence service. Their service stands as testimony of their patriotism.

These brave men fought to preserve the ideals of American constitutional government, in spite of the injustice of the internment and relocation. And since the war they have fought in the finest tradition of America to secure the rights of all individuals.

They have also fought to overcome the injustice and indignity of the internment. To heal the wound. With the passage of last year's bill, justice was won, the wound is healing. With the passage of the State, Justice, Commerce appropriations bill before us our pledge will have been fulfilled.

But I must add that although the wound is healing, a scar remains—and it should remain. It must serve as a reminder to us that our Constitution is only a yellowed piece of parchment unless we are committed to the precepts it outlines. It is only words unless we act to prevent the violation of rights of whatever group is unpopular at the moment. Together we must work to ensure that such racism, such injustice, shall not happen again.

Mr. President, I urge my colleagues to approve the pending budget waiver.

JAPANESE INTERNMENT—A PIECE OF COLORADO'S PAST

Mr. WIRTH. Mr. President, the issue of reparations for Japanese-Americans who were unjustly interned during World War II is not a matter of indifference in Colorado. In fact, this issue has deep significance in my State.

Colorado was selected as a host State for the internment of loyal Japanese-Americans, and as a result, hundreds of Japanese-American families were interned at the Amachi Camp located in eastern Colorado, near present-day Lamar. And Colorado's courageous Governor, Ralph Carr, risked public condemnation by opposing the internment as a gross violation by the Federal Government of constitutional rights. Although Governor Carr's political career ended with his principled stand, his memory as a champion of civil rights is revered in Colorado today.

Another Coloradan, Minoru Yasui, rose to challenge the constitutionality of the internment program at an early age, and his fight continued until his death in 1986. Min was another great champion of civil rights in Colorado, and I think today's debate would not be complete without some reference to his long fight in the Federal courts. I would, therefore, ask unanimous consent to have printed in the RECORD, a copy of correspondence I have recently sent to Attorney General Thornburgh on Min's case.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 4, 1989.

Hon. RICHARD THORNBURGH,
Attorney General, Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL: I am writing to bring your attention to a case that has very special meaning for many Japanese Americans, and for the people of Colorado: the Minoru Yasui case.

Minoru Yasui died in November, 1986, after a very long and distinguished career as an attorney and community leader in Denver, Colorado. Min served as the Executive Director of the Denver Commission on Community Relations, was a founding member of many civic organizations, including the Urban League of Denver, Denver Native Americans United, the Japanese American Citizens League, and the Latin American Research and Service Agency. He was also Chairman of the Colorado State Advisory Committee to the U.S. Commission on Civil Rights.

A long standing champion of civil rights, Min is chiefly remembered outside of Colorado for the courageous stand he took in 1942 when he deliberately violated a military curfew in protest against the forced removal and incarceration of loyal Japanese American citizens during World War II. Min was arrested, tried and found guilty of violating the curfew. He spent nine months in an 8x10 cell in solitary confinement.

In 1943, the U.S. Supreme Court upheld Min's conviction, holding that racially discriminatory measures can be sustained when justified by expressions of "military necessity" or national security. The Court's rulings in Hirabayashi (1943) and Korematsu (1944) relied on the same reasoning.

Although many contemporary legal scholars have criticized the reasoning of the Yasui-Hirabayashi-Korematsu line of cases, they still represent the Court's last word on the constitutional questions raised by the internment of loyal Japanese Americans during World War II.

Min continued his fight to overturn his conviction. As late as 1981, Min and his lawyers uncovered evidence suggesting that his conviction was based on falsified information and fraudulent evidence. Min petitioned the federal court in Oregon to reopen his case in 1984.

The Justice Department reacted by retroactively dropping the criminal charges that had originally been filed against him, thus undercutting the foundation for Min's case. Consequently, the federal appeals court refused to reopen the case, and Min died before he could take his case to the U.S. Supreme Court.

Min's family—and a host of civil rights organizations—tried to get the Court to hear the merits of Min's case in order to reverse, or at least modify, the Yasui-Hirabayashi-Korematsu line of rulings. Min's untimely death, and the federal prosecutor's refusal to sanction the government's original criminal charges mooted the matter.

As you know, President Reagan and Congress acted in the 100th Congress to pass a reparations bill aimed at rectifying the ills associated with the internment of Japanese Americans during World War II. Both the Executive and the Legislative branches of our government have, therefore, acted to honor the memory of loyal citizens like Min, Americans who not only fought and died during World War II, but who worked tirelessly to preserve, protect and defend the constitutional freedoms we all enjoy today.

Many of Min's close friends—and people throughout Colorado consider themselves to be just that—have approached me about the possibility of reopening Min's case or at least securing an official statement from the Department of Justice on the constitutional issues raised therein.

I know that many Coloradans would appreciate your looking into the history of this unusual case, and would be interested in knowing whether there is anything you can do as the nation's chief law enforcement official to address the issues Min sought to have re-adjudicated by the U.S. Supreme Court.

Min's memory, and his many years of good work for the people of his community, are deeply revered by Coloradans. Your expression of interest would, therefore, be most welcomed.

With best wishes,

Sincerely yours,

TIMOTHY E. WIRTH.

Mr. WILSON. Mr. President, it is very difficult to add to the eloquence of the statements made by my dear friend from Hawaii, Senator INOUYE, and others here in the Chamber.

I think the choice before us is clear, and this Nation must honor its commitment and waive the Budget Act to right the terrible injustice that was visited upon loyal Americans of Japanese ancestry.

It is difficult, Mr. President, if not impossible to compensate for the pain, the suffering, for the incalculable anguish, because the compensation we passed into law last year can never make whole the extreme pains of this troubled period in our history.

The first call upon a nation, Mr. President, is that it honor its just obligations. This is a just obligation, an effort on behalf of the United States, some 45 years late, to make an apology to loyal Americans and to make right an injustice. In that respect, this must be a high priority, one that we were late in recognizing, so that this debt can be paid.

There are certain lessons in human history that future generations should be reminded of and for that reason, Mr. President, we cannot close this sad chapter in our history, because we should not forget. I yield the floor.

Mr. HELMS. Mr. President, if we have a referendum at any time on DANNY INOUYE, record me, please, as voting in the affirmative. Nobody has more affection and respect for DANNY INOUYE and SPARK MATSUNAGA than I do. But that is not the point.

Neither is it the point for people to get up and remonstrate against the actions taken by their Government, most of them before they were born. I was born then, Mr. President, and I remember those days. To be critical of Franklin Roosevelt for doing what the intelligence community told him that he absolutely must do is a little bit farfetched.

Also farfetched, Mr. President, is the suggestion made here this morning that this Congress has some sort of a self-assigned nobility for having voted for this reparation. Not so.

Mr. President, the U.S. Government has not ignored the suffering that occurred as a result of the relocation and internment during the war. The Government has officially recognized that much unjustified personal hardship was caused. Previous Congresses, Presidents, and Attorneys General have taken steps to acknowledge and compensate Japanese-Americans for the injuries they suffered.

In 1948, Congress enacted the American-Japanese Claims Act, which authorized compensation for any claim for damages to or loss of real or personal property as "a reasonable natural consequence of the evacuation or exclusion of" persons of Japanese ancestry as a result of governmental action during World War II. The act was subsequently amended to liberalize its compensation provisions.

Under the amended act, the Justice Department ultimately settled 26,568 claims, many of which involved claims presented by family groups rather than individual claimants. It is safe to conclude that of the 120,000 evacuees, most submitted claims under the American-Japanese Claims Act and received compensation. A total of over $37 million was paid in compensation pursuant to this act. And that was back when a dollar was worth closer to a dollar.

The American-Japanese Claims Act did not include every item of damages that was or could have been suggested. It did, however, address the hardships visited upon persons of Japanese ancestry in a comprehensive, considered manner, taking into account individual needs and losses. This effort to correct injustice to individuals was in keeping with our Nation's best tradition of individual rather than collective response, and it was more contemporaneous with the injuries to the claimants than would be any payments at this late date.

Mr. President, in 1956, Congress considered legislation that challenged the adequacy of the claims settlements provided pursuant to the 1948 act. The bill would have liberalized the relief provisions of the act by granting expanded compensation for certain losses. Congress specifically rejected the proposal because it "would substantially reopen the entire project." (H.R. Rept. 1809, 84th Cong., 2d sess., 9 (1956).)

Mr. President, nothing has changed since that time to justify this supplemental payment to those who were relocated. The results of the settlement process under the act, long since completed, deserve to be accepted as a fair resolution of the claims involved. If it was inadequate, those inadequacies can and should be determined and resolved by the courts—not the Congress.

In 1972, Congress amended the Social Security Act so that Japanese-Americans over the age of 18 would be deemed to have earned and contributed to the Social Security system during their detention. The Federal civil service retirement provisions were amended in 1978 to allow Japanese-Americans credit for the time spent in detention after the age of 18.

Mr. President, what we hear today are very eloquent declarations about mistakes that were made. Mistakes are made, I guess, in every war.

But, BILL FRENZEL over at the House of Representatives, a couple of years ago summed up this issue perfectly when he said:

The committee is asking us to purge ourselves of somebody else's guilt with another generation's money.

That is about the size of it. I will say again I was reluctant to stand here today and make the point of order I am about to make because of my affection for DANNY and for SPARK, but I think the clean way to do it, is for the Senate to demonstrate that it knows what it is doing and why it is doing it.

Mr. President, there are a lot of people that we could get up and make emotional comments about for whom we have not created an entitlement. How about the veterans, who are waiting for hospital beds? They wait for the availability of discretionary funds. We have not created an entitlement for research to help babies born with AIDS. They wait for the availability of discretionary funds. These payments we are funding today are exactly what BILL FRENZEL said. They were, an attempt to "purge ourselves of somebody else's guilt with another generation's money."

Mr. President, I make the point of order that the committee amendment on page 41, lines 4 to 10, creates a new entitlement for a fiscal year for which there is no budget resolution and thereby violates section 303(a) of the Budget Act.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, on behalf of my distinguished colleague, the Senator from Hawaii and myself I move under section 904 of the Budget Act to waive section 303(a) of the Budget Act. I am most grateful to the Senator from North Carolina, not requiring a rollcall on this motion to waive; is that correct?

Mr. HELMS. I thought it was automatic.

Mr. HOLLINGS. Well, I do not interpret the rules but——

The PRESIDING OFFICER. It is not automatic.

Mr. HOLLINGS. Does the Senator want a rollcall?

Mr. HELMS. I think we should, Senator.

Mr. HOLLINGS. Final passage? Or on this my colleague wants a rollcall?

Mr. HELMS. I already notified Mr. Greene I would not require a rollcall on final passage.

Mr. HOLLINGS. I appreciate that very much. If anybody else wants to have a rollcall on final passage please let us know because we do not know of any request on this side.

The PRESIDING OFFICER. If there is no further debate the question occurs on the motion to waive section 303(a) of the Budget Act.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. A simple majority is required to waive section 303(a). The yeas and nays have been ordered.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum. The chairman of the Budget Committee may wish to be heard. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. There being no further debate, the question is on agreeing to the motion of the Senator from South Carolina. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii [Mr. MATSUNAGA] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Texas [Mr. GRAMM] are necessarily absent.

The PRESIDING OFFICER (Mr. KERREY). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 74, nays 22, as follows:

[Rollcall Vote No. 219 Leg.]

YEAS—74

Adams	Cochran	Fowler
Bentsen	Cohen	Glenn
Biden	Cranston	Gore
Bingaman	D'Amato	Gorton
Boren	Daschle	Graham
Boschwitz	DeConcini	Harkin
Bradley	Dixon	Hatch
Breaux	Dodd	Hatfield
Bryan	Dole	Heinz
Bumpers	Domenici	Hollings
Burdick	Durenberger	Inouye
Byrd	Exon	Johnston
Chafee	Ford	Kasten
Kennedy	Mitchell	Sanford
Kerrey	Moynihan	Sarbanes
Kerry	Murkowski	Sasser
Kohl	Nunn	Simon
Lautenberg	Packwood	Simpson
Leahy	Pell	Specter
Levin	Pryor	Stevens
Lieberman	Reid	Thurmond
Lugar	Riegle	Warner
McClure	Robb	Wilson
Metzenbaum	Rockefeller	Wirth
Mikulski	Rudman	

NAYS—22

Baucus	Heflin	Nickles
Bond	Helms	Pressler
Burns	Humphrey	Roth
Coats	Kassebaum	Shelby
Conrad	Lott	Symms
Danforth	Mack	Wallop
Garn	McCain	
Grassley	McConnell	

NOT VOTING—4

Armstrong	Jeffords
Gramm	Matsunaga

So the motion to waive the Budget Act with respect to consideration of the committee amendment on page 41 was agreed to.

EXCEPTED COMMITTEE AMENDMENT ON PAGE 41, LINES 4 THROUGH 10

The PRESIDING OFFICER. The question now is on agreeing to the amendment on page 41, lines 4 through 10. Is there any further debate?

The excepted committee amendment was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the excepted committee amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will come to order.

Mr. HOLLINGS. Mr. President, we can clear quite a few amendments but we have two that will require votes. As I understand the Senator from Pennsylvania, he will agree to a 20-minute time limit.

EXCEPTED COMMITTEE AMENDMENT ON PAGE 18, LINES 4 THROUGH 16

The PRESIDING OFFICER. If the Senator will withhold, the question now is on agreeing to the amendment on page 18, lines 4 through 16. If there is no further debate, the question is on agreeing to the amendment.

The excepted committee amendment was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the excepted committee amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, we have worked our best for as little inconvenience to Senators as possible. The Senator from Pennsylvania has agreed to a 20-minute time agreement on his amendment. The Senator from Alabama [Mr. SHELBY] is now conferring with the Senator from New Mexico to see if we can have a time limit on that amendment. Other than those two, there is still a question about a final passage vote. I thought we might have cleared that.

Mr. RUDMAN. If the Senator will yield, I thought we had cleared no vote on final passage but there has been a question raised. In the next 15 or 20 minutes I hope to have an answer.

Mr. HOLLINGS. By the time we vote then on the amendment of the distinguished Senator from Pennsylvania, we will know.

AMENDMENT NO. 899

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 899.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 21, line 3, strike "$137,034,000" and insert "$162,034,000";

On page 21, line 4, strike "$5,000,000" and insert "$30,000,000 for construction"; and

On page 28, line 18, strike "$401,332,000" and insert "$263,832,000".

Mr. SPECTER. Mr. President, this amendment has no budget impact.

I have 10 minutes and I would like my 10 minutes to start from the time there is order.

Mr. HOLLINGS. Will the distinguished Senator yield and let us get an agreement. I ask unanimous consent that time on this particular amendment be limited to 20 minutes, with 10 minutes on a side, with no second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, this amendment seeks to transfer funds for holding Federal prisoners after conviction, for holding Federal prisoners before trial. There is no budget impact. This does not violate or deal with the drug agreement because it applies to all Federal prisoners. Technically, Mr. President, it is necessary to transfer $138 million from prison construction in order to get $25 million for the U.S. Marshals Service, although both are for construction because one is calculated at 55 percent in outlays and one is calculated at 10 percent in outlays. When both are for prison construction, Mr. President, that obviously makes no sense. And the marshals' program doubtless has a bigger outlay ratio because it deals with renovation.

So I think dollar for dollar this will work out so there are really no differences. But on the mathematics it has to be scored as I have just represented.

Mr. President, there are many Federal prisoners held pretrial in State facilities which causes massive overcrowding. In Philadelphia for example, there are Federal prisoners detained. In Pittsburgh, for example, there are spaces for Federal prisoners.

That means we cannot hold in those facilities people who ought to be detained for State crimes, State convictions. This is very important because if you deal with just 150 spaces, and you deal with career criminals who are known to commit as many as 700 crimes a year, when you deal with 150 prisoners you are dealing with 100,000 crimes.

I regret the necessity for advancing this amendment on a Friday afternoon at 1:20. But this issue of prison construction is something that this Senator has worked on for the last 9 years. I have tried to get this worked out with the managers and cannot, although we have been discussing it for many days, and therefore I am taking this issue to a rollcall vote.

It is simply unfair when you have Federal prisoners taking up space in State facilities which adds to State crime. We are supposed to be putting up $1.4 billion on prisons and part of it ought to go to pretrial detention so the Federal Government pays for Federal prisoners.

I reserve the remainder of my time.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. The distinguished Senator from Pennsylvania is a member of our committee, a very valuable member, and certainly a leader on the Judiciary Committee itself with respect to Federal prisons. He has worked long and hard for State and local facilities, and we need them in South Carolina as well as Pennsylvania.

The fact of the matter is, though the Federal need for prison beds is even greater than the local and State. Federal prison facilities have what you call 165 percent oversaturation. The State systems have 135 percent. So the problem is great at the State level, but the amendment addresses not construction at all. It is a cooperative agreement program that we have with the States that is made with the U.S. Marshals Service. And to give you some idea and flavor for this, to keep prisoners who are awaiting trial, this is mainly in the county detention facilities. The CAP Program is designed to assist only those facilities that are essential to support the Federal courts. It is not to cover the cost of housing local and State prisoners.

Program funding and staff resources are limited and, accordingly, construction and expansion projects are restricted to areas where the Marshals Service is encountering difficulties in obtaining adequate detention space for Federal prisoners. And by fully funding the President's request for the Cooperative Agreement Program, we are supporting awards like Providence, RI, with $1 million; Akron, OH, $600,000; Columbus, $300,000; Grand Rapids, $1 million; Oxford, $500,0000; Louisville, KY, $500,000; Madison, WI, $250,000.

You see, in that cooperative agreement there are minimal amounts given. It is done based on greatest need by the U.S. Marshals Service. It is not any kind of $25 million for 750 beds in one State. Look what the Senator from Pennsylvania really does. We are trying our dead level best to leap forward in the construction of prison facilities so we can take care of our own and will not have to detain them in your county facilities.

Incidentially, there is a surprising coincidence here. This bill before us now has two Federal Prison complexes in it, which the Bureau of Prisons has requested, one complex in Colorado and one where? In eastern Pennsylvania, Montgomery, PA, at the Allenwood site. What would happen if this amendment passes? We would cut that Federal complex in eastern Pennsylvania, which is actually three prisons—a maximum, medium, and minimum—and which will hold 1,950 beds, in order for him to get his 720 beds for a State and local facility.

Another point about this is that it is not part of the drug agreement. Under the leadership agreement, we are going to be forced to table this amendment because it is not within the agreement. We put every dollar that was requested by the President under this cooperative agreement program—$5 million in this bill and $10 million more in the drug amendments. But, back to this amendment, I do not want to say you cut your nose off to spite your face, but I can tell you for 720 beds, much, much later you are going to lose what we are trying to do for Pennsylvania.

We recognize the problem there and in other parts of the country. The 1,950 bed complex has already been approved without an earmark in the Bureau of Prisons budget right this minute. But, that is where he is going to transfer all of that money out.

I reserve the balance of my time.

I yield to our ranking member before I move.

Mr. RUDMAN. I thank the chairman.

Mr. President, the Senator from South Carolina has said it all. But the real issue that we are faced with here—I am not saying we might have worked it out otherwise—the thing that really makes it impossible is the different spend-out rates.

Whether the Senator from Pennsylvania, my good friend, agrees or not, the Congressional Budget Office advises us to get this $25 million that he wants for, I am sure a very legitimate purpose, requires a transfer of $137 million of budget authority for the prison account.

People might wonder why that is. The why is very simple. We have to put a lot of budget authority in this prison account. But it spends out at a very low rate, about 10 percent, whereas the Cooperative Agreement Program spends out at a higher rate, roughly 50 percent. So we have to cancel 137 to get 25.

No. 2, to the extent that we can complete this enormous prison building program that the Senator from South Carolina and the Senator from New Hampshire have been working on now for 3 years, to the extent we can do that, we are going to take the pressure off local and State prisons to house Federal detainees.

For that reason, I must very regrettably—and I am not happy about it—but I am going to have to join my friend from South Carolina in moving to table this at the appropriate time.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. The Senate is not in order.

The PRESIDING OFFICER. The Senate will come to order.

Mr. SPECTER. How much time do I have left?

The PRESIDING OFFICER. Six minutes thirty-two seconds.

Mr. SPECTER. Mr. President, I have listened to the argument—Mr. President, can we have order? We are trying to have a short time agreement, but it is very hard to make this argument if the Senate is not in order. We only have 10 minutes.

The PRESIDING OFFICER. The Senate will be in order.

Mr. SPECTER. Mr. President, I am at a loss to understand the arguments which have been advanced in opposition to this amendment. When the distinguished Senator from New Hampshire talks about the differences in spend-out, it just does not make any sense if they are Federal prisons to hold prisoners after conviction or if they are State prisons to hold Federal prisoners before conviction.

The spend-out is the same, and CBO cannot justify one at 55 percent and one at 10 percent. That is another part of the mysticism of CBO. But I think it is fair and accurate to say that the spend-out will in reality be about the same. Whatever the figures are, however, we have adjusted them so there is no budget difference.

When the distinguished Senator from South Carolina talks about another prison facility in Pennsylvania, I have to disagree with him. My face and my nose are not an issue, thankfully.

What is really involved here is a Federal responsibility to hold Federal prisoners before trial. Right now in my State, and in the Senator's State from South Carolina, the Federal Government is not discharging that responsibility. We have many Federal prisoners awaiting trial in State facilities in Pennsylvania, and for every 150 of these detainees, it amounts to more than 100,000 crimes a year.

We have a lot of money in this bill. We have a lot of money up for prison construction—a total, if you go through all of it, of $1.4 billion. There is absolutely no reason why we cannot work out the mathematics to provide 25 measly million dollars out of $1.4 billion to move ahead with this U.S. marshals program which will not be just for Pennsylvania. It will be for the whole country to take care of this Federal responsibility.

I reserve the remainder of my time.

Mr. HOLLINGS. Mr. President, right to the point, it is not just a little mathematical problem. The Congressional Budget Office is not any mysticism. Try to build the prison. The first thing you try to do is get the site selection studies. Thereupon, you get your environmental impact studies. Then you get your notification for the contracts. A year has passed. But if you put $1 billion in like we have, and get caught up on prisons by the second year—if you allow it, fine. You are really moving into high gear and you have done it all.

That money is really spent out on the building of Federal prisons. That is why you have the large budget authority.

We do not put construction money in this cooperative agreement for State and local governments to expand bedspace for State and local offenders. CAP assists State and local governments in renovation, upgrading, expansion, and/or construction of detention facilities. In return, the State or local government guarantees bedspace to the U.S. Marshals Service for a predetermined period of time.

Now all of a sudden, he wants to get construction for his own little prison for 720 beds and cancel in his own backyard 1,950 beds, which would take care of his overcrowding problem and that of many of the States around him. And it is beyond the drug agreement. I retain the remainder of my time.

Mr. SPECTER. How much time do I have?

The PRESIDING OFFICER. Four minutes, twenty-seven seconds.

Mr. SPECTER. The distinguished Senator from South Carolina is wrong. When we are talking about a prison facility for 720 beds, he is talking about Greene County, PA, a county adjacent to West Virginia and to Ohio. The local officials will not be financed out of Federal money, except to the extent that there are beds reserved for Federal prisoners. The Greene County officials are going to pay for the vast majority of that prison. All that there will be a Federal responsibility for is the limited number of Federal prisoners who will have beds there.

Now, my concern about this issue was triggered by Greene County. When I took a look at what was happening with one county in my State, which is near Pittsburgh, where there are many Federal detainees who have had spaces in the State prison, I saw that the problem existed nationwide. This is not a parochial interest. The amendments and bills that this Senator has offered over the course of the past 9 years are for the nationwide problem of prisons, which will affect South Carolina as well.

Where you have a spend-out rate of 10 percent, which is not being used, or if the spend-out rate is 55 percent, let us move ahead and use these resources and take these violent criminals off the streets. It is simply unfair for the Federal Government to put this burden on the States.

Really, Mr. President, we ought to be doing it very differently. The whole problem of interstate crime and career criminals is a Federal responsibility as it has evolved in modern times, and there ought to be a greater Federal sharing and a greater Federal contribution to help States; but that is not involved here. I am just saying that the States ought not be subsidizing the Federal Government. That is the import of this amendment, and it makes good sense in terms of law enforcement. It may not make good mathematics for CBO, but CBO does not commit crimes, except as they may mislead us on the real facts here—perhaps a little fraud. That is not the issue. The issue is violent criminals.

I come back to a basic point that when you have 150 Federal spaces taken up in my State, that means 100,000 crimes a year. I think it has to be pressed. I just wish my colleagues were here in greater number or comprehended the import of this issue. I think I would win decisively. I am not unaware of the impact of the chairman and the ranking member on a motion to table. This is ongoing, so far a 9-year fight, and I intend to make the battle today, tomorrow, and next year to try to get some sense into our program of prison construction which, unfortunately, we do not have today. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania has 1 minute, 20 seconds left. The Senator from South Carolina has 3½ minutes.

Mr. HOLLINGS. Mr. President, the distinguished Senator is on the Judiciary Committee. There is no authorization for this. If he wants to authorize a program solely for Federal financing of State and local prison construction, he is in the best position in the world to do it, and he knows that. He knows that prison construction is not authorized. Funding for State and local prisons is.

This is under the cooperative agreement between the States on a financing basis, taking care of these prisoners. We put up the money to do it. We put it in that bill to relieve the pressure on Pennsylvania and all the several States. What he is going to do is cancel out $137 million for his $25 million new construction in unauthorized programs. That is exactly what he is doing, and, I repeat, it goes beyond the drug agreement. I will reserve the remainder of my time.

Mr. SPECTER. I will say it one more time, Mr. President. This amendment is not for State and local prison construction. It is for beds to hold the Federal prisoners. There is one point that I agree with the Senator from South Carolina about. I agree there is no authorization for my proposal, but then I have to tell him there is no authorization for his.

The Judiciary Committee has not authorized any prison construction. The crime bill has not moved out of the Judiciary Committee. While there is no authorization for my program, I have to advise Senator HOLLINGS there is no authorization for his. We are now talking about the way to deal with crime on the street.

Mr. President, I say the way to deal with crime on the street is to get these detention facilities and have the Federal Government assume its responsibility to take these violent criminals off the street in their housing, so the States can use their housing for their own crime problems. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina has 12 seconds left.

Mr. HOLLINGS. Mr. President, when you get in a debate with a Philadelphia lawyer—the authorization for prison construction, yes, is in that Judiciary Committee bill.

There has never been any authorization for what he is talking about. He is just pulling technicality and weaving confusion and hoping to swap $25 million for $137 million and cut out a new Federal complex in Pennsylvania that is going to take three times the number of prison beds away from Pennsylvania. And, it is beyond the drug agreement.

We can stand on both sides and support it. But, let us uphold the drug agreement, and not only give the President all he wants but all we can

afford to add under this particular provision.

Mr. RUDMAN. Mr. President, how much time do we have?

The PRESIDING OFFICER. One minute 37 seconds.

Mr. RUDMAN. Mr. President, let me make one other point, so nobody gets the idea that the big bad Federal Government is doing terrible things to the States. This program is used to pay for local prisons, to counties, States, whatever, to house Federal prisoners. If you think it is a big program, it is not. I believe it is about $15 million this year, and we may not use it all.

So let us not get the impression that there are thousands of prisoners out there being held in detention centers for long periods of time and that the States and local governments are paying for them. That is not to say that the Senator from Pennsylvania does not have a point. I think he does. But we have to set priorities here, and make no mistake, when Federal prisoners are in local detention centers, we pay for it.

Mr. President, the Senator from Delaware wishes 15 seconds.

Mr. BIDEN. Mr. President, I think my friend from Pennsylvania is correct; there is no authorization for any of this out of the Judiciary Committee. Let us get that straight. He is also correct that the Federal Government should be doing a lot more than it is doing, in my view, to help the States. He is incorrect in that we have an agreement which he thinks this would violate as part of the compromise.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Pennsylvania, 11 seconds.

Mr. SPECTER. I thank my friend from Delaware. Being correct on two out of three is not bad. I would submit that the weight of logic is on my side. It is a pleasure to debate with my colleagues, and I accept the compliment from one of the most distinguished debaters in this body, Senator HOLLINGS, when he, at least during the course of this time, has called attention to the status of a Philadelphia lawyer. I thank the Chair.

Mr. HOLLINGS. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS] and the Senator from Hawaii [Mr. MATSUNAGA] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Missouri [Mr. DANFORTH], the Senator from Texas [Mr. GRAMM], and the Senator from Vermont [Mr. JEFFORDS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 74, nays 20, as follows:

[Rollcall Vote No. 220 Leg.]

YEAS—74

Adams	Glenn	Metzenbaum
Bentsen	Gore	Mikulski
Biden	Gorton	Mitchell
Bingaman	Graham	Moynihan
Bond	Grassley	Murkowski
Boren	Harkin	Nunn
Bradley	Hatfield	Packwood
Breaux	Heflin	Pell
Bryan	Helms	Pressler
Burdick	Hollings	Pryor
Byrd	Inouye	Reid
Chafee	Johnston	Riegle
Coats	Kassebaum	Robb
Cochran	Kasten	Rockefeller
Cohen	Kennedy	Rudman
Conrad	Kerrey	Sanford
Cranston	Kerry	Sarbanes
Daschle	Kohl	Sasser
DeConcini	Lautenberg	Shelby
Dixon	Leahy	Simon
Dodd	Levin	Stevens
Exon	Lieberman	Thurmond
Ford	Lugar	Wilson
Fowler	McCain	Wirth
Garn	McConnell	

NAYS—20

Baucus	Hatch	Roth
Boschwitz	Heinz	Simpson
Burns	Humphrey	Specter
D'Amato	Lott	Symms
Dole	Mack	Wallop
Domenici	McClure	Warner
Durenberger	Nickles	

NOT VOTING—6

Armstrong	Danforth	Jeffords
Bumpers	Gramm	Matsunaga

So, the motion to lay on the table (amendment No. 899) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, if I could have the attention of the Members of the Senate. It is my understanding from the managers that there is one remaining amendment which will require a rollcall vote. That is an amendment by the Senator from Alabama [Mr. SHELBY].

I have discussed this with Mr. SHELBY and Mr. BINGAMAN and others who are interested in the issue.

I, therefore, ask unanimous consent that when the Shelby amendment is offered there by 30 minutes of debate on that amendment, equally divided between Senator SHELBY and Senator BINGAMAN.

Mr. SHELBY. If the leader will yield, could you make that 20 minutes apiece instead of 15 minutes? Did the leader say 30 minutes apiece?

Mr. MITCHELL. I said 30 minutes total.

Mr. SHELBY. Could you make it 40 minutes, because I have some other people who have told me that they wanted to speak on this. That would be 20 minutes apiece.

Mr. MITCHELL. Of course, the Senator could object to 30 minutes and insist on 40. I am trying to accommodate the interests of as many Senators as possible.

Does the Senator from New Mexico wish 40 minutes, as well?

Mr. BINGAMAN. We would defer to the majority leader. Obviously, the additional time would be helpful. We do have a few additional speakers. I do not object.

If the Senator from Alabama would wish additional time, I would like it, as well.

Mr. MITCHELL. Mr. President, I modify my request to request that there be 40 minutes of debate, equally divided, with the agreement in the usual form, the time to be controlled by Senator SHELBY and Senator BINGAMAN or their designees; that there be no second-degree amendment in order; and that upon the completion of the debate or yielding back of the time, the vote occur without any intervening further action on the Shelby amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, if I might say to Senators, it is my understanding from the managers that no rollcall vote is required on final passage and there are no further amendments which require rollcall votes.

Accordingly, this will be—should be, unless someone acts in a manner contrary to that which we have been advised—this should be the last rollcall vote on this bill this afternoon. Mr. President, I modify my request to make sure the vote will be on or in relation to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. There will be no rollcall votes on Monday. The Senate will be in session. We will be considering the nomination of Mr. Zappala to be Ambassador to Spain. It will be debated on Monday. The vote on that will occur on Tuesday in accordance with my previous discussions with the distinguished Republican leader.

I yield to the distinguished Republican leader.

Mr. DOLE. As far as I know, there are no requests for rollcall vote on final passage on this side. I will be in a position before the next vote to so state for certain.

Mr. RUDMAN. I just want to advise the majority leader I had understood the Senator from Utah, Senator HATCH, was considering offering an amendment which would require a rollcall vote.

I cannot say whether that is probable. I will say it probably is not. But if he is in the hearing of my voice, it would be nice to have the Senator

from Utah advise us whether or not we can rely on that representation, made in good faith by the majority leader, or whether or not we may have another vote.

Mr. MITCHELL. I thank the Senator. I hope very much we can proceed without a further vote on that.

Mr. President, I further modify my unanimous-consent request regarding the Shelby amendment to make sure that no points of order are waived by the agreement.

Mr. BOSCHWITZ. Reserving my right to object, may I ask the majority leader whether or not there will be others of the Ambassadors considered on Monday, other than Mr. Zappala?

Mr. MITCHELL. No.

Mr. BOSCHWITZ. There are others on the agenda that we would like to move along.

Mr. MITCHELL. I understand that. I will just say to the Senator, there are many that have been the subject of holds on both sides. There are seven Ambassadors on that list who I have been trying to get approval of for over a week but who have been delayed at the request of a Republican Senator. I hope very much I will be permitted to push the President's nominees through on Monday.

Mr. MURKOWSKI. I wonder if I might ask the leader for a further clarification?

The Senator from Alaska is aware Zappala will be taken up Tuesday for a vote. But I would point out that Della Newman and Sembler also came out of committee at the same time as Zappala's, I might say a package, if I might use the word—literally.

I assume there is action not to include the other two?

Mr. MITCHELL. That is correct. The fact that they are reported out of committee on the same day, they can be a package for reporting, but it does not make them a package for action on the floor.

Mr. MURKOWSKI. I have another question about the logistics, by the Senator from Alaska.

Since the Columbus Day recess is beginning at the end of next week, the Senator from Alaska has to make some travel plans; if it is the disposition of the leader to probably at least attempt to go out next Friday? Initiate the recess?

Mr. MITCHELL. No, it is not my intention. I think it is very likely we will be in session next weekend.

I am going to discuss with the distinguished Republican leader the question about the recess. Many Senators have spoken to me. We have to evaluate that in the light of possible sequestration and the need to act on reconciliation. I hope to have an announcement in that regard by next Tuesday or Wednesday.

Mr. MURKOWSKI. Might I ask the leader, is the recess itself in doubt?

Mr. MITCHELL Yes.

Mr. MURKOWSKI. I had been under the impression that had been clarified, but evidently that is not the case.

Mr. MITCHELL All I said is that it is in doubt.

Mr. MURKOWSKI. I understand what that means, Mr. Leader.

Mr. RUDMAN. I have now been told that Senator HATCH is not going to require a rollcall vote, but he is on the floor. I wondered whether we can direct the question to him directly?

If I might have the attention of the Senator from Utah? Are the managers correct, the Senator from Utah will not require a rollcall vote on any amendment to be offered to this bill?

Mr. HATCH. With the indulgence of my colleagues, I am not happy with the adminstration's recently announced position on emigration from the Soviet Union.

I understand that prior to September 1988, Jews and other religious minorities in the Soviet Union seeking refugee satus were presumed to be persecuted or have a "well-founded fear of persecution." Many of these persons traveled on Israeli visas to Vienna, and then to Rome, where they were determined to be refugees and opted to come to the United States. Moreover, the United States accepted virtually every Jew and other religious minority from the Soviet Union seeking entry to our country. As the Washington Post noted yesterday "For years when Soviet emigration policy was considered repressive, American efforts were almost solely directed at pressing Moscow to relax the restrictions and then processing as many visas as possible."

Since September 1988, however, the United States ceased presuming that all Jews and other religious minorities in the Sovet Union are persecuted or have a "well-founded fear of persecution." As a consequence, a significant number of Soviet Jews and others have been denied refugee status, I am hopeful that a review of these cases will result in their readjudication as refugees. Moreover, the administration plans to admit 50,000 refugees from the Soviet Union during fiscal year 1990, although, according to administration representatives, it is possible that between 125,000 and 200,000 persons in the Soviet Union may seek such status. Finally, I understand that the United States intends to require, on and after October 1, 1989, that all Soviet citizens seeking entry to the United States as refugees make their applications in Moscow rather than Rome.

I hope new refugee policies are not predicated on the recent developments in the Soviet Union regarding glasnost and perestroika and the assumption those developments are much more significant than they currently are. These very recent changes, although welcome, do not alter the essentially totalitarian nature of that regime. It is a regime that denies basic human rights to its own people, including even a semblance of true religious liberty.

Religious or ethnic persecution does not mean only physical harassment, the midnight knock on the door, and jailings. When a believer is unable to go to church or synagogue because government policy severely restricts or forbids the construction or use of such religious houses of worship, that is persecution. The inability of a group of believers to train religious leaders and teachers such as priests and rabbis, because of government policy, is persecution. The inability to obtain religious articles and items needed for prayer, such as bibles, prayer shawls, yarmulkees, because of government policy, that is persecution. The inability of Jewish parents to send their children to religious schools to learn Hebrew, to learn the ancient customs, traditions, and history of their people, because of government policy, that, too, is persecution. In short, the inability of people—Jews, Christians, and Moslems—not only to practice their religion freely but to live in an environment where they are free even to become aware of, and explore, their religion, because of cumulative government policies, is persecution. Moreover, private anti-semi groups, such as Pamyat, have become more active.

In my opinion, any believer in God is a persecuted person in the Soviet Union. Accordingly, I believe that Soviet Jews and other religious believers such as Evangelical Christians must continue to be presumed to be persecuted or have a well-founded fear of persecution and should be granted refugee status. The United States can still undertake a case-by-case review consistent with a presumption of refugee status—a presumption that is rebuttable. If a Soviet Jew is a relative of a government official and has had a privileged existence, perhaps the presumption is rebutted. Asking questions to elicit this type of rebuttal information is not precluded under this type of presumption. But, in my opinion, we need not ask Soviet Jews, individual by individual, to demonstrate they are persecuted persons or have a well-founded fear of persecution, given what we know about conditions in the Soviet Union. I believe this approach is fully consistent with the Refugee Act of 1980.

Further, I am deeply distressed by the prospect that, suddenly, the United States appears willing to turn away some of those who qualify as refugees and seek entry to the United States from the Soviet Union. As I mentioned earlier, administration representatives anticipate that as many

as 125,000 to 200,000 persons will seek refugee status in fiscal year 1990. Moscow embassy officials say the number may even reach 300,000. While not all will qualify for refugee status, it is likely that at least 50,000 will so qualify, with or without an appropriate presumption. Since there are various priorities among refugees, including priorities based on family connections, quite clearly some Soviet Jews, Pentacostals, and other religious minorities are going to be prevented from entering the United States in favor of those with a higher priority. Parole status, which does not carry with it financial assistance, may accommodate another portion of the applicants, but tens of thousands of religious believers may be left behind in the Soviet Union.

I recognize that, today, Soviet Jews have a haven in Israel, and I am thankful for that. This haven was not available 50 years ago, the last time European Jews sought entry to the United States to escape from tyranny. But the existence of this other haven should not, in my view, affect American policy. That policy, based on our fundamental values, and our long-standing policy to elicit greater Soviet emigration, should be to accept those persecuted persons who currently wish to come here from the Soviet Union, including every Jew and other religious believer. I understand that the administration has been earnestly working in good faith to formulate a humane refugee policy for the next year. I am prepared to work with the administration to find the resources to absorb a larger increase from the Soviet Union.

Finally, while I understand the desire to save the cost of care and maintenance of processing Soviet nationals seeking refugee status in Vienna and Rome, I have serious reservations about processing all future applicants in Moscow. I believe there is a serious risk that many religious believers will be too fearful to come forward and make the case that they are persecuted or have a well-founded fear of persecution—right under the noses of Soviet authorities—especially if the administration does not reinstate the presumption that they are refugees. These people will have to wait in the Soviet Union for adjudication as to whether they are persecuted or have a well-founded fear of persecution—not a very comfortable position. Plus, the likely backlog in these applications could make the wait a long one. I might add that many applications are to be processed in a processing center in the Washington, DC, area. As the Washington Post aptly states, "Then Washington, relying on the erratic Soviet postal system, will mail notices to those who qualify for interviews in Moscow." This Senator would be uneasy if the system relied solely on the U.S. postal system; reliance on the Soviet postal system is even less reassuring.

According to the Associated Press story in yesterday's Washington Times, "(U.S. officials) said it is possible that people who face persecution in the Soviet Union and therefore qualify for refugee status may fall through the cracks." I think that is an understatement.

Moreover, I am concerned that private agencies that assist refugees will not have the same freedom to operate in Moscow as they do in Vienna and Rome. Further, I sincerely believe that we are proceeding far too hastily. The switch to processing future applications in Moscow will not be done in orderly fashion if the date is October 1. There are insufficient personnel and available space to process the applications. Further, has anyone had a chance to review the new forms being used in the proposed new process? Have any of the private groups had a chance to review it? More time is needed to let people in the Soviet Union know of the change. When we offered amnesty to illegal aliens in this country, there was a 6-month period before processing began. Advertising and outreach were undertaken. This is not available in the Soviet Union. The new policy was announced in Moscow earlier this week—less than 1 week from its actual implementation. Wednesday night, NBC news reported from Moscow: "In the visa line, confusion and fear." One Soviet Jew from Moldavia told the reporter that Moldavians had been telling the Jews to get out. The film clip showed brave people walking right past three or four burly persons in uniform in order to get into the Embassy.

So I was going to bring up an amendment that would address part of my concern.

This amendment addresses, in part, one element of my concern by delaying the closeout of the Vienna and Rome processing centers and the consolidation of refugee processing in Moscow. It requires that persons with refugee applications dated on or before November 30, 1989, must still be processed in Vienna and Rome. During that time, I would have hoped that the administration would give further consideration to this matter. I am not sure a mere delay is satisfactory; I believe maintaining at least one way out of the Soviet Union located in the free world may be desirable.

But I have run into a lot of obstacles in offering the amendment. A number of my colleagues who are as concerned about Soviet emigration as I am have asked me not to offer the amendment. So I have decided not to do so.

We then tried to come up with another amendment that would have facilitated additional resources to Israel for refugee resettlement. Such an amendment would have authorized the United States Government to guarantee private loans by financial institutions to the Government of Israel, not to exceed $1 billion to be used solely for the purpose of refugee resettlement. Such a guarantee would allow Israel to absorb adequately the additional flow of refugees.

But due to the late hour, and because it is the last day of the fiscal year, I do not want to inconvenience any colleague. But let me put the Senate on notice, and I would like to ask the majority leader, in the privacy of his Chamber to think about this.

I would like before the end of this year to resolve this problem one way or the other. This is not because of pressure of anybody within the Jewish community, but because I believe we have a moral obligation to do so.

I would like to have a vote on my loan guarantee proposal, to help bring these people out of the Soviet Union during this open window. This is one of the few times that we have an open window where people can leave the Soviet Union. This is important because I think that window will close within the near future.

If this window closes, we will have deprived a lot of people of the opportunity to seek freedom. I would like the majority leader to work with me and see if we can find some way of coming up with a freestanding bill that pleases everybody around here and solves this problem.

So, having made this statement, I do not intend to slow this process down by any amendments today. I will withdraw my right to bring up amendments on this bill.

I also want to make it clear for the record that neither I nor my staff have talked with anybody who is an interested party in this matter prior to coming up with this proposal. We are trying to solve a problem that I feel strongly about.

I cannot do it today. I would like my friend, the majority leader, and my friend, the minority leader, to help me on this. If we could bring up something that would resolve this problem and resolve, I think, the concerns of many of us with regard to the State Department's approach here, I will be happy to do that, hopefully, with unanimous support.

With that, I am sorry to take that much time, but I wanted to explain my position.

Mr. RUDMAN. I thank my friend from Utah very much. We do appreciate his willingness to allow us to go forward. We certainly understand the concern, and I know many of us share that concern.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, what was the unanimous-consent request?

The PRESIDING OFFICER. We are still 40 minutes on the Shelby amendment.

Mr. LEAHY. I am sorry.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I wish to address a matter related to the State Department portion of this bill and to support a point made by Senator HATCH.

As the world advocate for human rights, we have a duty to assure ourselves that any changes in our refugee policies must only come after intense scrutiny and careful deliberation. We must not compromise our traditional role of setting high standards of human rights.

Tragically, scrutiny and deliberation are lacking in the administration's refugee policy for fiscal year 1990.

Notice of the October 1 implementation date was served to the Senate on the very late date of September 15, a mere 15 days prior to the implementation date. This same notice was served on the people of the Soviet Union just this Tuesday, a mere 5 days before the effective date. It takes 6 days just to obtain a visa. And who can attest to the effectiveness of this notice. There are too many unanswered questions; there are too many unknowns in our administration's programs.

First, how will the operation of the refugee processing on Soviet soil affect the ability of applicants to freely apply? This policy forces emigres to not only prove their life long persecution but do so in the very country that oppresses them.

Second, how will the U.S. Embassy operate to accommodate the influx of applicants? We have 20 officials in the Rome office, there only are 6 in Moscow with no commitment from the Soviets to increase that number.

Third, will INS officials be trained to understand and detect the persecution that many applicants have endured in their lives but are not cabable of expressing?

Fourth, will the voluntary agencies that operate in Rome and Vienna, which are crucial to the emigration process, be allowed to operate in Moscow? Probably because the Soviets do not like the idea of calling their people refugees and therefore do not want these agencies operating in their country.

Fifth, why is the refugee status denial rate in Moscow so high, as much as three times that of Rome and Vienna?

Sixth, how much are the real costs of processing Soviet refugees and can we afford to raise the ceiling if the costs are substantially lower than first reported?

Inadequate notice has left Congress between a rock and a hard place. Frankly, I resent the fact that we are faced with choosing between accepting the administration's proposal as is by October 1, or racking up millions of dollars in expenses for which there are no allocations. At minimum, adequate notice of the administration's plans would have provided concerned Members of this Congress the opportunity to work with the administration and address the areas of concern we are now faced with.

Why didn't the administration notify us about these proposals sooner? Why haven't these very pivotal issues been addressed months ago?

On September 14, an official from the U.S. General Accounting Office testified that the voluntary agencies that help Soviets prepare their refugee applications, including a written statement of their reasons to emigrate, are not being allowed to operate in the Soviet Union. The GAO recognizes the crucial role these agencies play, yet on October 1, none of these agencies will be operating in Moscow and we have no indications that they ever will be able to operate there.

To ignore the manner in which the administration plans to implement these dramatic proposals is to jeopardize the destinies of thousands of people for whom this country has fought too hard and for too long.

I am well aware that an agreement has been reached between the administration and the advocacy groups. But, there are thousands of others—now in the Soviet Union—who are not parties to this agreement. Who speaks for them?

With these proposals, "let my people go" is a moot concept. How can I demand on behalf of constituents, that the Soviets release a family member trapped in the Soviet Union? What could I say? Let them go, but do not send them here? My fear is that for the first time, we've put a price tag on people fleeing persecution.

We should be extending the October 1 deadline and use this additional time to address the very vital human rights concerns these proposals raise. The United States must be accountable for its actions. The destinies of thousands of people and the victories born of the last 15 years of U.S. foreign policy deserve at least that much.

Mr. President, I rise to submit a statement that I would have made, in support of the amendment Senator HATCH considered offering to address the problems caused by the administration's changes in Soviet refugee policy for fiscal year 1990.

My Senate colleague from Utah, and I see very real problems in the administration's proposals as they represent a historic change in United States' policy concerning Soviet emigration. I intended to support his amendment and I was hopeful that we could make changes in those policies. I am sure that deciding not to offer the amendment was a very tough decision for the Senator from Utah to make. If he had offered it, and I urged him to do so up until the last minute, I would have spoken in favor of his amendment.

We are being very shortsighted in allowing these policies to be implemented. The reforms in the Soviet Union have not been tested or proven; we do not know how strong Gorbachev's position is as Soviet leader; we have no evidence that these reforms will last. Though we must continue to encourage these reforms, we must not be hasty in changes that deeply affect U.S. human rights policy. The doors of Soviet emigation may be open, but they could close overnight.

Mr. President, I do not know whether our Government took into account the various nature of Soviet society when implementing these policy changes. My perception from the annual refugee consultation hearing before the Committee on the Judiciary is that they did not.

New developments are taking place in the Soviet Union. We can be very thankful of those and take pride in knowing that we have played an integral role in influencing these new developments.

However, though this may be seen as a new era of good feeling and a warming of relations with the Soviets, we cannot be certain how long this era and these good feelings will last. Therefore, we must not base long-term policy on unknowns, though I fear that is precisely what we have done.

AMENDMENT NO. 900

(Purpose: To prohibit use of certain funds to count illegal aliens in the United States for purposes of reapportionment)

Mr. SHELBY. Mr. President, I send an amendment to the desk on behalf of myself, Senator HELMS, Senator HEFLIN, Senator DOLE, Senator HEINZ, Senator GRASSLEY, Senator LOTT, Senator HATCH, and Senator COCHRAN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for himself, Mr. HELMS, Mr. HEFLIN, Mr. DOLE, Mr. HEINZ, Mr. GRASSLEY, Mr. LOTT, Mr. HATCH, and Mr. COCHRAN, proposes an amendment numbered 900.

Mr. SHELBY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . None of the funds appropriated or made available by this Act to the Bureau of the Census shall be used to count aliens in the United States in violation of the immigration laws for purposes of subsection (b) of section 141 of title 13, United States Code.

Mr. SHELBY. Mr. President, the issue that is the subject of this amendment has been debated on the floor already this year. All Senators are aware of the prevailing arguments: The Senate by a vote of 58 to 41 voted in favor of an amendment that I offered to Senate bill 358, the legal immigration bill. The prior Senate-passed amendment would direct the Secretary of Commerce to make such adjustments in total population figures as may be necessary and feasible using such methods and procedures as the Secretary determines appropriate in order that aliens in the United States in violation of the immigration laws not be counted in tabulating population for purposes of reapportionment of the U.S. House of Representatives.

Mr. President, the Senate has already gone on record that illegal aliens shall not be part of the tabulation of total population figures for purposes of apportionment of the U.S. House of Representatives. This position has withstood a point of order that it was unconstitutional by a vote of 56 to 43 right here in this Chamber. A majority of the Senate, therefore, has affirmed that it is constitutionally proper to exclude from census figures for purposes of reapportionment, or apportioment of the undocumented aliens there.

For over 10 years, the Congress has attempted to get a vote on this issue. Earlier this year, this was the only vote we were able to get, and the Senate voted overwhelmingly in favor of that. We all know the results of the vote, as I just stated.

Basically, Mr. President, this is a question of fairness; it goes to the heart of our form of government. The question is, should legal residents continuously be denied proper and undiluted representation at the Federal level because of the influx of illegal aliens in the tabulation of total population figures for purposes of the House of Representatives apportionment? That is the question, Mr. President. That is the issue and that is the concern today before the U.S. Senate.

A vote against my amendment can reasonably be interpreted as a vote against the proper representation of individuals at the Federal level. I believe that the message is clear. I must reiterate that the amendment that I offered on behalf of myself and a number of other Senators is not designed to be an anti-immigration proposal. It is not designed, explicitly or implicitly, to hinder the legal immigration process. However, Mr. President, it is designed to ensure proper apportionment so that all citizens will receive the opportunity to be heard. The opportunity for active participation in governing through an undiluted ballot box is part and parcel of government in America. Consequently, Mr. President, to realize this opportunity, the undocumented alien must not be counted for apportionment purposes for the U.S. House of Representatives.

My proposal does not impede upon the constitutional protections that have been legislatively sanctioned and judicially recognized to apply to undocumented aliens as well as to citizens and resident aliens. The mere inclusion of illegal aliens in census figures for the House of Repesentatives apportionment purposes violates the notion of self-government and, Mr. President, eradicates the community's process of political self-definition.

This occurs when affected States' voting strength is weakened and qualified voters are placed in an impracticable position vis-a-vis qualified voters of States with a large undocumented alien population. Thus, improper apportionment of the U.S. House of Representatives deprives citizens of their right to self-determination through the ballot box.

Mr. President, my proposal is simple in structure. It upholds our form of government. As our Nation prepares for the 1990 census, it is important that fairness and equity not fall by the wayside in our assessment of demographics and our then consequent reapportionments of the House of Representatives.

I yield 4 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I am pleased to be an original cosponsor of the amendment by the Senator from Alabama.

The Shelby-Helms amendment instructs the Census Bureau not to include illegal aliens in the census count. For some absurd reason, the Census Bureau has decided to count illegal aliens in the 1990 census.

Mr. President, we passed a similar amendment in July of this year by 58 to 41. However, the underlying bill, the Immigration Reform Act of 1989, did not become law. So we have one last chance to avoid a grave injustice.

Mr. President, the Census Bureau policy jeopardizes the constitutional right of North Carolina citizens to fair and equal representation.

If the Census Bureau counts illegal aliens, the citizens of North Carolina risk losing a congressional seat. We lose a congressional Representative just because some bureaucrats at the Census Bureau think the Constitution requires them to count illegal aliens.

Mr. President, illegal aliens do not have the right to vote. So why should they have the right to determine the makeup of our Government?

If illegal aliens are counted, States like California will gain a seat at North Carolina's expense. Therefore, Californians will have proportionally more congressional representation than North Carolina. They will have more votes in Congress thanks to people breaking the law and entering as illegal aliens.

I simply do not believe that our Founding Fathers ever intended to let people who cannot vote and who break the law determine the political makeup of our Government. As Judge Noonan pointed out, if a foreign army invaded our country on census day, we would not count them in the census.

Nothing in the Constitution requires the counting of illegal aliens in the census.

As Senator HATCH explained during the debate in July, the Constitution speaks of "persons" in the sense of legal persons, not illegal. If the Constitution stands for anything it stands for legality—not illegality.

Mr. President, the amendment by the Senator from Alabama makes sense, it is fair and it should be adopted by the Senate.

Mr. DOLE. Mr. President, I rise today to express my support for the amendment offered by my distinguished colleague from Alabama, Senator SHELBY, and my distinguished colleague from North Carolina, Senator HELMS.

COMPOUNDING THE PROBLEM

Now, we are all familiar with the problem of illegal immigration. And we heard all about this problem last July, when we passed the immigration bill under the able leadership of Senators KENNEDY and SIMPSON.

But we do not have to compound this problem. We do not have to compound this problem by mindlessly lumping millions of illegal aliens in the 1990 census. We do not have to compound this problem by ripping off the States—some of whom will lose congressional seats because of the inclusion of illegal aliens in the census.

Unfortunately, the established policy of the Census Bureau is to count every person in this country without making a single adjustment for illegal aliens. The Census Bureau intends to continue this policy through 1990.

With all due respect to the Census Bureau—and there are many fine people who work at the Bureau—this policy simply does not make any sense. It violates the constitutional principle of "one man, one vote." And it's just plain unfair to those Americans who live in this country—and live here legally.

A SIMPLE SOLUTION

Now, last July, Senators SHELBY and HELMS offered an amendment to the immigration bill that provided a simple and straightforward solution to this problem. This amendment—which was passed by the Senate—requires the Secretary of Commerce to use tabulating procedures that are both feasible and appropriate to ensure that illegal aliens are not counted in the

census for purposes of reapportionment. This is a sound solution that will restore some fairness to the census and reapportionment process.

OUR LAST CHANCE

Unfortunately, the House has not yet acted on the immigration bill—and time is running out. As the distinguished Senator from Alabama pointed out, if we do not act now—Congress will not have the opportunity to correct the census problem until the year 2000. We cannot afford to wait that long.

CONCLUSION

So I commend Senators SHELBY and HELMS for offering this amendment. And I urge my colleagues to support it with your vote.

The amendment will simply reaffirm the views expressed by the Senate last July.

Mr. SHELBY. Mr. President, how much time do I have left?

The PRESIDING OFFICER (Mr. GRAHAM). The Senator has 12 minutes, 17 seconds.

Who yields time?

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me yield myself 4 minutes and then the Senator from Massachusetts is prepared to speak as well, and the Senator from New York and the Senator from Illinois, in opposition to this amendment.

Mr. President, the proposed amendment has numerous problems with it, but the first and foremost threshold problem is that it violates our Constitution.

The proposed amendment would require the Census Bureau to exclude illegal immigrants from the official census count for purposes of apportionment. On the surface, this amendment may seem very reasonable, and its implications benign. But, from both a constitutional and a practical standpoint, that simply is not the case. The amendment would do great harm to the purposes and goals of the census and cause much fear and concern for many individuals. Further, the amendment would create real hardships for many communities.

Article I, section 2, clause 3 of the U.S. Constitution, as amended by section 2 of the 14th amendment, requires that the apportionment of the House of Representatives be based on the "whole number of persons". The term "persons" is used, I point out, and not the word "citizen" which is used in other parts of the Constitution. Clearly, it was the intent of the framers that every inhabitant be counted. While it is my understanding that a case to exclude illegal aliens from the census has not come before the Supreme Court, the Federal appeals courts have held that all persons should be included in the apportionment base. In *Fair* v. *Klutznick,* 486. F. Supp. 564 (D.D.C. 1980), the court stated that:

> The language of the Constitution is not ambiguous. It requires the counting of the "whole number of persons" for apportionment purposes, and while illegal aliens were not a component of the population at the time the Constitution was adopted, they are clearly "persons."

The Court further noted:

> We see little on which to base a conclusion that illegal aliens should now be excluded [from the apportionment base], simply because persons with their legal status were not an element of our population at the time our Constitution was written.

Therefore, it is my firm belief, that this amendment would be unconstitutional and that changing the method to a means other than counting the actual number of inhabitants would require a constitutional amendment.

On top of the constitutional issue, there are other problems with the amendment that must be addressed. Simply put, it is infeasible to carry out such an exclusion. The Census Bureau does not have the ability to effectively determine the legal status of its respondents, nor I would suggest, should it. In fact, it would be virtually impossible for census enumerators to determine if a person is legal or illegal and misrepresenting himself. The Census Bureau could not determine if all legal residents had been counted, because they would not know if each housing unit contained legal or illegal residents. Further, there are no figures about the number of illegal aliens in specific areas to accurately adjust the census count for the illegal aliens. These feasibility problems alone, can have serious and far-reaching effects on the accuracy of the census data. Without the means to determine legal status, but having a legal obligation to try, the Census Bureau would be forced to reduce its information collection efforts to a "best guess" endeavor. The resulting inaccuracy of the census figures would prove extremely detrimental to communities, States, and others who use the information collected for purposes other than apportionment. In other words, this amendment would base the apportionment of the House of Representatives and the distribution of billions of Federal aid dollars on a numerical fantasy.

A second problem that would be created by enactment of the amendment concerns its effects on minority outreach programs. Changing policy relating to citizenship questions would undermine the outreach progams that are vital to ensure an accurate count of the minority communities throughout the United States. In addition, it would undermine the public's perception about the purpose and confidentiality of the census.

The outreach programs are designed to encourage minority groups to respond to the census and that would be jeopardized if the questionnaire included a citizenship question. It is widely acknowledged that these minority groups are already fearful of the Government, and do not trust the confidentiality policies of the Census Bureau. If a citizenship question was added it would serve to confirm some of these fears, confusing legal residents, and causing illegals to avoid responding at all. This could further reduce the number of people in minority groups counted, in effect, contributing to the growing problems experienced in these historically undercounted populations. Additionally, a positive public perception of the uses of the census information is vital to a complete, accurate count of all groups. Knowing of the confusion that would result from a citizenship question, raises more questions about the validity of the information that would be collected should the amendment become law.

There is yet another problem that would result from the amendment, that deserves mention. The Census Bureau has, in preparation for the 1990 census, printed, labeled and assembled 106 million questionnaire packets. Those would no longer be usable. New questionnaires would have to be printed, and new packets assembled. To do this would be a huge additional expense for the census which is already estimated to eventually cost the taxpayers of this country between $2.6 and $3 billion.

I would like to point out that the administration opposes changes in the procedures of the census count. I have received letters from the Department of Justice, and the Department of Commerce which state the administration's position on this issue. Commerce Secretary Robert Mosbacher, in his letter states:

> The Department of Commerce strongly believes that excluding undocumented aliens would be entirely infeasible and would considerably undermine critical efforts being undertaken by the Bureau to assure an effective and complete count in 1990.

He further states:

> I am prepared to recommend to President Bush that he veto measures such as S. 848 or S. 358 that contain language that would exclude undocumented residents from the 1990 census count.

Assistant Attorney General Carol T. Crawford, in her letter, reaffirms the Justice Department's position that excluding undocumented residents would be unconstitutional. I will ask that these letters be inserted in their entirety in the RECORD at the end of my remarks.

In conclusion, I believe the amendment to be extremely detrimental to States, municipalities, and other organizations and in individuals that rely on accurate census information. Fur-

ther, the feasibility of carrying out what the amendment would require is in serious question. Finally, it is our sworn duty, in the Senate, to uphold the Constitution. The amendment is clearly unconstitutional, and therefore, it is our duty to defeat this legislation. I strongly urge all of my colleagues to oppose this amendment.

The administration opposes the legislation for good and sufficient reason, Mr. President. I think many of us do. Clearly the Senate should refuse to add this amendment to this particular appropriations bill.

Mr. President, at this time, I yield 4 minutes to the Senator from Massachusetts to speak on this subject.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, the Shelby amendment is flatly unconstitutional as a matter of law, totally unworkable as a matter of practice, and completely inappropriate for inclusion in this important appropriations bill.

The amendment is unconstitutional because both article I, section 2 and the 14th amendment require apportionment to be based on "the whole number of persons" regardless of their citizenship or immigration status.

That the framers intended to count all persons is clear from the express language of the Constitution. It uses the word "persons" rather than "citizens" in the census provisions. Elsewhere in the Constitution, the framers used the word "citizens" where that was intended.

For example, section 1 of the 14th amendment provides that:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States * * *.

And the apportionment clause, which is found in section 2 of that same 14th amendment, provides that:

> Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.

The drafters of the Constitution clearly meant to count every person in the apportionment base. No one had more to do with the drafting of the Constitution than James Madison. And in the Federalist Papers, No. 54, James Madison said that apportionment was to be "founded on the aggregate number of inhabitants." Inhabitants—not citizens—the intention to include everyone in the apportionment base could not be clearer.

The framers' intentions are also clear from the consistent practice of the Census Bureau for 190 years—since the Ratification of the Constitution. To quote the Congressional Research Service:

> The fact that every census since 1790 has included legal as well as illegal aliens in its count would seem to be indicative of the fact that the original intent of the Framers was to include such aliens.

I would like to hear from those who propose this particular amendment if they have been able to find anyone who was there at the time of the Constitutional Convention who challenged that particular understanding. It is difficult for me to believe that if the Census Bureau were running contrary to what the framers wanted at that time that it would have gone unnoticed. Of course it would not have.

The same conclusion has been reached by the Federal courts. In 1980, in FAIR versus Klutznick, a three-judge Federal court stated that the Constitution:

> * * * -7ERequires the counting of the "whole number of persons" for apportionment purposes, and while illegal aliens were not a component of the population at the time the Constitution was adopted, they are clearly "persons."

In other contexts, the Supreme Court has consistently held that the 14th amendment consistently held that the word "persons" in the 14th amendment includes illegal aliens. For example, in 1982 in Plyler versus Doe, the court held that the equal protection clause bars states from completely excluding illegal aliens from its schools. In so doing, the Court stated:

> Aliens, even aliens whose presence in this country is unlawful, have long been recognized as "persons" guaranteed due process of law by the 5th and 14th amendments.

The Congressional Research Service, after a thorough analysis, concluded that the Constitution requires that all persons, including illegal aliens, be counted in the apportionment base. The CRS study concluded that:

> A statutory exclusion of aliens from [the apportionment] base would seem to violate the "whole number of persons" requirement and thus be unconstitutional.

The Justice Department, under both Presidents Carter and Reagan, also recognized that the Constitution bars excluding illegal aliens from the census. And the Justice Department under the current administration has recently reiterated its view that proposed legislation like the pending amendment is unconstitutional.

The Shelby amendment is unworkable because it would require the Census Bureau to exclude illegal aliens from the apportionment counts. In 1988, the Director of the Census Bureau testified before a House subcommittee that the Census Bureau:

> has not found an acceptable method to exclude undocumented immigrants from the apportionment counts.

The reason is obvious. If census takers are required to ask people whether they are illegal aliens, that's going to provoke widespread fear and suspicion and noncooperation with the census.

The Census Bureau found that:

> A census of only legal residents cannot be done as accurately as a census of all residents. People who are undocumented immigrants may either avoid the census altogether or deliberately misreport themselves as legal residents in the census. * * * Legal residents may be confused about why the government is asking whether a person is here illegally. Legal residents, therefore, may misunderstand or mistrust the census and fail or refuse to respond.

And the Census Bureau is clearly not the proper agency to decide whether an alien is "in the United States in violation of the immigration laws." Census takers are not experts on our immigration laws. Do we want part-time, one-time government employees to be deciding immigration status? That's what the Shelby amendment would require.

Finally, the Shelby amendment is entirely inappropriate to add to this important appropriations bill. Secretary of Commerce Robert Mosbacher has recently indicated that he will recommend to President Bush that he veto legislation comprising the Shelby amendment. This bill contains vital funds to fight the drug war. It should not be tied up by the inclusion of a flatly unconstitutional provision.

I urge my colleagues to vote to table the Shelby amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in the RECORD the two letters from the administration opposing this amendment, including one recommending a veto of this legislation should this measure be included.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, September 22, 1989.

Hon. JEFF BINGAMAN,
Chairman, Subcommittee on Government Information and Regulation, U.S. Senate, Washington, DC.

DEAR SENATOR BINGAMAN: You have requested the views of the Department of Justice concerning the constitutionality of proposed legislation excluding illegal or deportable aliens from the decennial census count. In the past, the Department of Justice has taken the position that section two of the Fourteenth Amendment which provides for "counting the whole number of persons in each State" and the original Apportionment and Census Clauses of Article I, section two of the Constitution require that inhabitants of States who are illegal aliens be included in the census count. In our review of this issue to date, we have found no basis for reversing this position.

The Office of Management and Budget has advised this Department that it has no objection to the submission of this report to Congress.

Sincerely,

CAROL T. CRAWFORD,
Assistant Attorney General.

THE SECRETARY OF COMMERCE,
Washington, DC, September 25, 1989.

Hon. JEFF BINGAMAN,
Chairman, Subcommittee on Government Information and Regulation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding the inclusion of undocumented residents in the 1990 census. I would like to take this opportunity to reiterate this Department's long-held position that there are compelling legal and public policy grounds for counting in the census all persons irrespective of their citizenship. If Congress sends legislation such as S. 848 or S. 350 to the President which directs the Census Bureau to exclude undocumented residents, I will recommend to President Bush that he veto this legislation.

The Department of Justice has advised previous Congresses based on constitutional considerations that illegal aliens must be included within the census counts for purposes of apportioning congressional representation. The Department of Commerce has consistently concurred with this view.

The Census Bureau's enumeration procedure has been guided by the requirement in the 14th Amendment to the Constitution to count "the whole number of persons in each state." The Census Bureau has interpreted its constitutional charge and its statutory mandate to require counting every person who has a usual residence in any state. The concept of "usual residence" dates back to the Census Act of 1790 and, while the wording of various Census Acts has changed over the decades, the concept has remained the same—to enumerate all inhabitants.

Moreover, the Department of Commerce strongly believes that excluding undocumented aliens would be entirely infeasible and would considerably undermine critical efforts being undertaken by the Bureau to assure an effective and complete count in 1990.

First, we have no way of effectively determining the legal status of individual respondents. The methods proposed to exclude undocumented aliens have flaws that could seriously jeopardize the accuracy of the census. For example:

The determination of legal status among types of aliens, in many cases, requires administrative review by the Department of Justice. Many aliens do not know precisely what their legal status is. Neither the Census Bureau nor its enumerators in the field have the legal qualifications to assist respondents in answering such a question.

Estimating the number of undocumented aliens by using Immigration and Naturalization Service (INS) data and subtracting that number from the census totals also is seriously flawed. The INS does not have counts of legal aliens in the country now or on Census Day. They also do not know where most legal aliens reside. Such information would be absolutely necessary to implement this method.

A census of only legal residents cannot be done as accurately as a census of all residents. People who are undocumented immigrants may either avoid the census altogether or deliberately misreport themselves as legal residents in the census.

If large proportions of undocumented aliens avoid the census, the 1990 census counts will be lower than cities and states expect. The Census Bureau will not know at the time of apportionment whether this results from undercount of legal residents or from undocumented immigrants who avoided the census. Those who avoid the census would not be included in any counts, even for purposes other than apportionment.

Second, adoption of this policy would undermine far-reaching progress in the area of outreach directed at the minority community. Given the importance of these programs to achieve a full and accurate count, we oppose undertaking policies which are likely to disrupt our cooperation with community organizations which provide assistance to our efforts.

Finally, the Department is reluctant to undertake actions which would undermine the general public's perception of the confidentiality of census data. The absolute prohibition of any disclosure of confidential census data and the public's acceptance of these assurances are essential to the accuracy of census results.

In light of the foregoing, I am prepared to recommend to President Bush that he veto measures such as S. 848 or S. 358 that contain language that would exclude undocumented residents from the 1990 census count.

The Office of Management and Budget advises us that there is no objection to the submission of this letter to the Congress and that enactment legislation, such as S. 848 or S. 358 would not be in accord with the President's Program.

Sincerely,

ROBERT A. MOSBACHER.

Mr. CRANSTON. Mr. President, I rise to express my strong opposition to the amendment offered by the Senator from Alabama which would direct the Census Bureau to exclude undocumented persons from the total population figures used for purposes of reapportioning the U.S. House of Representatives. I oppose this amendment because it is plainly unconstitutional, and I urge my colleagues to oppose it also.

The relevant provision of the 14th amendment to the Constitution provides that:

> Representatives shall be apportioned among the several States according to their representative numbers, counting the whole number of persons in each state. . .

This language is unambiguous. Previous debates in Congress, as well as decisions rendered by the courts, have consistently interpreted this provision to require that redistricting and reapportionment are to be based on actual numbers of people or inhabitants, and not on any particular subgroup of that population such as taxpayers, citizens, or legal residents.

If we indeed want to change the system by which the census is conducted with regard to the calculation of the number of persons in each State for reapportionment purposes, it is clear that we would have to amend the Constitution. The amendment being offered by the Senator from Alabama to this appropriations measure is therefore not only inappropriate because it is legislation on an appropriations measure, it is also unconstitutional.

Moreover, Mr. President, this amendment has not been considered by any Senate committee. Such a significant departure from the traditional process by which the House of Representatives is apportioned should not be taken without committee action.

While this amendment is objectionable because it flies in the face of traditional interpretations of the Constitution, there are also practical reasons why it should be rejected.

Dr. John G. Keane, Director of the Bureau of Census at the Commerce Department, recently testified before the House Subcommittee on Census and Population that the Bureau has not found an acceptable method of excluding undocumented immigrants from the apportionment counts. He explained that:

> Proposed methods—such as including direct enumeration and estimation—would cause problems in carrying out the census and would likely introduce significant errors into the census that could affect the allocation of one or more Congressional seats.

Because of these practical problems, and because the amendment is unconstitutional, both the Department of Commerce and the Department of Justice oppose this amendment.

I would like to point out, Mr. President, that a non-citizen's immigration status can be ascertained only through exceedingly detailed and intrusive questions which call for legal conclusions, and which cannot be verified without violating the confidentiality provisions of the Census Act. The results of a 1980 attempt by the Census Bureau to estimate the undocumented alien population are questionable because of the indirect statistical techniques which were used. Moreover, one critical piece of information used to derive the 1980 estimates—INS alien registration data—is no longer collected or is collected on a voluntary basis.

Finally, Mr. President, this amendment should be rejected because it will only exacerbate the undercount of the Hispanic and other minority communities. Since the census data is also used to redistrict State and local governments, and to plan for local social and governmental services, it is important that this data be as accurate and complete as possible.

The last decennial census recorded an overall undercount of approximately 1 percent for all persons residing in the United States. Hispanics, however, were undercounted at a rate between 5–6 percent nationwide. A 1985 mid-decennial census in Los Angeles County indicated a Hispanic undercount of 9.8 percent for that area.

While the Census Bureau is considering methods to lessen the undercount, it would be unwise for us today to adopt this amendment which will only discourage Hispanics and other minority communities from participating in the census process. Also, we should assure that those who applied for legalization under the Immigration

Reform and Control Act are encouraged to participate in the census.

In sum, Mr. President, this amendment should be rejected because it is unconstitutional, impractical, and bad policy. We should make every effort to assure that the 1990 census provides us with the most accurate and complete count as possible.

For these reasons I urge my colleagues to oppose this amendment.

Mr. BENTSEN. Mr. President, there are several strong, compelling reasons to reject this amendment.

The amendment is unconstitutional, plain and simple.

The Constitution requires that a census be taken every 10 years of all persons in the United States. Unlike other provisions of the Constitution, the requirement to count inhabitants of the United States doesn't specify sex, race, religion, or legal status. It says simply "persons." Nowadays we might not like that. It may be inconvenient. It may be politically unpopular. It may even offend some of our constituents. but none of this satisfies the test of constitutionality.

This amendment is not just of dubious constitutionality, it is patently unconstitutional and the Senate should not be in the business of passing that kind of legislation. It does us no credit. If the Senator does not like this section of the Constitution, then he ought to offer a constitutional amendment to do it, not pose an amendment to a critical appropriations bill.

The amendment would undermine an accurate census count.

Preparation for the 1990 census is well underway. The Census Bureau has long been planning it. Census forms will be mailed to us in just a few months. Census workers will take to the streets shortly thereafter. Thousands of hours have gone into trying to iron out the wrinkles in conducting a census. Now, here we go, the U.S. Senate, undermining all of that work by adding an amendment that would—not just a little bit—but completely undermine all of that preparation. The amendment does not say just how the Census Bureau is supposed to exclude illegal aliens. It is silent on that question. Long after we have made our political statement here, others will have to find a way to implement what we have mandated. I do not think the Senate should further complicate that task.

The amendment is not as simple as it seems.

How is the Census Bureau to determine who is an illegal alien and who is not? Often the Justice Department has to make an administrative review to determine the legal status of aliens. Second, what do we do about people who lie about their status? Do we hold the census count until we verify legal status? Is it not far simpler to count everybody and eliminate all these questions?

There is no reason to encumber an already complicated task. Taking an accurate census is hard work, this amendment makes that harder.

The amendment forces a needless confrontation with the President.

The Census Bureau opposes this amendment. The Justice Department thinks it is unconstitutional. The Department of Commerce opposes this amendment. Secretary Mosbacher says that he is prepared to recommend to the President that he veto legislation that would exclude undocumented persons from the 1990 census count. There is no need for us to test the President on this. This is a critical appropriations bill. This amendment is legislation on an appropriations bill. It should be ruled out of order. But whether or not that happens, the Senate should not pick a fight with the administration on an issue where the Constitution is so clearly on its side.

The amendment has never found its way into law, even though attempts were made in at least four different Congresses, and courts have rejected its premise as well.

Each time this amendment or some variation of it has come up, Congress has rejected it. It came up in the 71st, 76th, 96th, and 100th Congresses. With good reason, it never made it into law. We ought to accept that collective wisdom and reject this amendment again. Courts also have held that undocumented residents were required to be counted in the census.

I urge the Senate to reject this amendment.

Mr. SHELBY. Mr. President, I yield 5 minutes to the distinguished Senator from Utah [Mr. HATCH].

Mr. HATCH. I thank my friend from Alabama. I appreciate his yielding to me.

I have to say, having listened to my distinguished colleague from Massachusetts, it is wonderful to see him so concerned about the original meaning of the Constitution.

In fact, I think he may become an interpretist yet instead of the noninterpretist that he has been up to now. I think it is a good sign when we have someone who is so high up on the Judiciary Committee interpreting on what the Constitution must have originally meant. I think if he had that philosophy earlier, then Robert Bork would be sitting on the Supreme Court.

The issue here is what is the meaning of "whole number of free persons" within article I, section 2. There is no evidence to support the proposition that the constitutional language means, or was intended to mean, that the mere presence of a person within a State on the day of the census should necessarily result in such persons being counted as among "the persons in" that State for purposes of determining the State's "number" for apportionment.

Otherwise, a resident of Virginia temporarily visiting New York on the day of the census would have to be counted in the population of New York for that apportionment purpose. That is, under this argument, the Census Bureau would be constitutionally prohibited from creating an exception for "temporary visitors" just as it is prohibited from creating an exception for illegal aliens.

No census has ever been conducted on the basis that every person physically present in the State on the day of the census is to be counted. There is strong evidence as to how the language has always been understoood. Under the opponents' argument, foreign diplomats living on embassy grounds and foreign tourists would have to be counted. Carried through to its logical extent, an occupying army would qualify. The Census Bureau has made an exception for foreign diplomats without any additional constitutional authority. There is no reason that the Congress cannot order the Census Bureau to exempt illegal aliens as well. And there is every reason to do so. It is right to do so. It is constitutional to do so. It is appropriate to do so.

And the distinguished Senator from Alabama is acting very appropriately in bringing this amendment to the floor. It is well established that illegal aliens can be treated differently from other aliens. According to the case of *Federation of American Immigration Reform* v. *Klutznik*, 486 F. Supp. 564, 576 (D.D.C. 1980), illegal aliens were not a component of the population at the time that the Constitution was adopted. They simply were not provided for. Congress can now make any rationally based provision for them that Congress decides to do.

This amendment by the distinguished Senator from Alabama is not only appropriate, but it is something that should be done and we ought to clarify this now. We have the power to do it as a Congress, and the Constitution grants and provides that power.

So those who are concerned about original meaning ought to read the Constitution. We all ought to be concerned about original meaning. Because after all, if we go beyond the original meaning of the Constitution, what we are doing is writing our own constitution rather than living in accordance with the basic law of the land. We should abide by the law and not by our esoteric view of what we think the law ought to be when it has no relationship to the underlying language there.

I yield the floor.

Mr. SHELBY. Mr. President, I ask unanimous consent that Senator NICKLES, of Oklahoma, be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection.

Mr. BINGAMAN. Mr. President, I yield 4 minutes to the distinguished Senator from New York.

Mr. MOYNIHAN. I thank the distinguished chairman.

Mr. President, I rise today, as I did on July 13 to make two points, the first of which has been made very forcefully, eloquently, and accurately, that this amendment is unconstitutional. I would prefer, frankly, that we move a constitutional point of order to have the Senate so determine.

The Constitution is elemental. It begins with article I, section 2. Of course, the controlling amendment is the 14th amendment. Section 2 states, "Representatives and direct taxes shall be apportioned among the several states * * * according to their respective numbers." If anyone would like to know the original purpose of the authorizing act of March 1, 1790, it is called "An Act providing for the enumeration of the Inhabitants of the United States." Section 1: "*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the marshals of the several districts of the United States shall be, and they are hereby authorized and required to cause the number of the inhabitants within their respective districts to be taken."

I ask unanimous consent the text of the statute be printed in the RECORD at this point:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[By Authority of Congress]

THE PUBLIC STATUTES AT LARGE IN THE UNITED STATES OF AMERICA, FROM THE ORGANIZATION OF THE GOVERNMENT IN 1789, TO MARCH 5, 1845

STATUTE II. MARCH 1, 1790.

Chap. II.—An Act providing for the enumeration of the Inhabitants of the United States.[1]

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the marshals of the several districts of the United States shall be, and they are hereby authorized and required to cause the number of the inhabitants within their respective districts to be taken; omitting in such enumeration Indians not taxed, and distinguishing free persons, including those bound to service for a term of years, from all others; distinguishing also the sexes and colours of free persons, and the free males of sixteen years and upwards from those under that age; for effecting which purpose the marshals shall have power to appoint as many assistants within their respective districts as to them shall appear necessary; assigning to each assistant a certain division of his district, which division shall consist of one or more counties, cities, towns, townships, hundreds of parishes, or of a territory plainly and distinctly bounded by water courses, mountains, or public roads. The marshals and their assistants shall respectively take an oath or affirmation, before some judge or justice of the peace, resident within their respective districts, previous to their entering on the discharge of the duties by this act required. The oath or affirmation of the marshal shall be, "I, A. B. marshal of the district of —— do solemnly swear (or affirm) that I will well and truly cause to be made, a just and perfect enumeration and description of all persons resident within my district, and return the same to the President of the United States, agreeably to the directions of an act of Congress, entitled 'An act providing for the enumeration of the inhabitants of the United States,' according to the best of my ability." The oath or affirmation of an assistant shall be, "I, A. B. do solemnly swear (or affirm) that I will make a just and perfect enumeration and description of all persons resident within the division assigned to me by the marshal of the district of —— and make due return thereof to the said marshal, agreeably to the directions of an act of Congress, intituled 'Act act providing for the enumeration of the inhabitants of the United States,' according to the best of my ability." The enumeration shall commence on the first Monday in August next, and shall close within nine calendar months thereafter. The several assistants shall, within the said nine months, transmit to the marshals by whom they shall be respectively appointed, accurate returns of all persons, except Indians not taxed, within their respective divisions, which returns shall be made in a schedule, distinguishing the several families by the names of their master, mistress, steward, overseer, or other principal person therein, in manner following, that is to say:

The number of persons within my division, consisting of —— appears in a schedule hereto annexed, subscribed by me this day of —— 179—.

A. B. assistant to the marshal of ——.

Schedule of the Whole Number of Persons within the Division allotted to A. B.

Names of heads of families.

Free white males of sixteen years and upwards, including heads of families.

Free white males under sixteen years.

Free white females, including heads of families.

All other free persons.

Slaves.

SEC. 2. *And be it further enacted,* That every assistant failing to make return, or making a false return of the enumeration to the marshal, within the time by this act limited, shall forfeit the sum of two hundred dollars.

SEC. 3. *And be it further enacted,* That the marshals shall file the several returns aforesaid, with the clerks of their respective district courts, who are hereby directed to receive and carefully preserve the same: And the marshals respectively shall, on or before the first day of September, one thousand seven hundred and ninety-one, transmit to the President of the United States, the aggregate amount of each description of persons within their respective districts. And every marshal failing to file the returns of his assistants, or any of them, with the clerks of their respective district courts, or failing to return the aggregate amount of each description of persons in their respective districts, as the same shall appear from said returns, to the President of the United States, within the time limited by this act, shall, for every such offence, forfeit the sum of eight hundred dollars; all which forfeitures shall be recoverable in the courts of the districts where the offences shall be committed, or in the cirucuit courts to be held within the same, by action of debt, information or indictment; the one half thereof to the use of the United States, and the other half to the informer; but where the prosecution shall be first instituted on behalf of the United States, the whole shall accrue to their use. And for the more effectual discovery of offences, the judges of the several district courts, at their next sessions to be held after the expiration of the time allowed for making the returns of the enumeration hereby directed, to the President of the United States, shall give this act in charge to the grand juries, in their respective courts, and shall cause the returns of the several assistants to be laid before them for their inspection.

SEC. 4. *And be if further enacted,* That every assistant shall receive at the rate of one dollar for every one hundred and fifty persons by him returned, where such persons reside in the country; and where such persons reside in a city, or town, containing more than five thousand persons, such assistant shall receive at the rate of one dollar for every three hundred person; but where, from the dispersed situation of the inhabitants in some divisions, one dollar for every one hundred and fifty persons shall be insufficient, the marshals, with the approbation of the judges of their respective districts, may make such further allowance to the assistants in such divisions as shall be deemed an adequate compensation, provided the same does not exceed one dollar for every fifty persons by them returned. The several marshals shall receive as follows: The marshal of the district of Maine, two hundred dollars; the marshal of the district of New Hampshire, two hundred dollars; the marshal of the district of Massachusetts, three hundred dollars; the marshal of the district of Connecticut, two hundred dollars; the marshal of the district of New York, three hundred dollars; the marshal of the district of New Jersey, two hundred dollars; the marshal of the district of Pennsylvania, three hundred dollars; the marshal of the district of Delaware, one hundred dollars; the marshal of the district of Maryland, three hundred dollars; the marshal of the district of Virginia, five hundred dollars; the marshal of the district of Kentucky, two hundred and fifty dollars; the marshal of the district of North Carolina, three hundred and fifty dollars; the marshal of the district of South Carolina, three hundred dollars; the marshal of the district of Georgia, two hundred and fifty dollars. And to obviate all doubts which may arise respecting the persons to be returned, and the manner of making returns,

SEC. 5. *Be it enacted,* That every person whose usual place of abode shall be in any family on the aforesaid first Monday in August next, shall be returned as of such family; and the name of every person, who

[1]-1AThe acts providing for taking a census of the inhabitants of the United States, subsequent to this act, have been: 1800.—Act of February 28, 1800, chap. 12; act of April 12, 1800, chap. 23. 1810.—Act of March 26, 1810, chap. 17; act of May 1, 1810; act of March 2, 1811, chap. 34; act of March 3, 1811, chap. 44. 1820.—Act of March 14, 1820. 1830.—Act of March 23, 1830, chap. 39. 1840.—Act of March 3, 1839, chap. 79; act of February 26, 1840, chap. 3; act of Jan. 14, 1841, chap. 3; act of September 1, 1841, chap. 15; resolution September 1, 1841.

shall be an inhabitant of any district, but without a settled place of residence, shall be inserted in the column of the aforesaid schedule, which is allotted for the heads of families, in that division where he or she shall be on the said first Monday in August next, and every person occasionally absent at the time of the enumeration, as belonging to that place in which he usually resides in the United States.

SEC. 6. *And be it further enacted,* That each and every person more than sixteen years of age, whether heads of families or not, belonging to any family within any division of a district made or established within the United States, shall be, and hereby is, obliged to render to such assistant of the division, a true account, if required, to the best of his or her knowledge, of all and every person belonging to such family respectively, according to the several descriptions aforesaid, on pain of forfeiting twenty dollars, to be used for and recovered by such assistant, the one half for his own use, and the other half for the use of the United States.

SEC. 7. *And be it further enacted,* That each assistant shall, previous to making his return to the marshal, cause a correct copy, signed by himself, of the schedule, containing the number of inhabitants within his division, to be sent up at two of the most public places within the same, there to remain for the inspection of all concerned; for each of which copies the said assistant shall be entitled to receive two dollars, provided proof of a copy of the schedule having been so set up and suffered to remain, shall be transmitted to the marshal, with the return of the number of persons; and in case any assistant shall fail to make such proof to the marshal, he shall forfeit the compensation by this act allowed him.

APPROVED, March 1, 1790.

EXCEPTIONS

(a) Historical fact. The historical fact of enactment, amendment, or repeal should be cited to the session laws. A parenthetical reference to the current version (*see* rules 12.6.2 and 12.7) may be added:

"Two years later, Congress passed the Voting Rights Act of 1965, Pub. L. No. 89-110, 79 Stat. 437 (codified as amended at 42 U.S.C. §§-1A1971, 1973 to 1973bb-1 (1976))."

(b) Materially different language. If the language in the current code (including its supplement) differs materially from the language in the session laws, and the relevant title has not been enacted into positive law, cite the session laws. A parenthetical reference to the code version, introduced by the phrase "codified with some differences in language at" may be given. If differences in the language merely reflect subsequent amendments, however, cite to the current code.

A current list of federal code titles that have been enacted into positive law appears in the preface to the latest edition or supplement of the United States Code. As of January 5, 1981, the titles so enacted were 1, 3-6, 9-11, 13, 14, 17, 18, 23, 28, 32, 35, 37-39, 44, and subtitle IV of 49. Similarly, state codes should indicate whether the titles contained therein have been enacted into positive law.

(c) Scattered statutes. Cite to the session laws if a statute appears in so many scattered sections or titles that no useful citation to the code is possible. Indicate parenthetically the general location of the codified sections.

Mr. MOYNIHAN. Mr. President, I make a second point. It did not arise to constitutional consequence, but it has consequences for this Nation. It happens that we are a country which has the oldest set of national statistics on Earth. Because we have enumerated the house by means of the census, we have known about ourselves in the most extraordinary detail for two centuries. The census has always been confidential. It has always been absolutely nonpolitical. And it has always been trusted everywhere. Begin to tamper with it for purposes of districting between States and things like that, begin to invite people to tell things that are not so, begin to raise the question of whether this is a census of a kind you might have gotten in the night in totalitarian nations or nations with something to hide, and you squander a legacy of two centuries. You invite the disdain of the economic professions, the social professions, the business community, everybody.

I was once Assistant Secretary of Labor for Policy Planning and Research in the administrations of President Kennedy and President Johnson. We depended utterly on the census to tell us what the unemployment rates were, and to tell us the data on the basic movements of this society. If anybody ever thought we were fiddling with those numbers, a measure of confidence would drain out of this society which you do not get back. I am surprised that the Senate might do it. And I hope it will not.

Mr. President, I thank the chairman of the committee for his valued position.

Mr. SHELBY Mr. President, I yield 5 minutes to the distinguished Republican leader, the Senator from Kansas [Mr. DOLE].

Mr. DOLE. Mr. President, I rise today to express my support for the amendment offered by my distinguished colleague from Alabama, Senator SHELBY, and my colleague, the distinguished colleague from North Carolina, Senator HELMS.

I think we are all familiar with the problem of illegal immigration. We heard a lot about this problem last July when we passed the immigration bill under the able leadership of Senators KENNEDY and SIMPSON. But we do not have to compound the problem. We do not have to compound this problem by mindless lumping of millions of illegal aliens in the 1990 census. We do not have to compound this problem by ripping off the States, some of whom will lose congressional seats because of the inclusion of illegal aliens in the census.

Unfortunately, the established policy of the Census Bureau is to count every person in this country without making a single adjustment for illegal aliens. The Census Bureau intends to continue this policy through 1990.

With all due respect to the Census Bureau and their many fine people who work at the Bureau, this policy simply does not make any sense. It violates the constitutional principle of one man-one vote, and is just plain unfair to most Americans who live here in this country and live here legally. That is what it is all about.

Last July Senator SHELBY and HELMS offered an amendment to the immigration bill that provided a simple and straightforward solution to this problem. The amendment which, if passed by the Senate, requires the Secretary of Commerce to use tabulating procedures that are both feasible and appropriate to ensure that illegal aliens are not counted in the census for purposes of reapportionment. There is a sound solution that would restore some fairness to the census and reapportionment process.

But what happened? The House has not acted on the immigration bill, and time is running out. As the distinguished Senator from Alabama appointed out, if we do not act now, Congress will not have the opportunity to correct the census problem until the year 2000. We cannot afford to wait that long.

So again I want to reaffirm the views I expressed in the Senate last July and commend the Senator from Alabama for his leadership. I hope we can prevail again today. We should. It is the same vote, it is the same issue, it is the same problem. I believe the Senator from Alabama is eminently correct in this situation. I yield.

Mr. BINGAMAN. Mr. President, I yield 3 minutes to the Senator from Illinois.

Mr. SIMON. Mr. President, my colleagues, I am in the unusual position of speaking in behalf of the administration while my friend, Senator DOLE, is speaking on the other side. That does not happen very often.

The Constitution is clear. The argument of my good friend from Alabama is not with PAUL SIMON or the Bureau of the Census. His argument is with James Madison. His argument is with the Constitution. The original Constitution called for the census of the whole number of free persons, and then article 14 came along, and in the second sentence it talks about citizens and the rights of citizens. Then in the third sentence, in amendment number 14, it talks about counting the whole number of persons in each State. Clearly, the 14th amendment makes a distinction.

Then I heard my friend from North Carolina, Senator HELMS, say we would not let illegal aliens vote. As a matter of fact, in our States originally—I am not sure about the newer States like New Mexico—but in Ten-

nessee and Illinois we permitted illegal aliens to vote. We, in Illinois, permitted it until 1848. If you were a man, a male, you could vote. If you were black, Indian, or a female, you could not vote. Now, that is part of our history. It may not be a part of our history that we like, but it is part of our history.

Very clearly, those who wrote the Constitution wanted all people who live here, all inhabitants, to be counted. The question is whether we are going to live up to the spirit of the Constitution, and I hope we will.

Mr. SIMON. Mr. President, I oppose this amendment because it is unconstitutional, unworkable, and unwise.

This amendment directs the Census Bureau to act in an unconstitutional manner by excluding undocumented aliens from the count. The Constitution explicitly directs that apportionment be based on the number of persons, not the number of citizens or legal residents. Where the framers intended to make an exception, they said so explicitly. Thus, Indians were excluded, and slaves were only counted as three-fifths of a person for reapportionment.

We cannot turn persons into nonpersons by senatorial legerdemaine. The Constitution directs the Census to count the number of people. The only way to change that is to amend the Constitution. That is the opinion of a wide variety of scholars who have researched the topic, including the Congressional Research Service, the Census Bureau, the Department of Justice, the Illinois House of Representatives, and the city of Chicago, the ACLU, the American Immigration Lawyers Association, the Organization of Chinese Americans, the Asian Pacific American Legal Center, the Mexican American Legal Defense and Educational Fund, the Southwest Voter Education and Registration Project, and the American Jewish Committee.

Aside from being unconstitutional, this amendment would prove unworkable. The Director of the Census Bureau stated last year that, "We have not found an acceptable method to exclude undocumented immigrants" from the count. Each proposed method presents the possibility of serious error, either by an overcount or an undercount of legal residents.

In addition, determining who is here illegally is sometimes a complicated legal matter. Persons may assert claims of political asylum; they may seek suspension of deportation or adjustment of status; or they may invoke a wide range of other defenses. This amendment would force the Census Bureau to find a way to make these legal determinations. The Census Bureau is not equipped to make those judgments. Indeed, only courts can determine who is here in violation of the law.

The Director also said last year that there was not enough time to implement this change for the 1990 census. Now, a year later, that task would be even more difficult. A task that is already difficult to accomplish accurately is made even more difficult by time pressures.

This proposal is also unwise. It would undermine the accuracy of the count of Hispanics and other minority immigrant communities. Census Bureau employees would be unable to determine if all eligible persons had responded to the questionnaire, since they would be forced to determine whether the persons were undocumented or not. Hispanics are already undercounted at a rate five to six times that of the overall population. Since the census data is also used to redistrict State and local governments and to plan for local social and governmental services, it is important for it to be as complete and accurate as possible.

Some legislators have argued in favor of this amendment by pointing to the potential shift in representation that would result from it. This issue, however, is too important and too politically sensitive to be resolved by our own parochial self-interests as legislators. We must heed the Constitution, rather than the cries of those who would seek political advantage.

Because I believe this amendment is unconstitution, unworkable, and unwise, I will be voting against it. I urge my colleagues to do the same.

I yield back the remainder of my time from the Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I yield 2 minutes to the Senator from California [Senator WILSON].

The PRESIDING OFFICER (Mr. GORE). The Senator from California.

Mr. WILSON. Thank you, Mr. President. Mr. President, not only is the Shelby amendment unconstitutional, it is unfair. It is unfair to those States that have suffered an enormous impact of illegal immigration, massive illegal immigration. Those States, presumably, were taken care of by amendments to the Immigration, Reform and Control Act which foresaw the need to reimburse local governments for the massive new costs that they were experiencing, as they sought to accommodate these new citizens who were to be legalized under that act.

Mr. President, what happened, in fact, is that the so-called SLIAG Program has become a target. For good purposes to be sure, whether to finance the war on drugs or to help the AIDS victims or otherwise, the SLIAG Program has been seen as a pot of money up for grabs, a real grab bag. It was envisioned very clearly as a 7-year program, a program that would not be a reservoir, that would actually be drawn down until the latter years of that 7-year period as, in fact, the legalization occurred.

I must say that the costs to those States that are experiencing this surge in population, be it legal or illegal, has been enormous. In my State, health care alone has been impacted dramatically. The cost of uncompensated care has caused closing of trauma centers, forced closing of some hospitals.

Mr. President, Congress has not delivered upon its promise to those States experiencing this impact. So it is essential that we maintain the status quo in terms of the fairness of the present method of measuring population, because it impacts a great deal more than reapportionment, and that may be the major desire of my friend from Alabama, but it is not the effect. It reaches across the entire gamut of Federal programs, and when it comes time to measure and apply formulae in the law, to assist the States, what we find, of course, is that if we do not count those who are physically present, be they legal or illegal, those States like mine, like Florida, Illinois, New York, and New Mexico, simply are dealt an unfair short share.

So, Mr. President, the Shelby amendment, however well intended, is not only unconstitutional, but unfair, and it should be defeated.

Mr. BINGAMAN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from New Mexico has 1 minute 45 seconds remaining.

Mr. BINGAMAN. Mr. President, I yield 1 minute 30 seconds of that time to the Senator from Florida [Mr. GRAHAM].

Mr. GRAHAM. Thank you. Mr. President. I wish to associate myself with the remarks that have been made by Senator BINGAMAN and the others in opposition to this amendment, and to add this: We are talking about a provision of the United States Constitution that relates to the counting of persons at the time of the census.

There is another provision of the Constitution which I would like to bring to the attention of the Senate, and that is the provision which is contained in article 1, section 8; that portion of the Constitution, which assigns to the Federal Government those responsibilities which had previously been the power of the Thirteen Original Colonies that will now become the exclusive jurisdiction of the new Federal Government under the Constitution.

One of those provisions is that the Federal Government shall have the exclusive power to establish a uniform rule of naturalization. By that delegation of power, the States essentially have said that the Federal Government will have the sole responsibility for the protection of our borders, for the determination of who shall enter,

and for the enforcement of those standards.

What has happened, colleagues, is that that enforcement process has, in many areas, collapsed. In my community, Florida, we have had periods where tens of thousands of illegal aliens entered in a period of weeks.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAHAM. To ask, in conclusion, Mr. President, that these States which have already suffered so much by the dereliction of the Federal Government enforcing its immigration policy should now pay again, by not having these individuals counted is unfairness upon unfairness. Thank you.

The PRESIDING OFFICER. The Senator from New Mexico has 15 seconds remaining. The Senator from Alabama has 5 minutes 20 seconds remaining.

Mr. SHELBY. I yield 1 minute to the distinguished senior Senator from Mississippi [Mr. COCHRAN].

Mr. COCHRAN. Mr. President, I thank the Senator for yielding. Mr. President, when the majority was on this side of the aisle a few years ago, I had the responsibility of chairing the subcommittee that had jurisdiction over the census. We had a hearing on this subject. I introduced a bill similar to the bill introduced by my friend from Alabama. What came out at that hearing was that if illegal aliens had not been counted in determining representation in Congress after the 1980 census, the State of Georgia would have had an additional member of Congress. The State of Indiana would have had an additional member of Congress. Those members would have been taken from New York State and California.

This whole debate, really, is rather amusing, with all the talk about the technical reasons why this ought to be rejected. Do you know what the bottom line is? Illegal aliens ought to be deported. Illegal aliens ought not be entitled to representation in Congress just because it adds dollars to the pockets of some States and some programs in States with a lot of illegal aliens. I sympathize with your problem, but that is not an excuse to reject the Shelby initiative.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SIMPSON. Mr. President, I do wish to offer my comments on Senator SHELBY's amendment to the Commerce, Justice, State appropriations bill which would bar the Census Bureau from counting illegal aliens when apportioning seats in the House of Representatives.

This amendment was accepted on the legal immigration bill earlier this summer, S. 358, after it survived a tabling motion and a constitutional point of order. I did also support the amendment at that time.

The Constitution does say that we should count "persons," not just citizens or legal residents when conducting the census. However, I do not believe that the framers of the Constitution ever conceived of illegal immigration in 1789, nor were the framers of the 14th amendment familiar with such a phenomenom—we just did not have illegal immigration in those days, except of course, in the wretched case of slavery itself.

Should we be counting people whom we do not want to enter? These people cannot vote, yet should we then include them when we apportion seats in the House? I think it really strains all logic to do so.

In addition, no court has conclusively ruled on this point: Most lawsuits have been thrown out for lack of standing or other technical reasons, without the merits of the constitutional issue ever being reached. I think that we should give the courts an opportunity to address this issue conclusively. Until then, however, it seems to me simply an effort in good public policy to limit the number of persons who are counted for apportionment purposes to only citizens or persons otherwise legally admitted to the United States.

Mr. President, I think we should resolve this issue, and that it should be done either on this bill or on S. 358, to which the amendment is also attached. Let us go forward with this amendment, and let the courts make the ultimate decision as swiftly as possible.

Mr. SHELBY. At this time, I wish to ask the Senator from New Mexico, if I have a few minutes and he has a few seconds left, I am willing to yield back my time, and we can move on. The Senator says he is going to move to table my amendment.

Mr. BINGAMAN. I am pleased to yield back my time, and I move to table the amendment at this time.

Mr. SHELBY. I yield my time back.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the motion to table the amendment numbered 900.

Mr. BINGAMAN. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays have been ordered on the motion to table the amendment of the Senator from Alabama.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Arkansas [Mr. BUMPERS], the Senator from Connecticut [Mr. DODD], and the Senator from Hawaii [Mr. MATSUNAGA] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Missouri [Mr. BOND], the Senator from Missouri [Mr. DANFORTH], the Senator from Texas [Mr. GRAMM] and the Senator from Vermont [Mr. JEFFORDS] are necessarily absent.

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 41, nays 50, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—41

Adams	Graham	Mikulski
Bentsen	Hatfield	Mitchell
Biden	Inouye	Moynihan
Bingaman	Johnston	Pell
Breaux	Kennedy	Pryor
Bryan	Kerrey	Reid
Cranston	Kerry	Riegle
D'Amato	Kohl	Rudman
Daschle	Lautenberg	Sarbanes
DeConcini	Leahy	Sasser
Dixon	Lieberman	Simon
Domenici	Mack	Wilson
Glenn	McCain	Wirth
Gore	Metzenbaum	

NAYS—50

Baucus	Gorton	Nickles
Boren	Grassley	Nunn
Boschwitz	Harkin	Packwood
Burdick	Hatch	Pressler
Burns	Heflin	Robb
Byrd	Heinz	Rockefeller
Chafee	Helms	Roth
Coats	Hollings	Sanford
Cochran	Humphrey	Shelby
Cohen	Kassebaum	Simpson
Conrad	Kasten	Specter
Dole	Levin	Stevens
Durenberger	Lott	Symms
Exon	Lugar	Thurmond
Ford	McClure	Wallop
Fowler	McConnell	Warner
Garn	Murkowski	

NOT VOTING—9

Armstrong	Bumpers	Gramm
Bond	Danforth	Jeffords
Bradley	Dodd	Matsunaga

So the motion to lay on the table was rejected.

Mr. SHELBY. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. HEFLIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SHELBY. Mr. President, if there is no further debate on the amendment, I ask for the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 900) was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEFLIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SANFORD. Mr. President, I rise today to discuss the unfortunate economic situation facing Haywood County, NC, and to express my appre-

ciation to the Commerce, State, and Judiciary Appropriations Subcommittee, and particularly to Chairman HOLLINGS, for recognizing the severe dislocation that threatenes this small, North Carolina county.

Haywood County will lose 1,000 jobs due to a landmark decision by the Environmental Protection Agency. The Champion International Corp. mill in Canton, NC will be making massive layoffs in order to comply with water quality standards downstream on the Pigeon River, on which the plant is located. This situation is unique, in that the standards in question—which are for water color, not toxics—are not specific to North Carolina or to EPA, but are standards set by the State of Tennessee. To my knowledge, this is the first time that a community has suffered severe economic disruption in order to meet environmental standards in a neighboring State.

To compound matters, Haywood County will lose 343 additional jobs due to layoffs at Dayco Products, the county's second largest employer. All together, the county stands to lose some 30 percent of its manufacturing jobs and 10 percent of its total employment. The tax base of the county will be impacted severely, and the ripple effect throughout western North Carolina and even eastern Tennessee is expected to cost the region's economy some $150 million a year.

The county workers who will lose their jobs will not easily find work in western North Carolina, particularly skilled jobs paying the type of wages to which they are accustomed. The County has worked to start and attract new businesses, but has found certain essential infrastructure, primarily water and sewer, to be lacking.

The good people of North Carolina, however, have not given up hope. They have banded together as never before to plan for the future. Haywood County leaders have formed a group of business, governmental, and civic leaders to develop an economic adjustment strategy effort [EASE], with expert assistance provided by the State and by the local Economic Development Commission. The group's seven technical committees have worked diligently over the past year to develop recommendations in a broad range of areas and identified the county's most pressing need as infrastructure development.

Along with other members of the North Carolina and Tennessee delegations, I have worked for 2 years to try to find a reasonable compromise on this matter, so that the Pigeon River could be cleaned up without a massive job loss. I think we were all disappointed that such an agreement was not possible, but I find a great deal of hope in this appropriations bill.

The committee has provided report language to the Commerce, State, and Judiciary appropriations bill which recognizes the unique and devastating situation facing Haywood County and urges the Economic Development Administration to address the severe problems facing the community. I am also pleased that the committee substantially increased funding for EDA's title IX program which includes funding for sudden and severe economic dislocation. It is my hope that through these actions Haywood County will receive the priority attention that it deserves from EDA.

HAYWOOD COUNTY, NORTH CAROLINA

Mr. President, I would like to engage the manager of the bill, the distinguished Senator from South Carolina, in a brief colloquy. As I have just described, Haywood County is faced with severe job loss due to the environmental regulations of a neighboring State. It is my understanding that the Economic Development Administration's title IX program for Special Economic Development and Adjustment Assistance is designed to, "meet special needs arising from actual or threatened severe unemployment arising from economic dislocation, including unemployment arising from actions of the Federal Government and from compliance with environmental requirements which remove economic activities from a locality * * * and to encourage cooperative intergovernmental action to prevent or solve economic adjustment problems." Is this the proper interpretation of the statute?

Mr. HOLLINGS. The Senator from North Carolina is correct.

Mr. SANFORD. The economic situation facing Haywood County fits the criteria of the title IX program perfectly. The county will suffer severe unemployment from economic dislocation arising from compliance with environmental requirements. Moreover, Haywood County has worked to form a public-private, intergovernmental strategy effort to combat the economic problems it faces, and EDA can provide substantial assistance in this effort. Do you agree that EDA, and particularly the title IX program, is well-suited to address the problems in Haywood County?

Mr. HOLLINGS. I agree with the Senator from North Carolina.

Mr. SANFORD. Haywood County will suffer this severe dislocation to meet the environmental standards of another State. Because of the interstate aspects of this situation, the need for a Federal role in helping the community to adjust would appear to me to be especially compelling. Would the Senator agree that this is a factor that should be considered?

Mr. HOLLINGS. The Senator from North Carolina is correct.

Mr. SANFORD. Due to the severe nature of the economic dislocation in Haywood County, and the correlation between the problem and the purpose of the EDA title IX program, I hope that EDA will provide priority attention to Haywood County.

Mr. HOLLINGS. I certainly believe that Haywood County deserves careful consideration by EDA.

Mr. SANFORD. I thank my good friend, the distinguished Senator from South Carolina, for his remarks and for his assistance on this matter. I thank the Chair.

NOAA-UNIVERSITY OF MIAMI

Mr. GRAHAM. In fiscal year 1988, a collaborative NOAA-University of Miami project was initiated to focus on critical fish populations in the Southeastern United States. The Southeastern United States Caribbean fisheries investigation project, known as Sefcar, has tracked the viability, migration, and development of fish in the tropical waters of the Southeast United States, Latin American, and the Caribbean regions.

Sefcar is operated by the University of Miami Rosenstiel School of Marine and Atmospheric Studies. The Rosenstiel School has its own fishery, oceangoing research vessels, and land-based remote sensoring satellite capacity. The Rosenstiel School has developed extensive joint research, education and training efforts with both NOAA and the Caribbean regions and is considered uniquely qualified to undertake this sort of research.

Through the generous assistance of the Senator from South Carolina, funding for this project was first provided in fiscal year 1988 and again in fiscal year 1989 under the Ocean and Atmospheric Research account of NOAA. I realize how exceedingly strained the subcommittee's resources are at this time, but I am concerned that there is no funding for the next phases of this project as planned. I do hope that this issue can be reviewed in the conference with the House as this is a very valuable program.

Mr. HOLLINGS. The Senator from Florida is correct that this subcommittee does not have sufficient resources to provide third-phase funding at this time. I will, however, review this issue during the conference. I understand the House supports continued funding. In any case, the subcommittee's recommendation is not intended to prejudice our decision about fiscal year 1991 funding for the project.

Mr. GRAHAM. I am very appreciative for your consideration and assistance on this matter and so many others. I look forward to working with you to ensure the continuation of this valuable project.

1990 CENSUS

Mr. BINGAMAN. I would like to engage the distinguished chairman of the subcommittee in a brief colloquy, if I may. As the chairman knows, during the coming fiscal year the

Bureau of the Census will conduct the 1990 decennial census as mandated by the Constitution. This marks the bicentennial of census taking in the United States. The decennial census is one of the largest single undertakings of the Federal Government. This is also an extremely important undertaking, as census data is used to determine the representation in the U.S. House of Representatives, in State legislatures and in county and municipal governments. Census figures are also used to distribute Federal and State assistance funds to our communities. Thus, a quality count is of great importance.

In this bill, the amount appropriated for the Bureau of the Census is $57.6 million below the requested level for periodic censuses. I am deeply concerned as to whether this level of funding will be adequate to carry out the 1990 census. I wonder if the chairman shares that concern.

Mr. HOLLINGS. I will assure the Senator that I do share his concern and agree with him as to the importance of the 1990 census. However, as the Senator knows, we are in a very difficult budgetary situation and face difficult choices. I can assure the Senator that the subcommittee will be following the situation closely and will review the funding of the Census Bureau in the future if that should become appropriate.

Mr. BINGAMAN. I appreciate the chairman's difficult task in crafting this bill and thank him for his assurances.

On another matter, language in this bill provides funding to the International Trade Administration for "demonstrating new alternatives to providing services domestically and engaging in trade promotion activities abroad." Section 2307 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4726) authorized the Secretary of Commerce to provide assistance to promote the export of American Indian arts and crafts. It has been estimated that existing exports of American Indian arts and crafts could be tripled with modest promotion activities, providing increased economic opportunity for many Native Americans. However, to the best of my knowledge, the Commerce Department has never implemented this section.

I would like to ask the distinguished chairman whether he believes that this program would fall under the bill's definition of new alternatives.

Mr. HOLLINGS. The Senator is correct. I believe that the programs he describes to promote the export of American Indian arts and crafts is aptly characterized as a new alternative and therefore would fall under the language included in this bill. I commend the Senator for his efforts in this area and hope that this program will move forward.

Mr. BINGAMAN. I thank the chairman for his kind words and for his clarification.

NATIONAL JUDICIAL COLLEGE

Mr. BRYAN. Mr. President, if I may engage my distinguished chairman in a colloquy regarding an important institution in my State, the National Judicial College in Reno.

Mr. President, as my colleague from South Carolina knows, the National Judicial College was founded in 1963 by the American Bar Association and Supreme Court Justice Tom Clark, for resident education and training courses for judges of all types from all the States, as well as judges from 112 foreign countries.

Approximately 60 resident courses of 1 to 4 weeks duration are offered throughout the year and extension programs for the States in association with State supreme courts, judicial organizations, and law schools. Tuition paid by the participants provides 40 percent of the National Judicial College's budget. An annual fund drive, with contributions from corporations and individuals, along with indirect costs recovered from Federal training program grants, produces another 30 percent.

The remaining 30 percent needed for operations has come from a number of large foundation grants over the years. Currently, the needs are met by grants from the American Bar Association and the John D. and Catherine T. MacArthur Foundation. Unfortunately, both these funds are diminishing and are scheduled to terminate in 1991. Without a new source of revenue for operations, the National Judicial College will face severe budgetary difficulties in the near future. With donations and an appropriation from the Nevada State Legislature, the National Judicial College will have some funds for operations. However, the National Judicial College, which has served over 18,000 judges nationwide, will still be short $1 million for operations next year.

It has come to my attention, my good friend from South Carolina, that the House Commerce, Justice, State, and Judiciary appropriations bill includes report language that the committee expects the State Justice Institute to give full consideration to an application for grant operations to the National Judicial College.

Mr. President, since this institution performs such a vital national function, especially in the Nation's efforts to curb the spread of illegal drugs in our society, I would like to request that my distinguished chairman agree to work with me during the conference negotiations to allocate $1 million from the State Justice Institute for an operations grant to the National Judicial College. One that would not jeopardize the important training grants already received from the State Justice Institute.

Mr. HOLLINGS. Mr. President, I respond to my good friend from Nevada, that I am aware of the good work performed by the National Judicial College. Many State court judges from South Carolina have received instruction from the college. I will work closely with him when we go to conference and will do all I can to allocate $1 million for an operations grant to the National Judicial College.

IMMIGRATION-RELATED DISCRIMINATION FUNDING

Mr. KENNEDY. Mr. President, if I may address the managers of the bill.

As the managers know, the Senator from Wyoming and I intended to offer an amendment to earmark $3 million for a much-needed public education campaign to prevent immigration-related discrimination.

Unfortunately, due to the fact that we are up to the budget agreement levels already under this bill, this amendment is not possible at this time.

It is still my hope that the Attorney General can come up with the needed funding. But Senator SIMPSON and I wrote to the Attorney General about this in May, and to date that funding has not been made available.

I know the managers of the bill appreciate our goal. And I would like to ask the managers if they will make their best efforts to locate funding in conference of at least $1 million for this purpose, preferably for use by the Justice Department's Office of Special Counsel for immigration-related discrimination.

Mr. SIMPSON. If the Senator will yield, I too wish to join in the request to the managers.

I believe that preventive medicine is the best medicine, and we have before us the appropriate opportunity to ensure that U.S. employers are aware of the rules regarding employer sanctions and antidiscrimination.

I would respectfully request that the Senate managers of the bill use their best efforts in conference to locate $1 million for the Office of the Special Counsel for Immigration Related Unfair Employment Practices.

Mr. HOLLINGS. Our committee report urges the Attorney General to come up with the funding and I assure the chairman and ranking members of the Subcommittee on Immigration and Refugee Affairs of my commitment to try to obtain the necessary funding in conference.

Mr. RUDMAN. I also wish to assure the Senator from Massachusetts and the Senator from Wyoming of my best efforts in conference to pursue the needed funds.

Mr. KENNEDY. Mr. President, by way of background on this subject, let me say that when Congress passed the

Immigration Reform and Control Act of 1986, under the leadership of its chief sponsor Senator SIMPSON, it made it unlawful in this country to discriminate against persons based on their legal immigration status.

This new basis for discrimination complaints was a response to the potential for a new form of discrimination emerging from the employer sanctions established by the 1986 act. We were presented with the real prospect that certain employers, not wanting to risk the new fines, would turn away "foreign-looking" or "foreign-sounding" job applicants—even though such applicants may in fact be American citizens or legal residents.

We made such actions illegal and we established a special counsel within the Justice Department to handle these particular discrimination complaints.

Mr. President, the Office of the Special Counsel is now up and running and has succeeded in settling or litigating a large number of the complaints it has received.

But a crucial mission which that office has sought to perform has never been funded. And that mission is to broadly inform employers of their new obligations under the law and workers of their right to pursue these new discrimination claims.

For the past 2 years, the Justice Department has requested funding for public education in this area, but we have never seen fit to provide it. So the Office of Special Counsel and the Immigration and Naturalization have commendably pieced together a patchwork program of public education out of the few resources they could muster.

This neglect to provide the needed funding is beginning to show. The General Accounting Office presented Congress last November with the results of its study of employer compliance with the new law. GAO found widespread ignorance or misunderstanding. For example, one of every six employers in GAO's survey indicated that since passage of the 1986 act they had begun either requiring only foreign-looking persons for work authorization documents or hiring U.S. citizens only—actions which violate the 1986 act.

And other reports, such as from the New York State Inter-Agency Task Force on Immigration Affairs, confirm the GAO finding.

Mr. President, our amendment sought to offer the Office of Special Counsel with $3 million to conduct the public education campaign that is needed to avert this discrimination. But I will not be offering it to this bill.

Mr. President, I ask unanimous consent that our correspondence on this subject be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 11, 1989.

Hon. RICHARD L. THORNBURGH,
Attorney General, Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL: In less than a year, Congress will be reviewing the effects of the employer sanctions program established by the Immigration Reform and Control Act of 1986. One of the key issues to be examined is whether the implementation of sanctions has created new employment discrimination.

At this point, while we have not witnessed a widespread pattern of discrimination, the verdict is still out on the extent to which discrimination may or may not be occurring. The General Accounting Office last year found one in six employers surveyed reported that they engaged in potentially discriminatory practices in violation of the law, such as asking only "foreign-looking" applicants to verify their work authorization or hiring only U.S. citizens.

The recent GAO finding, along with the upcoming deadline for Congressional debate, suggest the need to devote more resources and attention to public education. The Department of Justice has recognized the importance of public education, and, over the past two years, has requested additional funds for the Office of Special Counsel for that purpose—a request which Congress failed to fulfill.

We are prepared to work with you toward that end and urge you to consider in particular:

Providing additional resources through the Office of Special Counsel. Public education is that office's best tool for preventing discrimination, and it has been provided no funds to do it (from either Congress or the Executive Branch) other than a small amount from the Immigration Service.

Strengthening inter-agency cooperation (including INS, EEOC, Department of Labor, and other relevant federal agencies).

Promoting public education efforts regarding the anti-discrimination provisions of the Immigration Reform and Control Act at the state and local levels.

Issuing a policy statement from your office on the employer sanctions provisions of the new immigration law—both on the need to ensure that all new hire are eligible to work in the U.S. and on complying with the anti-discrimination provisions of the 1986 law.

We appreciate your consideration of this matter, and would be grateful for any further suggestions you might have regarding cost-effective ways to enhance public awareness of the new law.

Best wishes.

Sincerely,

ALAN K. SIMPSON,
Ranking Member.
EDWARD M. KENNEDY,
Chairman, Subcommittee on Immigration and Refugee Affairs.

WASHINGTON, DC,
December 8, 1988.

Hon. RICHARD L. THORNBURGH,
U.S. Attorney General, Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL: We are writing to you with some urgency regarding the Department of Justice's enforcement of the employer sanctions and anti-discrimination provisions of the Immigration Reform and Control Act of 1986 (IRCA).

We are writing to you in your supervisory capacity as Director of the Immigration and Naturalization Service and the Office of Special Counsel, both of which are given significant enforcement responsibilities for the employer sanctions component and anti-discrimination provisions of IRCA.

Our concern is prompted by the release of a recent General Accounting Office study on sanctions enforcement, "IMMIGRATION REFORM: Status of Implementing Employer Sanctions After Second Year".

GAO REPORT

As you are aware, IRCA requires the GAO to review annually for three years the implementation and enforcement of employer sanctions for the purpose of determining if such provisions, among other things, have caused a pattern of discrimination against U.S. citizens or other eligible workers. In the second annual report the GAO found that:

Of the estimated 4.2 million employers in the survey population, 22% were not aware of IRCA's sanctions provisions. For those aware of the law, as many as 20% did not clearly understand its major provisions;

Of the 3.3 million employers who had heard of IRCA, one of six, or as many as 528,000 had begun or increased the practice of (1) asking only "foreign looking" persons for work authorization documents, or (2) hiring only U.S. citizens; 248,000 (or 15%) of those surveyed were unclear about the penalties for employers who discriminate;

Of 81 state and local agencies that enforce antidiscrimination laws, 19 are generally unfamiliar with IRCA's antidiscrimination provisions and 44 had not received information about the Office of Special Counsel's forms used in filing a charge;

As of September 19, 1988, the Office of Special Counsel had received 59% more complaints of discrimination than it had initially anticipated;

According to the Office of Special Counsel, its FY 1989 operating budget is 12% lower than that of the previous year, and does not provide adequate staffing for the anticipated workload.

The evidence found by the GAO confirms previously reported incidents of discrimination by the Chicago Commission on Human Relations, the State of Illinois, the New York State Assembly Task Force, the New York Governor's Task Force, and other public and private agencies.

Despite the above evidence, the GAO report asserts that there is no pattern of discrimination caused by employer sanctions. We choose to dispute that conclusion for several substantive reasons. The most significant of these is the finding that one in six employers surveyed has acknowledged discriminatory hiring practices. The GAO's claim that there is no pattern of discrimination is based largely on the fact that Congress failed to provide the GAO with a definition of what constitutes such a pattern for purposes of their three annual reports.

The survey shows that employers are indeed engaging in discriminatory practices on a substantial scale. Furthermore, the GAO found that levels of unfair hiring practices were related directly to employers' knowledge of IRCA's verification requirements. In other words, the businesses that did not fully understand IRCA were the same ones most likely to discriminate. Since

20% of all employers surveyed did not understand the major provisions of IRCA, it is reasonable to infer that the actual level of discrimination is likely to be even greater than the already alarming levels indicated in the GAO report.

Moreover, in spite of Congress' attempt to enact a meaningful antidiscrimination provision, it is now evident that significant loopholes remain. For example, IRCA's citizenship status protections apply only to those aliens who qualify as "intending citizens." This is a narrowly defined category under IRCA that only extends to legal permanent residents, political refugees, asylees, and certain persons who obtained legalization under the amnesty program. Many persons are left unprotected, including those who obtained legal status under the Special Agricultural Worker program.

Congress clearly intended these people to become members of U.S. society. It is therefore unacceptable that they not be covered by IRCA's protections against discrimination. Because this group and others are not protected by the citizenship status antidiscrimination provisions, the methodology employed by the GAO will underreport the extent to which they will suffer unlawful discrimination.

We should emphasize that, in our belief, the full discriminatory impact of employer sanctions has yet to be realized. This is so simply because employer sanctions went fully into effect only recently (June, 1988) and for agricultural employers only in December 1988. Until that time, employers in violation of the sanctions law were subject to a citation—not a fine—only if they had first been visited by a representative of the INS who explained the law to them.

RECOMMENDATIONS

In light of the GAO's findings, we recommend the following courses of action:

A supplemental request for additional appropriations for the Office of Special Counsel. These funds should be used for the following purposes:

Additional attorney personnel as well as for the establishment of regional offices of the Office of Special Counsel to assist in outreach and processing of claims made by victims of discrimination. To maximize scarce resources, OSC should establish a presence within EEOC offices.

The development of a comprehensive public education campaign on the antidiscrimination provisions of IRCA. The GAO report suggests that the Special Counsel be directed to develop, in conjunction with other federal agencies including EEOC, INS, and DOL, a coordinated strategy to educate the public about IRCA's antidiscrimination provisions, as well as an implementation plan and budget proposal for the federal budget process.

In addition, the report indicates that a more coordinated federal effort would make employers less likely to engage in unfair employment practices. Clearly, a public information effort aimed at both employers and the potential victims of discrimination is vital to the prevention of unfair employment practices.

Support for legislation to amend and expand the coverage of the antidiscrimination provisions of IRCA to include Special Agricultural Workers.

In conjunction with the development of a comprehensive public education campaign, we strongly suggest a return to the citation and education phase of employer sanctions/antidiscrimination implementation.

As you will recall, the INS devoted several months of its first year of implementation to a public education campaign on the use of the I-9 employment verification form. Since there is substantial evidence that employers are not yet adequately informed of their responsibility not to discriminate, more public education is obviously needed.

The effective implementation of such a public education campaign calls for a moratorium on the enforcement of civil and criminal penalties under employer sanctions, as well as the record-keeping requirements of the sanctions provisions. Failure to implement such a moratorium would only guarantee the perpetuation of immigration-related employment discrimination in a manner prohibited by Section 274B of the Immigration and Nationality Act and other federal laws, including Title VII of the 1964 Civil Rights Act.

CONCLUSIONS

There is now little doubt that employer sanctions are causing alarmingly high levels of employment discrimination. It is also clear that such discrimination will not be eliminated or reduced substantially simply through the continuation of current policies and practices. We believe strongly that all persons should be protected from unlawful discrimination in the workplace. Continuation of policies and practices, which both stimulate unlawful discrimination and fail to adequately address such discrimination, is intolerable in a pluralistic society committed to the goal of equal opportunity.

For the foregoing reasons, we respectfully urge your immediate attention to the urgent matter of discrimination under IRCA. We would welcome the opportunity to meet with you, at your convenience, to discuss these concerns more fully.

Sincerely,

American Civil Liberties Union,

American Council for Nationalities Service,

League of United Latin American Citizens,

Lutheran Immigration & Refugee Services,

Mexican American Legal Defense and Educational Fund,

National Council of La Raza, and

United States Catholic Conference.

DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, DC, January 19, 1989.

Mr. CHARLES KAMASAKI,
Ms. CECILIA MUNOZ,
National Council of La Raza, Washington, DC

DEAR MR. KAMASAKI AND MS. MUNOZ: Thank you for your letter of December 8, 1988 to the Attorney General. He has asked us to respond in his behalf. All of us share your concerns about the anti-discrimination provisions of the Immigration Reform and Control Act (IRCA) of 1986: enforcement of employer sanctions need not and must not lead to discrimination against anyone authorized to work in this country.

The findings of the Second Annual General Accounting Office (GAO) Report that there is no widespread pattern of discrimination will not lead the United States government to lessen its efforts in this area. Our policy is not to argue over what threshold constitutes a widespread pattern of discrimination but to flatly state that one case of discrimination is one case too many.

It is our belief that continued and increased education of employers, employees, and the general public is the best bulwark against discrimination. Long before the GAO Report, the Department was addressing that need.

The Immigration and Naturalization Service (INS) and the Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) have undertaken a number of measures to get the word out. Together we produced a pamphlet entitled "Immigration Reform and Control Act (IRCA) of 1986: Your Job and Your Rights." Over 1,400,000 copies of this easy to read, informative brochure have been distributed, and an additional printing of one million copies is in the works. A Spanish Language version is also being produced. The OSC provides a copy to every alien who files a "Declaration of Intending Citizen" (INS Form I-772). The INS plans to distribute this brochure to every alien who is granted permanent resident status, granted asylum, or admitted as a refugee. In addition, they will be made available to all immigrants at U.S. ports of entry. Our goal is to make the brochure available to every alien eligible for protection from citizenship status discrimination.

Both the INS and OSC have enlisted the aid of other governmental entities with responsibilities under IRCA such as the Equal Employment Opportunity Commission and the Department of Labor to help distribute "Your Job and Your Rights". Hundreds of public interest organizations (including your own) have also been given supplies of the brochure.

The INS has reached out to Task Forces such as those in New York State and public interest studies such as The Program for Research on Immigration Policy of the Rand Corporation and The Urban Institute. It is our desire to contribute to a better understanding of potential discrimination issues. We appreciate the work of such groups, and we seek participation in their efforts.

The mass media has been used to convey our message. The INS and the OSC produced radio and television public interest spots featuring Jimmy Smits, who plays the lawyer "Fuentes" on the "L.A. Law" television series. Mr. Smits, by the way, donated his time and labor. These spots, which ran on radio and television stations all across the country, urged viewers who believe that they might be victims of discrimination to call the OSC's toll free number. They were broadcast in English and Spanish. The OSC was flooded with calls after they ran. Because of the success of this effort, a second public service announcement with another entertainment star is planned.

The INS and OSC have recently introduced an educational handout for employers, which will be distributed by the INS and the Department of Labor during educational visits and I-9 inspections. The OSC's toll free 800 number has been included in INS education materials concerning I-9 requirements, such as posters and handbooks.

The INS has instituted a service-wide program to educate its staff on IRCA's anti-discrimination requirements; this program includes videotape presentations and related educational materials.

The OSC has conducted a series of mass mailings to state and local human rights agencies, qualified designated entities, unions, legal aid offices, and public interest groups, providing them with information about IRCA's anti-discrimination prohibitions and forms for filing charges with the Office.

The OSC has worked to make the charge filing process as simple as possible. When it found there was confusion over whether to file charges with the EEOC or the OSC, an agreement was developed between those two offices, under which each serves as the other's agent for receiving charges. This agency relationship eliminates the danger of loss of rights by deserving charging parties who file with the wrong office and miss the filing deadlines.

We also found there was confusion over whether to file the Declaration of Intending Citizen form with the INS or with the OSC. Again, we acted to simplify the process. Under an agency agreement between the INS and OSC, it is now permissible to file the Declaration with either.

We believe it is important to point out that most of these educational efforts were carried out after the GAO had distributed its survey questionnaire, in November 1987. Is is certainly reasonable to expect that the results would be different if the survey were conducted today.

With regard to employer sanctions, it would not be appropriate to return to the citation phase in light of the current legislation; however, you may be assured by the continued balanced approach to sanctions in which education will continue to be an integral part. Note that INS offices do exercise discretion and still often issue a warning before issuing a fine, particularly if a prior educational visit had not taken place.

Nevertheless, we all agree that even more needs to be done. This will be an opportune time to invite your suggestions on how to better educate employers and the general public on the anti-discrimination message and to insure that all incidents of discrimination reach the proper forum.

Both of us look forward to the meeting scheduled with you and your colleagues on January 26, 1989 to explore how to improve our education efforts and to discuss other IRCA related matters of mutual interest.

We appreciate your interest in this matter and trust this response demonstrates our commitment to eliminating employment discrimination.

Sincerely,

ALAN C. NELSON,
Commissioner, Immigration and Naturalization Service.

LAWRENCE J. SISKIND,
Special Counsel, Office of Special Counsel, Department of Justice.

WASHINGTON, DC, *February 6, 1989.*

Hon. RICHARD L. THORNBURGH,
U.S. Attorney General, Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL: Thank you for your assistance in arranging a meeting with representatives of the Department of Justice and other federal agencies to discuss enforcement of the antidiscrimination provision of the Immigration Reform and Control Act of 1986 (IRCA).

On January 26, 1989, representatives of our respective organizations met with Alan C. Nelson, Commissioner, Immigration and Naturalization Service; Lawrence J. Siskind, Special Counsel, Office of Special Counsel; John R. Schroeder, Assistant Commissioner of the INS, Employer and Labor Relations; and representatives from the Equal Employment Opportunity Commission, the Department of Labor, and the General Accounting Office. The meeting was a very useful beginning in what we hope will be an ongoing cooperative effort to address problems of employment discrimination under IRCA.

As you know, the meeting was the outgrowth of an exchange of correspondence between us concerning the findings of the Second Annual Report (November 1988) from the General Accounting Office of the enforcement of employer sanctions and the related problem of employment discrimination. You will recall that the GAO had found, among other things, that of the 3.3 million employers in this country who had heard of IRCA, one in six, or as many as 528,000 had begun or increased the practice of (1) asking only "foreign looking" persons for work authorization documents, or (2) hiring only U.S. citizens; 248,000 (or 15%) of those surveyed were unclear about the penalties for employers who discriminate.

We are pleased that you share our concerns about employment discrimination and the enforcement of the antidiscrimination provisions of IRCA. As Commissioner Nelson and Special Counsel Siskind indicated in their letter to us dated January 19, 1989, we agree that there is no need to dispute that threshold of discrimination constitutes a "widespread pattern of discrimination", and that even a single case of discrimination is intolerable. The results of the GAO report clearly indicate to us that discrimination is occurring on a massive scale. We continue to feel strongly that immediate steps must be taken to alleviate this very serious problem.

The Nelson-Siskind letter was particularly helpful in setting out activities already undertaken by the INS as part of its public education activities in the area of employer sanctions enforcement. As we understand it, Assistant Commissioner Schroeder and his staff have also designed an additional public education campaign focusing on the antidiscrimination provisions of IRCA. We look forward to our continued work with Mr. Schroeder in the development of a meaningful public education campaign. However, we also believe that additional initiatives are needed.

RECOMMENDATIONS

At the conclusion of the meeting, we offered several recommendations which are designed to complement the outreach activities which are currently underway:

Attorney General's Policy Statement Opposing Employment Discrimination.—We urge the Attorney General to issue a policy statement on behalf of DOJ that deplores employment discrimination in all of its forms. The statement should focus particular concern on recent reports of discrimination against individuals authorized to work in the United States, which some attribute to employer sanctions. The purpose of the statement is to raise public consciousness about IRCA-related employment discrimination. Employers should be as concerned about violating antidiscrimination prohibitions under IRCA as they are with complying with employer sanctions. We urge the Department of Justice to state explicitly that it places equal importance on the enforcement of both elements of the law;

Regional Offices for the Office of Special Counsel.—We urge the Office of Special Counsel to establish regional offices in areas with high concentrations of immigrants. At a minimum, this would mean opening offices in Chicago, Dallas, Los Angeles, Miami and New York City, locations identified by the GAO report as "high alien popualtion cities." This would increase the visibility of the OSC to potential victims of discrimination, and should facilitate the filing of discrimination claims under IRCA;

Special Counsel Task Force on Public Education.—We recommend that the Attorney General direct the Special Counsel to develop a task force in conjunction with other federal agencies, including EEOC, INS, and DOL. The goal of such a task force would be to develop a coordinated strategy to educate the public about IRCA's antidiscrimination provision and develop a plan for carrying out the strategy, including a budget. OSC should submit this information to the Director of OMB for consideration during the federal budget process because no specific appropriation exists for education and more than one federal agency is involved. This is in accordance with a principal recommendation made by the General Accounting Office in its Second Annual Report.

In addition, we believe that the responsibility of such a task force should include the implementation of a public education campaign containing the following elements:

The continued use of public service announcements which feature media personalities; according to the INS and the OSC, one such announcement has already proven to be effective in informing the public about national origin and citizenship status discrimination; and

The development of a media campaign focused on ethnic media in cooperation with local community-based organizations. This campaign should follow the model used in the final phase of the outreach campaign implemented by the INS and community agencies for the closing months of the legalization program;

Legal Services Corporation Representation for Newly Legalized Persons.—We urge the Department of Justice to support the provision of Legal Services Corporation representation to newly legalized persons. As you know, the Legal Services Corporation has proposed restricting such services for a period of 5 years. We believe that this proposal is unconscionable; it would deny persons particularly vulnerable to discrimination access to a means of legal redress.

We appreciate your concern and attention to this critical matter, and we respectfully request your consideration of these recommendations. Our organizations are eager to assist in resolving problems associated with IRCA-related employment discrimination. Thank you for your consideration of these views.

Sincerely,

American Civil Liberties Union; American Council for Nationalities Service; League of United Latin American Citizens; Lutheran Immigration and Refugee Services; Mexican American Legal Defense and Educational Fund; National Council of La Raza; United States Catholic Conference

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U.S. DEPARTMENT OF JUSTICE, SPECIAL COUNSEL FOR IMMIGRATION RELATED UNFAIR EMPLOYMENT PRACTICES,
Washington, DC, April 4, 1989.

CHARLES KAMASAKI,
National Council of La Raza, Washington, DC.

DEAR MR. KAMASAKI: This responds to your February 6, 1989 letter to the Attorney General. He referred it to this Office for response.

Your letter offers a number of recommendations designed to complement the outreach activities currently underway. The Department has already taken actions effecting many of them.

You urge that the Attorney General issue a statement deploring employment discrimination. The Attorney General has gone on record many times deploring discrimination of every kind, and pledging vigorous enforcement of the statutes designed to prevent it. He believes that actions are a better way to combat IRCA-related discrimination than words.

For that reason, the Attorney General has recently endorsed one of your other recommendations. On March 23, 1989, he directed me to chair a task force of Federal agencies to conduct a concerted public education campaign. He has requested that the Immigration and Naturalization Service, the Equal Employment Opportunity Commission, the Department of Labor, and the Small Business Administration participate. He has directed me to report directly to him on the task force's progress.

The Attorney General believes that the best way to eradicate discrimination is to educate employees so that they know their rights and how to protect them, and to educate employers so that they don't discriminate in the first place. The task force will be the Government's vehicle for implementing a coordinated and sustained educational effort. We will rely on mass media advertising, as well as more specialized outreach activities. We will also work closely with private organizations, such as yours, to communicate our message to the public. Please consider this letter an invitation to you to share your thoughts on how we can best publicize our message.

You recommended that the Office of Special Counsel establish regional offices. In the current budget climate, I do not think the idea will fly. Instead, the Department has sought practical alternatives which allow us to take advantage of existing government facilities. For example, pursuant to an agreement between OSC and EEOC, it is possible to file IRCA discrimination charges with any EEOC field office. We are entering into similar arrangements with State and local fair employment practices agencies. These arrangements also call for information sharing. In addition, INS has instituted procedures to ensure that any discrimination charges received by it are forwarded to OSC within 24 hours. Finally, the Department of Labor has established a procedure for informing OSC of potential discrimination discovered during its audits. The net effect of all these measures is to project an OSC presence in cities all over the country.

Finally, you urge that the Legal Services Corporation be allowed to fund legal representation for newly legalized persons. As you know, there are regulations pending that would prohibit this. The Attorney General has not yet reached a conclusion on whether these regulations should issue. I can assure you that he has been made aware of the many powerful arguments that support your position on this issue. I hope to be able to report to you on his final decision in the very near future.

I look forward to continuing our dialogue. Please continue to bring your concerns and recommendations to the attention of the Department and this Office. We may occasionally differ on tactics but we are one on the basic goal: to counter IRCA-related discrimination without pause or respite.

Sincerely,

LAWRENCE J. SISKIND,
Special Counsel.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,

Washington, DC, February 16, 1989.

Mr. ALAN C. NELSON,
Commissioner, U.S. Immigration and Naturalization Service, Washington, DC.

Mr. LAWRENCE J. SISKIND,
Special Counsel, Office of the Special Counsel, U.S. Department of Justice, Washington, DC

Dear MESSRS. NELSON AND SISKIND: The purpose of this letter is to urge the Government both to expand its education and enforcement efforts with respect to IRCA's discrimination prohibitions and to focus those efforts where recent studies show that education is most needed.

It is a critical first step in this regard that potential job applicants understand their rights and obligations. We therefore continue to believe that a presence by the Office of Special Counsel around the country is essential to that end. (In saying this, we do not mean to imply that new and separate offices must be established in every instance or to preclude taking advantage of current Justice Department and INS facilities.) We would be pleased to work with you and your staff people in designing the least expensive ways of achieving this end.

Equally to the point the Government has an urgent obligation to begin a major education effort targeted at those parts of the employer community where the evidence suggests it is most needed. This means both geographical targeting and a focus upon smaller employers. This is not the occasion to detail our thoughts on how such a program might operate; suffice it to say that, again, we are willing and anxious to work with you and your staff people.

The AFL-CIO is, and I believe you know, committed to ensuring that IRCA's employer sanctions provisions do not produce discrimination against persons who are legally authorized to work in the United States. It was out of this concern that, during consideration of the bills that became the 1986 Act, we urged Congress to adopt provisions prohibiting such discrimination and then endorsed the Frank provisions that were enacted.

Against this backgound, we are deeply concerned by the recent GAO study showing that numbers of employers do not understand what the sanctions provisions require and what the Frank provisions bar, and that, consequently, some employers are not conforming with the law. We likewise find it unacceptable that, as the State of New York Inter-Agency Task Force reports, there are employers in the New York City area who refuse to accept job applicants' valid evidence of authority to work. These data, and others that have been reported, impose an obligation to increase the efforts to bring about genuine understanding of, and compliance with, IRCA.

It is out of that sense of obligation that the AFL-CIO offers the suggestions set out in this letter. And it is in the same spirit that we urge the new Administration to seek funds committed to the program we discuss above. The labor movement, you have my assurance, would actively support such a request and would work in Congress for the necessary appropriation.

Sincerely,

LANE KIRKLAND,
President.

LEADERSHIP CONFERENCE ON CIVIL RIGHTS,

Washington, DC, March 9, 1989.

Hon. RICHARD L. THORNBURGH,
U.S. Attorney General, Department of Justice, Washington, DC.

Dear MR. ATTORNEY GENERAL: We appreciate the willingness you expressed to the Executive Committee of the Leadership Conference on Civil Rights when we met with you some weeks ago, to continue a dialogue with the civil rights community. We write now to pursue one of the subjects that was raised at that meeting, namely, enforcement of the anti-discrimination provisions of the 1986 Immigration Reform and Control Act (IRCA).

Shortly after enactment of IRCA, the Leadership Conference, which had taken no position on the legislation but which, of course, regularly monitors enforcement of federal civil rights statutes, established an Ad Hoc Task Force to monitor enforcement of the new law's anti-discrimination provisions. That Task Force has now reported to the Executive Committee on recent developments including the November, 1988, findings of the General Accounting Office. As reported by the GAO and others looking at these matters, there is today both ignorance and misunderstanding of IRCA's requirements and alarming employer discrimination against those who look or sound "foreign". Thus, GAO tells us that:

"Since November 1986 an estimated 528,000, or 16 percent, of the 3.3 million employers who were aware of the law reported beginning or increasing policies or practices that may not be permitted under the law."

The Executive Committee believes that substantial and focused new Executive Branch effort must now be directed to clarifying public understanding and to effective prevention of such discrimination. We are aware of the efforts heretofore by the office of Special Counsel and by the INS, and likewise aware of the present budget constraints. Nonetheless, such discrimination is intolerable (as we are sure you agree). The Justice Department, as the enforcement agency for the relevant IRCA provisions, is the appropriate agency to take the least in the additional activities that are so clearly needed.

To that end, we urge the following actions, which we know have already been recommended to you by others:

1. That the Attorney General issue a policy statement on IRCA-related discrimination. We recommend that the statement deplore such discrimination, point out its illegality, commit the INS as well as the Office of Special Counsel (OSC) to enforcement of the legal prohibitions, and emphasize that enforcing the anti-discrimination provisions is as important as enforcing employer sanctions. Such a statement could go far to improve general public awareness of the IRCA prohibition, and to improve employer appreciation of the behavior the Government will insist upon.

2. That the OSC establish a physical presence in areas with high concentrations of immigrants, i.e., Chicago, Dallas, Los Angeles, Miami and New York City. The LCR has long urged that such a presence is essential if the discrimination provisions of IRCA are to be made meaningful, and we believe that the 1988 GAO Report now puts the matter beyond debate. Such a presence need not entail free-standing new government offices, but could build upon and work within existing federal offices such as those of the EEOC, the Department of Labor, the

Social Security Administration and others. The critical ingredient is the presence of OSC personnel who can speak and educate within the community and provide an accessible and welcoming place for the receipt of discrimination charges and the provision of advice and assistance.

3. That the Attorney General support the provision of Legal Services Corporation representation to persons newly-legalized under IRCA. Both the Department of Justice and the Legal Services Corporation (LSC) have proposed regulations that would include legal services as one of the federal financial assistance programs from which newly legalized residents are barred for a period of five years. Many LCCR member organizations have maintained in comments on the proposed regulations that legal services do not constitute a form of "financial assistance" that Congress intended to restrict. It is our additional concern that denying these residents access to LSC services would mean denying a means of legal redress to the group most vulnerable to the threat of discrimination under IRCA. Many of those subject to this sort of discrimination would be eligible for and in need of the kinds of services that LSC-funded organizations provide. An Executive Branch effort to curtail the discrimination that is occurring under IRCA must include support and encouragement for institutions that assist the victims of unfair hiring practices in filing charges.

4. That the Special Counsel take the initiative in setting up an Executive Branch task force of all relevant federal agencies (EEOC, INS, DOL) to develop and launch immediately a strategy for the public education that is needed in this area. The Department of Justice should seek the funds necessary to implement fully this public education campaign.

The elements of a public education campaign of the kind we think the evidence shows is required include: education of the public generally as to the national origin and citizenship status discrimination that is made illegal by IRCA; education of the population that is at risk as to what it cannot legally be subjected to and what, where and how redress is available; and education of employers on just what it is that IRCA requires and, equally important, what it forbids them to do. The first element is directed to the populace generally, the second to those who are immigrants or who have characteristics of appearance or speech that may be taken as making them "foreign", and the third to that part of the employer community that is the most likely to hire persons in the second category and most likely to discriminate against some among them. The EEOC would seem particularly qualified to address this last element.

We thank you for your attention to this important issue and for your consideration of our suggestions. We stand ready, of course, to do anything that we can to assist the Government's efforts to combat and prevent discrimination related to the 1986 Immigration Reform and Control Act.

Very truly yours,

BENJAMIN L. HOOKS,
Chairperson.

RALPH G. NEAS,
Executive Director.

LAUREL, MD, ELECTRONIC EMISSIONS TEST LABORATORY

Mr. HATFIELD. I would like to inquire of the distinguished chairman whether my understanding is correct that, in appropriating in this bill the full amount requested by the administration for the operation and facilities of the Federal Communications Commission, that request includes no funds designated for upgrading of the Commission's Laurel, MD, Electronic Emissions Test Laboratory.

Mr. HOLLINGS. The Senator is correct.

Mr. HATFIELD. Mr. President, I am concerned about lack of adequate resources for this facility, because its services are vital to the continued progress and marketing competitiveness of the U.S. electronics industry. Especially at this critical juncture when industry is about to move into major new technologies and products, such as high definition visual systems and advanced communications based on fiber optics, we can ill-afford Government testing facilities that are slow and antiquated.

Before any new electronic products can be marketed in the United States, they must be tested and approved by the FCC at the Laurel Lab to assure that they emit only a minimum of radio signals which could interfere with airborne communications. Without the FCC stamp of approval for such emissions, no computer or other electronic device can enter the stream of U.S. commerce.

Important as that test process is, however, and as rapidly as the electronics sector is increasing in technological sophistication, the FCC laboratory which must test this flood of products has not been reequipped for decades. Much of the equipment in the lab dates from the early 1970's, and some from the 1940's. Far from being "state-of-the-art" to match the equipment it must analyze, the lab's equipment is limited and antiquated. As a result, tests that would take a modern private testing laboratory a few hours to perform can take weeks at Laurel.

Mr. President, FCC officials have contingency plans for replacing their antiquated equipment, and estimate that it would cost between $1.5 and $5 million, depending upon the level of capability to be achieved. The reason that amount of money is required now is that very little has been reinvested in the equipment over the past decade or more. Even when the FCC budget, as approved by OMB and the administration, has included some funds for equipment, those funds have often been diverted to other priorities and purposes. As I have noted, although we are appropriating the full amount for the FCC requested by the administration for 1990, there are no funds for this purpose included in the administration request.

Mr. President, I believe the Committee on Appropriations, and the relevant authorizing committees of the Congress ought to take a closer look at the situation at the Laurel Laboratory, and its trade and regulatory implications for the electronics industry, perhaps culminating in a hearing, with an eye toward earmarking funds in fiscal year 1991. In the meantime, during the coming fiscal year 1990, it would be this Senator's hope and expectation that the FCC would allocate some of its discretionary funds within the total budget provided in this bill to begin to remedy the laboratory's equipment and other problems, which, as I've indicated, are otherwise likely to be worse as the burden of new electronic products to be tested continues to expand. I'm told that certain basic equipment could be replaced and automated for as little as $150,000, which would have a significant immediate benefit. I would think that the Commission could find at least that much in its fiscal year 1990 budget to devote to urgently needed laboratory equipment without inhibiting the Commission's ability to perform its other functions and services. I would urge the Commission to do just that, and I would ask the chairman if he concurs and could join with me in looking further at this matter as the committee reviews FCC funding requirements for fiscal year 1991.

Mr. HOLLINGS. I thank the Senator for his comments. I share his concerns and his interest in seeing to it that the regulatory functions of the FCC do not unreasonably impede the ability of manufacturers to enter the marketplace with new products in a timely manner. I would be more than happy to join with the gentleman in examining this situation further and, if necessary, consider taking further action in fiscal year 1991.

Mr. RUDMAN. I thank the Senator from Oregon for his comments and associate myself with his remarks. I would ask the Senator, however, whether in describing the shortcomings of the Laurel Laboratory it is his intent in any way to find fault with the engineering staff of the laboratory. I must say that I am advised by industry representatives that the test engineers employed by the FCC at the Laurel facility, while underequipped and to some extent understaffed, do yeoman's work with what they have and are generally highly professional and competent. Does the Senator agree that we appear to have here more a problem of outmoded equipment than any lack of professional expertise?

Mr. HATFIELD. The Senator makes an excellent point, and I think he is quite correct. Indeed, considering the type of equipment they must contend with, and the heavy burden of applications, the employees of the laboratory deserve special commendation and credit for their work, rather than any criticism. That is certainly my view, and it is my intent in raising this issue to reward their efforts with at least a

careful look at the need for new equipment to make them even more productive.

TRADE ADJUSTMENT ASSISTANCE CENTER FUNDING

Mr. HEINZ. Mr. President, I would like to take a few moments to discuss some difficulties that have arisen with regard to funding of the trade adjustment assistance centers [TAAC's] in the Department of Commerce trade adjustment for firms program.

This program is very small. It is regularly less than $15 million annually, most of which goes to 12 regional trade adjustment assistance centers that provide technical assistance to firms injured by imports. Firms are certified eligible in Washington and then work with their local TAAC to develop an adjustment plan, which generally involves assistance on management, better manufacturing techniques, new marketing plans, et cetera. The TAAC's use the money to fund plan development and the actual assistance provided. There are no longer any loans or loan guarantees.

It has recently come to my attention that there may be a serious discrepancy in some of the data relating to the TAAC Program that the Appropriations Committee considered in its deliberations this year. That discrepancy concerns the amount of unobligated balances being carried over, a sum that relates directly to the fiscal year 1990 appropriation level.

Let me preface that discussion with the comment that there are also several matters on which we all seem to be in agreement.

First, all parties seem to agree that a current services level of expenditures for the TAAC's is between $11 and $12 million. Some of us, of course, would prefer a bigger program, but there seems to be no dispute that maintaining the TAAC's as they presently are would take an amount in the range I mentioned. The Department of Commerce makes that estimate. The TAAC's agree, and I am prepared to go along with it.

Second, we all agree that the amount of the fiscal year 1990 appropriation ought to be the current services level minus the unobligated balances.

Obviously, therefore, determining the amount of these balances is critical to determining the proper level of appropriation. Earlier this year, the Department of Commerce submitted to the Appropriations Committee an estimate of those balances of somewhat more than $9 million. That was a reestimate from the figures submitted to the House committee. On that basis, the Senate committee settled on an appropriation of $4.6 million, an amount sufficient to cover TAAC expenses plus the other activities of this program when added to the unobligated balances.

Now, however, some of us are hearing directly from the TAAC's that the Commerce estimate was wrong, that little if any of those balances are, in fact, unobligated. If that assertion is correct, then it is a virtual certainty that the TAAC's will run out of money early in calendar 1990. There are a number of reasons given for this difference of opinion, some of them benign and some of them quite critical of the Commerce Department's motivations in running this program.

It is not my intention at this point to get into that debate, Mr. President. This is a factual question that we ought to be able to answer with some degree of accuracy and finality, regardless of why the discrepancy may have occured.

Unfortunately, it appears that we may not be able to answer that question until next week. The TACC's will be submitting to the Commerce Department an accounting of their unobligated balances as of the end of fiscal year 1989 after this weekend. Those submissions will give us a much-clearer picture of where this program actually stands and whether there are sufficient unobligated balances to get us through next year with the appropriation that the committee has approved.

However, since we will most likely act on this bill prior to having this information, the matter will have to be resolved in conference. It is not my intention at this time to offer an amendment in the absence of hard data on the actual financial situation. Since the House level is higher than the Senate's, the conferees will have the option of accepting the higher figure should they discover next week that Commerce's estimates were erroneous.

I would, however, like to understand the attitude of the managers of the bill on this matter. I would hope that the managers remain committed to funding the TAAC's at a level sufficient to allow them to continue their current level of activities, and that the managers will act in conference consistent with that commitment. Specifically, I would welcome their assurance that if the actual level of unobligated balances is significantly below the Commerce Department's estimate submitted to the Senate committee, they will agree to a level of funding sufficient to keep the TAAC's operating at current levels. Can the managers reassure me on that point?

Mr. HOLLINGS. I agree with the Senator from Pennsylvania. The subcommittee supports continued funding of the TAAC's at the level necessary to maintain their current level of activity. We will examine the new data expected next week, and if it indicates a likely shortage of available funds in fiscal year 1990, we will be prepared to make an adjustment in conference.

Mr. RUDMAN. Mr. President, I also want to express my support for this program and its continuation at current levels. We have had the same discrepancy brought to our attention directly and are committed to resolving it. Should the data demonstrate that an adjustment is necessary to maintain the TAAC's at the agreed-upon level, then I will also consider it in conference.

Mr. HEINZ. I thank the managers for their consideration and support.

TIDE MEASURING STATIONS IN THE CHESAPEAKE BAY

Ms. MIKULSKI. I would like to ask the distinguished chairman and ranking minority member of the Commerce, State, Justice, and Judiciary Subcommittee of the Appropriations to join in a colloquy regarding the funding provided in this appropriations bill for the six tide measuring stations in the Chesapeake Bay.

Mr. HOLLINGS. Of course I will.

Mr. RUDMAN. Yes.

Ms. MIKULSKI. It is my understanding that funds are included in the fiscal year 1990 NOAA appropriations for the operation and maintenance of six tide measurement stations in the Chesapeake Bay. It has come to my attention that the National Oceanic and Atmospheric Administration is under the impression the funds are not included for the continued operation and maintenance for the tide stations located at Tolchester, MD, and Windmill Point, VA. I will ask unanimous consent that a letter from Harold M. Stanford, Chief, Physical Oceanography Division of NOAA to Capt. Michael R. Watson, President, Association of Maryland Pilots be included into the CONGRESSIONAL RECORD. However, I ask the chairman and ranking member if funding is included for these six stations.

Mr. HOLLINGS. Yes, it is my intent that funds be provided within the level of appropriations for NOAA for all six tide gages in the Chesapeake Bay. As the Senator from Maryland is well aware these gages provide important information to the shipping community which provide for safe and reliable travel in the bay as well as important data used to analyze the effects of global warming. I also want to point out that the NOAA letter mentioned by Senator MIKULSKI erroniously reflects the action of Congress and was premature in speaking to this issue before final congressional action.

Mr. RUDMAN. Let me add that it is clearly my intention that NOAA continue to fund all six tide gages in fiscal year 1990 within the fund appropriated for NOAA in this bill currently before the Senate. These gages not only have the beneficial impact articulated by the chairman but they will enhance the receipts to our U.S. Treasury in the form of increased exports.

Ms. MIKULSKI. I thank the two distinguished Senators. As always I find them to be both informative and helpful. I just want to add one additional point regarding these important tide gages. As the Senators know I chaired the subcommittee in the House which authorized the activities involving merchant marine matters and became familiar with these gages. It is important for NOAA to continue operating all six stations so that environmental protection consistent with the Federal and multi-State agreement on the Chesapeake Bay is monitored. It is vital that every effort both large and small be pursued to improve the overall quality in the bay.

CENTER FOR OCEAN ANALYSIS AND PREDICTION

Mr. WILSON. Mr. President, I would like to draw my colleagues' attention to the National Oceanic and Atmospheric Administration's [NOAA] Center for Ocean Analysis and Prediction in Monterey, CA. This new coastal and global ocean analysis center, with its proximity to one of the world's best sources of physical oceanographic data, is helping NOAA to carry out its coastal and ocean missions. The center also serves as a critical component of NOAA's Ocean Communications Network, which is designed to distribute high volumes of data and information, forecast guidance outputs and other products necessary to develop reliable predictions on environmental changes of importance for the well-being of the Nation. I would urge the Chairman to consider in conference the adoption of language directing NOAA to provide support for the infrastructure and communications capabilities at this important center.

Mr. CRANSTON. I support this request.

Mr. HOLLINGS. I thank my friends from California for bringing this matter to my attention and I'll take a look at this forthcoming conference regarding NOAA's support of this program next year.

AMENDMENT NO. 901

(Purpose: To improve drug enforcement efforts in small towns and rural areas of the country)

Mr. INOUYE. Mr. President, I send to the desk an amendment on behalf of Senator BENTSEN and others and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. BENTSEN, for himself, Mr. BYRD, Mr. HOLLINGS, Mr. NUNN, Mr. BAUCUS, Mr. PRYOR, Mr. GRAMM, Mr. CONRAD, Mr. WILSON, Mr. GRAHAM, and Mr. RUDMAN, proposes an amendment numbered 901.

Mr. INOUYE. I ask unanimous consent that reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At page 42, between lines 6 and 7, insert the following:

"In carrying out the drug enforcement activities funded by this title, the President, through the Attorney General and the Director of National Drug Control Policy, shall ensure that appropriate emphasis is given, and adequate federal resources are committed, to drug enforcement programs in the rural areas and smaller towns across the country."

Mr. BENTSEN. Mr. President, I offer this amendment on behalf of myself, Senator BYRD, Senator HOLLINGS, Senator NUNN, Senator BAUCUS, Senator PRYOR, Senator GRAMM, Senator CONRAD, Senator WILSON, and Senator GRAHAM.

Mr. President, I know I don't have to stand here and tell my colleagues about the drug problem we have in this country. It is a subject with which we are all too familiar. Every day we see and hear and read about the tremendous toll drug dealers and drug users are taking from our country.

Without a doubt, the drug problem in our major cities is at a crisis level. Drug-related killings here in Washington have soared, workers on Wall Street are promised drugs as an incentive to boost their output, and street gangs in Los Angeles have developed a nationwide—and ruthless—drug network.

But the drug problem is not limited to our big cities. In recent years, particularly with the emergence of the highly addictive drug known as crack cocaine, there has been an alarming increase in drug abuse and drug-related crimes in small towns and rural areas across this Nation. Recent DEA reports provide dramatic evidence of this spread.

In 1986, the DEA surveyed its field offices and found crack cocaine to be available in 28 States and in the District of Columbia. When the DEA conducted another survey in December 1987, that number had jumped to 45 States. And while the DEA noted that crack cocaine was a more serious problem in the inner cities, it went on to report—and I quote—that:

Recent seizures indicate that crack has appeared in rural parts of Georgia, Mississippi, Louisiana, Florida, Alabama, North Carolina, Delaware, Maryland, New York, and California. This rapid appearance of the drug in rural areas highlights the easy marketability and speed with which it is capable of spreading through society.

Crack cocaine seems to have made its way into rural areas of my home State only recently—Texas was not one of the 10 States listed by the DEA as having a crack cocaine problem in rural areas as of December 1987. But by early this year, the DEA was reporting substantial crack abuse and drug-related crime in widespread areas of rural Texas. There is no doubt that crack cocaine has established strongholds in rural areas of my State.

Our Texas law enforcement officers are working hard to fight the crack cocaine problem in these areas. And they are having some success. Last December, 54 suspected crack dealers were arrested in Marshall, TX. In June of this year, 31 persons involved in a crack cocaine ring active in San Augustine, TX were also arrested. Unfortunately, the list goes on.

Mr. President, when we are seeing crack houses in the rural areas of Texas, in small Texas towns like Gladewater (population 6,500) and San Augustine (3,000), and in cities like Marshall (25,000), Amarillo (150,000), and Lubbock (175,000), we have solid evidence of a serious drug problem in rural America and in our smaller towns and cities. We cannot ignore that problem; we must fight it.

I know that our national drug control strategy must include strong measures aimed at our major cities. But the urban problem must not be the exclusive focus of our effort if we are to make real progress. If we focus solely on the big cities and don't attack the drug problem in rural areas, all we are doing is buying ourselves a bigger drug problem in rural America. I for one don't think that is a good idea.

That's why I contacted Secretary Bennett back on July 14 to urge him to give real thought and attention to our rural drug problem in the President's drug control strategy. And I was pleased when he promptly responded "we understand that drugs and the problems they cause are not confined to our urban areas" and that "rural and suburban areas will not be forgotten" in the President's strategy.

After Secretary Bennett's assurances, I was dismayed when September 5 rolled around and the President unveiled his drug control strategy without any call for action on the rural drug problem. That's a big mistake.

That's why I'm offering this amendment today. It's a simple, straightforward amendment. It doesn't increase our spending in the war on drugs; and its sole aim is to ensure that we don't overlook an important aspect of the problem. The amendment states that the President, through the Attorney General and the National Drug Control Policy Director, shall ensure that appropriate emphasis is given, and adequate Federal resources are committed, to the drug problem in the small towns and rural areas of the country.

Mr. President, this amendment does not get into specifics. But it does lay a foundation for a comprehensive program aimed at stopping the spread of crack cocaine into rural America, and it fills a glaring gap in President Bush's drug control strategy. When we turn to the authorization bill, which I understand may happen as soon as next week, I will be working with Mr.

BIDEN and others on legislation that will give the administration some more direction on how the Senate thinks drug enforcement should be improved in rural areas. At that point, we can target some resources to this important effort.

As we escalate our war against drugs, we must attack drugs in rural areas and in the major cities. This amendment sends us down that road, and I urge its adoption.

Mr. BUMPERS. Mr. President, I am pleased to support the amendment by the Senator from Texas. I share his deep concern that, in our desire to commit adequate resources to fight the drug epidemic in the Nation's cities, we run the risk of neglecting the fight against drugs in rural areas.

Congress has attempted, in the drug bills passed in 1986 and 1988, to direct more Federal resources toward drug interdiction, law enforcement, and drug treatment and prevention. I have made clear my view that the most appropriate and most effective role for the Federal Government is to support activities that reduce the demand for drugs in the United States. Law enforcement and drug abuse treatment and prevention are key to the demand reduction effort.

Rural law enforcement agencies don't necessarily find themselves confronted with many large drug cases, but they do routinely deal with drug possession and sales cases. Many law enforcement agencies have stressed that they need more support for training their personnel on how to handle drug cases and also note the need for funds to coordinate enforcement activities among local and State law enforcement agencies.

The New York Times recently ran a story about the movement of drug gangs into rural areas. The story quoted Attorney General Richard Thornburgh as stating that significant cocaine operations have been found in Wyoming, heroin trafficking in Iowa, and LSD trafficking in rural Georgia. Unfortunately, I am not surprised by the news of this activity in rural areas. I understand that there have been some reports of drug gang activity in my home State. The Times story points out the folly of assuming that drugs respect national, State, or city boundaries. To ignore the drug problem in rural America is to ignore the power and reach of drug organizations.

When Congress has authorized new drug initiatives, we have tried to leverage Federal funds by requiring State and localities to match Federal funds. While I think that is good policy in theory, I must note that many cities in Arkansas have to struggle to meet any sort of matching requirement. When Congress authorizes matching grant programs in the future we need to be aware of the particularly tight budget constraints that face many small towns and rural counties and provide flexibility in certain cases.

I am pleased that the Senate approved a modification of the formula for distribution of the Alcohol, Drug Abuse, and Mental Health [ADM] block grant as part of the Byrd drug package. When Congress reauthorized the block grant last year, the ADM formula was heavily weighted to urban areas. Proponents of this approach argued that it was necessary to direct resources to urban areas that are suffering the worst effects of the drug war. That argument neglects the fact that the drug problem is also ravaging rural America. Our action this week corrects that unfair urban bias in the formula.

Young people in rural Arkansas are using the same drugs as young people in New York City, Miami, or Chicago, and the problems and costs of providing treatment services for those drug abusers are as serious in Arkansas as in any urban area. Crack and cocaine have hit the countryside in Arkansas, and the citizens of my State are desperate that their children have good drug treatment options.

The fight against drugs is an international fight. I wish rural America could be protected from the tragedy of drug abuse, but it cannot. The fight against drugs demands a united approach on the international, national, State, and local levels.

I commend the Senator from Texas for directing the Senate's attention to the drug crisis in rural America.

Mr. INOUYE. Mr. President, this amendment has been cleared by both sides. We find it meritorious. I ask that it be agreed to.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 901) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER addressed the Chair.

Mr. RUDMAN. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator from Pennsylvania will please suspend.

The Senate will be in order. Senators are requested to please take conversations to the Cloakroom.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I have sought the floor to make a few brief comments about issues which might have called for amendments and votes, but at this stage will not.

First, I would like to compliment the distinguished Senator from South Carolina, Senator HOLLINGS, and the distinguished Senator from New Hampshire, Senator RUDMAN, for their effective handling of this very important legislation. They are very experienced; Senator HOLLINGS having been a Governor before a long-term Senator, and Senator RUDMAN having been an attorney general before coming to the Senate in the fabled class of 1980.

They have handled the difficult bill very effectively, even though they did not see it exactly my way on the prison issue. But that matter, I think, will be revisited and I intend to move forward in the Judiciary Committee with authorizing legislation to try to have a larger Federal role on the issue of pretrial detention.

Mr. President, I had considered offering an amendment on issues relating to the strike force but have decided not to do so, after having had extensive conversations with the managers of the bill and with other Senators. That matter relates to a proposal by the Attorney General to abandon the strike forces over the considerable opposition of many of us in the Senate who have felt that the strike forces have been effective.

It was considered for a time to offer an amendment to restrain any expenditures under the justices appropriations bill for that purpose, but that has not proceeded.

The thought, instead, by a number of us, is to deal with this issue on the crimes bill, on the authorizing legislation. This Senator had considered an alternative to the strike forces by having some more extensive congressional oversight on the question of Justice Department activity. I had circulated the idea of having an amendment to the Federal Rules of Criminal Procedure 6(e) which would have given the Congress more access to closed Justice Department files.

That, Mr. President, is a subject which I think ought to be considered, but not on this bill. The essence of the matter boils down to this: If the Justice Department is going to abandon the strike forces then there ought to be greater congressional oversight as to what the Justice Department is doing without the strike forces. Beyond the strike forces, it is my view there ought to be more extensive oversight generally.

I believe the rule of secrecy in the grand jury, while important for many, many purposes, ought to have a limitation when it comes to the critical function of congressional oversight. Many of our colleagues, if not most of our colleagues, have been troubled by their inability to have effective oversight and to find out what the Justice Department has done. It is a legiti-

mate congressional function to have the oversight.

One case is illustrative. That is the case, the so-called MOVE case in Philadelphia where a bomb was dropped, where a fire raged without any efforts made by public authorities to put it out, where an entire block was burned up, where 11 people were killed, where there were serious questions of violations of the U.S. Civil Rights Act.

After that file was closed, after some 3 years of investigation, this Senator sought to find out why no action was taken and it was a closed file. This Senator was told that the matter could not be discussed because of grand jury secrecy rules.

Many of my colleagues have had similar problms with the Justice Department. The distinguished Senator from Iowa, Senator GRASSLEY, who is on the floor at the moment, has been a leader in the procurement issue and has sought to find out precisely what has been going on with many procurement cases.

Notwithstanding his very extensive, diligent, even valiant efforts, he could not get answers to a great many issues. It was a subject where I worked with him on the Administrative Practices Subcommittee a few years ago which even resulted in efforts to hold the then-Attorney General of the United States in contempt of Congress for failing to respond.

I mention this, Mr. President, because I think it is important to note it at a time when the Attorney General may move away from the strike forces, to say this Senator intends to pursue the idea with authorizing legislation in the Judiciary Committee.

I believe we can craft a narrow enough exception. Perhaps the closed files—and I emphasize closed files so we do not have any interference with pending matters—closed files could be viewed by Senators only. And maybe limited to the staff of the chairman or the staff of the ranking member, as those two staff members now have access to FBI files on judicial nominees. Or maybe it should be limited just to the discretion of the chairman and ranking member on the application of a Senator on the committee.

I do believe it is important that there be congressional oversight, and that cannot be accomplished now. With the elimination of the strike forces or at least some of the strike forces that matter is called into sharper focus.

There is one other matter, Mr. President, I would like to discuss briefly, and that is the issue of the allocation of agents from the Drug Enforcement Agency. I had discussed this matter with the chairman, Senator HOLLINGS, and with the ranking member, Senator RUDMAN. It would be my hope that the Drug Enforcement Agency would take a close look at three locales in my State of Pennsylvania. Specifically, the Erie area, the Wilkes-Barre/Scranton area and the area around New Castle, PA, which is very close to Youngstown, OH.

We have made available to the Drug Enforcement Agency a substantial number of new agents. I believe the number is 164 agents. That additional authorization has been provided because of a congressional determination that we need more DEA agents, based on what those of us in the Congress know.

It is not our decision to make the final judgment as to where the DEA agents will be assigned. That is not our function. I do believe, however, that when the authorization and appropriation has been made by the Congress, that the congressional views are entitled to some weight.

I have made recommendations in these three locales, not because someone has asked me to but because I have visited these areas. I have gone to Erie, PA and sat down with the U.S. attorney from the western district and the assistant U.S. attorney assigned to Erie and with the local prosecutors in the area and the local chiefs of police and have gone through their drug problems. I have seen that they have a very acute situation. They are close to Cleveland. They are close to Buffalo. They are on the Great Lakes. I believe they have made a compelling case to have a full-time DEA agent in Erie to carry on the Federal work and also to be of assistance to State and local enforcement agents.

The same situation prevails in the Scranton-Wilkes-Barre area, a very highly populated area which is located on major highways, a close distance from New York City and from Philadelphia. They, too, have demonstrated a need for extra Federal help on drug enforcement.

There again, I sat down with the U.S. Attorney from the middle district and with the local district attorneys and with local police officials and I think they have a very strong case to be made for a full-time DEA agent.

The same is true with New Castle, PA, located north of Pittsburgh and in proximity to Youngstown, OH. It would be my hope, Mr. President, that there could be some recognition by the Drug Enforcement Agency of the well-founded requests, like the ones this Senator has made and is making today, for these three particular locales. I would be very interested to hear of the views of my distinguished colleague from New Hampshire on this subject.

In the event Senator RUDMAN did not hear everything I said, this is the subject he and I talked about before on a Senate response or a committee response after a Senator, with some background and knowledge in the field, has made a very close survey and has made this kind of request.

Mr. RUDMAN. I would say to my friend from Pennsylvania that although I would agree——

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire [Mr. RUDMAN].

Mr. RUDMAN. I thank the Senator. I thought the Senator who asked the question still kept the floor.

Does the Senator yield the floor?

Mr. SPECTER. I do.

Mr. RUDMAN. I thank the Chair.

I will say to my friend from Pennsylvania I do agree it is not our role to decide how agents are assigned. But I do believe in our responsibility in overseeing the expenditure of the funds that we have to be sure that high-impact areas receive their fair share of the allocation when we put in the kind of massive infusion of new personnel as we are doing across the board in the drug area, particularly in the DEA and FBI.

We will be pleased to work with the Senator from Pennylvania to assure those considerations are brought to the attention of the DEA, and that areas such as the ones the Senator has mentioned are certainly looked at closely to assure that, in fact, if they meet those criteria they do receive new personnel.

Mr. SPECTER. Mr. President, I thank my distinguished colleague from New Hampshire for those comments. I do know from time to time Federal agencies may feel that there is some congressional intrusion. In an area like drugs have where those of us who have been in law enforcement in the past and have some substantial knowledge from those activities and where we have made a close review of the situation, as this Senator has done, for example, in Erie, Wilkes-Barre, Scranton and in the area around Youngstown and western Pennsylvania, New Castle, PA, that close attention be paid.

In closing, I want to thank my colleague, Senator RUDMAN, for coming to Philadelphia and taking a look at the Philadelphia strike force there. I thank the committee for the support of that special activity on drugs.

Mr. President, I yield the floor.

AMENDMENT NO. 902

(Purpose: To express the sense of the Congress that the international drug summit should include several items on its agenda, including consideration of measures to remove from power the drug trafficker, Manuel Noriega)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 902.

Mr. LEVIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert at the end of the bill insert the following new section:

SEC. . The Congress finds that—

(1) The illegal use of drugs is a crisis in America, causing incalculable suffering and damage to individuals, families, and social institutions;

(2) The economic and social dislocation caused by illegal drugs has had a devastating effect on the fabric of our society and citizens;

(3) It is take a multi-faceted approach, both domestically and internationally, to successfully address the multi-faceted problem of illegal drugs;

(4) Manuel Noriega's continued exercise of power in Panama has contributed to political unrest and international illegal drugs trafficking in the hemisphere and the world, and that he should be removed from any position of power in Panama in order to reduce the drug flow and increase democracy;

(5) Public law 100-690, the Anti-Drug Abuse Act of 1983, enacted on November 18, 1988, expressed the sense of the Congress that the President should convene as soon as possible an international conference on combating illegal drug production, trafficking, and use in the Western Hemisphere; and

(6) The National Drug Strategy announced by the President on September 5, 1989, states that "priority consideration should be given to convening at an early date a drug summit:"

It is the sense of the Congress that—

(1) The agenda of the international drug summit should include, among others, the subjects of interdiction, crop eradication, crop substitution, law enforcement, education and prevention, and the international sharing of intelligence;

(2) The President should consult with the leaders of participating countries at the international drug summit on ways to achieve international cooperation and coordination in support of measures directed at removing Manuel Noriega from any position of power in Panama; and

(3) In addition to or in the absence of an international drug summit, the United States should intensify unilateral and bilateral efforts as well as efforts in concert with international organizations and other multinational forums to assist the nations of the hemisphere in their battle against drugs and the drug traffickers, including measures directed at removing Manuel Noriega from any position of power in Panama.

Mr. LEVIN. Mr. President, the amendment I offer is straightforward. It expresses the American people's and Congress' determination to confront international drug traffickers, and free our country and hemisphere from drugs and the drug traffickers who parasitically profit from the suffering and destruction caused by illegal drugs. Congress last year passed legislation which said that the President should convene an international conference on illegal drugs as soon as possible. This resolution reemphasizes that intent, and encourages international cooperation.

My amendment also expresses our revulsion at, and ongoing determination to end, Manuel Noriega's outlaw regime, and the other powers, both governmental and extra-governmental, that profit from drugs at the expense of civilization itself.

Mr. President, this amendment expresses our conviction that the resources and power of the greatest nation on Earth should be marshaled to intensify unilateral, bilateral, and international efforts to free our Nation and the world from the grip of the tyranny of drugs, and despicable characters such as Noriega. This amendment states that we should seek "international cooperation and coordination in support of measures directed at removing Manuel Noriega from any position of power in Panama." This expresses administration policy, the intent of Congress, the fervent desire of the American people, and the hope of civilized people everywhere.

The PRESIDING OFFICER. Is there further debate?

There being no further debate, the question is on agreeing to the amendment.

The amendment (No. 902) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 903

(Purpose: To express the sense of Congress that the Comptroller General should report to Congress on the progress on the implementation of the agreement between the United States and Japan on the development of the FS-X Weapon System)

Mr. INOUYE. Mr. President, I send to the desk an amendment in behalf of Senator BYRD and Senator DIXON and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. BYRD (for himself and Mr. DIXON) proposes an amendment numbered 903.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . (a) It is the sense of Congress that—

(1) not later than June 1, 1990, and not later than June 1 each year thereafter, the Comptroller General of the United States, after consultation with appropriate officials of United States agencies represented on the Technical Steering Committee, should submit to the Speaker of the House of Representatives and the chairmen of the Committees on Foreign Relations, Armed Services, Commerce, Science, and Transportation, and Banking, Housing, and Urban Affairs of the Senate a report describing the progress made in implementing the Memorandum of Understanding (MOU) Between the United States Department of Defense and the Japan Defense Agency on Cooperation in the Development of the FS-X Weapon System, signed on November 29, 1988, and related documents thereto;

(2) not later than December 1, 1990, and not later than December 1 each year thereafter, the Comptroller General should submit to the President Pro Tempore of the Senate and the Speaker of the House of Representatives an interim memorandum describing the progress that has been made in implementing the memorandum of understanding referred to in paragraph (1);

(3) the reports referred to in paragraph (1) and the interim memorandums referred to in paragraph (2) should assess, in detail, whether the requirements concerning, and the prohibitions on, the transfer of United States technologies to Japan, as provided in the memorandum of understanding referred to in paragraph (1), have been and are being complied with; and

(4) the Comptroller General should continue to submit such reports and interim memorandums so long as the memorandum of understanding referred to in paragraph (1) continues in effect.

(b) For purposes of subsection (a), the term "Technical Steering Committee" means the FS-X Technical Steering Committee established jointly by the Japan Defense Agency and the United States Department of Defense.

Mr. INOUYE. Mr. President, this amendment has been reviewed by both sides and we find it to be in proper form.

Mr. RUDMAN. Mr. President, the amendment has been cleared on this side.

MONITORING THE FSX PROJECT

Mr. BYRD. Mr. President, on September 13 the Senate voted on a motion to override the President's veto of Senate Joint Resolution 113 on the FSX fighter deal with Japan. That resolution originally passed the Senate by a vote of 72 to 27, but President Bush managed to change the minds of enough Senators to avoid an override by one vote. I do not intend to revive the FSX dispute. The Senate has closed that chapter. But, now more than ever I intend to make sure Congress stays informed. I am offering an amendment calling for the GAO to monitor the progress of the FSX development program and provide Congress with periodic reports.

Certainly, I could simply make a request, as any Senator or Representative could, directly to the GAO, asking them to perform this work. Instead, I have chosen to offer this amendment and make it clear that this is a request from Congress, not from a single Member.

The amount of bipartisan support for my original resolution indicates the breadth of concern over this issue, and by adopting this amendment Con-

gress can let it be known that we are still concerned. By staying informed and maintaining a spotlight on the FSX we can give the President's negotiators an additional lever to use in future negotiations with Japan. And I am sure our continuing role will not be lost on the Japanese.

I have here a copy of an article from Investor's Daily, September 15, 1989, titled "Mosbacher Says U.S. Is Getting Raw Deal on the FSX Fighter." The article describes the Secretary's remarks to a group of reporters in Japan. Mr. President, it does not help matters to have this country's highest commercial officer quoted in this context. It is doubly distressing that these remarks were made to a Japanese audience. This kind of report certainly doesn't do much to calm my fears about the FSX deal, but it does reinforce my desire to stay informed as the project progresses.

Mr. President, I introduced the legislation which eventually became Senate Joint Resolution 113 out of concern for America's economic future. I felt that once again the narrow parochial Defense Department view had prevailed within the administration. That view ignores the vital linkage between America's economic health and national security. Like the French who built the Maginot Line after World War I, we continue to prepare for the war we just won. The Bush administration continues to fight the cold war when we should be preparing for the economic competition of the 1990's and beyond. They ignore the changing realities of the world situation, preferring to focus solely on military might to the exclusion of U.S. economic security. The distinguished majority leader, Mr. MITCHELL, was right on the mark when he said the administration seems almost misty-eyed, almost nostalgic for the simple good old days of the cold war.

The ground is shifting rapidly in the world today, on the continent of Europe and on the Pacific Rim. The Soviets have recognized this—what does perestroika mean if not that economic reality is setting in in Moscow. Missiles or not, without computers, without fiber optics, without inventiveness, without economic and technological progress, the Soviets are going to be left out and they know it. It is about time we recognize this lesson too. It is America's economic vitality which will keep us great in the coming decades and I will continue to do everything within my power to insure that we maintain that vitality.

[From Investor's Daily, Sept. 15, 1989]

MOSBACHER SAYS U.S. IS GETTING RAW DEAL ON THE FSX FIGHTER

TOKYO.—Japan will benefit more than the U.S. from technology swapped under an agreement to jointly develop the FSX jet fighter, U.S. Commerce Secretary Robert Mosbacher said yesterday.

The U.S. Senate Wednesday sustained a presidential veto, allowing the U.S. and Japan to proceed with joint development of the FSX fighter under terms set earlier this year by President Bush.

A White House spokesman said the administration is pleased with the result of the Senate FSX vote.

A spokesman for Japan's Defense Agency said the vote represented the end of the conflict between the U.S. and Japan over the FSX. Full-scale development of the new fighter should now begin, he said.

Mosbacher said he was not completely satisfied with the deal and would rather see Japan fill its defense needs by buying F-16 fighters from the U.S. instead of developing the new fighter, which is based on the F-16.

The commerce secretary said that in terms of advanced technology, the Japanese will be the greater beneficiaries of the FSX program.

"In most cases, the vast majority of cases, the technology flow has been one way from us to Japan," Mosbacher told reporters on the third day of a four-day visit to Japan.

In a related development, Mosbacher reached an agreement with Japan's major domestic telecommunications company, Nippon Telephone and Telegraph, to cooperate on research and development in computer and telecommunication related fields.

The agreement is an extension and expansion of research cooperation that began in 1984 between the Japanese company and the National Institute of Standards and Technology of the U.S. Commerce Department.

"This agreement allows both Japan and the United States to enrich their technical capability without duplicating basic research in costly and time-consuming areas," Mosbacher said in a written statement announcing the agreement.

The Senate voted 66-34 to sustain a Bush veto of legislation that would have required the president to set tougher terms for the FSX agreement. Opponents of Bush's FSX deal fell one vote shy of the two-thirds margin needed to force Bush to accept a different version.

The vetoed legislation had asked that the U.S. get no less than 40% of the production work, barred the transfer of sensitive jet engine technology to Japan, directed the General Accounting Office to monitor the deal, ordered the Commerce Department to review production agreements and required that the president consider the agency's views on the production pact.

The PRESIDING OFFICER. Is there further debate? If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 903) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 904

(Purpose: To amend the provision regarding the retirement age of the Director of the Federal Judicial Center)

Mr. INOUYE. Mr. President, I send an amendment to the desk on behalf of Senator HEFLIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. HEFLIN, proposes an amendment numbered 904.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . Section 627(a) of title 28, United States Code, is amended by striking out "seventy" and inserting in lieu thereof "seventy-five".

Mr. INOUYE. Mr. President, this amendment has been cleared by both sides, and we agree. I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 904) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 905

(Purpose: Expressing the support of the Senate for additional designations of new international gateways to foster increased export trade opportunities for nontraditional international gateway cities)

Mr. INOUYE. Mr. President, I send to the desk an amendment on behalf of Senator DECONCINI and Senator MCCAIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. DECONCINI (for himself and Mr. MCCAIN) proposes an amendment numbered 905.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . (a) The Senate finds that—

(1) officials representing eight United States airports recently met with Secretary Skinner to discuss the need for more airport gateways for United States cities for international service;

(2) these officials believe that the United States Government must place greater emphasis in United States international aviation negotiations on maximizing the new international trade opportunities;

(3) direct nonstop air service to foreign destinations facilitates international business for our country's industries, attracts

foreign investment, makes travel abroad more convenient for United States citizens and increasees foreign tourism;

(4) direct international air transport is especially important to tourism and the high-tech industries on the cutting edge of our Nation's drive for international competitiveness, both of which tend to be located away from traditional air service gateways;

(5) a single nonstop air service to a previously unserved foreign point can result in economic benefits to the United States community alone of up to a quarter of a billion dollars or more in the first year, with the benefits compounding thereafter; and

(6) the time savings to United States travelers alone from such a service are greater than profits United States airlines would lose, if any, from traffic diversion.

(b) It is the sense of the Senate that the United States Senate support the designation of markets previously without nonstop international air international service as new "gateways", and believes that other airlines, United States or foreign, be able to provide "gateway" service when United States airlines already serving the foreign country in question fail to do so.

Mr. DECONCINI. Mr. President, I rise to attempt to advance development of international trade opportunities for all U.S. communities and to revive competitiveness in the international air carrier industry. The DeConcini-McCain amendment urges the immediate expansion of direct air service to nontraditional gateways while protecting the legitimate needs of our national air transportation system. In short, I am convinced the U.S. aviation system is being stifled by market dominance by only a very few U.S. carriers at the expense of the rest of the U.S. industry and the American international aviation services consumer.

Mr. President, no one in this body can deny the simple fact that today's economic marketplace is far more expansive than the confines of our national borders. Given this reality, it makes little sense to continue to deny American communities the essential direct international air services to expand their local economic base without an overriding and compelling national interest. I have been told that the Department of Transportation and State Department have traditionally insisted that new international gateways have not been approved because of compelling U.S. interests to protect U.S.-based carriers from competition from foreign-based carriers. It is argued that such protection is indispensable to provide for the efficient and orderly development of the national air transportation system.

Mr. President, at the same time, I have been advised that some U.S. carriers have what amounts to unlimited access to provide direct air service into the same foreign country markets as those desired by many non-traditional gateway U.S. communities, but have deliberately not taken advantage of those rights. And lastly, I am advised that more than one foreign air carrier has expressed interest in providing direct air service to nontraditional gateway communities. In short, our U.S.-based air carriers are preventing, with the aid of agencies of our Federal Government, the provision of international air services to the American public by very few U.S.-based airlines when other airlines, foreign and domestic alike, are seeking to satisfy what they believe to be sufficient consumer demand to warrant provision of direct international air services.

The sense of the Senate amendment before you cannot be construed to prevent the orderly development of our national air transportation system. Instead, it reemphasizes the intent of the Airline Deregulation Act of 1978's specific intent to promote actual and potential competition rather than enhanced market domination by only a few existing air carriers.

This amendment addresses the needs of the domestic air carrier industry, but does not protect them when their interests are wholly detrimental to the ability of non-traditional gateway communities to benefit from the foreign trade advantages enjoyed by so-called traditional gateways which have such direct air international service.

Mr. President, the time has come for the Senate to send a message to the administration, and particularly the Department of Transportation, that the Airline Deregulation Act of 1978 mandates that each give far higher priority to the consumer and community needs than the Department of Transportation and State Department, the lead agencies on this issue, do today. My amendment urges that the administration bridle its emphasis upon market regulation in order to protect the interests of U.S.-based air carriers which currently dominate the direct international air service marketplace. It specifically sends the message that other American communities require greater consideration than previously afforded them during the negotiation of air transportation agreements with foreign nations.

Mr. President, this amendment would again place the Senate on record in support of enhanced competition in international aviation. My friend from South Carolina has advised me that the amendment has been agreed to so I shall not delay further action on this important legislation. I thank the chairman and the ranking member of the subcommittee, Senator RUDMAN, for their patience and support. I also thank my dear friend from Kentucky, Chairman FORD, and the ranking members of full committee and Subcommittee on Aviation of the Senate Committee on Commerce, Science and Transportation, Senator DANFORTH, and my able colleague from Arizona, Senator MCCAIN, for their support and assistance.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 905) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 906

(Purpose: To commend efforts by the U.S. Departments of Justice, State and Defense to eliminate anti-competitive bidding practices at U.S. military facilities in Japan and for other purposes)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 906.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

The Senate finds that in 1984, 140 Japanese Construction firms formed an association known as "United States Military Construction Safety Technical Research Association" which engaged in widespread bidding activity on contracts funded by the U.S. government at the United States naval facility in Yokosuka, Japan, from 1984 through 1987.

The Senate finds that in December 1988, these 140 Japanese construction companies received warnings from the Japan Fair Trade Commission for bidrigging activities at the U.S. Naval facility in Yokosuka, Japan.

The Senate finds that 70 of these construction firms were fined by the Japan Fair Trade Commission for serious bidrigging activities at the United States naval facility in Yokosuka, Japan.

The Senate finds that the United States Department of Defense has proposed for debarment, eight companies, twenty corporate officials and four subsidiary firms involved in bidrigging activities at the United States Naval facility in Yokosuka, Japan.

The Senate finds that the aforementioned bidrigging activities have seriously undermined the procurement process at the United States naval facility in Yokosuka, Japan.

The Senate finds that bidrigging at the United States naval facility in Yokosuka, Japan from 1984 through 1987, contributed to increased construction costs at the facility, and hindered efforts to ensure the efficient use of funds appropriated for military construction associated with United States security commitments in the Pacific.

The Senate finds that the United States Department of Justice has formally requested full compensation from the 140 firms involved in bidrigging activities at the United States Naval facility in Yokosuka, Japan.

Therefore, it is the sense of the Senate that the Senate commends the United States Department of Defense and the United States Department of Justice for their efforts to eliminate bidrigging activities at United States facilities in Japan.

The Senate urges the United States Department of Defense to seek debarment of all Japanese construction firms involved in bidrigging activities at United States military facilities in Japan.

The Senate urges the United States Department of Justice and the United States Department of State to work with the Japanese government to insure that the United States government receives full compensation for overpayments for construction services and goods at Yokosuka Naval base in Japan that occurred as a result of anticompetitive bidding practices that have been formally documented by the Government of Japan.

Mr. MURKOWSKI. Mr. President, this is a sense-of-the-Senate resolution. It addresses specifically a finding in 1988 that some 70 Japanese firms were in violation and fined by the Federal Japan Fair Trade Commission for serious bid rigging activities at the United States naval facility in Yokosuka, Japan.

The amendment specifically commends the Department of Defense and the Department of Justice for their efforts to eliminate bid rigging and urges the Department of Defense to seek debarment of all Japanese construction firms involved in bid rigging and asks the Department of Justice and the Department of State to work with the Japanese Government to ensure the U.S. Government receives full compensation.

I conclude by adding that the Japanese Embassy has been most cooperative in this regard, and I want to commend the Government of Japan for assisting in this effort. It is my understanding that the sense-of-the-Senate resolution has been approved by both sides.

Mr. President, I ask unanimous consent that a letter from Assistant Secretary Pyatt, a letter to the Secretary of Defense from me, a letter from the Deputy Secretary of Defense to me, and an article be printed in the RECORD:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE DEPUTY SECRETARY OF DEFENSE,
Washington, DC.

Hon. FRANK H. MURKOWSKI,
U.S. Senate, Washington, DC.

DEAR SENATOR MURKOWSKI: This is in response to your letter of April 14, 1989, expressing concern regarding evidence of bidrigging by Japanese construction firms at U.S. bases in Japan. I am responding for the Secretary of Defense.

As you know, a Naval Investigative Service (NIS) investigation uncovered collusive bidding among some 160 Japanese contractors, organized as an association, known as the Star Friendship Association. The Japan Fair Trade Commission has also investigated the activities of the Star Friendship Association in relation to bid-rigging on construction projects ordered by the U.S. Navy.

To date, the Navy proposed eight companies, twenty corporate officials and four subsidiary firms for debarment, based on the evidence produced in these investigations. The parties proposed for debarment have thirty days after receipt of notice to submit arguments in opposition to debarment. The Navy Debarment Committee is reviewing additional cases at the present time and will be making a recommendation concerning their disposition in the near future.

As always, if the Department can be of further assistance, please do not hesitate to contact us.

Sincerely,

D.J. ATWOOD.

U.S. SENATE,
Washington, DC, April 14, 1989.

Hon. DICK CHENEY,
Secretary of Defense, the Pentagon, Washington, DC.

DEAR MR. SECRETARY: I am contacting you to convey my concerns regarding evidence of bid-rigging by Japanese construction firms at U.S. bases in Japan.

Late last year, after reading reports in the Japanese press that the Japan Fair Trade Commission was investigating allegations of bid-rigging at Yokosuka Naval Base in Japan, I contacted our Embassy in Tokyo to request that they inform me of the U.S. response to the investigation. In December, the Fair Trade Commission issued warnings to 70 of the firms under investigation and fined 70 others for bid-rigging activities.

Upon learning of the JFTC's actions I immediately contacted the Embassy in Tokyo to request information regarding what action the U.S. government was taking to bar the guilty firms from bidding on future projects, or to investigate allegations of bid-rigging at other U.S. bases. After several inquiries, I was referred to the office of the Assistant Secretary of the Navy for Shipbuilding and Logistics to whom I wrote on February 27, 1989. I have enclosed a copy of that letter for your reference.

I recently received a response from Assistant Secretary Everett Pyatt, which I have also enclosed. In his letter, Assistant Secretary Pyatt informed me that while the Navy had been informed of the JFTC's ruling in December, to date, the debarment committee of the Navy has taken no formal action against the firms involved.

I am concerned that the Navy's failure to act swiftly and decisively against bid-rigging on the bases may serve to undermine the integrity of the procurement process. In addition, lax enforcement of our procurement regulations will continue to hinder the efforts of U.S. construction firms seeking to provide construction services in Japan, including services at the U.S. bases.

On several occasions, U.S. construction firms operating in Japan have expressed their view that bid-rigging among Japanese construction firms is taking place at U.S. bases in Japan. They have commented that the situation may be exacerbated by the close relationship which exists between the construction firms and the Japanese nationals working at base procurement offices. I am therefore considering introducing legislation that would require that the procurement offices at the bases overseas be staffed by U.S. citizens.

In the interim, I will continue to seek additional information regarding bidding irregularities at U.S. bases in Japan, and to pursue appropriate sanctions against firms engaging in such activities. I hope you will assist in my efforts to address this serious problem.

I look forward to hearing from you in the near future.

Sincerely,

FRANK H. MURKOWSKI,
U.S. Senator.

U.S. SENATE,
Washington, DC, February 27, 1989.

Hon. EVERETT PYATT,
Assistant Secretary for Shipbuilding and Logistics, Department of the Navy, the Pentagon, Washington, DC.

DEAR MR. PYATT: In May of last year, the Japanese Fair Trade Commission began an investigation of 144 firms alleged to be involved in bid-rigging activities at Yokosuka Naval Base in Japan. In December, the Japanese press reported that the JFTC had fined 70 of the firms for illegal activities associated with bids at the base.

I have followed this case with great interest because of my efforts to open up the Japanese construction market to U.S. firms. In my discussions with U.S. construction firms attempting to do business in Japan, they have continually expressed their view that anti-competitive activities, even at the U.S. bases, severely hindered their efforts to gain access to the Japanese construction market. To my knowledge, the Yokosuka case is the first one in which such activities have been documented.

In order to more effectively assess allegations of bid-rigging at U.S. bases and the impact of such anti-competitive practices on U.S. efforts to enter the Japanese construction market, I would appreciate receiving any information which you may have regarding the Yokosuka case. In particular, I would like to receive the names of the 70 firms that were fined by the Japanese government. I am also interested in knowing what, if any, action DOD has taken against the guilty parties and whether DOD is undertaking an independent investigation into allegations of bid-rigging activities at other U.S. bases in Japan.

I appreciate your assistance on this matter and look forward to hearing from you as soon as possible.

Sincerely,

FRANK H. MURKOWSKI,
U.S. Senator.

DEPARTMENT OF THE NAVY,
Washington, DC, April 10, 1989.

Hon. FRANK H. MURKOWSKI,
U.S. Senate, Washington, DC.

DEAR SENATOR MURKOWSKI: This is in response to your letter of February 27, 1989, requesting information concerning bid-rigging activities at Yokosuka Naval Base, Japan. A Naval Investigative Service (NIS) investigation uncovered collusive bidding among some 160 contractors, organized as an association, officially known as the "U.S. Military Construction Safety Technical Research Association". The unofficial title was the "Star Friendship Association". The NIS investigation concentrated on the larger or more active contractors involved in the conspiracy.

The Japan Fair Trade Commission has also investigated the activities of the Star Friendship Association in relation to bid-rigging on construction projects ordered by the U.S. Navy. Based on this investigation, enclosure (1) notified the Officer in Charge of Construction, FAR EAST (OICC-FE), that the Japan Fair Trade Commission was issu-

ing warnings and mischarge payments against seventy (70) companies involved in collusive bidding in the Star Friendship Association, in violation of the Japanese Antimonopoly Act. The list of seventy companies, which you requested, is contained in enclosure (1). This list has now been publicly released in Japan.

The Commander-in-Chief U.S. Pacific Fleet has forwarded proposed debarment actions against nine Japanese contractors from Yokosuka to this office as a result of this NIS investigation which developed adequate evidence of collusive bidding practices on U.S. Navy contracts. Those nine firms recommended for debarment are included in the list of seventy companies found guilty of violating Japan's Antimonopoly Act.

The Navy Debarment Committee is reviewing these cases at the present time and will be making a recommendation concerning their disposition in the near future.

I have been informed by the NIS that investigations of collusive bidding have also been conducted in Okinawa.

If we can be of further assistance, please let me know.

Sincerely,

EVERETT PYATT,
Assistant Secretary of the Navy (Shipbuilding and Logistics).

FAIR TRADE COMMISSION,
Tokyo 100, Japan, December 8, 1988.

Mr. J.B. GREEN, Jr.,
Captain, Civil Engineer Corps, U.S. Navy, Officer in Charge of Construction, Far East.

DEAR MR. GREEN: Enclosed please find a copy of our press release, to be made public today, with respect to the warning and surcharge payment orders against the bit rigging on construction projects ordered by the U.S. Navy's OICCFE. In addition to this, I am enclosing a list of the 70 companies which the Fair Trade Commission (FTC) ordered to pay a surcharge under Section 48-2 of the Antimonopoly Act. I would be very grateful if you would keep this list confidential, because the FTC will not disclose the names of the companies involved except for those listed in the Tokyo Stock Exchange.

I would like to thank you very much for your cooperation during the course of our investigation.

Sincerely,

MITSURU SUZUKI,
Director, First Investigation Division.

WARNING AND SURCHARGE PAYMENT ORDERS AGAINST THE BID RIGGING ON CONSTRUCTION PROJECTS ORDERED BY THE UNITED STATES NAVY'S OFFICER IN CHARGE OF CONSTRUCTION FAR EAST

DECEMBER 8, 1988.

Fair Trade Commission: Having investigated the case of suspected violation of the Antimonopoly Act with respect to bidding on construction projects ordered by the United States Navy's Officer in Charge of Construction Far East (hereinafter referred to as OICCFE), the Fair Trade Commission (FTC) has today issued a warning and surcharge payment orders as described below.

1. PARTIES SUBJECT TO THE WARNING AND TO THE SURCHARGE PAYMENTS ORDERS

Warning: 139 members of the former US Military Construction Safety Technology Research Group and Kajima Corporation.

Surcharge payment order: 69 members among the members of the former US Military Construction Safety Technology Research Group—the members who received orders for the aforementioned construction projects (excluding those who face a surcharge payment of less than 200,000 yen) and Kajima Corporation.

Note: The former United States Military Construction Safety Technology Research Group had its office in Yokosuka City, Kanagawa Prefecture. Its membership consisted of entrepreneurs who submit bids on construction projects, etc. for which orders had been placed by the OICCFE. Voluntarily established on March 27, 1984, it was ultimately dissolved on October 8, 1987.

2. OUTLINE OF THE ILLEGAL ACT AND APPLICATION OF THE LAW THERETO

The former United States Military Construction Safety Technology Research Group (hereinafter referred to as the Group), substantially restricted competition in the field of transactions involving construction projects ordered by the OICCFE (hereinafter referred to as U.S. Navy-ordered projects) by having its members designate expected order recipients from among its members for construction projects ordered during the period March 27, 1984 to October 8, 1987. This act constitutes a violation of Section 11, Clause 1, Article 8 of the Antimonopoly Act.

Kajima Corporation (hereinafter referred to as Kajima), in collaboration with members of the Group, also designated expected order recipients, thereby substantially restricting competition, against public interests in the field of transactions involving US Navy-ordered projects. This act constitutes an undue trade restriction as stipulated in Clause 6, Article 2 of the Antimonopoly Act and a violation of Article 3 of the Act (see the appendix "Background Information and Application of the Law").

3. OUTLINE OF THE MEASURES TAKEN

(1) Warning: As described above, the Group and Kajima had been engaging in illegal acts. The FTC issued a strong warning to Kajima and the former members of the Group as the Group had been dissolved in the interim. The warning obliged the parties involved to refrain from further such activity and instructed that necessary measures be taken to prevent a recurrence of illegal acts.

(2) Surcharge payment order: Since the aforementioned illegal acts fall under Clause 1, Article 7-2 of the Antimonopoly Act, the FTC ordered 69 former members of the Group and Kajima to pay a surcharge amounting to 1.5 percent of the sales generated from US Navy-ordered projects that had been undertaken during the period of illegal activity as described below.

(A) The period during which the illegal acts were committed:

(i) Commencement date.—The date of first bidding on or after March 27, 1984, when the Group was established.

(ii) Termination date.—October 8, 1987, on which date the Group was dissolved.

(B) Surcharge.—The total amount is set at 289,890,000 yen

(C) Payment deadline.—February 9, 1989

Appendix:

Background Information and Application of the Law.

1. BACKGROUND INFORMATION

(1)(A) The United States Military Construction Safety Technology Research Group (hereinafter referred to as the Group) had its office at 4-banchi, 3-chome, Wakamatsu-cho, Yokosuka City, Kanagawa Prefecture. Its membership consisted of enterpreneurs who submit bids on construction projects, etc. that had been ordered by the Officer in Charge of Construction Far East (hereinafter referred to as OICCFE), under authority of the United States Navy. The Group was voluntarily established on March 27, 1984, set up its bylaws, instituted the post of chairman, secretary general, etc., and had 145 members as of October 8, 1987.

Though its bylaws stipulated that the Group's purpose was to conduct research into safety technology relating to the aforementioned construction projects, the Group was actually attempting to designate order recipients of the construction work projects.

(B) Members of the Group received most of the orders for construction projects that were tendered in Japan by the OICCFE (hereinafter referred to as US Navy-ordered projects).

(C) Kajima Corporation (hereinafter referred to as Kajima) is headquartered at 2-ban 7-go, 1-chome, Motoakasaka, Minato-ku, Tokyo, and engages in the construction business. Although it did not become a member of the Group, Kajima has participated in bidding on US Navy-ordered projects.

(D) The OICCFE offered the majority of the construction projects via the tendering process.

(2) (A) Prior to the establishment of the Group, entrepreneurs participating in the bidding for US Navy-ordered projects formed an organization called Yokakai which attempted, among other things, to prevent the prices of the projects from falling. However, because the number of non-Yokakai bidders increased after 1983, the organization began to experience difficulties in achieving its objectives.

Therefore, the directors and officers of Yokakai decided to set up the Group as a new entity to replace Yokakai. On November 10, 1983, they held a meeting to explain their objectives at Yokosuka Kenko Kaikan, located in Yokosuka City, Kanagawa Prefecture. The approximately 110 entrepreneurs, participating in the bidding for the aforementioned projects who were present at the meeting, were requested to join the Group.

Subsequently, the directors and officers of Yokakai and others held a general assembly to establish the Group at the Yokosuka Kenko Kaikan on March 27, 1984.

(B) At the aforementioned general assembly, the following matters relating to US Navy-ordered projects, were decided by the Group:

(i) Henceforth, members of the Group would designate the one who should receive orders (hereinafter referred to as expected order recipients) after holding consultations among participants in the bidding.

(ii) To implement (i), (a) members of the Group, upon receiving tendering information, would report the project number and project name to the secretariat of the Group; (b) the secretariat and directors of the Group, by taking part in meetings to get instructions at projects sites, etc., would endeavor to obtain information concerning those who would be expected to participate in the bid; and (c) the secretariat of the Group would notify expected bid participants of the date, time and venue of the meeting where expected order recipients would be determined (hereinafter referred to as an arrangement meeting).

(C) The Group, by holding arrangement meetings on the basis of the aforementioned criterion, had its members who received tendering documents for US Navy-ordered projects determine expected order recipients. In addition, matters were arranged in such a way that the bid price of the expect-

ed order recipients would be the lowest by arranging the bid prices of other participants.

(3) Kajima attended both the meeting to explain objectives and the general assembly to establish the Group. In collaboration with the members of the Group at arrangement meetings, it also determined expected order recipients and arranged matters in such a way that the bid price of the expected order recipients would be the lowest by arranging the bid prices of other participants.

(4) (A) The Group was dissolved as a result of a resolution adopted at its extraordinary general assembly held on October 8, 1987, at Hotel Centraza, located in Yokosuka city, Kanagawa prefecture.

(B) The former members of the Group and Kajima have not designated expected order recipients on the basis of the aforementioned criteria since the dissolution of the Group.

2. Application of the Law:

(1) As described in the above items (1), (2), and (4), the Group was trade association subject to Clause 2, Article 2 of the Antimonopoly Act. The Group worked to substantially restrain competition in the field of transactions of US Navy-ordered projects by having its members designate expected order recipients for the projects. Such actions constitute a violation of Section 1, Clause 1, Article 8 of the Antimonopoly Act.

(2) As described in the above items (1), (2), (3), and (4), Kajima violated the public interest by working in collaboration with members of the Group, to substantially restrain competition against public interest in the field of transactions involving US Navy-ordered projects by determining expected order recipients with regard to the projects. Such actions constitute undue restraints of trade as set forth in Clause 6, Article 2, of the Antimonopoly Act, and constitute a violation of the regulations in Article 3, of the Act.

LIST OF 70 COMPANIES

Ikeda Kensetsu, Ishimoto Kensetsu, Inyue Kogyo, Usuko Sangyo, Umemura Gumi, Ohiwa Gumi, Okayama Komuten, Ebara Plant Kensetsu, Gakunan Kensetsu, Kajima Road, Kato Tokoten, Kaishin Kogyo, Kitamura Shokai, Kinnou Kensetsu, Kuribayashi Kensetsu, Keihin Densetsu, Kouka Plant.

Koudensya, Goyo Kensetsu, Kitashio Industrial, Saito Denki Syokai, Sakakura Toso, Sanei Kohji, Sanwa Daiei Denki Kogyo, Shimizu Kensetsu, Shinyo, Shinwa Biso, Swan Shokai, Seibu Sogo Setsubi, Sogo Kensetsu Kogyo, Taisei Kensetsu, Taiken Kogyo, Taihei Denki, Takenori, Chuo Kensetsu.

Chiyoda Chemical Engineering & Construction, Denki Kogyo, Toa Kensetsu Kogyo, Toho Inc., Toho Densetsu Kogyo, Toyo Kensetsu, Toyoko, Nagasaki Jyotaki Kensetsu, Nagisa Kogyo, Nishimatsu Kensetsu, Nippi Kosan, Nihon Kigyo, Nihon Kokan Koji, Nihon Tatemono, Nihon Tsushin Kensetsu, Nihon Denki Shijyo Kaihatsu, Nihon Nekka Kogyo, Nohmi Bosai Kogyo.

Hanasaki Sangyo, Fuji Sogyo, Fuso Denki, Howa Sangyo, Hokuto Kensetsu Kogyo, Hosaka Kensetsu, Maeda Road, Mabushi Kensetsu, Mamoru Kensetsu, Mikawa Toso Kogyo, Mitaka Kogyosyo, Miyuki Gumi, Yokoso, Wakachiku Kensetsu, Hitachi Zosen, Fuji Kensetsu, Kajima Corporation.

UNITED STATES SEEKS REPARATIONS FROM JAPAN ON PROJECTS

TOKYO.—The U.S. government is seeking about 5 billion yen ($36 million) in compensation from 140 Japanese construction companies for alleged price-fixing in connection with work done on U.S. Navy projects, industry sources said.

The sources said the issue could fuel fears within Japan's construction industry over further U.S. pressure for Japan to reduce unfair trading practices.

The United Staters criticized the Japanese business practice of cartels, or "dango" during bilateral trade talks earlier this month in Tokyo.

Japanese Construction Ministry officials said it might be too early to say whether the U.S. claims for compensation would affect future trade negotiations between the two countries.

The officials said the U.S. Department of Justice sent letters to Japanese construction firms that were awarded contracts—for work ranging from construction of gas and water pipelines to building renovations—at U.S. Navy facilities in Yokasuka between 1984 and 1987.

The construction firms received a warning from the Fair Trade Commission here last December over the alleged cartel, the ministry officials said.

The letters claim construction costs would have been lower had these companies not negotiated prices privately before bids were called publicly.

Such negotiations are against Japan's Anti-Monopoly Law, ministry officials said.

The spokesman at Kajima Corp. said the company was surprised by the letter, received last week, adding that the company had been examining the contents carefully.

Taisei Corp., which had a 100-million-yen contract in 1987 also is monitoring the issue closely before taking any action, according to a company spokesman, who refused to disclose the nature of the contract.

An official at the Construction Ministry said the government did not intend to intervene in the matter because it was a civil case.

Mr. INOUYE. Mr. President, we have reviewed the amendment. We find no objection.

The PRESIDING OFFICER. Is there further debate? If not the question is no agreeing to amendment 906.

The amendment (No. 906) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 907

(Purpose: To repeal outdated conditions on assistance and sales for Argentina)

Mr. RUDMAN. Mr. President, I send to the desk an amendment on behalf of Senators HELMS, KENNEDY, and DODD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN] for Mr. HELMS, (for himself, Mr. KENNEDY, and Mr. DODD) proposes an amendment numbered 907.

Mr. RUDMAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed, with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title III, add the following:

"SEC. . Section 725 of the International Security and Development Cooperation Act of 1981 (22 U.S.C. 2370 note) is hereby repealed.".

Mr. HELMS. Mr. President, yesterday many Members of the Senate met with President Carlos S. Menem of Argentina who was elected in an important election last May, and sworn in on July 8.

This election was important in two ways. In the first place, it marked the transition of power from one civilian government to another through democratic elections. This was a very important step for reestablishing Argentine democracy. One election does not a democracy make. Rather, the succession of such elections is necessary to the firm establishing of the process. The people of Argentina are to be congratulated for insisting on democratic procedures in their political life.

In the second place, President Menem's government has restored confidence to the people of Argentina. At the time he was sworn in, the economic system of Argentina was in chaos. The country was suffering from hyperinflation. People were rioting in the streets for food, and property owners were defending their property with arms. I understand that in the month of July alone inflation reached 200 percent—capping a year of inflation at 2,000 percent. By August, inflation had dropped to 37 percent.

The reason for this change was the aggressive action that President Menem took to make major changes in the economic system, including legislation and steps to privatize state industries, the increase of public utility rates to realistic levels, the elimination of subsidies and restrictions to foreign investment, and currency devaluation. These measures have not only restored vitality to the stock market and stability to the exchange rate. It is not surprising, therefore, that these and other measures have led to an IMF commitment this week of $1.5 billion.

Moreover, President Menem, who was himself jailed by the military government for 5 years, has taken steps to work for national reconciliation, particularly with the military. Most observers believe that these are constructive steps which will strengthen the foundation for the enjoyment of human rights by all citizens of that country.

In this regard, Mr. President, it is timely to reconsider section 725 of the

International Security and Development Cooperation Act of 1981 which placed restrictions upon assistance and sales to Argentina under the Arms Export Control Act. This provision was sponsored by the distinguished Senator from Massachusetts [Mr. KENNEDY]. At the time, the Government of Argentina was in the hands of a military junta, and the distinguished Senator expressed concerns that military assistance might be used by the military junta for the abuse of human rights. That concern is no longer appropriate now that two elected civilian governments have succeeded the military junta in orderly fashion, and a high level of observance of human rights has been restored.

I have discussed this matter with the Senator from Massachusetts, and it is my understanding that he agrees that this provision is no longer appropriate. Therefore, he has offered to cosponsor the repeal of section 725 with me. We are also joined as cosponsor by the distinguished Senator from Connecticut [Mr. DODD], who is the chairman of the Western Hemisphere Subcommittee of the Foreign Relations Committee.

Mr. RUDMAN. Mr. President, this amendment will essentially repeal some very antiquated parts of our foreign aid law as it pertains to the country of Argentina. It has been cleared on both sides. It is appropriate that this is done today since the President of Argentina is visiting our country, and I urge its immediate passage.

Mr. DODD. Mr. President, I rise in support of the pending amendment which is designed to remove from the books certain restrictions and limitations on United States assistance to Argentina.

This is a very timely amendment. President Carlos Menem of Argentina has been in Washington this week. He met with President Bush and yesterday he met with a number of Senators during a luncheon of the Foreign Relations Committee which I was privileged to host.

During that luncheon session, we had an opportunity to discuss a variety of issues relating to United States-Argentina relations. One of those issue was the existing restrictions on aid to the government in Buenos Aires. President Menem made it clear that his government would welcome the removal of these restrictions and would view such action as a very positive step forward in our bilateral relationship.

Mr. President, the political situation in Argentina today is dramatically different from the situation that existed when Congress imposed significant restrictions on aid, both economic and military, to the Government of Argentina. Those restrictions were imposed in the wake of the "dirty war" and the serious record of human rights abuses that occurred during the 1970's.

Today, Mr. President, as throughout much of this decade, the generals no longer hold the reins of government in Argentina. Indeed, President Alfonsin completed his term of office and in July, he stepped down so that President-elect Menem could take his rightful place in the Casa Rosada.

Argentina is justifiably proud of this democratically engineered transfer of power. And by all accounts President Menem has shown the kind of leadership that deserves our strong support and full cooperation.

Accordingly, Mr. President, I urge my colleagues to approve the pending amendment. It will send a positive message to the Government of Argentina and will serve to strengthen our bilateral relations with an important Western Hemisphere ally.

Mr. KENNEDY. Mr. President, yesterday, many of my colleagues and I had the honor of meeting with President Carlos Saul Menem of Argentina. I know I speak for the entire Senate when I say that he is an impressive, courageous leader for Argentina during a very difficult time.

In our meeting, President Menem requested us to lift the current law requiring Presidential certifications on human rights in Argentina as a condition for United States assistance to that country. I am pleased to join with my colleagues, Senators HELMS and DODD, in sponsoring this amendment to lift those restrictions today. This action represents a vote of confidence by the Senate in the government of President Menem and our hope that the progress on human rights in recent years will be continued.

As an original sponsor of that amendment, I have followed closely the events in Argentina over the years. More than a decade ago, at the height of the gross human rights abuses in that country, I joined with Senator Hubert Humphrey in offering an amendment to halt military aid to Argentina. Since then, much information has surfaced about the "dirty war" in Argentina and extensive human rights atrocities committed against the people of that country by the military regime.

Our original amendment, which was later modified to require the Presidential certification, sent a strong message to the military in Argentina that the United States would not provide assistance while those abuses continued.

Two democratic governments have now come to power in Argentina—that of Raul Alfonsin and Carlos Menem. The military is back in its barracks and the gross human rights abuses of the 1970's and early 1980's are past.

President Menem, the new, courageous and democratic leader of Argentina, has asked us to lift these restrictions, and it is appropriate to do so. He faces great difficulties at home, and we should all join together and provide him with this gesture of support.

In taking this action today, the Senate sends a clear message to the people of Argentina. We are impressed with the democratic progress to date, and we hope and fully expect that the progress will continue. Respect for human rights and the rule of law will always remain a condition for United States assistance—not just to Argentina—but to every nation on Earth.

President Menem has made many difficult decisions in his first few months in office. Immediately after taking office, he introduced drastic austerity and reform measures—"major surgery without anesthesia," as he called it. He has devalued Argentine currency, let fuel prices rise, increased utility rates, introduced new tax laws and made cuts in public spending. These are not easy steps to take and President Menem deserves our strong support in his effort to revitalize the economy of his nation.

I urge my colleagues to support President Menem by approving this amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 907) was agreed to.

Mr. RUDMAN. I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 908

(Purpose: To protect the religious liberties of inmates in Federal penal institutions, and for other purposes)

Mr. RUDMAN. Mr. President, I send an amendment to the desk on behalf of Senator HELMS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN], for Mr. HELMS, (for himself and Mr. COHEN), proposes an amendment numbered 908.

Mr. RUDMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end to title II, add the following:

RELIGIOUS ISSUES OVERSIGHT BOARD

(a) Chapter 303 of title 18, United States Code, is amended by adding at the end thereof the following:

"4046. Religious Issues Oversight Board.

"(a) There is established within the Department of Justice a board to be known as the 'Religious Issues Oversight Board' (referred to as the 'Board').

"(b) Any Federal inmate who has a grievance regarding his or her legitimate religious needs which has not been satisfactori-

ly addressed may bring such grievance to the Board, which shall have the power to order the religious need of the inmate met.

"(c) Any decision by the Board may be overturned by the Director of the Bureau of Prisons; provided that the Board may appeal any decision by the Bureau of Prisons to the Attorney General by a vote of more than two-thirds of its membership.

"(d) The Board shall consist of no more than 5 members, each of whom may represent a different major religion of the United States and appointed by the President, after seeking the recommendations of the Majority and Minority leaders of the Senate and the Speaker and Minority leader of the House of Representatives;

"(e) The decisions of the Board shall be made by majority vote. When making decisions, the members of the Board shall take into account the overall security and safety of the inmates, and the financial cost to the taxpayers. The Board shall not have the authority to issue a decision which would result in either the temporary or permanent release of inmates from prison.

"(f) The Board shall meet as often as it deems necessary but not less than once every month, and shall submit an annual report of its activities to the Majority and Minority leaders of the Senate and the Speaker and Minority leader of the House of Representatives.

"(g) Members of the Board shall serve without compensation and for a term of six years; provided, however, that per diem and expenses shall be made available to the Members of the Board to defray Members cost of attending meetings; provided further that any per diem and expenses made available under this section shall come from funds appropriated to the Bureau of Prisons.

"(h) Members of the Board shall be immune from personal tort liability for decisions made by the Board.

"(i) The Director of the Bureau of Prisons shall provide the Board with such office space, staff and support as he deems necessary for the Board to carry out its functions under this section.

"(j) The section analysis for chapter 303 of title 18, United States Code, is amended by adding at the end thereof the following: "4046. Religious Issues Oversight Board."

"(b) Not to exceed $100,000 shall be available for carrying out this section from Federal Prison System, Salaries and Expenses.".

Mr. RUDMAN. Mr. President, this amendment is entitled "Religious Issues Oversight Board." It has been cleared on both sides. This amendment assures that the freedom of inmates in Federal penal institutions to exercise their religious rights is not unduly infringed upon nor unintentionally discouraged by employees of the Federal penal system. The original legislation had some problems. I believe they have been straightened out. It is cleared on both sides.

Mr. HELMS. Mr. President, this amendment will assure that the freedom of inmates in Federal penal institutions to exercise their religious rights is not unduly infringed upon or unintentionally discouraged by bureaucrats in the Federal penal system.

At the same time, this amendment will help lessen the burden upon the Federal court system created by endless controversies over the religious rights of prisoners.

Specifically, Mr. President, this amendment would establish within the Department of Justice a Religious Issues Oversight Board to hear grievances filed by Federal inmates who contend their legitimate religious needs have not been satisfactorily addressed by prison officials.

The board, after taking into account the overall security and safety of the inmates, will have the authority to require that the religious needs of a prisoner be met. Any decision by the Board may be overturned by the Director of the Bureau of Prisons.

Mr. President, the Supreme Court in *Turner* v. *Safley*, 482 U.S. 78 (1987), as well as other cases, has determined that individuals do not lose their first amendment right to practice religion upon entering a penal institution. This is wise, for perhaps the best, if not only course for a prisoner to find rehabilitation is through the Lord.

That is why the freedom to believe in, and practice—to the extent practicable—one's religion is so important to prisoners and to society.

Yet despite this fact, the right of inmates in Federal penitentiaries to exercise their reasonable religious rights is often stomped out by unelected Federal bureaucrats over whom there is no effective and regular oversight. Prisoners denied religious rights often have no recourse but through the expensive and lengthy maze of the Federal court system.

Over the recent past, prisoners have been denied the right to attend religious services, to be ministered to by leaders of their religion, to possess religious literature, to correspond with the heads of their sects or churches, to have diets required by their religions, to possess and wear religious medals, and in some cases even the right to celebrate religious holidays.

There are people in Washington, Mr. President, who believe that religion has no place in anything the Government does. I disagree, and so does the Supreme Court of the United States. Unfortunately, the regulations governing the Federal Bureau of Prisons grants it wide latitude to flout the religious rights of prisoners. And that is what it all too often does.

For example, it has been reported that these regulations allow Federal officials almost total discretion to determine when a prisoner may be denied the right to attend religious services, and that the regulations governing religious diets do not resolve the most prevalent issues.

Nowhere is there any requirement that clergy or religious representatives oversee the process or even be consulted to help determine the validity or importance of the prisoner's claim.

By leaving questions of religious rights of inmates entirely to the whims of Federal bureaucrats, prisoners have often been left with no choice but to pursue their claim in the Federal court system. This, in turn, has created additional and unnecessary work for this already overburdened system. At the same time, the complexity of the process can only have an intimidating effect upon inmates who would like to exercise religious rights.

Mr. President, this amendment poses a clear-cut question: Should we help inmates to follow their religions when practicable, or should we leave this basic constitutional right almost totally to the whims of a bunch of bureaucrats?

If we are to assure that those prisoners who wish to find the Lord are not unnecessarily impeded from doing so, a Board needs to be created to oversee the actions of the Federal Bureau of Prisons. This amendment will create such a Board, and I encourage my colleagues to lend it their support.

DUE PROCESS CALLS FOR RELIGIOUS ISSUES OVERSIGHT BOARD

Mr. President, some time ago, I asked my staff to prepare for me a legal brief outlining the issues involved in restrictions upon the exercise of religion by prisoners.

My staff discovered that the Supreme Court has found time and again that inmates do not lose their religious freedom by virtue of entering a penal institution; and that in fact, these freedoms may be legally infringed upon only if so compelled by security or other vital interests, and only then if the infringement is done in a less restrictive manner.

But despite this relatively clear standard, no mechanism exists—short of entering the courts—for a prisoner to assure his or her religious needs are not unjustifiably restricted.

All of the nonjudicial decisions are made by prison officials or other Federal officers who have a vested interest in protecting the needs of the prison and no interest in preserving the religious liberties of prisoners nor any understanding nor appreciation of the importance or substance of a particular religious practice.

Due process calls for there to be some governmental procedure by which a prisoner may have his religious needs addressed in a fair manner before his rights are restricted and without having to go through the time and expense of the judicial system. This amendment establishes such a procedure.

The legal brief prepared by my staff follows:

PRISONERS RETAIN CONSTITUTIONAL RIGHTS TO RELIGIOUS FREEDOM

On numerous occasions the U.S. Supreme Court has held that those found guilty of crimes do not lose their religious rights upon entering a penal institution and the provision of religious rights to prisoners does not violate the establishment clause of

the First Amendment. (*Abington School District* v. *Schempp*, 374 U.S. 203 [1963]; *Cruz* v. *Beto*, 405 U.S. 319 [1972]; *Turner* v. *Safley*, 482 U.S. 78 [1987])

In *Abington*, the Court found the employment of prison chaplains as essential to avoid violating the rights of prisoners to practice religion. In addition, it determined that the hiring of such chaplains does not violate the establishment clause. As Justice Brennan wrote:

"[W]here the government has total control over people's lives, as in prisons, a niche has been carved into the establishment clause to require the government to afford opportunities for worship * * *. The government, in its control of prisons, is precluded from denying religious observance to inmates * * *-1A"

In *Cruz*, a Buddhist prisoner was prohibited from using the prison chapel, restricted from writing to his religious advisor, and punished for proselytizing to other prisoners. In restoring the religious privileges of the prisoner, the Court reaffirmed the constitutional right of prisoners to exercise religion and declared it a duty of the Federal Courts to "enforce the rights of all persons, including prisoners."

COURTS MAY RESTRICT RELIGIOUS RIGHTS FOR SECURITY REASONS, BUT MUST CHOOSE THE LESS RESTRICTIVE METHODS OF SO DOING

It is true that the religious rights of prisoners is not absolute. Rather, prison officials are accorded some latitude in providing for the religious rights of prisoners in those instances where security or practical imperatives justifiably require. But in such instances, officials must meet these imperatives in a fashion least restrictive of the prisoner's rights.

In *Sweet* v. *South Carolina D.O.C.*, 529 F.2d 854 (4th Cir. 1975), the prisoner in question was segregated from the rest of the prison population because of the threat posed to his safety by other inmates. While the prisoner did not contest his segregated confinement, he did protest his inability to attend religious services.

In refusing to provide for the prisoners rights in this instance, the Court found that the prisoner's safety at common services could not be sufficiently guaranted by prison guards, and that the provision of services to the prisoner alone in his cellblock would be an unjustified strain upon the administration of the prison.

In *O'Lone* v. *Estate of Shabazz*, 482 U.S. 342, 1987, prisoners of the Islamic faith brought suit to require prison officials to permit religious services on Friday afternoons. In finding for the prison officials, the court found that "on difficult and sensitive matters of institutional administration" regarding security concerns, the religious liberties of prisons may be overruled.

Prison officials are charged with providing for the security of prisons, and prisoners. But when so doing, such officials must choose means which are less restrictive of the legitimate religious right of prisoners.

In *Rodgers* v. *Clark*, 410 F.2d 995 (D.C. Cir. 1969), Muslim prisoners in the District of Columbia sued jail officials to require that they be fed at least one pork-free meal daily so as to permit their adherence to Muslim dietary tenets. In holding for the prisoners, the court found that only gravest situations, endangering paramount interests, can engender permissible limitations upon the free exercise of religion.

In *Gallahan* v. *Hollyfield*, 670 F.2d 1345 (4th Cir. 1982), an adherent to a Cherokee religious order desired to exercise his religious beliefs which required him to let his hair grow long in contradiction to a prison regulation requiring that hair not exceed a certain length so as to prevent inmates from shrouding their features or hiding contraband.

In holding for the inmate, the court noted that there were less restrictive alternatives available to prison officials, who could have met their security concerns by simply requiring that the inmate's hair be worn in a pony tail.

DUE PROCESS CALLS FOR A PROCEDURE BY WHICH INMATES MAY PRESS CLAIMS OF RELIGIOUS INFRINGEMENT

Whether or not a prisoner's religious liberty should be infringed upon for the sake of security or other compelling need is no easy question. If often requires a weighing of the alternative methods by which such need may be met against the religious liberty in question.

In *Schlesinger* v. *Carlson*, 489 U.S. 612 (1980), a Jewish prisoner pressed for the food and facilities necessary for him to observe the dietary laws of his religion. In holding for the prisoner, the Court affirmed that a restriction on a religious right must be reasonably necessary in support of an important or substantial interest." Thus, the standard by which a religious right may be infringed calls for a number of judgments.

At this point, the only option available to a prisoner seeking to preserve a religious liberty—short of entering the judicial process—it to have these judgments considered by prison officials. However, such officials cannot be expected to appreciate nor properly evaluate the importance or substance of a particular religious practice.

Due process requires that some procedure be available to a prisoner whereby he or she may receive a fair consideration of his or her rights—without having to resort to the courts.

In *Procunier* v. *Martinez*, 416 U.S. 396 (1974), prison inmates challenged prison regulations permitting the censorship of mail. In holding such censorship to be unconstitutional, the Court held that First Amendment rights may only be curtailed if necessary for order or security, and then only if the prisoner to be denied such rights is granted procedural safeguards.

As in *Procunier*, controversies over the religious rights of prisoners involves First Amendment questions. As such, prisoners should be provided with some procedural safeguards to assure that their religious needs may be addressed in a fair manner before these rights are restricted and without having to go through the time and expense of the judicial system.

Mr. RUDMAN. I understand the Republican leader has a question on this amendment.

The PRESIDING OFFICER. The Chair recognizes the Republican leader.

Mr. DOLE. Mr. President, I have an interest in the amendment. I think it is a good amendment. I think the goals are admirable. I was trying to determine whether or not the Justice Department had an opportunity to look at it and to give its views on the legislation. I have asked them to do that in response to a request, but I am not certain they have made a report.

Mr. RUDMAN. I give this answer to the Republican leader. The Justice Department did not like this amendment at all. They did not like it for several key reasons. We addressed, I believe, those reasons. They still do not like it.

Mr. DOLE. That is their report?

Mr. RUDMAN. That is their report.

Mr. DOLE. I thank the Senator.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment No. 908.

The amendment (No. 908) was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 909

(Purpose: To assist with efforts to rid public housing and schools of drug dealers)

Mr. RUDMAN. Mr. President, I send an amendment to the desk on behalf of Senator GRAMM and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN], for Mr. GRAMM, proposes an amendment numbered 909.

Mr. RUDMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

"*Provided*, That not less than $5,000,000 of the amounts provided for basic field programs of the Legal Services Corporation shall be used directly or indirectly to assist public housing tenants, public housing authorities, tenant associations, tenant management associations and state and local school boards and officials with efforts to expel from public housing or school areas any individual engaged in drug-related criminal activity. For purposes of this paragraph, the term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))."

Mr. RUDMAN. Mr. President, this is a very interesting amendment. The Senator from Texas came to Senator HOLLINGS and myself a while ago and said he thought with a war on drugs and with all the problems in public housing we might earmark some money from the Legal Services Corporation to allow Legal Services lawyers in high drug-impact communities to go into those housing projects and help bring writs of eviction against drug dealers and drug users living in those public housing projects. It is a very novel idea. We do not know how it will work. We are going to take it to con-

ference and discuss it with the House, but I certainly believe it is worth discussing. That is what this amendment accomplishes.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment No. 909.

The amendment (No. 909) was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPRESSION OF APPRECIATION

Mr. ADAMS. Mr. President, I rise as a member of the Senate Appropriations Committee to speak to the passage of this very important funding bill. Important, not only to the Nation at large, but to my State in particular.

I want to extend my special appreciation to Chairman HOLLINGS, for working with me to ensure that the needs of Washington State were met. This bill provides for a vast assortment of funding resources to support programs and local industries vitally important to the social, environmental, and economic welfare of my State.

In particular, I am most proud of the fact that we have provided $1 million over the administration request for the National Marine Sanctuaries Program. The need for this money is critical. Last year I passed legislation creating a National Marine Sanctuary off of the western coast of Washington, and set up a study of a possible sanctuary in the San Juan islands. These additional funds will help ensure that these projects are completed on time.

A special concern of mine has been to secure funding for important research programs that support our State's fishing industry. I am pleased that this bill includes funds for programs like the Pacific Fishery Information Network, Bering Sea and Gulf of Alaska groundfish and crab research, Columbia River Fisheries Development Program, the Pacific Salmon Treaty, Domestic Observer Program, Regional Fisheries Councils and Salmon Interception Program. Without the dollars to support the ongoing Federal research, the fishing industry and Washington State's overall economy would suffer.

I am also particularly pleased that this bill includes $3 million for implementing the recent driftnet agreements between the United States, Korea, Japan, and Taiwan. Without this funding, these agreements would be rendered essentially meaningless, and I deeply appreciate the committee's assistance on this issue.

In addition, I also want to thank the chairman for his support of two very special program funding requests. First, full funding was provided for an observer at the Stampede Pass weather station, located in the Cascade Mountains. With this funding, we will be able to insure the safety of pilots flying over the mountains in inclement weather. Also provided in this bill was funding for a national child welfare program that was initially developed in my State. The Court Appointed Special Advocate Association is a grass roots program in which community volunteers watch over and speak for abused and neglected children in our court systems.

In conclusion Mr. President, this bill also provides for entitlement language starting in 1991 for funding of the Japanese American Reparations Program. This is an item that I have supported for a very long time. A permanent solution has finally been found.

I would like to again thank the chairman of the Commerce, Justice, State, and Judiciary Appropriations Subcommittee for working with me to ensure that the needs of Washington State are met.

PLACING A CAP ON CONSULTANT SPENDING

Mr. PRYOR. Mr. President, I rise today to thank and commend Senators HOLLINGS and RUDMAN. They have included in the appropriations bill for the Departments of Commerce, Justice, and State my amendment to cap the amount of money which the Departments can spend on consultant services.

This amendment is identical to the amendment that I successfully offered to previous appropriations bills.

Mr. President, the three Cabinet-level Departments that receive their appropriations through this bill underreported their spending on consultant services in fiscal year 1987 by roughly $50 million. This problem exists throughout Government. I believe we owe it to the taxpayers to force the agencies to keep better track of their consultant spending.

Mr. President, over the past 20 or 30 years, Federal agencies have grown more and more dependent on contractors to perform the most basic work of the Government. This has occurred for a variety of reasons. Some blame congressional actions and some say that it is appropriate to have contractors doing the work. Whatever the reasons, the result has been the creation of a hidden bureaucracy, not subject to the rules and regulations that govern the official bureaucracy.

This hidden bureaucracy writes reports to Congress, implements Government programs, evaluates Government programs, drafts regulations, and comments on GAO reports.

Furthermore, in this time of great concern over ethics, it is essential to realize that contractors and consultants are not covered by the ethical rules that govern the civil service. They are not covered by President Bush's proposed ethics package. They are not covered under the Ethics in Government Act.

Mr. President, while I think that consultants and contractors may have a role to play in making our Government more efficient, this widespread delegation of much of the basic work is unhealthy. It creates a buddy system and oils the revolving door.

What I propose is to use the Department's own figures to cap their spending on consultants. I think this is a reasonable and fair approach. Under current law, section 1114 of title 31, United States Code, each agency is required to include in its budget justification the amount of money which it requests for consulting services, as well as a list of appropriation accounts from which the money is to come and a description of the agency's need for consulting services.

The definition of consultant services will be the same as the definition provided by the Office of Management and Budget's Circular A-120.

To give the agency an accurate idea of what it is actually spending on consultant services, the amendment also requires the Secretary of each Department to submit a quarterly report to Congress and the Comptroller General on the funds obligated and expended by the agency during that quarter. This report will provide the Congress with information on the types of services we are buying. Furthermore, the report will contain the reason the agency felt that no Federal worker could perform these jobs. The Comptroller General is then requested to review the reports submitted by the Secretary and make any recommendations that he sees fit.

Mr. President, let me emphasize that this year I am proposing to use the figures on consulting services the agencies themselves sent up to the Congress. This amendment is another step in my quest to pin down exactly how much the Government spends on consultants and what the consultants do for us. I believe this simple approach will enable us to assure the taxpayers that the Federal Government is carefully monitoring the way we are spending their money.

FUNDING FOR THE WESTERN CORRECTIONAL COMPLEX

Mr. WIRTH. Mr. President, I rise today to offer my support for the funding included in the Commerce, Justice, State, and Judiciary appropriations bill for the construction of two Federal correctional complexes. These prisons may very well play an important role in the war we are waging on drugs. One component of our Nation's fight must be law enforcement, and in turn, making sure those drug offenders serve time. We have been working in the Senate the last few weeks to determine the most

expeditious and effective measures to fight this war. I am proud of the direction we are taking and pleased that we can act now to expand the capacity of the Federal prison system.

If we are going to prosecute more dealers and users, we need to have a place to put them when convicted. The inmate population in the Federal prison system has increased dramatically: 80 percent in the last 8 years. The need for more prison space is obvious.

The two complexes funded in the bill—one in the Northeast and one in the West—will be comprised of a maximum security penitentiary, medium security correctional institution and a minimum security prison camp. Because the sentences of drug-related crimes vary so much, these multipurpose correctional facilities are even more necessary.

Should everything stay on course, Mr. President, the Western complex will be built in Fremont County, CO—with the enthusiastic support of 98 percent of its residents. I was highly impressed by the active participation of the residents to ensure the building of the Federal correctional complex. The people of Fremont County not only welcomed the new Federal prison, but raised $142,000 in less than 3 weeks toward the purchase of the land needed for the complex. In an era of tight budgets and rising crime rates, the Federal Government should applaud a public-private partnership like this.

I commend the members of the Appropriations Committee, and especially those on the Subcommittee on Commerce, Justice, State, and Judiciary for their foresight in funding these facilities. We need to move forward with this opportunity to fortify our justice system and keep strong our war on crime.

MAKING MUSIC TOGETHER

Mr. KERRY. Mr. President, I want to commend the Appropriations Committee and thank Chairman HOLLINGS and Senator RUDMAN for including $1 million in the Commerce, Justice, State appropriations bill to make the Federal Government a full partner in the upcoming "Making Music Together" festival.

This contribution will make possible the most substantial festival of American music ever to occur in the Soviet Union. This festival financed by the Soviet Union, private donors and now, with the concurrence of the House, the United States Government will permit some of our country's most extraordinary musicians to travel to the Soviet Union to work with and perform with the best in the U.S.S.R.

Let me just list briefly a few of the people and organizations expected to take part. Leonard Bernstein, Mikhail Baryshnikov—returning to perform in the Soviet Union for the first time—the National Theater of the Deaf, the Leningrad Philharmonic, the Kirov and Bolshoi Opera and Ballet, the Conservatories of Moscow and Leningrad and many more. And, let me single out with special pride, Sarah Caldwell and the Opera Co. of Boston whose genius, energy and enthusiasm have made possible this festival, considered by many to be the most important cultural exchange ever between the United States and the Soviet Union. This is the type of citizen to citizen diplomacy that can permanently remove the bricks and barbed wire that have for so long, and at such great expense, locked us into our worst fears and insecurities about each other.

Today democracy and freedom are in the ascendency in many parts of the world, particularly in the Soviet Union and Eastern Europe. The opportunity to build understanding of share values and dreams for ourselves and our children have never been greater. We must take advantage of this opening to help create the understanding that will progressively reduce the fear and mistrust that has characterized our relationship for much too long and burdened our peoples and our societies in extraordinary ways.

Few options that are open to us can contribute to this healing more than scientific, economic, political, and cultural exchanges. And frankly, nothing can help to build understanding of the common values and humanity that we share with the Russian people more than the type of musical exchange we are helping to make possible by our action today.

I would like to commend Chairman PELL and my colleagues on the Senate Foreign Relations Committee for their support of increased funding for these important cultural exchanges.

And again, I would like to thank the chairman and ranking member of the Commerce, Justice, State, Appropriations Subcommittee for their support of this important effort to build a bridge of shared values between the American and Russian people.

U.S. TRAVEL AND TOURISM ADMINISTRATION

Mr. BRYAN. Mr. President, I rise in support of the Commerce, Justice, State, and Judiciary appropriations bill. This bill includes funding for the U.S. Travel and Tourism Administration [USTTA]: an agency within the Department of Commerce charged with promoting the United States as an international travel destination.

Mr. President, the Secretary of Commerce has described the USTTA as producing one of the best—if not the best—returns on investment in Government. Last year foreign travelers spent approximately $37.1 billion in the United States. This $37 billion represents export earnings and contributes to reducing our trade deficit.

However, the USTTA—charged with promoting this export industry—had a budget of only $13.8 million. This is less than 5 cents per U.S. citizen—ranking the United States 45th in per capita spending and 19th in total spending by National Government tourism organizations. We spend less on promoting this important industry than countries such as Colombia, Peru, Kenya, and Hungary.

This year's appropriation bill includes $14.3 million for USTTA—not a significant increase, but a step in the right direction.

Mr. President, America simply has not aggressively marketed herself as an international travel destination. While in most industries, competition is between companies, in the travel and tourism industry, it is also between countries. Globally, more than 170 national tourism administrations are vying for the business of 20 principal tourism-generating countries. The United States must expand its national promotional efforts.

I would match the ingenuity of American business and the American tourism industry against any in the world. However, we must recognize that these businesses are often competing against entire countries. We must work with our travel and tourism industry to promote the United States as an international destination and to reduce or eliminate barriers for visitors wanting to visit our country.

Earlier this week, our colleague from West Virginia [Mr. ROCKEFELLER] chaired a hearing on the state of the tourism industry. The witnesses had a variety of suggestions to help promote U.S. tourism export earnings. But on one point they were unanimous: the need to increase the marketing effort by the Federal Government and to increase funding for USTTA.

I believe that this industry—properly promoted—can help reduce our trade deficit. One example is increasing tourism from Japan. The Government of Japan is officially encouraging its citizens—as many as 10 million—to travel abroad as a means of addressing its trade surplus. Last year, 2.6 million Japanese came to the United States and an estimated 3.2 million will visit the United States in 1989. In 1988, we had a $3.1 billion surplus with Japan in travel and tourism.

But we can do more. In my visits as Governor to the Far East, I found that they were eager to visit the United States. By far, the United States was the most desirable foreign destination. However, we are losing many of these potential visitors to other countries which more effectively promote themselves as a tourist destination.

Mr. President, I applaud the Senator from South Carolina [Mr. HOLLINGS], the chairman of the Commerce, Justice, State and Judiciary Appropria-

tions Subcommittee, for his support of the tourism industry and for including funding for USTTA in this bill. I know he will champion the effort in a conference with the House—which has not provided any funding for the USTTA—and I pledge my support in this effort.

JUDICIAL PAY RAISES

Mr. HATCH. Mr. President, earlier this year I introduced S. 696, the Federal Judges Pay Act. The purpose of that bill is threefold. First, the bill would provide all Federal judges a 30-percent pay raise. Second, it would remove the Federal judiciary from the current pay raise procedures of the Federal Salary Act which involves the Quadrennial Commission on Executive, Legislative, and Judicial Salaries. And third, it would provide that future adjustments to judicial salaries would be made based on the percentage increase given to Federal employees under the General Schedule.

As we prepared to bring up the Commerce, Justice, State appropriations bill I once again reflected on the judicial crisis that I believe has already begun. While I believe that S. 696, the Federal Judge Pay Act is an equitable method for maintaining the independence of this important branch of the Government, and as such deserves careful consideration by the Governmental Affairs Committee, I want to let my colleagues know that I have been giving serious consideration to offering an amendment today to provide a 30-percent pay raise for all Federal judges as my bill would provide, or a 25-percent pay raise, as the President has recommended.

To provide the funding necessary to pay for this increase, my amendment would make an across-the-board reduction in all other appropriations in this bill, except for the appropriations for judicial salaries. Such a reduction would amount to less than three-tenths of 1 percent of each appropriation. This amendment would provide pay raises to the Supreme Court Justices, the courts of appeals judges, the district court judges, the U.S. claims court judges, the international trade court judges, the bankruptcy judges, and all full-time magistrates.

Mr. President, while I believe that this appropriations bill would be an appropriate piece of legislation to propose such a pay raise, I also understand that an increase in judicial salaries will be a primary component of the ethics legislation that we will be considering later this year. It is my sincere belief that we must adjust Federal judicial pay levels if we are to maintain the quality in the judiciary to which we have become accustomed. I have therefore decided not to offer my amendment at this time. I do wish to make it known to my colleagues, however, that if we fail to deal with judicial salaries during our consideration of the ethics bill, I do intend to bring the issue directly to the floor.

Mr. President, on March 15, Chief Justice Rehnquist held a highly unusual press conference during which he called for an increase in Federal judicial salaries. Citing the cost of inflation over the last 20 years, the difficulty in recruiting and retaining highly qualified people on the Federal bench, the threat to the concept of lifetime service, and the disparity between the salaries of the judges and attorneys in private practice, the Chief Justice, on behalf of the Judicial Conference, recommended that the members of the Federal judiciary receive a 30-percent pay raise.

Not long after that press conference, another interesting item appeared in the media. In an op-ed piece, David S. Broder related the interesting situation of George Kazen, a Federal district court judge in Laredo, TX. I would like to read a few excerpts from that article.

> Kazen is 49. He grew up in Laredo and was first in his class when he graduated, at age 21, from the University of Texas law school. Married and the father of four, he was making about $120,000 a year in private practice when President Carter appointed him to the bench ten years ago. Today, he's making $89,500 in inflation-shrunk dollars, * * *
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> On behalf of the public, Judge Kazen administers justice in a vast expanse of south Texas. By all reports, he does it very well. In the last two years, as efforts to halt the flow of narcotics have intensified, his felony calendar has increased 48 percent and may be the longest of any federal judge.

In a telephone interview with the author of the editorial, Judge Kazen had this to say:

> I was in pretty good financial shape when I started here. But I have put three children through college; my son is still in law school. Another son will graduate from high school this year and wants to go to Trinity in San Antonio, where tuition, room and board is $13,000 a year, without a nickel for books or clothes or anything else.
>
> I have liquidated every bit of stock I owned and every investment except two pieces of real estate that are dead ducks and can't be sold. My debt has probably doubled. This year, I promised my wife, my family, my banker and myself that this would either be the year I finally got a handle on my finances, or I was going to get out. The pay raise (to $135,000, recommended late last year by President Reagan and a bipartisan commission but killed by Congress) was all going to go to reducing the debt. With it, I could see how I would be out of debt by the time I was 60. But without it, I just can't go on.
>
> I feel a tremendous amount of loyalty to my colleagues, to the court personnel, but there's only so much I can do for my country. I honestly feel that serving my country for 10 years has cost my family $1 million. And what really hurts is when you're told [by critics of the pay raise], "You're in a fat, cushy job. * * * You're a dime a dozen. * * * If you leave, there's a dozen others could fill your job."
>
> Well, I haven't looked on it as just a job. I work [hard] on this endless narcotic docket because I think it's important. But the minute I said to a reporter for a Texas legal magazine I might have to leave the bench, I started getting feelers for jobs starting around $200,000. * * * I tell you, we're the lost battalion out here, and I'll admit it, I'm very frustrated, very bitter.

Mr. President, this situation, and several others like it, are very troubling to me. When our Founding Fathers created the Federal courts, they envisioned an independent judiciary whose members would serve under lifetime appointments. Under article III, section 1 of the Constitution, "The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office." The 1989 Commission on Executive, Legislative, and Judicial Salaries, chaired by Lloyd N. Cutler, noted in its report that, "[t]he concept of lifetime service with undiminished compensation was designed to protect the independence of judges by removing any concern that the President or Congress would curtail their time in office or reduce their salaries."

This concept is also largely responsible for the high quality of justice found in our judicial system. To be sure, the system may have some problems, but the caliber of people who serve as justices and judges has always been at a level that engenders the trust of the American people. As the Chief Justice stated during his press conference:

> The federal judiciary has not been thought of as a stepping stone to something else. It's kind of the place where you end, not an interim step that you take in pursuing a career in public office. And I think those who were acquainted with both the state judiciary * * * and the federal judiciary realize that it does make a difference. If you have judges who are there for a lifetime career, it gives you a different kind of judge, someone who is simply devoted to judging rather than always looking out of one corner of his eye for the next political opportunity that comes along.

But, Mr. President, I fear that given the current situation involving judicial salaries, we are, in fact, encouraging many of our judges to look with more than just the corners of their eyes. The Los Angeles Times recently reported about the case of another Federal judge, Jim R. Carrigan, who confided that he would be stepping down from the bench because of the defeat of the proposed judiciary pay raise. Like Judge Kazen, Judge Carrigan has just about exhausted all of the funds and assets he had accumulated before sitting on the Federal bench in order to pay college tuition for his six children. According to the Times, although Judge Carrigan expressed a strong desire for public service, "the intangible rewards of sitting on the Federal bench were no longer enough

to compensate for the prospect of going at least another 4 years without an increase in his $89,500-a-year salary."

Judge Carrigan suggests, and I would have to agree, that we may now be experiencing the beginning of an exodus from the Federal bench. According to the Judicial Conference of the United States, there appears to be a correlation between the sharp rise in early resignations from the bench and inadequate salary increases. According to their statement:

[The] figures reflect an increasing rate of departures that has grown in tandem with the decreasing real salary levels of the last two decades. During this same period the number of judges has also risen, * * * Yet the rate of increase in judicial departures clearly surpasses these rates. On the average, fewer than one judge a year resigned in the early 1970's compared to an average of five to six each year in the late 1980's. It is certainly plausible to conclude that declining real judicial salaries have contributed to a higher incidence of judicial departures in recent years.

The Judicial Conference also reviewed exit statements made by 26 departing judges to determine if salary levels were playing a role in resignations. They found that these statements did confirm that such is the case. The conference noted:

The information obtained * * * paints a sobering picture. Almost all of the judges indicated that financial considerations were a factor in their decision to leave the bench. For many, financial pressures played a decisive role. Several judges commented to the effect that "if money had not been a problem, I would still be there."

Mr. PRESIDENT, typical of these Judicial Conference findings is the statement provided by Judge Robert M. Duncan at a hearing before the 1989 Quadrennial Commission on November 11, 1988:

After [eleven and half] years of 60-65 hour work weeks, in one of the busiest districts in the United States, my life had been threatened on two occasions, my 9 year old daughter's life had been threatened, my wife was still working, we had not traveled outside the country, and I was unable to foresee how I could afford to send my youngest daughter to the university of our choice, I came to believe that my employer had not treated me fairly in an economic sense.

The decision to leave the bench was agonizing. However, for years I had been intrigued with the challenge of practicing with talented lawyers in a large, prestigious and active law firm. I took advantage of an excellent opportunity to pursue such a challenge. It is clear in my mind that the quantum increase in compensation was a strong inducement for me to leave the bench. In 1985, at age 57, I had limited productive years ahead, and I also knew that if I entered private practice I could afford to educate our youngest daughter, repair our house, my wife could retire and, finally, my earnings are somewhat comparable to the income earned by a number of law school classmates and many of the lawyers I have trained.

On the other hand, being a United States District Judge, in my view, is being at the tip-top of the legal profession. I miss the honor and privilege of doing my best to provide extremely valuable public service to our country. I miss the Court.

In a related survey the American Bar Foundation found that 95 percent of the responding active judges felt that their compensation is inappropriate and that in the absence of a significant salary increase, 30 percent plan to leave the Federal bench before retirement. Perhaps evern more significant, because of the large number of judges who responded, are the findings of the Judicial Conference. The conference reports:

[J]udges were asked how seriously they had considered cutting short their active judicial service for reasons primarily related to salary. The options listed as possibilities included resigning before reaching the minimum retirement age of 65; electing senior status sooner than the judge otherwise would have; and retiring from office . . . to return to the practice of law rather electing senior status and continuing to serve as a judge. More than one-half of the responding judges indicated that they had given at least some minimal thought to these possibilities. Many of these judges—up to 31 percent of those who responded—said they had "very seriously" considered taking at least one of these steps.

Of even more concern than the fact that many judges are giving serious consideration to shortened service is the fact that some have taken affirmative steps in that direction. A total of 66 judges indicated that they have taken specific actions related to early resignation or retirement. The actions range from looking for alternative employment to receiving and considering concrete job offers.

This survey also found that life tenure is not an acceptable tradeoff for lower pay to many judges and that more judges would be very likely to stay in office if their salaries were adequately protected from inflation.

In addition to the financial burden placed on current judges, the failure to keep judicial salaries somewhat apace of inflation has created additional problems. One such problem is the cost of training new judges and support staff, and probably more important is the loss of efficiency in handling large case loads. Retired Chief Justice Burger has estimated that "it takes 5 years for a qualified attorney to reach peak efficiency as a Federal judge."

Another problem involves the recruitment of future judges. Former Deputy Attorney General Edward G. Schmults had this to say regarding judicial recruitment:

For three years, beginning in 1981, I played an active role in the judicial selection process. Time and time again, I and others at the Department of Justice were told by highly qualified lawyers that they simply could not afford to leave the practice of law for a federal judicial post. Beyond those lawyers who were contacted by the Department, we were keenly aware of many more outstanding candidates who would not even let their names be put forward for consideration.

In addition, the Judicial Conference survey found these results:

[W]hen asked what they would advise a friend or colleague considering seeking a nomination, 20 percent of judges indicated they would advise against it, primarily for salary reasons. More than half of the judges mentioned compensation in their responses, mostly to the effect that prospective nominees should be fully aware of the inadequate compensation before making a lifetime commitment to the office. One judge stated that he would advise a friend to seek a judgeship "if he had no children he had to educate, was willing to live very frugally, and had some private resources. In other words, this excludes most normal, successful lawyers."

I would like to conclude by reading from the report of the Quadrennial Salary Commission:

The constant dollar value of federal judges' salaries has been eroded to less than 70% of what it was in 1969. At the same time, the workload of judges has increased dramatically. Despite increases in the number of authorized judgeships in the last twenty years, caseloads per judge have increased sharply. Since 1969, average District Court caseloads have increased 53%, from 339 to 520 cases per judge per year. The appellate courts have experienced more than a 100% increase, with average caseloads rising from 123 cases per judge in 1969 to 249 in 1988. This combination of less pay for more work has caused many judges to leave the bench for private practice at much higher levels of compensation.

Unfortunately, when we voted against the recommended congressional pay increase earlier this year, we were unable to consider separately the recommendations for the judicial branch. It surely must be demoralizing for a Federal judge to realize that his or her new law clerk, fresh out of law school, will be earning much more than the judge almost as soon as the clerk leaves the court. I firmly believe that the country will suffer greatly because of the evident increasing low morale within the judiciary.

Mr. President, I believe that we must act soon on this pay increase if we are to avoid a judicial crisis. I ask my colleagues to give serious thought to this issue.

Mr. DODD. Mr. President, I completely agree with Senator HATCH about the need to increase Federal judges' salaries.

Historically, Federal judges' salaries have been linked to congressional salaries. In terms of the responsibilities and importance of both jobs, I think the linkage has been appropriate. However, because of the lack of political will to adjust our own salaries, the value of salaries for judges has decreased to the point that the quality of justice is truly beginning to be strained.

Mr. President, most lawyers have always aspired to be Federal judges. That is as it should be because the ju-

diciary should consist of our finest legal minds. Whether the matter at issue is interpretation of our Federal statutes, resolution of important property or injury claims among our citizens, or protection of the Constitution, clearly we are well served only when our judges are the best our legal profession has to offer.

Unfortunately, today's salaries are threatening the continued quality of our judiciary. More and more judges are quitting for understandable reasons—such as to earn enough to send their children to college. How much longer can we continue to pay our Federal judges little more than our Nation's top law firms pay first year associates? Surely, to continue down this path is to court disaster.

Moreover, I think it is important to keep in mind that judges' salaries are only one part of the problem, a problem that encompasses the value we place on public service. For just as surely as most of the best lawyers will abandon, or not seek appointment to, the judiciary if salaries are not higher relative to private sector salaries, so will our best minds abandon public service. This will be true whether it is our top researchers at NIH or Assistant Cabinet Secretaries who are paid less than $85,000 a year to manage billions of dollars and thousands of people.

Mr. President, it is easy to rail against increased salaries for Federal bureaucrats or judges, but we are beginning to see the effects of our actions, and they are distressing indeed. Just yesterday, we discovered that the Federal Housing Administration, the agency that helps millions of Americans buy homes, has current and anticipated losses of $6.9 billion. Why? The answer is telling and frightening—because of poor management practices, high turnover and inadequate staffing at HUD during the Reagan years. That is a very real price that all of us will pay for placing too low a price on public service.

Unfortunately, the FHA mess is not an isolated example. The FSLIC debacle, which will cost American taxpayers about $160 billion over the next decade, occurred in part because the OMB refused to give the Federal Home Loan Bank Board the number of personnel the Board was requesting to supervise the thrifts with their newly-granted broader powers. Moreover, it wasn't until 1985 that the regulators were able to devise a way to pay competitive salaries in order to attract the best supervisory personnel. Unfortunately, by then the horse thieves were long gone from the barn.

Mr. President, on June 12 I introduced S. 1116, a bill which would provide for a gradual increase in the rate of pay for senior executive branch officials and for judges, and S. 1117, a bill to provide for a gradual and concurrent increase in the rate of pay and decrease in honoraria for Members of Congress. Adoption of these bills would put an end to the kind of problems I have been talking about. I am prepared to wait to see if the ethics legislation addresses these problems, but if it does not, I will be back here because this is a fight for good government. We can—and should—debate the appropriate size and functions of government, but once we decide what government should be involved in, we must assure that the people who carry out those functions are the best people we can find.

EXPRESSION OF APPRECIATION

Mr. CHAFEE. Mr. President, I would like to take a moment to express my appreciation to the members of the Commerce Appropriations Subcommittee for providing all-important funding for the operations and activities of the National Oceanic and Atmospheric Administration.

Right now, the health of our environment is a matter of national—actually, international—concern. And I'd say with good cause. Global warming, clean air and water, and deforestation are some of the major issues directly related to the well-being of our population and our Earth. In this context, NOAA plays a vital role. We need to make sure that NOAA has the wherewithal to help us monitor and solve the environmental problems we face.

In my home State of Rhode Island, at the University of Rhode Island Graduate School of Oceanography, we have one of the best marine research programs in the country. In fact, U.R.I. was designated as a NOAA "Center of Excellence in Coastal Marine Studies." It is my hope that the excellent work being done at U.R.I. will continue as an integral part of NOAA research efforts, and benefit from the funding in the measure we have approved today.

COUNTERTERRORISM FUNDS

Mr. LIEBERMAN. Mr. President, the crash of UTA flight 772 last week, apparently caused by a terrorist bomb, is another grim reminder of the dangers terrorists pose to the civilized world. That crash in Africa killed 171 persons, including 7 Americans. Meanwhile, in Colombia, there has been an outbreak of terrorism prompted by drug traffickers, and investigators are still trying to solve the terrible bombing of Pan Am 103, which was destroyed in Scotland last year and claimed 270 lives, including 189 Americans.

Congress has the authority to promulgate legislation designed to counter terrorism, including laws which pressure other nations which support terrorism. Terrorism, however, is not a subject that can be easily addressed by legislation, sanctions, and resolutions. We must take steps to detect and counter the increasingly sophisticated weapons and explosives used by terrorists.

Such steps can be taken through the Commerce, State, and Justice Department appropriations bill which is now before us. This bill contains a relatively small amount of funding for the interagency Counterterrorist Research and Development Program as part of the State Department's diplomatic security salaries and expenses account. The program provides seed money to develop more effective methods of detecting explosives and chemical and biological agents, as well as improving our ability to respond to terrorist incidents.

The program, which is coordinated by the State Department, provides startup money for research on priority projects which a group of interagency scientists and experts concluded deserved priority but have not yet been funded by individual agencies.

The program has also funded R&D to create new advanced systems to detect plastic and sheet explosives of the type used to blow up airliners. The projects started by this program could provide second-generation sensing components to supplement or replace some of the equipment in the first generation equipment such as the thermal nuclear analyzers which have been the subject of some recent controversy.

The interagency program also is used by the State Department to coordinate the growing effort to generate cooperation on R&D with allied countries. The United States currently is working with other countries to develop a chemical taggant for preblast detection of plastic explosives of the type used to blow up Pan Am 103.

Mr. President, this program is a good one, but it has been underfunded. The administration requested $6 million for fiscal year 1990, the same requested for fiscal year 1989. Congress, however, only appropriated $3 million last year, and the result was that some important projects were reduced or shelved entirely.

The bill before us today straightlines last year's $3 million figure and thus represents a 50-percent cut in the administration's request for the second consecutive year. This is not the time to fail to do what we can to prevent additional aircraft bombings or other terrorist acts.

I recognize the competition for scarce budget resources, but we must find some way to provide more funding for this very important counterterrorism effort. I hope that in conference, the conferees can make adjustments and fund the administration's request. The program is a good investment in the continuing battle against terrorism.

Mr. KENNEDY. Mr. President, with the end of the current fiscal year, the

Department of Justice is technically free to move forward with the reorganization that Attorney General Thornburgh has proposed for the Organized Crime Strike Forces. The reorganization is controversial in Congress. Many of us have serious reservations about the Attorney General's proposal. We feel that the strike forces have worked well, and that reorganizing them out of existence would be an unfortunate and unwise step backward in the war on crime and drugs.

We considered the possibility of extending the current statutory prohibition on such reorganizations as part of the pending Department of Justice appropriations measure. However, we still hope that it may be possible to reach a compromise with the Attorney General on the issue that will avoid further controversy. Under a unanimous consent agreement reached earlier this week, the Senate will shortly take up a measure dealing with the death penalty, habeas corpus reform, the exclusionary rule, Justice Department reorganization, international money laundering, and the availability of firearms for purchase. We intend to pursue the possibilities for compromise on the organized crime strike forces as part of that legislation. I know that Attorney General Thornburgh is as interested as we are in resolving these organization issues as expeditiously as possible, and I look forward to working with him and with other Senators to achieve that goal.

Ms. MIKULSKI. Mr. President. I would like to acknowledge Senator HOLLINGS, chairman of the Subcommittee on Commerce, Justice, State, the Judiciary, and related agencies for proceeding with the fiscal year 1990 Commerce, Justice, State, and the Judiciary appropriations bill so expeditiously and congratulate him for setting such a fine example of hard work and devotion to his job.

I want to thank him for his help in funding Maryland projects. I would also like to thank his fine staff, Warren Kane, Dorothy Seder, and Liz Blevens. Furthermore, I recognize the ranking minority member Senator RUDMAN as well as his staff, John Shank and Judee Klepec for their help throughout the process. Their in-depth knowledge of the subject matter, candor with others, hard work, long hours, and courtesy were instrumental in getting this important bill prepared in such a timely and efficient manner.

I would like to briefly mention a few of the important items contained in this bill.

This bill contains funding for the consolidation of the National Oceanic and Atmospheric Administration in Silver Spring, MD. This consolidation, bringing NOAA to 1 site from 17, will dramatically reduce the agency's administrative costs and improve its program coordination.

I request that full funding in the amount of $19 million be approved for continued operation of Landsat 4 and 5. Although this bill only contains $9.5 million, half of the requested amount, I feel strongly that the Landsat system is an invaluable national resource we can ill afford to neglect in the face of increasing international competition. I understand that these funds will be available for the first 6 months of operation and that NOAA is expected to make suitable financial contributions if the satellites continue to operate. The United States has invested a tremendous amount of capital, time and effort into making the Landsat Program the world's foremost civilian remote sensing system. Data from Landsat are used for projecting crop yields, monitoring pollution, land use planning, and mineral exploration. Furthermore, a $34.7 million appropriation for Landsat 6 is essential in order to meet the projected June 1991 launch date.

In addition, I support the $22.9 million, a $1.9 million increase in funding for the National Institute of Justice to aid them in the war on drugs. I believe that the institute has served as an invaluable resource for the Nation's police chiefs as well reducing domestic violence and implementing effective drug interdiction strategies. The drug situation in the D.C. region, a high priority area to William Bennett, is of great concern to me. We must work together to rid this Nation of this terrible problem, we cannot allow the District's problems to simply spread into the suburbs of Maryland and Virginia.

Finally, I mention my support included in this bill for the programs of the National Institute of Standards and Technology. Headquartered in Gaithersburg, MD, the institute plays a vital role in promoting improved U.S. industrial competitiveness. NIST serves as the Nation's premier science and engineering measurement laboratory and provides the basic foundation of our country's scientific and industrial strength. Increases in the budget are necessary for computer security, chemical measurements and standards, lightwave measurement technology, bioprocess engineering, high-performance composites, high-temperature superconductors and an upgrade of NIST scientific computers.

Once again Mr. President, I would like to acknowledge the job Chairman HOLLINGS and Senator RUDMAN as well as their staffs have done. They must handle many requests for funds and choose from the many deserving projects. Their efforts are truly commendable. However, there was one amendment I was prepared to offer regarding possible plans for a detention facility in Maryland. I did not offer this amendment but will pursue this matter in the conference committee to achieve a satisfactory result.

Mr. RUDMAN. Mr. President, I thank Senator GRAMM of Texas. He worked tirelessly with members of the subcommittee and the staff on behalf of the DEA and the FBI in getting this budget together. Being from Texas and with the concerns they have there, his work was very valuable to us. I commend him for his help in the recent drug negotiations, in helping reach the compromise that added $900 million. I wanted to express a personal thanks to Senator GRAMM for that.

I also, of course, thank Senator HOLLINGS, who spent the day here wanting to be in South Carolina where his constituents have such problems. He left here just a short while ago to fly down there.

I thank my dear friend from Hawaii, Senator INOUYE, who I think we will call the iron man. He was here from early morning yesterday, early morning today, and graciously came forward and helped manage this bill for Senator HOLLINGS. I thank the Senator from Hawaii for his work. I yield the floor.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I thank the managers on this legislation.

I express my support for this bill and thanks for all the work that went into it. I know that it was a grueling type of situation. Senator RUDMAN and Senator HOLLINGS and their staffs put in so much time trying to find a compromise to fund the drug bill. It sure was not an easy task and I commend them for a job well done.

I am particularly pleased with the formula change that the committee made for State and local law enforcement agencies and those grants. Under the Anti-Drug Abuse Act of 1988, the Federal-State match for grants was slated to go from 3-to-1 to a 1-to-1 match, and the 1 to 1 match was also assumed in the President's national drug control strategy.

What the committee did was to delay that for 2 years.

That is all very technical but practically speaking I can say that this brings great relief to State and local government and law enforcement people. The administrator of the Montana Board of Crime Control and one of our drug task force project directors contacted me and said increasing the local match from 25 to 50 percent this fiscal year would put the fully operational task forces at risk. I am sure that is true in many States, not only my own of Montana.

Local communities just cannot budget for that type of 1-year increase and would consider dropping the task forces altogether. I do not think it is the feeling of this Senate or this government at this time that this is a good time to be killing these types of programs.

The intent of the previous law and of the President's strategy is to get all levels of Government involved in this issue, and we are. I support that goal. However we must be reasonable and give local communities time to adjust. I am pleased that the committee has taken this step to do this.

So I appreciate the work of Senator RUDMAN, and all those conferees who understood what local government goes through in the budget process, and this increase would have been devastating. I think it would have taken some of our local law enforcement and task force out of the program entirely.

We who live in principally rural areas are not exempt from this terrible problem called drugs and we want to be a part of the solution as soon as possible. So I commend them for that and their work on this bill in making those adjustments, and salute them for it.

Mr. President, I thank you. I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. RUDMAN. Mr. President, first let me thank my friend from Montana. He is quite right. We are putting enormous amounts of money into local law-enforcement grants. The present occupant of the chair was a very distinguished Governor from the Commonwealth of Virginia, and I am sure recognized as we all do that if you suddenly give communities a great deal more money in the middle of the year and they have to match it one to one, they might not be able to raise the money to match it.

That is precisely the issue the Senator from Montana raised. We have deferred the match increase for 2 years in putting enormous amounts of money into the war on drugs at all levels. There will be some match but the 50 percent match will not come for at least a 2-year period.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 2991), as amended, was passed.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. ROBB] appointed Mr. HOLLINGS, Mr. INOUYE, Mr. BUMPERS, Mr. LAUTENBERG, Mr. SASSER, Mr. ADAMS, Mr. BYRD, Mr. RUDMAN, Mr. STEVENS, Mr. HATFIELD, Mr. KASTEN, Mr. GRAMM, and Mr. MCCLURE conferees on the part of the Senate.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I want to congratulate the committee and congratulate the Senate for the final passage of the State, Justice, Commerce appropriations bill because contained within that bill is strong language to prohibit the importation of foreign shrimp where those foreign countries do not adhere to the same standards to protect the turtles as does the State of Louisiana and other shrimp producers in this country.

Mr. President, last year foreign countries claimed 70 percent of the U.S. market for shrimp and shrimp products. One hundred and four million pounds were imported from Equador, 63 million pounds from Mexico. Mr. President, these countries do not use the so-called turtle-excluder devices. These countries are probably the biggest offenders in terms of endangering the sea turtles as are domestic American producers.

So, Mr. President, it would be an outrage if this country imported shrimp from countries like Mexico who do not utilize these turtle-excluder devices while our shrimpers are being penalized.

So, Mr. President, what we did in the Appropriations Committee—when I say "we," my distinguished colleague, Senator BREAUX, had previously proposed this language and had it adopted on another bill, but that bill, the Armed Services bill, was not going to pass. So I added this on behalf of Senator BREAUX and myself in the Appropriations Committee.

This language provides for negotiation with these foreign countries. If they fail to take the same kind of action that we in Louisiana are required to take under the Federal law, than after 1991 we may no longer import these shrimp from these foreign countries.

If they undertake all of the same kinds of things that we do in this country then those importations may proceed. But if they fail to take turtle-excluder devices and the other provisions called for under American law then we will not be able to import the shrimp from those countries, which will mean, Mr. President, that the 70 percent supplied by foreigners who do not undertake those same kind of actions cannot be imported.

What it will mean in practical terms, we think, if those countries do not take that action the price of shrimp obviously will go up because the supply will be down, so that Louisiana shrimpers, Texas shrimpers, Florida shrimpers will in effect have some form of compensation in the form of higher prices for their shrimp should these countries fail to take that action.

If they take the action and do those things which are necessary to protect the sea turtles, then the purpose will have been well achieved.

Mr. President, Senator BREAUX and I have in this amendment I think an effective protection first for sea turtles, and alternatively help for the price of shrimp for our shrimpers in Louisiana.

Mr. President, the turtle-excluder device should not, in my judgment, have been made a requirement because there is an ongoing study which has not been completed as to the effectiveness of those devices. We have fought long and hard not only in the Senate but with our colleagues in the House to try to prevent this rule from coming into operation.

Mr. President, it was over our protests that this amendment came into operation. But since it did come into operation this is the next best thing we can do. I think the amendment as proposed in this legislation and fought for by Senator BREAUX, my colleague, and by me in the Appropriations Committee is going to be a great step forward.

Mr. President, I see my colleague from Louisiana on the floor. It is a pleasure, of course, to work with him on this amendment.

I yield the floor to him.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana [Mr. BREAUX].

Mr. BREAUX. Mr. President, I want to commend our senior Senator from Louisiana for his work in crafting this

provision and putting it into the State, Justice, and Commerce appropriation. As has been outlined previously, I will be very brief. We have a heck of a problem here in the Gulf of Mexico with regard to literally thousands and thousands of people who shrimp for a living. The United States most valuable fishery is the shrimp industry, and it is in danger of being eliminated and threatened by Federal rulings and regulations, as any species that has ever been listed by the Endangered Species Act.

This results because of regulations that have been imposed by the Department of Commerce, which would require the use of turtle-excluder devices as these shrimpers go about this business of harvesting. These regulations are simply not working. In addition to that, they are shown to be not effective in doing what they are designed to do. The problem is even made worse by the fact that other nations which export their shrimp products into this country have little, if any, concern about the endangered species, the ridley sea turtle.

What our amendment does is require our Department of Commerce and the State Department to survey those countries that have an impact on the ridley sea turtle, and to ascertain whether they in fact are taking measures to protect those endangered species, like our shrimpers are being required to do. If they are not—and I tell you I know for a fact they are not—and that determination is made, we will ban the importation of those products into our country.

It is patently unfair on its face to say to the U.S. industry that you must abide by these sets of rules and regulations, but other countries do not have to do anything, and, yet, we will then give them our market. That is exactly what is happening.

I think the amendment that Senator JOHNSTON and I worked on together is a good amendment. It will require other countries to do exactly what we are being required to do, and if in fact they do not, they will lose the U.S. market. It is absolutely unfair and bad policy to do anything else.

So this amendment, I think, will go a long way to establishing a level playing field, while we work together to try to get new rules and regulations which make sense.

Mr. President, I am very pleased that this administration is now a part of the Senate package, and I hope that it would reach the President and that he will sign it with great enthusiasm.

I yield the floor.

Mr. JOHNSTON. Mr. President, I want to congratulate my colleague, who originally came up with this idea and attached this amendment on, I believe, the armed services authorization bill. The Senate acted on it and put it on that bill, but that bill may or may not get out of conference.

This appropriation bill will be passed, because we must pass the legislation. I think this is going to be very effective. If we must use TED's then everybody else ought to have to use TED's as well. If they do not use the TED's if they are not required to do that which we are required, then we should not be required to import their shrimp.

I think if they do not measure up to the rules, then I think our people in Louisiana and Florida and elsewhere will be compensated by a higher price of shrimp.

Mr. BREAUX. I say to my colleague, he is absolutely correct. Just one country, Mexico, exported into the United States approximately over 63 million pounds of shrimp just last year, and that has a value of over $300 million. Yet, they do not have to follow the same rules and regulations. We are giving them our market, while we do not require them to do anything in return. Yet, our actions are putting our own citizens in severe jeopardy. That is patently unfair.

This legislation that we now have has a great deal of precedence. We have done the same thing with regard to other species like, for instance, the marine mammals on which we require other countries to have programs, and if they do not, they are going to lose access to our market. That is exactly what this legislation in fact does. I think it is a major step in the right direction.

It is important that we start giving the same amount of care and concern to humans in this country, as we do to some of our endangered species. Humans are certainly no less valuable; in fact, they are much more valuable, just the opposite.

I think this legislation will bring back the proper balance that Senator JOHNSTON and I are together seeking by this legislation.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BREAUX. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INVESTIGATION OF EASTERN AIRLINES DISPUTE

MOTION TO PROCEED

Mr. MITCHELL. Mr. President, under the agreement previously reached on the drug legislation, the Senate was to proceed to the immediate consideration of a bill that incorporates certain of the remaining legislative initiatives of the President's drug strategy. I have spoken with Senator DOLE and understand that final details of this bill are being worked out. I would like to make a motion to proceed to the consideration of Calendar No. 33, H.R. 1231, an act to direct the President to establish an emergency board to investigate and report respecting the dispute between Eastern Airlines and its collective bargaining units; file cloture against the motion; and then withdraw the motion. This would mean that a vote on cloture would occur next Tuesday, and the Senate could consider the nomination of Joseph Zappala to be Ambassador to Spain on Monday.

To protect the position of the drug bill, I now ask unanimous consent that the majority leader, after consultation with the Republican leader, may proceed to the consideration of the drug bill, referenced in the previously obtained consent agreement, at any time, regardless of the pendency of any other legislation, and notwithstanding the provisions of rule XXII.

I further ask unanimous consent that when the Senate recesses today, it stand in recess until 2 p.m. on Monday, October 2; and that following the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business not to extend beyond 2:30. I further ask unanimous consent that at 2:30 the Senate proceed in executive session to the consideration of the nomination of Joseph Zappala to be the United States Ambassador to the Republic of Spain.

I further ask unanimous consent that the vote on the motion to invoke cloture on the motion to proceed to the consideration of H.R. 1231 occur at 12:15 p.m. on Tuesday, October 3; that at the conclusion of that vote, the Senate stand in recess for the two party conferences; and that at 2:15, regardless of the outcome of the earlier cloture vote, the Senate resume consideration of the Zappala nomination in executive session.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, I want to make certain I understand the position of the drug bill. It is my understanding that after the vote on cloture, if cloture is not obtained, then the drug bill would have priority. I assume if cloture was obtained, then would that displace the drug bill until final disposition of the Eastern Airlines matter?

Mr. MITCHELL. Is the question directed at me or to the Chair?

My understanding is that this provides me with the authority, after con-

sultation with the distinguished Republican leader, to proceed to consideration of the drug bill at any time regardless of the pendency of any other legislation.

The PRESIDING OFFICER. The interpretation by the majority leader is correct.

Is there objection to the request by the majority leader for unanimous consent?

Mr. MITCHELL. As stated in the request, it is my understanding that what this would do if agreed to would be to provide the majority leader, after consultation with the Republican leader, with the authority to proceed to the consideration of the drug bill at any time, notwithstanding the pendency of any other legislation, so it would be in position to be called up at any time that we agree.

Mr. DOLE. In fact, as I understand the order on the drug bill, it almost mandates us to take up the drug bill, and I do not remember what the majority leader said about final disposition. In other words, after this is done, and if there is something else, we would have to, in effect, set aside the drug bill again. Is that how we are going to work it? I do not have any problem with that. I just want to be certain of it.

Mr. MITCHELL. That is my understanding, that it would be awaiting a decision to proceed to it.

As the distinguished Republican leader knows, I intended to proceed to it immediately upon completion of the State, Commerce, Justice appropriations bill and barring some reason, which I am now completely unaware of, I plan to do so as soon as the bill is ready and we reach agreement in terms of doing it in terms of the schedule.

Mr. DOLE. I have no objection.

The PRESIDING OFFICER. Without objection, the request by the majority leader is the order of the Senate.

ORDER FOR WAIVER OF LIVE QUORUM

Mr. MITCHELL. Mr. President, I further ask unanimous consent that the live quorum preceding a vote on the cloture vote be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

INVESTIGATION OF EASTERN AIRLINES DISPUTE

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 33, H.R. 1231.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Mr. President, I move that the Senate proceed to the immediate consideration of Calendar No. 33, H.R. 1231.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to H.R. 1231, to direct the President to establish an emergency board to investigate and report respecting the dispute between Eastern Airlines and its collective bargaining units.

Alan Cranston, Wendell Ford, Jay Rockefeller, Bob Graham, George Mitchell, Timothy E. Wirth, Edward M. Kennedy, Kent Conrad, Paul Simon, Brock Adams, Robert C. Byrd, Alan J. Dixon, Daniel K. Inouye, Christopher J. Dodd, Patrick Leahy, and Howard M. Metzenbaum.

Mr. MITCHELL. Mr. President, I withdraw my motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

COMMISSION TO INVESTIGATE ISSUES ARISING OUT OF THE EASTERN AIRLINES STRIKE

Mr. MITCHELL. Mr. President, as the Senate has worked over the past 6 months, we have been facing an item of unfinished business.

On March 2, 1989, a strike began at Eastern Airlines between the International Association of Machinists and management, with members of the Airline Pilots Association and the Transport Workers Union honoring machinist picket lines. The President declined to exercise statutory authority under the Federal Railway Labor Act to order an emergency board to investigate the dispute and to impose a 60-day cooling off period.

The President's decision ignored the recommendation of the National Mediation Board [NMB]—and the fact that in over 30 cases involving the airline industry, whenever the NMB recommended an emergency board order, and emergency board had always been created.

Eastern Airlines then filed for bankruptcy. On March 15, the House of Representatives voted 252 to 167 to approve H.R. 1231 to require the President to appoint an emergency board. The House committee report on the bill predicted that "Unless the labor disputes can be resolved promptly, Eastern is unlikely to be able to reorganize and resume operations as a major airline."

On March 16, the Senate began consideration of H.R. 1231. A cloture petition was filed to overcome a filibuster in opposition to the bill.

Following the March recess, H.R. 1231 was withdrawn from Senate consideration. On March 23, the bankruptcy judge had held a hearing on the appointment of an examiner to review the Eastern case, and subsequently had decided to grant the examiner extraordinary powers, including the responsibility to mediate between Eastern and its unions to achieve a settlement that would be both economically sound and fair to striking employees.

At the same time, negotiations were underway between Texas Air chairman, Frank Lorenzo and several prospective buyers of Eastern Airlines. There was reason at the time to be guardedly optimistic that an agreement would be reached that would include a settlement with all employee groups and lead to a resumption of Eastern's operations.

Unfortunately, none of the hopes and expectations of April have bloomed into reality. The bankruptcy proceedings have led only to a fragmentation of Eastern assets. There has not been any progress in resolving the original dispute between labor and management.

In withdrawing H.R. 1231 from Senate consideration on April 4 and returning it to the Senate calendar I clearly stated the understanding that "depending on the course of events, the leadership and principal sponsors of the legislation will proceed to take up the bill again if events warrant that action."

Such action is warranted today.

In bringing H.R. 1231 to the Senate floor again, it is my intention to offer a substitute amendment cosponsored by Senators KENNEDY, GRAHAM, FORD, BYRD, DIXON, ADAMS, and LIEBERMAN.

The Eastern Airline strike, bankruptcy, and fragmentation pose serious consequences for our national air transportation system. Before the strike began, Eastern was the Nation's sixth largest airline, with 30,000 employees. In 1988, it carried 35.6 million passengers, representing 7.5 percent of domestic air traffic.

Eastern used to be the dominant carrier on major routes in the Eastern United States. In the first three-quarters of 1988, the airline carried 67 percent of the New York-Miami market; 57 percent the LaGuardia-Boston and New York-Washington markets; and 52 percent of the Miami-Atlanta markets.

Today, Eastern Airlines is less than a shadow of its former self. The strike and bankruptcy have led to bitter hardships for Eastern employees and their families, no matter what side of the picket line they may be on. The

short-term effects are also nothing compared to the potential long-term, structural implications for the airline industry.

In the last few years, there have been 10 mergers of major airlines. Of the 22 new airlines that entered the domestic market since deregulation, only 5 are still operating as separate entities.

From 1983 to 1987, the market share of the top eight airlines increased from 74 percent to 91 percent. The fragmentation of Eastern Airlines only contributes to this concentration of power within the industry.

The stakes are bigger than just Eastern, or just the dispute between Eastern and its unions. The impact is broader than any inconveniences already suffered by Eastern creditors, employees, ticketholders, and communities the airline once served.

The critical, pervasive importance of transportation to our economy makes the transportation industry different from all other industries. That is why the Federal Railway Labor Act which governs railroads and airlines is different from the National Labor Relations Act—and allows for such intervention as a Presidential emergency board.

It is with these broader concerns in mind, that I believe it essential to call up H.R. 1231—and offer a substitute amendment.

Because of intervening events, Eastern is no longer the airline that it used to be. For the same reason, H.R. 1231 is no longer best-suited to deal with the immediate situation. I therefore will propose a substitute amendment to create a commission to investigate the Eastern Airline dispute, but which will be different from an emergency board.

There will be no force of law directly brought to bear on the parties involved in the dispute. The substitute amendment will have no requirement that the parties return to the prestrike conditions out of which the dispute arose. Eastern Airlines today is a different airline. The conflict between labor and management has run its worst. Prestrike conditions no longer exist. There no longer is any point to a cooling-off period.

The substitute amendment also will not interfere with the ongoing bankruptcy proceedings involving Eastern. The Commission's recommendations are to be directed to Congress and the Secretary of Transportation. To the degree that the Commission's work may be helpful to the bankruptcy court's deliberations, the bankruptcy judge, of course, can take judicial notice of its report. But there is no interference in the normal bankruptcy process.

The substitute amendment to H.R. 1231 will direct the Commission to investigate and make findings of fact and recommendations regarding the "prompt and equitable settlement" of the Eastern strike. Understanding the reasons for the original dispute is essential—if there is to be any hope at all for Eastern workers ever returning to their jobs; and if there is to be any hope at all for both labor and management to work together to avoid such conflicts.

The substitute amendment also will direct the Commission to consider other issues arising out of the Eastern Airlines dispute—but which involve policy considerations that go far beyond any one airline. These issues include:

The powers of the Secretary of Transportation to intervene on behalf of the public interest to main competitiveness during airline acquisitions, mergers, and bankruptcies.

The adequacy of protection of employee collective bargaining rights in bankruptcy proceedings involving air carriers.

The impact of increased concentration and increased foreign ownership of domestic carriers; and

The hiring of replacement workers in international and interstate commerce during labor disputes involving air carriers, and its impact on aviation safety.

These are all important issues. Many of them potentially require legislative action. It will be the responsibility of the proposed Commission to make a comprehensive study, and make focused recommendations that can be considered in the normal course of the legislative process.

I believe this is an appropriate, reasonable, and necessary step in addressing issues arising out of the Eastern Airlines dispute.

The PRESIDING OFFICER (Mr. BRYAN). The Chair recognizes the Senator from Massachusetts [Mr. KENNEDY].

EASTERN AIRLINES COMMISSION LEGISLATION

Mr. KENNEDY. Mr. President, I urge the Senate to support bringing up this legislation. As the majority leader has indicated, a complete substitute will be offered for a commission to investigate and make recommendations regarding the protracted dispute at Eastern Airlines and the underlying causes of that dispute.

The legislation should not be necessary. If President Bush had followed the unbroken precedent of naming an emergency board—a precedent that even President Reagan honored—we would have had recommendations for the settlement of this dispute 4 months ago.

Instead, President Bush ignored this time-honored procedure for obtaining objective recommendations. In every instance that the National Mediation Board has recommended a neutral emergency board to find facts and make recommendations, every President has agreed to the recommendation—except President Bush.

Secretary of Transportation Skinner has attempted to explain this decision by the administration to abdicate its responsibility. He claims there was no national emergency. This is the same Samuel Skinner who not 8 months previously had called on Congress to intervene in a commuter railroad dispute in Chicago, saying it was Congress' public responsibility.

In the wake of the administration's irresponsible inactivity, the House of Representatives enacted legislation to mandate the creation of an emergency board, and to make the findings of fact and recommendations for the settlement of the dispute. When the Senate atempt to take up that bill, the administration and their allies here were adamantly opposed to this measure of simple fairness. They threatened to filibuster against any such attempt to establish just procedures to end the strike. The House-passed bill has languished in the Senate ever since, while the strike has continued to fester.

Six months later the strike continues, the employees of Eastern and their families have suffered great hardship, and we still have no neutral findings and recommendations for ending the dispute.

What facts are our Republican friends so afraid of that they are willing to engage in a filibuster to prevent them from seeing the light of day?

What recommendations for settlement are they so afraid of, they do not even want them to be proposed. Or are they simply puppets on the end of Frank Lorenzo's string, dancing to whatever turn he calls?

We know enough of the facts to know that this situation smells to the rafters of the Senate.

From the time of his purchase of Eastern in 1986, Frank Lorenzo has systematically plundered Eastern of its valuable assets. He has saddled a once-proud airline with enormous debt. His rape of Eastern triggered an article in the respected publication Financial World which observed "Eastern appears to be the victim of a corporate version of the battered-child syndrome: it is being mugged by its own parent."

Frank Lorenzo bought Eastern Airlines for $640 million, but he put up only $280 million of his own money. Eastern actually put up $108 million of the cash for its own aquisition.

That was only the beginning. From day one, Frank Lorenzo has systematically siphoned cash and assets away from Eastern. The reservation system was sold for a song—to Texas Air, which is also owned by Frank Lorenzo. Eleven gates were sold at Newark for a pittance—to Continental Airlines, which is also owned by Frank Lorenzo.

Eastern was forced to pay $10 million a month to use its former reservation system, and $6 million a year for management fees—which by any measure of truth in language should be called mismanagement fees.

Before the National Mediation Board declared an impasse in the dispute last February, the Board had offered both parties the opportunity to submit the dispute to arbitration. The union readily agreed—but Frank Lorenzo refused to accept a fair and impartial mediation of the dispute by a neutral arbitrator.

Serious issues were raised by events leading up to the strike, and additional serious issues have been raised by events since the strike.

The bankruptcy proceedings have been abused by Frank Lorenzo again. He did it once before with Continental Airlines. Congress closed one loophole after that abuse, but other loopholes are still large enough for this slippery antiworker chief executive to slip through.

Obviously Congress cannot act now to unscramble the eggs that Frank Lorenzo has scrambled since last March. But there is still time to bring a measure of justice to this irresponsible dispute.

The proposal we are making would provide the Department of Transportation and the Congress with an expert assessment of the current state of the facts involved in this dispute, and recommendations for its prompt and equitable settlement.

The blue-ribbon panel to be created would also make recommendation on policy issues raised in this dispute, so that the Congress and the President can take future steps to ensure the traveling public and all airline employees that there will never be another Eastern.

One corporate raider should not be able to sabotage a distinguished airline with 50 years of service, and destroy the hopes and dreams of 30,000 Eastern families.

At every step of the way, the normal process for peaceful settlement of this dispute has been blocked by Frank Lorenzo. In his numerous nefarious antiworker maneuvers, Frank Lorenzo has been aided and abetted every step of the way by the Bush administration. That is wrong, and it is long past time for Congress to act. The traveling public and the workers of America deserve a fair and objective assessment of the issues in this long and endless strike. And the Eastern employees who have suffered so much for so long deserve no less. I urge the Senate to approve the substitute we are proposing.

Mr. GRAHAM. Mr. President, by action just taken by the Senate, we have set the stage for a debate on Tuesday relative to the future of American commercial aviation. While this debate is going to be in the context of Eastern Airlines, it raises so many broader questions of the responsibility of Government, specifically the Congress of the United States, to the long-term viability of U.S. commercial aviation.

A decade ago, we decided that we would cast our lot with a deregulated commercial aviation industry. I supported that at the time, and I continue to support the basic concept of allowing the marketplace to be the primary determinant of routes and of fares. But I also recognize, Mr. President, that there have been a series of disturbing incidents as to what has occurred within the industry. The fact that Eastern Airlines, which was at one time one of the largest and strongest airlines in the country, is now in bankruptcy and, at best, will be a much different, smaller, and weaker airline than it was at its height is but one example. I would bring to the attention of the President and my colleagues three events which have been in the paper within the past 10 days:

First, a news item that aviation prices were going to be raised; that on average of 10 to 20 percent increase, particularly in those fares that are most utilized by the discretionary traveler.

Second, a tragic incident that occurred at LaGuardia Airport in New York where an airline which had recently been through a merger had an accident on the field resulting in two deaths. The exact cause of that accident will now be the subject of a major investigation by the appropriate safety agency.

Third, Braniff Airlines, an airline which has already gone through one bankruptcy and considerable dislocation which has recently moved its corporate headquarters to my State in Orlando, FL, has now declared bankruptcy for a second time causing great inconvenience to those communities which are served by them and the thousands of travelers and users of commercial freight who have depended upon Braniff Airlines. Those are three isolated incidents, Mr. President, that raise some disturbing questions about the future of commercial aviation under the current circumstances.

I might point out, Mr. President, and you know this well as a member of the Banking Committee, some of the analogies of what we are seeing in commercial aviation to what we saw in the thrift industry. Our first harbinger of problems in the thrift industry was an institution here that had gotten into trouble, and an institution in another State that had gone into financial distress. It was not until recently, within the last 2 or 3 years, that we began to see these individual instances were part of a larger pattern.

I believe that we need to avoid a repetition of what occurred in the thrift industry by an early and systematic analysis by an appropriate congressionally established commission to study the issues of the economics of commercial aviation. That is what will be proposed as a Senate amendment to H.R. 1231. I look forward to the debate on Tuesday and to affirmative action by this body which will allow us to move forward in a manner that will be very much to the benefit of the American public. Thank you, Mr. President.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EASTERN AIRLINES LABOR DISPUTE

Mr. DOLE. Mr. President, I rise in opposition to the motion to proceed offered by the distinguished majority leader, Senator MITCHELL.

I would indicate we at one point thought there might be some way to have another investigation. But after consultation with administration leaders, we determined that was not in the best interests of Eastern, nor its present nor former employees. I will explain that in more detail.

Last week, I was fortunate to have the opportunity to meet with several prominent union leaders to discuss a number of issues of importance to the labor movement. Not surprisingly, at this meeting, we discussed the current situation at Eastern and the possibility of creating a blue ribbon commission.

After discussing the commission with several members of the administration, and after carefully reviewing the situation at Eastern, I have come to the conclusion—regrettably—that creating a blue ribbon commission would be ill-advised at this time. Last March, the Senate weighed in on the merits of the Presidential emergency board. We thought then that the PEB was a bad idea—and in my view, at least—a blue ribbon commission would be no different. It, too, is a bad idea.

GOOD INTENTIONS

Now, I know that the distinguished majority leader, Senator KENNEDY, and the rest of the bill's sponsors are motivated by good intentions. Nobody likes a strike—particularly a strike as prolonged and bitter as the strike at Eastern. Consumers have been inconvenienced. Eastern has been forced into bankruptcy. And many families have been hurt. I know—I have talked to many of the striking workers—and I am genuinely sympathetic to the hardships suffered by them and their families.

So I can certainly understand the motivations of the bill's sponsors. They—like everybody else here in Congress—want to see a final and swift resolution of Eastern's problems.

GETTING IN THE WAY

But you know, last April the bankruptcy court appointed an examiner to look into Eastern's financial situation, including its labor problems. Let me read you a few excerpts from the court order, which describe the examiner's responsibilities:

The examiner must,

Canvas, determine and identify the issues and impediments that must be resolved to facilitate a reorganization.

The examiner must,

Inquire of the principal parties in interest in the chapter 11 case, including but not limited to, the major secured and unsecured creditors of Eastern, * * * and the employee groups and their representatives, concerning their respective positions * * * and test the resolve of the assumptions underlying each part's position.

And the examiner must

Mediate any differences in respect of the positions of the various parties * * * and attempt to achieve a consensus among the parties so that a consensual plan of reorganization may be proposed, confirmed and consummated. * * *

So, you can see, the so-called blue ribbon commission is really unnecessary. It would duplicate the work of the court-appointed examiner. Even worse, it would interfere with—obstruct—the work of the examiner, at a time when the examiner's work is crucial to reviving Eastern and at a time when the examiner's work is almost completed. I understand that the examiner expects to finish up sometime in November or December. So let us not jump the gun. Let us wait for the examiner's report.

AN IMPOSSIBLE TASK

The examiner has been conducting his investigation since last April—and I am sure that Eastern has the legal bills to prove it. The examiner also issued an interim report in May. So the examiner has been working hard for about 6 months now—and his work should be completed shortly.

But this legislation would require the Commission to report to Congress not within 6 months, not within 4 months, but within 45 days. The legislation would also require the Commission to make recommendations not only on the Eastern dispute, but on a whole series of aviation policy matters—matters of great importance to the aviation industry and to the entire economy. These issues include business concentration in the airline industry, the treatment of airline employees in bankruptcy proceedings, foreign ownership of airlines, and the propriety of hiring replacement workers, and the Commission is to make these recommendations within the unbelievably short period of 45 days. Unless the commissioners can somehow forego an entire month's worth of sleep, 45 days is a completely unrealistic deadline.

QUESTIONABLE NEUTRALITY

Let's call a spade a spade. The Commission created by this amendment would not be neutral or impartial. It would be rigged in favor of one of the parties involved in the dispute. I am not an expert in calculus or geometry, but I do know simple arithmetic—and I do know that two is greater than one—that two commissioners can easily overrule the decisions of the single commissioner appointed by the Secretary of Transportation.

THE BROADER ISSUES

Now, I commend Senator MITCHELL for giving me the opportunity to review the legislation prior to this motion to proceed. Perhaps some of my specific concerns about the blue ribbon Commission could have been worked out with the distinguished majority leader.

But the real problems with the Commission are not specific ones. That is not the point. The point is that Congress has no business sticking its big nose in private labor disputes. Our whole system of collective bargaining—a system that has worked with relative success for more than 50 years—is premised on the private resolution of disputes between management and labor.

I suspect that even the distinguished majority leader shares this view. Last year, when discussing a particularly difficult labor situation in Maine—and discussing it well, I might add—he stated on this floor that:

It is my position that political intervention in labor disputes is inappropriate—serving only to undermine the collective bargaining process. Nothing in my statements should be construed in any way as a desire for congressional intervention in any particular dispute. I will not do so. I do not encourage any other Member of Congress to do so.

The distinguished majority leader was right on target last year, and his words still ring true today. Political intervention in labor disputes is inappropriate. Congressional intervention in labor disputes is inappropriate, and the blue ribbon panel that would be created by this legislation is inappropriate.

LETTER FROM SECRETARY SKINNER

Earlier this week, I received a thoughtful letter from Samuel Skinner, Secretary of Transportation. The letter points out that a blue ribbon Commission is totally unnecessary—and that the future of Eastern Airlines is now properly and conclusively in the hands of the bankruptcy court.

Mr. President, I ask unanimous consent that the entire text of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, DC, September 25, 1989.

Hon. ROBERT J. DOLE,
The Republican Leader,
U.S. Senate,
Washington, DC.

DEAR MR. REPUBLICAN LEADER: I understand the Senate may consider a substitute for H.R. 1231, the bill passed by the House of Representatives in March to force the President to empanel an Emergency Board with respect to labor disputes at Eastern Airlines.

Now that Eastern is within the jurisdiction of the bankruptcy court, a recommended settlement originated by a Congressionally mandated commission is entirely inappropriate. Preservation of competitive airlines, including Eastern Airlines, is important for many reasons, and the enactment of this bill can only hinder the work of the bankruptcy court.

The substitute suffers from significant flaws. It would establish a three-member commission to investigate and make recommendations regarding the three pending labor disputes at Eastern Airlines, although the disputes involving the pilots and the flight attendants have not even reached impasse. One member would be appointed by the President Pro Tempore of the Senate, one by the Speaker of the House of Representatives, and one by the Transportation Secretary. While the National Mediation Board expended over 500 days of sustained effort in an unsuccessful attempt to resolve the single dispute that had reached impasse, these three new appointees would be charged with recommending settlements for all three in a fraction of the time—45 days. The recommendations could off false hope to workers, complicate any effort to settle the many thorny issues outstanding at Eastern, and doom the examiner's efforts at conciliation.

Though producing three labor settlements alone would appear infeasible, the same three members would also be directed to make recommendations on wide-ranging aviation policy matters of the utmost significance for the industry and the economy as a whole—including airline competitiveness in light of mergers, acquisitions, and bankruptcies; the treatment of airline employees in bankruptcies; foreign ownership of air carriers; and the effects on air safety of hiring replacement workers during a strike.

These issues are being actively addressed by hundreds of experts in these fields, both in and outside government, through hearings and analysis, and the record is as yet far from conclusive on any of these matters. Nevertheless, the Senate substitute provision would charge three individuals with making policy recommendations on these issues of broad policy, again all within 45 days. This statutory mandate is unrealistic at best. It is unlikely that I could locate a responsible individual who would be willing to accept such an unreasonable assignment. Also, the language creating the commission may well pose significant constitutional concerns under the doctrine of separation of powers.

The examiner appointed by the bankruptcy judge has been evaluating every aspect of the labor situation at Eastern. The Federal Aviation Administration is exercising detailed oversight of Eastern's current mainte-

nance and other safety practices. Exhaustive analyses of the issues at Eastern, including that by the National Mediation Board and by the Department of Transportation pursuant to Section 401 of the Federal Aviation Act (Eastern Airlines' continuing fitness—May 1988), have been and are available to all parties.

Much as we would like to offer at this point, as we have consistently in the past, the good offices of the Executive Branch to bring about the best outcome for Eastern and its employees, and as much as Congress might wish to accomplish the same, the future of Eastern Airlines is now properly and conclusively in the hands of the bankruptcy court. The Legislative and Executive Branches of government do not have an appropriate role at this point other than assuring aviation safety at Eastern, ensuring compliance with all applicable laws, and participating in the normal fashion in the legal proceedings. I therefore urge the Senate to take no further action on H.R. 1231 or a substitute, and I would recommend that the President veto such a measure.

The Office of Management and Budget has advised that there is no objection to the transmittal of this report to the Congress, and that enactment of the bill or the substitute would not be in accord with the program of the President.

Sincerely,

SAMUEL K. SKINNER,
Secretary of Transportation.

(The remarks of Mr. DOLE pertaining to the introduction of Senate Joint Resolution 212 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions")

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHICAGO TAP WINS "DESIGNER" WATER TASTE TEST

Mr. DIXON. Mr. President, New Yorkers, who have over the years earned and maintained a reputation for trend-setting and for their epicurean tastes, have set a new standard of excellence for designer waters. That new standard is good old Chicago tap water!

Yesterday's edition of the Chicago Tribune reports that talk show hostess Joan Rivers, in a show to air Friday night, held a designer water taste test in which a panel comprised entirely of New Yorkers with sensitive palates unanimously proclaimed Chicago tap water to be the best.

Mr. President, this comes as no surprise to me, and now the secret is out. If I could, I would buy stock in the City of Chicago because I now expect to find Chicago tap water being offered at some of the finest dining establishments across the East.

I would like to submit the attached article from the Chicago Tribune for insertion in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WE COULD'VE TOLD 'EM

In a parody of the famous Coke/Pepsi television taste tests, talk-show host Joan Rivers decided Thursday to choose a panel of water connoisseurs from her television audience to decide which of the various "designer" waters is easiest on the palate. The panelists, all of whom said they buy their water because it tastes better, were offered a cheap bottled water from the A & P, and expensive bottle of Evian, which sells for around $2 a bottle, and plain old Chicago tap water, flown into New York to assure its freshness. All three samples were wrapped in brown paper to conceal their identities, and the panel sipped and savored. You guessed it: The A & P water was pronounced "awful," Evian got mixed reviews and the Chicago water unanimously was proclaimed the best. Baffled panelists didn't say if they would continue to buy water . . . or move to Chicago. The segment will be shown on "The Joan Rivers Show" at 10 a.m. Friday on WGN-Ch. 9.

SECTION 89 REPEAL

Mr. KASTEN. Mr. President, I rise today with good news for the Senate and the small businesses of America. Wednesday, the House of Representatives voted overwhelmingly in favor of outright repeal of section 89 of the Internal Revenue Code. The vote was a persuasive 390 to 36.

It is my understanding that our own Senate Finance Committee has added a repeal provision to the Reconciliation Bill.

Mr. President, this is truly a breathtaking development. When I first brought this issue to the attention of my colleagues last April, few among us were optimistic; but here we are today, poised on the brink of a great victory for the small businesses of this Nation.

How did we shape this remarkable consensus? What is so bad about section 89, making its repeal essential to the health of our small business sector?

The bottom line is, section 89 is a bad deal for America. To comply with this provision, businesses would have to spend $4 billion each year—and this $4 billion in expenses would generate only $150 million in revenue. What a senseless waste.

And that is not all; in the long run, we would actually lose money. Increased compliance costs reduce GNP, and a reduced HNP reduces Federal revenues. Section 89 would cause an estimated net loss to the Federal Government of $800 million each year. And that is before you add on the cost of the extra IRS bureaucrats necessary to administer section 89.

Mr. President, every Member of this body wants to enact truly workable non-discrimination rules. But we want other things as well. We want the small businesses of America to be able to continue to expand their health insurance coverage. We want small businesses to be free of heavy-handed regulations, free to do what they are supposed to do—work hard, create jobs, help communities grow, and offer employee benefits. We don't believe the U.S. Government should support the taxation of employee benefits. We want a non-discrimination policy which allows all of these noble goals to be accomplished.

It is these desires, these great goals, that made our push for repeal so successful.

I would like to commend the efforts of all those who fought so hard for repeal. Senator LOTT, who first introduced repeal legislation. Senator SYMMS, who introduced a bill to delay section 89. And Senators BOSCHWITZ, DOMENICI, and DECONCINI, who have each played a key role along the way.

I would also like to commend the National Federation of Independent Business [NFIB], the chamber of commerce, the National Association of Manufacturers, and all the other members of the Repeal Coalition.

Finally, I would like to commend the Senate Finance Committee for its open-minded attitude on the issue. Members and staff on the Committee have worked long and hard to try and devise a workable set of non-discrimination rules. But it just cannot be done. Realizing this, the committee, I am told, has decided to embrace outright repeal. This is a wise move, and a decision which will benefit this country for many years to come. I look forward to the swift passage of a budget reconciliation bill which provides for the complete repeal of section 89.

Mr. President, I yield the floor.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today is the 1,658th day that Terry Anderson has been held in captivity in Beirut.

Once again, I ask that we continue to keep Terry Anderson and all of the hostages in our thoughts, until the day that they are returned to their homes and families.

CHARLES HINTON RUSSELL: A LEGACY FOR NEVADA

Mr. REID. Mr. President, a great public servant who contributed so much to the State of Nevada died earlier this month. Charles Russell left a lasting legacy to the people of Nevada. He began representing their interests in 1934 when he was elected to the State assembly, representing White Pine County. From there, he moved on to the State senate. His political career continued to progress as he was elected to the U.S. House of Representatives in 1947. After serving in the 80th Congress, he returned to Nevada and was elected Governor, serving from 1951 to 1958.

The distinguished record of public service demonstrates a dedication that few can ever measure up to. Charles Russell was indeed an extraordinary man who contributed his creativity, vision, and hard work into making Nevada a better place. He helped pave the way for Nevada to transition from a small rural State with only 200,000 to a sophisticated, ever-growing State with a population that recently passed the 1 million mark.

The accomplishment of this great man, and the tremendously positive impact he had on those whose lives he touched, is perhaps best expressed through the words of my dear friend and former Governor of Nevada, Mike O'Callaghan. It is his feelings that I share with you now, and that so closely reflect my own feelings of admiration and respect for Charles Russell.

We knew and loved Charlie Russell. * * * What great memories he has left for us to relish. Charlie Russell set a great example for us who had the good fortune to know him as a husband, father, grandfather or friend. Yet unknown to thousands of new and young fellow Nevadans, he is the man who brought the Silver State into modern America and provided the leadership which resulted in so many of the good things we now take for granted.

It was Gov. Charles Hinton Russell who took this state from the old patronage system and provided the protection thousands of state and other public employees take for granted today. The Personnel Act provides the foundation that has allowed Nevadans from all levels of society to work and serve their fellow citizens without fear of petty political tyrants who may wish to replace them with cronies.

Because of Governor Russell the taxpayers and the providers of goods and services for state consumption are all given a fair shake. The State Purchasing Act took the buying power of a few and placed it within the control of a system geared to protect both the provider and the buyer.

Governor Russell, a school teacher at one time, didn't forget the children of our state when he came to Carson City. Today more than 100,000 school children in Clark County alone benefit from the actions of this outstanding state leader. He called a special legislative session in 1954 which started the wheels rolling and eventually resulted in the Peabody Report that recommended the consolidation of county school systems to provide education for larger numbers of children. He then had the courage to fight for Nevada's first sales tax earmarked for education.

Charles Hinton Russell was a leader who served both his state and nation in the legislative and executive branches of government. He served with ability, dignity, humility and a fine sense of humor.

We join Nevadans the world over and give a final salute to an uncommon man who never overlooked or forgot the common man or woman who needed his help or, more important, needed a kind word to help make things easier to face the trials of everyday life.

U.S. POLICY TOWARD THE BALTIC STATES

Mr. RIEGLE. Mr. President, the centerpiece of U.S. foreign policy throughout the postwar era has been the victory of democracy over communism. Today, after decades of strident rhetoric, massive military spending and armed conflict ostensibly in pursuit of this goal, our mission is being carried out for us—peacefully and free of charge—by the independence movement in the Baltic republics of Estonia, Latvia and Lithuania. Yet the administration's support for these freedom fighters, so generous and vocal when it comes to those in other parts of the globe, has been conspicuously vague and passive.

The New York Times offers a rationale for the administration's curious response in a September 10, 1989 editorial.

To face U.S. interests in these nationalist movements squarely, writes the Times, is to be of two minds. One is for independence. * * * The other is for a moderate, reform-minded Soviet Union.

Adherents to this line of reasoning warn that the Baltic push for self-determination will deal a death-blow to Gorbachev's political career and to his reform program, and, in this respect, appear to agree with Gorbachev himself, who has linked the Baltic virus of nationalism with potential anarchy and bloodshed.

The new and improved Communist Party does not object to peaceful demonstrations, Gorbachev insists, but will not tolerate "extremist rallies that provoke inter-ethnic clashes and terrorize and intimidate people of other nationalities." He reserves the right to exercise the "full force of Soviet laws" to quell the independence movement, wherever a "threat has arisen to the safety and lives of the people." The Times warns of the same threat: "Americans have to care deeply about avoiding the bloodshed sure to follow the withdrawal of Soviet military forces from many parts of the polygot Union of Soviet Socialist Republics."

In other words, we are being urged to endorse Moscow's analysis of the situation, and this analysis is a dangerously misleading one. It is based on the false assumption that the Baltic independence movement is sowing the seeds of violence and ethnic strife, and is therefore deterimental to the progress of liberalization. But opposition activists of both Baltic and Russian nationality have pointed out, and American eyewitnesses have confirmed, that there is no genuine ethnic strife in the Baltic Republics.

Many Russians—including those who coexisted harmoniously with Balts and numerous other ethnic groups during the inter-war period of Baltic independence—are staunch supporters of the democratic opposition. And while others may be grumbling about "reverse discrimination," as of yet no precedent has been established to suggest Russian-instigated bloodshed in the future.

The real danger of bloodshed lies not after the withdrawal of Soviet troops from the Baltic, but before it. Gorbachev and his colleagues in Moscow have made it abundantly clear that they do not rule out a violent crackdown to quell the independence movement. And some observers have expressed the fear that the government may fabricate a spurious incident of inter-ethnic violence in order to justify bringing in troops to protect the "safety and lives of the people."

On September 20, 23 of my Senate colleagues joined me in sending a letter to Secretary Baker, urging him to raise this concern with Soviet Foreign Minister Shevardnadze during their meeting last weekend. In that letter, the full text of which I will ask unanimous consent to have printed at the conclusion of my remarks, we urged the Secretary to make clear to Mr. Shevardnadze that if such an incident were to occur, the U.S. Government, recognizing it as an act of provocation by Moscow, would respond with appropriate measures of condemnation.

It is clear, Mr. President, that the Baltic independence movement is not based on "national enmity," in Gorbachev's words, not on any "anti-Russian nationalism." Rather, it expresses the desire for self-rule on the part of peoples who, after forcible incorporation into the Soviet Union, have been brutally colonized for 50 years, reduced to the status of monorities and second-class citizens in their historic homelands, robbed of their language, their culture and their history, victimized by police brutality and environmental assault. They seek independence from Moscow not because they hate Russians, but because they see it as a prerequisite for physical and cultural survival. As long as Moscow retains ultimate control over the military and industrial facilities that are poisoning the air, soil, and water of the Baltic regions in critical proportions, Baltic residents see self-rule as literally a matter of life and death.

Mr. President, the Baltic peoples are angry, to be sure, but they are not violent. David Remnick, Moscow correspondent for the Washington Post, in a September 2, 1989, report from Latvia, aptly compares the Baltic movement's "use of moral pressure" to the nonviolent tactics of Gandhi and King. He quotes Dainis Ivans, president of the Popular Front of Latvia:

We have had dozens and dozens of demonstrations, some of them including hundreds of thousands, even millions, of people, and not once has there ever been any need for a military man or a soldier to keep order.

Despite Moscow's threats and Washington's silence, the Baltic people will not voluntarily abandon their struggle for self-rule. If Gorbachev's goal is genuine political reform, and not just economic resuscitation, then why shouldn't he begin by respecting the constitution of the U.S.S.R., which grants all member-republics the right to secede? If far-reaching reform is not his goal, however, then why should America defend the internal stability of the last great colonial empire of the twentieth century?

Americans, writes the Times, "have an interest in Mr. Gorbachev and his moderate course around the world," because this course may lead to "withdrawal from Afghanistan, rapprochement with China, military relaxation in Europe, perhaps an end to intervention outside the Soviet Union." These are supremely desirable ends, to be sure, but can we justify sacrificing the nations held captive within Soviet borders for the sake of those outside?

If our Government's real interest is in the spread of democracy, and not just in the opening of new markets, joint-venture opportunities and cheap labor pools for American business, then that interest would be furthered by active support of the democratic opposition, rather than by tacit support of Moscow's disinformation campaign. The real threat to liberalization in the Soviet Union lies not in the nonviolent pursuit of freedom, but in the use of military force to repress it. Today, the choice is not between Baltic independence and moderate reform, but between independence and the iron fist.

If Gorbachev really wants to put his house in order, then he would be wise to let his recalcitrant guests leave. The course of perestroika might run far smoother in a Soviet Russia unencumbered by ethnic adventurists, and invigorated by economic ties with prosperous neighbors in a neutral, demilitarized Baltic zone. With a little prodding from his American friends, Gorbachev might be more willing to consider this option.

I ask unanimous consent that the letter to which I referred be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 20, 1989.

Hon. JAMES A. BAKER III,
Secretary of State,
Department of State, Washington, DC.

DEAR MR. SECRETARY: The unprecedented activism and massive popular support of the democratic opposition movements in Estonia, Latvia and Lithuania in recent months have clearly demonstrated the will of these captive nations to reclaim their usurped independence.

We therefore view the statement of Vice President Quayle on September 9th, expressing U.S. support for the Baltic independence movements, as a most timely and welcome development. His further assertion that a crackdown by Moscow would likely trigger a negative U.S. response, represents an important first step beyond our government's passive policy of non-recognition of Soviet rule in the Baltic states, to a policy of active support of these nations in their struggle for independence.

So that the Soviet leaders are mindful of U.S. policy as they consider their response to the independence movements in the Baltic states, we urge that you use the opportunity presented by your upcoming meeting with Soviet Foreign Minister Eduard Shevardnadze to reemphasize our government's strong support for the Baltic people in their peaceful efforts to achieve freedom and self-determination.

We further ask that you raise with him a matter of particular concern to us; namely, a fear, expressed both by residents of the Baltic states and by knowledgeable U.S. government officials, of a possible violent quelling of the independence movements.

Recent statements from Moscow, condemning the Baltic opposition for fomenting "nationalist hysteria" and ethnic strife, are considered particularly ominous. According to eyewitness accounts, there is no genuine ethnic conflict in the Baltic states; rather, Moscow is making false accusations to discredit the opposition and create a pretext for military intervention. Observers identify the possibility of ethnic violence between Balts and Russians in order to justify bringing in troops to "restore order." It must be made clear to Mr. Shevardnadze that if such an incident were to occur, the United States government, recognizing it as an act of provocation, would respond with appropriate measures of condemnation.

We believe the Vice President's recent statements to the press in support of the Baltic people's struggle for independence must be reemphasized in face-to-face meetings with Soviet officials. We urge you to do so in your upcoming meeting with Mr. Shevardnadze, and to raise with him the concerns noted above.

Sincerely,

Robert C. Byrd, Alan J. Dixon, Carl Levin, Donald W. Riegle, Jr., Alfonse M. D'Amato, J. James Exon, John W. Warner, Paul Simon, Dennis DeConcini, Quentin N. Burdick, James A. McClure, Dale Bumpers, Joseph I. Lieberman, John Heinz, Frank R. Lautenberg, Larry Pressler, Robert W. Kasten, Jr., Charles E. Grassley, Richard Bryan, Rudy Boschwitz, Daniel K. Inouye, Steve Symms, Christopher J. Dodd, and Gordon J. Humphrey.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1990

Mr. MOYNIHAN. Mr. President, in the early evening of July 26, I rose—as I now do—in opposition to this amendment. I concluded my remarks with the simple statement, "Mr. President, I will vote no." I believe I was the only Senator to do so, and with that in mind I would ask a few moments to say why I did.

I was not trying to be too solemn about the subject of support for the arts, and I cited that grand New York painter, John Sloan, who said, a half century ago in 1939, that "* * * it would be good to have a Ministry of Fine Art. Then we would know where the enemy is." That tension between government and the artist has been here with us as long as there have been governments and artists is not in question. This is nothing new.

Yet how we address it on this occasion will say something about this time—our time—and it is a useful moment to reflect on it.

I have been thinking about the descriptions heard tonight of the crucifix photograph which it happens I have not seen. We are a body with many denominations, and at least two religions. In my church, Roman Catholic, the story of the crucifixion begins with the degradation of Christ. I repeat, the degradation of Christ. His clothes are gambled away. He is given vinegar to drink. He is jeered. On top of the cross, as it states in the Bible, there is that mocking assertion in Latin, Iesus Nazarenus Rex iudaeorum, "Jesus of Nazareth, King of the Jews." Death follows. Then, resurrection.

That is a deeply held tenet of our faith, and I can imagine many ways in which artists might choose to represent it. I do not speak to this particular representation in question, however as I have not seen it.

Tonight I asked for a Bible to confirm this thought. But as it happened I opened to the Revelations of St. John the Divine, Chapter 17; that is exactly where the book fell open. Chapter 17 of Revelations.

And there came one of the seven angels which had the seven vials, and talked with me, saying unto me, Come hither; I will shew unto thee the judgment of the great whore that sitteth upon many waters:

Verse 2: With whom the kings of the earth have committed fornication, and the inhabitants of the earth have been made drunk with the wine of her fornication.

Verse 3: So he carried me away in the spirit into the wilderness: and I saw a woman sit upon a scarlet coloured beast, full of names of blasphemy, having seven heads and ten horns.

Verse 4: And the woman was arrayed in purple and scarlet colour, and decked with gold and precious stones and pearls, having a golden cup in her hand full of abominations and filthiness of her fornication.

Verse 5: And upon her forehead was a name written, Mystery, Babylon the Great, the Mother of Harlots and Abominations of the Earth.

Mr. President, this too is part of our civilization. How would we respond if we learned that a painting of this scene from the Bible was banned by some Government agency?

But it is not just or primarily this thought which I address but, instead, to the wild, indiscriminate prohibitions offered by the amendment of the Senator from North Carolina. The distinguished majority leader went to the heart of the issue.

Clause one speaks of "indecent" materials. What are indecent materials? Is this a society which goes about judging indecency? We do have, in fact, a court decision on obscenity, Miller. There is a definition there, broad enough. But "indecency"—the court would never think of deciding what was decent or indecent.

We go a long way back with this. In those remarks last July 26 I invoked Milton and his great defense against censorship, Areopagitica. He wrote, "As good almost kill a man as kills a good book: who kills a man kills a reasonable creature, God's image; but he who destroys a good book kills reason itself."

Have we not fought these matters long enough in the West to know we have come to the judgment to let the public taste prevail; let the public sense prevail?

The first great judicial decision of its kind, I believe, came in 1933 when Judge Woolsey in the southern district of New York decided a censorship case under the Smoot-Hawley Tariff. Senator Smoot was a man very opposed to dirty thoughts. I can remember suddenly lines from Ogden Nash's poem of that period, Invocation.

Senator Smooth (Republican, Ut.)
Is planning a ban on smut.
Oh root-ti-toot for Smoot of Ut.
And his reverent occiput.

Under the Smoot-Hawley Tariff, James Joyce's Ulysses was banned from this country. Ulysses is taught in high schools today. If there is a high school in the land which does not teach it they would not wish it known. It is, of course, an extraordinary work. Woolsey said so in 1933, and continued:

The words which are criticized as dirty are old Saxon words known to almost all men and, I venture, to many women, and are such words as would be naturally and habitually used, I believe, by the types of folk whose life, physical and mental, Joyce is seeking to describe. In respect of the current emergence of the theme of sex in the minds of his characters it must always be remembered that his locale was Celtic and his season spring.

Mr. President, as I read the amendment before us, the statement "his locale was Celtic and his season spring" would clearly be in violation of paragraph 3 and so we would have the question whether, if Judge Woolsey were about today would he too be in violation. I do not know. But I would hope the Senate would save itself embarrassment; save itself ridicule; save itself disparagement; and save itself disgrace by voting to table this pathetic amendment.

COLOMBIAN PRESIDENT VIRGILIO BARCO VARGAS MEETS WITH MEMBERS OF THE UNITED STATES SENATE

Mr. KENNEDY. Mr. President, yesterday, many of my colleagues and I had the honor of meeting with a courageous and committed individual—His Excellency Virgilio Barco Vargas, the President of the Republic of Colombia. All Americans commend his dedicated leadership in the war against drugs. We must join with him in pledging to redouble our efforts to ensure victory in this battle.

Immediately following the Senate's passage of the drug bill, President Barco's visit underscores the critical role of the United States in fighting the scourge of drugs. Colombia, Peru, Bolivia, and other nations threatened by the production and trafficking of drugs and a deep responsibility to stem the supply of illegal drugs; but the United States, too, shares a responsibility to stem the demand for those drugs.

Earlier today, President Barco gave an insightful address to the United Nations and I urge my colleagues to study his important recommendations.

The United States can and must do more on many fronts—to stop the demand for these drugs, to stem the supply of chemicals used in processing, to stop arming the traffickers with American made assault weapons, to control money laundering, and to press for the prompt ratification of the Vienna Convention on narcotics trafficking. As President Barco has rightly noted, a new era is upon us. This is a war that we can only win together.

I urge my colleagues to read President Barco's important comments and ask unanimous consent that they may be inserted in the RECORD.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

ADDRESS BY HIS EXCELLENCY VIRGILIO BARCO VARGAS, PRESIDENT OF THE REPUBLIC OF COLOMBIA BEFORE THE UNITED NATIONS, SEPTEMBER 29, 1989

Mr. President, on behalf of the people and Government of Colombia, please accept my congratulations and good wishes on your election as President of this General Assembly. I am sure that you will preside with distinction over the complex affairs of this body that gathers the nations of the world. Let me also add my thanks to those who have already noted the splended role played by your predecessor, his Excellency Doctor Dante Caputo. In addition, let me also pay tribute to the efforts toward achieving world peace of the Secretary General, Javier Perez de Cuellar.

This will be the last occasion I speak to you as President of Colombia. However, I am here today not just as President of my country, but as a citizen of the world.

A GLOBAL CHALLENGE

The terrible carnage of the world's second great war gave birth to this body, in the hope that nations standing together, united, can prevent such global madness from ever happening again. Since then mankind has continued to follow the destructive path of war in conflicts across our planet. It has only been the unimaginable consequences of nuclear war that has restrained us from falling once again into a worldwide conflagration.

Yet in spite of the uneasy nuclear peace thus engendered, the world has remained at war. Conflicts generated by ideology, poverty, injustice, excessive ambitions, and now increasingly by narcotics, have scarred the peace.

The notion of national sovereignty underlies all our strategic thinking; indeed it is the basis for this United Nations. Yet now we find this newest threat, narcotics, and accompanying terrorism that pays no respect to borders. We, a community of nations, find ourselves under assault from an international criminal enterprise that respects none of our norms of sovereignty, frontiers, or laws.

To meet this new challenge we have to reach back to those core founding values of the United Nations. If we cannot act together in the face of this menace, then we will be abetting the unrestrained growth in the use of drugs and in the violence they generate.

I am certain that Colombia will finally defeat the drug traffickers. But if this effort is not accompanied by a global commitment, then no victory can be achieved.

The recent global outpouring of solidarity and support for Colombia has been a great encouragement to us in these difficult times.

A new era is upon us. A new world war is being waged by an aggressor unrestrained by the traditional rules of engagement or by the responsibilities of national sovereignty. This aggressor is an insidious, global criminal network wth enormous power and resources—a criminal enterprise which feeds on the illegal profits from the trafficking of drugs. As the Secretary General said in his report to you this year:

"Illicit use and traffic of drugs is now recognized as a social plague afflicting both developed and developing countries. Although efforts to combat this scourge have intensified in recent years, estimates suggest that the monetary value of drug trafficking has recently surpassed that of international trade in oil and is second only to the arms trade. It is a chastening observation that humanity is so deeply mired in the commerce of degradation and death."

The members of these criminal cartels were born in many nations and many of its leaders are called Colombian. But while some may have been born in my country, let me be clear—they are not Colombian in any more than name. They are international fugitives on the run. They have no home.

THE STRUGGLE IN COLOMBIA

I am here today to lay out the stark realities of this war against drug trafficking. We are on the front line of this battle. For us

this is no war of words. In Colombia the casualties of our struggle have been mounting for some time. A month ago, we suffered the tragic assassination of one of our finest national leaders, Luis Carlos Galan. In many ways, his death has galvanized our nation and focused the attention of the world on this problem. But our war on drugs has been taking its toll for years. We have lost 12 Supreme Court Justices, our Attorney General and Minister of Justice. We have lost Members of Congress and Mayors, scores of journalists, thousands of soldiers and policemen and tens of thousands of Colombian citizens who were committed to the cause of democracy.

Following my announcement last month to enforce drastic measures using executive powers available under a state of siege, the narco-traffickers have continued to engage in a cowardly reign of terror. They have threatened and retaliated against innocent families, they randomly strike at our cities and have bombed institutions like our newspaper El Espectrador which dare to speak out against them. In short, in their aim to protect their illegal and criminal activities, they seek to destroy the will of our people and undermine our most precious institutions. Hear me well—they will fail. Colombia—one of the oldest democracies in Latin America—will prevail.

In these past few weeks, we have had some important victories. We are methodically breaking the back of the cartels, but not just by confiscating and destroying many tons of cocaine. Indeed, Colombian authorities capture almost eighty percent of the cocaine seized globally. But our offensive goes beyond that. The assassins of Luis Carlos Galan have already been captured. Many thousands of suspects have been apprehended and millions of dollars in property—processing plants, bank accounts, communication equipment, aircraft, boats, houses and ranches that provide the backbone and the lifestyle for this criminal operation—have been seized.

All these victories, though, will not be nearly sufficient to win this war. That is why I am here today. Only through concerted international action can we hope to defeat the scourge of narcotics. The criminal drug cartels have declared total war. This declaration of war is against the entire community of nations. Against those whose youth are being poisoned by drugs and against those who, like Colombia, see their democracy and their institutions threatened by the violence and terrorism. There are no boundaries to the narcotics conflict, there are no safehavens from narco-terror. Now, there must be no safehavens for the narco-terrorists. In this war, the time has come for the community of nations to choose sides.

Many of you, by the way, may not accept that this is a global war; you may believe that it is one of this hemisphere alone—that cocaine is a scourge only of the Americas, produced in the nations of South America and consumed by North America. This is not so, because cocaine's tentacles, even as we meet today, are reaching into Europe and the Far East. The aggressive search for new markets is no more respectful of oceans that it was of borders. Where there are customers there will be suppliers. And indeed cocaine is only one ugly manifestation of a much wider narcotics crisis. Make no mistake, this scourge touches us all.

A PLAN OF ACTION

In solidarity, as a community of nations, this should be our plan of action:

First, we simply must stop demand for these illicit narcotics. It is the insatiable demand for drugs that fuels this terrorism and which is one of the greatest threats to democracy in Latin America. Those who consume cocaine are contributing to the assassination of my people by the criminal drug cartels. No doubt somebody a few blocks from this General Assembly Hall, in one of this city's fashionable neighborhoods, taking cocaine in the civilized calm of his living room, would balk at this description. Yet as surely as if he pulled the trigger he is the slayer of those Colombian judges and policemen who have paid with their lives for trying to uphold the law.

Every tactic and every weapon in the war against narcotics pales into insignificance compared to the need to reduce demand. The illegal profits produced by drug consumption are simply too great. I am sure that in Colombia we will defeat drug traffickers. But someone, in some country, somewhere, will supply the drugs as long as the business remains so profitable. This happened in the case with marijuana. When it became too expensive for drug traffickers to operate in Colombia, because of effective law enforcement, they moved to California, Hawaii and other places. The only law the narco-terrorists do not break is the law of supply and demand.

No society, no matter how rich, can afford to have its sons and daughters poisoned by cocaine, heroin or any other deadly drug. In this regard, President Bush's National Drug Control Strategy is a first step in the right direction.

We must insist on the message that illegal drugs are neither fashionable nor harmless, whether consumed at the glittering parties of the wealthy or in the ghetto. Drug users need to understand that in this war, they are in the camp of the enemy, along with those who produce and push drugs. Let me say how much I appreciate the initiative and leadership of the Prime Minister of Great Britain in her call for an international conference for the Reduction of Demand. Mrs. Thatcher has honored me with her invitation, which I have accepted, to address the conference next April.

Second, our efforts to reduce the supply of refined cocaine also depend on international cooperation in stopping the illegal trade in chemicals which are essential to the processing of this drug. Generally, much attention is given to the production and processing of drugs. For example, to countries like Peru and Bolivia where coca leaf is grown. Unfortunatley, in contrast, little attention is given to controlling the supply of chemicals which are used to process cocaine and which come mainly from North America and Europe. None of these are manufactured in Colombia—all of them are smuggled into our country. Tightening controls on the manufacture and sale of these chemicals, as well as strengthening sanctions against their illegal shipment, must be one of our highest priorities. It takes more than coca leaf to produce cocaine. Without the chemicals there would be no narcotic. Let us press on the suppliers of these chemicals as firmly as we do on the poor peasant growers of coca leaf.

Third, the weapons used by the cartels to intimidate, maim and kill my people do not come from Colombia. They are found in international arms market where even the most sophisticated weapons are easily and legally bought. Make no mistake, those who sell arms to the narco-terrorists are even more guilty than the addicts whose demand for drugs fuels violence. Last year Colombia presented a draft resolution calling for restrictions in arms sales, but unfortunately, consensus could not be found at the United Nations. We can no longer wait while this deadly trade continues. It is essential to adopt special measures to reduce and control arms sales to drug traffickers and terrorists. I call on all of the nations of the world to stop this madness and stop it now.

My Government also views with extreme seriousness the activities of foreign mercenaries in training and assisting narco-terrorists in Colombia. The international community must strengthen its condemnation of the murderous association of mercenaries with terrorists and drug traffickers. My Administration has not only condemned the presence of foreign mercenaries in our territory, it has also criminalized their activities and ordered their capture. These developments in Colombia make an urgent and indisputable case for this Assembly to approve the Convention outlawing these activities.

Fourth, international cooperation is an essential element in efforts to halt money-laundering. The drug cartels depend on the international banking system for the transfer of funds. A significant part of the criminal profits are invested in the industrialized nations—in bank accounts and bonds, in properties and in legal businesses. Somehow our sense of justice is warped when a poor farmer who feeds his family by growing coca is seen as the greater villain than the wealthy international banker who illegally transfers millions of dollars of drug money that finances terrorist actions against innocent people. If the international banking system cooperates in cracking down, we can put the cartel out of business.

Fifth, each of us must press for the prompt ratification of the Vienna Convention on narcotics trafficking. Painstakingly negotiated, this Convention includes specific actions on a wide variety of fronts, from penalties for consumption to seizure of ships on the high seas and confiscation of properties. Upon my return to Colombia, I will introduce it to the Colombian Congress for consideration. To be effective, it must be ratified by the community of nations.

In addition, I recommend to this Assembly two other multilateral initiatives: The first is to call a special session of this General Assembly addressed to all aspects of the global drug problem—consumption and production—which would consider urgent actions including those I am suggesting today. The other step, and perhaps the most important way to make concrete progress, is to establish an international working group at ministerial level, which would meet periodically to coordinate and refine specific anti-narcotics actions and to evaluate progress.

Sixth, central to the support for political stability and the maintenance of Colombia's democratic institutions is the strength of its economy. This is why international cooperation to maintain a strong and stable economy is so vital. In spite of the enormous stabilizing power of this international criminal organization, Colombia has been able to remain firm in its will to fight against drug trafficking.

It is critical to note that our economy is not dependent on the income of this illegal drug trade. In Colombia their dirty money is concentrated in speculative real estate activity and in money laundering. Its contribution to the growth of our economy is marginal. Colombia is not a narco-economy.

Three years ago, I addressed this assembly on the urgent need to fight absolute pover-

ty. Since then, my government has embarked on an ambitious program of social change aimed at transforming the living conditions in regions traditionally excluded from development. The result can already be seen.

In spite of the massive resources that the drug war requires, we will not relent in our pursuit of social change and economic progress. To do this, Colombia requires international and financial cooperation. But even more important is the adoption of commercial and trade measures which allow our economy greater access to markets in the industrialized countries and fair prices for our exports.

THE INTERNATIONAL COFFEE AGREEMENT

The prime example is coffee, the traditional and principal source of income for Colombian farmers. The International Coffee Agreement has recently collapsed with the result that Colombia will lose more than $400 million this year in income. Sixty-one developing countries stand to lose a total of $5 billion in income next year.

We need the help of the United States and other countries to get the Coffee Agreement signed again without delay. We cannot afford to talk idealistically of crop substitution while sabotaging Colombian farmers' main cash crop and the country's largest export. It is encouraging to note that President Bush recently expressed his willingness to cooperate in finding solutions to the problems that led to the rupture of the Coffee Agreement. We expect that all other countries involved understand the seriousness of the situation and the need to revive one of the most successful examples of international economic cooperation.

The weakening of the commodities' market only aggravates the debt crisis. Foreign debt is a heavy burden for Latin America and is hindering economic growth. What is even more important, is that it is worsening the conditions of poverty for millions of Latin Americans. We have to work together to find realistic and effective solutions to this problem.

THE "ECODEBT" OF THE INDUSTRIALIZED NATIONS

There is yet another—and related—struggle which has drawn the attention of the world and which must be one of our highest priorities in the decade of the 1990's. It is, of course, the destruction of our natural resources.

As I said recently in Manaos, in the meeting of the member countries of the Amazon Cooperation Treaty, the industrialized countries have an ecological debt to humanity. In less than two centuries, not only have most of the native forests of Europe and North America been razed, but industrial production has brought pollution, acid rain and destruction to the ozone layer. This is an ecological debt to future generations of all the countries of the world who will have to live with the consequences of the mindless way in which the developed countries have handled their natural resources.

The way in which richer nations can pay this debt is by directly contributing to third world alternatives which preserve the environment, especially the rain forests. These issues should be dealt with at the highest level of all governments and of the United Nations. My Administration has already set aside more than 20 million hectares of rain forest and Indian reserves in the Amazon region, an area larger than that of many European countries. Let us pledge to seek sane development policies which recognize the value of the our most precious resources. Let us pledge to retire this debt now for future generations.

A NEW LINK BETWEEN THE PACIFIC AND THE ATLANTIC

If the narcotic problem were not a priority at this moment I would have spoken to you today about another war: the struggle for the developing countries to eliminate poverty and social injustice. We should not lose sight of these fundamental goals. I would also have spoken about the many important development projects we are promoting, the most important of which for Colombia and for the international community is the proposal to build a land bridge to link the Pacific and Atlantic oceans through Colombian territory. The railroads, highways and pipelines to be built will provide vital new links to global shipping.

AN HISTORIC CHALLENGE

Mr. President, this is indeed an historic moment. Again, we are at war and future generations will judge our actions today. In this war on drugs, there have been many heroes, of many nationalities, willing to give their lives. Many are well-known, even more are unknown. Luis Carlos Galan died because he dared to speak out. Guillermo Cano, the editor of El Espectador was gunned down because he would not be silenced. The thousands of soldiers and Colombian citizens who fell, died because of their commitment to this struggle.

These brave men and women have not died in vain. The entire community of nations must build on their sacrifice to defeat the curse of drugs.

The record of human history is strewn with the wreck of failed civilizations. We now face a new and global threat. We must act now before it is too late. If we confront the narcotics menace with boldness and determination we can win. With international commitment and cooperation, we can make this plague of the 20th century obsolete. It is my cherished hope that the school children of the 21st century will know about drugs and about terrorism only from their history books—the great plagues that passed.

We should be under no illusions about the burdens that lie ahead. Victory will take time. Winston Churchill might have been describing the road before us today when he told the House of Commons in 1940: "Death and sorrow will be the companions of our journey; hardships our garment; constancy and valor our only shield. We must be united, we must be undaunted * * *."

Let us declare today that, together, the last decade of this century will be used to bury the international scourge of drugs. Together we can and must succeed.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE RAILROAD RETIREMENT BOARD MESSAGE FROM THE PRESIDENT—PM 63

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

I hereby submit to the Congress the Annual Report of the Railroad Retirement Board for Fiscal Year 1988, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act, enacted October 16, 1974, and section 12(1) of the Railroad Unemployment Insurance Act, enacted June 25, 1938.

Over 900,000 railroad retirees, their families, and 300,000 railroad employees rely on the railroad retirement system for social security equivalent benefits, rail industry pensions, and unemployment, disability, and sickness insurance benefits. These beneficiaries depend on the solvency and financial integrity of the railroad retirement trust funds to receive their benefits.

Recent actuarial projections included in the annual report indicate that, barring any large unanticipated declines in rail employment, the railroad retirement system will not experience short-term cash-flow problems. Board actuaries estimate that, based on Employee Retirement Income Security Act standards, the system has a $32 billion unfunded liability.

The long-term solvency of the railroad retirement system remains highly volatile. Refinancing legislation enacted in 1946, 1951, 1974, 1981, 1983, and 1987 serves as a reminder of this volatility. More recently, the Railroad Unemployment Insurance and Retirement Improvement Act of 1988 was enacted to ensure repayment of the unemployment insurance debt to the rail industry pension fund.

The Congress sought advice and created the Commission on Railroad Retirement Reform to examine issues relating to the long-term financing of the railroad retirement system. The Congress directed the advisory Commission to consider a range of financing alternatives that do not include general fund subsidies. Yet, as part of their fiscal year 1990 reconciliation bill, the Congress is once again considering extending general fund subsidies to the rail industry pension fund. Since 1983, over $1.2 billion in subsidies, in the form of diverted income taxes on rail industry pensions, have been given to the pension fund.

Income tax on all other private pensions goes to the general fund. Under current law, this general fund subsidy provision will expire at the end of fiscal year 1989. Extending general fund subsidies establishes an undesirable precedent. I urge the Commission, in accordance with the congressional directive, not to recommend general fund subsidies in any form. In the long run, railroad retirees and employees will be best served by a financially stable system that relies soley on rail sector funding.

GEORGE BUSH.

THE WHITE HOUSE, *September 29, 1989.*

MEASURES HELD AT THE DESK

By unanimous consent, the following joint resolution was ordered held at the desk until the close of business on October 3, 1989:

H.J. Res. 412. Joint resolution to reauthorize the National Flood Insurance Program, the Federal Crime Insurance Program, and the Defense Production Act of 1950, to extend certain housing programs, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. 1324. A bill to authorize appropriations for fiscal years 1990 and 1991 for intelligence activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes. (Rept. No. 101-151).

By Mr. BIDEN, from the Committee on the Judiciary:

Report to accompany the bill (S. 1338) to protect the physical integrity of the flag of the United States (with additional and minority views) (Rept. No. 101-152).

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 1704. An original bill to extend the Tied-Aid Credit Program of the Export Import Bank, and for other purposes (Rept. No. 101-153).

S. 1705. An original bill to amend section 18 of the Export Administration Act of 1979 to authorize appropriations for fiscal year 1990, and for other purposes (Rept. No. 101-154).

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs without amendment:

S. 1091. A bill to provide for the striking of medals in commemoration of the bicentennial of the U.S. Coast Guard.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

Claire E. Freeman, of Virginia, to be an Assistant Secretary of Housing and Urban Development;

Eugene Kistler Lawson, of the District of Columbia, to be First Vice President of the Export-Import Bank of the United States for a term of four years expiring January 20, 1993; and

Richard Schmalensee, of Massachusetts, to be a Member of the Council of Economic Advisors.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. NUNN, from the Committee on Armed Services:

Mr. NUNN. Mr. President, for the Committee on Armed Services, I report favorably a nomination list in the Navy (reported minus one name: Paul B. Thompson), which was printed in full in the CONGRESSIONAL RECORD of April 4, 1989, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BINGAMAN:

S. 1700. A bill to amend the Deep Seabed Hard Mineral Resources Act, as amended, to authorize appropriations to carry out the provisions of the Act for fiscal years 1990 through 1994; to the Committee on Energy and Natural Resources.

By Mr. PACKWOOD (for himself, Mr. HEINZ, Mr. ROCKEFELLER, Mr. DOLE, Mr. MOYNIHAN, Mr. CHAFEE, and Mr. DANFORTH):

S. 1701. A bill to implement the steel trade liberalization program; to the Committee on Finance.

By Mr. SIMON:

S. 1702. A bill to amend chapter 44 of title 18, United States Code, regarding penalties involving firearms; to the Committee on the Judiciary.

By Mr. BOSCHWITZ:

S. 1703. A bill to amend title 38, United States Code, to permit Department of Veterans Affairs medical centers to retain a portion of the amounts collected from third parties as reimbursement for the cost of health care and services furnished by such medical centers; to the Committee on Veterans Affairs.

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

S. 1704. An original bill to extend the Tied-Aid Credit Program of the Export Import Bank, and for other purposes; placed on the calendar.

S. 1705. An original bill to amend section 18 of the Export Administration Act of 1979 to authorize appropriations for fiscal year 1990, and for other purposes; placed on the calendar.

By Mr. BAUCUS (for himself, Mr. PRYOR, and Mr. BIDEN):

S. 1706. A bill to amend the Public Health Service Act to provide grants for rural substance abuse treatment and education programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PRYOR (for himself, Mr. BAUCUS, and Mr. BIDEN):

S. 1707. A bill to amend the Drug Free Schools and Communities Act of 1986 to provide substance abuse education in rural areas, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROCKEFELLER (for himself, Mr. HEINZ, Mr. BYRD, and Mr. SPECTER):

S. 1708. A bill to provide for stabilization of the process of providing coal industry health benefits to clarify Federal tax treatment of the transfer of excess coal pension plan assets to coal health plans and for other purposes; to the Committee on Finance.

By Mr. MITCHELL (for Mr. CRANSTON (for himself and Mr. MURKOWSKI)):

S. 1709. A bill to provide interim extensions of Department of Veterans Affairs programs of respite care for certain veterans, community-based residential care for homeless chronically mentally ill veterans, State Home construction grants, and leave transfers for certain health-care professionals, and of Department of Veterans Affairs home-loan fees; considered and passed.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 1710. A bill to temporarily suspend the duty on iohexol; to the Committee on Finance.

By Mr. MOYNIHAN:

S.J. Res. 211. A joint resolution to designate January 31st as "National Payroll Practitioner Appreciation Day"; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. PRESSLER, Mr. WILSON, Mr. SIMON, Mr. LEVIN, Mr. KASTEN, Mr. REID, Mr. BRADLEY, Mr. BOSCHWITZ, Mr. CHAFEE, Mr. D'AMATO, Mr. KERRY, Mr. GORE, Mr. MCCLURE, Mr. DOMENICI, Mr. HELMS, Mr. LEAHY, Mr. FORD, Mr. NICKLES, Mr. SHELBY, Mr. RIEGLE, Mr. MIKULSKI, Mr. STEVENS, Mr. HEINZ, Mr. BREAUX, Mr. PRYOR, Mr. COATS, Mr. SARBANES, Mr. BIDEN, Mr. BURNS, Mr. ARMSTRONG, Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. BURDICK, Mr. CRANSTON, Mr. BOND, Mr. DIXON, Mr. DODD, Mr. DURENBERGER, Mr. THURMOND, Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. SASSER, Mr. BINGAMAN, Mr. MURKOWSKI, Mr. RUDMAN, Mr. HATCH, Mr. COHEN, Mr. GLENN, Mr. BENTSEN, Mr. GRAHAM, Mr. INOUYE, Mr. BRYAN, and Mr. BUMPERS):

S.J. Res. 212. A joint resolution designating April 24, 1989, as "National Day of Remembrance of the 75th anniversary of the Armenian Genocide of 1915-1923"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for Mr. BURDICK (for himself, Mr. MOYNIHAN, Mr. CHAFEE, and Mr. SYMMS)):

S. Res. 189. A resolution honoring the American Association of State Highway and Transportation Officials, on their 75th Anniversary; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 1700. A bill to amend the Deep Seabed Hard Mineral Resources Act, as amended, to authorize appropriations to carry out the provisions of the act for fiscal years 1990 through 1994; to the Committee on Energy and Natural Resources.

DEEP SEABED HARD MINERAL RESOURCES ACT AUTHORIZATION

Mr. BINGAMAN. Mr. President, today I am introducing legislation to reauthorize the Deep Seabed Hard Mineral Resources Act [DSHMRA]. This bill reauthorizes the DSHMRA for 5 years at $1.525 million per year. The purpose of DSHMRA is to regulate the exploration for and commercial recovery of manganese nodules in international waters by U.S. citizens.

Manganese nodules are fist-sized, potato-shaped concretions containing manganese, nickel, copper, and cobalt. The United States is dependent on foreign sources of supply for these strategic and critical minerals, with the exception of copper. While deep seabed mining of the nodules is not currently economically feasible, it is in the U.S. national interest to encourage development of potential alternative sources of supply for these important minerals in an environmentally sound manner.

The National Oceanic and Atmospheric Administration [NOAA] administers this program and is responsible for developing and administering a comprehensive licensing and regulatory regime governing the exploration for and commercial recovery of these minerals. NOAA also is responsible, in cooperation with the Department of State and other Federal agencies, for designating as reciprocating states other nations that recognize U.S. licenses and have compatible regulatory programs. NOAA's continuing seabed mining program includes monitoring activities under existing exploration licenses, including processing license amendments, and supporting studies and conducting consultations to aid in future environmental and other regulatory decisions relating to commercial recovery activities.

In 1984, NOAA issued 10-year exploration licenses to four U.S. deep seabed mining consortia. The licensees are authorized, pursuant to DSHMRA, to conduct exploration activities in their respective areas in an east-west belt in the Pacific Ocean southwest of Hawaii. Due to depressed worldwide mineral prices, the mining consortia are primarily engaged in the refinement of past engineering work and data analysis. No consortia is expected to apply for a commercial recovery permit for at least 5 years.

The legislation authorizes appropriations for 5 additional years at nearly the same level as the previous 5 years. I believe that this is a worthwhile program that deserves reauthorization.

By Mr. PACKWOOD (for himself, Mr. HEINZ, Mr. ROCKEFELLER, Mr. DOLE, Mr. MOYNIHAN, Mr. CHAFEE, and Mr. DANFORTH):

S. 1701. A bill to implement the steel trade liberalization program; to the Committee on Finance.

STEEL TRADE LIBERALIZATION PROGRAM IMPLEMENTATION ACT

● Mr. PACKWOOD. Mr. President, today I am joined by Senators HEINZ, ROCKEFELLER, DOLE, MOYNIHAN, CHAFEE, and DANFORTH to introduce the Steel Liberalization Program Implementation Act. This legislation implements the President's program, announced July 25, to extend the steel voluntary restraint arrangements [VRA's] an additional 2½ years.

The language of the bill is identical to that which recently passed the House Ways and Means Committee without controversy.

The future of the steel VRA program has been a divisive and contentious issue over the past year. Yet, looking at the list of cosponsors for this bill, one sees the noble result of reason and compromise. Senators with diametrically opposed views on the steel VRA issue have joined to support this measure.

This bill also has support from U.S. steel manufacturers—including the American Institute of Iron and Steel—and U.S. steel consuming industries, including the Coalition of American Steel Using Manufacturers.

The bill enjoys this broad support because it implements a realistic and workable steel policy. The President's decision was a fair compromise. It gives our steel industry more time to adapt, invest, and become more efficient, while encouraging our trading partners to end their trade distorting practices in steel. It also gives our steel consuming industries a welcome light at the end of the tunnel.

The enforcement authority for the current VRA's expires on September 30, 1989. Therefore, the cosponsors, recognizing that time is of the essence, have agreed to oppose all amendments to the legislation.

The list of cosponsors demonstrates that implementation of the President's decision truly is noncontroversial. If the Senators will agree to hold back amendments, this will enable us to put in place as quickly as possible a new and commendable steel policy.●

By Mr. SIMON:

S. 1702. A bill to amend chapter 44 of title 18, United States Code, regarding penalties involving firearms; to the Committee on the Judiciary.

MANDATORY PRISON SENTENCE FOR ARMED DRUG TRAFFICKERS AND VIOLENT CRIMINALS ACT

● Mr. SIMON. Mr. President, today I am introducing the Mandatory Prison Sentences for Armed Drug Traffickers Act to assure that drug traffickers and other violent criminals receive appropriately harsh penalties. This legislation will not only remove dangerous criminals from our communities; it will also send out a powerful message: society will not tolerate violent drug crimes.

Americans have identified the violent crime associated with drugs as the No. 1 problem facing our Nation. Every day our headlines tell us yet another story about the violence that the drug trade causes. Our law enforcement agencies report that each day they are on the front line fighting violent drug gangs who are equipped with machine guns, sawed-off shotguns, sawed-off rifles, grenades, firebombs, and other deadly weapons.

Current law provides some enhanced punishment for drug traffickers and violent criminals who use or carry firearms including a 30-year mandatory minimum sentence for those who use a machine gun or silencer in connection with a drug offense. The Bureau of Alcohol, Tobacco and Firearms, however, has indicated to me that legislation which provides even stronger penalties to be used against violent drug gangs with their modern arsenals would be most valuable in fighting the drug war.

The bill that I am introducing today will respond to the needs of law enforcement agencies by extending the enhanced penalties so that they cover not only machine guns and silencers, but also the other deadly weapons being used by violent drug gangs. It imposes a 10-year mandatory prison sentence on those who use sawed-off shotguns or sawed-off rifles in connection with a drug trafficking offense, and a 30-year penalty for those using destructive devices.

Looking at the daily headlines from Colombia, we can see that it is crucial for us to be prepared to prevent violence from following extradited drug kingpins to our country. We must stem the tide of armed drug trafficking. Congress must send a stern message: The kind of lawlessness we see today in Colombia will never be tolerated in this country. When it erupts, the penalties will be swift and severe.

Not only will this bill serve as a powerful tool for Federal law enforcement, but it will also help the States in their struggle against drugs by allowing the Federal Government to reach the worst offenders apprehended by State and local officers. If the underlying violent or drug trafficking crime is one that is prosecutable under Federal law, the offender will face a mandatory prison sentence in the Fed-

eral system. State and local prisons are sorely overcrowded. This bill lessens that burden by permitting the use of Federal courts and prisons for some of the worst cases.

Mandatory prison sentences for drug traffickers with machineguns or silencers have proved valuable. While in terms of completed trials this is a relatively new law, the Bureau of Alcohol, Tobacco and Firearms reports that through August 25 of this year, 326 individuals have been sentenced under this statute and have received a cumulative 1,815 years of mandatory prison time. The Bureau indicates that from two to three times this number of violators are pending trial at this time. Moreover, ATF has found that this statute has helped to crack the criminal codes of silence and fear. Faced with certain prison terms, suspects are willing to cooperate with law enforcement. Police chiefs and sheriffs from across Illinois confirm to me that suspects are willing to exchange valuable information to bring other drug criminals to trial when they face stiff, mandatory sentences like these.

This bill will ensure that stiff prison sentences are imposed not only on drug traffickers who carry machineguns, but are also imposed on those that use any of the drug gangs' other weapons of choice. This bill is an insurance policy for public safety. It says if you are convicted of using these weapons while trafficking in drugs, you're going to pay dearly for it. I urge my colleagues to join me in this effort by cosponsoring this important legislation, and ask unanimous consent that the full text of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1702

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mandatory Prison Sentence for Armed Drug Traffickers and Violent Criminals Act".

SEC. 2. Section 924(c)(1) of title 18, United States Code, is amended in the first sentence by—

(1) inserting "and if the firearm is a short-barreled rifle, or a short-barreled shotgun, to imprisonment for 10 years," after "sentenced to imprisonment for 5 years,"; and

(2) inserting "or a destructive device," after "a machinegun,".●

By Mr. BOSCHWITZ:

S. 1703. A bill to amend title 38, United States Code, to permit Department of Veterans Affairs medical centers to retain a portion of the amounts collected from third parties as reimbursement for the cost of health care and services furnished by such medical centers; to the Committee on Veterans' Affairs.

VETERANS HEALTH CARE

● Mr. BOSCHWITZ. Mr. President, in 1865, President Abraham Lincoln exhorted Congress and the American people "to care for him who shall have borne the battle and for his widow and his orphan." For many years the U.S. Government has fulfilled that pledge with an array of services to our Nation's veterans.

None of those services are more important than health care. For decades, the vast veteran's health care system has served those who have worn the uniform of the U.S. military. That system is in trouble today. Recently, Veterans Affairs Secretary Derwinski called it a state of emergency.

Today the veteran's health care system is short of money, staff, and equipment. Rising medical costs and Federal budget constraints have tightened the VA's budget and restricted the medical care it can provide to America's veterans.

Each month the health care system turns away thousands of veterans or is compelled to give appointments up to 9 months in advance. Nationally the VA is short 15,000 to 20,000 nurses, therapists, and support staff, not to mention qualified and experienced doctors. The problems in the VA health care system are clear.

I rise today, Mr. President, to introduce legislation that will provide some relief from the budget crisis in the VA health system.

The 403 VA hospitals and outpatient clinics in our Nation often collect payment from third parties, such as private insurance companies, when veterans in these hospitals are covered under their own policies. Presently, the VA medical centers collect from these third parties, and send the entire payment directly to the U.S. Treasury. Not only must these medical centers provide the health care, but they also must provide the staff to collect and process all third parties claims. All of this and the VA doesn't even get to keep any of the revenue it collects.

Given the funding crisis in its health care system, every staff member and resource that the VA devotes to collecting and processing these third-party claims must be taken from direct patient care. Consequently hospitals have little incentive to vigorously pursue collections from these third-party payors.

The legislation I am introducing attempts to give an incentive to these hospitals. I propose to allow the VA medical centers to keep one-third of the money they collect from third-party insurance companies. This money would go to direct patient care for our Nation's veterans. By allowing the medical centers to keep a portion of this revenue, and thereby enhance the services they provide, they will certainly have a much greater incentive to collect it.

I am as aware as anybody of the Federal budget deficit problems that we face. Some might say that this proposal will exacerbate the deficit because only two-thirds of this revenue will be going to the Treasury, rather than 100 percent. I disagree. On the contrary, in fact, the Treasury will collect more revenue if the VA medical centers are allowed to keep one-third.

As evidence of this I submit the following figures, provided to me by the Veterans Hospital in Minneapolis. In this one VA hospital in fiscal year 1989, collections were made in 305 third-party cases. However, there were actually 1,303 additional third-party cases in which no collections were made. Had an incentive like the one proposed in this bill existed, many more of these cases would have been collected.

If 100 percent of these cases were collected, the revenue from other insurers at this one hospital would climb from approximately $1.23 million to approximately $5.27 million. After the extra administrative costs and the one-third that the medical centers would keep, the Treasury would receive approximately $3.07 million for the fiscal year from this one hospital, or nearly 150 percent more than under the current system. Add the revenue from the other 402 VA hospitals and outpatient clinics nationwide, and you have quite a boon to the Treasury. Even at less than a 100-percent collection rate, the revenue coming into the Treasury would be substantially greater than it is now.

Therefore, Mr. President, this proposal makes sense from a fiscal standpoint. But more important than that, it will provide some much needed relief to the financially strapped veterans' hospitals. We must never forget those who proudly wore our Nation's uniform and who fought to defend our national principles. They were there in our country's greatest times of need. Now we must be there in their time of need.

I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1703

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RETENTION OF THIRD PARTY REIMBURSEMENTS BY DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTERS.

(a) IN GENERAL.—Section 629(g) of title 38, United States Code, is amended to read as follows:

"(g)(1) Except as provided in paragraph (2) of this subsection, amounts collected or recovered on behalf of the United States under this section shall be deposited into the Treasury as miscellaneous receipts.

"(2)(A) The amount equal to one-third of the total amount collected or recovered in a fiscal year as reimbursement for care and services furnished by a medical center shall be credited to the Department appropriation account for medical care and shall be available to such medical center for the provision of direct patient care. The amount so credited to such account shall remain available for obligation for that fiscal year and for two fiscal years following such fiscal year.

"(B) The amount made available to the Department for medical care under this subsection shall be in addition to amounts made available to the Department for such purposes under any other provision of law.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989.●

By Mr. BAUCUS (for himself, Mr. PRYOR, and Mr. BIDEN):

S. 1706. A bill to amend the Public Health Service Act to provide grants for rural substance abuse treatment and education programs, and for other purposes; to the Committee on Labor and Human Resources.

RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION ACT

● Mr. BAUCUS. Mr. President, today Senator PRYOR and I are introducing two bills which will help rural areas address important components in the war on drugs: treatment and education.

In a recent editorial, the Missoulian stated that "reducing the demand for drugs is the single most effective step the administration can take" in the war on drugs.

This view isn't shared by everyone. Funding for treatment programs tends to take a back seat to interdiction. And even when treatment programs are funded, rural areas take a back seat to their urban counterparts.

As I have said repeatedly, rural areas are not immune to the drug abuse crisis in this country.

Substance abuse, including alcoholism, has taken its toll in Montana, as it has in Arkansas, California, New York, and other places across the country. But access to treatment is not readily available in many rural areas.

Part of this problem stems from the unequal treatment rural hospitals receive from the Federal Government—a point I have stressed repeatedly on this floor and elsewhere. These hospitals are already hard-pressed to make ends meet while providing essential services. Many can't afford to add substance abuse treatment programs.

The Rural Substance Abuse Treatment Act would establish a grant program to encourage rural hospitals, community health centers, and other health organizations in rural areas to develop treatment programs for substance abuse.

At least one hospital or center in each State would receive a grant to develop or improve a substance abuse treatment program.

Access to treatment programs should not be denied just because you live out in the country.

Education is also an important aspect of our war on drugs. The second bill Senator PRYOR and I are introducing would require States to set aside at least 5 percent of the funding they receive from the Drug-Free Schools Program to be used for education in rural areas.

In addition, it would require the Alcohol, Drug Abuse, and Mental Health Administration to establish a clearinghouse of Federal treatment and education programs tailored for rural areas.

Rural schools face special financial constraints because of small tax bases. They should receive adequate Federal resources to implement drug education programs, but too often they don't.

In general, we need to increase the Federal financial commitment to education. And, specifically, we must ensure that schools in rural areas receive adequate Federal resources for substance abuse education.

Mr. President, I thank my friend from Arkansas for working so diligently on this program. His earlier efforts on drug interdiction have proven he is dedicated to winning the war on drugs. I'm glad I've had the opportunity to work with him on this issue and I look forward to working with him again.●

By Mr. PRYOR (for himself, Mr. BAUCUS, and Mr. BIDEN):

S. 1707. A bill to amend the Drug Free Schools and Communities Act of 1986 to provide substance abuse education in rural areas, and for other purposes; to the Committee on Labor and Human Resources.

RURAL SUBSTANCE ABUSE INFORMATION CLEARINGHOUSE AND EDUCATION ACT

● Mr. PRYOR. Mr. President, last week I introduced S. 1634, the Drug-Free Rural America Act, a bill which channels Federal resources to drug interdiction efforts by law enforcement agencies in rural communities. My bill was closely modeled after S. 1353, Senator Baucus' innovative Rural Drug Initiative Act. While local law enforcement is the critical front line in the rural drug war, it is not the only place where we must fight. We must also fight to eliminate the demand for illegal drugs in rural America, and that is why Senator BAUCUS and I are joining together today to introduce the Rural Drug Treatment Act and the Rural Drug Information Clearinghouse and Education Act. We are also pleased that Senator BIDEN, the distinguished chairman of the Senate Judiciary Committee, is cosponsoring our proposals.

To reduce rural America's demand for drugs, we must expand and improve treatment and prevention programs. Although we have much to learn about rural drug abuse, I believe the following statistics from my home State of Arkansas reflect the dramatically growing need for substance abuse treatment and education services in rural areas:

Admissions at State-funded drug treatment facilities in Arkansas more than tripled between 1981 and 1988.

Cocaine-related admissions at these facilities doubled between 1986 and 1988.

As of August 1989, the average waiting period at Arkansas treatment facilities was approximately 3 weeks.

Admissions to State-funded treatment facilities outside the Little Rock region increased 33 percent between 1985 and 1988.

These alarming statistics illustrate the dire need for increasing substance abuse treatment services and expanding prevention programs in rural America. The proposals that we are introducing today establish a three-point plan of action to address these needs:

First, our proposals create 3-year, $30 million grant program to expand substance abuse treatment services in rural communities. Similar in many respects to the Rural Health Care Transition Grant Program, the treatment grant program gives special consideration to struggling rural hospitals. We encourage financially strapped rural hospitals to take advantage of these grants as part of their ongoing efforts to diversify services. The grant program will fund as many as 100 projects, including at least one in every State.

Second, the Alcohol, Drug Abuse, and Mental Health Administration will establish a special clearinghouse program that will collect information on rural substance abuse treatment issues. This centralized resource center will provide rural communities with access to a vast array of current information on programs that work and those that don't.

Finally, 5 percent of the nonformula grant funds provided to the States under the Drug-free Schools and Communities Act will be set aside for prevention programs in rural schools. This ounce of prevention for today's rural schoolchildren should result in fewer adults selling and using drugs in the future.

Rural America can no longer turn its back on the drug problem. Instead, rural America must face the challenge on all fronts and crush the demand for illegal drugs by educating our kids about the dangers of drugs and by offering treatment to those abusers who seek help. We must all join forces and fight the enemy of illegal drugs. We cannot surrender until we have reached our goal—a drug-free rural America.●

By Mr. DOLE (FOR HIMSELF MR. PRESSLER, Mr. WILSON, Mr.

SIMON, Mr. LEVIN, Mr. KASTEN, Mr. REID, Mr. BRADLEY, Mr. BOSCHWITZ, Mr. CHAFEE, Mr. D'AMATO, Mr. KERRY, Mr. GORE, Mr. MCCLURE, Mr. DOMENICI, Mr. HELMS, Mr. LEAHY, Mr. FORD, Mr. NICKLES, Mr. SHELBY, Mr. RIEGLE, Ms. MIKULSKI, Mr. STEVENS, Mr. HEINZ, Mr. BREAUX, Mr. PRYOR, Mr. COATS, Mr. SARBANES, Mr. BIDEN, Mr. BURNS, Mr. ARMSTRONG, Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. BURDICK, Mr. CRANSTON, Mr. BOND, Mr. DIXON, Mr. DODD, Mr. DURENBERGER, Mr. THURMOND, Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. SASSER, Mr. BINGAMAN, Mr. MURKOWSKI, Mr. RUDMAN, Mr. HATCH, Mr. COHEN, Mr. GLENN, Mr. BENTSEN, Mr. GRAHAM, Mr. INOUYE, Mr. BRYAN, and Mr. BUMPERS):

S.J. Res. 212. A joint resolution designating April 24, 1989, as "National Day of Remembrance of the 75th Anniversary of the Armenian Genocide of 1915-1923"; to the Committee on the Judiciary.

NATIONAL DAY OF REMEMBRANCE OF THE 75TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. DOLE. Mr. President, today, I am introducing a joint resolution—to designate April 24, 1990, as a National Day of Remembrance of the 75th Anniversary of the Armenian Genocide.

During the August recess, I visited Armenia, primarily to evaluate the status of earthquake relief and reconstruction efforts. The devastation wrought by that quake is appalling in its own right; but it also serves as a vivid reminder that the quake is not the first tragedy which has fallen on the Armenian people.

During the years 1915-23, under the Ottoman Empire, a terrible series of events transpired which resulted in the death of enormous numbers of people. Some historians estimate the Armenian dead at 1.5 million persons. Several hundred thousand Turks also died.

Today, approaching 75 years after the onset of those horrible events, it is appropriate that we mark that period—with the intent that by remembering, we can help insure that such tragedies will never happen again.

It is also appropriate to remember the suffering of the Armenian people, because of the longstanding and close ties between the United States and Armenia.

That special relationship was reflected so positively in the remarkable outpouring of private American support for earthquake relief efforts. I have already spoken in the Senate about the nearly $45 million in private American aid for earthquake relief, and the extraordinary efforts of scores of private Americans working in Armenia.

The relationship was also reflected in the virtually universal expressions of respect and affection for our country and people that I heard, from every Armenian that I met with during my trip.

And finally, of course, our relationship is manifest in the nearly 1 million Americans of Armenian descent, who have made such an important contribution to our Nation and culture.

So—for those Armenian-Americans, and for all Americans—I am proud to introduce this resolution.

In doing so, too, let me stress my sincere hope that this resolution will not be misunderstood by anyone—either in its purpose, or its contents. In my view, Senate action on this resolution should not, and need not, in any way affect our strong security relationship with the Republic of Turkey; nor disrupt the close friendship between the American and Turkish people.

The events of 1915-23 occurred before the founding of the Turkish Republic. The events occurred long before the overwhelming majority of the Turkish population was even born. Today's Turkey—nation or people—bear no responsibility for what happened so many years ago.

I would also underscore my appreciation of the fact that our country also encompasses hundreds of thousands of Turkish-Americans. They may have a different view on the events of 1915-23 than I, or others, do; and they deserve to have their views reflected, and their concerns addressed—just as much as the members of the Armenian-American community, or any other American citizens.

So I hope no American will feel in any way that this resolution is injurious to them, or to their proud heritage. That is not its intent, and I have worked hard to try to insure that it will not be its effect.

The bottom line is: A million Armenian-Americans, and countless other Armenians around the world, still suffer from the events of 1915-23. They deserve to have their grievance noted; and they deserve to have the victims of those events—their ancestors—remembered.

I hope by doing that, by acting on this resolution, the result will be that all Americans can come even closer together—renewed in their determination to insure that such events as occurred during that tragic period will never reoccur.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 212

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 24, 1990, is designated as "National Day of Remembrance of the Seventy-Fifth Anniversary of the Armenian Genocide of 1915-1923", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this date as a day of remembrance for the 1.5 million people of Armenian ancestry who were victims of the genocide perpetrated by the governments of the Ottoman empire from 1915 to 1923, prior to the establishment of the Republic of Turkey, and in their memory this date is commemorated by all Armenians and their friends throughout the world.

Mr. WILSON. Mr. President, I am pleased and honored to join the Republican leader as the primary cosponsor of this resolution to establish a national day of remembrance for victims of the Armenian genocide.

In addition to affirming our Nation's longstanding tradition of opposing the suppression of people on the basis of their religion or ethnic background, the resolution also commemorates the tragic sacrifice endured by the Armenian community from 1915 to 1923. Historians estimate that during World War I, 1.5 million Armenians living in the Ottoman Empire were slaughtered. Furthermore, I am pleased to inform my colleagues that this effort has the full support of President Bush.

Although such a resolution cannot correct the wrongs of the past, it can send a powerful message that the U.S. Government will stand on the side of those who, like the Armenian community under the Ottoman Empire, might face the terrifying threat of mass murder as a result of their ethnicity or creed. And so this tragedy must continue to live in the memories and writings of humankind so that it does not become clouded or forgotten with the advance of history.

If the Senate adopts the genocide resolution, we would actually deserve a moment of celebration. We would have declared that these martyred millions of yesteryear—these brave men and women who were felled simply because of what they believed or the cultures into which they were born—did not die in vain. With this resolution, we could nobly keep alive the hope that agony suffered by the just may yet bring triumph.

I join Senator DOLE and a growing list of bipartisan cosponsors in encouraging my colleagues to enthusiastically support this resolution.

● Mr. SIMON. Mr. President, I am pleased to join with Senator DOLE and more than 50 of our colleagues in introducing a joint resolution designating April 24, 1990, as a National Day of Remembrance for Victims of the Armenian Genocide. This commemoration will mark the 75th anniversary of the onset of these terrible atrocities.

Our resolution honors the more than 1.5 million Armenian victims of the Ottomon Empire's 8-year region of terror against Armenians in the years

1915 to 1923. In 1926, Kemal Ataturk, who was the founder of the modern Turkish state, said, in reference to the slaughter of the Armenians, that the Young Turk Party "should have been made to account for the lives of millions of our Christian subjects who were ruthlessly driven en masse from their homes and massacred."

President Bush had this to say during the 1988 Presidential campaign: "The United States must acknowledge the attempted genocide of the Armenian people in the last years of the Ottomon Empire, based on the testimony of survivors, scholars, and indeed our own representatives at the time, if we are to insure that such horrors are not repeated." He is right.

And let me add here that our resolution is not aimed at Turkey or the Turkish people in any way. The Armenian genocide predated the establishment of the current Republic of Turkey, and our resolution explicitly refers to the Ottomon Empire as the perpetrators of these crimes against humanity. I want to see strong United States-Turkish relations. We should, nevertheless, acknowledge a great historical wrong.

I commend Senator DOLE on his leadership on this resolution, and I urge my colleagues to cosponsor this resolution.●

ADDITIONAL COSPONSORS

S. 269

At the request of Mr. RIEGLE, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 269, a bill to prohibit the disposal of solid waste in any State other than the State in which the waste was generated.

S. 286

At the request of Mr. DOMENICI, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 286, a bill to establish the Petroglyph National Monument in the State of New Mexico, and for other purposes.

S. 511

At the request of Mr. INOUYE, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 511, a bill to recognize the organization known as the National Academies of Practice.

S. 659

At the request of Mr. SYMMS, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 659, a bill to repeal the estate tax inclusion related to valuation freezes.

S. 1226

At the request of Mr. MCCONNELL, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1226, a bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of pornographic material.

S. 1273

At the request of Mr. BOREN, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 1273, a bill to amend the Internal Revenue Code of 1986 with respect to treatment by cooperatives of gains or losses from sale of certain assets.

S. 1365

At the request of Mr. COATS, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Wyoming [Mr. WALLOP], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 1365, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize grants to States for projects to demonstrate innovative alternatives to the incarceration of persons for nonviolent offenses and drug-related offenses.

S. 1511

At the request of Mr. PRYOR, the names of the Senator from Ohio [Mr. GLENN] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 1511, a bill to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

S. 1646

At the request of Mr. LEVIN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1646, a bill to implement key provisions of the Great Lakes Water Quality Agreement to protect and restore the Great Lakes.

SENATE JOINT RESOLUTION 79

At the request of Mr. REID, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of Senate Joint Resolution 79, a joint resolution to require display of the POW/MIA flag at Federal buildings.

SENATE JOINT RESOLUTION 177

At the request of Mr. BOND, the names of the Senator from Nevada [Mr. BRYAN], the Senator from Connecticut [Mr. DODD], the Senator from Washington [Mr. ADAMS], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Idaho [Mr. MCCLURE], the Senator from Kansas [Mr. DOLE], the Senator from Hawaii [Mr. INOUYE], the Senator from Washington [Mr. GORTON], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Montana [Mr. BURNS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from New Mexico [Mr. DOMENICI], the Senator from Utah [Mr. GARN], the Senator from Arkansas [Mr. PRYOR], and the Senator from Colorado [Mr. ARMSTRONG] were added as cosponsors of Senate Joint Resolution 177, a joint resolution designating October 29, 1989, as "Fire Safety At Home—Change Your Clock, Change Your Battery Day."

SENATE JOINT RESOLUTION 184

At the request of Mr. HATCH, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from North Dakota [Mr. BURDICK], the Senator from Hawaii [Mr. INOUYE], the Senator from Idaho [Mr. MCCLURE], the Senator from Ohio [Mr. METZENBAUM], the Senator from Virginia [Mr. WARNER], the Senator from Florida [Mr. GRAHAM], the Senator from Kansas [Mr. DOLE], the Senator from South Dakota [Mr. PRESSLER], the Senator from Rhode Island [Mr. PELL], the Senator from Indiana [Mr. COATS], the Senator from Maryland [Ms. MIKULSKI], the Senator from Connecticut [Mr. DODD], the Senator from Missouri [Mr. BOND], the Senator from Alabama [Mr. SHELBY], the Senator from South Carolina [Mr. THURMOND], the Senator from New Mexico [Mr. DOMENICI], the Senator from Washington [Mr. ADAMS], the Senator from Illinois [Mr. SIMON], the Senator from Oregon [Mr. HATFIELD], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Illinois [Mr. DIXON], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Ohio [Mr. GLENN], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of Senate Joint Resolution 184, a joint resolution to designate the periods commencing on November 26, 1989, and ending on December 2, 1989, and commencing on November 28, 1990, and ending on December 2, 1990, as "National Home Care Week."

SENATE JOINT RESOLUTION 187

At the request of Mr. HATCH, the names of the Senator from Indiana [Mr. COATS], the Senator from Indiana [Mr. LUGAR], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Ohio [Mr. METZENBAUM], the Senator from South Carolina [Mr. THURMOND], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Montana [Mr. BURNS], the Senator from Mississippi [Mr. COCHRAN], the Senator from South Dakota [Mr. PRESSLER], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Hawaii [Mr. INOUYE], the Senator from North Carolina [Mr. HELMS], the Senator from New Mexico [Mr. DOMENICI], the Senator from Vermont [Mr. JEFFORDS] and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 187, a joint resolution to designate the periods commencing on November 19, 1989, and ending on November 26, 1989, and commencing on November 18, 1990, and ending on November 25, 1990, as "National Adoption Week."

SENATE JOINT RESOLUTION 193

At the request of Mr. DECONCINI, the names of the Senator from New

Mexico [Mr. DOMENICI] and the Senator from Washington [Mr. ADAMS] were added as cosponsors of Senate Joint Resolution 193, a joint resolution designating October 1989 as "National Italian-American Heritage and Culture Month."

SENATE JOINT RESOLUTION 196

At the request of Mr. GORE, the names of the Senator from Colorado [Mr. ARMSTRONG], the Senator from Missouri [Mr. BOND], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Oklahoma [Mr. BOREN], the Senator from Louisiana [Mr. BREAUX], the Senator from Nevada [Mr. BRYAN], the Senator from North Dakota [Mr. BURDICK], the Senator from Montana [Mr. BURNS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Indiana [Mr. COATS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Maine [Mr. COHEN], the Senator from North Dakota [Mr. CONRAD], the Senator from New York [Mr. D'AMATO], the Senator from Missouri [Mr. DANFORTH], the Senator from Arizona [Mr. DECONCINI], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Kansas [Mr. DOLE], the Senator from New Mexico [Mr. DOMENICI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Nebraska [Mr. EXON], the Senator from Kentucky [Mr. FORD], the Senator from Georgia [Mr. FOWLER], the Senator from Utah [Mr. GARN], the Senator from Washington [Mr. GORTON], the Senator from Florida [Mr. GRAHAM], the Senator from Utah [Mr. HATCH], the Senator from Iowa [Mr. HARKIN], the Senator from North Carolina [Mr. HELMS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Wisconsin [Mr. KASTEN], the Senator from Nebraska [Mr. KERREY], the Senator from Massachusetts [Mr. KERRY], the Senator from Wisconsin [Mr. KOHL], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Michigan [Mr. LEVIN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Arizona [Mr. MCCAIN], the Senator from Idaho [Mr. MCCLURE], the Senator from Maryland [Ms. MIKULSKI], the Senator from New York [Mr. MOYNIHAN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oklahoma [Mr. NICKLES], the Senator from Georgia [Mr. NUNN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Arkansas [Mr. PRYOR], the Senator from Nevada [Mr. REID], the Senator from Michigan [Mr. RIEGLE], the Senator from Virginia [Mr. ROBB], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from New Hampshire [Mr. RUDMAN], the Senator from North Carolina [Mr. SANFORD], the Senator from Alabama [Mr. SHELBY], the Senator from Alaska [Mr. STEVENS], the Senator from Idaho [Mr. SYMMS], the Senator from South Carolina [Mr. THURMOND], the Senator from Virginia [Mr. WARNER], the Senator from California [Mr. WILSON], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of Senate Joint Resolution 196, a joint resolution to establish the month of October 1989, as "Country Music Month."

SENATE JOINT RESOLUTION 204

At the request of Mr. NUNN, the names of the Senator from Utah [Mr. GARN], the Senator from Montana [Mr. BURNS], the Senator from Indiana [Mr. COATS], the Senator from Iowa [Mr. GRASSLEY], the Senator from North Carolina [Mr. HELMS], and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Joint Resolution 204, a joint resolution designating October 28, 1989, as "National Women Veterans of World War II Day."

SENATE JOINT RESOLUTION 209

At the request of Mr. GORTON, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Wyoming [Mr. SIMPSON], the Senator from Wyoming [Mr. WALLOP], the Senator from Oregon [Mr. HATFIELD], the Senator from Mississippi [Mr. LOTT], the Senator from Oklahoma [Mr. NICKLES], the Senator from Pennsylvania [Mr. HEINZ], the Senator from New Mexico [Mr. DOMENICI], the Senator from Arizona [Mr. MCCAIN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Missouri [Mr. DANFORTH], the Senator from Utah [Mr. GARN], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Wisconsin [Mr. KASTEN], the Senator from North Carolina [Mr. HELMS], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 209, a joint resolution to designate November 11, 1989, as "Washington Centennial Day."

SENATE CONCURRENT RESOLUTION 56

At the request of Mr. EXON, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of Senate Concurrent Resolution 56, a concurrent resolution relating to the establishment of new comprehensive national aviation policy for the United States.

SENATE RESOLUTION 189—HONORING THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS ON THEIR 75TH ANNIVERSARY

Mr. MITCHELL (for Mr. BURDICK, for himself, Mr. MOYNIHAN, Mr. CHAFEE, and Mr. SYMMS) submitted the following resolution; which was considered and agreed to:

S. RES. 189

Whereas the American Association of State Highway and Transportation Officials, comprised of the highway and transportation departments of all the states, Puerto Rico and the District of Columbia, will in 1989 celebrate the seventy-fifth anniversary of its organization; and is dedicated to the development and improvement of the construction, operation and maintenance of a national transportation system;

Whereas the Association through its membership represents those state governmental agencies responsible for the planning, construction, and maintenance of the vast system of public highways that serve the economic and social needs of America, including the National System of Interstate and Defense Highways; and

Whereas many of those state agencies also have responsibilities for aviation, public transportation, rail and water transportation services and facilities which are vital to the nation's economy; and

Whereas the Association was founded in the city of Atlanta, Georgia, in 1914, and is returning to Atlanta on October 5-10, 1989, for its 75th Anniversary Annual Meeting: Now, therefore, be it

Resolved, That the United States Senate express to the American Association of State Highway and Transportation Officials at said 75th Anniversary Annual Meeting its appreciation for 75 years of service to America in the development and operation of a nationwide transportation system that has contributed so much to the Nation's growth and economic well-being; and be it further

Resolved, That a copy of this resolution be delivered to the American Association of State Highway and Transportation Officials in commemoration of this anniversary.

AMENDMENTS SUBMITTED

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1990

ADAMS (AND OTHERS) AMENDMENT NO. 893

Mr. ADAMS (for himself, Mr. GORTON, Mr. STEVENS, Mr. PACKWOOD, Mr. WILSON, Mr. CRANSTON, Mr. KERRY, and Mr. MURKOWSKI) proposed an amendment to the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and the related agencies for the fiscal year ending September 30, 1990, and for other purposes, as follows:

At the appropriate place insert:

the marine life inhabiting the world's oceans is one of our planet's most important rsources;

there has been a major increase in the last several years in the use of long plastic driftnets as a fishery technique;

finding that the use of these driftnets is a wasteful, indiscriminate, and destructive fishing technique that results in the entanglement and death of enormous numbers of target and nontarget fish, marine mammals,

seabirds, and other living marine resources, Congress passed and the President signed into law the Driftnet Impact Monitoring, Assessment, and Control Act of 1987.

pursuant to that law, the United States has just, after two years of negotiations, entered into bilateral agreements with Japan, Korea, and Taiwan to allow some monitoring and control of driftnet fleets in the North Pacific;

in that same two year period, use of the driftnet fishery technique has spread to the South Pacific Ocean and the Mediterranean Sea;

the continued use of this fishing technique could decimate entire regional fisheries, and also results in the interception of North American salmon in violation of accepted principles of international law;

the continued use of driftnets presents a worldwide ecological crisis of such complexity and magnitude that cannot be met by a continued series of bilateral monitoring agreements;

this worldwide crisis must be addressed through a multinational effort: Now, therefore

it is the sense of the Senate that:

The Secretary of State is encouraged to take immediate steps to secure an international multilateral ban on the use of driftnets (as defined in Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (16 U.S.C. 1822 note) on the high seas. In this effort the Secretary is encouraged to bring before the United Nations a resolution calling for a worldwide moratorium on the use of driftnets on the high seas until such time as the adverse impacts of driftnet fishing can be prevented and the conservation of the world's living resources can be ensured.

HELMS AMENDMENT NO. 894

Mr. HELMS proposed an amendment to the bill H.R. 2991, supra, as follows:

At the end of the bill add the following:

It is the sense of the Senate that the conferees on H.R. 2788 should agree to modify amendment numbered (7) to H.R. 2788 to read as follows:

"None of the funds authorized to be appropriated pursuant to this Act may be used to promote, disseminate, or produce indecent or obscene materials, including but not limited to depictions of sadomasochism, homo-eroticism, the exploitation of children, or individuals engaged in sex acts."

FOWLER (AND OTHERS) AMENDMENT NO. 895

Mr. FOWLER (for himself, Mr. RUDMAN, Mr. PRYOR, Mr. KERRY, Mr. MURKOWSKI, and Mr. BOND) proposed an amendment to amendment No. 894 proposed by Mr. HELMS to the bill H.R. 2991, supra, as follows:

Strike all after the first word of the amendment and insert the following:

is the sense of the Senate that the Conferees on H.R. 2788 should agree to an amendment in lieu of that in amendment numbered (7) to H.R. 2788 as follows:

"None of the funds authorized to be appropriated pursuant to this Act may be used to promote, disseminate, or produce obscene materials, including but not limited to obscene depiction of sadomasochism, homo-eroticism, the sexual exploitation of children, or individuals engaged in sexual intercourse."

GRAHAM (AND BENTSEN) AMENDMENT NO. 896

Mr. GRAHAM (for himself and Mr. BENTSEN) proposed an amendment to the bill H.R. 2991, supra, as follows:

At the appropriate place in the bill, insert the following:

ADOPTION OF FOREIGN BORN ORPHANS

SEC. . (a) IN GENERAL.—Section 101(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(2)) is amended by inserting before the period at the end the following: ", except that, for purposes of paragraph (1)(F) (other than the second proviso therein) in the case of an illegitimate child described in paragraph (1)(D) (and not described in paragraph (1)(C)), the term 'parent' does not include the natural father of the child if the father has disappeared or abandoned or deserted the child or if the father has in writing irrevocably released the child for emigration and adoption".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989, upon the expiration of the similar amendment made by section 210(a) of the Department of Justice Appropriations Act, 1989 (title II of Public Law 100-459, 102 Stat. 2203).

GRAHAM (AND OTHERS) AMENDMENT NO. 897

Mr. GRAHAM (for himself, Mr. MACK, Mr. WILSON, Mr. CRANSTON, and Mr. BENTSEN) proposed an amendment to the bill H.R. 2991, supra; as follows:

At the appropriate place in the bill, insert the following:

IMMIGRATION EMERGENCY FUND

For necessary expenses of the immgration emergency fund as authorized by section 404(b) of the Immigration and Nationality Act, $35,000,000.

JOHNSTON (AND OTHERS) AMENDMENT NO. 898

Mr. JOHNSTON (for himself, Mr. BREAUX, Mr. DODD, and Mr. BOREN) proposed an amendment to the bill H.R. 2991, supra, as follows:

At the appropriate place, insert the following:

A. The Federal building/courthouse located in Baton Rouge, Louisiana, is hereby redesignated as the Russell B. Long Building.

B. Any and all references in Federal law and documents to the old name shall be conformed and referred to as the Russell B. Long Building.

SPECTER AMENDMENT NO. 899

Mr. SPECTER proposed an amendment to the bill H.R. 2991, supra, as follows:

On page 21, line 3, strike "$137,034,000" and insert "$62,034,000";

On page 21, line 4, strike "$5,000,000" and insert "$30,000,000 for construction"; and

On page 28, line 18, strike "$401,332,000" and insert "$263,832,000".

SHELBY (AND OTHERS) AMENDMENT NO. 900

Mr. SHELBY (for himself, Mr. HELMS, Mr. HEFLIN, Mr. DOLE, Mr. HEINZ, Mr. GRASSLEY, Mr. HATCH, Mr. LOTT, Mr. COCHRAN, and Mr. NICKLES) proposed an amendment to the bill H.R. 2991, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . None of the funds appropriated or made available by this act to the Bureau of the Census shall be used to count aliens in the United States in violation of the immigration laws for purposes of subsection (b) of section 141 of title 13, United States Code.

BENTSEN (AND OTHERS) AMENDMENT NO. 901

Mr. INOUYE (for Mr. BENTSEN, for himself, Mr. BYRD, Mr. HOLLINGS, Mr. NUNN, Mr. BAUCUS, Mr. PRYOR, Mr. GRAMM, Mr. CONRAD, Mr. WILSON, Mr. GRAHAM, and Mr. RUDMAN) proposed an amendment to the bill H.R. 2991, supra, as follows:

At page 42, between lines 6 and 7, insert the following:

"In carrying out the drug enforcement activities funded by this title, the President, through the Attorney General and the Director of National Drug Control Policy, shall ensure that appropriate emphasis is given, and adequate federal resources are committed, to drug enforcement programs in the rural areas and smaller towns across the country."

LEVIN AMENDMENT NO. 902

Mr. LEVIN proposed an amendment to the bill H.R. 2991, supra, as follows:

At the end of the bill insert the following new section:

SEC. . The Congress finds that—

(1) The illegal use of drugs is a crisis in America, causing incalculable suffering and damage to individuals, families, and social institutions;

(2) The economic and social dislocation caused by illegal drugs has had a devastating effect on the fabric of our society and citizens;

(3) It will take a multifaceted approach, both domestically and internationally, to successfully address the multifaceted problems of illegal drugs;

(4) Manuel Noriega's continued exercise of power in Panama has contributed to political unrest and international illegal drug trafficking in the hemisphere and the world, and that he should be removed from any position of power in Panama in order to reduce the drug flow and increase democracy;

(5) Public Law 100-690, the Anti-Drug Abuse Act of 1988, enacted on November 13, 1988, expressed the sense of the Congress that the President should convene as soon as possible an international conference on combatting illegal drug production, trafficking, and use in the Western Hemisphere; and

(6) The National Drug Strategy announced by the President on September 5, 1989, states that "priority consideration should be given to convening at an early date a drug summit;"

It is the sense of the Congress that—

(1) The agenda of the international drug summit should include, among others, the subjects of interdiction, crop eradication, crop substitution, law enforcement, educa-

tion and prevention, and the international sharing of intelligence;

(2) The President should consult with the leaders of participating countries at the international drug summit on ways to achieve international cooperation and coordination in support of measures directed at removing Manuel Noriega from any position of power in Panama; and

(3) In addition to or in the absence of an international drug summit, the United States should intensify unilateral and bilateral efforts as well as efforts in concert with international organizations and other multinational forums to assist the nations of the hemisphere in their battle against drugs and the drug traffickers, including measures directed at removing Manuel Noriega from any position of power in Panama.

BYRD (AND DIXON) AMENDMENT NO. 903

Mr. INOUYE (for Mr. BYRD, for himself and Mr. DIXON) proposed an amendment to the bill H.R. 2991, supra, as follows:

At the appropriate place, insert the following:

SEC. . (a) It is the sense of Congress that—

(1) not later than June 1, 1990, and not later than June 1 each year thereafter, the Comptroller General of the United States, after consultation with appropriate officials of United States agencies represented on the Technical Steering Committee, should submit to the Speaker of the House of Representatives and the chairmen of the Committees on Foreign Relations, Armed Services, Commerce, Science, and Transportation, and Banking, Housing, and Urban Affairs of the Senate a report describing the progress made in implementing the Memorandum of Understanding (MOU) Between the United States Department of Defense and the Japan Defense Agency on Cooperation in the Development of the FS-X Weapon System, signed on November 29, 1988, and related documents thereto;

(2) not later than December 1, 1990, and not later than December 1 each year thereafter, the Comptroller General should submit to the President Pro Tempore of the Senate and the Speaker of the House of Representatives an interim memorandum describing the progress that has been made in implementing the memorandum of understanding referred to in paragraph (1);

(3) the reports referred to in paragraph (1) and the interim memorandums referred to in paragraph (2) should assess, in detail, whether the requirements concerning, and the prohibitions on, the transfer of United States technologies to Japan, as provided in the memorandum of understanding referred to in paragraph (1), have been and are being complied with; and

(4) the Comptroller General should continue to submit such reports and interim memorandums so long as the memorandum of understanding referred to in paragraph (1) continues in effect.

(b) For purposes of subsection (a), the term "Technical Steering Committee" means the FS-X Technical Steering Committee established jointly by the Japan Defense Agency and the United States Department of Defense.

HEFLIN AMENDMENT NO. 904

Mr. INOUYE (for Mr. HEFLIN) proposed an amendment to the bill H.R. 2991, supra, as follows:

At the appropriate place insert the following:

SEC. . Section 627(a) of title 28, United States Code, is amended by striking out "seventy" and inserting in lieu thereof "seventy-five".

DECONCINI (AND MCCAIN) AMENDMENT NO. 905

Mr. INOUYE (for Mr. DECONCINI, for himself and Mr. MCCAIN) proposed an amendment to the bill H.R. 2991, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . (a) The Senate finds that—

(1) officials representing eight United States airports recently met with Secretary Skinner to discuss the need for more airport gateways for the United States cities for international service;

(2) these officials believe that the United States Government must place greater emphasis in United States international aviation negotiations on maximizing the new international trade opportunities;

(3) direct nonstop air service to foreign destinations facilitates international business for our country's industries, attracts foreign investment, makes travel abroad more convenient for United States citizens and increases foreign tourism;

(4) direct international air transport is especially important to tourism and the high-tech industries on the cutting edge of our Nation's drive for international competitiveness, both of which tend to be located away from transitional air service gateways;

(5) a single nonstop air service to a previously unserved foreign point can result in economic benefits to the United States community alone of up to a quarter of a billion dollars or more in the first year, with the benefits compounding thereafter; and

(6) the time savings to United States travelers alone from such a service are greater than profits United States airlines would lose, if any, from traffic diversion.

(b) It is the sense of the Senate that the United States Senate support the designation of markets previously without nonstop international air international service as new "gateways", and believes that other airlines, United States or foreign, be able to provide "gateway" service when United States airlines already serving the foreign country in question fail to do so.

MURKOWSKI AMENDMENT NO. 906

Mr. MURKOWSKI proposed an amendment to the bill H.R. 2991, supra, as follows:

At the appropriate place in the bill insert the following:

The Senate finds that in 1984, 140 Japanese Construction firms formed an association known as the "United States Military Construction Safety Technical Research Association" which engaged in widespread bidding activity on contracts funded by the United States government at the United States naval facility in Yokosuka, Japan from 1984 through 1987.

The Senate finds that in December 1988, these 140 Japanese construction companies received warnings from the Japan Fair Trade Commission for bidrigging activities at the United States Naval facility in Yokosuka, Japan.

The Senate finds that 70 of these construction firms were fined by the Japan Fair Trade Commission for serious bidrigging activities at the United States naval facility in Yokosuka, Japan.

The Senate finds that the United States Department of Defense has proposed for debarment, 8 companies, twenty corporate officials and four subsidiary firms involved in bidrigging activities at the United States Naval facility in Yokosuka, Japan.

The Senate finds that the aforementioned bidrigging activities have seriously undermined the procurement process at the United States naval facility in Yokosuka, Japan.

The Senate finds that bidrigging at the United States naval facility in Yokosuka, Japan from 1984 through 1987, contributed to increased construction costs at the facility, and hindered efforts to insure the efficient use of funds appropriated for military construction associated with United States security commitments in the Pacific.

The Senate finds that the United States Department of Justice has formally requested full compensation from the 140 firms involved in bidrigging activities at the United States Naval facility in Yokosuka, Japan.

Therefore, it is the sense of the Senate that

The Senate commends the United States Department of Defense and the United States Department of Justice for their efforts to eliminate bidrigging activities at United States military facilities in Japan.

The Senate urges the United States Department of Defense to seek debarment of all Japanese construction firms involved in bidrigging activities at United States military facilities in Japan.

The Senate urges the United States Department of Justice and the United States Department of State to work with the Japanese government to insure that the United States government receives full compensation for overpayments for construction services and goods at Yokosuka Naval base in Japan that occurred as a result of anti-competitive bidding practices that have been formally documented by the Government of Japan.

HELMS (AND OTHERS) AMENDMENT NO. 907

Mr. RUDMAN (for Mr. HELMS, for himself, Mr. KENNEDY, and Mr. DODD) proposed an amendment to the bill H.R. 2991, supra, as follows:

At the end of Title III, add the following:

"SEC. . Section 725 of the International Security and Development Cooperation Act of 1981 (22 U.S.C. 2370 note) is hereby repealed.".

HELMS (AND COHEN) AMENDMENT NO. 908

Mr. RUDMAN (for Mr. HELMS, for himself and Mr. COHEN) proposed an amendment to the bill H.R. 2991, supra, as follows:

At the end of Title II, add the following:

RELIGIOUS ISSUES OVERSIGHT BOARD

(a) Chapter 303 of title 18, United States Code, is amended by adding at the end thereof the following:

"4046. Religious Issues Oversight Board.

"(a) There is established within the Department of Justice a board to be known as the 'Religious Issues Oversight Board' (referred to as the 'Board').

"(b) Any Federal inmate who has a grievance regarding his or her ligitimate religious needs which has not been satisfactorily addressed may bring such grievance to the Board, which shall have the power to order the religious need of the inmate met.

"(c) Any decision by the Board may be overturned by the Director of the Bureau of Prisons; *Provided,* That the Board may appeal any decision by the Bureau of Prisons to the Attorney General by a vote of more than two-thirds of its membership.

"(d) The Board shall consist of no more than 5 members, each of whom may represent a different major religion of the United States and appointed by the President, after seeking the recommendations of the majority and minority leaders of the Senate and the Speaker and minority leader of the House of Representatives;

"(e) The decisions of the Board shall be made by majority vote. When making decisions, the members of the Board shall take into account the overall security and safety of the inmates, and the financial cost to the taxpayers. The Board shall not have the authority to issue a decision which would result in either the temporary or permanent release of inmates from prison.

"(f) The Board shall meet as often as it deems necessary but no less than once every month, and shall submit an annual report of its activities to the majority and minority leaders of the Senate and the Speaker and minority leader of the House of Representatives.

"(g) Members of the Board shall serve without compensation and for a term of six years: *Provided, however,* That per diem and expenses shall be made available to the Members of the Board to defray Members cost of attending meetings: *Provided further,* That any per diem and expenses made available under this section shall come from funds appropriated to the Bureau of Prisons.

"(h) Members of the Board shall be immune from personal tort liability for decisions made by the Board.

"(i) The Director of the Bureau of Prisons shall provide the Board with such office space, staff and support as he deems necessary for the Board to carry out its functions under this section.

"(j) The section analysis for chapter 303 of title 18, United States Code, is amended by adding at the end thereof the following: "4046. Religious Issues Oversight Board."

"(b) Not to exceed $100,000 shall be available for carrying out this section from Federal Prison System, Salaries and Expenses.".

GRAMM AMENDMENT NO. 909

Mr. RUDMAN (for Mr. GRAMM) proposed an amendment to the bill H.R. 2991, supra, as follows:

At the appropriate place, add the following:

"*Provided,* That not less than $5,000,000 of the amounts provided for basic field programs of the Legal Services Corporation shall be used directly or indirectly to assist public housing tenants, public housing authorities, tenant associations, tenant management associations and state and local school boards and officials with efforts to expel from public housing or school areas any individual engaged in drug-related criminal activity. For purposes of this paragraph, the term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))."

NOTICES OF HEARINGS

SPECIAL COMMITTEE ON AGING

Mr. PRYOR. Mr. President, I would like to announce for the public that the Senate Special Committee on Aging has canceled its hearing scheduled for October 3, 1989, to examine proposals to make the Social Security Administration an independent agency and other administrative issues.

No other date has been set at this time.

For further information, please contact Portia Mittelman, staff director at (202) 224-5364.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on September 29, 1989, at 9:30 a.m. to continue oversight hearings on national science and technology policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Friday, September 29, beginning at 9:30 a.m., to conduct a hearing on the December 1988 report to Congress by the Department of the Interior concerning the coastal barrier resources system.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, September 29, at 2:30 p.m., to hold a hearing on a pending ambassadorial nomination of Evelyn Teegen to be Ambassador to Fiji.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Friday, September 29, 1989, at 10 a.m. to conduct hearings on the HUD section 8 Moderate Rehabilitation Program, focusing on low-income tax credits.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Friday, September 29, 1989, to hold hearings on the U.S. Government's antinarcotics activities in the Andean Region of South America.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on September 29, 1989, at 10 a.m. to hold a hearing on the Bentsen super IRA proposal.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE 140TH ANNIVERSARY OF THE FREE SONS OF ISRAEL

● Mr. MOYNIHAN. Mr. President, the 140th anniversary of the oldest national Jewish fraternal benefit order in the United States is being celebrated next month. For almost a century and a half, this New York-based organization has made significant contributions to American society.

The United States and the American Jewish community has changed beyond what the intrepid new citizens who founded the Free Sons of Israel in 1849 would have imagined. They founded this organization with a remarkable faith in freedom and in their new homeland, a faith that history has vindicated in a most stunning fashion.

For 140 years the Free Sons Foundation Fund has supported senior citizen homes, convalescent centers, and summer camps for needy children. The Free Sons Scholarship Fund has helped enable generations of young Jewish Americans to attend the schools of their choice. More, the Free Sons' charitable involvement has ranged from assisting the American war effort in every major conflict since the Civil War to being among the first to contribute funds to the new Holocaust Memorial Museum in our Nation's Capital.

Mr. President, I am proud to salute this splendid organization on its 140th

anniversary and to wish its members many more years of accomplishment and communal service.●

L. WILLIAM SEIDMAN

● Mr. DOMENICI. Mr. President, it is with great pleasure that I stand today in honor of a close personal friend, Mr. L. William Seidman, upon his receipt of the Business Leadership Award, from the Arizona State University College of Business. Mr. Seidman is the Chairman of the Federal Deposit Insurance Corporation and a former dean of the ASU College of Business. Before serving at ASU, Mr. Seidman had served as President Ford's assistant for economic affairs, and then as vice chairman of Phelps-Dodge Corporation.

The Business Leadership Award is presented annually in recognition of "broad accomplishments; to someone whose lifetime contribution is recognized as significant to the nation and whose presence presents a model for future business leaders." The recipient is chosen by the college and by the Dean's Council of 100, a group of top business executives who serve as advisors to the business college's dean. Mr. Seidman founded the group during his tenure as dean from 1982 to 1985.

In addition to the Business Leadership Award, Mr. Seidman was also honored with the formal dedication of the Seidman Institute for Business Leadership, which he also founded while dean. The institute is an umbrella organization which covers 10 business research centers located in the college. It is made up of the Arizona Real Estate Center, the Center for Advanced Purchasing Studies, the Center for Business Research, the Center for Financial System Research, COAR: A Management Technology Research Center, the Decision Systems Research Center, the Economic Outlook Center, the First Interstate Center for Services Marketing, the Hahn Center for Entrepreneurship and Innovation, and the Joan and David Lincoln Center for Ethics. This is certainly an auspicious group, except that it is located in the wrong Southwestern State.

And so to Chairman Seidman, I extend my warmest congratulations on behalf of the Senate, for a great honor and for a job well done. May his tireless service and farsighted vision be an example to us all.●

CAMERON UNIVERSITY'S SUCCESS STORY

● Mr. BOREN. Mr. President, people acrows the country are beginning to focus on our Nation's education and the need for improving the quality of education our children receive so they will be ready for the challenge's of the next century. This week, President Bush and the Nation's Governors are convening in Charlottesville to discuss ways for improvement. Next week, the Secretary of Education is coming to Oklahoma to participate in a forum hosted by the Oklahoma Foundation for Excellence to help local communities improve their public schools.

So there are many innovative approaches ongoing to improve education. There are also many success stories. One of those is a university in my State—Cameron University. Dr. Don Davis and Mr. Joe Carter have accomplished a great deal in improving the university for the benefit of their students and the entire community of Lawton. Joe is now leaving the university to pursue other endeavors and I want to thank him for his efforts.

Mr. President, I ask that an excellent article by my friend, Joe Carter, from the Lawton Constitution be printed in the RECORD.

The article follows:

[From the Lawton Constitution, Sept. 4, 1989]

DR. DON DAVIS HAS MADE CAMERON A GREAT UNIVERSITY

(By Joe Carter)

Four Years Later, Cameron University is a dramatically changed institution. The metamorphis is the brainchild of Dr. Dr Davis, strategic thinker in Southwest Oklahoma's progress. During four years working in public affairs and development, I was privileged to "ride shotgun" on the blazing stage of change.

In a capsule, Davis won: a graduate school for Cameron: coveted Section 13 funding; a new $3.2 million Health, Physical Education and Recreation Building; a $200,000 National Public Radio station; remodeled 200,000 square feet of space to help house Cameron's dramatically growing student body, and launched Cameron's first $500,000 endowed chair with the generoius contributions of the Independent Insurance Agents of Lawton Inc.

More importantly in these four years, white operating with declining budgets and precipitous cuts, Cameron University sent more than 3,000 prime graduates into the Southwest Oklahoma leadership force.

The Cameron University library, totally computerized within the past four years, is widely acclaimed under leadership of Bob Phillips. But, Davis sees that more than 6 percent of the school's budget goes to the library.

Likewise, from limited resources, Cameron somehow has won a national football crown, hosted triumphant Olympic games and fielded respectable teams in basketball, baseball, softball, volleyball and golf.

The school moved gracefully from NAIA competition to NCAA, Division II play and in football is a force on the powerful Lone Star Conference.

From an insider's perspective, watching Davis win the battles for Cameron, Lawton and Southwest Oklahoma has been a moving and unforgettable experience. I consider him a "best friend" and I believe I have been a trusted ally.

First, Don Davis is a very humorous man. In the depths of confrontation, he disarms opposition with timed wit. Davis chuckles and walks away with the prize. The "losers" are even happy.

Flanked by the united Comanche County legislative delegation, Davis' most dramatic victory was breaking an 80-year pattern and getting Cameron included in the Section 13 funding. For two weeks, we drove the daily round trip to the state Capitol as the combat raged in the Legislature and governor's office.

Sens. Roy B. Butch" Hooper and Paul Taliaferro, Speaker Pro Tempore Jim Glover, and Reps. Sid Hudson, Tom Manar and Loyd Benson had been so well briefed by Davis that the entire delegation sang a unified song: "Cameron demands Section 13 funding."

Hudson happened upon Gov. Henry Bellmon in a Capitol hall and, in a five-minute exchange, swayed the governor to the Cameron side of the Section 13 dispute. Six other universities, at that moment, effectively lost their battle. Of course, Cameron and Davis had truth and facts on their side. But those had not previously been convincing enough to change injustice. Nowadays, Cameron gets about $500,000 a year in Section 13 funds for capital improvements.

In four years, despite a lean budget, Davis has managed to find period pay raises for the staff and faculty. Having been chairman of the appropriations committee during a decade in the Oklahoma House of Representatives, Davis knows how to stretch, bend and garnish budgets.

The HPER structure—decades late—now is rising from the ground east of Shepler Center. The legislative team, with Glover in command, had found $2.4 million in state money for the sorely needed facility. In a dramatic move, engineered by Charles Graybill, the McMahon Foundation presented an $800,000 check to seal the deal. Twin ball courts, a pool, indoor track and handball courts finally will be part of the Cameron offering.

Likewise, the McMahon Foundation was ready with $50,000 to assure, construction of KCCU-FM, national public radio, now in its second month of bringing fine music to Southwest Oklahoma,

It was Ina Mae Stapp, a generous retired civil servant, who presented Cameron with carillons—the sound of brass bells chiming hourly and special music echoing across mid-city Lawton. The carillons pealed the new image of Cameron.

The most far-reaching achievement of the past months was addition of the graduate school.

With 664 graduate students admitted, the need for Southwest Oklahoma is dramatized by the utilization. Next spring, the first master's degree will be awarded.

But adding graduate education to Cameron was opposed by forces at Southwestern Oklahoma State University and other regional institutions who feared loss of long-suffering commuter students from Southwest Oklahoma.

I was alongside Davis when he convinced the McCasland Foundation of Duncan to donate $200,000 to help finance the cause.

On one early Sunday morning, Davis and I quietly invaded Regent Ed Ketchum's sprawling ranch near Velma to write letters for the regent to mail to key decision makers at the critical moment. Like other progress, the graduate school came to Southwest Oklahoma because of Davis' long hours of hard—but smart—toil.

Last Sept. 16, Citizens Bank presented Cameron University Foundation Inc. with a $500,000 check. A fund was established for graduate finance students to actually invest

with real money. It is rare for students to have actual dollars to play the market.

Another landmark was June 30, when a $500,000 distinguished professorship endowment was started by Lawton's own independent insurance agents using creative giving and state matching funds.

Aulena Scearce Gibson and County Commissioner Duty Rowe have chaired Cameron University Foundation Inc. in these dramatic years.

Together with Carey Johnson, the invaluable "President's Partners" was launched with 53 members giving $1,000 each annually and some becoming lifetime partners with 10-year pledges. This provides Cameron Foundation funds to help the university take advantage of special opportunities and to give scholarships.

In all, some $2.5 million in private resources were acquired on behalf of Cameron University, largely through the auspices of Cameron University Foundation Inc. In addition, traditional and established funding resources were maintained such as the McMahon and McCasland Foundations scholarships and other endowments.

Alum Fank Melka contributed $25,000 in mutual funds that established an endowment for two $1,000 scholarships annually for "needy" students. Working with Attorney Ralph Saenz, the Wolfson Estate gave a $25,000 endowment for scholarships in military science.

Comanche County Retired Teachers started an $800 annual scholarship; an endowment was launched for Allan Zisman and Shamen Wilson scholarships. Mrs. Temple Chronister opened a $1,000 scholarship.

A valuable land gift was received along with a peppering of contributions for Black & Gold and "listerner support" for KCCU-FM.

From these monies, and innovative programs such as federal Title III Strenghening Institutions grants, a research resource has been established.

Professors and scholars at Cameron are churning out papers and books—perhaps as many as two dozen during the past four years—and three Fulbright Scholars now reside on the campus. More than half the faculty holds doctorates.

Special outreach programs have brought degree programs to Altus Air Force Base and classes to Duncan. The obligation to military personnel at Fort Sill has been met with handy classes and special in-state tuition opportunities.

The 13 advanced business seminars for midlevel managers of Goodyear Tire & Rubber Co. spotlighted the excellent Cameron business school faculty and welded a stronger partnership between Cameron and industry.

During these four years, the pursuit of excellence in scholarship has remained the centerpiece and purpose of Cameron University. The credo: "Where Quality Education Triumphs!" grows richly on the 390-acre campus as students are inspired, graduates excel and resources grow.●

SANDRA L. TAYLOR

● Mr. McCONNELL. Mr. President, as you know, from time to time I bring to the attention of my colleagues a story that illustrates the achievements of my constituents. Today, I would like to insert into the RECORD an article from the Louisville Courier-Journal about a woman, Sandra L. Taylor, who has excelled in the business world.

In 1981 Mrs. Taylor and her partner, Margaret A. Wagenlander decided to open their own business. Capitalizing on the knowledge gained during their previous employment, the two women opened an office product supply company. Today Mrs. Taylor is the president of Lanlor Office Products Inc., in Newport, KY, which is projected to have sales of $2 million in 1989. It furnishes everything from pencils to executive desks to many of the leading industries in northern Kentucky. These industries include Government agencies, Proctor & Gamble, Cincinnati Bell Telephone as well as numerous small businesses. Lanlor is also the only Indian-owned business in northern Kentucky. Mrs. Taylor, who is a Blackfeet Indian, takes special pride in that distinction.

Sandra Taylor's success with Lanlor recently led the U.S. Small Business Administration to name her the Kentucky Minority Small Business Person of the Year. Mrs. Taylor has also won the Southeast regional award for minority small business, which places her in contention for the national honor. Additionally, on September 28, the Kentuckiana Minority Supplier Development Council named Sandra Taylor its Retailer of the Year. Lanlor's financial soundness, use of minority subcontractors and employees, coupled with Mrs. Taylor's community involvement have made her an ideal choice for these awards.

It is no accident that Mrs. Taylor was selected for this honor. She has earned this distinction through hard work and dedication. Mr. President, I am inserting this article into the RECORD because her outstanding achievement should serve as an inspiration to us all.

The article follows:

[From the Louisville Courier-Journal, Sept. 25, 1989]

OFFICE SUPPLY FIRM'S SUCCESS BRINGS AWARDS AND REWARDS

[By Fran Jeffries]

Sandra Taylor admits she wasn't a very good secretary.

But when the Newport, Ky., resident decided to start a business in 1981, she capitalized on one thing secretarial work had taught her about—office products.

Now, nearly eight years later, Taylor, 43, is being showered with awards for the success of her company, Lanlor Office Products Inc.

The U.S. Small Business Administration has named Taylor the Kentucky Minority Small Business Person of the Year. She will be presented that award today at her store in Newport in Campbell County.

Taylor also has won the top Small Business Administration award for minority businesses in the nine-state Southeast region, which places her in contention for the national minority small business award. She picks up the regional honor in Washington on Oct. 4.

And the Kentuckiana Minority Supplier Development Council will name her Retailer of the Year on Thursday.

Lanlor, which furnishes offices everything from pencils to executive desks, will have sales of more than $2 million in 1989, Taylor said.

The company's catalog contains 19,000 items it supplies to such clients as Procter & Gamble; Monsanto; Cincinnati Gas and Electric Co.; Cincinnati Bell Telephone Co.; governmental agencies and a large roster of doctors' offices and mom-and-pop operations, said Taylor. In the past three years, the company has developed a niche in furniture design and office layout.

"It's a long shot from what we started with, Taylor said. "Then we didn't make enough money to pay for our child care."

Taylor, who is a Blackfeet Indian, and whose family still lives on the reservation in Browning, Mont., takes pride in being the only Indian-owned business in the area representing the Blackfeet Indian Writing Co., which supplies pens and pencils, among other items, to many companies nationally.

Taylor and Margaret A. Wagenlander, Lanlor's vice president, said the firm is doing well considering the competition that exists in the office-products field.

"But in the beginning there were long days of waiting for the phone to ring," said Wagenlander, a former tax examiner with the Internal Revenue Service.

About eight years ago the women, who are both married and whose sons played together at the time, set out to buy a business from a client of Taylor's husband, who is a certified public accountant.

That deal fell through, but because the women had done all their homework, including meeting with wholesalers, they decided to rent a small office in Bellevue for their first business venture.

"I don't think we ever really considered the fact that we were women in business. We were individuals starting a business for the same reasons that everybody starts a business," said Taylor. "We wanted a better livelihood, to be able to send our children to college."

But in the beginning the going was sometimes rough.

Without their husbands' financial support, the women weren't able to get a bank loan to buy a building because they didn't have a credit history.

Then after they bought a building to house their fledgling business, the utility company wanted a deposit before it would connect their office because their home utility bills had always been in their husbands' names.

"Marge and I declared war," said Taylor. "By the time it was all said and done, they hooked us up without a deposit."

And, at one point, a male competitor referred to them as "the dumb broads," said Wagenlander. "We've had men ask us why we weren't at home raising our children. Nine years ago that was a big blow. They dare not say that to us now."

Taylor said she thinks the sexist climate in the marketplace has changed somewhat since then. "Men just hide it better now," chimed in Wagenlander.

Rather than letting sexist attitudes hinder them, the women have used them to their advantage, Taylor said.

"Because we're women, people do expect us to be so much more talented with color and fabric choices, and such. We've assured them that they are exactly correct, that we are so much better," said Taylor.

The women say there isn't a job in the store that they haven't done.

"We've done it all, from making deliveries to unloading the trucks," said Taylor.

"When people would ask, 'Can you get it,' before they could get the sentence out, we said yes. There were times when I went to the corner drugstore and bought things for customers," Taylor added.

Sam Harris, the Small Business Administration's assistant district director for business development, met Taylor when she was starting out.

"She has really come a long way," said Harris, who was on the committee that chose Taylor for the business administration's state award. The award is based on Lanlor's financial soundness, Taylor's community involvement and her use of other minorities as subcontractors and employees.

He said this is the first time since the organization began giving the award six years ago that the state winner also has won the district award.

Taylor is an assertive person who enjoys competing, said Harris.

"She has decided she has every right to be successful, and a slim chance of failing."●

RETIREMENT OF MRS. FLORENCE CHAFFIN

● Mr. DECONCINI. Mr. President, it is with great pleasure that I rise today to recognize a women who has unselfishly devoted over 30 years of her life to conscientiously serve this country. It is with regret, however, that the occasion for this commendation means that Mrs. Florence Chaffin is departing the Federal Government by retiring in October of this year.

Mrs. Chaffin has faithfully served the Bureau of Land Management in the State of Arizona for 25 years. She began working in the Division of Lands and Renewable Resources. In February 1987, Florence was promoted to the position of secretary to the Arizona State Director of BLM. To at least partially show what Florence has meant to her supervisors, coworkers, and others, I quote the following accolades which were provided to me in a letter from a member of the Arizona State office:

She is quick to come to the assistance of new staff members to help them get oriented in the Arizona State Office. She offers many suggestions to improve operations, and takes assertive action on any problem that arises. The administrative staff that worked with Mrs. Chaffin reflects the same high caliber as Mrs. Chaffin's own—a tribute to her supervisory ability. Mrs. Chaffin is liked and admired by her fellow workers because of her work ethic, sense of humor, and willingness to help others who may be overloaded with work. Her efficiency and energy have saved the Bureau considerably more than one hundred thousand dollars in salaries over the past three decades.

Mrs. Chaffin has served four Deputy State Directors and six State Directors. Her extraordinary level of performance has resulted in her receiving 11 performance awards, including the Department of Interior's prestigious Meritorious Service Award in 1987, along with numerous letters of commendation and appreciation. Unquestionably, this woman's outstanding career deserves special recognition by the Senate of the United States of America.

On the eve of her retirement, Florence should be extremely proud of her many accomplishments throughout her 30 years of devoted service. She should be equally proud of the fact that while she accomplished so much in her professional life, she also managed to raise two wonderful daughters and support essential programs at her church. I am certain that my colleagues will join me and the Bureau of Land Management in exending our sincerest appreciation to Florence for a job superbly well done, and wish her the very best as she retires with distinction from the Federal Government.●

DRUGS: THE BATTLEGROUND OF VALUES THE CLINTON HERALD DECLARES "WE HAVE HAD ENOUGH"

● Mr. GRASSLEY. Mr. President, I rise to bring to the Senate's attention a skirmish, begun in my State of Iowa, that may help lead us to victory in the war on drugs.

The idea may be small when compared to the overall steps contemplated by the national drug control strategy. But, I believe it may serve as a model for citizen involvement in the war on drugs. And, as we know, the national strategy contemplates individuals becoming involved in the drug war in their own community.

Polls indicate the American people are ready to roll up their sleeves to rid their neighborhoods of drugs. I think this is the kind of idea that helps give us a realist chance at winning the war on drugs.

The Clinton Herald of Clinton, IA, has invited its residents to fill out a coupon printed in the newspaper. The coupon is to be used by the Clinton Police Department to track down suspected drug traffickers and users, plus the location of suspected drug activity.

The individual filling out the coupon has the option of providing his or her name. No one named in a coupon will be arrested. And, no search warrants will issue unless solid evidence is uncovered.

The Clinton police chief hailed the civic mindedness of the paper for the potential leads that may be provided by the information in the coupons.

I think this is an idea that may work in many areas of the country. It fits into the strategy's plan to engage all of our resources against drugs. It relies on individuals within their own community to take back the streets. It relies on neighbors to act in partnership with cities, States, and the Federal Government to take back their communities.

This is the kind of united effort that may turn the corner against drugs.

I understand there will be those who voice their fears about grudge complaints, rumors, and the like.

The professionalism of our local law enforcement personnel will ferret out good information, from bad.

Finally, I would say that "neighborhood watch" or "crime stoppers" programs operate on a similar principle: Law enforcement cannot possibly succeed without encouraging citizens to work with their local police or county sheriff.

Therefore I commend the Clinton Herald. I hold this up as an example for the rest of the country.

I am also proud that it represents the kind of get-the-job-done spirit that is the heart of the people of Iowa.●

HUMAN VIOLATIONS BY TURKEY IN CYPRUS

● Mr. HARKIN. Mr. President, the world today has been blessed with a number of very positive changes in the international arena. The Soviets have withdrawn almost all of their military forces from Afghanistan. Iran and Iraq have finally agreed to end their bloody border war. The Polish people have elected to their legislature members of the first opposition party of the East bloc. And South Africa has agreed to independence for Namibia.

The United States has applied the encouragement, cajoling, and pressure necessary to bring about many of these changes, and Americans justifiably boast of their country's role in bringing about democratic change in many countries.

It is incomprehensible, then, why the United States does not demand similar change from one of its close allies—Turkey. On July 20, 1974, the Republic of Turkey invaded Cyprus with approximately 40,000 troops, and occupied the land in the northern region of the island. During this invasion and the continuing occupation of Northern Cyprus, Turkey's occupying troops have been guilty of numerous human rights violations against both Greek Cypriots and Greeks. The invasion was accompanied by killings on a substantial scale, rapes, looting, and abuses of prisoners. During the invasion, Turkey illegally captured 1,614 Greek Cypriots—approximately 1,990 soldiers and 624 civilians, including 112 women—and has refused to release these hostages, or give the Cypriot Government any information about their whereabouts of their health. The armed hostilities from the invasion ceased one months after they began, yet the cease-fire has not changed the Turkish position on the missing persons—it continues to hold these people.

During the 1974 invasion, Turkey also abducted five Americans, similarly refusing to release them or any information about them to the United States Government. The United States does not allow such behavior from other countries; surely it should not tolerate such actions taken by an ally.

But there is still more to this story. As a result of the invasion, today, there are 180,000 Greek Cypriot refugees—a full 35 percent of all Greek Cypriots—who were forced out of their homes in the northern-occupied portion of the island and now live as displaced citizens south of the "Attila line" the Turks have created to mark the dividing line between the occupied territory and the rest of Cyprus. These refugees are deprived of their homes and other property and their freedom of movement within their own country. The other Greek Cypriots are deprived of their freedom of movement and right of settlement within their own country.

The Greek Cypriot refugees also had to leave behind their dreams. The northern region of the country was one of the wealthiest regions of the island. The Greek Cypriots from this region who worked, saved, and dreamed of sending their children to college became welfare recipients overnight, and most live in small settlement apartments set up by the Cypriot Government. Now, their dreams of success and a comfortable life have been replaced by shattered lives and hopes that they can find the means to meet their everyday living expenses.

Turkey attempts to justify its actions by asserting that it intervened as a guarantor power under the London-Zurich agreements of 1959-1960 in order to protect the citizenship rights of the Turkish Cypriot minority. This position is simply untenable. Instead, it seems more likely that Turkey intends to exert its own control over Northern Cyprus on a more permanent basis. Thus it wishes to completely separate this region from the rest of Cyprus in order to show that complete independence is necessary and desirable.

In 1983, the forces in the occupied areas unilaterally declared themselves independent, naming the region the Turkish Republic of Northern Cyprus, and nominating Mr. Rauf Denktash as its President. In reality, however, this region remains highly dependent upon Turkey both militarily and economically; Mr. Denktash is merely a puppet of the Turkish regime.

To make matters worse, Turkey has illegally sent 60,000 Turkish colonists into the areas in order to strengthen its position there, both physically and politically. Turkish colonists are immediately made citizens of the Turkish Republic of Northern Cyprus and are allowed to vote. The Dentash regime is thus propped up substantially by illegal Turkish citizens.

It is not at all clear theat the Turkish Cypriots would choose Dentash as their leader, or that they are as strongly in favor of the policy of physical separation from Southern Cyprus as Turkey claims they are. Their voices and votes have been greatly diluted by the illegal Turkish settlers.

The Greek Cypriots and perhaps also the Turkish Cypriots are willing to live together in one unified nation. Turkey appears to be the only country benefiting from an occupied and segregated Cyrpus.

Turkey's actions in Cyprus are not only inexcusable but also clearly violate a number of international laws to which Turkey is a party.

First, Turkey's intervention in Cyprus is a violation of the United Nations Charter. The preamble to the charter states that the fundamental purpose of the United Nations is to prevent aggression and settle problems peacefully. By its invasion and continued occupation of a large part of Cyprus, Turkey has directly contravened this fundamental purpose. Further, when Cyprus became a member of the United Nations in 1960, all provisions of the London-Zurich Agreements, including the Treaty of Guarantee, which conflicted with the U.N. Charter, became null and void.

Second, Turkey has violated article 1 and the preamble to the NATO Charter in the same way as it violated the U.N. Charter; namely, by acting as an aggressor and not attempting to resolve existing problems peacefully.

Third, many legal experts believe that Turkey's occupation and intervention violate the provisions of the London-Zurich Agreement of 1959-60, in which Turkey is a guarantor power along with Britain and Greece. The Treaty of Guarantee under this agreement, however, requires that any action taken be for the purpose of restoring the status quo ante which the constitution established. With 35,000 illegal Turkish occupation troops and 60,000 illegal Turkish colonists in Northern Cyprus, obviously Turkey has other things in mind than just restoring the status quo ante.

Fourth, others contend that the presence of Turkey's 60,000 colonists violates the provisions of the Geneva Convention of 1949, which prohibits colonization by an occupying power.

Fifth, Turkey has completely ignored a series of United Nations resolutions calling for Turkey's withdrawal of its occupying forces from the area, information about the whereabouts of the missing persons, and a restoration of human rights to all Cypriots. Specifically, the United Nations Security Council in 1974 called for Turkish withdrawal from Cyprus. A year later, the United Nations called upon all member states to recognize the Republic of Cyprus as the only state on the island. Most recently, in 1983, U.N. Security Council Resolution 541 condemned Mr. Denktash's declaration of the Turkish Republic of Northern Cyprus.

Finally, Turkey has also violated United States laws. By arming its occupation forces on Cyprus with weapons purchased with United States foreign aid, Turkey broke its bilateral agreements with the United States as well as the Foreign Assistance Act of 1961, and the Foreign Military Sales Act.

It is understandable that the United States wishes to continue to maintain Turkey as a close ally. It is not justifiable, however, to allow our desire to maintain this relationship to cause us to tolerate actions by Turkey that we would not tolerate from other countries. We must also not forget that Greece, too, is a close ally of the United States and its people.

The failure of the United States to pressure Turkey to restore full human rights to the Greek Cypriots and to withdraw its occupation forces and colonists from Cyprus cannot be justified, under international or United States laws. The past 15 years has shown us that Turkey, on its own, will not resolve this issue. The United States should initiate a resolution of these transgressions of international law and U.S. laws; the time to act is now.●

RECENT REPORTS OF TORTURE IN EL SALVADOR

● Mr. LEAHY. Mr. President, last week during consideration of the fiscal 1990 foreign aid appropriations bill, the Senate voted down a provision I sponsored which would have given Congress the option of blocking a portion of military aid to El Salvador next year if that government had not made a serious effort to negotiate an end to the war and stop abuses of human rights.

As I said before the vote, after almost $4 billion in U.S. aid and 70,000 people killed, it is long past time for the Congress to have a role in bringing this sad chapter in the history of that impoverished country to an end.

My proposal was a modest one. It did not automatically cut off aid. It commended both the government and the FMLN for beginning a process of negotiations. It was designed to send a message to both sides in El Salvador that the American people will not support unending war. We want to see progress toward a peace settlement and respect for basic human rights. We are sickened by the reports of arbitrary arrests, torture, and bombings of civilians.

Mr. President, I was disappointed that the Senate voted to increase mili-

tary aid. I fear that hardliners in the Salvadoran military, who have resisted the negotiations, will interpret the vote as an endorsement of their conduct. That, however, would be a serious misreading of the Senate's actions. Although the Senate rejected any restrictions on the aid, even those who spoke in opposition to my proposal emphasized that they strongly support a negotiated settlement of the war.

During the debate on this issue there was mention of several American citizens who were among the 60 or 70 people arrested by the Salvadoran National Police in connection with a demonstration in San Salvador on September 18, 1989.

Fortunately, the Americans, one of whom is a Vermonter who was filming the demonstration, were released unharmed, although they were threatened, verbally abused, and forced to stand blindfolded for hours. Dozens of Salvadorans were detained for up to 3 days, and I am told that 17 remain in custody.

Since the release of the Americans, and I thank the United States Embassy and consular staff for their assistance in obtaining their release, one of the Americans has sent me detailed accounts of interviews with several of the Salvadorans who were detained. These accounts, excerpts of which I am inserting in the RECORD with the names of the victims omitted, include graphic descriptions of threats of death, brutal and sadistic beatings, multiple rapes, electric shock, and hanging by the thumbs.

Mr. President, the American who wrote these reports heard the screams and saw the bruises. This is only the latest in a long history of similarly outrageous conduct by the Salvadoran security forces, despite the fact that we send $1.5 million in aid to that government every single day. It should be obvious to anyone who follows events there that the police have no fear that if they commit these kinds of acts they will be brought to justice.

I intend to follow up on these reports. It is simply unacceptable that these kinds of abuses are tolerated. I would hope that President Cristiani, the chief of the national police, the Minister of Justice, and the U.S. Embassy would feel the same way.

The excerpts follow:

TESTIMONY FROM PRISONERS IN MARIONA PRISON

(September 24, 1989)

ROBERTO M.

Roberto carried the case for the video camera throughout the march. Jean A. had told the National Police that Roberto was a periodista thinking that this would help him but in the end it made things worse for him. He was interrogated continuously on where the videos go, to what countries they are sent, who is the journalist he works with. He was subjected to electric shocks, kept standing for the entire three days of his detention and put in a type of gas chamber, a small room where tear gas is allowed to enter. They also put some kind of element, powder, on his face that burned.

ALFREDO R.

Alfredo is unable to walk because of the severe beating of his foot and lower leg. The foot and leg are totally purple and swollen. Alfredo was also subjected to the gas chamber. He was taken in a car and pushed out of the car and told to run, presumably so that they could shoot him in the back. He was also forced to take a pill which he said caused a burning sensation to cover his body and then he went unconscious.

CARLOS C.

Carlos was beaten on his back and chest and one hard hit on his nose which caused a great deal of blood to pour out of his nose. He was left lying on the floor in a pool of blood from his nose until the interrogators decided to clean the floor and his face so that there would not be evidence. Hector was given an offer of money and safe exit from the country if he would collaborate. They showed him 100 colon bills and rubbed them over his face telling him all this would be his if he would work with them (the National Police). He did not directly refuse to collaborate, only said that he was part of the base and knew nothing. Eventually they said, "He's nothing," and left him alone.

JUAN L.

Juan was kept standing throughout the 3 day detention period. He was laid under a guilotine and told they they would cut off his head. He was also asked to collaborate and beaten on his chest, back and legs.

ANTONIO R.

Antonio was hit on the sides of his face "until I thought I was going crazy." He was also hit on his back, stomach, lungs. His head was forced into a toilet and held. He was put in a gas chamber for 15 minutes. His whole body was submerged in a water tank and he was put under the guilotine and threatened with having his head cut off. They also threatened to cut off his head with a machete. They threatened to rape his mother and sister and kill his whole family. He was kept standing and blindfolded for three days. They put some drugs in his food that made him weak and made his mind fuzzy. They said they would report that he had collaborated and that the FMLN would put his name on a death list. They also took away his shirt and much of the time, including after having his body submerged in water when he was in air conditioned rooms.

GUILLERMO C.

Guillermo was severely beaten on his head, face, chest and back and was kept standing throughout his detention.

MARIA T.

Maria was raped at least 2 times both vaginally and anally by members of the National Police in between interrogations.

ISABEL A.

Isabel was raped by one of her interrogators and beaten, especially one hard blow on her head.

EVA I.

Eva was raped by members of the National Police.

SARA F.

Sara was raped and assaulted by members of the National Police.

MARTIN M.

"I was captured by riot squads of the National Police on September 18 at 7 p.m. I was tortured physically and psychologically. They blindfolded me and took me to the basements in order to torture me so that I would say that I belonged to the FMLN. They said if I didn't say that they would kill my whole family.

"They tortured me for three days denying me water and food and also not allowing me to sleep even for a minute. They told me that union members don't have the right to anything.

"They told me not to tell anyone what they had done to me and if I did say that here they don't respect human rights they would come and kill me.

"Tortures that they did to me: They put the capucha (plastic or rubber bag or hood) on my head tight with someone's knee in my back, three times for a few seconds; they gave me electric shocks 5 different times; they hit me in my abdomen, they threw cold water on me and the room was air conditioned; they hung me by my thumbs for over one half hour; they stood on my back many many times; they kept me in a room with tear gas during the whole three days even when they were interrogating me."

GUSTAVO A.

"Before the international press I declare that I was tortured cruelly by the ferocious and repressive National Police who accused me of belonging to the FDR (Democratic Revolucionary Front). They tortured me with tear gas, drugs, threats and intents to rape me causing a psychological terror trying to break my spirit, threats to kill my wife and children, I suffered electric shocks in my back three times, hard blows to my head and lower forehead and back which caused a half litre of blood to pour out of my mouth and nose. This made the torturers afraid and they stopped torturing me thinking that I was going to die. They gave me immediate medical attention. I went 3 days without sleeping or eating. They kicked me and hit me with a rifle butt in my knee and now I have difficulty walking."

MERCEDES E.

(September 25, 1989)

"We were in a march, a protest. I was carrying a banner that said 'Freedom for Our Compan-AE6eros'. When we reached the Hispanic Bookstore they (the riot squads) came running, shooting their guns. We ran in a group towards a church where we sought refuge. We talked with the people in the church, explained the situation, they said they would leave with us. Then over a megaphone the security forces said we had 15 minutes to come out. But we knew there was no security, that they would capture us when we left. Then they began to break the windows of the church and shoot in tear gas cannisters. We were pouring water over us from a big sink. Then I ran up to the third floor so I could breathe better. I saw that there was a riot squad member below in the patio. We yelled that we were coming down with our hands up. As we left the church one soldier hit me on the head with his billy club and another hit me in my back with his gun. They pushed us up against the wall across the street, then they told us to lie down. They hit me on my bottom with a gun, then another compan-AE6ero was thrown on top of me and he was being hit. Then they dragged me out into the street by my legs, hitting my bottom and legs and feet. They felt all over my body, fondling my breasts and crotch as they searched for papers. Later we got up to get on a bus and I was hit more on my back. They made me sit

with my head down and told me not to look up, to keep my eyes closed. I looked up once to see how the others were and they hit me on the head. When we arrived at the National Police compound we were blindfolded and seated in an open air space. We were asked for our documents and to which organization we belonged to. A doctor looked at where we had been hit briefly. They took my picture from all sides, and then a video where I had to say my name. Then they sat me at a round table, one man on either side of me, I was again blindfolded. They began to interrogate me, asking what union I belonged to what my name is, what my psuedonym is, if I belonged to the National Resistance (part of the FMLN). Then I had to stand for a long time while different people asked me the same questions. A man took me down to the basement, I could feel that the air was different, there was a smell of gas. They made me stand with my arms over my head for over an hour in some place like a corridor with a carpet. There was something in the air that made me sneeze. One man took me to a cubiculo with a rug and starting asking questions, unbuttoned my shirt down to the waist and was fondling my breasts as he questioned me. I said that I was a member of STITGASC and had only been coming to FENASTRAS since June, that I was Secretary of Press and Propaganda and that I didn't know about these subversive organizations that he was asking me about. Then a woman came in and said 'Look, Tatiana, your story is too infantile. You don't even believe this story. But here we're going to make you talk.' The woman left and the man was still there. He hit me on the head and said I was lying, took off my blindfold and put on a darker one. I couldn't see anything. He asked more of the same questions. Then he took me out to the corridor and I had to stand there all night, sometimes I could sit but not sleep because someone would always come by and hit me. The next day a man took me to another corridor and interrogated me for a long, long time, I would say it was all day Tuesday. I smelled marijuana and felt a little dizzy. They brought a paper for me to sign, just lifted the blindfold enough so that I could write but not so that I could read what it said. Then the man said: 'You just signed your death sentence!' Then a man took me up to a cubicle and I was alone with him. He asked me to collaborate with them, asked me more of the same questions. Then he asked me if I wanted to make love with him and I said 'What about your wife?', and he said 'I'm asking the questions here.' Then he said that if I made love with him he would let me go. He told me to pull down my pants and panties and then he entered me. I knew that if I resisted him he would only beat me more, I was alone with him. Later I was taken back to where the carpet was and spent another night standing and sitting but unable to sleep. Wednesday morning I was questioned again, same questions. In the afternoon I had to sign another paper. Wednesday night I was taken to bathe but I only washed my head and part of my body. Then the same man that raped me took me into another cubicle and said: 'You've taken a bath, you're fresh now?' He sat me on a chair in front of him. He said he knew that I hadn't collaborated, he asked me who my responsable was, he said that one of the Federation leaders had said that all the union leaders belonged to the National Resistance. I said I didn't know about that, that I was only a union member. Then he asked me if I had ever made love from behind and if I wanted to. I just shrugged. He put me over a chair, took down my pants and panties and entered me, it hurt so much, I said why don't you do it from the front I can't bear this. He just said this is what happens if you don't collaborate. When he was done he cleaned his penis on my shirt and told me not to say that this had happened to anyone. The next morning we were taken outside, our blindfolds finally taken off and our documents returned, more photos and videos and then we were put on a bus and taken to the courts where we were filmed again. In court I denied belonging to any subversive organization. I accepted belonging to FENASTRAS and STITGASC, that I had participated in a march and carried a banner, that I had made 3 banners and some bulletins for my union since June. Then I denied that I had been well-treated, told that I had been raped twice. I saw a doctor that said their were signs I had been violated through my vagina and that there were lacerations in and around my anus. I made a declaration that I was beaten and raped."●

H.R. 3072—FISCAL YEAR 1990 DEFENSE APPROPRIATIONS BILL

● Mr. ADAMS. Mr. President, yesterday the Senate passed H.R. 3072, the Defense appropriations bill for fiscal year 1990. The bill, as adopted, would provide more than $288 billion for defense activities. This amount reflects the so-called budget summit agreement reached between the Congress and the White House concerning how much will be spent on defense and domestic programs.

I believe that the Appropriations Committee has done a good job at attempting to make sure that the taxpayers get the most they can for those dollars. The bill includes a number of thoughtful reductions in R&D, procurement, and manpower accounts and uses that money to restore O&M cuts by Secretary of Defense Cheney. The committee's cuts are generally in the right direction, such as cutting civilian support personnel coincident with reductions in military manpower levels.

One of the more significant cuts is to eliminate a conventional B-52 wing. Another is to make some additional cuts in Trident II procurement because of the testing failures. It provides for the V-22 tilt rotor aircraft development, but not procurement. The bill also does not provide funding for the National Aerospace Plane.

The subcommittee cut the additional SSN-688 attack sub that Cheney cut, but the House restored. The bill also makes a number of cuts in high-tech and black-classified-programs as well as making cuts in both service and civilian manpower levels to save money, but fully funds a 3.6-percent increase for DOD service and civilian personnel. The bill, for instance, cuts the 15,000 military personnel associated with INF deployment from the Pentagon's manpower levels. These savings are used to restore funding for a large number of operation and maintenance [O&M] needs.

I am concerned, however, about the level of funding and priorities for many defense programs in the budget. At a time when we face so many domestic needs in terms of the war on drugs, education, housing, and health care, it is absolutely imperative that we recognize we cannot fund every single defense program. Without investments in our domestic economy, in our children, and in our cities, we simply will not be able to sustain the quality of life of our citizens nor ultimately the economic base needed to sustain our own defense.

On several major defense programs, such as strategic forces, the Appropriations Committee adopted the position taken by the Senate during its deliberations this summer on the Defense authorization bill which is now the subject of a House-Senate conference committee. I commend the chairman of the Subcommittee on Defense, Senator INOUYE, and the ranking member, Senator STEVENS, for their efforts to work with the authorizing committee and the desire of Appropriations Committee to reflect the judgment of the Senate during its adoption of the authorization bill.

The fact remains, however, that we simply cannot afford to deploy every one of strategic systems in this bill: the rail mobile MX, the B-2, the Small ICBM [Midgetman], Trident, and SDI. We must have a more realistic and more focused strategic policy and not continue to fund everything. The Senate has made the situation worse by its action on the floor to increase funding for the strategic defense initiative by $600 million over the committee's recommendation—an increase I opposed.

We must also have a more realistic policy toward our overseas defense obligations. We are running substantial trade deficits with our allies and when the underlying strategic purposes and defense needs that prompted many of our overseas commitments have changed. The time has come to reassess our deployment of troops overseas and our role in the defense of allies in both Europe and the Pacific.

I am in favor of a strong defense. The bill contains funding for several new initiatives, such as $1 billion for new sealift capacity and $1.3 billion for equipment for Reserve and National Guard forces, to provide the basic nuts and bolts of defense which are all too often ignored in favor of gold-plated weapons systems. I believe these are important accomplishments.

Finally, I am pleased that the bill fully funds security support by the Armed Services for Seattle's Goodwill Games at $14.6 million. The committee has also included report language concerning the expansion of the

Washington Air National Guard to include a close-air support squadron and a promising new electronic record-keeping system being developed in partnership with a Washington-based company and which is projected to result in substantial cost and manpower savings throughout the military. The bill also earmarks $11 million for the superconducting magnetic energy storage project. Hanford is one of the sites under consideration for this project which would demonstrate the use of superconducting magnets to store large amounts of energy needed for SDI. This technology also has enormous commercial and civilian applications for peak storage and transmission.●

ADMINISTRATION'S LAX RESPONSE TO PUERTO RICO'S DEVASTATION

● Mr. BINGAMAN. Mr. President, as chairman of the Senate Democratic Task Force on Hispanic Affairs, I rise today to express my disappointment in the administration's lax response to the terrible situation that now exists on the hurricane-ravaged island of Puerto Rico. Puerto Rico is seriously lacking in the equipment, funds and emergency relief centers that are desperately needed in the wake of Hurricane Hugo. The United States has a responsibility to aid the territory of Puerto Rico, and the administration failed to live up to that responsibility.

It is my understanding that military ships carrying much-needed fresh water arrived only 2 days ago, more than a week after the disaster. The island's 3.5 million inhabitants were forced to go without water for 9 days. This delay is inexcusable. The extent of the destruction was known almost immediately; network camera crews were on the scene almost instantly. Yet it still took 9 days for the administration to mobilize the necessary resources to provide fresh water, the most essential supply in almost any emergency.

There are but 12 Federal Emergency Management Agency [FEMA] centers on the island to serve 3.5 million people. The capital city of San Juan, with a population of 1.86 million, is graced with but a single center. Surely, the number of centers does not correlate with the amount of persons who need assistance, neither for the city of San Juan nor for the entire island. Particularly when considering the potential danger to the island from hurricanes.

I am appalled that the U.S. Government would be slow to aid one of its territories in a time of great need; especially a territory which lacks the economic resources necessary to adequately deal with this catastrophe. Puerto Ricans in the United States comprise a significant percentage of this Nation's population. Now that their homeland has been leveled by Hugo, we should, at the very least, mobilize a relief effort that will help alleviate some of the most pressing concerns. Such an effort should have begun immediately after the hurricane struck, and should be in place today. However, at this late date, we still have a responsibility to help. Relief efforts are a beginning, but a long-term plan to rebuild the island is essential.

I would hope that the administration acts quickly to fulfill its responsibilities to the territory of Puerto Rico before the consequences of Hurricane Hugo become insurmountable. It is imperative that we come to the aid of the people of Puerto Rico.

Thank you.●

BETTY HUBBARD: A MOTHER FOR MINNESOTA'S DISABLED

● Mr. DURENBERGER. Mr. President, Betty Hubbard has been a distinguished leader of a parent advocacy movement in Minnesota for over 40 years. In that time, she has helped achieve a comprehensive transformation of the State's care system for mentally handicapped individuals.

For four decades, Betty has been the mentor and emotional support for hundreds of parents of mentally handicapped children. She has served on countless boards, task forces and committees and has held the influential position of Executive Director of the St. Paul ARC—Association for Retarded Citizens—from 1960 to 1966.

Following that term, Betty worked as a consultant for Parent and Community Relations with the St. Paul Schools Special Education Department. Not one to limit her focus to only her home city of St. Paul, Betty was a founding member of the Minnesota Committee for the Handicapped, and has served on the Governor's Planning Council on Developmental Disabilities.

Betty began her mission in the late 1950's in a State where 5 percent of the disabled population lived in squalid State hospitals, and the other 95 percent lived in private homes, receiving few if any services from their communities.

In a paradigm of a successful grassroots campaign, Betty and other leaders struggled to unify parents who were frustrated with the system's lack of responsiveness to their demands. Upon deciding that organizing would be the most effective way to promote their cause, the parent-advocates campaigned. In the beginning, the focus was regional, but was eventually conveyed statewide through the Minnesota coalition on handicap issues. Their goal was to first inform legislators of the great need for increased services to the disabled, and then conduct the followthrough with pressure for legislation. Today, in St. Paul and Washington, lobbyists for the handicapped play a vital role in the legislative process.

By 1971, after years of tireless lobbying, Betty and other determined parents convinced their legislators to pass a law requiring equal educational opportunities for all children—preceding the Federal law by 4 years. While some would consider this a complete victory, Betty has maintained her leadership and determination on this issue since its enactment, to implement and expand this law.

As a mother unwilling to admit that her daughter was disabled, Betty Hubbard was not willing to let her daughter's potential and growth be discounted. Hence, in a time when we were all less knowledgeable and aware of the handicapped and mentally disabled, Betty reluctantly began her crusade.

Her early reservations soon vanished when she realized the tremendous needs that existed in Minnesota. I am sure it's a mission she would gladly begin all over again. Betty Hubbard has earned the distinction of "Mother of the Disabled"—for like all good parents, she is unwilling to admit that these children deserve anything less than the very best.●

DEATH OF IRVING BERLIN

● Mr. DODD. Mr. President, a part of our Nation's cultural heritage died when Irving Berlin passed away last week at the age of 101. Perhaps the greatest figure in American popular music, no composer ever wrote more songs more widely known to people in this country.

Even the briefest listing of his songs reveals the singular role Irving Berlin played in developing what is today considered the repertoire of American music. "White Christmas," "This Is The Army, Mr. Jones," "Cheek to Cheek," "God Bless America," "There's No Business Like Show Business"—it is astounding to realize just how many of his songs are familiar to every citizen. His compositions are our favorite patriotic songs, holiday hymns, romantic melodies.

It is especially fitting that the man who defined American music was so quintessentially an American success story. He arrived in New York in 1893, a young child of a penniless immigrant family. He worked as a newspaper boy and as a singing waiter before he found his calling. And from this unexceptional background emerged a composer unique in American music.

Jerome Kern said, "Irving Berlin has no place in American music. He is American music." Fortunately, although Irving Berlin has died, his music will live on forever. Mr. President, the Washington Post ran a stirring tribute to Irving Berlin several

days ago. I ask that it be printed in the RECORD.

The article follows:

AMERICA'S SONGWRITER AND THE MUSIC THAT MADE A CENTURY SING

(By Tom Shales)

I guess the first person I ever heard sing an Irving Berlin song was my mother. She used to wake us kids for breakfast and school by singing, "Oh How I Hate to Get Up in the Morning." I can't remember how old I was when I learned that Mom's song had words and music by Irving Berlin, a Russian-born Jew who became the most American American almost anybody could think of.

All these years later, it began to seem as if Irving Berlin, like the hundreds of songs he wrote, would live forever. Then, on Friday night in New York, he died in his sleep at the age of 101. As Berlin himself wrote decades ago—perhaps knowing it would be quoted at a time like this—"the song is ended, but the melody lingers on."

"Remember"? "Always."

Irving Berlin also wrote complex songs about simple pleasures. His songs became part of our lives, our rituals, our aspirations. They could be sung at birthdays and weddings and anniversaries and bar mitzvahs and by mothers in the morning to their waking children.

At Christmas you sang "White Christmas." At Easter you sang "Easter Parade." On the Fourth of July you sang "God Bless America." Berlin was a recluse for the last 25 years, but until then he had been uncommonly generous at making his private feelings public; he turned them into songs, and the whole world sang them back to him.

"What'll I Do, When You Are Far Away, and "I Am Blue, What'll I Do?"

Irving Berlin did not just have a place in American music, said Jerome Kern, "he is American music." Irving Berlin didn't just dream the American dream, he was the American dream—from his arrival in 1892 through his years of poverty on New York's Lower East Side, his nights as a singing waiter, his struggle for success, his spectacular and enduring achievements, his ascent to a place in folklore.

"Say It With Music" was one of his hits and something of a credo. "A pretty girl," he observed, "is like a melody." On the same topic he also wrote, "If my blues can reach your shoes and start you tapping your feet, I'm happy."

Fred Astaire danced to those songs, Bing Crosby crooned them, Ethel Merman belted them across the footlights. And everybody else sang them too. Eventually Berlin seemed to celebrate every facet of human experience, good times and bad times, turned into poetry. "Cheek to Cheek" is about the elemental act of dancing, but it begins with its head in the clouds: "Heaven, I'm in Heaven, and my heart beats so that I can hardly speak."

Mythically prolific, endlessly inventive, Irving Berlin did what great artists do; he told us things we realized we already knew, evoked feelings and longings and sentiments that had been lying there dormant just below the surface. His songs were communal and universal, and anyone could take them personally. He didn't just express himself. He expressed everybody.

Will science ever know why there are minds from which melodies and verses flow? Probably not. Irving Berlin's gift will always seem mysterious and elusive, just as his songs will forever be natural and down to earth—so basic that people assume some of them have been handed down generation-to-generation without even realizing their composer was our contemporary.

Even fellow composers, no matter how much wittier they may have been, were in awe, and Cole Porter included an accolade in one of his own clever lyrics: "You're the top, you're a Berlin ballad . . ."

They ran out of honors to shower on Irving Berlin. He had them all, and as much success and fame as anyone could stand. A tiny, elfin figure, with a squeaky little voice, he made few public appearances, though he does pop up in the World War II movie "This Is the Army." He sings the very same song my mom, and countless other moms, sang at the start of the day.

Irving Berlin conquered Broadway, Hollywood, countries, continents. Also towns, neighborhoods, homes, living rooms and parlor pianos. He set the century to music and he gave you something to sing to your sweetheart. He had the common touch but there was no one else quite like him. The best thing one could say about a song was likely to be "words and music by Irving Berlin."

Heaven, he's in Heaven. Remember? Always.●

PRESIDENT BUSH'S EDUCATION SUMMIT: WHERE'S D.C.?

● Mr. GLENN. Mr. President, on September 27, President Bush opened an education summit attended by Governors from 49 States, Puerto Rico, and the U.S. Virgin Islands. I commend the President for initiating this precedent-setting meeting. His actions demonstrate a praiseworthy interest in a national education policy. Though education is often a matter handled by State and local governments, recent, disturbing national trends—illiteracy, internationally inferior math and science scores among our students, drug addiction and sales among our young people—make it clear that the United States has a vital national interest in a strong educational system.

Unfortunately, the President marred this important occasion with a serious omission in his invitation list. Though the Governors and the President used the summit to discuss a national education strategy—and though part of the proposed strategy was a program of targeted funds to District of Columbia schools—no representative from the Nation's Capital was asked to attend.

I believe this is an inexcusable omission, and as chairman of the Governmental Affairs Committee—the committee with jurisdiction over the District of Columbia—it disturbs me. The D.C. Public Schools serve more than 88,000 students. The school system has had some well-publicized problems and has made some serious efforts to stem those problems—see: "5-Year Plan Unveiled for District Schools," the Washington Post, June 27, 1989 and "Jenkins Stakes Reputation on D.C. Schools' Ambitious Agenda," the Washington Post, September 7, 1989.

Furthermore, the District of Columbia has often been held up as an example of a city marred by the plague of illegal drugs. The President himself used crack confiscated in the District to illustrate his recent declaration of war on drugs.

Yet, crack itself is not the tragedy of D.C.'s drug crisis. The tragedy is the children who are faced daily with the indignity and horror of drug dependency, crime, and violence. For many of these children, the public school system is their best chance to develop into healthy, happy, productive citizens.

This administration should understand that the decision to exclude the District of Columbia from the education summit cannot be interpreted as merely an institutional decision based on the District's Governorless hierarchy. In fact, D.C. is considered a State agency by the U.S. Department of Education. Nor can there be an excuse on the basis of any political feelings that might be harbored against the District's present administration. The President himself stated that, in education matters, "too much is at stake to let partisanship get in the way of progress."

In my opinion, the decision to ignore 88,000 children in the District of Columbia is a serious, serious mistake.●

A SHELL OF A GOVERNMENT

● Mr. PRYOR. Mr. President, I rise to day to draw the Senate's attention to two articles which demonstrate all too well the way in which our Government has rushed to delegate its basic responsibilities to private consultants and contractors to the detriment of our system of government.

A front page headline in the June 28 New York Times announced that the "Energy Chief Says Top Aides Lack Skills to Run U.S. Bomb Complex." Secretary Watkins is faced with the enormous task of bringing under control our Nation's nuclear weapons productions facilities whose disrepair, it has been suggested, may bring us close to unilateral disarmament. The article states:

His efforts had been slowed because of an insufficient number of technically qualified people on the department's staff.

In yesterday's New York Times is an article entitled "NASA's Reliance on Contractors Is Seen as Eroding Its Capabilities." The article discusses a letter from the agency's deputy administrator James R. Thompson, Jr., to the Director of the Office of Management and Budget [OMB] outlining NASA's concerns regarding the contracting out of the agency. Mr. Thompson is worried that OMB's push "to convert more and more critical functions" to contractors is taxing the National Aeronautics and Space Ad-

ministration's management and supervision abilities.

Mr. President, I will ask that both articles be included after my statement in the RECORD.

Mr. President, I have been concerned for some time that the Government is relying far too heavily on private consultants and contractors to fulfill their missions. These two articles demonstrate the way agencies can be weakened by this overreliance. Two highly technical agencies, the Department of Energy and NASA, have found that they no longer have the civil service work force capable of managing the very contractors and consultants that the agencies have hired. The civil servants process contracts and hope against hope that this small core of Federal employees can ride herd on the multitudes of contractors performing the basic work of the agency.

In 1980, as part of my early investigation into the use of contractors and consultants, my staff prepared a study of the Department of Energy [DOE]. There may not be much in government that is predictable, but the findings of that study tragically foreshadowed Secretary of Energy Watkins' remarkably candid statements about the Department he inherited. In 1980, the DOE estimated that its contractor work force might be 10 times as large as its civil service work force of about 20,000. My study found that:

The Department's reliance on contractors is so extreme that if the terms of its contracts, the resume-AE1s of its contractors and their employees, and the contractor work the Department adopts as its own are to be believed, it is hard to understand what, if anything, is left for officials to do. Reliance on contractors is not limited to a portion of the Department's activities. . . . It permeates virtually all of the Department's basic activities—regulation, spending and iaternal management—at virtually all levels of the organization chart.

I have continued by examination of this issue. Earlier this year, my Federal Services Subcommittee examined the Environmental Protection Agency's extensive reliance on contractors in the planning and management of its Superfund Program. In June, we reviewed the Department of Defense's essential delegation to private contractors the critical function of monitoring the operational testing of our Nation's weapons systems. In the latter case, the DOD Office of Operational Test and Evaluation obviously agreed at least partially with this criticism, for they have apparently decided to sharply reduce its use of private defense contractors and will turn to the Institute for Defense Analysis, a federally funded research and development center, for support services.

Some have asked why I concern myself with the issue of who is doing the basic work of government. As the Energy Department and NASA situations demonstrate, it should be beyond question that our Government must retain in-house the skills and expertise necessary to comprehend and manage its own activities.

The Naval Sea Systems Command took notice of this issue after the Ill Wind investigation and a Navy inspector general report highlighted the multitude of problems which accompany overreliance on contractors and consultants. As a result, the Naval Sea Systems Command decided to bring expertise back in-house. The Navy had to wrangle with OMB about its decision but eventually prevailed.

It appears, however, that OMB is still dead set on pushing the use of private sector firms. Yesterday's New York Times article describes how NASA went to OMB and requested 2,250 additional Federal employees. OMB decided that NASA could have 1,582 additional employees but had to contract out the remaining 668 jobs. Mr. President, I just cannot understand OMB's insistence in this matter. NASA, knowing its strengths and limitations, decided it needed in-house expertise to prevent possible disasters. How can OMB have the knowledge to contradict that decision? I believe that this type of mindless adherence to a goal, without assessing its effect on the Government, is one of the reasons we have seen so many problems develop across the Government.

Mr. President, I will be continuing my work in this area and I look forward to working with the Secretary of Energy and the Administrator of NASA to determine effective solutions to the problems they have identified.

I ask that the material to which I have referred be printed in the RECORD.

The material follows:

[From the New York Times, Sept. 28, 1989]

NASA'S RELIANCE ON CONTRACTORS IS SEEN AS ERODING ITS CAPABILITIES

(By Jeff Gerth)

WASHINGTON, September 27.—The space agency, long known for its technical expertise, has become so dependent on private contractors that it may be losing its ability to manage its operations, maintain safety and control costs, senior officials say.

The agency's deputy administrator, James R. Thompson, Jr., and reports by the agency's inspector general said the problems concerning contractors included false certification of components, overpricing of parts and excessive profits.

"I am most deeply concerned over the continued erosion of our civil service capability," Mr. Thompson wrote to Richard G. Darman, the director of the Office of Management and Budget, on July 21. A push by the budget office to "convert more and more critical functions" to contractors is taxing the National Aeronautics and Space Administration's management and supervision abilities, he said.

HALF OF EMPLOYEES ON CONTRACT

Contract employees account for more than half of NASA's workers.

Mr. Thompson's assessment was obtained by the New York Times under the Freedom of Information Act. The space agency at first refused to release the assessment, which was prepared by NASA officials in response to a request by Mr. Darman that each Federal agency provide a critique of its capabilities.

The Times obtained the report by appealing to higher NASA officials, who overruled the first decision and released the document.

The agency's ability to monitor contractors is likely to be discussed on Thursday when the inspector general, Bill D. Colvin, is scheduled to appear before the Senate Governmental Affairs Committee. The chairman of the committee is Senator John Glenn, Democrat of Ohio, a former astronaut. The committee is also to hear from the inspectors general of the State, Energy and Defense departments. The latter two have had quality control and cost problems with outside contractors, many of whom work for more than one agency.

SENATOR EXPRESSES CONCERN

In an interview today, Senator Glenn said he had "great concern" over NASA's reliance on contractors.

"The more contracting there is the more difficult it is to monitor," he said, adding that "the auditors and the inspector general are going to be under a great deal more pressure" and are going to need the necessary "tools and resources."

After the space shuttle Challenger exploded in 1986, a Presidential commission concluded that a wide array of management problems in the NASA and at the rocket manufacturer were fundamentally responsible. But officals have said that with beefed-up safety and monitoring capability since then, missions are not imperiled. But Mr. Thompson said in his report that while the agency's management controls are "generally effective," the space agency is suffering an "erosion of our institutional capability."

BOLTS CERTIFIED FALSELY

Noting that crucial missions such as the shuttle are dependent on vendors, Mr. Thompson added, "we've been stretched to the point where it's troubling to me, given the oversight that's required." Mr. Thompson mentioned space vehicles have to rely on bolts falsely certified by contractors as well as substitution of substandard or counterfeit electronic parts, which could have been safety problems if they had not been detected.

James C. Fletcher, NASA's former administrator who stepped down soon after President Bush took office, said in an interview he was not comfortable with the notion that "you take the whole chunk of what NASA normally does and give it to contractors and take it away from civil servants."

Mr. Fletcher said he was concerned about a shortage of civil servants in program management "which is responsible for safety" and a court ruling which forced the agency to keep contract employees at arm's length, limiting the agency's ability to control their activities.

Mr. Colvin and other space agency officials have repeatedly told Congress and the White House of a number of lingering contractor problems. They include the agency's lack of employees in the areas of safety and product reliability, tens of millions of dollars in "excessive profits" by some contractors and false certifications of critical space vehicle parts. The reports do not name spe-

cific contractors because of proprietary restrictions, Mr. Colvin said.

NASA SEEKS MORE WORKERS

In spite of the reports, the budget office does not fully support NASA's request for added strength in its ranks of civil servants, even though some space agency officials say that the Bush Administration is less committed to privatization than was its predecessor.

NASA wants 2,250 additional civil servants, while the budget office has responded that it can have 1,582 and contract the remaining 668 jobs, Mr. Thompson said. Frank Hodsoll, the executive associate director of the budget office, said that the agency's request was still under review and added that "we're not going to do anything in the privatization area that jeopardizes NASA's Governmental functions."

The insistence on further contracting comes at a time when the percentage of private contract employees at NASA sites is approaching 60 percent with the remaining 40 percent composed of civil servants, according to Paul Anderson, director of institutional resources and analysis.

NASA has traditionally attracted a top-flight scientific and technical workforce. But officials said that it was becoming more difficult to attract and retain skilled workers, partly because private industry pays more.

MORE COMMERCIAL INVOLVEMENT

NASA's reliance on contractors is shown both by the composition of its workforce and by the portion of its budget going to procurement, officials said. The percentage of NASA's $11 billion budget devoted to procurement has increased to 88 percent, according to Mr. Colvin and the Administration intends to expand commercial involvement in the space program.

Many of the problems raised in Mr. Thompson's report have been raised before, both in agency reports as well as reports to Congress by the inspector general. For example, Mr. Colvin's report to Congress last spring focused on the need for "increased NASA management oversight and control of contractor activities, including prime contractors' procurement and subcontract administration." Audits by his office found that overpricing by unnamed subcontractors produced $16 million in "excessive profits," with the possibility that the same subcontractors may have overpriced by another $11 million to $17 million on other contracts. Profit rates were as high as 288 percent, the report said with naming companies.

Another area of concern in the report was false certifications on bolts used in flight vehicles. Mr. Colvin noted that two top officials of Lee Aerospace, a California company which sold substandard bolts to NASA for use in space shuttles, were found guilty last week by a Federal jury in Orlando, Fla., of misrepresenting safety tests to the government. NASA has had to pay for additional testing to insure bolts are up to standard, agency officials said.

In an interview, Mr. Colvin said he worried that for contractors, "financial gain is a strong motivation" to falsify test results. A request by Mr. Colvin for 25 additional auditors has not yet been approved by Congress or the Administration. But Mr. Thompson said he was confident there would be resources for the extra auditors.

[From the New York Times, June 28, 1989]

ENERGY CHIEF SAYS TOP AIDES LACK SKILLS TO RUN U.S. BOMB COMPLEX

(By Matthew L. Wald)

Energy Secretary James D. Watkins said today that managers and supervisors in his department lacked technical skills needed to run the bomb production system and were presenting him with unreliable information on problems at the plants. Some, he said, lacked the discipline needed for safe operation of nuclear reactors.

Announcing a 10-point plan to improve operations in the department, Mr. Watkins said what he called "tiger teams" of auditors would look at two other bomb production plants for violations of environmental laws like those said to have occurred at the Rocky Flats plant near Denver. Scores of Federal agents are investigating whether the workers in Colorado secretly dumped and burned radioactive and chemical wastes.

He also said that awards to the contractors who run the plants would be based primarily on environmental performance, not production quotas. The plan includes a public hot line for people to alert the department of problems.

UNUSUALLY BLUNT LANGUAGE

In his most comprehensive comments yet on the nation's nuclear weapons industry, Mr. Watkins acknowledged, as his predecessor had, that the plants were in disrepair. But he dwelled heavily on the disarray within his department in language that was unusually blunt for a Cabinet secretary.

Alternating frustration with contrition, Mr. Watkins said, "I am certainly not proud or pleased with what I have seen over my first few months in office." Referring to a production system whose major parts are at least 25 years old, some dating from the development of the atomic bomb, Mr. Watkins said, "The chickens have finally come home to roost, and years of inattention to changing standards and demands regarding to the environment, safety and health are vividly exposed to public examination, in fact, almost daily."

Mr. Watkins, a retired admiral, said he would like to bring credibility to the department so that when it sought to open a new plant or operate an old one, the public would not feel the department was "jamming something down somebody's throat out there."

But he said his efforts had been slowed because of an insufficient number of technically qualified people on the department's staff. And he said he was involving himself in every major decision because of unreliably optimistic information he was receiving.

"When I get the briefing, I only get one side, so I have to dig in myself," Mr. Watkins said. "I don't have the data base coming to me that I need. I have omissions in the data base. So I am making decisions today on a crisis basis, and I don't like that. That's not my way of doing business."

As he spoke, an influential environmental group, the Natural Resources Defense Council, released a study showing an even grimmer picture of environmental problems in the bomb plants, with 14 of the 17 major plants found to be in violation of hazardous waste laws.

The council and 20 other environmental groups filed suit today against the Department of Energy, seeking to foster a public debate about the cleanup and rebuilding of the bomb production system, by compelling the Government to prepare an environmental impact statement.

WE ARE NOT IN COMPLIANCE

A spokesman for the department, Christina Sankey, said she could not confirm the number of plants with serious pollution problems but agreed, saying "We are not in compliance."

Mr. Watkins said he was ordering a review to see whether the department was complying with the National Environmental Policy Act, the law that calls for environmental impact statements, and that he was personally reviewing each decision on whether to order such a statement, which can entail substantial delay in a project.

But he refused to say whether he would order an environmental statement for the overhaul of the whole system of bomb production, a project that would take decades and may cost more than $100 billion.

RISE IN CLEANUP BUDGET

He also said his department would get an additional $300 million in the fiscal year that begins Oct. 1 for cleanup. The Reagan Administration's budget called for $1.8 billion, which was increased by President Bush to $2.1 billion, and now to $2.4 billion.

Mr. Watkins said he was surprised to learn last week that his department had ignored recommendations made by the National Academy of Sciences from 1983 to 1987 on the Waste Isolation Pilot Plant near Carlsbad, N.M. The opening of the plant, which is meant for disposal of plutonium-contaminated wastes, has been delayed for months because of questions about its quality. Now, he said, the department will ask the academy for its endorsement of a plan to open the repository. "They're going to tell us, I'm sure, 'You didn't listen to us from '83 to '87.'-1A" Mr. Watkins said.

He said the plant would not open until next year, a delay that creates a crisis as wastes continue to pile up at temporary storage sites in Rocky Flats.

A NIGHTMARE FOR ME

Mr. Watkins said another waste disposal project, the plan to store highly radioactive wastes from military reactors and civilian ones at Yucca Mountain near Las Vegas, Nev., had been hamstrung by shortcomings of the Energy Department staff. "It has been a nightmare for me to try to unravel the background sufficient to make some decision," Mr. Watkins said. "It's been very confusing, and each day has revealed some new technical data."

He said he had found "serious flaws" in the procedures needed to assure that the department's reactors were safe to operate.

The department will have "an entirely new management team," he said, under Victor Stello Jr., now executive director for operations at the Nuclear Regulatory Commission.

"Mr. Stello will assure that conformance to environmental laws and attention to these requirements are developed through a safety-conscious culture that will assure production objectives are met without violation of environmental, safety or health standards," he said.

The White House has announced that it plans to nominate Mr. Stello as Assistant Secretary for defense programs, but opposition is expected in the Senate because of unorthodox procedures he used at the Nuclear Regulatory Commission in approving cash payments to obtain information. The money was paid to a former utility employee who said he had information implicating a commission official in connection with allegations that have not been disclosed.

Mr. Watkins also said he had asked the academy to establish a committee on epidemiologic research to advise the department on ways to study worker health issues. The department plans to create a data base on the health histories of its workers who have been exposed to radiation for use by outside researchers.●

CAPITAL GAINS

● Mr. DASCHLE. Mr. President, the recent debate on capital gains is nothing new. The last extensive debate on capital gains took place several years ago, just prior to enactment of the Tax Reform Act of 1986. That overhaul of the Tax Code dramatically reduced ordinary income tax rates in exchange for treating capital gains as ordinary income.

As we revisit the capital gains issue today, we must ask ourselves what has changed since 1986 that would necessitate a reduction in the capital gains rate. Who benefits from the prospective changes? And how are tax revenues affected in the short and long term?

One group that would benefit from a capital gains tax reduction appears to be taxpayers with incomes of $100,000 or more. According to a study by the Joint Committee on Taxation, this group, which represents 3.2 percent of all taxpayers, would receive 80 percent of the dollar benefit from a capital gains income tax preference. Even more significant, those who earn $200,000 or more—a mere 0.8 percent of taxpayers—would receive 60 percent of the tax savings from a reduction in the capital gains rate. On the other hand, a group that apparently does not benefit substantially from a capital gains rate reduction is the 82 percent of all taxpayers with incomes of less than $50,000. They would receive only 9.2 percent of the benefits from a capital gains rate reduction. It was relationships such as these that were among the factors that led to the capital gains compromise in the Tax Reform Act of 1986.

Just the other day, the Joint Committee on Taxation released a memorandum on capital gains that some have pointed out to as evidence that a capital gains rate reduction would directly benefit taxpayers across the economic spectrum. This joint committee memorandum states that 74 percent who show capital gains on their tax returns have other income of less than $50,000. This statistic is misleading and appears, at first glance, to fly in the face of the joint committee's earlier statement that 80 percent of the benefit of a capital gains rate reduction goes to individuals who make $100,000 or more.

What's going on here?

I am told by the joint committee that there are two primary differences between these studies, and I hope they will forgive me if my explanation oversimplifies or does not use the most appropriate technical language. The first and most important difference is that one study measures the dollar value of the gain, while the other study merely counts the number of taxpayers in each income group who receive any capital gain income at all. Thus, the majority of the 74 percent of capital gains earners who make less than $50,000 in other income receive very little capital gain income in terms of dollar amounts. As the first study shows, the bulk of the dollar benefit goes to taxpayers with very high incomes.

A second difference between the two studies is that they use different definitions of income. According to the joint committee, the study that counts the number of taxpayers who receive any capital gains at all is based upon income groups that may understate the income of taxpayers. This is because the income calculation for that study does not account for income earned through tax shelters. Thus, some of the 74 percent of taxpayers who are counted in the "less-than-$50,000" category may actually have more income than $50,000. Sheltered income wasn't included in the definition of income for purposes of that study.

What about the cost to the Treasury of reducing the rate of tax on capital gains? Virtually all estimates indicate that a reduction in the capital gains rate will result in an initial surge in revenues to the Treasury, followed by reduced revenue receipts in succeeding years as capital asset sales stabilize. A number of creative proposals have been advanced to reduce the revenue loss from a straight reduction in the capital gains tax rate. A provision in the House budget reconciliation bill calls for reducing the tax on capital gains for 2 yeas only and indexing capital gains thereafter. This may be an effective approach for marketing a new product, but it hardly seems like good tax policy.

Assuming that a tax preference for capital gains income would ultimately lose revenue, who would have to pay for this long-term revenue loss? I think the answer is clear. Over 60 percent of all Federal taxes are currently paid by taxpayers who earn less than $100,000 a year. While these taxpayers would receive only 20 percent of the dollar benefit from capital gains rate cuts, they would probably be expected to shoulder the bulk of any tax increase.

Proponents of a capital gains rate reduction argue that the revenue loss would be more than offset by an increase in business activity and economic expansion. They say a capital gains tax rate reduction would stimulate investment and encourage improvement in our national savings rate, and they point to the experiences of Japan and West Germany.

There is little evidence or concensus among economists that this is true. It is not at all clear that the economic successes of nations such as Japan or West Germany are the result of limited taxation of capital gains. In fact, there is a range of reasons why these countries have been successful. So many other factors explain their success, including culture, education policies, trade policies, and the role of government, that it would be folly to expect a mere reduction in capital gains taxation to recreate those countries' experiences here.

There is only one conclusion I can offer my colleagues regarding the issue of a capital gains tax reduction. If we are going to do it, we better know why we are doing it, and we better know how to pay for it.●

NATIONAL ALCOHOL AND DRUG TREATMENT MONTH

● Mr. SASSER. Mr. President, I rise today to thank my colleagues for their support of a joint resolution, Senate Joint Resolution 132, designating the month of September 1989 as "National Alcohol and Drug Treatment Month." This joint resolution was signed into public law by the President and has the support of 60 of my colleagues in the Senate and by 223 Members of the House of Representatives.

The designation of the month of September has encouraged a focus on the positive contributions alcohol and other drug abuse treatment services provide in assisting those suffering from alcoholism and other drug addiction to recover and rebuild their lives. Treatment service as the bridge from dependence to independence from alcohol and other drugs.

Because alcohol and other drug abuse are complex problems involving biological, psycological, and social factors, a variety of approaches are needed to break their grip on our society. Aggressive law enforcement can limit the availability of illicit drugs. Education and prevention efforts, including media campaigns, can help discourage people from trying drugs. Workplace programs and drug testing can motivate occasional users to stop using drugs. However, drug and alcohol treatment is the key to reaching those severely dependent abusers who have not responded to other approaches. A national alcohol and a drug abuse treatment strategy can control the impact of these severe cases on society and reduce the demand for illicit drugs.

Dependence on alcohol or other drugs is a chronic relapsing disease A 1985 National Household Survey on Drug Abuse showed that approximately 23 million Americans currently used

illicit drugs. Of these, more than 6.5 million people are severely dependent on heroin, other opiates, amphetamines, and cocaine. The majority of these persons cease to function in legitmate social roles and often engage in criminal behavior as part of their drug-using lifestyle. This group accounts for the bulk of the social and economic problems commonly associated with drug abuse and provides a continuing market for the illicit drug distribution system.

In addition, more than one-third of the families of the Nation and Tennessee are affected by alcoholism and an estimated 10 million Americans are problem drinkers or alcoholics. And alcohol abuse during pregnancy is one of the leading causes of mental retardation in infants and is the only preventable cause.

Acquired Immunodeficiency Syndrome [AIDS] has added new urgency to the need to address the Nation's critical intravenous [IV] drug abuse problems. Because shared needles can transmit the AIDS virus, IV drug users constitute a growing percentage of those at risk for the disease. More than 70 percent of the pediatric AIDS cases are related to IV drug use by one of both parents of the infant. Drug abuse treatment can reduce the rate of spread of AIDS to minimize the tragedy of lives lost and the immense national economic costs.

Alcohol and other drug abuse treatment provides an effective means toward dependence from substance dependence and is a necessary element in solving the problems associated with drug and alcohol abuse. Treatment can reduce criminality, as well as increase stable employment, progress in schools, health relationships, higher self-esteem and overall improvement in general health.

Education is equally an important component in preventing alcohol and drug abuse. Many groups—such as the "I Said No!" Foundation in Nashville, TN—have proved successful in discouraging substance abuse by youth and young adults.

A broad coalition of constituency groups in the alcohol and drug field, including concerned citizens, individual service providers and program managers are encouraging alcohol and other drug treatment programs to open their doors and to hold community events during National Alcohol and Drug Treatment Month and invite the public to visit programs in their neighborhoods and learn more about treatment services.

Mr. President, I thank my colleagues for supporting National Alcohol and Drug Treatment Month which has helped to call attention to the positive contributions that substance abuse treatment can make to our Nation's efforts to decrease the demand for drugs and alcohol.●

WASHINGTON CENTENNIAL DAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 209, a joint resolution to designate November 11, 1989 as Washington Centennial Day, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 209) designating November 11, 1989 as "Washington Centennial Day".

There being no objection, the joint resolution (S.J. Res. 209) was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution and its preamble are as follows:

S.J. RES. 209

Whereas on November 11, 1889, at 5 o'clock and twenty-seven minutes, President Benjamin Harrison signed a proclamation declaring Washington a State;

Whereas Washington is known as the Evergreen State;

Whereas Washington State has become a national leader in aviation, computer software, education, health care, commerce, and trade;

Whereas Washington State's beautiful mountains, trees, waters, and fields are appreciated and preserved; and

Whereas on November 11, 1989, Washington State will see the dawn of a new century: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 11, 1989, is designated as "Washington Centennial Day", and the President is authorized and requested to issue a proclamation acknowledging the economic, social, and historic contributions of the people of Washington to the United States of America over the past century.

Mr. MITCHELL. I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE HELD AT DESK—HOUSE JOINT RESOLUTION 412

Mr. MITCHELL. Mr. President, I ask unanimous consent that House Joint Resolution 412, which extends the flood and crime insurance programs and the Defense Production Act of 1950, be held at the desk until the close of business Tuesday, October 3, 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT FEDERAL-STATE COMMISSION ON POLICIES AND PROGRAMS AFFECTING ALASKA NATIVES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 259, S. 1364, a bill to establish a joint Federal-State Commission on Policies and Programs Affecting Alaska natives.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1364) to establish a Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceed to consider the bill which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

FINDINGS AND PURPOSE

SECTION 1. (a) The Congress has conducted a preliminary review of the social and economic circumstances of Alaska Natives and of governmental policies and programs affecting Alaska Natives and finds that—

(1) in this period of rapid cultural change, there is, among Alaska Natives, a growing social and economic crisis characterized by, among other things, alcohol abuse and violence, grave health problems, low levels of educational achievement, joblessness, a lack of employment opportunities, and a growing dependency upon transfer payments;

(2) these conditions exist even though public policies and programs adopted in recent decades have been intended to assist Alaska Natives in protecting their traditional cultures and subsistence economies and in encouraging economic self-sufficiency and individual, group, village, and regional self-determination; and

(3) Alaska Natives and the State of Alaska have expressed a need for a review of public policies and programs and a desire to make such policies and programs more effective in accomplishing their intentions.

(b) The Congress hereby declares that it is timely and essential to conduct, in cooperation with the State of Alaska and with the participation of Alaska Natives, a comprehensive review of Federal and State policies and programs affecting Alaska Natives in order to identify specific actions that may be taken by the United States and the State of Alaska to help assure that public policy goals are more fully realized among Alaska Natives.

ESTABLISHMENT OF THE COMMISSION

SEC. 2. (a) There is hereby established a commission to be known as the "Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives" (hereafter referred to in this Act as the "Commission").

(b)(1) The Commission shall consist of the following members:

(A) seven individuals appointed by the President, at least three of whom shall be Alaska Natives and not more than two of whom may be officers or employees of the Federal Government,

(B) seven individuals appointed by the Governor of the State of Alaska,

(C) the President of the Senate of the State of Alaska or a designated representative of such President,

(D) the Speaker of the House of Representatives of the State of Alaska or a designated representative of such Speaker,

(E) the chairman of the Select Committee on Indian Affairs of the Senate or a designated representative of such chairman,

(F) the ranking minority member of the Select Committee on Indian Affairs of the Senate or a designated representative of such member,

(G) the chairman of the Committee on Energy and Natural Resources of the Senate or a designated representative of such chairman,

(H) the ranking minority member of the Committee on Energy and Natural Resources of the Senate or a designated representative of such member,

(I) the chairman of the Committee on Interior and Insular Affairs of the House of Representatives or a designated representative of such chairman,

(J) the ranking minority member of the Committee on Interior and Insular Affairs of the House of Representatives or a designated representative of such member, and

(K) each Member of Congress who represents the people of the State of Alaska and is not described in any of the preceding paragraphs, or a designated representative of such Member.

(2) The Commission shall hold its first meeting by no later than the date that is 30 days after the date on which all members of the Commission who are to be appointed have been appointed.

(3) Each member of the Commission who is appointed to the Commission under subparagraph (A) or (B) of paragraph (1) shall be entitled to one vote which shall be equal to the vote of every other member of the Commission who is appointed to the Commission under subparagraph (A) or (B) of paragraph (1). The members of the Commission described in a subparagraph of paragraph (1) other than subparagraph (A) or (B) shall be ex officio, nonvoting members of the Commission.

(4) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(5) In making appointments to the Commission, the President and the Governor of Alaska shall give careful consideration to recommendations received from Alaska Native village, regional, and State organizations.

(6) At the time appointments are made under paragraph (1), the President shall designate an individual appointed under paragraph (1)(A) to be co-chairman of the Commission and the Governor of the State of Alaska shall designate an individual appointed under paragraph (1)(B) to be the other co-chairman of the Commission.

(7) Eight voting members of the Commission shall constitute a quorum for the transaction of business.

(8) The Commission may adopt such rules (consistent with the other provisions of this Act) as may be necessary to establish its procedures and to govern the manner of its operations, organization (including task forces), and personnel.

(c)(1) Each member of the Commission not otherwise employed by the United States Government or the State of Alaska shall receive compensation at a rate equal to the daily rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties (including service on a task force) authorized by the Commission.

(2) Except as provided in paragraph (3), a member of the Commission who is otherwise an officer or employee of the United States Government or the State of Alaska shall serve on the Commission without additional compensation.

(3) All members of the Commission shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Commission while away from home or their regular place of business, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(d) Notwithstanding the other provisions of this Act, no individual appointed to the Commission by the Governor of the State of Alaska under subsection (b)(1)(B) shall participate in the proceedings of the Commission, vote on business of the Commission, or receive any compensation or expense reimbursement under this Act until the State of Alaska and the President have concluded an equitable agreement to share the expenses incurred by the Commission. In the event that such an agreement is not reached within a reasonable period of time, the members of the Commission described in any subparagraph of subsection (b)(1) other than subparagraph (B) shall proceed with the work of the Commission without the participation of the individuals appointed under subsection (b)(1)(B) and the quorum required for the transaction of the business of the Commission shall be 4 members of the Commission appointed under subsection (b)(1)(A).

(e) The principal office of the Commission shall be in the State of Alaska.

DUTIES

SEC. 3. The Commission shall—

(1) conduct a comprehensive study of—

(A) the social and economic status of Alaska Natives, and

(B) the effectiveness of those policies and programs of the United States, and of the State of Alaska, that affect Alaska Natives,

(2) conduct public hearings on the subjects of such study,

(3) recommend specific actions to the Congress and to the State of Alaska that—

(A) help to assure that Alaska Natives have life opportunities comparable to other Americans, while respecting their unique traditions, cultures, and special status as Alaska Natives,

(B) address, among other things, the needs of Alaska Natives for self-determination, economic self-sufficiency, improved levels of educational achievement, improved health status, and reduced incidence of social problems,

(4) in developing those recommendations, respect the important cultural differences which characterize Alaska Native groups,

(5) submit, by no later than the date that is 18 months after the date of the first meeting of the Commission, a report on the study, together with the recommendations developed under paragraph (3), to the President, the Congress, the Governor of the State of Alaska, and the legislature of the State of Alaska, and

(6) make such report available to Alaska Native villages and organizations and to the public.

POWERS

SEC. 4. (a)(1) Subject to such rules and regulations as may be adopted by the Commission, the co-chairmen of the Commission shall have the power to—

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director of the Commission and of such other personnel as the co-chairmen deem advisable to assist in the performance of the duties of the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(B) procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the same extent as is authorized by law for agencies in the executive branch, but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of such General Schedule.

(2) Service of an individual as a member of the Commission shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Commission, or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(b)(1) The Commission is authorized to—

(A) hold such hearings and sit and act at such times,

(B) take such testimony,

(C) have such printing and binding done,

(D) enter into such contracts and other arrangements,

(E) make such expenditures, and

(F) take such other actions,

as the Commission may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) The Commission is authorized to establish task forces which include individuals appointed by the Commission who are not members of the Commission only for the purpose of gathering information on specific subjects identified by the Commission as requiring the knowledge and expertise of such individuals. Any task force established by the Commission shall be chaired by a voting member of the Commission who shall preside at any task force hearing authorized by the Commission. No compensation (other than compensation under section 2(c)(1) to a member of the Commission) may be paid to members of a task force solely for their service on the task force, but the Commission may authorize the reimbursement of members of a task force for travel and per diem in lieu of subsistence expenses during the performance of duties while away from the home, or regular place of business, of the member, in accordance with subchapter I of chapter 57 of title 5, United States Code. The Commission shall not authorize the appointment of personnel to act as staff for the task force, but may permit the use of Com-

mission staff and resources by a task force for the purpose of compiling data and information. Such data and information shall be for the exclusive use of the Commission.

(c) The Commission is authorized to accept gifts of property, services, or funds and to expend funds derived from sources other than the Federal Government, including the State of Alaska, private nonprofit organizations, corporations, or foundations which are determined appropriate and necessary to carry out the provisions of this Act.

(d) The provisions of the Federal Advisory Committee Act shall not apply to the Commission established under this section.

(e)(1) The Commission is authorized to secure directly from any officer, department, agency, establishment, or instrumentality of the Federal Government such information as the Commission may require for the purpose of this section, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission, upon request made by a co-chairman of the Commission.

(2) Upon the request of both co-chairmen of the Commission, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality available to the Commission and detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section.

(3) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

TERMINATION

SEC. 5. The Commission shall cease to exist on the date that is 180 days after the date on which the Commission submits the report required under section 3(5). All records, documents, and materials of the Commission shall be transferred to the National Archives and Records Administration on the date on which the Commission ceases to exist.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. (a) There are authorized to be appropriated to the Commission $700,000 to carry out the provisions of this Act. Such sum shall remain available, without fiscal year limitation, until expended.

(b) Until funds are appropriated under the authority of subsection (a), salaries and other expenses incurred by the Commission shall be paid from the contingent fund of the Senate upon vouchers approved by the co-chairmen of the Commission. The total amount of funds paid from such contingent fund shall be reimbursed to such contingent fund from funds appropriated under the authority of subsection (a).

Mr. STEVENS. Mr. President, I take this opportunity to once again commend Senator INOUYE, the chairman of the Senate Select Committee on Indian Affairs, for his support and concern for my constituents in the Alaska Native community, and to thank Senator MURKOWSKI for introducing the bill.

Over the last 20 years, the Federal Government and the State of Alaska have spent hundreds of millions of dollars on programs designed to address the health, education, and welfare needs of Alaska Natives. Progress has been made on many fronts, but serious problems remain.

The goals of this bill are a review of the policies and programs through which both the State and Federal Governments have sought to improve the lives of the Alaska Native people. We have seen the impact of alcohol and substance abuse as both the cause and effect of grim statistics detailed in the AFN report "A Call to Action." I have been particulary concerned about the high rates of fetal alcohol syndrome in my State, which has the notoriety of being the highest in the world.

This joint Federal-State commission would review the successes and failures of the past 20 years and evaluate what steps should be taken by the Federal Government and Alaska to meet the challenges now faced by the Native peoples of Alaska. This bill would guarantee substantial Native participation in this important process.

This Commission has been patterned after the highly successful Indian Policy Review Commission of a decade ago. No such comprehensive review and analysis of this kind for Alaska Natives has been done since 1968, and I believe the outcome of this Commission will be improved coordination between Federal and State agencies and Native contractors. I would urge my fellow Senators to vote along with me for passage.

Mr. MURKOWSKI. Mr. President, S. 1364 would establish a Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives, a commission proposed by Alaska Natives to address critical economic and social conditions existing today among Alaska Natives, and endorsed and fully supported by the State of Alaska.

These conditions include high rates of suicide—especially among young Native males—alcohol-related deaths, joblessness, violent behavior, and poor health status, low levels of educational achievement, and sharply lower incomes than other Americans.

The Commission that would be estabished by this bill would undertake to address the critical needs of Alaska Natives by examining their social and economic status, by reviewing the effectiveness of current policies and programs affecting them, and by developing recommendations to the Congress and the State of Alaska for change.

The Commission would be funded jointly by the State of Alaska and the Federal Government, and accordingly, its voting members would be appointed by the Governor of Alaska and the President of the United States. Those members would include at least six Alaska Natives, so they would be full participants in the work of the Commission.

To help assure that the work of the Commission would become effectively an agenda for change, key U.S. Senators and Congressmn and Alaska Legislators would be ex-officio members of the Commission.

This bill is widely supported by Alaska Native villages and other organizations and by the State of Alaska. Virtually all of the objections of the Bureau of Indian Affairs have been addressed in the amendment in the nature of a substitute unanimously approved by the select committee.

Enactment of S. 1364 into law and prompt appointment of members of the joint commission will give new hope to Alaska Natives that changes in public policies and programs affecting their lives will be made. Its enactment will also assure that they are active participants in that process of change.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1364) as amended, was passed.

Mr. MITCHELL. I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE 75TH ANNIVERSARY OF AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS

Mr. MITCHELL. Mr. President, on behalf of Senators BURDICK, CHAFEE, MOYNIHAN, and SYMMS, I send a resolution to the desk commending the American Association of State Highway and Transportation Officials on its 75th anniversary and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

A resolution (S. Res. 189) honoring the American Association of State Highway and Transportation Officials on their 75th anniversary.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 189) was agreed to.

Mr. MITCHELL. I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF DEPARTMENT OF VETERANS AFFAIRS PROGRAMS

Mr. MITCHELL. Mr. President, on behalf of Senators CRANSTON and MURKOWSKI I send a bill to the desk and I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1709) to provide interim extensions of Department of Veterans Affairs programs of respite care for certain veterans, community-based residential care for homeless chronically mentally ill veterans, State Home construction grants, and leave transfers for certain health-care professionals, and of Department of Veterans Affairs home-loan fees.

The Senate proceeded to consider the bill.

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am today introducing, along with the ranking minority member of the Committee, Mr. MURKOWSKI, legislation to provide interim extensions of five Department of Veterans Affairs [VA] authorities due to expire on September 30, 1989. Our bill would: First, extend through November 30, 1989, the authority to furnish respite care to certain veterans; second, extend through November 30, 1989, the authority to furnish community-based residential care to homeless and certain other chronically mentally ill veterans; third, extend through November 30, 1989, VA's authority to conduct a leave-transfer program for its title 38 health-care personnel; fourth, extend for 1 year, fiscal year 1990, the authorization of appropriations for the program of matching fund construction grants for State veterans home health-care facilities; and fifth, provide for the collection of VA home-loan fees on loans closed before December 1, 1989.

Longer term extensions of each of these provisions has already been passed by the House, proposed by the administration, and approved by our Committee on Veterans' Affairs. An interim extension of one has already been passed by the Senate in another vehicle. All are totally noncontroversial.

Specifically, the administration has requested legislation, which I have introduced by request, to extend each of the foregoing, as follows: Sections 3 and 4 of S. 748 propose to extend the respite-care authority and the authorization of appropriations of the State home program; section 8 of S. 1004 proposes to extend the program of care for homeless chronically mentally ill veterans; S. 899 proposes to extend the leave-transfer program; and section 1 of S. 404 proposes to extend the loan fee. Also, our committee reported to the Budget Committee, in order to comply with the reconciliation instructions contained in the fiscal year 1990 budget resolution (H. Con. Res. 106), a provision to extend the current one-percent loan fee through fiscal year 1990.

On June 27, 1989, the House of Representatives passed legislation, in sections 106 and 201 (a), (b), and (c) of H.R. 901, to extend, respectively, the leave-transfer program, the respite-care authority, the program of care for homeless chronically mentally ill veterans, and the State home authorization of appropriations. On September 13, the Senate Committee on Veterans' Affairs reported legislation to extend those same programs, in sections 203—care for chronically mentally ill veterans, 215; respite care, 218; State homes, and 262 leave transfers—of S. 13, a comprehensive veterans' bill.

In section 402 of S. 13, our committee has proposed a permanent 1.25-percent fee as part of a restructuring of the loan guaranty program, including the indemnification of veteran home buyers who lose their homes through foreclosure. H.R. 1415 as passed by the House on June 6, 1989, would also provide for a 1.25-percent fee and for indemnification.

However, Mr. President, it is now clear that the final legislation making the foregoing extensions will not be enacted before October 1.

Mr. President, with respect to the program relating to homeless chronically mentally ill veterans, I am advised that the VA General Counsel's Office has taken the position that, despite the provision in section 801 of the 1988 McKinney Act amendments—Public Law 100-628—authorizing appropriations for the program for fiscal year 1990, the provision in the law establishing the program—section 114 of Public Law 100-322—which provides that the authority expires on September 30, 1989, requires that no new patients be furnished contract care after September 30. I feel strongly that VA's authority to meet the needs of these unfortunate, impoverished homeless veterans should be continued without interruption.

Regarding the leave-transfer extension, I note that, under section 618 of Public Law 100-440, the fiscal year 1989 Treasury-Postal Service Appropriations Act, VA has temporary authority, during fiscal year 1989, to conduct a leave-transfer program which allows VA title 38 employees—primarily physicians, dentists, and nurses—to transfer their unused accrued annual leave to other title 38 VA employees who need such leave due to a personal emergency. Such a temporary authority had also been available to title 5 employees of all Government agencies—including VA—when, on October 31, 1988, Congress enacted, in Public Law 100-566, a 5-year leave-transfer program for title 5 employees. However, due to an oversight, VA title 38 employees were not included in this 5-year program and the temporary authority for them is due to expire on September 30, 1989. On September 18, the Senate adopted an interim extension of the title 38 leave-transfer authority that was included in an amendment—No. 757—that I offered to H.R. 2916, the fiscal year 1990 VA, HUD, and Independent Agencies Appropriations Act as passed by the Senate on September 28.

As to the 1-percent fee on VA-guaranteed loans and on the loans—known as vendee loans—that VA extends to the purchasers of homes acquired by VA upon the foreclosure of VA-guaranteed loans, it is important to note that these fees produce receipts of approximately $14 million per month for VA's loan guaranty revolving fund, which funds the operations of VA's home-loan guaranty program.

Mr. President, I have discussed this legislation with the distinguished chairman of the House of Representatives Committee on Veterans' Affairs, Mr. MONTGOMERY, and he has assured me that he will seek House action on this measure as soon as possible after Senate passage.

Mr. President, the provisions of this bill would prevent a hiatus in these important programs pending Senate and final congressional action on the legislation to make long-term extensions. I urge my colleagues to support this measure.

Mr. MURKOWSKI. Mr. President, I am pleased to join with the chairman of the Senate Veterans' Affairs Committee in introducing this interim VA program extension bill. I rise in strong support of this bill which would extend important VA program authorities which will expire on September 30, 1989. I regret that we are in this position where we must introduce and quickly pass this legislation. However, in all cases the Senate Veterans' Affairs Committee, on which I serve as the ranking minority member, has favorably reported legislation to extend the three authorities which we seek to temporarily extend.

EXTENSION OF RESPITE CARE PROGRAM

Mr. President, section 1(a) of this bill amends section 620B of title 38 to extend, until November 30, 1989, VA's authority to provide respite care. VA's

respite care program is defined as hospital or nursing home care of a limited duration which is furnished in a VA facility on an intermittent basis to a veteran with a chronic illness who resides primarily at home. It provides a rest for the patient's caregiver. The goal of the program is to maintain the veteran at home for as long as possible by allowing the caregiver to have scheduled breaks from caring for the patient. This is an important and useful program. S. 13 as reported by the Veterans' Committee would provide for a 2-year extension of this program.

EXTENSION OF HOMELESS CHRONICALLY MENTALLY ILL PROGRAM

Mr. President, section 1(b) of this bill amends section 115(d) of Public Law 100-322 the Veterans' Benefits and Services Act of 1988, to extend the Homeless Chronically Mentally Ill [HCMI] Program until November 30, 1989. According to VA's general counsel, without this extension authority, VA would lack the legal authority to enter into contracts to place homeless veterans in community-based halfway houses.

Mr. President, I have had an established interest in this VA program. In fact, on January 27, 1987, I offered an amendment to House Joint Resolution 102 to earmark $5 million for the treatment of homeless and certain other chronically mentally ill veterans and to establish a program to assist—through contracts with community-based psychiatric residential treatment centers—homeless and certain other chronically mentally ill veterans. This amendment was eventually enacted on February 12, 1987, as part of Public Law 100-6.

In May 1988, the authority for the program was changed from a general authority to a pilot program in Public Law 100-322. In addition, the Stewart B. McKinney Homeless Assistance Amendments Act of 1988—Public Law 100-628—authorized the appropriation of $15 million for the HCMI Program for each of fiscal years 1989 and 1990.

VA implemented its authority to conduct the program in May 1987, at 43 medical centers in 26 States and the District of Columbia. According to VA's second progress report of the HCMI Program, which was submitted to the committee on January 17, 1989, during the first 11 months of operation, over 10,000 veterans had needs assessments. Of these veterans, almost 50 percent had psychiatric exams and almost 30 percent had medical exams. Twenty percent—2,125 veterans—were placed in community residential treatment centers—at VA expense—which is the most costly part of the HCMI Program and is reserved for veterans with extensive clinical problems. According to VA's report, this program has been extremely effective in providing a broad range of services to the homeless veteran population.

I believe it is very important to act quickly so this authority will not expire.

STATE VETERANS HOMES

Mr. President, section 1(c) of the bill would amend section 5033 of title 38 to authorize appropriations of such sums as are necessary to carry out the State Veterans Home Grant Program for fiscal year 1990. Under this program, VA provides construction grants—of up to 65 percent of the cost of project—to States for the construction, remodeling, or alteration of State veterans homes. The President has requested $43 million in fiscal year 1990 for this program. That amount has been approved by the House and Senate in H.R. 2916.

LEAVE TRANSFERS FOR VA EMPLOYEES

Section 1(d) of the measure would extend, through November 30, 1989, VA's authority—as provided under section 618 of the Treasury, Postal Service and General Government Appropriations Act, 1989, Public Law 100-440—to operate a leave transfer program for medical emergencies of VA employees. Under such a program, leave accrued by a Federal employee may be transferred to the annual leave account of any other employee in order to assist the receiving employee during a time of medical emergencies.

EXTENSION OF HOME-LOAN FEE

Mr. President, section 2 of the bill would extend the requirement that VA shall collect a loan fee from veterans receiving a VA-guaranteed loan. The amount of the fee is 1 percent of the total loan amount. This is a temporary extension—and would apply to loans which are closed before December 1, 1989. Again, the Veterans' Affairs approved legislation to extend this loan fee.

I urge my colleagues to support this measure.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1709

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSIONS OF DEPARTMENT OF VETERANS AFFAIRS HEALTH-CARE PROGRAMS.

(a) RESPITE CARE.—Notwithstanding the provisions of subsection (c) of section 620B of title 38, United States Code, the authority provided by such section shall terminate on November 30, 1989.

(b) COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS CHRONICALLY MENTALLY ILL VETERANS.—Notwithstanding the provisions of subsection (d) of section 115 of the Veterans Benefits and Services Act of 1988 (Public Law 100-322), the authority for the pilot program authorized by such section shall expire on November 30, 1989.

(c) STATE HOME CONSTRUCTION GRANTS.—Section 5033(a) of title 38, United States Code, is amended in the first sentence by striking out "1989" and inserting in lieu thereof "1990".

(d) LEAVE TRANSFERS.—The authority of the Department of Veterans Affairs under section 618 of the Treasury, Postal Service and General Government Appropriations Act, 1989 (Public Law 100-440) to operate a leave-transfer program for employees subject to section 4108 of title 38, United States Code, is extended through November 30, 1989. The provisions of the final sentence of such section 618 shall apply to transferred leave that is unused as of November 30, 1989.

SEC. 2. EXTENSION OF DEPARTMENT OF VETERANS AFFAIRS HOME-LOAN FEE.

Notwithstanding the provisions of subsection (c) of section 1829 of title 38, United States Code, fees may be collected under such section with respect to loans closed before December 1, 1989.

SEC. 3. EFFECTIVE DATE; RATIFICATION.

(a) EFFECTIVE DATE.—The provisions of and amendments made by this Act shall take effect as of October 1, 1989.

(b) RATIFICATION.—Any actions of the Secretary of Veterans Affairs in carrying out the provisions of section 620B of title 38, United States Code, section 115 of the Veterans Benefits and Services Act of 1988, section 618 of the Treasury, Postal Service and General Government Appropriations Act, 1989, or section 1829 of such title, by contract or otherwise, during the period beginning on October 1, 1989, and ending on the date of the enactment of this Act are hereby ratified.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar No. 330, William A. Brown, to be Ambassador Extraordinary and Plenipotentiary of the United States to Israel; Calendar No. 367, John E. Frohnmayer, to be Chairperson of the National Endowment for the Arts; Calendar 368, Margaret P. Currin, to be United States Attorney for the Eastern District of North Carolina; Calendar 369, Stanley E. Morris, to be Deputy Director for Supply Reduction, Office of National Drug Control Policy; and all nominations on the Secretary's desk in the Navy reported today by the Armed Services Committee.

I further ask unanimous consent that the nominees be confirmed en bloc, that any statements appear in the RECORD as if read, that the mo-

tions to reconsider be laid upon the table en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

William Andreas Brown, of New Hampshire, a career member of the Senior Foreign Service, class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel, to which position he was appointed during the recess of the Senate from October 22, 1988, to January 3, 1989.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

John E. Frohnmayer, of Oregon, to be Chairperson of the National Endowment for the Arts for a term of 4 years.

DEPARTMENT OF JUSTICE

Margaret P. Currin, of North Carolina, to be U.S. attorney for the Eastern District of North Carolina for the term of 4 years.

EXECUTIVE OFFICE OF THE PRESIDENT

Stanley E. Morris, of the District of Columbia, to be Deputy Director for Supply Reduction, Office of National Drug Control Policy.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE NAVY

Navy nominations beginning Warren V. Ayers, and ending Mary Arlen Southerland, which nominations appeared in the CONGRESSIONAL RECORD of April 4, 1989. (List reported and confirmed minus one name: Paul B. Thompson.)

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

Mr. MITCHELL. Mr. President, I note for the record, as I have previously, that there are six remaining ambassadorial nominations: Richard Wood Boehm, to be Ambassador to the Sultanate of Oman; Warren A. Lavorel, to be United States Coordinator for Multilateral Trade Negotiations; Johnny Young to be Ambassador to the Republic of Sierra Leone; Lannon Walker, to be Ambassador to the Republic of Nigeria; Mark Gregory Hambley, to be Ambassador to the State of Qatar; and James R. Cheek, to be Ambassador to the Republic of Sudan.

These were among a group of nominations reported by the Senate Foreign Relations Committee on Tuesday, September 19. This cleared for approval on the Democratic side of the Senate on Wednesday, September 20. I presented them at that time for action by the full Senate but that action was denied because of a hold placed by a Republican Senator. I presented them again on Friday, September 22, with a request that they be approved by the Senate.

Consent was not given for their approval again at the request of a Republican Senator. I present them again today and understand that they are still not able to gain clearance on the Republican side as the distinguished Republican Senator and I have discussed this twice before. We are trying to expedite these Presidential nominations at the request of the President. These are six individuals who are, of course, waiting to take their positions.

I just want the record to show that we are prepared to do them, we want to do them, but we are prevented from doing so by a hold placed by a Republican Senator.

I hope very much that we will be able to get them cleared in the near future. I know the distinguished Republican leader has been making an effort in that regard. I appreciate his effort in that regard.

Mr. DOLE. I appreciate the statement by the majority leader. I certainly share the views he has just expressed. I know of no reason these nominees are being held except they are being held. I do not think there is any question about their qualifications. There is no question that they have been approved, and they have been on the calendar for 10 days. In my view they would like to make plans. With their families. Most are going overseas. They are not going to be here in Washington, DC. They will be going to Sudan, and other countries, Sierra Leone, the Republic of Nigeria, the State of Qatar; very important assignments.

I certainly underscore the majority leader's hope that by early next week these nominations can be confirmed, and these nominees can get on with their work.

I regret that there is a hold on the Republican side. I can understand from time to time because of qualifications or some reason there might be a hold. I have not yet been able to determine why there is a hold on these particular nominees but there is a hold. I know we do not honor holds but it is a question of timing, how much time we have to move on different nominees. I appreciate the comments of the majority leader and hopefully we can wrap these nominations up early next week.

Mr. MITCHELL. I thank the distinguished Republican leader for his comments, and I share the view which he has previously expressed, for it makes no sense for a Republican Senator to prevent approval of nominations of Republicans made by a Republican President, particularly since the President has consistently urged prompt action on his nominees, and we are trying to accommodate him. So I hope we will be able to act on these next week.

Mr. President, I want to extend my thanks to the Republican leader for his usual cooperation during what has been a very long and difficult week.

I think there will be a few more ahead. I think we are all grateful that we have reached the end of a difficult week and have made progress.

I note for the record that we were able, thanks in part, and due to the distinguished Republican leader's cooperation, to complete action on all of the 13 appropriations bills in the Senate prior to the end of the fiscal year. I am deeply disappointed that we were not able to proceed to the point that we could have completed final action on conference reports, but I hope we are going to be able to do that in the very near future as conferees meet and send the reports to the respective bodies.

Mr. DOLE. If I might add, I certainly want to commend Senator BYRD, the chairman of the Appropriations Committee, and Senator HATFIELD, the ranking member, for their work, and the members of the their staff and other members of the Appropriations Committee.

It is not very often that we complete action on all 13 appropriations bills. Some will be coming back to us, I assume, next week, some conference reports. We might have quite a few out of the way before October 1.

In addition, I think we demonstrated we can move very quickly in response to calamaties in this country. We acted very quickly on the continuing resolution, which contained $1.1 billion to help those in North and South Carolina, Puerto Rico, and the Virgin Islands, and the President signed that measure this morning.

I think, again, the Congress did respond. There was a need to respond, and I thank the majority leader for his leadership and his willingness to persist, sometimes against rather formidable odds, particularly in late evening, but we have the appropriations bills behind us, and there is still as much to do. I hope we can still complete action by Veterans Day of this year.

Mr. MITCHELL. That remains my goal, hope, and intention.

RECESS UNIT MONDAY OCTOBER 2, 1989, at 2 P.M.

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business, and if no other Senator is seeking recognition, I ask unanimous consent that the Senate now stand in recess, under the previous order, until 2 p.m. on Monday, October 2, 1989.

There being no objection, the Senate, at 4:51 p.m., recessed until Monday, October 2, 1989, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate September 29, 1989:

DEPARTMENT OF STATE

William Clark, Jr., of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to India.

THE JUDICIARY

Hart T. Mankin, of Delaware, to be an Associate Judge of the United States Court of Veterans Appeals for the term of 15 years. (New Position-Public Law 100-687.)

Zinora M. Mitchell, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of 15 years, vice Reggie Barnett Walton, resigned.

DEPARTMENT OF ENERGY

William H. Young, of New Jersey, to be an Assistant Secretary of Energy (Nuclear Energy), vice Theodore J. Garrish, resigned.

NATIONAL LABOR RELATIONS BOARD

Dennis M. Devaney, of Maryland, to be a Member of the National Labor Relations Board for the term of 5 years expiring December 16, 1994. (Reappointment.)

NATIONAL MEDIATION BOARD

Patrick J. Cleary, of Virginia, to be a Member of the National Mediation Board for the term expiring July 1, 1991, vice Helen M. Witt, resigned.

Joshua M. Javits, of the District of Columbia, to be a Member of the National Mediation Board for the term expiring July 1, 1992. (Reappointment.)

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of Title 10, United States Code, Section 1370:

To be lieutenant general

Lt. Gen. Ronald L. Watts, xxx-xx-xxxx U.S. Army.

IN THE NAVY

The following named captain in the Staff Corps of the United States Navy for appointment to the permanent grade of rear admiral (lower half), pursuant to Title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

DENTAL CORPS

To be real admiral (lower half)

Capt. Carmen A. Ciardello, Jr., xxx-xx-xxxx xxx-.../2200, U.S. Navy.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 29, 1989:

DEPARTMENT OF STATE

WILLIAM ANDREAS BROWN, OF NEW HAMPSHIRE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ISRAEL.

EXECUTIVE OFFICE OF THE PRESIDENT

STANLEY E. MORRIS, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY DIRECTOR FOR SUPPLY REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JOHN E. FROHNMAYER, OF OREGON, TO BE CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE ARTS FOR A TERM OF 4 YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

MARGARET P. CURRIN, OF NORTH CAROLINA, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF NORTH CAROLINA FOR THE TERM OF 4 YEARS.

IN THE NAVY

NAVY NOMINATIONS BEGINNING WARREN V. AYERS, AND ENDING MARY ARLEN SOUTHERLAND, WHICH NOMINATIONS APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 4, 1989. (LISTED REPORTED AND CONFIRMED MINUS ONE NAME: PAUL B. THOMPSON.)

SENATE—*Monday, October 2, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Blessed is the Nation whose God is the Lord.

"We hold these truths to be self-evident, that all men are created equal and that they are endowed by their Creator with certain inalienable rights * * * to secure these rights governments are instituted among men, receiving their just powers from the consent of the governed."

Eternal God, Creator, giver of life and breath and all things, we thank Thee for the unprecedented freedom which is our legacy. We honor our Founding Fathers whose profound understanding of human rights envisioned a political system which has endured for 200 years and today is a model which is the hope of millions who have lived under oppressive godless governments. Help us Lord, not to take this gift of freedom for granted, nor to forget the Biblical roots from which it came. Grant us wisdom to appreciate the inevitability of repression when materialism is policy and spiritual reality is denied. Awaken us to the peril of liberty when the insidious disease of secularism prevails. While we abhor a system which repudiates human rights, save us from the illusion that such rights can be preserved apart from faith in God and a commitment to those values derived from such faith.

In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized under the standing order.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE SCHEDULE

Mr. MITCHELL. Mr. President, following the time for the two leaders, there will be a period for morning business until 2:30 p.m. today. At that time the Senate will proceed into Executive Session to consider the nomination of Joseph Zappala to be Ambassador to Spain, with debate only on the nomination today. There will be no rollcall votes today.

AMERICA'S RESPONSE TO CHANGES IN POLAND

Mr. MITCHELL. Mr. President, on September 12, a historic event occurred. A largely non-Communist government formally assumed power in Poland. This extraordinary event symbolizes the dramatic change underway in much of Eastern Europe, change that clearly reveals the failure of communism, change which offers an unprecedented, an indeed historic opportunity for democracy, and the West.

Days after the change of government in Poland, I spoke at length about the American response, I hoped would be forthcoming. I expressed my disappointment regarding the administration's failure to play an active leadership role in shaping a comprehensive Western policy toward Poland.

I noted that the President's proposal for Poland, aiming to change a Communist-controlled country, was wholly inadequate to assist the Solidarity-led government in successfully implementing economic and political reform.

I outlined the need for a more significant and comprehensive approach, an approach that includes a greater commitment to initiatives to foster private investment and enterprise in Poland, to expand trade opportunities between our two countries, and to reduce Poland's external debt. I called upon the administration to exert American influence among our allies and within international institutions such as the International Monetary Fund and the World Bank to speed efforts to alleviate Poland's crushing debt burden.

I encouraged the President to respond swiftly and creatively to the enormous opportunity before us, and I pledged to work with him toward that end.

The events that have since occurred have been encouraging, but I believe that the administration has yet to fully comprehend and seize this historic opportunity to promote political and economic freedom in Poland.

I am pleased that the President clearly has stated his intention that the United States be in the forefront of the international effort to assist Poland.

The President's call for the IMF and World Bank to work with Poland to rapidly develop a bold plan for economic recovery is a positive step which I hope will be followed by sustained administration attention and encouragement.

Most significant is the President's stated recognition that the United States must do more to assist the new Polish Government, a direct and candid acknowledgment of the inadequacy of the administration's initial response.

It is my hope that the administration will not, as some officials have implied, rely solely upon participation in the efforts of the IMF and the World Bank. I strongly support active participation in these institutions which provide loans linked to strike financial criteria. But I believe that the United States also can pursue a more imaginative policy capitalizing on American strengths and targeted toward Poland's specific and immediate needs. Fundamentally, it appears that the administration remains hesitant to move forward until Poland's economic reforms already are fully in place. In light of our great stake in the success of the new Polish Government, I believe this response is excessively timid.

Last week, I met with the Polish Deputy Prime Minister and Finance Minister, a leading architect of Poland's economic reform program. He described in detail the plan to cut government subsidies, privatize industry, stabilize the currency, encourage private enterprise and take other steps to move Poland toward a free market system. He expressed Poland's hope that the West would help provide the short-term assistance necessary to restore confidence and enable the new government to move ahead.

There is no doubt in my mind that the Solidarity-led government is firmly committed to transforming Poland's economic system. The only question is whether the West will make it possible for this transformation to succeed.

The European Economic Community appears to recognize the critical and immediate need for a concrete Western commitment to ensuring Poland's success.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

We in Congress have made it clear that we want the United States to make a similarly dramatic commitment to helping the Polish people achieve full economic and political freedom. The Senate Foreign Relations Committee has proposed an extensive package of financial, technical, and medical assistance in conjunction with trade and investment benefits. The House Foreign Affairs Committee is drafting its own comprehensive package to assist Poland's economic reform process.

Congress will do its best to ensure that the United States does, in fact, play a leading role in encouraging the success of Poland's brave experiment. Clearly our effort will be most effective if it is supported by the administration. I hope the administration will join us in an effort to provide a practical and creative package of assistance to Poland.

I call upon the administration to abandon its timidity and to take advantage of this historic opportunity to provide the kind of help that is necessary for democracy and open government to succeed in Poland.

Mr. President, since the close of the Second World War, the United States has spent not billions, not hundreds of billions, but trillions of dollars to provide military equipment to use if needed to defeat communism by force of arms. In Poland, we see the defeat of communism not by force of arms but as a result of its own internal failure. Communism is a failure.

People the world over want freedom and economic opportunity. Communism has failed to provide either. And in Poland, the peaceful transformation of a government from a Communist to a non-Communist system, the transformation of an economy from a state-run to an open economic system ought to be hailed by the United States. We ought to provide assistance to help democracy succeed peacefully with the same energy, vision, and enthusiasm that we would be demonstrating if called upon to help communism fail by military means.

So I encourage the President, having already acknowledged the inadequacy of his initial proposal, to now join with us to come forward with bold, productive, and meaningful steps to provide the assistance necessary to help democracy succeed.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I reserve the time of the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the remainder of the majority leader time is reserved and the time of the Republican leader is also reserved.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time for morning business be extended to 2:45 p.m. today and that the Senate then proceed into executive session under the previous order.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDENT pro tempore. The Senator from South Carolina [Mr. HOLLINGS] is recognized for 5 minutes.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the majority leader extend my time for my remarks to 15 or 20 minutes. I will try to limit it as much as I can. I want to make one coherent statement about Hugo.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from South Carolina be recognized for 15 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SOUTH CAROLINA EXTENDS GRATITUDE FOR ASSISTANCE

Mr. HOLLINGS. Mr. President, permit me to report to the Senate on my firsthand observations of a South Carolina struggling courageously to get back on its feet. Saturday and Sunday, I met with literally dozens of people whose homes were completely wiped out by Hurricane Hugo. They and tens of thousands like them have absorbed a tremendous shock, to their property and to their spirit. But they are determined to rebound and rebuild.

On that score, Mr. President, the Senate should be aware of the gratitude of the people of South Carolina for the tremendous outpouring of assistance from all across the country.

A few snapshots will give you some idea of the high morale and spirit of the recovery effort. Yesterday, Kelly's restaurant at Nags Head, NC, together with some half dozen restaurants in that community sent two big truckloads to Charleston loaded with some of the best-tasting food you have ever eaten, and we had the privilege of sharing it on Marion Square with hundreds of volunteer workers who had come from all corners of the United States. Words are inadequate to express our gratitude to those volunteers for all they have done and continue to do.

I will never forget the Cumberland County law enforcement group from North Carolina; the Ocean City group; Virginia Beach sent down 35 garbage trucks, plus a dozen or so firemen; South Bend, IN, sent volunteers from the Notre Dame section; Houston, TX; Stuttgart, AR; and Pompano Beach, FL, sent an entire public works team along with equipment; Fort Lauderdale sent similar teams; Green County, outside of Atlanta, GA, has contributed similarly.

There were volunteers from Laconia, New Hampshire; from Seattle, Washington; from Alaska; and even from Hong Kong. The man from Hong Kong told me he was an exporter and happened to be in town on business, so he decided to stay and help with the cleanup.

I couldn't help thinking of all the bills aimed at encouraging volunteerism. Believe me, we already have it in this country, a tremendous sense of wanting to pitch in and lend a helping hand. A decade ago, we heard a President talk about America's malaise. Well, I say "Hold the malaise." You don't have to worry about the spirit of this country. It is strong and thriving. Some 200 policemen have come to Charleston from around the State. The town of Awendaw lost eight cars, so North Augusta and Aiken sent patrol cars; Greenville sent help too.

Yesterday afternoon, the city of Toms River, NJ, adopted the town of McClellanville, which had been totally wiped out. Yesterday afternoon 38 18-wheelers arrived, full of equipment, led by a police escort and three fire engines. All kinds of equipment just moved right in from Toms River, NJ.

The Southeastern Lumbermen's Association in Atlanta called me this morning and now we are coordinating delivery of lumber free of charge to help in the reconstruction. There is a mill in Prosperity that sent 3,700 pair of work clothes, and so forth.

The telephone company, particularly Mr. Byrd in Columbia, and Joe Addison, have been outstanding. We have gotten what we needed in communications.

The South Carolina Electric & Gas Co. has been outstanding. They have been working nonstop. They brought in crews from Alabama and Mississippi; the Salvation Army, the Red Cross, the National Guard. You cannot say enough for those folks who have been working with such dedication, virtually around the clock, for 11 days now. And a very special word of praise and thanks to the Coast Guard, the Corps of Engineers, the Army and Marines; they have been Johnny on the spot, performing with urgency and professionalism from day one of this crisis. The morning after Hugo hit, the Coast Guard had ships out at first light to look for survivors.

I called up to ask for assistance from our friends who played key roles in the aftermath of Hurricane Camille. I knew Bill Simpson as an administrative assistant to former Senator John Stennis. I said, "Bill, reassemble that Camille working group because they could help us coordinate." And immediately I saw them Friday night out at

the command center; eight of them paid their own way to South Carolina. They had ridden herd on the bureaucracy and paperwork when Camille hit down in the gulf. With their experience, they are in Charleston coordinating and directing our people in law enforcement. Everyone was tickled to death to get their expertise.

Corporate America, Mr. President, has responded in a most impressive way. Metropolitan Life; Philip Morris; Westvaco; Monsanto; all have made generous cash contributions.

The Taubman Co. up in Detroit sent down a young woman named Joyce Storm to oversee repair of the Omni Hotel in Charleston. She is now playing a major role in the citywide relief effort. I noted last week on the floor how Sam Walton had sent in 17 tractor-trailers from Walmart, and others were coming in. Well, it was a phone call from Joyce Storm that set all that in motion. She is working around the clock with volunteers, and becoming a local hero in the Charleston area.

Sunday morning I thanked one fellow working on a forklift which he was wheeling and dealing like an old pro. I said, "Thank God we have an expert." He said, "I have never been on one of these until yesterday, but I have been working it all day yesterday, all night, and all day today." I mean, he knew how to operate it.

So, Mr. President, this is the spirit of voluntarism and professionalism and tireless dedication that is carrying the day in South Carolina right now.

I could extend this at length, and I regret all the names I might have accidentally left out. I want to emphasize, after talking with Mayor Riley, Joyce Storm and the coordinating officials from every angle, that what we need, Mr. President, more than anything else is the expertise and manpower to handle the tons of supplies that are coming in from all over the country.

I started Monday morning a week ago urging Gen. Colin Powell to mobilize the Army's expertise. But, as I related on the floor last week, the FEMA crowd stopped us, roadblocked us; just stonewalled the whole thing. It was not until Friday that we got FEMA set up in the municipal auditorium. We need more. And the reason we need more is not for a lack of volunteers. We have people working now trying to get back to their families and their homes and their jobs. We need, especially in the rural areas, the face and presence of authority.

If we could have more troops from the supply brigades down in Fort Stewart, they would be a tremendous help. They could help us coordinate. When you send 38 18-wheelers into a little town like McClellanville, there is no place to unload and no way to deal with it. A supply brigade could work wonders in the town of McClellanville. Another team could go to Oranville.

After all, there are 24 counties affected in South Carolina. In each area they could use this expertise in coordination. We need most of all, with everything coming in, to ensure that is does not spoil, but is put to proper use and expeditiously delivered, because we have over 40,000 homeless, we have between 250,000 and 300,000 without electricity at this very moment. We need to be getting supplies to the people they are intended for and who critically need them.

At the same time, we need to clear the debris. I noticed in the morning paper how nearly 80 truckloads of debris were collected in a single quarter-mile stretch of road in Charleston. They have had a devil of a time just trying to clear out downed trees in all the small towns and particularly in the metropolitan areas of North Charleston, Charleston, Summerville, and so on. Meaning, of course, the electric and gas company is having great difficulty getting to their own downed lines. If we had the crews to come in with the equipment, the manpower to clear the debris and just systematically go about it, it would take them a good 10 days, going day and night at very least. Otherwise it will be this time next year, and I am not being facetious or talking lightly, it will be next year before we can get the job done.

Of course we also need homes for the homeless. Thousands and thousands of people have been put up in what is left of the schools, what is left of the churches. We have trailerhouses in reserve for this situation. There are thousands of them in Atlanta, in Texas and elsewhere. We need to start moving these trailers to rural areas where there is nothing being done. We need to get these folks in the trailers so their families can stay put and they can go to work, so we can begin to open up the schools again, because they have been closed, the schools and colleges, over this entire 11-day period.

I ran into this bottleneck of State officials worrying that they might be responsible for reimbursing the Feds for up to 25 percent of particular disaster-relief efforts. The choke point and bottleneck with FEMA and the State authorities in Columbia is they are all worried about the State running up a bill. I want to read section 502 of the Federal Emergency Assistance Act that we enacted last year, Public Law 100-707.

SEC. 502. FEDERAL EMERGENCY ASSISTANCE.

(a) SPECIFIED.—In any emergency, the President may—

"(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical and advisory services) in support of State and local emergency assistance efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe;

"(2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments;

"(3) provide technical and advisory assistance to affected State and local governments for—

"(A) the performance of essential community services;

"(B) issuance of warnings of risks or hazards;

"(C) public health and safety information, including dissemination of such information;

"(D) provision of health and safety measures; and

"(E) management, control, and reduction of immediate threats to public health and safety;

"(4) provide emergency assistance through Federal agencies;

"(5) remove debris in accordance with the terms and conditions of section 407;

"(6) provide temporary housing assistance in accordance with section 408; and

"(7) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance.

"(b) GENERAL.—Wherever the Federal assistance provided, under subsection (a) with respect to an emergency is inadequate, the President may also provide assistance with respect to efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe.

So, we have clear authority in the law itself. There is some question with respect to the grants that may go out as emergency disaster financial aid, that the State may have to pay up to 25 percent of it. But when we look at the total cost, some $4 or $5 billion, and that includes the Virgin Islands and Puerto Rico, as well as the Carolinas, I cannot imagine 25 percent of that, a billion, coming out of South Carolina, Puerto Rico and the Virgin Islands. We simply do not have it. We do not have it and it was not intended that we have it. It was intended only that we be vigilant, prudent, and not wasteful.

Mayor Riley and officials in Columbia are working hard to avoid waste. Their priority is to get people back to normal, back to work so they can fend for themselves. They are working around the clock. I have never seen anything like it.

The statute is clear. The authority is there. It should not be a roadblock, but a "go" signal. I think we can move if we can get this FEMA crowd moving.

I intervened this past weekend with Susan Engeleiter of the Small Business Administration, after we had passed our bill on the floor, Friday afternoon, with $1,050,000,000. I said: "Can you light a fire under the Small Business Administration's disaster-response group?"

She said: "Yes, I cannot only help, I can open up those offices in South

Carolina, as many as you need, Senator."

I said: "Well, can't you take on that FEMA crowd and let us expedite it?" I would make a wager on the floor of the U.S. Senate there has not been $1 delivered to anybody in South Carolina as of this minute. This is 11 days after the disaster. They have been buzzing around and bumping into each other but they are telling everybody in lines to fill out forms, come back October 7, and all this nonsense.

We need coordination. And I have called again on the Small Business Administration, because we do not yet have those offices.

Mr. President, I have mentioned a number of organizations that have responded with great skill and dedication to this crisis. Certainly, the U.S. National Weather Service must be near the top of anyone's list. They have performed magnificently before, during, and after Hugo. It was the Weather Service's accurate and timely forecasts that saved so many lives and allowed us to avoid even worse destruction. My hat is off to this superb outfit. It consistently does the government proud.

I also need to thank the many Senators and the volunteers they have mobilized. I want to thank those Senatorial staffs sending people to South Carolina to help with food stamp distribution and in other capacities. Many drove all night from New Jersey and elsewhere. I want to particularly thank Senator LAUTENBERG, whose staff rented a van and drove donated supplies to Williamsburg County; Senator ROBB, whose staff collected and delivered a huge collection of supplies; also Senator CONRAD, Senator SIMON, Senator DODD, Senator KENNEDY, Senator MITCHELL, Senator BENTSEN, Senator MCCAIN, Senator FORD, Senator HEINZ, Senator FOWLER, Senator WIRTH, and Senator SARBANES. And the Capitol Policeman outside Russell Building came in a little while ago—I know he does not want any publicity but is name is Jack Ballard—with a financial contribution of his own. I am touched and grateful.

People are great in this country. There has been a tremendous sense of urgency and human concern. Of course, this is in stark contrast to the stonewalling up here from FEMA. Yes, they have declared 24 counties as disaster areas, but they do not have but 10 offices open for all of South Carolina, if they have indeed opened the additional 5. This is 11 days after the disaster. They have not yet awarded a financial grant that I know of.

The SBA has yet to process a loan. If they started today that would be fine. That would be the first that they have processed.

Bishop James of the AME Churches in South Carolina has organized an excellent grassroots relief effort. Mr. President, I cannot praise too highly the stalwart leadership of our Charleston mayor, Joe Riley. He has just done a magnificent job, working around the clock. He had them all out there with T shirts reading "We are working together." Mr. President, the spirit is there. People are not despairing or fussing or complaining, but rather we are all in this together. We will build a stronger community out of the wreckage. And the best way is to not complain but go to work.

I must speak the blunt truth, however, that we at the Federal level have been embarrassed by the holdup we are suffering at FEMA and SBA. In that regard, I close with several paragraphs from this morning's edition of USA Today. I quote:

"I should say the next decade or two we should see more intense west Atlantic storms."

That prediction is little comfort to South Carolina residents who are still digging out—irate at the slow pace of aid.

Even the Federal Emergency Management Agency's public service announcements have opened it to ridicule.

Sunday, 10 days after Hugo wreaked $5 billion in damage, FEMA aired a spot advising residents to have candles, batteries and full tanks of gas in case of a hurricane.

And 14 days after Hugo hit St. Croix, FEMA officials today set up two aid centers.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll, the absence of a quorum having been suggested.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I ask unanimous consent that I may speak as in executive session on the nomination of Joe Zappala, to be U.S. Ambassador to Spain.

The PRESIDENT pro tempore. Without objection, the Senator may speak as in executive session for not to exceed 5 minutes. The Senator is recognized.

JOSEPH ZAPPALA—IN THE BUSINESS OF AMERICA

Mr. GRAMM. Mr. President, I rise in support of Joe Zappala for Ambassador to Spain. Joe Zappala is the son of immigrant parents who came to this country from Italy. He joined the Army when he was 17 years old.

He went into business in Florida and has become one of the State's leading businessmen. In the process, he has helped create tens of thousands of jobs and generated economic growth, but he has not just been involved in business and job creation, as important as that is. In fact, Calvin Coolidge once said the business of America is business, and in that sense Joe has been in the business of America. But he has also been very active in efforts related to drug awareness and education and rehabilitation. He has been involved on behalf of retarded children. He has been heavily involved in community activities.

I know, Mr. President, that debate will occur as to whether Joe Zappala is qualified to be U.S. Ambassador because he does not have experience in the State Department. It seems to me that that is a relevant debate. I think experience in the State Department and knowledge of the foreign policy mechanism of America is a legitimate issue to raise. But I think also knowledge of America is a legitimate issue to raise.

More than anything else, the Ambassador of the United States in Spain represents our country, and I cannot think of anyone who is a better representative of what America is all about than the President's nominee for Ambassador to Spain. I think while we should and obviously have raised questions about the nominee's knowledge of the State Department, I think we ought to also be debating this nominee and other nominees' knowledge of America.

I would have to say, Mr. President, that I have complaints from time to time about professionals within the State Department, not a complaint about their knowledge of the State Department, but a complaint about their knowledge of America. I think in this case, we have someone who is the epitome of what the American system is all about. I think he will be an excellent representative of our Nation.

I commend the President for nominating him. I am strongly in support of him. In Joe Zappala, we have someone who will be a representative of America, who understands our system, whose life is the embodiment of that system.

Quite frankly, Mr. President, I would rather have someone who understands our system, what we are all about, what we are trying to do, than have somone who knows all about the State Department but who has relatively little experience in the business of America.

So, as a result, I am a strong supporter of this nomination, and I urge my colleagues to vote for Joe Zappala for Ambassador to Spain.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll, the suggestion having been made that a quorum is not present.

The assistant legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. SASSER. Mr. President, I ask unanimous consent that morning business be extended by 10 minutes.

The PRESIDENT pro tempore. Is there objection? The Chair hears none. Morning business will be extended for 10 minutes. The Senator from Tennessee [Mr. SASSER] will be recognized for 10 minutes.

Mr. SASSER. I thank the Chair.

"DROP-DEAD" DAY

Mr. SASSER. Mr. President, we face a drop-dead day 2 weeks from now, a drop-dead day with regard to this year's budget process, but there is still time, I believe, and still sufficient energy in this body to get us through the appropriations conferences, through the reconciliation bill, and through the reconciliation conference. There is still a narrow window of opportunity and I think a glimmer of hope that we can avoid an ultimate sequester under the Gramm-Rudman-Hollings law.

But if that is to occur, we are going to have to act now. It is absolutely imperative that we move with dispatch. I do not believe a single Member of this body wants across-the-board spending cuts. I am confident of that. But in the rush of business it is frequently very hard for us to focus very far down the road. Let me take a moment, if I may, to telescope events and to describe what I think we will be facing if the sequester action is allowed to fall on October 15.

The best estimates are that if we fail to complete reconciliation, we are going to face a $16 billion sequester on October 16. That would constitute the following problems: One, a 5-percent across-the-board cut in nondefense programs that are not exempt from sequester. That is going to include almost all appropriated accounts for nondefense programs and some entitlement programs. It will cut some $6 billion through the 1990 fiscal year. The 5-percent cut would apply to the portion of funds appropriated in each continuing resolution as well.

Second, a 4-percent across-the-board cut from defense programs would occur. This would apply to military personnel accounts as well as other defense accounts since the President has chosen not to exercise his option under the Gramm-Rudman-Hollings law and exempt military personnel.

Defense budget authority would be cut by $4.4 billion below the 1989 budget authority level. As with the domestic cuts, the defense cuts would apply equally to the portion of funds appropriated in each continuing resolution.

Mr. President, nobody wants the chaos, I do not believe, that will ensue if we do not act quickly. But I fear that our sense of urgency is somehow diminished by the fallacious presumption that we will simply roll back all of the negative effects, unwind the sequester, and make everything all right once again.

Well, I suppose it is possible to do that but let us not be under the illusion that no one is going to notice the sequester; and that no one is going to experience discomfort or disruption.

The fact is that some programs, those that expired on October 1, are already feeling some negative affects.

Guaranteed student loans fit into that category, and both lenders and recipients, the students themselves, are already feeling some of the pain. GSL lenders are receiving reduced interest and new students are paying higher origination fees on their loans. Those things are going on right now.

Some disaster assistance payments under the Farm Relief Program are also being cut.

Further, Mr. President, should we miss our October 15 deadline, Medicare providers are going to be receiving about 2 percent less in their payments, and some Medicare beneficiaries will have their reimbursement checks reduced by about 2 percent.

If we trigger sequester, all of that is going to take place no matter how quickly we undo the damage.

And the most frustrating part of this entire logjam—as I said here a week ago when we were first beginning to see the spectre of sequester darkening the horizon—the most frustrating part of this stall in the process is that it simply does not have to be this way.

Once again, Mr. President, the various authorizing committees in the Senate are complying with their deficit reduction instructions. The appropriations committees are reporting bills that are within the targets established by the budget resolution—a budget resolution, I might add, that was agreed to very early this year by a bipartisan team from the administration and the Congress.

In short, the dominoes were falling neatly and in order until we came to the bridge washed out by the capital gains debate.

Mr. President, if we do indeed founder on the capital gains issue, if we do indeed cause the country the unnecessary confusion of sequester, the administration will bear the great burden of that failure of responsibility.

The sad fact is that the budget reconciliation bill has become the vehicle for virtually everything but deficit reduction. The privileges written into the reconciliation process are being used to undercut the objectives toward which reconciliation was supposed to be directed.

When the administration insisted on using reconciliation to push their capital gains agenda, they flung open the flood gates and all the extraneous issues rolled in.

My colleagues on the other side of the aisle have produced a 40-page document that lays out the various extraneous provisions in the budget reconciliation bill. The bulk of that list relates to the House where the Byrd rule does not apply. And we, in this body, have done a better job of sticking to what is in fact at issue in reconciliation, the budget and this country's fiscal well being.

But Mr. President, those are precisely the issues that have been ignored as we fix our attention almost exclusively on the battle between capital gains and individual retirement accounts. And as that battle takes center stage, other issues irrelevant to deficit reduction get fought out on the periphery.

That is not how it was meant to be. That is not how it should be.

Mr. President, we still have the opportunity to get our eyes back on the prize, even if it's only for long enough to reach the modest deficit reduction goals we set for ourselves this year.

I want to urge all my colleagues who are involved in the reconciliation process to move just as quickly as possible. I want to congratulate the chairman and members of the authorizing committees in this body, who have worked long and hard to meet their reconciliation instructions and to report them on time.

I went to congratulate the chairman of the Appropriations Committee, the chairmen of the various appropriations subcommittees, and the members of the appropriations subcommittees who have worked long and hard to reach the modest deficit reduction goals that were set in conjunction with a solemn agreement with the administration earlier this year.

If we can complete action on the floor by the close of this Friday, we still have a chance to go to conference with this bill next week and meet our targets, and meet our responsibilities. It simply is not in this Nation's best interests to let the tail of capital gains, President Bush's campaign promise of last year, continue to wag the dog, to bog this body down and to keep it from meeting its responsibilities, doing its duty, and avoiding sequester.

I yield the floor.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, today marks the 1,661st day that Terry Anderson has been held in captivity in Beirut.

In October of last year, a videotape was released by Terry Anderson's captors. I ask unanimous consent that a Washington Post article on this subject be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 1, 1988]

HOSTAGE, ON VIDEOTAPE, FAULTS U.S. EFFORTS TOWARD RELEASE

(By Nora Boustany)

BEIRUT, October 31.—American hostage Terry Anderson appeared in a videotape released today by his Shiite Moslem captors and said the U.S. government may have blocked agreements to release him. He added that the plight of the hostages has received little attention in the presidential campain.

Anderson urged President Reagan and his successor to cooperate with "those who are trying to find a way out of this terrible impasse." He said that he had heard the "warming story" of U.S.-Soviet cooperation to free three trapped whales and called for comparable efforts toward gaining the release of the hostages.

The Associated Press journalist, who has been held more than 3½ years, longer than any other U.S. hostage, made his plea in a 2½-minute videotape distributed by the Iran-backed Islamic Jihad organization to two international news agencies this morning.

[In Los Angeles, Reagan denied that the United States had blocked any deal to free the American hostages and he accused the "barbarian" kidnapers of forcing Anderson to read a false statement. "I don't think that was Terry speaking," Reagan told reporters. "I think he had a script that was given to him. When I was given a script, I always read the lines."]

On the tape, Anderson, who marked his 41st birthday last week, spoke assertively, appeared clean-shaven and trim and assured his family, friends and the American people that he was being "well treated." But he conceded that he found it hard to keep his spirits up.

Release of the tape came amid a flurry of Islamic Jihad statements accompanied by photos of Anderson—five in the past 10 days—in what observers here saw as a sign that his captors are eager to free him soon.

Shiite Moslem security sources said they would not be surprised if some of the nine American hostages were released in the coming week, before the American presidential election. Western diplomats watching hostage developments here said, however, that they had seen no indications that a release was imminent.

"I gather there has been very little discussion of our problem in the U.S. presidential campaign, and that's disappointing, as is President Reagan's complete failure to find a solution," Anderson said on the tape.

"All that is necessary is that Mr. Reagan and Mr. Bush, if he is elected, use their influence in a positive way, not a negative one, with those who are trying to find a way out of this terrible impasse," he said, reading from a prepared statement.

Referring to the United States' declared principle of not negotiating with kidnapers, Anderson said, "I am not asking Reagan to deal with terrorists, although Mr. Bush did so in the Iran-contra affair and the [1985] TWA hijacking."

Anderson also charged that the U.S. government obstructed agreements that could have led to his release.

"I was very close to being released several times over the past two years but each time it seems that the U.S. government uses its influence to stop any agreement from being made," he said.

Anderson said that "whichever candidate wins this election, remember: an unyielding refusal to deal with this matter is not going to make it go away, it's not going to free us."

"I heard on the radio of the generous and ambitious effort to free three trapped whales a few days ago and of the president's thanks to the Soviet Union for its help," he said. "It is a warming story. That kind of cooperation and spirit is absolutely necessary to put this situation to an end."

Anderson opened the tape, the third showing him that has been released by Islamic Jihad since his capture in March 1985, by saying: "My name is Terry Anderson and this is the 30th of October. Once again I'm given the chance to speak to my family and to my friends and to the American people."

"First to my family, I love you and I miss you very much. I know of your continued strong efforts for me," he said. he also expressed gratitude to friends, fellow journalists and other people who have worked on his behalf.

He asked various relatives, including "Dad," to "kiss my daughters for me," an indication that he is not aware his father died in 1986.

A TURNING POINT FOR ANGOLA

Mr. HATCH. Mr. President, while most of the world, media, and political attention in recent months have focused on the events in China, the Soviet Union, and Eastern Europe, and equally momentous set of events has occurred in southern Africa.

During no other time in the past 14 years have the prospects for peace, freedom, and the exchange of ideas shown more progress in the little heard of but vitally important country of Angola. If this potential is going to be carried to its final conclusion, the United States must turn our bipartisan policy of support for national reconciliation and support for free and fair elections into active engagement in the region.

How many of us imagined 1 year ago South Africa, Cuba, and Angola would sign an agreement to acheive the independence of Namibia and the withdrawal of Cuban forces from Angola. Today, Cuban troops are leaving Angola and the process leading to free elections in Namibia is scheduled for November.

How many who have followed events in Angola believed a handshake between Dr. Jones Savimbi, president of the National Union for the Total Independence of Angola [UNITA], and Angolan President Eduardo Jose dos Santos was possible; and again we recorded this historic occurrence in June. At a summit meeting in Gbadolite, Zaire, witnessed by 18 African heads of state, the two parties agreed to begin negotiations aimed at ending the war and building a peaceful nation.

Since the initial meeting in Zaire, negotiations have broken down. The MPLA has publicly revoked its commitment to the Gbadolite declarations of a cease-fire, national reconciliation and direct negotiations. Moreover, the Marxist MPLA regime continues to perpetuate war rather than facilitate peace. They have exhibited classic gunboat diplomacy by attempting to achieve with talks what they failed to do in 14 years of war. The positions they have put forward are political suicide for UNITA. At the same time they are trying to press UNITA militarily. The MPLA must understand that if it continues to pursue a military option, rather than reconciliation with UNITA, then the United States will not hesitate to apply increased pressure to reach the goals of democracy and free and fair elections.

Communism, like a disease, must be completely obliterated. Left to linger, it can regenerate itself and destroy fragile elements of change and progress. Continued attention and pressure from the United States and other African nations can get the talks back on track so a lasting peace and a truly free and prosperous Angola can be a reality.

The time for action is critical. Conditions in Angola cannot wait. What good is a policy if there is no action? How can we influence positive action for change without becoming engaged in the process? Where is our passion when victory is so close and within our grasp? Whether resumed negotiations can bring about a lasting peaceful settlement only time will tell. However, it is clear a continued United States policy of pressing for national reconciliation and free and fair elections in Angola remains the best policy approach.

Finally, all interested parties must realize there are new winds blowing over southern Africa, and they are the winds of peaceful change and a movement to democracy. Africa is exhausted from war, drought, and famine. The sense that peace is a necessary ingredient for bringing a better life to all Africans continues to grow.

The United States has responsibilities in Eastern Europe, the Middle East, Latin America and other places too numerous to name. But we have a special obligation in Africa the poorest continent. A steady policy of support for freedom and progress through economic growth and opportunity and the exchange of ideas are the most important ingredients for peaceful change. In Angola, we are close, closer to that goal than ever before. A bipartisan foreign policy of support for national reconciliation, independence, and free elections has brought us this

far. We must continue to engage this policy and restore to those who have fought for so long with so little, against such odds, but with hope and determination the promises of peace, freedom, and democracy in Angola.

CORRECTIONS TO REPORT ON NOAA APPROPRIATIONS

Mr. HOLLINGS. Mr. President, in the printing of the report 101-144 accompanying H.R. 2991, the Departments of Commerce, Justice, State, the Judiciary, and related agencies appropriations bill, 1990, some changes approved at the full committee markup for the National Oceanic and Atmospheric Administration were not reflected. Inasmuch as these changes affect several programs in NOAA's "Operations, Research and Facilities" appropriation, and have led to a little confusion, I ask unanimous consent to print in the CONGRESSIONAL RECORD at this point, the corrected pages 22 through 27.

There being no objection, the corrections were ordered to be printed in the RECORD, as follows:

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

Appropriations, 1989	$1,240,052,000
Budget estimate, 1990	998,448,000
House allowance	966,932,000
Committee recommendation	1,216,830,000

The Committee recommends an appropriation of $1,216,830,000, a decrease of $23,222,000 from 1989 appropriations to date. The amount recommended is $218,382,000 over the budget request and is $249,898,000 over the House allowance.

The Committee recommendation compared to the 1989 level and the budget request is as follows:

[In thousands of dollars]

	1989 enacted	1990 recommended
Additions to budget request:		
National Ocean Service:		
Vertical control network	200	
South Carolina multipurpose mapping project	377	577
Great Lakes mapping project	100	100
Multipurpose cadastre survey	1,836	1,836
Circulatory Program	400	200
Ocean assessment activities (Long Island Sound—$1,000,000)	6,500	3,500
California data buoys	151	151
Coastal zone management: 306 and 306(a) State grants	33,000	34,000
Coastal zone management: 309 grants	942	400
Estuarine sanctuary program	1,600	2,300
Marine sanctuary management	504	1,000
Coastal zone management program management	500	1,500
Wetlands demonstration project	900	900
Ocean services	2,400	500
National Marine Fisheries Service:		
Resource surveys and technology	2,650	2,650
Protected species research	1,200	1,200
Habitat research	5,133	5,133
Fisheries statistics	2,919	2,919
Analysis of ecosystems	917	917
Aquaculture (Newport, OR—$350,000; Stuttgart, AR—$2,050,000)	4,344	4,775
Chesapeake Bay studies	1,600	1,600
SEAMAP	942	942
MARFIN	3,000	4,000
PACFIN		1,000
West coast groundfish research	847	847
Right whale research	235	235
Marine mammal research	1,506	1,750
Gear entanglement research	706	706
Habitat evaluation research	471	471
Subarctic fisheries research	753	
Bering Sea pollock research		750
Hawaii stock management plan	400	400
Complete Lake Mead limnological research	400	
Yukon River chinook study	235	235
Japanese salmon interceptions	141	
Alaska salmon hatcheries	3,766	3,766
Pacific salmon research	4,708	4,708
Atlantic salmon research	250	500
Alaska whale rescue reimbursement		170
Antarctic research	1,300	1,300
Regional fisheries councils	3,766	3,766
Columbia River/Mitchell Act hatcheries	9,300	9,300
Manage Georges Bank fisheries	471	471
Tiburon lab	94	
Habitat conservation	1,883	1,883
Oregon harbor seals and sea lions	36	36
Oyster disease research	500	
Shellfish water standards research	500	1,000
Endangered species recovery plans	235	235
Fisheries trade promotion activities	1,388	1,388
Interjurisdictional fisheries grants to States	3,500	3,500
Anadromous fisheries grants	2,354	2,354
Striped bass research	471	471
Interstate fisheries commissions	330	330
Product, quality, and safety research	4,400	4,400
Fish oil research	942	942
Asian aquaculture exchanges	282	
St. Paul trust fund	1,700	1,700
St. George trust fund		1,200
Mahi Mahi technology research	188	
Seafood inspection program	330	330
Marine Mammal Protection Act implementation		7,500
Driftnet Act implementation		3,000
Enforcement and surveillance		1,500
Woods Hole Fisheries Lab bulkhead and dock		2,000
Ocean and atmospheric research:		
Regional climate centers ($300,000 each for Illinois, New York-New England, Nebraska, Nevada, South Carolina, and Louisiana)	1,500	1,800
National climate program office	250	250
State weather modification grants	2,213	2,213
Sea grant	39,000	41,000
National Coastal R&D Institute	1,177	1,177
NOAA Undersea Research Program [NURP]	14,285	11,600
Key Largo research facility	377	
Great Lakes Environmental Research Laboratory [GLERL]	1,600	1,600
VENTS/sea floor spreading research (Newport, OR)	1,695	2,000
Fisheries-oceanography coordinated investigations [FOCI]	942	
PROFS	1,883	1,883
Woods Hole Oceanographic Institute (Construction)	2,000	
University of New Hampshire marine research		2,000
National Weather Service:		
Staffing of weather service forecast offices	787	787
Southern regional headquarters	852	852
Pacific and Alaska regional headquarters	383	383
Data buoy activities	1,105	1,105
Fire weather	282	282
Agriculture and fruit frost warnings	1,335	1,335
Oregon and Washington Mountain weather services		200
Susquehanna River flood warning system operations	700	700
Colorado River Basin flood warning system operations	300	300
Meteorological/hydrological research	320	
MARD	1,000	
Advanced weather interactive processing system [AWIPS]	8,500	8,500
Restore base weather service funding to maintain weather stations		29,073
National Environmental Satellite, Data, and Information Service:		
NOAA port	2,000	
EROS data center	3,000	
Program support:		
Marine services	6,275	7,275
Increased base adjustments		
1989 supplemental	28,400	
Total additions	249,064	251,559
Reductions from budget request:		
Polar satellite spacecraft and launching (slippage)	−33,619	−6,349
Landsat commercialization	−13,700	−2,000
Landsat 4 and 5 operations	6,400	−9,500
Reduced adjustments to base funding	−12,378	
ANCS II	−1,660	
Coastal ocean initiative		−4,261
Climate and global change	−6,000	−2,000
NEXRAD	−12,500	−14,867
Administration, services, and facilities	−3,651	
Aircraft services	−575	
Total reductions	−84,083	−38,977
Recap:		
Budget request	1,133,171	1,066,648
Additions to budget request	249,064	+251,559
Reductions from budget request	−84,083	−38,977
Transfer from CEIF	−6,500	−4,500
Transfer from S/K fund	−45,600	−51,900
Deobligations	−6,000	−6,000
Appropriation	1,240,052	1,216,830

The Committee provides $18,005,000 of the administration's request to continue development of NOAA's program in climate and global change. The program will augment and integrate existing programs and should include global observations, monitoring, and data and information management relating to the study of changes in the Earth's climate system, fundamental research on critical oceanic and atmospheric processes, and climate prediction and diagnostics.

The Committee's recommendation includes increases totaling $10,900,000 for upgrading the computers at the National Meteorological Center and the Geophysical Fluid Dynamics Laboratory, and an increase of $8,139,000 for the coastal ocean initiative. With respect to the latter item, the Committee expects that $350,000 will be allocated to the University of South Carolina School of Public Health and the Baruch Institute for research to effectively manage small, high-salinity estuaries, in collaboration with the National Marine Fisheries Service Southeastern Fisheries Laboratory in Charleston, SC.

The Committee intends that $1,000,000 of the funds provided to NOAA for ocean assessment activities is for continuation of the work required to support the multiyear Long Island Sound study, which was designated as part of the EPA National Estuary Program in 1988. It is also the Committee's intention that work carried out with this funding will be done with the approval of the Long Island Sound Study Management Committee, of which NOAA is a member. In addition, $2,500,000 has been provided for NOAA's damage assessment activities under the Clean Water Act.

In increasing the allocation for the South Carolina multipurpose mapping project by $200,000 the Committee intends that one-half of the increase will be retained by the National Ocean Service for support of the expanded work in South Carolina.

The Committee has set aside $900,000 in funds from this account to continue a joint Federal-State research and demonstration

project to develop a natural resources information system and to establish criteria and standards by which the public interest in privately owned natural resources can be determined. The Committee directs the National Ocean Service to contract with the State of South Carolina's Water Resources Commission to conduct this demonstration in the watershed of Edisto, and the upper reaches of the Combahee River. This pilot project will provide valuable information and methodology to enable the States and the Federal Government to continue to efficiently manage our natural resources. The Committee further expects that the State of South Carolina will finance an increasing percentage of the costs of the project over the last 2 years of this 5-year joint effort.

The additional $500,000 for ocean services is for the NOAA Center for Ocean Analysis and Prediction to cover continuing operating expenses in Monterey, CA.

Within the $2,650,000 restored for resource survey activities, the Committee expects NMFS to continue contracting with South Carolina Wildlife and Marine Resources Department for Resource Surveys.

The Committee notes its strong support for continued funding through the National Marine Fisheries Service of the Stuttgart, AR, Fish Farming Experimental Station operated by the U.S. Department of the Interior Fish and Wildlife Service. The Stuttgart farm is one of the Nation's leading research institutions on fresh-water aquaculture and the largest facility in the country of this type. The Committee directs that $75,000 of the funds received by Stuttgart for its operating budget be used to conduct research studies between Stuttgart and the University of Arkansas at Pine Bluff related to aquaculture and catfish farming. The Committee also directs the National Marine Fisheries Service to continue its present cooperative relationship with the Fish and Wildlife Service.

Of the $4,000,000 provided for MARFIN, the Committee has provided $1,000,000 for expanding the program to address fisheries issues in the South Atlantic. The South Atlantic expansion of MARFIN is intended as a coordinated research program involving the NMFS, the four South Atlantic States (North Carolina, South Carolina, Georgia, and Florida), sea grant and independent universities. This funding initiative would bring the scientific talent of the above groups to bear on important fisheries in the region. Initial priority should be placed on those for king and Spanish mackerel and red drum including expanded data collection and better catch statistics. Recreational catch statistics are especially critical.

Of the funds restored for marine mammal research, $350,000 shall be provided to the Alaska Eskimo Whaling Commission to support scientific research and the cooperative agreement with NOAA, and not less than $400,000 shall be available for monk seal research.

Within the $3,500,000 restored for interjurisdictional fisheries grants to States, the Committee directs that $200,000 be allocated for emergency disaster relief assistance for the oyster industry along the Texas gulf coast.

The Committee has provided $11,600,000 for the NOAA Undersea Research Program, and directs that $3,000,000 be provided to the Hawaii Undersea Research Laboratory [HURL].

The Committee has included grant funding of $2,000,000 for a small research vessel and related equipment, laboratory equipment, and research instruments for the marine research and education programs of the University of New Hampshire.

The Committee was pleased at the announcement by the Secretary of Commerce in March of this year that the Nation's weather stations would remain in service at current operating levels through fiscal year 1990. The Committee wishes to reiterate its support of the Nation's weather service stations and has included the full $29,073,000 required to carry out the Secretary's announcement. In restoring the funds, the Committee expects the National Oceanographic and Atmospheric Administration to continue operation of West Virginia's weather stations at current levels. The Committee also expects NOAA to maintain the agricultural weather, fire weather, and other weather and flash-flood warning programs as they affect West Virginia at the fiscal year 1989 levels and to continue to accelerate the implementation of the integrated flood observing and warning system [IFLOWS] in West Virginia and surrounding States. The Committee wishes to be kept fully informed of the remaining milestones needed to complete the West Virginia portions of the IFLOWS system.

In the interest of aviation safety, the Committee has included the necessary funding in the NOAA account to reopen the federally contracted weather observation stations at Stampede Pass, WA, Blue Canyon, OR, and Sexton Summit, OR, closed between December 30, 1988 and April 1, 1989, at the same level of service and hours of operation as on December 29, 1988. The Committee urges NOAA not to close or reduce the hours of operation of such stations until automated equipment is provided that will provide the same level of service as a full-time human weather observer.

The Committee recommendation reflects approval of the cyclical program reductions totaling $119,699,000 proposed in the budget request for the polar orbiting and GOES satellite programs and NOAA port.

The Committee recommends $44,400,000 for the Landsat system, of which $34,900,000 is for the continued construction of Landsat 6 and $9,500,000 is for the expenses associated with the continued operation of Landsats 4 and 5. The amount provided for the operational expenses of Landsats 4 and 5 is based on the continued availability and level of Landsat imagery during the first 6 months of fiscal year 1990. If Landsats 4 and 5 continue to operate for a longer period of time, then NOAA will need to make suitable financial arrangements.

The amount recommended provides $3,500,000 for the further consolidation of NOAA's Washington offices in the Silver Spring, MD, Metro Building. This amount includes $750,000 for payment to the General Services Administration for the funds advanced by the Federal buildings fund for furniture for NOAA's new offices. The Committee expects a like amount to be budgeted for 1991.

The Committee is aware of NOAA's apparent reluctance to release appropriated funds in fiscal year 1989 for the Hawaii stock management plan, the Asian aquaculture exchanges, and Mahi Mahi technology research, not contained in the President's budget that have been identified in the statement of managers accompanying conference reports for recent appropriations acts. The Committee has also noted the obvious lack of such reluctance for apportioning funds requested in the President's budget. Therefore, the Committee directs NOAA to expedite the obligation of funds for the Hawaii stock management plan, the Asian aquaculture exchanges, and Mahi Mahi technology research, and in doing so, carry out the congressional intent of appropriations acts. Further, the Committee mandates that NOAA cease the apparent discrimination exhibited against congressionally funded and supported initiatives.

The Committee has included bill language to provide that administrative costs associated with the Saltonstall/Kennedy fund grant program be derived from receipts in the fund.

COAL INDUSTRY HEALTH BENEFIT STABILIZATION ACT OF 1989

Mr. ROCKEFELLER. Mr. President, on Friday, I introduced, along with my distinguished senior colleague from West Virginia, Senator BYRD, and the distinguished Senators from Pennsylvania, Senator HEINZ and Senator SPECTER, the Coal Industry Health Benefit Stabilization Act of 1989.

This legislation is needed to help address an emergency. It is needed to help ensure the financial condition of the health benefits program for retired coal miners. Simply put, what this bill does is authorize transfers of surplus funds from the 1950 United Mine Workers of America [UMWA] pension trust to the UMWA benefit trusts. The benefit trusts provide health benefits to 125,000 beneficiaries, with the majority of retirements from companies which are no longer in the coal business.

In recent years, due to such causes as rapidly escalating health care costs, the two UMWA health benefit funds have experienced serious financial difficulties. The 1950 fund has a $54 million deficit and the other is expected to be in deficit within weeks. As a consequence, payments to doctors, hospitals, and pharmacies are overdue by as much as 60 days.

We face the possibility of a breakdown of the health care system for retired miners. In West Virginia alone, there are approximately 32,000 UMWA pensioners who rely on the UMWA funds for health care. The funds contribute many millions of dollars to the West Virginia economy, and sustain the efforts of many health care practitioners and organizations. If allowed to continue unchecked, the financial difficulties in the UMWA health funds could cripple health care delivery in West Virginia and in the coal counties of States like Alabama, Arkansas, Colorado, Illinois, Indiana, Kentucky, Ohio, Pennsylvania, and Virginia.

In contrast with the health funds, the 1950 pension fund has a substantial surplus, according to independent actuaries who have reviewed the financial condition of the fund. The bill would authorize use of the surplus

pension funds to help repair the financial condition of the health funds. However, under the bill, the decision to transfer funds could only be made and the precise amount of surplus to be transferred would be determined through a joint decision of the UMWA and the Bituminous Coal Operators' Association [BCOA]. This is a critical point because it means that union representatives will have coequal participation and veto power.

The pension and health funds are supported financially by companies that have participated in the National Bituminous Coal Wage Agreement, which has been renegotiated periodically by the BCOA and the UMWA. The BCOA and UMWA have viewed the imminent health fund crisis with growing concern. After discussions between the BCOA and the UMWA, they asked me to introduce the present legislation, which they fully support. In order to help strengthen the financial basis of the funds, the legislation not only authorizes the transfers referred to before. It also provides statutory reinforcement for the contractual and other obligations of the companies regarding contributions to the retiree health funds. In this way, the security of each contributor is enhanced by the knowledge that the responsibilities of all contributors will be met.

Mr. President, many of our colleagues are aware that the funding of retiree health care throughout American industry is receiving increasing attention. It may be that in the next decade there will be a major, comprehensive revision of the way we approach the funding of retiree health care in this country. But the coal industry cannot wait for the long run. It faces an emergency today. That is why legislation specifically for the coal industry is required.

Furthermore, it should be understood that action to address the special needs of retirees in the coal industry is in keeping with the longstanding special relationship among the coal miners, coal operators, and the Federal Government. The UMWA pension and health funds were created as a result of discussions between President Truman's Secretary of the Interior and the UMWA in 1946, when the Federal Government was operating the country's bituminous coal mines. An early trustee of the funds was the late distinguished Republican leader, Senator Styles Bridges of New Hampshire.

The 1946 agreement establishing the funds required a survey of medical conditions in the coal fields and the retiree health program set to work responding to conditions the report found deplorable. Among other things, the program established hospitals and a rehabilitation program that combed the coal fields to identify the thousands of miners who had been crippled, with broken backs and severed limbs. At rehabilitation centers, they received the best treatment that modern medicine could offer. They were fitted with artificial limbs and received extensive physicial therapy and occupational and vocational training. This unique program provided renewed hope for many disabled coal miners who, until then, had no income and no expectation of ever again becoming productive members of society.

The program under the health fund also made great strides for improvement of overall medical care in coal mining communities. For example, the average age of a coal miner at death in 1947 was 10 years less than the national average for males. By 1946, it was 4 years more than the national average. The longevity of miners had increased by a remarkable 30 percent. Today, the UMWA health and pension funds pay many millions of dollars in benefits to over 125,000 beneficiaries in States from California to West Virginia.

Mr. President, we have come too far and the road has been too long, for us to turn our backs on this record of achievement. The successes for health care in the coal fields are an achievement of which all Americans can be proud. They provide a record of decency and of support for human dignity that is a model for the world. But for some years now, the structure that brought us these achievements has been eroding, and it is now in great jeopardy. We must act.

For over 100 years and more, coal miners have played a critical role in building this country from a small agricultural nation into a great industrial power. Our country was built on the backs of miners, who often paid with their health and their lives so the rest of us could enjoy the fruits of 20th century prosperity. Most Americans understand this and the importance of addressing the special needs of our coal communities.

Occasionally, however, I hear it said that because of rising health care costs or international competition, we must reverse course. But an effort to turn the clock back on our progress in industrial conditions is sadly misguided. Industrial strength can only rest on a foundation of mutual respect and mutual support. Continuous industrial chaos and recriminations are a recipe for industrial decline as well as for erosion of human dignity—a lesson most Americans learned long ago.

A decade of generally good coal industry labor relations has recently been disrupted by a bitter strike involving one company, bringing economic devastation to West Virginia and neighboring States. Adding to the difficulties for the health funds caused by inflationary trends, the shocking cutoff of health benefits and contributions viewed as a tool of economic conflict has touched off a firestorm. Fear and frustration regarding the eroding condition of the retiree health care system have fanned the flames of this conflict. It is a conflagration that threatens to spread throughout the industry, engulfing employers and employees alike, threatening to destroy the well-being of thousands and the position of the U.S. coal industry in global markets.

It was, in part, to avoid this kind of industrial chaos that coal industry labor relations were established forty years ago on the rock of the UMWA pension and health trust funds. If that rock is allowed to crumble, the consequences will be felt far beyond the retired miners whose health benefits are in jeopardy. The support for the present legislation by the BCOA as well as the UMWA reflects the widespread recognition of these facts throughout the industry.

In helping to preserve the rights of retirees, this bill does not address the deficits in the UMWA health funds through Government spending. On the contrary, because of the operation of the tax laws, I expect this bill to have a positive impact on the budget. What the miners ask for is the authority to use money from their own pension fund to address the deficits in their health funds.

The long-term future of retiree health care in American industry, including the coal industry, will not be solved today or by this bill. To do that, we must address difficut long-term issues of health care costs, industrial policy, and employment. Therefore, securing the long-term future of retiree health care will require persistent effort over many years. It is an effort that must be a top priority on our national agenda. It is an effort in which I intend to be actively involved.

But we also have a job to do today, and that is to prevent the imminent collapse of the coal industry retiree health care system. We need to provide increased certainty that the health care needs of affected retired miners and their families will be met. We cannot forsake the people who have been the backbone of America's coal industry, especially those in their twilight years who have special medical needs. We must continue to ensure that the promise of good health care for retired miners is kept.

I urge my colleagues to support this legislation.

COAL INDUSTRY HEALTH BENEFIT STABILIZATION ACT OF 1989

Mr. BYRD. Mr. President, I am pleased to be an original cosponsor of S. 1708, the Coal Industry Health Benefit Stabilization Act of 1989, which

has been introduced by my fellow Senator from West Virginia, Senator ROCKEFELLER. I believe this legislation is of critical importance, as it will help restore and stabilize the financial condition of the retired employee health benefit funds of the bituminous coal industry.

Two collectively bargained multiemployer trust funds currently provide medical benefits for approximately 130,000 retired coal workers. The 1950 benefit plan covers those employees who retired prior to 1976. This plan is currently in deficit by approximately $54 million. The 1974 benefit plan covers those employees who retired after 1976 and, at least according to its original design, whose former employers are no longer in business. Although currently in balance, this plan is projected to fall into deficit by the end of the year.

To allow these plans to founder would, I believe, be a tragedy for the retirees involved, and a shortsighted error on our part. We all know how the absence of adequate or affordable medical insurance is a growing national problem. We read stories almost daily of the millions of Americans who are without medical coverage. And we know that because of gaping holes in our insurance system, the cost of providing care to those without medical coverage often falls upon the back of the American taxpayer.

We are too compassionate, and rightly so, as a nation and as individuals, to simply deny medical care to those among us who, often for reasons entirely beyond their control, lack the financial resources to provide adequate medical care for themselves. Therefore, we would be foolish to let pass any opportunity to shore up those private insurance systems which provide much needed medical coverage to our retired citizens.

Today, just such an opportunity confronts us. The two multiemployer health plans which provide medical care for more than 100,000 retired coal workers are facing a bleak future. The financial stability of these plans has been seriously weakened by a combination of rapidly rising health care costs, the addition of more and more beneficiaries, and a shrinking contribution base. As a result, one plan is already in deficit, while the other is rapidly approaching a deficit situation.

Today, we have an opportunity to ensure that these deficits do not undermine the long-term survival of the 1950 and the 1974 benefit plans. The solution offered in this legislation is a relatively simple one. First, the bill authorizes the transfer of surplus funds from the 1950 pension plan to the two financially troubled health benefit plans. Second, the bill prevents companies who were once participants in these multiemployer plans and who remain in business today from effectively dumping responsibility for continued health care coverage on those firms who continue to contribute to these multiemployer plans.

The 1950 pension plan is a closed plan, covering only those individuals who retired before 1976. As such, its future liabilities and obligations can be reliably and precisely estimated. As a result of a past policy of rapid funding and conservative actuarial assumptions, the 1950 pension plan has accumulated a substantial surplus. With the assets of this pension plan safely invested in a dedicated bond portfolio, this surplus can be safely transferred without lessening, in any way, the ability of the plan to pay future pension benefits.

Without a transfer of funds from the 1950 pension plan to the two struggling benefit trusts, the assessments for the 1950 and 1974 health funds would have to be raised from a combined total of $2.25 per hour worked by a covered employee to $3.12 per hour—an increase of nearly 40 percent. I believe, however, an increase of that magnitude would impose such an onerous burden on the employers involved as to be counterproductive, in the long run, in terms of enhancing the financial stability of the health plans.

While authorizing a transfer of funds from the 1950 pension plan will help ease the immediate and pressing financial problems confronting the two medical benefit plans, an equally important second step taken in this bill is to require companies who had an obligation to contribute to one of the health plans on January 1, 1988, to continue making contributions as long as a national collective bargaining agreement remains in effect. The 1974 benefit plan was established for the purpose of providing health benefits for orphan retirees, those retired workers whose former employers have since ceased operating. It was not created to provide a way for companies who are still in business to transfer the health insurance costs of their retirees to other companies within the coal industry.

The provisions of this bill that effectively prohibit employees from dumping responsibility for health benefits for their retirees on the industrywide 1975 health plan are supported by both labor and management. This legislation has been crafted with the cooperation and support of those coal companies who have continued to contribute to the industry's multiemployer benefits plans, thereby conscientiously upholding commitments previously made to their retirees.

Finally, Mr. President, I would note that no costs are imposed on American taxpayers by this bill. To the contrary, to the extent that tax-deductible contributions might otherwise have to be significantly increased to put these health benefit plans back on sound financial ground, a transfer of funds from the 1950 pension plan would actually prevent a loss in revenues to the Federal Government. While my support for this legislation is in no way motivated by its positive revenue effect, I believe it is important to note the absence of any negative revenue effect.

Mr. President, this is a good bill. It is a timely bill, and I would hope that the Senate will act upon it quickly. I commend my colleague and friend from West Virginia for the work he has done in putting together this legislation. Let us now move forward to preserve and strengthen the coal industry's unique privately funded program for providing health care coverage to its retirees.

UNITED STATES-CUBA COOPERATION ON NARCOTICS IS IN OUR NATIONAL INTEREST

Mr. PELL. Mr. President, in mid-June when the Cuban Government arrested General Ochoa on charges of narcotics trafficking, I issued a statement recognizing Cuba's action. I also reiterated that during my meeting with President Castro last November we discussed the possibilities of cooperation between the United States Coast Guard and the Cuban Boarder Patrol on narcotics interdiction. Fidel Castro responded positively to this as he did to Congressman RANGEL during the visit which followed mine.

I am well aware that various interpretations are being given to the Cuban government's quick and decisive actions as shown by the execution of General Ochoa and other high ranking military and internal security officials. We must not ignore the fact that the Castro government has moved vigorously against Cuban officials involved in narcotics trafficking. Most importantly, Fidel Castro in early July stated the need for communication between the United States and Cuba to combat the common foe of narcotics.

We must not let this opportunity pass. If indeed we are waging a serious war against drugs, United States-Cuba cooperation should be an important component. As I stated during a Foreign Relations Subcommittee hearing on United States-Cuba narcotics issues, we should move forward on discussions with the Cubans on narcotics cooperation. This cooperation with the Coast Guard would serve the best interests of the United States.

Mr. President, I would like to call to the attention of my colleagues the op ed piece written by respected journalist Tad Szulc which appeared in the New York Times during the August recess. Mr. Szulc, who recently wrote a critical biography of Fidel Castro, also

believes that we should be talking to the Cubans about narcotics cooperation. He states, "Common sense as well as cynical self-interest seem to dictate full-fledged talks with Cuba on the desperately urgent matter of drug trafficking."

I ask unanimous consent that the Szulc piece be printed in the RECORD.

There being no objection, the piece was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 9, 1989]

JOIN WITH CASTRO TO FIGHT DRUGS

(By Tad Szulc)

WASHINGTON.—For reasons that may be cynical and self-serving, Cuba's President Fidel Castro has formally invited the United States—for the first time—to join his regime in the "common battle" against drug smuggling. For reasons of American national interest, which likewise often requires self-serving cynicism, the Bush Administration would be well advised to at once take Mr. Castro at his word instead of responding with worn out legalisms and ideological foot-dragging.

That the Cuban leader has only now offered to cooperate with U.S. authorities in helping to stem the ever-rising flow of narcotics to this country across the Caribbean from South America is unquestionably the immediate result of the shocking discoveries that he says he made in April—that 14 of his top officials were part of the Colombian Medellin Cartel contraband ring.

In the most dramatic display of Castro power in 30 years, four of them, including the former commander in chief of Cuban troops in Angola, who was regarded as a national hero, were executed last month. Many others (among them, the Interior Minister) were arrested, and others were fired and disgraced in the still continuing purge.

Whether Mr. Castro, as many observers suspect, used the drug and corruption scandal to smash a parallel political conspiracy against his rule is a fascinating but separate subject. So is the reality that his economy is in such disastrous straits that he needs quick access to American trade and tourism.

What should concern the U.S. at this juncture is Havana's belated willingness to work with American law enforcement agencies in trying to control drug smuggling, in the light of fresh evidence that use of cocaine-derived crack at home is at record levels.

The Administration knows that the Cubans have the means, ranging from their MIG-23 jet fighters to their high-speed naval patrol boats, their electronic listening and radar installations and their Latin American intelligence network, to cripple the illegal traffic if they so desire. Cuba lies astride the main smuggling routes from Colombia to the eastern U.S. and smugglers' small aircraft found it safe and convenient to drop drug cargoes near the island for recovery by fast boats.

The Cuban route was vital because the U.S. has effectively closed off Bahamian air space. Transfer to boats is necessary since smugglers' planes are virtually precluded by U.S. air defenses from reaching the mainland.

According to the Drug Enforcement Administration, 39 such drops were spotted in the first half of 1989, when the Cubans were looking the other way. But this practice stopped instantly in June after Mr. Castro announced that he would have the contrabandists' planes shot down. He said in a speech on July 9 that illegal overflights of the Cuban territory were "intolerable," that Cuba and the U.S. "really have to discuss how to manage such things" and that "we have to arrange a form of communication between the U.S. and Cuba in this common battle."

The Administration's reaction was simply that it was prepared to "put Cuba to the test." Congressional testimony by a senior State Department official made it clear that the U.S. had no intention of entering into actual negotiations with the Cubans, who should not expect any political rewards no matter what they did in drug interdiction.

This stance was presumably based on the declaration last March by Secretary of State James Baker. In a confidential memorandum to all U.S. diplomatic posts abroad, Mr. Baker said that "no modification of U.S. policy is contemplated in the absence of significant changes in Cuban repression at home and unacceptable behavior abroad inimical to U.S. interest." Issued shortly before Soviet President Mikhail Gorbachev visited the island, and intended as an ideological pronouncement, the memo added that "Cuba has not demonstrated a serious intent in improving relations."

Washington's response to Mr. Castro reaffirmed the Baker position, but it raised the crucial question of what really constitutes negotiations. Thus, in rejecting Mr. Castro's idea of "discussing" the best way of controlling drug traffic—done most likely to avoid being pushed into possible political negotiations and pressures for "improving relations"—the U.S. appeared to apply confusing standards.

Common sense as well as cynical self-interest seem to dictate full-fledged talks with Cuba on the desperately urgent matter of drug trafficking. A quid pro quo in the form of broader political talks may open useful new horizons for future relations at a time when the Castro revolution is clearly at a dramatic crossroads.

Cuba's withdrawal from Angola was won through international negotiations with Cuban participation, directed by the U.S., and now there is a Central American settlement. In the past, successful agreements were reached directly in preventing aerial hijacking and on immigration problems.

So what does the Administration do at this critical moment in the American war against drugs? It chooses to insist as a precondition on the extradition of such fugitives as the indicted financier Robert Vesco and Cuban officials indicted by U.S. grand juries for drug smuggling. This is not creative policy.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The PRESIDENT pro tempore. Under the order previously entered the Senate will go into executive session to consider the nomination of Joseph Zappala, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Spain.

The clerk will state the nomination.

DEPARTMENT OF STATE

The legislative clerk read the nomination of Joseph Zappala, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Spain.

Mr. HELMS addressed the Chair.

The PRESIDENT pro tempore. The Senator from North Carolina [Mr. HELMS].

Mr. HELMS. I thank the Chair.

Mr. President, the nomination of Joseph Zappala to be Ambassador to Spain was submitted by President Bush to the Senate on May 2, 1989. On the same day, the nomination was referred to the Committee on Foreign Relations.

Joseph Zappala is one of Florida's leading businessmen, with an extensive record of community service in areas ranging from adolescent drug abuse and mental retardation to the organization of political life.

Mr. Zappala is the chairman and chief executive officer of Joseph Zappala & Associates, an investment and land development company based in St. Petersburg, FL. This company has been responsible for the construction of millions of square feet of quality and award-winning projects throughout Florida, with values totaling hundreds of millions of dollars. Through this company, Mr. Zappala developed the first condominiums in Florida, and has been referred to as the "Grandfather of Condominiums." Indeed, he has been responsible for the construction and sale of thousands of single-family residential units and of numerous office and industrial buildings. In the course of his work and his philantrophic activities abroad, he has visited more than 40 countries.

In addition, to his land development and investment business, Mr. Zappala is the chairman of Home Town Investors Inc., which operates a large health care facility in St. Petersburg, FL. Mr. Zappala is the owner and chairman of Tucson Greyhound Park in Tucson, AZ. He also sits on the board of directors of First Union National Bank, and was previously chairman of the board of the First National Bank of Seminole in Pinellas County, FL, a bank which he founded.

Mr. Zappala's philanthropic activities have been numerous. Mr. Zappala serves as president of STRAIGHT, Inc., a drug treatment and rehabilitation program for adolescents with offices from California to Florida. Privately funded, STRAIGHT is the largest drug treatment program for adolescents in the country. More than 10,000 young people have passed through this program, with a total impact upon families of a much higher multiple. In some cases, a patient

takes as long as a year in the program. Mr. Zappala also serves on the board of the College of Veterinary Medicine at the University of Florida in Gainesville, FL and on the board of the Police Athletic League. He is the past chairman of the Pinellas Association for Retarded Children [PARC], an organization which tripled in size under his direction. He is also one of the founders of his local community's opera company.

Mr. Zappala's civic action has also extended to the promotion of political activity among citizens, both through political organization and through fundraising. These activities deserve special notice. He has had a long personal relationship with George Bush. He was active both nationally and statewide on behalf of the George Bush for President campaign, dating as far back as 1979. In that year, Mr. Zappala was the finance cochairman in the Pinellas County, FL, of the first George Bush for President campaign. He cochaired the first Florida fundraiser for the Bush campaign in this year as well. Mr. Zappala was also among the State finance chairmen who met in Chicago with the candidate and then campaign manager, Jim Baker, to assist in establishing one of Mr. Bush's first national fundraising efforts. Mr. Zappala also assisted with fundraising for the Fund for America's Future, a multicandidate political action committee established by Mr. Bush in 1985.

After the commencement of the 1988 George Bush for President campaign, Mr. Zappala served prominently on the National Steering Committee and National Finance Committee as cochairman of the Republican National Committee's Team 100. He currently serves as the national cochairman of finance for the American Bicentennial Presidential Inaugural and as chairman of the Florida Victory Committee.

Mr. Zappala's fundraising talents have also been used on behalf of many religious and charitable organizations throughout the United States. He has received numerous awards, including a prestigious Florida State award for hiring handicapped workers. Mr. Zappala was awarded the Ben Gurion Award, the prestigious Tree of Life Award, and the Gates of Jerusalem Award in 1983 for his internationally recognized commitment to the State of Israel. The Tree of Life Award was personally presented to him by Mrs. Anwar Sadat. This year a park is being named in his honor on the Peace Road between Egypt and Israel.

Mr. Zappala, 55, attended the New York Institute of Finance. He is a native of New York and came to Florida as a young man to begin a career in real estate. He and his wife Carole have four daughters, Kimberly, Valerie, Joanne, and Andrea.

COMMITTEE ACTION

The Committee on Foreign Relations held a hearing on the Zappala nomination on June 8, 1989. The committee considered the nomination on June 20, 1989, but at the request of Senator SARBANES, action was not concluded. The committee considered the nomination again on July 25, 1989, and ordered the nomination reported favorably by a vote of 10 to 9. Voting in the affirmative were Senators HELMS, LUGAR, KASSENBAUM, BOSCHWITZ, PRESSLER, MURKOWSKI, MCCONNELL, HUMPHREY, MACK, and ROBB. Voting in the negative were Senators BIDEN, SARBANES, CRANSTON, DODD, KERRY, SIMON, SANFORD, MOYNIHAN, and PELL.

1980 FOREIGN SERVICE ACT

During consideration of the nomination the distinguished Senator from Maryland, Mr. SARBANES, and others raised a number of questions relating to the propriety of the President in appointing as Ambassador a personal friend who had been involved politically in supporting his nomination. Opponents quoted section 304 of the Foreign Service Act of 1980 as follows:

SEC. 304. APPOINTMENT OF CHIEFS OF MISSION.—(a)(1) An individual appointed or assigned to be a chief of mission should possess clearly demonstrated competence to perform the duties of a chief of mission, including, to the maximum extend practicable, a useful knowledge of the principal language or dialect of the country in which the individual is to serve, and knowledge and understanding of the history, the culture, the economic and political institutions and the interest of that country and its people.

(2) Given the qualifications specified in paragraph (1), positions as chief of mission should normally be accorded to career members of the Service, though circumstances will warrant appointments from time to time of qualified individuals who are not career members of the Service.

(3) Contributions to political campaigns should not be a factor in the appointment of an individual as a chief of mission.

Opponents suggested that President Bush was abusing the nomination process by appointing nominees who were qualified only by the donation of large political contributions, instead of maximizing the number of nominees drawn from the Foreign Service.

The committee rejected that argument.

In the first place, the language of section 304 is only hortatory, and not mandatory. In each clause the operative verb is "should." In other words, section 304 hardly does more than express the sense of Congress, and certainly cannot be construed as a direct command or prohibition.

Second, no statute can limit a Presidential power specified in the Constitution. Article II, section 2, states:

He [the President] shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls. * * * and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law.

Clearly, ambassadors, public ministers, and consuls are offices created by the Constitution, while other appointments not mentioned are only creatures of law. Thus the law can define and prescribe such lesser offices as Secretary of State and appointments in the ranks of the Foreign Service, but it cannot circumscribe the qualifications of ambassadors. An ambassadorial appointment is a constitutional office, and is therefore legally superior to offices created by law, such as the ones just noted. No law can mandate the qualifications of ambassadors, nor require them to be appointed from a specified class of citizens.

Section 304, therefore, is a standard which does not bind the President, and has only as much authority as any other personal standard which a Senator may consider, implicitly or explicitly, in exercising his or her obligation advice and consent under the Constitution.

QUALIFICATIONS

Nevertheless, Mr. President, Mr. Zappala meets any reasonable interpretation of the hortatory standards of section 304. Mr. Zappala's extensive career as a businessman, financier, philanthropist, and political organizer has given him excellent skills as a negotiator, advocate, manager, and coalition builder—in other words, he has a demonstrated record in the four key areas which must be mastered by any diplomat. In his numerous enterprises, he has been responsible for the well-being and payrolls of over 1,000 employees, and has won awards for his employee practices. Since a large Embassy staff, such as the one in Spain, typically includes more than 100 employees from several agencies, the committee believes that he will be well-prepared for the management problems he will face.

It was also alleged against Mr. Zappala that he was deficient in language skills since he did not know Spanish. This issue has been a matter of concern to the committee for many years. Indeed, in hearings held last fall before this committee, an official State Department study was cited which showed that, in the period 1983 to 1985, 21 percent of Foreign Services officers were promoted into the Senior Foreign Service "despite the fact that they were not qualified at level 3 in any language." Then Under Secretary of State for Management, Mr. Ronald I. Spiers, stated that only three-quarters of Foreign Service Officers meet the full language competency requirements. Yet the Foreign Service manual calls for officers entering the Senior Foreign Service to have a tested 3/3 level proficiency in two foreign languages. Moreover, as a practical matter, Mr. Spiers observed that

an ambassador could not function fully in a foreign language unless he or she were at the 4/4 level of proficiency, which few attain.

Mr. Zappala readily acknowledged his deficiency in Spanish, and enrolled in Spanish language training courses. However, he has been fluent in Italian all of his life. Spanish and Italian are related Romance languages. They have similar grammatical and rhetorical structures. They have the common bond of a similar vocabulary, and transferable language skills. Therefore it is not surprising that Mr. Zappala is already reasonably proficient in Spanish.

With regard to the requirement for an understanding of the problems of the history, the culture, the economic and political institutions of the country, it should be noted that Mr. Zappala will be going to Spain in a period during which relations with Spain have cooled under previous Ambassadors. Some observers have felt that previous Ambassadors have spent too much time supporting and building up relationships with left-of-center political forces in Spain to the detriment of building coalitions with political forces more oriented toward strong NATO participation and United States partnership. Under detailed questioning from Senator SARBANES during the nomination hearing, Mr. Zappala demonstrated an ample knowledge of recent negotiations and the removal of United States forces formerly based in Spain.

Moreover, Spain has recently emerged as a key entry point for narcotics from Colombia entering Europe. Mr. Zappala's intensive work with drug-rehabilitation programs should make him especially sensitive to working with Spain on this problem.

Indeed, a few days ago the Spanish Foreign Minister, Francisco Fernandez Ordonez, welcomed the nomination of Mr. Zappala in an interview in the Spanish press. He stated that Mr. Zappala, "is a political ambassador, who is a great friend of President Bush, and who, sincerely, I think, can be very useful for the new phase of our bilateral relations. A person in the confidence of President Bush can be very useful, sincerely, I believe so."

CAREER VS. NONCAREER APPOINTMENTS

During the course of debate, the distinguished Senator from Maryland [Mr. SARBANES] stated concerns that President Bush, in his view, was nominating a disproportionate number of persons who were not members of the career Foreign Service.

Specificially, the Senator stated that the President had nominated only 14 career members of the Foreign Service to be Ambassadors, as opposed to 30 noncareer nominees. He stated that this was a proportion of 32 percent career, versus 68 percent noncareer—a virtual reversal of past practice.

However, it was subsequently pointed out that President Bush had made a decision to allow sitting career Ambassadors to finish out their 3-year terms, while recalling immediately most sitting noncareer Ambassadors. Under this count, at the time the Senator spoke, President Bush had 92 career Ambassadors in place or proposed, and a total of 49 noncareer Ambassadors in place or proposed. Thus, the ratio was in actuality 65 percent career, versus 35 percent noncareer.

It should be stated that statistics on career vs. noncareer Ambassadors vary according to the month. The exact percentages change as Ambassadors are nominated, confirmed, resign, or are recalled. The variations from month to month or administration to administration are not significant. Statistics supplied by the Department of State show that the current ratio in the Bush administration, for example, compares favorably to ratios in the Kennedy administration. There is nothing to suggest that, when the current sitting career Ambassadors are replaced at the end of their respective terms, the ratios will be any different from historic practice.

Mr. President, I ask unanimous consent that an annual "snapshot" of such ratios for each year back to 1961 be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

HISTORICAL COMPARISON—AMBASSADORS SERVING AT BILATERAL MISSIONS

Year	Number and percentage	
	Career	Noncareer
1961 Kennedy	67 or 72	26 or 28
1961	63 or 64	35 or 36
1963 Kennedy/Johnson	66 or 65	36 or 35
1964 Johnson	74 or 73	27 or 27
1965 (November)	79 or 72	30 or 28
1966	80 or 75	26 or 25
1967	73 or 71	30 or 29
1968	71 or 66	36 or 34
1969 Nixon	68 or 68	32 or 32
1970	72 or 68	34 or 32
1971	73 or 68	34 or 32
1972	72 or 73	27 or 27
1973 (July)	72 or 71	29 or 29
1974 Nixon/Ford	80 or 69	36 or 31
1975 Ford	80 or 72	32 or 28
1976	82 or 70	35 or 30
1977 Carter (August)	86 or 78	24 or 22
1978	92 or 75	30 or 25
1979 (December)	91 or 75	30 or 25
1980	94 or 76	30 or 24
1981 Reagan (January)	90 or 78	26 or 22
1982	85 or 69	38 or 31
1983	86 or 67	42 or 33
1984 (May)	84 or 66	43 or 34
1985 (April)	85 or 70	37 or 30
1986 (August)	82 or 65	44 or 35
1987 (April)	85 or 65	45 or 35
1988 (February)	86 or 64	48 or 36
Starting with 1989, figures include multilateral ambassadors:		
1989 Bush (January)	76 or 62	54 or 38
1989 (June)	92 or 65	49 or 35

Yearly statistics were taken from October with the exception of those years with the month in parentheses.

Mr. HELMS. Mr. President, finally, a word should be added about the exhortation in section 304 which urges that ambassadorial appointments "should normally be accorded to career members of the Service." The committee notes that this recommendation merely articulates the practice of the past three decades. Nevertheless, there is no constitutional requirement, and there can be no legal requirement, that the President must follow any particular ratio of appointments, or even that he must take any nominees whatsoever from the Foreign Service.

An ambiguity arises from the fact that an Ambassador chosen from the career services really holds two Presidential appointments simultaneously. He or she is primarily holding a constitutional appointment, under which the President has an absolute right to nominate any person he chooses; his or her appointment in the Foreign Service is not a constitutionally mandated appointment, but an appointment under law passed by Congress pursuant to congressional powers. Thus the rank of Ambassador, as noted above, is legally superior in force and dignity to even the highest rank of the Foreign Service itself. When the President chooses a Foreign Service officer to be an Ambassador at the same time, he confers an additional honor on the nominee in addition to the honors which such a nominee already holds.

The Foreign Service is composed of able, dedicated men and women who have devoted their careers to the pursuit of public service and foreign policy. No country could be without the services of a distinguished and elite corps of skillful and experienced professionals. Every modern President has responded to this need by choosing the majority of Ambassadors from among the ranks of the Foreign Service.

Nevertheless, foreign policy is not a science, but an art. A specific President's foreign policy will be shaped not only by the events and opportunities which are offered, but also by the President's moral and philosophical analysis of the options available, and by the ability to rally public support. For that reason, all Presidents have also included within the ranks of their Ambassadors some of their key political advisers and supporters. Although other countries may rely almost entirely on a professional, technical corps of diplomats, no other country in the world has our practical systems of separation of powers and checks and balances. For this reason, U.S. Presidents always have, and always will, leaven their diplomacy by bringing in talented noncareer professionals.

Diplomacy cannot be the private preserve of a closed foreign policy establishment, whether governmental or nongovernmental. It is the very essence of democracy to be open to new ideas and new experiences. The roster

of noncareer Ambassadors who have made outstanding contributions to our diplomacy is too long to tally. Moreover, the vast proportion of them never had diplomatic or foreign relations training. The committee believes that the United States makes an important statement when it sends such distinguished citizens of accomplishment abroad as Ambassadors.

POLITICAL CONTRIBUTIONS

Mr. President, it was intimated during the debate that Mr. Zappala was appointed solely because of political contributions. In the committee's opinion, the qualifications of Mr. Zappala already enumerated speak for themselves, and make the question of political contributions irrelevant. Moreover, the public disclosure forms clearly indicate that Mr. Zappala made no personal political contributions whatsoever to the George Bush campaign in 1988.

However, Mr. Zappala has made substantial contributions to many other political campaigns as may be seen on the public disclosure forms. Indeed, the width and depth of such contribution, to a wide variety of candidates, shows clearly Mr. Zappala's eager commitment to our democracy. The U.S. Supreme Court has said that political contributions are an expression of protected speech under the first amendment; Mr. Zappala has exercised that right vigorously and properly.

Moreover, Mr. Zappala has done more than support a wide variety of political campaigns. He has gone out and encouraged his fellow citizens to do so as well. He has organized committees, directed strategies to involve thousands of others in the political process, and provided invaluable advice to the candidates of his choice. The committee recognizes that few Senators would be Members of this body without the dedicated and distinguished assistance of supporters like Joseph Zappala. The committee does not believe that notable civic action should be a bar to public service as an Ambassador.

Finally, Mr. Zappala's political activity is a very important part of the story of our democratic system. Fellow democracies such as Spain will recognize the important part that such activities play in the preservation of freedom, and will appreciate the insights which his experience will give to their own political process. We honor our allies when we share with them persons whom we ourselves value so highly, and who are so important to the dialog of liberty.

Mr. SARBANES. Mr. President, the Senate will be taking up today and tomorrow one of its very important responsibilities under the Constitution, and that is to give or withhold its consent to Ambassadors nominated by the President.

This is a constitutional provision that has been present since the founding of the Republic, and it is one that I take seriously. It seems to me there has been a tendency over the years, perhaps, to permit Senate scrutiny of nominees, as they come before us, to slip, that is to start down the slippery slope, and therefore to place in some jeopardy the effectiveness of U.S. diplomatic representation abroad.

It is that concern which has led to the issue that is now before the Senate. It is that concern which led to a very close vote in the Senate Foreign Relations Committee, which reported the nomination of Joseph Zappala to be United States Ambassador to Spain, on a vote of 10 to 9. So the nomination comes to the floor of the Senate by the very narrowest of margins.

The issue here is to some extent reflected in newspaper editorials from around the country, and I would like very quickly to read the titles of some of these editorials, because I think they give a sense of perhaps what the issue is before us. "Anyone For Ambassador." "Amateurs Abroad." "Send the Best Abroad?" "Embassies for Sale." "Trivializing Ambassadors"—and so forth and so on.

Mr. President, what I want to try to do here this afternoon for a reasonable period of time is to look at this issue in a somewhat broader context, and then narrow it down to this particular nomination, to Spain and this particular nominee.

The first thing I want to address is the assertion sometimes made that the President is entitled to his nominee, that the Ambassador simply is the President's person, and the President can pick whoever he wants.

That is not what our constitutional system provides for. In fact, the appointment power is a very cogent example of our constitutional system, and one of "separated institutions sharing powers," in the very apt phrase of Prof. Richard Neustadt. Neustadt, who has written well and frequently on the separation of powers and the balance of powers, perceives our Constitution as establishing separate institutions sharing power. That is very clear in this instance. Article II, section 2 of the Constitution provides explicitly that the President is "to nominate and by and with the advice and consent of the Senate to appoint Ambassadors."

In so certifying, the Founding Fathers reinforced the fundamental system of institutional checks and balances and also underscored the importance of America's representation abroad.

The reasons for requiring Senate advice and consent to Presidential nominations were spelled out by Alexander Hamilton in the Federalist Papers. As we all know, Hamilton, Jay, and Madison wrote the Federalist Papers as an argument to the Nation at the time, as persuasive brief in support of verification of the Constitution, as formulated in Philadelphia in the summer of 1787, by the appropriate number of States, to go into effect and become the governing charter of this Republic.

In the Federalist Papers, in Federalist No. 76, Hamilton states in the course of discussing the Senate power:

> To what purpose then require the cooperation of the Senate? I answer that the necessity of their concurrence would have a powerful, though in general a silent operation. It would be an excellent check upon a spirit of favoritism in the President and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment or from a view to popularity.

It is interesting that, in contrast to the principle set forth above, one of the arguments advanced is that the President should have a free rein in appointing ambassadors, namely, that they are personal friends of the President. Political loyalty is often mentioned in this connection, and of course in each instance behind that lies very large campaign contributions, as I will shortly seek to show.

It is interesting that Hamilton, in discussing why the Senate was given this power of advice and consent, said it would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity.

We operate not only under a constitutional mandate, but the Senate in granting or withholding its advice or consent also needs to take account of the statutory criteria with respect to the appointment of ambassadors.

Section 304 of the Foreign Service Act of 1980 sets out the following standards for the appointment of chiefs of mission:

> An individual appointed or assigned to a chief of mission should possess clearly demonstrated competence to perform the duties of a chief of mission including, to the maximum extent practicable, a useful knowledge of the principal language or dialect of the country in which the individual is to serve, knowledge and understanding of the history, the culture, the economic and political institutions, and the interest of that country and its people.

The act then goes on to make these criteria applicable to all nominees to ambassadorial positions whether career or noncareer, providing that nominations will normally be made from the career service while acknowledging that circumstances will warrant appointments from time to time of qualified individuals who are not career members of the service. The statute further stipulates, and I want to underscore this language:

Contributions to political campaigns should not be a factor in the appointment of an individual as chief of mission.

One of the things that has taken place thus far in the Bush administration with respect to ambassadorial nominations is a disturbing pattern of nominees from outside the career service who lack any evident qualifications for the serious ambassadorial responsibilities they propose to undertake. I want to make very clear that the appointment of some noncareer ambassadors is in itself neither unusual nor objectionable and can, on occasion, serve important national interests. But in this instance there has been a marked shift in the percentage of nominees who are being drawn from the noncareer service and there has also been, I submit, a marked lowering of the dimensions of quality and experience that noncareer ambassadors bring to these appointments.

In previous administrations many of the noncareer ambassadors, like some of those nominated this year, brought to their assignments relevant education, professional associations or board memberships, language skills, experience in some aspect of international affairs, and commitment to public service.

Such nominations, both in the past and this year, in those instances in which these practical factors are present, appear to rest on valid reasons over and above political involvement and campaign contributions and money raising.

This year, however, the Senate has been asked to approve the nomination of an unusual number of ambassadorial nominees lacking serious qualifications. Close inspection of the résumés submitted to the Senate leads to the conclusion that in too many cases large donations to political campaigns or successful fundraising activity are the only reason for the nomination.

Indeed, in direct conflict with the Foreign Service Act that I quoted earlier which provides that political contributions should not be a factor in ambassadorial appointments, this year the Senate in numerous cases has been confronted with nominees who demonstrably have no qualifications other than large campaign donations.

Furthermore, this practice has deteriorated to the point where in some instances the Presidential certification of demonstrated competence required with each nomination explicitly sets forth such political involvement.

Under this law a certification of demonstrated competence must be submitted to the Senate Foreign Relations Committee with respect to the appointment of each Ambassador. The statute, of course, says that political contributions are not to be a factor, and yet we have been receiving certifications of demonstrated competence which contain in fact highlight in some instances and are overwhelmingly dominated by assertions of political contributions as a basis for demonstrated competence.

It is entirely contrary to what was provided for in that statute and contrary, I think, to any common sense view of the basis on which ambassadors ought to be appointed.

I hope we have not yet reached the point in this country where we are prepared simply to accept very large political contributions as a basis upon which to make nominations for Ambassadors.

It is quite true we have had people who have given large contributions in the past who have been approved; some this year and some that I support. But in each such instance this year the record has shown dimensions over and above their political contributions so that one in effect would not look at their resume and ask, now why is this person being nominated as a ambassador and find the answer in appendix A, listing the political contributions.

Not only has the quality of noncareer appointments declined under the current administration, but the number of noncareer appointments has increased dramatically.

Contained in the committee report and in our statement there is a table showing that at July 31 out of 46 country ambassadors nominated, only 15 were career and the rest were political. These are Ambassadors to countries. Of course, have others who hold the title of Ambassador for purposes of negotiations; they may be an ambassador because the Department feels that having that title lends them additional weight and therefore they seek that title. But now we are talking about country Ambassadors. Out of the 46 officially submitted as of the end of July, 30 or 31 were political Ambassadors and 15 were career.

We have updated those figures. As of this date 58 nominations have been submitted as country Ambassadors, instead of 46; 22 are career, and 36 are political. That makes a percentage of 38 percent career and 62 percent political at this point in time.

We have gone back and checked the percentages of other Presidents in terms of nominees submitted to the Senate at this point in their respective administrations—in other words, in the first session subsequent to an election. In no instance did the career percentage drop below 61 percent. With Kennedy, Johnson, Nixon, Carter, and Reagan the percentage of career nominees never dropped below 61 percent.

This time, thus far in the Bush administration, the percentage is 38 percent. Just 38 percent of the people nominated in this administration as Ambassadors, country Ambassadors, have come out of the career service. In previous Presidents, the lowest was 61 percent. In fact, it went as high as 72 percent.

It is asserted: "Well, President Bush has left these other people, career people, in place." But of course other administrations have done that, as well. The administration is trying, in effect, to include the prior appointments of previous administrations in their numbers.

The important thing, it seems to me, is to compare apples with apples, to see what this administration has done in terms of its own appointments. And what it has done is shift radically the percentage of its appointments which have come from the political sector rather than the career sector. When the noncareer people who drawn in have a manifest lack of the relevant experience and qualifications that one would hope for, we are dealing a blow to American diplomatic service and potentially to American interests abroad.

We are all familiar with very distinguished noncareer people—Senator Mansfield, for example; Averell Harriman; Ambassador Reischauer; David Bruce; and others. Such appointments are welcome because they can in fact supplement our existing diplomatic resources and capabilities. They are individuals who will invigorate and refresh the foreign service rather than drain and demoralize it.

Mr. President, there are some who assert that the contemporary role of the U.S. Ambassador is such that it does not really matter much who we send as Ambassador. I am coming more and more to the conclusion, as I look into this issue and hear the arguments and responses, and in fact questions of some of the nominees, that there are some very widespread misapprehensions or misunderstandings about what an ambassador does.

Some assert that in the age of modern telecommunications the U.S. Ambassador no longer plays a decisive or even particularly functional role in the formulation and conduct of foreign policy, and that for all practical purposes the role has been reduced to its ceremonial aspects; that all decisions are made in Washington; that the Ambassador's counsel is irrelevant; and that a competent embassy staff can serve to present a novice Ambassador from making major mistakes.

I submit that this view is extremely shortsighted and misleading. First, the U.S. Ambassador has very serious responsibilities. The era of glamor, if it ever existed, is long past. At a time when disputes are increasingly being resolved by diplomats, we rely on our Ambassadors not only to help solve problems but to prevent them from arising in the first place. We also look to them to discern and develop opportunities. And we pay significant costs in lost opportunities when they are not competent to do so.

From questions of trade to interethnic rivalries, terrorism, and security relationships, our Ambassadors must know how and where to represent our interests most effectively. Defusing sudden and complex conflicts in a relationship and identifying new avenues of mutual cooperation depend on having astute, knowledgeable and experienced representatives on the scene. This is crucial to U.S. interests—economic interests, political interests, security interest.

Too often an amateur is sent out and manages to get through a term without a major mistake, largely because the career professionals in the embassy are constantly there as a sort of back-up. Often when such an ambassador comes home everyone says, "Well, you see it made no difference. There was no major gaffe. There was no really significant embarrassment. So what difference did it make?"

But that fails to recognize the lost opportunities that could have been developed by a knowledgeable, able, skillful Ambassador. A good Ambassador can make a major difference for our interests in the country to which he or she is accredited.

The range of responsibilities are really very wide. I commend to my colleagues this excellent study called the modern Ambassador, the challenge and the search, prepared by the well-renowned and respected Institute for the Study of Diplomacy at the School of Foreign Service at Georgetown University. This study, which is now about 5 years old, has a number of different essays discussing the role of the Ambassaor. What does an ambassador actually do? There are some very good chapters here on the tasks of an ambassador; a day with an ambassador; running an embassy. What is it really like being an ambassador? How much work is involved? How much time does it take? What are you expected to know? An examination of requirements and qualifications.

The study includes a section called "In Favor of Noncareer Appointments"; another "In Favor of Career Appointments"; and then sort of a summary section, "From Either Source, the Best." And then there are some case studies, including some of disastrous appointments and how U.S. interests suffered as a consequence.

I submit to you if we are serious about being a leading power, then we need to be serious about who we send abroad as Ambassadors. Other countries, when they send their Ambassadors here, invariably draw from the very best of their career service. They recognize that a skillful Ambassador in Washington is enormously important to them in furthering and enhancing the interests of their country.

It seems to me we need to recognize the same thinking in the other direction. We need to perceive that it is not simply acceptable in today's world, where we no longer have the sort of dominant economic and security power that we had in the immediate postwar period, to overlook the importance of our Ambassadors. We need very skillful people on the scene. And we need them for a wide range of activities, not only representational functions.

We get people who say, "Well, I am a people person. I am really good at getting along with other people." Fine. I do not know that that is a unique qualification, however I do not know that having that qualification excludes having a range of additional qualifications, which are very important to handle these complicated assignments.

Second, sending an Ambassador who possesses no obvious qualifications for the position conveys a very unfortunate message to the country involved. We cannot always send an Ambassador who speaks the language, although I think that is highly desirable wherever it is feasible. Some languages are very difficult. There are not many people who have expertise in them. Often someone may have a range of other qualities—Senator Mansfield, for example—which outweigh or transcend not having the language itself and still enable him or her to be a very skillful, able, and effective Ambassador.

If you do not have these other dimensions or qualifications, I think the message you send to the nation is not our relationship is not important enough to require the appointment of an able representative of our country. In many respects it says that we value the country's climate more than we do its respect and friendship. And to the world at large it says: The United States is not serious about diplomacy: America places a higher premium on political rewards than on furthering its interests abroad. No other major industrial nation appoints its ambassadors in this way, and neither should the United States.

Third, choosing an unqualified ambassador has a demoralizing effect on the career Foreign Service and ultimately will endanger our ability to attract educated, committed young people into professional diplomacy. Our national interests are not, in my judgment, well served if donating $100,000 to a political party gives one a better chance of being nominated to an ambassadorship than spending 20 years in the career Foreign Service. Would the Members of this body for a moment consider nominating generals and admirals in the same fashion?

Stop and think about that for 1 minute. It happened at one point in our Nation's history and in the history of other countries. What would the reaction be if someone presented some of the same resumes that we are looking at in connection with ambassadorial nominations: Large political involvement, heavy political giving, no real experience in the area of foreign policy or diplomacy or international relations. Suppose it was said of these people: We are going to make them a general, or we are going to make them an admiral.

The impact of this trend on the career Service is manifold. First of all, the kinds of percentages that we are dealing with here, where only 38 percent thus far of the President's nominees for country Ambassador have been drawn from the career Service, means that those who have spent a lifetime working in the career Service, developing skills and talents relevant to moving up the ladder and eventually holding an ambassadorship, the number of opportunities is significantly diminished. In fact, it is clear with this administration that no career person can really hope to serve in an embassy in Europe. All but a handful of the European embassies are going to noncareer people. These embassies, of course, are the ones most sought after by big political givers and those heavily involved in political campaigns.

So, we are denying the opportunity which represents the culmination of a career in the Foreign Service. We are limiting their numbers.

As I indicated earlier, I think there is a case to be made on occasion for taking people from outside the career Service, but the numbers should be far different. They should represent a distinct minority of our ambassadorial appointments, and qualifications and abilities of such nominees should be such that they command general respect when they are selected.

In addition to the demoralizing impact on the career Service of denying opportunities to advance to the very top of their profession, there is another problem. Think what it does to career people to have an utterly amateur ambassador whom they have to, as it were, shepherd through each day. The stories of this are legion.

And, of course, the most important decision that these noncareer nominees make at the very outset is the choice of a deputy chief of mission.

Most of them have the good sense, at least, to recognize that they have to make a good choice because, if they do not, the embassy is in real trouble. Then they do not have a dedicated career servant to carry out the formidable responsibilities of the job while they carry out this other notion of what it is to be an ambassador.

We can see this impact on the career service. The American Foreign Service Association has written about it, sometimes with great feeling. Let me quote from the Foreign Service Journal of

June 19 an article headed "Qualified Ambassadors"—

Are we in the Foreign Service the only ones concerned about the qualifications of ambassadorial appointees? It appears so. And when we sound the alarm, we are seen as interested only in job security for ourselves. But political Ambassadors are not the problem. Ambassadors without qualifications are, be they political or career. The media treats the absence of qualifications lightly, with titters in the gossip columns. Congress, even those Members who know better, shrugs and says nothing.

Maybe they are right. Maybe it is OK to sell our diplomatic posts abroad to the highest bidders, for the taxpayers to bear the burden of paying off political activists, and that American interests in country X, Y or Z be damned. But we don't think so. Diplomacy is too important. We should practice it carefully and with skill and send out our very best to represent us. We recommend a quality control process for ambassadorial appointments for both career and political.

The United States no longer can work its will through the sheer force of economic, political or moral might. Our place in the scheme of things is affected by events and decisions in other countries. We are foolish if we do not seek every legitimate means to influence those decisions. World events touch everyone's job. Ask the steel workers, the UAW, and the farmers. Corporate board rooms understand the importance of the world to their welfare and they are beginning to look to Washington for effective diplomacy.

Mr. President, I ask unanimous consent that the full editorial from the June 19 issue of Foreign Service Journal be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

QUALIFIED AMBASSADORS

Are we in the Foreign Service the only ones concerned about the qualifications of ambassadorial appointees? It appears so. And when we sound the alarm, we are seen as interested only in job security for ourselves. But political ambassadors are not the problem. Ambassadors without qualifications are, be they political or career. The media treats the absence of qualifications lightly, with titters in the gossip columns. Congress, even those members who know better, shrugs and says nothing.

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How important is skilled diplomacy to reducing the threats of war, to having some impact on the international flood of illegal drugs, to the health of our world's environment? The list of international issues that are important to Americans now and which will be more so in the future is long.

How do we convince the people of a foreign country that we are serious in the pursuit of our country's objectives if the chief representative of the United States in that country can't speak the language, knows next to nothing about that country, and has no visible qualifications to represent the United States there? We can't.

AFSA urges the administration and Congress to consider whether the time has come to rethink the question of ambassadorial qualifications. Experience should have taught us the painful lesson that not just anyone is good enough to represent all of us. We, also, should care enough to send the very best.

Mr. SARBANES. Mr. President, let me turn to the specific situation before us today. I want first to address the general question that we are considering, the nomination of an Ambassador to Spain.

Where Spain is concerned, the United States has economic, political, security, cultural, and historic interests of the highest order. Spain has undergone a profound political and economic transformation since the death of Franco in 1975 and the subsequent establishment of democratic institutions.

In 1975, Spain moved to democracy. It was a profound development, and so perceived not only in Europe and in this country, but throughout the world. In fact, the Spanish transition is being looked to by some nations in Eastern Europe as offering a model from which perhaps they might follow.

A Cabinet minister from Hungary recently spent some time in Spain for the express purpose of examining how Spain accomplished this transition, both political and economic; how it moved to democracy, moved to an open economy, and became part of the European Community.

Since this turning point in Spain, throughout this 14-year period, the United States has been represented in Madrid by ambassadors with distinguished careers in the Foreign Service with experience directly relevant to their service in Spain.

Since Spain moved to democracy, American administrations, Democratic and Republican alike, recognizing the importance of Spain to our interests and the sensitivity of the Spanish situation, have sent ambassadors with distinguished Foreign Service careers.

From 1975 to 1978, we were represented by Ambassador Wells Stabler. Ambassador Stabler, a career officer with more than 30 years' experience, including posts in Rome and Paris, was at the time of his appointment the principal Deputy Assistant Secretary of State for European Affairs. He spoke Spanish and had had extensive management experience in the Department.

Ambassador Stabler was followed by Ambassador Terence Todman, a fluent Spanish speaker. Ambassador Todman had served as Ambassador to Chad, Guinea, and Costa Rica. At the time of his nomination to be Ambassador to Spain, he was the Assistant Secretary of State for Inter-American Affairs.

There are about 15 Assistant Secretaries in the Department. There is the Secretary, the Deputy, several Under Secretaries, and then the Assistant Secretaries. So at the time he was appointed to go to Spain, Ambassador Todman had risen to this rank in the Department.

From 1983 to 1986, we were represented by Ambassador Thomas Enders. He came to Spain after serving as Ambassador to Canada as U.S. representative to the European Community and as Assistant Secretary for Economics and Business Affairs. For the 2 years prior to his appointment, he held the position of Assistant Secretary of State for Inter-American Affairs. So he had been in the European Community, a major ambassadorship in Canada, Assistant Secretary in the Department of State.

He was succeeded by the fourth in this line of successive career ambassadors to serve in our Embassy in Spain—to give you some sense of the importance which administrations, Republican and Democratic, have attached to this assignment—Ambassador Reginald Bartholomew, who served from 1986 to 1989. Ambassador Bartholomew served in the Department of Defense from 1968 until he joined the Foreign Service in 1974. A Spanish speaker, he had previously been Ambassador to Lebanon and special negotiator for the United States Greek base negotiations. He was recently confirmed as Under Secretary of State for Security Affairs.

Although the transition of the immediate post-Franco period has ended, new changes are underway. In a March 11 article appropriately entitled "The Next Transition," the Economist noted:

Spain is at a painful but unavoidable turning point in its recent history. The country is changing gears. Having entered the European Community just 3 years ago, Spain already plays a crucial role in the rapid movement toward European economic integration which will culminate in Europe in 1992.

Mr. President, let me just very quickly mention a few of the reasons why Spain is such an important factor and needs to be recognized as such, and why I think four successive ambassadors over a 14-year period were highly respected members of the career Foreign Service, diplomats of demonstrated competence and experience.

First of all, we have Spain and NATO, a delicate and complicated situation. Spain obviously occupies a strategic position. Spanish participation in NATO was finally agreed upon after a popular referendum. It is limited in the sense that Spain is not fully integrated into the NATO command, which in and of itself raises certain questions about how things would work if, in fact, a crisis were to take place.

The United States has had base facilities in Spain since 1953. They have just been renegotiated. We are closing down one of them, the airbase outside of Madrid, at Torrejon. We must undertake implementation of the agreement that has been negotiated; not an easy matter, involving sensitive issues.

This new agreement on United States-Spanish bases was entered into force barely 4 months ago. It represents a significant change in military arrangements which date back to 1953. The agreement redefines the United States-Spanish military relations in the context of Spain's affiliation with, but not its full integration into, the NATO command in the context of Spain's increasingly active involvement in all aspects of European affairs.

Implementation of that agreement, including redeployment of the F-16's heretofore stationed at Torrejon, is just beginning. In my view, it is hardly an opportune time to put U.S.-diplomatic representation on automatic pilot with an inexperienced ambassador.

Second, it is important to note Spain's role in the European Community. In fact, since 1986, Spain's economy has grown the most rapidly of any country in the European Community. At the end of June, Spain finished its first 6-month term presiding over the European Community. The Spanish Prime Minister was the presiding officer under the 6-month rotation system which the Community follows.

The Prime Minister, Felipe Gonzalez, was perceived by all as having done an outstanding job as President of the European Community in Spain's first rotation. The Spanish Government sought to demonstrate its commitment to the European Community, and in fact at the EC summit in June of 1989 Prime Minister Gonzalez engineered a very significant compromise with respect to plans for monetary union in the EC. He was able to bring together Prime Minister Thatcher and President Francois Mitterrand—no small achievement, as we all will recognize. I might also note that a Spaniard is currently serving as President of the European Parliament.

So Spain is important to the United States for a number of bilateral reasons—important because of its position and role in NATO; important because of its role in the European Community; important because of its role in Latin America.

Spain, traditionally regarded as the mother country of 18 Latin-American nations, is making continuing efforts to expand its presence, economic and political, in the Western Hemisphere. In fact, Spain is interested not only in expanding their ties with Spanish-speaking Latin America but also with the Hispanic community in this country. I understand there are plans for the Spanish Prince to visit the U.S. Southwest later this year to establish ties with Spanish-speaking people living in the United States.

Spain has had a special interest and a longstanding degree of influence with the countries in Latin America, regarding itself as the mother country in culture, in history and tradition, and of course, in language. In fact, citizens of Spanish-speaking Latin American countries enter Spain without a visa, just one small reflection of that relationship. Spain trains a number of Latin American diplomats at its own diplomatic academy, and the Latin Americans see Spain's entrance into the Community as giving them a potential spokesman for important interest.

I think it is particularly important in this period to have a U.S. Ambassador sensitive to the potential significance of the Spanish experience to the nations of Latin America.

I spoke earlier perhaps of the role which Spain may play as a model for a transition to democracy on the part of, for instance, Eastern European countries. The Hungarian Minister of Justice, traveling throughout Western Europe and talking with constitutional scholars in particular, was studying successful democratic transformations in Spain.

So we are dealing with a country of major import. I am not sure we fully appreciate that in our society at large. I think the Department has appreciated it, and that is reflected in the quality of the career Ambassadors we have sent to Spain since Spain became a democratic nation in 1975.

Spain will host the Olympics in Barcelona in 1992. In that same year Madrid will be Europe's official "cultural capital." The European Parliament, as I indicated, now has a Spanish member presiding as its President in the next 2½ years. From all reports the Spanish now see themselves as playing a major role in the Community and, indeed, an increasing role on the world's stage, particularly as it relates to Latin America.

Further, the Prime Minister has now called for elections early. They will be held later this fall, and they may well be an important watershed in recent Spanish history.

Mr. President, let me turn to the nominee now before us to take this very important and sensitive assignment. My own view, very candidly put, is that who we send as an Ambassador to any country is important, and it is obviously important in the thinking of that particular country. Therefore, we ought to be concerned in each and every instance that we send the very best we can. But we have to recognize, just as a matter of reality, that there are some countries, because of their role in the world, their size, the importance of their economy, their political position, perhaps their cultural and historical leadership—and now we are talking about the premier Spanish-speaking country in the world—where we need to be even more sensitive to the nature of the representation we send.

In this instance, we have a case in which, in my judgment, disregarding the guidelines set forth in the 1980 Foreign Service Act and the critical interests and complex issues in the United States-Spain relationship, we propose to send an Ambassador to Spain who possesses no prior experience or educational background in foreign policy, no particular interest in or knowledge about Spain, and no Spanish language ability. In fact, one is struck by the paucity of Mr. Zappala's civic involvements as listed in his response to the committee's questionnaire. I ask my colleagues to refer to appendix 2 in the committee's report in which biographical information is set out.

Furthermore, despite the fact that the statute specifies that political contributions should not be a factor in making nominations, they appear to be the sole reason behind the nomination of Mr. Zappala. In fact, a good part of Mr. Zappala's certification of demonstrated competence, which I earlier indicated is required to be sent to the committee with each nominee, is devoted to enumerating his heavy political giving.

This is the report to the Foreign Relations Committee of the Senate. Subject: Ambassadorial nomination: Certification of Demonstrated Competence, (Foreign Service Act, section 304(A)(4). Post, U.S. Ambassador to Spain. Candidate, Joseph Zappala.

It is short enough, Mr. President, that I am going to read it, the full certification of competence to the Senate. I particularly want Members to note the focus and attention which is placed on his role as a political campaign contributor even though the statute says "contributions to political campaigns should not"—not—"be a factor in the appointment of an individual as a chief of mission."

Mr. Zappala, 56, is presently Chairman and Chief Executive Office of Joseph Zappala and Associates, in St. Petersburg, Florida; Chairman, Home Town Investors, Inc., and Owner and Chairman of Tucson Greyhound Park, Tucson, Arizona. Mr. Zappala is also presently on the Board of Directors

of First Union National Bank and the board of the College of Veterinary Medicine, University of Florida, Mr. Zappala is President of STRAIGHT Inc. and a member of the board of the Police Athletic League.

Mr. Zappala was National Finance Co-Chairman for the American Bicentennial Presidential Inaugural and Chairman of the Florida Victory Committee. Formerly Mr. Zappala was on the George Bush for President National Steering Committee in 1988 and the National Finance Committee Co-Chairman for the State of Florida as well as National Co-Chairman for the Republican National Committee's Team 100. Mr. Zappala was also Co-Chairman of George Bush for President 1979.

Mr. Zappala is a graduate of the New York Institute of Finance. Mr. Zappala's impressive business background in real estate combined with his civic activities qualify him as an excellent candidate for U.S. Ambassador to Spain.

And then it has a short concluding paragraph.

Members of the Republican National Committee's Team 100 are those who gave more than $100,000 to the Republican National Committee in the last campaign. In fact, there are at the moment eight persons from that list who have been nominated by this administration to be ambassadors.

If anyone were to ask me, what is the one single thing that he or she can do that might lead to ambassadorial appointment, I think it is becoming increasingly clear that the answer is to be a member of Team 100.

It also becomes apparent as we examine this situation that a development with respect to the responses to the questionnaire which is itself a small thing in a way reflects a larger proposition. Nominees are required to fill out an extensive questionnaire submitted to them by the Senate Foreign Relations Committee. The questionnaire asks them about community involvement, employment, financial information, and includes a number of detailed questions about personal résumé and background. For instance, it asks a question of government experience: "List any experience in or association with Federal, State, or local governments including any advisory, consultative, honoraria, or other part-time service or positions not shown in question 8."

In response to that question Mr. Zappala listed all of his political activities. I am not quite sure I recall any government experience properly speaking but that is where he listed his political activities.

Right at the end, or almost at the end; the questionnaire asks:

Are there any factors other than the information provided above which particularly qualify you for the position to which you have been nominated?

In response to that question Mr. Zappala said, and I am now quoting from his questionnaire:

I am known as a coalition builder. I am able to organize my colleagues and peers to action in support of worthwhile civic, charitable, and political causes.

This same questionnaire is submitted to all the nominees for ambassadorships that come before the committee. In response to this question, a close friend of Mr. Zappala's and a fellow real estate developer, Mr. Melvin Sembler, who has been nominated by the President to be United States Ambassador to Australia and whose nomination, I presume, in due course we will be considering, responded, and again I quote, to the same question:

I have been known as a coalition builder, able to organize my colleagues and peers to action in support of worthy civic, charitable, and political causes.

Mr. President, I did not make a mistake. I did not by mistake here happen to read Mr. Zappala's answer instead of Mr. Sembler's to that question. The fact of the matter is they gave virtually identical answers to this question in their separate questionnaires.

Do they regard this process as serious? Do they think the committee has an important responsibility to discharge? And, if so, why are they giving us identical answers to the same question?

The Washington Post looked into this in an article on the 24th of June, 1989; "Two Would-Be Envoys Are Frequent Partners—Nominees Even Shared Phrases." In the article they explain that this occurred because Mr. Zappala's public relations consultant filled out the questionnaire for him by copying the words of Mr. Sembler's public relations consultant who had filled out Mr. Sembler's form.

These nominees cannot even fill out their own forms. We have public relations people treating it almost as a joke. Let me just read from the Post article, which I will include in the RECORD.

Aides to the two developers said in separate interviews that they, not their bosses, were responsible for the strikingly similar prose in the five-page questionnaire that every ambassadorial nominee must file with the committee.

"Those are my words," said Tampa public relations consultant Pat Lewis. She said she completed Sembler's form using the same description of Sembler she often employed during the past five years while serving as his speech writer and publicist. Lewis said, however, she was not certain how her words got onto Zappala's form.

Bruce Bannard, a Zappala associate, said he knew. Bannard said he filled out Zappala's form and had a copy of Sembler's résumé, borrowed from Lewis, with him at the time. "Whether consciously or unconsciously," Bannard said, he lifted the wording.

The Washington Post in an editorial commenting on this said:

Modular testimony. Pre-fab (by someone else) self-description. It doesn't inspire a whole lot of confidence. Can the would-be ambassadors be trusted to enter into dialogue with their host governments if they, apparently, cannot be trusted to write a few lines on their own qualifications?

Mr. President, I spoke earlier about how, on occasion, the service can be refreshed by bringing people in from the outside. One of the nominees we considered earlier was Governor Orr of Indiana, to be Ambassador to Singapore. He was approved by the committee, approved by the Senate and is now in Singapore on assignment.

Governor Orr, to his credit, filled out the questionnaire in his own hand. It was very clear that the responses to the questions were his own and that he obviously had the ability and the capacity to respond intelligently. He brought to that nomination not only some distinguished political experience in this country, actually governing, actually administering, but also a long-standing interest in the Far East. He had 60 some of 18 trade missions to the Far East in the course of his tenure as First Lieutenant Governor and later Governor of Indiana. I only mention that by way of contrast.

Numerous articles and editorials from around the country have commented on the matter of this nomination. The St. Petersburg Times, in fact, the hometown newspaper of Mr. Zappala, said:

In the past, some new Ambassadors' lack of preparation for their jobs has been offensive to host countries and has prevented our Government from taking advantage of important diplomatic opportunities. Whether political appointees or career diplomats, our Ambassadors should possess the same qualifications that we have come to expect of foreign diplomats serving in this country. Otherwise, we run the risk of creating touchy situations that even successful St. Petersburg developers are not capable of getting us out of.

Mr. President, I have not based this argument on any contention about Mr. Zappala as a person. I concede, for purposes of this argument, that he is a fine person. I am sure that any of us would be happy and privileged to have him as a friend and neighbor. He has been successful in his business pursuits, and in fact, the majority refers to him as the "grandfather of condominiums" in Florida.

But I am simply making the point that when asked to give its advice and consent to ambassadorial nominations, the Senate must keep in mind that the Nation's interests are at stake. This is a serious business. It is not something to be done as a matter of political reward. It is simply not adequate or appropriate to have ambassadorships treated as rewards for campaign fundraisers.

There was a warning signal back in February of this year, and I have to confess that I—and I guess others—did not pick up on it; we should have picked up on it at the time and come back with a counterwarning. An article appeared in the New York Times, on

February 20 under the headline. "Ex-Finance Chairman Complains Few Jobs Go to Bush Fundraisers." That was about a month into the administration.

The article begins:

Robert A. Mosbacher, Sr., the Commerce Secretary, who was finance chairman of President Bush's campaign, says he is distressed that more campaign fundraisers have not been rewarded with political appointments. He blamed officials in the administration, but not Mr. Bush himself, for favoring political operatives over fundraisers for posts at all levels of Government.

Skipping through the article, we find the following:

Mr. Mosbacher said in the interview that he planned to bring the issue to the attention to White House personnel officials, and that he hoped to speak directly to Mr. Bush about it.

The Commerce Secretary, who ran the Bush fundraising efforts in the primaries and the Republican Party's drive to raise millions of dollars from wealthy donors, said there were "several hundred" fundraisers who deserved appointments to ambassadorships, sub-Cabinet posts or lower level jobs on commissions who were being neglected. The campaign had a national finance board of some 350 people in the primaries, and for the general election, 249 individuals and corporations, gave at least $100,000 apiece to the Republican Party.

"Quite a high percentage of those who have been helpful have not gotten anything," Mr. Mosbacher said.

The article goes on to say:

More than a dozen people who gave at least $100.000 to the Republican Party last year, or helped solicit millions of dollars more for Mr. Bush, are being tapped for jobs as ambassadors or as policymakers at subCabinet levels.

It then goes on to discuss this practice, mentioning the two people that I have mentioned here today, Mr. Zappala and Mr. Sembler, and others we are considering in the committee. Actually, this article ends with Mr. Mosbacher saying about another fundraiser:

"By all standards, she deserves something," Mr. Mosbacher said. "She raised a lot of money, worked hard."

Mr. President, I am not being a purist about this. In the past along with my colleagues, I have participated in cases of looking the other way and allowing some nominees to go through despite some doubts and misgivings. But I have been, driven to this fight by a combination of circumstances. I do not know how many here remember the movie "Network", in which Peter Finch at one point throws open the window and says "I am just not going to take it anymore." That is the point I finally reached with these ambassadorial nominations.

We had a list of nominees in the committee. It included some career people. It also included noncareer people with some dimension to them. But it also included some noncareer people who had absolutely no dimension to them. It was not a matter of one or two, but more. So one looks at the situation, sees at the numbers, and realizes that there has been a marked shift in the number of noncareer people, and at the same time a sharp drop in the quality of many of the noncareer people.

I am going to make a comparison because I want the point to be understood. I am going, in effect, to impose upon Ed Ney, who is now our Ambassador to Canada, to help make the point I am trying to underscore here today.

Mr. Ney is a noncareer appointee to Canada. He came before the committee with an impressive and distinguished record. He was very active politically, involved both as a participant and as a giver, but he is also chairman of Paine Webber, Young & Rubicam Ventures; he was for many years chairman and chief executives officer of Young & Rubicam, the world's largest independent advertising and communications company, and he was selected repeatedly as the outstanding person in his profession. He served on the board for International Broadcasting. He was on the President's private sector survey on cost control. He was on the Policy Advisory Committee of the U.S. Trade Representative, on the advisory board for the Center for Strategic and International Studies, on the board of trustees of the Urban League, and Director of the Center for Communications. He had been vice chairman of the Foreign Policy Association. He served on the board of trustees of a number of outstanding academic institutions, including Amherst College, NYU Medical Center, Columbia Graduate School of Business, visiting committee of Afro-American Studies at Harvard, frequent and repeated contact in Canada both at the personal level and on the business level. He speaks French, highly relevant in a country that is bilingual. And there are a number of other activities which I have not enumerated.

Ambassador Ney is a noncareer appointee. He has had substantial political involvement but when you look at his record and review his papers, it is clear as you read the résumé that there is a solid basis on which to send this person as Ambassador to Canada.

The answer to the question, why is this person being nominated to be an Ambassador to Canada? Was not to be found solely in the appendix listing his political contributions, although there was such an appendix and the contributions were significant. But the answer was not in that appendix solely. The answer lay as I have tried to show in a wide range of other activities and involvements.

I submit we have to start taking these appointments seriously. We can no longer treat them as political throw-aways. We must get off of this money merry-go-round. We cannot simply accept the proposition that solely because someone can write large checks he or she should then be on the short list for an ambassadorship. I am frank to say I regard check-writing as more of a problem than extended political involvement; at least an active citizen is taking part in the political process of trying to make our democracy work. But here we have instances where, as Secretary Mosbacher complained, few jobs go to Bush fundraisers. The Secretary was simply distressed that more campaign fundraisers had not been rewarded with political appointments.

But we have other interests to consider. If we are going to reduce these ambassadorial nominations to this level, perhaps we should put certain countries up for auction, then at a certain hour there will be a public bidding at the auditorium of the Department of State and whoever bids the most will get the assignment. At least in that case we would put the money into the Treasury of the United States and use it to offset the deficit. Of course the winners could also pick their DCMS. We could bring in three or four prime candidates and put them on display, and say, these are the longtime professionals in the career Service who have been trained for ambassadorial or diplomatic posts; one of these people will come with this job so if you bid for it you will get one. Doonesbury did a series of cartoons suggesting this very thing. Mr. President, I think it is time to get serious about these nominations. The process has deteriorated markedly with respect both to the overall numbers and the specific qualifications or, more accurately, put, lack thereof, of some of the nominees presented to us. I do not think we ought to let the process deteriorate any further. It has gone too far already. Now is the time to say stop. I urge my colleagues to reject the nomination of Joseph Zappala, to be United States Ambassador to Spain.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Minnesota [Mr. BOSCHWITZ].

Mr. BOSCHWITZ. I thank the Chair.

Mr. President, I agree with my friend and colleague from Maryland that Spain is indeed important, that Spain has now been without any ambassador since the 12th of March of this year and that it is indeed time to get serious about this nomination.

It is the practice of the Senate that a single Senator can hold up a nomination for quite a bit of time. This nomination was presented to the Senate 5

months ago, to the day, I believe, and the hearing took place 4 months ago. Since that time even though there has not been an ambassador in Spain this nomination has been held up, by a single Senator.

Yet we are now hearing that we are supposed to take the process seriously, that it is time to get serious about this nomination.

I listened carefully to the speech of the Senator from Maryland, and as a matter of fact since we are on the committee together I have heard elements of it before. He has heard elements of my response.

But let me first talk about Joseph Zappala and let me say that I understand that some Senators would judge a man of Mr. Zappala's background somewhat differently than I. His background, frankly, is not much different than mine in coming here to the Senate. His background, I might say, is far broader than many of my colleagues' here in the Senate prior to their time of coming here.

His background is one of a businessman of very wide accomplishment, of a businessman who has branched out far beyond the community where he began.

In the report that the Foreign Relations Committee prepared about Joseph Zappala, he is listed as one of Florida's leading businessmen with an extensive record of community service in areas ranging from adolescent drug abuse and mental retardation to the organizations of political life.

He is indeed one of Florida's leading businessmen, having really fulfilled the American dream, having done what few have been able to achieve.

(Mr. WIRTH assumed the chair.)

Mr. BOSCHWITZ. He came from New York. He went to Florida. He become a developer. He went without capital. He went with his dreams. He went with his ambition. He went with the ability and desire for hard work.

He has built millions of square feet of quality and award-winning projects throughout Florida. He is one of the larger shopping center developers in that part of the country.

As the distinguished Senator from Maryland has mentioned he originated the idea of condominiums in Florida which has led to very rapid development in that State. While some of that may not have much to do with diplomacy, I submit to the Senate that this is a man of considerable accomplishment. I will discuss, as we talk about what is required about diplomacy, how this kind of experience applies to that, because more than simply diplomatic experience or experience in the State Department is important to the business of diplomacy.

Mr. Zappala operates a large health care facility in St. Petersburg. He is the owner and chairman of the Tucson Greyhound Park in Tucson, AZ. He sits on the board of directors of the First Union National Bank, and was previously chairman of the board of the First National Bank of Seminole in Pinellas County in Florida, a bank which he founded.

In addition to being most successful in his own right, starting from ground zero, accomplishing things of magnitude in his State and across the Nation, the report of the committee on Foreign Relations further states: "Mr. Zappala's philanthropic activities also have been numerous." He is president of STRAIGHT Inc. STRAIGHT Inc. is the largest drug treatment program for adolescents in the country. More than 10,000 young people have passed through this program. This is an an accomplishment of great merit, in my judgment, and one which may have some relevancy for Spain particularly when we consider the fact that Spain is now thought to be an entry point into Europe for drugs.

So in confirming Mr. Zappala we would be sending to Spain an ambassador who has broad experience in drugs and how to deal with drugs.

Another important asset Mr. Zappala would bring to his assignment is that, in the words of the Foreign Relations Committee's report, "He has had a long personal relationship with George Bush."

It is indeed one of the most important elements of an ambassador's job that there be a relationship with the Chief of State. Which would the Spanish Government prefer? Would it prefer a bureaucrat, somebody who has been a career diplomat, carefully and cautiously in most instances working their way up the ladder of diplomacy? Or would they prefer a friend of the President? Would they prefer a person who has had a long, personal relationship with George Bush?

The Senator from Maryland pointed out an interesting fact, that the State Department is a very large organization with many officials. There is, as the Senator pointed out, the Secretary of State, a Deputy Secretary of State, three Under Secretaries of State, and 21 Assistant Secretaries of State, and probably 40-odd Deputy Assistant Secretaries of State. And it is to that bureaucracy that the Ambassador reports.

The question is: Does the Prime Minister of Spain, when he talks to the Ambassador, want somebody who is going to go through all these bureaucratic steps? If he really has something important, does he want somebody with that capacity, or does he want a person who has a long, personal relationship with George Bush? I submit to you that the people in Spain who are politicians themselves would indeed prefer someone with a long, personal relationship with George Bush.

That relationship was involved with finance, as indeed many political relationships are. Joseph Zappala cochaired the very first Florida fundraiser for the Bush campaign, back in 1979. He was on the National Steering Committee, on the National Financing Committee, and his fundraising talents were not only used for the political sphere but for many religious and charitable organizations as well, from which he has won numerous awards.

The Foreign Relations Committee report continues and says: "Mr. Zappala meets any reasonable interpretation of the hortatory standards of section 304," of the Foreign Service Act of 1980 to which my friend referred. Continuing the quote:

> Mr. Zappala's extensive career as a businessman, financier, philanthropist, and political organizer has given him excellent skills as a negotiator, advocate, manager, and coalition builder—in other words, he has a demonstrated record in the four key areas which must be mastered by any diplomat. In his numerous enterprises, he has been responsible for the well-being and payrolls of over 1,000 employees, and has won awards for his employee practices.

I know that many in the Senate do not share that kind of background. As a matter of fact, there are few people in the U.S. Senate who do have a business background similar to Mr. Zappala's. I am one of those few who came here as a businessman. I am one of those few in the Senate who is not a practicing lawyer. I am one of the few in the Senate who is really an entrepreneur and started his business much as Mr. Zappala did, and moved forward and indeed employed over 1,000 people.

And so I am particularly appreciative of the background of Mr. Zappala, and what it takes to get there. I did not come to the Senate with prior experience in diplomacy. I have no education in diplomacy. And yet I am on the Foreign Relations Committee, and I indeed help make the foreign policy of this country.

My friend from Maryland stated that Mr. Zappala cannot even fill out his own forms. He has a speech writer and a publicist. There are 100 Senators here in this body and many of them have speech writers and press secretaries. So the fact that he has a speech writer or a publicist really should not be so unusual to those of us in the Senate.

It was alleged that Mr. Zappala was deficient in language skills. But yet he is totally fluent in Italian, and has been all of his life. As the report once again says, "since Spanish and Italian are related romance languages, with similar grammatical and rhetorical structures," there is "no reason to believe that Mr. Zappala will not be reasonably proficient in Spanish by the time that he takes up residence in Madrid."

And indeed, as I noted, he has had a lot of time to become familiar with Spanish, as this nomination has been dragging on and on. It is a shame. If we were to get serious about the business of diplomacy and serious about the business of getting an ambassador to Spain, this nomination should not have been held but should have been brought to the floor.

We should have voted it up or down months ago, so that we would be properly represented in this important country.

I might say since 1960 there have been a number of ambassadors who have been political appointees. I do not know exactly the years that these people served there. But the following people served as political appointees to Spain, during the period subsequent to 1960:

John Lodge, Anthony J. Drexel Biddle, Jr., Angier Biddle Duke, Frank E. McKinney, Robert F. Wagner, Robert C. Hill, Horacio Rivero, and Peter M. Flanigan. Eight people, some of whose names I am most familiar with, have served as Ambassador to Spain as political ambassadors since that time, since 1960. I presume that many of them are Democratic appointees.

When we are considering ambassadors, we must consider the role that they play at these Embassies where they serve. First, they are personal representatives of the President as well as representatives of the Nation, and they deal on a regular basis with senior political leaders of the countries to which they are assigned. In the case of noncareer ambassadors it is one politician dealing with another politician, rather than a bureaucrat dealing with a politician. And I submit, Mr. President, that the politicians, the political leaders of Spain, appreciate the fact that the President sends a friend. And, indeed in the case of Joe Zappala, that is what is happening in Spain. The President is sending a friend.

In addition, ambassadors play an important role, particularly during the days of multibillion dollar trade deficits, in helping American businesses find opportunities abroad for creating new markets. Does Mr. Zappala's background fit there? It most certainly does. Does it fit there more than the normal bureaucrat? It most certainly does.

I have had businessmen say to me they have gone to countries and sought help from the Embassy. They have complained to me that they get there and nobody in the Embassy even understands what a letter of credit is.

Finally, an ambassador is responsible for managing quite a large number of people on the staff. The Senator from Maryland and I recently held a hearing for the new Ambassador to Fiji. Both of us were surprised to learn that there were 80 people employed by the American Embassy in Fiji. In Spain, the Embassy employs about 650 Americans and Spaniards. And the Americans represent many Government agencies. We are talking about a nominee, Mr. Zappala, who has led an organization in excess of 1,000 employees. Indeed, the report of the Committee on Foreign Relations says that he has won awards for his employee practices.

I might say the business of managing 650 people in an embassy is not always quite so simple. There are often a number of different agencies of Government represented in a single embassy. Very often there are many interagency battles that go on.

I submit that somebody who is outside of that, but yet has managerial experience, one who has not been involved in those turf battles, who carries no baggage in that regard, is indeed in a better position to deal with that than someone who comes from within the bureaucracy itself.

Let me talk for a moment about the number of nominees who are political nominees and those who are career nominees. I think I find myself in agreement with my friend from Maryland when he says that in certain situations, certainly career diplomats are of great value and are needed. Even though traditionally in some of those positions, political appointees have gone, for instance, to the United Nations. Some of our best ambassadors of recent years have been Ambassadors to the U.N. Vernon Walters was widely hailed. So was Jeane Kirkpatrick. Both of them were political appointees.

This President, however, in that important post, has chosen not a political but a career appointee, the former Ambassador to Israel, Tom Pickering, whom I have known for a number of years. I know Tom, and can say the President could not have made a better choice for this job if he wanted to show his esteem for the career service.

However, if we are going to say how many ambassadors are career appointees and how many are political appointees, the question is should we include those career ambassadors who are left in position? Should we include those who are in the midst of their normal 3-year terms and are allowed to continue in figuring out the averages?

When a new President comes on board, ambassadors, whether they are career or political appointees, as a matter of form send in their resignation. The result is that all can be replaced. This President chose to continue virtually all the career ambassadors who were in the midst of their terms. He did not accept their resignations. Should those people be included as appointees at this point? Or should only those people whose resignations were accepted, who were mostly political appointees be considered? Or should we also consider the group that was reappointed and left in place and did not require a nomination procedure? I submit that they, too, should be included.

When they are included, the numbers are more as they have been in the past. As a matter of fact, they are very much like they have been in the past and in my judgment we cannot count only those we are called upon to confirm at this time.

It has been said that we are seeing a flood of political nominees, from Republican "Team 100" contributors, those who gave $100,000 or more to the President's election campaign. The truth is there are only about a half a dozen who have been asked to become ambassadors. I thought there were half a dozen. My friend from Maryland says eight. I will certainly take his figures.

But that is a half dozen or 8 out of 150 Ambassadors we have representing us around the world. That is hardly a flood, in my judgment. How does an individual give $100,000? There are limits, and the limits are far less. I might say, when someone gives outside, not directly to the candidate, when they give to the party for so-called party building, then there are no limits.

This was not something started by this side of the aisle. This was not something started in the last campaign by the Republicans. However, it was copied by the Republicans when it was started by our friends on the other side of the aisle and it is not surprising to me that friends of the President would respond to such a solicitation.

Does a friend of many years who has succeeded greatly in business, a friend who responds to a request for a contribution, thereby become disqualified to serve as an ambassador? Is a contribution to be deemed just given for some kind of advantage? Cannot a large contributor also be judged as being a friend? Cannot a large contribution be judged as a sign of friendship? Or of a commitment to a philosophy? Cannot it also be judged as a sign of success?

The fact that some political appointees have been successful enough in business to contribute large amounts of money to the political process should not be held against them, as some would say. The only thing that this person has accomplished is that he has made a political contribution. I would review again the accomplishments of Joe Zappala, and I would also say that in the report by the Committee on Foreign Relations it is said:

> Finally, Mr. Zappala's political activity is a very important part of the story of our democratic system.

And I agree that his political involvement should not indeed be held against him. Certainly, his political involvement over many, many years was not aimed at being an ambassador at some later point. I know Mr. Zappala and I know indeed that is the truth.

As I have said, Mr. President, one of the most important jobs ambassadors have today is to help American companies find new business abroad. Successful businessmen know how to make deals; they know how to get things done. Having them as ambassadors helps the State Department carry out this very key task to find new markets, to help reduce our trade deficit. So I am pleased we have businessmen who go abroad.

Again, Mr. President, I perhaps, with my background, am more comfortable. Perhaps the great distinction between me and some of the critics of these nominees is the fact that my background is not dissimilar to theirs and my background is, on the other hand, dissimilar, not very close to what the background of what most in the Senate is.

Frankly, Mr. President, one of the reasons I am in the U.S. Senate is that many people in my State thought that my experience as a businessman and with a career in business was just the kind of values that were needed here in the U.S. Senate. I agree that my approach to problems of wanting to get things done is rather frustrating when compared with the way we sometimes work here. I am used to going to point A to point B in a rather direct line and not wasting too much time in doing so.

The fact that Mr. Zappala does not speak Spanish, although, as I said, by this time he has had time to become proficient in it and also since he is fluent in Italian and romance language, his ability to learn Spanish is much improved.

I might point out very often career diplomats are also not proficient in the language of the country where they go. Sometimes there is no logic to it at all. Not so long ago a diplomat who was going to go to Saudi Arabia came to my office. He was fluent in Mandarin Chinese, so fluent and so skilled and so familiar with the history of China that when President Nixon went there, he was the interpreter and adviser to President Nixon. He spoke Chinese with such proficiency that he was the interpreter. Now he is going to Saudi Arabia. He does not speak Arabic. In going to Saudi Arabia, I think he is most capable. Maybe his Chinese will come in handy if in reading some of the manuals that go along with the missiles China sold to Saudi Arabia.

Another Chinese expert is going to Botswana. A third Chinese expert is going to Haiti. So there is no logic to some of the career diplomats and where they go, nor is the language matter one of great difficulty that will not soon be overcome.

Mr. President, I believe that this President is not, in the words of Alexander Hamilton certainly not an unfit character. This is a man who has achieved much in life who, indeed, should withstand and closest scrutiny by the Senate of the United States. He has been a man of accomplishment, not only in the field of business but also in the field of charity. He has done much to improve the welfare of his fellow human beings.

So I congratulate the President for sending Joe Zappala to us. I am pleased that his nomination has finally reached the floor of the Senate, in October, after it has been discussed in the Senate for over 5 months. It is time that we fill that slot. It is time that we send an Ambassador to Spain. It is time that we vote on Joe Zappala and send him as an accredited diplomat on to Spain where he will serve this country, in my judgment, in the most admirable fashion. I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Mr. President, I rise in strong support of the nomination of Joe Zappala to be the Ambassador to Spain, the nomination made by the President of the United States.

I make no apologies for the fact he has been a very successful businessman and has been able to contribute to the Republican Party. I make no apology that he is a close friend to the President of the United States, and there have been some indications that the government in Spain is pleased by that nomination to realize that they have that kind of direct input.

Let me try to put the debate in perspective, at least from my point of view. There has been much discussion indicating that the President is relying more and more on noncareer appointments. If you put it into perspective, if you go back and look over the record, starting in 1961-62, the Kennedy years, 64 percent were career, 36 percent noncareer; 1963, the Kennedy-Johnson years, 65 percent career, 35 percent noncareer. Go to the Nixon years, 69 percent career, 31 percent noncareer.

If the 28 nominees who are before the Senate are confirmed, the ratio under the Bush administration would be approximately 65 percent to 35 percent.

Mr. SARBANES. Will the Senator yield on that point?

Mr. MACK. I say to the Senator, I appreciate him asking me to yield, but I have been here now some 2 hours, and I would like to finish my statement. I graciously listened to your comments for some length of time. I am sure you will have opportunity to respond.

Mr. SARBANES. I assume the Senator will be happy to yield at the end of his statement.

Mr. MACK. I will be delighted to see he has time.

Mr. SARBANES. The Senator from Florida will be happy to yield for some comments.

Mr. MACK. I will determine that at the end of my comments.

The Senator from Minnesota, Senator BOSCHWITZ, and I came to the U.S. Senate with similar backgrounds. As he indicated, maybe this is why we have a sensitivity to what has been said with respect to Mr. Zappala.

I began my career in 1982, having spent 16 years in the banking business, never acted in politics and the question was raised, am I qualified, am I capable? I was pleased to respond and react to those questions and said that I would like people to look at, my record, my involvement, what I had accomplished in my career before making a determination to run for the House, then for the U.S. Senate.

I make the same comments with respect to Joseph Zappala, an individual who has been successful in his business career and very involved in his community. I think most people would recognize the fact that raising a family of four children, active in business, one could make the argument that that is all that is required.

But, again, as Senator BOSCHWITZ pointed out, there are many accomplishments by this individual: his interest in helping his community, helping children, helping to solve the drug problem. He was involved in getting the STRAIGHT program started in 1976. He served as president of the STRAIGHT program. Again, we have heard that tens of thousands of individuals, young children, have been helped because of that involvement.

In addition to that, he served as president of the Pinellas Association for Retarded Children, again making a significant difference, and again fundraising capabilities played a role. Funds were cut off. Mr. Zappala and others banded together and raised the money that in fact has helped thousands of kids. There are 600 enrolled in the program today.

I mention that because it shows that special sensitivity, that special need to be involved, that special belief that one person can make a difference. He has done that in his life. He has indicated his ability to succeed, again just looking at it from the community aspect.

When you look at his business ventures, again we share a common background. He started a bank in 1971, very successful—successful in business, in the development of construction. Again, I make no apologies for an individual being successful. I think we want to send a message that, yes,

there is a role for successful business people in Government. In fact, there are many of us who think they are needed.

In addition, I should like to touch for a moment on this question that keeps coming up about, well, he is not qualified because he has not served before. There was a letter sent by Robert Wagner, one of the former Ambassadors to Spain, to several Senators and I would like to read just a portion of it.

He says, "I have had the privilege and opportunity to speak at length with Mr. Zappala. He impresses me as a fine and decent American citizen who through study has a real grasp of the responsibilities of Ambassador. I have found him to be intelligent and conversant with what is going on in Spain and the United States relations with Spain.

"As you may remember, I was named Ambassador to Spain by President Lyndon Johnson in the 1960's after my terms of office as Mayor of New York. Therefore, I had a special concern that we have good representation there. The Ambassador can make a concrete contribution to the people of Spain and of course to the people of the United States.".

He goes on further to say, "As one of Florida's most distinguished businessmen, Joe's remarkable record of community service also makes him one of the State's leading philanthropists. He has been a leading adviser and fundraiser for religious and charitable organizations as well as political campaigns throughout the United States."

And then he says in parentheses, (The latter is something that we never held against Averell Harriman.)

Mr. President, I ask unanimous consent to include in the RECORD a letter from the National Italian American Foundation as well as from the Pinellas Association for Retarded Children.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE NATIONAL ITALIAN AMERICAN FOUNDATION,
Washington, DC, September 6, 1989.

DEAR SENATOR: The National Italian American Foundation strongly urges your support of the nomination of Joseph Zappala to be our next Ambassador to Spain. Since it has been over four months since President Bush first nominated Mr. Zappala for this post, we also request the Senate leadership to immediately set the vote.

We strongly agree with Senator Charles Robb, a member of the Foreign Relations Committee who said, "in the case of Ambassadorships, I am inclined to give great deference to the judgment of the President, since an Ambassador is not only the United States representative, but also the personal representative of the President. And, ultimately the President's accomplishments in foreign affairs will depend on the strength of these and other appointments."

President Bush nominated Joseph Zappala on the basis of an outstanding career as a businessman, civil and philanthropic leader in Florida. Joe is the highly successful President and CEO of Joseph Zappala and Associates, an investment and land development company based in St. Petersburg, Florida. He also serves as President of Straight, Inc., the largest national drug treatment program for adolescents producing some 10,000 drug free young people in 15 states. He is also past chairman of the Pinellas Association for Retarded Children. He is the recipient of the prestigious Ben Gurion Award, the Tree of Life Award and the Gates of Jerusalem Award for his commitment to the State of Israel. In fact, later this year a park is being named in his honor in the Peace Park between Egypt and Israel.

According to the Senate Foreign Relations Committee "Mr. Zappala's extensive career as a businessman, financier, philanthropist and political organizer has given him excellent skills as a negotiator, advocate, manager and coalition builder. In other words, he has a demonstrated record in the four key areas which must be mastered by a diplomat." The committee also cited his "strong knowledge" of the major issues in current U.S. Spain relations.

Joseph Zappala is eminently qualified to be our next Ambassador to Spain. We commend President Bush for selecting such an outstanding individual for this important post. We are obviously proud that he chose such a prominent Italian American to serve in Spain especially since it will be one of the three main nations celebrating the Columbus Quincentenary in 1992. The Order of Sons of Italy in America joins us in urging a prompt and favorable vote on Mr. Zappala. At their National Convention in August, a resolution was passed expressing their "full support" of Joseph Zappala and urged the Senate "to expeditiously schedule a final vote on confirmation." We especially agree with the conclusion of their resolution which stated "any further delay would be unwarranted and unfair to Mr. Zappala, President Bush and the Italian American community."

With best wishes we are

JENO F. PAULUCCI,
National Chairman.
FRANK D. STELLA,
President.

PINELLAS ASSOCIATION FOR RETARDED CHILDREN,
St. Petersburg, FL, September 14, 1989.

TO WHOM IT MAY CONCERN: The Pinellas Association for Retarded Children is a nonprofit corporation that serves retarded children in Pinellas County. We accept everyone regardless of the severity of their disability or their ability to pay.

We also serve youngsters who are visually impaired, hearing impaired, neglected, abused, emotionally disturbed and nonambulatory.

Currently there are approximately 600 children and adults in the PARC Program. We provide year-round residential services for 135 children and adults. PARC programs include: Preschool, Speech, Physical and Occupational Therapy, Residential Services, Sheltered Workshop, Vocational Training and Job Placement. Hundreds of people in our community are able to walk today as a result of the physical therapy received as very young children in our Preschool Program. Each year we graduate approximately 30 children from our Preschool Program and many of them are able to attend regular first-grade classes in the public school system.

Every month at least one adult leaves our program for community employment and independent living. During our history we have made it possible for hundreds of people to leave state institutions for the mentally retarded to live and learn at the PARC Center with all the benefits of the community available.

We are involved in the Special Olympics and have a very successful recreation program.

PARC has approximately 1,000 duespaying members and over 1,500 volunteers. The volunteer sector is the backbone of this organization.

Joe Zappala, past president of the Board and Board Member for 12 years, without a doubt has been the most outstanding contributor to the success of this organization. Under his leadership at the Board level, we climbed out of a period of financial problems to a stable, sound fiscal organization.

Mr. Zappala single-handedly was responsible for raising the money to construct our first 10,000 square foot Sheltered Workshop. Mr. Zappala has introduced our organization to all of his family, friends and business associates.

The ripple affect of this presence on the Board of Directors is immeasurable.

Over the years Joe has won several awards at the state level for his outstanding contributions to the handicapped. He has been very generous to the Pinellas Association for Retarded Children with his time, talent and donations.

Each year I call Joe Zappala to contact his friends to invite them to the variety of special event, fund-raising affairs that we conduct for the benefit of the children we serve.

Joe Zappala has made a significant impact on the lives of the children in this community.

BERT MULLER,
President.

Mr. MACK. In closing, I say again I want to focus on what this individual has accomplished in his life. That is where we are going to determine whether the individual has the ability to be successful in this job to which the President has appointed him.

I think that record speaks very clearly. This is a man who can take on challenges, has proved his ability to succeed, and I am confident he will be a great success as our Ambassador to Spain.

Now I am delighted to yield to my colleagues from Maryland.

Mr. SARBANES. I would like to ask the Senator about these numbers. Is the Senator representing on behalf of the administration that in all the subsequent appointments of Ambassadors they intend to make, they will be career people in order to sustain this ratio that he talked about?

Mr. MACK. I say to the Senator from Maryland that I certainly cannot speak for what the future appointments or nominations might be, but I think it will be on the record, in the years to come, probably very close to the 65-35 ratio and, in fact, when you look down the information which I took out of the CONGRESSIONAL RECORD, from August 3, 1989, that is a

fairly constant ratio, and so I feel confident that will occur in the future.

Mr. SARBANES. We have no assurance of that from the administration. The basis on which you can make a comparison is to take the nominations this administration has made and compare them with the nominations that other administrations made.

Now, other administrations kept their Ambassadors in place until they eventually got around to making the nomination, either at the end of their tenure or perhaps even earlier. What the figures show, on a comparative basis, on the basis of the numbers thus far appointed, is that this admnistration has completely reversed the ratios so that their nomination of political people far exceeds anything that has occurred at this point in previous administrations.

If the Senator is prepared to say for the administration, well, this is the end of it; we are not going to do any more of these political people; we have done them all right up front and this is the end of it; and they are all going to be career, and therefore eventually we will work back into a percentage that looks reasonable and compares with the others, that is one thing. But as far as I know they have not made any such commitment. On the basis of that we have seen so far and know so far, they have really left the career service to the side and they have gone all political. A former Under Secretary——

Mr. MACK. Mr. President, I would like to reclaim my time.

Mr. SARBANES. A former Under Secretary of the Department, in referring to what was——

Mr. MACK. I would like to reclaim my time.

The PRESIDENT pro tempore. The Senator from Florida has the floor. Does he yield to the Senator from Maryland?

Mr. MACK. I believe I have answered his question, and I would like to reclaim my time.

The PRESIDENT pro tempore. The Senator from Florida has the floor.

Mr. MACK. I thank the Chair.

Again, I say in my closing remarks, I think we have addressed this question with respect to ratios. I am not trying to make any blame on future appointments that the President of the United States is going to make with career versus noncareer. If you look at the record, if you add the 28 appointments that are now waiting to the numbers that are in the field, you are going to come out with a ratio of roughly 65-35. We can debate in the future what the ratio should have been or could be, but the reality is it is going to be very close to 65-35.

Mr. BOSCHWITZ. Will the Senator from Florida yield for a comment?

Mr. MACK. I am delighted to yield.

Mr. BOSCHWITZ. I say to the Senator from Florida that this administration has said time and time again that it fully intends to maintain the normal two-thirds to one-third ratio that has existed between career and noncareer appointees.

Mr. MACK. Again, I thank the Senator for his comments.

In closing, I encourage my colleagues, both Republicans and Democrats, to support this Presidential nomination to Spain. He is a qualified individual, an individual of whom we can all be proud.

I thank the Chair.

Mr. SARBANES. Mr. President, I ask unanimous consent that the article "Trashing the Foreign Service," to which I made reference be included at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TWO BUSH MISTAKES: TRASHING THE FOREIGN SERVICE

(By Ronald I. Spiers)

In June, I left the U.S. Foreign Service after a career of almost 35 years. I would not have traded these 35 years for anything. The variety, excitement and opportunity for participation in history-making events could not have been matched anywhere else. Yet I departed with a deep unease about the future of our country's diplomatic establishment.

America's diplomats—unlike her intelligence and military services—have no domestic constituency. Indeed, there is general ignorance about what a diplomat is and does. I have been misidentified as a Forest Service ranger and as a member of the Foreign Legion. Others still dismiss us as "striped-pants cookie-pushers," engaged, so they imply, in one long round of cocktail parties. But our diplomats work at the very heart of our most important national interests. Journalists write about foreign policy, scholars and historians analyze it, academics teach about it, but only our diplomats are practitioners.

Indifference toward diplomacy seems to be shared by many in Congress and the new administration. Two stories in The Post last week illustrated the problem. One noted that Bush has thus far appointed fewer Foreign Service officers as ambassadors than either Ronald Reagan or Jimmy Carter—favoring instead political appointees, including one ambassadorial nominee who has no job history and no college degree. The other story noted that the Senate has introduced 120 amendments—most of them involving pet projects and special interests—to the State Department authorization bill.

We wouldn't treat our military so contemptuously. Yet diplomats—who run greater dangers these days—seem to be fair game for the politicians. They face dangers, disease, discomfort. Their pay, while adequate, is far below what people of their caliber could command in the private sector. Often their spouses can't be employed in the countries to which they are assigned. They face a constant threat from terrorists—since the Korean War, more ambassadors have been killed on duty than all the admirals and generals. And what do our Foreign Service officers get for their troubles? Potshots from Congress and the White House.

In even the most professional foreign service, of course, there can be bad apples, and that may be the case with Felix Bloch, a career diplomat who is under investigation by the FBI for possible involvement with the KGB. But what's striking about the U.S. Foreign Service—in comparison with almost every one in the world—is how rare such cases have been. The last one, to my knowledge, was in the early 1960s.

Foreign Service officers, like our military officers, are in a "bottom-up" system. They enter the service through a highly competitive process. As many as 18,000 apply to take the exam; at the end of the process, approximately 235 new officers are selected each year. The competition continues throughout an officer's career. When he reaches first-secretary rank, which is equivalent to an Army colonel, he can compete for promotion to the "flag rank" of the Senior Foreign Service, a 700-member cadre that staffs the senior embassy and headquarters positions. An officer who elects to compete for the senior service has six annual shots at promotion. If unsuccessful, the officer must retire. This means that each year some very good officers are forced to leave, but it ensures that only the very heaviest hitters get to the top.

We need good diplomats. The problems the United States will increasingly face in the future are going to require more diplomatic skill and less military heft—problems like drugs, terrorism, pollution, waste management, acid rain, global warming, deforestation and desertification, regulation of outer space, debt management, trade regulation and a plethora of others. The focus of our attention will move from Afghanistan and "Star Wars" to rain forests and nuclear-waste dumps. Most of these issues are characterized by the irrelevance of force to their solution and by the requirement for diplomatic skill in mobilizing the collaborative efforts of the world community for dealing with them.

Yet the United States seriously underfunds its diplomacy. We spend less than two-tenths of one percent of our federal budget on this vital function. The $300 billion we spend on defense dwarfs the less than $2 billion we spend to conduct our foreign relations. The $600 million projected as the cost of a single new-generation B-2 bomber would be more than adequate to give us the tools we need to be effective. We could devote the funds we need to match our Soviet counterparts in language skills (when I was ambassador to Turkey we had no one in our embassy who was as fluent in Turkish as were a number of the Soviet embassy staff members; the same was true of Urdu when I was in the same position in Pakistan).

The cost of one B-2 would give our embassies the money needed to permit our personnel to travel in the hinterlands of the countries they are supposed to know. It would let us do the "representation" work that is often the lubricant for influencing key decision makers and opinion leaders in other countries. It would permit us to abandon the wasteful economies we are now forced into by skimping on maintenance of our embassies abroad, by sacrificing training or, alternatively, accepting long staffing gaps in our overseas missions. These long gaps means that an officer who will have spent several years developing contacts and accumulating knowledge, experience and cultural "feel" cannot pass on what he has learned to his successor, who must then start from scratch. These are foolish econo-

mies which cut deeply into our diplomatic "readiness."

Congress won't even let us economize. Surplus military bases are finally being closed, but we in the Foreign Service are unable to close unnecessary posts abroad because of some vested congressional interest. So we pay to keep them going while cutting more important areas of expenditure. Last year Congress decreed that the State Department would be penalized by a $50-million "fine" if it closed any of its posts. This year the chairman of the Senate Foreign Relations Committee is trying to make the department open a post in the city he served in as a young diplomat!

Then there is the problem of ambassadorships. Once upon a time, generals were appointed on political grounds. Commissions were sold and senior military officers were selected for their political connections. The story of Britain's misadventures in the Crimean War demonstrated the folly of these traditions, and today no one thinks of appointing military leaders because of their political campaign contributions. I believe professionalism is as important in our diplomatic service as it is in our military and intelligence services. This does not mean the diplomatic service, any more than the military, can be a law unto itself. Nor does it mean the political appointees can't make outstanding ambassadors. But things are getting out of hand.

The politicization of ambassadorships, which accelerated under the Reagan administration, is if anything getting worse in the Bush administration—despite the general expectation that the president, who had served in foreign-affairs positions himself, would change things. The new secretary of commerce set the tone soon after taking office, when he was quoted as complaining about the slowness of paying off political supporters with appointments. By the end of May, the president had selected 44 noncareer and 28 career ambassadors.

Competent non-career ambassadorial appointees are welcomed by the career service. I have worked under several, including David Bruce and Elliot Richardson, who were my chiefs when I was posted in London. These were people with serious interests and extensive backgrounds in foreign affairs, superbly qualified to contribute effectively to conduct of American foreign relations. However, appointees of this caliber are now very much the exception." And during President Reagan's eight years the percentage of political appointees rose from 25 to 40.

This has two effects. First, it demonstrates a casualness, a lack of seriousness of purpose, on the part of the United States. Imagine the reaction of Bahamians when the newly appointed ambassador listed as his qualifications for the job the fact that he came from a state where gambling was a big industry and that he liked to play golf. Twice in recent years, political ambassadors had to be removed for outrageous personal or sexual behavior.

Second, it makes management of a career service difficult and ultimately weakens our diplomatic capability. We have had a recent exodus at the top of our service as some of our best senior personnel—people who have been trained and paid at taxpayer expense—find they have no future in the Foreign Service because people whose only qualification is the size of their political contributions have preempted positions that career officers had spent a lifetime preparing to occupy. They leave, and the United States loses valuable assets. It is having a corrosive effect on some of our brightest younger and mid-level officers who no longer have the spur of a good chance at ultimately holding positions at the highest leadership levels.

Two arguments are made on behalf of this practice. Both, in my view, are specious. Political appointees, it is argued, have direct access to the president that career appointees do not have. This is seldom the case. In any event, ambassadors who go directly to the president tend to get short shrift. John Kennedy let his impatience show when some of his appointees tried to exercise this purported access too freely.

A second argument is that the president needs people on whom he can rely to carry out his policies because they know and share his viewpoint. However, the career service is—like the military—a disciplined service. There is no uncertainty about who sets policy. Presidents generally have more trouble with free-wheeling political people than they ever do with career professionals. President Reagan faced the problem of a political appointee ambassador who went off to Libya trying to implement his own policy toward Gadhafi.

Finally, it needs to be understood that an ambassador is not a "policy-maker." Policies are made in Washington, and carried out in the field. This is probably the basis for the oft-encountered contention that ambassadors are essentially "messenger-boys." So, it is asked, what difference does their qualification make? I encountered this contention frequently in the last administration. There is a self-fulfilling aspect to this canard, since Washington will avoid dealing through or listening seriously to people of whose qualifications they are skeptical.

In fact, an ambassador's energy, persuasiveness judgment, contacts, substantive knowledge—his ability to act coolly improvise quickly on the basis of experience or well-honed instincts and intimate knowledge of U.S. goals and objectives—can be crucial in a crisis. There is no substitute for on-the-spot knowledge of other cultures, languages, personalities and what buttons to push to get results.

I believe the Bush administration should show much greater care in its selection than it has to date, as well as recognize the impossibility of keeping an astute and effective career service if its members conclude, as too many have, that the opportunities for promotion to the most responsible positions either at home or abroad are greatly restricted.

At last count before I left the State Department, more than 100 senior officers were without assignment. These so-called "corridor walkers" are people with the skills, background and experience—and the years of training—to represent us with credit aboard. It is an unconscionable waste of an important national asset. Foreign diplomats shake their heads in wonder at this American profligacy.

There is a set of plaques in the main lobby of the Department of State headquarters in Washington. Each May the names are added of those members of our diplomatic staffs who have been killed in the line of duty in the previous 12 months.

When I joined the Foreign Service in January 1955 it held 72 names, covering a period of 175 years. During the 35 years I was a Foreign Service officer, 90 names had been added—most of them victims of terrorist action. It angers me to see their legacy of diplomatic skill and professionalism being squandered by Congress and the administration.

The PRESIDENT pro tempore. The Senator from Arizona, Mr. DECONCINI.

Mr. DECONCINI. Mr. President, parliamentary inquiry. Is it necessary to get time yielded or is the floor open?

The PRESIDENT pro tempore. The Senator has the floor.

Mr. DECONCINI. I thank the Chair.

The PRESIDENT pro tempore. He has been recognized.

Mr. DECONCINI. I thank the Chair.

Mr. President, I would like to speak for a few moments on the nomination of Joe Zappala as U.S. Ambassador to Spain. I am very pleased and thankful that the Senator from Maryland agreed to let this matter come to the floor for a vote. I understand his strong feelings in the area of ambassadorial appointments and I have listened a number of times when he has spoken.

I also thank the majority leader for scheduling this nomination. He has a busy job on his hands, as the President pro tempore of this body knows better than anybody else, to schedule things. The majority leader committed to a number of us that he would bring Mr. Zappala before the Senate so we could, as we say, work our will and vote up or down on this nomination. The majority leader has been accommodating to this Senator and others.

Frankly, Mr. President, I believe that much of the uproar about this nomination is more of a tempest in a teapot. Whatever the language that was included in the Foreign Service Act of 1980 on the qualifications of Ambassadors, the Constitution is quite clear on the President's prerogative in this field. The Constitution says, and I quote, "He," meaning the President, "shall nominate, by and with the advice and consent of the Senate, appoint Ambassadors, other public ministers, and consuls."

I am not trying to deny that the Senate plays a very important constitutional role. That is what we are doing today, debating and discussing qualifications and the ability of this individual, Mr. Zappala, to serve as the Ambassador to Spain.

I have always believed that our responsibility is to give the President his prerogative unless there is a compelling reason that the person is unqualified or cannot hold that office. But I feel the President should be allowed certain discretions in this area. That is what he has done in this instance.

The important part of this process is to be satisfied when, from the President's point of view, he has a nominee that can do the job he believes is necessary. As the architect of our Nation's foreign policy, the Chief of State must be comfortable with those who are going to implement his foreign policy. That is what the appointing process is all about. If our Founding Fathers thought otherwise, they

would have said that the President must choose from the rank and file, or he must choose with some criteria laid out in the Constitution. We know that is not the case. There is a protection that the United States Senate exercises—in the event a nominee is appointed and for reasons of a lack of qualifications or other reasons that the nominee is not in the best interests of the United States—then the Senate should rise and refuse to approve the nomination, whether it be for an ambassador or for a court of appeals or the Supreme Court.

I also reject the idea that you have to be a foreign policy expert to be an ambassador. Ambassadors must perform a number of functions. They must manage an embassy, of tremendous size, such as the one in Spain. Many of you have visited there, as I have. That is not a small little enterprise in and of itself. The Ambassador to Spain is responsible for overseeing approximately 250 employees, for reading all cables that come through, numbering hundreds per week. The agencies represented including the Commerce Department, the Agriculture Department, the USIA, and the Defense Department are all under his control, all reporting to him as though they were reporting to the President of the United States.

Each person attached to the Embassy is directly responsible to the Ambassador, and they must work in concert as a team representing the United States abroad. Also, as Spain only became a member of the European Community in 1986 and as all Europe is moving toward an economic union planned in 1992—a big role for any ambassador and any person who is there—Mr. Zappala's business background should serve as an asset in this post. Clearly, previous experience in running a successful business is extremely relevant to the successful running of an embassy.

Ambassadors also directly represent the American people. I believe our Ambassador should reflect the regional, economic, and cultural diversity that make this country unique. Representing America cannot be left to a small group of foreign policy officials, the elite in the Foreign Service and the State Department who would like to think that only they can put forward the policy of the administration that is in power. That is not what our system is about. That is why we elect a President every 4 years—so we have an opportunity to have a new policy put forward and not one that is left over or which might continue. We need citizens from all walks of life to demonstrate the ideals that this country is all about.

One of the issues raised by the opponents of this nomination is that Mr. Zappala does not have the experience in international affairs. I believe that while such experience is very useful and can certainly be of some benefit to the United States, it is not fair to say that a lack of this experience is a reason to deny the confirmation of this nominee.

There are a number of examples, I might say. First, private citizens, often with little or no previous experience in foreign affairs, have served our country with distinction as ambassadors abroad. We have had business people, and entertainers serve as our ambassadors. Some have been controversial and have not done a good job. We have also had some that have come through the ranks on the professional side that have not done a good job.

As an example of one previous ambassador who has done a good job and came from the ranks as a private citizen with no experience which immediately springs to mind is Anthony Motley. Ambassador Motley was an Alaskan real estate developer. That is what Mr. Zappala has done for a good part of his life. He has not developed real estate in Alaska but in Florida.

Mr. Motley was appointed to Ambassador to Brazil by Ronald Reagan in 1981. He had no previous experience in foreign policy whatsoever except foreign travel as have many, many Americans. He had been, however, a strong supporter of President Reagan's campaign. Yes, he contributed money to the campaign of Ronald Reagan. He faced a battery of skeptics in the press and elsewhere similar to that now being faced by Mr. Zappala.

I would like to read part of an article from the New York Times commenting on Ambassador Motley's performance:

> In a year he gained extraordinary access to the highest levels of the Brazilian Government earned the highest regard of other ambassadors in Brasilia, won over the most traditional diplomats in his own Embassy, and gained the singular tribute of being hailed our Ambassador by major Brazilian newspaper.

This Ambassador's work in Brazil earned him a further post in the Reagan administration because of the outstanding leadership he demonstrated, while coming with no previous amount of foreign relations experience. He was appointed as Assistant Secretary of State for Latin American Affairs. There are few observers of international affairs—and I think I can include our professional diplomats in that number—who would deny that he has served his country well in both of these posts.

Another example is Clare Booth Luce, a well-known playwright, politician, and a woman of renown throughout the United States. Clearly, her appointment was a political appointment for her past assistance and support to the Republican Party. She served as Ambassador to both Brazil and Italy. Her tenure as Ambassador to Italy was summed up in the Washington Post editorial as follows:

> When she began her post in Rome more than 3 years ago she had to combat Italian fears and suspicions of a woman Ambassador and amateur diplomat. When she left she had the respect and admiration of the Italian people, if not always their agreement.

What a compliment for someone with no diplomatic experience to have stepped into a very sensitive role as Ambassador to Italy and received that kind of compliment for her service to this country.

She was a political appointee. Which ones are not political appointees, perhaps, when you really get to the bottom line? She ended her term in office with accolades and quotes from President Eisenhower as having done a superb job.

We tend to forget that Elsworth Bunker, the premier diplomat of the past generation, was in the sugar refining business before being appointed as Ambassador to Argentina. He served well there and with great distinction—as a matter of fact, for 35 years in the Foreign Service. Following his first appointment as ambassador in 1951, Ambassador Bunker served in some of the toughest assignments in our diplomatic corps, including Vietnam.

In serving his country Ambassador Bunker won the Presidential Medal of Freedom and the Grand Cross Knight of the Republic of Italy. He went from sugar refiner to diplomatic troubleshooter around the world on behalf of this Nation. Perhaps Joe Zappala is a future Elsworth Bunker.

If this body does not confirm him, we will never know, but I am satisfied that if he is not an Elsworth Bunker, he could indeed be a Clare Booth Luce, and he can serve at least in a capacity equal to that prominence.

We cannot tell today, but neither will the Senate know unless we move forward and approve this nomination.

There are other examples of private citizens who have become fine ambassadors representing the United States and who have played major roles in foreign policy transmission and direction—IBM Chairman Tom Watson, who served as Ambassador to the Soviet Union. It was only appropriate that the United States send the chairman of the leading example of our capitalist system to the capital of the largest Communist system.

What a compliment that was to the United States and to Mr. Watson, and what a fine record he was able to leave as a legacy in serving this Nation.

I point also, to the Coors official, Mr. Sam Zakhem, who served in Bahrain. Here was someone who was treated with skepticism. Here was a man whose parents were immigrants from Lebanon. He lived the American dream, wanted to give back something

to his country. He made some money in this great Nation of ours and he made contributions to the Republican Party. He served this Nation with eagerness and exuberance in Panama.

When I was there visiting with him, it was interesting to talk with the crown prince, who went out of his way to tell me how influential this businessman ambassador was in getting the Bahraini Government not to vote in favor of sanctions by the Arab League against the United States after our strike against Libya.

The crown prince told me himself; I asked if the Ambassador asked him to raise it. He said, "No, I raised that because it is important for us to know how we feel about this individual in Bahrain."

It was there that our servicemen and women were able to recover from the tragic attack on the *Stark* during our operations in the Persian Gulf. It was in part due to the Ambassador Zakhem's effort, that these berthing rights were guaranteed.

I believe Joseph Zappala will exemplify those standards set by these great citizen diplomats of the past and become a first-rate ambassador. He will bring to the job a number of qualities and qualifications that will serve him and the country in good stead.

He is a man who is used to meeting challenges. The son of an immigrant, of an Italian immigrant, Joseph Zappala has built an investment and land development company in Florida that has been responsible for projects worth hundreds of millions of dollars.

He truly has adopted the American can-do spirit. He wants to do what is good for his country. He has also been extremely active in philanthropic activities. On an issue close to my own heart, he was cofounder and president of STRAIGHT, Inc., a drug treatment and rehabilitation program for adolescents with offices around the country today.

He is involved in the University of Florida School of Veterinary Medicine, as well as many other associations, including one benefiting retarded children. He has been a strong supporter of Israel since his youth, when, as a 17-year-old, he volunteered for the Army during World War II and was sent to train outside Dachau. There he learned firsthand of the atrocities of the Holocaust, and has worked ever since to ensure that the lessons learned there are shared with succeeding generations.

He has been awarded the Ben Gurion Award, the Tree of Life Award, and the Gates of Jerusalem Award for his commitment to the State of Israel and the welfare of the countries in the Middle East. There was recently a park named in his honor on the Peace Road between Egypt and Israel.

Much has been made of Mr. Zappala's inability to speak Spanish. I must say that certainly is a tremendous benefit of any ambassador. Many ambassadors, including the IBM president, Ambassador of the Soviet Union, did not speak Russian, and yet he executed that position very well.

I point out that Mr. Zappala speaks Italian, and I firmly believe that he can familiarize himself with Spanish. He understands the Italian culture and life, and I must say, though, different as it is, there are many similarities between those two nations and the cultural values that bring them together. I have little doubt that he can become very fluent in Spanish in a short period of time.

The issues being raised on this nomination are not directly related to Mr. Zappala's qualifications. He has been caught up in the middle of a struggle over what has been seen by critics as an inordinate number of political appointments to ambassadorial positions, and that for some reason, this is a bad thing.

Politically motivated appointments to ambassadorships have been with us since the beginning of the Republic, and I daresay will continue, and should continue. If a President is foolish enough—and some are—to put someone into a position representing the United States, being the President's voice in that country, who is unqualified and does not understand the country, and is unable to articulate and to represent the United States and the views of the President, the President pays the price, not just that individual.

The President has made clear in recent statements that he expects his appointments to be in line with previous administrations and, if anything, he wants to reduce the number of political appointees. I do not know what else we can ask.

During the debate on the MacNeil/Lehrer Report last Friday, it was noted that while 36 of the 58 people President Bush has nominated to be ambassadors are political nominees, the President has also left nearly 100 career ambassadors in place around the world.

What are we going to say? If one tips one more over than one is supposed to, by somebody's arbitrary number, then there are no more political ambassadors? Each one should be chosen first on their merit and their relationship with the President, and second, they should be chosen on whether they can represent the United States and the President of the United States.

As we face that obligation under the Constitution to confirm or not to, to advise and consent or not to, it is the responsibility of us to look at what the individual is, and not judge it on numbers.

To sum up, Mr. President, Mr. Zappala is one of Florida's leading businessmen. He has a long history of involvement in community service, and he has been active in the public arena.

I have no doubt that he will make an excellent Ambassador to Spain from this country; he will make our country very proud. He comes from a background that is dedicated to success and to hard work. He has a close relationship with the President of the United States. I do not know what else we could ask for.

Thank you, Mr. President.

Mr. PELL addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from Rhode Island, Mr. PELL.

Mr. SARBANES. Will the Senator yield to me for a moment?

Mr. PELL. I yield the floor.

Mr. SARBANES. Did I understand the Senator from Arizona to be citing a New York Times editorial with respect to Ambassador Motley?

The PRESIDENT pro tempore. Does the Senator from Rhode Island yield for a colloquy?

Mr. PELL. I yield the floor for that purpose.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DECONCINI. If the Senator would yield, the particular article is in the New York Times, dated November 24, 1982, "Our Man From Alaska Goes Over Big in Brasilia." I ask unanimous consent that that be inserted into the RECORD. I would be glad to share it with the Senator from Maryland.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 24, 1982]

OUR MAN FROM ALASKA GOES OVER BIG IN BRASILIA

(By Warren Hoge)

RIO DE JANEIRO, November 23.—When Langhorne Anthony Motley was named the United States Ambassador to Brazil a year ago, a lot of people grumbled.

"I know, I was one of them," said Lowell C. Kilday, director of the State Department's Office of Brazilian Affairs in Washington. "A lot of eyebrows were raised. We looked at Brazil, the most important country in Latin America, and thought, 'What's going on around here sending a guy like that?' "

In Brasilia, the outgoing Ambassador, Robert M. Sayre, was asked by the Federal Reserve Board head, Paul A. Volcker, then visiting Brazil, who his successor would be.

"Some real estate agent from Alaska," was the acid response, according to two other people who participated in the conversation.

THE COMPLAINTS ARE QUALIFIED

A land developer, Republican Party stalwart and former Air Force officer, Mr. Motley came here from Anchorage as one of the host of political appointees with which the Reagan Administration has filled its ambassadorial ranks—to the distress of many career diplomats like Mr. Sayre. The American Foreign Service Association says that one of every three such appointments

have been going to noncareer people under President Reagan after the Carter Administration had succeeded in reducing the number to one in every four.

But today the complaining in State Department corridors over the phenomenon carries a conversational asterisk exempting Mr. Motley. In a year he has gained extraordinary access to the highest levels of the Brazilian Government, earned the high regard of other ambassadors in Brasilia, won over the most traditional diplomats in his own embassy and gained the singular tribute of being hailed as "our" Ambassador by a major Brazilian newspaper.

He played a principal role in setting up President Reagan's coming trip here, dealing directly with Brazil's president, Jaoa Baptista Figueiredo, by White House telephone while the Brazilian leader was campaigning in interior cities for candidates in elections held Nov. 15. If the two Presidents follow the practice of their first meeting in Washington in May, Mr. Motley will be doing the translating when they get together in Brasilia Dec. 1.

BRAZILIANS BACKGROUND A HELP

Mr. Motley has brought to his assignment one great advantage. Born and raised in Rio de Janeiro, he speaks fluent Portuguese down to the accompanying gestures and unprintable expressions. "A lot of Brazilian editors have told me they have to clean up his interviews," an embassy press officer said.

* * * He has driven his pickup out to Mr. Figueiredo's farm on a number of occasions for drinks with the President himself or barbecue lunches with the presidential palace "groupo" that runs the country.

State Department officials said the embassy reporting from Brazil had grown far more informed and other ambassadors in Brasilia have been making it their habit to drop in on Mr. Motley for briefings before they take their home-leave trips. "When Motley first came, I wasn't prepared to be impressed," said one. "Who is this Republican businessman, I thought. But I've grown to have a lot of respect for him."

TELLING IT LIKE IT IS

Mr. Motley has become a familiar figure in Brazilian public life because of his willingness to talk to the press and to be interviewed on television. He earned the admiring editorial in São Paulo's Jornal da Tarde after making speeches to business and banking groups in the United States arguing that Brazil's economy was being unjustly compared to those of Mexico and Argentina. The newspaper complimented Mr. Motley for doing a job that it said should have been expected from Brazil's own Ambassador in Washington, Antonio Azeredo da Silveria.* * *

The son of a former head of the American Chamber of Commerce in Rio, Mr. Motley has gotten high marks from the sizable American business colony for his combative response to Brazilian charges that United States protectionism is crippling the economy here. "He really tells it like it is and we appreciated that," said Joseph W. O'Neill, president of the American Chamber of Commerce in São Paulo.

Mr. Motley commonly points out that millions of Americans wear Brazilian shoes and challenges critics to find any Brazilians in American footwear. He also notes that so many Bandeirante aircraft have been sold to American commuter airlines that there are now more Americans than Brazilians flying in such planes.

Forty-four years old and boyish-looking, he dresses in loafers and loose-fitting suits and often walks around with his hands thrust into his trouser pockets. It has not been uncommon for people to ask him where the Ambassador is.

10 YEARS IN THE AIR FORCE

Known as Tony, he said that even his mother never called him Langhorne. She is half-Brazilian and half-British and still lives in Rio. His father, an executive with Atlantic Refining in Rio, died in 1950 in a plane crash.

Mr. Motley lived in Rio until leaving for college at the Citadel in Charleston, S.C., when he was 17. He spent the 10 years after graduation in the Air Force before retiring to civilian life and helping create the largest real estate company in Alaska.

He served for two years as the state's Secretary of Commerce and Economic Development and then spent four years lobbying in Washington against environmental groups in the Alaska lands debate. He has worked closely with the Alaskan Senators, Ted Stevens and Frank H. Murkowski, each a Republican. In 1978 he and Senator Stevens were the only survivors of a plane crash in Anchorage that took five lives. He is outgoing and informal and works a room like a politician. "I've never seen a political appointee who got to know so many people so fast," said Mr. Kilday.

He plays soccer with the handymen and gardeners and opens his residence pool on weekends to embassy staffers who live in Brasilia's faceless "superquadra" apartment buildings. For July 4 this year, he gave a party for more than 2,000 people at his house with American beer and baked beans, parachute jumps, square dancing and treasure hunts. "He had everyone there from Cabinet officers to janitors," one Embassy staffer said.

Mr. SARBANES. The Senator wanted to know the source. I would like to insert into the RECORD immediately following that article an editorial in the New York Times dated July 3, 1989, entitled "Trivializing Ambassadors," in which the New York Times states, "No one argues that the country would be better served if all ambassadors were professional diplomats." I have not argued that here today, nor should campaign contributors be automatically excluded. They can do a good job, depending on their political instinct, stature, and experience.

I have also conceded that point here today. This editorial does go on to call for the rejection of Mr. Zappala, and it states: "It would be wise for the President to reconsider such nominees, and if not, permissible, indeed salutary, for the Senate to reject them." I ask that that editorial in full be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 3, 1989]

TRIVIALIZING AMBASSADORS

Presidents and Congress have a habit of rewarding fat cats and cronies with foreign embassies, of treating many ambassadorial appointments as if they don't much matter in representing American interests and values. But they do matter, sometimes critically.

President Bush has not improved on the tradition, to judge by his nominations to Spain, Australia and New Zealand. The only distinction visible in his proposed Ambassador to Madrid, Joseph Zappala, a Florida developer, is a distinctively large contribution to the Republican Party, reportedly $126,000. Ditto for another Florida businessman, Melvin Sembler ($127,000), nominated to Canberra. And the choice for Wellington is Della Newman, a Seattle broker who managed Mr. Bush's state campaign.

Dispatching a lightweight or inexperienced envoy sends a message of unconcern verging on contempt. That's why a move by Senator Paul Sarbanes deserves support. The Maryland Democrat has forced the Senate Foreign Relations Committee to put off considering this trio until mid-July, giving the Senate more time to weigh the nominees' qualifications—and for all concerned to think harder about the importance of ambassadors.

No one argues that the country would be better served if all ambassadors were professional diplomats. That would have meant losing such star noncareer performers as Mike Mansfield, Averell Harriman, David Bruce and Edwin Reischauer, to name a few. Nor should campaign contributors be automatically excluded. They can do a good job, depending on their political instincts, stature and experience. Moreover, foreign service officers can make feeble ambassadors, given to inertia, caution and fixation with form.

Presidents need considerable latitude in selecting what are in part personal representatives. The Constitution spells out their right to do so, subject to senatorial consent. It clearly stretches the legislative role to withhold or delay confirmation if a Senator objects to a nominee on ideological grounds—an abuse repeatedly and indefensibly indulged by Senator Jesse Helms.

Yet advice and consent does mean something: the Senate has an obligation to hold Presidential nominees to rudimentary standards of competence. Senator Sarbanes has reasons to be troubled when Mr. Sembler, the nominee for Australia, supplies this written answer to a question about his qualification: "I have been known as a coalition-builder, able to organize my peers to action in support of worthy civic, charitable and political causes."

Nearly identical language was used by whoever answered the same written question for Mr. Zappala, the nominee for Spain, treating both the Senate and an important capital with the same manipulative cynicism.

Those old European capitals, with large embassy staffs and calm relations, have long offered safe places to reward fat cats. That's much less true today. Change now buffets Western and Eastern Europe. Consider Italy, where only a year ago and at some political cost, a centrist coalition government agreed to accept U.S. airbases soon to be closed by a Socialist government in Spain. Yet Mr. Bush's choice for Rome is Peter Secchia, manager of his Michigan campaign, whose innocence in diplomacy seems complete.

Does it repay Italy's fidelity, or soothe Spain's nationalism, for the United States to send them envoys conspicuously unequipped by experience or knowledge? It would be wise for the President to reconsider such nominees; and if not, permissible,

indeed salutary, for the Senate to reject them.

Mr. SARBANES. Second, I say to the Senator from Arizona—because I am prompted to make these very quick remarks about two statements he made—one, to bracket Joseph Zappala with Ellsworth Bunker, as he did, is to make a comparison I think he may some day regret. I am perfectly happy to hold Joseph Zappala to that standard, if he should in fact succeed in going to Madrid, and I am prepared at any time in the future to engage in a debate with my colleague from Arizona with respect to Mr. Zappala and his performance in Spain, as compared to Ellsworth Bunker.

I know the Senator wants to make a point here to get Joseph Zappala over a certain threshold, but it does seem to me that it is overreaching to bracket him with one of the most effective and skillful persons who has ever represented us in the diplomatic field, Ellsworth Bunker.

I am surprised you do not have David K. Bruce in the same bracket.

Finally, the Senator makes a great deal of giving the President sort of carte blanche. He said at one point that if the President is foolish and sends foolish nominees, it is the President who pays for it. But it is the United States that pays, I submit to the Senator, and the foolishness is not only the President's in nominating them but it may well be the Senate's in confirming them, and that is the point I am trying to assert here today.

Our responsibility is not simply a passthrough rubber stamp responsibility. If the President makes a foolish nomination it seems to me we have some role in trying to prevent it from happening. And if it should happen, I do not agree with the Senator's observation that it is the President who pays the price. It is the United States and all the American people who pay the price of having a representative who is really not up to handling the job.

Mr. DECONCINI addressed the Chair.

The PRESIDENT pro tempore. The Senator from Rhode Island has the floor.

Mr. DECONCINI. Mr. President, will the Senator yield 1 minute?

Mr. PELL. I yield.

The PRESIDENT pro tempore. The Senator from Rhode Island yields to the Senator from Arizona for a statement without losing his right to the floor.

Mr. DECONCINI. Mr. President, I concede the Senator from Maryland makes a good point, that the United States suffers as well as the President. I am glad he made that clarification.

My point is with Ellsworth Bunker that when he was brought before the Senate and nominated to be the Ambassador to Brazil, he was a sugar refiner with no experience whatsoever. People questioned Mr. Bunker, as people have questioned Mr. Zappala. I do not know if he will match that good record. But 35 years proved that Mr. Bunker, coming from no experience at all, turned out to be one of our great Ambassadors.

It seems to me that anybody who is presented here with qualifications such as Mr. Zappala's, which are similar to those of Mr. Bunker, ought to have the benefit of the doubt and be approved.

I pointed out in the New York Times article about Mr. Motley that precedes the one the Senator from Maryland put in the RECORD that he came also from the private sector with no experience and went on to be appointed as Ambassador to Brazil.

My point, Mr. President, is simply this: Where are you going to get qualified people? You cannot get them all from Foggy Bottom, and I do not think we want them all from there. We want people who are in business and who have been successful or are in the environmental area or in the legal profession who have proven success in whatever profession you may choose. They are bound to be associated closely with the President or they would not be nominated. Is there anything wrong in that? I do not think so. I think that is what this process is all about.

I thank my friend from Rhode Island for yielding.

The PRESIDENT pro tempore. The Senator from Rhode Island [Mr. PELL].

Mr. PELL. Mr. President, it is with regret that I state my own intention to vote against the nomination of Mr. Joseph Zappala to be the Ambassador to Spain. My decision to oppose this nominee was not taken lightly. It is rare that I oppose the President's choices for ambassadorships. Further, my vote should not be taken as a judgment on Mr. Zappala's character. It is not. In fact, I am sure he is a man of fine character and intelligence. He is just not qualified for this particular job.

Rather, my vote is based on the unique and vital constitutional responsibilities of the Senate in approving Presidential appointments. In essence, the Senate is a guardian, charged with passing judgment on the qualifications of individuals for the positions for which they have been appointed.

In section 304 of the Foreign Service Act of 1980, the following standards are set for the appointment of Ambassadors:

> An individual appointed or assigned to be a chief of mission should possess clearly demonstrated competence to perform the duties of a chief of mission, including, to the maximum extent practicable, a useful knowledge of the principal language or dialect of the country in which the individual is to serve, and knowledge and understanding of the history, the culture, the economic and political institutions and the interests of that country and its people.

The act goes on to state that,

> Contributions to political campaigns should not be a factor in the appointment of an individual as a chief of mission.

Regrettably, when these standards are applied to Mr. Zappala, I am forced to conclude that the nominee does not possess the qualifications outlined in the Foreign Service Act. An examination of the nominee's résumé reveals not one instance of experience in dealing with foreign governments. Nor is there any indication that prior to his nomination, Mr. Zappala had displayed an interest in the people, the politics, or the history of Spain. Indeed, a review of the nominee's "Certification of Demonstrated Competence"—a document submitted to the Foreign Relations Committee describing a nominee's qualifications for the position to which they have been appointed—does not mention a single one of the criteria outlined in the Foreign Service Act.

What then were the reasons for his nomination? In looking at the record, I am forced to conclude that the main reason for Mr. Zappala's nomination was his fundraising and financial contributions to the past political campaign. Sadly, this view, too, is borne out in the nominee's "Certification of Demonstrated Competence." Approximately one-half of the document is devoted to Mr. Zappala's fundraising activities on behalf of the President. In this regard I do not recall when an ambassadorial nominee's financial contributions were so crassly and openly given as reasons for his appointment.

Mr. President, I realize that there have been political appointees in the past and that there will be political appointees in the future. Indeed, there is a litany of individuals who, although not career Foreign Service Officers, have served this country with the greatest of distinction as Ambassadors of the United States. One has only to think of former Senator Mansfield in Tokyo, Arthur Burns, in Bonn, and Averell Harriman in Moscow to realize that there is and must be a place for noncareer diplomats to serve as ambassadors. Equally clear, however, is the fact that these men brought to their ambassadorships experience applicable to the job, experience that with their ability enabled them to serve as ambassadors of distinction.

Unfortunately, Mr. Zappala does not bring these types of qualifications to the Senate. If he did, I would be one of the first to voice my support for his nomination.

Instead this nominee appears to have been chosen for his fundraising and financial contributions in the past political campaign.

Mr. President, the Senate was given its responsibility of advising and consenting to ambassadorial nominations precisely to prevent this type of favoritism from occurring. If it is to fulfill its constitutional responsibilities, the Senate has an obligation to oppose this nominee.

In making these remarks, I am conscious of the fact I believe I am the only Senator who has been a career diplomat, so I am perhaps particularly sensitive to the qualifications that are needed.

I yield the floor.

The PRESIDENT pro tempore. The Senator yields the floor.

The Senator from Maryland [Mr. SARBANES].

Mr. SARBANES. Mr. President, as I understand it, when he was speaking earlier, the Senator from Minnesota listed various ambassadors who had served in Spain as political ambassadors. If the Senator will yield for a question, is that correct?

Mr. BOSCHWITZ. That is correct.

Mr. SARBANES. And included in that list, as I recall, there were some eight ambassadors, ending with Peter Flanigan.

Mr. BOSCHWITZ. That is correct.

Mr. SARBANES. Mr. President, I would like to comment on that. First of all, since 1975 all our ambassadors to Spain have been career people and, as I indicated in my opening statement, have been amongst the most distinguished in the career service.

Second, Peter Flanigan never made it to Spain as an ambassador. He was nominated in the late summer of 1974. His nomination ran into serious difficulty in the Senate and was withdrawn on November 16, 1974.

The reason that nomination ran into trouble—and then subsequently we got the first of these career appointees—was that Herbert Kalmbach, who was President Nixon's private attorney, testified at the House Judiciary Committee's impeachment inquiry in 1974 that Peter Flanigan brokered ambassadorships in return for massive contributions to the 1972 Nixon Presidential campaign. Flanigan himself acknowledged to Kalmbach that a potential ambassadorial nominee, Dr. Ruth B. Farkas, was a good prospect for solicitation. According to Kalmbach, Flanigan advised him to contact Dr. Farkas, since she was interested in giving $250,000 for Costa Rica. Dr. Farkas, Kalmbach reported, thought Costa Rica not worth that much. By contributing $300,000, she eventually got herself named Ambassador to Luxembourg.

Kalmbach later went to jail. He pleaded guilty for promising an ambassadorship for campaign contributions and was sentenced to a jail term of from 6 to 18 months and ordered to pay a $10,000 fine.

So citing Flanigan is not relevant here because, first of all, he never went as Ambassador to Spain although he was nominated to be Ambassador to Spain. And the reason he did not go was his involvement with Kalmbach, who disclosed that he had been the conduit between contributors and the White House staff in charge of selecting political appointees. And it was in the aftermath of these disclosures that the United States then sent a career ambassador to Spain, and has since sent a career ambassador each subsequent time that the post has been filled.

The shift to a career ambassador in 1975 also coincided with Spain's emergence from the Franco dictatorship into a democratic country. Obviously, it seems to me it was a recognition on the part of our administration of the need to have an able and experienced ambassador on the scene as Spain went through the extraordinary transition to democracy.

And Spain still, while it has moved through the political transition, is now involved very much in an economic transition.

So I only make the point to my colleague that while it is true there were a series of political nominees during the period when Franco was in control in Spain and we were treating that nation as something of, apparently, a political throwaway, that issue was turned into a crisis, by the controversy surrounding the Flanigan nomination. And although my colleague listed Flanigan as an Ambassador to Spain he never made it; he was nominated but not approved here, and the nomination was withdrawn.

At the same time the crisis was intensified by the changes taking place in Spain. Spain's role today is a critically important one, and I think this underscores the significance of the nomination.

Mr. President, I would like to bring up to date the record that appears on page 12 of the committee report, to show the percentage of ambassadorial nominations made by this administration thus far into its term as compared with nominations made by preceding administrations. The table in the committee report on page 12 shows figures for the first 7 months. Revised through September the figures shows that of the 58 nominations which President Bush has made, 36 of them political, for 62 percent, and 22 are career.

Let me just run through the other administrations. President Kennedy, in the first 9 months of 1961, made 64 nominations. Of those, 39 were career, 25 political, or 61 percent career.

President Johnson, in the first 9 months of 1965, made 39 nominations, 28 of them career, 11 political; in other words, 72 percent career.

President Nixon, in the first 9 months of 1969, made 70 nominations, 44 career, 26 political; in other words, 63 percent career.

President Nixon, in the first 9 months of 1973, after his reelection, made 36 nominations, 32 career, 13 political; in other words, 64 percent career.

President Carter, in the first 9 months of 1977, made 59 nominations, 36 career, 23 political, in other words, 61 percent career.

President Reagan, in the first 9 months of 1981, 57 nominations, 35 career, 22 political; in other words, 61 percent career.

President Reagan, in the first 9 months after his second election, made 37 nominations, 27 career, 11 political.

Now all of these Presidents—Kennedy through Reagan—in the first 9 months of their administrations, in no instance appointed less than 61 percent career, and in one instance went as high as 72 percent career. Political appointments, therefore, ranged between 28 and 39 percent.

President Bush, in the first 9 months of his administration, made 58 country nominations, which actually compares roughly with the figures made by others. Actually, it is in excess, in some instances, with the second term; but in the first term, 58; Reagan, 57; Carter, 59; Nixon, his first term, 70; Kennedy, 64. So it is in the same range in terms of the number of nominations.

The striking difference is that of the 58 nominations for country ambassadors, only 22 of President Bush's nominations have been from the career service. Only 22. In other words, 38 percent. The lowest previous percent of all Presidents cited, was 61 percent career. In this administration, 36 of them have been political, or 62 percent. So we have just the reverse, a precise flip in the numbers of political versus career nominations compared with all the previous Presidents beginning with Kennedy, Johnson, Nixon, Carter, and Reagan. That is a pretty dramatic shift.

The other issue we have to address, of course, is the qualifications and experience of the political appointees who have been named.

I want to make just a couple of observations on what some of my colleagues have said, particularly my distinguished friends from Minnesota and from Florida.

First of all, there is an effort, I think, to equate the nomination of an ambassador to a political career. We are given a comparison between someone being picked for ambassador and someone who gets elected to the U.S. Senate. But the basis of choice is very different. We run and are chosen by the people. We run against an opponent, so we have the basis of that com-

parison. And one can cite in a campaign any or none of a whole host of factors why we ought to come to the Senate or not come to the Senate. I am struck by the effort, in effect, to politicize this ambassadorial choice.

What are we telling the people in the career service? I think one of the most upsetting aspects of some of what has been said in the debate today is the way it denigrates the career service. We have young men and women across the country who take tests to get into the career service. They are encouraged to consider this a career. They are evaluated as they move through their career. They are sent to language school in order to learn languages. They go through an intense training period to be able to handle the compexities of the job. They have a variety of experiences out in the field and here at home.

Under modern circumstances they subject themselves to great risks. More ambassadors since the Korean war have lost their lives than admirals and generals. Fortunately, the number is not large. But, nevertheless, I think it is important to keep that in mind. Under current circumstances, they take extraordinary risks in order to serve the country.

We tell these people: You have to do a good job. You have to perform. You have to deliver in these positions. You should learn languages. You should develop experience and expertise.

Now some are belittling that effort. But the fact of the matter is that the only reason we can even contemplate sending inexperienced political ambassadors abroad without expecting catastrophe is that we can count on career people in the embassy to shepherd them through their ambassadorship.

I submit that if we start sending a message to the career people that they are never going to become ambassadors, that it does not really matter how well they do their job and serve their country it is going to be harder to attract and hold good people. The quality of the career service will run down, the people we will have there to back up political ambassadors will diminish in quality, and the whole country will pay a very high price for it.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD an article from the American Foreign Service Association called, "Does the State Department Respect Ambassadors?"; and an article commenting about a talk by Ambassador Elliott Richardson entitled "Richardson Rewards Frustrations of the Foreign Service."

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Foreign Service Journal, September 1989]

RICHARDSON: REWARDS, FRUSTRATIONS OF FOREIGN SERVICE

(By Richard S. Thompson, Professional Issues Coordinator)

Ambassador Elliot L. Richardson talked to a large crowd in the Foreign Service Club June 15 on "The Rewards and Frustrations of Public Service: the Case of the Foreign Service." His remarks were based on his seven years with the Department of State and his current service as a member of the National Commission on the Public Service (the Volcker Commission), which recently issued its report on "Rebuilding the Public Service."

Richardson first stressed that the Foreign Service offers important rewards: the intrinsic satisfaction of devoting oneself to the interests of the United States, and interesting and challenging work.

Frustrations, however, are mounting throughout the government, fed by declining esteem and presidential campaigning against Washington. The problem of compensation is deeper than is generally realized. In the case of the Foreign Service, Richardson asserted, the problem of the career ladder and opportunities for those of demonstrated ability is especially serious with no counterpart elsewhere in government. The possibility of becoming an ambassador, assistant secretary, or deputy assistant secretary is a legitimate goal and the fluctuating availability of such assignments owing to political appointments is a demoralizing factor. The National Commission suggests not more than 30 percent of ambassadors be non-career.

Another problem is the quality of those chosen, since the abilities of many political appointees "are not obvious." It is an illusion that modern telecommunications have reduced the role of the ambassador and country team. In fact, the increased complexity of foreign affairs means that issues that would have gone to the secretary of state in the past must now be dealt with by the country director or the embassy. In addition, the means available to achieve goals are dwindling, so Foreign Service personnel must be more clever and have a clear idea of what their goals are. Competition with representatives of other countries is more intense, so the Service needs better people—better trained and better compensated. Richardson concluded by noting the report of the National Commission on the Public Service advanced recommendations to improve awareness of the importance of public service and to better its efficiency. Vigorous follow-up action is underway to enlist support for these recommendations.

At Richardson's request, the commission's executive director, the Honorable Bruce Laingen, added a few words stressing the common goals of the Foreign Service and the Civil Service in building esteem for government service and attracting able young people.

In the question and answer session Richardson indicated he expected action on the issue of pay for senior employees before the end of this Congress. He believed the current emphasis on ethics could establish a higher standard, with the new Foley leadership in the House a positive factor. He also noted that in business circles he argues the need for able people in government; without them, problems get worse and government intervention increases, decreasing the scope for private initiative. The savings and loan crisis was a good example, he said.

Richardson commented that a president has mixed motives in making ambassadorial appointments. He wants to be successful, and knows he needs good people. The president should have an attitude of "trusteeship," toward the Foreign Service as a long-term asset, as Richardson told Secretary Baker. A president has wide discretion to establish a certain ratio of political ambassadorships and hold to it.

[From the Foreign Service Journal, September 1989]

DOES THE STATE DEPARTMENT RESPECT AMBASSADORS?

(By Charles A. Schmitz, State Vice President)

The White House liaison staff in the office of the under secretary for management is charged with preparing the "certificates of competency" for non-career candidates to be U.S. ambassadors. The certificate is supposed to tell the Senate Foreign Relations Committee why the candidate has a "clearly demonstrated competence" to perform the duties "of the position in which he or she is to serve."

In some recent cases, the certificates say things like: "Mr. X is a member of the Republican National Committee's Team 100" [i.e., donated at least $100,000 to the committee]; and "Mr. X's impressive business background in real estate combined with his civic activities qualify him as an excellent candidate for U.S. ambassador to Y."

By producing such a certificate the White House liaison staff in the State Department manages to 1) demean the functions of a U.S. ambassador, 2) insult countries friendly to the U.S., and 3) violate U.S. law. That kind of triple score is usually associated with hostile, third world governments, not with our State Department.

The law is violated because the Foreign Service Act specifies what should be in the certificate of competency and what should not be there. What should be there is the required evidence that the candidate can do the job (e.g., maybe knows the country, speaks some of the language, understands the culture and traditions, grasps the relationships between that country and the United States, knows how to run something like an embassy, knows something about international relations, or maybe even something about the business of government).

What should not be there is recitation of political contributions. The Foreign Service Act is crystal clear in stating that political contributions should not be a factor in ambassadorial nominations.

The insult to friendly countries comes when the people of the country to which the candidate is to be sent as U.S. ambassador read the certification reported in their own newspapers, and realize that the U.S. thinks so little of their country that experience in American real estate is deemed sufficient to conduct the necessary state business. An important foreign newspaper recently said, "Relations between———and the U.S. are ill served by Washington appointing ambassadors to———who have no special insight into the workings and the importance of our alliance, the business of government or international relations."

The function of the U.S. ambassador is mightily demeaned by the State Department's certification that success in ordinary businesses demonstrates "excellent" qualifications to be an ambassador. Our argument is not with business people: many of them have made fine ambassadors; but those

people had other fine qualities and related experience as well. Current certifications make it look as though success in business and a political contribution is all that is necessary.

If the State Department itself has no great respect for ambassadors, what must it think of the rest of us in the Foreign Service?

AFSA has a responsibility to the Foreign Service to help build a sense of pride in the foreign affairs profession. State Department management apparently does not share this sense of responsibility. It ought to.

In the meantime, if management could start complying with the Foreign Service Act, AFSA, the Senate, the American people, and U.S. foreign friends and allies all would very much appreciate it.

Mr. SARBANES. I might note in that article Elliot Richardson points out that the National Commission on the Public Service, the Volcker Commission, which has been studying the broad problem of how to attract and hold able people in Government service and recently issued a report entitled, "Rebuilding of the Public Service," points out that the problem of the career ladder and opportunities for those of demonstrated ability is especially serious with no counterpart elsewhere in Government. The possibility of becoming an ambassador, assistant secretary or deputy assistant secretary is a legitimate goal and the fluctuating availability of such assignments to political appointments is a demoralizing factor.

The National Commission suggests that not more than 30 percent of ambassadors be noncareer; that is, National Commission on the Public Service chaired by Paul Volcker with a very broad membership. I think it is important to underscore their conclusions.

We have all these people in the Foreign Service committed to serving their country, doing their best to meet high standards, yes, in effect, they are being told here today: It does not really matter, people can come in from the outside with no ostensible qualifications for the job and have no problem handling it.

Then, the first order of business once they get nominated is to go searching for a bright, able, and dedicated deputy chief of mission to back them up so that they do not make a major mistake.

The final point I would make is, I am really struck by the assertion that if you know Italian, you virtually know Spanish.

I do not know of any academic dean in the country who would simply pass a student through a Spanish course on the strength of that student having passed through the Italian course. It is true that there is some overlap, and the majority, in its report, tries to make a lot of it because they are related romance languages.

Nevertheless, I say again that I know of no academic program in this country that takes proficiency in Italian and simply equates it with proficiency in Spanish.

In the last analysis, it all comes back to how well will the Nation be served; how well will our interests be protected. I want, in effect, to pinpoint the differences.

No one is arguing that all Ambassadors should be from the career service. I do argue, however, that a significant percentage should be from the career service because I think otherwise we are going to demoralize the career service.

I think we all accept the possibility of bringing people in from outside of the career service. We have had some distinguished Ambassadors drawn in that way.

But their records, I think, have warranted their selection. The very people who have been named here, and names like Mansfield, Arthur Burns, David Bruce, Averell Harriman, Ed Reichauer and so on have been tossed around, constitute a very select list. In each of those instances, one could look at the record and see in it demonstrable ability and experience and qualifications to serve abroad.

What is happening too frequently with appointments by this administration is that as one looks through the record, it is clear that the reason for the nomination is large campaign contributions. In fact, Secretary Mosbacher, who is in charge of the political giving, has been quite blunt in admitting it. He complained back in February that these people have given a lot of money to the campaign and are not getting their just rewards including ambassadorships. It is to that kind of nomination that I think the Senate should now hold up its hand and say, this practice must stop.

Mr. President, I ask unanimous consent that a number of editorials which have appeared around the country with respect to this issue and this nomination be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 20, 1989]

EX-FINANCE CHAIRMAN COMPLAINS FEW JOBS GO TO BUSH FUND-RAISERS

(By Richard L. Berke)

WASHINGTON, February 19.—Robert A. Mosbacher Sr., the Commerce Secretary who was finance chairman of President Bush's campaign, says he is distressed that more campaign fundraisers have not been rewarded with political appointments.

He blamed officials in the Administration, but not Mr. Bush himself, for favoring political operatives over fundraisers for posts at all levels of Government.

"There's this perception in Washington and politics, and some degree in Government," he said in an interview this weekend, "that fund-raisers and fund-givers are nice, interesting people to be sort of patted on the head when you need them and ignored the rest of the time because they don't really understand the process."

CRITICISM OF ADMINISTRATION

"We're not trying to foist off any second-grade dummies," he said. "In truth; they are the most successful people in their communities."

Some critics counter that the fundraisers are doing well in getting appointments. In fact, some of them derided the Administration for being partial to fund-raisers.

Mr. Mosbacher said in the interview that he planned to bring the issue to the attention of White House personnel officials and that he hoped to speak directly to Mr. Bush about it.

The Commerce Secretary, who ran the Bush fund-raising effort in the primaries and the Republican Party's drive to raise millions of dollars from wealthy donors, said there were "several hundred" fund-raisers who deserved appointments to ambassadorships, sub-Cabinet posts or lower-level jobs on commissions who were being neglected. The campaign had a national finance board of some 350 people in the primaries, and for the general election, 249 individuals and corporations gave at least $100,000 apiece to the Republican Party.

"Quite a high percentage of those who have been helpful haven't gotten anything—at last 50 percent," Mr. Mosbacher said.

TOP JOBS FOR MANY

More than a dozen people who gave at least $100,000 to the Republican Party last year, or helped solicit millions of dollars more for Mr. Bush, are being tapped for jobs as ambassadors or as policy makers at sub-Cabinet levels.

In addition, what officials describe as a "'must be placed' list" is circulating in the Administration, with the names of 50 major donors who want jobs for themselves or their relatives. Many are expected to be named to part-time posts on Presidential boards and commissions.

Presidents of both parties have long rewarded their political loyalists with plum appointments. Because of changes in the Federal campaign finance law, which were made after the Watergate scandal, people no longer can give directly to a Presidential candidate in the general election. But they can give to a political party.

"There is definitely a perception problem when ambassadors and other high people are large contributors," said David M. Dorsen, a lawyer here who was assistant chief counsel in charge of campaign finance for the Senate Watergate committee.

"TERRIBLE WAY TO DO BUSINESS"

Fred Wertheimer, president of Common Cause, a public affairs lobby group, said the appointment of fundraisers was "a terrible way to do business," and he called on the Senate committees considering those appointments to "conduct rigorous inquiries about whether money played any role in the appointments."

But determining how much a donation played into an appointment would be a complicated, if not impossible undertaking.

"What really matters to George Bush is not the number of zeros after a figure in a ledger book, but the loyalty and commitment shown by a person, be it as a fundraiser or a doorbell ringer," said Charles G. Untermeyer, the White House personnel director.

Bruce S. Gelb conceded, though, that had he not helped raise $3 million for Mr. Bush's campaign last year, he might not have been nominated to head the United

States Information Agency. "I may have been selected to be dog catcher," he said.

Beyond his fund-raising prowess, Mr. Gelb, who is leaving his job as vice chairman of Bristol-Myers Company in New York, contended that other factors helped him win the prestigious post: his loyalty to Mr. Bush for decades and his business acumen.

LOYALTY TO BUSH

"If you look at 10 really outstanding people and they all have great track records and you find one that has been a longtime fund-raiser, that person clearly has a real advantage," he said. "But if the person cannot represent George Bush in the way he wants to be represented, the person could give all the money in the world and it would not happen."

In the campaign, only a small minority of donors were blatant enough to say they expected an Administration post, Bush aides said. "Some people at the very beginning said, 'I'm involved in this because I want this,' " said a Republican official who asked not to be named. "The response back was, 'It's great to have you on board but there is no quid pro quo.' "

Many of the most diligent fund-raisers were friends who have known Mr. Bush for decades. Mr. Mosbacher, for instance, has known the President for 30 years. He, in turn, is doing his part to place his fund-raisers.

Mr. Mosbacher is expected to select Michael P. Galvin, a Chicago lawyer and a top Bush fund-raiser, to the highly sought post of Assistant Secretary for Exports. And officials said Mr. Mosbacher plans to pick Rockwell A. Schnabel, a major donor who is now Ambassador to Finland, to another sought after job: Under Secretary of Commerce for Trade and Tourism, a post that involves much travel and few difficult policy demands.

Another major fund-raiser, Frederick M. Bush, who is no relation to the President, worked for Mr. Bush for 10 years in many fund-raising capacities, most recently as deputy finance chairman. He has been named Ambassador to Luxembourg.

SOME OF THE APPOINTMENTS

Other $100,000 contributors and Bush fund-raisers who have been named to important posts include Walter J.P. Curely Jr., a former Ambassador to Ireland, as Ambassador to France; Joseph Zappala, a land developer from Tampa, Fla., as Ambassador to Spain; Melvin F. Sembler, another Florida developer who held that state's first fund-raising event for Mr. Bush, as Ambassador to Australia, and Henry E. Catto Jr., a longtime Republican contributor who has previously served in Government, as Ambassador to Britain.

Several other appointments of top contributors are in the works, including Joseph B. Gildenhorn, a Washington real estate executive who may be tapped for Ambassador to Switzerland, and Eric Javits, a New York Lawyer and nephew of the late Senator Jacob Javits, who is a leading contender for Ambassador to Venezuela.

Some big donors were not interested in appointments, particularly those in business who could not disentangle themselves from their companies or were not willing to have their finances scrutinized.

Even so, as Mr. Mosbacher emphasized, there are more donors interested in jobs than there are jobs available.

In one case, Republican officials are working behind the scenes to try to find a post for Joy A. Silverman of Manhattan, a diligent fund-raiser who was said to be disappointed not to be named Ambassador to Luxembourg. "By all standards she deserves something," Mr. Mosbacher said. "She raised a lot of money, worked hard."

[From the Washington Post, Aug. 23, 1989]

UNTERMEYER: LOYALTY WINS AMBASSADORSHIPS

(By Judith Havemann)

Presidential personnel director Chase Untermeyer told the American Foreign Service Association yesterday that it was loyalty, not money, that enabled some large political contributors to receive ambassadorships in the Bush administration.

Ambassadorial nominees, he said, were selected for competence, loyalty and support over long periods of time. "Loyalty," he said, "can be [shown by] money . . . long service and friendship over many years."

For some people, "the degree of support was financial . . . Wealth does not serve as a disqualification for public office," he said.

The members of the professional organization for Foreign Service officers sat diplomatically as Untermeyer defended President Bush's appointments, some of which have come under strong attack by Senate Democrats as unqualified.

Speaking at an association lunch here, Untermeyer said not all the political ambassadors the White House has nominated were wealthy donors and not all loyal Bush campaign workers got jobs.

"Loyal people are pounding the bricks cursing the name of Chase Untermeyer," he said.

He said that his use of the word "loyalty" to describe the special characteristics of the political nominees does not reflect in any way on the loyalty of career Foreign Service officers.

In making political appointments, he said, "you go with the people who are your own . . . Loyalty given is loyalty returned."

Bush intends to "increase the number, weight and magnitude of the posts" to which he plans to name Foreign Service officers, Untermeyer said.

While most of the ambassadorial nominations Bush has sent to the Senate are noncareer, Untermeyer said the Bush administration's overall record on appointments of career Foreign Service officers is much better.

He said the Bush administration has kept all of President Ronald Reagan's career ambassadors in place, raising them to 65 percent of the total.

Between 60 percent and 62 percent of the ambassadorial posts under Reagan were held by career Foreign Service officers, he said. Bush wants to increase the percentage to 66 percent.

"We don't want to be judged on the numbers, although we look reasonably good here and we will get better," he said. He said that the use of political appointments makes it possible to increase the percentage of women and minorities in ambassadorships.

He said there are only six female career ambassadors out of 145 and that 10 of Bush's non-career nominees are women.

A member of the audience complained that four of five black ambassadors are in "tiny African countries." Untermeyer responded that Bush had named a black ambassador to Argentina, a prized post.

Another questioner asked whether the Bush administration would be as willing to make non-military appointments to military billets as it is to make non-career appointments to diplomatic posts.

An increasing number of people have been named to civilian positions at DOD [the Department of Defense] without military experience . . . there has been no war for 20 years," Untermeyer said. "Regrettably, they are not people who start out with the basics, who know what the ranks mean. . . ."

The Foreign Service Association, which is the bargaining agent as well as professional group for Foreign Service officers, received Untermeyer politely. Association members praised his speech, his delivery, his presence and his courage but appeared to reject his message.

"He presented his arguments well," association President Theodore S. Wilkinson said. "I don't agree with him."

[From the Baltimore Sun, July 18, 1989]

EMBASSIES FOR SALE

Senator Paul S. Sarbanes has performed a public service in his guerrilla warfare against confirmation of some of the least qualified people nominated to sensitive ambassadorships.

The Maryland Democrat has suggested auctioning ambassadorships so that at least the money goes to the U.S. Treasury instead of to campaign funds. He has pointed fingers at nominees who penned identical bromides in stating their qualifications. He has ridden point for the more judiciously phrased complaints of the American Foreign Service Association. He has ridiculed State Department tongue-in-cheek certification of certain presidential nominees as qualified who aren't. Above all, Senator Sarbanes used his power as a member of the Senate Foreign Relations Committee to delay confirmation of nominations until public debate can focus on them.

These are Joseph Zappala, a Florida developer and major Bush campaign fundraiser, as ambassador to Spain; Melvin Sembler, another one, as ambassador to Australia; and Della Newman, a Seattle real estate broker and fund-raiser, as ambassador to New Zealand. These people have no known qualifications other than donations above $100,000, and can do the national interest harm in Spain, which is pushing out U.S. bases; in Australia, which welcomes U.S. nuclear ships and New Zealand, which doesn't. Each of those countries, and U.S. interests in each, deserve better.

One of this ilk who got through is Peter Secchia, a Michigan millionaire known principally for crudity of speech, who has presented his credentials as ambassador to Italy. The Italian press and left are having a field day. There is a pattern here. Look at the choice of the hapless one-term Nevada senator, Chic Hecht, confirmed to be ambassador to the Bahamas, supposedly qualified by his love of golf and interest in casinos.

What President Bush and Secretary of State James A. Baker III seem to be saying is that ambassadors don't matter, the bureaucracy can do the job. But such appointments insult the countries and diminish U.S. influence.

Politically appointed ambassadors can do excellent work. All modern administrations have sinned in selling some embassies. The Bush administration is overdoing it. The Foreign Service Act of 1980 stipulates that "contributions to political campaigns should not be a factor in appointment." In some nominations, it is the only factor. Senator Sarbanes cannot stem the tide. But he is

making the squalid practice a political issue, which it should be.

[From the St. Petersburg Times, Feb. 18, 1989]

THE INTERNATIONAL LANGUAGE

According to U.S. Rep. C. W. Bill Young, St. Petersburg developers Mel Sember and Joseph Zappala have all sorts of qualifications for their new jobs as U.S. ambassadors to Australia and Spain, respectively.

"Australia is so much like the United States, and Mel Sembler certainly knows his way around the United States," Young said. "He is certainly able to communicate, which is one of the essential requirements of diplomacy." Young had similar praise for the diplomatic skills of Zappala, who he said "has handled a lot of touchy situations in his business life."

Sembler and Zappala may turn out to be excellent ambassadors, and their appointments by President Bush undoubtedly bring prominence to St. Petersburg. However, their selections had nothing whatsoever to do with their ability to find their way around, or to communicate, or to handle touchy situations.

Actually, that's not entirely true. Sembler and Zappala know their way around the power structure of the national Republican Party, and they know how to communicate in the international language: money. They were members of "Team 100," a group of donors who contributed at least $100,000 each to the Republican Party during last fall's campaign. They also served as co-chairmen of the national committee that raised $20-million to help pay for the Bush inaugural. The services rendered by Sember and Zappala add up to serious qualifications for political appointment.

The practice of making ambassadorial appointments based on politics is neither new nor necessarily bad. Some political appointees with no previous diplomatic experience turn out to be excellent ambassadors. For example, former U.S. Sen. Mike Mansfield turned out to be an inspired choice as ambassador to Japan.

On the other hand, some career Foreign Service officers turn out to be inappropiate choices for particular assignments. John Negroponte, most recently U.S. ambassador to Honduras, has become a controversial choice as our new ambassador to Mexico because of his previous involvement with the Contra guerrillas fighting the government of Nicaragua. His predecessor in Mexico City, John Gavin, an old Hollywood friend of President Reagan's, won generally high marks for his diplomatic performance.

However, an overbundance of politically based ambassadorial appointments can cause problems. First, an influx of political appointees can harm the morale of career Foreign Service officers better qualified for diplomatic duty. The percentage of political appointments rose from about 25 percent to 40 percent during the Reagan years, with a concomitant decline in ambassadorships aswarded on merit. That percentage may go even higher with President Bush's new appointments.

Of course, the real risk is that some political appointees can harm American interests because they lack the backgrounds and abilities needed to articulate and implement U.S. policy. Our new ambassador to Italy, another political ally of the new president, does not speak fluent Italian. Zappala, whose Spanish is similarly rudimentary, does not claim to be particularly familiar with the recent history of Spain's ambivalent political and military relationship with the United States and the rest of Western Europe.

In the past, some new ambassadors' lack of preparation for their jobs has been offensive to host countries and has prevented our government from taking advantage of important diplomatic opportunities. Whether political appointees or career diplomats, our ambassadors should possess the same qualifications that we have come to expect of foreign diplomats serving in this country. Otherwise, we run the risk of creating touchy situations that even successful St. Petersburg developers aren't capable of getting us out of.

[From the Washington Post, June 23, 1989]

THE AMBASSADORS

We have been thinking of establishing yet another great public service honor: the Mrs. Farkas Award for the most exotic, not to say improbable, campaign-contributor appointee to the American diplomatic corps. Ruth Farkas, for those of you who may not remember, was the very rich woman who became famous when Richard Nixon's lawyer reported that she had complained about price-gouging in the dispensation of Nixon administration ambassadorships (". . . isn't $250,000 an awful lot of money for Costa Rica?"). Now, before you get us wrong, it is not our view that *all* ambassadorships need to go to Foreign Service officers or that campaign contributions should actually be disqualifying. There have been plenty of first-rate non-foreign service ambassadors over the years.

But in truth there have also been a lot more turkeys—incompetents, bad jokes, envoys who would more aptly be called the American embarrassador than the American ambassador. Nor is it as if these were always harmless appointments; real damage can be done and has been by some of he unsuited types and downright nitwits that this country has proudly sent overseas at the behest of Democratic as well as Republican administrations.

All this is background to the jousting now going on in the Senate, where Democrat Paul Sarbanes of Maryland has stalled Senate Foreign Relations Committee action on three administration appointees, putting off a final determination until after the July 4 recess. The embassies at issue are Spain, Australia and New Zealand. The nominees are a land developer, a businessman and a real estate broker. For all we know they may be well gualified, though Mr. Sarbanes thinks they are not and has pointed, among other things, to a rather discouraging aspect of their self-presentations before the committee. At the place on the resume form where would-be ambassadors are asked what special qualifications they have that were not previously mentioned by them, one wrote: "I have been known as a coalition builder, able to organize my colleagues and peers to action in support of worthy civic, charitale and political causes." Another wrote—guess what?—"I am known as a coalition builder. I am able to organize my colleagues and peers to action in support of worthwhile civic, charitable and political causes."

Modular testimony. Pre-fab (by someone else) self-description. It doesn't inspire a whole lot of confidence. Can the would-be ambassadors be trusted to enter into dialogue with their host governments if they, apparently, cannot be trusted to write a few lines on their own qualifications? Guidance only gets you so far. We await with interest the next phase of the committee's hearing.

The PRESIDENT pro tempore. The Senator from Minnesota [Mr. BOSCHWITZ].

Mr. BOSCHWITZ. Mr. President, I will also close my argument and respond briefly to my friend from Maryland and read the entirety of the paragraph regarding Mr. Zappala's ability to speak Spanish. I will read the entirety of the paragraph that my friend from Maryland read only in part:

Mr. Zappala readily acknowledged his deficiency in Spanish, and has already been enrolled in Spanish language training courses. However, Mr. Zappala has been totally fluent in Italian all of his life. Since Spanish and Italian are related romance languages with similar grammatical and rhetorical structures, with the common bond of a broadly cognate vocabulary and transferable language skills, the committee sees no reason to believe that Mr. Zappala will not be reasonably proficient in Spanish by the time that he takes up residence in Madrid.

So I think that Mr. Zappala will be doing just fine in Spanish.

My friend from Maryland refers to a table on page 12 of the report. I refer to a table on page 7 which gives figures that show this President, as have other Presidents before him, has stuck approximately to a 2-to-1 ratio, two careerists for one noncareerist, as the National Commission had recommended, 70 percent. So this President has said on a number of occasions that a 2-to-1 ratio will be continued.

Finally, Mr. President, I certainly accept as a correction the statement of my friend from Maryland that Mr. Flanigan did not go there. The research that was done for me was apparently incorrect in that instance.

Let me read, finally, Mr. President, a letter that I received from Mr. Zappala in which he expresses his gratitude for my support of his nomination. He continues after expressing that gratitude by saying:

It is true that I have little, if any experience in the field of foreign policy, but, since my nomination I have devoted myself to education, not only with regard to the country and its issues, but to the Spanish language as well.

As you know better than most, those of us who come out of the business sector also bring unique talents and new energies and make intelligent decisions.

I come to serve out of love of my country, and yes, honor! You know the personal sacrifice of being away from loved ones and the loss of opportunity. I am committed to apply all my energy and talent as Ambassador, if approved, and will make my country proud.

I believe, Mr. President, Joseph Zappala will achieve just that: He will make his country proud. I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDENT pro tempore. The Senator from Maryland [Mr. SARBANES].

Mr. SARBANES. Mr. President, I want to be very accurate and precise here. Apparently Elliot Richardson chaired, within the Commission on Public Service chaired by Paul Volcker, a task force on career/noncareer questions that suggested that not more than 30 percent of ambassadors be noncareer. The commission itself, in its report, apparently did not specifically address the issue of percentages in the State Department or any other agency. So that the point I make earlier should really refer back to a task force of the Commission. I elevated what was done at the task force level into a commission report, and I want to make sure that the record is clear in this regard.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The point of no quorum having been raised, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, I made reference earlier to the treatment of this issue when the ex-Finance chairman complained in February that few jobs were going to Bush campaign fund-raisers. In this context I want to point out that last December, the American Foreign Service Association sent an open letter to the State Department transition team supporting, in principle, the appointment of a judicious number of noncareer ambassadorships.

It is interesting to note that the career service itself accepts this proposition. They did not argue for 100 percent career ambassadors, but suggested in that letter as a practical matter that the new administration might want to avoid the embarrassment of Senate challenges by screening its nominations carefully beforehand.

The transition team declined to meet with the representatives of the Foreign Service, but the Foreign Service people were encouraged early in the administration by the nomination of career offices to several key posts, including, for instance, the Ambassador to the United Nations.

Then came the spring and the surge of political nominations, which left the career service stunned and, they assert, left even friends of the President stunned. We have already gone through the statistics.

We have to ask what happened between the start of the administration and the rash of political appointments that followed. I submit perhaps what happened is reflected in the complaint widely reported in newspaper articles that "few jobs go to Bush fund-raisers." Ambassadorial appointments were used to help balance the ledger of political obligations. That, of course, has helped to provoke the controversy we have today with respect to this nominee, which of course reflects more broadly what has been happening with respect to other nominees as well.

It was added to the argument made for political appointees that they are loyal to the President, as though somehow the career service is not loyal to the President, and indeed to the Nation. In fact, one of the questions I put to nominees in the committee—and I should have started it earlier—has to do with this question of loyalty. We have nominees who come before us and say: I am very eager to go. This is wonderful; the President has really shown his confidence in me, and I am a personal friend of the President's, and very loyal. I want to go overseas in order to carry out the President's policies.

The question I put to them is, where first do one's loyalties lie?

A noncareer nominee the other day gave the right answer to that question. She said, "The Constitution of the United States." And then subsequently, under questioning, we defined that further to include the statutes of the United States passed pursuant to that Constitution. A President who asks an ambassador or anyone else to do something contrary to a statute is in effect asking him or her to violate our constitutional process.

So it is true the President has a tremendous scope to direct our foreign policy, and in one respect our ambassadors are the personal representatives of the President. But the ambassadors are confirmed by the Senate. They are officials of the United States, and they have obligations that transcend "loyalty" only to the President.

The loyalty that is being talked about in these cases is really political giving. The Foreign Service is characterized by people who have given loyal service over decades, trying to serve the Nation. We are then told that political nominees can pick up the phone and call the President."

How much of that is going to happen? What one ought to do is let them go out and after a year or 18 months ask them, "How many times in the last year did you call up the President?" And if the number is large, one would then say, "Well, why are you harassing the President? Why are you calling him up all the time? Don't you think the President has other important things to do than to be constantly receiving phone calls?"

We have 130-some ambassadors overseas. Just think of the number of phone calls the President would have to handle if all these people are going to call him.

In fact they are not going to be calling the President. I do not know why that argument is being advanced on their behalf.

That fact is, it is time for us to get serious about these matters. I do not think the United States today continues to enjoy the same luxury in the way we conduct our political and security affairs abroad that we might have at an earlier time, when our power was much more transcendent. We are now much more dependent, I think, on having able, skillful people to represent us, just as other countries send able, skillful representatives to the United States.

Before he came here, the current Soviet Ambassador in Washington served in Spain. He moved from that assisgnment first to the United Nations, but then very quickly to Washington.

That gives you some sense of the importance they attach to that diplomatic post. The Soviet Ambassador is an experienced career person.

The United States has to start doing business in a serious way. It is for that reason, because it will send as strong and clear a message as can be sent on this issue, that the Senate should reject this nomination.

I yield the floor.

Mr. SIMPSON. Mr. President, I rise in support of the nomination of Joseph Zappala to be Ambassador to Spain. Mr. Zappala's nomination was reported by the Foreign Relations Committee in July, and I am pleased that we have finally turned to this matter.

There are other nominees who also await confirmation, and it is high time that we moved forward on those as well.

The President has nominated people who he feels to be qualified, responsible, and able to represent this great Nation abroad. The Senate has a role to play, and the ability to reject nominees that are unfit in the judgment of the Senate.

But we do no one a service when we hold up nominations on the basis of pure politics.

Presidents—both Democratic and Republican—have made ambassadorial appointments to both career foreign service officers and political appointees. The amount of criticism leveled at this President for political appointees is unseemly. Senator HELMS has covered all of that very skillfully and completely.

Many fine Ambassadors throughout our history have been political appointees, including the recently returned Ambassasdor to Japan, Mike Mansfield, who served with singular distinction and great honor.

I am a little puzzled at the ire directed at those who happened to have the temerity to be Republican campaign contributors and successful business persons.

Those are surely not characteristics that ought to disqualify any fine person from serving most ably as Ambassador for the United States.

Enough of this sophistry of thought and reason. I trust we will get on with the business at hand, and I urge my colleagues to vote favorably on this nomination.

Mr. SARBANES. Mr. President, as I understand it, the Senate is in executive session.

The PRESIDENT pro tempore. The Senator is correct.

Mr. SARBANES. I wish to ask unanimous consent that the Senate then proceed to consider the following nominations:

Calendar No. 372, Claire E. Freeman, to be an Assistant Secretary of Housing and Urban Development.

Calendar No. 373, Eugene K. Lawson, to be First Vice President of the Export-Import Bank of the United States, and

Calendar No. 374, Richard Schmalensee, to be a member of the Council of Economic Advisers.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDENT pro tempore. Without objection, the several nominations are considered en bloc, confirmed en bloc and the motion to reconsider en bloc is laid on the table. The President is immediately notified of the confirmation of the nominees.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Claire E. Freeman, of Virginia, to be an Assistant Secretary of Housing and Urban Development.

EXPORT-IMPORT BANK OF THE UNITED STATES

Eugene Kistler Lawson, of the District of Columbia, to be First Vice President of the Export-Import Bank of the United States for a term of four years expiring January 20, 1993.

EXECUTIVE OFFICE OF THE PRESIDENT

Richard Schmalensee, of Massachusetts, to be a Member of the Council of Economic Advisers.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. SARBANES. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDENT pro tempore. Without objection, it is so ordered. There will now be a period for the transaction of morning business.

COAL INDUSTRY HEALTH BENEFIT STABILIZATION ACT

Mr. HEINZ. Mr. President, I want to speak in support of the legislation that the President pro tempore and Senator ROCKEFELLER of West Virginia have introduced, the Coal Industry Health Benefit Stabilization Act. For those States whose economies have historically not been tied to the coal industry, as ours have, the situation emerging in the bowels of the coal mine may not seem of very great concern, but if our colleagues are not now concerned, I would like to deliver a serious message. We have an extremely volatile situation on our hands in our coal fields which, if not resolved quickly may toll the demise of the coal industry as we know it.

After nearly a decade of labor peace, our nation's coal fields once again are echoing with violence. Neither unsafe working conditions nor inadequate wages are the cause of this very grave unrest. No, it is the impetus that is derived from the cancellation of critical health benefits from retirees.

Mr. President, for some more than 133,000 retired miners and their children, health insurance in the UMW health program ranks as the most important benefit they now receive.

And now those very retirees who spent a lifetime below ground with pick and shovel working to heat our homes, fuel our industries, find that at least one and maybe more of their old employers are forsaking them.

Mr. President, coal mining, as I know the Chair knows, is a physically dangerous and risk-laden profession, the most dangerous in this country. With each descent into the pit, our miners face the probability of disease, black lung, or injury. And these illnesses or injuries too often affect the miners not just for a week or a month or a few years but for a lifetime and into retirement years as well.

One constituent of mine worked 28 years in a Smithfield, PA mine. He recently wrote that he never expected anything in return except pension and health benefits in retirement. Mr. President, this is a disabled veteran. He has had open heart surgery. And in June, his company cut off his health benefits. And he writes "I am being forced into poverty."

Mr. President, for somebody who has worked all their life, who has endeavored to stay off the dole, out of welfare, to retain all that pride, that is a terrible admission, a terrible fate to contemplate.

So we are sitting on a time bomb and already 16 coal compaines have gone back on the promises made to miners by ending all contributions to the United Mine Workers and the Bituminous Coal Operators Association health benefit funds.

Abandoning health benefits to retirees is not, I am sorry to say, a new experience. We have had to go through this before. Just 2 years ago my friend and colleague from Ohio, Senator METZENBAUM, and I fought to protect some 78,000 LTV retirees from losing their health care benefits when LTV in bankruptcy tried to terminate their retirees' health plan. We were fortunate that we won that battle. That war really continues today.

Congressional commitment to this special group of retirees, a commitment I might add that is very strongly rooted in history, must continue. The bill we have introduced would force coal companies to honor that very historic commitment to retiree health benefits and to penalize those who irresponsibly seek to dump it.

Specifically, the bill would permit the transfer of surplus dollars from pensoin funds covering United Mine Worker miners in Appalachia, such as the greatly overfunded 1950 pension plan, to the health benefit trust. And, the bill makes clear that health benefits must be treated like pension benefits with appropriate sanctions for fund withdrawals.

Mr. President, the issue before us today is one of fundamental decency—both acknowledging a truly national debt and honoring a promise. Our debt is to those who dedicated their lives and limbs to mining black coal. Our promise is to protect those laborers at a time of greatest vulnerbility, with adequate health benefits in retirement.

I urge our colleagues to join in that effort.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Thad Cochran:									
Philippines	Peso	2,690.27	126.00					2,690.27	126.00
Thailand	Baht	7,878	314.00					7,878	314.00
Malaysia	Ringgit	267.30	99.00					267.30	99.00
Singapore	Dollar	285.18	147.00					285.18	147.00
South Korea	Won	426,190	624.00					426,190	624.00
Andrew K. Semmel:									
Philippines	Peso	5,380.53	252.00					5,380.53	252.00
Thailand	Baht	7,878	314.00					7,878	314.00
Malaysia	Ringgit	399.60	148.00					399.60	148.00
Singapore	Dollar	285.18	147.00					285.18	147.00
South Korea	Won	426,190	624.00					426,190	624.00
Total			2,795.00						2,795.00

PATRICK J. LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry, July 19, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY FOR TRAVEL FROM APR. 1 TO JUNE 30, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
William A.Gillon:									
Switzerland	Franc	1,665.30	1,005.00					1,665.30	1,005.00
John J. Ziolkowski:									
Switzerland	Franc	1,665.30	1,005.00	110.00	66.95			1,775.30	1,071.95
United States	Dollar				994.80				994.80
William A. Gillon:									
United States	Dollar				1,301.08				1,301.08
Total			2,010.00		2,362.83				4,372.83

PATRICK J. LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry, July 19, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Robert E. Bayer:									
Republic of Germany	Dollar		83.50						83.50
Italy	Lire	801,062	586.00					801,062	586.00
United States	Dollar				669.00				669.00
Durwood W. Ringo, Jr.:									
Italy	Lire	569,296	391.00					569,296	391.00
Republic of Germany	Mark	620.24	344.58					620.24	344.58
Belgium	Franc	5,586	133.00					5,586	133.00
Judith A. Freedman:									
Italy	Lire	569,296	391.00					569,296	391.00
Republic of Germany	Mark	620.24	344.58					620.24	344.58
Belgium	Franc	5,586	133.00					5,586	133.00
Senator John McCain:									
Honduras	Lempira	194	97.00					194	97.00
El Salvador	Colone	770	154.00					770	154.00
Lorne W. Craner:									
Honduras	Lempira	194	97.00					194	97.00
El Salvador	Colone	770	154.00					770	154.00
Senator Sam Nunn:									
Republic of Germany	Mark	2,633.40	1,330.00					2,633.40	1,330.00
Arnold L. Punaro:									
Republic of Germany	Mark	3,381.84	1,708.00					3,381.84	1,708.00
Total			5,946.66		669.00				6,615.66

SAM NUNN,
Chairman, Committee on Armed Services, June 30, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Timothy Rieser:									
Guatemala	Dollar		80.00						80.00
Honduras	Dollar		245.00						245.00
William P. Jones:									
France	Franc	8,492.401	1,345.00	353	56.03			8,845.40	1,401.03
United States	Dollar				4,392.00				4,382.00
Robert M. Walker:									
United Kingdom	Dollar		627.00						627.00
Germany	Dollar		85.00						85.00
Denmark	Dollar		137.00						137.00
Norway	Dollar		316.00						316.00
Iceland	Dollar		81.00						81.00
Total			2,916.00		4,438.03				7,354.03

ROBERT C. BYRD,
Chairman, Committee on Appropriations, Sept. 5, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, FOR TRAVEL JAN. 5–19, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Timothy E. Wirth:									
Paraguay	Guarani	358,750	350.00					358,750	350.00
Chile	Peso	39,476	139.00					39,476	139.00
Brazil	Cruzado	1,593,960	1,252.00					1,593,960	1,252.00
Senator John Heinz:									
United States	Dollar				1,117.00				1,117.00
Brazil	Cruzado	1,102,200	835.00					1,102,200	835.00
Senator Richard Shelby:									
Paraguay	Guarani	384,375	375.00					384,375	375.00
Argentina	Austral	2,912.78	177.50					2,912.78	177.50
Chile	Peso	39,476	139.00					39,476	139.00
Brazil	Cruzado	837,608	679.00					837,608	679.00
Peru	Intis	104,762	98.00					104,762	98.00
Jim Martin:									
Paraguay	Guarani	512,500	500.00					512,500	500.00
Chile	Peso	39,476	139.00					39,476	139.00
Brazil	Cruzado	1,593,960	1,252.00					1,593,960	1,252.00
Richard Roberts:									
Paraguay	Guarani	384,375	375.00					384,375	375.00
Argentina	Austral	2,912.78	177.50					2,912.78	177.50
Chile	Peso	39,476	139.00					39,476	139.00
Brazil	Cruzado	1,593,960	1,252.00					1,593,960	1,252.00
Delegation Expenses: [1]									
Brazil							6,515.57		6,515.57
Paraguay							6,765.03		6,765.03
Argentina							1,609.39		1,609.39
Chile							2,625.41		2,625.41
Peru							300.00		300.00
Total			7,879.00		1,117.00		17,815.40		26,811.40

[1] Delegation expenses include direct payments and reimbursements to the Department of State and to the Department of Defense under authority of sec. 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95–384, and Res. 179, agreed to May 25, 1977. The following individuals traveled with the delegation under authorization as noted: Senator Albert Gore, Jr.—Commerce Committee. Jerold Mande—Commerce Committee. Sally Walsh—Majority Leader. Reports of their expenditures appear in the report of the authorizing source. Representative John Bryant—House Judiciary Committee. Representative Gerry Sikorski—House Energy and Commerce Committee.

DONALD W. RIEGLE, JR.,
Chairman, Committee on Banking, Housing, and Urban Affairs,
July 17, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS FOR TRAVEL FROM APR. 1 TO JUNE 30, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Kim Shafer:									
China	Yuan	3,044.40	820.00					3,044.40	820.00
United States	Dollar		164.00		2,054.00				2,218.00
Bradley D. Belt:									
China	Yuan	3,044.40	820.00					3,044.40	820.00
United States	Dollar		164.00		2,054.00				2,218.00
Jennifer Hillman:									
China	Yuan	3,044.40	820.00					3,044.40	820.00
United States	Dollar		164.00		2,054.00				2,218.00
Total			2,952.00		6,162.00				9,114.00

DONALD W. RIEGLE, JR.,
Chairman, Committee on Banking, Housing, and Urban Affairs,
June 30, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Daryl H. Owen:									
France	Franc	8,492	1,230.50	353	53.48			8,845	1,283.98
United States	Dollar				4,382.00				4,382.00
Senator J. Bennett Johnston:									
France	Franc	8,492	1,230.50	353	53.48	897.15	130.00	9,742.15	1,413.98
United States	Dollar				4,382.00				4,382.00
Gina Despres:									
Soviet Union	Dollar		667.00						667.00
United States	Dollar				3,776.00				3,776.00
Senator Dale Bumpers:									
Brazil	Cruzado	815.96	466.26					815.96	466.26
Venezuela	Bolivar	10,947.50	302.00					10,947.50	302.00
Total			3,896.26		12,646.96		130.00		16,673.22

J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources,
Aug. 7, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, FOR TRAVEL FROM MAR. 26 TO APR. 3, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John Chafee:									
Brazil	Cruzado	878.50	502.00					878.50	502.00
Venezuela	Bolivar	10,947.50	302.00					10,947.50	302.00
Senator Steve Symms:									
Brazil	Cruzado	1,475.25	843.00					1,475.25	843.00
Venezuela	Bolivar	10,947.50	302.00					10,947.50	302.00
Trent Clark:									
Brazil	Cruzado	1,475.25	843.00					1,475.25	843.00
Venezuela	Bolivar	10,947.50	302.00					10,947.50	302.00
Robert F. Hurley:									
Brazil	Cruzado	852.25	487.00					852.25	487.00
Venezuela	Bolivar	10,947.50	302.00					10,947.50	302.00
Steven J. Shimberg:									
Brazil	Cruzado	878.50	502.00					878.50	502.00
Venezuela	Bolivar	10,947.50	302.00					10,947.50	302.00
David M. Strauss:									
Brazil	Cruzado	1,475.25	843.00					1,475.25	843.00
Venezuela	Bolivar	10,947.50	302.00					10,947.50	302.00
Delegation expenses: [1]									
Brazil							2,020.84		2,020.84
Venezuela							2,452.64		2,452.64
Total			5,832.00				4,473.48		10,305.48

[1] Delegation expenses include direct payments and reimbursements to the Department of State and to the Department of Defense under authority of sec. 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95–384, and S. Res. 179, agreed to May 25, 1977. In addition to those named above, the following individuals accompanied this delegation: Senator Arlen Specter and Gordon Woodrow authorized by the Republican Leader; Senator Dale Bumpers authorized by the Committee on Energy and Natural Resources. Reports of their expenditures appear in the report of the authorizing source.

QUENTIN BURDICK,
Chairman, Committee on Environment and Public Works, Sept. 8, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS FOR TRAVEL FROM APR. 1 TO JUNE 30, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John Chafee:									
Belize	Dollar	1,129.79	574.52					1,129.79	574.52
United States	Dollar				412.00				412.00
Robert F. Hurley:									
Belize	Dollar	1,129.79	574.52					1,129.79	574.52
United States	Dollar				412.00				412.00
Steven J. Shimberg:									
Belize	Dollar	1,129.79	574.52					1,129.79	574.52
United States	Dollar				794.00				794.00
David M. Strauss:									
Belize	Dollar	1,129.79	574.52					1,129.79	574.52
United States	Dollar				412.00				412.00
Total			2,298.08		2,030.00				4,328.08

QUENTIN BURDICK,
Chairman, Committee on Environment and Public Works, Sept. 8, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL MAR. 17–29, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Lloyd Bentsen:									
England	Pound	394.17	678.00					394.17	678.00
Belgium	Franc	14,329	366.00					14,329	366.00
Italy	Lire	863,100	630.00					863,100	630.00
Switzerland	Franc	324.66	201.00					324.66	201.00
France	Franc	2,755.90	434.00					2,755.90	434.00
Senator Bob Packwood:									
England	Pound	394.17	678.00					394.17	678.00
Belgium	Franc	14,329	366.00					14,329	366.00
Italy	Lire	863,100	630.00					863,100	630.00
Switzerland	Franc	324.66	201.00					324.66	201.00
France	Franc	2,755.90	434.00					2,755.90	434.00
Senator Max Baucus:									
England	Pound	394.17	678.00					394.17	678.00
Belgium	Franc	14,329	366.00					14,329	366.00
Italy	Lire	863,100	630.00					863,100	630.00
Switzerland	Franc	324.66	201.00					324.66	201.00
France	Franc	2,755.90	434.00					2,755.90	434.00
Senator David Pryor:									
England	Pound	394.17	678.00					394.17	678.00
Belgium	Franc	14,329	366.00					14,329	366.00
Italy	Lire	863,100	630.00					863,100	630.00
Switzerland	Franc	324.66	201.00					324.66	201.00
France	Franc	2,755.90	434.00					2,755.90	434.00
Jeffrey Lang:									
England	Pound	394.17	678.00					394.17	678.00
Belgium	Franc	14,329	366.00					14,329	366.00
Italy	Lire	863,100	630.00					863,100	630.00
Switzerland	Franc	2,755.90	201.00					2,755.90	201.00
France	Franc	2,755.90	434.00					2,755.90	434.00
Brad Figel:									
England	Pound	394.17	678.00					394.17	678.00
Belgium	Franc	14,329	366.00					14,329	366.00
Italy	Lire	863,100	630.00					863,100	630.00
Switzerland	Franc	294.66	182.43					294.66	182.43
France	Franc	2,755.90	434.00					2,755.90	434.00
Gay Burton:									
England	Pound	394.17	678.00					394.17	678.00
Belgium	Franc	14,329	366.00					14,329	366.00
Italy	Lire	863,100	630.00					863,100	630.00
Switzerland	Franc	324.66	201.00					324.66	201.00
France	Franc	2,755.90	434.00					2,755.90	434.00
Delegation Expenses:[1]									
England							7,298.06		7,298.06
Belgium							2,615.03		2,615.03
France							2,822.29		2,822.29
Italy							5,348.73		5,348.73
Switzerland							1,220.39		1,220.39
Total		xxxxxxx	16,144.43	xxxxxxx		xxxxxxx	19,607.68	xxxxxxx	35,752.11

[1] Delegation expenses include direct payments and reimbursements to the State Department and to the Defense Department under authority of sec. 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95–384, and S. Res. 179, agreed to May 25, 1977. The following individual traveled with the delegation under authorization as noted: Ms. Yvonne L. Hopkins—Majority Leader. Report of her expenditure appears in the report of the authorizing source.

LLOYD BENTSEN,
Chairman, Committee on Finance, July 31, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P. L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Marcia Miller:									
Switzerland	Franc	1,331.35	792.00					1,331.35	792.00
Belgium	Franc	19,832	488.00					19,832	488.00
United States	Dollar				999.33				999.33
Total			1,280.00		999.33				2,279.33

LLOYD BENTSEN,
Chairman, Committee on Finance, July 17, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL JAN. 4–16, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Richard G. Lugar:									
Philippines	Peso	2,690.26	126.00					2,690.26	126.00
Thailand	Baht	5,362	214.00					5,362	214.00
Malaysia	Ringgit	267.30	99.00					267.30	99.00
Singapore	Dollar	285.18	147.00					285.18	147.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL JAN. 4–16, 1989—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Korea	Won	426,190	624.00					426,190	624.00
Charles Andreae:									
Philippines	Peso	5,380.53	252.00					5,380.53	252.00
Thailand	Baht	5,362	214.00					5,362	214.00
Malaysia	Ringgit	399.60	148.00					399.60	148.00
Singapore	Dollar	285.18	147.00					285.18	147.00
Korea	Won	426,190	624.00					426,190	624.00
Delegation expenses: [1]									
Hawaii			739.91				1,431.83		2,171.74
Thailand					766.43		659.90		1,426.33
Total			3,334.91		766.43		2,091.73		6,193.07

[1] Delegation expenses include direct payments and reimbursements to the Department of State and to the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95–384, and S. Res. 179, agreed to May 25, 1977. Senator Thad Cochran and Andy Semmel traveled with the delegation under the authority of the Committee on Agriculture. Reports of their expenditures appear in the report of the authorizing source.

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, July 12, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Gordon J. Humphrey:									
Pakistan	Rupee	825	39.14					825	39.14
United Kingdom	Pound			128	197.12			128	197.12
United States	Dollar				3,419.72		96.00		3,515.72
Geryld Christianson:									
United States	Dollar				2,200.00				2,200.00
Deborah DeMoss:									
El Salvador	Colon	770	154.00					770	154.00
United States	Dollar				684.00				684.00
Thomas C. Kleine:									
Pakistan	Rupee	1,220	57.87					1,220	57.87
United States	Dollar				3,544.72				3,544.72
Nancy H. Stetson:									
Kenya	Shilling	17,474.30	909.21	3,092	161.23			20,566.30	1,070.44
Ethiopia	Birr	257.41	125.29					257.41	125.29
Sudan	Dollar		500.00						500.00
United States	Dollar				4,399.20				4,399.20
Total			1,785.51		14,605.99		96.00		16,487.50

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, July 12, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON GOVERNMENTAL AFFAIRS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
David B. Buckley:									
England	Pound	399.50	678.00					399.50	678.00
United States	Dollar				599.00				599.00
Randy J. Rydell:									
England	Pound	399.50	678.00					399.50	678.00
United States	Dollar				599.00				599.00
Mary K. Vinson:									
England	Pound	399.50	678.00					399.50	678.00
United States	Dollar				599.00				599.00
Edwin S. Jane:									
Japan	Yen	193,880	1,480.00					193,880	1,480.00
United States	Dollar				1,433.00				1,433.00
Total			3,514.00		3,230.00				6,744.00

JOHN GLENN,
Chairman, Committee on Governmental Affairs, July 19, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON LABOR AND HUMAN RESOURCES, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Michael E. Iskowitz:									
Canada	Dollar	765.18	635.00			500	415.00	1,265.18	1,050.00
United States	Dollar				372.14				372.14
Total			635.00		372.14		415.00		1,422.14

EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, July 5, 1989.

AMENDED CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–385—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1988

Name	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator David Boren			2,668.00						2,668.00
George Tenet			2,668.00						2,668.00
Senator Sam Nunn			2,668.00						2,668.00
Arnold Punaro			2,668.00						2,668.00
David Cox			2,668.00						2,668.00
Total			13,340.00						13,340.00

DAVID L. BOREN,
Chairman, Select Committee on Intelligence, June 30, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, ON TRAVEL FROM APR. 1 TO JUNE 30, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
David Holliday			679.00						679.00
James Currie			679.00						679.00
Christopher Straub			515.00						515.00
Marvin Ott			718.00		3,143.48				3,861.48
John Despres			673.00		3,776.00				4,449.00
Senator Bill Bradley			673.00		3,776.00				4,449.00
Senator Dennis DeConcini			1,022.38						1,022.38
Howard Walgren			1,694.00						1,694.00
Gregorio Cater			1,002.00		2,727.00				3,729.00
John Nelson			949.00		2,727.00				3,676.00
Christopher Straub			474.00		3,574.00				4,048.00
Regina Genton			394.00		3,574.00				3,968.00
Larry Kettlewell			894.00		3,574.00				4,468.00
Total			10,366.38		26,871.48				37,237.86

DAVID BOREN,
Chairman, Select Committee on Intelligence, June 30, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), JOINT ECONOMIC COMMITTEE, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
David Freshwater:									
United States	Dollar				665.59				665.59
Canada	Dollar	848.32	704.00					848.83	704.00
Total			704.00		665.59				1,369.59

LEE H. HAMILTON,
Chairman, Joint Economic Committee, Aug. 17, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Robert A. Hand:									
Switzerland	Franc	743.37	453.00	343.00	209.00			1,086.37	662.00
United States	Dollar						99.09		99.09
France	Franc	3,178.01	501.00					3,178.01	501.00
Jane S. Fisher:									
Belgium	Franc	10,538.92	266.00					10,538.92	266.00
United States	Dollar				2,176.60				2,176.60
United Kingdom	Pound	204.80	352.00					204.80	352.00
United States	Dollar				2,841.00				2,841.00
Senator Dennis DeConcini:									
France	Franc	2,731.04	404.00					2,731.04	404.00
Samuel G. Wise:									
France	Franc	12,820.20	1,914.00			180.00	26.47	13,000.20	1,940.47
United States	Dollar				2,295.80				2,295.80
Orest Deychak:									
France	Franc	26,188.80	3,858.00					26,188.80	3,858.00
United States	Dollar				599.00				599.00
Jesse L. Jacobs:									
France	Franc	14,762.80	1,002.00					14,762.80	1,002.00
United States	Dollar				593.00				593.00
Erika B. Schlager:									
France	Franc	31,103	4,588.00					31,103	4,588.00
United States	Dollar				1,489.00				1,489.00
Catherine Cosman:									
France	Franc	31,103	4,588.00					31,103	4,588.00
United States	Dollar				599.00				599.00
Ann W. Banchoff:									
France	Franc	33,420.96	4,922.00					33,420.96	4,922.00
United States	Dollar				822.00				822.00
Germany	Mark	723.40	372.50					723.40	372.50
Robert A. Hand:									
France	Franc	26,039.56	3,822.00					26,039.56	3,822.00
United States	Dollar				599.00				599.00
Jane S. Fisher:									
France	Franc	29,967.40	4,421.00					29,967.40	4,421.00
United States	Dollar				1,489.00				1,489.00
Delegation expenses:[1]									
France							4,113.01		4,113.01
Total			31,463.50		13,712.40		4,238.57		49,414.47

[1] Delegation expenses include payment to the Department of State under authority of sec. 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95–384.

DENNIS DeCONCINI,
Chairman, Commission on Security and Cooperation in Europe,
July 25, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER FOR TRAVEL JUNE 26–28, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator George J. Mitchell:									
Canada	Dollar	245.47	206.28					245.47	206.28
Jan Paulk:									
Canada	Dollar	232.45	195.34					232.45	195.34
Kate Kimball:									
Canada	Dollar	244.37	205.35					244.37	205.35
Diane Dewhirst:									
Canada	Dollar	246.11	206.82					246.11	206.82
Delegation expenses:[1]									
Canada							199.29		199.29
Total			813.79				199.29		1,013.08

[1] Delegation expenses include payment to the Department of State under authority of section 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95–384.

GEORGE J. MITCHELL,
Majority Leader, July 20, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER FOR TRAVEL JAN. 6–18, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Mark O. Hatfield:									
Belgium	Franc	21,177	567.00					21,177	567.00
Bulgaria	Dollar		188.00						188.00
Romania	Dollar		192.00						192.00
Czechoslovakia	Koruna	3,623.9	388.00					3,623.9	388.00
Austria	Schilling	7,360.7	576.00					7,360.7	576.00
Senator James A. McClure:									
Belgium	Franc	21,177	567.00					21,177	567.00
Bulgaria	Dollar		188.00						188.00
Romania	Dollar		192.00						192.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER FOR TRAVEL JAN. 6-18, 1989—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Czechoslovakia	Koruna	3,623.9	388.00					3,623.9	388.00
Austria	Schilling	7,360.7	576.00					7,360.7	576.00
Gerald W. Frank:									
Belgium	Franc	21,177	567.00					21,177	567.00
Bulgaria	Dollar		188.00						188.00
Romania	Dollar		192.00						192.00
Czechoslovakia	Koruna	3,623.9	388.00					3,623.9	388.00
Austria	Schilling	12,267.8	960.00					12,267.8	960.00
Jack Gerard:									
Belgium	Franc	21,177	567.00					21,177	567.00
Bulgaria	Dollar		188.00						188.00
Romania	Dollar		192.00						192.00
Czechoslovakia	Koruna	3,623.9	388.00					3,623.9	388.00
Austria	Schilling	12,267.8	960.00					12,267.8	960.00
Jan Paulk:									
Belgium	Franc	21,177	567.00					21,177	567.00
Bulgaria	Dollar		188.00						188.00
Romania	Dollar		192.00						192.00
Czechoslovakia	Koruna	3,623.9	388.00					3,623.9	388.00
Austria	Schilling	12,267.8	960.00					12,267.8	960.00
Janet Lamos:									
Belgium	Franc	21,177	567.00					21,177	567.00
Bulgaria	Dollar		188.00						188.00
Romania	Dollar		192.00						192.00
Czechoslovakia	Koruna	3,623.9	388.00					3,623.9	388.00
Austria	Schilling	12,267.8	960.00					12,267.8	960.00
Delegation expenses:[1]									
Belgium							2,422.01		2,422.01
Bulgaria							1,584.29		1,584.29
Romania							714.58		714.58
Czechoslovakia							1,397.09		1,397.09
Austria							3,843.50		3,843.50
Total			13,002.00				9,961.47		22,963.47

[1] Delegation expenses include direct payments and reimbursements to the State Department and to the Defense Department under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95-384, and S.Res. 179, agreed to May 25, 1977.

ROBERT J. DOLE,
Republican Leader, July 31, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P. L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER FOR TRAVEL FROM APR. 1 TO JUNE 30, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator William V. Roth, Jr.:									
Netherlands	Guilder	709.90	336.00					709.90	336.00
R. Ian Butterfield:									
Netherlands	Guilder	709.90	336.00					709.90	336.00
Belgium	Franc	21,078	532.00					21,078	532.00
United States	Dollar				599.00				599.00
Gordon Woodrow:									
Brazil	Cruzado	1,475.25	843.00					1,475.25	843.00
Venezuela	Bolivar	10,947.50	302.00					10,947.50	302.00
Senator Arlen Specter:									
Brazil	Cruzado	1,018.50	582.00					1,018.50	582.00
Venezuela	Bolivar	8,555	236.00					8,555	236.00
Total			3,167.00		599.00				3,776.00

ROBERT J. DOLE,
Republican Leader, Aug. 4, 1989.

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on September 29, 1989, during the recess of the Senate, received a message from the President of the United States transmitting the withdrawal of a nomination; which was referred to the Committee on Foreign Relations.

(The withdrawal received on September 29, 1989 is printed in today's RECORD at the end of the Senate proceedings.)

DEFERRAL OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 64

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying documents; which, pursuant to the order of January 30, 1975, as modified, was referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Foreign Relations, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Environment and Public Works, the Committee on Armed Services, the Committee on Finance, and the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report seven deferrals of budget authority totaling $1,380,399,855.

The deferrals affect the International Security Assistance program, as well as programs of the Departments of Agriculture, Defense, Health and Human Services, State, and Transportation.

The details of these deferrals are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *October 2, 1989.*

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTIONS SIGNED

At 2:09 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 81. Joint resolution to designate the week of October 1 through October 7, 1989, as "National Health Care Food Service Week";

S.J. Res. 117. Joint resolution to designate the week of November 19, 1989, through November 25, 1989, and the week of November 18, 1990, through November 24, 1990, as "National Family Week';

S.J. Res. 133. Joint resolution designating October 1989 as "National Domestic Violence Awareness Week";

S.J. Res. 138. Joint resolution designating October 16, 1989, and October 16, 1990, as "World Food Day"; and

S.J. Res. 148. Joint resolution to designate the week of October 8, 1989, through October 14, 1989, as "National Job Skills Week".

The enrolled joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

ENROLLED JOINT RESOLUTIONS SIGNED

The Secretary of the Senate reported that on today, October 2, 1989, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 81. Joint resolution to designate the week of October 1, through October 7, 1989, as "National Health Care Food Service Week";

S.J. Res. 117. Joint resolution to designate the week of November 9, 1989, through November 25, 1989, and the week of November 18, 1990, through November 24, 1990, as "National Family Week";

S.J. Res. 133. Joint resolution designating October 1989 as "National Domestic Violence Awareness Week";

S.J. Res. 138. Joint resolution designating October 16, 1989, and October 16, 1990, as "World Food Day"; and

S.J. Res. 148. Joint resolution to designate the week of October 8, 1989, through October 14, 1989, as "National Job Skills Week".

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 1712. An original bill to amend the Security Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1990 through 1991, and for other purposes (Rept. No. 101-155).

By Mr. BINGAMAN, from the Impeachment Trial Committee (In Re. Judge Alcee L. Hastings):

Special Report entitled "Report of the Impeachment Trial Committee on the Articles Against Judge Alcee L. Hastings" (Rept. No. 101-156).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOLE:

S. 1711. A bill to implement the President's 1989 National Drug Control Strategy; placed on the calendar.

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

S. 1712. An original bill to amend the Security Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1990 through 1991, and for other purposes; placed on the calendar.

By Mr. DOLE:

S. 1713. A bill to temporarily suspend the duty on p-hydroxybenzaldehyde; to the Committee on Finance.

By Mr. SIMON:

S. 1714. A bill to reestablish the United States Commission on Civil Rights, and for other purposes; to the Committee on the Judiciary.

By Mr. BOSCHWITZ (for himself, Mr. BOND, Mr. DURENBERGER, Mr. GRASSLEY, Mr. KASTEN, Mr. LUGAR, Mr. MCCLURE, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. THURMOND, Mr. WILSON, Mr. BURNS, Mr. STEVENS, Mr. WARNER, Mr. GORTON, Mr. COATS, Mr. CHAFEE, Mr. JEFFORDS, Mr. ARMSTRONG, Mr. D'AMATO, Mr. SPECTER, Mr. GARN, Mr. HELMS, Mr. HATCH, Mr. HUMPHREY, Mr. MCCONNELL, Mr. NICKLES, Mr. RUDMAN, Mr. BURDICK, Mr. DECONCINI, Mr. HOLLINGS, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. SASSER, Mr. GORE, Mr. FOWLER, Mr. WIRTH, Mr. INOUYE, Mr. KERRY, Mr. KERREY, Mr. LAUTENBERG, Mr. NUNN, Mr. BAUCUS, Mr. CRANSTON, Mr. JOHNSTON, Mr. PELL, Mr. MATSUNAGA, Mr. BUMPERS, Mr. ROBB, and Mr. GLENN):

S.J. Res. 213. Joint resolution to designate October 22 through October 29, 1989, as "National Red Ribbon Week for a Drug Free America"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE:

S. 1711. A bill to implement the President's 1989 national drug control strategy; ordered placed on the Calendar.

IMPLEMENTING THE PRESIDENT'S 1989 NATIONAL DRUG CONTROL STRATEGY

Mr. DOLE. Mr. President, last week, the Senate approved the Department of Transportation appropriation bill which fully funded the President's national drug control strategy and crime bill. Also contained in the bill were four legislative initiatives which were proposed in the strategy. Leaving just one remaining item for consideration by this body.

Under the unanimous-consent agreement that controlled consideration of the appropriation bill, the Senate agreed to consider the remaining initiative as a free standing bill. Today, I am introducing that bill, which requires drug testing by State and local governments of those arrested, incarcerated or on probation or parole.

There has been a fair amount of controversy concerning this provision. It has been suggested that the cost of requiring State and local officials to drug test everyone falling into these categories would be prohibitive. I admit that, if the requirement were that extensive, the administration estimated cost of $800 million would be beyond the ability of State and local governments to pay.

However, that is not contemplated by the bill. It merely requires that each State, within its own drug strategy, must include drug testing of some of those arrested, some incarcerated and some of those on probation or parole.

Therefore, the $800 million estimate is not valid in the discussion of this bill, since no requirement to test all individuals in those classes is contained in the bill.

But, we do need the information which would result from this testing. We need to know how much drug use contributes to crime, how much drug use exists in prisons and jails, and whether drug use is prevalent among those who are released on probation or parole. And, quite frankly, we should take action against those who test negative, as is required by the bill. For example, if a convicted felon is found to be using drugs while in prison, I would suggest that he is probably not the best candidate for parole.

I do not think anyone can disagree that this provision is an essential component in our coordinated efforts to fight drug supply and abuse. The Congress called for the drug strategy, the administration provided a solid blueprint for the war on drugs, and it's now time for the Congress to complete the circle by approving the remaining legislative initiative from the strategy—now.

Finally, Mr. President, the agreement entered on the Transportation appropriation bill also provides for consideration of the President's crime bill before we adjourn. As with this provision, if we are serious about combating drug abuse and other crime in our country, we must give the police, prosecutors and the courts the necessary nonmoney tools they are demanding—the death penalty, habeas corpus reform and a good faith exemption to the exclusionary rule. We have proven that we can spend money on the problem, it is now time to prove that we can address the other parts of the package.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1711

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION ONE. AMENDMENT RELATING TO JUSTICE ASSISTANCE AND DRUG TESTING.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end of part E (42 U.S.C. 3750-3766b) the following:

"DRUG TESTING PROGRAMS

"SEC. 523. (a) PROGRAM REQUIRED.—No funding shall be provided under this part, whether by direct grant, cooperative agreement, or assistance in any form, to any State or to any political subdivision or instrumentality of a State that has not formulated and implemented a drug testing program, subject to periodic review by the Attorney General, as specified in the regulations described in subsection (b), for targeted classes of arrestees, individuals in jails, prisons, and other correctional facilities, and persons on conditional or supervised release before or after conviction, including probationers, parolees, and persons released on bail.

"(b) REGULATIONS.—The Attorney General shall, not later than six months after the enactment of this section, promulgate regulations for drug testing programs under this section, which shall be based in part on scientific and technical standards determined by the Secretary of Health and Human Services to ensure reliability and accuracy of drug test results. In addition to specifying acceptable methods and procedures for carrying our drug testing, the regulations may include guidelines or specifications concerning—

(1) the classes of persons to be targeted for testing;

(2) the drugs to be tested for;

(3) the frequency and duration of testing; and

(4) the effect of test results in decisions concerning the sentence, the conditions to be imposed on release before or after conviction, and the granting, continuation, or termination of such release.

"(c) EFFECTIVE DATE.—This section shall take effect with respect to any State, subdivisions, or instrumentality receiving or seeking funding under this subchapter at a time specified by the Attorney General, but no earlier than the promulgation of the regulations required under subsection (b).".

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting at the end of the item relating to part E the following:

"Sec. 523. Drug Testing Programs.".

By Mr. DOLE:

S. 1713. A bill to temporarily suspend the duty on p-hydroxybenzaldehyde; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTY

Mr. DOLE. Mr. President, I am introducing legislation which will temporarily suspend U.S. duty on a chemical, p-hydroxybenzaldehyde, which is not currently imported into the United States and which does not compete with any product made in the United States. Accordingly, I believe that this legislation is noncontroversial and will have no impact on Government reveneus.

By Mr. SIMON:

S. 1714. A bill to reestablish the U.S. Commission on Civil Rights, and for other purposes; to the Committee on the Judiciary.

UNITED STATES COMMISSION ON CIVIL RIGHTS AMENDMENT ACT

● Mr. SIMON. Mr. President, authorization of the U.S. Commission on Civil Rights is set to expire on November 30, 1989. The Subcommittee on the Constitution, which I chair, has jurisdiction over reauthorization. Today I am introducing a bill that would reestablish a revitalized Civil Rights Commission after the current authority expires. My bill would enable the Commission to start with a clean slate, without the political acrimony and charges of bad faith that have marred the credibility of the Commission in the past several years.

Since 1957, when the Civil Rights Commission was established, our country has made tremendous progress in fulfilling the promise of equal rights. But the problems of discrimination have not been solved; indeed, they have grown more complex. I believe the mission of the Commission is too important to let it die, or to let it continue with as little credibility as it has had in recent years. We need a Civil Rights Commission that is true to its original purpose as an "independent, bipartisan, fact-finding agency."

Under my bill, the Commission would continue to have eight members. The President would appoint four to staggered terms; the President pro tempore of the Senate and the Speaker of the House would each have two appointments. To protect the independence of the Commission, members could be removed from office by the President only for neglect of duty or malfeasance in office. There are limits on compensation and travel expenses, to avoid problems experienced in the past.

The legislation expands the scope of the Commission's charge to study and report on discrimination based on color, race, religion, sex, age, or disability by adding discrimination based on language. Annual reports to Congress are required, in addition to other reports the Commission might publish. In recognition of its special expertise and independence, the new Commission is also given the authority to file amicus curiae briefs before the U.S. Supreme Court, when appropriate.

Mr. President, in drafting my bill I have relied on the advice of many of my colleagues, as well as many civil rights leaders, with whom I shared earlier drafts. Many have given me detailed suggestions that I have incorporated in this legislation. Almost all have supported the concept of a new, revitalized Commission.

These can perhaps best be expressed in the words of Dr. Arthur Flemming, former Chairman of the U.S. Commission on Civil Rights:

I believe that if the principal components of your draft bill were enacted into law, Congress would have laid the foundation for the achievement of * * * an autonomous, bipartisan agency with members who are both independent and of unquestioned ability. We hope that * * * the Congress will act soon to give the Nation once again the services of a bipartisan, independent U.S. Commission on Civil Rights.

Mr. President, I urge my colleagues to join me by cosponsoring this historic legislation. I ask unanimous consent that the complete text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

"This Act may be cited as the "United States Commission on Civil Rights Amendments Act of 1989".

SEC. 2. UNITED STATES COMMISSION ON CIVIL RIGHTS.

The United States Commission on Civil Rights Act of 1983 (42 U.S.C. 1975 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'United States Commission on Civil Rights Act of 1989'.

"SEC. 2. ESTABLISHMENT OF COMMISSION.

"There is established a United States Commission on Civil Rights (hereinafter referred to in this Act as the 'Commission').

"SEC. 3. MEMBERSHIP OF COMMISSION.

"(a) APPOINTMENT.—

"(1) IN GENERAL.—The Commission shall consist of eight members, of which—

"(A) four members shall be appointed by the President;

"(B) two members shall be appointed by the President pro tempore of the Senate; and

"(C) two members shall be appointed by the Speaker of the House of Representatives.

"(b) POLITICAL AFFILIATION.—Not more than four members of the Commission may be from the same political party.

"(c) TERMS OF OFFICE, VACANCIES, AND DISMISSAL.—

"(1) INITIAL TERM.—The terms of office for the initial members of the Commission appointed under subsection (a) shall be—

"(A) for the appointments made under subsection (a)(1)(A)—

"(i) a period of 4 years for two such members; and

"(ii) a period of 2 years for two such members;

"(B) for the appointments under subsection (a)(1)(B)—

"(i) a period of 3 years for one such member; and

"(ii) a period of 6 years for one such member; and

"(C) for the appointments under subsection (a)(1)(C)—

"(i) a period of 3 years for one such member; and

"(ii) a period of 6 years for one such member.

"(2) SUBSEQUENT TERM.—The term of office for members of the Commission who are appointed subsequent to initial members appointed under paragraph (1) shall be 6 years.

"(3) DURATION OF TERM OF OFFICE.—An individual shall not serve for more than 12 years on the Commission.

"(4) VACANCIES.—

"(A) IN GENERAL.—A vacancy on the Commission shall not affect the powers of such Commission. A vacancy shall be filled in the same manner as the original appointment was made.

"(B) TERM OF SUCCESSOR.—An individual who is appointed to fill a vacancy on the Commission shall serve for the remainder of the term for which the predecessor of such individual was appointed.

"(5) DISMISSAL FROM OFFICE.—The President may remove a member of the Commission only for neglect of duty or malfeasance in office.

"(c) CHAIR, VICE CHAIR, AND STAFF DIRECTOR.—

"(1) SELECTION.—There shall be a Chair, Vice Chair, and full-time Staff Director of the Commission, who shall be selected by a majority of the members of the Commission.

"(2) TERM OF CHAIR.—The Chair of the Commission shall serve for a term not to exceed 3 years and may serve successive terms.

"(3) VICE CHAIR.—The Vice Chair shall act in the place of the Chair in the absence of the Chair.

"(d) COMPENSATION.—

"(1) MEMBERS.—

"(A) IN GENERAL.—Each member of the Commission who is not otherwise in the service of the Federal government shall receive a sum equivalent to the compensation paid at level III of the Federal Executive Salary Schedule, pursuant to section 5314 of title 5, United States Code, prorated on a daily basis for each day spent in the work of the Commission.

"(B) TRAVEL EXPENSES AND PER DIEM.—Each member of the Commission shall receive reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Commission in amounts that shall not exceed the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States.

"(C) FEDERAL EMPLOYEE.—Each member of the Commission who is otherwise in the service of the Federal government shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid expenses as provided under subparagraph (B).

"(D) LIMITATION.—The total amount that each member of the Commission may receive under subparagraphs (A) through (C) in any one calendar year shall not exceed one third of the total compensation paid to the Staff Director in any one calendar year under paragraph (2).

"(2) STAFF DIRECTOR.—The Staff Director of the Commission shall receive a sum equivalent to the compensation paid at level III of the Federal Executive Salary Schedule, pursuant to section 5314 of title 5, United States Code.

"SEC. 4. DUTIES OF THE COMMISSION.

"(a) IN GENERAL.—The Commission shall—

"(1) investigate allegations in writing, made under oath or affirmation and setting forth facts on which such allegation is based, that certain citizens of the United States are being deprived of the right to vote and have such vote counted by reason of color, race, religion, sex, age, language, disability, or national origin;

"(2) study and collect information, and appraise the laws and policies of the Federal Government, concerning infringements of equal opportunity because of race, color, religion, sex, age, language, disability, or national origin.

"(3) serve as national clearinghouse for information concerning discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, language, disability, or national origin, including the fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the Administration of justice; and

"(4) investigate allegations, made in writing and under oath or affirmation, that citizens are unlawfully being accorded or denied the right to vote and to have such vote properly counted in any election of the Presidential electors, Members of the Senate, or Members of the House of Representatives, as a result of any patterns or practice of fraud or discrimination in the conduct of such election.

"(b) LIMITATION.—Nothing in this or any other Act shall be construed as authorizing the Commission, the advisory committees of the Commission (as established under section 5(b)(1)), or any individual under the supervision or control of the Commission to investigate any membership practice or internal operation of any fraternal organization, college or university fraternity or sorority, or any religious organization.

"(c) AMICUS CURIAE BRIEFS.—The Commission may submit an amicus curiae brief to the Supreme Court of the United States on any matter within the jurisdiction of the Commission, if a majority of the members of the Commission approve the submission of such brief.

"(d) REPORTS.—

"(1) IN GENERAL.—In addition to any other reports submitted by the Commission, the Commission shall submit an annual report to Congress and to the President concerning—

"(A) the existing status of civil rights in the United States;

"(B) the enforcement of civil rights laws by Federal, State, and local governments;

"(C) the existing status of the political, social, and economic equality of minorities and women;

"(D) the impact of Federal fiscal policies, programs, and activities on minorities and women; and

"(E) any other information that the majority of Commission members determines appropriate.

"(2) VOTING AND POLITICAL PARTICIPATION.—

"(A) APPRAISAL.—The Commission shall appraise the laws and policies of each State and the Federal government with respect to denials of the right to vote and the political participation of minority groups, including African Americans, Hispanic Americans, Asian Americans, Native Americans, Americans from the Pacific Islands, women, and disabled individuals.

"(B) REPORT.—The Commission may conduct studies and make appraisals and recommendations concerning public and private affirmative action programs.

"(e) ABORTION.—Nothing in this or any other Act shall be construed as authorizing the Commission, the advisory committees of the Commission (as established under section 5(b)(1)), or an individual under the supervision or control of the Commission to appraise, study, and collect information concerning the laws and policies of the Federal government, or any other governmental entity, with respect to abortion.

"SEC. 5. POWERS AND DUTIES OF THE COMMISSION.

"(a) EMPLOYEES.—The Commission may hire employees and procure services as authorized by section 3109 of title 5, United States Code. The rate of compensation paid to such individuals by the Commission may not exceed the daily equivalent paid for positions at the maximum rate for an individual who is at a position equivalent to GS-15 of the General Schedule under section 5332 of title 5, United States Code.

"(b) ADVISORY COMMITTEES.—

"(1) IN GENERAL.—The Commission shall establish an advisory committee in each State that shall be composed of citizens of such State.

"(2) DIVERSITY OF MEMBERSHIP.—

"(A) POLITICAL AFFILIATION.—Not more than 50 percent of the members of each advisory committee shall be from the same political party.

"(B) OTHER FACTORS.—Each advisory committee shall have a diverse membership in regards to race, ethnicity, religion, sex, language disability, and national origin.

"(3) INVESTIGATIVE AUTHORITY.—An advisory committee established under paragraph (1) shall have the same investigative authority as the Commission has under section 6, except that such committee shall not—

"(A) subpoena a witness or require such witness to produce written or other material for the Commission; and

"(B) conduct investigations beyond the boundary of the State where such committee is located.

"(c) CONSULTATION.—The Commission may consult with governors, attorneys general, and other representatives of State and local governments and private organizations, as the Commission considers appropriate.

"(d) EXEMPTION.—Members of the Commission, and members of advisory committees established pursuant to subsection (b), shall be exempt from sections 203, 205, 207, 208, and 209 of title 18 of the United States Code.

"(e) RULES AND REGULATIONS.—The Commission shall have the power to make such rules and regulations as are necessary to carry out this Act.

"(f) TRANSFER OF RECORDS.—The Commission shall arrange for the transfer of all files, records, and balances of appropriations of the Commission on Civil Rights as established by the United States Commission on Civil Rights Act of 1983 to the Commission established by this Act.

"(g) TRANSFER OF EMPLOYEES.—

"(1) TRANSFER TO ORIGINAL POSITION.—On the application of an individual who—

"(A) is employed in a position at General Schedule 13 grade (established pursuant to subchapter III of chapter 53 of title 5, United States Code) or below such grade; and

"(B) was an employee of the Commission on Civil Rights as established by United

States Commission on Civil Rights Act of 1983, who was employed by the Commission on Civil Rights on the date of enactment of this Act;

the Commission shall consider and appoint such individual to a position with the equivalent duties, responsibilities, and rate of pay as the position held by such individual on the Commission on Civil Rights as established by the United States Commission on Civil Rights Act of 1983.

"(2) OTHER EMPLOYEES.—The Commission may appoint an employee of the Commission on Civil Rights, who is not described under paragraph (1) and did not serve the Commission on Civil Rights in the capacity of a Commissioner or staff director, to a new position within the Commission.

"(3) RIGHTS AND BENEFITS.—Notwithstanding any other provision of law, an employee transferred to the Commission under this subsection shall retain all rights and benefits that such employee was entitled or eligible for immediately prior to such transfer to the Commission.

"(h) PUBLICATION IN FEDERAL REGISTER.—

"(1) IN GENERAL.—The Commission shall publish in the Federal Register—

"(A) a description of central and field organizations of the Commission, including the established places and methods that the public may secure information or make requests;

"(B) statements of the general course and method by which its functions are channeled and determined; and

"(C) rules adopted as authorized by law.

"(2) NONPUBLICATION.—No individual may be subject to rules, organizations, or procedures not published as required under paragraph (1).

"SEC. 6. COMMISSION HEARINGS.

"(a) IN GENERAL.—The Commission or, on the authorization of the Commission, a subcommittee of two or more members of the Commission with representation from both political parties, may hold such hearings and act at such times and places as the Commission or such authorized subcommittee consider necessary to carry out the responsibilities of the Commission.

"(b) DECISION TO HOLD HEARING.—The decision to hold a hearing by the Commission, or the appointment of a subcommittee to hold hearings, shall be approved by a majority of the Commission, or by a majority of the members of the Commission present at a meeting at which at least a quorum of four members is present.

"(c) NOTIFICATION.—Not later than 30 days prior to the commencement of any hearing, the Commission shall publish in the Federal Register notice of the date on which such hearing is to commence, the place at which such hearing is to be held, and the subject of such hearing.

"(d) OPENING STATEMENT.—The Chair of the Commission, or an individual designated by the Chair to act as the Chair at a hearing of the Commission, shall announce the subject of a hearing in the opening statement of such hearing.

"(e) COPY OF RULES.—A copy of the rules of the Commission shall be made available to any witness appearing before the Commission. A witness compelled by a subpoena to appear before the Commission, or required to produce written or other matter for the Commission, shall be served with a copy of the rules of the Commission at the time of service of such subpoena.

"(f) RIGHT OF COUNSEL.—

"(1) IN GENERAL.—An individual who is compelled to appear before the Commission shall have the right to be accompanied and advised by counsel.

"(2) RIGHT OF COUNSEL.—An attorney who represents an individual appearing before the Commission shall have the right to subject the client of such attorney to reasonable examination, to make objections on the record, and to argue briefly concerning the basis for such objections.

"(g) RIGHT TO A SPEEDY HEARING.—

"(1) IN GENERAL.—The Commission shall proceed with reasonable speed to conclude any hearing that the Commission is conducting.

"(2) CONVENIENCE AND NECESSITY OF WITNESSES.—The Commission shall act with due regard for the convenience and necessity of witnesses to a hearing.

"(h) CENSURE AND EXCLUSION.—The Chair of the Commission or the individual designated by the Chair to act as Chair at a hearing, may punish breaches of order and decorum by censure and exclusion from the hearings.

"(i) DEFAMATION, DEGRADATION, OR INCRIMINATION.—

"(1) IN GENERAL.—If the Commission determines that evidence or testimony at a hearing may tend to defame, degrade, or incriminate any individual, the Commission shall receive such evidence, testimony, or summary of such evidence or testimony in executive session.

"(2) OPPORTUNITY TO APPEAR.—The Commission shall allow an individual who is defamed, degraded, or incriminated by evidence or testimony referred to in paragraph (1) an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by such individual, before deciding to use such evidence or testimony.

"(3) PUBLIC SESSION.—If the Commission determines to release or use such evidence or testimony referred to in paragraph (1) in a manner that publicly reveals the identity of the individual who was defamed, degraded, or incriminated, such evidence or testimony, prior to such public release or use, shall be provided at a public session, and the Commission shall afford such individual the opportunity to—

"(A) appear as a voluntary witness;

"(B) file a sworn statement on behalf of such individual; and

"(C) submit brief and pertinent sworn statements of other individuals.

"(4) ADDITIONAL WITNESSES.—The Commission shall receive and dispose of requests from an individual described in paragraph (3) to subpoena additional witnesses in accordance with paragraph (3)(C).

"(5) REPORT.—If a report of the Commission tends to defame, degrade or incriminate any individual, such report shall be delivered to such individual not later than 30 days prior to such report being made public in order to allow such individual the opportunity to make a timely answer to the report.

"(6) VERIFIED ANSWER.—

"(A) IN GENERAL.—Each individual defamed, degraded, or incriminated in the report referred to in paragraph (5) may file a verified answer to the report with the Commission not later than 20 days after service of the report on such individual.

"(B) EXTENSION.—On a showing of good cause, the Commission may grant such individual an extension of time to file such answer.

"(C) SUBSTANCE OF ANSWER.—Such answer shall plainly and concisely state the facts and law constituting the reply or defense of such individual to the charges or allegations contained in a report referred to in paragraph (5).

"(D) APPENDIX TO THE REPORT.—Such answer shall be published as an appendix to such report.

"(E) AMENDMENT OF THE ANSWER.—The right to answer within the appropriate time limitations, permitted under subparagraph (A), and to have such answer annexed to such report, shall be limited only by the power of the Commission to amend such answer to exclude matter that the Commission determines has been inserted in such answer scandalously, prejudicedly, or unnecessarily.

"(j) RELEASE OF EVIDENCE OR TESTIMONY.—No evidence, testimony, or summary of such evidence or testimony, taken in executive session may be released or used in public sessions without the consent of the Commission.

"(k) SWORN STATEMENTS.—

"(1) IN GENERAL.—In the discretion of the Commission, witnesses in a hearing may submit brief and pertinent sworn statements in writing for inclusion in the record of such hearing.

"(2) RELEVANCE.—The Commission shall determine the relevance of the testimony and evidence described in paragraph (1) at a hearing.

"(l) COPY OR TRANSCRIPT.—

"(1) IN GENERAL.—An accurate transcript shall be made of the testimony of all witnesses at all hearings, including both public or executive sessions, of the Commission or of any subcommittee of the Commission.

"(2) RIGHT TO TRANSCRIPT.—An individual who submits data or evidence shall be entitled to inspect or, on payment of lawfully prescribed costs, procure a copy or transcript of such data or evidence.

"(3) EXCEPTION.—Paragraph (2) shall not apply to a witness in a hearing held in executive session. Such witness shall be allowed to inspect the official transcript of the testimony of such witness.

"(4) OBTAINING COPIES OF TRANSCRIPT.—A copy of the transcript for a public session of a hearing may be obtained by a member of the general public on the payment of the cost of such copy.

"(m) PAYMENT OF WITNESSES.—

"(1) IN GENERAL.—A witness attending any hearing of the Commission shall be paid the same fees and mileage costs as witnesses in the courts of the United States.

"(2) MILEAGE PAYMENTS.—Mileage payments shall be tendered to a witness under paragraph (1) on service of a subpoena issued on behalf of the Commission or any subcommittee of the Commission.

"(n) SUBPOENA.—

"(1) IN GENERAL.—A subpoena for the attendance and testimony of a witness or the production of written or other matter for the Commission may be—

"(A) issued in accordance with subsection (m) and paragraph (2) of this subsection, with the signature of the Chair of the Commission or of the appropriate subcommittee; and

"(B) served by any individual designated by the Chair.

"(2) SUBPOENA AUTHORITY OUTSIDE OF JURISDICTION.—

"(A) IN GENERAL.—The Commission may not issue any subpoena for the attendance and testimony of witnesses, or for the production of written or other matter, that would require the presence of the witness subpoenaed at a hearing to be held outside of the State where such witness is found, re-

sides, is domiciled, transacts business, or has appointed an agent for receipt of service of process.

"(B) EXCEPTION.—Subparagraph (A) shall not apply if the attendance and testimony of a witness or the production of written or other matter is subpoenaed at a hearing that is held within 50 miles of the place where such witness is found, resides, is domiciled, transacts business, or has appointed an agent for receipt of service of process.

"(3) FAILURE TO OBEY SUBPOENA.—

"(A) IN GENERAL.—If an individual refuses to obey a subpoena, a district court of the United States, a United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of the hearing for which the Commission subpoenaed such individual or that such individual is found, resides, is domiciled, transacts business, or has appointed an agent for receipt of service of process, shall, on application by the Attorney General of the United States, have jurisdiction to order such individual to appear before the Commission or a subcommittee of the Commission in order to produce pertinent, relevant, and nonprivileged evidence as ordered by the Commission, or to give testimony concerning the matter under investigation by the Commission.

"(B) CONTEMPT.—A failure to obey an order of a court issued under subparagraph (A) may be punished by such court as contempt.

"(4) REQUESTS TO SUBPOENA ADDITIONAL WITNESSES.—The Chair of the Commission shall receive and dispose of requests to subpoena additional witnesses.

"(o) ADMINISTERING OATHS AND TAKING STATEMENTS.—Each member of the Commission shall have the power and authority to administer oaths or take statements of witnesses under affirmation during a hearing of the Commission.

"(p) ADMINISTRATIVE PROCEDURE AND FREEDOM OF INFORMATION.—Subchapter II of chapter 5 of title 5 of the United States Code, relating to administrative procedure and freedom of information, shall, to the extent not inconsistent with this section, apply to the Commission.

"SEC. 7. FEDERAL AGENCIES.

"Each Federal agency shall cooperate fully with the Commission to enable the Commission to carry out effectively the functions and duties of the Commission.

"SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for each fiscal year, such sums as may be necessary to carry out this Act.".

SEC. 3. EFFECTIVE DATE.

This Act and the amendment made by this Act shall become effective on January 1, 1990.●

By Mr. BOSCHWITZ (for himself, Mr. BOND, Mr. DURENBERGER, Mr. GRASSLEY, Mr. KASTEN, Mr. LUGAR, Mr. MCCLURE, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. THURMOND, Mr. WILSON, Mr. BURNS, Mr. STEVENS, Mr. WARNER, Mr. GORTON, Mr. COATS, Mr. CHAFEE, Mr. JEFFORDS, Mr. ARMSTRONG, Mr. D'AMATO, Mr. SPECTER, Mr. GARN, Mr. HELMS, Mr. HATCH, Mr. HUMPHREY, Mr. MCCONNELL, Mr. NICKLES, Mr. RUDMAN, Mr. BURDICK, Mr. DECONCINI, Mr. HOLLINGS, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. SASSER, Mr. GORE, Mr. FOWLER, Mr. WIRTH, Mr. INOUYE, Mr. KERRY, Mr. KERREY, Mr. LAUTENBERG, Mr. NUNN, Mr. BAUCUS, Mr. CRANSTON, Mr. JOHNSTON, Mr. PELL, Mr. MATSUNAGA, Mr. BUMPERS, Mr. ROBB, and Mr. GLENN):

S.J. Res. 213. Joint resolution to designate October 22 through October 29, 1989, as "National Red Ribbon Week for a Drug-Free America"; to the Committee on the Judiciary.

NATIONAL RED RIBBON WEEK FOR A DRUG FREE AMERICA

● Mr. BOSCHWITZ. Mr. President. I rise today with my colleagues Mr. PACKWOOD, Mr. BURNS, Mr. BOND, Mr. DURENBERGER, Mr. GRASSLEY, Mr. KASTEN, Mr. LUGAR, Mr. MCCLURE, Mr. MURKOWSKI, Mr. THURMOND, Mr. WILSON, Mr. STEVENS, Mr. WARNER, Mr. GORTON, Mr. COATS, Mr. CHAFEE, Mr. JEFFORDS, Mr. ARMSTRONG, Mr. D'AMATO, Mr. SPECTER, Mr. GARN, Mr. HELMS, Mr. HATCH, Mr. HUMPHREY, Mr. MCCONNELL, Mr. NICKLES, Mr. BURDICK, Mr. PRYOR, Mr. DECONCINI, Mr. HOLLINGS, Mr. REID, Mr. RIEGLE, Mr. SASSER, Mr. GORE, Mr. FOWLER, Mr. WIRTH, Mr. INOUYE, Mr. KERRY, Mr. KERREY, Mr. LAUTENBERG, Mr. NUNN, Mr. BAUCUS, Mr. CRANSTON, Mr. JOHNSTON, Mr. PELL, Mr. MATSUNAGA, Mr. BUMPERS, Mr. RUDMAN, Mr. ROBB, and Mr. GLENN to introduce a resolution declaring October 22 through October 29, 1989, as "National Red Ribbon Week for a Drug-Free America".

Mr. President, drug and alcohol abuse in the United States has reached epidemic proportions and many Americans are deeply concerned. And they have a right to be. The facts are frightening.

Twenty-three million Americans age 12 and over currently use illicit drugs.

A nationwide Weekly Reader survey revealed that of the 68,000 fourth-graders polled, 34 percent reported peer pressure to try wine coolers, 41 percent to smoke, and 24 percent to use crack or cocaine.

The 15- to 24-year-old age group is dying at a faster rate than any other age group because of accidents, homicides, and suicides, much of which is related to drug and alcohol abuse.

Together with the National Federation of Parents for Drug-Free Youth and the Honorary Chairperson President and Mrs. Bush, "National Red Ribbon Week for a Drug-Free America" is a comprehensive public awareness and prevention education program involving thousands of parent and community groups from across the country. The National Federation of Parents for Drug-Free Youth has organizations in every State promoting healthy drug-free lives, and I believe it's important that the U.S. Senate show our support for what this fine organization is doing for this country.

You're probably wondering, where does the red ribbon fit into all this about drugs and alcohol? It's simple. Every American is encouraged to wear or display red ribbons during "National Red Ribbon Week for a Drug-Free America" to present a visible commitment to a healthy, drug-free life style, and to develop an attitude of intolerance to the use of drugs.

Mr. President, my resolution is the Senate companion to House Resolution 373. Today I urge my colleagues to join me in designating October 22 to 29 as "National Red Ribbon Week for a Drug-Free America."●

ADDITIONAL COSPONSORS

S. 355

At the request of Mr. RIEGLE, the names of the Senator from Nebraska [Mr. KERREY] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 355, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage credit certificates may be issued.

S. 720

At the request of Mr. BOREN, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Indiana [Mr. LUGAR], the Senator from Michigan [Mr. LEVIN], the Senator from Oregon [Mr. HATFIELD], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 720, a bill to amend the Internal Revenue Code of 1986 to extend and modify the targeted jobs credit and for other purposes.

S. 849

At the request of Mr. DASCHLE, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Illinois [Mr. DIXON], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 849, a bill to repeal section 2036(c) of the Internal Revenue Code of 1986, relating to valuation freezes.

S. 979

At the request of Mr. DASCHLE, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 979, a bill to provide grants for designating rural hospitals as medical assistance facilities.

S. 980

At the request of Mr. MITCHELL, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 980, a bill to amend the Internal Revenue Code of 1986 to improve the effectiveness of the low-income housing credit.

S. 1165

At the request of Mr. GLENN, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from North Dakota [Mr. BURDICK], the Senator from Arizona [Mr. DECONCINI], the Senator from Illinois [Mr. SIMON], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 1165, a bill to provide for fair employment practices in the Senate and the House of Representatives.

S. 1207

At the request of Mr. PACKWOOD, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1207, a bill to amend the Communications Act of 1934 to reform the radio broadcast license renewal process and for other purposes.

S. 1629

At the request of Mr. SPECTER, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1629, a bill to establish clearly a Federal right of action by aliens and U.S. citizens against persons engaging in torture or extrajudicial killings, and for other purposes.

SENATE JOINT RESOLUTION 160

At the request of Mr. LAUTENBERG, the names of the Senator from Washington [Mr. GORTON] and the Senator from Utah [Mr. GARN] were added as cosponsors of Senate Joint Resolution 160, a joint resolution to designate December 7, 1989, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

SENATE JOINT RESOLUTION 164

At the request of Mr. NICKLES, the names of the Senator from Wyoming [Mr. SIMPSON] and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Joint Resolution 164, a joint resolution designating 1990 as the "International Year of Bible Reading."

SENATE JOINT RESOLUTION 173

At the request of Mr. RIEGLE, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of Senate Joint Resolution 173, a joint resolution to designate the decade beginning January 1, 1990, as the "Decade of the Brain."

SENATE JOINT RESOLUTION 186

At the request of Mr. MCCLURE, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Joint Resolution 186, a joint resolution designating the week of March 1 through March 7, 1990 as "National Quarter Horse Week."

SENATE JOINT RESOLUTION 194

At the request of Mr. LAUTENBERG, the names of the Senator from Kentucky [Mr. FORD], the Senator from North Carolina [Mr. SANFORD], the Senator from South Carolina, [Mr. THURMOND], the Senator from Missouri [Mr. BOND], the Senator from Idaho [Mr. MCCLURE], the Senator from Alaska [Mr. STEVENS], the Senator from New Mexico [Mr. DOMENICI], the Senator from Delaware [Mr. ROTH], the Senator from Kansas [Mr. DOLE], the Senator from Iowa [Mr. GRASSLEY], the Senator from Virginia [Mr. WARNER], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of Senate Joint Resolution 194, a joint resolution designating November 12 to 18, 1989 as "National Glaucoma Awareness Week."

SENATE JOINT RESOLUTION 196

At the request of Mr. HARKIN, his name was withdrawn as a cosponsor of Senate Joint Resolution 196, a joint resolution to establish the month of October 1989, as "Country Music Month."

SENATE JOINT RESOLUTION 212

At the request of Mr. THURMOND, his name was withdrawn as a cosponsor of Senate Joint Resolution 212, a joint resolution designating April 24, 1989, as "National Day of Remembrance of the 75th Anniversary of the Armenian Genocide of 1915–23."

AMENDMENTS SUBMITTED

IMPLEMENTATION OF PRESIDENT'S DRUG CONTROL STRATEGY

DOLE AMENDMENT NO. 910

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the bill (S. 1711) to implement the President's 1989 National Drug Control Strategy, as follows:

Add at the end thereof the following:

"(d) In issuing regulations pursuant to subsection (b) of this Act, the Attorney General shall also take into account the ability to pay for drug testing programs to be undertaken by the State and local governments."

Mr. DOLE. Mr. President, the amendment I am filing today, to S. 1711, will clearly provide that the attorney general must take into account a State of local government's ability to pay for drug testing when promulgating regulations under the bill.

While we have been given guarantees by the administration that it will not impose costly requirements on the State local governments which will be required to test some of those arrested, incarcerated, or on probation or parole, concerns continue that the cost to these governments could be excessive.

This amendment will put an end to those concerns once and for all. It does nothing more than is being sought by the administration, and will allow the debate to be focused on the essential need to drug test at least a portion of these individuals.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests on S. 1343, the Colorado Wilderness Act of 1989.

The hearing will take place on Saturday, October 28, 1989, beginning at 10 a.m. and concluding at approximately 4 p.m., with a break from 12 p.m. to 1:30 p.m. The hearing will be held at the Denver City Council Chambers, in the City-County Building, 1435 Bancock Street, Denver.

Witnesses invited by the subcommittee representing a cross-section of views and organizations will testify during the morning session. Others wishing to testify may, as time permits, make a brief statement of no more than 2 minutes. Those wishing to testify should contact Senator TIM WIRTH's office in Denver at (303) 866–1900. The deadline for signing up to testify is Friday, October 20.

The subcommittee will attempt to accommodate as many persons desiring to testify as time permits, while providing that all views on the bill have an opportunity to be heard.

Witnesses are requested to bring 10 copies of their testimony with them to the hearing, and not to submit any testimony in advance. Statements may also be submitted for the hearing record. It is only necessary to provide one copy of any material submitted for the record. Comments for the record may be brought to the hearing or submitted to the Subcommittee on Public Lands, National Parks and Forsts, Committee on Energy and Natural Resources, 364 Dirksen Senate Office Building, Washington, DC 20008.

For further information, please contact David Brooks of the subcommittee staff in Washington at (202) 224–9863 or Jim Martin in Senator WIRTH's Denver office at (303) 866–1900.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. SARBANES. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Monday, October 2, 1989, at 2:30 p.m., to hold a hearing on death penalty.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. SARBANES. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, October 2, at 10 a.m., to hear witnesses on United States policy toward Indochina.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SARBANES. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate October 2, 1989, 9:30 a.m. for a hearing to receive testimony on the Department of Energy's efforts to improve the operations and management of its atomic energy defense activities and its efforts to restore public credibility in the Department's ability to operate its facilities in a safe and environmentally sound manner; and on S. 972, S. 1304, and any other legislation pending before the committee related to the environment, safety, and health aspects of operation of the Department's nuclear facilities.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. SARBANES. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate October 2, 1989, 2 p.m. for a hearing to receive testimony on S. 11, a bill to provide for the protection of the public lands in the California desert.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SARBANES. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, October 2, at 2 p.m., to hold hearings on the following ambassadorial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

"PARENT POWER" IN EDUCATION

● Mr. DECONCINI. Mr. President, recently the national spotlight has focused on one of America's top priorities—education. President Bush convened his education summit with the Nation's Governors. The last time we had such a summit was in 1933, when President Franklin Roosevelt called all the Governors together to discuss his plans for dealing with the Great Depression.

Earlier this month, leaders in the Democratic Party announced national goals for educational excellence. Hopefully, these events will prove to be significant steps in improving America's schools and the performance of our students.

Six years ago this Nation was rocked by the watershed report issued by the National Commission on Excellence in Education, "A Nation at Risk." In the past, the report stated:

> Each generation of Americans has outstripped its parents in education, in literacy, and in economic attainment. For the first time in the history of our country, the educational skills of one generation will not surpass, will not equal, will not even approach, those of their parents.

The figures were staggering. One million teenagers in this country cannot read above the third grade level. One-fourth of our Nation's youth never graduate from high school. One-third of all adults are to some degree illiterate.

Education is critically important. It determines our children's future—and it determines the future of this country. According to Ben Franklin, education is just about the best investment there is. "If a man empties his purse into his head," Franklin said, "no man can take it away from him. An investment in knowledge always pays the best interest."

Following the 1983 landmark report, we saw a nationwide effort to improve education. Course requirements were stiffened. Teachers' salaries were raised. And new standards were put in place in most of America's 50 States. Progress was made. Unfortunately, there is evidence that the reform movement has run out of steam.

A National Geographic study released last year found that 75 percent of the young Americans surveyed could not locate the Persian Gulf on a map. One out of seven could not identify the United States on a world map.

A 1987 study of 17-year-olds by the National Endowment for the Humanities found startling gaps in their knowledge of history and literature. Over two-thirds could not place the Civil War within the correct half century. Nearly a third placed Columbus' discovery of America after 1750.

Then there was the 1988 study by the Educational Testing Service comparing the performance of U.S. students in science and math with that of students from 11 other countries and Canadian provinces. The result? In international math and science tests, the United States comes out rock bottom.

These results are simply not acceptable. They underscore the need for a new national effort to reverse the decline in America's system of education. This need has resulted in the first U.S. summit in 56 years and the Democrats' announcement of national educational goals.

The recommendations we are hearing all stress the responsibility of educators and Government to tackle the education crisis. There is an emphasis on accountability—on holding teachers, students, and schools to standards of quality in education.

But educators do not have all of the answers, and neither does Government. Parents also have a role—a very important role—in their children's education. Significantly, "A Nation at Risk" concludes with recommendations to parents on specific ways they can ensure their children's success in school. It ends with the message to parents that "your child's ideas about education and its significance begin with you."

Two educators from Pinal County, AZ—Sherry Ferguson and Lawrence Mazin—have written a book on the importance of the parent's role in education. "Parent Power: A Guide to Your Child's Success in School" is predicated on the belief that "parents are the first and most important of their children's educators." If American education is to survive, it states, there must be cooperation among school, community, and most important—family.

"Parent Power" encourages parents to get actively involved in their children's education. The book contains checklists with questions for parents to ask themselves: Do you enhance your home environment to support learning? If your child cannot explain or understand the homework, do you find out why? does your family make a commitment to limit all TV watching by everyone? The book cites a shocking study by Michigan State University. That study gave 4- and 5-year-olds a hypothetical choice between giving up television or their fathers. One third chose to keep the TV.

"Parent Power" also encourages parents to shape their child's values and to show caring and compassion, especially when the child fails at a task. It encourages parents to spend time together as a family. Above all, it encourages parents to build their child's self-image, and quotes nationally acclaimed teacher Marva Collins: "What a person thinks of himself will determine his destiny."

In America today one out of every four students will drop out of school. As "Parent Power" suggests, the difference between these students and those who stay in school may very well be a parent who gives encouragement, love, and support.●

TRIBUTE TO RETIRING CHIEF OF THE JOINT CHIEFS OF STAFF, ADM. WILLIAM J. CROWE, JR.

● Mr. BOREN. Mr. President, on Friday my good friend and fellow Oklahoman Adm. William Crowe retired as Chairman of the Joint Chiefs of Staff. He has earned the respect and appreciation of all Americans and has brought special pride to all of us in his home State. We all feel a sense of loss in his retirement as we have welcomed the opportunity to work regularly with such an experienced and qualified officer. However, I hope to continue to consult with Admiral Crowe as an expert on military and foreign affairs. His insights will always be valuable in such matters due to his proven reputation as a capable decisionmaker. He will undoubtedly remain an important, unofficial adviser to many Members of Congress and government officials.

During his tenure as the chief officer in the military, William Crowe has set a standard by which all future chairmen will be measured. His expertise on the relationships between the Congress, the White House and the military is unsurpassed by any other Chairman. The Chairman has understood the need to harmonize military capabilities with the ever changing political atmosphere. Thanks to Admiral Crowe, we have a model for the skills needed by the military officers of the 1990's and beyond.

No recent American military leader has done more to pool the resources of the military services for maximum efficiency in several ways including giving real support from the Joint Chiefs to unified commands. His insights on many matters faced by the Intelligence Committee have been of tremendous help. He understands the use of intelligence as a force multiplier in times of tight military budgets. He was the first Chairman of the Joint Chiefs of Staff to take a trip inside the Soviet Union. He was also a force in the advancement of arms negotiations because he was able to form a personal relationship with the leader of the Soviet military. Admiral Crowe has as clear an understanding as any American of the likely evolution of our relationship with that military superpower in the future.

Crowe has a broad background, strong in both the civilian and military areas. After he graduated from the Naval Academy, he did not ascend the ladder of naval hierarchy in orthodox succession. Instead of taking the route to leadership positions, he took the academic-political route. In 1956 he took a year to earn his masters of arts in education from Stanford University. He received his doctorate in politics from Princeton in 1965. He then ascended to admiral through a series of challenging assignments included serving as head of Naval Office of Plans and Policy, Commander of the Allied Forces Southern Europe and Commander of the U.S. Forces in the Pacific. While at each of these positions he established himself as a capable leader and skilled diplomat. In many of the areas he formed relationships that would benefit him throughout his career.

Admiral Crowe has become a symbol of the modern military and its evolving role in today's society. He is just as at home attending a Washington political gathering as when he is skippering a Navy submarine. The diversity of his knowledge and his resourcefulness have allowed him to make a great contribution to our national security effort.

Crowe is not only a qualified leader, but he is a fine human being who values the constant struggle for the advancement of mankind. Let me share a few examples of his dedication. For the past 4 years he has served as an active member of the selection committee for the Oklahoma Foundation for Excellence, which is a program in Oklahoma that picks the top 100 high school scholars and the top 4 teachers to be honored as Academic All-Staters. Crowe's membership on the committee is not just an honorary position; he has spent hours pouring over academic records in order to evaluate which Oklahoma students and teachers deserve to be picked as "cream of the crop."

One of my favorite stories about Admiral Crowe and his caring personality occurred last Christmas. A young Oklahoman named Jason Brady who was inflicted with a rare form of cancer and had been diagnosed to live only a few more weeks was given a trip to Washington. The trip was provided by a nonprofit organization which tries to fulfill one special wish of terminally ill children. Even with his busy schedule Crowe put everything on hold to spend time with young Jason. The Admiral even showed Jason his world famous hat collection, souvenirs of his life's travels and experiences. Bill Crowe's sincere concern for others, his kindness and thoughtfulness have made him a leader that others want to follow.

While all of us are sorry to see Admiral Crowe retire, for Oklahomans at least, there is a silver lining. He will soon become a distinguished visiting professor at the University of Oklahoma. Young Oklahomans will have the chance to learn from him as he shares his experience and expertise with them. It is typical of Bill Crowe as it is of his fine wife, Shirley, who has been a true partner in public service, that he wanted to give back to his home State and to the next generation in such a special way.

To Adm. Bill Crowe, and to Mrs. Shirley Crowe, we all say thank you for your service to our country. We salute you.●

THOMAS MEREDITH, PRESIDENT OF WESTERN KENTUCKY UNIVERSITY

● Mr. McCONNELL. Mr. President, I rise today to insert into the RECORD a copy of an article that appeared in Monday's Louisville Courier-Journal about Mr. Thomas Meredith, the president of Western Kentucky University. Mr. Meredith's first year as president has been filled with engagements that have not only boosted the image of Western Kentucky University, but also the image of himself as an advocate for an improved educational system for the State of Kentucky.

Mr. Meredith, "has come home to make a difference." This native of Owensboro served as a vice chancellor at the University of Mississippi during his 19-year stay in Mississippi. Meredith is not only determined to improve his university, Western Kentucky University, but he plans to help in the long process of developing a new Kentucky educational system.

Mr. Meredith can only prove to be a great asset to the State of Kentucky. He is a man truly dedicated to education and the overall betterment of Kentucky's people. I hope, Mr. President, that you and my fellow colleagues will take the time to note the outstanding achievements of my constituent.

The article follows:

[From the Louisville Courier-Journal, Sept. 25, 1989]

MEREDITH'S FIRST YEAR IN REVIEW: WKU PRESIDENT WANTS SCHOOL AT FOREFRONT OF EDUCATION

(By Cynthia Crossley)

BOWLING GREEN, KY.—In his first year as Western Kentucky University's president, Thomas Meredith worked on cultivating an image.

Two images, in fact—his own and the university's.

The more than 100 civic groups, high school students and alumni groups who Meredith visited in the past year heard about Western's accomplishments and how he wants to put the school on the cutting edge of education.

If he touched at all on conflicts within the university, it was to say he was studying the issues and using his first year to observe things.

Meredith, an Owensboro native who spent 19 years in Mississippi, including a stint as a vice chancellor at the University of Mississippi, also has been saying that he came to Western "to make a difference."

"I didn't come back just to sit in the president's chair," Meredith said recently. "This state can't be all I want it to be until we have a first-rate education system."

Meredith formally took over as president Sept. 15, 1988. He succeeded Kern Alexander, who had become embroiled in several controversies during his 2½ years as president, including an attempt to reorganize student publications that was denounced by many as censorship and plans—eventually

dropped—to buy and move the birthplace of poet Robert Penn Warren from Guthrie, Ky., to the Western campus.

Since taking over, Meredith has devoted much of his time to giving speeches and boosting Western's image, but he has carried out a few initiatives too. He streamlined transfers for community-college students interested in four-year degrees, and he's planning to appoint a committee soon to study what Western's priorities should be in the next 10 years. He's also proposed the creation of two development centers, to serve the state's teachers and businesses.

He's also increased Western's efforts to attract and retain minority professors and minority students and to attract more top students in general.

While education leaders praised those efforts—particularly the new transfer process—it has been Meredith's talks around the state that have won him rave reviews.

"I think he's wonderful," said Mike Harreld, a Louisville banker who is chairman of the state Council on Higher Education and a former Western regent. "He brings very strong communication skills and a sense of focus and vision."

"I think he's a forceful and persuasive advocate for Western Kentucky University," said University of Louisville President Donald Swain.

But some people at Western—specifically members of the faculty senate—think Meredith has indeed done little more than sit in the president's chair when he is in town. They point to several things they think he should have acted on in the past year.

"He's been a good (Western) president for the rest of the state, but he's not followed up on resolutions from the faculty senate," said senate President Bart White, an associate professor of communications and broadcasting. "We didn't hire him to be public relations chairman; we hired him to be a president. You can't be head of an organization and not listen to the people within it."

Meredith says he is listening to his faculty but that his first year in office has been an unusual one because he was away so much introducing himself.

Meredith also said some people want him to act faster—to react, instead of studying their requests.

"Some administrators like to react as soon as a little smoke appears," Meredith said. "I typically like to massage things a little bit (and) make sure we understand the situation, to make sure we have all the sides of an issue."

Last week he began responding to some of the faculty's requests. He plans to decide in the next week or so on whether Western will have department heads or department chairs, and what responsibilities the title will bring. Western now has department heads; professors say department chairs would better represent their needs. The faculty senate asked him for a decision on the matter a year ago.

Meredith also said last week that he will probably appoint a committee to study a faculty report on athletic spending, although he declined to set a timetable. The report, released in March, found that Western's athletic spending has risen 141 percent in 10 years, creating a deficit that had grown to $1.5 million in 1987-88, and it suggested that Western cut back its athletic spending.

The three Western professors who wrote the report recommended that Meredith appoint an objective committee of representatives from Western's athletic programs, the faculuty and the surrounding community to study athletic spending at Western, said Arvin Vos, a professor of philosophy and religion and one of the report's authors.

In August, when Meredith had not taken any noticeable action on the report, the professors submitted an essay based on the report to editorial pages around the state. It appeared in several newspapers, including the Courier-Journal.

Not all faculty members, however, agree with the report. Some older professors recall a similar controversy about athletics in the early 1980s and said the latest report had overlooked many ways athletics serve the university.

Last week, a rebuttal to the essay by a trio of Western economics professors was published in the Courier-Journal; it said the three professors who wrote the report had used inflated cost figures and had overlooked some indirect revenues in reaching their conclusions.

And Meredith, who attended college on a basketball scholarship, said he had heard nothing but "100 percent support" for Western's athletic programs from the surrounding community.

The athletic-spending report is probably the university's most divisive issue, but professors and administrators interviewed for this story agreed that the report—and Meredith—may be the focal point for long-term frustrations over historically low funding for higher education in Kentucky.

Like other schools, Western is facing several problems stemming from a lack of money.

A 30 percent increase in enrollment over the past four years is straining Western's faculty and buildings. In an interview, Meredith said this fall's preliminary enrollment of 14,694 may mark the limit to which the university can expand without significant funding increases.

That means Western may have to set earlier application deadlines or demand higher high school grades and admission-test scores, Meredith said.

"We don't want to cap enrollment in a state where one out of every nine residents is a college graduate," Meredith said. "We should be trying to educate everyone we can. I don't know of a state that has developed economically, as we want to, that hasn't first improved its education system."

In addition, Western has had to defer building repairs.

For example, faculty members talked about pianos and books ruined by moisture, of bricks falling off buildings, of floors separating from walls.

Low faculty salaries are also a problem. Some observers say the salaries are driving away the next generation of talented professors, as well as making current teachers less inclined to go the extra step.

Surveys have shown that Kentucky's professors are earning an average of $5,455 less per year than their counterparts across the nation and nearly $3,000 less than colleagues within the region.

Meredith's answer is to ask the state for more money and to improve Western's ability to raise money from private sources. Some of his talks last year set the stage to do just that, he said.

Western's board of regents resolved in July to ask next year's legislature for an extra $3.9 million to raise faculty and staff salaries, and an extra $2.83 million to add instructional staff to handle the additional enrollment. It also wants $43.4 million for building improvements—and that doesn't include money needed for a new residence hall and a new classroom building.

Funding for higher education will be running up against proposals to revise spending on Kentucky's elementary and secondary schools. While Meredith argues that the state should look at the total educational picture—kindergarten through college—the Kentucky Supreme Court ruling earlier this year ordering the revamping of the public-education system covers only kindergarten through 12th grade. So far most of the public discussion on the issue has left out higher education.

The faculty senate doubts the state will give Western more money. Western is getting only 84 percent of the money that the state's funding formula says it should get, university officials said. The faculty believes Western's only recourse is to reallocate its budget, including changing its spending on athletics.

Meredith may be more successful in raising private money. While he was a top administrator at the University of Mississippi, the school raised $61 million in private funds.

"I think he would be very successful. He has a natural ability to be a fund-raiser and to sell his agenda," said Owensboro Mayor David Adkisson, who's also chairman of Kentucky Advocates for Higher Education. "He's very articulate and presents a great case."●

RELEASE OF RESTRICTIONS ON CERTAIN REAL PROPERTY

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 218, H.R. 838, a bill authorizing the release of airport restrictions in Newport News, VA.

The PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 838) to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the Peninsula Airport Commission for airport purposes.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Maryland?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment.

On page 2, after line 5, insert the following:

SEC. 2. Section 511(a)(12) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2210(a)(12)) is amended by adding at the end the following: "and except further that this limitation on the use of all other revenues generated by the airport shall not apply to revenues generated from a contract between the State of Hawaii and a commercial licensee permitting the display and sale of in-bond merchandise at a location both on and off airport properties within that State, and revenues so generated may be expended for any transportation purpose, including, but not limited to, airports, harbors, and highways of that State only if (A) the revenues which may be so

used are limited to revenues attributable to sales of in-bond merchandise from other than airport properties; (B) the revenues which may be so used are in excess of 150 percent of the requirements of the airport revenue fund for a period of 12 months following the State's annual estimate of the airport's requirements; and (C) the revenues described in subparagraph (A) of this paragraph are not available for transportation expenses other than those related to air transportation after December 31, 1995;".

So as to make the bill read:

H.R. 838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of the first section of the Act entitled "An Act to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the Peninsula Airport Commission, Virgina, for airport purposes", approved November 6, 1986 (Public Law 99-618; 100 Stat. 3490), is amended—

(1) in paragraph (3) by striking "7.5 acres" and inserting "20.5 acres"; and

(2) by striking paragraph (4).

SEC. 2. Section 511(a)(12) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2210(a)(12)) is amended by adding at the end the following: "and except further that this limitation on the use of all other revenues generated by the airport shall not apply to revenues generated from a contract between the State of Hawaii and a commercial licensee permitting the display and sale of in-bond merchandise at a location both on and off airport properties within that State, and revenues so generated may be expended for any transportation purpose, including, but not limited to, airports, harbors, and highways of that State only if (A) the revenues which may be so used are limited to revenues attributable to sales of in-bond merchandise from other than airport properties; (B) the revenues which may be so used are in excess of 150 percent of the requirements of the airport revenue fund for a period of 12 months following the State's annual estimate of the airport's requirements; and (C) the revenues described in subparagraph (A) of this paragraph are not available for transportation expenses other than those related to air transportation after December 31, 1995;".

Mr. FORD. Mr. President, I am pleased to bring before the Senate, H.R. 838, legislation critical to the advancement of aviation and transportation in the States of Virginia and Hawaii. It is a bill that was unanimously approved by the Commerce Committee before the August recess, and I hope that it will be approved by the Senate today.

Very simply, the bill attempts to address longstanding issues affecting two airports. First, at Newport News, VA, legislation is needed to allow the limited release of deed restrictions on property originally conveyed to the Peninsula Airport Commission, which operates the Patrick Henry Airport. Legislation similar to this was enacted during the 99th Congress, but Public Law 99-618 did not allow for the release of the 13 acres specified by this bill, or the transfer of land to private entities.

The Federal Aviation Administration has stated that it has no objection to this provision, as the property involved will not affect the operation or development of the airport in Newport News. Additionally, attorneys for the Peninsula Airport Commission have provided their assurances that the proceeds from the sale of this land have been used for the development, improvement, operation, and maintenance of the airport.

Mr. President, H.R. 838 will also address a situation in the State of Hawaii to ensure the efficient use of funds generated at the off-airport duty-free facility in Honolulu for aviation and other transportation needs.

The State of Hawaii has estimated that the combined operation of the on-airport and off-airport duty-free facilities will generate $1.15 billion over a 5-year period. Given the funding needs for Hawaii's system of airports, the revenues derived from the off-airport facility are therefore expected to create a substantial surplus in the State's airport revenue fund. However, under current law, funds derived from such an off-airport duty-free facility must be dedicated solely to air transportation development and operations.

This legislation would resolve this situation by permitting the use of certain revenues generated by the off-airport duty-free facility in Hawaii for any transportation purpose, such as airport development, highway construction, and harbor development. To protect funding for the Honolulu International Airport, as well as the other airports in Hawaii, the bill provides that only those revenues in excess of 150 percent of their funding requirements be transferred for other transportation purposes. Additionally, this provision, which is limited to this single facility in the State of Hawaii, is designed to sunset at the end of 1995, a further safeguard that will ensure adequate review in the future.

Mr. President, I believe that this bill is a balanced effort to resolve two problems very unique to two airports. I urge its passage today and hope that my colleagues will join me in supporting the bill.

The PRESIDENT pro tempore. Are there amendments to the committee substitute?

If there be no further amendment to be proposed, the question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDENT pro tempore. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDENT pro tempore. The bill having been read the third time, the question is on the passage of the bill.

So the bill (H.R 838) was passed.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

URGING THE AWARD OF A NOBEL PRIZE FOR PRESERVATION OF THE WORLD ENVIRONMENT

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 252, Senate Joint Resolution 162, a joint resolution urging the Nobel Commission to consider awarding a prize for achievements in preserving the world environment.

The PRESIDENT pro tempore. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 162) to urge the Nobel Commission to consider awarding Nobel Prize recognition for achievements in preservation of the world environment.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDENT pro tempore. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be read the third time and was read the third time.

The PRESIDENT pro tempore. The joint resolution having been read the third time, the question is, Shall it pass?

The joint resolution (S.J. Res. 162) was passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 162

Whereas the world's environmental problems are no longer confined within the borders of a single nation, but affect the citizens of all nations;

Whereas the world must act in the next decade to ward off a grave and growing danger to the global ecological system that sustains life as we know it;

Whereas the science of global environmental studies is expanding dramatically both in academic stature and in political importance;

Whereas the findings of environmental scientists in areas such as stratospheric ozone depletion, the greenhouse effect, deforestation, and acid rain are already leading to a profound change in public con-

sciousness and in the agendas of all governments;

Whereas the work of these outstanding individuals should be recognized on a global scale, not only to reward their accomplishments, but to increase worldwide awareness of the environmental peril and underscore the urgency of environmental protection; and

Whereas humankind's pursuit of progress in the sciences, literature, economics, and world peace will falter if we do not also work to save the planet on which we live: Now, therefore, be it

Resolved, That the Senate of the United States urges the Nobel Commission to consider awarding Nobel Prize recognition for achievements in preservation of the world environment. Such a prize would recognize outstanding individuals who have made signal contributions to our awareness of and responsibility for the environment.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ELIMINATION OF PREVENTABLE DEATHS AND DISABLING ILLNESS

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 253, Senate Resolution 122, expressing the sense of the Senate in support of actions to eliminate preventable deaths and disabling illness.

The PRESIDENT pro tempore. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 122) expressing the sense of the Senate in support of actions to eliminate preventable deaths and disabling illness, especially among children, through intensified international collaboration to attain the United Nations goals of Universal Childhood Immunization by 1990 and Health for All by the Year 2000, and through the convening of a World Summit on Children.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the regulation?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. RES. 122

Whereas in 1982 the United Nations Children's Fund (UNICEF) launched the "Child Survival and Development Revolution", to reduce by one-half by the end of this century the then daily toll of 45,000 deaths of young children attributable to preventable disease and malnutrion;

Whereas such "Child Survival and Development Revolution" has achieved impressive results, despite the extreme economic and developmental difficulties that have afflicted developing countries in this decade;

Whereas in 1983 Congress approved a joint resolution (Public Law 98-198) that was the first piece of national legislation to endorse formally the Child Survival and Development Revolution;

Whereas low-cost, high-impact, health and nutrition interventions form the core of child survival programs;

Whereas most notably, oral rehydration therapy and immunization are already by 1989 saving the lives of over 2,500,000 children per year who would have died if the death rates of 1982 still prevailed;

Whereas UNICEF, the World Health Organization (WHO), the governments of developing countries, the World Bank, and other multilateral and bilateral development assistance agencies (including the Agency for International Development in the United States) have identified additional low-cost opportunities for dramatically improving the survival, health, and development of the children of the world;

Whereas such low-cost opportunities could, with increased international coordination, political commitment, and institutional innovation, increase the number of children saved to over 5,000,000 within 2 years and to over 10,000,000 annually on a permanent and sustainable basis by 2000;

Whereas fewer than 5 percent of children in the developing world were immunized against the six major childhood diseases when the United Nations' goal of "Universal Child Immunization of 1990" was initiated in 1977;

Whereas now more than 50 percent of children worldwide are immunized and the Universal Child Immunization target of at least 80 percent immunization by 1990 is within reach for a majority of developing countries;

Whereas the Child Survival and Development Revolution requires integrated action to meet the goals of providing the following basic needs: nutrition, primary health care, environmental sanitation, water, and basic shelter, and basic education, especially for women and girls;

Whereas many governments, including the United States Government, have endorsed the attainment of these goals by the year 2000 as part of the WHO program of "Health for All";

Whereas a "Grand Alliance for Children" composed of a vast array of critically important private organizations, including voluntary associations, private businesses, the media, religious groups and other institutions, as well as governments, intergovernmental agencies and international organizations, is advancing child survival and development programs;

Whereas the emerging global concern for children, reflects a new international political commitment to future generations;

Whereas such political commitment has been evident at the highest levels of international discourse, such as the Joint Statement issued on June 2, 1988, following a Summit Meeting in Moscow between the United States and the Soviet Union;

Whereas at such Summit Meeting President Reagan and General Secretary Gorbachev reaffirmed support for the goal of UNICEF and WHO of reducing the sale of preventable childhood death and urged other countries and the international community to intensify efforts to achieve such goals;

Whereas a general surge in concern for the welfare of children has formed the moral, legal, and political basis for the International Convention on the Rights of the Child;

Whereas such International Convention on the Rights of the Child would define the rights of children with regard to survival, protection, and development, and is expected to be approved by the United Nations Assembly in 1989;

Whereas Secretary of State James Baker has indicated that the United States should take a leadership role in the initiative to develop a plan to get to the core of the poverty problem in order to achieve a healthy world by 2000;

Whereas the United States has consistently led the world in the provision of financial, operational, research, and advocacy support for child survival initiatives; and

Whereas the Executive Director of UNICEF, with the current endorsement of over a score of national leaders from developed and developing countries, East and West, has proposed a "World Summit on Children" to promote international plans for achieving the goals of child survival, health, and development of all children: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that the child survival and development programs implemented collaboratively by national governments, the United Nations Children's Fund (UNICEF), the World Health Organization (WHO), the Agency for International Development, and many other governmental and nongovernmental organizations are to be commended and have the full support and encouragement of the Senate.

(2) the Senate reaffirms a commitment on the part of the Senate to the goal of permanent improvement in the survival rates, health, and development of people in all countries, especially children, by 2000, and urges the President to adopt such goals as a major priority of the executive branch and to lead the world community in proposing concrete actions to achieve such goal;

(3) the Senate urges the President, on behalf of the people and Government of the United States, to propose to the Secretary General of the United Nations that the Secretary General establish an independent advisory commission to provide strategic planning, leadership, and advice to the world community on collaborative actions and programs in primary health care, nutrition, basic education, and environment by all members of the Grand Alliance for Children in order to eliminate easily preventable death and disabling illness in all countries by 2000;

(4) the Senate endorses the call for a representative World Summit on Children at the earliest opportunity to provide a forum for governmental leaders, including the President of the United States, to commit to concrete plans of national action and international cooperation to reduce the scale of preventable childhood deaths nationally and globally;

(5) the Senate endorses, in particular, a commitment for such governmental leaders to attain the goals of Universal Childhood Immunization by 1990 and Health for All by 2000; and

(6) the Senate encourages the President of the United States to take a leading role in ensuring the convening of a World Summit on Children at the earliest opportunity.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following calendar numbers en bloc, Calendar Nos. 266 through and including 276.

The PRESIDENT pro tempore. Is there objection?

Without objection, the enumerated calendar orders will be considered en bloc.

Mr. SARBANES. Mr. President, I ask unanimous consent that committee amendments, where indicated, be agreed to; that Senators' statements may appear in the RECORD at the appropriate place as if read; that each bill be read for the third time; and the bills and resolutions be considered passed en bloc, and the preambles, where indicated, be agreed to ; and the motion to reconsider the passage of bills and resolutions be laid upon the table.

The PRESIDENT pro tempore. Without objection, the several bills and resolutions will be considered en bloc, amendments where shown will be agreed to, statements by Senators will appear in the RECORD in accordance with the request; the various bills and resolutions will be moved to third reading, passed, and the motion to reconsider laid on the table.

POLICE FORCE OF THE NATIONAL ZOOLOGICAL PARK

The bill (S. 1521) to amend Public Law 91-34 relating to the police force of the National Zoological Park of the Smithsonian Institution, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1521

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the text of section 5375 of title 5, United States Code, is amended to read as follows:

"(a) The Secretary of the Smithsonian Institution shall fix the per annum rates of basic pay of positions on the police force of the National Zoological Park in accordance with the following provisions:

"(1) PRIVATE—Not more than the rate for GS-7;

"(2) SERGEANT—Not more than the rate for GS-8;

"(3) LIEUTENANT—Not more than the rate for GS-9

"(4) CAPTAIN—Not more than the rate for GS-10;

APPOINTMENT OF SAMUEL C. JOHNSON AS A CITIZEN REGENT OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

The joint resolution (S.J. Res. 199) providing for the reappointment of Samuel C. Johnson as a citizen regent of the Board of Regents of the Smithsonian Institution, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S.J. RES. 199

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Samuel C. Johnson of Wisconsin on December 4, 1989, be filled by the reappointment of the present incumbent for a term of six years, effective on the day after the current term expires.

APPOINTMENT OF JEANNINE SMITH CLARK AS A CITIZEN REGENT OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

The joint resolution (S.J. Res. 200) providing for the reappointment of Jeannine Smith Clark as a citizen regent of the Board of Regents of the Smithsonian Institution, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S.J. RES. 200

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Jeannine Smith Clark of the District of Columbia on August 25, 1989, be filed by the reappointment of the present incumbent for a term of six years, effective on the day after the current term expires.

APPOINTMENT OF ROBERT JAMES WOOLSEY, JR., AS A CITIZEN REGENT OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

The joint resolution (S.J. Res. 202) provide for the appointment of Robert James Woolsey, Jr., of Maryland as a citizen regent of the Board of Regents of the Smithsonian Institution, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S.J. RES. 202

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with Section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the death of Carlisle H. Humelsine of Virginia on January 26, 1989, be filled by the appointment of Robert James Woolsey, Jr. of Maryland for a term of six years, effective on the date of enactment of this joint resolution.

APPOINTMENT OF HOMER ALFRED NEAL AS A CITIZEN REGENT OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

The joint resolution (S.J. Res. 203) providing for the appointment of Homer Alfred Neal of Michigan as a citizen regent of the Board of Regents of the Smithsonian Institution, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. RES. 203

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with Section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the resignation of Murray Gell-Mann of California on September 13, 1988, be filled by the appointment of Homer Alfred Neal of Michigan for a term of six years, effective on the date of enactment of this joint resolution.

AUTHORIZING A CONCERT ON THE CAPITOL GROUNDS

The concurrent resolution (S. Con. Res. 68) authorizing a concert by the American Soviet Youth Orchestra on Capitol grounds, was considered, and agreed to, as follows:

S. CON. RES. 68

Resolved by the Senate (the House of Representatives concurring), That the National Park Service shall be permitted to sponsor a concert by the American Soviet Youth Orchestra on the Capitol grounds on Tuesday, August 28, 1990, such concert to be free to the public and arranged not to interfere with the needs of Congress, under conditions to be provided by the Architect of the Capitol.

VOLUNTARY PROGRAM FOR RECYCLING OF PAPER USED IN THE SENATE

The resolution (S. Res. 99) requiring the Architect of the Capitol to establish and implement a voluntary program for recycling paper used in the Senate, was considered, and agreed to, as follows:

S. RES. 99

Resolved, That, not later than 6 months after this resolution is agreed to, the Architect of the Capitol shall establish and implement a voluntary program for recycling paper that is disposed of in the operation of

the Senate. Such program shall be designed to encourage separation of paper by type at the sources of generation (including offices of Members of the Senate) and to sell such paper for the purpose of recycling.

PRINTING OF REGULATIONS GOVERNING THE USE OF THE MAILING FRANK

The resolution (S. Res. 181) to authorize printing of the regulations governing the use of the mailing frank, was considered, and agreed to, as follows:

S. RES. 181

Resolved, That, the regulations governing the use of the mailing frank by Members and officers of the United States Senate, together with related materials, be printed as a Senate document, and that there be printed two thousand additional copies of such document for the use of the Select Committee on Ethics.

AUTHORIZATION OF APPROPRIATIONS FOR THE CIVIC ACHIEVEMENT AWARD PROGRAM IN HONOR OF THE OFFICE OF SPEAKER OF THE HOUSE OF REPRESENTATIVES

The bill (H.R. 2358) to authorize appropriations for fiscal year 1990 for the Civic Achievement Award Program in Honor of the Office of the Speaker of the House of Representatives, and for other purposes, was considered.

Mr. FORD. Mr. President, the Civic Achievement Award Program in honor of the Office of Speaker of the House of Representatives [CAAP] was first authorized in 1987 in response to widespread recognition of the problem of civic illiteracy among our Nation's young people. It was developed and is administered by the Close Up Foundation, widely recognized for its innovative government studies programs, in conjunction with the National Association of Elementary School Principals.

The Civic Achievement Award Program [CAAP] targets the fifth through the eighth grade which experts view as a most critical stage in students' educational and social development. The program consists of three basic components: First, requiring students to master information about government, history, economics, geography, American culture, and current events; second, developing library research skills and helping students to enhance their critical thinking abilities; and third, volunteering service to the community and civic action. Following completion of the three projects, students, their teachers, and participating schools receive congressional award certificates in recognition of their accomplishments.

Mr. President, a report was recently released by the Carnegie Council on Adolescent Development after a 2-year study. It is interesting to note that this study was initiated at the same time this program was implemented. The study cites ages 10 to 15 as a period of "extreme vulnerability," calling for an academic program that promotes critical reasoning, including service to the community—essentially an outline of the CAAP. After 2 years of experience with the Civic Achievement Award Program, it is heartening to know that the demand for CAAP has grown and that studies are now available which validate the need for a meaningful program.

The program was originally conceived as a congressional one, administered by the legislative branch and fully funded by Congress. The response has been so positive and the demand so great that it is now clear that budgetary constraints necessitate that the funding and administration be reconsidered. The legislation before us extends the program for 1 year and authorizes a very modest funding increase. While an increase from $680,000 to $1,033,785 is authorized, this program could grow from 25,000 students to 60,000 students if additional funds were available. The demand is such that next year's national launch could easily—and without solicitation—involve three or four times this number of participants.

During the next few months, the program likely will be moved from the jurisdiction of the Library of Congress, and the Close Up Foundation has been encouraged to engage in outside fundraising. Close Up has a long history of establishing effective public-private partnerships for its high school program. As public awareness of the need for such programs as CAAP grows, it is appropriate that private institutions become involved. Private dollars will enable us to significantly increase the outreach of this program and broaden substantially the reach of the Federal investment.

I wish to commend the Close Up Foundation and the National Association of Elementary School Principals for their work on this program. I urge my colleagues to support this measure.

The bill (H.R. 2358) was ordered to a third reading, read the third time and passed.

AMENDING THE STANDING RULES OF THE SENATE

The resolution (S. Res. 187) to amend rule XL of the Standing Rules of the Senate to correct the citation referring to title 39, United States Code, was considered, and agreed to, as follows:

S. RES. 187

Resolved, That (a) Paragraph 1 of rule XL of the Standing Rules of the Senate is amended by striking out "section 3210(a)(5)(D)" and inserting in lieu thereof "section 3210(a)(6)(E)".

(b) Paragraph 3 of rule XL of the Standing Rules of the Senate is amended by striking out "section 3210(a)(5)(D)" and inserting in lieu thereof "section 3210(a)(6)(E)".

REVISION AND PRINTING OF THE SENATE MANUAL

The resolution (S. Res. 188) authorizing the revision and printing of the Senate Manual for the use of the 101st Congress, was considered, and agreed to, as follows:

S. RES. 188

Resolved, That the Committee on Rules and Administration hereby is directed to prepare a revised edition of the Senate Rules and Manual for the use of the One Hundred First Congress, that said manual shall be printed as a Senate document, and that two thousand additional copies shall be printed and bound, of which one thousand copies shall be for the use of the Senate, and one thousand copies shall be bound and delivered as may be directed by the Committee on Rules and Administration.

MEASURE PLACED ON CALENDAR—S. 1711

Mr. SARBANES. Mr. President, I ask unanimous consent that S. 1711, introduced by Senator DOLE today, which seeks to implement the President's drug control strategy, be placed on the calendar.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDERS FOR TOMORROW

RECESS UNTIL 9:30 A.M.; MORNING BUSINESS; CONSIDERATION OF S. 1711

Mr. SARBANES. Mr. President, I ask unanimous consent that when the Senate complete its business today, it stand in recess until 9:30 a.m., Tuesday, October 3, and that following the time for the two leaders, there be a period for morning business until 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDENT pro tempore. Is there objection?

The Chair hears none. That will be the order of the Senate.

Mr. SARBANES. Mr. President, I further ask unanimous consent that at 10 a.m., the Senate begin consideration of S. 1711 introduced by Senator DOLE today, which implements the President's 1989 national drug control strategy.

The PRESIDENT pro tempore. Without objection, that is the order of the Senate.

Mr. SARBANES. Mr. President, for the information of Senators, on tomorrow, Tuesday, October 3 at 12:15 p.m., the Senate will vote to invoke cloture on the motion to proceed to the Eastern Airlines bill, the mandatory live quorum requirement being waived. Once that vote has been completed, the Senate will stand in recess until 2:15, and upon reconvening at 2:15, we will resume the debate on the

Zappala nomination in executive session.

The PRESIDENT pro tempore. Does the Senator submit this in the form of a request or is he restating the order as previously entered?

Mr. SARBANES. I am restating the order that was previously entered for the information of Senators as to what the order of business will be.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. SARBANES. Mr. President, if my good friend and very distinguished acting Republican leader has no further business, and if no Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order until 9:30 a.m., Tuesday, October 3.

The PRESIDENT pro tempore. Is there objection?

Mr. SIMPSON. Mr. President, I have no objection, and I thank the acting leader and the Chair for their courtesies in concluding the day's activities.

There being no objection, the Senate, at 6:45 p.m., recessed until Tuesday, October 3, 1989, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 2, 1989:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CLAIRE E. FREEMAN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

EXPORT-IMPORT BANK OF THE UNITED STATES

EUGENE KISTLER LAWSON, OF THE DISTRICT OF COLUMBIA, TO BE FIRST VICE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM OF 4 YEARS EXPIRING JANUARY 20, 1993.

EXECUTIVE OFFICE OF THE PRESIDENT

RICHARD SCHMALENSEE, OF MASSACHUSETTS, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

WITHDRAWAL

Executive message received after the recess of the Senate on September 29, 1989, withdrawing from further Senate consideration the following nomination:

DEPARTMENT OF STATE

JOHN RANDOLPH HUBBARD, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO INDIA, WHICH WAS SENT TO THE SENATE ON JANUARY 3, 1989.

HOUSE OF REPRESENTATIVES—*Monday, October 2, 1989*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, whose mercy is without end and whose grace is sufficient for every person, bless, we pray, those who have any need this day, those who are anxious or alone or know sorrow, those whose joy has been turned to mourning. Enable us, O God, to realize the boundless nature of Your goodness, to know more clearly the depth of Your eternal promises, and to experience more fully the daily presence of Your spirit. Speak to all Your people, O God, and give them the confidence and hope that Your Word does give. May Your peace that transcends all human understanding be with us now and evermore. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Arizona [Mr. STUMP] please come forward and lead the House in the Pledge of Allegiance.

Mr. STUMP led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2916. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes;

H.R. 2991. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes; and

H.R. 3072. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2916) "An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for the fiscal year ending September 30, 1989, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Ms. MIKULSKI, Mr. LEAHY, Mr. JOHNSTON, Mr. LAUTENBERG, Mr. FOWLER, Mr. KERREY, Mr. BYRD, Mr. GARN, Mr. D'AMATO, Mr. GRASSLEY, Mr. NICKLES, Mr. GRAMM, and Mr. HATFIELD to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2991) "An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes," request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HOLLINGS, Mr. INOUYE, Mr. BUMPERS, Mr. LAUTENBERG, Mr. SASSER, Mr. ADAMS, Mr. BYRD, Mr. RUDMAN, Mr. STEVENS, Mr. HATFIELD, Mr. KASTEN, Mr. GRAMM, and Mr. MCCLURE to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3072) "An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BYRD, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Mr. REID, Mr. STEVENS, Mr. GARN, Mr. MCCLURE, Mr. KASTEN, Mr. D'AMATO, Mr. RUDMAN, Mr. COCHRAN, Mr. SPECTER, and Mr. HATFIELD to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 1364. A bill to establish a Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives;

S. 1709. An act to provide interim extensions of Department of Veterans Affairs programs of respite care for certain veterans, community-based residential care for homeless, chronically mentally ill veterans, State home construction grants, and leave transfers for certain health-care professionals, and of Department of Veterans Affairs home-loan fees; and

S.J. Res. 209. Joint resolution to designate November 11, 1989, as "Washington Centennial Day."

The message also announced pursuant to Senate Resolution 171, 101st Congress, the Chair on behalf of the President pro tempore, and upon the recommendation of the Republican leader, Mr. BOSCHWITZ, Mr. CHAFEE, and Mr. HEINZ, as Republican members of the special delegation of Members of the Senate that shall host an International Conference on Global Environmental Issues.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Friday, September 29, 1989:

H.R. 3282. An act to amend title 5, United States Code, to authorize the continuation of the performance management and recognition system through March 31, 1991, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
October 2, 1989.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit sealed envelopes received from the White House at 3:44 p.m. on Friday, September 29, 1989 and said to contain a message from the President whereby he transmits the annual report of the Railroad Retirement Board for Fiscal Year 1988.

With great respect, I am,

Sincerely yours,

DONNALD K. ANDERSON,
Clerk, House of Representatives.

ANNUAL REPORT OF THE RAILROAD RETIREMENT BOARD FOR FISCAL YEAR 1988—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Energy and Commerce and the Committee on Ways and Means.

(For message, see proceedings of the Senate of Friday, September 29, 1989, at page S12276.)

TRIBUTE TO GREGG OLSON, A FELLOW ROOKIE

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker and colleagues, I am a rookie in this institution, and it is my first year, and it is with a special sense of honor and pride that I rise to honor another rookie, Gregg Olson of the Baltimore Orioles.

Mr. Speaker, Gregg Olson is a product of Omaha, of my congressional district, a graduate of Northwest High School in Omaha, and he significantly contributed to the success of the Baltimore Orioles this season.

What a year it was for Gregg. His 5-3 record belies the importance of what he really did, which was to set a rookie record of 27 saves with an incredible earned run average of 1.69.

Mr. Speaker, Gregg Olson is my candidate for rookie of the year. In a time when we focus on bad kids, I want to take just a moment to honor this 22-year-old, and to honor also his parents, Bill Olson, a teacher at Northwest High School in Omaha, and Sandra Olson, a planning manager with Immanuel Hospital in Omaha.

Gregg has made all of us in Omaha proud.

□ 1210

CURRENT EVENTS IN PANAMA

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, events in Panama over the past weekend once again underscore what has been clear to most of us for some time: The illegitimate regime of the dictator Noriega must go.

Yesterday at a peaceful protest in one of the western provinces in Panama, Ricardo Arias Calderon, the former opposition candidate for Vice President in Panama's May elections was arrested along with a number of his supporters for calling for the ouster of Noriega.

As we speak, reports from Panama indicate that supporters of the civic democratic opposition alliance, which as we all recall swept to victory by a 3-to-1 margin in the elections that Noriega later annulled, are marching in the streets with signs and placards proclaiming "Free Arias Calderon."

The arrest of the former Vice-Presidential candidate followed on the footsteps of a raid by Noriega thugs on an opposition printing press on Saturday.

Noriega should well understand that despicable and cowardly actions of this sort only serve to strengthen the resolve of the United States to do all it can to oust him from power.

PASS THE BEST CHILD CARE PROPOSAL

(Mr. JONTZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONTZ. Mr. Speaker, later this week the House will take up the important subject of child care. I rise today to address two aspects of the legislation that has been approved by the Committee on Education and Labor as H.R. 3, which will be coming before us soon as part of the Budget Reconciliation bill.

First, the Education and Labor Committee bill does allow church-based child care. If a church wants to operate a sectarian child care program as part of their ministry, of course it would not be proper for the program to receive Federal funds, given the church-state separation provisions of the Constitution; but if a church wishes to operate a non-sectarian child care program as a Social Service, they can qualify for assistance under the Hawkins-Downey proposal.

The second point about the committee bill I want to emphasize is that it does provide for parental choice. Expanded Head Start, school-based care, family care, center-based care, these are all options under Hawkins-Downey. By making quality child care affordable, the committee bill will succeed in giving parents many more choices than they have now.

Let us pass the best child care proposal, Mr. Speaker. The House should endorse the committee proposal this Wednesday.

ELECTIONS IN NICARAGUA

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, under the extraordinarily able leadership of our colleague, the gentleman from Florida [Mr. Goss], my friends, the gentleman from North Carolina [Mr. BALLENGER], and the gentleman from North Carolina [Mr. COBLE], and I had the opportunity to witness yesterday in Managua, Nicaragua, the first of 4 Sundays during which registration of voters will take place. We have some encouraging news, and I am saddened to say, some very discouraging news about the process.

We have found that the 14-member alliance, the United Nicaragua Opposition known as UNO, has had hurdle after hurdle imposed on them by the totalitarian Communist regime of Daniel Ortega and the Sandinistas.

It is an uphill battle, Mr. Speaker. It is one which we will have to fight valiantly to overcome. The United States of America and people who love freedom around the world have a very simple choice to make, Mr. Speaker. Are we going to support those who believe in democracy and freedom, or are we going to stand by and allow that repression to continue.

This afternoon we will all be joining in a special order in which we will give a full account of our experiences in El Salvador, during the registration process in Nicaragua and our meeting with Tomas Borge and the tour of two prisons, Tipitapa and La Zona Franca. I hope our colleagues will listen to this full report which we will give at the end of the legislative business today.

THE 40TH ANNIVERSARY OF COMMUNIST PARTY IN CHINA

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, yesterday, October 1, was the 40th anniversary of the Communist party in China. The big celebration was in Tiananmen Square. There were hundreds and hundreds of thousands of people there. It is the famous square that students rallying for freedom and democracy were put down and killed.

Well, the United States did what it does best, decided to boycott it, which it should have, but while the United States is boycotting that big celebration, we are allowing Chinese productivity, Chinese goods, to come into the country. We are exchanging scientific knowledge with them. We are selling them very important technology. We are sending our industries into China to take advantage of the low wages, and this is hypocrisy. If the United States wants to show support for democracy, then let us cut them off. Let us not play games.

ELECTIONS IN NICARAGUA

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I thank the gentleman from California [Mr.

DREIER] for his kind remarks about my leadership on a trip to Nicaragua with the gentleman from California [Mr. DREIER], and the gentlemen from North Carolina [Mr. BALLENGER] and [Mr. COBLE], that we just completed to observe the election efforts under way down there. We traveled to the region as part of a bipartisan effort, which is supported by our Department of State, to have congressional observers in the country during the pre-election period, particularly the critical registration.

We found the people in Nicaragua ready to return, anxious to return, to the democratic fold, but we found a government very unsteady in its pursuant of free and fair elections. Just yesterday, we watched the first of four days of national voter registration, which will be required of all Nicaraguans before they can vote in the February elections.

Mr. Speaker, voter registration is absolutely vital to this election process, and the people are turning out to sign up. We saw it with our own eyes. But the registration process is extremely complicated. The government has already reportedly turned away some of the poll watchers who are observing this merely because their documents are incomplete.

This is a troubling problem for today. We are sure there will be troubling problems tomorrow of the same nature.

One thing would help. We have heard from both sides that they need funds desperately; but right now there is a very uneven playing field in Nicaragua. The democratic opposition that started later, has virtually no resources. They do not even have a workable phone in their headquarters. They will be the ones who gain the most from any U.S. funding that we are able to get to that country for the fair election process.

Mr. Speaker, I urge my colleagues to fully support the administration's package for free and fair elections and to support it with funds.

ELECTIONS IN NICARAGUA

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, along with Congressmen Goss, DREIER, and COBLE, I participated in a trip to Nicaragua over this past weekend. As a politician examining the situation there, I just say that free elections need our help in Nicaragua. When you stop and think that the Sandinistas own the radio stations, they own the newspapers; on television at their national convention where they chose their presidential candidate, Mr. Ortega, they were covered by television for 12 hours. The opposition party, UNO, is allowed to use the television for 20 minutes each week.

When you have arrangements like this, it is almost impossible to have what I consider a fair election.

One thing more. All the rules and regulations of this election are run by the Supreme Electorate. The Supreme Electorate is 4 to 1 in favor of the Sandinistas.

Mr. Speaker, there were banners every 50 yards in Managua and every 50 yards there was an advertisement for the FSLN and Daniel Ortega. There were no advertisements for UNO. They have no money. They have no assistance. We need to help democracy. We need to help the people in Nicaragua.

ELECTIONS IN NICARAGUA

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, one reason for assisting UNO, a combination of free enterprisers, little people, unions, housewives, and families of prisoners in Nicaragua, is on the front page of the El Nuevo Diario, which shows one of our esteemed colleagues, the gentleman from California [Mr. DREIER] in the same cell with Tomas Borge, Minister of the Interior. It is the cell that Borge occupied in the same prison of the previous administration; but this picture is really a sham. The Sandinistas have made no major prison reforms. We still do not know how many prisoners this Sandinista administration has down there. It could be 8,000 or 10,000. They have never made an accounting to the free world, except through their selected and slanted mouthpieces.

Mr. Speaker, it is time for a change in Nicaragua, and it will not come about unless this body and this country decides to fund UNO, the domestic United Nicaragua Opposition, against the Marxist-Sandinista regime, with every moral assistance, every financial assistance, and political education assistance that we can, within the limits of freedom and democracy. The oppressed people deserve a better chance in Nicaragua than to exist for 10 more years under a regime with 20,000 percent inflation and very little human rights.

It is time to act, Mr. Speaker. I would hope that we not be lulled into a false sense of security by such one-sided promotion as the Marxist regime and newspaper, El Nuevo Diario, uses.

□ 1220

THE WESTERN SHOSHONE CLAIMS DISTRIBUTION ACT

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, last week I introduced a bill, H.R. 3384, entitled "The Western Shoshone Claims Distribution Act" to resolve a longstanding dispute among the Western Shoshone Indians residing in and near my district.

Under the Indian Claims Act, judgment was entered in favor of the Western Shoshones for nearly $27 million and Congress appropriated these funds in 1979. With interest, the amount has grown to about $60 million today. A large number of Western Shoshones, some of whom are aged, would like to see the distribution of these funds begin. However, there are some outspoken Western Shoshones who consider acceptance of these funds as the sale of their aboriginal lands, which they feel would be morally wrong. Efforts to negotiate a resolution have proved frustrating and futile. Attempts by the Bureau of Indian Affairs to resolve the disagreements have also been unsuccessful. In addition, litigation regarding the aboriginal lands issue failed with a definitive decision by the Supreme Court.

Legislation appears to be the only way to provide an answer. My bill will provide relief to those who want it but not interfere with the hopes and plans of others. It is a fair and reasonable solution to an extremely perplexing problem. I ask for the support of my colleagues on this measure and urge its prompt passage.

CONGRESS IS A REPEAT OFFENDER

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, the Congress of the United States is a repeat offender. Every year it seems the Congress violates its own fiscal deadline, October 1, and resorts to a probation period under the continuing resolution to allow more time to put together a budget for these United States.

Once again, we are going to be facing a similar deadline whenever this particular resolution wears out. Are we going to be placed in a position again to repeat our previous offenses and allow a last-minute, Christmas Eve, 3 a.m. package of bills to be presented to the President of the United States, who will have no choice unless the Government cranks down to a standstill to sign that bill with all the mischief that it includes?

Mr. Speaker, we ought to be looking very seriously at never allowing this to happen again. We see it every year, and we do nothing.

Mr. Speaker, I have proposed a bill that would say that by October 1 if the Congress of the United States has failed to meet its own fiscal deadline that it ought to revert back automatically to the previous year's budget so that we will not have these temporary probation periods to do the work that we should have done before October 1.

THE FUTURE FOR AMERICA LOOKS VERY BRIGHT

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, the leading economic indicators just came out that once again the future looks very optimistic for America.

It is appropriate that we periodically just take stock, because we hear those who attempt to further their political career by telling how bad things are in this country.

We recognize again that last month 300,000 new jobs were created. That is over 20 million new jobs since 1982, but the fact of the matter is that more than 6 out of every 10 jobs created on this planet since 1982 have been created in one country, the United States of America. If one is a Japanese businessman or a German businessman or an Alabama businessman, they do not build a factory in Mexico, Brazil, or Taiwan. They build it in the United States of America. That is why we still have the largest percentage of people involved in manufacturing, long-term manufacturing, ever in the history of our country.

Mr. Speaker, we also have the same percentage of world trade that we had 25 years ago. I repeat, the future for America looks very, very bright as we enter the 1990's.

DEFERRALS OF BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-97)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

(For message, see proceedings of the Senate of today, Monday, October 2, 1989.)

EXTENDING CERTAIN PROGRAMS OF THE DEPARTMENT OF VETERANS AFFAIRS

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1709) to provide interim extensions of Department of Veterans Affairs programs of respite care for certain veterans, community-based residential care for homeless, chronically mentally ill veterans, State home construction grants, and leave transfers for certain health-care professionals, and of Department of Veterans Affairs home-loan fees, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. (Mr. HAYES of Louisiana). Is there objection to the request of the gentleman from Mississippi?

Mr. STUMP. Mr. Speaker, reserving the right to object, I yield to the committee chairman, the gentleman from Mississippi [Mr. MONTGOMERY], for an explanation of his unanimous-consent request.

Mr. MONTGOMERY. Mr. Speaker, authority for the Department of Veterans Affairs to conduct certain programs for veterans expired on September 30. Several months ago, the House passed legislation to grant the Department authority to continue these existing programs. Unfortunately, the other body has failed to act on bills we have sent over and we are faced with emergency legislation.

S. 1709 would extend expiring authorities through November 30. Hopefully, by that time, the other body will have acted on several House-passed bills.

This bill would extend temporary authority for the VA to:

First, continue to collect a 1-percent fee on VA-guaranteed loans;

Second, contract for care for homeless veterans who suffer from chronic mental illnesses;

Third, provide respite care to seriously ill veterans;

Fourth, appropriate funds for the State Home Grant Program; and

Fifth, operate a leave transfer program for medical employees.

In short, the bill would allow VA to continue these programs for 60 days until the Senate can consider bills already passed by the House.

The administration supports the bill and I urge adoption of the measure.

Mr. STUMP. Mr. Speaker, I thank the chairman for his explanation. We are in agreement in this side, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1709

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSIONS OF DEPARTMENT OF VETERANS AFFAIRS HEALTH-CARE PROGRAMS.

(a) RESPITE CARE.—Notwithstanding the provisions of subsection (c) of section 620B of title 38, United States Code, the authority provided by such section shall terminate on November 30, 1989.

(b) COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS, CHRONICALLY MENTALLY ILL VETERANS.—Notwithstanding the provisions of subsection (d) of section 115 of the Veterans Benefits and Services Act of 1988 (Public Law 100-322), the authority for the pilot program authorized by such section shall expire on November 30, 1989.

(c) STATE HOME CONSTRUCTION GRANTS.—Section 5033(a) of title 38, United States Code, is amended in the first sentence by striking out "1989" and inserting in lieu thereof "1990".

(d) LEAVE TRANSFERS.—The authority of the Department of Veterans Affairs under section 618 of the Treasury, Postal Service and General Government Appropriations Act, 1989 (Public Law 100-440) to operate a leave-transfer program for employees subject to section 4108 of title 38, United States Code, is extended through November 30, 1989. The provisions of the final sentence of such section 618 shall apply to transferred leave that is unused as of November 30, 1989.

SEC. 2. EXTENSION OF DEPARTMENT OF VETERANS AFFAIRS HOME-LOAN FEE.

Notwithstanding the provisions of subsection (c) of section 1829 of title 38, United States Code, fees may be collected under such section with respect to loans closed before December 1, 1989.

SEC. 3. EFFECTIVE DATE; RATIFICATION.

(a) EFFECTIVE DATE.—The provisons of and amendments made by this Act shall take effect as of October 1, 1989.

(b) RATIFICATION.—Any actions of the Secretary of Veterans Affairs in carrying out the provisions of section 620B of title 38, United States Code, section 115 of the Veterans Benefits and Services Act of 1988, section 618 of the Treasury, Postal Service and General Government Appropriations Act, 1989, or section 1829 of such title, by contract or otherwise, during the period beginning on October 1, 1989, and ending on the date of the enactment of this Act are hereby ratified.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV. Such rollcall votes, if postponed, will be taken after debate is concluded on all motions to suspend the rules, but no earlier than 4:30 p.m. today.

VETERANS' COMPENSATION AMENDMENTS OF 1989

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1335) to amend title 38,

United States Code, to increase rates of compensation and disability and dependency compensation for veterans with service-connected disabilities and survivors of such veterans, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1335

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation Amendments of 1989".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. DISABILITY COMPENSATION.

(a) 4.9 PERCENT INCREASE.—Section 314 is amended—

(1) by striking out "$73" in subsection (a) and inserting in lieu thereof "$76";

(2) by striking out "$138" in subsection (b) and inserting in lieu thereof "$144";

(3) by striking out "$210" in subsection (c) and inserting in lieu thereof "$220";

(4) by striking out "$300" in subsection (d) and inserting in lieu thereof "$314";

(5) by striking out "$426" in subsection (e) and inserting in lieu thereof "$446";

(6) by striking out "$537" in subsection (f) and inserting in lieu thereof "$563";

(7) by striking out "$678" in subsection (g) and inserting in lieu thereof "$711";

(8) by striking out "$784" in subsection (h) and inserting in lieu thereof "$822";

(9) by striking out "$883" in subsection (i) and inserting in lieu thereof "$926";

(10) by striking out "$1,468" in subsection (j) and inserting in lieu thereof "$1,539";

(11) in subsection (k)—

(A) by striking out "63" both places it appears and inserting in lieu thereof "66"; and

(B) by striking out "$1,825" and "$2,559" and inserting in lieu thereof "$1,924", and "$2,684", respectively;

(12) by striking out "$1,825" in subsection (l) and inserting in lieu thereof "$1,914";

(13) by striking out "$2,012" in subsection (m) and inserting in lieu thereof "$2,110";

(14) by striking out "$2,289" in subsection (n) and inserting in lieu thereof "$2,401";

(15) by striking out "$2,559" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,684";

(16) by striking out "$1,098" and "$1,636" in subsection (r) and inserting in lieu thereof "$1,151" and "$1,716", respectively; and

(17) by striking out "$1,643" in subsection (s) and inserting in lieu thereof "$1,723"; and

(b) SPECIAL RULE.—The Secretary of Veterans Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) is amended—

(1) by striking out "$88" in clause (A) and inserting in lieu thereof "$92";

(2) by striking out "$148" and "$46" in clause (B) and inserting in lieu thereof "$155" and "$48", respectively;

(3) by striking out "$61" and "$46" in clause (C) and inserting in lieu thereof "$63" and "$48", respectively;

(4) by striking out "$71" in clause (D) and inserting in lieu thereof "$74";

(5) by striking out "$161" in clause (E) and inserting in lieu thereof "$168"; and

(6) by striking out "$136" in clause (F) and inserting in lieu thereof "$142";

SEC. 4. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 is amended by striking out "$395" and inserting in lieu thereof "$414".

SEC. 5. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate
E-1	$565
E-2	582
E-3	597
E-4	635
E-5	652
E-6	667
E-7	699
E-8	738
E-9	[1] 771
W-1	715
W-2	743
W-3	765
W-4	810
O-1	715
O-2	738
O-3	790
O-4	836
O-5	922
O-6	1,039
O-7	1,123
O-8	1,231
O-9	1,320
O-10	[2] 1,448

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $832.

"[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,552.";

(2) by striking out "$62" in subsection (b) and inserting in lieu thereof "$65";

(3) by striking out "$161" in subsection (c) and inserting in lieu thereof "$168"; and

(4) by striking out "$79" in subsection (d) and inserting in lieu thereof "$82".

SEC. 6. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 413(a) is amended—

(1) by striking out "$271" in clause (1) and inserting in lieu thereof "$284";

(2) by striking out "$391" in clause (2) and inserting in lieu thereof "$410";

(3) by striking out "$505" in clause (3) and inserting in lieu thereof "$529"; and

(4) by striking out "$505" and "$100" in clause (4) and inserting in lieu thereof "$529" and "$104", respectively.

(b) SUPPLEMENTAL DIC FOR DISABLED ADULT CHILDREN.—Section 414 is amended—

(1) by striking out "$161" in subsection (a) and inserting in lieu thereof "$168";

(2) by striking out "$271" in subsection (b) and inserting in lieu thereof "$284"; and

(3) by striking out "$138" in subsection (c) and inserting in lieu thereof "$144".

SEC. 7. EFFECTIVE DATE FOR RATE INCREASES.

The amendments made by sections 2 through 6 shall take effect on December 1, 1989.

SEC. 8. COLLOCATION OF REGIONAL OFFICES AND MEDICAL CENTERS.

Section 230 is amended by adding at the end the following new subsection:

"(c)(1) To provide for a more economical, efficient, and effective operation of such regional offices, the Secretary shall provide for the collocation of at least three, and not more than seven, regional offices with medical centers of the Department—

"(A) on real property under the jurisdiction of the Department of Veterans Affairs at such medical centers; or

"(B) on real property that is adjacent to such medical center and is under the jurisdiction of the Department as a result of being conveyed to the United States for the purpose of such collocation.

"(2)(A) In carrying out this subsection and notwithstanding any other provision of law, the Secretary may lease, with or without compensation and for a period of not to exceed 35 years, to another party any of the real property described in paragraph (1) (A) or (B) of this subsection.

"(B) Such real property shall be used as the site of a facility—

"(i) constructed and owned by the lessee of such real property; and

"(ii) leased to the Department for use as office space for the regional office concerned and such other appropriate activities as determined by the Secretary, as described in paragraph (3)(A).

"(3)(A) The Secretary may enter into a lease for the use of any facility described in paragraph (2)(B) of this subsection for not more than 35 years under such terms and conditions as may be in the best interests of the Department. S0634

"(B) Each agreement to lease a facility under subparagraph (A) of this paragraph shall include a provision that the ownership of such facility shall vest in the United States at the end of such lease.

"(4)(A) The Secretary may sublease any space in such a facility to another party at a rate not less than—

"(i) the rental rate paid by the Secretary for such space under paragraph (3) of this subsection; plus

"(ii) the amount the Secretary pays for the costs of administering such facility (including operation, maintenance, utility, and rehabilitation costs) which are attributable to such space.

"(B) In any such sublease, the Secretary shall include such terms relating to default and nonperformance as the Secretary considers appropriate to protect the interests of the United States.

"(5) The Secretary shall use the receipts of any payment for the lease of real property under paragraph (2) for the payment of the lease of a facility under paragraph (3).

"(6)(A) Subject to subparagraph (C)(i) of this paragraph, the Secretary shall, within 90 days of the date of the enactment of this Act, issue a request for proposals with respect to three collocations to be carried out under this subsection. Such request shall include, with respect to each such collocation, at least—S0634

"(i) identification of the site to be developed;

"(ii) minimum office space requirements for regional office activities;

"(iii) design criteria of the facility to be constructed;

"(iv) a plan for meeting the security and parking needs for the facility and its occupants and visitors;

"(v) a statement of current and projected rents and other costs for regional office activities;

"(vi) the estimated cost of construction of the facility concerned, the estimated annual cost of leasing space for regional office activities in the facility, and the estimated total annual cost of leasing all space in such facility;

"(vii) a plan for securing appropriate licenses, easements, and rights of way; and

"(viii) a list of terms and conditions the Secretary has approved for inclusion in the lease agreement for the facility concerned.

"(B) Subject to subparagraph (C)(ii) of this paragraph, the Secretary shall, within one year after the date on which such request is issued, enter into an agreement to carry out three collocations unless the Secretary determines that it is not economically feasible for the Department of Veterans Affairs to undertake them, taking into consideration all of the tangible and intangible benefits associated with such collocations.

"(C) The Secretary shall—

"(i) at least 30 days before the issuance or other publication of the request described in subparagraph (A) of this paragraph, transmit a copy of such request to the Committees on Veterans' Affairs of the Senate and of the House of Representatives; and

"(ii) at least 30 days before entering into an agreement under subparagraph (B) of this paragraph, transmit a copy of the proposasl selected by the Secretary from those received under subparagraph (A) of this paragraph to the Committees on Veterans' Affairs of the Senate and of the House of Representatives.

"(7) The authority to enter into an agreement under this subsection shall expire on October 1, 1992.".

The SPEAKER pro tempore. Is a second demanded?

Mr. STUMP. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the bill under consideration and the next five veterans' bills.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, H.R. 1335, as amended, would increase the rates of compensation and dependency and indemnity compensation for veterans with service-connected disabilities and for the survivors of such veterans. There are approximately 2.2 million veterans receiving disability compensation today. In addition, some 272,000 spouses and 41,000 children of veterans who either died in service or who died of service-connected disabilities receive dependency and indemnity compensation. The annual cost of benefits paid in the next fiscal year is estimated to be about $11 billion.

The bill also addresses the important issue of colocating VA regional offices on the grounds of medical centers where there is sufficient land to do so. We think the VA will realize substantial savings by colocating regional offices on hospital grounds where it is feasible to do so.

Before yielding to the very able chairman of the Subcommittee on Compensation, Pension, and Insurance, Mr. APPLEGATE, for a more detailed explanation of the bill, I want to thank him for his leadership during this session of the Congress. His subcommittee has held several oversight and legislative hearings on compensation, pension, and insurance issues.

I also want to thank the distinguished gentleman from Ohio, [Mr. MCEWEN] the ranking minority member of the subcommittee, for the work he has done on this bill. The two gentleman from Ohio continue to work together in a bipartisan manner and I commend them for their efforts.

Of course, I want to thank my good friend BOB STUMP, the very able ranking minority member of the full committee, for the cooperation he gives me day in and day out. He has been a great help in getting this bill, and the others that follow, to the floor of the House today.

□ 1230

Mr. Speaker, I yield as much time as he would like to consume to the gentleman from Ohio [Mr. APPLEGATE], chairman of the Subcommittee on Compensation, Pension and Insurance.

Mr. APPLEGATE. Mr. Speaker, before I explain the provisions of the bill, let me express my sincere thanks to the distinguished chairman of the Veterans' Affairs Committee, Mr. MONTGOMERY, for his excellent leadership in bringing this important bill to the floor in such a timely manner. Both the chairman and the committee's distinguished ranking minority member, Mr. STUMP, deserve the thanks of our Nation's veterans for their tireless efforts on their behalf.

Of course, I would like to also pay high commendations and thanks to the distinguished vice chairman of the subcommittee, the gentleman from Ohio [Mr. MCEWEN], who has exemplified himself in leadership on the subcommittee and helped in formulating this bill. He is a true friend of the veterans.

The 4.9-percent increase represents the Congressional Budget Office baseline estimate of what the change in the Consumer Price Index will be for the 12-month period ending on September 30, 1989. Current CBO projections indicate that this figure is a close estimate of what the actual figure will be. While we won't know the actual figure until the last week in October, we will strive to ensure that whatever COLA we ultimately enact will meet or exceed the change in the CPI.

Another provision in the bill adopted by the subcommittee would increase the special monthly compensation payable for anatomical loss, or loss of use, of various organs and portions of the body, which is known as the "K" award by the same 4.9 percent as the other rates of compensation. The "K" award would be increased from $63 per month per loss to $66 per month per loss. This rate was last increased in 1986 by Public Law 99-576 from $62 to $63. Prior to that time it was increased in 1979 from $56 to $62 by Public Law 96-128 so Members can see there is not a large increase from time to time.

Lastly and very importantly, adopted by the subcommittee is a provision which would require the collocation of Department of Veterans Affairs regional offices onto DVA-owned properties on which medical centers are presently located. It would require the Secretary of Veterans Affairs to take action to colocate at least three but not more than seven of these regional offices. Not only would it be cost-effective for the Department to build its own regional offices to its own specs, it would also be in the best interests of veterans to have regional offices located as near as possible to the medical centers.

Over the years, some 27 feasible locations have been identified by the Department for colocation.

We have legislated in this area before. In 1986 we required the development of a plan to locate at least seven of these regional offices.

However, the Administrator of Veterans Affairs submitted a plan to the full committee to colocate only the five regional offices in Little Rock, Montgomery, Newark, New York, and Wichita. Thus far only the Little Rock office has been colocated.

On May 14, 1987, Mr. EVANS, chairman of the Subcommittee on Oversight and Investigation, held a hearing on this issue during which a VA representative testified that good progress was being made on colocation. But, as of this date, very little action has been taken, nor is action likely to be taken in the future. For example, funds for

only one project were requested for fiscal year 1989 and no funds for colocation were requested in the 1990 budget. Finally, we do not anticipate that the 1991 budget request will contain any funds for colocation.

This amendment differs from the approach taken by Public Law 99-576 in that it authorizes the Secretary to enter into long-term lease/purchase agreements with private contractors to construct the regional offices on DVA property to the Department's specifications. At the end of the lease period, ownership of the building would vest in the United States. This approach will obviate the need for the up-front appropriation of the cost of construction of these offices and also will enable the Department to escape from the grip the GSA has on it largely due to alleged back-fill difficulties.

The one thing Members have to take a look at is this will not add to the Federal deficit. It will save taxpayers, in the long run, tens of millions of dollars, and it will add convenience for the veterans. So it is a long-range plan that is advantageous and one that is long overdue.

I would just like to take this moment to commend the gentleman from Mississippi, chairman of the committee, Mr. SONNY MONTGOMERY, for initiating this because he was the one who came to the forefront to say that we need to do this colocation, and the fact that it would save so much money. But with the strong support of the gentleman from Arizona [Mr. STUMP], the gentleman from Ohio [Mr. MCEWEN], the gentleman from Illinois [Mr. EVANS], and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] it has all come together and worked.

A complete discussion of the bill's provisions, as well as a discussion of the pertinent programs, follows:

BACKGROUND OF THE COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION PROGRAMS

There were 2,191,664 veterans receiving disability compensation as of June 1, 1989. The Department of Veterans Affairs expenditures for disability compensation for fiscal year 1990 are expected to be $8.9 billion.

The basic purpose of the disability compensation program, throughout its history, has been one of providing a measure of relief from the impaired earning capacity of veterans disabled as the result of their military service. The amount of compensation payable varies according to the degree of disability, which, in turn, is required by law to represent, to the extent practicable, the average impairment in earning capacity resulting from such disability or combination of disabilities in civil occupations.

To be eligible to receive disability compensation a veteran must have contracted a disease, suffered an injury which is not the result of willful misconduct, or aggravated an existing disease or injury in the line of duty during active duty service and have been discharged under other than dishonorable conditions.

The responsibility for determining a veteran's entitlement to service connection for a disability rests solely with the Department of Veterans Affairs. This determination is based upon the service medical records or other evidence which may be presented to the Department by the veteran. The law provides that if a veteran had service of 90 days or more during time of war or after December 31, 1946, and develops a chronic or tropical disease to a degree of ten percent or more within one year of his discharge from such service, service connection may be granted by presumption. Service connection may be granted by presumption for active tuberculosis or Hansen's disease (leprosy) which becomes manifest to a degree of 10 percent or more within three years of a veteran's discharge from such service and for multiple sclerosis becoming manifest to a 10-percent degree within seven years of a veteran's discharge from such service. In cases of prisoners of war, diseases related to nutritional deficiencies or anxiety states or psychosis which become manifest to a degree of 10 percent or more at any time after service may be granted service connection on a presumptive basis.

When a claim for service-connected disability benefits is received from a veteran, the Department obtains the service medical records and the issue of service connection is generally decided based upon such records. If the service medical records do not establish that the disability was incurred in service, the veteran may submit evidence to substantiate the contention. Generally, this may be by statements from persons with whom the veteran served relating knowledge of the veteran's injury or disease. The Department also would consider the question of entitlement to service connection by presumption if the disability is a chronic disease becoming manifest within the prescribed period of time. If a veteran is granted service connection, the percentage of disability is generally based upon the findings of a DVA examination. If a veteran with a service-connected disability should feel in some later year that the disability has increased in severity, evidence of this, usually a statement of recent medical treatment, may be presented to request re-evaluation of the disability. Should the Department deny service connection or deny a request for an increased rating, the veteran may appeal the denial decision to the Board of Veterans' Appeals (BVA), provided the veteran notifies the Department of his or her disagreement with the decision within one year of the date of notification of the decision. (The enactment of Division A of Public Law 100-687, the "Veterans' Judicial Review Act," created a further avenue of appeal of final decisions of the BVA to the newly created Court of Veterans Appeals.)

The law provides that a case involving a complex or controversial medical issue may be referred to a medical specialist outside of the Department of Veterans Affairs for an advisory opinion. The law also provides that, if service connection for a veteran's disability has been in existence for 10 or more years, service connection may not be severed except in the case of fraud. The law further provides that a disability rated continuously at or above an evaluation for 20 or more years shall not thereafter be rated at a lesser evaluation.

The percentage of disability for a specific disability is assigned in accordance with a "Schedule for Rating Disabilities" which is used as the guideline for measuring the degree of disability. Compensation is paid for disabilities at ratings of 10 percent, 20 percent, 30 percent, and so forth up to 100 percent. The amount of compensation payable for each percentage of disability is established by law. Additional compensation is payable for the loss of a limb, blindness, and other severe disabilities. Additional dependency allowance is payable to veterans with a rating of 30 percent or more for a spouse, minor children, or dependent parents.

DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVORS OF VETERANS WHO HAVE DIED OF SERVICE-CONNECTED CAUSES

As of June 1, 1989, there were 272,386 spouses and 41,867 children receiving dependency and indemnity compensation (DIC). These are the survivors of more than 300,000 veterans who either died in service or who died of service-incurred causes. About $2.33 billion is expected to be paid in fiscal year 1990 to the survivors. Widows and children of veterans who died of causes determined to be service-connected are entitled to receive monthly DIC.

The purpose of this benefit is to provide partial compensation to the designated survivors for the loss in financial support sustained as the result of the service-connected death. Income and need are not factors in determining a surviving spouse's or child's entitlement since the Nation assumes, in part, the legal and moral obligation of the veteran to support the spouse and children. Payments of DIC for surviving spouses are determined on the basis of the veteran's service pay-grade and range from $539 for the surviving spouse of an E-1 to $1,381 for the surviving spouse of an O-10. Surviving spouses are entitled to an additional $62 for each child.

There is an additional allowance of $161 monthly which is payable to eligible surviving spouses who are patients in a nursing home or who are in need of the regular aid and attendance of another persons.

Surviving spouses qualified for DIC who are not so disabled as to require the regular aid and attendance of another person but who, due to disability, are permanently housebound, may be granted a special allowance of $79 monthly in addition to the DIC rate otherwise payable.

If there is no surviving spouse receiving dependency and indemnity compensation benefits but there is a surviving child, the child is entitled to $271 monthly with additional benefits for other children.

When a service-connected disability is found to be the principal or contributory cause of death, such death is considered to be service connected. These determinations are made on a very liberal basis. For example, there are disabilities which by their very nature are so overwhelming that eventual death can be anticipated irrespective of coexisting conditions. Even though such a disability is nonservice-connected and is the primary cause of death, consideration is given to whether the co-existing service-connected conditions were of such severity as to have been a material influence in accelerating death. Where death had been so accelerated, it will be considered service connected. The death of any veteran whose service-connected disabilities were the primary cause of death or contributed materially in producing death would, of course, render the survivor basically eligible for service-connected death benefits.

The same benefits provided for those entitled to DIC are also payable to surviving spouses or children of certain veterans whose deaths are not service-connected but

who, at death, had been in receipt of total (100 percent) ratings for service-connected disabilities. It is necessary for entitlement under this provision that the 100 percent rating have been in effect continuously for at least ten years at death; or continuously since service and for at least five years. A surviving spouse must have been married to a veteran for at least two years at the time of death before entitlement exists.

The following table shows by war period the number of surviving spouses and children of service-connected veterans in receipt of survivors' death benefits:

ACTIVE DEPENDENCY AND INDEMNITY COMPENSATION CASES

	DIC beneficiaries		
	Total	Spouses	Children
Total	314,073	272,386	41,687
World War I	16,065	15,304	761
World War II	127,032	122,624	4,408
Korean Conflict	31,727	29,892	1,835
Vietnam era	80,766	60,318	20,440
Spanish/American War	54	41	13
Mexican border period	1	1	0
Indian War	0	0	0
Civil War	1	0	1
Regular Establishment (June 1, 1989)	57,643	43,260	14,383

PERCENT OF INCREASE IN COMPENSATION RATES

Historically, the Congress has increased compensation rates whenever there has been an appreciable increase in the cost-of-living index, since the rates are not indexed to the Consumer Price Index by law. This is necessary to ensure that inflation does not erode the purchasing power of those receiving compensation and DIC benefits.

From December 1945 through August 1989, the cumulative increase in the Consumer Price Index (CPI) was 584.8 percent. During the same period, the cumulative increase in the compensation rate paid for the totally and permanently disabled service-connected unmarried veteran has been 1176.5 percent.

DISCUSSION OF THE PROPOSED COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE ADJUSTMENTS

Sections 2 through 7 of H.R. 1335 would provide, effective December 1, 1989, a 4.9 percent cost-of-living adjustment in the rates of compensation and dependency and indemnity compensation.

As indicated earlier, the Administration proposed indexing these rates to the annual adjustment in the consumer price index in the same manner as the non-service-connected pension program and social security. The Committee does not believe such action would be in the best interest of veterans. It is extremely important that the rate increases for compensation and DIC be legislated on a periodic basis by the Congress rather than being tied directly to changes in the CPI. It is argued that indexing the rates of compensation and DIC would obviate the need for annual Congressional action. However, this would remove from the Congressional arsenal a vehicle through which periodic and necessary improvements to the programs may be made. Furthermore, there is precedent for the Congress enacting a higher increase than would otherwise have resulted through indexing. For example, in enacting Public Law 99-576, effective December 1, 1986, the Congress provided a 1.5 percent increase for these service-connected benefits rather than the 1.3 percent increase reflected by the change in the CPI that would otherwise have resulted. Similarly, Public Law 100-687, effective December 1, 1988, provided a 4.1 percent increase while the change in the CPI was 4.0 percent. For these reasons, the Committee has rejected the Administration's indexing proposal.

Should the proposed 4.9 percent rate increase be enacted, the changes in compensation and DIC rates effective December 1, 1989 would be as follows:

COMPENSATION AND DIC RATES EFFECTIVE DECEMBER 1, 1989

	Increase (monthly rate)	
	From	To
Percentage of disability or subsection under which payments is authorized:		
(a) 10 percent	$73	$76
(b) 20 percent	138	144
(c) 30 percent	210	220
(d) 40 percent	300	314
(e) 50 percent	426	446
(f) 60 percent	537	563
(g) 70 percent	678	711
(h) 80 percent	784	822
(i) 90 percent	883	926
(j) 100 percent	1,468	1,539
Higher statutory awards for certain multiple disabilities:		
(k) (1) Additional monthly payment for anatomical loss, or loss of use of, any of these organs: one foot, one hand, blindness in one eye (having light perception only), one or more creative organs, both buttocks, organic aphonia (with constant inability to communicate by speech), deafness of both ears (having absence of air and bone conduction)—for each loss	63	66
(2) Limit for veterans receiving payments under (a) to (j) above	1,825	1,914
(3) Limit for veterans receiving benefits under (l) to (n) below	2,559	2,684
(l) Anatomical loss or loss of use of both feet, one foot and one hand, blindness in both eyes (5/200) visual acuity or less), permanently bedridden or so helpless as to require aid and attendance	1,825	1,914
(m) Anatomical loss or loss of use of both hands, or of both legs, at a level preventing natural knee action with prosthesis in place or of 1 arm and 1 leg at a level preventing natural knee or elbow action with prosthesis in place or blind in both eyes, either with light perception only or rendering veteran so helpless as to require aid and attendance	2,012	2,110
Percentage of disability or subsection under which payment is authorized:		
(n) Anatomical loss of both eyes or blindness with no light perception or loss of use of both arms at a level preventing natural elbow action with prosthesis in place or anatomical loss of both legs so near hip as to prevent use of prosthesis, or anatomical loss of 1 arm and 1 leg so near shoulder and hip to prevent use of prosthesis	2,289	2,401
(o) Disability under conditions entitling veterans to two or more of the rates provided in (l) through (n), no condition being considered twice in the determination, or deafness rated at 60 percent or more (impairment of either or both ears service-connected) in combination with total blindness (5/200 visual acuity or less) or deafness rated at 40 percent or total deafness in one ear (impairment of either or both ears service-connected) in combination with blindness having light perception only or anatomical loss of both arms so near the shoulder as to prevent use of prosthesis	2,559	2,684
(p) (1) If disabilities exceed requirements of any rates prescribed. Administrator of VA may allow next higher rate or an intermediate rate, but in no case may compensation exceed	2,559	2,684
(2) Blindness in both eyes (with 5/200 visual acuity or less) together with (a) bilateral deafness rated at 30 percent or more disabling (impairment of either or both ears service-connected) next higher rate is payable, or (b) service-connected total deafness of one ear or service-connected loss or loss of use of an extremity the next intermediate rate is payable, but in no event may compensation exceed	2,559	2,684
(3) Blindness with only light perception or less with bilateral deafness (hearing impairment in either one or both ears is service-connected) rated at 10 or 20 percent disabling, the next intermediate rate is payable, but in no event may compensation exceed	2,559	2,684
(4) Anatomical loss or loss of use of three extremities, the next higher rate in paragraphs (l) to (n) but in no event in excess of	2,559	2,684
(q) [This subsection repealed by Public Law 90-493.]		

COMPENSATION AND DIC RATES EFFECTIVE DECEMBER 1, 1989—Continued

	Increase (monthly rate)	
	From	To
(r) (1) If veteran entitled to compensation under (o) or to the maximum rate under (p); or at the rate between subsections (n) and (o) and under subsection (k), and is in need of regular aid and attendance, he shall receive a special allowance of the amount indicated at right for aid and attendance in addition to such rates	1,098	1,151
(2) If the veteran, in addition to need for regular aid and attendance is in need of a higher level of care, a special allowance of the amount indicated at right is payable in addition to (o) or (p) rate	1,636	1,716
(s) Disability rated as total, plus additional disability independently ratable at 60 percent or over, or permanently housebound	1,643	1,723
(t) [This subsection repealed by Public Law 99-576]		

In addition to basic compensation rates and/or statutory awards to which the veteran may be entitled, dependency allowances are payable to veterans who are rated at not less than 30 percent disabled. The rates which follow are those payable to veterans while rated totally disabled. If the veteran is rated 30, 40, 50, 60, 70, 80 or 90 percent disabled, dependency allowances are payable in an amount bearing the same ratio to the amount specified below as the degree of disability bears to total disability. For example, a veteran who is 50 percent disabled receives 50 percent of the amounts which appear below.

	Increase (monthly rate)	
	From	To
If a veteran is rated totally disabled and:		
Has a spouse	$88	$92
Has a spouse and child	148	155
Has no spouse, 1 child	61	63
For each additional child	46	48
For each dependent parent	71	74
For each child age 18–22 attending school	136	142
Has a spouse in nursing home or severely disabled	161	168

The following increases are provided for surviving spouses of deceased veterans whose deaths are service-connected and who are receiving dependency and indemnity compensation (DIC) payments.

Pay grade	Increase (monthly rate)	
	From	To
E–1	$539	$565
E–2	555	582
E–3	570	597
E–4	606	635
E–5	622	652
E–6	636	667
E–7	667	699
E–8	704	738
E–9	[1] 735	[1] 771
W–1	682	715
W–2	709	743
W–3	730	765
W–4	773	810
O–1	682	715
O–2	704	738
O–3	754	790
O–4	797	836
O–5	879	922
O–6	991	1,039
O–7	1,071	1,123
O–8	1,174	1,231
O–9	1,259	1,320
O–10	[2] 1,381	[2] 1,448

[1] The veteran served as Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $832.

[2] The veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of

the Air Force, Commandant of the Marine Corps or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,562.

When there is no surviving spouse receiving dependency and indemnity compensation, payment is made in equal shares to the children of the deceased veteran. These rates are increased as follows:

	Increase (monthly rate)	
	From	To
One child	$271	$284
Two children	391	410
Three children	505	529
Each additional child	100	104

BACKGROUND OF COLLOCATION OF DEPARTMENT OF VETERANS AFFAIRS REGIONAL OFFICES WITH DVA MEDICAL CENTERS

The Department of Veterans Affairs maintains a total of 58 regional offices including at least one regional office in each state, the District Columbia and Puerto Rico, as mandated by law. Through these regional offices, the Veterans Benefits Administration (VBA) of the Department of Veterans Affairs, administers compensation, pension, education, home loan guaranty and other benefit programs for veterans, their dependents, and their survivors.

Unlike medical centers, which are customarily owned by the Department, a regional office is typically located in a Federal office building or privately owned commercial office building. A tenant in both types of buildings, the Department pays rent for office space which is utilized as a regional office. For office space which is occupied in Federal office buildings, the DVA is required to pay fair-market rent to the General Services Administration. As a tenant, DVA must rely on the building landlord to correct deficiencies and make needed improvements which include repair of elevators, improvements in security, removal of potential hazardous conditions and materials, elimination of insect infestations, provision of adequate ventilation, heating and cooling, and the correction of conditions which are detrimental to employee health and safety and a productive office environment. In many cases, the landlord has been slow to respond and, frequently, the responses have been unsatisfactory.

DEPARTMENT COLLOCATION ACTIVITIES

In 1983, the VBA requested the Department of Medicine and Surgery (DMS) to survey all medical centers to determine if suitable land was available for the construction of a regional office or if buildings satisfactory for housing VBA activities were available. As a result of this survey, a total of 28 locations were identified where collocation was possible. Of these sites, 25 were to receive further consideration for major construction projects needed to accommodate a regional office. The other 3 locations did not receive consideration for major construction because the estimated cost of construction or renovation required to house a collocated regional office was estimated to be less than $2 million in two instances and collocation was deemed to be infeasible and impractical in one instance.

In December, 1983, the Committee was notified that 25 regional offices had been identified for potential collocation. A timetable was developed for the inclusion of all 25 of these collocation projects in the VBA major construction budgets during fiscal years 1986–1990.

Because of the lack of progress made by the Department in implementing its 1983 collocation plan, in 1986 Congress enacted Section 502 of Public Law 99–576, the Veterans' Benefits Improvement and Health-care Authorization Act of 1986. This provision sought to encourage the collocation of regional offices onto grounds of medical centers by requiring the Administrator of Veterans' Affairs to submit by March 1, 1987, a plan including a schedule for collocating at least seven regional offices onto the grounds of medical centers.

On April 3, 1987, the collocation report required by Public Law 99–576 was submitted. The report however, contained only five collocation projects. Of these five, one project (Little Rock) was already in progress and a second (Wichita) had already been proposed in the budget submitted for fiscal year 1988. One additional collocation in each of fiscal years 1989, 1990, and 1991 was also tentatively proposed in this report.

On May 14, 1987, the report required by Public Law 99–576 and regional office conditions were reviewed during a hearing conducted by the Subcommittee on Oversight and Investigations. In spite of the obvious lack of progress which had been made, a VA representative testified the VA was "progressing positively toward a successful program of collocating regional offices on agency grounds . . ."

The Committee understands the Department has developed yet another collocation "plan." This plan, at least the third such plan developed in the last six years, proposes collocating twenty-one regional offices with medical centers between 1991 and the year 2000. This plan does not contain the collocation of the New York regional office, previously scheduled to be collocated in 1987, or the Jackson regional office. Under this plan the Los Angeles regional office, previously scheduled to be collocated in 1988, would not be collocated until 1999, and the St. Petersburg regional office would not be collocated until 1992, instead of 1988 as was proposed in 1983. This new plan further delays the collocation of regional offices with medical centers and is unacceptable to the Committee.

INCREASED FEDERAL SPENDING: ONE CONSEQUENCE OF THE FAILURE TO COLLOCATE

Because only two of the twenty-eight regional offices identified for possible collocation by the VA in 1983 have been collocated as of September 1989, Department regional office rental costs have and are continuing to increase significantly.

The total annual rent paid by DVA for regional office space is considerable. For fiscal year 1987, the Department reported spending $44.48 million to rent office space for 50 regional offices, 34 of which were located in federal office buildings. For the following year, fiscal year 1988, the Department reported spending $51.9 million for regional office rents, a one year rent increase of $7.42 million. For fiscal year 1990, Department regional office rent costs are expected to be $54.66 million, a $10.18 million, 22.3 percent, increase in four years. This already significant cost of DVA regional office rent is expected to continue to increase substantially in future years as current long-term, lower-cost leases expire and significantly higher annual lease rates become effective.

In some locations, collocation has not been pursued because of presumed economic advantages of continued renting. This strategy has proven to be penny-wise and pound foolish, however. For example, although Houston, Texas, in recent years has generally been believed to be a "renter's market" with the supply of rental office space expected to exceed demand, rent paid by the DVA for the Houston regional office has escalated rapidly. From fiscal year 1987 to fiscal year 1988, the annual rent for the Houston regional office increase by 17.6 percent to an annual cost of $1,369,000.

In May, 1985, representatives of the Veterans Administration told the Subcommittee on Oversight and Investigations, "We, like you, have a great concern about the amount of rent that we are paying . . . Our annual cost for rent is now approaching the huge sum of $50 million. This is a 52-percent increase since 1980, even though we in the agency have been actively participating in the space reduction program."

Four years later, in conjunction with a Full Committee hearing conducted on February 7, 1989, the Department told the Committee, "The VA does not prefer to continue to pay massive amounts of rent for space that is in less than first class condition. Admittedly, not all facilities rented by the VA for regional offices are in good repair and completely satisfactory to our standards for sound operating environments. Generally, the principal areas of concern involve inadequate heating, ventilation and air conditioning." Most DVB facilities are leased from GSA. As such, it is GSA's responsibility to assure the condition of the physical plant.

THE NEED FOR COLLOCATION

The Department has recognized the unsatisfactory and unacceptable nature of working conditions found in some regional offices. In February 1989, the Department reported, "[n]ot all facilities rented by the VA for regional offices are in good repair and completely satisfactory to our standards for sound operating environments. Generally, the principal areas of concern involve inadequate heating, ventilation and air conditioning of our office areas. In addition, we continue to experience delays in some renovation and alterations projects which adversely impact our ability to operate in an efficient manner. In order to correct these deficiencies, we continually work with the General Services Administration to rectify and improve out-of-line conditions."

As examples of unsatisfactory regional office conditions, in June 1988, the Department reported the following:

St. Petersburg, Florida Regional Office—William Cramer Federal Building

"Rodent infestation, custodial services, physical security of building, elevator maintenance and telephone installation have been points of difficulty to varying degrees since 1983. Until recently all other tenants were relocated to other sites in the Tampa/St. Petersburg area. A Military Entrance Processing Center was recently relocated to this building because the building they previously occupied was sinking into the Florida landscape. The Cramer Federal Building has been cited by the VA Inspector General's Office as being inadequate for VA operations . . ."

Jackson, Mississippi Regional Office

Located in what is known as the "B" section of the second floor of the Dr. A.H. McCoy Federal Building, VA elements, "have inadequate air treatment (extreme cold in winter and heat in summer) because of the building design. After many discussions with and letters to GSA, the only ac-

ceptable solution is the relocation of the VA activities. The problem is the lack of available space to relocate within the federal buiding."

The Committee believes collocation of the Houston, TX; St. Petersburg, FL; Jackson, MS; New York, NY; Columbia, S.C; Los Angeles, CA; and Montgomery, AL regional offices is a high priority. The collocation of these regional offices is expected to yield immediate benefits and savings to the Department, yet, the latest "plan" would not collocate Houston until 1994; St. Petersburg, 1992; Columbia, 1993; Montgomery, 1991 and Los Angles, 1999. It would appear that collocation of the Jackson and New York regional offices are not contained in the latest plan. The Committee expects the Secretary to direct the Veterans Benefits Administration to revise the collocation schedule and advance the dates for these seven projects.

BENEFITS OF COLLOCATION

While Department experience with collocation has been limited, this limited experience has proven to be highly beneficial. The Department has reported. ". . . in Little Rock, Arkansas, we have experienced immediate benefits in the the reduction of rent costs and shorter response time for adjudication of cases requiring medical reviews and/or examination. In addition, collocation has virtually eliminated mail delays and has afforded the opportunity for establishing a closer working relationship between the medical staff and adjudication division personnel, thus facilitating consultations during comprehensive reviews and assessment of medical information related to veteran claims."

By collocating DVA regional offices onto medical center grounds, significant benefits are expected to be realized, lead by improvement in services provided to veterans. For example, medical examinations are essential to the adjudication of benefit claims. Examination facilities become much more accessible to a regional office when the regional office and medical center are located on the same property. As a direct result of collocation, veterans may also realize improvements in access, convenience, proximity, parking, and transportation alternatives.

In addition to these advantages for veterans, reduced government spending and significant long-term savings are also expected from collocation. Buildings designed and constructed specifically for use as a regional office can provide important increases in operational efficiencies not possible when other facilities are used to house regional office activities. Costly and rapidly escalating rents would also be eliminated by using agency owned and controlled buildings constructed on agency owned property.

The magnitude of the savings possible with collocation are indicated by the following:

In 1985, the VA testified the agency's annual cost for rent was approaching $50 million, a 52 percent increase since 1980. This massive increase in regional office rental cost occurred even though the agency had been actively participating in a space reduction program and the amount of office space being used had been reduced.

The DVA has reported annual rent increases of 10 percent or more for many VA regional offices and a one year rent increase of more than 30 percent has been reported.

The DVA will pay more than $4 million annually to rent office space for the Los Angeles regional office. A new regional office, collocated on the grounds of the VA medical center, could be constructed for an estimated $28.4 million.

The siting of Department of Veterans Affairs regional offices on the grounds of medical centers can offer additional opportunities to reduce spending which otherwise would not be available. The joint use, when feasible, of essential services such as janitorial and security services by a collocated regional office and medical center can provide economies not available to either facility separately while the quality of services provided to veterans can also be improved. These savings can be achieved if the collocated regional office and medical center are administered independently by separate directors or if the medical center and regional office are administered by a single director.

OBSTACLES TO COLLOCATION

One major obstacle to collocation has been the federal budget deficit. Although collocation can reduce costs, improve the delivery of services and provide better, safer employee working conditions, collocation projects have rarely been included in the budget because of competing construction priorities and budgetary constraints. A traditional collocation project would require inclusion of the total project construction cost in the budget. Because of the lack of capital budget, this cost would be considered to be an expenditure, not a capital investment capable of reducing future costs.

A proposal to collocate a DVA regional office onto the grounds of a medical center is subject to review and analysis by both the Department of Veterans Affairs and the General Services Administration. As required by the Office of Management and Budget, the DVA conducts an economic cost analysis (ECA) which is known as an A-104 analysis. This economic analysis provides a comparison of costs associated with various options. These options include the leasing of commercial office space for use as a DVA regional office, construction of a new regional office, or renovation of an existing Department owned building for use as a regional office.

As landlord for the federal government, the General Services Administration evaluates the potential impact of DVA regional office collocation on the inventory of office space which is controlled and managed by GSA. The objective of this analysis is to determine whether space occupied by DVA and proposed to be vacated can be used by other Federal agencies. GSA can express a reservation to the proposed collocation or state that it has no objection to the proposal. When GSA expresses a reservation the collocation is, in effect, prohibited.

GSA space management considerations, unrelated to the goal of providing better service to veterans, have repeatedly, if not indefinitely, delayed regional office collocation. In July, 1986, and February, 1987, for example, GSA was asked to evaluate 11 VA collocation projects. GSA expressed "major reservations" to five (45 percent) of these projects. According to GSA, these reservations were primarily due to GSA being unlikely or unable to secure another occupant for the office space being proposed to be vacated by a DVA regional office.

DISCUSSION OF BILL PROVISIONS ON COLLOCATION

Section 8 of H.R. 1335 would amend section 230 of title 38, United States Code, by adding a new subsection (designated as subsection (c)), that would require the Secretary of Veterans Affairs to take action to collocate at least three, but not more than seven, DVA regional offices with DVA medical centers.

The Secretary would be authorized to lease property on medical center grounds, or property adjacent to medical centers under the jurisdiction of the Department, to private parties for up to 35 years. The Secretary would be authorized to enter into lease agreements for new office facilities to be constructed on the leased property by the private parties. The term of any such lease would be limited to 35 years and the lease would have to contain a provision stating that ownership of the leased facility would vest in the United States at the end of the lease term.

The Secretary would also be authorized to sublease portions of the facility to other parties at a rate not less than the rate provided in the facility lease agreement. Amounts received by the Secretary would be required to be used to defray the cost of the lease of the facility.

The Secretary would be required, within 90 days after enactment of the Act, to issue a request for proposals, with various required information included, for three collocations and, within one year after issuance of the request, the Secretary would be required to enter into an agreement to carry out three collocations, unless a determination is made that it is not economically feasible for the Department to undertake them. The Secretary would be required to furnish the House and Senate Committees on Veterans' Affairs with copies of the request for proposals, as well as the agreement for the collocation project at least 30 days prior to the issuance of the request or 30 days before entering into the contract, as the case may be.

The authority of the Secretary to enter into an agreement under this new subsection would expire on October 1, 1992.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. APPLEGATE. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to commend the gentleman as well as the ranking member, the gentleman from Ohio [Mr. MCEWEN], as well as the chairman of the committee, the gentleman from Mississippi [Mr. MONTGOMERY], and the gentleman from Arkansas [Mr. STUMP], the ranking member of the full committee, for their action on H.R. 1335.

The reason I take just a brief moment here is to agree with the gentleman on collocation. As he mentioned, that has been at Little Rock, AR, at the VA medical center there, and it has been very successful. So I commend the gentleman on his initiative and promoting further collocation in the veterans' system.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. APPLEGATE. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, talking about collocation and taking the regional offices and putting them on the grounds of these medical centers where in some cases we do have the land available, I noticed in the Friday, September 29, 1989 Washing-

ton Post in effect they recommend that the General Services Administration, the GSA, the Department of Transportation, and the EPA and others do this also. I remember several years ago when the General Services Administration blocked us from doing this and they did not like the idea. So I am glad to see that they have changed their feeling on this particular item that we have in the bill.

Mr. APPLEGATE. I thank the gentleman and it is a great move forward.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the Veterans' Compensation Amendments of 1989 in H.R. 1385. As has been explained, the measure provides a 4.9-percent cost-of-living adjustment for service-connected veterans.

Mr. Speaker, I would like to take this opportunity to add my thanks and appreciation to the distinguished gentleman from Mississippi, Mr. SONNY MONTGOMERY, chairman of our committee, for his hard work in bringing this bill to the floor, and also the two gentleman from Ohio, Mr. DOUG APPLEGATE, chairman of the subcommittee, and Mr. MCEWEN, vice chairman of the subcommittee, for their hard efforts in bringing this bill to the floor.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. Mr. Speaker, I thank the gentleman from Arizona for yielding time to me, and begin my comments just as he terminated his by expressing my gratitude and delight that we have in serving on the Veterans' Affairs Committee under the able leadership of the gentleman from Mississippi [Mr. MONTGOMERY] and the gentleman from Arizona [Mr. STUMP], the vice chairman.

The point is that there are lots of responsibilities and obligations that go with being a Member of Congress, some of them more delightful than others.

□ 1240

But there is none more rewarding than being able to serve on the Committee on Veterans' Affairs and to speak on behalf of those who bear in their bodies daily the burdens and the price of our freedom.

I happen to be one that is approaching very rapidly, within a year or so, my 40th birthday and virtually an entire generation now has lived in freedom because of those ahead of us who paid the price so that we can be free and live not only free but to be in peace.

To them it is our special privilege to speak on their behalf. There are no more able spokesmen than the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the Committee on Veterans' Affairs, and the gentleman from Arizona [Mr. STUMP], the ranking member. I am delighted that they have used their tremendous talents in this way.

The recent battle over the passage of a supplemental appropriation for veterans occurred at the beginning of this Congress, and it required the able leadership and skillful maneuvering of both these gentlemen. Indeed, the funds necessary for our veterans were secured after there was an effort on behalf of every dog-and-pony program in America to tag on to that needed assistance for veterans.

They successfully warded off those who would Christmas tree the package and yet thereafter brought it to the President's desk for his signature. This bill before us, H.R. 1335, so ably explained by the chairman of the subcommittee, the gentleman from Ohio [Mr. APPLEGATE], contains the 4.9-percent increase that is necessary for our changes this year to make sure that that which was agreed to by the Congress some years ago that veterans with service-connected disabilities would be rewarded and that they would be compensated properly as the years progressed, and that is that inflation would not erode that compensation to which they were entitled.

So our annual adjustment is before us here. It is also appropriate to acknowledge that it is much less difficult, it is much more advantageous to the veteran that we are able to function in such a relaxed manner as we do on the subcommittee, knowing that Chairman APPLEGATE is committed only to the benefits of serving America's veterans. As a result, we can work in a cooperative manner.

I will say this is one Member who is completely reliant and completely relaxed in following the gentleman from Ohio's leadership because of his commitment to America's veterans.

The final provision mentioned by the gentleman from Arkansas is that there is an amendment added to the bill that would allow for colocation of at least three regional offices at veterans medical centers currently operating.

The amendment is important from a cost standpoint because it would be more convenient for veterans as well as to save the taxpayers money.

For these reasons and others, I join with the chairman of our subcommittee, the gentleman from Ohio [Mr. APPLEGATE], in sponsoring H.R. 1335, and I ask for my colleagues' support as well.

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Speaker, I rise today to support H.R. 1335, the Veterans' Compensation Amendments of 1989. This bill would provide a 4.9-percent cost-of-living adjustment in the rates of disability compensation and dependency and indemnity compensation.

Mr. Speaker, for too long our veterans have been treated like second-class citizens. They have scraped for every dime and still they watch their benefits and entitlements erode. This bill will assist in keeping the veteran and his family's benefits current with the level of inflation.

We cannot balance the budget on the backs of our veterans. They have served our country without question. Let's see to it that they are treated with the respect they deserve.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the provisions of this bill are very important to the disabled veterans, as was explained by the gentleman from Ohio [Mr. APPLEGATE] and the gentleman from Ohio [Mr. MCEWEN].

This is a compensation increasing cost of living, and I certainly hope our colleagues will fully support this legislation.

Mr. ROWLAND of Connecticut. Mr. Speaker, it is my pleasure to convey my strong support for H.R. 1335, the Veterans' Compensation Amendments of 1989. This important legislation ensures that service-connected disabled veterans and their survivors will receive a 4.9-percent cost-of-living increase. As a cosponsor of H.R. 1335, it is my pleasure to express my support for this measure here today and I am proud to serve on the committee that drafted this important bill.

This legislation provides cost-of-living increases for nearly 2.2 million disabled veterans and approximately 300,000 widows and survivors of veterans who died of service-connected causes. The 4.9 cost-of-living increase provided for in H.R. 1335 would be effective with benefit checks mailed to veterans this December.

Mr. Speaker, we owe much to the men and women who became disabled as a result of serving our Nation. This bill will help fulfill our obligation to disabled veterans to ease inflationary burdens for those who have already borne the highest burden for their country.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYES of Louisiana). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 1335, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 38, United States Code, to increase rates of disability compensation and dependency and indemnity compensation for veterans with service-connect-

ed disabilities and survivors of such veterans, and for other purposes."

A motion to reconsider was laid on the table.

UNMARKED BURIAL OF CREMATED REMAINS IN ARLINGTON NATIONAL CEMETERY

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 88) to direct the Secretary of the Army to set aside an appropriate area within Arlington National Cemetery for the unmarked burial of cremated remains.

The Clerk read as follows:

H.R. 88

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BURIAL OF CREMATED REMAINS IN ARLINGTON NATIONAL CEMETERY.

(a) IN GENERAL.—Chapter 24 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 1010. Burial of cremated remains in Arlington National Cemetery

"(a) The Secretary of the Army shall designate an area of appropriate size within Arlington National Cemetery, not suitable for the burial of casketed remains, for the unmarked interment of the ashes of persons eligible for interment in Arlington National Cemetery whose remains were cremated, in accordance with such regulations as the Secretary may prescribe.

"(b) The Secretary of the military departments shall make available appropriate forms on which those members of the Armed Forces who so desire may indicate their desire to be buried within the area to be designated under subsection (a).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1010. Burial of cremated remains in Arlington National Cemetery.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 88 would direct the Secretary of the Army to set aside an appropriate area within Arlington National Cemetery for the unmarked burial of cremated remains. The bill was introduced by our distinguished colleague from Florida, Mr. BENNETT.

Before yielding to the very able chairman of the Subcommittee on Housing and Memorial Affairs, Mr. STAGGERS, for an explanation of the bill, I want to thank him for the work he has done on this bill and others that have already passed the House relating to the housing and memorial affairs. I know that the gentleman from Georgia, Mr. ROY ROWLAND and the gentleman from Mississippi, Mr. MIKE PARKER of his subcommittee had hearings this last weekend in Georgia and Mississippi finding ways to improve veterans housing loans and improvement in veterans cemetery care.

I also want to thank the gentleman from Indiana, [Mr. BURTON] for his cooperation.

Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia, Mr. HARLEY STAGGERS, the chairman of the Subcommittee on Housing and Memorial Affairs.

Mr. STAGGERS. I thank the gentleman for yielding time to me, and also for his kind remarks.

Mr. Speaker, H.R. 88 directs the Secretary of the Army to set aside an appropriate area, not suitable for the burial of casketed remains, within Arlington National Cemetery for the unmarked burial of cremated remains.

Arlington National Cemetery is this Nation's principal shrine to the men and women who served in the Armed Forces. It is a visible reflection of America's appreciation for those who have made the ultimate sacrifice to maintain our freedom.

Over 200,000 veterans and eligible family members are currently interred within an area of 572 acres developed for ground burials. Although an additional 40 acres is scheduled for development, it is anticipated that there will be no space for in-ground burials after 2020.

In addition, columbarium space for cremated remains will be depleted between the years 2030 and 2040. H.R. 88, as introduced by Mr. BENNETT, to designate additional space for cremated remains, is an alternative approach which should prolong the life of the cemetery. This is an idea which Mr. BENNETT has pursued and fine tuned for several years and he is to be commended for his hard work. It is not a new concept. According to info from Arlington there are already a number of mass burials from the Civil War, World War II, Korea, and Vietnam.

Mr. Speaker, it should be noted that this measure is supported by the Department of the Army. In addition, we have been assured that the parcel of land designated for this purpose would not eliminate any area in Arlington that has been targeted for casketed remains.

I wish to commend the chairman of the Veterans Affairs Committee, SONNY MONTGOMERY, for his great leadership and support of this measure as well as the honorable BOB STUMP and DAN BURTON, ranking minority members of the full committee and the subcommittee.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 88. As has been explained, this bill directs the Secretary of the Army to set aside an appropriate area within Arlington National Cemetery for the burial of unmarked cremated remains. This measure was reported unanimously from the Committee on Veterans' Affairs.

□ 1250

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from Florida [Mr. BENNETT], the author of this bill.

Mr. BENNETT. Mr. Speaker, for their favorable consideration of H.R. 88, I am deeply grateful to the Veterans Affairs Committee and its able Chairman Mr. MONTGOMERY and to the subcommittee and its able Chairman HARLEY STAGGERS.

For many years it has been one of my hopes that the Arlington National Cemetery continue to accommodate all veterans that have the right to be buried there. This piece of legislation, H.R. 88, would authorize the Secretary of the Army to set aside an appropriate area within Arlington National Cemetery for the unmarked burial of cremated remains. Not only will this help preserve the cemetery's natural beauty, but it will also keep it open for many years after all of the burial sites have been exhausted. The Army assisted in perfecting this bill, and endorses it.

This bill would not eliminate any area in Arlington National Cemetery that has been targeted for casketed remains or other cremated remains.

It would enhance and preserve the beauty of the landscape in the cemetery while serving as a distinguished resting place for our war veterans.

It is entirely voluntary for those who elect this type of burial.

It would prolong the life of the cemetery. It is anticipated that all in-ground plots will be exhausted by the year 2020 and the columbarium for cremated remains will be exhausted by 2029. At the present rate burials at the cemetery occur roughly 18 times a day. If this figure is multiplied by the number of days in the year, excluding holidays and weekends, the number of projected burials for the year 1989 alone would be approximately 4,462. My legislation would allow veterans to be buried there long after the plot space has been exhausted.

The Department of the Army, which oversees the cemetery, supports my legislation. In fact, it was the Army that took the bill that I had been introducing for many years and honed it into this particular proposal.

My bill is only an authorization to set aside a piece of land to be used for this purpose. It simply allows the Department of Army to take existing land that would otherwise not be used and make it a functional part of the cemetery.

Veterans would in no way be compelled or asked to be placed in this section of the cemetery. That is not my intention and it never has been. This is a choice that the veteran and his family would make without outside influence. I acknowledge that initially it may not be greatly utilized, but as years go by, I am sure that is usage will grow.

I have enjoyed substantial bipartisan support on this legislation. In fact, 79 of our colleagues have joined in cosponsoring this worthy legislation, about half of them Republicans, and about half Democrats. Also, three of our colleagues in the Senate have seen this bill and decided to introduce it is the Senate. My senior Senator, BOB GRAHAM, joined by Senator ALAN CRANSTON, the chairman of the Veterans Affairs Committee, and Senator FRANK MURKOWSKI the ranking minority member of that committee, have introduced a companion bill, S. 1141. This is a very simple noncontroversial piece of legislation and I believe that it represents the best interests of the veterans of the United States and also the cemetery itself. As space in the cemetery begins to become more scarce there will be very few if any alternatives for veterans who have earned the right to be buried there. The cemetery's policy for burials is now very exclusive. I do not seek to change the present policy but this legislation does allow a greater opportunity for veterans to be buried at Arlington.

This can be made into a thing of great beauty—a memory garden with flowers and other landscaping, and other ways of making it beautiful. Personally, I would be honored to have my ashes buried along with my comrades in arms and in the wars of the past, and would seek this method of burial.

This legislation enjoys broad support in both the House and Senate, and I would very much like to see it passed during the Congress.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

Let me mention these national cemeteries just for the information of my colleagues. We have 113 national cemeteries around the country. Over half of them are now closed, Mr. Speaker. There are no more plots left for the burial in these cemeteries, and of the 60 that we still have open, in the next few years, 10 to 12 of those will be filled.

So we do have a problem. We are on top of it. We have to take care of these veterans. In my opinion, a number of them should be buried in the national cemeteries.

What the gentleman from Florida [Mr. BENNETT] has presented here today will help Members with our problem at Arlington National Cemetery at a very small cost to the Government. I certainly recommend my colleagues' support in this legislation.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYES of Louisiana). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 88.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

WILLIAM V. CHAPPELL, JR., VETERANS' OUTPATIENT CLINIC

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2594) to name the Department of Veterans Affairs outpatient clinic located at 1900 Mason Avenue, Daytona Beach, FL, as the "William V. Chappell, Jr., Veterans' Outpatient Clinic."

The Clerk read as follows:

H.R. 2594

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NAME OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, DAYTONA BEACH, FLORIDA.

The Department of Veterans Affairs outpatient clinic located at 1900 Mason Avenue, Daytona Beach, Florida, shall after the date of the enactment of this Act be known and designated as the "William V. Chappell, Jr., Veterans' Outpatient Clinic". Any reference to such outpatient clinic in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the William V. Chappell, Jr., Veterans' Outpatient Clinic.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2594 would name the Department of Veterans Affairs outpatient clinic located at Daytona Beach, FL, as the "William V. Chappell, Jr., Outpatient Clinic." The bill is cosponsored by the Florida congressional delegation. In addition, the chartered veterans organizations in Florida fully support the bill.

I want to thank my colleague from Florida, Mr. SHAW, and all members of the Florida delegation, for sponsoring the bill and for asking for its consideration in the House.

I appreciate the cooperation of the distinguished ranking minority member of our Subcommittee on Hospitals and Health Care, JOHN PAUL HAMMERSCHMIDT, for his support of this bill, and the other naming bills to follow.

Bill Chappell was a personal friend of mine and he was a veteran and a fighter for veterans. It is appropriate that the outpatient clinic at Daytona Beach bear his name, Mr. Speaker. I urge my colleagues to support the bill.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2594, a bill to name the outpatient veterans' clinic in Daytona Beach, FL, for William V. Chappell, Jr.

During his 20 years of service in the Congress, Bill Chappell was a strong advocate of benefits and services to veterans and their dependents.

Since he worked so diligently to establish this outpatient clinic in Daytona Beach, it is appropriate to name it after him. I urge my colleagues to support the bill.

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the dean of the Florida delegation, the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I rise to urge the passage of this legislation to name the veterans' outpatient clinic at Daytona Beach for our former colleague, William V. Chappell, Jr. Bill Chappell was greatly loved here in Congress, and he left a great legacy of legislation of benefit to our Nation and his district. His contribution to the defense of our country included his service as a Navy air pilot in World War II and many years of legislative achievement in strengthening our military. He was also a tremendous supporter of veterans' rights and benefits. This tribute to his achievements has been richly earned, and I urge its prompt passage.

Mr. STUMP. Mr. Speaker, I yield such time as he may consume to the prime sponsor of this legislation, the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the chairman of the Committee on Veterans' Affairs and the ranking Republican for making today possible here on the House floor.

Bill Chappell himself was not only a great American, a great leader, a great Floridian, but he, of course, was a veteran. Shortly after his passing, I asked his wife, Jean, what would it be that she would like to see named after Bill in remembrance to the time that he spent in service to his congressional district and to his State and to his country. There was no question about

it, there was no hesitation about it. She picked this clinic in Daytona Beach, knowing of his fondness and dedication to the matters pertaining to the U.S. veterans and the tremendous debt of gratitude that we have to these men and women who so ably served this country.

So it is indeed quite proper that we, today, name this particular facility after Bill. Of course, we all know that this facility is there largely because of the personal work put in by Bill Chappell. Bill not only served his country ably during World War II as an aviator, but continued in the service until 1983, when he retired with the rank of captain.

He was then serving in the House of Representatives on the powerful Committee on Appropriations, and I say, "powerful," because Bill Chappell did know politics, and he did know powerful politics. Anyone who gets into a skirmish with Bill Chappell certainly would find out that he had been in a skirmish, win, lose, or draw.

□ 1300

Mr. Speaker, I remember in some of the early days here in the Congress I, along with Buddy MacKay, sponsored a bill to deauthorize a cross-Florida barge canal. It was a project that Bill Chappell deeply believed in. It was not too much later that I found that a project that I liked very much had suddenly disappeared from an appropriations bill, and I went to Bill Chappell knowing or suspecting that he might have had something to do with it, and he looked at me, and he smiled, and he said, "I just wanted to get your attention," and he did because he was good at power politics.

Mr. Speaker, he knew how to play the game, but he was always a gentleman. Whether it was down in the Members' gym fighting karate, as a man in his midsixties, I can tell my colleagues that all the people down there participating in karate, as I did, knew that he was the most awesome opponent that we had. He was a mighty fighter, and he was a scrapper, and he loved to scrap, and he loved a good scrap. Afterward, after he could get in the biggest scrap in the world, whether it be on the floor, in the House gym, or anywhere else in the world, he had been glad to have a good laugh right afterward.

Mr. Speaker, he was a tremendous gentleman that graced this Hall, and I think that the United States is certainly better off for having him serve as many years as he did here in the Halls of Congress.

I would urge passage of my bill, and I thank all the members of the Committee on Veterans' Affairs for so expeditiously handling this piece of legislation which is so important to those of us on the Florida delegation and to his congressional district.

Mr. Speaker, I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS], a member of the committee.

Mr. STEARNS. Mr. Speaker, I want to thank the Speaker and the chairman and vice chairman of the Veterans' Affairs Committee, of which I am a member, for giving us the opportunity to honor our late colleague, Bill Chappell.

Mr. Chappell was a native of Ocala, which is my hometown as well, so I feel a special need to say a few words about this man, whose dedication to the needs of veterans made the clinic in Daytona Beach a reality. Mr. Chappell was born, raised, and worked in Ocala, where he was an attorney, serving as a Marion County prosecuting attorney.

He was elected to serve in the Florida House of Representatives, and later became the speaker of that body.

I also came to know Bill personally, especially through members of his family in business in Ocala, where many of them still reside.

Bill Chappell was a dedicated public servant with a long history of effective leadership at both the State and Federal levels. He was also a great advocate of the needs of veterans in our growing State, and so it is particularly appropriate that we should honor him in this way. All the people of his hometown, and mine, Ocala, FL, should be pleased and proud that we have chosen to remember him in this way.

Again, thank you for allowing me to speak on this important piece of legislation.

Mr. STUMP. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. JAMES], also a member of the committee.

Mr. JAMES. Mr. Speaker, I fully support renaming the Daytona Beach VA Outpatient Clinic to the William V. Chappell, Jr., VA Outpatient Clinic.

Despite some philosophical differences, Bill Chappell and I had something in common. A desire to serve the people of the Fourth Congressional District of Florida. The products of his labor can be seen from one end of our district to the other. From the Canaveral National Seashore to the Ocala National Forest, Bill Chappell was a man dedicated to leaving his district, his State, and his Nation better off than he found it. A naval aviator during World War II and a member of the Naval Reserve for years. Bill dedicated his entire adult life to tireless service to his country.

His support and care for our Nation's security was unmatched. Congressman Chappell was an unwavering advocate of a strong national defense. He was a friend of the veterans. His knowledge and expertise in the area of military affairs was, perhaps, unparalleled in the U.S. House of Representatives.

I can think of no better way to salute a man who served his Nation so selflessly then by renaming the Daytona Beach Veterans' Outpatient Clinic in his honor. If actions speak louder than words, let this be our thank you.

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Speaker, I rise today in strong support of H.R. 2594, a bill to name the Veterans' Outpatient Clinic in Daytona Beach the "William V. Chappell, Jr., Veterans' Outpatient Clinic."

As a Member who had the privilege of serving in this body with Bill Chappell, it gives me great pleasure to support this measure, which honors Bill's memory in the most appropriate manner possible by associating it with an institution dedicated to serving Florida's veterans.

As he proved over and over again in his distinguished years in Congress, the well-being of the veterans of Florida was a priority second to none.

His dedication and hard work resulted in hundreds of thousands of Florida's veterans receiving the type of health care which they deserve.

As a member of the Appropriations Committee, Bill kept a watchful eye to ensure that Florida received its fair share of resources to aid its rapidly growing veterans population.

Mr. Speaker, although his work may not always have been high profile, the rest of the delegation always knew it was there. I had the pleasure of knowing Bill Chappell long before I came to the House of Representatives here in the Congress, and I know that as Speaker of the Florida House he was known as one of the most progressive members, and he also was known as a progressive member particularly in the area of armed services and for the veterans here in this Congress.

Mr. Speaker, he did not know the division of the aisles in this Congress. He worked with both Republicans and Democrats, Members on both sides of the aisle, in their interests and particularly with the new Members.

Bill was a sincere friend, and in closing I would like to thank my friend, the distinguished gentleman from Florida [Mr. SHAW] for introducing this bill, and I look forward to seeing this clinic named after my friend and colleague, Bill Chappell.

Mr. Speaker, I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, Bill Chappell really loved this House, and he really added

so much, as mentioned by the gentleman from Florida [Mr. LEWIS]. He really understood the weapons systems. He was chairman of the subcommittee of the Committee on Appropriations responsible for procurement of the weapons systems, and he was so helpful to us so that we can continue to have a strong military defense.

Mr. Speaker, we will all miss him. I am proud that we can submit this legislation to the full House.

Mr. FASCELL. Mr. Speaker, today we have the opportunity to honor our former colleague, the Representative Bill Chappell, in a manner truly consistent with the history of his contributions to our Nation. Bill Chappell was best known for his position as the chairman of the Defense Appropriations Subcommittee, and for his knowledge of those critical issues under his subcommittee's jurisdiction.

Today, the House will consider H.R. 2594, which would name the Department of Veterans Affairs outpatient clinic in Daytona Beach, FL, the William V. Chappell, Jr., Veterans' Outpatient Clinic. For those of us who had the pleasure of serving alongside Bill, this is our chance to acknowledge his contribution to a very special population, and I was pleased to join in cosponsoring this legislation.

As a member of the Florida State Legislature for 12 years, and a Member of the U.S. House of Representatives for 20, Bill had a unique understanding of Florida's veteran population. As a veteran of World War II, he was well aware of the need for greater access to health care for our Nation's veterans and was instrumental in establishing the Daytona Beach Veterans' Outpatient Clinic.

Bill Chappell's dedication to veterans is exemplified by the Daytona Beach Veterans' Outpatient Clinic. For this reason, I urge our colleagues in the House to join me in voting for H.R. 2594 to pay a lasting tribute to a strong patriot and an effective Congressman, the late Bill Chappell.

Mr. BILIRAKIS. Mr. Speaker, today the House will consider H.R. 2594 which will name the Department of Veterans Affairs outpatient clinic in Daytona Beach, FL, after the late Congressman Bill Chappell. Bill Chappell lost his battle with bone cancer on March 30, 1989, at the National Institutes of Health in Bethesda, MD, and was buried on April 4 in Ocala, FL.

While our former colleague may not have left office as he had envisioned, he had a very long and distinguished career. For the last 20 years, Bill Chappell represented the good people of the Fourth District of Florida as a Member of the House of Representatives. And prior to that, Bill served the people of Florida as a member of the Florida House and was its speaker from 1961 to 1963.

As a Navy aviator and member of the Navy Reserves until 1983, Bill Chappell believed in a strong defense. And naturally, a strong defense necessitates a commitment to those who serve in defense of this great Nation—America's veterans. Therefore, it is appropriate that today we name the VA outpatient clinic in Daytona Beach after our former colleague, Bill Chappell, who worked so diligently on behalf of every soldier, sailor, airman, and marine defending our Nation.

With the passage of this legislation, Bill Chappell's legacy will be remembered by all.

Mr. YOUNG of Florida. Mr. Speaker, I rise in strong support of this legislation which I have cosponsored to name the Veterans Affairs' outpatient clinic at Daytona Beach, FL, as the William V. Chappell, Jr., Outpatient Clinic in honor of our distinguished former colleague.

Also, I want to commend my friend and colleague from Florida, CLAY SHAW, for his leadership in introducing and bringing before the House today this legislation.

The fact is that if it were not for the work of Bill Chappell, there would be no outpatient clinic for Florida's veterans in Daytona Beach. Through my service as a member of the House Appropriations Subcommittee with jurisdiction over veterans programs, I worked with Bill Chappell on this project and know of his tireless efforts to see this project completed.

Throughout his 20 years in the House, there was no more ardent champion for our Nation's veterans than Bill Chappell—who was a veteran himself. There also was no stronger voice for a strong national defense. I know because I have the distinct privilege to serve on the Appropriations Subcommittee on Defense which he chaired.

Bill Chappell served the people of Florida with uncommon vigor, first as a State legislator for 16 years, and then as a Member of the House for 20 years. The outpatient clinic at Daytona Beach is just one of hundreds of projects he saw through to a successful completion. It was an honor to have served with Bill Chappell in both the Florida State Legislature and the U.S. House of Representatives and I would urge my colleagues to support this most fitting tribute to his life of dedicated service to our Nation's veterans and to the people of the Fourth Congressional District of Florida.

Mr. SMITH of Florida. Mr. Speaker, I rise in support of H.R. 2594, the bill to name the Department of Veterans Affairs outpatient clinic in Daytona Beach, FL, the "William V. Chappell, Jr., Veterans' Outpatient Clinic." Each day this veterans clinic serves the needs of Americans who fought and sacrificed for their Nation. It would indeed be a fitting memorial to a man who dedicated his life to public service.

After a 5 year stint in the Navy active reserve, Bill went on to the University of Florida, gaining his B.A. in 1947 and his LL.B in 1949. In 1955, he entered another area of public service by winning a seat in the Florida State House, the body in which he served as Speaker from 1961 to 1963. After returning to the University of Florida to get his J.D., Bill won another term to the State house in 1967.

After serving in the Florida House for 10 years, Bill believed he could represent the people he cared so much about at the national level and won a seat in the House of Representatives in 1968, a seat he held for ten terms. While in Congress, Bill chose to be a behind the scenes consensus builder, leaving the headlines for others while tirelessly working in the subcommittee rooms to make sure that the work got done. As chairman of the Defense Appropriations Subcommittee, he fought to ensure that the security of this country was never compromised.

Throughout his legislative career, Bill Chappell constantly pushed for the programs he believed would be in the Nation's best interests. In the process, he earned the lasting respect of both his peers and constituents. It is with great pleasure that I support this bill and urge its prompt enactment.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYES of Louisiana). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 2594.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

DWIGHT D. EISENHOWER DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2987) to name the Department of Veterans Affairs medical center in Leavenworth, KS, as the "Dwight D. Eisenhower Department of Veterans Affairs Medical Center."

The Clerk read as follows:

H.R. 2987

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NAME OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, LEAVENWORTH, KANSAS.

The Department of Veterans Affairs medical center in Leavenworth, Kansas, shall after the date of the enactment of this Act be known and designated as the "Dwight D. Eisenhower Department of Veterans Affairs Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Dwight D. Eisenhower Department of Veterans Affairs Medical Center.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2987 would name the VA Medical Center in Leavenworth, KS, for former President Dwight D. Eisenhower.

The bill has been cosponsored by the entire Kansas delegation and is endorsed by the chartered veterans organizations in the State.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. SLATTERY], the chief cosponsor of the bill.

□ 1310

Mr. SLATTERY. Mr. Speaker, I would first like to thank the chairman, the gentleman from Mississippi [Mr. MONTGOMERY], the ranking minority member, the gentleman from Arizona [Mr. STUMP] and all the members of the Veterans' Affairs Committee for their support in bringing this legislation to the floor today. I appreciate their assistance.

As a Kansan and as a member of the Dwight D. Eisenhower Centennial Commission, I was pleased to introduce this legislation before us, naming the Department of Veterans Affairs Medical Center in Leavenworth, KS, the "Dwight D. Eisenhower Department of Veterans Affairs Medical Center."

President Eisenhower had strong ties to Kansas and to the city of Leavenworth, where its veterans' hospital is located. He spent his boyhood years in Abilene, KS, and decided to construct the Eisenhower Presidential Library in his hometown. He later graduated from the Command and General Staff College at Fort Leavenworth in 1926.

President Eisenhower had a special bond with veterans. As Supreme Allied Commander in World War II, he was well aware of the sacrifices and hardships his troops experienced.

Later, as a Presidential candidate in 1952, he eloquently reminded veterans why they sacrificed so much and fought so hard when he spoke to them, not as a General, but as he put it, "Comrades-in-arms."

President Eisenhower said:

While we were overseas, whether we came from a crossroads village, a town, or a city or from a farm, we all carried with us a very real and intimate picture of America. It was that small, familiar part of America that we called home. That was what we were fighting for.

He also said it is important for Americans "to acknowledge our debt to those who paid so large a share of freedom's price."

President Eisenhower did not forget veterans, and naming a veterans' hospital after him would acknowledge the special bond this extraordinary soldier, President, and American had with those who proudly served their country.

Veterans' organizations across the country have endorsed this legislation, and so has the entire Kansas congressional delegation.

Enactment of this legislation this year will allow the rededication of the medical center to be included in the Kansas Eisenhower Centennial Commission's "kickoff" ceremony on January 26, 1990, at the State capital in Topeka.

I am pleased that the House is considering this important legislation. President Eisenhower honored this country with distinguished service in the military and in the White House. It is appropriate that we honor him on the eve of his 100th birthday.

Again, Mr. Speaker, I would like to thank the committee chairman, the gentleman from Mississippi [Mr. MONTGOMERY] and the gentleman from Arizona [Mr. STUMP] and all the members of the Veterans' Affairs Committee for bringing this legislation to the floor in such a timely manner.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleagues in supporting H.R. 2987, a bill to name the Department of Veterans Affairs Medical Center at Leavenworth, KS, after our 34th President, Dwight D. Eisenhower.

This legislation has my wholehearted endorsement, and I recommend it to my colleagues for passage.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, it goes without saying that Dwight David Eisenhower gave as much to this country as anyone who ever lived in this country. He led our military forces during its darkest hour in World War II, and he served the Nation with great distinction as our 34th President.

I know the gentleman on the minority side and myself were proud to serve under General Eisenhower during World War II. I wish there were more of us around who served in World War II, Mr. Speaker, but that is the way it goes. He was a great Commander and was a wonderful President.

Mr. Speaker, I urge adoption of this bill.

Mr. GLICKMAN. Mr. Speaker, I rise today in support of H.R. 2987, legislation to rename the Leavenworth Department of Veterans Affairs Medical Center in honor of Dwight D. Eisenhower. It is fitting that the Kansas veterans' center be named for our 34th President, who grew up in Abilene, KA, and later graduated first in his class at the Command and General Staff School at Fort Leavenworth, KA.

President Eisenhower will be long remembered as the most important military figure of World War II and one of the most popular and influential statesman in American history. Ike, as he was affectionately known to millions, won his Presidential elections in 1952 and 1956 by record margins.

President Eisenhower, who attained the status of General of the Army, once described his "fundamental life purpose—the protection and perpetuation of basic human freedom." His timeless message of peace and freedom, and his famous "Atoms for Peace" plan, are as well suited to world affairs today as they were in the 1950's.

President Eisenhower believed that all Americans should participate in our government. On Lincoln's Birthday in 1954, Ike told a crowd of thousands that "politics ought to be the part-time profession of every citizen who would protect the rights and privileges of free people and who would preserve what is good and fruitful in our national heritage." On another occasion, the President stated that "people, in the long run, are going to do more to promote peace than our governments. Indeed, I think that people want peace so much that one of these days government had better get out of the way and let them have it."

I hope that the naming of the veterans' medical center in Ike's hometown will encourage Americans everywhere to consider his lasting message.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 2987.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENE TAYLOR VETERANS' OUTPATIENT CLINIC

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2983) to name the new Department of Veterans Affairs outpatient clinic in Mount Vernon, MO, as the "Gene Taylor Veterans' Outpatient Clinic".

The Clerk read as follows:

H.R. 2983

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NAME OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, MOUNT VERNON, MISSOURI.

The Department of Veterans Affairs outpatient clinic in Mount Vernon, Missouri, shall be known and designated as the "Gene Taylor Veterans' Outpatient Clinic". Any reference to such outpatient clinic in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Gene Taylor Veterans' Outpatient Clinic.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Mississippi (Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2983 would name the new VA outpatient clinic in Mount Vernon, MO, for our former colleagues, Gene Taylor. The chief sponsor of the bill is the distinguished ranking minority member of our Subcommittee on Hospitals and Health Care, the gentleman from Arkansas [Mr. HAMMERSCHMIDT]. The bill is cosponsored by the entire Missouri delegation. The bill is also strongly supported by the Missouri veterans organizations as well.

Our former colleague, Gene Taylor, is well-deserving of the honor we seek today, and I will defer to the distinguished gentleman from Arkansas [Mr. HAMMERSCHMIDT] for further remarks about him.

As far as I can recall over the years that I served with Gene Taylor, he never did do anything to hurt veterans in any way, and he totally supported our veterans legislation. I think this is well-deserving.

Mr. STUMP. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise to urge the support of my colleagues on H.R. 2983, a bill to designate the veterans' outpatient clinic in Mount Vernon, MO, as the Gene Taylor Veterans' Outpatient Clinic. I want to take this opportunity to thank our distinguished chairman, Mr. MONTGOMERY, and our ranking member, Mr. STUMP for assisting me in bringing this bill before the House in an expeditious manner.

Mr. Speaker, it might be presumptuous of me to make this statement but it's my belief that every Member of this House who knew and served with Gene Taylor—loved and respected and appreciated Gene Taylor. He is quite a guy.

He served the Seventh District of Missouri from the 93d Congress until his retirement last year. During his 16-year tenure he served on the Public Works Committee, the Committee on Post Office and Civil Service, and the Rules Committee. He served his constituents in an exemplary manner and his career in the House of Representatives was most distinguished.

Mr. Taylor, as a very active Congressman, was a strong supporter of our Nation's veterans and his voting record consistently reflected his concern for their well-being. He was committed to improving benefits and services for them and their dependents and to ensuring that DVA hospitals were adequately staffed.

Prior to his retirement, he worked tirelessly both with the Department of Veterans Affairs and with his local veterans to bring about the very outpatient clinic we are attempting to name for him.

In fact, I can accurately say, that his efforts were instrumental in making this particular clinic a reality. Mr. Taylor not only recognized the need for a DVA outpatient clinic to serve the veterans of Missouri, but he acted on that realization.

We have the support of all the members of the Missouri delegation as well as the Missouri veterans service organizations, so I recommend that we act favorably on this bill.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleagues in supporting H.R. 2983, a bill to name the DVA outpatient clinic in Mount Vernon, MO, after our friend and former colleague, Gene Taylor.

Knowing of the needs of the veterans in Gene's home State and his efforts to establish this clinic to address those needs, it is fitting that it should bear his name.

I wholeheartedly support H.R. 2983 and urge its immediate passage.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I certainly urge my colleagues to support this legislation in regard to our former colleague, Gene Taylor.

Mr. HANCOCK. Mr. Speaker, I would like to recognize my colleague from Arkansas, Mr. HAMMERSCHMIDT, for his work on this bill. I know he and Gene Taylor are good friends, and that has certainly been evident by his effort on this bill.

While many Members of this body developed close working relationships and friendships with Gene Taylor during his 16 years in the House of Representatives, I did not have the privilege of serving with him. However, I do have the distinct honor of replacing Gene Taylor as the representative from the Seventh District of Missouri. I should say that I use the word replace guardedly. Gene left some pretty big shoes for me to fill and only time will tell how well I perform in that endeavor.

The legislation we are debating on the Suspension Calendar today, H.R. 2983, would name the veterans' outpatient clinic in Mt. Vernon, MO, after Gene Taylor. It is a testament to the respect held on both sides of the aisle for Gene that only 20 veteran's hospitals have been named for individuals since 1945. It is fitting that this center be named for Gene Taylor because, without his continual support, this facility would never have been funded.

Scheduled to open on Veterans Day this year, the Gene Taylor Veteran's Outpatient Clinic will be the primary medical facility for the more than 70,000 veterans in southwest Missouri. It should not go unnoticed that it is located just 20 miles from Gene Taylor's hometown of Sarcoxie. The importance of this new facility and the convenience it will provide to the veterans in southwest Missouri should not be underestimated. Given the statements made here today and the action we are taking here today, Gene Taylor's contributions to our country and the respect with which he is held are not being underestimated.

In conclusion, I wholeheartedly support this measure as a tribute to a man who dedicated many years of service to the fine citizens of southwest Missouri.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 2983.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

MONTGOMERY GI BILL AMENDMENTS

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1358) to amend title 38, United States Code, with respect to the Montgomery GI bill, and for other purposes as amended.

The Clerk read as follows:

H.R. 1358

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DETERMINATION OF DELIMITING PERIOD.

(a) MINIMUM REQUIREMENT FOR ACTIVE DUTY SERVICE.—(1) Section 1431 of title 38, United States Code, is amended—

(A) by adding at the end the following new subsection:

"(g) For purposes of subsection (a) of this section, an individual's last discharge or release from active duty shall not include any discharge or release from active duty of less than 90 days of continuous service unless the individual involved is discharged or released for a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines is not service connected, for hardship, or as a result of a reduction in force as described in section 1411(a)(1)(A)(ii)(III) of this title."; and

(B) in subsection (a), by inserting "and subject to subsection (g)" before "of this section," in the material preceding clause (1).

(2) Section 1632(a) of such title is amended—

(A) by adding at the end the following new paragraph:

"(4) For purposes of paragraph (1) of this subsection, a veteran's last discharge or release from active duty shall not include any discharge or release from active duty of less than 90 days of continuous service unless the individual involved in discharged or released for a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines is not service connected, for hardship, or as a result of a reduction in force as described in section 1411(a)(1)(A)(ii)(III) of this title."; and

(B) in paragraph (1), by inserting "and subject to paragraph (4)" before "of this subsection,".

(3) Section 1662(a) of such title is amended—

(A) by adding at the end the following new paragraph:

"(4) For purposes of paragraph (1) of this subsection, a veteran's last discharge or release from active duty shall not include any discharge or release from active duty of less than 90 days of continuous service unless the individual involved is discharged or released for a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines is not service connected, for hardship, or as a result of a reduction in force as described in section 1411(a)(1)(A)(ii)(III) of this title."; and

(B) in paragraph (1), by striking out "No" and inserting in lieu thereof "Subject to paragraph (4) of this subsection, no".

(b) SPECIAL RULE.—Section 1431(e) of such title is amended—

(1) by striking out "(e) In" and inserting in lieu thereof "(e)(1) Except as provided in paragraph (2), in"; and

(2) by adding at the end the following:

"(2) In the case of an individual to which paragraph (1) is applicable and who is described in section 1652(a)(1)(B), the 10-year period prescribed in subsection (a) of this section shall not be reduced by any period in 1977 before the individual began serving on active duty.".

SEC. 2. PROHIBITION ON RECEIVING CREDIT UNDER TWO PROGRAMS.

Section 1621 of title 38, United States Code, is amended by adding at the end the following:

"(f) An individual who serves in the Selected Reserve may not receive credit for such service under both the program established by this chapter and the program established by chapter 106 of title 10 but shall elect (in such form and manner as the Secretary of Veterans Affairs may prescribe) the program to which such service is to be credited.".

SEC. 3. SECONDARY SCHOOL REQUIREMENTS.

(a) IN GENERAL.—Section 1411(a)(2) of title 38, United States Code, is amended—

(1) by inserting "(i)" after "except that"; and

(2) by inserting before "; and" at the end the following: ", and (ii) an individual described in clause (1)(A) of this subsection may meet such requirement by having successfully completed the equivalent of such 12 semester hours before the end of the individual's initial obligated period of active duty".

(b) CONFORMING AMENDMENT.—Section 1412(a)(2) of such title is amended

(1) by inserting "(i)" after "except that"; and

(2) by inserting before "; and" at the end the following: ", and (ii) an individual described in clause (1)(A) of this subsection may meet such requirement by having successfully completed the equivalent of such 12 semester hours before the end of the individual's initial obligated period of active duty".

SEC. 4. VIETNAM-ERA GI BILL ELIGIBILITY FOR CERTAIN SERVICE ACADEMY GRADUATES.

(a) IN GENERAL.—Section 1652(a) of title 38, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking out "or" at the end of clause (B);

(B) by striking out the period at the end of clause (C) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following:

"(D)(i) before January 1, 1977, commenced the third academic year as a cadet or midshipman at one of the service academies or the third academic year as a member of the Senior Reserve Officer Training Corps in a program of educational assistance under section 2104 or 2107 of title 10 if the individual (I) served on active duty for a period of more than 180 days pursuant to an appointment as a commissioned officer received upon graduation from one of the service academies or upon satisfactory completion of advanced training (as defined in section 2101 of title 10) as a member of the Senior Reserve Officers' Training Corps, respectively, and (II) was discharged or released from such period of active duty under conditions other than dishonorable, and (ii) before January 1, 1990, submits to the Secretary of Veterans Affairs, in such form and manner as such Secretary may prescribe, an irrevocable election to be eligible after the date of such election for assistance under this chapter and, if enrolled under the chapter 32 program of educational assistance under this title at the time of such election, to be disenrolled from such program at that time."; and

(2) by adding at the end the following:

"(4) For the purposes of this subsection, the term 'service academies' means the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Coast Guard Academy.".

(b) CONFORMING AMENDMENT.—Section 1652(a)(2) of such title is amended by striking out "or (B)" and inserting in lieu thereof ", (B), or (D)".

(c) DISENROLLMENT FROM CHAPTER 32 PROGRAM AND REFUNDS OF CONTRIBUTIONS.—Upon receipt of an election under clause (D)(ii) of section 1652(a)(1) of title 38, United States Code (as added by subsection (a)(1) of this section), the Secretary of Veterans Affairs shall—

(1)(A) not later than 60 days after receiving such an election, refund to the individual concerned the amount, if any, of the individual's unused contributions to the Post-Vietnam Era Veterans Education Account (hereafter in this subsection referred to as the "VEAP Account"); and

(B) if the individual has received educational assistance under chapter 32 of such title for the pursuit of a program of education, pay to the individual (out of funds available for the payment of educational assistance under chapter 34 of such title) an amount equal to the amount by which the amount of the educational assistance that the individual would have received under chapter 34 of such title for the pursuit of such program exceeds the amount of the educational assistance that the individual received under such chapter 32 for the pursuit of such program; and

(2) refund to the Secretary of Defense the amount contributed by such Secretary of the VEAP Account on behalf of such individual remaining in the Account.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as of January 1, 1977.

SEC. 5. RATES OF REHABILITATION SUBSISTENCE ALLOWANCES FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

(a) IN GENERAL.—The table contained in section 1508(b) of title 38, United States Code, is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two
Institutional Training:				
Full-time	$326	$403	$475	$35
Three-quarter time	245	302	356	26
Half-time	163	202	238	18
Farm cooperative, apprentice, or other on-job training:				
Full-time	285	343	396	25
Extended evaluation:				
Full-time	326	403	475	35
Independent living training:				
Full-time	326	403	475	35
Three-quarter time	245	302	356	26
Half-time	163	202	238	18".

(b) EFFECTIVE DATE.—The amendments made by this section and section 6 shall take effect on January 1, 1990.

SEC. 6. RATES OF EDUCATIONAL ASSISTANCE FOR SURVIVORS AND DEPENDENTS.

(a) IN GENERAL.—Chapter 35 of title 38, United States Code, is amended—

(1) in section 1732(a)(1), by striking out "computed" and all that follows through the end of the paragraph and inserting in lieu thereof "paid at the monthly rate of $395 for full-time, $296 for three-quarter-time, or $197 for half-time pursuit."; and

(2) in section 1732(a)(2), by striking out "on less than a half-time basis" and all that follows through the end of the paragraph and inserting in lieu thereof "consisting of institutional courses on a basis other than as described in paragraph (1) of this subsection shall be the lesser of—

"(A) $197 per month for less than half-time but more than quarter-time pursuit or $99 per month for quarter-time pursuit, as applicable, or

"(B) the established charges for tuition and fees that the education institution involved requires similarly circumstanced nonveterans enrolled in the same program to pay.";

(3) in section 1732(b), by striking out "$304" and inserting in lieu thereof "$319";

(4) in section 1732(c)(2), by striking out "computed" and all that follows through the end of the paragraph and inserting in lieu thereof "$319 for full-time, $239 for three-quarter-time, and $160 for half-time pursuit.";

(5) by amending section 1732(c)(3) to read as follows:

"(3) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing an independent study program which leads to a standard college degree shall be computed at the rate provided in subsection (a)(2) of this section for less than half-time but more than quarter-time pursuit. If the entire training is to be pursued by independent study, the amount of the eligible person's entitlement to educational assistance under this chapter shall be charged in accordance with the rate at which such person is pursuing the independent study program but at not more than the rate at which such entitlement is charged for pursuit of such program on less than a half-time basis. In any case in which independent study is combined with resident training, the educational assistance allowance shall be paid at the applicable institutional rate based on the total training

time determined by adding the number of semester hours (or the equivalent thereof) of resident training to the number of semester hours (or the equivalent thereof) of independent study that do not exceed the number of semester hours (or the equivalent thereof) required for the less than half-time institutional rate, as determined by the Secretary of Veterans Affairs, for resident training. An eligible person's entitlement shall be charged for a combination of independent study and resident training on the basis of the applicable monthly training time rate as determined under section 1788 of this title.";

(6) in section 1732(c)(4), by striking out "section 1682(e) of this title" and inserting in lieu thereof "paragraph (3) of this subsection";

(7) in section 1732(e), by inserting before the period the following: ", except that the references therein to the monthly educational assistance allowance prescribed for a veteran with no dependents shall be deemed to refer to the applicable allowance payable to an eligible person under corresponding provisions of this chapter or chapter 36 of this title, as determined by the Secretary of Veterans Affairs";

(8) in section 1733(a)(1), by striking out "benefits" and all that follows through the end of the paragraph and inserting in lieu thereof "assistance provided an eligible veteran under section 1691(a) (if pursued in a State) of this title and be paid an educational assistance allowance therefor in the manner prescribed by section 1691(b) of this title, except that the corresponding rate provisions of this chapter shall apply, as determined by the Secretary of Veterans Affairs, to such pursuit by an eligible person.".

(9) in section 1734(b), by striking out "1786 of this title" and inserting in lieu thereof "1786 (other than subsection (a)(2)) of this title and the period of such spouse's entitlement shall be charged with one month for each $395 which is paid to the spouse as an educational assistance allowance for such course"; and

(10) in section 1742(a), by striking out "$376", "$119" (each place it appears), and "$12.58" and inserting in lieu thereof "$395", "$125", and "$13.17", respectively.

(b) APPRENTICESHIP.—Section 1787(b)(2) of such title is amended by striking out "compared" and all that follows through the end of the paragraph and inserting in lieu thereof "$288 for the first six months, $215 for the second six months, $143 for the third six months, and $71 for the fourth and any succeeding six-month periods of training.".

SEC. 7. CERTAIN STATE AGENCY EXPENSES.

(a) IN GENERAL.—Section 1774(a) of title 38, United States Code, is amended—

(1) in paragraph (2)(A), by striking out "section

(1) in paragraph (2)(A), by striking out "section and for" and inserting in lieu thereof "section, for reasonable and necessary expenses incurred in carrying out activities in connection with section 1774A of this title, and for"; and

(2) in paragraph (2)(C), by inserting before the period the following: "and the amount of reasonable and necessary expenses incurred in carrying out activities in connection with section 1774A of this title for such period".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1989.

SEC. 8. TECHNICAL AMENDMENTS.

(a) IN GENERAL.—Title 38, United States Code, is amended as follows:

(1)(A) Section 1412(a)(1) is amended—

(i) in clause (A)(ii), by striking out "and after completion" and inserting in lieu thereof "and beginning within one year after completion"; and

(ii) in clause (B)(ii), by striking out "and after completion" and inserting in lieu thereof "and beginning within one year after completion".

(B) Section 1412(b)(2) is amended by striking out "Continuity of service" and all that follows through "such clauses" and inserting in lieu thereof "After an individual begins service in the Selected Reserve within one year after completion of the service described in clause (A)(i) or (B)(i) of subsection (a)(1) of this section, the continuity of service of such individual as a member of the Selected Reserve".

(2) Section 1413 is amended—

(A) in subsections (a)(2) and (b), by striking out "subsection (c)" and inserting in lieu thereof "subsection (d)";

(B) in subsection (a)(2), by striking out "1411(a)(1)(B)(ii)(I)" the second place it occurs and inserting in lieu thereof "1411(a)(1)(A)(ii)(I)"; and

(C) in subsection (c)—

(i) by striking out "paragraph (2)" in paragraph (1) and inserting in lieu thereof "paragraphs (2) and (3)"; and

(ii) by adding at the end of such subsection the following:

"(3) Subject to section 1795 of this title and subsection (d) of this section, an individual described in clause (B) or (C)(ii) of section 1418(b)(3) of this title (other than an individual described in paragraph (2) of this subsection) is entitled to the number of months of educational assistance under this chapter that is equal to the number of months the individual has served on continuous active duty after June 30, 1985.".

(3) Section 1433(b) is amended by striking out "section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note)," and inserting in lieu thereof "chapter 109 of title 10".

(4)(A) Section 1434(a)(3) is amended by striking out "employment)" and inserting in lieu thereof "employment during and since the period of such veteran's active military service)".

(B) Section 1641(a)(2) is amended by striking out "employment)" and inserting in lieu thereof "employment during and since the period of such veteran's active military service)".

(5)(A) Section 1781(b) is amended by adding at the end the following:

"(5) The Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399).".

(B) Section 1795(a) is amended by adding at the end the following:

"(8) The Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399)."

(6) Section 1431(f) is amended by striking out ", under this section," in paragraphs (1) and (2) and inserting in lieu thereof ", under section 1413,".

(7) Section 1417(a)(1)(A)(ii) is amended by striking out "but for" and all that follows through "of this title" and inserting in lieu thereof "but for clause (1)(A)(i) or clause (2)(A) of section 1411(a) or clause (1)(A)(i) or (ii) or clause (2) of section 1412(a) of this title".

(8)(A) Section 1411(a)(1)(B) is amended by striking out "October 19, 1984," each place it appears and inserting in lieu thereof "July 1, 1985,".

(B) Section 1412(a)(1)(B) is amended by striking out "October 19, 1984," each place it appears and inserting in lieu thereof "July 1, 1985,".

(C) Section 1431(e) is amended by striking out "October 18, 1984" and inserting in lieu thereof "June 30, 1985".

(b) EFFECTIVE DATES.—The amendments made by—

(1) paragraphs (1), (6), and (7) of subsection (a) shall take effect as of October 19, 1984;

(2) paragraphs (2) and (4) of subsection (a) shall take effect as of November 18, 1988;

(3) paragraph (3) of subsection (a) shall take effect as of November 8, 1985;

(4) paragraph (5) of subsection (a) shall take effect as of August 27, 1986; and

(5) paragraph (8) shall take effect as of October 28, 1986.

Mrs. BYRON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as chairman of the Subcommittee on Military Personnel and Compensation, I rise in support of H.R. 1358, the Montgomery GI bill amendments. As the gentleman from Mississippi [Mr. MONTGOMERY] has previously noted, the Armed Services and Veterans' Affairs Committee share jurisdiction over the Montgomery GI bill. H.R. 1358 was, therefore, jointly referred to the two committees.

The Veterans' Affairs Committee acted first, reporting this legislation in late May. The Armed Services Committee made two changes.

First, we deleted section 2 of H.R. 1358 and included it instead—with modification—in this year's Defense authorization bill. Section 2 of the legislation, as reported by the VA Committee, would have expanded the program of education covered by the Reserve portion of the Montgomery GI bill to include vocational-technical training and graduate study. Because of budget constraints, we approved only the vocational-technical training portion in the authorization bill. That's one of the many differences between the House and Senate we are working to resolve in the current conference, which meets again at 3 o'clock this afternoon.

Second, we included two additional technical amendments identified by the Veterans' Affairs Committee staff subsequent to their markup.

As previously noted by the distinguished chairman of the Veterans' Affairs Committee, all of the provisions dealing with the Montgomery GI bill are technical in nature, correcting oversights or problems not foreseen at the time the legislation was originally written. In the interest of time, I will not describe them again but will, of course, be pleased to respond to any questions.

H.R. 1358 results in no added costs to the Department of Defense but makes several important technical improvements to the operation of the Montgomery GI bill. I urge my colleagues' strong support.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1358, as amended.

Mr. Speaker, I would like to take this time to commend the chairman of the Subcommittee on Education, Training and Employment of the Committee on Veterans' Affairs, the gentleman from Minnesota [Mr. PENNY], and also the ranking member, the gentleman from New Jersey [Mr. SMITH], for their excellent leadership in bringing this bill before us today; and also the chairman, the gentleman from Mississippi [Mr. MONTGOMERY], for his overall success with the Montgomery GI bill.

Mr. Speaker, it is one of the strongest recruitment and retention tools the armed services has today.

Mr. Speaker, I yield such time as he may consume to the ranking member of the subcommittee, the gentleman from New Jersey [Mr. SMITH].

The SPEAKER pro tempore. Is a second demanded?

Mr. STUMP. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the 40 minutes time be divided equally between the Veterans' Affairs Committee and the Armed Services Committee. Both committees handled this legislation, and I am asking that the gentlewoman from Maryland [Mrs. BYRON] be recognized for 10 minutes and that the gentleman from Virginia [Mr. BATEMAN] be recognized for 10 minutes of the time.

The SPEAKER pro tempore. (Mr. HAYES of Louisiana). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 10 minutes, and as the Chair understands it, the gentlewoman from Maryland [Mrs. BYRON] will be recognized for 10 minutes.

Mr. MONTGOMERY. That is correct, Mr. Speaker, but 10 minutes each will be allotted to the other side.

The SPEAKER pro tempore. Without objection, the Chair assumes that is acceptable.

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

□ 1320

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on May 25, 1989, the Veterans' Affairs Committee reported H.R. 1358, as amended, a bill designed to enhance the effectiveness of education programs administered by the Department of Veterans Affairs. Because the bill was jointly referred, it was then considered and amended by the Armed Services Committee and reported by them on September 26.

The major provisions of H.R. 1358, as amended, would:

First, provide that the 10-year delimiting date for use of certain veterans' educational assistance benefits would commence from the last discharge from active duty of at least 90 continuous days.

Second, bar receipt of benefits for VEAP and new GI bill—Selected Reserve based on the same period of service.

Third, permit active duty new GI bill participants to meet their secondary school diploma requirements by seccessfully completing the equivalent of 12 semester hours in a program of education leading to a standard college degree.

Fourth, increase by 5 percent the rate of subsistence allowance for service-connected disabled veterans participating in a rehabilitation program under Chapter 31 of title 38.

Fifth, increase by 5 percent the rate of educational assistance allowance for survivors and dependents of service-connected disabled veterans pursuing a program of education under Chapter 35 of title 38.

Sixth, extend eligibility for Vietnam era GI bill benefits to 1977 and 1978 graduates of the service academies and 1978 Senior Reserve Officer Training Corps graduates.

Seventh, provide for the use of readjustment benefit account funds to carry out activities in connection with State approving agencies.

It should be noted that, when approved by the Veterans' Affairs Committee, H.R. 1358 would have expanded the program of education authorized under the new GI bill—Selected Reserve to include vocational-technical and graduate training. This provision, which was amended by the Armed Services Committee to exclude graduate training, was deleted from H.R. 1358 and included in this year's Defense authorization bill, H.R. 2461. This bill was approved by the House on July 27 and is now in conference.

As my colleagues will note, many of the provisions of H.R. 1358, as amended, are fairly technical but important to the efficient administration of veterans' education programs.

I want to commend the chairman of the Subcommittee on Education, Training and Employment, TIM PENNY, and the ranking minority member of the subcommittee, CHRIS SMITH, and all members of the subcommittee for developing this legislation. Tim isn't with us today because he's on his way back from a Hunger Committee trip to Central America where they've been looking at child survival activities and the political situation in Nicaragua, especially the upcoming elections. I am also grateful for the support and cooperation of the ranking minority member of the full committee, my good friend, BOB STUMP.

I also want to thank the chairman of the Armed Services Subcommittee on Military Personnel and Compensation, BEVERLY BYRON, and the ranking minority member of the subcommittee, HERB BATEMAN, for their assistance. Most of the legislation affecting the new GI bill is jointly referred to the Veterans' Affairs Committee and the Armed Services Committee. I serve on both, and BEVERLY and HERB have always been very helpful in moving these bills. The cooperation between the two committees couldn't be better, and I am grateful to them for that.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, as the ranking minority member of the Veterans' Affairs Subcommittee on Education, Training, and Employment, I rise in support of H.R. 1358, as amended. H.R. 1358 makes adjustments in VA education programs and clarifies rules of participation in these programs.

Chairman MONTGOMERY has outlined the various provisions of the bill. As he has explained, the bill would help to eliminate potential abuses of VA benefits, it simplifies program requirements, and updates benefit amounts under the vocational rehabilitation program.

Oversight hearings held by our subcommittee earlier this year revealed that some clarification of VA education programs was necesssary in order to reinforce the intent of the programs and to facilitate the veteran in achieving his or her educational goal. H.R. 1358 was drafted in response to these suggestions and will, I believe, improve the programs for both the veteran and the VA.

Originally, provisions in H.R. 1358 would also have provided vocational-technical and graduate training for Montgomery GI bill Selected Guard and Reserve participants. During consideration of the bill in the Armed Services Committee, the provision was amended to exclude graduate training and later attached to the Defense Authorization bill. Benefits for vocational-technical training did receive considerable support during our subcommittee's hearings so I would like to strongly urge Members now conferencing the Defense Authorization bill to support the provision.

Mr. Speaker, I would like to thank the chairman of the Subcommittee on Education, Training, and Employment, TIM PENNY, and the distinguished Chairman and Vice-Chairman

of the full Committee, SONNY MONTGOMERY and BOB STUMP, for their leadership and cooperation while working on H.R. 1358.

Mr. Speaker, H.R. 1358 is a good bill and one that is essential in order to successfully administer VA education programs. I urge my colleagues to support the measure.

Mr. STUMP. Mr. Speaker, I reserve the balance of my time.

Mr. BATEMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the ranking Republican member of the Subcommittee on Military Personnel and Compensation, I am pleased to support H.R. 1358, as reported by the Committee on Armed Services.

In the interest of time, let me say that I fully concur with the previous statements of my Armed Services Committee colleagues—the gentleman from Mississippi and the gentlewoman from Maryland—regarding H.R. 1358.

The Armed Services Committee addressed the major provision of the original legislation—the expanded program of education for the Reserve portion of the Montgomery GI bill—in the Defense authorization bill. The remaining provisions are basically technical in nature and result in no added cost to the Department of Defense. I would urge my colleagues' approval of H.R. 1358.

□ 1330

Mr. STUMP. Mr. Speaker, I would like to add my commendation to the gentlewoman from Maryland, chairman of the Subcommittee on Military Personnel and Compensation of the Armed Services Committee, as well as the ranking member of the Subcommittee, the gentleman from Virginia [Mr. BATEMAN] for their leadership in directing this bill from the Armed Services Committee.

Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

Mr. BATEMAN. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I want to publicly thank the gentlewoman from Maryland, Mrs. BEVERLY BYRON, who is the chairman of the subcommittee who handles this legislation, as well as the gentleman from Virginia, Mr. HERB BATEMAN, and the gentleman from Arizona, Mr. BOB STUMP, for their support, as well as the rest of the Members on both the Armed Services and Veteran Affairs committees for the support they have given to this legislation over the years. The newest GI bill has been in effect, Mr. Speaker, since July 1, 1985, when it replaced the VEAP program. The new program includes the active service forces and the reserve forces.

We have been told by the Chiefs of the military services that the best recruiting tool the military now has, better than bonuses, is this peacetime GI bill. It has been a great incentive to attract some of the finest young men and women that we have ever had in to the Armed Forces, and I have been involved in military matters for over 45 years. We are now getting the active forces, as well as the Reserve and the National Guard, the finest young men and young women that I have ever seen in the military.

The most important part, though, is not that it is a good, helpful recruiting tool, but that this educational assistance program gives many young men and young women, who probably could not afford to get a college education or post-secondary education, the opportunity to continue their education. The benefits under the peacetime, GI bill extend not only to the active forces but, as I said, to members of the National Guard and Reserve as well.

Let me also give some statistics about how well this legislation is doing since it came into effect in July of 1985. By February or March of 1990, over 1 million young men and women, which includes active as well as reserve personnel, will have signed up for this educational benefit. In the next 2 or 3 years, these young people will be going to colleges and vocational-technical schools all over the country. It is my opinion that over 10 percent of the enrollment in all of our colleges and training institutions in the next 2 or 3 years will be under this educational benefit that we are talking about today.

Let me also say that active duty program participants have to agree to a basic pay reduction of $100 a month for 12 months to get into this program.

As a result of this pay reduction, over $767 million has reverted to the Treasury. That does not include interest on that money. The program has only paid out $40 million of that $760 million brought in. In the next few years, of course, we want these soldiers to use this benefit, and that will reduce this amount drastically, and that is good. These young men and women will be getting an education.

The bottom line is the program is working well, and I hope my colleagues will support this legislation.

Mr. STUMP. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Arizona.

Mr. STUMP. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, these bills bring us close at least to completing our committee's legislative initiatives for this session. As always, the chairman has addressed them in a very timely manner, and I would like to commend my good friend, the gentleman from Mississippi, Mr. SONNY MONTGOMERY, for his bipartisan leadership, and I want him to know that we enjoy working with him and other members of the committee on behalf of our Nation's veterans.

Also, Mr. Speaker, I would like to add my very special thanks to the great staff we have on both sides of the aisle on this Veterans' Affairs Committee.

Mrs. BYRON. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I thank the gentleman from Arizona and I yield to the gentlewoman from Maryland.

Mrs. BYRON. Mr. Speaker, let me say that some of the issues the Veterans' Affairs Committee deals with are joint issues with the Armed Services Committee, and it is a great pleasure to work with the general from our perspective on the Armed Services Committee. We have our disagreements every now and then, but we never let them out in public. We take care of them at home. To watch the outgrowth of this GI bill and the impact that it has had on the young people that we have today in the service, I am just convinced that one of the reasons for the quality of the young people we have today in uniform is because of the educational benefits that are there for them when they take off that uniform. So, Mr. Speaker, I thank the gentleman from Mississippi.

Mr. MONTGOMERY. I thank the gentlewoman from Maryland. She has been a part of the legislation, and it was all of us pitching in and working together. We had to give and take, but we work very well together.

I agree with what the gentleman from Arizona, Mr. BOB STUMP, has said about our staff. The staff has been tremendous. We do hope we do not have to bring up many more bills this year, but the leadership of the House has been most helpful.

Mr. DORNAN of California. Mr. Speaker, I would like to commend my good friend and colleague, the chairman of the Veterans' Affairs Committee, SONNY MONTGOMERY and the ranking Republican, BOB STUMP, on the excellent job they have done in support of all the men and women who have proudly served this great Nation of ours. I am especially pleased to support H.R. 1358, the Montgomery GI bill amendments Act. Section four of this bill contains a provision which restores educational benefits under the Vietnam-era GI bill to the 1977 and 1978 service academy and ROTC graduates. This is an issue I raised in the 100th Congress and am thankful that it is nearly resolved for these deserving veterans.

These veterans made binding active duty commitments while the Vietnam-era GI bill was being offered as an inducement to active service. Due to an oversight, the 1976 legislation failed to grandfather these service mem-

bers along with other delayed entry service members.

I would like to take a moment and reiterate the necessity of this particular legislation. Members of the service academy classes of 1977 and 1978 were retroactively excluded from the Vietnam-era GI bill eligibility through inadvertence—even though they had committed to 7 years of active duty prior to the December 31, 1976 cutoff date.

When this situation was brought to my attention in 1987, I was astonished that such an obvious oversight had not yet been corrected. As a result, I authored H.R. 3485 which had more than 50 of our colleagues for cosponsors and enjoyed the active support of the major veterans' organizations.

It is important to note that the Academy graduates have always been considered eligible for veterans' educational benefits. It is not the time served at the academies that qualified the graduates for the GI bill, but rather the active duty performed after graduation.

Although Academy cadets and midshipmen incur their active duty obligation when they commence their third academic year, our colleagues in 1976 failed to address the issue of academy service members who had already obligated themselves to active duty upon graduation. The 1976 legislation simply does not refer to the service academy cadets and midshipmen. Given the obligation incurred by enrolling in the third academic year, these cadets and midshipmen should have been included in the "grandfather clause" of the 1976 law.

It was the clear intent of the 94th Congress that all those who signed contracts prior to December 31, 1976 with the expectation of the GI bill were to be covered by those benefits. This intent was spelled out most clearly by the then chairman of the House Veterans' Subcommittee on Educational Benefits, Olin Teague, who stated during floor debate that:

Nobody in the service today is affected. It only affects those going the first of January or thereafter. If a conflict develops, * * * Congress would immediately pass another bill.

The definition of active duty included anyone who had committed to active duty prior to the December 31 deadline, although actual service did not begin until after that date.

In short, the classes of 1977 and 1978 deserve the entire package of benefits that were offered at the time they made their commitments to serve their country. The current inequality is highlighted by the fact that others in similar situations, such as 1977 ROTC graduates, delayed entry participants, and academy classmates who attended a service academy prep school are now eligible for those benefits.

It was unfortunate that there was insufficient time last Congress to fully address the issue of those deserving veterans. The Senate passed S. 2383, which was similar to the House-passed H.R. 3045, but contained a number of minor differences. One difference was the manner in which the issue of service academy graduates was treated. The most contentious difference would have required proof of participation in the Veterans' Educational Assistance Program [VEAP] in order to receive eligibility. While many Academy graduates took advantage of VEAP, whereby service members invested up to $2,700 in order to recoup two-for-one educational benefits when they attended school later on, quite a few simply could not afford this cash investment. Others, on advice of counsel, did not sign up for VEAP in fear that this would compromise any future claim to GI bill eligibility.

Mr. Speaker, since the intent of Congress was clearly to protect the existing benefits of those in, or committed to, the Armed Services, as of December 31, 1976, the Academy classes of 1977 and 1978 should clearly be included. I wholeheartedly endorse H.R. 1358 and once again commend Chairman MONTGOMERY and the Veterans' Committee staff on their steadfast support of my effort to rectify the inadvertent and unfortunate inequity to this small number of deserving veterans.

Once again, Mr. Speaker, thank you for the privilege to express my views.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

Mrs. BYRON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYES of Louisiana). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 1358, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2788, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. YATES submitted the following conference report and statement on the bill (H.R. 2788) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1990, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-264)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2788) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1990, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 17, 19, 40, 42, 46, 51, 52, 53, 65, 66, 67, 68, 69, 73, 77, 80, 89, 90, 99, 101, 103, 108, 109, 115, 116, 117, 127, 130, 147, 154, 155, 156, 157, 158, 159, 160, 161, 162, and 163.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 5, 6, 7, 20, 29, 30, 36, 56, 74, 75, 78, 82, 119, 125, 126, 141, 148, and 151, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$442,084,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$5,961,000*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$12,610,000*; and the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$397,956,000*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$5,750,000*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,800,000*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$9,000,000*; and the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$32,750,000*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$88,556,000*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$484,709,000*; and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$178,525,000*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$56,060,000*; and the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named insert *$64,000*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$174,759,000*; and the Senate agree to the same.

Amendment numbered 38:

That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$105,035,000*; and the Senate agree to the same.

Amendment numbered 41:

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows: *$1,035,534,000 including $54,000,000 for conversion of tribal contracts and agreements to a calendar year basis as authorized by section 204 (d)(1) of Public Law 100-472 (100 Stat. 2291), and*; and the Senate agree to the same.

Amendment numbered 45:

That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$134,226,000*; and the Senate agree to the same.

Amendment numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$76,489,000*; and the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$935,000*; and the Senate agree to the same.

Amendment Numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$33,339,000*; and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$23,260,000*; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 107. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley; and the Senate agree to the same.

Amendment numbered 79:

That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *115*; and the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *116*; and the Senate agree to the same.

Amendment numbered 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *117*; and the Senate agree to the same.

Amendment numbered 85:

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment, as follows:

In lieu of the section number proposed by said amendment insert: *116*; and the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$147,182,000*; and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$105,506,000*; and the Senate agree to the same.

Amendment numbered 97:

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$221,960,000*; and the Senate agree to the same.

Amendment numbered 98:

That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$38,993,000*; and the Senate agree to the same.

Amendment numbered 113:

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$450,000,000*; and the Senate agree to the same.

Amendment numbered 118:

That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$422,062,000*; and the Senate agree to the same.

Amendment numbered 120:

That the House recede from its disagreement to the amendment of the Senate numbered 120, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$40,900,000*; and the Senate agree to the same.

Amendment numbered 122:

That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$413,262,000*; and the Senate agree to the same.

Amendment numbered 123:

That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$203,000,000*; and the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,185,910,000*; and the Senate agree to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named insert *$16,000,000*; and the Senate agree to the same.

Amendment numbered 131:

That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$3,000,000*; and the Senate agree to the same.

Amendment numbered 132:

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$70,996,000*; and the Senate agree to the same.

Amendment numbered 134:

That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$4,350,000*; and the Senate agree to the same.

Amendment numbered 136:

That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$228,553,000*; and the Senate agree to the same.

Amendment numbered 137:

That the House recede from its disagreement to the amendment of the Senate numbered 137, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$26,769,000*; and the Senate agree to the same.

Amendment numbered 138:

That the House recede from its disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$8,320,000*; and the Senate agree to the same.

Amendment numbered 142:

That the House recede from its disagreement to the amendment of the Senate numbered 142, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$144,105,000*; and the Senate agree to the same.

Amendment numbered 144:

That the House recede from its disagreement to the amendment of the Senate numbered 144, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$132,430,000*; and the Senate agree to the same.

Amendment numbered 145:

That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named insert *$4,200,000*; and the Senate agree to the same.

Amendment numbered 146:

That the House recede from its disagreement to the amendment of the Senate numbered 146, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$22,675,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 12, 13, 15, 18, 21, 22, 23, 25, 26, 28, 34, 39, 43, 44, 47, 48, 49, 50, 55, 58, 61, 62, 63, 70, 71, 72, 76, 81, 86, 87, 88, 93, 94, 95, 100, 102, 104, 105, 106, 107, 110, 111, 112, 114, 121, 124, 133, 135, 139, 140, 143, 149, 150, 152, 153, 164, 165, 166, 167, and 168.

SIDNEY R. YATES,
JOHN P. MURTHA,
NORM DICKS,
LES AUCOIN,
TOM BEVILL,
CHESTER G. ATKINS,
JAMIE L. WHITTEN,
RALPH REGULA,
JOSEPH M. MCDADE,
BILL LOWERY,
SILVIO O. CONTE,
Managers on the Part of the House.

ROBERT C. BYRD,
J. BENNETT JOHNSTON,
ERNEST F. HOLLINGS,
DENNIS DECONCINI,
QUENTIN N. BURDICK,
DALE BUMPERS,
HARRY REID,
DANIEL K. INOUYE,
JAMES A. MCCLURE,
TED STEVENS,
JAKE GARN,
WARREN B. RUDMAN,
THAD COCHRAN,
DON NICKLES,
PETE V. DOMENICI,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to bill (H.R. 2788), making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1990, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on H.R. 2788 incorporates some of the provisions of both the House and the Senate versions of the bill. The language and allocations set forth in House Report 101-120 and Senate Report 101-85 shall be complied with unless specifically addressed to the contrary in the conference agreement and accompanying statement of the managers.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

Amendment No. 1: Appropriates $442,084,000 for management of lands and resources instead of $446,296,000 as proposed by the House and $441,738,000 as proposed by the Senate. The net increase above the amount proposed by the Senate includes increases of $125,000 for forest management; $150,000 for project planning, and $375,000 for the Oregon/Washington reparian initiative, both in grazing management; $250,000 for Colorado River salinity control in soil, water, and air management; and $372,000 for resources management planning; and decreases of $28,000 for noxious weed control in Idaho, $75,000 for noxious weed control in Montana, $50,000 for research and development on fire resistant grasses at the University of Idaho, $73,000 for grazing monitoring in Idaho, $150,000 for riparian monitoring in Idaho, and $50,000 for greenstripping in Idaho, all under grazing management; and $500,000 for endangered species in wildlife habitat management.

The managers agree that:

1. modest cost-shared challenge grant programs modelled on the wildlife challenge grant program should be initiated in recreation and cultural resources management programs;

2. in the wild horse and burro program fee waiver adoptions should remain suspended, the regular adoption program should be expanded, a third sanctuary should be established if necessary, and although geographic diversity is still a key sanctuary criterion, it is not intended to preclude sponsors from operating more than one sanctuary;

3. the Bureau should continue its participation in the Experimental Stewardship Program;

4. the Bureau should integrate Alaska into field testing of the automated land and mineral records system (ALMRS);

5. of the funds provided for wilderness management no less than $2,700,000 should be applied to the management of wilderness study areas; and

6. within the total funds for recreation resources management $300,000 is available for the study described in House Report 101-120 concerning a possible National Recreation Area on the American River in California.

FIREFIGHTING

Amendment No. 2: Deletes the National Forest System from the Firefighting account as proposed by the Senate. Funds for Forest Service firefighting are included in a separate account.

Amendment No. 3: Appropriates $311,500,000 for firefighting as proposed by the Senate instead of $740,393,000 as proposed by the House. The net decrease below the amount proposed by the House consists of a decrease of $552,533,000 for Forest Service firefighting included in another account, offset by an increase of $123,640,000 in Department of the Interior firefighting detailed in amendments 4 through 6.

Amendment No. 4: Earmarks $193,761,000 for Bureau of Land Management firefighting activities as proposed by the Senate instead of $96,716,000 as proposed by the House. The increase above the amount proposed by the House consists of $14,545,000 for presuppression, $80,500,000 for firefighting, and $2,000,000 for rehabilitation. The recommended amounts provide for payment of 1990 firefighting costs as well as repayment of 1989 costs.

Amendment No. 5: Earmarks $16,250,000 for United States Fish and Wildlife Service firefighting activities as proposed by the Senate instead of $2,800,000 as proposed by the House. The recommended amount provides for payment of 1990 firefighting costs as well as repayment of 1989 costs.

Amendment No. 6: Earmarks $34,464,000 for National Park Service firefighting activities as proposed by the Senate instead of $21,319,000 as proposed by the House. The recommended amount provides for payment of 1990 firefighting costs as well as repayment of 1989 costs.

Amendment No. 7: Deletes House earmark of $552,533,000 for the Forest Service as proposed by the Senate. Forest Service firefighting costs are included in a separate account.

CONSTRUCTION AND ACCESS

Amendment No. 8: Appropriates $5,961,000 for construction and access instead of $2,400,000 as proposed by the House and $6,865,000 as proposed by the Senate. The decrease below the amount proposed by the Senate consists of an increase of $101,000 for extension of a mountain bike trail from Colorado into Utah and decreases of $180,000 for El Malpais National Conservation Area, NM and $825,000 for the Quail Hill road, AZ. The managers agree that the additional $120,000 above the House amount for El Malpais is for construction of the Ranger/Visitor Contact Station, and the $675,000 remaining for the Quail Hill road is for completion of survey and design, and construction of 3 miles of steep road.

LAND ACQUISITION

Amendment No. 9: Appropriates $12,610,000 for land acquisition instead of $13,490,000 as proposed by the House and $11,340,000 as proposed by the Senate.

The managers agree to the following distribution:

Acquisition management....	$1,100,000

Bruneau River, ID	40,000
Carrizo Plains, CA	4,500,000
Chuckwalla Bench, CA	500,000
Coeur d'Alene NF, ID (Blackwell Island)	500,000
Desert Tortoise Natural Area, CA	1,000,000
El Malpais NM, NM	1,250,000
King Range NCA, CA	500,000
New River ACEC, OR	500,000
N. Fork American River, CA	250,000
Overflow Wetlands HMP, NM	240,000
Owyhee River, ID/OR	400,000
Pariette Wetlands, UT	210,000
Rio Grande, CO	70,000
Soldier Meadows Ranch, NV	1,000,000
Steens Mountain Recreation River, OR	350,000
Upper Missouri W&SR, MT	200,000
Total, land acquisition	12,610,000

U.S. FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

Amendments No. 10: Appropriates $397,956,000 for resource management instead of $375,370,000 as proposed by the House and $399,225,000 as proposed by the Senate. The net increase above the amount proposed by the House includes increases of $150,000 for consultation, $800,000 for spotted owl related activities, $250,000 for endangered species grants, $141,000 for an additional fisheries biologist and a contaminant specialist at the Elkins field office, $50,000 for habitat assessment of waterfowl areas, $75,000 for advanced wetlands planning, $306,000 to establish a suboffice in Maine, $100,000 for Chesapeake Bay toxics research, $3,738,000 for refuge maintenance, $1,000,000 for the Oregon Coast Aquarium, $325,000 for operations at Lake Ophelia NWR, LA, $600,000 for Alaska refuge operations, $2,700,000 for refuge operations, $300,000 for the challenge grant program, $750,000 for Alaska subsistence grants, $250,000 for drug enforcement, $150,000 for increased enforcement related to African Elephant Conservation activities, $200,000 for wetland conservation activities, $500,000 for the North American Waterfowl Management Plan, $2,000,000 for wetland restoration, $200,000 for National Fisheries Academy training, $2,750,000 for hatchery maintenance, $250,000 for acid rain mitigation studies, $2,500,000 for research and development maintenance, $175,000 for prairie pothole pesticide levels, $250,000 for a pintail duck population study, $250,000 for waterfowl survey techniques related to the Prince William Sound oil spill, $200,000 for a study of Prince William Sound sea bird mortality, $300,000 for Arctic Geese activity in Alaska, $650,000 for marine mammals in Alaska, $300,000 for a joint US/USSR walrus population survey, $800,000 for Leetown NFC, WV striped bass and fish health research, $200,000 for Hagerman field station operations, $100,000 for Middle Snake River anadromous fish habitat research, $525,000 for the Swan Falls Joint Agreement, $150,000 for mountain lion habitat research, $600,000 for the Louisiana coastal erosion study, $200,000 for Hawaii forest birds research, $250,000 for the Yukon Salmon Treaty; and decreases of $1,704,000 for fire management, $75,000 for migratory bird management, $70,000 for fish food, $150,000 for non-game species research, $300,000 for an African Elephant biological assessment, and $150,000 for African Elephant Conservation assistance.

The Managers have rejected report language proposed by the Senate requiring the Service to hire local professors and students without advertising vacancies. The Service may continue to engage students and professors under its existing cooperative agreement.

The managers agree that:

1. technical assistance only is provided for habitat conservation plans in Kern, San Diego and Riverside Counties in California. Local communities are expected to contribute to the effort. No specific amount is earmarked for each individual area;

2. endangered species recovery includes the activities listed in the House and Senate reports except that no money is provided for Cheyenne Bottoms in the endangered species recovery program;

3. when the Nisqually NFH, WA becomes operational in 1991, it is to be managed by the U.S. Fish and Wildlife Service;

4. within available funds there is $80,000 for improvements to interpretive displays at Warm Springs, NFH, GA;

5. hydroelectric relicensing applicants may be in a disadvantageous negotiating position because of their existing capital investment; consequently, the Service is to work cooperatively with relicensing applicants;

6. the research lab at LaCrosse, WI is to operate at a level of $1,750,000;

7. in addition to $140,000 recommended in the budget estimate, the managers provided $900,000 for the operation of the Northeast Anadromous Fish Laboratory, and not less than 16 FTE shall be assigned to this facility;

8. there is $200,000 provided for the Lake Erie Shoreline study; and

9. there is $300,000 to maintain the permanent field station and field office staff established in fiscal year 1989 at Auburn University under the Fort Collins Research Center to develop in-stream flow methodology for warm water fisheries management in the Southeastern United States.

Amendment No. 11: Provides $5,750,000 for endangered species grants instead of $5,500,000 as proposed by the House and $6,000,000 as proposed by the Senate.

Amendment No. 12: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows a procurement for the National Wetlands Reserach Center to be issued which includes the full scope of the previously issued procurement for the facility.

CONSTRUCTION AND ANADROMOUS FISH

Amendment No. 13: Report in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $58,560,000 for construction and anadromous fish instead of $30,457,000 as proposed by the House and $53,579,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree to the following distribution:

Alaska Maritime NWR, AK/Homer maintenance facility	$100,000
Alligator River NWR, NC/ Maintenance facility	900,000
Anadromous fish grants	1,500,000
Bayou Sauvage NWR, LA/ Maxent Lagoon Levee	3,750,000
Bosque del Apache NWR, NM rehab water & road system	650,000
Bowden NFH, WV	1,300,000
Cheyenne Bottoms, KS	1,640,000
Crab Orchard NWR, IL water treatment facilities	765,000
Craig Brook NFH, ME water supply treatment	552,000
Dam safety evaluations	3,250,000
Dam safety inspections	400,000
Eastern Neck NWR, MD (erosion control)	2,900,000
Hagerman NWR, TX road & bridge repair	300,000
Hakalau NWR, HI fencing	250,000
Hammond Bay Biological Station, NY	1,322,000
John Hay Estate NWR, NH	491,000
Kenai NWR, AK (administrative facility)	220,000
Little River NWR, OK	2,700,000
McKinney Lake NFH; holding house rehab	132,000
Mora NFH, NM fish hatchery	1,000,000
Natchitoches NFH, LA major rehabilitation	500,000
National Fisheries Research Center, WA (replacement lab)	1,500,000
National Fisheries Research Center (Leetown, WV)	5,550,000
National Training Center, Harpers Ferry, WV	4,900,000
National Wetlands Research Center, Lafayette LA	6,000,000
North Attleboro NFH, MA rehabilitation	1,750,000
Okeefenokee Swamp GA/ FL Bridge repairs	840,000
Pacific Institute of Natural Sciences	1,000,000
Patuxent NRC, MD	3,100,000
Quilcene NFH, WA (pollution abatement facilities)	748,000
San Bernardino NWR, AZ (power supply)	160,000
Saratoga NFH, WY	100,000
Stewart McKinney NWR, CT (maintenance/headquarters)	630,000
Stillwater NWR, NV water rights	1,500,000
Striped bass study	300,000
Tinicum NEC, PA	1,000,000
White River NWR, AR Essex Bayou Bridge	335,000
Michita Mountains NWR, OK:	
Lake Elmer Thomas Dam	3,000,000
Road Rehab	800,000
Sewage Lagoons	200,000
Visitor center planning	450,000
Willow Beach NFH, AZ rockslide protection	75,000
Total, Construction and Anadromous Fish	58,560,000

The managers have included $3,750,000 for repairs to the Maxent Lagoon Levee at Bayou Sauvage NWR, Louisiana. The actual construction cost could be twice this amount. The Service is to seek full funding for reconstruction of the levee from other sources. Until full funding is attained, no funds should be expended for land acquisi-

tion to establish the refuge. If this approach proves unworkable, the Service should propose by May 1, 1990 other uses for the previously appropriated land acquisition monies and the $3,750,000 in construction funds contained in this bill.

The allowance includes $4,900,000 for construction of a national training center near Harpers Ferry, West Virginia. Approximately $2,900,000 of this amount is for design of the facility. The Service should consider design options which would permit use of the Center to meet the fish and wildlife training needs of other Federal and State agencies, as well as private organizations on a reimbursable basis. The design concept should include aquatic education, as well as a fresh water aquarium for public visitation. When the project design has reached the 35% completion stage, the Service should report to the Committees on the pros and cons of including a public aquarium as well as the potential for offsetting the cost of such an aquarium through outside donations, user fees, or other means.

The managers agree that:

1. the Fish and Wildlife Service is to prepare a report on the building needs at the Brazoria NWR, TX to include an analysis of site availability and cost estimates to be submitted to the Committees no later than March 1, 1990;

2. unobligated balances from the construction of the Northeast Anadromous Fish Laboratory may be used to acquire equipment and furnishings which are necessary for the laboratory and which are consistent with the original plan for the facility;

3. the Fish and Wildlife Service is to work with the Department of Defense for joint funding of the Lake Elmer Thomas Dam;

4. the National Wetlands Research Center may be constructed on lands leased from the University of Southwestern Louisiana on a long-term basis with the understanding that access roads and utilities will be provided by sources other than the Fish and Wildlife Service;

5. innovative and cost effective techniques should be used in the construction associated with erosion control at Eastern Neck Wildlife Refuge, MD, including the use of the Maryland National Guard if appropriate;

6. funds provided for the Stewart McKinney NWR, CT are for a maintenance/headquarters facility;

7. the Service is to report to the Committees regarding the concept for the Homer Research & Maintenance Facility before May 1, 1990;

8. the $900,000 for construction at Alligator River NWR, NC is for a shop and service facility;

9. the $1,640,000 for Cheyenne Bottoms, KS is a one time only appropriation;

10. the striped bass study should emphasize the Chesapeake Bay; and

11. a total of $500,000 is provided to initiate a joint administrative facility with the National Park Service on the site of the Kenai NWR, AK visitor center; and, of this amount, $280,000 shall be provided by the National Park Service.

Amendment No. 14: Provides $1,800,000 for the Anadromous Fish Conservation Act instead of $2,000,000 as provided by the House and $1,500,000 as proposed by the Senate. This amount includes $300,000 for the striped bass study.

LAND ACQUISITION

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $67,990,000 for land acquisition instead of $65,790,000 as proposed by the House and $52,810,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree to the following distribution:

Acquisition management	$3,000,000
Emergency and hardships	1,500,000
Ace Rivers Basin, SC	1,500,000
Blunt-nosed lizard, CA	160,000
Bogue Chitto NWR, LA	500,000
Bowerman/Grays Harbor, WA	700,000
Cache River NWR, IL	2,000,000
Cape May, NJ	1,000,000
Chincoteague NWR, VA	4,730,000
Columbia River NWR, WA/OR	1,500,000
Great Swamp NWR, NJ	1,000,000
High priority wetlands	11,000,000
Key Deer NWR, FL	1,000,000
Klamath Forest NWR, OR	3,300,000
Lake Ophelia NWR, LA	3,000,000
Lower Rio Grande NWR, TX	8,000,000
Minnesota Valley NWR, MN	3,000,000
Oahu forest birds, HI	2,500,000
Ohio River islands, WV	850,000
Pelican Island NWR, FL	1,900,000
Pettaquamscutt NWR, RI	1,400,000
Rachel Carson NWR, ME	2,400,000
Sacramento River NWR, CA	2,000,000
San Francisco Bay NWR, CA	3,750,000
San Joaquin River NWR, CA	3,000,000
San Pablo Bay NWR, CA	3,000,000
Stone Lakes NWR, CA	100,000
Tensas NWR, LA	200,000
Total, land acquisition	67,990,000

Although the managers have not provided any funds for the Animas Mountains NWR, NM (Gray Ranch), there is strong interest in this area being in Federal ownership. When mineral rights, grazing and hunting questions have been resolved, the managers will give every consideration to providing appropriations.

The managers agree that:

1. the Service should examine alternatives to fee acquisition to protect sea turtles at the Archie Carr NWR, FL and should work with individual landowners to establish acquisition priorities where there is no alternative to fee acquisition and report to the Committees by May 1, 1990;

2. within the $11,000,000 for high priority wetlands is $2,000,000 for the National Fish and Wildlife Foundation;

3. acquisition at Lake Thompson NWR, SD may come from the amount provided for high priority wetlands;

4. the $100,000 provided for the Stones Lake NWR, CA is for the Service, in cooperation with the relevant State, county and local governments, to complete an assessment and provide a recommendation for the establishment of the refuge;

5. The Service is encouraged to use the high priority wetlands money for areas such as Bond Swamp NWR, GA; and

6. the Service should return to an active land acquisition program at Tensas NWR with funds that are to be restored from the firefighting account.

NATIONAL WILDLIFE REFUGE FUND

Amendment No. 16: Appropriates $9,000,000 for the National Wildlife Refuge Fund instead of $7,645,000 as proposed by the House and $10,500,000 as proposed by the Senate.

Amendment No. 17: Deletes Senate provision which would have made up to $2,845,000 additional available for the National Wildlife Refuge Fund to be derived from the Federal share of receipts from onshore minerals leasing and royalty collection in excess of $389,000,000.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $778,419,000 for Operation of the National Park System instead of $774,179,000 as proposed by the House and $771,617,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase to the amount provided by the House includes increases of $800,000 for new or expanding park areas, $125,000 for the Student Conservation Association, $400,000 for the National Trails System, $2,164,000 for park operations, $150,000 for the Harpers Ferry NHP visitor transportation system, $500,000 for drug operations, $85,000 for Harpers Ferry police, $241,000 for additional costs associated with lease of a helicopter, $500,000 for acceleration of review of Alaska mining and minerals, $500,000 for protection of archeological resources to prevent looting, $250,000 for informational publications, $200,000 for the Native Hawaiian Culture and Arts program, $1,000,000 for Fisk University, $175,000 for a Wheeling, WV commission, and $200,000 for the Steel Industry Heritage Task Force; and decreases of $240,000 for emergency storm and fire damage, $500,000 for in-park management and administration, $75,000 for Navy Memorial operations, $263,000 for artifact preservation and collection management, $20,000 for the International Union for Conservation of Nature, $1,927,000 in additional retirement system costs, and $25,000 related to the Blackstone River Corridor Commission.

The managers agree that:

1. each park should receive no less than a five percent increase over fiscal year 1989 while capping the increase for individual parks at fifteen percent for all but new or expanding parks;

2. while no specific amount is provided to train Alaska Natives for Federal land management positions, the Service is encouraged to work with Natives toward this purpose;

3. the Service should explore technological options to prevent looting of cultural or archeological resources;

4. funds provided for wolf reintroduction at Yellowstone National Park are to continue studies necessary for wolf reintroduction without development of a formal environment impact statement;

5. within available maintenance funds there is up to $50,000 for a study of the use of calcium magnesium acetate;

6. the Service is encouraged to continue its progress in the planning process for Natchez NHP, MS and in the establishment of the Park;

7. the Service is expected to report to the Committees by March 1, 1990 on the feasibility of establishing an Asian cultural center at Jean Lafitte NHPP, LA;

8. no funds are made available for a comprehensive river conservation study of Hanford Reach;

9. the Service is directed to provide the Committees by January 1, 1990 a plan for reducing servicewide administrative costs;

10. the budget request includes $80,000 to continue the Spanish colonization study;

11. of the $325,000 provided for the Blackstone River Valley National Heritage Corridor, $230,000 is for the Commission and $95,000 is for the National Park Service technical assistance for development of the corridor;

12. in lieu of language contained in the House and Senate reports, the Service is directed to report to the Committees before March 1, 1990, on the advisability of consolidating the Williamsport Training Center activities and to incorporate new initiatives, and on a suitable location or locations for these activities near Williamsport or elsewhere;

13. there is no objection to the Service's development of regulations regarding subsistence fishing at Glacier Bay NP, AK;

14. the Service is to make a grant of $175,000 to the City of Wheeling, West Virginia for the purpose of establishing a commission to cooperate with the Service on reviewing the historic features of Wheeling for incorporation as a unit of the National Park System;

15. of the $1,800,000 provided for the Native Hawaiian Culture and Arts program, $1,000,000 is for the Hawaii Maritime Museum; and

16. the only change from the budget request for general management plans as detailed in a May 12, 1989 memorandum is provision for $125,000 to continue the New River Authority.

Amendment No. 19: Provides $500,000 for the National Institute for the Conservation of Cultural Property as proposed by the House and stricken by the Senate.

Amendment No. 20: Deletes House provision which established a minimum level of employees for the Cuyahoga Valley National Recreation Area, Ohio.

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $85,000 for police operations at Harpers Ferry, WV.

Amendment No. 22. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which requires an environmental impact statement to evaluate alternative levels of development within the Appalachian Trail ~~corridor in Rutland County, Vermont and~~ prevents the Secretary of the Interior from implementing the easement signed January 19, 1989, between the National Park Service and Killington, Ltd., Inc., until 60 calendar days after the final EIS is filed.

NATIONAL RECREATION AND PRESERVATION

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $16,136,000 for national recreation and preservation instead of $16,029,000 as proposed by the House and $15,735,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase above the House level includes increases of $135,000 for Allegheny County, PA HAER activities, $100,000 for a historic preservation technology transfer program, $100,000 for the Steel Industry Heritage Task Force, $25,000 for the Carrie Furnaces/Homestead Works, and $75,000 for Allegheny, Beaver, Washington and Green counties reconnaissance; and decreases of $28,000 for Chicago landmarks and $300,000 in the Rivers review activity.

Funds for Gettysburg, PA technical assistance are provided in the construction account.

HISTORIC PRESERVATION FUND

Amendment No. 24: Appropriates $32,750,000 for the Historic Preservation Fund instead of $30,500,000 as proposed by the House and $38,000,000 as proposed by the Senate.

The increase above the House level includes $1,000,000 for the final year of the Bicentennial Lighthouse Fund, $1,000,000 for State grants and $250,000 for the National Trust for Historic Preservation. Within the amount provided for State grant is $500,000 for grants to tribes pursuant to 16 USC 470a(d)(3)(B). Such grants are not subject to the matching requirements contained in 16 USC 470b(a)(3).

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $1,000,000 for the Bicentennial Lighthouse Fund and establishes procedures for distribution of the money.

CONSTRUCTION

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $199,716,000 for construction instead of $174,210,000 as proposed by the House and $140,851,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to amendment of the Senate.

The managers have agreed to the following distribution of funds:

America's Industrial Heritage, PA	$8,332,000
Apostle Islands, NL, WI (Little Sand Dock)	380,000
Arkansas Post NM, AR	100,000
Biscayne, NP, FL	3,948,000
Boston-African American NHS, MA	1,525,000
Buffalo NR, AR (Erbie campground/Tyler Bend)	2,000,000
Canaveral NS, FL (Playalinda Beach Rd)	~~2,600,000~~
Canyonlands NP, UT	4,000,000
Cape Hatteras NS, NC (comfort station/showers)	207,000
Chamizal NM, TX	500,000
Chickamauga/Chattanooga NMP:	
Road relocation	8,000,000
Visitor center	1,000,000
Crater Lake NP, OR (Lodge stabilization)	50,000
Cuyahoga Valley NRA, OH:	
Krejci Dump Site	4,000,000
Canal Visitor Center—site development	293,000
Ohio and Erie Canal Towpath	2,682,000
Oak Hill Environmental Education Center	350,000
Delaware Water Gap NRA, NJ (Watergate campground facilities)	600,000
Foothills Parkway TN (road resurfacing)	1,000,000
Fort Clatsop NM, OR	1,795,000
Franklin Delano Roosevelt Memorial, DC	5,852,000
Gateway NRA, NJ/NY:	
Canarsie Pier	7,030,000
Sandy Hook bathroom and showers	930,000
Sandy Hook water well	600,000
George Washington Memorial Parkway, VA:	
Maintenance facility	3,985,000
Spout Run improvements	8,000,000
Golden Gate NRA, CA (restroom facilities)	1,210,000
Haleakala NP, HI (fencing)	250,000
Harpers Ferry NHP, WV	650,000
Hawaii Volcanoes NP, HI (fencing)	250,000
Hot Springs NP, AR	800,000
Indiana Dunes NL, IN	2,000,000
Jean Lafitte NHPP, LA:	
Big Woods Environmental Center	1,674,000
Acadian Cultural Center Exhibits	2,094,000
Acadian House	750,000
Jimmy Carter NHS, GA (school stabilization)	200,000
Kenai Fjords NP, AK (maintenance facility)	443,000
Klondike Gold Rush NHS, AK	1,124,000
Knife River NHS, ND (visitor center)	2,100,000
Lake Mead NRA:	
Purchase toilet facilities	400,000
Sanitation facilities	340,000
Road construction	500,000
Lassen Volcanic NP, CA	310,000
Lincoln Home NHS, IL	745,000
Lowell Historic Preservation Commission	5,250,000
Mesa Verde NP, CO (water treatment plant)	850,000
Natchez Trace Parkway	17,000,000
New River NR, WV	3,325,000
North Cascades NP, WA (Henry Jackson Visitor Center)	2,620,000
Petrified Forest NP, AZ	5,624,000
Pinelands NR, NJ (observations facility)	200,000
Rocky Mountain NP, CO (deactivate Bluebird Dam)	700,000
Salem Maritime NHS, MA	300,000
San Antonio Missions NHP, TX	200,000
Sequoia NP, CA (Replace Giant Forest facilities)	4,759,000
Sleeping Bear Dunes NL, MI (Platte River Campground)	2,000,000
Steamtown NHS, PA	12,000,000
Stones River NP, TN (Fortress Rosecrans)	525,000
Suitland Parkway, MD (rehabilitation)	6,000,000
Theodore Roosevelt NP, ND	400,000
Tuskegee Institute NHS, AL	4,000,000

Women's Rights NHS, NY.	588,000
Yellowstone NP, WY:	
Canyon Water treatment	2,886,000
Old Faithful garage/warehouse	650,000
Yosemite NP, CA (rehab park electrical system)	1,174,000
Emergency, unscheduled and housing	12,500,000
Planning:	
America's Industrial Heritage Project:	
Summit Level	105,000
Oral histories	185,000
Allegheny Highlands Rails to Trails Project	133,000
Altoona Rail Memorial Museum	150,000
Aluminum Heritage Research	50,000¢
Bedford Transportation Museum	75,000
Brownsville Reconnaissance Survey	110,000
Mt. Edna Iron Furnace Complex	100,000
Saltsburg Canal	75,000
Somerset Center	220,000
St. Michael Historic District	50,000
Windber/Scalp Level Coal Heritage	100,000
Andersonville NHS, GA (road and visitor center)	435,000
Blue Ridge Parkway, NC:	
Headquarters/Visitor Center	560,000
Fisher Peak	800,000
Castillo de San Marcos, FL	160,000
Coal Heritage: Southern WV	100,000
Coastal Heritage Trail, NJ.	125,000
Crater Lake NP, OR (Lodge Rehab and Rim Development)	2,241,000
Delaware Water Gap NRA, NJ (Weygadt Visitor Center)	300,000
Denali NP, AK (hotel and related facilities)	800,000
El Malpais NM, NM (multi-agency facility)	200,000
Everglades NP, FL (visitor center complex)	154,000
Fort Clatsop NM, OR	105,000
Gateway NRA, NY (Jacob Riis Park)	934,000
Gettysburg Historic Pathways	100,000
Glacier NP, MT (facility rehabilitation)	500,000
Grand Portage NM, MN (multi-purpose facility)	180,000
Hagerman Fossil NM, ID (visitor center)	200,000
Harpers Ferry NHP, WV	1,905,000
Hot Springs NP, AR (comfort stations/wayside exhibits)	290,000
Jean Lafitte NHPP:	
Acadian House headquarters	165,000
Big Woods Environmental Center	150,000
Westbank riverfront exhibits	36,000
John Day Fossil Beds NM, OR	360,000
Joshua Tree NM, CA	187,000
Lake Mead NRA (flood problem areas)	300,000
Lewis and Clark National Historic Trail Interpretation Center, NE	300,000
Little River Canyon, AL	150,000
New River NR, WV (Thurmond, Fayette, Cunard)	1,055,000
Pinelands NR, NJ (Interpretative program)	200,000
Saguaro NM AZ (Red Hills)	367,000
Salem Maritime NHS, MA.	2,630,000
Scranton Heritage Park, PA	150,000
Voyageurs NP, MN (Kettle Falls Hotel)	300,000
Western Historic Trails Center, IA	300,000
Women's Rights NHP, NY	800,000
Budget request	10,874,000
Add-on planning	800,000
Total, Construction	199,716,000

The manages agree that:

1. the Service should report to the Committees on total development of Canyonlands NP, UT at $4,000,000, $6,000,000, $8,000,000, $10,000,000 and $12,000,000 levels within thirty days of enactment and should not advertise for bids for construction until sixty days after that report has been submitted;

2. the Service should report quarterly to the Committees on the use of the emergency, unscheduled projects funds provided in the construction account;

3. the Service should provide a phased working plan to the Committees on the proposed facility rehabilitation at Glacier NP, MT;

4. the Service should explore alternate financing methods for the rehabilitation of individual houses at the Martin Luther King, Jr. NHS, GA and report to the Committees by March 1, 1990;

5. the Service shall report to the Committees by November 1, 1989 on the health and safety project needs on a Park by Park basis and in priority order servicewide;

6. the Service is to construct a bear observation platform on the Naknek River in Katmai NPP. The Park Service should fully construct this platform with $100,000 to be reprogrammed from funds previously appropriated for a pedestrian bridge over Margot Creek, also in Katmai NPP;

7. a report should be submitted to the Committees by the Service before March 1, 1990, on the advisability of increasing the number of over-night accommodations beyond 144 in the replacement Denali Park Hotel. The report should also indicate the estimated Federal and non-Federal cost increases associated with the additional accommodations;

8. Scranton Heritage Park funds are for technical assistance only;

9. the National Park Service should work with the Forest Service to develop a national policy for the interpretation of America's historic trails; and

10. a total of $500,000 is to be available to initiate design and construction of a joint National Park Service-Fish and Wildlife Service administrative facility on the site of the Kenai NWR Visitor Center, serving both the refuge and Lake Clark NPP. The initial construction funding includes reprogrammings from prior appropriations of $220,000 from the Margot Creek pedestrian bridge in Katmai NPP and $60,000 from the Polychrome Pass portable rest rooms in Denali NPP and a new appropriation of $220,000 which is included within the Construction and Anadromous Fish account of the Fish and Wildlife Service.

LAND ACQUISITION AND STATE ASSISTANCE

Amendment No. 27: Appropriates $88,556,000 for land acquisition and State assistance instead of $81,016,000 as proposed by the House and $89,018,000 as proposed by the Senate.

The managers agree to the following distribution of funds:

Assistance to States:	
Matching grants	$16,700,000
Administrative expenses	3,300,000
Subtotal	20,000,000
National Park Service:	
Acquisition management	6,317,000
Emergency inholding and hardship acquisitions	5,000,000
Antietam'NB, MD	500,000
Appalachian Trail	7,000,000
Blue Ridge Parkway, NC (Fisher Peak)	1,300,000
C&O Canal NHP	4,000,000
Chattahoochee River NRA, GA	3,000,000
Congaree Swamp NM, SC	1,500,000
Cuyahoga Valley NRA, OH	3,000,000
Delaware Water Gap NRA PA/NJ	750,000
Denali NP, AK (mountaineering center)	75,000
El Malpais NM, NM	2,500,000
Gates of the Arctic NPP, AK (Helmericks prop.).	1,179,000
Haleakala NP, HI	1,000,000
Indiana Dunes NL, IN	500,000
Jean Lafitte NHP and Preserve, LA	1,500,000
John Muir NHS, CA	2,000,000
Lake Clark NPP, AK (Tazimina Lake)	1,500,000
Lewis and Clark Trail Site, IL	115,000
Lowell NHP, MA	600,000
McKinley site	800,000
Natchez NHP, MS	5,270,000
National Park of American Samoa	400,000
New River Gorge NR, WV	4,000,000
Petroglyphs NM, NM	1,000,000
Pinelands NR, NJ	500,000
Santa Monica Mountains NRA, CA	12,000,000
Timucuan E&H Preserve, FL	750,000
War in the Pacific, Guam	500,000
Subtotal, NPS acquisition	68,556,000
Total, land acquisition & State assistance	88,556,000

The managers agree to the detailing of regional office staff to Santa Monica Mountains NRA, CA to provide on site land acquisition support.

Federal acquisition of private inholdings in the Kantishna area of Denali NPP is highly desirable if such acquisition can significantly benefit the preservation of wildlife sightings in areas adjacent to the Denali Park Road, and if the acquisition can be accomplished at a reasonable cost. The Service is directed to prepare a list of all inholdings in Denali NPP; the name of each owner or owners; the statutory basis for the inholding (Mining Act, Homestead Act, etc.); the approximate acreage of the inholdings;

its current, and potential, relative threat to Park values (high, medium, low); and its location and number on an accompanying map. In addition, a comprehensive resource management plan should be prepared for the Kantishna region. The plan should identify reasonable strategies for accommodating or resolving the inherent conflicts between resource utilization and preservation. Furthermore, to the extent that the draft Environmental Impact Statement, which is to be finalized in October, 1989, indicates that mining in certain areas may be acceptable, the Service is directed to work with mining applicants on a cooperative basis, and at early stages, to minimize expenses in developing mining plans of operation which comply with existing and new regulations. Resource protection by frustration is not an acceptable strategy. For example, if mining is clearly not permissible in certain proposed areas or circumstances, then a speedy rejection is preferable to a protracted maze of administrative hurdles whose successful completion holds no likely benefit to the applicant. The Service should provide the information related to inholdings and the comprehensive resource management plan no later than May 1, 1990.

No money has been provided for land acquisition at Valley Forge NHP, PA because of the slow pace of obligating land acquisition funds. The managers agree that the pace of land acquisition at Valley Forge should be accelerated.

Amendment No. 28: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter proposed by said amendment, insert: *: Provided further, That of the amount provided above, $800,000 is for acquisition of the Saxton House, 331 South Market Street, Canton, Ohio, as if authorized by the Historic Sites Act of 1935 (16 U.S.C. 462(e)): Provided further, That section 317 of Public Law 98-146 is amended by adding the following:*

"The land owner may also use the credits in exchange for excess lands, wherever located, under the jurisdiction of the Secretary of the Interior."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment clarifies the section of Public Law 98-146 being amendment and allows the National Park Service to acquire the Saxton-McKinley Site.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

Amendment No. 29: Appropriates $9,193,000 for the John F. Kennedy Center for the Performing Arts as proposed by the Senate instead of $15,193,000 as proposed by the House.

Amendment No. 30: Provides $4,000,000 to remain available until expended for garage repairs at the John F. Kennedy Center for the Performing Arts as proposed by the Senate instead of $10,000,000 as proposed by the House.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

Amendment No. 31: Appropriates $484,709,000 for surveys, investigations, and research instead of $486,931,000 as proposed by the House and $476,909,000 as proposed by the Senate. The decrease below the amount proposed by the House consists of $67,000 for volcano hazards reduction, $200,000 for Louisiana barrier island studies in coastal studies, $1,250,000 in offshore geologic surveys, $205,000 in mineral resource surveys for roadless and RARE II areas, and $500,000 for modernization of water data dissemination.

The managers agree that:

1. all geomagnetism observatories are expected to continue operations;

2. contributing States should continue to receive priority consideration in the National Aerial Photography Program (NAPP);

3. the Survey should continue the existing site selection process for establishing priorities for the side-looking airborne radar (SLAR) program; however, if priority considerations permit, coverage of Louisiana, Mississippi, and Alabama and contiguous geologic features should be completed;

4. the national program plan for coastal studies should include western Louisiana and eastern Texas as part of options presented to the Congress;

5. the Survey should conduct a feasibility study on alternate locations for the Deer Creek marine research facility, including, but not limited to the Marine Science Center in Newport, OR;

6. any water quality assessments of Tualatin River pollution in Oregon should be carried out as part of the joint Federal-State cooperative water program, and should not be undertaken by the Survey without State participation;

7. the Survey shall explore the possibility of assisting the Town of Searchlight, Nevada, through the Federal/State Cooperative Program, in its effort to locate a water supply for use by the local citizenry; and

8. the Survey shall expend the $1.5 million appropriated for mineral resource investigations of roadless areas on work identified during the development of the Idaho State Wilderness Bill. The Geological Survey shall coordinate their field operations with those of the Bureau of Mines and the Idaho Geological Survey.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

Amendment No. 32: Appropriates $178,525,000 for leasing and royalty management instead of $175,066,000 as proposed by the House and $179,761,000 as proposed by the Senate.

The net increase over the amount proposed by the House includes increases of $1,000,000 in outer continental shelf lands for second year funding of a three-year cost-shared oil spill research initiative and $3,600,000 in royalty management to initiate a project to place audits on a more timely schedule using additional in-house and State and tribal auditors.

The increases are partially offset by decreases of $1,000,000 in outer continental shelf lands for the environmental studies program and in royalty management of $100,000 for systems development and $41,000 for refunds on Indian allottee lease overpayments.

The managers agree that the MMS should coordinate and cooperate in the Northwest OCS Task Force which was established to assist in identifying and resolving OCS issues specific to that region. The managers expect the MMS to work closely with the task force on identifying and conducting needed environmental studies and on scheduling the prelease steps leading to Sale 132. The Federal government and the States are urged to appoint high level management officials, authorized to make commitments on behalf of their respective organizations, to the task force.

The managers agree that the focus of the oil spill research initiative should be on containment, cleanup and mitigation measures including those associated with spills from tanker accidents.

Elsewhere in the bill there are restrictions on OCS oil and natural gas leasing activities. None of these restrictions apply to the non-fuel minerals leasing program on the OCS.

The grounding of the Exxon Valdez on March 24, 1989 in Prince William Sound has led to concern among many people, including the fishermen of Bristol Bay, over the possible impact oil and gas exploration and development in the North Aleutian Basin could have on fisheries resources. The managers recognize that these concerns should be addressed before oil and gas exploration in Bristol Bay goes forward. For that reason, the managers have included a one-year moratorium on exploration and development in the North Aleutian Basin.

The managers agree that the Secretary of the Interior should conduct a three-pronged study to address concerns related to oil and gas exploration in the North Aleutian Basin and report to the Committees by March 1, 1991 as follows:

2. Within available funds, the Fish and Wildlife Service, in cooperation with the National Oceanic and Atmospheric Administration and the State of Alaska, is to conduct a study of the effects of the March 24, 1989 oil spill on the Prince William Sound fisheries. The Service may draw upon the results of the fisheries research projects being conducted as part of the damage assessment process under the Clean Water Act and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). These studies are already funded through the CERCLA process. The study should also address the applicability of its findings to reasonable potential threats to the Bristol Bay fisheries if OCS exploration and production were to occur in the North Aleutian Basin.

2. In order to better assess the risk in the North Aleutian Basin, the Secretary is to determine if:

(i) contingency plans for the North Aleutian Basin are acceptable and based on the best available technology;

(ii) the technology, equipment and personnel will be in place and personnel will be adequately trained to implement the contingency plans; and

(iii) the contingency plans together with the technology, equipment and personnel in place to implement them are capable of containing a maximum volume spill during the exploration phase. A maximum volume spill shall be determined by potential spill volume and without reference to the probability of such a spill occurring.

3. The Secretary is to examine the possible repurchase of leases currently held in the North Aleutian Basin, including alternative options for compensating lease holders in the North Aleutian Basin, assuming the compensation procedures outlined in 43 U.S.C. 1334 and applicable court decisions. These options should include, to the extent practicable, credits in lieu of appropriations, such as credits on Federal royalties on producing OCS leases. Based on the results of the Fish and Wildlife study and the North Aleutian Basin risk assessment study, the Secretary is to recommend whether the repurchase options should be exercised. No such option may be exercised, however, without an Act of Congress addressed to this issue.

In directing the Department to conduct these studies, the managers' action should not be construed as support by the Congress for either continuing or discontinuing the moratorium in the North Aleutian Basin. Nor should it be construed as taking a position on whether the leases should be repurchased.

In other matters, the managers endorse the concept of a more timely audit cycle using in-house and State and tribal auditors. The managers caution the MMS to proceed at a reasonable pace in implementing the contemporaneous audit initiative. Candidates for in-house auditing positions should be carefully screened and interviewed to ensure that a high quality and enduring program is maintained. Hiring through term appointments for the audit program should be minimized and used only to the extent that highly qualified candidates are available for such appointments. Routine attrition in the staffing of permanent positions should permit the MMS to manage an orderly reduction of the additional auditors hired to support the project as the contemporaneous audit objectives are achieved.

Amendment No. 33: Earmarks $56,060,000 for royalty management instead of $52,601,000 as proposed by the House and $56,796,000 as proposed by the Senate.

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter proposed by said amendment, insert: *: Provided further, That of the above enacted amounts, up to one-half of the increase over the fiscal year 1989 funding provided for mineral royalty audits may be used to compensate States and Indian tribes for audit activities under the provisions of sections 202 and 205 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732, 1735): Provided further, That for fiscal year 1990 and each fiscal year thereafter, notwithstanding the provisions of section 201 of the Federal Oil and Gas Royalty Management Act of 1982, sections 202 through 206 of that Act shall apply to any lease or portion of a lease subject to section 8(g) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1337), which, for purposes of those provisions and for no other purposes, shall be regarded as within the coastal State or States entitled to receive revenues from it under section 8(g)*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment modifies language proposed by the Senate regarding audit funding for States and Indian tribes to clarify that up to one-half of the increase in audit program funds may be used for State and tribal audit programs, in addition to the funds already in the base for these programs. Further, the managers have included language authorizing the Secretary to enter into cooperative agreements for the conduct of 8(g) audits.

Amendment No. 35: Restores language proposed by the House and stricken by the Senate providing for refunds of Indian allottee royalty overpayments and earmarks $64,000 for these refunds instead of $105,231 as proposed by the House and nothing as proposed by the Senate.

Amendment No. 36: Deletes language proposed by the House providing for deduction of the administrative costs of the mineral leasing program prior to division and distribution of the receipts between the States and the Treasury.

BUREAU OF MINES

MINES AND MINERALS

Amendment No. 37: Appropriates $174,759,000 for mines and minerals instead of $161,876,000 as proposed by the House and $175,000,000 as proposed by the Senate.

The net increase above the House level includes increases of $1,200,000 in information and analysis for second year funding of a four-year mineral land assessment study program on roadless lands in Idaho; $500,000 in health, safety and mining technology for development and field testing of control and guidance technology for high wall mining systems including the Edna mining system, $5,000,000 to continue the 25 percent cost-shared Casa Grande in-situ copper leaching field test, $500,000 for in-house laboratory support for the Casa Grande project, $500,000 for rockbursts, and $250,000 for self-contained self-rescuers; $1,000,000 in minerals and materials science to continue strategic and critical minerals research at the Idaho National Engineering Laboratory; $300,000 in environmental technology for third-year funding of a five-year demonstration program on soil revegetation conducted with the Soil Conservation Service in Arkansas and $1,500,000 for research on water contamination associated with mining of which $500,000 is earmarked for the University of Idaho; and $4,425,000 in mineral institutes for allotment grants to the 32 institutes and $108,000 for program administration.

The increases are partially offset by reductions of $1,000,000 in health, safety and mining technology for mine entry studies; and $1,400,000 in environmental technology for biotechnology in waste management research.

The managers understand that the cost-shared Oregon metals initiative is expected to amount to a total project cost of $5,000,000 over three years.

The managers agree that $150,000 of the funds provided for subsidence research should be used for a characterization study at an abandoned iron ore mine site in Mine Hill, New Jersey, with the understanding that local, county or State funds will be identified to match the Federal share and that the total cost of the project will not exceed $300,000. Further, the managers agree that the $1,200,000 for the Marine Minerals Technology Center shall be allocated in the manner described in P.L. 100-202 (101 Stat. 1329-226).

Amendment No. 38: Earmarks $105,035,000 to remain available until expended instead of $97,885,000 as proposed by the House and $105,935,000 as proposed by the Senate.

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided further, That the Secretary is authorized to convey in fee the decommissioned Keyes Helium Plant in Keyes, Oklahoma, to the Cimarron Industrial Park Authority, a public trust of the State of Oklahoma, on or before September 30, 1990, on terms mutually agreed on between the Secretary and the Authority: Provided further, That prior to conveyance, the Secretary shall complete the current effort to repair asbestos insulation on piping and equipment, including cleanup and disposal of asbestos containing debris: Provided further, That, as a condition of conveyance, the Cimarron Industrial Park Authority shall accept full responsibility for any remedial actions with respect to hazardous substances remaining at the plant after the date of conveyance*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment modifies language proposed by the Senate regarding conveyance of the Keyes Helium Plant to state that the plant has been decommissioned and to specify that the Secretary's responsibility with respect to asbestos cleanup is limited to completion of the current repair and cleanup project.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

The managers agree that, in addition to standardized data reporting, annual State evaluations and reports should identify specific accomplishments and areas in need of improvement and that the State oversight prototype project should be limited to no more than four States. The Committees are to be kept apprised of the status of the prototype project on a quarterly basis.

ABANDONED MINE RECLAMATION FUND

Amendment No. 40: Appropriates $192,772,000 for the Abandoned Mine Reclamation Fund as proposed by the House instead of $192,112,000 as proposed by the Senate.

The managers agree that the Office of Surface Mining Reclamation and Enforcement (OSM) should work with the States to help them identify approaches to improving their grant obligation rates and report to the Committees, no later than two weeks prior to the first of the OSM's fiscal year 1991 budget hearings before the Committees, on the results of OSM's consultations with the States.

The managers ask that the OSM identify the remaining available funds for acquisition and relocation activities under Public Law 98-181 (97 Stat. 1294) and report to the Committees on the amount of those funds which are considered in excess of the requirements for which they were appropriated. Further, the OSM is to report to the Committees on the advisability of funding a joint demonstration program which would provide surplus heavy equipment for land reclamation in the Pennsylvania Counties of Luzerne, Columbia, Montour, Northumberland, Carbon, Monroe and Sullivan. The report should include a detailed description of what the demonstration program would entail and information on the total estimated cost for the project by fiscal year. The managers neither endorse nor oppose this project. The Committees will review the merits of the project after receipt of the OSM report.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

Amendment No. 41: Appropriates $1,035,534,000 for operation of Indian programs instead of $1,065,574,000 as proposed by the House and $965,126,000 as proposed by the Senate. The decrease from the amount proposed by the House consists of increases of $356,000 for school operations, including $256,000 for the Writers Workbench demonstration project, ND and $100,000 for a pilot project for the Mississippi Band of Choctaw Indians; $1,525,000 for continuing education; $500,000 for employment development for the Crownpoint Institute of Technology; $900,000 for real estate and financial trust services; and $250,000 for

general administration; and decreases of $500,000 for tribal government services, for new tribes funding; $6,993,000 for Indian services—tribe/agency operations; $75,000 for economic development; $520,000 for natural resources, wildlife and parks; $1,783,000 for natural resources—tribe/agency operations; $700,000 for Indian rights protection; and $23,000,000 for tribal contract commission.

The managers encourage the bureau to work with the Hopi tribe to identify resources within the funds provided through the education formula to address the curriculum development needs of the tribe. The managers remain concerned about lack of adequate funding for schools such as the Hopi school to meet BIA education standards, and direct that the report on the lack of progress in meeting education standards requested in the House report be submitted to the Committees by no later than November 1, 1989. The managers have included funding, as proposed by the House, to restore the fiscal year 1989 funding level for substance and alcohol abuse counselors. The managers intend that the Bureau continue to try to hire certified substance abuse counselors wherever possible, or use the funds provided to secure additional substance abuse training for existing counselors or new hires.

For continuing education, the increases over the House consists of decreases of $200,000 for Haskell Indian Junior College, $100,000 for the Southwestern Indian Polytechnical Institute, and increases of $1,375,000 for Title I tribally controlled community colleges, and $450,000 for Title II, the Navajo Community College. The managers encourage the tribal colleges to continue their efforts to reduce costs and secure other sources of funds.

Within the total funding provided for new tribes, the managers intend that $500,000 be made available to the Coquille Tribe and $500,000 be made available to the Lac Vieux Desert Tribe.

With regard to the $500,000 provided for the Crownpoint Institute, the managers agree this is the last time funding will be provided unless authorizing legislation is enacted.

Under Indian services—tribe/agency operations, the managers have provided increases over the House of $50,000 for Penobscot community fire protection, and $380,000 for the Navajo Nation government reform task force to be matched equally by the tribe; and decreases of $323,000 for tribal courts, $2,000,000 for social services, associated with the child abuse initiative, $2,100,000 for law enforcement, and $3,000,000 for self-determination grants. Of the funds recommended for tribal courts, the managers recommend the following changes from the House level: decreases of $200,000 for Cheyenne River Sioux, $150,000 for the Northwest Intertribal, Court System, $23,000 for the Lower Elwha Tribe, and $50,000 for the Standing Rock Sioux; and increases of $50,000 for Pasqua Yaqui and $50,000 for St. Regis Mohawk. Within the increase of $200,000 over the budget for the Northwest Intertribal Court System, the managers intend for the Lower Elwha Tribe to be included in the system. Of the funding recommended for law enforcement, the following changes to the House recommendation are provided: decreases of $1,500,000 for juvenile detention centers staffing, $50,000 for Lower Elwha, $50,000 for Penobscot, $100,000 for Lummi, $100,000 for Cheyenne River Sioux, $50,000 for Ramah Navajo, $50,000 for Uintah and Ouray, $50,000 for Rosebud Sioux, $100,000 for Miccosukee, $50,000 for St. Regis Mohawk, and $100,000 for Standing Rock Sioux; and an increase of $100,000 is recommended for the San Carlos Apache.

With respect to contract support funds provided to the Bureau of Indian Affairs, the managers direct the Bureau and the Inspector General to take steps to notify tribes that indirect cost rates may be negotiated to include the administrative costs of operation of tribal departments of education. Because of the specific situation of the Mississippi Band of Choctaw Indians, the managers have included $100,000 for a one-year pilot projects for establishment of a reservation-wide education system. The Committees will review the results of this project before providing any additional funds for tribal departments of education. In addition, beginning with the fiscal year 1991 budget request, the Bureau shall identify separately the funds necessary to fund fully the administrative cost grants to schools operated by tribes and tribal organizations pursuant to P.L. 93-638 contracts and P.L. 100-297 tribally controlled school grants. The managers wish to reiterate that indirect costs related to construction are to be funded only from the "Construction" appropriation account.

The managers remain concerned about cost estimates associated with the new requirement of providing general assistance in the States of Washington and Oregon, and the Bureau's estimate that only 2.2 percent of eligible persons in Washington State will participate in the general assistance program. The Committees have provided $1,200,000 for this purpose, but should this amount not prove sufficient to meet the requirements of these States, the Bureau should notify the Committee promptly of the additional funds necessary. The Bureau should also report by no later than March 1, 1990 on the number of persons, by tribe, participating in the general assistance program in Washington and Oregon, and on the total estimated cost in fiscal year 1990 of the program in the two States.

The decrease from the House level in economic development consists of a decrease of $125,000 for the grant to Michigan tribes, and offsetting increases of $20,000 for the Indian Arts and Crafts Board to allow the Blackfeet tribe to contract for museum operations, and $30,000 for the proposed Kootenai tribe land transfer.

Within natural resources, the managers intend that $50,000 of the funds provided for forest products marketing assistance be used to update the Intertribal Timber Council's study on forest products marketing and business development. Under water management and development, the managers are aware of the requests of the Fort Belknap, Navajo, Nez Perce, Standing Rock Sioux, Rosebud Sioux and Yakima tribes for water management funds, and expect that these requests will be reviewed and funded to the maximum extent possible within the funds provided, including funds to continue the Navajo water monitoring program funded in prior years.

For natural resources, wildlife and parks, the decreases from the House level consist of $70,000 for the U.S./Canada Pacific Salmon treaty, $100,000 for Columbia River tribes planning, $100,000 for unresolved hunting and fishing rights, $50,000 for the Quinault tribe for fisheries habitat restoration on the Queets River, $50,000 for Suquamish fisheries management, $50,000 for Stillaquamish fisheries management, and $100,000 for the Native American Fish and Wildlife Society. The funding agreed to by the Committees for the Upper Columbia United Tribes should be used only in direct support of tribal needs.

The decrease for natural resources—tribe/agency operations consists of decreases of $633,000 for forestry and $1,150,000 for wildlife and parks. Within forestry, the reduction from the House level includes decreases of $133,000 for new lands associated with the Grand Ronde, $200,000 for the San Carlos Apache, and $300,000 for the White Mountain Apache.

The managers recommend no change to the total funding provided by the House for natural resources—tribe/agency operations for water resources. Within that total, however, the managers recommend a decrease from the House level of $150,000 for the Umatilla tribe, which will be funded within the water management line-item, and an increase of $150,000 for ongoing efforts in North Dakota to resolve water disputes, including the development of a water management plan.

The reduction from the House level for natural resources—tribe/agency operations includes the following decreases for wildlife and parks: $100,000 for the Cheyenne River Sioux, $50,000 for the Sault Ste. Marie, $200,000 for Yakima wildlife and fish, $150,000 for the Oglala Sioux, $50,000 for Umatilla fisheries, $50,000 for the St. Regis Mohawk, $300,000 for the Tulalip fisheries, $100,000 for the Karuk, $50,000 for the White Earth tribe, and $100,000 for the Nez Perce tribe.

Within trust responsibilities, the managers recommend a decrease of $200,000 to the House level for remedial investigations of environmental quality, and $500,000 for attorneys' fees. With respect to the *U.S.* v. *Oregon* litigation, the managers have concurred in the House funding of $300,000 for the Shoshone-Bannock tribe to address imbalances in funding provided for the various tribes participating in the litigation. It is the managers' intent that future funding related to this litigation be made available equitably to all the parties involved. Within water rights and negotiation, the Bureau is to provide $100,000 for contract studies for the Navajo and Hopi tribes and $1,300,000 for the Little Colorado River adjudication for claim preparation costs. No funds are earmarked for the Western Shoshone Nation.

For real estate and financial trust services, the managers have included increases above the House level of $400,000 for cadastral surveys related to the Arkansas Riverbed, and $500,000 for the trust fund accounting contract. The managers are aware of the tribes' concerns about unauthorized third party occupation of the riverbed lands which prevents the tribes from benefitting fully from the use and development of those lands. Therefore, the managers direct the Bureau of Land Management to expedite completion of the full 96 miles of needed riverbed surveying and to recommend a funding level for fiscal year 1991 necessary to continue this expedited pace of surveying. The managers direct that the Bureau take steps to address the concerns raised over account reconciliation of trust funds. The Bureau should take all possible steps to reconcile accounts to the maximum extent possible, and an independent party should review the Bureau's reconciliation efforts and certify that no further reconciliation can be achieved before such accounts are

transferred under the contract. The managers are also aware of concerns raised by another Committee of Congress with respect to the technical sufficiency of the contract and the operation of the software. It is the managers' expectation that the Bureau will address these concerns and will keep the Committees fully informed as to the steps taken to address these concerns.

For facilities management, the managers have concurred in the funding level proposed by the House. The funding provided for the facilities operation and maintenance program is to be distributed using the new allocation formula. With respect to the schools which serve the Eight Northern Pueblos, the managers understand their high priority needs will be addressed through the facilities improvement and repair and minor improvement and repair programs of the "Construction" appropriation account.

Within available funds provided to Alaska, $300,000 shall be provided to establish a joint Federal-State Commission on Policies and Programs Affecting Alaska Natives.

The managers are concerned about steps being considered which would effect the transfer of facility management functions under provisions in the Indian Education Act Amendments of 1988, prior to consultation with and agreement by the Appropriations Committees. In light of the reprogramming guidelines with respect to reorganizations and concerns raised over changes without consultation, the managers reiterate that no reorganization or transfer changes should be undertaken without approval by the Appropriations Committees. Prior to implementation of Section 5112(b)(1)(B) of the Indian Education Act Amendments of 1988 (P.L. 100-297), the Department is to submit a reprogramming proposal specifically identifying those facility management positions to be affected, addressing funding implications for continuing to carry out non-education facility requirements, and specifying the schedule for implementation.

Under general administration, the managers have recommended increases above the House level of $100,000 for departmental billings, $100,000 for position staffing in the automated data processing program, and $250,000 for a study of the costs associated with the recently enacted liability insurance provision. For departmental billings, the Department should include justification of such increases in the future in both the Bureau of Indian Affairs and Office of the Secretary budget justification documents. With regard to the liability insurance issue, as a temporary measure, the managers have included language in Title III of the Act extending coverage under the Federal Tort Claims Act to tribal contractors of both the Bureau and the Indian Health Service. In the interim, the managers expect the Bureau to work with the Indian Health Service and the Double Eagle, Inc. risk management group to address the cost implications of various options for extending liability coverage to tribal contractors. The managers expect these groups to work together, and to provide a joint report to the Committee by February 1, 1990 identifying the costs and benefits of various liability coverage alternatives.

On the matter of a field station at Neah Bay, Washington, the managers understand that the existing office has been established through funds available to the Portland Area, Olympic Agency. These funds should be transferred to the new agency office at Neah Bay for operation. The managers expect the Bureau to prepare a report on the staffing patterns at the various offices in the Portland area, including the identification of any shortfalls. The managers expect continued operation of the Klamath field office in fiscal year 1990 at current staffing levels.

The managers remain concerned about funding for the Penobscot and Passamaquoddy tribes of Maine. The managers expect the Bureau to conduct a comparison and analysis of the funding available to the tribes under the jurisdiction of the Eastern area office, along with data regarding the service population, the trust land base, and other relevant factors, and submit it to the Committees by March 1, 1990. This information should allow the Committees to assess the manner in which available resources are being allocated. Should this report suggest an inequitable allocation of funds within the Eastern area, the managers may in the future request additional analyses regarding the needs of these Maine tribes.

For tribal contract conversion funds, the managers have provided $54,000,000 in budget authority. It is the intent of the managers that these funds not be expended until the Bureau reports, by March 1, 1990, regarding the logistical and accounting needs of this conversion. Potential future conversion costs should also be analyzed.

Amendment No. 42: provides $2,180,000 for litigation support as proposed by the House instead of $1,480,000 as proposed by the Senate.

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment, insert the following: *: Provided further, That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for such tribe or individual have been audited and reconciled to the earliest possible date, the results of such reconciliation have been certified by an independent party as the most complete reconciliation of such funds possible, and the tribe or individuals has been provided with an accounting of such funds*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

As discussed earlier, the managers expect the Bureau to make every effort to complete reconciliation of tribal and individual trust funds to the maximum extent possible, and this effort should be reviewed and certified by an independent party.

Amendment No. 44: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which authorizes the payment of general assistance funds for dependent children of eligible Job Corps participants in Arizona at the full State AFDC A-2 grant level.

CONSTRUCTION

Amendment No. 45: Appropriates $134,226,000 instead of $134,379,000 as proposed by the House and $119,671,000 as proposed by the Senate.

The net decrease below the House level consists of increases of $65,000 for the Supai Village microwave transmitter, Truxton agency; $235,000 for irrigation improvements for the Isleta Pueblo; $1,500,000 to complete construction of the Standing Rock Sioux irrigation project; $1,280,000 for the Indian unit of the Fort Yuma irrigation project; and $1,000,000 for the Wind River delivery system; and decreases of $2,749,000 for the San Carlos irrigation project, $100,000 for the Milk River irrigation project; $1,000,000 for the housing improvement program; and $384,000 for the Nambe Falls road.

An amount of $1,000,000 is provided, which will allow completion of the Pushmataha Road in Oklahoma.

With respect to the funds provided for advance planning and design, the managers understand that these funds will be sufficient to conduct the necessary Planning of New Institutions (PONI) studies for at least the first five detention facilities on the list, including Colville, and to award at least one architectural and engineering design contract.

Funds are not earmarked above the facilities improvement and repair request for the Hannahville, MI school. The Bureau should proceed with the planning for phase II of this project while phase I construction is underway, and should funds become available to begin construction of phase II during fiscal year 1990, approval to reprogram funds for this purpose should be requested.

The managers expect the Bureau of Indian Affairs and the Office of Construction Management to work with the Indian Health Service to prepare a joint report, due March 1, 1990, regarding efforts to include detoxification facilities in detention centers.

The reduction of $1,000,000 to the housing improvement program was made only on the basis that separate contract support funds will be provided in the construction account, beginning in fiscal year 1990. There should be no impact on program level or accomplishments.

Amendment No. 46: Deletes language proposed by the Senate allowing the transfer of funds made available for the Safety of Dams program to the Bureau of Reclamation.

The managers are concerned about the safety of dams program as presently configured under the Bureau of Indian Affairs. The managers will expect a full report from the Bureau, to be submitted by December 1, 1989 on plans to restructure the dam safety program. The managers are particularly concerned about the issues and deficiencies identified in the recent audit conducted by the Inspector General. The report should address the issue of costs and personnel necessary to bring the dams into compliance with safety requirements. If transfer of the safety of dams program to the Bureau of Reclamation is considered as an option, the report should include the steps that would be taken to ensure that tribal concerns and input are adequately addressed, and the impact on P.L. 93-638 contracting. The program should not be transferred until the Committees and tribes have had an opportunity to review the report.

MISCELLANEOUS PAYMENTS TO INDIANS

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that funds appropriated for payment under the Aleutian and Pribilof Island Restitution Act (P.L. 100-383) are not subject to the subsurface estate revenue sharing provisions of ANCSA.

NAVAJO REHABILITATION TRUST FUND

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds a new appropriation account to fund the Navajo Rehabilitation Trust Fund, provides $800,000 as proposed by the Senate instead of nothing as proposed by the House, and includes language providing for the funds to remain available until expended.

MISCELLANEOUS TRUST FUNDS

Amendment No. 49: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which establishes a new account, "Miscellaneous Trust Funds", and includes language providing that the Secretary shall retain excess interest earned on trust funds between January 1, 1987 and February 28, 1989, to compensate the trust funds for interest that would have been earned between June 30, 1985 and December 31, 1986, if all available trust funds had been invested.

ADMINISTRATIVE PROVISIONS

Amendment No. 50: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided, That the property known as "Madrona Point" located on Orcas Island, Washington, shall be acquired in trust by the United States from the Lummi Indian Tribe under the conditions that it shall be preserved in its natural condition and shall not be developed for any commercial or residential purpose, except for a caretaker dwelling, a visitor or cultural center, or the interment of human remains: Provided further, That now and hereafter, the tribe, by contract, may impose additional restrictions: Provided further, That after acquisition by the United States, the property shall permanently be subject to the civil, regulatory (not including tax) and criminal jurisdiction of the State of Washington and its political subdivisions, concurrently with the Lummi Indian Tribe: Provided further, That except as provided herein, such grant of jurisdiction to the State shall have the same limitations as set forth in 18 U.S.C. 1162(b)*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The amendment deletes Senate proposed language certifying a Native corporation as a Native Group under the Alaska Native Claims Settlement Act, and includes conditions for the acquisition for the Lummi Tribe of tribal burial grounds at Madrona Point in the State of Washington, for which the amount of $2,200,000 is included in the construction account of the Bureau of Indian Affairs.

These funds shall be expended only on the condition that a final agreement is reached between San Juan County, WA, and the Lummi Indian Tribe pursuant to the memorandum of understanding reached between these parties on July 10, 1989.

The Madrona Point property on Orcas is currently planned and permitted for development. In order to preserve this property, the Department of the Interior shall pursue the acquisition of this property as rapidly as possible.

Amendment No. 51: Deletes language proposed by the Senate deeming tribes or tribal organizations to be employees of the Department of the Interior while carrying out contracts, grant agreements, or cooperative agreements.

Amendment No. 52: Deletes language proposed by the Senate that would have afforded the protection and coverage of the Federal Tort Claims Act to tribal contractors performing functions pursuant to the Indian Self-Determination and Education Assistance Act of 1975, as amended.

Amendment No. 53: Deletes language proposed by the Senate requiring the Secretary of the Interior to request appropriations sufficient to reimburse the Treasury for claims paid pursuant to the extension of the Federal Tort Claims Act to tribes, tribal organizations, or tribal employees. This amendment is addressed in Amendment No. 164.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

Amendment No. 54: Appropriates $76,489,000 for administration of territories instead of $76,789,000 as proposed by the House and $76,204,000 as proposed by the Senate. The decrease to the amount proposed by the House consist of increases of $1,725,000 for grants to American Samoa, including $1,000,000 for tank farm improvements and $725,000 for community centers and gymnasiums, $250,000 for technical assistance, $225,000 for the grant to the Close Up Foundation, and $500,000 for the maintenance assistance fund; and decreases of $2,000,000 for Guam hospital improvements and $1,000,000 for Virgin Islands prison barracks construction.

None of the amounts included for drug abuse grants are to be released until a plan for the use of such funds has been prepared and submitted by each of the Governments. The plans should address funding needs in order of priority and should be reviewed by the National Drug Policy Board.

The funds provided for tank farm repairs should not be released until a commitment for a matching amount at least equal to the Federal contribution has been identified from other, non-Federal sources. The managers expect the American Samoa Government to raise the terminal user fee to 2 cents per gallon, with the additional revenues to be used to establish a tank farm maintenance fund to assure that future maintenance needs are addressed. The managers direct the Department of the Interior to work with the Department of Defense to identify additional funding for repair of the tank farm facility, commensurate with DOD's use of the tank farm.

The managers expect the Virgin Islands Government to propose a reprogramming of unobligated available funds, if additional funds are needed to meet the balance of prison construction needs.

The managers have agreed to provide funding for the brown tree snake as a separate line item within the territorial administration program.

Amendment No. 55: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $73,543,000 for technical assistance, maintenance assistance and grants to territorial governments instead of $72,843,000 as proposed by the House and $73,258,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount proposed by the House consists of the increases and decreases listed in Amendment No. 54, plus an increase of $1,000,000 for the brown tree snake in Guam.

Amendment No. 56: Provides $2,946,000 for salaries and expenses as proposed by the Senate instead of $3,946,000 as proposed by the House.

Amendment No. 57: Provides $935,000 for a grant to the Close Up Foundation instead of $710,000 as proposed by the House and $1,025,000 as proposed by the Senate.

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides for the maintenance assistance program to be made available to all the territorial, Trust Territory and Freely Associated Governments, with participation and cost-sharing to be determined by the Secretary.

TRUST TERRITORY OF THE PACIFIC ISLANDS

Amendment No. 59: Appropriates $33,339,000 for the Trust Territory of the Pacific Islands instead of $34,102,000 as proposed by the House and $32,164,000 as proposed by the Senate. The decreases below the amount proposed by the House consist of increases of $200,000 for Trust Territory administration and $250,000 for the public auditor and special prosecutor for Palau; and decreases of $100,000 for medical supplies for Palau, $1,000,000 for the Palau hospital, and $113,000 for CIP deficiencies.

With regard to the funds for CIP deficiencies, the managers agree that these funds shall be allocated according to the table in the Senate report (Report 101-85), with the addition of $75,000 for the Majuro hospital project. The managers intend that these funds to correct deficiencies are not to be made available until the receiving government has initiated participation in the maintenance assistance program established under the Administration of Territories appropriation account.

COMPACT OF FREE ASSOCIATION

Amendment No. 60: Appropriates $23,260,000 for the Compact of Free Association instead of $24,760,000 as proposed by the House and $22,260,000 as proposed by the Senate. The increase over the amount proposed by the Senate is $1,000,000 for the Ebeye dock. The remaining funds for the dock should be identified from other sources.

With regard to the Enewetak support program, the managers expect that the local government will assume full management responsibility for the program in 1991. In order for this to happen, the managers assume that the Departments of the Interior and Energy and their contractors will cooperate fully with the Enewetak local government and Marshall Islands government in providing whatever assistance, training or information is needed.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $51,045,000 for the Office of the Secretary instead of $51,295,000 as proposed by the House and $51,716,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amend-

ment of the House to the amendment of the Senate.

The net decrease to the amount provided by the House includes an increase of $50,000 for the Assistant Secretary for Fish and Wildlife and Parks and decreases of $200,000 for environmental project review and $100,000 for the Office of Hearings and Appeals.

The $300,000 increase over the budget request for environmental project review is to help meet Departmental responsibilities with other agencies in the area of oil spills and other hazardous waste problems.

The managers have no objection to adjustments in the Office of the Secretary for the Federal Financial System for funds budgeted in the Office of the Solicitor, the Office of Inspector General and Construction Management.

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment, insert the following: *: Provided, That Alaskan oil spill damage assessment shall continue at least through September 30, 1990.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment assures that the Department of the Interior will continue assessment of damage from the *Exxon Valdez* oil spill through September 30, 1990 and deletes House language which would have prohibited establishment of a separate office for the Secretary of the Interior outside Washington, D.C., based on the Secretary's assurance that such an office will not be established.

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

Amendment No. 63: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment insert: *$750,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides $750,000 for the National Indian Gaming Commission instead of nothing as proposed by the House and $1,000,000 as proposed by the Senate. The managers agree that there are no restrictions on the immediate availability of the funds.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Amendment No. 64: Restores House language stricken by the Senate providing that the name of Mount McKinley shall not be changed, amended to make the provision applicable only to fiscal year 1990.

Amendment Nos. 65-69: Restore House proposed section numbers changed by the Senate.

Amendment No. 70: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *publishing draft environmental impact statements until five months after the President's Outer Continental Shelf Task Force releases its report to the President on Lease Sales 91, 95 and 116 or for the conduct in fiscal year 1990 of*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment allows for a period of public review of the President's OCS Task Force report recommendations, which are scheduled to be released on January 1, 1990, before proceeding with the publication of draft environmental impact statements for California OCS Lease Sales 91, 95 and 119.

Amendment No.71: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *final environmental impact statements,*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment restores final environmental impact statements to the list of leasing steps precluded from being conducted in fiscal year 1990 for OCS Lease Sales 91, 95 and 119.

Amendment No. 72: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *prelease geological or geophysical activity which involves explosives or the introduction of drilling muds for prelease*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have allowed prelease seismic studies which do not involve explosives and limited types of geological activities such as grab samples and shallow coring using pneumatic drives or pistons. The managers expect the MMS to consult with and carefully consider the recommendations of all concerned parties prior to granting permits for high energy seismic surveys. The managers do not intend for the restrictions set forth in this section to apply to areas covered by existing leases.

Amendment No. 73: Restores House proposed section number changed by the Senate.

Amendment No. 74: Deletes language proposed by the House on offshore Mid-Atlantic oil and gas prelease restrictions.

Amendment No. 75: Deletes language proposed by the House restricting calls for information, tract selection, and environmental impact statements for offshore Mid-Atlantic oil and gas lease sales in a specified area.

The managers agree that the MMS should consider the areas under moratoria in the Mid-Atlantic as a separate deferral option in the environmental impact statement for OCS Lease Sale 121.

Amendment No. 76: Report in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *prelease geological or geophysical activity which involves explosives or the introduction of drilling muds for prelease*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have allowed prelease seismic studies which do not involve explosives and limited types of geological activities such as grab samples and shallow coring using pneumatic drives or pistons. The managers expect the MMS to consult with and carefully consider the recommendations of all concerned parties prior to granting permits for high energy seismic surveys.

Amendment No. 77: Restores House proposed section number changed by the Senate.

Amendment No. 78: Deletes language proposed by the House requiring that any new construction of OCS vessels, rigs, platforms or other structures be built from articles, materials or supplies at least 50 percent of which by cost shall have been produced or manufactured in the United States and that fabrication occur in the United States unless a waiver is granted by the Secretary of the Interior. The managers recognize that the design and manufacture of equipment used in the exploration and production of America's offshore oil resources is an important strategic American industry and the managers will continue to closely monitor developments in this area to assure that the industry remains a viable one. As such, the managers again urge the oil and gas industry, in every possible instance, to contract with U.S. manufacturers and fabricators for oil drilling and production equipment. Absent progress in this area there may be a need to include language such as the "Buy-Build America" provision.

The managers understand there are plans underway to construct a deep water platform in the Gulf of Mexico. The managers intend to closely monitor this project and expect the industry to utilize American contents and fabrication to the maximum extent possible.

Amendment No. 79: the amendment changes the section number proposed to "115".

Amendment No. 80; Restores House language referencing a prior agency designation by the Secretary of the Interior with respect to relocation to Avondale, Maryland.

Amendment No. 81: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *pursuant to section 17 of Public Law 100-440 (102 Stat. 1743), the Secretary shall designate, within 60 days of enactment of this Act, which Department of the Interior agency component or*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree that the Secretary should revisit the question of which Interior agency or organizational component is most suitable for relocation to the Avondale, Maryland site formerly occupied by the Bureau of Mines as a research laboratory. The organization designated by the Secretary is to consist of no fewer than 400 people including Federal and on-site contract staff.

While public transportation is available in close proximity to the Avondale site, there is not a subway stop planned within easy walking distance of the facility. For this reason, and because the site is not readily convenient to the main Interior headquarters building, the managers are concerned about the impact the move to Avondale may have on employees within the designated organization. The managers expect the Department to make every effort to minimize

adverse impacts on the employees who will be relocated to Avondale. At a minimum this should include employee counseling on the move and, to the extent practicable, assistance in placing in comparable positions elsewhere in the Department those employees who choose not to relocate. Further, the managers expect all of the designated organization to be residents at Avondale. Top management of the designated organization should not be housed at a location separate from the Avondale facility. In addition, the Secretary, in designating an organization for relocation, should consider the extent to which needed support personnel should be collocated with that organization at Avondale.

Amendment No. 82: Deletes House proposed limitation on the expenditure of funds for consolidation of the Office of Surface Mining Reclamation and Enforcement in Avondale, Maryland as proposed by the Senate.

Amendment No. 83: The amendment changes the section number to "116". Section 116 does not prohibit the Fish and Wildlife Service from entering into a cooperative agreement with a nonprofit conservation organization for the maintenance and management of existing facilities on Matagorda Island, Texas, provided that the primary use of such facilities would involve wildlife oriented educational activities.

Amendment No. 84: The amendment changes the section number to "117".

Amendment No. 85: The amendment changes the section number to "116".

Amendment No. 86: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment, insert the following:

SEC. 118. Notwithstanding any other provision of law, the term "Class II gaming" in Public Law 100-497, for any Indian tribe located in the State of Minnesota, includes, during the period commencing on the date of enactment of this Act and continuing for 365 days from that date, any gaming described in section 4(7)(B)(ii) of Public Law 100-497 that was legally operated on Indian lands on or before May 1, 1988, if the Indian tribe having jurisdiction over the lands on which such gaming was operated, requested the State of Minnesota, no later than 30 days after the date of enactment of Public Law 100-497, to negotiate a Tribal-State compact pursuant to section 11(d)(3) of Public Law 100-497.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment will allow one additional year for tribes in Minnesota to enter into a compact with the State of Minnesota to operate Class II games under the Indian Gaming Regulatory Act of 1988.

Amendment No. 87: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted in said amendment, insert the following:

SEC. 119. This section shall be effective only on October 1, 1989.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree to restrict the applicability of this provision to one day.

Amendment No. 88: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 120. Section 13 of Public Law 93-531, as amended (25 U.S.C. 460d-12), is hereby amended by inserting the word "and" after the semicolon at the end of subparagraph (b)(2), by striking out the semicolon and the word "and" after the word "subsection" at the end of subparagraph (b)(3) and inserting a period in lieu thereof, and by striking out all of subparagraph (b)(4): Provided, That section 32 of Public Law 93-531, as amended (25 U.S.C. 640d-30), is hereby amended by inserting after subsection (d) the following new subsection:

"(e) by December 1, 1989, the Secretary of the Interior, with the advice of the Navajo Tribe and the Office of Navajo and Hopi Indian Relocation, shall submit to the Congress a conceptual framework for the expenditure of the funds authorized for the Navajo Rehabilitation Trust Fund. Such framework is to be consistent with the purposes described in subsection (d) of this section.": Provided further, That section 32 of Public Law 93-531, as amended (25 U.S.C. 640d-30), is further amended by redesignating subsection (e) as subsection (f), and by redesignating subsection (f) as subsection (g).

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This language clarifies the responsibilities of the Secretary of the Interior with respect to the Navajo Rehabilitation Trust Fund. The managers agree that the Secretary should prepare a report to the Congress, by December 1, 1989, which provides a framework for the use of the Navajo Rehabilitation Trust Fund. The report should provide a long-term conceptual plan which addresses the problems resulting from relocation and the purposes of the trust fund with respect to addressing those problems. The report is to be coordinated with the Navajo Nation and with the Office of Navajo and Hopi Indian Relocation. Further the managers expect the Navajo Tribe to provide the Committees, by February 1, 1990, with a report on how funds appropriated in fiscal year 1990 for the trust fund will be expended, consistent with the framework reported by the Secretary. The managers agree that, prior to submission to the Committees, the report shall be submitted concurrently for review and comment to the Commissioner of the Office of Navajo and Hopi Indian Relocation and the Secretary of the Interior. Those comments and the response to them by the Navajo Tribe are to be submitted to the Committee along with the report. The Secretary will have final approval authority on all expenditures from the Fund. Because this appropriation eventually is to be repaid from the proceeds of the Paragon Ranch, the managers expect the Committees to be kept appraised of progress in developing the coal resources on the Paragon Ranch. The managers expect to see progress in this area before approving any future appropriations.

Amendment No. 89: Deletes Senate provision requiring a report within 90 days on steps to be taken to further research on an inexpensive means of coverting salt water to fresh water. The managers direct the Secretary to provide such a report to the Appropriations Committees and the authorizing committees with jurisdiction over water research within 90 days of enactment of the accompanying bill.

Amendment No. 90: Deletes Senate provision regarding restrictions on the procurement of advisory or assistance services by the Department of the Interior.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

Amendment No. 91: Appropriates $147,182,000 for forest research instead of $149,435,000 as proposed by the House and $142,392,000 as proposed by the Senate. The net decrease from the amount proposed by the House consists of the following increases: for forest protection research, $300,000 for dogwood anthracnose; for resource analysis research, $70,000 for hardwood materials research at Princeton, WV; for timber management research, $58,000 for growth and yield research, and $122,000 for silviculture and genetics research at Moscow, ID, $182,000 for habitat classification research at Boise, ID, $150,000 for timber management alternatives at Monticello, AR, and $50,000 for Northeast spruce fir research at Orono, ME; for forest environment research, $106,000 for sedimentation research at Boise, ID, $53,000 for streamside systems research at Seattle, WA, $250,000 for forest/atmosphere monitoring in Vermont (to be incorporated into the global climate change research program), $112,000 for watershed management research at Parsons, WV, and $146,000 for hydrologic evaluation at Oxford, MS; for forest products research, $438,000 for timber bridge research, including $288,000 at Madison, WI and $150,000 for cooperative agreements with West Virginia University, and $85,000 for hardwoods utilization research at Princeton, WV; and the following decrease: for forest protection research, $50,000 for tree stress research at Hamden, CT, $106,000 for fusiform rust research at Athens, GA, $159,000 for gypsy moth research at Corvallis, OR, $106,000 for wood decay research at Madison WI, $200,000 for fire suppression research at Missoula, MT, $360,000 for global climate change research, and $100,000 for tropical foresty research; for resource analysis research, $180,000 for fire economics research at Riverside, CA, $85,000 for recreation research at Burlington, VT, and $50,000 for tropical forestry research; for timber management research, $106,000 for pine research at Pineville, LA, $104,000 for growth and yield research at St. Paul, MN, $106,000 for research on nitrogen-fixing plants at Research Triangle Park, NC, $106,000 for vegetation control research at Macon, GA, $124,000 for long-term productivity research at Portland, OR, $132,000 for global climate change research, $300,000 for tropical forestry research, and $250,000 for old growth research; for forest environment research $112,000 for coldwater fish habitat research at Blacksburg, VA, $106,000 for climate change at Otto, NC, $190,000 for global climate change research, $197,000 for tropical forestry research, and $840,000 for spotted owl research; and for forest products research, $106,000 for combustion products research at Madison, WI, $100,000 for surface metallurgy research at the Oregon Graduate Center and Madison, WI, and $100,000 for tropical forestry research.

Included within the total funding provided is an increase of $1,051,000 for old growth research, including $750,000 to initiate the old growth management research and demonstration project; and an increase

of $1,170,000 for accelerating spotted owl research. The managers request that the Forest Service provide the Committees with a report describing the expected products and timelines for completion of field research and publication of results from the old growth and spotted owl research efforts. The Forest Service should also include estimates of funding necessary to accelerate publication of final reports.

STATE AND PRIVATE FORESTRY

Amendment No. 92: Appropriates $105,506,000 for State and private forestry instead of $89,906,000 as proposed by the House and $111,356,000 as proposed by the Senate. The increase from the amount proposed by the House consists of increases of $4,400,000 for the Appalachian Integrated Pest Management program, $1,000,000 for the stewardship program, $2,500,000 for the economic diversification through rural development initiative, $1,000,000 for wood utilization, $2,700,000 for the timber bridge initiative, $500,000 for economic diversification studies, and $6,000,000 for a matching grant to the National Arbor Day Foundation for construction of the National Arbor Day Center; and a decrease of $2,500,000 to the tropical forestry initiative.

The grant to the National Arbor Day Foundation is to be matched equally with non-Federal funds.

The managers note that the language in the Senate report (101-85) regarding the Idaho Centennial Trail does not apply to the Spokane Centennial Trail in Washington. The managers direct the Forest Service to maintain the reimbursement plan (as outlined in the memo dated December 2, 1988 by the Associate Deputy Chief of the Forest Service) currently in operation for the completion of the Spokane trial. The possibility exists that private sources of funding will provide $800,000 to cover a portion of the construction costs for the Spokane trial. This is part of the total $6,1000,000 in local matching funds to be raised in fiscal year 1990. The managers agree that up to $800,000 of the Federal grant may be used to cover other related costs incurred to complete the Spokane trail.

The Forest Service should report on the results of the economic diversification studies performed with the funds provided in fiscal year 1989, and plans for the use of the fiscal year 1990 funds, by March 1, 1990.

Included within the tropical forestry initiative funds are $1,100,000 for technical assistance, $1,250,000 for training and $150,000 for support to international organizations. The Forest Service should provide a report on the use of these funds prior to the fiscal year 1991 hearings, including a discussion of additional opportunities that could be addressed in this area, encompassing non-Federal and international cooperators, along with associated costs.

The Forest Service and its urban forestry program are directed to assist the city of Chicago to develop and implement its play to beautify the city.

Amendment No. 93: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *: Provided further, That notwithstanding any other provision of law, a grant of $3,600,000 shall be provided to the Washington State Parks and Recreation Commission for completion of the Spokane River Centennial Trail: Provided further, That a grant of $6,000,000 shall be made to the National Arbor Day Foundation as a matching grant for the construction of the National Arbor Day Center in Nebraska City, Nebraska.*

The managers on the part of the Senate will move to concur in the amendment of the House of the amendment of the Senate.

The amendment provides the final year of funding for completion of the Spokane River Centennial Trail, and provides funding for a matching grant to the National Arbor Day Foundation.

NATIONAL FOREST SYSTEM

Amendment No. 94: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $1,149,232,000 for the national forest system instead of $1,132,426,000 as proposed by the House and $1,141,013,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House of the amendment of the Senate.

The increase over the amount proposed by the House consists of increases of $225,000 for land line location; $26,500,000 for road maintenance; $6,986,000 for timber sales preparation; $1,000,000 for timber stand improvement; and $388,000 for wildlife and fish; and decreases of $79,000 for minerals, related to timber support for region 6; $498,000 for facilities maintenance; $8,935,000 for fuels management, which is funded in the new firefighting appropriation account; $1,000,000 for trail maintenance; $1,339,000 for timber resource inventory; $1,839,000 for silvicultural examination; $2,082,000 for recreation use; $1,963,000 for range management; and $558,000 for soil, water, and air management, associated with timber support in region 6.

The managers have concurred in the House proposal to fund all activities related to the Tongass National Forest out of the Tongrass Timber Supply Fund (TTSF). The funds provided will allow a timber sales program of 340 million board feet, plus 40 million board feet from excess receipts and the salvage fund, for a total of 380 million board feet for the Tongass National Forest. As such, those non-timber items normally funded from the National Forest System and Construction accounts are funded out of the TTSF. Language has been included, however, permitting the Tongass to benefit from increases provided above the President's Budget in various non-timber program areas, within the National Forest System account, including recreation and fish and wildlife. The following table identifies the funding recommendation for the Tongass:

Item	*Amount*
Tongass timber supply fund:	
Research	$1,800,000
Timber resource planning and inventory	3,801,000
Timber sales preparation	2,350,000
Timber sales administration	3,994,000
Timber support	1,600,000
Timber stand improvement	920,000
Facilities construction	
PCP support	6,512,000
Road construction	8,081,000
Log transfer site	1,725,000
Tongass plan revision	897,000
General administration	6,195,000
Subtotal, TTSF	37,875,000
National Forest System:	
Minerals management	$807,000
Real estate management	234,000
Land line location	494,000
Facilities maintenance	370,000
Cooperative law enforcement	25,000
Forest road maintenance	1,030,000
Forest trail maintenance	728,000
Timber sales	69,000
Reforestation and TSI	42,000
Recreation use	3,522,000
Wildlife and fish	3,500,000
Soil, water and air	1,855,000
General administration	1,321,000
Subtotal, NFS	13,997,000
Construction:	
Road construction	80,000
Recreation facilities	89,000
Trail construction	400,000
Subtotal, construction	569,000
Total, Tongass timber supply fund	52,441,000
Trust funds	2,572,000
Brush disposal	93,000
Timber salvage	640,000
Land acquisition	25,000
Subtotal	3,330,000
Total, Tongass, National Forest	55,771,000

For the operations of the national forest system, the managers have refrained, with a few limited exceptions, from earmarking specific dollar amounts within the various budget line items. The managers are aware of the demands placed on the many units of the national forest system, and have attempted to provide funding to address these requirements. In particular, the managers are aware of the trail maintenance needs of the Mount Baker/Snoqualmie, Chequamegon, and Monongahela National Forests, the management and study needs of newly designated components of the Oregon Wild and Scenic Rivers system, the recreation, wilderness, and fish and wildlife needs of the Monongahela National Forest, and new recreation areas such as the Winding Stair Mountain National Recreation and Wilderness Area, and the elk habitat winter range requirements on the Apache-Sitgraves National Forest. The managers have also removed the specific earmarks related to the region 6 timber program for this account.

During fiscal year 1989, the Forest Service assumed responsibility for approximately 720,000 acres of land in Nevada, which were transferred from the Bureau of Land Management during the 100th Congress. As such, the managers provide the following earmarks for the Toiyabe National Forest: minerals management, $175,000; lands administration, $85,000; forest fire protection, $254,000 in the new firefighting account; road maintenance, $10,000; timber management, $31,000; recreation management, $364,000; wildlife and fish management, $50,000; range management, $161,000; soil, water and air management, $8,000; and general administration, $22,000. Within the increase for range management, there are funds for the new wild horse and burro territories included in this transfer.

The increase for land line location consists of an increase over the House level of $400,000 to restore the fiscal year 1990 base level and an offsetting decrease of $175,000 associated with timber support in region 6. Within the funds provided for road maintenance, $200,000 is earmarked for the Monongahela National Forest, to address safety concerns. The decrease recommended for timber resource inventory consists of a decrease of $2,339,000 for the earmark for sales preparation in region 6, and an increase of $1,000,000 for habitat inventory for spotted owls and old growth. The total funding recommended in timber resource inventory for spotted owl is $4,200,000. This includes $4,000,000 for old growth inventories and $200,000 for the old growth management project. The decrease for silvicultural examination consists of a decrease of $2,339,000 associated with the earmarks for region 6, offset by an increase of $500,000, which leaves an increase over the fiscal year 1989 level.

The managers have recommended an increase of $6,986,000 for timber sales preparation. This increase consists of an increase from the House level of $1,600,000 to restore the reductions assumed for a lower timber program of 11.210 billion board feet (BBF), and a restoration of the $11,500,000 reduced by the House for below-cost sales. These adjustments result in a total timber sales preparation level of $119,000,000, which will support a fiscal year 1990 timber program of 11.283 BBF. The managers have agreed to the following distribution of volume by region:

Region:	Volume (million board feet)
1	1,138
2	370
3	400
4	435
5	1,800
6	4,600
8	1,345
9	810
10	385
Total	11,283

The amount included for region 6 is an approximate amount, because the timber sales program in region 6 in fiscal year 1990 will include both 1989 and 1990 sales, under the terms of section 318 of this Act.

Both the House and Senate Committees on Appropriations heard testimony regarding the development and implementation of the Timber Sales Program Information Reporting System (TSPIRS). As a result, each Committee recommended additional areas of evaluation and improvement as TSPIRS is implemented. The managers wish to emphasize and recommend the following areas for review: (1) methods of handling road construction costs; (2) the treatment of litigation and appeals costs; and (3) the utility of creating an additional TSPIRS report relating costs to actual receipts and displaying costs associated with multiple-use management. The Forest Service should work with the General Accounting Office in preparing to address these concerns at the fiscal year 1991 budget hearings. The managers also urge the Forest Service to continue to work expeditiously on the development of an all-resource accounting system.

On the issue of below-cost sales, the managers continue to struggle with an assessment of the timber program which fully encompasses all aspects of the program. The Forest Service should continue to keep the Committees apprised of efforts to improve the benefits to costs ratio of the program. The managers request the Forest Service to develop, by March 1, 1990, an analysis of the estimated costs that would be necessary for the non-timber programs to cover the costs of such sales if such sales were done for a particular purpose such as fire presuppression, wildlife habitat or recreation. The Forest Service should include in the report any other strategies or options for dealing with this issue.

With respect to the issue of minimum bids, the Forest Service should report to the Committees prior to the fiscal year 1991 hearings on options for the use of minimum bids. This report should address how and when to use minimum bids, and the potential impacts of such use.

On the matter of timber theft, the managers expect the Forest Service to report on the status of the action items in the timber theft plan prior to the fiscal year 1991 hearing. Before moving from log scaling to tree measurement and changes to the residual appraisal value system and lump sum sales, the Forest Service is to report to the Committees, by February 1, 1990, on the benefits of such policy changes versus estimated costs necessary to accomplish them.

In region 8, to the maximum extent feasible, the Forest Service should maintain the fiscal year 1989 and 1990 timber offer targets included herein while it makes revisions to the red-cockaded woodpecker handbook by moving forward in the pipeline sales outside of colony areas. In any event, the managers intend that the land and resource management plans be followed in the region. Future offer volumes for the region will be addressed in the appropriate fiscal year.

Of the decrease below the House level for recreation use, the managers have recommended decreases of $1,500,000 for cultural resources management, and $582,000 associated with timber support in region 6. For wildlife and fish activities, the managers have recommended an increase of $388,000 above the House level. This consists of decreases of $2,000,000 for surveys of spotted owls, which leaves a total of $3,000,000; $1,000,000 for endangered, threatened and sensitive species; $612,000 for timber support in region 6; and increases of $1,000,000 for wildlife and fish support, $500,000 for inland fish habitat; and $2,500,000 for anadromous fish habitat. The managers agree that a proportional amount of recreation and wildlife increases may be used for additional challenge cost-share projects. The managers encourage the Forest Service to pursue aggressively and proportionately cost share opportunities in all, rather than selected, program areas. None of the funds provided in inland fish habitat or endangered and threatened species are earmarked, except for $1,600,000 for plants. Of the funds provided for anadromous fish habitat, the Forest Service is to continue the level of effort from prior years associated with activities on the Green Mountain and White Mountain National Forests.

Within the funds available for the spotted owl inventory activities, funds should be made available for surveying spotted owls in the Olympic National Park, WA. The Forest Service is requested to seek the cooperation of the National Park Service in carrying out the surveys in the Park.

The decrease of $1,963,000 recommended from the House level for range management consists of decreases of $1,800,000 for range vegetation management, $80,000 for wild horses and burros, and $83,000 associated with timber support for region 6. The increases allowed for range vegetation management are to be used to carry out the recommendation in the recent GAO reports particularly with regard to improvements in riparian areas and reducing overstocked areas. The managers intend that the Forest Service give full consideration to the noxious weed requirements in Idaho and Montana. Within soil and water, the Forest Service is to continue the water quality monitoring effort of prior years in the Bull Run watershed.

Amendment No. 95: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which extends the availability of funds in the National Forest System account until September 30, 1991.

FOREST SERVICE FIREFIGHTING

Amendment No. 96: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

FOREST SERVICE FIREFIGHTING

For necessary expenses for forest fire suppression and presuppression on or adjacent to National Forest System lands or Department of the Interior lands, and for forest fire protection and emergency forest fire rehabilitation of National Forest System lands, $561,139,000, to remain available until expended: Provided, That such funds are to be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment appropriates $561,139,000 for Forest Service firefighting instead of no funds as proposed by the House and $556,139,000 as proposed by the Senate. The House had proposed $552,533,000 for Forest Service firefighting in the firefighting account included under the Bureau of Land Management, and $8,935,000 under the National Forest System account. The increase over the amount proposed by the Senate is $5,000,000 for fire protection.

CONSTRUCTION

Amendment 97: Appropriates $221,960,000 for construction instead of $222,199,000 as proposed by the House and $180,094,000 as proposed by the Senate.

The net decrease below the House consists of increases of $227,000 for administrative facilities construction on the Monongahela National Forest; $1,000,000 for recreation construction at the Winding Stair Mountain National Recreation and Wilderness Area, OK;' $200,000 for planning of an interpretive center for the Lewis and Clark Trail, MT; $130,000 for geotechnical investigations and design at the Corney Lake dam, Kisatchie National Forest, LA; $50,000 to complete a conceptual plan for a branch of the Ketchikan visitor center at Hydaburg, Prince of Wales Island, Tongass National Forest, AK; $929,000 for recreation construction on the Monongahela National Forest, WV; $1,500,000 for planning and design of a research laboratory in conjunction with Northern Arizona University, Flagstaff, AZ; $225,000 for construction of a water line at the Princeton, WV Forestry Sciences Laboratory; and a decrease of

$4,500,000 for unspecified recreation construction.

With respect to recreation construction needs throughout the national forest system, the managers are concerned about the establishment of priorities on a region-by-region, and therefore nationwide basis. Using the current forest plans, the Forest Service should report to the Committees by February 1, 1990 on the process for evaluating nationwide recreation priorities to ensure that funding shortfalls and inequities are addressed. The managers are concerned that not enough evaluation is provided at headquarters to assess the priorities of the different regions before funds are allocated.

Within road construction, the managers expect the Forest Service to report, by December 1, 1989, on the final allocation of the total funding provided among the various elements of the program, as included in the budget explanatory notes.

Of the recreation funds provided, the managers agree to the following earmarks: $490,000 for the Leith Run Recreation Area, Wayne NF, Ohio; and $155,000 for recreation facilities on Mount Graham, AZ. In trail construction, the managers agree to provide $123,000 associated with the facilities on Mount Graham, AZ; $642,000 for Mount St. Helens; $400,000 for the Wayne National Forest, OH; $150,000 for the Tehipite Valley Trail, CA, with the Forest Service to identify sources of State and private funding and voluntary labor for this project; $300,000 for planning and construction of bike and foot trails in Colorado, for the Routt National Forest and the Arapaho National Forest, which is administered by the White River National Forest; $361,000 for Winding Stair Mountain NR and WA, OK; and $406,000 for the Monongahela National Forest, WV.

The managers have no objection to the use of $108,000 for Lander Office Stage II construction, Shoshone National Forest, WY.

The Forest Service should work with the National Park Service to develop a national policy for the interpretation of America's historic trails.

Amendment No. 98: Appropriates $38,993,000 for construction of buildings and other facilities instead of $39,232,000 as proposed by the House and $21,594,000 as proposed by the Senate. The net decrease below the amount proposed by the House consists of the changes listed in Amendment No. 97.

Amendment No. 99: Earmarks $182,967,000 for construction of forest roads and trails as proposed by the House instead of $158,500,000 as proposed by the Senate.

Amendment No. 100: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $1,500,000 for the Federal share of road reconstruction for improved access to the Monongahela National Forest, WV. These funds will be matched equally by non-Federal funds.

Amendment No. 101: Restores House proposed language stricken by the Senate which provided a ceiling of $112,000,000 in new authority for construction of forest roads by timber purchasers. Additional carryover authority will be available.

LAND ACQUISITION

Amendment No. 102: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $63,433,000 for land acquisition instead of $61,988,000 as proposed by the House and $45,013,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree to the following distribution of funds:

Acquisition management	$6,054,000
Allegheny NF, PA	1,010,000
Appalachian Trail	3,000,000
Carson NF, NM	375,000
Chequamegon NF, WI	157,000
Clear Creek RCA, AL	500,000
Columbia River Gorge NSA, OR/WA	3,000,000
Daniel Boone NF, KY	1,000,000
DeSoto NF, MS	700,000
Flaming Gorge NRA, WY	12,000
Gallatin NF, MT (elk habitat):	
Elk habitat	3,500,000
Cottonwood Canyon	1,000,000
Green Mountain NF, VT	1,750,000
Hiawatha NF, MI (Grand Island)	3,500,000
Humboldt NF, NY	1,400,000
Kisatchie NF, LA	200,000
Lake Tahoe Basin, CA/NV	7,000,000
Monongahela NF, WV	250,000
Mount Baker-Snoqualmie NF, WA (Noisy Creek)	2,000,000
Mount Hood NF, OR (Squaw Meadow)	500,000
Nicolet NF, WI (Cathedral of Pines)	775,000
Ocala NF, FL	4,000,000
Osceola NF, FL (Pinhook Swamp)	1,500,000
Ouachita NF, AR	4,000,000
Ozark NF, AR	1,000,000
Pacific Crest Trail	1,000,000
Roosevelt NF, CO (Sheep Mountain Ranch)	900,000
Shawnee NF, IL	1,000,000
Siuslaw NF, OR (Big Creek property)	2,500,000
Siuslaw NF, OR (Searose II property)	400,000
Spruce Knob-Seneca Rocks, WV	250,000
Talladega NF, AL	3,000,000
Toiyabe NF, CA/NV (Hope Valley)	4,000,000
Ventana Wilderness, CA	200,000
Wayne NF, OH	2,000,000
Total	63,433,000

The managers agree to fund acquisition at Pere Marquette W&SR, MI from unobligated balances remaining for Kirtlands Warbler habitat.

CATASTROPHIC FIRE COMPENSATION FUND

Amendment No. 103: Deletes language proposed by the Senate which would have appropriated not to exceed $3,000,000 for settlement of claims for property lost or damaged in the fires that occurred in and around Yellowstone National Park in 1988.

In considering claims for losses that arise from the Mink, Clover-Mist, Storm Creek, and Canyon fires that occurred in and around Yellowstone National Park in 1988, the Forest Service and National Park Service shall analyze all such claims filed within 90 days of enactment of this Act under the normal procedures for handling such claims. The agencies shall report to the Appropriations Committees by March 1, 1990 on the status of each claim, the amount requested, and the determination by the agency, if complete, of whether the claim should be paid.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Amendment No. 104: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided, That notwithstanding any other provision of law, moneys received from the timber salvage sales program in fiscal year 1990 shall be considered as money received for purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended: Provided further, That amounts necessary shall be available from deposits into the salvage sale fund for salvage of timber damaged by Hurricane Hugo to the maximum extent possible without regard to the geographic origin of the funds*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have agreed to include language which provides that receipts from the timber salvage sales program shall be considered as money received for purposes of distributing the 25 percent payments to local governments. The need for this provision arose because of extensive fire years experienced recently. Salvage sales of timber burned in those fires will continue to be sold during fiscal year 1990, offsetting green sale volumes which would normally result in receipts to be shared with local governments. This action is not intended to set a precedent for any changes in the basis for calculating the local share of timber receipts in the future, and the managers believe the authorizing committees should review the salvage sale fund to determine if any changes are needed in the fund's authorizing legislation.

This amendment also provides that salvage funds can be used to aid in the recovery and salvage efforts underway in South Carolina subsequent to the destruction caused by Hurricane Hugo in September, 1989. The language allows the use of salvage funds, irrespective of the geographic origin of the funds, to assist in these efforts.

Amendment No. 105: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter striken by said amendment, amended to read as follows: *That such excess amount made available for the overall purposes of this section shall not exceed $65,000,000: Provided further, That an additional $32,000,000 shall not be subject to the per centum allocations of subsequent provisions of this section and shall be made separately available solely for implementation of the timber sales program included in this Act as described in the accompanying statement of the managers and shall be used soley for the necessary expenses of such timber sales program including, but not limited to, timber sales administration and management (including all timber support costs) and construction and design of roads: Provided further, That the $32,000,000 shall only be provided after all other sources of funds, appropriated and non-appropriated, have been utilized to the fullest extent possible: Provided further,*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have included bill language directing the Secretary of the Treasury to make available to the Secretary of Agriculture timber receipts above the fiscal year 1989 receipts estimate of $920,000,000 included in the President's fiscal year 1990 budget submission. These receipts are accruing because of high timber harvest levels and increased stumpage prices. Bill language precludes the use of mid-session adjustments in calculating the amount to be provided to the Forest Service and also requires that this transaction be made without reductions for the payments to be made to local governments under 16 U.S.C. 500, as amended.

The distribution of $65,000,000 of these funds is provided for in the bill language and recognizes the multiple use nature of national forest system lands. The language will provide much needed funding in the non-commodity programs, as well as increasing the likelihood that the Forest Service will have adequate volume of timber prepared to sustain the timber offer volumes of recent years in the outyears, absent policy changes. The managers do not intend the 1990 timber sales program to differ significantly from the 11.283 billion board feet program outlined under the National Forest System account.

An additional $32,000,000 is provided for necessary timber sales administration and management, including all timber support costs, and design and construction of forest roads. Of this amount, $12,000,000 is provided in support of the Region 6 spotted owl agreement included in section 318 of this Act. The remaining funds are provided for design and construction of forest roads necessary to meet the timber sales program outlined above.

The managers wish to reiterate that the funds provided in excess of the $65,000,000 are not to be used until all other funds (appropriated and non-appropriated dollars) are exhausted. However, the aforementioned $12,000,000 in excess receipts associated with the Region 6 spotted owl agreement shall become available as soon as that Region's appropriated and non-appropriated funds have been expended. These excess receipts shall be released as needed, and are not contingent on the availability of funds in any other Forest Service region.

Similarly, if all available funds are exhausted in other regions, funds may be made available from the $20,000,000 designated for those other regions without consideration of the availability of funds in Region 6. The managers expect that the Forest Service will review all funds available on a nationwide basis to determine if it might be possible to reallocate available appropriated and non-appropriated funds among regions before using any of the $32,000,000 authorized in this section.

In addition to the report required to be submitted by the Chief within 30 days after the fiscal year 1991 budget is submitted on the amount and distribution of the $65,000,000 provided under this amendment, the Forest Service shall submit a report to the Committees as soon as a decision is made that all available funds have been exhausted in a region, and that additional funds will be used from this source for the purposes provided in the amendment. The report should include a breakdown of all funds obligated to date, and a breakdown of the amounts to be provided from excess receipts, and how and where such funds are to be used. The Forest Service shall also submit a report, as soon after the end of fiscal year 1990 as possible, detailing the actual distribution and expenditures of funds received under this provision, and the actual outputs achieved.

Amendment No. 106: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which clarifies House proposed language providing that excess receipts shall be made available to the Forest Service without reductions to payments under the Act of May 23, 1908.

Amendment No. 107: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

Notwithstanding section 705(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(a)), $52,441,000 shall be available for timber supply, protection and management, research, resource protection, and construction on the Tongass National Forest in fiscal year 1990: Provided, That all of the funds available from the Tongass Timber Supply Fund in fiscal year 1990 pursuant to section 705(a) of Public Law 96-487 shall be deemed obligated as of October 1, 1989 and shall remain available until expended: Provided further, That this funding limitation shall not include those funds available to the Forest Service as National Forest System (except for timber sales administration and management funds), Trust Funds, Permanent Funds (other than the Tongass Timber Supply Fund), Timber Receipts, or Purchaser Road Construction.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

As discussed under Amendment No. 94, the managers have agreed to include all funding for the Tongass National Forest under the Tongass Timber Supply Fund, and to limit spending to $52,441,000, with the specific exceptions to this limitation listed.

Amendment No. 108: Deletes language proposed by the Senate which would have provided additional funds from excess timber receipts to specified program elements if a specific national forest attained its annual average allowable sale quantity.

Amendment No. 109: Deletes language proposed by the Senate which would have directed the Secretary of the Treasury to make timber receipts available in order to allow for the preparation of timber sale volumes equal to the target of 125 percent of the average annual allowable sale quantity.

Amendment No. 110: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: *Notwithstanding any other provision of law, the Forest Service is directed to compensate Davis Sheep Company, Monteview, Idaho, for reasonable expenses incurred as a result of mortality of permitted animals and moving permitted animals from one location to another as directed by the Forest Service: Provided, That in no event should expenses be less than $85,000: Provided further. That up to an additional $27,500 is authorized if the Forest Service, in conjunction with Davis Sheep Company, determines additional losses were incurred.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have agreed to bill language providing funds to compensate for livestock losses incurred as a result of actions taken to conserve and protect grizzly bears. Funding of $85,000 is provided immediately and up to an additional $27,500 could be provided if it is demonstrated that higher losses were sustained. Any amount above $85,000 should be submitted by the Forest Service to the Committees on Appropriations following the normal reprogramming procedures.

Amendment No. 111: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided further, That no funds provided in this title may be expended by the Forest Service to implement a new fee schedule or increase the fees charged for communication site use of lands administered by the Forest Service above the levels in effect on January 1, 1989.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment deletes Senate proposed language dealing with dissemination of program information through non-monetary items of nominal value, and inserts new language regarding fees charged for communication site use.

The managers agree that the Forest Service should report to the Committees by March 1, 1990 on how it will ensure that any proposed fee increases for communication site use on Forest Service lands will adequately reflect local fair market conditions. The managers are particularly concerned that a market survey approach to establishing site fees may result in an inequitable fee schedule for rural areas.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

Amendment No. 112: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds the word "replacing" to the definition of clean coal technology. The managers agree that the inclusion of "replacing" for clean coal IV and V is intended to cover the complete replacement of an existing facility if, because of design or site specific limitations, repowering or retrofitting of the plant is not a desirable option.

Amendment No. 113: Appropriates $450,000,000 for fiscal year 1990 for clean coal technology instead of $500,000,000 as proposed by the House and $325,000,000 as proposed by the Senate. This appropriation along with $125,000,000 provided for fiscal year 1991 in Amendment 114 fully funds the third round of clean coal technology projects. The managers agree that additional manpower is required, particularly at the Department's Energy Technology Centers, in order to manage adequately the increased workload from the accumulation of active clean coal technology projects and the inclusion of additional procurements in this bill. Although a legislative floor is not included, the managers agree that at least eighty personnel will be required in addition to the approximately thirty FTE's now included in the fossil energy research and development appropriation. The managers agree further that funds from the fossil

energy research and development appropriation should not be used to pay the cost of more than the equivalent FTE's paid under that account in fiscal year 1989.

Amendment No. 114: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *and shall remain available until expended, and $125,000,000.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The amendment provides $125,000,000 in fiscal year 1991 for the third clean coal technology procurement instead of $75,000,000 as proposed by the House and $100,000,000 as proposed by the Senate.

Amendment No. 115: Deletes Senate proposed appropriation of $150,000,000 for fiscal year 1992 for clean coal technology. The House proposed no such appropriation.

Amendment No. 116: Restores House language stricken by the Senate which prohibits the use of supplemental, backup, or contingent project selections in clean coal technology procurements.

Amendment No. 117: Restores the word "further" stricken by the Senate.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

Amendment No. 118: Appropriates $422,062,000 for fossil energy research and development instead of $422,660,000 as proposed by the House and $407,090,000 as proposed by the Senate. The net decrease below the amount proposed by the House consists of increases of $250,000 for advanced research in control technology for ceramic filters and novel separation and cleanup research at Morgantown Energy Technology Center (METC); $100,000 for inhouse IGCC research, $125,000 for IGCC subpilot particle control, and $100,000 in supporting research and development, all in gas stream cleanup; $250,000 for a waste water project in Wyoming in waste management; $450,000 for turbine and gas stream cleanup research in coal utilization, $300,000 for gas turbine component research, $250,000 for instrumentation and diagnostics, $200,000 for technical and economic analyses, and $360,000 for university coal research including historically black colleges, all in advanced research and technology development; $150,000 for atmospheric fluidized bed (AFB) combustion; $500,000 for pressurized fluidized bed (PFB) combustion to offset the use of funds for close out of the NYU contract, and $200,000 for design of a research combustion unit, both in PFB combustion; $1,600,000 for molten carbonate fuel cells; $1,200,000 for diesel engine contracts in heat engines; $400,000 for required environmental work in underground coal gasification; $400,000 for design and construction of a 12-inch gasifier, $100,000 for inhouse research on sulfur capture, $300,000 for technical assistance for site specific combined cycle assessments, and $1,200,000 for turbine valve testing, all in the coal gasification power production program; $100,000 for model development in the coal gasification industrial fuel program; $100,000 for continuation of the four existing research facilities, $1,000,000 for a bench-scale unit to convert char to clean carbon, $400,000 for transportation applications research, $300,000 for characterization of co-products, and $700,000 for inhouse research and reactor construction, all in the coal gasification co-products program; $1,500,000 for microbial recovery and reservoir wetability work in enhanced oil recovery; $400,000 for inhouse research, $300,000 for rock fragmentation research, and $250,000 for preliminary work on a cost-shared oil shale facility, all in oil shale; $200,000 for western tight sands, $750,000 for optimization of natural gas-fired fuel cells, $300,000 for gas hydrates, and $300,000 for deep source gas research, all in unconventional gas recovery; and $500,000 to complete the METC adminstrative facility; and decreases of $500,000 for coal drying studies, and $500,000 for hi-bay testing at Pittsburgh Energy Technology Center (PETC), both in coal preparation; $300,000 for scale-up of combined SO_2/NO_x technology, and $250,000 for advanced separations, both in flue gas cleanup; $1,000,000 for a particle control test facility at Wilsonville, Alabama in gas stream cleanup; $1,000,000 for the general House add for coal utilization, components, and instrumentation, in advanced research and technology developments; $1,100,000 for advanced research in coal liquefaction; $200,000 for the Wilsonville pilot facility in direct liquefaction; $1,200,000 for the LaPorte pilot facility in indirect liquefaction; $200,000 for support studies in coal liquefaction; $650,000 for advanced research in combustion systems, which allows $500,000 for mineral transformation and ash transport and deposition work at PETC in addition to the work at METC included in the Senate report; $550,000 for advanced sorbents in PFB combustion; $400,000 for industrial combustors, and $300,000 for small scale proof-of-concept combustors, both in advanced combustion; $100,000 for fuels characterization, $200,000 for storage, transport, and handling systems, and $300,000 for fire tube boiler tests, all in alternative fuels utilization; $500,000 in phosphoric acid fuel cells; $1,000,000 in tubular solid oxide fuel cells; $2,000,000 for magnetohydrodynamics; $500,000 for oxygen production research in the industrial fuel gasification program; $750,000 for cost-shared geoscience contracts and $630,000 for tar sands, both in enhanced oil recovery; $100,000 for gas-to-liquids research in unconventional gas recovery; $103,000 for cooperative research and development, leaving $2,371,000 for the University of North Dakota Energy and Minerals Research Center (UNDEMRC) and $2,321,000 for Western Research Institute (WRI); and $1,800,000 for renovation of PETC facilities.

The managers agree that:

1. the waste water project for low rank coals in Wyoming which is provided a total of $1,750,000, including $854,000 in unobligated prior year funds, should be at an existing facility, should be cost-shared and should evaluate several coals. The managers have no objection to the project being performed under the memorandum of understanding with the State of Wyoming, as long as none of the Federal funds are used to cover State overhead charges;

2. no funds are to be provided for construction of a hospital waste fluidized bed combustion project without at least fifty percent cost-sharing from other sources;

3. funding for the molten carbonate fuel cell program is provided to continue current contractors at existing levels and to initiate immediately a competitive, cost-shared procurement for further development of fuel cell power plants. The proposed procurement should reduce the number of full scale development efforts to two, and should provide stack research funding to the third developer;

4. up to 5 percent of internal (non-contract) research and development funds for METC, PETC, WRI, UNDEMRC, and the National Institute for Petroleum and Energy Research (NIPER) may be used for equipment, and such use should continue to be reported on a quarterly basis;

5. no more than one percent of each budget category may be used for technical and program management support. Such support should continue to be shown separately for each research and development activity in budget documents;

6. support for Argonne National Laboratory should continue at levels equivalent to previous fiscal years with emphasis on research programs;

7. a detailed geoscience implementation plan with funding options should be submitted to the Appropriations Committees by March 31, 1990. The managers are disturbed that after at least two years of development a comprehensive research strategy is not yet available. It is increasingly difficult to justify continued high levels of support for this program absent a research framework. The managers expect the Department to expedite the publication of such a strategy so that it can be used as a basis for developing the detailed implementation plan due in March, 1990;

8. the Department may initiate the design of a large scale fixed bed gasifier for power production within available funds. Proceeding with the design does not imply commitment to construction of such a facility, and no large expenditures should be undertaken absent a comprehensive program plan justifying its need and specific Congressional approval;

9. significant light oil research should be managed by the Metairie site office, including existing and new research and development projects and technology transfer and outreach activities throughout the region so that office personnel are utilized fully;

10. the amount for the Gravimelt coal cleaning process does not include funds for major equipment purchases;

11. funds for the Calderon project are only available to the extent they are matched on a 20-percent cost-sharing basis by project sponsors;

12. the increase of $800,000 for bioprocessing of coal in advanced research and technology development is for programs at Idaho National Engineering Laboratory (INEL);

13. within funds for support studies in coal liquefaction, the Department should update base case economics for indirect liquefaction;

14. funds for the scale-up of one process to approximately one ton per hour from existing programs in the coproducts coal gasification program should be awarded on a competitive basis with a minimum of 20 percent cost-sharing;

15. the total of $4,896,000 provided for PETC facility renovation may be used for either administrative facilities (Building 922), or the chemical engineering laboratory (Building 89). Additional estimated costs of $3,200,000 are necessary through 1992 to complete the projects;

16. in the several instances where the Senate and House provided the same level of program funding but the Senate provided a more detailed breakdown below those levels, there is no objection to the use of the lower levels as program guidance;

17. $750,000 in the oil shale program is to support the development of a comprehensive plan and justification for a proposed oil shale facility involving in-situ processing of western shales as well as possible surface

processing of mined materials and wastes. Such a facility would require a minimum of 60 percent costsharing by non-Federal sources. No commitment to construction of such a facility should be inferred from current year funding;

18. the fundamental thermodynamics program at NIPER should continue to be funded at levels at least equivalent to fiscal year 1989 (approximately $1,000,000);

19. within the funds for advanced research in coal liquefaction, $1,500,000 is to continue support of the Consortium for Fossil Fuel Liquefaction Science;

20. a more comprehensive program for cooperation between States and the Federal Government for oil and gas research and development is necessary. The current practice of negotiating individual, unrelated Memoranda of Understanding with individual States on an "ad hoc" basis does not provide a structure which assures individual States or regions equitable treatment, nor does it necessarily assure adherence to a set of national objectives. The managers agree that the Department should establish, using available funds, a formal Federal-State cooperative program in oil and gas research and development, requiring a minimum of 50 percent cost-sharing by the States. Such a program should be modeled on the highly successful Federal-State cooperative water program of the U.S. Geological Survey. As a minimum the program should define Federal priorities, establish a formal project review process at a regional level, allow for the participation of universities and industry in State projects, and be operational by fiscal year 1991;

21. a revised schedule and projected funding to complete the June, 1984 cost-shared MHD program should be submitted to the Appropriations Committees by February 1, 1990;

22. awards for the Historically Black Colleges and Universities program under the university coal research program in advanced research and technology development should be made on a competitive basis;

23. funds contained in the House-passed bill for selective coalescence ($250,000) should be applied to selective coagulation processes; and

24. the Department shall investigate proven long reach horizontal drilling technology embodying multiple radials from a single vertical well to enhance oil and gas production, particularly in environmentally sensitive areas. The technology should also apply to unconventional gas, coal bed methane, salt dome interconnection, and remediation of hazardous wastes, including nuclear wastes, under buildings and facilities. The Department shall submit a report to the Appropriations Committees on this technology no later than February 1, 1990, including the costs of implementing a cost-shared demonstration of the technology.

Amendment No. 119: Earmarks $4,000,000 for construction of DOE Fossil Energy building B26 at METC as proposed by the Senate instead of $3,500,000 as proposed by the House.

Amendment No. 120: Earmarks $40,900,000 for the magnetohydrodynamics program instead of $37,000,000 as proposed by the Senate and $42,900,000 as proposed by the House.

Amendment No. 121: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *: Provided further, That section 303 of Public Law 97-257 is further amended by changing the number for the Office of the Assistant Secretary for Fossil Energy to "715", changing the number of the Pittsburgh Energy Technology Center to "290", changing the number for the Morgantown Energy Technology Center to "275", and changing the number for the headquarters organization of the Assistant Secretary for Fossil Energy to "not less than 125".*

ALTERNATIVE FUELS PRODUCTION
(INCLUDING TRANSFER OF FUNDS)

Monies received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, 1989, shall be deposited in this account and immediately transferred to the General Fund of the Treasury.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree to amend the allocations of personnel floors to the individual organizations within Fossil Energy and also agree to increasing the overall floor to 715 positions. The floor at PETC is increased from 280 to 290 positions; the floor at METC is increased from 250 to 275 positions which is intended to include the Laramie Project Office in Wyoming; the floor at headquarters is reduced from 135 to 125; and the unallocated floor is reduced from 35 to 25 which is intended to include the Bartlesville Project Office in Oklahoma, and the office in Metairie, Louisiana.

The managers are concerned about the growing size of the headquarters organization given the fact that most program management activities are located in the field. Of particular concern is the increasing number of non-career appointments in the headquarters operation. Recognizing that the legal requirements are floors and not ceilings the Congress has not compelled the Department to reduce personnel in the headquarters organization and has provided sufficient funding to continue the approximate staffing levels now in place. The managers except the Department to review carefully the headquarters functions and staffing with the goal of prudently reducing the overall size of the staff. The managers do not expect such review or any anticipated staff reductions to involve Reductions in Force (RIFs) or widespread involuntary transfers of staff to the field.

With regard to the Alternative Fuels Production account, the managers have identified interest income accrued from deposits in a trust fund established as part of the sale of the Great Plains Gasification Plant in Beulah, North Dakota. This revenue is being used to offset other Department of Energy fossil energy requirements, and is estimated to be approximately $8,800,000.

ENERGY CONSERVATION

Amendment No. 122: Appropriates $413,262,000 for energy conservation instead of $411,367,000 as proposed by the House and $413,441,000 as proposed by the Senate. The net increase above the amount proposed by the House consists of increases of $100,000 for windows and daylighting, and $450,000 for building retrofit research, both in building systems; $900,000 for district cooling demonstrations in community systems; $300,000 for research on foaming agents and refrigerants in technology and consumer products; $200,000 for the Federal Energy Management Program; $300,000 for research on biodegradable plastics in waste energy reduction; $900,000 for the metals initiative in process efficiency; $100,000 for energy analysis and diagnostics centers; $1,160,000 for implementation of the Alternative Motor Fuels Act of 1988; $500,000 for battery research, $400,000 for the site operators' user task force, and $650,000 for vehicular fuel cell applications, all in electric and hybrid vehicle research; $300,000 for combustion, $450,000 for thermal sciences, $500,000 for fuel cell technology, and $1,250,000 for materials, all in energy conversion and utilization technology; and $3,000,000 for State grants; and decreases of $175,000 for non-CFC insulation, $100,000 for roofs, $200,000 for advanced energy design in commercial buildings using integrated computer systems, $100,000 for building performance simulation, and $100,000 for wall research, all in building systems; $250,000 for district heating and cooling research, and $90,000 for mine water heat recovery in Scranton, PA in community systems; $250,000 for lighting research in technology and consumer products; $200,000 for least cost utility planning; $100,000 for capital equipment in buildings programs; $300,000 for industrial heat pumps, $400,000 for liquid/solid waste conversion, and $1,000,000 for National Lab support, all in industrial waste energy reduction; $300,000 for process electrolysis, $700,000 for sensors and controls, and $1,200,000 for materials processing other than the metals initiative, all in industrial process efficiency; $500,000 for turbine development, and $400,000 for non-CFC air conditioning research and window glazings, both in vehicle propulsion; $500,000 for user groups and data collection in alternative fuels utilization; $70,000 for propulsion systems, $200,000 for test and evaluation, and $80,000 for National Lab support, all in electric and hybrid vehicle research; $200,000 in advanced materials; $300,000 for the operation of the High Temperature Materials Laboratory; $500,000 for capital equipment in transportation; $500,000 for tribology, and $50,000 for international programs, both in energy conversion and utilization technology; $100,000 in multisector technology assessment and transfer; $400,000 for multisector capital equipment; and $300,000 for policy and analysis.

The managers agree that:

1. with respect to the schools and hospitals program, States may continue to allocate funds for technical assistance activities in the manner and under the conditions described in House Report 101-120;

2. with respect to the purchase of electric vehicles for the site operators' user task force, priority should be given to placing vehicles in areas of the country with air quality problems, and the Federal share of vehicle purchase costs may not exceed 50 percent. Further, in no case can Federal funds be used to reduce the purchase cost to participants of electric vehicles to levels below the cost of an equivalent non-electric vehicle;

3. funds provided for district cooling demonstrations in community systems may be used only for engineering and design work on demonstrations, and the Federal share of such costs may not exceed 25 percent;

4. funds included for heat pump research in technology and consumer products include work on desiccant cooling;

5. funds included for the metals initiative should be allocated first to continue existing work on schedule. After such allocation remaining amounts may be used for new initiatives;

6. funds for electric vehicle battery research are for the highest priority, most promising, and innovative concepts, and are not earmarked in specific amounts to any battery technology;

7. funds for energy conversion and utilization technology (ECUT) are not earmarked below the level of detail in House Report 101-120;

8. the additional $3,000,000 for State grants shall be allocated to low income weatherization, schools and hospitals, energy extension service, and State conservation program grants in the same proportion as the base program level of $200,000,000;

9. of the total of $4,500,000 provided for implementation of the Alternative Motor Fuels Act of 1988, $700,000 is for the competitive demonstration of natural gas-powered heavy duty vehicles in conjunction with engine manufacturers, and $1,200,000 is for a program with West Virginia University to develop, construct and operate a transportable heavy duty engine dynamometer laboratory to test engine emissions and to be capable of handling all alternative and petroleum based fuels;

10. the $2,500,000 for CFC related research is for a program of research on materials compatibility and lubricants for substitute refrigerants to replace restricted CFC compounds, and should include cost-sharing or in-kind contributions of 25% by industry collaborators. The work should be coordinated with EPA so that efforts are not duplicative. The managers also agree that the work with industrial consortia should be expedited to the extent possible because of the short deadlines of the "Montreal Protocol";

11. $2,150,000 is included for work on proton exchange membrane (PEM) fuel cells for transportation applications of which $500,000 is allocated to ECUT for a limited duration program of research on generic basic research issues related to enabling technology. The overall management of the remainder of the PEM fuel cell program should be assumed by the Department's Office of Transportation Systems. Within these funds, the Department should initiate a competitive procurement with the objective of contracting with a major automotive firm for a comprehensive cost-shared program for a PEM fuel cell propulsion system with the goal of a proof-of-concept test-bed vehicle in the mid-to-late 1990's. Cost-sharing from other sources such as the California South Coast Air Quality Management District also should be sought. To the extent feasible existing work in Energy Storage should be coordinated and integrated with this program, including work on electrochemical research, and membrane technology;

12. the Hawaii methanol project is included in the alternative fuels utilization program at $300,000;

13. funding for the Scranton mine water heat recovery and district heating and cooling projects is the final increment for these activities; and

14. the Department of Energy has failed to meet Appropriations Committee reporting deadlines for a number of requests made during the fiscal year 1989 appropriations process. Most notably, the Department was asked to submit a report related to the operation of the Weatherization Program by February 1, 1989. A letter was received from the Assistant Secretary for Conservation and Renewable Resources requesting an extension until June 1989. The managers note that this request for an extension was dated after the original due date. Subsequently, the report was not delivered to the Committee until September, more than three months after the extended deadline, with no explanation for the delay.

The Committees request such reports to assist in evaluating program performance and funding needs. Clearly the Department submitted this report much too late to be useful during the Committee's deliberations on fiscal year 1990 budget requests, despite repeated requests for its timely submission. Consequently, the managers expect the Secretary to develop a formal system to track requests by the Committees on Appropriations. This system should include as a minimum all reports requested from the Department in either the House or Senate Committee reports or in this Statement of the Managers, listing the subject of the report; the due date; and internal dates for clearance by appropriate offices within the Department to ensure timely submission to the Congress. A listing of such reports should be transmitted by the Secretary to the Committees not later than November 1, 1989.

Amendment No. 123: Earmarks $203,000,000 for State energy conservation grant programs instead of $200,000,000 as proposed by the House and $205,000,000 as proposed by the Senate. The managers agree that the additional $3,000,000 above the amount earmarked by the House is to be allocated to the individual grant programs in the same proportion as the base program of $200,000,000.

Amendment No. 124: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment that earmarks $16,900,000 for steel and aluminum research instead of $16,000,000 as proposed by the House and $15,900,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

ECONOMIC REGULATION

The managers agree that the Economic Regulatory Administration (ERA) should continue to provide administrative support as budgeted in fiscal year 1990 to the fuels programs transferred to fossil energy research and development. The estimated costs of such support are $102,000. Fossil energy should assume such costs in the fiscal year 1991 budget process.

SPR PETROLEUM ACCOUNT

Amendment No. 125: Appropriates $227,820,000 for acquisition and transportation of petroleum for the Strategic Petroleum Reserve as proposed by the Senate instead of $319,407,000 as proposed by the House. The managers agree to the Senate position providing an approximate daily rate of fill for the Reserve of 50,000 barrels based on a $17.50 per barrel price for oil. Funding a higher fill rate is precluded by budget constraints.

Amendment No. 126: Deletes House proposed outlay ceiling for fiscal year 1990 as proposed by the Senate.

Amendment No. 127: Appropriates $108,458,000 for acquisition and transportation of petroleum in fiscal year 1991 as proposed by the House instead of $79,625,000 as proposed by the Senate. The managers agree that the advance appropriation for fiscal year 1991 is for purchases of oil to be delivered in the first quarter of the fiscal year.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

Amendment No. 128: Appropriates $1,185,910,000 for Indian Health Services instead of $1,189,330,000 as proposed by the House and $1,160,093,000 as proposed by the Senate. The decrease from the amount proposed by the House consists of increases of $5,000,000 for the Alaska community health aide program, $1,800,000 under the mental health program for indigent Indians in North and South Dakota committed to an institution by tribal courts, $527,000 for a residential treatment center during pregnancy for Alaska Native Women, $703,000 for immunization, including $242,000 for hepatitis screening and testing and $461,000 for the HIB prevention program in Alaska, and $550,000 for urban health, including $300,000 for Phoenix and $250,000 for Flagstaff; and decreases of $1,000,000 for health professions loan repayment, $2,000,000 for the health promotion/disease prevention initiative (with the balance of $3,000,000 to be allocated by IHS), $1,000,000 for information resource management, $1,000,000 for the mental health initiative, and $7,000,000 for tribal contract conversion.

The $470,000 provided for staffing and equipment for the Siletz clinic is to be used for a demonstration project, regarding how the funding needs of tribes which provide facilities outside of the IHS priority funding process can be met.

The $1,800,000 mental health increase for indigent Indians will be available for the purpose of contracting for mental health and chemical dependency treatment services from the North Dakota Department of Human Services and the State of South Dakota. These services under contract will be available to indigent Indian persons, resident in North or South Dakota, or on reservations located therein, and placed at State government treatment facilities by the Indian Health Service. Such funds shall not be used for any other purpose.

The $500,000 increase provided for the community health representatives program should be provided to all newly-recognized tribes which have not yet had a CHR program established, using IHS standards for distribution of the funds based on population. The managers understand the Klamath tribe will receive about $62,000 and the Grand Ronde tribes will receive about $44,000.

The managers agree that the $1,500,000 increase for scholarships shall consist of $750,000 to initiate the special nursing program and $750,000 for the regular scholarships program.

The increase of $10,000,000 for inflationary cost increases includes funds for increases in contractual health care costs. The IHS is urged to work with the Hoopa Tribe in California to assist in developing a plan for a community health facility, and to report back to the Committees on the feasibility and costs of such a proposal by March 1, 1990.

For the model diabetes program, there is an increase of $1,500,000 provided for five additional centers, including one for the Zuni Pueblo, NM.

Within the alcoholism program, there is $100,000 for fetal alcohol syndrome research at the University of Washington. Within the total provided for contract health care, there is $5,000,000 to address the backlog of deferred services. The man-

agers expect IHS to continue to work with Sage Memorial Hospital in AZ and Mid-Dakota Hospital in SD to provide for ongoing contract care services in these areas.

Within the increase for Arizona urban health programs, a priority should be placed on prenatal treatment, particularly in Phoenix.

The managers understand that the Public Health Service budget includes $992,000 for AIDS programs in IHS, and that these funds will be transferred to IHS for its use. Of this amount, at least $350,000 should be provided to the urban health programs. The AIDS funds should be distributed based on a plan emphasizing education and prevention, and after tribal consultation.

The managers note that the language in the Senate report regarding a recent court decision should refer to on-reservation rather than off-reservation Indians.

The managers agree with the directives in the Senate report for material to be included in the IHS budget justification, including self-determination activities, new facilities' costs, newly recognized tribes, details of hospital and clinic funding, Medicare/Medicaid reimbursements, end stage renal disease, and equipment needs and priorities.

Amendment No. 129: Restores language and changes the sum proposed by the House for the conversion of tribal contracts and agreements to a calendar year basis. The funding proposed by the managers is $16,000,000 in budget authority only instead of $23,000,000 as proposed by the House and no funding as proposed by the Senate.

The managers request that IHS submit a report on the logistical and accounting needs for tribal contract conversion to the Committees, prior to using any of these funds for such conversions. The report should address the option and costs of converting all IHS contracts to a calendar year basis.

Amendment No. 130: Provides $17,000,000 for the Indian Catastrophic Health Emergency Fund and contract care as proposed by the House, instead of $15,000,000 as proposed by the Senate. The increase is $2,000,000 for the Catastrophic Health Emergency Fund.

Amendment No. 131: Provides $3,000,000 for the health professions loan repayment program, instead of $4,000,000 as proposed by the House and $2,000,000 as proposed by the Senate.

INDIAN HEALTH FACILITIES

Amendment No. 132: Appropriates $70,996,000 for Indian health facilities instead of $75,420,000 as proposed by the House and $65,535,000 as proposed by the Senate. The increase over the amount proposed by the Senate consists of increases of $6,000,000 for sanitation facilities and $461,000 for personnel quarters, Kotzebue, AK; and a decrease of $1,000,000 for Pine Ridge, SD personnel quarters.

Within the total of $31,000,000 provided for sanitation facilities, the following amounts are earmarked: $1,644,000 for the Seneca, NY water project; $1,471,000 for Tohono O'odham (which does not include funds for cash reserves for the tribal utility organization); $980,000 for the Quileute Tribe, WA; $450,000 for the Zuni Pueblo, NM; and $1,250,000 for the city of Kotzebue, AK, with an equal matching amount to be provided from non-Federal sources. The IHS should also work with the Oglala Sioux and Pleasant Point Passamaquoddy Tribes to begin to address their needs in fiscal year 1990.

The managers agree that funds in the amount of $2,750,000 reprogrammed from the Navajo "New Lands" project in fiscal year 1989 do not need to be restored to that project until such funds are ready to be used. The IHS should inform the Committees when the funds will be needed.

With regard to the Belcourt, ND personnel quarters project, IHS should inform the Committees as soon as information is available as to the number of housing units that will be required at this location.

The amount of $1,000,000 has been provided for Pine Ridge, SD personnel quarters, instead of $2,000,000 as proposed by the House and Senate, since the lower amount will allow the project to proceed on schedule with site development activities.

The managers agree that IHS shall use the $10,000,000 included for repair and improvement projects for the highest priority projects; and shall include a breakdown of the projects funded in the fiscal year 1991 budget justification.

The managers have included $3,759,000 for the Sallisaw, OK replacement health center. If additional funds are needed for this project when the IHS is ready to award a contract, the managers agree that IHS may reprogram additional funds to this project, to provide up to a total of $4,165,000, from available unobligated construction funds. IHS should inform the Committees promptly of any shortfall in funds for the project, and the source of funds to be reprogrammed.

The managers request a joint report from IHS and the Bureau of Indian Affairs on the possibility of including detoxification facilities in BIA detention facilities, to be submitted to the Committees by March 1, 1990.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

Amendment No. 133: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$74,149,000 of which $55,041,000 shall be for subpart 1 and $16,361,000 shall be for subpart 2 and 3: Provided, That $1,600,000 available pursuant to section 5323 of the Act shall remain available for obligation until September 30, 1991: Provided further, That appropriations for subpart 2 remaining unobligated at the end of fiscal year 1989, which would otherwise be returned to the general fund of the Treasury, shall be merged with and made a part of the fiscal year 1990 Indian Education appropriation and shall remain available for obligation until September 30, 1990.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The amendment appropriates $74,149,000 for Indian education as proposed by both the House and the Senate but earmarks the amounts for subparts 1, 2, and 3 as proposed by the House; earmarks $1,600,000 for fellowships for Indian students to remain available until September 30, 1991, as proposed by the House instead of an unspecified amount as proposed by the Senate; and provides for funds appropriated in fiscal year 1989 for the pilot gifted and talented program to remain available for obligation through fiscal year 1990.

The managers expect the Office of Indian Education to work with the tribally-controlled community colleges to enable them to develop acceptable proposals for the gifted and talented pilot program.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

The managers agree that the Office of Navajo and Hopi Indian Relocation should coordinate with Tribal officials with respect to discretionary fund expenditures and report to the Committees, no later than two weeks prior to the first of the Office's fiscal year 1991 budget hearings before the Committees, on tribal recommendations including those which cannot be accommodated.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

Amendment No. 134: Appropriates $4,350,000 for payment to the Institute instead of $4,650,000 as proposed by the House and $3,500,000 as proposed by the Senate. The decreases from the amount proposed by the House consist of $200,000 for operation of the Institute and $100,000 for payment to the Institute endowment fund.

Amendment No. 135: Reported to technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: , *of which $100,000 shall be transferred immediately from the Institute endowment fund to the Institute for use in Institute operations: Provided, That notwithstanding any other provisions of law, the annual budget proposal and justification for the Institute shall be submitted to the Congress concurrently with the submission of the President's Budget to the Congress.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides for transfer of $100,000 from the Institute's endowment fund to the operating account of the Institute, and directs that the Institute's annual budget submission will be submitted to the Congress at the same time as the President's Budget is submitted. In accordance with law, the Institute's budget is not to be revised by the Administration prior to submission to the Congress.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

Amendment No. 136: Appropriates $228,553,000 for salaries and expenses instead of $231,981,000 as proposed by the House and $223,029,000 as proposed by the Senate. The decrease from the amount proposed by the House consists of decreases of $465,000 to the tropical forestry initiative, $130,000 to the Tropical Research Institute, including $30,000 for the Quincentenary and $100,000 for staffing and equipping the Barro Colorado Island laboratory, $75,000 for two positions and related costs at the National Zoo, $40,000 for the Environmental Research Center, $75,000 for African-American programs, $245,000 to the National Museum of Natural History for the Quincentenary, $135,000 to the National Museum of American History for the Quincentenary, $60,000 to the National Museum of American Art for a curator position, $61,000 to the Cooper-Hewitt Museum for support for the new building, $2,000,000 to the Museum of the American Indian (leaving $4,000,000, in-

cluding $100,000 for training of Native Americans), $87,000 to public service, leaving $21,000 for a position in the Office of Public Affairs, $40,000 to the Office of Quincentenary Programs, and $15.000 to the Office of Folklife Programs for the Quincentenary.

The managers expect the Smithsonian to proceed with the master plan for the Anacostia Museum during fiscal year 1990, and to present a full report on its status to the Committees prior to the fiscal year 1991 hearings.

The managers are concerned with the Smithsonian's failure to notify both House and Senate Appropriations Committees in advance before using trust funds to acquire new facilities which are expected to result in additional Federal expenditures. The Smithsonian should ensure that all such plans are presented sufficiently in advance of such acquisitions to allow the Committees to review such plans and to respond appropriately.

REPAIR AND RESTORATION OF BUILDINGS

Amendment No. 137: Appropriates $26,769,000 for repair and restoration of buildings instead of $26,869,000 as proposed by the House and $26,653,000 as proposed by the Senate. The decrease from the amount proposed by the House is for renovation of the new Cooper-Hewitt building.

CONSTRUCTION

Amendment No. 138: Appropriates $8,320,000 for construction instead of $12,900,000 as proposed by the House and $7,550,000 as proposed by the Senate. The change from the amount proposed by the Senate includes: increases of $150,000 for planning for the Tropical Research Institute floating laboratory and $620,000 for planning related to the Museum of the American Indian.

In proceeding with the planning for the floating laboratory, the managers request the Smithsonian to look for ways to bring the total cost down under the current estimates for the vessel, and expect a report prior to the 1991 hearings.

With regard to the Museum of the American Indian, the managers are concerned about the accuracy of the cost estimates for construction of the proposed Museum facilities, and the potential for significant increases in these estimates. Future budget submissions should contain a detailed project cost baseline before construction funds are requested, and should also reflect cost-sharing proposals using non-Federal funds.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

Amendment No. 139: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $40,712,000 for salaries and expenses instead of $40,789,000 as proposed by the House and $40,744,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the management of the House to the amendment of the Senate.

The change from the amount proposed by the House consists of decreases of $52,000 for two new positions and $25,000 for telephone and postage.

REPAIR, RESTORATION, AND RENOVATION OF BUILDINGS

Amendment No. 140: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $1,805,000 for repair, restoration and renovation of buildings instead of $1,905,000 as proposed by the House and $2,305,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The decrease from the amount proposed by the House is due to a delay in the schedule for the Sculpture Garden.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

Amendment No. 141: Appropriates $4,700,000 for salaries and expenses as proposed by the Senate instead of $4,611,000 as proposed by the House.

The managers agree that the Center should set the maximum fellowship rate at the GS-14, Step 1 level and should not hire one of its fellows at the statutory pay cap. Instead, the managers expect the Center to use the resultant $31,000 savings to help offset the fiscal year 1990 impact of the 1989 pay rise.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

GRANTS AND ADMINISTRATION

Amendment No. 142: Appropriates $144,105,000 for grants and administration, National Endowment for the Arts, instead of $144,205,000 as proposed by the House and $143,005,000 as proposed by the Senate.

The managers agree to the following distribution:

Arts in Education	$5,600,000
Dance	8,850,000
Design Arts	4,150,000
Expansion Arts	6,500,000
Folk Arts	3,300,000
Inter-Arts	4,000,000
Literature	5,000,000
Media Arts	12,000,000
Museums	11,400,000
Music	12,200,000
Opera-Musical Theater	4,200,000
Local Programs	2,600,000
Theater	10,800,000
Visual Arts	6,100,000
Advancement	1,300,000
Challenge	300,000
State programs	26,000,000
Policy, planning and research	1,000,000
Administration	18,600,000
Commission	250,000
Unallocated reduction	−45,000
Total	144,105,000

The managers have included $250,000 for a commission to examine National Endowment for the Arts grant making procedures and standards applied in awarding grants.

Amendment No. 143: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted, insert the following: *Provided, That not less than thirty days prior to the award of any direct grant to the Southeastern Center for Contemporary Art (SECCA) in Winston-Salem, North Carolina, or for the Institute of Contemporary Art at the University of Pennsylvania, the National Endowment for the Arts shall submit to the Committee on Appropriations of the House and Senate a notification of its intent to make such an award: Provided further, That said notification shall delineate the purposes of the award which is proposed to be made and the specific criteria used by the Endowment to justify selection of said award*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment requires the National Endowment for the Arts to submit to the Committees on Appropriations notice of its intent to make any direct grant to the Southeastern Center for Contemporary Art and the Institute of Contemporary Art.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

Amendment No. 144: Appropriates $132,430,000 for grants and administration, National Endowment for the Humanities, instead of $134,630,000 as proposed by the House and $216,550,000 as proposed by the Senate.

The managers agree to the following distribution:

Media grants	$9,400,000
Museums and Historical Organizations	8,900,000
Public Humanities projects	2,300,000
Humanities projects in libraries	2,800,000
Education programs	16,200,000
Fellowships and seminars	15,560,000
Research grants	17,000,000
State programs	26,000,000
Office of Preservation	17,700,000
Administration	16,570,000
Total	132,430,000

Amendment No. 145: Restores House language stricken by the Senate which allows administration of the National Endowment for the Humanities and earmarks $4,200,000 for the Office of Preservation, instead of $6,400,000 as proposed by the House.

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

Amendment No. 146: Appropriates $22,675,000 for grants and administration, Institute of Museum Services, instead of $23,000,000 as proposed by the House and $22,350,000 as proposed by the Senate.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

Amendment No. 147: Appropriates $516,000 for salaries and expenses as proposed by the House instead of $494,000 as proposed by the Senate.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

Amendment No. 148: Appropriates $5,500,000 for grants to cultural and artistic organizations as proposed by the Senate instead of $5,000,000 as proposed by the House.

Amendment No. 149: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides for increasing the annual authorized funding level for the National Capital Arts and Cultural Affairs program from $5,000,000 to $7,500,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

Amendment No. 150: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment insert the following: *$1,920,000: Provided, That none of the funds under this head may be used to process comments on undertakings of Federal agencies, as specified in Sections 106 and 110 of the National Historic Preservation Act of 1966, as amended, on grants or contracts to institutions or facilities whose main activity is the conduct of scientific research and such agencies shall be relieved from the requirement of seeking comments on such undertakings unless requested in writing by the grantee.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment appropriates $1,920,000 for salaries and expenses instead of $1,945,000 as proposed by the House and $1,795,000 as proposed by the Senate and specifies that undertakings pursuant to Federal grants or contracts to scientific institutions or facilities are exempt from the comment requirements of Sections 106 and 110 of the National Historic Preservation Act of 1966.

The difference from the amount proposed by the House includes decreases of $17,000 for the first year costs associated with the addition of two historic preservation specialist positions and $8,000 for printing expenses.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

Amendment No. 151: Appropriates $3,133,000 for salaries and expenses as proposed by the Senate instead of $3,123,000 as proposed by the House.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

The managers agree that the Commission should receive a final review of memorial plans by the Commission of Fine Arts prior to the Park Service obligating funds for memorial construction.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

LAND ACQUISITION AND DEVELOPMENT FUND

Amendment No. 152: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment that authorizes $5,000,000 for borrowing authority for land acquisition instead of $12,000,000 as proposed by the House and $10,000,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

TITLE III—GENERAL PROVISIONS

Amendment No. 153: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *: Provided, That—*

(A) None of the funds authorized to be appropriated for the National Endowment for the Arts or the National Endowment for the Humanities may be used to promote, disseminate, or produce materials which in the judgment of the National Endowment for the Arts or National Endowment for the Humanities may be considered obscene, including but not limited to, depictions of sadomasochism, homo-eroticism, the sexual exploitation of children, or individuals engaged in sex acts and which, when taken as a whole, do not have serious literary, artistic, political or scientific value.

(B) It is the Sense of the Congress:

(1) That under the present procedures employed for awarding National Endowment for the Arts grants, although the National Endowment for the Arts has had an excellent record over the years, it is possible for projects to be funded without adequate review of the artistic content or value of the work.

(2) That recently works have been funded which are without artistic value but which are criticized as pornographic and shocking by any standards.

(3) That censorship inhibits and stultifies the full expression of art.

(4) That free inquiry and expression is reaffirmed. Therefore, be it resolved:

(a) That all artistic works do not have artistic or humanistic excellence and an application can include works that possess both non-excellent and excellent portions.

(b) That the Chairman of the National Endowment for the Arts has the responsibility to determine whether such an application should be funded.

(c) That the National Endowment for the Arts must find a better method to seek out those works that have artistic excellence and to exclude those works which are without any redeeming literary, scholarly, cultural or artistic value.

(d) That a commission be established to review the National Endowment for the Arts' grant making procedures, including those of its panel system, to determine whether there should be standards for grant making other than "substantial artistic and cultural significance, giving emphasis to American creativity and cultural diversity and the maintenance and encouragement of professional excellence" (20 U.S.C. 954(c)(1)) and if so, then what other standards. The criteria to be considered by the commisson shall include but not be limited to possible standards where (a) applying contemporary community standards would find that the work taken as a whole appeals to a prurient interest; (b) the work depicts or describes in a patently offensive way, sexual conduct; and (c) the work, taken as a whole, lacks serious artistic and cultural value.

(c)(1) There is hereby established a temporary Independent Commission for the purpose of:

(a) reviewing the National Endowment for the Arts' grant making procedures, including those of its panel system; and

(b) considering whether the standard for publicly funded art should be different than the standard for privately funded art;

(2) The Commission shall be composed of twelve members as follows:

(a) four members appointed by the President;

(b) four members appointed by the President upon the recommendation of the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives;

(c) four members appointed by the President upon the recommendation of the President pro tempore of the Senate in consultation with the minority leader of the Senate;

(d) the chairman shall be designated by vote of the Commission members; and

(e) a quorum for the purposes of conducting meetings shall be seven.

(3) Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under 5 U.S.C. 5703.

(4) The Commission may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(5) The Commission shall issue a report to the Speaker of the House of Representatives and the President of the Senate no later than 180 days after the date of enactment of this Act.

(6) The Commission shall expire on September 30, 1990.

(7) Expenses of the Commission not to exceed $250,000, including administrative support, shall be furnished by the National Endowment for the Arts

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have agreed to language which reaffirms the declaration of freedom of expression for American artists, writers, composers, dramatists and all practitioners of the arts which was contained in the Senate report when the National Endowments for the Arts and Humanities were created in 1965.

The managers agree that the House and Senate have no wish to nor do they intend by expressing their views herein to censor NEA or to impose their views on NEA.

The managers agree that NEA erred in approving the grants for the exhibiting publicly of certain controversial photographs by Robert Mapplethorpe and by granting a fellowship for Andres Serrano, whose subsequent work included a photograph of a crucifix in a jar of urine.

The managers agree that such grants do not come within the requirement of the NEA statute that "only applications and projects be funded that in the context in which they are presented, in the experts' view, foster excellence, are reflective of exceptional talent, and have significant literary, scholarly, cultural or artistic merit." (20 U.S.C. 959)

The managers are of the opinion that it is the sense of the Congress that the procedures of NEA and its panels system can be and should be improved to assure that the Chairman and Council of NEA will be able to carry out their statutory responsibility of reviewing all grants.

The managers agree that a commission of qualified persons should be appointed to review procedures of NEA and its panels looking to their improvement for grantmaking.

Amendment Nos. 154–157: Restore section numbers proposed by the House and stricken by the Senate.

Amendment No. 158: Deletes Senate language which would have prevented expenditure of funds for training activities for the purpose of directing or encouraging (1) the organization or implementation to protest social conditions, and (2) any form of civil disobedience.

Amendment Nos. 159–162: Restore section numbers proposed by the House and stricken by the Senate.

Amendment No. 163: Restores language stricken by the Senate limiting planning, preparation, or offer for sale timber of giant sequoia trees located on National Forest System or Bureau of Land Management lands.

In developing the management implementation plan to protect the giant sequoia, the Forest Service and the Bureau of Land Management should be mindful of the need to protect the environment in the vicinity of the giant sequoia trees. The giant sequoia has a relatively shallow root system and to denude the area around each tree would leave the tree more liable to uprooting by winds and erosion of the soil around the root system. As such, the management plan to protect the giant sequoia should incorporate appropriate zones to protect the giant sequoia trees from clearcutting and its effects.

Amendment No. 164: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 315. Section 9(a)(3) of Public Law 100-580 (102 Stat. 2932) is amended by inserting after the term "Council." the following: "The Yurok Transition Team may receive grants and enter into contracts for the purpose of carrying out this section and section 10(a) of this Act. Such grants and contracts shall be transferred to the Yurok Interim Council upon its organization.": Provided, That using $750,000 appropriated in the Energy and Water Development Appropriations Act, 1990, under "General Investigations, Corps of Engineer Civil", the Secretary of the Army, acting through the Chief of Engineers, is directed to continue engineering and design of the McCook and Thornton Reservoirs, which are features of the Chicago and Underflow Plan: Provided further, That with respect to claims resulting from the performance of functions, during fiscal year 1990 only, or claims asserted after the effective date of this Act, but resulting from the performance of functions prior to fiscal year 1990, under a contract, grant agreement, or cooperative agreement authorized by the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq.) or by Title V, Part B—Tribally Controlled School Grants of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988, as amended (102 Stat. 385; 25 U.S.C. 2501 et seq.), an Indian tribe, tribal organization or Indian contractor is deemed to be part of the Bureau of Indian Affairs in the Department of the Interior or the Indian Health Service in the Department of Health and Human Services while carrying out any such contract or agreement and its employees are deemed employees of the Bureau or Service while acting within the scope of their employment in carrying out the contract or agreement: Provided further, That upon the effective date of this legislation, any civil action or proceeding involving such claims brought hereafter against any tribe, tribal organization, Indian contractor or tribal employee covered by this provision shall be deemed to be an action against the United States and will be defended by the Attorney General and be afforded the full protection and coverage of the Federal Tort Claims Act: Provided further, That beginning with the fiscal year ending September 30, 1991 and thereafter, the appropriate Secretary shall request through annual appropriations funds sufficient to reimburse the Treasury for any claims paid in the prior fiscal year pursuant to the foregoing provisions: Provided further, That nothing in this section shall in any way affect the provisions of Section 102(d) of the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq.).

The managers on the part of the Senate will move to concur in the amendment of the House to the Amendment of the Senate.

The amendment limits grants and contracts to the Yurok Transition Team for the purposes of carrying out the Team's functions pursuant to the Hoopa-Yurok Settlement Act, clarifies funding of a Corps of Engineers project, and expands the coverage of the Federal Tort Claims Act to the Bureau of Indian Affairs and the Indian Health Service for Indian contractors. No similar House language was proposed. Senate language on the Hoopa-Yurok Settlement Act had broader applicability then the agreed upon amendment.

The amendment expands the Senate proposed language in amendments 51, 52, and 53 to include the Indian Health Service in addition to the Bureau of Indian Affairs.

Amendment No. 165: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 316. Effective sixty days after enactment of this Act, the Forest Service is directed to assure an immediate supply of timber from the Kootenai National Forest and to protect the environment: Provided, That pending implementation of the Forest Service's final agency action on the Upper Yaak Decision Area, as defined in the Upper Yaak Draft Environmental Impact Statement, the Forest Service is directed to expeditiously prepare, offer, and supervise the harvest of timber from the lodgepole pine timber type, as defined in the Upper Yaak Draft EIS, in the Upper Yaak Decision Area: Provided further, That adequate environmental assessments for certain timber sales in the Upper Yaak Decision Area have been completed and are adequate, decision notices have been issued, no appeals have been filed, and the time period for appeals as specified in Forest Service regulations has expired: Provided further, That the Forest Service action taken pursuant to this section shall comply with the Kootenai National Forest Plan: Provided further, That no construction of new system roads shall be permitted in the Upper Yaak River Drainage: Provided further, That this section does not in any manner represent a judgement upon the legal adequacy or in any way affect the final decision made in the development or implementation of the Upper Yaak Final EIS.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment delays for sixty days the Senate proposed amendment allowing the Forest Service to proceed with supplying timber in the Upper Yaak Decision Area in the Kootenai National Forest in Montana. The House has no provision. The amendment will allow a reasonable time for interested parties to resolve their differences on timber sales plans.

Amendment No. 166: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 317. Section 320 of Public Law 98-473 (98 Stat. 1974) as amended by Section 316 of Public Law 100-446 (102 Stat 1826) is further amended by deleting the period and inserting ":Provided, That nothing contained herein shall prohibit an agreement between an Indian tribe or tribal organization and the Secretary of the Interior or the Secretary of Health and Human Services, pursuant to the Indian Self-Determination Act as amended (25 U.S.C. 450 et seq.), under which such tribe or tribal organization may retain rents and charges for the operation, maintenance, and repair of such quarters.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The amendment makes technical corrections to the Senate-proposed language that would allow tribal contractors instead of the Bureau of Indian Affairs or the Indian Health Service to collect rent to be used for operations and maintenance of the quarters in situations when the Federal Government retains title to the quarters, but the occupants of the quarters are funded under programs contracted to tribes. The House had no similar provision.

Amendment No. 167: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter by said amendment, insert:

SEC. 318. (a) From funds appropriated under this Act or otherwise made available—

(1) The Forest Service shall offer, notwithstanding the provisions of the Federal Timber Contract Payment Modificaiton Act of 1984 (16 U.S.C. 618(a)(5)(C)), an aggragate timber sale level of seven billion seven hundred million board feet of net merchantable timber from the national forests of Oregon and Washington for fiscal years 1989 and 1990. Such timber sales shall be consistent with existing land and resource management plans or land and resource management plans as approved except, in the case of the Mapleton Ranger District of the Siuslaw National Forest, Oregon, such sales shall be consistent with the preferred alternative of the draft land and resource management, plan and accompanying draft environmetnal impact statement dated October 1, 1986 pending approval of a final land and resource management plan for the Siuslaw National Forest: Provided, That of the seven billion seven hundred million board foot aggregate timber sale level of fiscal years 1989 and 1990, timber sales offered from the thirteen national forests in Oregon and Washington known to contain northern spotted owls shall meet an aggregate timber sale level for fiscal years 1989 and 1990 of five billion eight hundred million board feet of merchantable timber; Provided further, That the sales volume shall be distributed in the same proportion between Oregon and Washington national forests known to contain northern spotted owls based on the average sale volumes for fiscal years 1986 through 1988 and;

(2) The Bureau of Land Management shall offer such volumes as are required in fiscal year 1990 to meet an aggregate timber sale level of one billion nine hundred million board feet for fiscal years 1989 and 1990 from its administrative districts in western Oregon.

(b)(1) In accordance with subsection (b)(2) of this section, all timber sales from the thirteen national forests in Oregon and Washington known to contain norther spotted owls prepared or offered pursuant to this section shall minimize fragmentation of the most ecologically significant old growth

forest stands. "Old growth forest stands" are defined as these stands meeting the criteria according to Forest Service Research Publication #RNW-447. In those instances where the Forest Service, after consultation with the advisory boards established pursuant to subsection (c) of this section, determines that the definition in Forest Service Research Publication #PNW-447 is not fully applicable in national forests known to contain northern spotted owls, the Forest Service shall use old-growth definitions contained in its Pacific Northwest Regional Guide.

(2) To the extent that fragmentation of ecologically significant old growth forest stands is necessary to meet the timber sale levels directed by subsection (a)(1) of this section, the Forest Service shall minimize such fragmentation in the ecologically significant old growth forest stands on a national forest-by-national forest basis based on the Forest Service's discretion in determining the ecologically significant stands after considering input from the advisory boards created pursuant to subsection (c) of this section. The habitat of nesting pairs of spotted owls which are not in the Spotted Owl Habitat Areas (SOHAs) described in subsection (b)(3) of this section shall be considered as importannt factor in the identication of ecologically signicant old growth forest stands.

(3) No timber sales offered pursuant to this section from the thirteen national forests in Oregon and Washington known to contain northern spotted owls may occur within SOHAs identified pursuant to the Final Supplement to the Environmental Impact Statement for an Amendment to the Pacific Northwest Regional Guide—Spotted Owl and the accompanying Record of Decision issued why the Forest Service on December 8, 1988 as adjusted by this subsection:

(A) For the Olympic Peninsula Province, which includes the Olympic National Forest, SOHA size is to be 3,200 acres;

(B) For the Washington Cascades Province, which includes the Mt. Baker-Snoqualmie, Okanogen, Wenatchee, and Gifford-Pinchot National Forests, SOHA size is to be 2,600 acres;

(c) For the Oregaon Cascades Province, which includes the Mt. Hood, Willamette, Rogue River, Deschutes, Winema, and Umpqua National Forests, SOHA size is to be 1,875 acres;

(D) For the Oregon Coast Range Province, which includes the Siuslaw National Forest, SOHA size is to be 2,500 acres; and

(E) For the Klamath Mountain Province, which includes the Siskuyou National Forest, SOHA size is to be 1,250 acres.

(F) All other standards and guidelines contained in the Chief's Record of Decision are adopted.

(4) In planning for the preparation and offer of timber sales authorized in subsection (a)(1) of this section, the Forest Service, to the extent possible in areas proximate to SOHA sites identified in subsection (b)(3) of this section, should exercise discretion in selecting sites and/or silvicultural prescriptions in order to retain spotted owl habitat characteristics in such areas. The Forest Service should consider the relative location and quality of such areas contiguous to the SOHAs and should give higher priority to preparing and offering sales in areas of lower quality and less important location than to areas of greater quality and more impotant location relative to the SOHAs.

(5) No timber sales offered pursuant to this section on Bureau of Land Management lands in western Oregon known to contain northern spotted owls shall occur within the 110 areas identified in the December 22, 1987 agreement, except sales identified in said agreement, between the Bureau of Land Management and the Oregon Department of Fish and Wildlife. Not later than thirty days after enactment of this Act, the Bureau of Land Management, after consulting with the Oregon Department of Fish and Wildlife and the U.S. Fish and Wildlife Service to identify high priority spotted owl area sites, shall select an additional twelve spotted owl habitat areas. No timber sales may be offered in the areas identified pursuant to this subsection during fiscal year 1990.

(6)(A) Without passing on the legal and factual adequacy of the Final Supplement to the Environmental Impact Statement for an Amendment to the Pacific Northwest Regional Guide—Spotted Owl Guidelines and the accompanying Record of Decision issued by the Forest Service on December 8, 1988 or the December 22, 1987 agreement between the Bureau of Land Management and the Ortegon Department of Fish and Wildlife for management of the spotted owl, the Congress hereby determines and directs that management of areas according to subsections (b)(3) and (b)(5) of this section on the thirteen national forests in Oregon and Washington and Bureau of Land Management lands in western Oregon known to contain northern spotted owls is adequate consideration for the purpose of meeting the statutory requirements that are the basis for the consolidated cases captioned Seattle Audubon Society et al., v. F. Dale Robertson, Civil No. 89-160 and Washington Contract Loggers Assoc. et al., v. F. Dale Robertson, Civil No. 89-99 (order granting preliminary injunction) and the case Portland Audubon Society et al., v. Manuel Lujan, Jr., Civil No. 87-1160-FR. The guidelines adopted by subsections (b)(3) and (b)(5) of this section shall not be subject to judicial review by any court of the United States.

(B) The Forest Service is directed to review and revise as appropriate the decision adopted in the December, 1988 Record of Decision referenced in subsection (b)(6)(A) of this section and shall consider any new information gathered subsequent to the issuance of the Record of Decision, including the interagency guidelines for conservation of northern spotted owls developed by the Interagency Scientific Committee to address conservation of the northern spotted owl. This review, and any resulting changes to the December, 1988 decision determined to be necessary by the Forest service are to be completed and in effect not later than September 30, 1990.

(c)(1) The Secretaries of Agriculture and the Interior shall name advisory boards on a national forest-by-national forest and Bureau of Land Management district-by-district basis which shall be comprised of not more than seven individuals who, in the appropriate secretary's judgment, represent a diversity of views. In the process of selecting individuals to serve on the advisory boards, the Secretaries shall make every effort to recognize the diversity of views and perspectives and allow parties which represent a cross-section of those views to participate in making recommendations in the selection of board members, provided that every effort will be made to ensure the advisory boards are comprised of an equal number of representatives of environmental and business concerns. The advisory boards shall be named not later than thirty days after enactment of this Act. The advisory boards shall provide recommendations to the Forest Service and the Bureau of Land Management in reviewing prospective timber sales which shall meet the timber sale levels directed by this section prior to their offer. The advisory boards shall present their advice within fifteen or forty-five days after receipt of the necessary review documents. The fifteen-day period applies to single sales and the forty-five-day period applies to multiple sales. The members of the advisory boards authorized by this section shall serve without compensation or reimbursement of expenses. The Forest Service and the Bureau of Land Management are authorized to use available funds for the services of professional, independent facilitators to assist in the work of the advisory boards.

(2) The Forest Service and Bureau of Land Management shall consider the recommendations of the advisory boards once such boards are established pursuant to this section, including any suggested modifications of individual sales. The Forest Service and Bureau of Land Management shall also consider recommendations made by the U.S. Fish and Wildlife Service on those timber sales conferred upon under Section 7(a)(4) or, if the spotted owl is listed as a threatened or endangered species, consult under Section 7(a)(2) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1536 (a)(2) and (1)(4) prior to the offer of any subsequent timber sale in fiscal year 1990. These recommendations shall be considered regardless of whether the agreement provided in subsection (f)(1) of this section has been reached, entered into, and accepted by the relevant court. Adoption or rejection of such recommended modifications shall not require preparation of additional environmental documents, notwithstanding any other provision of law.

(d) Notwithstanding any other provision of law, there shall be not more than one level of administrative appeal of any decision by the Forest Service or the Bureau of Land Management to undertake any activity directed by this section for timber sales to be prepared, advertised, offered, and awarded during fiscal year 1990 from the thirteen national forests in Oregon and Washington and Bureau of Land Management lands in western Oregon known to contain northern spotted owls. If an administrative stay is granted in any such appeal the Regional Forester or the Interior Board of Land Appeals shall issue a final decision on the merits within forty-five days of the date of issuance of such stay. Notwithstanding any other provision of law, any party seeking to challenge a decision made after the date of enactment of this Act to prepare, advertise, offer, or award a timber sale in fiscal year 1990 from the thirteen national forests and Bureau of Land Management lands in western Oregon known to contain northern spotted owls need not exhaust their administrative remedies prior to filing suit. Nothing in this subsection shall alter the administrative appeal requirements of the Forest Service or Bureau of Land Management.

(e) Nothing in this section shall affect interagency cooperation among the Forest Service, the Bureau of Land Management, and the U.S. Fish and Wildlife Service under Sections 7(a)(2) and 7(a)(4) of the Endangered Species Act and its regulations.

(f)(1) Not later than two days after enactment of this Act, the Forest Service shall submit to plaintiffs in the captioned case Seattle Audubon Society et al., v. F. Dale

Robertson, Civil No. 89-160, a list of sales which had been prepared for offer in fiscal year 1989 and which contain at least 40 acres of suitable spotted owl habitat. Not later than fourteen days after receipt of such list, plaintiffs to the suit referenced in this subsection may enter into an agreement with the Forest Service releasing for sale not less than one billion one hundred million board feet of net merchantable timber. Such sales must be available for advertisement not later than fourteen days after the agreement required by this subsection is reached. Such timber sales selected shall not be subject to further judicial review by any court of the United States.

(2) If the agreement specified in subsection (f)(1) of this new section is reached, then those timber sales described in the list submitted to plaintiffs pursuant to subsection (f)(1) of this section but not contained in the agreement authorized by subsection (f)(1) of this section shall not be offered for sale in fiscal year 1990.

(3) If the agreement authorized under subsection (f)(1) of this section is not implemented within the time frames prescribed in subsection (f)(1) of this section, one billion one hundred million board feet of net merchantable timber from such sales submitted to plaintiffs pursuant to subsection (f)(1) of this section shall be selected and modified as appropriate by the Forest Service in accordance with the provisions of this section. Selected sales shall be prepared, advertised, offered, awarded and operated notwithstanding any provision of law that is a basis for any stay, injunction or order issued in the proceeding identified in subsection (f)(1) of this section: Provided, That nothing in this subsection shall affect rights available under the Contract Disputes Act (41 U.S.C. 601 et seq.).

(4) The Forest Service shall, for each respective timber sale, lift its own stay or apply to the appropriate court for the lifting of the restraining order or injunction whose basis has been withdrawn by this section.

(5) Timber sales selection pursuant to subsections (f)(1) or (f)(3) of this section shall be based on the following criteria: (1) proportional distribution between Oregon and Washington national forests known to contain northern spotted owls based on the average sale volumes for fiscal years 1986 through 1988; (2) proportional distribution to the extent possible among the thirteen national forests known to contain northern spotted owls in Oregon and Washington based on the average sale volumes for fiscal years 1986 through 1988; and (3) to the extent possible, selection of sales outside the habitat of nesting pairs of spotted owls which are not in the Spotted Owl Habitat Areas described in subsection (b)(3) of this section.

(g)(1) No restraining order or preliminary injunction shall be issued by any court of the United States with respect to any decision to prepare, advertise, offer, award, or operate a timber sale or timber sales in fiscal year 1990 from the thirteen national forests in Oregon and Washington known to contain northern spotted owls. The provisions of section 705 of title 5, United States Code shall not apply to any challenge to such a timber sale: Provided, That the courts shall have authority to enjoin permanently, order modification of, or void an individual sale if it has been determined by a trial on the merits that the decision to prepare, advertise, offer, award, or operate such sale was arbitrary, capricious or otherwise not in accordance with law: Provided further, That any challenge to a timber sale must be filed in Federal District Court within fifteen days of the date of initial advertisement of the challenged timber sale: Provided further, That for forty-five days after the date of filing of a challenge to a timber sale the affected agency shall take no action to award a challenged timber sale. Civil actions filed under this section shall be assigned for hearing at the earliest possible date and shall take precedence over all other matters pending on the docket of the court at that time except for criminal cases: Provided further, That the court shall render its final decision relative to any challenge within forty-five days from the date such challenge is brought, unless the court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(2) Notwithstanding any other provision of law, the court may set rules governing the procedures of any such proceeding which set page limits on briefs and time limits on filing briefs and motions and other actions which are shorter than the limits specified in the Federal rules of civil or appellate procedure.

(3) In order to reach a decision within forty-five days, the Federal District Court may assign all or part of any such case or cases to one or more Special Masters, for prompt review and recommendations to the court.

(h) The Forest Service, the Bureau of Land Management, and the U.S. Fish and Wildlife Service shall submit reports updating their findings and progress as determined by the process recognized under subsection (e) of this section on a monthly basis to the President of the Senate and the Speaker of the House of Representatives for appropriate referral. Such reports shall also include information on the extent to which recommendations of the advisory boards established pursuant to subsection (c) of this section were integrated into timber sale decisions as well as reasons for modifying or not adopting recommendations made by the advisory boards. Such reports shall be submitted as directed beginning on December 1, 1989, and ending on September 30, 1990.

(i) Except for provisions of subsection (a)(1) of this section, the provisions of this section apply solely to the thirteen national forests in Oregon and Washington and Bureau of Land Management districts in western Oregon known to contain northern spotted owls. Nothing contained in this section shall be construed to require the Forest Service or Bureau of Land Management to develop similar policies on any other forest or district in Oregon or Washington.

(j) The advisory boards established under this section shall be subject to the Federal Advisory Committee Act (86 Stat. 770).

(k) Timber sales offered to meet the requirements of subsection (a) of this section shall be subject to the terms and conditions of this section for the duration of those sale contracts. All other provisions of this section shall remain in effect until September 30, 1990.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment sets terms and conditions applicable only for fiscal year 1990 for making timber sales on Federal lands in Oregon and Washington, for managing habitat for northern spotted owls, and for minimizing fragmentation of significant old growth forest stands.

The managers have agreed to this provision because a large portion of the Forest Service's and Bureau of Land Management's (BLM) fiscal year 1989 timber sale programs on the thirteen national forests in Oregon and Washington and five BLM administrative districts in western Oregon known to contain northern spotted owls have been interrupted due to legal challenges, and because these challenges have raised serious concerns about the adequacy of planned actions of the agencies with regard to managing habitat for the northern spotted owl and minimizing fragmentation of old growth stands. The managers are extremely concerned that the agencies did not pursue avenues to resolve the conflicts or more adequately address the issues raised in these legal challenges, thereby requiring the inclusion of this section. The extraordinary measures included in this section, particularly with regard to judicial processes, have been reluctantly agreed to because of the failure of the agencies to take steps on their own to resolve these matters in a manner which could have prevented the current situation. These measures included in this provision have been provided on an interim basis for fiscal year 1990 only, during which the BLM and Forest Service are expected to take further action to address these concerns, as discussed in the Act and in this statement. Except for provisions relating to timber sale volume, this section does not apply to the six National Forests in Region Six which do not contain northern spotted owls.

In developing the amendment, the managers have sought to balance the goals of ensuring a predictable flow of public timber for fiscal year 1990 and protecting the northern spotted owl and significant old growth forest stands. In reconciling these often conflicting goals, the managers have limited all provisions in this subsection to fiscal year 1990, except that the timber sales offered under this section in fiscal year 1990 are covered by its terms and conditions throughout the length of the timber sale contracts. Sales offered under this section but not awarded and withdrawn after October 1, 1990 under normal Forest Service and BLM procedures may not be reoffered in subsequent fiscal years under the terms of this section. While it may be difficult to prepare substantial new sale volumes, the managers encourage the Forest Service to make every effort possible to prepare and offer new sales as part of the fiscal year 1990 program.

The managers have included language to ensure that the fiscal year 1990 sales volume is distributed in the same proportion between the states of Oregon and Washington, and to encourage proportional distribution of sales released through subsection (f). The managers agree that the proportional distribution should be based on the time frame of fiscal years, 1986, 1987, and 1988 to reflect an accurate historic sales time period on which to base the sales program pursuant to the provisions of this section.

The amendment provides discretion to the Forest Service in the placement of timber sales proximate to Spotted Owl Habitat Areas (SOHAs). However, as the language in the Act states, the Forest Service should give consideration to the location and quality of proximate habitat in the course of sequencing areas for timber sales, by giving priority to timber sales in areas of lesser quality prior to consideration of sales of greater quality, as necessary to meet the timber targets. The agencies are also urged to give consideration in the planning, scheduling, and offering of timber sales in fiscal

year 1990 to minimize, to the extent feasible, the possibility that existing spotted owl populations will become isolated.

The managers have chosen to substitute adjusted interim standards for SOHAs for national forest lands in lieu of the spotted owl management Record of Decision (ROD) published in December, 1988. The designations contained in this section are made without prejudice to the validity of the Forest Service's ROD. However, the Forest Service is directed to review its ROD and make revisions to it as appropriate. In so doing, the Forest Service should develop documentation to support any revisions to the ROD. It is expected that the agency will give careful consideration to the recommendations of the Interagency Scientific Committee in reaching any final decisions regarding revisions to the ROD. The managers expect that the agency will make available to the Congress and the public explanations of any decisions to modify or reject such recommendations.

The legal adequacy of and prohibition against judicial review of the SOHA framework established in this section should not be construed to moot future action after fiscal year 1990 in the *Seattle Audubon Society/Washington Contract Loggers Association* v. *Robertson* cases against the current Forest Service owl management ROD or any cases which may be filed against a revised ROD.

The managers expect that the Forest Service shall make every reasonable effort to complete land and resource management plans by the end of fiscal year 1990.

The managers have chosen for fiscal year 1990 to expand by 12 sites the network of SOHAs identified through the December, 1987 agreement between the Bureau of Land Management and the Oregon Department of Fish and Wildlife (ODFW). This expanded reservation of areas for spotted owls again is deemed adequate to address for fiscal year 1990 only the concerns raised in the *Portland Audubon Society* v. *Lujan* case. The legal adequacy of and prohibition against judicial review of the SOHA framework established in this section should not be construed to moot future action after fiscal year 1990 in the *Portland Audubon Society* v. *Lujan* case against current BLM owl management activities or any cases which may be filed against future BLM management decisions.

The BLM shall continue to work in consultation with ODFW and the U.S. Fish and Wildlife Service to ensure that, to the extent practicable, the agencies coordinate their efforts in identifying and defining the 12 additional high priority spotted owl habitat areas.

Section (b)(6)(A) does not pass on the legal sufficiency of the existing Forest Service ROD or the BLM/ODFW agreement insofar as each addresses concerns about the northern spotted owl. However, inasmuch as subsections (b)(3) and (b)(5) establish interim SOHA standards for fiscal year 1990 which protect more habitat than currently protected by the Forest Service and BLM, subsection (b)(6)(A) removes for fiscal year 1990 the sufficiency or insufficiency of those standards as a reason for injunctive relief. These provisions do not expire for the contracts resulting from timber sales offered through September 30, 1990 and subsequently awarded under this section. Subsection (b)(6)(A) should be read in combination with subsection (g) which establishes expedited procedures for challenging timber sales in court. Together, these two subsections preserve the opportunity for judicial review of individual timber sales on a single-sale basis.

This section in no way alters application of the Endangered Species Act or other environmental laws to Forest Service and BLM management activities.

Nothing in this section is intended to prejudge any future decision with regard to the current listing process for the northern spotted owl pursuant to the Endangered Species Act, any final decisions that may be reached by a Federal court in the *Seattle Audubon/Washington Contract Loggers Assoc.* v. *Robertson* cases and the *Portland Audubon* v. *Lujan* case, any revisions that may be made by the Forest Service to the ROD or any revisions that may be made by BLM to its owl management policies. In addition, nothing in this section is intended to affect any decision by the Forest Service to offer for sale after fiscal year 1990 any timber volume which was not sold during fiscal year 1990 pursuant to subsection (f) of this section or the process by which sales are prepared and offered after fiscal year 1990.

Seven-member advisory boards are to be established to provide input on the agencies' timber sale programs. The managers intend these boards to be established on a national forest-by-national forest or BLM district-by-district basis, and to be comprised of persons knowledgeable about the resource values of the particular forest or district. The boards will review timber sales and make their recommendations about which sales should be prohibited, released, or modified in furtherance of all provisions of this section, and the agencies are urged to consider fully these recommendations. The managers intend that the boards will be comprised of and will fairly represent the diverse views of the interests affected by this section. The managers expect the advisory boards to seek to minimize conflicts involved in this issue.

The section limits administrative appeals to one level of review in each agency, and sets time limits on the resolution of appeals in cases where an action is stayed. Also, appellants need not exhaust their appeal opportunities before filing suit under the terms of this section. No other changes to the appeals process are made.

Release of 1.1 billion board feet of net merchantable timber sales prepared for the Forest Service's fiscal year 1989 program shall be achieved through either of two mechanisms: an agreement between the Forest Service and plaintiffs in the *Seattle Audubon Society* case or, in the absence of such an agreement on a timely basis, by the Forest Service. Sales prepared but not released under either of these mechanisms shall not be available as part of the fiscal year 1990 sale offer program.

The section narrows the time frame for filing civil actions in court and prohibits the issuance of pre-trial restraining orders and injunctions. It does encourage, however, that trials be scheduled and decided expeditiously.

The managers take note of the new Cedar river Municipal Watershed policies recently adopted by the City of Seattle for management of the City's 81 percent ownership of the watershed. The policies balance City land management in the Cedar River Municipal Watershed between habitat preservation and timber management. The United States owns about 18 percent of the Cedar River Municipal Watershed in the Mt. Baker-Snoqualmie National Forest. The managers note the long history of cooperation between the City of Seattle and the Forest Service in managing the Cedar River Municipal Watershed. The City and Forest Service have agreed in the past to use land exchanges to achieve City ownership of the wateshed for water quality protection. The managers note that the recently adopted City policies require comprehensive negotiations between the City and the Forest Service to achieve land and timber exchanges. The managers support this negotiation process and encourage both parties to continue to strive for expeditious agreement.

The Forest Service and BLM shall, upon request, make available within five working days timber sale environmental assessments and related doumentation.

The managers are encouraged by the formation of the Interagency Scientific Committee for the purpose of developing a strategy for conservation of the northern spotted owl. The managers understand that the Committee expects to complete its recommendations by no later than June, 1990 and encourage the agencies to provide necessary support to complete expeditiously the work of the Committee. The managers expect that the recommendations and report of the Committee will be made available to the public.

The managers expect that by January 30, 1990, the BLM will provide to the appropriate committees of Congress a report explaining agency actions and intentions to coordinate and integrate spotted owl management plans on its administration districts containing spotted owls. The managers further expect that the BLM will consider carefully any recommendations made by the Interagency Scientific Committee in the development of its new land and resource management plans.

Within 30 days of receipt, the Forest Service and BLM will make available to the public recommendations received from the Fish and Wildlife Service pursuant to actions undertaken in accordance with provisions of the Endangered Species Act.

Amendment No. 168: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 319. (a)(1) Subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 1352. Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions

"(a)(1) None of the funds appropriated by any Act may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action described in paragraph (2) of this subsection.

"(2) The prohibition in paragraph (1) of this subsection applies with respect to the following Federal actions:

"(A) The awarding of any Federal contract.

"(B) The making of any Federal grant.

"(C) The making of any Federal loan.

"(D) The entering into of any cooperative agreement.

"(E) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

"(b)(1) Each person who requests or receives a Federal contract, grant, loan, or cooperative agreement from an agency or requires or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency, in accordance with paragraph (4) of this subsection—

"(A) a written declaration described in paragraph (2) or (3) of this subsection, as the case may be; and

"(B) copies of declarations received by such person under paragraph (5).

"(2) A declaration filed by a person pursuant to paragraph (1)(A) of this subsection in connection with a Federal contract, grant, loan, or cooperative agreement shall contain—

"(A) a statement setting forth whether such person—

"(i) has made any payment with respect to that Federal contract, grant, loan, or cooperative agreement, using funds other than appropriated funds, which would be prohibited by subsection (a) of this section if the payment were paid for with appropriated funds; or

"(ii) has agreed to make any such payment;

"(B) with respect to each such payment (if any) and each such agreement (if any)—

"(i) the name and address of each person paid, to be paid, or reasonably expected to be paid;

"(ii) the name and address of each individual performing the services for which such payment is made, to be made, or reasonably expected to be made;

"(iii) the amount paid, to be paid, or reasonably expected to be paid;

"(iv) how the person was paid, is to be paid, or is reasonably expected to be paid; and

"(v) the activity for which the person was paid, is to be paid, or is reasonably expected to be paid; and

"(C) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).

"(3) A declaration filed by a person pursuant to paragraph (1)(A) of this subsection in connection with a commitment providing for the United States to insure or guarantee a loan shall contain—

"(A) a statement setting forth whether such person—

"(i) has made any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guaranty; or

"(ii) has agreed to make any such payment; and

"(B) with respect to each such payment (if any) and each such agreement (if any), the information described in paragraph (2)(B) of this subsection.

"(4) A person referred to in paragraph (1)(A) of this subsection shall file a declaration referred to in that paragraph—

"(A) with each submission by such person that initiates agency consideration of such person for award of a Federal contract, grant, loan, or cooperative agreement, or for grant of a commitment providing for the United States to insure or guarantee a loan;

"(B) upon receipt by such person of a Federal contract, grant, loan, or cooperative agreement or of a commitment providing for the United States to insure or guarantee a loan, unless such person previously filed a declaration with respect to such contract, grant, loan, cooperative agreement or commitment pursuant to clause (A); and

"(C) at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any declaration previously filed by such person in connection with such Federal contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

"(5) Any person who requests or receives from a person referred to in paragraph (1) of this subsection a subcontract under a Federal contract, a subgrant or contract under a Federal grant, a contract or subcontract to carry out any purpose for which a particular Federal loan is made, or a contract under a Federal cooperative agreement shall be required to file with the person referred to in such paragraph a written declaration referred to in clause (A) of such paragraph.

"(6)(A) The head of each agency shall collect and compile the information contained, pursuant to paragraphs (2)(B) and (3)(B) of this subsection, in the statements filed under this subsection and, on May 31 and November 30 of each year, submit to the Secretary of the Senate and the Clerk of the House of Representatives a report containing a compilation of the information contained, pursuant to such paragraphs, in the statements received during the six-month period ending on March 31 or September 30, respectively, of that year. The report, including the compilation shall be available for public inspection 30 days after receipt of the report by the Secretary and the Clerk.

"(B) Notwithstanding subparagraph (A)—

"(i) information referred to in subparagraph (A) that involves intelligence matters shall be reported only to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees;

"(ii) information referred to in subparagraph (A) that is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, is classified in accordance with such order, and is available only by special access shall be reported only to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives or the Committees on Armed Services of the Senate and the House of Representatives (whichever such committees have jurisdiction of matters involving such information) and to the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees; and

"(iii) information reported in accordance with this subparagraph shall not be available for public inspection.

"(7) The Director of the Office of Management and Budget, after consulting with the Secretary of the Senate and the Clerk of the House of Representatives, shall issue guidance for agency implementation of, and compliance with, the requirements of this section.

"(c)(1) Any person who makes an expenditure prohibited by subsection (a) of this section shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure.

"(2)(A) Any person who fails to file or amend a declaration required to be filed or amended under subsection (b) of this section shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

"(B) A filing of a declaration or a declaration amendment on or after the date on which an administrative action for the imposition of a civil penalty under this subsection is commenced does not prevent the imposition of such civil penalty for a failure occurring before that date. For the purposes of this subparagraph, an administrative action is commenced with respect to a failure when an investigating official determines in writing to commerce an investigation of an allegation of such failure.

"(3) Sections 3803 (except for subsection (c)), 3804, 3805, 3806, 3807, 3808, and 3812 of this title shall be applied, consistent with the requirements of this section, to the imposition and collection of civil penalties under this subsection.

"(4) An imposition of a civil penalty under this subsection does not prevent the United States from seeking any other remedy that the United States may have for the same conduct that is the basis for the imposition of such civil penalty.

"(d)(1) The official of each agency referred to in paragraph (3) of this subsection shall submit to Congress each year an evaluation of the compliance of that agency with, and the effectiveness, of, the requirements imposed by this section on the agency, persons requesting or receiving Federal contracts, grants, loans, or cooperative agreements from that agency, and persons requesting or receiving from that agency commitments providing for the United States to insure or guarantee loans. The report shall be submitted at the same time the agency submits its annual budget justifications to Congress.

"(2) The report of an agency under paragraph (1) of this subsection shall include the following:

"(A) All alleged violations of the requirements of subsections (a) and (b) of this section, relating to the agency's Federal actions referred to in such sections, during the year covered by the report.

"(B) The actions taken by the head of the agency in such year with respect to those alleged violations and any alleged violations of subsections (a) and (b) of this section that occurred before such year, including the amounts of civil penalties imposed by the head of such agency in such year, if any.

"(3) The Inspector General of an agency shall prepare and submit the annual report of the agency required by paragraph (1) of this subsection. In the case of an agency that does not have an inspector general, the agency official comparable to an inspector general shall prepare and submit the annual report, or, if there is no such comparable official, the head of the agency shall prepare and submit such annual report.

"(e)(1)(A) Subsection (a)(1) of this section does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement to the extent that the payment is for agency and legislative liaison activities not directly related to a Federal action referred to in subsection (a)(2) of this section.

"(B) Subsection (a)(1) of this section does not prohibit any reasonable payment to a person, or any payment or reasonable compensation to an officer or employee of a person, requesting or receiving a Federal

contract, grant, loan, or cooperative agreement or an extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract, grant, loan, or cooperative agreement or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract, grant, loan, or cooperative agreement.

"(C) Nothing in this paragraph shall be construed as permitting the use of appropriated funds for making any payment prohibited in or pursuant to any other provision of law.

"(2) The reporting requirements in subsection (b) of this section shall not apply to any person with respect to—

"(A) payments of reasonable compensation made to regularly employed officers or employees of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan;

"(B) a request for or receipt of a contract (other than a contract referred to in clause (C)), grant, cooperative agreement, subcontract (other than a subcontract referred to in clause (C)), or subgrant that does not exceed $100,000; and

"(C) a request for or receipt of a loan, or a commitment providing for the United States to insure or guarantee a loan, that does not exceed $150,000 including a contract or subcontract to carry out any purpose for which such a loan is made.

"(f) The Secretray of Defense may exempt a Federal action described in subsection (a)(2) from the prohibition in subsection (a)(1) wherever the Secretary determines, in writing, that such an exemption is in the national interest. The Secretary shall transmit a copy of each such written exemption to Congress immediately after making such determination.

"(g) The head of each Federal agency shall take such actions as are necessary to ensure that the provisions of this section are vigorously implemented and enforced in such agency.

"(h) As used in this section:

"(1) The term 'recipient', with respect to funds received in connection with a Federal contract, grant, loan, or cooperative agreement—

"(A) includes the contractors, subcontractors, or subgrantees (as the case may be) of the recipient; but

"(B) does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures that are by such tribe or organization for purposes specified in subsection (a) and are permitted by other Federal law.

"(2) The term 'agency' has the same meaning provided for such term in section 552(f) of title 5, and includes a Government corporation, as defined in section 9101(1) of this title.

"(3) The term 'person'—

"(A) Includes an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit; but

"(B) does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures by such tribe or organization that are made for purposes specified in subsection (a) and are permitted by other Federal law.

"(4) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

"(5) The term 'local government' means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, the following entities:

"(A) A local public authority.

"(B) A special district.

"(C) An intrastate district.

"(D) A council of governments.

"(E) A sponsor group representative organization.

"(F) Any other instrumentality of a local government.

"(6)(A) The terms 'Federal contract', 'Federal grant', 'Federal cooperative agreement' mean, respectively—

"(i) a contract awarded by an agency;

"(ii) a grant made by an agency or a direct appropriation made by law to any person; and

"(iii) a cooperative agreement entered into by an agency.

"(B) Such terms do not include—

"(i) direct United States cash assistance to an individual;

"(ii) a loan;

"(iii) loan insurance; or

"(iv) a loan guaranty.

"(7) The term 'Federal loan' means a loan made by an agency. Such term does not include loan insurance or a loan guaranty.

"(8) The term 'reasonable payment' means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

"(9) The term 'reasonable compensation' means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"(10) The term 'regularly employed', with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan, means an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

"(11) The terms 'Indian tribe' and 'tribal organization' have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).".

(2) The table of sections for subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end the following new item:

"1352. Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions."

(b) The first report submitted under subsection (b)(6) of section 1352 of title 31, United States Code (as added by subsection (a)), shall be submitted on May 31, 1990, and shall contain a compilation relating to the statements received under subsection (b) of such section during the six-month period beginning on October 1, 1989.

(c) The Director of the Office of Management and Budget shall notify the head of each agency that section 1352 of title 31, United States Code (as added by subsection (a)), is to be complied with commencing 60 days after the date of the enactment of this Act. Not later than 60 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall issue the guidance required by subsection (b)(7) of such section.

(d) Section 1352 of title 31, United States Code (as added by subsection (a)), shall take effect with respect to Federal contracts, grants, loans, cooperative agreements, loan insurance commitments, and loan guaranty commitments that are entered into or made more than 60 days after the date of the enactment of this Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Section 319 prohibits recipients of Federal grants, contracts, loans, or cooperative agreements from using Federal funds to pay persons to influence or to attempt to influence executive or legislative decisionmaking in connection with the awarding of any contract, grant, loan or cooperative agreement.

In the case of a payment, or progress payment, received by a contractor for performance of a contract, the portion of the payment properly allocable to the contractor's profit is not appropriated funds.

The Managers agree that Federal actions defined in subsection (a)(2) do not include claims and settlements against the Federal Government. Activities related to such actions are not prohibited. The amendment is not intended to prohibit any citizen's right to petition Congress for a redress of grievances and does not proscribe legislative activities supporting or opposing programs within the purview of the government.

The section also requires that any person requesting or receiving a Federal grant, contract, cooperative agreement, loan, loan guarantee, or loan insurance, must report to the relevant agency the name of any lobbyists or consultants paid with non-Federal funds, the amounts such lobbyists or consultants were paid, and the purpose for which they were paid.

All Federal agencies will be required to file, on a semi-annual basis beginning May 31, 1990, a report compiling the information gathered regarding payments, including the names and addresses and amounts paid to all lobbyists or consultants who were paid with non-Federal funds for influencing (or attempting to influence) executive or legislative decisionmaking on Federal grants, contracts, cooperative agreements, loans, loan guarantees, or loan insurance.

The provision in subsection (c)(1) and (c)(2) sets civil penalties of a minimum of $10,000 and a maximum of $100,000 for each violation of the prohibition on the use of Federal funds to pay lobbyists and for each failure to report the information required when they are paid with non-Federal funds.

In determining whether to impose a civil penalty, and the amount of any such penalty, by reason of a violation by any person, the head of an agency shall consider the nature, circumstances, extent, and gravity

of the violation, the effect on the ability of such person to continue in business, any prior violations by such person, the degree of culpability of such person, the ability of the person to pay the penalty, and such other matters as may be appropriate.

The provisions do not prohibit any reasonable payments to consultants (or officers or employees of persons) for professional, technical, or other similar services in connection with meeting requirements for receiving Federal contracts, loans, or cooperative agreements.

The Managers agree that "agency and legislative liaison activities" referred to in subsection (e)(1)(A) include the provision of information requested by Federal agencies and Congress and the making of presentations to agency personnel related to the qualities and characteristics of products or services sought to be sold to the Federal Government.

Upon enactment of this section, the Office of Management and Budget (OMB) will have 60 days to issue guidance to all agencies of government as to how compliance with these provisions is to be carried out. The Conferees expect that all agencies shall expeditiously promulgate regulations to implement the requirements of this section, and that all such regulations shall be uniform and shall comply with the government-wide guidance issued by the Director of the Office of Management and Budget pursuant to paragraph (b)(7). Also, major agencies, as designated by OMB, shall issue a common rule complying with the guidance issued by OMB.

The Inspector General or the equivalent, of every agency of government, is required to submit an annual report commenting on the effectiveness of each Agency's compliance with these provisions and recommending any changes that may be necessary to strengthen or improve upon these provisions.

The provision exempts grants, contracts, cooperative agreements, subcontracts and subgrants of $100,000 or less and loans (and Federal commitments to insure or guarantee loans and certain contracts and subcontracts relating to loans) that do not exceed $150,000. This serves to exempt small contractors and individuals who seek Federally-insured loans (for the purchase of personal residences, for example) from these provisions.

The definitions of "recipient" in (g)(1) and "person" in (g)(3) are expanded to exclude Indian tribes, tribal organizations, or any other Indian organization for specific purposes permitted by other Federal law. Such Indian tribes and tribal organizations are defined in (g)(11) based on the Indian Self-determination and Education Assistance Act. Alaska Natives are included for this purpose under the definitions of Indian tribes in that Act.

The Conferees have deleted provisions of the Senate amendment which would have authorized cancellation or termination of a contract, grant, cooperative agreement, loan, loan insurance, or loan guarantee for violation of the payment prohibition or the reporting requirement of this section. This action was taken in light of the Conferees' concern with the legal or practical problems raised by authorizing the head of an agency to take such action in these circumstances. The Conferees recommend that the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives review and report appropriate legislation to institute such authority as is deemed appropriate and necessary.

APPLICATION OF GENERAL REDUCTIONS

The level at which reductions shall be taken pursuant to the Deficit Reduction Act of 1985, if such reductions are required in fiscal year 1990, is defined by the Committee as follows:

As provided for by section 252(a)(1)(B)(i) of Public Law 99-177 and for the purposes of a Presidential Order issued pursuant to section 252 of said Act, the term "program, project, and activity" for items under, the jurisdiction of the Appropriations Subcommittees on the Department of the Interior and Related Agencies of the House of Representatives and the Senate is defined as (1) any item specifically identified in tables or written material set forth in the Interior and Related Agencies Appropriations Act, or accompanying committee reports or the conference report and accompanying joint explanatory statement of the managers of the committee of conference; (2) any Government-owned or Government-operated facility; and (3) management units, such as national parks, national forests, fish hatcheries, wildlife refuges, research units, regional, state and other administrative units and the like, for which funds are provided in fiscal year 1990.

The Committee emphasizes that any item for which a specific dollar amount is mentioned in an accompanying report, including all increases over the budget estimate approved by the Committee, shall be subject to a percentage reduction no greater or less than the percentage reduction applied to all non-defense accounts.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1990 recommended by the Committee of Conference, with comparisons to the fiscal year 1989 amount, the 1990 budget estimates, and the House and Senate bills for 1990 follow:

New budget (obligational) authority, fiscal year 1989	$10,228,751,000
Budget estimates of new (obligational) authority, fiscal year 1990	9,128,704,000
House bill, fiscal year 1990	11,063,887,000
Senate bill, fiscal year 1990	10,884,101,000
Conference agreement, fiscal year 1990	11,180,742,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1989	+951,991,000
Budget estimates of new (obligational) authority, fiscal year 1990	+2,052,038,000
House bill, fiscal year 1990	+116,855,000
Senate bill, fiscal year 1990	+296,641,000

SIDNEY R. YATES,
JOHN P. MURTHA,
NORM DICKS,
LES AUCOIN,
TOM BEVILL,
CHESTER G. ATKINS,
JAMIE L. WHITTEN,
RALPH REGULA,
JOSEPH M. MCDADE,
BILL LOWERY,
SILVIO O. CONTE,
Managers on the Part of the House.

ROBERT C. BYRD,
J. BENNETT JOHNSTON,
ERNEST F. HOLLINGS,
DENNIS DECONCINI,
QUENTIN N. BURDICK,
DALE BUMPERS,
HARRY REID,
DANIEL K. INOUYE,
JAMES A. MCCLURE,
TED STEVENS,
JAKE GARN,
WARREN B. RUDMAN,
THAD COCHRAN,
DON NICKLES,
PETE V. DOMENICI,
MARK O. HATFIELD,
Managers on the Part of the Senate.

DISTRICT OF COLUMBIA REVENUE BOND ACT OF 1989

Mr. MORRISON of Connecticut. Mr. Speaker, I ask unanimous consent that the Committee on the District of Columbia be discharged from further consideration of the bill (H.R. 3287) to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of District of Columbia revenue bonds, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

Mr. BLILEY. Mr. Speaker, reserving the right to object, I shall not object, but as the original cosponsor and patron of this bill I would ask the gentleman from Connecticut [Mr. MORRISON] give us an explanation of the bill.

Mr. MORRISON of Connecticut. Mr. Speaker, if the gentleman will yield, the purpose of H.R. 3287 is to permit four revenue bond acts already adopted by the council of the District of Columbia to become law without waiting for the 30-day congressional layover period.

The goal of this legislation is to remove special congressional hurdles from the District's revenue bond enactment path. It is for a limited purpose and is aimed at insuring that the congressional recess does not place undue burdens and impediments on these revenue bond acts as a result of the 30-day congressional review period mandated by the District of Columbia Home Rule Act. The 30-day period relates to legislative days and typically converts to 90 calendar days.

In the absence of this legislation, the bond acts will not become law before Congress recesses, and the bond revenues provided for will not be available to the nonprofit institutions until some time next year.

This legislation has been requested by the Mayor of the District and the need for it has been emphasized in comments made by the chairman of the D.C. Council as well as letters from bond counsel for the respective institutions.

Let me stress that these acts incur no obligation or guarantee to the Federal Government whatsoever.

Congress is not being asked to vote on the merits of the bond issues or the construction projects that these nonprofit organizations will undertake. This bill would permit the issuance of these bonds to proceed as is the case with any other jurisdiction. We are only allowing the local laws to take effect.

Similar bills waiving the 30-day period for revenue bonds for hospitals and universities in the District of Columbia passed Congress in 1985, 1986 and 1987. Each bill passed the House and Senate overwhelmingly, and each was signed by the President.

Mr. BLILEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3287

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Revenue Bond Act of 1989".

SEC. 2. WAIVER OF CONGRESSIONAL REVIEW PERIOD FOR CERTAIN DISTRICT OF COLUMBIA ACTS AUTHORIZING THE ISSUANCE OF DISTRICT OF COLUMBIA REVENUE BONDS.

(a) WAIVER.—The District of Columbia acts described in subsection (b) shall, if enacted by the Council of the District of Columbia, take effect on the date of the enactment of this Act, notwithstanding section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act or any provision to the contrary in those acts.

(b) CERTAIN ACTS OF THE DISTRICT OF COLUMBIA AUTHORIZING ISSUANCE OF DISTRICT OF COLUMBIA REVENUE BONDS.—The District of Columbia acts authorizing the issuance, sale, and delivery of District of Columbia revenue bonds referred to in subsection (a) are as follows:

(1) The Howard University Revenue Bond Act of 1989 (District of Columbia Bill 8-299, introduced in the Council of the District of Columbia May 30, 1989) in such form as such act may be enacted by the Council of the District of Columbia, except that the authorization for the issuance of bonds under such act may not exceed $82,850,000.

(2) The National Rehabilitation Hospital, Inc. Revenue Bond Act of 1989 (District of Columbia Bill 8-298, introduced in the Council of the District of Columbia May 30, 1989) in such form as such act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such act may not exceed $48,300,000.

(3) The Association of American Medical Colleges Revenue Bond Act of 1989 (District of Columbia Bill 8-258, introduced in the Council of the District of Columbia April 27, 1989) in such form as such act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such act may not exceed $39,000,000.

(4) The Catholic University of America Revenue Bond Act of 1989 (District of Columbia Bill 8-300, introduced in the Council of the District of Columbia May 30, 1989) in such form as such act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such act may not exceed $13,000,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1340

STEEL TRADE LIBERALIZATION PROGRAM IMPLEMENTATION ACT

Mr. PEASE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3275) to implement the steel trade liberalization program, as amended.

The Clerk read as follows:

H.R. 3275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Steel Trade Liberalization Program Implementation Act".

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSES; SENSE OF CONGRESS REGARDING THE STEEL TRADE LIBERALIZATION PROGRAM.

(a) FINDINGS AND PURPOSES.—Section 802 of the Steel Import Stabilization Act (19 U.S.C. 2253 note) is amended to read as follows:

"SEC. 802. FINDINGS AND PURPOSES.

"(a) The Congress finds that—

"(1) since 1984, the United States steel industry has made significant progress toward adjustment, through modernization of production facilities, elimination of excess capacity, reduction of production costs, and improvement of productivity;

"(2) an extension of import relief, through transitional bilateral arrangements, for a period of two and one-half years will facilitate the steel industry's continued modernization and worker retraining;

"(3) liberalization of market access during the period of transitional bilateral arrangements, with preferential treatment for countries who support fair and open trade, will help ensure an orderly return to an open market;

"(4) the negotiation of an international consensus through the Uruguay Round of trade negotiations and through bilateral agreements to address subsidies and tariff and nontariff barriers will strengthen the international trading system and conditions of global steel trade; and

"(5) the termination of transitional bilateral arrangements by March 31, 1992, and the full and forceful application of the United States unfair trade laws, will protect the United States national interest in preserving conditions of fair and open trade in the United States market.

"(b) The purposes of this title are—

"(1) to endorse the principles and goals of the steel trade liberalization program as announced by the President on July 25, 1989, and provide for its implementation;

"(2) to grant specific enforcement powers to the President to carry out the terms and conditions of bilateral arrangements entered into for purposes of implementing that program; and

"(3) to make the continuation of those powers subject to the condition that the steel industry continue to modernize its plant and equipment and provide for appropriate worker retraining.".

(b) SENSE OF CONGRESS.—Section 803 of the Steel Import Stabilization Act is amended to read as follows:

"SEC. 803. SENSE OF CONGRESS REGARDING THE STEEL TRADE LIBERALIZATION PROGRAM.

"(a) The Congress supports the full and effective implementation of the steel trade liberalization program.

"(b) It is the sense of the Congress that the steel trade liberalization program should be implemented in a manner which provides for liberalized market access for steel products during the period in which bilateral arrangements remain authorized in order to prepare for the eventual termination of such arrangements in 1992 and reliance thereafter on market forces and the full enforcement of United States trade laws. In particular, liberalized market access should be provided to those foreign countries that work with the United States to achieve the goals referred to in subsection (c).

"(c) It is further the sense of the Congress that the United States Trade Representative should promptly conduct negotiations, through the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade and through complementary bilateral arrangements, to seek an international consensus regarding steel trade that provides for—

"(1) strong disciplines over trade-distorting government subsidies;

"(2) the lowering of trade barriers so as to ensure market access; and

"(3) enforcement measures to deal with violations of consensus obligations.

"(d) The President shall provide to the Congress an annual assessment of the progress of the negotiations referred to in subsection (c). The President may include the assessment in the annual report required under section 163(a) of the Trade Act of 1974 (19 U.S.C. 2213(a)) regarding the trade agreements program.".

SEC. 3. EXTENSION OF ACT.

(a) EXTENSION UNTIL APRIL 1, 1992.—Section 806(a) of the Steel Import Stabilization Act is amended—

(1) by striking out "the fifth anniversary of the effective date of this title" in paragraph (1) and inserting "March 31, 1992"; and

(2) by striking out "or fourth" in paragraph (2) and inserting "fourth, fifth, sixth, or seventh".

(b) SPECIAL PROVISION.—If the Steel Trade Liberalization Program Act is not enacted on or before October 1, 1989, then section 806(a)(2) of the Steel Import Stabilization Act (as amended by subsection (a)) shall be applied by treating the reference therein to the close of the fifth anniversary of the effective date of the Steel Import Stabilization Act as a reference to the close of the 30th day after the date of the enactment of the Steel Trade Liberalization Program Implementation Act.

SEC. 4. ENFORCEMENT AUTHORITY.

(a) INTERIM AUTHORITY.—Section 805(a) of the Steel Import Stabilization Act is amended by adding at the end thereof the following new sentence: "The President is further

authorized to carry out, between October 1, 1989, and the date of the concluding of any bilateral arrangement, such actions as may be necessary or appropriate to ensure an orderly transition to that arrangement.".

(b) SHORT SUPPLY SITUATIONS.—Section 805(b) of the Steel Import Stabilization Act is amended to read as follows:

"(b)(1) If—

"(A) a bilateral arrangement includes a provision relating to short supply situations; and

"(B) the Secretary of Commerce (hereinafter in this subsection referred to as the 'Secretary') determines, in accordance with this subsection, that a short supply situation exists in the United States with respect to a steel product that is subject to a quantitative limitation under such arrangement;

the Secretary shall authorize the importation of additional quantities of that product without regard to any aggregate quantitative import limitation in effect under such arrangement.

"(2) In determining under this subsection whether a short supply situation exists in the United States with respect to a steel product, the Secretary shall take into account all relevant factors, including—

"(A) (to the extent information is available) the recent levels of capacity utilization for domestic facilities producing the product;

"(B) the quantity of the steel product requested in a short supply petition and the ability of domestic producers to supply the product in such quantity;

"(C) the willingness of a domestic producer to supply the steel product at a price which is not an aberration from prevailing domestic market prices;

"(D) reasonable specifications requested by the purchaser or any end user; and

"(E) delivery times to the purchaser and any end user of the steel product.

"(3)(A) A petition requesting a determination under this subsection may be filed with the Secretary. The petition must be in such form and contain such relevant information as the Secretary requires.

"(B) If the Secretary considers that a petition filed under subparagraph (A) is adequate, the Secretary shall promptly cause to be published in the Federal Register a notice that a determination under this subsection with respect to the steel product concerned is under consideration.

"(C) The Secretary shall provide opportunity for comment by interested persons regarding the issues raised in a petition.

"(D)(i) The petitioner shall certify that the factual information contained in the petition and any additional submission is accurate and complete to the best of the petitioner's knowledge.

"(ii) An interested person shall certify that the factual information submitted by that person to the Secretary is accurate and complete to the best of the person's knowledge.

"(4)(A) If an adequate petition is filed under paragraph (3)(A), the Secretary shall determine, not later than the day specified in subparagraph (B)—

"(i) whether a short supply situation exists in the United States with respect to the steel product; and

"(ii) if the determination under clause (i) is affirmative, the quantity of the steel product that the Secretary will authorize for importation.

"(B) The Secretary must make a determination with respect to a petition not later than—

"(i) the 15th day after the day on which the petition is filed if—

"(I) the raw steel making capacity utilization in the United States equals or exceeds 90 percent,

"(II) the importation of additional quantities of the steel product was authorized by the Secretary during each of the 2 immediately preceding years, or

"(III) the Secretary finds, on the basis of available information (and whether or not in the context of a determination under this subsection), that the steel product is not produced in the United States; or

"(ii) the 30th day after the day on which the petition was filed if neither subclause (I), (II), or (III) of clause (i) applies.

"(C) In making a determination with respect to which subparagraph (B)(i) applies, the Secretary shall apply a rebuttable presumption that the short supply situation alleged in the petition exists.

"(D) The Secretary shall cause to be published in the Federal Register notice of each determination made under this subsection setting forth the reasons for the determination.

"(5) If under this subsection the Secretary authorizes the importation of a specified quantity of a steel product, the Secretary shall notify a representative of the appropriate foreign government and issue to the petitioner the necessary documentation to permit the importation of that quantity.

"(6) The Secretary shall prescribe regulations to carry out this subsection. The interim text of such regulations shall be issued on or before the 30th day after the date of the enactment of the Steel Trade Liberalization Program Implementation Act. The regulations shall provide for transparency and fairness in the process of making short supply determinations, and shall be consistent with the President's announcement on July 25, 1989, establishing the steel trade liberalization program.".

(c) CONFORMING AMENDMENTS.—Section 805 is further amended—

(1) by amending subsection (c) by striking out "may provide" and inserting ", in consultation with the Secretary of Commerce, shall provide".

(2) by striking out "President's Steel Policy," in subsection (d)(3) and inserting "steel trade liberalization program".

SEC. 5. DEFINITIONS.

Section 804 of the Steel Import Stabilization Act is amended—

(1) by inserting "or the steel trade liberalization program" before the period at the end of paragraph (1); and

(2) by adding at the end thereof the following:

"(4) The term 'steel trade liberalization program' means the program, announced by the President on July 25, 1989, designed to achieve an orderly transition to open markets, the continued modernization and adjustment of the steel industry, and the negotiation of an international consensus to restore fair and open steel trade.".

SEC. 6. DOMESTIC INDUSTRY EFFORTS TO IMPROVE QUALITY AND SERVICE AND TO PROVIDE WORKER TRAINING.

(a) IN GENERAL.—Section 806(b) of the Steel Import Stabilization Act is amended—

(1) by amending paragraph (2)(A) to read as follows:

"(A) The term 'major company' means an enterprise that produces iron and steel and whose raw steel production in the United States during 1988 exceeded 2,000,000 net tons."; and

(2) by adding at the end of paragraph (3) the following: "For purposes of this paragraph, the United States International Trade Commission shall seek to—

"(A) obtain information from purchasers of domestic steel products, as well as from domestic producers of steel products, regarding recent improvements in domestic quality and service, including those that result from industry modernization; and

"(B) obtain information on—

"(i) the general nature of the worker retraining efforts undertaken by the steel industry, and

"(ii) with respect to the moneys referred to in paragraph (1)(B), the amounts used to retrain displaced former employees as compared with the amounts used for on-the-job retraining within the industry.".

(b) SPECIAL RULE.—The amendment made by subsection (a)(1) shall not affect the definition of "qualified corporation" contained in section 212(g)(1)(A) of the Tax Reform Act of 1986.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act take effect on October 1, 1989.

The SPEAKER pro tempore (Mr. HAYES of Louisiana). Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio [Mr. PEASE] will be recognized for 20 minutes, and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. PEASE].

GENERAL LEAVE

Mr. PEASE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 3275, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. PEASE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House is considering H.R. 3275, the Steel Trade Liberalization Program Implementation Act. This legislation was reported favorably by the Committee on Ways and Means, by unanimous voice vote, on Wednesday of last week. It represents the culmination of months of consideration by the Committee on Ways and Means, and especially its Trade Subcommittee, of proposals to extend the Steel VRA Program.

H.R. 3275 as reported provided the necessary and appropriate legislative authority for the President to implement the Steel Trade Liberalization Program, as announced by President Bush on July 25 of this year.

Specifically, H.R. 3275 provides a 2½-year extension of authority for the President to enforce the terms of steel voluntary restraint agreements which are negotiated with steel-exporting nations. The enforcement authority which has been in effect since 1984, under the Steel Import Stabilization

Act, expired over the weekend. This bill extends that enforcement authority until March 31, 1992.

The bill also reauthorizes the requirements under the 1984 act that the major domestic steel producers commit substantially all of their net cash flow to modernization and reinvestment, commit not less than 1 percent of net cash flow to worker retraining, and take sufficient action to maintain their international competitiveness.

Consistent with the President's announced intention to negotiate an international consensus on stronger rules and disciplines for unfair trading practices, the bill expresses the sense of Congress that the U.S. Trade Representative should promptly conduct negotiations, both bilaterally and multilaterally, to achieve such goals. The President is required under the bill to report annually to the Congress on the progress of such negotiations.

In addition, the bill provides authority and procedures for the Secretary of Commerce to approve short supply requests, allowing additional steel imports during periods of short supply. Consistent with the findings and recommendations of the General Accounting Office, the bill establishes criteria and procedures designed to make the administration of the short supply program more transparent, fair, and predictable.

Finally, the bill contains various provisions to update the 1984 act and otherwise provide for the effective implementation of the President's program.

The bill is supported by all the major interested parties in the private sector—steel producers, steel users, steel service centers, and steel importers—as well as by the administration. I urge my colleagues to support the motion to suspend the rules and pass H.R. 3275.

Mr. Speaker, I reserve the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I hate to be the odd man out, and I fear I am going to be today, but I do rise in opposition to H.R. 3275, the so-called Steel Trade Liberalization Program Implementation Act.

I think it is worthwhile to go back and review where we have been with this legislation. We enacted this so-called voluntary restraint system for steel 5 years ago to address problems that faced our domestic steel industry. Certainly 5 years ago the problems were much different than they are today. This was done to give the industry time to regroup—to make the necessary upgrades in investments and capital improvements—to improve its standing. We intended that during the 5 years of the VRA's, our domestic steel industry would take the kind of measures that were necessary to compete in today's world. That was the purpose of the legislation at that time.

Mr. Speaker, it was also supposed to give Government time to address trade-distorting practices through negotiations.

Perhaps at that time this measure was necessary. Certainly it has worked in the sense that the steel industry in the United States today is far more competitive than it was, far more profitable than it was at that time.

Today steel manufacturers in this country are enjoying record profits. They have regained their competitive edge. But at the same time while VRA's may have helped U.S. producers, I am not sure how helpful VRA's will be in the long-run as the steel industry in this country postponed necessary capital investments because they had this protection from competition.

But in any event, if it was valuable then it certainly hurt other countries.

While the United States is known for extolling the virtues of free trade, we often continue to hurt those countries who are actually implementing the policies that we support and that we demand others follow.

A prime example of this, Mr. Speaker, is the country of Mexico, which along with the chairman, the gentleman from Ohio [Mr. PEASE], I had a chance to visit just a few weeks ago. During our visit this question of the voluntary restraint agreements was one of the issues mentioned frequently by the Mexican officials we met.

Mexico is a country that has made enormous progress in recent years. It has joined the General Agreement on Tariffs and Trade, has reduced its tariffs, and has eliminated its import licensing procedures. Because of these changes, the United States and Mexico signed a framework agreement outlining the procedures for addressing disagreements in trade between our two countries.

These changes have benefited U.S. exporters of steel a great deal; United States exports to Mexico increased 40 percent in 1988. They are expected to gain another 20 percent this year. That is overall trade.

In the area of steel, Mexico has made a lot of improvements. There are no quotas for steel in Mexico, and United States exporters of steel have gained and benefited tremendously from the fact.

United States steel exports to Mexico increased by 74 percent last year alone. The expectations are that we will run a surplus with Mexico in steel trade this year.

Mexico is an example of a country that is following our rhetoric even as we are ignoring it.

While we encourage Mexico and other developing countries to open themselves to more trade so that they can develop more quickly, we continue to move in the opposite direction by putting further restrictions on our own trade.

Mr. Speaker, I think it is improper to do this. If the time was right for voluntary restraint agreements 5 years ago, they certainly are not correct today and we should not adopt this measure.

Mr. PEASE. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I take this time simply to comment on the remarks made by my distinguished colleague from Arizona who, as he noted, is cochairman with me of a new United States task force on Mexico.

I would say in general that the voluntary restraint program has been needed for the last 5 years; I believe it is needed for the next 2½ years.

American industry has made great strides in the last 5 years. It is still only about two-thirds as far down the path toward continuous casting, for example, as the Japanese industry. I think an additional 2½ years will be time well spent.

Beyond that we do not have in place as yet a regimen for guaranteeing the absence of dumping and subsidies in the steel industry.

□ 1350

Mr. Speaker, I think the part of this extension which calls on the administration to negotiate such agreements is very, very helpful. Having said that, I want to join my colleague from Arizona in commending Mexico for their efforts over the last couple of years to encourage free trade, to remove the barriers for the imports.

I would like to say that for myself, at least, I hope the administration will do everything it can to help Mexico in particular, with the 1-percent bonus which we reserve under this bill for their traders in steel. With a couple of changes, I think Mexico will qualify under that provision. I can think of no better way to use that provision than to reward Mexico for having taken the steps it has over the last few years.

As the gentleman points out, we not only import steel from Mexico, we also export, so it is a genuine two-way street. That is the way it ought to be in the steel trade business.

I commend the gentleman for bringing to our attention the unique situation regarding Mexico, and I hope very much that the administration will recognize that unique situation.

Mr. Speaker, I yield 7 minutes to the gentleman from Pennsylvania [Mr. GAYDOS].

Mr. GAYDOS. Mr. Speaker, I want to thank my colleague, the gentleman from Ohio [Mr. PEASE], and congratulate him for his leadership on this item.

Let me respond to the gentleman from Arizona in this respect: I think he is cognizant of the fact that over the last 15 years, in the corporate community, profits are running something like 16, 17, to 20 percent. That was a normal average of profits, while the U.S. steel corporate community was averaging in the neighborhood of 7 or 8 percent. That was between a 15- and 20-year period.

When the general call for the cleanup of the Nation's air—and granted, a lot of pollution did originate in the steel industry—the steel industry in this country was in the vanguard, in expenditures and in accomplishment, costing them literally hundreds of millions of dollars during that period of time. I just want to point these facts out for the report to justify that this legislation basically and fundamentally giving the steel industry of this country just a little bit more time to become competitive. They are well on their way. They have been putting their profits back into the industry, more so than any comparable industry in the Nation today.

Mr. Speaker, I rise in support of H.R. 3275—the Steel Trade Liberalization Program Implementation Act—which extends the steel voluntary restraint agreements for 2½ years.

As chairman of the congressional steel caucus and as a representative of a one-time steel district, I had hoped and strived for a 5-year renewal. But recognizing the realities of the situation, I and the entire steel caucus support the 2½-year extension that we can get.

I want to see the VRA's extended because I am convinced that the steel industry is basic to the economic health of this country, that a strong steel industry is vital if the United States is to remain competitive in the world market.

When I testified on the VRA extension before the Trade Subcommittee of the Ways and Means Committee last July, I pointed out that the steel industry stimulates production in 300 of the 400 sectors of our economy.

And the so-called high-technology industries such as computers and semiconductors are in the top 100 sectors that benefit from increased steel production.

The American steel industry is looking better than it has in over 10 years, reporting profits of $3 billion for the past 2 years.

These gains are the result of prudent planning and massive modernization efforts which have been brought about in spite of unfair competition from foreign steelmakers who subsidize their steel industries and, at the same time, make it difficult for imports to enter their markets.

From 1982 to 1987, when things were really tight, U.S. producers reinvested $9 billion in modernizing plants and equipment. That's roughly one-third more than their cash flow from steel. Last year, they added another $1.8 billion to the total.

But modernization takes time to put in place. Steelmakers just can't go out and buy a continuous caster like you can a computer. It's just not that simple.

It involves huge sums of money and long-term planning—2 or more years to design, engineer, construct, and make it operational and the spending of at least $250 million.

When Inland Steel committed itself to building a new world class cold rolling mill in 1985, for example, the price tag was $400 million. More than 3 years later, that project has just about come on line.

Now, Inland is going ahead with the construction of a $500-million galvanizing facility tied to its new cold rolling operation.

Last year, Bethlehem Steel announced a major modernization of its hot strip mill at Sparrows Point in Maryland. That effort is going on now, at a cost of over $200 million.

I am well aware of the steel industry's current prosperity, and I have hope for the future. Yet, the memory of McKeesport's abandoned National Steel is fresh in my mind and I can't forget USX's Homestead Works in West Homestead, PA, which used to employ 15,000 people.

This summer, on the grounds of that now-dismantled steel mill is a giant water park, which employs about 135 people, less than 1 percent of the former work force and certainly at much lower wages than the salaries once paid to those former steelworkers there.

I have followed the steel industry long enough to know that it has its up-and-down cycles. Even last year—one of the best years steelmakers have seen in a long time—they earned less that a 10-percent return on assets, still below the average for other major industries.

The VRA program was not and is not a cure-all. But it has been the most effective method so far for curbing those dumped steel imports.

In 1984, when we made the VRA's a part of our trade policy, steel imports had reached an annual level of 26.4 percent. Today, steel imports claim even less than that goal of 20.2 percent penetration we set when we put the VRA's into effect.

Two days ago—on September 30—those VRA's expired. Already, at least eight new VRA agreements are unofficially in place—that is, they have been negotiated, but will not be signed until President Bush signs H.R. 3275.

Until this legislation is signed into law, there are no limits on steel shipments, even from those countries that have already negotiated new VRA's. So, I suggest we get a move on and pass this legislation.

I urge my colleagues to support and vote for H.R. 3275.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Speaker, I am pleased to speak in support of passage of H.R. 3275, the Steel Liberalization Program Implementation Act. This legislation effectively implements the President's program to extend voluntary restraint agreements for an additional 2½ years granting the President authority to enforce international agreements that limit steel imports.

Mr. Speaker, during the first half of this decade, before negotiation of VRA's with major steel exporting nations beginning in 1984, the U.S. steel industry suffered nothing short of financial crisis. Jobs were lost that will never be recovered as we witnessed foreign steel's share of the U.S. market escalate in large part due to excess dumping and other unfair trading practices that today are often and euphemistically referred to as "trade distorting subsidies." I believe, Mr. Speaker, that this reference gives a rather benign impression of something that has demonstrably yielded such harsh effects on American steelworkers.

While I joined a number of my colleagues in cosponsoring H.R. 904, offered by the gentleman from Pennsylvania, to extend the Steel Import Stabilization Act for an additional 5 years, I recognize the competing interests involved. I believe that the 2½-year extension will enable our steel industry more time to modernize, adapt, and become more competitive while providing the President the tools necessary to encourage our trading partners to pursue more free market policies that are in all our best interests.

The good news is that stability and profitability appear to be on the upswing and we are seeing modernization efforts implemented. This is good news for America and good news for Missouri, where the wire rope industry remains a vital component in assuring our State's economic well-being.

As we enact this legislation I think we all do so with the purpose of promoting fairness in the near term while in the long term, fostering an economic and trade environment where government intervention is increasingly unnecessary.

I wish to commend the President for moving swiftly on his campaign promise to ensure that American steelworkers get a fair shake at the negotiating table and I appreciate the support offered by both the producing and consuming steel industries who came together to support the Presi-

dent's compromise package. I urge my colleagues to support this measure.

□ 1400

Mr. PEASE. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. VISCLOSKY].

(Mr. VISCLOSKY asked and was given permission to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, I would, first of all, like to thank the gentleman from Ohio for yielding me this time and also to thank the chairman of the subcommittee, the gentleman from Florida [Mr. GIBBONS] and all the members of the Subcommittee on Trade for doing what I think is a very good job on H.R. 3275.

Mr. Speaker, as the representative of the largest steel-producing district in the country, I offer my assessment of H.R. 3275. I would also like to outline some of my ideas as to how we can facilitate the continued recovery of the domestic steel industry through enforcement of the VRA's and an international consensus if and when it is developed.

H.R. 3275 replaced H.R. 904, which called for a full 5-year extension of the VRA's. H.R. 3275 incorporated the major elements of President Bush's proposal announced on July 25, 1989 calling for a 2½ year extension of the VRAs. I would have preferred a full, 5 year extension of the VRAs in order to give the American steel industry sufficient time to complete its extensive and costly modernization process.

H.R. 3275 contains an annual reporting requirement. I am proud to say that this was largely the result of my bill, H.R. 3093, the Steel Fair Trade Review Act, which has 119 cosponsors.

I am pleased with the short-supply provisions in H.R. 3275. These provisions were modeled after the recommendations contained in the GAO report on short-supply administration that I requested.

There is, however, an ominous and potentially significant change in the extended VRA Program from the one first implemented in 1984. The 1984 VRA Program set a 20.2-percent import penetration level—which includes both VRA and non-VRA countries. Under the extended VRA Program, if the quota limits are filled—which they were not in 1988—total import penetration would rise.

VRA imports would be initially set at 18.4 percent. However, non-VRA countries currently comprise about 6 percent of the U.S. market. If the quotas are filled, total imports would rise about 24.4 percent.

This is not including the potential "bonus shares" which would be allotted to countries cooperating to achieve an international consensus on steel to eliminate unfair trade practices and other distortions of the global steel market. The bonus shares would comprise an additional 1-percent per year of the extended VRA's—possibly totaling an extra 2½ percent import market share by the end of the VRA Program in March 1992.

There have been indications from the administration that the new VRA quotas will be increased for countries such as Korea, Brazil, and Mexico. These countries have tended to utilize their VRA allotments under the original VRA Program. It is rumored that Japan and the European Community—countries that have typically not filled their quota allotments—will get less.

Unfortunately, President Bush has not yet announced the specifics of the new VRA's. This is troubling because the program adopted in 1984 has now expired without a new one ready to take its place. This is unacceptable because the administration has had ample time to negotiate the new VRA's. However, given the late announcement of the Steel Trade Liberalization Program on July 25, there has been an extremely limited timeframe within which to work. I urge the President and the U.S. Trade Representative, Carla Hills, to give the completion of the VRA negotiations the priority that it deserves.

According to a recently-released report by the Congressional Research Service [CRS], if the VRA limits of the new VRA Program are fully utilized, there would be significant ramifications for the domestic steel producers, those sectors of the economy that supply it, and domestic steel users.

The liberalized market share allotted for imports would translate into lowered prices for the steel-using industries and consumers generally. However, the CRS report concludes by saying that the benefits to steel users would probably be more than offset by a severe contraction of the domestic steel industry. It is estimated that employment could drop by more than 10,000 workers with a potential revenue loss to the domestic industry of $2 to $4.5 billion. The report concludes on this rather ominous note:

* * * The costs to the steel industry and steel-related industries could be substantially greater than the benefits to the economy as a whole.

This is particularly unsettling because while the domestic steel industry has, in fact, recovered from the recession of the mid-1980's, there could be another devastating recession if certain steps are not taken to ensure the effective enforcement of the new VRA system.

Many of the world's steel-producing countries continue to unfairly subsidize their domestic industries. These subsidized foreign producers are often inclined to dump steel in the United States, while continuing to deny U.S. steel exporters open access to their own fiercely protected markets.

The centerpiece of President Bush's steel import program is the attainment of an international consensus to eliminate unfair trade practices and ensure market access to all countries participating in the global steel market.

I would welcome such an international consensus, but I am skeptical as to whether the USTR will be able to negotiate such a consensus within the short timeframe of 30 months.

Further, how would such an international consensus be enforced? The primary forum for achieving an international consensus in steel will be the Uruguay round of the General Agreement on Tariffs and Trade [GATT] currently underway and scheduled to end on December 1990. There are 97 members of the GATT, and it is extremely difficult to negotiate a multilateral agreement with the diversity of the GATT's membership and the members' often differing agendas.

After the issuance of its midterm report in December 1988, there was general disappointment with the halting progress of the Uruguay round negotiations—exemplified by the lack of progress in the negotiations to eliminate widespread agricultural subsidies. Why should steel negotiations be any easier?

My concern is that recognizing the formidable task at hand and the uncertain prognosis for success, it is necessary to safeguard the U.S. steel industry from the pernicious effects of unfair foreign trade practices in the event that an international consensus is not forthcoming in 30 short months.

It is appropriate that there is a reporting requirement contained in the extended VRA legislation. This provision will allow Congress to assess the progress of the multilateral negotiations, and implement corrective measures if it appears unlikely that an international consensus will be reached.

In the short term, I believe that we must strictly enforce our existing trade laws. There is growing evidence that circumvention of the VRA limits is occurring in certain instances. I have seen evidence to indicate that countries whose exports to the United States are contained by the VRA Program are conspiring with non-VRA countries to exceed their quota limits.

Concerned by the prospect of this activity, I have contacted Congressman JOHN DINGELL, chairman of the Energy and Commerce Committee's Subcommittee on Oversight and Investigation to request a hearing on VRA circumvention.

My proposal to counter circumvention of the VRA's is to examine how imported steel enters the United States and how existing regulations are enforced. The 1988 Trade Act contained a provision require steel melted

and poured in one country to count toward that nation's quota ceiling even if it is processed elsewhere. However, enforcement of this provision is discretionary and the administration has been reluctant to follow through.

The Department of Commerce is responsible for enforcing the VRA Program. To monitor the VRA's, Commerce typically receives copies of the export licenses in advance of the actual entry of steel into the United States. It is the U.S. Customs Service, however, that facilitates the processing of steel imports upon entry. The main function of the Customs Service is to prevent fraud and to ensure the collection of legal duties. To accomplish this end, it inspects and classifies products entering this country.

Commerce can coordinate its activities with the Customs Service by comparing the official export licenses with the Customs documents presented at the ports of entry. One of these documents is the special steel summary invoice [SSSI], which details the type of product, its country of origin, and its value. By carefully evaluating the SSSI system, it would be possible to determine whether imported steel is circumventing the VRA Program.

The hearing I propose would be an appropriate forum to determine the extent to which circumvention could be more effectively monitored and enforced through existing measures rather than attempting to tackle the problem by additional legislation.

Rigorous and swift enforcement of our other existing trade laws will be critically important when the extended VRA Program ends on March 31, 1992. The antidumping and countervailing duty laws now on the books—but emasculated by the VRA's—often take so long to process that foreign steel producers can profit by selling their subsidized goods in the U.S. market. They know that by the time U.S. trade laws catch up with them—if ever—the transactions will have been completed. We must ensure that our current mechanisms for dealing with unfair trade practices are streamlined and expedited so that the incentives are eliminated.

While I am a strong advocate of the VRA Program, I recognize that VRA's are not a long-term solution or panacea for the American steel industry. I truly believe that with the absence of foreign government intervention in the global steel market, U.S. companies can be competitive with foreign producers.

In the short term my concern is that we allow our domestic producers the stability to complete the restructuring and modernization afforded by the VRA Program. In the long run, an international consensus has the potential of bolstering the U.S. steel industry's ability to compete on a level playing field with foreign steel producers. Achievement of an international consensus may not be possible in 30 months, but it is certainly a goal toward which we should strive.

If these multilateral agreements can be negotiated, implemented, and enforced, both steel producers and consumers will reap the benefits and we will once again see the American steel industry emerge as the preeminent force in the global steel market.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, I thank the gentleman from Minnesota for yielding me this time.

I rise to support H.R. 3275, the extension of voluntary restraints agreements for steel, and to express my gratitude to Congressman JOE GAYDOS and Congressman BILL FRENZEL, member of the Ways and Means Subcommittee on Trade, for moving H.R. 3275 legislation to the floor so promptly.

Representing the Bethlehem Sparrows Point Steel Mill, one of the largest in the country and one of the largest companies in Baltimore County, I am well aware of how constructive the past 5 years of VRA's have been for the industry. In that breathing period, "Beth Steel" has invested hundreds of millions of dollars in modernizing its plants, a benefit not only to the company and the community, but to the industry as a whole, and to the country.

However, I want the record to show that I prefer H.R. 904 which would provide a 5-year extension, the additional time I believe the steel industry needs to be able to complete their modernization which involves billions of dollars. I hope that foreign steel producers will not misread the intent of the 2½-year extension contained in this bill.

I am always particularily appreciative of the work done by our colleague, Hon. JOE GAYDOS of Pennsylvania, chairman of the steel caucus, who has been a pioneer in developing legislation to aid the steel industry.

Mr. PEASE. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of H.R. 3275, to extend the voluntary restraint agreements for steel now in place.

The VRA Program certainly has helped the steel industry to recover, and in my district and State it has helped the taconite industry, the principal raw material from which steel is made, to rebound from the literal depression we experienced in the 1980's. In 1981 and 1982, we went from 15,000 jobs in the taconite mining and processing industry to 1,500 jobs. We have had an exodus of 28,000 people from the northern part of my district because of unemployment in the taconite industry and the lack of markets for our product due to the downturn in steel. We went from an industry that accounted for 55 percent of the gross regional product of our area to an industry that, financially was on its knees begging for mercy. That mercy came in the form of the voluntary restraint agreements. A lesser remedy than the quotas on steel which I advocated, but nonetheless a measure that opened the doors to a recovery in the steel industry and in taconite.

Domestic steel production now is up. We are projected to have some 80 to 81 million tons of domestic steel production in 1989. Investment is up: Over $11 billion has been invested in the steel industry's recovery. The productivity of the American steel worker is the best in the world, averaging 6 man-hours per ton, which is some 20 percent better than any other country in the world.

Our steel industry is healthier, but its problems are not over. Fifteen percent of the domestic steel industry is still in bankruptcy. Real return on investment is only 2-plus percent. World steel capacity outside the United States is averaging 10 to 15 million tons growth a year, while the United States is averaging considerably less than that. Foreign governments impose tariffs averaging 10 percent on imported steel, while the U.S. tariff is only 4.5 percent on steel imports.

Since 1981 foreign governments have pumped some $60 billion of subsidies into their steel industry, and yet we continue to be the world's largest open, free market. Foreign governments are masking their own unemployment with subsidies, waiting for an opportunity to reinvade the U.S. marketplace and undercut our domestic steel industry.

Mr. Speaker, we need these VRA's in place for the foreseeable future to continue the recovery in steel and protect American jobs in steel, taconite, and related industries.

I urge an "aye" vote on H.R. 3275.

Mr. FRENZEL. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, it is certainly not my first choice to support H.R. 3275, a bill which will regulate steel imports, but I would have to agree that it is about the best compromise we could have achieved.

In my judgement, VRA's should not have been extended at all. The domestic steel industry has had protection through VRA's, the trigger price mechanism, and other programs for 20 years. As a result, the industry has restructured and has modernized much of its production far beyond the ability of most U.S. industries which do not have the benefit of this kind of protection.

In fact, the steel industry, aided by the weaker U.S. dollar, is now a low-cost producer. Many of our major steel trading partners have phased out capacity and will continue to do so. The 1988 earnings for the U.S. industry were over $2 billion, steel prices are up, and capacity utilization has been in the 90-percent range.

Some companies are exporting as well, and the import share of the U.S. market is declining. A recent GAO report has noted a strong recovery for the domestic steel industry and stated that termination of the VRA's would have little effect on the steel market as a whole. The ITC noted that $12.3 billion was lost in sales by users due to VRA's.

None of this vindicates the need for extending VRA's. In my opinion, it was time to end the VRA's and return to the use of our trade remedy laws to counteract unfair trade practices by foreign steel producers.

However, the administration was committed to extend the VRA's in some manner. Considering the strength of the steel industry and the steel users, the President's proposal, implemented by H.R. 3275, is the best we could do, even though I believe that more attention should have been focused on the users' needs. If you look at employment figures alone that makes more sense. There are 200,000 steel workers versus 5.5 million workers in the heavy steel-using industries. Steel users do not have a protected market. They face tough international competition and must find the lowest-cost steel and best quality inputs possible to maintain their competitiveness abroad.

The bill does contain some positive sections which I do support. One is the negotiations to achieve an international consensus on steel trade. Another is the administration's intention to increase the overall quota limit by 1 percent each year of the VRA to be given to those countries which cooperate in our efforts to achieve an international consensus. There is, of course, no guarantee that any of the 1-percent growth will be granted. The short supply program has also been improved modestly.

I do have some problems with the bill, however. My main concerns are in the area of short supply. It seems to me that products which are not produced in the United States should be exempt from the quotas. A 15-day short supply determination will help, but users of steel not produced in the United States should not have to petition at all.

Also, tolling, which permits some steel inputs to be exempted if exported, should be extended to include imports used in finished products, if exported. It also might have been a good idea to permit all small businesses to use the 15-day fast track on short supply. The bill permits the 15-day short supply consideration during periods of 90 percent industrywide capacity utilization. That should have been 90 percent on a product basis to be helpful.

Another factor which triggers use of the 15-day is prior approval of short supply petitions for two consecutive years. That is unreasonable, since a company may have had adequate supply to avoid annual filing, or Commerce may have delayed responding to a short supply request until the start of a new year which would make some companies ineligible which actually filed rquests in consecutive years. Also, some companies were told they would have had petitions approved but negotiations with supplier countries resulted in a shifting of quotas to cover the needs of the company in question. These companies probably would not qualify for the 15-day determination.

It also seems to me that there should be far more emphasis on pricing and quality from the users standpoint in the short supply process. There will be many situations whereby a price would not be considered an aberration yet could be high enough to make a user's product noncompetitive. While I realize that there may be isolated cases where steel specifications have been designed to force the use of an imported product, most users and many steel finishers have a need for exact quality, and many producers of inputs of finished products have the specs dictated by their customers and must supply what has been requested. I hope that Commerce will implement the entire short supply program fairly and efficiently.

I would also have liked to see the reinvestment area tightened up through an amendment. In my judgement, capital raised by debt bonds or selling stock or assets should also be reinvested in the steel industry, not used to purchase unrelated businesses.

Lastly, I have some problem with the effect the VRA's have on some developing countries. Specifically, Trinidad has recently pledged to end its steel subsidies, reduce its tariffs and improve its market access, yet preliminary reports show that the United States is not willing to increase its quotas to a level which would help this democracy in the Caribbean which is facing severe economic and political pressures due to declining oil prices. Trinidad has restrained its exports in the United States even when it did not have a VRA, and it attempts to fill niche markets the United States industry ignored. It should receive a far greater quota increase than what is rumored.

Mr. Speaker, this should be the last protection granted to the industry. It is ready to strike out on its own. We must continue our work to negotiate the international consensus, either separately or through the Uruguay round, but lack of what the industry believes to be adequate progress should not automatically qualify it for an extension.

With the reservations stated earlier, I will reluctantly and grudgingly support the bill.

Mr. Speaker, I reserve the balance of my time.

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Mr. PEASE. Mr. Speaker, I have no further requests for time on my side, and I reserve the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield back the balance of my time.

Mr. PEASE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will be very brief. I think the subject has been well covered by the previous speakers.

Mr. Speaker, I would just like to commend two persons who are very much responsible for this bill being on the floor today. One is the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the full Committee on Ways and Means, and the other is the honorable gentleman from Florida [Mr. GIBBONS], chairman of the Trade Subcommittee. I think that it is not too much to say that neither of those gentlemen were entirely enthusiastic about extending the VRA's, and yet both of them worked very cooperatively with Members like myself who are enthusiastic about the bill, and members of the Steel Caucus, and those in the steel industry and the administration to fashion the bill that we have on the floor today. Mr. Speaker, I think that both of them deserve a great deal of credit for the cooperation and spirit of compromise which they showed in advancing this legislation.

Ms. OAKAR. Mr. Speaker, I rise in support of legislation before the House of Representatives today, H.R. 3275, the Steel Trade Liberalization Program Implementation Act.

While this legislation could go further, it moves us in the right direction to protect and preserve our Nation's steel industry. The existing voluntary restraint agreements have started the domestic steel industry on the road toward full international competitiveness. Between 1982 and 1987, U.S. producers reinvested $9 billion in modernizing plants and equipment. As a result, U.S. producers have been able to make significant cost reductions, labor productivity gains, and quality improvements. Unfortunately, the industry still needs to improve such key areas as product yield, energy efficiency, and continuous casting rate, in order to become fully competitive by international standards.

Mr. Speaker, I would like to reaffirm my support for the American steel industry. I commend Chairman GIBBONS and the Ways and Means Subcommittee on Trade for quick action on this bill and I urge its passage.

Mr. SCHULZE. Mr. Speaker, I rise in support of H.R. 3275, the Steel Trade Liberalization Program Implementation Act.

Although I still firmly believe that a 2½-year extension is insufficient, I am just as firm in my belief that both sides on this issue must now unify behind this legislation, and do so with conviction. In attempting to eliminate the damaging steel subsidies employed by certain trading partners, and improve market access opportunities abroad, our negotiators will need every ounce of congressional might behind them which can be mustered.

Briefly, the legislation extends the termination date for enforcement of bilateral steel arrangements until March 31, 1992. This is critical because a VRA program is only going to be successful if our U.S. Customs Service has sufficient authority to enforce it at the ports.

Second, this bill addresses the concerns of small- to medium-sized steel users who have had occasional difficulties in sorting through the short supply procedures at the Department of Commerce.

By making the short supply program more transparent, and streamlining the timeframe in which Commerce will decide on short-supply requests to 30 days, Congress and the Commerce Department help ensure that steel users who rely on the short supply program will be able to understand how it works without having to spend thousands of dollars on Washington trade lawyers.

Last, this legislation expresses steadfast support for the Bush administration's efforts to achieve an international consensus with our trading partners geared toward eliminating trade-distortive steel subsidies and lowering trade barriers so as to ensure market access.

Importantly, H.R. 3275 also requires the President to report to Congress annually on the progress of the multilateral and bilateral negotiations to seek such a consensus. My only concern in this regard, however, is that a 2½- as opposed to 5-year extension doesn't give our negotiators the bargaining power necessary to achieve a consensus agreement which is truly in the best interests of the United States. I can only hope history will prove my skepticism unfounded.

We all know that extending steel VRA's is not an issue of free trade versus protectionism. Rather, it is a more complex question about what to do about foreign-government intervention in steel, especially in the lesser-developed and Third World nations. Between 1980 and 1987, while steelmaking capacity in the developed Western World—the OECD countries—saw a 17-percent decrease, capacity in the developing world increased over 48 percent. Make no mistake about it, this is not just a blip on a screen. It is a very real trend, and it spells very real trouble.

I find this particularly disturbing because, in an era in which the No. 1 priority of these developing nations is to maintain political stability by creating as many jobs as possible, their governments don't really care whether these jobs are created by private enterprise, or through 100 percent governmental subsidization. To those of my colleagues who represent agricultural and high-tech interest, you know darn well that the steel industry is not the only one to have suffered at the hands of unfair competition.

Accordingly, also critical is the future and fate of U.S. unfair trade laws, such as our antidumping and countervailing duty laws.

The U.S. Congress has worked long and hard, Mr. Speaker, to enact tough, effective unfair trade laws. I note that in the Steel Trade Liberalizaton Act, the Congress specifically finds that "the full and forceful application of the U.S. unfair trade laws will protect the U.S. national interest in preserving conditions of fair and open trade." I couldn't agree with that more.

What concerns me is that many of the same business people who—during the VRA hearing process—told the Ways and Means Committee that the steel industry should use the unfair trade laws are the same people now urging the administration to weaken existing law both in the GATT round and through domestic changes. It seems to me that we should not expect any industry to rely upon our unfair trade laws if we intend to weaken those laws. Indeed, that's unfair on our part.

If we want full and forceful application of the U.S. unfair trade laws, then we need to ensure that we keep the current unfair trade laws full and forceful. Many Members of this body realize, as do I, that for many U.S. industries, these laws represent not only the last, but the only, line of defense against the pervasive and crippling unfair trade practices employed by some of our trading partners.

I will commit today to say that I vehemently oppose any weakening of our current unfair trade laws in the Uruguay round of GATT negotiations, or through administrative regulation, and hope that the entire House membership will do the same.

Mr. Speaker, this legislation is not perfect, but it represents a viable and fair compromise. Two colleagues in particular, Ways and Means Committee Chairman ROSTENKOWSKI and Trade Subcommittee Chairman GIBBONS deserve a great deal of credit for their leadership in this regard. Throughout the legislative process, they have shown a genuine commitment to working with me and Congressmen MURTHA, REGULA, and GAYDOS, as representatives of the Steel Caucus, toward a proposal acceptable to all. And, as unlikely as it seemed months ago, today we are voting on just such a proposal.

I urge my colleagues to vote "aye" on H.R. 3275 and, pending its approval, express my hope that the other body will act on this measure just as expeditiously.

Mr. ROSTENKOWSKI. Mr. Speaker, today's consideration of H.R. 3275, the Steel Trade Liberalization Program Implementation Act, reflects the type of compromise which often must be made if we are to pursue a pragmatic trade policy.

In 1984, President Reagan announced a steel VRA program designed to control imports of unfairly traded steel. The VRA program was to last for 5 years, to allow a breathing period during which our domestic steel producers would be committed to reinvesting and modernizing our production facilities, and providing adequate retraining for displaced workers. In October 1984, the Congress passed legislation which I sponsored to provide the President with authority to enforce the steel agreements and ensure the domestic industry's continued commitment to improving its international competitiveness.

Five years have passed, and conditions are in many ways different today than they were in 1984. Domestic production has been rationalized and is more efficient. Productivity, as measured in manhours per ton, has dramatically improved. Our technological competitiveness, such as in continuous casting rates, has also improved. As can be expected when one's overall competitiveness increases, the industry's profitability has also turned around.

Despite these major improvements, the domestic steel industry asked for a continuation of the VRA program beyond its scheduled expiration this year. The producers argue that unfair trading practices still persist, and that their modernization and investment plans are not yet complete. On the other hand, domestic users of steel complain of lack of adequate supply of competitively priced steel, which in turn affects the user-industries' competitiveness.

The Committee on Ways and Means earlier this year held thorough hearings on the issue and received extensive testimony from all sides. Both producers and users have compelling arguments.

On July 25, President Bush announced his support for a limited extension of the VRA program. I believe the new program is a fair and pragmatic response which takes into account both producer concerns and consumer concerns.

I want to particularly commend Congressman SAM GIBBONS, chairman of the Subcommittee on Trade, for his leadership and cooperative spirit in drafting the legislation which is before the House today. Chairman GIBBONS is a strong defender of free and open trade, and I know that his first choice would have been to have no extension of the steel VRA program at all.

But Chairman GIBBONS put aside his personal agenda, and used his considerable leadership to forge a consensus coalitiion around the President's program. He worked closely with Members on both sides of the aisle, with Members on both sides of the aisle, with Members of the Steel Caucus, and the administration, to draft a consensus bill which I was proud to cosponsor. By the time H.R. 3275 was taken up by the Trade Subcommittee, the major steel producers, steel users, and the administration were all committed to supporting this bill without amendment through both the House and the Senate.

This bill extends the enforcement authority for the President's steel VRA program for an additional 2½ years, to March 1992. I expect this to be the last extension of this program, and I fully expect the administration to vigorously enforce our trade laws at the conclusion of this period to address any lingering unfair trade practices in the steel sector.

This bill is not perfect. Each one of us can probably come up with a way to tinker with it and improve it a bit more. But if it pleased any one side completely, then it would not be a consensus bill. Everyone had to compromise a little in this process, in the interests of a balanced, pragmatic policy. Now it is important for us all to unite behind this legislation so that the President's program can be implemented without further delay.

The statutory authority for the VRA program lapsed over the weekend. With today's passage of H.R. 3275, the Steel Trade Liberaliza-

tion Program will have the unequivocal support of the House. I hope the Senate will soon follow suit.

I urge my colleagues to join me in strong support for the enactment of H.R. 3275.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong support of this bill. Since the steel import restraint program was first authorized in 1984, the domestic steel industry has done a remarkable job regaining profitability and market share while making great strides toward being internationally competitive. But, while the program has succeeded in meeting challenges of the 1980's, our daunting task this year has been to create a new policy to meet those of the 1990's.

Mr. Speaker, I believe this bill represents that policy. I am proud to be an original cosponsor of the bill before us today and want to thank trade subcommittee chairman Mr. GIBBONS for his leadership on this bill.

As the economy has expanded in recent years, I have spent a great deal of time working with my companies in Connecticut to help them gain access to adequate supplies of steel. They are a diverse group, ranging from metal stamping shops which may employ only a few workers, to the Stanley Works which manufactures a wide range of tools and other products, and Theis Steel, a small high-quality specialty steelmaker. While these firms generally have supported the VRA program, the short supply process has at times forced them to expend more time in Washington working on short supply requests than in Connecticut manufacturing.

The significance of this bill is not that the VRA's are being extended but that the program is being improved. A straight extension of the VRA's would not have met the needs of the economy and would not have gained the wide support this bill has. Our bill, H.R. 3275, will support the modernization of our steel industry, but it will also ensure that steel users will have access to as much steel as they need in an expanding economy.

In recent years, with the domestic industry at near-capacity, the domestic steel makers have not always been able to supply the full needs of our manufacturers. When domestic steel makers cannot fill an order, we need to ensure that steel users have prompt access to steel from other sources.

Moreover, our bill also gets to the root of the problem that led to the original VRA program: unfair trade practices. Mr. Speaker, if when the VRA's expire 2½ years from now subsidized steel is still reaching our shores we will not have done our job. If, 2½ years from now, foreign steel makers can dump steel to gain U.S. market share, we will have failed. The U.S. steel industry has done a remarkable job regaining its competitiveness over the past 5 years, but the job is not finished. Our bill puts the world on notice that we are serious about ensuring that our market will only be open to fairly traded steel.

Mr. Speaker, as a member of the Ways and Means Committee which has jurisdiction over this program, I am proud that this bill has the support of interests who, at the beginning of this debate, were on opposite sides of the issue. I urge my colleagues to support the bill and hope the Senate acts quickly to approve this important program.

Mr. RITTER. Mr. Speaker, I rise today to urge my colleagues to support the extension of the Voluntary Restraint Agreements for steel imports included in H.R. 3275. However, my support is only lukewarm.

As someone who was personally involved in bringing VRA's into existence in 1984, I firmly believe that while there has been significant progress, there is still much to be done. This is why I would rather see a 5-year extension, rather than the 2½-year extension as included in this legislation. I'm not sure 2½ years is enough to accomplish the intricate negotiations needed to provide an international consensus to remove unfair trade practices and to provide more time for the industry to adjust and modernize.

But I also understand the tough negotiations which took place between members of the Congressional Steel Caucus, U.S. steel producers, U.S. steel users and the administration which went into producing this legislation.

This 2½-year extension is a compromise, balancing the interests of steel producers and users. I will abide with this compromise and not offer any amendments today. But, be assured, I and my colleagues who care about the future of an American steel industry will be closely monitoring the progress which the administration makes, both bilaterally and through the Uruguay round of GATT, during the next 2½ years. If, in that time, insufficient progress is made in negotiating international agreements curbing steel subsidies which have given foreign producers an advantage over U.S. steelmakers, Members of the Congressional Steel Caucus will work to have Congress revisit this issue.

Mr. GIBBONS. Mr. Speaker, I introduced H.R. 3275 and am supporting its enactment with mixed feelings. I have never been a supporter of the steel voluntary restraint agreement [VRA] program and I strongly believe that the country would have been far better off if the program was allowed to expire this year. But this bill, and the program it implements do represent a reasonable compromise to craft a steel trade policy which addresses the concerns of both steel producers and steel users.

The bill gives U.S. steel producers another 2½ years—for a total of 7½ years—of import protection through the negotiation and enforcement of voluntary restraint agreements. Moreover, it must be remembered that this 7½-year VRA program follows a long history of various types of Government protection for the domestic steel industry.

The bill gives U.S. steel users the prospect of liberalized market access over the period of transitional VRA's and the certainty that, at the end of March 1992, the steel VRA program will terminate permanently. It also sends the clear message that, in 1992, imports of steel will be regulated by the same unfair trade laws that govern trade in all other products.

Although a consensus has emerged for this temporary extension of steel VRA's, I want to emphasize that this consensus is possible only because of the clarity of President Bush's commitment that the steel VRA program terminate in March 1992. This is a final extension, good only for 2½ years.

I applaud the President's intention to seek stronger international rules and disciplines on the use of subsidies and other unfair trade practices, particularly those that affect world steel trade. Any international agreement in this area, however, must not sanction cartelization of steel trade. International rules must lead toward freer, more open steel trade.

Furthermore, I want to emphasize the need to reinstate the application of U.S. trade laws in the steel sector. I firmly believe that all industries must learn to compete under the same rules of trade. A fundamental flaw with the VRA system is the protection we give to foreign producers by waiving the rigorous enforcement of our unfair trade laws. By March 1992, U.S. trade laws will be fully enforced to address all vestiges of unfair trading practices by foreign steel exporters.

Let no one misinterpret the broad support and consensus behind today's vote; steel import protection is not a noncontroversial subject. The Trade Subcommittee held 3 exhaustive days of public hearings receiving testimony from many parties about the economic costs and burdens imposed on steel users through VRA's. The record is clear: VRA's are not good for the economy. And the only reason I am supporting their extension today is because of the President's commitment to terminate the VRA's in March 1992.

I want to extend my thanks to all of the people who worked so hard to develop this consensus legislation—both Democratic and Republican members of the Trade Subcommittee, members of the steel caucus, the administration, as well as representatives from the domestic steel producers, steel users, steelworkers' union, and steel service centers. This legislation is a tribute to the cooperative spirit of all those who are affected by it, and their willingness to compromise. I urge the expeditious enactment of H.R. 3275, so that the President's program can be implemented effectively and we can turn our attention to other pressing matters of the day.

Mr. PEASE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYES of Louisiana). The question is on the motion offered by the gentleman from Ohio [Mr. PEASE] that the House suspend the rules and pass the bill, H.R. 3275, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

TORTURE VICTIM PROTECTION ACT OF 1989

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1662) to amend the United Nations Participation Act of 1945 to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of

human rights by providing a civil action for recovery from persons engaging in torture, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1662

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Torture Victim Protection Act of 1989."

SEC. 2. TORTURE VICTIM PROTECTION.

(a) LIABILITY.—Every individual who, under color of law of any foreign nation, subjects any individual to torture or extrajudicial killing shall be liable to the party injured or that party's legal representative in a civil action.

(b) LIMITATIONS ON REMEDIES.—The court shall decline to hear and determine a claim under this section if the defendant establishes that clear and convincing evidence exists that the claimant has not exhausted adequate and available remedies in the place in which the conduct giving rise to the claim occurred. The court shall not infer the application of any statute of limitations or similar period of limitations in an action under this section.

(c) DEFINITIONS.—For the purposes of this Act—

(1) the term "torture" means any act by which severe pain or suffering (other than pain or suffering arising only from or inherent in, or incidental to, lawful sanctions), whether physical or mental, is intentionally inflicted on a person for such purpose as obtaining from that person or a third person information or a confession, punishing that person for an act that person or a third person has committed or is suspected of having committed, or intimidating or coercing that person or a third person, or for any reason based on discrimination of any kind; and

(2) the term "extrajudicial killing" means a deliberated killing without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

SEC. 3. JURISDICTION OF UNITED STATES DISTRICT COURTS.

(a) JURISDICTION OVER NEW CAUSE OF ACTION.—Chapter 85 (relating to district court jurisdiction) of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1367. Cases under law creating remedies against torture and extrajudicial killings

"The district courts shall have jurisdiction over civil actions under section 2 of the Torture Victim Protection Act of 1989.".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections at the beginning of chapter 85 of title 28, United States Code, is amended by adding at the end the following new item:

"1367. Cases under law creating remedies against torture and extrajudicial killings.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. SMITH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1662, the Torture Victim Protection Act, provides any person, whether a citizen of the United States or alien, a cause of action in Federal court for damages resulting from torture or extra-judicial killing. Specifically, this legislation states that any invidual committing such acts under color of law of any foreign nation shall be liable for money damages, or any other appropriate relief to the injured party or that party's legal representative. The legislation places torturers on notice that they will not find safe haven in the United States.

Acts of official torture and summary execution violate standards accepted by vitually every nation. For this reason, international initiatives seeking to address these human rights violations have placed special emphasis on enforcement measures. An example is the "Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment," which was adopted by the United Nations General Assembly, with strong support from the U.S. government. This convention obligates nations to adopt measures to ensure that torturers within their territories are held accountable for their acts. H.R. 1662 accomplishes this goal.

In the 100th Congress a similar bill, introduced by Mr. YATRON, was unanimously adopted by the Foreign Affairs Committee and the Judiciary Committee. The House passed the bill by voice vote on October 5, 1988.

In the 101st Congress, H.R. 1662 was again introduced again by Mr. YATRON. The full Judiciary Committee approved it by voice vote. Chairman DANTE FASCELL of the Foreign Affairs Committee, to which H.R. 1662 was jointly referred, has informed me that his committee will forgo action on this bill, without prejudice to that committee's jurisdiction. His letter is as follows:

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, September 8, 1989.

Hon. JACK BROOKS,
Chairman, Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to inform you that the Committee on Foreign Affairs will forego action on H.R. 1662, the Torture Victims Protection Act of 1989, without prejudice to the Committee's jurisdiction.

It is my understanding that the Committee on the Judiciary has reported this measure and would like to bring this matter before the House under suspension of the rules during the week of September 18, 1989. Therefore, I have no objection to the consideration of this measure and would request that you make our correspondence on this issue a part of the record during Floor consideration.

With best wishes, I am
Sincerely yours,
DANTE B. FASCELL,
Chairman.

Mr. Speaker, this is a small but important step forward in the protection of human rights and I am proud to speak in support of it.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to my friend, the distinguished gentleman from Florida [Mr. FASCELL], chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Speaker, I thank the gentleman from Texas [Mr. BROOKS] very much for his handling of this bill, and I rise in strong support of H.R. 1662, the "Torture Victim Protection Act", which was introduced by my colleague on the Foreign Affairs Committee, Gus Yatron, chairman of the Subcommittee on Human Rights and International Organizations. I would like to commend Chairman Yatron for pursuing the issue of civil redress for torture victims and for his consistent attention to human rights abuses wherever they may occur. I also want to thank the ranking minority member of the Foreign Affairs Committee, Congressman BROOMFIELD and the ranking minority member of the Subcommittee on Human Rights and International Organizations, Congressman BEREUTER for their part in this bipartisan effort to combat the practice of torture. Chairman BROOKS of the Judiciary Committee has also been a key player in considering this legislation and bringing it to the floor in such a timely fashion, as well as Chairman MORRISON of the Subcommittee on Immigration, Refugees, and International Law.

Identical legislation was marked up by the Subcommittee on Human Rights and International Organizations and the full Foreign Affairs Committee during the 100th Congress. The Torture Victim Protection Act then passed the House by voice vote last October. We should, once again, demonstrate our strong bipartisan support for universally recognized human rights by encouraging the development of effective domestic human rights laws in the United States.

Virtually every nation condemns torture and extrajudicial killing in principle, but in reality more than one-third of the world's governments engage in, condone and encourage such acts. During the past decade alone, hundreds of thousands of people have been killed by state authorities and thousands more have been persecuted and intimidated into silence through torture.

H.R. 1662 will clarify and expand existing human rights law and make our domestic law more effective in protecting basic human rights. This legislation will enable U.S. citizens, aliens, or

their representatives who reside in the United States to bring a civil damages suit in Federal district courts against their oppressors. The Torture Victim Protection Act will not only provide tangible relief to victims, but will also be of symbolic value, showing that the United States is serious in denouncing the practice of torture.

The limitations outlined in the legislation require that the torturer was acting under the actual or apparent authority of their government and that they are present in the United States when the victim brings a civil action. In addition, the victim must have exhausted all remedies in the country where the torture took place before filing suit in the United States.

Mr. Speaker, the United States has been in the forefront in promoting respect for human rights throughout the world. If international human rights are to be given legal effect, we and other nations must provide domestic remedies to victims of torture. By passing the Torture Victim Protection Act we will convey the seriousness with which the U.S. Congress condemns torture and we will signal our unwillingness to provide safe havens to those who commit torture.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of H.R. 1662, the Torture Victim Protection Act of 1989. This legislation provides a civil remedy in U.S. district courts in cases involving torture or "extrajudicial killing" inflicted under "color of law of any foreign nation."

We cannot allow individuals to get away with conduct that violates the most basic human rights because the countries that authorize or condone such conduct do not provide effective remedies to the victims. Injured parties or their legal representatives, however, must exhaust "adequate and available remedies" in the countries where the torture or extrajudicial killing occurs.

The infliction of torture under color of law is conduct so offensive to basic civilized norms as to justify providing a remedy in our courts even though the conduct occurs outside our borders. The legislation, of course, does not dispense with the requirement that the U.S. district court acquire personal jurisdiction over a defendant.

The additional burden this legislation imposes on the Federal court system is minimal. And few cases on the dockets of Federal courts will be more important than those contemplated by this legislation.

H.R. 1662 is an expression of our national determination to discourage torture and provide compensation to those who are victimized. I urge my colleagues to support it.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, as the ranking minority member of the Human Rights and International Organizations Subcommittee and an original cosponsor of H.R. 1662, I rise in strong support of this resolution.

Mr. Speaker, we in the United States are a nation where rule of law and respect for the individual are recognized as paramount virtues. However, there is no disguising the fact that such is not the situation in many other nations that do not follow the U.S. examples. With disturbing frequency, certain regimes and juntas employ terror and torture to maintain contol.

Torture is a pervasive, insidious threat to the well-being of mankind. Those dictators who engage in torture seek to dehumanize their populations, turning the people into cogs in a totalitarian regime. Of course, the practice of torture violates the most basic of democratic values. We do not tolerate the practice of torture in the United States. Nor should we excuse torture if practiced by others, whether they are friends or adversaries.

The Torture Victim Protection Act [TVPA] is an important bipartisan piece of human rights legislation. It allows victims of torture residing in the United States to bring civil action in Federal court against the torturer. Any person who, under actual or apparent authority of a foreign nation, subjects others to torture or extrajudicial killing would be liable. The TVPA is designed to protect not only aliens living in this country, but also U.S. citizens who have been tortured abroad.

The Torture Victim Protection Act is very specific and narrowly drawn legislation, and as such is unlikely to result in an inappropriately large number of lawsuits. However its approval will serve as a strong message and deterrent to those who engage in torture. The TVPA alerts the world that the United States is not a safe haven for torturers.

Mr. Speaker, the TVPA was considered and approved by this body last year. During that process, extensive hearings were conducted regarding the potential impact of this legislation. At these hearings, witneses from the human rights community and the legal community agreed its passage would call attention to the fact that the practice of torture does, in fact, continue to exist. It was further agreed that providing a highly visible legal mechanism for exacting compensation should provide a powerful incentive for those who engage in torture to cease this inhumane behavior.

It should be noted that, from its inception, this legislation has been a bipartisan effort. The leadership of the chairman of the Subcommittee on Human Rights and International Organizations, the gentleman from Pennsylvania [Mr. YATRON] should be commended. Likewise, the gentleman from Florida [Mr. FASCELL], the gentleman from Michigan [Mr. BROOMFIELD], the gentleman from Texas [Mr. BROOKS], the gentleman from New York [Mr. FISH], and the gentleman from Texas [Mr. SMITH] should be praised for bringing this legislation to the floor in such an expeditious manner. The special effort and energy of the gentleman from New Jersey [Mr. SMITH], who has been quite active on this issue, also deserves commendation.

Mr. Speaker, as an original cosponsor of the legislation presently before this body, this Member would urge his colleagues to join in supporting the Torture Victim Protection Act.

□ 1420

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Connecticut [Mr. MORRISON], the chairman of the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary.

Mr. MORRISON of Connecticut. Mr. Speaker, this bill is virtually identical to legislation which was passed by the House in the 100th Congress, but was not acted on by the Senate. The Torture Victim Protection Act seeks to remove whatever ambiguities may be argued to exist with regard to whether a noncitizen of the United States may maintain a cause of action in Federal court for damages resulting from torture or extrajudicial killing, and the bill also expands existing law by providing that U.S. citizens have that same right to redress in U.S. courts.

Specifically, the legislation states that any individual acting under color of law of any foreign nation shall be liable to the party injured or that party's legal representative for any torture or extrajudicial killing.

The bill is crafted to reach those cases where a remedy in U.S. courts is most appropriate. It would allow the adjudication of claims based upon torture or summary executions only when the perpetrator seeks the protection of our shores or otherwise subjects himself to the personal jurisdiction of a U.S. court.

On April 5, this bill was unanimously approved by the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary. On April 29 it was adopted by the full Committee on the Judiciary. As the chairman of the Judiciary Committee has noted, the Foreign Affairs Committee has waived jurisdiction to expedite consideration of the bill on the floor.

This legislation is essential to the U.S. obligation to make not only inter-

national agreements in opposition to torture, but to make clear that U.S. courts remain open to those individuals who are victims of torture and who may find that the perpetrator of that torture is here in the United States or within the reach of our judicial process.

By itself, H.R. 1662 will not eliminate torture. We need a panoply of actions in our foreign policy, as well as in our domestic law, to make sure that torture is discouraged, condemned, and punished. Nonetheless, the bill does provide a critical element to our effort by keeping our courts open to anyone who might be able to redress their injuries in those courts.

I appreciate the support and leadership of the chairman of the Committee on the Judiciary, Mr. BROOKS, as well as the ranking member of our subcommittee, Mr. SMITH, as well as the ranking member of the full committee, the gentleman from New York [Mr. FISH], who have cooperated to bring the bill to the floor today.

Mr. Speaker, I believe this measure deserves the broad support of the Members of the House.

Mr. SMITH of Texas. Mr. Speaker, I yield 5 minutes to my distinguished colleague, the gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. Mr. Speaker, the eminent Dutch legal scholar Hugo Grotius observed some three centuries ago that a civilized international society requires the establishment of common rules and institutions, and the willingness and ability of the community to enforce them. Otherwise, he suggested, lawless elements will cynically trample down the social order and the law of the jungle will prevail. To paraphrase the English philosopher Thomas Hobbes, life itself would become "nasty, brutish, and short."

Tragically, however, the victims of torture and extrajudical killing around the world are grim testimony to the fact that while Hobbes' law of the jungle may have been slightly tamed, it has not yet been entirely superseded by the laws of civilization. While almost every nation around the world has in principle condemned these heinous crimes of violence, in practice many governments continue to engage in, tolerate, or condone such unconscionably brutal acts. In almost every corner of the world, torture and the torturer remain a terrible scourge of the human race—mute and somber evidence of mankind's capacity, from time to time, to commit unmitigated evil.

Neither the United States nor the world community can afford to stay silent in the face of such despicable crimes. This bill—the Torture Victim Protection Act—helps hold human rights violators accountable for the gross misdeeds by amending the United Nations Participation Act of 1945 to carry out our obligations under the United Charter and other international agreements pertaining to the protection of human rights by providing a civil action for recovery from persons engaging in torture, and for extrajudicial killing.

While some principles of public international law remain highly unsettled and subject to ongoing academic debate, there are some legal principles so fundamental to the existence of international society that they acquire the attributes of jus cogens, or peremptory norms of international law.

The right of the individual to be free from torture is such a norm.

In the words of a distinguished American jurist, deliberate torture perpetrated under color of official authority violates universally accepted norms of the international law of human rights. The torturer, therefore, has become hosti humani generis, or an enemy of humankind.

As the International Court of Justice declared in the 1980 Hostages Case between Iran and the United States: "recognition of the existence of fundamental human rights has spread throughout the international community. The existence of such fundamental human rights for all human beings, nationals and aliens alike, and the existence of a corresponding duty on every state to respect and observe them, are now reflected" in a number of international covenants and declarations, including the Charter of the United Nations, the Universal Declaration of Human Rights, and corresponding portions of the International Covenant on Civil and Political Rights.

One of the enduring principles of the foreign policy of the United States, and of American democracy, has been a decent respect for the opinions of mankind, and commitment to individual rights and the rule of law. We have, with rare exceptions, adhered to this principle and sought to assume a special responsibility in the world community to promote respect for human rights and the rule of law.

One of the ways in which the United States can promote and enforce peremptory norms of international law is through enforcement of human rights in our own domestic courts.

As article VI, section 2, of the U.S. Constitution makes clear, "all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges of Every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

In addition to treaties the other major source of international law—settled rules of customary international law—has been held by the U.S. Supreme Court in the Paquete Habana to be "part of our law, and must be ascertained and administered by the courts of justice of appropriate jurisdiction, as often as questions of right depending upon it are duly presented for their determination."

In 1984, after a series of hearings before the House Foreign Affairs Committee and the Senate Foreign Relations Committee on the continuing problem of torture, Congress adopted and the President signed a joint resolution on torture. In reaffirming America's abhorrence of the use of torture under any circumstances, the resolution called upon the Congress to develop concrete mechanisms by which the United States can help combat torture throughout the world.

In 1980, in the case of Filartiga versus Pena-Irala, a former Paraguayan official was found to have civil liability in U.S. Federal court under a 1789 statute known as the Alien Tort Claims Act. The Alien Tort Claims Act has subsequently been used successfully in other human rights cases. But the Federal courts remain divided on the question of whether the Alien Tort Claims Act provides a proper basis for civil suits of this nature.

The Torture Victim Protection Act, in keeping with the mandate of the joint resolution on torture, is an effort to clarify this area of Federal law. At the same time, it is a clear manifestation of the willingness of the United States to undertake to respect, observe and enforce this fundamental international human right.

This act establishes a Federal right of action against violators of human rights by authorizing civil suits by both aliens and U.S. citizens—for whom relief is unavailable under the Alien Tort Claims Act—who have been victims of flagrant human rights abuses.

Mr. Speaker, the continued perpetration of torture is nauseating and an affront to civilized society. It would be equally revolting, however, if a torturer was physically present in the United States but could not be sued by the victim because of inadequacies or ambiguity in our present law. This modest bill would address that issue by clearly establishing a Federal right of action by both aliens and U.S. citizens against persons who, under color of foreign law, engage in acts of torture or extrajudicial killing as defined by the law of nations.

Mr. FISH. Mr. Speaker, today this body takes an important step to discourage human rights abuses abroad and provide recompense to the victims of brutality. Under the terms of H.R. 1662, our Federal courts will hear civil cases brought by individuals subjected to torture and the legal representatives of persons who lose their lives in extrajudicial killings.

The Alien Tort Claims Act, which dates back almost two centuries, provides an alien with a civil remedy for a tort committed in vio-

lation of the Law of Nations—28 U.S.C. 1350. This old legislation, however, extends no protection to U.S. citizens and uncertain protection to noncitizens living in our country. The explicit language of H.R. 1662 clearly is needed.

The countries that encourage torture and killing generally are the least likely to be able to adjudicate victims' claims fairly. The torturer who becomes subject to the jurisdiction of our courts must not be shielded by the lack of remedies in the very country that encourages his action.

This legislation has been the subject of substantial congressional scrutiny. Last year, the Subcommittee on Human Rights and International Organizations held hearings on similar legislation. The Committee on Foreign Affairs concluded:

It was the consensus of opinion of expert witnesses in the legal field, as well as prominent members of the human rights community, that passage of this legislation would be very beneficial in calling attention to the plight of torture victims, and curtailing this practice.

I urge my colleagues to support H.R. 1662, which is virtually identical to the bill passed by this body last year.

Mr. YATRON. Mr. Speaker, I rise in strong support of H.R. 1662, the Torture Victim Protection Act, which I introduced earlier this year. I want to thank Chairman FASCELL and Congressman BROOMFIELD for their continued consideration and support of this effort to combat torture. I also want to commend Congressman BEREUTER, the ranking minority member of the Subcommittee on Human Rights and International Organizations for his support of H.R. 1662, as well as Chairmen BROOKS and MORRISON and Congressman FISH for their thoughtful deliberation of this legislation in the Judiciary Committee.

As some of you may remember, this bipartisan initiative passed the House last Congress. The Subcommittee on Human Rights and International Organizations conducted hearings, made recommendations, and reported the Torture Victim Protection Act to the full Foreign Affairs Committee by unanimous voice vote in March and April of last year. The full committee marked up the legislation in June 1988 and reported the bill, as amended, favorably to the House by voice vote. On October 5, 1988 the bill passed the House by voice vote. I reintroduced the Torture Victim Protection Act, H.R. 1662, without changes on April 4, 1989.

It is time for us to, again, endorse the Torture Victim Protection Act which will further human rights law. In this way torture victims may seek recourse for the crimes committed against them and hold their tortures accountable for their actions.

H.R. 1662, The Torture Victim Protection Act of 1989, provides a Federal cause of action against any person who, under color of law of any foreign nation, subjects any individual to torture or extrajudicial killing. The victim, or their representative, and the torturer must be in the United States at the same time in order for the victim to seek civil redress and, then, only when the victim has exhausted remedies in the country where the violation took place.

The Torture Victim Protection Act provides a clear basis for a cause of action which has existed under the Alien Tort Claims Act of 1789, but which provides a remedy only to aliens. The Torture Victim Protection Act would give U.S. citizens who have been tortured abroad a remedy, as well as aliens.

Mr. Speaker, official torture and extrajudicial killing is condemned by every nation in the world. However, while condemning torture and summary executions, many governments condone and perpetuate these types of actions. By passing this legislation, we will send a clear message to these nations that we do not condone acts of torture and summary executions and we will support victims who choose to press for civil damages if their torturer is within our borders.

Mr. BROOMFIELD. Mr. Speaker, virtually every nation in the world condemns the use of torture. However, torture in its many repugnant forms is still used in many areas of the world.

H.R. 1662, the Torture Victim Protection Act, would provide legal substance to our Nation's opposition to the use of torture. It allows victims of torture or their representatives to bring civil action in Federal court against tortures or individuals who commit political killings.

Enactment of this bill is necessary because the Alien Tort Claims Act of 1789 has been successfully used in some cases to limit claims resulting from torture committed under official authority.

H.R. 1662 corrects this ambiguity. It would declare the United States off limits to those who would torture or murder their fellow human beings in foreign countries under the authority of foreign governments.

It is unfortunate that the Department of State opposes this bill. I can appreciate the Department's view that Congress should focus its attention on retifying the Torture Convention. But I do not believe these two approaches to addressing these horrible crimes need to be an either/or matter.

The United States should have a full arsenal of weapons against those who commit torture or murder under the cloak of official authority. Adopting the Torture Victims Protection Act will enhance the protections available to the victims of torture in the courts of the United States.

The Department of State is also concerned that through this bill the United States would be unilaterally extending its jurisdiction over actions that occur overseas. If there were ever a reason to extend the jurisdiction of our courts, however, this is certainly it. Enactment of this legislation would continue the leadership role of the United States on human rights.

I wish to congratuate Congressman GUS YATRON and Congressman DOUG BEREUTER, the chairman and ranking Republican of the Foreign Affairs Subcommittee on Human Rights and International Organizations, Congressmen JACK BROOKS and HAMILTON FISH, the chairman and the ranking Republican of the Judiciary Committee, and Congressman JIM LEACH of the Foreign Affairs Committee for their dedication and perseverance in bringing this legislation before us.

The bill is supported by several private human rights groups including Amnesty International and the Lawyers Committee on Human Rights, and by the American Bar Association. A version of this bill was passed by the House during the last Congress.

As an original cosponsor and a strong supporter of this proposal, I urge my colleagues to pass the Torture Victim Protection Act again in this Congress, and make it part of the law of the land. Let us firmly say that the United States will never be a safe haven for those who engage in torture, murder, or other gross human rights violations under the color of law.

Mr. GILMAN. Mr. Speaker, I rise to express my strong support for H.R. 1662, the Torture Victims Protection Act of 1989.

Despite the universal consensus condemning torture and summary execution perpetrated by official government organs, many governments continue to break the parameters of decency and humanity by tolerating the torture of their own citizens.

This act gives an injured party or his legal representative the right to take civil action against an individual who, under the color of law of any foreign nation, subjects any individual to suffering from mental or physical pain inflicted for purposes of obtaining a confession, punishment or coercion. The bill also allows an individual to take action against a government guilty of condoning extrajudicial killing. This legislation gives jurisdiction to the Federal district courts, and requires that the plaintiff must prove that a foreign government was involved in such killing or torture.

Mr. Speaker, it is macabre that in the 20th century we still need to discuss this issue, nonetheless to pass such legislation. Yet, Amnesty International and other human rights groups remind us on a daily basis that human beings continue to be subject to heinous acts perpetrated by other human beings.

Mr. Speaker, this bill requires that the claimant must have exhausted every available and adequate remedy in the country in which the alleged torture, or extrajudicial killing took place. It is an appropriate measure. Accordingly, I strongly urge its passage.

Mr. SMITH of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYES of Louisiana). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 1662, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed until the previously announced time of 4:30 p.m. today.

□ 1430

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1662, the bill just considered.

The SPEAKER pro tempore (Mr. HAYES of Louisiana). Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDING ARTICLES OF IMPEACHMENT IMPEACHING WALTER L. NIXON, JR., JUDGE OF THE UNITED STATES DISTRICT COURT

Mr. BROOKS. Mr. Speaker, I send two privileged resolutions to the desk and ask unanimous consent that they be considered en bloc.

The SPEAKER pro tempore. The Clerk will report the resolutions.

The Clerk read the resolutions, as follows:

H. RES. 251

Resolved, That the articles of impeachment exhibited by the House of Representatives against Walter L. Nixon, a judge of the United States District Court for the Southern District of Mississippi, are amended in the second paragraph of article II and in paragraph (2)(G) of article III, by striking "in any way influence anybody" and inserting "that in any way influenced anybody".

H. RES. 252

Resolved, That a message be sent to the Senate by the Clerk of the House, informing the Senate that the House of Representatives has adopted amendments to the articles of impeachment exhibited against Walter L. Nixon, Jr., a judge of the United States District Court for the Southern District of Mississippi, and that the amendments will be presented to the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] is recognized for 1 hour.

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of the first of these resolutions is to make certain technical amendments to articles II and III of the articles of impeachment against Judge Walter L. Nixon. At the time the House passed the original text of the articles in question, Judge Nixon had stipulated to the language of his grand jury testimony, upon which the articles were based. Since that time, through the use of sophisticated electronic equipment to conduct an analysis of the tape recording of the grand jury testimony, all parties have agreed that certain changes, which the managers believe to be minor and nonmaterial, should be made in that language.

The managers of the impeachment on the part of the House offer these minor and purely technical amendments to the articles of impeachment out of an abundance of caution. It is the judgment of the managers that the fact that the judge made false and misleading statements to the grand jury is not affected in any way by these minor changes in the text of his statement.

The second resolution merely directs that the Senate be informed of the amendments to the articles of impeachment.

Mr. Speaker, I yield such time as he many consume to my distinguished friend, the gentleman from Wisconsin [Mr. SENSENBRENNER], an outstanding member of the impeachment staff.

Mr. SENSENBRENNER. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Texas [Mr. BROOKS] in support of the two resolutions.

Basically the first resolution proposes a one-word addition to articles 2 and 3 of the articles of impeachment previously adopted by the House of Representatives. As the gentleman from Texas has so adequately explained, this one-word addition came from an analysis of the tape of Judge Nixon's grand jury testimony by sophisticated electronic equipment.

It should be noted that the judge himself stipulated to the accuracy of the prior transcripts that did not contain this one-word omission, and that was used for purposes of both the House proceedings as well as certain parts of the Senate proceedings.

It is the position of the managers on the part of the House in the Nixon impeachment trial presently being conducted in the other body that the addition of the word "that" in one point in article 2 and in one point in article 3 makes no change in the substance of the false statements that Judge Nixon made to the grand jury. The resolutions are before us today merely to clean up the record as a result of the sophisticated electronic equipment being able to make the corrections in the tape that everybody thought was correct for 3 or 4 years up until this point.

Mr. Speaker, I do support the motion of the gentleman from Texas to adopt these two resolutions.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolutions en bloc.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolutions.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on these resolutions will be postponed until after the votes today no motions to suspend the rules.

MARITIME ADMINISTRATION AUTHORIZATION, 1990

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1486) to authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendment: Strike out all after the enacting clause and insert:

AUTHORIZATIONS FOR MARITIME ADMINISTRATION

SECTION 1. In fiscal year 1990, the following amounts are authorized to be appropriated for the Maritime Administration:

(1) any amounts necessary to liquidate obligations under operating-differential subsidy contracts for the fiscal year 1990 portion of the total of current contract authority;

(2) $3,750,000 for research and development activities, to remain available until expended, including—

(A) $2,250,000 for vessel design and shipyard studies; and

(B) $1,500,000 for other research;

(3) $33,205,000 for expenses related to manpower, education, and training, including—

(A) $23,157,000 for maritime training at the Merchant Marine Academy at Kings Point, New York;

(B) $8,670,000 for assistance to the State maritime academies and the current fleet of five training ships; and

(C) $1,378,000 for manpower and additional training;

(4) $25,966,000 for operating programs, including—

(A) $17,853,000 for general administration;

(B) $957,000 for development of water transportation systems; and

(C) $7,156,000 for use of water transportation systems; and

(5) such sums as are necessary for expenses related to national security support capabilities, including—

(A) fleet additions, replacements, acquisitions, and upgrading of vessels for the Ready Reserve Force, maintenance and operations programs in support of the Ready Reserve Force, Ready Reserve Force facilities, Ready Reserve Force vessel conversions, and other programs in the National Defense Reserve Fleet; and

(B) emergency planning operations.

STUDENT INCENTIVE PAYMENT AGREEMENTS

SEC. 2. (a) Section 1304(g)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(1)), is amended—

(1) in subparagraph (B), by striking "and" the second place it appears;

(2) by striking subparagraph (C); and

(3) by adding at the end the following new subparagraphs:

"(C) paid by the Secretary to the individual for the first complete or partial academic year of attendance in a lump sum of

$1,200 or in amounts prorated on the basis of actual attendance, and at a time during the second academic year when the individual enters into an agreement accepting midshipman and enlisted reserve status as required under paragraph (2); and

"(D) paid by the Secretary, for the academic years after those years specified in subparagraph (C), as the Secretary shall prescribe while the individual is attending the academy.".

(b) Section 1304(g)(2) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(2)), is amended by striking "apply for midshipman" and inserting in lieu thereof "accept midshipman and enlisted reserve".

(c) Section 1304(g)(3)(D) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(3)(D)), is amended by striking "to apply for an appointment as,".

(d) Section 1304(g)(4) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(4)), is amended by striking "has attended a State maritime academy for not less than 2 years" and inserting in lieu thereof "has accepted the payment described in paragraph (1)(C) of this subsection".

(e) The amendments made by this section apply to individuals who commence attendance after December 31, 1989, at a State maritime academy in accordance with section 1304 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c).

COAST GUARD EXAMINATION REQUIREMENT

SEC. 3. (a) Section 1304(f)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(f)(1)), is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) agree in writing to require, as a condition for graduation, that each individual who is a citizen of the United States and who is attending the academy in a merchant marine officer preparation program shall pass the examination administered by the Coast Guard required for issuance of a license under section 7101 of title 46, United States Code.".

(b) The requirement set forth in subsection (f)(1)(C) of section 1304 of the Merchant Marine Act, 1936, as added by subsection (a) of this section, shall be a condition to any payment or use of any vessel received by a State maritime academy under such section 1304 after December 31, 1989.

STUDY

SEC. 4. With the funds authorized under this Act, the Secretary of Transportation, after consultation with other agencies in the executive branch and the State, regional, and Federal maritime academies, shall submit to the Congress a study within one year to determine how currently employed training vessels, United States-flag commercial vessels, vessels in the Ready Reserve Force, and other vessels under the control of the United States Government may be used to provide training opportunities for State, regional, and Federal maritime academy students that will produce licensed graduate officers. The study shall include data on the cost effectiveness to the United States Government; the cost impact on the affected State governments; the safety of any vessels involved; the safety of the students; the operational and scheduling impact upon the several entities involved; liability exposure; and the impact on national security sealift. The Secretary shall not implement any ship sharing program until not less than sixty days after the submission of the study to the Congress.

PAYMENTS TO MARITIME ACADEMIES

SEC. 5. Section 1304(d)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(d)(1)) is amended—

(1) by redesignating the existing text as subparagraph (A);

(2) by striking the second sentence of subparagraph (A) as so redesignated; and

(3) by adding at the end the following new subparagraphs:

"(B) Subject to subparagraph (C), the annual payment to such State maritime academy shall be at least equal to the amount given to the academy for its maintenance and support by the State in which it is located, and to such regional maritime academy shall be at least equal to the amount given the academy by all States and territories cooperating to sponsor the academy.

"(C) The amount under subparagraph (B) may not be more than $25,000, except that the amount shall be—

"(i) $100,000 to such State maritime academy if the academy meets the condition set forth in subsection (f)(2); or

"(ii) $200,000 to such regional maritime academy if the academy meets the condition set forth in subsection (f)(2).".

NATIONAL DEFENSE RESERVE FLEET

SEC. 6. Section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744) is amended to read as follows:

"NATIONAL DEFENSE RESERVE FLEET

"SEC. 11. (a) The Secretary of Transportation shall maintain a National Defense Reserve Fleet, including any vessel assigned by the Secretary to the Ready Reserve Force component of the fleet, consisting of those vessels owned or acquired by the United States Government that the Secretary of Transportation, after consultation with the Secretary of the Navy, determines are of value for national defense purposes and that the Secretary of Transportation decides to place and maintain in the fleet.

"(b) Except as otherwise provided by law, a vessel in the fleet may be used—

"(1) for an account of an agency of the United States Government in a period during which vessels may be requisitioned under section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242); or

"(2) on the request of the Secretary of the Navy, and in accordance with memoranda of agreement between the Secretary of Transportation and the Secretary of Defense, for—

"(A) testing for readiness and suitability for mission performance;

"(B) defense sealift functions for which other sealift assets are not reasonably available; and

"(C) support of the deployment of the United States armed forces in a military contingency, for military contingency operations, or for civil contingency operations upon orders from the National Command Authority;

"(3) for otherwise lawfully permitted storage or transportation of non-defense-related cargo as directed by the Secretary of Transportation with the concurrence of the Secretary of Defense; or

"(4) for training purposes to the extent authorized by the Secretary of Transportation with the concurrence of the Secretary of Defense.

"(c) The Secretary of Transportation shall not require bid, payment, performance, payment and performance, or completion bonds from contractors for repair, alteration, or maintenance of vessels of the National Defense Reserve Fleet unless—

"(1) required by law; or

"(2) the Secretary determines, after investigation, that the imposition of such bonding requirements would not preclude any responsible potential bidder or offeror from competing for award of the contract.".

WAR RISK INSURANCE

SEC. 7. (a) Section 1202 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1282), is amended by adding at the end the following new subsection:

"(c) Insurance and reinsurance for vessels may be provided by the Secretary under this title only on the condition that such vessels be available for the United States in time of war or national emergency.".

(b) Section 1214 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1294), is amended by striking "1990" and substituting "1995".

NATIONAL MARITIME ENHANCEMENT INSTITUTES

SEC. 8. (a) The Secretary of Transportation may designate National Maritime Enhancement Institutes.

(b) Activities undertaken by such an Institute may include—

(1) conducting research concerning methods for improving the performance of maritime industries;

(2) enhancing the competitiveness of domestic maritime industries in international trade;

(3) forecasting trends in maritime trade;

(4) assessing technological advancements;

(5) developing management initiatives and training;

(6) analyzing economic and operational impacts of regulatory policies and international negotiations or agreements pending before international bodies;

(7) assessing the compatibility of domestic maritime infrastructure systems with overseas transport systems;

(8) fostering innovations in maritime transportation pricing; and

(9) improving maritime economics and finance.

(c) An institution seeking designation as a National Maritime Enhancement Institute shall submit an application under regulations prescribed by the Secretary.

(d) The Secretary shall designate an Institute under this section on the basis of the following criteria:

(1) the demonstrated research and extension resources available to the designee for carrying out the activities specified in subsection (b);

(2) the capability of the designee to provide leadership in making national and regional contributions to the solution of both long-range and immediate problems of the domestic maritime industry;

(3) the existence of an established program of the designee encompassing research and training directed to enhancing maritime industries;

(4) the demonstrated ability of the designee to assemble and evaluate pertinent information from national and international sources and to disseminate results of maritime industry research and educational programs through a continuing education program; and

(5) the qualification of the designee as a nonprofit institution of higher learning.

(e) The Secretary may make research grants, on an equal matching basis, to an institute from amounts appropriated pursuant to section 1(2)(B). The aggregate

amount of such grants shall not exceed $100,000.

Mr. JONES of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mrs. BENTLEY. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from North Carolina [Mr. JONES] if he would be so kind as to explain for the purposes of the Record what exactly is in this legislation passed by the Senate.

Mr. JONES of North Carolina. Mr. Speaker, will the gentlewoman yield?

Mrs. BENTLEY. I am happy to yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. Mr. Speaker, we have noted the changes made by the Senate and find that, overall, they leave intact the most salient and important features of this bill that passed the House by unanimous voice vote on May 2, 1989.

In two areas, the Senate added language that did not appear in the House-passed version, and we have no difficulty with the legislative language so added. We note that the Senate report—in discussing the changes to the language extending the period of the war risk insurance program to 1995—correctly suggests, as is stated in section 7 of the bill, that vessels eligible for coverage under the program be available if required by the United States.

The report goes on to seemingly require that—in order to be eligible—that vessels be "subject to requisitioning." "Requisitioning" is a term of art that is not used in the statutory language, and we view its use in the report as merely illustrative of devices that may be employed to insure that vessels indeed will be made available in time of emergency if required by the United States.

It is not the judgment of the Committee on Merchant Marine and Fisheries that a vessel be subject to requisition as a condition precedent to eligibility for war risk insurance under title XII of the Merchant Marine Act, 1936.

Mr. DAVIS. Mr. Speaker, I want to compliment the gentleman from North Carolina and the distinguished chairman of the Merchant Marine and Fisheries Committee for his perseverance, persistence and hard work in bringing this bill to the point it is today. It is through your fine work, Mr. Chairman, that H.R. 1486 moved through the Senate with only minor changes. The changes that were made by the other body are, in my opinion, acceptable, and I concur with the chairman's comments particularly concerning the Senate changes to the War Risk Insurance Program.

On another point, I am particularly pleased to see that the Senate has retained a provision which I had included in H.R. 1486, upon its first introduction in this body back in the spring. This provision, section 4 in the House bill, section 5 in the Senate version, increases the direct payments to the Great Lakes Regional Academy. No additional budget authority is required and our review indicates that sufficient funds are available in MarAD's operating budget to implement this change. Under this change, moneys contributed by Michigan and other Great Lakes States will be matched by the Federal Government up to certain limits. This added funding will also give the Great Lakes Academy an added incentive to appeal to Great Lakes States other than Michigan for funding.

With job prospects strong for Regional Maritime Academy graduates, this change to existing funding provisions could not come at a better time.

Mrs. BENTLEY. Mr. Speaker, I thank the gentleman from North Carolina for his explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from North Carolina?

There was no objection.

A motion to reconsider was laid on the table.

□ 1440

PARLIAMENTARY INQUIRY

Mr. WALKER. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. HAYES of Louisiana). The gentleman from Pennsylvania will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, could the Chair inform the House how we intend to handle the balance of today now, given that Members have been informed that there would not be votes before 4:30?

The SPEAKER pro tempore. Under the procedure and statements announced on Friday, it is the Chair's intention to go to special orders, at which time, if we have reached the hour of 4:30, the Chair would interrupt those special orders for the purpose of going to the votes which were postponed under previous suspension of the rules and two privileged resolutions en bloc, and proceed thereafter with special orders.

In the event that we conclude special orders prior to 4:30, the Chair would seek a recess until 4:30 or immediately thereafter in order to proceed with those votes as previously described by the Chair.

Mr. WALKER. So it is possible, Mr. Speaker, that the Chair would seek recess authority to allow us to get to the 4:30 time if we run out of special orders? Is that correct?

The SPEAKER pro tempore. The gentleman is correct. The Chair does not intend to proceed to votes prior to the announced 4:30 time.

Mr. WALKER. I thank the Chair.

THE SELLING OF AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, when a Japanese real estate agent visiting Manhattan was quoted as saying, "Everything here is so cheap," warning bells and red flags immediately came to mind.

This statement is a symbol of the times and represents the changing way our Nation conducts its business.

It is no secret that foreign interests, including Japanese, South Korean, West German, and Swiss have instituted a smorgasbord mentality toward purchases of United States companies and assets. Factories, skyscrapers, shopping malls, farms, ski resorts, vineyards, medical and bio-tech companies, refineries, and more, are just a few of the goodies on the menu.

But these purchases are not enough. Foreign buyers see profit in other, less traditional service industries, such as banking, and their presence is being felt throughout the financial world.

Buying stakes in American banks seems to be good policy for foreigners—but there are those who believe these advancements are detrimental to the health of the American banking industry and the economy as a whole.

An article in the Wall Street Journal dated September 11, 1989 notes:

Japan has only 158 commercial banks, the U.S. has more than 14,000. Aided by "cooperative leveraging", the booming Tokyo stock market has recently become a major source of funds and the market capitalization of the 13 largest Japanese banks now totals some $500 billion dollars.

The article also points out the losses that U.S. banks are hiding.

Loans to the third world, farm loans and bad mortgages all lower the assets of American banks making them virtually incapable of competing against wealthy foreign banks.

If the U.S. maintains an open-market policy in financial services, it is easy to imagine how the foreign share of the domestic banking marketplace could expand dramatically during the 1990's. Once barriers to American interstate banking come down next year, the Japanese could use their strong California base to expand into retail banking throughout the Western United States . . . Because of their highly competitive pricing, some Japanese officials believe that Japanese banks could increase their share of the U.S. commercial-banking market to 25 percent by the mid-1990's.

Looking at Japanese companies alone, establishment of a 25-percent share of the U.S. banking market by the mid-1990's is no laughing matter. The people of California were not

laughing this past August when they began discovering that Japanese-owned banks now hold "25 percent of their banking assets, up from 10 percent seven years ago."

Gene Bylinsky of Forbes Magazine writes, "The newspapers were quick to note that if California's Japanese-owned banks were combined into one, their $93.4 billion in assets would outweigh even the Bank of America's $83 billion."

To discover the full impact of what it means when our banks are no longer our banks, consider the following example.

A fictitious company, we will call it American Steel, is experiencing short-term cash-flow difficulties, preventing a much needed upgrade of the manufacturing facilities.

American Steel chooses to borrow funds from a bank, which, under most circumstances, would not be a problem. However, American Steel will be borrowing from Mitsubishi Bank of Japan.

Mitsubishi Bank owns a stake in Mitsubishi Heavy Industries who also manufacture steel. Mitsubishi Bank will have access to information about these companies—a financial gold mine and something our own companies disclose only on a voluntary and confidential basis.

It is interesting to note that the Japanese have concentrated, thus far, on business lending. An article in the October 1, New York Times, by Michael Quint points this out. Mr. Quint says, "* * * the Japanese have concentrated on business leading rather than the consumer market."

The article follows:

JAPAN'S GIANT BANKS ON THE MARCH—AMERICANS GET THE JITTERS AS TOKYO' BIG PLAYERS RAISE THEIR U.S. STAKES

Dai-Ichi Kangyo, the world's largest bank, isn't trying to catch the fancy of millions of American consumers, as Toyota and Sony have. It will settle for a close relationship with 10,000 or so corporate treasurers.

When Dal-Ichi Kangyo agreed to invest $1.4 billion in the Manufacturers Hanover Corporation in mid-September, the deal underscored just how attractive the American banking market had become to the Japanese. After years of laboring quietly to the United States, buying a few banks in California and arranging low-profit loans to large businesses, more Japanese bankers have been raising their sights laterly to take aim at the so-called middle market of business borrowers, the most profitable sector of all.

The deal with Manufacturers Hanover, for instance, will give Dal-Ichi a 60 percent share of the CIT Group, a major finance company with 50 offices around the country. Besides having a projected profit of about $135 million this year, CIT is an ideal network to gain entree to medium-sized companies.

"Expanding in the U.S. is of primary importance to us," siad Yuko Oana, a senior managing director at Dal-Ichi who orchestrated the deal with Manufacturers Hanover. Through its New York branch, and other offices is Los Angeles, Chicago and Atlanta, Dal-Ichi already has more than $30 billion of assets in the United States, a level that would put it among the 20 largest American banking companies. The American market is particularly attractive, Mr. Oana said, because it produces higher profits than Japanese banks can get at home.

Those profits have been the catalyst for several other deals by the Japanese in recent years, albeit not on the scale of the Dal-Ichi purchase, which was by far the largest American acquisition by a Japanese bank. Now, however, the Dal-Ichi deal is seen as a harbinger of other large purchases by the Japanese.

"The Japanese banks were slower than others to expand overseas, but they are clearly making up for lost time," said Thomas H. Hanley, managing director at Salomon Brothers, the New York investment banking firm. Flush with fresh capital from a series of new equity offerings, and readily able to raise more capital at a lower cost than other banks, "the Japanese banks have a real competitive advantage," Mr. Hanley said. Future alliances on the magnitude of the recently announced merger of Mitsui Bank and Taiyo Kobe Bank, creating the world's second-largest bank, will not be limited to Japan, he added.

"As might be expected, the prospect of more competition from Japan's banking behemoths is giving the jitters to at least some American bankers. They fear that the Japanese will compete so fiercely for business from middle-market companies that they will cut prices and make do with smaller profits than American banks are used to.

"And there is plenty of room to maneuver. Over the past nine years, excluding 1987, when they suffered huge losses on Latin American lending, large American banks on average earned three times more per dollar of assets than their Japanese counterparts. The largest American banking company, Citicorp, is the world's most profitable, even though it is only the 10th largest in terms of assets.

"The Japanese success in industries like cars and consumer electronics raises the question of whether banking faces a similar future, and if so, what the benefits and costs might be.

"We will receive a supply of good products as the Japanese buy their way into the forefront of the financial services business," said Ricahrd W. Wright, a professor of international management at Willamette University in Salem, Ore., and co-author of "The Second Wave: Japan's Global Assault on Financial Services."

But the danger, he added is that Japanese dominance in banking would be "another threat to our overall competitiveness and innovative capacity."

Not everyone is worried, Economists claim that if businesses can borrow more cheaply because of Japanese lending, the American economy and consumers benefit. And it still has not been proved that Japanese capital can buy success in other key lines of the banking business, including retail banking or financial advisory services like arranging mergers and acquisitions.

Robert E. Litan, a senior fellow at the Brookings Institution, said there is no doubt that the Japanese pose a major challenge to American banks. But while that competition might prove painful in some banks in the United States, he sees little danger to its economy as a whole.

"The more alliances the Japanese banks form in the United States, and the bigger their market share, the less likely they are to rock the boat," Mr. Litan said.

And in Washington, there has been no move in the Senate or House of Representatives to investigate or limit the activities of Japanese or other foreign banks. In the past, legislators have threatened to prevent Japanese banks and securities firms from acting as primary dealers in Treasury securities. Primary dealers are a prestigious group of firms designated by the Federal Reserve that dominate trading in the Treasury securities market. But the threat of legislative action has become more remote as the Japanese gradually opened their financial markets to more American companies.

Much of the impetus for the push to expand overseas has come from the saturation of the Japanese banking market. Corporate lending opportunities for Japanese banks have been cut as large companies turned to the financial markets for their funding. With savings in Japan growing by about $1 billion per day, the keen competition for local investments keeps profit margins low and encourages banks to look elsewhere for new opportunities.

"At first in the 1960's and 1970's, Japanese banks just followed the industrial companies who were their customers in Japan," said Takanori Mizuno, New York director of the Institute for Financial Affairs, a Japanese information and educational organization. "But about 1980, they began to approach U.S. corporations, and by the middle 1980's, they saw the opportunities in the middle market,"

The push overseas gained momentum in the past two years after banking regulators in major Western countries agreed on uniform financial standards that required Japanese banks to greatly increase their capital. After raising $26.5 billion of equity, or shareholder money, in the past year, the Japanese banks are comfortable with the new standards and have a new-found sense of their financial muscle.

Michiya Matsukawn, chairman of the Nikko Research Institute and a former senior official in Japan's Ministry of Finance, noted that the additional capital has put the Japanese banks in a position where they are more tempted than ever to gain market share overseas by shaving interest rates on loans.

That practice, while it benefits borrowers, is worrisome to bankers and regulators in countries where new capital cannot be raised as cheaply as in Japan. In those countries, including the United States, banks rely heavily on the higher profits to accumulate a cushion against hard times.

The Japanese banks got still another reason late last week to pay more attention to foreign lending opportunities when the Bank of Japan, in an effort to curb inflationary pressures, ordered the banks to reduce the growth rate of lending in Japan during the fourth quarter.

American bankers have for several years lamented the influx of foreign banks, which accounted for 27.6 percent of all outstanding domestic business loans by the middle of 1988, up from 21.4 percent five years earlier. Japanese banks lending, up from a 34 percent share five years ago. Most of that growth bankers agree, has come from "bargain basement" pricing of loans to large corporations that owe no allegiance to any bank, except the one offering the lowest price.

"The term 'house bank' is quickly disappearing," said Rainer E. Gut, chairman of Credit Suisse, Zurich, an internationally

minded lender. And outside Japan he said, "Corporations are gradually losing the fear of entering business relationship with Japanese banks."

Since the 1950's, when Japanese banks first began to appear on the American scene, they have concentrated on corporate banking, first with Japanese companies, then with American corporations doing business with those Japanese companies. While Japanese banks operate huge branch systems in their home country, they have yet to tackle the retail market here, except in California.

The strong presence of Japanese industrial companies and a large Japanese community have made California so attractive to Japanese banks that they now control about a quarter of the state's deposits and more than 30 percent of its business loans.

About 10 Japanese banks, including the Bank of Tokyo, Sanwa, Sumitomo and Mitsubishi, now own full-service banks in the state. Through a series of acquisitions in the past few years, they have dramatically increased their stake in the retail market, to the point where they now have 424 branches, up from 247 in 1982.

But even with these branches, the Japanese have concentrated on business lending rather than the consumer market. In line with that philosophy, they have not bought any savings and loans, despite the availability of many financially troubled savings institutions in California and other parts of the nation.

Two of the largest acquisitions they have made have been from British banks that found the California market too tough for their liking. The Bank of Tokyo, for example, bought the Union Bank, a San Francisco-based specialist in middle-market lending and construction financing, from Standard Chartered P.L.C. for $750 million a year ago, and now has the fifth-largest bank in California. Lacking a branch network in Japan, the Bank of Tokyo now has more than 9,000 employees in the United States.

The other British deal came in 1986, when the Sanwa Bank of California, now the state's sixth largest, paid $263 million to acquire the Lloyds Bank of California.

Despite their growth, the Japanese in California have not broken the grip of the four largest American banks, which continue to control about two-thirds of the market. And so far, the Japanese have not managed to operate efficiently enough to generate the same amount of profit from each dollar of assets as the Americans.

Gary C. Zimmerman, an economist at the San Francisco Federal Reserve Bank, noted in a recent study published by the bank that "there is no compelling evidence that Japanese commercial banks have an advantage in providing retail banking services in California."

The California experience has been humbling enough that some Japanese bankers, including those at Dai-Ichi, which operates the largest branch system in Japan, disavow any intention of making a major push into the American consumer market. In fact, Dai-Ichi sold its retail banking operation in Chicago this year.

Similarly, Hisaya Nara, deputy president of the Mitsubishi Bank of Tokyo, said he expects rapid growth to continue at the Bank of California, which Mitsubishi acquired in 1984, but not necessarily in the retail sector. Assets at the Bank of California, now the seventh largest in the state, are expected to rise to $10 billion within two or three years, from about $7 billion now. But rather than going after consumers in a big way, Mitsubishi's primary effort will be to pursue middle-market business customers, Mr. Nara said.

The middle market that the Japanese are courting more assiduously than before in the United States is loosely defined, but is generally meant to include the thousands of companies that have revenues above $5 million yet are not large enough to rank among the Fortune 500.

As the largest corporations have learned to bypass banks and borrow directly in the capital markets through the sale of commercial paper or bonds, bankers have avidly cultivated the middle-market companies. Because those companies lack access to the capital markets, they rely more on bank financing, and tend to pay higher interest rates than the largest corporations.

The average interest rate on loans to all borrowers at Manufacturers Hanover, for example, is 2.4 percentage points higher than what the banking company must pay for its borrowed funds. But at the CIT Group, which leads exclusively to middle-market clients, the interest spread is more than 5 percentage points.

Even if Japanese banks resist the temptation to gain market share by cutting prices, they gain other benefits from their financial strength. John F. McGillicuddy, chairman of Manufacturers Hanover (which continues to hold 40 percent of CIT), said that profits at the finance company would be helped as the backing of the capital-rich Dai-Ichi reduces CIT's cost of borrowing.

Japanese banks have long recognized the profit potential in the American middle market, but they have also recognized that it is a hotly contested area that relies more on personal relationships with borrowers than does lending to the largest corporations. So far, the Japanese have found it easier to gain middle-market customers through acquisitions, particularly from companies in some sort of financial difficulty.

Manufacturers Hanover, for example, did not want to sell control of CIT, a company that it had worked hard to improve after buying it from RCA in 1985. But the New York bank faced a dire need for capital to cover losses on its loans to Latin American countries.

Earlier, in 1985, the Sanwa Bank bought a leasing unit with more than $500 million of assets from the Continental Illinois Corporation. That deal came at a time when Continental was selling most of its non-bank assets to recover from losses on fraudulent oil loans it bought from the Penn Square Bank of Oklahoma.

In 1983, the Fuju Bank paid $425 million to buy the Walter E. Heller International Corporation, a struggling finance company that was about to be acquired by the Security Pacific National Banks in Los Angeles for $400 million. Although Fuji has since invested more than $1 billion in Heller, and has only recently begun to show a profit, it gained a foothold in thousands of corporate boardrooms through Heller's network of offices in 68 cities.

Not all the recent Japanese purchases have been from distressed sellers;

In June, Security Pacific sold 5 percent of its consumer and commercial finance operations to Mitsui Bank for $100 million and gave Mitsui an option to buy another 5 percent at the same price.

Later in the summer, Orix international Japan's largest leasing company, bought the leasing operations of the Los Angeles-based First Interstate Bancorp for $190 million.

And in mid-September, Daiwa Bank, Japan's 15th largest, paid $200 million to buy a pool of American middle-market loans from Lloyds Bank of London. Daiwa also picked up 15 offices in the United States from Lloyds, taking a shortcut around the normal process of obtaining approval from Japanese regulators for each new office.

According to Dai-Ichi's Mr. Oana, there are many other opportunities in the United States. While running the banks New York branch during the past three years, he said, he was approached at least 10 times with offers to buy American financial companies. Last week, Dai-Ichi announced an alliance with Clayton & Dubilier Inc., a New York-based specialist in mergers and acquisitions, and promised to invest $100 million in a corporate buyout fund managed by the New York company, Dai-Ichi is still looking to acquire a California-based finance company that could operate in tandem with a small bank it owns in San Francisco.

The pressure to expand into American financial markets is not confined to the largest Japanese banks. So for, 32 of Japan's 64 regional banks have offices in the United States, along with 9 of the country's 88 "sogo" banks, a kind of mutural savings institution.

"Right now, there are only four or five regional banks that have gone beyond their Japanese customers to seeking business with American firms," said Bruce E. Aronson, a partner at the law firm of Hughes, Hubbard & Reed. "But in three to five years I expect to see another 20 or 25 doing that."

While the prospect of even more Japanese competitors is daunting to many American bankers, they should remember that the imposing size of the newcomers relects the limited number of banks in Japan. The Japanese market is divided among only about 150 banks, compared with more than 13,000 in the United States.

The best way to help American banks meet the challenge posed by the powerful newcomers is to "modernize the U.S. financial system by eliminating barriers to interstate banking and bank activities in the securities markets," said Lawrence R. Uhlick, executive director of the Institute of International Bankers, which includes several Japanese members.

"In a global economy, Americans have to recognize that there is going to be a significant segment of the U.S. financial market owned and operated by non-domestic institutions, just like American firms own and operate significant businesses in other countries," Mr. Uhlick added.

Business lending has its benefits—foreign-owned banks will have access to American corporate information. Once Japanese banks gain a solid, stable foothold in the business end of the banking industry, the consumer market will fall into place—following the money.

Some individuals view this trend by foreign banks as a healthy result of financial globalization; but it seems more akin to what has been going on in the financial world with inside trading and in the export-import world with dumping.

In the first instance, foreign-owned banks will have access to internal information about our industries. These deals remind me of the words to the

song, "Santa Claus Is Comin' To Town."

The words, "He knows when you've been sleeping, he knows when you're awake, and he knows if you've been bad or good," are prophetic. Mitsubishi Bank will know everything and more about American steel.

These banks will know if a company is healthy by the assets they hold, just as they will know when a company is unhealthy and a prime candidate for takeover.

The American banking system's desperation for capital has thrown out over 200 years of caution, acting as though American rules will be observed by foreign banks.

It is not against the law to share in Japan and we know of many instances where American corporation information has been passed around Japan.

Every major American steel corporation, with the exception of Bethlehem Steel, has gone into joint ventures with foreign corporations. This sets up a situation where American steel companies are not allowed under antitrust laws to meet together and share plans for information on pricing or targeting market share—and most foreign corporations do not operate under these restrictions.

Think about it—our free enterprise steel companies are going into business with government-owned and/or government-controlled foreign steel producers who are free to meet abroad and share all of the information they have received from their American partners. This enables them to put together a strategy for that nation to takeover American markets.

Author Marvin Wolfe described this phenomenon in his book the "Japanese Conspiracy" and recalled how the Japanese targeted the United States television market. In this instance, foreign firms united and shared information taken from their American counterparts. And now our television industry is off the air.

If one would guess why a foreign company would invest $1 billion in an American joint venture and then sabotage its own U.S. interests, consider investing $1 billion in order to gain control of a multibillion-dollar market for your own national industry.

At one time, our industries scoffed at the Japanese practice of targeting market share—now, no one is scoffing. Michiya Matsukawa, chairman of the Nikko Research Institute and a former senior official in Japan's Ministry of Finance, is quoted as saying, "The additional capital has put the Japanese banks in a position where they are more tempted than ever to gain market share overseas by shaving interest rates on loans."

If this declaration does not shake up our domestic banks, I suggest they talk to representatives of the machine tool industry or representatives of our former television industry. Among other things, these industries were eroded by an influx of cheap, foreign imports—more commonly known as dumping.

When large Japanese banks begin shaving their interest rates, we need look no further than recent history to tell us the future of the American banking and finance industry—an America without a dominant finance industry and without American-owned banks.

This hollowing out effect is happening now—and Mr. Speaker, I would like to ask permission to insert a chart that shows just how dramatically Japanese banks are increasing the size of their United States operations. This chart was taken from the New York Times article by Michael Quint, and is a good barometer of what is occurring within our banking industry. [The chart was not reproducible for the RECORD.]

American banks are selling all or part of their operations for a colloquial shot in the arm—and they crave this shot to cover losses from countless poor investments and because of greed—it is a good way to make a fast buck.

And now we find that our Nation's comprehensive financial picture may be just another domestic casualty exported to Japan. Many of us were assured that there was no need to worry about the loss of our manufacturing base—that service industries like banking would take up the slack.

We know now that this was a fairytale view of our service sector as the announcement of our first service industry deficit rolled off the presses.

Foreign owners of American banks could conceivably contact their overseas counterparts and say, "American Steel is not doing so well—don't worry about competition from them." Inside information, if you will, would be readily available and any transfer of information would be difficult to prove.

The United States has not fully recognized this threat because it has not really experienced foreign financial competition on-shore before. Many industries are totally unaware of the value of their internal information to foreign banks because our laws have proscribed others from obtaining this information.

Many times we mistakenly believe other nations' laws are similar to our own—a very dangerous, and costly, misconception.

The banking industry has had its share of peaks and valleys—but more recently, the industry seems to be stuck in the valley. We have not yet seen the last of the S&L crisis and, adding to this, an article by Jerry Knight in the September 20, Washington Post entitled, "Trouble Seen for Banks, Congress Told," warns of the vulnerability of U.S. banks.

Economist R. Dan Brumbaugh, Jr., recently completed a study on U.S. banks and his message to Congress is certainly frightening, but not too surprising. He echoes the Wall Street Journal article, stating:

> Hidden bank losses could wipe out $10 billion of the $14.1 billion reserves of the Federal Deposit Insurance Corporation (FDIC) leaving the fund too weak to protect depositors against a major economic downturn.

In other words, "the Nation's banks are beginning to show signs of some of the same kinds of problems that led to the $164 billion Government rescue of the thrift industry." Our banking industry may soon know what Atlas was feeling with the weight of the world resting on his shoulders.

Mr. Speaker, this news is devastating—after wrestling with the S&L crisis and now to hear about our banks, leaves me numb. I hope that what Dr. Brumbaugh says is not true—but from what I have seen recently, his warnings may be right on target.

The study also tells of "30 large banks with $23 billion in assets that are secretly insolvent and roughly 10 percent of the big banks do not have the capital they are supposed to have to protect against losses."

This indeed is a gloomy picture of U.S. banks and evidence supporting this assertion is mounting. For instance, on June 5, 1989, a Wall Street Journal article announced Manufacturers Hanover was discussing a capital infusion from Japanese banks because they were "burdened by a huge $1.4 billion portfolio of troubled Argentine country loans."

To bring this story up to date, a September 9, 1989, clip in the Wall Street Journal announced Manufacturers Hanover was near an agreement with Dai-Ichi Kangyo Bank Ltd., the world's largest bank with assets totaling $414 billion.

Dai-Ichi agreed to acquire a 4.9-percent stake in Manufacturers Hanover and a 60-percent interest in CIT group, its asset-based lending subsidiary.

CIT is Dai-Ichi's goldmine—purchase of the controlling interest in CIT gives Japan's largest bank an inside look into any American company which borrows from CIT. And if some of us do not think this is a problem, then we should take a long, hard look at an announcement by Wang, Inc., one of the oldest and largest manufacturers of computer hardware in the United States.

An AP newswire article dated September 25, 1989, and entitled, "Wang Announces Borrowing Scheme" is a case in point. Wang's financial difficulties are well known in the business community; and now Wang will be borrowing $175 million from CIT

Group. This deal was announced as part of Wang's restructuring plan.

Well, it seems to me that the Wang scheme emphasizes the dangers. CIT Group, controlled by Japanese interests, will be privy to Wang's financial blueprint—and I would not be surprised if Wang, in the next month or two, announces a joint venture with a Japanese computer firm. This type of information is really worth its weight in gold.

Deals like this one will become increasingly common as American banks become more dependent on large Japanese banks for capitalization. Already Japanese institutions make about 5 percent of all United States loans and hold about 9 percent of our banking assets; and many experts are predicting a dramatic rise in these figures.

As more banks begin realizing their losses, Japanese banks will be there with cash in hand—buying shares, investing in stocks, and purchasing Treasury bonds.

The WSJ article, "How Serious a Threat Are Japan's Huge Banks," quotes David D. Hale, chief economist at Kemper Financial Services, Inc., as saying:

Japanese banks are charging ahead with powerful advantages.

Are there national security risks in letting U.S. entrepreneurs become heavily dependent on foreign institutions for financial research and development?

If Japanese banks have large cross shareholdings with Japanese industrial companies, can they be considered autonomous players in the way they handle classified information from U.S. customers in sectors potentially vulnerable to Japanese competition?

These tough questions are not being answered. American banks continue to accept capitalization from Japanese banks while our Government depends on Japanese purchases of Treasury notes to float the debt.

As author Daniel Burstein points out in his new book, "Yen":

An investment community that doesn't yet understand the degree to which America's finances are now subject to foreign controls—and continues to rely one-sidedly on American thinking—is capable of sleeping through the apocalypse and waking only after it is too late.

The potential for hollowing out of America is a very real threat. Analysts should be warning of the long-range dangers of selling themselves to a stranger.

[From the Wall Street Journal, Sept. 11, 1989]

JAPAN'S HUGE BANKS: HOW SERIOUS A THREAT?

(By Henry F. Myers)

Aided by huge trade surpluses, high savings rates and low costs of capital, Japan now has, by most measures, all 10 of the world's largest banks. Will they soon dominate global banking?

Perhaps. Noting that "the financial-service industry is now experiencing the same movement toward globalization which occurred in many goods-producing industries during the 1950s and 1960s," David D. Hale, the chief economist at Kemper Financial Services Inc., sees the Japanese banks charging ahead with powerful advantages.

He cites their concentration: Japan has only 158 commercial banks; the U.S., more than 14,000. He also says that, aided by "cooperative leveraging," the booming Tokyo stock market "has recently become a major source of funds," and the market capitalization of the 13 largest Japanese banks now totals some $500 billion.

"Because of their access to cheap equity," Mr. Hale adds, "Japanese financial institutions are poised to dominate the world financial system during the 1990s while American Banks will be constrained by low share-price multiples and a stock-market capitalization of only $95 billion for the nation's 50 largest institutions."

Another advantage enjoyed by Japanese banks, says Edward J. Kane, a professor of economics and finance at Ohio State University, is the fact that "they are holding strong assets, while U.S. and British banks have had hidden losses, on Third World loans, farm loans and bad mortgages."

So, Mr. Hale sees dangers ahead.

"If the U.S. maintains an open-market policy in financial services," he says, "it is easy to imagine how the foreign share of the domestic banking marketplace could expand dramatically during the 1990s. Once barriers to American interstate banking come down next year, the Japanese could use their strong California base to expand into retail banking throughout the Western United States. * * * Because of their highly competitive pricing, some Japanese officials believe that Japanese banks could increase their share of the U.S. commercial-banking market to 25 percent by the mid-1990s."

In California, according to Gary C. Zimmerman, an economist at the Federal Reserve Bank of San Francisco, Japanese owned banks "held one-quarter of the banking assets and over 30 percent of all business loans" at the end of 1988. However, he says their "expansion has not occurred at the expense of domestic banks' market share. * * * Japanese banks essentially have replaced other foreign banks as the dominant foreign banking power," mostly by following long-time customers into the state. And so far, he finds little evidence that Japanese banks in California are relying heavily on low-cost funds supplied by their parent companies.

In any event, a Japanese conquest of U.S. banking isn't a sure thing.

Noting that Japan's big securities firms have flopped on Wall Street, Jeremy Siegel, a professor of finance at the University of Pennsylvania's Wharton School, comments: "Competition in banking is much like competition in any other area. Largeness doesn't always mean more efficiency. You can become top-heavy and fall to find niches. And, unlike automobiles, quality doesn't enter into it; money is money." He adds:

"I don't know if they know the American market, how to judge the risk of a loan or what they know about the bankruptcy law. Getting the flavor of the legal as well as the financial structure isn't easy."

And American banks benefit from some competitive edges of their own. Prof. Siegel observes that the U.S., unlike Japan, has a deposit-insurance system that gives them "a very cheap source of deposits." In addition, "we still have the most liquid market in the world for short-term securities."

Moreover, trends within Japan may reduce Japanese banks' advantages. As more savings flow offshore," Mr. Hale says, "the cost of capital in Japan should rise." He also expects Japan's rapidly aging population "to start consuming the financial surpluses now being accumulated" in retirement nest eggs. And he suspects that Japanese of all ages, tired of economizing, might switch to a freer-spending life style.

If Japan keeps expanding its economic power here at a politically unacceptable pace, Mr. Hale expects the U.S. to respond "by pursuing managed-trade policies in both financial services and manufactured goods. Despite his free-trade rhetoric, Ronald Reagan was the most protectionist U.S. president since the early 1930s, and the odds are high that the Bush administration will edge further away from free trade."

Mr. Hale also suggests Japan's central bank will eventually act to ease the tension with the U.S. by restraining its banks.

But what if Japan's banks do keep growing—and take full advantage of their power? Mr. Hale asks disturbing questions:

"If Japan controls the world's largest supply of long-term capital, will Japan be able to buy technology in the U.S. and Europe which it is not capable of developing at home? Are there national-security risks in letting U.S. entrepreneurs become heavily dependent on foreign institutions for financing research and development?

"If Japanese banks have large cross-shareholdings with Japanese industrial companies, can they be considered autonomous players in the way they handle classified information from U.S. customers in sectors potentially vulnerable to Japanese competition. If Japanese banks use their capital advantage and pricing power to dominate the wholesale lending market for high-quality corporations, will American banks be forced to go down market in terms of credit quality and thus become de facto repositories for 'junk' loans?"

RECESS

The SPEAKER pro tempore. Without objection, the Chair declares a recess until about 4:30 p.m.

There was no objection.

Accordingly (at 3 o'clock and 5 minutes p.m.), the House stood in recess until approximately 4:30 p.m.

□ 1635

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. MOAKLEY] at 4 o'clock and 35 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules, and on House Resolution 251 and House Resolution 252 offered en bloc.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 3275, by the yeas and nays; H.R. 1662, by the yeas and nays; and House Resolution 252 offered en bloc, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

STEEL TRADE LIBERALIZATION PROGRAM IMPLEMENTATION ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3275, as amended.

The Clerk read the title of the bill.

The question is on the motion offered by the gentleman from Ohio [Mr. PEASE] that the House suspend the rules and pass the bill, H.R. 3275, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 354, nays 10, not voting 68, as follows:

[Roll No. 258]

YEAS—354

Akaka	Dannemeyer	Gordon
Alexander	Darden	Goss
Andrews	Davis	Grandy
Annunzio	DeFazio	Grant
Anthony	DeLay	Gray
Applegate	Dellums	Gunderson
Archer	Derrick	Hall (OH)
Ballenger	DeWine	Hall (TX)
Barnard	Dickinson	Hamilton
Bateman	Dicks	Hammerschmidt
Bates	Donnelly	Hancock
Beilenson	Dorgan (ND)	Hansen
Bennett	Dornan (CA)	Harris
Bentley	Douglas	Hastert
Bereuter	Downey	Hatcher
Berman	Dreier	Hawkins
Bevill	Duncan	Hayes (IL)
Bilbray	Durbin	Hayes (LA)
Bilirakis	Dwyer	Hefley
Billey	Dymally	Hefner
Boggs	Dyson	Henry
Bonior	Early	Herger
Borski	Eckart	Hertel
Bosco	Edwards (CA)	Hiler
Boxer	Emerson	Hoagland
Brennan	Engel	Holloway
Brooks	English	Hopkins
Broomfield	Erdreich	Horton
Browder	Espy	Hoyer
Brown (CA)	Evans	Hubbard
Bruce	Fascell	Huckaby
Bryant	Fawell	Hughes
Buechner	Fazio	Hunter
Bunning	Feighan	Hutto
Burton	Fields	Hyde
Byron	Fish	Ireland
Campbell (CO)	Flake	James
Cardin	Foglietta	Jenkins
Carper	Ford (MI)	Johnson (CT)
Carr	Ford (TN)	Johnson (SD)
Chandler	Frank	Johnston
Chapman	Frenzel	Jones (GA)
Clarke	Gallegly	Jones (NC)
Clement	Gallo	Jontz
Clinger	Gaydos	Kanjorski
Coble	Gejdenson	Kasich
Coleman (MO)	Gekas	Kastenmeier
Coleman (TX)	Gephardt	Kennedy
Combest	Geren	Kildee
Condit	Gibbons	Kleczka
Conte	Gillmor	Kolter
Cooper	Gilman	Kyl
Costello	Gingrich	Lagomarsino
Coughlin	Glickman	Lancaster
Coyne	Gonzalez	Lantos
Craig	Goodling	Laughlin
Leach (IA)	Parris	Smith (TX)
Leath (TX)	Pashayan	Smith (VT)
Lehman (FL)	Patterson	Smith, Robert (NH)
Lent	Paxon	
Levin (MI)	Payne (NJ)	Smith, Robert (OR)
Levine (CA)	Payne (VA)	
Lewis (CA)	Pease	Snowe
Lewis (FL)	Pelosi	Solarz
Lewis (GA)	Penny	Solomon
Livingston	Pickett	Spence
Long	Pickle	Spratt
Lowery (CA)	Porter	Staggers
Lukens, Donald	Poshard	Stallings
Machtley	Price	Stangeland
Madigan	Pursell	Stark
Markey	Rahall	Stearns
Martin (NY)	Rangel	Stenholm
Martinez	Ravenel	Stokes
Matsui	Ray	Studds
Mavroules	Regula	Sundquist
Mazzoli	Richardson	Swift
McCandless	Ridge	Synar
McCloskey	Rinaldo	Tallon
McCollum	Ritter	Tanner
McCrery	Roberts	Tauke
McCurdy	Robinson	Tauzin
McDade	Roe	Thomas (CA)
McDermott	Rogers	Thomas (GA)
McEwen	Ros-Lehtinen	Thomas (WY)
McGrath	Rose	Torricelli
McHugh	Roth	Towns
McMillan (NC)	Rowland (GA)	Traficant
McMillen (MD)	Roybal	Traxler
McNulty	Russo	Udall
Meyers	Sabo	Unsoeld
Mfume	Saiki	Upton
Michel	Sarpalius	Valentine
Miller (CA)	Savage	Vento
Miller (OH)	Sawyer	Visclosky
Miller (WA)	Saxton	Volkmer
Mineta	Schaefer	Vucanovich
Moakley	Scheuer	Walgren
Montgomery	Schneider	Walker
Moody	Schroeder	Walsh
Moorhead	Schuette	Watkins
Morella	Schulze	Waxman
Morrison (CT)	Sharp	Weber
Mrazek	Shaw	Weiss
Murphy	Shays	Weldon
Murtha	Shumway	Wheat
Myers	Shuster	Whittaker
Nagle	Sikorski	Whitten
Natcher	Sisisky	Williams
Nielson	Skaggs	Wilson
Nowak	Skeen	Wise
Oberstar	Skelton	Wolf
Obey	Slattery	Wolpe
Olin	Slaughter (NY)	Wyden
Ortiz	Slaughter (VA)	Wylie
Oxley	Smith (FL)	Yates
Packard	Smith (IA)	Young (AK)
Panetta	Smith (NE)	Young (FL)
Parker	Smith (NJ)	

NAYS—10

Armey	Crane	Sensenbrenner
Bartlett	Kolbe	Stump
Campbell (CA)	Petri	
Cox	Rohrabacher	

NOT VOTING—68

Ackerman	Frost	Mollohan
Anderson	Garcia	Morrison (WA)
Aspin	Gradison	Neal (MA)
Atkins	Green	Neal (NC)
AuCoin	Guarini	Nelson
Baker	Hochbrueckner	Oakar
Barton	Houghton	Owens (NY)
Boehlert	Inhofe	Owens (UT)
Boucher	Jacobs	Pallone
Brown (CO)	Kaptur	Perkins
Bustamante	Kennelly	Quillen
Callahan	Kostmayer	Rhodes
Clay	LaFalce	Rostenkowski
Collins	Lehman (CA)	Roukema
Conyers	Lightfoot	Rowland (CT)
Courter	Lipinski	Sangmeister
Crockett	Lloyd	Schiff
de la Garza	Lowey (NY)	Schumer
Dingell	Luken, Thomas	Smith, Denny (OR)
Dixon	Manton	
Edwards (OK)	Marlenee	Torres
Flippo	Martin (IL)	Vander Jagt
Florio	Molinari	Yatron

□ 1654

The Clerk announced the following pair:

On this vote:

Mrs. Martin of Illinois, and Mr. Quillen for, with Mr. Marlenee against.

Messrs. ARMEY, COX, and ROHRABACHER changed their vote from "yea" to "nay."

Mr. PEASE changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

The results of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MOAKLEY). Pursuant to the provisions of clause 5 of rule 1, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings, and on House Resolution 251 and House Resolution 252 offered en bloc.

TORTURE VICTIM PROTECTION ACT OF 1989

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1662, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 1662, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 362, nays 4, not voting 66, as follows:

[Roll No. 259]

YEAS—362

Akaka	Borski	Coble
Alexander	Bosco	Coleman (MO)
Andrews	Boxer	Coleman (TX)
Annunzio	Brennan	Combest
Anthony	Brooks	Condit
Applegate	Broomfield	Conte
Archer	Browder	Cooper
Armey	Brown (CA)	Costello
Ballenger	Bruce	Coughlin
Barnard	Bryant	Cox
Bartlett	Buechner	Coyne
Bateman	Bunning	Craig
Bates	Byron	Crane
Beilenson	Callahan	Crockett
Bennett	Campbell (CA)	Dannemeyer
Bentley	Campbell (CO)	Darden
Bereuter	Cardin	Davis
Berman	Carper	DeFazio
Bevill	Carr	DeLay
Bilbray	Chandler	Dellums
Bilirakis	Chapman	Derrick
Billey	Clarke	DeWine
Boggs	Clement	Dickinson
Bonior	Clinger	Dicks

Donnelly
Dorgan (ND)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Grandy
Grant
Gray
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kasich
Kastenmeier
Kennedy
Kildee
Kleczka
Kolbe
Kolter
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Livingston
Long
Lowery (CA)
Lukens, Donald
Machtley
Madigan
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nielson
Nowak
Oberstar
Obey
Olin
Ortiz
Oxley
Packard
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Young (AK)
Young (FL)

NAYS—4

Burton
Dornan (CA)
Kyl
Stump

NOT VOTING—66

Ackerman
Anderson
Aspin
Atkins
AuCoin
Baker
Barton
Boehlert
Boucher
Brown (CO)
Bustamante
Clay
Collins
Conyers
Courter
de la Garza
Dingell
Dixon
Edwards (OK)
Engel
Flippo
Florio
Frost
Garcia
Gradison
Green
Guarini
Houghton
Inhofe
Jacobs
Kaptur
Kennelly
Kostmayer
LaFalce
Lehman (CA)
Lightfoot
Lipinski
Lloyd
Lowey (NY)
Luken, Thomas
Manton
Marlenee
Martin (IL)
Molinari
Mollohan
Morrison (WA)
Neal (MA)
Neal (NC)
Nelson
Oakar
Owens (NY)
Owens (UT)
Pallone
Quillen
Rhodes
Rostenkowski
Roukema
Rowland (CT)
Sangmeister
Schiff
Schumer
Smith, Denny (OR)
Stark
Torres
Vander Jagt
Yatron

□ 1703

Mr. STUMP changed his vote from "yea" to "nay."

Mr. HASTERT changed his vote from "nay" to "yea."

So (two thirds havings voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of the human rights by providing civil action for recovery from persons engaging in torture, and for other purposes.".

A motion to reconsider was laid on the table.

AMENDING ARTICLES OF IMPEACHMENT IMPEACHING WALTER L. NIXON, JR., JUDGE OF THE U.S. DISTRICT COURT

The SPEAKER pro tempore (Mr. MOAKLEY). The pending business is the vote on agreeing to House Resolution 251 and House Resolution 252 offered en bloc.

The Clerk read the titles of the resolutions.

The SPEAKER pro tempore. The question is on the resolutions on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 370, nays 0, not voting 62, as follows:

[Roll No. 260]

YEAS—370

Akaka
Alexander
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Billey
Boggs
Bonior
Borski
Bosco
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Conte
Cooper
Costello
Coughlin
Cox
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Davis
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Grandy
Grant
Gray
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kasich
Kastenmeier
Kennedy
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Livingston
Long
Lowery (CA)
Lukens, Donald
Machtley
Madigan
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nielson
Nowak
Oberstar
Obey
Olin
Ortiz
Oxley
Packard
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers

Stallings	Thomas (WY)	Waxman
Stangeland	Torricelli	Weber
Stark	Towns	Weiss
Stearns	Traficant	Weldon
Stenholm	Traxler	Wheat
Stokes	Udall	Whittaker
Studds	Unsoeld	Whitten
Stump	Upton	Williams
Sundquist	Valentine	Wilson
Swift	Vento	Wise
Synar	Visclosky	Wolf
Tallon	Volkmer	Wolpe
Tanner	Vucanovich	Wyden
Tauke	Walgren	Wylie
Tauzin	Walker	Yates
Thomas (CA)	Walsh	Young (AK)
Thomas (GA)	Watkins	Young (FL)

NAYS—0

NOT VOTING—62

Ackerman	Frost	Morrison (WA)
Anderson	Garcia	Neal (MA)
Aspin	Gradison	Neal (NC)
Atkins	Green	Nelson
AuCoin	Guarini	Oakar
Baker	Houghton	Owens (NY)
Barton	Inhofe	Owens (UT)
Boehlert	Jacobs	Pallone
Boucher	Kaptur	Quillen
Brown (CO)	Kennelly	Rhodes
Bustamante	LaFalce	Rostenkowski
Clay	Lehman (CA)	Roukema
Collins	Lightfoot	Rowland (CT)
Conyers	Lipinski	Sangmeister
Courter	Lloyd	Schiff
de la Garza	Lowey (NY)	Schumer
Dingell	Luken, Thomas	Smith, Denny (OR)
Dixon	Manton	
Edwards (OK)	Marlenee	Torres
Flippo	Martin (IL)	Vander Jagt
Florio	Molinari	Yatron

□ 1712

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DINGELL. Mr. Speaker, I was unable to make rollcall vote No. 258 for H.R. 3275, the Steel Trade Voluntary Restraint Agreement and rollcall vote No. 259 for H.R. 1662, the Torture Victim Protection Act. If I had been able to vote, I would have supported both of these measures.

PERSONAL EXPLANATION

Mr. ENGEL. Mr. Speaker, due to a series of cluster voting, I was not recorded on rollcall No. 259. Had I been recorded, I would have voted "aye."

PERSONAL EXPLANATION

Mr. ROWLAND of Connecticut. Mr. Speaker, on Monday, October 2, 1989, circumstances prevented me from casting my ballot on rollcall votes 258, 259, and 260. Had I been able to vote, I would have voted "aye" on all three votes.

Mr. Speaker, I am thankful to have this opportunity to submit this statement for the RECORD.

PERSONAL EXPLANATION

Mr. PALLONE. Mr. Speaker, due to inclement weather my airline flight from New Jersey to Washington was delayed. I was therefore unable to vote on the Suspension Calendar on October 2, 1989. If I had been present I would have voted in the affirmative on each of the votes cast.

PERSONAL EXPLANATION

Mr. RHODES. Mr. Speaker, on Monday, October 2, 1989, I was unavoidably away from the Chamber, and was not able to record my votes on rollcall numbers 258, 259, and 260.

Had I been present, I would have voted as follows:

Rollcall No. 258: "Yea," H.R. 3275, Steel Trade Liberalization Program Implementation Act.

Rollcall No. 259: "Yea," H.R. 1662, Torture Victim Protection Act of 1989.

Rollcall No. 260: "Yea," House Resolution 251 and House Resolution 252, en bloc, technical amendments to the articles of impeachment of Judge Walter Nixon.

PERSONAL EXPLANATION

Mr. NELSON. Mr. Speaker, I was unable to be present yesterday for rollcall votes 258, 259, and 260. Had I been present I would have voted "aye" on each of these rollcalls.

PERSONAL EXPLANATION

Mr. TORRES. Mr. Speaker, I was unavoidably absent on official business during rollcall votes 258, 259, and 260 on Monday, October 2, 1989. Had I been present on the House floor I would have voted in the following manner:

Rollcall 258: "Yea" on passage of H.R. 3275, Steel Trade Voluntary Restraint Agreement.

Rollcall 259: "Yea" on passage of H.R. 1662, Torture Victim Protection Act.

Rollcall 260: "Yea" on passage of House Resolution 251 and House Resolution 252, relating to the impeachment of Judge Walter Nixon.

PERSONAL EXPLANATION

Mr. KOSTMAYER. Mr. Speaker, I was unavoidably detained Monday and missed two votes: The vote on H.R. 3275 (rollcall 258), a bill to authorize the extension of the bilateral voluntary restraint agreements on steel imports for 2½ years, and the vote on H.R. 1662 (rollcall 259), the Torture Victim Protection Act of 1989. I was chairing a subcommittee hearing in New York, and my plane from Newark to Washington was delayed by heavy rain. Had I been here I would have voted "aye" on both bills.

MAKING IN ORDER ON TUESDAY, OCTOBER 3, 1989, OR ANY DAY THEREAFTER, CONSIDERATION OF CONFERENCE REPORT ON H.R. 2788, DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. YATES. Mr. Speaker, I took seriously the criticism advanced by Members of the House last week about the possibility of appropriations bills again being massed into one huge conference report. I have discussed this matter, and so have the ranking members, Mr. Speaker, and the conferees have all agreed to the bill.

Therefore, Mr. Speaker, I ask unanimous consent that notwithstanding the provisions of clause 2 of rule XVIII, it be in order at any time on tomorrow, Tuesday, October 3, or on any day thereafter, to consider the conference report on the bill, H.R. 2788, and that motions to dispose of amendments in disagreement may be considered as read when called up for consideration.

The SPEAKER pro tempore (Mr. MOAKLEY). Is there objection to the request of the gentleman from Illinois?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so only to inquire of the gentleman if he has some idea as to when exactly this will come up?

Mr. YATES. Mr. Speaker, if the gentleman will yield, I asked the leadership about that. They have an important bill up tomorrow, and the prospect is that this would come up either before the bill is brought up or after the bill is brought up. I do not know which the leadership has decided.

Let me say to the gentleman that I have cleared this with the ranking member of the Republican side, the gentleman from Massachusetts [Mr. CONTE], and I have cleared it with the gentleman from Ohio [Mr. REGULA], the ranking member of my subcommittee. All the members have signed the conference report except Senator LEAHY, and he was not here today. If he were present, I am told he would have signed it.

Mr. WALKER. Mr. Speaker, further reserving the right to object, the likelihood is that the conference report will be on the floor tomorrow?

Mr. YATES. Mr. Speaker, if I receive unanimous consent from the House today, the likelihood is that I would bring the conference report up tomorrow for disposal tomorrow.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

SCHOOL RECOGNITION PROGRAM HONORS HAWAII

(Mr. AKAKA asked and was given permission to address the House for one minute and to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker the President held an awards ceremony last Thursday in conjunction with the U.S. Department of Education's School Recognition Program; and I would like to congratulate Hawaii's honorees—

Kahuku, Kailua, and Waiakea high schools.

The School Recognition Program commends the best schools in our nation that are notably effective in educating their students. I am especially proud that three out of Hawaii's four nominees were selected for this signal honor and that all four schools are from my district—the Second Congressional District of Hawaii.

These institutions are setting the trend in our nation on outstanding student achievement, active community and parental involvement, institutional vitality, innovative curriculum reform, strong leadership, and productive teaching and learning environments.

Behind every successful school is a supportive network of parents, entrusting their children to the disciplines and guidance of the faculty. Each of these schools has that special ohana—or family—of parents, teachers, and administrators, communicating and working together to ensure the futures of our children.

This award highlights the genuine commitment and concern of the teachers and administrators of Kahuku, Kailua, and Waiakea high schools to provide the best educational opportunities for their students.

I am proud to extend my heartiest congratulations to the schools' representatives: Principal Lea Albert, Leialoha Fina'i and Debi Hartmann of Kahuku, Principal Meredith Meada and Dr. June Yamashita of Kailua, and Principal Danford Sakai and Vice Principal Donald Romero of Waiakea. I share their pride in this exceptional achievement.

ORDER OF BUSINESS

Mr. MCEWEN. Mr. Speaker, I ask unanimous consent that the 60-minute special orders for today, October 2, 1989, for the gentleman from California [Mr. DANNEMEYER] and the gentleman from Ohio [Mr. MCEWEN] be amended to 5 minutes.

The SPEAKER pro tempore. (Mr. MFUME). Is there objection to the request of the gentleman from Ohio?

There was no objection.

INTRODUCTION OF THE SAFE TRANSPORTATION OF FOOD ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. CLINGER] is recognized for 5 minutes.

Mr. CLINGER. Mr. Speaker, earlier today I introduced H.R. , the Safe Transportation of Food Act. This measure, if enacted, would: First, prohibit hauling solid wastes—including medical wastes and hazardous wastes—in refrigerated vehicles; second; prohibit cargo tanks used to haul loads of hazardous materials or hazardous waste from carrying liquid foodstuffs, such as orange juice pulp; and third, direct the Secretary of Transportation to undertake a study to determine if additional regulations are required to insure that food products hauled inside other types of vehicles, including dry vans, are necessary.

Earlier this year a newspaper in my district, the Centre Daily Times, published a series of articles detailing a growing trend of trucks hauling foodstuffs in the same trailers used to haul garbage. Typically, the truck, carries a load of food, produce, or frozen meat to the east coast and returns to the Midwest with a load of baled garbage.

On August 2, 1989, the Public Works and Transportation Subcommittee on Investigations and Oversight held a hearing on this dangerous practice. Testimony received from two anonymous haulers, as well as from other witnesses, pointed out that backhauls of regular commodities and freight from the east coast to the Midwest has become scarce as more and more trucks entered the market following deregulation. Competition is so fierce, and prices so low, that truckers can no longer afford to deadhead on a return run. To do so results in significant financial losses.

Coincidentally in the past decade east coast cities have begun to suffer a serious shortage of landfill capacity. Stiffer regulation by the States and the Environmental Protection Agency caused the number of landfills to dwindle, forcing cities to conserve what little space they had remaining and to refuse shipments from nearby communities that did not own a disposal facility.

Waste transfer stations began to bale garbage received from a variety of local sources, load it onto long distance trucks, and pay to have it hauled a considerable distance for disposal at private landfills. Testimony received from industry and Federal witnesses revealed numerous instances of refrigerated trucks being used to backhaul garbage.

This legislation also prohibits the same cargo tanks used to haul liquid food products from carrying hazardous materials or hazardous wastes. This Thursday the Investigations and Oversight Subcommittee will hold a hearing on this practice. They have interviewed truck operators who will provide firsthand accounts of their experience hauling liquid food products in one direction and backhauling with a load of hazardous materials in the same tank, only to turn around and make another run with a load of liquid food products.

Mr. Speaker, during the August 2 hearing, it became quite clear that no comprehensive set of Federal regulations exists to ban this very dangerous practice of mixing loads of food products with other dangerous, hazardous commodities on the same truck. Testimony received from the Interstate Commerce Commission, the Environmental Protection Agency, the Department of Agriculture, and the Food and Drug Administration revealed that this practice is not illegal and that a huge loophole in Federal law is being exploited to the detriment of the public health.

Backhauling of chemicals and garbage is dangerous, disgusting and unfortunately legal. My bill makes it a crime. Most of us don't dine out of garbage cans and we shouldn't eat food hauled in garbage trucks either. Likewise we don't drink orange juice out of empty formaldehyde bottles but as of today we can't be sure our juice wasn't hauled in a truck that hauled formaldehyde the day before.

Before closing, I want to thank the leadership of the Investigations and Oversight Subcommittee, Chairman ANDERSON and the ranking Republican GUY MOLINARI, and my friend and colleague, Representative BOB BORSKI, for their cooperation and assistance. Without their help and guidance, this legislation would not have been possible.

□ 1720

COUNTRY MUSIC MONTH

(Mr. CLEMENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLEMENT. Mr. Speaker, "from out the wide Pacific, to the broad Atlantic Shore," Americans love country music. Country music legend Roy Acuff immortalized those words in a song written by A.P. Carter and copyrighted in 1933 by Peer International Corp.

I use those words to reflect the broad appeal country music has in our Nation. Today country music has also gained international appeal, spreading across our planet.

Today I join a majority of my colleagues in the U.S. House of Representatives in officially proclaiming the month of October as "Country Music Month."

With the adoption of House Joint Resolution 401, designating October as "Country Music Month," the U.S. House of Representatives will be honoring an industry that has annual sales of $550 million.

According to a recent Harris survey, country music is the best liked music in America, with over 60 percent of adult Americans stating that country music is their favorite music.

Over 2,200 radio stations in America are full-time country music stations, up 92 percent over a decade ago.

From the Soviet Union to Australia people love country music. People

always know about my home city, Nashville, TN, because it is the home of country music. Since being elected to the U.S. House of Representatives, I have had the opportunity to visit many parts of the world.

More than once I've had foreign citizens ask me, "Do You Know Dolly Parton."

This illustrates the unique "Americanism" of country music. It is a musical style that was born in the hills of Tennessee, Virginia and the Carolinas. Country music draws its roots from religious hymns, traditional ballads, folk songs and even the soulfulness of rhythm and blues, and embodies the spirit of America.

If fact, there is nothing more American that apple pie, our flag and country music.

I am proud to represent "Music City U.S.A.," the home of country music. I am also proud to present House Joint Resolution 401 to declare October as "Country Music Month" on the floor of the U.S. House of Representatives.

I urge my colleagues to join me and the millions of country music fans across this Nation and throughout the world in recognizing this great American style of music on the 25th or silver anniversary of "Country Music Month."

Mr. Speaker, I also want to thank my colleagues in the U.S. House of Representatives for helping me circulate this resolution where the majority signed on, and, as a matter of fact, I had no one refuse to honor country music, and in particular I thank the gentleman from Illinois [Mr. COSTELLO], the gentleman from Tennessee [Mr. GORDON], and the gentleman from California [Mr. HERGER].

BENEFICIARIES OF THE CAPITAL GAINS TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. MCEWEN] is recognized for 5 minutes.

Mr. MCEWEN. Mr. Speaker, in Time magazine this week there is a classic example of fair, and impartial and unbiased journalism in their lead article. It begins by saying, "Bill me later."

Mr. Speaker, it talks about the desire of the American people to hold on to their own earnings and the fact that they should be allowed to invest in American industry, but Mr. George Church of Time magazine refers to it as: Once again Washington chooses voodoo economics over responsibility.

Then, Mr. Speaker, it goes on to point out that by voting to fulfill George Bush's campaign promise to cut capital gains, Republicans and renegade Democrats jumped at a short-term boost in revenues against a long-term-get this—cutting taxes for working people, which stimulates economic growth, which increases tax revenues to the Treasury, and he calls it a giveaway which fractures the foundation of the landmark 1986 tax reform bill.

Mr. Speaker, it goes on to point out that Democrats contended correctly that 80 percent of the benefits from the capital gains slash would go to people making more than $100,000 because, when a senior citizen sells their four-bedroom home at age 65 when the children have moved out and they want to buy a one- or two-bedroom condominium, those who oppose the reduction in capital gains said, "Uncle Sam is entitled to a third of that money."

Mr. Speaker, if they spent their whole lifetime building a little nestegg of a home, or a farm or a little business, and they sell it, they are not entitled to it, Uncle Sam ought to have at least a third.

We said: we were so bold that we said, "We think Uncle Sam only ought to take 20 cents out of every dollar."

The point is, Mr. Speaker, when we are competing in international markets, as we are every day, and Japan has a 5-percent capital gains tax, and Korea has a zero-percent capital gains tax, and Taiwan has a zero-percent capital gains tax, and West Germany has a zero-percent capital gains tax, it is totally absurd to force the American entrepreneur, the American farmer, the American homeowner to have a 33-percent capital gains tax, and since it was the highest of any of the major industrialized nations on earth, we began to lower it. We wanted to lower it just a little bit where it would still be the highest of any major industrialized nation on Earth, and so in presenting those arguments to the American people, Democrat and Republican alike in this House chose to do it, which causes a great deal of consternation to our good, unbiased observers at Time magazine.

Mr. Speaker, they pointed out the reference to voodoo economics over responsibility. We said in the late 1970's; my colleagues remember when we had a declining standard of living, we were losing jobs at the rate of 50,000 a week, and they told us, Mr. Alfred Kahn, who was the head of the Council of Economic Advisers for Mr. Carter; they told us that America had crested, that we were entering an era of limits in which we needed to think small. My colleagues remember all of that.

□ 1750

They said we had to learn to live with less, we had to learn how to ride our bicycles and wear sweaters and turn down our thermostats and all that sort of thing.

We said under our economic program that there is not any problem with the American people. They are just carrying too much of a burden. If you cut taxes for working people, if you allow people to keep a little bit of it, they will save a little bit, they will invest a little bit and they will buy a little bit, and when they buy more lawnmowers and more widgets and repair their homes, they will put people to work. That is what we proposed in 1981.

The left screamed "voodoo economics," but nevertheless, in 1981 we did it.

What happened? By 1983, we hit a 35-year high in long-term capital investment. We began to reinvest in America. Instead of closing factories, we began to build new factories.

In 1984, we hit a 38-year high in long-term capital investment. We began to create jobs more rapidly than any place on earth.

The longest period of growth in our economy and in the history of the United States has been a 56 consecutive month growth up until 1982. When the 1981 tax bill went into effect, America began to grow and to prosper and to create more jobs at the rate of 300,000 a month for now 83 consecutive months. In other words, America has created 20 million new jobs since 1982.

How does that compare with the rest of the world? That means that more than 6 out of every 10 jobs, nearly 7 out of every 10 jobs created on this planet since 1982 have been created in one country, the United States of America.

Now, if you are a German businessman or if you are a Japanese businessman or if you are an Ohio businessman or you are a California businessman and you want to add on to your plant or you want to build a new factory, you do not build it in Taiwan and you do not build it in Western Europe and you do not build it in Latin America. You build it in the United States of America.

All of us, every Member of Congress here is cutting ribbons and attending dedications and presenting New American flags to new American factories in their districts that are owned by Americans, that are owned by West Germans and Britons and British citizens, as well as anyone around the world who wants to invest in the United States. That is what we said would happen if you created the economic climate that would attract capital from around the world.

Well, to say that somehow or another we have engaged in an orgy that is unwise to allow the American people to keep their own funds, listen to this next paragraph, you will love it:

It is said that by cutting taxes for these people that it will increase Federal revenues by $6.7 billion between now and 1991. Of course, if you lower taxes and allow people to trade so that they do not have to give it all to Uncle Sam, they will do more of it. As they do more of it, Uncle Sam benefits.

Well, Mr. Speaker, I could add more, but the fact of the matter is the truth speaks for itself, regardless of the tired, worn-out wailings of the left.

EDUCATION, LIKE CHARITY, BEGINS AT HOME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DANNEMEYER] is recognized for 5 minutes

Mr. DANNEMEYER. Mr. Speaker, American experts are dispensing advice on fiscal and monetary reform in Moscow, including advice on how to borrow at 3 percent interest.

This is no joke, Mr. Speaker. American experts, one of them an incumbent Governor of the Federal Reserve Board, are educating top Soviet economic planners: First, how to make the ruble the most sought-after currency in the world; second, how to make the cost of capital in the Soviet Union the lowest in the world, lower even than Japan's; and third, how to generate more savings domestically by putting gold-denominated earning assets at the disposal of the savers.

I would like to call my colleagues' attention to the relevance of this expert advice to our domestic problems:

First, we, too, could benefit from an interest rate structure around 3 percent per annum. In this way, we could eliminate the budget deficit in 5 years, by replacing the high-interest, short-term debt as it was maturing by low-interest, long-term debt. Better still, the deficit-reduction would be accomplished in the absence of cuts in social and defense spending, and without new taxes.

Second, we too, could benefit from a dollar which was once again the world's most sought-after currency. In this way, we could turn our trade deficits into a surplus. After all, the Germans and the Japanese owe their huge trade surpluses to their strong mark and yen. It is easy to see that producers are uniquely assisted by a strong currency, which alone can secure the best terms of trade for them and for their country. This was the secret of the American trade surpluses before 1968; and this is the secret of the German and Japanese trade surpluses since then.

Third, we, too, could benefit from more domestic savings. In this way, we could reclaim control over our own financial destiny.

An America in control of her financial destiny, an America running budget and trade surpluses instead of perennial deficits is no dream, Mr. Speaker. The expertise to make it a reality is available right here, on Constitution Avenue, at the Federal Reserve. In fact, for lack of domestic interest, and for want of domestic use, this expertise is now being exported to the Soviet Union.

But the authority to take the necessary steps in order to restore the dollar to health rests right here. The buck stops on Capitol Hill. Our Constitution has vested Congress with monetary powers which cannot be delegated. Properly used, these powers shall enable the Government to borrow at the lowest interest rate available in the world at any particular time. Other benefits, in the form of a higher rate of domestic savings and productivity, greater international competitiveness, expanded time horizon for business, higher national income, and many others too numerous to list here, will follow almost automatically.

The dollar has become a second-rate currency, which retains respectability only on condition and only to the extent that we allow the Japanese and others with hard currencies to pick up prime American assets at bargain-basement prices. This deplorable state of affairs is entirely our own fault. It is due to the fact that Congress, in a moment of absentmindedness, abdicated its constitutional monetary powers back in 1971. Prior to that the dollar used to have a legal definition. Since that fateful year it has had none and, accordingly, its value has been a plaything in the hands of speculators. It has been gyrating in the foreign exchange markets, demoralizing the bond market in the process. Ever since 1971 we have been stumbling from crisis to crisis, and can only survive by heaping deficit upon deficit.

To remedy this abnormal situation and in order to return to the path of fiscal and monetary rectitude Congress should, following the expert advice emanating from the Federal Reserve Board, take immediate steps to stake out America's claim in the world's gold-loan market. It is important that we do this before the Soviet Union invades the field and establishes a monopoly position there unopposed.

This is what we have to do. Congress must authorize the Treasury to issue gold-bonded obligations without any further delay. The Treasury should immediately start marketing long-term gold bonds. It should use the proceeds to retire the fast-maturing short-term debt. The Treasury operations, if carried out with the necessary skill, will stabilize the dollar.

I insert my letter on this subject to my colleagues in the U.S. House of Representatives for the benefit of Members of the Senate, adminstration officials, the Governors of Federal Reserve Board, and for the benefit of the general public:

THE SAUCE FOR THE GOOSE IS NO SAUCE FOR THE GANDER

DEAR COLLEAGUE: On the editorial page of Barron's magazine (September 25, 1989) we may read an intriguing story. Earlier that month Federal Reserve Board Governor Wayne Angell went to Moscow at the invitation of the Soviet government to advise officials there on fiscal and monetary reform. He recommended an immediate government commitment to gold covertibility of the ruble, and the financing of the government deficit by selling gold bonds to the world at large at 3% interest. Governor Angell predicted that "Soviet gold bonds would be snapped upon in New York and London" and, after the reforms, the Soviets would have "The most sought-after currency in the world". If that was not enough enticement, he also told the Soviet that a gold ruble would give them the lowest cost of capital in the world—even lower than that of Japan. In a lecture at the Institute of U.S. and Canadian Studies in Moscow on September 4, Governor Angell said: "Gold rubles and gold ruble-denominated financial instruments would be desirable savings vehicles, encouraging more domestic savings". In conclusion he told his audience how the genie of inflation, now on the rampage in the Soviet economy, could be bottled up: "Upward price pressure resulting from pent-up consumer demand would be less likely to shake market confidence under a gold-ruble standard, as any price advance would be perceived as temporary".

The story raises some awkward questions. In the Governor's script, the gold sauce for the goose is apparently no sauce for the gander. He is dispensing golden precepts to the managers of the Soviet currency, precepts which could be used in-house on Constitution Avenue at the Federal Reserve, but aren't. He travels five thousand miles eastward to lecture Soviet legislators on the merits of gold-bond financing of the government; let us hope that he can find time to travel two miles eastward on Constitution Avenue to testify on Capitol Hill to the effect that the same principles are patently valid on this side of the water as well. One should think that the first duty of Federal Reserve officials is to let their own government have the benefit of advice on the principles of sound money.

The American economy is every bit as much in need of domestically generated savings as the Soviet. American savers would appreciate gold-denominated earning assets no less than Soviet savers. Had we had them, we wouldn't have been forced to sell prime American assets to the Japanese at bargain-basement prices.

Then there is the question of what we ought to think about Soviet competition, buttressed by the "most sought-after currency in the world", and supported by capital at close to 3% interest, while our own producers are saddled with badly debased Federal Reserve dollars, and a double-digit interest rate structure. It bears repeating that the American producer has been taking it on the chin from German and Japanese competition ever since 1971, the last year when the dollar was as good as gold, and American interest rates lower than the German and Japanese.

It is very well to tell the Soviets that operating an economy without a well-defined monetary unit is like trying to build a house using a yard that means 36 inches to the architect, 25 to the engineer, but only 16 to the construction worker. It is very well to educate them, as Governor Angell did, by telling them that the paper ruble is like a thermometer with lines, but no numbers and no mercury. Yet education, like charity, begins at home. It would be most patriotic of Governor Angell if he could come to the Hill and testify that our paper dollar, too, was a broken thermometer having lost its

mercury. Then, perhaps, we could get down to business and repair it together at the earliest opportunity.

The most serious aspect of this episode is that, in effect, Governor Angell offers the Soviets a virtual monopoly over the world's last remaining pool of loanable funds. It is incredible that he would do that without advice and consent from Congress. The pool I refer to is the world's stock of monetary gold which has been lying idle for the past twenty years. A great world resource has been condemned to idleness for want of intelligence and skills on the part of bureaucrats entrusted with its husbandry. At home, the bureaucrats are trying to cover up their incompetence by badmouthing gold as barbaric and barren. They would not use gold for what it is so superbly qualified, to wit: generating abundant domestic savings, in order to reduce interest rates to their lowest common denominator.

Before we rush to sell our birthright for a pottage of lentils while listening to chrysophobic siren songs, we should take a long, hard look at Governor Angell's proposal, laid before the Soviet hierarchy. Gold-bond financing makes for efficient government and a prosperous citizenry. Neither a capitalist nor a socialist system can do without a monetary unit of stable value. We should be the first to introduce fiscal and monetary reforms incorporating the principle of gold-bond financing of government, and beat the Soviet to the punch.

We must not handicap ourselves in this race with the Soviets by giving them a unilateral advantage in the form of gold bond financing. Let the world judge which system, capitalism or socialism, gives the people the best government and the greatest prosperity, when they are competing on a truly level playing field.

Mr. BURTON of Indiana. Mr. Speaker will the gentleman yield?

Mr. DANNEMEYER. I yield to my colleague, the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I would just like to say that I have been an admirer of the gentleman from California for a long time because of his unsuccessful quest for gold-backed bonds. The gentleman has been working very hard on this.

As I understand it from listening to the gentleman's remarks, there is a possibility that upon recommendation from previous members of the Federal Reserve Board that the Russians might do what the gentleman has been advocating here in this country for years?

Mr. DANNEMEYER. It is amazing to hear that it could happen. This member of the Federal Reserve Board, Mr. Angell, an article appeared in Baron's magazine in the last couple weeks when he went to Moscow and gave the Russians advice. He said to do two things: One, back your ruble with gold, and second, issue gold-backed bonds and rubles and you will able to sell it at 3 percent interest rates. We should have done this 4 or 5 years ago.

Mr. BURTON of Indiana. The gentleman is absolutely right, and I thank the gentleman for yielding to me.

BUCKLEY VERSUS VALEO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. UDALL] is recognized for 5 minutes.

Mr. UDALL. Mr. Speaker, a few years ago at a black-tie dinner in Washington, Senator JAY ROCKEFELLER took the podium to address the crowd who had paid $500 a plate for the evening's meal. ROCKEFELLER had recently won a close Senate race in which he had spent a considerable amount of his personal fortune. "Some of you might feel cheated, paying 500 bucks for a lousy chicken dinner," the Senator said. "But just think about me, I spent $10 million to get here."

The Senator's self-depreciating joke illustrates one of the most troubling issues in this country. The high cost of congressional campaigns has forced incumbents to spend too much time in the constant pursuit of funds, while virtually locking out challengers without significant personal wealth.

The situation is critical: House candidates must raise $3,500 per week to have what is considered an average war chest for a legislative race. If they raise that money, and with enough dedication most Members of Congress can, the race is a walk because few challengers can match a fund that large. Due to the lack of strict spending limits, we have what amounts to an incumbent lock on our electoral process.

The U.S. Congress has attempted to address the issue of campaign reform many times. The first effort coming in 1907. Each time a law was passed, the lawyers and accountants took out their knives and carved out loopholes for their candidates. In 1974 we amended the Federal Election Campaign Act and thought we had the problem licked. The law placed strict limits on the amounts candidates could spend from their personal funds and the amounts spent by independent parties on behalf of candidates. It restricted the amount individuals and political action committees could contribute to campaigns. We had finally beaten the accountants and lawyers.

But an opponent of a different sort opposed our legislation. The Supreme Court, in a 1976 decision, ruled that the expenditure limitations restricted the freedom of speech of candidates and the third parties, although the justices upheld the constitutionality of contribution limitations. In Buckley versus Valeo, the Court held that substantial governmental interests in preventing corruption necessitated contribution limitations. Proponents of the 1974 law have argued that similar limits on expenditures would end the appearance of corruption associated with excessive expenditures by candidates and third parties. Only when the Court reimposes limits can we effectively control the influence on our elections by special interest.

During this Congress, I introduced the Campaign Expenditures Limitation Act, which calls for an expedited review of Buckley. The legislation counters the problem of runaway spending by imposing limitations on the amount a House candidate can spend from both personal and campaign funds. Candidates would be limited to total expenditures of $200,000 in the primary and general elections combined. House candidates could not spend more than $25,000 from their personal funds, and independent expenditures on behalf of a candidate would be limited to $2,500.

However, we can do nothing while Buckley exists as the strongest obstacle to significant campaign finance reform.

Noted Attorney Archibald Cox, who argued before the Court in Buckley versus Valeo, has urged a second look. Writing some 6 years after Buckley, he noted that since 1980 there has been a growing fear that money is corrupting the democratic process. It seems probable that judicial understanding might change as public comprehension of the evil increases.

Clearly, it is time for another look at Buckley. The expenditure of very large sums of money poses a grave threat to the political process. Freedom of speech, as it is guaranteed by the first amendment, should not be construed as an unlimited right to influence elections through the expenditures of money. Money doesn't talk; it shouts. It can drown out the expression of those very individual views that the first amendment is supposed to protect. Surely I think the Court, if it would look again on the basis of a congressional appeal, might be willing to take another look and change its view.

I am sorry that I disagree with the chief justice of the court—an Arizonan, incidentally—who wrote the opinion in 1976. I don't know how far we'll get in asking him to overturn his opinion, but I think we have to try; a number of legal scholars having different points of view have urged this.

A few months ago, I visited the University of Arizona library, where the papers of the Udall family are being catalogued by a professional archivist. I rummaged through a few boxes looking at photos, letters and other documents. Among my father Levi's papers was a campaign expenditure report for his successful run for the Arizona Supreme Court. The total cost for the 1946 general election $925.86 for a statewide campaign. Today, my father would be outspent 1,000 to 1.

□ 1740

THE AIDS CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. Burton] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, back in August I took a special order of about 45 minutes to 1 hour to talk about the latest report on the AIDS pandemic and how rapidly it was spreading throughout the United States of America. I would like to real briefly give the colleagues of mine an update on the AIDs crisis.

We just called the Center for Disease Control in Atlanta, GA. We have the latest update, the latest projections, and I want to bring everyone up to date. In 1983, we had 4,200 cases of people with AIDS, active AIDS, or dead or dying. In 1984 that more than doubled to 9,900 cases. By 1985 it had doubled again, more than doubled again, to 20,000 cases. By 1986, it had

started to level off, by doubling every other year, and we had 35,000 cases. Through 1987, we had 48,139 cases. If it had doubled from 1987, as we had projected, we would have had 96,000 cases by the end of this year, but the fact of the matter is, according to the Centers for Disease Control, we could have as many as 129,000 cases of AIDS by the end of this year.

Our projections were based upon the current rate of the AIDS epidemic, the expanding rate of the AIDS epidemic, that we would have 250,000 people dead or dying by the end of 1991. It appears, again, that our figures are not going to be accurate. We are about 10,000 above that. In other words, instead of 250,000 dead or dying on the low side, we are going to have 260,000 dead or dying of the AIDS pandemic by 1991.

Based upon those projections, by the year 1999, 10 years from now, we are going to have at least 4 million people in this country dead or dying of AIDS, and not many people are willing to contradict those figures. In fact, many scientists believe that we are going to have more like 6 or 8 million people dead or dying by 1999.

The problem is that nobody knows for sure how bad the epidemic is. The Centers for Disease Control said 4 years ago that we had 1½ million people infected. It was doubling every year to 18 months. Today they still say we have 1½ million infected. Many scientists believe that we have more like 5 to 6 million people infected, and all of those individuals are capable of spreading this disease unknowingly to other human beings. That is why we need a comprehensive program to deal with the AIDS pandemic in this country. We need contact tracing. We need education. We need more scientific research, and we need testing. We need to test the population on a routine basis like we did for tuberculosis years ago and syphillis and other diseases to make sure this country does not suffer the consequences of a plague like they did in the 14th and 15th centuries when over half of Europe was wiped out from the bubonic plague.

Mr. Speaker, I would say that it is extremely important that this body and the other body not keep its head in the sand, its collective head in the sand, and watch these figures grow and grow and grow in an exponential manner, because we are going to rue the day we took no action. We need a comprehensive program. We need it now. The American people are in favor of it.

Mr. Speaker, the last Gallup Poll on the AIDS crisis showed that over 75 percent of the American people are in favor of a routine testing program to find out how AIDS is spreading, where it is spreading, who is spreading it, and how rapidly it is spreading. Until we get on with a comprehensive program to do just that, Mr. Speaker, we are going to have real problems in this country.

The only problem that I see with this is that the longer we wait the more innocent human beings we have condemned to death because of our inaction. If we have 5 million people infected today and that doubles every 2 years, even that means in 4 or 5 or 6 years we are going to have 15 or 20 million people infected. They are condemned to death. There is no cure for AIDS.

Most scientists agree now that if one gets the infection and carry it in their body, they can carry it for up to 20 years, and it is a death sentence.

There are all kinds of side complications, dementia, which appears to be Alzheimer's disease in many of the people who have AIDs, and that is the first thing that goes is the brain, the brain cells are affected, and there are other diseases that are opportunistic when a person's immune system starts to break down. The get diseases like tuberculosis, and if they are food handlers and working in a restaurant and their immune system breaks down and they get tuberculosis, the people who eat in that establishment are at risk.

There are a lot of things that we do not know about that we need to know about. The only way we are going to get to the bottom of it is, Mr. Speaker, by a comprehensive program to deal with it.

Tonight I want to tell my colleagues real briefly about a problem that is going to face us immediately regarding the AIDS crisis and related issues. There is a bill pending before the Congress called the antidiscrimination legislation, and there is an article that was written not long ago by a man named Mr. Gene Antonio, who is an expert on the AIDS crisis who deals with this. I want to read real quickly this article into the RECORD, because I think everybody in the Congress and in the country ought to know about what we are up against: "Since the AIDS epidemic has seriously eroded public sympathy for the gay-rights agenda, homosexual lobbyists are busy pursuing a back-door approach through legislation. A bill apparently aimed at prohibiting discrimination against the disabled in hiring and public accommodations would also apply to AIDS-infected people and even to Members of high-risk groups, that is, homosexual.

" 'We demand that the Federal Government amend all Federal civil rights acts, other legislation and government controls to prohibit discrimination in employment, housing, public accommodations and public services.' "

That is a quote from the national gay rights platform. And this is a section from pending legislation before this body and the other body: "Private employers and privately operated establishments used by the general public as customers, clients or visitors, including restaurants and private schools, may not discriminate against individuals being regarded as having a physical or mental impairment." That is a quote from the Americans with Disabilities Act, commonly known as H.R. 2273 or Senate bill 933.

Mr. Speaker, I hope my colleagues will listen to this. It is very important. In Louisiana a hospital which terminated a male nurse with AIDS and hepatitis, who had bleeding skin sores, faced a massive lawsuit for its alleged "discrimination." After an expensive legal battle, the nurse with the AIDS virus remains working in close contacts with patients at another hospital. In New York, a century-old private dental clinic, over 100 years old, for the poor had to close its doors after being forced to pay a $50,000 fine imposed by the city's human rights commission. In an attempt to protect other patients, the clinic had referred two AIDS carriers who had bleeding oral lesions for treatment elsewhere. They had active AIDS with lesions in their mouths, and because they referred them elsewhere, they were fined $50,000, and they were trying to protect their other clients.

In New London, WI, a private rehabilitation center for troubled teenage boys was compelled by the State to sign a statement pledging to hire avowed homosexuals as counselors or have the youth forcibly removed from the center within 48 hours.

"All churches who condemn us will be closed," and this is a quote from the Homoerotic Order, the Gay Community News. In St. Paul, MN, a Roman Catholic priest, who is principal of parochial school, faced several months in jail for the crime for choosing not to hire a practicing homosexual with a record of pedophilia to teach young boys.

Item: "The Big Brothers' organization in Minneapolis was ordered by the city's human rights commission to place recruitment ads," get that, recruitment ads, "in homosexual tabloids in San Francisco in order to atone for their past fault of not hiring avowed homosexuals as the role models for fatherless boys." Can you believe that? "The organization was prohibited from telling mothers of the boys of the prospective big brothers' sexual preference. After a tough court battle, the Big Brothers of Minneapolis presently have permission to tell parents of an applicant's admitted sexual preference." They can at least do that after a lengthy court battle.

Item: "Nursing homes in many States are being compelled to take AIDS patients. 'antidiscrimination' guidelines prohibit the staff from being informed." One cannot even tell the staff that the person has AIDS,

yet they are taking care of them. "Guidelines prohibit the staff from being informed which patients have AIDS or from housing them in separate rooms." In other words, you have to put the AIDS patient in the room with the people who do not have AIDS, and the people taking care of them, the nurses and health-care officials, cannot even be told the person has AIDS. "As a result, according to Dixie Snider, director of T.B. surveillance at the U.S. Centers for Disease Control, pulmonary tuberculosis, a frequent complication of AIDS, is breaking out among staff, patients and visitors."

In New Jersey, a private landlord who refused to rent an apartment to three overt homosexuals received criminal and civil penalties. Although it was not determined if they carried AIDS, a Superior Court ruled homosexuals are entitled to special status as members of a group "perceived as being handicapped" because of their high risk of acquiring AIDS (228 N.J. Super. 370).

As onerous as these state and local cases are, they pale in comparison to the appalling consequences of a pending national AIDS carrier/homosexual special rights bill.

The Chilling Implications of the "Americans with Disabilities Act" (S. 933/H.R. 2273).

Homosexual lobbyists, AIDS activists, and their Congressional allies in Washington, D.C., realize that a Federal law which directly prohibits discrimination based on "sexual orientation" or "HIV infection" would be unpalatable to the majority of Americans and unlikely to pass. Instead, they have devised a masterpiece of legislative subterfuge which would effectively achieve their goals without using terms which raise a red flag in the minds of the public.

Under the cloak of the benign, Affecting title, "The Americans with Disabilities Act" (ADA), homosexual attorneys have helped to draft a bill which would impose massive fines and other coercive legal measures on all private employers, churches, and private schools who decline to hire an individual with a "physical or mental impairment, a record of such impairment, or who is being regarded as having such an impairment."

The critical question is: What sort of "impairments" would be covered by this bill? According to regulations issued under the auspices of the Federal Rehabilitation Act of 1973, these terms have been interpreted to include:

(a) "a physiological disorder or condition, cosmetic disfigurement [scar, mole, etc.], or anatomical loss that affects one or more of the following body systems: neurological, musculoskeletal, special sense organs [eyes, ears], respiratory, including speech organs, cardiovascular, reproductive [including transsexuals who have been voluntarily castrated] . . . or

(b) a mental or psychological disorder, including mental retardation, organic brain syndrome [including various types of dementia, such as Alzheimer's disease or AIDS encephalitis], emotional or mental illness, [including schizophreniz, paranoia, psychoses] and specific learning disabilities."

At present, only Federal agencies and government contractors are required to hire employees with these conditions.

Other private employers have been excluded from doing so because the law requires "reasonable accommodation," an expense which would prove ruinous to many, if not most, small and medium-sized employers.

The "Americans with Disabilities Act," however, defines the term "employer" to mean:

"a person engaged in an industry affecting commerce who has 15 or more employees * * * and any agent of such person."

In addition, the Act broadly defines "public accommodations and services operated by private entities" as including all: "privately operated establishments that are used by the general public as customers, clients, or visitors; or that are potential places of employment, and whose operations affect commerce.

"Public accommodations include auditoriums, convention centers, restaurants, shopping centers, inns, hotels, motels * * * professional offices of health care providers, office buildings, sales establishment, personal and public service businesses, parks, private schools, and recreation facilities.

These provisions encompass virtually every private employer (including nonprofit religious organizations) and self-employed persons in the United States.

WHY THE ADA IS DANGEROUS POLICY

(1) The ADA would force private employers to hire carriers of communicable diseases, drug addicts, and alcoholics.

The ADA contains a provision which seemingly excludes persons with diseases which pose a "direct threat" in the workplace or who currently abuse alcohol or illegal drugs. However, a leaked letter, dated April 11th, between high officials of the Department of Health and Human Services and the Office of Management and Budget (OMB) notes approvingly that, in reality, the ADA definition of disability does include:

"* * * contagious or infectious diseases (including AIDS or HIV infection), drug addiction, and alcohol abuse.

"We believe this is the correct approach, both as a matter of public health policy and as a matter of civil rights law." [cf., The New American, "A Fatal Blow to Private Education?"

At the recent International AIDS Conference held in Montreal, the Office of the Assistant Secretary for Health and Human Services, U.S. Public Health Services gave a presentation entitled "State/Local Strategies to Prevent and Resolve HIV-Related Discrimination." Their report derides concerns about AIDS in the workplace as stemming from "fear or ignorance." "Advocacy strategies" for AIDS carriers are "timely" and should provide technical assistance for informing employers of their "obligations" under law.

The Federal Office of Personnel Management has warned that its employees objecting or declining to work alongside infectious AIDS carriers will be subject to disciplinary action.

□ 1750

Think about that. If you are working alongside, a person who has open lesions on their body, who is coughing and spitting because their immune system is breaking down, and they are just about ready to go in the hospital, if you complain about that you are subject to disciplinary action and you cannot leave the workplace, even though you feel your health is jeopardized.

The OPM sets personnel policies for the government's three million civilian employees (military not included).

If the ADA is passed, restaurant owners will be subject to legal action and massive fines fo each day they continue refusing to hire or attempting to fire a food handler with AIDS, hepatitis B, or any other communicable diseases which federal bureaucrats and public health administrators determine do not pose a "direct threat."

Can Members imagine what, if they own a restaurant and somebody has hepatitis B or AIDS, you cannot fire them without being subject to penalties.

Hospitals, medical and dental offices would be forbidden from denying employment to AIDS carriers and individuals with other communicable diseases even if they would be involved in bloody surgical procedures involving sharp instruments or working in close physical contact with patients.

One of the ways you communicate AIDS is by blood getting into someone else's bloodstream, and if you are working in a surgical procedure and someone has AIDS, the patient is at risk. Yet, if this legislation passes, you cannot do anything about it. That is in its present form. Hopefully we will be able to clean this mess up.

Under the ADA, railroads, shipping, trucking, and bus companies would be denied the right to decline employment to individuals with a "record of alcohol or drug abuse" if they are "currently" not abusing these substances.

The recent Exxon Valdez oil spill incident involving a ship captain with a record of repeated alcohol abuse is a pertinent example of the catastrophic consequences of this type of policy. Unless individuals like the Valdez captain were currently abusing alcohol or narcotics, and employer would be forced to disregard his "record of such impairment".

Precisely how long would the captain of a ship, a train engineer, truck, or bus driver have to remain unintoxicated before an employer would be forced to hire or rehire him?

Would remaining sober for a few months or weeks or days re-qualify him? How soon after a major accident involving drug or alcohol "impairment" would a company be compelled to let these drivers loose on the hapless environment and general public? These critical questions are left completely open-ended for federal bureaucrats and the courts to determine.

(2) The ADA would force employers to hire individuals with dangerous psychiatric conditions such as paranoid schizophrenia, psychotic disturbances, and dementia. Psychotics and demented individuals would be brought under the specially protected category of being "mentally impaired" for as long as government officials or the courts determine they are able to perform the "essential" duties of an occupation with "reasonable accommodation" for their mental disorders and/or brain deterioration.

Every employer in the nation would be mandated under Federal law to make "reasonable accommodation" for individuals with "a mental or psychological disorder—

organic brain syndrome—emotional or mental illness."

The ADA defines "reasonable accommodation" to include:

"Job restructuring, part-time or modified work schedules—adjustment or modifications of examinations and training materials, adoption or modification of procedures or protocols, the provision of qualified readers or interpreters, and other similar accommodations."

Hospitals, law enforcement agencies, day care centers, churches, public and private schools would all be forced to hire or retain dementia patients and the mentally unbalanced. The burden of coping with employees who can't cope with their emotions would rest on private employers.

If employees become too anxious or depressed to work for days at a time, or become fretful or forgetful during the course of a workday, it would be incumbent upon employers to rearrange their work schedules, "modify procedures," and provide qualified substitutes to step in whenever the mentally "ill" employees feel unable to continue working."

□ 1800

This will play havoc with the free enterprise system and private employers.

Occupational exams which tend to weed out applicants with mental disorders (used by law enforcement agencies and others) would have to be "modified" so they did not "discriminate" against individuals with psychological "impairments."

(3) The ADA would make criminals out of private employers who refuse to hire practicing sex deviants and the sodomy partners of AIDS carriers. In some metropolitan areas, more than half of practicing homosexuals are already infected with the AIDS virus.

In some parts of the country, in some major cities it is as high as 70 percent.

Under the ADA, homosexuals per se would be awarded special status because their deviant conduct places them in a class "regarded as being disabled." The ADA also has a subtly worded clause which makes it illegal to "discriminate":

"Against an individual or entity because of the relationship to, or association of, that individual or entity with another individual with a disability."

This would apply to homosexual employees who "come out of the closet" and reveal that a past or present "lover" or "associate" has AIDS.

The ADA also provides that any individual "who believes that he or she is being or about to be subject to discrimination on the basis of disability" is entitled to begin legal proceedings against the alleged potential violator whether or not an act of "discrimination" has actually occurred.

This is going to cause all kinds of legal problems for private employers. The cost and the clogging-up of the judicial system is going to be unbelievable if this happens.

THE ADA MUST BE STOPPED

The ADA is the last ditch attempt of the remorseless sodomy lobby to achieve its national agenda before the impending decimation of AIDS destroys its political clout. Their Bill simply must be stopped. There will be no second chance for normal America if the ADA is passed. The massive lawsuits that will be filed, the restraining orders and astronomical fines imposed will effectively quash any employer which attempts to resist compliance.

This Bill is on a super fast track and will become law unless there is a massive public outcry immediately.

Then he tells about what can be done by contacting your Congressman or your Senator.

Let me just say that we all want to make sure that there is no discrimination in the work place. We want to make sure that people are not unfairly treated and lose their jobs because of discrimination.

We must also at the same time realize that we have health concerns in this country. We have a pandemic which is spreading at a rapid rate. Nobody knows how rapidly.

Most people with whom I have talked believe we have 5 million people infected with AIDS. We already have something like 29,000 or 30,000 people that are going to be dead or dying from AIDS by the end of this year into 1990.

When you extrapolate that out, we are going to have approximately 4 million-plus people dead or dying by the year 1999.

Now we need to make sure that when we pass legislation regarding this antidiscrimination that we are not going to allow people who can communicate infectious diseases working in jobs that will endanger other people in this country. The American people deserve the best quality of life that we can give them. We are not going to insure that if we allow people who have tuberculosis, AIDS, hepatitis-B, working in places where they can communicate that disease by being food handlers or other things.

That is why this legislation needs to be scrutinized very, very closely.

I ask my colleagues tonight to really look at this bill, that is the American With Disabilities Act, H.R. 2273, and Senate bill 933—it has already passed the Senate—and work with us to amend this bill so that we can make it workable and really do what the bill is intended to do and that is to protect people against discrimination, not to protect people who have a disease and who may spread it through the community or throughout the country.

In addition, let me end up by just saying this—and I appreciate my colleagues for being so tolerant and waiting on me here—we need to get on with a comprehensive program to deal with the AIDS pandemic. The longer we wait, the more Americans are going to be condemned to die.

So all of us in this body and in the other body need to pay attention to what is going on. Listen to the statistical data out of the Centers for Disease Control.

We are 10,000 ahead of what we thought we would be at this point a year ago. It is more than doubling every 2 years. If it keeps on in that manner, we are going to have a big problem.

So, colleagues of mine, pay attention, let us get on with the job of coming up with a program to deal with this.

UPDATE ON NICARAGUA

The SPEAKER pro tempore (Mr. CLEMENT). Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 60 minutes.

Mr. DREIER of California. Mr. Speaker, we have taken out this special order this afternoon to focus attention on a very important issue, one that is near and dear to a great many people who have throughout this entire decade been in the middle of the struggle for freedom in Central America.

In July of 1979, when the Sandinistas overthrew the horrible, repressive dictatorship of Anastasio Somoza, four basic things were promised to the people of Nicaragua. They were promised free and fair elections, an end to human rights violations, a nonaligned foreign policy and political plurality.

Those commitments were not only made to the people of Nicaragua, Mr. Speaker, but also to the Organization of American States and a wide range of other international organizations.

We know that throughout this decade clearly all four of those commitments have been violated. We have all been supporting the bipartisan attempt, supporting the four democratically elected presidents of Central America, Cerezo, Azcona, Arias, and now Cristiani, and the effort that Daniel Ortega put together in Tella the first weekend of August.

Well, since that time there have been a number of delegations which have been put together, Members of Congress, going on weekends for that 4-hour flight into one of the, frankly, worst hell holes in this hemisphere, an area which used to be a great honeymoon capital of the world, Managua, Nicaragua, which is now tragically a hell hole because it deteriorated so throughout this period of the 1980's under a Communist totalitarian regime.

Mr. Speaker, I was very privileged to be a part, this past weekend, of an important delegation. Now it was not important because I was along; it was important because of its leadership and its other members.

A new Member of Congress who has come up here, succeeded our colleague in the House, CONNIE MACK, who now serves so ably in the Senate, PORTER GOSS is following CONNIE MACK's tradition of serving on the Committee on Foreign Affairs and he very ably led

this delegation on this trip to Central America.

Mr. Speaker, I am pleased to report to you, as he was your representative down there, that he did a superb job in representing the U.S. Government.

We had some experiences which we would like to share with our colleagues over the next few minutes.

Also along on that trip we had the dynamic duo from North Carolina, Mr. HOWARD COBLE and CASS BALLENGER. Maybe when I said "dynamic duo from North Carolina," I should be referring simply to the BALLENGER'S because CASS, his bride Donna, we have learned to call her Dona, over the last decade and a half, really 17 years as our friend Mr. BALLENGER has told us, spent a great deal of time and effort struggling to provide humanitarian assistance to those throughout Central America who are seeking help and struggling in that cause for freedom.

Mr. Speaker, I am happy that the four of us who did represent the United States in observing the developments which took place this weekend, as yesterday was the first, the first of four Sunday's during which Nicaraguans will be registering to vote for that election which we are hoping will be free and fair next February 25.

□ 1810

Our delegation went, and we spent a great deal of time. Rather than my getting into an explanation, Mr. Speaker, because I have a lot of war stories that I could provide about this, I would like to yield briefly to the chairman of our delegation, the gentleman from Florida [Mr. Goss], who led the delegation so ably.

I would like to have a couple of remarks from him, and then we know time constraints are great around this place, and we, of course, want to move right ahead with the North Carolina "dynamic duo," as they have a busy schedule, and the gentleman who kept Members here, from Indiana [Mr. BURTON], will be saved for last.

Mr. Speaker, I yield to the gentleman from Florida [Mr. Goss].

Mr. GOSS. Mr. Speaker, I thank my distinguished colleague for yielding, and thank him especially for his very kind remarks. In fact, I am indebted not only to the gentlemen from California [Mr. DREIER], but to the gentlemen from North Carolina [Mr. COBLE] and [Mr. BALLENGER] for taking a freshman and helping him find a way in participating in what I think was an excellent team effort.

We actually did get a great deal accomplished. The record will show that. More importantly, we got things accomplished for the people of Nicaragua and for all other people in the world looking for free and democratic elections in that country.

This is not going to be an easy chore. However, I think we have helped make it possible. Certainly, there were three things that we learned, that we think are heartened by this 48-hour period that we spent there. The first is that the democratic opposition has really gotten their act together, operating as the United Democratic Coalition, under the name UNO. We have gotten a disparate group of politicians with many different political philosophies, but the common denominator of democratic free elections is what they are looking for. They basically have got their effort together. They are enthusiastic. We met with the leadership. We met with many members of their party. They are clearly interested in making this happen. What is more important, based on the report we received, are the people coming out to support them, even in the rain, as this is the rainy season in Nicaragua, and people did come out in the thousands to encourage them and cheer them on at the rallies, as they went around the country.

I think that we can say that the democratic opposition is readly for this campaign, to the best of their ability at this time. Even though they lack sustenance, they lack support for the dollar-type items that they are going to need, their spirit is strong, their morale is good, and they have their team together.

The second thing I think we learned is there really is a possibility that we could have free and fair elections in Nicaragua this year, and in carrying out the election will actually be in February 1990, but in fact, if the registration process that is going on this year is not properly completed, this may not happen.

Mr. DREIER of California. If the gentleman would yield on that point, I think it is important for Members to underscore, since he mentioned the issue of registration, that the prospect of the election is actually taking place in large part right now. In fact, there was a column that was written by Georgie Anne Geyer not too long ago in which she underscored—I guess last week or possibly the week before—she underscored the fact that really, the process is taking place during the month of October, and those four Sundays during which we are seeing registration take place.

Many people think the election is February 25, and that is right and we should all focus on that, but because of the complexity of that process, it is now during those four Sundays which started just yesterday.

Mr. Speaker, I am happy to yield to the gentleman from Florida [Mr. Goss].

Mr. GOSS. Mr. Speaker, the gentleman has underscored that point extremely well. We are 25 percent of the way through the opportunity, at this point, we learned that we are not on an even playing field, and that is the third point I wanted to make.

While it is clear we have the opportunity, it is also very clear that we are on a very uneven playing field. The Government of Nicaragua and the Sandinista party are virtually one and the same. Therefore, the Sandinista party controls most all of the mechanism logistics in the country. I know that my colleagues from North Carolina are certainly going to address their observations.

Mr. DREIER of California. Mr. Speaker, perhaps we should jump to the North Carolina colleagues. I know my friend from North Carolina [Mr. BALLENGER], who spent the past 37 years of his life with his bride, Dona Donna, but 17 of those years have been spent struggling on behalf of the people of Central America, providing a wide range of things from radio transmitters to hospitals.

Mr. Speaker, it is a special privilege to have been along with him on this trip, and I yield to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, I thank my friend from California for yielding, and also my friend from Florida, and would like to say thank you for the flattering words, and I am happy that I have been involved in Central America for 17 years, and involved in the many trips I have taken to Nicaragua, and for the opportunity. Always before there has been a black cloud, it seems, flying over that place. The government not only ignored people, but they ignored their people, and now I think because of world opinion, they think they have to have an election. Whether it will turn out to be fair and honest, is something we will have to observe.

The reality is, they will have to have an election. It would be almost impossible to stop now. There are two things, I think, to me that are very important. First of all, as the gentleman from Florida [Mr. Goss] said, the inability of new UNO, our democrat party, to develop any kind of advertising. I think I mentioned it earlier on the news broadcast that we had, about every 50 yards in the city of Managua, every time we went 50 yards in any direction, there was a Sandinista sign, a Sandinista poster, Sandinistas everywhere. I did not see a single UNO sign all day long when we traveled around. I think it is basically they have no money to spend. They have no income. I hope somewhere, somehow, and soon, people in this country will help them.

Mr. DREIER of California. Mr. Speaker, if I could reclaim my time, it is apparent that the Sandinista, too, are spending their government funds with influx of capital from the Soviet Union and Libya, clearly on campaigning. We often have the argument

about the power of incumbency around here, but if we were involved with the kind of excessive abuse of power the way the Sandinistas had geared toward reelection, we would immediately be thrown out.

Mr. BALLENGER. If the gentleman will continue yielding, the one thing I noticed as we went down, there was a newspaper article by the Associated Press in this country, talking about the fabulous division that has developed in the operation of UNO.

As the gentlemen know, we ate breakfast with all of the organization, and there was one man whose feelings were deeply hurt because he was not chosen to be vice president, and his organization was coming around. They, in fact, supported Mrs. Chamorro at a rally they had the next day, and 250 of them met together and picked out a ticket of 90 people to run for congress.

Now, if you can imagine 250 politicians getting together to pick out a ticket of 90, and one person got mad and walked out, and AP reported that the whole thing had a great division. It is unbelievable to me we can report that way.

Mr. DREIER of California. The gentleman is absolutely right, and it was a Mr. HOWARD who, when we were at dinner Saturday evening, made it very clear if a political party in the United States were to put together an alliance of 14 parties with a wide range of views, a wide range of philosophies, it really could not be done. The reason that we have seen this 14-party alliance is very simple and clear, as the gentleman from North Carolina, Mr. HOWARD COBLE has pointed out, and that is the fact that they are all, regardless of their view, standing up and trying to oppose the Communist totalitarian Marxism-Leninism regime which has seized power and controlled the country and obliterated it throughout the 1980's.

Mr. BALLENGER. If the gentleman will continue to yield, one more thing I would like to add, and the gentleman from Florida [Mr. Goss] mentioned it earlier, about the fact that the television stations are owned and operated by the government there, and that at the convention where the Sandinistas nominated Daniel Ortega, they had 12 hours of continuous coverage on television in that country. The UNO operation is allowed 20 minutes a week. That shows the difficulty they are facing in the future.

I would like to say I hope all Members will get together and somehow support this whole situation.

Mr. DREIER of California. Mr. Speaker, I thank the gentleman for his contribution, and I think it is important for Members to point out, we do not in any way want to tamper with the internal politics of another country, but that is why this rather delicate but clear choice stands before the U.S. Congress and this administration. The choice is: Do we want to support the cause of democracy, freedom, free and fair elections, moving in that direction? Or do we want to, by standing by and doing absolutely nothing, Mr. Speaker, allow this regime of Daniel Ortega to continue to maintain power? To me it is a very clear choice.

Mr. Speaker, I thank the gentleman for his fine contribution, and it was an honor to be with him. I hope very much, Mr. Speaker, he will extend my remarks to Dona Donna, and we look forward to hearing from the other half of the North Carolina dynamic duo, who joined Members on this trip, the gentleman from North Carolina [Mr. COBLE].

□ 1820

Mr. COBLE. Mr. Speaker, I thank my friend, the gentleman from California [Mr. DREIER]. I appreciate his having taken out this special order.

As the gentleman pointed out previously, it was indeed a meaningful and productive weekend. I am going to depart just a minute from what I planned to do because of something else the gentleman said.

Mr. Speaker, the gentleman from California [Mr. DREIER] said earlier that in the old days Managua was recognized as an outstanding city worldwide. Now the gentleman from California is too young to remember this, and the gentleman from Florida may be too young to remember it; my friends from North Carolina and Indiana clearly are not too young. They do not fall into this category, but our Speaker pro tempore [Mr. CLEMENT] earlier mentioned about country music week, and I am a long-time country music fan. By the same token, I have always enjoyed hearing the music of the Andrews Sisters, and here is why I say that the gentleman from California [Mr. DREIER] is too young for this.

Mr. Speaker, the Andrews Sisters enjoyed tremendous popularity during the World War II years and the years following that war, and one of their hit songs was entitled, "Managua, Nicaragua."

Mr. DREIER of California. Mr. Speaker, I have heard the song.

Mr. COBLE. But bear with me.

Mr. DREIER of California. It was on the Night Line program.

Mr. COBLE. Mr. Speaker, I think I am going to say the words of the chorus as best I remember them.

Managua, Nicaragua, what a beautiful town;
You buy a hacienda for a few pesos down;
You give it to the lady you're trying to win;
But her poppa doesn't let you come in.

Mr. Speaker, I say to the gentleman from California [Mr. DREIER] that, as we rode through Managua this week, what was downtown Managua prior to the earthquake, the lyrics of that song haunted me because Managua, Nicaragua, is indeed no longer a beautiful town. It has deteriorated very badly, as the gentleman has pointed out.

Mr. Speaker, I want to put a different spin on this, if I may. Unlike many people in this body, as to this issue I have always seen a lot of gray. Most of our colleagues see this Contra, Sandinista, Nicaraguan matter as all black or all white, and that may well be correct, but through my eyes there is a lot of gray.

Now each time, as my colleagues know, that we have had an occasion to vote for aid to the Contras, as it has popularly been called, aid to the freedom fighters, on each occasion I have voted in favor of that aid, but many times it has been a battle with me because, as I said, I see atrocities, for example, dispensed by both of these warring parties.

Mr. DREIER of California. Mr. Speaker, if I could reclaim my time, I wish the gentleman from North Carolina [Mr. COBLE] would share with the Speaker and our colleagues the conversation that he had with President Ronald Reagan about this particular issue.

Mr. COBLE. Mr. Speaker, I thank the gentleman from California [Mr. DREIER], and I will do that.

The President brought many of us down who were uncertain, but I think that was the first vote; $14 million, I think was the package then—I think it was $14 million, and it finally was increased in excess of $25 million, and I told him, I said:

Mr. President, I'm not anxious about giving $14 million away to anybody. As you know, I'm pretty tight with my collars and the taxpayers' dollars.

Mr. BURTON of Indiana. I go along with that.

Mr. COBLE. Mr. Speaker, I appreciate the gentleman from Indiana [Mr. BURTON] chiming in, but I said, "I'm especially not anxious about giving money away to people who might not be deserving," and I said in many instances and many times in this Nicaraguan situation, and I said to him at the White House:

I don't view it as good guys versus bad guys. I view it many times as bad guys versus bad guys.

But I said to him:

There is a distinction between the two groups of guys. One happens to espouse and encourage Marxist revolutionary tactics while the other, espouses freedom and democracy.

Mr. Speaker, given that choice of an up or down vote, each time I opted for freedom and democracy even though I had some doubts that lingered in my mind. Some of those doubts, I think, were assuaged this week.

Mr. Speaker, my colleagues know the old saying that a picture is worth a thousand words, and I say to them, "You must go and see it."

As I said to the gentleman from California [Mr. DREIER] this weekend, I am not a member of the congressional frequent flyer club. I do not take many trips. In fact, this is only the second trip I have taken in 5 years, the second congressional delegation trip. I almost did not take it. Last week I almost concelled because I was not convinced it would serve a good purpose.

Mr. DREIER of California. Mr. Speaker, reclaiming my time, the gentleman from North Carolina [Mr. COBLE], full well knows that it would have been a horrible loss to my colleagues, the gentleman from Florida [Mr. Goss], and the gentleman from Nebraska [Mr. BEREUTER].

Mr. COBLE. Mr. Speaker, the gentleman from California [Mr. DREIER] is indeed very kind, and I appreciate that, but I am glad I went.

One reason I did go is that I knew much work had been done to prepare for this prior by the gentleman from California [Mr. DREIER]. I told the Secretary of State's office that as a result of the leter that he distributed some days ago expressing an interest in Members of Congress going to Nicaragua prior to the end of this year that I would do so primarily because of that letter. I felt he wanted some of us in a bipartisan way, Democrats and Republicans, liberals and conservatives, to go over and look it over.

We did that, and I am glad we did it, and I will show for our viewers a picture of our distinguished colleague, the gentleman from California [Mr. DREIER], along with Comandante Borge who is the minister of the interior in Nicaragua. He is pictured to Mr. DREIER's left, and I think that is logically appropriate. They posed during a tour that the comandante conducted for us in two of the what? Four of five prisons they maintain there?

Mr. DREIER of California. Four prisons, right, within Managua there——

Mr. COBLE. Within the Managua area, and we visited two of them.

Mr. DREIER of California. There are a total of 11 political prisons.

Mr. COBLE. Mr. Speaker, he asked, as the gentleman from California [Mr. DREIER] will recall, him to accompany him into the cell behind the closed barred door, and that cell is where he told us that he spent, I think, 2 years in solitary confinement when the Somoza regime imprisoned him there.

Mr. DREIER of California. Mr. Speaker, the gentleman from North Carolina [Mr. COBLE], is absolutely right. It was rather ironic that we were all in that cell with him, but I noticed that I was the last one he let out of the cell, and he insisted that the two of us stay in there for a while, but it was a very tragic situation to see the prisons, which truly are political prisons, in Nicaragua.

As my colleagues know, there are many people who believe that it is like a country club. Well, it is apparent to us from our visit that they were ready for us, and they had cleaned those places out. We could smell the Pinesol, or disinfectant, or whatever they use for that sort of thing, and it was odvious that we were used in this tour.

We know; our colleague, the gentleman from Florida [Mr. GRANT], a friend of the gentleman from Florida [Mr. Goss] and the gentleman from Oklahoma [Mr. EDWARDS], along with the gentleman from Nebraska [Mr. BEREUTER], and I know a number of our colleagues were on that delegation about 3 weeks ago and met with Daniel Ortega, and the gentleman from Florida [Mr. GRANT], specifically asked that a tour be set up of prisons. So, there was about a 3-week notice time that they had, and I think that it is a very important thing for us to take into consideration.

Mr. Speaker, I would like to get into that in just a few moments, but I know my friend from North Carolina [Mr. COBLE], has important points to make, and then we will get into a discussion about the prison situation and report to our colleagues as we saw it.

Mr. COBLE. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to my friend, the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Speaker, I would like to share this particular story because I think this will be of interest to our viewers, as well as our colleagues, who may be watching.

Mr. DREIER of California. Mr. Speaker, I say to the gentleman from North Carolina [Mr. COBLE], my friend, that it is against House rules to refer to the viewers. I know that the SPEAKER pro tempore is probably squirming right behind me, but I know this from experience.

Mr. COBLE. The gentleman from Tennessee [Mr. CLEMENT] is ignoring me, and I will refrain from doing that. He is in conversation with another person.

Mr. Speaker, we are talking about you, but we are doing so favorably.

The SPEAKER pro tempore Mr. CLEMENT). Thank you.

Mr. COBLE. Mr. Speaker, during the first visit of our first two prison stops the gentleman from California [Mr. DREIER], the gentleman from Florida [Mr. Goss], the gentleman from North Carolina [Mr. BALLENGER], and I were 2 or 3 feet from the commandante, and we saw two prisoners who were off to the side.

□ 1830

Now, that Saturday was allegedly visitors day, family day, and most of the people were gathered in a common area with their families, but these two men were off to themselves. I think it was the gentleman from California [Mr. DREIER] who initiated this conversation and began talking to them. I think the gentleman asked how long they had been in.

It was I, I believe, who asked what their crimes were, and they were political crimes. They were political prisoners. And that has been one of the issues here.

Mr. DREIER of California. They were charged, as I recall, with having assisted the Contras, so they were labeled counterrevolutionaries. In fact, on the back of that first page there are pictures of them right on the bottom there.

Mr. COBLE. Yes, they were counterrevolutionaries, and obviously political prisoners. That has been an issue that has plagued this Nicaraguan problem from day one, whether or not political prisoners were still in prison. Some have said, oh, indeed not; others have said that there are far many more in prison now than was the case under Somoza, and I am inclined to lean in that direction; but in any event, it was the gentleman from California [Mr. DREIER], who said to the commandante, "Can you release these men?" I think one had served—what, 4 years of a 7-year sentence, and I am just going from memory now.

Mr. DREIER of California. Yes, right.

Mr. COBLE. And I think the other served perhaps 3 years of a 5-year sentence, and the commandante in his inimitable style brushed his hand skyward and said, "Why, yes, I certainly will get these men released. I will recommend it immediately."

The next day in the Managua newspaper, the El Nuevo Diario reported the fact that the commandante did say he would recommend their immediate release.

Mr. DREIER of California. The gentleman has got it right there.

Mr. COBLE. The question I ask is if this can be done so summarily, if the commandante at our request can say, "Why sure, let's let these guys out," perhaps they should not have been in to begin with.

Mr. DREIER of California. Good point.

Mr. COBLE. I will never forget the expressions on their faces, because they were expressionless. There was no change of expression, the gentleman will recall. If that had been I, I would have been in ecstasy, or perhaps if you did not believe it, you would be scoffing and say, "Oh you're yanking my chain. You don't mean this."

Mr. DREIER of California. Would the gentleman care to report that when we left those two men standing, we walked around and what we saw

upon our return, and I will be happy to yield further to the gentleman.

Mr. COBLE. Well, it was about an hour later subsequent to that, and I thank the gentleman for reminding me of that, that we returned. We retraced our steps along the same course and these two men were still standing there alone, almost in the precise location where we had left them. They had not moved. They were still alone. Their faces were still bearing the same expressionless glance that was there when we departed.

Mr. DREIER of California. So reclaiming my time, one could only infer from what we saw that those individuals had specifically been paraded out for our particular meeting, and then they were told basically what they probably could have heard on several other trips when America's Watch and other groups had gone in to look at the prison system there.

Mr. COBLE. That may or may not be accurate. One thing that I do attach some significance to, however, is that they were listed by their names in the paper and the commandante was quoted as saying he would recommend their release. I hope that happens.

If the gentleman from California will allow me just a couple more minutes.

Mr. DREIER of California. I am happy to yield further to the gentleman.

Mr. COBLE. Then I will wind down and listen to the rest of you.

I think what I learned, it was not mentioned, but we did stop in El Salvador en route to Nicaragua. What I learned from my trip this week is that there is tremendous potential in those five Central American countries. The soil is unbelievably rich.

I am thinking, I say to the gentleman from California, that one day that region of the world may reclaim some of the proud past that the gentleman mentioned earlier that the lyrics of the Andrew sisters' song clearly reveal for these states.

Mr. DREIER of California. If I can reclaim my time on that particular point, I think it is important for us to underscore that parts of Central American already are, because for the first time in literally decades we have seen free and fair elections held in Guatemala, Honduras, and then on March 19 in El Salvador, and this June 1 we saw the transition from one democratically elected government to another for the first time in the history of El Salvador, and as the gentleman knows from the report that we got, it is going to be years before El Salvador can recover after it deals with the problem of the thrust of the Farabundo Marti, the FMLN in El Salvador; but there are already signs of improvement demonstrating that movement in the direction of the democratic process of free and fair elections with representative government has had a salutary effect on parts of Central America; but the stark contrast between El Salvador and Nicaragua, I remember when Mrs. Ballenger in the car made that statement to us as we went, "San Salvador—Managua" on Friday. It was very clear the difference where a fledgling democracy is and a Communist totalitarian regime is, and it is very stark.

Mr. COBLE. Mr. Speaker, if the gentleman will yield further, that is indeed true and I think that if the country with the largest standing army in the region, Nicaragua, could be governed by a party that espouses and encourages democracy and freedom, rather than encourages exporting its revolution beyond its borders to its neighbors, I think those neighbors would benefit directly. I think the United States of America would benefit directly, because it could very well solve some of our immigration problems. Many of the people from that region no doubt would return home, particularly if investors decided, well, let us establish this plant or this factory here in Costa Rica or in Guatemala or El Salvador or Nicaragua or Honduras. There is a labor market there, particularly untrained labor, which is ready, willing, and able to make it happen. That is why the election is so important. That is why it is so important that this election be conducted equitably and fairly and openly.

Mr. Speaker, I very much enjoyed being with these gentlemen all this past weekend. I think it was a productive weekend and I look forward to seeing what develops during the next three Sundays.

You know, we mentioned the possibility of extending that deadline for registration. I have no idea whether that will be done, but I hope that it will be a good, clean, fair election, and they can move onward and upward.

Mr. DREIER of California. Mr. Speaker, I thank the gentleman for his very fine and able contribution. It was great to be traveling with the gentleman to the region.

The blue ink on my thumb which I dipped into one of the spots where the registration was taking place yesterday is starting to rub off, but in light of the fact that it is rubbing off, before it is competely gone, I would like to ask my friend, the gentleman from Florida, the very distinguished leader of our delegation, the chairman of our delegation, to explain to our colleagues the process of registration. I know that the gentleman has a publication which he wants to show which outlines it. I would like to call on the gentleman at this point to discuss that, if he would, and I am happy to yield to my friend, the gentleman from Florida.

Mr. GOSS. Mr. Speaker, I thank my distinguished friend, the gentleman from California, for the opportunity to share with our colleagues a little something about the registration process. I think the fact that the process is happening is good news. There are clearly some problems that we have to be on guard for and watch out for, because in Nicaragua there is no census. Nobody really knows how many people there are in Nicaragua or how many voters there are who are eligible to vote. They have somewhat of a more primative identification system than many of the other countries where democratic elections are held, so consequently there is an important registration process.

When we have had these debates, as we are having ongoing now in democratic government institutions, such as in this House, about whether or not it is worthwhile contributing dollars in support to the process of democratic elections, I have got here an 8-page document which explains in very basic language, using cartoons and pictures, so that virtually anybody, even somebody who perhaps was not terribly well-educated, gets an idea of what is required. This is an excellent effort, and this document was put out by the Electoral Council in Nicaragua, but it is important to note that the cost of this probably came from the Democratic Government of Costa Rica and an institution there and the Government of Canada, and it so states.

□ 1840

Mr. DREIER of California. Reclaiming my time, the gentleman is absolutely right. It is an excellent effort, and I am sure he is getting ready to underscore this. But it is still a complex piece.

Mr. GOSS. If the gentleman will yield further, absolutely, and this is an important effort by the democratic nations which has been made to get this type of information out. What this really underscores is the complexity of the task that is confronting the people who wish to hold democratic elections in Nicaragua, because I would suggest the average Nicaraguan would regard this document about the same way the average American regards our tax instructions from the IRS. It is apparently that confusing. I expect that to the campesinos in the rural areas, and if Nicaragua is nothing else it has very important rural areas; it has many important rural areas, and it is an agricultural type of country. The effort that has been put out should be admired, and we need to applaud it, but to make that happen, to get from where we are with an undisclosed number of people of questionable identification, how are they going to verify who they are and where they live, this is going to be very difficult to

get all of those people registered in time for this close-out period of registration, which is the end of the month of October, actually not even the end of the month. It is the fourth Sunday of October, which seems to me to be a formidable task. We did ask why only four Sundays to register, and I do not think we got a proper answer to that question. I think that it is a question that further delegations must ask.

Mr. DREIER of California. Reclaiming my time, the gentleman is absolutely right. It clearly is stacked in favor of having the largest distance between the election, which people know is set for February 25, 1990, and the process of registration. There are many in this country who have advocated that we should have same-day registration. I do not quite go that far. I do believe that to have a period of only 4 days in which a citizen of Nicaragua can register to vote and then having that gap of November 1 all the way to February 25 of the next year, virtually 4 months away from the last time that they are able to register, is stacked against those who are challenging the party in power.

Mr. GOSS. I appreciate that, because the gentleman is exactly on point. I believe the international press today attributed a statement from the Arias government indicating that in fact the campaign, the election, was going to be over the end of October. That clearly alluded to this registration process, because we were informed by both sides and, of course, we saw the Sandinistas as well as the opposition while we were there because we were in a neutral observer role; they made it very clear that if you have not registered exactly properly it does not matter what you think or what else you do, that if you miss your last chance to register when the fourth Sunday of October is gone, you are disenfranchised from the election, and if there is a mistake in the election process, you are also disenfranchised, as it is a little complicated for the average campesino, or if there are mistakes, and there are many people aware of the political situation in Nicaragua who know the average campesino is displeased with the Nicaraguan Government.

Mr. DREIER of California. Reclaiming my time briefly, I am not going to share the name of our colleague, because I believe it is privileged, but the gentleman from Florida and I had lunch today with a group of people, and frankly I think virtually every one at the table with the exception of us serve on the other side of the aisle, and I will say that this gentleman serves on the other side of the aisle. He is from the home State of the gentleman from Florida [Mr. Goss], and he was in Panama during that election. I do not know what it will take to go and find that, but I do not want to use his name at this point, because it was a lunch discussion. But he did say, after hearing of these experiences, and if I am incorrect, I hope the gentleman will correct me, but he said, "It sounds to me as if it is another Panamanian election in the making." Is that correct?

Mr. GOSS. I would not wish to attribute any words to anyone, but I think I did hear those comments. I am sure that that gentleman, if he were present in this Chamber at this moment, would elaborate on that, and I think that he would come to that conclusion. But he will have that chance if he desires.

If I may finish this point, there is no question that this whole system of registration, the way they have it set up, requires poll watchers, and they have provided for poll watchers. Perhaps the most disturbing things that we ran into as we went around to some of them, and there are 4,300 polling places throughout the country, but perhaps the most disturbing thing we found was, and I guess we got to 12 or so, because we split up into two teams, and we got to 11 or 12.

Mr. DREIER of California. Of the seven spots which the Ballengers and I visited, we found that there were only two with poll watchers from UNO [the United Nicaraguan Opposition] the 14-party alliance which is challenging the Government. On the other hand, in every spot there was a poll watcher overseeing this registration process from the FSLN, and I think that the gentleman from Florida, in his delegation, had about the same experience.

Mr. GOSS. We had about the same percentage. If the gentleman will yield further, I think that we found in one instance that one of the people there had indicated to us that the actual UNO poll watcher had come and presented himself but had been told that his identification was out of order.

Mr. DREIER of California. That is a very important point, and I wish the gentleman would make it again. I did not have an experience like that at the seven polling or registration spots that I went into, so while I saw FSLN poll watchers at each registration spot and found only two UNO watchers, I heard nothing of attempts to keep them out. In fact, at every spot I asked they said, "Anyone is welcome here. They are welcome to be here." I think the gentleman should underscore the report he got in that particular polling spot.

Mr. GOSS. I appreciate the gentleman underscoring that.

Mr. DREIER of California. I think that point needs to be made again, because it is an important one.

Mr. GOSS. I think it is one that needs followup. It turned out not to be an isolated fact, that the identification was being challenged of the UNO poll watchers. Whether it was being properly challenged, I do not know. It was too early to tell. But it is important to underscore that.

Mr. DREIER of California. It obviously was being challenged if the UNO poll watcher was not able to be in the spot where registration was taking place. Am I not correct?

Mr. GOSS. That would seem to be the conclusion. There were other reports apparently that were made available to the press that this was happening elsewhere in the country, and I obviously did not see those myself. But I understand that that was the concern, and that there was some talk about irregularities and that that matter was being discussed as we left the country. I have not had a chance to pursue it today obviously.

One other point that we might talk about that we did raise and that is very important to this registration process which ends the fourth Sunday in October is all of these people who are on the borders who are political refugees who want very much to go back to their home country, to Nicaragua, and would love to vote in a democratic election there, are very scared about going back. They do not wish to go back unless they have some good assurances that they can be reintegrated into society safely and with some opportunity for economic survival as well. There is no provision in the registration as far as I can see to accommodate the timeframe, the practical timeframe, of getting them from where they are now back into the country in time to register in order that they can participate in this election in February.

Why we have to have the registration stop on the fourth Sunday in October, again, remains a bit of a mystery, and I think a very troubling one.

Mr. DREIER of California. The gentleman is absolutely right. We did, in our conversation with the Interior Minister, the head of the secret police, Comandante Tomas Borge, ask if it could be extended, and just like he pardoned those prisoners, as our friend, the gentleman from North Carolina [Mr. COBLE], indicated, he said, "Well, we may be able to do that." It struck me as rather ironic that the head of the secret police could determine whether or not the registration process itself could be extended.

I think that as we go through the hurdles which have been imposed on the individual, I think there is a point that we should make, too, about the hurdles imposed on the United Nicaraguan Opposition themselves. One thing that we should point to is that one of the members who went at 8 o'clock yesterday morning in Managua to register to vote was confronted by a uniformed officer who said, "What can I do for you? Why are you here?" She pointed out accurately, "This is a

question which is clearly out of line to ask on registration day when we want to encourage Nicaraguan citizens to exercise their civic duty," and I think that she was right in pointing to that.

□ 1850

But there was really not the welcome mat out as she was getting ready to exercise her duty to register.

The second point that is important to make, in a political campaign that we have here in the United States one of the greatest technological advances that I am sure that the gentleman from Florida, the gentleman from Indiana and I use, is the phone bank. The phone bank is used to get people to register, to get them out. We just found out this afternoon that the UNO headquarters, a very small headquarters in downtown Managua, not only do they not have a phone bank, but while it takes in Nicaragua 1 month for the average Nicaraguan citizen to get a telephone installed into their home, 3 months ago UNO, the United Nicaraguan Opposition, asked to have a telephone installed in their headquarters. They made that request 3 months ago.

When we were there yesterday, Mr. Speaker, there was a telephone line which was extended from the home next door into the UNO headquarters. They were not allowed to make any outgoing calls. They were only allowed to receive incoming calls into their UNO headquarters from the phone which is in the name of the next door neighbor. This is a line which was dragged in there.

Talk about an uphill battle and a hurdle that needs to be overcome. One cannot help but be frustrated with the process.

I am happy to yield to my friend, the gentleman from Florida.

Mr. GOSS. I appreciate that, because I think there is more to say without trying to get into too much detail. To give the flavor of this, one of the great concerns that is going on in Nicaragua now is the draft. By the accords of the Central America Presidents, it has been determined that there will be no further draft during the electoral process so everybody can participate.

We heard reports that in fact the draft of the reserves, as opposed to the new draft, that the reserves were continuing on.

That is troublesome, obviously, because it means that those who are drafted may very well lose the opportunity to register while they are off doing their military duty. It is equally of concern because we have reports that some of those who were drafted were also UNO poll watchers, and they suddenly had to abandon their poll-watching assignments.

Mr. DREIER of California. So is the gentleman saying it seems to be the poll watchers are the first ones to be drafted so they are losing their poll watchers to the draft?

Mr. GOSS. I cannot make that conclusion, but I think that is the question that needs to be asked of the authorities in Nicaragua. I know that there is enough concern about it that several people brought that to our attention.

Mr. DREIER of California. That is a very important point that the next bipartisan delegation which goes to Nicaragua should ask.

Mr. GOSS. I think it is extremely important, because I am not sure what the voting provisions will be for all of the draft. Of course, I am not exactly sure why the draft is being called now, what is the new threat to the country of Nicaragua, what new problem for their national security exists. We are demobilizing the Contras, as everybody knows and in fact we have had much conversation about.

Mr. DREIER of California. You never know. The very potent Costa Rican army may invade Nicaragua, and I say that facetiously, of course, because Costa Rica has no army to their south.

Mr. GOSS. I appreciate the opportunity to share some of these observations about the registration process and the unevenness of the playing field, because we have talked about the telephone a little bit and some of the other signs we have seen. Some of the basic underlying normal checkpoints are in very shaky shape.

For example, the composition of the supreme electoral council, the people who will referee this, is still a contested question, with four Sandinistas versus one non-Sandinista making the decisions on that council.

Mr. DREIER of California. If I could reclaim my time, I think the gentleman is absolutely wrong when he said it is contested. It is clearly lopsided in favor of the Sandinistas.

Mr. GOSS. I accept the gentleman's correction. I certainly believe that the problem of the access to the media, particularly television, is a very serious concern. It is very lopsided, if I may also borrow the gentleman's word for that.

We know that the government controls it, and that means the Sandinistas control it. We saw evidence that their 12-hour convention was on. I believe the gentleman had conversation with Comandante Borge on that point, did you not?

Mr. DREIER of California. Reclaiming my time, I thank the gentleman for pointing that out. Yes, I did raise the issue with Comandante Borge as I was driving him in his Land Rover vehicle through Nicaragua. I have to say, Mr. Speaker, it was a very interesting experience for me to be driving with Comandante Borge, the head of the Secret Police, the Interior Ministry, as my passenger.

I said to him, "Comandante, it seems to me rather strange that you would have had 12 hours of uninterrupted television coverage of the FSLN party convention carried on television."

He said, "Well, it wasn't 12 hours, it was a little less than that."

If it had been 10 hours it would have seemed rather ironic, because I did say to him, "Now I understand that UNO, the United Nicaraguan Opposition, is entitled to a total of 20 minutes a week on television."

When I said this to him he said, "Well, yes, David, we did make a mistake in controlling the television time for that length." I thought that was rather interesting that he said it.

My next question, of course, is what will be done about it. That is the question that remains for all of us.

I would be happy to further yield to my friend.

Mr. GOSS. I think there are some positive things that I would like to underscore for our colleagues. I know our colleague from Indiana would like to jump into this, on the question of what we can do.

There is no doubt that these bipartisan congressional delegations have an impact. The Sandinista Government, which is clearly a Marxist totalitarian government, it acts like one, it looks like one, it claims to be one and I believe is one, has responded to international scrutiny.

The mood when I was last in Nicaragua, which was about 2 months ago, was very much different. The welcome this time, while it may have been contrived, or access was very much better. We were given freedom to travel around. We were given freedom to observe what was going on in the town squares and the marketplace. In fact, we were conducted through the marketplace as my colleague knows by the commandante in one case.

The fact is this is working. This international scrutiny is giving the people of Nicaragua the opportunity for free elections. I think that we are far from being where we need to be, but I think the start that has been made is extremely encouraging. Obviously we have to be vigilant.

I think that my esteemed colleagues from California challenged the commandante on the question of the list, the human rights question that our colleague, Mr. MICKEY EDWARDS, from his delegation and his colleague, the gentleman from Florida, Mr. BILL GRANT, had raised, what about the existing political prisoners.

The commandante pledged to publish in the newspaper in Managua the names, not the numbers, but the names, so that those names of prisoners that they claimed to have can be matched with the lists that we have

and the other human rights organizations of people who are missing and unaccounted for. I think that is a positive accomplishment.

We had a discussion with the commandante about political amnesty across the board. While he equivocated and qualified his answers, even though the accords clearly call for political amnesty for political prisoners now because of the demobilization process taking place, maybe it is being used as a chip. I think they are tuned in to the requirement for that or this will never be labled a free and fair election.

Mr. DREIER of California. I thank the gentleman for his contribution. It is important to point out that when we pressed Commandante Borge for a specific date, he would just say over and over again, "Soon, in a few months."

I, as the gentleman knows, had a tendency to be rather aggressive in the conversations which I had with the commandante and tried to pin him down. He refused to establish a date certain.

It will be very interesting to see exactly when we do get a response to that request.

I would be happy to further yield.

Mr. GOSS. I appreciate my colleague yielding further. I would like to commend the gentleman from California and offer my colleagues a statement that I felt he showed great courage in pushing issues that I think were very difficult to push. I think the response to that was very clearly positive, because I think they in the Sandinista Government were able to see just how strong the commitment is to having free and fair democratic elections there.

Mr. DREIER of California. I thank the gentleman from Florida for that.

I know that my friend from Indiana [Mr. BURTON], who I cannot say simply waited patiently, but he has seized this microphone for a while, I know that the gentleman has the perspective of having been to Central America but not on this first weekend.

I yield to the gentleman from Indiana.

□ 1900

Mr. BURTON of Indiana. I appreciate the gentleman yielding.

I almost left when my colleague from North Carolina indicated I was old enough to remember the Andrews Sisters. Obviously I am a lot younger than that—you are not laughing.

Mr. DREIER of California. I guess we should go to the question then: Do you remember the Andrews Sisters?

Mr. BURTON of Indiana. I do, and I remember that song, incidentally, a fine song.

Mr. Speaker, let me say first of all I know my colleagues have not been taken in by Mr. Borge. Mr. Borge has made these promises time and again in Sapao, Esquipulas, in 1979 they were even talking about political prisoners. Many of those people are still languishing in prisons, some estimate as high as 10,000 or 11,000 still there.

So we take that with a grain of salt, at least I do.

Mr. DREIER of California. Mr. Speaker, I should tell the gentleman that we met and interviewed a number of them. As my friend from Florida knows very well, I hit the jackpot when it came to constituents. The thing that struck me was these prisoners were sticking notes through the bars to our assistants who were there.

I was given these addresses that were just a few miles from my home. One prisoner has a son who is a student at Rio Hondo College in Whittier, CA.

It was amazing to see that. These people have been in there languishing, some for 11 years. That is simply for opposing the Sandinistas.

Mr. BURTON of Indiana. That is right. Let me just say that I was at Yamales about 5 or 6 weeks ago. I flew into the Contra camp in Honduras and had a conference. They had waited about 2 hours in a driving rain in order to talk to me. There were about 6,000 men in the formation.

When I went up to speak, they started hollering "Freedom for Nicaragua," you could hear it reverberating throughout the mountains surrounding the Yamales camp. It was an inspirational moment for me.

Let me just say that they would like to go back to Nicaragua and be in a free Nicaragua and participate in a free and fair election. But they do not believe the Communist Sandinistas are going to live up to their commitments and therefore they are reluctant to lay down their arms and go back naked to the wrath of the Communist Sandinista Government.

Many of their colleagues have reported, after coming out of Nicaragua, that there have been murders of Campesinos, peasants who have alleged to have been supporters of the Contras. So they are reluctant to go back into that country.

There are 42,000 dependents plus the 10,000 or 12,000 Contras at that camp in Yamales. So there are over 50,000 people there who would like to go back and vote in a free and fair election in Nicaragua but they are reluctant to do so.

Mr. DREIER of California. I should let the gentleman know that we specifically asked Commandante Borge about that issue. He said, "No, it would be too complex for us to allow anyone who was not in Nicaragua to vote and exercise that right in the election."

I think that is a very good point that needs to be made because, as the son-in-law of candidate Violetta Chamorro said, clearly about 15 percent of the Nicaraguan population is not in Nicaragua.

That is going to be a big block of a vote. Obviously those 15 percent are not quite sympathetic to the kind of government which exists there. They have fled the repression of Daniel Ortega.

I yield to my friend from Indiana.

Mr. BURTON of Indiana. I have been waiting 45 minutes. May I just finish up?

Mr. DREIER of California. You will wrap it up then and we will have an opportunity to go to the leader of our delegation.

Mr. BURTON of Indiana. Two real quick points. No. 1, if the Sandinistas were to allow free and fair elections, which I do not believe they are going to do, they still control the military because their constitution says that the Sandinista party controls the military down there.

It is the same thing that goes on in the Soviet Union, Poland, and every place else. I think all of our colleagues ought to know that the Communists intend to keep control of Nicaragua no matter what happens. That will be the final point I make.

Mr. DREIER of California. I thank the gentleman. To wrap up, I would like to yield to our distinguished leader of the delegation, the gentleman from Florida [Mr. Goss].

Mr. GOSS. Mr. Speaker, I thank the gentleman for his kind remarks and the opportunity to present this tonight.

Our reason for being here is to, I hope, stimulate our colleagues to this challenge of going down there, being a part of this, understanding what is happening, and responding.

This to me is the last great chance for democratic elections, certainly for many years to come, in a neighboring country that is a very important country to us.

I happen to be from Florida. Central America is truly in my back yard. We share the Gulf of Mexico. That is not as important to me as the fact that there are an awful lot of good people in Nicaragua who want the chance to vote. This is the democratic hemisphere. I certainly believe we should assist in that effort.

I think we have a chance. I do not believe it will be easy. They have not had what you would call a free democratic election in Nicaragua in a great number of years, 30 or more. Some people could contest even that differently. My colleague from California has pointed out to me that the elections in 1984 were very largely regarded as a total sham. I believe even the opposition withdrew, it was so bad.

Finally, I think there is a very clear distinction here. We have a Marxist totalitarian government that wants to

stay in power which has said that even if it loses the election it is going to try to find a way to stay in power. They are not going to give it up easily. We have some democratic people who are trying to get together, very much like the people who founded our country 200 years ago, who got together and made their act work and bought, for us, democracy.

I think that is what is at stake here.

Mr. DREIER of California. I thank the gentleman for his excellent contribution and the leadership that he showed us. I could not say it any better.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LIGHTFOOT (at the request of Mr. MICHEL) for today on account of illness in the family.

Mr. JACOBS (at the request of Mr. GEPHARDT) for today on account of family matters.

Mrs. LLOYD (at the request of Mr. GEPHARDT) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. DREIER of California, for 60 minutes, today.

Mr. DANNEMEYER, for 60 minutes, today.

Mr. MCEWEN, for 60 minutes, today.

(The following Members (at the request of Mr. MRAZEK) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. DE LUGO, for 60 minutes, each day on October 3, 4, and 5.

Mr. JONTZ, for 60 minutes, on October 4.

Mr. LIPINSKI, for 5 minutes, each day on October 3, 10, 17, 24, and 31.

Mr. LIPINSKI, for 60 minutes, each day on October 4, 11, 18, and 25.

(The following Members (at the request of Mr. MCEWEN) to revise and extend their remarks and include extraneous material:)

Mr. CLINGER, for 5 minutes, today.

Mr. BURTON of Indiana, for 60 minutes, on October 5.

(The following Member (at the request of Mr. ENGEL) to revise and extend his remarks and include extraneous material:)

Mr. UDALL, for 5 minutes, today.

(The following Member (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 60 minutes, on October 6.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mrs. ROS-LEHTINEN.

Mr. ROWLAND of Connecticut.

Mr. DORNAN of California.

Mrs. BENTLEY.

Mr. LENT.

(The following Members (at the request of Mr. MRAZEK) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mrs. LLOYD in five instances.

Mr. HAMILTON in 10 instances.

Mr. DE LA GARZA in 10 instances.

Mrs. BOXER.

Mr. FLORIO.

Mr. MCMILLEN of Maryland.

Mr. CROCKETT.

Mr. GAYDOS.

Mr. MATSUI.

Mr. UDALL.

Mr. FAUNTROY.

Mr. CLEMENT.

Mr. LANTOS in two instances.

Mr. MURTHA.

Mr. RANGEL.

Mr. YATRON in two instances.

(The following Members (at the request of Mr. MCEWEN) and to include extraneous matter:)

Mr. LENT.

Mrs. MORELLA.

(The following Members (at the request of Mr. ENGEL) and to include extraneous matter:)

Mr. ROE in two instances.

Mr. KANJORSKI.

Mr. MRAZEK.

Mrs. BOGGS.

Mr. BROWN of California.

Mr. PALLONE.

Mr. CLEMENT.

SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 974. An act to designate certain lands in the State of Nevada as wilderness, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

S. 1364. A bill to establish a Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives; to the Committee on Interior and Insular Affairs.

S.J. Res. 209. Joint resolution to designate November 11, 1989, as "Washington Centennial Day"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled joint resolutions of the Senate of the following titles:

S.J. Res. 81. Joint resolution to designate the week of October 1 through 7, 1989, as "National Health Care Food Service Week,"

S.J. Res. 117. Joint resolution to designate the week of November 19, 1989, through November 25, 1989, and the week of November 18, 1990, through November 24, 1990, as "National Family Week;"

S.J. Res. 133. Joint resolution designating October 1989 as "National Domestic Violence Awareness Month;"

S.J. Res. 138. Joint resolution designating October 16, 1989, and October 16, 1990, as "World Food Day;" and

S.J. Res. 148. Joint resolution to designate the week of October 8, 1989, through October 14, 1989, as "National Job Skills Week."

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and joint resolution of the House of the following title:

On September 28, 1989:

H.J. Res. 407. Joint resolution making continuing appropriations for the fiscal year 1990, and for other purposes; and

H.R. 283. An act to provide for the relocation of certain facilities at the Gateway National Recreation Area, Sandy Hook, NJ, and for other purposes.

On September 29, 1989:

H.R. 3282. An act to amend title 5, United States Code, to authorize the continuation of the performance management and recognition system through March 31, 1991, and for other purposes.

ADJOURNMENT

Mr. GOSS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 6 minutes p.m.), the House adjourned until tomorrow, Tuesday, October 3, 1989, at noon.

OATH OF OFFICE MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will

bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Members of the 101st Congress, pursuant to the provisions of 2 U.S.C. 25:

Hon. GARY CONDIT, 15th District, California.

Hon. PETE GEREN, 12th District, Texas.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1757. A letter from the Administrator, Environmental Protection Agency, transmitting the annual report on conditional registration of pesticides during fiscal year 1988, pursuant to 7 U.S.C. 136w-4; to the Committee on Agriculture.

1758. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Korea for defense articles estimated to cost $50 million or more (Transmittal No. 89-42), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

1759. A letter from the Auditor, District of Columbia, transmitting a copy of the report entitled, "D.C. Auditor's evaluation of the Tenant Assistance Program Administration and Operations," pursuant to D.C. Code, section 47-117 (d); to the Committee on the District of Columbia.

1760. A letter from the Auditor, District of Columbia, transmitting a copy of the report entitled, "Review of Payments, Payment Standards and Internal Controls of the Tenant Assistance Program," pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

1761. A letter from the Chairman, National Council on Vocational Education, transmitting the Council's 1988 annual report, pursuant to 20 U.S.C. 2341(g); to the Committee on Education and Labor.

1762. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed letter(s) of offer and acceptance [LOA] to Korea for defense articles and services (Transmittal No. 89-41), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1763. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Korea for defense articles and services (Transmittal) No. 89-42), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1764. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed contract for the export of defense articles and defense services for the Japanese Defense Agency, pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

1765. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Bahrain for defense articles and services estimated to cost $33 million (Transmittal No. 89-38), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1766. A letter from the Assistant Secretary Legislative Affairs, Department of State, transmitting the semiannual reports for the period October 1988-March 1989 listing voluntary contributions by the United States to international organizations, pursuant to 22 U.S.C. 2226(b)(1); to the Committee on Foreign Affairs.

1767. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

1768. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued by GAO during July 1989, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

1769. A letter from the Librarian of Congress, transmitting the report of the activities of the Library of Congress, including the Copyright Office, for the fiscal year ending September 30, 1988; accompanied by a copy of the annual report of the Library of Congress Trust Fund Board, pursuant to 2 U.S.C. 163; to the Committee on House Administration.

1770. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's report entitled, "Effectiveness of the Innovative and Alternative Wastewater Treatment Technology Program," pursuant to Public Law 100-4, Section 517(b) (101 Stat. 86); to the Committee on Public Works and Transportation.

1771. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to extend the Federal Aviation Administration's Civil Penalty Assessment Demonstration Program; to the Committee on Public Works and Transportation.

1772. A letter from the Chairman, U.S. International Cultural and Trade Center Commission, transmitting a draft of proposed legislation to make technical amendments to the Federal Triangle Development Act, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YATES: Committee of conference. Conference report on H.R. 2788 (Rept. 101-264). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. OBEY:

H.R. 3385. A bill to provide assistance for free and fair elections in Nicaragua; jointly, to the Committees on Appropriations and Foreign Affairs.

By Mr. CLINGER (for himself, Mr. MOLINARI, and Mr. BORSKI):

H.R. 3386. A bill to prohibit the use of refrigerated motor vehicles for the transportation of solid waste, to prohibit the use of cargo tanks in providing motor vehicle transportation of food and hazardous materials, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. HATCHER (for himself, Mr. FALEOMAVAEGA, Mr. TOWNS, Mr. DARDEN, Mr. STUMP, Mr. BARNARD, Mr. HORTON, Mr. GRANT, Mr. RAY, Mr. SKEEN, Mr. HUCKABY, Mr. JENKINS, Mr. SYNAR, Mr. ESPY, Mr. FAUNTROY, Mr. LEWIS of Florida, Mr. ROWLAND of Georgia, Mr. HARRIS, Mr. LANCASTER, Mr. TALLON, Mr. THOMAS of Georgia, Mr. LEWIS of Georgia, and Mr. HAYES of Louisiana):

H.R. 3387. A bill to provide for the establishment of a coordinated program of promotion and research designed to strengthen the position of the pecan industry in the marketplace, to maintain and expand foreign and domestic markets and uses for improved and native pecans and pecan products, and for other purposes; to the Committee on Agriculture.

By Mr. KANJORSKI:

H.R. 3388. A bill to provide for greater accountability for Federal Government foreign travel; jointly, to the Committees on Government Operations, the Judiciary, and House Administration.

By Mr. LEWIS of Georgia (for himself and Mr. SHAW):

H.R. 3389. A bill to amend title 23, United States Code, to limit outdoor advertising adjacent to interstate and Federal-aid primary highways; to the Committee on Public Works and Transportation.

By Mr. PENNY (for himself and Mr. SMITH of New Jersey):

H.R. 3390. A bill to amend title 38, United States Code, with respect to certain veterans education programs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SCHUMER (for himself, Mr. RIDGE, and Ms. KAPTUR):

H.R. 3391. A bill to provide for increased safety and soundness of federally insured housing mortgage lending operations; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BROOKS (for himself, Mr. FISH, Mr. EDWARDS of California, and Mr. SENSENBRENNER):

H. Res. 251. Resolution amending the articles of impeachment impeaching Walter L. Nixon, Jr., judge of the U.S. District Court for the Southern District of Mississippi, of high crimes and misdemeanors; considered and agreed to.

H. Res. 252. Resolution providing that a message be sent to the Senate informing the Senate that the House of Representatives has adopted amendments to the articles of impeachment exhibited against Walter L. Nixon, Jr., a judge of the U.S. District Court for the Southern District of Mississippi; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

256. By the SPEAKER: Memorial of the Legislature of the State of California relative to student loans; to the Committee on Education and Labor.

257. Also, memorial of the Legislature of the State of California, relative to the Federal minimum wage; to the Committee on Education and Labor.

258. Also, memorial of the Legislature of the State of California, relative to Federal immigration reform; to the Committee on the Judiciary.

259. Also, memorial of the Legislature of the State of California, relative to the Columbia River basin anadromous fish; jointly, to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. BOXER:

H.R. 3392. A bill for the relief of Lois Evelyne Shaff; to the Committee on the Judiciary.

By Mr. SHUMWAY:

H.R. 3393. A bill for the relief of Brian Hildebrand; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 70: Mr. ROHRABACHER.

H.R. 145: Mr. HOAGLAND and Mr. MANTON.

H.R. 543: Mr. SAXTON.

H.R. 589: Mr. JONTZ.

H.R. 638: Mr. SKELTON.

H.R. 682: Mr. POSHARD.

H.R. 725: Mr. LAFALCE.

H.R. 917: Mr. JAMES and Mr. BONIOR.

H.R. 1134: Mr. EVANS and Mr. GINGRICH.

H.R. 1436: Mr. WELDON, Ms. PELOSI, and Mr. FAZIO.

H.R. 1515: Mr. PACKARD and Mr. POSHARD.

H.R. 1582: Mr. MARKEY and Mr. DELLUMS.

H.R. 2116: Mr. ORTIZ, Mr. HEFLEY, Mr. SARPALIUS, and Mr. LAUGHLIN.

H.R. 2181: Mr. BERMAN, Mr. HENRY, Mr. LOWERY of California, and Mr. HATCHER.

H.R. 2270: Mr. NELSON of Florida.

H.R. 2285: Mr. BILBRAY, Mr. DANNEMEYER, Mr. ROHRABACHER, Mr. HOCHBRUECKNER, and Mr. STARK.

H.R. 2529: Mr. LIPINSKI, Mr. DEFAZIO, Mr. MCNULTY, Mr. PRICE, Mr. STALLINGS, Mr. BONIOR, and Mrs. MARTIN of Illinois.

H.R. 2547: Mr. BRYANT.

H.R. 2664: Mr. MOODY and Mr. KASTENMEIER.

H.R. 2776: Mr. FOGLIETTA, Mr. GUARINI, Mr. KOSTMAYER, Mr. FAZIO, Mr. TOWNS, Mr. ANNUNZIO, Mr. OWENS of New York, Mr. GALLO, Mr. RITTER, Mr. BORSKI, Mr. FLORIO, Mrs. LOWEY of New York, Mr. WALGREN, and Mr. SAXTON.

H.R. 2972: Mr. SMITH of Vermont, Mr. BEREUTER, Mr. COURTER, Mr. DAVIS, Ms. OAKAR, Mr. HENRY, Mr. JAMES, Mr. MACHTLEY, Mr. STANGELAND, Mr. WYLIE, Mr. YOUNG of Florida, Mr. SAWYER, Mr. AUCOIN, and Mr. SCHULZE.

H.R. 3037: Mr. DAVIS, Mr. BRYANT, Mr. MARKEY, and Mr. SWIFT.

H.R. 3071: Mr. STALLINGS, Mr. WILSON, Mr. LANCASTER, and Mr. FALEOMAVAEGA.

H.R. 3079: Mr. ATKINS, Mr. GEJDENSON, and Mr. ARMEY.

H.R. 3093: Mr. BILBRAY, Mr. BROOKS, Mr. DEFAZIO, Mr. OWENS of New York, and Mr. PAYNE of Virginia.

H.R. 3122: Mr. VENTO, Ms. KAPTUR, Mrs. COLLINS, Mr. LANCASTER, and Mr. MILLER of Washington.

H.R. 3145: Mr. VALENTINE, Mr. GONZALEZ, and Mr. WOLPE.

H.R. 3154: Mr. GUARINI and Mr. TORRICELLI.

H.R. 3155: Mr. TOWNS, Mr. AKAKA, Mr. SIKORSKI, Mr. BOUCHER, Mr. OWENS of New York, Mr. STARK, Mr. BATES, Mr. MORRISON of Connecticut, Mr. WEISS, Mr. KLECZKA, Mr. BILBRAY, Ms. PELOSI, Mr. NEAL of Massachusetts, and Mr. WOLPE.

H.R. 3160: Mr. BRUCE, Mr. LANCASTER, and Mr. COURTER.

H.R. 3165: Mr. BUNNING.

H.R. 3171: Mrs. COLLINS, Mr. LEHMAN of Florida, and Ms. SLAUGHTER of New York.

H.R. 3267: Mr. BERMAN and Mr. LAGOMARSINO.

H.R. 3285: Mr. ROE, Mrs. KENNELLY, Mr. HYDE, Mr. CROCKETT, Mr. OWENS of New York, Mr. FORD of Tennessee, Mr. KOLTER, Mrs. COLLINS, Mr. CAMPBELL of Colorado, and Mr. FROST.

H.R. 3286: Mr. ROE, Mrs. KENNELLY, Mr. HYDE, Mr. CROCKETT, Mr. OWENS of New York, Mr. FORD of Tennessee, Mr. KOLTER, Mrs. COLLINS, Mr. CAMPBELL of Colorado, and Mr. FROST.

H.R. 3294: Mr. PENNY, Mr. SOLARZ, Mr. WEISS, Mr. ROSE, Mr. WOLPE, Mr. STARK, Mr. MANTON, Mr. HORTON, Mr. FUSTER, Mr. BUSTAMANTE, Mr. LEATH of Texas, Mr. JOHNSON of South Dakota, Mr. TORRES, Mr. MCMILLEN of Maryland, Mr. BATES, Mr. LEVINE of California, Mr. WILSON, Mr. TOWNS, Mr. NEAL of Massachusetts, Mr. BOEHLERT, Mr. FRANK, Mr. COLEMAN of Texas, Mr. WAXMAN, Ms. PELOSI, Mr. COYNE, Mr. LAFALCE, Mr. CONYERS, Mr. MCDERMOTT, Mr. BENNETT, Mr. AUCOIN, and Mr. PICKLE.

H.R. 3296: Mr. SMITH of Florida, Mrs. BOXER, Mr. PALLONE, Mr. PANETTA, Mr. SIKORSKI, Mr. HAWKINS, and Mr. MCDERMOTT.

H.R. 3300: Mr. SMITH of New Jersey, Mr. EDWARDS of Oklahoma, Mr. SCHUETTE, Ms. SNOWE, and Ms. KAPTUR.

H.R. 3307: Mr. BERMAN, Mr. BUSTAMANTE, Mr. CARDIN, Mr. FUSTER, Mr. NEAL of Massachusetts, Mr. NOWAK, and Mr. SIKORSKI.

H.R. 3321: Mr. COMBEST, Mr. ROBERTS, Mr. HANCOCK, Mr. ROBERT F. SMITH, Mr. SMITH of Texas, and Mr. OXLEY.

H.J. Res. 185: Mr. WHEAT, Mr. JENKINS, Mr. SABO, Mr. KLECZKA, Mr. AUCOIN, Mr. HANSEN, Mr. MOAKLEY, Mr. GUNDERSON, Mr. DONNELLY, Mr. LIVINGSTON, Mr. MOLINARI, Mrs. PATTERSON, Mr. MARKEY, Mr. SMITH of Florida, Mr. PACKARD, Mr. GONZALEZ, Mr. TRAFICANT, Mr. COUGHLIN, Mr. DEFAZIO, Mr. YOUNG of Florida, Mr. COURTER, Mr. DUNCAN, Mrs. ROUKEMA, Mrs. LOWEY of New York, and Mr. HAYES of Louisiana.

H.J. Res. 198: Mr. COSTELLO, Mr. TOWNS, Mr. NEAL of Massachusetts, Mr. MURPHY, Mr. TAUKE, Mrs. JOHNSON of Connecticut, Mr. HORTON, Mr. FAWELL, Mr. GUNDERSON, Mr. MARTIN of New York, Mr. WOLF, Mr. HANSEN, Mr. MCDADE, Mr. ROBERTS, Mr. VANDER JAGT, Mr. HARRIS, Mr. DE LUGO, Mr. BEVILL, Mr. YOUNG of Alaska, Mr. PASHAYAN, Mr. BLILEY, Mr. PAYNE of New Jersey, Mr. RICHARDSON, Mr. HENRY, Mr. DEFAZIO, Mr. RAHALL, Mr. CONTE, Mr. DINGELL, Mr. DWYER of New Jersey, Mr. SISISKY, Mr. FASCELL, Mr. REGULA, Mr. GORDON, Mr. HILER, Mr. HAYES of Louisiana, Mr. BENNETT, Mrs. SAIKI, Mr. JONTZ, Mr. PALLONE, Mr. SAXTON, Mr. BOUCHER, Mr. ERDREICH, Mr. GALLEGLY, Ms. PELOSI, Mrs. BOXER, Mr. ROE, Ms. KAPTUR, Mr. TRAFICANT, Mr. SHAW, Mr. HAYES of Illinois, Mr. SCHAEFER, Mr. APPLEGATE, Mr. BERMAN, Mr. BILBRAY, Mr. ANDERSON, Mr. BOSCO, Mrs. BYRON, Mr. ROWLAND of Connecticut, Mr. ESPY, Mr. RANGEL, Mrs. KENNELLY, Mr. GONZALEZ, Mr. HUGHES, Mr. MCNULTY, Mr. FAZIO, Mr. DE LA GARZA, Mr. OBEY, Mr. GEJDENSON, Mr. COLEMAN of Texas, Mrs. COLLINS, Mr. OWENS of New York, Mr. DEWINE, Mr. DORNAN of California, Mr. FISH, Mr. FOGLIETTA, Mr. MCEWEN, Mr. JONES of Georgia, Mr. FLIPPO, Mr. SAVAGE, Mr. GRANDY, Mr. VENTO, Mr. OXLEY, Mr. FRENZEL, Mr. NEAL of North Carolina, Mr. EVANS, Mr. DYMALLY, Mr. BRUCE, Mr. BUSTAMANTE, Mr. BROWN of Colorado, Mr. SARPALIUS, Mr. LIPINSKI, Mr. ROGERS, Mr. MCCLOSKEY, Mrs. MEYERS of Kansas, Mr. OWENS of Utah, Mr. SCHUMER, Mr. SKELTON, Mr. SOLARZ, Mr. TRAXLER, Mr. WALGREN, Mr. WILSON, Mr. WYDEN, Mr. WYLIE, Mr. YATRON, Mr. RUSSO, Mr. EMERSON, Mr. GINGRICH, Mr. WISE, Mr. CHAPMAN, Mr. GARCIA, Mr. ENGLISH, Mr. HEFNER, Mr. HOPKINS, Mr. HYDE, Mr. KOLTER, Mr. LAGOMARSINO, Mr. LEVIN of Michigan, Mr. POSHARD, Mr. BROWDER, Mr. LANCASTER, Mr. NAGLE, Mr. EARLY, Mr. NIELSON of Utah, Mr. HUCKABY, Ms. SLAUGHTER of New York, Mr. HAMMERSCHMIDT, Mr. GOODLING, Mr. ROBERT F. SMITH, Mr. BROWN of California, Mr. SMITH of Florida, Mr. KOSTMAYER, Mr. DICKS, Mr. CHANDLER, Mr. TAUZIN, Mr. BRENNAN, Mr. SCHUETTE, Mr. CALLAHAN, Mr. FALEOMAVAEGA, Mr. BURTON of Indiana, Mr. LEVINE of California, Mr. JOHNSON of South Dakota, Mr. DENNY SMITH, Mr. BALLENGER, Mr. RITTER, Mr. BATES, Mr. HATCHER, Mr. MILLER of Washington, Mr. MCGRATH, Mr. DARDEN, Mr. WAXMAN, Mr. KASICH, Mr. LANTOS, Mr. KASTENMEIER, Mr. CONDIT, Mr. SKEEN, Mr. SAWYER, Mrs. MARTIN of Illinois, Mr. ROBINSON, Mr. SKAGGS, and Mr. WEISS.

H.J. Res. 209: Mr. ACKERMAN, Mr. ATKINS, Mr. BOEHLERT, Mr. CLAY, Mr. CLINGER, Mr. COX, Mr. CRAIG, Mr. DREIER of California, Mr. FRENZEL, Mr. GRANT, Mr. HAMMERSCHMIDT, Mr. HASTERT, Mr. HAWKINS, Mr. HERGER, Mr. HOYER, Mr. JENKINS, Mr. JONTZ, Mr. KLECZKA, Mr. LEHMAN of California, Mr. MOORHEAD, Mr. NEAL of North Carolina, Mr. PETRI, Mr. PORTER, Mr. POSHARD, Mr. ROHRABACHER, Mr. ROWLAND of Connecticut, Mr. SHUSTER, Mr. STARK, Mr. UPTON, Mr. WAXMAN, Mr. RHODES, Mr. BONIOR, Mr. DICKINSON, Mr. BUECHNER, Mr. KASTENMEIER, and Mr. CONDIT.

H.J. Res. 214: Mr. FAWELL and Mr. FUSTER.

H.J. Res. 241: Mr. EVANS, Mr. MCMILLEN of Maryland, Mr. WHEAT, Ms. PELOSI, Mr. TORRICELLI, Mr. SOLOMON, Mr. RITTER, Mr. SAWYER, Mr. ROE, Mr. GRAY, Mr. ATKINS, Mr. MURPHY, Mr. BOUCHER, Mr. MANTON, Mr. MFUME, Mr. VALENTINE, Mr. PANETTA, and Mr. GORDON.

H.J. Res 242: Mr. RHODES and Mr. ENGEL.

H.J. Res. 346: Mr. BRENNAN, Mr. ASPIN, Mr. OWENS of New York, Mr. NIELSON of Utah, Mr. SMITH of Vermont, Mr. DEWINE, Mr. LANCASTER, Mr. MADIGAN, Mr. GOODLING, Mr. FASCELL, Mr. CARPER, Mr. MILLER of Washington, and Mr. WOLPE.

H.J. Res. 369: Mr. BORSKI, Mr. BATEMAN, Mr. WALGREN, Mr. CHAPMAN, Mr. DINGELL, Mr. GORDON, Mr. HAYES of Louisiana, Mr. INHOFE, Mr. MAVROULES, Mr. NAGLE, Mr. NELSON of Florida, Mr. OWENS of New York, Mr. QUILLEN, Mr. SAXTON, Ms. SLAUGHTER of

New York, Mr. STENHOLM, and Mr. TRAFICANT.

H.J. Res. 373: Ms. SLAUGHTER of New York, Ms. OAKAR, Mr. BILIRAKIS, Mr. ARCHER, Mr. FRENZEL, and Mr. RHODES.

H.J. Res. 401: Mr. BOUCHER, Mr. BRENNAN, Mr. COX, Mr. FRANK, Mr. HANCOCK, Mr. JOHNSTON of Florida, Ms. LONG, Mr. MCCURDY, Ms. PELOSI, Mr. ROWLAND of Connecticut, Mr. SMITH of Florida, Mr. GEREN, Mr. SANGMEISTER, Mr. FORD of Tennessee, Mr. ROYBAL, Mr. SLATTERY, Mr. NIELSON of Utah, Mr. BERMAN, Mr. WILSON, Mr. KOSTMAYER, Mrs. SAIKI, Ms. SLAUGHTER of New York, Mr. SAXTON, Mr. HILER, Mr. ANNUNZIO, Mr. HASTERT, Mr. GALLEGLY, Mr. DURBIN, Mr. MCHUGH, Mr. MARTINEZ, Mr. BORSKI, Mr. ASPIN, Mr. TORRICELLI, Mr. GALLO, Mr. DWYER of New Jersey, Mr. FAUNTROY, Mr. GARCIA, Mr. GEKAS, Mr. BROWN of California, Mr. BRUCE, Mr. CARDIN, Mr. COLEMAN of Texas, Mr. ERDREICH, Mr. NAGLE, Ms. OAKAR, Mr. RAY, Mr. SISISKY, Mr. SPRATT, Mr. STAGGERS, Mr. STENHOLM, Mr. INHOFE, Mr. BOSCO, Mr. WAXMAN, Mr. LEVINE of California, Mr. DYMALLY, Mr. RUSSO, Mr. PERKINS, Mr. SIKORSKI, Mr. WEISS, Mr. HOYER, Mr. HOAGLAND, Mr. MORRISON of Connecticut, Mr. SAVAGE, Mr. HYDE, Mr. BUSTAMANTE, Mr. DEFAZIO, Mr. OBEY, Mr. HOCHBRUECKNER, Mr. BUECHNER, Mr. BLILEY, Mr. STALLINGS, Mr. ANDREWS, Mr. DOUGLAS, Mr. HATCHER, and Mr. LAGOMARSINO.

H.J. Res. 411: Mr. LEACH of Iowa.

H.Con. Res. 149: Mr. APPLEGATE, Mr. AKAKA, Mr. KOSTMAYER, Mr. GOSS, Mr. SOLOMON, Mr. WATKINS, Mr. MCMILLEN of Maryland, Mr. MCDERMOTT, Mr. ANDREWS, Mr. DARDEN, Mr. GEREN, Mr. ALEXANDER, Mr. ESPY, Mr. HOLLOWAY, and Mr. DINGELL.

H.Con. Res. 177: Mr. HORTON, Mr. MAZZOLI, Mr. BUSTAMANTE, and Mr. GEKAS.

H.Con. Res. 197: Mr. ROE, Mrs. KENNELLY, Mr. HYDE, Mr. CROCKETT, Mr. OWENS of New York, Mr. FORD of Tennessee, Mr. KOLTER, Mrs. COLLINS, Mr. CAMPBELL of Colorado, and Mr. FROST.

H.Con. Res. 200: Mr. FAUNTROY AND Mr. ATKINS.

H. Res. 193: Mr. DELLUMS, Mr. SAXTON, Mr. MARTINEZ, and Mr. SMITH of Vermont.

EXTENSIONS OF REMARKS

DEVELOPMENTS IN THE NICARAGUAN ELECTORAL PROCESS

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. CROCKETT. Mr. Speaker, this is another in a series of statements on the Nicaraguan electoral process, designed to provide my colleagues with the objective information about that process so that we can better judge its legitimacy.

On August 4, the government of Nicaragua and the Nicaraguan opposition parties entered into a historic agreement on procedures for a free and fair election. I wish to share the text of that agreement with my colleagues so they can judge it for themselves.

The agreement follows:

POLITICAL AGREEMENT

On August 3 and 4, 1989, the President of the Republic of Nicaragua, Commander of the Revolution Daniel Ortega Saavedra, and representatives of the legally constituted political parties gathered in the Olof Palme Convention Center in Managua, capital of the Republic, successfully concluded a National Dialogue carried out in fulfillment of the agreements subscribed by the Central American Presidents on February 14 of this year in Costa del Sol, El Salvador.

The National Assembly directorate, the Supreme Court and the Supreme Electoral Council were present throughout the National Dialogue. Observers from the United Nations, the Organization of American States, the Center for Democracy and members of the honorable accredited diplomatic corps also attended.

As a result of the National Dialogue, widely covered by the national and international media, the President of the Republic and the representatives of the political parties hereby:

AGREE

I. To affirm before the Nicaraguan people and international public opinion, the common will to contribute to the success of the peace efforts that will reach a decisive moment at upcoming Central American Presidential Summit to take place in Tela, Honduras.

In this context, the Government of Nicaragua and the political parties call upon the Central American Presidents to approve the plan for the demobilization and voluntary relocation or repatriation of the irregular forces located in Honduran territory, in keeping with the Costa del Sol Agreement and in the framework of the Esquipulas II agreements.

The Government of Nicaragua commits itself to promulgate a broad and unconditional amnesty law for those persons detained or being sought for having violated the Law for the Maintenance of Order and Public Security and related legislation, which would enter into effect upon completion of the Plan for the Demobilization and Voluntary relocation or Repatriation.

II. The political parties call upon the Governments with interests in the Central American region to abstain from covert activities in the Nicaraguan electoral process.

All material support for political parties and alliances that participate in the elections should be undertaken in accordance with Nicaraguan Law.

III. The Government of Nicaragua and the political parties commit themselves to consolidate the necessary legal and political conditions for the development of a free and just electoral process, with equal guarantees for all participating parties.

The political parties pledge, therefore, to submit lists of citizens for the formation of the Ballot Receiving Boards as stipulated in the Electoral Law.

IV. The President of the Republic:

1. Will carry out a recruitment rescheduling for the Patriotic Military Service in such a way as to guarantee that no recruitment will take place in the period between September 1989 to February 1990.

2. Will immediately introduce legislation in the National Assembly to reform the Public Media and Social Communication Law so that in matters pertaining to elections, the application of this Law shall be governed directly by the Supreme Electoral Council.

3. Will immediately introduce legislation in the National Assembly to rescind Decree 10-74 (Law for the Maintenance of Order and Public Security). He will likewise introduce legislation in the National Assembly to reform Article 494 of the Penal Code.[1]

4. Will immediately introduce legislation in the National Assembly to amend the Law on Jurisdictional Duties of the Sandinista Police, rescinding the parts granting its jurisdiction.

5. In compliance with Numeral 2.1.2 of Article 218 of the Electoral Law, thirty minutes of continuous air time will be allotted, from Monday through Saturday, for informational purposes to all participating parties or alliances on Channel 2 of the Sandinista Television System during the period of August 25 through December 2, 1989. This period of free airspace will be programmed between 6:00 and 9:00 P.M. by the Supreme Electoral Council in consultation with the political parties or alliances, in accordance with Article 109, paragraph 2 of the Electoral Law.

6. Will request the directorate of the National Assembly to immediately initiate the debate and approval of the Civil Service Law.

7. The Government of Nicaragua will immediately release prisoners sentenced for activities in violation of the Law on the Maintenance of Order and Public Safety that are in a poor state of health as certified by the Human Rights and Peace Commission of the National Assembly or in the procedure established in the Penal Code.

8. The Government of Nicaragua will review the release of prisoners contained in lists submitted by political parties that subscribe the present agreement in which they demonstrate that the said prisoners are members of the corresponding political parties and are all detained for political activities.

9. The Government reaffirms the guarantees for the different types of property, therefore they are not subject to confiscations, expropriations of interference on account of strictly political factors.

V. The President of the Republic and the political parties signatories of this Accord agree that the President and Vice-President of the Republic to be elected by popular vote in the February 25, 1990 elections will assume office on April 25 of the same year, following the procedures stipulated in Article 149 of the Constitution.[2]

The Government and political parties suscribing this accord undertake to support the expedited approval of a transitory disposition of the Constitution for the exclusive purpose of facilitating the assuming of Office of the elected representatives to the National Assembly on April 24.

VI. The political parties signatories to this Accord, with the support of the President of the Republic, propose to the Supreme Electoral Council, the following:

1. To submit the catalogue with the lists of registered voters to each party or alliance participating in the electoral process no later than 60 days before the elections.

2. To submit copies of opening and closing registration, founding and closing of the vote, vote counting and voting vouchers in each of the Ballot Receiving Boards to each of the poll-watchers of each political party or alliance.

To prepare duplicates of the election catalogues, one of which is to stay in the Supreme Electoral Council and the other in the corresponding Regional Electoral Council, starting from the period of voter registration up until three months after the election.

4. Once the vote tally has been concluded, that one or two of the political parties or alliances' poll-watchers in the Ballot Receiving Board be allowed to travel with the sealed packages of election documents to assure their safety, in order that these be recounted in the Regional Electoral Councils.

5. That the Supreme Electoral Council continue its efforts with foreign governments and international organizations to obtain technical and financial assistance in

[1] Article 494 of the Penal Code refers to the penalty for inciting unrest or crime. According to the Penal Code the maximum sentence for such action is two months. Under the Law for Maintenance of Public Order, the maximum sentence for such activities is two years.

[2] Article 149 of the Constitution establishes the procedure to follow when both the President and Vice-President are indefinitely removed from office. Under the terms established, the President of the National Assembly would temporarily assume the duties of the President and must name within 72 hours someone to fulfill the Office of the Executive. Under the Agreement offered by President Ortega, the incoming President and Vice-President would assume office on April 25. In effect, he would hold office for a 7 year period, the 10 months remaining in the current term and the subsequent 6 year term.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

order to initiate a permanent identification system for Nicaraguan citizens that will be completed before the 1996 elections.

6. To maintain the guarantee that voting places will not be established within military installations and that military personnel register and exercise their right to vote in the nearest corresponding Ballot Receiving Board.

To prohibit the use of public buildings for election campaigning.

7. To prohibit the use of public buildings for election campaigning.

8. To make an appeal to all written media not to deny carrying the propaganda of any political party or alliance.

9. That the allotted time in the communications media be distributed equally among parties and alliances.

10. To effectively enforce the prohibition on the use of State property and goods for party campaign purposes.

11. To guarantee the right to campaign wherever citizens with right to vote may reside.

12. To guarantee the right of poll-watchers to inspect the ballot box before the voting takes places.

13. To submit demarcation of each one of the Ballot Receiving Boards to the political parties or alliances no later than 10 days prior to the initiation of the voter registration.

14. To guarantee that public employees do not conduct political party activities during office hours. No public or private employer may obligate his employees to carry out political campaigning.

15. To establish September 29 as the registration date for candidates to the National Assembly.

16. To establish the rates for air time on the radio and television that shall remain in effect during the election campaign period.

17. To organize a national seminar of multipliers for the poll-watchers of the political parties and alliances.

18. That the Supreme Electoral Council extend the period for the presentation of pollwatchers from the political parties or alliances, and that these be freely designated by the political parties alliances.

The credentials sent by the political parties should be initialed immediately and sealed in the corresponding Regional Electoral Council.

19. To guarantee freedom so that all parties or alliances may conduct opinion polls without any legal restrictions whatsoever with the sole exception being the full publication of the questions and technical details of the poll.

20. To guarantee compliance with Article 206 of the Electoral Law regarding petroleum, lubricants and supplies for election propaganda.

21. To grant election campaign financing no later than 8 days after the registration of candidates for the Presidency and Vice-Presidency.

22. To guarantee free access of official observers to the Ballot Receiving Boards, Regional Tally Centers and the National Tally Center as well as to election documents and activity of legally registered parties.

23. When voting, nail polish remover will be applied followed by indelible ink to stain the voter's finger.

24. When in a single Ballot Receiving Board more than 400 citizens register to vote, new booths for secret voting will be installed providing also sufficient identification lists and ballot boxes so that the voting may finish in the foreseen time frame established in the Law.

25. That a secret vote be guaranteed, and that the vote count be done in the presence of Ballot Receiving Board members and their alternates, poll watchers and observers.

26. To guarantee access to the Regional and National Tally Centers for Presidential and Vice-Presidential candidates, and board members of political parties and alliances registered in the election process.

27. That Electoral organism administrative personnel be appointed on a pluralist basis.

28. To ensure stipends and transportation costs for the poll-watchers of the parties in the Ballot Receiving Boards.

29. To carry out voter registration during the first four Sundays of October 1989.

30. The Supreme Electoral Council will establish a Consultative Body made up of seven members chosen on a pluralist basis in accordance with Article 203 of the electoral Law.

The Conservative Democratic Party registers its disagreement with the second paragraph of point V relating to the assuming of office of the elected representative to the National Assembly.—Managua, August 4, 1989.

Daniel Ortega Saavedra, President of the Republic of Nicaragua.

Legal representatives of the parties:

Bayardo Arce Castano, Commander of the Revolution, Sandinista National Liberation Front.

Lic. Erick Ramirez, Social Christian Party.

For the parties:

National Conservative Party.
National Action Party.
Independent Liberal Party.
Communist Party of Nicaragua.
Nicaraguan Socialist Party.
National Confidence Democratic Party.
Popular Social Christian Party.
Conservative Popular Alliance Party.
Social Democratic Party.
Neo Liberal Party.
Nicaraguan Democratic Movement.
Liberal Constitutional Party.
Dr. Silviano Matamoros.
Ing. Jaime Bonilla.
Dr. Duilio Baltodano.
Eli Altamirano.
Lic. Luis Sanchez.

Dr. Eduardo Coronado, Liberal National Unity Party.

Lic. Blanca Rojas, Central American Unionist Party.

Jose Maria Zavala, Social Conservatism Party.

Dr. Clemente Guido, Conservative Democratic Party.

ST. MARY'S ROMAN CATHOLIC CHURCH CELEBRATES 125TH ANNIVERSARY

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. YATRON. Mr. Speaker, it is with great pleasure that I take this moment to recognize the 125th anniversary of St. Mary's Roman Catholic Church in Saint Clair, Schuylkill County, PA.

St. Mary's was established in 1864 by the Most Reverend James F. Wood. Since its founding, St. Mary's has been an integral part of the Saint Clair community, providing a place of worship for its parishioners and serving as an ambassador of faith and goodwill for all citizens for Saint Clair surrounding areas.

Today, St. Mary's Roman Catholic Church is one of the most recognized institutions in Schuylkill County. The current pastor, the Reverend Francis Schoenauer, and the congregation of St. Mary's continue to serve God by spreading his word and administering His faith to others. Indeed, the 125th anniversary of St. Mary's is a celebration of this service as well as a celebration for God.

On Sunday, October 29, 1989, the congregation of St. Mary's will celebrate their 125th anniversary by holding a Mass of Thanksgiving followed by a special dinner. I congratulate Father Schoenauer as well as the entire congregation of St. Mary's on this special occasion and wish them continued success in the future.

TRIBUTE TO NINA LAGERGREN, SISTER OF RAOUL WALLENBERG, AND TO THE SWEDISH RAOUL WALLENBERG ASSOCIATION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. LANTOS. Mr. Speaker, this week we will mark the eighth anniversary of the signing of historic legislation making Raoul Wallenberg an honorary citizen of the United States. Wallenberg—the hero of the Holocaust who saved over 100,000 men, women, and children from Nazi butchers in Budapest during World War II and who now has been a prisoner in the Soviet Union for 44 years—was the second person after Sir Winston Churchill to be so honored by the American people.

Mr. Speaker, when Raoul Wallenberg was abducted by Soviet officials in January 1945, he was swallowed up into the horrors of the Soviet gulag. But there have been numerous credible reports, some very recent, that Wallenberg is still alive in Soviet prisons. Despite this, Soviet officials continue to claim that he died in 1947.

Over the 44 long years since Raoul Wallenberg was last free, many people have fought for his release—but none have worked more diligently than Wallenberg's half-sister, Nina Lagergren.

Nina worked with her mother and father for the release of Wallenberg by calling attention to his situation and urging Soviet officials to review his case. This task was not an easy one: not only did the Soviets refuse to cooperate, but also Swedish officials at that time were less than accommodating and were not anxious to deal with the Wallenberg case. Since her parents' death in February 1979, Nina and her brother Dr. Guy von Dardel, have continued that struggle alone. In the summer of 1979, they established the Swedish Raoul Wallenberg Association. Over the last decade more than 3,000 people have joined the association to help in the fight to free Wallenberg.

Nina has been one of the most vocal advocates for the release of her half-brother. She

was the moving force behind the well-known-Stockholm Tribunal where, for the first time in history, all available information concerning Wallenberg was made public and brought to the attention of the media. She also participated in the international hearing in Copenhagen of the Sakharov Commission and the international human rights conference in Madrid.

Nina has made frequent visits to the United States to win the support of Members of Congress, Senators, and administration officials. She came to the United States in the summer of 1979 and gave invaluable help to my wife, Annette, in establishing the Free Wallenberg Committee of the United States, the first Wallenberg committee established in our country. The honorary chairmen of that committee were Senators Frank Church, CLAIBORNE, PELL, DANIEL PATRICK MOYNIHAN, and RUDY BOSCHWITZ.

In recognition of Mrs. Lagergren's extensive efforts to call attention to the plight of her brother, she and her brother Guy von Dardel, were invited to participate in the signing by President Reagan of my legislation making Wallenberg an honorary U.S. citizen.

Mr. Speaker, Nina Lagergren and Sonja Sonnenfeld, the distinguished secretary of the Swedish Raoul Wallenberg Association, will join us here in Washington for events this week to mark the eighth anniversary of the signing of the Wallenberg honorary citizenship legislation. Mrs. Sonnenfeld has also given many years of hard work and tireless dedication to freeing Raoul Wallenberg.

Their visit to Washington this week is most timely. She and Mrs. Sonnenfeld, Nina's brother Guy von Dardel, and Ambassador Per Anger, who was involved in Wallenberg's life-saving activities in Budapest in 1944, have been invited to visit the Soviet Union later this month. We are hopeful that their visit will in fact lead to the release of Wallenberg and to confirmation of his imprisonment in the Soviet Union for nearly 45 years.

Mr. Speaker, I invite my colleagues to join me in paying tribute to Nina Lagergren, Sonja Sonnenfeld, and the Swedish Raoul Wallenberg Association.

CHILDREN'S NATIONAL MEDICAL CENTER COMMEMORATES CHILD HEALTH DAY 1989

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. FAUNTROY. Mr. Speaker, today our Nation observes Child Health Day 1989, in honor of which communities all across the country are focusing On health care issues critical to the well-being of our children and families. This year's theme for Child Health Day is "First Step to the Future: Prenatal Care for All." Setting this goal to ensure universal access to quality prenatal care and to medical attention during the critical early stages of an infant's life is a fundamental and significant step toward reducing infant mortality and improving the health of mothers and babies nationwide.

As we commemorate Child Health Day 1989 in the District of Columbia, I would like to recognize the dedicated work of Children's National Medical Center, affectionately known here in the District of Columbia as Children's Hospital, as an innovator and national leader in child health care. For nearly 120 years now, Children's National Medical Center has been a champion of children's rights to accessible, dependable, competent medical care; and it is the preeminent provider of quality health care services to infants, children, and young people throughout the metropolitan Washington area. Through its excellent research and education programs, as well as through political advocacy, Children's Hospital plays a central role in working to reduce the District of Columbia's alarmingly high infant mortality rate.

One program worthy of special note is the Perinatal Outreach Project, managed by Children's Hopital's Home Health Care Services in conjunction with the District of Columbia Department of Human Services. Through this program, Children's Home Health Care Services provides a variety of professional services to prenatal and postpartum mothers, and to newborns, who are at risk for unfavorable pregnancy or life expectancy or life expectancy outcomes. Home Health Care Services also treats children at home for a variety of illnesses; in 1988 alone, more than 500 patients benefited from over 10,000 home visits.

Additionally, the Perinatal Education Exchange Program is a mechanism through which Children's makes available to all health professionals in metropolitan Washington involved in the care of perinatal patients educational materials and programs as a means of updating and extending their medical skills with expectant and postpartum mothers and their newborns. Among the continuing education opportunities are various orientations to Children's 40-bed neonatal intensive care unit, exhibiting state-of-the-art medical technology to treat low-birthweight infants, as well as those with congenital abnormalities and genetic disorders or other critical problems. One of the most unique features of the neonatal unit is the extracorporeal membrane oxygenation [ECMO] treatment program, a revolutionary therapy that saves the lives of newborn infants suffering from acute respiratory distress. Since the ECMO program was pioneered at Children's National Medical Center in 1984, the lives of more than 150 children have been saved through this advanced technology. In fact, whereas 5 years ago 80 percent of the children treated for ECMO at Children's Hospital would have died, today less than 20 percent of these children are likely to die.

Finally, I would like to recognize the Comprehensive Health Care Program sponsored by Children's Hospital. For more than two decades, its two neighborhood clinics in the District of Columbia have provided primary health care services, with an emphasis on prevention and early detection of health problems and on the promotion of good health among inner city children.

Mr. Speaker, in our efforts to improve the health and well-being of America's children here in the District of Columbia and throughout our Nation, we as legislators and citizens must ensure that access to quality prenatal and newborn medical care is available to all mothers and children who need it. As we commemorate Child Health Day 1989, I ask my colleagues to join me in saluting the Children's National Medical Center as a model of long-term commitment to reducing the tragic incidence of infant mortality and of comprehensive efforts to meet the growing health care needs of infants, children, and youth in the National Capital area.

PUTTING COAL IN AMERICA'S FUTURE

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. MURTHA. Mr. Speaker, it was an honor for me last week to be selected as recipient of the annual Award for Innovation in Coal Conversion from the University of Pittsburgh. This award is presented as part of the Annual International Coal Conference.

Unfortunately, consideration by the House of Representatives of key budget votes prevented me from being at the conference in person. I spoke to the group, however, through a phone hook up, and I wanted to summarize for the RECORD the remarks I made.

AMERICA: WE MUST MOVE TOWARD COAL

There is a correlation between what happens with energy and the fate of every other major issue facing the U.S.

Without dependable supplies of reasonably priced energy, a Nation is weak, its economy stagnant, and its foreign policy subject to manipulation.

With plentiful energy in a Nation, its economy can prosper. Throughout our Nation's history, coal has been a reliable and plentiful source of energy. Coal's importance to our country's future will be even greater.

As this decade closes, the country's increased reliance on imported petroleum poses a serious threat to energy price, supply, and security. The U.S. Department of Energy has projected that under a higher price scenario, the daily worldwide petroleum consumption may exceed production as early as 1995. Already, we are back importing over 50 percent of U.S. used oil.

We have a critical need for establishment of a cohesive energy policy committed to reducing dependence on imported fuels and increasing the use of domestic resources.

Coal remains our Nation's most plentiful and reasonable priced energy source and is the logical choice to be used in the 1990s and beyond. No resource offers more evidence of our current energy stability, or greater hope for future energy security than coal.

While progress has not been made as quickly on energy policy as I would have liked, we are seeing some steps forward.

One area is research. This year I added funding into the defense budget for the Air Force's research program on development of jet fuels. This will determine if jet fuels can be made from coal.

In a second area, the House Interior Appropriations Subcommittee, which I serve on, restored vital funding to the budget. We appropriated $423 million for fossil energy research and development. In the past five years, this Subcommittee has restored about $¾ billion for coal research and development that had been marked for deletion. Of

course, we accomplished this while staying within our budget deficit guidelines.

Third, we will see parts of an energy policy develop in relation to our debate on environmental controls. We want—and the Country needs—a fair "acid rain" control provision. It cannot, however, be at the cost of burning coal in an environmentally safe way in the future. And it cannot be at a cost to consumers that one of my electric utility companies estimates at a 17% increase under current legislation. We can balance our environmental and energy needs for the future, and this remains a priority.

Fourth, we are seeing movement toward commercialization on the Clean Coal Technology Project. Response to the first two clean coal procurements indicate a high level of interest and support for the program. We appropriated $575 million this year for the third year solicitation, and approximately 45 proposals were received by the Department of Energy last month.

The area I represent has been hard-hit economically by cut-backs in coal use. We have many long-time mining families unemployed. We need these families back to work, both for the economy and for the energy needs of America. We have more steps to take, but we must continue working on energy. How successful the Nation is in dealing with our National energy situation will impact coal plus also what type of America will enter into the next century. I am resolved to keep coal what it has always been—our timeless energy source.

STORMS NEVER LAST

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. CLEMENT. Mr. Speaker, I rise today to pay tribute to one of the true legends of country music, Waylon Jennings.

From his first public appearance in 1951 at the Muleshoe Rodeo Parade in Muleshoe, TX, at the age of 14, to the top of the country music charts, Waylon Jennings has made contributions to the music industry that will be remembered throughout history.

Perhaps Waylon's most significant contribution to music history is the so-called Outlaw movement he and friend Willie Nelson led during the 1970's. Waylon and Willie literally changed the course of the entire country music industry with their distinctive song stylings and performances. The songs they sang, from "Good Hearted Woman" to "Honky Tonk Heroes," were performed with the emotion, love, pain, and joy that only someone who lived the lyrics could render.

Waylon paid his dues.

From the day Waylon's mother bought him a Stellar Guitar for $5 when he was only 10 years old, to the time he received $10 for performing on the Saturday Night Jamboree at the Whiteface Texas Theater, his first paying musical job, this icon of country music's dedication to his craft never faltered.

When times were tough, and paydays few and far between, Waylon continued to sing the songs he loved, play the 1 night stands in 1 horse towns and kept on keeping on.

Success followed some hard times. Nearly 60 albums later, through thousands of performances in countries across the world, and after numerous TV and movie appearances, Waylon would be the first to tell you that he wouldn't have done things any other way. Changes in his lifestyle and attitudes are reflected in his songs, and so are the lessons about life he's learned along the way.

Country music writers might argue if asked to identify the high point of Waylon's career, his most significant contribution to country music or even his best recording, but I am certain that Waylon Jennings himself would have no hesitation if he were asked about the most important event in his life. It would be his marriage to singer-songwriter Jesse Coleter on October 26, 1969, in Las Vegas, NV.

For 20 years Waylon and Jesse have shared an incredible love, supporting each other, sharing and living a storybook happy ever after life together.

On October 14, 1989, in Phoenix, AZ, Waylon Jennings will be honored at the Heard Museum for his contribution to mankind through his music. A bronze bust of Waylon by Scottsdale, AZ, artist-sculptor Jim Branscum will be presented on this occasion.

On October 4, 1989, Mr. and Mrs. Waylon Jennings are hosting a special reception to unveil the bust at the Jennings home in Brentwood, TN.

The bust is appropriately named for a song Jesse wrote entitled "Storms Never Last."

The Jennings have proven that storms don't last. They've shown that hard work, talent, dedication, and love will bring out the silver lining in every cloud.

I want to pay my own tribute today in the U.S. House of Representatives as a fan and someone who appreciates the hard work of Waylon and Jesse.

I can think of no more appropriate way to conclude my tribute to Waylon and Jesse than with the words Jesse penned:

Storms never last do they baby?
Bad times all pass with the wind.
Your hand in mine stills the thunder,
and you'd make the sun want to shine.
I've followed you down so many roads, baby.
I've picked wild flowers and sung you soft, sad songs.
And every road we took, God knows our search was for the truth,
and the storm that's brewing now won't be the last.
Storms never last, do they baby?
Bad times all pass with the wind.
Your hand in mine stills the thunder, and you'd make the sun want to shine.

BUSH, THE U.N. AND TOO MANY PEOPLE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. HAMILTON. Mr. Speaker, I would like to insert the following article by Prof. Richard N. Gardner, Columbia University, into the CONGRESSIONAL RECORD. "Bush, the U.N. and Too Many People" appeared in the New York Times September 22, 1989, and the article merits close review by the Congress.

[From the New York Times, Sept. 22, 1989]

BUSH, THE U.N. AND TOO MANY PEOPLE

(By Richard N. Gardner)

When President Bush addresses the General Assembly on Monday, he will not call the U.N. "an unreal place . . . torn by tensions" as he did during the 1988 campaign. Now he is likely to praise U.N. peacekeeping forces in regional trouble spots and call for stronger U.N. measures to protect the global environment.

But for domestic political reasons, there will almost certainly be a major omission: world population growth. This will threaten international order and the world's life support systems in the decades ahead.

The world population, which stood at 1.5 billion in 1900, is 5 billion today and expected to grow to 6.2 billion in the year 2000 and to 8.5 billion in 2025. It may reach 10 billion before it levels off toward the end of the next century, with nearly 9 out of 10 persons living in developing countries.

These are the U.N.'s median projections, based on the assumption that fertility in the developing world will drop by a third in 30 to 40 years. If fertility declines at today's slow pace, world population could reach 14 billion or more before stabilizing.

To grasp the gravity of the challenge, consider the U.N.'s median projections for third world countries in the years 2025. Egypt would grow from 51 million to 94 million; Nigeria, from 105 million to 301 million; Mexico, from 85 million to 150 million; India, from 819 million to 1,446 billion.

Incredibly, the Reagan Administration held that "population growth is, of itself, a neutral phenomenon. It is not necessarily good or ill."

But no government, no academic expert, has the faintest idea of how to provide adequate food, housing, health care, education and gainful employment to such exploding numbers of people, particularly as they crowd into megacities such as Mexico City, Calcutta and Cairo.

Moreover, the growing numbers of desperate poor implied in these figures will accelerate the ferocious assault on the environment under way in Africa, Asia and Latin America.

Unless these population trends are altered, our descendants will witness misery, mass migrations and violence born of desperation on a scale we can scarcely imagine.

We should call for an international effort to make information and means of family planning available to all persons in the child-bearing years. (At present, contraceptives are used by only 30 percent of couples in developing countries outside of China.)

Achieving this goal would substantially reduce the ominous U.N. population projections, but would require a tripling of the resources devoted to family planning in the developing countries. Such increased efforts would need to be accompanied by strengthened programs of health care and education and measures to enhance the rights of women.

In 1962, under our first Roman Catholic President, John F. Kennedy, we told the General Assembly we would support international family planning programs. We became a leader in these efforts under later Presidents. But Ronald Reagan, deferring to the right-to-life movement, cut off all aid to the International Planned Parenthood Federation and the U.N. Fund for Population Activities.

One reason given for this reversal was to discourage abortion as a population control

measure. But the multilateral programs we have defunded do not finance abortions. The denial of family planning assistance to poor people in developing countries increases the number of abortions, putting at risk the lives of women without access to medical care.

Another reason given was that China, a U.N. fund recipient, sought to control population growth by coercive means. Recent assessments by Congress confirm that Beijing's population policy is not coercive. If the U.S. wishes to maintain its reservations about China's program, U.N. fund population aid to China can be held at current levels and U.S. contributions can be earmarked for other countries.

Let us hope that by his second address to the U.N., Mr. Bush will be ready to say, as he did as U.N. Ambassador in 1971, that population trends in developing countries are "a prescription for tragedy and chaos" and that the U.N. fund "should grow rapidly . . . to a point where it will be making an important impact on world population."

CAPT. THOMAS F. O'CALLAGHAN DIES: HEADED MASTERS, MATES, PILOTS UNION

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mrs. BENTLEY. Mr. Speaker, I am respectfully including in the CONGRESSIONAL RECORD the obituary of Capt. Thomas F. O'Callaghan, which appeared in the September 27, 1989, edition of the Baltimore Sun.

Captain O'Callaghan, former president of the International Organization of Masters, Mates and Pilots, was a visionary and pioneer in maritime labor-management relations.

His passing last weekend is a tremendous loss to the Master, Mates and Pilots, and the entire U.S. merchant marine.

Captain O'Callaghan was a long, dear friend, and I want to extend my condolences to his wife, Nellie Kathleen, his daughter, Josephine Startzel, and his two sons, Timothy and Harvey O'Callaghan.

[From the Baltimore Sun, Sept. 27, 1989]

CAPT. THOMAS F. O'CALLAGHAN DIES; HEADED MASTERS, MATES, PILOTS UNION

Capt. Thomas F. O'Callaghan, who was president of the International Organization of Masters, Mates and Pilots from 1969 until 1975, died Saturday at the Johns Hopkins Hospital of complications to pneumonia.

Captain O'Callaghan, who was 77 and lived in New Smyrna Beach, Fla., was the founder and former chairman of the board of the deck officers union's Maritime Advancement, Training, Education and Safety program, which started the Maritime Institute of Technology and Graduate Studies in Linthicum during his administration.

In 1981, the institute named its stumlator center for him.

As president of the union, he was also a vice president of the International Longshoremen's Association, with which it is affiliated. During his administration, he reorganized the union replacing locals with the Offshore and Inland divisions.

Before becoming president of the union, he had been secretary-treasurer of the Baltimore local and, from 1965 until 1968, was International secretary-treasurer.

He became a member of the union in 1943, shortly after receiving his third mate's license.

A native of New London, Conn., he first went to sea in the summer of 1927 aboard a trawler on the Grand Banks.

He was a mate on a Mississippi River towboat before graduating from an officers training school in Oakland, Calif., in 1942.

He received his master's license in 1948 and got his first command, the S.S. Cotton State, in 1950.

In 1956, he became port captain in Baltimore for States Marine Lines, for which he had been a chief mate and receiving master.

He is survived by his wife, the former Nellie Kathleen Williams; a daughter, Josephine Startzel of the Baltimore area; two sons, Timothy O'Callaghan of the Washington area and Harvey O'Callaghan of the Baltimore area; Grand Daughter Jennifer Gorman two nephews and a grandniece.

Plans for a memorial service at the Maritime Institute in Linthicum will be held in late October.

CHRISTIAN HOFFMAN EARNS EAGLE SCOUT AWARD

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. YATRON. Mr. Speaker, today I want to give special recognition to a young man from the Sixth Congressional District of Pennsylvania who has distinguished himself as a member of Boy Scout Troop No. 103 of Fleetwood, PA. The young man I am speaking of is Christian Hoffman who will be awarded the Eagle Scout Award on October 8, 1989 for his outstanding achievements as a Boy Scout.

Christian has been in scouting since he was 8 years old and one of the highlights of his Scouting career was his Eagle project. For his project, Christian developed a phone service for pre-school children. The service would enable small children to call a local number, at no charge, and hear a story. Christian selected the stories, making sure that each story contained a meaningful message, and the story readers. With the assistance of his teachers and fellow Boy Scouts, Christian was able to provide an innovative service that will benefit young children in his community.

Mr. Speaker, as you know, the Eagle Scout Award is the highest honor a Scout can earn and is illustrative of Christian Hoffman's ability to excel in a given situation. I commend Christian for his many accomplishments as Boy Scout and congratulate him for earning this high honor. Christian's commitment to excellence is manifest in the Eagle Scout Award and he can be proud of the distinction to be bestowed upon him on October 8.

THE SOVIET UNION SHOULD "COME CLEAN" ON RAOUL WALLENBERG

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. LANTOS. Mr. Speaker, this week we will commemorate the eighth anniversary of the signing in 1981 of historic legislation which made Raoul Wallenberg an honorary citizen of the United States—the second individual to be so honored after Sir Winston Churchill. Wallenberg was the hero of the Holocaust who saved the lives of 100,000 men, women, and children during the tumultuous final days of World War II in Hungary. The decision of the Congress to grant him honorary citizenship was a belated acknowledgment of the enormous contribution he made to humanity.

Mr. Speaker, William Korey—the director of international policy research at B'nai B'rith International in New York and currently completing a study on "American Policy and the Helsinki Process" with a Ford Foundation grant—has written an excellent article which was recently published in the Wall Street Journal. In view of the commemoration of anniversary of Wallenberg's honorary citizenship this week and the forthcoming visit to the Soviet Union of Wallenberg's half-sister and half-brother, Nina Lagergren and Guy von Dardel, and a delegation of the Swedish Raoul Wallenberg Association, I ask that the article be placed in the RECORD and urge my colleagues to give it careful attention.

[From the Wall Street Journal/Europe Aug. 24, 1989]

SOVIETS MUST COME CLEAN ON WALLENBERG

(By William Korey)

Raoul Wallenberg's fate surfaced for a moment last month in Paris at the Helsinki-sponsored conference on the "human dimension," and just as suddenly disappeared down history's "memory hole." The episode, virtually unnoticed by the world-wide press, warrants pubic attention to avoid a continuing Soviet cover-up.

At the Paris meeting, Moscow was on its very best behavior. An extraordinarily large delegation—twice the size of any Western power—was on hand to demonstrate an affability and openness in meeting with nongovernmental reprensentatives and any interested Westerners. On the third day of the conference—June 1—the Soviet delegation held a major news conference designed to show off their specialists in a variety of fields.

Included in the delegation was a high-ranking official of Moscow's Procurator-General's office. Vladimir Andreyev, who is known to have investigated Mr. Wallenberg's case. In this era of glasnost, with some selected "blank spaces" of history being filled in, it was hoped that the tragic disappearance of the extraordinary and courageous Swedish diplomat and resciter of Jews would somehow be elucidated.

It was a new Soviet "voice" that spoke about Mr. Wallenberg. No longer were the comments either hostile or neutral. Rather, Mr. Wallenberg was warmly embraced as a "noble person." The words echoed precisely the language of Ambassador Yuri Kashlev, head of the Soviet delegation to the current

and earlier Helsimki talks. Last September, in Vienna, the smooth Soviet diplomat had also characterized Mr. Wallenberg as "noble." Mr. Andreyev went beyond those laudatory comments. The arrest and disappearance of Mr. Wallenberg constituted "a somber page in our history," said the Soviet legal official. He added that "we profoundly regret [his] death."

The tone, rich in sorrowful and symathetic expressions, was aimed at assuring Western representatives that Moscow stood as one with them in the outpouring of humanitarian concern for the Swedish diplomat. To reinforce this sense of common humanitarian interest, Mr. Andreyev commented: "Our attitude towards him is positive, [and] we understand the importance of the cause which he had served." But one fact was continually underscored: Mr. Wallenberg was dead. Investigations by Mr. Andreyev's bureau unquestionably demonstrated that he had died in prison in 1947. Persistent reports that Mr. Wallenberg may still be alive were noting but "rumors."

If the Soviet official was categorical about Mr. Wallenberg's death, he had noting to offer in regard to the diplomat's mysterious arrest and subsequent death. "We know nothing new" about such matters, Mr. Andreyev commented. His associate, Ambassador Kashlev, then took the floor to explain that the officials responsible for "destroying such persons as Wallenberg, also destroyed the documents." As if to close the book on the investigation, Mr. Kashlev added that Moscow would make a full public disclosure "if, by magic, we were to obtain new information."

Magic, of course, is not a readily available tool to judicial investigators. Mr. Andreyev sought to downplay the uniqueness of the Wallenberg case; an attemt to thereby make it appear logical and reasonable that all the evidence could disappear. "Unfortunately, he was not alone," observed Mr. Andreyev, "Millions of others" similarly represent a "somber page" in Soviet history.

But the fact remains that the Wallenberg case was unique, and it is mystifying that a careful investigation could have thrown absolutely no light on his situation during the two full years that he was in the hands of his captors 1945 to 1947. In September 1988, statements by the chief of the Soviet delegation to the Vienna review conference of Helsinki signatories—Ambassador Kashlev—seemed to offer considerable hope for a major breakthrough on information in the Wallenberg case. After calling attention to Soviet efforts to remove stains from the historical past and to fill in the "blank spots," he promised that were any documentation uncovered with reference to Wallenberg, it would be made public. That commitment followed a heated airing in the Vienna plenary about the issue. U.S. Ambassador Warren Zimmerman called for "a full and open accounting of that part of Soviet history affecting a man who stood for so many of the Helsinki ideals to which we are dedicated."

Ambassador Zimmerman was quickly joined by the British and Canadian delegation in urging a Soviet investigation and disclosure. Of far greater significance was the fact that the leader of the Hungarian delegation, Andre Erdos, also rose to plead the Wallenberg case: "We would welcome with greater emotion any new information which would shed light on his (Wallenberg's) fate or (that would) complete our knowledge." It was the first time that a Hungarian ambassador, in a European public plenum, challenged Moscow.

The striking emotional appeals produced Soviet Ambassador Kashlev's commitment as well as his warm endorsement of Wallenberg's "noble activities." Several months later, optimism soared when the Soviet Ambassador to Belgium, Felix Bogdanov, showed up for a special ceremony honoring Mr. Wallenberg at Brussels' Egmont Palace. The sponsoring group was the Belgian Committee for Raoul Wallenberg. Never before had a Soviet official participated in a Wallenberg ceremony.

The event, held on January 19, 1989—the day that the Helsinki accord talks came to an end in Vienna—could not and did not go unnoticed. Mr. Wallenberg's half-brother, Guy von Dardel, told the Brussels gathering that "the presence of the Soviet Ambassador is a significant gesture that . . . gives us hope for a change in the Soviet attitude toward the Wallenberg case."

Hope for change plummeted a half year later at the Paris meeting. The warm embrace of Mr. Wallenberg as "noble" by Soviet officials could not hide the fact that this "blank spot" of Soviet history still remained "blank." Of even greater concern is the possibility that Moscow is engaged in a cover-up of a series of profoundly embarrassing developments.

Could it be that Wallenberg did in fact die in 1947 as the Soviets now insist? Numerous first-hand and indirect accounts purport seeing him in a Soviet gulag years later. How does one explain the arrest and disappearance of a foreign diplomat, and from a neutral country at that—an episode that is virtually unheard of in international diplomatic circles. How can all of the records of his arrest and incarceration and all of the eyewitnesses have vanished?

October 5 will mark the 8th anniversary of Mr. Wallenberg being made an honorary citizen of the United States, the only foreigner other than Winston Churchill to be afforded that distinction. Two weeks later, Soviet officials will host leaders of the Swedish Wallenberg committee in Moscow. At that time, the Soviet hosts will be hard pressed to come up with some solid answers to end the embarrassing mystery which engulfs their tales of what happened to Raoul Wallenberg.

GOOD HEALTH DAY—OCTOBER 8, 1989

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. FAUNTROY. Mr. Speaker, I rise to urge my colleagues to join me in proclaiming October 8, 1989, as National "Good Health Day."

On that day, the first issue of the Good Health magazine will appear in five cities across the United States. The magazine is being produced as a cooperative effort by the Boston Globe, Chicago Tribune, Los Angeles Times, New York Times and the Washington Post.

The magazine will contain articles on psychology, fitness and health, nutrition, and medicine.

In conjunction with the first issue of the Good Health magazine, the Washington Post will be sponsoring a good health fair at the Ramada Renaissance Hotel at Techworld. The Washington Post will be offering health screening services free of charge that day for cholesterol, blood pressure and other things, and will have a drugmobile and "mom-mobile" at the fair. The mobiles will be provided by the D.C. Commission of Public Health.

Mr. Speaker, there is no more timely and compelling topic than the health of the citizens of this Nation, and I trust all Members will join me in declaring October 8, 1989, as national "Good Health Day."

OVERWHELMING SUPPORT FOR A COMPREHENSIVE CHILD CARE PACKAGE

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. HAWKINS. Mr. Speaker, as the House prepares to consider the critical issue of child care later this week, I would like to bring to the attention of my colleagues the numerous organizations supporting H.R. 3. This legislation, along with the bill reported by the Ways and Means Committee, has been incorporated into H.R. 3299, the Omnibus Budget Reconciliation Act of 1989. This package provides a comprehensive approach to deal with the child care crisis facing our Nation today.

I ask my colleagues to join with the following 152 organizations which support H.R. 3299 and vote against all weakening substitutes.

THE FOLLOWING 152 ORGANIZATIONS ENDORSE H.R. 3 AS OF SEPTEMBER 27, 1989

A. Phillip Randolph Institute.

African Methodist Episcopal Church, Women's Missionary Society.

Alpha Kappa Alpha Sorority, Inc.

Alternative Schools Network of Chicago.

Amalgamated Clothing and Textile Workers Union.

Amalgamated Transit Union.

American Academy of Child and Adolescent Psychiatry.

American Academy of Pediatrics.

American Association for Marriage and Family Therapy.

American Association of Classified School Employees.

American Association of Psychiatric Services for Children.

American Association of School Administrators.

American Association of University Professors.

American Association of University Women.

American Civil Liberties Union.

American Federation of Federal Employees.

American Federation of Government Employees.

American Federation of Labor and Congress of Industrial Organizations (AFL-CIO).

American Federation of State, County, and Municipal Employees, AFL-CIO.

American Federation of Teachers, AFL-CIO.

American Home Economics Association.

American Jewish Committee.

American Jewish Congress.

American Orthopsychiatric Association, Inc.

American Planning Association.

American Postal Workers Union, AFL-CIO.
American Psychological Association.
American Vocational Association.
Americans for Democratic Action.
Association for Regulatory Administration in Human Services.
Association of Junior Leagues, Inc.
Bakery, Confectionery, and Tobacco Workers International Union.
B'nai B'rith Women.
BPW/USA.
Bread for the World.
Camp Fire, Inc.
CATALYST.
Center for Child and Family Studies of the Far West Lab.
Center for Women Policy Studies.
Child Care Action Campaign.
Child Care Employees' Project.
Child Care Nutrition Program Sponsors' Forum.
Child Welfare League of America.
Children's Defense Fund.
Church Women United.
Christian Children's Fund, Inc.
Church of the Brethren.
Citizen Action.
Coalition of Black Trade Unionists.
Coalition of Labor Union Women.
Committee for Children.
Communication Workers of America, AFL-CIO.
Communtiy Nutrition Institute.
Concerned Nutritionists for Better Child Care.
Council for Exceptional Children.
Council for the Great City Schools.
Council of Chief State School Officers.
Council of Jewish Federations.
Delta Sigma Theta, Inc.
Department of Professional Employees, AFL-CIO.
Division for Early Childhood/Council for Exceptional Children.
Elementary School Center.
Epilepsy Foundation of America.
Family Resource Coalition.
Food Research Action Center.
Future Homemakers of America.
General Board of Church and Society of the United Methodist Church.
General Board of Global Ministries of United Methodist Church.
Girl's Clubs of America, Inc.
Gray Panthers.
High/Scope Educational Research Foundation.
Industrial Union Department, AFL-CIO.
International Ladies Garment Workers' Union.
International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers, AFL-CIO.
Knights of Peter Claver, Women's Auxiliary.
League of United Latin-American Citizens.
League of Women Voters of the U.S.
Lutheran Office for Government Affairs.
MADRE.
Martin Luther King Jr. Early Learning Center.
Mexican American Women's National Association.
NA'AMAT USA.
National Association for Family Day Care.
National Association for the Advancement of Colored People.
National Association for the Education of Young Children.
National Association of Commissions for Women.
National Association of Elementary School Principals.
National Association of Letter Carriers.
National Association of Secondary School Prinicpals.
National Association of Social Workers.
National Association of State Boards of Education.
National Association of the State Directors of Child Development.
9 to 5.
National Black Caucus and Center on the Aged, Inc.
National Black Child Development Institute, Inc.
NACCRRA.
National Coalition for Campus Child Care, Inc.
National Coalition for Public Education and Religious Liberty.
National Committee for the Prevention of Child Abuse.
National Community Action Foundation.
National Conference of Black Mayors, Inc.
National Congress of Parents and Teachers.
National Consumer League.
National Council of Jewish Women.
National Council of Negro Women.
National Council of Churches of Christ.
National Council on Family Relations.
National Council on the Aging, Inc.
National Education Association.
National Federation of Federal Employees.
National Head Start Association.
National League of Cities.
National Network of Runaway and Youth Services.
National Pan-Hellenic Council.
National Parent Teachers Association.
National Prenatal Association.
National Puerto Rican Forum.
National School Boards Association.
National Schools Public Relations Association.
National Urban Coalition.
National Urban League.
National Women's Law Center.
National Women's Political Caucus.
Office for Church and Society, United Church of Christ.
Office and Professional Employees International Union.
OICs of America.
Parent Care.
Parent Cooperative Preschools International.
Parents Action Committee.
Presbyterian U.S.A.
Progressive National Baptist Convention, Women's Department.
Public Employee Department, AFL-CIO.
Rainbow Coalition.
Save the Children.
School Age Child Care Project.
Service Employees International Union, AFL-CIO.
Sigma Gamma Rho Sorority.
Society for Research in Child Development.
Southern Association on Children Under Six.
Southern Christian Leadership Conference.
The Children's Foundation.
The Episcopal Church.
The Newspaper Guild.
Union of American Hebrew Congregations—Religious Action Center.
Union of Electrical, Radio and Machine Workers of America.
United Auto Workers.
United Cerebral Palsy Association, Inc.
United Church Board for Homeland Ministeries.
United Church of Christ Coordination Center for Women's Issues.
United Church of Christ, Office for Church in Society.
United Electrical Workers' Union.
United Food and Commercial Workers International Union.
United Methodist Church, Department of Human Welfare General Board of Church and Society.
United States Student Association.
United Steelworkers of America.
Volunteers of America.
Washington State Office of the Superintendent of Public Instruction.
Woman's Convention, Auxiliary to the National Baptist Convention, U.S.A., Inc.
Women's Legal Defense Fund.
YMCA of the USA.
YWCA of the USA, National Board.

ST. DENIS CHURCH OF GLEN LYON, PA, CELEBRATES CENTENNIAL

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to St. Denis Church of Glen Lyon, PA, on the occasion of its centennial celebration.

St. Denis Church was founded as a Slovak Mission on October 8, 1889. For 37 years, priests from Nanticoke, PA, came by horse and buggy to serve the members of the congregation. In 1926 St. Denis' parish welcomed its first pastor, the Rev. Frank McHugh.

For the next 6 years, Reverend McHugh and the parishioners worked diligently together to establish and construct the present church. The foundation and walls were built by the men of the parish, while the upper part of the church was completed by a contractor.

Over the years, St. Denis' parish has generously offered its time and services to help those in need. For years before the Ruthenian Rite congregation was able to build a church of their own, they celebrated mass once a month at St. Denis Church. The church added Retreat State Hospital as a mission, and Father McHugh hiked over Glen Lyon Mountain to attend to the patients needs. These two acts are only two representations of the consistent kindness and generosity exhibited by St. Denis Church.

Over time, under the tenure of 11 different pastors, St. Denis Church has undergone many changes and improvements. Under the guidance of Rev. Leo V. Gilroy a new rectory was built. The church basement was renovated to make it suitable for social gatherings during Rev. Leo A. Granahan's tenure. The original pews built by the men of the parish were replaced by Rev. Edward L. Collins.

It was the generosity and industriousness of its members and the surrouding community that made it possible to build St. Denis Church. I hope that the next 100 years are as rewarding for St. Denis Church as the first 100.

SALUTE TO ARTISTIC IDENTIFICATION SYSTEMS, INC. OF POMPTON LAKES, NJ, ON ITS 100TH ANNIVERSARY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. ROE. Mr. Speaker, it is with the greatest pride and admiration that I rise today to pay tribute to a truly outstanding company in my eighth District of New Jersey which, for the past century, has continually demonstrated excellence and innovation in a rapidly changing national and international textile market.

I am speaking of Artistic Identification Systems, Inc., which has its headquarters in Pompton Lakes, NJ, and also maintains operations in Pittsboro, NC and Holdrege, NE. In 1989, Artistic Identification Systems, Inc., is celebrating its 100th anniversary, an historic event that it is celebrating with an open house and dinner party at its Pompton Lakes facility on Saturday, October 7, 1989.

Mr. Speaker, as a means of providing the details of the rich history of this fine company, I would like to insert, for the Record, the official history of Artistic Identification Systems, Inc.:

The weaving tradition of Artistic Identification Systems, Inc. can be traced back to Friedrich Wilhelm Kluge (1798-1881) who lived in what was then the Kingdom of Saxony. His son Karl Friedrich Kluge having learned the weaving trade from his family, married into a family leaving business in Bielefeld located in western Saxony, an important silk and cotton fabric manufacturing center.

Karl later moved to Krefeld in the Rhineland, another important textile center, where he established his own factory weaving broadloom jacquard fabrics and narrow jacquard trimmings, the latter being the forerunners of the modern woven label.

After this death, his five sons expanded the business under the name of Gebrüder Kluge (Kluge Brothers).

To promote sales, one brother and founder of Artistic Adolph went to the United States in 1887, one to Italy, one to Sweden, one to Austria and one to Russia where most met and married native-born women.

In the United States, first operating as Kluge Brothers importing from the family firm in Krefeld and then out of a small factory on West Thirty-Fourth St. in New York City, Adolph subsequently bought the buildings and the dam, as a source of power, from the Smith Fuze Works along the Wanaque River in Pompton Lakes, New Jersey. Nearby Paterson, a major silk textile center, provided a source of skilled workers.

The company name became the German Artistic Weaving Company which was changed to the Artistic Weaving Company at the outbreak of World War I.

At his death in 1919, leadership fell to his elder son Albert because his younger son Willard showed little interest in the business.

Today, Albert's nephew Willard G. Kluge represents the third generation to head Artistic and the fourth generation is represented in the business by his younger son Christopher.

To meet the needs of the growing textile industry in the South, a second factory, Chatham Mills, Inc. was established in Pittsboro, Chatham County, North Carolina in 1926.

A third factory named Artistic Woven Labels, Inc. was built in Holdrege, Nebraska in 1962.

In 1970 Artistic began printing fabric labels under the name of Printex Labels, Inc. at Pompton Lakes and acquired the Electro-Seal Corp., a manufacturer of thermoplastic adhesives and heat sealing machines.

Because the word weaving in the company name was now too limiting, the name was changed to Artistic Identification Systems, Inc. in 1970.

Along the way, Artistic entered into a joint-venture label weaving operation in Mexico City, operated two yarn processing plants in North Carolina and two Schiffli embroidery factories in Guttenberg and Union City, New Jersey.

All have been disposed of to enable Artistic to concentrate on what it knows best, the making and selling of woven and printed fabric labels.

Having survived the decline in domestic apparel production due to the tremendous growth of imports, Artistic has turned the tables and is now shipping domestically-made labels to its distribution centers in Taiwan and Hong Kong.

While in a trade serving the low-growth American apparel and textile industries, Artistic is achieving above-average growth because of its recognized superior performance through the outstanding efforts and skills of its employees.

Mr. Speaker, I appreciate the opportunity to present this profile of an outstanding company whose record of accomplishment, innovation, and endurance for a century have made it a model for businesses everywhere—Artistic Identification Systems, Inc., of Pompton Lakes, NJ, celebrating its 100th anniversary in 1989.

THE BILLBOARD CONTROL ACT OF 1989

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. LEWIS of Georgia. Mr. Speaker, today I am introducing the Billboard Control Act of 1989. I offer this legislation for two purposes: First, to remedy some very basic flaws in the Beautification Act of 1965, as amended. Second, to prohibit the construction of new billboards.

It is a travesty that, as a result of the efforts of the billboard industry, the Beautification Act of 1965 has been watered down. It was Mrs. Lady Bird Johnson's intent to beautify our Nation's highways. Instead, our highways are polluted by more billboards than ever before.

Mrs. Johnson's Beautification Act—as amended—has not discouraged the erection of billboards. In fact, it has made it easier for billboards to pollute our highways. To add insult to injury, the act now mandates that our Nation's taxpayers compensate billboard owners for doing what the law requires: the dismantling of illegal billboards.

Twenty-four years after the passage of the Beautification Act, the Federal Highway Administration reports that 138,000 nonconforming billboards still stand along our Federal-aid highways. The General Accounting Office and the Department of Transportation's Inspector General tell us that new billboards are being erected three times faster than old ones are coming down.

Perhaps that is why the Beautification Act is supported only by the billboard industry—the industry it was intended to regulate.

The billboard industry is the only industry in America exempted from the State's constitutional right to use amortization as a form of compensation. This special treatment comes at an enormous cost to our Government and to the taxpayers. The General Accounting Office estimates that the cash payments mandated by the 1965 Beautification Act, as amended, have cost taxpayers nearly $1 billion.

In an effort to restore the integrity of the Beautification Act, I have called for the restoration of certain key provisions.

Our bill is a revenue neutral way of addressing billboard pollution while giving the states and local jurisdictions greater regulatory control and flexibility in limiting billboards.

The bill calls for the following:

An outright moratorium on the construction of new billboards.

The dismantling of all nonconforming billboards in existence after October 1, 1994. The dismantling shall be done at the expense of the billboard owner.

An annual inventory of billboards on Federal aid roadways done by the States.

An annual report by the U. S. Department of Transportation of billboards on Federal aid highways based on the inventories prepared by the States.

Mr. Speaker, this distinguished body has attempted to repair this failed act on many occasions since its enactment in 1965. In 1987, amendments which strengthened the act were passed by both bodies of Congress, only to be dropped during the conference committee during the highway bill.

The control of billboards is an environmental issue. The control of billboards is a public health issue. The control of billboards is a State and local control issue.

The billboard industry has had far too much control over this issue for far too many years. It is time we give this control back to the States and local communities who are working diligently to control their environments.

Mr. Speaker, I urge my colleagues to join with me and the other original cosponsor of this legislation, Mr. CLAY SHAW in truly beautifying our Nation's highways.

A TIMELY REFLECTION ON WEBSTER

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. DORNAN of California. Mr. Speaker, now that the Supreme Court is back in session, I would like to share with you an insightful article from the August-September issue of All About Issues. In the article, Prof. Charles

E. Rice details the significance of the Supreme Court's Webster decision issued on July 3, 1989. Webster, Professor Rice reminds us, is not the final word on abortion. It did not reverse Roe versus Wade. Preborn children are still nonpersons in the eyes of the Court. The protection of our great Constitution has still not been granted to these innocents.

In order to establish the constitutional grounds, once and for all, I introduced H.R. 623, the Declaration of Personhood Act, which would guarantee the protection of the preborn children under the 5th, 13th, and 14th amendments to the Constitution.

Mr. Speaker, I would encourage my colleagues to read Professor Rice's article and challenge them to remain vigilant in the battle for the lives of preborn children and an end to the American tragedy of abortion.

THE WEBSTER DECISION—AND BEYOND

(By Charles E. Rice)

The decision by the Supreme Court in Webster v. Reproductive Health Services is more an opportunity than a victory for the pro-life movement. On its facts and in its holdings the decision was very limited. With more exaggeration than justification, Justice Harry Blackmun's dissent described the plurality opinion of Chief Justice Rehnquist, joined by Justices White and Kennedy, as an "implicit invitation to every State to enact more and more restrictive abortion laws, and to assert their interest in potential life as of the moment of conception. All these laws will satisfy the plurality's nonscrutiny, until sometime, a new regime of old dissenters and new appointees will declare what the plurality intends: that Roe is no longer a good law."

Webster has indeed given the pro-life movement an opportunity. It should not press state legislatures to enact laws, not tinkering with abortion, but prohibiting it. However, though we must take advantage of this opportunity to save lives, we ought also to keep in mind that Webster is not really a pro-life decision. Every one of the five opinions endorses the view that the preborn child is a non-person who has no constitutional rights.

The essential holding of Roe v. Wade is that the preborn child is not a "person" within the meaning of the Fourteenth Amendment, which protects the right to life of persons. The Court in Roe held that abortion prohibitions unconstitutionally infringe upon the mother's "right to privacy"—which the Court interpreted, in effect, to protect her right to elective abortion in all three trimesters of pregnancy: In the first trimester the state may neither regulate nor prohibit abortion, except, for example, to require that the killing be done by a physician. In the second trimester, the state may not prohibit abortion but may regulate it to protect the mother's health. Only after viability, in the third trimester, may the state act to protect "potential life" by regulating and prohibiting abortion.

But even after viability, the Court said, the state may not prohibit abortion when it is sought to preserve the mother's life or health—including mental as well as physical health. This criterion is a practical sanction for abortion on request at every stage unitl delivery. Since 1973, the Court implemented Roe in a series of decisions which precluded the states from enforcing any effective prohibitions of abortion.

WHAT WEBSTER SAID

The Supreme Court decision in Webster involved the following Missouri statutes:

I. A finding in the preamble to a state abortion statute that "the life of each human being begins at conception" and that "unborn children have protectable interests in life, health and well-being."

Part IIA of the plurality opinion by Chief Justice Rehnquist held that the Court "need not pass on the constitutionality" of this provision because it may merely express a permissible "value judgment" by the State "favoring childbirth over abortion." Or it could be interpreted to protect the preborn child, not from abortion, but only with respect to State tort and probate laws. Justices O'Connor and Scalia joined in this part of the plurality opinion. The four dissenters would have held the preamble unconstitutional. The holding of the five-persons majority of the Court, however, is that the constitutionality of the preamble need not be decided.

II. Statutes making it "unlawful for any public employee within the scope of his employment to perform or assist an abortion, not necessary to save the life of the mother." Or "for any public facility to be used for the purpose of performing or assisting an abortion not necessary to save the life of the mother."

Part IIB of the Rehnquist, White, Kennedy plurality opinion held these statutes in reliance on prior interpretations of Roe which has allowed states to withhold public funding and the use of public facilities for abortion. O'Connor and Scalia joined in this part of the plurality opinion. This is the only aspect of Webster on which a majority of the Court joined in a single opinion upholding any of the Missouri statutes. This opinion is based on Roe and its succeeding cases, although the dissenters argued that it contradicts those cases. The plurality opinion said that, "Nothing in the Constitution requires States to enter or remain in the business of performing abortions. Nor . . . do private physicians and their patients have some kind of constitutional right of access to public facilities for the performance of abortions." In a footnote, the plurality opinion said that, "A different analysis might apply if a particular State had socialized medicine and all of its hospitals and physicians were publicly funded. This case might also be different if the State barred doctors who performed abortions in private facilities from the use of public facilities for any purpose."

III. A Statute making it "unlawful for any public funds to be expended . . . for the purpose of encouraging or counselling a woman to have an abortion not necessary to save her life."

Part IIC of the plurality opinion held that the controversy over this statute was moot and therefore its constitutionality need not be decided, on account of the concession by Reproductive Health Services and the other appellees that their interests were not "adversely" affected by the operation of the statute which the State claimed was "not directed at the conduct of any physician or health care provider" but rather "solely at those persons responsible for expending public funds." All nine Justices concurred in this part of the plurality opinion.

IV. A requirement that a physician, in making a determination of viability in cases where "he has reason to believe" that the preborn child is 20 or more weeks gestational age, "shall perform or cause to be performed such medical examinations and tests as are necessary to make a finding of the gestational age, weight and lung maturity of the unborn child. . . ."

In prior cases, the Supreme Court has upheld the power of the states to require a determination of viability in such cases. The lower courts, however, held this Missouri statute unconstitutional because it interfered with the physician's professional judgment by required him to make specific tests.

In its Part IID, the plurality opinion construed this statute so as to be of doubtful validity under the prior cases:

"To the extent that [the statute] regulates the method for determining viability, it undoubtedly does superimpose state regulation on the medical determination of whether a particular fetus is viable. The court of Appeals and the District Court thought it unconstitutional for this reason. . . . To the extent that the viability tests increase the cost of what are in fact second-trimester abortions, their validity may also be questioned under [the 1983 Supreme Court decision in the *Akron* case], where the Court held that a requirement that second trimester abortions must be performed in hospitals was invalid because it substantially increased the expense of those procedures."

The plurality opinion responded to its expressed doubt about the consistency of the Missouri statute with the *Roe* trimester framework by rejecting, not the statute, but the trimester framework. The "doubt cast upon the Missouri statute" by prior cases following *Roe*, said the plurality, "is not so much a flaw in the statute as it is a reflection of the fact that the rigid trimester analysis of the course of a pregnancy enunciated in *Roe* has resulted in subsequent cases . . . making constitutional law in this area a virtual Procrustean bed." The plurality described the "Roe trimester framework" as "unsound in principle and unworkable in practice." The plurality said, "we do not see why the State's interest in protecting potential human life should come into existence only at the point of viability, and that there should therefore be a rigid line allowing state regulation after viability but prohibiting it before viability . . . [W]e are satisfied that the requirement of these tests permissibly furthers the State's interest in protecting potential human life, and we therefore believe [the statute] to be constitutional."

The plurality criticized the *Roe* trimester framework because it "sought to deal with areas of medical practice traditionally subject to state regulation, and it sought to balance once and for all by reference only to the calendar the claims of the State to protect the fetus as a form of human life against the claims of a woman to decide for herself whether or not to abort a fetus she was carrying. The experience of the Court in applying *Roe v. Wade* in later cases . . . suggests to us that there is wisdom in not unnecessarily attempting to elaborate the abstract difference between a "fundamental right" to abortion, as the Court described it in *Akron* . . . a "limited fundamental constitutional right," which Justice Blackmun's dissent today treats *Roe* as having established, . . . *or a liberty interest protected by the Due Process Clause, which we believe it to be.* The Missouri resting requirement here is reasonably designed to ensure that abortions are not performed where the fetus is viable—and end which all concede is legitimate—and that is sufficient to sustain its constitutionality." [Emphasis added.]

Note that the plurality regards the right to kill a preborn child as "a liberty interest protected by the Due Process Clause."

The plurality concluded its treatment of the viability statute by saying:

"There is no doubt that our holding today will allow some governmental regulation of abortion that would have been prohibited under the language of [prior] cases. . . . But the goal of constitutional adjudication is surely not to remove inexorably "politically divisive" issues from the ambit of the legislative process, whereby the people through their elected representatives deal with matters of concern to them. The goal of constitutional adjudication is to hold true the balance between that which the Constitutional puts beyond the reach of the democratic process and that which it does not. We think we have done that today. The dissent's suggestion . . . that legislative bodies, in a nation where more than half of our population is women, will treat our decision today, as an invitation to enact abortion regulation reminiscent of the dark ages not only misreads our view but does scant justice to those who serve in such bodies and the people who elect them."

The plurality opinion is hardly a ringing repudiation of *Roe* v. *Wade,* a fact underscored by the opinion's concluding paragraph:

"Both appellants and the United States as Amicus Curiae have urged that we overrule our decision in *Roe* v. *Wade.* . . . The facts of the present case, however, differ from those at issue in *Roe.* Here, Missouri has determined that viability is the point at which its interest in potential human life must be safeguarded. In *Roe,* on the other hand, the Texas statute criminalized the performance of all abortions, except where the mother's life was at stake. . . . This case therefore affords us no occasion to revisit the holding of *Roe,* which was that the Texas statute unconstitutionally infringed the right to an abortion derived from the Due Process Clause . . . and we leave it undisturbed. To the extent indicated in our opinion, we would modify and narrow *Roe* and succeeding cases."

Justices O'Connor and Scalia provided the fourth and fifth votes to uphold the Missouri viability statute, but neither joined in the plurality opinion on that statute. Therefore, the language quoted above from the plurality opinion on the viability statute does not have the impact of an opinion of the Court; it is the language only of the three members of the plurality.

Justice O'Connor argued that the viability statute, as interpreted by the plurality, was constitutional under the *Roe* trimester framework and therefore that the framework need not be rejected in order to uphold the statute. Justice O'Connor did note that "I continue to consider problematic" *Roe's* "trimester framework." But, Justice Scalia began his opinion by stating, "I share Justice Blackmun's view . . . that [the plurality opinion on the viability statute] effectively would overrule *Roe* v. *Wade.* . . . I think that should be done, but would do it more explicitly." Scalia said that the outcome in *Webster* . . .

". . . will doubtless be heralded as a triumph of judicial statesmanship. It is not that, unless it is statesmanlike needlessly to prolong this Court's self-awarded sovereignty over a field where it has little proper business since the answers to most of the cruel questions posed are political and not juridical—a sovereignty which therefore quite properly, but to the great damage of the Court, makes it the object of the sort of organized public pressure that political institutions in a democracy ought to receive."

ABORTION AS A "POLITICAL ISSUE"

Scalia's opinion emphasized abortion as a political issue. He wrote:

"Our retaining control, through *Roe,* of what I believe to be, and many of our citizens recognize to be, a political issue, continuously distorts the public perception of the role of this Court. We can now look forward to at least another Term with carts full of mail from the public, and streets full of demonstrators, urging us—their unelected and life-tenured judges who have been awarded those extraordinary, undemocratic characteristics precisely in order that we might follow the law despite the popular will—to follow the popular will. Indeed, I expect we can look forward to even more of that than before, given our indecisive decision today. And if these reasons for taking the unexceptional course of reaching a broader holding are not enough, then consider the nature of the constitutional question we avoid: In most cases, we do no harm by not speaking more broadly than the decision requires. . . . Not so with respect to the harm that many States believed, pre-*Roe,* and many may continue believe, is caused by largely unrestricted abortion. That will continue to occur if the States have the constitutional power to prohibit it, and would do so, but we skillfully avoid telling them so. Perhaps those abortions cannot constitutionally be proscribed. That is surely an arguable question, the question that reconsideration of *Roe v. Wade* entails. But what is not at all arguable, it seems to me, is that we should decide now and not insist that we be run into a corner before we grudgingly yield up our judgment. . . . It was an arguable question today whether [the viability statute] contravened . . . *Roe v. Wade,* and I would have examined *Roe* rather than examining the contravention. Given the Court's newly contracted abstemiousness, what will it take, one must wonder, to permit us to reach that fundamental question? The result of our vote today is that we will not reconsider that prior opinion, even if most of the Justices think it is wrong, unless we have before us a statute that in fact contradicts it—and even then . . . only minor problematical aspects of *Roe* will be reconsidered, unless one expects State legislators to adopt provisions whose compliance with *Roe* cannot even be argued with a straight face. It thus appears that the mansion of constitutionalized abortion-law, constructed overnight in *Roe v. Wade,* must be disassembled door-jamb by door-jamb, and never entirely brought down, no matter how wrong it may be."

It should be noted that when Justice Scalia and the other Justices talk about overruling *Roe,* they evidently mean allowing the states to decide whether to allow or prohibit abortion rather than actually overturning *Roe* on its essential holding that the preborn child is a non-person.

In his dissent, Justice Blackmun sharply criticized the plurality opinion as, among other things, "unadulterated nonsense." "Since, in the plurality's view," wrote Blackmun, "The State's interest in potential life is compelling as of the moment of conception, and is therefore served only if abortion is abolished, every hindrance to a woman's ability to obtain an abortion must be 'permissible.' Indeed, the more severe the hindrance, the more effectively (and permissibly) the State's interest would be furthered. A tax on abortions or a criminal prohibition would both satisfy the plurality's standard. So, for that matter, would a requirement that a pregnant woman memorize and recite today's plurality opinion before seeking an abortion."

Ironically, in a footnote, Justice Blackmun quoted from *West Virginia Board of Education v. Barnette* (the 1943 case that held a compulsory flag salute unconstitutional) the statement that, "One's right to life, liberty, and property . . . may not be submitted to vote; they depend on the outcome of no election." With respect to the natural right to life of the preborn child, the four dissenters would submit that right to the vote of the Supreme Court and his mother; the other five would, at best, submit that right to the vote of state legislatures and the mother. In either case, the preborn child, as a non-person, is equally bereft of any constitutional right to life.

ABORTIFACIENTS AND LIFE'S BEGINNINGS

In his dissent, Justice Stevens argued that the preamble is unconstitutional. The preamble declared that life begins at "conception" which the statute defined as "the fertilization of the ovum of a female by a sperm of a male." Justice Stevens states that "standard medical texts equate 'conception' with implantation in the uterus, occurring about six days after fertilization. Missouri's declaration therefore implies regulation not only of previability abortions, but also of common forms of contraception such as the IUD and the morning-after pill." In a footnote, Justice Stevens said:

"An intrauterine device, commonly called an IUD, 'works primarily by preventing a fertilized egg from implanting.' . . . Other contraceptive methods that may prevent implantation include 'morning-after pills,' high dose estrogen pills taken after intercourse, particularly in cases of rape . . . and the French RU 486, a pill that works 'during the indeterminate period between contraception and abortion.' . . . Low-level estrogen 'combined' pills—a version of the ordinary, daily ingested birth control pill—also may prevent the fertilized egg from reaching the uterine wall and implanting. . . ."

Justice O'Connor, incidentally, appeared to agree with Justice Stevens in describing early abortifacients as a form of contraception. "It may be correct," said O'Connor 'that the use of postfertilization contraceptive devices is constitutionally protected by [the 1965 *Griswold* case "and its progeny" which held unconstitutional state restrictions on the use or distribution of contraceptives] but, as with a woman's abortion decision, nothing in the record or the opinions below indicates that the preamble will affect a woman's decision to practice contraception."

If a majority of the Court were to agree that early abortifacients are contraceptives, any allowance by the Court of restrictions on abortion by the states would be rendered meaningless with respect to the early abortions which will be the usual abortions in the near future. Justice Stevens alluded to this issue:

"One might argue that the *Griswold* holding applies to devices 'preventing conception,' . . .—that is, fertilization—but not to those preventing implantation, and therefore, that *Grisworld* does not protect a woman's choice to use an IUD or take morning-after pill. There is unquestionably a theological basis for such an argument . . . just as there was unquestionably a theological basis for the Connecticut statute that the Court invalidated in *Grisworld.* Our ju-

risprudence, however, has consistently required a secular basis for valid legislation . . . Because I am not aware of any secular basis for differentiating between contraceptive procedures that are effective immediately before and those that are effective immediately after fertilization, I believe it inescapably follows that the preamble to the Missouri statute is invalid under *Grisworld* and its progeny. Indeed, I am persuaded that the absence of any secular purpose for the legislative declarations that life begins at conception and that conception occurs at fertilization makes the relevant portion of the preamble invalid under the Establishment Clause of the First Amendment to the Federal Constitution. This conclusion does not, and could not rest on the fact that the statement happens to coincide with the tenets of certain religions . . . or on the fact that the legislators who voted to enact it may have been motivated by religious considerations . . . Rather, it rests on the fact that the preamble, an unequivocal endorsement of a religious tenet of some but by no means all Christian faiths . . . serves no identifiable secular purpose."

Stevens thus regards the claim that life begins at fertilization as merely a "theological" position. He continues:

"My concern can best be explained by reference to the position on this issue that was endorsed by St. Thomas Aquinas and widely accepted by the leaders of the Roman Catholic Church for many years. . . . 'The disagreement over the status of the unformed as against the formed fetus was crucial for Christian teaching on the soul. It was widely held that the soul was not present until the formation of the fetus 40 or 80 days after conception, for males and females respectively. Thus, abortion of the "unformed" or "unanimate" fetus (from anima, soul) was a something less than true homicide, rather a form of anticipatory or quasihomicide. This view received its definite treatment in St. Thomas Aquinas and became for a time the dominant interpretation in the Latin Church.". . . If the views of St. Thomas were held as widely today as they were in the Middle Ages, and if a state legislature were to enact a statute prefaced with a 'finding' that female life begins 80 days after conception and male life begins 40 days after conception, I have no doubt that this Court would promptly conclude that such an endorsement of a particualr religious tenet is violative of the Establishment Clause. In my opinion the difference between that hypothetical statute and Missouri's preamble relects nothing more than a difference in theological doctrine. The preamble . . . endorses the theological position that there is the same secular interest in preserving the life of a fetus during the first 40 or 80 days of pregnancy as there is after viability—indeed, after the time when the fetus has become a 'person' with legal rights protected by the Constitution."

This curious digression on St. Thomas is relevant because it illustrates a common technique used to obscure the fact that every abortion kills a human being. The technique is to dismiss the assertion of that fact as the expression of a merely theological belief. St. Thomas knew nothing of the ovum and the process of fertilization and gestation. His lack of modern scientific knowledge led him to conclude that human life began and ensoulment took place, not at conception, but some time later, probably forty days later for males and eighty days for females. He concluded that abortion was not homicide until ensoulment, although he regarded abortion at every stage as a grave sin. (See Grisez, *Abortion: The Myths, The Realities and The Arguments* (1970), 154-55; Noonan, "An Almost Absolute Value in History," in Noonan (ed.) *The Morality of Abortion: Legal and Historical Perspectives* (1970), 1, 22-26; Gerber, "When Is the Human Soul Infused?", 22 *Laval Theologique et Philosophique* 234, 236 (1966).) Aquinas based his position on the science of his day, which we now know to be wrong. Yet Stevens continues his strange analysis:

"[T]he Constitution allows the use of contraceptive procedures to prevent potential life from developing into full personhood. Focusing our attention on the first several weeks of pregnancy is especially appropriate because that is the period when the vast majority of abortions are actually performed.

"As a secular matter, there is an obvious difference between the state interest in protecting the freshly fertilized egg and the state interest in protecting a 9-month-gestated, fully sentient fetus on the eve of birth. There can be no interest in protecting the newly fertilized egg from physical pain or mental anguish, because the capacity for such suffering does not yet exist; respecting a developed fetus, however, that interest is valid."

* * * * *

". . . . Contrary to the theological 'finding' of the Missouri Legislature, a woman's constitutionally protected liberty encompasses the right to act on her own belief that—to paraphrase St. Thomas Aquinas—until a seed has acquired the powers of sensation and movement, the life of a human being has not yet begun."

HIDDEN DANGER

These references to "the powers of sensation and movement" and the "capacity" for "suffering" and to experience "physical pain or mental anguish" are relevant in light of the Supreme Court's decision to review *Cruzan v. Harmon*, a Missouri right-to-die case. If human life does not begin until one has "the powers of sensation and movement," would that life be decreed to be at an end for the adult comatose or vegetative patient who no longer had those powers? Interestingly, Justice Blackmun wrote in his opinion:

"In answering the plurality's claim that the State's interest in the fetus is uniform and compelling throughout pregnancy, I cannot improve upon what Justice Stevens has written: "I should think it obvious that the State's interest in the protection of an embryo . . . increases progressively and dramatically as the organism's capacity to feel pain, to experience pleasure, to survive, and to react to its surroundings increases day by day. The development of a fetus—and pregnancy itself—are not static conditions, and the assertion that the government's interest is static simply ignores this reality.' "

The unspoken issue here is whether the state's interest decreases "progressively and dramatically" at the other end of life as the capacity to experience pleasure and pain and to react decreases.

THE KEY ISSUE: PERSONHOOD

Justice Stevens deserved credit for candor because he is the only member of the Court who has persistently and explicitly raised the personhood issue. In the 1986 *Thornburgh* case, he wrote that, "unless the religious view that a fetus is a 'person' is adopted . . . there is a fundamental and well-recognized difference between a fetus and a human being, indeed, if there is not such a difference, the permissibility of terminating the life of a fetus could scarcely be left to the will of the state legislatures." The states' rights position on abortion is based on the premise that the preborn child is a non-person. This is so because the status of personhood clearly carries with it a right to the protection of the law, especially with respect to the right to life. The Supreme Court indicated in *Roe v. Wade* itself that if the preborn child is a person the state could not allow abortion even to save the life of the mother. (*Roe v. Wade*, 410 U.S. at 157, n.54.) And Justice Stevens, in *Webster*, made the point again:

"No member of this Court has ever questioned the holding in *Roe* . . . that a fetus is not a 'person' within the meaning of the Fourteenth Amendment. Even the dissenters in *Roe* implicitly endorsed that holding by arguing that state legislatures should decide whether to prohibit or to authorize abortions. . . . By characterizing the basic question as 'a political issue,' . . Justice Scalia likewise implicitly accepts this holding."

This last is a fitting quotation upon which to close this summary of the *Webster* decision. The key issue, as it has always been, is personhood. In any free and just society, there is an indispensable connection between humanity and personhood. The denial of personhood was the legal technique by which the Nazis set the Jews on the road to the gas chambers. And that denial was integral to the *Dred Scott* decision of the Supreme Court in 1857. When the Fourteenth Amendment reversed *Dred Scott*, its protection of persons was understood to extend to all human beings. In the line of cases from *Roe* through *Webster*, however, the Supreme Court denied the status of personhood to human beings before birth. The denial of personhood applies, in the Court's view, whether or not the preborn child is a human being; it is the same, in effect, therefore, as a flat holding that an acknowledged human being is a non-person. Of course, if you can deny the personhood of the preborn child you can do the same thing to his elder retarded brother or his grandmother. If an innocent human being is subject to execution at the discretion of another, he is, in the most important respect, a non-person. Not surprisingly, the right to execute the retarded and some incompetent patients by starvation and dehydration is already well established in the courts. The next step will be the painless injection to spare the victim suffering and to hasten his demise; an intimation of this can be seen in the growing medical practice of participating in the "assisted suicide" of AIDS patients. (See *New York Times*, May 24, 1989, p. 1, col. 2.)

WEBSTER: WINDOW OF OPPORTUNITY—OR CORRUPTING INFLUENCE

The Supreme Court appears to be in the process of turning over the issue of abortion to the state legislatures. This is not surprising because, as Justice Stevens noted, every member of the Court evidently agrees that the preborn child is a non-person. Scalia and Kennedy, upon whom the pro-life movement put so much hope, are like all the rest in this respect. The Court will allow state legislatures to enact at least marginal restrictions on surgical abortions but only at the time when those abortions are becoming obsolete because of the new early abortifacient drugs and devices.

The law is an educator. And the experience of debating in state legislatures as to

which innocent human beings will be subject to execution, and according to what formalities the deed will be done, will further desensitize the people to legalized murder and will inhibit the restoration of conviction that all life is precious because it comes from God and that, as Pope John Paul II said at the Capitol Mall in 1979, "no one ever has the authority to destroy unborn life." Unless that conviction is restored widely among the American people, there will be no chance of enacting the licensing and other restrictions and prohibitions of the use of early abortifacients.

The *Webster* decision can be a window of opportunity for the pro-life movement. Or it can be a corrupting influence. We have a priceless opportunity to save lives if we go into state legislatures and insist, without compromise, that preborn babies must never be legally executed. But the decision will have a corrupting effect if the political compromisers in the movement dominate the activity in the legislatures, wheeling and dealing with preborn lives as they would with a highway appropriation. Some figures in the movement will predictably respond to *Webster* by seeking only whatever incremental legislation they think the Court would be likely to approve. They will regard it as a great victory if, years later, some of their marginal restrictions on baby killing are approved by the Court. In the meantime, this piecemeal, compromising approach will corrupt the public mind and will preclude any effective reaction against early abortifacients.

PARTIAL LINE-ITEM VETO

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. UDALL. Mr. Speaker, Presidents of both parties in recent decades have supported the concept of a partial Presidential veto of acts of Congress or, more specifically, line-item vetoes of individual appropriations within general appropriations acts.

Within the Congress there have been divergent views, although the majority has supported a position going back to our Nation's first President that an act of Congress presented to the President for approval or disapproval must be vetoed in whole or not at all.

I have adhered to that view, but my predecessor as Representative of the Second District of Arizona, my brother Stewart L Udall, once testified in support of the line-item veto during hearings held in the Presidency of Dwight D. Eisenhower.

My attention was recently drawn to a scholarly article written by an Illinois attorney, Anthony Haswell, entitled "Partial Veto Power—Does the President Have It Now?" which was published in the March-April edition of the Federal Bar News & Journal. It is a well-researched article that deserves the attention of everyone who may have to address this question in this Congress or subsequent ones.

Mr. Haswell discusses the difference in definition of the words "bill" and "act" as they relate to legislation, a bill being a legislative measure as introduced, and an act being the finished product passed by both the House and Senate and sent to the President for signature or veto. If vetoed, the act can become law, of course, if both the House and Senate vote to override by a two-thirds majority in each. The veto power is addressed in article I, section 7 of the U.S. Constitution.

"Bills" which are combined in one "act," such as separate appropriations contained within a supplemental appropriations act, are subject to "line-item veto", Mr. Haswell argues. He writes: "The Supreme Court once stated that '[t]he power to disapprove necessarily include the power to condition an approval.' Hence, the power to disapprove in whole necessarily includes the lesser power to disapprove in part."

He addresses in detail the concern that such actions might lead to conflict with the doctrine of the separation of powers and concern over where such changes in accepted procedure might take us.

"To the extent that such concerns are valid," Mr. Haswell continues, "it is submitted that the critics are aiming at the wrong end of the problem. Rather than focusing on the scope of the President's power to veto, they should address the constitutional requirement of a two-thirds vote for a congressional override. Were the Supreme Court to sanction partial vetoes, an amendment resolution calling for a simple majority for overrides would be a more appropriate response by Congress than an attempt to restore the status quo. In return for giving up the power to require that any act of Congress must be passed by a two-thirds vote [assuming the veto], the President could compel a rollcall vote on any rider or item of appropriation, many of which would not pass."

Mr. Speaker, while I expect to continue to oppose any legislation to give congressional assent to a President's use of the line-item veto, Mr. Haswell has raised several interesting questions, and I urge my colleagues to read his arguments carefully.

PARTIAL VETO POWER—DOES THE PRESIDENT HAVE IT NOW?

(By Anthony Haswell)

(Anthony Haswell is a member of the Illinois bar, is a paralegal with the firm of Mayer, Brown and Platt, in Chicago, Illinois, and is a member of the Federal Bar Association)

Article I, Section 7 of the United States Constitution empowers the President to veto a "bill" passed by Congress. It is the contention of this article first, that separately introduced legislative proposals contained in the same Act of Congress presented to the President are separately vetoable "bills;" second, that separate legislative proposals in substance contained in the same Act are separately vetoable "bills" regardless of the format or timing of introduction; and third, that the power to veto a bill in whole necessarily includes the power to veto a bill in part. The power of partial veto is limited, but not barred, by the separation of powers principle. Thus the President's veto power now extends both to separable "riders" attached to appropriations and to other legislation, as well as distinct items of appropriation contained in appropriations bills.

HISTORICAL BACKGROUND

During colonial days the King of England and his appointed governors had an absolute veto over colonial legislation. Excessive use of this power was one grievance contained in the Declaration of Independence. The Articles of Confederation provided for no separate executive branch of government, and therefore no executive veto power. Then the pendulum swung the other way.

Dissatisfaction with the weakness inherent in such a governmental structure led to the Constitutional Convention of 1787. The convention debates focused on whether the veto power was to be absolute or qualified (subject to congressional override); whether the power could be exercised by the President acting alone; and whether an override would require a majority, two-thirds, or three-fourths vote. There was no discussion of vetoes of parts of bills by the President at the time he signed the remainder into law.[1] Article I, Section 7 as adopted is as follows:

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approves, he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two-thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by the Adjournment prevent its Return, in which Case it shall not be a Law.

Article I, Section 7 does not specifically prohibit a partial veto, and no President has ever attempted one. In 1793 President Washington wrote that:

You do me no more than Justice when you suppose that from motives of respect to the Legislature (and I might add from my interpretation of the Constitution) I give my Signature to many Bills with which my judgment is at variance. In declaring this, however, I allude to no particular Act. From the nature of the Constitution, I must approve all the parts of a Bill, or reject it in toto. To do the latter can only be justified upon the clear and obvious ground of propriety; and I never had such confidence in my own faculty of judging as to be over tenacious of the opinions I may have imbibed in doubtful cases.[2]

Ever since Washington's time, courts and constitutional scholars have assumed that the President must either sign the whole bill as presented to him or return it in toto to the Congress.[3] However, the public policy consequences of this restrictive interpretation have been frequently criticized over the past century.

Around 1820, Congress began the now-familiar practice of attaching nongermane "riders"—amendments containing separate and unrelated legislative proposals—to both appropriations bills and to bills containing other essential legislation.[4] Typically the principal bill is popular, with broad support in Congress, while the amendment is for the benefit of a narrow group and contrary to public interest. Often, it is impossible as a practical matter for the President to veto the whole bill, *e.g.*, one containing vital appropriations, or an increase in the federal

debt limit.[5] Hence undesirable riders which get attached to such legislation are "veto-proof."[6]

Past presidents have strongly objected to this legislative tactic. In 1879 President Hayes asserted in his diary:

This is a controversy which cannot and ought not to be compromised. The Revolutionists claim that a bare majority in the House of Representatives shall control all legislation, by tacking the measures they can't pass through the Senate, or over the President's objections, to the appropriation bills which are required to carry on the government. . . . [I]t is idle to talk of compromises as to the particular measures which are used as riders on the appropriations bills. These measures may be wise or unwise. It is easy enough to say in regard to them, that used as they are to establish a doctrine which overthrows the Constitutional distribution of power between the different departments of the government, and consolidates in the House of Representatives, the whole law making power of the government . . . we will not discuss or consider them when they are so presented. . . . To tack political legislation to appropriation bills and to threaten that no appropriations will be made unless the political measures are approved is not in my judgment constitutional conduct.[7]

In a veto message, President Hayes described such congressional tactics as "[striking] from the Constitution the qualified negative of the President."[8] In 1912, President Taft expressed similar views in a message accompanying his veto of an appropriation bill to which an undesirable rider had been attached:

The dangers inherent in the practice of attaching substantive legislation to appropriation bills have frequently been pointed out by my predecessors. . . . Taken as a whole, it would be hard to conceive of a clearer instance of an attempt to force upon the Executive, legislation well known to be disapproved of by him, and, by attaching such legislation to one of the great supply of bills of the Government, to deprive the President of his constitutional power as to legislation. There can be no consitutional defense to such a practice.[9]

In addition to the abuses of "riders," criticism of the assumed inflexibility of the veto power has focused on the President's inability to veto individual "line items" of appropriation contained in omnibus appropriations bills. During the congressional appropriations process, so-called "pork barrel" appropriations items, of benefit only to some narrow interest in an individual Member's state or district, are frequently included in appropriations bills through the practice of "log-rolling." Members of congressional appropriations committees will often support a colleague's "pork" item for reciprocal support for the Members' own pet projects. After an appropriations bill is reported for floor action, the floor leadership may accept additional "pork" as amendments, which are not voted on separately. Sometimes essential appropriations, clearly in the national interest, are held back, contingent upon obtaining an agreement to include certain "pork." The end result is that items of appropriation which might not pass if voted on separately are nevertheless enacted as part of the larger package.[10]

As was one stated by the Supreme Court:

Provisions granting power to the executive to veto an item or items of an appropriation bill are to be found in various forms of expression in many of the state constitutions. Their object is to safeguard the public treasury against the pernicious effect of what is called "log-rolling"—by which, in order to secure the requisite majority to carry necessary and proper items of appropriation, unnecessary or even indefensible items are sometimes included.[11]

A Gallup poll of November 1983 reported that 67 percent of the voters nationwide favor granting item veto power for the President—a strong majority that has remained fairly constant since 1945.[12]

Beginning with President Grant, a number of presidents including President Reagan have advocated a constitutional amendment to provide specifically for item veto power.[13] From time to time since the Civil War, resolutions have been introduced in Congress proposing such an amendment, but none were passed and sent to the states for ratification.[14]

More recently, it has been suggested that Congress could give the President item veto power by appropriate legislation without the necessity of a constitutional amendment. On several occasions beginning in 1938, bills to that end have been introduced in Congress, but none has been enacted.[15] The latest attempt was Senate Bill 43, introduced in January 1985, which required that each item of appropriation contained in any appropriation bill be treated by the Clerk of the House and the Secretary of the Senate as a separate bill subject to veto separately by the President.[16] While President Reagan endorsed the bill in his state of the Union message and the bill was reported to the floor of the Senate,[17] passage was blocked by a "filibuster."[18]

It seems unlikely that Congress will voluntarily surrender, either through legislation or through a constitutional amendment, its present power to tie the President's hands through riders and omnibus appropriations. Constitutional amendments, like legislation, must originate in Congress unless a convention is called by the state legislatures. No such convention has taken place since the Constitution was ratified. Hence it is appropriate to consider whether the President has partial veto power under the Constitution as it is presently written.

SEPARATELY INTRODUCED LEGISLATIVE PROPOSALS CONTAINED IN THE SAME ACT ARE SEPARATELY VETOABLE "BILLS"

The delegates to the Constitutional Convention in 1787 approved the following resolution: "That the national Executive shall have a Right to negative any legislative Act, which shall not be afterwards passed, unless by two-third Parts of the national Legislative." The matter was referred to the Committee of Detail, which drafted the language ultimately adopted by the convention as Article I, Section 7.[19] The adopted language empowers the President to veto a "Bill" rather than an "Act."

"Bill" is not defined in the Constitution, nor has it been defined by the Supreme Court. Recourse is therefore necessary to federal and state appellate decisions and to the dictionary. These sources indicate that there are crucial distinctions between "bill" and "act." Judicial interpretations of "bill" include the following:

A bill is a draft of a proposed statute submitted to the legislature for enactment. It cannot become a law by the action of the Senate alone, or of the Assembly alone, but only by the action of both, when it becomes an act of the legislature, subject to the approval of the governor.[20]

A bill is the draft or form of an act presented to the legislature, but not enacted. An "act" is the appropriate term for it after it has been acted on by, and passed, the legislature. It is then something more than a draft or form. It has a legal existence as "an act" of the legislative body, because it becomes law, without further action from any other branch of the government, if the executive takes no measures to prevent it.[21]

[A bill is] not the final product of the legislative will, not the statute, but a project for a statute, which may by amendment take a very different shape by the time it is ready for promulgation as a law.[22]

Webster's Third New International Dictionary (1961) has this to offer:

Bill—a draft of a law presented to a legislative for enactment; a proposed or projected law.

Act—the formal product of a legislative body; the formally declared will of a legislature the final requirement of which is usually the signature of the proper executive officer.

Article I, Section 7 does not mention "acts." It speaks only of "bills." Moreover, it calls for the return of the bill to the House "in which it shall have originated." Thus, the language of the Constitution indicates that for purposes of Article I, Section 7, "bill" means any portion of an Act of Congress which was originally introduced in the House of Senate as a separate and distinct legislative proposal.[23] It should make no difference whether the "bill" was originally dropped into the hopper, or was presented as an amendment to other legislation and attached thereto as a "rider." To the extent that an act contains two or more separate "bills," each of them may be separately vetoed.

This interpretation of "bill" derives added support from the legislative process of Congress in the early years after ratification of the Constitution, which presumably reflects the process that was contemplated by the framers. Almost all of the early acts of Congress, other than appropriations measures, were confined to a single subject.[24] The now-familiar practice of attaching non-germane riders to appropriations and other bills did not begin until 1820 and did not become common until about the time of the Civil War.[25] Hence, it is likely that the framers assumed that separate proposals for general legislation would be enacted as separate acts, with the President having an opportunity to veto each such proposal.[26]

It has recently been suggested that exclusive congressional power to define the contents of a "bill" for purposes of the veto power is contained in Article I, Section 5, which empowers each House of Congress to determine the rules of its own proceedings.[27] However, in a line of decisions beginning in 1929, the Supreme Court has made clear that Congress cannot affect the scope of the veto power, which was constitutionally granted to the President by Article I, Section 7.

In the "Pocket Veto" case, the Supreme Court held that Congress cannot, by adjourning its session after presenting a bill to the President but before expiration of the ten-day period for signature or veto, force the President to take less than the full ten days to decide whether or not to veto. "The (veto) power thus conferred upon the President cannot be narrowed or cut down by Congress."[28] This principle has been reinforced by several later decisions. Congress may not frustrate the veto power by taking strategically scheduled recesses, as such recesses do not prevent the return of the vetoed bill to the house of origin.[29] Nor may

Congress cut down on the ten-day period for the President's signature or veto by sending him a bill when he is out of the country on official business; the time period does not begin to run until he returns. Finally, in the 1983 "Legislative Veto" case,[30] the Supreme Court invalidated an attempt by Congress to empower one of its House to enact a resolution reversing an administrative rule-making decision. The Court held that such a procedure would wrongfully deprive the President of an opportunity to veto the resolution.[31]

It follows from all these decisions that the President's constitutional power to veto "bills" cannot be impaired or nullified by the action of Congress under color of Article I, Section 5 of combining two or more "bills" in one "act" and presenting the President with the choice of either signing all the bills into law or vetoing all of them. The exercise of the veto power by the President is not a proceeding of either the House or the Senate.[32]

Were the definition of "bill" here advocated to be adopted by the Supreme Court, the President would be able to separately veto distinct legislative proposals initially introduced in separate bills and later combined in the same "act." He would also be able to separately veto "riders" attached as floor amendments to appropriation, tax, and other legislation.

SEPARATE LEGISLATIVE PROPOSALS IN SUBSTANCE CONTAINED IN THE SAME ACT ARE SEPARATELY VETOABLE "BILLS"

The previous analysis of "bill" as that term is used in Article I, Section 7 is grounded upon the format and timing of the introduction of legislative proposals. No matter how separate and distinct two or more proposals may be in fact, they could not be separately vetoed if they were introduced at the same time under the same bill number or in the same amendment. It follows that the definition of a vetoable bill would still depend to some extent upon the practice and procedure of Congress.

While achieving "veto-proof" legislation would be more difficult than at present, in that the merger would have to take place before introduction rather than any time thereafter prior to final passage, it could still be done with sufficient advance planning. Were Congress determined to shield a given proposal from a veto, it could see that it was introduced together under the same bill number with another or other proposals which as a practical matter could not be vetoed. And, of course, Congress could continue its present practice of introducing many separate items of appropriation in a single bill.

In a letter to a colleague in 1937, Rep. W. Sumners, Chairman of the House Judiciary Committee and a constitutional law expert whose views commanded the respect of the Supreme Court in three major cases involving the President's veto power,[33] asserted:

Does the word "bill" necessarily mean all the separate items assembled under one caption, each of which might have been the subject matter of a separate bill but which for convenience sake in expediting the public's business are assembled under one caption? It is clear that the sole purpose of this section is to make certain that no item of proposed legislation shall be law until it is approved by the President, or, if disapproved by the President, is again passed by both Houses by two-thirds vote, the objections of the President notwithstanding.

To hold that the word "bill" necessarily means all the items assembled under one caption would be a construction operative against the purpose and plan of the Constitution. That construction would compel the President officially to approve items which he does not in fact approve in order to avoid striking down other items which he does approve. On the other hand, such a construction would force him to disapprove items which in fact he does approve in order to reach other items which he disapproves.[34]

The practice of Congress in combining many and diverse items of appropriation in "supplemental" appropriations bills demonstrates that individual items contained in regular departmental appropriations bills are separate and distinct legislative proposals, and hence are separate "bills" for purposes of Article I, Section 7.

It follows that the definition of "bill" should be based upon the substance of each and every separate and distinct legislative proposal contained within an Act sent to the President rather than upon the format and timing of introduction of those proposals.[35] Under this interpretation, Congress could not frustrate the veto power by skillful merger of proposals prior to introduction, and the President would be able to separately veto separate and distinct items of appropriations contained in omnibus appropriations bills.

Even if it is assumed that a "bill" for purposes of Article I, Section 7 is nothing less than an entire Act presented to the President, it does not necessarily follow that the President cannot separately veto a distinct legislative proposal contained within a larger bill. The Constitution does not specifically prohibit partial vetoes.[36] It is a judicially recognized maxim that the greater power includes the lesser.[37] The Supreme Court once stated that "[t]he power to disapprove necessarily includes the power to condition an approval." [38] Hence, the power to disapprove in whole necessarily includes the lesser power to disapprove in part.

If four separate bills were simultaneously presented to the President and he vetoed two of them, that would be a lesser exercise of power than if he vetoed all four. It follows that the same should be true were the identical pieces of legislation included in one bill and the President vetoed two if the four separate parts.

Regardless of which theory is accepted in support of partial vetoes, such a veto must not result in the amendment or change of the remainder of the act which is not vetoed. That is because the doctrine of separation of powers between the executive and legislative branches forbids the President from exercising affirmative legislative power.

Separation of power between the President, Congress, and the courts is a key element of federal constitutional law. In determining whether the action of one branch of government violates the separation of powers doctrine, inquiry first focuses on whether that action threatens to prevent another branch "from accomplishing its constitutionally assigned functions." When there is a "potential for disruption" of those functions, it must then be determined whether such disruption "is justified by the overriding need to promote objectives within the constitutional power" of the branch whose exercise of power is challenged.[39] Affirmative legislative power is vested exclusively in the Congress by Article I, Section 1.

The Founders of this Nation entrusted the lawmaking power to the Congress alone in both good and bad times. It would do no good to recall the historical events, the fears of power, and the hopes for freedom that lay behind their choice.[40]

While in the exercise of the veto power under Article I, Section 7, the President does participate in the legislative process,[41] the veto is only a "qualified negative."[42]

It is submitted that a partial veto would not violate the separation of powers principle if it simply negated a distinct and separable legislative proprosal rather than changing or altering it. Such a veto would not disrupt or threaten to prevent Congress from accomplishing its legislative functions any more than would a veto of a whole bill containing only a single subject. It would not be an exercise of affirmative legislative power by the President. It follows that a veto of a separable rider or item of appropriation should not be barred by the separation of powers.

President Washington's belief that "the nature of the Constitution" permitted no partial vetoes [43] was probably based on concern about the separation of powers. Since most of the Acts of Congress in the early years were confined to single subjects,[44] it is likely that the objectionable parts of bills which Washington felt he could not veto were parts of integral, unified pieces of legislation which could not be vetoed without resulting in alteration or change in the remainder.

CONCLUSION

The President now has the power to veto part of an Act presented to him by Congress. This power may be sustained on any of three different theories: first, any separately introduced legislative proposal contained within an Act is a vetoable "bill;" second, any legislative proposal separate and distinct in substance contained within an Act is a vetoable "bill;" and third, the power to veto a bill in whole includes the power to veto a bill in part.

While this article contends that partial vetoes by the President are constitutionally permissible, it has not attempted to resolve the accompanying public policy considerations. One author maintains that the President already has too much power over the legislative process by means of the veto as it is presently interpreted, and hence congressional resort to procedural devices such as "riders" should be applauded rather than discouraged.[45] Others assert that such an imbalance would be created were the veto power extended to riders [46] and to items of appropriations.[47]

To the extent that such concerns are valid, it is submitted that the critics are aiming at the wrong end of the problem. Rather than focusing on the scope of the President's power to veto, they should address the constitutional requirement of a two-thirds vote for a congressional override. Were the Supreme Court to sanction partial vetoes, an amendment resolution calling for a simple majority for overrides would be a more appropriate response by congress than an attempt to restore the status quo.[48] In return for giving up the power to require that any Act of Congress must be passed by a two-thirds vote, the President could compel a roll-call vote on any rider or item of appropriation, many of which would not pass. In return for giving up the power of enacting riders and items of appropriation which might not pass if voted upon separately, the congressional leadership would be assured that any specific piece of general legislation or item of appropriation which

commanded majority support on its own merits would become law.

Win or lose, the President stands to gain by attempting a partial veto. the "bully pulpit" of the Presidency would be illuminated by the glow of publicity arising out of the constitutional litigation which would likely ensue, creating an opportunity to educate the public on the issues involved. As a consequence, even if the Supreme Court ruled against the President, the chances would be enhanced for ultimate favorable action on a constitutional amendment specifically authorizing item or other partial vetoes.

FOOTNOTES

[1] *See* MacGowan, *The President's Veto Power: An Important Instrument of Conflict in Our Constitutional System*, 23 San Diego L. Rev. 791 (1986); Best, *The Item Veto: Would the Founders Approve?*, 14 Pres. Stud. Q. 183 (1984); Staff of House Comm. on the Judiciary, 84th Cong., 1st Sess., *The Veto Power of the President* (Comm. Print 1951), *reprinted at* 12 F.R.D. 297 (1951) [hereinafter Comm. Print]; Note, *The Item Veto in the American Constitutional System*, 25 Geo. L. J. 106 (1936) [hereinafter *Item Veto*].

[2] Comm. Print, *supra* note 1, at 22.

[3] *See Item Veto, supra* note 1, at 110 n.22; L. Koenig, The Chief Executive 136 (1968). There is only one reported case of an attempted partial veto by a state or territorial governor under a constitution or "organic law" which, like the federal Constitution, contained no specific provision for an item veto. In 1887, the governor of Arizona Territory vetoed an item of appropriation for judicial salaries contained in a general appropriation act. The veto was nullified by the territorial Supreme Court:

"By the organic act referred to, whatever the governor may do in the premises has reference to a bill in its entirety, and not to any of its parts. A bill is approved as a whole or disapproved as a whole." Porter v. Hughes, 32 P. 165, 166 (Ariz. 1893). The court advanced no further rationale for its position.

In 1933, the Governor-General of the Philippines vetoed one section of a twelve-section bill providing for retirement pay. The veto was attempted to be sustained under the specific item veto power provided in the Organic Act for the territory. The United States Supreme Court stated, without further elaboration, that the "usual and general veto power" provided in the Act "requires the veto to include the whole bill." The Court held that the item veto power could not be used by the Governor-General to amend or change a unified piece of legislation. Bengzon v. Secretary of Justice, 299 U.S. 410, 412 (1937).

[4] *See* Comm. Print. *supra* note 1, at 33; *Line Item Veto: Hearings on S. 43 Before the S. Comm. on Rules and Administration*, 99th Cong., 1st Sess. 19 (1985) (statement of Johnny H. Killian, Senior Specialist, Congressional Research Service) [hereinafter Killian].

[5] *See* Congressional Quarterly, Guide to Congress 41, 119, 349-50 (2d ed. 1976) [hereinafter Guide to Congress].

[6] A recent illustration is the $370 billion "stopgap" spending act presented to President Reagan by Congress in October 1984. The act contained funds for several major departments of the government for fiscal year 1985. Were it to be vetoed in whole, ongoing government operations could have been crippled. However, also included in the act was a major revision of the federal criminal justice system. This has been a controversial and politically sensistive question, quite unrelated to annual funding of the government. It is easy to envision provisions being included which would stimulate a presidential veto. Yet under prevailing assumptions about the veto power, Congress had effectively "veto-proofed" the criminal justice bill by attaching it to the urgent funding legislation. *See* Wall St. J., Oct. 12, 1984, at 2, col. 3. The same considerations are applicable to the $576 million "omnibus" appropriations act of 1986, to which was attached a provision granting anti-trust exemptions to beer distributors, and to an $11 billion supplemental appropriations bill considered by the House in 1987, to which were attached two provisions on arms control negotiations. *See* Wall St. J., Apr. 24, 1987, at 44, col. 1; *id.*, Oct. 2, 1986, at 28, col. 1.

[7] Guide to Congress, *supra* note 5, at 41.

[8] *Item Veto, supra* note 1, at 118.

[9] *Id.* at 117-18.

[10] *See* Boesch, *The President and the Item Veto: A Proposal, 18* St. Louis Univ. L.J. 407, 413 (1974); Ross & Schwengel, *An Item Veto for the President?*, 12 Pres. Studies Q. 75 (1982) [hereinafter Ross & Schwengel]; Townsend, *Single Subject Restrictions as an Alternative to the Line Item Veto*, 1 Notre Dame L.J., Ethics & Pub. Pol'y 227, 228-241 (1985).

[11] Bengzon v. Secretary of Justice, 299 U.S. 410, 415 (1937) (construing veto power of Governor-General of the Phillipines). Other judicial expressions of the reasons for item veto power in state constitutions are found in State v. Zimmerman, 289 N.W. 662, 664 (Wis. 1940); Fairfield v. Foster, 214 P. 319, 321 (Ariz. 1923); and Commonwealth v. Barnett, 48 A. 976, 971 (Pa. 1901). Forty-three states now have specific constitutional provisions authorizing gubernatorial vetoes of separate items of appropriation. *See* Muyskens, *Item Veto Amendment to the Iowa Constitution*, 16 Drake L. Rev. 245 (1969); Beckman, *The Item Veto Power of the Executive*, 31 Temple L.Q. 27 (1957).

[12] Chicago Sun-Times, Nov. 17, 1983, at 9, col. 1. *See also* Ross & Schwengel, *supra* note 10, at 73.

[13] *See* Ross & Schwengel, *supra* note 10, at 69-72; N.Y. Times, Jan. 26, 1984, at B8, col. 3.

[14] *See Item Veto, supra* note 1, at 106-107; Killian, *supra* note 4, at 14; Ross & Schwengel, *supra* note 10, at 70, 74.

[15] *See* Killian, *supra* note 4, at 14.

[16] *See Line Item Veto: Hearings on S. 43 Before the S. Comm. on Rules and Administration*, 99th Cong., 1st Sess. 19 (1985).

[17] S. Rep. No. 92, 99th Cong., 1st Sess. (1985).

[18] Chicago Trib., July 25, 1985, at 2, col. 3.

[19] *See* Barnes v. Kline, 759 F.2d 21, 31 (D.C. Cir. 1985).

[20] People v. Reardon, 77 N.E. 970, 972 (N.Y. 1906).

[21] Southwark Bank v. Commonwealth, 26 Pa. 446, 450 (1856).

[22] Hubbard v. Lowe, 226 F. 135, 138 (S.D.N.Y. 1915).

[23] In expounding the Constitution of the United States, every word must have its due force, and appropriate meaning; for it is evident from the whole instrument, that no word was unnecessarily used, or needlessly added. The many discussions which have taken place upon the construction of the Cosntitution, have proved the correctness of this proposition; and shown the high talent, the caution, and the foresight of the illustrious men who framed it. Every word appears to have been weighed with the utmost deliberation, and its force and effect to have been fully understood.

Holmes v. Jennison, 39 U.S. 546, 570-71 (1840).

[24] *See* United States Statutes at Large, volume I, 1789-1799.

[25] *See* Comm. Print, *supra* note 1, at 33; Killian, *supra* note 4, at 19.

[26] *See* Comm. Print, *supra* note 1, at 34.

[27] *See* Killian, *supra* note 4, at 19.

[28] Okanogan Indians v. United States, 279 U.S. 655, 677 (1929), *quoted with approval in* Edwards v. United States, 286 U.S. 482, 486 (1932).

[29] Wright v. United States, 302 U.S. 583, 596-597 (1938).

[30] Eber Brothers v. United States, 337. F.2d 624, 633-34 (Ct. Cl. 1964), *cert. denied*, 380 U.S. 950 (1965).

[31] INS v. Chada, 462, U.S. 919, 946-48 (1983).

[32] The recent effort in Congress to enact S. 43, see *supra* notes 16-18 and accompanying text, was constitutionally grounded on the power of Congress to define "bill" under Acticle I, Section 5. See Statement of Prof. Judith A. Best, State University College, Cortland, N.Y., *Line Item Veto: Hearings on S. 43 Before the S. Comm. on Rules and Administration*, 99th Cong., 1st Sess. 37 (1985). However, S. 43 did not define "bill" in a manner limiting and circumscribing the exercise of the veto power. It would, if anything, have procedurally facilitated its exercise. Hence, it would have been no more an intrusion into the President's veto power under Article I. Section 7 than were each and every item of appropriation introduced into Congress as a separate bill with its own bill number enacted as a separate act. *See* Killian, *supra* note 4, at 20.

[33] Wright v. United States, 302 U.S. 583 (1938); Edwards v. United States, 286 U.S. 482 (1932); and Okanogan Indians v. United States, 279 U.S. 645 1929).

[34] 84 Cong. Rec. 200 (1938).

[35] For previous commentary supporting this position, see Clineburg, *The Presidential Veto Power*, 19 S.C. L. Rev. 732, 752-53 (1966).

[36] In contrast to the Federal Constitution, the constitution of Florida specifically provides that "[i]n all cases except general appropriation bills, the veto shall extend to the entire bill." Fl. Const. art. III, § 8(a).

[37] *See* University System v. Trust Co., 198 S.E. 345, 349 (Ga. 1938); Mays v. Beach, 86 S.W. 713 (Tenn. 1905).

[38] Southern Pac. V. Olympian Dredging, 260 U.S. 205, 208 (1922).

[39] Nixon v. Administrator, 433 U.S. 425, 443 (1977). *See also* Nixon v. Fitzgerald, 457 U.S. 731, 743-45 (1982).

[40] Youngstown Sheet v. Sawyer, 343 U.S. 579, 589 (1952).

[41] La Abra Mining v. United States, 175 U.S. 423, 453 (1899).

[42] Okanogan Indians v. United States, 279 U.S. 655, 677 (1929).

[43] See *supra* note 2 and accompanying text.

[44] See *supra* notes 24 and 25 and accompanying text.

[45] Black, *Some Thoughts on the Veto*, 40 Law & Comtemp. Probs. 87 (1976).

[46] Riggs, *Separation of Powers; Congressional Riders and the Veto Power*, 6 U. Mich. L. Rev. 735 (1973).

[47] Bellamy, *Item Veto: Shield Against Deficits or Weapon of Presidential Power?*, 22 Val. U. L. Rev. 557 (1988); Fisher & Devins. *How Successfully Can the States' Item Veto Be Transferred to the President?*, 75 Geo. L.J. 159 (1986); Edwards *A Conservative's Case Against the Item Veto*, Wash. Post, Feb. 8, 1984, at A19, col. 1.

[48] *See* S.J. Res. 26 (Dixon D-Il.), and H.J. Res. 399 (Gekas, R-Pa.), both introduced in the 98th Congress in 1983 and 1984.

A SPECIAL ANNIVERSARY FOR NORTHEASTERN PENNSYLVANIA'S SUNDAY INDEPENDENT NEWSPAPER

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. KANJORSKI. Mr. Speaker, I am pleased to rise today to inform my colleagues that October 8, 1989, will mark the 85th anniversary for the Sunday Independent, a weekly independent newspaper in my congressional district in northeastern Pennsylvania.

As I rise to pay tribute to this publication, I am reminded of the eloquent and timeless words of Thomas Jefferson, who once remarked, "where the press is free, and every man able to read, all is safe."

Historians frequently refer to Jefferson as one of the champions of freedom of the press, for he appreciated the instrumental role the press plays in "enlightening the mind of man, and improving him as a rational, moral and social being."

Mr. Speaker, for nearly 85 years the Sunday Independent has striven to provide area residents with important and relevant information on a wide variety of local, State, National, and international issues.

The history of northeastern Pennsylvania and the Wyoming Valley over the course of this century has been reported and analyzed by the publishers, editors, and journalists of the Sunday Independent. Led by the Heffernan family, this weekly paper was founded in 1906 and has served our area ever since.

As we pause to celebrate the newspaper's anniversary, I think it is also fitting to recall some of the important events over this past century that the Sunday Independent played a critical role in reporting.

In fact, I am sure if we trace through the last 85 years by simply reading the headlines of the Sunday Independent, we may well gain a fine appreciation for the rich history of our region.

From the rise of the anthracite coal industry to today's new economic revitalization fueled by a variety of different industries, the people of this region have constantly demonstrated impressive and honorable fortitude, resilience, and flexibility to adjust to changing times.

When World War I began, the sons of Wyoming Valley gallantly answered our Nation's call to service. During the tumultuous and often painful years of the depression, local residents remained determined to succeed in the face of tremendous adversity.

The blossoming of education institutions followed, with the emergence of many fine high schools a Penn State branch and other institutions of higher learning including Wilkes College, Kings College, and College Misericordia.

As we look to the future with the hope of continued economic opportunity and the preservation of our fine quality of life, I am certain that just as local residents have turned to the Sunday Independent for information and news in the past, they will do so in the years ahead as well.

As we prepare to enter the last decade before the next century, I wish to extend my best wishes to the Sunday Independent and the many who have contributed to its success and growth. As the Sunday Independent family looks with great pride at the 85-year history of the paper, they must also be looking to the future with the expectation that they will continue to be a major institution in northeastern Pennsylvania.

TRIBUTE TO ST. PAUL'S R.C. CHURCH OF CLIFTON, N.J. ON ITS 75TH ANNIVERSARY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. ROE. Mr. Speaker, it is with the deepest reverence and the greatest sense of pride that I rise today to salute an outstanding house of worship in my Eighth Congressional District of New Jersey which, for three quarters of a century, has been a spiritual focal point and a beacon of faith for countless numbers of worshipers in the greater northern New Jersey area.

I am speaking of St. Paul's R.C. Church of Clifton, NJ, which will be celebrating its 75th anniversary on October 13. I know the observance of this historic occasion will be an especially proud event for Rev. Msgr. Ronald Amandolare, the pastor of St. Paul's and its guiding force for these past 11 years.

Mr. Speaker, the history of St. Paul's Church is a rich one, beginning 78 years ago with the first meeting of those interested in forming a Catholic Church community in Aquackanonk—which later became Clifton—followed a year later by the formation of the Aquackanonk Catholic Association. The parish was incorporated in 1914 as St. Paul's Catholic Church of Aquackanonk, with its first pastor, Father Paul Guterl, celebrating the church's first mass in the frame church on Second Street.

There have been many significant dates in the history of this important church. For the benefit of you and our colleagues, I would like to list a brief chronology denoting some of St. Paul's many milestones:

1915—A Rectory was built on Union Avenue.

1917—A farmhouse was purchased next door to the church for use as a Convenant and School, and is the present Parish House.

1922—The present parochial school was constructed at the corner of Main and Washington Avenues.

1937—The main church is demolished and ground is broken for the present church.

1946—Father Guterl dies and is buried near the Grotto next to the church.

1947—Msgr. Joseph Hewetson is appointed pastor. Groups including C.Y.O., Boy Scouts, Girl Scouts, Brownies, Bible Study Groups, and the St. Vincent de Paul Society are established.

1964—The Parish celebrates its 50th anniversary.

1968—Msgr. Hewetson retires and Msgr. Frank J. Rodimer is assigned as the new Pastor. The first lectors are appointed and the Parish Advisory Board is formed with Al Esser as the Chairman. David Galusha is named as the first Director of Religious Education.

1970—Catherine Barrett, the first woman trustee, is appointed.

1972—the Parish becomes affiliated with the local Council of Churches. Msgr. Rodimer is given the Fellowship Award from the Jewish Community and the first issue of the Parish newspaper, "Witness", edited by Stephen Cellini, is published.

1974—The Last Supper mural, done by artist Richard Botto, is installed in the convent chapel. A Parish trip is made to Rome and 14 Eucharistic Ministers are commissioned.

1978—Msgr. Rodimer is elevated to Bishop of the Paterson Diocese. Fr. Ronald Amandolare is appointed pastor.

1978—Father Christopher DiLella is ordained, the first ordination held in the Parish.

1982—Fr. Amandolare is elevated to Monsignor.

1984—The 70th anniversary of the Parish is celebrated.

1985—Msgr. Vincent Molloy is assigned to St. Paul's as Associate Pastor and the newly established Junior Choir is invited to perform at St. Bartholomew's Church and St. Patrick's Cathedral in New York City.

1986—the 25th anniversary of the ordination of Father Amandolare is celebated.

1987—Father Amandolare completes 10 years as Pastor of St. Paul's and Joseph Puskas, a parishioner, is ordained a permanent Deacon and assigned to St. Paul's Parish.

Mr. Speaker, these are just a few of the many dates that hold a great significance in the long and historic past of St. Paul's Church, and give a brief glimpse of the road it has traveled to its status as the spiritual and civic hub of its great community.

Mr. Speaker, I appreciate this opportunity to present a portion of the history of this distinguished parish that has remained dedicated to helping others and guiding them spiritually. As St. Paul's R.C. Church of Clifton, NJ, celebrates its 75th anniversary, I know that you and all of our colleagues here in Congress will want to join me in extending our warmest greetings and felicitations for both the service and guidance it has provided for its community, State, and Nation.

TRIBUTE TO JOSEPH P. DOYLE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. BROWN of California. Mr. Speaker, today a very special constituent of mine, Joseph P. Doyle, will be honored during a meeting of the San Bernardino City Council. After 30 years in the electrical industry in San Bernardino County, Joe has announced his retirement.

Joe has a reputation as a get the job done kind of leader. He has demonstrated exceptional leadership in labor's involvement in employment and training programs and activities. The real test of his accomplishments is the impact his service and career have made on the lives of disadvantaged youth and adults who have received the benefits of his expertise. Mr. Doyle has exemplified labor's role in its employment and training mission in the local community, the State, and the Nation.

Joe has based his career on three major life goals: First, to be a good father and husband; second, to be proficient in his vocation; and third, to serve his community and fellow man. His career, from his electrical apprenticeship in 1956 through 1958, to his position as International Brotherhood of Electrical Workers Local 477 business agent, to his position as Local 477's business manager, has given Joe the opportunity to fulfill his vocational and community service goals.

In our community, Joe participated in the Private Industry Council, the JTPA Program, the Inland Manpower Association, and the Inland Empire Worker Training Program, bringing his special skills and his commitment to our Nation's youth to the business of putting our citizens to work.

Joe has always given freely and unselfishly of his time and talents because of his deep devotion and concern for his fellow human beings. I know I have appreciated Joe's counsel during the many years I have represented the 36th Congressional District. I know Joe's retirement is well-deserved. He should know, however, that I intend to call on him during his retirement. His special talents have enriched our community, and I know he will continue to share his time and talents with us.

SEVENTIETH BIRTHDAY TRIBUTE TO LOUIS "RON" FINKLE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. RANGEL, Mr. Speaker, today I want to pay tribute to a fellow New Yorker on the occasion of his 70th birthday that was celebrated on September 29. Mr. Louis R. "Ron"

Finkle has been extremely active in the anti-drug abuse field as a volunteer for the past 25 years. Although this topic has now become a hot issue, Ron is no Johnny come lately. He became involved with the drug program at a time when very few people realized the dangers of drug abuse and the potential devastating effects it might have on society.

His involvement with anti-drug abuse programs began in Queens, NY where he started an educational program through the Knights of Pythias. His efforts resulted in the first "drugmobile" project which consisted of a van equipped with an educational display. The van, manned by volunteers, would park in busy neighborhood areas so that weekend shoppers could be informed about the dangers of heroin and narcotic abuse. He was also connected with a New York City-wide educational effort and helped set up many school-oriented sessions which had ex-addicts speak to students about the drug problem.

Mr. Finkle was also associated with the Samaritan Halfway Society when it was a fledgling organization which assisted drug addicts with treatment and education. Samaritan has grown to be a very important resource in the treatment of addiction and has an AIDS residential facility. Ron was a board member for many years and also served as chairman of the Samaritan Foundation.

I want to wish Ron a happy birthday and say thank you for being there before it became the in thing to do. We need more foot soldiers like Ron in our war against drugs.

FLORIO PAYS TRIBUTE TO NEW JERSEY FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN—70TH ANNIVERSARY

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. FLORIO. Mr. Speaker, it is my pleasure to bring to the attention of my colleagues an event marking the 70th anniversary of the New Jersey Federation of Business and Professional Women [BPW], a highly respected organization voicing the concerns of working women in the Garden State. The anniversary will be recognized at a luncheon on October 21, 1989, in Princeton.

Organized in May of 1919 in the New Jersey towns of Trenton, New Brunswick, Plainfield, and Perth Amboy, the federation came together as a result of the need for a coordinated women's effort during the First World War. After the war, the organization was maintainted so as to focus upon issues impacting women and in July of this same year the national federation was established. During the 1920's, women's suffrage was of great importance and during the Second World War the federation took an active role and supported the establishment of the women's branches of the service.

Since then, Mr. Speaker, this group has initiated and maintained focus upon the passage of the equal rights amendment—the first women's organization to do so—as well as issues related to child labor laws. New Jersey BPW continues to appropriately voice their concerns at all levels of government with emphasis upon electing men and women to public office who share a commitment to equality. New Jersey BPW has a proven record of accomplishment as it fosters self-development opportunities, leadership growth and support through a network that expands throughout New Jersey and the Nation.

It is clear that the federation will continue to grow and prosper through its dedication to its principles and commitment to excellence in all of its endeavors. I respectfully ask that my colleagues join with me in saluting the New Jersey BPW upon the occasion of their 70th anniversary for their fine efforts on behalf all New Jerseyans.

A TRIBUTE TO DARLENE McMULLEN FOR 20 YEARS SERVICE ON THE ENERGY AND COMMERCE MINORITY STAFF

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. LENT. Mr. Speaker, as ranking member of the Energy and Commerce Committee, I rely heavily on the knowledge, expertise, and counsel of the minority staff. I can say without exaggeration that these men and women are among the most capable and hard-working individuals on Capitol Hill.

However, I'd like to take this opportunity to recognize one particular staffer, Darlene McMullen, for her many years of dedication and outstanding contributions as a public servant. In July, Darlene celebrated her 20th anniversary as a member of the minority staff. This is indeed a memorable occasion for Darlene, one which deserves to be commemorated in a special way.

Her official title is legislative assistant and she works closely with the minority counsel to prepare for hearings. But that doesn't even begin to describe all that Darlene does. She is an encyclopedia of knowledge on committee legislation as well as legislative procedure. If you need to know the status of a bill, when a hearing will be held, or the inside scoop, she either knows the answer or knows where to find it.

Over the years, she has been the rudder of the ship, keeping the whole operation running smoothly between changes in committee organization, leadership, both Democratic and Republican, and staff. She is the institutional memory from one Congress to the next, the one thread of constancy and permanancy that endures in this oftentimes chaotic microcosm of American democracy that is the Energy and Commerce Committee.

Mr. Speaker, competent public servants like Darlene McMullen are the backbone of American government. They take great pride in serving their country and in the effective, efficient performance of their duties. Their significant contributions are worthy of our highest praise and most sincere gratitude.

On behalf of my colleagues on the committee as well as the entire minority staff, I would like to express my deepest appreciation to Darlene for her many years of loyal and dedicated work. She is an irreplaceable member of the staff, and we all hope she'll continue in that role for many, many years to come.

SAY "NO" TO ARAFAT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mrs. ROS-LEHTINEN. Mr. Speaker, in the near future PLO chairman Yassir Arafat may formally apply for a United States visa to address the United Nations in New York. I am opposed to the United States taking any actions, at this time, in favor of Arafat and the PLO.

Last December, Arafat accepted United Nation Resolutions 242 and 338, formally renouncing all forms of terrorism, and accepting Israel's right to exist. Since then, however, the PLO has taken a number of steps contrary to Arafat's avowed position regarding these matters.

More recently, the Fatah Congress has adopted a series of resolutions rejecting Israel's right to exist, renouncing Israel's peace initiative, and demanding a Palestinian state on Palestinian soil. Pronouncements such as these make evident the PLO's true intentions, and fly in the face of the Rule of Law among nations, as ratified and expressed by the United Nations. Moreover, increased incidents of cross border terrorism, internal violence against Israeli citizens, and intimidation in killing of fellow Palestinians show the PLO deeds fail to match Arafat's words of last December.

Mr. Speaker, granting a visa for Yasir Arafat to visit the United States, at this time, would reward the PLO for unacceptable behavior and would significantly advance the political interests of the PLO. At the same time, such an action would seriously compromise the ongoing search for a lasting peace in the Middle East.

SUPPORT HAWKINS/DOWNEY CHILD CARE PACKAGE

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mrs. MORELLA. Mr. Speaker, I urge my colleagues to support the Hawkins/Downey child care package when it is considered by the House on Wednesday. The provisions of the reconciliation package address the most important elements of the child care debate: The need to expand the accessibility and affordability of quality child care.

I am pleased to submit for the RECORD a letter from Maryland Gov. William Donald Schaefer in support of the House budget reconciliation child care provisions. Opponents of the package have asserted that the package will result in too many requirements for States and remove current flexibility with regard to child care standards. Governor Schaefer's letter is a clear demonstration of support for

the reconciliation provisions, and I hope his views will be considered as Members make their decisions on this important issue.

STATE OF MARYLAND,
EXECUTIVE DEPARTMENT,
Washington, DC, October 2, 1989.

Hon. AUGUSTUS F. HAWKINS,
Chairman, Committee on Education and Labor, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in support of the child care provisions contained in the pending House Budget Reconciliation bill, H.R. 3299. While I know some of the details of the legislation still need to be worked out, I strongly support the provisions in the bill designed to guarantee quality in child care.

As you know, the lack of safe and affordable child care is a national crisis. that is why I testified in January before the U.S. Senate Subcommittee on Children and Families in support of the Act for Better Child Care, the ABC bill. The bill is an ideal complement to my child care initiatives in Maryland because it gives states the resources we need to expand child care services, while at the same time, ensuring that the child care provided is of the highest quality.

Mr. Chairman, thank you for your strong leadership on this important issue. I urge you to keep working hard to make sure that any federal child care legislation contains quality assurance provisions.

Sincerely,

WILLIAM DONALD SCHAEFER,
Governor.

HONORING THE 75TH ANNIVERSARY OF THE BUCKS COUNTY BRANCH OF AMERICAN RED CROSS

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. KOSTMAYER. Mr. Speaker, I'd like to take a minute to bring your attention to one of the most outstanding social service organizations in Bucks County, the Southeastern Pennsylvania Chapter of the American Red Cross. A reception on September 29, 1989, will celebrate the 75th anniversary of the Red Cross in central and upper Bucks County.

The Bucks County Branch of the American Red Cross was founded in September of 1914. Mrs. William R. Mercer, wife of the Doylestown sculptor who built Aldie Mansion, called on the women of the community to set up an organization to help in the war effort. These women felt compelled to roll up their sleeves and volunteer in this period of great duress. In these early days, they worked as seamstresses repairing old uniforms and assembling new ones, while others rolled bandages or cultivated vegetable gardens. This group of concerned citizens also worked to raise funds to aid in the war effort.

After the war, the organization continued making items for the Doylestown Hospital which was jointly founded by Red Cross and the Village Improvement Association. Although Red Cross activities changed focus from the war effort to health services, service to the military was maintained.

From these beginnings, the Bucks County Branch of Red Cross has developed into the dynamic service organization we all recognize and appreciate. It currently runs various health and safety programs, a blood program, and military, disaster, and community services.

Mr. Speaker, service organizations like the Red Cross are a necessary and integral part of our society. It is my pleasure to call on my colleagues in the House of Representatives to congratulate the Bucks County Branch of the American Red Cross on its 75th anniversary and wish the organization continued success in the future.

MINORITY ENTERPRISE DEVELOPMENT WEEK—OCTOBER 1 THROUGH 7, 1989

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. MFUME. Mr. Speaker, I rise today in recognition of "Minority Enterprise Development Week" [MED] which began on October 1 and continues through October 7, 1989. It is important for all Americans to realize that the future economic health of our Nation largely depends upon the hard-won business success of minorities. Minority businesses make tremendous economic and social contributions to this Nation and it is befitting that we recognize this as well as examine actions necessary for their development during MED Week.

Many entities are working for the benefit and development of more viable minority business enterprises. Development of these businesses is inevitable as Federal and State governments, in cooperation with the private sector, realize more and more the need to do more than just offer verbal encouragement. In my district in Baltimore, MD, there are excellent examples of practical and realistic assistance to minority businesses from a partnership of government and private business. The Baltimore Economic Development Corporation, known as BEDCO, has displayed the wisdom and foresight to house a minority business advocate within its operation. Ms. Caroline Britton is the advocate who administers a diverse program that assists minority businesses in the application process to find the financial assistance in the form of a capital investment necessary to not only survive, but to prosper. A recently developed program of the minority business advocate is the coordination of minority vendors to the booming convention business in Baltimore. Marketing the minority vendor's services to the various conventions that come to Baltimore is a very practical way to assist minority businesses.

Another example of government and business partnership is the Small Business Development Center in Baltimore and three other Maryland locations. Partially funded by the State of Maryland's Economic and Employment Development Agency and the Federal Government's Small Business Administration, the center employs three consultants with business experience who assist potential entrepreneurs. Getting the appropriate business plan together and preparing the proper loan package for banks is the kind of shirt sleeves know-how that gets minority business on the right track right from the beginning.

Furthermore, I feel proud that the minority business community has not lost the services of the Minority Business Development Agency—an agency that I am still working to codify and that the current administration has pledged to reinvigorate under the new leadership of Director Kenneth Bolton. The Minority Business Development Center in Baltimore, as well as the centers across the Nation, are performing valuable work on behalf of strengthening minority businesses and is the only national agency dedicated to assisting, preserving and strengthening minority business enterprise. I urge my colleagues, as we undertake this official recognition of Minority Enterprise Development, Week, to join in support of this legislation.

In closing, I welcome the hundreds of minority entrepreneurs and representatives from Federal, State, and local governments, as well as private corporations from across the Nation that will participate in activities held here in Washington, DC, during MED Week.

CONGRESSIONAL SALUTE TO MR. DAVID BARNES, NATIONAL BLIND WORKER OF THE YEAR

HON. LINDY (MRS. HALE) BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mrs. BOGGS. Mr. Speaker, I am privileged to honor Mr. David Barnes, the recipient of the 1989 Peter J. Salmon National Blind Worker of the Year Award. Mr. Barnes was selected by National Industries for the Blind from among 56 nominees across the Nation. Mr. Barnes is most deserving of this award.

Each year National Industries for the Blind chooses one outstanding individual who is blind from among the 6,300 blind and multihandicapped blind people who work in their affiliated agencies for the blind participating in the Javits-Wagner-O'Day Act Program. Since 1938, the Javits-Wagner-O'Day Act has provided employment opportunities for thousands of this Nation's blind, multihandicapped blind, and other severely handicapped citizens.

Today, I commend Mr. Barnes for his efforts to succeed in employment and to meet life's challenges. Blind since birth and without functional hands or feet, Mr. Barnes has worked at the Lighthouse for the Blind, New Orleans, LA, for the past 13 years. Mr. Barnes has performed a variety of manufacturing jobs at the Lighthouse. Currently, he is a swifttack operator attaching plastic fasteners to hold tags on various products. Also, he operates a scrubber machine and folds and labels boxes.

In addition, Mr. Barnes works part time at McDonald's to help support his mother and brother who cannot work. Recently, Mr. Barnes started his own advertising button manufacturing business.

Mr. Barnes' attitude and motivation are an inspiration to those who meet him. A volunteer at F. Edward Hebert Hospital where he works with multiply disabled patients, Mr. Barnes also plays drums with a Cajun band,

bowls, rides a specially equipped bicycle, and rides horses.

Mr. Speaker, Mr. Barnes deserves our congratulations for his accomplishments.

CONGRATULATIONS TO MARION DEVLIN ON HER 80TH BIRTHDAY

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mrs. BOXER. Mr. Speaker, my fellow colleagues, today I want to tell you about Marion Devlin, a native Californian, journalist, community activist, and longtime resident of my district, who will celebrate her 80th birthday on October 29.

Like so many in her native State, Marion Devlin has been a pioneer. Born in the family home in Vallejo, Marion majored in journalism at the University of California at Berkeley, earning her degree in 1931. With her experience at the Daily Californian, she quickly earned a job as society editor at the Vallejo Evening Chronicle.

In her many years at the Chronicle, and later the Vallejo Times Herald, Marion Devlin earned a reputation for scooping the competition. She has interviewed such notables as Eleanor Roosevelt, Mamie Eisenhower, and Lady Bird Johnson; three reigning queens; and stars of the silver screen including Clark Gable and Shirley Temple. The California Newspaper Publishers Association voted her best in the State 10 times.

Marion Devlin has been as active in her community as anyone who has graced her column. One of the favorite causes has been quality health care. She is a founding member of the Lilac Branch of the Children's Hospital of Northern California. In recognition of her many years of dedicated service, the Sutter-Solano Hospital Guild has induced her as an honorary member.

As a college graduate and a journalist, Marion Devlin has been involved in women's collegiate and professional organizations. Her hometown, Vallejo, has a proud history of association with the Navy. In addition to her role covering the military as a journalist, she has worked to preserve the Vallejo-Navy tradition at the Vallejo Naval and Historical Museum.

I hope you will join me in congratulating Marion Devlin on the occasion of her 80th birthday. Marion Devlin has been an inspiration to all who have known her and her years of distinguished serve to the community will long be remembered.

HONORING DONALD J. BUCHER ON RETIREMENT

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. MRAZEK. Mr. Speaker, I rise today to note the great contributions of Donald J. Bucher, senior veterans service officer at the Suffolk County Veterans Service Agency. Don will retire on November 3, 1989, after 23 years of dedicated service to the veterans of Suffolk County.

Don Bucher has a long and distinguished record of service to his country. He served in the U.S. Navy during World War II from 1944 to 1946 as well as during the Korean conflict in 1951.

A life member of the American Legion. Don served as second division adjutant in 1967–68 and as a commander of the Rusy Bohm post 411 of Islip, NY, from 1968 to 1969. Since 1969, he has been a post service officer.

In his capacity as a senior veterans service officer, Don has worked with thousands of veterans and helped them to resolve a wide range of problems. It is common for a veteran to call Don at home to ask for his help in completing a VA form or to ask for his advice in resolving a family problem. Regardless of the time of day or circumstances. Don has never turned his back on a plea for help from a fellow veteran.

Mr. Speaker, Suffolk County has one of the highest concentrations of veterans found anywhere in the Nation. Don Bucher has provided valued assistance to these men and women. The veterans community, and all of Suffolk County, owe him thanks for his tireless, dedicated service.

THE DEATH OF FERDINAND MARCOS

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. HALL. Mr. Speaker, the death of former Philippine President Ferdinand Marcos completes a sad chapter in the history of the Philippines. On the occasion of his passing, it is worthwhile to reflect on United States relations with his regime and to consider the lessons of the Marcos era for our future conduct.

Ferdinand Marcos had a promising start as President of the Philippines, and there were some encouraging actions he took to build an alliance with the United States. Nevertheless, he became a dictator who soon forgot the needs of the Filipino people. He, his family, and his cronies amassed tremendous wealth while over 70 percent of the Filipino people lived in the worst kind of Third World poverty. In order to stay in power, he ruled by decree, suspended genuine democratic processes, and engaged in gross violations of basic human rights.

When I first came to Congress in 1979, human rights and church groups brought to my attention the serious human rights problems in the Philippines. I was deeply troubled by the way the United States seemed to be embracing Marcos and propping him up to power. Both Democratic and Republican administrations put our strategic relationship with the Philippines first. That is, our immediate security interests were our overriding priority in our dealings with Marcos.

Yet our Government knew all along about the way our aid was being wasted and stolen by Marcos, about the human rights abuses, and about the failure of the Marcos regime to meet the basic human needs of the Filipino people. But this was overlooked because Marcos allowed us to keep our bases at Clark and Subic Bay.

I offered amendments in 1979, 1980, and 1984, to make some small cuts in our military aid to Marcos in order to send him a message that we wanted him to change. The other point of the cuts was to let the Filipino people know that we were on their side against this dictator. The longer we supported Marcos, the angrier the Filipino people became, and the stronger the Communist insurgency grew.

The assassination of Senator Benigno Aquino seemed to be a turning point in terms of the downfall of Marcos. Through this event, the whole world saw the evil nature of that regime. They thought they could get away even with a blatant murder like this. But they were wrong. Aquino became a martyr, and his wife Corazon Aquino—with the support of "People Power"—eventually became President.

Despite these positive developments, the situation remains uneasy. A country cannot be turned around overnight. For too many years, the basic needs of the Filipino people were ignored. Poverty and injustice grew and the many problems were allowed to fester. President Aquino has made some remarkable progress, especially in view of the conditions she inherited. But the needs of the people are overwhelming, and it is hard for Filipinos to remain patient when their hopes are high.

The Multilateral Aid Initiative—sometimes dubbed the "Mini-Marshall Plan"—is moving ahead gradually to provide development aid to the Philippines. Other countries, like Japan, will be joining with the United States to provide this aid. As my colleagues know, the foreign aid appropriations bill contains $160 million in fiscal year 1990 for the U.S. contribution to this plan, as part of a total U.S. commitment of $1 billion over a 5-year period.

Money is very much needed in the Philippines, but there is a need for structural reforms as well. That is, land reform must be instituted, and the very rich landowners and oligarchies must be willing to cooperate in changes that will lead to the redistribution of resources and the empowerment of the very poorest people.

Despite the efforts of the Aquino government, human rights organizations continue to express concern about human rights violations. While the New People's Army is responsible for incidents of killing and terror, right-wing vigilante groups also engage in acts of terror, murder, and harassment against those working to create a more just society in the Philippines.

In the meantime, there is bilateral concern about the bases agreement, which runs through 1991. It is not clear how this ultimately will be resolved in the Philippines. Many Filipino politicians are opposed to the bases for political and nationalistic reasons. The Aquino government has talked about having a popular referendum to decide the bases question. In view of the uncertainty, our country has to be prepared for the possibility that the bases agreement will not be renewed, and must be ready to address the impact of such an occurrence on bilateral relations with the Philippines.

It is my hope that we will apply the lessons we have learned from our dealings with Marcos. Never again should we rely upon our relations with a corrupt dictator to advance our interests in another country. We must never forget the importance of establishing a firm and lasting mutual respect with the people of a country—as opposed to a temporary arrangement with an individual leader.

The Marcos era was not a good one either for the Filipino people or for the United States. We continue today to pay the price for our flawed policy concerning Marcos. At the last minute, shortly before the fall of Marcos, our Government finally did come down more clearly on the side of democracy in the Philippines. However, we need to be world leaders for democracy, not last-minute followers of events.

The lesson of the Marcos era is for us to be true to our values. If we do what is right from the start, then in the end we will benefit. We only end up hurting ourselves when we fail to practice consistently what we profess as a nation.

A TRIBUTE TO FRED DAVID

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to an outstanding individual in recognition of his service to my community. October 1, 1989, marks the beginning of Fred David's 58 years in business and it is with great honor that I share with my colleagues the distinguished career of this stellar individual.

Not long after moving to Sacramento, Fred David began what has become a long and successful career in business. Fred's many experiences as a salesman include selling the Sacramento Star newspaper on street corners and selling fish and vegetables at a public market. These experiences enabled Fred to open his first candystore in San Francisco in 1930. It was through this venture that Fred was able to learn the basics of a successful business, including the ever important role of the customer and the effects of supply and demand economics.

Fred returned to Sacramento with his bride, Isabelle Shikany, in 1932 and established the David Candy Co. He merged his candystore with David's Cafe in 1933, ventured into ice cream making and for the past half a century has operated this thriving company in my community. Throughout his career, Fred David has been the helping hand, the shoulder to cry on and the sagacious mentor for many entrepreneurs. The David Candy Co. at 1015 R Street is an institution noted for its service, its quality and the enjoyment it brings to all that have had the opportunity to visit the company and meet its owner, the "Sweet Guy," Fred David.

Mr. Speaker, Fred David and the David Candy Co. have brought enjoyment to the entire Sacramento community. His dedication and service have not gone unnoticed and on behalf of the community, I congratulate him for a job well done. I know that my colleagues join me in extending best wishes to Fred for continued success in all his future endeavors.

THE WORK OF THE NORTH WIND UNDERSEA INSTITUTE

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. ENGEL. Mr. Speaker, I rise today to pay tribute to the North Wind Undersea Institute located in my congressional district.

The North Wind Undersea Institute is an educational and environmental museum which is dedicated to preserving and protecting the environment and marine life. North Wind has participated in the dramatic rescues of beached marine mammals and has researched and developed new technologies to aid wildlife and the environment.

North Wind has received many honors during its existence and recently obtained a patent for its Benjamin Box live trap for sea lions. The Benjamin Box is a floating cage designed to safely capture sea lions and other mammals and transport them to more secure habitats. Past devices for capturing sea lions have tended to injure or kill these animals. The Benjamin Box is truly a significant breakthrough in the humane treatment of animals.

Additionally, North Wind recently received a $30,000 grant for a program to promote the welfare of wild mustangs. This grant will allow approximately 2,000 Bronx schoolchildren to learn about horses, their history and their present environmental dilemma. This money will permit North Wind to expand its already successful message of environmental conservation and awareness to even larger numbers of young people.

I have been proud to work with North Wind during its 10 year existence. The patent of the Benjamin Box to help sea lions and the obtaining of a grant for the preservation of wild mustangs shows this organization's continued commitment toward the assistance of all animals. I offer my sincere congratulations to North Wind for its achievements and look forward to working with them in their efforts to educate people about protecting the environment and the rights of animals.

HONORING MARGARET "PEG" SWEZEY

HON. GARY L. ACKERMAN

OF NEW YORK

HON. FLOYD H. FLAKE

OF NEW YORK

HON. THOMAS J. MANTON

OF NEW YORK

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday October 2, 1989

Mr. ACKERMAN. Mr. Speaker, the Queens delegation rises today to honor a woman respected and beloved throughout our county of Queens by all who have had the pleasure to meet her. That woman is Margaret "Peg" Swezey, a successful businesswoman, a committed community leader, an avid patron of the arts, and above all a wonderful person without whom the Queens community would be much the poorer.

In appreciation of the many years of distinguished service Peg has given Queens, Citibank's Queens Retail Bank and members of the Queens community will hold a cocktail party in Peg's honor on October 5 at the East River Yacht Club.

It is extremely difficult for us to describe here just how much Peg has done for Queens. Her contributions to the economic and cultural improvement of Queens have been so numerous and varied that they cannot be summed up in a few sentences. Her accomplishments literally speak for themselves.

Born and raised in Queens, Peg has devoted herself to economic development, civic responsibility, and assisting others. She still lives in Queens with her husband, Harold, a retired electrical engineer with Western Electric. Their one son, Mark, is now a high school teacher in Kansas.

Peg has spent her whole career working in Queens for Citibank. In a career spanning three decades, she has diligently climbed the corporate ladder, starting as a junior clerk and working her way through the ranks to become vice-president and director of community and government relations. She will conclude her career this year when she retires from her position as vice president to join her son, Mark, in the Midwest.

At Citibank she has encouraged increased coopreation between the borough of Queens and many community organizations. She has herself served on the board of directors of a wide spectrum of Queens organizations, including the Queens Outreach Corp., the Flushing Council on the Arts, and the United Cerebral Palsy of Queens. Peg also holds the distinction of becoming the first woman to become president of the Queens Chamber of Commerce in its 71-year history.

Peg's services to Queens have extended beyond the local level, however. She has worked strenuously on the national and international levels to promote development in Queens. In 1980 and 1986, she served as a delegate to the White House Conference on Small Business and in 1982 she traveled to China with the Queens borough president to encourage Chinese investment in Queens.

In recognition for her services to Queens, December 12, 1979 and April 18, 1983 were proclaimed to be "Peg Swezey" days. In 1980, Governor Cuomo cited her for her service to Queens and in the same year she received national recognition for her work with the Small Business Administration when President Carter cited her as "Banker Advocate of the Year." In recent years she has been cited by the Queens borough president and honored by a resolution passed by the New York City Council recognizing her service to the City of New York. Peg has also earned a whole string of awards from local groups, including the Flushing Boys Club, the United Cerebral Palsy, the J.F.K. Rotary Club, the Al-

liance of Queens Artists, Jamaica Hospital, and numerous others.

Mr. Speaker, in a time when our communities are so clearly under attack, it is a pleasure to congratulate a person who has contributed as much as Peg to building a sense of community in Queens. We would like to take this opportunity to thank Peg, the mother hen of Queens politicians, for all she has done for Queens and to wish her the best of luck on her retirement. We will miss her.

THE 50TH WEDDING ANNIVERSARY OF MR. AND MRS. CARL C. MARZANO

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues an exemplary couple from the Fifth Congressional District of Illinois, Carl C. and Carolyn Marzano, on the occasion of their 50th wedding anniversary. They were married at Saint Nicholas of Tolentine Church, 62d and Lawndale in Chicago, on November 25, 1939, and are a role model of the family strength and solidity which has made America great.

Pioneers of southwest side bowling in Chicago, Mr. and Mrs. Marzano will be joined by their family and friends from the southwest community in a celebration given by their two daughters, Carolyn Marzano of Chicago, IL and Gail Estok of Santa Barbara, CA, at the Rosewood West in Crestwood, IL, on October 8, 1989.

Before his retirement, Carl Marzano was a well-known figure on the Chicago bowling scene, operating three family-owned establishments totaling 162 lane beds. Established in 1922, the Marzano family business includes such reputable alleys as Marzano's Palace of Pleasure, Clearing Bowl and Miami Bowl, all southwest side bowling centers. Continuing the family tradition, Clearing Bowl and Miami Bowl are currently being operated by third and fourth generation family members.

Since retirement, taking cruises, fishing, and recreational vehicle travel around the United States and Canada have been interests of Carl and Florence Marzano. Long-time residents of Palos Park, Florence was an active member of the Palos Park Service League, and Carl was a founding member of the Palos Gun Club.

In addition to their daughters, they have three grandchildren: Tod Morris of Rochester, NY; Kristy Morris of Chicago, IL, and Lisa Reid of Santa Barbara, CA.

Their commitment to each other and their family is impressive and deserving of special recognition and honor. I am sure that my colleagues join me in congratulating Mr. Carl Marzano and his bride of 50 years, Florence, on their many years of love and commitment. May their life together continue to be an adventure and offer them many more pleasant memories.

CPSC'S ACTING CHAIRMAN AGAIN UNDER FIRE

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1989

Mr. HUNTER. Mr. Speaker, in these times of deficits and budget cutting, Government employees all across the Nation are receiving tributes and awards for ideas and policies which contribute to Government savings. I hope that my colleagues on the Energy and Commerce Committee will consider whether the official travel outlined in this October 7, 1989, "Human Events" article contributes to the wise use of the limited Federal budget:

[From Human Events Oct. 7, 1989]

CPSC'S ACTING CHAIRMAN AGAIN UNDER FIRE

Credit for the most audacious junket in recent memory goes to Susan Birenbaum, acting general counsel of the Consumer Product Safety Commission. Birenbaum was in Moscow last week, lecturing Soviet lawyers and Communist party members on product safety laws.

Birenbaum's salary, airfare, hotel rooms and incidental expenses are being paid for by the commission, according to the authoritative Product Safety Letter. The trip was apparently authorized by the commission's acting chairman, Anne Graham.

Why Birenbaum would go to Moscow is difficult to understand. The Soviet Union exports practically no manufactured consumer items to the United States; more than 90 per cent of the goods it does send are outside the CPSC's jurisdiction, e.g., gold, fur and vodka.

While conservative critics see Birenbaum's junket as still another CPSC boondoggle, the Product Safety Letter reports that the CPSC staff is disgruntled, too. The Birenbaum trip will likely take a big bite out of the limited annual travel budget which agency lawyers use to enforce safety laws in federal courts throughout the country. Chairman Graham, meanwhile, is pressing for a 20 per cent hike in the commission budget, which would wipe out all the savings of the last eight years and take commission spending back up to where it was in the Carter Administration.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 3, 1989, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 4

9:00 a.m.

Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on international investment in the U.S. airline industry.
SR-301

Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To resume hearings to examine law enforcement and foreign policy as related to international money laundering.
SD-419

Labor and Human Resources
Business meeting, to consider S. 1391, to establish a Foundation for Biomedical Research, S. 1392, the Biomedical Research Act, and recommendations which it will make to the Committee on the Budget with respect to spending reductions and revenue increases to meet reconciliation expenditures as imposed by H. Con. Res. 106, setting forth the congressional budget for the U.S. Government for the fiscal years 1990, 1991, and 1992, and pending nominations.
SD-430

9:30 a.m.

Agriculture, Nutrition, and Forestry
To resume hearings on the nomination of James E. Cason, of Virginia, to be Assistant Secretary of Agriculture for Natural Resources and the Environment.
SR-332

Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 583, to establish national water efficiency standards for the manufacture and labeling of plumbing products sold in interstate commerce.
SR-253

Energy and Natural Resources
Business meeting, to resume consideration of S. 371, to designate certain National Forest System lands in the State of Idaho for inclusion in the National Wilderness Preservation System, to prescribe certain management formulae for certain National Forest System lands, and to release other forest lands for multiple-use management, and other pending calendar business.
SD-366

Environment and Public Works
Environmental Protection Subcommittee
To continue hearings on proposed legislation to strengthen air quality standards, focusing on acid rain.
SH-216

10:00 a.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on Japanese satellites and satellite launch vehicle trade industry and the implications of their industry for the United States.
SD-562

Finance
To hold hearings on changes in economic relationships between the U.S. and U.S.S.R.
SD-215

10:15 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the activities of the Resolution Trust Corporation (RTC); and to consider the nominations of Richard C. Breeden, of Virginia, to be a Member of the Securities Exchange Commission, and Barbara E. McTurk, of Colorado, to be Superintendent of the Mint of the United States at Denver, and John T. Martino, of Pennsylvania, to be Superintendent of the Mint of the United States at Philadelphia, both of the Department of the Treasury.
SD-538

10:30 a.m.
Veterans' Affairs
To hold hearings on the nominations of Edward G. Lewis, of Virginia, to be Assistant Secretary of Veterans Affairs for Information Resources Management, and Jo Anne K. Webb, of Virginia, to be Director of the National Cemetary Service, Department of Veterans Affairs.
SR-418

11:00 a.m.
Foreign Relations
To hold hearings on the nominations of David Jameison Smith, of Virginia, for the rank of Ambassador during his tenure of service as Chief Negotiator for Defense and Space, William P. Glade, of Texas, to be Associate Director for Educational and Cultural Affairs, U.S. Information Agency, and Henry A. Holmes, of the District of Columbia, to be Ambassador-at-Large for Burdensharing; to be followed by a business meeting to consider pending legislation and nominations.
SD-419

1:00 p.m.
Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings to review the homeless situation of children.
SD-430

2:00 p.m.
Agriculture, Nutrition, and Forestry
To continue hearings on the nomination of James E. Cason, of Virginia, to be Assistant Secretary of Agriculture for Natural Resources and the Environment.
SR-332

3:00 p.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Warren G. Leback, of New Jersey, to be Administrator of the Maritime Administration, Department of Transportation.
SR-253

OCTOBER 5

9:30 a.m.
Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR-253

Energy and Natural Resources
To hold hearings on the Department of Energy's efforts to improve the operations and management of its atomic energy defense activities and its efforts to restore public credibility in the Department's ability to operate its facilities in a safe and environmentally sound manner, and on S. 972, S. 1304, and other related measures with respect to the environment, safety, and health aspects of operation of the Department of Energy's nuclear facilities.
SD-366

Governmental Affairs
To hold hearings on the Office of Management and Budget's response to management problems in the U.S. Government.
SD-342

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the condition of the banking system.
SD-538

Environment and Public Works
Environmental Protection Subcommittee
To hold hearings to review the National Acid Precipitation Assessment Program and the scientific understanding of acid precipitation.
SD-406

Judiciary
Business meeting, to consider S. 458, to provide for the temporary stay of detention and deportation of certain Salvadorans and Nicaraguans, and other pending calendar business.
SD-226

2:00 p.m.
Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

OCTOBER 6

10:00 a.m.
Foreign Relations
Closed business meeting, to consider S. 195, the Chemical and Biological Weapons Control Act.
SD-419

Judiciary
To hold hearings on S. 1631, to make a technical amendment to the Bankruptcy Code (title 11, United States Code), regarding railroad reorganization.
SD-226

OCTOBER 17

9:00 a.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on S. 1007, to examine the reduction in apportionment of Federal-aid highway funds to certain states, relating to highway fatality and injury reduction.
SD-406

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on advanced transportation systems, focusing on magnetic levitation and high-speed rail.
SD-253

Energy and Natural Resources
To hold oversight hearings on the appropriate role of methanol as a potential alternative fuel in our future energy policy.
SD-366

Small Business
To hold hearings on the Regulatory Flexibility Act (P.L. 96-354) and its impact on small businesses.
SR-428A

1:00 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold joint hearings with the House Committee on Agriculture's Subcommittee on Department Operations, Research, and Foreign Agriculture on the national initiative for research on agriculture, food and environment.
1300 Longworth Building

OCTOBER 18

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 952, to stimulate the design, development, and manufacture of high definition television technology.
SR-253

9:30 a.m.
Budget
To hold joint hearings with the Committee on Governmental Affairs on budget reform issues.
SH-216

Governmental Affairs
To hold joint hearings with the Committee on the Budget on budget reform issues.
SH-216

10:00 a.m.
Foreign Relations
To hold hearings on the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (Treat Doc. 100-20).
SD-419

2:15 p.m.
Environment and Public Works
To hold hearings on the nominations of Forrest J. Remick, of Pennsylvania, to be a Member of the Nuclear Regulatory Commission, and David C. Williams, of Illinois, to be Inspector General, Nuclear Regulatory Commission.
SD-406

OCTOBER 19

9:30 a.m.
Energy and Natural Resources
To resume hearings on the Department of Energy's efforts to improve the operations and management of its atomic energy defense activities and its efforts to restore public credibility in the Department's ability to operate its facilities in a safe and environmentally sound manner, and on S. 972, S. 1304, and other related measures with respect to the environment, safety, and health aspects of operation of the De-

partment of Energy's nuclear facilities.
SD-366

Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on South Korean trade practices, focusing on the black market.
SD-342

Small Business
To hold hearings on the nomination of Kyo R. Jhin, of Maryland, to be Chief Counsel for Advocacy, Small Business Administration.
SR-428A

10:00 a.m.
Foreign Relations
Business meeting, to consider the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Treaty Doc. 101-4).
SD-419

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 1289, to improve the management of forests and woodlands and the production of forest resources on Indian land.
SR-485

OCTOBER 24

9:00 a.m.
Agriculture, Nutrition, and Forestry
Conservation and Forestry Subcommittee
To hold hearings on the protection of water quality.
SR-332

OCTOBER 25

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on cable carriage of local broadcast signals.
SR-253

OCTOBER 26

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agriculture Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. Agricultural programs, focusing on cotton.
SR-332

2:00 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on proposed legislation to promote and encourage travel in the U.S., and to review the National Tourism Policy Act (P.L. 97-63).
SR-253

NOVEMBER 1

10:00 a.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold oversight hearings on programs administered by the U.S. and Foreign Commercial Service.
SR-253

NOVEMBER 2

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on Indian health facilities.
SR-485

CANCELLATIONS

OCTOBER 3

10:00 a.m.
Special on Aging
To hold hearings to examine proposals to make the Social Security Administration an independent agency and other administrative issues.
SD-628

OCTOBER 4

10:00 a.m.
Foreign Relations
To continue hearings on U.S. policy options toward South Africa.
SD-419

Judiciary
To hold hearings on the impact of drugs on children and their families.
SD-226

POSTPONEMENTS

OCTOBER 3

2:00 p.m.
Foreign Relations
To hold hearings on the nominations of Charles E. Cobb, Jr., of Florida, to be Ambassador to the Republic of Iceland, Alan Green, Jr., of Oregon, to be Ambassador to the Socialist Republic of Romania, Sally J. Novetzke, of Iowa, to be Ambassador to the Republic of Malta, and John G. Weinmann, of Louisiana, to be Ambassador to the Republic of Finland.
SD-419

OCTOBER 17

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on wheat.
SR-332

OCTOBER 18

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the international decade of natural disaster reduction.
SR-253

HOUSE OF REPRESENTATIVES—*Tuesday, October 3, 1989*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray for direction in our lives and for the community of nations in our world. As You, O God, have created each of us and breathed into our souls the very breath of life, so may we sense Your purposes and conduct ourselves with the virtues that mark us as Your people and thus testify to Your will and Your way. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. PARKER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. PARKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were— yeas 310, nays 98, not voting 24, as follows:

[Roll No. 261]

YEAS—310

Ackerman	Brennan	Crockett
Akaka	Brooks	Darden
Alexander	Broomfield	Davis
Anderson	Browder	de la Garza
Andrews	Brown (CA)	DeFazio
Annunzio	Bruce	Dellums
Anthony	Bryant	Derrick
Applegate	Bustamante	Dicks
Archer	Byron	Dingell
Atkins	Callahan	Dixon
AuCoin	Campbell (CA)	Donnelly
Barnard	Campbell (CO)	Dorgan (ND)
Bartlett	Cardin	Dornan (CA)
Bateman	Carper	Downey
Bates	Carr	Dreier
Bellenson	Chapman	Duncan
Bennett	Clarke	Durbin
Bereuter	Clement	Dwyer
Berman	Clinger	Dymally
Bevill	Coleman (TX)	Dyson
Bilbray	Collins	Early
Boggs	Combest	Eckart
Bonior	Conte	Edwards (CA)
Borski	Conyers	Edwards (OK)
Bosco	Cooper	Emerson
Boucher	Costello	Engel
Boxer	Coyne	English
Erdreich	Lewis (GA)	Robinson
Espy	Lipinski	Rostenkowski
Evans	Livingston	Rowland (CT)
Fascell	Lloyd	Rowland (GA)
Fazio	Long	Roybal
Feighan	Lowey (NY)	Russo
Fish	Luken, Thomas	Sabo
Flake	Markey	Saiki
Flippo	Martin (NY)	Sangmeister
Foglietta	Martinez	Sarpalius
Ford (MI)	Matsui	Savage
Ford (TN)	Mavroules	Sawyer
Frank	Mazzoli	Saxton
Frenzel	McCloskey	Scheuer
Gallo	McCollum	Schiff
Gaydos	McCrery	Schneider
Gejdenson	McCurdy	Schulze
Gephardt	McDade	Schumer
Geren	McDermott	Shaw
Gibbons	McEwen	Shumway
Gillmor	McHugh	Shuster
Gilman	McMillan (NC)	Sisisky
Gingrich	McMillen (MD)	Skaggs
Glickman	McNulty	Skeen
Gonzalez	Meyers	Skelton
Gordon	Mfume	Slattery
Gradison	Miller (CA)	Slaughter (NY)
Grant	Miller (WA)	Smith (FL)
Gray	Mineta	Smith (IA)
Green	Moakley	Smith (NE)
Guarini	Mollohan	Smith (NJ)
Gunderson	Montgomery	Smith (VT)
Hall (OH)	Moody	Snowe
Hall (TX)	Morella	Solarz
Hamilton	Morrison (CT)	Spence
Hammerschmidt	Morrison (WA)	Spratt
Harris	Mrazek	Staggers
Hatcher	Murtha	Stallings
Hayes (IL)	Myers	Stark
Hayes (LA)	Nagle	Stearns
Hefner	Natcher	Stenholm
Hertel	Neal (MA)	Stokes
Hoagland	Neal (NC)	Studds
Hochbrueckner	Nelson	Swift
Horton	Nielson	Synar
Hoyer	Nowak	Tallon
Hubbard	Oakar	Tanner
Huckaby	Oberstar	Tauzin
Hughes	Obey	Thomas (GA)
Hutto	Olin	Thomas (WY)
Jenkins	Ortiz	Torres
Johnson (CT)	Owens (UT)	Torricelli
Johnson (SD)	Oxley	Towns
Johnston	Packard	Traficant
Jones (GA)	Pallone	Traxler
Jones (NC)	Panetta	Udall
Jontz	Parker	Unsoeld
Kanjorski	Patterson	Valentine
Kaptur	Payne (NJ)	Vento
Kasich	Payne (VA)	Visclosky
Kastenmeier	Pease	Volkmer
Kennedy	Pelosi	Walgren
Kennelly	Penny	Walsh
Kildee	Perkins	Watkins
Kleczka	Petri	Weiss
Kolter	Pickle	Weldon
Kostmayer	Porter	Wheat
LaFalce	Poshard	Whitten
Lancaster	Price	Williams
Lantos	Quillen	Wilson
Laughlin	Rahall	Wise
Leath (TX)	Rangel	Wolpe
Lehman (CA)	Ravenel	Wyden
Lehman (FL)	Ray	Wylie
Lent	Regula	Yates
Levin (MI)	Richardson	
Levine (CA)	Rinaldo	

NAYS—98

Armey	Bliley	Clay
Baker	Boehlert	Coble
Ballenger	Buechner	Coleman (MO)
Barton	Bunning	Coughlin
Bentley	Burton	Cox
Bilirakis	Chandler	Craig
Crane	Kyl	Schaefer
Dannemeyer	Lagomarsino	Schroeder
DeLay	Leach (IA)	Sensenbrenner
DeWine	Lewis (CA)	Shays
Douglas	Lewis (FL)	Sikorski
Fawell	Lowery (CA)	Slaughter (VA)
Fields	Lukens, Donald	Smith (TX)
Gallegly	Machtley	Smith, Denny (OR)
Gekas	Madigan	Smith, Robert (NH)
Goodling	Marlenee	Smith, Robert (OR)
Goss	Martin (IL)	Solomon
Hancock	McCandless	Stangeland
Hansen	McGrath	Stump
Hastert	Michel	Sundquist
Hawkins	Miller (OH)	Tauke
Hefley	Moorhead	Thomas (CA)
Henry	Murphy	Upton
Herger	Parris	Vucanovich
Hiler	Pashayan	Walker
Holloway	Paxon	Weber
Hopkins	Rhodes	Whittaker
Hunter	Ridge	Wolf
Hyde	Roberts	Young (AK)
Inhofe	Rogers	Young (FL)
Ireland	Rohrabacher	
Jacobs	Ros-Lehtinen	
James	Roth	
Kolbe	Roukema	

NOT VOTING—24

Aspin	Grandy	Ritter
Brown (CO)	Houghton	Roe
Condit	Lightfoot	Rose
Courter	Manton	Schuette
Dickinson	Molinari	Sharp
Florio	Owens (NY)	Vander Jagt
Frost	Pickett	Waxman
Garcia	Pursell	Yatron

□ 1222

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from West Virginia [Mr. WISE] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. WISE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 2358. An act to authorize appropriations for fiscal year 1990 for the Civil Achievement Award Program in Honor of the Office of Speaker of the House of Representatives, and for other purposes.

The message also announced that the Senate had passed with an amendment in which the concurrence of the

House is requested, a bill of the House of the following title:

H.R. 838. An act to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the Peninsula Airport Commission for airport purposes.

The message also announced that the Senate had passed joint resolutions and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S.J. Res. 199. Joint resolution providing for the reappointment of Samuel C. Johnson as a citizen regent of the Board of Regents of the Smithsonian Institution;

S.J. Res. 202. Joint resolution providing for the appointment of Robert James Woolsey, Jr., of Maryland as a citizen regent of the Board of Regents of the Smithsonian Institution; and

S. Con. Res. 74. Concurrent resolution authorizing the "Gift of Democracy" from the U.S. Congress to the new Senate and Sejm in Poland. This gift is comprised of equipment and training that is determined to be most useful in helping Poland establish an effective parliamentary system.

WELCOME TO PRESIDENT SALINAS OF MEXICO

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, why is President Salinas de Gortari of Mexico being so well received by the United States Congress and the Bush administration? Is it because it is his honeymoon visit to the United States as President of Mexico?

Mr. Speaker, the reason is that we have a Mexican President who is ready to deal with Mexico's problems and with the United States. Mr. Speaker, we are cooperating for the first time with Mexico in drug interdiction. We have cooperated on a historic debt agreement. We are cooperating on immigration.

In the past, the Reagan administration and the Mexican Presidency could not get together on many other issues because of our differences over Central America. We now have a relationship where the United States considers Mexico to be important. About time, Mr. Speaker.

President Salinas will be very welcome both in the U.S. Congress and in the United States with this new administration.

REFERRAL OF H.R. 2434 AND S. 1016 TO COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Mr. UDALL. Madam Speaker, I ask unanimous consent that H.R. 2434 and S. 1016, both bills renaming a reservoir in Kansas, be re-referred to the Committee on Public Works and Transportation.

The SPEAKER pro tempore (Mrs. SCHROEDER). Is there objection to the request of the gentleman from Arizona?

There was no objection.

SHOOTING AND TROOP MOVEMENTS IN PANAMA

Mr. BEREUTER. Madam Speaker, I would like to draw the attention of the House to this morning's events in Panama where an attempted coup or insurrection may be in progress. Shooting was heard this morning in General Noriega's headquarters at Fort Amador. Troops have been positioned at numerous public and private locations.

As yet we have no word on the motivation for such activities, what persons may be involved, or the likely final outcome.

However, I would like to note for the record our overwhelming sympathy for the Panamanian people and our hope that, somehow, today's events may bring them greater freedom.

On May 7, 1989, the Panamanian people voted for return to democracy. They have endured a great deal of hardship under General Noriega. They have borne with few complaints the serious economic deprivation caused by U.S. sanctions against the Noriega regime.

Regardless of what happens today, my colleagues, I would say to President Bush and Secretaries Cheney and Baker that my view of the mood of the majority of those of us in Congress is that we are deeply troubled by the timidity and ineffectiveness of the Organization of American States in assisting President-elect Endara to take his office, and that we want the United States to avoid standing like an impotent giant while the Panamanian people restore to authority those they elected on May 7, 1989, and to overthrow the tyranny of General Noriega and his thugs.

TRIBUTE TO THE LATE HONORABLE HUGH QUINCY ALEXANDER

(Mr. HEFNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HEFNER. Madam Speaker, it is with very great sadness that I inform the Members of this body of the recent death of our former colleague and one of my predecessors, Hugh Quincy Alexander of North Carolina.

Hugh Alexander was a man of tremendous talent who, throughout his life, dedicated his time and energies to efforts to make the world a better place for others. From the time he was a young man he was a leader in his church and in his local YMCA and Boy Scouts. And when he returned home from the Navy he took up the cause of our veterans—serving as an officer of both the American Legion and the VFW.

In 1952 the citizens of North Carolina sent him to Congress where he served ably and honorably for a decade. He then continued his service to this great institution as chief counsel to the Senate Rules Committee from 1963 to 1976.

When Hugh later returned home to Kannapolis, NC, he practiced law and continued his longstanding commitment to his community.

Mr. Speaker, like so many others, I had the highest respect and admiration for Hugh Alexander, and I wanted my colleagues to have an opportunity to see the articles about him that recently appeared in his hometown newspaper, the Daily Independent.

Hugh Alexander was a fine American and a cherished friend, and I know I speak for all of us in extending our deepest sympathies to his wife Myrtle and their four children.

The articles follow:

[From the Kannapolis (NC) Daily Independent, Sept. 18, 1989]

FORMER CONGRESSMAN HUGH Q. ALEXANDER DIES AT 78

Hugh Quincy Alexander, attorney, Kannapolis civic leader, and former member of the U.S. Hosue of Representatives, died early Sunday, Sept. 17, 1989 at Cabarrus Memorial Hospital.

He was 78 and resided at 804 Hillcrest St.

Services are planned for 11 a.m. Tuesday at First Presbyterian Church, where he was a member. The Rev. Eldon Wadsworth and Dr. Charles R. Raynal III will officiate, and interment will follow at Carolina Memorial Park.

The family will receive friends today from 7 to 9 p.m. at Whitley's Funeral Home and will be at the residence otherwise.

"In the death of Hugh Alexander, North Carolina has lost a dedicated public servant," Sen. Terry Sanford, DNC, said this morning. "I deeply valued his friendship. He used his life to make a difference for the good in many ways: as a soldier, leader of veterans, legislator, congressman, and outstanding community citizen. He will be deeply missed."

I was a real admirer of Hugh Alexander, a true gentleman and one of the finest men I've ever met," added 8th District Congressman W.G. "Bill" Hefner, "He had been a friend for a lot of years. I will miss him greatly, and the community will miss him."

Mr. Alexander was born in Moore County on Aug. 7, 1911, to the late Oscar Sample Alexander and Mrs. Mary Reynolds Alexander.

He moved to Kannapolis in 1930 and graduated shortly thereafter from Duke University. He worked in local textile mills until he resumed his education to graduate from the law school of the University of North Carolina at Chapel Hill.

He began his law practice in Kannapolis in 1937.

He served in the U.S. Navy for 44 months including 34 months overseas aboard the U.S.S. Raleigh, the flagship California, and

the heavy cruiser Albany. He left the Navy in 1946 with the rank of lieutenant commander.

After service in the Navy, Mr. Alexander became active in veterans affairs and was elected commander of the Beaver-Pittman American Legion Post. He was later named judge advocate of the Veterans of Foreign Wars and chairman of Boys State.

In 1950, he was elected North Carolina commander of the American Legion.

He was elected to the N.C. House of Representatives in 1947 and served two terms before becoming county solicitor in 1950.

In 1952, Alexander was elected to the U.S. House of Representatives where he served until 1962. He served as chief counsel to the U.S. Senate Rules Committee from 1963 to 1976.

He returned to Kannapolis and resumed his practice of law with the firm of Alexander and Brown where he worked until his death.

"Mr. Alexander was an elder in the First Presbyterian Church and was instrumental in the organization of the Second Presbyterian Church.

He was a member and past master of Cannon Memorial Masonic Lodge and was a 33 degree Scottish Rite Mason and a Shriner of the Oasis Temple of Charlotte.

He was a member of the Beaver-Pittman Post 115 of the American Legion and the 40&8 American Legion fraternity.

He was also a member of the Kannapolis Rotary Club, the Kannapolis Chamber of Commerce, and the Cabarrus Shrine Club.

Survivors include his wife, Mrs. Myrtle White Alexander; three sons, Hugh Q. Alexander Jr. of Chiefland, Fla., Stephen W. Alexander of Alexandria, Va., and William G. Alexander of Kannapolis; a daughter, Mrs. Elizabeth Alexander Harrison of Fredericksburg, Va; a brother, R. Lewis Alexander of Elkin; seven grandchildren.

Memorials may be made to the Hugh Quincy Alexander Memorial Scholarship Fund, c/o 310 Professional Building, Kannapolis, NC 28081.

[From the Kannapolis (NC) Daily Independent, Sept. 20, 1989]

HUGH ALEXANDER

Kannapolis lost a large bit of its senior leadership in the unexpected death of Hugh Q. Alexander on September 17.

He was the kind of leader that's nigh impossible to replace—patient, wise, committed, experienced, sharing. He worked hard for education, he dreamed and worked hard to turn dreams into reality. He appreciated the good life that his adopted hometown, Kannapolis, gave him, and he gave back to the community generously.

He grew up on a farm in Moore County, milking cows and plowing a mule. As a junior in Durham High School he earned top grades. He worked at many jobs to pay his way through Duke University, including summer work in carding and spinning departments at Cannon Mills here. He waited on tables and worked in the psychology department to cover his expenses at the University of North Carolina School of Law. After receiving his law degree in 1937 and passing the North Carolina Bar exam, he joined the staff of Cannon Memorial YMCA to save up enough money to begin his practice of law in the spring of 1938.

As a young lawyer, he became active in community affairs. He served the YMCA as a Hi-Y club advisor. He led in Boy Scouting—organizing a troop in Petheltown with 50 members and in 1939 he took 41 scouts to the New York World's Fair. He became active in the First Presbyterian Church and was instrumental in organizing Second Presbyterian Church.

Following 44 months of service as an officer in the U.S. Navy during World War II, he resumed his practice of law and his community service. He was elected commander of the Beaver-Pittman post of the American Legion in 1946 and four years later he was state commander of the Legion.

Answering the call to public service, he served in the North Carolina House of Representatives in the 1947 and 1949 sessions, and was elected to the U.S. House in 1952, where he served for 10 years. He then was chief counsel of the U.S. Senate's Rules Committee for 13 years.

After his retirement from his Washington work in 1976, he returned to his law firm in Kannapolis—and to his community service. Among his most recent interests was the Kannapolis Chamber of Commerce, in which he headed the legislative committee.

We remember Hugh Alexander's arrival in Kannapolis and his commitment to the legal profession and community service. Through the years we admired his scratching for education, his determination to be a successful lawyer, his eagerness to make a contribution to society.

We admired his parents, Oscar and Mary Alexander, who had come to Kannapolis in 1930, smack in the middle of the Great Depression, to share the job of secretary of the Merchants Association. This couple instilled in their six children a yearning for learning. Sons Hugh, Ernest and Lewis became lawyers. George and Edgar became dentists. Daughter Margaret became a teacher.

Hugh Quincy Alexander carried on his family's heritage.

He served his community, his state, his nation with pride and dignity.

We appreciate the imprint he left on our town. He will be missed.

□ 1230

REPEAL CATASTROPHIC HEALTH INSURANCE

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Madam Speaker, they say there are two reasons we ought to pass laws. One, because there is a public need; second, because there is a public demand.

If that second be the case, then today is the day, ladies and gentlemen to repeal catastrophic health insurance.

Here Members see it, 2,173 letters and postcards asking me to vote to repeal catastrophic health insurance.

Oh yes, I received one letter asking me to keep it. That is the ratio.

If we are going to repeal catastrophic health insurance today, and we are going to make the decision that it is not in the public's interest to tax some better off senior citizens to pay for a benefit for all, then let us certainly understand it is also wrong public policy to tax the poor elderly to provide a drug benefit for the wealthy senior citizens.

Vote for Archer-Donnelly. Vote against Stark-Gradison and respond to the demands of our senior citizen public.

DO NOT TOTALLY REPEAL CATASTROPHIC INSURANCE

(Mr. HAYES of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Illinois. Madam Speaker, we have a chance today to heal some of the bruises and scars we cast upon the economically disadvantaged last week in the vote for capital gains and against workers' rights to protect their own pension funds and family security.

This week I appeal to Members to not destroy the long-term health care protection for our seniors with a repeal and a promise to reconstruct a better piece of legislation. Correct the inequities, but do not throw the baby out with the bath water.

Too many of us should not forget the roots from which we came.

POLAND

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Madam Speaker, some prominent Americans recently went to Poland to advise the new Government on ways of developing democratic political institutions. What they found was a government composed of people who had never held public office.

That is a problem not only for Poland, but for America as well.

No one in America has a real grasp of what Poland needs. And it appears that no one in Poland does either.

The temptation is to shovel money into Poland and call it a foreign policy. But that is pure pork barrel.

I hope that we in Congress can work together with the Bush administration on a policy that is responsive, not just to domestic political considerations in the United States, but to the real economic needs of the Polish people as well.

SEND IN THE MARINES FOR NORIEGA NOW

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, there may be a coup underway in Panama, and if so now is the time for President Bush to send in the Marines and grab General Noriega. Right to the point, if we are going to do something about drug smuggling, it is time to stop talking and to do something.

Noriega has been indicted as the No. 1 internatinal drug smuggler. We have the biggest drug problem in the world. Now is the time to act with strength.

I think it is time that we should see pictures of General Noriega on the front page of the newspaper standing trial in America. That would be the greatest picture in the world. That will send the signals from this country.

Mr. President, go after him. Help those rebels. Now is the time to send in the Marines.

SUPPORT TOTAL REPEAL OF CATASTROPHIC INSURANCE

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONALD E. "BUZ" LUKENS. Madam Speaker, the catastrophic bill has been just that for the elderly all across America since its passage last year. They are incensed. I receive countless letters from seniors each day demanding total repeal.

Mr. Paul Kemper of Troy, OH, who saved and worked for 46 years to have something when he retired, wrote "It's obvious you need the middle class to spend their lives saving, so you can have it to give away. Don't introduce another pay raise for Congress. We're mad!!! We don't care who wants to pay you honoraria. They have a choice!!! Catastrophic health care is . . . no choice!"

Mr. Oscar Koeppel from Middletown, OH, believes that because he had the foresight to save and invest for his elder years, he is now being fined."This act is a double tax on senior citizens," he wrote. "It is a propaganda law fooling those gullible people who want something for nothing. Repeal it."

Mr. Richard High of Troy, OH, wrote, "The catastrophic coverage I now have under my current family plan is far superior to the coverage in the new law." Madam Speaker, Catastrophic coverage under his current health plan costs only $3 more than his premium. That's $3, as opposed to the maximum $800 surtax.

We need to admit that this legislation has failed the seniors. A few band-aids here and there will simply not do the trick. Let's scrap this monstrosity. For the sake of our senior citizens, I urge my colleagues to support total repeal.

HIGH QUALITY HEALTH CARE FOR ALL AMERICANS MUST REMAIN A NATIONAL PRIORITY

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Madam Speaker, today is not a day for shortsightedness. Even with the likely outcome of the vote on the catastrophic health care program, we need to keep uppermost in our minds that providing affordable, high quality health care for all Americans has to remain one of America's national priorities.

Even today, in this era of modern medicine too many Americans, of all ages, suffer from inadequate health care. Skyrocketing costs are impoverishing millions of families, or, as may too often sadly be the case, skyrocketing costs are standing in the way of access to badly needed care.

So many problems remain in health care.

In rural America, hospitals are closing from lack of revenues and health care professionals are abandoning areas, leaving millions at risk. In our urban neighborhoods, the same lack of service and drain on financial resources jeopardizes the health of millions more. Physicians and hospitals are in many cases being whipsawed by high malpractice premiums. Some of the most basic ingredients of modern health care—affordable medicines, home health care services, adequate and early testing services, hospital coverage and long-term care—remain out of reach to millions of our citizens.

Madam Speaker, this problem is not going away after today's vote, and indeed, will not be solved by today's vote. The reasons for today's vote on catastrophic coverage are as many and as complicated as the problems which the program sought to solve. No matter what these complications are, let us not be shortsighted nor intimidated from pressing forward with solutions to ensuring that all Americans, young and old, have access to basic health care services. The American people want us to address the Nation's health problems in a comprehensive way; let us have the courage as public policymakers to do just that.

REPEAL CATASTROPHIC HEALTH INSURANCE

(Mr. PAXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAXON. Madam Speaker, never before have so many New York senior citizens spoken so loudly, so clearly, or so convincingly.

Their message, repeal the ill-conceived catastrophic care tax now.

My district offices in western New York and the Finger Lakes region have been flooded with mail like this, some of the 3,807 cards and letters as of noon today, hundreds more calls, and many, many personal visits, all from seniors and not so seniors urging, requesting, and demanding repeal of this senior citizen tax and the Catastrophic Program, a catastrophy in and of itself.

Let us make no mistake, it is repeal seniors want.

Please support Donnelly-Archer, it is the only real repeal there is, the Stark amendment does not repeal this tax.

Let us not deceive seniors across America who want this tax to go and go today.

HEALTH CARE FOR ONE SHOULD BE HEALTH CARE FOR ALL

(Mr. WISE asked and was give permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Madam Speaker, the House will probably vote today to repeal the catastrophic illness bill. I understand the concerns many have with the program. But outright repeal will only mean thousands of low- and moderate-income senior citizens will not receive the care they desperately need.

But the debate here today illustrates some of the real underlying problems to the catastrophic illness bill. Namely, it provided expanded health coverage to one group. Senior citizens complained of a seniors only tax. Deep down I believe many were convinced it was a seniors only program.

Why were 70-year-olds able to get medical care that 7-year-olds could not? That is what this sad moment is about, a statement that the President and Congress cannot fool around the edges anymore with health care. Health care for one should be health care for all.

More and more Americans are demanding a comprehensive national health care policy. So while this Congress will greatly reduce a medical program for the elderly, let us vote today to begin crafting a true health package that treats alike the grandparents and their grandchildren.

KEEP EMBARGO ON CUBA

(Mrs. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ROS-LEHTINEN. Madam Speaker, the Subcommittee on Western Hemispheric Affairs last week completed its five part series evaluating United States policy toward Cuba.

Unfortunately, the conclusion reached by some panelists is that the United States should lift the embargo and have full diplomatic relations with Cuba.

We should not lift the embargo now when the Cuban economy, sustained only by a $5 billion Soviet subsidy, is in shambles. The economic pressure must continue.

Fidel Castro is pulling troops out of Angola and Ethiopia and closing down Cuban diplomatic establishments abroad precisely due to Cuba's severe economic crunch.

Let us not ease up now.

When previous administrations sought to improve relations with Cuba, Castro responded by shipping guns to Central America. His response would be similar today.

Let us continue the embargo.

□ 1240

TAXES DO NOT BEGIN AT 65

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Madam Speaker, it is often said that life begins at 40. That may or may not be true, but I can tell you that taxes don't begin at 65—at least they won't after we vote to repeal the surtax.

As a freshman, everything this session is a lesson to me. But I think the entire Congress has experienced and learned something new with catastrophic health. First, never include the word "catastrophic" in the title of a law—it may be used against you in a letter from a constituent. Second, listen to your elders.

I have listened to some very informed and intelligent seniors in my district—and not always the wealthy—who tell me the surtax is wrong. We can question the timing, scope, and choice of the benefits. But what we now know is that we need a solution that doesn't include an unfair increase in the income tax.

We have very real deficiencies in health care for our seniors, and that must not be forgotten in the heat of this debate. We need more than 1-year health plans. To find an alternative, we need most of all to listen to those we all want to help.

REPEAL CATASTROPHIC

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOUGLAS. Madam Speaker, I have received over 4,079 letters, at last count, from folks in New Hampshire who want me to vote today to repeal the Catastrophic Program. They feel ripped off, and for very good reason. What they thought they were going to get was long-term nursing home care. Instead what they got was a tax on a tax. They did not get what they wanted and what they need.

That is why we have to go back to the drawing board and start all over again. The Congressional Budget Office estimates that the program will be in deficit by the amount of $6 billion by 1993 and that is going to mean two things: You either raise the tax or you cut the benefits.

Our side of the aisle is very clear on this issue. The House Republicans on September 21 voted "to support outright repeal of catastrophic health care legislation."

We know where we stand.

We certainly hope the other side of the aisle will join us in supporting Donnelly-Archer.

DEMOCRATS SUPPORT QUALITY HEALTH CARE FOR ALL AMERICANS

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Madam Speaker, regardless of the outcome of the debate later today I feel compelled to emphasize that the Democratic Party will continue to be the party of leadership in terms of providing accessible, quality health care for all Americans.

After all, it was Harry Truman at the 1948 Democratic National Convention who truly focused our Nation's attention on the need for a system of national health insurance. It was the Democratic Party that initiated the development of Medicare and Medicaid.

As we anticipate the future—stand assured that the Democrats will continue the drive for quality health care for all Americans, whether they are children in the spring of their lives, adults working without protection, or seniors concerned about the eclipse of their lives.

Regarding the latter, it is this Member's sense that as we renew the debate concerning senior health care we must be guided by the principle that we should not extend life unless we are prepared to improve it.

Miseries such as deafness, arthritis, dementia, and incontinence need as much attention from researchers as do wasting, chronic diseases.

QUALITY HEALTH CARE IS NOT A PARTISAN ISSUE

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Madam Speaker, with all due respect to my colleague who just spoke, catastrophic health care is not a partisan issue. Quality health care is not a partisan issue. It is a national isue.

Let me quote from the Wall Street Journal of September 12:

> Why is catastrophic wrong? Catastrophic health is a classic example of Washington's politicians losing touch with the real needs of their constituents and allowing their staffs and lobbyists to design a legislative agenda.

It appears now that today we will debate and, hopefully, we will repeal catastrophic health. Let me suggest to my colleagues that if you do not like catastrophic-I, you will not like catastrophic-II because that is what Stark is all about. Apparently our colleague from California is after the same kind of attention that our colleague from Illinois received from seniors in August, direct attention from those, because he is like our colleague from Illinois proposing a major tax increase once again on our seniors.

Remember catastrophic, known and directed by Stark, is just exactly the kind of catastrophic we gave our seniors 1 year ago. Let us vote down both.

RETIREMENT OF ADM. WILLIAM J. CROWE, JR.

(Mr. McCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCURDY. Madam Speaker, I rise today to commend Adm. William J. Crowe, Jr., on the occasion of his retirement as Chairman of the Joint Chiefs of Staff and his distinguished career in the U.S. Navy.

Admiral Crowe brought to his position the characteristics of candor, honesty, and intellectual capability which earned him respect worldwide. His nononsense approach to military crises and his ability to communicate the American ideals of freedom and individual liberty will not be forgotten.

His cautious and measured approach in dealing with the Soviets was evident as he made a historic trip to the Soviet Union, typifying the way Admiral Crowe engaged in hands-on activities, furthering our country's efforts in attempting to understand the changing Soviet society.

Throughout his 43 years of service, Admiral Crowe has served with honor and distinction. This country owes him a debt of gratitude for teaching us that great things can be accomplished through humble acts.

Admiral Crowe's actions throughout his distinguished career can best be described by the words of President George Washington, who when making his first annual address to the Congress said, "to be prepared for War is one of the most effectual means of preserving peace."

Thank you, Bill Crowe, for your service. America has benefited from your leadership.

CATASTROPHIC REPEAL

(Mr. SUNDQUIST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SUNDQUIST. Madam Speaker, I had the feeling that we made a mis-

take in passing the Catastrophic Coverage Act, when I noticed that most of my constituents had started referring to it simply as "catastrophic".

We have an opportunity today to face up to our mistake and set it right, by repealing catastrophic and restoring to our constituents the belief that Congress pays attention to their concerns.

I've paid attention. And what the seniors in my district tell me is that catastrophic costs them too much for benefits they do not want or need.

The only sensible option before us today is repeal; not delay, not modification, not a temporary rollback in the surtax; not spreading the costs of the program to the rest of America's taxpayers.

Repeal.

Let us face up to our mistake, put it behind us, and start fresh.

SAMOAN AND TONGAN ATHLETES IN AMERICAN FOOTBALL

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FALEOMAVAEGA. Madam Speaker, there are approximately 190,000 Americans of Samoan and Tongan ancestry—Polynesian descent—currently living in American Samoa and throughout the United States.

And today I want to pay a special tribute to our young Samoan and Tongan athletes who have taken up the sport of American football, and are doing quite well in the National Football League. I want to share their names with my colleagues.

Madam Speaker, I forgive my colleagues for their inability to pronounce my own name—but let me share with our fellow Americans the names of our young Samoan and Tongan professional football players in the NFL:

From Samoa:

Natu Tuatagaloa, defensive tackle, Cincinnati Bengals.

Falaniko Noga, linebacker, Detroit Lions.

Mosi Tatupu, running back, New England Patriots.

Dan Saleaumua, nose tackle, Kansas City Chiefs.

Taivale Tautalatasi, Jr., running back, Dallas Cowboys.

Mark Tuinei, offensive tackle, Dallas Cowboys.

Al Noga, defensive end, Minnesota Vikings.

Jesse Sapolu, center, San Fransciso 49'ers.

Glen Kozlowski, wide receiver, Chicago Bears.

From the Kingdom of Tonga:

Tim Manoa, running back, Cleveland Browns.

Steve Kaufusi, defensive tackle, Philadelphia Eagles.

Vai Sikahema, punt returner, Phoenix Cardinals.

Madam Speaker, I can think of no other country in the world that would allow these young men to compete and excel in a competitive sport like American football.

Madam Speaker, how do the members like that?

□ 1250

CONSTITUENTS DESIRE REPEAL OF CATASTROPHIC INSURANCE

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Madam Speaker, a constituent of mine, William Lowry Wallace, of Dallas, recently wrote to me concerning the Catastrophic Health Care Act. Although it is only one of hundreds of letters I've received favoring repeal, I'd like to share it with the House.

Mr. Wallace writes:

For some time I have listened to congressional justification of the catastrophic medicare bill. Some of these comments have been disdainful of the public's intelligence. One comment that "the public just doesn't understand the bill" was off-base. Congress doesn't seem to realize that we are well aware of the bill's shortcomings and in particular the discriminatory and outrageous taxing scheme devised to pay for this ill-conceived legislative fiasco.

No, I am not wealthy, neither am I in poverty. I am simply trying to "make do" with a modest retirement package and manage my investments so I will not be dependent on others. But the catastrophic medicare bill is a legislative maneuver to hit the middle class of this country's retirees.

Madam Speaker, this is America talking. We should listen to Mr. Wallace and others like him and vote today to repeal the catastrophic tax on our Nation's senior citizens.

HEALTH CARE CRISIS

(Mr. LAUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAUGHLIN. Madam Speaker, I am here to join my voice with those who recognize that America's health care delivery system is in a state of crisis.

One of the towns I represent in rural Texas, became famous this year because the local high school pitcher appeared on the cover of Sports Illustrated for setting the record for 50 consecutive games won in high school baseball—a national record.

The name of the town is Brenham. It sits among green rolling hills. It is just down the road from where Sam Houston signed the Texas Declaration of Independence, and it is a wonderful place to raise a family. Brenham represents the very best of the rural American way of life.

Yet, in just the last 2 days, I have received over 100 cards and letters from citizens of Brenham, who fear that their hospital may be forced to close.

Since 1984, 73 Texas hospitals have closed, most of them small, rural hospitals like those in my district. The people who are writing me are hoping that their hospital does not become another statistic. They are asking that their leaders act now to preserve their way of life by allowing them to live near affordable, adequate health care services.

Madam Speaker, I do not know of a higher priority for this Congress than to answer these people with policies that put a stop to runaway medical costs. We are talking about preserving the American way of life.

We can permit no more cuts in Medicare. We must give rural hospitals a fair shake in the ratio of Medicare disbursements. And we must be prepared to take bold steps in restructuring the way medical services are delivered.

A TRIBUTE TO HUGH ALEXANDER

(Mr. VALENTINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VALENTINE. Madam Speaker, I rise in tribute to Hugh Quincy Alexander, a man of strong character, a former Member of the House, and a fellow North Carolinian, who died recently. I mourn his passing, but I am happy to have had the opportunity to know him.

Hugh Alexander began life with few of the material advantages that many of us take for granted. His parents moved to Kannapolis, NC, in the midst of the Depression. Raised in a close-knit family that believed hard work and a good education could accomplish anything, he worked odd jobs to put himself through college and then through law school.

Hugh Alexander was dedicated to community service. He participated in many community activities, such as the YMCA, the Boy Scouts, the Kannapolis Rotary Club, the Chamber of Commerce, and the Cabarrus Shrine Club. He was a faithful member of the First Presbyterian Church, and his efforts were instrumental in the organization of the Second Presbyterian Church.

He had a strong sense of patriotism. He answered his country's call to war in World War II when he served 44 months in the U.S. Navy. In 1950, he was named State commander of the American Legion. He served in the North Carolina House of Representatives from 1947 to 1949, and in 1952 he

was elected to the U.S. House of Representatives where he served for 10 years.

He was a good husband and father and a loyal friend. He will be sorely missed.

SUPPORT FOR DONNELLY/ARCHER

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Madam Speaker, I would like to add my voice to express my strong support for the repeal of the Medicare Catastrophic Coverage Act. Since the passage of this truly catastrophic legislation, I have received numerous letters, almost 2,000 of them, from elderly constituents asking me to change or even repeal this law. Senior citizens complain that they are paying too much for benefits they do not need; it is the wrong catastrophe, and long-term care is what they want. And what is more, they are paying for it through increased taxes and premiums. I believe that today, we finally have the opportunity to give the people what they want. By voting for the Donnelly/Archer substitute, we have the opportunity to repeal this law.

I recognized last year this legislation was a mistake, and voted against it. It is time to repeal the law and craft a new program that matches the needs of the majority of the seniors. Passage of the Donnelly/Archer substitute would allow us this opportunity.

HAPPY 78TH BIRTHDAY AND ALOHA TO TAIWAN

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Madam Speaker, Taiwan, our friend and ally in the Pacific, will celebrate its 78th birthday next week, Tuesday, October 10, 1989, and I know that many of my colleagues join me in congratulating President Lee Teng-hui and his people, and wish them continuing good fortune and success in the years to come. I had the privilege of meeting President Lee 3 years ago and I know that Taiwan will continue to prosper under his able leadership.

Taiwan has made quantum leaps economically, politically, and diplomatically in the past 2 years. Economically, it has sustained a remarkable growth rate averaging 10 percent or better each year. Politically, it has abolished martial law and lifted many of the old sanctions. Diplomatically, it has established ties with new friends and upgraded existing relationships with many European countries.

Let me also take this opportunity to indicate that I am pleased to see my dear friend, Mr. C.J. Chen, assume the post of vice foreign minister in Taiwan. Vice Minister Chen will have a great deal to contribute, especially in Taiwan-United States relations in view of his many years of distinguished service as Taiwan's deputy chief of mission in the United States. I am sure many of my colleagues on the Hill join me in wishing C.J. the very best.

Happy 78th birthday and aloha to Taiwan.

VOTE FOR DONNELLY-ARCHER REPEAL

(Mr. FAWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAWELL. Madam Speaker, I rise today in support of the Donnelly-Archer amendment.

I have here an exhibit, which happens to be a new IRS form 8809, in regard to the supplemental premium. I tried to review that, and I will tell Members that it is not an easy thing to read. For any of those who still believe that we ought not to repeal the Catastrophic Care Act, I would suggest that those Members think long and hard about the fact that your constituents will have to wrestle with something like this.

For instance, the IRS estimates that "This form will add 1 hour and 34 minutes to tax preparation record-keeping time." I would multiply that by about 3. It also estimates that 12,169,000 taxpayers will spend 19,105,000 hours keeping records and filing forms.

In addition, Madam Speaker, I would like to say today that we not only have to vote for repeal, but we also have to vote down the Stark amendment because we are going down the same primrose path we went down in July 1988. Vote no on the Stark amendment. Vote aye on the Donnelly-Archer amendment.

COMPREHENSIVE HEALTH CARE FOR EVERYONE

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Madam Speaker, today it will be clear that we can no longer tolerate the way we provide health care in this country.

We do not have a system any longer. The system we have is simply not working. Costs are skyrocketing. Hospitals are overwhelmed. Millions of people are getting no care—no care at all. And everyone is complaining—patients, providers, businesses, and Americans of all ages.

We face a crisis in this country where we cannot provide for the most basic health needs of all our citizens. We cannot provide long-term care. We cannot provide prenatal care. We cannot provide basic care.

Madam Speaker, the health care Hugo is upon us, and we are out trying to buy umbrellas.

The catastrophic act is the ultimate example of the moral bankruptcy of our health care system. We cannot go on selling health care to the highest bidder and selling out those who cannot afford it. Health care cannot continue to be a lottery.

Enough of these tentative, timid, band-aids. You know and I know there is only one real solution—comprehensive health care for everyone. Paid for by everyone and provided for everyone.

□ 1300

CATASTROPHIC HEALTH CARE

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Madam Speaker, I rise today in support of the Donnelly-Archer amendment to repeal the Catastrophic Health Care Act and in opposition to the Stark amendment which would turn the Catastrophic Health Care Act into a drug benefit program to be paid for by seniors only.

Neither refinancing nor piecemealing the Catastrophic Health Care Act is what the seniors want and need. They clearly want repeal. They understand that the Catastrophic Health Care Act is doomed; it is headed for bankruptcy.

According to CBO estimates, the drug benefit portion of the Stark proposal would cost $4.4 billion in 1992 with only $3.6 billion in revenue from the flat monthly premiums. In simple terms that means the program will run a deficit.

Because this deficit trend will continue into 1993, it is inevitable that by 1994 either the monthly flat premiums will skyrocket, the supplemental premium will be reinstated, or the act will have to be repealed altogether.

The Stark proposal is not a solution or even a temporary fix. In fact the drug benefit was one of the last proposals added to the Catastrophic Health Care Act.

My colleagues, although repealing the current Catastrophic Health Care Act creates what seems to be an immediate budgetary obstacle, by 1993 repeal will have reduced the deficit. And, almost more importantly, repeal will clean the slate for us to get to work on developing a long-term health care program that is fair and that works.

The responsible vote and the one we owe to the elderly across this country is for the Donnelly repeal and a vote against the Stark prescription drug program. it is a clear choice—a vote for Stark is a vote against repeal.

THE STATE OF HEALTH CARE IN AMERICA TODAY

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Madam Speaker, today, I would like to talk about the story behind the story concerning catastrophic health care. Last year, due to President Reagan's lack of vision, we were severely limited in terms of what we could do to provide quality health care to the citizens of this country.

Reagan would only accept a health initiative that would cover one aspect of quality health coverage, catastrophic health care. Even then, he would only accept a proposal to make the elderly pay, and thus, millions of seniors were charged with an excessive tax to pay for this needed component of a comprehensive health care system.

And with George Bush, nothing has changed. This administration still has shown no willingness to propose a comprehensive health program because this administration will not take the responsibility to provide the resources necessary to fund such a program.

While on the one hand the President has required all senior citizens to pay a Medicare increase for benefits that only 8 percent will utilize; on the other hand he provides the richest Americans, Americans earning over $200,000 a year with a $25,000 tax break windfall. That is the real story of today's debate.

THE EDUCATIONAL PERFORMANCE AGREEMENT FOR SCHOOL RESTRUCTURING

(Mr. SMITH of Vermont asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Vermont. Madam Speaker, in July, I introduced legislation which created greater freedom for local school districts for vocational education. Today, I am expanding that idea in the Educational Performance Agreement for School Restructuring Act, to give new life to our schools and the communities which support them.

We can no longer ask local educational authorities to labor under the double burden of excessive paperwork and regulation if they are to lead our schools into a more successful future. Often, those requirements apply to other districts in other areas, but a Federal bureaucracy which assumes that all school districts are the same, or should be made the same, does not listen to their pleas. To repeat a point I made on this floor 2 months ago, in my own State of Vermont there are 277 mostly rural school districts. Every one is unique, and none has the same problems as its counterparts throughout the Nation.

Madam Speaker, the Educational Performance Agreement's time has come. Under this agreement, and in exchange for a State appropriating the necessary funds, the Departments of Education, Federal and State, would drop most of their unnecessary regulation for a number of school districts in that State. These districts could then combine all the money they receive from the State and the Department of Education, no matter from what program. In return for an agreement with clear goals for the improvement of service to their children, these school districts could design their own programs, because they know best what's needed. If they do not meet the goals, they are dropped from the program.

In conclusion, let me again enter into the record the pleas of our Nation's public schools: The solution to many of their problems lies in nothing more radical than freedom and flexibility. Freedom to innovate and create new approaches that others might adopt, and flexibility to tailor the education our schools provide to the districts they serve. Part of that ultimate solution is the Educational Performance Agreement for School Restructuring.

I urge my colleagues to support this important legislation.

THE BILLBOARD CONTROL ACT OF 1989

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Madam Speaker, today, I stand before you as little David, taking on Goliath, the billboard industry.

I do not have three stones to use with my slingshot, I only have a simple piece of legislation to control the proliferation of billboards throughout our Nation. I am here today calling on my colleagues to join with me and my good friend from Florida, CLAY SHAW, in sponsoring legislation to control the visual pollution that stains our Federal highways and byways.

The control of billboards is an environmental issue. The control of billboards is a public health issue.

I urge my colleagues to help eradicate this growing eyesore on the American landscape.

Madam Speaker, I call on my colleagues to support H.R. 3389, the Billboard Control Act of 1989.

HOW DO YOU SPELL "RELIEF"?

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute.)

Mr. BILIRAKIS. Here we go again, Madam Speaker, we in this ivory tower telling our seniors what is good for them. A vote for Stark-Waxman this afternoon will mean that we are telling our seniors that in spite of the fact that we take away from them some of the moderate benefits of the current law in part A and part B, for instance in expansion of long-term care, although it is very moderate, certainly, far from adequate, we are saying to them, "You need prescription drug coverage," and we are saying to them, "You must pay for this prescription drug coverage even though it may cover many people who are not in the senior category," in spite of the fact that we increase a deductible from $600 to $800, thus reducing the amount of seniors that would be in the category of being able to get any sort of benefit whatsoever from prescription drug coverage.

Madam Speaker, these days our older Americans spell relief r-e-p-e-a-l.

FREE TRADE AND THE COMMON MARKET

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Madam Speaker, I rise to fire a friendly shot across the bow of the European Community.

I support the unification of Europe, as is going on in their target of Europe 1992, but today the Community went too far. They passed a piece of legislation that is terribly mislabeled. It is labeled "television without frontiers."

Madam Speaker, this is not leading toward freer trade. It is a violation of the letter and the agreement of the General Agreement on Tariff and Trade, and I call upon our President, acting under appropriate power, to seek to negotiate the withdrawal of this piece of legislation by the Community; if not, to take proper retaliatory steps against the European Community. They should know that while we support their efforts to unify and to build the Common Market, we will not tolerate, we will not tolerate, measures aimed at preventing fair and free trade.

THE WAR ON DRUGS

(Mr. WALSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALSH. Madam Speaker, I rise today to help carry out the goal of our colleague, the late Larkin Smith and his desire to speak out for 28 days on the critical drug issue.

Our President has taken a leadership role in proposing a plan to rid our Nation of drugs but now it is up to us, Members of Congress, to take this starting point from the Executive and bring it home to our constituents. Congress has to prove to the American people that it is not just fighting a war on words.

The approach must be multifaceted—families must set an example with a drug-free household, schools must be diligent in keeping the academic arena a positive environment that stimulates learning and preparation for a productive adulthood—free of drugs.

Neighborhoods and communities also need to pay careful attention to activity on the streets and on the playgrounds.

As a cosponsor of legislation to consolidate our efforts in Congress, I feel strongy that we establish one committee to focus on this problem. Our current committee chairmen already have such tremendous workloads, due to their vast jurisdictions, but we need legislation to streamline the process and coordinate our efforts.

I am confident that we can win this war on drugs if we remain diligent in our resolve. Now that the Senate has passed the President's drug and crime packages, including an additional $1.1 billion as part of their transportation appropriations bill, I look forward to voting on a conference report and passing this measure for the President's signature. We need to put our words into action now.

□ 1310

CHANGES TO MEDICARE CATASTROPHIC COVERAGE ACT

(Mrs. ROUKEMA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ROUKEMA. Madam Speaker, I was one of the first in my party, if not the first, to support Dr. Otis Bowen, the Secretary of Health and Human Services, when he first advanced this proposal to cover catastrophic illness. His proposal grew to encompass a wide array of services and was adopted with overwhelming support from the general public, the senior citizens and their lobbying groups, and with good reason.

And so we adopted this catastrophic illness bill—well-intentioned and in many respects well-devised.

There are millions of working people who, no matter how hard they worked, how much they save for a rainy day, they cannot afford the medical costs when illness strikes in their old age.

But Dr. Jekyll has turned into Mr. Hyde.

In short, this program is a catastrophe.

And so it is with great reluctance and regret that I rise in support of the amendment to repeal the Catastrophic Coverage Act.

Let me state for the record that our Nation's elderly deserve better. They deserve thoughtful deliberations by both bodies of Congress to determine what expansion of Medicare coverage is most needed and the fairest way to pay for it. It seems that instead of thoughtful deliberations, we have gotten political maneuvering and much backing and filling. This is not Congress' finest moment.

I have come to the conclusion that repeal of this law is necessary because there is no reasonable alternative before us. One that can give the coverage and gain the support of our constituents.

There has been too much misinformation. Too much disinformation. We can not put Humpty-Dumpty back together again. It is time to start over.

REPEAL THE CATASTROPHIC HEALTH CARE PROGRAM

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Madam Speaker, today we will vote on an issue of crucial importance to our retired constituents, the Medicare Catastrophic Coverage Act. What a disaster.

The retirees in my district, along with millions of others nationwide, have let us know that they have one overwhelming priority for the first session of the 101st Congress—repeal the catastrophic program.

The Stark proposal is clearly not the answer seniors are looking for. They do not want a half-measure. They wants us to wipe the slate clean and start over.

We need to evaluate all of their health care priorities, weigh the options, and draw up a plan that answers their concerns. Primary among their health care worries is long-term care, and we must move to address this problem.

But first we must correct our catastrophic mistake. I urge my colleagues to listen to what the retirees across this land are saying, and vote to repeal this misguided law.

THE IRONY OF THE CATASTROPHIC HEALTH CARE DEBATE

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Madam Speaker, the irony of the catastrophic debate is that the catastrophic health care program that we apparently are about to repeal is the ultimate middle-class and even upper-income program. It is not really a health care program, because poor people are taken care of in our society through Medicaid or through so-called uncompensated hospital care.

But what is it, if it is not a health care program? Catastrophic is actually an asset protection program. It protects people from having their assets wiped out.

The poor people in my district do not benefit from catastrophic. The wealthy people in my district benefit from catastrophic. The more you have, the more this program is important to you. That is why the premium was scaled in part to income and wealth.

To ask people, as many speakers have suggested, to pay the flat premium and to suggest that a flat premium is the fair way to go would be like charging the same flat premium for fire insurance whether you are insuring a mansion or a shack. The premium should be scaled to income and it is an upper-income protection program. It is not really a health care program.

SUPPORT DONNELLY/ARCHER AMENDMENT TO REPEAL CATASTROPHIC ACT

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Madam Speaker, I rise today to express my full support of the Donnelly/Archer amendment to repeal the medicare Catastrophic Coverage Act of 1988. Although well-intentioned, this program has not only fallen short of its purpose of meeting seniors' catastrophic health care costs, the program's so-called supplemental premium has created a catastrophic expense for the very people it was meant to help.

More than 5,000 of my constituents have contacted me to express their opposition to the current form of the Medicare Catastrophic Program. They have numerous reasons for their views which I understand and share. One reason is that many seniors already have private coverage of catastrophic health care expenses. A second reason is the supplemental premium, which can cost as much as $1,600 per couple per year.

My constituents want this program repealed, and they want their Congress to craft a program to meet the Nation's long-term-care needs. This important task should not—and cannot—be achieved on the House floor. Let us not do a "cut and paste"

job on such an important program. Let us support an outright repeal of the catastrophic program so we can meet our constituents' pleas and move on to crafting a true workable program.

REPEAL THE CATASTROPHIC HEALTH CARE PROGRAM

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Madam Speaker, repeal, repeal, repeal. My constituents have spoken. These trays represent more than 20,000 responses from the seniors in the Second District of Maryland who object to being taxed via the existing catastrophic health bill. There are 58.9 percent of my constituents who want total repeal. Of the remaining 41.1 percent, they want a delay of 1 year while a blue-ribbon bipartisan commission studies the Nation's whole health picture. However, if a delay is not possible with such a commission, then that same 41 percent want the bill repealed.

Fewer than one-tenth of 1 percent have asked for one of the alternate proposals.

I want to point out to my colleagues that my seniors are typical middle class Americans who made provision for their retirement while they were employed. My constituents want an "aye" vote on the Archer/Donnelly amendment.

OPPOSITION TO H.R. 3, THE HAWKINS-DOWNEY BILL

(Mr. HOLLOWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLLOWAY. Madam Speaker, the language in H.R. 3 governing title II, title III, and title IV clearly states that "no child care provider receiving financial assistance under this subchapter shall engage in any sectarian activity, including sectarian worship and instruction, in the program for which such assistance is received."

Churches are currently providing one-third of the center-based care in the U.S. today and have been most instrumental in our inner cities. Many inner city churches have chosen to respond to the poor's need for child care and have made a life-changing impression on disadvantaged youth in our Nation. Michael Novak of the American Enterprise Institute has reported that black male teenagers with religious values in the inner city today are 47 percent less likely to drop out of school; 54 percent less likely to use drugs; and 50 percent less likely to engage in criminal activity.

In theory if these religious providers abandoned their religious activities they could receive funds through Hawkins-Downey, but ony if they abided by a wide range of regulations including State control of their choices for program administrators and staff selection. Obviously few, if any, religious childcare providers are going to let the State control the choice of their staffs and few will remove all religious traces from their programs. Therefore, Hawkins-Downey will cut them out of the process.

In addition to the religious discrimination in Hawkins-Downey there are other provisions which are just as bad. The bureaucracy created by this bill is unbelievable.

It sets in motion 150 new regulations on State governments receiving daycare funds.

It also requires each State receiving Federal daycare funds to create a "child development council" for each local government. If every State were to accept Federal daycare funds under the legislation, over 38,000 local child development councils would need to be created. Each council is required to submit reports to the State government every 4 years. Which means by the year 2000 over 120,000 Government reports on daycare would be required.

H.R. 3 is such a bureaucratic mess. Under this bill a grandmother caring for her own grandchild has to comply with regulations including building standards in her home, safety standards, nutrition standards, injury prevention and treatment regulations, child abuse regulations and health regulations. In addition, the grandmother would be subject to inspections by the State government to make sure she was caring for her grandchild in a manner that made the State happy.

For these reasons, I urge my colleagues to "Just say no" to Hawkins-Downey.

TOWNHALL MEETINGS IN OKLAHOMA AGAINST CATASTROPHIC HEALTH CARE PROGRAM

(Mr. INHOFE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INHOFE. Madam Speaker, we have heard a lot today about catastrophic health, and we are going to hear a lot more, but this is nothing compared to what we have heard at our townhall meetings back in Oklahoma. I have over 5,000 names on petitions of people saying, "We don't want the catastrophic health bill that was passed."

We have yet to have 1 person out of over 20 meetings say that they like the bill as it is, so I think we need to admit that we have made a mistake. It was wrong. The benefits are wrong. The surtax is wrong.

The only decision today is do we repeal it or do we amend it? I do not believe you can Band-Aid this one. I think the patient is dead.

I do not think there is anything more refreshing to the people of America than to have us stand up in these hallowed halls and say, "We made a mistake. We're going to correct it."

A few minutes ago from this podium one of my colleagues said that we do not want to throw the baby out with the bath water. Madam Speaker, I think it is time to throw out the bath water, throw out the baby, and start over again.

VOTE "NO" ON STARK-GRADISON AMENDMENT

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Madam Speaker, if we thought that the seniors of this country were upset over the Catastrophic Health Care Act, "We ain't seen nothin yet," if we are so foolish as to pass the Stark-Gradison amendment later on today.

There is little doubt that the public outcry from our seniors will result in the repeal of the act. We will do that today; but my colleagues, do not think for a minute that you can vote for repeal of the act and then do the seniors a favor by voting for Stark-Gradison. If we do that, our seniors will rightly come down on us like a ton of bricks.

Stark-Gradison will become an epithet as harsh as the Catastrophic Health Care Act. It takes the one noncatastrophic provision from the act, drugs, and recodifies it, but with a catch. Now instead of the drug benefit being paid for mostly by seniors of more financial means, all seniors will have to pay for it equally as part of the part B premium. That is a $10.20 per month increase by the year 1993.

"Don't do me any more of your favors," our seniors are saying. Vote "no" on Stark-Gradison.

VOTE FOR ARCHER-DONNELLY AMENDMENT TO REPEAL CATASTROPHIC HEALTH CARE PROGRAM

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Madam Speaker, seniors not only in my district but throughout the Nation sent a message to Washington. That message is "repeal the unfair and discriminatory supplemental surtax."

We cannot and I will not ignore the wishes of my constituents. I will vote

in favor of the Archer-Donnelly amendment to repeal the entire catastrophic program.

It is unfortunate that once again we have a good idea gone bad. When this idea was first proposed, the intent was to provide seniors with long-term care coverage for catastrophic illness. Ultimately, what was signed into law was a program which ended up providing what amounted to a duplication of coverage for many seniors who already had such coverage through their existing health care plans. The seniors who made sacrifices and made provisions to insure they would be taken care of in their old age were the very seniors who were being asked to foot the bill. No wonder we and that is a collective we have received thousands upon thousands of letters and telegrams expressing in very strong terms the total dislike the seniors feel about this law. Never before have we heard such an outcry of total outrage and disgust about a law.

My major concern now is what will happen to the seniors who could not afford to pay the supplemental premium and retain their current insurance plan and so discontinued whatever MediGap plan they had prior to mandatory participation in the Catastrophic Coverage Program. Will these seniors experience yet another form of discrimination. Will they be denied reentry into their previous plan or have to pay out more money to receive what they had prior to enactment of this unpopular law?

While I disagree with the financing mechanism used to fund this program, I earnestly hope that we can find a way to provide medical and hospital protection to seniors who might be in need of such services. I look forward to working with my colleagues in addressing the true health care needs of our senior citizens and also of insuring that whatever problems should arise as a result of repealing this most unpoplar law can be rectified.

□ 1320

SUPPORT THE DONNELLY-ARCHER REPEAL AMENDMENT

(Mr. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLAUGHTER of Virginia. Madam Speaker, today the House has an opportunity to admit the catastrophic error we made in passing the Medicare Catastrophic Protection Act, by supporting the Donnelly-Archer repeal amendment.

I was 1 of 72 Members here in the House who voted against the conference report on catastrophic, and I still oppose it because of the steep tax increase on the elderly, the duplicated benefits for many, its lack of long-term care assistance, and because it will bankrupt the Medicare trust funds.

While I would support a meaningful and financially sound reform of the catastrophic program—one that repeals the surtax, provides access to effective catastrophic coverage for all Americans, and focuses Government assistance in this area on those truly in need—I cannot support the Ways and Means proposal for many reasons. For example, it threatens the stability of the Medicare trust funds due to the shifting of costly benefits to part A.

Madam Speaker, today the House has an opportunity and a responsibility, as the body most responsive to the people, to take corrective action. I urge my colleagues to support the Donnelly-Archer repeal amendment.

MAJOR CONCERN IS LONG-TERM CUSTODIAL CARE

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Madam Speaker, I am proud to stand here as 1 of the 72 people who voted against this catastrophic care bill back when we first brought this thing up. At that time many of us were accused of being antiseniors, and these attacks were launched.

I hate to say "I told you so," Madam Speaker, but I do think that we are right, and the American people have found that we were right, and virtually every bit of testimony that was piled up was the reason that I voted against it.

I am convinced that we are doing the right thing. The unfortunate thing is this other proposal we have is not addressing the major concern which seniors have, their major concern, which is not availability of drugs. It is long-term custodial care. That is what they are concerned about, and we should be dealing with it.

Unfortunately this Waxman-Stark substitute proposal which we are going to have does not address it at all. We should vote yes on repeal and no on that package.

WORLD CONTRACT BRIDGE CHAMPIONSHIP

(Mr. STANGELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STANGELAND. Madam Speaker, for the first time in the history of World Contract Bridge Championships, the United States won the World Olympiad Open Championship in Venice, Italy, last year. At the final ceremonies on Saturday, October 22, Dan Morse of Houston, captain of the U.S. team, accepted the Vanderbilt Cup.

Seymon Deutsch of Laredo, TX, the only American who had never won a world championship, called the victory "the thrill of a lifetime."

Bob Hamman and Bobby Wolff, both of Dallas, were partners in winning Bermuda Bowl championships in 1970, 1971, 1977, 1983, 1985, and 1987. They also won the 1974 World Open Pairs, and Wolff has won the World Mixed Teams. Hamman and Wolff rank first and second in world bridge standings for the United States over the past 20 years.

James Jacoby of Richardson, TX, was winning his third world championship—he was on the victorious Bermuda Bowl teams of 1970 and 1971.

Eric Rodwell of West Lafayette, IN, and Jeff Meckstroth of Columbus, OH, both in their early thirties, also have won two previous world championships—the Bermuda Bowl in 1981, and the World Open Pairs in 1986.

Americans now own all world bridge titles except one—the Olympiad Women's Teams, which was won in Venice by Demark. The United States is the champion in the Bermuda Bowl Open Teams, the Venice Trophy Women's Teams, the Rosenblum Knockout Teams, the World Open Pairs, and the World Mixed Pairs.

Congratulations to the American Contract Bridge League.

TRIBUTE TO MALCOM RANDALL

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Madam Speaker, today I rise to honor a man who has dedicated more than 50 years of his life to the Federal Government and has spent a majority of that working to improve health care services for our Nation's veterans.

Malcom Randall has been the Medical Director of the Veterans Administration Medical Center in Gainesville since the hospital opened in 1973. In that time, he has been instrumental in overseeing both the daily operations of the hospital and the long-term service goals of the center and Medical District 12. His tireless efforts have made the Gainesville VA medical center one of the best in the country. His enthusiasm for the job and his dedication to the veterans of Florida are to be commended.

I have had the pleasure of working with Malcom on a project to bring a badly needed psychiatric facility to the State of Florida, and in getting to know him I can state this unequivocally—unequivocally Florida's veterans deserve the best, and they have that in Malcom Randall. I am proud to know and work with him, and look forward to continuing to work together with

him to give our Nation's veterans the first class health care they need.

VOTE FOR REAL REPEAL, NOT PHONY REPEAL

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Madam Speaker, later today we will have a chance to deal with the catastrophic health program and what this House now wants to do.

The issue before us will be whether or not we want to repeal the program or whether or not we want to have a phony repeal of the program. Repeal of the program involves the Donnelly-Archer amendment. The Donnelly-Archer amendment would repeal the program and get rid of it.

We are going to have another amendment on the floor that seeks to keep portions of the program including the prescription drug program. We have heard from a number of organizations telling us we ought to vote for that program, many of the same organizations who told us to vote for the catastrophic program in the first place, and they were terribly wrong. They are wrong now again.

Why are they wrong? Because this bill will raise the premiums for seniors, substantially; in other words, hike the cost to them and have them pay for the costs of other people who are nonseniors. For example, AIDS patients are still going to be covered under this program, so we will have senior citizens, most of whom are not in the AIDS-patient category, paying for drugs for AIDS patients under this particular approach. It is wrong. It should be voted down.

There have been hearings on this particular bill, and we ought to vote for real repeal, not phony repeal.

DEAL WITH COMPREHENSIVE HEALTH PACKAGE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute.)

The SPEAKER pro tempore (Mrs. SCHROEDER). Without objection, the gentleman from New Mexico is recognized for 1 minute.

There was no objection.

Mr. RICHARDSON. Madam Speaker, when we consider the budget reconciliation package, we should repeal the catastrophic bill, but let us recognize that many of us supported this bill a year ago. I was one of those who lauded it, and expansion of Medicare. It was strongly needed. The purposes are there. We do need catastrophic.

Obviously we made a mistake in the payment schedule, but by repealing catastrophic, we cannot retreat into saying that this is the end of trying to deal with health care.

Madam Speaker, we have to deal with the comprehensive health package, and it is going to cost money, and it should deal with home care, with hospital care, across-the-board nursing home, but let us not think that this vote which is needed is going to cure all ills.

Madam Speaker, let us bite the bullet and let us look at a combination of the Government and the private sector and recipients funding a major national health plan that will involve catastrophic and every facet of health care. Let us not go ahead with the demagoguery on repealing, because we know well, many of us, many, many, the majority of us, a Republican President, a Democratic House, a Democratic Senate supported this initiative.

Let us correct it.

Madam Speaker, when we consider the budget reconciliation package during the course of business this week, we must address one of the most controversial issues facing our Nation's elderly—the catastrophic health care bill—and when we take it up I will vote for full repeal.

I joined the majority of my colleagues in voting for this program when it was adopted last year. Like many, I thought it filled a great need and would have the support of our Nation's elderly.

When my constituents started to complain about the catastrophic bill, I patiently tried to explain its many benefits—they were not satisfied. When the Ways and Means Committee adopted its proposed changes I took it before my constituents again—they were still not satisfied. After many discussions and much introspection, I determined it was time to admit that the catastrophic bill was a mistake and must be repealed.

I urge my colleagues to join me in voting to repeal the catastrophic bill. We should not let our pride keep us from undoing our mistake.

To those in the Congress and the administration who argue that we cannot repeal the catastrophic bill because it will add to the deficit I say: Shame on you for trying to reduce the deficit on the back of the elderly.

Let us take this opportunity to repeal catastrophic and review our priorities anew. My constituents are more interested in long-term health care than catastrophic. Let us put this episode behind us and start addressing the real needs of our Nation's elderly.

PERSONAL EXPLANATION

Mrs. ROUKEMA. Madam Speaker, due to unavoidable circumstances I was absent from the floor yesterday and missed the three votes cast by the House.

Had I been present I would have voted:

"Yes" on rollcall 258, the Steel Trade Liberalization Program;

"Yes" on rollcall 259, the Torture Victim Protection Act; and

"Yes" on rollcall 260, the Judge Walter L. Nixon impeachment.

□ 1330

CORRECTING REQUEST OF MONDAY, OCTOBER 2, 1989, FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 2788, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1990, TO PROVIDE FOR READING OF MOTIONS IN DISAGREEMENT

Mr. YATES. Madam Speaker, in the RECORD of yesterday I made a unanimous-consent request to consider the conference report and Senate amendments in disagreement on the bill, H.R. 2788, today or any day thereafter, and there was incorrectly included the waiver of reading of motions to dispose of amendments in disagreement.

The distinguished Member, the gentleman from Pennsylvania [Mr. WALKER], called my attention to it, and I told him that I would correct it.

Therefore, Madam Speaker, I ask unanimous consent to correct that order so as to merely waive the reading of the conference report and Senate amendments, but not motions to dispose of those amendments.

The SPEAKER pro tempore (Mrs. SCHROEDER). Is there objection to the request of the gentleman from Illinois?

Mr. WALKER. Madam Speaker, reserving the right to object, I do so only to thank the gentleman for making that correction. The way it read in the RECORD would have been a problem, it seems to me, in terms of precedent. I know what the gentleman's intent was.

Mr. YATES. Madam Speaker, I thank the gentleman for bringing that to my attention.

Mr. WALKER. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CONFERENCE REPORT ON H.R. 2788, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. YATES. Madam Speaker, pursuant to the order of the House of Monday, October 2, 1989, I call up the conference report on the bill (H.R. 2788) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1990, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of Monday, October 2, 1989, the confer-

ence report is considered as having been read.

(For conference report and statement, see proceedings of the House of Monday, Oct. 2, 1989, at p. 22674.)

The SPEAKER pro tempore. The gentleman from Illinois [Mr. YATES] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. REGULA] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. YATES].

Mr. YATES. Madam Speaker, I yield myself 10 minutes.

Madam Speaker, I have been in the House for 40 years. I have been attending conferences of the Appropriations Committee for that period of time, and in all that time I do not remember any conference that was so difficult, so controversial, and so emotional as the one whose bill we bring to the floor today. It was fraught with explosiveness. That we came in with a report at all is amazing. That we achieved one that everybody seems to concede is so good is almost miraculous.

There were a number of controversial amendments that seemed almost beyond solution when we began our discussions. For one thing, Madam Speaker, the amendment that led to more publicity and more controversy than any other, of course, was the Helms amendment dealing with obscenity and pornography. We had to deal with this in the glare of publicity that usually accompanies some lurid trial like that of the traffic violation of Zsa Zsa Gabor.

We have resolved our differences. I notice in the paper the other day that Senator HELMS claimed victory. I think that is quite an exaggeration. I think it is somewhat euphemistic. I think what happened was that we reached an agreement, one that if I had my druthers I would rather not have seen. But this was a conference, Madam Speaker. Concessions had to be made, and some concessions will be made, and I will discuss that amendment in a moment.

Another amendment that was in very great dispute was the so-called Hatfield-Adams amendment which had been filed in the Senate by the distinguished Senators from Oregon and Washington in order to deal with an economic crisis which followed a court suit. The injunctions which resulted from the suit slowed down the timber industry in the entire Northwest. It dealt with an emotional issue, the issue of protecting a bird called the spotted owl. More than 100 Members of the House sent the conferees a letter asking that we oppose Hatfield-Adams.

I must say, Madam Speaker, that when we concluded our agreement I received a letter from one of the leaders of that group which congratulated us upon the results of the conference and thanked us for the solution we had reached.

Another item that was in dispute related to the Senate disposition to strike out all the land acquisition and construction items which had been requested by Members of the House and inserting requests by the Senate in place of them. That was a subject for bargaining back and forth, and I think that we have satisfactorily resolved that dispute as well.

We had to find an agreement on a major lobbying reporting bill which had been passed in the Senate and which we considered in the House and received House support for, but it still had a number of provisions in it that required consideration, and rearrangement and adjustment.

Madam Speaker, there were more than 167 items that were in dispute in the bill. All of them have been resolved. All of the conferees have signed the conference report except that Senator LEAHY was not present yesterday so that he could sign it, but I am told that he favored the report.

Before I turn to the matters that we have covered. Madam Speaker, let me first sound an honor roll, an honor roll for an assembly of members on our staff who deserve medals for their work, not only for what they did last week, which was above and beyond the call of duty, but for their work throughout the year and throughout the years in which they have done the people's work. Very few know about them. They are hardworking stiffs, men and women who do not know weariness, they do not know surrender, who do their jobs without the honors that we Members get, but whose excellent work gives us the opportunity to shine in public view.

There comes to mind so frequently the wonderful play by Edmond Rostand, Cyrano de Bergerac. Members will recall, Madam Speaker, the various scenes where Cyrano wrote the script for Christian to woo Roxanne, and while Christian ascended the balcony to claim his reward with a kiss from Roxanne, there was Cyrano on the ground after having won him that opportunity. So speaking for all the members of our subcommittee, I want to thank the members of the staff for having done so well not only in their work for the public, but for the members of the subcommittee as well.

I would be remiss, Madam Speaker, if I did not recite their names so that they might be inscribed as a roll of honor in the CONGRESSIONAL RECORD. There is the chief of staff, Neal Sigmon. There is his associate, Bob Kripowicz. There is Kathy Johnson, who everybody, including the staff, says did a perfectly magnificent job in helping to bring resolution to so many complicated matters in the conference in connection with the Hatfield-Adams amendment. There is Loretta Beaumont. There is the assistant to the gentleman from Ohio, Mr. RALPH REGULA, Barbara Wainman, and my assistant, Adrianne Moss. Finally, Madam Speaker, there is Angie Perry. Angie has the task of getting all of our work in shape.

I want also to compliment all of the members of our subcommittee who do so well, such as my friend, the gentleman from Ohio, Mr. RALPH REGULA, who is the ranking member and as fine a Member in the House as I have ever known in the 40 years of my membership here. There is the gentleman from Washington, Mr. NORM DICKS, the gentleman from Oregon, Mr. LES AUCOIN, and the gentleman from Massachusetts, Mr. CHET ATKINS. CHET deserves also a special accolade in bringing agreement from some very stubborn Members from the Northwest who finally realized that this was a conference and that they had to make some concessions, which they could make in all honor.

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That was done. Also members of our committee who are chairmen of other subcommittees who deserve recognition: the chairman of our full committee, the gentleman from Mississippi, Mr. WHITTEN; and the ranking member, the gentleman from Massachusetts, Mr. CONTE; also the gentleman from Alabama, Mr. BEVILL, all of whom deserve recognition.

But of course again I return to the staff. The staff work was topnotch.

Let me turn, Mr. Speaker, to the first of the amendments that were in disagreement: the Helms amendment.

Each side gave a little. The agreement recognizes that there may be some grants that some would consider obscene and that factor becomes one that has to be considered in the grant-making process.

But that is one factor that the Chairman of NEA and NEH must consider; they must decide what grants to approve. It is a difficult situation. We need good chairmen. We have a good Chairman at NEH in Lynne Cheney.

We have one who has been appointed by the President to be head of NEA and who, according to reports coming out of this Senate hearing, appears to be and promises to be outstanding.

Of course that is John Frohnmeyer.

I think our agreement has preserved the integrity of NEA; it countinues to preserve the great tradition of freedom of artistic expression which is the basic premise upon which NEA and NEH are founded and which is the rationale for Federal funding for the arts and the humanities.

In the course of our discussions we came to the conclusion that the procedures of NEA were not as good as we

would have wanted, that they deserved review.

Senator MCCLURE had previously put an amendment into the Senate bill which would have provided $100,000 to review the panel system which is the basic framework upon which the work of NEA and NEH are founded.

We accept that amendment. We think it is a good idea. But we want to expand it to include not only the procedures of the panels but the procedures of NEA as well.

We have provided in this bill for the appointment of a commission to review the procedures of NEA and NEH and the panel system, and we have gone further, Madam Speaker. We have provided for a review of the question which was raised so much in the course of the debates in the House and in the Senate in connection with this issue, that is: Is there a fundamental difference between the funding of federally funded arts, grants and, non-federally grants? Should there be a different standard of approval between federally funded grants and non-federally funded grants? And we have, as I say, provided for the appointment of a commission to be made up of four members appointed by the Speaker of the House, four members by the President pro tempore of the Senate, and four members by the President of the United States to report back within 180 days of the effective date of this act.

We have provided the sum of $250,000 for that purpose. With respect to other features of the bill, Madam Speaker, in the course of the discussions we found occasion to review.

Madam Speaker, we bring back to the House today the conference report on the bill H.R. 2788 making appropriations for the Department of the Interior and related agencies for fiscal year 1990. I am pleased to bring this conference report back to the House. The total recommended for the bill is $11,180,742,000, an increase of $116,855,000 over the amount passed by the House on June 12, 1989. None of the overall increase is for discretionary appropriations. The entire increase is related to firefighting which is a mandatory item and for which later estimates show the need for larger appropriations. Most importantly, the agreement is within the 302(b) allocation for both budget authority and outlays. It was very difficult for the conferees to resolve the differences between the House and Senate bills to bring back a bill which stayed within the deficit reduction targets yet protected the Federal natural resource programs under our jurisdiction.

In addition to the appropriations in the bill, the conferees had to consider three controversial areas which were very difficult to resolve and of which most of you are aware. These items were the so-called Byrd amendment on lobbying, timber sales levels in the Northwest in areas containing spotted owls, and the National Endowment for the Arts' grantmaking process and the question of the standards applied to such grants. These issues made this the most difficult and complex conference with which I have ever been associated. It is a tribute to the members of the conference that we are able to present reasonable agreements to you on all these issues as well as on the myriad items in disagreement between the two Houses in the regular appropriations accounts.

The conferees have accepted the Senate lobbying amendment with changes that raise the cut off point for contracts to which it is applied, clarify what activity may be undertaken with appropriated funds, provide a range of civil penalties, and generally clarify the amendment's applicability. The amendment remains essentially intact, as was the desire of the House, expressed when it voted to instruct the conferees on the bill.

Another of the many difficult issues the managers had to contend with in this conference was the amendment added by the Senate which set certain timber sale levels for the States of Oregon and Washington, and provided that there would be no judicial review of such sales for the next year. It took many hours of negotiation involving many people—but in particular three members of the subcommittee, Mr. ATKINS, Mr. AUCOIN, and Mr. DICKS—to reach a compromise on this difficult issue. Basically, the revised amendment reduces somewhat the timber sales program for fiscal years 1989 and 1990, from 10 billion board feet to 9,600 million board feet; it calls for larger areas of protection on a temporary basis, for the northern spotted owl, which is being considered for listing as a threatened or endangered species; it provides for minimizing the fragmentation of old growth timber stands; it allows individual timber sales to be challenged in court for violation of environmental or other laws, under expedited procedures; and it calls upon the Forest Service to review and revise its original record of decision with regard to managing habitat for the spotted owl, using new information available, including the guidelines to be developed by the recently established interagency scientific committee in the next 6 to 9 months.

This provision is only an interim solution to the crisis that has arisen in the Pacific Northwest States over this issue. It is hoped that the efforts now underway, such as the work of the interagency scientific committee, as well as the efforts by the Forest Service and Bureau of Land Management called for in this provision, will result in a management framework for future years that will more fully address the concerns raised in the recent court suits on this issue.

The final controversy pertained to congressional and public reaction to two grants made in the National Endowment for the Arts' grantmaking process. The conferees agreed, based on the circumstances surrounding the two grants; one for a photography exhibit of works by Robert Mapplethorpe, and one for a fellowship for Andres Serrano, that provisions were needed in the bill to: First, prohibit funding for grants to be used to promote, disseminate, or produce materials which in the judgment of the Endowments for the Arts and the Humanities may be considered obscene; second, state the sense of the Congress on issues relating to the Endowments' grantmaking process; and third, establish a commission to review the grantmaking process as well as to consider whether standards for publicly funded art should be different than those for privately funded art. The solution seems a reasonable compromise. It is clear that many, including myself, would prefer other options, but it is equally clear that none of us will be able to get everything we want on this issue. I have agreed to this solution, reluctantly, and my fervent hope is that the overwhelming volume of good work done by the Arts Endowment is not eclipsed by this controversy.

The issues I have just discussed tend to relegate the essential appropriations contained in the rest of the conference agreement to a secondary status. Of major importance are agreements which:

First, continue selective moratoria on oil and gas leasing in frontier offshore areas;

Second, fund Department of the Interior programs at a level of $5,318,403,000, including $311,500,000 to fund both fiscal year 1989 and fiscal year 1990 firefighting costs;

Third, provide for a fourth and fifth procurement for clean coal technology in the Department of Energy at a level of $1.2 billion in 1991 and 1992 to assist in fighting acid rain problems;

Fourth, continue substantial required support for a balanced program in our national forests by providing $2,255,320,000 for the Forest Service, including $561,139,000 for fiscal year 1989 and 1990 firefighting;

Fifth, provide funds to fill the strategic petroleum reserve at a level of 50,000 barrels a day;

Sixth, sustain support for health services to native Americans at a level of $1,256,906,000;

Seventh, continue adequate support for the other agencies in the bill;

Eighth, continue and increase funding from the land and water conservation fund for which $232,589,000 is provided; and

Ninth, provide at least a 5-percent increase for all park units with up to a 15-percent increase for fee collecting parks.

Madam Speaker, the conferees have struggled to fit our programs within the 302(b) allocation. We have succeeded and we believe we have made this a good bill. It continues important programs necessary for the protection and enhancement of our natural resources while maintaining fiscal responsibility and providing substantial return to the Treasury. I want to commend all the conferees for their unselfish efforts and contributions in rising to this difficult fiscal challenge. In particular, I want to note the contributions of our ranking minority member, RALPH REGULA. I urge Members on both sides of the aisle to support the conference report.

For further clarification, I am placing a support table into the RECORD to accompany this statement.

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
TITLE I - DEPARTMENT OF THE INTERIOR						
BUREAU OF LAND MANAGEMENT						
Management of Lands and Resources						
Energy and Minerals Development						
Oil and gas	44,760	42,975	42,975	42,975	42,975	-1,785
Coal management	9,780	8,917	8,917	8,917	8,917	-863
Mining law administration	11,220	11,056	11,056	11,056	11,056	-164
Other mineral resources	8,537	8,489	8,489	8,489	8,489	-48
Subtotal, Energy and Minerals Development	74,297	71,437	71,437	71,437	71,437	-2,860
Lands and Realty Management						
Lands, realty, rights-of-way	23,068	22,916	23,279	22,916	22,916	-152
Alaska lands	13,661	12,088	12,088	13,661	13,661	---
Subtotal, Lands and Realty Management	36,729	35,004	35,367	36,577	36,577	-152
Renewable Resources Management						
Forest management	6,685	6,549	6,674	6,549	6,674	-11
Wild horse and burro management	14,560	12,314	13,598	13,598	13,598	-962
Grazing management	34,600	33,206	35,898	35,697	35,796	+1,196
Soil, water and air management	14,471	13,221	15,396	14,896	15,146	+675
Wildlife habitat management	19,985	16,559	22,165	23,427	22,927	+2,942
Recreation Management						
Cultural resources management	6,564	6,729	6,729	6,801	6,801	+237
Wilderness management	7,736	7,738	7,738	7,738	7,738	+2
Recreation resources management	10,860	12,210	13,885	14,210	14,210	+3,350
Subtotal, Recreation Management	25,160	26,677	28,352	28,749	28,749	+3,589
Subtotal, Renewable Resources Management	115,461	108,526	122,083	122,916	122,890	+7,429
Resource management planning	9,289	8,626	9,370	8,626	8,998	-291
Information and Resource Data Management						
Information systems	16,906	16,725	16,725	16,725	16,725	-181
Resource data acquisition	3,185	4,410	4,410	4,410	4,410	+1,225
ALMRS	22,969	22,903	22,903	22,903	22,903	-66
Subtotal, Information & Resource Data Management	43,060	44,038	44,038	44,038	44,038	+978
Resource Protection and Maintenance						
Fire management	9,282	10,032	10,032	---	---	-9,282
Alaska cadastral surveys	15,232	11,257	11,257	15,232	15,232	---
Other States cadastral surveys	12,165	11,400	11,400	11,400	11,400	-765
Resource protection and law enforcement	4,257	9,801	9,801	10,001	10,001	+5,744
Facilities maintenance	15,791	19,146	19,146	19,146	19,146	+3,355
Hazardous materials management	12,374	12,332	12,332	12,332	12,332	-42
Subtotal, Resource Protection and Maintenance	69,101	73,968	73,968	68,111	68,111	-990

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	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
General Administration						
Equal employment opportunity	2,180	2,206	2,206	2,206	2,206	+26
General administrative support and aviation	39,534	38,927	38,927	38,927	38,927	-607
Bureauwide fixed costs	45,935	48,900	48,900	48,900	48,900	+2,965
Subtotal, General Administration	87,649	90,033	90,033	90,033	90,033	+2,384
Transfer from Army to reconstruct Alaska fire facility	(5,500)	---	---	---	---	---
Total, Management of Lands and Resources	435,586	431,632	446,296	441,738	442,084	+6,498
Firefighting						
Bureau of Land Management						
Presuppression and firefighting	29,000	29,000	35,000	49,545	49,545	+20,545
Firefighting	71,056	40,876	56,261	136,761	136,761	+65,705
Fire rehabilitation	3,000	3,000	3,000	5,000	5,000	+2,000
Oregon and California Grant Lands	2,293	2,455	2,455	2,455	2,455	+162
Subtotal, Bureau of Land Management	105,349	75,331	96,716	193,761	193,761	+88,412
U.S. Fish and Wildlife Service	5,695	2,288	2,800	16,250	16,250	+10,555
National Park Service	36,319	11,319	21,319	34,464	34,464	-1,855
Bureau of Indian Affairs	58,594	25,000	67,025	67,025	67,025	+8,431
Forest Service						
Presuppression	158,707	164,204	169,533	---	---	-158,707
Firefighting	375,000	85,000	383,000	---	---	-375,000
Subtotal, Forest Service	533,707	249,204	552,533	---	---	-533,707
Total, Firefighting	739,664	363,142	740,393	311,500	311,500	-428,164
Construction and Access						
Access	1,331	1,300	1,300	1,300	1,300	-31
Construction	4,100	1,000	1,100	5,565	4,661	+561
Total, Construction and Access	5,431	2,300	2,400	6,865	5,961	+530
Payments in Lieu of Taxes						
Payments to local governments	105,000	105,000	105,000	105,000	105,000	---
Land Acquisition						
Land Acquisition						
Acquisitions	11,690	19,785	12,390	10,240	11,510	-180
Acquisition management	600	1,100	1,100	1,100	1,100	+500
Total, Land Acquisition	12,290	20,885	13,490	11,340	12,610	+320

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	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
Oregon and California Grant Lands						
Western Oregon resources management	52,977	57,410	58,995	58,995	58,995	+6,018
Western Oregon information and resource data systems	625	1,074	1,574	1,574	1,574	+949
Western Oregon facilities maintenance	3,655	3,765	3,765	3,765	3,765	+110
Western Oregon construction and acquisition	450	453	453	453	453	+3
Total, Oregon and California Grant Lands	57,707	62,702	64,787	64,787	64,787	+7,080
Range Improvement Fund						
Improvement to public lands	6,956	6,856	6,856	6,856	6,856	-100
Farm Tenant Act lands	950	950	950	950	950	---
Administrative expenses	600	600	600	600	600	---
Total, Range Improvements	8,506	8,406	8,406	8,406	8,406	-100
Service Charges, Deposits, and Forfeitures						
Rights-of-way processing	1,700	1,700	1,700	1,700	1,700	---
Adopt-a-horse program	400	400	400	400	400	---
Repair of damaged lands	650	650	650	650	650	---
Cost recoverable realty cases	150	150	150	150	150	---
Timber purchaser expenses	1,400	1,400	1,400	1,400	1,400	---
Copy fees	1,700	1,700	1,700	1,700	1,700	---
Total, Service Charges, Deposits & Forfeitures	6,000	6,000	6,000	6,000	6,000	---
Federal Wildland Fire Fighting (Proposed legislation)						
Fire management	---	(23,869)	---	(23,869)	---	---
Presuppression	---	(74,131)	---	(74,131)	---	---
Suppression	---	(61,450)	---	(61,450)	---	---
Emergency rehabilitation	---	(7,050)	---	(7,050)	---	---
Total, Federal Wildland Fire Fighting	---	---	---	---	---	---
Miscellaneous Trust Funds						
Current appropriations	100	100	100	100	100	---
Total, Bureau of Land Management	1,370,284	1,000,167	1,386,872	955,736	956,448	-413,836

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
U.S. FISH AND WILDLIFE SERVICE						
Resource Management						
Fish and Wildlife Enhancement						
Endangered species						
Listing	3,245	3,016	3,266	3,216	3,266	+21
Consultation	3,253	2,974	3,574	3,724	3,724	+471
Permits	849	858	858	858	858	+9
Recovery	8,496	7,012	10,012	8,936	10,812	+2,316
Grants to States	5,000	---	5,500	6,000	5,750	+750
Non-game management	250	---	250	---	250	---
Subtotal, Endangered species	21,093	13,860	23,460	22,734	24,660	+3,567
Ecological services	21,159	22,636	22,886	23,208	23,458	+2,299
Environmental contaminants	6,353	5,863	6,463	6,563	6,563	+210
National wetlands inventory	5,332	5,097	5,097	5,097	5,097	-235
Subtotal, Fish and Wildlife Enhancement	53,937	47,456	57,906	57,602	59,778	+5,841
Refuges and Wildlife						
Refuge operations and maintenance	116,189	107,544	117,960	129,894	125,669	+9,480
Law enforcement operations	21,426	22,063	22,513	23,313	22,913	+1,487
Migratory bird management	8,199	11,670	8,995	14,945	11,620	+3,421
Subtotal, Refuges and Wildlife	145,814	141,277	149,468	168,152	160,202	+14,388
Fisheries						
Hatchery operations and maintenance	28,588	26,510	29,912	33,904	32,792	+4,204
Lower Snake River compensation fund	6,807	8,001	8,001	8,001	8,001	+1,194
Fish and wildlife management	7,373	7,324	7,816	7,624	7,816	+443
Subtotal, Fisheries	42,768	41,835	45,729	49,529	48,609	+5,841
Research and Development						
Fish and wildlife research center, O & M	48,972	43,441	50,656	55,131	57,906	+8,934
Technical development	6,803	5,269	6,769	7,669	6,769	-34
Cooperative research units	6,274	5,834	6,500	6,500	6,500	+226
Subtotal, Research and Development	62,049	54,544	63,925	69,300	71,175	+9,126
General Administration						
Central office administration	13,839	10,945	10,945	10,945	10,945	-2,894
Regional office administration	13,244	13,342	13,342	13,342	13,342	+98
Servicewide administrative support	22,684	26,772	26,772	26,772	26,772	+4,088
Engineering services	3,553	3,583	3,583	3,583	3,583	+30
National Fish & Wildlife Foundation	---	---	3,000	---	3,000	+3,000
African elephant conservation	---	---	500	---	350	+350
Lake Erie shoreline protection	---	---	200	---	200	+200
Subtotal, General Administration	53,320	54,642	58,342	54,642	58,192	+4,872
Total, Resource Management	357,888	339,754	375,370	399,225	397,956	+40,068

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
Construction and Anadromous Fish						
Construction and rehabilitation						
Line item construction	29,564	10,105	28,457	52,079	56,760	+27,196
Anadromous fish grants	1,500	---	1,500	1,500	1,500	---
Striped bass study	500	---	500	---	300	-200
Capital dev and maint management (advance planning)	270	---	---	---	---	-270
Total, Construction and Anadromous Fish	31,834	10,105	30,457	53,579	58,560	+26,726
Land Acquisition						
Fish and Wildlife Service						
Acquisitions - Federal refuge lands	54,695	49,541	62,790	49,810	64,990	+10,295
Acquisition management	2,834	1,874	3,000	3,000	3,000	+166
Total, Land Acquisition	57,529	51,415	65,790	52,810	67,990	+10,461
National Wildlife Refuge Fund						
Payments in lieu of taxes	6,645	6,645	7,645	10,500	9,000	+2,355
Total, U.S. Fish and Wildlife Service	453,896	407,919	479,262	516,114	533,506	+79,610
NATIONAL PARK SERVICE						
Operation of the National Park System						
Park Management						
Management of park areas	72,783	63,838	71,113	74,488	74,062	+1,279
Concessions management	5,061	5,050	5,050	5,050	5,050	-11
Interpretation and visitor services	72,318	73,880	75,964	77,514	76,114	+3,796
Visitor protection and safety	65,560	68,050	67,050	68,135	67,635	+2,075
United States park police	38,653	46,941	41,800	45,541	42,041	+3,388
Maintenance	269,156	284,993	280,958	280,768	280,883	+11,727
Resources management	109,352	114,266	126,293	117,666	127,030	+17,678
Information publications	3,693	4,691	4,191	4,691	4,441	+748
International park affairs	893	482	952	882	932	+39
Volunteers-in-parks	750	750	750	750	750	---
Subtotal, Park Management	638,219	662,941	674,121	675,485	678,938	+40,719
Park Recreation and Wilderness Planning						
Water resources	2,929	2,929	2,929	2,929	2,929	---
General management plans	1,989	2,719	2,719	2,719	2,719	+730
Subtotal, Park Recreation & Wilderness Planning	4,918	5,648	5,648	5,648	5,648	+730
Statutory or Contractual Aid for Other Activities						
Roosevelt Campobello International Park Commission	442	464	464	464	464	+22
Ice Age National Scientific Reserve	573	573	573	573	573	---
Lowell Historic Preservation Canal Commission	562	562	562	562	562	---
Mary McLeod Bethune NHS	232	199	232	232	232	---
Martin Luther King, Jr. Center	550	199	550	550	550	---
Johnstown Flood Museum	1,650	---	500	---	500	-1,150

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
Sloss Furnace NHL	250	---	---	---	---	-250
James Garfield NHS, OH	---	---	500	---	500	+500
Harding Home and Tomb State Memorial	---	---	455	---	455	+455
Blackstone River Corridor	325	---	350	325	325	---
Delaware and Lehigh Navigation Canal	---	---	350	---	350	+350
Fort Lincoln, Mandan, ND	2,000	---	---	---	---	-2,000
William McKinley Monument	545	---	---	---	---	-545
Native Hawaiian culture and arts program	1,600	---	1,600	2,000	1,800	+200
National Constitution Center, PA	---	---	250	250	250	+250
Heritage Preservation Commission	---	---	200	---	200	+200
Fisk University	---	---	---	1,500	1,000	+1,000
Wheeling, WV Commission	---	---	---	---	175	+175
Subtotal, Statutory or Contractual Aid	8,729	1,997	6,586	6,456	7,936	-793
General Administration						
Central office	10,009	8,534	8,403	8,534	8,403	-1,606
Regional offices	14,446	14,617	14,446	14,617	14,446	---
Automatic data processing	7,407	9,133	9,099	9,133	9,099	+1,692
Service wide administrative support	10,344	10,550	10,550	10,550	10,550	+206
General services	390	390	390	390	390	---
Employee compensation payment	6,826	7,717	7,717	7,717	7,717	+891
Unemployment compensation for federal employees	8,350	8,350	8,350	8,350	8,350	---
GSA space rental	15,500	16,171	16,626	16,171	16,626	+1,126
Executive direction	6,549	6,716	6,466	6,716	6,466	-83
Public affairs	1,829	1,850	1,850	1,850	1,850	+21
Retirement systems	---	---	3,927	---	2,000	+2,000
Subtotal, General Administration	81,650	84,028	87,824	84,028	85,897	+4,247
Total, Operation of the National Park System	733,516	754,614	774,179	771,617	778,419	+44,903
National Recreation and Preservation						
Recreation programs	613	297	613	433	613	---
Natural programs	3,729	567	4,727	4,727	4,727	+998
National register	8,414	7,488	8,837	8,723	8,944	+530
Environmental and compliance review	424	424	424	424	424	---
Grant administration	1,428	1,428	1,428	1,428	1,428	---
Total, National Recreation and Preservation	14,608	10,204	16,029	15,735	16,136	+1,528
Historic Preservation Fund						
Grants-in-aid	24,750	---	26,000	29,500	27,000	+2,250
National trust for historic preservation	4,750	---	4,500	6,500	4,750	---
Bicentennial Lighthouse fund	1,000	---	---	1,000	1,000	---
Grants to Indian tribes	---	---	---	500	---	---
Chaco protection sites	---	---	---	500	---	---
Total, Historic Preservation Fund	30,500	---	30,500	38,000	32,750	+2,250

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
Construction						
Buildings and Utilities						
Emergency and unscheduled (lump sum) projects	2,000	10,000	10,000	15,000	12,500	+10,500
Advance planning	1,316	3,316	3,316	3,316	3,316	+2,000
Project planning	14,534	7,558	18,449	24,130	27,450	+12,916
Line item construction projects	141,258	23,238	142,445	98,405	156,450	+15,192
Total, Construction	159,108	44,112	174,210	140,851	199,716	+40,608
Federal Highway Administration						
Federal-aid highways (liquidation of contract authority) (trust fund)	(47,000)	---	(12,000)	(12,000)	(12,000)	(-35,000)
Land Acquisition and State Assistance						
Assistance to States						
Matching grants	16,700	---	16,700	16,700	16,700	---
Administrative expenses	3,300	3,383	3,300	3,300	3,300	---
National Park Service						
Acquisitions	46,368	59,759	54,699	62,701	62,239	+15,871
Acquisition management	6,241	6,317	6,317	6,317	6,317	+76
Total, Land Acquisition and State Assistance	72,609	69,459	81,016	89,018	88,556	+15,947
Land and Water Conservation Fund						
(Rescission of contract authority)	-30,000	---	-30,000	-30,000	-30,000	---
John F. Kennedy Center for the Performing Arts						
Base program	5,181	15,193	15,193	9,193	9,193	+4,012
Illinois and Michigan Canal National Heritage Corridor Commission						
Base program	250	---	250	250	250	---
American Revolution Bicentennial Administration						
Base program	4,765	---	---	---	---	-4,765
National Film Preservation Board						
Salaries and expenses	(250)	---	---	---	---	(-250)
Total, National Park Service	990,537	893,582	1,061,377	1,034,664	1,095,020	+104,483

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
GEOLOGICAL SURVEY						
Surveys, Investigations, and Research						
National Mapping, Geography and Surveys						
National map and digital data production	46,213	43,695	46,616	46,616	46,616	+403
Information and data systems	11,729	13,729	14,798	14,798	14,798	+3,069
Research and technology	18,577	17,702	18,599	18,599	18,599	+22
Advanced cartographic systems	17,716	33,020	33,020	28,020	33,020	+15,304
Subtotal, National Mapping, Geography & Surveys	94,235	108,146	113,033	108,033	113,033	+18,798
Geologic and Mineral Resource Surveys and Mapping						
Earthquake hazards reduction	34,688	32,663	34,916	34,916	34,916	+228
Volcano hazards	11,513	11,006	11,573	11,506	11,506	-7
Landslide hazards	2,189	2,187	2,187	2,187	2,187	-2
National geologic mapping	17,559	19,394	19,394	19,394	19,394	+1,835
Deep continental studies	3,062	3,061	3,061	3,061	3,061	-1
Geomagnetism	1,735	1,733	1,733	1,733	1,733	-2
Climate change	1,031	3,042	3,042	3,042	3,042	+2,011
Coastal studies	4,998	---	6,300	6,100	6,100	+1,102
Offshore geologic surveys	26,583	28,064	28,064	26,814	26,814	+231
Mineral resource surveys	47,518	45,977	47,682	47,477	47,477	-41
Energy geologic surveys	27,323	24,299	27,475	27,475	27,475	+152
Subtotal, Geologic & Mineral Surveys & Mapping	178,199	171,426	185,427	183,705	183,705	+5,506
Water Resources Investigations						
Federal program	75,600	77,664	81,820	80,120	81,320	+5,720
Federal-State program	58,900	55,514	59,783	59,783	59,783	+883
Water resources research institutes	10,821	5,273	10,826	10,826	10,826	+5
Subtotal, Water Resources Investigations	145,321	138,451	152,429	150,729	151,929	+6,608
General administration	16,330	16,729	18,329	16,729	18,329	+1,999
Facilities	17,421	17,713	17,713	17,713	17,713	+292
Total, Geological Survey	451,506	452,465	486,931	476,909	484,709	+33,203
MINERALS MANAGEMENT SERVICE						
Leasing and Royalty Management						
OCS Lands						
Leasing and environmental program	39,154	39,577	39,577	38,577	38,577	-577
Resource evaluation	22,901	22,436	22,436	22,436	22,436	-465
Regulatory program	29,053	29,669	29,669	30,669	30,669	+1,616
Subtotal, OCS Lands	91,108	91,682	91,682	91,682	91,682	+574

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
Royalty Management						
Mineral revenue collection (onshore royalty)	17,438	18,542	18,542	18,342	18,542	+1,104
Mineral revenue compliance (offshore royalty)	15,136	20,236	15,236	20,236	18,836	+3,700
Systems development and maintenance	19,728	18,718	18,718	18,218	18,618	-1,110
Refund on Indian allottee leases	---	---	105	---	64	+64
Subtotal, Royalty Management	52,302	57,496	52,601	56,796	56,060	+3,758
General administration						
Executive direction	3,535	3,580	3,580	3,580	3,580	+45
Administration operations	9,977	10,099	10,099	10,099	10,099	+122
General support services	13,822	17,604	17,104	17,604	17,104	+3,282
Subtotal, General administration	27,334	31,283	30,783	31,283	30,783	+3,449
Total, Leasing and Royalty Management	170,744	180,461	175,066	179,761	178,525	+7,781
Payments to States from receipts under mineral leasing	---	655	---	---	---	---
Total, Minerals Management Service	170,744	181,116	175,066	179,761	178,525	+7,781
BUREAU OF MINES						
Mines and Minerals						
Information and Analysis						
Mineral commodities	10,600	11,379	11,379	11,379	11,379	+779
International minerals	3,343	3,347	3,347	3,347	3,347	+4
Resource evaluation	16,009	14,933	14,933	16,133	16,133	+124
Policy analysis	4,728	5,434	5,434	5,434	5,434	+706
Subtotal, Information and Analysis	34,680	35,093	35,093	36,293	36,293	+1,613
Research						
Health, safety and mining technology	51,672	37,735	49,285	56,535	55,035	+3,363
Minerals and materials science	24,643	24,440	25,440	25,440	26,440	+1,797
Environmental technology	14,574	10,160	14,660	14,801	15,060	+486
Subtotal, Research	90,889	72,335	89,385	96,776	96,535	+5,646
Mineral institutes	10,012	---	5,479	10,012	10,012	---
General administration	22,811	33,769	31,919	31,919	31,919	+9,108
Facilities	900	---	---	---	---	-900
Total, Bureau of Mines	159,292	141,197	161,876	175,000	174,759	+15,467

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT						
Regulation and Technology						
State regulatory program grants	41,910	41,910	41,910	41,910	41,910	---
Federal Regulatory Programs						
Regulatory program operations	20,310	21,950	21,950	21,950	21,950	+1,640
Technical services, training and research	13,470	13,026	13,026	13,026	13,026	-444
Kentucky settlements	4,425	3,772	3,772	3,772	3,772	-653
Assessments and collections	8,981	9,100	9,100	9,100	9,100	+119
Subtotal, Federal Regulatory Programs	47,186	47,848	47,848	47,848	47,848	+662
General administration						
Executive direction	1,761	1,589	1,589	1,589	1,589	-172
Administrative support	5,649	7,087	6,487	6,487	6,487	+838
General services	4,589	5,304	4,894	4,894	4,894	+305
Subtotal, General administration	11,999	13,980	12,970	12,970	12,970	+971
Total, Regulation and Technology	101,095	103,738	102,728	102,728	102,728	+1,633
Abandoned Mine Reclamation Fund						
State reclamation program grants	151,660	120,000	150,000	150,000	150,000	-1,660
Federal Reclamation Programs						
Fee compliance	5,681	5,720	5,720	5,720	5,720	+39
Reclamation program operations	19,005	17,384	18,044	17,384	18,044	-961
Rural lands reclamation program	12,000	---	12,000	12,000	12,000	---
Subtotal, Federal Reclamation Programs	36,686	23,104	35,764	35,104	35,764	-922
Small operator assistance	---	1,500	2,000	2,000	2,000	+2,000
General Administration						
Executive direction	866	873	873	873	873	+7
Administrative support	1,692	2,311	1,711	1,711	1,711	+19
General services	2,256	2,599	2,424	2,424	2,424	+168
Subtotal, General Administration	4,814	5,783	5,008	5,003	5,008	+194
Total, Abandoned Mine Reclamation Fund	193,160	150,387	192,772	192,112	192,772	-388
Total, Office of Surface Mining Reclamation and Enforcement	294,255	254,125	295,500	294,840	295,500	+1,245

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
BUREAU OF INDIAN AFFAIRS						
Operation of Indian Programs						
Education						
School operations	186,643	192,534	200,434	196,690	200,790	+14,147
Johnson O'Malley educational assistance	23,000	20,472	23,572	23,572	23,572	+572
Continuing education	26,314	25,002	29,355	32,011	30,880	+4,566
Tribe/Agency operations	32,546	32,142	32,142	32,142	32,142	-404
Subtotal, Education	268,503	270,150	285,503	284,415	287,384	+18,881
Indian Services						
Tribal government services	8,786	7,526	7,726	7,276	7,226	-1,560
Social services	93,222	84,138	92,588	89,688	92,588	-634
Law enforcement	4,016	5,121	4,880	4,880	4,880	+864
Self-determination services	57,644	51,626	58,626	58,626	58,626	+982
Employment development	2,685	2,099	2,559	4,059	3,059	+374
Tribe/Agency operations	124,812	127,991	139,778	129,550	132,785	+7,973
Subtotal, Indian Services	291,165	278,501	306,157	294,079	299,164	+7,999
Navajo-Hopi settlement program	1,985	1,002	1,002	1,002	1,002	-983
Economic Development and Employment Programs						
Business enterprise development	10,801	10,398	10,398	10,448	10,448	-353
Road maintenance	30,975	---	---	---	---	-30,975
Tribe/Agency operations	3,523	3,542	3,967	3,542	3,842	+319
Subtotal, Economic Development & Employment	45,299	13,940	14,365	13,990	14,290	-31,009
Natural Resources Development						
Natural resources, general	2,267	2,961	2,818	2,961	2,818	+551
Agriculture	5,886	10,469	12,185	12,170	12,185	+6,299
Forestry	12,272	9,253	12,903	12,403	12,903	+631
Water resources	10,067	10,107	10,107	10,107	10,107	+40
Wildlife and parks	26,731	23,312	28,378	26,417	27,858	+1,127
Minerals and mining	7,871	5,211	5,386	5,211	5,386	-2,485
Irrigation and power	7,701	---	---	---	---	-7,701
Tribe/Agency operations	50,307	47,527	56,245	52,343	54,462	+4,155
Subtotal, Natural Resources Development	123,102	108,840	128,022	121,612	125,719	+2,617
Trust Responsibilities						
Rights protection	16,041	7,590	17,443	11,890	16,743	+702
Real estate and financial trust services	19,262	20,212	19,212	20,768	20,112	+850
Tribe/Agency operations	23,495	23,930	23,930	23,930	23,930	+435
Subtotal, Trust Responsibilities	58,798	51,732	60,585	56,588	60,785	+1,987
Facilities Management	81,453	85,578	85,792	86,992	85,792	+4,339

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
General Administration						
Management and administration	38,151	42,106	42,006	42,106	42,106	+3,955
ADP services	17,650	19,053	18,103	17,503	18,203	+553
Program management	6,016	6,431	6,681	6,681	6,681	+665
Employee compensation payments	14,962	18,481	18,481	18,481	18,481	+3,519
Consolidated training program	840	840	840	840	840	---
Tribe/Agency operations	19,843	20,837	21,037	20,837	20,837	+994
Liability insurance study	---	---	---	---	250	+250
Subtotal, General Administration	97,462	107,748	107,148	106,448	107,398	+9,936
Tribal contract conversion	---	---	77,000	---	54,000	+54,000
Total, Operation of Indian Programs	967,767	917,491	1,065,574	965,126	1,035,534	+67,767
Construction						
Buildings and utilities	33,650	33,285	34,410	33,850	34,475	+825
Fish hatcheries	1,900	---	1,600	1,600	1,600	-300
Irrigation systems	20,910	7,214	28,409	21,545	29,575	+8,665
Housing	22,823	20,063	23,463	20,063	22,463	-360
Employee housing	---	500	500	500	500	+500
Road maintenance and construction	---	30,098	31,982	30,098	31,598	+31,598
Land acquisition	---	---	4,200	2,200	4,200	+4,200
Contract support	---	9,815	9,815	9,815	9,815	+9,815
Total, Construction	79,283	100,975	134,379	119,671	134,226	+54,943
Miscellaneous Payments to Indians						
White Earth Land Settlement Act (Admin)	509	513	513	513	513	+4
Old age assistance	2,143	742	742	742	742	-1,401
Payment to Tohono O'Odham Nation	11,300	12,700	12,700	12,700	12,700	+1,400
Aleutian - Pribilof Restitution	---	300	15,300	15,300	15,300	+15,300
Water rights settlements	---	15,000	75,359	75,359	75,359	+75,359
Hoopa-Yurok settlement fund	---	---	10,000	10,000	10,000	+10,000
Puyallup settlement	---	---	77,250	77,250	77,250	+77,250
Total, Miscellaneous Payments to Indians	13,952	29,255	191,864	191,864	191,864	+177,912
Navajo Rehabilitation Trust Fund						
Trust Fund	---	---	---	800	800	+800
Revolving Fund for Loans						
Limitation on direct loans	---	(13,000)	---	(13,000)	---	---
Indian Loan Guaranty and Insurance Fund						
Base program	3,370	3,265	4,767	4,767	4,767	+1,397
Limitation on guaranteed loans	---	(45,000)	---	(45,000)	---	---
Total, Bureau of Indian Affairs	1,064,372	1,050,986	1,396,584	1,282,228	1,367,191	+302,819

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
TERRITORIAL AFFAIRS						
Administration of Territories						
Guam						
Construction grants	4,900	---	2,000	---	---	-4,900
Special program grants	---	2,500	500	---	500	+500
Subtotal, Guam	4,900	2,500	2,500	---	500	-4,400
American Samoa						
Operations grants	20,776	20,850	20,850	20,850	20,850	+74
Construction grants	2,900	2,050	3,800	6,375	5,525	+2,625
Special program grants	---	350	350	---	350	+350
Subtotal, American Samoa	23,676	23,250	25,000	27,225	26,725	+3,049
Northern Marianas						
Covenant grants	40,150	33,850	33,850	33,850	33,850	-6,300
Construction grants	10,000	---	---	---	---	-10,000
Special program grant	---	---	125	---	125	+125
Subtotal, Northern Marianas	50,150	33,850	33,975	33,850	33,975	-16,175
Virgin Islands						
Special program grants	1,500	---	---	---	---	-1,500
Construction grants	2,600	2,000	2,000	---	1,000	-1,600
Subtotal, Virgin Islands	4,100	2,000	2,000	---	1,000	-3,100
Territorial Administration						
Office of Territorial Affairs	3,026	2,946	3,946	2,946	2,946	-80
Technical assistance	5,410	2,200	5,410	6,225	5,885	+475
Guam Power Authority loan assistance	1,505	1,458	1,458	1,458	1,458	-47
Maintenance assistance fund	---	2,500	2,500	3,000	3,000	+3,000
Drug Plan	---	---	---	500	---	---
Brown Tree Snake	---	---	---	1,000	1,000	+1,000
Subtotal, Territorial Administration	9,941	9,104	13,314	15,129	14,289	+4,348
Total, Administration of Territories	92,767	70,704	76,789	76,204	76,489	-16,278
Trust Territory of the Pacific Islands						
Operations						
Trust Territory operations	850	300	1,033	1,233	1,233	+383
Republic of Palau operations	14,500	---	14,750	14,800	14,900	+400
Deficit reduction	---	3,000	3,000	3,000	3,000	+3,000
Subtotal, Operations	15,350	3,300	18,783	19,033	19,133	+3,783

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
Construction						
Capital improvements	---	---	15,319	13,131	14,206	+14,206
Indefinite land use claims	2,780	---	---	---	---	-2,780
Micronesian War claims	10,304	---	---	---	---	-10,304
Total, Trust Territory of the Pacific Islands	28,434	3,300	34,102	32,164	33,339	+4,905
Compact of Free Association						
Compact of Free Association	2,880	14,580	7,160	7,160	7,160	+4,280
Mandatory payments	19,880	13,000	13,000	13,000	13,000	-6,880
Enewetak support	1,100	---	1,100	1,100	1,100	---
Enjebi trust fund	2,500	---	---	---	---	-2,500
Bikini resettlement	5,000	---	---	---	---	-5,000
Kwajalein Atoll	1,000	---	3,000	1,000	2,000	+1,000
Rongelap Atoll	---	---	500	---	---	---
Subtotal, Compact of Free Association	32,360	27,580	24,760	22,260	23,260	-9,100
Total, Territorial Affairs	153,561	101,584	135,651	130,628	133,088	-20,473
DEPARTMENTAL OFFICES						
Office of the Secretary						
Departmental Direction						
Secretary's immediate office	1,715	1,795	1,795	1,795	1,795	+80
Executive Secretariat	451	473	473	473	473	+22
Congressional and legislative affairs	1,139	1,197	1,197	1,197	1,197	+58
Equal opportunity	1,322	1,385	1,385	1,385	1,385	+63
Public affairs	841	882	882	882	882	+41
Small and disadvantaged business utilization	406	425	425	425	425	+19
Subtotal, Departmental Direction	5,874	6,157	6,157	6,157	6,157	+283
Program Direction and Coordination						
A/S Water and science	670	701	701	701	701	+31
A/S Land and minerals management	822	864	764	864	764	-58
A/S Fish and wildlife and parks	642	671	571	621	621	-21
A/S Indian affairs	645	674	674	674	674	+29
A/S Territorial and international affairs	535	557	557	557	557	+22
A/S Policy, budget and administration	857	900	800	900	800	-57
Subtotal, Program Direction and Coordination	4,171	4,367	4,067	4,317	4,117	-54

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
Administration						
Environmental project review	1,998	2,073	2,573	2,373	2,373	+375
Hazardous materials management	---	300	---	---	---	---
Acquisition and property management	1,286	1,532	1,282	1,357	1,282	-4
Office of personnel	1,681	1,869	1,869	1,869	1,869	+188
Administrative services	891	933	933	933	933	+42
Library	1,354	1,405	1,405	1,405	1,405	+51
Information resources management	2,155	2,262	2,262	2,262	2,262	+107
Management analysis	1,129	1,191	1,191	1,191	1,191	+62
Policy analysis	1,703	1,816	1,816	1,816	1,816	+113
Regulatory oversight	---	600	---	---	---	---
Office of budget	1,857	1,957	1,957	1,957	1,957	+100
Financial management	1,054	1,162	1,162	1,162	1,162	+108
Security and drug enforcement	631	667	667	667	667	+36
General reduction	---	---	-496	-100	-496	-496
Subtotal, Administration	15,739	17,767	16,621	16,892	16,421	+682
Hearings and appeals	5,814	6,088	6,088	5,988	5,988	+174
Aircraft services	1,789	2,012	2,012	2,012	2,012	+223
Central services	15,680	16,350	16,350	16,350	16,350	+670
Total, Office of the Secretary	49,067	52,741	51,295	51,716	51,045	+1,978
Office of the Solicitor						
Legal services	20,975	21,448	21,448	21,448	21,448	+473
General administration	3,711	3,877	3,877	3,877	3,877	+166
Total, Office of the Solicitor	24,686	25,325	25,325	25,325	25,325	+639
Office of the Inspector General						
Audit	12,498	13,535	13,677	13,677	13,677	+1,179
Investigations	2,891	3,161	3,161	3,161	3,161	+270
Administration	3,360	3,899	3,899	3,899	3,899	+539
Total, Office of the Inspector General	18,749	20,595	20,737	20,737	20,737	+1,988
Construction Management						
Salaries and expenses	1,800	2,300	1,800	1,800	1,800	---
National Indian Gaming Commission						
National Indian Gaming Commission	---	2,000	---	1,000	750	+750
Total, Departmental Offices	94,302	102,961	99,157	100,578	99,657	+5,355
Total, Title I, Department of the Interior	5,202,749	4,586,102	5,678,276	5,146,458	5,318,403	+115,654

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
DEPARTMENT OF AGRICULTURE						
FOREST SERVICE						
Forest Research						
Forest protection research	33,181	32,204	35,682	33,792	34,901	+1,720
Resource analysis research	25,617	25,554	26,870	26,325	26,625	+1,008
Timber management research	26,972	26,454	30,460	28,510	29,794	+2,822
Forest environment research	31,100	29,716	34,922	32,828	34,144	+3,044
Forest products and harvesting research	20,497	19,871	21,501	20,937	21,718	+1,221
Research challenge cost share program	500	---	---	---	---	-500
Total, Forest Research	137,867	133,799	149,435	142,392	147,182	+9,315
State and Private Forestry						
Forest Pest Management						
Federal lands	31,200	37,604	34,604	34,604	34,604	+3,404
Cooperative lands	12,877	4,002	13,002	13,002	13,002	+125
Subtotal, Forest Pest Management	44,077	41,606	47,606	47,606	47,606	+3,529
Appalachian integrated pest management	5,600	---	---	7,200	4,400	-1,200
Fire protection	13,851	4,000	14,400	14,400	14,400	+549
Forest Management and Utilization						
Forest resource management	4,983	---	10,000	25,000	13,500	+8,517
Wood utilization	991	---	---	1,000	1,000	+9
Seedlings, nursery and tree improvement	1,795	---	1,900	1,900	1,900	+105
Urban forestry	2,496	---	2,800	---	2,800	+304
Subtotal, Forest Management and Utilization	10,265	---	14,700	27,900	19,200	+8,935
Special Projects						
Boundary Waters Canoe Area	2,800	3,000	3,000	3,000	3,000	+200
Gifford Pinchot Institute	200	---	200	---	200	---
Lake Tahoe	1,400	---	1,400	1,400	1,400	---
Spokane River Centennial Trail	3,600	---	3,600	---	3,600	---
Idaho Centennial Trail	1,350	---	---	---	---	-1,350
New England timber resource analysis	250	---	---	---	---	-250
Timber Bridge initiative	2,700	---	---	2,700	2,700	---
Two Forks resource analysis, CO	75	---	---	---	---	-75
Economic diversification studies	500	---	---	1,000	500	---
Tropical forestry initiative	---	---	5,000	---	2,500	+2,500
Arbor Day Foundation	---	---	---	6,000	6,000	+6,000
Western Wood products	---	---	---	150	---	---
Subtotal, Special Projects	12,875	3,000	13,200	14,250	19,900	+7,025
Total, State and Private Forestry	86,668	48,606	89,906	111,356	105,506	+18,838

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
National Forest System						
Minerals and General Land Activities						
Minerals	28,439	29,623	28,807	29,623	28,728	+289
Real estate management	25,503	22,694	26,260	22,694	26,260	+757
Land line location	28,678	28,898	28,979	29,933	29,204	+526
Maintenance of facilities	17,553	16,953	19,600	18,955	19,102	+1,549
Subtotal, Minerals & General Land Activities	100,173	98,168	103,646	101,205	103,294	+3,121
Resource Protection and Maintenance						
Fuels management	7,909	8,935	8,935	---	---	-7,909
Cooperative law enforcement	10,615	11,245	11,205	11,245	11,205	+590
Road maintenance	80,729	68,133	70,386	98,133	96,886	+16,157
Trail maintenance	20,797	17,366	25,044	21,366	24,044	+3,247
Subtotal, Resource Protection & Maintenance	120,050	105,679	115,570	130,744	132,135	+12,085
Timber Sales						
Timber resource inventory	17,278	19,450	22,989	21,450	21,650	+4,372
Silvicultural examination	27,608	31,806	32,945	33,806	31,106	+3,498
Sales preparation	105,096	114,612	112,014	124,612	119,000	+13,904
Harvest administration	57,556	66,967	66,967	66,967	66,967	+9,411
Timber sales pipeline initiative	---	---	15,000	15,000	15,000	+15,000
Subtotal, Timber Sales	207,538	232,835	249,915	261,835	253,723	+46,185
Reforestation and Stand Improvement						
Reforestation	47,527	50,730	50,680	50,730	50,680	+3,153
Stand improvement	31,899	18,156	28,156	33,156	29,156	-2,743
Nurseries	15,859	19,346	18,346	19,346	18,346	+2,487
Subtotal, Reforestation & Stand Improvement	95,285	88,232	97,182	103,232	98,182	+2,897
Recreation Use						
Recreation management	111,583	99,418	117,378	104,418	116,796	+5,213
Wilderness	14,692	12,585	17,585	13,649	17,585	+2,893
Cultural resources	15,979	13,843	19,843	14,849	18,343	+2,364
Subtotal, Recreation Use	142,254	125,846	154,806	132,916	152,724	+10,470
Wildlife and Fish Habitat Management						
Wildlife and fisheries support	34,792	36,000	40,112	41,000	38,500	+3,708
Habitat improvement	30,202	24,000	41,000	47,400	43,000	+12,798
Subtotal, Wildlife & Fish Habitat Management	64,994	60,000	81,112	88,400	81,500	+16,506
Range Management						
Range vegetation management	26,966	23,884	31,967	28,384	30,084	+3,118
Range improvements	1,861	1,103	1,903	1,503	1,903	+42
Wild horse and burro management	181	183	263	183	183	+2
Noxious weed control	1,559	1,161	1,161	1,161	1,161	-398
Subtotal, Range Management	30,567	26,331	35,294	31,231	33,331	+2,764

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
Soil, Water and Air Management						
Soil, water and air operations	29,922	27,029	32,932	31,160	32,374	+2,452
Soil and water resource improvements	6,248	2,777	10,777	6,477	10,777	+4,529
Soil and water resource inventories	6,634	4,177	7,177	6,877	7,177	+543
Subtotal, Soil, Water and Air Management	42,804	33,983	50,886	44,514	50,328	+7,524
General administration	272,116	275,336	274,015	276,936	274,015	+1,899
Reforestation trust fund transfer	-30,000	-30,000	-30,000	-30,000	-30,000	---
Total, National Forest System	1,045,781	1,016,410	1,132,426	1,141,013	1,149,232	+103,451
Forest Service Firefighting						
Forest Service						
Presuppression	---	---	---	173,139	178,139	+178,139
Firefighting	---	---	---	383,000	383,000	+383,000
Total, Forest Service Firefighting	---	---	---	556,139	561,139	+561,139
Construction						
Facilities	33,914	17,000	39,232	21,594	38,993	+5,079
Roads and trails						
Direct road construction	175,657	186,000	164,356	140,500	164,356	-11,301
Trail construction	15,947	18,000	18,611	18,000	18,611	+2,664
Timber receipts transfer to General Fund	(-79,100)	(-92,000)	(-92,000)	(-92,000)	(-92,000)	(-12,900)
Timber purchaser credits	(75,000)	(139,579)	(112,000)	(139,579)	(112,000)	(+37,000)
Mount St. Helens (contract authority)	(5,333)	---	---	---	---	(-5,333)
Total, Construction	225,518	221,000	222,199	180,094	221,960	-3,558
Land Acquisition						
Forest Service						
Acquisitions	59,605	58,777	55,934	38,959	57,379	-2,226
Acquisition management	4,600	6,054	6,054	6,054	6,054	+1,454
Total, Land Acquisition	64,205	64,831	61,988	45,013	63,433	-772
Timber Roads, Purchaser Election, Forest Service						
Base program (rescission)	-40,000	---	---	---	---	+40,000
Tongass Timber Supply Fund						
Base program	35,999	(40,985)	(48,535)	(40,985)	(52,441)	-35,999
Operation and Maintenance of Recreation Facilities						
Base program	---	9,000	---	---	---	---

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
Acquisition of Lands for National Forests, Special Acts						
ase program	966	1,068	1,068	1,068	1,068	+102
Acquisition of Lands to Complete Land Exchanges						
ase program	335	1,070	1,070	1,070	1,070	+735
Range Betterment						
ase program	3,946	4,700	4,700	4,700	4,700	+754
Gifts, Donations and Bequests for Forest and Rangeland Research						
iscellaneous trust fund	90	30	30	30	30	-60
Catastrophic Fire Compensation Fund						
ppropriation	---	---	---	3,000	---	---
Total, Forest Service	1,561,375	1,500,514	1,662,822	2,185,875	2,255,320	+693,945
DEPARTMENT OF ENERGY						
Clean Coal Technology Reserve						
\ppropriated in FY 1988	190,000	(135,000)	(135,000)	---	(135,000)	-190,000
\ppropriated in FY 1989	---	(575,000)	(500,000)	(-250,000)	(450,000)	---
Total, Clean Coal Technology Reserve	190,000	---	---	---	---	-190,000
Fossil Energy Research and Development						
oal						
Control Technology and Coal Preparation						
Advanced research	1,774	1,871	1,871	2,371	2,121	+347
Coal preparation and analysis	17,680	11,318	21,208	18,038	20,208	+2,528
Flue gas cleanup	16,375	11,398	17,598	16,898	17,048	+673
Gas stream cleanup	11,574	4,585	17,585	13,235	16,910	+5,336
Waste management technology	1,524	3,089	1,839	2,589	2,089	+565
Subtotal, Control Technology & Coal Preparation	48,927	32,261	60,101	53,131	58,376	+9,449
Advanced research and technology development	25,564	25,543	26,178	26,947	26,738	+1,174
Coal Liquefaction						
Advanced research	6,902	3,099	7,824	5,899	6,724	-178
Direct liquefaction	17,333	2,913	18,113	18,013	17,913	+580
Indirect liquefaction	6,580	2,687	9,787	7,587	8,587	+2,007
Support studies and engineering evaluations	1,574	958	1,958	1,758	1,758	+184
Subtotal, Coal Liquefaction	32,389	9,657	37,682	33,257	34,982	+2,593

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
Combustion Systems						
Advanced research	2,972	1,141	3,041	1,791	2,391	-581
Atmospheric fluidized beds	2,735	1,650	2,850	3,150	3,000	+265
Pressurized fluidized beds	9,267	6,634	12,634	12,784	12,784	+3,517
Advanced combustion technology	6,201	2,629	6,329	5,229	5,629	-572
Alternative fuels utilization	5,521	3,711	10,411	7,211	9,811	+4,290
Subtotal, Combustion Systems	26,696	15,765	35,265	30,165	33,615	+6,919
Fuel Cells						
Advanced research	1,597	977	1,477	1,477	1,477	-120
Phosphoric acid systems	9,500	---	8,900	---	8,400	-1,100
Molten carbonate systems	7,069	3,399	15,399	18,399	16,999	+9,930
Advanced concepts	8,368	2,125	12,625	9,925	11,625	+3,257
Subtotal, Fuel Cells	26,534	6,501	38,401	29,801	38,501	+11,967
Heat engines	22,832	8,919	20,019	21,219	21,219	-1,613
Underground coal gasification	1,371	426	426	826	826	-545
Magnetohydrodynamics	37,000	---	42,900	37,000	40,900	+3,900
Surface Coal Gasification						
Advanced research	2,679	652	2,652	2,652	2,652	-27
Systems for power production	5,926	1,201	4,401	7,151	6,401	+475
Systems for industrial fuel gas production	848	831	1,331	931	931	+83
Systems for synthesis gas production	2,503	1,147	1,747	1,797	1,747	-756
Systems for co-products production	9,084	4,906	9,506	17,345	12,006	+2,922
Great Plains coal gasification project	517	---	---	---	---	-517
Subtotal, Surface Coal Gasification	21,557	8,737	19,637	29,876	23,737	+2,180
Subtotal, Coal	242,870	107,809	280,609	262,222	278,894	+36,024
Petroleum						
Advanced Process Technology						
Advanced exploratory research	3,749	4,621	3,600	3,600	3,600	-149
Arctic and offshore research	452	---	---	---	---	-452
Subtotal, Advanced Process Technology	4,201	4,621	3,600	3,600	3,600	-601
Enhanced Oil Recovery						
Heavy oil	4,245	4,067	4,067	4,067	4,067	-178
Light oil	16,738	14,176	22,020	23,520	22,770	+6,032
Tar sands	2,600	---	1,500	870	870	-1,730
Subtotal, Enhanced Oil Recovery	23,583	18,243	27,587	28,457	27,707	+4,124
Oil shale	10,530	1,683	8,183	10,883	9,133	-1,397
Subtotal, Petroleum	38,314	24,547	39,370	42,940	40,440	+2,126

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
Gas						
Unconventional gas recovery	11,384	4,070	13,170	15,820	14,620	+3,236
Equipment not related to construction	500	---	1,500	2,500	1,500	+1,000
General plant projects	1,750	---	1,800	1,800	1,800	+50
Headquarters program direction	16,207	9,139	16,439	16,439	16,439	+232
Energy Technology Center program direction	50,821	16,451	52,451	52,451	52,451	+1,630
Use of prior year funds	-1,000	-1,630	-1,630	-1,630	-1,630	-630
Federal inspector for the Alaska gas pipeline	249	249	249	249	249	---
Cooperative R&D	---	---	4,795	4,692	4,692	+4,692
Facilities	19,500	1,896	10,196	5,896	8,896	-10,604
Fossil energy environmental restoration	---	1,043	1,043	1,043	1,043	+1,043
Fuels conversion, natural gas, and electricity	---	---	2,668	2,668	2,668	+2,668
Total, Fossil Energy Research and Development	380,595	163,574	422,660	407,090	422,062	+41,467
Naval Petroleum and Oil Shale Reserves						
Oil Reserves						
Naval petroleum reserves Nos. 1 & 2	161,616	180,082	180,082	180,082	180,082	+18,466
Naval petroleum reserve No. 3	17,336	15,607	15,607	15,607	15,607	-1,729
Program direction (headquarters)	5,919	6,235	6,235	6,235	6,235	+316
Subtotal, Oil Reserves	184,871	201,924	201,924	201,924	201,924	+17,053
Shale oil development program						
Shale reserves development	200	200	200	200	200	---
Use of prior year balance	---	-10,000	-10,000	-10,000	-10,000	-10,000
Total, Naval Petroleum and Oil Shale Reserves	185,071	192,124	192,124	192,124	192,124	+7,053
Energy Conservation						
Buildings and Community Systems						
Building systems	9,197	4,257	9,357	11,107	9,232	+35
Community systems	3,100	500	3,580	2,300	4,140	+1,040
Technology and consumer products	11,050	3,800	13,100	12,000	13,150	+2,100
Analysis and technology transfer	2,150	1,000	2,500	2,500	2,300	+150
Appliance standards	1,700	1,800	1,800	1,800	1,800	+100
Federal energy management program	1,000	1,000	1,000	1,600	1,200	+200
Capital equipment	1,100	714	1,114	1,014	1,014	-86
Program direction	3,370	2,500	3,487	3,487	3,487	+117
Subtotal, Buildings & Community Systems	32,667	15,571	35,938	35,808	36,323	+3,656
Industrial						
Waste energy reduction	11,150	6,400	14,400	12,400	13,000	+1,850
Process efficiency	9,350	5,300	28,800	27,500	27,500	+18,150
Cogeneration	4,600	1,630	5,130	5,330	5,130	+530
Implementation and deployment	3,262	1,100	3,500	3,900	3,600	+338
Program direction	2,100	1,700	2,205	2,205	2,205	+105
Subtotal, Industrial	30,462	16,130	54,035	51,335	51,435	+20,973

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
Transportation						
Vehicle propulsion R&D	16,435	7,230	18,480	17,000	17,580	+1,145
Alternative fuels utilization	2,160	2,835	6,125	6,435	6,785	+4,625
Electric/hybrid vehicle program	13,918	4,870	16,675	16,675	17,875	+3,957
Technology assessment and transfer	2,291	1,000	2,300	2,500	2,300	+9
Advanced materials development	15,000	10,330	15,000	15,400	14,800	-200
High temperature materials lab	2,000	2,000	2,600	2,000	2,300	+300
Capital equipment	500	---	2,236	1,400	1,736	+1,236
Program direction	2,280	1,489	2,310	2,310	2,310	+30
Subtotal, Transportation	54,584	29,754	65,726	63,720	65,686	+11,102
Multi Sector						
Energy conversion and utilization technology	23,500	18,350	25,350	28,200	27,300	+3,800
Inventions and innovation	4,850	3,850	4,950	4,850	4,950	+100
National Appropriate Technology Assistance Service	1,400	500	1,400	1,400	1,400	---
Technology assessment and transfer	932	759	1,059	959	959	+27
Capital equipment	500	100	1,000	600	600	+100
Program direction	1,175	544	1,206	1,166	1,206	+31
Subtotal, Multi Sector	32,357	24,103	34,965	37,175	36,415	+4,058
State/Local Programs						
Energy policy and conservation grants (EPCA)	9,519	---	9,519	9,757	9,662	+143
Energy extension service	3,968	---	3,968	4,067	4,028	+60
Schools and hospitals	25,156	---	25,156	25,785	25,533	+377
Weatherization	161,357	---	161,357	165,391	163,777	+2,420
Program direction	11,195	7,564	16,900	16,900	16,900	+5,705
Subtotal, State/Local Programs	211,195	7,564	216,900	221,900	219,900	+8,705
Policy and management	2,664	2,406	3,803	3,503	3,503	+839
Facilities	13,000	---	---	---	---	-13,000
Total, Energy Conservation	376,929	95,528	411,367	413,441	413,262	+36,333
Offsetting Reductions						
Use of nonappropriated escrow funds	(-57,218)	---	(-42,914)	(-42,914)	(-42,914)	(+14,304)
(Use of prior year balances)	-4,427	---	---	---	---	+4,427
Total, Energy Conservation	372,502	95,528	411,367	413,441	413,262	+40,760
Economic Regulation						
Compliance	12,511	11,674	11,674	11,674	11,674	-837
Fuels conversion	356	362	---	---	---	-356
Natural gas and electricity operations	2,265	2,306	---	---	---	-2,265
Program administration	712	761	761	761	761	+49
Office of Hearings and Appeals	5,528	5,243	5,865	5,865	5,865	+337
Total, Economic Regulation	21,372	20,346	18,300	18,300	18,300	-3,072
Emergency Preparedness						
Emergency preparedness	6,154	6,641	6,641	6,641	6,641	+487

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
Strategic Petroleum Reserve						
Storage facilities development and operations	160,021	181,877	181,877	181,877	181,877	+21,856
Management	13,400	13,122	13,122	13,122	13,122	-278
Total, Strategic Petroleum Reserve	173,421	194,999	194,999	194,999	194,999	+21,578
SPR Petroleum Account						
Petroleum acquisition and transportation	242,000	422,548	319,407	227,820	227,820	-14,180
Appropriated in FY 1989	---	(91,555)	(91,555)	(91,555)	(91,555)	---
Advance appropriation, FY 1991	---	(37,458)	(108,458)	(79,625)	(108,458)	---
Energy Information Administration						
National Energy Information System	52,798	55,281	55,281	55,281	55,281	+2,483
Policy and management	10,058	9,951	9,951	9,951	9,951	-107
Total, Energy Information Administration	62,856	65,232	65,232	65,232	65,232	+2,376
Total, Department of Energy	1,633,971	1,160,992	1,630,730	1,525,647	1,540,440	-93,531
DEPARTMENT OF HEALTH AND HUMAN SERVICES						
INDIAN HEALTH SERVICE						
Indian Health Services						
Clinical services						
IHS and tribal health delivery						
Hospital and health clinic programs	581,143	611,941	678,618	673,378	679,618	+98,475
Dental health program	31,485	33,148	33,356	33,356	33,356	+1,871
Mental health program	13,091	13,582	20,713	20,513	21,513	+8,422
Alcoholism program	31,159	32,935	32,935	32,935	33,462	+2,303
Maintenance and repair	11,756	---	12,177	12,177	12,177	+421
Contract care	214,454	226,656	240,656	238,656	240,656	+26,202
Subtotal, Clinical services	883,088	918,262	1,018,455	1,011,015	1,020,782	+137,694
Preventive health						
Sanitation	24,654	25,759	25,895	25,895	25,895	+1,241
Public health nursing	14,467	14,976	15,215	15,215	15,215	+748
Health education	4,651	4,843	4,883	4,883	4,883	+232
Community health representative program	29,282	30,978	31,478	30,978	31,478	+2,196
Immunization	417	438	438	1,141	1,141	+724
Subtotal, Preventative health	73,471	76,994	77,909	78,112	78,612	+5,141

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
Urban health projects	9,962	10,164	12,664	13,664	13,214	+3,252
Indian health manpower	7,896	8,161	9,661	9,661	9,661	+1,765
Tribal management	3,218	2,594	2,594	2,594	2,594	-624
Direct operations	42,471	45,047	45,047	45,047	45,047	+2,576
Facilities	---	22,177	---	---	---	---
Tribal contract conversion	---	---	23,000	---	16,000	+16,000
Medicare/Medicaid Reimbursements						
Hospital and clinic accreditation (Est. collecting)	(66,000)	(73,000)	(73,000)	(73,000)	(73,000)	(+7,000)
Total, Indian Health Services	1,020,106	1,083,399	1,189,330	1,160,093	1,185,910	+165,804
Indian Health Facilities						
Hospitals						
New and replacement	2,700	---	3,400	3,400	3,400	+700
Repair and improvement	5,307	---	10,000	10,000	10,000	+4,693
Subtotal, Hospitals	8,007	---	13,400	13,400	13,400	+5,393
Outpatient care facilities	11,661	---	14,049	14,625	14,625	+2,964
Sanitation facilities	42,000	---	35,000	25,000	31,000	-11,000
Personnel quarters	---	---	13,671	13,210	12,671	+12,671
Unobligated balances	---	---	-700	-700	-700	-700
Total, Indian Health Facilities	61,668	---	75,420	65,535	70,996	+9,328
Total, Indian Health Service	1,081,774	1,083,399	1,264,750	1,225,628	1,256,906	+175,132
DEPARTMENT OF EDUCATION						
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION						
Indian Education						
Subpart 1 - Grants to LEAs & Indian-controlled schools	52,748	54,541	55,041	54,541	55,041	+2,293
Subpart 2 - Special programs for Indian students	12,307	12,725	12,225	12,725	12,225	-82
Subpart 3 - Special programs for Indian adults	4,000	4,136	4,136	4,136	4,136	+136
Administration	2,498	2,766	2,747	2,747	2,747	+249
Total, Indian Education	71,553	74,168	74,149	74,149	74,149	+2,596
OTHER RELATED AGENCIES						
OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION						
Salaries and Expenses						
Operation of the Office	27,373	31,218	36,818	36,818	36,818	+9,445
INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT						
Payment to the Institute	3,094	3,000	4,650	3,500	4,350	+1,256

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
SMITHSONIAN INSTITUTION						
Salaries and Expenses						
Research						
Assistant Secretary for Research	1,205	1,242	1,242	1,242	1,242	+37
Astrophysical Observatory	10,721	11,172	11,141	11,141	11,141	+420
Tropical Research Institute	5,738	5,664	5,894	5,664	5,764	+26
Environmental Research Center	1,418	1,532	1,572	1,532	1,532	+114
National Zoological Park	14,048	14,638	14,788	14,638	14,713	+665
Smithsonian Institution Archives	600	621	621	621	621	+21
Smithsonian Institution Libraries	5,161	5,338	5,451	5,338	5,451	+290
Major scientific instrumentation	1,206	2,176	2,176	2,176	2,176	+970
Tropical forestry initiative	---	---	1,115	---	650	+650
Base reduction	---	---	---	-200	---	---
Subtotal, Research	40,097	42,383	44,000	42,152	43,290	+3,193
Museums						
Assistant Secretary for Museums	1,633	1,168	1,323	1,168	1,248	-385
National Museum of Natural History	26,292	27,573	28,303	27,573	28,058	+1,766
National Air and Space Museum	9,552	9,904	9,904	9,904	9,904	+352
National Museum of American History	14,502	15,666	16,026	15,666	15,891	+1,389
National Museum of American Art	5,464	5,714	5,794	5,714	5,734	+270
National Museum of the American Indian	---	---	6,000	1,100	4,000	+4,000
National Portrait Gallery	4,131	4,304	4,304	4,304	4,304	+173
Hirshhorn Museum and Sculpture Garden	3,457	3,556	3,556	3,556	3,556	+99
Arthur M. Sackler Gallery/Freer Gallery of Art	4,300	4,390	4,390	4,390	4,390	+90
Archives of American Art	1,101	1,141	1,141	1,141	1,141	+40
Cooper-Hewitt Museum	1,245	1,297	1,543	1,297	1,482	+237
National Museum of African Art	3,568	3,659	3,659	3,659	3,659	+91
Anacostia Museum	1,010	1,050	1,050	1,050	1,050	+40
Conservation Analytical Laboratory	2,519	2,628	2,628	2,628	2,628	+109
Office of Exhibits Central	1,900	1,963	1,963	1,963	1,963	+63
Traveling Exhibition Service	688	708	878	708	878	+190
Subtotal, Museums	81,362	84,721	92,462	85,821	89,886	+8,524
Public Service						
Assistant secretary for public service	1,298	1,450	1,558	1,450	1,471	+173
Smithsonian Institution Press	1,239	1,286	1,286	1,286	1,286	+47
Subtotal, Public Service	2,537	2,736	2,844	2,736	2,757	+220
International activities	791	839	879	839	839	+48
Special Programs						
American studies and folklife programs	908	937	1,167	937	1,152	+244
International environmental science program	770	781	781	781	781	+11
Academic and educational programs	1,170	1,266	1,266	1,266	1,266	+96
Museum Support Center	4,419	4,491	4,321	4,491	4,321	-98
Subtotal, Special Programs	7,267	7,475	7,535	7,475	7,520	+253
Administration	18,098	21,187	20,257	20,257	20,257	+2,159

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
Facilities Services						
Office of Design and Construction	2,504	2,933	2,795	2,795	2,795	+291
Office of Protection Services	21,088	23,641	23,534	23,279	23,534	+2,446
Office of Plant Services	37,496	41,822	37,675	37,675	37,675	+179
Subtotal, Facilities Services	61,088	68,396	64,004	63,749	64,004	+2,916
Total, Salaries and Expenses	211,240	227,737	231,981	223,029	228,553	+17,313
Construction and Improvements National Zoological Park						
Base program	5,305	6,500	6,500	6,500	6,500	+1,195
Restoration and Renovation of Buildings						
Base program	20,735	26,653	26,869	26,653	26,769	+6,034
Construction						
General Post Office Building	---	1,750	1,750	---	---	---
Smithsonian Tropical Research Institute	2,700	3,480	3,480	1,780	1,930	-770
Fred Lawrence Whipple Observatory	3,185	---	---	---	---	-3,185
Museum of the American Indian	---	---	2,900	1,000	1,620	+1,620
Minor construction, alterations and modifications	2,020	4,040	4,040	4,040	4,040	+2,020
Construction planning	750	730	730	730	730	-20
Total, Construction	8,655	10,000	12,900	7,550	8,320	-335
Total, Smithsonian Institution	245,935	270,890	278,250	263,732	270,142	+24,207
NATIONAL GALLERY OF ART						
Salaries and Expenses						
Care and utilization of art collections	13,851	14,441	14,982	14,941	14,967	+1,116
Operation and maintenance of buildings and grounds	11,322	11,873	11,393	11,476	11,356	+34
Protection of buildings, grounds and contents	7,738	8,590	8,805	8,805	8,805	+1,067
General administration	5,070	5,472	5,609	5,522	5,584	+514
Total, Salaries and Expenses	37,981	40,376	40,789	40,744	40,712	+2,731
Repair; Restoration and Renovation of Buildings						
Base program	750	2,305	1,905	2,305	1,805	+1,055
Total, National Gallery of Art	38,731	42,681	42,694	43,049	42,517	+3,786

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS						
Salaries and Expenses						
Fellowship program	1,382	1,580	1,549	1,580	1,580	+198
Scholar support	295	298	298	298	298	+3
Public service	1,059	1,090	1,090	1,090	1,090	+31
General administration	741	754	754	754	754	+13
Smithsonian fee	75	75	75	75	75	---
Conference planning	568	571	571	571	571	+3
Space	120	332	274	332	332	+212
Total, Salaries and Expenses	4,240	4,700	4,611	4,700	4,700	+460
Endowment Challenge Fund						
Base program	300	---	---	---	---	-300
Total, Woodrow Wilson Center	4,540	4,700	4,611	4,700	4,700	+160
NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES						
National Endowment for the Arts						
Grants and Administration						
Grants						
Program Grants						
Arts in Education	5,600	6,600	5,600	6,600	5,600	---
Dance	8,850	8,750	8,950	8,750	8,850	---
Design arts	4,200	4,150	4,200	4,150	4,150	-50
Expansion arts	6,500	6,500	6,500	6,500	6,500	---
Folk arts	3,000	3,200	3,200	3,400	3,300	+300
Inter-arts	4,100	4,000	4,100	4,000	4,000	-100
Literature	5,000	5,000	5,000	5,000	5,000	---
Media arts	12,000	11,700	12,000	11,700	12,000	---
Museums	11,400	11,200	11,500	11,200	11,400	---
Music	12,200	11,950	12,300	11,950	12,200	---
Opera-Musical Theater	4,200	4,100	4,200	4,100	4,200	---
Local Programs	2,500	2,500	2,500	2,700	2,600	+100
Theater	10,800	10,700	10,900	10,700	10,800	---
Visual arts	6,100	6,100	6,100	5,700	6,100	---
Advancement	1,200	1,300	1,300	1,300	1,300	+100
Challenge	300	300	300	300	300	---
Subtotal, Program Grants	97,950	98,050	98,650	98,050	98,300	+350
State programs	25,500	25,500	26,000	25,500	26,000	+500
Subtotal, Grants	123,450	123,550	124,650	123,550	124,300	+850

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
Unallocated reduction	---	---	-45	-45	-45	-45
Administrative Areas						
Policy planning and research	1,000	1,000	1,000	1,000	1,000	---
Administration	17,440	18,400	18,600	18,400	18,600	+1,160
Planning study	---	---	---	100	250	+250
Subtotal, Administrative Areas	18,440	19,400	19,600	19,500	19,850	+1,410
Total, Grants and Administration	141,890	142,950	144,205	143,005	144,105	+2,215
Matching Grants						
Matching grants	9,000	12,000	12,000	12,000	12,000	+3,000
Challenge grants	18,200	15,150	15,150	15,150	15,150	-3,050
Total, Matching Grants	27,200	27,150	27,150	27,150	27,150	-50
Total, Arts	169,090	170,100	171,355	170,155	171,255	+2,165
National Endowment for the Humanities						
Grants and Administration						
Grants						
Program Grants						
Public Programs						
Media Grants	9,400	9,180	9,400	9,180	9,400	---
Museums and Historical Organizations	8,640	8,900	8,900	8,900	8,900	+260
Public humanities projects	2,000	2,300	2,300	2,300	2,300	+300
Humanities projects in libraries	2,800	2,800	2,800	2,800	2,800	---
Subtotal, Public Programs	22,840	23,180	23,400	23,180	23,400	+560
Education Programs						
Education programs	16,150	16,200	16,200	16,200	16,200	+50
Fellowships						
Fellowships and seminars	15,560	15,400	15,560	15,400	15,560	---
Research grants	16,400	17,000	17,000	17,000	17,000	+600
Subtotal, Program Grants	70,950	71,780	72,160	71,780	72,160	+1,210
State programs	25,000	25,000	26,000	25,000	26,000	+1,000
Office of Preservation	12,500	13,500	19,900	13,500	17,700	+5,200
Subtotal, Grants	108,450	110,280	118,060	110,280	115,860	+7,410
Administrative Areas						
Administration	15,850	16,270	16,570	16,270	16,570	+720
Total, Grants and Administration	124,300	126,550	134,630	126,550	132,430	+8,130

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
Matching Grants						
Matching grants	12,000	12,000	12,000	12,000	12,000	---
Challenge grants	16,700	14,700	14,700	14,700	14,700	-2,000
Total, Matching Grants	28,700	26,700	26,700	26,700	26,700	-2,000
Total, Humanities	153,000	153,250	161,330	153,250	159,130	+6,130
Institute of Museum Services						
Grants to Museums						
Operating support grants	17,700	17,700	18,350	17,700	18,025	+325
Conservation grants	3,200	3,200	3,200	3,200	3,200	---
Program support	250	250	250	250	250	---
Subtotal, Grants to Museums	21,150	21,150	21,800	21,150	21,475	+325
Program administration	1,120	1,200	1,200	1,200	1,200	+80
Total, Institute of Museum Services	22,270	22,350	23,000	22,350	22,675	+405
Total, National Foundation on the Arts and Humanities	344,360	345,700	355,685	345,755	353,060	+8,700
COMMISSION OF FINE ARTS						
Salaries and Expenses						
Base programs	475	494	516	494	516	+41
National Capital Arts and Cultural Affairs						
Grants	5,000	---	5,000	5,500	5,500	+500
Total, Commission of Fine Arts	5,475	494	5,516	5,994	6,016	+541
ADVISORY COUNCIL ON HISTORIC PRESERVATION						
Salaries and Expenses						
Advisory services	1,778	1,795	1,945	1,795	1,920	+142
NATIONAL CAPITAL PLANNING COMMISSION						
Salaries and Expenses						
Base program	2,962	3,133	3,123	3,133	3,133	+171
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION						
Salaries and Expenses						
Base program	28	28	28	28	28	---

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION						
Salaries and Expenses						
Salaries and expenses	2,334	2,425	2,375	2,375	2,375	+41
Land Acquisition and Development (Borrowing Authority)						
Land acquisition and development	---	12,000	12,000	10,000	5,000	+5,000
Public Development						
Public improvements	3,175	3,150	3,150	3,150	3,150	-25
Total, Pennsylvania Avenue Development Corporation	5,509	17,575	17,525	15,525	10,525	+5,016
UNITED STATES HOLOCAUST MEMORIAL COUNCIL						
Holocaust Memorial Council	2,244	2,315	2,315	2,315	2,315	+71
Total, Title II, Related Agencies	5,030,702	4,542,602	5,385,611	5,737,643	5,862,339	+831,637
TITLE I - DEPARTMENT OF THE INTERIOR						
Bureau of Land Management	1,370,284	1,000,167	1,386,872	955,736	956,448	-413,836
Fish and Wildlife Service	453,896	407,919	479,262	516,114	533,506	+79,610
National Park Service	990,537	893,582	1,061,377	1,034,664	1,095,020	+104,483
Geological Survey	451,506	452,465	486,931	476,909	484,709	+33,203
Minerals Management Service	170,744	181,116	175,066	179,761	178,525	+7,781
Bureau of Mines	159,292	141,197	161,876	175,000	174,759	+15,467
Office of Surface Mining Reclamation and Enforcement	294,255	254,125	295,500	294,840	295,500	+1,245
Bureau of Indian Affairs	1,064,372	1,050,986	1,396,584	1,282,228	1,367,191	+302,819
Territorial Affairs	153,561	101,584	135,651	130,628	133,088	-20,473
Secretarial Offices	94,302	102,961	99,157	100,578	99,657	+5,355
Total, Title I - Department of the Interior	5,202,749	4,586,102	5,678,276	5,146,458	5,318,403	+115,654

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared to Enacted
TITLE II - RELATED AGENCIES						
Forest Service	1,561,375	1,500,514	1,662,822	2,185,875	2,255,320	+693,945
Department of Energy	(1,633,971)	(1,160,992)	(1,630,730)	(1,525,647)	(1,540,440)	(-93,531)
Clean Coal Technology	190,000	---	---	---	---	-190,000
Fossil Energy	380,595	163,574	422,660	407,090	422,062	+41,467
Naval Petroleum and Oil Shale Reserves	185,071	192,124	192,124	192,124	192,124	+7,053
Energy Conservation	372,502	95,528	411,367	413,441	413,262	+40,760
Economic Regulation	21,372	20,346	18,300	18,300	18,300	-3,072
Emergency Preparedness	6,154	6,641	6,641	6,641	6,641	+487
Strategic Petroleum Reserve	173,421	194,999	194,999	194,999	194,999	+21,578
SPR Petroleum Account	242,000	422,548	319,407	227,820	227,820	-14,180
Energy Information Administration	62,856	65,232	65,232	65,232	65,232	+2,376
Indian Health	1,081,774	1,083,399	1,264,750	1,225,628	1,256,906	+175,132
Indian Education	71,553	74,168	74,149	74,149	74,149	+2,596
Office of Navajo and Hopi Indian Relocation	27,373	31,218	36,818	36,818	36,818	+9,445
Institute of American Indian and Alaska Native Culture and Arts Development	3,094	3,000	4,650	3,500	4,350	+1,256
Smithsonian	245,935	270,890	278,250	263,732	270,142	+24,207
National Gallery of Art	38,731	42,681	42,694	43,049	42,517	+3,786
Woodrow Wilson International Center for Scholars	4,540	4,700	4,611	4,700	4,700	+160
National Endowment for the Arts	169,090	170,100	171,355	170,155	171,255	+2,165
National Endowment for the Humanities	153,000	153,250	161,330	153,250	159,130	+6,130
Institute of Museum Services	22,270	22,350	23,000	22,350	22,675	+405
Commission of Fine Arts	475	494	516	494	516	+41
National Capital Arts and Cultural Affairs	5,000	---	5,000	5,500	5,500	+500
Advisory Council on Historic Preservation	1,778	1,795	1,945	1,795	1,920	+142
National Capital Planning Commission	2,962	3,133	3,123	3,133	3,133	+171
Franklin Delano Roosevelt Memorial Commission	28	28	28	28	28	---
Pennsylvania Avenue Development Corporation	5,509	17,575	17,525	15,525	10,525	+5,016
Holocaust Memorial Council	2,244	2,315	2,315	2,315	2,315	+71
Total, Title II - Related Agencies	5,030,702	4,542,602	5,385,611	5,737,643	5,862,339	+831,637
Grand total	10,233,451	9,128,704	11,063,887	10,884,101	11,180,742	+947,291

Madam Speaker, I reserve the balance of my time.

Mr. REGULA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of the Interior Appropriations conference report. I appreciate the chairman's comments. He has covered it well.

There are a few things I might highlight.

Madam Speaker, I have served on this subcommittee for 15 years and I do not believe we have ever had a more difficult conference.

I would congratulate the chairman. If it were not for his stalwartness, his tenacity, and most importantly his spirit of compromise, we might never have gotten to this point today.

It was difficult, there were a great variety of opinions on many different subjects in the conference.

This report covers $11 billion, a number of agencies, dozens of grants, and many projects that Members were interested in, both in the House and in the Senate.

The fact that we were constrained by having only so much money to spend made our task even more difficult.

Usually in a conference, if all else fails, disagreements can be resolved by splitting the difference. But it was not easy to do that here because many of the issues were a matter of principle, a matter of policy rather than a matter of money.

The one that divided us perhaps the most was the so-called or well-publicized Helms amendment. We have to make clear that no one in this House, no one in the Senate supports tax funded pornography. They do not support pornography that is not tax funded. I think that is a general agreement. We could agree on that in the conference.

But when we attempted to translate that fact into statutory language and preserve the freedom of artistic expression, it became more difficult. Fortunately the chairman was up to the test. I think we have drafted a compromise which prohibts the funding of obscene art. Unlike the Helms amendment, the bill before you today makes it clear that the Endowments are ultimately responsible for monitoring the content of the work they fund.

That was one of the problems with the Helms amendment. There was not a clear definition of accountability.

We have done that. We have said very clearly that the Endowments are responsible for what they fund. Further, the standard has some basis in law because it was drawn in part from the 1973 Miller versus California Supreme Court decision on obscenity, where the court attempted to spell out some standards.

We tried to incorporate these. For those who might have missed it, I would note to you that there was an up-or-down vote on the Helms amendment in the Senate. I believe it was Thursday night. The Helms amendment was defeated by a vote of 65 to 31. That made it even more vital that we reach a strong position and a good compromise on this bill.

Specifically the NEA and NEH are prohibited from using Federal funds to "promote, disseminate or produce obscene material including, but not limited to, depictions of Sado-masochism, homoeroticism, the sexual exploitation of children or individuals engaged in sex acts and which taken as a whole do not have serious literary, artistic, political or scientific value."

That language came from the Miller case in which the Supreme Court has spoken very clearly. This is tough language.

I think it will do a great deal to solve the problem.

But we went beyond that. We went beyond the Helms amendment and established an independent commission to further review the NEA's grant-making procedures to determine whether new standards are needed.

One of the problems that caused the difficulty that we are into here is the fact that the grant-making procedure was not clearly set out as far as accountability is concerned. What we hope will come out of this independent commission, which will be appointed by the President with the advice of the leadership in the House and the Senate, will be standards that will prevent anything like what we have seen in the past happening in the future. I think this will be very helpful to the authorizing committee because the National Endowment for the Arts does need to be reauthorized before we do the fiscal 1991 appropriation.

Criteria to be considered include possible standards where: First, applying the contemporary community standards would find that the work taken as a whole appeals to a prurient interest; second, that the work depicts or describes in a patently offensive way sexual conduct; and third, the work taken as a whole lacks serious artistic and cultural value.

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The Commission is directed to report back in 180 days, and it is our hope that this report will be useful to the reauthorization process and to all Members who will have to decide, eventually, in voting for a reauthorization bill, what we want to happen.

The compromise sends a strong message to the Endowments, but at the same time preserves the freedom of artistic expression, so critical to the core of the Endowments.

Finally, the conference agreed, as overwhelmingly instructed by this body, to adopt the Byrd amendment with respect to lobbying. I think that that vote said clearly that we are concerned. This is an outgrowth of the HUD scandal, and we are concerned that there is sunshine on lobbying efforts, that there not be the use of Federal dollars for the purpose of lobbying.

As I said earlier on the floor during the debate on the motion to instruct, this amendment addresses a longstanding concern of mine and that is the question of ensuring disclosure with respect to the use of public funds.

Waste, abuse, and conflict of interest with respect to Federal tax dollars destroys public confidence in their Government. The amendment prohibits the recipients of Federal grants, contracts, loans, or cooperative agreements from using Federal funds to pay persons to influence or attempt to influence executive or legislative decisions, made in connection with the awarding of any contract, grant, loan, or cooperative agreement.

The amendment does not destroy lobbying activity. That is fundamental to our democracy, that people have a right to be heard. They have a right to petition their Government, and they have a right to have someone do it on their behalf. However, the Byrd amendment merely ensures full disclosure, and that is the key, of the extent of the lobbying activity that is going on in connection with the awarding of Federal funds. The mere perception that an agency and/or legislative decisionmakers are being unduly influence by factors other than the merits of a proposal, undermines the public's confidence, and must be addressed. We have done so in the conference agreement before Members today.

We have spent an unusual amount of time during prior debates on this bill on issues such as the arts issue, and in the process, many of the good initiatives in this bill have gone unnoticed. I am going to highlight a few. This is an $11 billion package, and it makes a lot of policy by the way in which we expend these funds. They are all discretionary. Therefore, the bill, in its assignment of funding for various dollar projects, is, in fact, a very important policy statement. We have heard for years about the unmet needs for recreational facilities in the Forest Service, and I might say in all of the services that we address. It is often ignored, but the Forest Service has 2½ times the number of visitor days as the National Park Service. We have addressed that problem by providing $12.5 million for recreation construction projects in the National Forest System. I wish we could do more, because as our population grows and the pressures of our fast-moving society grow, we need more opportunities for people to have recreational ex-

periences, and we need to expand this as much as possible.

We have attempted to address the growing maintenance needs of our Federal lands. I would point out that this bill covers one-third of the United States, the land area that is owned by the Federal Government, which encompasses about 750 million acres. Agencies funded include the Bureau of Land Management, the Forest Service and the National Park Service, Fish and Wildlife Service, and there are a lot of unmet operation and maintenance needs out there, and we obviously cannot address them all. However, I think we need to continue the effort as we did in this bill.

In the Fish and Wildlife, we increased their O&M account by $22 plus million. The National Park Service we increased over last year by $40.7 million. In the Forest Service, we increased $13.8 million. As I said before, there is much more to be done. The same thing is true of land acquisition. We need to fill in the gaps. We need to buy the areas surrounding the parks, to provide environmental protection on the boundaries. We provided in the bill $232.5 million for land acquisition, again, a very strong and good feature of this bill.

The bill also takes a major step toward addressing the Nation's acid rain problem by providing advance funding of $1.2 billion for a fourth and fifth round of clean coal projects, and fully funding the third round solicitation which has already gone out and for which we have received 48 responses. As we debate the Clean Air Act, and that is coming down the track, in the months ahead, we need to continue our efforts on the Clean Coal Program. Coal is one of the great energy resources that this Nation has. We are fast approaching dependency on oil imports of over 50 percent. I think it is absolutely vital to our Nation's energy future that we develop an environmentally safe way to burn coal. Our commitment in this bill is an important policy statement, $1.2 billion for fiscal 1990.

This, added with what has been done in the past, plus the private sector commitment of money puts a total of almost $6 billion being spent today on clean coal technology. I hope that in the Clean Air Act that we will be passing in the future, that we allow the time necessary to utilize this research.

I cannot begin to enumerate all the good that will be done by the projects in this bill. I want to assure my colleagues that within the limits of the budget constraints that we had from our allocation from the Committee on the Budget, we have done all that is possible to meet the needs of the Indian tribes, the parks, wildlife refuges, and forests, that Members have identified. We had something like 350 Member requests for projects within their districts, and we did all that was possible with the resources available to meet these needs.

I certainly join my chairman in commending this conference report, and I will be pleased to answer questions. I might also add to what the chairman said, we had super work by the staff of the subcommittee, as well as my own staff, and they worked in a very bipartisan fashion. The conference was bipartisan, the work of the subcommittee is bipartisan. We have made every effort to bring to Members a bill, today, that I think is a very responsible bill, addressing the challenges that we have in this subcommittee.

Mr. YATES. Madam Speaker, I yield myself 2 minutes, to make one point clear. That is, as the result of the agreement on the obscenity question, the conferees agree that the question of obscenity becomes one factor in the consideration of grants. It may have been a factor before this change, but it did not have the weight that the conference agreement has ascribed to it for future consideration.

I must point out, Madam Speaker, that it remains only one factor in the composite of factors that go into grant making. It must be pointed out that the ultimate test for continuing grant making is artistic excellence, art of the highest quality. If the application does not possess excellence or art of the highest quality, whether it is obscene or not, the grant should not be approved.

Under the decision of the conferees, and keeping in mind the fact that the conferees were very much aware of the standard in law as it now exists, and the standards that are set forth in the case of Miller versus California, if there is a question of obscenity in the grant, then that becomes a factor. It is within the discretion of the chairman, either of NEA or NEH, to consider whether the artistic excellence, the social merit in the grant is such that it far outweighs any question of impropriety.

I thought I should make that clear.

Mr. REGULA. Madam Speaker, I yield 5 minutes to a member of the subcommittee who was extremely helpful in putting this bill together and reaching the compromises that were necessary, the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Madam Speaker, I rise in support of this conference report, and I urge all Members to accept the committee's recommendations.

This conference report is the result of weeks of tough compromise and hard negotiations. In addition to the thousands of line items in the bill, the conferees were faced with several mega-issues, including arts funding, endangered species and the timber program, truth-in-lobbying legislation, among many, many others. I want to commend SID YATES and RALPH REGULA for fairly and effectively dealing with these difficult issues. Not everyone is happy with the results, but that's the product of good faith dealing and give-and-take negotiations.

I want to especially note the increase in the land acquisition program, a major initiative of the Bush environmental agenda. The committee included many of the specific projects requested by the administration, and the overall funding is within striking distance of the President's plan. These funds will go a long way to protecting the most fragile and sensitive areas of the country for generations to come. In addition, the conferees addressed many other issues and objections presented to the committee by OMB. For the RECORD, I will include a copy of the statement of the administration policy given to the conferees before conference. As reported, this conference report is under the House 302-B allocation for budget authority and outlays, and of course, it's under the levels approved by the House last July. The conferees have struck a delicate balance. The report is fiscally sound, yet it responds to the many, many needs funded in this appropriations bill.

And the latest word from the administration is a bit indirect, but good nevertheless. I am told by the Office of Management and Budget that the administration is not urging Members to oppose this conference report. No statement of administration policy will be sent to the Congress, and it's the policy of OMB to send such messages if the President intends to veto the bill or if the President's senior advisors would recommend a veto. Getting to the bottom line, I think it is safe to say that this conference report as presented to the House will be signed by the President.

Mr. Speaker, this is only the third conference report to be considered by the House. The energy and water bill was signed last Friday, and the legislative bill is pending in the Senate. However, I should warn Members that a Gramm-Rudman sequester looms on the horizon. Because the reconciliation bill has languished and suffocated under its own weight, this bill and all others completed by the committee will suffer a direct hit from the meat ax of Gramm-Rudman. That means at least 5.3 percent reduction across-the-board for all discretionary programs. The Appropriations Committee is doing its job here. We're getting all the bills through conference. Treasury will file this week, and Labor/HHS is meeting today. But despite this progress, we are also taking a hit because the reconciliation process has broken down.

Mr. Speaker, to keep the process moving forward and to support a fis-

cally responsible bill, I urge all Members to support this conference report.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, September 7, 1989.

Hon. SILVIO CONTE,
Committee on Appropriations, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN CONTE: As the House and the Senate prepare to confer on H.R. 2788, the Department of the Interior and Related Agencies Appropriations Bill, 1990, I am writing to express the Administration's views on the House bill and the Senate bill.

The Administration has serious concerns about both the House and Senate versions of H.R. 2788. Based on OMB scoring under the Bipartisan Budget Agreement, the House bill would provide domestic discretionary budget authority of $11,265 million, or $365 million more than the House Interior Subcommittee's 302(b) allocation. This would result in outlays of $10,791 million, or $441 million more than the House 302(b) allocation. The Senate bill would provide $10,939 million in domestic discretionary BA and $10,782 million in outlays. These levels would exceed the Senate 302(b) allocations by $419 million in BA and $512 million in outlays.

The Initial OMB Sequester Report of August 25th made clear that we have virtually no margin for expenditures above the 302(b) allocations if we are to avoid sequester. We therefore would respectfully urge the referees to find appropriate means to bring the bill down to the 302(b) level.

Much of the increased funding is earmarked for specific groups or for activities at specific locations. Such earmarking is excessive and usually does not result in the most productive expenditure of funds. Instead, the specific allocation of the funds should be based on the merits of the proposals, so long as they are in keeping with the overall purposes of the appropriations. Several areas of excessive earmarking are noted in the enclosure to this letter.

The Administration also opposes the Senate provision to extend coverage of the Federal Tort Claims Act to tribal contractors of their employees. The Department of Justice advises that if the provision is retained, the Attorney General would recommend veto of the bill to the President. The precedent of deeming contractors or their employees to be employees of the Federal Government is adverse. It is our view that the Federal government should not accept direct fiscal responsibility for professional negligence in the absence of an adequate opportunity to control and supervise professional conduct.

The Administration prefers the Senate position that pre-leasing activities in most Outer-Continental Shelf (OCS) areas be permitted, although we oppose restrictions on pre-leasing for any area. The Administration also continues to oppose the provisions extending moratori on leasing and exploration. The President is committed to proceeding with OCS development only if all appropriate environmental safeguards are in place. The President has established a task force to address environmental concerns regarding three controversial lease sales scheduled for FY 1990. It would be especially inappropriate at this time for Congress to prohibit pre-leasing activities. These provide the very information that is needed to make environmentally sound decisions on leasing and drilling.

The Administration is concerned about a number of other provisions, as outlined in the enclosure. We hope that the conferees report a bill that (1) continues to fund essential programs, and (2) addresses satisfactorily the issues raised by the Administration. Thank you for considering our views.

With best regards,

RICHARD G. DARMAN,
Director.

Enclosure.

INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, 1990

I. CONFORMANCE WITH BIPARTISAN BUDGET AGREEMENT AND 302(b) ALLOCATIONS

Under CBO scoring the Interior and Related Agencies Appropriation Bill would meet the requirements for the Bipartisan Budget Agreement (as measured by compliance with the respective House and Senate Subcommittees' 302(b) allocations). However, the Administration believes that the actual domestic discretionary spending levels in the bill are higher than indicated by CBO scoring. The attached bridge table shows that the House bill would actually provide domestic discretionary funding of $11,265 million in BA ($365 million more than the House 302(b) allocation) and outlays of $10,791 million ($441 million more than the 302(b) allocation). The Senate bill would provide $10,939 million in BA ($419 million more than the Senate 302(b) allocation) and $10,782 million in outlays ($512 million more than the 302(b) allocation).

The major increases over the CBO estimates due to OMB scoring are:

$198 million in BA and $139 million in outlays in the House bill, and $271 million in BA and $190 million in outlays in the Senate bill, for fire-fighting appropriations related to planned activities.

$120 million in BA and outlays in both the House and Senate bills for the appropriation of excess receipts from the sale of oil and gas from the Naval Petroleum Reserve (NPR). The Mid-Session Review of July 18, 1989, estimates NPR receipts at $630 million, while the House and Senate bills would provide, as a discretionary appropriation to the Strategic Petroleum Reserve, receipts in excess of $510 million.

$47 million in BA and $37 million in outlays in the House bill, and $72 million in BA and $57 million in outlays in the Senate bill, for the appropriation of excess timber receipts.

II. MAJOR ADMINISTRATION OBJECTIONS TO NON-CONFERENCEABLE PROVISIONS

Outer Continental Shelf (OCS) Oil and Gas Leasing and Exploration Moratoria.—The Administration objects to "one year" leasing moratoria recommended in both the House and Senate bills.

The President established an inter-agency task force to address environmental concerns related to three scheduled FY 1990 OCS lease sales. It would be inappropriate to impose more OCS moratoria or to prohibit activities which are designed explicitly to provide the kind of information that can lead to environmentally sound drilling decisions. The Administration has pledged not to conduct OCS leasing or exploration in the areas under moratoria until after the task force has completed its work and the Administration has announced its decisions on the three FY 1990 sales under review.

Contacts Between Employees of the Department of the Interior and Members and Committees of Congress and their Staff.—Both the House and the Senate propose language that prohibits funds from being used to prepare reports on contacts between Interior employees and Congressional Members and staff. This provision is highly objectionable and raises Constitutional concerns. It interferes with the Department's ability to carry out Executive functions, and impairs the Department's efforts to act on congressional inquiries in a responsible manner.

III. ADMINISTRATION POSITION ON CONFERENCEABLE PROVISIONS

A. Funding levels

Department of the Interior

Both the House and Senate bills inappropriately address the deficit impact of forest fire-fighting appropriations by treating these appropriations as mandatory. The House places nearly all Interior and Agriculture fire-fighting funds ($740 million out of $761 million provided) in a new single account in Interior. While congressional scoring classifies the new account as mandatory, approximately $198 million of the appropriation would finance purely discretionary, planned activities. The Senate places $868 million ($312 million for Interior, and $556 million for Agriculture) in two separate new accounts. Approximately $271 million of this amount would finance discretionary activities.

Although certain fire-related costs are unpredictable and unavoidable (emergency suppression and rehabilitation), many fire-related costs are planned and programmed in advance (fire management and pre-suppression). Planned fire-fighting costs are discretionary and are scored that way by OMB for the Bipartisan Budget Agreement.

The House proposal to fund fire-fighting activities of two separate agencies from a single account would be administratively burdensome. The Senate addresses this concern by recommending separate Interior and Agriculture fire-fighting accounts. The Administration prefers the Senate position.

The Administration also supports the Senate recommendations on appropriations for Department of the Interior fire-fighting. The Senate would provide $213 million, which may be adequate both to repay FY 1989 emergency costs and to pay FY 1990 costs on an up-front basis. The House bill would provide only $200 million for FY 1989 and FY 1990 Interior fire-fighting costs.

While the House's recommendation may be sufficient to ensure that Interior's non-fire programs are reimbursed for FY 1989 transfers related to emergency fire costs, it is far short of what would be necessary to pay projected FY 1990 Interior fire costs. This would perpetuate the current cumbersome and misleading system of financing fire-fighting after-the-fact.

The Administration supports funding for Federal land acquisition at the level requested by the President ($207 million). This level would protect the Nation's highest-priority natural and cultural resources. While the House bill is close to both these objectives, the Senate bill provides only $177 million for Federal land acquisition. The Administration urges the conferees to refrain from simply adding together separate House and Senate acquisition lists to arrive at an overall appropriation well above the request.

The Administration objects to Interior Department construction funding that, in the House bill, is $181 million (115 percent) above the President's request and, in the Senate bill, is $162 million (103 percent) above the President's request. Much of the additional funding is unnecesary and directed at low-priority projects not in the Department's backlog of needed health and safety projects. The additional construction

projects are generally discretionary or noncritical, and can be foregone or postponed. New construction is a lower-priority than providing quality operations, maintenance, and rehabilitation at existing facilities.

The Administration opposes increases above the request in both the House bill (+$90 million) and the Senate bill (+$100 million) for various lower-priority grants to States and non-Federal research institutes. Conferenceable items include Historic Preservation Fund grants, grants to mineral institutes, and Endangered Species Act grants. Although many purposes of these grants are admirable, such purposes already are funded adequately by the request or are the responsibility of State and local governments and the private sector.

The Administration objects to proposed increases over the request to fund lower-priority or special interest projects in various Interior operating and research accounts. In total and net of fire-fighting costs, these accounts would increase by $283 million (8 percent) in the House bill and by $204 million (6 percent) in the Senate bill over the request. The need for fiscal restraint dictates that all Federal spending be limited to the minimum necessary to address pressing, high-priority Federal responsibilities.

The House bill also increases by $148 million (16 percent), and the Senate bill by $48 million (5 percent), numerous Indian programs for education, social services, natural resource development, and trust responsibilities. Included in the House bill's $148 million is a $77 million BA adjustment (with no outlay impact) for conversion of certain Interior contracts with Indian tribes from a fiscal year to a calendar year basis as required by law. There is no objection to the BA proposed by the House for the one-time conversion.

Department of Agriculture

The Administration objects to the amendment passed by the Senate to decrease Forest Service road construction funds in order to finance a $40 million increase to various Interior Department and Forest Service accounts. The Administration's request represents the funding necessary to maintain a level of timber harvest commensurate with anticipated demand. The proposed reduction would reduce timber offered in FY 1990 by 2.4 billion board feet, resulting in a potential out-year loss in revenue exceeding $280 million. Furthermore, the proposed earmarking of $40 million from the construction account will fund either existing programs at levels higher than necessary or new proposals not requested by the Administration.

The Administration objects to significant increases in funding for Forest Service, State and Private Forestry. The House bill adds $41 million to the request, while the Senate bill adds $63 million, more than doubling the President's request of $49 million. The Senate increase includes a $6 million grant to the National Arbor Day Foundation for construction of a National Arbor Day Center in Nebraska City, Nebraska. The Administration urges the removal of funds designated for specific projects and for activities more appropriately funded by State, local, or private interests.

Department of Energy

The Administration urges the conferees to provide the full $710 million included in the President's budget for the Clean Coal Technology programs, instead of the $635 million recommended by the House or the $460 million recommended by the Senate.

The Administration urges the conferees to reduce funding for many projects earmarked to special interests and other low-priority research and development activities in the fossil energy and energy conservation accounts. The Administration opposes the significant increases over the request proposed by both the House (+$259 million or 158 percent) and the Senate (+$243 million or 149 percent) for fossil energy research and development. The Administration also opposes increases for energy conservation research and development (+$107 million in the House bill, and +$109 million in the Senate bill).

Department of Health and Human Services

The Administration objects to increases over the President's request of $181 million in the House bill and $142 million in the Senate bill for the Indian Health Service. The House and Senate increase funding over FY 1989 by 17 percent and 13 percent respectively, well above the estimated medical cost inflation rate of 6 percent. Included in these increases are funds for several earmarked, low-priority, special-interest projects.

National Foundation on the Arts and Humanities

The Administration prefers the Senate's recommended funding levels for the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services. The Senate's funding levels are closer to the President's request, which is sufficient to meet known needs. There is no programmatic justification for any increases.

Commission of Fine Arts

The Administration objects to the Senate recommendation of $5.5 million and the House recommendation of $5 million for National Capital Arts and Cultural Affairs. The funds would be used for general operating support on a non-competitive grant basis to Washington, D.C., arts and cultural organizations. This is unnecessary as it is a duplication of existing Federal nationwide competitive grants, providing a special status to already well endowed organizations.

B. Language Provisions

Tribal Contractors' Liability Insurance.—The Senate bill would extend coverage of the Federal Tort Claims Act to tribal contractors or their employees. The precedent of deeming contractors or their employees to be employees of the Federal Government is adverse. Given the wide range of contractual activities of Government agencies, the selection of favored groups of contractors for special treatment is unsound. The Federal Government should not accept direct fiscal responsibility for professional negligence in the absence of an adequate opportunity to control and supervise professional conduct. The Department of Justice advises that if the Senate provision is retained in the final Interior appropriations bill, the Attorney General will recommend a veto of the bill to the President.

The Administration also opposes the rejection of language included in the FY 1990 Budget to postpone until at least FY 1991 implementation of the requirement from a 1988 law that the Departments of the Interior and Health and Human Services (HHS) purchase liability insurance for tribal contractors. Under the Administration's proposal, tribal contractors would continue to be responsible for obtaining their own general liability insurance, as they are now under current regulations.

In addition, despite its rejection of the Administration's proposed language, the House bill would not provide funding to cover the cost of purchasing liability insurance, which primarily affects Interior's Bureau of Indian Affairs and HHS's Indian Health Service. Preliminary estimates are $15 million to $50 million annually in additional Federal costs to cover such insurance. Even with additional funding, it is unlikely that Interior and HHS, with assistance from the Department of Justice, can administratively implement the liability insurance provision in a fair and cost-effective manner by FY 1990.

Outer Continental Shelf (OCS) Oil and Gas Pre-Leasing Moratoria.—The Administration objects to House language that expands a number of existing and new moratoria on leasing. The Senate is commended for deleting most such pre-leasing moratoria.

Buy America.—The Administration supports the Senate's deletion of language that would require structures on the Outer Continental Shelf (OCS) to contain at least 50 percent U.S. labor and materials. The House language requiring primarily American-made structures would seriously delay and increase the cost of oil production from the OCS; conflict with the Administration objective of encouraging reliance on indigenous energy sources; run contrary to U.S. obligations under the General Agreement on Tariffs and Trade—inviting retaliation from countries such as the United Kingdom, Norway, the Netherlands, and Denmark; and create a new trade barrier at a time when there is widespread concern about creeping protectionism.

National Forests Meeting Annual Average Allowable Sale Quantity (ASQ).—The Administration objects to Senate language that would increase FY 1991 funding by 10 percent for specified Forest Service resource programs on any individual National Forest if that forest has prepared for sale a volume of timber equal to the annual average ASQ. Also objectionable is language establishing a permanent, indefinite appropriation, available on request, to fund necessary activities to ensure that an annual target of 125 percent of the average annual ASQ is fully prepared for sale by the beginning of each fiscal year.

In both cases, funds would be derived from Federal timber receipts. The Administration opposes this earmarking of Federal timber receipts and the use of inappropriate incentives that distort agency priorities. This provision limits the Secretary of Agriculture's ability to allocate funds and effectively manage National Forest resources.

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BRIDGE TABLE: CBO ESTIMATES TO OMB ESTIMATES INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL, 1990

[In millions of dollars]

	1990 President's request		House floor action		Senate floor action	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
CBO estimate, domestic, discretionary spending [1]	9,062	9,396	10,898	10,349	10,471	10,259
Plus scorekeeping adjustments:						
National forest system			35	28	60	48
Oregon and California grant lands			12	9	12	9
The House and Senate direct that "excess" Federal timber receipts in the Forest Service (FS) and Bureau of Land Management be made available for the bureaus' use. The House caps the FS receipts made available at $35 million. This earmarking of receipts that would otherwise be turned over to the General Fund of the Treasury will increase the deficit by $37 million–$57 million.						
SPR Petroleum			120	120	120	120
Bill language directs that receipts from the sale of oil and gas from the Naval Petroleum Reserves in excess of the budget estimate be available to buy SPR oil in fiscal year 1990. This will increase domestic discretionary spending by $120 million.						
SPR Petroleum	387	213				
Congress does not recognize budget amendments not yet transmitted. This is a budget amendment that was not transmitted at the time CBO prepared its data.						
Energy conservation PODRA receipts	43	43				
The President's budget assumed that receipts would not be realized in fiscal year 1990. CBO includes an offset for receipts in its scoring of the request.						
Fire fighting	269	189	198	139	271	190
The House and Senate score nearly all fire fighting appropriations as mandatory. OMB scores only reimbursements of prior year transfers and unplanned emergency fire fighting and rehabilitation as mandatory.						
Land and Water Conservation Fund Rescission	−30					
OMB scores the legislative proposal to rescind unused contract authority as discretionary. Both OMB and CBO score the House's and Senate's proposed rescission in the bill.						
OCS Moratoria			8	8	8	8
The House and Senate propose one-year moratoria on pre-leasing and lease sales in several areas, as well as bans on exploration for existing leases in two areas. CBO estimates that this would increase the deficit by $2 million in fiscal year 1990. OMB estimates that it would increase the deficit by $10 million in fiscal year 1990. Increases would be substantially greater in future years.						
Compact of Free Association	−6	−6	−6	−6	−6	−6
CBO scores as discretionary funding for Palau for which authorizing legislation is required. These funds should be excluded from the discretionary total since they cannot be made available in the absence of legislation implementing the Compact.						
Franklin Delano Roosevelt Memorial Commission	19	1				
OMB scores the legislative proposal to begin construction on the memorial to the Appropriations Committee. The House bill recommends funding the memorial under the National Park Service.						
Outlay spendout rate differences		139		144		153
Other scorekeeping differences	3	2	−[2]	−[2]	2	1
Total scorekeeping adjustments	686	581	368	442	468	524
OMB estimate, domestic discretionary spending	9,747	9,977	11,265	10,791	10,939	10,782
House and Senate 302(b) allocations			10,900	10,350	10,520	10,270
Difference between OMB estimate and 302(b) allocations			365	441	419	512

[1] CBO's estimate of the President's request and Senate actions based on CBO computer report dated Aug. 2, 1989. House action based on CBO computer report dated July 13, 1989.
[2] Less than $500 thousand.

Note: Detail may not add to totals due to rounding.

MAJOR CONFERENCEABLE ITEMS, INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1990

[In millions of dollars]

Major conferenceable items	1990 President's request		House floor action		Senate floor action		Senate difference from House	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
DISCRETIONARY SPENDING								
Department of the Interior:								
Bureau of Land Management: Fire-fighting account [1]	98	69	193	139	98	69	−100	−70
Minerals Management Service: Payments to states from receipts under Mineral Leasing Act	1	1	−55	−55	—	—	55	55
Geological Survey: Surveys, investigations and research	452	453	487	485	477	476	−10	−10
Bureau of Mines: Mines and Minerals	141	147	162	160	175	168	13	8
Fish and Wildlife Service:								
Resource management	340	345	375	372	399	392	24	19
Land Acquisition	51	62	66	68	53	62	−13	−6
Construction	10	34	30	38	54	42	23	5
National Park Service: Construction	44	103	174	123	141	118	−33	−5
Bureau of Indian Affairs:								
Operation of Indian Programs	917	925	1,066	986	965	966	−100	−20
Construction	101	102	134	109	120	106	−15	−3
Related Agencies:								
Agriculture—Forest Service:								
National forest system	1,007	1,040	1,158	1,135	1,167	1,142	9	8
Construction	221	220	222	223	180	206	−42	−17
Land acquisition	65	72	62	71	45	64	−17	−7
State and private forestry	49	54	90	70	111	79	21	9
Fire-fighting account [1]	173	121	—	—	173	121	173	121
Energy:								
Clean coal technology	710	120	635	117	460	111	−175	−6
Strategic petroleum reserve/SPR petroleum	709	697	726	809	634	745	−92	−65
Fossil energy research and development	164	288	423	392	407	386	−16	−6
HHS—Indian Health	1,083	1,194	1,265	1,298	1,226	1,272	−39	−26
All other	3,410	3,932	4,047	4,251	4,054	4,257	8	6
Total, discretionary spending	9,747	9,977	11,265	10,791	10,939	10,782	−326	−10
Mandatory spending:								
Fire-fighting (Interior) [1]	122	37	543	236	214	186	−329	−50
Fire-fighting (Agriculture) [1]	48	56	—	25	383	113	383	88
Administration of territories	35	35	35	35	35	35	—	—
Compact of free association	19	19	19	19	19	19	—	—
All other mandatory	9	9	9	9	9	9	—	—
Total, mandatory spending	233	156	605	324	659	362	54	38
Total, Interior	9,980	10,133	11,870	11,116	11,598	11,144	−272	28

[1] House fire-fighting account includes both Interior and Forest Service fire-fighting in the Interior Department. President's request includes proposed Federal wildland fire-fighting accounts and proposed offsets.

Note.—Detail may not add to totals due to rounding.

□ 1400

Mr. YATES. Madam Speaker, I yield myself 1 minute.

Madam Speaker, I have been remiss in not having added to those who contributed mightily to the work on this conference report and to the bill the name of my own good assistant, Mrs. Mary Bain, who has assisted me for 40 years. I think her name should join the names on that honor roll.

Madam Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Madam Speaker, I rise to support the conference report's provisions concerning the old growth forests of the Pacific Northwest. My district has more at stake in this agreement than any other congressional district in the country.

For that reason I've worked for the last 6 months with the other members of the Northwest delegation to arrive at temporary guidelines for our forests while the courts and the Federal land and wildlife agencies grapple with complicated legal and biological issues.

Many Members here signed a letter criticizing the terms of such guidelines as first written by the other body. Those of us involved in the issue on this side asked that final judgment be suspended until the conference committee completed work on final terms.

That work is now done. This agreement is the first statutory protection for old growth forests. It provides enhanced protection for the spotted owl. It preserves the right of citizens to challenge the actions of Federal agencies through administrative appeals and the courts. It lifts for 1 year a shadow from the timber dependent communities of Oregon and Washington which look to the forests for their jobs and their futures. Most importantly, it is a truce to allow Congress, Federal agencies, environmental groups and timber interests time to work on a long-term settlement.

Our delegations take stewardship of the Federal forests seriously. We are committed to protecting the old growth forests of the Pacific Northwest and preserving a sustainable, stable timber and wood products economy for our future generations. This agreement gives us the opportunity to accomplish both goals.

I also want to express my appreciation for the interest and attention of the chairman of the subcommittee and the other members who were involved. It is a fair agreement and I urge my colleagues to support it.

Mr. REGULA. Madam Speaker, I yield 3 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Madam Speaker, it is with enthusiasm that I rise in support of the pending conference report to accompany H.R. 2788. This Member wishes to compliment the distinguished members of the committee for completing their work on this measure, and I hope we will be able to send it to the President for signature very soon.

In particular, I wish to offer a special note of appreciation to the distinguished chairman of the subcommittee, Mr. YATES, and the ranking minority member, Mr. REGULA, who have been particularly attentive to the requests of this gentleman, and a thank you for the special assistance of their staff. Thanks to the willingness of the distinguished chairman and ranking member, together with their colleagues on the subcommittee, Nebraskans will gain in at least two significant ways from passage of this bill.

First, I applaud the appropriation of $6 million for the establishment of a National Arbor Day Center in Nebraska City, NE. The proposed center will be located in Nebraska City, a community in southeast Nebraska which has long been recognized nationally and throughout the world for promoting tree planting and conservation. Nebraska City is the home of Jay Sterling Morton, the founder of Arbor Day. It is indeed appropriate that Congress lend its support to the construction of a center that will become a forum for national and global environmental issues.

Second, I enthusiastically applaud and am grateful for the decision by the conferees to include $300,000 for construction planning for the Lewis and Clark National Historic Trail Interpretation Center in Nebraska. This Member is responsible for adding the authorization language to the National Trails System Act (Public Law 98-11) during my service on the House Interior and Insular Affairs Committee. Our proposal has been prepared consistent with the direction in the National Trails System Act that the Secretary, if possible, enter into an agreement with a State agency to operate the center on a contract basis.

This appropriation will be the second contribution Congress provides toward the establishment of a center to mark and interpret the Lewis and Clark Trail as it passed through Nebraska. In the fiscal year 1988 Interior appropriations bill, Congress appropriated a total of $55,000 for implementing a system of historical markers at Lewis and Clark campsites in Nebraska and to begin initial planning for the center. This small appropriation was spent well by the National Park Service. Historical interpretation signs at key points along the trail should be in place very soon. Initial planning for the center has also occurred.

Thanks to the work of this committee, we are ready to take the next step. The conference committee is recommending a total of $300,000 for construction planning of the Lewis and Clark Interpretation Center in Nebraska. Consistent with our request, it is our hope that the $300,000 in funds appropriated are to be used for site acquisition of the center, and to plan and develop four open-air, sheltered interpretation points on existing publically owned sites along the Nebraska portion of the Lewis and Clark Trail. Remaining funds would be allocated for initial expenditure toward site planning and final, detailed architectural and construction plans for the interpretation center. With those details in mind, I would like to engage in a brief colloquy with the distinguished chairman and ranking member.

Because of a concern on the part of this Member that any NPS recommended site for the center in Nebraska could be lost to other development activities, it is especially important that we are able to move quickly to acquire land for the proposed center.

Is it the understanding of the chairman and the ranking minority member that a portion of the $300,000 can be used for land acquisition for the Lewis and Clark Trail Interpretation Center in Nebraska?

Mr. YATES. Madam Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the chairman of the subcommittee.

Mr. YATES. Madam Speaker, the gentleman is correct. It may be used for that purpose.

Mr. BEREUTER. Madam Speaker, I thank the subcommittee chairman for his response, and I yield to the distinguished gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Madam Speaker, the answer is yes, and I echo the assurance of the subcommittee chairman. There is precedence for this. We know that this has been done in the past, and certainly we will support that action of the appropriate agency.

Mr. BEREUTER. Madam Speaker, I thank both gentlemen for their reassurance, and I urge my colleagues to support this conference report.

Mr. YATES. Madam Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Madam Speaker, I rise in support of the conference agreement, with particular reference to the provisions related to offshore oil and gas drilling.

I, too, want to commend the chairman of the subcommittee, the gentleman from Illinois [Mr. YATES], for basically forging this compromise on what is a very delicate issue. The New Jersey delegation on a bipartisan basis unanimously supported a moratorium on offshore oil and gas leases off the coast of New Jersey, which is part of the mid-Atlantic lease sale that was proposed by the Interior Department to take place in this upcoming fiscal year.

As a result of the conference agreement, we now have a situation where

the Interior Department will not actually make those sales in the mid-Atlantic region, particularly off the coast of New Jersey, until 1991, and the conference agreement provides us a moratorium for the area out to 50 miles, basically the near-shore area off the coast of New Jersey in the mid-Atlantic States.

□ 1410

Madam Speaker, it also for the first time establishes that the area out to 50 miles in the mid-Atlantic region is somewhat of an environmentally sensitive area because it requires that when the environmental impact statement is made that there be a separate deferral option for that near-shore area, and what we are hoping is that in effect will put pressure on the Interior Department so that that near-shore area is considered an environmentally sensitive area and ultimately will be taken out of the lease sale.

Madam Speaker, this is very important to the State of New Jersey and to all of the mid-Atlantic States because of the problems we have had with our environment, with our near-shore area. As my colleagues know, over the past few summers we have had major problems with beach closings related to medical waste and other ocean dumping problems, and we really feel very strongly that the possible sale of offshore oil and gas leases will only contribute in the long run to further degradation of our environment.

I should also point out, Madam Speaker, that the amount of oil and gas that is potentially out there is very minimal, that the amount of money that the Federal Government will receive as a result of those sales is extremely minimal, and for that reason I support the conference report.

Mr. REGULA. Madam Speaker, I yield 5 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Madam Speaker, in this discussion, or in the discussions surrounding the issue of funding for the National Endowment for the Arts, this body participated in a major debate as to whether standards should be set on the National Endowment, for the National Endowment for the Arts, to control and to give them guidelines as to where money should be placed in terms of obscene and indecent art. It has been this Congressman's position all along that money spent for the arts should be left in the pockets of the taxpayers themselves so they can decide for themselves what they should or should not support in terms of the arts. However, if that money is taxed from them, then at the very least standards should be set to protect them from being exploited, so that their money is not being used for things that denigrate their religion, or for things that they consider to be obscene and indecent, and for this purpose I proposed an amendment, as was suggested by Senator HELMS in the Senate, that would establish reasonable standards that no subsidy to the NEA would go to obscene and indecent art, that no subsidy would go to art that denigrates religion, and no subsidy for art would go for art that denigrates one's race, sex, or handicap.

Madam Speaker, I thought these were common sensical standards. My proposal to instruct the conferees with these standards were not permitted to come to a vote, suggesting that those blocking this drug vote fully understood that they were opposing standards which were contrary to the values and desires of their own constituents. And there has been a charge, which I totally resent, that I and others who proposed these standards in some way were misrepresenting this issue to the people, and I would suggest that the only misrepresentation of this issue was the fact that there was not an up or down vote on the specific issue, on the specific standards that I proposed. Thus, the people were able to vote down the standards without having to acually vote on the specific standards.

Madam Speaker, the hard-working people of my district, and I am certain of other districts around America, do not want their hard-earned money taxed away to sponsor obsence art or the denigration of religion. The NEA and institutions it supports should have higher standards than a local porno store, and this is not censorship, another charge that was made during the debate, but an idea of standards of sponsorship. Artists can still do, even if what I propose would have been accepted, whatever they would like to do as long as it was on their own time with their own time. It is only censorship if one is analyzing the world from a totally socialist perspective in that we would have a ministry of culture that would be defining and deciding all art and thus have the means to determine each and every piece of art in the country that is being subsidized by the Government, being no other method of financing that art.

Madam Speaker, freedom of the arts sometimes means freedom from the Government, and freedom from Government control, but once the Government is involved, certain standards necessarily apply.

Later on I will be seeking to join in a colloquy with my distinguished chairman, the gentleman from Illinois [Mr. YATES], on Senate amendment 153, and I will ask for certain clarifications on the conference report which will come later on in this debate.

Madam Speaker, I thank the gentleman from Ohio [Mr. REGULA] for this time, and I yield back the balance of my time.

Mr. YATES. Madam Speaker, I yield 3½ minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Madam Speaker, it is with no great sense of victory that I stand as a Member of the Pacific Northwest delegation today on the issue of the spotted owl timber compromise that is in this appropriation. Rather it is with a sense of relief that I recommend the passage of this appropriation and the compromise to my colleagues.

My relief comes in the form of an amendment in this appropriation which calls for a cease-fire in the war over the public forests of the Pacific Northwest.

Madam Speaker, the amendment provides a 1-year breathing space for the lumber and plywood mills of Oregon and Washington which depend on national forests and BLM lands for their raw materials; it provides a 1-year reprieve for the towns and communities across Oregon and Washington whose existence depends on those mills. The compromise amendment embodied in this appropriation rescues 11,000 jobs in Oregon and Washington, 11,000 jobs that would be lost were it not for this compromise.

Madam Speaker, the amendment also provides a 1-year framework for the conservation of old-growth resources. This framework enhances interim protection for the spotted owl and puts the Forest Service on notice that it must take steps wherever possible to minimize fragmentation on ecologically significant old-growth forests.

Finally, the amendment gives the Forest Service a 1-year breather to straighten out its own land management policies—which deserve some straightening out—and puts into place environmentally and economically sound forest plans for Oregon and for Washington.

I want to put the Forest Service on notice right now, Madam Speaker, that we expect the Forest Service to complete, to adopt, and to implement new forest plans in the coming year. Thirteen years have passed since the enactment of the National Forest Management Act; 4 years have passed since the deadline for completion of initial forest plans. We sould not have to be here on the floor today to cover this agency's mistakes, but yet we are here.

Madam Speaker, we are here because nothing less than the Northwest economy and the Pacific Northwest environment are at stake. The compromise in this appropriation addresses that mistake, that colossal policy breakdown, that has left us in this dispute between those advocates of the spotted owl and those who are trying to protect the industry, and I include myself in the ranks of both—which is

more than I can say for some who I have negotiated this agreement with.

Now, the chairman of my subcommittee has said that I have been "stubborn" in fighting for protecting the timber-based economy of my region. You bet I'm stubborn in protecting those 11,000 jobs, and I am not ashamed of it.

Madam Speaker, I think it is possible to have a timber sales program that can be operated by going forward within an environmentally sound framework. This is not a perfect compromise. There are aspects of it which I resisted but which I accepted because, considered in the whole it strikes the balance that meets the test of reasonableness. Most industry and environmental leaders agree.

Madam Speaker, I am stubborn in pursuit of the well-being of my region, proud to say so, and I take a back seat to no one in saying so, and I urge my colleagues to adopt this conference report.

□ 1420

Mr. REGULA. Madam Speaker, I yield 5 minutes to the gentleman from Oregon [Mr. ROBERT F. (BOB) SMITH].

Mr. ROBERT F. (BOB) SMITH. Madam Speaker, I thank the gentleman from Ohio for yielding me this time.

Never in my wildest dreams would I have suspected that I would take the floor in the well today in the House of Representatives to beg for the economic life of my State of Oregon, but here I am. In 29 years of continuous service in elective office in Oregon, the spotted owl looms as the most traumatic issue facing our State. Timber and timber resources is Oregon's No. 1 industry, providing more jobs and a greater contribution to Oregon's economy than any other.

I represent 10 of the 19 forests in region 6, that is Oregon and Washington. Yes; I do have an interest in this issue.

In Oregon alone there are 70 local communities with one or two mills in them totally dependent upon the timber industry. Not only do we survive because of the timber industry, but in Oregon we fund schools and roads and infrastructure to county government that is essential to our State, as well as to yours.

This conference report by arbitrary judgment, and if this Congress concurs, will reduce the harvest level in Oregon and Washington by 15 percent. That means a reduction of employment by 15 percent.

I ask you, what business could survive if you take off 15 percent of its program? Very, very few.

So we are down sizing the timber industry in Washington and Oregon—for what reason? Because a few radical preservationists groups in America say so, that is why. The surrogate spotted owl is not listed as an endangered species, yet by accepting the conference report we are treating the owl as if it were listed as threatened and endangered.

The facts are that the U.S. Forest Service has testified before our committee that it would take 5 years to determine the biology of the question of whether or not the owl should be listed as endangered, and in the meantime this Congress will put thousands of people out of work, ruin Oregon's economy—and based upon what? A notion, not fact, not science, not biology. I say, what a waste.

If you are saving 11,000 jobs, how many are you costing Oregon by the adoption of the timber industry? Thousands of jobs.

Remember this. We in region 6 are operating on only 47 percent of the forests. That means 53 percent of the forests are already set aside, can never be harvested, can never be touched; so we are operating on less than half trying to make a living in the Pacific Northwest.

Is there any old growth left? Of course.

Is there any owl habitat left? Of course.

So there are three issues on which I disagree. One is the question of the harvest level. We have arbitrarily reduced it because of the action of the Congress, not because of the science of the silvaculturalists in the Forest Service and the Bureau of Land Management.

Second, we have eliminated what we have called judicial installation. We have allowed lawsuits to go forward on every sale, on every one, and only the ONRC, the Oregon Natural Resources Council, in 1987 appealed 144 sales with a 25-cent stamp and a mimeograph machine.

Third, we have determined that the spotted owl is endangered by congressional fiat, not by science and not by fact.

Madam Speaker, this will injure my State and my economy, and I must speak out against it. Later on in this debate I want to discuss the question of 167, which will come forward as a possible unanimous-consent amendment, and I want to debate that further.

Mr. DICKS. Madam Speaker, will the gentleman yield?

Mr. ROBERT F. (BOB) SMITH. I am happy to yield to the gentleman from Washington.

Mr. DICKS. Madam Speaker, I want to correct one point. I am sure the gentleman for purposes of the RECORD would want to correct this. There is nothing in this bill that says that the owl is either threatened or endangered. It says that the process will go forward, and there is no prejudice to that process, but the Congress today in enacting this amendment is not making a decision on that. It is the Fish and Wildlife Service after they collect all the scientific information that will make that decision under the Endangered Species Act.

Mr. ROBERT F. (BOB) SMITH. The gentleman understands there is nothing in this bill that provides that the spotted owl is endangered.

Mr. DICKS. The gentleman would not want to confuse the agency here.

Mr. ROBERT F. (BOB) SMITH. Madam Speaker, I reclaim my time, to answer the gentleman's question.

The gentleman knows very well, and I know, that there is nothing in this bill that provides that the spotted owl is endangered, but the action in this bill reflects exactly that the spotted owl is endangered, and every plan coming from the Forest Service and the BLM has the adoption of spotted owl habitat. The spotted owl is declared endangered.

Mr. YATES. Madam Speaker, I yield 4½ minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Madam Speaker, I rise today in support of the House consideration of the conference report to H.R. 2788, the fiscal year 1990 appropriations measure for the Department of Interior and related agencies.

Yes, Madam Speaker, I may be stubborn, like my friend, the gentleman from Oregon, but I think we were stubborn in a cause that produced a very favorable compromise and a very favorable result for the country.

I want to commend the chairman and his staff for the cooperation we received on that and on a whole host of items, including the Puyallup Indian land claims settlement.

I want to thank the gentleman from Ohio [Mr. REGULA] for his as usual highly professional and constructive approach and for the cooperation we received from him.

I would also like to thank the gentleman from Massachusetts [Mr. ATKINS], the gentleman from Indiana [Mr. JONTZ], and the gentleman from Minnesota [Mr. VENTO] for helping us to reach a compromise on a very difficult issue.

My old mentor, Senator Magnuson, used to say that when everybody is a little bit upset with the results, you probably are on the right position on a piece of legislation.

Well, I can guarantee you this compromise is not pleasing everybody, but under the circumstances I think we did the best job that we could.

I want to make it very clear on the record here today that there was no decision in this bill regarding the listing of this spotted owl as either threatened or endangered. I do not want the Fish and Wildlife Service to be misled by the unfortunate remarks of my good friend, the gentleman from Oregon, on this subject.

I think this is something we want to make crystal clear. What we said was that the endangered species process would go forward under the law.

Mr. AUCOIN. Madam Speaker, will the gentleman yield?

Mr. DICKS. I yield to my friend, the gentleman from Oregon.

Mr. AUCOIN. Madam Speaker, I appreciate the gentleman yielding to me.

The gentleman is making an extremely important point. If the remarks of the gentleman from Oregon [Mr. ROBERT F. (BOB) SMITH] are in any way looked at by the agency in its decisions on whether or not to list the spotted owl, I worry that the gentleman's remarks might lead to the listing of the spotted owl.

The special management habitat areas for the spotted owl are driven by the National Forest Management Act, not by the Endangered Species Act, so in this compromise as we have increased those management areas to protect the spotted owl, we are in no way touching the Endangered Species Act process that will determine whether or not the spotted owl is threatened or endangered.

Mr. DICKS. I think what we did in this compromise is also very important. the gentleman is worried about the overall harvest levels. Under the Hatfield-Adams amendment, adopted in the other body, they talked about a harvest level of 8 billion board feet for the Forest Service, and 2 billion board feet for BLM.

Under this compromise, we went down to 7.7 and 1.9, or a total of 9.6, which is significant, and I understand that; but under the circumstances, I think it was the best that we could possibly do. I understand the impact on the gentleman's district. We have areas up in our State where the harvest level on the Olympic Forests, the Mt. Baker-Snoqualmie are reduced by over 50 percent, and thousands of our workers have been thrown out of work; but when you are in the political process here, you have to deal with the art of what is possible and practicable.

The Hatfield-Adams amendment simply would not stand up in this Congress, in my judgment, in the House, and that is why we had to go forward with this compromise, and I think we did the best job that we could.

Mr. VENTO. Madam Speaker, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Minnesota.

Mr. VENTO. Madam Speaker, I want to commend the gentleman from Washington [Mr. DICKS], the gentleman from Oregon [Mr. AUCOIN], the gentleman from Massachusetts [Mr. ATKINS], the gentleman from Illinois [Mr. YATES], and others, for their work on this particular issue.

The fact is if you reach back into fiscal year 1989 to provide and free up a good amount of timber, it is literally billions of board feet that had been in stalemate, that had been in court, that had been under injunction, so I think that is the important point that is missing here.

□ 1430

Madam Speaker, I would also point out one thing we did do on this legislation that I think is important is preserve the right of judicial review so that people can have a chance to challenge an individual sale if the Forest Service or the BLM has made a mistake in law in terms of preparing that sale. I think preserving that individual right is very, very important, and I am glad that we could make that improvement in this particular legislation.

I say to my friend, the gentleman from Oregon, that I understand his sentiments and concerns, but, please, let us support this compromise and work on a long-term solution.

Mr. YATES. Madam Chairman, I yield 1 minute to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Madam Speaker, I rise to commend the chairman and the ranking member for two reasons, No. 1, the bill that is presented to us in the conference report is below the target contained in the budget resolution, and I commend them for that and recommend its passage to the Members. The second area that I commend them for is the compromise that they arrived at with regard to the offshore-drilling issue.

All of us know that this is a continuing and contentious issue. What they have done here is provide an opportunity for the President's task force, particularly off of California, to be able to present a recommendation on this issue.

There is no question that this Nation needs energy, but it also needs protection from the oil spills that could contaminate our most sensitive coastlines, and it also demands protection for coastal economies and communities.

The heart of this issue is good stewardship of our natural resources, and I think that when all of the parties can commit themselves to that goal, a solution is not far off.

I think that the conference has taken a step in that direction, and for that reason I commend them.

Mr. Speaker, I rise in support of the conference report to accompany H.R. 2788, the appropriations bill for the Department of the Interior and related agencies for fiscal year 1990.

I also wish to extend my deepest thanks to Chairman YATES, BILL LOWERY, and other members of the House and Senate committees who worked on this measure.

The conference report provides for a 5-month delay, after the release of the report of the President's OCS Task Force, in the publication of any draft EIS for the three pending California OCS lease sales, and ensures that no final EIS can be released for any of these sales during fiscal year 1990. The report thus is consistent with the President's own recognition that proposals for offshore-oil drilling in sensitive areas such as these raise significant issues which must be carefully addressed. The 5-month period between release of the task force report and publication of any DEIS ensures that there will be full public discussion and congressional review of the task force report and any recommendations which it may include, and makes it possible to reflect these considerations in any draft environmental impact statements released after the task force report is finished. This is critical in order to ensure that the task force's findings are given their due and that public confidence in the OCS Program is not further diminished. In addition, the prohibition on the issuance of any final EIS during fiscal year 1990 is critical for lease sale 91, for which the draft EIS has already been released; besides the issues being reviewed by the task force, serious questions have been raised about the adequacy of the DEIS for that sale, and the time provided in the conference report would make it possible to address both the problems in the DEIS and the findings of the President's task force in any final EIS for that sale.

This measure is also important to me and to many of my constituents because it provides protection for areas included in lease sale 119, which were not included in the task force review process, but which are just as sensitive as the areas within the boundaries of lease sales 91 and 95, which were included in that review. Lease sale 119, emcompassing areas between lease sales 91 and 95, includes three current or pending marine sanctuaries, sensitive marine mammal breeding areas and other areas which could be devastated by an oil spill and by other environmental impacts associated with offshore-oil drilling. The conference report helps to ensure that any further work on lease 119 will benefit from the work of the President's task force with respect to lease sale 91 and 95. This makes good sense, both in terms of the environment and in terms of the use of taxpayers' dollars and I commend the conferees for including lease sale 119 in the conference report.

I thank the conferees again for their hard work on this measure and I urge my colleagues to support the conferees report.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, October 3, 1989.

DEAR COLLEAGUE: Attached is a fact sheet on the conference report to accompany H.R. 2788, the Department of Interior and Related Agencies Appropriations bill for Fiscal Year 1990. This conference report can be considered on Tuesday, October 3rd or any day thereafter.

I hope this information will be helpful to you.

Sincerely,

LEON E. PANETTA,
Chairman.

Attachment.

[Fact Sheet]

CONFERENCE REPORT TO ACCOMPANY H.R. 2788, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL, FISCAL YEAR 1990 (H. REPT. 101-264)

The conference report to accompany H.R. 2788, the Department of Interior and Related Agencies Appropriations bill for fiscal year 1990 was filed on Monday, October 2, 1989. This conference report, by unanimous consent, could be considered on Tuesday, October 3 or any day thereafter.

COMPARISON TO THE 302(b) SUBDIVISION

The conference report provides $10,890 million of discretionary budget authority, $10 million less than the appropriations subdivision for this subcommittee. The Budget Act provides a point of order if the target for discretionary budget authority is breached. Since it is not, there is no such point of order against this conference report. The conference report is $2 million less than the subdivision for estimated discretionary outlays. A detailed comparison of the conference report to the spending and credit subdivisions follows:

COMPARISON TO SPENDING ALLOCATION

[In millions of dollars]

	Conference report interior and related agencies appropriations bill		Appropriations committee 302(b) subdivision		Bill over (+)/ under (−) committee 302(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	10,890	10,348	10,900	10,350	−10	−2
Mandatory	951	518	326	326	+625	+192
Total	11,841	10,866	11,226	10,676	+615	+190

BA—New budget authority; O—Estimated outlays.

The $625 million overage in mandatory budget authority is a result of a $300 million reclassification from discretionary to mandatory pursuant to the Bipartisan Agreement list and, for the remainder, a difference between the current estimate of mandatory firefighting costs and the estimate used in the Budget Resolution, which was based on the GRH baseline's mechanical projection of 1989 (pre-supplemental) costs using the GNP deflator.

The direct and guaranteed loan levels in the bill equal the discretionary subdivision for this subcommittee. A detailed comparison follows:

COMPARISON TO CREDIT ALLOCATION

[In millions of dollars]

	Conference report interior and related agencies appropriations bill		Appropriations committee 302(b) subdivision		Bill over (+)/ under (−) committee 302(b) subdivision	
	DL	LG	DL	LG	DL	LG
Discretionary	13	41	13	41		
Mandatory						
Total	13	41	13	41		

DL—New direct loan obligations; LG—New loan guarantee commitments.

Pursuant to Section 302(b) of the 1974 Budget Act as amended by P.L. 99-177 (Gramm-Rudman-Hollings), the Committees of the House are required to subdivide the spending authority and credit authority allocated to them in the Budget Resolution for Fiscal Year 1990 (shown in H. Rept. 101-50). The Appropriations Committee reported its 302(b) subdivisions on June 21, 1989 (H. Rept. 101-97). These subdivisions are the official scorekeeping targets for appropriations subcommittees.

PROGRAM HIGHLIGHTS

The following are the major program highlights for the conference report to accompany the Department of Interior and Related Agencies Appropriations Bill for FY 1990, as filed:

[In millions of dollars]

	Budget authority	New outlays
Department of the Interior:		
Bureau of Land Management	957	672
U.S. Fish and Wildlife Service	534	340
National Park Service	1,095	671
Geological Survey	485	460
Office of Surface Mining Reclamation	296	112
Minerals Management Service	179	116
Bureau of Mines	175	113
Bureau of Indian Affairs	1,921	1,411
(Operations)	(1,787)	(1,380)
(Construction)	(134)	(31)
Territorial and International Affairs	133	93
Related Agencies:		
Forest Service	2,255	1,623
Strategic Petroleum Reserve	423	277
Energy Conservation	370	60
Fossil Energy R&D	421	169
Naval Petroleum and Oil Shale Reserves	192	115
Indian Health Service	1,257	892
Indian Education	74	11
Smithsonian Institution	270	219
National Foundation on the Arts and the Humanities	330	129

Mr. YATES. Madam Speaker, I yield such time as she may consume to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Madam Speaker, I rise to support enthusiastically the conference committee report, and I rise in strong support of the Northwest timber compromise contained in the Interior appropriations conference report.

Efforts to achieve a compromise have been the subject of great controversy over the last few months, and I would like to commend the members of the conference committee for developing a compromise that is balanced and fair.

Our goal in hammering out a short-term solution to the Northwest timber supply problem is twofold: First, to prevent the immediate loss of key stands of old growth timber important to the viability of the northern spotted owl and other species, and second, to release for harvest sufficient Federal timber to prevent the economic ruin of communities that depend on this timber.

I believe the compromise achieves both of these objectives. But it is merely a stopgap measure.

This short-term compromise gives us approximately 1 year to address the long-term trends and problems which are responsible for the shortage of timber for mills in the Pacific Northwest, and which are affecting the price of lumber, paper, and housing throughout the Nation.

Mr. Speaker, enactment of this short-term solution is vital to the Northwest, but the hardest work lies ahead.

To resolve the long-term timber supply problem in the Northwest, Congress will have to grapple with some very difficult issues. Our task should not be to choose between jobs or the environment, but to allocate our timber resources more wisely.

Toward this end, Congress will have to come to grips with the export of raw logs to countries which discriminate against our finished wood products. In essence, the Northwest has been relegated to the status of a colony—exporting low-value raw materials and importing manufactured products—despite the fact that we have the most efficient mills and best timber in the world. If Washington were a separate nation, it would be the world's second leading exporter of raw logs, just behind Malaysia.

It is time for us to get tougher and smarter in our resource policies and to insist on fair and free trade in wood products.

We can also make better use of our national forests by developing new forestry techniques, championed by Dr. Jerry Franklin, which could provide both a stable flow of harvestable timber and habitat for a broad range of species.

Mr. Speaker, Congress must assign a high priority to these long-term issues if we are to avoid a repeat of the crisis we have experienced over the last year. I am grateful for the determination and cooperation that resulted in the compromise before us today and hope that it will provide a foundation for the tough work ahead.

Mr. YATES. Madam Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Madam Speaker, I rise in support of the legislation. It is an important bill. There are many things that touch on the authorizing work that we in the authorizing committees do with respect to funding, and it is encouraging to note the funds for American Samoa and a host of other programs that have been enacted into law in recent years.

I especially want to commend the chairman, Mr. YATES, the gentleman from Massachusetts [Mr. ATKINS], and others, especially the gentleman from Washington [Mr. DICKS], the gentleman from Oregon [Mr. AUCOIN], the gentleman from Oregon [Mr. WYDEN], the gentleman from California [Mr. FAZIO], and the gentlewoman from Washington [Mrs. UNSOELD], for their work on the Northwest forest policy question and problem.

The fact is the existing laws do not work. We have ended up in a quagmire of court cases and a stalemate that had resulted in severe economic and environmental problems in the Pacific Northwest.

This measure is a reasoned and balanced approach that moves forward to free up and provide some relief in terms of the economy plus a policy path that will be workable for the near future. It is important that the authorizing committee look at this and try, before the expiration of this appropriation bill, to resolve some of these policy questions if we can. We will try and with the good faith and effort and continued help from the various interest we can solve these questions and provide predictability

and certainty for the economy and preservation of this important ecosystems.

Madam Speaker, this compromise on old growth is necessary today so that the stalemate in the Pacific Northwest is placed on the path of solution. There is certainly a lot of hard work ahead for all involved. The existing laws, all well intended have resulted in gridlock. We as a Congress must attempt to craft modifications that will prevent this in the future. The Interior appropriations effort is a start—a good outcome under tough circumstances.

Madam Speaker, I voiced my support for the overall Interior appropriation measure that is presented to the House today. It seems that the Congress and the budget limits have constantly been at odds concerning our land management agencies. The decade of the 1980's has witnessed only grudging support for the management of our public land and parks. The Reagan administration in fact was openly hostile and while the new Bush administration claims an environmental mantle it has not begun to offer support or request funding for a myriad of conservation and environmental programs or policy implementation. Thankfully the House appropriation and authorizing committee with the concurrence of our Senate counterparts have met the challenge effectively.

Madam Speaker, when I wrote the Interior and Insular Affairs Committee recommendations for the park and public lands request to the budget and presented it to the Interior Appropriations Subcommittee I focused on a number of key issues. I'm pleased to note that they were addressed in the House-passed measure and have emerged in this final conference committee product. I share with the members and conferees an understanding and common purpose with regards to these issues and hope that we can continue to build upon this record of the past few years for the future. Congress continues in a defensive mode. Surely we long for real administration support for a conservation agenda with funding.

Mr. REGULA. Madam Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Madam Speaker, I just wanted to reimpose into this debate the fact that the administration, from what we understand, does not oppose the legislation in its final form and would sign it. Is that correct?

Mr. REGULA. Madam Speaker, will the gentleman yield?

Mr. GEKAS. I am happy to yield to the gentleman from Ohio.

Mr. REGULA. Madam Speaker, I think a President who wants to be the environmental President would welcome this bill.

Mr. YATES. Madam Speaker, will the gentleman yield?

Mr. GEKAS. I am happy to yield to the gentleman from Illinois.

Mr. YATES. Madam Speaker, this is only for the purpose of adding to the list of honorees on the honor roll the name of Kevin Lynch, who is associated with the gentleman from Oregon [Mr. AUCOIN], Mike Bogley, who is associated with the gentleman from Washington [Mr. DICKS] and also Mr. Nich Ashmore, who is associated with the Speaker.

Mr. REGULA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I urge the Members to support the bill. It is a good bill. It addresses a lot of environmental concerns. It represents a lot of give and take.

The Helms amendment was tough, but I think we have strong language that will prevent any future incidents such as Mappletorpe and Serrano.

I have just one note of caution, and that is that we put a moratorium on 84 million acres of offshore drilling, and as I see the increasing level of imports, we are not to 51 percent, and we were at 47 in May. At some point we need to address this issue of energy independence.

But on balance, this bill represents a very substantial effort on the part of everyone to bring to this body a responsible position.

I urge my colleagues to support the bill.

Mr. SWIFT. Madam Speaker, serious issues have been raised in recent months about management of the national forests in the Pacific Northwest. Concerns by environmentalists about the survival of the spotted owl and about preservation of old-growth trees have conflicted with concerns about the effect on scores of small communities throughout the area that are substantially or entirely dependent upon the wood products industry for their economic well-being.

I believe that it is possible to manage the forests on a sustained yield basis and to protect important environmental concerns as well. But the issue has become very emotional, controversial, and difficult to compromise on both sides. The members of the Northwest delegation have determined that we must find a short-term solution—a year or so of breathing room—during which a long-term solution that both protects the environment and the jobs can be negotiated.

The members of the Interior Conference Committee have forged a short-term agreement which I believe does give the timber the stability it needs while protecting both the northern spotted owls and the old-growth forests. Congressman DICKS has committed enormous time and energy working with other members of the committee to bring this agreement about. Those of us whose districts are so directly threatened by any unbalanced resolution owe him and all the others who helped forge the compromise a great deal of thanks for working with us to achieve this agreement.

This short-term solution has several parts: It sets a level of harvest which the Forest Service says can be achieved; it allows for judicial review by the Federal courts, allowing temporary injunctions for up to 45 days but does not let them become defacto permanent injunctions; and it protects environmental concerns during that period with language addressing fragmentation so that the most sensitive spotted owl habitat will be protected.

All these provisions expire at the end of fiscal year 1991, reinstating the status quo, unless Congress is able to substitute a long-term solution.

In short, the revision seeks to keep our mills operating and our forest environment protected while we work out an agreement for the long-term management of the forests.

Nobody is entirely satisfied with this proposal for the short term. But there are several important factors to keep in mind.

First, the delegations have developed this as a stopgap measure, not a permanent solution.

Second, it provides an assured supply of timber to keep the small mills in the small communities throughout the Northwest operating.

Third, judicial review is protected.

Fourth, protection is afforded the forests through the fragmentation language.

Those of us from the Northwest, have worked hard to find a way of defusing this difficult issue while we develop a responsible long-term policy. We urge you to help us find that responsible policy by giving us time to search for it. If we don't have that time, we face economic devastation of unparalleled proportions throughout the rural parts of our States. The tragedy would be that the agony this would visit on thousands of families is simply not necessary. This provision gives us a way to deal with the legitimate environmental concerns without that human devastation. It is worthy of passage.

Mr. RAHALL. Mr. Speaker, in southern West Virginia we are working to diversify our economy through the conservation and promotion of some of our most outstanding natural, scenic, recreational, cultural and historic resources.

The legislation before us today, the conference report on the fiscal year 1990 Interior appropriations bill, includes a number of provisions relating to this effort. These funding items, contained in the appropriation for the National Park Service, will enable us to more fully develop the potential of the National Park System units which have been established in southern West Virginia, as well as to engage in some exciting new initiatives in the region.

Over 10 years ago I worked to gain the establishment of the New River Gorge National River in southern West Virginia, and just last year, two other units of the National Park System, the Gauley River National Recreation Area and the Bluestone National Scenic River, as part of the West Virginia National Interest River Conservation Act.

Today, the New River Gorge National River is still in the embryonic stages of development. We have yet to complete the park headquarters, an appropriate visitors center

and have acquired only about 55 percent of the land within the river gorge.

For this reason, as visitation continues to rise at the New River, it is essential that adequate resources be provided for the types of infrastructure developments which the public expects from their national parks.

The legislation before us would appropriate $3,325,000 in construction funding, $1,055,000 in planning moneys and necessary operations assistance for the New River Gorge National River. In addition, it would provide $175,000 to the National Park Service to formulate general management plans for the newly established Gauley River National Recreation Area and the Bluestone National Scenic River.

Taken together, the New, Gauley, and Bluestone comprise the largest network of federally protected rivers in the Eastern United States. As we consider the fact that the United States continues to lose some of its most pristine and wild rivers and streams to developments such as dams and hydroelectric powerplants, the fact that in West Virginia these river segments will remain protected is of national significance.

The conference report also includes $125,000 for the New River Parkway Authority. This funding will be used to continue efforts to construct the New River Parkway along a segment of the national river and as such, facilitate visitor access to several of its outstanding features such as Sandstone Falls. In this regard, I would note that construction funding has already been earmarked for the parkway under a provision I sponsored in the last highway bill.

Perhaps one of the most exciting new enterprises we are pursuing in southern West Virgina involves efforts to preserve our unique cultural identity through what I call the "Coal Heritage Initiative." During the last Congress I gained the enactment of legislation authorizing the National Park Service to study and identify sites of cultural and historical significance involving southern West Virginia's coal mining heritage, evaluate the sites and identify a "Coal Heritage Trail" linking these sites together with existing Federal and State park units and recreational lakes.

My goal is to foster the coordinated development and promotion of outstanding natural, scenic, recreational, cultural, and historic resources within southern West Virginia with access by interstate highways and scenic roadways.

Under the conference report, $100,000 will be available to the National Park Service to conduct the study authorized by title VI of Public Law 100-699. Based on this study, as well as the recently completed report entitled, "The Coal Road: A Survey of Southern West Virginia Mining Tourism Potential," conducted by the Marshall University Center for Regional Progress, I would anticipate that we will have completed the necessary groundwork to support Federal legislation designating a coal heritage site or sites as national parks under the National Park System.

While these park-related matters are of great importance, I would also note that there are several essential measures in this legislation relating to our coal-based economy in southern West Virginia. Approved in this appropriation legislation is $150 million to the States under the Abandoned Mine Reclamation Program. West Virginia is one of the highest annual recipients of these funds, which are used to mitigate health, safety, and environmental hazards associated with abandoned coal mine lands. The amount in the bill is $30 million more than the administration's request.

The legislation also makes funding available for a number of Bureau of Mines initiatives. Included are increased funding for the mine, health and safety technology program in areas involving the mitigation of respirable dust, noise, methane, fires, and explosions in underground coal mines. The bill also provides for greater resources to be directed toward land subsidence and acid mine drainage problems which afflict the coalfields.

I would also note that specifically earmarked by the appropriation measure are $2.5 million for the Respirable Dust Center at West Virginia University, which engages in research to reduce the incidence and severity of black lung disease, and $1.5 million for the National Mine Land Reclamation Center at West Virginia University, which seeks new and improved methods to reclaim abandoned coal mine lands.

Mr. Speaker, this is good legislation and I urge its adoption.

Ms. PELOSI. Mr. Speaker, I rise today to express my concerns about the restrictions placed on the National Endowment for the Arts contained in the Interior appropriations conference report. The increasing political pressure on arts organizations across the country to monitor the work of their membership and to restrict the work they exhibit is a disturbing trend. I believe that we must encourage creative expression, not suppress it.

Outside regulation of the arts is an infringement on every artist's freedom of expression. In a free and open society, artists have been known to take a new approach when dealing with strong, provocative, controversial issues. We do not always agree with the statement made by a particular artist, nonetheless we all benefit from a new perspective.

Our artistic community has long been a source of inspiration and vision. I believe that we must preserve the freedoms American artists have enjoyed for over two centuries. We must work to create a climate in which the arts may flourish so that they may be experienced and enjoyed by the widest possible public. Thank you.

Mr. FAZIO. Mr. Speaker, I rise in strong support of the conference report on H.R. 2788, providing appropriations for the Department of the Interior and related agencies for fiscal year 1990.

I commend the chairman of the subcommittee, Mr. YATES, and the ranking minority member, Mr. REGULA, as well as the subcommittee's fine staff, for producing this balanced bill.

In particular, Mr. Speaker, I would like to thank the chairman for including $300,000 for the Bureau of Land Management to conduct a study for the purpose of determining the feasibility and desirability of designating a National Recreation Area [NRA] within the American River Watershed.

It is essential that the study of the National Recreation Area [NRA] in the American River Watershed be funded in fiscal year 1990 in order for the information to be available to the Sacramento community in the same timeframe as the information generated by two separate studies currently being conducted by the Bureau of Reclamation and the Army Corps of Engineers on options for expanding flood protection to the Sacramento community. The Bureau of Reclamation study will be completed sometime in the summer of 1990 and the Army Corps of Engineers study is expected to be completed in September 1990. The BLM study will be completed by the end of fiscal 1990 as well.

The results of this study are essential for the Sacramento community to make an informed decision about which of the upstream flood control options proposed by the Bureau and the Army Corps of Engineers is most appropriate. The NRA study will generate information that will show the value of the land and other resources that would potentially be either occasionally inundated by a flood control only/dry dam or largely inundated by a multipurpose dam, and I greatly appreciate the subcommittee's support for this provision.

The conference report also includes $2 million for the Fish and Wildlife Service for willing seller land acquisitions for the Sacramento River National Wildlife Refuge. The USFWS has completed the final "environmental assessment" and concluded that there will be no significant impact to the environment from the creation of the wildlife refuge. Therefore, the USFWS is ready to initiate willing seller land acquisitions immediately.

The purpose of this initiative is to preserve riparian habitat for threatened and endangered species, waterfowl and other migratory birds, anadromous fish, and plants. For example, the wetlands associated with the affected stretches of river are host to the endangered bald eagle. The area also has important fishery resources, including chinook salmon, steelhead trout, sturgeon, American shad, and striped bass.

This funding in fiscal 1990 will enable the Fish and Wildlife Service to continue to make progress on the preservation of wetlands and these critically sensitive habitats along the Sacramento River.

In addition, Mr. Chairman, the bill provides $100,000 for the U.S. Fish and Wildlife Service to complete an assessment and provide a recommendation for the establishment of a national wildlife refuge in an area of southwestern Sacramento County, known as Stone Lakes.

The project has been endorsed by Ducks Unlimited, the Nature Conservancy, California Waterfowl Association, Defenders of Wildlife, Waterfowl Habitat Owners Alliance and the National Audubon Society. A consortium of local conservation groups has also formed the Stone Lakes Alliance to support the project.

Clearly, this is a good project that has the full support of the local community, and it will be a good natural resource investment for the Federal Government.

The conference report also provides $7 million to implement the Santini-Burton single family lot acquisition program at Lake Tahoe and $1.4 million for the erosion control program at the lake. We are at a critical time in

the efforts to correct the environmental programs at Lake Tahoe, and the continued support of the subcommittee for this program is key to the success of efforts to protect Lake Tahoe from further water quality degradation.

Mr. Speaker, again, I strongly urge my colleagues to support the conference report.

Mr. YATES. Madam Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mrs. SCHROEDER). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appear to have it.

Mr. WALKER. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 381, nays 41, not voting 10, as follows:

[Roll No. 262]

YEAS—381

Ackerman	Coleman (TX)	Geren
Akaka	Collins	Gibbons
Alexander	Condit	Gillmor
Anderson	Conte	Gilman
Andrews	Conyers	Gingrich
Annunzio	Cooper	Glickman
Anthony	Costello	Gonzalez
Applegate	Coughlin	Goodling
Aspin	Coyne	Gordon
Atkins	Craig	Goss
AuCoin	Crockett	Gradison
Baker	Darden	Grandy
Ballenger	Davis	Grant
Barnard	de la Garza	Gray
Bateman	DeFazio	Green
Bates	Dellums	Guarini
Bellenson	Derrick	Gunderson
Bennett	DeWine	Hall (OH)
Bentley	Dickinson	Hamilton
Bereuter	Dicks	Hammerschmidt
Berman	Dixon	Hansen
Bevill	Donnelly	Harris
Bilbray	Dorgan (ND)	Hastert
Bilirakis	Downey	Hatcher
Billey	Duncan	Hawkins
Boehlert	Durbin	Hayes (IL)
Boggs	Dwyer	Hayes (LA)
Bonior	Dymally	Hefner
Borski	Dyson	Henry
Bosco	Early	Herger
Boucher	Eckart	Hertel
Boxer	Edwards (OK)	Hiler
Brennan	Emerson	Hoagland
Brooks	Engel	Hochbrueckner
Broomfield	English	Hopkins
Browder	Erdreich	Horton
Brown (CA)	Espy	Hoyer
Bruce	Evans	Hubbard
Bryant	Fascell	Huckaby
Buechner	Fawell	Hunter
Bustamante	Fazio	Hutto
Byron	Feighan	Hyde
Callahan	Fish	Inhofe
Campbell (CA)	Flake	Ireland
Campbell (CO)	Flippo	Jacobs
Cardin	Foglietta	James
Carper	Ford (MI)	Jenkins
Carr	Ford (TN)	Johnson (CT)
Chandler	Frank	Johnson (SD)
Chapman	Frost	Johnston
Clarke	Gallegly	Jones (GA)
Clay	Gallo	Jones (NC)
Clement	Gaydos	Jontz
Clinger	Gejdenson	Kanjorski
Coleman (MO)	Gephardt	Kaptur
Kasich	Murphy	Shays
Kastenmeier	Murtha	Shuster
Kennedy	Myers	Sikorski
Kennelly	Nagle	Sisisky
Kildee	Natcher	Skaggs
Kleczka	Neal (MA)	Skeen
Kolbe	Neal (NC)	Skelton
Kolter	Nelson	Slattery
Kostmayer	Nowak	Slaughter (NY)
Kyl	Oakar	Smith (FL)
LaFalce	Oberstar	Smith (IA)
Lagomarsino	Obey	Smith (NE)
Lancaster	Olin	Smith (NJ)
Lantos	Ortiz	Smith (TX)
Laughlin	Owens (NY)	Smith (VT)
Leach (IA)	Owens (UT)	Smith, Denny (OR)
Leath (TX)	Oxley	Snowe
Lehman (CA)	Pallone	Solarz
Lehman (FL)	Panetta	Spratt
Lent	Parker	Staggers
Levin (MI)	Parris	Stallings
Levine (CA)	Pashayan	Stangeland
Lewis (CA)	Patterson	Stark
Lewis (FL)	Payne (NJ)	Stearns
Lewis (GA)	Payne (VA)	Stenholm
Lightfoot	Pease	Stokes
Lipinski	Pelosi	Studds
Lloyd	Perkins	Sundquist
Long	Pickett	Swift
Lowery (CA)	Pickle	Synar
Lowey (NY)	Porter	Tallon
Luken, Thomas	Poshard	Tanner
Lukens, Donald	Price	Tauke
Machtley	Pursell	Tauzin
Madigan	Quillen	Thomas (CA)
Manton	Rahall	Thomas (GA)
Markey	Rangel	Thomas (WY)
Marlenee	Ravenel	Torres
Martin (IL)	Ray	Torricelli
Martin (NY)	Regula	Towns
Martinez	Rhodes	Traficant
Matsui	Richardson	Traxler
Mavroules	Ridge	Udall
Mazzoli	Rinaldo	Unsoeld
McCandless	Ritter	Upton
McCloskey	Roberts	Valentine
McCollum	Roe	Vento
McCrery	Rogers	Visclosky
McCurdy	Ros-Lehtinen	Volkmer
McDade	Rose	Vucanovich
McDermott	Rostenkowski	Walgren
McEwen	Roth	Walsh
McGrath	Roukema	Watkins
McHugh	Rowland (CT)	Waxman
McMillan (NC)	Rowland (GA)	Weber
McMillen (MD)	Roybal	Weiss
McNulty	Russo	Weldon
Meyers	Sabo	Wheat
Mfume	Saiki	Whittaker
Michel	Sangmeister	Whitten
Miller (CA)	Sarpalius	Williams
Miller (OH)	Savage	Wilson
Miller (WA)	Sawyer	Wise
Mineta	Saxton	Wolf
Moakley	Scheuer	Wolpe
Molinari	Schiff	Wyden
Mollohan	Schneider	Wylie
Montgomery	Schroeder	Yates
Moody	Schuette	Young (AK)
Morella	Schulze	Young (FL)
Morrison (CT)	Schumer	
Morrison (WA)	Sharp	
Mrazek	Shaw	

NAYS—41

Archer	Dreier	Robinson
Armey	Fields	Rohrabacher
Bartlett	Frenzel	Schaefer
Barton	Gekas	Sensenbrenner
Brown (CO)	Hall (TX)	Shumway
Bunning	Hancock	Slaughter (VA)
Burton	Hefley	Smith, Robert (NH)
Coble	Holloway	
Combest	Livingston	Smith, Robert (OR)
Cox	Moorhead	Solomon
Crane	Nielson	Stump
Dannemeyer	Packard	Walker
DeLay	Paxon	
Dornan (CA)	Penny	
Douglas	Petri	

NOT VOTING—10

Courter	Garcia	Vander Jagt
Dingell	Houghton	Yatron
Edwards (CA)	Hughes	
Florio	Spence	

□ 1456

Mr. PAXON changed his vote from "yea" to "nay."

Mr. DUNCAN and Mrs. VUCANOVICH changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. (Mrs. SCHROEDER). The clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 12: Page 11, line 7, after "expanded" insert: *Provided*, That notwithstanding any other provision of law, a procurement for the National Wetlands Research Center shall be issued which includes the full scope of the previously issued procurement for the facility: Provided further, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232-18".

MOTIONS OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 12 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 13: Page 11, line 13, strike out "$30,457,000" and insert: "$53,579,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein with an amendment, as follows: In lieu of the sum named by said amendment, insert "$58,560,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 15: Page 11, line 22, strike out "$65,790,000" and insert: "$52,810,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein with an amendment, as follows: In lieu of the sum named by said amendment, insert "$67, 990,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 18: Page 13, line 18, strike out "$774,179,000" and insert: $771,617,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 18 and concur therein with an amendment, as follows: in lieu of the sum named by said amendment, insert "$778,419,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 21: Page 14, line 8, after "Ohio" insert ": *Provided further,* That $85,000 shall be available to assist the town of Harpers Ferry, West Virginia, for police force use".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 21 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 22: Page 14, line 8 after "Ohio" insert ": *Provided further,* That the National Park Service shall prepare an Environmental Impact Statement in full compliance with the National Environmental Policy Act of 1969 that evaluates alternative levels of development within the Appalachian Trail corridor between the Shrewsbury-Mendon town line, on the south, and the junction of the Appalachian and Long Trails north of Sherburne Pass, on the north, in Rutland County, Vermont: *Provided further,* That negotiations shall be suspended for any land acquisitions or easements in the study area and no acquisitions or easements in the study area shall be executed until 60 calendar days after the final Environmental Impact Statement is filed: *Provided further,* That the Secretary of the Interior shall take no action to give force or effect or implement in any manner the easement signed January 19, 1989, between the National Park Service and Killington, Ltd., Inc., until 60 calendar days after the final Environmental Impact Statement is filed".

MOTION OFFERED BY MR. YATES

Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 23: Page 14, line 13, strike out $16,029,000" and insert: "$15,735,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with an amendment, as follows: in lieu of the sum named by said amendment, insert "$16,136,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

□ 1500

The Speaker pro tempore (Mrs. SCHROEDER). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 25: Page 15, line 2, after "appropriation" insert *: Provided further,* That $1,000,000 of the amount appropriated herein shall remain available until expended in the Bicentennial Lighthouse Fund, to be distributed on a matching grant basis after consultation among the National Park Service, the National Trust for Historic Preservation, State Historic Preservation Officers from States with resources eligible for financial assistance, and the lighthouse community. Consultation shall include such matters as a distribution formula, timing of grant awards, a redistribution procedure for grants remaining unobligated longer than two years after the award date, and related implementation policies. The distribution formula for fiscal year 1990 shall include consideration of such factors as—

"(A) the number of lighthouses on or determined to be eligible for listing on the National Register of Historic Places by March 30, 1990;

"(B) the number of river lights and number of historic river sites on or determined to be eligible for listing on the National Register by March 30, 1990; and

"(C) the availability of matching contributions in the State: *Provided further,* That no State shall receive more than 15 per centum of the Bicentennial Lighthouse Fund in any one fiscal year, nor more than 10 per centum of the total appropriations to the Fund in any two fiscal year period: *Provided further,* That only the light station structure, itself, shall be counted in determining the number of properties in each State eligible to participate in the Fund: *Provided further,* That the Secretary shall allocate appropriate funds from the Bicentennial Lighthouse Fund to be transferred, without the matching requirement, for use by Federal agencies, in cooperative agreements with the National Park Service and the State Office of Historic Preservation in which the property is located, for properties otherwise eligible for the National Register but owned by the Federal Government".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 25 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 26: Page 15, line 6, strike out "$174,210,000" and insert "$140,851,000."

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 26 and concur therein with an amendment, as follows: in lieu of the sum named by said amendment, insert "$199,716,000."

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 28: Page 16, line 5, after "program" insert ": *Provided further,* That Public Law 98-146 is amended by adding the following new section:

"The land owner may also use the credits in exchange for excess lands, wherever located, under the jurisdiction of the Secretary of the Interior."."

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 28 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert ": *Provided further,* That of the amount provided above, $800,000 is for acquisition of the Saxton House, 331 South Market Street, Canton, Ohio, as if authorized by the Historic Sites Act of 1935 (16 U.S.C. 462(e)): *Provided further,* That section 317 of Public Law 98-146 is amended by adding the following:

"The land owner may also use the credits in exchange for excess lands, wherever located, under the jurisdiction of the Secretary of the Interior."."

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 34: Page 20, line 19, after "project" insert ": *Provided further,* That of the above enacted amounts, up to one-half of the amounts for mineral revenue compliance shall be used to compensate States and Indian tribes for audit activities under the provisions of sections 202 and 205 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732, 1735)".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: "*Provided further,* That of the above enacted amounts, up to one-half of the increase over the fiscal year 1989 funding provided for mineral royalty audits may be used to compensate States and Indian tribes for audit activities under the provisions of sections 202 and 205 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732, 1735): *Provided further,* That for fiscal year 1990 and each fiscal year thereafter, notwithstanding the provisions of section 201 of the Federal Oil and Gas Royalty Management Act of 1982, sections 202 through 206 of that Act shall apply to any lease or portion of a lease subject to section 8(g) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1337), which, for purposes of those provisions and for no other purposes, shall be regarded as within the coastal State or States entitled to receive revenues from it under section 8(g)".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 39: Page 21, line 24, after "operation" insert ": *Provided further,* That the Secretary is authorized to convey in fee the Keyes Helium Plant, Keyes, Oklahoma, to the Cimarron Industrial Park Authority, a public trust of the State of Oklahoma, on or before September 30, 1990, on terms mutually agreed on between the Secretary and the Authority: *Provided further,* That prior to conveyance, the Secretary shall complete repair of asbestos insulation on piping and equipment, including cleanup and disposal of asbestos containing debris, at a cost which shall not exceed $50,000: *Provided further,* That, as a condition of conveyance, the Cimarron Industrial Park Authority shall accept full responsibility for any remedial actions with respect to hazardous substances remaining at the plant after the date of conveyance".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 39 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert ": *Provided further,* That the Secretary is authorized to convey in fee the decommissioned Keyes Helium Plant in Keyes, Oklahoma, to the Cimarron Industrial Park Authority, a public trust of the State of Oklahoma, on or before September 30, 1990, on terms mutually agreed on between the Secretary and the Authority: *Provided further,* That prior to conveyance, the Secretary shall complete the current effort to repair asbestos insulation on piping and equipment, including cleanup and disposal of asbestos containing debris: *Provided further,* That, as a condition of conveyance, the Cimarron Industrial Park Authority shall accept full responsibility for any remedial actions with respect to hazardous substances remaining at the plant after the date of conveyance".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 43: Page 27, line 12, strike out all after "facilities" down to and including "funds" in line 18.

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 43 and concur therein with an amendment, as follows:

In lieu of the matter stricken by said amendment, insert the following ": *Provided further,* That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for such tribe or individual have been audited and reconciled to the earliest possible date, the results of such reconciliation have been certified by an independent party as the most complete reconciliation of such funds possible, and the tribe or individual has been provided with an accounting of such funds".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 44: Page 28, line 2, after "accounts" insert ": *Provided further,* That for the purpose of enabling Indian reservation residents in Arizona who are eligible for General Assistance and who have dependent children to participate and succeed in Jobs Corps training, the Bureau shall pay general assistance support for the dependent children at the full State AFDC A-2 grant level".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 44 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 47: Page 29, line 14, after "99-503" insert ": *Provided,* That notwithstanding any other provision of law, funds appropriated pursuant to Public Law 100-383 shall not be subject to the provisions of 43 U.S.C. 1606(i)".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 47 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 48: Page 29, after line 14, insert:

"NAVAJO REHABILITATION TRUST FUND

"For Navajo tribal rehabilitation and improvement activities in accordance with the provisions of section 32(d) of Public Law 93-531, as amended (25 U.S.C. 640d-30), including necessary administrative expenses, $800,000, to remain available until expended."

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 48 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 49: Page 30, after line 6, insert:

"MISCELLANEOUS TRUST FUNDS

"Notwithstanding any other provision of law, the Secretary shall retain the amount of excess interest drawn from the Treasury during the period of January 1, 1987, to February 28, 1989, to compensate the trust funds for the amount of interest that would have been earned had all available trust funds been invested in the Treasury during the period from June 30, 1985, to December 31, 1986."

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 50: Page 30, line 13, after "only" insert ": *Provided*, That notwithstanding any other provision of law, Tanalian, Incorporated shall be deemed certified as a Native group under the Alaska Native Claims Settlement Act (Public Law 92-203, 85 Stat. 688)".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 50 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert ": *Provided*, That the property known as "Madrona Point" located on Orcas Island, Washington, shall be acquired in trust by the United States for the Lummi Indian Tribe under the conditions that it shall be preserved in its natural condition and shall not be developed for any commercial or residential purpose, except for a caretaker dwelling, a visitor or cultural center, or the interment of human remains: *Provided further*, That now and hereafter, the tribe, by contract, may impose additional restrictions: *Provided further*, That after acquisition by the United States, the property shall permanently be subject to the civil, regulatory (not including tax) and criminal jurisdiction of the State of Washington and its political subdivisions, concurrently with the Lummi Indian Tribe: *Provided further*, That except as provided herein, such grant of jurisdiction to the State shall have the same limitations as set forth in 18 U.S.C. 1162(b)".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 55: Page 30, line 18, strike out "$72,843,000" and insert: "$73,258,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 55 and concur therein with an amendment, as follows: in lieu of the sum named by said amendment, insert: "$73,543,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 58: Page 32, line 4, after "Foundation" insert ": *Provided further*, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance of capital infrastructure in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palua, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations and maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets)".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 58 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 61: Page 33, line 24, strike out "$51,295,000" and insert: "$51,716,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 61 and concur therein with an amendment, as follows: In lieu of the sum named by said amendment, insert "$51,045,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 62: Page 33, line 25, strike out all after "expenses" over to and including "Washington, D.C." in line 2 on page 34.

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 62 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following: ": *Provided*, That Alaskan oil spill damage assessment shall continue at least through September 30, 1990.".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous con-

sent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 63: Page 34, after line 13, insert:

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the National Indian Gaming Commission, pursuant to Public Law 100-497, $1,000,000: *Provided*, That in fiscal year 1990 and thereafter, fees collected pursuant to and as limited by section 18 of the Act shall be available to carry out the duties of the Commission, to remain available until expended.

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 63 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$750,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 70: Page 39, line 17, strike out "releasing and".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 70 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: "publishing draft environmental impact statements until five months after the President's Outer Continental Shelf Task Force releases its report to the President on Lease Sales 91, 95 and 116 or for the conduct in fiscal year 1990 of".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 71: Page 39, line 17, strike out all after "(including" down to and including "statements," in line 19.

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 71 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amendment to read as follows: "final environmental impact statements,".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 72: Page 39, line 20, after "other" insert "post leasing".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 72 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "prelease geological or geophysical activity which involves explosives or the introduction of drilling muds for prelease".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 76: Page 40, line 12, after "other" insert "post leasing".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 76 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "prelease geological or geophysical activity which involves explosives or the introduction of drilling muds for prelease".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 81: Page 44, line 6, strike out all after "Interior" down to and including "Mines" in line 7 and insert "the Office of Surface Mining Reclamation and Enforcement".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 81 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "pursuant to section 17 of Public Law 100-440 (102 Stat. 1743, the Secretary shall designate, within 60 days of enactment of this Act, which Department of the Interior agency component or".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 86: Page 44, strike out all after line 23, over to and including line 6 on page 45.

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 86 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

SEC. 118. Notwithstanding any other provision of law, the term "Class II gaming" in P.L. 100-497, for any Indian tribe located in the State of Minnesota, includes, during the period commencing on the date of enactment of this Act and continuing for 365 days from that date, any gaming described in section 4(7)(B)(ii) of P.L. 100-497 that was legally operated on Indian lands on or before May 1, 1988, if the Indian tribe having jurisdiction over the lands on which such gaming was operated, requested the State of Minnesota, no later than 30 days after the date of enactment of P.L. 100-497, to negotiate a Tribal-State compact pursuant to section 11(d)(3) of P.L. 100-497.

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 87: Page 45, line 7, strike out "120" and insert "117".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 87 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted in said amendment, insert the following:

SEC. 119. This section shall be effective only on October 1, 1989.

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The test of the amendment is as follows:

Senate amendment No. 88: Page 45, after line 10, insert:

SEC. 118. Section 13 of Public Law 93-531, as amended (25 U.S.C. 640d-12), is hereby amended by inserting the word "and" after the semicolon at the end of subparagraph (b)(2), by striking out the semicolon and the word "and" after the word "subsection" at the end of subparagraph (b)(3) and inserting a period in lieu thereof, and by striking out all of subparagraph (b)(4): *Provided*, That section 32 of Public Law 93-531, as amended (25 U.S.C. 640d-30), is hereby amended by inserting after subsection (d) the following new subsection:

"(e) On September 1st of each year through September 1, 1995, the Navajo Tribe shall submit to Congress a report on how funds in the Navajo Rehabilitation Trust Fund will be expended to carry out the purposes described in subsection (d) of this section. A copy of this report will also be provided to the Office of Navajo and Hopi Indian Relocation.": *Provided further*, That section 32 of Public Law 93-531, as amended (25 U.S.C. 640d-30), is further amended by redesignating subsection (e) as subsection (f), and by redesignating subsection (f) as subsection (g).

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 88 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 120. Section 13 of Public Law 93-531, as amended (25 U.S.C. 640d-12), is hereby amended by inserting the word "and" after the semicolon at the end of subparagraph (b)(2), by striking out the semicolon and the word "and" after the word "subsection" at the end of subparagraph (b)(3) and inserting a period in lieu thereof, and by striking out all of subparagraph (b)(4): *Provided*, "That section 32 of Public Law 93-531, as amended (25 U.S.C. 640d-30), is hereby amended by inserting after subsection (d) the following new subsection:

"(e) by December 1, 1989, the Secretary of the Interior, with the advice of the Navajo Tribe and the Office of Navajo and Hopi Indian Relocation, shall submit to the Congress a conceptual framework for the expenditure of the funds authorized for the Navajo Rehabilitation Trust Fund. Such framework is to be consistent with the purposes described in subsection (d) of this section.": *Provided further*, That section 32 of Public Law 93-531, as amended (25 U.S.C. 640d-30), is further amended by redesignating subsection (e) as subsection (f), and by redesignating subsection (f) as subsection (g).

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 93: Page 45, line 25, strike out all after "95-495" over to and includig "Trail" in line 4 on page 46 and insert ": *Provided further*, That a grant of $6,000,000 shall be made to the National Arbor Day Foundation as a matching grant for the construction of the National Arbor Day Center in Nebraska City, Nebraska: *Provided further*, That a grant of $150,000 shall be made to the Western Wood Products Technology Transfer Center".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 93 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: ": *Provided further*, That notwithstanding any other provision of law, a grant of $3,600,000 shall be provided to the Washington State Parks and Recreation Commission for completion of the Spokane River Centennial Trail: *Provided further*, That a grant of $6,000,000 shall be made to the National Arbor Day Foundation as a matching grant for the construction of the National Arbor Day Center in Nebraska City, Nebraska".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

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The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 94: Page 46, line 12, strike out "$1,132,426,000" and insert "$1,141,013,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 94 and concur therein with an amendment, as follows: In lieu of the sum named by said amendment, insert "$1,149,232,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 95: Page 46, line 17, after "4601-6a)" insert ": *Provided*, That appropriations in this account remaining unobligated at the end of fiscal year 1989, both annual and two-year funds, and which

would otherwise be returned to the general fund of the Treasury, shall be merged with and made a part of the fiscal year 1990 National Forest System appropriation, and shall remain available for obligation until September 30, 1991.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 95 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 96: Page 46, after line 17, insert:

FOREST SERVICE FIREFIGHTING

For necessary expenses for emergency rehabilitation, forest firefighting, fire presuppression, and other emergency costs on National Forest System lands, $556,139,000, to remain available until expended: *Provided*, That such funds are to be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes.

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 96 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

FOREST SERVICE FIREFIGHTING

For necessary expenses for forest fire suppression and presuppression on or adjacent to National Forest System lands or Department of the Interior lands, and for forest fire protection and emergency forest fire rehabilitation of National Forest System lands, $561,139,000, to remain available until expended: *Provided*, That such funds are to be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes.

Mr. REGULA (during the reading). I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 100: Page 46, line 25, after "205" insert ", of which $1,500,000 shall be available for the Federal share of road reconstruction for the purpose of improved access to the Monongahela National Forest, West Virginia, which shall be matched on an equal basis by non-Federal participants".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 100 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 102: Page 47, line 13, strike out "$61,988,000" and insert "$45,013,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 102 and concur therein with an amendment, as follows: In lieu of the sum named by said amendment, insert "$63,433,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 104: Page 51, line 19, after "above" insert ": *Provided*, That, notwithstanding any other provision of law, moneys received from the timber salvage sales program in fiscal year 1990 shall be considered as money received for purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 104 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert ": *Provided*, That notwithstanding any other provision of law, moneys received from the timber salvage sales program in fiscal year 1990 shall be considered as money received for purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended: *Provided further*, That amounts necessary shall be available from deposits into the salvage sale fund for salvage of timber damaged by Hurricane Hugo to the maximum extent possible without regard to the geographic origin of the funds".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 105: Page 53, line 21, strike out all after *"Provided,"* down to and including *"further,"* in line 23.

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 105 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: "That such excess amount made available for the overall purposes of this section shall not exceed $65,000,000: *Provided further*, That an additional $32,000,000 shall not be subject to the per centum allocations of subsequent provisions of this section and shall be made separately available solely for implementation of the timber sales program included in this Act as described in the accompanying statement of the managers and shall be used solely for the necessary expenses of such timber sales program including, but not limited to, timber sales administration and management (including all timber support costs) and construction and design of roads: *Provided further*, That the $32,000,000 shall only be provided after all other sources of funds, appropriated and nonappropriated, have been utilized to the fullest extent possible: *Provided further,"*

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 106: Page 54, lines 2 and 3, strike out "not affect, diminish, or otherwise alter" and insert "be made without reductions for".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 106 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 107: Page 55, strike out all after line 17, over to and including line 2, on page 56.

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 107 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: "Notwithstanding section 705(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(a)), $52,441,000 shall be available for timber supply, protection and management, research, resource protection, and construction on the Tongass National Forest in fiscal year 1990: *Provided,* That all of the funds available from the Tongass Timber Supply Fund in fiscal year 1990 pursuant to section 705(a) of Public Law 96-487 shall be deemed obligated as of October 1, 1989 and shall remain available until expended: *Provided further,* That this funding limitation shall not include those funds available to the Forest Service as National Forest System (except for timber sales administration and management funds), Trust Funds, Permanent Funds (other than the Tongass Timber Supply Fund), Timber Receipts, or Purchaser Road Construction.".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 110: Page 56, after line 2, insert ": *Provided further,* That notwithstanding any other provision of law, the Forest Service is directed to compensate Davis Sheep Company, Monteview, Idaho, reasonable expenses incurred as a result of mortality of permitted animals and moving permitted animals from one location to another as directed by the Forest Service: *Provided further,* That in no event should expenses be less than $112,500".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 110 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

"Notwithstanding any other provision of law, the Forest Service is directed to compensate Davis Sheep Company, Monteview, Idaho, for reasonable expenses incurred as a result of mortality of permitted animals and moving permitted animals from one location to another as directed by the Forest Service: Provided, that in no event should expenses be less than $85,000: *Provided further,* That up to an additional $27,500 is authorized if the Forest Service, in conjunction with Davis Sheep Company, determines additional losses were incurred".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 111: Page 56, after line 2, insert ": *Provided further,* That notwithstanding any other provision of law, any appropriations of funds available to the Forest Service may be used to disseminate program information by providing nonmonetary items of nominal value to private and public individuals and organizations.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 111 and concur therein with an amemdment, as follows: In lieu of the matter proposed by said amendment, insert: ": *Provided further,* That no funds provided in this title may be expended by the Forest Service to implement a new fee schedule or increase the fees charged for communication site use of lands administered by the Forest Service above the levels in effect on January 1, 1989.".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 112: Page 56, line 13, after "of" insert "replacing,".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 112 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 114: Page 57, lines 4 and 5, strike out "and shall remain available until expended, and $75,000,000" and insert "$100,000,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 114 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert "and shall remain available until expended, and $125,000,000".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement

The text of the amendment is as follows:

Senate amendment No. 121: Page 59, line 17, after "year" insert ": *Provided further,* That section 303 of Public Law 97-257 is further amended by reducing the number for the headquarters organization of the Assistant Secretary for Fossil Energy to "not less than 100" ".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 121 and concur there-

in with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided further,* That section 303 of Public Law 97-257 is further amended by changing the number for the Office of the Assistant Secretary for Fossil Energy to "715", changing the number for the Pittsburgh Energy Technology Center to "290", changing the number for the Morgantown Energy Technology Center to "275", and changing the number for the headquarters organization of the Assistant Secretary for Fossil Energy to "not less than 125".

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER OF FUNDS)

Monies received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, 1989, shall be deposited in this account and immediately transferred to the General Fund of the Treasury".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 124: Page 60, line 18, strike out "$16,000,000" and insert "$15,900,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 124 and concur therein with an amendment, as follows: In lieu of the sum named by said amendment, insert "$16,900,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 133: Page 71, strike out lines 6 to 10, and insert "$74,149,000, of which $54,541,000 shall be for subpart 1 and $16,861,000 shall be for subparts 2 and 3: *Provided,* That the amounts available pursuant to section 5323 of the Act shall remain available for obligation until September 30, 1991.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 133 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert: "$74,149,000 of which $55,041,000 shall be for subpart 1 and $16,361,000 shall be for subparts 2 and 3: *Provided,* That $1,600,000 available pursuant to section 5323 of the Act shall remain available for obligation until September 30, 1991: *Provided further,* That appropriations for subpart 2 remaining unobligated at the end of fiscal year 1989, which would otherwise be returned to the general fund of the Treasury, shall be merged with and made a part of the fiscal year 1990 Indian Education appropriation and shall remain available for obligation until September 30, 1990.".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 135: Page 72, line 17, after "fund" insert ": *Provided,* That notwithstanding any other provision of law, the annual budget proposal and justification for the Institute shall be submitted to the Congress concurrently with the submission of the President's Budget to the Congress".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 135 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ", of which $100,000 shall be transferred immediately from the Institute endowment fund to the Institute for use in Institute operations: *Provided,* That notwithstanding any other provision of law, the annual budget proposal and justification for the Institute shall be submitted to the Congress concurrently with the submission of the President's Budget to the Congress".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 139: Page 75, line 18, strike out "$40,789,000" and insert "$40,744,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 139 and concur therein with an amendment, as follows: In lieu of the sum named by said amendment, insert "$40,712,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 140: Page 75, line 24, strike out "$1,905,000" and insert "$2,305,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 140 and concur therein with an amendment, as follows: In lieu of the sum named by said amendment, insert "$1,805,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 143: Page 76, line 22, after "Act" insert ": *Provided,* That until October 1, 1994, none of the funds provided to the National Endowment for the Arts may be used for a direct grant to the Southeastern Center for Contemporary Art (SECCA) in Winston-Salem, North Carolina or for the Institute of Contemporary Art at the University of Pennsylvania".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 143 and concur therein with an amendment, as follows: In lieu of the matter inserted, insert the following: ": *Provided,* That not less than thirty days prior to the award of any direct grant to the Southeastern Center for Contemporary Art (SECCA) in Winston-Salem, North Carolina, or for the Institute of Contemporary Art at the University of Pennsylvania, the National Endowment for the Arts shall

submit to the Committees on Appropriations of the House and Senate a notification of its intent to make such an award: *Provided further,* That said notification shall delineate the purposes of the award which is proposed to be made and the specific criteria used by the Endowment to justify selection of said award".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 149: Page 79, line 8, after "$5,000,000" insert ": *Provided,* That Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, is amended further by striking "$5,000,000" and inserting in lieu thereof "$7,500,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 149 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 150: Page 79, line 13, strike out "$1,945,000" and insert "$1,795,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 150 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$1,920,000: *Provided,* That none of the funds under this head may be used to process comments on undertakings of Federal agencies, as specified in sections 106 and 110 of the National Historic Preservation Act of 1966, as amended, on grants or contracts to institutions or facilities whose main activity is the conduct of scientific research and such agencies shall be relieved from the requirement of seeking comments on such undertakings unless requested in writing by the grantee".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Cleark will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 152: Page 80, line 16, strike out "$12,000,000" and insert "$10,000,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 152 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$5,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 153: Page 82, line 5, after "complete" insert ": *Provided,* That this section will become effective one day after the date of enactment.

SEC. 305. LIMITATIONS.—None of the funds authorized to be appropriated pursuant to this Act may be used to promote, disseminate, or produce—

(1) obscene or indecent materials, including but not limited to depictions of sadomasochism, homo-eroticism, the exploitation of children, or individuals engaged in sex acts;

(2) material which denigrates the objects or beliefs of the adherents of a particular religion or non-religion; or

(3) material which denigrates, debases, or reviles a person, group, or class of citizens on the basis of race, creed, sex, handicap, age, or national origin".

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 153 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": "*Provided,* That—

A. None of the funds authorized to be appropriated for the National Endowment for the Arts or the National Endowment for the Humanities may be used to promote, disseminate, or produce materials which in the judgment of the National Endowment for the Arts or the National Endowment for the Humanities may be considered obscene, including but not limited to, depictions of sadomasochism, homo-eroticism, the sexual exploitation of children, or individuals engaged in sex acts and which, when taken as a whole, do not have serious literary, artistic, political or scientific value.

B. It is the Sense of the Congress:

(1) That under the present procedures employed for awarding National Endowment for the Arts grants, although the National Endowment for the Arts has had an excellent record over the years, it is possible for projects to be funded without adequate review of the artistic content or value of the work.

(2) That recently works have been funded which are without artistic value but which are criticized as pornographic and shocking by any standards.

(3) That censorship inhibits and stultifies the full expression of art.

(4) That free inquiry and expression is reaffirmed: Therefore, be it

Resolved:

(a) That all artistic works do not have artistic or humanistic excellence and an application can include works that possess both non-excellent and excellent portions.

(b) That the Chairman of the National Endowment for the Arts has the responsibility to determine whether such an application should be funded.

(c) That the National Endowment for the Arts must find a better method to seek out those works that have artistic excellence and to exclude those works which are without any redeeming literary, scholarly, cultural or artistic value.

(d) That a commission be established to review the National Endowment for the Arts' grant making procedures, including those of its panel system, to determine whether there should be standards for grant making other than "substantial artistic and cultural significance, giving emphasis to American creativity and cultural diversity and the maintenance and encouragement of professional excellence" (20 U.S.C. 954(c)(1)) and if so, then what other standards. The criteria to be considered by the commission shall include but not be limited to possible standards where (a) applying contemporary community standards would find that the work taken as a whole appeals to a prurient interest; (b) the work depicts or describes in a patently offensive way, sexual conduct; and (c) the work, taken as a whole, lacks serious artistic and cultural value.

C. (1) There is hereby established a temporary Independent Commission for the purpose of:

(a) reviewing the National Endowment for the Arts' grant making procedures, including those of its panel system; and

(b) considering whether the standard for publicly funded art should be different than the standard for privately funded art;

(2) The Commission shall be composed of twelve members as follows:

(a) four members appointed by the President;

(b) four members appointed by the President upon the recommendation of the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives;

(c) four members appointed by the President upon the recommendation of the President pro tempore of the Senate in consultation with the minority leader of the Senate;

(d) the chairman shall be designated by vote of the Commission members; and

(e) a quorum for the purposes of conducting meetings shall be seven.

(3) Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under 5 U.S.C. 5703.

(4) The Commisson may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(5) The Commission shall issue a report to the Speaker of the House of Representatives and the President of the Senate no later than 180 days after the date of enactment of this Act.

(6) The Commission shall expire on September 30, 1990.

(7) Expenses of the Commission not to exceed $250,000, including administrative support, shall be furnished by the National Endowment for the Arts".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. ROHRABACHER. Madam Speaker, reserving the right to object, I do not intend to object to the printing of the motion or to having the motion considered as read.

Mr. YATES. Madam Speaker, if the gentleman will yield, I believe the gentleman seeks to have time on this motion.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. YATES] has pointed out that the gentleman is seeking time.

The gentleman from Illinois [Mr. YATES] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. REGULA] will be recognized for 30 minutes.

Mr. ROHRABACHER. Madam Speaker, I would ask to be recognized in opposition to the motion for 20 minutes.

The SPEAKER pro tempore. The Chair will inquire is the gentleman from Ohio [Mr. REGULA] opposed to the motion?

Mr. REGULA. No, I am not, Madam Speaker.

The SPEAKER pro tempore. Then the gentleman from California [Mr. ROHRABACHER], who is opposed to the motion, would be entitled to 20 minutes.

The gentleman from Ohio [Mr. REGULA], then, would have 20 minutes, the gentleman from California [Mr. ROHRABACHER] would have 20 minutes, and the gentleman from Illinois [Mr. YATES] would have 20 minutes on the motion offered by the gentleman from Illinois [Mr. YATES].

Mr. ROHRABACHER. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Madam Speaker, I appreciate this opportunity, and I appreciate the courtesy that has been extended to me today.

The central issue at the heart of this debate which has raged in this body concerning the National Endowment for the Arts has been, does Congress have the right to set standards for the use of tax dollars that are going to the arts? From what has been returned to us from the conference committee, the answer seems to be a resounding yes.

However, the standards in the language are to me anemic and somewhat unclear, and for that reason I would like to engage in a colloquy with the distinguished chairman of the subcommittee, the gentleman from Illinois [Mr. YATES], to better establish the meaning of the language of the conference committee which was arrived at in the conference report.

Madam Speaker, with that explanation, I would like to ask a few questions of the chairman of the subcommittee.

□ 1520

Mr. YATES. Madam Speaker, I would be very glad to respond within my limited knowledge.

Mr. ROHRABACHER. Madam Speaker, I appreciate the willingness of the gentleman from Illinois [Mr. YATES].

Does the gentleman from Illinois [Mr. YATES] concur in the statement in the conference report, quote, "The NEA erred in approving the grants for the exhibiting publicly of certain controversial photographs by Robert Mapplethorpe and by granting a fellowship for Andres Serrano whose subsequent work included a photo of a crucifix submerged in a jar of urine"?

Mr. YATES. Madam Speaker, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Illinois.

Mr. YATES. Madam Speaker, that reply took place in connection with a very extended discussion that was taking place in the conference. I expressed the opinion that out of 85,000 grants by NEA, only 20 had been controversial over the last 24 years and that in connection with the grants that were made in 1988, out of 4,000 grants that were made, only two were controversial. I said that in my judgment at that time I thought they had done a most credible job, but, if they erred, they erred in respect to these two grants.

Mr. ROHRABACHER. Madam Speaker, I thank the gentleman from Illinois [Mr. YATES].

In referring to section A of the proposed amendment, which sets standards for the use of NEA funds, would the distinguished chairman, the gentleman from Illinois [Mr. YATES], agree that it was the intent of the conferees to bar the further use of tax funds for artistic projects comparable to the objectionable parts of the Mapplethorpe exhibit, the ones in which he suggested the NEA erred?

Mr. YATES. Madam Speaker, if the gentleman from California [Mr. ROHRABACHER] will yield, I do not understand that question. I would ask the gentleman to repeat that.

Mr. ROHRABACHER. Madam Speaker, I will try to rephrase it.

I ask the gentleman from Illinois [Mr. YATES] if you do concur that the NEA erred in submitting these grants for Mapplethorpe and Serrano, would you, and this is referring to section A of the proposed amendments which sets standards for NEA funds, would you agree that it was the intent of the conferees to bar the further use of tax funds for artistic projects that are comparable to the objectionable parts of the Mapplethorpe exhibit, meaning the ones that you suggest the NEA erred in, in the first place?

Mr. YATES. Madam Speaker, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Illinois.

Mr. YATES. Madam Speaker, I say to the gentleman from California [Mr. ROHRABACHER], I don't know that you can have comparable grants to the Mapplethorpe and the Serrano. I think they were original artifacts by those two artists.

If you are asking me, is it the intent of the conferees to require that NEA and NEH are to consider among the other factors in connection with grant making, whether the proposed applications are obscene, then the answer to our question is yes.

Madam Speaker, was that the thrust of the question of the gentleman from California [Mr. ROHRABACHER]?

Mr. ROHRABACHER. Madam Speaker, the basis of the question is that, if indeed the art projects in the future that are comparable, if comparable to the objectionable parts of the Mapplethorpe exhibit, the NEA then uses that as a standard to determine funds on further exhibits on those same grounds.

Mr. YATES. Madam Speaker, if the gentleman from California [Mr. ROHRABACHER] will yield, I think perhaps we cannot use as a standard for comparison Mapplethorpe or Serrano. I have never seen other works of art like that, and I do not know of anybody else who has. I do not know that there will ever be other works of art like those, so it seems to me that the question of the gentleman from California [Mr. ROHRABACHER] is kind of in a

vacuum, and that is why I thought the reply I should make is as to what the conferees did.

Madam Speaker, the conferees agreed that obscenity is to be a factor in grant making in the future and that in the event that an application were judged to be obscene, then there were certain other factors that came into play, just as they did in the case of the Miller education, with which I am sure the gentleman is familiar.

Madam Speaker, my colleagues will remember that there were three qualifications in the Miller decision; one, whether it was prurient; two, whether or not it was antagonistic to what was the standard in the community; and, third, whether or not it possessed literary, scholastic, political, or scientific merit; all of those factors, may I say, plus, the standard which is now in the law that requires artistic excellence and the highest quality of art to be in the applications that are approved. If the applications do not possess "artistic and humanistic excellence," whether they are obscene or not, they ought not be approved. If they are obscene, then it was the conferees' intention to leave within the discretion of the chairmen, the chairperson of NEH and chairperson of NEA, the decision as to whether or not there was enough social merit of the kind that are outlined in those four categories to justify overcoming the possibility of obscenity and approving the grant. Except for that, then the obscenity would take over.

Mr. ROHRABACHER. Madam Speaker, given what the gentleman from Illinois [Mr. YATES] has just said, and whereas we are having a little trouble with trying to determine whether or not we can possibly have a comparable piece of art in the future come before the NEA, were the same Mapplethorpe exhibit to come before the NEA right now, including the objectionable photographs, would the distinguished chairman, the gentleman from Illinois [Mr. YATES], agree that the NEA would now be in violation of the standards we have set and by what the conference report suggests in their gentleman's agreement by funding that exhibit today?

Mr. YATES. Madam Speaker, if the gentleman from California [Mr. ROHRABACHER will yield, I do not know how I can answer any differently that I did.

As far as this gentleman is concerned, there are certain pictures in the 150 photographs that make up the Mapplethorpe exhibit that I would find objectionable. There are roughly 10 of them, I think, that I would find objectionable. I do not know about most people; I suspect most people would designate them as pornographic, obscene, indecent, all the words that are there. However, Madam Speaker, that decision again depends on what the intent is within the discretion of the chairman. If the chairman decides that the merit to the application is overcome by the weight of the obscenity, then he would not approve the grant. He would then have to decide what to do.

Madam Speaker, I cannot say what the chairman would do under those circumstances. I might do it were I the chairman, but I am not the chairman.

As it happens, I am a prude. I tend to not like pictures of that kind.

Mr. ROHRABACHER. Madam Speaker, I say to the gentleman from Illinois [Mr. YATES], I'm having difficulty in understanding the answer then. You're suggesting that——

Mr. YATES. Madam Speaker, if the gentleman from California [Mr. ROHRABACHER] will yield, may I reply to the gentleman that what the gentleman is doing is asking me to give him precise answers to problems and issues that the Supreme Court has had trouble with for generations and for decades. The gentleman from California cannot ask me to talk about a——

Mr. ROHRABACHER. Madam Speaker, I am asking the gentleman from Illinois [Mr. YATES] about the intent of the conference, he being our representative or being a representative on the conference, and I am asking him whether or not, if the Mapplethorpe exhibit, including the many offensive pictures within that exhibit, were resubmitted to the NEA, is it the intent of the conference that that exhibit would be re-funded under the gentleman's agreement that the conference came up with?

Mr. YATES. Madam Speaker, if the gentleman from California [Mr. ROHRABACHER] will yield, I will tell the gentleman that the conference did not consider the question. The conference considered the fact that they had been funded. Most of the members of the conference, I felt, believed that they probably should not have been funded, or the Mapplethorpe should have been conditionally funded upon excluding some of the pictures, but on the question as to whether it was the intent of the conference that, had Mapplethorpe been submitted again, I say the intent of the conference was to the contrary because the intent of the conference was to leave that decision within the discretion of the chairman.

Mr. ROHRABACHER. So, Madam Speaker, the intent of the conference was not to set any standard that would prevent a Mapplethorpe exhibit; is that correct? And what the gentleman is suggesting is that the intent of the conference was not to prevent the refinancing and the resubsidization of an exhibit that was exactly the same as the Mapplethorpe exhibit?

□ 1530

Mr. YATES. I am telling the gentleman that it was the intent of the conference to leave that decision within the discretion of the chairman of the NEA and NEH. That is specifically set out in language that we wrote.

Now, if you are asking me would they do it, would the members of the conference do it if they were the chairman of the NEA, I do not know the answer to that, but insofar as the intent of the conference was concerned, as the language indicates, that is left within the discretion of the chairman.

Mr. REGULA. Madam Speaker, will the gentleman yield to me?

Mr. ROHRABACHER. I yield to the gentleman from Ohio.

Mr. REGULA. Madam Speaker, let me make it clear, it was the intent of the conference, as I view it, and of the managers that we not use taxpayer's dollars to fund obscene art, period.

Mr. ROHRABACHER. Is that the chairman's opinion as well?

Mr. YATES. I would say, yes. As a matter of fact, it would be my impression, too, that I would not want to see taxpayers' money funding obscene art that did not have any kind of the conditions that the Supreme Court decision also required, namely, that it did not have meritorious content.

Mr. ROHRABACHER. Madam Speaker, would the gentleman then say that if a piece of art had meritorious artistic content, that as well as that, dealt with a subject matter which sexually exploited children or denigrated someone's religion, that that should be funded simply because it has some artistic merit, along with the subject matter?

Mr. YATES. The gentleman is twisting my words. What I was doing is citing what the standards adopted by the conference were, and the standards having been adopted by the conference reflected the three conditions that I have just outlined.

The gentleman is trying to get me to say that they did not have all of those conditions. I am telling the gentleman that all those conditions were adopted by the conferees. That is in the language.

Mr. ROHRABACHER. To go on, Madam Speaker, the proposed amendment establishes a commission which would as part of its mission consider whether the standard for publicly funded art should be different than the standard for privately funded art.

Mr. YATES. The gentleman raises a very good question, and that is the subject that we have accorded to the Commission, whether the standards should be different.

For example, I know the gentleman has written a script that he calls the French Doctoress, and the story that appeared in the Los Angeles Times, as the gentleman knows, talked about a steamy love scene between the French Doctoress, and I think it was a Gesta-

po agent. The Times, I think, quoted the gentleman as saying to the studio, "You can make it as graphic as you want."

Now, I assume the gentleman justifies that on the grounds that there is no funding by the Federal Government.

But the point I am trying to make is that, yes, that is a valid question. Should there be that difference? It is a very profound question that the conference rightly believed should receive the consideration of the wise men and women who will make up the Commission.

Mr. ROHRABACHER. And if the Commission arrives at the answer, yes, there should be a difference in standards between federally funded art and that which is privately funded in terms of the ability of the Government to set standards, is it the intent of the distinguished chairman that this Commission also has the authority to recommend what those different standards should be?

Mr. YATES. Well, I will say to the gentleman that we have given this Commission 180 days to come to its conclusion. When it has concluded, it will report back to the Congress, and at that time the authorization for another few years will be under consideration by the legislative committees of the House and the Senate having jurisdiction over this matter.

I think the gentleman's question should properly be addressed to them, because they will be making that decision.

Madam Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Madam Speaker, I thank the gentleman for yielding this time to me.

I did not intend to get into this, but I am wondering as I listen to this debate whether we are talking about art or whether we are talking about taste.

I heard terms like obscenity and excellence, and even with the Commission established by this amendment and a chairman that can "yea" or "nay" any funding, I am wondering if that will ever satisfy the gentleman, because I am not sure we will ever come in this body, I hope, to a definition of what is good taste and what is bad taste.

Let me give the gentleman an example. Right now there is receiving Federal funds at this time a production which explicitly portrays scenes of transvestism and implies lesbian love, receiving $30,000 of Federal money and playing in this neighborhood. It is at the Folger Shakespeare Library. It is called "Twelfth Night." It is by William Shakespeare.

Now, my concern is that if we try to proscribe and micromanage what this Commission will do, I am afraid that they might refuse to fund something that might be controversial, or at least speculative in a way.

Mr. ROHRABACHER. There is only a limited amount of time.

Mr. GRANDY. I just wanted to get this in. My point is this. I cannot predict what will happen in the next fiscal year, but I would be stunned if Andre Serrano gets a grant from the NEA next year.

The problem with funding art is that you do not know what you are going to get until after the artist has created, and it is very hard to defund the project after it is hanging in the gallery or on the stage or running in the movie house.

The concern that I have is that by attempting to legislate and micromanage, and in a sense palpitate over every paragraph as to what is obscene and excellent and what is not and what is truly homoeroticism and what is only semihomoeroticism, you probably stiffle some creative impulses which are legitimate, which probably even deserve a Federal subsidy to get going, and that is the only reason I take the floor.

I appreciate what the gentleman is doing. I think the gentleman has accomplished his mission.

I think that the possibility of homoerotic art or crucifixes or Stars of David in tubs of urine next year is limited, but I think that if we go too far to try to tell the chairman of this commission what his judgment will be before he makes it, he will not make a judgment and projects will not get funded.

Mr. REGULA. Madam Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Madam Speaker, I am listening to this fascinating discussion and, of course, there is much truth in what everybody says. I think that if there is any doubt about a work of art that the benefit of the doubt should go to the artist, but some things are beyond the pale. Some things are not dubious at all. The Serrano crucifix in urine to me is beyond the pale.

Subsidizing with Federal money of child pornography is beyond the pale.

Now, there is more at stake here than artistic integrity. We are not qualified to determine the merit of a work of art, I will concede that, but we are accountable to the taxpayers whose money is being spent, and we cannot avoid that. We cannot deny that. We cannot escape from that. So we must weigh the accountability of limited Federal funds with insulting people's finest sensitivities, and those things are egregious and we ought to know when something is egregious and when something is doubtful.

Now, "Twelfth Night," Shakespeare, the Bible, we all know that, but we also know the Serrano Christ and we know what Mapplethorpe has done, and the taxpayers do not want to subsidize that and to just send the money and do not ask questions is not being accountable.

So I do not have a solution to the problem. I would think my friend with a highly developed sensitivity to the world of art and the muses would be able to figure some way to avoid taxpayers having to subsidize egregious obscenity, and that is all I have to say.

Mr. GRANDY. Madam Speaker, if I had known the gentleman from Illinois was going to weigh in on this debate, I probably would not have taken the floor.

Let me first say that I am no artist, and I have 10 years on television to prove it.

I would just say this. The problem with funding art is you are not funding art. You are funding the artist.

□ 1540

If Andres Serrano had come to the NEA and said:

> Here is a beaker of urine, and I am going to put a crucifix in this, could I get some money?

The answer probably would have been, "No." One does not know until the project is created. We have judgment here that is built in place.

As a matter of fact, you have several hoops to jump through. You have, as I understand it, and correct me if I am wrong, the distinguished Chairman, the Chairman of the National Endowment can veto a project, can he not, under the gentleman's amendment?

Madam Speaker, I yield one additional minute to the gentleman from Iowa [Mr. GRANDY].

Mr. YATES. Madam Speaker, will the gentleman yield?

Mr. GRANDY. I am happy to yield to the gentleman from Illinois.

Mr. YATES. Madam Speaker, he may, indeed. Under the new language, he may consider the application so obscene that it has no merit and, therefore, should be vetoed.

Mr. GRANDY. So, therefore, we have a democratic process followed by an autocratic procedure if we so desire?

Mr. YATES. That is correct.

Mr. GRANDY. In a sense we have the ability, and the gentleman from Missouri just gave me the word, we have an art czar which may be right or wrong, but I think the problem that was created this year with funding of obscene and pornographic and disgusting and sacrilegious works of art is more than corrected in this amendment.

I thank the gentleman.

Mr. REGULA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I would just point out to the gentleman from California that we do have accountability, and to

the gentleman from Illinois who mentioned accountability, we have more accountability than the Helms amendment. The Helms amendment simply says that you cannot do it and does not say who would make the decision, did not have any penalties, had no way of really enforcing the amendment. We have tried to address that, and the conferees worked long and hard to get language, given the circumstances that we have heard outlined here today, that would provide accountability. Somebody is responsible. Somebody has to answer; namely, the Chairmen of the NEH and NEA. We have today with us in the Chamber the chairman and the ranking member on the Subcommittee of Education and Labor who will be addressing this problem in the reauthorization. I would hope that those who have spoken today who want to try to be more precise will take their suggestions to that committee so that it becomes part of the permanent law.

This is only a 1-year bill, and if we are to address this problem, it should be addressed as part of the permanent law. I would hope that in their hearings in the subcommittee there will be ample opportunity to have testimony from many different people as well as in this commission that has been named.

Mr. WALKER. Madam Speaker, will the gentleman yield?

Mr. REGULA. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Madam Speaker, could the gentleman explain how the provisions that the conference committee has drafted would have prevented the taxpayer from having to fund the Mapplethorpe or the Serrano exhibits? How would this language have assured that the taxpayer would not have been given that burden?

Mr. REGULA. I would point out to the gentleman the language that is in the conference report: "None of the funds authorized to be appropriated for the National Endowment for the Arts or the National Endowment for the Humanities may be used to promote, disseminate, or produce materials which, in the judgment of the National Endowment for the Arts or the National Endowment for the Humanities, may be considered obscene including, but not limited to, depictions of sadomasochism, homoeroticism, the sexual exploitation of children," and so on, and I think that had that language been in the law, Mapplethorpe and Serrano would not have been funded.

Mr. WALKER. So we are assuming, if the gentleman will yield further, that those works would have been regarded by the National Endowment as fitting that definition that they would be obscene as the gentleman from Illinois said beyond the pale, and that, therefore, the Commission under your language would have had the option of just rejecting them outright and never having the funds flow to those particular projects? Is that correct?

Mr. REGULA. The Chairman of the Commission on the Endowments would have had that option, yes. What we are tryng to do is establish accountability, and that was the flaw in the Helms amendment. It had no designated individual accountable. It just said it cannot be done, but usually, as was pointed out by the gentleman from Iowa, this is an after-the-fact situation, so we need this kind of strong language establishing a point of accountability, and that is, I think, the desire of the Members of this body in terms of the use of tax dollars.

Mr. YATES. Madam Speaker, will the gentleman yield in order that I may reply to the gentleman's first question?

Mr. REGULA. I am happy to yield to the gentleman from Illinois.

Mr. YATES. Madam Speaker, the gentleman asked how a taxpayer could prevent his money from going for this. I get letters. I received letters from taxpayers all during the Vietnam war saying that they were trying to set their money aside from paying taxes so it would not go for carrying on the war. How does that differ from the question the gentleman is asking? There was no way for them to do it.

Mr. WALKER. If the gentleman will yield further, the point is we are the elected representatives of the people, who have to make determinations here about how money is going to be spent. I think the elected representatives of the people here are somewhat concerned that their money is being used for things that even the conference committee has agreed now should not be funded such as obscene art. What I am trying to do is establish here now how the process would work, and I think the gentleman from Ohio has described it pretty well.

Just one final question: Who then are we holding accountable? Is it the Chairman?

Mr. REGULA. The Chairman.

Mr. WALKER. The Chairman of the National Council?

Mr. REGULA. We say the National Endowment. That is the Chairman and the panels that make these judgments. We use an inclusive term, the National Endowment.

Mr. WALKER. So if in the future something would happen that would fall through the cracks here and we would end up with something that many people would regard as being egregious in the mode of Serrano and Mapplethorpe, we then, under this amendment, can hold the Chairman of the National Council of the Arts directly responsible for having funded those projects? Is that right?

Mr. REGULA. That is absolutely correct. Just as we hold General Powell responsible for some of the things that happen at the Pentagon. We do this in every activity of Government. We have Cabinet members who are responsible for what their agencies do. The Government is predicated on a sense of responsibility. Our constituents hold us responsible for how we vote in this body.

Mr. WALKER. The problem for some of us was that when we contacted the National Endowment early on about these exhibits, when I discovered it, for instance, and wrote letters, the letter I got back from the National Endowment basically said, "We have no responsibility for this."

Mr. REGULA. I think that will be different.

Mr. WALKER. That is the point that we got back rather lengthy letters from the Chairman of the Endowment saying that, "We have no responsibility for this." Under the gentleman's approach now, they will have the responsibility? Is that correct?

Mr. REGULA. That is correct.

Mr. YATES. Madam Speaker, will the gentleman yield?

Mr. REGULA. I am happy to yield to the gentleman from Illinois.

Mr. YATES. Madam Speaker, let me say that we have gone even further than that. I assume that the gentleman was talking about Serrano when he talked about that he wrote a letter to the Endowment and got a letter back?

Mr. WALKER. The gentleman is correct.

Mr. YATES. On the Serrano, the gentleman is absolutely correct, and the Endowment, as it happens, was correct in the sense that its procedures permitted that to be done. It would make a grant to an institution which was authorized to make subgrants. We have stopped that. That institution no longer has the power as a final authority to make those subgrants. It acts as a recommendor, and those recommendations go back to the chairman and to the Council for consideration. So that in the process of reviewing subgrants, they will receive the same consideration and responsibility that direct grants receive.

Mr. WALKER. If the gentleman will yield further, in other words, in the future, I am not going to get another letter from the National Endowment for the Arts shrugging their shoulders and saying, "I am sorry, there is nothing we can do about it. That taxpayers' money is gone?"

Mr. YATES. The gentleman is correct.

Mr. WALKER. At this point we have somebody to hold directly responsible?

Mr. REGULA. Absolutely. I think in many ways that is one of the great strengths of this language is that there is accountability, and that is the

essence of our system of government that someone is accountable.

Madam Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Madam Speaker, I thank the gentleman for yielding me this time.

I want to commend the committee for their fine work and excellent language they have brought to the body and the conference report on this item, the chairman, the gentleman from Illinois [Mr. YATES], and the ranking Member, the gentleman from Ohio [Mr. REGULA].

Just for the record, because I think there has been such confusion in the debate, and this is now the third time it has come before the House in this session, but I think somebody may be confused as to who is wearing the white hats and dark hats, as it were.

On the issue of public accountability, I want to just be sure the record makes very clear that when the committee first brought this measure to our attention in the first instance, in the very first instance, they brought to this body language to strengthen accountability of the NEA, recognizing that, yes, there is indeed, a distinction to be made between public censorship, on the one hand, a first amendment violation, as opposed to proper public accountability for use of public funds. That was in the original bill that came to this House. It was stricken on a technical ground that it was regarded as legislating in an appropriation bill which apparently is now agreed upon as proper which is fine.

□ 1550

I supported putting that language in. It was a very distinct minority that called for pulling out the language.

Let us let the RECORD show that first of all, in the very beginning, before we got into these long and laborious disputes, the chairman and the ranking Republican Member brought language addressing the issue satisfactorily to the judgment of a vast majority of Members.

Second, I think the RECORD should show, and the votes will show that those who objected to the language in the first instance did so because they said they did not believe in "censorship" or any restrictions on the arts.

Then they went on to say that what truly motivated them was that they did not believe in any public funding for the arts, but rather than debating the issue of public funding for the arts over and over again on the floor of this House, they mentioned Mapplethorpe and Serrano. That was all they talked about. They said no, we do not believe in censorship; no, we do not believe in making these kinds of distinctions, but we just do not want art.

It then came back in the conference report. The same people who now had previously objected to legislating in an appropriations bill now favor legislating in an appropriations bill, strangely, however, given the language which came back from the Senate, not because they believed in censorship, or not because they believed in the dangers or were concerned about the dangers of intrusion into artistic freedom, but once again because they did not believe in public funding for the arts.

But the record will also show that over and over again all they did was talk about Serrano, Serrano and Mapplethorpe. I have to say if Members look at those who said they are for public accountability, it was those Members who stood by the chairman and the ranking Member. Our votes have consistently been for public accountability within a public policy of support for the arts.

I will take second place to no one in this body in saying that we are not responsible for appropriate uses of public funds. But I do not want the public to have a misconstrued notion as to who is wearing what hat in this debate.

Mr. ROHRABACHER. Madam Speaker, I yield myself 3 minutes.

Madam Speaker, I think the American people are going to be able to determine who is wearing the white hat and who is wearing the black hat, if we put it that way. I have to admit, from the very first I admitted to this body, as did several of my colleagues, we would prefer the Government not be in the business of subsidizing the arts in the first place. At a time when we are struggling to come up with funds for prenatal care and health care for the elderly, it is questionable whether or not we should be spending those funds in the arts. I fully admit that.

But to spend those funds and not to be able to set standards to prevent those funds from flowing to obscene and indecent art is in itself an obscenity, and I think that the American people will be able to determine who is wearing the black hats and who is wearing the white hats in reference to they do not want their tax dollars going for art that should be down in the local porno store.

Our institutions of art that are subsidized by the National Endowment for the Arts should have higher standards than the local porno store. The fact is the American people will be able to determine for themselves who is making that stand and whose side they are on.

We are not talking about just simply Serrano and Mapplethorpe, as we have been repeatedly told on the floor. I have seen examples funded by the National Endowment for the Arts that included bestiality, included homo-orgy scenes, and I do not care whether it is hetero-orgy or homo-orgy scenes, the Federal Government should not be subsidizing that kind of art.

We had a situation where the Gay Sunshine Press had pictures of these things as well as the Statue of Liberty turned into a transvestite, equipped with a penis and the rest. This is not the kind of trash that our people expect us to be spending our Federal dollars on. They expect us to set standards so their dollars do not go there.

The fact is that when someone says we do not know what is going to be done until after the money is spent, that is not correct. The Mapplethorpe exhibit, the art that was being subsidized was perfectly known to those people who made that decision.

Mr. YATES. Madam Speaker, if the gentleman will yield, I will give him an extra minute.

Mr. ROHRABACHER. I am happy to yield on the gentleman's time.

Mr. YATES. Madam Speaker, I just wanted to point out to the gentleman, as I pointed out to the conferees, I looked at the application, and I looked at the transparencies, and the so-called controversial art the gentleman refers to was not in the transparencies. I do not know whether the council knew what the show was going to be.

The practice of NEA, which will be reviewed now by the Commission, was that they wanted to get a consideration of what the artist's work was before they approved it. Now they are going to look at the shows, so that they did not look at the entire show.

Mr. ROHRABACHER. With all due respect, I believe the position of some of the people who have been opposing this has been that even if they did know they could have well gone ahead and financed that with Federal tax dollars.

The SPEAKER pro tempore (Mrs. SCHROEDER). The time of the gentleman from California [Mr. ROHRABACHER] has expired.

Mr. YATES. Madam Speaker, I yield to the gentleman from California 1 additional minute.

Mr. ROHRBACHER. Madam Speaker, we have heard that setting some kind of standards is going to be stifling of artistic freedom and development in this country when we are talking about standards for the use of Federal tax dollars. I think the American people, and we all know it, and that is why I had to go through so many problems trying to get this to a vote in the first place, why we were never able to get this to a direct vote, that the American people expect us to set standards, especially at a time of high deficit spending. For us to be spending our dollars, refusing to set standards so that those tax dollars are not wisely used and instead are flowing to such sexually graphic art, and again either

heterosexual or homosexual art, I do not care, but to have our dollars flowing in that direction at a time of high deficits is wrong, wrong, wrong. I do not characterize it as wearing black hats or white hats. The American people will decide who is right on this issue. I only hope that the conference has come up with language which will prevent this kind of abuse in the future.

Mr. REGULA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I agree it is wrong, wrong, wrong, to fund any form of obscenity with taxpayers dollars.

What we have done in this conference report is establish a standard, "no funds shall be used," and we list those things, and with the standard we have established accountability. As the chairman said, this was done by a subgrantee. We say no more, no more subgrantees, no more ability to write a letter to the gentleman from Pennsylvania and say, "Well, we did not know." Under this language, the chairman and the council are accountable. I think that is what the gentleman wants. He wants somebody to be responsible if there is an abuse of discretion such as we have experienced with Mapplethorne and Serrano, and we have made a strenuous effort to do that even to the point of taking language out of a Supreme Court decision that established a standard.

I urge all of our colleagues to read the language that is in the conference report. I think if they do that, they will discover that we have addressed this problem in the best possible way to avoid any future abuse such as triggered this discussion originally.

Mr. YATES. Madam Speaker, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Madam Speaker, I want to thank the distinguished gentleman from Illinois [Mr. YATES], chairman of the Interior Appropriations Subcommittee, for yielding this time to me.

Let me start out by commending him and the gentleman from Ohio [Mr. REGULA] and all of the conferees for taking what was a horrendous, unconstitutional set of ideas, and making them far less offensive than Mr. HELMS would have imposed upon this Congress and upon the National Endowments for the Arts and Humanities and a host of other governmental agencies.

It seems to me that in the 20-some-odd years of the history of the National Endowments they have demonstrated that the gentleman from Illinois and his counterparts in the House and Senate really had the right idea at the very outset in having a peer-review-driven process so that politics and politicians, no matter how well or how badly motivated, would not be the ones determining for this country what was really art and what was offensive art, and what was acceptable art.

I think that the steps that are being taken now, driven by a small frantic minority, tend to take us in exactly the wrong direction. In the history of the Endowments, some 80,000 grants have been given. Less than a dozen of those, less than 0.015 percent, have brought any kind of reaction that they were offensive to anybody in Congress or anyplace else.

It seems to me that that demonstrates such a tremendous degree of success and effectiveness and accountability that we ought not to go down the path of censorship and of undermining the artistic process and the free expression of art and of ideas.

□ 1600

I think that regardless of what the gentleman from California thinks, the people of this country have demonstrated over the years that they support the National Endowment for the Arts and the National Endowment for the Humanities because of what they have done for the arts in regions and localities throughout this entire country; a tremendous burgeoning of the arts has been achieved by the commitment of a very modest Federal contribution.

The gentleman from Illinois and the gentleman from Ohio have reason to be extremely proud of that.

We ought not to let a small misguided minority thwart us and mislead us from that process.

Although the conference language leaves out Senator HELMS' original bans on funding for art that is "indecent" or that "denigrates" a religion, race, ethnic background, age group or handicap, it still includes measures that unnecessarily restrict the NEA's funding decisions.

Before we vote to retain such restrictions, as well as vote to use up $250,000 of the NEA's 1990 appropriations on establishing a commission to review the NEA's grant-making system, we must keep in mind the NEA's track record. Fewer than a dozen of the 80,000 grants given in the history of the NEA have aroused congressional displeasure—that is at most 0.15 percent of all the grants that the NEA has ever made. Before we place unnecessary restrictions on the NEA and waste its precious money, we must pay attention to the bare facts. As the old saying goes, "if it ain't broke, don't fix it."

Mr. YATES. Madam Speaker, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. I thank the gentleman for yielding.

Madam Speaker, I want to join the gentleman from New York [Mr. WEISS], in commending the gentleman from Illinois [Mr. YATES], and the gentleman from Ohio [Mr. REGULA], and say only very briefly, I wish to separate myself from this chorus.

When we ask artists or art itself, to be accountable even to the taxpayers we diminish the creative impulse of musicians, painters, novelists, playwrights, dancers and so forth. Artists should be accountable, only to themselves and to their work. Artists in America should not be accountable, even to the American people.

When art and artists are accountable to the public will, what do we get? Turn on your television tonight and you will see for yourselves.

Artists are not politicians. While I will support the language because it is an improvement over the language offered by the gentleman from North Carolina [Mr. HELMS], I must say, we have diminished the creative impulse in America today. We have chilled creative expression in America today. We have taken a step backwards in America today. This is a mistake, Madam Speaker. We have issued a political warning, a political threat to our most creative citizens.

When we ask art and artists to be accountable to the public, we appeal to a kind of public common denominator.

Those few pieces of art which have offended the majority here are the exception, not the rule.

If I have time, I yield to the gentleman from Illinois.

Mr. REGULA. Madam Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. I thank the gentleman for yielding.

Madam Speaker, the gentleman from Pennsylvania, I agree, I do not think artists should ever be accountable. It is us who ought to be accountable to the taxpayers. We are spending their money. We have to spend it wisely and prudently, not fritter it away indulging the counterculture impulses of someone who calls himself an artist.

Let Hugh Hefner or Stewart Mott pay for that stuff. Believe me, it is the Emperor's clothes.

Madam Speaker, in front of the Social Security Building in Chicago is a giant four-story baseball bat made of wrought iron. I do not know how much that cost the taxpayers. But I would hate to take the referendum in my district to see whether they thought it was money well spent. We should be accountable, not the artists.

God forbid, an accountable artist; that is oxymoron.

Mr. KOSTMAYER. Madam Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. I thank the gentleman for yielding.

Madam Speaker, is the gentleman suggesting we take a referendum in his

district to determine what is art. With no disrespect to the people who live in the gentleman's district, I think that is a bad idea.

If you do not believe me, turn on your television tonight and you will see what we produce in this country for public consumption. Art should not be judged by some kind of referendum or at the ballot box or on the floor of the House. That is not the way the creative process has worked.

Mr. HYDE. The people's money should be spent with some measure of accountability. If the gentleman wants to——

Mr. KOSTMAYER. Let us take an occasional chance and we will end up with an occasional bad piece of art. It will happen occasionally; it is inevitable and far more desirable than a wholesale attack on art in America, on what is different or odd or strange or even offensive.

The SPEAKER pro tempore (Mrs. SCHROEDER). Is there any further debate on the motion offered by the gentleman from Illinois [Mr. YATES]?

Mr. YATES. Madam Speaker, I was just going to ask how much time remains.

The SPEAKER. The gentleman from Illinois [Mr. YATES] has 11½ minutes, the gentleman from California [Mr. ROHRABACHER] has 1 minute remaining, and the gentleman from Ohio [Mr. REGULA] has 6½ minutes remaining.

Is there any further debate on the motion offered by the gentleman from Illinois?

Mr. YATES. Madam Speaker, I propose, if it is agreeable to my colleague, I propose to close the debate by reading the full action of the conferees on this subject. It will only take, I think, 1 minute.

Madam Speaker, I yield myself such time as I need for the purpose of making clear what the conferees did in order to answer the questions of the gentleman from California that he asked me at the start.

This is what the conferees did:

None of the funds authorized to be appropriated for the National Endowment for the Arts or for the National Endowment for the Humanities may be used to promote, disseminate or produce materials which in the judgment of the National Endowment for the Arts or the National Endowment for the Humanities may be considered obscene, including, but not limited to, depictions of sado-masochism, homoeroticism, the sexual exploitation of children, or individuals engaged in sex acts and which, when taken as a whole, do not have serious literary, artistic, political or scientific value.

I do not agree with my friend from Pennsylvania that this has a chilling effect.

What we have done and what the gentleman from Ohio refers to in talking about accountability means that we now have in the Chairmen of both of the Endowments the accountability of deciding, as they do now under the law, which grants should be made.

The artists have no reason to feel any kind of chilling effect. They have a dispute which has taken place here now, but I do not think that has any kind of a chilling effect. Artistic expression, artistic freedom of expression is still covered under this amendment.

Madam Speaker, I move the previous question.

The SPEAKER pro tempore. The gentleman from Illinois moves the previous question on this motion. Without objection, the previous question is ordered.

All those in favor of the gentleman's motion will say "aye," those opposed say "no." The gentleman's amendment is hereby agreed to.

The Clerk will designate the next amendment in disagreement.

The CLERK. Senate Amendment No. 164, page——

The SPEAKER pro tempore. Was the gentleman from California [Mr. ROHRABACHER] on his feet?

PARLIAMENTARY INQUIRY

Mr. ROHRABACHER. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ROHRABACHER. Did I not have 1 minute of debate left?

Mr. YATES. Madam Speaker, the gentleman was on his feet and he knew that the Chair proposed the question. He made no effort to ask for any kind of a rollcall. The Chair listened for him and then judged that the issue had been closed.

The SPEAKER pro tempore. The gentleman's motion for the previous question was not in order unless the gentleman from California yielded back his time.

Mr. YATES. Yes.

Mr. ROHRABACHER. Madam Speaker, I am not asking for a rollcall vote, I am not going to ask for a rollcall vote.

Mr. YATES. I misunderstood the gentleman. I thought the gentleman had used up his time. I am sorry if I cut the gentleman off. I did not mean to do that, I have no reason to do that.

The SPEAKER pro tempore. Does the gentleman from California seek to use his final minute?

Mr. YATES. The gentleman has 1 minute left, as I understand it. I thought he had it.

Mr. ROHRABACHER. I am not calling for a rollcall vote. I would just like 1 minute's worth of time.

The SPEAKER pro tempore. The gentleman from California is recognized for 1 minute and the previous action of the House in disposing of the motion is vacated.

Mr. ROHBRABACHER. I thank the Speaker.

Madam Speaker, we have heard a lot of talk today about censorship, about stifling people's artistic creation, even one of my own film clips was mentioned by the distinguished chairmen.

I do not believe in censorship in the private sector. I do not believe we in this body should be censoring movies or artwork or whatever. Anything that we have proposed here from my side has been suggesting that artists can still do whatever they want on their own time and with their own dime, as the gentleman from Texas [Mr. ARMEY] would say.

The fact is that if I sell my screen play to someone in the private sector, they have a right to do with it what they want. And I would not try to have the Government involved with that process.

But when it comes to the Federal tax dollars, we should be responsible to the taxpayers because they do not have any choice whether or not they are going to be paying for that, for whichever piece of art subsidized by the Government. If someone does not like the movie——

Mr. YATES. Madam Speaker, I yield myself 1 additional minute just to point out to the gentleman that we thought, too, that that was an issue that deserved very serious consideration, and that is why we gave it to the Commission to look at.

Mr. REGULA. Madam Speaker, I yield back the balance of my time.

Mr. YATES. Madam Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 164: Page 85, after line 3, insert:

SEC. 315. Section 9(a)(3) of Public Law 100-580 (102 Stat. 2932) is amended by inserting after the term "Council." the following: "The Yurok Transition Team may receive grants and enter into contracts for Federal programs, including those administered by the Secretary of the Interior and the Secretary of Health and Human Services, with respect to Federal services and benefits for the tribe and its members. Such grants and contracts shall be transferred to the Yurok Interim Council upon its organization.

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 164 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

"SEC. 315. Section 9(a)(3) of Public Law 100-580 (102 Stat. 2932) is amended by inserting after the term "Council." the following: "The Yurok Transition Team may receive grants and enter into contracts for the purpose of carrying out this section and section 10(a) of this Act. Such grants and contracts shall be transferred to the Yurok Interim Council upon its organization.": *Provided,* That using $750,000 appropriated in the Energy and Water Development Appropriations Act, 1990, under "General Investigations, Corps of Engineer—Civil", the Secretary of the Army, acting through the Chief of Engineers, is directed to continue engineering and design of the McCook and Thornton Reservoirs, which are features of the Chicagoland Underflow Plan: *Provided further,* That with respect to claims resulting from the performance of functions, during fiscal year 1990 only, or claims asserted after the effective date of this Act, but resulting from the performance of functions prior to fiscal year 1990, under a contract, grant agreement, or cooperative agreement authorized by the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq.) or by Title V, Part B—Tribally Controlled School Grants of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988, as amended (102 Stat. 385; 25 U.S.C. 2501 et seq.), an Indian tribe, tribal organization or Indian contractor is deemed to be part of the Bureau of Indian Affairs in the Department of the Interior or the Indian Health Service in the Department of Health and Human Services while carrying out any such contract or agreement and its employees are deemed employees of the Bureau or Service while acting within the scope of their employment in carrying out the contract or agreement: *Provided further,* That upon the effective date of this legislation, any civil action or proceeding involving such claims brought hereafter against any tribe, tribal organization, Indian contractor or tribal employee covered by this provision shall be deemed to be an action against the United States and will be defended by the Attorney General and be afforded the full protection and coverage of the Federal Tort Claims Act: *Provided further,* That beginning with the fiscal year ending September 30, 1991 and thereafter, the appropriate Secretary shall request through annual appropriations funds sufficient to reimburse the Treasury for any claims paid in the prior fiscal year pursuant to the foregoing provisions: *Provided further,* That nothing in this section shall in any way affect the provisions of section 102(d) of the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq.)."

Mr. YATES (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 165: Page 85, after line 3, insert:

"SEC. 316. The Forest Service is directed to assure an immediate supply of timber from the Kootenai National Forest and to protect the environment: *Provided,* That pending implementation of the Forest Service's final agency action on the Upper Yaak Decision Area, as defined in the Upper Yaak Draft Environmental Impact Statement, the Forest Service is directed to expeditiously sell and harvest timber from the lodgepole pine timber type, as defined in the Upper Yaak Draft EIS, in the Upper Yaak Decision Area: *Provided further,* That adequate environmental assessments for certain timber sales in the Upper Yaak Decision Area have been completed and are adequate, decision notices have been issued, no appeals have been filed, and the time period for appeals as specified in Forest Service regulations has expired: *Provided further,* That the Forest Service actions taken pursuant to this section shall comply with the Kootenai National Forest Plan: *Provided further,* That no construction of new system roads shall be permitted in the Upper Yaak River Drainage: *Provided further,* That this section does not in any manner represent a judgment upon the legal adequacy or in any way affect the final decision made in the development or implementation of the Upper Yaak Final EIS."

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 165 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

"SEC. 316. Effective sixty days after enactment of this Act, the Forest Service is directed to assure an immediate supply of timber from the Kootenai National Forest and to protect the environment: *Provided,* That pending implementation of the Forest Service's final agency action on the Upper Yaak Decision Area, as defined in the Upper Yaak Draft Environmental Impact Statement, the Forest Service is directed to expeditiously prepare, offer, and supervise the harvest of timber from the lodgepole pine timber type, as defined in the Upper Yaak Draft EIS, in the Upper Yaak Decision Area: *Provided further,* That adequate environmental assessments for certain timber sales in the Upper Yaak Decision Area have been completed and are adequate, decision notices have been issued, no appeals have been filed, and the time period for appeals as specified in Forest Service regulations has expired: *Provided further,* That the Forest Service actions taken pursuant to this section shall comply with the Kootenai National Forest Plan: *Provided further,* That no construction of new system roads shall be permitted in the Upper Yaak River Drainage: *Provided further,* That this section does not in any manner represent a judgment upon the legal adequacy or in any way affect the final decision made in the development or implementation of the Upper Yaak Final EIS."

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 166: Page 85, after line 3, insert:

"SEC. 317. Notwithstanding title 5 of the United States Code or any other provision of law, after September 30, 1984, rents and charges collected by payroll deduction or otherwise for the use or occupancy of quarters of agencies funded by this Act shall thereafter be deposited in a special fund in each agency, to remain available until expended, for the maintenance and operation of the quarters of that agency: *Provided,* That nothing contained herein shall prohibit an agreement between an Indian tribe or tribal organization and the Secretary of the Interior or the Secretary of Health and Human Services, pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.), under which such tribe or tribal organization may retain rents and charges collected by payroll deduction or otherwise for the use and occupancy of quarters and use such rents and charges for the operation, maintenance, and repair of such quarters."

□ 1610

MOTION OFFERED BY MR. YATES

Mr. YATES. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 166 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

"SEC. 317. Section 320 of Public Law 98-473 (98 Stat. 1974) as amended by Section 316 of Public Law 100-446 (102 Stat. 1826) is further amended by deleting the period and inserting ": *Provided,* That nothing contained herein shall prohibit an agreement between an Indian tribe or tribal organization and the Secretary of the Interior or the Secretary of Health and Human Services, pursuant to the Indian Self-Determination Act, as amended (25 U.S.C. 450 et seq.), under which such tribe or tribal organization may retain rents and charges for the operation, maintenance, and repair of such quarters.".

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by

the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 167: Page 85, line 3, insert:

"SEC. 318. (a) From funds appropriated under this Act or otherwise made available—

(1) the Forest Service shall award, notwithstanding the provisions of the Federal Timber Contract Payment Modification Act of 1984 (16 U.S.C. 618(a)(5)(C)), an aggregate timber sale level of 8 billion board feet of net merchantable timber from the national forests in Oregon and Washington for fiscal years 1989 and 1990. Such timber sales shall be consistent with legally valid land and resource management plans except, in the case of the Mapleton Ranger District of the Siuslaw National Forest, Oregon, shall be consistent with the preferred alternative of the draft land and resource management plan and accompanying draft environmental impact statement dated October 1, 1986: Provided, That of the 8 billion board foot aggregate timber sale level for fiscal years 1989 and 1990, timber sales awarded from the thirteen national forests in Oregon and Washington known to contain northern spotted owls shall meet an aggregate timber sale level for fiscal years 1989 and 1990 of 6 billion board feet of net merchantable timber; and

(2) the Bureau of Land Management shall award such volumes as are required in fiscal year 1990 to meet an aggregate timber sale level of 2 billion board feet for fiscal years 1989 and 1990 from its administrative districts in Western Oregon.

(b)(1) In accordance with subsection (b)(2) of this section, all timber sales from the thirteen national forests in Oregon and Washington known to contain northern spotted owls prepared pursuant to this section shall minimize fragmentation of the most potentially significant forest stands. "Potentially significant forest stands" are defined as meeting all the following criteria:

(A) that have at least eight trees per acre exceeding 300 years in age or 40 inches in diameter;

(B) that contain more than four snags per acre greater than 15 feet tall and greater than 24 inches in diameter; and

(C) that contain more than four downed trees per acre which are greater than 24 inches in diameter and are greater than 50 feet long.

(2) To the extent any fragmentation is necessary in order to meet the timber sale levels directed by subsections (a)(1) and (a)(2) of this section, the Forest Service and the Bureau of Land Management shall confine such fragmentation to the potentially significant forest stands which have been prioritized from the smallest to the largest on a forest-by-forest and district-by-district basis.

(3) The Forest Service is directed to thoroughly review the relationship between the minimal fragmentation criteria of subsections (b)(1) and (b)(2) of this section and the timber sales program for the Mt. Baker-Snoqualmie and Olympic National Forests. If these forests are unable to meet their proportional share of the allowable sale quantity under the minimal fragmentation criteria, then the Forest Service shall consult with the advisory boards established under subsection (c) of this section and the United States and Wildlife Service as established under subsection (e) of this section to identify timber sales to meet the proportional allowable sale quantity, and shall prepare, advertise, offer and award these identified sales. Nothing in this subsection shall be deemed to alter the relationship between the Forest Service and the United States and Wildlife Service under the conferencing process established under section 7(a)(4) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(4), as amended).

(c) The Secretaries of the Interior and Agriculture shall name advisory boards on a forest-by-forest and district-by-district basis which shall be comprised of not more than thirteen individuals who, in the appropriate Secretary's judgement, equally represent a diversity of views. The advisory boards shall be named not later than November 1, 1989. The advisory board shall assist the Forest Service and Bureau of Land Management in reviewing prospective timber sales which shall meet the timber sale levels directed by this section prior to their award. The members of the advisory boards authorized by this section shall serve without compensation or reimbursement of expenses.

(d) Notwithstanding any other provision of law, there shall be not more than one level of administrative appeal of any decision by the Forest Service and the Land Management to undertake any activity directed by this section for timber sales to be prepared, advertised, offered, and awarded during fiscal year 1990 from the thirteen national forests in Oregon and Washington and public lands in western Oregon known to contain northern spotted owls. If an administrative stay is granted in any such appeal the Regional Forester or the Bureau of Land Management State Director shall issue a final decision on the merits within forty five days of the date of issuance of such stay.

(e) The United States Fish and Wildlife Service shall confer with the Forest Service and the Bureau of Land Management, and shall prepare and complete an advisory report which recommends to the Forest Service and the Bureau of Land Management criteria to be used in identifying those areas that should be avoided to ensure the continued viability of the northern spotted owl. Such report shall be completed and submitted to the Forest Service and the Bureau of Land Management by November 1, 1989; once the report is completed, the Forest Service and Bureau of Land Management shall consider the report recommendations, together with other relevant information, in the preparation, advertisement, offer and award of the timber sales directed by this section.

(f)(1) If parties to the lawsuits referenced in subsection (g)(1) of this section reach and enter into negotiated agreements accepted by the relevant courts not later than October 1, 1989, which allows the preparation, advertisement, offer, and award of at least 1 billion board feet of net merchantable timber from those timber sales enjoined on the national forests, and at least 250 million board feet of timber sales on Bureau of Land Management districts in western Oregon enjoined by the orders identified in subsection (g)(1) of this section, then such timber sales selected shall be prepared, offered, awarded and operated and shall not be subject to further judicial review by any court of the United States.

(2) If the agreements specified in subsection (f)(1) of this section is reached, then those timber sales listed in the court orders referenced in subsection (g)(1) of this section but not identified in the agreement in subsection (f)(1) of this section are hereby voided and shall not be offered for resale in fiscal year 1990.

(g)(1) In accordance with the provisions of subsections (b)(1), (b)(2), (b)(3), and (e) of this section, the Forest Service and Bureau of Land Management for fiscal year 1990 shall identify timber sales for preparation, advertisement, offer and award, which may include timber sales from among those described in the court order dated March 24, 1989, as amended, in the captioned case *Seattle Audubon Society et al.*, v. *F. Dale Robertson*, Civil Number 89-160, consolidated with *Washington Contract Loggers Assoc. et al.*, v. *F. Dale Robertson*, Civil Number 89-99 (order granting preliminary injunction); the opinion entered on May 18, 1989 in *Portland Audubon Society et al.*, v. *Manuel Lujan, Jr.*, Civil Number 87-1160-FR (order granting injunction pending appeal), and shall consult with the parties of the aforementioned cases in identifying timber sales which were released so that the timber sale levels directed in subsections (a)(1) and (a)(2) of this section can be attained.

(2) After they are established, the Forest Service and Bureau of Land Management shall consider the recommendations of the advisory boards established pursuant to subsection (c) of this section regarding any timber sale to be awarded in fiscal year 1990 prior to the award of any subsequent timber sale. These recommendations shall be considered regardless of whether the agreements provided in subsection (f)(1) of this section have been reached, entered into, and accepted by the relevant courts.

(h)(1) If parties to the lawsuits referenced in subsection (g)(1) of this section fail to reach and enter negotiated agreements as provided in subsection (f)(1) of this section, then such timber sales selected pursuant to subsections (g)(1) and (g)(2) of this section shall be prepared, advertised, awarded and operated notwithstanding any provision of law that is a basis for any stay, restraining order or injunction issued in a proceeding identified in subsection (g)(1) of this section.

(2) The Forest Service and Bureau of Land Management shall, for each respective timber sale, lift its own stay or apply to the appropriate court for the lifting of the restraining order or injunction whose basis has been withdrawn by this section.

(i) No restraining order, injunction, or void of sale shall be issued by any court of the United States in fiscal year 1990 with respect to any decision to prepare, advertise, offer and award timber sales from the thirteen national forests in Oregon and Washington and public lands in western Oregon known to contain northern spotted owls. The provisions of section 705 of title 5, United States Code shall not apply to any challenge to such a timber sale: *Provided*, That the courts shall have authority to void a sale if it has been determined by a trial on the merits that such sale should not be awarded.

(j) The Forest Service, the Bureau of Land Management, and the United States Fish and Wildlife Service shall submit reports updating their findings and progress as determined by the process established in subsection (e) of this section on a monthly basis to the President of the Senate and the Speaker of the House for appropriate referral. Such reports shall be submitted as di-

rected beginning on December 1, 1989, and ending on September 30, 1990.

(k) Except for provisions of subsection (a)(1) of this section, other provisions of this section apply solely to the thirteen national forests in Region Six and Bureau of Land Management districts in western Oregon known to contain northern spotted owls. Nothing contained in this section shall be construed to require the Forest Service or Bureau of Land Management to develop similar policies on any other forest or district in Oregon and Washington.

(l) The advisory committees established under this section shall not be subject to the Federal Advisory Committee Act (86 Stat. 770).

(m) The provisions of this section shall remain in effect until September 30, 1990.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 167 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

"SEC. 318. (a) From funds appropriated under this Act or otherwise made available—

(1) The Forest Service shall offer, notwithstanding the provisions of the Federal Timber Contract Payment Modification Act of 1984 (16 U.S.C. 618(a)(5)(C)), an aggregate timber sale level of seven billion seven hundred million board feet of net merchantable timber from the national forests of Oregon and Washington for fiscal years 1989 and 1990. Such timber sales shall be consistent with existing land and resource management plans or land and resource management plans as approved except, in the case of the Mapleton Ranger District of the Siuslaw National Forest, Oregon, such sales shall be consistent with the preferred alternative of the draft land and resource management plan and accompanying draft environmental impact statement dated October 1, 1986 pending approval of a final land and resource management plan for the Siuslaw National Forest: *Provided,* That of the seven billion seven hundred million board foot aggregate timber sale level for fiscal years 1989 and 1990, timber sales offered from the thirteen national forests in Oregon and Washington known to contain northern spotted owls shall meet an aggregate timber sale level for fiscal years 1989 and 1990 of five billion eight hundred million board feet of net merchantable timber: *Provided further,* That the sales volume shall be distributed in the same proportion between Oregon and Washington national forests known to contain northern spotted owls based on the average sale volumes for fiscal years 1986 through 1988 and;

(2) The Bureau of Land Management shall offer such volumes as are required in fiscal year 1990 to meet an aggregate timber sale level of one billion nine hundred million board feet for fiscal years 1989 and 1990 from its administrative districts in western Oregon.

(b)(1) In accordance with subsection (b)(2) of this section, all timber sales from the thirteen national forests in Oregon and Washington known to contain northern spotted owls prepared or offered pursuant to this section shall minimize fragmentation of the most ecologically significant old growth forest stands. "Old growth forest stands" are defined as those stands meeting the criteria according to Forest Service Research Publication #PNW-447. In those instances where the Forest Service, after consultation with the advisory boards established pursuant to subsection (c) of this section, determines that the definition in Forest Service Research Publication #PNW-447 is not fully applicable in national forests known to contain northern spotted owls, the Forest Service shall use old-growth definitions contained in its Pacific Northwest Regional Guide.

(2) To the extent that fragmentation of ecologically significant old growth forest stands is necessary to meet the timber sale levels directed by subsection (a)(1) of this section, the Forest Service shall minimize such fragmentation in the ecologically significant old growth forest stands on a national forest-by-national forest basis based on the Forest Service's discretion in determining the ecologically significant stands after considering input from the advisory boards created pursuant to subsection (c) of this section. The habitat of nesting pairs of spotted owls which are not in the Spotted Owl Habitat Areas (SOHAs) described in subsection (b)(3) of this section shall be considered an important factor in the identification of ecologically significant old growth forest stands.

(3) No timber sales offered pursuant to this section from the thirteen national forests in Oregon and Washington known to contain northern spotted owls may occur within SOHAs identified pursuant to the Final Supplement to the Environmental Impact Statement for an Amendment to the Pacific Northwest Regional Guide—Spotted Owl and the accompanying Record of Decision issued by the Forest Service on December 8, 1988 as adjusted by this subsection:

(A) For the Olympic Peninsula Province, which includes the Olympic National Forest, SOHA size is to be 3,200 acres:

(B) For the Washington Cascades Province, which includes the Mt. Baker-Snoqualmie, Okanogan, Wenatchee, and Gifford-Pinchot National Forests, SOHA size is to be 2,600 acres:

(C) For the Oregon Cascades Province, which includes the Mt. Hood, Willamette, Rogue River, Deschutes, Winema, and Umpqua National Forests, SOHA size is to be 1,875 acres;

(D) For the Oregon Coast Range Province, which includes the Siuslaw National Forest, SOHA size is to be 2,500 acres; and

(E) For the Klamath Mountain Province, which includes the Siskiyou National Forest, SOHA size is to be 1,250 acres.

(F) All other standards and guidelines contained in the Chief's Record of Decision are adopted.

(4) In planning for the preparation and offer of timber sales authorized in subsection (a)(1) of this section, the Forest Service, to the extent possible in areas proximate to SOHA sites identified in subsection (b)(3) of this section, should exercise discretion in selecting sizes and/or silvicultural prescriptions in order to retain spotted owl habitat characteristics in such areas. The Forest Service should consider the relative location and quality of such areas contiguous to the SOHAs and should give higher priority to preparing and offering sales in areas of lower quality and less important location than to areas of greater quality and more important location relative to the SOHAs.

(5) No timber sales offered pursuant to this section on Bureau of Land Management lands in western Oregon known to contain northern spotted owls shall occur within the 110 areas identified in the December 22, 1987 agreement, except sales identified in said agreement, between the Bureau of Land Management and the Oregon Department of Fish and Wildlife. Not later than thirty days after enactment of this Act, the Bureau of Land Management, after consulting with the Oregon Department of Fish and Wildlife and the U.S. Fish and Wildlife Service to identify high priority spotted owl area sites, shall select an additional twelve spotted owl habitat areas. No timber sales may be offered in the areas identified pursuant to this subsection during fiscal year 1990.

(6)(A) Without passing on the legal and factual adequacy of the Final Supplement to the Environmental Impact Statement for an Amendment to the Pacific Northwest Regional Guide—Spotted Owl Guidelines and the accompanying Record of Decision issued by the Forest Service on December 8, 1988 or the December 22, 1987 agreement between the Bureau of Land Management and the Oregon Department of Fish and Wildlife for management of the spotted owl, the Congress hereby determines and directs that management of areas according to subsections (b)(3) and (b)(5) of this section on the thirteen national forests in Oregon and Washington and Bureau of Land Management lands in western Oregon known to contain northern spotted owls is adequate consideration for the purpose of meeting the statutory requirements that are the basis for the consolidated cases captioned *Seattle Audubon Society et al.,* v. *F. Dale Robertson,* Civil No. 89-160 and *Washington Contract Loggers Assoc. et al.,* v. *F. Dale Robertson,* Civil No. 89-99 (order granting preliminary injunction) and the case *Portland Audubon Society et al.,* v. *Manuel Lujan, Jr.,* Civil No. 87-1160-FR. The guidelines adopted by subsections (b)(3) and (b)(5) of this section shall not be subject to judicial review by any court of the United States.

(B) The Forest Service is directed to review and revise as appropriate the decision adopted in the December, 1988 Record of Decision referenced in subsection (b)(6)(A) of this section and shall consider any new information gathered subsequent to the issuance of the Record of Decision, including the interagency guidelines for conservation of northern spotted owls developed by the Interagency Scientific Committee to address conservation of the northern spotted owl. This review, and any resulting changes to the December, 1988 decision determined to be necessary by the Forest Service are to be completed and in effect not later than September 30, 1990.

(c)(1) The Secretaries of Agriculture and the Interior shall name advisory boards on a national forest-by-national forest and Bureau of Land Management district-by-district basis which shall be comprised of not more than seven individuals who, in the appropriate Secretary's judgment, represent a diversity of views. In the process of selecting individuals to serve on the advisory boards, the Secretaries shall make every effort to recognize the diversity of views and perspectives and allow parties which represent a cross-section of those views to participate in making recommendations in the selection of board members, provided that every effort will be made to ensure the advisory boards are comprised of an equal number of representatives of environmental and business concerns. The advisory boards shall be

named not later than thirty days after enactment of this Act. The advisory boards shall provide recommendations to the Forest Service and the Bureau of Land Management in reviewing prospective timber sales which shall meet the timber sale levels directed by this section prior to their offer. The advisory boards shall present their advice within fifteen or forty-five days after receipts of the necessary review documents. The fifteen-day period applies to single sales and the forty-five-day period applies to multiple sales. The members of the advisory boards authorized by this section shall serve without compensation or reimbursement of expense. The Forest Service and the Bureau of Land Management are authorized to use available funds for the services of professional, independent facilitators to assist in the work of the advisory boards.

(2) The Forest Service and Bureau of Land Management shall consider the recommendations of the advisory boards once such boards are established pursuant to this section, including any suggested modifications of individual sales. The Forest Service and Bureau of Land Management shall also consider recommendations made by the U.S. Fish and Wildlife Service on those timber sales conferred upon under Section 7(a)(4) or, if the spotted owl is listed as a threatened or endangered species, consult under Section 7(a)(2) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1536(a)(2) and (a)(4) prior to the offer of any subsequent timber sale in fiscal year 1990. These recommendations shall be considered regardless of whether the agreement provided in subsection (f)(1) of this section has been reached, entered into, and accepted by the relevant court. Adoption or rejection of such recommended modifications shall not require preparation of additional environmental documents, notwithstanding any other provision of law.

(d) Notwithstanding any other provision of law, there shall be not more than one level of administrative appeal of any decision by the Forest Service or the Bureau of Land Management to undertake any activity directed by this section for timber sales to be prepared, advertised, offered, and awarded during fiscal year 1990 from the thirteen national forests in Oregon and Washington and Bureau of Land Management lands in western Oregon known to contain northern spotted owls. If an administrative stay is granted in any such appeal the Regional Forester or the Interior Board of Land Appeals shall issue a final decision on the merits within forty-five days of the date of issuance of such stay. Notwithstanding any other provision of law, any party seeking to challenge a decision made after the date of enactment of this Act to prepare, advertise, offer, or award a timber sale in fiscal year 1990 from the thirteen national forests and Bureau of Land Management lands in western Oregon known to contain northern spotted owls need not exhaust their administrative remedies prior to filing suit. Nothing in this subsection shall alter the administrative appeal requirements of the Forest Service or Bureau of Land Management.

(e) Nothing in this section shall affect interagency cooperation among the Forest Service, the Bureau of Land Management, and the U.S. Fish and Wildlife Service under Sections 7(a)(2) and 7(a)(4) of the Endangered Species Act and its regulations.

(f)(1) Not later than two days after enactment of this Act, the Forest Service shall submit to plaintiffs in the captioned case *Seattle Audubon Society et al.*, v. *F. Dale Robertson*, Civil No. 89-160, a list of sales which had been prepared for offer in fiscal year 1989 and which contain at least 40 acres of suitable spotted owl habitat. Not later than fourteen days after receipt of such list, plaintiffs to the suit referenced in this subsection may enter into an agreement with the Forest Service releasing for sale not less than one billion one hundred million board feet of net merchantable timber. Such sales must be available for advertisement not later than fourteen days after the agreement required by this subsection is reached. Such timber sales selected shall not be subject to futher judicial review by any court of the United States.

(2) If the agreement specified in subsection (f)(1) of this section is reached, then those timber sales described in the list submitted to plaintiffs pursuant to subsection (f)(1) of this section but not contained in the agreement authorized by subsection (f)(1) of this section shall not be offered for sale in fiscal year 1990.

(3) If the agreement authorized under subsection (f)(1) of this section is not implemented within the time frames prescribed in subsection (f)(1) of this section, one billion one hundred million board feet of net merchantable timber from such sales submitted to plaintiffs pursuant to subsection (f)(1) of this section shall be selected and modified as appropriate by the Forest Service in accordance with the provisions of this section. Selected sales shall be prepared, advertised, offered, awarded and operated notwithstanding any provision of law that is a basis for any stay, injunction or order issued in the proceeding identified in subsection (f)(1) of this section: *Provided*, That nothing in this subsection shall affect rights available under the Contract Disputes Act (41 U.S.C. 601 et seq.).

(4) The Forest Service shall, for each respective timber sales, lift its own stay or apply to the appropriate court for the lifting of the restraining order or injunction whose basis has been withdrawn by this section.

(5) Timber sales selection pursuant to subsections (f)(1) or (f)(3) of this section shall be based on the following criteria: (1) proportional distribution between Oregon and Washington national forests known to contain northern spotted owls based on the average sale volumes for fiscal years 1986 through 1988; (2) proportional distribution to the extent possible among the thirteen national forests known to contain northern spotted owls in Oregon and Washington based on the average sale volumes for fiscal years 1986 through 1988; and (3) to the extent possible, selection of sales outside the habitat of nesting pairs of spotted owls which are not in the Spotted Owl Habitat Areas described in subsection (b)(3) of this section.

(g)(1) No restraining order or preliminary injunction shall be issued by any court of the United States with respect to any decision to prepare, advertise, offer, award, or operate a timber sale or timber sales in fiscal year 1990 from the thirteen national forests in Oregon and Washington and Bureau of Land Management lands in Western Oregon known to contain northern spotted owls. The provisions of section 705 of title 5, United States Code shall not apply to any challenge to such a timber sale: *Provided*, That the courts shall have authority to enjoin permanently, order modification of, or void an individual sale if it has been determined by a trial on the merits that the decision to prepare, advertise, offer, award, or operate such sale was arbitrary, capricious or otherwise not in accordance with law: *Provided further*, That any challenge to a timber sale must be filed in Federal District Court within fifteen days of the date of initial advertisement of the challenged timber sale: *Provided further*, That for forty-five days after the date of filing of a challenge to a timber sale the affected agency shall take no action to award a challenged timber sale. Civil actions filed under this section shall be assigned for hearing at the earliest possible date and shall take precedence over all other matters pending on the docket of the court at that time except for criminal cases: *Provided further*, That the court shall render its final decision relative to any challenge within forty-five days from the date such challenge is brought, unless the court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(2) Notwithstanding any other provision of law, the court may set rules governing the procedures of any such proceeding which set page limits on briefs and time limits on filing briefs and motions and other actions which are shorter than the limits specified in the Federal rules of civil or appellate procedure.

(3) In order to reach a decision within forty-five days, the Federal District Court may assign all or part of any such case or cases to one or more Special Masters, for prompt review and recommendations to the court.

(h) The Forest Service, the Bureau of Land Management, and the U.S. Fish and Wildlife Service shall submit reports updating their findings and progress as determined by the process recognized under subsection (e) of this section on a monthly basis to the President of the Senate and the Speaker of the House of Representatives for appropriate referral. Such reports shall also include information on the extent to which recommendations of the advisory boards established pursuant to subsection (c) of this section were integrated into timber sale decisions as well as reasons for modifying or not adopting recommendations made by the advisory boards. Such reports shall be submitted as directed beginning on December 1, 1989, and ending on September 30, 1990.

(i) Except for provisions of subsection (a)(1) of this section, the provisions of this section apply solely to the thirteen national forests in Oregon and Washington and Bureau of Land Management districts in western Oregon known to contain northern spotted owls. Nothing contained in this section shall be construed to require the Forest Service or Bureau of Land Management to develop similar policies on any other forest or district in Oregon or Washington.

(j) The advisory boards established under this section shall not be subject to the Federal Advisory Committee Act (86 Stat. 770).

(k) Timber sales offered to meet the requirements of subsection (a) of this section shall be subject to the terms and conditions of this section for the duration of those sale contracts. All other provisions of this section shall remain in effect until September 30, 1990."

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mrs. SCHROEDER). Is there objection to the request of the gentleman from Ohio?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. ROBERT F. (BOB) SMITH. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ROBERT F. (BOB) SMITH. Madam Speaker, I am opposed to this amendment. I understand the gentleman from Ohio is in favor of it. I would ask for 20 minutes of the allocated time.

The SPEAKER pro tempore. Is the gentleman from Ohio [Mr. REGULA] opposed to the motion?

Mr. REGULA. Madam Speaker, I am not.

The SPEAKER pro tempore. Under the rules of the House, the gentleman from Oregon [Mr. ROBERT F. (BOB) SMITH] will be recognized for 20 minutes, the gentleman from Ohio [Mr. REGULA] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. YATES] will be recognized for 20 minutes.

PREFERENTIAL MOTION OFFERED BY MR. ROBERT F. (BOB) SMITH

Mr. ROBERT F. (BOB) SMITH. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROBERT F. (BOB) SMITH of Oregon moves that the managers on the part of the House recede and concur in Senate amendment numbered 167, relating to the spotted owl.

The SPEAKER pro tempore. The debate will be on the original motion as already allocated.

PARLIAMENTARY INQUIRY

Mr. YATES. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. YATES. Madam Speaker, is it proper at this time to ask that there be a division of the question on that motion?

The SPEAKER pro tempore. The gentleman may demand a division.

Mr. YATES. Madam Speaker, I ask for such a division.

The SPEAKER pro tempore. Then the question will be divided on the preferential motion.

The Chair recognizes the gentleman from Oregon [Mr. ROBERT F. (BOB) SMITH].

Mr. ROBERT F. (BOB) SMITH. I thank the Chair.

Provisions of the conference report before us today remind me of an episode in European history when Neville Chamberlain stood before the British people and declared "It is peace in our time." I am referring to the conference compromise which concerns timber harvesting in the Pacific Northwest.

Today, I will not stand before the American people and the people of the Pacific Northwest and endorse the same principle of appeasement, because beneath this compromise lies the unmistakable signs of continuing conquest. Radical preservationists continue their efforts to lock up forests in the Pacific Northwest, and you can bet your bottom dollar this agreement will not change that fact one bit.

Today, I am offering to substitute the original Hatfield/Adams amendment as passed by the Senate for the compromise provision negotiated with this body in conference. My reasons are simple.

First, the original Hatfield/Adams amendment contained a higher level for timber sales in the Pacific Northwest of 8 billion board feet on Forest Service lands and 2 billion board feet of Bureau of Land Management lands. The conference committee represents a 15 percent reduction in historic harvest levels.

Today the lumber mills in Oregon and Washington are starving for wood. Court injunctions forced by radical preservationists have reduced the timber sale in the Pacific Northwest by billions of board feet. In order to breathe a little life into our communities in the short term, we have attempted to have the Forest Service prepare and sell 8 billion board feet of timber and 2 million on the Bureau of Land Management.

I might point out this is down substantially from the current plans which would allow people to harvest 11.5 billion board feet. The conference committee program is 9.6 billion board feet, a substantial and grievous reduction.

The original amendment included a ban on injunctions to allow our Federal land managers the opportunity to sell the timber that we designate, and to harvest that we allow in the Congress. Obstructionist tactics by preservationists have precipitated a threering circus in the forests, the Congress, and in the courts. The Oregon delegation recognized the necessity to ban injunctions for a period of 1 year, the other body agreed, and the conference committee, at the request of radical preservationists, blew so many holes into that commonsense approach that the judicial provisions in this conference report amount to nothing more than swiss cheese. Well, that won't do.

Moreover, the conference committee has formulated a dangerous array of new and extreme protections for oldgrowth timber. Under this agreement, our land management agencies would be forced to harvest timber as though the spotted owl were already listed as an endangered species. We don't have the evidence to make that decision today.

The Forest Service has said it will take 5 years to gather the evidence necessary to determine whether or not the spotted owl is a threatened species. We in the Oregon delegation—all of us—have said that it would be devastating to our economy if the spotted owl were listed as a threatened species. And today you propose this amendment that sets precedents for managing the public lands that are precisely the kind of management procedures that would be included in a threatened species listing.

This compromise is fraught with confusing, meaningless phrases which not only open the door to the courthouse but roll a red carpet down the front walk. This agreement is not a bar to judicial obstruction, it's the welcoming committee.

For instance, this compromise seeks to protect ecologically significant old growth, but offers no definition as to what is or is not ecologically significant. This is an open invitation to litigation, and it is litigation that threatens the economy of Oregon.

Members can bet the courts will be asked to interpret what Congress meant. Well, what does Congress mean? It is not identified. No one knows.

This compromise directs that judicial challenges must be decided on the merits within 45 days of a filing, unless, it says, if the court finds that the 45-day limit violates due process. With a wink and a nod, this compromise lights the way to challenge its very existence. This compromise presumes to give with one hand, but takes away with the other.

This is a bad deal. And I submit to you that a better alternative can be found. Senator HATFIELD and Senator ADAMS offered it in the other body, and the Pacific Northwest needs it desperately to save thousands of jobs that this compromise will not.

Ladies and gentlemen, the emperor has no clothes. This agreement is not the short-term panacea the conference committee will have you believe, it does not adequately protect people in the Pacific Northwest, it is not peace in our time.

Therefore, I urge Members to support my motion to recede from the House position and to concur in the Senate amendment on amendment 167.

Madam Speaker, I reserve the balance of my time.

Mr. YATES. Madam Speaker, I yield 3 minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Madam Speaker, I rise in support of the motion to recede, but I strongly support the work product that was negotiated on the House side with the work of the gentleman from Oregon [Mr. AUCOIN], and with the work of the members of the Washington delegation.

I must say that I understand the gentleman from Oregon's frustrations.

He represents a large number of the forests that will be affected. However, I must tell the gentleman I read this compromise very differently. First of all, on the question of timber harvest, yes, we did come down from 8 billion board feet to 7.7; and yes, we did reduce from 2 to 1.9 billion board feet beyond lands in western Oregon, and those reductions are painful. We pointed this out to the people on our side who felt very strongly that we needed to reduce the overall harvest level.

However, I must tell the gentleman, I think what we did was reach a compromise here that will give certainty for this next year. The most important and devastating consequences of not reaching an agreement was the prospect of a Federal court decision in Seattle that could have rendered the entire program defunct and enjoined over the next year. What this agreement says is that we can go forward with that program, and yes, we can give the individual a right to go to court for a brief period of time, expedite those proceedings, in order to allow a sale that is not lawful, to be blocked.

□ 1620

But that is something that I think the Members of the House feel very fundamentally about, that we cannot take away the judicial right of appeal of an unlawful timber sale. We created advisory boards, and we worked out a program that I think is fair and equitable in a very controversial matter.

I would just suggest to my friend, the gentleman from Oregon, that I understand how he feels about this national issue. It is becoming a national issue, and I think if we do not work out solid compromises like the one we worked out with the chairman on this issue, then we face the prospect of defeat that could make the situation even worse.

So, Madam Speaker, I urge my colleague, the gentleman from Oregon, to think carefully about this matter before bringing it to a vote here on the floor of the House.

Mr. ROBERT F. (BOB) SMITH. Madam Speaker, I have no further requests for time at this moment.

Mr. YATES. Madam Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Madam Speaker, I rise in support of the committee position.

I do not think there is any question that this is no panacea. In face, all we are talking about is really laying down the swords for a short while. Let me say to my colleague, the gentleman from eastern Oregon, a Member whom I respect very, very much, because no Member is more decent and caring, that I share his view about a lot of the mess we are in. With respect to natural resources, instead of a responsible, balanced approach to making decisions with our forests, we are basically running a lawyers' full employment act. All we do is go to court and sue, and any side that has a temporary advantage is one up in the Federal courts.

I want the gentleman to know that in the next 12 months I think a lot of the committees are going to be prepared to work with him to come up with a long-term solution so that we do not go from year to year, constantly going through this process. I hope that what we will do is take this breather, lay down the swords for a time, and support the compromise.

Mr. YATES. Madam Chairman, I yield 4 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Madam Chairman, I appreciate the gentleman's yielding time to me.

Madam Speaker, I support the compromise on this appropriation, and I urge my colleagues to stick with the committee's position on the compromise.

I regret that my colleague, the gentleman from eastern Oregon, finds fault with this compromise. I say to my friend that I find fault with this compromise, and I tried to reach him on Friday when it looked like we were coming to a conclusion on this agreement, but the gentleman was not available. He was in a flight to Oregon, so it was not possible to run this past him at this time. I say to the gentleman it is a lot different when you are sitting on the porch and watching the activity in the yard where the action is and where the decisions are having to be made.

The gentleman from Washington [Mr. DICKS] and I have had the task of dealing with the gentleman from Illinois [Mr. YATES], the chairman of the subcommittee, who is insistent on a point of view that the gentleman from Oregon and I disagree with. The gentleman from Massachusetts also has fundamentally different ideas than the gentleman from Oregon and I about how the forests ought to be managed in the Northwest. These gentleman were at the negotiating table. The gentleman from Washington [Mr. DICKS] and I had to strike the compromise to find some way to lift a timber sales level that today is at 5 billion board feet and which will represent a catastrophe for the Pacific Northwest up to the 7.7 billion board feet that this compromise provides. Without this compromise we would be at 5 billion board feet. It is not possible to say that we would have been at 8.8 billion board feet, because what we are dealing with is an injunction which has been imposed on our region which leaves us with 5.5 billion board feet. We have 100 Members of this House who were prepared to shoot down and work against the Hatfield-Adams amendment which I supported, as well as the gentleman from Oregon, and which I wish we could pass. But it was not possible to pass that, and I was not going to accept the responsibility, nor was my friend, the gentleman from Washington [Mr. DICKS], for the defeat of that amendment, leaving our region with 5 billion board feet in a timber sales program.

It is better to go to 7.7 billion board feet and at the same time put in place some environmental protection for the spotted owl and some environmental protection for old growths of land which should not be fragmented and which the Forest Service says is all possible to do. It is better to get to 7.7 billion board feet on that basis and save 11,000 jobs for our region than to walk on this floor and get mowed down and blown away in a ball of flames and lose the 11,000 jobs and then go home to our people and put out a press release and say, "We were tough, we hung in there, and we sure tried to do a job for you folks, but we are sorry, you lost your jobs."

Madam Speaker, this is a compromise. I have reviewed it with members of the industry and rational and responsible members of the environmental community. These are my constituents as well as those of the gentleman. Industry representatives are saying we should accept the compromise, environmental representatives are saying we should accept the compromise, and the public is saying we should accept the compromise.

My constituents and the gentleman's constituents, the people of Oregon and Washington, have always said it ought to be possible to save the spotted owl and save the industry at the same time. They have always said this. This compromise makes it possible to do both of those things.

I am aware that this is not 8.8 billion board feet. I am sorry that it is not 8.8 billion board feet, and I know the gentleman from Washington, who represents northern Washington and the Olympic National Forest in Washington, wishes it were 8.8 billion board feet. But we are not the only Members on the House floor, and we cannot get 8.8 billion board feet. But 7.7 billion board feet is infinitely better than 5 billion board feet, and that is our choice. That saves 11,000 jobs. I am proud of that compromise. It is certainly not perfect.

In fact, I would say to my friend, the gentleman from Oregon, who criticizes this compromise, that working this compromise through, as I have debated it across the table, has come about with Members from Illinois who have never represented a Douglas fir forest and Members from Massachusetts who have never represented a Douglas fir forest. I have negotiated with people from the great Commonwealth of

Massachusetts who have no Douglas fir forest in their districts. I have dealt with Representatives from those regions who had a major input on this thing.

I wish I had the freedom the gentleman has to say that we ought to go to 8.8 billion board feet, but I did not have that freedom. I had to deal with these Representatives who are representing that point of view. What we call that is compromise. We cannot sit on the porch and throw a snowball at those who are making the decisions, those who have saved 11,000 jobs. That is not a surrender; that is a victory. This is a rescue of 11,000 jobs, and I think the people of the Northwest and the people of the United States of America ought to understand it as such.

Madam Speaker, I hope that the Members of the House will stay with the committee's position.

Mr. ROBERT F. (BOB) SMITH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I feel compelled to stand again and answer my friend, the gentleman from Oregon, who makes the suggestion that somehow I was sitting on the porch while this was all going on.

□ 1630

Madam Speaker, I just want to correct the record. The point is on June 24——

Mr. AUCOIN. Madam Speaker, will the gentleman yield?

Mr. ROBERT F. (BOB) SMITH. No, Madam Speaker, I will not.

Mr. AUCOIN. The gentleman from Oregon [Mr. ROBERT F. (BOB) SMITH] was not sitting on the porch. He was on the plane flying back to Oregon.

Mr. ROBERT F. (BOB) SMITH. Madam Speaker, I want to remind everybody that on June 24 I, along with this fellow, this gentleman from Oregon [Mr. AUCOIN], were working together on a summit recommendation to which we all agreed. Later than that, our delegation, as well as the Washington delegation, agreed with the Hatfield-Adams proposal.

Now we have moved again, and we have gone so far that I have to draw a line in the sand. This is beyond compromise. This is again surrender.

So, Madam Speaker, I am not going to go home and say, "I'm sorry you lost your job. We saved 11,000 jobs, but you lost your job."

I am going to suggest that after this debate there is going to be a huge part, and around the campfire there will be revelry because the people who represent radical environmentalism in this country will have won. There is not one objector. Among those people and Members who represent that part of America there is not one objection to this compromise.

Therefore, Madam Speaker, "Who won?," I ask my colleagues, and this time next year I am going to stand here, and I am going to relate to my colleagues the number of jobs and the number of mills that have closed because of this compromise, and I am going to be here next year, God willing, and I am going to suggest to my colleagues that what they have done with this so-called compromise, because it will not work, and we are out of business——

Mr. DICKS. Madam Speaker, will the gentleman yield to me for just a second?

Mr. ROBERT F. (BOB) SMITH. I yield to the gentleman from Oregon.

Mr. DICKS. Madam Speaker, I would just point out another thing.

I understand how strongly the gentleman from Oregon [Mr. ROBERT F. (BOB) SMITH] feels about protecting his consistuency. This gentleman from Washington and the gentleman from Oregon [Mr. AUCOIN] feel just as strongly.

Madam Speaker, we looked at this and looked at the situation that we were in. I want to remind the gentleman that 100 Members of this body wrote a letter to the distinguished chairman of this committee suggesting that Hatfield-Adams be stricken from this bill altogether and that is the climate in which we were operating.

The gentleman from Oregon [Mr. ROBERT F. (BOB) SMITH] knows, as I do, that we have 13 Members from the State of Washington and the State of Oregon combined, I believe, in the U.S. Congress, so I just want to make sure the gentleman understands that we did the best we could to protect jobs in the Northwest. The gentleman from Oregon [Mr. AUCOIN], my good friend who serves with me on the Committee on Appropriations fought as tenaciously as anyone I have ever seen to get the best possible deal we could get and still get something that would pass the House of Representatives.

Madam Speaker, I think the gentleman from Oregon [Mr. ROBERT F. (BOB) SMITH] should be applauding the gentleman from Oregon [Mr. AUCOIN], not condemning him. I think it is unfair and a mistake.

Madam Speaker, I appreciate the gentleman from Oregon [Mr. ROBERT F. (BOB) SMITH] for yielding.

Mr. ROBERT F. (BOB) SMITH. Of course, and the condemnation is the protest, I say to my friend, the gentleman from Oregon [Mr. DENNY SMITH], and by the way, I always thought a majority was 218, not 100.

Madam Speaker, I yield back the balance of my time.

Mr. REGULA. Madam Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Madam Speaker, I have been listening to the colloquy between my colleagues from Washington and Oregon, and I have to agree with my colleague, the gentleman from Oregon [Mr. ROBERT F. (BOB) SMITH].

Madam Speaker, I voted for the compromise, and I am sure that the gentleman from Washington [Mr. DICKS] is correct. He did the best he could, and I am sure that the gentleman from Oregon [Mr. AUCOIN] did the best he could.

However, Madam Speaker, the problem that we have here, and this is my ninth year in serving in this body, we have seen two wilderness bills, we have seen a wild and scenic river bill, we have seen a Columbia River Gorge bill, and we have put so much of our resource behind walls and barriers that cannot be touched and included them in the multiple use designation that we are running out of area that can be utilized to harvest, and the gentleman well knows that that is correct in that we have had more and more difficulty in getting to the base that we need. We have made it much more difficult for these people to do their job in the appropriations process.

Madam Speaker, as I look at the situation from the standpoint of the people I represent and the people that the gentleman from Oregon [Mr. ROBERT F. (BOB) SMITH] represents and that the gentleman from Oregon [Mr. AUCOIN] represents, we are seeing destruction of a resource that we are not going to be able to gain back, and that is the people who have been dedicated to their lifestyle and to their communities. Unfortunately the Government controls the raw resource, and we have no way to go. I know that a good job has been done, and I think we appreciate it, but at the same time I think we do have to say that enough is enough in giving more, and I am sure that the gentleman would also agree that we cannot continue to give up the resource base.

Madam Speaker, we need a long-term, sustained yield from these forest lands, and I think that is the one thing that hopefully in the long-term solution that I know we all share hope for that and that we will be able to put it together in the near future.

Mr. REGULA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, just a brief comment, and that is that I think this whole bill illustrates what is going to be a continuing problem for this Congress, and that is the conflict between environment and jobs, the conflict between the environment and having the products that have given us the quality of life, the standard of living that we have come to expect.

People in Ohio use the timber that is harvested off of these lands to build their homes, and that is true in all 50 States. The same thing was true here in terms of the moratoria on the drilling. Again the inevitable conflict between the environmental desires and the desire of people for a high standard of living exists. I think we, as a body, will have to address this in more than just an ad hoc basis.

Here we have a 1-year bill that we are dealing with, and yet these issues should be long-term policies that we can establish as a standard that will follow, and so I think the gentleman from Oregon makes a point here that from his constituency's point of view that there are a lot of jobs at stake. It is unfortunate that we cannot have it both ways.

I know that the conferees labored long and hard to try to strike a balance between the two, and we will have that as an almost continuing issue in the years to come, not only in this bill, but in a lot of other bills that are before us.

Madam Speaker, I yield back the balance of my time. Mr. Yates. Madam Speaker, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Madam Speaker, I rise again to speak on this issue. We have spent much time on this issue in the last 7 months. It is vital to our State and our region, from both sides and from both perspectives.

Madam Speaker, I just want to set the record clear. We do not have a partisan division here. We have some honest differences of opinion.

The two Senators, the senior and junior Senators from Oregon, are both supporting this compromise. I support this compromise. I believe that we have fulfilled the tenets of what we set out to do at the meeting in Salem in June, and that is two things: protect the owl and large and tag blocks of old growth from fragmentation in the short term; and, second, to get a certain supply of timber, an adequate supply of timber, out there for our timber-dependent communities.

Madam Speaker, this amendment meets those concerns. There are a lot of details we can argue over, but, for God's sake, let us move forward. We have got a long-term problem in front of us, and let us adopt this compromise amendment.

Mr. YATES. Madam Speaker, I yield back the balance of my time and I move the previous question on the preferential motion.

The SPEAKER pro tempore (Mrs. SCHROEDER). The gentleman from Illinois [Mr. YATES] has requested that we divide, the question on the first part of the preferential motion.

The question is, Will the House recede from its disagreement to the amendment of the Senate numbered 167 with an amendment?

The House receded from its disagreement to the amendment of the Senate numbered 167 with an amendment.

The SPEAKER pro tempore. The question is, Will the House concur in the amendment of the Senate numbered 167 with an amendment?

The House concurred in the amendment of the Senate numbered 167 with an amendment.

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The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 168: Page 85, line 3, insert:

SEC. 319. (a)(1) Hereafter, none of the funds appropriated by this Act or any other Act may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person, directly or indirectly, for influencing or attempting to influence, directly or indirectly—

(A) an officer or employee of any agency in connection with any Federal action described in paragraph (2);

(B) a Member of Congress to introduce, consider, or otherwise act upon proposed legislation concerning any such Federal action; or

(C) an officer or employee of Congress or an employee of a Member of Congress to consider or otherwise act upon any such proposed legislation.

(2) The prohibition in paragraph (1) applies with respect to the following Federal actions:

(A) The awarding of any Federal contract.

(B) The making of any Federal grant.

(C) The making of any Federal loan.

(D) The entering into of any cooperative agreement.

(E) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b)(1) Each person who requests or receives a Federal contract, grant, loan, or cooperative agreement from an agency or requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency, in accordance with paragraph (4)—

(A) a written declaration described in paragraph (2) or (3), as the case may be; and

(B) copies of all declarations received by such person under paragraph (5).

(2) A declaration filed by a person pursuant to paragraph (1)(A) with respect to a Federal contract, grant, loan, or cooperative agreement shall contain—

(A) a statement setting forth whether such person—

(i) has made any payment, using funds other than appropriated funds, which would be prohibited by subsection (a) if the payment were paid for with appropriated funds; or

(ii) has agreed to make any such payment;

(B) with respect to each such payment (if any) and each such agreement (if any)—

(i) the name and address of each person paid, to be paid, or reasonably expected to be paid;

(ii) the name and address of each individual performing the services for which such payment is made, to be made, or reasonably expected to be made;

(iii) the amount paid, to be paid, or reasonably expected to be paid;

(iv) how the person was paid, is to be paid, or is reasonably expected to be paid; and

(v) the activity for which the person was paid, is to be paid, or is reasonably expected to be paid; and

(C) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).

(3)(A) A declaration filed by a person pursuant to paragraph (1)(A) wth respect to a commitment providing for the United States to insure or guarantee a loan shall contain a statement setting forth whether such person has made or agreed to make any payment, directly or indirectly, to influence or attempt to influence, directly or indirectly—

(i) an officer or employee of any agency in connection with any Federal action described in subparagraph (B);

(ii) a Member of Congress to introduce, consider, or otherwise act upon proposed legislation concerning any such Federal action; or

(iii) an officer or employee of Congress to consider or otherwise act upon any such proposed legislation.

(B) The Federal actions referred to in subparagraph (A) are the following:

(i) The insuring and guaranteeing of any loan by the Federal Government.

(ii) The extension, continuation, renewal, amendment, or modification of any loan insurance, loan guaranty, or commitment providing for the United States to insure or guarantee a loan.

(4) A person referred to in paragraph (1)(A) shall file a declaration referred to in that paragraph—

(A) with each submission by such person that initiates agency consideration of such person for award of a Federal contract, grant, loan, or cooperative agreement, or for grant of a commitment providing for the United States to insure or guarantee a loan;

(B) upon receipt by such person of a Federal contract, grant, loan, or cooperative agreement or of a commitment providing for the United States to insure or guarantee a loan; and

(C) immediately upon the occurrence of any event that affects the accuracy of the information contained in any declaration previously filed by such person in connection with such Federal contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

(5) Any person who requests or receives from a person referred to in paragraph (1) a subcontract under a Federal contract, a subgrant under a Federal grant, a contract or subcontract to carry out any purpose for which a particular Federal loan is made, or a contract under a Federal cooperative agreement shall be required to file with the person referred to in such paragraph a written declaration referred to in clause (A) of such paragraph.

(6) The head of each agency shall collect and compile the statements filed under this subsection and, on April 30 and October 31 of each year, beginning in 1990, submit to the Secretary of the Senate and the Clerk of the House of Representatives a report containing a compilation of the statements received during the six months preceding the month in which the report is submitted. The report, including the compilation, shall be available for public inspection.

(7) The Director of the Office of Management and Budget shall notify the head of

each agency that this section is to be complied with immediately upon enactment. Not later than 60 days after the date of the enactment of this Act, the Director of Office of Management and Budget shall issue guidance for agency implementation of, and compliance with, the requirements of this section.

(c)(1) Any person who makes an expenditure prohibited by subsection (a) shall be subject to a civil penalty of $100,000 for each such expenditure.

(2)(A) Any person who fails to file or amend a declaration required to be filed or amended under subsection (b) shall be subject to a civil penalty of $100,000 for each such failure.

(B) A filing of a declaration or a declaration amendment on or after the date on which an administrative action for the imposition of a civil penalty under this subsection is commenced does not prevent the imposition of such civil penalty for a failure occurring before that date. For the purposes of this subparagraph, an administrative action is commenced with respect to a failure when an investigating official determines in writing to commence an investigation of an allegation of such failure.

(3) Sections 38093 (except for subsection (c)), 3804 3805, 3806, 3807, 2808, and 3812 of title 31, United States Code, shall be applied to the imposition and collection of civil penalties under this subsection.

(4) An imposition of a civil penalty under this subsection does not prevent the United States from seeking any other remedy that the United States may have for the same conduct that is the basis for the imposition of such civil penalty.

(5) The head of an agency awarding a contract to, making a grant to, making a loan to, or entering into a cooperative agreement with any person, or making a commitment to any person to insure or guarantee a loan, may terminate or cancel such contract grant cooperative agreement, loan, loan insurance, or loan guaranty on the basis of any violation of the requirements of subsection (a) or (b) by that person in connection with that contract, grant, cooperative agreement, loan, loan insurance, or loan guaranty.

(d)(1) The official of each agency referred to in paragraph (3) shall submit to Congress each year an evaluation of the compliance of that agency with, and the effectiveness of, the requirements imposed by this section on the agency, persons requesting or receiving Federal contracts, grants, loans, or cooperative agreements from the agency, and persons requesting or receiving from that agency commitments providing for the United States to insure or guarantee loans. The report shall be submitted at the same time the agency submits its annual budget justifications to Congress.

(2) The report of an agency under paragraph (1) shall include the following:

(A) All alleged violations of the requirements of subsections (a) and (b), relating to the agency's Federal actions referred to in such subsections, during the year covered by the report.

(B) The actions taken by the head of the agency in such year with respect to those alleged violations and any alleged violations of subsections (a) and (b) that occurred before such year, including the amounts of civil penalties imposed by the head of such agency in such year, if any.

(C) The Federal contracts, grants, loans, cooperative agreements, loan insurance, and loan guaranties canceled, terminated, or considered or being considered for cancellation or termination under subsection (c)(5).

(3) The Inspector General of an agency shall prepare and submit the annual report of the agency required by paragraph (1). In the case of an agency that does not have an inspector general, the agency official comparable to an inspector general shall prepare and submit the annual report, and, if there is no such comparable official, the head of the agency shall prepare and submit such annual report.

(e)(1)(A) Subsection (a)(1) does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement to the extent that the payment is for agency and legislative liaison activities not directly related to a Federal action referred to in subsection (a)(2).

(B) Subsection (a)(1)(A) does not prohibit any reasonable payment to a person for professional or other technical services rendered in connection with meeting requirements imposed by or pursuant to law as a condition for receiving a Federal contract, grant, loan, or cooperative agreement.

(C) Nothing in this paragraph shall be construed as permitting the use of appropriated funds for making any payment prohibited in or pursuant to any other provision of law.

(2) The reporting requirements in subsection (b) shall not apply to any person with respect to—

(A) payments of reasonable compensation made to regularly employed officers or employees of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan;

(B) a request for or receipt of a Federal contract, grant, or cooperative agreement that does not exceed $50,000; and

(C) a request for or receipt of a loan, or a commitment providing for the United States to insure or guarantee a loan, that does not exceed $150,000.

(3) This section does not apply with respect to Federal contracts, grants, loans, cooperative agreements, loan insurance commitments, and loan guaranty commitments that are entered into or made before the date of the enactment of this Act.

(f) The head of each Federal agency shall take such actions as are necessary to ensure that the provisions of this section are vigorously implemented and enforced in such agency.

(g) As used in this section:

(1) The term "recipient", with respect to funds received in connection with a Federal contract, grant, loan, or cooperative agreement, includes the contractors, subcontractors, or subgrantees (as the case may be) of the recipient.

(2) The term "agency" has the same meaning provided for such term in section 552(f) of title 5, United States Code.

(3) The term "person" includes an individual, corporation, company, association, authority, firm, partnership, society, State, or local government.

(4) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(5) The term "local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, the following entities:

(A) A local public authority.

(B) A special district.

(C) An intrastate district.

(D) A council of governments.

(E) A sponsor group representative organization.

(F) Any other instrumentality of a local government.

(6)(A) The terms "Federal contract", "Federal grant", "Federal cooperative agreement" mean, respectively—

(i) a contract awarded by an agency;

(ii) a grant made by an agency or a direct appropriation made by law to any person; and

(iii) a cooperative agreement entered into by an agency.

(B) Such terms do not include—

(i) direct United States cash assistance to an individual;

(ii) a loan;

(iii) loan insurance; or

(iv) a loan guaranty.

(7) The term "Federal loan" means a loan made by an agency. Such term does not include loan insurance or a loan guaranty.

(8) The term "reasonable payment" means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

(9) The term "reasonable compensation" means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

(10) The term "regularly employed", with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan, means an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 168 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

"SEC. 319. (a)(1) Subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 1352. Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions

"(a)(1) None of the funds appropriated by any Act may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action described in paragraph (2) of this subsection.

"(2) The prohibition in paragraph (1) of this subsection applies with respect to the following Federal actions:

"(A) The awarding of any Federal contract.

"(B) The making of any Federal grant.

"(C) The making of any Federal loan.

"(D) The entering into of any cooperative agreement.

"(E) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

"(b)(1) Each person who requests or receives a Federal contract, grant, loan, or cooperative agreement from an agency or requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency, in accordance with paragraph (4) of this subsection—

"(A) a written declaration described in paragraph (2) or (3) of this subsection, as the case may be; and

"(B) copies of all declarations received by such person under paragraph (5).

"(2) A declaration filed by a person pursuant to paragraph (1)(A) of this subsection in connection with a Federal contract, grant, loan, or cooperative agreement shall contain—

"(A) a statement setting forth whether such person—

"(i) has made any payment with respect to that Federal contract, grant, loan, or cooperative agreement, using funds other than appropriated funds, which would be prohibited by subsection (a) of this section if the payment were paid for with appropriated funds; or

"(ii) has agreed to make any such payment;

"(B) with respect to each such payment (if any) and each such agreement (if any)—

"(i) the name and address of each person paid, to be paid, or reasonably expected to be paid;

"(ii) the name and address of each individual performing the services for which such payment is made, to be made, or reasonably expected to be made;

"(iii) the amount paid, to be paid, or reasonably expected to be paid;

"(iv) how the person was paid, is to be paid, or is reasonably expected to be paid; and

"(v) the activity for which the person was paid, is to be paid, or is reasonably expected to be paid; and

"(C) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).

"(3) A declaration filed by a person pursuant to paragraph (1)(A) of this subsection in connection with a commitment providing for the United States to insure or guarantee a loan shall contain—

"(A) a statement setting forth whether such person—

"(i) has made any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with that loan insurance or guaranty; or

"(ii) has agreed to make any such payment; and

"(B) with respect to each such payment (if any) and each such agreement (if any), the information described in paragraph (2)(B) of this subsection.

"(4) A person referred to in paragragh (1)(A) of this subsection shall file a declaration referred to in that paragraph—

"(A) with each submission by such person that initiates agency consideration of such person for award of a Federal contract, grant, loan, or cooperative agreement, or for grant of a commitment providing for the United States to insure or guarantee a loan;

"(B) upon receipt by such person of a Federal contract, grant, loan, or cooperative agreement or of a commitment providing for the United States to insure or guarantee a loan, unless such person previously filed a declaration with respect to such contract, grant, loan, cooperative agreement or commitment pursuant to clause (A); and

"(C) at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any declaration previously filed by such person in connection with such Federal contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

"(5) Any person who requests or receives from a person referred to in paragraph (1) of this subsection a subcontract under a Federal contract, a subgrant or contract under a Federal grant, a contract or subcontract to carry out any purpose for which a particular Federal loan is made, or a contract under a Federal cooperative agreement shall be required to file with the person referred to in such paragraph a written declaration referred to in clause (A) of such paragraph.

"(6)(A) The head of each agency shall collect and compile the information contained, pursuant to paragraphs (2)(B) and (3)(B) of this subsection, in the statements filed under this subsection and, on May 31 and November 30 of each year, submit to the Secretary of the Senate and the Clerk of the House of Representatives a report containing a compilation of the information contained, pursuant to such paragraphs, in the statements received during the six-month period ending on March 31 or September 30, respectively, of that year. The report, including the compilation, shall be available for public inspection 30 days after receipt of the report by the Secretary and the Clerk.

"(B) Notwithstanding subparagraph (A)—

"(i) information referred to in subparagraph (A) that involves intelligence matters shall be reported only to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees;

"(ii) information referred to in subparagraph (A) that is specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy, is classified in accordance with such order, and is available only by special access shall be reported only to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives or the Committees on Armed Services of the Senate and the House of Representatives (whichever such committees have jurisdiction of matters involving such information) and to the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees; and

"(iii) information reported in accordance with this subparagraph shall not be available for public inspection.

"(7) The Director of the Office of Management and Budget, after consulting with the Secretary of the Senate and the Clerk of the House of Representatives, shall issue guidance for agency implementation of, and compliance with, the requirements of this section.

"(c)(1) Any person who makes an expenditure prohibited by subsection (a) of this section shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure.

"(2)(A) Any person who fails to file or amend a declaration required to be filed or amended under subsection (b) of this section shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

"(B) A filing of a declaration or a declaration amendment on or after the date on which an administrative action for the imposition of a civil penalty under this subsection is commenced does not prevent the imposition of such civil penalty for a failure occurring before that date. For the purposes of this subparagraph, an administrative action is commenced with respect to a failure when an investigating official determines in writing to commence an investigation of an allegation of such failure.

"(3) Sections 3803 (except for subsection (c)), 3804, 3805, 3806, 3807, 3808, and 3812 of this title shall be applied, consistent with the requirements of this section, to the imposition and collection of civil penalties under this subsection.

"(4) An imposition of a civil penalty under this subsection does not prevent the United States from seeking any other remedy that the United States may have for the same conduct that is the basis for the imposition of such civil penalty.

"(d)(1) The official of each agency referred to in paragraph (3) of this subsection shall submit to Congress each year an evaluation of the compliance of that agency with, and the effectiveness of, the requirements imposed by this section on the agency, persons requesting or receiving Federal contracts, grants, loans, or cooperative agreements from that agency, and persons requesting or receiving from that agency commitments providing for the United States to insure or guarantee loans. The report shall be submitted at the same time the agency submits its annual budget justifications to Congress.

"(2) The report of an agency under paragraph (1) of this subsection shall include the following:

"(A) All alleged violations of the requirements of subsections (a) and (b) of this section, relating to the agency's Federal actions referred to in such subsections, during the year covered by the report.

"(B) The actions taken by the head of the agency in such a year with respect to those alleged violations and any alleged violations of subsections (a) and (b) of this section that occurred before such year, including the amounts of civil penalties imposed by the head of such agency in such year, if any.

"(3) The Inspector General of an agency shall prepare and submit the annual report of the agency required by paragraph (1) of this subsection. In the case of an agency that does not have an inspector general, the agency official comparable to an inspector general shall prepare and submit the annual report, or, if there is no such comparable of-

ficial, the head of the agency shall prepare and submit such annual report.

"(e)(1)(A) Subsection (a)(1) of this section does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement to the extent that the payment is for agency and legislative liaison activities not directly related to a Federal action referred to in subsection (a)(2) of this section.

"(B) Subsection (a)(1) of this section does not prohibit any reasonable payment to a person in connection with, or any payment or reasonable compensation to an officer or employee of a person requesting or receiving, a Federal contract, grant, loan, or cooperative agreement or an extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract, grant, loan, or cooperative agreement or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract, grant, loan, or cooperative agreement.

"(C) Nothing in this paragraph shall be construed as permitting the use of appropriated funds for making any payment prohibited in or pursuant to any other provision of law.

"(2) The reporting requirements in subsection (b) of this section shall not apply to any person with respect to—

"(A) payments of reasonable compensation made to regularly employed officers or employees of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan;

"(B) a request for or receipt of a contract (other than a contract referred to in clause (C)), grant, cooperative agreement, subcontract (other than a subcontract referred to in clause (C)), or subgrant that does not exceed $100,000; and

"(C) a request for a receipt of a loan, or a commitment providing for the United States to insure or guarantee a loan, that does not exceed $150,000, including a contract or subcontract to carry out any purpose for which such a loan is made.

"(f) The Secretary of Defense may exempt a Federal action described in subsection (a)(2) from the prohibition in subsection (a)(1) whenever the Secretary determines, in writing, that such an exemption is in the national interest. The Secretary shall transmit a copy of each such written exemption to Congress immediately after making such determination.

"(g) The head of each Federal agency shall take such actions as are necessary to ensure that the provisions of this section are vigorously implemented and enforced in such agency.

"(h) As used in this section:

"(1) The term 'recipient', with respect to funds received in connection with a Federal contract, grant, loan, or cooperative agreement—

"(A) includes the contractors, subcontractors, or subgrantees (as the case may be) of the recipient; but

"(B) does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures that are by such tribe or organization for purposes specified in subsection (a) and are permitted by other Federal law.

"(2) The term 'agency' has the same meaning provided for such term in section 552(f) of title 5, and includes a Government corporation, as defined in section 9101(1) of this title.

"(3) The term 'person'—

"(A) includes an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit; but

"(B) does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures by such tribe or organization that are made for purposes specified in subsection (a) and are permitted by other Federal law.

"(4) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

"(5) The term 'local government' means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, the following entities:

"(A) A local public authority.

"(B) A special district.

"(C) An intrastate district.

"(D) A council of governments.

"(E) A sponsor representative organization.

"(F) Any other instrumentality of a local government.

"(6)(A) The terms 'Federal contract', 'Federal grant', 'Federal cooperative agreement' mean, respectively—

"(i) a contract awarded by an agency;

"(ii) a grant made by an agency or a direct appropriation made by law to any person; and

"(iii) a cooperative agreement entered into by an agency.

"(B) Such terms do not include–

"(i) direct United States cash assistance to an individual;

"(ii) a loan;

"(iii) loan insurance; or

"(iv) a loan guaranty.

"(7) The term "Federal loan' means a loan made by an agency. Such term does not include loan insurance or a loan guaranty.

"(8) The term 'reasonable payment' means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

"(9) The term 'reasonable compensation' means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"(10) The term 'regularly employed', with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan, means an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

"(11) The terms 'Indian tribe' and 'tribal organization' have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).".

"(2) The table of sections for subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end the following new item:

"1352. Limitation on use of appropriated funds to influence certain Federal contracting and financial tansactions.".

"(b) The first report submitted under subsection (b)(6) of section 1352 of title 31, United States Code (as added by subsection (a)), shall be submitted on May 31, 1990, and shall contain a compilation relating to the statements received under subsection (b) of such section during the six-month period beginning on October 1, 1989.

"(c) The Director of the Office of Management and Budget shall notify the head of each agency that section 1352 of title 31, United States Code (as added by subsection (a)), is to be complied with commencing 60 days after the date of the enactment of this Act. Not later than 60 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall issue the guidance required by subsection (b)(7) of such section.

"(d) Section 1352 of title 31, United States Code (as added by subsection (a)), shall take effect with respect to Federal contracts, grants, loans, cooperative agreements, loan insurance commitments, and loan guaranty commitment that are entered into or made more than 60 days after the date of the enactment of this Act.

Mr. REGULA (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. YATES. Madam Speaker, I ask unanimous consent that I may be permitted to revise and extend my own remarks and that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material and tabular information on the conference report on the bill, H.R. 2788, just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AUTHORIZATION TO ADD MEMBERS TO LIST OF COSPONSORS OF H.R. 2812

Mrs. MORELLA. Madam Speaker, I ask unanimous consent that I be allowed to add to the list of cosponsors of the bill, H.R. 2812, of which I am an original sponsor and which was introduced by the late Mickey Leland.

The cosponsors to be added are: Messrs. McCOLLUM, HORTON, and BENNETT.

The SPEAKER (Mrs. SCHROEDER). Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

OMNIBUS BUDGET RECONCILIATION ACT OF 1989

The SPEAKER pro tempore. Pursuant to House Resolution 245 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3299.

□ 1642

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3299) to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990, with Mr. MAVROULES in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, September 28, 1989, the amendment offered by the gentleman from Illinois. [Mr. ROSTENKOWSKI], had been disposed of.

It is now in order to consider amendment No. 5 printed in section 2 of House Report 101-261.

AMENDMENT OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OXLEY: Page 707, beginning on line 3, strike out all of subsection (b) of section 4702 through page 709, line 24, and redesignate the succeeding subsection accordingly.

The CHAIRMAN. Pursuant to the rule, the gentleman from Ohio [Mr. OXLEY] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. MARKEY. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 15 minutes in opposition to the amendment.

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. PANETTA was allowed to speak out of order.)

Mr. PANETTA. Mr. Chairman, this is really for the information of the Members on the legislative program on the reconciliation bill.

My understanding is that we are going to take up the Fairness amendment and dispose of that, and then tomorrow we will take up the catastrophic amendments, the Donnelly amendment, the Stark amendment, and my amendment.

Then on Thursday, my understanding is that we will take up the child care amendments.

The CHAIRMAN. The gentleman from Ohio [Mr. OXLEY] will be recognized for 15 minutes, and the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 15 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Chairman, I rise today to offer an amendment to remove the fairness doctrine language from the budget reconciliation bill. Regardless of whether you support reconciliation or whether you support the fairness doctrine, this I think all of us will have to agree is a nongermane provision in the budget reconciliation package.

First of all, Mr. Chairman, the fairness doctrine is clearly veto bait. We have been through this before. President Reagan has threatened to veto it on two different occasions. On two different occasions the House and the Senate blinked and backed off.

I cannot help but believe that the reason this particular nongermane provision is in this bill, in a reconciliation package, is because of the fact that it cannot stand alone because everyone knows that President Bush would veto it, as President Reagan has threatened to do in the past.

I do not think we can afford to have reconciliation in the package, particularly with the good work we have done so far on reconciliation, in a veto mode.

We all recognize the importance of passing a meaningful reconciliation package. This excess baggage is simply that, excess baggage.

All of us should also understand that there is a bill pending in the Committee on Energy and Commerce, and I would ask that the sponsors of the particular bill be inclined to simply bring it to the floor of the House and let it be voted up or down without the subterfuge of adding it to reconciliation.

The fairness doctrine, for the first time in my memory and certainly the memory of anybody else around here, actually contains for the first time civil fines. It provides civil fines by the FCC that would be imposed upon broadcasters who allegedly violate the fairness doctrine.

The FCC in the past has not seen fit to impose any type of fine for any alleged violation. This would mean, of course, that the already over-taxed resources of the FCC would be further put to the test and it would cost at least $100,000 annually to try to bring this about.

My guess is, and I think it is a pretty good guess, that this provision was put in to try to make it germane to the process of reconciliation, with the thought that that particular provision on civil fines would be taken out in conference.

Now, if I miss my guess, the gentleman from Massachusetts, I am sure, will set me straight on that, but I think I am pretty correct on that.

The fines clearly are what, to the sponsors at least, make this bill germane.

But the first amendment argument, I think, is clearly the strongest, and that is whether we want to subject broadcasters who have grown in number now some 400 percent since 1949, we now have over 10,000 radio and television stations throughout this country, whether we want to subject those broadcasters and restrict their first amendment rights by the Government.

What this amounts to is simply Government intrusion on free speech and Government micromanagement of the news.

You must understand that although the broadcasters are covered, nobody else is. The newspapers are not covered. The cable networks are not covered. Nobody is covered except the broadcasters, and it seems to me very unfair in this so-called fairness doctrine.

The doctrine, to my conservative friends, is no help either. I do not think any of us on the conservative side would be concerned about the fairness doctrine being put back in. It is not going to help our cause anyway. Broadcasters are not going to be any more or less conservative in their outlook. They still like, at least in the national media, to follow advocacy journalism. No, I do not think policing broadcasters and interferring with free speech is the answer to this problem.

So do not be deceived, my conservative friends, by the fact that the fairness doctrine was supposedly to bring better coverage. We have been without the fairness doctrine for 2½ years. The world has not come to an end. In fact, there are people who would say that it is working, the system is working much better today than it did before.

□ 1650

To my liberal friends, I would say protect the first amendment. Think about the first amendment. That is exactly what your philosophy should be, and that first amendment should

apply to broadcasters as well as to the print media.

The doctrine is out of date. It was meant to serve a different purpose, and that was scarcity of signals. My friend from Iowa, I am sure, will be talking about that later. The fact is that times have changed, and we do have a lot more in the way of increase in the spectrum, and in today's technology the limitation of the broadcast spectrum really is a moot point and a distant vestige of the past.

We hope this chilling effect that clearly could involve the broadcasters will be taken care of with the passage of my amendment. Free speech should be, and will be, I think, the first concern of the Members of Congress.

There will always be broadcasters who will abuse the privilege just as the print journalists do from time to time, but the first amendment is not to be used to protect us against the evils of a free press. It is meant to protect our right of free speech.

The Supreme Court noted in 1973:

> The authors of the Bill of Rights accepted the reality that these risks were evils for which there was no acceptable remedy other than a spirit of moderation and a sense of responsibility and civility on the part of those who exercise the guaranteed freedoms of expression.

And all of us, I think, have to agree that broadcasters as well as the print media for the most part do follow those very simple rules.

Justice Potter Stewart, a great Ohio Justice on the Supreme Court, has said the Founding Fathers "believed that fairness was far too fragile to be left for a government bureauracy to accomplish. History has many times confirmed the wisdom of their choice."

Do not be fooled by the title, Members. Do not be fooled by the fact that the fairness doctrine is really fair. It is quite the contrary. It is not fair. It is Government intrusion into the marketplace. It is Government intrusion of the first amendment in its worst form.

I ask that the Members support my amendment to rid this extraneous part of the reconciliation package. We did a good job last week in clearing out a lot of the dead wood in the reconciliation package, but this is the biggest stick of all, and I would ask that this be removed while we remove the rest of them.

Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield myself 1 minute at this time.

Mr. Chairman, I would like to begin by noting that there has been no indication on the part of the White House that they intend on vetoing the reconciliation bill if the fairness doctrine is included. There has been no statement to that effect which has been made in any form that has come to the public attention and, therefore, I think that that particular issue is a red herring.

With regard to the appropriateness of the fairness doctrine being included in this particular piece of legislation, we have an interesting situation where the dial-a-porn legislation is also in the reconciliation bill. We hear no objection that we are dealing with it through this procedure, because the difference is not there over the procedure but over the substance, and this is a debate over the substance not over the procedure, because if there was a difference over procedure, the dial-a-porn amendment would also have an attempt here this afternoon to remove that from this particular bill.

It is a bill which has passed historically by very large margins in the House. It is one which has a broad base of public support across this country, and it is one that just ensures that broadcasters cover important issues to a community and that they do so in a fair and balanced manner. That is all it requires. It is something we believe deserves the broad support of the House.

Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, this is getting to be like "99 Bottles of Beer on the Wall." Some may like the melody, but the lyric is not very imaginative.

We have not said anything new on this issue in this entire debate that has gone on now for a number of years. We all get up and mouth the same arguments over and over again.

The basic point is that the fairness doctrine was in place, was the law of this land for decades, and none of the horror stories that the opponents of the fairness doctrine will tell you will occur if it is restored occurred when it was in place. It worked. It served a useful purpose. It did so without transgressing the rights of broadcasters, and it was repealed as a part of some kind of an ideological mantra as a part of a former and erstwhile and not lamented Federal Communications Commission that is no longer whinnying with us.

It should be put back because it worked. It should be put back because it was good public policy. It should be put back because it achieved good things, and none of the bad things that are attributed to it occurred in practice over a series of decades. It should not be kept away from the public simply because some Commissioner who is already quickly fading from memory had a problem with it.

I would hope that we would not have to sing "99 Bottles of Beer on the Wall" again in this institution. Let us simply vote to reinstate the fairness doctrine and make it work the way it worked before.

Mr. MARKEY, Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, I wish to express my unqualified support for the legislation before us today, which would codify the fairness doctrine, and my opposition to the amendment to strike.

The fairness doctrine is essential to the preservation of the first amendment rights of all Americans. Codifying the fairness doctrine does not impose new and radical obligations on broadcasters. The fairness doctrine simply enforces their commitment not to impose a single viewpoint on the American public by requiring them to air conflicting views on issues of public importance.

The fairness doctrine has enabled nonmedia groups to challenge the power of the media and to force it to be responsive to community wishes. Some groups of concerned citizens have found the fairness doctrine an indispensable tool in their fight against pornography. Joyce Tuomy, president of Morality in Media of Massachusetts wrote, "If it were not for the fairness doctrine, we would be helpless against pornographic peddlers for a profit."

We will hear some argue that the fairness doctrine is unconstitutional and that broadcasters ought to be treated like newspapers. The Supreme Court rejected this argument in its 1969 Red Lion case when it ruled that the fairness doctrine vindicates the paramount first amendment right of viewers and listeners to a diversity of opinion on issues of public importance.

During our subcommittee hearings in the 100th Congress on this legislation, we had the privilege of hearing Phyllis Schlafly reply to the contention that the fairness doctrine violates the first amendment. She noted:

> It is unacceptable that the first amendment right to speak on radio and television should be limited only to those who have the money to buy a station.

She added:

> In the printed media, we have other alternatives. When no newspaper would print my views on the equal rights amendment, I could publish the Schlafly report at a modest expense and circulate it and sell it myself. On the radio and television, there is no way I could speak a word unless some manager indulges me and sells me the time which he exercises like a royal prerogative. When I complained to FCC Chairman [Mark] Fowler about this, his answer to me was "Phyllis, go buy a radio station." In a democracy that is not a satisfactory answer.

Mr. Chairman, I do not consider that to be a satisfactory answer either. Broadcasters are given the right to the exclusive use of a scarce public resource. As such they have a responsibility to use that spectrum in a manner consistent with the public interest. I urge my colleagues to strike a blow for the first amendment by re-

jecting this amendment and supporting fairness.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, one of the things that I have puzzled about in my mind is to answer the question that I asked the proponents of this motion to strike the fairness doctrine in this bill: How do we achieve an ability to respond to a contrary point of view without it?

In the debates that I have participated in on this issue in the Committee on Energy and Commerce and on the floor of the House, my good friend, the gentleman from Iowa [Mr. TAUKE], to be honest with you, I have never heard a rational argument of how we get a recalcitrant radio station to give an opportunity for another point of view without this doctrine.

□ 1700

To leave to the tender mercies of those who manage a radio station by placing on their tender conscience whether or not they will respond in time to give the other point of view is a test of one's credulity as to the nature of human nature itself.

But the point I want to get across is what is the harm of having this in our law? What is the harm of having a law which says that if the owners of a radio station want to give us a bias on a particular point of view that the people on the other side have an opportunity of having their views heard?

I do not understand what is wrong with that.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to my friend, the gentleman from Iowa.

Mr. TAUKE. Mr. Chairman, the first thing wrong with it, I would say to the gentleman from California, is that it places the Government in the position of determining what is fair. The Founding Fathers determined that the price of freedom might be unfairness occasionally.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, how dare this Congress even contemplate a law which would fine broadcasters whose news coverage the Government does not like.

That is indeed what the so-called fairness doctrine in this bill would do.

Until its proper repeal 2 years ago, the fairness doctrine required broadcasters to air opposing views on issues of public importance. Proponents of the fairness doctrine said the airwaves were so scarce that we couldn't trust our broadcasters to be fair.

Who could be against laws requiring something called fairness?

What sounded so noble, though, had nothing in common with fairness. Broadcasters who feared Federal litigation under the fairness doctrine for unbalanced news coverage avoided issues of public importance entirely. These public trustees were afraid to exercise their free speech. Surely that does not serve the public trust.

And with 10,000 broadcasters and almost 1,700 daily newspapers nationwide, no one can credibly argue that the airwaves are scarce.

Perhaps a long time ago, when there were just a few stations which dominated communities or whole regions, there may have been a reason for such a doctrine. But, that time is clearly long past.

Nevertheless, here it comes again—this dinosaur from the lagoon—sandwiched into a 1,975-page budget reconciliation bill. And for the first time ever, this version of the fairness doctrine directs Big Brother Government to prosecute broadcasters who stray from the official line and levy fines on them, to the point of closing them down.

That, my friends, is censorship. Is that what you really want?

I hope not. For the integrity of the Bill of Rights, I hope not.

I encourage all my colleagues to support Mr. OXLEY's amendment striking the fairness doctrine from budget reconciliation. Without the Oxley amendment, budget reconciliation will surely, and hopefully, draw the President's veto.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS], chairman of the Committee on Government Operations.

Mr. CONYERS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise to strongly oppose this amendment that would delete the provisions of the bill that reinstates the fairness doctrine for broadcasters because it seems to me that if there is anything more fundamental in a nation that prizes the first amendment and the right to free speech, it is to make sure that there is some basic fairness involved in this great media that we have that is controlled by the FCC. Nothing to me could be more important, especially for those of us in public office, than to make sure that we have every opportunity to have a full discussion of all public and political subject matter.

So I stand here slightly puzzled by those who would resist recodifying this very important provision. I think it is basic to our way of life. I think there is almost a constitutional question involved here.

I am very pleased to note that even members of the broadcast industry themselves are supporting the inclusion of the fairness doctrine in our law. I think that the time has come for all of us to stand together, conservatives and liberals, Republicans and Democrats, to make certain that the fairness doctrine be given the importance that it deserves. I think it has proven itself, and it is a worthy part of our American tradition.

Mr. MARKEY. Mr. Chairman, I yield 4 minutes to the gentleman from the State of Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, this is not the first time the House has seen this issue. Twice before, by overwhelming margins, this matter has been dealt with, as my good friend from Massachusetts [Mr. MARKEY], and as my colleagues, the gentleman from California [Mr. DANNEMEYER] and the gentleman from Virginia [Mr. BLILEY] and others have suggested to the House it should be. We recodified the fairness doctrine then as we should.

I say this with great affection and respect for my two friends, the gentleman from Iowa [Mr. TAUKE] and the gentleman from Ohio [Mr. OXLEY]. On this issue they are, regretfully, dead wrong.

It is not JOHN DINGELL alone who urges Members to put this into law and to codify this doctrine. The House has twice codified this doctrine by an enormous vote. The House has overruled the objections of the administration and the House has rejected the supplications of the Federal Communications Commission, which is accountable to this body.

The fairness doctrine is a very simple doctrine. It says that a broadcaster must address controversial issues. It says that when a broadcaster puts controversial views on the air, that broadcaster has a duty to put the other side of the same subject on the air. That is all. It sees to it that the monopoly which goes with the right of a broadcaster to have exclusive right to function on a single wavelength is at least shared by making more broadly available the opportunity for Americans to use the public airways, which are a treasure belonging to all Americans. Broadcast frequencies are assigned to be and to function in the public interest by a broadcaster.

Let us look at who it is that supports the codification of the fairness doctrine. The ADA and the National Conservative Political Action Committee. General Motors, the UAW, and the AFL–CIO. The Eagle Forum headed by Phyllis Schlafly, and Public Citizens headed by Ralph Nader. The American Jewish Congress, the American Jewish Committee, and ADL, and the National Association of Arab Americans.

Church groups support the view that this should be codified. Let us look. The Disciples of Christ, the United Church of Christ, the U.S. Catholic Conference. In a letter signed by the Catholic Cardinal and Arch-

bishop of Chicago, Cardinal Bernardin, strongly endorsed what I am suggesting to the House today, and the Evangelical Lutheran Church in America. There are a number of other churches and church groups that time does not permit me to mention.

But what we are asking here is to put into law for good; for once and for all, a doctrine which has seen to it that broadcasters function in the public interest. It is only fair that when broadcasters own that wonderful right to use the money machine which they are given by the FCC, that they should use it in the public interest.

□ 1710

That is what is at stake here. I would urge my colleagues to know that a threat of a veto here does not exist; it does not exist. This legislation is not going to be vetoed over this issue.

One of the interesting things that I would observe, one of the interesting things about this debate, is that there are two provisions in H.R. 3299 which deal with telecommunications issues. One is the question of dial-a-porn. In that we deal upon that important constitutional issue and we make possible the assurance that the telephone network is going to be kept clean through this legislation.

There is no attack on that from my friends who say, "Well, we ought not legislate in this particular piece of legislation." But they do, however, take a different posture where the subject of fairness is involved.

My advice is, let us give the administration, and let us give the broadcasters, and let us give the country a package which involves not only fairness, but also decency.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I rise in support of the Oxley amendment to strike the fairness doctrine from budget reconciliation. The fairness doctrine is an unworkable anachronism, just like the arguments that have been cited in its defense in "Dear Colleague" letters I've received.

One letter in favor of codifying "fairness" cited an FCC report from 1949. Another cited a court opinion from 1969. In 1949, there were 2,600 radio stations and 51 television stations. Today, we have more then 10,000 radio stations, more than 13,000 television stations, and even 7,300 cable systems. There are now more stations then you can shake a remote control at.

In addition, we now have satellite dishes, VCR's and home computers with on line access to major news and information services. The free marketplace of ideas, promoting all sides of public debate, has never been more extensive. The unfettered access to the public media has never been greater.

If one were truly to make a consistent case, we would be arguing to extend the fairness doctrine to local newspapers. Very few cities have competition between even two newspaper operations, and yet almost every city, town, and hamlet has vast choices over the broadcast media.

The fairness doctrine serves to restrict rather than promote free and open debate. Broadcasters should not live in fear of fines from Big Brother for unacceptable programming.

It is ironic in the extreme that a great deal of floor debate has occured in this Chamber and the other Chamber over Government censorship of free artistic expression. This is the same debate. How much Government interference in expression is acceptable? The fairness doctrine clearly steps over the line of acceptability.

Let us remember what the Wall Street Journal said about the fairness doctrine over 2 years ago:

> Support for the fairness doctrine is support for a government's deciding what the public should be watching or hearing.

Last week, the Washington Post also chimed in on the right side of this issue. They said:

> A genuinely free flow of ideas is one without the U.S. Government stepping in as director of public programming everywhere.

Mr. Chairman, let us defeat this effort to shove this Orwellian concept of fairness down the throat of the media and the American public. Let's defeat the so-called fairness doctrine by supporting the Oxley amendment.

Mr. MARKEY. Mr. Chairman, unless the gentleman from Ohio [Mr. OXLEY] has any other speakers with the exception of himself, we would be prepared to close debate on our side at this time.

Mr. Chairman, this amendment should be defeated. The fairness doctrine passed the House of Representatives by a 2-to-1 margin last year. It is a fundamental precept that both sides of controversial issues should be heard as part of the public discussion over the airwaves of this country.

That is all the fairness doctrine in fact calls for. It has been on the books now for some 40 years with the exception of the last couple when by an arbitrary decision by a very conservative and very rightwing Federal Communications Commission they stripped it off the books.

Now time and again Congress has attempted to reinstate it. This is just the last in a long series of debates.

Most recently we saw in the Committee on Energy and Commerce, an overwhelming 33-8 vote, a bipartisan vote, that this legislation once again be sent out here to the floor of Congress. This is a debate not over procedure, it is a debate over substance.

If those who object to the fairness doctrine being debated upon at this time object, then we should hear the very same objections on the dial-a-porn legislation which we have also inserted into this legislation. It is not a debate over whether or not the President is going to veto this legislation. We have heard no such concern come from the White House.

The only debate here is on whether or not those voices we otherwise shut out have to be heard on the broadcast airwaves of this country.

It has been the principle in this country since the initiation of the radio and television era that that be the case.

Vote "no" on the Oxley amendment. It will in fact result in those voices from Phyllis Schlafly to Ralph Nader, from all parts of the political spectrum that might happen to be unpopular at any particular point in time of being excluded, from having their voices heard. If is fundamentally un-American, fundamentally contradictory toward what the fairness doctrine stands for.

As a result, a "no" vote on the Oxley amendment is what is called for.

Mr. OXLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. DONALD E. "BUZ" LUKENS].

Mr. DONALD E. "BUZ" LUKENS. Mr. Chairman, I rise in strong support of the Oxley amendment.

Mr. OXLEY. Mr. Chairman, to wrap up on our side, I yield 3 minutes to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. Mr. Chairman, suppose with me for just a moment that we heard on the news today that a Third World country had decided to grant freedom of speech to its citizens but we heard then that Third World country's government had decided that it would judge whether or not the materials that were broadcast over the airwaves were fair and if they were not, the government would say it would fine broadcasters $10,000 per day for not providing adequate news coverage or fair news coverage.

We of course would chuckle because we would recognize that that was not freedom of the press or freedom of speech in that Third World country.

Yet today we here in the United States, under the guise of free speech, are suggesting that the Government should be the one that determines what is and what is not fair when it was broadcast over our radio or television outlets.

Those who have been advocates of this amendment or of this proposal say, "Well, first of all, we had it on the books for a long time." I would observe we have not had it on the books for the last 2 years. It seems to me

they should explain to us why they want to reregulate the broadcast industry.

They say to us, "Well, it is not really a procedural problem, we have talked about this before." But the reason they bring it up as part of the reconciliation is because they know it will not withstand a Presidential veto if it stands on its own.

Moreover, we have not voted on this before. Never before have we looked at a fairness doctrine which allows the FCC to impose civil fines on broadcasters. What is the issue all about?

It is about substance. It is about the first amendment.

The Founding Fathers said that free speech was critical in the democratic system of government and, yes, some of that speech would be incorrect; yes, some of it would be unfair; but free speech, the exchange of ideas, the robust exchange of ideas was critical to a free society.

We should not attempt to restrict it here.

The notion of scarcity is a notion that is a dinosaur; it is gone. There is no scarcity in our broadcast outlets today.

Moreover, because of advances in technology, we have great unfairness in the way this doctrine is administered.

Why should NBC News be subject to the fairness doctrine while CNN is not? It does not make good sense. But because people are politically angry that an FCC did this without the permission of the almighty Committee on Energy and Commerce, they keep fighting the battle over and over and over again.

□ 1720

Ladies and gentleman, I understand that some feel that the FCC stepped out of line. I understand that some believe that government has the role to impose fairness. However, I appeal to the majority of Members to ask: One, is it justified to reregulate the broadcast industry after the last 2 years? Two, do you really think that the Federal Government is the one that should determine what is and what is not fair? Three, do you believe it is a wise policy to have the Federal Government in a position where it can impose fines on broadcasters if they do not broadcast the news the way the Government thinks they ought to? I think it is bad policy. I hope Members will vote for the Oxley amendment.

Ms. PELOSI. Mr. Chairman, today we have an opportunity to uphold the first amendment of the airwaves, the fairness doctrine. Provisions codifying the doctrine have been included in the budget reconciliation bill. The fairness doctrine guarantees that differing points of view will have access to the public airwaves and prevents broadcasters from operating in a manner that is inconsistent with the public interest.

We, in the United States, take great pride in our pluralistic society. We believe in decisionmaking through public discourse and a free flow of ideas. The fairness doctrine protects public discourse by requiring private radio licensees using public airwaves to broadcast a wide spectrum of political viewpoints. I believe this is consistent with the public interest.

For over 40 years, the fairness doctrine has provided a public interest standard in broadcasting. It has enjoyed wide bipartisan support in this body. This bipartisan support is evidence that the doctrine has been effective in protecting broadcasting rights for individuals and groups across the political spectrum.

The fairness doctrine is good policy. I urge my colleagues to vote against the motion to strike it from the budget reconciliation bill.

Mrs. COLLINS. Mr. Chairman, I rise today to again voice my strong support for reinstatement of the fairness doctrine. After extensive subcommittee hearings, the Committee on Energy and Commerce included codification of the fairness doctrine as a part of its budget reconciliation package. However, an amendment has been offered that would strike this language from the bill. I cannot state firmly enough how much I oppose this amendment.

You would think that we were trying to tell broadcasters they had to cover certain events or air specific programs. We are not. All we are saying is that they must provide a reasonable, although not necessarily equal opportunity for opposing views to be heard on controversial issues. The fairness doctrine, in its simplicity, says, "A broadcast licensee shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance." Until its repeal in August 1987, it had been a mainstay of broadcast policy for over 50 years; its origins dating back to before the Communications Act of 1934.

Under the 1934 act, the FCC was to ensure that broadcasters serve the public interest, convenience and necessity. In 1934, the Commission determined that a licensee must make his facilities available for the community on various issues which arise. In 1959, Congress gave statutory approval to the fairness doctrine through amendments to the 1934 act.

In a 1985 FCC report, the Commission found that the doctrine had a chilling effect on the first amendment rights of broadcasters and that it no longer served the public interest because the public had enough access to sources of information to ensure a diversity of viewpoints. The FCC felt that recent technological breakthroughs, such as VCR's, cable, videodisks, et cetera, have increased the number of sources of information and that the scarcity of access to information rationale, which underlies the doctrine, no longer applies. How does having a VCR translate into having issues of controversy aired on a broadcast station? These services exist, but reach a far smaller audience than broadcast stations. They do not provide a meaningful alternative to stations for the dissemination of news and public affairs. The very essence of news and informational programming is that it is timely; what is the point of a newscast on a video cassette that you rent from a dealer a day, a week, or a month after the fact?

The public is the loser in a world of telecommunications without the fairness doctrine. We lose because we can count on a lack of attention to issues of controversy or minority opinions by broadcasters. We lose because the fairness doctrine also prevents one-sided reporting of the news. If not for the doctrine, broadcasters might not be willing to report news or air views contrary to interests of a parent or sister company, an advertiser or the station itself. The public loses because this is the first step in burying the public interest obligation of broadcasters.

Finally, allowing the fairness doctrine to remain unrevived will bear especially hard on the minority community. First, stations will not be required to air the views of minorities or positions that may not be obvious to the majority. Second, community affairs departments at radio and TV stations have traditionally employed the greatest numbers of minorities. With the weakening of public interest standards, we have lost jobs and the ability to hold stations accountable to a standard of fairness.

I urge my colleagues to vote "no" on the amendment to strike the fairness doctrine from the budget reconciliation package.

Mr. SLATTERY. Mr. Chairman, for more than 50 years, the fairness doctrine has been a cornerstone of our Nation's broadcasting policies. The FCC developed this doctrine in response to its statutory mandate that broadcasters must serve the public interest, convenience and necessity.

Simply stated, the doctrine requires broadcasters to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

Broadcasters are granted the ability to use a scarce public resource, the broadcast spectrum.

I disagree with opponents of the fairness doctrine who have argued that recent technological breakthroughs, such as cable, backyard satellite dishes, VCR's, videodiscs, and other technologies, have greatly increased the number of sources of information and programming outlets available.

While new video and audio services have been proposed and introduced, many have not succeeded and even those that are operating reach a far smaller audience than do broadcast stations. Broadcast news is still clearly the dominant source of news and information for a substantial majority of the American people.

Furthermore, even when and where new video and audio services are available, they do not necessarily provide meaningful alternatives to broadcast stations for the dissemination of news and public affairs.

In addition, I do not believe that the fairness doctrine is an abridgment of the freedom of the press.

If codification of the doctrine is appealed in the courts, I anticipate that this position will be upheld.

The doctrine is a legitimate time, place, and manner restriction upon the first amendment, as the Supreme Court held in 1969 in the Red Lion case.

In that decision, the Court stated that broadcasters are public trustees of the broadcast frequency, and, as such, they owe a duty to the public to present balanced coverage of important issues.

The Court further stated that it is the first amendment rights of viewers and listeners to receive information on vital issues that are paramount.

I am concerned that if the fairness doctrine is removed, some broadcasters might not be willing to report news or air views contrary to the interests of a parent or sister company, an employee, an advertiser, or the station itself.

Mr. Chairman, affirming the repeal of the fairness doctrine would give broadcasters a "bully pulpit" which they could use to express particular points of view, to the exclusion of differing opinions on the same controversial issues.

The competitive markeplace can lead to a direct incentive to avoid unpopular or controversial speech. I do not believe that we should allow broadcast licensees, who are entrusted with control of a public forum, the opportunity to provide incomplete, biased information concerning the major controversial public issues of the day. I urge my colleagues to join with me in opposing the Oxley amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. OXLEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OXLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, no 261, not voting 9, as follows:

[Roll No. 263]

AYES—162

Applegate	Gradison	McDade
Archer	Grandy	McEwen
Armey	Grant	Meyers
Baker	Gunderson	Michel
Ballenger	Hall (TX)	Miller (OH)
Bartlett	Hamilton	Molinari
Barton	Hammerschmidt	Montgomery
Bateman	Hancock	Moody
Bevill	Hansen	Moorhead
Boggs	Hastert	Morrison (CT)
Bosco	Hatcher	Myers
Broomfield	Hayes (LA)	Nagle
Brown (CO)	Hefley	Natcher
Buechner	Henry	Oxley
Bunning	Hiler	Packard
Callahan	Holloway	Parker
Campbell (CA)	Hopkins	Pashayan
Cardin	Hubbard	Patterson
Carper	Huckaby	Paxon
Clinger	Hunter	Payne (VA)
Coble	Inhofe	Pease
Combest	Jacobs	Penny
Condit	James	Perkins
Costello	Kasich	Petri
Coughlin	Kolbe	Porter
Cox	Kyl	Quillen
Crane	Lagomarsino	Rahall
DeLay	Leath (TX)	Ray
DeWine	Lehman (CA)	Regula
Dickinson	Lewis (CA)	Rhodes
Douglas	Lewis (FL)	Richardson
Dreier	Lightfoot	Roberts
Duncan	Livingston	Robinson
Edwards (OK)	Lloyd	Rogers
Emerson	Lowery (CA)	Rohrabacher
English	Lukens, Donald	Ros-Lehtinen
Fawell	Machtley	Roth
Fish	Madigan	Rowland(CT)
Frenzel	Marlenee	Sarpalius
Gallegly	Martin (IL)	Schiff
Gekas	Martin (NY)	Schulze
Gingrich	Mazzoli	Sensenbrenner
Gordon	McCandless	Shaw
Goss	McCrery	Shumway
Shuster	Solomon	Upton
Skaggs	Spence	Volkmer
Skeen	Stangeland	Walker
Smith (NE)	Stearns	Watkins
Smith (TX)	Stenholm	Weber
Smith (VT)	Stump	Weldon
Smith, Denny (OR)	Tallon	Whittaker
	Tauke	Whitten
Smith, Robert (NH)	Tauzin	Wylie
	Thomas (CA)	Young (FL)
Smith, Robert (OR)	Thomas (WY)	

NOES—261

Ackerman	Ford (TN)	Morella
Akaka	Frank	Morrison (WA)
Alexander	Frost	Mrazek
Anderson	Gallo	Murphy
Andrews	Gaydos	Murtha
Annunzio	Gejdenson	Neal (MA)
Anthony	Gephardt	Neal (NC)
Aspin	Geren	Nelson
Atkins	Gibbons	Nielson
AuCoin	Gillmor	Nowak
Bates	Gilman	Oakar
Beilenson	Glickman	Oberstar
Bennett	Gonzalez	Obey
Bentley	Goodling	Olin
Bereuter	Gray	Ortiz
Berman	Green	Owens (NY)
Bilbray	Guarini	Owens (UT)
Bilirakis	Harris	Pallone
Bliley	Hawkins	Panetta
Boehlert	Hayes (IL)	Parris
Bonior	Hefner	Payne (NJ)
Borski	Herger	Pelosi
Boucher	Hertel	Pickett
Boxer	Hoagland	Pickle
Brennan	Hochbrueckner	Poshard
Brooks	Horton	Price
Browder	Hoyer	Pursell
Brown (CA)	Hughes	Rangel
Bruce	Hutto	Ravenel
Bryant	Hyde	Ridge
Burton	Ireland	Rinaldo
Bustamante	Jenkins	Ritter
Byron	Johnson (CT)	Roe
Campbell (CO)	Johnson (SD)	Rose
Carr	Johnston	Rostenkowski
Chandler	Jones (GA)	Roukema
Chapman	Jones (NC)	Rowland (GA)
Clarke	Jontz	Roybal
Clay	Kanjorski	Russo
Clement	Kaptur	Sabo
Coleman (MO)	Kastenmeier	Saiki
Coleman (TX)	Kennedy	Sangmeister
Collins	Kennelly	Savage
Conte	Kildee	Sawyer
Conyers	Kleczka	Saxton
Cooper	Kolter	Schaefer
Coyne	Kostmayer	Scheuer
Craig	LaFalce	Schneider
Crockett	Lancaster	Schroeder
Dannemeyer	Lantos	Schuette
Darden	Laughlin	Schumer
Davis	Leach (IA)	Sharp
DeFazio	Lehman (FL)	Shays
Dellums	Lent	Sikorski
Derrick	Levin (MI)	Sisisky
Dicks	Levine (CA)	Skelton
Dingell	Lewis (GA)	Slattery
Dixon	Lipinski	Slaughter (NY)
Donnelly	Long	Slaughter (VA)
Dorgan (ND)	Lowey (NY)	Smith (FL)
Dornan (CA)	Luken, Thomas	Smith (IA)
Downey	Manton	Smith (NJ)
Durbin	Markey	Snowe
Dwyer	Martinez	Solarz
Dymally	Matsui	Spratt
Dyson	Mavroules	Staggers
Early	McCloskey	Stallings
Eckart	McCollum	Stark
Edwards (CA)	McCurdy	Stokes
Engel	McDermott	Studds
Erdreich	McGrath	Sundquist
Espy	McHugh	Swift
Evans	McMillan (NC)	Synar
Fascell	McMillen (MD)	Tanner
Fazio	McNulty	Thomas (GA)
Feighan	Mfume	Torres
Fields	Miller (CA)	Torricelli
Flake	Miller (WA)	Towns
Flippo	Mineta	Traficant
Foglietta	Moakley	Traxler
Ford (MI)	Mollohan	Udall
Unsoeld	Walsh	Wise
Valentine	Waxman	Wolf
Vento	Weiss	Wolpe
Visclosky	Wheat	Wyden
Vucanovich	Williams	Yates
Walgren	Wilson	Young (AK)

NOT VOTING—9

Barnard	Florio	Houghton
Courter	Garcia	Vander Jagt
de la Garza	Hall (OH)	Yatron

□ 1742

Mr. MARTINEZ, Mrs. LOWEY of New York, and Mr. CONTE changed their vote from "aye" to "no."

Messrs. FAWELL, MOORHEAD, and PAYNE of Virginia changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. PANETTA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. GEPHARDT] having assumed the chair, Mr. MAVROULES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3299) to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990, had come to no resolution thereon.

APPOINTMENT OF CONFEREES ON H.R. 3026, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1990

Mr. DIXON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3026) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objections to the request of the gentleman from California?

There was no objection.

MOTION OFFERED BY MR. GREEN

Mr. GREEN. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. GREEN moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill H.R. 3026, be instructed to agree to the amendment of the Senate numbered 3.

The SPEAKER pro tempore. The gentleman from New York [Mr. GREEN] is recognized for 30 minutes in support of his motion.

Mr. GREEN. Mr. Speaker, all across the country our cities and communities are faced with the problems and violence resulting from illegal drugs,

and nowhere is that problem more acute than right here in our Nation's Capital, the District of Columbia, and we have seen this community swept by gunfire on the part of drug dealers, and we have seen the devastating harm inflicted upon users, including infants who are victims through no fault of their own, but simply because they happen to have mothers who are addicted to crack cocaine.

Mr. Speaker, I am asking the House to instruct the conferees on the District appropriations bill to accept Senate amendment No. 3 which provides a very specific program to deal with this problem. Senate amendment No. 3 appropriates $31.7 million and targets those funds to four specific areas in the District's war on drugs.

First, Mr. Speaker, $23 million will be used to hire 700 new police officers to increase police visibility and to close open-air drug markets; second, $4.8 million and an additional eight judges will be provided to the court system so that the drug offenders can be tried and punished as swiftly as possible after arrest; third, $1.3 million will go to the public schools to expand after-school programs in high-risk neighborhoods and give young people an alternative to drug activities on the street; and finally, $2 million is earmarked for programs to provide treatment on demand to addicts who are pregnant and who, without treatment, will more than likely give birth to crack-addicted babies, which in and of itself is a formidable problem.

Mr. Speaker, since we were here last year, the drug crisis, both in our Nation's Capital and all across America, has worsened. It is important that the House conferees accede to Senate amendment No. 3 that provides $31.7 million for these very specific programs to reclaim the city streets from drug traffickers and provide drug education programs in our schools and drug treatment services for those who need help here in the Nation's Capital.

Mr. Speaker, it is my understanding that the gentleman from California [Mr. DANNEMEYER] may seek to defeat the previous question in order to amend my motion to instruct. I would urge the Members to support me and to vote for the previous question, first because I think it is important that we send an unequivocal message that this Congress and this House wants to see a real war on drugs in the District of Columbia. It is proposed to put up the money to make it work, and if my instruction is diluted to an amendment which many Members cannot support, we will not be sending that message that we so terribly need to send.

□ 1750

The second reason that I ask my colleagues to vote for the previous question is that the Senate amendment that I understand the gentleman from California wishes to instruct us to recede to is in fact a piece of legislation on an appropriation bill. It is specifically an amendment to the District of Columbia Code. Unlike a similar amendment last year that the other body passed which was strictly using the appropriation process to require the city council to do something, this Senate amendment specifically legislates on an appropriation bill and adds a new section to the District of Columbia Code.

I want to say to my House colleagues that if we are going to encourage Members of the Senate to legislate on appropriation bills when we are not allowed to do that under our rules, we are giving our colleagues in the other body a terrible advantage in dealing with us, not just on the District appropriation bill, not just with respect to our authorizing committee. If we are going to go through this practice of trying to ram through Senate amendments which would never be permissible here as amendments to an appropration bill because of our rule against legislating on an appropriation bill, we are simply giving the other body a tremendous whip hand over us in the legislative process.

I do not understand why our colleagues who are so critical when our Appropriations Committee in this body seeks to legislate on appropriation bills welcome this with open arms, when the other body does the same thing.

Accordingly, Mr. Speaker, I ask my colleagues to support me on the previous question. Vote yes on the previous question, and then vote yes on my motion to instruct.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support the motion to instruct.

Mr. Speaker, this is a well-directed $32 million. As my colleague, the gentleman from New York points out, it provides for 700 police officers, 8 additional judges, $1,300,000 for drug education programs in the public schools, and $2 million for treatment on demand for addicts who are pregnant. There can be no money better spent in this bill than this $32 million.

I would ask for an aye vote on the previous question and an aye vote on the motion to instruct.

Mr. GREEN. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I rise in support of the motion offered by the distinguished gentleman from New York, [Mr. GREEN], a member of the Appropriations Committee. This motion will instruct our House conferees on H.R. 3026, the District of Columbia Appropriations Act, to accept language assisting law enforcement officials in the District of Columbia to combat our war against illicit narcotics.

Mr. Speaker, adoption of this motion is desperately needed to end the scourge of drug trafficking and drug abuse which currently pervades our Capital. This national disgrace is not due to a lack of effort by our hard-working District of Columbia police force; rather, it is due to the historic lack of resources which have been made available to the District of Columbia's legal system for waging the war against narcotics. Unfortunately, the District of Columbia is unique among our Nation's cities in not being able to rely upon additional resources provided through the State government.

Accordingly, this motion will express the strong feeling of the House that it is the responsibility of Congress to provide the necessary funding for additional police officers, additional court cost, additional prisons, additional drug treatment and preventative educational programs. It is essential that we provide adequate resources to alleviate the arising tide of drug use and drug abuse in our Nation's Capital City, Washington, DC.

Mr. Speaker, I urge my colleagues to support the gentleman's motion, vote for the previous question and to instruct conferees to support Senate amendment No. 3.

Mr. GREEN. Mr. Speaker, I yield 10 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague, the gentleman from New York, for yielding me this time.

This issue involves very simply the issue of religious freedom in America. For over 7 years a dispute has been going on with the great university in the District of Columbia, Georgetown University, as to whether or not the tenets of that religious body that supports Georgetown, the Catholic Church in America, will be able to be implemented as they administer the affairs of that university. For 7 years that great Georgetown University has been in a protracted court battle prosecuted by groups that seek to have the university recognize homosexual student groups on the campus by chartering.

Georgetown University fought this every step of the way because it is a tenet, a moral belief of the Judeo-Christian ethic in this country, that that would not be a direction Georgetown University chose to go.

Recently Georgetown in effect wanted to have the District of Columbia finance some tax free bonds in order to build some new facilities on the Georgetown campus. The economic reality of needing that money to build the buildings caused the trustees of Georgetown University to revisit the issue whether or not they would continue in this struggle to maintain

tenets of their religion; so the opponents of what I argue today can say, "Well, Georgetown didn't ask you to put up this amendment today." They probably did not, but we are here because it is the right thing to do. The issue is religious freedom in America.

I commend the motion to instruct that my colleague, the gentleman from New York, has offered to the House, because I support the merits of it totally. All I seek to do is to amend the motion to instruct offered by the gentleman from New York [Mr. GREEN] with my language, so that the motion to instruct that the House would vote on would contain the meritorious elements of the motion of the gentleman from New York [Mr. GREEN], along with mine.

So in light of that, Mr. Speaker, I ask unanimous consent that the motion to instruct now pending be amended to include the language that is contained in my motion to instruct.

The SPEAKER pro tempore (Mr. HUGHES). Is there objection to the request of the gentleman from California?

Mr. GREEN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. DANNEMEYER. Well, Mr. Speaker, I am not surprised by the objection.

I will ask my colleague directly, if this Member from California was not here this evening seeking to file this motion to instruct, would the gentleman by making this motion to instruct this evening?

□ 1800

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I am happy to yield to the gentleman from New York.

Mr. GREEN. Mr. Speaker, I guess it would depend upon whether other Members had other ideas also. I think you are asking me something I could not predict.

Mr. DANNEMEYER. The possibility exists that what this Member from California is experiencing is the application of the rules of the House which say that when two or more Members seek a motion to instruct conferees, the one most senior is recognized first, and in this instance, the gentleman from New York, [Mr. GREEN] is senior to this Member from California, so when I stood up to be recognized, the gentleman from New York [Mr. GREEN] was recognized, so this Member is not recognized for the purpose of offering this motion.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I am happy to yield to the gentleman from New York.

Mr. GREEN. Mr. Speaker, I would be prepared to be corrected by the Chair, but I believe that it was because I am a member of the Committee on Appropriations, and it is the Committee on Appropriations that has the floor on going to conference on an appropriation bill.

Mr. DANNEMEYER. I thank the gentleman. he is senior to me, and he appropriately pointed out that when two or more seek recognition, the senior one is recognized.

What this issue involves is that last year this issue was visited again, and the House voted in that instance by a total of 201 to 134 to sustain the position that I am advocating we adopt today. Last year Senator ARMSTRONG in the Senate got a provision in the bill, the District of Columbia appropriations bill, that in effect said the District of Columbia had to change this basic ordinance so as to make clear that the antidiscrimination provision protecting homosexuals in the District of Columbia would exclude applicability to religious institutions. That is what ARMSTRONG's amendment achieved last year, and the House voted to do that.

The District of Columbia took an appeal from that direction that we put into the law last year, and the circuit court of appeals ruled within the last 2 weeks that the provision which Congress placed into the law, now get this, was an unconstitutional denial of the right of free speech of the members of the District of Columbia because it compelled them to vote a certain way.

What we did last year to correct this error in religious freedom in America was held to be unconstitutional. It denied the right of free speech of the members of the District of Columbia.

This year, to reach the same result, Senator ARMSTRONG has, by an amendment adopted in the Senate, stated clearly that we are amending the generic law of the District of Columbia by saying this provision will not continue in the District of Columbia law, namely, that the element does not require the District of Columbia city council members to change the law. It changes the basic law itself. If we do not do it this way, there is no other way we can do it. That is what this drill is all about.

So I asked unanimous consent to amend my motion. I am not going to do it again. They can sit down and relax. I am not going to do it again. I am just saying it was opposed, so the only way this Member from California will have an opportunity of offering this motion to instruct conferees that we confirm what Senator ARMSTRONG did in the Senate bill is to defeat the previous question.

Let us not kid ourselves, this effort I am undertaking is broadly supported across the Judeo-Christian community of this country. I am going to read a list of organizations that are supporting the effort that I seek to do this evening: The National Association of Evangelicals, Public Affairs Committee of the Southern Baptist Convention, Lutheran Church, Missouri Synod, Christian College Coalition, the Association of Christian Schools International, American Association of Christian Schools, the Catholic League for Religious and Civil Rights, Christian Legal Society, Presbyterian Lay Committee, the National Committee of Catholic Laymen, the Forum for Scriptural Christianity within the United Methodist Church known as the Good News Movement, Center for Catholic Policy, and Christian Legal Defense and Educational Foundation, Inc. All of those organizations are supporting the motion that I seek to have adopted by the House this evening.

To get to the point where I can offer this motion, I have to defeat the previous question, and I will at the appropriate time ask that such be done.

Let me just close by saying that one of the most central issues that our society will face in the decade of the 1990's is whether or not we are going to change the culture of our society so that we will accept and equate homosexuality on a par with the heterosexual lifestyle. That issue is now being debated on the floor of the House of Representatives right now. It is wrapped in this whole issue of religious freedom, because Georgetown University says in the tenets of its religious beliefs that it does not choose to equate the two lifestyles.

I happen to believe, as a matter of conviction, that whether one favors or opposes homosexuality versus heterosexuality, that to appeal on the basis of religious freedom should transcend any other considerations which we bring to this issue, because if the Congress of the United States or the District of Columbia, an agency of government in this country, can violate the religious tenets of one of the religious groups of this country, who is next? What religious doctrine will be next that will be violated?

I conclude by asking my colleagues that if we are to give life to religious liberty and religious freedom in this country, the motion that should be adopted is to defeat the previous question, and I ask for the Members' support.

Mr. GREEN. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, if my colleagues will not start yelling "vote, vote," I will take 1 minute.

Mr. Speaker, I rise in support of the request of the gentleman from California to defeat the previous question. I think everybody ought to know what this amendment deals with.

The Armstrong amendment now directly amends the District Code to prohibit the city government from coercing religious institutions into administrative acts intolerable to religious tenets. What in the world is wrong with that? I submit to my colleagues that nothing is wrong with that.

I want to ask the Members one question, and I would like to have everybody's attention for 1 minute: How far do we go down that slippery road of homosexual rights? Do we go so far as to destroy religious freedom in this country? I think not. There should be limits.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I know the Members are anxious for a vote, so I will be very, very brief.

Let me indicate to the Members that the issue before the House at the present time is the motion by the gentleman from New York [Mr. GREEN] to instruct the conferees. No other issue is before the House.

Collaterally, the gentleman from California [Mr. DANNEMEYER] has raised a straw issue. It is a nonissue. He has mentioned Georgetown University. Georgetown University entered into a consent decree last year. They sent me a letter saying they had not urged any Member of the other body or any Member of this House to come forward with a motion to instruct to agree to the Armstrong amendment.

Second, the highest court in this jurisdiction has said that the Armstong amendment is unconstitutional, and that the Congress could not do last year by instruction what the Armstrong amendment is attempting to do this year by actually amending the District of Columbia Human Rights Act.

Mr. Speaker, none of the parties to the consent decree is unhappy with the agreement. Georgetown University does not want the amendment that the gentleman from California [Mr. DANNEMEYER] wants to instruct the conferees to accept.

Mr. Speaker, the City Council and the executive branch do not want it, and I do not believe this House wants it, because the same issue was discussed last year, and the previous question was ordered.

Mr. Speaker, I reserve the balance of my time.

Mr. GREEN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

□ 1810

Mrs. MORELLA. Mr. Speaker, I rise in support of the motion to instruct offered by the gentleman from New York [Mr. GREEN].

Many of us read about the intolerable infant mortality rate in the District of Columbia in last Saturday's papers. Babies are now dying at a rate that is triple the national average. City health officials attribute this number to the use of crack cocaine by pregnant women. A portion of the additional funds allocated in the appropriations bill for the District of Columbia is to initiate a program for women addicts who are pregnant to provide a drug treatment program. This is wise use of scarce funds.

In addition to this crucial reason for increased funding for Washington, DC, I support the law enforcement and prevention provisions that are included in the Senate bill. Last spring, I was pleased when William Bennett, the Director of the Office of National Drug Control Policy, decided to focus on Washington, DC, in addressing the drug crisis, and I joined with my colleagues from the District of Columbia, Maryland and Virginia in offering Mr. Bennett regional resources and asking that there be a regional approach to the solution. These additional funds give substance to the fight against drugs in Washington and in neighboring jurisdictions. The District of Columbia needs the additional 700 police officers that will be hired, the increased court assistance to handle the drug arrests, and more prison space. The public schools need the funds to increase after-school activities for at-risk students.

Without these funds, some residents of the District of Columbia will have little hope of improving their situation. Clearly, we need a steady will and additional funds to combat the use of illegal drugs in the Washington metropolitan area. I urge my colleagues to support the Green motion to instruct the conferees.

Mr. GREEN. Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I rise in support of the gentleman's motion.

Mr. GREEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the only way that Members can have a clean vote to support my motion, to agree to the Senate proposal to set up this drug program and fund it is to support me and vote yes on the previous question and vote yes on my motion.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. GREEN. Of course, I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, I think it is clear, so we all understand, I do not seek to replace the gentleman's motion to instruct, I seek to amend it so that his language remains there, and I would have the chance to put my language in as well, is that correct?

Mr. GREEN. The gentleman is absolutely correct. But the problem is if he does amend my motion, then many Members would not want to vote for my motion, and I do not think we will get the very clear statement of where we stand on drug policy that I would like to see this House make today.

Mr. Speaker, I yield back the balance of my time.

Mr. DIXON. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

Mr. GREEN. Mr. Speaker, I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore (Mr. HUGHES). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 193, nays 222, not voting 17, as follows:

[Roll No. 264]

YEAS—193

Ackerman	Espy	Levine (CA)
Akaka	Evans	Lewis (CA)
Alexander	Fascell	Lewis (GA)
Anderson	Fazio	Long
Annunzio	Fish	Lowey (NY)
Anthony	Flake	Machtley
Aspin	Foglietta	Manton
Atkins	Ford (MI)	Markey
AuCoin	Ford (TN)	Martinez
Bates	Frank	Matsui
Beilenson	Frenzel	Mavroules
Berman	Frost	Mazzoli
Boehlert	Gallo	McCloskey
Boggs	Gejdenson	McCrery
Bonior	Gekas	McDermott
Borski	Gephardt	McHugh
Bosco	Gibbons	Mfume
Boucher	Gilman	Miller (CA)
Boxer	Gonzalez	Miller (WA)
Brooks	Gradison	Mineta
Brown (CA)	Gray	Moakley
Bryant	Green	Moody
Bustamante	Guarini	Morella
Campbell (CA)	Gunderson	Morrison (CT)
Campbell (CO)	Hatcher	Morrison (WA)
Carr	Hawkins	Mrazek
Chandler	Hayes (IL)	Murtha
Clay	Hertel	Nagle
Clinger	Hoagland	Natcher
Coleman (TX)	Hochbrueckner	Neal (MA)
Collins	Horton	Neal (NC)
Condit	Hoyer	Oakar
Conte	Johnson (CT)	Oberstar
Conyers	Johnston	Olin
Coyne	Jones (GA)	Ortiz
Crockett	Jones (NC)	Owens (NY)
de la Garza	Jontz	Panetta
DeFazio	Kanjorski	Pashayan
Dellums	Kaptur	Payne (NJ)
Derrick	Kastenmeier	Pease
Dicks	Kennedy	Pelosi
Dingell	Kennelly	Perkins
Dixon	Kildee	Pickle
Donnelly	Kleczka	Price
Dorgan (ND)	Kolbe	Pursell
Downey	Kostmayer	Rangel
Durbin	Lancaster	Regula
Dwyer	Lantos	Richardson
Dymally	Leach (IA)	Roe
Early	Lehman (CA)	Rostenkowski
Edwards (CA)	Lehman (FL)	Roybal
Engel	Levin (MI)	Sabo

Sawyer	Smith (IA)	Vento
Saxton	Smith (VT)	Visclosky
Scheuer	Solarz	Walgren
Schneider	Spratt	Waxman
Schroeder	Stark	Weiss
Schumer	Studds	Wheat
Sharp	Synar	Whitten
Shays	Torres	Wilson
Sikorski	Torricelli	Wolpe
Sisisky	Towns	Wyden
Skaggs	Traxler	Yates
Slaughter (NY)	Udall	
Smith (FL)	Unsoeld	

NAYS—222

Andrews	Hayes (LA)	Rahall
Applegate	Hefley	Ravenel
Archer	Hefner	Ray
Armey	Henry	Rhodes
Baker	Herger	Ridge
Ballenger	Hiler	Rinaldo
Bartlett	Holloway	Ritter
Barton	Hopkins	Roberts
Bateman	Hubbard	Robinson
Bennett	Huckaby	Rogers
Bentley	Hughes	Rohrabacher
Bereuter	Hunter	Ros-Lehtinen
Bevill	Hutto	Rose
Bilbray	Hyde	Roth
Bilirakis	Inhofe	Roukema
Billey	Ireland	Rowland (CT)
Brennan	Jacobs	Rowland (GA)
Broomfield	James	Russo
Browder	Jenkins	Saiki
Brown (CO)	Johnson (SD)	Sangmeister
Bruce	Kasich	Sarpalius
Buechner	Kolter	Schaefer
Bunning	Kyl	Schiff
Burton	LaFalce	Schuette
Byron	Lagomarsino	Schulze
Callahan	Laughlin	Sensenbrenner
Carper	Leath (TX)	Shaw
Chapman	Lent	Shumway
Clarke	Lewis (FL)	Shuster
Clement	Lightfoot	Skeen
Coble	Lipinski	Skelton
Coleman (MO)	Livingston	Slattery
Combest	Lloyd	Slaughter (VA)
Cooper	Lowery (CA)	Smith (NE)
Costello	Luken, Thomas	Smith (NJ)
Coughlin	Lukens, Donald	Smith (TX)
Craig	Madigan	Smith, Denny (OR)
Crane	Marlenee	Smith, Robert (NH)
Dannemeyer	Martin (IL)	Smith, Robert (OR)
Darden	Martin (NY)	Snowe
Davis	McCandless	Solomon
DeLay	McCollum	Spence
DeWine	McCurdy	Staggers
Dickinson	McDade	Stallings
Dornan (CA)	McEwen	Stangeland
Douglas	McGrath	Stearns
Dreier	McMillan (NC)	Stenholm
Duncan	McMillen (MD)	Stump
Dyson	Meyers	Sundquist
Eckart	Michel	Tallon
Edwards (OK)	Miller (OH)	Tanner
Emerson	Molinari	Tauke
English	Mollohan	Tauzin
Erdreich	Montgomery	Thomas (CA)
Fawell	Moorhead	Thomas (GA)
Fields	Murphy	Thomas (WY)
Flippo	Myers	Traficant
Gallegly	Nelson	Upton
Gaydos	Nielson	Valentine
Geren	Nowak	Volkmer
Gillmor	Owens (UT)	Vucanovich
Gingrich	Oxley	Walker
Glickman	Packard	Walsh
Goodling	Pallone	Watkins
Gordon	Parker	Weber
Goss	Parris	Weldon
Grandy	Patterson	Whittaker
Grant	Paxon	Wise
Hall (TX)	Payne (VA)	Wolf
Hamilton	Penny	Wylie
Hammerschmidt	Petri	Young (AK)
Hancock	Pickett	Young (FL)
Hansen	Porter	
Harris	Poshard	
Hastert	Quillen	

NOT VOTING—17

Barnard	Garcia	Stokes
Cardin	Hall (OH)	Swift
Courter	Houghton	Vander Jagt
Cox	McNulty	Williams
Feighan	Obey	Yatron
Florio	Savage	

□ 1843

The Clerk announced the following pair:

On this vote:

Mr. Stokes for, with Mr. Cox against.

Mr. OWENS of Utah and Mr. HUGHES changed their vote from "yea" to "nay."

So the previous question was not ordered.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. DIXON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. HUGHES). The gentleman will state it.

Mr. DIXON. Mr. Speaker, I understand now that the gentleman from California [Mr. DANNEMEYER] intends to offer an amendment to the motion offered by the gentleman from New York [Mr. GREEN].

My question is: Under the offering will I receive part of the time?

The SPEAKER pro tempore. The Chair would state to the gentleman from California [Mr. DIXON] that 1 hour would be allotted to the gentleman from California [Mr. DANNEMEYER]. He would have to yield time to the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Speaker, if I understand, it all goes to the gentleman from California [Mr. DANNEMEYER], and he can yield opponents time.

Mr. DANNEMEYER. Mr. Speaker, I will yield half of the allotted time to my colleague, the gentleman from California [Mr. DIXON], for purposes of debate only.

AMENDMENT TO THE MOTION TO INSTRUCT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Speaker, I offer an amendment to the motion to instruct.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER to the motion to instruct: At the end of the pending motion, strike the period, insert a semicolon, and add the following language: "; *Provided further* that the conferees be instructed to agree to the provisions contained in Senate amendment numbered 22."

The SPEAKER pro tempore. The gentleman from California [Mr. DANNEMEYER] is recognized for 1 hour.

Mr. DANNEMEYER. Mr. Speaker, I yield one-half of the time to the gentleman from California [Mr. DIXON], for purposes of debate only.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DANNEMEYER. Mr. Speaker, if this motion to instruct now pending before the House is adopted, would it have the effect of amending the previous motion to instruct that was being considered and offered by the gentleman from New York [Mr. GREEN] so that, if this motion offered by the gentleman from California at this time is adopted, the House would then be voting on the contents of the motion offered by the gentleman from New York [Mr. GREEN]?

The SPEAKER pro tempore. The gentleman from California [Mr. DANNEMEYER] is correct. The vote would then be on the motion to instruct instruct offered by the gentleman from New York [Mr. GREEN], as amended.

Mr. DANNEMEYER. Mr. Speaker, on that I reserve the balance of my time, and I ask for an aye vote on my amendment to the motion to instruct.

□ 1850

Mr. DIXON. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I have no intention or desire of prolonging the evening. We all have work to do, and I suspect I know how Members are going to vote, but I would like Members to know precisely what it is they are voting on. Sometimes that helps.

We have had this debate before. First of all, Members should know that in order to solve this problem, the gentleman from California has first had to create it. There is no problem.

Georgetown University is not seeking help of any kind and have asked us not to do what we appear to be on the brink of doing.

The gentleman from California suggested that there was a broad spectrum, I think he said of the Judeo-Christian tradition supporting his proposition. Let me read you very briefly three sentences from a letter signed by officials speaking on behalf of the United Methodist Church, the United Church of Christ, the Protestant Episcopal Church in the United States, and the American Jewish Committee, the Unitarians and others. This is a letter to each of us:

As religious bodies, we are offended that the Congress would intervene in a moral question that is so controversial within the religious communities of this nation. By its terms, the amendment authorizes discrimination based on the advocacy of acceptance of homosexuality—a position that is the official view of many religious bodies.

I will skip some of this, but I would ask you to think seriously about this, and I am reading from the statement of the religious leaders. I will skip some of this and go on:

Finally, the singling out of a minority group for legal disadvantage is chilling.

This amendment singles out a single group in this Nation and explicitly authorizes discrimination against that group.

"While many religious groups—"and I read the end of the letter:

While many religious groups teach that homosexual activity is immoral, the action

of Congress in legally authorizing special disadvantages for homosexuals as a group simply reaches too far. The frightening resemblence to discredited laws which authorized discrimination based on race makes this measure deeply objectionable.

Finally, Mr. Speaker, if I may, a brief two sentences from Senator HATFIELD, if it does not violate the rules if I mention him, on behalf of the United States Conference of Mayors:

"In 1984,"—five years ago—"the Mayors expressed their support for the rights of all citizens 'regardless of sexual orientation, to full participation in American society'.

"The Conference of Mayors urges you to reject the Armstrong amendment and to uphold the right of localities to determine the course of human rights protection within their boundaries."

My colleagues, the legislation which the gentleman from California seeks to overturn is in law very close, similar provisions are in law at this very moment in the State of Wisconsin, in 16 counties and in 62 cities, presumably all 62 of which are represented in this Congress, including New York, Los Angeles, Philadelphia, Detroit, Atlanta, Boston, Raleigh, Chapel Hill, Tucson, Iowa City, Aspen, Evanston, and Dayton.

I would simply ask Members to reflect for one moment before we exercise our right to overrule the officially elected Representatives of the people of the District of Columbia in a fashion that we would not think for 1 minute of going back to our own States, our own counties and our own States and denying them that right.

By what conceivable right and on behalf of what conceivable cause would we at this time be asked to intervene in a fundamental question of human rights?

I would urge my colleagues simply to give this great thought before voting for the motion.

Mr. DANNEMEYER. Mr. Speaker, I yield 3 minutes to my colleague, the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, first of all, let me express appreciation to the gentleman who has just spoken for what I know is a very difficult issue for all of us, and for the courage with which he has faced this issue, and I say that from the depth of my heart.

This Congress voted last year in support of this language, substantively in support of this language on a similar question, somewhat modified, and I would ask us to support the gentleman from California [Mr. DANNEMEYER] again tonight.

The issue reflects concerns which were raised in conjunction, first of all, with the Grove City bill in terms of what protections are given to the integrity of religious institutions governing their own internal religious affairs.

It is also, as we know, one of the more difficult issues relative to the forthcoming debate subsequently to come on this floor in regard to the Discrimination Act relative to the disabled.

It is a difficult issue and I am trying to be very, very sensitive to the concerns of the gay community and the issues of homosexuality, but the issue here is qualitatively different, I would argue, than the basis simply of male-female, that is to say identification by sex per se or gender. It is different than identification by race, because in this area it involves behaviors to which our religious traditions speak.

Ought not a religious institution, and is not a religious institution constitutionally protected relatively to upholding its own tenets in its own institutions? That is really ultimately the issue here, and I would put the question in that way with the greatest respect and love and consideration for those who would disagree.

Mr. DIXON. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I thank the gentleman for yielding this time to me.

I simply want to call the attention of the House to what an extreme measure the Dannemeyer amendment is, and I hope because the amendment is to the Senate amendment and you do not know what that Senate amendment is, but what that Senate amendment says is that any educational institution that is affiliated with a religious organization or closely associated with the tenets of a religious organization may deny use of funds, service, facility or benefit, or the granting of any endorsement, approval, or recognition, to any person or persons that are organized for, or engaged in, or condoning—condoning any homosexual act, lifestyle, orientation, or belief.

So that if someone simply says, "I don't think that acts between consenting adults that are homosexual in nature are any of my business," that person, any group that says that, that adopts that position, can be discriminated against under the Dannemeyer amendment. That is exactly what this would do.

Mr. LEVIN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I am happy to yield to the gentleman from Michigan.

Mr. LEVIN of Michigan. Mr. Speaker, indeed, is it not true that it reads that if any person, it is not only people so organized, so essentially a university can deny admission to someone, as the gentleman has described, and the District of Columbia cannot outlaw that.

Mr. GREEN. The gentleman is correct. It is person or persons. I think that is going very far in terms of chilling free speech if someone who simply condones something can be discriminated against on the basis of that condoning.

Mr. HENRY. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Speaker, I would agree with the way in which the gentleman has described the language. I do not dispute that.

Let me ask a similar question. What if a similar religious institution also wanted to deny admission or organized support for an organization let us say which is committed to atheism? Would it not have the right to do so based on the assumption that beliefs and behaviors contrary to the religious tenets of the organization supporting it are not compatible with the religious commitment of the institution?

Mr. GREEN. Mr. Speaker, if I may reclaim my time, I think the amendment goes way beyond that, because it says that any person who may himself be deeply religious, but condones atheism in others could be discriminated against by the gentleman's analogy.

Mr. DANNEMEYER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I would like to draw the attention of my colleagues to the fact that a yes vote contains an affirmation of the language in the motion to instruct by the gentleman from New York [Mr. GREEN] on the drug language which I support.

It also supports the language that I refer to as the Armstrong language, adopted in the Senate.

Our colleague, the gentleman from Massachusetts, referred to certain religious organizations in this country that support his point of view. I would like to read to my colleagues very briefly a list of religious organizations that support the motion that this gentleman from California seeks to offer:

ORGANIZATIONS SUPPORTING THE RELIGIOUS LIBERTY AND ACADEMIC FREEDOM AMENDMENT

National Association of Evangelicals.
Public Affairs Committee of the Southern Baptist Convention.
Lutheran Church-Missouri Synod.
Christian College Coalition.
Association of Christian Schools International.
American Association of Christian Schools.
The Catholic League for Religious and Civil Rights.
Christian Legal Society.
Presbyterian Lay Committee.
The National Committee of Catholic Laymen.
The Forum for Scriptural Christianity within the United Methodist Church (known as the Good News movement).
Center for Catholic Policy.
Christian Legal Defense & Educational Foundation, Inc.

□ 1900

Mr. GREEN. Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. DANNEMEYER. I am happy to yield to the gentleman from New York

for the purposes of a parliamentary inquiry.

PARLIAMENTARY INQUIRY

Mr. GREEN. Mr. Speaker, my parliamentary inquiry is that the gentleman has stated that the pending business is his amendment and mine. My understanding is that the pending business is his amendment to mine, so that a vote in favor of his has nothing to do with my amendment other than to add it to it. Members are not voting for my amendment if they vote yes on the Dannemeyer amendment.

The SPEAKER pro tempore (Mr. HUGHES). The gentleman is correct. The first vote will be on the amendment offered by the gentleman from California to the motion to instruct conferees. The second vote will be on the gentleman's motion, as amended by the gentleman from California or as not amended.

Mr. WALKER. Mr. Speaker, will the gentleman yield for the purposes of a parliamentary inquiry?

Mr. DANNEMEYER. I am happy to yield to the gentleman from Pennsylvania.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, parliamentary inquiry, the Chair has now made two different rulings on this. When the gentleman from California asked the Chair previously what the order of business was, he asked specifically whether or not the next vote would be on a combined Green and Dennemeyer amendment. At that point the Chair ruled the gentleman was correct on that. The Chair now has told the gentleman from New York [Mr. GREEN] something different. Can the Chair describe to us exactly what the parliamentary situation is?

The SPEAKER pro tempore. The Chair earlier advised the gentleman from California that the amendment that the gentleman offered would be an amendment to the motion to instruct conferees to add additional instructions to the instructions that were directed by the motion offered by the gentleman from New York [Mr. GREEN]. The first vote will occur on the amendment offered by the gentleman from California to the motion to instruct conferees offered by the gentleman from New York. That will be the first order of business.

Mr. WALKER. So the likelihood is we would have two separate votes before the House?

Mr. SPEAKER pro tempore. The gentleman is correct.

Mr. WALKER. I thank the Chair.

Mr. DANNEMEYER. Mr. Speaker, I reserve the balance of my time.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Members of this body, first of all, there has been a lot of conversation about what is in the language, and part of it has been read to the Members. Let me read the entire section. It will be very, very brief. The Armstrong amendment is on page 38, line 11, of H.R. 3026, and inserts the following language:

(b) Section 1-2520 of the District of Columbia Code (1981 edition) is amended by adding after subsection (2) the following new subsection:

And let me point out to all of the Members so that it is very clear that this language amends the District's code, so the first thing we are doing here this evening is instructing the conferees that we should amend the District of Columbia Code.

We are saying that home rule and local decisions by duly elected Democrats and Republicans are not important. We are doing something to the people of the District that we dare not do in our own communities.

Section 3 reads as follows:

"(3) Notwithstanding any other provision of the laws of the District of Columbia, it shall not be an unlawful discriminatory practice in the District of Columbia for any educational institution that is affiliated with a religious organization or closely associated with the tenets of a religious organization to deny, restrict, abridge, or condition—

"(A) the use of any fund, service, facility, or benefit; or

"(B) the granting of any endorsement, approval, or recognition,

to any person or persons that are organized for, or engaged in promoting, encouraging, or condoning any homosexual act, lifestyle, orientation, or belief.".

As I read this, one does not have to engage in homosexual activity. If you were to promote it, encourage it or even condone it, you would fall within this class.

I recognize that there are people who are saying "vote," and I appreciate that the hour is late, but since we are taking such drastic action as it relates to an elected legislature's decisions, let us be clear so that everyone understands what we are doing.

As I indicated to the Members, this language is triggered by a controversy between Georgetown University and the District of Columbia. The District of Columbia has a human rights law, and they basically have said just the opposite of the Armstrong amendment, that Georgetown University or no other educational institution or organization can discriminate based on sexual orientation.

Georgetown University was engaged in a lawsuit, and subsequently entered into a consent decree which obviously both parties accepted. So once again, let me say that this issue is important enough for all of us to understand it, and not yell about voting here this evening.

Georgetown University agreed to a procedure whereby they would, in fact, provide the gay student organization with the same benefits and privileges that are provided to other student organizations on campus, but would not have to officially endorse positions of the gay student organization on religious grounds.

There is no argument with Georgetown University. Georgetown University is not coming here and asking anyone to do anything.

Second, the language last year directed the city government to make this change in their law, and the courts have said that we, as a legislative body, cannot direct them to do that based on the freedom of speech guarantee of the first amendment.

It is clear to me, regardless of the controversy about lifestyles in our society, that where a local duly elected government has made a decision for themselves and those they represent, and in this case Georgetown University has worked out a compromise and both parties to the court action have agreed to it, that Congress should not interfere. If we want to do that, it is to say that on any controversial issue in our society, we have a right to inject ourselves into the locally elected legislature's decision, and I think that is just flatout wrong.

Mr. Speaker, I reserve the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, and my colleagues, I think the real issue here has been missed. This is a first amendment issue.

There is a conflict of rights here. There is a question as to whether an ordinance by the city council of the District of Columbia is superior to the first amendment, which guarantees freedom of religion.

Georgetown University, for good or for ill, is a Catholic university, and one of the tenets of the Catholic faith, a few progressive clergymen notwithstanding, is that homosexuality is sinful.

The question is: Do they have a right to that belief and may they exercise their freedom of religion in recognizing or legitimating or not recognizing or not legitimating organizations that espouse a lifestyle that to the believing, practicing Catholic is a sin.

Freedom of religion is in the Constitution. It is in the first amendment. Congress shall make no laws respecting an establishment of religion nor prohibiting the free exercise thereof.

I suggest to the Members, whether we agree or not, that that is superior to the notion of home rule and the District of Columbia ordinances. Georgetown University has a right to practice its religion, in whom it recognizes, whom it legitimates, and whom it does not. That is the issue and nothing more.

Mr. DIXON. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I am happy to yield to the gentleman from California.

Mr. DIXON. Mr. Speaker, that is exactly the point I am making. Georgetown University entered into a legal, binding agreement.

Mr. HYDE. Recapturing my time, I read the letter from the president, and he said, "It cost us about $8 million. We could not afford it, and so we followed the line of least resistence." I am not proud of Georgetown. They should have vindicated their first amendment rights, but they did not, but we can do it here today.

□ 1910

Mr. DIXON. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am a graduate of Georgetown University, and like all of my colleagues, I have no intention of transgressing upon the religious liberties of Georgetown University. They have the absolute right that I think every one of us on this floor would defend, not only in this forum but in others, to take the position that they believe, that homosexuality is a sin. That is their first amendment right.

What the District of Columbia said is that there are religious institutions who believe that the races ought to be separated, that in fact God created the races and if he had wanted them to be all together he would have made them so. All of my colleagues have heard religious sermons of that type, I am sure.

It is easy to pick on the weak among us, and that is what this amendment does. This amendment picks on a minority that is not popular. We know that. It picks on some people who are believed to be realitvely defenseless. We know that.

The District of Columbia has said that all of our citizens will be treated equally. Indeed, an atheist, or a young Democrat, or a young Republican at Georgetown may not reflect the views to which Georgetown University and its religious adherence subscribe. But we have a different country. We are a different country than the Soviet Union, or Bulgaria, or Romania, or indeed perhaps tens of others, perhaps hundreds more. We are a different country because we have given to every one of our citizens the right to hold their own beliefs, to condone the things that they think ought to be condoned.

This is not worthy of America. I have no brief or criticism for those at Georgetown who wants to hold, believing firmly in the religious tenets that they take from the New Testament and indeed the Old Testament that homosexuality is a sin. But there are other things in the Old and New Testament. Lying is a sin. Coveting thy neighbor's wife is a sin. There are other sins that can be enumerated that we will not impose upon institutions, but which we will say they should not discriminate upon.

This is an issue about America, and because it is subject to a 30-second ad that we can stand up and they can say, "Steny Hoyer is for homosexuals," and somehow put in fear those who will go to the polls and select STENY HOYER, may it always be that every one of us on the floor of this House has the courage to stand up to defend, yes, the first amendment rights, the first amendment rights of those homosexuals even at Georgetown who had the courage to stand up and say yes, I am a homosexual. For whatever reason, medical or otherwise, that is the condition in which I find myself.

The District of Columbia says because they have that courage we will not allow them to be discriminated against. My friends, stand up, stand up for the basic difference between this country and others. Stand up against the same kind of onslaught that we saw in Nazi Germany, the same kind of onslaught. None of us, none of us need condone the activity.

My friend, the gentleman from Illinois, Mr. HENRY HYDE, for whom I have a great respect, a great respect, stood on the floor of this House when we judged one of our Members and he implored us to hate the sin but love the sinner. In doing so he quoted from the Bible.

Let us do that tonight. Let us stand up for this country tonight, even in the face of the unpopularity of the group that we protect, because that is at the very heart of what our Founding Fathers had in mind.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, let me qualify my remarks by saying I love the sinners because I am one. Maybe hate is too strong a word for the sin, but that is not what I stand up here to underscore. I stand to underscore the lines of my senior and more eloquent colleague, the gentleman from Illinois [Mr. HYDE]. I would let his words sit except for one thing.

When I came to the Congress 12 years ago a reporter asked me what were the one or two things that I attributed to my arriving in Congress. I said first, my parents and second, my Jesuit education. For 7 years I studied under the Jesuits, and it was great. I did not know how great then, but I knew how great when I got in the Air Force, and in the private sector, and on television, and when I came to this House.

The focus is Georgetown, and it hurts me to hear HENRY HYDE say that he is ashamed of Georgetown, because I am also ashamed of the prior administration. But the priests and the scholastics and the hand-chosen civilians at the Jesuit school who taught me, those who are still alive, have communicated with me: "Bob, save us from ourselves for the gutlessness, a lack of spiritual fortitude and courage that we have shown by caving in for dollars in Federal grants." One of these Jesuit priests, now in his eighties, said to me: "What does it profit a great institution to gain a few dollars in some Federal grants and lose the soul of its principles?"

Georgetown, I can assure my colleagues, most of the students, most of the priests, and most of the civilian teachers want to be relieved of the mistake they made to have groups, particularly with freshmen and sophomores, formed around sodomy. They do not want it. Let us end it tonight.

Mr. DANNEMEYER. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, I will not take my full minute. I want to clarify what the question is legally.

The question legally and the question constitutionally is simply this: Does a religious institution have the constitutional right to uphold its own tenets in the internal governance of its own institution? That is what we are voting on.

Mr. FRENZEL. Mr. Speaker, the last time we voted on this matter, we were only warning the D.C. City Council. This time a vote for the Dannemeyer amendment is a vote to change an ordinance of the council.

I agree that the council made a serious mistake. Actually, I think the council customarily makes serious mistakes. But, I have been very reluctant to overturn a D.C. law, however misguided that law may be.

To me this vote is not over the question of free speech, nor the question of endorsing a homosexual lifestyle. I see this as a vote on home rule.

When Congress granted home rule to the District of Columbia, it retained the ability to second guess the city. I was under the impression that the authority would be used sparingly and in emergencies. I still believe that the people of the District should make their own decisions.

For that reason I shall vote against the Dannemeyer amendment even though I believe it represents responsible policy. In other words, the District should be permitted to make its own mistakes unless there is a significant health and safety issue or a national defense issue or a similar serious emergency.

Ms. PELOSI. Mr. Speaker, the issue before the House is whether Congress should change District of Columbia law to permit discrimination on the basis of sexual orientation.

The District of Columbia Court of Appeals' decision between the gay rights coalition and Georgetown University stated that the university could not be forced to "recognize lesbian and gay student groups because that would violate the university's religious freedom." The court held, however, that the student groups were entitled under District of Columbia law to

equal access to tangible benefits given other students.

This is a local matter and should be decided by a locally elected government, not by Congress.

My husband and two of my daughters are graduates of Georgetown University. My son is currently a Georgetown student. I am proud of Georgetown and strongly object to the university being used for the political purpose of promoting discrimination. In fact, Georgetown University does not support congressional action to overturn its agreement.

The Dannemeyer amendment has little to do with Georgetown and its dispute with a lesbian and gay student group which was successfully resolved some time ago. This amendment seeks to advance a blatant agenda of discrimination against lesbian and gay citizens. The amendment is offensive. I urge my colleagues to vote "no."

Mr. DIXON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUGHES). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California [Mr. DANNEMEYER] to the motion to instruct conferees offered by the gentleman from New York [Mr. GREEN].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 262, noes 154, not voting 16, as follows:

[Roll No. 265]

AYES—262

Alexander	Callahan	Edwards (OK)
Andrews	Campbell (CO)	Emerson
Annunzio	Carper	English
Anthony	Carr	Erdreich
Applegate	Chapman	Espy
Archer	Clarke	Fawell
Armey	Clement	Fields
Aspin	Clinger	Flippo
Baker	Coble	Gallegly
Ballenger	Coleman (MO)	Gallo
Bartlett	Combest	Gaydos
Barton	Cooper	Gekas
Bateman	Costello	Geren
Bennett	Coughlin	Gibbons
Bentley	Cox	Gillmor
Bereuter	Craig	Gingrich
Bevill	Crane	Glickman
Bilbray	Dannemeyer	Goodling
Bilirakis	Darden	Gordon
Bliley	Davis	Goss
Boggs	DeLay	Grandy
Boucher	Derrick	Grant
Brennan	DeWine	Hall (TX)
Brooks	Dickinson	Hamilton
Broomfield	Dingell	Hammerschmidt
Browder	Dorgan (ND)	Hancock
Brown (CO)	Dornan (CA)	Hansen
Bruce	Douglas	Harris
Buechner	Dreier	Hastert
Bunning	Duncan	Hayes (LA)
Burton	Dyson	Hefley
Byron	Eckart	Hefner
Henry	Mollohan	Sharp
Herger	Montgomery	Shaw
Hiler	Moorhead	Shumway
Hoagland	Murphy	Shuster
Hochbrueckner	Murtha	Skeen
Holloway	Myers	Skelton
Hopkins	Natcher	Slattery
Hubbard	Nelson	Slaughter (VA)
Huckaby	Nielson	Smith (NE)
Hunter	Nowak	Smith (NJ)
Hutto	Ortiz	Smith (TX)
Hyde	Oxley	Smith, Denny (OR)
Inhofe	Packard	Smith, Robert (NH)
Ireland	Pallone	Smith, Robert (OR)
James	Parker	Snowe
Jenkins	Parris	Solomon
Johnson (SD)	Pashayan	Spence
Jones (NC)	Patterson	Spratt
Kanjorski	Paxon	Staggers
Kaptur	Payne (VA)	Stallings
Kasich	Penny	Stangeland
Kolbe	Perkins	Stearns
Kolter	Petri	Stenholm
Kyl	Pickett	Stump
LaFalce	Pickle	Sundquist
Lagomarsino	Porter	Tallon
Laughlin	Poshard	Tanner
Leach (IA)	Pursell	Tauke
Leath (TX)	Quillen	Tauzin
Lent	Rahall	Thomas (CA)
Lewis (CA)	Ravenel	Thomas (GA)
Lewis (FL)	Ray	Thomas (WY)
Lightfoot	Regula	Traficant
Lipinski	Rhodes	Traxler
Livingston	Ridge	Udall
Lloyd	Rinaldo	Upton
Lowery (CA)	Ritter	Valentine
Luken, Thomas	Roberts	Volkmer
Lukens, Donald	Robinson	Vucanovich
Madigan	Rogers	Walgren
Marlenee	Rohrabacher	Walker
Martin (IL)	Ros-Lehtinen	Walsh
Martin (NY)	Rose	Watkins
McCandless	Rostenkowski	Weber
McCollum	Roth	Weldon
McCrery	Roukema	Whittaker
McCurdy	Rowland (CT)	Whitten
McDade	Rowland (GA)	Wise
McEwen	Russo	Wolf
McGrath	Saiki	Wylie
McMillan (NC)	Sangmeister	Young (AK)
McMillen (MD)	Sarpalius	Young (FL)
McNulty	Saxton	
Meyers	Schaefer	
Michel	Schuette	
Miller (OH)	Schulze	
Molinari	Sensenbrenner	

NOES—154

Ackerman	Edwards (CA)	Kildee
Akaka	Engel	Kleczka
Anderson	Evans	Kostmayer
Atkins	Fascell	Lancaster
AuCoin	Fazio	Lantos
Bates	Fish	Lehman (CA)
Beilenson	Flake	Lehman (FL)
Berman	Foglietta	Levin (MI)
Boehlert	Ford (MI)	Levine (CA)
Bonior	Ford (TN)	Lewis (GA)
Borski	Frank	Long
Bosco	Frenzel	Lowey (NY)
Boxer	Frost	Machtley
Brown (CA)	Gejdenson	Manton
Bryant	Gephardt	Markey
Bustamante	Gilman	Martinez
Campbell (CA)	Gonzalez	Matsui
Chandler	Gradison	Mavroules
Clay	Gray	Mazzoli
Coleman (TX)	Green	McCloskey
Collins	Guarini	McDermott
Condit	Gunderson	McHugh
Conte	Hatcher	Mfume
Conyers	Hayes (IL)	Miller (CA)
Coyne	Hertel	Miller (WA)
Crockett	Horton	Mineta
DeFazio	Hoyer	Moakley
Dellums	Hughes	Moody
Dicks	Jacobs	Morella
Dixon	Johnson (CT)	Morrison (CT)
Donnelly	Johnston	Morrison (WA)
Downey	Jones (GA)	Mrazek
Durbin	Jontz	Nagle
Dwyer	Kastenmeier	Neal (MA)
Dymally	Kennedy	Neal (NC)
Early	Kennelly	Oberstar
Obey	Schiff	Synar
Olin	Schneider	Torres
Owens (NY)	Schroeder	Torricelli
Owens (UT)	Schumer	Towns
Panetta	Shays	Unsoeld
Payne (NJ)	Sikorski	Vento
Pease	Sisisky	Visclosky
Pelosi	Skaggs	Waxman
Price	Slaughter (NY)	Weiss
Rangel	Smith (FL)	Wheat
Richardson	Smith (IA)	Wilson
Roe	Smith (VT)	Wolpe
Roybal	Solarz	Wyden
Sabo	Stark	Yates
Sawyer	Studds	
Scheuer	Swift	

NOT VOTING—16

Barnard	Garcia	Stokes
Cardin	Hall (OH)	Vander Jagt
Courter	Hawkins	Williams
de la Garza	Houghton	Yatron
Feighan	Oakar	
Florio	Savage	

□ 1932

Mr. MFUME and Mr. OWENS of Utah changed their vote from "aye" to "no."

Mr. HOAGLAND changed his vote from "no" to "aye."

So the amendment to the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. POSHARD). The question is on the motion to instruct offered by the gentleman from New York [Mr. GREEN], as amended.

The question was taken; and the Speaker pro tempore announced that ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 329, noes 74, not voting 29, as follows:

[Roll No. 266]

AYES—329

Akaka	Brown (CO)	Derrick
Alexander	Bruce	DeWine
Anderson	Bryant	Dickinson
Andrews	Buechner	Dicks
Annunzio	Bunning	Dingell
Anthony	Burton	Dixon
Applegate	Bustamante	Donnelly
Archer	Byron	Dorgan (ND)
Armey	Callahan	Dornan (CA)
Aspin	Campbell (CA)	Douglas
Atkins	Campbell (CO)	Dreier
AuCoin	Carper	Duncan
Baker	Carr	Durbin
Ballenger	Chandler	Dwyer
Bartlett	Chapman	Dyson
Barton	Clarke	Eckart
Bateman	Clement	Edwards (OK)
Bates	Clinger	Emerson
Bennett	Coble	English
Bentley	Coleman (TX)	Erdreich
Bereuter	Combest	Espy
Bevill	Condit	Evans
Bilbray	Conte	Fawell
Bilirakis	Conyers	Fields
Bliley	Cooper	Fish
Boehlert	Costello	Ford (MI)
Boggs	Coughlin	Ford (TN)
Bonior	Cox	Frenzel
Borski	Craig	Frost
Bosco	Crane	Gallegly
Boucher	Crockett	Gallo
Brennan	Dannemeyer	Gaydos
Brooks	Darden	Gekas
Broomfield	DeFazio	Geren
Browder	DeLay	Gibbons

Gillmor	Martin (IL)	Russo
Gilman	Martin (NY)	Saiki
Gingrich	Mavroules	Sangmeister
Glickman	McCandless	Sarpalius
Goodling	McCloskey	Sawyer
Gordon	McCollum	Saxton
Goss	McCrery	Schaefer
Grandy	McCurdy	Schiff
Grant	McDade	Schuette
Gray	McEwen	Schulze
Guarini	McGrath	Sensenbrenner
Gunderson	McMillan (NC)	Sharp
Hall (TX)	McMillen (MD)	Shaw
Hamilton	McNulty	Shays
Hammerschmidt	Meyers	Shumway
Hancock	Michel	Shuster
Hansen	Miller (OH)	Sisisky
Harris	Miller (WA)	Skaggs
Hastert	Moakley	Skeen
Hatcher	Molinari	Skelton
Hayes (IL)	Mollohan	Slattery
Hayes (LA)	Montgomery	Slaughter (NY)
Hefley	Moorhead	Slaughter (VA)
Hefner	Morrison (WA)	Smith (FL)
Henry	Murphy	Smith (IA)
Herger	Murtha	Smith (NE)
Hertel	Myers	Smith (NJ)
Hiler	Natcher	Smith (TX)
Hoagland	Neal (MA)	Smith (VT)
Hochbrueckner	Neal (NC)	Smith, Denny (OR)
Holloway	Nelson	
Hopkins	Nielson	Smith, Robert (NH)
Horton	Nowak	
Hubbard	Obey	Smith, Robert (OR)
Huckaby	Ortiz	
Hunter	Owens (UT)	Snowe
Hutto	Oxley	Solomon
Hyde	Packard	Spence
Inhofe	Pallone	Spratt
Ireland	Parker	Staggers
Jacobs	Parris	Stallings
James	Pashayan	Stangeland
Johnson (CT)	Patterson	Stearns
Johnson (SD)	Paxon	Stump
Jones (GA)	Payne (VA)	Sundquist
Jontz	Penny	Synar
Kanjorski	Perkins	Tallon
Kaptur	Petri	Tanner
Kasich	Pickett	Tauke
Kennelly	Pickle	Tauzin
Kildee	Porter	Thomas (CA)
Kleczka	Poshard	Thomas (GA)
Kolbe	Price	Thomas (WY)
Kolter	Pursell	Torricelli
Kyl	Quillen	Traficant
LaFalce	Rahall	Traxler
Lagomarsino	Rangel	Udall
Lancaster	Ravenel	Upton
Lantos	Ray	Valentine
Laughlin	Regula	Volkmer
Leach (IA)	Rhodes	Vucanovich
Lehman (CA)	Richardson	Walgren
Lent	Ridge	Walker
Lewis (CA)	Rinaldo	Walsh
Lewis (FL)	Ritter	Watkins
Lightfoot	Roberts	Weber
Lipinski	Robinson	Weldon
Livingston	Roe	Whittaker
Lloyd	Rogers	Whitten
Long	Rohrabacher	Wilson
Lowery (CA)	Ros-Lehtinen	Wise
Luken, Thomas	Roth	Wolf
Lukens, Donald	Roukema	Wylie
Machtley	Rowland (CT)	Young (AK)
Madigan	Rowland (GA)	Young (FL)
Marlenee	Roybal	

NOES—74

Ackerman	Frank	Matsui
Bellenson	Gejdenson	Mazzoli
Boxer	Gephardt	McDermott
Brown (CA)	Gonzalez	McHugh
Clay	Gradison	Mfume
Collins	Green	Miller (CA)
Coyne	Hoyer	Mineta
Dellums	Hughes	Moody
Downey	Johnston	Morella
Dymally	Kastenmeier	Morrison (CT)
Early	Kennedy	Mrazek
Edwards (CA)	Lehman (FL)	Nagle
Engel	Levin (MI)	Oberstar
Fascell	Levine (CA)	Olin
Fazio	Lewis (GA)	Owens (NY)
Flake	Lowey (NY)	Panetta
Foglietta	Markey	Payne (NJ)
Pease	Sikorski	Visclosky
Pelosi	Solarz	Waxman
Rostenkowski	Stark	Weiss
Sabo	Studds	Wheat
Scheuer	Torres	Wolpe
Schneider	Towns	Wyden
Schroeder	Unsoeld	Yates
Schumer	Vento	

NOT VOTING—29

Barnard	Garcia	Oakar
Berman	Hall (OH)	Rose
Cardin	Hawkins	Savage
Coleman (MO)	Houghton	Stenholm
Courter	Jenkins	Stokes
Davis	Jones (NC)	Swift
de la Garza	Kostmayer	Vander Jagt
Feighan	Leath (TX)	Williams
Flippo	Manton	Yatron
Florio	Martinez	

□ 1949

So the motion to instruct conferees, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The conferees will be appointed by the Speaker when he resumes the chair.

PERMISSION TO HAVE UNTIL MIDNIGHT, THURSDAY, OCTOBER 5, 1989, TO FILE CONFERENCE REPORT ON H.R. 3026, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, FISCAL YEAR 1990

Mr. DIXON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Thursday, October 5, 1989, to file a conference report on the bill (H.R. 3026) making appropriations for the Government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes.

The SPEAKER pro tempore (Mr. POSHARD). Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2748, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-266) on the resolution (H. Res. 254) providing for the consideration of the bill (H.R. 2748) to authorize appropriations for fiscal year 1990 for intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1495, ARMS CONTROL AUTHORIZATION ACT OF 1989

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-267) on the resolution (H. Res. 255) providing for the consideration of the bill (H.R. 1495) to amend the Arms Control and Disarmament Act to authorize appropriations for the Arms Control and Disarmament Agency, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3385, PROVIDING ASSISTANCE FOR FREE AND FAIR ELECTIONS IN NICARAGUA

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-269) on the resolution (H. Res. 256) providing for the consideration of the bill (H.R. 3385) to provide assistance for free and fair elections in Nicaragua, which was referred to the House Calendar and ordered to be printed.

NATIONAL DOWN'S SYNDROME MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 122) to designate October 1989 and 1990 as "National Down's Syndrome Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I reserve the right to object solely for the purpose of yielding to my friend and colleague, the gentleman from California [Mr. PACKARD], the chief sponsor of the joint resolution.

Mr. PACKARD. Mr. Speaker, I appreciate my colleague yielding to me.

Mr. Speaker, Down's syndrome is a disorder of the chromosomes which causes serious physical, intellectual, and language disorders. The exact cause of the disease is still not known and a prevention has been made in treating those who have the disease.

These individuals can benefit from loving homes, early intervention, special education, appropriate medical care, and positive public attitudes.

In adulthood, many persons with Down's syndrome hold jobs, live independently, and enjoy recreational opportunities in their communities.

Approximately 4,000 Down's syndrome children are born every year. This means there are nearly 250,000 families affected by Down's syndrome.

We neeed to promote better understanding of the disease and the people whose lives it touches. With greater public awareness and acceptance of this disorder, these individuals can take part in and contribute to our society.

Mr. Speaker, it is my hope that this legislation will heighten the awareness of this chromosomal disorder.

I want to thank the chairman of the committee, the gentleman from Ohio [Mr. SAWYER], and the gentleman from Pennsylvania [Mr. RIDGE] who has helped move this resolution forward.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 122

Whereas the past two decades have brought a greater and more enlightened attitude in the care and training of the developmentally disabled;

Whereas one such condition which has undergone considerable reevaluation is that of Down syndrome—a condition which, just a short time ago, was often stigmatized as a mentally retarded condition which relegated its victims to lives of passivity in institutions and back rooms;

Whereas through the efforts of concerned physicians, teachers and parent groups such as the National Down Syndrome Congress, programs are being put in place to educate new parents of babies with Down syndrome, to develop special education classes within mainstream programs in schools, to provide for vocational training in preparation for entering the work force, and to prepare young adults with Down syndrome for independent living in the community;

Whereas the cost of such services designed to help individuals with Down syndrome move into their rightful place in our society is but a tiny fraction of the cost of institutionalization;

Whereas not only the improvement in educational opportunities for those with Down syndrome, but also the advancement in medical science is adding to a brighter outlook for individuals born with this chromosomal configuration; and

Whereas public awareness and acceptance of the capabilities of children with Down syndrome can greatly facilitate their being mainstreamed in our society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1989 and 1990 are designated as "National Down Syndrome Month" and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated month with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ITALIAN-AMERICAN HERITAGE AND CULTURE MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 392) designating October 1989 as "Italian-American Heritage and Culture Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I reserve the right to object simply to yield to the gentleman from New York [Mr. ENGEL], the chief sponsor of this joint resolution.

Mr. ENGEL. Mr. Speaker, it is especially fitting that we in the U.S. Congress pass this resolution (H.J. Res. 392) to declare October 1989, as "Italian-American Heritage and Culture Month."

There are approximately 20 million Italian-Americans in this great country who has contributed much to the richness and welfare of this country, who have helped this country to prosper and grow and to be the strong country that it is.

This will ask the President of the United States to issue a proclamation calling upon the people of the United States to observe this month of October as "Italian-American Heritage and Culture Month."

As we approach 1992, which is the 500th year of the discovery of America by Christopher Columbus, it is especially fitting that Congress move now.

We are moving this. The Senate is moving it as well, and I look forward to seeing the President sign this resolution.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 392

Whereas Italians and Italian-Americans have contributed to the United States in all aspects of life, including art, science, civil service, military service, athletics, and education;

Whereas Italian-Americans make up one of the largest ethnic groups in the United States;

Whereas, in recognition of the accomplishments of Christopher Columbus, recognized as one of the greatest explorers in world history and the 1st to record the discovery of the Americas, a national observance day was established in October of every year;

Whereas the phrase in the Declaration of Independence, "All men are created equal", was suggested by the Italian patriot and immigrant Philip Mazzei;

Whereas during October 1989 special attention will be directed at local and State programs that promote Italian heritage and culture, with special emphasis on national programs such as the Italian Heritage Center at Catholic University of America; and

Whereas during October 1989 the National Italian American Foundation will host the 14th annual dinner to honor Italians and Italian-Americans making important contributions to the development of the arts, sciences, athletics, and education in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1989 is designated as "Italian-American Heritage and Culture Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 2000

COUNTRY MUSIC MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 401) to designate the month of October 1989 as "Country Music Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so simply to acknowledge the efforts of the gentleman from Tennessee [Mr. CLEMENT], who is the chief sponsor of this joint resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. POSHARD). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 401

Whereas country music derives its roots from the folk songs of our Nation's workers, captures the spirit of our religious hymns, reflects the sorrow and joy of our traditional ballads, and echoes the drive and soulfulness of rhythm and blues;

Whereas country music has played an integral part in our Nation's history, accompanying the growth of the Nation and reflecting the ethnic and cultural diversity of our people;

Whereas country music embodies a spirit of America and the deep and genuine feel-

ings individuals experience throughout their lives;

Whereas the distinctively American refrains of country music have been performed for audiences throughout the world, striking a chord deep within the hearts and souls of its fans; and

Whereas October 1989 marks the 25th annual observance of Country Music Month: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1989 is designated as "Country Music Month" and that the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

FORMER JUSTICE DEPARTMENT OFFICIAL REPRESENTS DRUG CARTEL

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WOLF. Madam Speaker, many were outraged by yesterday's Washington Post article, which I would like to include in the RECORD, about a former high-ranking Justice Department official who now makes his living by working to prevent Colombian drug kingpins from being brought to justice.

The threat of extradition to the United States is one of the most effective weapons in our war on drugs. Leaders of Colombia's drug cartels, who have little to fear from the courts in their own country, recognize that American courts will be tough on them. The Justice and State Departments have worked in the past few years to gain increased cooperation in this regard from other countries, so that extradition is now one of our strongest tools against international drug traffickers.

This article tells of how one man—who used to be the director of the Justice Department's Office of International Affairs—has been using the knowledge that he gained as a representative of the U.S. Government to undermine one of the most important U.S. policies in the war on drugs.

His actions on behalf of suspected drug kingpins include: testimony as an expert witness in the trial of Gilberto Rodriguez and Jorge Ochoa in Spain that the United States grand jury system was unfair, so that both individuals were returned by the Spanish court to Colombia, where they soon resumed their drug distribution networks. The cartels headed by these two individuals are estimated by the Drug Enforcement Agency to provide about 80 percent of all of the cocaine that reaches the United States each year. More recently he has drafted international treaty amendments that would significantly weaken the ability of the United States to gain extradition of drug traffickers, and even got the American Bar Association's house of delegates to adopt a resolution supporting these treaty amendments. He then lobbied staff members of the Senate Foreign Relations Committee in favor of these amendments.

This activity is despicable, and should be illegal. It should be in clear violation of the Foreign Agents Registration Act.

How can someone work for 14 years in an agency that's purpose is to enforce the laws of this country and to protect the public, and then turn around and use his expertise to try to undermine those same laws?

This is not an issue of whether accused drug traffickers should have a right to adequate legal representation. No drug trafficker should have the benefit of representation by a lawyer who learned his trade at the taxpayer's expense, and as a Government official was trusted with upholding our laws. I am deeply disappointed to think that a former Government official would accept such a client.

When I read this article, and I think of the crack that is getting into our schools destroying families and killing people in this country, it makes me sick.

The article follows:

[From the Washington Post, Oct. 2, 1989]

CARTEL DEFENDANTS' D.C. LAWYER—EX-PROSECUTOR ANGERS FORMER JUSTICE DEPARTMENT COLLEAGUES

(By Michael Isikoff)

When the Justice Department began targeting Colombia's cocaine cartels in the early 1980s, Michael Abbell played a key role, heading the office charged with extraditing alleged drug traffickers to the United States.

Today, Abbell has carved a new niche in Washington's legal establishment. In a city where every special-interest group needs a lobbyist and every executive a lawyer, Abbell has been retained by the reputed bosses of Colombia's Cali cartel to advise them on how to avoid extradition to the United States.

Abbell, 49, an amiable Harvard Law School graduate, said that by representing the accused Cali kingpins he is doing nothing different from what countless other former federal prosecutors have done by representing criminal defendants.

"I don't see that there's any distinction between representing a person accused of one type of crime or another," he said during a recent interview. "And I've never been asked to do anything in any way, shape or form that would be professionally improper."

Nevertheless, Abbell's recent activities have taken him well beyond the boundaries of the courtroom. In the eyes of some critics, they have raised unsettling questions about the prospect of cartel influence in the United States.

Over the past year, Abbell—without disclosing his clients—has met with Senate Foreign Relations Committee staff members to propose international treaty amendments that Justice Department officials say would undermine a major new weapon in the prosecution of international drug traffickers. In August, over the continued protests of Justice officials, he drafted a resolution calling for such amendments that was unanimously adopted by the American Bar Association's House of Delegates.

Abbell acknowledged that he did not mention his representation of the cartel bosses to the committee staff. But he asserted that he was not acting on their behalf and that the changes he proposed were designed to protect constitutional rights in general: They would give defendants the same rights to obtain evidence from foreign governments that prosecutors would have under the proposed new pacts, called "mutual legal assistance treaties," now pending before the Senate.

But Abbell's critics, including Justice officials, say his amendments would almost certainly kill the treaties, prompting foreign governments to pull out of them, which would benefit Abbell's alleged drug lord clients.

"What I find outrageous is that it was his performance that inspired the opposition to the treaties" within the ABA, said Jack Blum, former chief investigator for the Senate Foreign Relations subcommittee on terrorism, narcotics and international operations.

"This goes beyond simple advocacy of people in need," Blum added. "What we have here is a lawyer clearly representing cartel interests who is working the Senate and trying to change a treaty * * *. The question that has to be put is, do we have a cartel lobbyist in Washington?"

That was not the only time Abbell has sought policy changes that could benefit his clients. Just last month, as Colombia's war with the drug cartels escalated, Abbell said he attempted to float a "compromise" between the U.S. government and the drug traffickers. Under his "exploratory" plan, presented to a State Department official, the traffickers would stand trial in the United States, so long as the U.S. government would let them serve their sentences in Colombia, he said.

State Department officials last week denounced Abbell's offer as "surreal" and "absolutely wacky," pointing out, among other things, that one of the main reasons the government is pushing so hard to extradite the traffickers is that no Colombian jail has been able to hold them.

"We don't accept proposals from drug traffickers," said a State Department spokeswoman.

But Abbell is undeterred and said he thinks such a plan is a "politically acceptable" solution to the deadlock over extradition. Under U.S. pressure, Abell argues, Colombian President Virgilio Barco has pro-

mulgated an "emergency" extradition decree that is not consistent with Colombian Supreme Court rulings—a long-term threat to Colombia's "democratic institutions," he said.

"What I'm proposing is something the Colombians would find more acceptable than simply shipping people off to the United States," he said. "We have to find a compromise solution." Abbell also said he thinks he "might" be able to sell his clients on the plan, "If the U.S. government wanted me to contact them, I would be willing."

Many legal experts note that over the past several years, Colombia's drug bosses have retained a battery of high-priced American lawyers besides Abbell to represent them in their legal skirmishes with federal prosecutors. Some of them—such as Miami lawyers Edward Shohat and Neal Sonnett (whose clients include Panama's Gen. Manuel Antonio Noriega)—are considered savvy courtroom gladiators widely respected among their peers.

They are also widely admired for their fees: When Shohat was retained two years ago to represent accused Medellin drug trafficker Carlos Lehder during his lengthy trial in Tampa, Fla., which ended in Lehder's conviction, Shohat and his co-counsel were reportedly offered $2.5 million.

But according to Blum and some other critics, Abbell represents a new wrinkle in the drug lawyer phenomenon—a relatively high-ranking Justice official (from 1979 to 1984, Abbell was director of the department's office of international affairs) who has been hired less for his courtroom experience than for his knowledge of internal Justice procedures and expertise in international law.

Abbell said his relationship with the accused Cali traffickers dates to the spring of 1985, about six months after he left the department, at a point when "I was just getting my feet on the ground, letting it be known I was out there."

At the time, he said, he got a call from a representative of Gilberto Rodriguez Orejuela (alias "the Chessplayer"), the alleged drug boss of Cali who was then under arrest in Spain with his traveling companion, Medellin cartel chief Jorge "Fat Man" Ochoa.

The arrest of Rodriguez and Ochoa in Spain—where they were believed to be laying the groundwork for a vast cocaine distribution network in Europe—set off one of the epic legal battles of the the drug war, a marathon fight in the Spanish courts over the U.S. Justice Department's petition to have the two accused drug barons returned to the United States to stand trial.

In what was perhaps his most controversial action, Abbell agreed to serve as an "expert witness" on Rodriguez's behalf, testifyng before a Spanish high court to the deficiencies in the extradition request filed by his old office at Justice.

At least one of Abbell's arguments was that Rodriguez had been indicted on drug trafficking in New York by a federal grand jury that did not adequately protect the rights of defendants. In effect, Abbell, a 17-year Justice employee, was telling a Spanish court the U.S. grand jury system was unfair—testimony that enraged Abbell's former colleagues and won him a stinging rebuke from a Spanish attorney general who was serving as prosecutor in the case, according to a Justice Department lawyer who was in the courtroom.

"The Spanish attorney general got up in court and said he considered it despicable that this person who has held public office has sunk so low," recalled the Justice lawyer, who asked not to be identified.

Abbell does not dispute the account. "The purpose of [my testimony] was to educate the foreign court as to what the meaning of a grand jury indictment is * * * that it is not a neutral inquiry," he said.

Abbell says he does not know precisely what the Spanish prosecutor said about his testimony because he does not speak Spanish. But as far as he could tell, he said, "He attacked me for being a turncoat. * * * You know people in Europe tend to make a career of government so possibly it was a foreign idea to him that someone who had been in government for 17 years would not be out representing defendants. Of course in the United States, it's part of the legal culture."

In the end, Abbell's testimony was rejected by the Spanish court, but it also turned out to be irrelevant to the outcome. According to Justice Department officials, Rodriguez's lawyers arranged for their client to be indicted on precisely the same charges in Cali as he had been in New York. Faced with identical indictments, the Spanish court had no choice but to return Rodriguez to Colombia, where, as expected, he was eventually acquitted and released from jail.

Ochoa, for his part, announced his willingness to stand trial in Colombia on relatively trivial, four-year-old bull-smuggling charges. He too was returned and quickly released. According to the Drug Enforcement Administration, the two alleged traffickers both returned to their old businesses, overseeing separate and increasingly competitive syndicates that process and smuggle about four-fifths of the cocaine that winds up on the streets of U.S. cities every year.

But Rodriquez's release did not end his need for Abbell's services. Over the past few years, Abbell said he has made about a "half-dozen" trips to Cali to meet with Rodriguez and his associates and advise them on avoiding continued U.S. extradition requests. (Rodriguez, his brother Miguel Rodriguez Orejuela and our other alleged Cali traffickers were recently named by Attorney General Dick Thornburgh to the Justice Department's list of 12 "most wanted" drug fugitives.)

Abbell makes no apologies for the relationship with the reputed Cali traffickers, whom he described as "mainstream" and "legitimate" businessmen who employ up to 5,000 people in pharmacies, banks and other companies.

More important, he said, his Cali clients should not be lumped with traffickers in Medellin, who he said are responsible for most of the assassinations and bombings that have convulsed Colombia in recent years.

"The U.S. government has given the impression that they are dealing with this unified entity called Colombian drug traffickers," Abbell said. "But the people in Cali have been adamantly opposed to any violence. * * * My impression is you can work with these people."

VACATING SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. RIDGE. Mr. Speaker, I ask unanimous consent that the special order granted to Mr. EDWARDS of Oklahoma for 60 minutes on Wednesday, October 4, be taken by the gentleman from New York [Mr. WALSH].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ON REFUGEE POLICY, ADMINISTRATION CANNOT PASS THE BUCK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. LIPINSKI] is recognized for 5 minutes.

Mr. LIPINSKI. Mr. Speaker, I have heard the administration offer many excuses for the inadequate and uninspired policies that have been the White House's response to remarkable opportunities at home and abroad.

I was disappointed by the adminstration's excuse that budgetary constraints kept them from offering Poland the assistance package that the struggling Polish people deserve. I was disappointed to see the administration claim that monetary constraints prevent the President from committing adequate resources to the war on drugs.

However, I was astonished to read Attorney General Dick Thornburgh's excuse for President Bush's handling of the refugee crisis in the Soviet bloc. In Sunday's Washington Post, the Attorney General explains that the only barrier to President Bush's "swift and humane" handling of the refugee crisis is congressional inaction. Aside from being another glaring attempt to pass the buck, Thornburgh's claim is simply untrue and devoid of facts.

As a Member of Congress who has spent the past several weeks urging President Bush to address the overflow of deserving refugees from the Soviet bloc, I take issue with Mr. Thornburgh's explanations.

The problem of Soviet bloc refugees is a question of American refugee policy. In the past year, hundreds of thousands who face persecution in their Communist homeland have sought entrance into the United States, and President Bush's annual refugee ceilings have been inadequate. The United States is turning away deserving refugees in droves, and turning its back on the American ideals of openness and freedom from oppression.

Contrary to Mr. Thornburgh's claim, the solution is completely in the President's hands. The President determines the yearly refugee ceilings, and has the power to raise the ceilings in emergencies. At the end of this fiscal year as the backlog in Soviet bloc refugee applications grew, I was joined by Majority Leader DICK GEPHARDT and DNC Chairman Ron Brown in urging President Bush to raise the ceilings for the Soviet Union and Eastern Europe. I received no answer, the administra-

tion took no action, and the backlog continued to grow.

The President got another chance at a remedy in setting the refugee ceilings for fiscal year 1990. But the President's proposal was again inadequate. Although the State Department confessed a backlog of 47,000 Soviet refugees in Rome and Moscow, the President set the yearly quota at 50,000. This leaves no room for new applicants. Last week, 20 colleagues signed my letter urging the President to increase the 1990 ceilings for the Eastern bloc. However, the administration's quotas, including only 6,500 slots for Eastern Europe, remained at their insufficient levels.

The Attorney General claimed the Bush administration wants a humanitarian refugee policy. However, when asked about the Soviet ceiling, the administration's ambassador of refugee affairs explained that Israel is "willing to take them," or "they can always go back to Russia."

Unfortunately, Mr. Thornburgh's claim of compassion alone will not solve the problem in Italy. The President's immigration proposal would prove similarly effective. Immigration reform may prove the solution to the refugee crisis, but the flexibility afforded by 30,000 additional immigrants yearly will not begin to solve the problem.

Inadequate stopgap measures like this legislation or the Attorney General's parole status are becoming all too familiar under the Bush administration, as is the common plea that Congress is to blame.

Congress will soon address immigration reform, and our program will provide real, permanent solutions to the imbalance in immigration from Eastern Europe and the increase in refugees from the Soviet bloc.

I will soon propose a new category of immigrants for those countries historically denied emigration by Communist regimes and immigration by the United States' preference system.

Until the administration proposes real solutions to the refugee problem, the fault lies in the President's failure to address the issue. Blaming Congress, like blaming budgetary constraints, is no substitute for innovative policies and effective leadership. Mr. Bush's buck is already becoming worn and tattered.

GOLDEN RULE INSURANCE COMPANY RIPOFFS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, if the Medicare Catastrophic Coverage Act is repealed, there will be a big increase in the cost of Medigap insurance policies, and big increases in Medigap insurance profits.

One of the major reasons we have tried to improve Medicare is that it pays 98 cents in benefits for every $1 dollar in premiums. Private Medigap insurance policies, on the other hand, average 60 cents in payments for every $1 in premiums paid. Forty cents of every dollar is spent on profits, ads, sales forces, and so forth.

Why would anyone want to force seniors to rely more on this industry—an industry which has been notorious for deceptive and abusive sales practices to our most vulnerable citizens?

In particular I think we should take note of a campaign by a misnamed company, Golden Rule Insurance of Indianapolis, IN. Golden Rule has been running a series of ads in major newspapers such as the Wall Street Journal calling for repeal of the entire Medicare catastrophic care law. Since Golden Rule is a major issuer of medical insurance, this appeal is tainted with self-interest. However, that fact is conspicuously absent from the ad.

The ad describes the Catastrophic Act as a "Tax on Thrift," implying that seniors' savings will be taxed by the Government to pay for the coverage. Of course, Golden Rule doesn't disclose that when it issues Medigap policies it has no problem taking seniors' savings to pay for its policies. Golden Rule practices the same deceptive rhetoric it accuses Congress of.

There is, however, a crucial difference between the Government's and Golden Rule's actions. Medicare catastrophic coverage is available to everyone, rich or poor, healthy or sick. But Golden Rule's coverage targets only the rich and the healthy. Golden Rule urges seniors to work for repeal of universal coverage, but it won't put its money where its mouth is. According to Consumer Reports magazine of June of last year, Golden Rule refuses to insure 20 to 30 percent of seniors who apply for Medigap insurance. Citizens over 70 are treated even more shabbily: as many as half are rejected. Notice that the ad fails to mention this.

If getting covered by Golden Rule looks bleak, see what happened to 45,000 healthy Ohioans lucky enough to get past the gates and actually buy policies. In January the company tried to raise their rates by 85 percent.

The rate request was filed with the insurance commissioner on a Monday. Golden Rule wanted the increase approved—without a public hearing—by Friday. So much for the full disclosure extolled by the company in its anticatastrophic ad. The commissioner—to his credit—balked. At that point Golden Rule threatened to pull out of Ohio, leaving policyholders stranded, prompting a State official to describe it as "negotiating with terrorists." The company then began sending policyholders letters they required 30-day notice of cancellation, and said it was leaving because it couldn't wait any longer for approval.

The reason the commissioner wanted a public hearing? It had discovered Golden Rule inserting hidden clauses in old policies authorizing increases each year, any time Golden Rule felt like it.

Arbitrary actions appear to be the norm at Golden Rule. This March the company cancelled major medical policies for 20,000 Florida policyholders. The reason? The company was no longer making money on their business. Imagine what a notice like that would do to someone undergoing heart treatment or with a seriously ill child?

It was just this type of scenario that prompted us to pass the Catastrophic Act in the first place.

Of course, the ad campaigns and many like it, while alarming seniors with dire predictions of costly catastrophic taxes, fail to point out that private insurance, their only option, can be cancelled with no more than the silent tap of an actuary's calculator, a situation not true of Medicare.

This makes us ask, "What is going on with Golden Rule's anticatastrophic ad?" Could it be that Golden Rule, while unwilling to cover the poor and sick, is cynical enough to want to kill universal coverage in order to get the wealthy and healthy seniors' business? Knowing it can then bludgeon regulators and pop up the rates on captive policyholders?

What I think Golden Rule really wants is the easy work: To insure seniors who are easy to manage, who can pay substantial premiums with no problem, who will submit small claims, who are ripe for later premium increases.

Mr. Speaker, remember that one of the reasons we passed the Catastrophic Act in the first place was the failure or inability of private insurers to insure this age group. We had Medicare for 23 years without catastrophic coverage. What we found was rip-off private insurers selling bogus or double coverage, at outrageous prices, and the industry failing to take care of the problem. We gave Golden Rule a chance for 23 years. Of course, that is not part of their ad campaign.

Golden Rule just is not practicing what it preaches. Maybe it should reflect on the Biblical meaning behind its name, where "Golden Rule" means "Do Unto Others as You Would Have Them Do Unto You." Possibly the company subscribes to the meaning given on Wall Street, "Them That Has Gold Makes the Rules."

Unfortunately, the Wall Street connotation is why we passed catastrophic in the first place. It would do us well to remind ourselves that seniors' criticism of the Catastrophic Act is in part due to campaigns by entities like Golden Rule. We should reflect on the motives and behavior of groups like it before we once again consign the health of our citizens to them.

ANNUNZIO PRAISES CREDIT UNION TECHNICAL AID TO POLAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the people of Poland have developed a mistrust for the state Communist Party-dominated financial institutions. There are billions of Polish-dollar equivalents in mattresses and under floorboards that could be used for the economic development of their country. They are looking to the United States for technical assistance. I recommend that we do all we can to

help the people of Poland organize people-run institutions to do that.

Poland is stagnating because both zlotys and foreign currency are being stored at home instead of being pumped into the economy. A Solidarity representative who met with United States credit union officials recently estimated that the Poles are holding between $3 and $9 billion in mattresses or floorboards because of a lack of confidence in the state banking system. Long-suffering Poles fear their government-run banks may at any time forget the distinction between their money and its money and confiscate deposits.

The Poles believe that member-owned credit unions may be just the tool needed to pry money from under floorboards and out of mattresses by winning the Polish people's confidence—and giving a jolt to the whole economy. The Polish people want to set up financial cooperatives and then later convert them into credit unions. They have a real hunger for knowledge of cooperatives.

At hearings of the House Subcommittee on Financial Institutions Supervision, Regulation and Insurance, which I chair, the Credit Union National Association [CUNA], a trade group, reported that it had met with Solidarity to discuss the possibilities of receiving technical assistance and expert advice in establishing Polish credit unions. In addition, we were told that Solidarity representatives met with the National Credit Union Administration, the Federal Government regulator, and toured U.S. Central, the credit union liquidity facility.

The Credit Union News, in an article about the meetings, said the World Council of Credit Unions [WCCU], which helped to set up the sessions, is moving cautiously and acting solely in an advisory capacity. The Council believes the Poles will have to make their own decision about whether credit unions are the answer to their problems. And that is the way it should be.

The WCCU is an international organization comprised of credit union federations in Europe, Asia, Africa, Latin America, and North America. The World Council promotes the formation and development of democratically run financial cooperatives.

The WCCU and the Credit Union National Association, working through the World Council, are prepared to provide technical assistance to a fledgling Polish credit union movement if asked to do so. CUNA is also prepared to provide financial assistance if needed.

Mr. Speaker, I joined in the sponsorship, with Congresswoman MARCY KAPTUR of Ohio, who is also a member of my subcommittee, of an amendment to an international banking bill which would express the sense of the Congress that the Treasury Secretary instruct officers of multilateral development banks to offer financial and technical assistance to Poles who want to establish financial institutions such as credit unions, thrifts, and commercial banks. I am pleased to announce that the full Banking Committee adopted the amendment unanimously by voice vote.

Quite frankly, the amendment does not go as far as I would like. An economically healthy Poland benefits not only the Polish people, but contributes to lower tensions between the East and the West. The unique characteristics of credit unions make them financial institutions perfectly suited for socialist countries moving toward market economies. I intend to continue my efforts to ensure that the Polish people get all the assistance they request in this area.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RIDGE) to revise and extend their remarks and include extraneous material:)

Mrs. BENTLEY, for 60 minutes, on October 10, 11, and 12.

Mrs. BENTLEY, for 60 minutes, on October 17, 18, and 19.

(The following Members (at the request of Mr. LIPINSKI) to revise and extend their remarks and include extraneous material:)

Mr. PICKLE, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. RIDGE) and to include extraneous matter:)

Mr. DORNAN of California.

Mrs. ROS-LEHTINEN.

Mr. WALSH.

Mr. KOLBE.

Mr. MOLINARI.

Mr. SMITH of New Jersey.

Mr. FIELDS.

Mr. GREEN.

Mr. BURTON of Indiana in two instances.

Mr. VANDER JAGT.

Mr. CRANE.

Mr. GEKAS.

Mr. RHODES.

Mr. BARTON of Texas.

Mr. SOLOMON.

Mr. WOLF.

Mr. THOMAS of Wyoming.

Mrs. BENTLEY.

(The following Members (at the Request of Mr. LIPINSKI) and to include extraneous matter:)

Mr. CARDIN.

Mr. RANGEL.

Mr. HAWKINS.

Mr. KANJORSKI in two instances.

Mr. SLATTERY.

Mr. CLEMENT.

Mr. FASCELL in two instances.

Mr. WOLPE in two instances.

Mr. ASPIN.

Mr. DE LA GARZA.

Mr. MILLER of California.

Mrs. KENNELLY.

Mr. MORRISON of Connecticut in two instances.

Mr. ECKART.

Mr. DELLUMS.

Mr. MATSUI.

Mr. PELOSI.

Mr. WEISS.

Mr. FAUNTROY.

Mr. LANTOS in two instances.

Mr. TORRES.

Mr. TALLON.

Mr. ROSTENKOWSKI.

SENATE JOINT RESOLUTIONS AND A CONCURRENT RESOLUTION REFERRED

Joint resolutions and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 199. Joint resolution providing for the reappointment of Samuel C. Johnson as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration.

S.J. Res. 202. Joint resolution providing for the appointment of Robert James Woolsey, Jr. of Maryland as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration.

S. Con. Res. 74. Concurrent resolution authorizing the "Gift of Democracy" from the United States Congress to the new Senate and Sejm in Poland. This gift is comprised of equipment and training that is determined to be most useful in helping Poland establish an effective parliamentary system; to the Committee on House Administration.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1486. An act to authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1709. An act to provide interim extensions of Department of Veterans Affairs programs of respite care for certain veterans, community-based residential care for homeless, chronically mentally ill veterans, State home construction grants, and leave transfers for certain health-care professionals, and of Department of Veterans Affairs home loan fees.

ADJOURNMENT

Mr. LIPINSKI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 9 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 4, 1989, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1773. A letter from the Assistant Secretary for Policy Development and Research, Department of Housing and Urban Development, transmitting a review of the operations of the Federal National Mortgage Association during calendar year 1987, pursuant to 12 U.S.C. 1723a(h); to the Committee on Banking, Finance and Urban Affairs.

1774. A letter from the Secretary of Commerce, transmitting the report entitled "The U.S. Automobile Industry, 1986-1987," pursuant to 15 U.S.C. 1871; to the Committee on Banking, Finance and Urban Affairs.

1775. A letter from the National Director, Congressional Award Board, transmitting their fourth quarterly report for the period June 30, 1989 through September 29, 1989, pursuant to 2 U.S.C. 802(e); to the Committee on Education and Labor.

1776. A letter from the Secretary of Agriculture, transmitting the annual horse protection enforcement report for fiscal year 1988, pursuant to 15 U.S.C. 1830; to the Committee on Energy and Commerce.

1777. A letter from the Secretary of Energy, transmitting the annual report summarizing progress by State authorities and nonregulated utilities in complying with the statute's requirements related to their consideration of 11 ratemaking and regulatory policy standards, covering the period January 1, 1988, through December 31, 1988, pursuant to 15 U.S.C. 3209(b); to the Committee on Energy and Commerce.

1778. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to the Netherlands for defense articles and services (Transmittal No. 90-02), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1779. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed letter(s) of offer and acceptance [IOA] to Denmark for defense articles and services (Transmittal No. 90-06), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1780. A letter from the chairman, Cultural Property Advisory Committee, transmitting the committee's report of its findings and recommendations to the June 1988 request of the Government of Peru for emergency United States import restrictions on Moche artifacts, pursuant to 19 U.S.C. 2605(f)(6); to the Committee on Foreign Affairs.

1781. A letter from the Acting Chairman, Consumer Product Safety Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act for calendar year 1988, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

1782. A letter from the Executive Director, National Mediation Board, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act for calendar year 1988, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

1783. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1784. A letter from the Secretary of the Interior, transmitting the 16th annual report on the operation of the Colorado River basin for 1986 and projected operations for 1987, pursuant to 43 U.S.C. 1551(b); to the Committee on Interior and Insular Affairs.

1785. A letter from the Comptroller General, General Accounting Office, transmitting a report and recommendations concerning the claim of Mr. Izzydor Shever to be reimbursed full relocation expenses as though he had been an employee of the Federal Government transferred in the interest of the Government from one duty station to another for permanent duty, pursuant to 31 U.S.C. 3702(d); to the Committee on the Judiciary.

1786. A letter from the Secretary, Department of Transportation, transmitting a report on the effects of delaying application to any foreign motor carrier or foreign motor private carrier under certain conditions, pursuant to Public Law 100-690, section 9102(b)(2) (102 Stat. 4529); to the Committee on Public Works and Transportation.

1787. A letter from the Administrator, Federal Aviation Administration, transmitting a copy of the 1989 national airspace system plan, pursuant to 49 U.S.C. app. 2203(b)(1); to the Committee on Public Works and Transportation.

1788. A letter from the U.S. Trade Representative, transmitting the report concerning Canada's production-based duty remission programs for automotive products, pursuant to Public Law 100-449, section 207(b) (102 Stat. 1865); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ANDERSON: Committee on Public Works and Transportation. Supplemental report on H.R. 1465 (Rept. 101-242, Pt. 4). Ordered to be printed.

Mr. OBEY: Committee on Appropriations. H.R. 3385. A bill to provide assistance for free and fair elections in Nicaragua; with amendments (Rept. 101-265, Pt. 1). Ordered to be printed.

Mr. MOAKLEY: Committee on Rules. House Resolution 254. Resolution providing for the consideration of H.R. 2748, a bill to authorize appropriations for fiscal year 1990 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 101-266). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 255. Resolution providing for the consideration of H.R. 1495, a bill to amend the Arms Control and Disarmament Act to authorize appropriations for the Arms Control and Disarmament Agency, and for other purposes (Rept. 101-267). Referred to the House Calendar.

Mr. BONIOR: Committee on Rules. House Resolution 256. Resolution providing for the consideration of H.R. 3385, a bill to provide assistance for free and fair elections in Nicaragua (Rept. 101-268). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. JONES of North Carolina (for himself, Mr. ANDERSON, Mr. ROE, Mr. DAVIS, Mr. HAMMERSCHMIDT, Mr. WALKER, Mr. TAUZIN, Mr. NOWAK, Mr. STANGELAND, Mr. SCHEUER, Ms. SCHNEIDER, Mr. YOUNG of Alaska, and Mr. STUDDS):

H.R. 3394. A bill to provide for a comprehensive compensation and liability scheme for discharges of oil, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries; Public Works and Transportation; and Science, Space, and Technology.

By Mr. ERDREICH (for himself and Mr. HARRIS):

H.R. 3395. A bill to amend the Solid Waste Disposal Act to grant States the authority to regulate the interstate disposal of hazardous waste and solid waste; to the Committee on Energy and Commerce.

By Mrs. KENNELLY:

H.R. 3396. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the value of certain transportation furnished by an employer; to the Committee on Ways and Means.

By Mr. KOLTER:

H.R. 3397. A bill to provide for a bonus to veterans of World War II; to the Committee on Veterans' Affairs.

By Mr. LEACH of Iowa (for himself and Ms. KAPTUR):

H.R. 3398. A bill to encourage United States assistance for the development and capitalization of cooperative credit unions in Poland and Hungary; jointly, to the Committees on Banking, Finance and Urban Affairs and Foreign Affairs.

By Mr. NIELSON of Utah (for himself and Mr. HANSEN):

H.R. 3399. A bill to designate the Colorado River in the State of Utah as a unit of the National Wild and Scenic River System; to the Committee on Interior and Insular Affairs.

By Mr. WOLF:

H.R. 3400. A bill to amend title 5, United States Code, to provide that the widow, widower, or former spouse of a law enforcement officer who dies in service after meeting the service requirement for entitlement to an annuity as a law enforcement officer, but before meeting the age requirement, shall be entitled to a survivor annuity computed as if the decedent had satisfied that age requirement; to the Committee on Post Office and Civil Service.

By Mr. POSHARD:

H.J. Res. 414. Joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget; to the Committee on the Judiciary.

By Mr. FEIGHAN:

H. Con. Res. 206. Concurrent resolution regarding the protection and promotion of democracy and basic human rights in the Republic of Korea; to the Committee on Foreign Affairs.

By Mr. GRAY (for himself, Mr. APPLEGATE, Mr. BATES, Mr. BERMAN, Mr. BILBRAY, Mr. BLAZ, Mr. BOEHLERT, Mr. BORSKI, Mr. BROWN of California, Mr. BRYANT, Mr. BUSTAMANTE, Mr. CAMPBELL of Colorado, Mrs. COLLINS, Mr. CONTE, Mr. COYNE, Mr. DE-

FAZIO, Mr. DICKS, Mr. DYMALLY, Mr. FALEOMAVAEGA, Mr. FAUNTROY, Mr. FAZIO, Mr. FLAKE, Mr. FLIPPO, Mr. FRANK, Mr. FUSTER, Mr. GEJDENSON, Mr. GONZALEZ, Mr. GORDON, Mr. HAYES of Illinois, Mr. HENRY, Mr. JACOBS, Mr. JONES of Georgia, Mr. LEVIN of Michigan, Mr. MANTON, Mr. MATSUI, Mr. MAVROULES, Mr. MCNULTY, Mr. MFUME, Mr. MILLER of California, Mr. MURPHY, Mr. NEAL of Massachusetts, Mr. OBEY, Mr. OWENS of Utah, Mr. PALLONE, Mr. PANETTA, Mr. PARKER, Mrs. PATTERSON, Mr. PENNY, Mr. PICKETT, Mr. POSHARD, Mr. REGULA, Mr. RIDGE, Mr. ROE, Mr. SCHEUER, Mr. SCHIFF, Mr. SIKORSKI, Mr. TOWNS, Mr. TRAXLER, and Mr. VANDER JAGT):

H. Con. Res. 207. Concurrent resolution concerning United States foreign assistance to Somalia; to the Committee on Foreign Affairs.

By Mr. LANTOS (for himself and Mr. WISE):

H. Res. 253. Resolution to amend the Rules of the House of Representatives to permit a committee to vote to allow live media coverage of the testimony of a subpoenaed witness; to the Committee on Rules.

By Mr. GIBBONS (for himself, Mr. ROSTENKOWSKI, Mr. JENKINS, Mr. DOWNEY, Mr. PEASE, Mr. RUSSO, Mr. GEPHARDT, Mr. GUARINI, Mr. MATSUI, Mr. ARCHER, Mr. CRANE, Mr. VANDER JAGT, Mr. SCHULZE, Mr. THOMAS of California, and Mr. GILMAN):

H. Res. 257. Resolution denouncing the adoption by the European Community of a restrictive broadcasting directive; to the Committee on Ways and Means.

By Mr. OBERSTAR:

H. Res. 258. Resolution to amend the Rules of the House of Representatives with respect to the duration of service of members of the Permanent Select Committee on Intelligence; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. SOLARZ and Mrs. LOWEY of New York.

H.R. 45: Mr. WALSH and Mr. FLAKE.

H.R. 56: Mr. HENRY and Mr. MARKEY.

H.R. 91: Ms. SNOWE.

H.R. 446: Mr. ESPY, Mr. GILLMOR, and Mr. RICHARDSON.

H.R. 509: Mr. ACKERMAN, Mr. BALLENGER, Mr. BLILEY, Mr. BOEHLERT, Mr. BUNNING, Mr. COBLE, Mr. COX, Mrs. LOWEY of New York, Mr. MOAKLEY, Mr. RITTER, Mr. SCHAEFER, Mr. SCHEUER, and Mr. SOLOMON.

H.R. 514: Mrs. JOHNSON of Connecticut.

H.R. 561: Mr. FEIGHAN and Mr. YATES.

H.R. 567: Mr. MACHTLEY.

H.R. 595: Mr. WALSH, Mr. HUCKABY, Mrs. MARTIN of Illinois, Mr. RIDGE, Mr. HOLLOWAY, Mr. SMITH of Texas, Mr. BARTLETT, Mr. PAYNE of Virginia, Mr. SAXTON, Mr. BLILEY, Mr. DREIER of California, Mr. ECKART, Mr. SANGMEISTER, Mr. COURTER, and Mr. MARLENEE.

H.R. 668: Mr. LAUGHLIN and Mr. TALLON.

H.R. 746: Mr. POSHARD, Mr. SMITH of Vermont, and Mr. DONALD E. LUKENS.

H.R. 970: Mr. SAWYER and Ms. SLAUGHTER of New York.

H.R. 1045: Mrs. LOWEY of New York, Mr. JAMES, Mr. ERDREICH, Mr. FORD of Michigan, Mr. DELLUMS, Mr. CARDIN, Mr. EVANS, Mrs. UNSOELD, and Ms. KAPTUR.

H.R. 1054: Ms. SLAUGHTER of New York.

H.R. 1087: Mr. SLATTERY, Mr. OWENS of Utah, and Mr. CAMPBELL of Colorado.

H.R. 1281: Mr. SCHUETTE, Mr. AKAKA, Mr. NAGLE, Mr. RANGEL, Mr. KLECZKA, Mr. SIKORSKI, Mr. BROWN of California, Mr. ROE, Mr. NELSON of Florida, Mr. PANETTA, and Mr. MCDERMOTT.

H.R. 1292: Mrs. LOWEY of New York.

H.R. 1400: Mr. DURBIN, Mr. WYLIE, Mr. GALLO, Mr. MARKEY, Mr. HEFNER, Mr. JONES of North Carolina, Mr. CLINGER, Mr. DICKS, Mr. VALENTINE, Mr. SAXTON, Mr. ROHRABACHER, Mr. BOSCO, Mr. GEKAS, Mr. MCCRERY, Mr. OXLEY, and Mr. WISE.

H.R. 1515: Mr. YATES and Mr. CARDIN.

H.R. 1532: Mr. LEVINE of California.

H.R. 1612: Mr. OWENS of New York, Mr. SAVAGE, and Mr. MFUME.

H.R. 1617: Mr. MCMILLAN of North Carolina, Mr. ROE, Mr. GEJDENSON, Mr. KILDEE, Mr. POSHARD, and Mr. PICKETT.

H.R. 1648: Mr. FORD of Tennessee.

H.R. 1675: Mr. DANNEMEYER, Mr. ROBINSON, and Mr. SCHAEFER.

H.R. 1730: Mr. MCNULTY, Mr. LEWIS of California, Mr. HOUGHTON, Mr. JOHNSON of South Dakota, Mr. HANCOCK, Mr. SAXTON, and Mr. BAKER.

H.R. 1863: Mr. FISH.

H.R. 2172: Mr. GONZALEZ, Mr. FLAKE, Mr. CONYERS, Ms. SLAUGHTER of New York, Mr. COLEMAN of Texas, Mr. COSTELLO, Mr. GRANT, Mr. NAGLE, Mr. STOKES, Mr. TALLON, and Mr. BROWN of California.

H.R. 2228: Ms. KAPTUR.

H.R. 2243: Mr. AKAKA and Mr. BILBRAY.

H.R. 2269: Mr. MCCURDY.

H.R. 2335: Mr. PRICE and Mr. LANCASTER.

H.R. 2386: Mr. RIDGE, Mrs. BOXER, and Mr. GOODLING.

H.R. 2418: Mr. HANSEN, Mr. HAMMERSCHMIDT, and Mr. LIVINGSTON.

H.R. 2437: Mr. BOEHLERT, Mr. SUNDQUIST, and Mr. SCHUETTE.

H.R. 2487: Mr. EVANS.

H.R. 2671: Mr. LEWIS of Georgia, Mr. BARNARD, Mr. MANTON, Mr. PAYNE of New Jersey, Mr. FALEOMAVAEGA, Mr. CAMPBELL of California, Mr. MRAZEK, and Mr. MFUME.

H.R. 2754: Mr. GUARINI, Mr. MAVROULES, and Mr. SHUMWAY.

H.R. 2756: Mr. AUCOIN.

H.R. 2761: Mr. HAMMERSCHMIDT, Mr. BROWDER, Mr. HAWKINS, Mr. NIELSON of Utah, Mr. ESPY, Mr. DORNAN of California, Mrs. MEYERS of Kansas, Mr. LIVINGSTON, Mr. SLATTERY, Mr. YOUNG of Florida, Mrs. LOWEY of New York, Mr. OWENS of New York, Mr. MURPHY, Mr. ROBINSON, Mr. BATEMAN, Mr. MILLER of Washington, Mr. DONALD E. LUKENS, and Mr. SHUSTER.

H.R. 2766: Mr. WEISS.

H.R. 2777: Mr. MCDERMOTT, Mrs. PATTERSON, Ms. SCHNEIDER, Mr. GILMAN, Mr. MILLER of Washington, Mr. BATES, Mr. EDWARDS of California, Mr. FAZIO, Mr. LANCASTER, Mr. ECKART, Mr. SCHEUER, Mr. GARCIA, Mr. LEHMAN of Florida, Mr. LEVINE of California, Mr. OWENS of Utah, Mr. KOSTMAYER, Mr. HAYES of Louisiana, Mr. DURBIN, Mr. BROWN of California, Mr. DELLUMS, Mr. GINGRICH, Mr. ENGEL, and Mr. MILLER of California.

H.R. 2812: Mr. MCCOLLUM, Mr. HORTON, and Mr. BENNETT.

H.R. 2840: Mr. MRAZEK, Mr. FRANK, Mr. MCDERMOTT, Mr. EDWARDS of California, and Ms. SCHNEIDER.

H.R. 2891: Mr. SAVAGE, Mr. EVANS, and Mr. LANCASTER.

H.R. 2948: Mr. TORRICELLI.

H.R. 3017: Mr. SIKORSKI, Ms. SLAUGHTER of New York, Mr. GOODLING, and Mr. HANCOCK.

H.R. 3028: Mr. MCNULTY.

H.R. 3035: Mrs. COLLINS and Mr. SAVAGE.

H.R. 3037: Mr. WALSH, Mr. OLIN, Mr. LAFALCE, Mr. BOSCO, and Mr. DICKS.

H.R. 3056: Mr. ACKERMAN, Mr. ANTHONY, Mr. ARCHER, Mrs. BENTLEY, Mr. BILBRAY, Mr. BROOMFIELD, Mr. BROWDER, Mr. BUNNING, Mr. CHANDLER, Mr. CRAIG, Mr. DELLUMS, Mr. DICKS, Mr. EMERSON, Mr. ENGEL, Mr. ENGLISH, Mr. FALEOMAVAEGA, Mr. HUCKABY, Mr. GEJDENSON, Mr. GONZALEZ, Mr. GUNDERSON, Mr. HAYES of Illinois, Mr. HAYES of Louisiana, Mr. HOLLOWAY, Mr. HOYER, Mr. HUNTER, Mr. HUGHES, Mr. HYDE, Mr. JONES of Georgia, Mr. JONTZ, Ms. LONG, Mr. MARKEY, Mr. MCCOLLUM, Mr. MCDERMOTT, Mr. MOAKLEY, Mr. MONTGOMERY, Mr. NEAL of Massachusetts, Mr. OBEY, Mr. OWENS of Utah, Mr. PANETTA, Mr. PORTER, Mr. RANGEL, Mr. SCHUETTE, Mr. SHAW, Ms. SLAUGHTER of New York, Mr. DENNY SMITH, Mr. SWIFT, Mr. TALLON, Mr. THOMAS of Georgia, Mr. TOWNS, Mr. TRAXLER, Mr. WATKINS, Mr. WOLF, Mr. WYDEN, Mr. WYLIE, Mr. YATES, and Mr. YATRON.

H.R. 3069: Mr. TOWNS, Mr. DELLUMS, Mr. BOUCHER, Mr. FAZIO, Mr. MCNULTY, Mr. PENNY, and Mr. OBERSTAR.

H.R. 3101: Mrs. VUCANOVICH.

H.R. 3191: Mr. BATES, Mr. BEILENSON, Mr. FUSTER, Mr. STARK, Mr. SLATTERY, Mr. MILLER of California, Mr. KOLTER, Mr. OWENS of New York, Mr. WYDEN, Mr. OBERSTAR, Mr. DWYER of New Jersey, Ms. SLAUGHTER of New York, Mr. FOGLIETTA, Mr. BUSTAMANTE, Mr. DORGAN of North Dakota, Mr. LANCASTER, Mr. MORRISON of Connecticut, Mr. WISE, Mr. DEFAZIO, and Mrs. BOXER.

H.R. 3208: Mr. FRANK, Ms. SLAUGHTER of New York, Mr. GARCIA, Mr. FASCELL, and Mr. FORD of Tennessee.

H.R. 3211: Mr. CLINGER and Mr. MURTHA.

H.R. 3216: Mr. LAUGHLIN.

H.R. 3222: Mrs. SMITH of Nebraska.

H.R. 3234: Mr. GLICKMAN, Mr. SARPALIUS, Mr. NEAL of Massachusetts, and Mr. MFUME.

H.R. 3270: Mr. CLINGER, Mr. RHODES, Mr. PASHAYAN, Mr. SLATTERY, Mr. JONES of North Carolina, Mr. VALENTINE, Mr. RITTER, Mr. LIGHTFOOT, Mr. SMITH of Texas, Mr. ENGLISH, Mr. JENKINS, Mr. SKEEN, Mr. HUTTO, Mr. GOODLING, Mr. BROWN of Colorado, Mr. ROWLAND of Georgia, and Mr. NIELSON of Utah.

H.R. 3274: Mr. SKEEN, Mrs. VUCANOVICH, Mr. ENGLISH, and Mr. VOLKMER.

H.R. 3294: Mr. MILLER of Washington, Mr. SLATTERY, Mr. GORDON, Mr. FALEOMAVAEGA, Mr. RICHARDSON, Mrs. MORELLA, Mr. LAGOMARSINO, Mr. LEWIS of Georgia, Mr. PALLONE, Mr. STOKES, Mrs. COLLINS, Mr. MOODY, Mr. MCNULTY, Mr. FAZIO, Mr. VOLKMER, Mr. ACKERMAN, Mr. HALL of Ohio, Mr. MRAZEK, Mr. CHAPMAN, Mr. RUSSO, Mr. SABO, Mr. DIXON, Mr. HAWKINS, Mr. DELLUMS, Mr. WHEAT, Mr. MFUME, Mr. HAYES of Illinois, Mr. CLAY, Mr. RANGEL, Mr. FAUNTROY, Mr. FORD of Tennessee, Mr. GRAY, Mr. CROCKETT, Mr. SAVAGE, Mr. ESPY, Mr. FLAKE, and Mr. PAYNE of New Jersey.

H.R. 3326: Mr. MCGRATH.

H.J. Res. 54: Mr. WYDEN.

H.J. Res. 127: Mr. JONES of Georgia, Mr. HANSEN, Mr. TAUKE, Mr. FLIPPO, Mr. GILLMOR, and Mr. JENKINS.

H.J. Res. 177: Ms. PELOSI, Mr. BATEMAN, and Mr. ESPY.

H.J. Res. 220: Mr. PAYNE of New Jersey, Mr. MANTON, Mr. ENGEL, and Mr. FISH.

H.J. Res. 373: Mr. GALLEGLY, Mr. NAGLE, Mr. JOHNSON of South Dakota, Mr. DANNEMEYER, Mr. BRYANT, Ms. SNOWE, Mr. DYSON, and Mr. GRANDY.

H.J. Res. 392: Mr. AKAKA, Mr. ANDERSON, Mr. ANTHONY, Mr. BATES, Mr. BEILENSON, Mr. BERMAN, Mr. BILBRAY, Mr. BILIRAKIS, Mrs. BOGGS, Mr. BONIOR, Mr. BOSCO, Mr. BRENNAN, Mr. BROOKS, Mr. BROOMFIELD, Mr. CARDIN, Mr. CARPER, Mr. CHANDLER, Mr. CHAPMAN, Mr. CLARKE, Mr. CLEMENT, Mr. CONDIT, Mr. CONYERS, Mr. COX, Mr. DEFAZIO, Mr. DELLUMS, Mr. DICKS, Mr. DONNELLY, Mr. DORNAN of California, Mr. DOWNEY, Mr. DYSON, Mr. ESPY, Mr. FALEOMAVAEGA, Mr. FAWELL, Mr. FEIGHAN, Mr. FLAKE, Mr. FRANK, Mr. GARCIA, Mr. GEJDENSON, Mr. GEKAS, Mr. GEREN, Mr. GILLMOR, Mr. GILMAN, Mr. GONZALEZ, Mr. GORDON, Mr. GRAY, Mr. HAMMERSCHMIDT, Mr. HASTERT, Mr. HAYES of Louisiana, Mr. HAYES of Illinois, Mr. HERTEL, Mr. HOAGLAND, Mr. HOYER, Mr. HYDE, Mr. JOHNSON of South Dakota, Mr. JOHNSTON of Florida, Mr. JONES of Georgia, Mr. JONES of North Carolina, Mr. KANJORSKI, Mr. KASICH, Mr. KENNEDY, Mr. KILDEE, Mr. KOSTMAYER, Mr. LANTOS, Mr. LAUGHLIN, Mr. LEHMAN of California, Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. LEWIS of California, Mr. LOWERY of California, Mr. MARTIN of New York, Mr. MARTINEZ, Mr. MAVROULES, Mr. MCCRERY, Mr. MCDADE, Mr. MCMILLEN of Maryland, Mr. MCNULTY, Mr. MILLER of Washington, Mr. MINETA, Mr. MOODY, Mrs. MORELLA, Mr. MORRISON of Connecticut, Mr. MRAZEK, Mr. MURPHY, Mr. NATCHER, Mr. NELSON of Florida, Ms. OAKAR, Mr. OBERSTAR, Mr. PARKER, Mr. PAXON, Mr. RICHARDSON, Mr. RIDGE, Mr. RITTER, Mrs. ROUKEMA, Mr. ROWLAND of Connecticut, Mr. ROWLAND of Georgia, Mr. RUSSO, Mr. SABO, Mrs. SAIKI, Mr. SANGMEISTER, Mr. SARPALIUS, Mr. SAXTON, Mr. SCHEUER, Mr. SCHUMER, Mr. SHAYS, Mr. SISISKY, Mr. SKAGGS, Mr. SKEEN, Mr. SOLOMON, Mr. STAGGERS, Mr. STUDDS, Mr. TALLON, Mr. TANNER, Mr. TAUZIN, Mr. TORRES, Mr. UDALL, Mrs. UNSOELD, Mr. UPTON, Mr. VISCLOSKY, Mrs. VUCANOVICH, Mr. WEBER, Mr. WELDON, Mr. WISE, Mr. WOLPE, Mr. WYDEN, Mr. WYLIE, Mr. YATRON, Mrs. KENNELLY, Mr. BURTON of Indiana, Mr. DERRICK, Mrs. PATTERSON, Mr. WHEAT, Mr. CLAY, Mr. PAYNE of Virginia, Ms. LONG, Mr. MFUME, Mr. HUGHES, Mr. HUBBARD, Mr. PERKINS, Mr. BROWDER, and Mr. BORSKI.

H.J. Res. 394: Mr. ROE and Mr. SKEEN.

H.J. Res. 401: Mr. BONIOR.

H. Con. Res. 5: Mr. MATSUI.

H. Con. Res. 156: Mr. YATRON and Mr. MORRISON of Washington.

H. Con. Res. 182: Mr. BUSTAMANTE, Mrs. COLLINS, Mr. COURTER, Mr. DWYER of New Jersey, Mr. FOGLIETTA, Mr. FROST, Mrs. KENNELLY, Mr. LEVIN of Michigan, Mr. MCGRATH, Mr. OWENS of New York, and Mr. SMITH of Florida.

H. Res. 116: Mr. ENGEL.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

100. The SPEAKER presented a petition of the Stanwood School District No. 401, Stanwood, WA, relative to banning television and radio advertisement for alcoholic beverages; which was referred to the Committee on Energy and Commerce.

SENATE—*Tuesday, October 3, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

"Our fathers' God to Thee, Author of liberty, of Thee we sing. Long may our land be bright with freedom's holy light, protect us by Thy might, great God our King."

Two hundred years ago today, October 3, 1779, President George Washington set apart Thursday, November 26, as a day to be devoted by the people of these United States to the service of that great and glorious Being, who is the beneficent Author of all the good that was, that is, or that will be. He proclaimed, "Whereas it is the duty of all nations to acknowledge the providence of Almighty God, to obey His will, to be grateful for His benefits, and humbly to implore His protection and favor * * * and to unite in most humbly offering our prayers and supplications to the great Lord and Ruler of nations, and beseech Him to pardon our national and other transgressions * * * to promote the knowledge and practice of true religion and virtue. * * *"

So help us God. In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized under the standing order.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time reserved for the two leaders, there will be a period for morning business until 10 o'clock, with Senators permitted to speak therein for up to 5 minutes each. At 10 o'clock, the Senate will begin consideration of S. 1711, a bill to implement the President's 1989 national drug control strategy.

Debate on that measure will continue until 12:15 p.m., when the Senate will conduct a rollcall vote on a motion to invoke cloture on the motion to proceed to H.R. 1231, the Eastern Airlines bill. Once that vote has been concluded, the Senate will stand in recess until 2:15 p.m. When the Senate reconvenes at 2:15, regardless of the outcome of the cloture vote, the Senate will resume consideration of the Zappala nomination in executive session.

Senators should be prepared for a session into the evening this evening and every day this week, with several rollcall votes possible.

Senators should also be prepared for a lengthy session late this week, possibly extending well into the weekend, as the Senate attempts to complete action on the reconciliation measure which we must move forward on the deal with the budget problem.

I recognize the inconvenience this may cause Senators in their schedules, but I want all Senators to be aware and on notice that there will be lengthy sessions throughout this week possible, and not just a possibility but the likelihood that the Senate will be in session this weekend as we seek to complete action on the reconciliation measure and on other measures to which we are committed for action this week.

CLEAN AIR LEGISLATION

Mr. MITCHELL. Mr. President, yesterday in a House committee, significant action occurred with respect to clean air legislation. Agreement was reached and by a unanimous committee vote new and more stringent standards applicable to automobile emissions were adopted.

This is a significant breakthrough and one which I believe will help move us toward the enactment of comprehensive clean air legislation in this Congress. I congratulate all those concerned in that progress, specifically Representative DINGELL, the chairman of the full committee, and Representative WAXMAN, the chairman of the subcommittee, both of whom have for many years had a keen interest in the matter and who now with good faith on both sides have been able to work out a meaningful and realistic compromise that should enable the House to act promptly on the matter and hopefully will contribute to Senate action as well.

This morning, and continuing throughout this week, the Senate Subcommittee on Environmental Protection is holding hearings on clean air legislation. I know that the chairman of that committee, Senator BAUCUS, is devoting considerable energy and effort to developing clean air legislation in the Senate.

It is my hope that such legislation will be ready for floor action either later this year or very early next year and that before long we will have, for the first time since 1977, reauthorization and an important extension of the Clean Air Act.

So I congratulate all those concerned in the House. I recognize that many difficult issues remain unresolved; that this is a matter of great interest to every Senator; and that we still are in the process of fashioning legislation here in the Senate. But I think that the events of yesterday have made final action much more likely, and for that I am grateful.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I reserve the time of the distinguished Republican leader as well.

The PRESIDENT pro tempore. Without objection, the time of the two leaders will be reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. The Senator from Tennessee [Mr. GORE] is recognized for not to exceed 5 minutes.

Mr. GORE. I thank the Chair.

GILES COUNTY STANDS UP TO HATEMONGERS

Mr. GORE. Mr. President, I want to take a moment to tell my colleagues about the good people of Pulaski, TN, and their courageous stand against the forces of hatred and division. A nation longing for unity could learn a lot from Giles County.

Next month, against the wishes of the people of Pulaski, a white supremacist group known as the Aryan Nations is coming to their town to stage a march of racism and bigotry.

No one in Giles County shares this group's heinous views. In fact, since the parade of hate was announced, outspoken civic leaders and citizens have denounced the Aryan Nations and everything it stands for. These

hatemongers received a parade permit only because the town had no legal or constitutional recourse to deny it.

But even though the town cannot prevent the march, the people of Pulaski are determined to show the world that they do not condone it. Outraged citizens have joined together to form Giles Countians United, which is already leading a counterdemonstration in the name of brotherhood. The people of Pulaski are making it clear that they will "no longer suffer in silence when outside forces of bigotry and hatred besiege our county and by their presence, diminish our reputation and falsely portray us as willing hosts to their displays of discrimination."

When the racists come to town in October, the people of Giles County are going to make it clear that their repulsive views are not welcome. Dozens of businesses have agreed to close up for the day, and to post signs that say, "This store will protest the presence of the Aryan Nations." Residents are tying orange banners and ribbons—the international symbol of brotherhood—on every building, every tree, and every lamppost. Citizens have distributed and signed petitions denouncing the racist invasion, and every day, they are delivered to the Aryan Nations headquarters in Hayden Lake, ID.

Mr. President, I urge my colleagues to lend the people of Giles County their support and their prayers. It takes courage to stare hatred in the face. Aryan Nations followers are believed to be responsible for several bombings and the murder of Denver talk show host Alan Berg. The group advocates the overthrow of the Federal Government, an end to religious freedom, and the elimination of all nonwhite races. Now it is trying to forge alliances with the Ku Klux Klan and other hate groups—including violently racist skinhead youth. The Pulaski march is its latest desperate attempt to garner publicity.

Such brazen bigotry may win them some attention, because it is too hateful to ignore, but it will not win any followers in Pulaski or anywhere else in Tennessee. Quite the contrary. The people of Giles County know what they are up against, and they are not about to give in. They are not about to listen to the gospel of evil or acquiesce in the worship of hate. When their hate march is over, the hatemongers will know one thing for sure: the Aryan Nations has no friends in Giles County, and racism will never find a home in Tennessee.

Mr. President, I ask unanimous consent to print in the RECORD an excellent article by Larry Daughtrey, entitled "Pulaski Has No Room for the Vermin," which appeared in the Nashville Tennessean on September 10, 1989.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PULASKI HAS NO ROOM FOR THE VERMIN

PULASKI, TENN.—Anyone who thinks real American political values have shattered ought to visit this pleasant little town of 7,530 on the Alabama border in Middle Tennessee.

Pulaski has two modest historical monuments which recently have become burdensome. One is a courthouse statue of Sam Davis, the quixotic "boy hero" of the Confederacy who was hanged in Pulaski by Union troops after refusing to identify his espionage associates.

The other is a small metal plaque half the size of this page a block away from the statue, identifying the law office where an early branch of the Ku Klux Klan sprouted—and died—at the end of the Civil War. The modern Klan started 40 years later in Georgia.

Ironically, the law office today houses the local public defender, Bob Massey. Like most of the rest of Pulaski, Massey is indifferent to the skin color of those who come and go around the town.

This is not a hotbed of racial tensions. Indeed, Pulaski, which is 27% black, has a long history of progressive politics and leaders such as the late Supreme Court Justice Joe Henry and former Sen. Ross Bass. Its schools integrated early and quietly; the student body president today is black. It's a town where a restaurant operator tells new employes; "If you've got any of this racial stuff in your head or heart, get out. Stomachs are the same color."

Several years ago, various groups of the Klan began parading in Pulaski each January to protest the federal holiday honoring Martin Luther King. They were drawn by the little metal plaque.

For the most part, the Klansmen are a bunch of comical beer-bellied windbags distinguished only by the stench of their rhetoric.

Earlier this year, the Klan was joined by a few skinheads, young jackbooted racists with a new stripe but the same odor. Young Pulaski blacks jeered, and there was an exchange of rocks and bottles and shoving.

Pulaski leaders discovered to their dismay that legally they could nor deny this group of outsiders the right to assemble, parade and speak without infringing on the First Amendment of the Constitution.

Now, a new group has applied for and, grudgingly, been given a parade permit for Oct. 7. They are the Aryan Nations, a fringe group of white supremacist vermin who preach sedition and racial hatred with great fervor.

They idolize Adolph Hitler and his fallen "Aryan warriors." Their members have: bombed school buses, machinegunned a Denver disc jockey who mocked them, planned to kill Jews including Henry Kissinger, schemed to poison the water supplies of New York and Washington, robbed armored cars to finance their operations, set up a point system for assassinating blacks, police, and other officials, with the President of the United States worth 10 points.

And they're coming to Pulaski Oct, 7, inviting their skinhead sympathizers to march along.

Pulaski residents have had enough. They're tired of seeing network film clips of looney toons using their town as a backdrop for messages of hate.

"This town is a good place to raise a family, whether you're black or white," says local banker Gary Harrison. "It doesn't deserve this rap."

If they can't stop the demonstration, Pulaski residents can show the world their disgust at its message.

They're doing it with the color orange, the international color for peace and brotherhood. Orange ribbons are flying from pickup antennae, store windows, bank lobbies, utility poles, even the high school football helmets.

Virtually the whole town will close Oct. 7; the hate mongers won't be able to buy a gallon of gas, a cup of coffee, a hamburger. They will be surrounded instead by a sea of orange, a silent reminder that Pulaski has no tolerance for intolerance.

Pulaski deserves some moral support from the rest of the state; orange ribbons ought to be flying everywhere. Nazi scum should be told there's no rock in all of Tennessee they can crawl under.

The PRESIDENT pro tempore. The Senator from New Mexico [Mr. BINGAMAN].

SEMICONDUCTORS AND EC-92

Mr. BINGAMAN. Mr. President, I rise to discuss the situation facing the United States with respect to the European Economic Community. Frankly, I am concerned about the direction in which the economic integration of the European Community is headed, particularly with respect to the semiconductor industry. Commonly known as EC-92, this program will ultimately result in a truly common market among European nations as commercial and trade barriers between these nations disappear.

I believe that EC-92 can be a plus for the United States. A prosperous and growing European economy can mean a healthy market for U.S. goods and services and a stable and confident military and political ally.

However, this plus can quickly become a negative if access to the European market is denied to U.S. firms and EC-92 becomes Fortress Europe. Unfortunately, that is exactly what seems to be happening in certain cases.

For example, last February the EC changed its rule of origin governing semiconductors. Previously, testing and assembly of a semiconductor in Europe was sufficient to qualify it as "made in Europe." Under the new rule, all processes in manufacturing semiconductors, beginning with and including fabrication, must be conducted in Europe in order for the semiconductor to be considered European.

This change is especially significant when taken in conjunction with changes in the application of Europe's so-called screwdriver assembly laws. These laws originally required a certain percentage of components in Japanese-imported products to be non-Japanese. The purpose of these laws was to prevent Japan from simply importing products in a knockdown kit

form for screwdriver assembly in Europe under the label "made in Europe." However, the newest interpretation of these laws has become to mean European components, not non-Japanese. Thus, America components are now discriminated against, in practice while not in law.

The result of these changes is that U.S. firms, semiconductor firms especially, are flocking to Europe. Not because it is such a good investment decision but because they believe that they have to if they wish to remain in the European market. Intel Corp. has just announced that it will open a semiconductor facility in Dublin. This will be its first facility of this kind outside of the United States. Up until now, all of their chips were made in the United States, many in my home State of New Mexico. The Dublin plant expects to create 2,600 jobs. That is 2,600 jobs that aren't going to Albuquerque or Phoenix, or Portland, OR, or Folsom, CA—even though Intel could have just as easily increased production at these U.S. sites.

I believe that the reason for decisions such as this by many American firms is clear. What else is a company to do? The word has gone out that if you wish to sell in the European market, you better have your factories here as well. This type of covert protectionism is simply intolerable and, I should add, invites retaliation by this country.

In addition, there are more overt protectionist actions either on the books or being contemplated. European tariffs on semiconductors are 14 percent, while the United States has zero tariffs. The European telecommnications market remains generally closed and a 50-percent domestic content requirement is being discussed. At least four European nations maintain domestic content requirements on automobiles. Government procurement restriction in Europe generally far surpass any "buy America" provision in U.S. law.

Mr. President, these types of measures hit directly at American economic interests and are untenable. It is not my intention to propose sweeping new trade laws. I merely wish to point out the dangerous direction in which I see Europe moving. To this, I would add a word of caution. The American public will not stand idly by while others close their markets to our products. Nor will they accept the continued denial of fair access to markets—European or Pacific rim. At some point, the American public will demand true reciprocity—domestic content or screwdriver assembly regulations in Europe and closed markets in Japan will only lead to reciprocal actions by the United States. My message is clear—if you expect open access to the U.S. market, then we must have open access to yours. Nothing less will be adequate.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll, the absence of a quorum having been suggested.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The PRESIDENT pro tempore. The Senator from Nevada [Mr. REID] is recognized for not to exceed 5 minutes.

CONTRIBUTIONS IN AID OF CONSTRUCTION

Mr. REID. Mr. President, when the Finance Committee meets this week to consider budget reconciliation legislation, I urge my colleagues on the committee to accept a position restoring pre-1986 contributions-in-aid-of-construction treatment of water utilities. The distinguished Senator from Idaho, STEVE SYMMS, has requested inclusion of this provision. It would be an important first step toward enacting legislation I introduced earlier this year.

My bill, S. 435, would repeal the 1986 Tax Reform Act's treatment of contributions in aid of construction. The tax exemption for these contributions was stripped in 1986, but will be reinstated with my bill.

The contributions that will be exempt from taxation are those that builders pay utility companies to extend services to their sites.

Although the new tax imposed on these contributions was presumably going to contribute to increased funds for the Federal Treasury, the costs of such a decision have proven to outweigh any tax revenues.

Instead of utilities carrying the burden of the tax, as was expected, utilities passed this cost on to consumers in the form of higher rates.

In some cases, the tax burden was shifted back to builders. They then turned around and incorporated that extra cost into the purchase price of their homes.

Affordable housing was enough of a problem before this tax exemption was repealed in 1986. Reinstatement of the tax exemption could save a prospective homebuyer as much as $2,000.

Mr. President, my bill to reinstate the tax exemption for contributions in aid of construction was to apply to all regulated public utilities that are required to provide services ranging from electricity, gas, water, and sewage disposal. The bill has 27 cosponsors and enjoys strong support from utilities, regulators, business, industry, and consumer organizations.

Senator SYMMS joined with me as an original cosponsor on this bill. Now he makes a valid point—he says that revenue constraints keep us from reinstating the tax exemption for all utilities simultaneously.

His approach suggests that we proceed one step at a time and that, this year, we accept a reconciliation provision that will exempt only water utilities from the tax on contributions in aid of construction. Ideally, I would like to see the contributions in aid of construction tax exemption reinstated for all utilities, but the cost to the Treasury is prohibitive at this time.

I am, therefore, supportive of according the exemption solely to water utilities this year, with the intention of revisiting the issue next year to address the other utilities.

This is not a unique approach. In fact, there is precedent for addressing some utilities first, as was done in 1976, and then addressing other utilities later, as was done in 1978.

Exempting only water utilities this year would be an acceptable and desirable first step toward reinstating the tax exemption.

The proposal by Senator SYMMS is fiscally responsible and economically desirable. I offer my strong support for inclusion of this provision in the budget reconciliation bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The point of no quorum having been raised, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Wisconsin [Mr. KOHL] is recognized for not to exceed 5 minutes.

SHORT-TERM POLITICS AND LONG-TERM PROBLEMS

Mr. KOHL. Mr. President, one of the most important lessons I ever learned when I was in business was that achieving short-term profits at the expense of long-term survival was one of the worst things you could do. I remember, Mr. President, one time—and this happened often when profits were declining and our cash-flow was getting tight—some of my associates wanted to compensate for that by squeezing employee salaries and employee benefits. They argued that that would offset declining revenues and bring us through the quarter with an acceptable profit-and-loss statement.

It was a tempting proposition, Mr. President, but we had built our business on the notion of good service to consumers at all times, and we recog-

nized that if we punished our employees by cutting their wages and their profits, they would ultimately punish our customers and hurt and even destroy our business in the process.

In other words, the short-term fix would hurt instead of help long-term success. So we found another way, oftentimes to muddle through and get through immediate problems, and we managed to keep on investing in a strategy which brought us in our business long-term success.

I bring this up, Mr. President, because I think we are focusing and facing the same kind of short-term, long-term dichotomy in Congress at this time. My experience in business convinces me that if we yield to short-term politics, we will fail to deal with long-term problems. I was moved to think about the need to look at the long term by two reports released recently: One by the Census Bureau and one by the House Select Committee on Children, Youth and Families.

The Census Bureau report demonstrated that one-fifth, 20 percent, of American children now live in poverty. Twenty percent of the next generation of leaders grows up in a house in our great country where food and heat and housing are always in doubt.

The other report, issued by the select committee, was even more stark. Nearly half of all black children in our country now live in poverty. Half of the black kids in the United States of America live in poverty: fifty percent.

Mr. President, what society can accept that? Mr. President, what society can survive that? How can we and our economy expand when these kids cannot find or fill the kind of jobs our society is going to be creating in the 21st century, jobs which will require technological skill and a good level of literacy. How can our society improve when these kids will grow to maturity in bodies that have not been allowed to fully develop, with minds that have been starved with a vision that does not expand beyond the constant search for food, clothing, and shelter? And yet we are not really dealing with these kids. We go to a summit to talk about education, but we do not spend the money we need to reduce teacher-student ratios, get decent textbooks in our schools, or even remove the asbestos which threatens the health of our kids. Mr. President, where are we going? Mr. President, what are we doing?

Sometimes I am afraid that I know the answer. The administration has made it clear we are going to focus on policies based on the old trickle down economics—help the rich and let them help the rest; help the rich and hope that economic growth will follow.

Mr. President, I care about economics and business growth. I do not care just in this quarter but I care about it in the next quarter century. But if business is to expand and people are to make profits, we have to get our house in order. We have to give business the kind of workers it needs. We have to give business the kind of economic environment it requires. That means we have to stop this deficit, that we have to stop fooling ourselves with Gramm-Rudman claims of progress which just hide deficits that have never declined.

This is not only politics, Mr. President. This is serious business. How is business going to prosper, how is our economy going to expand, how are people going to better their lot in life if we do not address these questions? But we are not addressing these questions, Mr. President. We are not looking beyond the next quarter, the next election, the next Gramm-Rudman deadline, the next bill. We are stumbling forward and it just is not good enough anymore.

Sometime in the next few weeks we will be making a decision about short-term desires and long-term needs when we vote on various capital gains tax cut proposals. In a perfect world, in a world without a budget deficit and with adequate resources to pay for the things we need, a cut in the capital gains rate might make good sense.

It is not a perfect world and as desirable as a reduction might be in the short term, it will not help us address our long-term needs.

Let us look at this issue for a minute from a couple different perspectives:

First, in terms of pure economics, will a capital gains cut produce the kind of economic activity which benefits people? There is room for debate on this issue, but the best economic advice we can get says "no." There will be a short-term stimulus as people run to sell their holdings and that might boost the general economic level of activity. That is why economists predict a short-term increase in Federal revenues. But that activity is not driven by investment strategy or business imperatives. It will be driven by tax consideration, and I think that is wrong. I trust business a whole lot more than politicians to decide what investments should be made, but yet the capital gains break puts these decisions back into the politicians' hands.

Just 2 years ago, when we adopted the Tax Reform Act, we were trying to minimize the role that tax considerations played in investment decisions. Now we are adopting a policy whose only benefit derives from decisions dictated by tax policy.

As a result I am not impressed by the short-term benefits of a cut in the capital gains rate, but I am downright distressed by the long-term consequences—a decrease in Federal revenues caused by a decrease in investment and economic activity.

This is not a riverboat gamble where we do not know what the long-term consequences of tax cuts might be. We do know. We know the cards are marked. We know the odds are stacked against us. We know we cannot win, and some people want to keep playing.

In conclusion, Mr. President, I happen to be in that upper 1 or 2 percent of the people in this country economically. I do not need a capital gains break. Right now on a dollar of profit, I am allowed to keep 72 cents. That is good enough. I do not need to be allowed to keep 91 cents while people in this country are going hungry, while we are not educating our young, while the deficits are getting worse, while we are not addressing poverty and homelessness, and while we are not taking care of our environmental problems. People like myself do not need to be given a tax break in today's economic climate. I urge my colleagues to consider our situation in this country as it is and not as we would like it to be. We have needs that are not being met. We dare not aggravate the problem by offering more sop to those people in this country who are very wealthy and do not need it.

I thank the Chair.

TROUBLING TRENDS IN THE AIRLINE INDUSTRY

Mr. GRAHAM. Mr. President, this body has committed a significant portion of time and energy addressing the unexpected side effects of deregulating the savings and loan industry. While deregulation of the airline industry has not yet brought the catastrophic troubles of the savings and loan crisis, there are troubling trends in the industry which Congress must address now.

The Commission which will be established by the amendment to be offered to H.R. 1231 will afford the American people an opportunity to examine that state of the American airline industry and the competitive environment in which it operates. The Commission will assist the Congress in developing appropriate airline industry policy.

The increase in mergers, acquisitions, and bankruptcies of savings and loan institutions is being paralelled in the aviation industry.

From 1983 to 1987, the market share of the top eight airlines increased from 74 to 91 percent.

Only 5 of the 22 airlines that entered the domestic market since deregulation are still operating as separate entities.

The result for consumers—loss of essential services and higher fares.

When Eastern Airlines filed for bankruptcy back in March, service was disrupted up and down the east coast. Some small communities are still struggling to meet the demands of the flying public.

Last week another major airline—Braniff Airlines—filed for bankruptcy and laid off half of its work force.

Travel agents from the Kansas City area, where Braniff has been trying to build its hub, have expressed serious concern about the consequences for area travelers.

Braniff officials cited the difficulties in competing against the Nation's eight largest carriers as a contributing factor to the bankruptcy filing.

Leading travel indicators also reflect an upward trend in ticket prices.

The cost of flying has risen from a 1988 average of 24 cents per mile to a 1989 year-to-date average of 30 cents per mile.

Earlier in the year the New York Times reported that the reduction in Eastern flights was enabling other airlines to offer fewer discount seats.

Last week, the media reported an expected airline fare increase of 10 to 20 percent.

The fate of Eastern Airlines, once a dominant carrier on major Eastern United States routes, and the recent bankruptcy at Braniff Airlines raise serious questions abut the structural security of the airline industry.

Can we sustain a competitive airline industry in the deregulated market?

I supported Congress' decision to deregulate the industry a decade ago and I continue to support the basic concept of allowing the marketplace to be the primary determinant of routes and of fares.

But I also recognize that this series of disturbing incidents needs to be closely scrutinized.

We must determine the appropriate Government role in maintaining a competitive airline industry.

To date, no entity has taken a comprehensive look at the Eastern situation or its implication for the overall health of the airline industry.

For more than a year, the National Mediation Board focused on labor and management disputes.

The bankruptcy court has focused for 6 months on the economic stability of the company and its responsibilities to its creditors.

The Department of Justice, and Department of Labor, the Department of Transportation, and even the Department of the Treasury have all dealt with the Eastern situation within the boundaries of their particular jurisdiction.

But this piecemeal approach is not efficient or effective for addressing the broader issues at stake.

This amendment proposes an avenue for taking that much-needed comprehensive look.

By establishing a temporary commission to investigate the recent occurrences in the airline market and the consequences of these trends in the airline industry, Congress will gain the information it needs for future policy making on aviation issues.

GUSSIE BUSCH IN VIVID COLOR

Mr. DANFORTH. Mr. President, I remember Gussie Busch in vivid color. I believe the same is true of everyone whose life was touched in some way by August A. Busch, Jr. You never forget Gussie Busch.

When he died last Friday at the age of 90, people in Missouri and in Gussie's beloved St. Louis were asked, of course, to remember Gussie Busch. They recall a person of vision, terrific business acumen, and extraordinary personal qualities.

Pat Hickey remembers "a down-to-earth guy, nothing phony about him." Truer words never were said.

"Impatient in the good sense," said the Reverend Paul C. Reinert, the chancellor of St. Louis University. "* * * kept you on your toes." Yes, Gussie Busch kept people on their toes.

Tom Uhlenbrock of the St. Louis Post-Dispatch talked with workers at Anheuser-Busch about Gussie. The verdict is that Mr. Busch was tough but fair, a demanding boss, a good boss, and a boss who cared about the workers.

I would commend Mr. Busch's life and work to the attention of my colleagues with an emphasis on three qualities. The first is love for life. The second is vision. The third is love for his town, St. Louis.

The love of life, when deeply and truly felt, recognizes that life is a gift and that it is good. Gussie Busch was one of those people who know that life is the greatest gift of all. One sensed that he knew this from the moment he was born; he did not need to remind himself how good are life, the world, and other people. He knew it. He was a natural. He was Gussie.

From the love of life flowed his characteristic vision and his lifelong devotion to his town, St. Louis. He gave us the best beer in the world. I doubt that it ever occurred to him simply to make a pile of money brewing a pretty good beer. No way. He would brew the best beer in the world, sell more of it than anybody else, have the best advertising, the best distributors, and a symbol—the Clydesdales—that would be famous around the world.

To be the world's foremost brewer of beer would not be enough, however. He and St. Louis would have the best baseball team in the world, the Cardinals. And the Cardinals would play in a beautiful modern stadium. When you are the world's greatest baseball team, then a season without the pennant is simply the year before your next pennant. A year when you sit out the World Series is simply the year before you win the next series. What a wonderful, wonderful way to approach the game of baseball.

Such was the quality of Gussie Busch's vision: The best—no ties, no second place finishes. Such vision is part and parcel of the spirit that made this Nation the greatest in the world. The kind of vision offered by Mr. Busch compels certain answers to certain questions. Is this the greatest country in the world? Certainly. Can we be the best? Of course, if we choose to be. Should we choose to be the best? Obviously. How do we get become the best, at beer or baseball or building cars or anything else? The answer is self-evident: By deciding that we will not settle for anything less.

Finally, there is Gussie Busch's special place in St. Louis. Mr. Busch wore many hats. One hat was that of "City Father, First Class." Another said, "Sort of Permanent Mayor." Another read, "Mr. Baseball." Another was philanthropist. Another was major employer. Gussie had an attitude about St. Louis that each of us should have about our community—that it is the best place in the world, with a style all of its own, and that it will be even better tomorrow than it is today.

I never will forget Gussie Busch. Nor will St. Louis. Nor will the President and First Lady, who said that Gussie Busch was a legendary figure. Nor will anyone who knew him ever forget Mr. Busch. To the extent that we remember his zest for life, his vision and his devotion to his town, we will be doing him an honor he would appreciate and we will be doing ourselves and this Nation a service.

FEDERAL ELECTION COMMISSION PROCEDURES AND PRACTICES

Mr. DOLE. Mr. President, on September 21, Joan D. Aikens and John W. McGarry—the President's two nominees for reappointment to the Federal Election Commission [FEC]—testified before the Senate Rules Committee. I asked each of the nominees to respond to a series of questions I had about FEC decisions, procedures and practices, and I would like to make their responses part of the RECORD.

Since both of the nominees currently serve as members of the Federal Election Commission, I believe that their responses provide insight into the inner workings of the FEC. Both nominees were reported out favorably by the Rules Committee on September 27.

I ask unanimous consent that my questions and the answers provided by Commissioner Aikens and Commissioner McGarry be printed in the CONGRESSIONAL RECORD immediately following my remarks.

I suggest that each of my colleagues take a moment to review this material before the Senate takes action on these nominations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESPONSES OF COMMISSIONER JOAN D. AIKENS AND COMMISSIONER JOHN WARREN MCGARRY TO QUESTIONS SUBMITTED BY SENATOR ROBERT DOLE DATED SEPTEMBER 21, 1989

1. Given the backlog in the FEC audits of Presidential campaigns, wouldn't it make sense to contract out the audits to public accounting firms? It would seem that such a move would improve both the quality and speed of audits. I assume the Commission has looked into this before, and I would be interested in what conclusions the Commission reached.

In preparation for the 1984 Presidential election cycle and the mandated audits conducted thereafter, the Commission did a full study on the best and most efficient way in which to complete those audits. We considered several different proposals including the use of independent audit and accounting firms, and came to the conclusion that this method would not be practical or feasible given the nature and complications of the audit process under the Federal Election Campaign Act. Our study showed that the use of independent audit and accounting firms in the public financing audits would actually increase the Commission's time and cost.

Compliance-based audits required by the statute are much different in concept from routine financial audits generally performed by such accounting firms. The contracting-out of Presidential audit fieldwork in this manner would actually increase the length of time to complete these mandatory audits by adding at least one new task—that of training the audit staff of private accounting firms to conduct compliance-based audits. We had developed, at that time, a core staff of auditors, not only highly skilled in the audit process, but sensitized to the unique problems and issues that arise during the course of high-stakes, high visibility Presidential campaigns.

The study showed that the proposal would be very costly, considering the high cost of contracting with CPA firms, and the necessity to maintain an audit staff to administer the contract, review the work, do necessary follow-up and other audit work. The Commission concluded that the option would involve a duplication of effort to produce the same product at a much higher cost for the 1984 Presidential election cycle, and voted unanimously not to adopt this proposal.

The Commission did adopt, also by a unanimous vote, a proposal to conduct the mandatory audits of publicly financed presidential campaigns with in-house audit staff but to supplement that staff, as needed, by auditors from other government agencies on a temporary basis.

Subsequent to this vote, the Commission reached agreement with the Comptroller General of the General Accounting Office, Charles A. Bowsher, for an arrangement whereby GAO auditors would be temporarily detailed to the Commission for several months during the audit season on a non-reimbursable basis, at no cost to the Commission. This contract with the General Accounting Office was reinstituted for the 1988 Presidential audit cycle.

2A. Does the Commission still support doing away with state expenditure limits in Presidential primary campaigns?

Every year, the Commission is required by law to submit legislative recommendations to Congress. This year, the Commission submitted thirty legislative recommendations all of which were unanimously approved by the Commission for submission to Congress. As it has in previous years, the Commission this year approved a recommendation that state by state limitations on expenditures for publicly financed presidential primary candidates be eliminated.

Based on its experience from four Presidential elections under the state expenditure limitations, the Commission believes that these limitations could be removed with no material impact on the process. In the event that Congress adopted this recommendation and so amended the statute, such a change would reduce a significant accounting burden on Presidential campaigns and an equally significant audit and enforcement task for the Commission.

2B. When conducting Presidential audits, what percentage of its time does your audit staff spend looking into matters of state expenditure limitations?

The Commission has not maintained separate records on the hours expended to administer the state by state expenditure limitations. It is, however, possible to estimate what portion of the effort expended in the Presidential area relates to monitoring the State expenditure limitations. Based on the Commission's 1984 Presidential audit experience, and our experience from the 1988 election cycle to date, we estimate that our audit staff spends on an average of between 40–50% of its time reviewing and auditing records of Presidential campaign receiving public funds relating to disbursements subject to the state by state expenditure limitations. This estimate reflects the great variation in the way Presidential campaigns are structured and conducted.

2C. Given the Commission's limited resources, does it make sense for the Commission to devote so much of its time and resources to reviewing those state expenditure limitation questions which the staff acknowledges have been "close?"

Under the statute as currently drafted, the Commission is required to review all matters arising out of Presidential campaign audits relating to disbursements, including but not limited to, the state by state expenditure limitations. As a result of audit review, many "close" legal and factual questions do arise. Questions relating to allocating Presidential campaign expenditures to the states are some of the most difficult questions raised under the law. The complexity and frequency of these questions necessitates thorough review and deliberation by the Commission that is admittedly time-consuming. Resolution of these close questions, however, is exactly what the Commission is mandated to accomplish under the statute. The statute is very specific as to the requirements of the state by state limits and unless or until Congress amends the law to eliminate those limitations, the Commission believes we are obligated to enforce the law.

3. Each of you has served on the Commission for a number of years. Your time there has given you much experience. However, there has been no one appointed to serve on the Commission from the outside in more than five years. Would limiting commissioners to two terms insure that new ideas and outlooks were brought into Commission determinations?

While the appointment of individuals from the outside may bring new ideas and outlooks into the Commission's determinations, those potential benefits would be more than offset by the loss of valuable experience in the administration of the federal election campaign laws, experience that can only be developed over time.

The proposal to limit Commissioners to two terms would effectively create a new body of law periodically and eliminate most, if not all, of the historical precedents upon which the regulated community depends. This loss of continuity and consistency in the Commission's decisions could result in confusion and chaos for the regulated community.

4. From a procedural standpoint, it is my understanding that your general counsel sits at the Commission table acting as the Commission's counsel during enforcement proceedings. However, the general counsel or his staff member also presents the case (essentially prosecutes) enforcement matters. On the other hand, a respondent can usually only provide written arguments. These procedures appear to create an internal conflict. Would it be preferable to give respondents a more routine opportunity to present oral arguments?

During its deliberations on the 1979 Amendments to the Federal Election Campaign Act, Congress considered revisions to the Act relating to the enforcement process. As a result of those deliberations, Congress adopted a written briefing process whereby the respondent at both the "reason to believe" stage and at the "probable cause" stage of an enforcement matter would be given an opportunity to present, in writing, any relevant legal or factual material for Commission consideration. That written briefing process and the panoply of procedural safeguards designed to provide respondents with due process under the statute was thought by Congress to be sufficient to give each respondent a full hearing on the merits and allow for a reasoned Commission decision in each case.

If Congress changes its current approach in the statute to incorporate an oral hearing opportunity, the Commission would, of course, take immediate steps to revise its enforcement regulations and procedures accordingly.

At the present time, the Commission has over 326 enforcement matters involving over 1,200 respondents. Adoption of the oral hearing procedure by Congress would have a significant impact on our commitment of resources to the Commission's enforcement program.

5. Can you provide me some explanation of the Commission's decision to spend its time and that of its staff on a trip to watch the Soviet Union's new legislature this past summer? (Particularly in light of the audit backlog and staffing restraints?)

In response to a formal invitation from the Ambassador to the United States from the Union of Soviet Socialist Republics, Yiry V. Dubinin, and the Central Electoral Commission of the Soviet Union, a delegation from the Federal Election Commission visited the Soviet Union on June 4–14, 1989. An affirmative response to the Soviet invitation was not only encouraged, but enthusiastically supported by the United States Department of State.

The purpose of the trip was to exchange information and ideas concerning the electoral process with the Soviet officials, and also included discussions with winning and losing candidates for the Congress of Peo-

ple's Deputies, and several academicians. United States Ambassador Jack Matlack greeted the Commission delegation and provided a formal briefing and the Second Secretary from the American Embassy, Kenneth Hillas, accompanied our delegation and participated in most of our meetings.

With respect to the scheduling of this trip, the Commission was careful to ensure that deliberation of audit matters not be postponed as a result of the Soviet visit. The delegation visiting the Soviet Union did not include any member of the Audit Staff, and all audit fieldwork and report preparation proceeded on schedule in the Commission's absence. Upon the Commission's return, it requested and received a Status Report on Presidential Audits from the Assistant Staff Director for Audit.

Funding for the trip was provided by the government of the Soviet Union and the International Foundation for Electoral Systems headed by F. Clifton White, Chairman of the Board of Directors. In-country expenses were defrayed by the Soviet government and the cost of air travel to the Soviet Union was paid by the International Foundation for Electoral Systems. No portion of the cost of this trip was paid for by the United States Government.

Note: The Commissioners also provided a copy of "Report on the Visit by the Federal Election Commission to the Soviet Union, June 1989" as additional information.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise simply to inform my colleagues that, as of today, Terry Anderson has been held in captivity in Beirut for 1,662 days.

RECONCILIATION

Mr. DOLE. Mr. President, I just submitted to the Parliamentarian four questions which deal with reconciliation. I have told the Parliamentarian there is no rush. I will come back later for an answer sometime later this afternoon. It might have an impact on how we deal with certain issues in the Finance Committee meeting which is underway at this time.

The first question is: Can the Senate Budget Committee incorporate into the reconciliation bill pursuant to the congressional budget resolution material which was reported after August 4, 1989?

The second question is: Can the Byrd rule, the extraneous rule, be used to attack the House language on capital gains?

The third question is: At what point can a floor amendment on capital gains be added to (A) the Senate reconciliation bill or (B) the House reconciliation bill?

The fourth question is: If there are no recommendations voted out by the Finance Committee on reconciliation, can the committee be brought into compliance through a motion to recommit with instructions?

I indicate to the Parliamentarian I will come back later and maybe get the answers for the RECORD. But they are important questions because we are dealing this afternoon in the Senate Finance Committee with the issue of capital gains and a number of other issues that might be subject to the so-called Byrd rule, which is named after the distinguished Presiding Officer who made a good effort to keep a lot of extraneous material out of reconciliation packages.

In addition, there are, I understand, about 200 extraneous provisions in the House reconciliation bill which is coming to the Senate and we want to know if the Byrd rule will apply to those extraneous provisions.

So, in any event, it is important, and I might say it is important probably for Members on each side. The capital gains reduction is important to the President of the United States. It is not something that surprised anyone in the Congress. Candidate Bush campaigned all across this country saying we should reduce the capital gains tax for good reasons, create jobs, be more competitive, reduce the cost of capital when businesses expand, and it seems to me that no one should be surprised and say we are going to wreck the 1986 tax bill, because the President at the time he was a candidate was speaking about reduction of capital gains.

So it is an issue that we feel very strongly about on the Republican side and I have to believe there is a considerable spirit of bipartisanship when it comes to reduction of the capital gains tax. Maybe there are different approaches, maybe people would address it differently, but it is important. We want to make every effort we can at the earliest time to make certain that we will have a vote on the President's general proposal on capital gains reduction, and we might come together in a bipartisan way on precisely how that measure should be crafted.

Many of us are not enamored with the House-passed temporary 2-year cut in capital gains. We are looking for a more permanent solution, and hopefully we can put that together, if not on a bipartisan basis in the Finance Committee, then perhaps when it comes to the floor if we can offer an amendment on the floor. And that is the $64 question. If we cannot, then we need to find some other way to bring this matter to the attention of the Senate and get it before the Senate.

So I ask the questions in that spirit in an effort to see if there is some way we can resolve any differences that might come up today or later on.

I yield back the remainder of my time.

FISCAL FOLLIES

Mr. RIEGLE. Today, Mr. President, the lead story in the Wall Street Journal on page 1 under the heading of "Fiscal Follies" is entitled "Ever-Growing Deficits Establish the Failure of Gramm-Rudman." The subheadline says, "Accounting Gimmicks Permit Congress To Spend Freely, Cutting Only Projections." And then the follow-on line is, "A Sponsor Wants a 'Divorce.'"

Dropping down into the article:

"I want a divorce from Gramm-Rudman-Hollings," thunders Senator Ernest Hollings, the bill's Democratic sponsor.

Then it drops on down to say "These days, though, he labels the latest budget produced to comply with the law 'pure sham.'"

This article goes on to indicate that the deficits are in fact rising rather than falling. Under the bizarre treatment that we handle the budget numbers under Gramm-Rudman, we use the Society Security surpluses and other trust fund surpluses to make the deficit appear to be better and lower than it actually is.

Many of us who opposed Gramm-Rudman in the beginning were concerned that this very thing would happen. But I think, as time has passed, more and more people, including now Senator HOLLINGS himself who sponsored the legislation, see that it has been so twisted out of shape that it is causing the very things to happen that we were trying to prevent. Therefore, damage is being done to our fiscal picture and strategy because of this law. The law ought to be overhauled and done away with.

If we are going to have some measure to control the deficit, it is going to have to be of completely different type and sort.

I ask unanimous consent that this lead article from today's Wall Street Journal be made a part of the RECORD. I encourage my colleagues to read the article, and all those who read the RECORD, the staff as well, because I think it is probably as solid an assessment of the failure of Gramm-Rudman as any single article that I have seen.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 3, 1989]

FISCAL FOLLIES

EVER-GROWING DEFICITS ESTABLISH THE FAILURE OF GRAMM-RUDMAN

ACCOUNTING GIMMICKS PERMIT CONGRESS TO SPEND FREELY, CUTTING ONLY PROJECTIONS

A SPONSOR WANTS A "DIVORCE"

(By John E. Yang)

WASHINGTON.—Here's a pop quiz. Under the Gramm-Rudman-Hollings deficit reduction law, the federal budget deficit since 1987 has:

(a) decreased

(b) increased

Hint: Remember, this is Washington.

That's right. Under Gramm-Rudman-Hollings, the problem has been getting worse instead of better. In fiscal 1987, the deficit

totaled $149.7 billion; in fiscal 1989, it grew to an estimated $161.4 billion.

Gramm-Rudman-Hollings is a flop. Originally designed to cut the federal deficit to zero in 1991, the law has had great success in cutting deficit projections. But it has failed in the last two years to do anything at all for the actual deficit.

A SHAM

"I want a divorce from Gramm-Rudman-Hollings," thunders Sen. Ernest Hollings, the bill's Democratic sponsor. When the law passed in 1985, the stentorian South Carolinian hailed it as ending "the fraud that we have all perpetrated on the American people." These days, though, he labels the latest budget produced to comply with the law "pure sham." Although the fiscal 1990 deficit was supposed to be down to $36 billion, Congress is now busily completing a plan calling for a deficit of $99.7 billion—while its own Congressional Budget Office projects that the real number will be $117.8 billion.

The bill's original approach was simple, and seemingly severe. It set out to eliminate the deficit by imposing limits that shrank every year. It required the government to determine every Oct. 15 whether it would meet that year's deficit target. If not, the law would impose automatic, across-the-board spending cuts.

By complying with the law has turned into little more than a fiscal shell game. "Everybody has learned how to rig it," says Senate Budget Committee Chairman James Sasser of Tennessee. Both Congress and the administration have become masters at coming up with enough accounting gimmicks to achieve the required reductions. By the time the lie becomes evident, the threat of cuts is a fading memory.

SWITCHING YEARS

Just last week, the administration shifted a Pentagon payday to Sept. 29, which is in fiscal 1989, from Oct. 1, the first day of fiscal 1990. In addition, the government advanced some farm price-support payments to the old fiscal year from the new one. The moves made it $4 billion easier to reach the fiscal 1990 target—but, of course, raised fiscal 1989's deficit by precisely the same amount.

Further, the dreaded across-the-board cuts are turning out to be not so dreaded after all. Congress is all but certain to miss this year's deadline; its effort to put into place the deficit-reduction plan worked out with the Bush administration has become painfully entangled in issues ranging from capital-gains taxes to child care. Yet most people now expect cuts to be quickly rescinded once Congress and the administration reach agreement on the various issues.

Not only has Gramm-Rudman failed to solve the deficit problem, it has created a number of other ones. The drive to meet its targets has become paramount and often dictates policy, rewarding gimmickry and out-and-out fiscal deceit. Its year-to-year focus has also created a short-term, help-me-make-it-through-the-fiscal-night mindset among congressional and administration budget writers. The result is a string of one-time spending reductions, but little permanent policy savings.

"It's a well-intentioned experiment that failed," says Alice Rivlin, a former Congressional Budget Office director who is now a senior fellow at the Brookings Institution. "It is time to recognize the mistake before more damage is done."

Many lawmakers agree, and some are drawing up plans to work over the law when the debt ceiling is raised later this month. The law has already been weakened once, stretching the balanced-budget goal out to 1993 from 1991. Now, under the guise of "truth in budgeting," some want to stretch out its targets even further. A co-author, Texas Republican Sen. Phil Gramm, suggests extending the law through the end of the century. And House Ways and Means Committee staffers are toying with the idea of coupling an automatic tax increase to the automatic spending cuts.

Backers of the law point to some benefits from it. Since it went into effect, the rate of growth of federal spending has slowed. And deficit did decline the first few years under the law, although they have increased again the past two years. When the bill was enacted, the federal budget deficit appeared headed for the $300 billion mark and beyond, and the law served to focus attention on the problem.

But even some of the law's protectors offer little more than faint praise. "As near as I can see, it is the only element of discipline left in the system," says Minnesota Rep. Bill Fenzel, the senior GOP member of the House Budget Committee. "It may not be a very good one, but I certainly would be reluctant to make changes in it."

The need to meet the law's projected deficit targets is one of the driving forces in Congress behind the current push to lower the rate at which capital gains are taxed. According to Congress's Joint Committee on Taxation, cutting the rate would in the short run encourage so many people to sell off appreciated holdings that government revenues would rise $2.9 billion in the first year and a total of $9.4 billion over three years.

After that, though, the committee projects the capital-gains change would not cost the government more in the next two years—$10.9 billion—than it had raised in the previous three. And those losses would come just as Gramm-Rudman requires the deficit to be brought to zero.

Gramm-Rudman also puts a premium on finding big, one-time savings gimmicks. Congress and the administration have agreed to take the U.S. Postal Service operating losses out of the budget, "saving" $1.7 billion from next year's projected deficit. (Aides joke that once the Postal Service generates a surplus again, they'll put it back in the budget.)

Nor has the law done much to deter lawmakers from spending; instead, it has simply led many to change tactics. The law's focus is on outlays—that is, the money the government actually spends. So lawmakers, eager to please the folks back home, are authorizing more and more projects that will be costly down the road. The effect is like making a down payment on a balloon mortgage that will require huge, escalating payments in the future.

Democrats complain that this problem is exacerbated by President Bush's penchant for announcing popular new programs—a mission to Mars, a war on drugs, efforts to curb acid rain—without saying how to pay for them. That places lawmakers in the awkward position of not wanting to kill the projects but lacking the immediate resources to pay for them.

CART BEFORE HORSE?

Other policy is written with an eye on immediate budgetary impact instead of other, potentially more serious consequences. The Senate, for instance, voted last month to raise the ceiling on Federal Housing Administration-insured mortgages for single-family homes. The hoped-for result is to raise $106 million next year by stimulating 43,500 new loans; the money would help finance the space-station program. Administration officials warn, though, that an unintended consequence could be to raise greatly the risk exposure of the insurance fund, whose losses already stand at $6.9 billion.

"I wonder if we are making worse law in meeting targets," says New Mexico Sen. Pete Domenici, the senior Republican on the Budget Committee and a defender of Gramm-Rudman. "It is a glaring example of policy driven by budget targets."

Another example is the budget treatment of the $166 billion savings-and-loan bailout. The bulk of the on-budget treatment comes in the last fiscal year, when adding to the deficit didn't trigger any cuts. In future years, the scheme will actually reduce the deficit because funds will flow from a government-sponsored borrowing enterprise into the Treasury, distorting the budget's representation of government borrowing and spending.

THE MAGIC OF PROJECTION

That maneuver illustrates another Gramm-Rudman loophole exploited by lawmakers and administration officials alike. All that matters in the law are projections of the deficit in the coming fiscal year. Once the White House Office of Management and Budget certifies, when the spending year is just 15 days old, that the deficit 350 days hence will meet the law's target, the threat of automatic spending cuts vanishes. Congress and the administration then are free to spend more.

OMB Director Richard Darman calls this "a giant loophole . . . the biggest single problem that's got to be corrected." But that hasn't stopped the administration from taking advantage of it from time to time.

The frustration over Gramm-Rudman is likely to bubble to the surface late this month during the debt-ceiling debate. Staffs for both House and Senate Democrats and Republicans are quietly drafting possible legislation, some of which would go so far as to repeal the law. But that isn't likely to happen, if only because keeping some semblance of the law provides political cover for lawmakers.

More likely to be considered are efforts to change the way government trust funds, including Social Security, are accounted for in the budget process. Currently, Social Security surpluses are counted to reduce the deficit and are invested in Treasury notes, thus helping to finance the deficit. Sen. Gramm proposes separating Social Security from the federal budget in 1993 and creating a panel to manage its investments.

Since such a move would create a budget deficit of $105 billion instead of the zero his namesake law now calls for, Mr. Gramm would extend Gramm-Rudman through fiscal 1999. He hopes his plan will act as a check on Congress's spending through the end of the century. But other lawmakers, noting how ineffective the law has been in curbing the deficit and how many other problems it has created, don't think his scheme will accomplish much.

Mr. RIEGLE. I thank the Chair. I yield the floor.

CAPITOL HILL SECURITY

Mr. HATFIELD. Mr. President, recently I was reading an article in the Roll Call newspaper which is an organ

that specializes in news relating to the Congress and matters of the Hill. I read an article with some rather mixed feelings. I was a little disturbed to read that there has been some opposition developed since the establishment of the increased security procedures throughout the Capitol complex, including the House and Senate office buildings.

Mr. President, frankly, I have very little patience for the attitude that has been demonstrated in some of the circumstances as reported. There has been the feeling among some staff members, as I understand, and even some Members of Congress that passing through security devices or being screened for security purposes is beneath their dignity. To me this is a further demonstration of the pompous and egocentered atmosphere and culture which is so often attendant to the political life of our country.

I might say that during my tenure in the Senate two bombs have been exploded in the Capitol building, and fortunately no one was injured. But it could have had serious injuries. These were very real events to those of us who lived through them. We walked through the dust and litter created out of the walls and halls which we had traversed the day before.

In the Republican cloakroom there were long spears of glass that had embedded themselves in the couches in our Republican cloakroom. Had we been in session, as at one point we had expected to be on a Monday night, I am sure more Republican Senators would have been in there watching the Monday night football game than perhaps here on the floor, and that would certainly have been in the target area when that bomb went off and those spears of glass were flying through that cloakroom.

All too clearly we saw the vulnerability that all those in the Capitol—Members of Congress, staff members, tourists, and employees—face day to day.

Mr. President, the Senate and the House leadership in conjunction with the Capitol Police Force have gone about developing the security system that is as unobtrusive as possible. We did not want to develop a system that was so secure that it gave the impression that the public was not welcome to this great center of our democracy.

The entrances to the Capitol and the related buildings are manned by courteous and helpful men and women who are part of our Hill family, part of the congressional family. I really hope all of us understand that we just could not function as Senators without these outstanding and dedicated public servants who work here in the building. Those who make their lives difficult by attempting to skirt the security procedures should be ashamed.

It would take just one casualty to move those same individuals to call for the resignations of those who were in charge. That first casualty is one we never want to have. I applaud our leadership and the Capitol Police Force for the work they are doing to protect all of us and to enable us to go about the work of representing the people of the United States with a sense of safety, and a sense of security.

Mr. President, I ask unanimous consent to have printed in the RECORD the article, and to again express my concern for attitudes that are not becoming to the purpose for which this security system was set, and frankly I do not think are becoming to a democratic institution.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Midweek Roll Call, Sept. 14, 1989]

SENATE STAFFERS UNHAPPY OVER BEING TREATED LIKE TOURISTS AS ELECTRONIC SCREENING BEGINS

(By Timothy J. Burger)

For the first time Tuesday, staffers entering Senate office buildings were subjected to the same screening procedures as tourists, and some aides weren't happy at all about the change.

"I tell you, I think it's ridiculous," said one Senate staffer who asked that his name not be used.

"This is overkill," added another.

Said Pamela Huey, deputy press secretary to Sen. Paul Simon (D-Ill): "It's frustrating, after you're used to just walking in."

Still, most staffers took the screening in stride.

"I think it's fine," said John Moseman, AA to Sen. Frank Murkowski (R-Alaska). "I've always been reasonably amused that you could sort of walk in with anything."

Senate staffers are now required to pass through "Weapons Detector Portals," or magnetometers, similar to those at airports. In addition, packages or anything else they're carrying is X-rayed.

Screening stations have been set up at all entrances to Senate office buildings, including those from parking lots. There are also checkpoints for those passing from the House to the Senate side of the Capitol.

Members are exempt from screening.

The House leadership is expected to introduce procedures similar to those in the Senate soon. And, of course, House staffers entering Senate buildings are screened.

Although staffers' opinions on the new procedures varied, they were strong.

Lori Fields, assistant special counsel to the House on impeachment, refused to go through the portals on Tuesday. She said she was pregnant, and she was concerned the system might harm her unborn child.

She was instead screened with a handheld metal-detector.

Several staffers entering the Hart building from the C Street, NE, entrance, complained of delays. During a peak period on Tuesday morning, a line of 15 persons was waiting to get through the door.

"First, there was no notice," said a top Senate aide. "There was no explanation of the procedure. It's slow as mud."

Capitol Police officer Dan Nichols, the department spokesman, said yesterday that Chief Frank Kerrigan sent a letter to all Senate offices and support service personnel advising staff of the new procedures.

"People may have been on vacation or whatever," but they were warned in the Sept. 7 letter, Nichols said.

Another Senate aide said staffers were lined up in the rain outside a Dirksen building C Street entrance, where screening equipment is located closer to the door than in Hart.

Nichols said such delays would disappear as both officers and staffers become more accustomed to the new procedures. Several staffers said they were glad to see security increased.

"I think it's a very good idea . . . with as much garbage as is going on on Capitol Hill," said Cara Widman, LC to Sen. Orrin Hatch (R-Utah).

On several occasions, officers had to tell surprised staffers, who held out their IDs and tried to walk around as they had always done, to go through the security portals.

And at one Senate entrance, an officer apparently prepared to challenge all unfamiliar faces, approached a man walking in—only to be told: "I'm Congressman Tallon" (Democratic Rep. Robin Tallon of South Carolina).

The new requirements are part of a Whips' Security Enhancement Proposal, which calls for similar measures on the House side and for construction of a security perimeter hedge around the East Front. (Roll Call, Aug. 14-20.)

Speaker Tom Foley (D-Wash) said yesterday that it is uncertain exactly when the House will begin screening staffers.

Mr. HATFIELD. I think sometimes self-importance is our worst enemy, as we seek to maintain a balance in the understanding of our duties. I want to also say in my remarks that I make great exception to the young lady who, being pregnant, was questioning about going through the system, and I certainly understand that, and, of course, the police understand that. Special arrangements can be made for those exceptional cases, and there may be other exceptional cases. But from talking to these policemen and those who are watching after our well-being, I am appalled, Mr. President, at some of the abuse that they have been put to by this sort of attitude that, well, you ought to recognize me, I am an important person around here, and I come and go through these doors enough for you to know who I am.

Let us remind ourselves, Mr. President, that the shooting at the State Department was by an employee of the State Department who had been fired, but the guard on the gate was unacquainted with that particular procedure that had occurred very recently. So there are those reasons that should incorporate all of us.

I have now made a habit, Mr. President, of deliberately walking through those stations just to try to set an example for my staff, that no one on my staff is above it. No one is too dignified and too important not to comply with these simple procedures that have been created by our leadership for our own protection.

Mr. President, I suggest the absence of a quorum.

S. 1338, COMMITTEE REPORT—MINORITY VIEWS

Mr. HATCH. Mr. President, on September 21, the Judiciary Committee voted to report S. 1338, the Flag Protection Act of 1989. Since the committee report has only just become available and we will likely consider this bill later this week, I would like to make sure that my colleagues have an opportunity to consider carefully some of the arguments against this statutory approach to protecting the flag. I believe a constitutional amendment is necessary to protect the flag. I therefore ask unanimous consent that a copy of the minority views of Senator GRASSLEY and myself be printed in the RECORD at this point.

There being no objection, the views were ordered to be printed in the RECORD, as follows:

MINORITY VIEWS OF SENATOR ORRIN G. HATCH AND CHARLES E. GRASSLEY

WHY WE SHOULD PROTECT THE FLAG

The American people revere the flag as a unique symbol of our country and of the freedom we enjoy as Americans. It is the one symbol that unites a very diverse people in a way nothing else can. Despite our differences of party, politics, philosophy, religion, ethnic background, economic status, social status, or geographic region, the flag forms a unique, common bond among us.

Justice Stevens, dissenting in *Texas* v. *Johnson*, aptly stated:

"A country's flag is a symbol of more than nationhood and national unity. It also signifies the ideas that characterize the society that has chosen that emblem as well as the special history that has animated the growth and power of those ideas. * * *

"[The American flag] * * * is a symbol of freedom, of equal opportunity, of religious tolerance, and of goodwill for other peoples who share our aspirations. * * * " Slip op. at 1,2 (Stevens, J. dissenting).

Chief Justice Rehnquist has written,

"The significance of the flag, and the deep emotional feelings it arouses in a large part of our citizenry, cannot be fully expressed in the two dimensions of a lawyer's brief or of a judicial opinion." *Smith* v. *Goguen*, 415 U.S. 566 at 602 (1974) (Rehnquist, J., dissenting).

The Chief Justice then noted:

"* * * if the government may create private proprietary interests in written work and in musical and theatrical performances by virtue of copyright laws, I see no reason why it may not * * * create a similar governmental interest in the flag by prohibiting even those who have purchased the physical object from impairing its physical integrity. For what they have purchased is not merely cloth dyed red, white, and blue, but also the one visibl manifestation of two hundred years of nationhood * * * " Id. at 602-603.

Justice White has written:

"One need not explain fully a phenomenon to recognize its existence and in this case to concede that the flag is an important symbol of nationhood and unity, created by the Nation and endowed with certain attributes. * * * " Id. at 587 (White, J., concurring).

PROTECTING THE FLAG DOES NOT THREATEN THE FIRST AMENDMENT

In our view, it cannot be seriously argued that the protection of the flag from physical desecration impairs the first amendment's principle of freedom of speech. This freedom has never been deemed absolute. Libel is actionable, even under the first amendment. Obscenity is not protected under the first amendment. Nor are "fighting words", designed to provoke violent reactions by an audience, protected. Reasonable time, place and manner limits may be constitutionally placed on speech. Hence, a person cannot blare out his or her political views at two o'clock in the morning in a residential neighborhood and claim first amendment protection.

Protecting the flag from physical desecration does not prevent a single idea or thought from being expressed. It does not interfere with the numerous ways of conveying an idea—through speech, use of placards, leaflets, newspapers, and more. It merely prevents conduct with respect to one object, and one object, our flag. We can withdraw that one unique object from physical desecration without limiting freedom of speech. Indeed, for many years, a Federal statute and 48 State statutes did protect the flag. Can anyone identify actual harm to the first amendment during this time?

We note that other ardent proponents of the first amendment have expressed similar views. In *Street* v. *New York*, 394 U.S. 576 (1969), the defendant burned a flag while uttering a political protest. The Court overturned his conviction since the defendant might have been convicted solely because of his words. The Court reserved judgment on whether a conviction for flag burning itself could withstand constitutional scrutiny. Id. at 581. Chief Justice Warren dissented:

"I believe that the States and the Federal Government do have the power to protect the flag from acts of desecration and disgrace * * * " Id. at 605 (Warren, C.J., dissenting).

Justice Black—generally regarded as a first amendment "absolutist"—also dissented and stated:

"It passes my belief that anything in the Federal Constitution bars a State from making the deliberate burning of the American flag an offense." Id. at 610 (Black, J., dissenting).

Justice Fortas agreed with Chief Justice Warren and Justice Black:

"[T]he states and the Federal Government have the power to protect the flag from acts of desecration committed in public. * * * [T]he flag is a special kind of personality. Its use is traditionally and universally subject to special rules and regulations. * * * A person may "own" a flag, but ownership is subject to special burdens and responsibilities. A flag may be property, in a sense; but it is property burdened with peculiar obligations and restrictions. Certainly * * * these special conditions are not per se arbitrary or beyond governmental power under our Constitution." Id. at 615-617 (Fortas, J., dissenting).

Moreover, there is no slippery slope here—because there is simply nothing else like our flag. We are seeking no protection for any other symbol.

A STATUTORY RESPONSE TO "TEXAS AGAINST JOHNSON" IS INADEQUATE

We have concluded that a constitutional amendment is absolutely necessary to ensure with certainty the validity of any statute banning flag desecration. We believe it is futile to try to overturn this Supreme Court interpretation of the Constitution by a statute. The Constitution provides, in article V, for the exclusive means of its amendment. The article V amendment process is an organic, fundamental part of the Constitution and should not be evaded.

We believe that a facially neutral statute, such as S. 1338, which bans all knowing mutilation, defacement, trampling, or burning of the flag undertaken for any purpose, including for the purpose of ceremoniously disposing of a worn or dirty flag, is unlikely to survive constitutional scrutiny.

Even such a facially neutral statute will be struck down when applied to a person who desecrates the flag as part of a political expression, after *Texas* v. *Johnson*. Why? Because the Supreme Court declared in that case that the Government's asserted interest in preserving the flag as a symbol of nationhood and national unity is insufficient to overcome a person's so-called right to burn the flag as part of expressive conduct. Indeed, it cannot be denied that the principal if not the only purpose in enacting a facially neutral statute is to prohibit expressive conduct that physically desecrates the flag [1] No one claims that we are interested in protecting the material, the thread, and the dye in the flag. We protect the flag as a symbol, including against those who would desecrate the flag as part of a political expression, that approach will fall after *Texas* v. *Johnson*.

As William Barr, Assistant Attorney General for Legal Counsel, testified, "it cannot be seriously maintained that a statute aimed at protecting the Flag would be constitutional." The unconstitutionality of any statute which attempts to protect all forms of flag destruction has been predicted by Justice Brennan, who wrote that any statute "that simply outlawed any public burning or mutilation of the Flag, regardless of the expressive intent or nonintent of the actor," would be "invalid for the reasons stated in my discussion of *Spence* [v. *Washington*, 418 U.S. 405 (1974)]." *Kime* v. *United States*, 459 U.S. 949, 955 n.7 (1982) (Brennan, J., dissenting) (emphasis in original).[2]

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[1] The argument of the committee that S. 1338 is constitutionally sound because phrased in neutral language that does not affect free speech is misplaced. Irrespective of the language chosen, the principal purpose of this bill, like the pending constitutional amendment, is to change the result of the *Johnson* case. The Supreme Court frequently examines the legislative history of a statute. *See, e.g., Wallace* v. *Jaffree*, 472 U.S.C. 38 (1985). The legislative history of this law, if it is enacted, will reveal overwhelming evidence that it was designed to prevent the expression of an idea through flag desecration—that is an unconstitutional purpose under the *Johnson* decision. Indeed, Justice Brennan has written that: [T]he only basis for a governmental interest (if any) in protecting the flag is precisely the fact that the flag has substantive meaning as a political symbol. Thus, assuming that there is a legitimate interest at stake, it can hardly be said to be one divorced from political expression. *Kime* v. *United States*, 459, 953 (198) (Brennan, J., dissenting).

[2] The committee suggests that *Texas* v. *Johnson* does not govern the case of a conviction for flag burning undertaken in violation of a law banning any person from making an open fire in a public place because such a ban is content-neutral. Report, page 9, footnote 5. The committee suggests that, similarly, the constitutionality of a content-neutral flag protection statute is not governed by *Texas* v. *Johnson*. Report, page 9, text at note 5. We believe the analogy, however, is irrelevant. The constitutionality of the former prohibition does not tell us much, if anything, about the constitutionality of the latter prohibition. S. 1338, is not national prohibition on making an open fire in a public place; it is a prohibition of all specified conduct with respect to the flag alone, in order to preserve its role as a national symbol.

Moreover, we do not believe a neutral, blanket statute reaching all physical desecration of the flag, such as S. 1338, is appropriate even if it held constitutional. We think a blanket statute sweeps too far. There are legitimate reasons to dispose of worn or dirty flags in a way that would run afoul of such a statute. Under this statute, a veteran or any other American who reverently wishes to dispose of a worn or dirty flag by burning it would be subject to a $1,000 fine or 1 year imprisonment or both.[3] Yet, any exception we write into a statute further undermines its constitutionality under *Texas* v. *Johnson*. The Court there noted that if a State were to forbid "flag-burning wherever it is likely to endanger the flag's symbolic role, but allow it wherever burning a flag promotes that role—as where, for example, a person ceremoniously burns a dirty flag—we would be saying that when it comes to impairing the flag's physical integrity, the flag itself may be used as a symbol—as a substitute for the written or spoken word * * *—only in one direction." Slip opinion at 19.

This, the Court indicated, is impermissible.[4] While the Court did not make this remark in the context of an otherwise blanket ban on flag desecration, we are deeply concerned that such a rationale would be used to invalidate just such a blanket statute.

Indeed, this constitutional flaw is present in H.R. 2978, the House-passed flag statute, which is also pending in the Senate. Its ban on flag desecration includes an exception for "any conduct consisting of the disposal of a flag when it has become worn or soiled."

Further, S. 1338 and H.R. 2978 reach private conduct, such as that undertaken in the home. It is the public casting of contempt on the flag, however, whether to make a political point or no point at all, which we believe should be outlawed. Thus, the present Federal statute is the appropriate approach to outlawing flag burning:

Whoever knowingly casts contempt upon any flag of the United States by publicly mutilating, defacing, defiling, burning, or trampling upon it shall be fined not more than $1000 or imprisoned for not more than one year, or both. 18 U.S.C. Section 700(a).

Accordingly, we have no need of passing a new federal statute, but only to assure the constitutionality of the current one, which has been on the books for over 20 years.

A constitutional amendment is the safest, surest, and most permanent way of achieving the protection of the flag that the supporters of a statute-only approach also claim they favor.[5] It is difficult to square their opposition to an amendment on their asserted grounds that it somehow tampers with the first amendment with their own statutory approach: how is a statute which prohibits flag desecration in all or some instances not a threat to first amendment principles, while a constitutional amendment achieving the same thing *is* such a threat? Indeed, S. 1338 and H.R. 2978 ban more conduct than the Federal statute now on the books, 18 U.S.C. 700. As mentioned earlier, the current Federal law bans mutilation, burning, and so forth, of the flag, *in public*, and when done *knowingly to cast contempt* on the flag. S 1338 and H.R. 2978 prohibit *all* knowing mutilation and burning and so on, *whether contemptuous or not, and whether in public or in private*. The one exception is in H.R. 2978, for conduct disposing of a worn or dirty flag.

We note that the Federal statute has not yet been struck down by the Court. Of course, it is not presently enforceable. If we enact a constitutional amendment, this statute will already be on the books. Thus, there will be no gap in protection of the flag between the effective date of an amendment and the enactment of a new statute. Neither S. 1338 nor H.R. 2978 are needed; what is needed is a constitutional amendment legitimizing the statute we now have.

We also raise other serious concerns about H.R. 2978. It creates expedited review in the Supreme Court.

If the question of the constitutionality [of the statute] is properly presented in the case in [federal] District Court, the court shall, if the Supreme Court . . . has not previously ruled on that question, immediately certify that question to the Supreme Court.

We question whether we should provide this kind of expedited mechanism. The committee heard no testimony on it. What does "properly presented" mean? When the issue is pled? Before or after discovery is completed? What kind of "binding instructions" are we talking about authorizing the Supreme Court to give?

And why does H.R. 2978 give the two Houses a right to intervene as a party to defend the constitutionality of the bill? That task is for the executive branch. We believe we ought to think long and hard before we grant Congress the right to intervene as a party, even for limited purposes, in cases involving legislation we enact. Certainly the committee has not reviewed this in the detail it merits. Thus, we find the House bill even less acceptable than S. 1338.

S.J. RES. 180 IS A SUITABLE RESPONSE

S.J. Res. 180 provides for the following amendment to the Constitution: "The Congress shall have power to prohibit the physical desecration of the Flag of the United States." We believe adoption of this amendment fulfills its intent to overturn the *Texas* v. *Johnson* decision and restore the power to Congress and the States to prohibit flag desecration which we believe they always had. In *Johnson*, the Court said it could not pick and choose which symbols were so unique as to warrant protection:

There is, moreover, no indication—either in the text of the Constitution or in our cases interpreting it—that a separate juridical category exists for the American Flag alone.

This amendment establishes just such a category in the Constitution's text.

There was a brief criticism in the committee debate that this amendment would give Congress and the States the power to outlaw the use of the flag at political conventions, parades, or outlaw ownership of the flag by members of the Communist Party or Socialist Party. This criticism, however, finds no basis in the language of the amendment or the intentions of its sponsors. S.J. Res. 180 creates no slippery slope down which any democratic guarantee will slide. Rather, it merely authorizes States and Congress to prohibit the *"physical desecration"* of the flag (emphasis supplied). There is no plausible way of reading this term to include prohibiting the mere display or carrying of the flag at any gathering, including political conventions and parades. Nor can the language possibly be read to authorize prohibiting ownership or display of a flag by any individual or member of any group. This concern was not raised by a single witness, including the most severe critics of an amendment, testifying at the four hearings held on this matter.

We believe, in fact, it is likely that the overwhelming majority of states will leave their current laws in place if this amendment is enacted.

In sum, we believe an amendment is the only constitutionally sound approach to restore the power of Congress and the States to protect the flag from desecration.

ORRIN G. HATCH.
CHUCK GRASSLEY.

DRUG REIGN AT END

Mr. BOSCHWITZ. Mr. President, the news reports about Panama indicate that the reign of the drug dealing boss of that country, Manuel Noriega, may be at an end. This is welcome news if it is, indeed, true, and I devoutly hope it is so.

I understand that those who have carried out this coup have announced they are willing to hold free elections with representatives of the Organiza-

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[3] Apparently recognizing the unsoundness of such a result, the committee seeks to avoid this plain meaning of S. 1338 in a footnote in its report. Report, page 4, footnote 2. The majority suggests that disposal of a worn or soiled flag by burning it is not prohibited by S. 1338 because "[s]uch a flag is no longer a fitting emblem for display" and the Government's "interest in protecting its physical integrity no longer applies." This interpretive gloss clashes directly with the language of S. 1338. S. 1338 punishes the knowing mutilation, defacement, burning, maintaining on the ground, or trampling of the flag—without more. It establishes no exception for "a flag [which] is no longer a fitting emblem for display." The forthright way of excluding disposal of a worn or soiled flag from the strictures of the statute is to include a provision to that effect in the statute itself. Indeed, H.R. 2978, the House-passed flag statute, contains such a provision. Moreover, the definition of the term "flag of the United States" contained in the statute amended by S. 1338 does not turn on whether the flag is "a fitting emblem for display." 18 U.S.C. section 700(b).

[4] Ironically, if the committee's strained interpretation that S. 1338 somehow contains a similar, implicit exception is accepted by the courts, it, too, would lose even the veneer of content-neutrality.

[5] The committee, in defending the constitutionality of S. 1338, seeks to divine the likely vote of Justice Blackmun. Some commentators believe Justice Blackmun, who voted in the *Texas* v. *Johnson* majority, will vote to uphold a blanket ban on all flag descration. This prediction is based on his dissent in *Smith* v. *Goguen*, 415 U.S. 566 (1974). There, the Supreme Court voided the arrest of a person convicted under a Massachusetts law which banned the public mutilation or contemptuous treatment of the flag. The person in question had a version of the flag sewn to the seat of his pants. The Court ruled the person was denied due process because the law was too vague in the use of the phrase "treats contemptuously." The *Smith* v. *Goguen* case did not involve flag abuse which was part of expressive conduct—the Court noted that there was no indication the contemptuous treatment of the flag was part of a political demonstration.

In his dissent, Justice Blackmun stressed that he believed the State court had "limited the scope of the statute to protecting the physical integrity of the flag." 415 U.S. at 591. He believes the respondent had been punished "for harming the physical integrity of the flag by wearing it affixed to the seat of his pants." Id. But he also made clear that he accepted the state court's determination that the respondent's "punishment was not for speech—a communicative element." At best, we think Justice Blackmun's vote on the constitutionality of a blanket flag statute applied in a case where the desecration was part of a political expression is doubtful.

tion of American States as witnesses. This is to be applauded.

General Noriega has been deeply implicated in the flow of illegal drugs to this country from Colombia and elsewhere. According to evidence gathered by the United States, he has personally profited by many millions of dollars by letting Panama be used as a transit point for drugs and Panamanian banks be used to launder the massive, obscene profits that the drug trade produces. No one will be sorry to see him go except those who are themselves implicated and involved in these disgraceful activities.

I believe I speak for all Americans when I say I hope that today's events will make it possible for Panamanian-American relations to return to the sound basis that has characterized those relations for so many years. Our two countries have had a unique relationship founded in shared interests. We have in the past been close friends, and I look forward to seeing that friendship reestablished.

I thank the Chair. I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Morning business is closed.

IMPLEMENTATION OF THE PRESIDENT'S 1989 NATIONAL DRUG CONTROL STRATEGY

The PRESIDENT pro tempore. Under the order previously entered, the Senate will now proceed to the consideration of S. 1711. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 1711) to implement the President's 1989 national drug control strategy.

The Senate proceeded to consider the bill.

The PRESIDENT pro tempore. What is the will of the Senate?

Mr. KOHL addressed the Chair.

The PRESIDENT pro tempore. The Senator from Wisconsin [Mr. KOHL].

Mr. KOHL. Mr. President, today we will consider S. 1711, which is part of the President's drug strategy.

It has been less than 1 month since President Bush announced his vision of a national plan to fight drugs. In 1 month, the Senate has enacted a series of comprehensive and bold initiatives. I find that remarkable and encouraging, Mr. President, 1 month—which proves we can take swift action when the situation demands it.

As we near the end of our legislating on this problem—at least for now—it might be worthwhile to reflect on what we've accomplished. In the achievements column is the 65-percent increase in antidrug spending. That is no small thing, although the problem still demands an even greater increase.

Another achievement—one of which I am particularly proud—is the Senate's allocation of $50 million to help addicted pregnant women and their infants. Too often, we listen to vocal constituencies and overlook the children. I think that is now changed. We are doing not only the compassionate thing, but something that is in our self-interest. These efforts represent an investment in our most precious commodity—the next generations.

But we should also be very clearheaded about what still needs to be done. This afternoon, I hope we will see amendments to expand alcohol and drug treatment programs. This is a must. In Milwaukee alone, 1,000 people have their names on waiting lists for treatment. At a field hearing I conducted in Milwaukee, I heard from a recovered addict named Michael Vann. He now runs a very successful rehabilitation program for young people. And he testified that treatment made all the difference in his life, turning him from a drug pusher into a healer. If Michael Vann can be helped, so can thousands of others.

I also hope we address the problem of drugs in rural America. In 1988, drug arrests in rural counties increased twice as fast as they did in cities the year before. Just this weekend, participants at a conference in Wisconsin stated that every community—small and large—has been infected by drug or alcohol abuse. The rural problem is not as visible as the urban crisis because it is less violent. It requires our attention all the same.

But most of all, I believe we need to work harder to empower local communities. I am afraid that most of our initiatives reflect a top-down, Washington-based approach. By contrast, mobilized communities devise targeted and lasting solutions. Washington can help, but local coalitions are really the ones who will solve this crisis. We should encourage grassroots action by parents, teachers, police, unions, business leaders, the clergy, and neighborhood activists. I hope to return this afternoon with a mechanism to bring about such action.

Finally, Mr. President, let me address the bill offered by the distinguished minority leader, on behalf of the President. Under his measure, States would not receive anticrime funds unless they implemented drug testing programs for certain arrested persons and convicted offenders. Drug testing is sometimes appropriate, and it seems to be a good idea for prisoners. Still, I have some concerns about this plan.

First of all, this bill could cost the States millions—the same millions that could be spent on treatment, prevention, or local law enforcement. A simple drug test costs between $17 and $25. Confirming a positive test requires another $50 to $75 per sample. In other words, each verified test could cost $100. If a State like Wisconsin has to drug test 500 people per week, that would cost $50,000 a week—or $2½ million every year. That is almost half of what my State will receive for State and local law enforcement.

I am also concerned that this measure would vest the Attorney General with a vast amount of undefined discretion. For example, he would determine who should be tested; what they should be tested for; how often they should be tested; and what a test result will mean for the subject. But should not the States decide these matters? The situation in Utah requires a different response than what is needed in New York. Or—if not the States—should not Congress delineate the contours of any drug testing?

These are my concerns, Mr. President. I am confident that we can strengthen this measure as the day proceeds, and I look forward to working with my colleagues on both sides of the aisle.

Thank you, Mr. President.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Wisconsin raises a point of no quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, last evening the distinguished Republican leader introduced a bill to implement the President's 1989 national drug control strategy, and we will be debating this matter today, into the evening, I do not doubt, and tomorrow.

I would like to make a prefatory remark about that strategy, because it is a singular fact that Congress set out the outline of this strategy 1 year ago. More specifically, it was done initially in this Chamber and quite specifically it was done at the behest of the then majority leader, the present distinguished President pro tempore, whom I have the honor to address at this moment.

The President will recall that it was on May 17, 1988, that he appointed a working group. He asked that it be chaired by the distinguished senior Senator from Georgia [Mr. NUNN] and by the Senator from New York.

In this calculation we tried to deal with the problem. We faced then as we face now an ongoing endemic problem in the United States of drug use and abuse, which goes back a century to the development of these drugs. It

goes back further than that, Mr. President. In 1805 morphine—from the Greek Morpheus, the god of dreams—was first isolated from opium; subsequently, the hypodermic needle was invented and the first mass use as a medication, basically as a suppressant, a pain-killer, was administered in the Civil War. Following the war there was widespread addiction to morphine among soldiers. Indeed, it was known as the soldiers' disease.

This was followed in the 1880's by the development of heroin and cocaine. Both were products of German laboratories. The Bayer Aspirin people developed and tested the drug and their employees said that it made them feel heroic, hence heroin. Cocaine was, in the same way, a derivative of the coca leaf. Both drugs suddenly appeared in the West and specifically in the United States to people who had no previous cultural experience with them.

The other day, speaking of this on the floor of the Senate, a distinguished Member of this body observed that we had had 5,000 years of experience with alcohol. I offered the thought that well, yes, 5,000 years of beer and wine; yet only 250 years' experience with distilled alcohol.

The technique, which was invented in the Renaissance in Italy, and industrialized with the subsequent agricultural surpluses of the 19th century, reached its glory in the gin lanes in London, and the distribution to laborers of Monongahela whiskey on the Erie Canal, which was served a quart a day. Four-ounce portions were taken beginning at 6 o'clock in the morning. Nobody really knew it was not that good for you at 6 o'clock in the morning.

We have had a 100-year experience with the particular drugs cocaine and heroin. But, Mr. President, we have had only 6 years of experience with crack cocaine—6. And that is what the strategy developed under the guidance of and with consultations with the distinguished President pro tempore.

We said we were going to try to deal with the problem of supply since most of these substances come from outside the country, and we have dealt with that. In one way or another we have been dealing with it for a century—well, at least since 1914 when the prohibition was first put in place—and with very limited effect.

The real event has been the cycle of demand, which has gone up and gone down.

In the Anti-Drug Abuse Act of 1988 we set up a national director to implement our strategy. We said, divide your efforts between demand and supply, but demand must come first. We gave him two deputies, one for demand reduction and one for supply reduction. Demand came first. As a matter of fact, the deputy for demand reduction is a very distinguished research physician, Dr. Herbert Kleber from the Yale Medical School, who advised us when we were preparing for this legislation.

Mr. President, in that legislation, we wrote into it a national mandate which never before appeared in legislation—and I sometimes think we never will recognize this mandate which appeared in it—which is to say, treatment on request.

Mr. President, I wrote those words. I wish now I said treatment on application. The standard formulation, however, is treatment on demand. I do not know that drug-dependent persons are in a position to demand anything; but request, yes. It is there. It is in the statute. It is one of the goals of the program.

Last year, I came to this floor on at least three occasions to make the point that while we were calling for treatment on request, there was now no treatment for crack cocaine. It does not exist. It is an epidemic that appeared suddenly in the Bahamas in 1983.

The psychiatrists recognized it immediately. The Bahamas are a peaceable kingdom, heaven knows. Suddenly, though, in 1983, one psychiatric facility on the island, at a place called Sandilands, persons began arriving, seriously disturbed—mad men who had cut off the heads of their dogs with machetes, drank their blood and killed their neighbor and then would show up for help. The question was asked: "What have you been doing up to now? Up to now you have been a perfectly peaceable citizen of the island not bothering anybody, living a normal, pleasant life. What happened to you?" Response, "I started taking this stuff." And what was this "stuff"? Freebase cocaine, smokeable cocaine. The human species had had no experience with it, nor with its devastation.

In 1985, Dr. Allen, who was associated with that Bahamian clinic, tried to warn us. He said an epidemic is heading your way as clearly as he might have said Hurricane Hugo is heading your way.

He was quoted in a small item that appeared in the Atlanta Journal on December 31, 1985:

> A highly addictive practice of smoking cocaine rocks has swept this chain of islands off the coast of Florida. * * * In a country of 230,000 people, the number of cocaine users treated at mental health clinics has zoomed from zero in 1982 to 209 in 1984, according to Dr. David Allen, a Harvard-trained psychiatrist who heads the National Drug Council.

He went on to say:

> What we have is the world's first freebasing epidemic which could be preceding an epidemic of the industrialized United States. Anywhere there is readily available high quality cocaine there is this potential.

There you are.

A short while later, Dr. Allen and five associates published a paper in the Lancet, which is a prestigious British medical journal. It notes that freebase cocaine use is an epidemic in the Bahamas—and a new health hazard appearing in the world.

Now where am I taking the Senate this morning, Mr. President? Very simply it is to this: We have a public health emergency, an epidemic in this country. We recognized it in our statute last year and we provided for its treatment.

How do the poor, the indigent in our country get treatment in medical emergencies or protracted medical difficulties? I believe the answer is through the Medicaid Program that began in 1965 as an adjunct to Medicare. Who is eligible for Medicaid? The same persons who are eligible for public assistance under the Social Security Act of various titles—Aid to Families With Dependent Children, and the Supplemental Security Income Program for the aged, blind, and the disabled.

And what can they be treated for if they come to a hospital, if they are an indigent person and if they have been using heroin and they need treatment? The hospital will take them in and usually provide them with a methadone treatment, which is a pharmacological treatment. It is medicine—you and I, Mr. President, call it medicine—developed as a treatment for heroin addiction by Dr. Vincent Dole in the early 1960's. Methadone is a synthetic drug developed by the Germans in World War II when they ran out of morphine because they had no access to the natural sources of morphine which are grown in topical areas. Morphine is a derivative of opium, of course.

Today, Medicaid will only pay for methadone treatment. But suppose you arrive in that very same hospital—and the chances are far more likely that you will—in any emergency room in any city of America.

In that critical condition of withdrawal from freebase cocaine, psychotic in the manner that was first described in the Lancet, trying to get off the most intense euphoriant our species has yet encountered. But you "crash" right away. You have to get out of the subsequent depression if you can.

You come to the hospital, asking for help. And what can the hospital do for you? It has no treatment. But, most important, Mr. President, you are eligible for Medicaid reimbursement. Medicaid does not recognize addiction to crack cocaine as a health problem that may be treated in a hospital, simply because there is no treatment.

We find ourselves in the absurd situation of saying, since we have not got a cure, you have not got a disease.

Well, Mr. President, the disease is elementary, it exists, yet we have no cure for it.

There is hope. Some doctors are finding that anticonvulsants used in what laymen would call seizures—are showing promising results. Desipramine is one of them, carbamazepine another—both have had some positive effects.

What other things will work? We cannot readily say because so little effort is being made to find out.

I asked earlier, Mr. President, where was this leading me. It is very simple. Last week I introduced legislation to address this problem. I am very happy to say, it is cosponsored by the Senator from Massachusetts [Mr. KENNEDY], the Senator from Delaware [Mr. BIDEN], and the Senator from Connecticut [Mr. DODD].

Our bill is elementary. It is simple. It says: Treatment for drug addiction is reimbursable by Medicaid.

This means that the hospitals are not going to be overwhelmed by the costs of doing what little they can do presently. But also, Mr. President, and fundamentally, it means that the treatment and care of these sometimes very young persons will now move back into a hospital setting. We cannot treat them in a prison cell. They do not get better there. We do not find out anything about what the problem is when they are placed there.

How do we learn about the problem they have? Get them into hospitals. Get those young doctors, men and women who have an interest in the area of addiction research, to say "I have 15 people in a ward down here and they have all just been using crack cocaine. What if I gave one group drug X? I will give this other group drug Y and I will see what they look like 3 weeks from now." This kind of experimental medicine, clinical medicine, is done in hospitals. We need more of it done.

The amounts of money involved for this legislation is very limited, Mr. President. Unfortunately, we cannot make funds available on the bill we pass today. We cannot make it available for 1990 because of the budget. We should. Perhaps we could, with the efforts of the administration to help us do it.

But I hope to see incorporated in our consensus package the absolute heart of the treatment issue and of our strategy, the one which we put in place last year, which provided treatment for people who need it and want it in hospitals. And, with luck and time—sooner, perhaps, than we expect—I think we will get a cure.

Drug addiction is a disease of the brain. That is all. We are learning now to treat diseases of the brain. It is the last organ the medical profession is getting a hold of. Consider what we have done in medicine and in our legislation. Surely, this is something that we can do—indeed, the law requires us to try. Certainly the condition of our society demands that we try.

Mr. President, I hope the Senate will respond to this matter. If we do not, if we pass this bill today or tomorrow and do not make drug treatment reimbursable under Medicaid the people who are suffering from this epidemic in our inner cities, will continue to buy and continue to die. We will record to the Nation that we did not know what we were doing last year. If we are going to go on with the same old, not useless but, in the main, unavailing methods in dealing with the crisis we face today, which is a public health epidemic we will see no end to it.

Mr. President, I ask unanimous consent at this point that the article from the Lancet of March 1, 1986, entitled "Epidemic Freebase Cocaine Abuse, Case Study From the Bahamas" and the Atlanta Journal article be printed in the RECORD to establish that we are talking about a legitimate public health problem which has been addressed in what is called the literature and is yet to be addressed in practice.

There being no objection, the articles were ordered to be printed in the RECORD, as follow:

[From the Lancet, Mar. 1, 1986]

EPIDEMIC FREE-BASE COCAINE ABUSE—CASE STUDY FROM THE BAHAMAS

(James F. Jekel,, Henry Polewski, Sandra Dean-Patterson, David F. Allen, Nelson Clarke, Paul Cartwright, Department of Epidemiology and Public Health, Yale University, School of Medicine, New Haven, Connecticut, USA; Community Psychiatry Clinic, Nassau, Bahamas; National Drug Council, Nassau; and Sandilands Rehabilitation Hospital and Sandilands Hospital Drug Clinic, Nassau)

SUMMARY

Beginning in 1983, a sharp increase was noted in the number of new admissions for cocaine abuse to the only psychiatric hospital and to the primary outpatient psychiatric clinic in the Bahamas. For the two facilities combined, new admissions for cocaine abuse increased from none in 1982 to 69 in 1983 and to 523 in 1984. Although there was some evidence for a rise in cocaine use during this time, as the drug became cheaper and more available, a primary cause of this medical epidemic seemed to be a switch by pushers from selling cocaine hydrochloride, which has a low addictive potential, to almost exclusive selling of cocaine free base, which has a very high addictive potential and causes medical and psychological problems. Although the use of free cocaine base is rising around the world, this is the first report of a nationwide medical epidemic due almost exclusively to this form of the drug, although similar problems are reported with smoking coca paste in South America.

INTRODUCTION

The past decade has seen an increase in the use of cocaine in the United States and UK. This drug is not generally perceived as being as harmful as heroin.[1-4] However, data are accumulating to suggest that cocaine is, indeed, a very dangerous drug.[5-8]

Data from the US National Institute on Drug Abuse point to a 91% increase in cocaine-related deaths between 1980 and 1983.[9] Kleber and Gawin[7] have suggested that certain drugs have a low proclivity for producing compulsive-addictive behaviour, so that, say, less than 15% of people using such drugs become addicted; examples are alcohol and marijuana. At the other extreme are drugs such as heroin and nicotine that lead to a compulsive-addictive use pattern in most users. Cocaine may lie at either of these extremes, depending on the method of use.[7] For example, nasal inhalation of cocaine ("snorting") or chewing coca leaves is unlikely to lead to addiction while smoking ("freebasing") or injecting ("shooting") the drug is. A switch in the pattern of cocaine use from snorting to freebasing could this produce a big increase in the number of addicts without a change in the prevalence of cocaine use.

Some are talking now of a cocaine "epidemic" because use of the drug seems to be rising steadily.[2] It would be more accurate to talk of a "long-term secular trend" because "epidemic" suggests a sudden imbalance between the forces that promote and retard a disease. However, a change in cocaine use in the Bahamas does meet the criteria for an epidemic of cocaine abuse.

Our study was initiated by physicians in the Bahamas who were concerned about an apparent rapid increase in cocaine abuse in clinical settings. Several sources were examined retrospectively to see if this clincial perception of a recent large increase in cocaine-related admissions to psychiatric facilities was accurate.

METHODS

The only psychiatric hosptial in the Bahamas is the government-run Sandilands Rehabilitation Hospital (SRH) on New Providence. Patients are referred there from the other islands. In 1980, almost two-thirds of the Bahamian population lived on New Providence, most of them in Nassau. The other three hospitals in the Bahamas (two on New Providence and one on Grand Bahama) seldom accept drug abuse patients and have few psychiatric patients.

The main community mental health clinic in the Bahamas is the Community Psychiarty Clinic (CPC) in Nassau. Most patients who do not go to private psychiatrists or other private physicians use the SRH outpatient services or the CPC. The two small government clinics in Freeport and Eight Mile Rock saw 47 cocaine addicts in 1984, only 14% of the total seen by Bahamian mental health clinics and only 9% of those seen at all government facilities. Drug abuse patients seen in emergency rooms are referred to SRH. Data from the CPC and the SRH on psychiatric cases provide a more complete picture that could be obtained in most areas of the world. Unfortunately, age and sex specific population data from the 1980 census were not yet available so we could not calculate incidence rates. However, because the population was stable over the period of this study, data on trends of new cases are almost as interpretable as rates. An incident case of cocaine abuse was defined as the first admission to the CPC or the SRH for cocaine abuse, even if other diseases were present. If the predominant drug in a polydrug user was cocaine, the case was considered a cocaine abuse admission.

Footnotes at end of article.

Data Sources.—The CPC publishes a monthly summary of cases. We focused on new patients. Alcoholism, non-cocaine-related drug abuse, and cocaine-related drug abuse were studied from the beginning of adequate records in 1982 up to June 30, 1985, Monthly admissions to the SRH were available for 1980—84 and these data indicated the number admitted for alcoholism and/or drug dependence (and whether or not cocaine was the primary drug) and distinguished first from repeat admissions. Admissions to CPC and SRH for alcoholism showed a slow, steady increase and will not be discussed further.

Drug abuse patients among the wealthy minority on the Bahamas will usually seek care outside the CPC or SRH (including the United States) and some cases from the family islands are treated by local physicians. However, there is no evidence of a change in the accessibility of care or the referral patterns in the Bahamas so changes in the pattern of new admissions reported here do reflect changes in the scale of cocaine abuse in the community. Some patients may have been admitted to both the CPC and the SRH, there being no central data system to exclude such duplicate entries. However, doctors who work at both places feel that overlap will have been very small. During the study period, only 4 drug patients admitted to the SRH were referred from the CPC. Likewise, in discussion with most of the few private psychiatrists on New Providence, it was clear that few of the Bahamian drug abusers they see are not referred to the CPC or the SRH. We conclude that the combined incidence data on new drug abusers from the CPC and the SRH cover most people in the Bahamas whose use of cocaine or other drugs caused problems severe enough for them to seek medical assistance.

RESULTS

Community Psychiatry Clinic.—The CRC opened in 1980 but new and returning patients were not distinguished in the clinic statistics until 1982. Fig 1 shows how quarterly numbers of new cocaine-related admissions have risen from none in 1982 to 299 in 1984, there being a probable decline in 1985. During the early phases of cocaine appearance in the CPC, some of the cocaine use may have been recorded only as "drug abuse" or "drug dependence", but the number of such cases would have been small. If the patient used several drugs (as most did), the drug that seemed to have precipitated the problems for which they sought help was recorded.

Drug abuse increased from 1% of the clinic's patients in 1982 to 9% in 1983 to 39% in 1984, and was 31% in the first 6 months of 1985. The big increase in 1984 was due almost entirely to cocaine dependence. Cocaine-related new admissions really began in the third quarter of 1983. New cases of depression and/or schizophrenia have been fairly stable over time, suggesting that the increase in drug patients was not primarily due to increased clinic awareness.

Sandilands Rehabilitation Hospital.—SRH has a long tradition of treating acutely ill alcoholics and drug addicts from the whole of the Bahamas. 86% of the 1984 drug admissions were from New Providence.

Although there were a few cocaine-related admissions during the first three quarters of 1983, a marked increase began in the last quarter of 1983. The number of first drug admissions for which cocaine was the primary cause increased sharply from 1 in 1980 to 224 in 1984 (fig 2). The number of first admissions due primarily to other drugs was more stable. So great was the increase in admissions for cocaine abuse that recording of admission numbers became less complete after November, 1984; numbers for the last quarter of 1984 are estimated from those for October and November.

Often a patient would be admitted with drug abuse and symptoms suggestive of underlying psychiatric disease. Usually the paranoia, hallucinations, and so on were due to the drug use, so whenever cocaine or other drug abuse was indicated as being important, the patient was considered a drug admission.

Mode of Cocaine Use.—Smoking (freebasing) accounted for 98% of cocaine-realted referrals in 1984. Cocaine base (known in the Eastern USA as "crack") is produced when cocaine hydrochloride powder is treated with alkali. It is volatile with modest heating and is easily absorbed through the lungs and rapidly transmitted to the brain. Some experienced addicts made their own freebase cocaine in the early 1980s but most did not know how to do it or did not bother, and the predominant form used to be snorting. By 1984 the pushers were selling only the freebase form, smoked using a homemade pipe ('camoke"). When cocaine is smoked up to 80% of it reaches the brain, and the "rush" can begin in 8–12 s, producing a short period of ecstasy. This fleeting sensation is most powerful on the first use of cocaine and though addicts seek to repeat it the same sensation is not experienced again.

The most common pattern of usage varies from a few hours, during which time the user may consume 4–5 g cocaine, to a few days of intermittent use, usually over a weekend, during which time up to 10 g may be consumed. Most patients using the drug at freebasing parties or "base houses".

Clinical Spectrum.—Cocaine-dependent individuals usually seek help during or after some crisis, financial, social, medical, or psychological. For example, an addict whose money had gone might seek help on his own initiative or under pressure from family, friends, or employers. Others, who had had to steal to support the habit or whose addiction had made them violent, were referred by the courts.

The most common physical problems were seizures, severe itching ("the cocaine bug"), loss of consciousness ("tripping out"), cardiac arrhythmia, vertigo, pneumonia, gastrointestinal symptoms, and avitaminosis associated with severe malnutrition. Several addicts were referred from maternity wards.

The cocaine addicts often presented with severe depression, manifest by unkempt appearance, insommia, anorexia, withdrawal, and suicidal ideation. There were at least 10 cocaine-associated deaths, 5 of which were suicides. Cocaine psychosis was common: the patient would present with severe agitation, impaired judgment, paranoid ideation, intense denial, violent behaviour, threats of suicide or homicide, and hallucinations. In periods of lucidity they would try to mislead the physician, and a relative or friend was needed to confirm the psychotic state.

Demographic Characteristics.—For 1984, 81% of cocaine admissions to SRH were males and male drug abusers in general were aged 11–56 years (mean 25). Cocaine users tended to be slightly older than other drug users (26 *vs* 22•5 years). Female drug addicts were aged 15–39 years (mean 24 years). Almost all patients were Bahamian.

Other Forms of Surveillance.—Most patients seen at the Sandilands Hospital drug clinic were referred after discharge from the SRH so data from this clinic were not included. About 60% of the patients seen were using both cocaine and cannabis, although it had usually been cocaine that had precipitated the hospital admission. Neither suicide nor drug-related death is usually recorded on death certificates in the Bahamas so we decided not to use vital statistics as a surveillance method. Police statistics showed some increase in street drug arrests in 1984, but not of the magnitude suggested by the clinic and hospital admission data. In 1980–83 drug arrests averaged 1,094 a year with no clear trend over time. There were 1,501 arrests for 1984, an increase of 37%.

DISCUSSION

In the Bahamas, data from psychiatric services demonstrate an epidemic of cocaine abuse requiring medical care. Cannabis and alcohol were often used to control adverse symptoms from cocaine use. In early 1983 something—a major change in the incidence of new drug dealers, especially cocaine users, or in the method of use—upset the previous drug-use equilibrium, suddenly forcing hundreds of people to seek treatment for complications of drug abuse.

The most obvious explanation is that cocaine was suddenly introduced to the islands or that its price fell. Former addicts, who were on cocaine in the 1970s, confirm that cocaine powder had been available, if expensive, for years, but that in late 1982 or early 1983 the drug suddenly became much more plentiful as production in South America increased. The street price of cocaine in Nassau fell to one-fifth of its former level.

Ex-addicts also told us that at about the time that cocaine became more plentiful and cheaper drug pushers switched from selling powdered cocaine ("snow") for nasal inhalation or injection to the pure alkaloid form ("rocks" or "freebase") which is used exclusively for smoking. It suddenly became very difficult to obtain powder in Nassau. By making this change, the drug pushers were forcing all cocaine users to become addicts. Many pushers are themselves addicts and have to sell the drug to feed their own habits. Selling freebase guarantees an eager market for the increasingly available cocaine.

Smith [10] claims that an important reason for the increase in cocaine deaths in the San Francisco area was higher potency cocaine. Siegel [1] reported that recovery of cocaine free base from pure cocaine hydrochloride, using various street kits, ranged from 41% to 72% and, although the kits removed some of the adulterants, some lignocaine and ephedrine, for example, was often left with the cocaine. Ex-addicts indicated that the street cocaine powder in Nassau had usually been "cut" (diluted) about 50% before sale. Although we have no direct data about cocaine purity, the sources for the cocaine remained similar; nor is the extraction process perfect. Changes in levels of purity seem to be an inadequate explanation for our findings.

We conclude that the medical epidemic of cocaine-related physical and psychiatric problems in the Bahamas was related to the interaction of the availability of cheaper cocaine and a switch from powder to free base.

Monitoring the method of selling may be critical both for Western nations, the targets of the cocaine market, and for developing nations such as the Bahamas via which the drug is shipped and those South American countries that produce it. We found surveillance of medical services to be a quick

and effective way of monitoring some aspects of the drug situation in the Bahamas, and it could be in the self-interest of target nations to assist producer and trans-shipment countries not only to control drug abuse but also to maintain an intensive surveillance system. As cocaine freebasing becomes more popular and particularly if the vending pattern switches to the freebase form (as is starting to happen in some US cities), emergency rooms, mental health clinics, and psychiatric hospitals will need to prepare for an unprecedented influx of drug addicts.

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[From the Atlanta Journal, Dec. 31, 1985]

BAHAMAS "FREE-BASING EPIDEMIC" CITED

NASSAU, BAHAMAS.—A highly addictive practice of smoking cocaine "rocks" has swept this chain of islands off the coast of Florida, a side-effect of the South American-based drug trade that uses the islands as steppingstones for the journey to the United States.

In a country of 230,000 people, the number of cocaine users treated at mental health clinics has zoomed from zero in 1982 to 209 in 1984, according to Dr. David Allen, a Harvard-trained psychiatrist who heads the National Drug Council.

"What we have is the world's first free-basing epidemic (which) could be preceding an epidemic in the industrialized states," Allen said. "Anywhere there is readily available high-quality cocaine, there is this potential."

Dr. Henri Podlewski, director of the Sandilands Hospital where a special unit was created this year to treat free-basers, said free-based cocaine may be the most addictive drug known.

The PRESIDENT pro tempore. The Senator from Wisconsin [Mr. KOHL].

Mr. KOHL. Mr. President, as others, I have spent a lot of time grappling with the drug issue. I have attended hearings, spoken with experts, and solicited input from leaders in my home State. And I have reached some conclusions about our drug crisis.

First, the war is going to be won or lost on the demand side. So long as Americans have an appetite for illegal narcotics, smugglers will continue to import their deadly cargo and dealers will continue to peddle their poison. This is not just a hunch; it is based on our experience in the past decade. Despite attempts to eradicate drug crops; despite efforts to inderdict the supply; and despite tough law enforcement, drugs remain available and cheap.

Consider these statistics: the number of Federal drug offenders sentenced to prison rose by 177 percent between 1980 and 1987. And the average prison sentence is now about 6 years, which is almost 2 years longer than it was in 1980. Despite this, the supply of drugs has increased. The Government's National Narcotics Intelligence Consumers Committee—or the NNICC—reports that cocaine is "readily available" and that heroin is "generally available."

In short, Mr. President, we cannot focus solely on supply-side efforts as Attorney General Thornburgh said, "If you want to lose the war on drugs, just leave it to law enforcement." At hearings last week in the Governmental Affairs Committee, we heard from experts who said that the United States should be using an economic carrot instead of a punitive stick—and even that might not work. They also said that if we destroy coca plants in South Amercia, cocaine will be manufactured synthetically in laboratories in the United States.

So we really have to change the behavior of millions; we have to change popular attitudes toward drug usage. This will be a long-haul process, just like the campaign to get Americans off cigarettes. Prevention, education, treatment—these are the investments that will bring us the greatest returns in the end.

Of course I am not suggesting that we surrender our streets or our borders to the drug criminals. Supply-side efforts are certainly one-half of the solution. And law enforcement must be vigilant. In the last few years, Congress has done a good job of toughening penalties. Now we have to concentrate less on the severity of punishment than on the certainty of capture. That is why I favor increasing resources for street-level law enforcement. We get a bigger bang for the buck by having more police on the beat than by purchasing more radar balloons for the border.

In the final analysis, however, we should not deceive ourselves that police—or troops—can solve the drug epidemic. The enemy is not an invader—it is us, the millions of Americans who depend on chemical flights of fantasy to cope with reality. The enemy, Mr. President, is a society that too often ignores its poor and dispossessed, leaving them to the mercy of the drug dealers and drug killers.

Mr. President, I thought it might be useful to share some thoughts from a recent observer. I am referring to Michael Massing, a journalist in New York. He wrote recently a column analyzing the drug crisis. One paragraph was particularly interesting. I would like to share his thoughts:

> The timing of the crack epidemic is hardly accidental. The drug began engulfing our cities in 1985—about the same time as the Reagan budget cuts were taking effect. The slashing of welfare benefits, the phasing out of housing subsidies, the elimination of job programs—all this impaired the immune system of our inner cities.
>
> As a result, when the crack virus hit, America's poor were unable to fight it off. The infection quickly became a contagion.

Mr. President, this is indeed a contagion. As the distinguished Senator from New York said this morning, we face a public health crisis. We need to keep this in mind as the day progresses, as we act on this bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll, the absence of a quorum having been suggested.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Republican leader is recognized.

Mr. DOLE. Mr. President, last week, the Senate approved the Department of Transportation appropriation bill which fully funded the President's national drug control strategy and crime bill. Also contained in the bill were four legislative initatives which were proposed in the strategy, leaving just one remaining item for consideration by this body.

Under the unanimous-consent agreement that controlled consideration of the appropriation bill, the Senate agreed to consider the remaining initiative as a freestanding bill. Yesterday, I introduced that bill, S. 1711, which requires drug testing by State and local governments of those arrested, incarcerated, or on probation or parole.

There has been a fair amount of controversy concerning this provision. It has been suggested that the cost of requiring State and local officials to drug test everyone—that is the keyword "everyone"—falling into these categories would be prohibitive. I admit that if the requirement were that extensive, the administration estimated cost of $800 million would be

beyond the ability of State and local governments to pay.

However, that is not contemplated by the bill. It merely requires that each State, within its own drug strategy, must include drug testing of some of those arrested, some incarcerated and some of those on probation or parole.

Therefore, the $800 million estimate is not valid in the discussion of this bill, since no requirement to test all individuals in those classes is contained in the bill.

Mr. President, for the information of my colleagues, I ask unanimous consent that a cost estimate, based on total testing, be printed in the RECORD. Again, I want to remind my colleagues that this estimate will never be reached.

There being no objection, the cost estimate was ordered to be printed in the RECORD, as follows:

Costs of Drug Testing

[In billions of dollars]

Criminal Justice System:	
Arrestees	0.21
Pre-trial population	.17
Probationers	.33
Parolees	.05
Prisoners	.02
State and local employees	.02
Subtotal—drug testing	.80

ARRESTEES

The 1988 Uniform Crime Report total estimated arrestees for "Index" offenses was 13,813,300.

Assuming that:

1. All arrestees are tested during initial processing;

2. Average cost of one test for one drug is $3.00* and that most programs test for 5 drugs (cocaine, opiates, marijuana, amphetamine, PCP) for a total of $15.00 per person. (Note: As the volume of tests increases the cost/test would drop below $15.00.)

Cost of initial test would be $207 million.

(*Includes direct and indirect costs—equipment, personnel, facilities.)

PRE-TRIAL POPULATION

Assuming that:

1. 20% of all arrestees are dismissed without further processing (based on anecdotal experience);

2. The remaining 80% or 11,049,840 make up the pre-trial population;

3. 25% of this population or 2,762,640 is randomly tested once a month (on an unannounced basis) for four months (average pre-trial waiting period),

Cost of testing pre-trial population would be $166 million.

PROBATIONERS

According to a Bureau of Justice Statistics (BJS) report of March 1988 there were 1,814,915 persons on probation in 1985.

Assuming that:

1. Average time on probation is one year;

2. Half of all probationers are tested;

3. Testing is done twice a month,

Cost to test Probation population would be $327 million.

PAROLEES

According to the 1988 BJS report the total number of parolees in 1985 was 260,578 and the average time on parole is 19 months.

Assuming that:

1. 50% of parolees are tested;

2. Testing is done twice a month,

Cost to test Parole population would be $47 million.

PRISONERS

Population projections for State and local facilities indicate a prisoner population of 1 million by 1990.

Assuming that:

1. 80% (800,000) are subject to random testing;

2. A random plan tests half of the inmate population (400,000) at four unannounced times a year,

Cost of a random testing plan would be $24 million.

Mr. DOLE. Mr. President, further, I want to inform the body that I filed an amendment to the bill yesterday which would clearly state that the ability of State and local governments to pay for the testing would be taken into account in the drafting of the drug-testing regulations.

But, we do need the information which would result from this testing. We need to know how much drug use contributes to crime, how much drug use exists in prisons and jails, whether drug use is prevalent among those who are released on probation or parole. It seems to me it certainly is a legitimate question, and we ought to be getting information.

Quite frankly, we should take action against those who test negative, as is required by the bill. For example, if a convicted felon is found to be using drugs while in prison, I would suggest that he is probably not the best candidate for parole.

I do not believe anyone can disagree that this provision is an essential component in our coordinated efforts to fight drug supply and abuse. The Congress called for the drug strategy, the administration provided a solid blueprint for the war on drugs, and it's now time for the Congress to complete the circle by approving the remaining legislative initiative.

Much depends on what happens in the Congress on the other four initiatives. I know that my colleagues in the Senate who supported those initiatives will do everything they can to prevail in the conference with the House.

Finally, Mr. President, the agreement entered on the Transportation appropriations bill also provides for consideration of the President's crime bill before we adjourn. As with this provision, if we are serious about combating drug abuse and other crime in our country, we must give the police, prosecutors, and the courts the necessary nonmoney tools they are demanding.

The death penalty, habeas corpus reform, and a good-faith exemption to the exclusionary rule would certainly be a good place to start. We have demonstrated that we can spend money on the problem. It is now time to prove that we can address the other parts of the package. That is why I think this particular amendment, though we certainly cannot test everyone, is important. It should be considered; it should be adopted. I am pleased to introduce the bill for the administration and I did, as I said, introduce an amendment to clarify questions raised by Members on each side as to whether or not everyone should be tested.

Mr. President, I would say, I have contacted Senator HATCH who will manage this bill on the Republican side and hopefully we can move forward. I know the majority leader has a very heavy schedule this week. At 12:15, there will be a cloture vote on another matter that is pending before the Senate, and this afternoon we are off on a nomination. So we would like to complete some action on this particular bill yet this morning.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KOHL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Ohio [Mr. METZENBAUM] is recognized.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senate go into morning business for a period not to exceed 10 minutes in order that the Senator from Ohio might address himself to the matter before us, the cloture motion, on which I did not get a chance to speak on Friday.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Ohio [Mr. METZENBAUM] is recognized for not to exceed 10 minutes.

INVESTIGATION OF EASTERN AIRLINES DISPUTE

Mr. METZENBAUM. Mr. President, I rise in strong support of the amendment to create a blue ribbon commission to investigate the labor dispute at Eastern Airlines.

I believe we are witnessing the demise of what was once one of America's greatest airlines. We must take action to help resolve this bitter labor dispute before it is too late.

Frankly, I believe appointment of a Presidential emergency board is the correct response to this situation. I am not alone in that belief. For over 60 years, the proper response under the Railway Labor Act for resolving labor disputes has been to create an emergency board. In fact, the Reagan-Bush administration created 11 emergency boards.

I reiterated my position in an August 10 letter to President Bush urging the President to reconsider his initial opposition to such an emergency board.

I ask unanimous consent that a copy of my letter to President Bush be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 10, 1989.

Hon. GEORGE BUSH,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I have watched with growing concern the events at Eastern Air Lines. We are witnessing the demise of what once was one of America's greatest airlines. I believe it is imperative that you take action to help resolve this troubling situation before it is too late.

Eastern and its employees have been locked in a bitter labor dispute for over two years. Earlier this year, you declined to authorize the creation of a Presidential Emergency Board to avoid a work stoppage and help mediate a resolution to the dispute. I strongly believed then, as I do now, that a Presidential Emergency Board would have been the correct response to the situation.

Within days after Eastern stopped flying, the airline filed for bankruptcy. Since that time, Eastern's lucrative shuttle service has been sold, and other portions of the airline may be sold off on a piecemeal basis. These developments are in addition to the sale of many valuable assets prior to the commencement of the work stoppage. I fear that many industry observers are correct in saying that Eastern is heading toward complete liquidation. The elimination of one of America's major airlines has profound implications for competition in the industry, for the employees of the airline, and for the travelling public.

Significantly, many concerns have been raised about public safety now that Eastern has begun to hire and train new pilots for its aircraft. I am concerned that safety may be compromised as Eastern increasingly schedules flights operated by inexperienced crews.

I believe it is incumbent upon your Administration to show leadership in resolving this longstanding dispute. I strongly urge you to reconsider your initial opposition to an emergency board and to order the immediate formation of such a board. It is not too late to save Eastern, but time is running out. If you are not willing to reconsider your position on the emergency board, at the very least I urge you to form a cabinet-level task force to review the situation at Eastern, particularly with regard to public safety, the financial soundness of the proposed reorganization plans, the implications to competition in the industry, and the effects on Eastern's employees. The American public deserves to know that its safety and interests are being protected. I urge you to act promptly.

I hope to hear from you concerning this matter at your earliest convenience.

Very sincerely yours,

HOWARD M. METZENBAUM,
Chairman, Subcommittee on Labor.

Mr. METZENBAUM. It is now obvious that the President will not appoint an emergency board. It is now obvious that unless the Congress takes action, the President is content to do nothing while the families of 30,000 Eastern workers continue to suffer.

That is not right. It is the obligation of those of us concerned about the economy of this country, concerned about the families of this country who are involved in this labor dispute to allow a Presidential emergency board an opportunity to speak on the subject.

Unfortunately, the President is willing to allow a major disruption of commerce and dramatically reduced air service for dozens of cities in this country. He will sit back comfortably in Air Force One while American consumers juggle their travel plans; try to collect prepaid fares from the bankruptcy court; and worry about flying on the new Eastern with inexperienced flight and ground crews.

I am proud to say that last month I walked the picket line with Eastern employees at the Hopkins Airport in Cleveland—employees who are pilots, employees who are machinists. I urge every Member of this body to go to a picket line to talk to the workers and to learn from them about their concerns and why they still are on strike. These men and women are loyal, dedicated employees. They have devoted their lives to Eastern. They want to go back to work, but they want to be treated fairly.

As recently as the last 24 hours, I was talking with somebody who told me about an Eastern Airlines pilot who had given so much of himself to this company. He was is a position to get the top position in the cabin but did not want to go back to work under these circumstances.

But the current Eastern management, led by one of America's worst aviation buccaneers—Mr. Frank Lorenzo—is not interested in running a profitable airline. He is not interested in being fair to his employees. Frankly, he has been a dismal failure in running airlines in this country. Mr. Lorenzo is more interested in shifting assets, upstreaming cash, and busting unions.

Let us look at the record. In 1982, Mr. Lorenzo bought Continental Airlines. Within a year he had forced Continental into bankruptcy, and under protection of the bankruptcy court he canceled valid union contracts and hired low-wage, nonunion replacements. Now, 6 years later, Continental has the lowest wage structure in the industry, and it still has been swimming in a sea of red ink. This is at the same time that highly unionized airlines like United and American and USAir are making record profits. In 1986, Mr. Lorenzo bought People Express and Frontier Airlines.

I remember when I was with my wife in the lobby trying to get on a People Express plane, and it was like a mob scene; people were so anxious to fly with People Express. They offered cheap rates. But Mr. Lorenzo ran that airline so poorly and caused so much disruption in the lives of American people that they turned their backs on him, and there is no longer a People Express Airline.

He eliminated People Express Airline, he eliminated Frontier Airlines. What did he do? He alienated the employees and folded the assets into his giant holding company.

History is repeating itself at Eastern. Lorenzo bought the airline in 1986 and last March it had 30,000 employees. Lorenzo took the airline into bankruptcy after he was unwilling to agree to binding arbitration to resolve the labor dispute. I came out of a situation in my own home community where I had represented labor unions, where I had been a part of management as well, where I had been on the other side with respect to labor, and in many instances arbitration was the answer. So often it is in today's workplace.

But Mr. Lorenzo did not want to go into arbitration. He did not want to resolve the dispute. No. He wanted to go into bankruptcy and use it again to bust the union. The bankruptcy rules have been changed to prevent the abuses of the Continental bankruptcy, but that has not stopped Mr. Lorenzo. He and his hired guns are trying to manipulate those new rules to reach the same result—bust the union and hire low-wage replacements.

The new Eastern has some 15,000 employees. The new Eastern is losing millions of dollars a day. The new Eastern is really the old Continental. Eastern is now leasing 29 Continental planes and crews at $1 million per month per airplane, which is higher than the industry leasing cost. But that should not surprise anyone. Lorenzo has been transferring assets and cash from Eastern to Continental for years. It is not just my assessment. That is according to the Wall Street Journal in an article about Mr. Lorenzo's "house of mirrors."

I ask unanimous consent that a copy of that article be printed in the RECORD at the conclusion of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. METZENBAUM. The article is very interesting and very telling. It documents transaction after transaction where valuable assets like a reservation system or airport gates or cash are drained from Eastern for the benefit of some other unit in the Lorenzo corporate maze.

Given this history, I have great concern that we are about to lose Eastern as a viable airline. And I am not just concerned about Eastern. I held hearings in the Judiciary Committee on the corporate structure of the airline industry. Eastern is not the only air-

line built upon a corporate house of mirrors. Just a few days ago Braniff filed for bankruptcy for a second time. Since we enacted airline deregulation in 1978, 78 air carriers have filed for bankruptcy.

Let me repeat that. In the last 11 years, since we deregulated the airline industry, 78 air carriers have filed for bankruptcy.

The American people today do not have a choice with respect to flying this airline or that airline. It is no longer a competitive industry. We cannot afford to lose another airline. That is why I believe we should create this blue ribbon commission. The proposed commission would be bipartisan. It would review the current Eastern dispute, but it would also study the entire airline industry. Within 45 days the commission would report back to us with recommendations on how to resolve this dispute and how to protect the traveling public from disruptions in airline service.

No one would be bound by those recommendations. But the recommendations may be helpful. They may bring the parties together. The commission is the least we can do to help workers and the traveling public.

I hope my colleagues in this body will see fit to allow this debate to come to a conclusion. There really is no debate. Nobody is coming out here opposing it. So the opportunity to invoke cloture means that it would be an up or down vote with respect to whether or not there should be a commission.

I think every right-thinking person has to agree that no useful purpose is served to the Nation or to the people of this country, by prolonging the debate. It certainly would not benefit the workers—the machinists, the pilots and the flight attendants—who are giving up their jobs while they are fighting to hold onto their jobs, giving up income while they are holding on, while fighting for their jobs.

I think in fairness we should invoke cloture. I think in fairness we should enact this legislation. I believe we owe nothing less to the workers at Eastern Airlines who have indicated their strong commitment to want to work at a decent wage, and under decent working conditions. I believe we owe it to them and, yes, we owe it to the American people that we go forward and enact this legislation today.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Ohio makes a point of no quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I have just addressed myself to the pending Eastern Airlines strike, and I alluded to the fact that since deregulation 78 airlines have gone into bankruptcy. I think it is time for us to reregulate the airline industry.

I am frank to admit on this floor that when this whole push toward deregulation was in effect, when we were talking about it, I was one of those who was very much in favor of breaking up AT&T. I thought that would provide for free competition. I have to admit publicly that is probably the worst decision I have made in my life. It has been a fiasco since then. It worked well before. The prices were lower. There was regulation, and the American people were getting good telephone service at reasonable rates.

We deregulated the airline industry. I thought that was a great idea. But I was wrong, and so were many others in this body—as well as many who have left this body. We made a mistake. It is time to bring back some regulation in the airline industry. You would not have 78 airlines who have gone bankrupt at this point, if that were the case. You have to provide some help and assistance. What you now have is a situation where an airline comes along, a stronger airline cuts its rates, gives better service, and drives out the little company. The little company closes its doors. Then the bigger company cuts back on its services, raises the rates, and the American people pay the price.

I believe that it is time now, not 6 months from now, not 2 years from now, for the U.S. Congress to enact legislation providing for reregulation of the airline industry.

I am frank to say that although I do not have a bill drafted at this point, I am confident there are others in this body who will be prepared to join me in urging the Commerce Committee to conduct prompt hearings with respect to the subject of reregulation. We cannot do less. Ask any one of the Members of this body who flies to his or her home, "Are you getting the quality of service that you used to get?" Look at the rates you pay. You can fly for a lesser amount all the way across the country from New York to Los Angeles, where there is some competition, than you can from Washington to a place like Nashville or to a place like Charleston, WV, or Columbus, OH, because there is no competition there. You have to hope that you can find an airline that will be going at a convenient hour of the day.

If we had the temerity, if we had the judgment in yesteryear to deregulate this industry, then we ought to publicly admit our wrong, and we ought to publicly come forward and support legislation to reregulate the industry.

I will be working, and hopefully, I will be able to obtain the support and assistance of such distinguished Senators as my colleague from West Virginia, who is in the presiding chair at the moment, and possibly my friend from Wisconsin, Senator KOHL. I believe this is the kind of legislation we need. I will work on it promptly, and I will introduce legislation to that effect.

I have a hunch that I will find more of my colleagues ready to support me on this bill than maybe many of the others that I have seen fit to introduce in the past.

I yield the floor.

EXHIBIT 1

[From the Wall Street Journal, Apr. 7, 1988]

HOUSE OF MIRRORS: LORENZO'S TEXAS AIR KEEPS COLLECTING FEES FROM AIRLINE UNITS THAT HAVE CONTINUING LOSSES

(By Thomas Petzinger, Jr. and Paulette Thomas)

HOUSTON.—Imagine a house of many rooms.

Every room has a paying tenant. A bank can foreclose on an individual room, but not on the whole house. The landlord has many partners, but no one can challenge his management of the property.

This is the house that Frank Lorenzo built.

As the chairman of Texas Air Corp., Mr. Lorenzo presides over some of the nation's sickest airlines—Continental, Eastern, the corporate remnants of People Express, Frontier and New York Air. All are losing money at some of the fastest rates in aviation history and rank as the industry's biggest debtors. As such, they are blocked by their lenders from paying profit to the parent company for years.

Yet thanks to Mr. Lorenzo's masterly corporate architecture, huge losses at subsidiaries don't stop cash from moving to the top. While the airlines' public debt holders anxiously watch the deficits close in on half a billion dollars, the parent company keeps raking in from the airlines an assortment of management fees, airplane rents, airportgate rents, fuel-purchase commissions and other payments. "Upstreaming" of cash, company officials call this, and it totaled more than $150 million for the parent last year.

Perhaps most remarkable, Mr. Lorenzo has built one of the most leveraged major corporations in the nation while insulating Texas Air—and himself—from most of the cost and much of the risk. As a group, the Texas Air companies have piled up $5.4 billion in debt. Last year they had to pay $623 million simply to service the long-term part of that debt—an interest bill higher than the annual revenue of each of nearly 100 companies at the bottom of the Fortune 500. Yet parent Texas Air paid creditors barely one-tenth that amount.

REPORTS TO SEC

Now, reports filed with the Securities and Exchange Commission show how far the airlines have to go. The reports, among other things, list some $7 billion in lease-related liabilities that are invisible on the balance sheet, and they show that Texas Air's once-huge cash reserves were dwindling last year at a rate of more than $1 million a day. The situation is not without irony; the entire Texas Air empire, after a year that

produced the company's biggest net loss ever—$466 million—has just won its first unqualified auditors' opinion in five years.

All this may make the 47-year-old Mr. Lorenzo the quintessential manager-on-the-edge—a live practitioner of the concept that cash flow is more important than profits. Fighting a war of attrition against the losses at this ailing airlines, he buys time with a seemingly foolproof trickle-up system. If he eventually wins the war—curbs Eastern's costs and fixes Continental's service problems—his airlines, with their exceptional size and market dominance, may become for him a kind of mass-production profit machine.

Should he fail, well, the parent company could be hurt, yet it would be almost sure to remain standing. For by financing the operation so piecemeal and by draping it with so many corporate veils, Mr. Lorenzo has left most of the leverage to himself—and not to airline creditors. Mr. Lorenzo, though his personal investment is virtually nil, preserves voting control with corporate defenses that make poison pills look like penny candy.

SCRIP AND DEBT

Mr. Lorenzo declined to be interviewed, although a Texas Air spokesman responded to a list of written questions. The company has always maintained that it conducts internal transactions at arm's length, and that its overriding goal is to build profitable airlines. Texas Air, however—viewed solely as a parent company, segregated from the consolidated empire that reports financial results—ran a "modest" profit in 1987, the spokesman said.

This is a company in which internal transactions worth hundreds of millions of dollars have been conducted with house money, securities labeled "scrip." At the same time, with 24 issues of publicly traded securities listed on U.S. exchanges, Mr. Lorenzo treats the financing markets like drive-up teller windows. In one of many private placements, Eastern, desperate for $200 million in cash, last month agreed to pay 17.25%, or more than twice the prime rate.

Partly by happenstance, partly by design, Mr. Lorenzo has created one of the nation's most complex major corporations. "It took me months to figure this company out," says Richard Bilotti, who worked on Texas Air's first junk-bond issue at Kidder, Peabody & Co. and who now follows the company as a junk-bond analyst for Prudential-Bache Securities Inc. "I've opened Texas Air annual reports and documents and thought, 'I'm going to become a TV repairman.' "

But within the units, crisis seems to follow upon crisis. The reports to the SEC last week—"10K" filings by Texas Air, Continental, Eastern and the surviving corporate shell of People Express—spell out the problems. The parent's report lists six pages of litigation and even a 130-sponsor congressional resolution demanding a federal investigation of Texas Air's affairs.

At Eastern, executives worry that lenders could repossess assets if a threatened strike takes hold. At Continental, officials expect further big losses for the first quarter, partly from the cost of overcoming continuing customer service problems. The reports tell how New York Air temporarily slipped into default on one lending agreement. And they show how the net worth of the entire enterprise—the largest airline operation in the noncommunist world—sank 38% last year, to just $500 million.

Mr. Lorenzo keeps the enterprise going with techniques that range from the iron fist to the velvet glove. After cutting a deal to acquire People Express in 1986, he twice forced debt holders to accept reduced terms. Yet a few years ago, at a presentation to Standard & Poor's Corp., he slipped his arm around the shoulders of a ratings agent, quietly pleading for a bond rating better than triple-C.

To Mr. Lorenzo's critics, the structure of Texas Air is a blueprint for greed—designed by Mr. Lorenzo and a few close associates "to satisfy their own selfish desire," as the public debt holders of Continental once alleged in a lawsuit; "to destroy trade-union representation," as the machinists' union claims in a suit filed this month; or to "loot Eastern for the benefit of Texas Air," as the pilots' union charges in another suit.

But if Mr. Lorenzo is intent on personal enrichment, it isn't evident from his operations to date. He does draw a $1,000-a-day salary, has profited nicely from personal transactions with the company and has traded Texas Air shares in the market adroitly. But he has hardly accumulated the kind of wealth available to most executives who personally control $8 billion-a-year enterprises, Mr. Lorenzo gets his jollies running marathons rather than collecting antique cars or European guest houses.

The exotic structure of the enterprise, has, however, given him the chance to earn a little more than mad money.

Mr. Lorenzo maintains control of the empire through a special class of supervoting stock held by his flyspeck personal holding company, Jet Capital Corp. With only 1% of the equity of Texas Air, it has 34% voting control. The investment company, which shares its headquarters and telephone number with Texas Air's New York office, also invests jointly with Texas Air and conducts other activities in whose spoils Mr. Lorenzo shares as Jet Capital's 52% shareholder.

The way Eastern Airlines has been treated in a few transactions is worth a look. For instance, according to Texas Air's SEC filing last week. Jet Capital arranged a $1.25 million fee for itself for advising Texas Air on its recent plan to shift ownership of Eastern's East Coast shuttle to a new Texas Air subsidiary for $225 million. In exchange for its role in "structuring" the transaction through a chain of five corporations, Jet Capital was also awarded an equity interest in the new unit.

Jet Capital, alas, may receive only part of its fee and may never receive its equity stake. For at the behest of Eastern's union leaders, a federal judge last month put the brakes on Mr. Lorenzo's efforts to continually reconfigure Texas Air, temporarily blocking the shuttle sale as a violation of Eastern's labor agreements.

Ever since acquiring debt-plagued Eastern 16 months ago, Mr. Lorenzo has been carving up the airline to bring Eastern's few profitable operations closer to home. It began with Eastern's computer-reservations subsidiaries, System One Direct Access Inc. and EAL Automation Systems Inc., which in 1986 generated $255 million in cash. The units' profits however, merely subsidized Eastern's huge overall deficits.

Eastern's own investment bankers had valued part of the system at between $200 million and $320 million. But Texas Air paid Eastern just $100 million for the whole works—and not in cash but in a note bearing interest of only 6.5%, payable in 2001.

CONVERTIBLE INTO STOCK

"If one were creating junk, this would be at the bottom of the barrel," says Farrell Kupersmith, a senior partner in the accounting firm of Touche, Ross & Co. Today, Mr. Kupersmith advises the pilots' union at Eastern, but when Continental went through bankruptcy proceedings in the mid-1980s, he testified against the unions. Explaining his switch in sides, the accounting executive says, "We have a pro-business bias, but the system here is being abused."

Texas Air justified the terms of the transaction with the fairness opinion of an investment banking firm. These are no mere 6.5% notes, after all. Eastern can convert them into, of all things, the common stock of its parent company; of course, for Eastern to do so profitably. Texas Air's shares would have to be worth more than their all-time high of $51.50 apiece, according to calculations by Touche Ross. They trade at about $12 now.

Eastern explains the sale of the reservations system by noting that only the parent company had the wherewithal to upgrade its software and set System One on an expansion binge. Texas Air combined the former Eastern unit with CCS Automation System Inc., a system it had picked up from Continental a year earlier for $15 million. As a direct unit of Texas Air, it has become the third-ranked and fastest-growing reservation system in the all-important travel-agent market.

But today, System One draws funds from Continental and Eastern that the airlines used to pay to themselves. These include a fee of $1.65 for every airline reservation plus other fees, payments that total about $130 million a year in Eastern's case alone. A Texas Air spokesman declines to say what income, if any, the parent company is drawing from this flourishing new unit. But neither do the financial statements reveal any injection of capital by the parent. In the true style of a Texas Air unit, System One has accumulated $64 million of its own debt.

IONOSPHERE CLUB

Other assets and operations have been switched out of Eastern. For instance, it sold 11 gates at Newark International Airport to Continental for $11 million—in a promissory note paying 10% interest. Yet Eastern sold eight gates and related facilities in the smaller market of Charlotte, N.C., to Piedmont Aviation for $25 million. Eastern explains that the gates in Charlotte were especially valuable to Piedmont because its hub is there, and says the price paid Continental squares with other Newark gate sales.

Eastern has suspended nonstop service from its hometown of Miami to London and on more than a dozen other routes; Continental later began service on the same routes. A new unit has been created to hold Eastern's chain of members-only Ionosphere Clubs—a sure sign, Eastern's unions contend, that they, too, will be moved to Continental. Eastern says it merely wanted to segregate the profitable club chain from the airline's problems.

"Eastern's new management team is in the business of running an airline, not dismantling it," the company says in a position paper recently distributed on Capitol Hill. Until labor costs are slashed and losses reversed, the company adds, "it should not surprise anyone that the company is smaller."

If Texas Air's planes and gates and reservation systems are structured like a modular

home, with movable walls for maximum flexibility, its finances seem more like a hall of mirrors.

New York Air assumed nearly $50 million of debt in the failed Frontier Airlines subsidiary of the nearly failed People Express—but the debt was also guaranteed by Texas Air. Eastern, though desperate for cash, paid Texas Air $25 million—"for investment purposes"—in exchange for notes in People Express. (The notes yield 20%, a Texas Air spokesman says.)

When Continental bought 50% of Bar Harbor Airways, a commuter that feeds passengers to Eastern, the apparently grateful Eastern paid Continental a fee of $1 million—although the whole sale was worth only $1.5 million.

Then there are the leases. People express's SEC filing described one of these succinctly, if not necessarily simply: The lease, involving a Boeing 747 worth $30 million, was "sold by the lessor in a sale and leaseback transaction pursuant to which the aircraft was leased to a special-purpose subsidiary of Texas Air and simultaneously subleased to the airline under an operating lease agreement."

At the operating level, such day-to-day dealings can go over the heads of even top executives. Michael Levine, a Yale Law School professor who served as president of Mr. Lorenzo's once-promising New York Air unit, always tried to make sure that the unit's public shareholders were treated fairly in transactions which Texas Air—as, he says, they were. "Other than that," he adds, "it wasn't a concern of mine how many layers it came through."

PAINT JOB

Much of Texas Air's complexity happened by accident—or by circumstance, at least. Though its planes were repainted in Continental colors. People Express remains a separate entity, an arrangement that, among others things, helps shield the rest of the empire from huge litigation claims. Frontier Airlines, though also a Continental unit, remains in Chapter 11 proceedings, which began just before its acquisition by Texas Air. Mr. Lorenzo created Texas Air Leasing so that Continental, which underwent its own bankruptcy reorganization from 1983 to 1986, could launch a feverish expansion—leasing planes from Texas Air rather than trying to acquire them on its own.

Tax matters, too, drive much of Texas Air's complexity, even though as a big money-loser "Texas Air is not a taxpayer on a consolidated basis under any circumstances," as one of the company's investment bankers puts it. The company's $7 billion in off-books liabilities consist of long-term rent payments for planes that Texas Air might otherwise own; renting them enables some profitable owner to take depreciation deductions and share the savings with Texas Air. And because the units have lost such stunning sums, dissolving their corporate identities would forfeit a windfall of future tax benefits, assuming they ever have profits to shelter.

Finally, Texas Air's financing has left Mr. Lorenzo some breathing room to wage his cost war with organized labor and to attack his operating problems. For this year and next, long-term debt will mature at a rate of only about $300 million a year; by 1992, the cost will have climbed to more than $500 million. And while the whole empire's debt-service costs have risen 485% in the past three years, the parent's debt-service cost has remained steady or declined slightly, without giving effect to relatively small preferred-dividend payments.

Thus, in 1988, Texas Air needs only in "upstream" $83.7 million to meet its obligations to debt holders, preferred shareholders and aircraft lessor. And while the company won't disclose how much money it expects to take in from units, it is clear the parent will be well provided for.

Eastern and Continental burned an estimated 2.5 billion gallons of fuel last year. For efficiency's sake, a single unit, Texas Air Fuel Management Inc., supplied the fuel—but it collected a penny a gallon from the airlines for doing so. Continental currently pays Texas Air more than $9 million a month in rent for 51 aircraft and 21 gates. Management fees and debt-guarantee fees totaled an estimated $32 million last year. This grand total, not counting any income from the plum reservations unit, gains on cash investments or any undisclosed income: about $150 million.

Even that won't be enough when the company, in 1990, has to begin paying off the huge debt issues that financed its pellmell growth. But so far, nobody at Texas Air seems to be panicking.

"At some point," says Robert Snedeker, senior vice president and treasurer, "we would anticipate it would be appropriate to look for something beyond breaking even."

Mrs. KASSEBAUM. Mr. President, I rise today to express my concern not only for the plight of Eastern Airlines and its striking employees but also for what appears to be an increasingly ominous trend in the airline industry as a whole. The current climate of increased industry concentration through mergers and acquisitions raises serious questions about the future of the commercial airline industry. The recent bankruptcy filing by Braniff Airlines further emphasizes the urgent need for an examination of the broader public policy issues affecting the entire industry.

While I would support efforts by a blue ribbon commission to examine the current competitive structure of the deregulated airline industry, I have reservations about the proposed legislation. I am certainly sympathetic to the very real hardships suffered by the many striking employees of Eastern. But I am hesitant, absent a national emergency, to involve Congress in a pending labor dispute. I believe it would create an incentive in the future for unions or employers to look to Congress to settle their disputes. For this reason, it would be unwise for any proposed blue ribbon commission to address the specific problems faced only by Eastern airlines.

Instead, I would support the establishment of a blue ribbon panel that would investigate and make recommendations to Congress on the broader, far-reaching problems faced by the entire industry. Increased industry concentration, the recent takeover fever, and greater foreign investment are just a few of the problems that need to be addressed immediately.

Mr. President, I support the motion to invoke cloture, because I believe it will require us to reach an immediate resolution of this important issue and will afford us the opportunity to consider alternatives in reaching that resolutions. Too many lives are affected, both employees and travelers alike, to set this problem aside.

Mr. GORTON. Mr. President, today the Senate is considering a petition filed by the distinguished majority leader to allow the Senate to begin debate on a substitute to H.R. 1231, dealing with the strike at Eastern Airlines. I must oppose this motion for several reasons.

First, the strike at Eastern Airlines began over 7 months ago. Prolonged labor disputes are always painful for employees' families and this strike has certainly taken its toll on many. I recognize that many have suffered, and I sympathize with those families for their losses. Nonetheless, we should not lose sight of the fact that this is a private labor dispute and that a system for resolving that dispute is taking place as we speak today.

For over a year and a half before the strike at Eastern last March, the National Mediation Board attempted to resolve the single labor dispute which led to the strike. They were unsuccessful. Last April, the bankruptcy court appointed an examiner to look into Eastern's financial situation and deal with its labor problems. This process continues today.

The substitute to H.R. 1231 seeks to establish a three-member commission—one member appointed by the House of Representatives, one by the U.S. Senate, and one person by the Department of Transportation. These three people would be asked not only to make recommendations on the Eastern dispute, but also to look into a broad range of airline policy issues including concentration in the industry, treatment of airline employees in bankruptcy proceedings, foreign ownership of airlines, and hiring replacement workers during a strike.

Mr. President, Congress has in place a more appropriate forum to study and act on overall airline matters; I commend my colleagues on the Aviation Subcommittee of the Commerce Committee, who have already held hearings on several of these issues. These are important issues worthy of a good deal of attention. Let us not short-change their importance by directing three people to attempt to acquire the kind of expertise necessary to make policy recommendations in these areas in only 45 days.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Ohio makes the point of no quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I ask unanimous consent that I might proceed for 5 minutes as in morning business.

The PRESIDENT pro tempore. Without objection, the Senator from Missouri may proceed out of order for not to exceed 5 minutes.

ACID RAIN LEGISLATION

Mr. DANFORTH. Mr. President, today the Environment and Public Works Committee begins hearings on legislation to control acid rain. There is no question that acid rain is a serious problem. Every effort must be made to find a sensible solution.

As we look for the answer, we must recognize that solving the acid rain problem imposes costs. The issue is not whether those costs should be incurred—surely they should be. The issue is how to distribute the cost in the fairest and most reasonable manner.

I believe the best solution should be cost effective; that is, it should substantially reduce the amount of acid rain at the least possible cost. It would be foolish to reduce acid rain from every source. That would be very expensive and wasteful. Instead we should target those powerplants that can achieve the greatest reductions most economically. Both the President's bill and the Mitchell-Baucus proposal use a targeting strategy. Unfortunately they also require nine States in the Midwest, including Missouri, to bear a disproportionate share of the cost of the program. Targeting is the best approach, but it should be fair to those States that are targeted. Acid rain is not a product of nine States alone. It is a national problem that requires a national solution.

Sharing the cost nationally is not a radical demand. We have used it to build hydroelectric dams in the Tennessee Valley and in the Pacific Northwest. We have used it through the Superfund to pay for the cleanup of hazardous waste. The same principle should apply to acid rain.

Absent cost-sharing, Midwestern States like Missouri will face steep increases in electricity rates, perhaps as much as 20 percent. Our residential consumers, especially those on fixed incomes, will be hurt. Our industries will see their competitiveness eroded by the higher prices they will have to pay for electricity.

Mr. President, it is time to solve the acid rain problem. I think the will now exists in Congress to do what we have been unable to do in the past. But let us not allow this momentum to turn one region of the country against another. Let us deal with acid rain as a national problem with a national solution.

Mr. President, today the Committee on Environment and Public Works begins hearings on legislation to control the problem of acid rain. Acid rain is indeed a serious national and international problem, and I support efforts to find a solution to it. But I think it is important to recognize that acid rain legislation will have effects beyond environmental policy. Because acid rain legislation will affect how our public utilities may generate electricity and the cost of this electricity, any solution to the acid rain problem will by necessity impact on our national energy policy and the ability of American businesses to remain competitive internationally. I urge the Environment Committee to keep these policy implications in mind as they consider proposed acid rain legislation.

From the perspective of our national energy policy, I think it is important that acid rain legislation provide for flexibility. Utilities and local regulators must be allowed to choose how best to comply with the new emissions requirements, whether through traditional or innovative clean coal technology, fuel switching, conservation, or some combination of these options. So long as the required emission reductions are met, no particular source of power or method of generation should be favored.

This principle of flexibility should also apply to the administrative structure of any acid rain reduction program. We must ensure that the environmental regulations created by this legislation take into account the real world of power generation by public utilities. For example, provision must be made for fluctuations in energy demand caused by uncontrollable factors like extreme weather conditions. In order to accommodate local and regional variations, an emissions trading system like that proposed by the President should also be incorporated to ensure flexibility.

We must also take in account the economic impact of acid rain controls. I believe that the best solution to the acid rain problem is one that poses the least overall cost to the economy. Rather than making costly incremental reductions in emissions at every source, our efforts should be targeted at those powerplants that can achieve the greatest reductions most economically. Under both the President's bill and the recently announced proposal by Senators MITCHELL and BAUCUS, this means nine States in the Midwest will bear a disproportionate share of the cost of the Acid Rain Program. While I agree that it is appropriate to focus our efforts on a few powerplants in a few States for reasons of cost-effectiveness, fairness dictates that the cost of this cleanup be shared on a national basis. Acid rain is not the product of nine States alone. It is a national problem that requires a national solution.

Mr. President, cost-sharing is not a radical demand. In fact, a system of national cost-sharing has long been a traditional element of both our national energy and environmental policies. We have built hydroelectric dams in the Tennessee Valley and in the Pacific Northwest at Federal expense. We created the Superfund to provide a national pool of funds to pay for the cleanup of hazardous waste. The same principle would apply to the problem of acid rain.

Without cost-sharing, Midwestern States like Missouri will face steep increases in electricity rates. Studies suggest that under the President's proposal electricity bills in Missouri could go up by as much as 20 percent. The impact of these rate increases on residential consumers, especially those on fixed incomes, is obvious. What might not be so obvious is the impact of such rate shocks on our industrial competitiveness.

The very States that would be hardest hit under proposed acid rain legislation are those States that have provided much of the traditional industrial base of our economy. Significant increases in energy costs will make it that much more difficult for U.S. businesses to compete with foreign businesses that are not forced to bear such costs alone. This economic impact will hurt not just the Midwest, but our entire national economy.

Mr. President, acid rain is indeed a serious national problem. I for one would like to see legislation to put this problem behind us. For too long the debate over acid rain has only divided regions of this country, allowing our precious national resources to be further damaged. It is time to take action. I commend the efforts of the President, the majority leader and the chairman of the Environmental Subcommittee for putting forth positive proposals to solve this problem. But much work remains to be done. I look forward to working with them to craft a truly national solution to this most important national problem.

Mr. President, I thank the Chair and I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Missouri notes the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FOWLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Georgia.

Mr. FOWLER. Mr. President, I ask unanimous consent that I may be al-

lowed to speak for 10 minutes out of order as if in morning business.

The PRESIDENT pro tempore. Without objection, the Senator from Georgia [Mr. FOWLER] is recognized for not to exceed 10 minutes to speak out of order.

IN MEMORY OF A. BARTLETT GIAMATTI

Mr. FOWLER. Mr. President, it is with a mixture of sorrow and pleasure that I rise to pay tribute to the late A. Bartlett Giamatti, scholar, educator, family man, baseball fan, and commissioner. The sadness is self-evident because I speak in the nature of a memorial: We mourn the loss of a friend who will not walk among us again, and we will miss him.

But for anyone who knew Bart Giamatti—and I had the pleasure and privilege of getting to know him only in the last 2 years—this is a time of great celebration as well. For we are coming to the end of a memorable baseball season with the league championship games this evening and the World Series just ahead. And as our Nation's No. 1 fan, baseball fan, Bart Giamatti would have loved it, and indeed he did love it for the entirety of his all too brief life as baseball's commissioner.

Mr. President, I must tell you what a baseball season we have had.

Kevin Mitchell's bold attempt to become the only player to hit 50 home runs in a single season during this decade; the great Mike Schmidt's retirement; the inauguration of a new stadium in Toronto, Canada; the beginning of the end for the venerable Comiskey Park in Chicago; the improbable rise of the Orioles and Cubs, and the unlikely demise of the Mets and the Yankees; from the bright dawn of hope at spring training, to the crisp anticipation of four exciting pennant races as summer waned, all of which were only settled in this last week of the season. This has been a season to savor and that alone represents one of the finest and most fitting memorials to Commissioner Bart Giamatti.

Bart Giamatti's tenure as commissioner will be remembered, and properly so, for his efforts to protect the integrity of the game, and in this effort he was very much in the tradition of such distinguished predecessors as Kennesaw Mountain Landis and Bowie Kuhn. Certainly, this is the most fundamental duty of the baseball commissioner: to ensure that the game is fair, that contests are decided by honest effort on the playing field, that outcomes are honest. Without this assurance, no amount of promotion, no amount of gimmickry, no amount of chickens dressed up as men and/or men dressed up as chickens can maintain the kind of allegiance that baseball enjoys, and our national pastime would be little more in the public's mind than professional wrestling or the roller derby.

But, I believe another aspect of Mr. Giamatti's work as baseball commissioner will also stand the test of time and significance: his focus on the welfare of the fan. This concern is very evident in the following excerpt from a 1987 article he wrote for the Boston Globe.

> If you cannot park and be sure you or your car will be safe; or if you are ignored by ushers or unable to find a decent or thug-free restroom; or if you cannot watch a contest free from the constant assault of obscene language or a mindlessly insistent scoreboard, seemingly run by people who dare not let the contest speak for itself; or if your child cannot watch without passively ingesting marijuana clouds; or if there are fights in the stands and on the field or arena of play that subtly and insidiously fuel and feed off each other—then you begin to wonder why you came. As time goes on, the stands increasingly become the private preserve of the roughneck who came in order to drink too much, and for whom the contest is simply an outlet for the aggressive, ultimately antisocial, impulses that physical sports are meant to redirect into acceptable patterns.

He may have been the commissioner, the chief administrator of the great American game of baseball, but Bart Giamatti was first and foremost a fan. Listen to his own words from the same Boston Globe article I just quoted:

> Part of the purpose of going to a high school, college, or professional sports contest is to enjoy the gathering, to see and hear the crowd become a community, to cheer, to intervene vocally, to swap stories and pleasantries and opinions with those around you. It is a gathering of the tribe at one of its fundamental rituals and it is meant to provide pleasures as well as release from daily cares. It is meant to be strenuous and relaxing, a break from work, a time to pass onto the next generation lore and a way of looking at life and to teach a form of pleasure.

So all of us who consider ourselves baseball fans owe a special debt of gratitude to Bart Giamatti: He was our commissioner, not just for the owners or for the players. He knew the history of the game, the importance of its traditions, the value of its pursuit of excellence.

He also knew about its accountability for both individuals and the team. Baseball provides a true level playing field with very clear measuring sticks to characterize one's performance. There can be no dispute that Wade Boggs is an excellent hitter, or that Ozzie Smith is indeed a wizard on defense. We have not only our eyes to rely on, but cold, hard statistics to verify or refute claims of individual excellence or mediocrity.

Oh, but the Congress of the United States would reflect in this time of play office and World Series of what excellence and tradition and accountability could do for our Government.

For we are 100 individual players in the United States, but if we act as individual players, each refusing to work together as we present our programs of progress on behalf of the American people, we cannot succeed. We must ultimately work as a team, work through our committees, work through learning from each other, finding the best in what we recommend and trying to put that into coherent policy, if we are to progress as a Senate and as a Congress.

And just like a baseball team, if we rely only on individual accountability, we may dazzle with our statistics, we may dazzle with our rhetoric but we will not succeed in policies that reflect the best tradition of the people that we serve on behalf of our country.

The greatest goal for any baseball player is the World Series championship ring given to all—to all—of the players and the coaches, from superstars to scrubs who make up the championship team. And this reward is only possible through teamwork.

Baseball is the ultimate in team games with strong individual accountability. I do believe that there is a lesson here that we in Government at all levels might be able to learn.

I would be remiss if I did not end my halting words with the words of Bart Giamatti, because as all who knew him knew, he was a scholar, he was a man of learning, and his love of baseball and pursuit of excellence were reflected in the fact that he knew that without a love of learning, without a pursuit of education and scholarship, then excellence can never be truly attained in any walk of life.

Hear these words from a freshman address in September 1983:

> A liberal education rests on the supposition that our humanity is enriched by the pursuit of learning for its own sake; it is dedicated to the proposal that grows in thought, and in the power to think, increases the pleasure, breadth and value of life . . .
>
> I am puzzled . . . by the unexamined assumption that the 'real world' is always thought to lie outside or beyond the realm of education . . .
>
> There's nothing more necessary to the full, free and decent life of a person or of a people or of the human race than to free the mind by passionately and rationally exercising the mind's power to inquire freely.
>
> The joy of intellectual pursuit and the pursuit of the good and decent life are no more separable than on a fair spring day the sweet breeze is separable from the sunlight.

Finally, from his baccalaureate address at Yale in May 1985, this message to all of us who serve:

> My strong sense is that we have become increasingly divided as a people: The mutual distrust among racial and religious groups has only increased. Some say we have witnessed the licensing of personal selfishness. I believe we have further sunk into regional groups, language groups, splinter groups, special interest groups. Does the search for

identity have to result in society's decomposition? Only when Madonna sings of being a "Material Girl" do we hear an anthem that knows no cultural boundaries.

We have, as a people, recently chosen the simple version of complex problems, sought the self-conferred right to common goals, exalted the resort to direct intervention over process and the patient workings of the law. "Go ahead, make my day," has entirely replaced "Have a nice day."

The fact is, we have been pushed and poked and pawed over as much as anyone can stand, and we have been swung on the pendulum of fashion out to paradise and back to basics as much in the last 25 years as anyone wants. We have, I think cooled all the resentments, studied all the nostalgias, burnished all the envies. We are approaching satiety with bumper stickers as guides to the meaning of life.

Those who have never seen a baseball game will still remember these words and the example of excellence that his life contributed. His final gift to the game of baseball is also a reason why sorrow should not turn into despair because it was Bart Giamatti who brought Fay Vincent in as deputy commissioner, handpicked him to be his successor, though no one could have known it would be so soon.

Mr. Vincent also is a student of the game. He comes with an enviable record in business and shares the commitment of Bart Giamatti, not only to baseball in its grandest traditions, but also its commitments to the fans.

We say goodbye to Bart Giamatti. And as he might have said, as a renaissance scholar, we sometimes forget that the old English "goodbye" is a contraction for "God be with you." God be with Bart Giamatti and with us all.

I yield the floor.

The PRESIDING OFFICER. What is the will of the Senate.

Mr. FOWLER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDENT pro tempore. Under the previous order, the hour of 12:15 having arrived, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to H.R. 1231, to direct the President to establish an emergency board to investigate and report respecting the dispute between Eastern Airlines and its collective bargaining units.

ALAN CRANSTON, WENDELL FORD, JAY ROCKEFELLER, BOB GRAHAM, GEORGE MITCHELL, TIMOTHY E. WIRTH, EDWARD M. KENNEDY, KENT CONRAD, PAUL SIMON, BROCK ADAMS, ROBERT C. BYRD, ALAN J. DIXON, DANIEL K. INOUYE, CHRISTOPHER J. DODD, PATRICK LEAHY, and HOWARD M. METZENBAUM.

The PRESIDENT pro tempore. I ask that the clerk announce the names of the Senators as they vote.

CALL OF THE ROLL

The PRESIDENT pro tempore. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDENT pro tempore. The question is, Is it the sense of the Senate that debate on the motion to proceed to consideration of H.R. 1231, an act to direct the President to establish an emergency board to investigate and report respecting the dispute between Eastern Airlines and its collective bargaining units shall be brought to a close?

Under the rules, the yeas and nays are mandatory. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Michigan [Mr. RIEGLE] is necessarily absent.

I also announce that the Senator from Kentucky [Mr. FORD] is absent because of death in family.

I further announce that, if present and voting, the Senator from Michigan [Mr. RIEGLE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Mississippi [Mr. LOTT] is necessarily absent.

The yeas and nays resulted—yeas 61, nays 36, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—61

Adams	Glenn	Mikulski
Baucus	Gore	Mitchell
Bentsen	Graham	Moynihan
Biden	Harkin	Nunn
Bingaman	Hatfield	Packwood
Boren	Heflin	Pell
Bradley	Heinz	Pryor
Breaux	Inouye	Reid
Bryan	Jeffords	Robb
Bumpers	Johnston	Rockefeller
Burdick	Kassebaum	Rudman
Byrd	Kennedy	Sanford
Conrad	Kerrey	Sarbanes
Cranston	Kerry	Sasser
D'Amato	Kohl	Shelby
Daschle	Lautenberg	Simon
DeConcini	Leahy	Specter
Dixon	Levin	Stevens
Dodd	Lieberman	Wirth
Exon	Matsunaga	
Fowler	Metzenbaum	

NAYS—36

Armstrong	Cohen	Gramm
Bond	Danforth	Grassley
Boschwitz	Dole	Hatch
Burns	Domenici	Helms
Chafee	Durenberger	Hollings
Coats	Garn	Humphrey
Cochran	Gorton	Kasten
Lugar	Murkowski	Symms
Mack	Nickles	Thurmond
McCain	Pressler	Wallop
McClure	Roth	Warner
McConnell	Simpson	Wilson

NOT VOTING—3

Ford	Lott	Riegle

The PRESIDENT pro tempore. On this vote, the yeas are 61, the nays are 36. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion to invoke cloture has been agreed to.

RECESS UNTIL 2:15 P.M.

The PRESIDENT pro tempore. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m. today.

Thereupon, the Senate, at 12:40 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the President pro tempore.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The PRESIDENT pro tempore. The hour of 2:15 p.m. having arrived, the Senate, under the previous order, will return to executive session to resume the debate on the nomination of Joseph Zappala to be Ambassador to Spain.

The nomination will be stated.

DEPARTMENT OF STATE

The assistant legislative clerk read the nomination of Joseph Zappala, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Spain.

The Senate resumed consideration of the nomination.

The PRESIDENT pro tempore. The Senator from Maryland [Mr. SARBANES].

Mr. SARBANES. Mr. President, yesterday we had an extended debate on the nomination of Mr. Zappala to be the Ambassador to Spain. I will now resume this debate with the expectation that later today we will be going to a vote on Mr. Zappala.

Time is not controlled so that any Members who may wish to speak on this matter will have a chance now, in the course of the time now before us. Obviously, if there are not many Members who wish to participate, we will go to a vote at an earlier rather than a later time.

Mr. President, I really want to underscore two basic points about what is occurring here and why it is so important. I want to use a chart, which I will put back on the easel in the back of the room.

One of the arguments we have been making is that there has been a marked shift, in the Bush administration, in the number of political ap-

pointees to ambassadorial positions as opposed to career appointees.

As the chart illustrates, we have gone back to the Kennedy administration, and looked at the first 9 months of every new administration—after an election or reelection—to examine the nature of the appointments made for country Ambassadors.

These are percentages here, and they show that, for instance, 39 percent of the Ambassadors appointed by President Kennedy were political; in other words, 61 percent were career.

Then, as you can see, tracing this pattern through: President Johnson, 28 percent; President Nixon, 37 percent; these are political appointees. President Nixon the second time, 36 percent; President Carter 39 percent; the second time it dropped to 30 percent. Of course, in the second term of a President, the approach is a little different approach because the administration had been in office for 4 years. Then we see this enormous jump in political nominations for country Ambassadors under President Bush.

It has jumped here to 62 percent political, which means only 38 percent would be career. President Bush and every preceding President from Kennedy forward had at least 61 percent of their nominations from the career service.

In our instance it went as high as 72 percent. That is the reverse of the current situation. Here you have a tremendous jump in the political nominations which have taken in the first 9 months under President Bush. This is a total of 58 nominees for country Ambassadors of whom 36—36 of the 58—are political appointees. I will have this chart put up the back so people can look at it at their leisure.

The second chart—just to make the point that it is not as though President Bush is appointing fewer or more—shows that the number of appointees he has made is roughly the same as Presidents Reagan, Carter, Nixon and Kennedy after their elections.

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. SARBANES. I am happy to yield to the Senator from Hawaii.

LEGISLATIVE SESSION

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate return to legislative session for a unanimous-consent item and that the Senate return to executive session at its conclusion.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the Senate will return to legislative session.

NATIONAL AMERICAN INDIAN MUSEUM ACT

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 264, S. 978, a bill to authorize the establishment of a museum of the American Indian within the Smithsonian Institution.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 978) to authorize the establishment within the Smithsonian Institution of the National Museum of the American Indian, to establish a memorial to the American Indian, and for other purposes.

The PRESIDENT pro tempore. Without objection, the Senate will proceed to consider the bill.

The Senate proceeded to consider the bill, which had been reported from the Select Committee on Indian Affairs, and the Committee on Rules and Administration jointly, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "National American Indian Museum Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) there is no national museum devoted exclusively to the history and art of cultures indigenous to the Americas, specifically Indians, Eskimos, and Aleuts;

(2) although the Smithsonian Institution employs more than 6,000 people, operates 19 museums, galleries, and major research facilities, and sponsors extensive American Indian programs, none of its institutions are devoted specifically to Native American art and history;

(3) the Museum of the American Indian, Heye Foundation, located in New York City, has an unequaled assemblage of more than 1,000,000 Indian art objects and artifacts and is one of the largest of such collections in the world;

(4) the library of the Museum of the American Indian, Heye Foundation, houses 40,000 volumes relating to the archaeology, ethnology, and history of Native American peoples;

(5) the collection of the Museum of the American Indian, Heye Foundation, of art, artifacts, specimens and books is inadequately housed in 3 separate facilities totaling 90,000 square feet, with 95 percent of the collection of art and artifacts stored in 20,000 square feet and the collection of books kept in a 15,000 square foot library;

(6) the collection of the Museum of the American Indian, Heye Foundation needs a minimum of 400,000 square feet to adequately exhibit and store art and artifacts and to provide space for scholars and researchers;

(7) the bringing together of the collection of the Museum of the American Indian, Heye Foundation, and the Native American collection of the Smithsonian Institution would—

(A) create an institution whose capabilities for exhibition and research would be unrivaled in scope and would give all Americans the opportunity to learn of the cultural legacy, historic grandeur, and contemporary culture of Indians; and

(B) provide—

(i) a meeting place for scholars,

(ii) a significant, national facility for the exhibition of Indian art and artifacts,

(iii) a stage for the performing arts,

(iv) curation and other learning opportunities for Indians, and

(v) traveling exhibitions to communities throughout the Nation;

(8) approximately 300 skeletal remains of Indians collected from battlefields and burial grounds were sent to the Army Medical Museum by order of the Surgeon General of the United States Army and later transferred to the Smithsonian Institution where they are still stored;

(9) the Smithsonian Institution has acquired additional collections of Native American skeletal remains through—

(A) archaeological excavations, and

(B) donations from individuals and museums;

(10) these collections have been estimated to contain the remains of approximately 18,000 Indians, Eskimos, and Aleuts and the existence of these collections has concerned many Indian tribes and bands and Alaska Native villages which are determined to provide an appropriate resting place for their ancestors;

(11) identifying the geographic and tribal origins of Indian and Alaska Native skeletal remains in the Smithsonian collections is essential to addressing these concerns; and

(12) an extraordinary site on the National Mall in the District of Columbia (U.S. Government Reservation No. 6) which has been reserved for the use of the Smithsonian Institution is available for construction of a suitable building to permanently house the collection of the National Museum of the American Indian.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) The term "Indian" means an individual who is a member of an Indian tribe, including any individual who is an Alaska Native.

(2) The term "Alaska Native" means any Eskimo, Aleut, or Alaska Indian.

(3) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act).

(4) The term "Native American" means an Indian or a Native Hawaiian.

(5) The term "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

(6) The term "Museum" means the National Museum of the American Indian established under section 4.

(7) The term "Heye Museum" means the Museum of the American Indian, Heye Foundation.

(8) The term "Board of Trustees" means the Board of Trustees of the National Museum of the American Indian.

(9) The term "Board of Regents" means the Board of Regents of the Smithsonian Institution.

ESTABLISHMENT OF THE MUSEUM

SEC. 4. (a) There is established within the Smithsonian Institution a living memorial to Native Americans and their traditions which shall be known as the "National Museum of the American Indian" and shall provide for—

(1) the advancement of the study of the Native peoples of the Americas and the study of their languages, literature, history, art, anthropology, and life;

(2) the collection, preservation, and exhibition of Indian objects of artistic, historic, literary, anthropological, and scientific interest related thereto;

(3) programs of Indian research and study; and

(4) the means of carrying on this work in the District of Columbia, the State of New York, and such other locations as may be appropriate.

(b)(1) The area bounded by Third Street, Maryland Avenue, Independence Avenue, Fourth Street, and Jefferson Drive, Southwest, in the District of Columbia, is appropriated to the Smithsonian Institution as the permanent site of a facility for the Museum. A facility for the Museum shall be constructed on such site.

(2) A significant facility for the Museum consisting of approximately 82,500 square feet, including auditorium and loading dock space shared with the General Services Administration, shall be established in the Old United States Custom House at One Bowling Green, New York, New York, and shall be designated "The George Gustav Heye Center of the National Museum of the American Indian".

(3) A facility for the conservation and storage of the collections of the Museum shall be established at the Museum Support Center of the Smithsonian Institution.

(c) The Board of Regents is authorized to—

(1) enter into a conveyance agreement with the Heye Foundation, the terms of which shall—

(A) provide for the transfer of title of those assets of the Heye Foundation described in the Memorandum of Understanding between the Smithsonian Institution and the Heye Foundation dated May 8, 1989, to the Smithsonian Institution for the benefit and use of the Museum;

(B) require that such assets be used for purposes consistent with the trust indenture established by George Gustav Heye on May 10, 1916; and

(C) be governed by, and construed in accordance with, the laws of the State of New York to the extent permitted under the laws of the United States and the Constitution of the United States and under the jurisdiction of the United States District Court for the Southern District of New York;

(2) plan, design, and construct, or to acquire, the facilities described in subsection (b), which shall together aggregate at least 400,000 square feet;

(3) provide for the permanent acquisition of Native American objects and artifacts from the Heye Museum;

(4) purchase, accept, borrow, or otherwise provide for the temporary or permanent acquisition of Native American objects and artifacts from other museums or private collections; and

(5) preserve, maintain, restore, loan, or exchange objects and artifacts in the collection of the Museum.

BOARD OF TRUSTEES OF THE MUSEUM

SEC. 5. (a) There is established within the Smithsonian Institution the Board of Trustees of the National Museum of the American Indian.

(b) The Board of Trustees shall—

(1) recommend annual operating budgets for the Museum;

(2) provide advice and assistance to the Board of Regents on all matters relating to the administration, operation, maintenance, and preservation of the Museum;

(3) subject to the general policy established by the Board of Regents, have the sole authority to—

(A) loan, exchange, sell, or otherwise dispose of any part of the collections of the Museum, but only if the funds generated by such disposition are used for additions to the collections of the Museum or for additions to the endowment of the Museum,

(B) subject to the availability of funds and the provisions of annual budgets of the Museum, purchase, accept, borrow, or otherwise acquire artifacts and other property for addition to the collections of the Museum, and

(C) establish policy with respect to the utilization of the collections of the Museum;

(4) subject to the general policy established by the Board of Regents, have authority to—

(A) establish policy with respect to the restoration, preservation, and maintenance of the collections of the Museum,

(B) solicit funds for the Museum and determine the purposes to which those funds shall be applied,

(C) approve expenditures from the endowment of the Museum, or of income generated from the endowment, for any purpose of the Museum,

(D) consult with and advise the Director of the Museum on annual budgets to be recommended to the Board of Regents and otherwise consult with, advise, and support the Director in the operation of the Museum,

(E) provide for the exhibition of Native American objects and artifacts from the collections of the Museum, and from the collections of the Heye Museum, in regional facilities of the Museum,

(F) conduct programs of research and evaluation with respect to the collections of the Museum,

(G) conduct educational programs with respect to the collections of the Museum, and

(H) develop and implement policy as to the method of display of the Native American objects and artifacts in the collections of the Museum;

(5) adopt bylaws to carry out the functions of the Board of Trustees;

(6) designate a chairman from among the members of the Board of Trustees and such other officers as may be provided for by the Board of Trustees;

(7) report annually to the Board of Regents on the acquisition, disposition, and display of Native American objects and artifacts and on other matters within the discretion of the Board of Trustees; and

(8) submit an annual report to the Congress which includes the proceedings of the Board of Trustees and a full account of the financial operations of the Board of Trustees for the preceding fiscal year.

(c)(1)(A) The initial Board of Trustees shall consist of the following individuals:

(i) the Secretary of the Smithsonian Institution,

(ii) an Assistant Secretary of the Smithsonian Institution designated by the Board of Regents,

(iii) 8 individuals appointed by the Board of Regents, and

(iv) 15 individuals appointed by the Board of Regents from a list submitted by the board of trustees of the Heye Museum of candidates who are members of the board of trustees of the Heye Museum.

(B) At least 7 of the members of the Board of Trustees appointed by the Board of Regents under this paragraph shall be of Native American ancestry.

(C) Any vacancy on the Board of Trustees that is caused by the failure of a member of the Board of Trustees appointed under subparagraph (A)(iv) to complete the term of office of such member shall be filled by any individual appointed by the Board of Regents without regard to subparagraph (A)(iv), but subject to the requirements of subparagraph (B).

(D) The term of office of each of the members of the initial Board of Trustees appointed under clauses (iii) and (iv) of subparagraph (A) shall be 3 years.

(2)(A) Upon the expiration of the terms of office of the members of the initial Board of Trustees appointed under clauses (iii) and (iv) of paragraph (1)(A), the Board of Trustees shall consist of—

(i) the Secretary of the Smithsonian Institution,

(ii) an Assistant Secretary of the Smithsonian Institution designated by the Board of Regents, and

(iii) 23 individuals appointed by the Board of Regents from a list of nominees submitted by the Board of Trustees.

(B) At least 12 of the members of the Board of Trustees appointed under subparagraph (A)(iii) shall be of Native American ancestry.

(C)(i) Except as otherwise provided in this subparagraph, the term of office of each member of the Board of Trustees appointed under subparagraph (A)(iii) shall be 3 years.

(ii) Of the initial members of the Board of Trustees appointed under subparagraph (A)(iii), who succeed the members appointed under clauses (iii) and (iv) of paragraph (1)(A)—

(I) 7 members shall have a term of office of 1 year,

(II) 8 members shall have a term of office of 2 years, and

(III) 8 members shall have a term of office of 3 years.

The Board of Regents shall designate the term of office of each of these members at the time the member is appointed.

(3) Any member of the Board of Trustees appointed to fill a vacancy occurring prior to the expiration of the term of office for which his predecessor was appointed shall be appointed for the remainder of such term.

(d) A majority of the members of the Board of Trustees shall constitute a quorum and any vacancy on the Board of Trustees shall not affect the power of the Board of Trustees to function.

(e) Members of the Board of Trustees may be reimbursed for travel, subsistence, and other necessary expenses incurred by the members in the performance of their duties as members of the Board of Trustees.

DIRECTOR; STAFF

SEC. 6. (a) The Secretary of the Smithsonian Institution may appoint and fix the compensation and duties of the Director of the National Museum of the American Indian and of such other officers and employees of the Museum as may be necessary for the efficient administration, operation, maintenance, and preservation of the Museum.

(b) The Director of the Museum and 2 other employees of the Museum may be appointed and compensated without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service and chapter 51, and subchapter III of chapter 53, of title 5 of such Code.

(c) All employees of the Heye Museum serving at the time of the transfer of its collections, endowment, and other property to the

Smithsonian Institution shall be offered employment by the Smithsonian Institution under the usual terms of employment of the Smithsonian Institution and may be appointed without regard to the provisions of title 5 of the United States governing appointments in the competitive service and chapter 51, and subchapter III of chapter 53, of title 5 of such Code.

FACILITY IN NEW YORK

SEC. 7. (a) Notwithstanding any provision of law other than the provisions of this Act, the Administrator of General Services is authorized, upon such terms and for such periods as may be mutually agreed upon by the Administrator and the Secretary of the Smithsonian Institution, to furnish at a nominal charge to the Smithsonian Institution, for a period of not less than 99 years, space (as provided in section 4(b)(2)) in the Old United States Custom House at One Bowling Green, New York, New York. The Smithsonian Institution shall reimburse the Administrator for the Smithsonian Institution's pro rata share of the cost of utilities, maintenance, cleaning, and other services incurred with respect to such space and the full cost of any repairs or alterations requested by the Smithsonian Institution with respect to such space.

(b) The City of New York, New York, and the State of New York shall each contribute one-third of the total cost (not to exceed $24,000,000) for the design, construction and renovation of the space in the Old United States Custom House at One Bowling Green, New York, New York, that is to be used by the Museum for the facility that is required to be established under section 4(b)(2).

(c) Notwithstanding any other provision of this Act or of any other law, the Board of Regents is authorized to charge the public a fee for admission to the facility of the Museum that is required to be established under section 4(b)(2).

RELATIONSHIPS WITH OTHER MUSEUMS

SEC. 8. The Board of Regents, in consultation and cooperation with the Board of Trustees, is authorized to enter into agreements with museums, educational institutions, and cultural organizations to—

(1) loan Native American artifacts and objects from the collection of the Museum,

(2) sponsor and coordinate a variety of traveling exhibitions, and

(3) provide training and technical assistance.

STUDY ON DISPOSITION OF SKELETAL REMAINS

SEC. 9. The Board of Regents shall—

(1) identify to the fullest extent possible the geographic and tribal origins of the skeletal remains of Indians and Alaska Natives in the collections of the Smithsonian Institution;

(2) conduct a study and make recommendations as to the final disposition of the skeletal remains of Native Americans that are in the possession of the Smithsonian Institution;

(3) consult with Native American traditional religious leaders in making recommendations as to the final disposition of such skeletal remains; and

(4) report to Congress by no later than the date that is 3 years after the date of enactment of this Act on—

(A) the identity of such skeletal remains, and

(B) the findings and recommendations of the study conducted under paragraph (2).

PLEDGE

SEC. 10. The faith of the United States is pledged that the United States shall provide such funds as may be necessary for the design, construction, administration, maintenance, and operation of the Museum and the administrative expenses and costs of operating the Museum, including the protection and care of collections acquired by the Board of Trustees or the Board of Regents, so that the Museum shall at all times be properly maintained and, except as otherwise authorized in section 7(c), collections contained therein shall be exhibited regularly to the general public free of charge.

TRANSFER OF FUNDS

SEC. 11. Any funds appropriated to carry out the provisions of this Act may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other actions, to the extent of the funds so transferred, as may be necessary to carry out the provisions of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. (a) There are authorized to be appropriated to the Smithsonian Institution—

(1) $16,000,000 for fiscal year 1990, and

(2) such sums as may be necessary for each of the succeeding fiscal years,

to carry out the provisions of this Act.

(b) Funds appropriated under the authority of subsection (a) for any period prior to the availability of the facilities described in section 4(b) shall remain available without fiscal year limitation for administrative and planning expenses and for the care and custody of the collections of the Museum and the Heye Museum.

(c) Notwithstanding any other provision of this Act, no funds may be appropriated for the purpose of constructing the museum facilities authorized by this Act until the Smithsonian Institution provides to the Congress and the administration an analysis of the total estimated cost of such construction and a cost-sharing plan projecting amounts for Federal appropriations and for non-Federal contributions.

Mr. INOUYE. Mr. President, the Senate is now considering S. 978, a bill to establish the National Museum of the American Indian within the Smithsonian Institution.

Mr. President, as you know, this bill has been pending in the Congress for nearly 2 years while negotiations were proceeding to bring the priceless collection of the Museum of the American Indian, Heye Foundation to Washington. There were some legal obstacles which had to be surmounted, and many more political considerations which dictated a careful course of action, but I believe that the substitute amendment to S. 978 which I am now proposing that the Senate consider, addresses all of the difficult issues that required resolution before this legislation could go forward.

On May 8, 1989, the Board of Regents of the Smithsonian Institution officially approved a memorandum of understanding with the trustees of the Heye Foundation of New York, and in so doing, enabled the action which I am hopeful that will be taken today by the Senate. More recently, the Smithsonian Institution reached agreement with the leaders of Indian nations that will provide a process for the inventory, identification, and repatriation, where appropriate, of the over 18,000 human remains of native Americans that are currently in the possession of the Smithsonian. This action allows communities of native Americans across the country the promise that one day their ancestors will finally be given the final resting place that they so deserve.

Indian support for a National Museum of the American Indian has been overwhelming and enthusiastic. Having spent a considerable time in Indian country over the last 3 years, this enthusiasm comes as no surprise to me, for there are few citizens in the United States whose greatness is less well known. This museum will serve as a living memorial to American Indian people—their historic grandeur and the rich cultural legacy that they have contributed to American society, as well as the magnificence of their contemporary culture. These are a people whose story needs to be told—not in the pages of history books where the legends of cowboys prevail—but in the seat of the Nation's Capitol and in museums and institutions around the country—so that all Americans might come to know that this Nation's first Americans not only enabled the troops of General George Washington to survive the winter at Valley Forge, but fought side by side with the American revolutionaries and indeed significantly influenced the outcome of the Revolutionary War. This museum will bring to the awareness of the American public that the U.S. Constitution and our democratic form of government was not derived from some exotic foreign land, but was modeled after the Iroquois Confederacy of Indian Nations. It will allow all Americans to know that proportionately more Indian people have served in the Armed Forces of this country than any other group of U.S. citizens. And most importantly, this museum will commemorate a culture of people upon whose values our society is based, and whose existence is alive and well and thriving.

Mr. President, I ask unanimous consent that a section-by-section analysis of the committee substitute be printed in the RECORD.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF AN AMENDMENT IN THE NATURE OF A SUBSTITUTE TO S. 978, A BILL TO PROVIDE FOR THE ESTABLISHMENT OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN WITHIN THE SMITHSONIAN INSTITUTION

Section 1. Section 1 provides that the Act may be cited as the National American Indican Museum Act.

Section 2. Section 2 contains the findings of Congress that there is no national museum devoted exclusively to the history and art of cultures indigenous to the Ameri-

cas, specifically Indians, Eskimos, and Aleuts; that although the Smithsonian Institution employs more than 6,000 people, operates 19 museums, galleries and major research facilities, and sponsors extensive American Indian programs, none of its institutions are devoted specifically to Native American art and history; that the Museum of the American Indian, Heye Foundation of New York, has an unequaled assemblage of more than 1,000,000 Indian art objects and artifacts and is one of the largest of such collections in the world; that the library of the Museum of the American Indian, Heye Foundation, houses 40,000 volumes relating to archaeology, ethnology, and history of Native American peoples; that the collection of the Museum of the American Indian, Heye Foundation, of art, artifacts, specimens and books is inadequately housed in 3 separate facilities totaling 90,000 square feet, with 95 percent of the collection of art and artifacts stored in 20,000 square feet and the collection of books kept in a 15,000 square foot library; that the collection of the Museum of the American Indian, Heye Foundation needs a minimum of 400,000 square feet to adequately exhibit and store art and artifacts and to provide space for scholars and researchers; that the bringing together of the collection of the Museum of the American Indian, Heye Foundation, and the Native American collection of the Smithsonian Institution would create an institution whose capabilities for exhibition and research would be unrivaled in scope and would give all Americans the opportunity to learn of the cultural legacy and historic grandeur and contemporary culture of the American Indian people; and provide a meeting place for scholars, a significant, national facility for the exhibition of Indian art and artifacts, a stage for the performing arts, curation and other learning opportunities for American Indian people, and traveling exhibitions to communities throughout the Nation; that approximately 300 human skeletal remains of Indians were collected from battlefields and burial grounds and sent to the Army Medical Museum by order of the Surgeon General of the United States Army and were later transferred to the Smithsonian Institution where they are still stored; that the Smithsonian Institution has acquired additional collections of Native American skeletal remains through archaeological excavations, and donations from private individuals and museums; that these collections have been estimated to contain the remains of approximately 18,000 Indians, Eskimos, Aleuts and Native Hawaiians and the existence of these collections has concerned many Indian tribes and bands, Alaska Native villages, and Native Hawaiian families that are determined to provide an appropriate resting place for their ancestors; that identifying the geographic and tribal origins of Indians, Alaska Native, and Native Hawaiian skeletal remains in the Smithsonian collections is essential to addressing these concerns; and that an extraordinary site on the National Mall in the District of Columbia (U.S. Government Reservation No. 6) which has been reserved for the use of the Smithsonian Institution is available for construction of a suitable building to permanently house the collection of the National Museum of the American Indian.

Section 3. Section 3 sets forth the definitions of terms for the purposes of this Act.

Section 3(1). Section 3(1) provides that the term "Indian" means a person who is a member of an Indian tribe, including any individual who is an Alaska Native.

Section 3(2). Section 3(2) provides that the term "Alaska Native" means any Eskimo, Aleut, or Alaska Indian.

Section 3(3). Section 3(3) provides that the term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village as defined in, or established pursuant to the Alaska Native Claims Settlement Act.

Section 3(4). Section 3(4) provides that the term "Native American" means the tribes, peoples, and cultures that are indigenous to North America, Central America, or South America, including Native Hawaiians.

Section 3(5). Section 3(5) provides that the term "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

Section 3(6). Section 3(6) provides that the term "Native Hawaiian organization" means any organization which serves and represents the interests of Native Hawaiians, and has as a primary and stated purpose the provision of services to Native Hawaiians.

Section 3(7). Section 3(7) provides that the term "Museum" means the National Museum of the American Indian established under section 4 of this Act.

Section 3(8). Section 3(8) provides that the term "Heye Museum" means the Museum of the American Indian, Heye Foundation.

Section 3(9). Section 3(9) provides that the term "Board of Trustees" means the Board of Trustees of the National Museum of the American Indian.

Section 3(10). Section 3(10) provides that the term "Board of Regents" means the Board of Regents of the Smithsonian Institution.

Section 3(11). Section 3(11) provides that the term "burial site" means any natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which there was intentionally deposited, as a part of the death rites or ceremonies of a culture, the remains of a deceased individual.

Section 3(12). Section 3(12) provides that the term "funerary object" means any artifact or object, in the possession or control of the Smithsonian Institution which was intentionally placed with a deceased individual, either at the time of burial or interment or at some subsequent time, as a part of the death rites or ceremonies of a culture, and which is clearly associated with human remains subject to return pursuant to section 9, or has been identified, through available evidence, as having been removed from a specific burial site.

ESTABLISHMENT OF THE MUSEUM

Section 4(a). Section 4(a) provides authority for and directs that within the Smithsonian Institution, there is to be established a living memorial to American Indian people and their traditions which is to be known as the National Museum of the American Indian.

Section 4(a)(1). Section 4(a)(1) provides that the National Museum of the American Indian shall provide for the advancement of the study of the Native peoples of the Americas and the study of their language, literature, history, art, anthropology, and life.

Section 4(a)(2). Section 4(a)(2) provides that the National Museum of the American Indian shall provide for the collection, preservation, and exhibition of Indian objects of artistic, historic, literary, anthropological and scientific interest related to the advancement of the study of the Native peoples of the Americas and the study of their language, literature, history, art, and life.

Section 4(a)(3). Section 4(a)(3) provides that the National Museum of the American Indian shall provide for the programs of research and study related to the advancement of the study of the Native peoples of the Americas and the study of their language, literature, history, art, and life.

Section 4(a)(4). Section 4(a)(4) provides that the National Museum of the American Indian shall provide means for carrying out the work described in Sections 4(a)(1), 4(a)(2), and 4(a)(3) in the District of Columbia, the State of New York, and such other locations as may be appropriate.

Section 4(b)(1). Section 4(b)(1) provides that the area bounded by Third Street, Maryland Avenue, Independence Avenue, Fourth Street, and Jefferson Drive in the District of Columbia is appropriated to the Smithsonian Institution as the permanent site of the National Museum of the American Indian. The section further provides that a facility for the National Museum of the American Indian is to be constructed on this site.

Section 4(b)(2). Section 4(b)(2) provides that a significant facility for the National Museum of the American Indian consisting of approximately 82,500 square feet, including auditorium and loading dock space shared with the General Services Administration, shall be established in the Old United States Custom House at One Bowling Green, New York, New York, and shall be designated "The George Gustav Heye Center of the National Museum of the American Indian".

Section 4(b)(3). Section 4(b)(3) authorizes a facility for the conservation and storage of the collections of the National Museum of the American Indian to be established at the Museum Support Center of the Smithsonian Institution.

Section 4(c). Section 4(c) provides authority for the Board of Regents of the Smithsonian Institution to undertake the activities enumerated in sections 4(c)(1) through 4(c)(5) of this Act.

Section 4(c)(1). Section 4(c)(1) provides authority for the Board of Regents to enter into a conveyance agreement with the Museum of the American Indian, Heye Foundation which includes the provisions described in Sections 4(c)(1)(A) through 4(c)(1)(C) of this Act.

Section 4(c)(1)(A). Section 4(c)(1)(A) provides authority for the Board of Regents to enter into a conveyance agreement with the Museum of the American Indian, Heye Foundation for the transfer of title to those assets of the Museum of the American Indian, Heye Foundation described in the Memorandum of Understanding between the Smithsonian Institution and the Museum of the American Indian, Heye Foundation dated May 8, 1989, to the Smithsonian Institution for the benefit and use of the National Museum of the American Indian.

Section 4(c)(1)(B). Section 4(c)(1)(B) provides authority for the Board of Regents to enter into a conveyance agreement with the Museum of the American Indian, Heye Foundation to require that such assets be used for purposes consistent with the trust indenture established by George Gustav Heye on May 10, 1916.

Section 4(c)(1)(C). Section 4(c)(1)(C) provides authority for the Board of Regents to enter into a conveyance agreement with the Museum of the American Indian, Heye Foundation to be governed by, and construed in accordance with, the laws of the State of New York to the extent permitted under the laws of the United States and the Constitution of the United States and under the jurisdiction of the United States District Court for the Southern District of New York.

Section 4(c)(2). Section 4(c)(2) authorizes the Smithsonian Institution's Board of Regents to plan, design, and construct, or to acquire, facilities specified in subsection (b), which shall together aggregate at least 400,000 square feet.

Section 4(c)(3). Section 4(c)(3) authorizes the Smithsonian Institution's Board of Regents to provide for the permanent acquisition of Native American objects and artifacts from the Museum of the American Indian, Heye Foundation.

Section 4(c)(4). Section 4(c)(4) authorizes the Smithsonian Institution's Board of Regents to purchase, accept, borrow, or otherwise provide for the permanent acquisition of Native American objects and artifacts from other museums or private collections.

Section 4(c)(5). Section 4(c)(5) authorizes the Smithsonian Institution's Board of Regents to preserve, maintain, restore, loan, or exchange objects and artifacts in the collections of the National Museum of the American Indian.

BOARD OF TRUSTEES OF THE MUSEUM

Section 5(a). Section 5(a) provides authority for the establishment of a Board of Trustees within the Smithsonian Institution to be known as the Trustees of the National Museum of the American Indian.

Section 5(b). Section 5(b) establishes certain enumerated authorities and responsibilities of the Board of Trustees of the National Museum of the American Indian.

Section 5(b)(1). Section 5(b)(1) directs the Board of Trustees of the National Museum of the American Indian to recommend annual operating budgets for the National Museum of the American Indian.

Section 5(b)(2). Section 5(b)(2) directs the Board of Trustees of the National Museum of the American Indian to provide advice and assistance to the Smithsonian Institution's Board of Regents on all matters relating to the administration, operation, maintenance, and preservation of the National Museum of the American Indian.

Section 5(b)(3). Section 5(b)(3) establishes the sole authority of the Board of Trustees of the National Museum of the American Indian to undertake the activities enumerated in Sections 5(b)(3) (A) through (C) subject to the general policy established by the Smithsonian Institution's Board of Regents.

Section 5(b)(3)(A). Section 5(b)(3)(A) establishes the sole authority of the Board of Trustees of the National Museum of the American Indian, subject to the general policy established by the Smithsonian Institution's Board of Regents, to loan, exchange, sell, or otherwise dispose of any part of the collections of the National Museum of the American Indian, but only if the funds generated by such disposition are used for additions to the collections of the National Museum of the American Indian or for additions to the endowment of the National Museum of the American Indian.

Section 5(b)(3)(B). Sections 5(b)(3)(B) establishes the sole authority of the Board of Trustees of the National Museum of the American Indian, subject to the general policy established by the Smithsonian Institution's Board of Regents, to purchase, accept, borrow, or otherwise acquire artifacts and other property for addition to the collections of the National Museum of the American Indian subject to the availability of funds and the provisions of annual budgets of the National Museum of the American Indian.

Section 5(b)(3)(C). Section 5(b)(3)(C) establishes the sole authority of the Board of Trustees of the National Museum of the American Indian, subject to the general policy established by the Smithsonian Institution's Board of Regents, to establish policy with respect to the utilization of the collections of the National Museum of the American Indian for purposes that include, but are not limited to research, evaluation, education, and method of display.

Section 5(b)(4). Section 5(b)(4) establishes the authority of the Board of Trustees of the National Museum of the American Indian to undertake the activities enumerated in sections 5(b)(4)(A) through (D) subject to the general policy established by the Smithsonian Institution's Board of Regents.

Section 5(b)(4)(A). Section 5(b)(4)(A) established the authority of the Board of Trustees of the National Museum of the American Indian, subject to general policy established by the Smithsonian Institution's Board of Regents, to establish policy with respect to the restoration, preservation, and maintenance of the collections of the National Museum of the American Indian.

Section 5(b)(4)(B). Section 5(b)(4)(B) establishes the authority of the Board of Trustees of the National Museum of the American Indian, subject to general policy established by the Smithsonian Institution's Board of Regents, to solicit funds for the National Museum of the American Indian and determine the purposes of which those funds shall be applied.

Section 5(b)(4)(C). Section 5(b)(4)(C) establishes the authority of the Board of Trustees of the National Museum of the American Indian, subject to general policy established by the Smithsonian Institution's Board of Regents, to approve expenditures from the endowment of the National Museum of the American Indian, or of income generated from the endowment, for any purpose of the National Museum of the American Indian.

Section 5(b)(4)(D). Section 5(b)(4)(D) establishes the authority of the Board of Trustees of the National Museum of the American Indian, subject to general policy established by the Smithsonian Institution's Board of Regents, to consult with the advise the Director of the National Museum of the American Indian on annual budgets to be recommended to the Smithsonian Institution's Board of Regents and otherwise consult with, advise, and support the Director of the National Museum of the American Indian in the operation of the National Museum of the American Indian.

Section 5(b)(5). Section 5(b)(5) directs the Board of Trustees of the National Museum of the American Indian to adopt bylaws to carry out its functions.

Section 5(b)(6). Section 5(b)(6) directs the Board of Trustees of the National Museum of the American Indian to designate a chairman from among its members and such other officers as may be provided for by the Board of Trustees.

Section 5(b)(7). Section 5(b)(7) directs the Board of Trustees of the National Museum of the American Indian to report annually to the Smithsonian Institution's Board of Regents on the acquisition, disposition, and display of Native American objects and artifacts, and on other matters within its discretion.

Section 5(c)(1)(A). Section 5(c)(1)(A) provides authority for appointments to the initial Board of Trustees of the National Museum of the American Indian.

Section 5(c)(1)(A)(i). Section 5(c)(1)(A)(i) provides that the Secretary of the Smithsonian Institution shall be appointed to the initial Board of Trustees of the National Museum of the American Indian.

Section 5(c)(1)(A)(ii). Section 5(c)(1)(A)(ii) provides that an Assistant Secretary of the Smithsonian Institution designated by the Smithsonian Institution's Board of Regents shall be appointed to the initial Board of Trustees of the National Museum of the American Indian.

Section 5(c)(1)(A)(iii). Section 5(c)(1)(A)(iii) provides that the individuals that are appointed to the initial Board of Trustees of the National Museum of the American Indian, eight individuals shall be appointed by the Smithsonian Institution's Board of Regents.

Section 5(c)(1)(A)(iv). Section 5(c)(1)(A)(iv) provides that the individuals appointed to the initial Board of Trustees of the National Museum of the American Indian, fifteen individuals shall be appointed by the Smithsonian Institution's Board of Regents from a list submitted by the Board of Trustees of the Museum of the American Indian, Heye Foundation of candidates who are members of the Board of Trustees of the Museum of the Amerian Indian, Heye Foundation.

Section 5(c)(1)(B). Section 5(c)(1)(B) provides that at least seven of the members of the Board of Trustees of the National Museum appointed by the Smithsonian Institution's Board of Regents are to be of Native American ancestry.

Section 5(c)(1)(C). Section 5(c)(1)(C) provides that any vacancy on the Board of Trustees of the National Museum of the American Indian that is caused by the failure of a member appointed from among the individuals appointed under Section 5(c)(1)(A)(iv) shall be filled by any individual appointed by the Smithsonian Institution's Board of Regents notwithstanding Section 5(c)(1)(A)(iv) but subject to the requirements of Section 5(c)(1)(B).

Section 5(c)(1)(D). Section 5(c)(1)(D) provides that the term of office of each of the members of the initial Board of Trustees appointed under Section 5(c)(1)(A) (iii) and (iv) shall be three years.

Section 5(c)(2) (A). Section 5(c)(2)(A) provides authority for appointments to the the Board of Trustees of the National Museum of the American Indian that shall thereafter be made upon expiration of the terms of office of the members of the initial Board of Trustees of the National Museum of the American Indian appointed under Section 5(c)(1)(A) (iii) and (iv).

Section 5(c)(2)(A)(i). Section 5(c)(2)(A)(i) provides that the Secretary of the Smithsonian Institution shall be appointed to the Board of Trustees of the National Museum of the American Indian upon the expiration of the terms of office of the members of the initial Board of Trustees appointed under section 5(c)(1)(A)(iii) and section 5(c)(1)(A)(iv).

Section 5(c)(2)(A)(ii). Section 5(c)(2)(A)(ii) provides that an Assistant Secretary of the Smithsonian Institution designated by the Smithsonian Institution's Board of Regents shall be appointed to the Board of Trustees

of the National Museum of the American Indian upon the expiration of the terms of office of the members of the initial Board of Trustees appointed under section 5(c)(1)(A)(iii) and section 5(c)(1)(A)(iv).

Section 5(c)(2)(A)(iii). Section 5(c)(2)(A)(iii) provides that twenty-three individuals appointed by the Smithsonian Institution's Board of Regents, shall be appointed from a list of nominees submitted by the Board of Trustees of the National Museum of the American Indian upon the expiration of the terms of office of the members of the initial Board of Trustees appointed under section 5(c)(1)(A)(ii) and section 5(c)(1)(A)(iv).

Section 5(c)(2)(B). Section 5(c)(2)(B) provides that at least twelve of the members of the Board of Trustees of the National Museum appointed under Section 5(c)(2)(A)(iii) are to be of Native American ancestry.

Section 5(c)(2)(C)(i). Section 5(c)(2)(C)(i) provides that except as otherwise provided in Section 5(c)(2)(C), the term of each member of the Board of Trustees of the National Museum of the American Indian shall be three years.

Section 5(c)(2)(C)(ii). Section 5(c)(2)(C)(ii) provides that of the initial members of the Board of Trustees of the National Museum of the American Indian appointed under section 5(c)(2)(A)(iii), who succeed the members appointed under Section 5(c)(1)(A)(iii) and (iv), seven members shall have a term of office of one year; eight members shall have a term of office of two years; and eight members shall have a term of office of three years. The section further provides that the Board of Regents of the Smithsonian Institution shall designate the term of office of each of these members at the time the member is appointed.

Section 5(c)(3). Section 5(c)(3) provides that a majority of the members of the Board of Trustees of the National Museum of the American Indian shall constitute a quorum and any vacancy on the Board of Trustees shall not affect the power of the Board of Trustees to function.

Section 5(e). Section 5(e) provides that members of the Board of Trustees of the National Museum of the American Indian may be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

DIRECTOR; STAFF

Section 6(a). Section 6(a) provides authority for the Secretary of the Smithsonian Institution to appoint and fix the compensation and duties of the Director of the National Museum of the American Indian and of any such officers and employees of the National Museum of the American Indian as may be necessary for the efficient administration, operation, maintenance and preservation of the National Museum of the American Indian.

Section 6(b). Section 6(b) provides authority for the Director of the National Museum of the American Indian and two other employees of the National Museum of the American Indian may be appointed and compensated without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, and chapter 51 and subchapter III of title 5 of the United States Code.

Section 6(c). Section 6(c) provides that all employees of the Museum of the American Indian, Heye Foundation, serving at the time of the transfer of its collections, endowment, and other property to the Smithsonian Institution shall be offered employment by the Smithsonian Institution under the usual terms of employment of the Smithsonian Institution and may be appointed without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, and chapter 51 and subchapter III of title 5 of the United States Code.

FACILITY IN NEW YORK

Section 7(a). Section 7(a) provides that notwithstanding any provision of law other than the provisions of this Act, the Administrator of the General Services Administration is authorized, upon such terms and for such periods as may be mutually agreed upon by the Administrator of the General Services Administration and the Secretary of the Smithsonian Institution, to furnish at a nominal charge to the Smithsonian Institution, for a period of not less than 99 years, space in the Old United States Custom House at One Bowling Green, New York, New York, as provided for under section 4(b)(2) of this Act. Section 7(a) further provides that the Smithsonian Institution shall reimburse the Administrator of the General Services Administration for the Smithsonian Institution's pro rata share of the cost of utilities, maintenance, cleaning, and other services and the full costs of any repairs or alterations requested by the Smithsonian Institution with respect to such space.

Section 7(b). Section 7(b) provides that the City of New York and the State of New York shall each contribute the lesser of one third of the total cost of the design, construction and renovation of the space in the Old United States Custom House at One Bowling Green, New York, New York, that is to be used by the National Museum of the American Indian for the facility that is required to be established under section 4(b)(2), or $8,000,000.

Section 7(c). Section 7(c) provides that notwithstanding any other provision of the Act or any other law, the Board of Regents is authorized to charge the public a fee for admission to the facility of the National Museum of the American Indian that is required to be established under section 4(b)(2).

Section 7(d)(1). Section 7(d)(1) provides that all receipts from charges paid by the Secretary of the Smithsonian Institution under section 7(a) to the Administrator of the General Services Administration for the furnishment of the space described in section 7(a) are to be deposited into the fund established under section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)).

Section 7(d)(2). Section 7(d)(2) provides authority for the appropriation of the General Services Administration of such sums as may be necessary to reimburse the fund established under section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)) for the difference between the amount the Administrator of General Services charges the Secretary of the Smithsonian Institution under section 7(a) for the furnishment of space described in section 7(a) and the amount the Administrator would otherwise charge for such space under section 210(j) of that Act.

Section 7(e). Section 7(e) provides authority for the appropriation of $25,000,000 to the General Services Administration from the fund established under section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)) for the repair and alteration of the Old United States Customs House at One Bowling Green, New York, New York, but not for those portions of the building assigned by the Administrator of General Services to the Smithsonian Institution under terms and conditions agreed to under subsection (a) that make the Smithsonian Institution responsible for the repair and alteration of such portions of the building.

Section 7(f)(1). Section 7(f)(1) directs the Board of Regents of the Smithsonian Institution to: (A) loan artifacts and exhibitions from the Smithsonian Institution to the successor to the Heye Foundation at Audubon Terrace, 3753 Broadway, New York, New York; (B) provide training, technical assistance, scholarship support, and such other assistance as is deemed necessary to such successor to maintain and operate museum programs; and (C) ensure that at least 2,000 square feet at Audubon Terrace is publicly accessible and physically suitable for related exhibition activities. It is the intent of the committees that in fulfilling the requirements of subsection (C), no Federally-appropriated funds are to be used for the purpose of ensuring that at least 2,000 square feet at Audubon Terrace is publicly accessible and physically suitable for related exhibition activities.

Section 7(f)(2). Section 7(f)(2) provides that the successor to the Heye Foundation at Audubon Terrace is to make a good faith effort to respond to community cultural interests.

Section 7(f)(3). Section 7(f)(3) provides that the fees associated with traveling exhibits of the Smithsonian Institution that are charged to the successor to the Heye Foundation are to be determined according to the ability of the successor to pay such fees.

RELATIONSHIPS WITH OTHER MUSEUMS

Section 8(a)(1). Section 8(a)(1) provides authority for the Board of Regents of the Smithonian Institution to enter into agreements with museums, educational institutions, and cultural organizations to loan Native American artifacts and objects from the collection of the National Museum of the American Indian, to sponsor and coordinate a variety of traveling exhibitions, and to provide training and technical assistance.

Section 8(a)(2). Section 8(a)(2) provides that in carrying out its responsibilities under section 8(a), the Board of Regents of the Smithsonian Institution is to give priority to agreements with Indian tribes, museums, cultural centers, educational institutions, libraries, and archives. Section 8(a)(2) further provides that agreements entered into with such Indian entities may provide loans or services at minimal cost or no cost.

Section 8(b)(1). Section 8(b)(1) provides authority for the Secretary of the Department of the Interior to make grants to Indian tribal museums for the purpose of renovating, repairing, or constructing facilities for the museums (including ventilation and security systems) to enable the museums to receive and exhibit objects and artifacts loaned to the museums from the collection of the National Museum of the American Indian.

Section 8(b)(2)(A). Section 8(b)(2)(A) provides authority for the establishment within the Treasury of the United States, of a trust fund to be known as the "Tribal Museum Endowment Fund", which is hereafter referred to in section 8(b) as the"Endowment Fund", consisting of such amounts as may be deposited into the Endowment Fund under section 8(b)(2)(B) or credited to the

Endowment Fund under section 8(b)(2)(D)(iii).

Section 8(b)(2)(B)(i). Section 8(b)(2)(B)(i) provides authority for the Secretary of the Treasury to accept contributions to the Endowment Fund of any funds that are not derived from the Federal Government and directs the Secretary to deposit such contributions into the Endowment Fund.

Section 8(b)(2)(B)(ii). Section 8(b)(2)(B)(ii) provides that the amounts appropriated to the Endowment Fund may be deposited into the Endowment Fund only to the extent that an equal amount of funds which are not derived from the Federal Government has been contributed to the Endowment Fund and deposited into the Endowment Fund under the authority of section 8(b)(2)(B)(i).

Section 8(b)(2)(C). Section 8(b)(2)(C) directs the Secretary of the Department of the Interior to act as the trustee of the Endowment Fund, and to submit an annual report to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives on the financial condition and the results of operations of the Endowment Fund during the fiscal year preceding the fiscal year in which such report is submitted, and the expected condition and operations of the Endowment Fund during the fiscal year in which such report is submitted, and the five fiscal years succeeding such fiscal year. Section 8(b)(2)(C) further provides that the report is to be printed as a House document of the session of the Congress to which the report is made.

Section 8(b)(2)(D)(i). Section 8(b)(2)(D)(i) directs the Secretary of the Treasury to invest funds in the Endowment Fund in interest-bearing obligations of the United States. Section 8(b)(2)(D)(i) further provides that for these purposes, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

Section 8(b)(2)(D)(ii). Section 8(b)(2)(D)(ii) provides that any obligation acquired by the Endowment Fund may be sold by the Secretary of the Treasury at the market price.

Section 8(b)(2)(D)(iii). Section 8(b)(2)(D)(iii) provides that the interest on and the proceeds from the sale or redemption of any obligations held in the Endowment Fund are to be credited to and form a part of the Endowment Fund.

Section 8(b)(2)(E). Section 8(b)(2)(E) provides that the capital of the Endowment Fund is not to be available for expenditure. Section 8(b)(2)(E) further provides that the amounts credited to the Endowment Fund under section 8(b)(2)(D)(iii) are only to be available for grants made under section 8(b)(1).

Section 8(b)(2)(F). Section 8(b)(2)(F) provides that the Secretary of the Department of the Interior is authorized and directed to pay out of amounts in the Endowment Fund that are credited to the Endowment Fund under the authority of section 8(b)(2)(D)(iii), such sums as are necessary to fund the grants that are made under the authority of section (8)(b)(1).

Section 8(b)(3). Section 8(b)(3) provides authority for the appropriation of $2,000,000 for the Endowment Fund for each fiscal year beginning after fiscal year 1991.

Section 8(c)(1). Section 8(c)(1) provides authority for the Board of Regents of the Smithsonian Institution to establish special programs to serve Indian tribes and communities and in concert with educational institutions, including tribally controlled community colleges, to enhance the opportunities for Indians in museum studies, management and research.

Section 8(c)(2). Section 8(c)(2) directs the Board of Regents of the Smithsonian Institution to establish an American Indian Museum Management Fellowship program to provide stipends to Indians who are receiving training in museum development and management.

Section 8(c)(3). Section 8(c)(3) provides authority for the appropriation of $2,000,000 for each fiscal year to carry out the provisions of section 8(c).

STUDY ON DISPOSITION OF SKELETAL REMAINS

Section 9(a)(1). Section 9(a)(1) directs the Board of Regents of the Smithsonian Institution to initiate a process for the inventory of Indian and Native Hawaiian human remains and funerary objects in the collection or control of the Smithsonian Institution to identify, to the fullest extent possible, the geographic and tribal origins of such remains and objects, in consultation and cooperation with traditional Indian and Native Hawaiian religious leaders and tribal government officials, subject to the provisions of section 9 and notwithstanding any other provision of law. Section 9(a)(1) further provides that the identification of the human remains and funerary objects is to be based upon the best available scientific and historical documentation.

Section 9(a)(2). Section 9(a)(2) directs the Board of Regents of the Smithsonian Institution to cause the affected Indian tribe or tribes to be notified of an identification as soon as possible, if the identification process conducted under the authority of section 9(a)(1) establishes by a preponderance of the evidence, the Indian tribal origin of any particular human remains or funerary objects.

Section 9(a)(3). Section 9(a)(3) directs the Board of Regents of the Smithsonian Institution to cause notice of an identification as soon as possible to a Native Hawaiian organization which has been certified by the Governor of the State of Hawaii as the appropriate entity to receive such notification, if the identification process conducted under the authority of section 9(a)(1) establishes by a preponderance of the evidence, the geographic origin of any particular human remains or funerary objects of Native Hawaiians.

Section 9(b)(1). Section 9(b)(1) provides that if a preponderance of the evidence establishes that human remains in the possession or control of the Smithsonian Institution are of a particular Indian, or are of an individual who was culturally affiliated with a particular Indian tribe, the Board of Regents of the Smithsonian Institution is directed to expeditiously return the remains or any funerary objects associated with the remains to the descendants or Indian tribe of the particular Indian upon the request of the known descendants of the Indian or upon the request of the Indian tribe.

Section 9(b)(2). Section 9(b)(2) provides that if a preponderance of the evidence establishes that human remains in the possession or control of the Smithsonian Institution are of a particular individual who is believed to be Native Hawaiian, the Board of Regents of the Smithsonian Institution is directed to expeditiously return the remains, and any funerary objects associated with the remains, to the descendants of the individual upon the request of the known descendants of the individual.

Section 9(b)(3). Section 9(b)(3) provides that if a preponderance of the evidence establishes that human remains in the possession or control of the Smithsonian Institution, not associated with any human remains, were removed from a specific burial site of an individual culturally affiliated with a particular Indian tribe, the Board of Regents of the Smithsonian Institution is directed to expeditiously return the objects to the Indian tribe upon the request of the Indian tribe.

Section 9(c)(1). Section 9(c)(1) directs the Secretary of the Smithsonian Institution to establish a committee to monitor and review the implementation of the inventory and identification process required under section 9(a) and the restoration activities required under section 9(b), within one hundred and twenty days following the date of enactment of this Act.

Section 9(c)(2). Section 9(c)(2) provides that the committee established under the authority of section 9(c)(1) is to be composed of five members, three of whom are to be appointed from nominations submitted by Indian tribes and organizations. Section 9(c)(2) further provides that none of the persons appointed to the committee are to be Federal employees or officials or are to be affiliated with the Smithsonian Institution.

Section 9(c)(3). Section 9(c)(3) sets forth the responsibilities of the committee that is to be established under the authority of section 9(c)(1).

Section 9(c)(3)(A). Section 9(c)(3)(A) provides that the committee that is established under the authority of section 9(c)(1) is to be responsible for monitoring the inventory and identification process conducted under section 9(a) to ensure a fair, objective consideration and assessment of all available relevant information and evidence.

Section 9(c)(3)(B). Section 9(c)(3)(B) provides that the committee that is established under the authority of section 9(c)(1) is to be responsible for reviewing, upon its own motion or upon the request of any affected party, any finding relating to the identity or origin of human remains or funerary objects, or the return of such remains of objects.

Section 9(c)(3)(C). Section 9(c)(3)(C) provides that the committee that is established under the authority of section 9(c)(1) is to be responsible for arbitrating disputes between Indian tribes relating to the return of human remains or funerary objects.

Section 9(c)(3)(D). Section 9(c)(3)(D) provides that the committee that is established under the authority of section 9(c)(1) is to be responsible for consulting with Native Hawaiian religious leaders and Native Hawaiian organizations on matters within the scope of the work of the committee affecting Native Hawaiians.

Section 9(c)(3)(E). Section 9(c)(3)(E) provides that the committee that is established under the authority of section 9(c)(1) is to be responsible for performing such other related functions as the Secretary of the Smithsonian may assign to the committee.

Section 9(c)(4). Section 9(c)(4) directs the Secretary of the Smithsonian Institution to ensure that the committee established under the authority of section 9(c)(1) and the members of the committee have full and free access to human remains and funerary objects under review and to associated scientific and historical documents.

Section 9(c)(5). Section 9(c)(5) provides that members of the committee that is established under the authority of section

9(c)(1) are to be reimbursed at a rate equal to the daily rate for GS-18 of the General Schedule under section 5332 of title 5 of the United States Code for each day, including travel time, for which the member is actually engaged in committee business and for travel, subsistence, and other necessary expenses.

Section 9(c)(6). Section 9(c)(6) directs the Secretary of the Smithsonian Institution to designate one of the members of the committee established under the authority of section 9(c)(1) as chairman; to establish such rules and regulations for the committee as may be necessary; and to provide reasonable administrative and staff support as necessary for the deliberations of the committee.

Section 9(c)(7). Section 9(c)(7) provides that the committee that is established under the authority of section 9(c)(1) is to terminate at the end of the 120-day period beginning on the day on which the Board of Regents of the Smithsonian Institution certifies, in a report submitted to the Congress, that the work of the committee has been completed.

Section 9(d). Section 9(d) provides that nothing in section 9 is to be interpreted as limiting the authority of the Smithsonian Institution to return or repatriate human remains or funerary objects to Indian tribes or individuals or to Native Hawaiian individuals, as delaying actions on repatriation requests that are pending on the date of enactment of this Act, as denying or otherwise affecting access to the courts, or as limiting any procedural or substantive rights which may otherwise be secured to Indian tribes or individuals or to Native Hawaiian individuals.

Section 9(e)(1). Section 9(e)(1) provides authority for the Secretary of the Department of the Interior to make grants to Indian tribes for the purpose of assisting Indian tribes in reaching or implementing agreements with the Smithsonian Institution, other Federal agencies, and non-Federal entities for the repatriation of human remains and funerary objects.

Section 9(e)(2). Section 9(e)(2) provides authority for the Secretary of the Department of the Interior to make grants to Native Hawaiian organizations for the purpose of assisting Native Hawaiian organizations in reaching and implementing agreements with the Smithsonian Institution, other Federal agencies, and non-Federal entities for the repatriation of human remains and funerary objects.

Section 9(f)(1). Section 9(f)(1) provides authority for the appropriation of $1,000,000 for fiscal year 1991 and such sums as may be necessary for succeeding fiscal years to carry out the inventory and identification process required under section 9(a).

Section 9(f)(2). Section 9(f)(2) provides authority for the appropriation of $250,000 for fiscal year 1991, and such sums as may be necessary for succeeding fiscal years, for the expenses of the review committee authorized under section 9(c).

Section 9(f)(3). Section 9(f)(3) provides authority for the appropriation of $1,500,000 for fiscal year 1991, and such sums as may be necessary for succeeding fiscal years for the purpose of grants authorized under section 9(e).

PLEDGE

Section 10. Section 10 provides that the faith of the United States is pledged that the United States shall provide such funds as may be necessary for the design, construction, administration, maintenance, operation and the administrative expenses and costs of operating the National Museum of the American Indian, including the protection and care of collections acquired by the Board of Trustees of the National Museum of the American Indian or the Smithsonian Institution's Board of Regents, so that the National Museum of the American Indian shall at all times be properly maintained, and except as otherwise authorized in section 7(c), collections contained therein are to be exhibited regularly to the general public free of charge.

TRANSFER OF FUNDS

Section 11. Section 11 provides that any funds appropriated to carry out the provisions of this Act may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other actions, to the extent of the funds so transferred, as may be necessary to carry out the provisions of this Act.

AUTHORIZATION OF APPROPRIATIONS

Section 12(a)(1). Section 12(a)(1) provides authority for the appropriation to the Smithsonian Institution of $10,000,000 for fiscal year 1990 and such sums as may be necessary for each of the succeeding fiscal years, subject to the provisions of section 12(a)(2), to carry out the provisions of this Act for which no other specific authorization of appropriations is provided in this Act.

Section 12(a)(2)(A). Section 12(a)(2)(A) provides that the total amount authorized to be appropriated for the construction of the facility described in section 4(b)(1) is not to exceed two-thirds of the total cost of that facility.

Section 12(a)(2)(B). Section 12(a)(2)(B) provides that the total amount authorized to be appropriated for the facility of the National Museum of the American Indian established under section 4(b)(2) is not to exceed one-third of the total cost of such facility. It is the intent of the committees that should the costs of the facility established under section 4(b)(2) exceed original estimates, the balance of the funds required to complete the facility for use of the National Museum of the American Indian would be raised from private, non-Federal sources.

Section 12(b). Section 12(b) provides that funds appropriated under the authority of section 12(a) for any period prior to the availability of the facilities described in section 4(b) are to remain available without fiscal year limitation for administrative and planning expenses and for the care and custody of the collections of the National Museum of the American Indian and the Heye Museum.

Section 12(c). Section 12(c) provides that notwithstanding any other provision of this Act, no funds may be appropriated for the purpose of constructing the museum facilities authorized by this Act until the Smithsonian Institution provides to the Congress and to the Administration, an analysis of the total estimated cost of such construction and a cost-sharing plan projecting amounts for Federal appropriations and for non-Federal contributions.

Mr. INOUYE. Mr. President, we have a committee substitute.

The PRESIDENT pro tempore. Are there any amendments to the committee substitute?

AMENDMENT NO. 911

(Purpose: To provide a substitute)

The PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] proposes an amendment numbered 911.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "National American Indian Museum Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) there is no national museum devoted exclusively to the history and art of cultures indigenous to the Americas, specifically Indians, Eskimos, and Aleuts;

(2) although the Smithsonian Institution employs more than 6,000 people, operates 19 museums, galleries, and major research facilities, and sponsors extensive American Indian programs, none of its institutions are devoted exclusively to Native American art and history;

(3) the Museum of the American Indian, Heye Foundation, located in New York City, has an unequaled assemblage of more than 1,000,000 Indian art objects and artifacts and is one of the largest of such collections in the world;

(4) the library of the Museum of the American Indian, Heye Foundation, houses 40,000 volumes relating to the archaeology, ethnology, and history of Native American peoples;

(5) the collection of the Museum of the American Indian, Heye Foundation, of art, artifacts, specimens and books is inadequately housed in 3 separate facilities totaling 90,000 square feet, with 95 percent of the collection of art and artifacts stored in 20,000 square feet and the collection of books kept in a 15,000 square foot library;

(6) the collection of the Museum of the American Indian, Heye Foundation needs a minimum of 400,000 square feet to adequately exhibit and store art and artifacts and to provide space for scholars and researchers;

(7) the bringing together of the collection of the Museum of the American Indian, Heye Foundation, and the Native American collection of the Smithsonian Institution would—

(A) create an institution whose capabilities for exhibition and research would be unrivaled in scope and would give all Americans the opportunity to learn of the cultural legacy, historic grandeur, and contemporary culture of Indians; and

(B) provide—

(i) a meeting place for scholars,

(ii) a significant, national facility for the exhibition of Indian art and artifacts,

(iii) a stage for the performing arts,

(iv) curation and other learning opportunities for Indians, and

(v) traveling exhibitions to communities throughout the Nation;

(8) approximately 300 human remains of Indians collected from battlefields and burial grounds were sent to the Army Medi-

cal Museum by order of the Surgeon General of the United States Army and later transferred to the Smithsonian Institution where they are still stored;

(9) the Smithsonian Institution has acquired additional collections of Native American human remains through—

(A) archaeological excavations, and

(B) donations from individuals and museums;

(10) these collections have been estimated to contain the remains of approximately 18,000 Indians, Eskimos, Aleuts, and Native Hawaiians and the existence of these collections has concerned many Indian tribes and bands, Alaska Native villages, and Native Hawaiian families that are determined to provide an appropriate resting place for their ancestors;

(11) identifying the geographic and tribal origins of Indian and Alaska Native and Native Hawaiian human remains in the Smithsonian collections is essential to addressing these concerns; and

(12) an extraordinary site on the National Mall in the District of Columbia (U.S. Government Reservation No. 6) which has been reserved for the use of the Smithsonian Institution is available for construction of a suitable building to permanently house the collection of the National Museum of the American Indian.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) The term "Indian" means an individual who is a member of an Indian tribe, including any individual who is an Alaska Native.

(2) The term "Alaska Native" means any Eskimo, Aleut, or Alaska Indian.

(3) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act).

(4) The term "Native American" means the tribes, peoples, and cultures that are indigenous to North America, Central America, or South America, including Native Hawaiians.

(5) The term "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

(6) The term "Native Hawaiian organization" means any organization which—

(A) serves and represents the interests of Native Hawaiians, and

(B) has as a primary and stated purpose the provision of services to Native Hawaiians.

(7) The term "Museum" means the National Museum of the American Indian established under section 4.

(8) The term "Heye Museum" means the Museum of the American Indian, Heye Foundation.

(9) The term "Board of Trustees" means the Board of Trustees of the National Museum of the American Indian.

(10) The term "Board of Regents" means the Board of Regents of the Smithsonian Institution.

(11) The term "burial site" means any natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which there was intentionally deposited, as a part of the death rites or ceremonies of a culture, the remains of a deceased individual.

(12) The term "funerary object" means any artifact or object, in the possession or control of the Smithsonian Institution—

(A) which was intentionally placed with a deceased individual, either at the time of burial or interment or at some subsequent time, as a part of the death rites or ceremonies of a culture, and

(B) which—

(i) is clearly associated with human remains subject to return pursuant to section 9, or

(ii) has been identified, through available evidence, as having been removed from a specific burial site.

ESTABLISHMENT OF THE MUSEUM

SEC. 4. (a) There is established within the Smithsonian Institution a living memorial to Native Americans and their traditions which shall be known as the "National Museum of the American Indian" and shall provide for—

(1) the advancement of the study of the Native peoples of the Americas and the study of their languages, literature, history, art, anthropology, and life;

(2) the collection, preservation, and exhibition of Indian objects of artistic, historic, literary, anthropological, and scientific interest related thereto;

(3) programs of Indian research and study; and

(4) the means of carrying on this work in the District of Columbia, the State of New York, and such other locations as may be appropriate.

(b)(1) The area bounded by Third Street, Maryland Avenue, Independence Avenue, Fourth Street, and Jefferson Drive, Southwest, in the District of Columbia, is appropriated to the Smithsonian Institution as the permanent site of a facility for the Museum. A facility for the Museum shall be constructed on such site.

(2) A significant facility for the Museum consisting of approximately 82,500 square feet, including auditorium and loading dock space shared with the General Services Administration, shall be established in the Old United States Custom House at One Bowling Green, New York, New York, and shall be designated "The George Gustav Heye Center of the National Museum of the American Indian".

(3) A facility for the conservation and storage of the collections of the Museum shall be established at the Museum Support Center of the Smithsonian Institution.

(c) The Board of Regents is authorized to—

(1) enter into a conveyance agreement with the Heye Foundation, the terms of which shall—

(A) provide for the transfer of title of those assets of the Heye Foundation described in the Memorandum of Understanding between the Smithsonian Institution and the Heye Foundation dated May 8, 1989, to the Smithsonian Institution for the benefit and use of the Museum;

(B) require that such assets be used for purposes consistent with the trust indenture established by George Gustav Heye on May 10, 1916; and

(C) be governed by, and construed in accordance with, the laws of the State of New York to the extent permitted under the laws of the United States and the Constitution of the United States and under the jurisdiction of the United States District Court for the Southern District of New York;

(2) plan, design, and construct, or to acquire, the facilities described in subsection (b), which shall together aggregate at least 400,000 square feet;

(3) provide for the permanent acquisition of Native American objects and artifacts from the Heye Museum;

(4) purchase, accept, borrow, or otherwise provide for the temporary or permanent acquisition of Native American objects and artifacts from other museums or private collections; and

(5) preserve, maintain, restore, loan, or exchange objects and artifacts in the collection of the Museum.

BOARD OF TRUSTEES OF THE MUSEUM

SEC. 5. (a) There is established within the Smithsonian Institution the Board of Trustees of the National Museum of the American Indian.

(b) The Board of Trustees shall—

(1) recommend annual operating budgets for the Museum;

(2) provide advice and assistance to the Board of Regents on all matters relating to the administration, operation, maintenance, and preservation of the Museum;

(3) subject to the general policy established by the Board of Regents, have the sole authority to—

(A) loan, exchange, sell, or otherwise dispose of any part of the collections of the Museum, but only if the funds generated by such disposition are used for additions to the collections of the Museum or for additions to the endowment of the Museum,

(B) subject to the availability of funds and the provisions of annual budgets of the Museum, purchase, accept, borrow, or otherwise acquire artifacts and other property for addition to the collections of the Museum, and

(C) establish policy with respect to the utilization of the collections of the Museum for purposes that include, but are not limited to, research, evaluation, education, and method of display;

(4) subject to the general policy established by the Board of Regents, have authority to—

(A) establish policy with respect to the restoration, preservation, and maintenance of the collections of the Museum,

(B) solicit funds for the Museum and determine the purposes to which those funds shall be applied,

(C) approve expenditures from the endowment of the Museum, or of income generated from the endowment, for any purpose of the Museum, and

(D) consult with and advise the Director of the Museum on annual budgets to be recommended to the Board of Regents and otherwise consult with, advise, and support the Director in the operation of the Museum;

(5) adopt bylaws to carry out the functions of the Board of Trustees;

(6) designate a chairman from among the members of the Board of Trustees and such other officers as may be provided for by the Board of Trustees; and

(7) report annually to the Board of Regents on the acquisition, disposition, and display of Native American objects and artifacts and on other matters within the discretion of the Board of Trustees.

(c)(1)(A) The initial Board of Trustees shall consist of the following individuals:

(i) the Secretary of the Smithsonian Institution,

(ii) an Assistant Secretary of the Smithsonian Institution designated by the Board of Regents,

(iii) 8 individuals appointed by the Board of Regents, and

(iv) 15 individuals appointed by the Board of Regents from a list submitted by the board of trustees of the Heye Museum of candidates who are members of the board of trustees of the Heye Museum.

(B) At least 7 of the members of the Board of Trustees appointed by the Board of Regents under this paragraph shall be of Indian ancestry.

(C) Any vacancy on the Board of Trustees that is caused by the failure of a member of the Board of Trustees appointed under subparagraph (A)(iv) to complete the term of office of such member shall be filled by any individual appointed by the Board of Regents without regard to subparagraph (A)(iv), but subject to the requirements of subparagraph (B).

(D) The term of office of each of the members of the initial Board of Trustees appointed under clauses (iii) and (iv) of subparagraph (A) shall be 3 years.

(2)(A) Upon the expiration of the terms of office of the members of the initial Board of Trustees appointed under clauses (iii) and (iv) of paragraph (1)(A), the Board of Trustees shall thereafter consist of—

(i) the Secretary of the Smithsonian Institution,

(ii) an Assistant Secretary of the Smithsonian Institution designated by the Board of Regents, and

(iii) 23 individuals appointed by the Board of Regents from a list of nominees submitted by the Board of Trustees.

(B) At least 12 of the members of the Board of Trustees appointed under subparagraph (A)(iii) shall be of Indian ancestry.

(C)(i) Except as otherwise provided in this subparagraph, the term of office of each member of the Board of Trustees appointed under subparagraph (A)(iii) shall be 3 years.

(ii) Of the initial members of the Board of Trustees appointed under subparagraph (A)(iii), who succeed the members appointed under clauses (iii) and (iv) of paragraph (1)(A)—

(I) 7 members shall have a term of office of 1 year,

(II) 8 members shall have a term of office of 2 years, and

(III) 8 members shall have a term of office of 3 years.

The Board of Regents shall designate the term of office of each of these members at the time the member is appointed.

(3) Any member of the Board of Trustees appointed to fill a vacancy occurring prior to the expiration of the term of office for which his predecessor was appointed shall be appointed for the remainder of such term.

(d) A majority of the members of the Board of Trustees shall constitute a quorum and any vacancy on the Board of Trustees shall not affect the power of the Board of Trustees to function.

(e) Members of the Board of Trustees may be reimbursed for travel, subsistence, and other necessary expenses incurred by the members in the performance of their duties as members of the Board of Trustees.

DIRECTOR; STAFF

SEC. 6. (a) The Secretary of the Smithsonian Institution may appoint and fix the compensation and duties of the Director of the National Museum of the American Indian and of such other officers and employees of the Museum as may be necessary for the efficient administration, operation, maintenance, and preservation of the Museum.

(b) The Director of the Museum and 2 other employees of the Museum may be appointed and compensated without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service and chapter 51, and subchapter III of chapter 53, of title 5 of such Code.

(c) All employees of the Heye Museum serving at the time of the transfer of its collections, endowment, and other property to the Smithsonian Institution shall be offered employment with the Smithsonian Institution under the usual terms of employment with the Smithsonian Institution and may be appointed without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service and chapter 51, and subchapter III of chapter 53, of title 5 of such Code.

FACILITY IN NEW YORK

SEC. 7. (a) Notwithstanding any provision of law other than the provisions of this Act, the Administrator of General Services is authorized, upon such terms and for such periods as may be mutually agreed upon by the Administrator and the Secretary of the Smithsonian Institution, to furnish at a nominal charge to the Smithsonian Institution, for a period of not less than 99 years, space (as provided in section 4(b)(2)) in the Old United States Custom House at One Bowling Green, New York, New York. The Smithsonian Institution shall reimburse the Administrator for the Smithsonian Institution's pro rata share of the cost of utilities, maintenance, cleaning, and other services incurred with respect to such space and the full cost of any repairs or alterations requested by the Smithsonian Institution with respect to such space.

(b) The City of New York, New York, and the State of New York shall each contribute the lesser of—

(1) one-third of the total cost of the design, construction and renovation of the space in the Old United States Custom House at One Bowling Green, New York, New York, that is to be used by the Museum for the facility that is required to be established under section 4(b)(2), or

(2) $8,000,000.

(c) Notwithstanding any other provision of this Act or of any other law, the Board of Regents is authorized to charge the public a fee for admission to the facility of the Museum that is required to be established under section 4(b)(2).

(d)(1) All receipts from charges paid by the Secretary of the Smithsonian Institution under subsection (a) to the Administrator of General Services for the furnishment of the space described in subsection (a) shall be deposited into the fund established under section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)).

(2) There are authorized to be appropriated to the General Services Administration such sums as may be necessary to reimburse the fund established under section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)) for the difference between the amount the Administrator of General Services charges the Secretary of the Smithsonian Institution under subsection (a) for the furnishment of the space described in subsection (a) and the amount the Administrator would otherwise charge for such space under section 210(j) of such Act.

(e) There are authorized to be appropriated to the General Services Administration $25,000,000 from the fund established under section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)) for the repair and alteration of the Old United States Customs House at One Bowling Green New York, New York, but not for those portions of the building assigned by the Administrator of General Services to the Smithsonian Institution under terms and conditions agreed to under subsection (a) that make the Smithsonian Institution responsible for the repair and alteration of such portions of the building.

(f)(1) The Board of Regents shall—

(A) loan artifacts and exhibitions from the Smithsonian Institution to the successor to the Heye Foundation at Audubon Terrace, 3753 Broadway, New York, New York,

(B) provide training, technical assistance, scholarship support, and such other assistance as is deemed necessary to such successor to maintain and operate museum programs, and

(C) ensure that at least 2,000 square feet at Audubon Terrace is publicly accessible and physically suitable for related exhibition activities.

(2) The successor to the Heye Foundation at Audubon Terrace shall make a good faith effort to respond to community cultural interests.

(3) Fees associated with traveling exhibits of the Smithsonian Institution that are charged to the successor to the Heye Foundation shall be determined according to the ability of the successor to pay such fees.

RELATIONSHIPS WITH OTHER MUSEUMS; INDIAN PROGRAMS

SEC. 8. (a)(1) The Board of Regents is authorized to enter into agreements with museums, educational institutions, and cultural organizations to—

(A) loan Native American artifacts and objects from the collections of the Smithsonian Institution,

(B) sponsor and coordinate a variety of traveling exhibitions, and

(C) provide training and technical assistance.

(2) The Board of Regents shall, in carrying out its responsibilities under this subsection, give priority to agreements with Indian tribes, museums, cultural centers, educational institutions, libraries, and archives. Agreements entered into with such Indian entities may provide loans or services at minimal cost or no cost.

(b)(1) The Secretary of the Interior is authorized to make grants to Indian tribal museums for the purpose of renovating, repairing, or constructing facilities for the museums (including ventilation and security systems) to enable the museums to receive and exhibit objects and artifacts loaned to the museums from the collection of the National Museum of the American Indian.

(2)(A) There is hereby established within the Treasury of the United States a trust fund to be known as the "Tribal Museum Endowment Fund" (hereafter in this subsection referred to as the "Endowment Fund"), consisting of such amounts as may be deposited into the Endowment Fund under subparagraph (B) or credited to the Endowment Fund under subparagraph (D)(iii).

(B)(i) The Secretary of the Treasury is authorized to accept contributions to the Endowment Fund of any funds that were not derived from the Federal Government and shall deposit such contributions into the Endowment Fund.

(ii) Amounts appropriated to the Endowment Fund may be deposited into the Endowment Fund only to the extent that an equal amount of funds that were not derived from the Federal Government has been contributed to the Endowment Fund and deposited into the Endowment Fund under clause (i).

(C) The Secretary of the Interior shall be the trustee of the Endowment Fund, and shall submit an annual report to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives on—

(i) the financial condition and the results of the operations of the Endowment Fund during the fiscal year preceding the fiscal year in which such report is submitted, and

(ii) the expected condition and operations of the Endowment Fund during—

(I) the fiscal year in which such report is submitted, and

(II) the 5 fiscal years succeeding such fiscal year.

Such report shall be printed as a House document of the session of the Congress to which the report is made.

(D)(i) The Secretary of the Treasury shall invest the funds in the Endowment Fund in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

(I) on original issue at the issue price, or

(II) by purchase of outstanding obligations at the market price.

(ii) Any obligation acquired by the Endowment Fund may be sold by the Secretary of the Treasury at the market price.

(iii) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Endowment Fund shall be credited to, and form a part of, the Endowment Fund.

(E) The capital of the Endowment Fund shall not be available for expenditure. The amounts credited to the Endowment Fund under subparagraph (D)(iii) shall only be available for grants made under paragraph (1).

(F) The Secretary of the Interior is authorized and directed to pay out of amounts in the Endowment Fund that are credited to the Endowment Fund under subparagraph (D)(iii) such sums as are necessary to fund the grants made under paragraph (1).

(3) There are authorized to be appropriated for the Endowment Fund for each fiscal year beginning after fiscal year 1991, $2,000,000.

(c)(1) The Board of Regents is authorized to establish special programs to—

(A) serve Indian tribes and communities, and

(B) in concert with educational institutions (including Tribally Controlled Community Colleges), enhance the opportunities for Indians in museum studies, management, and research.

(2) The Board of Regents shall establish an American Indian Museum Management Fellowship program to provide stipends to Indians who are receiving training in museum development and management.

(3) There are authorized to be appropriated for each fiscal year $2,000,000 to carry out the provisions of this subsection.

INDIAN HUMAN REMAINS

SEC. 9. (a)(1) Subject to the provisions of this section and notwithstanding any other provision of law, the Board of Regents shall, in consultation and cooperation with traditional Indian and Native Hawaiian religious leaders and tribal government officials, initiate a process for the inventory of Indian and Native Hawaiian human remains and funerary objects in the collection or control of the Smithsonian Institution to identify, to the fullest extent possible, the geographic and tribal origins of such remains and objects. The identification of the human remains and funerary objects shall be based upon the best available scientific and historical documentation.

(2) If the identification process conducted under paragraph (1) has established by a preponderance of the evidence the Indian tribal origin of any particular human remains or funerary objects, the Board of Regents, as soon as possible, shall cause the affected Indian tribe or tribes to be notified of such identification.

(3) If the identification process conducted under paragraph (1) has established by a preponderance of the evidence the geographic origin of any particular human remains or funerary objects of Native Hawaiians, the Board of Regents, as soon as possible, shall cause notice of such identification to be made to a Native Hawaiian organization which has been certified by the Governor of the State of Hawaii as the appropriate entity to receive such notification.

(b)(1) If a preponderance of the evidence establishes that human remains in the possession or control of the Smithsonian Institution are of a particular Indian, or are of an individual who was culturally affiliated with a particular Indian tribe, the Board of Regents, upon request of the known descendants of such Indian, or such Indian tribe, as the case may be, shall expeditiously return such remains, and any funerary objects associated with such remains, to such descendants or Indian tribe.

(2) If a preponderance of the evidence establishes that human remains in the possession or control of the Smithsonian Institution are of a particular individual who is believed to be Native Hawaiian, the Board of Regents, upon the request of the known descendants of such individual, shall expeditiously return such remains, and any funerary objects associated with such remains, to such descendants.

(3) If a preponderance of the evidence establishes that funerary objects in the possession or control of the Smithsonian Institution, not associated with any human remains, were removed from a specific burial site of an individual culturally affiliated with a particular Indian tribe, the Board of Regents, upon the request of such Indian tribe, shall expeditiously return such objects to such Indian tribe.

(4) If a preponderance of the evidence establishes that funerary objects in the possession or control of the Smithsonian Institution, not associated with any human remains, were removed from a specific burial site of an individual believed to be Native Hawaiian, the Board of Regents, upon the request of the descendants of such individual, shall expeditiously return such objects to the descendants.

(c)(1) Within 120 days after the date of enactment of this Act, the Secretary of the Smithsonian Institution shall establish a committee to monitor and review the implementation of the inventory and identification process required under subsection (a) and the restoration activities required under subsection (b).

(2) The committee established under paragraph (1) shall be composed of 5 members, 3 of whom shall be appointed from nominations submitted by Indian tribes and organizations. None of the persons appointed to the committee shall be Federal employees or officials or be affiliated with the Smithsonian Institution.

(3) The committee established under paragraph (1) shall be responsible for—

(A) monitoring the inventory and identification process conducted under subsection (a) to ensure a fair, objective consideration and assessment of all available relevant information and evidence,

(B) reviewing, upon its own motion or upon the request of any affected party, any finding relating to—

(i) the identity or origin of human remains or funerary objects, or

(ii) the return of such remains or objects,

(C) arbitrating disputes between Indian tribes relating to the return of human remains or funerary objects,

(D) consulting with Native Hawaiian religious leaders and Native Hawaiian organizations on matters within the scope of the work of the committee affecting Native Hawaiians; and

(E) performing such other related functions as the Secretary may assign to the committee.

(4) The Secretary shall ensure that the committee established under paragraph (1) and the members of the committee have full and free access to human remains and funerary objects under review and to associated scientific and historical documents.

(5) Members of the committee established under paragraph (1) shall be reimbursed at a rate equal to the daily rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) for which the member is actually engaged in committee business and for travel, subsistence, and other necessary expenses.

(6) The Secretary shall—

(A) designate one of the members of the committee established under paragraph (1) as chairman,

(B) establish such rules and regulations for the committee as may be necessary, and

(C) provide reasonable administrative and staff support necessary for the deliberations of the committee.

(7) The committee established under paragraph (1) shall terminate at the end of the 120-day period beginning on the day on which the Board of Regents certifies, in a report submitted to the Congress, that the work of the committee has been completed.

(d) Nothing in this section shall be interpreted as—

(1) limiting the authority of the Smithsonian Institution to return or repatriate human remains or funerary objects to Indian tribes or individuals or to Native Hawaiian individuals,

(2) delaying actions on repatriation requests that are pending on the date of enactment of this Act,

(3) denying or otherwise affecting access to the courts, or

(4) limiting any procedural or substantive rights which may otherwise be secured to Indian tribes or individuals or to Native Hawaiian individuals.

(e)(1) The Secretary of the Interior is authorized to make grants to Indian tribes for the purpose of assisting such Indian tribes in reaching and implementing agreements with the Smithsonian Institution, other Federal agencies, and non-Federal entities for the repatriation of human remains and funerary objects.

(2) The Secretary of the Interior is authorized to make grants to Native Hawaiian organizations for the purpose of assisting

such organizations in reaching and implementing agreements with the Smithsonian Institution, other Federal agencies, and non-Federal entities for the repatriation of human remains and funerary objects.

(f) There are authorized to be appropriated—

(1) $1,000,000 for fiscal year 1991, and such sums as may be necessary for succeeding fiscal years, to carry out the inventory and identification process required under subsection (a),

(2) $250,000 for fiscal year 1991, and such sums as may be necessary for succeeding fiscal years, for the expenses of the review committee authorized under subsection (c), and

(3) $1,500,000 for fiscal year 1991, and such sums as may be necessary for succeeding fiscal years, for grants authorized under subsection (e).

PLEDGE

SEC. 10. The faith of the United States is pledged that the United States shall provide such funds as may be necessary for the design, construction, administration, maintenance, and operation of the Museum and the administrative expenses and costs of operating the Museum, including the protection and care of collections acquired by the Board of Trustees or the Board of Regents, so that the Museum shall at all times be properly maintained and, except as otherwise authorized in section 7(c), collections contained therein shall be exhibited regularly to the general public free of charge.

TRANSFER OF FUNDS

SEC. 11. Any funds appropriated to carry out the provisions of this Act may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other actions, to the extent of the funds so transferred, as may be necessary to carry out the provisions of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. (a)(1) Subject to the provisions of paragraph (2), there are authorized to be appropriated to the Smithsonian Institution—

(A) $10,000,000 for fiscal year 1990, and

(B) such sums as may be necessary for each of the succeeding fiscal years,

to carry out the provisions of this Act for which no other specific authorization of appropriations is provided in this Act.

(2)(A) The total amount authorized to be appropriated for the construction of the facility described in section 4(b)(1) shall not exceed two-thirds of the total cost of such facility.

(B) The total amount authorized to be appropriated for the facility of the Museum established under section 4(b)(2) shall not exceed one-third of the total cost of such facility.

(b) Funds appropriated under the authority of subsection (a) for any period prior to the availability of the facilities described in section 4(b) shall remain available without fiscal year limitation for administrative and planning expenses and for the care and custody of the collections of the Museum and the Heye Museum.

(c) Notwithstanding any other provision of this Act, no funds may be appropriated for the purpose of constructing the museum facilities authorized by this Act until the Smithsonian Institution provides to the Congress and to the Administration an analysis of the total estimated cost of such construction and a cost-sharing plan projecting amounts for Federal appropriations and for non-Federal contributions.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Hawaii [Mr. INOUYE].

The amendment (No. 911) was agreed to.

Mr. McCAIN. I rise in strong support of S. 978, a bill to establish the National Museum of the American Indian under the auspices of the Smithsonian Institution.

I wish to commend the distinguished chairman of the Indian Affairs Committee, Senator INOUYE, for his vision, leadership, and skill in developing this legislation. For the past 3 years he has spent enormous amounts of time and energy to resolve seemingly irreconcilable differences and points of view in order to achieve a genuine consensus among all of the interested parties.

In this particular instance, I think I can speak on behalf of all native Americans who express their deep and heartfelt appreciation for Chairman INOUYE's efforts—without which this day would not be a reality.

Mr. President, as we all know, our Nation has been greatly enriched by its Indian citizens. There is no facet of our daily lives which is untouched by the past and present contributions of native Americans. We are unique among the nations of the world in our policies with regard to Indian peoples. While our policies have not always reflected well upon our Government, in general we have endeavored to treat the tribes fairly, to respect their sovereign prerogatives, and to appreciate the cultural diversity they embody. I believe that the National Museum of the American Indian will stand as a monument not only to the greatness of the Indian people, but also as a constant reminder of our national commitment to honor the existence of the tribes.

The museum's overall value and purpose was best expressed by Senator INOUYE who said:

This museum will be a living memorial dedicated to honor the magnificent contributions that native Americans have made to our society. It will provide an opportunity for all Americans to learn not only of the historic grandeur and the rich cultural legacy that the ancestors of today's Indian people have brought to us, but also a relevant and current manifestation of the contemporary culture of American Indians and Alaskan Natives.

Perhaps most importantly, with our eyes toward future generations, this museum will foster a sense of self-esteem and pride in Indian children—to know that they came from a great and proud heritage, and that they are the chosen ones that will carry on the magnificent culture and traditions, the art and dance, and religion of their ancestors, and that American society will be enriched by their contributions, as it has been by the contributions of their forefathers.

Mr. President, I would also like to highlight a portion of the bill which contains an agreement by the Smithsonian Institution to inventory and repatriate the human remains of native Americans and the associated grave offerings currently within their possession. I am pleased to note that this agreement closely conforms to the repatriation process I called for in S. 1021, a bill to provide for the protection of Indian graves and burial grounds. While my bill would extend coverage to all Federal agencies and to State and private institutions receiving Federal funds, I think the Smithsonian agreement is an important first step. It sends a clear signal to those in the museum community who have dismissed repatriation as a transitory issue that they would be wise to carefully consider the bills currently before the Congress.

Mr. MOYNIHAN. Mr. President, I would like to add my support for the National Museum of the American Indian Act. This bill represents years of negotiation about the future of the majestic Heye collection, which contains 1,000,000 American Indian artifacts. For near three quarters of a century, the collection has been housed at Audubon Terrace, located in the Washington Heights section of Manhattan. Regrettably, exhibition space at Audubon Terrace is inadequate. Only a fraction of the Heye collection is ever on exhibit, the remainder relegated to storage.

The grandeur of the Heye collection deserves a national forum, and this bill provides just that. It would establish a National Museum of the American Indian to be comprised of three separate facilities. Part of the collection would remain in New York—just as its founder George Gustav Heye desired—in the U.S. Custom House, located at One Bowling Green in Manhattan. It is a splendid building, befitting of the Heye collection's treasures.

The bulk of the collection will be displayed in a larger museum to be built on the Mall in Washington. This location, combined with the Custom House exhibition space, will ensure that millions more Americans will be able to see and learn of the rich and thriving culture of the American Indian. In addition, a storage and research facility will be constructed in Suitland, MD.

This legislation also recognizes the unique relationship of Audubon Terrace to the Museum of the American Indian. The collection's founder, George Gustav Heye, turned to philanthropist Archer Huntington in 1916 in search of an appropriate site for his collection. With the vision of establishing a cultural center comparable to Lincoln Center, Mr. Huntington offered Mr. Heye space at Audubon Terrace. Since that time, Audubon Ter-

race has been home to the fascinations and dream of Mr. Heye. As such, this legislation dictates that the Smithsonian maintain ties with Audubon Terrace by loaning exhibits and providing technical assistance to the successor of the Heye Foundation.

The significance of the Heye collection may not be understated. It includes artifacts which extend geographically from Point Barrow to Tierra Del Fuego: the entire western hemisphere. The collection extends from prehistoric to contemporary times, encompassing the great civilizations of the new world—the Incas, Aztecs, and Mayans—to remote forest tribes in the Amazon and to Eskimos in the Arctic.

George Gustav Heye began collecting in 1897, employing scores of anthropologists to direct expeditions all over the American continent until his death in 1957. He managed to obtain the wampum belts that William Penn received from the Lenape Tribe to secure the bargain he made for Pennsylvania; the rifles which the U.S. Army took away from Geronimo, Rain-in-the-Face, Chief Joseph Nahche, and Sitting Bull, and scores of other artifacts.

Kevin Wallace of the New Yorker expressed it best when he wrote in 1960, "The most remarkable aspect of the Heye collection is its comprehensiveness; it is so complete, in fact, that in many cases a student seeking a Ph.D. in the field of Indian material culture not only could do all his field work within New York City, but might have no other choice."

I believe that the establishment of a National Museum of the American Indian is long overdue. I eagerly anticipate the day that George Gustav Heye's gift to the Nation will be displayed in a manner reflective of the great living culture of the American Indian.

The PRESIDENT pro tempore. Are there further amendments? If not, the question is on agreeing to the the committee substitute amendment, as amended.

The committee substitute amendment, as amended, was agreed to.

The PRESIDENT pro tempore. Are there further amendments?

If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRADLEY. Mr. President, I would simply like to recognize the outstanding work that the distinguished senior Senator from Hawaii has done on this issue. It was long overdue and it will be a very fitting tribute to native Americans. It is a very important issue to them all. I salute him for his efforts in bringing this to pass.

Mr. INOUYE. Mr. President, if I may, on behalf of the first Americans of this land, I thank the Senate and the Congress for its support.

EXECUTIVE SESSION

The PRESIDENT pro tempore. Under the order, the Senate will return to executive session to resume consideration of the nomination of Mr. Joseph Zappala to be Ambassador to Spain.

Mr. SARBANES is recognized.

Mr. SARBANES. Mr. President, as I was pointing out earlier on the charts, there has been this marked shift in the number of political appointments under the Bush administration in comparison with previous administrations at this point in the first year after their election.

The question then arises: What has happened? Why is it that we have had such a tremendous jump in the number of political appointees? I think probably the answer to that question is to be found in an article which appeared in the New York Times on February 20 of this year, headlined "Ex-Finance Chairman Complains Few Jobs Go to Bush Fund-raisers."

That article reads:

Robert A. Mosbacher, who was finance chairman of President Bush's campaign, says he is distressed that more campaign fundraisers have not been rewarded with political appointments.

He then went on to say that he planned to bring the issue to the attention of White House personnel officials and that he hoped to speak directly to Mr. Bush about it.

The article goes on to say:

The Commerce Secretary, who ran the Bush fundraising effort in the primaries and the Republican Party's drive to raise millions of dollars from wealthy donors, said there were "several hundred" fundraisers who deserved appointments to ambassadorships, sub-Cabinet posts or lower level jobs on commissions who were being neglected. The campaign had a national finance board of some 350 people in the primaries, and for the general election, 249 individuals and corporations gave at least $100,000 apiece to the Republican Party.

"Quite a high percentage of those who have been helpful haven't gotten anything—at least 50 percent," Mr. Mosbacher said.

He then goes on to talk about others that were interested in serving, how opportunities had to be found for them. And he concludes by talking about one lady who had been a very diligent fundraiser. "By all standards she deserves something," Mr. Mosbacher said, "She raised a lot of money, worked hard."

Mr. President, I am not trying to argue that the people who have been politically active and made significant donations ought not to be ambassadors or ought not to be able to serve in the administration. All I am saying is that that should not be the sole reason for their being nominated to responsible positions. There ought to be other dimensions to their experience, abilities, and qualifications which would warrant one, upon looking at their record, to say, "There is a basis here for naming this person to be an ambassador, and the appointment is not being done solely to reward a large campaign contributor."

Unfortunately, that is precisely what has happened under this administration. We are now confronted with a situation in which primacy is being given to campaign and fundraising involvement over legitimate qualifications. A person's contribution to the campaign is, really, the basis for his or her selection to be an ambassador. I submit that close inspection of many of the résumés submitted to the Senate, the résumés, that is, which help to make up the large jump in political appointments, leads to the conclusion that, in too many cases, large donations to political campaigns or successful fundraising activity are the only reason for the nomination.

In fact, there is a provision in the Foreign Service Act which states that contributions to political campaigns should not be a factor in the appointment of an individual as a chief of mission. It should not be a factor, one way or the other. Yet we are confronted with a number of nominees who demonstrably have no qualification other than large campaign donations.

The process has deteriorated badly. The Presidential certification of demonstrated competence is required under the law to be submitted with every nomination. Despite the provision in the statute which says, "Contributions to campaigns should not be a factor in the appointment of an individual as a chief of mission," such political donations are set out in the certification of competence as the main reason why this person has been nominated. This procedure is directly contrary to the provision of the statute.

In the case of Mr. Zappala, whom we are now considering to be Ambassador to Spain, let me simply read the main paragraph in his so-called certification of demonstrated competence.

Mr. Zappala was National Finance Co-Chairman for the American Bicentennial Presidential Inaugural and Chairman of the Florida Victory Committee. Formerly Mr. Zappala was on the George Bush for President National Steering Committee in 1988 and the National Finance Committee Co-Chairman for the State of Florida as well as

National Co-Chairman for the Republican National Committee's Team 100.

This is a group of those who gave more than $100,000 last Presidential campaign.

Mr. Zappala was also chairman of George Bush for President, 1979.

I was struck yesterday by what my colleague, the distinguished senior Senator from North Carolina, said in setting out in the RECORD Mr. Zappala's qualifications. He was addressing the question of why should this person be an ambassador; in this instance, why should he be an ambassador to a country as important to our interests as Spain. Spain is a nation of great economic, political, and strategic importance and significance, as I tried to detail yesterday.

Yet in support of the case for Mr. Zappala, we have the following long statement in the RECORD. I read this in the context of the relevant statute, which says,

Contributions to political campaigns should not be a factor in the appointment of an individual as a chief of mission.

Let me just quote this now. This is what the distinguished Senator from North Carolina had to say, amongst other things, about Mr. Zappala.

Mr. Zappala's civic action has also extended to the promotion of political activity among citizens, both through political organization and through fundraising. These activities deserve special notice. He has had a long personal relationship with George Bush. He was active both nationally and statewide on behalf of the George Bush for President campaign, dating as far back as 1979. In that year, Mr. Zappala was the finance co-chairman in Pinellas County, FL, of the first George Bush for President campaign. He co-chaired the first Florida fundraising for the Bush campaign in this year as well. Mr. Zappala was also among the State finance chairmen who met in Chicago with the candidate and then campaign manager, Jim Baker—

I might add parenthetically, now the Secretary of State—

to assist in establishing one of Mr. Bush's first national fundraising efforts. Mr. Zappala also assisted with fundraising for the Fund for America's Future, a multicandidate political action committee established by Mr. Bush in 1985.

After the commencement of the 1988 George Bush for President campaign, Mr. Zappala served prominently on the National Finance Committee as co-chairman of the Republican National Committee's Team 10.

By the way of explanation, this is the group that gave more than $100,000; some 249 people.

He currently serves as the national co-chairman of finance for the American Bicentennial Presidential Inaugural and as chairman of the Florida Victory Committee.

Mr. President, it is getting dangerously close to where we are simply going to say: Mr. So-and-So gave $185,000 in the last political campaign, or $132,000, or $218,000, and therefore has been nominated to be the Ambassador to country *x*.

I think we have to bring a halt to this practice. We have here a nominee who does not speak Spanish. He has had no international or foreign policy experience. He has been successful in the condominium business in Florida, that is true. My own impression of him from the hearing and from what I hear is that he is a fine person. These arguments are in no way directed at Mr. Zappala personally.

But in terms of qualifications to be an American Ambassador, and in particular to be ambassdor to a country as significant to our interests as Spain—a country in which we have a very broad security interest, an important NATO ally, a country that has a leading role to play in the Spanish-speaking world and with influence throughout Latin America—it seems to me that to send this nomination is an indication that we are really not serious about our relationship with Spain or about addressing many of the critical issues on the international agenda.

Sending an ambassador who possesses no obvious qualifications for a post conveys a very unfortunate message to the country involved. It says, in effect, that our relationship is not important enough to require an able representative of our country. In many respects it says we value the country's climate more than its respect and friendship. And to the world at large it says the United States is not serious about diplomacy, that America places a higher premium on political rewards than on furthering its interests abroad.

No other major industrial country appoints its ambassaors in this way. Countries who send ambassadors to the United States pick them very carefully, to make sure that they are people of first-rank quality and ability and experience. The United States should do no less.

I think it is interesting, in the instance of Mr. Zappala, that two of the leading newspapers in his State, the St. Petersburg Times and the Miami Herald, have editorialized against his nomination.

I made reference yesterday to the St. Petersburg Times. Let me just quote from the last paragraph of that:

In the past, some new ambassadors' lack of preparation for their jobs has been offensive to host countries and has prevented our government from taking advantage of important diplomatic opportunities. Whether political appointees or career diplomats, our ambassadors should possess the same qualifications that we have come to expect of foreign diplomats serving in this country. Otherwise, we run the risk of creating touchy situations that even successful St. Petersburg developers aren't capable of getting us out of.

Mr. President, I ask unanimous consent that that entire editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the St. Petersburg Times, Feb. 18, 1989]

THE INTERNATIONAL LANGUAGE

According to U.S. Rep. C. W. Bill Young, St. Petersburg developers Mel Sembler and Joseph Zappala have all sorts of qualifications for their new jobs as U.S. ambassadors to Australia and Spain, respectively.

"Australia is so much like the United States, and Mel Sembler certainly knows his way around the United States," Young said. "He is certainly able to communicate, which is one of the essential requirements of diplomacy." Young had similar praise for the diplomatic skills of Zappala, who he said "has handled a lot of touchy situations in his business life."

Sembler and Zappala may turn out to be excellent ambassadors, and their appointments by President Bush undoubtedly bring prominence to St. Petersburg. However, their selections had nothing whatsoever to do with their ability to find their way around, or to communicate, or to handle touchy situations.

Actually, that's not entirely true. Sembler and Zappala know their way around the power structure of the national Republican Party, and they know how to communicate in the international language: money. They were members of "Team 100," a group of donors who contributed at least $100,000 each to the Republican Party during last fall's campaign. They also served as co-chairmen of the national committee that raised $20-million to help pay for the Bush inaugural. The services rendered by Sembler and Zappala add up to serious qualifications for political appointment.

The practice of making ambassadorial appointments based on politics is neither new nor necessarily bad. Some political appointees with no previous diplomatic experience turn out to be excellent ambassadors. For example, former U.S. Sen. Mike Mansfield turned out to be an inspired choice as ambassador to Japan.

On the other hand, some career Foreign Service officers turn out to be inappropriate choices for particular assignments. John Negroponte, most recently U.S. ambassador to Honduras, has become a controversial choice as our new ambassador to Mexico because of his previous involvement with the Contra guerrillas fighting the government of Nicaragua. His predecessor in Mexico City, John Gavin, an old Hollywood friend of President Reagan's won generally high marks for his diplomatic performance.

However, an overabundance of politically based ambassadorial appointments can cause problems. First, an influx of political appointees can harm the morale of career Foreign Service officers better qualified for diplomatic duty. The percentage of political appointments rose from about 25 percent to 40 percent during the Reagan years, with a concomitant decline in ambassadorships awarded on merit. That percentage may go even higher with President Bush's new appointments.

Of course, the real risk is that some political appointees can harm American interests because they lack the backgrounds and abilities needed to articulate and implement U.S. policy. Our new ambassador to Italy, another political ally of the new president, does not speak fluent Italian. Zappala, whose Spanish is similarly rudimentary, does not claim to be particularly familiar with the recent history of Spain's ambivalent political and military relationship with

the United States and the rest of Western Europe.

In the past, some new ambassadors' lack of preparation for their jobs has been offensive to host countries and has prevented our government from taking advantage of important diplomatic opportunities. Whether political appointees or career diplomats, our ambassadors should possess the same qualifications that we have come to expect of foreign diplomats serving in this country. Otherwise, we run the risk of creating touchy situations that even successful St. Petersburg developers aren't capable of getting us out of.

Mr. SARBANES. Second, in the Miami Herald of yesterday, the editorial reads as follows:

Unqualified Envoys. Now Bush Slights Spain.

Let me just read from this editorial in part:

That nomination—

meaning the nomination of Mr. Zappala—

on which the full Senate will vote this week, forms part of a disquieting pattern. Like too many other Bush nominees to critical embassy posts, Mr. Zappala merely distinguished himself during the past Presidential campaign as a remarkably successful fund raiser. He can't speak Spanish. He is expert neither in Iberian affairs nor in international relations, he wholly lacks diplomatic experience.

That's troubling, Spain is an important U.S. ally, and Section 304 of the Foreign Service Act expressly advocates that U.S. ambassadors to such key nations have knowledge of the host country. The act also states that "contributions to political campaigns should not be a factor in the appointment." Mr. Zappala meets neither standard. The Senate should tell the President so and urge him to heed Section 304.

Granted Presidents have—and indeed should have—a free hand in nominating envoys to carry out their foreign-policy objectives. Therefore, the Senate is—and indeed should be—loath to reject a nominee simply because he is unqualified.

Yet the Constitution gives the Senate the duty to advise the President on appointments, and the power to reject them. The Senate should at least tell Mr. Bush that he disserves himself by nominating unqualified persons to be ambassadors.

Presidents historically have rewarded political allies and friends with prestigious ambassadorships. That in itself is not always objectionable, and many political appointees have proved excellent. But Mr. Bush has been unduly, even carelessly, profligate in his ambassadorial nominations.

That is one reason that the career Foreign Service suffers from widespread demoralization, and allies such as Spain, Italy, Australia, or Venezuela may feel slighted and undervalued when they're sent unqualified U.S. envoys. The Senate would do well to advise the President of this.

Mr. President, I ask unanimous consent that the full editorial from the Miami Herald of Monday, October 2, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Miami Herald, Oct. 2, 1989]

UNQUALIFIED ENVOYS

The standards for nomination set by the current Administration represent a sharp decline from those of previous Administrations. With this terse statement, a group of Democratic senators headed by Paul Sarbanes of Maryland sharply summarized their dissent from the Foreign Relations Committee's 10-9 approval of President Bush's nominee as ambassador to Spain last July. The nominee is Joseph Zappala, a prominent St. Petersburg developer.

That nomination, on which the full Senate will vote this week, forms part of a disquieting pattern. Like too many other Bush nominees to critical embassy posts, Mr. Zappala merely distinguished himself during the past Presidential campaign as a remarkably successful fund raiser. He can't speak Spanish. He is expert neither in Iberian affairs nor in international relations. He wholly lacks diplomatic experience.

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Granted, Presidents have—and indeed should have—a free hand in nominating envoys to carry out their foreign-policy objectives. Therefore, the Senate is—and indeed should be—loath to reject a nominee simply because he is unqualified.

Yet the Constitution gives the Senate the duty to advise the President on appointments, and the power to reject them. The Senate should at least tell Mr. Bush that he disserves himself by nominating unqualified persons to be ambassadors.

Presidents historically have rewarded political allies and friends with prestigious ambassadorships. That in itself is not always objectionable, and many political appointees have proved excellent. But Mr. Bush has been unduly, even carelessly, profligate in his ambassadorial nominations.

That is one reason that the career Foreign Service suffers from widespread demoralization, and allies such as Spain, Italy, Australia, or Venezuela may feel slighted and undervalued when they're sent unqualified U.S. envoys. The Senate would do well to advise the President of this.

Mr. SARBANES. I note for the RECORD two of the leading newspapers in Mr. Zappala's own State, the Miami Herald and the St. Petersburg Times, have editorialized against him.

Mr. President, one other thing that was mentioned in the Miami Herald editorial was the demoralization of the career Foreign Service, and I want to address this point for just a second. We try to attract very bright, able young people into the career Foreign Service. We subject them to an intensive screening and examinations for which they have to prepare. We try to make it rigorous so that many candidates are not even accepted because, the argument goes, we need the best we can find in order to serve the Nation. A career Foreign Service officer then has to go through a process over the years of working his or her way up through the diplomatic corps and, hopefully, eventually, to become an ambassador, which represents the pinnacle of that career.

What lesson do we hold up to these people if most ambassadorships are then closed to them? Thus far in this administration, 62 percent of the appointments made by this President to be country Ambassadors have come from outside of the career service.

Second, these political appointees are then backed up, and supported when they go to the Embassy, by career people. What message of demoralization does it send to the career people in an embassy if the person they are backing up has been named Ambassador not because of some distinguished public service, not because of some extensive experience in international matters, but simply because of heavy political involvement and especially a large campaign contribution?

It is one thing to be a career person serving in an embassy and to have the former distinguished majority leader of the U.S. Senate, Senator Mike Mansfield, come, as he did, to Japan to be the Ambassador Mike Mansfield had years of distinguished public service, a deep involvement in international issues—which actually preceded his service in the U.S. Senate, when he served as a professor of international relations in his home State. Or, Arthur Burns, who went to be Ambassador to West Germany. He had been Chairman of the Council of Economic Advisers, Chairman of the Federal Reserve Board. He was able, obviously, to bring a lifetime of experience to his responsibilities, or David K. Bruce, one of our most distinguished Ambassadors.

It is one thing to ask career people to serve under such an ambassador. It is another thing for them to serve under an ambassador who brings no broader dimensions to the job, where it is clear on the record that the reason for the appointment is large political contributions and, but for those contributions, the nomination would never have been made.

That, I submit, has a demoralizing influence on the career service. The eventual result will be that we will not be able to attract or keep in the career service the very best people. Eventually, we will reach the point when political people are sent abroad, as ambassadors that, instead of having a first-class embassy staff to back them up, it will be second or even third-class.

No other major country conducts its business that way and I strongly submit we should not be doing so, either.

A very interesting article by Ronald Spiers, who retired several months ago as a senior member of the U.S. Foreign Service and is now the United Na-

tions Under Secretary General for Political Affairs, appeared on the op-ed page of the Washington Post not too long ago. It is entitled "Trashing The Foreign Service."

In that article, he talked about departing "with a deep unease about the future of our country's diplomatic establishment." He then talked about the way these political ambassadorial appointments are made, and said, "We wouldn't treat our military so contemptuously."

Actually, there was a time when generals were picked on a political basis. They brought political influence to bear on a President, and they were given military assignments, and the Nation paid grieviously for it. I do not know of anyone today who would for a moment suggest that large campaign contributors should be rewarded with military appointments. Is there anyone who asserts that simply because some one has been a large campaign contributor, or has "people skills," that that person ought to assume a military command? And yet we treat these ambassadorships as though no skill or talent is required, even though under current circumstances they often face very significant dangers. In fact, since the Korean War, more ambassadors have been killed on duty than all the admirals and generals combined.

Mr. President, this politicalization of ambassadors, which has accelerated under the Bush administration, is a matter I think the Senate needs to address. That is why we have brought this issue to this body. It was only after seeing nominee after nominee come before the committee, and after reviewing records which showed really nothing except a pattern of heavy political involvement, that it seemed clear to me that something needed to be said about it.

The New York Times earlier in the summer wrote an editorial entitled "Trivializing Ambassadors." It says, in the lead paragraph:

> Presidents and Congress have a habit of rewarding fat cats and cronies with foreign embassies, of treating many ambassadorial appointments as if they don't much matter in representing American interests and values. But they do matter, sometimes critically. * * * Dispatching a lightweight or inexperienced envoy sends a message of unconcern verging on contempt.

The editorial then goes on to make the important distinctions which we have been trying to make on the floor. First of all, that "no one argues the country would be better served if all Ambassadors were professional diplomats." Not even the career Foreign Service people argue that. They accept the proposition that some ambassadors should come from outside the career service. They only insist that such ambassadors meet a high standard; that it be apparent on the face of it that they are being chosen because there is a record of distinction which warrants the selection.

This editorial makes the point that "Presidents need considerable latitude in selecting" their ambassadors, but it also goes on to say that "advice and consent does mean something: the Senate has an obligation to hold Presidential nominees to rudimentary standards of competence." And it concludes in this instance that it would be "salutary for the Senate to reject" this nominee.

Mr. President, I think it is important again to stress not only the informal but almost dismissive manner in which the Senate in its role in considering and confirming nominees has been treated in this instance.

The Senate Foreign Relations Committee submits a lengthy questionnaire to each nominee for Ambassador, to be answered and returned to the committee. We ask for a lot of biographical information, financial information. In that questionnaire there is a question appearing right at the end which says:

> Are there any factors other than the information provided above which particularly qualify you for the position to which you have been nominated?

Mr. Zappala replied to that:

> I am known as a coalition builder. I am able to organize my colleagues and peers to action in support of worthwhile civic, charitable, and political causes.

The same question appeared, obviously, in the questionnaire given to Mr. Sembler, a friend of Mr. Zappala's, also from Florida: "Are there any factors other than the information provided above which particularly qualify you for the position to which you have been nominated?" And Mr. Sembler responded, "I have been known as a coalition builder, able to organize my colleagues and peers to action in support of worthy civic, charitable and political causes."

It is the same answer with a couple of minor grammatical changes. We put different questionnaires to two separate nominees and we get back the same answer, saying that "I have been known as a coalition builder, able to organize. * * *" The Washington Post commented on this, saying, "Modular testimony, prefabbed by someone else, self-description. It doesn't inspire a whole lot of confidence. Can the would-be-Ambassadors be trusted to enter into dialog with their host governments if they apparently cannot be trusted to write a few lines on their own qualifications?"

Mr. PELL. Will the Senator yield for a question?

Mr. SARBANES. I yield to the Senator.

Mr. PELL. The Senator has cited a couple of times, I believe, the so-called statement of competence that is written by the State Department about each of the nominees. I am particularly interested in that statement of competence because it came out of legislation I introduced some years ago in an effort to try to heighten the competence of the nominees. But it has become really more an exercise in fiction rather than in descriptive writing. I was curious what the Senator's view was with regard to what we should do in the long run with these certificates of competence. Should we wipe them out entirely, leave them on the books or what would be the view of the Senator?

Mr. SARBANES. First of all, I commend the very able Senator from Rhode Island, the chairman of the Foreign Relations Committee, for the provisions that he put into the law. I think we should require a certification of demonstrated competence. It is my understanding that the certification for noncareer people—in other words, for the political appointees—is prepared by a White House liaison staff which is nominally in the State Department but responsive to the White House. In contrast, the career certification is prepared within the normal hierarchy of the State Department, and in fact the career people go through a very rigorous screening process before they are nominated to be an ambassador. They are reviewed by an ambassadorial board within the Department, but they are screened by the personnel office before they are even presented to the ambassadorial board. For the political nominees, apparently the certifications are done by a White House liaison staff, and this White House liaison staff, in part I think because there is nothing else to put in the certification of diminished competence with respect to some of these political nominees, has been writing lengthy statements about their financial contributions, which the law says are not even to be considered.

Since we have called them on this and brought them up short, we have noticed that these certificates are being written somewhat differently. So the authors are not being as obvious or apparent about the fundraising and contributions. Obviously, we will need to look behind the certifications. But this is an insult to the process which the very able Senator had established in the law. They are just making a mockery of the process.

Mr. PELL. The Senator would leave it on the books and hope that the Department would pull up its socks and do a better and more accurate job in writing these certificates.

Mr. SARBANES. I think the Senate ought to help them pull up their socks by rejecting some of these nominees. We need to send a very strong message to the administration that if they continue along this path, they are going to encounter difficulty time after time in the U.S. Senate, that we are not

content with allowing the ambassadorial ranks to shift so heavily in a political direction, and we are not content with being sent nominees who have no demonstrable reason for appointment other than a large campaign contribution.

That is not good enough. These people are going to be called to account. We are going to probe into their backgrounds, their knowledge and experience.

It is my understanding that one result of these inquiries, which may be salutary consequence of all this, is that nominees to be ambassadors now realize that their hearings before the committee may in fact be rigorous, and they are starting to study the country to which they are going to be sent, in order perhaps to know something about it before they come up for a hearing.

Mr. PELL. I thank the Senator for his answer.

I would also add that this is a question of particular interest to me as I believe I am the only person in this body whose father was both a political appointee and passed the pre-Rogers Act diplomatic examinations; and I also have been both a political appointee by President Eisenhower at one point, and also have been a Foreign Service officer. I think that this whole exercise is going to have a beneficial effect in raising the quality, the caliber, the preparedness of the nominees who are sent up, and I congratulate the Senator from Maryland.

Mr. SARBANES. I very much appreciate the Senator's comments, and I know of his own deep concern over the years for quality in the career Foreign Service, something, I think, in which our national interests are very much involved. We are going to have really competent, able people to represent us. We are not simply playing a game. This is serious business, and there are important interests involved.

Mr. President, let me make this point. I want to make clear that we are really arguing for a very reasonable position. We are really talking about balance. No one here is arguing for extremes. Even the Foreign Service people, who would seem to have the most obvious vested interest in holding all of these positions unto themselves, do not take that attitude.

Let me simply quote from an editorial, which appeared in the June 1989 issue of the Foreign Service Journal, titled "Qualified Ambassadors."

Are we in the Foreign Service the only ones concerned about the qualifications of ambassadorial appointees? It appears so. And when we sound the alarm, we are seen as interested only in job security for ourselves. But political ambassadors are not the problem. Ambassadors without qualifications are, be they political or career. The media treats the absence of qualifications lightly, with titters in the gossip columns. Congress, even those members who know better, shrugs and says nothing.

Maybe they are right. Maybe it is okay to sell our diplomatic posts abroad to the highest bidders, for the taxpayers to bear the burden of paying off political activists, and that American interests in Country X, Y, or Z, be damned. But we don't think so. Diplomacy is too important. We should practice it carefully and with skill and send out our very best to represent us. We recommend a quality control process for ambassadorial appointments, for both career and political.

The United States can no longer work its will through the sheer force of economic, political, and moral might. Our place in the scheme of things is affected by events and decisions in other countries. We are foolish if we do not seek every legitimate means to influence those decisions.

I ask unanimous consent that the full editorial be included in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Foreign Service Journal, June 1989]

QUALIFIED AMBASSADORS

Are we in the Foreign Service the only ones concerned about the qualifications of ambassadorial appointees? It appears so. And when we sound the alarm, we are seen as interested only in job security for ourselves. But political ambassadors are not the problem. Ambassadors without qualifications are, be they political or career. The media treats the absence of qualifications lightly, with titters in the gossip columns. Congress, even those members who know better, shrugs and says nothing.

Maybe they are right. Maybe it is okay to sell our diplomatic posts abroad to the highest bidders, for the taxpayers to bear the burden of paying off political activists, and that American interests in Country X, Y, or Z be damned. But we don't think so. Diplomacy is too important. We should practice it carefully and with skill and send out our very best to represent us. We recommend a quality control process for ambassadorial appointments, for both career and political.

The United States no longer can work its will through the sheer force of economic, political, or moral might. Our place in the scheme of things is affected by events and decisions in other countries. We are foolish if we do not seek every legitimate means to influence those decisions. World events touch everyone's job. Ask the steel workers, the UAW, and the farmers. Corporate board rooms understand the importance of the world to their welfare, and they are beginning to look to Washington for effective diplomacy.

How important is skilled diplomacy to reducing the threats of war, to having some impact on the international flood of illegal drugs, to the health of our world's environment? The list of international issues that are important to Americans now and which will be more so in the future is long.

How do we convince the people of a foreign country that we are serious in the pursuit of our country's objectives if the chief representative of the United States in that country can't speak the language, knows next to nothing about that country, and has no visible qualifications to represent the United States there? We can't.

AFSA urges the administration and Congress to consider whether the time has come to rethink the question of ambassadorial qualifications. Experience should have taught us the painful lesson that not just anyone is good enough to represent all of us. We, also, should care enough to send the very best.

Mr. SARBANES. I just quote a paragraph right toward the end of the editorial which says:

How do we convince the people of a foreign country that we are serious in the pursuit of our country's objectives if the chief representative of the United States in that country can't speak the language, knows next to nothing about that country, and has no visible qualifications to represent the United States there? We can't.

I agree that we cannot.

Mr. President, I have talked about not only the nonchalance, but the, in effect, lack of respect with which the committee's questionnaire was treated, in the sense that we get the same answer on two different questionnaires. It is incredible. It is the sort of incident for which a teacher in school would send the examination back or flunk the student. We are told casually of the identical answers, "What difference does it make? These people are close friends of the President. They have been large political contributors."

Secretary Mosbacher, who was the chief fundraiser for the Bush campaign, was complaining a while back that campaign fundraisers have not been rewarded with political appointments. Who pays the price for this? The American people pay the price for it. The United States pays the price for it. It is the interests of our Nation which suffer. The question is not only whether one of these amateurs, without any dimensions that would warrant selection, goes and makes some serious mistake that leads to an embarrassment, although that is generally the perspective in which this is viewed.

That is very obvious when it happens, and of course it has happened on occasion, much to the cost of our country. But there is another side to the problem, and it is this: Even if they do not make some serious mistake, their lack of skill and ability makes them unable in the course of representing our Nation to identify and exploit opportunities that may exist, and thereby enhance and further America's interests. In other words, we lose something on the positive side.

A good Ambassador, a really good Ambassador, does not only avoid making bad mistakes; a really good Ambassador is able to do a lot of positive things which enhance the position of the United States in the country to which he is accredited.

The Senate must keep foremost in its thinking, when asked to give its advice and consent to ambassadorial nominations, that our national interest is at stake—not a political interest,

not a party interest, not a personal interest, but our national interest. These appointments must be taken seriously, and they ought not to be treated as political throwaways.

This process is deteriorating, and it is deteriorating badly. In my view, it has gone much too far. Now is the time to say "Stop." I urge the Senate to reject the nomination of Mr. Joseph Zappala to be the United States Ambassador to Spain.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Maryland [Mr. SARBANES].

Mr. SARBANES. Mr. President, I assume shortly we will be going to a vote. I do not know whether there are others who wish to speak. So I yield the floor.

Mr. DOLE. If the Senator will yield I think we have one speaker who is on his way, Senator MCCONNELL.

Mr. MCCONNELL. Mr. President, I rise today in support of President Bush's nomination of Joseph Zappala as U.S. Ambassador to Spain. It is my opinion, and that of the majority of Senators on the Senate Foreign Relations Committee, that Joseph Zappala is a fine nominee for this post.

Mr. President, Joseph Zappala may not be a veteran diplomat but he is a skilled businessman and community leader, accomplishments which share the diplomat's requirements for management, negotiating and analytical abilities.

Joseph Zappala has distinguished himself as an outstanding businessman. His track record in the business community is outstanding: chairman and chief executive officer of Joseph Zappala & Associates; chairman of Home Town Investors, Inc.; and member of the board of directors of First Union National Bank. He has demonstrated initiative in starting his own companies and imagination and skill in making them successful.

Mr. Zappala has committed his energy and abilities to improving our communities as well. His concern and efforts on behalf of America's youth is indeed commendable. Again his track record is impressive: cofounder and president of STRAIGHT, Inc., the Nation's largest drug treatment and rehabilitation program; and past chairman of the Pinellas Association for Retarded Children.

Joe Zappala has certainly gained from his business transactions, but he is a man with a strong desire to give back to his community and nation.

It seems to me that Joe's nomination is being unfairly attacked. His accomplishments as a businessman, his knowledge and love for America, and his leadership skills make him the prime nominee for Ambassador to Spain. Mr. President, why should a capable and successful businessman be denied the opportunity to serve his country? Because he is successful in his field? It seems to me some Members would view success and community commitment as criteria which eliminate your opportunity to serve and represent this country abroad.

I will vote to confirm Joseph Zappala's nomination. As a member of the Senate Foreign Relations Committee, it is my duty to examine the qualifications of the President's nominees and there is no doubt in my mind that Joe Zappala is qualified to serve his country and his President. No one will deny Joe Zappala made campaign contributions, but it was his contributions to the business world and to his community which made the difference to the President when he selected Mr. Zappala to serve and convinced me that he deserved my support. Joe is a remarkable individual and will serve with dedication and skill as our next Ambassador to Spain.

Mr. KOHL. Mr. President, earlier this year I voted for an amendment which would have expressed the Senate's desire to see a limitation on political appointments to the ambassadorial posts. While that amendment was not adopted, I believe it sensitized the administration to the importance of this issue and might, perhaps, have some impact on their behavior in the future.

While that amendment called for a reduction in political appointments, it implicitly recognized that some political appointments are perfectly appropriate and acceptable. The concern was not with the existence of political appointments but rather the extent of the political appointments being made.

All of this is, I think, relevant to the nomination of Mr. Zappala to serve as Ambassador to Spain. The fact that Mr. Zappala is a political appointee is not, in and of itself, a basis for disqualification. While we might wish that more professional people were nominated we have recognized that some political people can and will and even ought to be nominated. So we cannot reject this nomination on the basis of the fact that Mr. Zappala has no professional experience.

That forces us to examine Mr. Zappala's record. I have done that and I have met with Mr. Zappala. My conclusion is that there is nothing which disqualifies him for this post. That is not a ringing endorsement. It is not meant to be. But when I make an on balance assessment of Mr. Zappala's record, I can find nothing in it which would overcome the presumption, the deference, that we all agree ought to be paid to a President's choice to serve in an ambassadorial post.

I am bothered by the "duplication" in the papers that he and a friend filed with the Foreign Relations Committee. Mr. Zappala, however, explains that the duplication was an honest mistake; I find his explanation to be unsatisfactory but adequate. I am also troubled by Mr. Zappala's lack of fluency in Spanish; Mr. Zappala, however, told me that he recognizes the validity of that criticism and is now studying Spanish.

Against these concerns is a record of some substance. Mr. Zappala has significant managerial experience. Being in business does give people the kind of experience which is relevant to their ability to discharge public obligations. In addition, he does have a relationship with the President of the United States which can make him more effective than people who, on paper, would appear to be more qualified for this post than he. Based on these considerations, I intend to reluctantly vote for this nomination.

Let me make one closing comment Mr. President. While I disagree with his conclusions, I believe that Senator SARBANES has done us all a real service by opposing this nomination. He has put the administration on notice that we are concerned about their efforts to politicize the Foreign Service. He has made it clear that there have to be changes in the ratio of these appointments or there will be more fights about individual appointees. I may well join with him in future fights of this nature. But based on Mr. Zappala's record and based on signs that the administration is willing to take our concerns into account, I do not believe that this is the time to make that stand.

Mr. MACK. Mr. President, I have already risen in support of the nomination of Mr. Joseph Zappala to be United States Ambassador to Spain. I have indicated to my colleagues that Mr. Zappala has a lengthy list of civic and business achievements. I would like to share with my colleagues a letter that I have received from the St. Petersburg Area Chamber of Commerce highlighting its recommendation of Mr. Zappala on the basis of these achievements. I ask unanimous consent that the content of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ST. PETERSBURG
AREA CHAMBER OF COMMERCE,
St. Petersburg, FL, September 27, 1989.

Senator CONNIE MACK,
Hart Building,
Washington, DC.

DEAR SENATOR MACK: The St. Petersburg Area Chamber of Commerce and its Board

of Governors are honored and pleased to be able to recommend to you Mr. Joseph Zappala, ambassador-designate to Spain and Mr. Melvin Sembler, ambassador-designate to Australia. Both gentlemen represent the best in our community and have a long list of civic and business achievements.

Our understanding is that you will be voting on the ambassadorial appointments early next week and on behalf of the Chamber, we want you to know about the background and credentials of these two fine individuals.

Sincerely,

DAVID H. WILBANKS,
President.

Mr. BIDEN. Mr. President, I oppose the nomination of Joseph Zappala to be Ambassador to Spain. I do so not because of Mr. Zappala himself, but because I am concerned about the process of selecting ambassadorial nominees in the Bush administration.

Since taking office, President Bush has nominated a large number of political nominees to serve in our embassies abroad. Unfortunately, far too many of these nominees have been distinguished only by their ability to raise money for, or donate money to, political candidates. Indeed, the certifications of demonstrated competence submitted on behalf of these appointees have highlighted political fundraising activities, and pointed to these activities as evidence that a particular nominee is qualified to serve as an ambassador.

This trend is disturbing. We should not view every Embassy as a potential reward for political fundraisers. I hope the administration will think carefully before sending the Senate such nominees in the future. I hope the protest vote I am casting today sends a clear signal to the administration that it should end this practice.

Mr. DOLE. Mr. President, I am pleased to support the nomination of Joseph Zappala as Ambassador to Spain.

He is the President's choice, and a good choice. He is a person of unquestioned integrity, an outstanding businessman, and has been very active in civic and charitable affairs. Most important, he has the President's trust, and deserves the Senate's confirmation.

The questions raised about this nomination, ironically, have little to do with Joe Zappala, the man. No one that I know of has stood up and said Joe Zappala has done anything wrong. All he is accused of, is doing something some Senators on that side of the aisle do not like—giving generously to the Republican Party.

As far as I know, there is nothing in the Constitution or any law which says that automatically disqualifies any American for any public office.

And, as history tells us, every President since time immemorial—Democrat as well as Republican—has chosen to appoint some of those who have supported his candidacy to high Government positions, including ambassadorships. President Carter did that; President Kennedy did that; and so has every Republican President that I can remember.

So I hope we will decide this nomination on its merits—and not on the rather far-fetched proposition that being close politically to the President disqualifies you, while being far removed from any past connection to the President makes you the ideal candidate.

Mr. President, this is a matter of simple fairness. I hope the Senate will be fair—to the President and to Joe Zappala. I hope and trust we will overwhelmingly confirm this nomination.

The PRESIDENT pro tempore. The Senator from Maryland [Mr. SARBANES].

Mr. SARBANES. Mr. President, I wish to include in the RECORD a table which contains the numbers supporting charts that had been used earlier in my speech. They give percentage figures for political appointees made by President Bush as compared with previous Presidents beginning with John Kennedy.

I ask unanimous consent that that table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Kennedy (first nine months of 1961)—64 Nominations total: 39 Career (61%); 25 Political (39%).

Johnson (first nine months of 1965)—39 Nominations total: 28 Career (72%); 11 Political (28%).

Nixon (first nine months of 1969)—70 Nominations total: 44 Career (63%); 26 Political (37%).

Nixon II (first nine months of 1973)—36 Nominations total: 23 Career (64%); 13 Political (36%).

Carter (first nine months of 1977)—59 Nominations total: 36 Career (61%); 23 Political (39%).

Reagan (first nine months of 1981)—57 Nominations total: 35 Career (61%); 22 Political (39%).

Reagan II (first nine months of 1985)—37 Nominations total: 26 Career (70%); 11 Political (30%).

Bush (first nine months of 1989)—58 Nominations total: 22 Career (38%); 36 Political (62%).

Covers bilateral appointments (country ambassadors) referred to Senate Foreign Relations Committee, January 20—September 30. Source: Senate Foreign Relations Committee Legislative Calendars; Principal Officers of U.S. Foreign Missions; Presidential Documents.

Mr. SARBANES. Mr. President, this table is an update of the table that appears on page 12 of the committee report. At the time the committee report was prepared, we covered only the first 7 months. We now have covered the first 9 months of this administration, during which 58 persons have been nominated to be country ambassadors by President Bush. Of the 58, 36 are political, 22 are career.

So 62 percent of those nominated by President Bush to be country ambassadors are political. The highest percentage by any previous President was 39 percent—39 percent political. President Bush has not only carried it over the halfway mark but well above the halfway mark—almost to the two-thirds mark—and 62 percent of his nominees are political.

We intend to continue to scrutinize these appointees and continue to make the point that the current ratio is having a demoralizing impact on the career Foreign Service, both because of the numbers and because of some nominees' qualifications.

In this instance we are sending an ambassador to Spain who does not speak Spanish. He is going to the premier Spanish-speaking country in the world. He is a person without any international or foreign experience and, really, a limited record of service in his community. I do not deny that he has been very successful financially, and I do not deny that he is a fine person individually and that he has a deep love for his country. But there are literally tens of millions of Americans who meet that requirement. That does not seem to me sufficient to warrant being sent as an ambassador to a country where we have very high interests and very high stakes.

I simply close with the observation that I made before: The national interest is at stake here, not a political interest, not a party interest, not a reward for political performance, not a personal interest, not a reward for friendship. These appointments need to be taken seriously. They are not simply political throwaways. We need to send people who can effectively represent the United States and enhance and advance our interest. I urge the Senate to reject this nomination.

Mr. President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of Joseph Zappala, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Spain?

The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky [Mr. FORD] is absent because of death in the family.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 79, nays 20, as follows:

[Rollcall Vote No. 223 Ex.]

YEAS—79

Armstrong	Gorton	Matsunaga
Baucus	Graham	McCain
Bentsen	Gramm	McClure
Bingaman	Grassley	McConnell
Bond	Harkin	Murkowski
Boren	Hatch	Nickles
Boschwitz	Hatfield	Packwood
Bradley	Heflin	Pressler
Breaux	Heinz	Pryor
Bryan	Helms	Reid
Burdick	Hollings	Riegle
Burns	Humphrey	Robb
Chafee	Inouye	Rockefeller
Coats	Jeffords	Roth
Cochran	Johnston	Rudman
Cohen	Kassebaum	Shelby
Conrad	Kasten	Simpson
D'Amato	Kerrey	Specter
Danforth	Kerry	Stevens
Daschle	Kohl	Symms
DeConcini	Lautenberg	Thurmond
Dixon	Leahy	Wallop
Dole	Levin	Warner
Domenici	Lieberman	Wilson
Exon	Lott	Wirth
Garn	Lugar	
Glenn	Mack	

NAYS—20

Adams	Fowler	Nunn
Biden	Gore	Pell
Bumpers	Kennedy	Sanford
Byrd	Metzenbaum	Sarbanes
Cranston	Mikulski	Sasser
Dodd	Mitchell	Simon
Durenberger	Moynihan	

NOT VOTING—1

Ford

So, the nomination was confirmed.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of Mr. Zappala.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the President will be immediately notified of the confirmation of the nomination.

LEGISLATIVE SESSION

The PRESIDENT pro tempore. The Senate will return to legislative session.

IMPLEMENTATION OF THE PRESIDENT'S 1989 NATIONAL DRUG CONTROL STRATEGY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now return to consideration of S. 1711, legislation to implement the President's 1989 national drug control strategy.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report the bill.

The bill clerk read as follows:

A bill (S. 1711) to implement the President's 1989 national drug control strategy.

The Senate continued with the consideration of the bill.

The PRESIDENT pro tempore. The Senate will be in order.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. Mr. President, we are back again, as the presiding officer knows, on the question that the Senate has been dealing with for some time now and I suspect will be dealing with for some time to come.

As a consequence of the able leadership of the Presiding Officer, we were able to get the first real action on the drug strategy, the drug bill, the drug issue—it is referred to 100 different ways—but the effort of the U.S. Government, the Federal Government, to try to put in perspective what its aims, objectives and prognosis for progress are and what resources are necessary to make a dent in what I think all of us, Republican and Democrat alike, believe is the most vexing domestic problem that we face.

Mr. President, we are at the second piece of the compromise that the Chair led us to with the President, and that is we are at the place now where we are going to be debating and proposing amendments that relate to whether or not the strategy, the implementing legislation of the strategy, the goals of the strategy set out by the President are in fact adequate, need changing, need augmenting, need reducing, or whatever.

I welcome the chance to open what will be, I suspect, the first round of the debate on the President's strategy itself as opposed to how we would fund the moneys necessary for the war on drugs, the appropriation process we went through under the leadership of the Presiding Officer, the President of the Senate.

It has been suggested, not by my colleague from New Hampshire, but it has been suggested by many on both sides of the aisle, that there is really not any fundamental disagreement with the President's strategy; that is, how the President wishes to wage the war, what emphasis he places on what parts of the problem and who, State, local or Federal, is most responsible for what pieces of that strategy. We all know that there are in fact a number of choke points, if you will, in the war on drugs.

The first we offer to discuss is what can we do about impeding the flow of raw materials as well as the finished drug products from coming into this country, so-called interdiction.

Can we go one step back and can we make sure that we eliminate the product where it lay in the fields of Peru or Colombia or Afghanistan, whether it is a poppy plant or a coca leaf, straight through to whether or not the criminal justice system in the United States is equipped to handle the volume of work that is thrust upon it as a consequence of the drug trade and the crimes relating to drugs; down to what is probably the most controversial point whether or not it is in the interest of the United States and the citizens of the United States to expend significant amounts of money to attempt to treat, rehabilitate if you will, those who are already drug addicts; to what form of education is best for our children and when should it start and whether it should be within the public school or whether it should be primarily in the home?

There is a point I would like to make, at least speaking for the Senator from Delaware. I will not take the time now because I will go back to these charts in the back of the Chamber that set out, two of the goals that the President's strategy sets and against which the President believes we should measure our success or failure as a nation in dealing with the drug problem.

The Senator from Delaware will be introducing several amendments today that go to the goals that are set in the national strategy to fight the war on drugs. Are they sufficiently ambitious? For example, the President's goal is that we reduce the number of monthly users of drugs, the so-called casual user, by roughly 10 percent over the next 2 years. Is that ambitious enough? We should discuss that, and we will today.

As to the current adolescent drug use, the drug use among adolescents, is the reduction of that drug use over the next 2 years of 10 percent reduction sufficiently ambitious, or as a nation should we set a higher goal? Will we be satisfied? Will we consider it a success if the goal of the President's strategy were accomplished?

There are many other areas which I will discuss, but the point the Senator from Delaware wishes to make at this moment, and I will not take much longer, is that there is fundamental disagreement among many of us, I suspect on both sides of the aisle, with the President's strategy and his goals. The reason, when we wrote the so-called drug czar bill, that we required the drug director to set out in a written document what the goals of the program was so that we would have something to measure our success or failure against. Because, absent that, we end up measuring our success or failure with measures that bear no re-

lationship to whether or not we are making progress.

For example, there was the largest drug seizure in the history of the United States of America that took place in Los Angeles just last week. A warehouse full of cocaine, 20 tons of it, if I am not mistaken, worth hundreds and hundreds and hundreds of millions and billions of dollars.

Prior to having a national drug strategy, those kinds of so-called busts were the only thing that we had to measure whether or not we were making progress, when in fact they are false measurements. Our police agencies should be complimented. They did a phenomenal job and it is important what they did.

The Director of the DEA and the Director of the FBI were before my committee this morning, the Judiciary Committee. They both acknowledged that the price of cocaine on the streets of America will probably not increase very much in the next week and in the next couple of months will probably have no impact.

So if that 20 tons of cocaine were, in the total scope of all the cocaine being smuggled into America and sold, a significant portion, you would expect the price of cocaine to go up. It would mean we are making great progress, we are putting a real dent in the supply. But if the price of cocaine on the streets of America does not increase significantly in the near term, it means that there are tens of other warehouses in America with 20 tons of cocaine in them, or 5 tons, or 15 tons, or 1 ton.

I see the distinguished Senator from Montana is here. He and I had a very good conversation off the floor the other night. We were talking about how rural States have changed. His State is not only rural but incredibly large. His State is becoming the "ice" capital of America. What "ice" is, "ice" is meth-amphetamine that is a synthetically produced drug that is like crack cocaine. It is smokable. His State and other Northwestern rural States are becoming the place from which the rest of America may be supplied so-called crank, which is like crack cocaine or cocaine itself—incredibly addictive, same properties, spawns the same violence, impacts upon the mind similarly.

And so the point the Senator from Delaware wants to make is this: When we wrote the so-called drug czar bill, the purpose of setting goals was to have a more reasonable means by which we could measure our success or failure. And the reason we needed that measure was not to hold an administration or a Congress or a party accountable for success or failure but to allow us for the first time to have some reasonable way in which we could determine whether or not we should reallocate our resources.

For example, if the goal was to interdict x amount of drugs coming across the border and we invested tens of billions of dollars to do it and we could not meet the goal, it would be clear that maybe there would be a better investment of those dollars somewhere else. Because this is going to be a changing picture. There are new organized crime units inside and outside this country, and there are new drugs with which we will have to deal.

Both of my colleagues, the three of us on the floor are all from rural States. Well, we are finding out little things like California, which has one of the largest agricultural industries in the world, not just the United States, in the world, its largest cash crop is marijuana. We are not importing it. We do not have to import it. We are importing but we do not have to import it. We grow it right at home in vast quantities. And, I might add, the grower does not even have to buy the land. He just goes out on Federal land and grows it.

So we are going to argue and debate the goals a little bit today. It seems to me that it should be clear that the disagreement with the strategy is over fundamentals and not funds; over beliefs and not budgets; and over design and not just dollars.

So today I will be offering some amendments. I will not do it at this moment because this is really the Bush package that will be introduced, or I should say the Dole package and managed by the distinguished Senator from New Hampshire. So I will be following up with amendments. But the amendments that I will be proposing will have as their purpose to illustrate and draw as starkly as I can the differences in philosophy and approach in the strategy the Senator from Delaware and many of my colleagues have with the President's strategy.

I will make one concluding comment before I yield the floor to the distinguished Senator from New Hampshire, and that is that this is really only the second round in this whole debate. The goal of the Senator from Delaware is for us to reach a point where we really do have a clear national consensus because this is not a Democratic issue or a Republican issue. This is an American issue. The scourge of drugs knows no party, it knows no income group, it knows no race, it knows no locality. It is a problem in rural Montana and Delaware as well as downtown Houston, New York, Los Angeles and Miami. There is no distinction made.

And so this is really a second step, because the President of the United States will be coming forward, through his drug director, Dr. Bennett, in February, with the second strategy. In fairness to the administration, the strategy which I have such stark disagreement with is only the first strategy that has been put forward.

So I will say forthrightly that I have two motives; one direct and one indirect. My direct motivation here today is to try to convince my colleagues in the Senate that we should change now some specific aspects of the strategy. My indirect motive is to have an indirect effect upon the formation of the next strategy that will be due in February.

So, although the Senator from Delaware has more than nine major amendments, he may not propose them all, and he may not ask for a vote on them all, even if he proposes them, because the real debate is going to come between now and February when the second major comprehensive strategy document is put forward.

So with that, let me conclude by suggesting that today we will be offering some specific amendments that go to the heart of our difference with the strategy that has been put forward by the administration. But we will, in the ensuing months, be laying out in much greater detail our differences in the hope that by the time the second strategy is put out, they will not be differences but we will have reached a consensus; and further, that we are talking about authorization, not appropriation, I say to the Presiding Officer, who is chairman of the Appropriations Committee, who knows much better than any of us on the floor.

If we change the strategy, to the extent the change has a price tag to it, we are going to have to—at some future date, if we pass it—find the money to fund it. When the President introduced his initial strategy and then the Senator from West Virginia, the Presiding Officer, came through with his major amendment to that strategy, everyone asked, where are we going to get the money?

We said we did not know. But if we adopt the strategy, we would do it under the leadership of the chairman of the Appropriations Committee and with the help of the Senator from New Hampshire, who is also on the Appropriations Committee—I am not—you all came up with a way. We came up with a way.

So I say today to my colleagues, we may be passing amendments that reflect a difference in goal that impact upon dollars. This is an authorization. And, if we do, we will have to come back at another time in order to try to fund it. But that remains to be seen.

I yield to my colleague from New Hampshire.

The PRESIDENT pro tempore. The Senator from New Hampshire [Mr. RUDMAN] is recognized.

Mr. RUDMAN. Mr. President, let me thank my friend, the distinguished chairman of the Judiciary Committee, for that statement. I am managing

this bill, for the information of the Senator from Delaware, until Senator HATCH does arrive. He will then manage the bill for this side.

I will make a couple of observations on the remarks of the Senator from Delaware. Unquestionably, this is not a partisan issue. It is an issue in which there are many varying views on both sides of the aisle and, indeed, in the country.

If we talk to a group of law enforcement officials or a group of educators or a group of physicians or psychiatrists, and we talk about the drug problem, we will get myriad answers as to what the strategy ought to be. The Senator from Delaware is quite correct. This, the strategy that was set up by Director Bennett, represents the initial strategic position taken by the administration on how to deal with this problem.

The Senate already has changed that to some extent with an adjustment of funds to be appropriated for the drug fight. That, of course, was under the leadership of the chairman of the Appropriations Committee, the Senator from West Virginia.

As the Senator from Delaware stated, there will be a second strategy. It will be up here in February. I would predict, Mr. President, although there are far more pleasant things to talk about, we will be discussing the strategy and the funding on the problem of drugs in America for a decade to come. No one can put in stone a strategy today and assume that that strategy will not change based on experience, based on funding, and based on other factors.

So I am delighted that we have the opportunity, under the agreement that was previously worked out by the majority leader and the Republican leader, to start this debate today. I hope we can discuss the amendments of the Senator from Delaware in due course, move through them briskly, have good discussions, have votes on them, and have the Senate work its will on this legislation.

I hope we can do that at least before too many more hours toll.

Mr. President, I would like to offer several amendments which I do not believe are controversial and I believe have been cleared. If they have not been, we can discuss them here.

AMENDMENT NO. 910

(Purpose: To allow the Attorney General to take into account the ability to pay for drug test results by State and local governments)

Mr. RUDMAN. Mr. President, I send an amendment to the desk on behalf of Mr. DOLE and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN] for Mr. DOLE, proposes an amendment numbered 910.

Add at the end thereof the following:

"(d) In issuing regulations pursuant to subsection (b) of this Act, the Attorney General shall also take into account the ability to pay for drug testing programs to be undertaken by the State and local governments."

Mr. RUDMAN. Mr. President, the Republican leader offers this amendment. I believe that the concern is shared by all in this Chamber. We are going to start mandating certain kinds of testing. We are going to fund some of it but we are very concerned about the impact on State and local governments as to their ability to pay for that.

We have to be very careful that we do not place burdens on local and State governments that they can ill-afford. Certainly, that is true in every State in the Union. I know it is true in my State of New Hamphire. I am sure it is true in the Presiding Officer's State of West Virginia. This amendment is offered to that end. I will be offering a further amendment on that subject, and I believe the Senator from Montana has an amendment that he also believes is important on this subject. I do not know if that has been cleared on the other side or not. I thought it had.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. Mr. President, it has been discussed. We have not reached an agreement. Let me speak to that for a moment. So, therefore, technically, I must say it is not cleared at this point.

One of the centerpieces of the national drug strategy put forward by the administration is an unspecified requirement. Let me be more precise. It is a requirement that is not fully articulated, requiring States to drug test everyone within their criminal justice system. That is, the moment someone is arrested on a criminal charge, any charge, he would be drug tested, straight through to probationer and parolee. If he was within the prison system, he would have to be tested. If he is convicted, he is put in prison. If he is in prison awaiting trial, he would have to be tested.

If he was sentenced to prison, he would have to be tested. If he was put on probation, he would have to be tested. Or if he was on parole, he would have to be tested. That is what it calls for.

Let me read more specifically. It says:

For targeted classes of arrestees, individuals in jails, prisons, and other correctional facilities, and persons on conditional or supervised release before or after conviction, including probationers, parolees, and persons released on bail.

The Senator from Delaware happens to think that is a good idea, only there are several problems. I asked Dr. Bennett what the cost of this would be to the States, because I think we are required to have a little bit of truth in advertising here. I want to make it clear I do not believe there is any intention on the part of anyone—I should not have used that phrase, probably, it sounds like I am being too smart about it—but there is no intention to mislead anybody. Except when I asked how much it would cost the States, the answer was: Well, they did not know.

I asked: What type of drug test would be required? And the answer was they had not decided.

Possibly that answer will be forthcoming from the Senator from Kansas who is introducing this. But, for example, before my Judiciary Committee this morning, I had the Deputy Secretary of Defense, Secretary Atwood. He is in charge of the military's antidrug efforts, including the portion where the military has a very sound testing program in place.

The impact of their random drug testing program is to reduce significantly the drug use in the military, a very positive step, one that I support, and I suggest most of us would.

When I asked him how much did the drug test cost per test to be able to bring about this result, his answer was he would get the figure for me. But he knew it was somewhere around $25 or above; as much as $125 for steroid tests. I will correct the record if those numbers are incorrect. But the average is $25 if we were to pass this piece of legislation requiring this.

I should point out the President says this is a precondition for any State to receive any of the Federal funds for law enforcement and criminal justice system activities that are made available to them in this bill.

The distinguished Presiding Officer helped add another significant amount of money under the leadership, at that point if I am not mistaken, of Senator RUDMAN, insisting that we put more money in for law enforcement. I believe it was an additional $100 million. So we are talking about $450 million.

But in order to qualify to partake of any of that money, it is required that the States put this into effect, the drug testing.

Let us assume that we are talking about $25 per test.

Let us assume that we are only testing the arrestee once and on average, because some people are in jail for 10 years, some people are in for 40, some are in jail for 6 months, we end up testing the prison population only four times a year. And then we only test parolees and probationers only four times a year, which would be much less than the military would do,

for example, in their random testing program.

It is easy to figure that out because we know the number of arrestees and detainees and parolees, et cetera, in the State system. We calculated it. For a Pentagon-type test, averaging $25, it would cost about $800 million to just have one urinalysis that costs $9. The cost would be $244 million based upon last year's criminal justice population, if you will, in the States.

Mr. RUDMAN. Will the Senator yield for one moment?

Mr. BIDEN. Yes, I will be glad to yield.

Mr. RUDMAN. I just want to say I believe the Senator is absolutely correct on that number. That is the number we have also. But I point out, I think the problem of the chairman of the Judiciary Committee is probably as much with the underlying language of the bill as it is with the Republican leader's amendment. The Republican leader's amendment simply says that the Attorney General shall take into account the ability to pay for drug-testing programs to be undertaken by the State and local governments. That is what the amendment does.

I will just make one observation, and I have an amendment here which I think the Senator from Delaware will like. If you look at the underlying bill, which is what we are debating right now, it says in section 523 of that bill, the first full paragraph, that the testing shall be subject to periodic review by the Attorney General as specified in the regulations described in subsection B for targeted classes of arrestees, et cetera.

Our expectation, Mr. President, is that the Attorney General, when he promulgates these regulations, will promulgate them with a scope that will at least be accommodated by the funding that we have available. I think that is probably what he would have to do. I just wanted the Senator to yield for that question or observation.

Mr. BIDEN. If the Senator will remain on his feet, I would like to have a dialog about this, if we could. The first question I have is it would still be mandatory, notwithstanding the fact that the Attorney General could take into account the ability to pay? It would still be mandatory; would it not?

Mr. RUDMAN. It would be. I suspect as you read this language that the Attorney General could say in year 1 the States should have a program in which they would test 20 percent of all of those in each category. He can certainly do that. That is my only point. I do not think the Senator disagrees with me.

Mr. BIDEN. No, I do not, and that is a valid point.

Mr. RUDMAN. Maybe that is not very good. Maybe we ought to aim for 100 percent. I am simply saying within the accommodation of funds, he could do that.

Mr. BIDEN. Understanding, as the Senator does, we are not talking about Federal funds here.

Mr. RUDMAN. Exactly.

Mr. BIDEN. We are talking about State funds. We are doing once again what our Governors chastise us for doing. They say to us, "Look, ladies and gentlemen of the Congress, and the President, please, if you tell us we have to do something that we do not have any part of the decision in doing, if we want to participate in a Federal program, send us the wherewithal to do it."

They may be right; they may be wrong. The point here is that I think it would be much more prudent to wait until the Attorney General promulgates his rules to be able to determine what the circumstances are that are going to be required of the States, what actions are going to be required of the States; otherwise we are, to use that old phrase, passing a pig in a poke.

I have great respect for the Attorney General. I have no notion of going back to my State and telling them in order for them to participate in this drug program, which the Federal Government, in my view, has a responsibility of doing, in order to participate, I just voted for an amendment that will require them to do some kind of drug testing at some cost under some circumstance, none of which I could describe. And, by the way, I would have to say to my Republican Governor, "By the way, Governor Castle, the Federal Government does not require this of Federal prisoners." There is no Federal regulation. We are not even imposing it upon ourselves, unless I am missing something in the strategy or an amendment that may soon be offered.

Mr. RUDMAN. Will the Senator yield?

Mr. BIDEN. I suspected that might be the case.

Mr. RUDMAN. One of the amendments I am going to offer has been suggested by the National Governors Association, which is a strong bipartisan group. They essentially want us to appropriate some National Institute of Justice funds in the amount of up to $400,000 for expressly the purpose the Senator from Delaware has just enunciated. I am almost tempted to ask unanimous consent to lay the pending amendment aside and offer this one. Of course, I expect it will be accepted.

Mr. BIDEN. I think we can work that out. I agree with that. I say to my friend from New Hampshire, and I am not being solicitous here, he always gets right down to the nub of things—and I mean this sincerely—and does it with an ability that few of us have on the floor. He has hit the core here. I believe that testing may be a good idea. I am inclined to support it. As a matter of fact, I proposed it in one of the amendments that I put forward to the Democratic caucus, for all prisoners, Federal as well. So I am not opposed to the notion. I think it is more prudent for us to appropriate such sums as may be necessary but, in the meantime, until we have determined how the program works and how much it costs, not make it mandatory for all States to put in place a drug-testing program.

Mr. RUDMAN. If the Senator will yield, I assume the Senator from Delaware is probably going to offer an amendment to that effect.

Mr. BIDEN. The Senator from Delaware is inclined to do that.

Mr. RUDMAN. And we will have a vote on that. The underlying bill itself has raised a lot of concerns on both sides of the aisle. There are two concerns, I say to my friend from Delaware. The first concern is precisely the one he raised: How do we know how much this is going to cost? The second concern is vesting too much control in the Attorney General of the United States in terms of having, if you will, oversight over the States. So I have two amendments, one to each of those legs, if you will, of the problem.

But it seems to me what the Senator from Delaware is speaking about does not address itself as much to the pending Dole amendment which simply says that the Attorney General ought to take into account the ability to pay for drug testing, but I think the Senator from Delaware has a problem, as others well may on both sides of the aisle, with the concept that we ought to start regulating the spending of money at the local level before we know how much money is to be spent. I think that summarizes our respective positions at this point.

Mr. BIDEN. I think that is correct, and I do not see how that is not, quite frankly, a glaring and absolutely killing deficiency in the Dole amendment.

Let me be more specific. My State of Delaware is in great shape economically. I think, and I am not being facetious, that the State of New Hampshire is in great shape. The only debate that has taken place in our State legislature with regard to the finances of the State in the last 8 years I believe has been the size of the tax cut, literally. And I believe there has been one every year; if not every year there has been one 70 percent of the time. That is always the debate.

The Attorney General, under the Dole amendment, could conclude that a particular State, which will remain nameless, that may have serious economic difficulty should not have to put a drug-testing program in effect. On the other hand, he may look at the State of Delaware, his neighboring

State when he was Governor of Pennsylvania, and say, "But Delaware is in good shape," and he could mandate that Delaware spend money on a drug-testing program that it might rather spend on a drug treatment program; that it might rather spend money for education.

The central thesis that is being put forward is the one that the Senator from New Hampshire has acknowledged, and that is the Attorney General will determine what States will have to spend money on testing. He or she will make that judgment.

Second, another glaring deficiency as I see it is what constitutes testing. I am not attempting to be argumentative, but can the Senator from New Hampshire tell me how often the State will be required to test and what test it will have to have?

Mr. RUDMAN. Let me respond to my friend from Delaware this way. First, obviously, none of us know the answer because that is precisely what is anticipated in section 523. The Attorney General is supposed to set forth regulations, and I suppose the regulations would address frequency, type, and scope.

I cannot think of anything else you would cover in those regulations, I say to my friend from Delaware, other than frequency of testing, scope of testing, and type of testing.

Having said that, I point out that the regulations that we are talking about, which could be too broad or too narrow, depending on whose view you take, of course, are tied into drug grants in section 523. "No funding shall be provided under this part, whether by direct grant, cooperative agreement, or assistance in any form, to any State or to any political subdivision" unless they have implemented a plan under those regulations.

So I suppose, taking this analysis, it might interest my friend from Delaware to know in my State there have been instances with other Federal programs where the State and local governments looked at those programs and looked at those regulations and said we do not want to do them. That would not be a good result in this area because we certainly need all we can get, Federal and local, in this whole drug war.

I do not want to broaden this too much. I see that the real floor manager is here, the Senator from Utah. I was hoping to get a couple of these amendments, with which I think the Senator from Delaware would agree with, considered before I left the floor. I wonder, since we have had some floor discussion on this one——

Mr. BIDEN. To which one is the Senator referring?

Mr. RUDMAN. I am referring to the pending Dole amendment. I have two amendments which I believe are acceptable on that side.

Mr. BIDEN. To the Dole amendment.

Mr. RUDMAN. To the bill.

Mr. BIDEN. To the bill.

Mr. RUDMAN. I would like to get unanimous consent, if the Senator does not mind doing that—I have another conference to go to——

Mr. BIDEN. I am happy to accommodate the Senator. Is the Senator suggesting we lay aside the Dole amendment?

Mr. RUDMAN [continuing]. To consider my two amendments and then the Dole amendment become the pending business.

Mr. BIDEN. The Senator from Delaware does not object. I do not know what the amendment is, but I do not object to putting the Dole amendment aside.

Mr. RUDMAN. Fine. Mr. President, I ask unanimous consent that the pending amendment offered in behalf of Senator DOLE be temporarily laid aside.

The PRESIDING OFFICER (Mr. LIEBERMAN). Is there objection?

Mr. RUDMAN. And that two amendments offered by the Senator from New Hampshire be in order; that upon disposition of those amendments the pending business be the Dole amendment.

The PRESIDING OFFICER. Is there objection. Without objection, it is so ordered.

AMENDMENT NO. 913

Mr. RUDMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN] proposes an amendment numbered 913.

Mr. RUDMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Proposed new section 523 is amended by inserting the following new subsection:

"(d) STATE IMPACT STUDY.—Of funds appropriated to the National Institute of Justice for fiscal year 1990, not to exceed $400,000 shall be made available to the National Criminal Justice Association to carry out a study of the fiscal and other impacts in States of implementing drug testing programs for targeted classes of arrestees, individuals in jails, prisons, and other correctional facilities, and persons on conditional or supervised release before or after conviction, including probationers, parolees, and persons released on bail. Six months following enactment of this section, the association shall report on its preliminary study findings. The final report on the study shall be completed one year after enactment of this section.

Mr. RUDMAN. Mr. President, I think this is exactly the problem we have been discussing, and the State Governors are for this. I have not talked to them, but I would be amazed if the State attorneys general are not for this. I am certainly for this.

Mr. BIDEN. If the Senator will yield, I am also for it, but let me make one thing clear. Either I am missing something or we are doing something that I am not sure the Senator from New Hampshire wants to do. That is, this is exactly what we should do before we make testing mandatory. That is, have the State impact study. It is totally appropriate. It is the logical way to go. But I would respectfully suggest to my friend from New Hampshire if it is adopted—and I have no objection to it—it will be the strongest argument against adopting the Dole amendment from the perspective of the Senator from Delaware because we should not make mandatory and thus give significant discretion to the Attorney General to discriminate among States—I mean that in the best sense of the word—a program that has not been delineated, the cost of which we have no notion and the nature of which we have not yet determined until this study proposed by the Senator from New Hampshire is finished.

So I would have no objection to accepting the State impact study amendment of the Senator from New Hampshire, but I want to make clear that it does solve the problem of the Senator from Delaware if we are operating under the assumption that the rationale for the study is to determine the right way to do it, so why should we be doing something that we do not have any idea what the impact is until this is done.

I am for this amendment. I would be happy to accept it. But I want to make it clear that I do not accept it as in any way doing anything other than making an argument against the Dole amendment.

Mr. RUDMAN. If the Senator will yield.

Mr. BIDEN. Yes.

Mr. RUDMAN. I think we are getting some syntax confused so let us make sure we are talking about the same thing. The Dole amendment is the amendment which simply said that the Attorney General ought to take into account State costs.

Mr. BIDEN. Correct.

Mr. RUDMAN. The Senator from Delaware referred to the Dole amendment. I think he is referring to the President's bill.

Mr. BIDEN. Yes.

Mr. RUDMAN. OK.

Mr. BIDEN. I am referring to both. I should be more precise. The underlying bill, the President's bill, that is S. 1711, a bill to implement the President's 1988 national drug control strategy, an amendment relating to justice assistance and drug testing.

Mr. RUDMAN. Let me then follow from that. If the Senator's remarks were just directed toward S. 1711, which is the underlying legislation that we are talking about, let me make this observation. If this amendment is accepted, and the bill stays as it is, then I am delighted that we have it because at least within 6 months we will have an impact for the Attorney General to look at. If the Senator from Delaware is successful in striking out the drug testing on the State part until after the study is done, then the Senator from Delaware is even more ahead. So I would make the observation that this is a no-lose situation.

Mr. BIDEN. The Senator from Delaware agrees. So I urge we accept the amendment. I have no objection.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment (No. 913) was agreed to.

Mr. RUDMAN. I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 914

(Purpose: To eliminate the provision subjecting State and local government drug testing plans to periodic review by the Attorney General)

Mr. RUDMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN] proposes an amendment numbered 914:

Proposed new section 523(a) is amended by striking, where it appears, "subject to periodic review by the Attorney General,".

Mr. RUDMAN. Mr. President, let me see if I can explain this amendment, and I refer to S. 1711.

Mr. BIDEN. The President's bill.

Mr. RUDMAN. The President's bill, which we are now debating, the strategy. I am going to assume the bill is going to pass as written. If it does not, then it really does not make too much difference. But assuming the bill passes as written, I have a serious problem with the Attorney General of the United States having continuing oversight of how a State operates its drug testing program. I think that is up to the Governor of the State, it is up to the attorney general of the State, which the Presiding Officer was once in his prior life, as was the Senator from New Hampshire and a number of others in this Chamber. I do not believe we ought to give the Attorney General of the United States continuing oversight over how States administer these testing programs. If this amendment is adopted, Mr. President, and the Senator from Delaware is unsuccessful in changing the underlying legislation, the net result will be that we will have a bill which says to the Attorney General, "Set forth the scope, type, and frequency of testing. Once you do that, the States must generally comply with that, but once they do, they are on their own to continue it. You cannot come back to them every year and say, 'I do not like what you are doing.'"

That is the purpose of this amendment.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. I am reluctant to accept it not because the Senator from New Hampshire is not correct in that if the strategy is accepted it makes it better. I am reluctant to accept it because I do not want to make better a bill that is a turkey to begin with, that we should not do what my distinguished friend from New Hampshire is doing—putting very colorful feathers on this turkey.

Mr. RUDMAN. I hope the Senator will certainly make every effort to approve this bill, irrespective of its original authorship.

Mr. BIDEN. The Senator is always persuaded by the Senator from New Hampshire. I am prepared to accept the amendment, turkey or not.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment (No. 914) was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 910

Mr. RUDMAN. Is the Senator from New Hampshire correct that the pending business is the Dole amendment to S. 1711?

The PRESIDING OFFICER. That is correct.

Mr. RUDMAN. I thank the Chair.

Mr. President, I would like to ask my friend from Delaware this question before I leave the floor. The Republican leader is going to say to me, you did very well, your two amendments were adopted, but mine is still in limbo. I want to ask this question. Would the Senator from Delaware explain to me what the problem is with this Dole amendment which essentially really does what the Senator from Delaware wants to do, it seems to me, as well as working, I think, hand in glove with the amendment we accepted on the National Governors' Association.

What this amendment says is the Attorney General had better pay heed the ability to pay by local and city and State governments. That is the only amendment that Senator DOLE has pending before the body.

Mr. BIDEN. Mr. President, I have great respect for the minority leader. The reason I will not accept this amendment—and at some point we will end up having a rollcall vote—is that just by accepting it I would be acknowledging the fact that the Attorney General should have the authority under any circumstances to make judgments about whether a State could or could not pay.

Just by my accepting the second amendment of the Senator from New Hampshire, a moment ago, we eliminated some of the discretion that the President's bill gives the Attorney General because we both just said we do not want the Attorney General to have that kind of discretion. Once the regulation is set he should be out of the picture.

I, as a matter of principle, consistent with my accepting the last amendment, do not want the Attorney General to have authority over a program and discretion over a program that is yet to be defined and even if it were defined, I do not want the Attorney General of the United States, Democratic or Republican, being able to say if it is a national policy that the State of Pennsylvania does not have to, in order to qualify to get its portion of $450 million of a Federal fund, participate in this program, whereas the State of Delaware has to in order to qualify. It seems to me it gives a great deal of power, political as well as substantive power, to the Attorney General under a circumstance where the Attorney General should not possess that power. That is my reasoning as succinctly as I can state it for my friend from New Hampshire.

Mr. RUDMAN. Mr. President, I thank the Senator from Delaware for this explanation. I understand it. I expect there will be further discussion about this.

I see that the Senator from Utah has now arrived on the floor. He truly is the manager being a member, of the Judiciary Committee, a committee I am not privileged to serve on. I will yield the manager's chair to the Senator from Utah, and thank the Senator from Delaware for his courtesy.

Mr. BIDEN. Mr. President, the Judiciary Committee would be better served had it the Senator from New Hampshire on it, and I mean that sincerely.

Mr. President, if we could put this back in focus for a moment, to make sure that everyone understands the objection of the Senator from Delaware to this portion of the President's drug strategy, it says that in order

for—I am paraphrasing—States to be able to participate in any of the funds made available by the Federal Government for the war on drugs it must first put into effect—now I shall read. Let me read the whole section.

Section 532(a), Program Required. No funding shall be provided under this part whether by direct grant, cooperative agreement, or assistance in any form—

I might note parenthetically that is yet to be defined, what assistance in any form means—

to any State or any political subdivision or instrumentality of the State that has not formulated and implemented a drug testing program subject to periodic review—

We have stricken that phrase, "subject to periodic review."

a drug testing program as specified in regulations described in section B for targeted classes of arrestees, individuals in jail,

Et cetera.

What this says is that the States, in order to get any funds at all to fight the war on drugs, will have to spend a minimum of a quarter of a billion dollars to as much as a billion on a drug testing program in order to get into the pot of $450 million.

So that may be fine. Maybe we should do that. But the problem here is we are buying a pig in the poke. The regulations read now section 523(b):

The attorney general shall not later than 6 months after the enactment of this section promulgate regulations.

So we are asking the Senate to go on record to tell the citizens of their State while we are saying by the way "read my lips, no new taxes." We are saying "read my lips, no new taxes." That is the Federal policy so far, no new taxes in this drug bill. We are saying to the States that 6 months from now the Attorney General, not under the supervision of the United States Congress, not being required to come back and get the Congress to sign off on it, can come up with as little or as much as he wants. He can demand a testing program that costs $135 per test. He can demand a testing program that costs $9 a test. He can set out regulations requiring arrestees be tested once and every prisoner in prison every 4 months be tested, every parolee, every 2 months tested, every probationer of 1 month tested.

What is the purpose of the testing program? The purpose of the testing program is to see to it that people under the control of the criminal justice system are drug free. In all the testimony before my committee they tell me, and before the Labor Committee, I say to the Presiding Officer, I suggest, says you are going to have to test people once a week to know that; sometimes more frequently.

So if the purpose is to make sure they are drug free, then are we talking about once a week testing? If that is not the purpose, what is the reason to test once a month, once a year? What are we talking about? What is this all about?

But the irony is I cannot think of any other program that could cost anywhere from a quarter of a billion dollars to a billion dollars to the States that we would pass on this floor and say but, by the way, we have no idea what it is going to look like, none. Trust me, I am from the Federal Government, trust me. Six months from now I will tell you. And oh, by the way, there is a caveat, we do not test our own prisoners, we do not test our own parolees, we do not test our own probationers. What is good for you is not good for us. The States have almost a million people in their prisons, not counting those that they arrest and how many people are on probation and parole. The Federal Government only has 50,000 people in their prisons. We are so certain—well, I have made my point. I love the Attorney General, and I think he is a fine man, and the next person may be a fine man or woman, but I, for one, am not prepared to give the Attorney General a blank check to come back to us 6 months—not even come back to us; he does not have to come back to us—from now and say, Governors of the State, you have to spend *X* amount of dollars to sign in. Maybe the States should do it. I want to know what the price tag is, and at the appropriate time, I will move against the amendment, but not at this moment.

I might add one other thing. I am prepared to accept the Dole and the Burns amendments, and there is a Burns amendment we are going to hear from in a moment. I have an amendment that would wipe out making it mandatory. If we can agree that it will not be mandatory on the States, then I am prepared, if we strike the word mandatory, to accept the Dole and the Burns amendments.

I see my distinguished colleague from Utah is on his feet. I yield the floor to him.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. I thank my distinguished friend from Delaware for yielding the floor to me.

This is an important bill. We are going to have a lot of amendments on the bill—so it appears to me. We have already had a few, and some have been accepted. It looks as though the distinguished Senator from Delaware may be willing to accept some other amendments. We are debating S. 1711, introduced by Senator DOLE, which is the remaining legislative provision not yet considered from President Bush's drug control strategy.

S. 1711 requires drug testing in the judicial system, to end drug use, not only in our prisons, but also for those who are arrested and released on bond, who are on probation or who are paroled. I support this provision, and I included post-incarcerated drug testing provisions in my crime proposal, S. 1228, entitled the Crime Reduction Act.

The President's drug control strategy requires both State and Federal drug enforcement efforts to hold offenders accountable for their drug use, and then through supervision and drug testing, help these offenders to stay off drugs. We in Congress, with the support of the American people, are willing to spend more on law enforcement activities to rid the streets of the drug pusher. But we must make sure that our law enforcement system is held accountable. Arrestees in our law enforcement system should be completely free from drugs as a condition for release on bond, probation, or parole. Now, that is tough, but that certainly is going to have a very good effect in the fight against illegal drugs.

Last week, we passed, as amendments to the Transportation appropriations bill, four other provisions of the President's drug control strategy. One provision requires States to ensure that their treatment programs are effective by requiring performance-based State plans. Another provision requires that educational systems demonstrate that they are drug-free as a condition of receipt of Federal funds. The remaining provisions allow for assistance to countries which have defaulted on loans, for training of antidrug police for the military in the Andean countries, for the transfer of up to $150 million in excess funds from asset forfeiture funds, and for those to be transferred to the special forfeiture fund controlled by the director of drug control.

In record fashion, we will have debated, discussed and approved President Bush's drug control strategy and added 11 percent in additional funds. I applaud my colleagues for working on this in such an expeditious fashion. There have been a whole raft of colleagues who have been participating on both sides of the aisle, and it has taken a lot of good will, good exchange and a lot of good effort to be able to arrive at this point. I want to especially commend President Bush for his efforts in developing this strategy, along with Bill Bennett, of course, the person who had direct responsibility.

However, Mr. President, I really feel that I have to add one word of caution. A strategy to reduce drug abuse in America is incomplete, unless we tackle the harder questions and issues like the death penalty, the reform of the exclusionary rule and the reform of habeas corpus proceedings. Addressing these issues in a constructive manner will be a significant step toward battling drug abuse in America.

I look forward to the debate on these provisions at a later time in this session of Congress. We have to do that. If those who claim that they are fighting against drug abuse in our society are unwilling to get tough on crime, unwilling to have the death penalty, unwilling to reform the exclusionary rule—which has allowed so many of these people to get off on technicalities—and, if they are unwilling to reform our habeas corpus proceedings and stop the never-ending appeals through the process at never-ending costs to the taxpayers and at never-ending congestion to our courts, then do not tell me they are for really a longlasting solution or even a short-term solution of trying to resolve the drug abuse problems in America.

We have to address these issues in a constructive manner. I think we will do that later on in this Congress. Although, I have to admit that we will probably pass a number of things that will never see the light of day because either our friends in the other body will not allow it to happen or, somehow or other, through procedural moves over here we may be reduced to not doing that all too important part of the total drug strategy the President has.

Mr. President, the reason we are all working toward legislation to reduce drug abuse in America is because the drug epidemic has brought this Nation numerous stories of children selling drugs in our neighborhoods; newborn babies addicted to drugs because of their mother's use of illegal drugs; 200,000 young babies every year born that are addicted to drugs and drug use because of their mothers; increased numbers of youth gangs in many communities around America where law-abiding Americans are being robbed by persons who need to finance their drug habits, and more and more Americans who are being gunned down by drug dealers. We see that right here in this town, the capital of the United States. Probably the most important single city in the world. There are certain areas of this city where I would not walk down the street, and I do not think anybody else who really did not have to would either.

As we debate here today, there are kids getting high on crack, pre-teens using alcohol, and drug deals going on within the very view of the Capitol dome. There are many law-abiding community-spirited people who can help rid their communities—this community, too—and this Nation from the scourge of drugs.

Where did it all start? Several weeks ago Senator MOYNIHAN sent me an article out of the Atlanta Journal dated December 31, 1985, which reported on the epidemic of smoking highly addictive cocaine rocks beginning in 1983. Since 1983, we have seen this practice sweep our Nation—sweep the Nation in less than 6 years—to a point where it is killing a whole generation of children and young adults. This killing is going on directly as a result of drug use and of gang wars between pushers protecting their turf. Drug abuse has added immensely to our murder rates and decreased the safety in our streets.

It has increased the number of addicted infants. I mentioned 200,000 a year are born addicted and in many cases severely handicapped. It is adding a costly burden for future years and, at the same time, robbing this Nation of its greatest resource, its youth. And, it is destroying our ability to compete by impairing our workforce.

We have taken steps in the past to do something about drug abuse, but at no time have we faced a drug that is as cheap and available as crack cocaine or is as apparently addictive. Mr. President, we are all concerned about this epidemic of crack cocaine; but, we cannot ignore the other drug use going on in this Nation. We cannot ignore the use of heroin and PCP. Nor, the abuse of prescription drugs. We must end the use of "ice" or crystallized methamphetamine, and, stop the use of "tolley" in Chicago. Tolley is Toluene, a benzene derivative used legitimately to thin oil-based paints, clean carburetors, and make glue. Unfortunately, some have been using it to get high. Today, we must do whatever we can to stop this societal suicide.

We are all pleased to hear from the National Institute on Drug Abuse that the rate of substance use by high school seniors appears to be going down. However, I was told just yesterday that there are about 13,000 teens with substance abuse problems in my home State of Utah. We have less than 250 beds to treat them. Therefore, we need to expand our treatment programs, and we need to help those who need treatment to get it. President Bush has put forth a workable plan to help Utah and other States reach their goals of reducing the demand for drugs and controlling its distribution.

I look forward to working with my colleagues today. I particularly look forward to working with my distinguished colleague from Delaware. I do not know of anyone in the Senate who has tried to spend more time on this issue or is more concerned—having worked in the criminal law field in the past before coming here as a young lawyer. I know he has a working knowledge of some of the problems that are involved here. I have enjoyed working with him and enjoyed his leadership as chairman of the Judiciary Committee.

I hope we will not make this as partisan as we have in the past. I hope we can work together. I hope we will understand that this President has been carrying a very difficult ball in this very, very difficult war. It is not a game. I think no one understands that better than this good chairman of our Judiciary Committee, my friend from Delaware.

So I look forward to working with him for reform and working to make it worthwhile, to make it better than it has been. I look forward to cooperating with the President because without his leadership we are not going to make any headway. We can mouth off all we want to in the Congress of the United States, but without the leader of the free world to lead the fight here, we are not going to have much success or make much headway. I think we should be sensitive to the needs of the President and we should be sensitive to the ideas of the President.

No one has all the ideas, and I know George Bush would be last to say he is the only one who has the right ideas. He would be the first to say "If you can improve it, fellows, do so." He would be the first to say "I want to support everything that is worthwhile in this fight against, war against, drugs."

It is my hope that we will help every State, community, school, church, club, business, police department and, yes, family to deal out the drug dealers with strict law enforcement, eliminate the demand for drugs through education and prevention and help those who have fallen into this trap through effective treatment programs.

We have started. We made a big step last week. I hope we can make a big step this week, and I hope we can continue to work together in a bipartisan way in the best interest of our country. I am sure if it is up to the distinguished Senator from Delaware and myself, we will be able to do so.

We may have disagreements on some amendments brought here, but I will certainly look at every amendment and look at the ideas of every Senator who comes over here and brings amendments. We do our best to try to help our country have the best legislation come out of this floor for consideration at this time.

It is my understanding that the distinguished Senator from Montana is waiting to offer an amendment, and I will yield the floor so he can do so.

The PRESIDING OFFICER. The Senator from Montana [Mr. BURNS], is recognized.

Mr. BURNS. Mr. President, I ask unanimous consent that the Dole amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 915

(Purpose: To allow the Attorney General to take into account the regular legislative sessions of each State)

Mr. BURNS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Montana [Mr. BURNS], proposes an amendment numbered 915.

Mr. BURNS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, after line 10, insert the following:

"(d) In issuing regulations pursuant to subsection (b) of this Act, the Attorney General shall also take into account any limitations on the ability of a State to meet the requirements of this Act due to the schedule of its regular legislative sessions regulations.

Mr. BURNS. Mr. President, I have listened with great interest to the colloquy that has been going on now between the two managers of the bill. I might add that all the points that have been made about drugs and the problem we have in this country are very valid.

It also seems to me that when we come down to an issue such as this, money may not be the answer. I think that this problem might be solved if the leadership in this country could convince our citizens how bad this problem really is, and that it will take everybody's involvement to deal with the drug problem. It is everyone's responsibility, all the way from the ordinary citizen, to community leaders, right through to Congress.

I consider drugs to be our No. 1 national security problem. I have a daughter who is starting her first year at Montana State University, and I asked her the other day about this problem in school. She advised me that she thinks drug use is declining. National studies show that once kids go to saying that drugs "ain't" cool, then that means it is on the decline.

I have heard people say that the program "Just Say No" was a ridiculous thing when it was brought out by President and Mrs. Reagan. But the program is catching on because a first grader came home the other day and I was talking to him across the fence. I said, "Do you like your teacher?" He said, "Yep, I really like my teacher." I said, "what is the first thing you learned?" He said, "Just say no, and if somebody asks you, tell the teacher about it." So it is catching on. It is a little phrase that will catch on. We should all use it.

And we have to go further. There is no doubt about that.

I just would like to really urge every citizen in this Nation that it is going to take involvement by you, by people, a body, a mind, and to give some support to the kids that do have the nerve to say no.

Now, let me express my support of the final element of the President's strategy on this war on drugs. A lot of work went into it. This Government and this administration have already proven that they have a commitment to the war on drugs.

I do have some reservations, which were expressed by the distinguished Senator from New Hampshire and also the Senator from Delaware, that the way we go about it may be questionable.

Drug testing of certain arrestees, inmates, and parolees will help detect and deal with continued drug use by known drug offenders. This legislation will also act as a deterrent to keep drug offenders drug free.

What my amendment does is direct the Attorney General to take into account the standing meeting times of each State legislature.

In Montana, the legislature only meets for 90 days every 2 years. In addition there are procedural time requirements in adopting regulations to implement their testing program.

What we are trying to do, and the Senator from Delaware summed it up, is to put a different feather on this legislation; we are trying to make it better so it is acceptable to this body.

I have been told by the Montana Board of Crime Control that they will need time to propose legislation for consideration by the legislature, which does not meet until the first 3 months of 1991.

Once the drug testing legislation is considered and adopted by the State legislature, additional time may be needed to implement the regulations. I would hate to see Montana lose the much needed funding to combat drugs because of a regulatory glitch.

So I offer this amendment and I ask for its consideration. I believe my amendment is acceptable to both sides. I thank them for their consideration.

I thank the Chair and I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. I apologize to the Chair. I think we are getting very close to working something out. I hope we are. There are a number of other amendments to move.

As a matter of accommodation—I do not mean merely personal accommodation because of my affection for the Senator from Montana but because his amendment makes sense—this side is prepared to accept his amendment. But I should point out, so I am not misleading anyone, it may be as we work out a total compromise for this, his amendment may not be necessary.

His amendment is necessary to protect the States of Montana and Delaware and other States and he is doing a great service to the States by proposing it, but hopefully we will be able to work something out that will not require this protection. But in the event the Senator from Delaware is incapable of doing that, I am prepared to accept the amendment because it would improve the situation as it exists now.

I urge adoption of the Senator's amendment.

Mr. HATCH. We are also prepared to accept the amendment. I think it is a good amendment. I agree with the distinguished Senator, it may not be necessary in the end, but it is certainly good in this process at this particular point.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Montana.

The amendment (No. 915) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. I congratulate my colleague from Montana. Let me say to those who may be listening in their committees and offices, attempting to determine what we are on, I understand we are back on the Dole amendment at this point.

The PRESIDING OFFICER. That is correct. We have returned, under the previous order, to the Dole amendment.

Mr. BIDEN. I would like to suggest to the Republican manager of this debate, we, maybe, should alert our colleagues who have amendments. I know Senator KENNEDY indicated he had an amendment. I see the Senator from Colorado, Senator WIRTH, is here and he has an amendment. I will not ask unanimous consent to lay aside the Dole amendment unless my Republican friend indicates that we should continue to work on a potential compromise.

If we do, we should, then, lay the Dole amendment aside and move on to another amendment. Does that make sense to the Senator?

Mr. HATCH. I think it does. We are close to having an effective compromise with the administration plus, I hope, with our colleagues on the other side of the aisle. If we can do that, then we can go to whatever other amendments we have. I know the distinguished Senator from Massachusetts and I have a number of other amendments we have agreed to with regard to the Labor and Human Resources Committee, which has extensive jurisdiction in this area. We can move to amendments like that and proceed in an orderly fashion to resolve the conflicts on this bill.

Mr. BIDEN. Mr. President, will the Senator yield?

Mr. HATCH. I will be glad to.

Mr. BIDEN. I suggest, maybe to accommodate our colleagues and in no way interfere with the progress we are making on the underlying amendment, that we consider laying aside the Dole amendment and go to the Wirth amendment so we can move and continue to make progress.

If that is agreeable with my colleague from Utah, I ask unanimous consent that we set aside temporarily the Dole amendment, move to the Wirth amendment, and, upon completion of the Wirth amendment, the pending business be the Dole amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Mr. President, reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I understand the distinguished Senator from Colorado has an amendment.

The PRESIDING OFFICER. There is a unanimous-consent request that was not acted upon.

Mr. BIDEN. I move it be acted upon, if we could. Does the Chair want me to repeat it?

The PRESIDING OFFICER. The request was to set aside the pending Dole amendment and go to the amendment of Senator WIRTH and return to the Dole amendment. Without objection, it is so ordered.

AMENDMENT NO. 916, AS MODIFIED

Mr. WIRTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration. We have a unanimous-consent request for a change in the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH] proposes an amendment numbered 916.

Mr. WIRTH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the appropriate section, insert the following:

That the Office of the National Drug Control Policy is directed to develop a coordinated policy in conjunction with State and local governments to counteract youth gang involvement in the distribution, sale and use of illegal drugs;

That the coordinated policy to be developed, as referenced above, include, though not be limited to, programs or means to prevent young people from joining a gang and methods to reform, rehabilitate, educate or train gang members and turn them away from illegal gang activities.

That this policy be implemented as soon as practical but no later than February 1, 1991.

Mr. WIRTH. Mr. President, I ask unanimous consent that the effective date of the implementation of the policy be changed to read no later than February 1, 1991. I understand that was the request made by the distinguished Senator from Utah.

Mr. HATCH. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. No objection. That is correct.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. WIRTH. Mr. President, we are all familiar with the upsurge of activity, particularly in Los Angeles with the Crips and the Bloods and in New York with two Jamaican gangs. Less well known is the rapid spread of this gang activity east from Los Angeles and south from New York City and probably elsewhere as well.

In Colorado, for example, we have seen a very rapid, and absolutely frightening spread of gang activity. The numbers of young people involved in the gangs in Colorado have, by our most recent accounts, gone from 200 to 2,000 in the last 3 years. The age of the kids getting involved in this has gotten younger and younger and younger. People are shot in the streets for wearing the wrong color. We also know that drugs play a critical role in the lives of gang members.

The thrust of the amendment that I have offered is to require the Office of National Drug Control Policy to develop a coordinated policy in conjunction with State and local governments to counteract youth gang involvement.

We must use what we have learned from our bitter experience, in Los Angeles, New York and now in Denver as these gangs spread all across the country. We must share the lessons learned so more of the United States can benefit from this experience and have a constructive base to interdict and stop the spread of gang activity.

I have met with police officials and community activists in the Denver metropolitan area. It is very clear that they know a great deal about what happens and they have a lot of good advice and experience to transmit to other communities about what to do. We should provide a vehicle to spread that information. What we do not want to do is leave a whole variety of communities bereft of that experience.

In addition, we want to learn a great deal more about why kids join and how we go about preventing them from joining gangs. Some people are out there providing not only good models to these kids, but to other members of the community as well about how to live life without the gangs. For example, Rev. Leon Kelly, who opened the Senate in prayer not long ago, has been very effective in Denver providing alternatives and direction to kids so they do not feel compelled to join the gangs and become involved in illegal activity. His independent project—the Open Door to Youth Gang Alternatives—works with any and all kids in the neighborhood to point and guide them to a new direction. His skills, talents, and techniques can be helpful to other communities, and that should be part of the role of the coordinated policy.

I believe both sides are going to accept this amendment. I think it makes a great deal of sense to so many of our communities. I hope my colleagues will see fit to accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Colorado? The Senator from Utah.

Mr. HATCH. Mr. President, we are prepared to accept this amendment. I think it is a good amendment, and it is something that all of us, especially in the Western States, are highly concerned about. Gangs have arisen in most States. I commend the distinguished Senator from Colorado for having offered the amendment. We are prepared to accept it if the distinguished Senator from Delaware will also.

Mr. BIDEN. Mr. President, I also think it is a very worthwhile amendment. We are prepared to accept it. I congratulate the Senator from Colorado.

Mr. WIRTH. I thank the leadership.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 916), as modified, was agreed to.

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. We now return to the Dole amendment. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, I have several amendments. I ask my colleague from Utah whether or not it would not be appropriate to once again lay aside the Dole amendment?

Mr. HATCH. Could we see your amendments first?

Mr. BIDEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

AMENDMENT NO. 917

(Purpose: To authorize funding for Federal law enforcement agencies and courts)

Mr. BIDEN. Mr. President, I ask unanimous consent that the Dole amendment be temporarily set aside, which I believe is the business before the Senate at the moment, for the consideration of a Biden amendment which I send to the desk, and at the completion of the Biden amendment, that we return to the Dole amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 917.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

Subtitle G—Federal Law Enforcement Agencies

SEC. 81. ADDITIONAL AUTHORIZATIONS.

There are authorized to be appropriated for the fiscal year ending September 30, 1990, the following sums (which shall be in addition to any other appropriations):

(1) For the Federal Bureau of Investigation: $57,000,000 for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;

(2) For the Drug Enforcement Administration: $47,500,000 which shall include—

(A) not to exceed $10,000,000 for enforcing provisions of Federal law regarding precursor and essential chemicals; and

(B) not to exceed $37,500,000 for assigning not fewer than 250 agents to rural areas where State and local law enforcement agencies have identified the distribution of "crack" cocaine and/or the manufacture and distribution of methamphetamine to be a serious law enforcement problem that exceeds the resources of local law enforcement, and involves trafficking across State or national boundaries;

(3) For the United States Courts; $9,000,000 for additional probation officers, judges, magistrates and other personnel including not to exceed $2,000,000 for training, document production, and other expenses related to the implementation of the Federal sentencing guidelines;

(4) For the United States Attorneys: $24,000,000 for additional prosecutors and staff to implement a program of prosecuting in Federal court drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies;

(5) For Defender Services: $8,000,000 for the defense of persons prosecuted in Federal court for drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies; and

(6) For the United States Marshals: $9,000,000.

Mr. BIDEN. Mr. President, I will be as brief and straightforward as I possibly can on this. This is basically a law enforcement amendment. The drug director in testifying before the Judiciary Committee, as well as other committees, indicated that notwithstanding the fact we must do a good deal on education and prevention, interdiction and eradication, that the central thrust of the President's strategy was to see to it that we rebuild the criminal justice system. He pointed out that the system was in disarray.

As a consequence of that, last week one of the major elements of reconstructing that system was put in place. We appropriated over $1.4 billion for prison construction as well as other law enforcement portions and provisions. But what we did not do is deal with beefing up the Federal criminal justice system.

My amendment would call for the addition of 1,000 FBI agents, 350 new drug agents, 300 new U.S. attorneys, and $26 million for the courts, marshals, and public defenders. The reason for this is that it has been made abundantly clear by testimony before the committee that in order to be able to make the system work, we must not only have prisons that are available upon conviction, and while detaining someone for trial who has not made bail, but we must have a sufficient number of judges, prosecutors, and agents in the streets to be able to meet the goals set forth by the President and goals that we, quite frankly, the Senate, augmented when we passed the appropriations bill last week.

Let me give you one specific item. I am prepared to discuss and debate this at some length. I am not attempting to cut off any interchange. I am going to focus on one piece to illustrate why this money is so badly needed.

Today we had a hearing in the Judiciary Committee in which we had the Director of the FBI, Mr. Sessions, and the head of the DEA, Mr. John Lawn, as well as the Assistant Secretary of Defense, Mr. Atwood. When discussing with the FBI Director, Mr. Sessions, what the intention of the FBI was, what its mandate on the drug issue, he said its fundamental basic mandate was to go after drug organizations and decapitate them, eliminate their leadership by convicting them, putting them in prison and essentially dissassembling the organization. He said that is the most important function the FBI has as it relates to the war on drugs.

Then we asked him. We said: "Mr. Director, how many of these drug organizations are there in the United States?" He said "We have identified specifically 450 such organizations."

I said "Based upon the amount of personnel that you have now, how many of those organizations are you able to target? You have identified them as drug organizations. How many are you able to target, which is your specific charge, and what is the primary responsibility you have under the drug effort?"

He said "Senator, we are able to target roughly 225 of the 450 organizations." Or said another way, half of the drug organizations identified are not able to be targeted, not able to be matched against in a coordinated effort.

Then I said "Well, of the 225 that you have targeted, how much personnel have you had to borrow from other duties within the FBI to put them on this drug duty?"

He said "Senator, we have had to take and reposition 300 FBI agents."

This is after the additional agents that the President's drug strategy provides for the FBI.

I said "Well, where do they come from? Where are these 300 agents? They are not just manufactured out of air."

He said "Senator, we have taken them primarily from our organized crime units, and from our white-collar crime units."

It was not but 3 years ago on this floor the U.S. Senate, the U.S. House of Representatives, and the President rose up in unison and said we are not doing enough about white-collar crime in America. Computer fraud is rampant.

We held hearings, and pointed out that tens of billions of dollars were being stolen. The cost to business was incredible. We said we must do more on white-collar crime.

Here you have the Director of the FBI forthrightly stating today as he has on other occasions that even to do what the present strategy calls for, even with the additional personnel provided in the drug strategy, he is still 300 FBI agents short.

I said "Well, how will you deal with that?"

He said "In the short term, we can."

I said "How about long term? What happens, Mr. Director, on the long term?"

He said "Well, our efforts against traditional organized crime units and white-collar crime will suffer."

So I said "Mr. Director, how many people would you need to be able to do what you are charged to do at this point, not just in the drug area, but the broader responsibilities of the FBI, and target all 450 of these identified drug organizations?"

He said "One thousand people."

I said "Now, let me ask you: Do you have any doubt if you had those people you would be able to successfully move against those agencies, those drug organizations?"

He said "No." He had no doubt.

Director Sessions is a plain-spoken, straightforward man. These 1,000 agents or the $57 million to which I referred in this broader amendment is what he asks for in the drug strategy. When Director Bennett was going to all the appropriate agencies and saying "What do you need to do your part of the job?" He came back and said "I need 1,000 people, 1,000 new people."

Mr. President, the case is absolutely clear. With the additional drug money provided, with the President's strategy, and with the goals that are set, the Director of the FBI is already 300 people short. He is robbing Peter to pay Paul. And even at that, he is only able to target one-half of the identified drug organizations in America, and everyone has acknowledged that the place where genuine progress is made on the law enforcement side is going after these organizations. I might add, and I hope this does not sound chauvanistic, the FBI is a first-rate organization. They do their jobs well, and where they have targeted, they have had significant success, which leads one to believe the assertion that if they had the additional manpower, they could do a good deal more. This is a major effort.

We are, in my view, short changing one of the two most important organs in our war against drug criminals for $57 million, out of a budget that is well in excess of $8 billion.

I will not take the time of the Senate at this moment, unless someone wishes to further discuss it, except to say that the same can be said for the DEA and the same for U.S. attorneys.

Mr. SIMON. Will my colleague yield?

Mr. BIDEN. Yes.

Mr. SIMON. Let me commend the Senator, first, for his leadership in this whole area, not just recently, but it has been strong and consistent and firm and solid, and we are grateful to him. My understanding is that it contains three things that I have introduced bills on, two of which I think he has also been involved in, and one is in the area of bail reform. Once you are convicted, you cannot post bond if you are involved in drug trafficking; you cannot post bond and just walk the streets, except for very few exceptions that are stipulated; is that correct?

Mr. BIDEN. The Senator is absolutely correct, but if I can say to the Senator, this particular amendment that I have proposed does not encompass that. The Senator from Delaware is prepared, on the completion of this amendment, to accept—and because the Senator from Illinois has been a leader on this point; he went back to his home State, as he told us all, and came back and said, "Look, this is a critical element of the war." I want to make it clear that what we are talking about here, what the amendment of the Senator from Delaware does is add FBI agents, DEA agents, U.S. attorneys and U.S. marshals. It does not deal with the issue the Senator has raised.

Mr. SIMON. OK. I have two others. One is to increase penalties, and one that I know the Senator has also been working on, drug testing in prison and post-release; and we will have another opportunity to insert those amendments here.

Mr. BIDEN. The Senator is correct, I believe, and it is my expectation, that we can clear two of those. We may very well be able to fold the last one into a compromise that we are attempting to work out on the whole drug-testing program. I urge the Senator, if he has a moment after this amendment, not to leave the floor, because he has played a critical part in the drug-testing debate for Federal prisoners, so we can see if he would be willing to sign on or augment the amendment that is being discussed, that we are trying to compromise.

Mr. SIMON. I will be pleased to, and I look forward to working with the Senator and my colleague from Utah.

Mr. HATCH. Mr. President, the distinguished Senator from Delaware, chairman of the Judiciary Committee, has offered an amendment here that I think the President would be very happy to support.

This is an authorization bill. As I understand the amendment, he would add 350 drug enforcement personnel at a cost of $47.5 million. He would add 1,000 FBI agents at a cost of $57 million and 300 new U.S. attorneys at a cost of $24 million, along with other court officers and personnel.

Mr. BIDEN. Twenty-six million.

Mr. HATCH. For $26 million more. I believe that the President of the United States certainly is in sympathy with what the distinguished Senator desires to do, and I certainly am sympathetic. There is no use kidding, if we are going to fight this war, we have to have the leader to fight it with. We have sat through hours of testimony on the Judiciary Committee and elsewhere, where leaders in these respective law enforcement communities have indicated they need extra help. I think it is a good amendment. The real question is, since this is an authorization bill, can we find the moneys to be able to do this? I hope that we can, because I think it is essential in this battle.

I think what the distinguished Senator is doing is worthwhile, forward-looking in its approach, and I believe that the administration ought to do everything it can to see if we can find the moneys that would implement these changes, as he sees them, as I see them, and as, of course, others see them. I would like to be listed as a principal cosponsor along with him on this particular amendment. I am prepared to accept it.

Mr. BIDEN. Mr. President, it has been a long time since the Senator from Delaware has been in court and practiced law, but I remember the one thing I was taught initially. When you are winning, sit down. I am grateful for the acceptance of the amendment. I am delighted to have as a principal cosponsor of the amendment the Senator from Utah. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment of the Senator from Delaware.

The amendment (No. 917) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that upon the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on amendment 910, by unanimous consent earlier. We are back on the basic Dole amendment.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. The Senator from Pennsylvania is seeking recognition. We may be able to set aside the Dole amendment to move on. At the moment I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 918

Mr. BOND. Mr. President, I send to the desk a second-degree amendment to the Dole amendment now pending.

The PRESIDING OFFICER. The clerk will report the pending amendment.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself and Mr. HATCH, proposes an amendment numbered 918.

Mr. BOND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, strike lines 1 through 10 on page 3 and insert the following:

"DRUG TESTING DEMONSTRATION PROGRAM

"SEC. 523. (a) DEMONSTRATION PROGRAM.—The Attorney General shall establish a federal drug testing demonstration program under this section, which shall be based in part on scientific and technical standards determined by the Secretary of Health and Human Services to ensure reliability and accuracy of drug test results. In addition to specifying acceptable methods and procedures for carrying out drug testing, the program may include guidelines or specifications concerning—

"(1) the classes of persons to be targeted for testing;

"(2) the drugs to be tested for;

"(3) the frequency and duration of testing; and

"(4) the effect of test results in decisions concerning the sentence, the conditions to be imposed on release before or after conviction, and the granting, continuation, or termination of such release.

"(b) There is authorized to be appropriated $5,000,000.00 in fiscal years 1990, 1991, and 1992 to carry out the section.

Mr. BOND. Mr. President, this is a substitute which came from the discussions and the very thoughtful comments made by the managers of the bill. Basically, it directs the Attorney General to establish a pilot program of testing in the Federal prison systems. It would authorize $5 million to institute it. It also provides that the standards for testing would be those which would be approved by the Secretary of Health and Human Services. It would give us, in short, an opportunity to see how tests work in the prison system.

There are a number of us who had some problems with some of the technicalities of the original provision in this amendment, which states that all funds would be withheld from the State unless and until they had adopted a testing program which was acceptable to the Attorney General.

The problem is that we do not yet know what kind of testing program would work. We felt it was perhaps an unwarranted extension of the power of the Attorney General to give him the power to cut off funds from a State if they did not happen to adopt a program which was acceptable to the Attorney General.

Therefore, with this amendment, combined with the Rudman amendment, which was previously accepted, which would establish the 6-month study, we would be undertaking at the Federal Government level the kind of pilot project which would give us the information on how this program would work and how it would be implemented at the Federal level.

Once we have the example of the Federal program, we see how that works and we have the opportunity to get the benefit of the study provided for in the Rudman amendment, then I believe that we would be in the best position to determine what further steps should be taken with respect to drug testing in the prisons and among those who are arrested.

Mr. BIDEN. Mr. President, I compliment the former Governor of Missouri and a Senator from Missouri for two reasons.

One, quite frankly, I was not sure the Senator from Delaware was making all that much progress making his case until the Senator from Missouri came to the floor and as a former Governor he apparently knows, or he knows better than any of us, what it is to be mandated to do things the outcome of which no one knows and the cost of which no one has calculated. So I compliment him for getting involved in this and bringing it to resolution.

So the record is clear, what will be left of the President's drug strategy, of the President's bill, S. 1711, is that no longer will there be a mandate to the States to undertake testing and no longer will there be a condition precedent in order for the States to participate in Federal funding efforts on the drug and law enforcement side. What will be left is what the former Attorney General and former Governor, the Senator from New Hampshire and the Senator from Missouri, put together here, and that is that there will be an authorization of $400,000 to a Federal agency to study the utility and cost and wherewithal of implementing a nationwide, statewide drug testing program and, further, there will be authorized $5 million made available to the Attorney General to set up a pilot program for such testing within the Federal prison and the Federal criminal justice system.

That is all that will be left of the testing portion of the strategy. It does not mean we may not come back in 6 months, a year, 2 years from now and do what the President and Mr. Bennett have originally suggested. That is still open to us, but we are not doing that now. We are authorizing up to $400,000 for a study and up to $5 million for an implementation of a pilot program. I think that is a wise and sound resolution of this dilemma.

I compliment all those who worked on this compromise. I am prepared to accept the amendment.

Mr. BOND. Mr. President, I thank the manager for his kind words. It was his pointing out of the problems that called our attention to the fact that some changes were needed in this.

It has been pointed out to me that this amendment should properly be an amendment to the bill and not an amendment to the Dole amendment. I ask unanimous consent that it be considered as an amendment to the bill itself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there any further debate and the amendment? The Chair hears none. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment (No. 918) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 919

(Purpose: To amend title XIX of the Social Security Act to provide for substance abuse treatment services on request for individuals desiring to rid themselves of substance abuse problems, and for other purposes)

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk on behalf of myself; Mr. DOLE, the Republican leader; the distinguished chairman, Mr. BIDEN; Mr. BRADLEY, Mr. KENNEDY, and Mr. DODD and ask for its immediate consideration.

Mr. BIDEN. Mr. President, will the Senator yield for 1 minute?

Mr. MOYNIHAN. Yes.

Mr. BIDEN. Mr. President, I ask unanimous consent that we once again set aside the Dole amendment, which is the pending amendment for consideration of the Moynihan amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Dole amendment is set aside.

The clerk will report the amendment to the bill.

The legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for himself, Mr. DOLE, Mr. BIDEN, Mr. KENNEDY, Mr. DODD, and Mr. BRADLEY, proposes an amendment numbered 919.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SECTION 1. SUBSTANCE ABUSE TREATMENT SERVICES UNDER MEDICAID.

(a) PURPOSE OF TITLE XIX.—Section 1901 of the Social Security Act is amended by striking "and" before the number "(2)", and inserting after "self-care," the following:

"and (3) substance abuse treatment services so that treatment on request may be provided to all individuals (A) who desire to rid themselves of substance abuse problems, and (B) whose income and resources are insufficient to meet the cost of such treatment,".

(b) SUBSTANCE ABUSE TREATMENT SERVICES.—Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"SUBSTANCE ABUSE TREATMENT SERVICES

"SEC. 1927. (a) At the option of the State, the State plan for medical assistance described in section 1902(a) may include as medical assistance, substance abuse treatment services and related case management services (described in subsection (b)) under the plan to all individuals who desire to rid themselves of their substance abuse problem.

"(b) DEFINITIONS.—(1) The term 'substance abuse treatment services' includes—

"(A) inpatient substance abuse treatment services, including counseling, which are provided in a hospital (or distant part thereof) or other entity if such entity is legally authorized to provide such treatment under State law;

"(B) outpatient substance abuse treatment services, including counseling, which are provided by a hospital (or distinct part thereof) or other entity if such entity is legally authorized to provide such treatment under State law; and

"(C) substance abuse treatment services, including counseling, which are provided in a residential substance abuse treatment center or other entity if such entity is legally authorized to provide such treatment under services.

"(2) The term 'case management services' means services which will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.".

SEC. 2. EFFECTIVE DATE.

The amendments made by this amendment shall take effect on October 1, 1990.

Mr. MOYNIHAN. Mr. President, I spoke earlier today about this amendment and need not occupy the time of the Senate at any great length this evening.

I would simply like to read the purpose of the amendment which is self-explanatory. It is "To amend title XIX of the Social Security Act to provide for substance abuse treatment services on request for individuals desiring to rid themselves of substance abuse problems, and for other purposes."

Mr. President, as I have said several times in the last week and again this morning, the central purpose of the drug abuse legislation enacted last year was to provide a balance between the problems, if you like, of law enforcement and the problems of public health when dealing with drug abuse. We clearly have had a very large emphasis on the former, relatively little on the latter.

Last year, we established that we would seek a rough balance between resources and emphasis; that we would recognize we have a public health problem—in this particular case an epidemic—of addiction to cocaine. The addiction—the epidemic—appeared in the Bahamas in 1983. At the time, we were warned by Bahamian physicians, that it would strike the United States. It did in 1985 and we are still reeling as if from Hurricane Hugo; only it does not stop, it still continues.

In the Anti-Drug Abuse Act of 1988, we created a director of drug control strategy with two deputies; one, a deputy for demand reduction, and the other for supply reduction. "Demand reduction" is a simple way of saying that in the end we are going to deal with this problem and see to it that people no longer are willing to destroy themselves.

We have 6 years of experience with this particular euphoria that has not had its equivalent in history. When the use of crack first began in the Bahamas it was accompanied by shockingly gruesome psychiatric disorders, which is what immediately brought it to the attention of the doctors at Sandilands Rehabilitation Hospital, who first reported it in the Lancet, a British medical journal.

Medicaid does not provide for treatment of the drug addicts to which the Senate has turned its attention. People arrive at hospitals, as they do in the pattern of this particular addiction, asking for treatment and none is available. Some efforts are made. We said over and over again last year that there is not now an accepted medical procedure for the treatment of cocaine addiction. There is, for heroin use, methadone treatment. And Medicaid will reimburse the cost of methadone treatment in hospitals. But because there is no recognized medical treatment for crack cocaine, there is no reimbursement and, hence, none of the effort that hospitals engage in in this public health emergency—counseling, etc. (which is the only treatment we have at this point)—is reimbursed by the Federal Medicaid Program.

The purpose of this measure is to simply provide for Medicaid reimbursements "for substance abuse treatment services so that treatment on request may be provided to all individuals who desire to rid themselves of substance abuse problems." These individuals would merely exercise their option under law—we wrote treatment on request into the statute last year. This says that when persons request treatment, an institution can ask for Medicaid reimbursement for that treatment.

Mr. President, I do not want to extend what I believe is fairly clear.

The distinguished manager of the legislation, the chairman of the Judiciary Committee, asked to be a cosponsor when the measure first came up a week ago.

Mr. BIDEN. Mr. President, it is interesting. Sometimes the most important things we do around here are done quietly and quickly and in the clear light of day under—well it is not daytime—but under the glare of the cameras and everyone being able to watch it.

But I want everyone to understand what the Senator from New York is proposing and what he will have done if he succeeds, as I fully expect he will, because so many Republicans as well as Democrats believe he is correct.

He will have, in one fell swoop, done more on the treatment side—which everyone, including the Director of DEA and FBI and the military, et cetera, thinks is by far the most important place along with education—he will have done more in this amendment than we have done in total in the last 17 years that I have been a United States Senator, the last 14 of which I have been spending more time on this issue than I ever hoped to have to. I compliment him for that.

I will make one other comment. People are wondering where this debate is taking place, the Senator from Missouri saying nice things about the Senator from Delaware and the Senator from Delaware saying nice things about other Senators. The fact of the matter is there is not much disagreement on this floor when it comes right down to the basic issues related to the drug question.

I want to suggest that of all the people with whom I have worked on this issue, the Senator from New York knows more about the issue of drug abuse than anyone with whom I have spoken, including the so-called experts that I have had before my committee and into my office. I must say to him once again that this single amendment is probably the single most significant thing that we are going to do on dealing with the drug issue this year. I compliment him for it and I am delighted he is allowing me to be a cosponsor.

Mr. BOND. Mr. President, I, too, wish to commend the Senator from New York. Having the means available to provide drug abuse treatment for those who cannot afford it makes a great deal of sense.

I just had the opportunity to read this amendment. I am struck by the important subject which it covers.

I must say that we are not ready to accept the amendment yet. There are some on this side who want to take a look at the amendment to determine the technical aspects of it. We, therefore, need to give them some additional time to consider it and to determine how it will interact with other statutes and with other provisions in the law.

Mr. BOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I checked this with the minority leader and with the former manager and present manager of this bill, and I ask unanimous consent that the Dole amendment, because it is no longer relevant in light of the compromise we just passed, be withdrawn.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Reserving the right to object, and it is not my intention to object, what then, if I might ask the manager, will be the pending business?

Mr. BIDEN. There would be no pending business. I should not say that. I ask the Chair that question. I do not know.

The PRESIDING OFFICER. The pending business at this time is the Moynihan amendment No. 919. The Dole amendment was set aside in order to take up amendment 919. So the pending business of the Senate would remain amendment 919.

Mr. HEINZ. If I might inquire, reserving the right to object further, what is the anticipated disposition of the Moynihan amendment?

Mr. BIDEN. Mr. President, my understanding is we will probably have an agreement and I hope not even require a rollcall vote on that amendment. The Republican side is checking it out. Two other people on a relevant committee are looking at it. So I would expect there to be no rollcall vote. I would further anticipate asking unanimous consent that the Moynihan amendment be temporarily set aside so we could deal with the amendment of the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I have no objection.

The PRESIDING OFFICER. Is there any objections? Without objection, it is so ordered.

The amendment (numbered 910) was withdrawn.

Mr. BIDEN. Mr. President, I ask unanimous consent that we temporarily lay aside the Moynihan amendment for purposes of considering the Heinz amendment. Upon disposition of the Heinz amendment, we would go back to the Moynihan amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 920

Mr. HEINZ. Mr. President, I thank Senator BIDEN, the chairman of the Judiciary Committee, the manager of this legislation, for his courtesy and his unanimous-consent agreement that has allowed me to present this amendment.

In brief, Mr. President, the amendment that I will send to the desk for myself, Senators BOND, D'AMATO, LOTT, and perhaps other Senators, permits any public housing agency to exclude from its grievance hearing procedure any grievance concerning an eviction for criminal activity. It would permit the public housing authorities to proceed directly to judicial eviction in a State landlord-tenant court subject to the due process requirements, of course, of the 14th amendment. It permits more expeditious eviction of criminals who prey on public housing residents by the sale and use of drugs and with the associated violence and other criminal activities that too often accompany the sale and use of drugs.

The other element of the amendment is that it also requires the public housing authorities to inform the post office when a tenant has been evicted. The reason for that is simply to stop the drug dealers from returning to their former places of criminal activity in order to get their mail. Frequently, that mail contains checks. Some of them may be government issue. If that part of the amendment is adopted, they will, of course, have to go to the post office, not to a place where women are trying to raise children in as secure an environment as possible.

Mr. President, I have had a number of personal experiences visiting public housing communities in my home State of Pennsylvania. One occasion involved Secretary Kemp, who came up to Pennsylvania and visited the Richard Alan Homes community. When he was there, he noticed four men seated around a barrel in which there was a fire. He asked the tenant management leader who those people were. It was explained to him that the four men were crack dealers and that their presence was as common as cold in February, which it then was.

I wish I could say that is an uncommon occurrence, but to the contrary, it is daily—daily, not just at Richard Alan Homes but virtually every public housing community across this Nation. The families who are trying to raise children in that federally assisted housing are particularly at risk. They are at risk because having drug dealers around is dangerous. At one housing community I visited there is scarcely a night where there is not shooting in the street right next to the houses in which people are trying to raise their families.

It is an attraction for other criminal activities and, worst of all, it invites young people to be tempted into the high stakes, high risk, but sometimes high return, game of drug dealing.

I do not know if anybody remembers, but in August there was a sensational report out of Lebanon, PA, where some children in a playground were found playing with grass clippings and sugar in little plastics bags, and somebody had the presence of mind to ask them what they are doing. The answer was, "We are playing drug dealer." These, Mr. President, were 6-, 7-, and 8-year-old kids. To have the real game of dealing in crack and cocaine and marijuana played out in front of them in their front yards is something we should do everything in our power, our legitimate power to stop.

I am a realist. I know we are not going to be able to clear the Nation's streets of drug dealers overnight or even as quickly as we would like, but at the very least we ought to be able to get them, with proper due process protections, out of taxpayer-supported housing just as quickly as possible.

Unfortunately, the present law does not permit us to get them out in many cases any time soon, let alone in any kind of reasonable time frame. What I am producing, expedited eviction procedures, will make certain that drug dealers cannot stick around because of red tape.

Let me take a moment to describe the problem. The problem is that under current law, if someone is accused of even criminal activity, drug-related criminal activity—dealing in drugs—they have a right to what is called an administrative hearing. That administrative hearing and the process that is involved is very lengthy. It can take 6 to 12 months, and it is also nonbinding in this respect.

You get to the end of the process 6 or 12 months later and one of two findings are made. One is that the defendant is found in favor of. At that point, the game is over and no further action can be taken against the tenant that was accused in spite of the fact that the procedures for appointing what is in effect an arbitration panel and choosing, if you will, the third person who is supposed to be impartial or just as random, if you will, as if you chose that third person by lot.

If on the other hand the tenant is found against, one might conclude that, all right, then the tenant is subject to eviction. But that is not the case. What is the case is that the tenant now may be brought to a regular court with all the due process protections and then tried.

The question I simply submit to the Senate is why go through a process that is up to 12 months long that delays the inevitable day in court for just that long? Why not let the public housing authority go directly to court in the first place?

Some people will say, well, public housing authorities do not have to do that. They can seek a waiver of that administrative hearing process. Mr. President, to an extent that is true. There are certain tests that have to be met in order for a public housing authority to seek a waiver. I believe those waivers have to be sought on an tort-by-tort basis. What is it that has

to be satisfied? Essentially, the Department of Housing and Urban Affairs has to look at State law. If they discern that State law meets the 14th amendment due process requirement, that is so far so good. Then they have to be subjected to a second test, which is whether or not the State law has an additional due process protection which I will summarize as the right of discovery which grows out of the fifth amendment.

If all those tests are met, then, yes, it is possible to waive the administrative hearing process.

By the way, a wonderful irony is if the answer is "No," if the answer is the State is not entitled to the waiver, guess what happens? The tenant goes through the administrative process and unless they are found in favor of ends up in trial in the same court that the public housing authority was not allowed to get into in the first place.

Mr. President, we have heard of tying ourselves up in knots. What this is doing is wiring drug dealing criminals into public housing by virtue of a nearly infinite amount of red tape.

This is clearly ridiculous.

Secretary Kemp is making very heroic efforts to get as many waivers as he can in as many jurisdictions as he can. But, in fact, I do not think we: First, should have to wait that long; and second, it is a fact that he will not be able to succeed in many jurisdictions.

While that is happening, people who should have been evicted from federally supported housing are not only dealing drugs or whatever it is that is drug-related criminal activity, but somebody who is a honest person, somebody who is a decent person, is being denied the ability to live in that public housing unit.

So talk about a procedure that is overprotective and discriminatory, this one is overprotective of people who are involved with drug-related crimes and it discriminates against people who are not.

It is my hope that my colleagues will adopt this amendment. This is clearly the the right vehicle for it, and it is my hope my colleagues will agree that the time has come to end what is a real ripoff of the taxpayers, a great threat to the people who live in public housing, and which discriminates against people who need housing but currently cannot get it because they are kept out of it by people who are breaking the law.

Mr. President, I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. We are happy to accept the amendment.

The PRESIDING OFFICER. The amendment has not yet been delivered to the desk.

Mr. HEINZ. Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows.

The Senator from Pennsylvania [Mr. HEINZ] for himself, and Mr. BOND, Mr. D'AMATO, and Mr. LOTT proposes an amendment numbered 920.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SECTION 1. EXCLUSION FROM THE LEASE AND GRIEVANCE PROCEDURE FOR ANY EVICTION OR TERMINATION OF TENANCY FOR CRIMINAL ACTIVITY.

Section 6(k) of the United States Housing Act of 1937 is amended by striking the last sentence and inserting the following: "An agency may exclude from its procedure any grievance concerning an eviction or termination of tenancy for criminal activity, including drug-related criminal activity, in accordance with subsection (L)(5). An agency may exclude from its procedure any other grievance concerning an eviction or termination of tenancy in any jurisdiction which requires that, prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process.

SEC. 2. NOTIFICATION BY PUBLIC HOUSING AGENCY TO THE UNITED STATES POSTAL SERVICE THAT TENANTS HAVE BEEN EVICTED FROM PUBLIC HOUSING FOR DRUG-RELATED CRIMINAL ACTIVITIES.

Section 6 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(n) Where a public housing agency evicted any member of the household from a dwelling unit for engaging in criminal activity the public housing agency shall notify the local post office serving that dwelling unit that the household member is no longer residing in the dwelling unit.".

Mr. HEINZ. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I respect and understand the desire of the Senator from Pennsylvania for a rollcall vote, but it is the intention of this side to accept the amendment. In the interest of time, there are a number of our colleagues who are at the White House and other places. I know this amendment will have little difficulty. I am prepared to accept the amendment. I hope we would not need a rollcall vote.

Mr. HATCH. Mr. President, I echo the request of the distinguished Senator from Delaware that we not have a rollcall vote.

Mr. HEINZ. Mr. President, I cannot hear the Senator from Utah.

Mr. HATCH. I echo the request of the distinguished Senator from Delaware that we not have a rollcall vote because we are prepared to accept this amendment. It is a good amendment. I want to commend the distinguished Senator from Pennsylvania for bringing it up. I think getting it in this bill is a very important legislative approach.

Mr. HEINZ. Mr. President, I would just like the RECORD to be clear on a couple of points. I appreciate the managers' willingness to take the amendment. As we all know, there are a variety of ways of taking amendments around here. Sometimes we take amendments, take them to conference, and we all know what that means. Sometimes amendments are adopted with enthusiasm, and total good will. I have every reason to expect that it is the latter category that we are talking about. There has not been anybody who spoke against the amendment. I would presume that means the Senate genuinely understands the amendment and is in support of it.

I represent that notwithstanding the fact there may not be a full House here because I have offered this amendment on one other occasion. It was also taken in that case to conference. No known action has resulted on it.

It is my hope that my colleagues understand that this has not been another trial run, a dry run; that this is the real thing. I hope the manager of the bill will agree with that assessment.

Mr. BIDEN. Mr. President, the Senator from Delaware did not speak on this amendment because the Senator from Delaware agrees with it. I was trying to move this thing along. The Senator from Delaware is more familiar than the body would like to know about this issue of drugs and public housing. As a matter of fact, the State of Delaware was the State that set the trend well ahead of the efforts by the Director of HUD or anyone else on this score, so I have no reluctance in supporting the Senator, and I cannot speak for any other Senator, but I expect to be at the conference.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. Senator HATCH.

Mr. HATCH. I feel exactly the same way, and we will fight for this amendment in conference. It is a good amendment, one that shows we are serious about the drug problem. I commend the distinguished Senator from Pennsylvania for his efforts in bring-

ing it to our attention and passing it here today.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (No. 920) was agreed to.

Mr. HEINZ. I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia.

AMENDMENT NO. 921

(Purpose: To provide economic antidrug assistance, and for other purposes)

Mr. NUNN. I send an amendment to the desk and ask that it be reported.

Mr. BIDEN. Mr. President, if the Senator will yield for a moment.

The PRESIDING OFFICER. Will the Senator from Georgia yield to the Senator from Delaware?

Mr. NUNN. I will be glad to.

Mr. BIDEN. Mr. President, it is my understanding—and I apologize for not having spoken earlier—that the pending business before the Senate is the Moynihan amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. BIDEN. I ask unanimous consent that we temporarily lay aside the Moynihan amendment until the disposition of the Nunn amendment.

The PRESIDING OFFICER. Is their objection to setting aside the Moynihan amendment No. 919? Without objection, that amendment is set aside.

The clerk will report the amendment offered by the Senator from Georgia.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 921.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . STUDY OF ANTI-DRUG ASSISTANCE TO THE ANDEAN REGION.

(a) FINDINGS.—The Congress finds that—

(1) the operations of international narcotics trafficking organizations pose a direct threat to the national security of the United States and Latin America;

(2) international narcotics trafficking operations have grown so large and powerful that they threaten the democratic governments of the Andean region;

(3) recent events in Colombia make clear the need for addressing the threat of international narcotics trafficking in Peru and Boliva before situations there further deteriorate;

(4) for any anti-narcotics strategy to work in the Andean region an integrated program of economic development, interdiction and eradication must be developed;

(5) U.S. government anti-narcotics policies toward the Andean region have not in the past been coordinated with our country's trade and economic policies as exemplified by recent negotiations over the international coffee agreement;

(6) any successful strategy for combatting the influence of international narcotics trafficking in the Andean region must address the economic situation in that region;

(7) many of the farmers who produce coca leaf in the Andean region do so as the sole means of economic livelihood for themselves and their families;

(8) many of these farmers would stop growing coca if provided with alternative means to earn a livelihood;

(9) the economic assistance component of an Andean strategy must reduce the political pressures generated by a successful interdiction and eradication program, offset its negative economic impact on the countries' foreign exchange earnings, create jobs for people who lose their livelihood, and in the long run, deal with the region's fundamental structural and development problems;

(10) individual country resources are not adequate to manage the immediate and short-run economic and social issues, much less solve the narcotics problem. Neither will indigenous resources grow fast enough to sustain present levels of development, unless the economies grow briskly and the political systems are stabilized and reinforced;

(11) national, regional and U.S. resources, combined, are also insufficient. The overall effort must be internationalized to include Japan, Canada and Western Europe;

(b) REPORT TO CONGRESS.—Not later than 60 days after the conclusion of the international conference, known as the International Conference on Combatting Illegal Drug Production, Trafficking, and Use in the Western Hemisphere, required by section 4104 of title IV of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), or 180 days after the date of enactment of this Act, whichever comes first, the President shall report to Congress on

(1) the outcome of the International Conference;

(2) his strategy for increasing economic development to the Andean region, to be used in conjunction with a program of interdiction and eradication;

(3) his program for coordinating trade and economic policies of our government with our nation's overall anti-narcotics strategy for the Andean region;

(4) his strategy for internationalizing the economic development assistance to the Andean region in order to include assistance from Japan, Canada and Western Europe;

(5) the cost over the next five years for a program of economic assistance that would provide an alternative to coca production in the Andean region;

(6) the cost over the next five years of the eradiction and interdiction components of the Andean strategy;

(7) the feasibility and cost of purchasing the entire coca crop in the Andean region, and;

(8) any recommendations for the modification of U.S. debt strategy to take into account the unique and exceptional burden imposed on the Andean economics by terrorism and drug trafficking.

(c) BUDGET REQUEST.—The President shall submit to the Congress, within 30 days after submission of the report required by subsection (b), supplemental budget requests for fiscal year 1990 and 1991 covering the United States share of the cost of such additional economic assistance as is necessary to carry out his Andean anti-narcotics strategy.

Mr. NUNN. Mr. President, I will not take but a few minutes here tonight. This is an important amendment. I know there are other important amendments colleagues are waiting for. This amendment highlights the importance of addressing our Nation's cocaine problem at the source, namely the Andean region of Latin America. It is based upon an over 1-year study by staff on the Permanent Subcommittee on Investigations, and hearings that we had last week, 3 days of hearings, where we had William Bennett, the drug czar, as well as the ambassadors from Colombia, Peru, and Bolivia.

I think it is clear from those hearings, and from a very detailed staff report, that the source countries provide perhaps the most well-defined target of opportunity for stopping the flow of cocaine into this country. Nature and historical accident has placed production for virtually all of the cocaine that comes into the United States in three countries: Peru, with approximately 60 percent of the production; Bolivia, approximately 30 percent of the production; and Colombia, approximately 10 percent of the production with, of course, an awful lot of the manufacturing being done in Colombia.

Although large in area, most of the coca leaf that is grown to produce this cocaine comes from two valleys in the Andean region, the Huallaga Valley in Peru and the Chapare Valley in Bolivia. Logic and common sense tells us that stopping cocaine in these countries is far cheaper and more effective than waiting until the drugs that are derived from cocaine arrive in the United States.

Mr. President, specifically, this amendment restates many of the conclusions reached at our hearing and calls for a detailed report by the President on our country's Andean drug strategy. The reporting date is triggered by the conclusion of a conference on combating illegal drugs into the Western Hemisphere that was required by section 4104 of last year's Anti-Drug Abuse Act of 1988, or 180 days after date of enactment.

The report requires the President to detail the outcome of the conference; the economic component of his Andean strategy; his proposal for enlisting our allies in providing economic assistance to the region; his proposal for coordinating our economic and trade policies with our antidrug strategy; the 5-year cost for increased economic assistance, interdiction and

eradication; the feasibility of purchasing and destroying the coca leaf crop from the Andes, and any recommendation for debt restructuring to assist in our overall antinarcotic strategy.

In addition, this amendment requires that the President submit any supplemental budget request to carry out this Andean strategy 30 days after submission of the report.

Let me give one example, Mr. President. When Director Bennett was before our committee last week, we asked the question about the coffee agreement that has caused so much concern in Colombia. We are increasing the aid to Colombia by about $60 million in economic assistance to help them in their fight against drugs, but lo and behold, at the same time we are doing that with one hand of government, the other hand of government is negotiating or failing to negotiate an international coffee agreement, which takes away $100 million from the Colombian economy. So we are giving them $60 million, patting ourselves on the back for having a strategy. On the other hand, the coffee agreement, which is going down the tube unless something is changed, is going to cost some $100 million to their treasury.

We asked Director Bennett if he had been consulted about the coffee agreement, and the answer was no. We then had the State Department official in charge of the whole drug effort in the State Department and asked him if he had been consulted about the coffee agreement. The answer was no, that neither one had been consulted; they were not coordinated.

We thought when we set up the drug czar, that it was going to encompass a very broad jurisdiction. We thought, perhaps many of us did, he would be on the Cabinet. But here what we have is a region of the world that is having very severe economic problems, runaway inflation, all sorts of problems with the lack of economic development. In Peru, there is a Communist insurgency going on there. And any time you tackle the coca problem, you drive the farmers producing that coca right into the hands of the insurgents.

Whatever we do has to be coordinated. A drug strategy that does not fit into a broader economic strategy for that region will not and cannot work. I do not contend that we can go down and pour a whole lot of money there, but we are going to have to frame an economic strategy and get the countries of Europe involved, the Japanese involved, and we are going to have to get involved ourselves, if not with direct aid, at least with an overall economic development plan that takes into account trade relations and others.

So this report—and that is what it is, a report—requires the President to focus on this. The way our Government is structured, it can only happen at the Cabinet level. Only the President can look at these broad policies of trade that are so important. I am absolutely convinced after looking into this for a year, after having detailed hearings, there is no possibility that our antidrug efforts can work in Peru or Bolivia or Colombia, unless the drug program fits into a broader economic strategy.

If we do not watch out, we will end up having Communist insurgencies in all of those countries, as we try to crack down on the drug situation, which we must do. We have to drive down the price of coca, where it is grown, while we drive up the price on the streets of America. Those seem to be contradictions, but they are not.

If we are going to have any success with eradication, we have to drive down the price, and we have to have crop substitutions. All of those require economic strategy, and that is what this amendment would require.

Mr. President, this amendment highlights the importance of addressing our Nation's cocaine problem at its source—namely in the Andean region of Latin America. It is based upon an over year-long investigation by the staff of the Permanent Subcommittee on Investigations that culminated last week in Subcommittee hearings. The testimony at those hearings underscored several important points that must be considered in targeting drug production in the source countries.

First, the source countries provide perhaps our most well-defined target of opportunity for stopping the flow of cocaine into this country. Nature and historical accident has placed production for virtually all of the cocaine that comes into the United States in three countries: Peru, approximately 60 percent; Bolivia, approximately 30 percent; and Colombia, approximately 10 percent. Although rather large in area, most of the coca leaf that is grown to produce this cocaine comes from two valleys in the Andean region—the Huallaga in Peru and the Chapare in Bolivia.

Logic and common sense tells us that stopping coca in these countries may be far cheaper and more effective than trying to do so once it arrives in the United States.

Second, we must not allow this focused area of attack to lull us into believing that the battle in those areas will be an easy one. Though the production of coca leaf is relatively easy to isolate, geographically speaking, the economic, social, and political factors which have given rise to that production are incredibly complex and intertwined. Moreover, it is impossible to address any one of these factors without seriously impacting the others.

Peru is an obvious example of this: a country where overwhelming economic problems have fueled the coca economy, which in turn has bolstered the power of a growing political insurgency. On the economic front, Peru's gross domestic product shrank 28 percent in the first quarter of 1989 with inflation running at over 25 percent per month. Aggravating the situation has been Peru's inability to make debt repayments which has triggered restrictions on United States and international assistance. In the absence of viable economic alternatives, the coca economy has mushroomed. On the political front, the coca farmers have sought protection from the Maoist insurgency, the Shining Path, which, according to hearing testimony, now controls approximately one-third of the country.

Third, in that context, witnesses at our hearings were unanimous in their belief that increased economic development will be the single most important ingredient of any successful antidrug effort in the region. Coca eradication alone, without the simultaneous development of economic alternatives, will serve only to further the cause of insurgencies like the Shining Path.

Fourth, despite those facts and the long history of U.S. experience in the region, amazingly little attention has been paid to the region over the last 10 years, especially in terms of U.S. economic development assistance. In 1987, for example, U.S. antinarcotics assistance for the Andes amounted to less than 1 percent of the amount the U.S. spent on all antidrug activities. For 1989, foreign aid to all of Latin America including the Andean region amounted to a very small percentage of our entire foreign aid budget. The National Drug Control Strategy, recently announced by President Bush and Drug Czar William Bennett, increases law enforcement and military assistance to the region for 1990, but fails to recommend any increased economic development assistance prior to 1991.

Fifth, this lack of adequate economic development assistance has been compounded by our Government's failure to coordinate other relevant aspects of our economic and trade policies with our antidrug efforts in the region. During our hearings, the Colombian Ambassador to the United States expressed his country's outrage that the United States, while urging Colombia to end its lucrative cocaine trade, was simultaneously contributing to the breakdown of negotiations on the international agreement on coffee, which is Colombia's largest legal export. The result has been a decline in the price of coffee from $1.46 to 83 cents per pound, with a net loss of as much as $500 million in Colombian exports, far more than the United States is spending in antidrug assistance to Colombia.

During the course of our hearings, Drug Czar William Bennett testified that, to his recollection, he had not been consulted regarding potential United States action on the coffee agreement, despite its obvious impact on Colombian, as well as United States, antidrug efforts. Moreover, the lead official for antidrug operations at the State Department testified that he, too, had not been consulted, despite the fact that U.S. negotiations on the agreement were handled by another office within the State Department.

On the final day of our hearings, and following his own discussions on this point with Colombia's President Barco, President Bush announced that the administration will revisit its stance on the International Coffee Agreement in light of its obvious relevance to the antidrug effort. While I am encouraged by that announcement on that particular issue, I have seen no action taken to prevent this same lack of coordination in the economic and antidrug policy areas in the future.

As a result, I am today introducing an amendment which seeks to focus the President's attention on the importance of not only economic development assistance but also closer coordination of U.S. economic and antidrug initiatives in the region.

Specifically, the amendment restates many of the conclusions reached at our hearings and calls for a detailed report by the President on our country's Andean drug strategy. The reporting date is triggered by the conclusion of a conference on combating illegal drugs in the Western Hemisphere that was required by section 4104 of last year's Anti-Drug Abuse Act of 1988, or 180 days after date of enactment. The report requires the President to detail:

The outcome of the conference;

The economic component of his Andean strategy;

His proposal for enlisting our allies in providing economic assistance to the region;

His proposal for coordinating our economic and trade policies with our antidrug strategy;

The 5-year cost for increased economic assistance, interdiction, and eradication;

The feasibility of purchasing and destroying the coca leaf crop from the Andes; and

Any recommendations for debt restructuring to assist in our overall antinarcotics strategy.

In addition, this amendment requests that the President submit any supplemental budget requests to carry out his Andean strategy with the budget required by section 1006 of Public Law 100-690.

Mr. President, in my view this amendment, and the report which it mandates, will help to ensure that we not repeat the mistakes of the past in U.S. antidrug efforts in the Andean region. I urge my colleagues to support the adoption of this amendment.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, as I said on one other occasion this afternoon and this evening, we sometimes pass amendments here and move on amendments that we fail to understand how significant they are. This is a truly significant amendment. The fact of the matter is, those of us who have had the opportunity to read the report of the Senator from Georgia, that he did underscore, without any question, that the entire notion of eradication, interdiction, and for that matter, extradition, hinge upon whether or not the peasant farmers in those countries, particularly Peru and Bolivia, even more than Colombia, have any way in which they can make a living.

We are talking about the difference between 600 and 1,000 a year total for these folks for this idea. Every one of our Ambassadors came up and they went before the hearing of the Senator from Georgia and they sat in my office for the better part of a couple of hours. These are our Ambassadors.

They said: "Look, no matter what you do if the net result is that the peasants who we are asking to stop growing the coca, if those peasants see only one thing, a crackdown on drugs and drug organizations by their governments and a loss of their income at the same time, they believe there is a correlation between the effort to deal with drugs and their income." That was true of even the coffee farmers, and in this case it has no relationship except that coincidentally, as the Senator from Georgia points out, we have one hand not letting the other hand know what it is doing in this Government.

I want to emphasize and reemphasize what the Senator from Georgia has pointed out. The failure to have a—not coca—coffee agreement is costing about a half billion to the economies of those countries. We are not coming even close to providing that kind of aid.

So, the Senator from Georgia is right. When he and I and others on this floor worked on and passed the drug czar legislation we not only assumed but we wrote into the law that there should be this coordination.

So it is not a failure to have this coordinated responsibility residing at the right spot. It is a failure of following the law. It is not intentional on the part of Bill Bennett. It is not intentional on anyone's part.

I would like to conclude by suggesting the following:

We have had this law on the books now for roughly 10 months and we have only attempted two significant efforts with regard to the Andean nations. One is we passed with the help of the Senator from Florida who I see on the floor, and others, into law last year and the money to help protect Colombian judges, $5 million, a paltry sum. None of that money got there to protect those judges because the State Department was not cooperating with the DEA, who was not cooperating with, and the list went on. It went from that $5 million fiasco to a failure to understand what a half billion loss in a coffee crop means to that region.

So although this is a study, this is, I respectfully suggest to my friend from Georgia—he is being modest—more than a study. This requires the next time the administration comes to us that they have a strategy, and what is lacking is a strategy. There is rhetoric but no strategy.

I cannot thank the Senator from Georgia enough for taking leadership in this and making sure that next time out we have some knowledge of what our total actions are upon a region. The President, God bless him and others, are heralding this great Andean plan, military and economic and drug related, and in its totality it does not equal the loss that is occurring to those Andean countries as a consequence of our inability, unwillingness or failure to move the coffee agreement.

So I thank the Senator and I strongly support the passage of this.

As the manager I am prepared to accept the Senator's amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia.

AMENDMENT NO. 921 (AS MODIFIED)

Mr. NUNN. Mr. President, I thank the Senator from Delaware. I am told the staff has talked to the staff of the Senator from Utah and the staff of the Senator from Delaware, and there has been a couple of language changes on the amendment. As to the original amendment I sent to the desk there are a few language changes.

I send a corrected copy to the desk and ask that this amendment be substituted for the other and be reported.

The PRESIDING OFFICER. The Senator has a right to modify the amendment. The amendment is so modified.

The amendment, as modified, is as follows:

At the appropriate place insert the following:

SEC. . STUDY OF ANTI-DRUG ASSISTANCE TO THE ANDEAN REGION.

(a) FINDINGS.—The Congress finds that—

(1) the operations of international narcotics trafficking organizations pose a direct threat to the national security of the United States and Latin America;

(2) International narcotics trafficking operations have grown so large and powerful that they threaten the democratic governments of the Andean region;

(3) recent events in Colombia make clear the need for addressing the threat of international narcotics trafficking in Peru and Bolivia before situations there further deteriorate;

(4) for any anti-narcotics strategy to work in the Andean region an integrated program of economic development, interdiction and eradication must be developed;

(5) U.S. government anti-narcotics policies toward the Andean region have not in the past been coordinated with our country's trade and economic policies as exemplified by recent negotiations over the international coffee agreement;

(6) any successful strategy for combatting the influence of international narcotics trafficking in the Andean region must address the economic situation in that region;

(7) many of the farmers who produce coca leaf in the Andean region do so as the sole means of economic livelihood for themselves and their families;

(8) many of these farmers would stop growing coca if provided with alternative means to earn a livelihood;

(9) the economic assistance component of an Andean strategy must reduce the political pressures generated by a successful interdiction and eradication program, offset its negative economic impact on the countries foreign exchange earnings, create jobs for people who lose their livelihood, and in the long run, deal with the region's fundamental structural and development problems;

(10) individual country resources are not adequate to manage the immediate and short-run economic and social issues, much less solve the narcotics problem. Neither will indigenous resources grow fast enough to sustain present levels of development, unless the economies grow briskly and the political systems are stabilized and reinforced;

(11) national, regional and U.S. resources, combined, are also insufficient. The overall effort must be internationalized to include Japan, Canada and Western Europe;

(b) REPORT TO CONGRESS.—Not later than 60 days after the conclusion of the international conference, known as the International Conference on Combatting Illegal Drug Production, Trafficking, and Use in the Western Hemisphere, required by section 4104 of title IV of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), or 180 days after the date of enactment of this Act, whichever comes first, the President shall report to Congress on

(1) the outcome of the International Conference;

(2) his strategy for increasing economic development to the Andean region, to be used in conjuction with a program of interdiction and eradication;

(3) his program for coordinating trade and economic policies of our government with our nation's overall anti-narcotics strategy for the Andean region;

(4) his strategy for internationalizing the economic development assistance to the Andean region in order to include assistance from Japan, Canada and Western Europe;

(5) the cost over the next five years for a program of economic assistance that would provide an alternative to coca production in the Andean region;

(6) the cost over the next five years of the eradication and interdiction components of the Andean strategy;

(7) the feasibility and cost of purchasing the entire coca crop in the Andean region, and;

(8) any recommendations for the modification of U.S. debt strategy to take into account the unique and exceptional burden imposed on the Andean economies by terrorism and drug trafficking.

(c) BUDGET REQUEST.—The President shall submit to the Congress, with the submission of the budget required by section 1006 of Public Law 100-690, such supplemental budget requests for fiscal year 1990 and 1991 covering the United States share of the cost of additional economic assistance as is necessary to carry out his Andean anti-narcotics strategy.

Mr. HATCH. Mr. President, will the Senator yield for a question?

Mr. NUNN. Yes.

Mr. HATCH. I have reviewed the amendment and I think the Senator has done a singular service bringing this to the attention of this body and the President of the United States for the study he requires.

As to No. 5, am I correct in assuming that the Senator is not expecting the United States to modify its position with regard to the international coffee agreement.

Mr. NUNN. Yes. This amendment does not require a modification of the position. The amendment does ask the President to reexamine the overall trade relations including the coffee agreement but there is nothing that basically dictates the substance of any outcome.

Mr. HATCH. Nor any expression of dissatisfaction with the current approach toward the international coffee agreement.

Mr. NUNN. I would say the implication of having no coordination on the drug question is certainly there. I am not in any way trying to direct the outcome in this amendment of the coffee agreement. We do think that ought to be considered in this context of our fight against drugs.

Mr. HATCH. Mr. President, I have reviewed this amendment and I think there has been much time and effort put into drafting this amendment and to come up with these ideas and these suggestions for the President of the United States and for the Congress.

So I think there is a great deal of good that can come from the President's submitting to Congress within 30 days after submission of the report required by subsection (b), the requisites that the distinguished Senator from Georgia is requesting.

I appreciate the overall approach that he is making, and although I think some might differ with one or more assertions here I think it is an excellent amendment. I recommend that we adopt this amendment and accept it.

The PRESIDING OFFICER. Is there further debate.

The Chair recognizes the Senator from Georgia.

Mr. NUNN. Mr. President, I thank the Senator from Delaware and the Senator from Utah.

I will not take but one more moment here. I wish to note that the amendment is cosponsored by Senator LIEBERMAN of Connecticut.

The PRESIDING OFFICER. The Chair recognizes the Senator from California, Senator WILSON.

Mr. WILSON. Mr. President, I commend the Senator from Georgia on a good amendment. It is the kind of amendment I think will substantially enhance the present Andean society.

It is necessary to know the consequences of the sort of economic dislocation that will inevitably take place as we seek to wean the farmers and peasants away from the cultivation of a crop which to them is simply a cash crop but has had devastating impact upon our youth. And the report that he seeks and hearings he held I think are a very, very sound step toward achieving the kind of knowledge that will permit us to go forward with that Andean strategy.

As pointed out I think with simple eloquence at the beginning of the statement, it is a strategy that is aimed at interdicting at the source of supply and hopefully as we in this country work on the reduction of demand those two events in combination hold the greatest promise for actually making a significant change in this traffic. So I think it is a fine amendment. I ask that I be added as a cosponsor.

Mr. NUNN. I am delighted. I thank my friend from California. I ask unanimous consent that the Senator from California be added as cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, I alert my colleagues, and particularly my colleague from Georgia who I look to for help on this. As part of that economic plan the Ambassadors, our Ambassadors to the Andean countries and the Andean Ambassadors to the United States as well as the drug director, have all favorably indicated that a plan for swapping debt for drugs is a way of providing significant input for the economic growth of those countries and that is buying on the secondary market to oversimplify it in the interest of time the debt that those countries owe to banks generally, to the American Government and other governments, getting our NATO allies as well as the Japanese to be involved.

We could very well with a relatively one-time infusion of money among the drug-consuming nations purchase the vast bulk of the debt of the Andean nations and make a deal with them literally and not figuratively. They have

been seeking money, and they have not been paying the interest, in terms of rural development and crop substitution. We would be ready to tear up the mortgage at some point down the line.

I invite the Senator's participation in that and hope he and I would be able to work together to convince our friends that that may be a worthwhile way to go.

Mr. NUNN. I think that is a good idea. I would be delighted to work with the Senator from Delaware.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment, as modified, of the Senator from Georgia.

The amendment (No. 921) as modified, was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I ask unanimous consent that we lay aside for one more time the Moynihan amendment.

The PRESIDING OFFICER. Without objection, the amendment offered by the Senator from New York, No. 919, will be laid aside.

The Chair recognizes the Senator from Illinois, Senator SIMON.

AMENDMENT NO. 922

Mr. SIMON. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 922.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

SUBTITLE F—MISCELLANEOUS

Part 1—Mandatory Detention by Serious Offenders

SEC. 61. SHORT TITLE.

This part may be cited as the "Mandatory Detention for Offenders Convicted of Serious Crimes Act".

SEC. 62. MANDATORY DETENTION.

(a) PENDING SENTENCE.—Subsection (a) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting "(1) Except as provided in paragraph (2), the judicial officer"; and

(2) inserting at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and is awaiting imposition or execution of sentence be detained unless—

"(A)(i) the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted; or

"(ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; and

"(B) the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community.".

(b) PENDING APPEAL.—Subsection (b) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting "(1) Except as provided in paragraph (2), the judicial officer";

(2) redesignating subparagraphs (A), (B), (C), and (D) of paragraph (2) as clauses (i), (ii), (iii), and (iv), respectively;

(3) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(4) adding at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained.".

(c) EXCEPTIONAL CASES.—Subsection (c) of section 3145 of title 13, United States Code, is amended by adding at the end the following: "Upon an appeal of the Government, a person who has been detained by the judicial officer pursuant to section 3143 (a)(2) or (b)(2), and who meets the conditions of release set forth in section 3143 (a)(1) or (b)(1), may be ordered released, under appropriate conditions, by a court of appeals or a judge thereof, if it is clearly shown that there are exceptional reasons why such person's detention would not be appropriate.".

SEC. 63. TECHNICAL AMENDMENTS.

(a) CORRECTION OF MISSPELLED WORD.—Subsection (a)(1) of section 3143 of title 18, United States Code, is amended by striking "waiting" and inserting "awaiting".

(b) CORRECTION OF REFERENCE TO REPEALED PROVISION.—Subsections (e) and (f) of section 3142 of title 18, United States Code, are each amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

Part 2—Technical Amendments

SEC. 65. TECHNICAL AMENDMENTS.

(3) ELIMINATION OF DUPLICATE SECTION NUMBER.—(1) Section 3117 of title 18, United States Code, as enacted by Public Law 100-690, is redesignated as section 3118.

(2) The section analysis for chapter 205 of title 18, United States Code, is amended by striking "3117. Implied consent for certain tests" and inserting "3118. Implied consent for certain tests".

(b) INSERTION OF MISSING WORD.—Section 1716A of title 18, United States Code, is amended by inserting "fined" after "shall be".

(c) CORRECTION OF CROSS-REFERENCE.—Section 1958 of title 18, United States Code, is amended by—

(1) striking "1952B" and inserting "1959";

(2) inserting "or who conspires to do so" before "shall be fined" the first place it appears; and

(3) striking "not more than $10,000", "not more than $20,000", and "not more than $50,000", and inserting in each instance "under this title".

(d) ELIMINATION OF LANGUAGE MISTAKENLY INCLUDED.—Section 3125(a)(2) is amended by—

(1) striking the quotation marks;

(2) inserting a comma after "installation and use"; and

(3) beginning the indentation of the text following such comma at the margin.

(e) CORRECTION OF CROSS-REFERENCE.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" and inserting "(d)" each place it appears.

(f) CORRECTION OF DUPLICATE SUBSECTION DESIGNATION.—Section 2516(1) of title 18, United States Code, is amended by redesignating the first subsection (m) as (o).

(g) ELIMINATION OF DUPLICATIVE PENALTY.—Section 1864 of title 18, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as (c).

SEC. 66. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 67. PENALTY PROVISIONS RELATING TO DRUG QUANTITIES.

Section 401(b) of the Controlled Substances Act (21 U.S.C. 841) is amended—

(1) in paragraph (1)(A)(vii) by striking "100 grams" the second time it appears and inserting "1 kilogram"; and

(2) by inserting at the end the following new paragraph:

"(7) For the purpose of calculating the weight of a 'mixture of substance' under this subsection, the weight of the container or other solid, psychotropically inactive carrier of a controlled substance, such as a sugar cube, gelatin cube, or blotter papper, shall not be counted.".

SEC. 68. CLARIFICATION RELATING TO POLLUTING FEDERAL LANDS.

Section 401(b)(6) of the Controlled Substances Act (21 U.S.C. 841(b)(6)) is amended by striking "who violates subsection (a), or attempts to do so, and knowingly or intentionally uses a poison, chemical, or other hazardous substance on Federal land," and inserting "who knowingly uses a poison, chemical, or other hazardous substance on Federal land with the intent to commit an act in violation of subsection (a),".

SEC. 69. REVOCATION OF PROBATION FOR POSSESSION OF CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended—

(1) by striking "to not less than one-third of the original sentence" and inserting "to a term of imprisonment that was available under subchapter A at the time of the initial sentencing"; and

(2) by striking "of modifying" and inserting "or modifying".

SEC. 70. EXCEPTION TO BAR ON PROBATION FOR COOPERATING WITNESSES.

Section 3553(e) of title 18, United States Code, is amended by—

(1) inserting "a" before "minimum sentence", and inserting after "minimum sentence" the following: ", or to impose a term of probation notwithstanding any statutory bar to such sentence,"; and

(2) striking the last sentence and inserting: "Such sentence shall be imposed in accordance with the sentencing guidelines and with the policy statements issued by the Sentencing Commission".

SEC. 71. REDESIGNATION OF CONFUSING SECTIONS IN THE CONTROLLED SUBSTANCES ACT.

(a) SECTION 405—NEW SECTION 418.—(1) Section 405 of the Controlled Substances Act is redesignated as section 418.

(2) Section 418 of such Act (as redesignated by paragraph (1)) is amended—

(A) in subsection (a), by striking "section 405A" and inserting "section 419"; and

(B) in subsection (b) by striking "section 405A" and inserting "section 419".

(b) SECTION 405A—NEW SECTION 419.—Section 405A of the Controlled Substances Act is redesignated as section 419.

(c) SECTION 405B—NEW SECTION 420.—Section 405B of the Controlled Substances Act is redesignated as section 420.

(d) TRANSFER OF SECTION 5301 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 421.—(1) Section 5301 of the Anti-Drug Abuse Act of 1985 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 421 of the Controlled Substances Act.

(2) Section 421(a)(1) of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended by striking "(as such terms are defined for purposes of the Controlled Substances Act)".

(e) CONFORMING AMENDMENTS TO OTHER SECTIONS.—(1) Section 401(b) of the Controlled Substances Act is amended by striking "section 405, 405A, 405B" and inserting "section 418, 419, or 420".

(2) Section 401(c) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(f) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part D of title II by striking the items for sections 405, 405A, and 405B and inserting at the end thereof the following:

"418. Distribution to persons under age twenty-one.

"419. Distribution or manufacturing in or near schools and colleges.

"420. Employment of persons under 18 years of age.

"421. Denial of Federal benefits to drug traffickers and possessors.".

(g) TRANSFER OF SECTION 6486 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 405.—(1) Section 6486 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 405 of the Controlled Substances Act.

(2) Section 405 of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended—

(A) in subsection (a), by—

(i) striking "of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A))"; and

(ii) striking "of that Act (21 U.S.C. 841(b)(1)(A))";

(B) in subsection (c), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)";

(C) in subsection (j)(4), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

(3) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (as amended by subsection (c) of this section) is amended in part D of title II by inserting after the item for section 404 the following:

"405. Civil penalty for possession of small amounts of certain controlled substances.".

(h) PART E OF THE CONTROLLED SUBSTANCES ACT.—

(1) SECTION 511a—NEW SECTION 518.—Section 511A of the Controlled Substances Act is redesignated as section 518.

(2) TRANSFER OF SECTION 1764 OF THE FOOD SECURITY ACT OF 1985.—Section 1764 of the Food Security Act of 1985 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 519 of the Controlled Substance Act.

(3) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part E of title II by striking the items for section 511A and inserting at the end thereof the following:

"518. Expedited procedures for seized conveyances.

"519. Production control of controlled substances.".

SEC. 72. CLARIFICATION OF ENHANCED PENALTIES UNDER CONTROLLED SUBSTANCES ACT.

(a) SECTION 418 (OLD SECTION 405).—Section 418 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (a), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b) by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to three times that authorized by section 401(b)" and inserting "subject to (1) three times the maximum punishment authorized by section 401(b)".

(b) SECTION 419 (OLD SECTION 405A).—Section 419 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (a), by striking "punishable (1) by a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b)(1), by striking subparagraph (B) and inserting "(B) three times the maximum punishment authorized by section 401(b) for a first offense".

(c) SECTION 420 (OLD SECTION 405B).—Section 420 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (b), by striking "is punishable by a term of imprisonment up to twice that authorized, or up to twice the fine authorized, or both," and inserting "is subject to twice the maximum punishment otherwise authorized"; and

(2) in subsection (c), by striking "is punishable by a term of imprisonment up to three times that authorized, or up to three times the fine authorized, or both," and inserting "is subject to three times the maximum punishment otherwise authorized".

SEC. 73. FORFEITABILITY OF REAL PROPERTY UNDER GAMBLING STATUTE.

(a) IN GENERAL.—Section 1955(d) of title 18, United States Code, is amended to read as follows:

"(d) Any person convicted of a violation of this section shall forfeit to the United States, irrespective of any provision of State law, or of any bankruptcy proceeding instituted after or in contemplation of a prosecution under this section—

"(1) any property constituting or derived from any proceeds the person obtained, directly or indirectly, as a result of such violation; and

"(2) any of the person's property used or intended to be used, in any manner or part, to commit or to facilitate the commission of such violation.

The provisions of section 413 of the Controlled Substances Act (21 U.S.C. 853) shall apply to property subject to forfeiture under this section, to any seizure or disposition thereof, and to any administrative or judicial proceeding in relation thereto, if not inconsistent with this section.".

(b) TECHNICAL AMENDMENT.—Section 1955(a) of title 18 is amended by striking out "shall be fined not more than $20,000 or" and inserting "shall be fined under this title,".

SEC. 74. MINIMUM PENALTY RELATING TO SHORT-BARRELED SHOTGUNS AND OTHER FIREARMS.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is a short-barreled rifle, short-barreled shotgun, or a destructive device, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 75. UNAUTHORIZED DISCLOSURE.

Section 2517 of title 18, United States Code, is amended by adding at the end thereof the following:

"(6) Any person—

"(a) who has obtained knowledge of the contents of any wiretap or oral communication which has been intercepted by any means authorized under this chapter;

"(b) who is aware that the information was intercepted in connection with a criminal investigation; and

"(c) who discloses the contents of that communication, other than in a manner or circumstance authorized by law,

shall be fined under this title, imprisoned for not more than 5 years, or both. This paragraph shall not apply to the disclosure of information that has been lawfully disclosed previously to the person to whom disclosure is made.".

SEC. 76. APPLICATION OF VARIOUS OFFENSES TO POSSESSIONS AND TERRITORIES.

(1) Section 232 of title 18, United States Code, is amended by adding a new paragraph, as follows:

"(8) The term 'State' includes a State of the United States, and any commonwealth, territory, or possession of the United States.".

(2) Section 245 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(d) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(3) Section 402 of title 18, United States Code, is amended by adding a new undesignated paragraph, as follows:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(4) Section 666(d) of title 18, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and "; and

(C) by adding a new paragraph, as follows:

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(5) Sections 1028(d)(5) and 1030(e)(3) of title 18, United States Code, are each amended by inserting "commonwealth," before "possession or territory of the United States".

(6) Section 1029(f) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."

(7) Section 1084(e) of title 18, United States Code, is amended by inserting "commonwealth," before "territory or possession of the United States".

(8) Section 1114 of title 18, United States Code, is amended by inserting "or any other commonwealth, territory, or possession" after "the Virgin Islands".

(9) Section 1952(b) of title 18, United States Code, is amended—

(A) by inserting "(i)" after "As used in this section"; and

(B) by inserting "and (ii) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States" before the period.

(10) Section 1956(c) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(8) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(11) Section 1958(b) of title 18, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding a new paragraph (3), as follows:

"(3) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(12) Section 2313 of title 18, United States Code, is amended—

(A) by inserting "(a)" before "Whoever"; and

(B) by adding a new subsection, as follows:

"(b) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(13) Section 2315 of title 18, United States Code, is amended by adding at the end the following undesignated paragraph:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(14) Section 5032 of title 18, United States Code, is amended—

(A) in the second undesignated paragraph, by adding at the end the following: "For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."; and

(B) in the third undesignated paragraph, by striking out "to the authorities of a State or the District of Columbia" and inserting in lieu thereof "to the authorities of a State".

SEC. 77. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended by adding a new subparagraph, as follows:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 78. CLARIFICATION OF PENALTY ENHANCEMENT.

Section 924(c) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as (4) and (5), respectively;

(2) in the second sentence of paragraph (1), by striking "In the case of his second or subsequent conviction under this subsection" and inserting "(2) When a person is sentenced under this subsection for an offense that was committed after a prior sentence under this subsection has become final"; and

(3) in the third sentence of paragraph (1), by inserting "(3)" before "Notwithstanding" and by striking "convicted of a violation of" and inserting "sentenced pursuant to".

SEC. 79. PEREMPTORY CHALLENGES.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended to read as follows:

"(b) PEREMPTORY CHALLENGES.—If the offense charged is punishable by death, each side is entitled to 20 peremptory challenges. If the offense charged is punishable by imprisonment for more than one year, each side is entitled to 8 peremptory challenges. If the offense charged is punishable by imprisonment for not more than one year or by fine or both, each side is entitled to 3 peremptory challenges. If there is more than one defendant, the court may allow both sides additional peremptory challenges: *Provided,* That the Government shall not have more challenges than the total allocated to all defendants. The court may permit multiple defendants to exercise peremptory challenges separately or jointly.".

Mr. SIMON. Mr. President, this amendment is a very simple one. It contains three things: One is some technical amendments that the committee staff believes are necessary.

Second, it contains some bail reform. It says that with very rare exceptions where the judge can spell this out, if you are convicted of drug trafficking, you cannot any longer just post bond and walk the streets. You can appeal, you bet, but you stay in prison while you appeal.

We have had a situation where all over this Nation a great many people have posted bond and then just disappeared. In Cook County, IL, alone, we have had over 900 last year who did this precise thing.

The third thing this bill does is it increases the penalty for the use of weapons—sawed-off shotguns, sawed-off rifles, or a bomb—an additional penalty, increases that penalty from 5 to 10 years.

I believe this is acceptable on both sides. I would appreciate a favorable vote, obviously.

The PRESIDING OFFICER (Mr. BREAUX). Is there further debate on the amendment of the Senator from Illinois?

Mr. BIDEN. Mr. President, we accept the amendment of the Senator from Illinois. I compliment him on it. It is an important addition to an overall strategy. I compliment him and I am happy to accept the amendment.

Mr. HATCH. Reserving the right to object, I would just like to ask the Senator from Illinois a question. Is this the agreed-upon amendment that the Department of Justice has reviewed and agreed to?

Mr. SIMON. That is correct. The Department of Justice has agreed to this. I have accepted certain modifications at their suggestion.

Mr. HATCH. It is my understanding that that is so. If that is so, then I do not think we have any objection to it either. I would recommend that it be adopted.

I commend the Senator for it.

Mr. SIMON. I thank the Senator and I appreciate his support.

Mr. PRYOR. Mr. President, I rise today in support of the wiretap provision contained in amendment No. 922. I brought this matter to the attention of the distinguished chairman of the Judiciary Committee, and am very pleased that he supports my proposed change in the wiretap statute. If enacted, this provision will help protect thousands of law enforcement officers who risk their lives in undercover criminal investigations.

It recently came to my attention that there are substantial gaps in the federal wiretap statute. First, the current statute explicitly regulates only law enforcement's use of information obtained from lawful wiretaps. Therefore, it fails to cover persons who are unaffiliated with law enforcement agencies, such as prosecutors, court personnel, and perhaps criminals who may have access to police information. Second, the current statute's general prohibition against disclosure of wiretap information applies only where such disclosure is designed to obstruct the interception of a particular communication. Thus, disclosures made for other reasons, such as exposing an investigation or receiving a bribe, are not expressly proscribed. My proposed provision will close these gaps in the wiretap statute by criminalizing any unauthorized disclosures made by any person of information obtained through a lawful wiretap.

Law enforcement officers need assurance that U.S. attorneys will have clear statutory authority under which to prosecute persons who disclose confidential wiretap information and thereby jeopardize sensitive and dan-

gerous criminal investigations. The wiretap provision in the amendment under consideration will help give law enforcement officers the assurance they deserve.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 922) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to the bill?

Is there further debate on the pending amendment?

AMENDMENT NO. 923

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Moynihan amendment is set aside, and the clerk will report the amendment of the Senator from Delaware.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 923.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

Subtitle B—Forfeiture

SEC. 11. USES OF JUSTICE FORFEITURE FUND.

(a) PURCHASE OF FIREARMS.—Section 524(c)(1) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (G);

(2) by redesignating subparagraph (H) as subparagraph (I);

(3) by inserting a new subparagraph (H) as follows:

"(H) for any fiscal year, not to exceed $10,000,000 for the purchase of firearms, ammunition, protective body armor, and other personal safety equipment for investigative and enforcement personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service who devote a substantial amount of their time to drug law enforcement activities; and";

(4) in subparagraph (A)(ii) by—

(A) inserting a comma after "forfeitable assets";

(B) inserting "or listed chemicals (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 902))" after "storage, protection, and destruction of controlled substances".

(5) in subparagraph (B) by inserting before the semicolon ", or the money laundering offenses set forth in sections 1956 and 1957 of title 18 and sections 5313(a) and 5324 of title 31"; and

(6) in subparagraph (C) by inserting before the semicolon "or the money laundering provisions in sections 981 and 982 of title 18".

(b) DEFINITIONS AND PROCEDURES.—Subsection 524(c) of title 28, United States Code, is amended by adding at the end the following new paragraphs:

"(11) For the purposes of this subsection, the term 'firearm' means any rifle, handheld pistol or revolver, or other weapon that is authorized by the Attorney General, or his designee, to be carried by personnel of the Drug Enforcement Administration, Federal Bureau of investigation, United States Marshals Service, and the Immigration and Naturalization Service.

"(12) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his or her discretion, to warrant clear title to any subsequent purchaser or transferee of such property.".

(c) Conforming Amendment.—Section 524(c)(9) of title 28, United States Code, is amended by striking "and (G)" and inserting "(G) and (H)".

SEC. 12. RESTORING EQUITABLE SHARING.

(a) Section 511(e)(3) of the Controlled Substances Act (21 U.S.C. 881(e)(3)) is amended by—

(1) striking the semicolon and "and" after the semicolon in subparagraph (A) and inserting a period;

(2) striking the dash and "(A)"; and

(3) striking subparagraph (B).

(b) EFFECTIVE DATE.—Section 6077 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4324-25), is amended by striking subsection (c).

SEC. 13. INCREASING EFFECTIVENESS OF ADMINISTRATIVE FORFEITURES.

(a) AMENDMENTS TO THE TARIFF ACT OF 1930.—Subsection (a) of section 607 of the Tariff Act of 1930 (19 U.S.C. 1607(a)) is amended—

(1) in paragraph (1) by striking "$100,000" and inserting "$500,000";

(2) by striking "or" at the end of paragraph (2); and

(3) by inserting "or" after the semicolon at the end of paragraph (3); and

(4) by adding after paragraph (3) the following:

"(4) such seized merchandise is monetary instruments;".

(b) CONFORMING AMENDMENT.—The section heading for section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"Sec. 1607. Seizures; value $500,000 or less, prohibited articles, transporting conveyance.".

SEC. 14. FORFEITURE OF INSTRUMENTALITIES OF A FOREIGN DRUG OFFENSE.

Section 981(a)(1)(B) of title 18, United States Code, is amended—

(1) by inserting after "proceeds obtained directly or indirectly from" the words "or which represents the instrumentalities of"; and

(2) by adding at the end thereof the following: "No conveyance shall be forfeited under this paragraph to the extent of an interest of an owner by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner.".

SEC. 15. CLOSING OF LOOPHOLE TO DEFEAT CRIMINAL FORFEITURE THROUGH BANKRUPTCY.

(a) TITLE 18.—Section 1963(a) of title 18, United States Code, is amended by inserting after "shall forfeit to the United States irrespective of any provision of State Law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution under this chapter".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413(a) of the Controlled Substances Act (21 U.S.C. 853(a)) is amended by inserting after "shall forfeit to the United States, irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution of such violation".

SEC. 16. NONABATEMENT OF CRIMINAL FORFEITURE WHEN DEFENDANT DIES PENDING APPEAL.

(a) TITLE 18.—Section 1963 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(a) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end thereof the following new subsection:

"NONABATEMENT OF FORFEITURE ORDER

"(q) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

SEC. 17. FORFEITURE OF PERSONAL PROPERTY USED TO FACILITATE A DRUG OFFENSE.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end thereof the following new paragraph:

"(10) Any weapon, computer, or electronic communications device used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.".

SEC. 18. FORFEITURE OF PROCEEDS TRACEABLE TO CONVEYANCES USED TO FACILITATE DRUG VIOLATIONS.

Section 511(a)(4) of the Controlled Substances Act (21 U.S.C. 881(a)(4)) is amended—

(1) by inserting "and any proceeds traceable to such conveyances" after "property described in paragraph (1) or (2),";

(2) in subparagraph (A), by inserting ", and no proceeds traceable to such conveyance," before "shall be forfeited"; and

(3) in subparagraphs (B) and (C), by inserting "and no proceeds traceable to such conveyance" before "shall be forfeited".

SEC. 19. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal

property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 20. CLARIFICATION OF ATTORNEY GENERAL'S FORFEITURE SALE AUTHORITY.

Section 511(e)(1)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(B)) and section 2254(f)(2) of title 18, United States Code, are each amended by inserting ", by public sale or any other commercially feasible means," after "sell".

SEC. 21. CLARIFICATION OF CIVIL FORFEITURE SEIZURE WARRANT AUTHORITY.

Section 981(b)(2) of title 18, United States Code, is amended by striking "has obtained a warrant for such seizure pursuant to the Federal Rules of Criminal Procedure" and inserting "has obtained a warrant for such seizure in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure".

SEC. 22. FORFEITURE AND DESTRUCTION OF DANGEROUS, TOXIC, AND HAZARDOUS MATERIALS.

Section 511(f) of the Controlled Substances Act (21 U.S.C. 881(f)) is amended by inserting "; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a)(2) or (3) which cannot be separated safely from such raw materials or products" after "this title" wherever it appears.

SEC. 23. ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE TREASURY DEPARTMENT AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

Mr. BIDEN. Mr. President, this amendment is in four parts. It deals with a subject that I have found myself dealing with now for years and years—and we have almost got it right—and that is forfeiture, the forfeiture of the ill-begotten gains. We have made a great deal of progress. But my amendment makes several useful and I believe important changes in the law as Senator THURMOND, Senator HATCH, I, and others rewrote it some years ago.

In the past 5 years, since the passage of the Comprehensive Crime Control Act of 1984, the forfeiture of assets of drug traffickers has become an indispensable tool in the war on drugs. Every agency will tell you that—local, statewide, and Federal. The Justice Department estimates that in the current fiscal year, $470 million—almost a half a billion dollars—will be deposited into the asset forfeiture fund and $193 million of that will be shared with State and local law enforcement agencies, who I might note parenthetically, in turn use that to reinvest in their police agencies to wage this war on drugs.

My amendment makes the following enhancements to this very successful program: First, it permits up to $10 million of the amount deposited into the fund to be used to buy weapons and body armor for Federal law enforcement officers.

Mr. President, I know that some suggest that I find myself always doing the bidding of the police and the FBI and the DEA. I do in large part because they are the ones who are getting shot at, shot and occasionally killed. And the irony is that the Federal law enforcement agencies find themselves outgunned and in many cases incapable of rapidly moving to provide themselves with the body armor as well as weapons to counteract the very drug folks that they are going up against. All this would do is allow them to take within the fund that they already participate in up to $10 million to buy body armor and weapons for Federal law enforcement officers.

The second part of the amendment repeals the provision in the 1988 drug bill that inhibits the sharing of forfeited assets with State and local law enforcement agencies. The Senate acted favorably on this amendment last week, but I include it again because of the importance in making sure that it is enacted as soon as possible.

We unanimously, I believe, voted for it just several days ago. It is repetitious but it is repetitious only in the sense that if this legislation becomes law before the other, we will have in fact rectified an inequity that was not intended when we wrote the law some several years ago.

Third, the amendment makes certain changes to the way forfeiture of currency is handled. We all saw on television, along with that 20-ton bust of cocaine in Los Angeles, if I am not mistaken, there was about $10 million in cash that was seized—a significant amount of cash. That is not at all unusual—the amount is unusual—but that is not at all unusual when there are assets seized. On many occasions the assets seized is the profit from the ill-begotten activity.

What this would do, this embodies the recommendation of the General Accounting Office to handle forfeiture of currency through an administrative process rather than through the courts.

Right now, in order to be able to have those forfeited assets go to the appropriate police agencies for use in their reinvestment in the war against drug traffickers, et al, it would short-circuit the process and allow that to be done administratively. All the safeguards relative to the handling of that money and the illegal diversion of it by any police agency stay in place. They are all there.

This just merely enables the police agencies, under the otherwise clearly laid out regulations relating to forfeiture, to be able to get to that money more quickly, if not claimed.

Finally, the amendment contains a number of very useful amendments to existing laws. Among other things these amendments would permit the forfeiture of property used to commit a foreign drug offense. It would permit the forfeiture of personal property, like home computers, used to commit other drug offenses, and allow the sharing of forfeited property with foreign countries that assist the United States in drug cases.

Essentially what I am attempting to do here, Mr. President, is set up the same framework that has been so successful with State and local agencies. It is amazing how much more cooperation we get at both ends, at all spectrums, when each of the agencies participating, State, local, Federal, or foreign police organization, is helping to make the bust, and knowing that they will share in the proceeds so that they can replenish their efforts to fight the drug war.

It has been successful. That model I want to make available to major, potentially multibillion-dollar, operations that take place, involving other police agencies in other countries.

So, Mr. President, we have come a long way. When I first rewrote the forfeiture law, we were not to have anything forfeited to the State unless we could specifically trace the specific dollar. We had to prove, for example, that the dollar seized, or that the profit made by a drug dealer, literally went in to buy this particular automobile, or that particular house.

Now all we have to do is prove that they made $5 million, and there is $5 million worth of assets they won. We have made much progress. I truly believe this is a significant help. The FBI, the DEA, and all the police agencies in the country that I am aware of support the various positions of this amendment. And, I might add, to answer a question often asked: It costs no money. It costs no money. It improves the functioning of justice, but it costs no money.

I do not know. I think this is something that my colleagues can accept, but I am not certain. I will yield to my friend from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Allow me to ask just a few questions of my colleague from Delaware. We have talked with the Justice Department on this tonight. They have expressed some grave concerns because, No. 1, they do not want to be told how they should spend

money. I can appreciate that. I think the distinguished Senator from Delaware has probably spent as much time in trying to ascertain what should be done with these forfeiture funds as anybody. But that may be a problem. My colleague is specifying where these funds can go.

Mr. BIDEN. Mr. President, if I can answer that question, of the total of a half a billion dollars' worth of funds collected, I am specifying where up to $10 million of it can go.

I might add, in the past we used to specify where all of it could go. This legislation, this forfeiture, this circumstance under which the agency can have this money, is a product of congressional legislating. We are not micromanaging. This is something that the agencies want very badly. They do not have to spend any of it, but they can spend up to $10 million of it. So it is not a directive that they must. But it is a directive that they can, if they wish, up to $10 million.

Mr. HATCH. Let me suggest to my colleague, that sounds reasonable to me, but there are enough objections on this side because they are concerned about a whole raft of people coming in here demanding to spend the remaining money in certain delineated ways. Justice would object to that. I do not blame Justice.

I do not have any problem with $10 million out of half a billion, but, Mr. President, my colleague has come before us tonight with several amendments. Several proposals, such as this particular amendment dealing with forfeiture, which may very well have merit. From my experience with him in this area, most of his suggestions have a great deal of merit.

I have a great deal of respect for him and his viewpoints in this area, and generally agree. I would like to go with him on this as well. However, this is the first time that anybody on this side has seen this language. It was only a short while ago and none of us have had the opportunity to analyze even this provision.

So, some of my colleagues on the Judiciary Committee have expressed concerns about moving forward on proposals that the committee itself has not considered or at least they have not had adequate time to examine. I have to say again that Justice does have problems with us up here directing how the funds should be used because they believe that they need the flexibility to use these forfeiture funds in the best interests of the war against drugs.

I do believe the distinguished Senator from Delaware would agree with me that they will do a good job with the utilization of the forfeiture funds. Again I acknowledge he is only asking for a direction of utilization of $10 million, but I think we are going to need more time if we want to clear this amendment on our side. I would ask him to withhold until we have a little more time to see if I can get it cleared on our side.

Mr. BIDEN. Mr. President, if the Senator will yield I will make two points.

Mr. HATCH. Surely.

Mr. BIDEN. One, the Senator from Delaware has been one who has attempted to give flexibility. For example, in the drug czar bill we provided flexibility for the drug czar.

I moved we provide him $150 million worth of flexibility to deal with these forfeited funds. I emphasize again, we are not directing that they spend $10 million. It permits up to $10 million of the amount deposited in the fund to be used to buy weapons and body armor.

The Senator from Delaware has no intention of backing off the amendment. But the Senator from Delaware also knows the good-faith efforts made by the Senator from Utah and, although we are going to begin to stack things up here, the Senator from Delaware will agree to temporarily lay aside the amendment and to see if we can work something out. If not, we may just have to have a rollcall vote at some point.

Mr. HATCH. I appreciate it and if that is so, if he is not directing where these funds should go, let me run it by some of Senator THURMOND's staff, they are concerned about it. I would like to get this broken free. We will also chat with the Justice Department and try to clear this, in good faith, on our side. If we cannot, the Senator certainly has a right to have a rollcall vote on it and we will go from there.

Mr. BIDEN. If the Senator will yield, I ask unanimous consent the Biden amendment on forfeiture be laid aside.

AMENDMENT NO. 919

The PRESIDING OFFICER. The pending business is the Moynihan amendment. The Senator from New York [Mr. MOYNIHAN] is recognized.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the distinguished comanager of the legislation, the Senator from Utah [Mr. HATCH] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 919, AS MODIFIED

Mr. MOYNIHAN. Mr. President, I request to modify the amendment in a manner that has been agreed to on both sides. I send the amendment to the desk.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

The amendment is as follows:

SECTION 1. SUBSTANCE ABUSE TREATMENT SERVICES UNDER MEDICAID.

(a) PURPOSE OF TITLE XIX.—Section 1901 of the Social Security Act is amended by striking "and" before the number "(2)", and inserting after "self-care," the following: "and (3) at State option, substance abuse treatment services so that treatment on request may be provided to all individuals eligible for assistance under this title (A) who desire to rid themselves of substance abuse problems, and (B) whose income and resources are insufficient to meet the Cost of such treatment,".

(b) SUBSTANCE ABUSE TREATMENT SERVICES.—Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"SUBSTANCE ABUSE TREATMENT SERVICES

"SEC. 1927. "(a) At the option of the State, the State plan for medical assistance described in section 1902(a) may include as medical assistance, substance abuse treatment services and related case management services (described in subsection (b)) under the plan to all individuals eligible for assistance under this title who desire to rid themselves of their substance abuse problems.

"(b) DEFINITIONS.—(1) The term 'substance abuse treatment services' includes—

"(A) inpatient substance abuse treatment services, including counseling, which are provided in a hospital (or distinct part thereof) or other entity if such entity is legally authorized to provide such treatment under State law;

"(B) outpatient substance abuse treatment services, including counseling, which are provided by a hospital (or distinct part thereof) or other entity if such entity is legally authorized to provide such treatment under State law; and

"(C) substance abuse treatment services, including counseling, which are provided in a residential substance abuse treatment center or other entity if such entity is legally authorized to provide such treatment under State law.

"(2) The term 'case management services' means, for purposes of this section, services which will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.".

SEC. 2. EFFECTIVE DATE.

The amendments made by this amendment shall take effect on October 1, 1990.

Mr. MOYNIHAN. Mr. President, I have no wish to extend the proceedings. I believe the amendment is now agreed to on both sides. I thank the Senator from Delaware for his very generous remarks. I do think this is, in fact, an amendment of large consequence.

The PRESIDING OFFICER. Is there further debate on the Moynihan amendment?

Mr. BIDEN. Mr. President, we are prepared to accept the amendment.

Mr. HATCH. Mr. President, I like the amendment. I want to commend the distinguished Senator from New York for, as usual, a very perceptive and intelligent approach to a very difficult subject. We accept the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on ageeing to the amendment, as modified.

The amendment (No. 919), as modified, was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which

the amendments as modified, was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, may I take an extra moment to thank my dear, good friend, the distinguished Senator from Utah, for his very generous support in this matter.

Mr. BIDEN. Mr. President, I ask unanimous consent that the pending Biden amendment on forfeiture be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 924

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 924.

Mr. BIDEN. Mr. President, I ask unanimous consent that the reading of amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

Subtitle D—Civil Enforcement

SEC. 41. EVICTION FROM PLACES MAINTAINED FOR MANUFACTURING, DISTRIBUTING USING CONTROLLED SUSTANCES.

Section 1416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following:

"(c) The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking place. The court in which such action is brought shall determine the existence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions and evictions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 42. USE OF CIVIL INJUNCTIVE REMEDIES, FORFEITURE SANCTIONS, AND OTHER REMEDIES AGAINST DRUG OFFENDERS.

The Attorney General shall—

(1) aggressively pursue the use of criminal penalties authorized by section 1963 of title 18, United States Code, civil remedies authorized by section 1964 of title 18, United States Code, and other equitable remedies against drug offenders, including injunctions, stay-way orders, and forfeiture sanctions; and

(2) submit a report to Congress annually on the manner and extent to which such remedies are being used and the effect of such use in curtailing drug trafficking.

Mr. BIDEN. I assume this may be accepted. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ADAMS. Mr. President, what is the parliamentary situation? Is there a pending amendment that needs to be set aside.

The PRESIDING OFFICER. The pending business is amendment No. 924 offered by the Senator from Delaware.

Mr. ADAMS. I ask unanimous consent that the amendment may be temporarily set aside in order that I might proceed with an amendment which I believe has been agreed to by both sides.

The PRESIDING OFFICER. Is there objection? Without objection, amendment No. 924 is set aside.

AMENDMENT NO. 925

(Purpose: To amend the Higher Education Act of 1965 and the Drug-Free Schools and Communities Act of 1986, and for other purposes)

Mr. ADAMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. ADAMS] proposes an amendment numbered 925.

Mr. ADAMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

(c) SECTION 5125.—Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended by inserting at the end thereof the following new subsection:

"(c)(1) Funds received under section 5124(a) may be used to implement programs for latchkey children involving school and community activities before and after school, on weekends, and during summer months, which may include—

"(A) athletic activities;

"(B) community service activities;

"(C) activities involving arts, crafts, and other programs to stimulate creativity among latchkey children; and

"(D) educational instruction in subjects otherwise not available during the normal school day such as foreign languages or programs designed to improve a student's ability to resist involvement with substance abuse.

"(2) For purposes of this section, the term 'latchkey children' means elementary and secondary school age children who are unsupervised by an adult for more than 11 hours per week before school or after school, or on a regular basis on weekends or during the summer when school is not in session.".

Mr. ADAMS. Mr. President, I have been involved in many aspects of our antidrug effort including interdiction and law enforcement. As chairman of the Appropriations Subcommittee on the District of Columbia, I have worked hard to put together a law enforcement and treatment program for the District which will work.

This amendment to address the problem of a higher risk of drug use among latchkey children is an important component of our antidrug war. Nationally it is estimated that between 2 and 6 million children under the age of 13 lack any adult supervision before and after school. A recent study found that eighth grade students who cared for themselves 11 or more hours per week were twice as likely to engage in alcohol and substance abuse as were their fellow students who had at least one parent in the home after school.

In most cases, these children return to an empty home, because their parents must work, or because they come from the growing number of single-family households where the parent is in the work force. In still other households, parental supervision is unavailable because the parents themselves are involved in substance abuse.

My proposal provides alternatives for those children who would otherwise remain without activities to occupy their time after school, on the weekends, and during the summer. It would provide them with opportunities for self-enrichment that will help them resist peer pressure that frequently leads to substance and alcohol abuse. It will provide them with opportunities for recreational activities and community sevice that would not otherwise be present. This provision does not mandate that all school districts develop programs to address the latchkey child, but it will provide the resources for those who chose to.

Mr. President, I know firsthand of the need for adoption of effective approaches to ending drug abuse. I have visited the social service agencies, public housing projects, detoxification centers, and crack houses in my State. I have seen cocaine babies and spent time talking to the nurses who care for them. They all tell horrific tales of drug abuse and ruined lives. We must put together effective programs to keep our children off children off drugs. We have to do more than just hand them a pamphlet which tells them not to do drugs.

In summary, if we hope to see dramatic progress toward reduced drug abuse in our society, we must begin with our children. To achieve this goal, we must look at the world from the perspective of the child and the influences which threaten involvement with drugs. The latchkey problem at

the elementary and secondary school level is one aspect. If we develop effective programs, we can turn this increased time when parents must be away from their children into an asset for our society by structuring activities which help develop talents and promote community service. This investment in our children will pay us the richest of rewards as we look to our future.

I urge the adoption of this amendment.

I thank the managers of the bill for their consideration. Mr. President. I hope this amendment will be adopted.

Mr. BIDEN. Mr. President, I think it is a very positive addition to this legislation. I compliment the Senator from Washington. We are prepared to accept the amendment on this side.

Mr. HATCH. Mr. President, this amendment is a very good amendment. It adds language to allow funding to be spent both before and after school, summer and weekend programs for latchkey children. I think it is a very thoughtful and compassionate worthwhile, workable, and good amendment. So we will accept it on this side as well.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 925) was agreed to.

Mr. ADAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I ask unanimous consent that the Biden amendment on forefeiture be laid aside again for consideration of an amendment that I will send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 926

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The assistant legislation clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 926

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

Subtitle C—Public Corruption

SEC. 31. SHORT TITLE.

This subtitle may be cited as the "Anti-Corruption Act of 1989".

SEC. 32. OFFENSE.

Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 225. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State, political subdivision, or Indian tribal government shall be fined under this title, or imprisoned for not more than 10 years, or both.

"(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, runoff, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information.

shall be fined under this title or imprisoned for not more than 10 years, or both.

"(c) Whoever, being a public official or an official or employee of a State, political subdivision of a State, or Indian tribal government in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defaud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the right to have the affairs of the State, political subdivision, or Indian tribal government conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than 10 years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

'(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes to use any facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than 10 years, or both.

"(f) Whoever being an official, or public official, or person who has been selected to be a public official, directly or indirectly, discharges, demotes, suspends, threatens, harasses, or, in any manner, discriminates against any employee or official of the United States or any State or political subdivision of such State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to 5 years or both.

"(g)(1) Any employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (a) or because of actions by the employee on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, three times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual is not eligible for such relief if that individual participated in the violation of this section with respect to which such relief would be awarded.

"(3) A civil action or proceeding authorized by this subsection shall be stayed by a court upon the certification of an attorney for the Government, stating that such action or proceeding may adversely affect the interests of the Government in an ongoing criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 of this title; the terms 'public official', and 'person who has been selected to be a public official' shall also include any person action or pretending to act under color of official authority;

"(3) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in an Indian tribal government or

the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

SEC. 33. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"225. Public Corruption.".

(b) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(c) INTERRUPTION OF COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 34. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended by—

(1) striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) inserting or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) CONFORMING AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended by striking "Fraud by wire, radio, or television" and inserting "Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 35. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term "public official' means—

"(A) an officer or employer or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed;

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place or trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the meaning set forth in section 102 of the Controlled Substances Act.".

(b) CONFORMING AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),"; and

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) SECTION ANALYSIS.—The section analysis at the beginning of chapter 11, title 18, United States Code, is amended by inserting the following:

"220. Narcotics and public corruption.".

Mr. BIDEN. I will be very brief. This is something with almost unanimity on. The amendment provides two provisions which passed the Senate in 1988 and were not acted upon by the House. The first embodies the provision of S. 327, the Federal Public Corruptions statute that I introduced earlier this year with the bipartisan support of several Senators and the strong endorsement of Attorney General Thornburgh. This statute restores the ability of the Federal prosecutors to bring criminal charges in cases involving the corruption of State and local officials, and of the election process in any State. This is an extremely important measure and should be enacted as soon as possible.

The second provision relates to the corruption of law enforcement officers and other officials in connection with drug trafficking and makes it a Federal offense for anyone to corrupt such an officer in the furtherance of drug dealings. Unfortunately the corruption of law officers by drug traffickers is a serious problem, and one that is difficult for local law enforcement officials to deal with.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. HATCH. Mr. President, this amendment is part of the Senate-passed drug bill in the last Congress. The McNally portion of the amendment has a high priority with the Department of Justice.

So I commend the distinguished Senator from Delaware, the chairman of the Judiciary Committee, for submitting it at this time. This side will accept the amendment.

Mr. McCONNELL Mr. President, I join my colleague from Delaware, Senator BIDEN, in offering our bill, the Anti-Corruption Act of 1989, or "Biden-McConnell II," as an amendment to the 1989 drug bill.

Passage of this amendment will build on what we accomplished in the last Congress in the fight against election fraud and public corruption. Last year, we added an amendment to the drug bill of 1988, to close a loophole created by the Supreme Court in McNally versus U.S.

McNally held that U.S. attorneys could not use the mail fraud laws to prosecute election fraud and corruption. In doing so, it jeopardized hundreds of convictions now on the books, and brought further investigations to a halt. A number of us worked together for over a year—on a bipartisan basis—to close the McNally loophole.

However, the long road toward effective anticorruption legislation began back in 1987, when I introduced the Election Fraud Prevention Act. This bill would punish election fraud offenses as Federal felonies; expand the power of the Federal Government to investigate fraud and corruption; and allow Federal law enforcement officials to supervise local elections.

Let me take a moment to discuss how this bill came about, as a way of explaining why this bill is so vitally important. Just about 2 years ago today, the Louisville Courier-Journal did an extensive study of election fraud in Kentucky, finding votebuying, intimidation at the polls, contributions-for-contracts deals, and multiple voting practices. This report also found that many of these offenses were committed with the assistance of those officials who were supposed to keep the process clean.

Since that exposé, new cases of vote fraud have been rolling in at an alarming rate. One woman was found to have voted three times; and although she cast a vote for her dead husband, she never even bothered to vote in her own name. In a roundup of corrupt officials, a local grand jury handed down indictments of three election officers and three vote-buyers on 53 counts of election fraud.

Many of the more recent vote offenses were committed after Kentucky enacted the most sweeping antielection fraud measures in its history—indicating the degree of public cynicism about local law enforcement efforts against these kinds of abuses.

In fact, the law enforcement record against such cases in our State has been shameful. The fact is that many of the worst offenders are the local officials themselves, or the neighbors down the street; and no one sitting on any local jury is going to send these people to jail.

That is why I have said the only way to clean up election fraud is to have the Federal Government come in, allow it to supervise elections with Federal officers, and give it authority to prosecute offenders under Federal law, in Federal court. That is what Congress did in 1965, in enacting the Voting Rights Act. It used the Federal Government's power to protect people's voting rights from entrenched local discrimination.

That is what I sought to do when I introduced the Election Fraud Prevention Act in 1987. Since I introduced that bill, I found that the efforts of law enforcement against corruption are not limited to election fraud. Moreover, I learned that the Federal Government's entire anticorruption enforcement effort had been placed at risk by the McNally decision.

At that point I joined forces with the U.S. Department of Justice to develop a comprehensive answer to the McNally problem. When we had put together a bill that addressed both problems, I forged a coalition with members of the Senate Judiciary Committee who shared my view that Federal prosecutors ought to have every available resource to stop corruption.

Fortunately, our hard work paid off. On November 18, 1988, President Reagan signed the omnibus drug bill into law with the critical part of our anticorruption provision included. Federal prosecutors are back in line to fight election fraud and public corruption.

But when Senator BIDEN and I returned after the end of the 100th Congress, we felt there still was further to go. Despite our work in Congress, there still were reports of election fraud in the last election in Kentucky. And those who abuse the public trust and seek to defraud the Government are getting cleverer in evading the law. The bill we introduced at the start of the 101st Congress, and which we are adding to the drug bill today, will give us the other 20 percent we wanted but didn't get last year.

Even in this day and age, and with all our work last year, it still is not clear in the law whether the Federal Government can investigate and prosecute all acts of election fraud. This legislation will take every act of election fraud—at every level of government—a Federal offense. It raises the maximum penalty for both election fraud and public corruption to 10 years in the Federal penitentiary and a $10,000 fine. And this bill will greatly expand the jurisdictional basis for Federal prosecutors to investigate reports of fraud and go after the wrongdoers.

I cannot stress enough the importance of this legislation. In some parts of this country, if you buy or sell votes and somehow get caught, you go see your friend the judge and he gives you a wink and a slap on the wrists. If our amendment passes, and I am sure it will, then anyone who gets caught in "election-day shenanigans" will be facing a Federal grand jury and a ticket to Federal prison.

I firmly believe that if we are going to make Kentucky and the rest of this Nation a better place for our children, first we need to take care of the basics. Two of those basics are a clean election process and a government that is free of corruption. The Biden-McConnell amendment to the 1989 drug bill goes a long, long way toward accomplishing those basic, urgently needed goals.

I thank my friend, the Senator from Delaware, for his strong interest in this legislation over the last year and a half, and I commend him for his excellent work on the drug bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Delaware.

The amendment (No. 926) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 927

(Purpose: To make clear the penalties for and to facilitate the detection of the use of the mails to send controlled substances)

Mr. STEVENS. Mr. President, I have an amendment I send to the desk.

The PRESIDING OFFICER. The pending business is the Biden amendment.

Mr. BIDEN. I ask unanimous consent that the Biden amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I thank the distinguished manager of the bill.

The PRESIDING OFFICER. The clerk will report.

Assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 927.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

SEC. . USE OF THE MAILS TO SEND CONTROLLED SUBSTANCES.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 1716 of title 18, United States Code, is amended—

(A) in subsection (a) by inserting "all controlled substances (as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))," immediately following "reptiles,"; and

(B) in the second undesignated paragraph of subsection (h) by striking the period at the end thereof and inserting ", or if the nonmailable matter was a controlled substance (as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), shall be fined not more than $60,000 or imprisoned not more than 10 years, or both, or in the case of a second or subsequent violation in which the nonmailable matter was a controlled substance, shall be fined not more than $90,000 or imprisoned not more than 15 years, or both.".

(b) AMENDMENT OF CONTROLLED SUBSTANCES ACT.—Section 403(c) of the Controlled Substances Act (21 U.S.C. 843(c)) is amended—

(1) by striking "$30,000, or both" and inserting "$30,000, or both, or if the communication facility used was the mail, a term of imprisonment of not more than 10 years, a fine of not more than $60,000, or both"; and

(2) by striking "$60,000, or both" and inserting "$60,000, or both, or if the communication facility used was the mail, a term of

imprisonment of not more than 15 years, a fine of not more than $90,000, or both".

(c) INCREASED COOPERATION WITH FEDERAL, STATE, AND LOCAL AUTHORITIES.—The United States Postal Service shall assist to the fullest extent possible Federal, State, and local authorities in the implementation of this Act and any other Act dealing with controlled substances.

Mr. STEVENS. Mr. President, I am pleased to join with others in these efforts to combat illegal drugs. The amendment I offer attacks one important aspect of the drug problem, that is, the use of our public mail system in the drug trade. This amendment would substantially increase the criminal penalties for distributing controlled substances through the mail. It would also direct the Post Office to cooperate to the fullest extent possible with drug interdictions, especially the Office of National Drug Control Policy to reduce the use of the mail system in this drug trade.

On a recent trip home, I spoke with over 30 officials who have responsibilities for drug interdiction, treatment, and prevention programs in Alaska. They are very worried. The drug problem in Alaska continues to fester and is spreading throughout our rural areas.

One way to get drugs into the rural areas of Alaska and throughout the country is through the use of mail. My State is one-fifth the size of the total land area of the United States. Fully 75 percent of all the community post offices in Alaska can be reached only by air or water. In these areas, the primary means of shipping goods is through the U.S. parcel post. In the absence of rural transportation, increased drug use has meant increased drug shipments through the mail.

Currently, under one statute, shipping drugs through the mail can be punished by no more than 1 year in jail and a $1,000 fine. Under another law, the punishment is no more than 4 years in jail and a $3,000 fine. My amendment would increase the penalties to no more then 10 years in jail and $60,000 in fines. For a second offense, the new penalty would be up to 15 years and $90,000 in fines.

In Alaska, private parcel carriers now permit law enforcement agencies to use narcotics or "sniffer" dogs to detect drug shipments. President Bush's national drug control strategy pledges administration efforts to "expand the use of sniffer dogs" at U.S. ports of entry. The technique is an accurate, efficient way to search for drugs.

The amendment would direct the U.S. Postal Service to cooperate completely with law enforcement authorities to stop drug mail shipments. This would include the use of narcotics dogs.

Constitutionally, this use of dog sniffing detection is sound. Since dogs respond or alert to odors that are already in the public domain, no intrusion into sealed packages occurs. Thus, probable cause is not needed to permit dog sniffing.

If a dog reacts to drug odors in a package, probable cause may be established to justify a search warrant for a more complete inspection. This amendment would not negate the need for search warrants.

The amendment would also ensure additional tracking of suspicious mailings—also constitutionally permissible. Such tracking consists of looking at the origin and destination written on the outside of parcels for patterns of suspicious shipments.

It is the responsibility of the Post Office to increase the interception of illegal drug mail shipments and reduce the use of the mail for other drug trade activities. This amendment will ensure the Post Office works with all law enforcement authorities, starting with the Office of National Drug Control Policy right down to local law enforcement agencies, to stop illegal drug mail.

Mr. President, nothing in this amendment would infringe upon the traditional privacy rights afforded Americans and their sealed mail under Federal statutes and the Constitution. The amendment would, however, ensure a more certain justice and a heavier price for those that use the national mail system to further the drug trade.

I urge its adoption.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. Senator from Delaware.

Mr. BIDEN. I compliment the Senator from Alaska. It is almost silly that he has to submit the amendment. That is a worthwhile amendment, but when you think about it, the idea that we have to be on the Senate floor doing this is too bad. I thank the Senator for his vigilance, and I think the amendment is very worthwhile, and this side is happy to accept it.

Mr. HATCH. Mr. President, I also compliment the distinguished Senator from Alaska, and this side will accept the amendment, also.

The PRESIDING OFFICER. Is there further debate?

Mr. STEVENS. Mr. President, I am very serious about this. There is no way these drugs could be getting throughout Alaska with the sniffer dogs. I was astounded to find that the Postal Service stopped the use. I am grateful, and I ask for the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 927) was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I ask unanimous consent that the Biden amendment, which is the pending business, be set aside for consideration of the Simpson amendment, which is about to be sent to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 928

(Purpose: To instruct the Secretary of the Department of Health and Human Services to waive certain provisions relating to ADAMHA block grants)

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Wyoming.

The assistant legislative clerk read as follows:

The Senator from Wyoming, [Mr. SIMPSON] for himself and Mr. WALLOP, proposes an amendment numbered 928.

Mr. SIMPSON. Mr. President I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . ADAMHA IV DRUG ABUSE WAIVER.

(a) INTRAVENOUS DRUG USERS.—Section 1916(c)(7) of the Public Health Services Act (42 U.S.C. 300x-4(a)(7) is amended by adding at the end thereof the following new sentence: "The Secretary shall waive the provisions of the preceding sentence for any State which has submitted application for such a waiver to the Secretary prior to September 30, 1989."

(i) EFFECTIVE DATE.—Section (a) shall be effective for fiscal year 1989 and subsequent fiscal years.

Mr. SIMPSON. Mr. President, this is in relation to the determinations for set-asides under the Alcohol, Drug Abuse, and Mental Health block grants are insensitive to the needs of low-population rural States.

They violate the whole philosophy of block grants; they constrain the State's ability to be responsive to the problems it identifies in the areas of drug and substance abuse and treatment.

Under ADAMHA, the State must dedicate 35 percent of its allocation to drug abuse treatment—the rest is mental health money. Of that 35 percent, the State must devote 50 percent to treatment of IV drug users. A discretionary waiver currently allows the Secretary to waive the set-aside requirements for States that can demonstrate insufficient demand for IV drug abuse treatment services. Seven States have applied for the waiver, but none

has been granted. HHS says it is unclear about congressional intent.

Wyoming is among those States that cannot make efficient use of the IV drug abuse set-aside. We would have to engage in outreach and solicit these people into the State to use that money. We do have an astronomic incidence of alcoholism and related disorders, however. The ADAMHA set-aside funds would be better spent staffing an additional alcohol counseling position at one of the county clinics, where people now must now wait 6 to 10 weeks between visits.

When we are talking about amounts as small as those Wyoming and some other States receive, the set-asides and their administrative requirements become extraordinarily inefficient devices for reaching the groups Congress wants to help. The 50 percent of 35 percent works out to roughly $165,000 out of an $830,000 substance abuse allocation in Wyoming. That is $165,000 on a statewide basis that must be identifiably dedicated to IV drug abuse treatment. How can the one clinician in all of Bighorn County satisfy this requirement? Mr. President, providers and counselors can either see and treat people, or they can spend their time separating out the money according to set-aside requirements and conforming their practices to Washington's dictums.

Certainly the Federal Government should play a leadership role in targeting substance abuse funds, but I strongly object to substituting Federal directing for local understanding of the problem. I cannot believe for a minute that the authors of ADAMHA ever intended such anamolous results as these set-asides produce. They are counterproductive by every measure. Small States just do not have the manpower to split hairs on the allocation of funds. They want to treat people.

My amendment would simply instruct the Secretary to grant waivers to those States that have applied for them. This mandatory waiver would remain in effect, without the necessity of reapplying, for this and subsequent fiscal years. The waiver is also made retroactive to fiscal year 1989. As I mentioned, Wyoming and six other States applied for the waiver this year. On September 25, these States received word that the Federal agency was deferring its decision on waivers because it did not understand congressional intent. The law, however, also requires funds to be obligated in the fiscal year in which they are appropriated, meaning that the State would have to distribute its funds by September 30, whether or not it had heard from the agency. My amendment clarifies congressional intent that States which have documented that they cannot make efficient use of ADAMHA funds earmarked exclusively for IV drug abuse treatment will not be subject to the set-aside mandate.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. HATCH. I would like to be added as a cosponsor to the Simpson amendment.

Mr. SIMPSON. I appreciate the offer of the Senator.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I think it is a good amendment. We are happy to accept it.

Mr. HATCH. Mr. President, I strongly support Senator SIMPSON's amendment. This would require the Secretary of Health and Human Services to approve the waiver submitted by seven States regarding the use of the Alcohol, Drug Abuse, and Mental Health Services block grants, for IV drug abuse. It was clear that Congress intended the Secretary to approve such waivers in those States that do not need additional drug abuse treatment slots. I think the distinguished Senator from Wyoming has done us a similar service in bringing this amendment to the floor, and we will accept it on this side, as well.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment (No. 928) was agreed to.

Mr. SIMPSON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to table was agreed to.

Mr. SIMPSON. I thank the Senators very much.

Mr. HATCH. I ask unanimous consent to set aside the Biden amendment, to proceed with the Hatch amendment.

The PRESIDING OFFICER. Without objection it is so ordered.

AMENDMENT NO. 929

Mr. HATCH. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 929.

Mr. HATCH. I ask unanimous consent further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following:

SINGLE USE SYRINGES AND NEEDLES

SEC. . Within one year of enactment, the Secretary of Health and Human Services shall report to Congress on the cost, feasibility, and effectiveness in reducing intravenous drug abuse and the spread of diseases such as AIDS which would result from eliminating syringes and needles which are capable of being used more than once and replacing them with syringes and needles which are only capable of being used a single time.

Mr. HATCH. Mr. President, while abuse of any drug or alcohol is a problem for this country, most health experts believe that intravenous or IV drugs are especially dangerous. They are especially dangerous because IV drugs tend to be more addictive than drugs which are taken by mouth. And, they are especially dangerous because of the risk of AIDS, hepatitis, and other diseases which are associated with their use.

We have taken, and are continuing to take, a number of actions in an attempt to reduce the use of IV drugs in this country. We are expanding our efforts to reduce the supply of these drugs. We are expanding our public education efforts to deter would be users. And, we are expanding our efforts to treat current addicts. With this amendment, I am proposing that we look at one additional tool to reduce the uses of these drugs—single use syringes and needles.

To use an IV drug, an addict must not only obtain the drug, but the addict must also obtain a needle and syringe to inject the drug. These syringes are frequently reused and shared, a fact which results in the spread of diseases such as AIDS. Currently, most of the syringes used in this country, while certified for single use only, are capable of being used multiple times and that is exactly what IV drug addicts do.

Mr. President, it seems reasonable to evaluate whether or not there is adequate justification to continue to use those syringes which are capable of multiple use. It is my understanding that the Food and Drug Administration, which approves all syringes used in this country, has already approved a number of single use syringes. Therefore, syringes which are only capable of single use are currently available.

What this amendment does is ask the Secretary of Health and Human Services to look at whether the widespread use of single use syringes would have an effect in reducing IV drug abuse and the spread of diseases such as AIDS. Specifically, the Secretary is to evaluate the cost, feasibility, and effectiveness of changing over to single use syringes. If single use syringes would significantly reduce the prevalence of IV drug abuse or the spread of diseases such as AIDS, we as policymakers need to know that.

I do not know if the Secretary will find that single use syringes should be a part of our national effort to combat IV drug abuse and AIDS, but we can't afford to overlook any alternative which might help in this battle. We

need the experts to look at that tool and give us their recommendations. That is all this amendment would do, and I urge my colleagues to adopt it.

I will briefly explain this amendment. This amendment provides that within 1 year of enactment, the Secretary of Health and Human Services shall report to Congress on the cost, feasibility, and effectiveness in reducing intravenous drug abuse and the spread of diseases such as AIDS which would result from eliminating syringes and needles which are capable of being used more than once and replacing them with syringes and needles which are only capable of being used a single time.

These particular syringes, once they are used, can never be used again. They automatically break after one use. When they try to glue them together they dissolve. So this would save a lot of pain in this area. If it is feasible we can use this. I think we might be able to do a lot more to stem the tide of AIDS in this country. I think it is good amendment.

Mr. BIDEN. Mr. President, it is a very good amendment. I compliment the Senator from Utah for offering it. He has been working in this area for so long. I am so accustomed to working with him on the Judiciary Committee that I oftentimes forget he is a ranking member of the Committee on Labor and Human Resources and deals with these issues. I compliment him on it. I would like to be added as a cosponsor.

Mr. HATCH. I am happy to do that, and Senator KENNEDY should be added as cosponsor. He wanted this to be known as the Kennedy-Hatch, and now Biden amendment, or Hatch-Kennedy-Biden amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment of the Senator from Utah?

The question is on agreeing to the amendment of the Senator from Utah.

The amendment (No. 929) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I ask unanimous consent that the Biden amendment be laid aside for the purposes of considering an amendment of the Senator from New Mexico, Senator DOMENICI.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 930

(Purpose: To promote the development of alternative schools for youths with drug problems)

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 930.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . ALTERNATIVE SCHOOLS FOR YOUTHS WITH DRUG PROBLEMS.

(a) Section 5122 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking "and" at the end of paragraph (6);

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by adding after paragraph (6) the following new paragraph:

"(7) model alternative schools for youths with drug problems that address the special needs of such students through education, treatment and counseling."

(b) Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking "and" at the end of paragraph (13);

(B) by redesignating paragraph (14) as paragraph (15); and

(C) by adding after paragraph (13) the following new paragraph:

"(14) model alternative schools for youths with drug problems that address the special needs of such students through education, treatment and counseling."

Mr. DOMENICI. Mr. President, I rise tonight to offer an amendment that will promote the development of alternative schools for youths with drug problems. These schools can be an important element for the successful treatment of students with drug problems, as they can provide a supportive environment for the transition back into the regular educational system.

Last spring, I received a letter from Dr. William Bennett, the President's Director of National Drug Policy, requesting my ideas on how to confront the drug plague that is infecting our Nation.

After I received the letter, I convened a meeting of an ad hoc advisory group that I established last year to develop proposals for combating the drug problem in New Mexico. This group, which consists of law enforcement officers, educators, drug abuse professionals, criminal justice officials, and other leaders in the fight against drugs, put forth a number of excellent suggestions.

One of the most exciting proposals that they came up with was to develop and implement a pilot program for alternative schools for youths with drug problems.

An alternative school can provide a drug-free and supportive environment for those students who: First, have become involved with drugs; second, have recognized their problems and have demonstrated a commitment to get off drugs by becoming actively involved in a treatment program; and third, have voluntarily elected to attend the drug-free alternative school.

Adolescents experience a high recidivism rate, ranging from 60 to 90 percent, following drug-abuse treatment. They are particularly vulnerable to lapsing back into drug usage during the time when they reenter the school system. A major factor in the high recidivism rate during this critical time period is peer pressure, as the adolescent is reintroduced into the peer group and community in which he or she initially became involved with drugs. The factors which contributed to the youth's involvement with drugs remain, and he or she lapses into drug usage.

In an alternative school, the student would be surrounded by a different peer group, all of whom are in recovery and whose families are involved in the school program, and a community whose main focus is to support the student's recovery and transition back to the regular school system. The curriculum would emphasize specialized instruction that would meet educational standards and would address the special needs of students in recovery. The students would be at the school on a voluntary basis. They would be required to participate in support groups with their families and to remain drug free.

A group in Albuquerque, led by Louis Sadler of Parents Against Drugs, is working with the Albuquerque public schools to establish an alternative school for youths with drug problems.

I am happy to report that Dr. Bennett gave the suggestions of my anti-drug task force serious consideration and included the alternative schools for youths with drug problems proposal in the national drug control strategy that the President announced last month.

The President's national drug control strategy states:

School-based prevention programs should be reinforced by tough but fair school policies on use, possession, and distribution of drugs. Avoiding such policies sends our young people a decidedly mixed signal. We cannot teach them that drugs are wrong and harmful if we fail to follow up our teaching with real consequences for those

who use them. Too many school systems still lack the kind of policies implemented in Anne Arundel County, Maryland, where the nunber of school drug offenses has declined by more than 80 percent since 1980.

Anne Arundel's drug policy is simple and straightforward. Any student caught selling or distributing drugs is immediately expelled. When a student is caught using or possessing drugs, the school notifies the police, calls his parents, and suspends him for one to five school days. In order to return to school, the student must participate in counseling and agree to participate in the district's after-school drug program. Students caught using or possessing drugs a second time are expelled.

Policies like these have been criticized for adding to the dropout problems. But experience shows that the firm policies fairly enforced actually reduce the number of students who must be expelled for drug violations; most students choose to alter their behavior rather than risk expulsion. Concerns about dropouts can be further addressed by establishing alternative schools and educational programs for students who are suspended or expelled. In Anne Arundel County, for example, over 90 percent of students suspended or expelled eventually return to school under close supervision. At Flowing Wells High School in Tucson, Arizona, students with drug problems can attend either of two alternative. programs. A Reentry Program is intended primarily to help dropouts resume their education. Inscape is an off-campus program that offers counseling and other personalized assistance. Both programs have been highly successful with drug-involved problem students.

One of the President's priorities for education, community action, and the workplace, therefore, is the development of model alternative schools for youths with drug problems.

Mr. President, the amendment that I am offering today amends two grant programs of the Drug-Free Schools and Communities Act of 1986 that provide funds to local governments and other public and private nonprofit groups. It will allow local governments and other groups to use general State grant and high-risk youth grant funds to develop and implement programs for "model alternative schools for youths with drug problems that address the special needs of such students through education, treatment, and counseling."

By providing the authority to use drug-free school funds to develop alternative schools for youths with drug problems, we will be promoting the development of this exciting concept. It will allow students who are confronting their drug problem to complete their recovery in a drug-free environment and make a smooth transition back into the regular educational system.

Mr. President, essentially this war on drugs, in particular as it applies to our teenagers, is going to require some innovative approaches to providing some positive peer pressure for our young people.

In the city of Albuquerque an exciting concept in another area of need is using the institutions of the public school system to solve a social problem has achieved national acclaim. We have a school there called New Futures. The public school system runs it, but essentially it is a school that has been developed to assist pregnant teenagers finish high school and provide them with all of the support that they need, including vocational education, training in child care, and day care facilites.

So in that same city a similar innovative idea has arisen regarding teenagers who are of public school age but have been addicted or who are trying to get off of drugs and are having a great deal of difficulty doing that.

The idea that has arisen in the city of Albuquerque is that the public schools once again will be given an opportunity to use their institutional strength to create an alternative school for youths with drug problems. What that means is that they would use the normal apparatus of the public school system but would be given an opportunity to create within that school system an alternative school for those young people who have been involved with drugs.

This would be controversial in some jurisdictions, and they might not want to try it. But it seems to some experts that is is worth trying.

What we would be saying to these young people is: "We want you to continue school. Do you want to elect to go to a drug-free school wherein you will be among young people who have had drug problems? Collectively and altogether you will make rather extraordinary commitments to try to help yourselves stay off drugs. The entire curriculum will get you your academic training, but in the meantime there will be some very stringent requirements imposed on you as part of that student body."

I think it is an idea that deserves consideration. I believe the drug czar has accepted it as a good proposal and the Department of Education thinks there might be discretionary funding to try one or two of these in the United States.

I very much would like to make sure that in the future it is cleared up and made absolutely certain that these kinds of demonstration alternative schools for youths with drug problems are going to be permitted. In this way we can use the public school system in a very innovative way to help those young people who are suffering from drug involvement find a better and more tangible, and perhaps more permanent, way to rid themselves of this scourge.

I understand the manager on the majority side, Senator BIDEN, and on the minority side, Senator HATCH, are willing to accept this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. BIDEN. Mr. President, it is a good amendment. I compliment the Senator on it. I could and would speak to it but in the interest of time he said it all very well. I propose we support the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. THURMOND. Mr. President, we approve the amendment.

The PRESIDING OFFICER. If there is no further debate the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 930) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask unanimous consent to set aside the Biden amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 931

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. ROBB). The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 931.

Mr. THURMOND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. THURMOND. Mr. President, I rise to offer the Federal Debt Collection Procedures Act of 1989 as an amendment. On January 25, 1989, I along with Senator BIDEN and Senator GRASSLEY, introduced S. 84, the Federal Debt Collection Procedures Act of 1989. Since then Senators LAUTENBERG, D'AMATO, COCHRAN, HELMS, WILSON, MCCAIN, PRESSLER, BRADLEY, LIEBERMAN, HATCH, and MIKULSKI have been added as cosponsors.

This legislation will enhance the remedies available to the United States for collection of debt owed to the Federal Government. Incredibly, it has been estimated by the General Accounting Office that the Federal Government has approximately $32 billion of outstanding, nontax, delinquent debt which is collectible.

Currently, the debts owed to the United States must be collected under the laws of the particular State where

the debtor resides. Those laws vary greatly from State to State, making enforcement of debt collection extremely difficult and cumbersome.

For example, in some States a debtor can exempt vast amounts of property from execution, whereas a similarly situated debtor in another State is granted no such exemption at all. It is unfair that Federal debtors who reside in States with strong collection laws are made to pay their debts while others use weak collection laws in debtors haven States to escape repayment of their debt.

In summary, this amendment will correct the inequities that exist under the current system. This bill creates a firm, but fair, comprehensive statutory scheme for the collection of Federal debt. This legislation maintains State law, leaving State remedies unaffected in cases where the Federal Government is not a party. This legislation will be used by Federal litigators in Federal courts to collect debts owed to the Federal Government.

Regarding the history of this act, a nearly identical bill was introduced in the 100th Congress. The Senate Judiciary Committee unanimously agreed to report the bill out of committee on October 5, 1988. On October 14, 1988, the U.S. Senate unanimously passed the Federal Debt Collection Procedures Act of 1988.

Finally, the Federal Debt Collection Procedures Act of 1989 represents a collaborative effort of the 93 U.S. attorneys across the country who perform the vast majority of debt collection litigation on behalf of the Federal Government. Such legislation reflects their broad legal expertise and practical experience. We must not ignore their collective wisdom.

Since introduction in the 101st Congress, some technical and conforming changes have been made which improve the bill. The result was an amendment in the nature of a substitute which the Subcommittee on Courts and Administrative Practice reported on July 12, 1989.

This proposal is most important and I urge its prompt passage.

Again, I wish to say this amendment was prepared by the U.S. attorneys. They all got together and prepared this bill and they felt it was the best way to collect the debts owed to the Federal Government. I do not see why anyone would oppose this. It has just been delayed in the committee this year. As I stated we passed it last year in the Senate but it did not get to the House of Representatives in time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. I reiterate the last point the Senator made.

The point I want to reiterate is that Senator THURMOND and I introduced this last year. It passed last year. I know of no reasonable objection to this amendment and I ask that it be agreed to.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to amendment No. 931.

The amendment (No. 931) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I send to the desk two amendments and ask that they be considered en bloc.

The PRESIDING OFFICER. If there is no objection, the pending amendment will be set aside.

The clerk will report the amendments en bloc.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] for himself and Mr. HATCH, proposes amendments numbered 932 and 933 en bloc.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT No. 932

At the appropriate place, insert the following new title:

TITLE .—TREATMENT, PREVENTION AND EDUCATION

SEC. 01. GRANTS FOR TRAINING OF DRUG TREATMENT PROFESSIONALS.

Title V of the Public Health Service Act is amended by inserting after section 508 (42 U.S.C. 290aa-6) the following new section:

"SEC. 5083. GRANTS FOR TRAINING OF DRUG TREATMENT PROFESSIONALS.

"(a) ESTABLISHMENT.—The Secretary shall establish a grant program to make grants to eligible institutions to enable such institutions to provide training services to increase the supply of drug treatment professionals, including professionals trained to work with adolescents, and professionals trained to work with community prevention activities.

"(b) ELIGIBLE INSTITUTIONS.—Institutions eligible to receive a grant under this section shall include medical shcools, schools of osteopathy, schools of nursing, schools of public health, schools of chiropractic services, schools of social work, and other appropriate educational institutions that submit an application in accordance with subsection (c).

"(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible institution shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FISCAL YEAR 1990.—The Secretary shall use amounts appropriated under section 408 for the fiscal year ending September 30, 1990, to carry out this section in fiscal year 1990.

"(2) SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated to make grants under this section in each of the fiscal years 1991 and 1992, such sums as may be necessary.".

SEC. 02. NATIONAL RESOURCE AND INFORMATION CENTER.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new section:

"SEC. 509H. NATIONAL RESOURCE AND INFORMATION CENTER.

"(a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse and Mental Health Administration, shall use amounts made available under subsection (d) to make a grant to an institution of the type described in subsection (b) for the establishment of a National Resource and Information Center for Perinatal Addiction.

"(b) TYPE OF INSTITUTION.—The grant under subsection (a) shall be awarded, after a competitive search, to a private nonprofit institution that has an extensive background and experience in performing research on maternal substance abuse and in disseminating such information to professionals, policymakers, the general public and the media, as well as experience in providing educational services to maternal substance abusers and their exposed infants.

"(c) DUTIES.—The Center established under subsection (a) shall—

"(1) coordinate and disseminate research on maternal substance abuse, treatment options for such women and infants of such women, and prevention strategies;

"(2) develop and distribute training and educational information and materials concerning maternal substance abuse;

"(3) act as a clearinghouse for information on treatment programs for pregnant women who are addicted to illegal substances;

"(4) develop and manage a national toll free hotline to provide information and referrals;

"(5) provide policy analysis and program evaluation to the Secretary of Health and Human Services; and

"(6) provide any other services designed to carry out the purposes of this subsection.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph, $2,500,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991.".

SEC. 03. GRANTS FOR SUBSTANCE ABUSE TREATMENT FOR PREGNANT AND POST-PARTUM WOMEN.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) (as amended by section —03) is further amended by adding at the end thereof the following new section:

"SEC. 5091. GRANTS FOR SUBSTANCE ABUSE TREATMENT FOR PREGNANT AND POST-PARTUM WOMEN.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall, subject to amounts available in appropriation acts, make grants to entities to provide assistance to outpatient and residential substance abuse treatment programs relating to pregnant and post-partum women and their infants, that meet the requirements of subsection (b).

"(b) REQUIREMENTS.—

"(1) DISTRIBUTION.—In making grants under subsection (a), the Administrator shall ensure that grants are reasonably distributed among projects that provide outpatient and residential treatment.

"(2) SERVICES.—An entity shall not be eligible for a grant under subsection (a) unless such entity provides the Administrator with an assurance that such entity will use assistance provided under such grant to provide, arrange for the provision of, or refer individuals to, services that shall include

"(A) intervention services for pregnant and post-partum women, including—

"(i) substance abuse and addiction treatment services;

"(ii) support services (such as child care and transportation services);

"(iii) education and skill building services (such as parenting and job seeking skill services);

"(iv) integration and coordination of substance abuse treatment services with prenatal or post-partum health care services;

"(v) innovative methods of outreach to identify and recruit target populations for services early in the pregnancy of individuals of such populations;

"(vi) medical screening procedures of pregnant women for past and present substance use and abuse; and

"(vii) after care services;

"(B) interventions where infants are at risk, including—

"(i) direct intervention, treatment, or rehabilitation of infants, which may include other siblings, to reduce or prevent the impact of maternal substance abuse on such children; and

"(ii) supportive services for biologic or foster parents of infants affected by maternal substance abuse;

"(C) service delivery strategies that may include—

"(i) strategies for the coordination, for purposes of identification or service delivery, of family violence and homeless shelter programs, programs under part A of title IV of the Social Security Act, and section 17 of the Child Nutrition Act of 1966, crisis pregnancy centers programs, public housing programs, and prison programs, with other likely points of access for high risk women;

"(ii) strategies concerning the involvement of significant others (such as male partners of pregnant women) as direct intervention targets or strategies to aid in the outreach and service delivery processes for women;

"(iii) strategies for co-locating multiple facilities to facilitate the delivery of services; and

"(iv) innovative strategies (such as case management) to ensure the coordinated utilization of generally unrelated service systems; and

"(D) other services necessary to improve pregnancy outcomes, reduce substance abuse among women of childbearing age, and increase the stability of the family home environment.

"(c) APPLICATION.—The Administrator shall not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Administrator determines to be necessary to carry out this section; and

"(4) the application contains an assurance that the applicant will provide funds, other than Federal funds, in an amount that is not less than 10 percent of the amount of the grant under subsection (a).

"(d) CONSTRUCTION.—Nothing in this section shall be construed to permit the Secretary to discriminate in the awarding of grants under subsection (a) against applicants that propose or provide residential or outpatient rehabilitation services under applicable requirements of State law, including applicants that provide services to substance abusing pregnant and post-partum women that receive treatment by order of a court or other appropriate public agency, so long as all such applications include measures that encourage substance abusing pregnant and post-partum women to seek prenatal care and rehabilitation.

"(f) There are authorized to be appropriated to carry out this section, $50,000,000 in fiscal year 1990, and such sums as may be necessary in fiscal year 1991.".

SEC. 04. EMERGENCY PROTECTIVE CHILD SERVICES GRANTS.

"(a) ESTABLISHMENT.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101) is amended by adding after section 8 the following new section:

"SEC. 8A. EMERGENCY PROTECTIVE CHILD SERVICES GRANTS.

"(a) ESTABLISHMENT.—Subject to the availability of appropriations, the Secretary shall establish a grant program to make grants to eligible entities to enable such entities to provide services to children whose parents are substance abusers.

"(b) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under this section shall be State or local agencies that are responsible for administering protective child services or child abuse intervention services. Such agencies shall include those agencies responsible for administering foster care, child welfare, child protective services, and child abuse intervention programs.

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.

"(2) ASSURANCE OF USE.—An application submitted under paragraph (1) shall—

"(A) contain an assurance that the applicant operates in a geographic area where substance abuse has placed substantial strains on social service and law enforcement agencies and has resulted in substantial increases in the need for services that cannot be met without funds available under this section;

"(B) identify the responsible agency or agencies that will be involved in the use of funds provided under this section;

"(C) contain a description of the emergency situation with regard to children of substance abusers who need services of the type described in this section;

"(D) contain a plan for improving the delivery of such services to such children;

"(E) contain assurances that such services will be provided in a comprehensive multidisciplinary and coordinated manner; and

"(F) contain any additional information as the Secretary may reasonably require.

"(d) USE OF FUNDS.—Funds received by an entity under this section part shall be used to improve the delivery of services to children whose parents are substance abusers. Such services may include—

"(1) the hiring of additional personnel by the entity to reduce caseloads;

"(2) the provision of additional training for personnel to improve their ability to provide emergency child protective services related to substance abuse by the parents of such children;

"(3) the provision of expanded services to deal with family crises created by substance abuse;

"(4) the recruitment of additional foster care families;

"(5) the recruitment of additional adoptive families; and

"(6) the establishment or improvement of coordination between the agency administering the grant and—

"(A) child protection and welfare organizations;

"(B) hospitals and health care providers;

"(C) public health and mental health professionals;

"(D) judicial and law enforcement officers;

"(E) child advocates;

"(F) public educational institutions;

"(G) community-based organizations that serve substance abusing parents, including pregnant and post-partum females and their infants;

"(H) public housing officials;

"(I) providers of shelter to abused and homeless females and families and

"(J) parents and representatives of parent groups.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $40,000,000 in fiscal year 1990, and such sums as may be necessary in each subsequent fiscal year.".

(b) CHILD ABUSE GRANTS.—

(1) FINDINGS.—Section 402(A) of the Joint Resolution entitled "A Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes", (approved October 12, 1984, Public Law 98-473, 98 Stat. 2198, 42 U.S.C. 5116d) is amended—

(A) by inserting after paragraph (3), the following new paragraph:

"(4) parental substance abuse places children at great risk of abuse and neglect;"; and

(B) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8) respectively.

(2) STATE ELIGIBILITY.—Section 405(4)(A) of such Act (98 Stat. 2198, 42 U.S.C. 5116c) is amended by inserting "services to substance abusing parents, including pregnant and post-partum women," after "perinatal bonding,".

SEC. 05. PRIMARY PEDIATRIC CARE FOR DISADVANTAGED CHILDREN PROGRAM.

Subpart V of part D of title III of the Public Health Service Act (42 U.S.C. 256 et seq.) is amended—

(1) by adding after the subpart heading the following:

"CHAPTER 1—GRANT PROGRAM"

(2) in section 340(q), to read as follows:

"(q) FUNDING.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out chapters 1 and 2, $61,200,000 for fiscal year 1989, $73,600,000 for fiscal year 1990, and $76,200,000 for fiscal year 1991.

"(2) USE OF FUNDS.—Of amount made available under paragraph (1) in excess of $63,600,000 in fiscal year 1990 and $66,200,000 in fiscal year 1991, the Secretary shall use up to $10,000,000 in each of such fiscal years to carry out chapter 2.

"(3) Amounts received by a grantee pursuant to subsection (a) remaining unobligated at the end of the fiscal year in which the amounts were made received shall remain available to the grantee during the succeed-

ing fiscal year for the purpose described in such subsection."; and

(3) by adding at the end thereof the following new chapter:

"CHAPTER 2—PRIMARY PEDIATRIC CARE FOR DISADVANTAGED CHILDREN PROGRAM

"SEC. 340A. PRIMARY PEDIATRIC CARE FOR DISADVANTAGED CHILDREN PROGRAM.

"(a) DEFINITION.—As used in this section, the term 'acute and primary pediatric care' means general outpatient services such as immunizations, general physical examinations, treatment of otitis media and simple pneumonias, assessment of growth and development, and referrals.

"(b) AUTHORITY.—The Director may make grants and enter into contracts with public and nonprofit organizations, agencies, and institutions, and with individuals to pay part or all of the costs of establishing programs (such as the New York Children's Health Project) designed to provide high quality acute and primary pediatric care to economically disadvantaged children and adolescents for the purposes described in subsection (c), or operating such programs, or both.

"(c) ELIGIBLE ACTIVITIES.—A recipient shall use funds available under this section to—

"(1) provide child health stations or, where appropriate, mobile medical units, staffed by physicians, nurse practitioners, and other health care providers to conduct health assessments, acute care, physical exams, and simple lab tests.

"(2) establish an extensive follow-up system to ensure maximum consultative and referral visits for comprehensive health needs;

"(3) provide adolescent health services that are coordinated by an adolescent health physician and that relate to specific programs for—

"(A) prenatal care for teenage pregnancies;

"(B) the identification of potential chemical substance abuse;

"(C) an intensive substance abuse prevention program; and

"(D) other adolescent health problems;

"(4) provide psychological services directly or through references, including screening, evaluation, and treatment by a psychologist under the direction of a developmental pediatrician;

"(5) establish a child abuse identification and management referral program;

"(6) establish a health service program for children in foster care;

"(7) establish a program to provide medical services and community referrals to runaway and homeless youth;

"(8) establish a program to provide services to children with special medical needs, such as a physical handicap or chronic illness; or

"(9) establish programs for other underserved children.".

SEC. 06. RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION GRANTS.

Section 508 of the Public Health Service Act (42 U.S.C. 290aa-6) is amended—

(1) in subsection (b)(10)—

(A) by striking out "and" at the end of subparagraph (A); and

(B) by adding at the end thereof the following new subparagraph:

"(C) establish a program to provide grants to hospitals, community health centers, and chemical dependency treatment centers that serve non-metropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, chemical dependency treatment or education services; and"; and

(2) by adding at the end thereof the following new subsection:

"(e)(1) In carrying out subsection (b)(1)(C) the Director shall provide grants in accordance with this subsection.

"(2) To receive a grant under subsection (b)(1)(C), a hospital, community health center, or treatment facility shall—

"(A) serve a non-metropolitan area or have a substance abuse treatment or education program that is designed to serve a non-metropolitan area;

"(B) be operating, or have a plan to operate, an approved substance abuse treatment program or an approved community education program;

"(C) agree to coordinate substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(D) prepare and submit an application in accordance with paragraph (3).

"(3)(A) To be eligible to receive a grant under subsection (b)(10)(C), an entity shall submit an application to the Director at such time, in such manner, and containing such information, including an assurance that assistance received under this section shall be used in accordance with paragraph (4), as the Director shall require.

"(B) State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants under paragraph (2).

"(4) An entity that receives a grant under subsection (b)(10)(C) shall use such grant to assist or establish projects that serve nonmetropolitan areas in which the need for substance abuse treatment services is greater than the capacity of available treatment facilities at the time of such grant.

"(5)(A) To receive a grant under subsection (b)(10)(C), a project shall serve nonmetropolitan areas in which the need for substance abuse treatment facilities is greater than the capacity of such existing treatment facilities.

"(B) In awarding grants under subsection (b)(10)(C), the Director shall give special consideration to—

"(i) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(ii) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(iii) projects that are designed to serve areas that have no available existing treatment facilities.

"(6) The term of each grant shall not exceed 3 years.

"(7) To the extent feasible, the Director shall provide grants to fund at least one project in each State.".

SEC. 07. DRUG ABUSE TREATMENT IMPROVEMENT.

Part A of title V of the Public Health Service Act (42 U.S.C. 290dd et seq.) (as amended by sections 02 and 03) is further amended by adding at the end thereof the following new section:

"SEC 509J. DRUG ABUSE TREATMENT IMPROVEMENT.

"(a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall, subject to the availability of appropriations, establish and implement a Substance Abuse Treatment Improvement Program that shall make grants to, and enter into contracts or cooperative agreements with, State and local drug abuse entities, and public and private nonprofit agencies to—

"(1) increase the total number of drug abuse treatment slots available for individuals in the United States;

"(2) improving drug abuse treatment efficacy;

"(3) provide emergency treatment expansion for geographic areas with high incidences of drug abuse among particularly vulnerable populations, including racial and ethnic minorities, adolescents in urban and rural areas, pregnant and post-partum drug addicts and their infants, intravenous drug abusers, and residents of public housing projects; and

"(4) increasing public acceptability of treatment facilities within local communities.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 in fiscal year 1990, of which $10,000,000 shall be made available for treatment crisis grants, and such sums as may be necessary in fiscal year 1991.".

SEC. 08. RURAL DRUG EDUCATION.

Section 5122 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192) is amended by adding at the end thereof the following new subsection:

"(d) Not less than 5 percent of the funds made available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for substance abuse education programs serving individuals who reside in non-metropolitan areas. The Secretary may grant a waiver of this subsection for good cause.".

SEC. 09. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa-7) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period; and

(3) by adding at the end thereof the following new paragraphs

"(5) to gather information pertaining to rural drug abuse treatment and education projects funded by the Alcohol, Drug Abuse, and Mental Health Administration, as well as other such projects operating throughout the United States; and

"(6) to disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested individuals.".

SEC. 10. EMPLOYEE ASSISTANCE PROGRAMS.

Section 2101 of the Anti-Drug Abuse Act of 1988 (20 U.S.C. 566) is amended—

(1) in subsection (d), by striking out "$5,000,000" and all that follows through the period and inserting in lieu thereof "$5,300,000 for each of the fiscal years 1990 and 1991 of which $300,000 shall be made available to carry out subsection (d).";

(2) by inserting after subsection (c), the following new subsection:

"(d) CONGRESSIONAL EMPLOYEE ASSISTANCE PLANS.—The Clerk of the House of Representatives and the Sergeant of Arms of the Senate shall each develop and implement an Employee Assistance Program under this section for Congressional members, officers,

staff, and families of such individuals. Prior to submitting an application under subsection (b), the Clerk and the Sergeant of Arms shall obtain approval of its plan from the House of Representatives and the Senate."; and

(3) by redesignating subsection (d) as subsection (e).

SEC. 11. STUDY BY THE NATIONAL AGENCY OF SCIENCES AND THE NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES.

(a) SCOPE OF UNDERTAKING.—The Secretary of Health and Human Services, shall arrange to have a study conducted to—

(1) assess drug treatment and prevention programs in effect of the date of enactment of this Act;

(2) identify those drug treatment and prevention programs that are effective;

(3) determine whether the programs referred to in paragraph (2) can and should be expanded or extended to other areas;

(4) determine whether Federal assistance for treatment and prevention program in effect on the date of enactment of this Act should be discontinued; and

(5) recommend an overall Federal medical and public health effort to treat individuals who are addicted to illegal drugs and to further prevent the use of such drugs.

(b) ARRANGEMENTS.—

(1) REQUEST.—The Secretary of Health and Human Services shall request the National Academy of Sciences and the National Institute of General Medical Science to conduct the study required by subsection (a) under an arrangement whereby the actual expenses incurred by such Academy and Institute in conducting such study shall be paid by the Secretary.

(2) UNWILLINGNESS TO ENTER INTO.—If either the National Academy of Sciences or the National Institute of General Medical Sciences, but not both, decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph solely with the Academy or Institute that is willing to conduct such study.

(3) NONPROFIT PRIVATE GROUPS.—If both the National Academy of Sciences or the National Institute of General Medical Sciences decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph with other appropriate nonprofit private groups or associations under which such groups or associations shall conduct such study and prepare and submit the report required under subsection (c).

(4) CONSULTATION.—The entity that conducts the study under subsection (a) shall consult with the Director of the National Institutes of Health.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit, to the Committees on Energy and Commerce and Judiciary of the House of Representatives and the Committee on Labor and Human Resources and Judiciary of the Senate, a report concerning the results of the study conducted under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000.

SEC. 12. COMPREHENSIVE DRUG PREVENTION PROGRAMS.

Section 508 of the Public Health Service Act (42 U.S.C. 290aa-6) is amended—

(1) in subsection (b)(8), by inserting before the semicolon the following: ", including a program that shall establish a comprehensive approach to drug prevention"; and

(2) in subsection (c)—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end thereof the following new paragraph:

"(2) To be eligible to receive assistance under subsection (b)(8), as a program taking a comprehensive approach to drug prevention, an institution shall establish or expand a drug prevention program that is comprehensive in nature, and that includes—

"(A) an anti-drug policy;

"(B) peer to peer drug abuse programs;

"(C) the provision of complete and accurate information concerning drugs;

"(D) the involvement of the family and community; and

"(E) the participation of the institution in a communication system established by the county that such institution operates in for the purpose of sharing drug prevention and education information with local agencies.

SEC. 13. DRUG-FREE WORKPLACE REQUIREMENTS.

(a) FEDERAL CONTRACTORS.—Section 5152(a)(1)(B) of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701(a)(1)(B)) is amended—

(1) in clause (iii), by striking out "and" at the end thereof;

(2) in clause (iv), by adding "and" after the semicolon; and

(3) by adding at the end thereof the following new clause:

"(v) the dangers of drug abuse among children, including the information parents need to know to identify the early signs of drug use by children;".

(b) FEDERAL GRANT RECIPIENTS.—Section 5153(a)(1)(B) of such Act (41 U.S.C. 702(a)(1)(B)) is amended—

(1) in clause (iii), by striking out "and" at the end thereof;

(2) in clause (iv), by adding "and" after the semicolon; and

(3) by adding at the end thereof the following new clause:

"(v) the dangers of drug abuse among children, including the information parents need to know to identify the early signs of drug use by children;".

AMENDMENT No. 933

At the appropriate place in the bill, insert the following:

(c) SECTION 5125.—Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended by inserting at the end thereof the following new subsection:

"(d) Any local or intermediate education agency or consortia that cannot make the assurances described in section 5126(a)(2)(H) shall use any amounts made available under section 5124(a), that is in excess of the amount made available under such section in fiscal year 1989, for purposes described in section 5126(a)(2)(H).

(d) SECTION 5126.—Section 5126(a)(2) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3196(a)(2)) is amended by inserting after subparagraph (G) the following new subparagraph:

"(H) contain assurances that the local or intermediate educational agency or consortia under section 5124(a) is currently providing, or will provide, in accordance with section 5125(c), anti-drug education and prevention services targeted at students in grades 4 through 9 (and lower grades in areas of high drug use), that shall—

"(i) include prevention of the use of gateway drugs, such as alcohol, tobacco, and marijuana; and

"(ii) to the maximum extent possible—

"(I) include, or coordinate with, community based programs;

"(II) include resistance skills training, social support for prevention, and changing social norms to include nondrug use;

"(III) include, for middle school grades, teaching refusal or resistance skills through peer counseling and other techniques, and life and social skills training;

"(IV) include, for elementary school grades, social developmental programs that include resistance skills and social skills training;

"(V) identify, provide or refer high risk youth as defined in section 5122(b)(2) to available counseling and appropriate social services; and

"(VI) include programs which involve parents, other community members, government officials, and the media.".

(e) SECTION 5127.—Section 5127(a)(1) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3197(a)) is amended—

(1) in subparagraph (F), by striking out "and";

(2) in subparagraph (G), by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraph:

"(H) a description of how Federal and non-Federal funds were used for drug prevention and education activities within the State.".

(f) SECTION 5111.—Section 5111(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.) is amended by striking "$350,000,000" and inserting "$577,000,000".

(g) SECTION 5122.—Section 5122 of the Drug-Free Schools and Communities Act of 1986 is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively;

(2) by inserting the following new subsection (a) after the section designation:

"(a) EMERGENCY GRANTS TO SCHOOLS IN URBAN AND RURAL AREAS.—(1) From the amount available to carry out this section pursuant to section 5121(a), 33.3 percent of such amount shall be used by the chief executive officer in consultation with the State educational agency or the chief State school officer of a State, to make contracts with, and emergency grants to, local educational agencies serving urban and rural communities with severe drug problems.

"(2)(A) In awarding grants under this subsection the chief executive shall first award grants to local educational agencies serving the largest city in the State to develop and implement comprehensive approaches to eliminating the serious drug problem that affects schools and students within the boundaries of the local educational agency. Such grants shall be of sufficient size, scope, and quality to be of value and effective.

"(B) After satisfying the requirements of subparagraph (A) the chief executive officer of a State receiving a grant pursuant to the provisions of this section shall make grants to urban and rural local educational agencies with severe drug problems as determined by the incidence of drug abuse in relation to the size of the school age population. Such grants shall be of sufficient size, scope, and quality to be of value and effective. Such grants to the local educational agency shall be used for the development and implementation of comprehensive ap-

proaches to eliminating the serious drug problem that affects schools and students within the boundaries of the local educational agency.

"(3) The Secretary may waive the provisions of this subsection for States in which there is no concentration of drug problems."; and

(3) in subsection (b) (as amended in paragraph (1)) by striking "IN GENERAL.—Not" and inserting "REMAINDER.—From the remainder available to carry out this section, not".

Mr. KENNEDY. Mr. President, I offer these amendments on behalf of myself, the Senator from Utah [Mr. HATCH] and others. I understand they have been cleared on both sides of the aisle.

I will make a brief statement in terms of the explanation of the amendments and then hopefully the Senate will accept them.

Mr. President, there is no problem that is of more concern to the American people than drug abuse. And with good reason. The drug epidemic is turning neighborhoods across the country into war zones. Forty percent of all high school seniors have used an illegal drug in the past year. An estimated 375,000 babies are born every year to women who have abused drugs during their pregnancies, and the evidence is mounting that many of these children may face life-long disabilities. Child protective services throughout the country are sinking under a tidal wave of drug abuse, child abuse, and neglect.

The news about the drug war—bad as it is—is not all bad. Casual use of drugs has dropped almost 40 percent in just 3 years. The evidence is strong and growing that prevention/education efforts have been working and can work better if more schools and communities can be helped to adopt the best model programs. Between 1986 and 1987, cocaine use among high school seniors dropped 19 percent. Between 1987 and 1988, it dropped another 23 percent. This dramatic drop in use was the direct result of growing understanding that even occasional use of cocaine is dangerous. Well-constructed demonstration programs have shown even greater success. Young students enrolled in the Seattle social development project reduced their use of the gateway drugs of cigarettes, alcohol, and marijuana by one-third compared to students not in the program. Among older students who went through the Kansas City Comprehensive School and Community Based Prevention Progam, use of marijuana and cocaine was less than half as high as among those not in the program.

The news about the effectiveness of treatment programs is also good. The DARE study of 24,000 drug abusers who entered treatment in the late sixties and early seventies showed that treatment sharply reduced drug use and crime and increased employment—even when users were studied 12 years after the initial treatment episode. The just-released TOPS study of 10,000 abusers entering treatment in the early eighties found similar positive results.

But despite the proven effectiveness of prevention and treatment, current resources are woefully inadequate. Thanks to the efforts of Senator BYRD last week, the Nation is moving much closer to an adequate resource commitment to the war on drugs. Last week, we also passed key elements of the President's proposals for legislative changes necessary to implement the war on drugs. But just as the resources the President proposed were woefully inadequate, the legislative changes he advocated also need substantial improvement. Because of the parliamentary situation last week, we were barred from offering more than a few of these improvements.

I intend to offer three amendments embodying these improvements. The first two amendments have been worked out with Senator HATCH; they include changes to the prevention, treatment, and education sections of the President's program representing the ideas of Senators from both sides of the aisle.

The third amendment includes items on which no agreement could be reached, but which I regard as essential to successful prosecution of the war on drugs. I will offer this amendment later in the day.

The first consensus amendment deals with prevention and treatment. It includes the three authorization changes agreed to last week: new programs for pregnant women and their infants, for training of drug treatment professionals, and for services to abused and neglected children. These amendments are included in case they do not survive the appropriations conference.

In addition, a number of important additional improvements to the President's program are included. Senator DODD has authored a program to provide additional health services to children in areas impacted by the drug amendment. Senators BAUCUS and PRYOR have provided valuable proposals to deal with the impact of this epidemic in rural areas. Their proposals would provide demonstration prevention and treatment grants in rural areas and expand the current OSAP clearing house to include a focus on rural areas. Senator DURENBERGER has included a valuable proposal to provide assistance to congressional staff suffering from substance abuse problems. Senator BIDEN has offered proposals to expand ADMS block grant services to cover the families of substance abusers and to authorize a National Academy of Sciences proposal to study the whole area of drug abuse treatment. I believe that each of these proposals can and will make an important difference in the success of our war on drugs.

The education amendment also improves the President's proposals in important respects. I offer it on behalf of myself and Senators ADAMS, MATSUNAGA, and DURENBERGER. This amendment has been agreed to by Senators HATCH, PELL, and KASSEBAUM. It addresses the education and prevention components of the drug package which affect the Drug Free Schools and Communities Act.

All school districts in the country today receive some funds under the Drug Free Schools Act. In most cases, these are enhanced by funds from State and local sources. A growing body of evidence, provided by the Kansas City midwestern prevention project and the Seattle social development project has demonstrated what programs are most effective in preventing drug abuse. These successful programs include several components:

They stress prevention in the fourth through ninth grade—the years when young people are most vulnerable to becoming involved with drugs;

They focus on preventing use of the so-called "gateway drugs": alcohol, tobacco, and marijuana; we know that if we can prevent onset of use of these gateway drugs, we can substantially reduce later use of harder substances, since less than 1 percent of the hard drug using population began using hard drugs without first using gateway drugs.

They teach "refusal" or "resistance" skills through peer counseling and other techniques so that young people can avoid peer pressure to use drugs; and

They include a community-based component with the school-based program, and involve parents, government officials, and the media.

Our amendment would ask school districts to assure that they are providing programs for these grades four through nine which focus on gateway drug prevention and which include as many of these components as possible. If a school district is not providing services to this age group, then we would require it to spend new funds available under the Drug Free Schools Program on these grades. We believe this is a necessary targeting of funds under the Drug Free School Act for those districts which are not now providing services to these late-elementary and middle school years. We have a more advanced state of knowledge about what is effective than we did when the Drug Free Schools Act was first authorized in 1986. This change will help to assure that students are being reached when they are most vulnerable to beginning drug use, and will use the most effective techniques currently available.

We have included the Urban and Rural Emergency Grant proposal by the administration. This would target funds where there is a particularly intense drug problem. This provision has been reported out of the Labor Committee as part of S. 695.

This amendment puts the legislative language in place to assure effective use of drug-free schools funds. I urge its prompt passage.

I hope that both of these amendments will be accepted en bloc.

The PRESIDING OFFICER. Is there further debate?

Mr. HATCH. Mr. President, just to clarify a couple of matters so that we are sure, as I understand it, earlier in the day we had some amendments to which the distinguished Senator from Texas had some objections or some questions. As I understand it, they have been taken out of the amendment; is that correct?

Mr. KENNEDY. The Senator is correct.

I must say, I wish it was not necessary to take them out. Quite frankly, I am only taking them out because the Senator from Texas is not here to debate them this evening and we wanted to move this legislation forward. I hope to have an opportunity to address them at another time.

We have been waiting here now for about 3½ hours for the Senator from Texas. I know he is sincere in his proposals, but there has been an effort by the leadership to move this forward and we will have a chance to debate those measures at another time.

The Senator is correct, they have been removed.

Mr. HATCH. I am going to have a clarification, if the Senator would be willing to wait and put in a quorum call. We have just reached a position where I think I am going to try to get hold of the distinguished Senator from Texas. I would just as soon have those provisions included. As you know, these are Kennedy-Hatch amendments. I do not think he would object if we were able to explain it this evening. The difficulty has been that the Senator from Texas is at the White House at a special State dinner in honor of the President of Mexico.

Mr. KENNEDY. I appreciate the position of the Senator from Utah. As always, he is very helpful. As always, he is very accommodating. I hope he will be persuasive with the Senator from Texas because I think, quite frankly, that giving maximum flexibility to local school districts is something I hear the Senator from Texas talk about frequently. I think without the provisions which we have temporarily set aside on this, the idea that we have Federal interference in those kinds of judgment in what I consider a kind of arbitrary way is not really a position of the Senate.

What is the desire of the Senator from Utah?

Mr. HATCH. Let me first say, I support the amendment of the distinguished Senator from Massachusetts to expand certain programs under the jurisdiction of the labor and Human Resources Committee. This amendment incorporates the amendments adopted last week providing programs to help States curb child abuse by parents who use drugs.

This amendment provides expanded treatment programs for pregnant women who use drugs. This amendment provides funds for the training of substance abuse treatment professionals.

This amendment also adds important provisions by Senator DURENBERGER to ensure that rural communities have access to trained community drug prevention experts. Senator DURENBERGER also authorizes the establishment of an employee assistance program, or EAP's, for congressional employees.

This will help those employees who work on Capitol Hill have access to drug and alcohol treatment if they need it. Finally, this amendment includes a provision developed by Senator KASSEBAUM to train juvenile substance abuse treatment specialists.

So I want to particularly thank the distinguished Senator from Massachusetts for his leadership. There is no question he is a great leader in this area and there is no question that this amendment is a very good amendment.

Having said that, I would like to have just a few minutes to be able to place a call to the distinguished Senator from Texas, to see if I can reinstitute those provisions regarding education that the Senator would like to have in these amendments at this time. If I cannot, then we will proceed with this amendment and I would recommend our side adopt it and I am sure the other side will be willing to adopt it as well.

Mrs. KASSEBAUM. Mr. President, a great deal was accomplished last week when the Senate approved a number of important initiatives that will help fight the war on drugs. I was especially pleased with the bipartisan manner in which those measures were presented, including one offered by Senator KENNEDY that would provide grants for the training of drug treatment professionals. It is no secret that one of the greatest problems facing the drug treatment community is that so many addicts are seeking treatment, and yet in many cities, so few slots are available. Moreover, many of those treatment facilities are woefully understaffed with professionals. The Kennedy measure will help increase the supply of those needed specialists.

However, I am concerned with one aspect of the training currently provided by eligible institutions for this service. Virtually all training is geared toward the treatment of adults. Little, if any, regard is given to ways of treating juveniles. Yet, juveniles have different needs, different motives for taking drugs. They take a far different approach to their surroundings, and are far more likely to respond to treatment when it is offered in a manner more suitable to their special needs. I have included in the current Labor-HHS committee package an amendment to the Kennedy measure providing an additional grant to train and recruit drug treatment professionals in the treatment of juveniles. Special emphasis would be given to the recruitment of minorities.

Mr. President, our young people are the most vulnerable casualties in this war on drugs. We must do what we can to assist them when they seek aid, to be their sounding board when they cry out for help. It is my hope this amendment will be a first step in increasing the number of trained professionals who can hear that cry and help return these young people to healthy, drug-free lives.

Mr. KOHL. I would like to engage in a colloquy with my colleague from Massachusetts, the distinguished chairman of the Labor and Human Resources Committee. I understand that the package we are considering today contains the same provisions we enacted last week including model projects for pregnant and postpartum women, the National Resource Center on Perinatal Addiction and Emergency Child Protective Service grants. As the author of those provisions along with Senators SIMON and DODD, I commend the distinguished Chair for including them. As he knows, the problems these programs are designed to address have reached crisis proportions.

Mr. KENNEDY. I agree with my colleague from Wisconsin. As many as 375,000 infants a year may be exposed to illegal drugs as a result of maternal substance abuse. And parental substance abuse leaves hundreds and thousands of older children at risk of abuse and neglect. I commend my colleague from Wisconsin for his leadership on these issues and all his assistance in drafting the language. I look forward to continuing to work with him on these pressing problems.

Mr. HATCH. With the Senator's permission, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I think I know the answer but will the Chair state the pending business.

The PRESIDING OFFICER. The pending business is amendments 932 and 933 en bloc.

Mr. HELMS. I am sorry. Would the Chair repeat that?

The PRESIDING OFFICER. The pending question before the Senate is on amendments 932 and 933, en bloc, offered by the Senator from Massachusetts.

Mr. HELMS. I see. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. KENNEDY. Objection, Mr. President.

The PRESIDING OFFICER. Objection is heard. The pending business before the Senate is amendments 932 and 933 offered by the Senator from Massachusetts.

Mr. GRAHAM. Mr. President, the Senator from Florida regrets he was not aware there was an amendment currently pending before the Senate. I will offer this at an appropriate time.

The PRESIDING OFFICER. The Chair notes that absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 933, AS MODIFIED

Mr. KENNEDY. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. Without objection, amendment No. 933 will be so modified.

The amendment, as modified, is as follows:

At the appropriate place in the bill, insert the following:

(a) THE HIGHER EDUCATION ACT OF 1965.—Section 1212 of the Higher Education Act of 1965 as added by the Department of Transportation and Related Agencies Appropriations Act, 1990, is further amended—

(1) in subsection (a) by—

(A) striking "of law," and inserting "of law, and except as provided in subsection (d),";

(B) striking "and has implemented" and inserting "a plan with a timetable to implement";

(C) striking "and" at the end of paragraph (1)(D);

(D) striking "impose sanctions" and inserting "impose sanctions developed by the institution" in paragraph (1)(E);

(E) inserting at the end of paragraph (1) the following new subparagraph (F):

"(F) a description of the institution's drug and alcohol abuse prevention and intervention program, including alternative support, education and re-entry programs for students who are expelled as a result of violating standards required by paragraph (1)(A).";

(F) by striking "ensure that" and inserting "a description of how" in paragraph (2)(B) and

(3) by inserting at the end thereof the following new subsection (d):

"(d) Upon application by an institution of higher education, the Secretary shall grant a waiver of the sanctions authorized by this section to any institution of higher education which demonstrates that it is in the process of developing and implementing a plan required by subsection (a). Such waiver shall be for a period not to exceed one year from the date of enactment of this section.".

(b) SECTION 5145.—Section 5145 of the Drug-Free Schools and Communities Act of 1986 as added by the Department of Transportation and Related Agencies Appropriations Act, 1990, is further amended—

(1) in subsection (a)—

(A) striking "of law," and inserting "of law, and except as provided in subsection (e),";

(B) striking "and has implemented" and inserting in lieu thereof "a plan with a timetable to implement";

(C) striking the semicolon at the end of paragraph (1), and inserting a comma and "and complies with the provisions of section 5126(a)(2)(H);";

(D) striking "statement that sanctions" and inserting "statement that sanctions, developed by the local educational agency," in paragraph (4);

(E) renumbering paragraphs (6), (7), and (8), as paragraphs (7), (8), and (9), respectively;

(F) inserting after paragraph (5) the following new paragraph (6):

"(6) a description of the local educational agency's drug and alcohol abuse prevention and intervention program, including alternative support, education and re-entry programs for students who are expelled as a result of violating standards required by paragraph (3);";

(G) striking the semicolon at the end of paragraph (7) (as renumbered in paragraph (1)(E)) and inserting ", and the information required in paragraphs (5) and (6)";

(H) striking "ensure that" and inserting in lieu thereof "a description of how" in paragraph (9)(II) (as renumbered in paragraph (1)(E)); and

(2) in subsection (c) by striking "and has implemented" and inserting in lieu thereof "a plan with a timetable to implement";

(3) in subsection (d) by—

(B) striking "5126(c)" and inserting "5126(a)" in paragraph (2); and

(4) inserting at the end thereof the following new subsection (e):

"(e) Upon application by a State educational agency, the Secretary shall grant a waiver of the sanctions authorized by this section to each State educational agency which demonstrates that it is in the process of developing and implementing a plan required by subsection (a). Such waiver shall be for a period not to exceed one year from the date of enactment of this section.".

(c) SECTION 5125.—Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended by inserting at the end thereof the following new subsection:

"(d) Any local or intermediate education agency or consortia that cannot make the assurances described in section 5126(a)(2)(H) shall use any amounts made available under section 5124(a), that is in excess of the amount made available under such section in fiscal year 1989, for purposes described in section 5126(a)(2)(H).

(d) SECTION 5126.—Section 5126(a)(2) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3196(a)(2)) is amended by inserting after subparagraph (G) the following new subparagraph:

"(H) contain assurances that the local or intermediate educational agency or consortia under section 5124(a) is currently providing, or will provide, in accordance with section 5125(c), anti-drug education and prevention services targeted a students in grades 4 through 9 (and lower grades in areas of high drug use), that shall—

"(i) include prevention of the use of gateway drugs, such as alcohol, tobacco, and marijuana; and

"(ii) to the maximum extent possible—

"(I) include, or coordinate with, community based programs;

"(II) include resistance skills training, social support for prevention, and changing social norms to include nondrug use;

"(III) include, for middle school grades, teaching refusal or resistance skills through peer counseling and other techniques, and life and social skills training;

"(IV) include, for elementary school grades, social developmental programs that include resistance skills and social skills training;

"(V) identify, provide or refer high risk youth as defined in section 5122(b)(2) to available counseling and appropriate social services; and

"(VI) include programs which involve parents, other community members, government officials, and the media.".

(c) SECTION 5127.—Section 5127(a)(1) of the Drug Free Schools and Communities Act of 1986 (20 U.S.C. 3197(a)) is amended—

"(1) in subparagraph (F), by striking out "and";

"(2) in subparagraph (G), by striking out the period and inserting in lieu thereof a semicolon; and

"(3) by adding at the end thereof the following new subparagraph:

"(H) a description of how Federal and non-Federal funds were used for drug prevention and education activities within the State.".

(f) SECTION 5111.—Section 5111(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.) is amended by striking "$350,000,000" and inserting "$577,000,000".

(g) SECTION 5122.—Section 5122 of the Drug-Free Schools and Communities Act of 1986 is amended—

"(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively;

(2) by inserting the following new subsection (a) after the section designation:

"(a) EMERGENCY GRANTS TO SCHOOLS IN URBAN AND RURAL AREAS.—(1) From the amount available to carry out this section pursuant to section 5121(a), 33.3 percent of such amount shall be used by the chief executive officer in consultation with the State educational agency or the chief State school officer of a State, to make contracts with, and emergency grants to, local educational agencies serving urban and rural communities with severe drug problems.

"(2)(A) In awarding grants under this subsection the chief executive shall first award grants to local educational agencies serving the largest city in the State to develop and implement comprehensive approaches to eliminating the serious drug problem that affects schools and students within the boundaries of the local educational agency. Such grants shall be of sufficient size, scope, and quality to be of value and effective.

"(B) After satisfying the requirements of subparagraph (A) the chief executive officer of a State receiving a grant pursuant to the provisions of this section shall make grants to urban and rural local educational agencies with severe drug problems as determined by the incidence of drug abuse in relation to the size of the school age population. Such grants shall be of sufficient size, scope, and quality to be of value and effective. Such grants to the local educational agency shall be used for the development and implementation of comprehensive approaches to eliminating the serious drug problem that affects schools and students within the boundaries of the local educational agency.

"(3) The Secretary may waive the provisions of this subsection for States in which there is no concentration of drug problems."; and

(3) in subsection (b) (as amended in paragraph (1)) by striking "IN GENERAL.—Not" and inserting REMAINDER.—From the remainder available to carry out this section, not".

Mr. KENNEDY. Mr. President, this responds to the concerns of the Senator from Texas that will permit an amendment to the legislation or proposal that was made last week by the Senator from Texas in terms of the enforcement provisions.

What it basically says is that if a local school district is working to conform to the drug-free school plan that there will be flexibility given to the Secretary of Education for up to 1 year to permit that school district to enact its drug-free school plan. It seems to still maintain the strong admonition that these schools are going to have to comply, but it does provide greater flexibility to local school districts in reaching their requirements.

I understand it is acceptable to the Senator from Utah.

I hope both these amendments now will be accepted.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to amendment 932 and amendment 933, as modified.

The amendments (Nos. 932 and 933, as modified) were agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 934

(Purpose: To provide for substance abuse prevention and treatment programs)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside and the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 934.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new title:

TITLE —TREATMENT, PREVENTION AND EDUCATION

SEC. 01. USE OF ADAMHA BLOCK GRANT FOR SUBSTANCE ABUSE TREATMENT.

(a) PAYMENTS.—Section 1914(a)(2) of the Public Health Service Act (42 U.S.C. 300x-2(a)(2)) is amended by adding at the end thereof the following new sentence: "The Secretary may waive the provisions of this paragraph regarding the obligation of funds if—

"(A) the State requests such a waiver; and

"(B) the Secretary determines that the requirement is not practicable or would be a serious obstacle to a long term program of the State that expands treatment opportunities.".

(b) USE OF ALLOTMENTS.—Section 1915 of such Act (42 U.S.C. 300x-3)) is amended—

(1) in subsection (b)—

(A) by inserting after the comma in paragraph (1), the following: "except that funds may be used to pay for impatient hospital drug treatment services pursuant to a contractual arrangement with a hospital if—

"(A) needed residential treatment services could not otherwise be provided; and

"(B) the rates paid for such services do not exceed 125 percent of the cost of the rates typically required for comparable residential services."; and

(B) by inserting after the fifty sentence in the matter following paragraph (B), the following new sentence: "The Secretary may waive or reduce the matching rate requirement of the preceding sentence if the State requests such a waiver and the Secretary determines that a failure to grant such a request would result in a reduction in the resources that would otherwise be used to provide direct treatment services and that are essential to implementation of the State drug abuse plan.";

(2) In subsection (c)(1)—

(A) by inserting "including social and health services necessary to improve treatment outcomes," after "drug abuse in subparagraph (A),";

(B) by striking out "and" at the end of subparagraph (B);

(C) by striking out the period and inserting in lieu thereof "; and" in subparagraph (C); and

(D) by adding at the end thereof the following new subparagraph:

"(D) to provide counseling to family members of drug abusers, including such family members in group and family counseling service settings for the treatment of drug abusers."; and

(B) in subsection (d), by adding at the end thereof the following new sentence: "Expenses incurred for the training of individuals as required under this subpart shall not be included in determining the costs of administering funds made available under section 1914.".

(c) APPLICATION AND DESCRIPTION OF ACTIVITIES.—Section 1916 of such Act (42 U.S.C. 300x-4) is amended—

(1) in subsection (a), by striking out "subsection (c)" and inserting in lieu thereof "subsections (c), (d), and (h)", and

(2) by adding at the end thereof the following new subsection:

"(h)(1) The chief executive officer of a State shall, as part of the application required by subsection (a), prepare and submit to the Secretary (in accordance with such form as the Secretary shall provide) a State plan that describes how a portion of the payments received by the State under section 1914 will be used for providing substance abuse treatment.

"(2) The State plan prepared under paragraph (1) shall—

"(A) provide for the designation of a single State agency to be responsible for the formulation and implementation of the Statewide drug treatment plan;

"(B) provide for the targeting of funds towards areas of the greatest need in the State, using criteria to be established by the Secretary and such additional criteria as the State may establish, to determine such areas of greatest need that shall include criteria focusing on—

"(i) the current unmet treatment needs in the State, including both the impatient, outpatient, and long and short term drug treatment service needs of defined populations and availability of essential ancillary services;

"(ii) the incidence of deliveries of infants who are adversely affected by the maternal use of drugs;

"(iii) the incidence of drug-related criminal activities; and

"(iv) the incidence of communicable diseases transmitted by drug abuse;

"(C) establish performance criteria to be met by treatment facilities that desire to receive assistance from the State pursuant to the State plan, that shall include—

"(i) the periodic testing of patients to determine the patients compliance with treatment regimens and the establishment of clinically appropriate policies for dealing with patience who fail such tests;

"(ii) a requirement that the testing conducted under clause (i) not be required to be more frequent than is necessary to achieve treatment objectives;

"(iii) controls on the possible diversion of drugs intended for use in the treatment programs of the facility;

"(iv) the provision of outpatient aftercare for those individual completing residential treatment, either directly or through arrangements with other individuals or entities, for patients who have ended a course of treatment provided by the facility, that shall include periodic appointments with the patient to monitor the patient's progress and provide support services or additional treatment as needed, and, for those individuals completing outpatient treatment, periodic contacts, to the extent feasible, to monitor the individual's progress and provide the individual with, or refer the individual for, additional services or treatment as needed;

"(v) the coordination and referral of patients to social, health, and employment services in order to assist patients in need of counseling, psychiatric or medical treatment, or job training services to function in society and remain drugs free;

"(vi) the provision of employment, educational or social services, directly or by referral or arrangement, by facilities that serve a clientele for whom such services are essential to improve treatment outcomes;

"(vii) the retention of patients in treatment until such treatment is appropriately completed, taking into account the characteristics of patients that may make retention more or less difficult and any such other performance-based measures of quality programming as may be appropriate; and

"(viii) policies to maintain a drug-free workplace;

"(D) establish a mechanism to monitor the compliance of the facility with the criteria in subparagraph (c);

"(E) establish mechanisms to assure an adequate number of treatment options, appropriately sited;

"(F) provide for a program of training and retraining of employees of publicly funded treatment facilities to assure that such employees remain informed about the most effective diagnostic and treatment techniques;

"(G) provide for a referral method in each appropriate area of the State that shall assure that each individual requesting treatment is appropriately assessed and referred to the most appropriate treatment facility, and that a current list of unfilled treatment slots is available to assist in such referrals;

"(H) increase, if necessary, the availability of specialized services necessary to meet the needs of female and minority drug abusers;

"(I) provide for the establishment of a program stopgap assistance for individuals who apply for treatment but who must wait for the availability of treatment opportunities that shall include—

"(i) treatment ready education and counseling concerning drug abuse; and

"(ii) the referral to, or provision of, other necessary health and social services that may include primary health care, nonmedical education, and vocational training services; and

"(J) provide for the establishment of a program of outreach and treatment for pregnant women who use drugs and their affected newborns.

"(3) The Secretary may waive any or all of the requirements of this subsection on the written request of a State, if the State implements an alternative treatment plan that fulfills the objectives of this subsection in a manner consistent with the requirements of this subsection.

"(4)(A) The Secretary shall establish minimum standards for each area required to be covered by the State plan prepared under this subsection.

"(B) Beginning with fiscal year 1991, no grant shall be awarded to a State for the drug abuse portion of its grant under section 1912A if such State has not met the minimum standards established under subparagraph (A), except that with respect to the performance criteria for treatment facilities described in paragraph (2)(E), the State plan shall provide a reasonable time for treatment programs to meet such performance criteria requirements and shall establish a program to assist in achieving such compliance.

"(C) The Secretary shall monitor the compliance of the State with the plan and minimum standards submitted under this subsection.

"(D) If a State fails to meet such minimum standards, the Secretary shall suspend the making of payments with funds for drug abuse under the State's allotment under section 1912A, except that the Secretary may waive such suspension if the State submits a plan of correction and corrects any violations of such minimum standards within a reasonable period of time, as determined by the Secretary.

"(E)(i) Not later than 3 months after the date of enactment of this subsection, the Secretary shall publish for comment proposed standards developed under this paragraph.

"(ii) Not later than 6 months after the date of enactment of this subsection, the Secretary shall publish final standards.

"(iii) In developing standards under this paragraph, the Secretary shall consult as much as practicable with States, directors of treatment programs that receive public assistance, and drug treatment experts.

"(iv) Standards published under clause (ii) may be revised by the Secretary as the Secretary considers appropriate.

"(v) No minimum standard in an area included in the State plan shall be developed or enforced if the Secretary determines that requiring compliance with such standard would be impractical or that there is an insufficient consensus of expert knowledge or opinion to support such a minimum standard. In cases in which there is no such sufficient consensus, the Secretary shall cause the development of a sufficient consensus of such knowledge to be a high research priority.

"(F) The Secretary shall require standardized data collection from each State that shall, at a minimum, permit the monitoring of State compliance with the minimum standards.

"(G) The Secretary shall develop and promulgate standards for training and licensure of drug treatment personnel.".

SEC. 02. CLINICAL RESEARCH.

Section 517 of the Public Health Service Act (42 U.S.C. 290cc-2) is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end thereof the following new subsection;

"(b) In addition to amounts appropriated under subsection (a), $30,000,000 shall be made available to the Director of the National Institute on Drug Abuse for the performance of clinical research on pharmacological agents for the treatment of drug abuse under section 515(a)(6).".

SEC. 03. ORPHAN DRUG ACT.

(a) IN GENERAL.—

(1) FINDINGS.—Section 1(b) of the Orphan Drug Act (21 U.S.C. 360aa note) is amended—

(A) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively;

(B) by inserting after paragraph (4), the following new paragraph:

"(5) medications used in treating individuals addicted to illegal drugs have failed to attract substantial interest by the pharmaceutical industry even though large numbers of individuals are often affected by such addictions;";

(C) in paragraph (6) (as so redesignated) by inserting "and medications for use in the treatment of addiction" after "orphan drugs"; and

(D) in paragraph (7) (as so redesignated) by inserting "and medications for use in the treatment of addiction" after "orphan drugs".

(2) DEVELOPMENT OF DRUGS.—Section 5 of such Act (21 U.S.C. 360ee) is amended—

(A) by adding at the end of the section heading the following "OR DRUGS FOR THE TREATMENT OF ADDICTION";

(B) in subsection (a), by inserting "or for the treatment of addiction to illegal drugs" after "conditions" each place that such occurs; and

(C) in subsection (b)—

(i) by inserting "or for the treatment of addiction to illegal drugs" after "condition" in paragraph (1)(A)(i); and

(ii) by adding at the end thereof the following new paragraph:

"(4) The term 'addiction' shall have the same meaning given such term in section 526(a)(3)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb(a)(3)(B)).".

(b) DRUGS FOR RARE CONDITIONS.—Section 525(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360aa(a)) is amended by inserting "or a medication which is used for the treatment of addition" after "rare in the States".

(c) DESIGNATION OF DRUGS.—Section 526 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb) is amended—

(1) by adding at the end of the section heading the following "OR DRUGS FOR THE TREATMENT OF ADDICTION"; and

(2) in subsection (a)—

(A) by inserting "or a drug for use in treating addiction to illegal drugs" after "or condition," in paragraph (1); and

(B) by adding at the end thereof the following new paragraph:

"(3) For purposes of paragraph (1)—

"(A) 'drugs for use in treating' means those pharmacological agents or medications that—

"(i) reduce the craving for abused drugs;

"(ii) block the behavioral and physiological effects of abused drugs;

"(iii) safety serve as replacement therapies for the treatment of drug abuse;

"(iv) moderate or eliminate the process of withdrawal;

"(v) block or reverse the toxic effects of abused drugs; or

"(vi) prevent, where possible, the initiation of drug abuse in individuals at high risk;

"(B) 'addiction' means the state of an individual where that individual habitually uses an illegal drug in a manner that endangers the public morals, health, safety, or welfare, or who is so addicted to the use of illegal drugs that such individual loses the power of self-control with reference to such individuals addiction; and

"(C) 'illegal drugs' means a controlled substance, as defined in section 102(6) in the Controlled Substance Act (21 U.S.C. 892(6)).".

"(d) PROTECTION FOR DRUGS FOR RARE CONDITIONS.—Section 527 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cc) is amended—

"(1) by adding at the end of the section heading the following "OR DRUGS FOR THE TREATMENT OF ADDICTION";

"(2) in subsection (a)—

"(A) by inserting "or a drug for use in treating addiction to illegal drugs," after "rare disease or condition,"; and

"(B) by inserting "or for such method of treating addiction to that illegal drug" after "such disease or condition";

"(3) in subsection (b)—

"(A) by inserting "or addiction" after "or condition" in paragraph (1);

"(B) by striking out "or" at the end of paragraph (1);

"(C) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or"; and

"(D) by adding at the end thereof the following new subparagraph:

"(3) the Secretary finds that the price of the drug is not reasonable considering the research, development, and production costs of such drug and the price is preventing individuals in need of such drug from gaining access to it."; and

"(4) by adding at the end thereof the following new subsection:

"(c) Subsection (b)(3) shall only apply to drugs approved after the date of enactment of this subsection.".

"(e) PROTOCOLS FOR INVESTIGATIONS.—Section 528 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360dd) is amended—

"(1) by adding at the end of the section heading the following "OR DRUGS FOR THE TREATMENT OF ADDICTION";

"(2) by inserting "or for the treatment of addiction to illegal drugs" after "rare disease or condition";

"(3) by inserting "or addition" after "persons with the disease or condition"; and

"(4) by inserting "or addiction" after "treat the disease or condition".

"(f) ORPHAN PRODUCTS BOARD.—Section 227 of the Public Health Service Act (42 U.S.C. 236) is amended—

"(1) in subsection (a), by inserting "or for the treatment of addiction to illegal drugs" after "or conditions" each time such appears;

"(2) in subsection (b), by inserting "or for the treatment of addiction to illegal drugs" after "rare diseases or conditions"; and

"(3) in subsection (c), by inserting "or for the treatment of addiction to illegal drugs" after "or conditions".

SEC. . 04. COMPREHENSIVE COMMUNITY SUBSTANCE ABUSE PREVENTION PROGRAMS

"(a) FINDINGS AND PURPOSE.—

"(1) FINDINGS.—Congress finds that—

(A) Preventing substance abuse is the key to reducing the demand for illegal drugs and stopping the drug epidemic;

(b) substance abuse prevention activities have been seriously ignored and underfunded;

(C) successful prevention efforts require the involvement of all segments of the community including those in leadership positions and other concerned individuals and organizations on the grassroots level;

(D) many communities lack the tools, resources, and knowledge to mount an effective and comprehensive substance abuse prevention program; and

(E) the Federal Government should be a partner with local and State governments and community organizations in an effort to prevent substance abuse.

(2) PURPOSE.—It is the purpose of this section to assist communities in planning, developing, and implementing long-term comprehensive substance abuse prevention strategies and programs—

(A) by developing communicative and cooperative relationships between various organizations, agencies, businesses, clergy, schools, parents, youth, and interested citizens regarding substance abuse prevention activities; and

(B) by assisting communities in training individuals in methods of planning, developing, and implementing substance abuse prevention and intervention programs and activities.

(b) COMMUNITY PARTNERSHIPS.—Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) as is amended by adding at the end thereof the following new sections:

"SEC. 509H. COMMUNITY COALITIONS ON SUBSTANCE ABUSE.

"(a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, community-based organizations, and substance abuse prevention specialists; and

"(2) at least three representatives of the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Secretary, acting through the Director of the Office, shall make grants to eligible coalitions in order to—

"(1) plan a comprehensive long-term program for substance abuse prevention;

"(2) implement such substance abuse prevention program, including the development of materials, public awareness campaigns, and community events;

"(3) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(4) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(5) develop and implement a consensus regarding the priorities of a community concerning substance abuse;

"(6) provide outreach prevention services to target populations; and

"(7) coordinate substance abuse services and activities, including establishing referral linkages, between prevention activities in the schools and communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under paragraph (1) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Secretary in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem including any identifiable target groups;

"(2) describe the activities and services needing financial assistance;

"(3) describe the substance abuse prevention plan;

"(4) identify participating agencies, organizations, and individuals;

"(5) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(6) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5); and

"(7) contain such additional information and assurances as the Secretary may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to preventing substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) EVALUATION.—The Director shall establish a mechanism to evaluate the effectiveness of community coalitions established under this section in preventing substance abuse and to disseminate the results of such evaluations to community coalitions.

"(g) AUTHORIZATION OF APPROPRIATION.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $60,000,000 for fiscal year 1990, $70,000,000 for fiscal year 1991, and $80,000,000 for fiscal year 1992.

"(2) SIZE OF COMMUNITIES.—The Secretary shall allocate at least 35 percent of the amount appropriated under paragraph (1) for a fiscal year to communities, with populations of no more than 250,000 individuals, that have made abuse prevention a high priority, as determined by the Secretary.

"SEC. 509I. SUBSTANCE ABUSE PREVENTION TRAINING.

"(a) ESTABLISHMENT.—The Secretary, acting through the Director of the Office, shall establish, a National Substance Abuse Prevention Training Program (hereinafter in this section referred to as the 'Program').

"(b) PROGRAM DIRECTOR.—The Program shall be needed by a Director who has extensive experience in substance abuse prevention (hereinafter in this section referred to as the 'Program Director').

"(c) DUTIES.—The Program Director shall—

"(1) develop a substance abuse prevention training curriculum for community groups in organizational development, program operation, prevention concepts, and models;

"(2) provide technical assistance and support for community training on substance abuse prevention, including organizing the community, developing skills, and establishing program goals;

"(3) provide technical assistance and support for advanced prevention and intervention training for the community organizing staff and State and local substance abuse agency staff;

"(4) develop specific training modules for problem areas such as substance abuse, teen pregnancy, and acquired immune deficiency syndrome and for professional groups that work with children and adolescents, such as juvenile court judges, pediatricians, coaches, and counselors;

"(5) provide substance abuse prevention outreach and supports to communities with substantial minority populations through workshops and collaborative initiatives with organizations serving such populations;

"(6) disseminate successful curricula and training practices in substance abuse prevention in communities through involvement with parents, civic groups, members of the business community, clergy, law enforcement representatives, and community leaders; and

"(7) evaluate the appropriateness and effectiveness of substance abuse prevention training.

"(d) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $15,000,000 for each of the fiscal year's 1990 through 1992.

"SEC. 509J. SPECIALIZED TRAINING PROGRAM.

"(a) GRANT PROGRAM.—The Secretary, acting through the Director of the Office, shall make grants to States, local agencies, and community organizations in order to—

"(1) provide substance abuse prevention training to representatives of such organizations and agencies;

"(2) provide substance abuse prevention training to parents, teachers, clergy, the business community, and civic groups;

"(3) coordinates with other community resources and programs; and

"(4) provide specialized training programs for professional groups that work with children and adolscents, or that are targeted to specific population groups.

"(b) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $20,000,000 for each of the fiscal years 1990 through 1992.".

"(c) OFFICE FOR SUBSTANCE ABUSE PREVENTION.—Section 508(d)(2) of the Public Health Service Act (42 U.S.C. 290aa-6(d)(2)) is amended by striking out "$5,000,000" and inserting in lieu thereof "$4,000,000".

Mr. KENNEDY. Mr. President, the Alcohol, Drug Abuse, and Mental Health Block Grant is the key Federal source of drug treatment funds. The centerpiece of the President's proposals in the area of treatment were what the Bennett report describes as "greater State, local, and individual treatment program accountability for effectiveness." The President's program attempts to achieve this objective by requiring States to submit a State drug abuse plan and include certain key areas—such as training, coordination, referral to social services, targeting on areas of highest need, and so on in the plan. But the President's program is fundamentally flawed in several vital respects. First, it does not include key elements that all the experts we have consulted believe should be in the State plan. Second, it neither assures that the State plan will respond to the needs the President has identified adequately nor protects the States against arbitrary and capricious Federal denials of funding.

My amendment incorporates all the recommendations of the President for the ADMS block grant, but it also makes significant improvements. In addition, it incorporates important recommendations of Senator BIDEN and Senator CRANSTON. Senator BIDEN's proposal will establish a new, separate authorization to assure that adequate research is conducted on new pharmaceutical agents to help make treatment for addiction effective and will protect against companies taking unfair advantage of the benefits bestowed on them by the Orphan Drug Act. Senator CRANSTON's amendment will establish a new, $60 million authorization to help communities set up comprehensive drug prevention programs. All experts agree that the most effective drug prevention occurs when there is a comprehensive community effort. This part of the amendment will help that occur.

My amendment to the block grant incorporates all the President's proposals for improving the accountability and effectiveness of State administration of ADMS block grant funds through requiring States to develop and implement comprehensive drug treatment plans. It expands the President's plan by including some additional requirements for State plans and publicly funded treatment facilities regarded as essential by drug treatment experts. In addition, it provides essential flexibility that has been requested by the States in the area of inpatient treatment and construction of new facilities.

Under my amendment, treatment facilities would be required to provide a program of aftercare for those who have left their treatment programs. Drug addiction is a chronic disease, and its victims are always in danger of relapse. Effective programs need to follow their graduates to assure that further treatment and support services can be offered as needed.

Second, the State plans would be required to include a program of stopgap assistance to help assure that addicts that request treatment and cannot be accommodated immediately are provided at least some minimal services to keep them interested in receiving treatment.

Third, the amendment requires States to include in their plans special programming targeted at women and minorities, if needed. These groups have some special needs that may render treatment ineffective if these needs are not recognized.

In addition to expanding the requirements for State plans contained in the President's plan, the proposal would allow States to provide inpatient treatment services so long as no other residential options were available and so long as the cost of inpatient care was no higher than 125 percent of the amount that would be paid for residential care. All over the country, the State treatment efforts are hindered by a lack of residential treatment beds—even though these beds are essential for treatment of some groups, including pregnant drug abusers. At the same time, there are empty beds in hospital treatment programs. This amendment would change the current prohibition on paying for inpatient treatment for the block grant, so long as the payment was not excessive.

The 1988 drug bill recognized that a critical shortage of treatment facilities was hampering drug treatment efforts. For the first time, States were allowed to build new treatment facilities if a waiver were obtained and there was no other way of doing the job. The use of block grant funds was conditioned, however, on a dollar-for-dollar State match. This has proved too big a barrier in some States, and this amendment will allow this matching requirement to be relaxed on a waiver basis.

In addition to providing a more comprehensive approach to drug treatment needs than the President's program, this amendment provides greater accountability and fairness for States and for treatment programs than the first degree amendment. It provides greater accountability because it requires States and treatment programs to meet minimum standards established in regulation, as opposed to generalized requirement for description of plan elements in the administration plan. It provides greater fairness because it permits the Secretary of HHS to disapprove a State plan only if it fails to meet minimum requirements established in regulation. By contrast, the administration plan gives the Secretary total discretion to approve or disapprove a State plan.

I believe that accountability means standards and fairness means freedom for arbitrary actions. The administration plan provides neither; this amendment provides both.

Mr. President, I would have liked to work out this proposal with the administration. I believe that with a constructive discussion, we could have reached agreement. But when we sat down with representatives of the administration, we were informed that they were not willing to change a single comma of their plan. I am sorry that they have taken this attitude. I would rather be offering an amendment today that every one could agree to. But the White House's refusal to negotiate does not relieve this body of the obligation to improve this plan where it needs improvement.

I urge adoption of this amendment.

Mr. HATCH. Will the Senator yield?

Mr. KENNEDY. I will be glad to yield.

Mr. HATCH. Let me point out to the distinguished Senator this is an amendment that probably will require a rollcall vote. I would like to speak—not very long—on why I think it will require a rollcall vote.

Mr. KENNEDY. Sure.

Mr. HATCH. What we are trying to do this evening is to take care of all the amendments we can accept and then accumulate the rollcall amendments and get a time agreement so we can finish the debate on those tomorrow. I would like to ask the Senator if he would defer on this amendment until tomorrow.

Mr. KENNEDY. Fine.

Mr. HATCH. We will put this into the unanimous-consent agreement and

we will have a rollcall vote at the appropriate time.

Mr. KENNEDY. I will be glad to. I was unaware that there was that particular procedure being put into place.

Mr. HATCH. It is our fault.

Mr. KENNEDY. I would be willing to enter into a time agreement on that and one other amendment, if that is the desire of the floor managers of this legislation. Can I be assured, therefore, that on this matter and one other matter, both of which I would be more than welcome to try to work out with the Senator from Utah—quite frankly, if that is the challenge, I think we could work it out very quickly.

Mr. HATCH. Let us see if we can work it out.

Mr. KENNEDY. I want to have the assurances that we will have an opportunity to address both of these measures before final passage. I am glad to either address them now or at a time when the Senator from Utah and the Senator from Delaware so desire.

Mr. HATCH. I thank the distinguished Senator from Massachusetts. If we could do it that way, I think most Senators would like to see us wrap up all of the acceptable amendments tonight without rollcall votes. I hope we can do that, and I hope we will not have any rollcall votes.

The majority leader has asked us to see if we can arrive at a unanimous-consent agreement with regard to those matters where there is likely to be a rollcall vote.

With that, I ask the distinguished Senator to maybe withhold his amendment until we can debate it tomorrow and it will give us time to see if we can agree on it. I do not know that we will be able to agree on any national standards amendment, but there are other amendments we are looking at to see if we can agree.

Mr. KENNEDY. I indicate to my good friend, I more than welcome the opportunity to comply with the request of the Senator, if that is the desire of the floor managers. I think I was told earlier by the Senator from Delaware—I now see the majority leader on the floor. I am prepared to vote on that measure this evening or tomorrow or at whatever time the Senate desires.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. Amendment No. 934.

AMENDMENT NO. 924

Mr. BIDEN. Mr. President, I ask unanimous consent that amendment be temporarily laid aside for us to move back to the Biden amendment on crack houses.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I will not take any time to further discuss the amendment. I mentioned it earlier. The amendment provides for civil enforcement authority that gives the Attorney General the power to go to court to seek eviction and the imposition of a fine on the owner and operator of such facilities. It facilitates the ability to close these crack houses down while proceeding criminally as well.

I understand it has been cleared by my colleagues on the Republican side of the aisle. It is quite frankly just another tool we are giving law enforcement to be able to move civilly and rapidly—by civilly, I mean civil procedures—to shut these houses down. It is an authority they want. I think it will be helpful. I yield the floor.

AMENDMENT NO. 935 TO AMENDMENT NO. 924

(Purpose: To provide for authority for the President to use the Armed Forces of the United States to secure the removal of Gen. Manuel Antonio Noriega from his illegal control of the Republic of Panama)

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina, Senator HELMS.

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 935 to amendment No. 924.

At the end of the pending amendment, add the following:

"SEC. . U.S. FORCES TO ASSIST IN REMOVAL OF GENERAL MANUEL ANTONIO NORIEGA.

"Notwithstanding any other provision of law, the President is authorized to use the armed forces of the United States to secure the removal of General Manuel Antonio Noriega from his illegal control of the Republic of Panama in order to (a) bring General Noriega to trial in the United States under the terms of his February 1988 indictment on drug trafficking charges, (b) protect the Panama Canal pursuant to the Panama Canal Treaties of 1978, (c) protect the people of Panama in their struggle to rid their nation of the brutal oppression of the Noriega regime, and (d) restore a Constitutional government to Panama.".

Mr. HELMS. Mr. President, I ask for yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I thank the Chair. I know many Senators have followed with interest, and some of us with dismay, the events which have unfolded today in Panama. Unfortunately, at the end of the day it seems to be the same as it has been. What goes around comes around. Gen. Manuel Antonio Noriega remains the dictator of Panama.

General Noriega is a criminal. He is wanted in the United States on drug trafficking charges stemming from his personal involvement in the trafficking of illicit narcotics into the United States and of money laundering the proceeds of such involvement. He is the leading drug trafficker in the Western Hemisphere. If we want this drug bill to be taken seriously, we have to do something about Noriega.

Today, Mr. President, courageous soldiers within the Panamanian defense forces attempted a coup against General Noriega. The forces appeared to have been well coordinated and effective, and came close to their objective. However, at the crucial moment during the coup attempt the United State apparently rejected overtures from the rebels to assist in their efforts to depose this present dictator.

In short, Mr. President, in Washington little, if anything, was done to seize the moment. Instead, uncertainty prevailed, no actions were taken to assist the people in Panama, and the coup attempt failed.

While the United States apparently had no role in the planning of the attempt, U.S. officials could have intervened, but they declined to do so.

I have learned from sources close to the situation that confusion existed in the U.S. Government as to the authority of U.S. forces to become involved, and indeed of the President's authority to order such involvement. In my opinion, the President's authority is already clear under the Constitution. He needs no further authority. But if there is any doubt, let's clear it up right now.

The pending amendment makes explicit that the President has the authority to use the Armed Forces of the United States to secure the removal of General Noriega from his illegal control of the Republic of Panama.

The purposes for which the authority is granted are fourfold: One, to bring General Noriega to trial in the United States under the terms of his February 1988 indictments on drug trafficking charges. Two, to protect the Panama Canal pursuant to the Panama Canal Treaties of 1978. Three, to protect the people of Panama in their struggle to rid their country of the brutal oppression of the Noriega regime, and four, to restore a constitutional government to Panama.

Mr. President, I ask for the yeas and nays on the underlying amendment.

The PRESIDING OFFICER. The Chair informs the Senator that would require unanimous consent at this time.

Mr. HELMS. Which I ask.

The PRESIDING OFFICER. Is there objection to the yeas and nays on the underlying amendment?

Mr. BIDEN. Reserving the right to object, and I think I will object, I would like to hear restated what the unanimous-consent request is.

Mr. HELMS. I ask unanimous consent that I may request the yeas and nays on the underlying amendment, which is the Biden amendment.

Mr. BIDEN. I object.

The PRESIDING OFFICER. Objection having been heard, the Senator from North Carolina retains the floor.

Mr. HELMS. Mr. President, I have been on the telephone most of this day talking with various people in Panama, including Americans, and with various people within the Government of the United States, most of them high ranking. I believe I have never seen such confusion and contradiction.

At about 9 o'clock Washington time, this morning, we had a golden opportunity to help the people of Panama rid themselves of a malignancy, a political dictatorial malignancy; and instead of doing something about it, the United States Government acted like a bunch of Keystone Cops running around bumping into each other. Some said, well, the President does not have this authority, or we do not know whether the President has this authority. I want the Senate of the United States to tell the President that he does have the authority. We must keep alive the hope that one of these days those courageous people in Panama may attempt again to rid themselves of General Noriega. And we must be prepared to help.

Now, Mr. President, I do not want to delay the Senate, nor do I want the underlying amendment withdrawn—which I am almost confident it will be—because that would bring down both the underlying amendment and the second-degree amendment, which I offer with regard to General Noriega. While we think about what we are going to do, Mr. President, I suggest the absence of a quorum. I do not intend to let the quorum call be called off.

Mr. DECONCINI. Will the Senator withhold that for just a moment?

Mr. HELMS. Yes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

Mr. DECONCINI. I wonder if the Senator from North Carolina would agree to a unanimous consent to lay his pending amendment to the Biden amendment aside while I offer an amendment on some language on the forfeiture fund as it relates to Customs and also as it relates to the other forfeiture fund in the Justice Department.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina, Senator HELMS.

Mr. HELMS. I will be glad to work with the Senator. I ask unanimous consent, one, that the pending second-degree amendment be temporarily laid aside on the condition that at the conclusion of action on the DeConcini second-degree amendment, that the Helms amendment be restored precisely as it is, that is as a second-degree amendment with the yeas and nays ordered upon it.

The PRESIDING OFFICER. Unanimous consent has been requested. Is there objection?

Mr. DECONCINI. Will the Senator yield? What I am suggesting to the Senator from North Carolina is that we lay aside both his amendment and the pending Biden amendment, making no change, so that I could offer my amendment to the bill, and then we would return to the same status.

Mr. HELMS. To amend the Biden amendment?

Mr. DECONCINI. No. I do not want to amend the Biden amendment.

Mr. HELMS. Conditioned upon the assurance from the Chair that the Senator from North Carolina will be recognized to restore his amendment to its posture as of now, I request that both the underlying amendment and the second-degree amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, the second-degree amendment and the underlying amendment are laid aside.

Mr. HELMS. I will be recognized at the conclusion, and I said that at the outset.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Chair recognizes the Senator from Arizona.

Mr. DECONCINI. What is the pending amendment, Mr. President, the amendment from the Senator from Massachusetts? Is that the pending amendment now that that has been laid aside, the second-degree amendment of the Senator from North Carolina?

The PRESIDING OFFICER. Part of the unanimous-consent agreement would permit the Senator from Arizona to offer an amendment at this time.

Mr. DECONCINI. I thank the Chair.

AMENDMENT NO. 936

(Purpose: To broaden the use of the Customs forfeiture fund to benefit State and local law enforcement agencies providing assistance in enforcement activities)

Mr. DECONCINI. I send an amendment to the desk and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] for himself, Mr. WILSON, Mr. DOMENICI, and Mr. GRAMM, proposes an amendment numbered 936.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert:

Section 613A, subsection (a)(3)(F), of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended to read as follows: "payment of overtime, salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in assisting the United States Customs Service in law enforcement activities.".

Mr. DECONCINI. Mr. President, the amendment I have sent to the desk is an amendment to expand the ability of U.S. Customs Service to share the proceeds seized as a result of drug violations where they are in coordination, cooperation, and assistance of State and local law enforcement agencies. Current law permits Customs to share the proceeds from assets seized when the State and local government participate in joint law enforcement operations with the U.S. Customs Service. The law authorizes Customs to use the deposits in the forfeiture fund to pay the cost of overtime salaries, travel, fuel, training, equipment and other costs. The amendment I am sponsoring and sent to the desk with my good friend, the Senator from New Mexico, Mr. DOMENICI, authorizes Customs to share the proceeds from assets seized when the State and local law enforcement officials "assist Customs in law enforcement activities." It also authorizes Customs to use the funds to pay overtime in salaries of State and local law enforcement officials.

Mr. President, last week when we considered the Byrd-Hatfield amendment here, the omnibus drug amendment in the transportation bill, we provided an additional $5 million to the U.S. Customs fund, so the Customs would be in a position to expand and share in the proceeds with State and local law enforcement. The amendment I am sponsoring will allow Customs to use that additional $5 million and help the State and local law enforcement agencies that are on the front line of this drug war. While there is increased violence in our cities and towns from the grip of the drugs, I believe it is imperative that Federal agencies do everything they can to make the job of State and local law enforcement easier. This amendment will do just that.

It would provide not only additional funds, but would give the State and local law incentives to assist the U.S.

Customs Service in its drug interdiction program.

I move the adoption of the amendment, Mr. President. I think it has been cleared by both the majority and ranking member and the manager of the bill, the distinguished Senator from Delaware.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. It is true, the Senator from Delaware accepted the amendment, but I was asked just a moment ago by the Senator from Utah if we would withhold adoption of this amendment while he made one last check. He is off the floor at the moment, and so I ask the Chair, while we are waiting for the Senator from Utah to return, if the Biden amendment on forfeiture is still at the desk? We had set it aside by unanimous consent on about 10 occasions this evening. There were two Biden amendments, both of which were set aside by unanimous consent to proceed to the sequential amendments that we were moving on.

The PRESIDING OFFICER. The Chair informs the Senator from Delaware both amendments 923 and 924 remain at the desk.

Mr. BIDEN. And I would, while we are waiting for Senator HATCH to return, suggest to my friend from North Carolina that I may wish to inquire of him whether or not he would be willing to temporarily lay aside the Biden forfeiture amendment which is at the desk without losing his position on the second amendment and recognition on the Panama Canal amendment, or to pass the forfeiture amendment that is at the desk. I am not making that request now. I am just, quite frankly, taking up time while we are waiting for my friend from Utah to return. But I would like him to consider that possibility.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. BIDEN. I yield.

Mr. HELMS. I understand. If the Senator will make a deal with the press that they will not report that HELMS tied up the Senate all night.

Mr. BIDEN. If the Senator will yield, I have had, as the Senator from North Carolina has observed, over the last 2 years tremendous influence on the press. They have been always taking me at my word.

Mr. HELMS. Not as much as I.

Mr. BIDEN. And also given me the benefit of the doubt.

So I am certain if I say so, the press will respond in the exact way. They will say the Senator did not tie up the Senate.

Mr. HELMS. I was speaking in jest, of course.

Mr. BIDEN. So was the Senator from Delaware.

Mr. HELMS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Will the Senator yield for additional question to the Senator from North Carolina?

Mr. HELMS. Does the Senator yield?

Mr. BIDEN. Yes.

Mr. HELMS. Last Thursday night, I offered an amendment and was ready to vote on it. There were to be 10 minutes equally divided, and 2½ hours elapsed before anything happened, but I was ready to vote and, lo and behold, I read in the paper that I tied up the Senate until after midnight.

I want to make it clear that I was ready to vote on this amendment immediately.

When does the Senator contemplate restoring his underlying amendment and the second-degree Helms amendment, tomorrow?

Mr. BIDEN. No. I am going to have to check with other interested parties on this side, but I would be willing to restore it to its status on the floor for consideration of the vote this evening.

I might add that the Senator from North Carolina has not tied up the Senate tonight but clearly he has confounded it as he is wont to do.

I was wondering why he was sitting so long listening to the Senator from Delaware. I was so impressed and flattered that he was here for as long as he was listening to the Senator from Delaware go on and deal with 18 amendments. I thought that maybe he had recognized or thought that maybe I had some significant contribution to make on the drug issue. I should have known better.

Mr. HELMS. The Senator always fascinates me. I enjoy listening to him on any subject.

Mr. BIDEN. As the Senator from North Carolina does, he occasionally confronts me, many times defeats me and all the time interests me, and I must say that the Senator's amendment on U.S. forces to assist in the removal of Gen. Manuel Antonio Noriega is one that while we are waiting for the Senator from Utah I could say that the first half of which is I think very sound and speaking only for the Senator from Delaware recognizes the President's existing authority to use his authority to bring General Noriega to trial in the United States under the term of the February 1988 indictments in part B to protect the Panama Canal pursuant to the treaties. But part C protects the people of Panama in their struggle to rid their nation to bring opposition to the Noriega regime, and part D to restore constitutional government to Panama.

Although these are notions I fully support, I wonder whether or not we are giving the President authority in advance if he were to decide it was in the interest of the United States to declare war on Panama.

I do not know that it does that. At the appropriate time I would ask that. It seems to me that the President of the United States would be able to without consulting the Congress, again assuming this would pass both Houses, and I am sure he would do it for legitimate and proper reasons, literally send in an invasion force to not only clear out Noriega but to restore a constitutional government. And if that required the use of 2,000 or 10,000 or 200,000 American troops we would have an advanced authorized ability to do that.

That is not something that we should discard as unreasonable but that is certainly something that the Senator from Delaware would like to have a stronger case made by the administration at the time.

I am reluctant to give what appears to be a blank check notwithstanding the fact that the President I expect would not fill in a very large amount and would act very prudently.

But these last two sections to harken back to them, I acknowledge the overused comparison that seems to make the Tonkin Gulf resolution blush by comparison. Maybe we should do it, but it seems to me that we would be better served. And the point made by the Senator from North Carolina, the sections A and B of his amendment are much sounder and more reasonable at this time.

I do not mean this time of night. I mean this time in terms of the existing relationship with Panama and the relationship equally important between the executive and legislative branches.

So, the Senator from Delaware I believe based on what appears here, and I will get back to this amendment, I will be able to ask the Senator from North Carolina a number of questions. He is always forthright in his answer. If it reads as it appears to the Senator from Delaware I suggest it is much too broad authority.

I assume part of the reason for the amendment, notwithstanding the fact that the Senator from North Carolina has always been consistent, always been vehement in what he thinks we should allow and authorize the President to do relative to Panama, there is no inconsistency in this amendment and in the position of the Senator from North Carolina. But I assume the reason it was attached to a relatively insignificant amendment in the midst of a long, drawnout debate on drugs is as was prompted by the events that occurred today, and the Senator from Delaware must acknowledge since he is no longer on the Intelligence Committee and has been occupied on the floor the bulk of the day, I am not fully apprised of all that hap-

pened except to understand that at some point the opposition forces to Noriega maybe for as many as 4 hours or thereabouts had Mr. Noriega actually in their custody and there were thousands of U.S. troops not but a mile away because they are stationed in Panama.

Absent the ability or the willingness or the directive on the part of the President to have those troops respond if they were requested to the aid of those who had Noriega in their custody there was, as I understand it, the ability of Noriega forces to not only recapture the flag but recapture Noreiga, and so I assume that is what is prompting this.

I can understand the Senator's frustration in the failure of the administration to respond. But again I do not know that all those facts are correct. It just seems, though, that this is an unusual time in this bill to raise it.

I would ask, since we are not on the amendment, notwithstanding the fact I am talking about the amendment, if the——

Mr. COATS. Mr. President, will the Senator from Delaware yield to the Senator from Indiana?

Mr. BIDEN. The Senator will yield for a question.

Mr. COATS. Mr. President, I have an amendment I understand is acceptable by the majority. In the interest of biding a little bit of time, I would be happy to offer it at this particular time and explain it briefly and then let the resolution of the pending matter proceed while I am offering the amendment.

Mr. BIDEN. In response to the question, I have no objection to the Senator proceeding to explain the amendment, but I would be reluctant to have him attempt to propose the amendment because we are stacking—when we were kids, we used to refer to Dagwood sandwiches—we are stacking so many amendments up that it is getting very complicated. It is beginning to look like a Dagwood sandwich.

I would suggest, in the interests of time, that the Senator explain his amendment and let us talk about it so when he gets a chance to in fact introduce it we will no longer need a discussion or debate on it and we will be able to move on it.

He is correct, the Senator from Delaware is willing and anxious to accept his amendment.

So if the Senator is willing to withhold—he cannot send his amendment to the desk without unanimous consent—if he understands that, I would be delighted to hear his rationale for his amendment in the interest of time.

AMENDMENT NO. 941

Mr. COATS. Mr. President, I would be happy to respond to that request to describe my amendment at this time without sending it to the desk to avoid establishing a more complicated procedure than we are already in, but I can dispense with the discussion of the amendment. I know this is a backward way of approaching it, but we will do it in this way in the interest of time, at 10:20 in the evening, so that I can avoid taking the Senate's time in the discussion later on.

Mr. President, the amendment I am proposing will encourage the States to establish boot camp programs as alternatives to imprisonment. I propose directing the Bureau of Justice assistance to provide funds for demonstration grants to the States to set up military-style boot camp programs for first-time offenders who have committed nonviolent crimes, including nonviolent drug offenses.

The President proposed that the States enact laws setting up boot camp projects in his national drug strategy. The Director of the Office of National Drug Control Policy William Bennett has long advocated the use of boot camp programs by the States as an alternative to prison for certain drug-related offenses.

I strongly believe that this type of incarceration offers a more appropriate means of punishing nonviolent offenders than prison. Boot camps can promote character development and reduce recidivism. Prisons are breeding grounds for career criminals. Moreover, boot camps can be used by the States to relieve severe prison overcrowding—at a much lower cost than prison—so that prison space is available to house more violent criminals.

A dozen States—including States as diverse as New York, Mississippi, Oklahoma, South Carolina, Alabama, Florida, Georgia, and Michigan—have already set up boot camp programs, and the idea is spreading rapidly. My own home State of Indiana has set up a task force to study the concept. Because I believe that the States should be encouraged to carry out projects such as this, I would like to see financial support for a nationwide effort to establish boot camps—possibly in abandoned military installations—which will combine military style discipline, physical training, hard labor, drill, and ceremonial exercises. I would also require boot camps to include compulsory drug treatment, where needed, job training, vocational education, and literacy education programs so that boot camp graduates will be better prepared to return to society and find gainful employment and become better citizens.

The boot camp alternative is based on the notion that young drug users, white collar and petty criminals, and other first-time nonviolent offenders who have not committed themselves to a life of crime should be given a chance to rehabilitate and reform themselves. Boot camp programs traditionally provide a short—90- to 180-day—period of imprisonment followed by a return to community supervision for young adult—male and female—recruits who have not been in prison before. It is hoped that youthful offenders will gain from the rigorous experience the values and discipline, the sense of self-worth, and the tools they need to return to society at the end of their sentences, to support their families, and to make a more positive contribution to their communities.

I realize that recent GAO and Justice Department studies on the impact of boot camps were inconclusive due to the newness of these programs. However, in recent testimony before both the Senate and House Judiciary Committees, Commissioner Thomas Coughlin of the New York State Department of Correctional Services pointed to a follow-up study of that State's boot camp programs which showed that this type of incarceration was a success, in that it relieved crowded conditions in State prisons and program graduates had returned to the community and were adjusting well under parole supervision. In fact, boot camp parolees were found to have more gains than non-boot camp parolees in the critical areas of employment, educational achievement, program participation, satisfactory, educational achievement, and the degree to which they refrained from involvement in new criminal activity.

Donald J. Hengesh, director of Michigan's Special Alterative Incarceration Program, testified that early follow-up on graduates showed "a success rate slightly above ninety percent." He was satisfied that "the program does give young inmates self-esteem and self-motivation and it pushes them to achieve at levels they never knew they had. Prison will not do that for them."

I must add that the concept of boot camp programs as an alternative to imprisonment and a method for reducing recidivism received the support of David Coolidge, senior regional director of Justice Fellowship, a nonprofit criminal justice reform organization affiliated with prison fellowship ministries, in testimony before the House Judiciary Committee.

Mr. President, the war on drugs must be waged on all levels. This is the kind of program that incorporates punishment with rehabilitation. This is the kind of program that I believe will succeed in reducing recidivism and prison overcrowding. This is the kind of program that can prove an effective weapon in our arsenal for reducing the demand for illegal drugs. This is the kind of program that the States can undertake and carry out with success, provided they receive some support and assistance from the Federal Government.

My amendment does not authorize a new program and it does not appropri-

ate any specific amount of funds. In fiscal year 1989 the Bureau of Justice Assistance received $150 million in funding, and spent $29.7 million in discretionary grants. Of that $29.7 million, the Director awarded just $500,000 for two small boot camp projects run by the States. What I am proposing is that the Director of the Bureau of Justice Assistance continue to provide funding for demonstration grants to the States to allow them to start and operate boot camp projects. I simply would impose a few conditions on those grants so that the boot camp programs meet their goals and the needs of society for punishment and rehabilitation of the young offender.

Mr. President, I believe that boot camp programs have an important function as part of our overall law enforcement effort against crime and drugs and as a way to improve our criminal justice system. I hope my colleagues will enable the States to give boot camps a try.

I would just add that the following Senators have cosponsored this amendment: Senator HUMPHREY, Senator REID, Senator MURKOWSKI, Senator LOTT, Senator DURENBERGER, Senator NICKLES, Senator WALLOP, Senator D'AMATO, and Senator BURNS.

I believe the majority has looked at it and finds it acceptable. I thank the chairman for allowing me the opportunity to explain this amendment which, as I understand it, will be offered shortly. I thank the Senator for the chance to do that.

Mr. BIDEN. The Senator is welcome.

Mr. President, let me see if I can understand for my own benefit where we are. When we last spoke the Senator from Arizona, who is no longer here—when we last spoke, the Senator from Arizona was here. I understood that the amendment of the Senator from Arizona is now accepted by both parties; is that correct, I ask my friend from Utah?

Mr. HATCH. That is correct. We are prepared to accept the DeConcini amendment. I do want to ask him a question or two so that we understand what may happen in conference.

Why do we not proceed with the Bingaman amendment?

Mr. BIDEN. Mr. President, we have to ask the unanimous consent of your gracious host this evening, the Senator from North Carolina.

If anyone can see if the Senator from North Carolina is in the Republican cloakroom, it would help matters, because I would not like to seek a unanimous-consent agreement in his absence.

But I will tell the Chair the agreement I will be seeking. I am going to seek an agreement—here he is.

I would like, I say to my friend, the Senator from North Carolina, in order to keep this bill moving, to seek unanimous consent that we temporarily lay aside the DeConcini amendment and move to a Bingaman amendment.

I withdraw that request. I suggest that the Senator from Utah now has an opportunity to ask the Senator from Arizona the two questions that he wished to ask him.

Mr. President, the Chair has been very gracious this evening. I want to point out I usually do not ramble as much as I am this evening, but it is troublesome to find Senators who wished to speak only moments before I turn my head.

Mr. DECONCINI. Will the Senator from Delaware yield?

Mr. BIDEN. I will be happy to yield.

Mr. DECONCINI. May I ask the Chair, what is the pending business?

The PRESIDING OFFICER. The pending question is Amendment 936, offered by the Senator from Arizona.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the pending amendment be laid aside in order that I may offer another amendment that has been cleared now on both sides, not in any way altering the previous unanimous consent sought by the Senator from North Carolina as it relates to this subject matter and the previous pending amendment.

The PRESIDING OFFICER. Is there objection? Without objection, maintaining the previous unanimous consent order, the amendments covered by that order are temporarily laid aside and the Senator from Arizona is recognized.

AMENDMENT NO. 937

(Purpose: To limit the retention of seized assets for administration expenses)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] for himself, Mr. WILSON, Mr. DOMENICI, Mr. GRAHAM, and Mr. GRAMM, proposes an amendment numbered 937.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . ADMINISTRATIVE EXPENSES.

Section 511(e)(1) of the Controlled Substances Act (21 U.S.C. 881(e)(1)) is amended by adding at the end thereof the following: "In determining the equitable share of proceeds for a State or local law enforcement agency from a drug-related asset seizure under subparagraph (A), the Attorney General shall not retain more than 20 percent of the total proceeds to cover the costs of administrative expenses."

Mr. DECONCINI. Mr. President, this amendment deals with the Federal law enforcement agencies which are authorized to share the proceeds from drug seizures with State and local agencies that participate in the seizures.

Currently the Attorney General requires deduction of 10 percent of the proceeds of a drug seizure for Federal administrative expenditures. From time to time, the Justice Department has considered increasing this administrative surcharge.

We understand the current proposal has been considered within the Justice Department to raise this by 25 or 35 percent.

This amendment, Mr. President, sets a limit of 10 percent, as is the existing rule now. These are funds, Mr. President, that go directly to local law enforcement. This is a way that we do not have to appropriate new funds, so to speak, to go to local law enforcement. It depends on what cooperation they have with the Federal authorities. Once a case is made, once there is the confiscation of funds, then it is distributed 90/10.

I have cleared this amendment with the Senator from Utah, and I understand he is prepared to accept the amendment, and the Senator from Delaware is also prepared to accept the amendment.

Any increase to this surcharge only serves to increase the reserves of the Justice Department's asset forfeiture fund and in turn short changes the State and local law enforcement agencies that are in desperate need of resources to battle the drug lords in the local communities.

These local law enforcement agencies benefit greatly from the sharing of the ill-gotten bounty of the drug pushers. The sharing of these assets has done more to foster cooperation between the Federal and local enforcement agencies that any other single initiative. Last year, in drug hearings in Arizona, a local police chief testified that Federal assets sharing was the most important tool that he had in combating the drug trade.

While we do not want to favor one group over another, it seems to me that the resource needs of the Federal law enforcement agencies are better addressed through the appropriations process. We have given very generous attention to the Justice Department requirements in the recent drug funding amendment. As a result, I feel that we have provided adequate funding for our Federal agents.

Therefore, it is now time to focus on the needs of the local law enforcement agencies. They need an enhancement of resources not a reduction. This amendment will ensure that the State and local agencies entitlement is preserved and that the Justice Department cannot balance its books on the back of the State and local police.

The PRESIDING OFFICER. If there be no further debate, the ques-

tion is on agreeing to the amendment of the Senator from Arizona.

The Senator from Utah.

Mr. HATCH. As I understand it, this is the amendment that involves the 10 percent?

Mr. DECONCINI. The Senator from Utah is correct.

Mr. HATCH. I have had the administration chat with me. They are very concerned that they may need more than 10 percent, even on the most conservative estimates.

I understand what the distinguished Senator is trying to do. He is trying to lock it into statutory form, but I have to tell the distinguished Senator, if we take this amendment and we go to conference and they can show a reasonable case that they need more than 10 percent, we may have to change that in conference.

I presume if there is a reasonable case made, the distinguished Senator will not have any major objection to that.

Mr. DECONCINI. Will the Senator yield?

Mr. HATCH. I will be happy to yield.

Mr. DECONCINI. Let me assure the Senator from Utah I understand what happens in conferences, and I understand there may need to be, maybe, more input on this. Maybe a reasonable case can be made, but this Senator has heard a reasonable case made at 10 percent.

I appreciate what the Senator is trying to do this evening, and also realizing the prerogatives of the conference prevail once it has passed here, I will work with the Senator from Utah to find what is reasonable along the lines we have discussed this evening.

Mr. HATCH. That is all I can ask of the distinguished Senator from Arizona.

With that comment, realizing we may have to adjust this upward somewhat in conference—we may not—and I have as much interest in keeping it as low as I can as the distinguished Senator from Arizona has. So I will be working, trying to get the lowest, most conservative figure we possibly can, and yet still not interfere with what really needs to be done in this area.

With that, we will be happy to accept the amendment on this side. It is my understanding the distinguished Senator from Delaware will accept the amendnmet on his side.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Arizona.

The amendment (No. 937) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 936

The PRESIDING OFFICER. The question occurs on amendment No. 936, offered by the Senator from Arizona. Is there further debate?

Mr. DECONCINI. Mr. President, the amendment No. 936 I thought had been cleared also. That is a minor amendment, Mr. President, dealing with changing the words "to assisting" in the forfeiture fund dealing with the U.S. Customs Service, so they can reimburse local governments for salaries, travel, fuel, training.

I hope the Senator from Utah will accept this. I realize conferences have to deal with this. I have cleared this with the distinguished manager, Senator BIDEN, on it.

Mr. HATCH. Will the Senator yield? We have not been able to clear this amendment on this side. I will endeavor to do so if I can. I have been informed they are trying to get it cleared, but as of right now it is not.

I wonder if I can ask the distinguished Senator to withdraw it temporarily, to withdraw it and bring it back, if we can.

Mr. DECONCINI. I am reluctant to withdraw the amendment, but I am more than happy, by unanimous consent as the Senator from North Carolina has done for me, to have this laid aside while the Senator attempts to clear it.

The PRESIDING OFFICER. The Senator from Delaware, Mr. BIDEN.

Mr. BIDEN. Mr. President, I support the effort of the Senator from Arizona. But I am reluctant to continue to lay things aside. We now have an incredibly complex web of amendments that are at the desk, all of which have been temporarily laid aside, beginning with the amendment of the Senator from Delaware on forfeiture; Senator KENNEDY's amendment, the amendment on drug treatment; the amendment from Senator HELMS on Panama; and the amendment of the Senator from Delaware on crack houses.

I assure the Senator we will get it back up, but I am not prepared to agree to the unanimous consent.

Mr. DECONCINI. Would the distinguished chairman yield? I would be more than happy to have a vote on it, if the Senator from Utah would like to do that. We were talking about getting a vote here.

Mr. BIDEN. I would be happy to have a vote, assuming that is what my colleagues wish, assuming the Senator thinks the Senator from Utah is not going to speak for some time on his amendment.

But I am reluctant to set it aside at this moment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, the pending amendment is DeConcini amendment No. 9367.

The PRESIDING OFFICER. The pending amendment is 936.

Mr. DECONCINI. I understand the distinguished Senator from Utah has been able to clear this amendment. I urge its adoption.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I understand what the Senator is trying to do. It is a reasonable approach. I want to commend him for his efforts in this area. He is one of the best in the Senate who has tried to help in this particular area. We accept this amendment.

Mr. DECONCINI. Mr. President, I want to thank the Senator from Utah. He has been one of the leaders in this area for a long time. He has articulated in a way I have been unable to do. I want to thank the Senator from Delaware also for his amendment dealing with forfeiture, which I support.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment No. 936.

The amendment (No. 936) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina is recognized.

Mr. HATCH. Will the Senator yield without losing his right to the floor?

Mr. HELMS. Yes, I yield.

Mr. HATCH. After the distinguished Senator from North Carolina is taken care of, we have two other amendments that are certainly acceptable that I am aware of at this time: One from the distinguished Senator from New Mexico that should not take long; it is a good amendment; and one from the distinguished Senator from Vermont, which is a very good amendment. I want to announce we are ready to proceed on those, and I thank my colleague.

Mr. WARNER. Will the Senator yield for a statement in reference to the manager's statement?

Mr. HELMS. Without losing my right to the floor, I am delighted to yield.

Mr. WARNER. Mr. President, I would like to inquire of the managers, the Senator from Virginia has proposed an amendment cosponsored by the Presiding Officer. It is an amendment which the Senate adopted readily in connection with H.R. 3015. I am just hopeful that that could likewise be considered tonight.

Mr. HATCH. With the understanding, it is my understanding Senator COATS has already debated an amendment, he has urged its adoption and we can dispose of it.

The PRESIDING OFFICER. The Senator from North Carolina has the floor. Does the Senator from North Carolina yield to the Senator from Delaware?

Mr. BIDEN. Will the Senator yield for a question?

Mr. HELMS. Providing I do not lose my right to the floor, I yield to anyone who seeks the floor.

Mr. BIDEN. I apologize, I did not hear. Did the Senator from Utah say he would accept the amendment of the Senator from Virginia?

Mr. WARNER. The Senator from Utah did not say that. I hope the managers will accept it.

Mr. BIDEN. Mr. President, I think I can be helpful to the Senator and at least clarify something. There is an amendment pending at the desk. The Senator from Delaware has an amendment at the desk that incorporates and includes exactly what the Senator from Virginia is attempting to do. So I would be happy to add the Senator as a cosponsor to that amendment. The exact amendment is at the desk in three parts. One of the three parts of the amendment is the proposed amendment of the Senator from Virginia that he has in his hand.

Mr. WARNER. I thank our distinguished colleague. I was away from the Chamber for a brief period. I was not aware of that. I would like to ask unanimous consent to be added as a cosponsor of the amendment of the Senator from Delaware, which, as I understand, is a proposal the Senator from Virginia advocated here in the Senate for several months now.

Mr. BIDEN. And one we, in fact, passed under the Senator's leadership just last week on another bill.

Mr. WARNER. It would not have passed without his assistance.

The PRESIDING OFFICER. The Senator from North Carolina retains the floor.

Mr. HATCH. Mr. President, I again ask unanimous consent I be permitted to speak for a few minutes without the distinguished Senator from North Carolina losing the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I also have an amendment I hope will be accepted tonight on clinical laboratories so we can make sure that any testing that is done is fair and done in accordance with the standards. I would like to preserve my right to bring that up tonight.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. HELMS. Mr. President, I will be delighted to yield to the majority leader under the previous condition.

The PRESIDING OFFICER. Without objection, the majority leader is recognized.

ORDERS FOR TOMORROW

RECESS UNTIL 10 A.M.; CONSIDERATION OF THE FLAG DESECRATION LEGISLATION; DELETE FLAG DESECRATION LEGISLATION AS LAST ITEM OF BUSINESS PRIOR TO THE RECESS; RESUME CONSIDERATION OF S. 1711

Mr. MITCHELL. Mr. President, I have discussed the schedule for this evening with the managers and the distinguished Republican leader. I now ask unanimous consent that when the Senate recesses this evening it stand in recess until 10 a.m. tomorrow morning; that immediately following the prayer, the Senate begin consideration of the flag desecration statute legislation; that the requirement that it be the last item of business prior to the recess be deleted; and that upon disposition of the flag desecration legislation, the Senate resume consideration of S. 1711, the drug legislation.

The PRESIDING OFFICER. Is there objection?

Mr. BINGAMAN. Mr. President, may I ask for clarification from the majority leader. Is it my understanding that those of us who do have amendments to be offered to this bill can still do that this evening and the majority leader does not intend to recess the Senate before that opportunity?

Mr. MITCHELL. That is correct. It is my intention, Mr. President, if this unanimous-consent request is approved, that the managers would continue, to the extent they can do so under the existing situation—the Senator from North Carolina has the floor and his amendment is pending—to complete noncontroversial amendments that have been accepted, but that I will, upon acceptance of this agreement, indicate that there will be no further rollcall votes this evening and then we will return to this tomorrow when the Senate will then be in the same status it is now.

Mr. HELMS. Reserving the right to object, and I shall not object, this means that the pending Helms second-degree amendment will be carried over automatically to tomorrow because the yeas and nays have been ordered; is that correct?

The PRESIDING OFFICER. When the Senate resumes consideration of the amendment offered by the Senator from North Carolina, that will be the business before the Senate.

Mr. HELMS. The distinguished majority leader, I say to the Chair, has just stated there will be no further rollcall votes tonight and the yeas and nays have been ordered on the amendment.

The PRESIDING OFFICER. The Chair observes that the unanimous-consent request included a request to the effect "after the disposition of the amendment proposed by the Senator from North Carolina." At least that was the understanding of the Chair.

Mr. MITCHELL. No, that is not in my request. My request is that when the Senate recesses tonight, it stand in recess until 10 a.m. tomorrow; that at 10 a.m., immediately following the prayer, the Senate begin consideration of the flag desecration statute legislation, and that upon disposition of the flag desecration legislation the Senate resume consideration of S. 1711, at which time it is my understanding—I ask the Chair a parliamentary inquiry—the Senate would be in the same status it is now, or that it would be upon recess this evening with respect to S. 1711.

The PRESIDING OFFICER. The majority leader is correct. The request was made in that form.

Mr. HELMS. Reserving the right to object, and again I will not object, that does mean then I will have the floor tomorrow when consideration is resumed on this bill?

The PRESIDING OFFICER. The Chair is of the opinion that the current unanimous-consent order would not be modified except to the extent it was specifically requested by the majority leader.

The Senator would not be guaranteed the floor with an intervening recess. If the Senator would request an amendment to that effect, that could be specifically included in the unanimous consent order.

Mr. MITCHELL. Mr. President, I modify my request to ask that upon disposition of the flag desecration legislation, the Senate resume consideration of S. 1711 and that the Senator from North Carolina then be recognized.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleagues. There will be no further rollcall this evening. The Senate will continue consideration of the pending drug legislation and take amendments. I believe the Senator from Vermont and the Senator from New Mexico and the Senator from Arizona have amendments which will be accepted—and the Senators from Indiana, Cali-

fornia, and Utah. And, when they have taken all the aments they can, then we will finish this evening and start on the flag bill at 10 tommorrow.

I thank my colleagues.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico [Mr. BINGAMAN].

AMENDMENT NO. 938

(Purpose: To amend the Higher Education Act to promote education regarding the harmful effects of alcohol abuse.)

Mr. BINGAMAN. Mr. President, I ask unanimous consent that all pending amendments be set aside so that I might be permitted to offer an amendment to the underlying bill at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 938.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following:

DRUG-FREE SCHOOLS AND CAMPUSES

SEC. . (a)(1) Title XIII of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended by adding at the end thereof the following:

"ALCOHOL ABUSE PREVENTION

"SEC. 1212. (a) Notwithstanding any other provision of law, no institution of higher education shall be eligible to receive any Federal funds or any other form of financial assistance under any Federal funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless it certifies to the Secretary that, after study and participation by students, student groups, and employees, it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees of such institution, a component of which shall include—

"(1) a prohibition on the distribution of free alcoholic beverages for promotional purposes on the campus of such institution;

"(2) a prohibition on the distribution of any promotional material for alcoholic beverages on the campus of any such institution;

"(3) a prohibition on the financing, sponsoring, or supporting of any athletic, musical, cultural or social program, event, or competition of such institution by any alcoholic beverage company or industry;

"(4) a limit on alcoholic beverage advertisements in such institution's newspapers and other publications to price and product identification; and

"(5) a description of any alcohol counseling, treatment, or rehabilitation program available to students and employees through the institution and the local community.

"(b) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

"(1) the periodic review of a representative sample of programs required by subsection (a); and

"(2) sanctions, up to and including the termination of any form of financial assistance, for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions.".

(2) The provisions of this section shall take effect on October 1, 1990.

Mr. BINGAMAN. Mr. President, last week, the distinguished Senator from Texas brought the importance of this issue to our attention when he offered a critically-important amendment to the fiscal year 1990 appropriations bill for the Department of Transportation.

That amendment, which would amend the Higher Education Act of 1965 and the Drug-Free Schools and Communities Act of 1986, provides authorization for one component of the President's national drug control strategy.

The amendment focuses Federal, State, and local attention on the problems of illicit drug use and alcohol abuse in our Nation's schools and on our college campuses. But the amendment does not stop there. Senator GRAMM and the President propose realistic, verifiable solutions to this serious national problem.

Under their proposal, colleges and universities, as well as elementary and high schools, would be required to adopt and implement a comprehensive anti-drug and alcohol abuse strategy.

Noncompliance with this provision would result in the loss of Federal funding, including student financial aid.

The amendment, as Senator GRAMM stated when he first offered it, is an "accountability package." It would require that schools adopt policies that include:

Clear standards of conduct on the use of illicit drugs and alcohol on school campuses; and

A process for disseminating information on the health risks associated with drug use and alcohol abuse and the availability of treatment and rehabilitation programs.

As we commit ourselves to significantly increasing Federal assistance to our schools, for the benefit of our children, the accountability this amendment ensures is tremendously important.

Without question, we must ensure that we receive a full return on our investment. We must do this because our children's lives—and our country's future—are at stake. Senator GRAMM's amendment goes a long way toward securing that investment.

But as critical and effective as this amendment is, I believe that we must take it one step further. The amendment I am offering today goes that extra step. It strengthens one component of the Senator's amendment, which the President and this body have already embraced.

As I mentioned earlier, Senator GRAMM's amendment requires that all college and university anti-drug and alcohol abuse policies include:

"(A) standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities . . ."

My amendment simply ensures the accountability of this vital provision, and in so doing, has the potential of truly improving the quality of life for thousands of college-age youths and young adults across the country.

I believe that my amendment goes to the heart of the problem of alcohol abuse among college-age youth today. And there is no question that alcohol is the drug of choice on our Nation's college and university campuses.

We can increase sanctions, increase prison space, increase the role of the military, and implement all the prevention programs in the world. But if we do not also stem the promotion of alcohol use on our college and university campuses, we can never hope to achieve our goals.

We will never control the use of illicit drugs or the abuse of alcohol among this age group if we do not take the fundamental—though perhaps politically unpopular—step of encouraging colleges and universities to adopt policies on campus alcohol advertising and alcohol industry sponsorship of college activities.

My measure, which amends the Higher Education Act of 1965, would require that all colleges and universities adopt a set of policies governing:

First, alcoholic beverage marketing, advertising, and consumption; and

Second, referral and treatment of students with alcohol problems.

Specifically, the policies should include:

A prohibition on the distribution of free alcoholic beverages or other promotional materials on college campuses;

A prohibition on alcoholic beverage industry sponsorship of events and publicity associated with athletic competition, music concerts, and other social or cultural events on college and university campuses.

A restriction in campus newspapers that limits the content of such ads to price and product identification.

Information on the availability of resources for students and employees with alcohol problems;

Dissemination of written information concerning these resources to all students and employees. These resources should include the availability of self-help groups including Alcoholics Anonymous, Narcotics Anonymous, ALAnon, as well as other counseling and treatment resources for alcoholism and other drug dependencies.

I believe this amendment is vital to the success of the President's drug strategy, and as I stated earlier, it would simply enhance the Gramm amendment. It would in no way limit or circumvent that important measure.

Indeed, some States have already realized the importance of the concept I am proposing and have passed laws to stop the inundation of alcohol advertising on their college campuses. The State of Utah prohibits all campus alcohol advertising. Washington State prohibits alcohol promotions on campus, and the State of Michigan bans all on-campus alcohol promotions and the hiring of alcohol campus representatives.

Some colleges have implemented policies on their own. The University of California at Berkeley now prohibits alcohol companies from sponsoring campus events.

Surgeon General Koop realized long ago the importance of this concept. Last year, in a series of recommendations based on his drunk driving workshop he called for the elimination of alcohol advertising and promotion on college campuses and the elimination of alcohol industry sponsorship of events where the majority of the audience is under the legal drinking age.

The Surgeon General, these States and these schools are all to be commended. They understand the seriousness of the problem confronting us, and they have had the courage to take action. They have put the lives of our children in front of support from the alcohol beverage industry.

They have made an investment in our future, and we all stand to be richer because of it. But we cannot stop there; we cannot simply point to excellent examples and talk about the seriousness of the problem any longer. We must have the courage and the conviction to take action.

My amendment takes that extra step.

The amendment is much needed. It is legislation that is very similar to that already enacted in several States. In my view, it is good legislation. I have cleared this with both the managers on the majority and minority sides. I urge my colleagues to adopt the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. BIDEN. We accept the amendment. It is a good amendment. I urge its adoption.

Mr. HATCH. Mr. President, it is a good amendment. I apologize to the Senate that he had to wait so long to get this amendment considered. I think it is a good amendment.

The PRESIDING OFFICER. Is there further debate. If not, the question is on agreeing to amendment 938.

The amendment (No. 938) was agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 939

(Purpose: To require Department of Defense consultation with State and local law enforcement officials prior to and during any drug enforcement operation by Armed Forces or other Department of Defense personnel which might affect the law enforcement activities or jurisdiction of such officials)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside all amendments? Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 939.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . DEPARTMENT OF DEFENSE CONSULTATION WITH STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) CONSULTATION REQUIRED.—Part I of subtitle A of title 10, United States Code, is amended by inserting after section 380 the following new section:

"§ 381. Consultation with civilian law enforcement officials

"The Secretary of Defense shall consult with Operation Alliance officials to the extent practicable prior to and during any drug enforcement operation by armed forces personnel or other Department of Defense personnel which might affect the law enforcement activities or jurisdiction of such officials.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of the chapter relating to military support for civilian law enforcement agencies in such part is amended by inserting after the item relating to section 380 the following new item:

"381. Consultation with civilian law enforcement officials.".

Mr. DECONCINI. Mr. President, this is an amendment which deals with the Secretary of Defense and the operation of the military involved in the war on drugs.

Mr. President, I am offering this amendment to ensure better coordination between the Department of Defense and State and local law enforcement officials along the Southwest border when the DOD undertakes a drug operation.

I have cleared this with both the ranking member, Senator WARNER, and the chairman of the Authorizing Committee, Senator NUNN. The amendment I am sponsoring requires the Secretary of Defense to consult—and I underscore consult—with Operation Alliance, which is the civilian antinarcotics task force composed of Federal, State, and local law enforcement officials along the Southwest border charged with the coordinating of drug interdiction activities, when the Secretary of Defense undertakes any drug-enforcement operations in the Southwest.

The reason this amendment is offered is that most recently the military under the direction apparently of Secretary Cheney decided to deploy and involve a large number of forces on the Southwest border. In doing so, they failed to even alert or consult with the Southwest Border Alliance, which is the umbrella organization operated by the Federal Government, by the Border Patrol, in particular, that deals with local State, and Federal law enforcement officials.

This amendment merely says that the Secretary shall consult before or during the time they are deploying troops along the Southwest border.

I believe the amendment has been cleared by both the distinguished manager of the bill and the ranking member.

I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate. If not the question is on agreeing to the amendment.

Mr. HATCH. Mr. President, I am willing to go along with the distinguished Senator from Virginia on this amendment but I understand that we still have one other party who needs to clear it.

Mr. WARNER. Mr. President, the Senator from Virginia was informed by the Senator from Arizona that the chairman of the Armed Services Committee had reviewed this, that he had approved it, and on that basis I indicate the concurrence of the Senator from Virginia.

Mr. DECONCINI. The Senator from Virginia is correct.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. HATCH. Mr. President, reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I ask unanimous consent that the DeConcini amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida [Mr. GRAHAM].

Mr. GRAHAM. Mr. President, I ask unanimous consent that the pending business be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 940

Mr. GRAHAM. Mr. President, I send to the desk an amendment on behalf of myself, Senator WILSON, and Senator DECONCINI, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself, Mr. WILSON, and Mr. DECONCINI, proposed an amendment numbered 940.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . ISSUANCE OF DRUG WAR BONDS.

(a) IN GENERAL.—Subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"S. 3114. Drug war bonds

"(a) The Secretary of the Treasury shall—

"(1) issue drug war bonds of the United States Government, provided, Treasury the amount of the issue in any fiscal year shall not exceed that amount appropriated for that fiscal year for the purpose contained in subsection (e)(4) of that section, and

"(2) buy, redeem, and make refunds of such bonds under section 3111 of this title.

"(b)(1) Drug war bonds may be issued under this section on an interest-bearing basis, on a discount basis, or on an interest-bearing and discount basis.

"(2) The Secretary of the Treasury may—

"(A) fix the investment yield for drug war bonds issued under this section, and

"(B) change the investment yield on any outstanding drug war bond, except that the yield on a bond for the period held may not be decreased below the minimum yield for the period guaranteed on the date on which the bond is issued.

"(3) Drug war bonds issued under this section shall mature not more than 20 years after the date of issue.

"(4)(A) Except as otherwise provided in this paragraph, the Secretary of the Treasury shall prescribe the denominations in which drug war bonds are issued under this section.

"(B)(i) In prescribing under subparagraph (A) the denominations in which drug war bonds are issued under this section, the Secretary of the Treasury shall ensure that a small denomination, of not greater than a $25 maturity value, be available for issuance in order to enable children and small investors to purchase drug war bonds.

"(ii) In order to compensate for the additional administrative costs of issuing drug war bonds under this section in a small denomination that does not exceed a $25 maturity value, the Secretary of the Treasury is authorized to fix an investment yield for such small-denomination drug war bonds that is lower than the investment yield on other denominations of drug war bonds.

"(5) The Secretary of the Treasury shall issue stamps, or may provide other means, that evidence payment towards the purchase of drug war bond issued under this section in order to encourage and facilitate the accumulation of funds for the purchase of drug war bonds.

"(c) Except as otherwise provided in this section, the Secretary of the Treasury may prescribe, with respect to drug war bonds issued under this section—

"(1) the form and amount of an issue,

"(2) the way in which the bonds will be issued,

"(3) the conditions (including restrictions on transfer) to which the bonds will be subject,

"(4) conditions governing redemption of the bonds,

"(5) the sales price of the bonds, and

"(6) a way to evidence payments for, or on account of, the bonds.

"(d) The Secretary of the Treasury may authorize any financial institution which meets the requirements of section 3105(d) to make payments to redeem drug war bonds issued under this section.

"(e)(1) There is hereby established within the Treasury of the United States a trust fund to be known as the Anti-Drug Abuse Trust Fund (hereinafter in this subsection referred to as the 'Trust Fund'), consisting of such amounts as may be transferred to the Trust Fund under paragraph (2).

"(2)(A) The Secretary of the Treasury shall transfer to the Trust Fund out of the general fund of the Treasury of the United States amounts determined by the Secretary of the Treasury to be equivalent to the amounts received into such general fund that are attributable to the proceeds from drug war bonds issued under this section.

"(B) The amounts which are required to be transferred under subparagraph (A) shall be transferred at least monthly from the general fund of the Treasury of the United States to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in subparagraph (A) that are received into the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

"(3) The Secretary of the Treasury shall be the trustee of the Trust Fund and shall submit an annual report to the Congress on—

"(A) the financial condition and the results of the operations of the Trust Fund during the fiscal year preceding the fiscal year in which such report is submitted, and

"(B) the expected condition and operations of the Trust Fund during the fiscal year in which such report is submitted during each of the 5 fiscal years succeeding such fiscal year.

The report shall be printed as a House document of the session of the Congress to which the report is made.

"(4) Funds in the Trust Fund shall only be available, as provided in appropriation Acts, for expenditures that are authorized—

(A) by the provisions of,

(B) by amendments made to, or

(C) by amendments made by,

the Anti-Drug Abuse Act of 1988.

"(f) The Secretary of the Treasury shall provide notice to the public through appropriate media that the purchase of drug war bonds will assist in implementing anti-drug abuse provisions of law.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"3114. Issuance of drug war bonds.".

(2) Section 3108 of title 31, United States Code, is amended by striking out "and 3105-3107" and inserting in lieu thereof ", 3105-3107, and 3114".

Mr. GRAHAM. Mr. President, this amendment has been reviewed by both sides and has been accepted. I will briefly state that the United States has had a number of success stories with bonds, two of those relating to the use of bonds for specific patriotic purposes. During World War II, this Nation sold some $200 billion worth of bonds to help support the war effort. We have continued this under our current savings bond program.

In the last 3 years we have sold in excess of $20 billion of U.S. savings bonds. These programs have been successful because they not only provided means by which Americans could save but also a means by which Americans could be direct participants in important national efforts, be they war or peace.

The amendment which I offer this evening on behalf of Senator WILSON, Senator DECONCINI, and myself, would apply the same principle by authorizing special issue of savings bonds for the purpose of assisting in financing the war on drugs.

These bonds would be for all purposes the same as our current EE series savings bonds except they would be denominated specifically as war on drugs bonds. They would be issued in small unit addendums so that as in World War II they might be purchased by schoolchildren, and the proceeds would go into a discreet trust fund the proceeds of which would be restricted to those items that had been appropriated having been previously authorized under the 1988 Drug Act as it might be amended.

Mr. President, that is the basic outline of what I believe is a very sound application of an old principle to a new opportunity to give Americans the chance to directly participate in the war on drugs.

Thank you, Mr. President.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California [Mr. WILSON].

Mr. WILSON. Mr. President, I am delighted to join with my friend from Florida and my friend from Arizona in this amendment. Earlier in the session the Senator from Florida and I offered different versions of this particular amendment. We offered it on a free-standing bill.

Let me point out that what is before us tonight in the form of the amendment of the Senator from Florida does not augment spending but it does something perhaps as important. It allows us, as he said, provide a mechanism for participation by the broad public in the United States who have said to the drug czar, Mr. Bennett, and who have said to each of us at one time or another "What can I do? I want to be a participant in the war on drugs."

As my friend from Florida has pointed out, this takes a leaf from history, specifically the success that the United States had involving the American people, ordinary citizens, little schoolchildren in World War II who were able to purchase stamps, fill books, and redeem them for war bonds, series E Liberty bonds with which many on this floor are familiar.

What he has provided is that mechanism once again. I think it is a very significant thing. It will be appreciated by those seeking that opportunity to be directly in some small way participants in fighting the war on drugs. I think it is a very good idea. I commend the Senator, and I am pleased to join him in that effort.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware [Mr. BIDEN] is recognized.

Mr. BIDEN. Mr. President, I compliment the Senator from Florida who has been beating on all of us on this amendment for some time—not tonight—but for the past year. I compliment him, and I compliment the Senator from California. It is a good amendment.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah, [Mr. HATCH] is recognized.

Mr. HATCH. Mr. President, it is a good amendment. I compliment both distinguished Senators from California and Florida. This is an interesting amendment. I hope it can help us in this great battle.

We accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Florida.

The amendment (No. 940) was agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana [Mr. COATS].

Mr. COATS. Mr. President, I ask unanimous consent to lay aside the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 941

Mr. COATS. Mr. President, earlier I had debated the amendment which I now send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], for himself, Mr. HUMPHREY, Mr. REID, Mr. MURKOWSKI, Mr. LOTT, Mr. DURENBERGER, Mr. NICKLES, Mr. WALLOP, Mr. D'AMATO, and Mr. BURNS, proposes an amendment numbered 941.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

"The Bureau of Justice Assistance shall provide funds for demonstration grants to the States to establish shock incarceration programs as alternatives to imprisonment for first-time offenders who have committed nonviolent offenses and nonviolent drug offenses, 90 percent of which funds shall be reserved and set aside in a special discretionary fund for use by the Director to make grants, and the remainder of which funds to make grants to provide compulsory drug treatment, as required, and literacy education, vocational education, and job training programs by the State or jointly by the State and private entities which shall be made available to nonviolent offenders selected for confinement in boot camp programs: *Provided*, That no grants shall be expended for more than 70 percent of the cost of the project for which such grant is made and no Federal funds made available to the State shall be used to supplant State or local funds that would otherwise be used to carry out such project.".

Mr. COATS. Mr. President, this amendment has already been described. I believe it is acceptable by both the majority and the minority. I leave my statement at that.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. Mr. President, we accept the amendment. It is a fine amendment.

Mr. HATCH. Mr. President, we agree with the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Indiana.

The amendment (No. 941) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia [Mr. WARNER] is recognized.

Mr. WARNER. Mr. President, I thank the Chair.

Mr. President, I am one who wants to be cooperative. I want to address the Chair and get the attention of the managers.

For some time, the Senator from Virginia together with the assistance of the distinguished Presiding Officer, the junior Senator from Virginia, has been endeavoring to amend the statute which is essential to our State law enforcement; namely, it will enable our law enforcement to continue to participate in the proceeds taken from drug seizures.

With the help of the distinguished managers of this bill and others the Senator from Virginia was able to pass an amendment to H.R. 3015, the Department of Transportation appropriations for fiscal year 1990, an amendment which I have in hand now. I addressed this earlier to the distinguished Senator from Delaware, and he assured me it was identical. I know it is a late night. It is not identical.

Mr. BIDEN. Mr. President, will the Senator tell me how it differs?

Mr. WARNER. Mr. President, the Senator from Virginia had an amendment to H.R. 3015. The amendment had three sections. I will read the last section. "The amendment made by subsection (a) shall be effective with respect to fiscal years beginning with fiscal year 1990." That was to give it a retroactive state. I find that to be an essential part of the amendment that the Senator from Virginia is trying to advocate.

Mr. BIDEN. If the Senator will yield.

Mr. WARNER. Yes.

Mr. BIDEN. I apologize. It was an unintentional misleading. Let me say to the Senator from Virginia that I will not agree to accept the amendment for a simple reason: I have had an underlying amendment on forfeiture now for the past 4 hours, which the Republican side seems unable to clear in any way.

I would be delighted to clear the amendment of the Senator from Virginia on forfeiture, which is not identical, but is very close to identical, but for the fact of the retroactivity which I am prepared to accept.

The only way I know, I would like to enlist the distinguished and influential Senator from Virginia in the battle to get the amendment of the Senator from Delaware that has been, I think, unnecessarily laid aside for the past 4 hours, on this forfeiture amendment.

So for the time being, I will object to accepting that amendment. But I assure the Senator I will accept the amendment, but not at this moment. I am being perfectly blunt and honest with you.

Quite frankly, I am being told that the administration will not sign off on the forfeiture amendment and, yet, the Senator from Delaware is prepared to sign off on a number of amendments that the administration has also not signed off on, like the one we just adopted of the Senator from Indiana.

So that is the reason I will object temporarily to accepting the amendment. Obviously, we can debate it, but there is nothing to debate, because I agree with the Senator, except I would be compelled to talk a while. Until we get the administration to move on the forfeiture amendment that has been sitting at the desk—I say 4 hours. It is probably closer to 7 hours.

Mr. HATCH. If the Senator will yield, one of the problems is——

Mr. WARNER. Use a little more booming voice. The Senator from Utah is not known to be modest.

Mr. HATCH. One of the problems is that the amendment of the Senator from Delaware is 47 pages long. If it was identical to or similar to the amendment of the distinguished Senator from Virginia, I do not think there would be any trouble accepting it. The problem is that with that length, it is very difficult to get it accepted and through the process as quickly as we would like to. So that is part of the problem.

Mr. WARNER. Mr. President, the Senator from Virginia still has the floor. He has yielded for purposes of questions from the two managers. I think to protect and safeguard the law enforcement officers in the Commonwealth of Virginia and other law enforcement officers throughout America, who tonight are on the streets risking their lives, I am going to send this amendment to the desk and ask for its immediate consideration.

Mr. BIDEN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Delaware.

Mr. BIDEN. When is it not required to gain unanimous consent to be able to send the amendment to the desk?

The PRESIDING OFFICER. It would be required for the Senator to gain unanimous consent.

Mr. BIDEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. The Senator from Virginia carefully listened to the Chair on the previous amendment. That request was not made, and the Chair recognized the Senator for purposes of sending up an amendment.

I felt that the same courtesy would be extended to the Senator from Virginia. I recognize and fully appreciate the predicament the manager of the bill presently finds himself in, but I am an innocent victim. I am concerned about the Senate's ability to consider an amendment which is identical in every respect with an amendment accepted by the Senate but a few days ago and which in large part is contained in an amendment that is pending from the Senator from Delaware.

I am wondering if the Senator from Delaware—I am perfectly willing to allow this amendment to be set aside until such time as the Senator from Delaware resolves his problems. But the Senator from Virginia has an amendment which is quite similar in a very material aspect to the amendment presently at the desk from the Senator from Delaware. I do not intend to take up further time of the Senate tonight.

I ask that the same courtesy be extended to this Senator as was other Senators who did not see fit to ask of the necessity to lay aside the pending amendment.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. WARNER. Mr. President, I yield for an inquiry from the manager.

The PRESIDING OFFICER. The Senator from Virginia yields for what purpose?

Mr. WARNER. For the inquiry of the manager.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. It is my understanding that this is an inquiry.

Mr. WARNER. Mr. President, I cannot hear back here.

Mr. BIDEN. It is my understanding that every single amendment that has been sent to the desk subsequent to the Helms amendment—to be more precise, every single amendment that has been sent to the desk subsequent to the Biden amendment on forefeiture, every single one—has required a unanimous-consent agreement that the Biden, and then later other amendments, in addition to the Biden amendment, be set aside in order for that particular amendment to be considered. Am I correct?

The PRESIDING OFFICER. The Parliamentarian informs the Chair that each amendment offered during the time period stated has required and has received unanimous consent.

Mr. BIDEN. Yes. So the point that the Senator from Delaware makes is there was no discrimination against the Senator from Virginia. The second point I wish to make, as the author of this original legislation, as the man who wrote it in the first instance in 1984, as the man who fought for 4 years to get the administration and others to accept this proposition, as the man who argued with the Carter administration, as well a the Reagan administration, to pass the forfeiture legislation, which inadvertently was amended in my absence, I might add, and probably would have been anyway, but in my absence, I have full appreciation for the need to do this.

If we are all looking for lineage in terms of our commitment to forefeiture legislation, I would claim to be the father of this legislation, which is of no value to claim at all this late at night. I say that only to make the following point: I have no objection to the amendment of the Senator from Virginia, but to say that the 8-page—not 48-page—amendment that the Senator from Delaware has at the desk, contains this provision, absent the retroactive portion, which I am prepared to accept—I would like very much to bring up the underlying, underlying, underlying, underlying amendment of the Senator from Delaware on forefeiture. I have been as gracious as anyone in allowing all the other amendments to come up tonight.

I have been waiting for close to 5 or 6 hours for the administration to clear the amendment that the Senator from Delaware wrote over 5 years ago.

Mr. HATCH. Will the Senator yield?

Mr. BIDEN. That is the only reason I am reluctant at this moment to give unanimous consent.

Mr. HATCH. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. WARNER. Mr. President, I want to accommodate the managers. So I yield the floor for purposes of the managers. But I would like to retain it at the conclusion of their statements.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I would simply like to inquire as to the parliamentary process at this point.

Those of us who waive our additional amendments, shall we anticipate those will have an opportunity to come up?

Mr. HATCH. Mr. President, I make a suggestion to the distinguished majority manager here to break this logjam tonight. I understand what the distinguished floor manager is saying. We

are, in good faith, trying to clear this amendment. I will push that as hard as I can.

I think he has expressed more than the accommodation for the distinguished Senator from Virginia that he would accept this amendment, but he is trying to put pressure on the administration and others who are looking at his amendment to move expeditiously. It is apparent we are not going to solve that problem tonight.

I suggest we dispose of the DeConcini amendment, the Jeffords amendment, and the Kerry amendment if we can, and the distinguished floor manager at least allow the amendment of the distinguished Senator from Virginia to be sent to the desk and be pending to be set aside.

If the Senator from Virginia is willing to do so we can proceed with the others and we will dispose of this tomorrow. I think it is a reasonable thing to do.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. BIDEN. Will the Senator yield for a question?

Mr. WARNER. Mr. President, the Senator from Virginia wants to be cooperative and completely leave the floor as quickly as possible.

Mr. BIDEN. Mr. President, I ask the Senator from Virginia the following then, in the interest of cooperation, whether or not he would be willing to call up the Biden amendment, amend it by the Warner amendment to put in the retroactive date. If he is willing to do that I am perfectly willing to accommodate. If he is unwilling to accommodate, then it seems to me there is only one thing occurring here.

Mr. WARNER. Mr. President, I will answer I am willing to do it.

Mr. BIDEN. Wonderful.

Mr. President, I ask unanimous consent that the Biden amendment on forfeiture, which has been at the desk in memoria, be brought up for the purpose of being amended by the Senator from Virginia to include his retroactive provision.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WARNER. Mr. President, I thank the Chair and the managers.

The PRESIDING OFFICER. Does the Senator from Virginia yield the floor?

Mr. WARNER. Mr. President, I will yield momentarily.

If I understand the situation now, as to the amendment of the Senator from Virginia that section relating to retroactive has now been incorporated in the part of the amendment pending by the Senator from Delaware.

Mr. BIDEN. That is correct, yes.

Mr. WARNER. Mr. President, further as I understood the distinguished managers of the bill, if for some reasons, and those reasons are not under the control of the Senator from Virginia, the amendment of the Senator from Delaware does not pass the Senate, could we have the understanding at that time the managers would accept the amendment sent to the desk by the Senator from Virginia for purposes of incorporation in this bill?

Mr. BIDEN. I wish the Senator had not asked me that. I would have to say that, yes, I wish he asked me that in private.

What will happen now is the administration will not agree with the amendment of the Senator from Delaware knowing full well they will only get the part of the amendment they are willing to agree to and the Senator from Delaware will just have scuttled the amendment.

In the interest of time and comity to the Senator from Virginia I will agree to that.

Mr. WARNER. Mr. President, if I have in any manner that is unfair levied upon my distinguished colleague and friend from Delaware, I will withdraw the request.

Mr. BIDEN. Then let me say there is nothing unfair about the request of the Senator from Virginia. It just is that the Senator from Virginia was unfortunate. As our former colleague Howard Baker used to say when complicated situations arose, "I hain't got no dog in that fight," unfortunately, the Senator from Virginia happened on a dog fight, was unaware one was on the way, made a good-faith request that is in every respect reasonable and makes great sense. His intentions are always as they are tonight: Pure. I never question the motivation. But there was a dog fight going on that the Senator from Virginia found himself walking into.

Having said that, I do not care about the dog fight any more. It is 11:25 p.m. He is a gentleman and a scholar; he is always a good man to work with. I will keep the commitment that if for some reason the amendment of the Senator from Delaware does not move I will support the Senator from Virginia moving independently.

Mr. WARNER. Mr. President, I thank my distinguished colleague and I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia yields the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, if I may ask a parliamentary procedure; is it necessary, in order to go back to the DeConcini amendment, to ask unanimous consent that the Biden underlying amendment be set aside? Or is that already accomplished?

The PRESIDING OFFICER. It will require unanimous consent in order to return to the DeConcini amendment.

Mr. DECONCINI. I so make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 939

Mr. DECONCINI. Mr. President, I am offering an amendment which will ensure better coordination between the Department of Defense and State and local law enforcement officials along the Southwest border when the DOD undertakes a drug operation.

The amendment I am sponsoring requires the Secretary of Defense to consult with Operation Alliance, which is the civilian antinarcotics task force, composed of Federal, State and local law enforcement officials along the Southwest border, charged with coordinating drug interdiction activities there, when the Secretary of Defense undertakes any drug enforcement operation in the Southwest.

Mr. President, in 1988 the Department of Defense was given the lead role for detection and monitoring for the aerial and maritime transit of illegal drugs entering the United States. At that same time, the Congress authorized the Department of Defense to provide to States funds for the "pay, allowances, clothing subsistence, gratuities, travel and related expenses of personnel of the National Guard" of each State for the purpose of drug interdiction and enforcement operations.

I supported that provision in the National Defense Authorization Act of 1989 as I believed and still do believe that if we are serious about waging a real war on drugs in this country, that we need to mobilize all of our Nation's resources and use to the maximum extent possible, those resources of the military.

In utilizing the Nation's military personnel in this war on drugs, we must ensure that there is some type of a consultation process so that the military is not moving into States on their own without notifying civilian law enforcement agencies. Unfortunately, that is exactly what is happening.

Mr. President, I was recently contacted by State and local law enforcement officials in Arizona regarding the use of the military along the Southwest border. These individuals had recently been briefed on a major operation being planned between the Immigration and Naturalization Service [INS] and the Fifth Army Command. At the time of the briefing, not only had the State and local officials not been consulted or briefed on the joint operations between INS and the Army, but Operation Alliance had not been included in the negotiations.

These law enforcement officials, like myself, are not opposed to the use of the military in a support role in the war on drugs. The problem is that law enforcement officials want to be en-

sured that the coordination and cooperation which has been built up during the past couple of years along the border continues.

In the past 5 years, I have chaired several antidrug hearings in the Southwest and at each hearing I have heard of improved relations between local, State, and Federal law enforcement agencies. As a former county prosecutor in Arizona, I can tell you first hand that this was not always the case. State and local law enforcement are on this Nation's front line in the war against drugs and crime. This Nation's effort in the war on drugs cannot be successful without the total cooperation and assistance of State and local law enforcement agencies.

In regard to Operation Alliance, this Federal entity was created in 1986 to provide a vehicle along the Southwest border that could coordinate Federal, State, and local drug enforcement efforts. It took 2 years before Operation Alliance really got off the ground, but today they are proving to be an extremely useful tool. With Operation Alliance, State and local law enforcement officials are better able to keep up to date on the Federal efforts being implemented along the border and they are better able to avoid being caught between two Federal agencies.

While the sharing of information related to all drug enforcement operations may present a difficult problem for the passing of sensitive investigation related information, it seems to me that the Secretary of Defense should at the very least, consult with civilian law enforcement when he is about to undertake a very major operation which involves an infusion of large numbers of military personnel into an area, or other operations which affects State and local law enforcement jurisdiction.

If the Secretary of Defense formulates a plan to send troops to the Southwest border to enhance interdiction and enforcement efforts there, the Secretary should be consulting with civilian law enforcement officials who may very well have legitimate concerns about the impact the operation may have on their own activities.

The amendment I am offering simply requires the Secretary of Defense, to the extent practicable, to consult with Operation Alliance, the official law enforcement coordinating body for the Southwest border, prior to and during any drug enforcement operation.

If the military is going to be conducting operations along the Southwest border they must first consult with Operation Alliance. In turn, Operation Alliance must see to it that the appropriate State and local law enforcement agencies are contacted. Coordination and cooperation is the key. The military must play by the same rules as any law enforcement agency involved in the fight against illegal drugs.

Mr. President, I believe this is a fairly noncontroversial amendment, but one which is sorely needed. In our enthusiasm to stem the flow of drugs into this country, we must ensure the proper communication and consultation process to eliminate any potential conflicts between and amongst law enforcement agencies.

Under current law, the Secretary of Defense is required to hold an annual briefing for State and local law enforcement personnel. Mr. President, I am advised that those annual briefings are not occurring but should be. If the Department of Defense is going to continue to be a major player in the war on drugs, they must be sensitive to the needs of State and local law enforcement officials. This amendment will ensure the communication that is now lacking, albeit intentionally or not.

Mr. President, I urge the adoption of the amendment.

Mr. President, I believe that the managers of the bill and the ranking member have agreed now to accept my amendment. I thank them.

Mr. HATCH. Mr. President, it is my understanding that the distinguished Senator from Virginia is prepared to accept the amendment of the distinguished Senator from Arizona and therefore we on the minority side will be pleased to accept it.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the distinguished Senator from Utah has correctly stated. I am willing to accept the amendment. But he has also put in a very important condition that at the time he is concerned with the conferees should there be any question by the Department of Defense that question would be fairly addressed by the conferees. There could be some technical aspect of this I am not able to ascertain at this late hour.

Mr. DECONCINI. If the Senator will yield, absolutely I realize the conferees have to make the final approval here. I am interested in getting this amendment in the package. So hopefully it will be cleared and become part of the law and if the Defense Department wants to participate in that I know the Senator will welcome it as will I.

I thank the distinguished chairman and ranking member in cooperating and helping this amendment pass.

The PRESIDING OFFICER. Is there any further debate on the amendment as offered by the Senator from Arizona?

The question is on ageeing to the amendment of the Senator from Arizona.

The amendment (No. 939) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 942

(Purpose: To provide for the establishment of a demonstration program to provide grants to provide drug abuse resistance education to students grades kindergarten through six, and for other purposes)

Mr. WILSON. Mr. President, I send an amendment to the desk on behalf of myself, the distinguished Presiding Officer, Mr. GRAHAM, Mr. DECONCINCI, Mr. THURMOND, and Mr. D'AMATO.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mr. WILSON] for himself, Mr. GRAHAM, Mr. DECONCINI, Mr. THURMOND, and Mr. D'AMATO, proposes an amendment numbered 942.

Mr. WILSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . (a) IN GENERAL.—The Secretary of Education is authorized to award grants to local educational agencies in consortium with entities which have experience in assisting school districts to provide instruction to students grades kindergarten through six to recognize and resist pressures that influence such students to use controlled substances, as defined in schedules I and II of section 202 of the Controlled Substances Act (21 U.S.C. 812), the possession or distribution of which is unlawful under such Act, or beverage alcohol, such as Project Drug Abuse Resistance Education, that meet the requirements of subsection (b).

(b) REQUIREMENTS.—A local education agency in consortium with an entity shall not be eligible for a grant under subsection (a) unless such local education agency in consortium with an entity will use assistance provided under such grant to provide or arrange for the provision of services that shall include—

(1) drug abuse resistance education instruction for students grades kindergarten through six to recognize and resist pressures to experiment that influence such children to use controlled substances, as defined under subsection (a), or beverage alcohol, including instruction in the following areas—

(A) drug use and misuse;
(B) resistance techniques;
(C) assertive response styles;
(D) managing stress without taking drugs;
(E) decision making and risk taking;
(F) media influences on drug use;

(G) positive alternatives to drug abuse behavior;

(H) interpersonal and communication skills;

(I) self-esteem building activities; and

(J) resistance to gang pressure;

(2) classroom instruction by law enforcement officials;

(3) the use of positive student leaders to influence younger students not to use drugs; and

(4) an emphasis on activity-oriented techniques designed to encourage student-generated responses to problem-solving situations; and

(c) APPLICATION.—The Secretary shall not make a grant under subsection (a) unless—

(1) an application for the grant is submitted to the Secretary;

(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

(3) the application otherwise is in such form, agreements, assurances, and information as the Secretary determines to be necessary to carry out this section; and

(4) the application contains an assurance that the applicant will provide funds, either in cash or in kind that are not less than 10 percent of the amount of the grant under subsection (a);

(d) SUPPLEMENTAL FUNDS.—Amounts received under subsection (a) by the entity shall be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of projects of the type described in subsection (b); and

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10 million in fiscal year 1990, and such sums as may be necessary for each of the 3 succeeding fiscal years.

Mr. WILSON. Mr. President, I will save the clerk the reading. It is a simple amendment.

It states there should be authorized some $10 million to provide for the use in those school districts throughout the land who require some assistance, the opportunity that they may engage in that kind of drug education that has been identified throughout the land as the DARE Program, DARE being the acronym, drug abuse resistance education.

Mr. President, I believe every State in the Nation contains a school district that employs this program. It has been a single success, but there are districts that would like to provide it but cannot and do need some assistance. This has been a success because it is a program that does simply more than cite drug deals. On a regular basis with young school children, that is to say those in fourth, fifth, and sixth grades, at least once a week for an entire semester, for more than a year, a technique has been evolved, the technique of instruction whereby students in these grades, kindergarten through six recognize and resist pressures to experiment.

Elements of the instruction include the teaching of drug use and misuse, resistance techniques, assertive response styles, managing stress without taking drugs, decisionmaking and risk taking, media influences on drug use, positive alternatives to drug abuse behavior, interpersonal and communication skills, self-esteem building activities, and resistance to gang pressure.

A single characteristic of this program of instruction is that it is taught by law enforcement officials, those who have been specifically selected for that purpose.

In this technique the use of positive student leaders to influence young students to not use drugs has been also a very successful element and there is an emphasis on techniques to student-generated response to problem solving situations.

In short, Mr. President, the DARE Program has been a success. It is one in wide use. We seek to widen the use further to those districts that can use some assistance in providing this help. It is prevention of the most effective kind.

Mr. President, it has been accepted, I believe, by both the majority and the minority.

Mr. BIDEN. Mr. President, the majority accepts the amendment.

Mr. HATCH. Mr. President, the minority accepts the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 942) was agreed to.

Mr. WILSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 943

(Purpose: To establish an Electronic Scanning Task Force for the purposes of making recommendations concerning methods of making certain U.S. currency notes traceable by electronic scanning)

Mr. KERRY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] proposes an amendment numbered 943.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than 30 days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than 180 days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

Mr. KERRY. Mr. President, this amendment represents a slight modification of legislation I filed in July. It would require the Secretary of the Treasury to appoint a panel of private sector experts to prepare cost estimates and an implementation plan for making the serial number on U.S. currency readable by inexpensive, commonly available optical scanners, such

as those used in grocery stores, factories, and businesses across the country and around the world.

Adopting this provision would empower law enforcement agencies, financial institutions and international investigators to begin to use the latest technologies to track the flow of illegal money.

We've all heard the expression "marked bills," such as the FBI making a payment to a criminal in a sting using marked bills.

What most people do not think about is that all bills are marked, in that they have serial numbers. The problem is, that serial numbers do not get used much by law enforcement, because the compilation and reading of numbers is time consuming and has had to be be done manually.

While there are computers available which could theoretically read the green ink block letters that make up the serial numbers on bills, this equipment costs hundreds of thousands of dollars per unit, according to estimates obtained by my office.

By contrast, bar coding technologies now can read alphanumeric codes cheaply and efficiently. Bar-coded symbols are now used to keep track of video cassettes, blood supplies, evidence in local police departments, and even, ironically enough, large bulk shipments of currency into and out of the Federal Reserve in New York.

The technology is based on light pens, laser scanners and personal computers, and is extremely affordable. It is a decentralized technology, which can be used by small teams working out of local police departments, remote undercover drug enforcement agents, or bankers.

It provides a mechanism by which our Government, our law enforcement agencies, our financial institutions, and foreign institutions as well can efficiently track U.S. currency—bill by bill—without any undue administrative burdens.

These machines can count and track bar-coded currency as quickly as they currently count and check for counterfeit currency.

Let's make clear that I do not envision this system being used to keep track of every bill and every cash transaction throughout the country. Some have jumped to the conclusion that the next step after this bill is passed is to require every financial institution to keep track of every bill.

This is not the case.

Let me explain some of the ways in which we may want to use this:

Last Friday, in Los Angeles, Federal authorities confiscated or seized the largest cache of cocaine ever found in the United States, with a wholesale value of more than $2 billion.

Along with the cocaine was $20 million in currency. If this technology had been in place during the last year or so, we could have scanned this $20 million to determine from what cities the currency came from.

We would know this because undercover agents making large cocaine purchases in those cities would be using bills that had been scanned and entered into a data base. This kind of information would give us invaluable insights into the flows of the international drug distribution networks.

Another example. Let's suppose that investigators suspect a connection between a certain front business and illegal drug sellers. For example, they believe a certain restaurant might be commingling its currency with the profits of drugs.

By seeking the cooperation of certain banks, and using marked bills to make purchases from the suspected sellers, the investigators could easily trace in a verifiable manner the flow of those bills through a supposedly legitimate enterprise to determine whether it was laundering the money.

Last week, in testimony before the subcommittee which I chair in the Foreign Relations Committee, the Drug Enforcement Administration explained how they have had to curtail their use of marked currencies because of the enormous difficulty in keeping track of tens of thousands of serial numbers manually.

They testified that the availability of bar coding currency combined with increasingly sophisticated and powerful computer technology would be a valuable law enforcement tool.

In July, when I introduced this bill, copies were made available to the Treasury Department with the request for comment and further information.

Unfortunately, despite repeated calls, the Treasury Department has so far not provided any response.

However, I have discussed this with Federal Reserve Bank officials in New York and Washington, and I have been told that the Federal Reserve has no concerns with the printing of serial numbers using the new bar code method.

Moreover, my staff has had informal conversations with Treasury regarding the currency provision, and were informed that Treasury had no objection to an anemdment which only required a plan at this time, rather than actual implementation by a certain date, as the original bill required.

This amendment, while putting us on the path toward the adoption of bar codes, does not mandate that they be placed on U.S. currency by a certain date. Instead, it commissions a study to determine how bar coding could properly be implemented on our currency, with that study to conclude in a report to the Congress in 6 months. At that time, depending on what the study concludes, I would expect this body to consider whether it wishes the United States to adopt bar coding on our currency as a means of assisting law enforcement in fighting money laundering.

Mr. President, this amendment has been approved by both sides. It requires a study by the Treasury with respect to placing bar codes for electronic scanning on U.S. currency. This is a technique that would greatly assist law enforcement in the process of tracking money which is used in narcotics trafficking. I know the Treasury Department has accepted the concept of doing a study on this feasibility process.

Mr. BIDEN. Mr. President, I wish to compliment the Senator. I do not want to take the time of the body at this hour of the night, but if we were earlier in the day, I could spend a good half an hour pointing out to this body how much useful and significant work the Senator from Massachusetts has done on what everyone acknowledges to be one of the two or three most significant undertakings we could do in order to make progress in dealing with drug trafficking, and that is the money laundering issue.

I wish to compliment him on it. I, quite frankly, wish it were not a study. I wish we were just moving to it. But I acknowledge that this is the best the Senator can do at this point. I cannot help but believe that this position will prevail.

Again, I compliment him. We are happy to accept the amendment for study.

Mr. HATCH. Mr. President, the minority is ready and willing to accept this amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 943) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the pending amendment be laid aside so that I may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 944

(Purpose: To require the Secretary of Health and Human Services to conduct a study concerning the relationship between an individual's consumption of legal drugs and the consumption or abuse by the individual of illegal drugs)

Mr. JEFFORDS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 944.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . STUDY ON THE RELATIONSHIP BETWEEN THE CONSUMPTION OF LEGAL AND ILLEGAL DRUGS.

(a) IN GENERAL.—For assistance in designing prevention programs to reduce the likelihood of drug abuse, the Secretary of Health and Human Services shall conduct a study concerning the relationship between an individual's receptivity to use or consume legal drugs and the consumption or abuse by the individual of illegal drugs.

(b) CONTENTS.—The study conducted under subsection (a) shall contain information concerning—

(1) the effect of advertising and marketing campaigns that promote the use of legal drugs on the public;

(2) the correlation of legal drug abuse with illegal drug abuse; and

(3) other matters that the Secretary of Health and Human Services determines appropriate.

(c) DATA AND RESEARCH.—In conducting the study under subsection (a), the Secretary of Health and Human Services shall consider data collected and current research concerning drug abuse and gateway drugs.

(d) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report containing the results of the study conducted under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000.

Mr. JEFFORDS. Mr. President, my amendment would direct the Secretary of Health and Human Services to conduct a study into the relationship between the tendency to consume legal drugs and the tendency to use illegal drugs.

Clearly our society has become more dependent on drugs—not necessarily illegal drugs—but legal drugs as well. We live in a highly advanced society where medicine has provided answers and cures for what once where fatal illnesses.

Drugs have been the linchpin to these advances. They have provided hope where none used to be not just to fatal illnesses, but also physical and internal problems.

But the question which begs to be answered is whether drugs play too important a role in our society—are they being used not just to save a life but also do they result in an expectation or relief or gratification, leading to use of illegal drugs.

In U.S. society, people have come to expect that "if you have a headache, we have a pill. If you are too fat, we have a pill. If you are too skinny, we have a pill." Marketing campaigns glorify the use of drugs and promise a cure for either physical or emotional ailments.

The National Commission of Marijuana and Drug Abuse, in one of its studies found that, "15 percent of the U.S. adult population reported that they "take a pill to calm down or cheer up" when they feel out of sorts, not really sick, but nervous, or depressed or under stress.

An estimated 18 percent of the population uses alcohol in a similar fashion. Furthermore the Commission noted that popular culture adds to the problem. "Drug taking, both legal and illegal, is a commonplace activity among the characters one encounters in our literature, on stage, and on television. More and more people are using drugs as if they were the only possible solution to the inevitable hardships of life * * *."

This sort of dependency worries me. Do we have a culture that encourages substance abuse? Is instant gratification our society's motivation? If the answer is yes, then there is no accident that drug abuse, which is but a radical form of instant gratification, should thrive in such an atmosphere.

My amendment simply asks that an indepth study be done to see if, in fact, a correlation exists between the use of legal and illegal drugs. An answer to this question may in return answer a yet greater question of whether our society is a root cause for the drug abuse crisis in this Nation.

If the answer is yes then it will be critically important to begin to tailor our education system to address this situation. Drug education cannot be effective if it is in a vaccum. Instead it must target all relevant areas of the drug crisis including the influence of legal as well as illegal substances.

Mr. President, I believe both sides have agreed to the amendment.

Mr. BIDEN. Mr. President, as I said just a few moments ago, the hour is late, but I cannot help but comment. You can tell the folks around here that know their trade.

I compliment the Senator from Vermont. It is obvious he spent some time in the House, because of the way in which he moves. He knows at this hour of the night the best thing to do. He knows exactly what to request and exactly how to do it, and exactly how to move on.

Notwithstanding the fact that he moved quickly through his amendment, I do not think we should shortchange it in terms of its importance and significance.

The Senator from Delaware and the majority are happy to accept the amendment. I compliment him on the effort and also in watching him work.

Mr. JEFFORDS. I thank the Senator.

Mr. HATCH. Mr. President, I join with the distinguished majority floor manager in all of his comments. This is an ingenious amendment and one that I think will do some good. I certainly accept it on the part of the minority.

The PRESIDING OFFICER (Mr. KERRY). Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 944) was agreed to.

Mr. JEFFORDS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 923, AS MODIFIED

Mr. BIDEN. Mr. President, the Senator from Delaware would like to point out that we have, I think, some good news. Through the gracious cooperation, I am told, of the Justice Department, the minority, I believe, is prepared to clear the forfeiture amendment. Is that correct? I was just informed of that.

Mr. President, I ask unanimous consent that the Biden forfeiture amendment, which is somewhere at the bottom of the pile there; I am not sure how to ask this—be considered at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 923, as modified.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

(a) section 511(e)(3) of the Controlled Substances Act (21 U.S.C. 881(e)(3)) is amended by—

(1) striking subparagraph (B);

(2) striking the dash and "(A)"; and

(3) striking "; and" and inserting a period.

(b) Section 6077 of the Anti-Drug Abuse Act of 1988 is amended by striking subsection (c).

(c) The amendment made by subsection (a) shall be effective with respect to fiscal years beginning with fiscal year 1990.

(1) in paragraph (1) by striking "$100,000" and inserting "$500,000";

(2) by striking "or" at the end of paragraph (2); and

(3) by inserting "or" after the semicolon at the end of paragraph (3); and

(4) by adding after paragraph (3) the following:

"(4) such seized merchandise is monetary instruments;".

(b) CONFORMING AMENDMENT.—The section heading for section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"SEC. 1607. SEIZURE; VALUE $500,000 OR LESS, PROHIBITED ARTICLES, TRANSPORTING CONVEYANCES.".

SEC. 14. FORFEITURE OF INSTRUMENTALITIES OF A FOREIGN DRUG OFFENSE.

Section 981(a)(1)(B) of title 18, United States Code, is amended—

(1) by inserting after "proceeds obtained directly or indirectly from" the words "or which represents the instrumentalities of"; and

(2) by adding at the end thereof the following: "No conveyance shall be forfeited under this paragraph to the extent of an interest of an owner by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner.".

SEC. 15. CLOSING OF LOOPHOLE TO DEFEAT CRIMINAL FORFEITURE THROUGH BANKRUPTCY.

(a) TITLE 16.—Section 1963(a) of title 18, United States Code, is amended by inserting after "shall forfeit to the United States irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution under this chapter".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413(a) of the Controlled Substance Act (24 U.S.C. 853(a)) is amended by inserting after "shall forfeit to the United States, irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution of such violation".

SEC. 16. NONABATEMENT OF CRIMINAL FORFEITURE WHEN DEFENDANT DIES PENDING APPEAL.

(a) TITLE 18.—Section 1963 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(n) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

(b) The Controlled Substances Act.—Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end thereof the following new subsection:

"NONABATEMENT OF FORFEITURE ORDER

"(q) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

SEC. 17. FORFEITURE OF PERSONAL PROPERTY USED TO FACILITATE A DRUG OFFENSE.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end thereof the following new paragraph:

"(10) Any weapon, computer, or electronic communications device used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.".

SEC. 18. FORFEITURE OF PROCEEDS TRACEABLE TO CONVEYANCES USED TO FACILITATE DRUG VIOLATIONS.

Section 511(a)(4) of the Controlled Substances Act (21 U.S.C. 881(a)(4)) is amended—

(1) by inserting "and any proceeds traceable to such conveyances" after "property described in paragraph (1) or (2),";

(2) in subparagraph (A), by inserting ", and no proceeds traceable to such conveyance," before "shall be forfeited"; and

(3) in subparagraphs (B) and (C), by inserting "and no proceeds traceable to such conveyance" before "shall be forfeited".

SEC. 19. CONFORMING AMENDMENT OR PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure of forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 20. CLARIFICATION OF ATTORNEY GENERAL'S FORFEITURE SALE AUTHORITY.

Section 511(e)(1)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(B)) and section 2254(f)(2) of title 18, United States Code, are each amended by inserting ", by public sale or any other commercially feasible means," after "sell".

SEC. 21. CLARIFICATION OF CIVIL FORFEITURE SEIZURE WARRANT AUTHORITY.

Section 981(b)(2) of title 18, United States Code, is amended by striking "has obtained a warrant for such seizure pursuant to the Federal Rules of Criminal Procedure" and inserting "has obtained a warrant for such seizure in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure".

SEC. 22. FORFEITURE AND DESTRUCTION OF DANGEROUS, TOXIC, AND HAZARDOUS MATERIALS.

Section 511(f) of the Controlled Substance Act (21 U.S.C. 881(f)) is amended by inserting "; all dangerous, toxic, or hazarous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a) (2) or (3) which cannot be separated safely from such raw materials or products" after "this title" wherever it appears.

SEC. 23. ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE TREASURY DEPARTMENT AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

Mr. BIDEN. Mr. President, I bored the Senate with why I thought this was a useful and important amendment earlier this evening. I will not take any more of the Senate's time. Needless to say, the majority accepts the amendment.

Mr. HATCH. Mr. President, I am happy at this late hour on this very tough day that the administration and all concerned have approved this amendment. Again, I wish to pay tribute to and compliment the distinguished majority floor manager who has worked so hard to get forfeiture amendments through the years, who has worked so hard on these antidrug issues, and who has been a singular leader in the Congress in these particular areas. I personally feel very good about having his amendment adopted here this evening and certainly the minority accepts his amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. WARNER. Mr. President, I stepped off the floor momentarily. Is the famous Biden-Warner amendment now about to be passed?

Mr. BIDEN. Mr. President, the answer is yes, famous only because Senator WARNER has amended it.

Mr. WARNER. Mr. President, I thank my distinguished colleague. I am prepared to give a loud "yea" when the time comes.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 923), as modified, was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 945

(Purpose: To determine the status of United States' efforts to convene a hemispheric conference on drug trafficking and drug abuse)

Mr. GRAHAM. Mr. President, I ask unanimous consent that the pending business be set aside for the purposes of sending an amendment to the desk.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 945.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

(a) FINDINGS.—The Congress finds that—

(1) Public Law 100-690, the Anti-Drug Abuse Act of 1988, included specific provisions (sections 4101, 4103, 4104, 4105 and

4106) relating to multilateral narcotics control efforts;

(2) the need for international cooperation in order to fight organized and violent drug traffickers, to exchange drug interdiction intelligence, and to create drug treatment research, has been recognized by countries that produce, consume, or serve as transshipment points for illegal narcotics;

(3) the United States must assume a leadership role in the multinational movement to combat drugs;

(b) Therefore, the Secretary of State is required to submit to the Congress of the United States a report on the status of the efforts the Department of State has made or intends to make in order to carry out Sections 4101, 4103, 4104, and 4105 of the Anti-Drug Abuse Act of 1988 regarding multilateral drug control efforts.

This report shall be submitted to Congress no later than December 1, 1989.

Mr. GRAHAM. Mr. President, this amendment, which has been cleared on both sides, relates to various provisions which were adopted in the 1988 Anti-Drug Abuse Act directing the State Department to take actions, such as actions within the Organization of American States, convening meetings of various officials in this hemisphere, and other international efforts.

The 1988 act did not, in some instances, provide for a clear reporting mechanism from the State Department to the Congress as to what actions were taken under those directives. The purpose of this amendment is to direct the Secretary of State to submit to the Congress a report on the status of the department's efforts in these various areas and to do so by December 1 of this year.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I see no objection to this amendment.

Mr. BIDEN. Mr. President, we accept the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Florida.

The amendment (No. 945) was agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 946

Mr. BIDEN. Mr. President, I ask unanimous consent that the pending business be set aside for the purpose of sending an amendment to the desk.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 946.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

The amendment is as follows:

Strike Simon Amendment No. 922 except sections 61-63, and 74 of that amendment.

Mr. BIDEN. Mr. President, I say to the distinguished Republican manager of the bill that this amendment is a technical amendment to conform the Simon amendment to what it was represented to be. It, inadvertently, is slightly different from how it was represented.

I fully understand, as I see the looks on the faces of my colleagues and the staff, they obviously have not seen this amendment.

Mr. HATCH. The amendment is accepted by the minority. We understand it is to correct a technical error that was in the Simon amendment.

Mr. BIDEN. That is correct. The Simon amendment at the desk does slightly more than it was advertised to have done when we accepted it, so we want to make sure it conforms with what it was represented to be.

Mr. HATCH. That is my understanding. We accept the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Delaware.

The amendment (No. 946) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, the hour is late. I have been here about 17 hours. The Senator from Utah about the same. One of two things happens at this hour, either people become very complimentary, and in the case of the compliments delivered to the Senator from Delaware, undeservedly complimented, or we get very bitter and it becomes rancorous.

It has been a pleasure and will continue to be a pleasure to work with the Senator from Utah. Notwithstanding the occasions when we differ, we have never had difficulty working together. I truly mean it. I compliment my colleague on the way he has managed this, particularly since he not only has had to clear all these amendments with the other side, but also with the administration. I think he and his staff have done a herculean job on his side, and although we have not finished with this, we have certainly moved a long, long way, going through what could have been an incredibly difficult evening.

We have passed tonight 30 amendments. I am not sure that sets a record, but they are not insignificant amendments.

Again I particularly want to thank the staff. They are first rate. And I appreciate the cooperation tonight. We have more to do tomorrow, but I wanted to say that, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I do not want to prolong this because it is late and it is time for all of us to go. I know the distinguished Senator from Delaware would like to shut the Senate down, and everybody would like to go, but I want to say it has been a pleasure to work with him and his staff as well. We have worked together on some tremendously difficult, complex matters on the Judiciary Committee and elsewhere in the Senate. Every time we have, it has been a pleasure to work with people who are gentlemen and gentle ladies, who really are working in the best interest of our country.

In this particular case, the distinguished Senator from Delaware is without peer with regard to these areas of the Judiciary Committee that he has managed here this evening. So, it is very difficult to argue with him in areas where his heart is right, his soul is right, and his writings and work have been equally right. It has been a privilege for me to be with him this evening, and I look forward to working with him in the future on other items as well as finishing this bill.

Mr. KENNEDY. Mr. President, the Nation is at a critical turning point in the war on drugs. A winning strategy against drug abuse involves three approaches: Law enforcement, prevention, and treatment. Each is vital, and none can be downgraded or ignored.

In light of the severe budget constraints we face, the greatest challenge may well be to spread our limited resources in the most effective possible way. That is particularly so when it comes to law enforcement. We don't have the resources to apprehend or imprison every pusher, supplier or casual user. Our efforts over the past several years have already saddled us with a criminal justice system that is bursting at the seams, causing prosecutors, courts and prisons to call out for help.

On the enforcement side of the drug war, wiser policies and more resources are needed, especially at the State and

local level—where the real war is fought every day on our streets and in our communities. We must learn to support our State and local police—and do it without abandoning fundamental constitutional guarantees or turning any local jurisdiction into a police state.

More important, Federal law enforcement officials must do a better job of coordinating Federal efforts, so that we direct drug enforcement resources in a way that brings maximum pressure on drug trafficking organizations here and abroad. This Democratic package improves on the law enforcement proposals put forth last month in Director Bennett's national drug strategy. But we can must do better.

Drug Director Bennett's proposals, with their emphasis on State and local enforcement and street crime crackdowns, reflect a positive step away from the misguided efforts of the previous administration to zero out Federal assistance to State and local law enforcement. The budget agreement arrived at last week improves further on this trend by allocating more funds to State and local law enforcement—where the real war is fought every day on our streets and in our communities.

The Democratic package reflects a balanced approach, particularly in its treatment of supply reduction programs and priorities. In particular, we have included enhancements in State and local law enforcement authority, tougher asset forfeiture, quicker prosecutors of drug offenders, broader use of civil sanctions, and high intensity drug trafficking and disaster area improvements.

The State and local law enforcement grant program provides Federal resources for a range of effective programs that should be encouraged. It requires State and local grant applications to certify that Federal grant funds will not be used to replace State and local funds that would otherwise be devoted to such law enforcement activities. We also encourages States to implement policies with proven success, including emphasis on swift and certain punishment, tough penalties that punish offenders and limit their ability to commit future crimes, and board asset forfeiture.

Our package includes language making Federal law enforcement grants to States dependent upon the presence and effective implementation of the following State and local programs: (1) Fast-track prosecution of drug offenders aimed at requiring sentencing within 100 days of arraignment; (2) broader remedial and punitive authority in the form of civil injunctive relief including stay-away orders; and, most important, (3) strong forfeiture priorities designed to seize drug profits and provide additional revenue for law enforcement, treatment and other drug-fighting programs.

The 1988 act gave the drug director specific authority that Senator BIDEN and I authored to designate certain areas as "high intensity drug areas." We left considerable discretion with the Director in exercising that authority. Our concept was intended to provide a mechanism for the Federal Government to bring greater pressure to bear on areas of the country hardest hit by the drug problem, in the same fashion that disaster areas are determined. The proposal we now consider gives full effect to the proposal Senator BIDEN and I first conceived last year.

A specific allocation of high intensity resource commitments was not specified, but the 1988 drug bill clearly set forth Congress' overall conclusion that 50:50 is the appropriate distribution between supply and demand resources. Because Director Bennett's national drug strategy does not accept that distribution, we have included criteria in the pending proposal to ensure that the "high intensity" and "disaster" designations take into account both supply and demand needs, so that relief to these areas will reflect the 50–50 formula.

In addition, our proposals will authorize up to $300 million for designated high intensity drug trafficking and disaster areas. Currently, the drug Director's authority is limited to reassigning existing resources and that authority is important. This new proposal will authorize the injection of new resources to high intensity areas, whether it is for supply or demand reduction programs, instead of taking away important resources from other assignments.

We have also included a provision to encourage Federal prosecutors to make broader use of civil injunctions, including stay-away orders to keep offenders out of drug trafficking areas and crack houses, and to use RICO's civil and forfeiture sanctions against all criminal offenders. Offenders who violate these civil orders would be subject to enhanced punishment at the discretion of the court.

Taken together, these provisions will provide substantial new assistance to all levels of our law enforcement and civil justice system, and I urge the Senate to support them.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a-1928d, as amended, appoints the following Senators as members of the Senate delegation to the North Atlantic Assembly Meeting during the 1st session of the 101st Congress, to be held in Rome, Italy, October 6-10, 1989: the Senator from Rhode Island [Mr. PELL], the Senator from New York [Mr. MOYNIHAN], the Senator from Colorado [Mr. WIRTH], and the Senator from Virginia [Mr. ROBB].

MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent for there to be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROBERT H. SWEENEY, NACHRI PRESIDENT

Mr. BIDEN. Mr. President, earlier this year, I introduced S. 440, the Health Care for Children Act, to address the serious gaps in Medicaid coverage for poor children and pregnant women. I am hopeful that the Congress will act on the much needed reforms I have put forward in S. 440 as part of the fiscal year 1990 budget reconciliation act.

In drafting S. 440, I drew on the counsel of many child health advocates, including Robert H. Sweeney, the president of NACHRI—the National Association of Children's Hospitals and Related Institutions. During the past year, children's hospitals around the country have worked through NACHRI to call attention to the tremendous inadequacies of Medicaid coverage for children. More than half of all children living in families with incomes less than the Federal poverty level have not qualified for Medicaid nationwide, and in most States, Medicaid does not begin to meet the costs of providing health care for children.

Bob Sweeney is a native son of Delaware, and NACHRI made its home in Wilmington for many years before moving to the Washington, DC, area. I have valued Bob's advice and assistance over the years, and I take pleasure in joining his colleagues in congratulating him on the 15th anniversary of his service to NACHRI at a time when the association is holding its annual convention and the Nation is observing National Children's Day. I ask that the following statement of NACHRI's recognition of Bob Sweeney be inserted in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

A TRIBUTE TO ROBERT H. SWEENEY

(By William H. Considine, NACHRI Chairman)

Some time ago, recognizing that we had both an obligation and a contribution to advance children's health and health policy in the broadest sense, the nation's children's hospitals decided to pool our collective expertise and resources by centralizing our efforts in Washington. In this way, we rea-

soned, we would be able to advocate for children all across the nation the way we were already advancing the health status of children in our own communities. And fifteen years ago we were fortunate enough to marry our collective mission to the vision of a dedicated child advocate: Robert H. Sweeney.

The years have proven the wisdom of these decisions. Over the course of the past fifteen years, children's hospitals and our association, NACHRI, have accomplished a great deal in the service of children. Let me share with you just a few of these important accomplishments:

In 1978, NACHRI published a major study documenting for the first time the uniqueness of children's hospitals, based on the unique needs of a child in treatment. This landmark study allowed those outside the health field to understand that children's hospitals commit a substantially greater percentage of resources to specialized intensive care than do general hospitals and that much of the staffing and other cost differences are inherent in the nature of the care needs of children with complex illnesses.

In 1985, NACHRI built upon this base of documented difference by researching and introducing PMDRGs, or Pediatric Modified Diagnostic Related Groups, which have allowed prospective payment systems to incorporate an understanding and respect for children's illnesses into their financial systems. This work has been the foundation of NACHRI's effective advocacy of reform of the CHAMPUS prospective payment system.

As this expertise has become more visible to our representatives in the Capitol, it has also become more vocal. NACHRI has emerged as a recognized leader in advocacy for children's health and as the center of a vast network of authorities in the field. The association has been instrumental in facilitating a fruitful dialogue between children's hospitals and the Congress through informed testimony.

NACHRI has also played a useful role in defending and promoting the public policy interests of all children as they relate to health. In 1988, NACHRI promoted a nonpartisan voter education campaign—"I Care for Kids—and I Vote!"—which the children's hospitals used all across the country to encourage voters and candidates alike to address the needs of children.

Over the years, NACHRI has developed an internal data base on children's hospitalization to enable hospitals themselves to manage better and to provide better care for children. As part of the growing professionalization of the organization, NACHRI has instituted educational forums to facilitate greater communication among various child health professionals.

In all of these accomplishments, Robert Sweeney has been a key component. The peculiar genius of this man comes, in part, I surmise, from his Irish roots. The poet Marianne Moore once summed up what it means to be an Irish-American, and her observation seems pertinent to Bob Sweeney. She said, "I'm toubled, I'm dissatisfied, I'm Irish." Under Bob Sweeney's leadership, NACHRI documented and released a major study that compared our children's health today to the way we had hoped it would be as we entered the next decade. It was a grim Profile of Child Health in the United States that NACHRI released last March; but it was an accurate measure of our nation's commitment to children. NACHRI shared these statistics with the nation and said, "We can do better than this. We must do better than this."

The hospitals which comprise NACHRI want to pay special tribute to Bob in his 15th anniversary year of service to children and their health care providers. We can do him no better honor than to quote a statement he made about the true strength and symbolism of our collective mission: "The children's hospital is, in and of itself, a statement of advocacy for the child. Its physical presence is a tangible, discernible message to the community that its children are important, that their health is important and that millions of dollars have been committed to that effort."

Today NACHRI has grown from its initial group of 25 to represent 100 prestigious institutions around the country. If the children's hospitals today stand as a beacon to this country of what children's health can become, it is because this powerful alliance of leadership and vision has stayed the course for the past fifteen years. We are all NACHRI's beneficiaries.

FURTHER MODIFICATION TO SENATE REPORT 101-75

Mr. BYRD. Mr. President, in order to expedite final action on the conference report on the fiscal year 1990 Interior and related agencies appropriation bill, I submit a further modification to the 302(b) allocation report of the Committee on Appropriations. The conference outcome on the Interior appropriation bill provides funding just below the budget authority and outlay levels of the House 302(b) allocations. This modification is made to conform the Committee allocation for the Interior Subcommittee to that of the House.

The Committee has allocated $300 million in budget authority and $80 million in outlays from savings to be made in the Commerce, Justice, and State, the Judiciary, and related agencies appropriation bill to the Interior Subcommittee. In addition, the Committee has allocated $80 million in budget authority from savings made by the Energy and Water Development Subcommittees to the Interior Subcommittee.

On behalf of the Committee on Appropriations, I submit the following further modification to Senate Report 101-75 and ask unanimous consent that it be printed in the RECORD.

There being no objection, the modification was ordered to be printed in the Record, as follows:

FURTHER MODIFIED ALLOCATIONS TO SUBCOMMITTEES—FURTHER MODIFICATION TO SENATE REPORT 101-75

The Committee on Appropriations submits the following further modification to its report, allocation to subcommittees of budget totals from the concurrent resolution for fiscal year 1990, Senate Report 101-75, in compliance with section 302(b)(1) and section 302(e) of the Congressional Budget Act of 1974, as amended.

The discretionary and total allocation of the Interior Appropriation Subcommittee allocation is increased by $380 million in budget authority and $80 million in outlays.

The discretionary and total allocation of the Commerce, Justice, and State, the Judiciary and, related agencies subcommittee is reduced by $300 million in budget authority and $80 million in outlays.

The discretionary and total allocation of the Energy and Water Development Subcommittee is reduced by $80 million in budget authority.

IN MEMORIAM: ROGER HOWELL, JR.

Mr. COHEN. Mr. President, last week, my alma mater, Bowdoin College, in Brunswick, ME, lost one of its most distinguished leaders and accomplished teachers. Roger Howell, Jr., the school's 10th president and an internationally recognized historian, passed away at age 53.

Roger was a gifted educator who made his mark at Bowdoin at an early age. After graduating from the college Phi Beta Kappa, he won a Rhodes scholarship and went on to Oxford, where he received three degrees and served as a research fellow, tutor, and dean.

Roger returned to his alma mater at age 28, joining the history department as assistant professor and lecturing on his academic specialty, Tudor and Stuart England. Four years later, he became president of Bowdoin and thus one of the youngest college heads in the Nation.

Under his leadership, Bowdoin opened its doors to women students, expanded its enrollment, established Maine's first Afro-American center and developed a sophisticated computer center. He helped inaugurate an undergraduate exchange program with other leading Eastern liberal arts schools and maintained a balanced budget in the face of significant inflation.

Roger resigned from the presidency in 1978 to return to full-time teaching. He wrote eight books, edited two others, and founded a well-respected journal on British studies.

As a Bowdoin alumnus, parent, and former trustee, I can attest to Roger's major contributions to the Bowdoin community. His outstanding scholarship, passion for teaching, and love of his alma mater will be missed by all of us who care about Bowdoin.

While I am saddened by the loss of someone who still had so much to offer, I take comfort in the knowledge that Roger Howell had a remarkable career and made a lasting impression on countless students and teachers.

INVESTIGATION OF EASTERN AIRLINES DISPUTE

Mr. SIMPSON. Mr. President, the Senate is debating a proposal to establish a commission to investigate the ongoing labor dispute and the reorganization of Eastern Airlines. The commission would also be charged with

making recommendations on a broad array of aviation policy matters.

I appreciate that this ongoing labor dispute has been very disruptive for all Eastern employees—and for a very long time. Labor negotiations have been going on for over 2 years now. It appears that they're farther apart today than ever before. The Machinists Union officially went on strike on March 4—6 months ago—and many pilots and flight attendants have since joined that effort. At that time, the President was asked to intervene and appoint an emergency mediation board to review the matter. The President chose not to intervene, Congress was asked to override the President's decision, and we did not. We have already reviewed this matter—we have already debated and voted this issue of congressional intervention into the dispute. But yet, because of an intense and well-orchestrated lobbying effort, we find ourselves here today, once again, discussing the issue of Federal involvement in a private labor dispute.

And today, the matter is even more complicated in that Eastern Airlines is in bankruptcy—its future is within the jurisdiction of our court system. Any recommended settlement that might come out of a commission for a blue-ribbon panel appointed by Congress is entirely inappropriate.

Now, I've heard the arguments that Texas Air is hiding in the courts, is ducking the issues. My goodness—if you call losing about 30 to 35 percent of one's business in the reorganization, but yet proposing to pay back $914 million of a $2.4 billion debt, having $774 million of cash at yearend, and employing about 17,000 jobs for union and nonunion employees ducking the issues—that's one man's opinion.

The National Mediation Board has expended hundreds of days to try to resolve this issue—long, dedicated days—but yet, this blue-ribbon panel is supposed to come up with a resolution in 45 days? I don't think it can happen. And I don't think Congress should be used like this to set up a panel that will be subject to political pressures—very subtle and very unspoken, but very present, nonetheless—when a national mediation board has already been involved. It just is not right. It's phony.

I am also very concerned that this three-member panel is going to be charged with making recommendations on all sorts of aviation policy matters—all within 45 days. Matters including airline competitiveness in light of mergers, acquisitions, and bankruptcies; the treatment of airline employees in bankruptcies; foreign ownership of air carriers; and the effects of air safety of hiring replacement workers during a strike. These are major policy questions that we can answer by utilizing a Department of Transportation which is chock full of qualified experts to answer. We don't need to appoint three-member panels to do it.

And it is not as if this Federal Government has not been keeping a very close eye on the Eastern situation. The Federal Aviation Administration has investigated Eastern's current maintenance and other safety practices, and will continue to do so. That is our responsibility—to see that the airline is safe. It is not our responsibility to get involved in the difficult labor dispute.

Can you imagine the floodgates that this would open? Do we want all of our Nation's industries which are renegotiating their labor contracts—and there are a lot of them—to know that if all doesn't go well, Congress will appoint a panel to rehear everything that has already been presented to mediators, arbitrators, and even the national mediation board? I certainly don't think so.

I do understand how difficult this labor dispute is. I understand and know the problems and frustrations on both sides. I have heard the allegations and the accusations—they are fierce and ugly and heartfelt. But, we in Congress, must not get into this one. It is not our place.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:10 p.m., a messages from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1709. An act to provide interim extensions of Department of Veterans Affairs programs of respite care for certain veterans, community-based residential care for homeless, chronically mentally ill veterans, State home construction grants, and leave transfers for certain health-care professionals, and of Department of Veterans Affairs home-loan fees.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 1486) to authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes.

The message further announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 400. Joint resolution designating October 27, 1989, as "National Hostage Awareness Day."

ENROLLED BILLS SIGNED

At 2:56 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1709. An act to provide interim extensions of Department of Veterans Affairs programs of respite care for certain veterans, community-based residential care for homeless, chronically mentally ill veterans, State home construction grants, and leave transfers for certain health-care professionals, and of Department of Veterans Affairs home-loan fees; and

H.R. 1486. An act to authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

At 5:45 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2788) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1990, and for other purposes; it recedes from its disagreement to the amendments to the Senate numbered 12, 21, 22, 25, 44, 47, 48, 49, 58, 95, 100, 106, 112, and 149 to the bill, and agrees thereto; and that the House recedes from its disagreement to the amendments of the Senate numbered 13, 15, 18, 23, 26, 28, 34, 39, 43, 50, 55, 61, 62, 63, 70, 71, 72, 76, 81, 86, 87, 88, 93, 94, 96, 102, 104, 105, 107, 110, 111, 114, 121, 124, 133, 135, 139, 140, 143, 150, 152, 153, 164, 165, 166, 167, and 168 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 88. An act to direct the Secretary of the Army to set aside an appropriate area within Arlington National Cemetery for the unmarked burial of cremated remains;

H.R. 1662. An act to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of the human rights by providing civil action for recovery from persons engaging in torture, and for other purposes;

H.R. 2594. An act to name the Department of Veterans Affairs outpatient clinic located at 1900 Mason Avenue, Daytona

Beach, FL, as the "William V. Chappell, Jr., Veterans Outpatient Clinic";

H.R. 2983. An act to name the new Department of Veterans Affairs outpatient clinic in Mount Vernon, MO, as the "Gene Taylor Veterans' Outpatient Clinic";

H.R. 2987. An act to name the Department of Veterans Affairs medical center in Leavenworth, KS, as the "Dwight D. Eisenhower Department of Veterans Affairs Medical Center";

H.R. 3275. An act to implement the steel trade liberalization program; and

H.R. 3287. An act to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of District of Columbia revenue bonds.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 88. An act to direct the Secretary of the Army to set aside an appropriate area within Arlington National Cemetery for the unmarked burial of cremated remains; to the Committee on Veterans' Affairs.

H.R. 1662. An act to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of the human rights by providing civil action for recovery from persons engaging in torture, and for other purposes; to the Committee on the Judiciary.

H.R. 2594. An act to name the Department of Veterans Affairs outpatient clinic located at 1900 Mason Avenue, Daytona Beach, FL, as the "William V. Chappell, Jr., Veterans Outpatient Clinic"; to the Committee on Veterans' Affairs.

H.R. 2983. An act to name the new Department of Veterans Affairs outpatient clinic in Mount Vernon, MO, as the "Gene Taylor Veterans' Outpatient Clinic"; to the Committee on Veterans' Affairs.

H.R. 2987. An act to name the Department of Veterans Affairs medical center in Leavenworth, KS, as the "Dwight D. Eisenhower Department of Veterans Affairs Medical Center"; to the Committee on Veterans' Affairs.

H.R. 3275. An act to implement the steel trade liberalization program; to the Committee on Finance.

MEASURES HELD AT THE DESK

The following joint resolution was ordered held at the desk by unanimous consent, until the close of business on October 6, 1989:

H.J. Res. 412. Joint resolution to reauthorize the National Flood Insurance Program, the Federal Crime Insurance Program, and the Defense Production Act of 1950, to extend certain housing programs, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 3, 1989, he had presented to the President of the United States the following enrolled bill:

S. 1709. An act to provide interim extensions of Department of Veterans Affairs programs of respite care for certain veterans, community-based residential care for homeless, chronically mentally ill veterans, State home construction grants, and leave transfers for certain health-care professionals, and of Department of Veterans Affairs home-loan fees.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1729. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the annual report on the total number of applications for conditional registration under sections 3(c)(7)(B) and 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act for fiscal year 1988; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1730. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, certification that certain amounts appropriated to the Board for International Broadcasting for grants to Radio Free Europe/Radio Liberty, Inc. are in excess of the amounts necessary and that the excess will be placed in the Board's currency reserve fund for use in offsetting future exchange rate losses; to the Committee on Appropriations.

EC-1731. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Air Force's proposed letter of offer to Korea for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-1732. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize the appropriation of $2 million for Virgin Islands prison expansion and renovation; to the Committee on Energy and Natural Resources.

EC-1733. A communication from the Chairman of the United States International Trade Center Commission, transmitting a draft of proposed legislation to make technical amendments to the Federal Triangle Development Act, and for other purposes; to the Committee on Environment and Public Works.

EC-1734. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the semi-annual report listing voluntary contributions made by the United States Government to international organizations for the period October 1988-March 1989; to the Committee on Foreign Relations.

EC-1735. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to September 28, 1989; to the Committee on Foreign Relations.

EC-1736. A communication from the Independent Counsel in the Michael Deaver Case, transmitting, pursuant to law, a report entitled "Executive Branch Lobbying"; to the Committee on Governmental Affairs.

EC-1737. A communication from the Attorney General of the United States transmitting, pursuant to law, notice of the intention of the Department of Justice to appeal the decision of the district court in American Liberty Association et al. v. Thornburgh, et al.; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-334. A joint resolution by the Legislature of the State of California; to the Committee on Environment and Public Works:

"ASSEMBLY JOINT RESOLUTION No. 36

"Whereas the anadromous salmon and steelhead originating in the Columbia River Basin must pass the federal Columbia River Hydroelectric Projects on the Columbia and Snake Rivers on their migration to and from the Pacific Ocean; and

"Whereas three of the dams do not have bypass facilities to steer juvenile anadromous fish away from turbine intakes, and a fourth dam has inadequate bypass facilities; and

"Whereas the United States Army Corps of Engineers, which operates the dams, has failed to provide sufficient spill to enable juvenile anadromous fish to bypass turbines on their downward migration; and

"Whereas the lack of bypass facilities and insufficient spill has resulted in significant mortality to salmon and steelhead in the Columbia River Basin; and

"Whereas the following entities recently negotiated an agreement providing for spills to reduce turbine mortality of anadromous fish at the federal Columbia River Hydroelectric Projects;

"(a) The United States Department of Energy, acting by and through the Bonneville Power Administration.

"(b) The Pacific Northwest Utilities Conference Committee, on behalf of its member utilities and industries.

"(c) The United States Department of Interior

"(d) The National Marine Fisheries Service, in its own capacity and as delegated for the United States Department of Commerce.

"(e) The Washington Department of Fisheries and the Washington Department of Wildlife.

"(f) The Oregon Department of Fish and Wildlife.

"(g) The Idaho Department of Fish and Game.

"(h) The Columbia River Inter-Tribal Fish Commission.

"(i) The Confederated Tribes of the Warm Springs Reservation of Oregon.

"(j) The Confederated Tribes of the Umatilla Indian Reservation.

"(k) The Confederated Tribes of the Colville Reservation.

"(l) The Nez Perce Tribe of Idaho; and

"Whereas the agreement will substantially benefit efforts to increase the populations of the salmon and steelhead originating in the Columbia River Basin; and

"Whereas the Northwest Power Planning Council has initiated a process to amend the Columbia River Basin Fish and Wildlife Program to incorporate the provisions of the spill agreement, and has further endorsed the installation of mechanical bypass facilities as superior to the present method

of bargaining migrating fish around dams; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California endorses the action taken by the Northwest Power Planning Council to amend the Columbia River Basin Fish and Wildlife Program to include the spill agreement, and hereby requests the council to expedite the amendment process; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to do whatever is necessary for the United States Army Corps of Engineers, as the operator of the federal Columbia River Hydroelectric Projects, to implement the spill agreement and to install appropriate bypass facilities as soon as reasonably possible, and to provide the necessary funds to finance expeditious construction of the bypass facilities; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the United States Army Corps of Engineers, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-335. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"ASSEMBLY JOINT RESOLUTION No. 23

"Whereas safety roadside rests along interstate and other major highways provide needed and welcome facilities for travelers, affording rest rooms, water, and a break from tedious and often dangerous highway motoring; and

"Whereas the development of commercial facilities at these safety roadside rests, if travel related and compatible with the primary purpose of the roadside rests, would not only permit them to better serve the traveling public but would also serve as a deterrence to crime, which frequently occurs at unattended facilities; and

"Whereas Federal law generally prohibits commercial developments, including restaurants and other travel-related facilities, at highway safety roadside rests; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the California Legislature respectfully memorializes the President and Congress to support and enact legislation permitting the development of appropriate commercial ventures at highway safety roadside rests, including food and fuel service but excluding the sale of alcoholic beverages, and that the maintenance and operation of these roadside rests be funded by revenues generated by these commercial ventures; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute;

S. 916. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes (Rept. No. 101-157).

S. 1062. A bill to amend the Earthquake Hazards Reduction Act of 1977 to improve the Federal effort to reduce earthquake hazards, and for other purposes (Rept. No. 101-158).

S. 1191. A bill to authorize appropriations for the Department of Commerce's Technology Administration, to speed the development and application of economically strategic technologies, and for other purposes (Rept. No. 101-159).

Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 747. A bill to amend chapter 44 of title 18, United States Code, regarding assault weapons (Rept. No. 101-160).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DANFORTH:

S. 1715. A bill to temporarily suspend the duty on ioxaglate; to the Committee on Finance.

S 1716. A bill to extend the existing suspension of duty on triallate; to the Committee on Finance.

S. 1717. A bill to extend the existing suspension of duty on triphenyl phosphate; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. RIEGLE, and Mr. PRYOR):

S. 1718. A bill to clarify the rules under which the disabilities of children will be evaluated when applying for supplemental security income benefits, to require outreach to identify children who may be eligible for benefits under the program, and to make revisions in other rules applicable to children's eligibility for SSI; to the Committee on Finance.

By Mr. GARN (for himself and Mr. HATCH):

S. 1719. A bill to designate a segment of the Colorado River in the Westwater Canyon Utah as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

By Mr. McCONNELL:

S. 1720. A bill to impose mandatory sentences for violent felonies committed against individuals of age 65 or over, and for other purposes; to the Committee on the Judiciary.

By Mr. DOMENICI:

S. 1721. A bill to amend title XVI of the Social Security Act to provide that a blind or disabled child otherwise qualified may be eligible for SSI benefits even though not a resident of the United States, if such a child is accompanying a parent who is a member of the Armed Forces serving a tour of duty overseas; to the Committee on Finance.

By Mr. LIEBERMAN (for himself, Mr. MOYNIHAN, Mr. DODD, and Mr. D'AMATO):

S. 1722. A bill to establish in the Environmental Protection Agency a Long Island Sound Office, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN (for Mr. GORE, for himself, Mr. BOSCHWITZ, Mr. WIRTH, Mr. HEINZ, Mr. CRANSTON, Mr. BUMPERS, Mr. SIMON, Mr. KERRY, Mr. LAUTENBERG, and Mr. PRYOR):

S. Res. 190. Resolution to urge the Nobel Commission to consider awarding Nobel Prize recognition for achievements in preservation of the world environment; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DANFORTH:

S. 1715. A bill to temporarily suspend the duty on ioxaglate; to the Committee on Finance.

S. 1716. A bill to extend the existing suspension of duty on triallate; to the Committee on Finance.

S. 1717. A bill to extend the existing suspension of duty on triphenyl phosphate; to the Committee on Finance.

TARIFF LEGISLATION

● Mr. DANFORTH. Mr. President, today I am introducing three miscellaneous tariff bills. The first provides for the temporary suspension of duty on ioxaglate, which is a state-of-the-art diagnostic imaging agent used in cardiology and radiology. The second provides for an extension of the existing suspension of duty on triallate, which is the active technical ingredient of a commodity—nonpatented—selective, preemergent wild oat herbicide. Finally, the third bill provides for an extension of the existing suspension of duty on triphenyl phosphate, which is an additive used in the manufacture of certain plastics and other products.

I ask unanimous consent that the texts of these three bills be printed in full in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1715

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IOXAGLATE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by inserting in numerical sequence the following new heading:

"9902.30.69	N-(2-hydroxyethyl)-2,4,6-triiode-5-[2(2,4,6-triiode-3(N-methylacetamido)-5-(methylcarbamoyl) benzamido acetamido]-isophthalamic acid (provided for in subheading 2924.29.40)...	Free	No change	No change	On or before 9/30/90".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

S. 1716

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That heading 9902.29.60 of the Harmonized Tariff Schedule of the United States is amended by striking out "12/31/90" and inserting "12/31/93".

SEC. 2. The amendment made by the first section of the Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after December 31, 1990.

S. 1717

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That heading 9902.29.23 of the Harmonized Tariff Schedule of the United States is amended by striking out "12/31/90" and inserting "12/31/93".

SEC. 2. The amendment made by the first section of the Act applies with respect to articles entered, or withdrawn from warehouse for consumption, after December 31, 1990.●

By Mr. MOYNIHAN (for himself, Mr. RIEGLE, and Mr. PRYOR):

S. 1718. A bill to clarify the rules under which the disabilities of children will be evaluated when applying for supplemental security income benefits, to require outreach to identify children who may be eligible for benefits under the program, and to make revisions in other rules applicable to children's eligibility for SSI; to the Committee on Finance.

SSI DISABLED CHILDREN'S ELIGIBILITY ACT

● Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill to improve supplemental security income [SSI] eligibility standards for poor disabled children. The bill would make clear that the Secretary of Health and Human Services is to perform the same kind of disability eligibility assessments for children as he does for adults.

The present regulatory system provides one set of eligibility criteria for adults and a more restrictive one for children. The Supreme Court will hear arguments this term that the regulatory system is inconsistent with the Social Security Act, under which a child is defined to be disabled by any medically determinable physical or mental impairment of comparable severity to one that would enable an adult to quality of disability benefits. I am pleased to say that New York is one of 28 States that have filed an amicus brief in support of the indigent disabled infants. But I think it desirable to clarify the matter legislatively, as well as related matters which I will come to presently.

Under the current system, a child will be found disabled only if his or her impairment is included in the regulatory listing of children's impairments or is found to be medically equal in severity to a listed impairment. But if an adult's impairment does not meet or equal the listing of adult impairments, the examiners will go on to assess the individual's functional ability to work, based on medical and functional factors. Thus, for adults the listing is not presumed to be an exhaustive means of determining disability, but for children it is.

The bill would require, for those children whose impairments do not meet or equal the listing, an assessment of the functional limits that interfere with the activities of daily living appropriate to the age of the child. This is a matter of simple fairness. Poor disabled children should have the benefit of the same kind of eligibility assessments available to disabled adults.

The bill would also require the Secretary to presume SSI disability eligibility for infants under age 4 who were born with congenital impairments that are likely to prove disabling when the children are old enough to be tested. Such impairments would include Down's syndrome, cystic fibrosis, and spina bifida. Currently, babies with such impairments in families living in poverty are denied benefits until they are old enough to be positively tested for disability. This is shocking to me, and I trust to most. This is a much needed change for the most vulnerable and needy group I can think of.

Further, the bill would require the Secretary to update the listing of children's impairments, which have not been revised since 1977. The current listing does reflect recent developments in medical technology, and does not even include AIDS among the disabling impairments for children.

Finally, the bill would require the Secretary to conduct an outreach program to inform low-income families with potentially eligible children about the existence of the SSI disability program. Studies consistently show that only about half of those eligible for SSI actually file for benefits, presumably because the other half does not know about the program. A simple information campaign could go a long way for these individuals in need.

Mr. President, I think all will agree the provisions are targeted to assist a very needy group. For the information of Senators, similar provisions are included in the House reconciliation bill, so we have an opportunity to do something on this very important legislation still this year. I urge the favorable consideration of my colleagues.●

By Mr. McCONNELL:

S. 1720. A bill to impose mandatory sentences for violent felonies committed against individuals of age 65 or over, and for other purposes; to the Committee on the Judiciary.

MANDATORY SENTENCES FOR CRIMES AGAINST THE ELDERLY

● Mr. McCONNELL. Mr. President, today I am introducing legislation to protect our Nation's elderly citizens from violent crime.

Quite simply, my bill would ensure a tough minimum sentence for anyone who commits a violent felony against a person aged 65 years or over. It would require the court to give the offender at least half the maximum sentence provided by law, for any first offender; and at least three-quarters the maximum sentence for a repeat offender.

Under my bill, the cowardly criminal who brutalizes a senior citizen would be put away for a long time, and would not be able to get out through some legal sleight-of-hand: no probationary sentence, no suspended sentence, no concurrent sentence, no plea bargaining, and no parole. Nor would the offender be eligible for any "play-prison" alternatives, such as home incarceration.

More than 1 out of every 200 senior citizens is the victim of a violent crime each year. That makes a total of 155,000 elderly Americans who are attacked, robbed, assaulted, and murdered every year—435 each day.

The elderly also are vulnerable targets for muggings, purse-snatchings, and hold-ups. In 1987 alone, 527,000 senior citizens were victims of personal thefts. A few years ago, hoodlums would lurk like vultures in older citizens' neighborhoods, waiting for the Social Security checks to come in. As a result, those checks are now sent out, staggered throughout the month, to foil those who prey on our most treasured and vulnerable citizens.

Today, drug criminals prowl the streets, hungry for money to buy their next fix. Senior citizens are choice targets for these addicts: older people save carefully; they usually keep a little cash around; and they don't pose a threat to a cowardly criminal.

As our streets become more dangerous and criminals become more desperate, older Americans increasingly will be the targets of vicious crimes.

Already, in some of cities, the elderly are becoming an endangered species.

We need to stand up now in defense of the generation that preceded us. Our parents and grandparents tried to provide us a safe world to grow up in; we must try our best to do the same for them.

The bill I am introducing today will put the criminal world on notice that we will not tolerate violence against any person, least of all someone who is elderly, probably on a fixed income, and less able to fight back or run away. For older victims of crime, a violent attack can mean serious injuries—both physical and psychological—that never heal. It can mean the instant loss of a lifetime of savings; and it can tragically shorten the life of a robust older person who is in the prime of life.

I hope my colleagues will join me in ensuring that justice is done for those victims of violent crime, and that criminals are effectively deterred from such cowardly, reprehensible acts.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1720

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 227 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3581. Mandatory sentence for felony against individual of age sixty-five or over

"(a) Upon any plea of guilty or nolo contendere or verdict or finding of guilty of a defendant of a crime of violence under this title, if any victim of such crime is an individual who had attained age sixty-five on or before the date that the offense was committed, the court shall sentence the defendant to imprisionment—

"(1) for a term of not less than one-half of the maximum term of imprisonment provided for such crime under this title, in the case of a first offense to which this section is applicable; and

"(2) for a term of not less than three-fourths of the maximum term of imprisonment provided for such crime under this title, in the case of a second or subsequent offense to which this section is applicable.

"(b) Notwithstanding any other provision of law, with respect to a sentence imposed under subsection (a) of this section—

"(1) the court shall not suspend such sentence;

"(2) the court shall not give the defendant a probationary sentence;

"(3) no defendant shall be eligible for release on parole before the end of such sentence;

"(4) no defendant shall be eligible for participation in a home incarceration program before the end of such sentence;

"(5) such sentence shall be served consecutively to any other sentence imposed under this title; and

"(6) the court shall reject any plea agreement which would result in the imposition of a term of imprisonment less than that which would have been imposed under subsection (a) of this section in connection with any charged offense.

"(c) As used in this section, the term—

"(1) 'crime of violence' means—

"(A) a felony that has an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(B) a felony that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense; and

"(2) 'victim' means an individual against whom an offense has been or is being committed.".

SEC. 2. The table of sections for chapter 227 of title 18, United States Code, is amended by adding at the end the following new item:

"3581. Mandatory sentence for felony against individual of age sixty-five or over.".

SEC. 3. Section 3731 of title 18, United States Code, is amended by inserting after the second paragraph the following new paragraph:

"An appeal by the United States shall lie to a court of appeals from an otherwise final decision, judgment, or order of a district court sentencing a defendant on the ground that such sentence is less severe than that required under section 3581 of this title.".

SEC. 4. Rule 32(c) of the Federal Rules of Criminal Procedure is amended—

"(1) by adding at the end of the first paragraph in paragraph (1) the following new sentence: "Neither the defendant nor the court may waive a presentence investigation and report unless there is in the record information sufficient for the court to determine whether a mandatory sentence must be imposed pursuant to title 18, United States Code, section 3581."; and

"(2) in paragraph (2)(D), by inserting after "the offense" the following: "and information relating to whether any victim of the offense had attained age 65 on the date that the offense was committed".

SEC. 5. Rule 11(e)(1) of the Federal Rules of Criminal Procedure is amended by striking out "The" after "*In General.*" and inserting in lieu thereof "Except as provided in title 18, United States Code, section 3581, the".●

By Mr. DOMENICI:

S. 1721. A bill to amend title XVI of the Social Security Act to provide that a blind or disabled child otherwise qualified may be eligible for SSI benefits even though not a resident of the United States, if such child is accompanying a parent who is a member of the Armed Forces serving a tour of duty overseas; to the Committee on Finance.

SSI BENEFITS FOR CHILDREN RESIDING OVERSEAS

● Mr. DOMENICI. Mr. President, today I am introducing a bill that is intended to help a small but important group of people. These people are our men and women in the military, specifically those military families who have children who are blind or disabled.

Families with blind or disabled children are eligible, under the Social Security Act, for what are called supplemental security income benefits. These benefits are meant to help families who must shoulder the severe costs associated with therapy and medical care for their disabled dependents. Through an unfair quirk in the Social Security Act, however, military families lose these benefits when they are stationed overseas. In fact, many of these families were unaware that they would lose these benefits once they leave the United States. According to the current law, families with disabled dependents would be eligible only if they reside in the United States.

In July, during consideration of the Department of Defense authorization bill, I introduced an amendment that would require the Pentagon to provide a study of the number of military families eligible for SSI benefits, how many lose these benefits each year when they are stationed overseas, and what the DOD could do to compensate these families for the benefits they need and deserve.

I was happy to hear that, simultaneously, Congressman SLATTERY in the other body was also working on this issue. He had introduced similar legislation to amend the Social Security Act in order to provide these families with these benefits.

During the course of reviewing his legislation, the House Ways and Means Committee received the information I had requested in my amendment. There are approximately 200 military families affected by their loss of benefits each year. The cost of providing these benefits would be nominal—roughly $500,000 per year. The bill was then approved and included in the House reconciliation bill.

My bill follows closely the language that is currently in the House reconciliation bill. It amends the Social Security Act to provide these benefits to military families so that they are not overburdened by the high costs of medical and therapeutic care for the disabled.

It is a good and fair bill. No family should be subjected with the hard choice of either traveling overseas and losing their needed benefits, or of splitting up the family for a year or more while one spouse is deployed in the military overseas and the other spouse remains in the United States with the disabled child in order to retain the needed benefits. Today, military life is already challenging enough; let's not make it more difficult by making them choose between SSI benefits and family unity.

I hope the Senate and the Congress will agree with me and Congressman SLATTERY. This bill costs so little but can go a long way to maintaining the morale and unity of the military family. I urge the Senate to approve this important piece of legislation.●

By Mr. LIEBERMAN (for himself, Mr. MOYNIHAN, Mr. DODD, and Mr. D'AMATO):

S. 1722. A bill to establish in the Environmental Protection Agency a Long Island Sound Office, and for other purposes; to the Committee on Environment and Public Works.

LONG ISLAND SOUND IMPROVEMENT ACT

● Mr. LIEBERMAN. Mr. President, today I am introducing the Long Island Sound Improvement Act of 1989. I am very pleased that Senators MOYNIHAN, DODD, and D'AMATO join me as original cosponsors of this bill.

Long Island Sound is a resource of tremendous importance to both Connecticut and New York. Nearly 10 percent of the population of the United States lives within 50 miles of Long Island Sound; its watershed reaches to Canada.

There are 200,000 small boats registered Sound-wide and an estimated three quarters of a million sports fishermen provide between $70 and $130 million to the regional economy. Connecticut's largest beaches welcome more than 2.5 million visitors each year. Long Island Sound supports a $40 million commercial fishery, while 20 million tons of cargo pass through Connecticut's major ports each year. Five and a half billion gallons of oil transit Long Island Sound yearly.

But Long Island Sound is not merely a vehicle for recreation or commerce, it has been named by the Federal Government as an estuary of national significance and hosts the Stewart B. McKinney National Wildlife Refuge—within 50 miles of New York City.

Unfortunately, Long Island Sound is also a dumping ground—for our sewage wastes, our agricultural and urban runoff, and for the sometimes toxic byproducts of industry. In spots, excess nutrients like nitrogen and phosphorous work on the algae like fertilizer on a lawn, and the fish, already fighting the effects of dangerous toxics, must now fight the algae for available oxygen.

In 1985, the U.S. Environmental Protection Agency initiated the Long Island Sound study to address these problems. By 1991, it will have produced a comprehensive conservation and management plan. The plan will be based on complex and sophisticated modeling efforts by USEPA and NOAA designed to recreate the water quality and water circulation of Long Island Sound. And while these efforts and the study's focus on the hypoxic conditions I've just described are important and exciting, the study has also exposed new and critical needs which must be addressed: the level of contamination in Long Island Sound's sediments, the role tidal wetlands play as nature's filter for pollutants and whether enough of them are preserved, the preparedness of the region to adequately respond to a significant oil or toxics spill, to name just a few.

In addition, according to a recent article in the New York Times, there are nearly 150 village, town, city, county, State, and Federal jurisdictions involved in the management of Long Island Sound. Clearly, a formal mechanism of cooperation is needed in order to effectively implement the management plan of the Long Island Sound study. While this bill mandates a continued study to thoroughly address the issues raised earlier, it also provides the means of coordination necessary to clean up the only estuary in the country subject to the oversight of two regions of the USEPA and to the laws and the pollution of two States.

The Long Island Sound Improvement Act will ensure the implementation of the management plan. It maintains the involvement of the Federal Government by creating a Long Island Sound Program office with the US EPA. It guarantees the continued involvement of the States of Connecticut and New York by directing the Administrator of the USEPA to continue the Long Island Sound study. And it provides for cooperation between the States and the Federal Government by creating a liaison committee comprised of State and EPA representatives to advise the Long Island Sound program office director.

The Long Island Sound program office will make regular enforcement and compliance reports public. It is authorized to receive $3 million a year to carry out these and other projects not covered by the study. The current Long Island Sound study will continue at its yearly authorization from the USEPA of approximately $1.7 million a year, through 1991.

In addition, this legislation creates the Long Island Sound fund by directing the U.S. Treasury to transfer to it an amount equal to that collected as a result of Federal and citizen suits against polluters of Long Island Sound. This fund will further support the projects necessary to implement, enforce, and maintain the cleanup of Long Island Sound.

In conclusion, Mr. President, this legislation recognizes the important work already done by the Long Island Sound study, and it builds upon it. It creates a central office to coordinate Government efforts to restore a vital resource by enabling and helping to implement a management plan which is dynamic and thorough, as one far-reaching and close to home.

Mr. President, I ask unanimous consent that a copy of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1722

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Long Island Sound Improvement Act of 1989".

SEC. 2. EXTENSION OF MANAGEMENT CONFERENCE FOR LONG ISLAND SOUND.

(a) EXTENSION OF MANAGEMENT CONFERENCE.—Notwithstanding section 320(e) of the Federal Water Pollution Control Act (commonly referred to as the "Clean Water Act") (33 U.S.C. 1330(e)), the Administrator shall extend the management conference of the Long Island Sound conducted under such section after the date of termination of the initial period of such management conference for a period of time from the date of such termination until September 30, 1998, for the purposes indicated under section 320(b) of such Act (33 U.S.C. 1330(b)), making modifications to the management plan developed under such section 320(b), and for any additional purposes described in this Act.

SEC. 3. POLICY COMMITTEE OF THE MANAGEMENT CONFERENCE FOR LONG ISLAND SOUND.

(a) POLICY COMMITTEE.—There shall be established within the management conference a Policy Committee (hereafter in this section referred to as the "Committee").

(b) MEMBERS.—

(1) COMPOSITION.—The members of such Committee shall include the following:

(A) The Director of each regional office of the Agency that has jurisdiction in Long Island Sound, or a senior official representing the interests of such Director.

(B) The Commissioner of the New York State Department of Environmental Conservation, or a senior official representing the interests of such Commissioner.

(C) The Commissioner of the Connecticut Department of Environmental Protection, or a senior official representing the interests of such Commissioner.

(c) FUNCTIONS OF THE COMMITTEE.—The Committee shall—

(1) carry out the same policy-making responsibilities that the Policy Committee appointed under the Long Island Sound Study (authorized under section 320 of the Federal Water Pollution Control Act, commonly referred to as the "Clean Water Act") conducted immediately preceding the date of enactment of this subsection; and

(2) advise and inform the management conference concerning the operation of the Long Island Sound Office established under section 4 of this Act.

SEC. 4. LONG ISLAND SOUND OFFICE.

Title I of the Federal Water Pollution Control Act (commonly referred to as the "Clean Water Act") (33 U.S.C. 1251 et seq.) is amended by adding at the end the following new section:

"SEC. 119. LONG ISLAND SOUND OFFICE.

"(a) FINDINGS, PURPOSES, AND DEFINITIONS.

"(1) FINDINGS.—The Congress finds that—

"(A) 10 percent of the population of the United States resides within 50 miles of the Long Island Sound;

"(B) under the National Estuary Program, the Environmental Protection Agency has designated the Long Island Sound as an estuary of national significance;

"(C) the Long Island Sound Study, conducted under the National Estuary Program, is scheduled for completion in less than 2 years;

"(D) such study will produce a conservation and management plan for Long Island Sound;

"(E) because Long Island Sound borders 2 States and falls into 2 regions of the Environmental Protection Agency, there is a need for a formal mechanism of cooperation and coordination in the implementation of such conservation and management plan; and

"(F) there is also a need to coordinate State and Federal efforts to prepare for future demands placed on the Long Island Sound by the surrounding population.

"(2) PURPOSES.—The purposes of this section are—

"(A) to continue, after the completion of the Long Island Sound Study conservation and management plan—

"(i) the balance of cooperation and coordination that the management conference of the Long Island Sound Study presently encourages between the States and Agency regional offices, and

"(ii) the participation of such management conference in the implementation of the conservation and management plan; and

"(B) to continue the Long Island Sound Study to address, at the time of the implementation of the conservation and management plan, the 'unfinished agenda' of the Long Island Sound Study, and initiate and complete new studies to be used to update, modify, and refine the conservation and management plan.

'(3) DEFINITIONS.—For purposes of this section, the term—

"(A) 'Administrator' means the Administrator of the Environmental Protection Agency;

"(B) 'Agency' means the Environmental Protection Agency;

"(C) 'conservation and management plan' means the comprehensive conservation and management plan developed by the Long Island Sound Study under section 320 of this Act;

"(D) 'Long Island Sound Study' means the study of Long Island Sound conducted under section 320 of this Act for the purposes of producing the comprehensive conservation and management plan required under such section 320;

"(E) 'management conference' means the management conference convened under section 320 of this Act for the purposes of producing the conservation and management plan, and for other purposes described in subsection (b) of such section 320; and

"(F) 'oil' means petroleum, including crude oil and any fraction or residue therefrom.

"(b) LONG ISLAND SOUND OFFICE.—

"(1) ESTABLISHMENT OF OFFICE.—There is established in the Agency a Long Island Sound Office (hereinafter referred to as the "Office").

"(2) LOCATION OF OFFICE FACILITIES.—The Office shall be located in the vicinity of Long Island Sound, at a location selected by the Administrator, acting through the Director, as follows:

"(A) such Office shall initially be located in either the State of Connecticut or New York; and

"(B) not less than once every 5 years thereafter, such Office shall be relocated to the State described in subparagraph (A) in which such office in not initially located under such subparagraph.

"(d) ADMINISTRATION AND STAFFING OF OFFICE.—

"(1) OFFICE DIRECTOR.—The Office shall be headed by a Director, who shall be appointed by the Administrator, from among the employees of the Agency who are in the civil service. The Administrator shall detail such employee of the Agency to serve as the Director. The Administrator shall delegate to the Director such authority as may be necessary to carry out the duties of the Director under this section.

"(2) OFFICE STAFF.—The Administrator shall detail not less than 3 full-time employees of the Agency to serve as administrative staff personnel to the Office for the purpose of assisting the Director. Upon the request of the Director, the head of the following Federal departments or agencies, and the head of any other Federal department or agency which the Director determines to be appropriate, shall detail, without reimbursement by the Agency, an employee who shall serve full time at the Office as a liaison to the Agency:

"(A) the United States Fish and Wildlife Service in the Department of the Interior;

"(B) the National Oceanic and Atmospheric Administration in the Department of Commerce;

"(C) the United States Army Corps of Engineers in the Department of the Army;

"(D) the United States Coast Guard in the Department of Transportation; and

"(E) the Department of Agriculture.

The Administrator may authorize the Director to hire additional staff if sufficient funds are available to fund such additional positions. To the extent allowable by law, and with the authorization of the Administrator, acting through the Director, the head of a State agency participating in the Long Island Sound Study may make available to the Office, without reimbursement to such State agency, the assistance of any of the personnel of such State agency.

"(e) DUTIES OF THE DIRECTOR.—The Director shall—

"(1) oversee, assist and support, to the extent allowable by law, the implementation and enforcement of the conservation and management plan for Long Island Sound developed under the Long Island Sound Study;

"(2) solicit information from the Long Island Sound Advisory Committee described in subsection (k) concerning enforcement priorities for the implementation of the conservation and management plan;

"(3) oversee the grant, research and planning programs authorized under this section;

"(4) on the basis of the information that the Director is required to request and collect under subsection (k), make recommendations to the heads of the regional offices of the Agency that have jurisdiction in Long Island Sound concerning enforcement activities to ensure the implementation of the conservation and management plan developed under the Long Island Sound Study; and

"(5) provide administrative support to the management conference.

"(f) LONG ISLAND SOUND OFFICE ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT OF COMMITTEE.—There is established in the Long Island Sound Office a Long Island Sound Office Advisory Committee (hereafter in this section referred to as the 'Committee').

"(2) MEMBERSHIP.—The Administrator, acting through the Director, shall initially appoint to the Committee the members of the Policy Committee of the management conference, established under section 3 of the Long Island Sound Improvement Act of 1989. A vacancy on the Committee shall be filled in the same manner as in which the initial appointment was made.

"(3) FUNCTIONS OF THE COMMITTEE.—The Committee shall assist the Director by developing goals, conducting research and planning activities, reviewing work plans for approval, and overseeing projects related to the development, implementation, and enforcement of the conservation and management plan.

"(g) INFORMATIONAL LEGISLATIVE MEETINGS.—The Director shall, through the Committee, convene conferences for legislators from State governments and political subdivisions thereof for the purpose of making recommendations for coordinating legislative efforts to facilitate the environmental restoration of Long Island Sound and the implementation of the conservation and management plan.

"(h) INFORMATION AND ASSISTANCE.—

"(1) COLLECTION AND DISTRIBUTION.—The Director shall collect and make available to the public publications and other forms of information that the Director determines to be appropriate, relating to the environmental quality of the Long Island Sound.

"(2) ASSISTANCE TO CITIZENS ADVISORY COMMITTEE.—The Director may, upon a determination by the Director of the appropriateness of providing such assistance, provide technical assistance and the use of Agency facilities to the Citizens Advisory Committee of the Long Island Sound Study.

"(i) COORDINATION OF AGENCY PROGRAMS.—The Director shall maintain, with the consent of such individuals, for purposes of coordinating activities relating to environmental restoration and the implementation of the conservation and management plan conducted through the Committee, and maximizing the availability of programs and resources which may serve such purposes, a continuing liaison with the heads of the following agencies or departments for the following purposes:

"(1) The United States Fish and Wildlife Service, for purposes of coordinating potential land acquisitions and wildlife refuge management activities.

"(2) The National Oceanic and Atmospheric Administration, for purposes of continuing and coordinating systems modeling of the Long Island Sound Study and activities under the National Undersea Research Program.

"(3) The United States Army Corps of Engineers, for purposes of coordinating activities relating to dredging and filling in Long Island Sound, including activities relating to the permit program under section 404 of this Act, and activities relating to the control of floatable pollutants.

"(4) The United States Department of Agriculture, for purposes of coordinating educational and other programs for farmers relating to nonpoint source pollution.

"(5) The United States Coast Guard, for purposes of coordinating oil spill contingency plans and other contingency plans for spills of toxic substances.

In coordinating agency and departmental programs under this section, the Director shall encourage the heads of such agencies and departments, to the extent permitted by law, to provide funding for the purpose of conducting such programs and activities.

"(j) OIL SPILL CONTINGENCY PLANS.—

"(1) STUDY AND REPORT.—The Director, acting through the Committee, shall, not more than 180 days after the date of the enactment of this section, conduct a study and issue a report to the appropriate committees

of the Congress for public distribution which—

"(A) describes in detail preparedness in the public and private sectors for oil spills in the vicinity of Long Island Sound;

"(B) incorporates recommendations, in addition to those supplied by the Agency, concerning the incorporation of any oil spill contingency plans for oil spills in Long Island Sound that the Director shall solicit, to the extent permitted by law, from the following departments or agencies:

"(i) the United States Coast Guard,

"(ii) the New York Department of Environmental Conservation,

"(iii) the Connecticut Department of Environmental Protection, and

"(iv) any other department or agency that the Director determines to be appropriate; and

"(C) includes suggestions for improving any oil spill contingency plan prepared by a department or agency described in clauses (i) through (iv) of subparagraph (B).

"(2) PROHIBITION CONCERNING DUPLICATIVE STUDIES.—Notwithstanding paragraph (1), if the Director makes a determination that—

"(A) a comparable study exists for the determination of information required in the study under paragraph (1); and

"(B) such comparable study adequately addresses the information required for the study under paragraph (1),

the Director shall not duplicate such study in the preparation of the study and report required under paragraph (1), but shall incorporate the results of such comparable study into the report required under paragraph (1).

"(k) ENFORCEMENT AND COMPLIANCE.—Not more than 180 days after the date of the enactment of this section, and four times each calendar year thereafter, the Director shall solicit from the head of each regional office of the Agency that has jurisdiction in Long Island Sound a quarterly report outlining enforcement issues relating to the environmental restoration, conservation, and management of Long Island Sound. The Director shall provide the Committee with a copy of each such report. The Director shall designate a staff member of the Long Island Sound Office as an Office Director for Enforcement Evaluation. The Office Director for Enforcement Evaluation shall brief the Director concerning such enforcement issues, and assist in the coordination of enforcement activities with other departments and agencies.

"(l) CITIZEN INVOLVEMENT AND EDUCATION, ENFORCEMENT, AND RESEARCH AND PLANNING GRANTS.—

"(1) CITIZEN INVOLVEMENT AND EDUCATION GRANTS.—The Administrator, acting through the Director, and in consultation with the Committee, may make Citizen Involvement and Education Grants from the Long Island Sound Fund, established under section 5 of the Long Island Sound Improvement Act of 1989, to citizen organizations and to governments of political subdivisions of States for the purposes of funding—

"(A) activities related to the environmental cleanup and monitoring of Long Island Sound; and

"(B) educational programs to encourage the environmental restoration of Long Island Sound.

"(2) ENFORCEMENT GRANTS.—The Administrator, acting through the Director, and in consultation with the Committee, may make Enforcement Grants from the Long Island Sound Fund, established under section 5 of the Long Island Sound Improvement Act of 1989, to States for the purpose of funding—

"(A) supplemental personnel responsible for conducting enforcement activities related to the environmental restoration, conservation, and management of Long Island Sound; and

"(B) special enforcement needs related to environmental restoration, conservation, and management activities of Long Island Sound, including improving computer access to enhance enforcement activities.

"(3) RESEARCH AND PLANNING GRANTS.—The Administrator, acting through the Director, and in consultation with the Committee, may make Research and Planning Grants from the Long Island Sound Fund, established under section 5 of the Long Island Sound Improvement Act of 1989, to fund any research or planning activity described in subsection (l).

"(4) GRANT REQUIREMENTS.—The Administrator, acting through the Director, may, by regulation, prescribe eligibility requirements, and other requirements that the Administrator determines to be appropriate, for grants under paragraphs (1) through (4).

"(5) REPORTS.—Any entity that receives a grant under this subsection shall, within 18 months after the date of receipt of such grant and biennially thereafter, report to the Administrator, the Director, and the Committee on the progress made in carrying out the objectives of such grant. The Administrator, acting through the Director shall transmit each such report along with the comments of the Administrator, the Director, and the Committee, to the Congress.

"(m) IMPLEMENTATION GRANTS.—

"(1) IMPLEMENTATION GRANTS.—The Administrator, acting through the Director, shall at the request of the Governor of a State affected by the conservation and management plan (hereinafter in this subsection referred to as the 'plan') make a grant from the fund established in section 5 of the Long Island Sound Improvement Act of 1989 (hereafter in this paragraph referred to as the 'fund') for the purpose of implementing the management mechanisms contained in the plan if such State has within 1 year after the date of the completion of the Long Island Sound Study approved and committed to implement all or substantially all aspects of the plan that apply to such State.

"(2) APPLICATION PROCESS FOR IMPLEMENTATION GRANT.—A State or combination of States may apply for a grant under paragraph (1) by submitting to the Administrator acting through the Director, a comprehensive proposal to implement management mechanisms contained in the plan. Such proposal shall include—

"(A) a description of proposed abatement actions which the State or combination of States shall take within a specified period of time to reduce pollution in the Sound and to meet applicable water quality standards; and

"(B) the estimated cost of the abatement actions proposed to be taken during the fiscal year immediately following the date of such application, including the portion to be funded by such proposed grant.

If the Administrator, acting through the Director, and in consultation with the Committee, finds that such proposal is consistent with the national policies set forth in section 101(a) of this Act and shall contribute to the achievement of the national goals set forth in such section, the Administrator, acting through the Director, and consultation with the Committee, shall approve such proposal and shall finance the costs of implementing segments of such proposal.

"(3) FEDERAL SHARE.—Grants under this paragraph from the fund shall not exceed 50 percent of the costs of implementing the management mechanisms contained in the plan in any fiscal year and shall be made on condition that non-Federal sources provide the remainder of the cost of implementing the management mechanisms contained in the plan during such fiscal year.

"(4) ADMINISTRATIVE COSTS.—Administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against programs or projects supported by funds made available under this subsection shall not exceed in any fiscal year 10 percent of the annual Federal grant made to a State under this subsection.

"(5) REPORTS.—Any State or combination of States that receives a grant under this subsection shall, within 18 months after the date of receipt of such grant and biennially thereafter, report to the Administrator, the Director, and the Committee on the progress made in implementing the plan. The Administrator, acting through the Director shall transmit each such report along with the comments of the Administrator, the Director, and the Committee, to the Congress.

"(6) GRANT REQUIREMENTS.—The Administrator, acting through the Director, and in consultation with the Committee, may, by regulation, prescribe eligibility requirements, and other requirements that the Administrator determines to be appropriate, for grants under this subsection.

"(n) SOURCE REDUCTION GRANTS.—The Administrator shall consult with Director and the Committee in making grants through the Office of Pollution Prevention in the Agency for onsite reduction of pollution sources .

"(o) RESEARCH AND PLANNING STUDIES AND REPORTS.—

"(1) IN GENERAL.—The Director, acting through the Committee, shall, not later than 90 days after the issuance of the final report of the Long Island Sound Study, and as determined by the Director, in consultation with the Committee thereafter, establish a schedule for the initiation of the studies described in this subsection. Upon completion of any study described in this subsection, within a reasonable amount of time thereafter, the Director shall prepare a report which outlines recommendations by the Director and the Committee concerning the subject of such study in accordance with the requirements under paragraph (5).

"(2) EXEMPTIONS.—If the Director determines that the subject of a study described in this subsection is adequately researched and discussed in the final report of the Long Island Sound Study or in another study or report, the Director shall not be required to conduct such a study under this subsection.

"(3) STUDIES.—The Director shall, acting through the Committee, conduct the following studies:

"(A) an examination of the 'unfinished agenda' described in the final report by the Management Committee of Long Island Sound;

"(B) a 20-year growth assessment of the adequacy of wastewater treatment facilities serving Long Island Sound with respect to estimated increases in population and usage of such facilities;

"(C) a survey of public access issues relating to Long Island Sound, including an examination of—

"(i) the possible role of the United States Fish and Wildlife Service of the Department of the Interior in making recommendations for the purchase of lands for public use,

"(ii) the role of governments of political subdivisions of States in making land acquisitions, and

"(iii) the relationship of public access issues to recreational use of land on Long Island Sound;

"(D) the development of a map describing public access on Long Island Sound, and proposals from the survey under subparagraph (C);

"(E) An examination of the problem of contaminated sediments in Long Island Sound;

"(F) an examination of dredging activities in the vicinity of Long Island Sound, including—

"(i) an examination of the issues related to participation in the permit program under section 404 of this Act,

"(ii) proposals for cleaning up dredge dumping sites, and

"(iii) the development of a plan for siting dredge dumping sites which includes the consideration of the use of landfills, deep ocean dumping, and other alternatives to dredge dumping practices in use on the date of enactment of this section;

"(G) an examination of nonpoint source pollution in the vicinity of Long Island Sound, including—

"(i) an examination of the participation of States which form the watershed for Long Island Sound (which includes land in Connecticut, Massachusetts, New Hampshire, New York, and Vermont) in nonpoint source pollution abatement and management, including participation in the nonpoint source pollution management programs under section 319 of this Act, and

"(ii) the development of educational outreach programs to facilitate communication with such States concerning issues surrounding nonpoint source pollution abatement in the vicinity of Long Island Sound;

"(H) an examination of wetlands protection issues, including—

"(i) an analysis of critical wetlands and recommendations for preservation and purchase by the Federal Government, or other appropriate entities,

"(ii) methods for the Federal government to assist States in targeting critical wetlands under State heritage programs, and

"(iii) methods to accomplish wetlands restoration objectives;

"(I) an assessment of effective methods of nitrogen removal that could be used to abate the pollution of Long Island Sound, including an assessment of the biological methods of nitrogen removal used in the demonstration project described in subsection (m);

"(J) an examination, using systems models, of atmospheric precipitation and deposition into the waters of Long Island Sound from acidic and other pollutants in the air, including an assessment of—

"(i) the concentration and rate of deposition,

"(ii) the known and potential toxic effects of pollutants associated with precipitation and dry deposition on biological systems in Long Island Sound, and

"(iii) the etiology of pollutants associated with precipitation and dry deposition from emissions of nitrogen oxides, sulfur dioxide, reactive hydrocarbons, and other chemicals;

"(K) an assessment of water quality issues, including a survey of biological resources to determine—

"(i) water quality requirements to sustain shellfish populations,

"(ii) water quality requirements to sustain wildlife, and

"(iii) an analysis of indicator species that can serve to facilitate assessments of environmental quality; and

"(L) an assessment of recreational uses and demands in the vicinity of Long Island Sound.

"(4) PROHIBITION CONCERNING DUPLICATIVE STUDIES.—Notwithstanding paragraph (3), if the Director makes a determination that—

(A) a comparable study exists for the determination of information required in the study under paragraph (3); and

(B) such comparable study adequately addresses the information required for the study under paragraph (3),

the Director shall not duplicate such study in the preparation of the study required under paragraph (3) and any report required under paragraph (5), but shall incorporate the results of such comparable study into any report required under paragraph (5).

"(5) DEMONSTRATION PROJECTS.—The Director, acting through the Committee, shall conduct the following demonstration projects and incorporate the findings of such demonstration projects into the appropriate studies under paragraph (3):

"(A) A demonstration project for the removal of toxic materials from contaminated sediments in Long Island Sound.

"(B) A demonstration project for the removal of nitrogen from nitrogenous pollutants in Norwalk Harbour in Long Island Sound.

"(6) REQUIREMENTS FOR STUDIES, DEMONSTRATION PROJECTS, AND REPORTS.—Each study or demonstration project conducted under this subsection and each plan prepared under this subsection, including any modification to the conservation and management plan made by the management conference pursuant to the authority granted under section 2 of the Long Island Sound Improvement Act of 1989 shall include specific proposals, and where possible, schedules for meeting such proposals on an incremental basis. The Director, acting through the Committee, shall review all such proposals in a timely fashion and make recommendations concerning the implementation of each element of such proposal and each corresponding schedule item (if applicable).

"(7) ANNUAL REPORT BY THE DIRECTOR.—Not more than 180 days after the date of the issuance of the final report of the Long Island Sound Study and annually thereafter, the Director, acting though the Committee, shall issue a report to the appropriate committees of the Congress and for public distribution, which—

"(A) summarizes any modifications to the conservation and management plan pursuant to section 2 of the Long Island Sound Improvement Act of 1989 made in the 12-month period immediately preceding such report;

"(B) summarizes the review of each element of proposals and corresponding schedule items as described in paragraph (6) conducted in the 12-month period immediately preceding such report; and

"(C) incorporates specific recommendations concerning the implementation of such elements and schedule items associated with subparagraphs (A) and (B).

"(p) APPROPRIATION AUTHORIZATION.—There are authorized to be appropriated to carry out the purposes of this section $3,000,000 for fiscal year 1990 and each of the fiscal years 1991 through 1997.".

SEC. 5. REVIEW OF CLEAN WATER ACT.

Not more than one calendar year after the date of the enactment of this section, the Director of the Long Island Sound Office of the Environmental Protection Agency, acting through the Long Island Sound Office Advisory Committee established under section 119(f) of the Federal Water Pollution Control Act (commonly referred to as the "Clean Water Act"), shall review such Act and issue a report to the appropriate committees of the Congress that makes recommendations concerning provisions of such Act that the Policy Committee determines to be related to environmental restoration and conservation and management in the vicinity of Long Island Sound. Such report shall include specific recommendations with respect to any enforcement or discharge standards promulgated under such Act.

SEC. 6. REVIEW OF NITROGEN REMOVAL TREATMENT AT SEWAGE TREATMENT PLANTS.

(a) IN GENERAL.—Not more than one calendar year after the date of the enactment of this section, the Director of the Long Island Sound Office of the Environmental Protection Agency, acting through the Long Island Sound Office Advisory Committee established under section 119(f) of the Federal Water Pollution Control Act (commonly referred to as the "Clean Water Act"), shall review—

(1) the need for a regional authority to effectuate and fund nitrogen removal treatment at sewage treatment plants in the vicinity of Long Island Sound, and in the watershed that affects water quality in the vicinity of Long Island Sound; and

(2) potential methods of financing such regional authority, including—

(A) surcharges;

(B) sewer fees; and

(C) the authority to issue bonds against funds raised under the methods described under subparagraphs (A) or (B).

(b) REPORT TO CONGRESS.—Not more than one calendar year after the date of the enactment of this section, the Director of the Long Island Sound Office of the Environmental Protection Agency, acting through the Long Island Sound Office Advisory Committee, established under section 119 of the Federal Water Pollution Control Act (commonly referred to as the "Clean Water Act"), shall issue a report to the appropriate committees of the Congress that makes recommendations concerning—

(1) the need for such regional authority; and

(2) recommended methods of financing such regional authority.

SEC. 7. LONG ISLAND SOUND FUND.

(a) FUND ESTABLISHED.—There is hereby established on the books of the Treasury of the United States a special fund to be known as the "Long Island Sound Fund".

(b) APPROPRIATIONS TO FUND.—

(1) APPROPRIATIONS.—Except as otherwise earmarked under another provision of law, there is hereby appropriated to the Fund for each fiscal year, out of the amounts in the general fund of the Treasury not otherwise appropriated, an amount equal to the sum of the amounts collected by Federal courts as a result of Federal and citizen suits under the Federal Water Pollution Control Act (commonly referred to as the "Clean Water Act") relating to violations of such Act occurring in the vicinity of Long

Island Sound and in that portion of the watershed of the Long Island Sound in the immediate vicinity of such Sound, as determined by the Administrator of the Environmental Protection Agency. The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount equal to the amounts so designated during each fiscal year, which shall remain available to the Fund without fiscal limitation.

(2) GENERAL FUND.—For the purposes of this subsection, moneys to the general fund shall not be considered as earmarked.

(c) EXPENDITURES.—Amounts in the Long Island Sound Fund shall be available, as provided in appropriation Acts, to the Administrator of the Environmental Protection Agency for the purposes of making expenditures for carrying out section 119 of the Federal Water Pollution Control Act (commonly referred to as the "Clean Water Act").●

● Mr. MOYNIHAN. Mr. President, it is with great enthusiasm that I join with Senators LIEBERMAN, DODD, and D'AMATO in sponsoring the Long Island Sound Improvement Act of 1989.

As you know, our two States have worked together on improvements to the quality of the Long Island Sound. This included legislation to create the Long Island Sound study. The Long Island Sound Improvement Act is a good next step and I am pleased to be part of the effort. The Long Island Sound study has made significant strides in identifying and understanding the source of pollution in the sound. The work of the study will continue, as it should, and will guide the efforts of the interstate management conference established by our bill.

Mr. Chairman, Connecticut and New York share many things. We are bound together by, among other things, the Long Island Sound. It is our border, and our common patrimony. With over one hundred town and villages on its shores, the Long Island Sound serves both for leisure and as a place of work. It is the purpose of the Long Island Sound study to find ways to improve the health of this body of water. It will now be the purpose of our legislation to put these ideas to work. This must be done.

The States of New York and Connecticut have done much by themselves to help the sound. As has the EPA. But the Federal commitment must not end when the study is done. The EPA must help implement the findings of the study. Experience has shown that the type of program we are advocating works. It has helped in the Chesapeake Bay and the Great Lakes. These programs have had their problems and our legislation tries to solve some of them.●

● Mr. DODD. Mr. President, I am pleased to join my colleague from Connecticut, Senator LIEBERMAN, in introducing the Long Island Sound Improvement Act of 1989.

The Long Island Sound truly is one of Connecticut's and the region's natural treasures. To the more than 15 million people who live within 50 miles of the shores of Long Island Sound, it is a popular recreational area for boating, swimming, and sport fishing. Long Island Sound also supports an active commercial fishing industry generating approximately $20 million annually.

Many of these recreational and commercial activities depend on a clean sound, but the blue waters of the sound are not as clean as they may look. Rapid population growth in the Long Island Sound watershed has lead to increased threats to the environment. According to the National Oceanic and Atmospheric Administration, 86 sewage treatment plants release more than a billion gallons of wastewater into the sound each day. Indirect and direct industrial discharges, combined sewer overflows, urban stormwater runoff, and agricultural and construction runoff also contribute to the pollution loads.

Is Long Island Sound in trouble? To provide the answer and respond to concern about the health of such coastal environments, Congress asked the Environmental Protection Agency to establish a national estuary program to improve the environmental quality of the Nation's most important estuaries. Because the valuable resources of Long Island Sound are being threatened by overuse and pollution, this estuary was one of the first four to be included in the program, and in March 1988, the sound was designated as an estuary of national significance.

The Long Island Sound study is a 6-year project involving Federal, State, interstate, and local agencies, universities, environmental groups, industry, and the general public. These groups have been working together since 1985 to identify the major environmental problems of the sound and to develop a plan by 1991 to manage those problems.

Last year, the study turned toward defining a framework for the Long Island Sound management plan. The plan will address the predominant problems facing the sound, namely hypoxia (low dissolved oxygen), toxic contamination, and the health of the sound's fish and shellfish. In addition, the plan will make recommendations about the control of pathogens and floatable debris in the sound's waters.

When the Long Island Sound study ends in 1991, we will be left with a plan of action. We need to ensure that the plan is followed. The "Long Island Sound Improvement Act of 1989" is a comprehensive and ambitious plan to provide for continued emphasis on Long Island Sound issues after completion of the study.

The bill provides for focused and sustained Federal involvement, including funding, in Long Island Sound issues through the creation of a Long Island Sound Office at EPA. The office would oversee implementation of the management plan, establish liaison with the heads of all Federal agencies and departments which have jurisdiction over Long Island Sound issues, make grants to the States to implement the sound study management plans, and be responsible for a series of critical new studies which are not part of the current study. The office would consist of representatives of both EPA regional offices with jurisdiction over the sound.

With the necessary policymaking authority, the office would serve as an impetus for post-study Federal involvement which might not otherwise occur in an agency with other competing demands and limited resources. I am confident that creation of the Long Island Sound Office would allow us to build upon the many positive results of the Long Island Sound study.

The challenge before us is for a coordinated, dedicated effort at all levels of government—local, State, and Federal—to revive, protect and preserve this precious natural resource, the Long Island Sound. While we are all mindful of the cost of the solution, it pales in comparison to the cost in terms of lost recreational facilities, marine related industry, and the overall quality of life in the region that we wish to maintain and preserve for future generations.●

● Mr. D'AMATO. Mr. President I join today with my distinguished colleagues Senators LIEBERMAN, MOYNIHAN, and DODD in introducing the Long Island Sound Improvement Act of 1989.

The quality of life on Long Island is so dependent upon its coastal waters—especially the Long Island Sound. Approximately 5 million people live within 15 miles of the sound's shoreline. Year round, the sound attracts thousands of citizens for fishing, boating and swimming. In 1988, the sound was recognized as one of this country's most important natural resources by its inclusion in EPA's National Estuary Program.

In 1985 I was one of the key players in initiating the Long Island Sound study. The goal of the study is to identify and understand the sources of pollution in the sound and ultimately produce a comprehensive conservation and management plan which both New York and Connecticut have agreed to implement. While the study has been successful in determining that hypoxia is a major problem in the sound, limited resources have prevented in-depth investigation into the toxics problems. The legislation we are introducing today will help to override that shortcoming.

The Long Island Sound Improvement Act will create an office within

the Environmental Protection Agency called the Long Island Sound Program Office which will oversee the sound's management plan. The new office will be located on or near the sound, alternating between New York and Connecticut every 5 years. Its director will be appointed by the EPA Administrator.

One of the most important duties of the Director will be to undertake a series of studies on: First, a 20-year growth assessment of the adequacy of wastewater treatment facilities along the sound to handle increases in population; second, nonpoint source pollution; third, shellfish health; fourth, recreational uses; and fifth, the establishment of an oilspill contingency plan.

I am delighted to be a cosponsor of this comprehensive piece of legislation which will greatly enhance the quality of the Long Island Sound. I look forward to working with my colleagues in moving this bill through Congress.●

ADDITIONAL COSPONSORS

S. 135

At the request of Mr. GLENN, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 135, a bill to amend title 5, United States Code to restore to Federal civilian employees their right to participate voluntarily as private citizens in the political processes of the Nation to protect such employees from improper political solicitations and for other purposes.

S. 511

At the request of Mr. INOUYE, the names of the Senator from Nevada [Mr. BRYAN] and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of S. 511, a bill to to recognize the organization known as the National Academies of Practice.

S. 714

At the request of Mr. MCCLURE, the names of the Senator from West Virginia [Mr. BYRD] and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 714, a bill to extend the authorization of the Water Resources Research Act of 1984 through the end of fiscal year 1993.

S. 720

At the request of Mr. BOREN, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. BURDICK], the Senator from Virginia [Mr. ROBB], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from New Mexico [Mr. DOMENICI], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 720, a bill to amend the Internal Revenue Code of 1986 to extend and modify the targeted jobs credit, and for other purposes.

S. 978

At the request of Mr. INOUYE, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 978, a bill to authorize the establishment within the Smithsonian Institution of the National Museum of the American Indian to establish a memorial to the American Indian, and for other purposes.

S. 1091

At the request of Mr. GRAHAM, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1091, a bill to provide for the striking of medals in commemoration of the bicentennial of the United States Coast Guard.

S. 1254

At the request of Ms. MIKULSKI, the names of the Senator from Illinois [Mr. SIMON] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 1254, a bill to authorize the Secretary of Labor to make grants to public housing agencies for the provision of literacy training, training in basic and employment skills, and support services, and to establish the Gateway Task Force.

S. 1358

At the request of Mr. RIEGLE, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1358, a bill to amend the Social Security Act to take into account monthly earnings in determining the amount of disability benefits payable to a recipient of disabled adult child's benefits and certain other beneficiaries and to provide for continued entitlement to disability and Medicare benefits for such individuals, and for other purposes.

S. 1389

At the request of Mr. GRAHAM, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1389, a bill to authorize the issuance of drug war bonds and to require that the proceeds of those bonds be used to fund the Anti-Drug Abuse Act of 1988.

S. 1393

At the request of Mr. REID, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1393, a bill to direct the Secretary of Defense to give priority to the Federal Bureau of Prisons in transferring any surplus real property or facility that is being closed or realigned.

S. 1532

At the request of Mr. LEAHY, the names of the Senator from New Mexico [Mr. DOMENICI] and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 1532, a bill to amend the Volunteers in the National Forests Act of 1972 to permit volunteers to be considered employees under section 3721 of title 31, United States Code.

S. 1570

At the request of Mr. PRYOR, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Michigan [Mr. LEVIN], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of S. 1570, a bill to amend the Social Security Act to partially deregulate the collection of fees for the representation of claimant in administrative proceedings.

S. 1571

At the request of Mr. PRYOR, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1571, a bill to amend the Social Security Act to establish in the Social Security Administration the Office of Chief Administrative Law Judge, and for other purposes.

S. 1619

At the request of Mr. BOSCHWITZ, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 1619, a bill to amend the Internal Revenue Code of 1986 to reduce the occupational tax on small retail liquor and beer dealers, and for other purposes.

S. 1638

At the request of Mr. SIMON, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1638, a bill to require each prisoner released on probation, parole, or supervised release to pass a drug test.

S. 1661

At the request of Mr. PRYOR, the names of the Senator from Wisconsin [Mr. KASTEN], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Illinois [Mr. SIMON], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 1661, a bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for qualifying disability expenses.

At the request of Mr. HATCH, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1661, supra.

S. 1673

At the request of Mr. MOYNIHAN, the names of the Senator from Delaware [Mr. BIDEN], the Senator from Connecticut [Mr. DODD], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 1673, a bill to amend title XIX of the Social Security Act to provide for substance abuse treatment services on request for individuals desiring to rid themselves of substance abuse problems, and for other purposes.

S. 1682

At the request of Mr. BENTSEN, the names of the Senator from Delaware [Mr. BIDEN] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 1682, a bill

to amend the Internal Revenue Code of 1986 to encourage savings by increasing the amount of deductible contributions which may be made to an individual retirement account, to allow distributions from individual retirement accounts to be used without penalty to purchase a first home or to pay for higher education expenses, and for other purposes.

S. 1692

At the request of Mr. NUNN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1692, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain timber activities under passive loss rules.

S. 1698

At the request of Mr. GORE, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 1698, a bill to amend the Communications Act of 1934 to provide for fair marketing practices for certain encrypted satellite communications.

SENATE JOINT RESOLUTION 79

At the request of Mr. REID, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Joint Resolution 79, a joint resolution to require display of the POW/MIA flag at Federal buildings.

SENATE JOINT RESOLUTION 160

At the request of Mr. LAUTENBERG, the names of the Senator from California [Mr. WILSON] and the Senator from Nevada [Mr. REID] were added as cosponsors of Senate Joint Resolution 160, a joint resolution to designate December 7, 1989, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

SENATE JOINT RESOLUTION 168

At the request of Mr. MCCLURE, the names of the Senator from Colorado [Mr. ARMSTRONG], the Senator from Montana [Mr. BAUCUS], the Senator from Connecticut [Mr. DODD], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Joint Resolution 168, a joint resolution to designate the week of October 2 through 8, 1989, as "America's Gold Week."

SENATE JOINT RESOLUTION 186

At the request of Mr. MCCLURE, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Nebraska [Mr. EXON], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from New York [Mr. D'AMATO], the Senator from New Mexico [Mr. DOMENICI], the Senator from Kentucky [Mr. FORD], the Senator from California [Mr. WILSON], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Utah [Mr. GARN], the Senator from Indiana [Mr. COATS], the Senator from Texas [Mr. GRAMM], the Senator from Connecticut [Mr. DODD], the Senator from Florida [Mr. GRAHAM], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Alabama [Mr. SHELBY], the Senator from Florida [Mr. MACK], the Senator from Illinois [Mr. DIXON], the Senator from Louisiana [Mr. BREAUX], the Senator from North Carolina [Mr. HELMS], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Joint Resolution 186, a joint resolution designating the week of March 1 through March 7, 1990, as "National Quarter Horse Week."

SENATE JOINT RESOLUTION 193

At the request of Mr. DECONCINI, the names of the Senator from Illinois [Mr. DIXON], the Senator from Michigan [Mr. LEVIN], the Senator from Utah [Mr. GARN], the Senator from Idaho [Mr. MCCLURE], the Senator from Utah [Mr. HATCH], the Senator from Alabama [Mr. HEFLIN], the Senator from South Carolina [Mr. THURMOND], and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of Senate Joint Resolution 193, a joint resolution designating October 1989 as "National Italian-American Heritage and Culture Month."

SENATE JOINT RESOLUTION 194

At the request of Mr. LAUTENBERG, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Nebraska [Mr. KERREY], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from New York [Mr. MOYNIHAN], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of Senate Joint Resolution 194, a joint resolution designating November 12-18, 1989 as "National Glaucoma Awareness Week."

SENATE JOINT RESOLUTION 196

At the request of Mr. GORE, the names of the Senator from Tennessee [Mr. SASSER], the Senator from Alabama [Mr. HEFLIN], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Joint Resolution 196, a joint resolution to establish the month of October, 1989, as "Country Music Month."

SENATE JOINT RESOLUTION 198

At the request of Mr. SIMON, the names of the Senator from Rhode Island [Mr. PELL], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Joint Resolution 198, a joint resolution designating November 1989 as "An End to Hunger Education Month."

SENATE JOINT RESOLUTION 204

At the request of Mr. NUNN, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Joint Resolution 204, a joint resolution designating October 28, 1989, as "National Women Veterans of World War II Day."

SENATE JOINT RESOLUTION 206

At the request of Mr. GORE, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of Senate Joint Resolution 206, a joint resolution calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative parties, for the full protection of Antarctica as a global ecological commons.

SENATE JOINT RESOLUTION 212

At the request of Mr. DOLE, the names of the Senator from Montana [Mr. BAUCUS], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of Senate Joint Resolution 212, a joint resolution designated April 24, 1990, as "National Day of Remembrance of the Seventy-Fifth Anniversary of the Armenian Genocide of 1915-1923."

SENATE CONCURRENT RESOLUTION 62

At the request of Mr. DODD, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of Senate Joint Resolution 62, a concurrent resolution commending the decision of the Board of Immigration appeals to allow Joseph Patrick Doherty to apply for political asylum, expressing concern at the Attorney General's June 30, 1989, decision to deny Joseph Patrick Doherty a political asylum hearing, and asking the Attorney General to respect the BIA decision on political asylum and immediately to release Joseph Patrick Doherty on bond pending final completion of the immigration proceedings.

SENATE RESOLUTION 190—RELATING TO NOBEL PRIZE RECOGNITION FOR ACHIEVEMENTS IN THE PRESERVATION OF THE WORLD ENVIRONMENT

Mr. BIDEN (for Mr. GORE, for himself, Mr. BOSCHWITZ, Mr. WIRTH, Mr. HEINZ, Mr. CRANSTON, Mr. BUMPERS, Mr. SIMON, Mr. KERRY, Mr. LAUTENBERG, and Mr. PRYOR), submitted the following resolution; which was considered and agreed to:

S. RES. 190

Whereas the world's environmental problems are no longer confined within the borders of a single nation, but affect the citizens of all nations;

Whereas the world must act in the next decade to ward off a grave and growing danger to the global ecological system that sustains life as we know it;

Whereas the science of global environmental studies is expanding dramatically both in academic stature and in political importance;

Whereas the findings of environmental scientists in areas such as stratospheric ozone depletion, the greenhouse effect, deforestation, and acid rain are already leading to a profound change in public consciousness and in the agendas of all governments;

Whereas the work of these outstanding individuals should be recognized on a global scale, not only to reward their accomplishments, but to increase worldwide awareness of the environmental peril and underscore the urgency of environmental protection; and

Whereas humankind's pursuit of progress in the sciences, literature, economics, and world peace will falter if we do not also work to save the planet on which we live: Now, therefore, be it

Resolved, That the Senate of the United States urges the Nobel Commission to consider awarding Nobel Prize recognition for achievements in preservation of the world environment. Such a prize would recognize outstanding individuals who have made signal contributions to our awareness of and responsibility for the environment.

AMENDMENTS SUBMITTED

NATIONAL AMERICAN INDIAN MUSEUM ACT

INOUYE AMENDMENT NO. 911

Mr. INOUYE proposed an amendment to the bill (S. 978) to authorize the establishment within the Smithsonian Institution of the National Museum of the American Indian, to establish a memorial to the American Indian, and for other purposes, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "National American Indian Museum Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) there is no national museum devoted exclusively to the history and art of cultures indigenous to the Americas, specifically Indians, Eskimos, and Aleuts;

(2) although the Smithsonian Institution employs more than 6,000 people, operates 19 museums, galleries, and major research facilities, and sponsors extensive American Indian programs, none of its institutions are devoted exclusively to Native American art and history;

(3) the Museum of the American Indian, Heye Foundation, located in New York City, has an unequaled assemblage of more than 1,000,000 Indian art objects and artifacts and is one of the largest of such collections in the world;

(4) the library of the Museum of the American Indian, Heye Foundation, houses 40,000 volumes relating to the archaeology, ethnology, and history of Native American peoples;

(5) the collection of the Museum of the American Indian, Heye Foundation, of art, artifacts, specimens and books is inadequately housed in 3 separate facilities totaling 90,000 square feet, with 95 percent of the collection of art and artifacts stored in 20,000 square feet and the collection of books kept in a 15,000 square foot library;

(6) the collection of the Museum of the American Indian, Heye Foundation needs a minimum of 400,000 square feet to adequately exhibit and store art and artifacts and to provide space for scholars and researchers;

(7) the bringing together of the collection of the Museum of the American Indian, Heye Foundation, and the Native American collection of the Smithsonian Institution would—

(A) create an institution whose capabilities for exhibition and research would be unrivaled in scope and would give all Americans the opportunity to learn of the cultural legacy, historic grandeur, and contemporary culture of Indians; and

(B) provide—

(i) a meeting place for scholars,

(ii) a significant, national facility for the exhibition of Indian art and artifacts,

(iii) a stage for the performing arts,

(iv) curation and other learning opportunities for Indians, and

(v) traveling exhibitions to communities throughout the Nation;

(8) approximately 300 human remains of Indians collected from battlefields and burial grounds were sent to the Army Medical Museum by order of the Surgeon General of the United States Army and later transferred to the Smithsonian Institution where they are still stored;

(9) the Smithsonian Institution has acquired additional collections of Native American human remains through—

(A) archaeological excavations, and

(B) donations from individuals and museums;

(10) these collections have been estimated to contain the remains of approximately 18,000 Indians, Eskimos, Aleuts, and Native Hawaiians and the existence of these collections has concerned many Indian tribes and bands, Alaska Native villages, and Native Hawaiian families that are determined to provide an appropriate resting place for their ancestors;

(11) identifying the geographic and tribal origins of Indian and Alaska Native and Native Hawaiian human remains in the Smithsonian collections is essential to addressing these concerns; and

(12) an extraordinary site on the National Mall in the District of Columbia (U.S. Government Reservation No. 6) which has been reserved for the use of the Smithsonian Institution is available for construction of a suitable building to permanently house the collection of the National Museum of the American Indian.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) The term "Indian" means an individual who is a member of an Indian tribe, including any individual who is an Alaska Native.

(2) The term "Alaska Native" means any Eskimo, Aleut, or Alaska Indian.

(3) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act).

(4) The term "Native American" means the tribes, peoples, and cultures that are indigenous to North America, Central America, or South America, including Native Hawaiians.

(5) The term "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

(6) The term "Native Hawaiian organization" means any organization which—

(A) serves and represents the interests of Native Hawaiians, and

(B) has as a primary and stated purpose the provision of services to Native Hawaiians.

(7) The term "Museum" means the National Museum of the American Indian established under section 4.

(8) The term "Heye Museum" means the Museum of the American Indian, Heye Foundation.

(9) The term "Board of Trustees" means the Board of Trustees of the National Museum of the American Indian.

(10) The term "Board of Regents" means the Board of Regents of the Smithsonian Institution.

(11) The term "burial site" means any natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which there was intentionally deposited, as a part of the death rites or ceremonies of a culture, the remains of a deceased individual.

(12) The term "funerary object" means any artifact or object, in the possession or control of the Smithsonian Institution—

(A) which was intentionally placed with a deceased individual, either at the time of burial or interment or at some subsequent time, as a part of the death rites or ceremonies of a culture, and

(B) which—

(i) is clearly associated with human remains subject to return pursuant to section 9, or

(ii) has been identified, through available evidence, as having been removed from a specific burial site.

ESTABLISHMENT OF THE MUSEUM

SEC. 4. (a) There is established within the Smithsonian Institution a living memorial to Native Americans and their traditions which shall be known as the "National Museum of the American Indian" and shall provide for—

(1) the advancement of the study of the Native peoples of the Americas and the study of their languages, literature, history, art, anthropology, and life;

(2) the collection, preservation, and exhibition of Indian objects of artistic, historic, literary, anthropological, and scientific interest related thereto;

(3) programs of Indian research and study; and

(4) the means of carrying on this work in the District of Columbia, the State of New York, and such other locations as may be appropriate.

(b)(1) The area bounded by Third Street, Maryland Avenue, Independence Avenue, Fourth Street, and Jefferson Drive, Southwest, in the District of Columbia, is appropriated to the Smithsonian Institution as the permanent site of a facility for the Museum. A facility for the Museum shall be constructed on such site.

(2) A significant facility for the Museum consisting of approximately 82,500 square feet, including auditorium and loading dock space shared with the General Services Administration, shall be established in the Old United States Custom House at One Bowling Green, New York, New York, and shall be designated "The George Gustav Heye Center of the National Museum of the American Indian".

(3) A facility for the conservation and storage of the collections of the Museum shall be established at the Museum Support Center of the Smithsonian Institution.

(c) The Board of Regents is authorized to—

(1) enter into a conveyance agreement with the Heye Foundation, the terms of which shall—

(A) provide for the transfer of title of those assets of the Heye Foundation described in the Memorandum of Understanding between the Smithsonian Institution and the Heye Foundation dated May 8, 1989, to the Smithsonian Institution for the benefit and use of the Museum;

(B) require that such assets be used for purposes consistent with the trust indenture established by George Gustav Heye on May 10, 1916; and

(C) be governed by, and construed in accordance with, the laws of the State of New York to the extent permitted under the laws of the United States and the Constitution of the United States and under the jurisdiction of the United States District Court for the Southern District of New York;

(2) plan, design, and construct, or to acquire, the facilities described in subsection (b), which shall together aggregate at least 400,000 square feet;

(3) provide for the permanent acquisition of Native American objects and artifacts from the Heye Museum;

(4) purchase, accept, borrow, or otherwise provide for the temporary or permanent acquisition of Native American objects and artifacts from other museums or private collections; and

(5) preserve, maintain, restore, loan, or exchange objects and artifacts in the collection of the Museum.

BOARD OF TRUSTEES OF THE MUSEUM

SEC. 5. (a) There is established within the Smithsonian Institution the Board of Trustees of the National Museum of the American Indian.

(b) The Board of Trustees shall—

(1) recommend annual operating budgets for the Museum;

(2) provide advice and assistance to the Board of Regents on all matters relating to the administration, operation, maintenance, and preservation of the Museum;

(3) subject to the general policy established by the Board of Regents, have the sole authority to—

(A) loan, exchange, sell, or otherwise dispose of any part of the collections of the Museum, but only if the funds generated by such disposition are used for additions to the collections of the Museum or for additions to the endowment of the Museum,

(B) subject to the availability of funds and the provisions of annual budgets of the Museum, purchase, accept, borrow, or otherwise acquire artifacts and other property for addition to the collections of the Museum, and

(C) establish policy with respect to the utilization of the collections of the Museum for purposes that include, but are not limited to, research, evaluation, education, and method of display;

(4) subject to the general policy established by the Board of Regents, have authority to—

(A) establish policy with respect to the restoration, preservation, and maintenance of the collections of the Museum,

(B) solicit funds for the Museum and determine the purposes to which those funds shall be applied,

(C) approve expenditures from the endowment of the Museum, or of income generated from the endowment, for any purpose of the Museum, and

(D) consult with and advise the Director of the Museum on annual budgets to be recommended to the Board of Regents and otherwise consult with, advise, and support the Director in the operation of the Museum;

(5) adopt bylaws to carry out the functions of the Board of Trustees;

(6) designate a chairman from among the members of the Board of Trustees and such other officers as may be provided for by the Board of Trustees; and

(7) report annually to the Board of Regents on the acquisition, disposition, and display of Native American objects and artifacts and on other matters within the discretion of the Board of Trustees.

(c)(1)(A) The initial Board of Trustees shall consist of the following individuals:

(i) the Secretary of the Smithsonian Institution,

(ii) an Assistant Secretary of the Smithsonian Institution designated by the Board of Regents,

(iii) 8 individuals appointed by the Board of Regents, and

(iv) 15 individuals appointed by the Board of Regents from a list submitted by the board of trustees of the Heye Museum of candidates who are members of the board of trustees of the Heye Museum.

(B) At least 7 of the members of the Board of Trustees appointed by the Board of Regents under this paragraph shall be of Indian ancestry.

(C) Any vacancy on the Board of Trustees that is caused by the failure of a member of the Board of Trustees appointed under subparagraph (A)(iv) to complete the term of office of such member shall be filled by any individual appointed by the Board of Regents without regard to subparagraph (A)(iv), but subject to the requirements of subparagraph (B).

(D) The term of office of each of the members of the initial Board of Trustees appointed under clauses (iii) and (iv) of subparagraph (A) shall be 3 years.

(2)(A) Upon the expiration of the terms of office of the members of the initial Board of Trustees appointed under clauses (iii) and (iv) of paragraph (1)(A), the Board of Trustees shall thereafter consist of—

(i) the Secretary of the Smithsonian Institution,

(ii) an Assistant Secretary of the Smithsonian Institution designated by the Board of Regents, and

(iii) 23 individuals appointed by the Board of Regents from a list of nominees submitted by the Board of Trustees.

(B) At least 12 of the members of the Board of Trustees appointed under subparagraph (A)(iii) shall be of Indian ancestry.

(C)(i) Except as otherwise provided in this subparagraph, the term of office of each member of the Board of Trustees appointed under subparagraph (A)(iii) shall be 3 years.

(ii) Of the initial members of the Board of Trustees appointed under subparagraph (A)(iii), who succeed the members appointed under clauses (iii) and (iv) of paragraph (1)(A)—

(I) 7 members shall have a term of office of 1 year,

(II) 8 members shall have a term of office of 2 years, and

(III) 8 members shall have a term of office of 3 years.

The Board of Regents shall designate the term of office of each of these members at the time the member is appointed.

(3) Any member of the Board of Trustees appointed to fill a vacancy occurring prior to the expiration of the term of office for which his predecessor was appointed shall be appointed for the remainder of such term.

(d) A majority of the members of the Board of Trustees shall constitute a quorum and any vacancy on the Board of Trustees shall not affect the power of the Board of Trustees to function.

(e) Members of the Board of Trustees may be reimbursed for travel, subsistence, and other necessary expenses incurred by the members in the performance of their duties as members of the Board of Trustees.

DIRECTOR; STAFF

SEC. 6. (a) The Secretary of the Smithsonian Institution may appoint and fix the compensation and duties of the Director of the National Museum of the American Indian and of such other officers and employees of the Museum as may be necessary for the efficient administration, operation, maintenance, and preservation of the Museum.

(b) The Director of the Museum and 2 other employees of the Museum may be appointed and compensated without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service and chapter 51, and subchapter III of chapter 53, of title 5 of such Code.

(c) All employees of the Heye Museum serving at the time of the transfer of its collections, endowment, and other property to the Smithsonian Institution shall be offered employment with the Smithsonian Institution under the usual terms of employment with the Smithsonian Institution and may be appointed without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service and chapter 51, and subchapter III of chapter 53, of title 5 of such Code.

FACILITY IN NEW YORK

SEC. 7. (a) Notwithstanding any provision of law other than the provisions of this Act, the Administrator of General Services is authorized, upon such terms and for such periods as may be mutually agreed upon by the Administrator and the Secretary of the Smithsonian Institution, to furnish at a nominal charge to the Smithsonian Institution, for a period of not less than 99 years, space (as provided in section 4(b)(2)) in the Old United States Custom House at One Bowling Green, New York, New York. The Smithsonian Institution shall reimburse the Administrator for the Smithsonian Institution's pro rata share of the cost of utilities, maintenance, cleaning, and other services incurred with respect to such space and the full cost of any repairs or alterations requested by the Smithsonian Institution with respect to such space.

(b) The City of New York, New York, and the State of New York shall each contribute the lesser of—

(1) one-third of the total cost of the design, construction and renovation of the space in the Old United States Custom House at One Bowling Green, New York, New York, that is to be used by the Museum for the facility that is required to be established under section 4(b)(2), or

(2) $8,000,000.

(c) Notwithstanding any other provision of this Act or of any other law, the Board of Regents is authorized to charge the public a fee for admission to the facility of the Museum that is required to be established under section 4(b)(2).

(d)(1) All receipts from charges paid by the Secretary of the Smithsonian Institution under subsection (a) to the Administrator of General Services for the furnishment of the space described in subsection (a) shall

be deposited into the fund established under section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)).

(2) There are authorized to be appropriated to the General Services Administration such sums as may be necessary to reimburse the fund established under section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)) for the difference between the amount the Administrator of General Services charges the Secretary of the Smithsonian Institution under subsection (a) for the furnishment of the space described in subsection (a) and the amount the Administrator would otherwise charge for such space under section 210(j) of such Act.

(e) There are authorized to be appropriated to the General Services Administration $25,000,000 from the fund established under section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)) for the repair and alteration of the Old United States Customs House at One Bowling Green, New York, New York, but not for those portions of the building assigned by the Administrator of General Services to the Smithsonian Institution under terms and conditions agreed to under subsection (a) that make the Smithsonian Institution responsible for the repair and alteration of such portions of the building.

(f)(1) The Board of Regents shall—

(A) loan artifacts and exhibitions from the Smithsonian Institution to the successor to the Heye Foundation at Audubon Terrace, 3753 Broadway, New York, New York,

(B) provide training, technical assistance, scholarship support, and such other assistance as is deemed necessary to such successor to maintain and operate museum programs, and

(C) ensure that at least 2,000 square feet at Audubon Terrace is publicly accessible and physically suitable for related exhibition activities.

(2) The successor to the Heye Foundation at Audubon Terrace shall make a good faith effort to respond to community cultural interests.

(3) Fees associated with traveling exhibits of the Smithsonian Institution that are charged to the successor to the Heye Foundation shall be determined according to the ability of the successor to pay such fees.

RELATIONSHIPS WITH OTHER MUSEUMS; INDIAN PROGRAMS

SEC. 8. (a)(1) The Board of Regents is authorized to enter into agreements with museums, educational institutions, and cultural organizations to—

(A) loan Native American artifacts and objects from the collections of the Smithsonian Institution,

(B) sponsor and coordinate a variety of traveling exhibitions, and

(C) provide training and technical assistance.

(2) The Board of Regents shall, in carrying out its responsibilities under this subsection, give priority to agreements with Indian tribes, museums, cultural centers, educational institutions, libraries, and archives. Agreements entered into with such Indian entities may provide loans or services at minimal cost or no cost.

(b)(1) The Secretary of the Interior is authorized to make grants to Indian tribal museums for the purpose of renovating, repairing, or constructing facilities for the museums (including ventilation and security systems) to enable the museums to receive and exhibit objects and artifacts loaned to the museums from the collection of the National Museum of the American Indian.

(2)(A) There is hereby established within the Treasury of the United States a trust fund to be known as the "Tribal Museum Endowment Fund" (hereafter in this subsection referred to as the "Endowment Fund"), consisting of such amounts as may be deposited into the Endowment Fund under subparagraph (B) or credited to the Endowment Fund under subparagraph (D)(iii).

(B)(i) The Secretary of the Treasury is authorized to accept contributions to the Endowment Fund of any funds that were not derived from the Federal Government and shall deposit such contributions into the Endowment Fund.

(ii) Amounts appropriated to the Endowment Fund may be deposited into the Endowment Fund only to the extent that an equal amount of funds that were not derived from the Federal Government has been contributed to the Endowment Fund and deposited into the Endowment Fund under clause (i).

(C) The Secretary of the Interior shall be the trustee of the Endowment Fund, and shall submit an annual report to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives on—

(i) the financial condition and the results of the operations of the Endowment Fund during the fiscal year preceding the fiscal year in which such report is submitted, and

(ii) the expected condition and operations of the Endowment Fund during—

(I) the fiscal year in which such report is submitted, and

(II) the 5 fiscal years succeeding such fiscal year.

Such report shall be printed as a House document of the session of the Congress to which the report is made.

(D)(i) The Secretary of the Treasury shall invest the funds in the Endowment Fund in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

(I) on original issue at the issue price, or

(II) by purchase of outstanding obligations at the market price.

(ii) Any obligation acquired by the Endowment Fund may be sold by the Secretary of the Treasury at the market price.

(iii) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Endowment Fund shall be credited to, and form a part of, the Endowment Fund.

(E) The capital of the Endowment Fund shall not be available for expenditure. The amounts credited to the Endowment Fund under subparagraph (D)(iii) shall only be available for grants made under paragraph (1).

(F) The Secretary of the Interior is authorized and directed to pay out of amounts in the Endowment Fund that are credited to the Endowment Fund under subparagraph (D)(iii) such sums as are necessary to fund the grants made under paragraph (1).

(3) There are authorized to be appropriated for the Endowment Fund for each fiscal year beginning after fiscal year 1991, $2,000,000.

(c)(1) The Board of Regents is authorized to establish special programs to—

(A) serve Indian tribes and communities, and

(B) in concert with educational institutions (including Tribally Controlled Community Colleges), enhance the opportunities for Indians in museum studies, management, and research.

(2) The Board of Regents shall establish an American Indian Museum Management Fellowship program to provide stipends to Indians who are receiving training in museum development and management.

(3) There are authorized to be appropriated for each fiscal year $2,000,000 to carry out the provisions of this subsection.

INDIAN HUMAN REMAINS

SEC. 9. (a)(1) Subject to the provisions of this section and notwithstanding any other provision of law, the Board of Regents shall, in consultation and cooperation with traditional Indian and Native Hawaiian religious leaders and tribal government officials, initiate a process for the inventory of Indian and Native Hawaiian human remains and funerary objects in the collection or control of the Smithsonian Institution to identify, to the fullest extent possible, the geographic and tribal origins of such remains and objects. The identification of the human remains and funerary objects shall be based upon the best available scientific and historical documentation.

(2) If the identification process conducted under paragraph (1) has established by a preponderance of the evidence the Indian tribal origin of any particular human remains or funerary objects, the Board of Regents, as soon as possible, shall cause the affected Indian tribe or tribes to be notified of such identification.

(3) If the identification process conducted under paragraph (1) has established by a preponderance of the evidence the geographic origin of any particular human remains or funerary objects of Native Hawaiians, the Board of Regents, as soon as possible, shall cause notice of such identification to be made to a Native Hawaiian organization which has been certified by the Governor of the State of Hawaii as the appropriate entity to receive such notification.

(b)(1) If a preponderance of the evidence establishes that human remains in the possession or control of the Smithsonian Institution are of a particular Indian, or are of an individual who was culturally affiliated with a particular Indian tribe, the Board of Regents, upon request of the known descendants of such Indian, or such Indian tribe, as the case may be, shall expeditiously return such remains, and any funerary objects associated with such remains, to such descendants or Indian tribe.

(2) If a preponderance of the evidence establishes that human remains in the possession or control of the Smithsonian Institution are of a particular individual who is believed to be Native Hawaiian, the Board of Regents, upon the request of the known descendants of such individual, shall expeditiously return such remains, and any funerary objects associated with such remains, to such descendants.

(3) If a preponderance of the evidence establishes that funerary objects in the possession or control of the Smithsonian Institution, not associated with any human remains, were removed from a specific burial site of an individual culturally affiliated with a particular Indian tribe, the Board of Regents, upon the request of such Indian tribe, shall expeditiously return such objects to such Indian tribe.

(4) If a preponderance of the evidence establishes that funerary objects in the possession or control of the Smithsonian Institution, not associated with any human re-

mains, were removed from a specific burial site of an individual believed to be Native Hawaiian, the Board of Regents, upon the request of the descendants of such individual, shall expeditiously return such objects to the descendants.

(c)(1) Within 120 days after the date of enactment of this Act, the Secretary of the Smithsonian Institution shall establish a committee to monitor and review the implementation of the inventory and identification process required under subsection (a) and the restoration activities required under subsection (b).

(2) The committee established under paragraph (1) shall be composed of 5 members, 3 of whom shall be appointed from nominations submitted by Indian tribes and organizations. None of the persons appointed to the committee shall be Federal employees or officials or be affiliated with the Smithsonian Institution.

(3) The committee established under paragraph (1) shall be responsible for—

(A) monitoring the inventory and identification process conducted under subsection (a) to ensure a fair, objective consideration and assessment of all available relevant information and evidence,

(B) reviewing, upon its own motion or upon the request of any affected party, any finding relating to—

(i) the identity or origin of human remains or funerary objects, or

(ii) the return of such remains or objects,

(C) arbitrating disputes between Indian tribes relating to the return of human remains or funerary objects,

(D) consulting with Native Hawaiian religious leaders and Native Hawaiian organizations on matters within the scope of the work of the committee affecting Native Hawaiians; and

(E) performing such other related functions as the Secretary may assign to the committee.

(4) The Secretary shall ensure that the committee established under paragraph (1) and the members of the committee have full and free access to human remains and funerary objects under review and to associated scientific and historical documents.

(5) Members of the committee established under paragraph (1) shall be reimbursed at a rate equal to the daily rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) for which the member is actually engaged in committee business and for travel, subsistence, and other necessary expenses.

(6) The Secretary shall—

(A) designate one of the members of the committee established under paragraph (1) as chairman,

(B) establish such rules and regulations for the committee as may be necessary, and

(C) provide reasonable administrative and staff support necessary for the deliberations of the committee.

(7) The committee established under paragraph (1) shall terminate at the end of the 120-day period beginning on the day on which the Board of Regents certifies, in a report submitted to the Congress, that the work of the committee has been completed.

(d) Nothing in this section shall be interpreted as—

(1) limiting the authority of the Smithsonian Institution to return or repatriate human remains or funerary objects to Indian tribes or individuals or to Native Hawaiian individuals,

(2) delaying actions on repatriation requests that are pending on the date of enactment of this Act,

(3) denying or otherwise affecting access to the courts, or

(4) limiting any procedural or substantive rights which may otherwise be secured to Indian tribes or individuals or to Native Hawaiian individuals.

(e)(1) The Secretary of the Interior is authorized to make grants to Indian tribes for the purpose of assisting such Indian tribes in reaching and implementing agreements with the Smithsonian Institution, other Federal agencies, and non-Federal entities for the repatriation of human remains and funerary objects.

(2) The Secretary of the Interior is authorized to make grants to Native Hawaiian organizations for the purpose of assisting such organizations in reaching and implementing agreements with the Smithsonian Institution, other Federal agencies, and non-Federal entities for the repatriation of human remains and funerary objects.

(f) There are authorized to be appropriated—

(1) $1,000,000 for fiscal year 1991, and such sums as may be necessary for succeeding fiscal years, to carry out the inventory and identification process required under subsection (a),

(2) $250,000 for fiscal year 1991, and such sums as may be necessary for succeeding fiscal years, for the expenses of the review committee authorized under subsection (c), and

(3) $1,500,000 for fiscal year 1991, and such sums as may be necessary for succeeding fiscal years, for grants authorized under subsection (e).

PLEDGE

SEC. 10. The faith of the United States is pledged that the United States shall provide such funds as may be necessary for the design, construction, administration, maintenance, and operation of the Museum and the administrative expenses and costs of operating the Museum, including the protection and care of collections acquired by the Board of Trustees or the Board of Regents, so that the Museum shall at all times be properly maintained and, except as otherwise authorized in section 7(c), collections contained therein shall be exhibited regularly to the general public free of charge.

TRANSFER OF FUNDS

SEC. 11. Any funds appropriated to carry out the provisions of this Act may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other actions, to the extent of the funds so transferred, as may be necessary to carry out the provisions of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. (a)(1) Subject to the provisions of paragraph (2), there are authorized to be appropriated to the Smithsonian Institution—

(A) $10,000,000 for fiscal year 1990, and

(B) such sums as may be necessary for each of the succeeding fiscal years,

to carry out the provisions of this Act for which no other specific authorization of appropriations is provided in this Act.

(2)(A) The total amount authorized to be appropriated for the construction of the facility described in section 4(b)(1) shall not exceed two-thirds of the total cost of such facility.

(B) The total amount authorized to be appropriated for the facility of the Museum established under section 4(b)(2) shall not exceed one-third of the total cost of such facility.

(b) Funds appropriated under the authority of subsection (a) for any period prior to the availability of the facilities described in section 4(b) shall remain available without fiscal year limitation for administrative and planning expenses and for the care and custody of the collections of the Museum and the Heye Museum.

(c) Notwithstanding any other provision of this Act, no funds may be appropriated for the purpose of constructing the museum facilities authorized by this Act until the Smithsonian Institution provides to the Congress and to the Administration an analysis of the total estimated cost of such construction and a cost-sharing plan projecting amounts for Federal appropriations and for non-Federal contributions.

IMPLEMENTATION OF PRESIDENT'S DRUG CONTROL STRATEGY

WALLOP AMENDMENT NO. 912

(Ordered to lie on the table.)

Mr. WALLOP submitted an amendment intended to be proposed by him to the bill (S. 1711) to implement the President's drug control strategy, as follows:

At the end insert the following new section:

SECTION . DRUG TESTS FOR CERTAIN INDIVIDUALS APPLYING FOR OR RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN.

Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended—

(1) by striking out "and" at the end of paragraph (39);

(2) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and;

(3) by adding at the end thereof the following new paragraph:

"(41) provide that the State agency—

"(A) shall require each applicant who is a parent or caretaker of a dependent child, as a condition of eligibility for aid under this part, to submit to a confidential test for illegal drugs approved by the Secretary;

"(B) shall implement a drug testing program under which any individual who receives aid under this part may be selected to submit to a confidential test for illegal drugs approved by the Secretary (such individuals selected for testing under this clause shall be selected on a random basis);

"(C) shall require that any individual required or selected to submit to a test for illegal drugs under this paragraph resulting in evidence of illegal drug use by such individual shall register for and participate in a drug treatment program approved by the State as a condition for continued eligibility for aid under this part; and

"(D) shall provide that—

"(i) if an individual who is required or selected pursuant to the provisions of this paragraph to submit to a test for illegal drugs and without good cause fails to submit to such test or refuses to participate in the State approved drug treatment program the needs of such individual shall not be taken into account with respect to such

individual's family under paragraph (7) of this subsection, and if such individual is the parent or other caretaker relative, payments of aid of any dependent child in the family in the form of payments described in section 406(b)(2) (which in such a case shall be without regard to clauses (A) through (D) thereof) will be made less the State agency, after making reasonable efforts, is unable to locate an appropriate individual to whom such payments can be made;

"(ii) any sanction described in clause (i) shall continue—

"(I) in the case of the individual's first failure to comply, until the failure to comply ceases;

"(II) in the case of the individual's second failure to comply, until the failure to comply ceases or 3 months (whichever is longer); and

"(III) in the case of any subsequent failure to comply, until the failure to comply ceases or 6 months (whichever is longer); and

"(iii) the State will promptly remind any individual whose failure to comply has continued for 3 months, in writing, or the individual's option to end the sanction by terminating suh failure.".

SEC. . DEFINITION OF ILLEGAL DRUGS.

Section 406 of the Social Security Act (42 U.S.C. 606) is amended by adding at the end thereof the following new subsection:

"(i) The term 'illegal drugs' means a controlled substance in Schedule I or II, as defined under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)); the possession of which is unlawful under such Act. The term 'illegal drugs' does not include a controlled substance used pursuant to a valid prescription or authorized by law.".

SEC. . REGULATIONS.

The Secretary of Health and Human Services shall prescribe such regulations as the Secretary deems necessary to implement the illegal drug testing program and required by the amendments made by section 2.

SEC. . EFFECTIVE DATE.

The amendments made by this Act shall become effective on October 1, 1990.

RUDMAN AMENDMENT NOS. 913 AND 914

Mr. RUDMAN proposed two amendments to the bill S. 1711, supra, as follows:

AMENDMENT No. 913

Proposed new section 523 is amended by inserting the following new subsection:

"(d) STATE IMPACT STUDY.—Of funds appropriated to the National Institute of Justice for fiscal year 1990, not to exceed $400,000 shall be made available to the National Criminal Justice Association to carry out a study of the fiscal and other impacts in states of implementing drug testing programs for targeted classes of arrestees, individuals in jails, prisons, and other correctional facilities, and persons on conditional or supervised release before or after conviction, including probationers, parolees, and persons released on bail. Six months following enactment of this section, the associaton shall report on its preliminary study findings. The final report on the study shall be completed one year after enactment of this section.

AMENDMENT No. 914

Proposed new section 523(a) is amended by striking, where appears, "subject to periodic review by the Attorney General,".

BURNS AMENDMENT NO. 915

Mr. BURNS proposed an amendment to the bill S. 1711, supra, as follows:

On page 3, after line 10, insert the following:

"(d) In issuing regulations pursuant to subsection (b) of this Act, the Attorney General shall also take into account any limitations on the ability of a State to meet the requirements of this Act due to the schedule of its regular legislative sessions and its procedural time requirements for adopting legislation and regulations.

WIRTH AMENDMENT NO. 916

Mr. WIRTH proposed an amendment, which was subsequently modified, to the bill S. 1711, supra, as follows:

At the appropriate section, insert the following:

That the Office of the National Drug Control Policy is directed to develop a coordinated policy in conjunction with state and local governments to counteract youth gang involvement in the distribution, sale and use of illegal drugs;

That the coordinated policy to be developed, as referenced above, include, though not be limited to, programs or means to prevent young people from joining a gang and methods to reform, rehabilitate, educate or train gang members and turn them away from illegal gang activities.

That this policy be implemented as soon as practical but no later than Feb. 1, 1991.

BIDEN AND HATCH AMENDMENT NO. 917

Mr. BIDEN (for himself and Mr. HATCH) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place in the bill insert the following:

SUBTITLE G—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 81. ADDITIONAL AUTHORIZATIONS.

There are authorized to be appropriated for the fiscal year ending September 30, 1990, the following sums (which shall be in addition to any other appropriations):

(1) For the Federal Bureau of Investigation: $57,000,000 for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;

(2) For the Drug Enforcement Administration: $47,500,000 which shall include—

(A) not to exceed $10,000,000 for enforcing provisions of Federal law regarding precursor and essential chemicals; and

(B) not to exceed $37,500,000 for assigning not fewer than 250 agents to rural areas where State and local law enforcement agencies have identified the distribution of "crack" cocaine and/or the manufacture and distribution of methamphetamine to be a serious law enforcement problem that exceeds the resources of local law enforcement, and involves trafficking across State or national boundaries;

(3) For the United States Courts: $9,000,000 for additional probation officers, judges, magistrates and other personnel including not to exceed $2,000,000 for training, document production, and other expenses related to the implementation of the Federal sentencing guidelines;

(4) For the United States Attorneys: $24,000,000 for additional prosecutors and staff to implement a program of prosecuting in Federal court drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies;

(5) For Defender Services: $8,000,000 for the defense of persons prosecuted in Federal court for drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies; and

(6) For the United States Marshals: $9,000,000.

BOND (AND HATCH) AMENDMENT NO. 918

Mr. BOND (for himself and Mr. HATCH) proposed an amendment to the bill S. 1711, supra as follows:

On page 2, strike lines 1 through line 10 on page 3 and insert the following:

"DRUG TESTING DEMONSTRATION PROGRAM"

"SEC. 523. (a) DEMONSTRATION PROGRAM.—The Attorney General shall establish a federal drug testing demonstration program under this section, which shall be based in part on scientific and technical standards determined by the Secretary of Health and Human Services to ensure reliability and accuracy of drug test results. In addition to specifying acceptable methods and procedures for carrying out drug testing, the program may include guidelines or specifications concerning—

(1) the classes of persons to be targeted for testing;

(2) the drugs to be tested for;

(3) the frequency and duration of testing; and

(4) the effect of test results in decisions concerning the sentence, the conditions to be imposed on release before or after conviction, and the granting, continuation, or termination of such release.

"(b) There is authorized to be appropriated $5,000,000.00 in fiscal years 1990, 1991, and 1992 to carry out the section.

MOYNIHAN (AND OTHERS) AMENDMENT NO. 919

Mr. MOYNIHAN (for himself, Mr. DOLE, Mr. BIDEN, Mr. KENNEDY, Mr. DODD, Mr. HATCH, and Mr. BRADLEY) proposed an amendment, which was subsequently modified, to the bill S. 1711, supra, as follows:

SECTION 1. SUBSTANCE ABUSE TREATMENT SERVICES AND MEDICAID.

(a) PURPOSE OF TITLE XIX.—Section 1901 of the Social Security Act is amended by striking "and" before the number "(2)", and inserting after "self-care," the following: "and (3), at State option, substance abuse treatment services so that treatment on request may be provided to all individuals eligible for assistance under this title (A) who desire to rid themselves of substance abuse problems, and (B) whose income and resources are insufficient to meet the cost of such treatment,".

(b) SUBSTANCE ABUSE TREATMENT SERVICES.—Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"SUBSTANCE ABUSE TREATMENT SERVICES

"SEC. 1927. "(a) At the option of the State, the State plan for medical assistance described in section 1902(a) may include as medical assistance, substance abuse treatment services and related case management services (described in subsection (b)) under the plan to all individuals eligible for assistance under this title who desire to rid themselves of their substance abuse problems.

"(b) DEFINITIONS.—(1) The term 'substance abuse treatment services' includes—

"(A) inpatient substance abuse treatment services, including counseling, which are provided in a hospital (or distinct part thereof) or other entity if such entity is legally authorized to provide such treatment under State law;

"(B) outpatient substance abuse treatment services, including counseling, which are provided by a hospital (or distinct part thereof) or other entity if such entity is legally authorized to provide such treatment under State law; and

"(C) substance abuse treatment services, including counseling, which are provided in a residential substance abuse treatment center or other entity if such entity is legally authorized to provide such treatment under State law.

"(2) The term 'case management services' means, for purposes of this section, services which will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.".

SECTION 2. EFFECTIVE DATE.

The amendments made by this amendment shall take effect on October 1, 1990.

HEINZ (AND OTHERS) AMENDMENT NO. 920

Mr. HEINZ (for himself, Mr. BOND, Mr. D'AMATO, Mr. LOTT, and Mr. WARNER) proposed an amendment to the bill S. 1711, supra, as follows:

SECTION 1. EXCLUSION FROM THE LEASE AND GRIEVANCE PROCEDURE FOR ANY EVICTION OR TERMINATION OF TENANCY FOR CRIMINAL ACTIVITY.

Section 6(k) of the United States Housing Act of 1937 is amended by striking the last sentence and inserting the following: "An agency may exclude from its procedure any grievance concerning an eviction or termination of tenancy for criminal activity, including drug-related criminal activity, in accordance with subsection (L)(5). An agency may exclude from its procedure any other grievance concerning an eviction or termination of tenancy in any jurisdiction which requires that, prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process.".

SEC. 2. NOTIFICATION BY PUBLIC HOUSING AGENCY TO THE UNITED STATES POSTAL SERVICE THAT TENANTS HAVE BEEN EVICTED FROM PUBLIC HOUSING FOR DRUG-RELATED CRIMINAL ACTIVITIES.

Section 6 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(n) Where a public housing agency evicted any member of the household from a dwelling unit for engaging in criminal activity the public housing agency shall notify the local post office serving that dwelling unit that the household member is no longer residing in the dwelling unit.".

NUNN (AND OTHERS) AMENDMENT NO. 921

Mr. NUNN (for himself, Mr. LIEBERMAN, and Mr. WILSON) proposed an amendment, which was subsequently modified, to the bill S. 1711, supra, as follows:

At the appropriate place insert the following:

SEC. . STUDY OF ANTI-DRUG ASSISTANCE TO THE ANDEAN REGION.

(a) FINDINGS.—The Congress finds that—

(1) the operations of international narcotics trafficking organizations pose a direct threat to the national security of the United States and Latin America;

(2) international narcotics trafficking operations have grown so large and powerful that they threaten the democratic governments of the Andean region;

(3) recent events in Colombia make clear the need for addressing the threat of international narcotics trafficking in Peru and Bolivia before situations there further deteriorate;

(4) for any anti-narcotics strategy to work in the Andean region an integrated program of economic development, interdiction and eradication must be developed;

(5) U.S. government anti-narcotics policies toward the Andean region have not in the past been coordinated with our country's trade and economic policies as exemplified by recent negotiations over the international coffee agreement;

(6) any successful strategy for combatting the influence of international narcotics trafficking in the Andean region must address the economic situation in that region;

(7) many of the farmers who produce coca leaf in the Andean region do so as the sole means of economic livelihood for themselves and their families;

(8) many of these farmers would stop growing coca if provided with alternative means to earn a livelihood;

(9) the economic assistance component of an Andean strategy must reduce the political pressures generated by a successful interdiction and eradication program, offset its negative economic impact on the countries foreign exchange earnings, create jobs for people who lose their livelihood, and in the long run, deal with the region's fundamental structural and development problems;

(10) individual country resources are not adequate to manage the immediate and short-run economic and social issues, much less solve the narcotics problem. Neither will indigenous resources grow fast enough to sustain present levels of development, unless the economies grow briskly and the political systems are stabilized and reinforced;

(11) national, regional and U.S. resources, combined, are also insufficient. The overall effort must be internationalized to include Japan, Canada and Western Europe;

(b) REPORT TO CONGRESS.—Not later than 60 days after the conclusion of the international conference, known as the International Conference on Combatting Illegal Drug Production, Trafficking, and Use in the Western Hemisphere, required by section 4104 of title IV of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), or 180 days after the date of enactment of this Act, whichever comes first, the President shall report to Congress on

(1) the outcome of the International Conference;

(2) his strategy for increasing economic development to the Andean region, to be used in conjunction with a program of interdiction and eradication;

(3) his program for coordinating trade and economic policies of our government with our nation's overall anti-narcotics strategy for the Andean region;

(4) his strategy for internationalizing the economic development assistance to the Andean region in order to include assistance from Japan, Canada and Western Europe;

(5) the cost over the next five years for a program of economic assistance that would provide an alternative to coca production in the Andean region;

(6) the cost over the next five years of the eradication and interdiction components of the Andean strategy;

(7) the feasibility and cost of purchasing the entire coca crop in the Andean region, and;

(8) any recommendations for the modification of U.S. debt strategy to take into account the unique and exceptional burden imposed on the Andean economics by terrorism and drug trafficking.

(c) BUDGET REQUEST.—The President shall submit to the Congress, with the submission of the budget required by section 1006 of Public Law 100-690, such supplemental budget requests for fiscal year 1990 and 1991 covering the United States share of the cost of additional economic assistance as is necessary to carry out his Andean anti-narcotics strategy.

SIMON AMENDMENT NO. 922

Mr. SIMON proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place in the bill insert the following:

SUBTITLE F—MISCELLANEOUS

Part 1—Mandatory Detention by Serious Offenders

SEC. 61. SHORT TITLE.

This part may be cited as the "Mandatory Detention for Offenders Convicted of Serious Crimes Act".

SEC. 62. MANDATORY DETENTION.

(a) PENDING SENTENCE.—Subsection (a) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting "(1) Except as provided in paragraph (2), the judicial officer"; and

(2) inserting at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and is awaiting imposition or execution of sentence be detained unless—

"(A)(i) the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted; or

"(ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; and

"(B) the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community.".

(b) PENDING APPEAL.—Subsection (b) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting "(1) Except as provided in paragraph (2), the judicial officer";

(2) redesignating subparagraphs (A), (B), (C), and (D) of paragraph (2) as clauses (i), (ii), (iii), and (iv), respectively;

(3) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(4) adding at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained.".

(c) EXCEPTIONAL CASES.—Subsection (c) of section 3145 of title 13, United States Code, is amended by adding at the end the following: "Upon an appeal of the Government, a person who has been detained by the judicial officer pursuant to section 3143 (a)(2) or (b)(2), and who meets the conditions of release set forth in section 3143 (a)(1) or (b)(1), may be ordered released, under appropriate conditions, by a court of appeals or a judge thereof, if it is clearly shown that there are exceptional reasons why such person's detention would not be appropriate.".

SEC. 63. TECHNICAL AMENDMENTS.

(a) CORRECTION OF MISSPELLED WORD.—Subsection (a)(1) of section 3143 of title 18, United States Code, is amended by striking "waiting" and inserting "awaiting".

(b) CORRECTION OF REFERENCE TO REPEALED PROVISION.—Subsections (e) and (f) of section 3142 of title 18, United States Code, are each amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

Part 2—Technical Amendments

SEC. 65. TECHNICAL AMENDMENTS.

(3) ELIMINATION OF DUPLICATE SECTION NUMBER.—(1) Section 3117 of title 18, United States Code, as enacted by Public Law 100-690, is redesignated as section 3118.

(2) The section analysis for chapter 205 of title 18, United States Code, is amended by striking "3117. Implied consent for certain tests" and inserting "3118. Implied consent for certain tests".

(b) INSERTION OF MISSING WORD.—Section 1716A of title 18, United States Code, is amended by inserting "fined" after "shall be".

(c) CORRECTION OF CROSS-REFERENCE.—Section 1958 of title 18, United States Code, is amended by—

(1) striking "1952B" and inserting "1959";

(2) inserting "or who conspires to do so" before "shall be fined" the first place it appears; and

(3) striking "not more than $10,000", "not more than $20,000", and "not more than $50,000", and inserting in each instance "under this title".

(d) ELIMINATION OF LANGUAGE MISTAKENLY INCLUDED.—Section 3125(a)(2) is amended by—

(1) striking the quotation marks;

(2) inserting a comma after "installation and use"; and

(3) beginning the indentation of the text following such comma at the margin.

(e) CORRECTION OF CROSS-REFERENCE.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" and inserting "(d)" each place it appears.

(f) CORRECTION OF DUPLICATE SUBSECTION DESIGNATION.—Section 2516(1) of title 18, United States Code, is amended by redesignating the first subsection (m) as (o).

(g) ELIMINATION OF DUPLICATIVE PENALTY.—Section 1864 of title 18, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as (c).

SEC. 66. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 67. PENALTY PROVISIONS RELATING TO DRUG QUANTITIES.

Section 401(b) of the Controlled Substances Act (21 U.S.C. 841) is amended—

(1) in paragraph (1)(A)(vii) by striking "100 grams" the second time it appears and inserting "1 kilogram"; and

(2) by inserting at the end the following new paragraph:

"(7) For the purpose of calculating the weight of a 'mixture of substance' under this subsection, the weight of the container or other solid, psychotropically inactive carrier of a controlled substance, such as a sugar cube, gelatin cube, or blotter paper, shall not be counted.".

SEC. 68. CLARIFICATION RELATING TO POLLUTING FEDERAL LANDS.

Section 401(b)(6) of the Controlled Substances Act (21 U.S.C. 841(b)(6)) is amended by striking "who violates subsection (a), or attempts to do so, and knowingly or intentionally uses a poison, chemical, or other hazardous substance on Federal land," and inserting "who knowingly uses a poison, chemical, or other hazardous substance on Federal land with the intent to commit an act in violation of subsection (a),".

SEC. 69. REVOCATION OF PROBATION FOR POSSESSION OF CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended—

(1) by striking "to not less than one-third of the original sentence" and inserting "to a term of imprisonment that was available under subchapter A at the time of the initial sentencing"; and

(2) by striking "of modifying" and inserting "or modifying".

SEC. 70. EXCEPTION TO BAR ON PROBATION FOR COOPERATING WITNESSES.

Section 3553(e) of title 18, United States Code, is amended by—

(1) inserting "a" before "minimum sentence", and inserting after "minimum sentence" the following: ", or to impose a term of probation notwithstanding any statutory bar to such sentence,"; and

(2) striking the last sentence and inserting: "Such sentence shall be imposed in accordance with the sentencing guidelines and with the policy statements issued by the Sentencing Commission".

SEC. 71. REDESIGNATION OF CONFUSING SECTIONS IN THE CONTROLLED SUBSTANCES ACT.

(a) SECTION 405—NEW SECTION 418.—(1) Section 405 of the Controlled Substances Act is redesignated as section 418.

(2) Section 418 of such Act (as redesignated by paragraph (1)) is amended—

(A) in subsection (a), by striking "section 405A" and inserting "section 419"; and

(B) in subsection (b) by striking "section 405A" and inserting "section 419".

(b) SECTION 405A—NEW SECTION 419.—Section 405A of the Controlled Substances Act is redesignated as section 419.

(c) SECTION 405B—NEW SECTION 420.—Section 405B of the Controlled Substances Act is redesignated as section 420.

(d) TRANSFER OF SECTION 5301 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 421.—(1) Section 5301 of the Anti-Drug Abuse Act of 1985 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 421 of the Controlled Substances Act.

(2) Section 421(a)(1) of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended by striking "(as such terms are defined for purposes of the Controlled Substances Act)".

(e) CONFORMING AMENDMENTS TO OTHER SECTIONS.—(1) Section 401(b) of the Controlled Substances Act is amended by striking "section 405, 405A, 405B" and inserting "section 418, 419, or 420".

(2) Section 401(c) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(f) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part D of title II by striking the items for sections 405, 405A, and 405B and inserting at the end thereof the following:

"418. Distribution to persons under age twenty-one.
"419. Distribution or manufacturing in or near schools and colleges.
"420. Employment of persons under 18 years of age.
"421. Denial of Federal benefits to drug traffickers and possessors.".

(g) TRANSFER OF SECTION 6486 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 405.—(1) Section 6486 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 405 of the Controlled Substances Act.

(2) Section 405 of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended—

(A) in subsection (a), by—

(i) striking "of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A))"; and

(ii) striking "of that Act (21 U.S.C. 841(b)(1)(A))";

(B) in subsection (c), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)";

(C) in subsection (j)(4), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

(3) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (as amended by subsection (c) of this section) is amended in part D of title II by inserting after the item for section 404 the following:

"405. Civil penalty for possession of small amounts of certain controlled substances.".

(h) PART E OF THE CONTROLLED SUBSTANCES ACT.—

(1) SECTION 511A—NEW SECTION 518.—Section 511A of the Controlled Substances Act is redesignated as section 518.

(2) TRANSFER OF SECTION 1764 OF THE FOOD SECURITY ACT OF 1985.—Section 1764 of the Food Security Act of 1985 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 519 of the Controlled Substance Act.

(3) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part E of title II by striking the items for section 511A and inserting at the end thereof the following:

"518. Expedited procedures for seized conveyances.

"519. Production control of controlled substances.".

SEC. 72. CLARIFICATION OF ENHANCED PENALTIES UNDER CONTROLLED SUBSTANCES ACT.

(a) SECTION 418 (OLD SECTION 405).—Section 418 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (a), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b) by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to three times that authorized by section 401(b)" and inserting "subject to (1) three times the maximum punishment authorized by section 401(b)".

(b) SECTION 419 (OLD SECTION 405A).—Section 419 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (a), by striking "punishable (1) by a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b)(1), by striking subparagraph (B) and inserting "(B) three times the maximum punishment authorized by section 401(b) for a first offense".

(c) SECTION 420 (OLD SECTION 405B).—Section 420 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (b), by striking "is punishable by a term of imprisonment up to twice that authorized, or up to twice the fine authorized, or both," and inserting "is subject to twice the maximum punishment otherwise authorized"; and

(2) in subsection (c), by striking "is punishable by a term of imprisonment up to three times that authorized, or up to three times the fine authorized, or both," and inserting "is subject to three times the maximum punishment otherwise authorized".

SEC. 73. FORFEITABILITY OF REAL PROPERTY UNDER GAMBLING STATUTE.

(a) IN GENERAL.—Section 1955(d) of title 18, United States Code, is amended to read as follows:

"(d) Any person convicted of a violation of this section shall forfeit to the United States, irrespective of any provision of State law, or of any bankruptcy proceeding instituted after or in contemplation of a prosecution under this section—

"(1) any property constituting or derived from any proceeds the person obtained, directly or indirectly, as a result of such violation; and

"(2) any of the person's property used or intended to be used, in any manner or part, to commit or to facilitate the commission of such violation.

The provisions of section 413 of the Controlled Substances Act (21 U.S.C. 853) shall apply to property subject to forfeiture under this section, to any seizure or disposition thereof, and to any administrative or judicial proceeding in relation thereto, if not inconsistent with this section.".

(b) TECHNICAL AMENDMENT.—Section 1955(a) of title 18 is amended by striking out "shall be fined not more than $20,000 or" and inserting "shall be fined under this title,".

SEC. 74. MINIMUM PENALTY RELATING TO SHORT-BARRELED SHOTGUNS AND OTHER FIREARMS.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is a short-barreled rifle, short-barreled shotgun, or a destructive device, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 75. UNAUTHORIZED DISCLOSURE.

Section 2517 of title 18, United States Code, is amended by adding at the end thereof the following:

"(6) Any person—

"(a) who has obtained knowledge of the contents of any wiretap or oral communication which has been intercepted by any means authorized under this chapter;

"(b) who is aware that the information was intercepted in connection with a criminal investigation; and

"(c) who discloses the contents of that communication, other than in a manner or circumstance authorized by law,

shall be fined under this title, imprisoned for not more than 5 years, or both. This paragraph shall not apply to the disclosure of information that has been lawfully disclosed previously to the person to whom disclosure is made.".

SEC. 76. APPLICATION OF VARIOUS OFFENSES TO POSSESSIONS AND TERRITORIES.

(1) Section 232 of title 18, United States Code, is amended by adding a new paragraph, as follows:

"(8) The term 'State' includes a State of the United States, and any commonwealth, territory, or possession of the United States.".

(2) Section 245 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(d) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(3) Section 402 of title 18, United States Code, is amended by adding a new undesignated paragraph, as follows:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(4) Section 666(d) of title 18, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding a new paragraph, as follows:

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(5) Sections 1028(d)(5) and 1030(e)(3) of title 18, United States Code, are each amended by inserting "commonwealth," before "possession or territory of the United States".

(6) Section 1029(f) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."

(7) Section 1084(e) of title 18, United States Code, is amended by inserting "commonwealth," before "territory or possession of the United States".

(8) Section 1114 of title 18, United States Code, is amended by inserting "or any other commonwealth, territory, or possession" after "the Virgin Islands".

(9) Section 1952(b) of title 18, United States Code, is amended—

(A) by inserting "(i)" after "As used in this section"; and

(B) by inserting "and (ii) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States" before the period.

(10) Section 1956(c) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(8) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(11) Section 1958(b) of title 18, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding a new paragraph (3), as follows:

"(3) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(12) Section 2313 of title 18, United States Code, is amended—

(A) by inserting "(a)" before "Whoever"; and

(B) by adding a new subsection, as follows:

"(b) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(13) Section 2315 of title 18, United States Code, is amended by adding at the end the following undesignated paragraph:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(14) Section 5032 of title 18, United States Code, is amended—

(A) in the second undesignated paragraph, by adding at the end the following: "For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."; and

(B) in the third undesignated paragraph, by striking out "to the authorities of a State or the District of Columbia" and inserting in lieu thereof "to the authorities of a State".

SEC. 77. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended by adding a new subparagraph, as follows:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 78. CLARIFICATION OF PENALTY ENHANCEMENT.

Section 924(c) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as (4) and (5), respectively;

(2) in the second sentence of paragraph (1), by striking "In the case of his second or subsequent conviction under this subsection" and inserting "(2) When a person is sentenced under this subsection for an offense that was committed after a prior sentence under this subsection has become final"; and

(3) in the third sentence of paragraph (1), by inserting "(3)" before "Notwithstanding" and by striking "convicted of a violation of" and inserting "sentenced pursuant to".

SEC. 79. PEREMPTORY CHALLENGES.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended to read as follows:

"(b) PEREMPTORY CHALLENGES.—If the offense charged is punishable by death, each side is entitled to 8 peremptory challenges. If the offense charged is punishable by imprisonment for more than one year, each side is entitled to 8 peremptory challenges. If the offense charged is punishable by imprisonment for not more than one year or by fine or both, each side is entitled to 3 peremptory challenges. If there is more than one defendant, the court may allow both sides additional peremptory challenges: *Provided*, That the Government shall not have more challenges than the total allocated to all defendants. The court may permit multiple defendants to exercise peremptory challenges separately or jointly.".

BIDEN (AND WARNER) AMENDMENT NO. 923

Mr. BIDEN (for himself and Mr. WARNER) proposed an amendment, which was subsequently modified, to the bill S. 1711, supra, as follows:

At the appropriate place in the bill insert the following:

Subtitle B—Forfeiture

SEC. 11. USES OF JUSTICE FORFEITURE FUND.

(a) PURCHASE OF FIREARMS.—Section 524(c)(1) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (G);

(2) by redesignating subparagraph (H) as subparagraph (I);

(3) by inserting a new subparagraph (H) as follows:

"(H) for any fiscal year, not to exceed $10,000,000 for the purchase of firearms, ammunition, protective body armor, and other personal safety quipment for investigative and enforcement personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service who devote a substantial amount of their time to drug law enforcement activities; and";

(4) in subparagraph (A)(ii) by—

(A) inserting a comma after "forfeitable assets";

(B) inserting "or listed chemicals (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))" after "storage, protection, and destruction of controlled substances".

(5) in subparagraph (B) by inserting before the semicolon ", or the money laundering offenses set forth in sections 1956 and 1957 of title 18 and sections 5313(a) and 5324 of title 31"; and

(6) in subparagraph (C) by inserting before the semicolon "or the money laundering provisions in sections 981 and 982 of title 18".

(b) DEFINITIONS AND PROCEDURES.—Subsection 524(c) of title 28, United States Code, is amended by adding at the end the following new paragraphs:

"(11) For the purposes of this subsection, the term 'firearm' means any rifle, handheld pistol or revolver, or other weapon that is authorized by the Attorney General, or his designee, to be carried by personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service.

"(12) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his or her discretion, to warrant clear title to any subsequent purchaser or transferee of such property.".

(c) Conforming Amendment.—Section 524(c)(9) of title 28, United States Code, is amended by striking "and (G)" and inserting "(G) and (H)".

SEC. 12. RESTORING EQUITABLE SHARING.

(a) Section 511(e)(3) of the Controlled Substances Act (21 U.S.C. 881(e)(3)) is amended by—

(1) striking the semicolon and "and" after the semicolon in subparagraph (A) and inserting a period;

(2) striking the dash and "(A)"; and

(3) striking subparagraph (B).

(b) EFFECTIVE DATE.—Section 6077 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4324-25), is amended by striking subsection (c).

(a) section 511(e)(3) of the Controlled Substances Act (21 U.S.C. 881(e)(3)) is amended by—

(1) striking subparagraph (B);

(2) striking the dash and "(A)"; and

(3) striking "; and" and inserting a period.

(b) Section 6077 of the Anti-Drug Abuse Act of 1988 is amended by striking subsection (c).

(c) The amendment made by subsection (a) shall be effective with respect to fiscal years beginning with fiscal year 1990.

SEC. 13. INCREASING EFFECTIVENESS OF ADMINISTRATIVE FORFEITURES.

(a) AMENDMENTS TO THE TARIFF ACT OF 1930.—Subsection (a) of section 607 of the Tariff Act of 1930 (19 U.S.C. 1607(a)) is amended—

(1) in paragraph (1) by striking "$100,000" and inserting "$500,000";

(2) by striking "or" at the end of paragraph (2); and

(3) by inserting "or" after the semicolon at the end of paragraph (3); and

(4) by adding after paragraph (3) the following:

"(4) such seized merchandise is monetary instruments;".

(b) CONFORMING AMENDMENT.—The section heading for section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"Sec. 1607. Seizure; value $500,000 or less, prohibited articles, transporting conveyances.".

SEC. 14. FORFEITURE OF INSTRUMENTALITIES OF A FOREIGN DRUG OFFENSE.

Section 981(a)(1)(B) of title 18, United States Code, is amended—

(1) by inserting after "proceeds obtained directly or indirectly from" the words "or which represents the instrumentalities of"; and

(2) by adding at the end thereof the following: "No conveyance shall be forfeited under this paragraph to the extent of an interest of an owner by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner.".

SEC. 15. CLOSING OF LOOPHOLE TO DEFEAT CRIMINAL FORFEITURE THROUGH BANKRUPTCY.

(a) TITLE 18.—Section 1963(a) of title 18, United States Code, is amended by inserting after "shall forfeit to the United States irrespective of any provision of State Law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution under this chapter".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413(a) of the Controlled Substances Act (21 U.S.C. 853(a)) is amended by inserting after "shall forfeit to the United States, irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution of such violation".

SEC. 16. NONABATEMENT OF CRIMINAL FORFEITURE WHEN DEFENDANT DIES PENDING APPEAL.

(a) TITLE 18.—Section 1963 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(n) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end thereof the following new subsection:

"NONABATEMENT OF FORFEITURE ORDER

"(q) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

SEC. 17. FORFEITURE OF PERSONAL PROPERTY USED TO FACILITATE A DRUG OFFENSE.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end thereof the following new paragraph:

"(10) Any weapon, computer, or electronic communications device used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.".

SEC. 18. FORFEITURE OF PROCEEDS TRACEABLE TO CONVEYANCES USED TO FACILITATE DRUG VIOLATIONS.

Section 511(a)(4) of the Controlled Substances Act (21 U.S.C. 881(a)(4)) is amended—

(1) by inserting "and any proceeds traceable to such conveyances" after "property described in paragraph (1) or (2),";

(2) in subparagraph (A), by inserting ", and no proceeds traceable to such conveyance," before "shall be forfeited"; and

(3) in subparagraphs (B) and (C), by inserting "and no proceeds traceable to such conveyance" before "shall be forfeited".

SEC. 19. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure of forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 20. CLARIFICATION OF ATTORNEY GENERAL'S FORFEITURE SALE AUTHORITY.

Section 511(e)(1)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(B)) and section 2254(f)(2) of title 18, United States Code, are each amended by inserting ", by public sale or any other commercially feasible means," after "sell".

SEC. 21. CLARIFICATION OF CIVIL FORFEITURE SEIZURE WARRANT AUTHORITY.

Section 981(b)(2) of title 18, United States Code, is amended by striking "has obtained a warrant for such seizure pursuant to the Federal Rules of Criminal Procedure" and inserting "has obtained a warrant for such seizure in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure".

SEC. 22. FORFEITURE AND DESTRUCTION OF DANGEROUS, TOXIC, AND HAZARDOUS MATERIALS.

Section 511(f) of the Controlled Substances Act (21 U.S.C. 881(f)) is amended by inserting "; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a)(2) or (3) which cannot be separated safely from such raw materials or products" after "this title" wherever it appears.

SEC. 23. ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE TREASURY DEPARTMENT AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

BIDEN AMENDMENT NO. 924

Mr. BIDEN proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place in the bill insert the following:

SUBTITLE D—CIVIL ENFORCEMENT

SEC. 41. EVICTION FROM PLACES MAINTAINED FOR MANUFACTURING, DISTRIBUTING USING CONTROLLED SUBSTANCES.

Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following:

"(c) The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking place. The court in which such action is brought shall determine the existence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions and evictions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 42. USE OF CIVIL INJUNCTIVE REMEDIES, FORFEITURE SANCTIONS, AND OTHER REMEDIES AGAINST DRUG OFFENDERS.

The Attorney General shall—

(1) aggressively pursue the use of criminal penalties authorized by section 1963 of title 18, United States Code, civil remedies authorized by section 1964 of title 18, United States Code, and other equitable remedies against drug offenders, including injunctions, stay-away orders, and forfeiture sanctions; and

(2) submit a report to Congress annually on the manner and extent to which such remedies are being used and the effect of such use in curtailing drug trafficking.

ADAMS AMENDMENT NO. 925

Mr. ADAMS proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place in the bill, insert the following:

(c) SECTION 5125.—Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended by inserting at the end thereof the following new subsection:

"(c)(1) Funds received under section 5124(a) may be used to implement programs for latchkey children involving school and community activities before and after school, on weekends, and during summer months, which may include—

"(A) athletic activities;

"(B) community service activities;

"(C) activities involving arts, crafts, and other programs to stimulate creativity among latchkey children; and

"(D) educational instruction in subjects otherwise not available during the normal school day such as foreign languages or programs designed to improve a student's ability to resist involvement with substance abuse.

"(2) For purposes of this section the term 'latchkey children' means elementary and secondary school age children who are unsupervised by an adult for more than 11 hours per week before school or after school, or on a regular basis on weekends or during the summer when school is not in session.".

BIDEN AMENDMENT NO. 926

Mr. BIDEN proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place in the bill insert the following:

Subtitle C—Public Corruption

SEC. 31. SHORT TITLE.

This subtitle may be cited as the "Anti-Corruption Act of 1989".

SEC. 32. OFFENSE.

Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 225. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State, political subdivision, or Indian tribal government shall be fined under this title, or imprisoned for not more than 10 years, or both.

"(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, runoff, special, or general election-

"(1) through the procurment, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procuremnt or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information.

shall be fined under this title or imprisoned for not more than 10 years, or both.

"(c) Whoever, being a public official or an official or employee of a State, political subdivision of a State, or Indian tribal government in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defaud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the right to have the affairs of the State, political subdivision, or Indian tribal government conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than 10 years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

'(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes to use of any facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an act of Congress totaling $10,000 or more during the 12-month period immedi-

ately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than 10 years, or both.

"(f) Whoever being an official, or public official, or person who has been selected to be a public official, directly or indirectly, discharges, demotes, suspends, threatens, harasses, or, in any manner, discriminates against any employee or official of the United States or any State or political subdivision of such State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to 5 years or both.

"(g)(1) Any employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (a) or because of actions by the employee on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, three times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual is not eligible for such relief if that individual participated in the violation of this section with respect to which such relief would be awarded.

"(3) A civil action or proceeding authorized by this subsection shall be stayed by a court upon the certification of an attorney for the Government, stating that such action or proceeding may adversely affect the interests of the Government in an ongoing criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 of this title; the terms 'public official', and 'person who has been selected to be a public official' shall also include any person action or pretending to act under color of official authority;

"(3) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in an Indian tribal government or the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

SEC. 33. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"225. Public Corruption.".

(b) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(c) INTERRUPTION OF COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 34. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended by—

(1) striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) inserting or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) CONFORMING AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended by striking "Fraud by wire, radio, or television" and inserting "Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 35. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term "public official' means—

"(A) an officer or employer or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed;

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place or trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the meaning set forth in section 102 of the Controlled Substances Act.".

(b) CONFORMING AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),"; and

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) SECTION ANALYSIS.—The section analysis at the beginning of chapter 11, title 18, United States Code, is amended by inserting the following:

"220. Narcotics and public corruption.".

STEVENS AMENDMENT NO. 927

Mr. STEVENS proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place in the bill insert the following new section:

SEC. . USE OF THE MAILS TO SEND CONTROLLED SUBSTANCES.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 1716 of title 18, United States Code, is amended—

(A) in subsection (a) by inserting "all controlled substances (as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))," immediately following "reptiles,"; and

(B) in the second undesignated paragraph of subsection (h) by striking the period at the end thereof and inserting ", or if the nonmailable matter was a controlled substance (as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), shall be fined not more than $60,000 or imprisoned not more than 10 years, or both, or in the case of a second or subsequent violation in which the nonmailable matter was a controlled substance, shall be fined not more than $90,000 or imprisoned not more than 15 years, or both.".

(b) AMENDMENT OF CONTROLLED SUBSTANCES ACT.—Section 403(c) of the Controlled Substances Act (21 U.S.C. 843(c)) is amended—

(1) by striking "$30,000, or both" and inserting "$30,000, or both, or if the communication facility used was the mail, a term of imprisonment of not more than 10 years, a fine of not more than $60,000, or both"; and

(2) by striking "$60,000, or both" and inserting "$60,000, or both, or if the communication facility used was the mail, a term of imprisonment of not more than 15 years, a fine of not more than $90,000, or both".

(c) INCREASED COOPERATION WITH FEDERAL, STATE, AND LOCAL AUTHORITIES.—The United States Postal Service shall assist to the fullest extent possible Federal, State, and local authorities in the implementation of this Act and any other Act dealing with controlled substances.

SIMPSON (AND WALLOP) AMENDMENT NO. 928

Mr. SIMPSON (for himself and Mr. WALLOP, and Mr. HATCH) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place insert the following new section:

SEC. . ADAMHA IV DRUG ABUSE WAIVER.

(a) INTRAVENOUS DRUG USERS.—Section 1916(c)(7) of the Public Health Services Act (42 U.S.C. 300x-4(a)(7) is amended by adding at the end thereof the following new sentence: "The Secretary shall waive the provisions of the preceding sentence for any state which has submitted application for such a waiver to the Secretary prior to September 30, 1989.".

(i) EFFECTIVE DATE.—Section (a) shall be effective for fiscal year 1989 and subsequent fiscal years.

HATCH (AND OTHERS) AMENDMENT NO. 929

Mr. HATCH (for himself, Mr. BIDEN, and Mr. KENNEDY) proposed an amendment to the bill S. 1711, supra, as follows:

At the end of the bill, insert the following:

SINGLE USE SYRINGES AND NEEDLES

SEC. . Within one year of enactment, the Secretary of Health and Human Services shall report to Congress on the cost, feasibility, and effectiveness in reducing intravenous drug abuse and the spread of diseases such as AIDS which would result from eliminating syringes and needles which are capable of being used more than once and replacing them with syringes and needles which are only capable of being used a single time.

DOMENICI AMENDMENT NO. 930

Mr. DOMENICI proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . ALTERNATIVE SCHOOLS FOR YOUTHS WITH DRUG PROBLEMS.

(a) Section 5122 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking "and" at the end of paragraph (6);

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by adding after paragraph (6) the following new paragraph:

"(7) model alternative schools for youths with drug problems that address the special needs of such students through education, treatment and counseling."

(b) Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking "and" at the end of paragraph (13);

(B) by redesignating paragraph (14) as paragraph (15); and

(C) by adding after paragraph (13) the following new paragraph:

"(14) model alternative schools for youths with drug problems that address the special needs of such students through education, treatment and counseling."

THURMOND AMENDMENT NO. 931

Mr. THURMOND proposed an amendment to the bill S. 1711, supra, as follows:

At the end of the bill, insert—

That this Act may be cited as the "Federal Debt Collection Procedures Act of 1989".

TITLE I—DEBT COLLECTION PROCEDURES

SEC. 101. Title 28 of the United States Code is amended by inserting immediately after chapter 175 the following:

"CHAPTER 176—FEDERAL DEBT COLLECTION PROCEDURE

"Subchapter
"A. Definitions and General Provisions 3001
"B. Prejudgment Remedies 3101
"C. Judgments; Liens 3201
"D. Postjudgment Remedies 3301
"E. Exempt Property 3401
"F. Fraudulent Transfers 3501
"G. Partition 3601
"H. Foreclosure of Security Interests 3701

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"Sec.
"3001. Definitions.
"3002. Rules of construction.
"3003. Nationwide enforcement.
"3004. Priority of claims of the United States.
"3005. Claims of United States not barred by State statute of limitations.
"3006. Right of set-off or recoupment.
"3007. Discovery.
"3008. Affidavit requirements.
"3009. Perishable property.
"3010. Immunity.
"3011. Proceedings before United States magistrates.
"3012. United States marshals' authority to designate keeper.
"3013. Co-owned property.
"3014. Assessment of charges on a claim.
"3015. Funding.
"3016. Investigative authority.
"3017. Subrogation.
"3018. Effective Date.

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"§ 3001. Definitions

"As used in this chapter—

"(a) 'claim' means amounts owing on account of direct loans or loans insured or guaranteed by the United States and all other amounts due the United States from or on account of fees, duties, leases, rents, services, sales of real or personal property, overpayments, fines, assessments, penalties, restitution, damages, interest, taxes, bail bond forfeitures, reimbursements and recovery of costs incurred and other sources of indebtedness. This definition includes amounts due the United States for the benefit of an Indian tribe or individual Indian.

"(b) 'Counsel for the United States' shall include for the purposes of this chapter, a United States attorney, an assistant United States attorney designated to act on behalf of the United States attorney, an attorney with the United States Department of Justice or other Federal agency having litigation authority and any private attorney authorized by contract to conduct litigation for collection of debts on behalf of the United States.

"(c) 'Court' means any court created by the Congress of the United States exclusive of the United States Tax Court.

"(d) 'Debt' means liability to the United States on a claim.

"(e) 'Debtor' means a person who is liable to the United States on a claim.

"(f) 'Debt collection personnel' means personnel employed by any agency of the Federal government whose primary duties are the collection of the debts owed to the United States.

"(g) 'Disposable earnings' means that part of the earnings remaining after all deductions required by law have been withheld and 'nonexempt disposable earnings' means 25 percent of disposable earnings.

"(h) 'Earnings' means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise, and includes periodic payments pursuant to a pension or retirement program.

"(i) 'Garnishee' means a person other than the debtor who has, or is thought to have, possession, custody or control of any property of the debtor, including obligations owed to the debtor whether such obligations are past due or have yet to become due, against whom a garnishment has been issued by the clerk of the court.

"(j) 'Judgment' means a judgment, order or decree entered in favor of the United States in any court whether arising from a civil or criminal proceeding regarding a claim.

"(k) 'Judgment creditor' means the United States in situations in which the United States has judgments in its favor, whenever referred to in this chapter.

"(l) 'Judgment debtor' means a person against whom the United States holds a judgment on a debt.

"(m) 'Person' includes a natural person, including individual Indians, a corporation, a partnership, an unincorporated association, a trust or an estate or other entity, public or private, including local governments and Indian tribes.

"(n) 'Prejudgment remedy' means the remedies of attachment, garnishment, replevin, receivership, sequestration, injunction or a combination of any of the foregoing that are sought prior to judgment.

"(o) 'Property' includes any present or future interest in real, personal (including, but not limited to, earnings, goods and choses in action), or mixed property, whether legal or equitable, tangible or intangible, vested or contingent, and wherever located and however held, whether held as a tenancy in common, joint tenancy, tenancy by the entirety, community property, in partnership, or in trust (including spendthrift and pension trusts), and excludes any property held in trust by the United States for the benefit of any Indian tribe or individual Indian or any Indian lands subject to restrictions against alienation imposed by the United States.

"(p) 'Service' under the provisions of this chapter shall be in accordance with the Federal Rules of Civil Procedure.

"(q) 'State' includes the several states, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Marianas and any of the territories and possessions of the United States.

"(r) 'United States' includes an officer or agency thereof, a Federal corporation, Federal instrumentality, department, commission, board or other Federal entity.

"(s) 'United States marshal' means the United States marshal, his designee or contractor.

"§ 3002. Rules of construction

"In this title—

"(a) 'includes' and 'including' are not limiting;

"(b) 'or' is not exclusive;

"(c) the singular includes the plural;

"(d) the provisions are general and intended as a unified coverage of the subject matter;

"(e) if any provision or amendment made by this chapter or application thereof to any person is held invalid, the provisions of every other part and their application shall not be affected thereby;

"(f) the cases arising under the provisions herein shall not affect cases arising under admiralty jurisdiction;

"(g) the provisions of this chapter do not and should not be construed to curtail or limit any rights the United States has to collect taxes under any other provision of Federal law;

"(h) the provisions of this chapter do not, and should not be construed to, curtail or limit any rights the United States has under any other provision of Federal law to collect any fine, penalty, assessment, restitution, or forfeiture arising in a criminal case; and

"(i) the provisions of this chapter do not, and should not be construed to, curtail or limit the rights the United States has under any other provision of Federal law to appoint receivers.

"§ 3003. Nationwide enforcement

"Notwithstanding any other provision of law, any writ, order, judgment, or other process, including a summons and complaint, filed under this chapter may be served in any State and may be enforced by the court issuing the writ, order, or process, regardless of where the person is served with the writ, order, or process.

"§ 3004. Priority of claims of the United States

"The priorities established by the various provisions of this chapter shall be superseded by the provisions of section 3713 of title 31, United States Code, when the debtor or, if deceased, his estate is insolvent as determined under that section and the priority of the United States shall be in accordance therewith.

"§ 3005. Claims of the United States not barred by State statute of limitations

"The United States shall not be barred by the statute of limitations of any State in the enforcement of any of its claims.

"§ 3006. Right of set-off or recoupment

"Except as specifically provided for in this chapter, nothing in this chapter shall be construed to affect the common law or statutory rights to set-off or recoupment.

"§ 3007. Discovery

"(a) The United States may have discovery from any person including the debtor regarding the financial condition of the debtor in any case in which the United States seeks to enforce a claim. Such discovery may be before judgment or after judgment is entered in the case and in the manner in which discovery is provided for in the Federal Rules of Civil Procedure.

"(b) After judgment, the United States may also subpoena the judgment debtor or a third party to appear before the court at a location consistent with the Federal Rules of Civil Procedure with all records, books and other documents and to answer under oath questions regarding the debtor's financial condition and ability to satisfy the judgment.

"(c) The court shall impose appropriate sanctions as provided by the Federal Rules of Civil Procedure or the court's contempt power, including arrest of the offending person or debtor, for failure to comply with these discovery procedures.

"§ 3008. Affidavit requirements

"Any affidavit required of the United States by this chapter may be made upon information and belief, where reliable and reasonably necessary, establishing with particularity, to the court's satisfaction, facts supporting the claim of the United States.

"§ 3009. Perishable property

"At any time during any proceedings, other than those under section 3103(a), the court may determine on its own initiative or upon motion of any party, that any seized or detained property, or any portion thereof, is likely to perish, waste, or be destroyed, or otherwise depreciate in value during the pendency of the proceedings. The court shall order the sale of the property or portion thereof and require the proceeds to be deposited with the clerk of the court. For purposes of liability on the part of the United States, the price paid at any such sale shall be conclusively presumed to be the fair market value.

"§ 3010. Immunity

"Counsel for the United States, but excluding any private attorneys authorized by contract to conduct litigation for collection of debts on behalf of the United States, and non-attorney debt collection personnel shall have absolute immunity in their individual and official capacities from any liability arising from errors, omissions or negligence in performance of their official debt collection duties.

"§ 3011. Proceedings before United States magistrates

"A district court of the United States may assign its duties in proceedings under this chapter to a United States magistrate to the extent not inconsistent with the Constitution and laws of the United States. A district court may adopt appropriate rules to carry out any such assignment.

"§ 3012. United States marshals' authority to designate keeper

"Whenever the United States marshal is authorized to seize property pursuant to the provisions of this chapter, the United States marshal shall be authorized to designate another person or Federal agency to hold for safekeeping such property seized.

"§ 3013. Co-owned property

"The remedies available to the United States under this chapter shall be enforced against property which is co-owned by a debtor and others to the extent allowed by the law of the State where the property is located.

"For the purposes of this section, 'property' does not include the rights or interest of an individual other than the debtor in a retirement system for Federal military or civilian personnel established by the United States or any agency thereof. A 'retirement system for Federal military or civilian personnel' means a pension or annuity system for Federal military or civilian personnel of more than one agency, or for some or all of such personnel of a single agency, established by statute or regulation pursuant to statutory authority.

"§ 3014. Assessment of charges on a claim

"The United States may assess on a claim a charge of 10 percent of the amount of the claim to cover the cost of processing and handling the litigation and judicial enforcement of the claim.

"§ 3015. Funding

"It is hereby authorized that such sums be appropriated as may be necessary to carry out the provisions of this chapter. Appropriations authorized under this section shall remain available for obligations necessary to implement this chapter for 1 year.

"§ 3016. Investigative authority

"When the United States has reason to believe that an activity in violation of legal standards threatens to deprive it of a claim, the appropriate United States Attorney may commence a proceeding against named or unknown parties for the purpose of determining whether a claim for relief should be asserted under applicable law, and all discovery proceedings available under the Federal Rules of Civil Procedures shall be available in such proceeding.

"§ 3017. Subrogation

"When the United States asserts a claim against a debtor for sums alleged to be due the United States, the United States may name as an additional defendant then or by way of amendment of its complaint, any party reasonably believed to owe sums to the debtor arising out of the transaction or occurrence giving rise to the obligation to the United States, including but not limited to obligations on account of requirements to provide goods or services pursuant to a loan or loan guarantee extended pursuant to Federal law. If such party pays or is found liable, any amounts paid to the United States shall be credited to the account of the debtor.

"§ 3018. Effective date

"This Act and the amendments made by this Act shall take effect 180 days after the date of enactment and shall apply to all claims and debts owed to the United States and judgments in favor of the United States.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"Sec.
"3101. Prejudgment remedies with prior notice.
"3102. Prejudgment remedies without prior notice.
"3103. Attachment.
"3104. Garnishment.
"3105. Injunctions.
"3106. Sequestration.
"3107. Replevin.
"3108. Receivership.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"§ 3101. Prejudgment remedies with prior notice

"(a) APPLICATION.—(1) The United States may in conjunction with the complaint or at any time after the filing of a civil action, make application, under oath, to the court to issue any prejudgment remedy allowed by law.

"(2) Such application shall be filed with the court and shall set forth the factual and legal basis for each prejudgment remedy sought.

"(3) Such application shall state that the party against whom any prejudgment remedy is sought shall be afforded an opportunity for a hearing.

"(b) GROUNDS.—Any prejudgment remedy may be issued in favor of the United States by any court of the United States on application before judgment when—

"(1) the application sets forth with particularity, that all statutory requirements for the issuance of such prejudgment remedy sought under this chapter have been complied with by the United States; and

"(2) the court finds that the United States has shown the probable success of its claim.

"(c) NOTICE; FORM OF NOTICE.—Upon the filing of an application, the clerk of the court shall issue a notice directed to any person against whom any prejudgment remedy would operate, substantially in the following form—

"NOTICE

"You are hereby notified that your [property] may be taken away from you by the United States, which says that you owe the United States a debt of $[amount]. The United States wants to take your property so that it can be sure you will pay if the court decides that you owe this money.

"If you do not want to have your property taken away, you may ask for a hearing before this court. You may ask for the hearing anytime within 20 days from the date that this notice was mailed as indicated below. The hearing, if you so demand, will take place within five working days after you notify the court, or as soon thereafter as is practicable. You may ask for the hearing by checking the box at the bottom of this notice and filing it with the court at the following address: [address of court]. You must also send a copy to counsel for the United States at [address], so that the United States knows that you want the hearing.

"At the hearing, the court will decide whether the claim against you is probably valid and whether other legal requirements have been met. In addition, there are certain exemptions under Federal law which you may be entitled to claim with respect to the property.

"If you do not check the box requesting a date for a hearing and take this notice to the court within twenty days, the court will automatically assume you do not want a hearing and you will lose your right to a hearing before the United States may take your property with the court's permission.

"If you have any questions concerning your rights or this procedure, you should consult an attorney.

"DATE OF MAILING: _____

"(d) SERVICE OF NOTICE AND APPLICATION.—(1) A copy of the notice and a copy of the application for issuance of any prejudgment remedy shall be served by counsel for the United States by first class mail on each party against whom any remedy is sought. If such service is not possible, then service may be made under rule 4 of the Federal Rules of Civil Procedure, as appropriate.

"(2) Proof of service by mail may be made by affidavit or certification of mailing and shall set forth the actual date of mailing.

"(e) TIME TO REQUEST HEARING DATE; FORM OF REQUEST.—(1) Each person served with a copy of the notice set forth above and the application for any prejudgment remedy may request a date be set for the hearing on such application by filing with the clerk of the court within 20 days after service of the notice a written request for hearing date. The request for hearing shall be made by using the form provided or in some other writing. A copy of the request for hearing date shall be mailed by the person requesting the hearing to counsel for the United States.

"(2) The clerk of the court shall apprise counsel for the United States and the person requesting the hearing of the date of hearing.

"(f) WAIVER OF HEARING.—(1) If no request for hearing date is filed within the required time, counsel for the United States shall file an affidavit of default setting forth that service was made, that no request for hearing date was filed and that the party against whom any prejudgment remedy is sought has apparently waived any hearing. Counsel for the United States shall also file a proposed form of the written order requested. Upon filing of such affidavit, the clerk shall enter the order of waiver of record and any party so defaulted loses his right to a hearing prior to the issuance of the prejudgment remedy sought.

"(2) Upon entry of the order of waiver, the clerk shall immediately deliver the court file to the judge to whom the matter is assigned.

"(g) JUDICIAL REVIEW APPLICATION; ISSUANCE OF PREJUDGMENT REMEDIES WITH NOTICE.—(1) The court shall, within 5 days after hearing or the entry of the order of waiver, or as soon thereafter as is practical, review and examine all pleadings, evidence, affidavits and documents filed in the action to determine the following:

"(A) that evidence of service has been filed together with the original of the application and copy of notice;

"(B) where an order of waiver has been entered, that the affidavit of default has been filed and the order entered by the clerk;

"(C) that the claim or claims of the United States are based on facts established by the evidence or stated in the affidavit are sufficient to show that such claim or claims are probably valid; and

"(D) that any statutory requirement of this chapter for the issuance of any prejudgment remedy has been shown.

"(2) Upon the court's determination that the requirements of subsection (g)(1) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"§ 3102. Prejudgment remedies without prior notice

"(a) GROUNDS.—Any prejudgment remedy may be issued by any court without prior notice to the person against whom it will operate when the United States has a reasonable cause to believe that—

"(1) the person against whom the prejudgment remedy is sought is about to leave the jurisdiction of the United States with the intent to hinder, delay, or defraud the United States and has refused to secure that debt, or is a fugitive from justice;

"(2) such person has secreted or is about to secrete property;

"(3) such person has or is about to assign, dispose, remove, or secrete property, wholly or in part, or that such person is about to assign or dispose of property with the effect of hindering, delaying, or defrauding creditors;

"(4) the United States is the owner, lessor or otherwise is lawfully entitled to the immediate possession of the property claimed and is seeking a prejudgment remedy in the nature of replevin, receivership or sequestration;

"(5) a prejudgment remedy is required to obtain jurisdiction within the United States;

"(6) a constructive or resulting trust should be impressed on the property in favor of the United States if such person is likely to put the property beyond the reach of the United States;

"(7) the person against whom the prejudgment remedy is sought is converting, is about to convert or has converted his property of whatever kind, or some part thereof, into money, securities, or evidence of debt in a manner prejudicial to creditors;

"(8) the person against whom the prejudgment remedy is sought has evaded service of process by concealing himself or has temporarily withdrawn from the jurisdiction of the United States; or

"(9) the debt is due for property obtained illegally or by fraud.

"(b) APPLICATION; AFFIDAVIT; BOND; ISSUANCE OF WRIT.—(1) Contemporaneously with or at any time after the filing of a civil action, the United States shall file an application supported by an affidavit made upon information and belief, where reliable and reasonably necessary, establishing with particularity to the court's satisfaction facts supporting the probable validity of the claim and the right of the United States to recover what is demanded in the application. The application shall state the amount of the debt owed the United States, including principal, interest, and costs, if any, and one or more of the grounds set forth in section 3102(a) and the specific requirements of the specific remedy sought.

"(2) No bond is required of the United States.

"(3) Upon the court's determination that the requirements of subsection (b)(1) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"(c) NOTICE AND HEARING; WAIVER OF HEARING.—(1) Upon filing of an application as provided in this section, the clerk shall issue notice in substantially the following form to the counsel for the United States for service upon the party against whom any prejudgment remedy is sought in accordance with subsection (3) of this section—

"NOTICE

"You are hereby notified that your [property] is being taken away from you by the United States, who says that you owe it a debt of $[amount]. The United States is taking your property because it says

[Insert one or more of the specific grounds set forth in section 3102(a).]

"In addition, you are hereby notified that there are certain exemptions under Federal law which

you may be entitled to claim with respect to your property.

"If you disagree and think you do not owe the United States, or that you have not done what is stated above, then you can ask this court to hear your side of the story and give your property back to you. If you want such a hearing, it will be given to you within five working days if you so demand after you notify the court that you want one. To do so, check the box at the bottom of this notice or prepare your request in writing and mail it or take it to the clerk of the court at the following address: [address]. You must also send a copy to counsel for the United States at [address], so that the United States will know you want a hearing.

"If you do not request a hearing within thirty days from [date of issue] your property may be disposed of without further notice.

"You should consult a lawyer if you have any questions about your rights about this procedure.

"(2) When a prejudgment remedy is issued under this section, the person against whom it is sought may immediately move to quash such order and the court shall on the request of the debtor hear such motion within 5 days from the date the request was filed. The issues at such hearing shall be limited to—

"(A) the probable validity of the claim or claims of the United States and any defenses and claims of exemptions of the party against whom such prejudgment remedy will operate; and

"(B) the existence of any statutory requirement for the issuance of any prejudgment remedy sought, plus the existence of any ground set forth in section 3102(a) of this chapter.

"(3) Counsel for the United States shall, at the time of the seizure, attachment or garnishment, or within 3 days thereafter, exercise reasonable diligence to serve the person against whom a prejudgment remedy is sought with an application, order and prescribed notice of the seizure, impoundment or such other act ordered by the court and of said person's right to an immediate hearing contesting the same.

"(4) If no request for a hearing is filed with the clerk within 30 days after the notice of seizure is issued by the clerk, the United States may dispose of the property as provided for in this subchapter.

"§ 3103. Attachment

"(a) PROPERTY SUBJECT TO ATTACHMENT.—(1) All property of the debtor or garnishee, except earnings and property exempt under the provisions of this chapter, may be attached pursuant to a writ of attachment in any action in which a debt or damages are recoverable and may be held as security to satisfy such judgment and costs as the United States may recover.

"(2) The amount to be secured by an attachment shall be determined as follows—

"(A) the amount of the debt owed to the United States by the defendant; and

"(B) the estimated amount of interest and costs likely to be taxed by the court.

"(3) In any action or suit for an amount which is liquidated or ascertainable by calculation, no attachment shall be made for a larger sum than the amount of the debt and such additional amount as is reasonably necessary to provide for interest thereon and costs likely to be taxed in the action.

"(b) AVAILABILITY OF ATTACHMENT.—The United States after complying with the provisions of section 3101 or 3102 may, in the following cases, have the property of the defendant attached as security for satisfaction of any judgment which may be recovered by the United States—

"(1) in an action upon a contract, express or implied, for payment of money which is not fully secured by real or personal property, or, if originally so secured, the value of such security may, without any act of the United States or the person to whom the security was given, be substantially diminished below the amount of the debt;

"(2) when an action is pending for damages in tort and the defendant is about to dispose of or remove his property beyond the jurisdiction of the United States;

"(3) in an action for damages or upon contract, express or implied, against a defendant not residing within the jurisdiction of the United States; or

"(4) in an action to recover fines, penalties, or taxes.

"(c) ISSUANCE OF WRIT; CONTENTS.—(1) A writ of attachment shall be issued by the court directing the United States marshal of the district where the property is located to attach so much of the defendant's property as will be sufficient or is available to satisfy the debt of the United States.

"(2) Several writs of attachment may, at the option of the United States, be issued at the same time, or in succession, and sent to different districts until sufficient property is attached to satisfy the debt.

"(3) The writ of attachment shall contain—

"(A) the date of the issuance of the writ;

"(B) the court title and the docket number and name of the cause of action;

"(C) the name and last known address of the defendant;

"(D) the amount to be secured by the attachment; and

"(E) a reasonable description of the property to the extent available.

"(d) LEVY OF ATTACHMENT.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property of the defendant found within his district, unless otherwise directed by counsel for the United States. The marshal shall not sell property unless ordered by the court.

"(2) In performing the levy, the United States marshal may enter onto the lands and into the residence or other buildings owned, occupied or controlled by the defendant. In cases where the writ is issued pursuant to section 3101, the marshal shall not enter into a residence or other building except upon specific order of the court.

"(3) When real property is levied upon, the United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3202. The United States marshal shall also serve a copy of the writ and notice of levy upon the defendant in the same manner that a summons is served in a civil action and make his return thereof. If the United States marshal is unable to serve the writ upon the defendant, he shall post the writ and notice of levy in a conspicuous place upon the property and so make his return thereof.

"(4) Levy upon personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense, may be made by affixing a copy of the writ and notice of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied upon. A copy of the writ and notice of levy shall also be served upon the defendant in the same manner that a summons is served in a civil action. Upon completion of the levy of personal property, the United States marshal shall so make his return thereof.

"(e) RETURN OF WRIT; DUTIES OF MARSHAL; FURTHER RETURN.—(1) A United States marshal executing a writ of attachment shall return the writ with his action endorsed thereon or attached thereto and signed by him, to the court from which it was issued within 30 days after the date of the levy.

"(2) The return shall describe the property attached with sufficient certainty to identify it, state the location where it was attached, when it was attached and the disposition made of the property. If no property was attached, the return shall so state.

"(3) When personal property has been replevied as authorized by section 3103(j), the United States marshal shall deliver the replevin bond to the clerk of the court to be filed in the action.

"(4) When the property levied on is claimed, replevied or sold after the return, the United States marshal shall immediately make a further return to the clerk of the court showing the disposition of the property.

"(f) LEVY OF ATTACHMENT AS LIEN ON PROPERTY; SATISFACTION OF LIEN.—(1) A levy on property under a writ of attachment creates a lien on the property in favor of the United States.

"(2) The levy of the writ of attachment upon any property of defendant subject thereto is a lien from the date of the levy on the real property and on such personal property as remains in the custody of the attaching United States marshal and on the proceeds of such personal property as is sold.

"(3) The lien in favor of the United States marshal shall be ranked ahead of any other security interests perfected after the time of levy and filing of a copy of the notice of levy pursuant to subsection (d)(3) of this section.

"(4) The lien shall arise from the time of levy and continue until a judgment in the case is obtained or denied, or the action is otherwise dismissed. The death of the defendant whose property is attached does not terminate the attachment lien. Upon issuance of a judgment in the action and registration under this chapter, the judgment lien so created relates back to the time of levy.

"(5) Upon entry of judgment for the United States, the court shall order the proceeds of the personal property, if any has been sold, to be applied to the satisfaction of the judgment, and also order the sale of any remaining personal property and the sale of any real property levied on to satisfy the judgment.

"(g) ATTACHMENT OF PERISHABLE PROPERTY; SALE; PROCEDURE.—(1) When personal property that has been attached is not replevied, the court may order it to be sold when it appears that the property is in danger of serious and immediate waste or decay, or that keeping it until trial will result in such expense or deterioration in value as substantially will lessen the amount likely to be realized therefrom.

"(2) In ascertaining whether the property is in danger of serious and immediate waste or decay or that keeping of the property until trial will result in such expense or deterioration in value as will substantially lessen the amount likely to be realized therefrom, the court may require or dispense with notice to the parties and may act upon such information provided by affidavit, certificate of the United States marshal or other proof, as appears sufficient to protect the interest of the parties.

"(h) DISPOSITION OF PROCEEDS OF SALE OF PERISHABLE PROPERTY; REPORT OF SALE.—Within 5 days after sale, the proceeds of the sale as provided in subsection 3103(g) after deduction of the United States marshal's expenses therefrom shall be paid by the United States marshal making the sale to the clerk of the court. The proceeds shall be accompanied by a statement in writing and signed by the United States marshal, to be filed in the action, stating the time and place of sale, the name of the purchaser and the amount received with an itemized account of expenses.

"(i) PRESERVATION OF PERSONAL PROPERTY UNDER ATTACHMENT.—If personal property in custody of the United States marshal under a writ of attachment is not replevied, claimed or sold, the court may make such order for its preservation or use as appears to be to the interest of the parties.

"(j) REPLEVIN OF ATTACHED PROPERTY BY DEFENDANT; BOND.—At any time before judgment, if the property has not previously been sold, defendant may replevy the property or any part thereof by giving a bond approved by counsel for the United States or the court and payable to the United States in double the amount of the debt.

"(k) JUDGMENT WHERE PERSONAL PROPERTY REPLEVIED.—When personal property under attachment has been replevied, the judgment which may be entered shall be against defendant and also against the sureties on his replevin bond for the amount of the judgment, interest and costs.

"(l) RESTORATION OF PROPERTY OR EXONERATION OF BOND; LEVY ON EXEMPT PROPERTY.—(1) If the attachment is vacated or if the judgment is for defendant, the court shall order the property or proceeds thereof restored to defendant or exonerate the replevin bond. The court may determine under what circumstances the defendant is entitled to receive the proceeds rather than the attached property.

"(2) When any property claimed to be exempt is levied upon, defendant may, at any time after such levy, apply to the court for vacation of such levy. If it appears to the court that the property so levied upon is exempt, the court shall order the levy vacated and the property returned to defendant.

"(m) REDUCTION OR DISCHARGE OF ATTACHMENT.—(1) If an excessive or unreasonable attachment is made, the defendant or person whose property has been attached may submit a written motion to the court which issued the writ for a reduction of the amount of the attachment or its discharge. Notice of such motion shall be served upon the United States in accordance with the Federal Rules of Civil Procedure. The defendant may move for reduction or dissolution of attachment as appropriate.

"(2) The court shall order a part of the property to be released, if upon hearing the court finds that the amount of the attachment is excessive or unreasonable or where the attachment is for a sum larger than the liquidated or ascertainable amount of the debt plus an amount necessary to include interest and costs likely to be taxed.

"(3) The court shall dissolve the attachment if the amount of the debt is unliquidated and unascertainable by calculation.

"§ 3104. Garnishment

"(a) All prejudgment garnishments shall meet the requirements of sections 3101 and 3102.

"(b) All prejudgment garnishments as authorized by the court hereunder shall be issued and answered in the same manner and to the same extent as set forth in section 3306 with the following exceptions—

"(1) The writ shall specify the date that the order authorizing prejudgment garnishment was entered.

"(2) The writ shall specify the amount claimed by the United States.

"§ 3105. Injunctions

"Whether or not there are other remedies available to the United States under this chapter, nothing in this chapter shall be construed to preclude or otherwise limit the United States or any other party from obtaining injunctive relief under the Federal Rules of Civil Procedure in actions for debts owed the United States.

"§ 3106. Sequestration

"(a) APPLICATION FOR WRIT OF SEQUESTRATION AND ORDER.—If the United States claims in its complaint the right to title or possession of property or seeks to enforce a lien or security interest in such property, the United States may file an affidavit showing—

"(1) a description of the property sufficient to identify it;

"(2) the approximate value of the property;

"(3) the location of the real property, or in the case of personal property, the last known and likely locations of the property;

"(4) the availability of sequestration.

"(b) AVAILABILITY OF SEQUESTRATION.—The United States after complying with, or in addition to, the provisions of sections 3101 or 3102 may have property sequestered—

"(1) upon a showing that there exists an immediate danger that the debtor or garnishee of such property will ill treat, waste, destroy or convert to his own use the property, which includes, but is not limited to, crops, timber, rents, perishable goods, livestock or the revenues therefrom; or

"(2) upon a showing that title to or possession of such property has been secured by the debtor or other defendant or the party in possession by surreptitious means, trick, scheme, fraud, force, violence, claim of adverse possession or such other claims or any means adverse to the claim in title or possession, or both, of the United States.

"(c) ISSUANCE OF WRIT.—A writ of sequestration shall be issued by the court directing the debtor or other defendant or party in possession to sequester the property and deliver it to the United States.

"(d) Unless inconsistent, the provisions governing section 3103 (g) through (l) shall be applicable to this section.

"(e) These writs shall be served in accordance with the Federal Rules of Civil Procedure.

"§ 3107. Replevin

"(a) APPLICATION FOR WRIT.—If the United States claims in its complaint the right to possession of specific personal property, the United States may, at any time after complying with the provisions of section 3101 or 3102, file an affidavit showing—

"(1) that the United States is the owner of the property claimed, or is lawfully entitled to its immediate possession;

"(2) a description of the property;

"(3) that the property is wrongfully detained by the defendant;

"(4) the approximate value of the property.

"(b) SEIZURE.—If the court determines the United States has met the above requirements, it shall order that the United States marshal take possession of the specified property and deliver it to the United States.

"(c) REDELIVERY OF POSSESSION TO DEFENDANT.—The defendant may obtain redelivery of the property or any part thereof by giving bond as set forth in section 3103(j).

"§ 3108. Receivership

"(a) APPOINTMENT OF A RECEIVER.—The United States may apply for the appointment of a receiver for property in which it has an interest and which is or is to be the subject of an action in court. The application may be filed at any time prior to judgment or during the pendency of an appeal if there is a danger that the property will be removed from the jurisdiction of the court, lost, materially injured or damaged, mismanaged or the United States has otherwise established grounds for such relief under section 3101(a) or 3102(a). However when the security agreement so provides, a receiver shall be appointed without notice or without regard to adequacy of security. An application made by the United States when it is not already a party to the action constitutes an appearance in the action and the United States shall be joined as a party.

"(b) POWERS OF RECEIVER; EMPLOYMENT OF COUNSEL.—The court appointing a receiver may authorize him to take possession of real and personal property and sue for, collect and sell obligations upon such conditions and for such purposes as the court shall direct and to administer, collect, improve, lease, repair or sell such real and personal property, as the court shall direct. A receiver appointed to manage residential or commercial property shall have demonstrable expertise in the management of these types of property. Unless expressly authorized by order of the court, a receiver shall have no power to employ attorneys, accountants, appraisers, auctioneers or other professional persons. Upon motion of the receiver or a party, powers granted to a receiver may be expanded or limited. A receiver appointed under the terms of a security agreement shall be entitled to recover the rents and profits of the property covered by the security agreement as additional security and to pay them over to the United States in payment of any amount due arising from a default by the debtor.

"(c) UNITED STATES AS SECURED PARTY.—In the event of any default or defaults in paying the principal, interest, taxes, water, rents, or premiums of insurance required by the security instrument or in the event of a nonfinanced default or defaults, the United States in any action to foreclose the security interest shall be entitled, without notice and without regard to adequacy of any security for the debt, to the appointment of a receiver of the rents and profits of the premises covered by the security interest, and the rents and profits of the premises are assigned to the United States as further security for the payment of the debts.

"(d) DURATION OF RECEIVERSHIP.—In an action to foreclose a security interest, the receivership shall terminate when the purchaser at the foreclosure sale takes lawful possession of the property unless the court directs otherwise. In all other actions, the receivership shall not continue past the entry of judgment unless the court orders it continued under section 3302(b) or unless the court otherwise directs its continuation.

"(e) ACCOUNTS; REQUIREMENT TO REPORT.—A receiver shall keep written accounts itemizing receipts and expenditures, describing the property and naming the depository of receivership funds and his accounts shall be open to inspection by any person having an apparent interest in the property. The re-

ceiver shall file reports at regular intervals as directed by the court and shall serve the United States with a copy thereof.

"(f) REMOVAL.—Upon motion of any party or upon its own initiative, the court which appointed the receiver may remove him at any time with or without cause.

"(g) PRIORITY.—If more than one court appoints a receiver, the receiver first qualifying under law shall be entitled to take possession, control or custody of the property.

"(h) COMMISSIONS OF RECEIVERS.—

(1) GENERALLY.—A receiver is entitled to such commissions not exceeding 5 percent of the sums received and disbursed by him as the court allows unless the court otherwise directs.

"(2) ALLOWANCE WHERE FUNDS DEPLETED.—If, at the termination of a receivership, there are no funds in the hands of a receiver, the court may fix the compensation of the receiver in accordance with the services rendered and may direct the party who moved for the appointment of the receiver to pay such compensation in addition to the necessary expenditures incurred by the receiver which remained unpaid.

"(3) PROCEDURE.—At the termination of a receivership, the receiver shall file a final accounting of the receipts and disbursements and apply for compensation setting forth the amount sought and the services rendered by him.

"SUBCHAPTER C—JUDGMENTS; LIENS

"Sec.
"3201. Judgment by confession.
"3202. Judgment lien.
"3203. Sale of property subject to judgment lien.
"3204. Interest on judgments.

"SUBCHAPTER C—JUDGMENTS; LIENS

"§ 3201. Judgment by confession

"(a) GENERAL PROVISION.—On application, a court may enter a judgment by confession in favor of the United States without the filing of a civil action for money due and owing.

"(b) VENUE.—The confession of judgment shall be filed in the district in which one or more of the defendants reside, can be found, are doing business at the time of the application, or in cases proceeding by in rem or quasi in rem jurisdiction where the property sought to be adjudicated is located.

"(c) STATEMENT BY DEFENDANT; CONTENTS.—Before a judgment by confession shall be entered, a sworn statement in writing shall be made and signed by the defendant after default and subsequent notice by the United States and filed with the court along with the application, stating—

"(1) the amount for which judgment may be entered and authorizing the entry of judgment;

"(2) the facts out of which the debt arose and that the amount confessed is justly due; and

"(3) that the person signing the statement understands that a judgment by confession allows the entry of judgment without further proceedings and authorizes enforced collection of the judgment.

"(d) ENTRY OF JUDGMENT.—The confession of judgment may be filed with the clerk of the court. The clerk shall enter a judgment for the amount confessed.

"(e) CONFESSION BY JOINT DEBTORS.—One or more joint debtors may confess a judgment for a joint debt due. Where all the joint debtors do not join in the confession, the judgment shall be entered and enforced against only those who confessed it. A confessed judgment against some of the joint debtors is not a bar to an action against the other joint debtors.

"(f) ENFORCEMENT OF JUDGMENT BY CONFESSION.—Judgments by confession shall be enforced in the same manner as other judgments.

"§ 3202. Judgment lien

"(a) CREATION OF LIEN GENERALLY.—A judgment shall be a lien upon all real property of a judgment debtor upon filing a certified copy of the abstract of the judgment in the manner in which a notice of tax lien would be filed under section 6323(f) (1) and (2) of the Internal Revenue Code of 1986.

"(b) IN CRIMINAL CASES.—A judgment obtained by the United States in a criminal case shall create a lien as provided in sections 3565 and 3613 of the Internal Revenue Code of 1986.

"(c) IN TAX CASES.—A judgment obtained by the United States in a tax case shall create a lien co-extensive with any lien created prior to judgment under section 6321 of the Internal Revenue Code of 1986; if no lien was so created prior to the judgment, then the procedure in subsection (a) shall be followed.

"(d) AMOUNT OF LIEN.—A lien created hereunder is for the amount necessary to satisfy the judgment, including costs and interest.

"(e) PRIORITY OF LIEN.—A lien created hereunder shall have priority over any other lien or encumbrance which is perfected later in time. However, liens created under sections 3565 and 3613 of the Internal Revenue Code of 1986, regarding criminal judgments or under section 6321 of the Internal Revenue Code of 1986, regarding tax judgments shall have priority as otherwise provided by law.

"(f) DURATION OF LIEN; RENEWAL.—(1) A lien created hereunder is effective, unless satisfied, for a period of 20 years.

"(2) The lien may be renewed for one additional period of 20 years upon filing a notice of renewal in the same manner as the judgment was filed and shall relate back to the date the judgment was filed. The notice of renewal must be filed before the expiration of the first 20-year period to prevent the expiration of the lien.

"(3) The duration and renewal of a lien created under sections 3565 and 3613 of title 18, United States Code, regarding criminal judgments, or a lien created under section 6321 of the Internal Revenue Code of 1986, regarding tax judgments shall be as otherwise provided by law.

"(g) RELEASE OF JUDGMENT LIEN.—A judgment lien shall be released upon the filing of a satisfaction of judgment or release of lien in the same manner as the judgment was filed to obtain the lien.

"(h) EFFECT OF LIEN UPON ELIGIBILITY FOR FEDERAL GRANTS, LOANS OR PROGRAMS.—Any person who has a judgment lien against his property for any debt to the United States shall not be eligible to receive any grant or loan which is made, insured, guaranteed or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which such person is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied. The agency responsible for such grants and loans may promulgate regulations to allow for waiver of this restriction on eligibility for such grants and loans.

"§ 3203. Sale of property subject to judgment lien

"Upon application to the court, the court may order the United States to sell pursuant to the provisions of sections 2001 and 2002 of title 28, United States Code, any real property subject to its judgment lien. This provision shall not preclude the United States from using an execution sale to sell real property subject to a judgment lien.

"§ 3204. Interest on judgments

"(a) Judgments for money, other than criminal or tax judgments, shall bear interest at the greater of—

"(1) the rate in an express contract or negotiable instrument, if the action was brought for the recovery of an amount due on the contract or negotiable instrument; or

"(2) the rate established by statute or regulation applicable to the debt owed;

"(3) the judgment interest rate established in accordance with this section.

"(b) The judgment interest rate, where applicable, shall be calculated from the date of the entry of the judgment, at a rate equal to 150 percent of the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of 52-week United States Treasury bills settled immediately prior to the date of the judgment. The Director of the Administrative Office of the United States Courts shall distribute notice of that rate and any changes in it to all Federal courts.

"(c) Interest on judgments shall accrue daily from the date of entry of the judgment at the rate determined herein and shall be compounded annually to the date of payment.

"(d) Interest on tax judgments obtained under the Internal Revenue Code shall be allowed under section 6621 of such Code.

"(e) Interest on criminal judgments shall be allowed as provided in title 18, United States Code.

"(f) Nothing in this section shall preclude the assessment of prejudgment interest that is otherwise allowable by law.

"SUBCHAPTER D—POSTJUDGMENT REMEDIES

"Sec.
"3301. Enforcement of judgments.
"3302. Orders in aid of execution.
"3303. Restraining notice.
"3304. Execution.
"3305. Installment payment order.
"3306. Garnishment.
"3307. Modification of protective order; supervision of enforcement.
"3308. Power of court to punish for contempt.
"3309. Arrest of judgment debtor.
"3310. Discharge.

"SUBCHAPTER D—POSTJUDGMENT REMEDIES

"§ 3301. Enforcement of judgments

"(a) A judgment may be enforced by any of the remedies set forth in this subchapter, and the court may issue other writs pursuant to section 1651 of title 28, United States Code, as necessary to supplement these remedies, subject to the provision of rule 81(b) of the Federal Rules of Civil Procedure.

"(b) The property of a judgment debtor which is subject to sale to satisfy the judgment may be sold by judicial sale, pursuant to sections 2001, 2002, and 2004 of title 28, United States Code, or by execution sale pursuant to section 3304(g) of this subchapter.

"§ 3302. Orders in aid of execution

"Where the judgment debtor has an ownership interest of any kind in property which is not exempt and cannot readily be

attached or levied on by ordinary legal process, the United States is entitled to aid from the court by injunction or other appropriate order to reach the property to satisfy the judgment whether the property is located in the same district or other districts.

"(a) ORDER.—The court may order the property, together with all documents or records related to the property, that is in or subject to the possession or control of the judgment debtor or another person, to be turned over to the United States for execution or otherwise applied toward the satisfaction of the judgment. Where the judgment debtor or other person refuses to turn over the property, the court may enforce the order by proceedings for contempt or other appropriate order provided the judgment debtor or other person, as appropriate, is served with a copy of the order or has actual notice of the order.

"(b) RECEIVER.—The court may appoint a receiver of property where appropriate in accordance with section 3108 of this chapter.

"(c) SAME OR INDEPENDENT SUIT.—These proceedings may be brought by the United States in the same suit in which the judgment is rendered or in a new and independent suit.

"(d) COSTS.—Upon request, in a proceeding under this section, the United States shall recover from the judgment debtor 10 percent of the reasonable costs. This provision shall apply to the extent that recovery of costs by the United States is not provided for under other applicable provisions of Federal law.

"§ 3303. Restraining notice

"(a) ISSUANCE; ON WHOM SERVED; FORM; SERVICE.—A restraining notice may be issued by the clerk of the court or counsel for the United States as officer of the court. It may be served upon any person, except the employer of a judgment debtor where the property sought to be restrained consists of earnings due or to become due to the judgment debtor. It shall be served personally in the same manner as a summons. It shall specify all of the parties to the action, the social security number of the judgment debtor, if known, the date the judgment was entered, the court in which it was entered, the amount of the judgment and the amount when due thereon, and the names of all parties against whom the judgment was entered. It shall set forth the requirements of subsection (b) below and shall state that disobedience is punishable as a contempt of court.

"(b) EFFECT OF RESTRAINT; PROHIBITION OF TRANSFER; DURATION.—(1) A judgment debtor who is served with a restraining notice shall not sell, assign, transfer or hypothecate any property, except as may be reasonably necessary for the maintenance or support of the debtor or a dependent of the debtor and if the debtor is engaged in business, as may be reasonably necessary for the payment of expenditures for the continuation, preservation, and operation of such business.

"(2) A person other than the judgment debtor who is served with restraining notice shall not—

"(A) repay any obligation to the judgment debtor;

"(B) return any property to the judgment debtor; or

"(C) sell, assign, transfer or hypothecate any property—

"(i) specifically described in the restraining notice;

"(ii) that the other person knows to be owned by the judgment debtor; or

"(iii) in which the other person could have reason to believe by the exercise of due diligence that the judgment debtor has an ownership interest.

"(3) The restraining notice shall remain in effect for 1 year from the date the notice is served, or until the judgment is satisfied or the restraining notice is vacated by order of the court, whichever occurs first.

"(c) DISCLOSURE.—The person upon whom a restraining notice is served, other than the judgment debtor, shall disclose to the counsel for the United States, in writing under oath within 10 days after receipt of the restraining notice, the type or nature and value of such property of the judgment debtor as may be in his possession or custody. Upon such person receiving or acquiring property of the judgment debtor after receipt of a restraining notice, that person shall disclose to counsel for the United States, in writing under oath within 7 days of receipt of the property, the type or nature and value of such property of the judgment debtor as may be in his possession or custody.

"(d) DISCOVERY.—Any discovery request under the Federal Rules of Civil Procedure which accompanies this restraining notice and which seeks the disclosure of the type, nature and value of property of the judgment debtor must be responded to within 10 days of service of the notice and discovery request or within 10 days after property of the judgment debtor comes into the possession of the person served. Upon request, a reasonable extension may be granted.

"(e) SUBSEQUENT NOTICE.—Leave of court is required to serve more than one restraining notice upon the same person, other than the judgment debtor, with respect to the same judgment.

"(f) NOTICE TO JUDGMENT DEBTOR.—A copy of the restraining notice shall be mailed by first class mail by counsel for the United States to the judgment debtor within 4 days after the time of service of the restraining notice on a person other than the judgment debtor.

"§ 3304. Execution

"(a) PROPERTY SUBJECT TO EXECUTION.—All property which the judgment debtor possesses and in which the judgment debtor has an interest shall be subject to levy pursuant to a writ of execution; co-owned property shall be subject to execution to the same extent as it is under the law of the State in which it is located. The judgment debtor must identify any property claimed to be exempt under the provisions of subchapter E.

"(b) EXECUTION LIEN.—A lien shall be created in favor of the United States on all property levied upon under a writ of execution and shall date from the time of the levy. This lien shall have priority over all subsequent liens and shall be for the amount due on the judgment. If the United States has a judgment lien, the execution lien shall relate back to the judgment lien date.

"(c) FORM OF WRIT OF EXECUTION.—

"(1) GENERAL REQUIREMENTS.—An execution writ shall specify the date that the judgment was entered, the court in which it was entered, the amount of the judgment if for money, the amount of the costs, and the sum actually due when the writ is issued, the amount of interest due, the rate of post-judgment interest, and the name of the party against whom the judgment was entered. The writ shall direct the United States marshal to satisfy the judgment out of all property, real and personal, of the judgment debtor not otherwise exempt pursuant to this chapter. An execution writ shall direct that only the property in which a named judgment debtor, who is not deceased, has an interest be levied upon or sold thereunder, and shall state the last known address of that judgment debtor.

"(2) EXCEPTION.—There shall be no requirement that personal property be levied upon and sold prior to levy and sale of real property of the judgment debtor.

"(3) EXECUTION FOR DELIVERY OF CERTAIN PROPERTY.—An execution issued upon a judgment for the delivery to the United States of the possession of personal property, or for the delivery of the possession of real property, shall particularly describe the property, and shall require the marshal to deliver the possession of the property to the United States.

"(4) EXECUTION FOR POSSESSION OR VALUE OF PERSONAL PROPERTY.—If the judgment is for the recovery of personal property or its value, the writ shall command the marshal, in case a delivery thereof cannot be had, to levy and collect the value thereof for which the judgment was recovered, to be specified therein, out of any property of the party against whom judgment was rendered, liable to execution.

"(d) ISSUANCE.—(1) The clerk of any court where a judgment is docketed, entered or registered, upon written application of counsel for the United States, shall, and without other or further order of a judge of that court, forthwith issue writs of execution. The writs shall be addressed to "Any United States Marshal," and may be served and executed in any judicial district of the United States, but shall be returnable to the issuing court. The writ shall be signed by the clerk of the court issuing the writ.

"(2) Multiple writs may issue simultaneously, and successive writs may issue before the return date of a writ previously issued.

"(e) RECORDS OF UNITED STATES MARSHAL.—(1) The United States marshal receiving the execution shall endorse thereon the exact hour and day when he received it. If he receives more than one on the same day against the same person, he shall number them as received.

"(2) The United States marshal shall make a memorandum in writing of the date of every levy and specify the property upon which the levy has been made on the process or in an attached schedule. The memorandum or schedule shall also set forth the marshal's costs, expenses and fees.

"(f) LEVY OF EXECUTION.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property of the debtor found within his district, unless otherwise directed by counsel for the United States.

"(2) In performing the levy, the United States marshal may enter onto the lands and into the residence or other buildings owned, occupied or controlled by the debtor.

"(3) When real property is levied upon, the United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3202. The United States marshal shall also serve a copy of the writ and notice of levy upon the debtor in the same manner that a summons is served in a civil action and so make his return thereof. If the United States marshal is unable to serve the writ upon the debtor, he shall post the writ and notice of levy in a

conspicuous place upon the property and so make his return thereof.

"(4) Levy upon personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense, may be made by affixing a copy of the writ and motion of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied upon. A copy of the writ and notice of levy shall also be served upon the debtor in the same manner that a summons is served in a civil action. Upon completion of the levy of personal property, the United States marshal shall so make his return thereof.

"(5)(A) Real property subject to a security interest or conveyed in trust as security for any debt or contract may be levied upon and sold on execution against the interest of the judgment debtor, subject to such mortgage, and the terms and conditions thereof.

"(B) Personal property pledged, assigned or security for any debt or contract, may be levied upon and sold on complying with the conditions of the pledge, assignment or security interest.

"(g) EXECUTION SALE PROCEDURES.—

"(1) SALE OF REAL PROPERTY.—

"(A) Real property, or any interest therein, shall be sold for cash at public auction at the courthouse of the county, parish or city in which the greater part of the property is located or upon the premises or some parcel thereof.

"(B) The time and place of sale of real property, or any interest therein, under execution shall be advertised by the United States marshal, by publication of notice, once a week for at least 3 weeks prior to the sale, in at least one newspaper of general circulation in the county or parish where the property is located. The first of these publications shall appear not less than 25 days immediately preceding the day of sale. The notice shall contain a statement of the authority by which the sale is to be made, the time of levy, and the time and place of sale; it shall also contain a brief description of the property to be sold, sufficient to identify the property, such as a street address the urban property, and the survey identification and location for rural property, but it shall not be necessary for it to contain field notes.

"(C) The United States marshal shall give written notice of public sale by personal delivery, or certified or registered mail, to persons and parties known to him to claim an interest in property under execution, including lienholders, co-owners and tenants, at least 25 days prior to the day of sale, to the last known address of such persons or parties.

"(2) SALE OF CITY LOTS.—If the real property consists of several lots, tracts, or parcels in a city or town, each lot, tract, or parcel must be offered for sale separately, unless not susceptible to separate sale because of the character of improvements.

"(3) SALE OF RURAL PROPERTY.—If the real property is not located in a city or town, the debtor may divide the property into lots of not less than 50 acres or in such greater or lesser amounts as ordered by the court, furnish a survey of such prepared by a registered surveyor, and designate the order in which those lots shall be sold. When a sufficient number of lots are sold to satisfy the amount of the execution and costs of sale, the marshal shall stop the sale.

"(4) SALE OF PERSONAL PROPERTY.—

"(A) Personal property levied on shall be offered for sale on the premises where it is located at the time of levy, or at the courthouse of the county, parish or city wherein it is located, or at some other place if, owing to the nature of the property, it is more convenient to exhibit it to purchasers at such place. Personal property susceptible of being exhibited shall not be sold unless it is present and subject to the view of those attending the sale, except shares of stock in corporations, and in cases, when by reason of the type or nature of the property, it is impractical to exhibit it, or where the debtor has merely an interest without the right to the exclusive possession, in which case the interest of the debtor may be sold and transferred without the presence of the property.

"(B) Notice of the time and place of the sales of personal property shall be given by posting notice thereof for 10 days successively immediately prior to the day of sale at the courthouse of any county, parish, or city, and at the place where the sale is to be made, and by mailing a copy by registered or certified mail to the judgment debtor at his last known address, or by personal delivery.

"(5) POSTPONEMENT OF SALE.—The United States marshal may postpone an execution sale from time to time continuing the posting of notice and/or publication of the notice until the date to which the sale is postponed, and appending, at the foot of such notice of each successive postponement the following:

"The above sale is postponed until the _____ day of _____, 19___, at _____ o'clock ___ .M., _____, United States Marshal for the District of _____, by _____, Deputy, dated _____.

"(6) BIDDING REQUIREMENTS; LIABILITY OF BIDDER; RESALE.—

"(A) The United States marshal may require of any bidder at any sale a cash deposit of as much as 20 percent of the sale price before the bid is received.

"(B) The cash deposit of any successful bidder at an execution sale shall be forfeited to the United States if he fails to comply with the terms of the sale; in addition, he shall be liable to the United States for all losses incurred by the United States at a subsequent sale of the same property. The liability for losses shall be limited to the difference between the amount of the deposit which was forfeited and the amount accepted by the United States as the highest bid by the defaulting bidder at the defaulted sale plus the costs of the defaulted sale. This liability shall be reduced by the amount the United States realizes from the subsequent sale, if any.

"(7) RESALE OF PROPERTY.—When the terms of the sale are not complied with by the bidder, the United States marshal shall proceed to sell the property again on the same day, if there is sufficient time; but if not, he shall readvertise and sell the property.

"(8) TRANSFER OF TITLE AFTER SALE.—

"(A) When the sale has been made and its terms complied with, the United States marshal shall execute and deliver any and all documents necessary to transfer ownership to the purchaser, without warranty, all the rights, titles, interest, and claims that the judgment debtor had in the property sold to the purchaser.

"(B) If the purchaser dies before execution and delivery of the documents needed to transfer ownership, the United States marshal shall execute and deliver them to the estate of the purchaser, and it shall have the same effect as if accomplished during the lifetime of the purchaser.

"(9) PURCHASER CONSIDERED INNOCENT PURCHASER WITHOUT NOTICE.—The purchaser of property sold under execution is considered to be an innocent purchaser without notice if the purchaser would have been considered an innocent purchaser without notice had the sale been made voluntarily and in person by the defendant.

"(10) NO RIGHT OF REDEMPTION.—The judgment debtor shall not be entitled to redeem the property after the execution sale.

"(11) DISTRIBUTION OF SALE PROCEEDS.—

"(A) The United States marshal shall first deliver to the judgment debtor, or his agent or attorney, such amounts to which he is entitled from the sale of partially exempt property as set forth in subchapter E of this chapter.

"(B) The United States marshal shall retain from the proceeds of a sale of property an amount equal to the reasonable expenses incurred in making the levy and keeping and maintaining the property.

"(C) The United States marshal shall deliver the balance of the money collected on execution to the counsel for the United States at the earliest opportunity.

"(D) If more money is received from the sale of the property than is sufficient to satisfy the executions held by the United States marshal, he shall pay forthwith the surplus to the judgment debtor or his agent or attorney.

"(h) REPLEVY.—(1) Any personal property taken in execution may be returned to the defendant by the United States marshal upon the delivery by the defendant to him of a bond or upon satisfaction of the judgment and any costs incurred in connection with scheduling the sale prior to the execution sale, payable to the United States, with two or more good and sufficient sureties, to be approved by the United States marshal, conditioned upon the delivery of the property to the United States marshal at the time and place named in the bond, to be sold according to law, or for the payment to the United States marshal of a fair value thereof, which shall be stated in the bond.

"(2) Where property has been replevied, as provided above, the judgment debtor may sell or dispose of the property paying the United States marshal the stipulated value thereof.

"(3) In the case of the non-delivery of the property according to the terms of the delivery bond, and non-payment of the value thereof, the United States marshal shall forthwith endorse the bond 'Forfeited' and return it to the clerk of the court from which the execution issued; whereupon, if the judgment remains unsatisfied in whole or in part, the clerk shall issue execution against the principal judgment debtor and the sureties on the bond for the amount due, not exceeding the stipulated value of the property, upon which execution no delivery bond shall be taken, which instruction shall be endorsed by the clerk on the execution.

"(i) DEATH OF JUDGMENT DEBTOR.—The death of the judgment debtor after a writ of execution is issued stays the execution proceedings, but any lien acquired by levy of the writ must be recognized and enforced by the court having jurisdiction over the estate of the deceased. The execution lien may be enforced against the executor, administrator, or personal representative of the estate

of the deceased; or if there be none, against the heirs or devisees of the property of the deceased receiving same, but only to the extent of the value of the property coming to them.

"(j) WHEN EXECUTION NOT SATISFIED.—When the property levied upon does not sell for enough to satisfy the execution, the United States marshal shall proceed on the same writ of execution as to other property of the judgment debtor.

"(k) RETURN ON EXECUTION.—(1) The United States marshal shall make a written return on each writ of execution to the court from which the writ was issued and deliver a copy to counsel for the United States who requested the writ. It shall be returnable 90 days from the date of issuance unless counsel for the United States has specified an earlier date. The return shall be filed by the clerk of the court from which the writ was issued.

"(2) The United States marshal shall state concisely what was done in pursuance of the requirements of the writ.

"(3) The return shall be made forthwith if satisfied by the collection of the money, or if ordered by counsel for the United States, which order shall be noted on the return.

"§ 3305. Installment payment order

"Where it is shown that the judgment debtor is receiving or will receive money from any source or is attempting to impede the United States by rendering services without adequate compensation, upon motion of the United States and notice to the judgment debtor, the court may, if appropriate, order that the judgment debtor make specified installment payments to the United States. Notice of the motion shall be served on the judgment debtor in the same manner as a summons or by registered or certified mail, return receipt requested. In fixing the amount of the payments, the court shall take into consideration the reasonable requirements of the judgment debtor, any payments required to be made by the judgment debtor or deducted from the money he would otherwise receive in satisfaction of other judgments, the amount due on the judgment, and the amount being or to be received, or, if the judgment debtor is attempting to impede the United States by rendering services without adequate compensation, the reasonable value of the services rendered.

"Upon motion of the United States, and upon a showing that the debtor's financial circumstances have changed or that assets not previously disclosed by the debtor have been discovered, the court may increase the amount of payments or alter their frequency or require full payment.

"§ 3306. Garnishment

"(a) GENERAL.—A court may issue writs of garnishment, either prejudgment or postjudgment against the property of a debtor which is in the possession, custody or control of a third person in order to satisfy a judgment against the debtor; co-owned property shall be subject to garnishment to the same extent as it is under the law of the States in which it is located. The United States may request and a court shall issue simultaneous separate writs of garnishment to several garnishees. All writs of garnishment issued pursuant to these provisions shall be continuing and shall terminate only as provided herein.

"(b) WRIT.—

"(1) GENERAL REQUIREMENTS.—The United States shall include in its application for a writ of garnishment, the following:

"(A) any matters required by section 3104 when seeking prejudgment garnishment;

"(B) the debtor's name, social security number, if known, and the debtor's last known address;

"(C) the nature and amount of the debt alleged to be owed and that demand on the debtor for payment of the debt has been made, but the debtor has not paid the amount due. A money judgment must be alleged for postjudgment garnishment; and

"(D) that the garnishee is believed to be indebted to the debtor or have possession of property of the debtor.

"(2) PROPER GARNISHEE FOR PARTICULAR PROPERTY.—

"(A) Where property consists of a right to or share in the stock of an association or corporation, or interests or profits therein, for which a certificate of stock or other negotiable instrument is not outstanding, the corporation, or the president or treasurer of the association, shall be the garnishee.

"(B) Where property consists of a right to or interest in a decedent's estate or any other property or fund held or controlled by a personal representative or fiduciary, the personal representative or fiduciary shall be the garnishee.

"(C) Where property consists of an interest in a partnership, any partner other than the debtor, shall be the garnishee on behalf of the partnership.

"(D) Where property or a debt is evidenced by a negotiable instrument for the payment of money, a negotiable document of title or a certificate of stock of an association or corporation, the instrument, document or certificate shall be treated as property capable of delivery and the person holding it shall be the garnishee; except that in the case of a security which is transferable in the manner set forth in State law, the firm or corporation which carries on its books an account in the name of the debtor in which is reflected such security, shall be the garnishee; *Provided, however,* That if such security has been pledged, the pledgee shall be the garnishee.

"(c) ISSUANCE OF WRIT.—

"(1) CLERK'S REVIEW.—The clerk or the court shall review the application for postjudgment writs of garnishment and if it meets the requirements set forth herein, shall issue an appropriate writ. The clerk shall issue prejudgment writs of garnishment as authorized by the court.

"(2) FORM OF WRIT.—

"(A) GENERAL PROVISIONS.—The writ shall state—

"(i) The nature and amount of the debt. If interest is accruing, the rate of accrual thereafter shall be stated. If a judgment is involved, the amount of any costs included in the judgment should be stated.

"(ii) The name and address of the garnishee.

"(iii) The name and address of counsel for the United States.

"(iv) The last known mailing address of the debtor.

"(v) That the garnishee shall answer the writ within 10 days of service of the writ.

"(B) EARNINGS GARNISHMENT.—The United States may apply for garnishment of the nonexempt disposable earnings of a natural person. The writ for the garnishment of earnings shall direct the garnishee to withhold and retain the nonexempt earnings for which the garnishee is indebted to the debtor at the time of receipt of the writ and may thereafter become indebted to the debtor pending further order of the court.

"(C) GARNISHMENT OF OTHER PROPERTY.—As to all non-earnings property of a debtor who is a natural person and all property of other debtors in the possession, custody and control of the garnishee at the time the writ is received by the garnishee and anytime thereafter, the writ shall direct the garnishee to retain possession, custody and control of and not to transfer or return the property pending further order of the court.

"(D) SERVICE OF WRIT.—The United States may serve the garnishee with a copy of the writ by first class mail or by delivery by the United States marshal as provided by rule 4 of the Federal Rules of Civil Procedure. The United States shall, at the same time, serve the debtor with a copy of the writ by first class mail to the debtor's last known address; counsel for the United States shall certify to the court that this service was made. The writ of garnishment shall be accompanied by instructions explaining the requirement that the garnishee submit a written answer to the writ of garnishment and instructions to the debtor for objecting to the answer of the garnishee and for obtaining a hearing on the objections.

"(E) ANSWER OF THE GARNISHEE.—In its written answer to the writ of garnishment, the garnishee shall state under oath whether it is indebted to the debtor or has custody, control or possession of the debtor's property; a description of the indebtedness or property; whether the indebtedness or property is subject to any prior garnishments or levies and a description of any such claim; and whether the indebtedness or property is subject to any exemptions from garnishment. In addition, if the writ of garnishment is against the earnings of the debtor, the garnishee shall state whether the debtor was employed at the time the writ was received, and, if so, how much was owed at the time; and whether the garnishee anticipates owing earnings to the debtor in the future, and, if so, the amount and whether the pay period will be weekly or another specified period. In all cases, the garnishee shall file the original answer with the court issuing the writ and serve a copy on the debtor and counsel for the United States. Any garnishee, including a corporation, may file an answer without the representation of an attorney.

"(F) OBJECTIONS TO ANSWER.—Within 20 days after receipt of the answer, the debtor and the United States may file a written objection to the answer and request a hearing on the objection. The party objecting must state the grounds for the objection and bears the burden of proving them. A copy of the objection and request for hearing shall be served on the garnishee and the other party. The court shall set a hearing within 10 days after the date the request was received by the court, or as soon thereafter as is practicable, and give notice of the date to all parties.

"(G) GARNISHEE'S FAILURE TO ANSWER OR PAY.—If a garnishee fails to answer or pay within the time specified, the United States may petition the court for an order requiring the garnishee to appear before the court to answer the writ or pay by the appearance date. If the garnishee fails to appear or does appear and fails to show good cause why he failed to comply with the garnishment writ, the court shall enter judgment against the garnishee for the full amount of the past debt owed by the debtor. The court shall award reasonable attorney's fees to the United States and against the garnishee if the writ has not been answered within the time specified therein and a petition requiring the garnishee to appear was filed as provided in this section. Failure to answer or

pay within the time specified in the writ may also be punished as a contempt of the court.

"(H) DISPOSITION ORDER.—After the garnishee files its answer and if no hearing is required, the court shall promptly enter an order directing the garnishee as to the disposition of the debtor's property. If a hearing is required, the order shall be entered within 5 days of the hearing, or as soon thereafter as is practicable.

"(I) PRIORITIES.—Court orders and garnishments for the support of a person shall have priority over a writ of garnishment issued pursuant to these provisions. As to any other garnishment or levy, a garnishment issued pursuant to these provisions shall have priority over those which are later in time and shall be satisfied in the order in which the writs are served upon the garnishee.

"(J) ACCOUNTING.—The debtor or garnishee may request an accounting on a garnishment within 10 days after the garnishment terminates. The United States shall give a written accounting to the debtor and garnishee of all earnings and property it receives under a writ of garnishment within 20 days after it receives the request of the debtor or garnishee. Within 10 days after the accounting is received, the debtor or garnishee may file a written objection to the accounting and a request for hearing. The party objecting must state grounds for the objection. The court shall set a hearing on the objection within 10 days after the court receives the request for a hearing, or as soon thereafter as is practicable.

"(K) DISCHARGE OF GARNISHEE'S OBLIGATION.—A garnishee shall be discharged as set forth in section 3311 of this subchapter.

"(L) TERMINATION OF GARNISHMENT.—A garnishment proceeding hereunder can be terminated by—

"(i) the court quashing the writ of garnishment;

"(ii) exhaustion of earnings or property in the possession, custody or control of the garnishee, unless the garnishee reinstates or reemploys the debtor within 90 days of dismissal or resignation; or

"(iii) satisfaction of the debtor's obligation to the United States.

"§ 3307. Modification or protective order; supervision of enforcement

"Within the provisions of this chapter, the court may at any time on its own initiative or the motion of any interested person, and upon such notice as it may require, make an order denying, limiting, conditioning, regulating, extending or modifying the use of any enforcement procedure.

"§ 3308. Power of court to punish for contempt

"A court shall have power to punish a civil or criminal contempt committed with respect to an enforcement procedure or order under this chapter.

"§ 3309. Arrest of judgment debtor

"Upon motion of the judgment creditor without notice, where it is shown by affidavit or otherwise that the judgment debtor is about to depart from the jurisdiction of the United States, or keeps himself concealed therein with intent to hinder, delay or defraud the judgment creditor, and that there is reason to believe that the judgment debtor has in his possession or custody nonexempt property in which he has an interest, the court may issue a warrant directed to the United States marshal to arrest the judgment debtor forthwith and bring him before the court. The United States marshal shall serve upon the judgment debtor a copy of the warrant and supporting documents at the time of arrest. When the judgment debtor is brought before the court, the court may order that he give a bond or undertaking in a sum to be fixed by the court, that he will appear before the court for examination and that he will obey the terms of a restraining notice contained in the order.

"§ 3310. Discharge

"A person who pursuant to an execution or order pays or delivers to the United States, a United States marshal or receiver, money or other personal property in which a judgment debtor has or will have an interest, or so pays a debt he owes the judgment debtor, is discharged from his obligation to the judgment debtor to the extent of the payment or delivery.

"SUBCHAPTER E—EXEMPT PROPERTY

"Sec.
"3401. Exempt property.
"3402. Limitation on exempt property.

"SUBCHAPTER E—EXEMPT PROPERTY

"§ 3401. Exempt property

"Except as provided under section 3402, the following property of natural persons shall be exempted from the enforcement procedures under the provisions of this chapter as to debts owed the United States—

"(a) the debtor's aggregate interest, not to exceed $7,500 in value in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor;

"(b) the debtor's interest, not to exceed $1,200 in value, in one motor vehicle;

"(c) the debtor's interest, not to exceed $200 in value in any particular item or $4,000 in aggregate value, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family or household use of the debtor or a dependent of the debtor;

"(d) the debtor's aggregate interest, not to exceed $500 in value, in jewelry held primarily for the personal, family or household use of the debtor or a dependent of the debtor;

"(e) the debtor's aggregate interest in any property, not to exceed in value $400 plus up to $3,750 of any unused amount of the exemption provided under subsection (a) of this subsection;

"(f) any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract;

"(g) the debtor's aggregate interest, not to exceed in value $4,000 less any amount of property of the estate transferred in the manner specified in section 542(d) of title 11, in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent;

"(h) the debtor's aggregate interest, not to exceed $750 in value in any implements, professional books or tools of the trade of the debtor or the trade of a dependent of the debtor;

"(i) professionally prescribed health aids for the debtor or a dependent of the debtor;

"(j) the debtor's right to receive—

"(1) a social security benefit, unemployment compensation, or a local public assistance benefit;

"(2) a veterans' benefit;

"(3) a disability, illness including Medicaid and Medicare, or unemployment benefit, and Aid to Families With Dependent Children benefits;

"(4) alimony, child and spousal support or separate maintenance paid or received, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(5) a payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless—

"(A) such plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under such plan or contract arose;

"(B) such payment is on account of age or length of service; and

"(C) such plan or contract does not qualify under section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1986 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409).

"(k) the debtor's right to receive, or property that is traceable to—

"(1) an award under a crime victim's reparation law;

"(2) a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(3) a payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of such individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(4) a payment, not to exceed $7,500, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or

"(5) a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

"§ 3402. Limitations on exempt property

"(a) Property upon which a judgment debtor has voluntarily granted a lien, shall not be exempt to the extent of the balance due on the debt secured thereby.

"(b) If, within 90 days prior to judgment or thereafter, the debtor has transferred non-exempt property and as a result acquires, improves or increases in value exempt property, his interest shall not be exempt to the extent of the increased value.

"(c) The United States may require the judgment debtor to file a statement with regard to each claimed exemption; the original shall be filed with the court in which the enforcement proceeding is pending, and a copy served upon counsel for the United States. The statement shall be under oath and shall describe each item of property for which exemption is claimed, the value and the basis for such valuation, and the nature of the judgment debtor's ownership interest.

"(d) The United States, by application to the court where an enforcement proceeding is pending, may request a hearing on the applicability of any exemption claimed by the judgment debtor. The court shall determine

whether the judgment debtor is entitled to the exemption claimed and the value of the property with respect to which the exemption is claimed; unless the court finds that it is reasonably evident that the exemption applies, the judgment debtor shall bear the burden of going forward with evidence and of persuasion.

"(e) Assertion of an exemption shall not prevent seizure and sale of the property to which such exemption applies. However, where an exemption has been validly and properly asserted, the sale proceeds for that item of property must be applied first to satisfy the dollar value of the exemption and then to the balance of the judgment. Any excess remaining after payment of judgment shall be paid to the judgment debtor.

"SUBCHAPTER F—FRAUDULENT TRANSFERS

"Sec.
"3501. Definitions.
"3502. Insolvency.
"3503. Value.
"3504. Transfer fraudulent as to the United States on present and future claims.
"3505. Transfer fraudulent as to the United States on a present claim.
"3506. When transfer is made or obligation is incurred.
"3507. Remedies of the United States.
"3508. Defenses, liability and protection of transferee.
"3509. Supplementary provision.

"SUBCHAPTER F—FRAUDULENT TRANSFERS

"§ 3501. Definitions

"As used in this subchapter—

"(a) 'Affiliate' means—

"(1) a person who directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor other than a person who holds the securities—

"(A) as a fiduciary or agent without sole discretionary power to vote the securities; or

"(B) solely to secure a debt, if the person has not exercised the power to vote;

"(2) a corporation 20 percent or more of whose voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls, or holds, with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than the person who holds a securities—

"(A) as a fiduciary or agent without sole power to vote the securities;

"(B) solely to secure a debt, if the person has not in fact exercised the power to vote;

"(C) a person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or

"(D) a person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

"(b) 'Asset' means property of a debtor, but does not include—

"(1) property to the extent it is encumbered by a valid lien; or

"(2) property to the extent it is exempt under subchapter E of this chapter.

"(c) 'Insider' includes—

"(1) if the debtor is an individual—

"(A) a relative of the debtor or of a general partner of the debtor;

"(B) a partnership in which the debtor is a general partner;

"(C) a general partner in a partnership described in subsection (c)(1)(B); or

"(D) a corporation of which the debtor is a director, officer, or person in control.

"(2) if the debtor is a corporation—

"(A) a director of the debtor;

"(B) an officer of the debtor;

"(C) a person in control of the debtor;

"(D) a partnership in which the debtor is a general partner;

"(E) a general partner in a partnership described in subsection (c)(2)(D); or

"(F) a relative of a general partner, director, officer, or person in control of the debtor.

"(3) if the debtor is a partnership—

"(A) a general partner in the debtor;

"(B) a relative of a general partner in, a general partner of, or a person in control of the debtor;

"(C) another partnership in which the debtor is a general partner;

"(D) a general partner in a partnership described in subsection (c)(3)(C); or

"(E) a person in control of the debtor.

"(4) an affiliate, or an insider of an affiliate as if the affiliate were the debtor; and

"(5) a managing agent of the debtor.

"(d) 'Lien' means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceeding, a common law lien, or a statutory lien.

"(e) 'Relative' means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

"(f) 'Transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

"(g) 'Valid lien' means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

"§ 3502. Insolvency

"(a) A debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets at a fair valuation.

"(b) A debtor who is generally not paying his debts as they become due is presumed to be insolvent.

"(c) A partnership is insolvent under subsection (a) if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of all of the partnership's assets and the sum of the excess of the value of each general partner's non-partnership assets over the partner's non-partnership debts.

"(d) Assets under this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this subchapter.

"(e) Debts under this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

"§ 3503. Value

"(a) Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

"(b) For the purposes of sections 3504(a)(2) and 3507, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, non-collusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement.

"(c) A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

"§ 3504. Transfer fraudulent as to the United States on present and future claims

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to the United States, whether its claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation—

"(1) with actual intent to hinder, delay, or defraud the United States or any other creditor of the debtor; or

"(2) without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor—

"(A) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

"(B) intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.

"(b) In determining actual intent under subsection (a)(1), consideration may be given, among other factors, to whether—

"(1) the transfer or obligation was to an insider;

"(2) the debtor retained possession or control of the property transferred after the transfer;

"(3) the transfer or obligation was disclosed or concealed;

"(4) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;

"(5) the transfer was of substantially all of the debtor's assets;

"(6) the debtor absconded;

"(7) the debtor removed or concealed assets;

"(8) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;

"(9) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;

"(10) the transfer occurred shortly before or shortly after a substantial debt was incurred; and

"(11) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

"§ 3505. Transfer fraudulent as to the United States on a present claim

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to the United States on its claims which arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in

exchange for the transfer or obligation and the debtor was insolvent at the time or the debtor became insolvent as a result of the transfer or obligation.

"(b) A transfer made by a debtor is fraudulent as to the United States on its claim which arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at the time, and the insider had reasonable cause to believe that the debtor was insolvent.

"§ 3506. When transfer is made or obligation is incurred

"For the purposes of this subchapter—

"(a) a transfer is made—

"(1) with respect to an asset that is real property, other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and

"(2) with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that the United States on a simple contract cannot acquire a judicial lien otherwise than under this subchapter that is superior to the interest of the transferee.

"(b) If applicable law permits the transfer to be perfected as approved in subsection (a) and the transfer is not so perfected before the commencement of an action for relief under this subchapter, the transfer is deemed made immediately before the commencement of the action.

"(c) If applicable law does not permit the transfer to be perfected as provided in subsection (a), the transfer is made when it becomes effective between the debtor and the transferee.

"(d) A transfer is not made until the debtor has acquired rights in the asset transferred.

"(e) An obligation is incurred—

"(1) if oral, when it becomes effective between the parties; or

"(2) if evidenced by a writing, when the writing was executed by the obligor is delivered to or for the benefit of the obligee.

"§ 3507. Remedies of the United States

"(a) In an action for relief against a transfer or obligation under this subchapter, the United States, subject to the limitations in section 3508, may obtain, subject to applicable principles of equity and in accordance with the Federal Rules of Civil Procedure—

"(1) avoidance of the transfer or obligation to the extent necessary to satisfy the claim of the United States;

"(2) an attachment or other remedy against the asset transferred or other property of the transferee in accordance with the procedure described by this chapter.

"(b) If the United States has obtained a judgment on a claim against the debtor, if the court so orders, it may levy execution on the asset transferred or its proceeds.

"§ 3508. Defenses, liability and protection of transferee

"(a) A transfer or obligation is not voidable under section 3504(a) against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

"(b) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by the United States under section 3507(a)(1), it may recover judgment for the value of the asset transferred, as adjusted under subsection (c), or the amount necessary to satisfy its claim, whichever is less. The judgment may be entered against—

"(1) the first transferee of the asset or the person for whose benefit the transfer was made; or

"(2) any subsequent transferee other than a good faith transferee who took for value or from any subsequent transferee.

"(c) If the judgment under subsection (b) is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

"(d) Notwithstanding voidability of a transfer or an obligation under this subchapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to—

"(1) a lien on or a right to retain any interest in the asset transferred;

"(2) enforcement of any obligation incurred; or

"(3) a reduction in the amount of the liability on the judgment.

"(e) A transfer is not voidable under section 3504(a)(2) or section 3505 if the transfer results from—

"(1) termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or

"(2) enforcement of a security interest in compliance with article 9 of the Uniform Commercial Code or its equivalent in effect in the jurisdiction where the property is located.

"(f) A transfer is not voidable under section 3505(b)—

"(1) to the extent the insider gave new value to or for the benefit of the debtor after the transfer was made unless the new value was secured by a valid lien;

"(2) if made in the ordinary course of business or financial affairs of the debtor and the insider, or

"(3) if made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose, as well as an antecedent debt of the debtor.

"§ 3509. Supplementary provision

"Unless displaced by the provisions of this subchapter, the principles of law and equity, including the law merchant and the law relating to principal and agent, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause, supplement its provisions.

"SUBCHAPTER G—PARTITION

"Sec.
"3601. Action by United States for partition.
"3602. Service of process in partition action.
"3603. Trial; commissioners; decree of partition.
"3604. Partition by sale.
"3605. Costs.

"SUBCHAPTER G—PARTITION

"§ 3601. Action by United States for partition

"(a) The United States, as co-owner or claimant of real or personal property, or an interest therein, may compel a partition of the property among the co-owners and tenants.

"(b) The district court shall have original jurisdiction of any civil action brought by the United States for the partition of property. The action for partition shall be filed in the judicial district in which the property, or a part thereof, is located. An action in a State court in which the United States is a defendant and in which the United States seeks partition may be removed to the district court.

"(c) The United States shall file a complaint stating—

"(1) the name and residence, if known, of each co-owner or claimant to such property;

"(2) the share of interest, if known, of each coowner or claimant in such property;

"(3) a description of the property sought to be partitioned; and

"(4) the estimated value of the property for which partition is sought.

"§ 3602. Service of process in partition action

"(a) Personal service of summonses and complaints and other process shall be made in accordance with rules 4 (c) and (d) of the Federal Rules of Civil Procedure upon a defendant who resides within the United States or its territories or insular possessions and whose residence is known.

"(b) Upon the filing of a certificate by counsel for the United States stating that it is believed that a defendant cannot be personally served, because after diligent inquiry within the State in which the complaint is filed his place of residence cannot be ascertained by the United States or, if ascertained, that it is beyond the territorial limits of personal service as provided in rules 4 (c) and (d) of the Federal Rules of Civil Procedure, service of Notice of Summons and Complaint shall be made on that defendant by publication in a newspaper published in the county where the property is located, or if there is no such newspaper, then in a newspaper having a general circulation in the State where the property is located, once a week for 3 successive weeks. Prior to the last publication, a copy of the notice shall also be mailed to a defendant who cannot be personally served as provided in this rule but whose place of residence is then known. Unknown owners may be served by publication in like manner by a notice addressed to 'Unknown Others.' Service by publication is complete upon the date of the last publication. Proof of publication and mailing shall be made by certificate of counsel for the United States, to which shall be attached a printed copy of the published notice with the name and dates of the newspaper marked thereon.

"§ 3603. Trial; commissioner; decree of partition

"(a) All questions of law or equity affecting the title of the property which may arise, and the determination of the share or interest of each of the co-owners or claimants shall be tried by the court without a jury.

"(b) The court shall determine whether the property, or any part thereof, is susceptible of partition. If the court determines that the whole, or any part of the property is susceptible of partition, then the court shall enter a decree directing the partition of the property which is held to be susceptible of partition, describing it and specifying the share or interest to which each party is entitled. The court shall then appoint three or more competent and disinterested persons as commissioners to make the partition in accordance with the court's decree, the majority of the commissioners may act.

"(c) The court may appoint a surveyor to assist the commissioners in making a partition of real estate. The commissioners may cause the real estate to be surveyed and partitioned into several tracts or parcels.

"(d) The court may appoint an appraiser or appraisers to value the property and file an appraisal report with the court and the commissioners, as the court directs.

"(e) The commissioners shall divide the property into as many shares as there are persons entitled thereto, as determined by the court, having due regard in the division of the property to the situation, quantity, and advantage of each share, so that the shares may be equal in value, as nearly as may be, in the proportion to the respective shares or interests of the parties entitled thereto.

"(f) The commissioners shall report in writing to the court; and the report shall be determined by a majority of the commissioners and the contents shall be governed by the provisions of rules 53(e) (1) and (2) of the Federal Rules of Civil Procedure. The report shall also contain the following—

"(1) The several tracts, units, or parcels into which the property was divided (describing each particularly);

"(2) the number of shares and the estimated value of each share;

"(3) the allotment of each share; and

"(4) field notes and maps as to each estate, as may be necessary.

"The findings and reports of the commissioners shall have the effect, and be dealt with by the court in accordance with the practice prescribed in rule 53(e)(2).

"(g) The decree of the court confirming the report of commissioners in a partition of property gives a recipient of an interest in the property a title equivalent to a conveyance of the interest by warranty deed as in the case of real property or by bill of sale as to personal property, from the other parties in the action.

"(h) All conditions, restrictive covenants, and encumbrances against the property that applied to the property prior to the partition shall remain against the property as partitioned unless those restrictions, covenants and encumbrances have been included and are subject to the partition action.

"§ 3604. Partition by sale

"Should the court determine that a fair and equitable division of the property, or any part thereof, cannot be made, the court shall order a sale of that part which is incapable of partition, which sale shall be for cash, or upon such other terms as the court may direct, and shall be made as provided by title 28, United States Code, chapter 127, or through a receiver, as the court so orders. The proceeds of such sale shall be paid into the court and partitioned among the persons and parties entitled thereto according to their respective interests.

"§ 3605. Costs

"Costs shall be taxed against each party to whom a share has been allotted in proportion to the value of such share.

"SUBCHAPTER H—FORECLOSURE OF SECURITY INTERESTS

"Sec.
"3701. United States foreclosures governed by Federal law.

"SUBCHAPTER H—FORECLOSURE OF SECURITY INTERESTS

"§ 3701. United States foreclosures governed by Federal law

"Unless the documents specifically adopt State law, any action by the United States to foreclose security interests in real property shall be governed by the Federal statutes and applicable regulations, provisions set forth in the transaction documents and by Federal common law where there is no governing statute, applicable regulation or provision, and not by the State law where the real property is located. This shall include, but not be limited to, questions regarding redemption rights and deficiency judgments.

"§ 3702. Deficiency rights on federally guaranteed or insured loans

"Unless the documents specifically adopt State law, the right of the United States to collect a deficiency following the foreclosure of a loan guaranteed or insured by the United States or any agency thereof shall be governed by Federal statutes, applicable regulations, and the provisions set forth in the transaction documents. The rights of the United States under this section shall apply notwithstanding the provisions of any State law and without regard to the method used by the loan holder to foreclose the loan.".

TITLE II—AMENDMENTS TO OTHER PROVISIONS OF LAW

SEC. 201. Section 505 of title 11, United States Code, is amended by adding at the end thereof the following subsection:

"(d) Payments of taxes under this title to a governmental unit may be applied by the governmental unit in a manner that preserves alternative sources of collection, if any.".

SEC. 202. Section 523(a) of title 11, United States Code, is amended as follows:

(a) by deleting the word "or" at the end of section 523(a)(9); and

(b) by deleting "." at the end of section 523(a)(10) and adding "; and" in lieu thereof; and

(c) by adding the following subsections at the end of section 523(a):

"(11) to the extent that such debt arises from a violation by the debtor of a civil or criminal law enforceable by an action by a governmental unit to recover restitution, damages, civil penalties, attorney fees, costs, or any other relief, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit; or

"(12) to the extent such debt arises from a criminal appearance bond.".

SEC. 203. Section 523(a) of title 11, United States Code, is amended to read as follows:

(a) subsection (8) is amended to read as follows:

"(8) for an educational benefit overpayment or loan made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend, unless—".

(b) subsection (8)(A) is amended to read as follows:

"(A) such loan, benefit, scholarship or stipend overpayment or loan first became due 7 years (exclusive of any applicable suspension of the repayment period) before the date of the filing of the petition; or".

SEC. 204. (a) Section 1129(a)(9)(C) of title 11, United States Code, is amended to read as follows:

"(C) with respect to a claim of a kind specified in section 507(a)(7) of this title, the holder of such claim will receive on account of such claim deferred cash payments, over a period not exceeding 6 years after the date of assessment of such claim or 6 years after confirmation for such claims that have not been assessed, of a value as of the effective date of the plan, equal to the allowed amount of such claim.".

(b) Section 1129 of title 11, United States Code, is amended by adding at the end thereof the following:

"(e) For purposes of determining the value of deferred cash payments under a plan with respect to a secured or unsecured tax claim, the appropriate interest rate shall be the statutory rate applicable to unpaid taxes owing to the governmental unit holding the claim.".

SEC. 205. Section 1328(a)(2) of title 11, United States Code, is amended by striking out "section 523(a)(5)" and inserting in lieu thereof "paragraphs (5) and (11) of section 523(a)".

SEC. 206. Section 3142(c)(1)(B)(xi) of title 18, United States Code, is amended to read as follows:

"(xi) execute an agreement to forfeit upon failing to appear as required, property of a sufficient unencumbered value, including money, as is reasonably necessary to assure the appearance of the person as required, and shall provide the court with proof of ownership and the value of the property along with information regarding existing encumbrances as the judicial office may require.".

SEC. 207. Section 3142(c)(1)(B)(xii) of title 18, United States Code, is amended to read as follows:

"(xii) execute a bail bond with solvent sureties; who will execute an agreement to forfeit in such amount as is reasonably necessary to assure appearance of the person as required and shall provide the court with information regarding the value of the assets and liabilities of the surety if other than an approved surety and the nature and extent of encumbrances against the surety's property; such surety shall have a net worth which shall have sufficient unencumbered value to pay the amount of the bail bond.".

SEC. 208. Section 3142(g)(4) of title 18, United States Code, is amended by—

(a) striking out "(c)(2)(k)" and inserting in lieu thereof "(c)(1)(B)(xi)"; and

(b) striking out "(c)(2)(L)" and inserting in lieu thereof "(c)(1)(B)(xii)".

SEC. 209. (a) Section 3552(d) of title 18, United States Code, is amended by adding at the end thereof the following:

"The court shall provide a copy of the presentence report to the attorney for the Government to use in collecting an assessment, criminal fine, forfeiture or restitution imposed.".

(b) The amendment made by subsection (a) shall take effect as if enacted on the date of the taking effect of section 3552(d) of title 18, United States Code.

SEC. 210. Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking out "by execution against the property of the defendant"; and

(2) in paragraph (1) by striking out "civil cases." and inserting in lieu thereof "accordance with chapter 176 of title 28. The United States may elect at its discretion to use any remedy available under this chapter or chapter 176 of title 28 or any combination of such remedies in the same case."; and

(3) in paragraph (4), by deleting the word "Salaries" and inserting in lieu thereof the following:

"Notwithstanding any contrary provision in chapter 176 of title 28, United States Code, salaries."; and

(4) in paragraph (5), the second sentence should be deleted.

SEC. 211. Section 3579(f)(4) of title 18, United States Code, is amended by—

(a) striking out the "." at the end thereof; and

(b) adding at the end thereof the following: "only if they are in fear of contact with the defendant.".

SEC. 212. (a) Section 3613 of title 18, United States Code, is amended—

(1) in subsection (d), as added by section 212(a) of the Comprehensive Crime Control Act of 1984, by striking out the second sentence; and

(2) in subsection (e), as added by section 212(a) of the Comprehensive Crime Control Act of 1984 by—

(A) striking out "by execution against the property of the person fined";

(B) striking out "civil cases," and inserting in lieu thereof "accordance with chapter 176 of title 28,"; and

(C) adding at the end thereof "The United States may elect at its discretion to use any remedy available under this chapter or chapter 176 of title 28 or any combination of such remedies in the same case.".

(b) The amendments made by this section shall take effect as if enacted on the date of the taking effect of such section 3613.

SEC. 213. Section 3663(f)(4) of title 18, United States Code, is amended by inserting before the period at the end thereof the following: "only if they are in fear of contact with the defendant.".

SEC. 214. Section 524 of title 28, United States Code, is amended by adding at the end thereof the following:

"(d)(1) There shall be established in the United States Treasury a special fund to be known as the Department of Justice Debt Collection Fund (hereinafter in this subsection referred to as 'fund') which shall be available to the Attorney General without fiscal year limitation in such amounts as may be specified in appropriation Acts for the purposes set forth herein.

"(2) There shall be deposited in the fund 5 percent of all net amounts realized from the debts collected by the divisions of the Department of Justice and all United States attorney's offices. Deposits to the fund shall begin the day after the date of enactment, from all amounts collected on and after that date.

"(3) The fund may be used for the following purposes of the Department of Justice:

"(A) the training of personnel of the Department of Justice in debt collection;

"(B) services pertinent to debt collection, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations related to locating debtors and their property; and

"(C) expenses of costs of sales of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs;

"(4) Amounts in the fund which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by the United States.

"(5) For fiscal years 1990, 1991, 1992, and 1993 there are authorized to be appropriated such sums as may be necessary for the purposes described in subsection (3). At the end of each fiscal year, any amount in the fund in excess of the amount appropriated, shall be deposited in the general fund of the Treasury of the United States, except that an amount not to exceed $5,000,000 may be carried forward and be available in the next fiscal year.

"(6) For the purposes of these subsections, amounts from debt collection efforts of the Department of Justice shall include amounts realized from actions brought by or judgments enforced by Department of Justice personnel, including those in all United States attorneys' offices, whether civil or criminal, and whether involving tax or non-tax debts owed to the United States, except as deposit of such amounts into other special funds is required by law.".

SEC. 215. Section 550 of title 28, United States Code, is amended by striking out "assistants and messengers" and inserting in lieu thereof "assistants, messengers, and private process servers.".

SEC. 216. Section 1961(c)(1) of title 28, United States Code, is amended to read as follows:

"(c)(1) The provisions of this section do not apply to judgments entered in favor of the United States.".

SEC. 217. Section 1962 of title 28, United States Code, is amended by adding the following after the first sentence thereof: "The provisions of this section do not apply to judgments entered in favor of the United States.".

SEC. 218. Section 1963 of title 28, United States Code, is amended by adding the following after the first sentence thereof: "Such a judgment entered in favor of the United States may be registered as specified any time after judgment is entered.".

SEC. 219. (a) Chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following section:

"§ 2044. Payment of fine with bond money

"Upon motion of the United States attorney, the court shall order any money belonging to and deposited by the defendant with the court for the purposes of a criminal appearance bail bond (trial or appeal) to be held and paid over to the United States attorney to be applied to the payment of any assessment, fine, restitution or penalty imposed upon the defendants. The court shall not release any money deposited for bond purposes after a plea or a verdict of the defendant's guilt has been entered and before sentencing, except upon a showing that an assessment, fine, restitution or penalty cannot be imposed for the offense the defendant committed or that the defendant would suffer an undue hardship. This does not apply to any third party sureties.".

(b) The table of sections for chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"2044. Payment of fine with bond money.".

SEC. 220. Section 2410(c) of title 28, United States Code, is amended by adding at the end thereof the following: "In any case where the United States is a bidder at the judicial sale, it may credit the amount determined to be due it against the amount it bids at such sales.".

SEC. 221. Section 2413 of title 28, United States Code, and the item relating to section 2413 in the table of sections for chapter 161, are repealed.

KENNEDY (AND OTHERS) AMENDMENT NO. 932

Mr. KENNEDY (for himself, Mr. HATCH, Mr. WILSON, Mr. BIDEN, Mr. KOHL, and Mr. DODD) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, insert the following new title:

TITLE —TREATMENT, PREVENTION AND EDUCATION

SEC. 01. GRANTS FOR TRAINING OF DRUG TREATMENT PROFESSIONALS.

Title V of the Public Health Service Act is amended by inserting after section 508 (42 U.S.C. 290aa-6) the following new section:

"SEC. 5083. GRANTS FOR TRAINING OF DRUG TREATMENT PROFESSIONALS.

"(a) ESTABLISHMENT.—The Secretary shall establish a grant program to make grants to eligible institutions to enable such institutions to provide training services to increase the supply of drug treatment professionals, including professionals trained to work with adolescents, and professionals trained to work with community prevention activities.

"(b) ELIGIBLE INSTITUTIONS.—Institutions eligible to receive a grant under this section shall include medical schools, schools of osteopathy, schools of nursing, schools of public health, schools of chiropractic services, schools of social work, and other appropriate educational institutions that submit an application in accordance with subsection (c).

"(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible institution shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FISCAL YEAR 1990.—The Secretary shall use amounts appropriated under section 408 for the fiscal year ending September 30, 1990, to carry out this section in fiscal year 1990.

"(2) SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated to make grants under this section in each of the fiscal years 1991 and 1992, such sums as may be necessary.".

SEC. 02. NATIONAL RESOURCE AND INFORMATION CENTER.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new section:

"SEC. 509H. NATIONAL RESOURCE AND INFORMATION CENTER.

"(a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse and Mental Health Administration, shall use amounts made available under subsection (d) to make a grant to an institution of the type described in subsection (b) for the establishment of a National Resource and Information Center for Perinatal Addiction.

"(b) TYPE OF INSTITUTION.—The grant under subsection (a) shall be awarded, after a competitive search, to a private nonprofit institution that has an extensive background and experience in performing research on maternal substance abuse and in disseminating such information to professionals, policymakers, the general public and the media, as well as experience in providing educational services to maternal substance abusers and their exposed infants.

"(c) DUTIES.—The Center established under subsection (a) shall—

"(1) coordinate and disseminate research on maternal substance abuse, treatment options for such women and infants of such women, and prevention strategies;

"(2) develop and distribute training and educational information and materials concerning maternal substance abuse;

"(3) act as a clearinghouse for information on treatment programs for pregnant women who are addicted to illegal substances;

"(4) develop and manage a national toll free hotline to provide information and referrals;

"(5) provide policy analysis and program evaluation to the Secretary of Health and Human Services; and

"(6) provide any other services designed to carry out the purposes of this subsection.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph, $2,500,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991.".

SEC. 03. GRANTS FOR SUBSTANCE ABUSE TREATMENT FOR PREGNANT AND POST-PARTUM WOMEN.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) (as amended by section —03) is further amended by adding at the end thereof the following new section:

"SEC. 5091. GRANTS FOR SUBSTANCE ABUSE TREATMENT FOR PREGNANT AND POST-PARTUM WOMEN.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall, subject to amounts available in appropriation acts, make grants to entities to provide assistance to outpatient and residential substance abuse treatment programs relating to pregnant and post-partum women and their infants, that meet the requirements of subsection (b).

"(b) REQUIREMENTS.—

"(1) DISTRIBUTION.—In making grants under subsection (a), the Administrator shall ensure that grants are reasonably distributed among projects that provide outpatient and residential treatment.

"(2) SERVICES.—An entity shall not be eligible for a grant under subsection (a) unless such entity provides the Administrator with an assurance that such entity will use assistance provided under such grant to provide, arrange for the provision of, or refer individuals to, services that shall include—

"(A) intervention services for pregnant and post-partum women, including—

"(i) substance abuse and addiction treatment services;

"(ii) support services (such as child care and transportation services);

"(iii) education and skill building services (such as parenting and job seeking skill services);

"(iv) integration and coordination of substance abuse treatment services with prenatal or post-partum health care services;

"(v) innovative methods of outreach to identify and recruit target populations for services early in the pregnancy of individuals of such populations;

"(vi) medical screening procedures of pregnant women for past and present substance use and abuse; and

"(vii) after care services;

"(B) interventions where infants are at risk, including—

"(i) direct intervention, treatment, or rehabilitation of infants, which may include other siblings, to reduce or prevent the impact of maternal substance abuse on such children; and

"(ii) supportive services for biologic or foster parents of infants affected by maternal substance abuse;

"(C) service delivery strategies that may include—

"(i) strategies for the coordination, for purposes of identification or service delivery, of family violence and homeless shelter programs, programs under part A of title IV of the Social Security Act, and section 17 of the Child Nutrition Act of 1966, crisis pregnancy centers programs, public housing programs, and prison programs, with other likely points of access for high risk women;

"(ii) strategies concerning the involvement of significant others (such as male partners of pregnant women) as direct intervention targets or strategies to aid in the outreach and service delivery processes for women;

"(iii) strategies for co-locating multiple facilities to facilitate the delivery of services; and

"(iv) innovative strategies (such as case management) to ensure the coordinated utilization of generally unrelated service systems; and

"(D) other services necessary to improve pregnancy outcomes, reduce substance abuse among women of childbearing age, and increase the stability of the family home environment.

"(c) APPLICATION.—The Administrator shall not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Administrator determines to be necessary to carry out this section; and

"(4) the application contains an assurance that the applicant will provide funds, other than Federal funds, in an amount that is not less than 10 percent of the amount of the grant under subsection (a).

"(d) CONSTRUCTION.—Nothing in this section shall be construed to permit the Secretary to discriminate in the awarding of grants under subsection (a) against applicants that propose or provide residential or outpatient rehabilitation services under applicable requirements of State law, including applicants that provide services to substance abusing pregnant and post-partum women that receive treatment by order of a court or other appropriate public agency, so long as all such applications include measures that encourage substance abusing pregnant and post-partum women to seek prenatal care and rehabilitation.

"(f) There are authorized to be appropriated to carry out this section, $50,000,000 in fiscal year 1990, and such sums as may be necessary in fiscal year 1991.".

SEC. 04. EMERGENCY PROTECTIVE CHILD SERVICES GRANTS.

"(a) ESTABLISHMENT.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101) is amended by adding after section 8 the following new section:

"SEC. 8A. EMERGENCY PROTECTIVE CHILD SERVICES GRANTS.

"(a) ESTABLISHMENT.—Subject to the availability of appropriations, the Secretary shall establish a grant program to make grants to eligible entities to enable such entities to provide services to children whose parents are substance abusers.

"(b) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under this section shall be State or local agencies that are responsible for administering protective child services or child abuse intervention services. Such agencies shall include those agencies responsible for administering foster care, child welfare, child protective services, and child abuse intervention programs.

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.

"(2) ASSURANCE OF USE.—An application submitted under paragraph (1) shall—

"(A) contain an assurance that the applicant operates in a geographic area where substance abuse has placed substantial strains on social service and law enforcement agencies and has resulted in substantial increases in the need for services that cannot be met without funds available under this section;

"(B) identify the responsible agency or agencies that will be involved in the use of funds provided under this section;

"(C) contain a description of the emergency situation with regard to children of substance abusers who need services of the type described in this section;

"(D) contain a plan for improving the delivery of such services to such children;

"(E) contain assurances that such services will be provided in a comprehensive multidisciplinary and coordinated manner; and

"(F) contain any additional information as the Secretary may reasonably require.

"(d) USE OF FUNDS.—Funds received by an entity under this section part shall be used to improve the delivery of services to children whose parents are substance abusers. Such services may include—

"(1) the hiring of additional personnel by the entity to reduce caseloads;

"(2) the provision of additional training for personnel to improve their ability to provide emergency child protective services related to substance abuse by the parents of such children;

"(3) the provision of expanded services to deal with family crises created by substance abuse;

"(4) the recruitment of additional foster care families;

"(5) the recruitment of additional adoptive families; and

"(6) the establishment or improvement of coordination between the agency administering the grant and—

"(A) child protection and welfare organizations;

"(B) hospitals and health care providers;

"(C) public health and mental health professionals;

"(D) judicial and law enforcement officers;

"(E) child advocates;

"(F) public educational institutions;

"(G) community-based organizations that serve substance abusing parents, including pregnant and post-partum females and their infants;

"(H) public housing officials;

"(I) providers of shelter to abused and homeless females and families and

"(J) parents and representatives of parent groups.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $40,000,000 in fiscal year 1990, and such sums as may be necessary in each subsequent fiscal year.".

(b) CHILD ABUSE GRANTS.—

(1) FINDINGS.—Section 402(A) of the Joint Resolution entitled "A Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes", (approved October 12, 1984, Public Law 98-473, 98 Stat. 2198, 42 U.S.C. 5116d) is amended—

(A) by inserting after paragraph (3), the following new paragraph:

"(4) parental substance abuse places children at great risk of abuse and neglect;"; and

(B) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8) respectively.

(2) STATE ELIGIBILITY.—Section 405(4)(A) of such Act (98 Stat. 2198, 42 U.S.C. 5116c) is amended by inserting "services to substance abusing parents, including pregnant and post-partum women," after "perinatal bonding,".

SEC. 05. PRIMARY PEDIATRIC CARE FOR DISADVANTAGED CHILDREN PROGRAM.

Subpart V of part D of title III of the Public Health Service Act (42 U.S.C. 256 et seq.) is amended—

(1) by adding after the subpart heading the following:

"CHAPTER 1—GRANT PROGRAM";

(2) in section 340(q), to read as follows:

"(q) FUNDING.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out chapters 1 and 2, $61,200,000 for fiscal year 1989, $73,600,000 for fiscal year 1990, and $76,200,000 for fiscal year 1991.

"(2) USE OF FUNDS.—Of amounts made available under paragraph (1) in excess of $63,600,000 in fiscal year 1990 and $66,200,000 in fiscal year 1991, the Secretary shall use up to $10,000,000 in each of such fiscal years to carry out chapter 2.

"(3) Amounts received by a grantee pursuant to subsection (a) remaining unobligated at the end of the fiscal year in which the amounts were made received shall remain available to the grantee during the succeeding fiscal year for the purpose described in such subsection."; and

(3) by adding at the end thereof the following new chapter:

"CHAPTER 2—PRIMARY PEDIATRIC CARE FOR DISADVANTAGED CHILDREN PROGRAM

"SEC. 340A. PRIMARY PEDIATRIC CARE FOR DISADVANTAGED CHILDREN PROGRAM.

"(a) DEFINITION.—As used in this section, the term 'acute and primary pediatric care' means general outpatient services such as immunizations, general physical examinations, treatment of otitis media and simple pneumonias, assessment of growth and development, and referrals.

"(b) AUTHORITY.—The Director may make grants and enter into contracts with public and nonprofit organizations, agencies, and institutions, and with individuals to pay part or all of the costs of establishing programs (such as the New York Children's Health Project) designed to provide high quality acute and primary pediatric care to economically disadvantaged children and adolescents for the purposes described in subsection (c), or operating such programs, or both.

"(c) ELIGIBLE ACTIVITIES.—A recipient shall use funds available under this section to—

"(1) provide child health stations or, where appropriate, mobile medical units, staffed by physicians, nurse practitioners, and other health care providers to conduct health assessments, acute care, physical exams, and simple lab tests.

"(2) establish an extensive follow-up system to ensure maximum consultative and referral visits for comprehensive health needs;

"(3) provide adolescent health services that are coordinated by an adolescent health physician and that relate to specific programs for—

"(A) prenatal care for teenage pregnancies;

"(B) the identification of potential chemical substance abuse;

"(C) an intensive substance abuse prevention program; and

"(D) other adolescent health problems;

"(4) provide psychological services directly or through references, including screening, evaluation, and treatment by a psychologist under the direction of a developmental pediatrician;

"(5) establish a child abuse identification and management referral program;

"(6) establish a health service program for children in foster care;

"(7) establish a program to provide medical services and community referrals to runaway and homeless youth;

"(8) establish a program to provide services to children with special medical needs, such as a physical handicap or chronic illness; or

"(9) establish programs for other underserved children.".

SEC. 06. RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION GRANTS.

Section 508 of the Public Health Service Act (42 U.S.C. 290aa-6) is amended—

(1) in subsection (b)(10)—

(A) by striking out "and" at the end of subparagraph (A); and

(B) by adding at the end thereof the following new subparagraph:

"(C) establish a program to provide grants to hospitals, community health centers, and chemical dependency treatment centers that serve non-metropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, chemical dependency treatment or education services; and"; and

(2) by adding at the end thereof the following new subsection:

"(e)(1) In carrying out subsection (b)(1)(C) the Director shall provide grants in accordance with this subsection.

"(2) To receive a grant under subsection (b)(1)(C), a hospital, community health center, or treatment facility shall—

"(A) serve a non-metropolitan area or have a substance abuse treatment or education program that is designed to serve a non-metropolitan area;

"(B) be operating, or have a plan to operate, an approved substance abuse treatment program or an approved community education program;

"(C) agree to coordinate substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(D) prepare and submit an application in accordance with paragraph (3).

"(3)(A) To be eligible to receive a grant under subsection (b)(10)(C), an entity shall submit an application to the Director at such time, in such manner, and containing such information, including an assurance that assistance received under this section shall be used in accordance with paragraph (4), as the Director shall require.

"(B) State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants under paragraph (2).

"(4) An entity that receives a grant under subsection (b)(10)(C) shall use such grant to assist or establish projects that serve nonmetropolitan areas in which the need for substance abuse treatment services is greater than the capacity of available treatment facilities at the time of such grant.

"(5)(A) To receive a grant under subsection (b)(10)(C), a project shall serve nonmetropolitan areas in which the need for substance abuse treatment facilities is greater than the capacity of such existing treatment facilities.

"(B) In awarding grants under subsection (b)(10)(C), the Director shall give special consideration to—

"(i) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(ii) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(iii) projects that are designed to serve areas that have no available existing treatment facilities.

"(6) The term of each grant shall not exceed 3 years.

"(7) To the extent feasible, the Director shall provide grants to fund at least one project in each State.".

SEC. 07. DRUG ABUSE TREATMENT IMPROVEMENT.

Part A of title V of the Public Health Service Act (42 U.S.C. 290dd et seq.) (as amended by sections 02 and 03) is further amended by adding at the end thereof the following new section:

"SEC 509J. DRUG ABUSE TREATMENT IMPROVEMENT.

"(a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall, subject to the availability of appropriations, establish and implement a Substance Abuse Treatment Improvement Program that shall make grants to, and enter into contracts or cooperative agreements with, State and local drug abuse entities, and public and private nonprofit agencies to—

"(1) increase the total number of drug abuse treatment slots available for individuals in the United States;

"(2) improving drug abuse treatment efficacy;

"(3) provide emergency treatment expansion for geographic areas with high incidences of drug abuse among particularly vulnerable populations, including racial and ethnic minorities, adolescents in urban and rural areas, pregnant and post-partum drug addicts and their infants, intravenous drug abusers, and residents of public housing projects; and

"(4) increasing public acceptability of treatment facilities within local communities.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 in fiscal year 1990, of which $10,000,000 shall be made available for treatment crisis grants, and such sums as may be necessary in fiscal year 1991.".

SEC. 08. RURAL DRUG EDUCATION.

Section 5122 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192) is amended by adding at the end thereof the following new subsection:

"(d) Not less than 5 percent of the funds made available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for substance abuse

education programs serving individuals who reside in non-metropolitan areas. The Secretary may grant a waiver of this subsection for good cause.".

SEC. 09. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa-7) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period; and

(3) by adding at the end thereof the following new paragraphs

"(5) to gather information pertaining to rural drug abuse treatment and education projects funded by the Alcohol, Drug Abuse, and Mental Health Administration, as well as other such projects operating throughout the United States; and

"(6) to disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested individuals.".

SEC. 10. EMPLOYEE ASSISTANCE PROGRAMS.

Section 2101 of the Anti-Drug Abuse Act of 1988 (20 U.S.C. 566) is amended—

(1) in subsection (d), by striking out "$5,000,000" and all that follows through the period and inserting in lieu thereof "$5,300,000 for each of the fiscal years 1990 and 1991 of which $300,000 shall be made available to carry out subsection (d).";

(2) by inserting after subsection (c), the following new subsection:

"(d) CONGRESSIONAL EMPLOYEE ASSISTANCE PLANS.—The Clerk of the House of Representatives and the Sergeant of Arms of the Senate shall each develop and implement an Employee Assistance Program under this section for Congressional members, officers, staff, and families of such individuals. Prior to submitting an application under subsection (b), the Clerk and the Sergeant of Arms shall obtain approval of its plan from the House of Representatives and the Senate."; and

(3) by redesignating subsection (d) as subsection (e).

SEC. 11. STUDY BY THE NATIONAL AGENCY OF SCIENCES AND THE NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES.

(a) SCOPE OF UNDERTAKING.—The Secretary of Health and Human Services, shall arrange to have a study conducted to—

(1) assess drug treatment and prevention programs in effect of the date of enactment of this Act;

(2) identify those drug treatment and prevention programs that are effective;

(3) determine whether the programs referred to in paragraph (2) can and should be expanded or extended to other areas;

(4) determine whether Federal assistance for treatment and prevention program in effect on the date of enactment of this Act should be discontinued; and

(5) recommend an overall Federal medical and public health effort to treat individuals who are addicted to illegal drugs and to further prevent the use of such drugs.

(b) ARRANGEMENTS.—

(1) REQUEST.—The Secretary of Health and Human Services shall request the National Academy of Sciences and the National Institute of General Medical Science to conduct the study required by subsection (a) under an arrangement whereby the actual expenses incurred by such Academy and Institute in conducting such study shall be paid by the Secretary.

(2) UNWILLINGNESS TO ENTER INTO.—If either the National Academy of Sciences or the National Institute of General Medical Sciences, but not both, decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph solely with the Academy or Institute that is willing to conduct such study.

(3) NONPROFIT PRIVATE GROUPS.—If both the National Academy of Sciences or the National Institute of General Medical Sciences decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph with other appropriate nonprofit private groups or associations under which such groups or associations shall conduct such study and prepare and submit the report required under subsection (c).

(4) CONSULTATION.—The entity that conducts the study under subsection (a) shall consult with the Director of the National Institutes of Health.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit, to the Committees on Energy and Commerce and Judiciary of the House of Representatives and the Committee on Labor and Human Resources and Judiciary of the Senate, a report concerning the results of the study conducted under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000.

SEC. 12. COMPREHENSIVE DRUG PREVENTION PROGRAMS.

Section 508 of the Public Health Service Act (42 U.S.C. 290aa-6) is amended—

(1) in subsection (b)(8), by inserting before the semicolon the following: ", including a program that shall establish a comprehensive approach to drug prevention"; and

(2) in subsection (c)—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end thereof the following new paragraph:

"(2) To be eligible to receive assistance under subsection (b)(8), as a program taking a comprehensive approach to drug prevention, an institution shall establish or expand a drug prevention program that is comprehensive in nature, and that includes—

"(A) an anti-drug policy;

"(B) peer to peer drug abuse programs;

"(C) the provision of complete and accurate information concerning drugs;

"(D) the involvement of the family and community; and

"(E) the participation of the institution in a communication system established by the county that such institution operates in for the purpose of sharing drug prevention and education information with local agencies.

SEC. 13. DRUG-FREE WORKPLACE REQUIREMENTS.

(a) FEDERAL CONTRACTORS.—Section 5152(a)(1)(B) of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701(a)(1)(B)) is amended—

(1) in clause (iii), by striking out "and" at the end thereof;

(2) in clause (iv), by adding "and" after the semicolon; and

(3) by adding at the end thereof the following new clause:

"(v) the dangers of drug abuse among children, including the information parents need to know to identify the early signs of drug use by children;".

(b) FEDERAL GRANT RECIPIENTS.—Section 5153(a)(1)(B) of such Act (41 U.S.C. 702(a)(1)(B)) is amended—

(1) in clause (iii), by striking out "and" at the end thereof;

(2) in clause (iv), by adding "and" after the semicolon; and

(3) by adding at the end thereof the following new clause:

"(v) the dangers of drug abuse among children, including the information parents need to know to identify the early signs of drug use by children;".

KENNEDY (AND OTHERS) AMENDMENT NO. 933

Mr. KENNEDY (for himself, Mr. HATCH, Mrs. KASSEBAUM, Mr. PELL, Mr. ADAMS, Mr. MATSUNAGA, and Mr. DURENBERGER) proposed an amendment, which was subsequently modified, to the bill S. 1711, supra, as follows:

At the appropriate place in the bill, insert the following:

(a) THE HIGHER EDUCATION ACT OF 1965.—Section 1212 of the Higher Education Act of 1965 as added by the Department of Transportation and Related Agencies Appropriations Act, 1990, is further amended—

(1) in subsection (a) by—

(A) striking "of law," and inserting "of law, and except as provided in subsection (d),";

(B) striking "and has implemented" and inserting "a plan with a timetable to implement";

(C) striking "and" at the end of paragraph (1)(D);

(D) striking "impose sanctions" and inserting "impose sanctions developed by the institution" in paragraph (1)(E);

(E) inserting at the end of paragraph (1) the following new subparagraph (F):

"(F) a description of the institution's drug and alcohol abuse prevention and intervention program, including alternative support, education and re-entry programs for students who are expelled as a result of violating standards required by paragraph (1)(A).";

(F) by striking "ensure that" and inserting "a description of how" in paragraph (2)(B) and

(3) by inserting at the end thereof the following new subsection (d):

"(d) Upon application by an institution of higher education, the Secretary shall grant a waiver of the sanctions authorized by this section to any institution of higher education which demonstrates that it is in the process of developing and implementing a plan required by subsection (a). Such waiver shall be for a period not to exceed one year from the date of enactment of this section.".

(b) SECTION 5145.—Section 5145 of the Drug-Free Schools and Communities Act of 1986 as added by the Department of Transportation and Related Agencies Appropriations Act, 1990, is further amended—

(1) in subsection (a)—

(A) striking "of law," and inserting "of law, and except as provided in subsection (e),";

(B) striking "and has implemented" and inserting in lieu thereof "a plan with a timetable to implement";

(C) striking the semicolon at the end of paragraph (1), and inserting a comma and

"and complies with the provisions of section 5126(a)(2)(H);";

(D) striking "statement that sanctions" and inserting "statement that sanctions, developed by the local educational agency," in paragraph (4);

(E) renumbering paragraphs (6), (7), and (8), as paragraphs (7), (8), and (9), respectively;

(F) inserting after paragraph (5) the following new paragraph (6):

"(6) a description of the local educational agency's drug and alcohol abuse prevention and intervention program, including alternative support, education and re-entry programs for students who are expelled as a result of violating standards required by paragraph (3);";

(G) striking the semicolon at the end of paragraph (7) (as renumbered in paragraph (1)(E)) and inserting ", and the information required in paragraphs (5) and (6)";

(H) striking "ensure that" and inserting in lieu thereof "a description of how" in paragraph (9)(II) (as renumbered in paragraph (1)(E)); and

(2) in subsection (c) by striking "and has implemented" and inserting in lieu thereof "a plan with a timetable to implement";

(3) in subsection (d) by—

(B) striking "5126(c)" and inserting "5126(a)" in paragraph (2); and

(4) inserting at the end thereof the following new subsection (e):

"(e) Upon application by a State educational agency, the Secretary shall grant a waiver of the sanctions authorized by this section to each State educational agency which demonstrates that it is in the process of developing and implementing a plan required by subsection (a). Such waiver shall be for a period not to exceed one year from the date of enactment of this section.".

(c) SECTION 5125.—Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended by inserting at the end thereof the following new subsection:

"(d) Any local or intermediate education agency or consortia that cannot make the assurances described in section 5126(a)(2)(H) shall use any amounts made available under section 5124(a), that is in excess of the amount made available under such section in fiscal year 1989, for purposes described in section 5126(a)(2)(H).

(d) SECTION 5126.—Section 5126(a)(2) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3196(a)(2)) is amended by inserting after subparagraph (G) the following new subparagraph:

"(H) contain assurances that the local or intermediate educational agency or consortia under section 5124(a) is currently providing, or will provide, in accordance with section 5125(c), anti-drug education and prevention services targeted a students in grades 4 through 9 (and lower grades in areas of high drug use), that shall—

"(i) include prevention of the use of gateway drugs, such as alcohol, tobacco, and marijuana; and

"(ii) to the maximum extent possible—

"(I) include, or coordinate with, community based programs;

"(II) include resistance skills training, social support for prevention, and changing social norms to include nondrug use;

"(III) include, for middle school grades, teaching refusal or resistance skills through peer counseling and other techniques, and life and social skills training;

"(IV) include, for elementary school grades, social developmental programs that include resistance skills and social skills training;

"(V) identify, provide or refer high risk youth as defined in section 5122(b)(2) to available counseling and appropriate social services; and

"(VI) include programs which involve parents, other community members, government officials, and the media.".

(c) SECTION 5127.—Section 5127(a)(1) of the Drug Free Schools and Communities Act of 1986 (20 U.S.C. 3197(a)) is amended—

"(1) in subparagraph (F), by striking out "and";

"(2) in subparagraph (G), by striking out the period and inserting in lieu thereof a semicolon; and

"(3) by adding at the end thereof the following new subparagraph:

"(H) a description of how Federal and non-Federal funds were used for drug prevention and education activities within the State.".

(f) SECTION 5111.—Section 5111(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.) is amended by striking "$350,000,000" and inserting "$577,000,000".

(g) SECTION 5122.—Section 5122 of the Drug-Free Schools and Communities Act of 1986 is amended—

"(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively;

(2) by inserting the following new subsection (a) after the section designation:

"(a) EMERGENCY GRANTS TO SCHOOLS IN URBAN AND RURAL AREAS.—(1) From the amount available to carry out this section pursuant to section 5121(a), 33.3 percent of such amount shall be used by the chief executive officer in consultation with the State educational agency or the chief State school officer of a State, to make contracts with, and emergency grants to, local educational agencies serving urban and rural communities with severe drug problems.

"(2)(A) In awarding grants under this subsection the chief executive shall first award grants to local educational agencies serving the largest city in the State to develop and implement comprehensive approaches to eliminating the serious drug problem that affects schools and students within the boundaries of the local educational agency. Such grants shall be of sufficient size, scope, and quality to be of value and effective.

"(B) After satisfying the requirements of subparagraph (A) the chief executive officer of a State receving a grant pursuant to the provisions of this section shall make grants to urban and rural local educational agencies with severe drug problems as determined by the incidence of drug abuse in relation to the size of the school age population. Such grants shall be of sufficient size, scope, and quality to be of value and effective. Such grants to the local educational agency shall be used for the development and implementation of comprehensive approaches to eliminating the serious drug problem that affects schools and students within the boundaries of the local educational agency.

"(3) The Secretary may waive the provisions of this subsection for States in which there is no concentration of drug problems."; and

(3) in subsection (b) (as amended in paragraph (1)) by striking "IN GENERAL.—Not" and inserting REMAINDER.—From the remainder available to carry out this section, not".

KENNEDY AMENDMENT NO. 934

Mr. KENNEDY proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, insert the following new title:

TITLE —TREATMENT, PREVENTION AND EDUCATION

SEC. 01. USE OF ADAMHA BLOCK GRANT FOR SUBSTANCE ABUSE TREATMENT.

(a) PAYMENTS.—Section 1914(a)(2) of the Public Health Service Act (42 U.S.C. 300x-2(a)(2)) is amended by adding at the end thereof the following new sentence: "The Secretary may waive the provisions of this paragraph regarding the obligation of funds if—

"(A) the State requests such a waiver; and

"(B) the Secretary determines that the requirement is not practicable or would be a serious obstacle to a long term program of the State that expands treatment opportunities.".

(b) USE OF ALLOTMENTS.—Section 1915 of such Act (42 U.S.C. 300x-3)) is amended—

(1) in subsection (b)—

(A) by inserting after the comma in paragraph (1), the following: "except that funds may be used to pay for inpatient hospital drug treatment services pursuant to a contractual arrangement with a hospital if—

"(A) needed residential treatment services could not otherwise be provided; and

"(B) the rates paid for such services do not exceed 125 percent of the cost of the rates typically required for comparable residential services."; and

(B) by inserting after the fifth sentence in the matter following paragraph (B), the following new sentence: "The Secretary may waive or reduce the matching rate requirement of the preceding sentence if the State requests such a waiver and the Secretary determines that a failure to grant such a request would result in a reduction in the resources that would otherwise be used to provide direct treatment services and that are essential to implementation of the State drug abuse plan.";

(2) In subsection (c)(1)—

(A) by inserting "including social and health services necessary to improve treatment outcomes," after "drug abuse in subparagraph (A),";

(B) by striking out "and" at the end of subparagraph (B);

(C) by striking out the period and inserting in lieu thereof "; and" in subparagraph (C); and

(D) by adding at the end thereof the following new subparagraph:

"(D) to provide counseling to family members of drug abusers, including such family members in group and family counseling service settings for the treatment of drug abusers."; and

(B) in subsection (d), by adding at the end thereof the following new sentence: "Expenses incurred for the training of individuals as required under this subpart shall not be included in determining the costs of administering funds made available under section 1914.".

(c) APPLICATION AND DESCRIPTION OF ACTIVITIES.—Section 1916 of such Act (42 U.S.C. 300x-4) is amended—

(1) in subsection (a), by striking out "subsection (c)" and inserting in lieu thereof "subsections (c), (d), and (h)", and

(2) by adding at the end thereof the following new subsection:

"(h)(1) The chief executive officer of a State shall, as part of the application required by subsection (a), prepare and submit to the Secretary (in accordance with such form as the Secretary shall provide) a State plan that describes how a portion of the payments received by the State under section 1914 will be used for providing substance abuse treatment.

"(2) The State plan prepared under paragraph (1) shall—

"(A) provide for the designation of a single State agency to be responsible for the formulation and implementation of the Statewide drug treatment plan;

"(B) provide for the targeting of funds towards areas of the greatest need in the State, using criteria to be established by the Secretary and such additional criteria as the State may establish, to determine such areas of greatest need that shall include criteria focusing on—

"(i) the current unmet treatment needs in the State, including both the inpatient, outpatient, and long and short term drug treatment service needs of defined populations and availability of essential ancillary services;

"(ii) the incidence of deliveries of infants who are adversely affected by the maternal use of drugs;

"(iii) the incidence of drug-related criminal activities; and

"(iv) the incidence of communicable diseases transmitted by drug abuse;

"(C) establish performance criteria to be met by treatment facilities that desire to receive assistance from the State pursuant to the State plan, that shall include—

"(i) the periodic testing of patients to determine the patients compliance with treatment regimens and the establishment of clinically appropriate policies for dealing with patience who fail such tests;

"(ii) a requirement that the testing conducted under clause (i) not be required to be more frequent than is necessary to achieve treatment objectives;

"(iii) controls on the possible diversion of drugs intended for use in the treatment programs of the facility;

"(iv) the provision of outpatient aftercare for those individuals completing residential treatment, either directly or through arrangements with other individuals or entities, for patients who have ended a course of treatment provided by the facility, that shall include periodic appointments with the patient to monitor the patient's progress and provide support services or additional treatment as needed, and, for those individuals completing outpatient treatment, periodic contacts, to the extent feasible, to monitor the individual's progress and provide the individual with, or refer the individual for, additional services or treatment as needed;

"(v) the coordination and referral of patients to social, health, and employment services in order to assist patients in need of counseling, psychiatric or medical treatment, or job training services to function in society and remain drug free;

"(vi) the provision of employment, educational or social services, directly or by referral or arrangement, by facilities that serve a clientele for whom such services are essential to improve treatment outcomes;

"(vii) the retention of patients in treatment until such treatment is appropriately completed, taking into account the characteristics of patients that may make retention more or less difficult and any such other performance-based measures of quality programming as may be appropriate; and

"(viii) policies to maintain a drug-free workplace;

"(D) establish a mechanism to monitor the compliance of the facility with the criteria in subparagraph (C);

"(E) establish mechanisms to assure an adequate number of treatment options, appropriately sited;

"(F) provide for a program of training and retraining of employees of publicly funded treatment facilities to assure that such employees remain informed about the most effective diagnostic and treatment techniques;

"(G) provide for a referral method in each appropriate area of the State that shall assure that each individual requesting treatment is appropriately assessed and referred to the most appropriate treatment facility, and that a currrent list of unfilled treatment slots is available to assist in such referrals;

"(H) increase, if necessary, the availability of specialized services necessary to meet the needs of female and minority drug abusers;

"(I) provide for the establishment of a program stopgap assistance for individuals who apply for treatment but who must wait for the availability of treatment opportunities that shall include—

"(i) treatment ready education and counseling concerning drug abuse; and

"(ii) the referral to, or provision of, other necessary health and social services that may include primary health care, nonmedical education, and vocational training services; and

"(J) provide for the establishment of a program of outreach and treatment for pregnant women who use drugs and their affected newborns.

"(3) The Secretary may waive any or all of the requirements of this subsection on the written request of a State, if the State implements an alternative treatment plan that fulfills the objectives of this subsection in a manner consistent with the requirements of this subsection.

"(4)(A) The Secretary shall establish minimum standards for each area required to be covered by the State plan prepared under this subsection.

"(B) Beginning with fiscal year 1991, no grant shall be awarded to a State for the drug abuse portion of its grant under section 1912A if such State has not met the minimum standards established under subparagraph (A), except that with respect to the performance criteria for treatment facilities described in paragraph (2)(E), the State plan shall provide a reasonable time for treatment programs to meet such performance criteria requirements and shall establish a program to assist in achieving such compliance.

"(C) The Secretary shall monitor the compliance of the State with the plan and minimum standards submitted under this subsection.

"(D) If a State fails to meet such minimum standards, the Secretary shall suspend the making of payments with funds for drug abuse under the State's allotment under section 1912A, except that the Secretary may waive such suspension if the State submits a plan of correction and corrects any violations of such minimum standards within a reasonable period of time, as determined by the Secretary.

"(E)(i) Not later than 3 months after the date of enactment of this subsection, the Secretary shall publish for comment proposed standards developed under this paragraph.

"(ii) Not later than 6 months after the date of enactment of this subsection, the Secretary shall publish final standards.

"(iii) In developing standards under this paragraph, the Secretary shall consult as much as practicable with States, directors of treatment programs that receive public assistance, and drug treatment experts.

"(iv) Standards published under clause (ii) may be revised by the Secretary as the Secretary considers appropriate.

"(v) No minimum standard in an area included in the State plan shall be developed or enforced if the Secretary determines that requiring compliance with such standard would be impractical or that there is an insufficient consensus of expert knowledge or opinion to support such a minimum standard. In cases in which there is no such sufficient consensus, the Secretary shall cause the development of a sufficient consensus of such knowledge to be a high research priority.

"(F) The Secretary shall require standardized data collection from each State that shall, at a minimum, permit the monitoring of State compliance with the minimum standards.

"(G) The Secretary shall develop and promulgate standards for training and licensure of drug treatment personnel.".

SEC. 02. CLINICAL RESEARCH.

Section 517 of the Public Health Service Act (42 U.S.C. 290cc-2) is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end thereof the following new subsection;

"(b) In addition to amounts appropriated under subsection (a), $30,000,000 shall be made available to the Director of the National Institute on Drug Abuse for the performance of clinical research on pharmacological agents for the treatment of drug abuse under section 515(a)(6).".

SEC. 03. ORPHAN DRUG ACT.

(a) IN GENERAL.—

(1) FINDINGS.—Section 1(b) of the Orphan Drug Act (21 U.S.C. 360aa note) is amended—

(A) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively;

(B) by inserting after paragraph (4), the following new paragraph:

"(5) medications used in treating individuals addicted to illegal drugs have failed to attract substantial interest by the pharmaceutical industry even though large numbers of individuals are often affected by such addictions;";

(C) in paragraph (6) (as so redesignated) by inserting "and medications for use in the treatment of addiction" after "orphan drugs"; and

(D) in paragraph (7) (as so redesignated) by inserting "and medications for use in the treatment of addiction" after "orphan drugs".

(2) DEVELOPMENT OF DRUGS.—Section 5 of such Act (21 U.S.C. 360ee) is amended—

(A) by adding at the end of the section heading the following "OR DRUGS FOR THE TREATMENT OF ADDICTION";

(B) in subsection (a), by inserting "or for the treatment of addiction to illegal drugs" after "conditions" each place that such occurs; and

(C) in subsection (b)—

(i) by inserting "or for the treatment of addiction to illegal drugs" after "condition" in paragraph (1)(A)(i); and

(ii) by adding at the end thereof the following new paragraph:

"(4) The term 'addiction' shall have the same meaning given such term in section 526(a)(3)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb(a)(3)(B)).".

(b) DRUGS FOR RARE CONDITIONS.—Section 525(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360aa(a)) is amended by inserting "or a medication which is used for the treatment of addiction" after "rare in the States".

(c) DESIGNATION OF DRUGS.—Section 526 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb) is amended—

(1) by adding at the end of the section heading the following "OR DRUGS FOR THE TREATMENT OF ADDICTION"; AND

(2) in subsection (a)—

(A) by inserting "or a drug for use in treating addiction to illegal drugs" after "or condition," in paragraph (1); and

(B) by adding at the end thereof the following new paragraph:

"(3) For purposes of paragraph (1)—

"(A) 'drugs for use in treating' means those pharmacological agents or medications that—

"(i) reduce the craving for abused drugs;

"(ii) block the behavioral and physiological effects of abused drugs;

"(iii) safely serve as replacement therapies for the treatment of drug abuse;

"(iv) moderate or eliminate the process of withdrawal;

"(v) block or reverse the toxic effects of abused drugs; or

"(vi) prevent, where possible, the initiation of drug abuse in individuals at high risk;

"(B) 'addiction' means the state of an individual where that individual habitually uses an illegal drug in a manner that endangers the public morals, health, safety, or welfare, or who is so addicted to the use of illegal drugs that such individual loses the power of self-control with reference to such individuals addiction; and

"(C) 'illegal drugs' means a controlled substance, as defined in section 102(6) in the Controlled Substance Act (21 U.S.C. 892(6)).".

"(d) PROTECTION FOR DRUGS FOR RARE CONDITIONS.—Section 527 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cc) is amended—

"(1) by adding at the end of the section heading the following "OR DRUGS FOR THE TREATMENT OF ADDICTION";

"(2) in subsection (a)—

"(A) by inserting "or a drug for use in treating addiction to illegal drugs," after "rare disease or condition,"; and

"(B) by inserting "or for such method of treating addiction to that illegal drug" after "such disease or condition";

"(3) in subsection (b)—

"(A) by inserting "or addiction" after "or condition" in paragraph (1);

"(B) by striking out "or" at the end of paragraph (1);

"(C) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or"; and

"(D) by adding at the end thereof the following new subparagraph:

"(3) the Secretary finds that the price of the drug is not reasonable considering the research, development, and production costs of such drug and the price is preventing individuals in need of such drug from gaining access to it."; and

"(4) by adding at the end thereof the following new subsection:

"(c) Subsection (b)(3) shall only apply to drugs approved after the date of enactment of this subsection.".

"(e) PROTOCOLS FOR INVESTIGATIONS.—Section 528 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360dd) is amended—

"(1) by adding at the end of the section heading the following "OR DRUGS FOR THE TREATMENT OF ADDICTION";

"(2) by inserting "or for the treatment of addiction to illegal drugs" after "rare disease or condition";

"(3) by inserting "or addition" after "persons with the disease or condition"; and

"(4) by inserting "or addiction" after "treat the disease or condition".

"(f) ORPHAN PRODUCTS BOARD.—Section 227 of the Public Health Service Act (42 U.S.C. 236) is amended—

"(1) in subsection (a), by inserting "or for the treatment of addiction to illegal drugs" after "or conditions" each time such appears;

"(2) in subsection (b), by inserting "or for the treatment of addiction to illegal drugs" after "rare diseases or conditions"; and

"(3) in subsection (c), by inserting "or for the treatment of addiction to illegal drugs" after "or conditions".

SEC. 04. COMPREHENSIVE COMMUNITY SUBSTANCE ABUSE PREVENTION PROGRAMS

"(a) FINDINGS AND PURPOSE.—

"(1) FINDINGS.—Congress finds that—

(A) Preventing substance abuse is the key to reducing the demand for illegal drugs and stopping the drug epidemic;

(B) substance abuse prevention activities have been seriously ignored and underfunded;

(C) successful prevention efforts require the involvement of all segments of the community including those in leadership positions and other concerned individuals and organizations on the grassroots level;

(D) many communities lack the tools, resources, and knowledge to mount an effective and comprehensive substance abuse prevention program; and

(E) the Federal Government should be a partner with local and State governments and community organizations in an effort to prevent substance abuse.

(2) PURPOSE.—It is the purpose of this section to assist communities in planning, developing, and implementing long-term comprehensive substance abuse prevention strategies and programs—

(A) by developing communicative and cooperative relationships between various organizations, agencies, businesses, clergy, schools, parents, youth, and interested citizens regarding substance abuse prevention activities; and

(B) by assisting communities in training individuals in methods of planning, developing, and implementing substance abuse prevention and intervention programs and activities.

(b) COMMUNITY PARTNERSHIPS.—Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) as is amended by adding at the end thereof the following new sections:

"SEC. 509H. COMMUNITY COALITIONS ON SUBSTANCE ABUSE.

"(a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, community-based organizations, and substance abuse prevention specialists; and

"(2) at least three representatives of the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Secretary, acting through the Director of the Office, shall make grants to eligible coalitions in order to—

"(1) plan a comprehensive long-term program for substance abuse prevention;

"(2) implement such substance abuse prevention program, including the development of materials, public awareness campaigns, and community events;

"(3) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(4) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(5) develop and implement a consensus regarding the priorities of a community concerning substance abuse;

"(6) provide outreach prevention services to target populations; and

"(7) coordinate substance abuse services and activities, including establishing referral linkages, between prevention activities in the schools and communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under paragraph (1) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Secretary in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem including any identifiable target groups;

"(2) describe the activities and services needing financial assistance;

"(3) describe the substance abuse prevention plan;

"(4) identify participating agencies, organizations, and individuals;

"(5) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(6) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5); and

"(7) contain such additional information and assurances as the Secretary may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to preventing substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) EVALUATION.—The Director shall establish a mechanism to evaluate the effectiveness of community coalitions established under this section in preventing substance abuse and to disseminate the results of such evaluations to community coalitions.

"(g) AUTHORIZATION OF APPROPRIATION.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $60,000,000 for fiscal year 1990, $70,000,000 for fiscal year 1991, and $80,000,000 for fiscal year 1992.

"(2) SIZE OF COMMUNITIES.—The Secretary shall allocate at least 35 percent of the amount appropriated under paragraph (1) for a fiscal year to communities, with populations of no more than 250,000 individuals, that have made abuse prevention a high priority, as determined by the Secretary.

"SEC. 509I. SUBSTANCE ABUSE PREVENTION TRAINING.

"(a) ESTABLISHMENT.—The Secretary, acting through the Director of the Office, shall establish, a National Substance Abuse Prevention Training Program (hereinafter in this section referred to as the 'Program').

"(b) PROGRAM DIRECTOR.—The Program shall be needed by a Director who has extensive experience in substance abuse prevention (hereinafter in this section referred to as the 'Program Director').

"(c) DUTIES.—The Program Director shall—

"(1) develop a substance abuse prevention training curriculum for community groups in organizational development, program operation, prevention concepts, and models;

"(2) provide technical assistance and support for community training on substance abuse prevention, including organizing the community, developing skills, and establishing program goals;

"(3) provide technical assistance and support for advanced prevention and intervention training for the community organizing staff and State and local substance abuse agency staff;

"(4) develop specific training modules for problem areas such as substance abuse, teen pregnancy, and acquired immune deficiency syndrome and for professional groups that work with children and adolescents, such as juvenile court judges, pediatricians, coaches, and counselors;

"(5) provide substance abuss prevention outreach and supports to communities with substantial minority populations through workshops and collaborative initiatives with organizations serving such populations;

"(6) disseminate successful curricula and training practices in substance abuse prevention in communities through involvement with parents, civic groups, members of the business community, clergy, law enforcement representatives, and community leaders; and

"(7) evaluate the appropriateness and effectiveness of substance abuse prevention training.

"(d) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $15,000,000 for each of the fiscal year's 1990 through 1992.

"SEC. 509J. SPECIALIZED TRAINING PROGRAM.

"(a) GRANT PROGRAM.—The Secretary, acting through the Director of the Office, shall make grants to States, local agencies, and community organizations in order to—

"(1) provide substance abuse prevention training to representatives of such organizations and agencies;

"(2) provide substance abuse prevention training to parents, teachers, clergy, the business community, and civic groups;

"(3) coordinates with other community resources and programs; and

"(4) provide specialized training programs for professional groups that work with children and adolescents, or that are targeted to specific population groups.

"(b) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $20,000,000 for each of the fiscal years 1990 through 1992.".

"(c) OFFICE FOR SUBSTANCE ABUSE PREVENTION.—Section 508(d)(2) of the Public Health Service Act (42 U.S.C. 290aa-6(d)(2)) is amended by striking out "$5,000,000" and inserting in lieu thereof "$4,000,000".

HELMS AMENDMENT NO. 935

Mr. HELMS proposed an amendment to amendment No. 924 proposed by Mr. BIDEN to the bill S. 1711, supra, as follows:

At the end of the pending amendment, add the following:

"SEC. . U.S. FORCES TO ASSIST IN REMOVAL OF GENERAL MANUEL ANTONIO NORIEGA.

"Notwithstanding any other provision of law, the President is authorized to use the armed forces of the United States to secure the removal of General Manuel Antonio Noriega from his illegal control of the Republic of Panama in order to (a) bring General Noriega to trial in the United States under the terms of his February 1988 indictments on drug trafficking charges, (b) protect the Panama Canal pursuant to the Panama Canal Treaties of 1978, (c) protect the people of Panama in their struggle to rid their nation of the brutal oppression of the Noriega regime, and (d) restore a constitutional government to Panama.".

DECONCINI (AND OTHERS) AMENDMENT NO. 936

Mr. DECONCINI (for himself, Mr. DOMENICI, Mr. WARNER, Mr. WILSON, and Mr. GRAMM) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place insert:

Section 613A, subsection (a)(3)(F), of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended to read as follows: "payment of overtime, salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in assisting the United States Customs Service in law enforcement activities.".

DECONCINI (AND OTHERS) AMENDMENT NO. 937

Mr. DECONCINI (for himself, Mr. WILSON, Mr. GRAHAM, Mr. DOMENICI, and Mr. GRAMM) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, insert the following:

SEC. . ADMINISTRATIVE EXPENSES.

Section 511(e)(1) of the Controlled Substances Act (21 U.S.C. 881(e)(1)) is amended by adding at the end thereof the following:

"In determining the equitable share of proceeds for a State or local law enforcement agency from a drug-related asset seizure under subparagraph (A), the Attorney General shall not retain more than 10 percent of the total proceeds to cover the costs of administrative expenses."

BINGAMAN AMENDMENT NO. 938

Mr. BINGAMAN proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place add the following:

DRUG-FREE SCHOOLS AND CAMPUSES

SEC. . (a)(1) Title XII of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended by adding at the end thereof the following:

"ALCOHOL ABUSE PREVENTION

"Sec. 1212. (a) Notwithstanding any other provision of law, no institution of higher education shall be eligible to receive any Federal funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless it certifies to the Secretary that, after study and participation by students, student groups, and employees, it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees of such institution, a component of which shall include—

"(1) a prohibition on the distribution of free alcoholic beverages for promotional purposes on the campus of such institution;

"(2) a prohibition on the distribution of any promotional material for alcoholic beverages on the campus of any such institution;

"(3) a prohibition on the financing, sponsoring, or supporting of any athletic, musical, cultural or social program, event, or competition of such institution by any alcoholic beverage company or industry;

"(4) a limit on alcoholic beverage advertisements in such institution's newspapers and other publications to price and product identification; and

"(5) a description of any alcohol counseling, treatment, or rehabilitation program available to students and employees through the institution and the local community.

"(b) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

"(1) the periodic review of a representative sample of programs required by subsection (a); and

"(2) sanctions, up to and including the termination of any form of financial assistance, for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions.".

(2) The provisions of this section shall take effect on October 1, 1990.

DECONCINI AMENDMENT NO. 939

Mr. DECONCINI proposed an amendment to the bill S. 1711, supra, as follows:

At the end of the bill, add the following new section:

SEC. . DEPARTMENT OF DEFENSE CONSULTATION WITH STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) CONSULTATION REQUIRED.—Part I of subtitle A of title 10, United States Code, is amended by inserting after section 380 the following new section:

"§ 381. Consultation with civilian law enforcement officials

"The Secretary of Defense shall consult with Operation Alliance officials to the extent practicable prior to and during any drug enforcement operation by armed forces personnel or other Department of Defense personnel which might affect the law enforcement activities or jurisdiction of such officials.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of the chapter relating to military support for civilian law enforcement agencies in such part is amended by inserting after the item relating to section 380 the following new item:

"§ 381. Consultation with civilian law enforcement officials.".

GRAHAM (AND OTHERS) AMENDMENTS NO. 940

Mr. GRAHAM (for himself, Mr. WILSON, and Mr. DECONCINI) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . INSURANCE OF DRUG WAR BONDS.

(a) IN GENERAL.—Subchapter I of Chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"S. 3114. Drug war bonds

"(a) The Secretary of the Treasury shall—

"(1) issue drug war bonds of the United States Government, provided, however, the amount of the issue in any fiscal year shall not exceed that amount appropriated in that fiscal year for the purpose contained in subsection (e)(4) of this section, and

"(2) buy, redeem, and make refunds of such bonds under section 3111 of this title.

"(b)(1) Drug war bonds may be issued under this section on an interest-bearing basis, on a discount basis, or on an interest-bearing and discount basis.

"(2) The Secretary of the Treasury may—

"(A) fix the investment yield for drug war bonds issued under this section, and

"(B) change the investment yield on any outstanding drug war bond, except that the yield on a bond for the period held may not be decreased below the minimum yield for the period guaranteed on the date on which the bond is issued.

"(3) Drug war bonds issued under this section shall mature not more than 20 years after the date of issue.

"(4)(A) Except as otherwise provided in this paragraph, the Secretary of the Treasury shall prescribe the denominations in which drug war bonds are issued under this section.

"(B)(i) In prescribing under subparagraph (A) the denominations in which drug war bonds are issued under this section, the Secretary of the Treasury shall ensure that a small denomination, of not greater than a $25 maturity value, be available for issuance in order to enable children and small investors to purchase drug war bonds.

"(ii) In order to compensate for the additional administrative costs of issuing drug war bonds under this section in a small denomination that does not exceed a $25 maturity value, the Secretary of the Treasury is authorized to fix an investment yield for such small-denomination drug war bonds that is lower than the investment yield on other denominations of drug war bonds.

"(5) The Secretary of the Treasury shall issue stamps, or may provide other means, that evidence payment toward the purchase of a drug war bond issued under this section in order to encourage and facilitate the accumulation of funds for the purchase of drug war bonds.

"(c) Except as otherwise provided in section, the Secretary of the Treasury may prescribe, with respect to drug war bonds under this section—

"(1) the form and amount of an issue,

"(2) the way in which the bonds will be issued,

"(3) the conditions (including restrictions on transfer) to which the bonds will be subject.

"(4) conditions governing redemption of the bonds,

"(5) the sales price of the bonds, and

"(6) a way to evidence payments for, or on account of, the bonds.

"(d) The Secretary of the Treasury may authorize any financial institution which meets the requirements of section 3105(d) to make payments to redeem drug war bonds issued under this section.

"(e)(1) There is hereby established within the Treasury of the United States a trust fund to be known as the Anti-Drug Abuse Trust Fund (hereinafter in this subsection referred to as the 'Trust Fund'), consisting of such amounts as may be transferred to the Trust Fund under paragraph (2).

"(2)(A) The Secretary of the Treasury shall transfer to the Trust Fund out of the general fund of the Treasury of the United States amounts determined by the Secretary of the Treasury to be equivalent to the amounts received into such general fund that are attributable to the proceeds from drug war bonds issued under this section.

"(B) The amounts which are required to be transferred under subparagraph (A) shall be transferred at least monthly from the general fund of the Treasury of the United States to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in subparagraph (A) that are received into the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

"(3) The Secretary of the Treasury shall be the trustee of the Trust Fund and shall submit an annual report to the Congress on—

"(A) the financial condition and the results of the operations of the Trust Fund during the fiscal year preceding the fiscal year in which such report is submitted, and

"(B) the expected condition and operations of the Trust Fund during the fiscal year in which such report is submitted and during each of the 5 fiscal years succeeding such fiscal year.

The report shall be printed as a House document of the session of the Congress to which the report is made.

"(4) Funds in the Trust Fund shall only be available, as provided in appropriation Acts, for expenditures that are authorized—

(A) by the provisions of,

(B) by amendments made to, or

(C) by amendments made by,

the Anti-Drug Abuse Act of 1988.

"(f) The Secretary of the Treasury shall provide notice to the public through appropriate media that the purchase of drug war bonds will assist in implementing anti-drug abuse provisions of law.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"3114. Issuance of drug war bonds.".

(2) Section 3108 of title 31, United States Code, is amended by striking out "and 3105-3107" and inserting in lieu thereof ", 3105-3107 and 3114".

COATS (AND OTHERS) AMENDMENT NO. 941

Mr. COATS (for himself, Mr. HUMPHREY, Mr. REID, Mr. MURKOWSKI, Mr. LOTT, Mr. DURENBERGER, Mr. NICKLES, Mr. WALLOP, Mr. D'AMATO, and Mr. BURNS) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, add the following:

"The Bureau of Justice Assistance shall provide funds for demonstration grants to the States to establish shock incarceration programs as alternatives to imprisonment for first-time offenders who have committed nonviolent offenses and nonviolent drug offenses, 90 percent of which funds shall be reserved and set aside in a special discretionary fund for use by the Director to make grants, and the remainder of which funds to make grants to provide compulsory drug treatment, as required, and literacy education, vocational education, and job training programs by the State or jointly by the State and private entities which shall be made available to nonviolent offenders selected for confinement in boot camp programs: *Provided,* That no grants shall be expended for more than 70 percent of the cost of the project for which such grant is made and no Federal funds made available to the State shall be used to supplant State or local funds that would otherwise be used to carry out such project.".

WILSON (AND OTHERS) AMENDMENT NO. 942

Mr. WILSON (for himself, Mr. GRAHAM, Mr. DECONCINI, Mr. THURMOND, and Mr. D'AMATO) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . (a) IN GENERAL.—The Secretary of Education is authorized to award grants to local educational agencies in consortium with entities which have experience in assisting school districts to provide instruction to students grades kindergarten through six to recognize and resist pressures that influence such students to use controlled substances, as defined in schedules I and II of section 202 of the Controlled Substances Act (21 U.S.C. 812), the possession or distribution of which is unlawful under such Act, or beverage alcohol, such as Project Drug Abuse Resistance Education, that meet the requirements of subsection (b).

(b) REQUIREMENTS.—A local education agency in consortium with an entity shall not be eligible for a grant under subsection (a) unless such local education agency in

consortium with an entity will use assistance provided under such grant to provide or arrange for the provision of services that shall include—

(1) drug abuse resistance education instruction for students grades kindergarten through six to recognize and resist pressures to experiment that influence such children to use controlled substances, as defined under subsection (a), or beverage alcohol, including instruction in the following areas—

(A) drug use and misuse;

(B) resistance techniques;

(C) assertive response styles;

(D) managing stress without taking drugs;

(E) decision making and risk taking;

(F) media influence on drug use;

(G) positive alternatives to drug abuse behavior;

(H) interpersonal and communication skills;

(I) self-esteem building activities; and

(J) resistance to gang pressure;

(2) classroom instruction by law enforcement officials;

(3) the use of positive student leaders to influence younger students not to use drugs; and

(4) an emphasis on activity-oriented techniques designed to encourage student-generated responses to problem-solving situations; and

(c) APPLICATION.—The Secretary shall not make a grant under subsection (a) unless—

(1) an application for the grant is submitted to the Secretary;

(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

(3) the application otherwise is in such form, agreements, assurances, and information as the Secretary determines to be necessary to carry out this section; and

(4) the application contains an assurance that the applicant will provide funds either in cash or in kind that are not less than 10 percent of the amount of the grant under subsection (a);

(d) SUPPLEMENTAL FUNDS.—Amounts received under subsection (a) by the entity shall be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of projects of the type described in subsection (b); and

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10 million in fiscal year 1990, and such sums as may be necessary for each of the three succeeding fiscal years.

KERRY AMENDMENT NO. 943

Mr. KERRY proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than 30 days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology,

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than 180 days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

JEFFORDS AMENDMENT NO. 944

Mr. JEFFORDS proposed an amendment to the bill S. 1711, supra as follows:

At the appropriate place, insert the following new section:

SEC. . STUDY ON THE RELATIONSHIP BETWEEN THE CONSUMPTION OF LEGAL AND ILLEGAL DRUGS.

(a) IN GENERAL.—For assistance in designing prevention programs to reduce the likelihood of drug abuse, the Secretary of Health and Human Services shall conduct a study concerning the relationship between and individual's receptivity to use or consume legal drugs and the consumption or abuse by the individual of illegal drugs.

(b) CONTENTS.—The study conducted under subsection (a) shall contain information concerning—

(1) the effect of advertising and marketing campaigns that promote the use of legal drugs on the public;

(2) the correlation of legal drug abuse with illegal drug abuse; and

(3) other matters that the Secretary of Health and Human Services determines appropriate.

(c) DATA AND RESEARCH.—In conducting the study under subsection (a), the Secretary of Health and Human Services shall consider data collected and current research concerning drug abuse and gateway drugs.

(d) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report containing the results of the study conducted under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000.

GRAHAM AMENDMENT NO. 945

Mr. GRAHAM proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place in the bill, insert the following:

(a) FINDINGS.—The Congress finds that—

(1) Public Law 100-690, the Anti-Drug Abuse Act of 1988, included specific provisions (sections 4101, 4103, 4104, 4105 and 4106) relating to multilateral narcotics control efforts;

(2) the need for international cooperation in order to fight organized and violent drug traffickers, to exchange drug interdiction intelligence, and drug treatment research, has been recognized by countries that produce, consume, or serve as transshipment points for illegal narcotics;

(3) the United States must assume a leadership role in the multinational movement to combat drugs;

(b) Therefore, the Secretary of State is required to summit to the Congress of the United States a report on the status of the efforts the Department of State has made or intends to make in order to carry out Sections 4101, 4103, 4104, and 4105 of the Anti-Drug Abuse Act of 1988 regarding multilateral drug control efforts.

This report shall be submitted to Congress no later than December 1, 1989.

BIDEN AMENDMENT NO. 946

Mr. BIDEN proposed an amendment to the bill S. 1711, supra, as follows:

Strike Simon Amendment No. 922 except sections 61-63, and 74 of that amendment.

VETERANS DISABILITY AND COMPENSATION ACT

CRANSTON (AND MURKOWSKI) AMENDMENT NO. 947

Mr. BIDEN (for Mr. CRANSTON, for himself, and Mr. MURKOWSKI) proposed an amendment to the bill (S. 13)

to amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemnity compensation for veterans and survivors, to increase the allowances paid to disabled veterans pursuing rehabilitation programs and the dependents and survivors of certain disabled veterans pursuing programs of education, and to improve various programs of benefits and health care services for veterans, and for other purposes, as follows:

On page 96, line 21, strike out "(e)" and insert in lieu thereof the following:

(e) EVALUATION OF PRIVATE ASSISTIVE MONKEY PLACEMENT PROGRAMS.—Before furnishing assistive monkeys to veterans under the pilot program, the Chief Medical Director of the Department of Veterans Affairs shall provide for the conduct of an independent evaluation of the way that assistive monkeys would be treated during training and placement under the pilot program. The Chief Medical Director shall ensure that the person or organization performing the evaluation consults with representatives of appropriate animal welfare organizations prior to conducting the evaluation.

On page 103, between lines 13 and 14, insert the following:

SEC. 225. RECOVERY OF THE COST OF DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE AND SERVICES FROM THIRD PARTIES.

(a) APPLICABILITY.—Section 629(a)(2)(D)(i) is amended by inserting "or who has a service-connected disability rated 20 percent or less" before the semicolon.

(b) CONTRACTS FOR COLLECTION SERVICES.—Section 629 is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection (i):

"(i)(1) In the case of collections of the costs of care and services furnished for non-service-connected disabilities incurred by veterans referred to in subsection (a)(2)(D) of this section, the Secretary shall, to the maximum extent feasible, provide for carrying out recovery and collection activities under this section by contract.

"(2) A contract awarded pursuant to paragraph (1) of this subsection shall provide for payment of the contractor's fee, at a rate determined by the Secretary to be reasonable, solely out of amounts recovered or collected by the contractor.

"(3) A contractor performing services pursuant to a contract awarded pursuant to paragraph (1) of this subsection shall be subject to the same provisions of law relating to the confidentiality of medical records and other information on the health status of veterans as apply to the Department of Veterans Affairs.

"(4) Not later than February 1 of each year after 1990, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

"(A) a discussion of the extent of the exercise of the authority provided in paragraph (1) of this subsection during the fiscal year ending on September 30 of the preceding year; and

"(B) a listing of the amounts collected, and a description of other results achieved, during such fiscal year pursuant to contracts awarded pursuant to such paragraph.".

(2) Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of subsection (i) of section 629 of title 38, United States Code, as added by paragraph (1).

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), section 629(a)(2)(D)(i) of title 38, United States Code, as amended by subsection (a), shall apply to care and services provided after November 30, 1989.

(2)(A) Such section shall not apply so as to nullify any provision of a health-plan contract (as defined in subsection (i) of section 629 of such title) that—

(i) was entered into before the date of the enactment of this Act; and

(ii) is not modified or renewed on or after such date.

(B) In the case of a health-plan contract (as so defined) that was entered into before such enactment date and which is modified or renewed on or after that date, the amendment made by subsection (a) shall apply—

(i) with respect to such plan as of the day after the date that it is so modified or renewed; and

(ii) with respect to care and services provided after the later of November 30, 1989, or such date of modification or renewal.

(3) For the purposes of paragraph (2), the term "modified" includes any change in premium or coverage.

SEC. 226. DWIGHT D. EISENHOWER DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, LEAVENWORTH, KANSAS.

The Department of Veterans Affairs Medical Center in Leavenworth, Kansas, shall after the date of the enactment of this Act be known and designated as the "Dwight D. Eisenhower Department of Veterans Affairs Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Dwight D. Eisenhower Department of Veterans Affairs Medical Center.

On page 171, between lines 6 and 7, insert the following:

SEC. 322. EDUCATIONAL ASSISTANCE FOR FLIGHT TRAINING.

(a) THE MONTGOMERY GI BILL ACTIVE DUTY PROGRAM.—(1) Section 1434 is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection:

"(d)(1) The Secretary may approve the pursuit of flight training (in addition to a course of flight training that may be approved under section 1673(b) of this title) by an individual entitled to basic educational assistance under this chapter if—

"(A) such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation;

"(B) the individual possesses a valid private pilot's license and meets the medical requirements necessary for a commercial pilot's license; and

"(C) the flight school courses meet Federal Aviation Administration standards for such courses and are approved by the Federal Aviation Administration and the State approving agency.

"(2) This subjection shall not apply to a course of flight training that commences on or after October 1, 1994.".

(2) Section 1432 is amended by inserting after subsection (c) the following new subsection:

"(d)(1) Notwithstanding subsection (a) of this section, each individual who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of section 1434(d) of this title shall be paid an educational assistance allowance under this chapter in the amount equal to 60 percent of the established charges for tuition and fees (other than tuition and fees charged for or attributable to solo flying hours required for instrument and commercial ratings) which similarly circumstanced non-veterans enrolled in the same flight course are required to pay.

"(2) No educational assistance allowance may be paid under this chapter to an individual for any month during which such individual is pursuing a program of education consisting exclusively of flight training until the Secretary has received from that individual and the institution providing such training a certification of the flight training received by the individual during that month and the tuition and other fees charged for that training.

"(3) The number of months of entitlement charged in the case of any individual for a program of education described in paragraph (1) of this subsection shall be equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such program by the monthly rate of educational assistance which, except for paragraph (1) of this subsection, such individual would otherwise be paid under subsection (a)(1), (b)(1), or (c) of section 1415 of this title, as the case may be.".

(b) THE MONTGOMERY GI BILL SELECTED RESERVE PROGRAM.—(1) Section 2136 of title 10, United States Code, is amended by adding the following new subsection:

"(c)(1) The Secretary of Veterans Affairs may approve the pursuit of flight training (in addition to a course of flight training that may be approved under section 1673(b) of title 38) by an individual entitled to educational assistance under this chapter if—

"(A) such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation;

"(B) the individual possesses a valid private pilot's license and meets the medical requirements necessary for a commercial pilot's license; and

"(C) the flight schoo! courses meet Federal Aviation Administration standards for such courses and are approved by the Federal Aviation Administration and the State approving agency.

"(2) This subsection shall not apply to a course of flight training that commences on or after October 1, 1994.".

(2) Section 2131 of such title is amended—

(A) in subsection (b), by striking out "Each" and inserting in lieu thereof "Except as provided in subsection (d), each"; and

(B) by adding at the end the following new subsection:

"(d)(1) Each individual who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of section 2136(c) of this title shall be paid an educational assistance allowance under this chapter in the amount equal to 60 percent of the established charges for tuition and fees (other than tuition and fees charged for or attributable to solo flying hours required for instrument

and commercial ratings) which similarly circumstanced non-veterans enrolled in the same flight course are required to pay.

"(2) No educational assistance allowance may be paid under this chapter to an individual for any month during which such individual is pursuing a program of education consisting exclusively of flight training until the Secretary has received from that individual and the institution providing such training a certification of the flight training received by the individual during that month and the tuition and other fees charged for that training.

"(3) The period of entitlement of an individual pursuing a program of education described in paragraph (1) shall be charged with one month for each $140 which is paid to that individual as an educational assistance allowance for such program.".

(c) EVALUATION OF PROVIDING ASSISTANCE FOR FLIGHT TRAINING.—(1)(A) The Secretary of Veterans Affairs shall conduct an evaluation of paying educational assistance for flight training under chapter 30 of title 38, United States Code, and chapter 106 of title 10, United States Code.

(B) The evaluation required by subparagraph (A) shall be designed to determine the effectiveness of the provision of educational assistance referred to in such subparagraph in preparing the recipients of such assistance for recognized vocational objectives in the field of aviation.

(2) Not later than January 31, 1994, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the evaluation required by paragraph (1). Such report shall include:

(A) Information, separately as to payments made under chapter 30 of title 38, United States Code, and payments under chapter 106 of title 10, United States Code, regarding—

(i) the number of recipients paid educational assistance allowances for flight training;

(ii) the amount of such assistance;

(iii) the amount paid by the recipients for such training;

(iv) the vocational objective of the participants; and

(v) the extent to which the training (I) assists the participants in achieving employment in the field of aviation, or (II) was used only or primarily for recreational or avocational purposes.

(B) Any recommendations for legislation that the Secretary considers appropriate to include in the report.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on September 30, 1990.

On page 182, line 20, insert "and" after the semicolon.

On page 182, strike out the semicolon on line 22 and all that follows through page 183, line 14, and insert in lieu thereof a period.

On page 189, line 12, strike out all after "duty" and insert in lieu thereof "before the period at the end."

On page 189, between lines 12 and 13, insert the following:

SEC. 410. EXTENSION OF AUTHORITY FOR RECIPROCITY IN APPROVAL OF HOUSING SUBDIVISIONS AMONG FEDERAL AGENCIES.

Section 535 of the Housing Act of 1949 (42 U.S.C. 1490o) is amended—

(1) in subsection (b), by striking out "the expiration of the 1-year period beginning on the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988" and inserting in lieu thereof "180 days after the date on which the report required by subsection (c) is received by Congress"; and

(2) in subsection (c), by striking out "Before the expiration of the period referred to in subsection (b)," and inserting in lieu thereof "Not later than November 6, 1989".

On page 207, below line 23, insert the following:

(c) AUTHORITY TO ADMINISTER OATHS.—Section 4054 is amended by adding at the end the following new subsection:

"(d) Judges of the Court shall have the authority to administer oaths.".

(d) AUTHORITY TO COMPEL ACTIONS UNREASONABLY DELAYED.—Section 4061(a)(2) is amended by inserting "or unreasonably delayed" after "withheld".

SEC. 706. EXPANSION OF SELECTION COMMISSIONS.

Section 3 of the Department of Veterans Affairs Act (Public Law 100-527; 102 Stat. 2635) is amended—

(1) in subsection (b)(2)(B)—

(A) by striking out "Two" in clause (ii) and inserting in lieu thereof "Four"; and

(B) by adding at the end the following new clause:

"(vii) One person, selected by the Secretary in the Secretary's discretion, from among persons in categories described in clauses (i), (ii), (iii), and (vi)."; and

(2) in subsection (c)(2)(B)—

(A) by striking out "Two" in clause (ii) and inserting in lieu thereof "Four"; and

(B) by adding at the end the following new clause:

"(vii) One person, selected by the Secretary at the Secretary's discretion, from among persons in categories described in clauses (i), (ii), (iii), and (vi).".

On page 37, immediately below the item relating to section 224 insert the following:

Sec. 225. Recovery of the cost of Department of Veterans Affairs health care and services from third parties.

Sec. 226. Dwight D. Eisenhower Department of Veterans Affairs Medical Center, Leavenworth, Kansas.

On page 38, immediately below the item relating to section 321 insert the following:

Sec. 322. Educational assistance for flight training.

On page 38, immediately below the item relating to section 409, insert the following:

Sec. 410. Extension of authority for reciprocity in approval of housing subdivisions among Federal agencies.

On page 39, at the end of the table of contents above line 1, insert the following:

Sec. 706. Expansion of selection commissions.

DASCHLE (AND OTHERS) AMENDMENT NO. 948

Mr. BIDEN (for Mr. DASCHLE, for himself, Mr. KERRY, and Mr. CRANSTON) proposed an amendment to the bill S. 13, supra, as follows:

At the end of the bill, insert the following:

TITLE VIII—VETERAN'S AGENT ORANGE EXPOSURE AND VIETNAM SERVICE BENEFITS

SEC. 801. SHORT TITLE.

This title may be cited as the "Veteran's Agent Orange Exposure and Vietnam Service Benefits Act of 1989".

SEC. 802. INTERIM PERIOD FOR AWARD OF BENEFITS FOR VIETNAM VETERANS WITH NON-HODGKIN'S LYMPHOMA AND CERTAIN SARCOMAS.

(a) PRESUMPTIVE DISABILITY AND DEATH BENEFITS.—(1) In the case of a veteran—

(A) who served in the active military, naval, or air service in Vietnam during the Vietnam era, and

(B) who has—

(i) non-Hodgkin's lymphoma, or

(ii) a soft-tissue sarcoma.

the Secretary of Veterans Affairs shall, except as provided in subsection (b), pay a monthly disability benefit to the veteran in accordance with this section for any disability resulting from that disease.

(2) If a veteran referred to in paragraph (1) dies from a disease referred to in clause (B) of such paragraph, the Secretary shall pay a monthly death benefit to the survivors of the veteran in accordance with this section.

(b) EXCEPTIONS.—Benefits may not be paid in the case of a veteran under this section with respect to a disease referred to in subsection (a)(1)(B) if—

(1) there is affirmative evidence that such disease was not incurred by that veteran during active military, naval, or air service in Vietnam during the Vietnam era; or

(2) there is affirmative evidence to establish that, between the date of that veteran's most recent departure from Vietnam during such service and the onset of such disease, the veteran suffered an intercurrent injury or disease recognized as a cause of such disease referred to in subsection (a)(1)(B).

(c) DISABILITY BENEFIT.—A disability benefit payable to a veteran under this section for a disability resulting from a disease referred to in subsection (a)(1)(B) shall be paid at the rate at which compensation would be payable under chapter 11 of title 38, United States Code, to that veteran for such disability if the disability were determined to be service-connected.

(d) DEATH BENEFIT.—A death benefit is payable under this section to the survivors of a deceased veteran who, if the cause of the veteran's death had been a service-connected or compensable disability, would be entitled to dependency and indemnity compensation under chapter 13 of that title.

(2) The amount of the death benefit payable to a survivor of a deceased veteran under this section shall be the rate that would be applicable to such survivor under such chapter 13 if the veteran's death had been the result of a service-connected or compensable disability.

(e) NONDUPLICATION OF BENEFITS.—A benefit may not be paid under this section with respect to a disability or death of a veteran resulting from a disease referred to in subsection (a)(1)(B) for any month for which compensation is payable to that veteran for that disability under chapter 11 of title 38, United States Code, or for which dependency and indemnity compensation is payable for that death under chapter 13 of such title.

(f) TREATMENT OF DISABILITY OR DEATH AS SERVICE-CONNECTED EXCEPT FOR COMPENSATION PURPOSES.—A disability or death from a disease referred to in subsection (a)(1)(B) not otherwise considered service-connected for purposes of laws administered by the Department of Veterans Affairs shall be treated for purposes of all laws of the United States (other than the provisions of chapter 11 (other than sections 357, 358, and 361) of title 38, United States Code, and chapter 13 of such title) as if such disability

or death were service-connected. The receipt of a disability benefit under this section shall be treated for purposes of all laws of the United States as if such benefit were disability compensation under chapter 11 of such title. The receipt of a death benefit under this section shall be treated for purposes of all laws of the United States as if such benefit were dependency and indemnity compensation under chapter 13 of such title.

(g) AWARD OF BENEFITS.—Section 3010(g) of title 38, United States Code, shall apply to the award of benefits under this section.

(h) EXPIRATION OF INTERIM BENEFITS.—(1) No benefit may be paid or service provided by virtue of this section for any period beginning after April 15, 1992.

(2) If a joint resolution described in paragraph (3) (relating to the extension of authority to pay benefits under this section or the making of such authority permanent) is introduced in either House of Congress after January 1, 1992, congressional action on such joint resolution shall, subject to paragraph (8), be subject to the rules set out in this subsection.

(3) For purposes of paragraph (2), the term "joint resolution" means only a joint resolution—

(A) which does not have a preamble;

(B) the matter after the resolving clause of which is—

(i) as follows: "That section 802(h)(1) of the Veterans' Agent Orange Exposure and Vietnam Service Benefits Act of 1989 is amended by striking out 'April 15, 1992' and inserting in lieu thereof ' '.", the blank space being filled with a date; or

(ii) as follows: "That paragraph (1) of section 802(h) of the Veterans' Agent Orange Exposure and Vietnam Service Benefits Act of 1989 is repealed"; and

(C) the title of which is—

(i) as follows: "A joint resolution extending the authority to pay certain benefits relating to military service in Vietnam"; or

(ii) as follows: "A joint resolution making permanent the authority to pay certain benefits relating to military service in Vietnam".

(4) A resolution described in paragraph (3) introduced in the House of Representatives shall be referred to the Committee on Veterans' Affairs of the House of Representatives. A resolution described in paragraph (3) introduced in the Senate shall be referred to the Committee on Veterans' Affairs of the Senate.

(5) If the committee to which a resolution described in paragraph (3) is referred has not reported such resolution (or identical resolution) within the 60-day period beginning on the date on which such resolution is introduced, such committee shall be discharged from further consideration of such resolution as of the day after the last day of such period, and such resolution shall be placed on the appropriate calendar of the House involved.

(6)(A) On or after the third day after the date on which the committee to which such a resolution is referred has reported, or has been discharged (under paragraph (5)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution (but only on the day after the calendar day on which Member announces to the House concerned the Member's intention to do so). All points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the resolution and on all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a resolution described in paragraph (3) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (3) shall be decided without debate.

(7)(A) If, before the passage by one House of a resolution of that House described in paragraph (3), that House receives from the other House a resolution described in paragraph (3), then the procedures specified in this paragraph shall apply.

(B) The resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except in the case of final passage as provided in subparagraph (C)(ii).

(C) With respect to a resolution described in paragraph (3) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(D) Upon disposition of the resolution received from the other House, it shall no longer be in order to consider the resolution that originated in the receiving House.

(8) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (3), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(i) NOTIFICATION OF THE PROVISIONS OF THIS SECTION.—(1) The Secretary of Veterans Affairs shall take all reasonable actions—

(A) to publicize the provisions of this section, not later than 30 days after the date of the enactment of this Act; and

(B) to provide actual notice of the provisions of this section, not later than 30 days after the date of the enactment of this Act—

(i) to each person described in subsection (a) who, before the date specified in subsection (k), has filed any claim for benefits under programs administered by the Department of Veterans Affairs on the basis of a disease referred to in subsection (a)(1)(B); and

(ii) in the case of a veteran who dies after filing such a claim but before the provisions of this section are publicized, to the surviving spouse, children, and parents of such veteran, if any.

(2) The Secretary shall enclose with at least three distributions of benefits payment checks to each veteran or other person receiving benefits under this section a notice that the authority to pay benefits under this section is temporary. Each notice shall contain the date of the expiration of such authority. The first notice shall be enclosed with the first payment of such benefits to a veteran. The last notice shall be enclosed with the last payment of such benefits. At least one notice shall be enclosed with a payment distributed in approximately the middle of the estimated period during which the authority is to be in effect.

(j) DEFINITIONS.—For the purposes of this section—

(1) the term "veteran" has the meaning given such term in sections 101(2) and 401 of title 38, United States Code; and

(2) the terms "child" and "parents" have the meanings given such terms in paragraphs (4) and (5), respectively, of section 101 of such title.

(k) EFFECTIVE DATE.—This section, other than subsection (i), shall take effect on October 1, 1989. Benefits shall be paid in accordance with this section for periods beginning on or after such date, but no benefit may be paid for any period before such date by reason of the enactment of this section.

SEC. 803. PRESUMPTION OF SERVICE CONNECTION FOR CHLORACNE.

Section 312 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(d) For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, in the case of a veteran who, during active military, naval, or air service, served in Vietnam during the Vietnam era, the disease of chloracne shall be considered to have been incurred in or aggravated by such service in Vietnam, notwithstanding there is no record of evidence of such disease during the period of such service in Vietnam, if such disease or another acneform disease consistent with chloracne became manifest to a 10 percent degree of disability or more within one year after the last date on which that veteran performed such service in Vietnam.".

SEC. 804. PRESUMPTION OF SERVICE CONNECTION FOR DISEASES ASSOCIATED WITH EFFECTS OF EXPOSURE TO CERTAIN HERBICIDE AGENTS.

(a) FINDINGS.—Congress makes the following findings:

(1) It is in the public interest to provide for an independent nonprofit scientific organization which has appropriate expertise and is not connected to the Department of Veterans Affairs to review and evaluate the available scientific evidence regarding associations between diseases and exposure to dioxin and other chemical compounds in herbicides and to make judgments on the degree and probability of such associations, because there is no uniform body of scientific literature on such issues.

(2) The standard of proof required for a scientific conclusion of causation is higher than the standard of proof required for justification of a presumption, for purposes of veterans disability compensation laws, that an adverse health effect is connected, based on sound medical and scientific evidence, to active service in the Armed Forces of the United States.

(b) IN GENERAL.—(1) Subchapter II of chapter 11 of title 38, United States Code, is amended by inserting after section 312 the following new section.

"§312A. Presumption of service connection for diseases associated with effects of exposure to certain herbicide agents

"(a) IN GENERAL.—(1) For the purposes of section 310 of this title, and subject to section 313 of this title, in the case of a Vietnam veteran who, during Vietnam service, was exposed to an herbicide agent containing dioxin or 2,4-dichlorophenoxyacetic acid or to any other herbicide agent, each disease (if any) listed in regulations prescribed by the Secretary in accordance with this section and identified in such regulations as having positive association with the biological effects of exposure to such herbicide agent shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such disease during the period of such service.

"(2) For the purposes of this subsection, a veteran who performed Vietnam service and has a disease referred to in paragraph (1) of this subsection shall be presumed to have been exposed during such service to an herbicide agent containing dioxin or 2,4-dichlorophenoxyacetic acid, and may be presumed to have been exposed during such service to any other chemical compound in an herbicide agent, unless there is affirmative evidence to establish conclusively that the veteran was not exposed to any such agent during such service.

"(3) The Secretary may extend the applicability of paragraph (1) of this subsection to the case of any veteran who, during the performance of active military, naval, or air service outside Vietnam, was exposed to an agent of the same type as the herbicide agent referred to in paragraph (1) of this subsection.

"(b) DISEASES TO BE PRESCRIBED IN REGULATIONS.—(1) Whenever the Secretary determines pursuant to this section that there is positive association between any disease and the biological effects of exposure to an herbicide agent in Vietnam, the Secretary shall prescribe regulations listing each disease having such positive association. In the case of each disease listed in the regulations, the Secretary shall identify the herbicide agent that causes the biological effects with which the disease has positive association. After the Secretary prescribes regulations pursuant to this paragraph, the Secretary shall periodically revise such regulations, as appropriate, to reflect determinations periodically made pursuant to paragraph (2) of this subsection.

"(2) The Secretary shall periodically (not less often than biennially)—

"(A) determine whether any disease not listed in regulations under this section has positive association with such effects; and

"(B) determined whether any disease listed in such regulations does not have positive association with such effects.

"(3) The Secretary shall make determinations for the purpose of this subsection on the basis of reports received by the Secretary from a contract scientific organization pursuant to this section and all other relevant scientific evidence, information, or analyses available to the Secretary at the time of the determinations.

"(c) UTILIZATION OF CONTRACT SCIENTIFIC ORGANIZATION.—In prescribing and revising regulations for the purposes of subsection (b), the Secretary shall obtain, by contract, the determinations and estimates of a contract scientific organization as provided in this section.

"(d) REQUIRED ACTIVITIES OF CONTRACT SCIENTIFIC ORGANIZATIONS.—(1) Each contract entered into under subsection (c) of this section shall provide for a contract scientific organization—

"(A) to determine, in the case of each herbicide agent—

"(i) which disease (if any) have positive association with the biological effects of exposure to such agent, including specifically effects involving porphyrin synthesis, nervous system function, immune function, reproduction, and birth defects, and psychological and psychiatric effects;

"(ii) which diseases (if any) have limited positive association with such biological effects;

"(iii) which diseases (if any) have insubstantial association with such biological effects; and

"(iv) to the extent practicable, the biological basis for the positive, limited positive, and insubstantial associations of diseases referred to in subclauses (i), (ii), and (iii) of this clause with such biological effects; and

"(B) to estimate the extent of the association between each such disease and such biological effects using methods as quantitative and as objective as the relevant available data permit.

"(2) The contract scientific organization shall specifically determine whether there is positive, limited positive, or insubstantial association between the biological effects referred to in paragraph (1) of this subsection and the following diseases;

"(A) Non-Hodgkins lymphoma.

"(B) Each soft-tissue sarcoma.

"(C) Lung cancer.

"(D) Each other cancer.

"(e) REQUIRED PROVISIONS FOR FIRST CONTRACT.—(1) The first contract entered into under subsection (c) of this section shall provide for the contract scientific organization—

"(A) to conduct as comprehensive a survey and evaluation as is practicable of the completed and ongoing scientific studies of, and other scentific evidence or information regarding, the effects that herbicide agents have on humans or other animals that have been exposed to such agents, including an evaulation of the CDC Selected Cancers Study report; and

"(B) make its determinations and estimates on the basis of the results of such survey and evaluation.

"(2) The contract scientific organization shall conduct the survey and evaluation referred to in paragraph (1)(A) of this subsection through a panel composed of recognized experts in toxicology, medicine, epidemiology, statistics, biochemistry, and related fields. The conduct of such survey shall be subject to appropriate peer review.

"(f) REQUIRED CONTRACT PROVISIONS RELATING TO PERIODIC DETERMINATIONS OF THE SECRETARY.—A contract entered into under subsection (c) of this section in connection with the Secretary's periodic determinations under subsection (b)(2) of this section shall require a contract scientific organization—

"(1) to conduct as comprehensive a survey and evaluation as is practicable of the scientific studies, evidence, and information referred to in subsection (e)(1)(A) of this section that have become available since the last such survey and evaluation under this section; and

"(2) make its determinations and estimates on the basis of the results of such survey and evaluation and all other surveys and evaluations conducted for the purposes of this section.

"(g) REPORTS OF CONTRACT SCIENTIFIC ORGANIZATIONS.—(1) Each contract scientific organization making determinations and estimates under this section shall transmit to the Secretary and the Committees on Veterans' Affairs of the Senate and the House of Representatives a written report regarding its determinations and estimates.

"(2) Each report shall contain—

"(A) the name of each disease (if any) determined to have positive association with the biological effects of exposure to an herbicide agent in Vietnam and the identity of such agent;

"(B) the name of each disease (if any) determined to have limited positive association with the biological effects of exposure to an herbicide agent in Vietnam and the identity of such agent;

"(C) the name of each disease (if any) determined to have insubstantial association with the biological effects of exposure to an herbicide agent in Vietnam and the identity of such agent; and

"(D) with respect to each disease named pursuant to clasues (A), (B), and (C) of this paragraph—

"(i) a discussion of the biological basis for the association;

"(ii) the contract scientific organization's estimate of the statistical significance of the association;

"(iii) the contract scientific organization's estimate of the relative risk for such disease in veterans who, during Vietnam service, were exposed to an herbicide agent; and

"(iv) the probability that the estimates referred to in subclauses (ii) and (iii) are correct.

"(3) Estimates and probabilities are not required under clauses (ii), (iii), and (iv) of paragraph (2)(D) of this subsection when the available data do not permit meaningful estimates and probabilities.

"(4)(A) If a contract scientific organization determines that a disease has positive association with the biological effects of exposure to an herbicide agent used in Vietnam, such organization shall determine whether there is a reasonable basis for concluding that a Vietnam veteran with the highest level of exposure to that herbicide agent in Vietnam was exposed to such agent under the circumstances necessary for such biological effects.

"(B) If a contract scientific organization determines that there is no such reasonable basis, the organization shall state that determination in a report under this subsection and include in such report—

"(i) a description of the evidence that supports such determination;

"(ii) a description of the evidence (if any) that supports alternative conclusions; and

"(iii) a full discussion of the organization's reasons for such determination, including a discussion of the reasons for the organization's determination that the evidence referred to in clause (i) of this subparagraph outweighs the evidence (if any) referred to in clause (ii) of this subparagraph.

"(C) A determination with respect to reasonable basis is not required under subparagraph (A) of this paragraph when the available data do not permit a meaningful determination.

"(5) The first report under this subsection shall be transmitted to the Secretary and the Committees on Veterans' Affairs of the Senate and the House of Representatives on or before the later of (A) the date 60 days after the date on which the contract scientific organization obtains a copy of the CDC Selected Cancers Study report, or (B) the date one year after the date of the enactment of the Veterans' Agent Orange Exposure and Vietnam Service Benefits Act of 1989.

"(h) ACTIONS OF THE SECRETARY AFTER RECEIVING THE FIRST REPORT.—(1) Not later than 60 days after the date on which the Secretary receives the first report under subsection (g) of this section, the Secretary shall—

"(A) for the purpose of subsection (b)(1) of this section—

"(i) determines in accordance with subsection (b)(3) of this section whether there is positive association between any disease and the biological effects of exposure to an herbicide agent in Vietnam; and

"(ii) if so, issue proposed regulations listing each such disease and specifying such agent;

"(B) transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing the scientific basis for including each disease listed in such proposed regulations, and

"(C) if any disease listed in the first report under subsection (g) of this subsection as having positive association is not listed in such proposed regulations—

"(i) include in the report to the Committees on Veterans' Affairs the scientific basis for not including that disease in the proposed regulations; and

"(ii) publish in the Federal Register a notice that such disease is not listed in the proposed regulations despite the report under subsection (g) and include in such notice a discussion of such scientific basis.

"(2) Not later than 60 days after the date on which the Secretary issues any proposed regulations pursuant to paragraph (1) of this subsection, the Secretary shall issue final regulations under subsection (b). Such regulations shall be effective on the date of issuance.

"(i) ACTIONS OF THE SECRETARY AFTER RECEIVING A PERIODIC REPORT.—(1) Upon receiving a contract scientific organization's report after a periodic survey and evaluation conducted for the purpose of subsection (b)(2) of this section, the Secretary shall—

"(A) determine in accordance with subsection (b)(3) of this section whether—

"(i) any disease named in such report not listed in regulations under subsection (b) of this section has positive association with the biological effects of exposure to an herbicide agent in Vietnam; and

"(ii) any disease listed in such regulations does not have positive association with such effects; and

"(B) promptly transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing the Secretary's determinations under clause (A) of this paragraph and the scientific bases for such determinations.

"(2)(A) Not later than 60 days after transmitting a report to the Committees on Veterans' Affairs under paragraph (1)(B) of this subsection, the Secretary shall prescribe or revise regulations, as the case may be, pursuant to subsection (b) of this section as may be necessary to reflect the Secretary's determinations included in that report. The regulations or revisions of regulations, as the case may be, shall take effect 30 days after the date on which the Secretary issues the proposed regulations or revisions, as the case may be.

"(B) If any disease listed in a periodic report under subsection (g) of this section as having positive association is not listed in such regulations or revisions of regulations, as the case may be, the Secretary shall, not later than 60 days after transmitting a report under subparagraph (A) of this paragraph, publish in the Federal Register a notice that such disease is not listed in the proposed regulations despite such report and include in such notice a discussion of the scientific basis for not including that disease in such regulations or revisions.

"(j) EFFECT OF REMOVAL OF DISEASE FROM REGULATIONS.—Whenever a disease is removed from regulations pursuant to paragraph (2) of subsection (i) of this section as a result of a determination under paragraph (1)(A)(ii) of such subsection—

"(1) any veteran who was awarded compensation for such disease on the basis of the presumption provided in subsection (a) of this section before the effective date of the removal shall continue to be entitled to receive compensation on such basis; and

"(2) any survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from such disease on the basis of such presumption shall continue to be entitled to receive dependency and indemnity compensation on such basis.

"(k) LIMITATION ON CONTRACT AUTHORITY.—The contract authority provided in this section shall be effective for a fiscal year to such extent or in such amount as is provided for in an appropriation Act.

"(l) TERMINATION OF EFFECTIVENESS OF THIS SECTION.—(1) Subsections (b) through (i) and (k) of this section shall cease to be effective 10 years after the first day of the fiscal year in which a contract scientific organization transmits to the Secretary the first report under subsection (g) of this section.

"(2) Paragraph (1) shall not affect the continued effectiveness of—

"(A) subsection (a) of this section and the regulations referred to in such subsection; and

"(B) subsection (j) of this section.

"(m) DEFINITIONS.—For the purposes of this section—

"(1) the term 'Vietnam veteran' means a veteran who performed Vietnam service;

"(2) the term 'Vietnam service' means active military, naval, or air service in Vietnam during the Vietnam era;

"(3) the term 'herbicide agent' means an agent in an herbicide used in support of United States and allied military operations in Vietnam during the Vietnam era;

"(4) the term 'biological effect', with respect to exposure to an herbicide agent, means—

"(A) each known biological effect of such exposure on humans, including those biological effects resulting from relevant host and environmental factors; and

"(B) each biological effect of such exposure on humans that it is reasonable to infer on the basis of the known biological effects of such exposure on appropriate animal models;

"(5) the term 'positive', with respect to association between a disease and the biological effects of exposure to an herbicide agent in Vietnam, means that the credible evidence for the association is equal to or outweighs the credible evidence against the association;

"(6) the term 'limited positive', with respect to association between a disease and the biological effects of exposure to an herbicide agent in Vietnam, means that the credible evidence against the association outweighs the credible evidence for the association but that there is substantial credible evidence for the association;

"(7) the term 'insubstantial', with respect to association between a disease and the biological effects of exposure to an herbicide agent in Vietnam, means that there is some credible evidence for the association but the evidence is not substantial;

"(8) the term 'relative risk', with respect to a report of a contract scientific organization for the purposes of subsection (g) of this section, shall have the meaning determined by such organization and specified in such report;

"(9) the term 'contract scientific organization', with respect to a contract under this section, means—

"(A) the National Academy of Sciences; or

"(B) in the event that the Secretary determines that the National Academy of Sciences is unwilling to enter into such contract, any other appropriate private nonprofit scientific organization which has appropriate expertise and has no connection with the Department of Veterans Affairs and which the Secretary identifies to the Committees on Veterans' Affairs of the Senate and the House of Representatives in a written notification received by such committees at least 90 days before the date on which such contract is entered into;

"(10) the term 'soft-tissue sarcoma' means any sarcoma other than osteosarcoma, condrosarcoma, Kaposi's sarcoma, and mesothelioma; and

"(11) the term 'CDC Selected Cancers Study report' means the report submitted to Congress by the Secretary of Veterans Affairs that contains the final results of the Selected Cancers Study conducted by the Centers for Disease Control pursuant to section 307 of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 38 U.S.C. 219 note).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 312 the following new item:

"312A. Presumption of service connection for diseases associated with effects of exposure to certain herbicide agents.".

(c) CONFORMING AMENDMENT.—Section 313 of title 38, United States Code, is amended by inserting "or 312A" after "section 312" each place it appears.

(d) INTERIM REGULATIONS.—If the authority to pay benefits under section 802 of this

Act expires before the Secretary of Veterans Affairs issues final regulations under section 312A(h) of title 38, United States Code (as added by subsection (b)), the Secretary shall issue emergency regulations, effective upon issuance, providing for the payment of disability compensation under chapter 11 of such title to each veteran or survivor who receives benefits under section 802 of this Act for a disease listed in regulations (if any) proposed by the Secretary under section 312A(h)(1)(A) of such title (as added by subsection (b)). Payment of such disability compensation shall be effective on the date of the expiration of the authority under section 802 of this Act. The Secretary shall pay disability compensation to such a veteran pursuant to this paragraph without requiring such veteran to submit an application in addition to the application submitted for benefits under section 802 of this Act.

(e) SPECIAL EFFECTIVE DATE FOR AWARDS OF DISABILITY COMPENSATION.—If the Secretary of Veterans Affairs issues final regulations under subsection (h)(2) of section 312A of title 38, United States Code (as added by subsection (b)), after April 15, 1993, any award of disability compensation under chapter 11 of such title (in the case of a claim received by the Secretary before the effective date of such final regulations) on the basis of a presumption provided in subsection (a) of such section 312A shall be effective on the later of April 16, 1993, or the date determined under section 3010 of such title. However, benefits may not be paid to any person under chapter 11 of such title pursuant to this subsection for any period for which benefits are paid to such person under such chapter pursuant to subsection (d).

SEC. 805. RESULTS OF EXAMINATIONS AND TREATMENT OF VETERANS FOR DISABILITIES RELATED TO EXPOSURE TO CERTAIN HERBICIDES OR TO SERVICE IN VIETNAM.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall compile and analyze, on a continuing basis, all clinical data that (1) is obtained by the Department of Veterans Affairs in connection with examinations and treatment furnished to veterans by the Department after November 3, 1981, by reason of eligibility provided in section 610(e)(1)(A) of title 38, United States Code, and (2) is likely to be scientifically useful in determining the association, if any, between the disabilities of veterans referred to in such section and exposure to dioxin or any other toxic substance referred to in such section or between such disabilities and active military, naval, or air service in Vietnam during the Vietnam era.

(b) ANNUAL REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives an annual report containing—

(1) the information compiled in accordance with subsection (a);

(2) the Secretary's analysis of such information;

(3) a discussion of the types and incidences of disabilities identified by the Department of Veterans Affairs in the case of veterans referred to in subsection (a);

(4) the Secretary's explanation for the incidence of such disabilities;

(5) other explanations for the incidence of such disabilities considered reasonable by the Secretary;

(6) the Secretary's views on the scientific validity of drawing conclusions from the incidence of such disabilities, as evidenced by the data compiled under subsection (a), about any association between such disabilities and exposure to dioxin or any other toxic substance referred to in section 610(e)(1)(A) of title 38, United States Code, or between such disabilities and active military, naval, or air service, in Vietnam during the Vietnam era; and

(7) the evaluation of such report submitted by the Director of the Office of Technology Assessment pursuant to subsection (c)(2).

(c) CONSULTATION WITH OTA.—(1) The Secretary of Veterans Affairs shall consult with the Director of the Office of Technology Assessment before compiling and analyzing any information under this section and shall submit each annual report required by subsection (b) to the Director before submitting such report to the committees referred to in such subsection.

(2) The Director of the Office of Technology assessment shall review each annual report submitted under paragraph (1) and transmit to the Secretary of Veterans Affairs the Director's evaluation of the content of the report.

(d) FIRST REPORT.—The first report under subsection (b) shall be submitted one year after the date of the enactment of this Act.

SEC. 806. TISSUE ARCHIVING SYSTEM.

(a) ESTABLISHMENT OF SYSTEM.—For the purpose of facilitating future scientific research on the effects of exposure of veterans to dioxin and other toxic agents in herbicides used in support of United States and allied military operations in Vietnam during the Vietnam era, the Secretary of Veterans Affairs shall establish and maintain a system for the collection and storage of voluntarily contributed samples of blood and tissue of veterans who performed active military, naval, or air service in Vietnam during the Vietnam era. The system may be administered by the Department of Veterans Affairs or under a contract awarded by the Secretary, whichever is more cost-effective.

(b) SECURITY OF SPECIMENS.—The Secretary shall ensure that the tissue is collected and stored under physically secure conditions and that the tissue is maintained in a condition that is useful for research referred to in subsection (a).

(c) AUTHORIZED USE OF SPECIMENS.—The Secretary may make blood and tissue available from the system for research referred to in subsection (a) in a manner consistent with the privacy rights and interests of the blood and tissue donors.

(d) LIMITATIONS ON ACCEPTANCE OF SAMPLES.—The Secretary may prescribe such limitations on the acceptance and storage of blood and tissue samples as the Secretary considers appropriate consistent with the purpose specified in the first sentence of subsection (a).

(e) CONSULTATION REQUIREMENTS.—(1) To the extent provided under any agreement entered into by the Secretary and the National Academy of Sciences, the Secretary shall consult with the National Academy of Sciences regarding the establishment and maintenance of the tissue archiving system under this section, including any limitation to be prescribed under subsection (d).

(2) In the event that the National Academy of Sciences does not enter into an agreement for consultation under paragraph (1), the Secretary shall consult with the Director of the Office of Technology Assessment on the establishment and maintenance of the tissue archiving system under this section, including any limitation to be prescribed under subsection (d).

(f) CONTRACT AUTHORITY SUBJECT TO APPROPRIATION.—The contract authority provided in this section shall be effective for a fiscal year to such extent or in such amount as is provided for in an appropriation Act.

SEC. 807. SCIENTIFIC RESEARCH FEASIBILITY STUDIES PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Veterans Affairs shall establish a program to provide for the conduct of studies of the feasibility of conducting additional scientific research on—

(1) health hazards resulting from exposure to dioxin;

(2) health hazards resulting from exposure to other toxic agents in herbicides used in support of United States and allied military operations in Vietnam during the Vietnam era; and

(3) health hazards resulting from active military, naval, or air service in Vietnam during the Vietnam era.

(b) PROGRAM REQUIREMENTS.—(1) Under the program established pursuant to subsection (a), the Secretary shall, pursuant to criteria prescribed pursuant to paragraph (2), award contracts or furnish financial assistance to non-Government entities for the conduct of studies referred to in subsection (a).

(2) The Secretary shall prescribe criteria for (A) the selection of entities to be awarded contracts or to receive financial assistance under the program, and (B) the approval of studies to be conducted under such contracts or with such financial assistance.

(c) REPORT.—The Secretary shall promptly report the results of studies conducted under the program to the Committees on Veterans' Affairs of the Senate and the House of Representatives.

(d) CONSULTATION WITH THE NATIONAL ACADEMY OF SCIENCES.—To the extent provided under any agreement entered into by the Secretary and the National Academy of Sciences (1) the Secretary shall consult with the National Academy of Sciences regarding the establishment and administration of the program under subsection (a), and (2) the National Academy of Sciences shall review the studies conducted under contracts awarded pursuant to the program and the studies conducted with financial assistance furnished pursuant to the program. The agreement shall require the National Academy of Sciences to submit to the Secretary and the Committees on Veterans' Affairs of the Senate and the House of Representatives any recommendations that the National Academy of Sciences considers appropriate regarding any studies reviewed under the agreement.

(e) AUTHORITY SUBJECT TO APPROPRIATION.—The authorities to enter into contracts and to furnish financial assistance provided in this section shall be effective for a fiscal year to such extent or in such amount as is provided for in an appropriation Act.

SEC. 808. OUTREACH SERVICES.

Section 1204(a) of the Veterans' Benefits Improvement Act of 1988 (division B of Public Law 100-687; 102 Stat. 4125) is amended—

(1) in clause (1), by striking out ", as such information on health risks becomes known";

(2) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(3) by inserting "(1)" after "PROGRAM.—"; and

(4) by adding at the end the following new paragraph:

"(2) The Secretary of Veterans Affairs shall annually furnish updated information on health risks described in paragraph (1)(A) to veterans referred to in paragraph (1).".

SEC. 809. REPORT RELATING TO RESEARCH ON TREATMENTS FOR EXPOSURE TO DIOXIN AND OTHER TOXIC AGENTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing a discussion of the research being conducted to identify and develop treatments for physiological absorption of dioxin and other toxic agents similar to the toxic agents in herbicides used in support of United States and allied operations in Vietnam during the Vietnam era, including research relating to exposure to dioxin and other toxic agents outside Vietnam.

SEC. 810. EXTENSION OF HEALTH-CARE ELIGIBILITY BASED ON AGENT ORANGE OR IONIZING RADIATION EXPOSURE.

Section 610(e)(3) of title 38, United States Code, is amended by striking out "September 30, 1990" and inserting in lieu thereof "December 31, 1993".

SEC. 811. RANCH HAND STUDY AMENDMENTS.

Section 1205 of the Veterans' Benefits Improvement Act of 1988 (division B of Public Law 100-687; 102 Stat. 4126) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(2) by inserting after subsection (b), the following new subsection (c):

"(c) ADVISORY RELATIONSHIP.—The Advisory Committee may consult directly with and provide information and recommendations directly to the Department of the Air Force scientists conducting the Ranch Hand Study, and such scientists may consult directly with and provide information and recommendations directly to the Advisory Committee. No officer or employee of the Federal Government may intervene in or impair direct communication between the Advisory Committee and such scientists under this section except as may be necessary to prevent an inappropriate disclosure of classified information."; and

(3) in subsection (d), as redesignated by clause (1)—

(A) by adding at the end of paragraph (1) the following: "The schedule shall provide for the preparation and submission of annual reports and a final report."; and

(B) in paragraph (4), by inserting "in" after "report referred to".

SEC. 812. DEFINITIONS.

In this title—

(1) the terms "veteran", "service-connected", "active military, naval, or air service", and "Vietnam era" shall have the meanings given those terms in paragraphs (2), (16), (24), and (29), respectively, of section 101 of title 38, United States Code;

(2) the term "disability" refers to a disability within the meaning of chapter 11 of such title; and

(3) the term "soft-tissue sarcoma" means any sarcoma other than osteosarcoma, condrosarcoma, Kaposi's sarcoma, and mesothelioma.

SEC. 813. EFFECTIVE DATE.

Except as provided as in section 802(k), this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

On page 39, at the end of the table of contents above line 2, insert the following:

TITLE VIII—VETERANS' AGENT ORANGE EXPOSURE AND VIETNAM SERVICE BENEFITS

Sec. 801. Short title.
Sec. 802. Interim period for award of benefits for Vietnam veterans with non-Hodgkin's lymphoma and certain sarcomas.
Sec. 803. Presumption of service connection for chloracne.
Sec. 804. Presumption of service connection for diseases associated with effects of exposure to certain herbicide agents.
Sec. 805. Results of examinations and treatment of veterans for disabilities related to exposure to certain herbicides or to service in Vietnam.
Sec. 806. Tissue archiving system.
Sec. 807. Scientific research feasibility studies program.
Sec. 808. Outreach services.
Sec. 809. Report relating to research on treatments for exposure to dioxin and other toxic agents.
Sec. 810. Extension of health-care eligibility based on agent orange or ionizing radiation exposure.
Sec. 811. Ranch hand study amendments.
Sec. 812. Definitions.
Sec. 813. Effective date.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

(Change of time for hearing.)

Mr. JOHNSTON. Mr. President, I would like to announce for the Senate and the public that the hearing before the full Committee on Energy and Natural Resources on October 5, 1989, concerning the Department of Energy's efforts to improve the operations and management of its atomic energy defense activities and Senate bills S. 972 and S. 1304 originally scheduled to begin at 9:30 a.m. will now begin at 9:15 a.m.

The hearing will take place in room SD-366 of the Dirksen Senate Office Building in Washington, DC. The second day of hearings will remain as originally scheduled—October 19, 1989, at 9:30 a.m. in room SD-366.

For further information, please contact Mary Louise Wagner or Teri Curtin at (202) 224-7569.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a hearing on Thursday, October 19, 1989, beginning at 2 p.m., in 485 Russell Senate Office Building on S. 1289, the National Indian Forest and Woodland Enhancement Act.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. SARBANES. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, October 3, 1989, at 11 a.m. in executive session to discuss conference issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. SARBANES. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on October 3, 1989, at 2:30 p.m., to consider legislation providing for budget reconciliation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. SARBANES. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, October 3, beginning at 9:30 a.m., to conduct a hearing to hear testimony regarding pending amendments to the Clean Air Act concerning acid deposition legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. SARBANES. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate at 2:30 p.m. on Tuesday, October 3, 1989, to hold a hearing on pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITIES

Mr. SARBANES. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Tuesday, October 3, 1989, at 9:30 a.m., to conduct hearings on the impact of institution investors on corporate governance, takeovers, and the capital markets.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. SARBANES. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, October 3, 1989, at 2 p.m., to hold a hearing on the nomination of Gene McNary to be Commissioner of Immigration and Naturalization.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. SARBANES. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the

Senate on Tuesday, October 3, 1989, at 10 a.m., to hold a hearing on controlling the supply side of drugs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SARBANES. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 3, at 9:30 a.m., to hold hearings on United States policy options toward South Africa.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. SARBANES. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, October 3 at 9:30 a.m., for a hearing on the subject: Inspector General Act implementation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PROPOSED LICENSE FEES FOR AMATEUR RADIO OPERATORS

● Mr. LEVIN. Mr. President, I have recently learned that the Commerce Committee has chosen to meet its reconciliation responsibilities, in part, by imposing unprecedented fees on our amateur radio operators. It is ironic that this proposal comes at a time when we have been able to witness the achievements of the amateur radio operators so prominently in our daily headlines.

During some of the darkest hours of Hurricane Hugo, as it ripped through the Virgin Islands, the world relied on the abilities and commitment of our amateur radio operators to pick up the only bits of news available about the extent of the damage and the condition of the islands. For much of the critical time immediately after the hurricane, we were dependent upon what we learned from our amateur radio operators. And at that time, any information we could get was absolutely priceless. I ask to have placed in the RECORD a copy of the article that appeared in the Washington Post on this subject.

The article follows:

[From the Washington Post, Sept. 19, 1989]

HAM RADIOS AT HUGO-TRACKING HUB—OPERATORS ARE ONLY LINK BETWEEN FLORIDA CENTER, STRICKEN AREAS

(By Michael York)

CORAL GABLES, FL, Sept. 18.—Thomas M. Middleton, wearing headphones, is staring at two amateur-radio transceivers and scribbling on a legal pad. Looking over his shoulder, one can see phrases such as "99 percent homeless . . . total destruction . . . 4 bodies in the street."

Middleton, 67, a volunteer, is the only link between the National Hurricane Center here and Puerto Rico, the Virgin Islands and other islands that have lost electricity and telephone service as Hurricane Hugo thunders through the Caribbean.

"These ham operators broadcast as long as they can with their regular systems until the storm gets close," Middleton said. "Then they take down their elaborate antennas and disconnect their generators. Mostly, they're using a crude piece of wire for an antenna and are running off of a car battery."

To an untrained ear, only noise is heard on 14.325 megahertz, the 20-meter-band frequency dedicated to emergency broadcasts. But Middleton, who earned his radio license in 1938, can distinguish voices describing near total devastation.

"You probably can't make out much more than a word here and there," said Middleton, who lives in Miami. "It's just a lot of squeals and crackles. But, if you really listen, you can hear what they're saying.

"It's strange, but you don't hear any sense of crisis in the voices, even in the most desperate reports. It's a lot like the last words from those pilots who crashed in Sioux City, Iowa, in July. Everyone's very calm, almost matter of fact," he said.

Sometimes, Middleton said, the transmissions are too weak to hear. But the vagaries of ham radio allow other operators, often much farther from the Caribbean than is Middleton, to rely the messages. Since Hugo churned into Guadeloupe Saturday, amateur radio operators in Texas, Ohio and California have helped to relay messages.

Last year, when Hurricane Gilbert wrecked much of Jamaica, a ham operator in Australia served as a relay.

"It's all in the weird way that radio-wave propagation works," Middleton said. "These signals don't go in a straight line. They can go anywhere."

The National Hurricane Center is part of the Commerce Department's National Oceanic and Atmospheric Administration and is located in an office building outside Miami. The only clue that something unusual might be here is the bulbous radar dome on the roof.

The center is arranged around a 45-inch, high-resolution television set that shows the most recent satellite picture of the storm. Directly in front of the screen, center director Bob Sheets faces a bank of television cameras and gives nonstop interviews.

The television networks, which draw lots to determine who goes first, queupe up for live interviews with Sheets at the beginning of each newscast. Since Friday, Hugo has been the lead story in television news broadcasts.

Behind Sheets, a squad of employees answers calls from across the country. Incoming lines have been jammed for two days, but one radio station has figured out a sure way of getting through, center specialist John Bevin said.

"They just tell the operator it's an emergency," he said. "They say there is a killer storm."

Amateur radio operators, or "hams" as they are commonly called, are dedicated individuals who play a valuable role for our Nation in public safety, disaster relief, and emergency communications for national defense, among other services. Although ham operations are primarily a hobby, in times of need amateur radio operators are transformed into a corps of highly trained public service communicators, who willingly work long hours as volunteers during disasters. And, the amateur radio operators provide these services at no personal profit. In fact, they use equipment that they have purchased themselves.

In Michigan, alone, we have more than 14,000 radio amateurs whose volunteer efforts have assisted the State of Michigan in emergency and disaster relief efforts, including the 1987 Detroit Metropolitan Airport disaster.

Last year we passed legislation that required Government agencies to take into account "the valuable contributions made by amateur radio operators when considering actions affecting the amateur radio service." Yet in the past year the amateur radio community has had to face several setbacks.

On August 17, 1989, the Federal Communications Commission [FCC] released a memorandum opinion and order reaffirming their action of August 4, 1988, reallocating the 220–222 MHz radio frequency band on an exclusive basis to the land mobile service despite the strong opposition and pleas of the amateur radio community. The amateurs had objected strongly to prohibiting their use of this frequency, since they had used these bands for some of their emergency assistance. Now they face this proposed budget reconciliation provision which would impose new license fees upon them.

The proposed budget reconciliation of the Commerce Committee provides for approximately $43 million in additional revenues to the FCC to cover the FCC's administrative costs; $3.78 million of this amount would come from fees charged to amateur radio operators.

The proposal would assess a $35 charge for an amateur license under the following categories: New license—per application; modification of license—per application; renewal of license—per application; reciprocal permit for alien amateur license; renewal or modification of amateur club, RACES, or military recreation station license; and special temporary authority—initial, modifications, extensions.

Additionally, another category is proposed with an assessment of $105 for a request for a waiver, either routine or nonroutine.

Included in the list of fees is an assessment against a group called RACES. This stands for Radio Amateur Civil Emergency Services. RACES stations are licensed to local and State government entities and are very important for our Nations emergency communications. Also in this same category are fees to be assessed against amateur clubs and military recreation stations. These include clubs that are in our Nation's schools so our children can learn the importance of how to work on amateur radio equipment and

participate in worthwhile volunteer work. Our military recreation stations also provide the very important public service of keeping our military forces in touch with those back home.

At the present time amateur radio operators are exempt from license fees as are other nonprofit organizations. The Commerce Committee has not included in their proposed fee schedule other nonprofit organizations such as special emergency and public safety groups and public broadcasters. The reason for their exclusion is, in part, their important public service role. Mr. President, our amateur radio operators also provide an important public service, and we should not treat them any differently than we do other nonprofit, service organizations.

In addition, Mr. President, I have been informed that the amateur radio operator community has already been assuming much of their own administrative burdens. For example, the amateurs already administer, on a voluntary basis, license examinations at no cost to the FCC. From 1983 to the present, it is estimated that the amateur radio operators have saved the FCC $1 million a year by performing this function.

And finally, I should add that these proposed fees are for the purpose of reimbursing the FCC for the actual costs it incurs in processing these various licenses. Yet, the FCC has admitted that the true costs for these licensing responsibilities may be as little as 35 cents in some cases.

Mr. President, I hope to be able to offer an amendment, when we take up the reconciliation bill that will address these unfair fees on our amateur radio operators. I invite any interested colleagues to join me in this effort.●

PRAISE FOR THE WEIZMANN INSTITUTE

● Mr. SIMON. Mr. President, a recent issue of the Near East Report carried an article about the Weizmann Institute in Israel. Next month the Weizmann Institute will celebrate its 40th anniversary, and those associated with the Institute have much to be proud of. It is simply one of the finest scientific research establishments in the world.

I commend the article to the attention of my colleagues, and I ask that the article entitled "The Wondrous Weizmann Institute" be printed in the RECORD.

The article follows:

[From the Near East Report, Aug. 28, 1989]

THE WONDROUS WEIZMANN INSTITUTE

Thanks to the Weizmann Institute, Israel is on the cutting edge of scientific discovery in cancer research and heart disease, physics, energy production, math and computer sciences. The Institute, which celebrates its 40th anniversary in November, is located in Rehovot, near Tel Aviv. Most of Weizmann's funding comes from an Israeli government stipend and international fundraising, but WI also receives about a million dollars a year in competitive National Institute of Health research contracts. U.S. tax dollars also support other science projects.

The Institute is held in very high esteem at NIH. Working together with NIH researchers, Weizmann scientists played a "very prominent" part in discovering the genetic defect that causes Down's Syndrome, according to health institute program officer Robert Eiss. This finding, Eiss told NER, could ultimately result in the development of a genetic therapy that could prevent this incurable disease.

PROGRESS IN AIDS FIGHT

Weizmann scientists were part of a recent international research effort that helped provide critical new information about cell structure and function. Without this data "it would have been impossible to develop current tests for the AIDS virus" or conduct critical genetic studies of the disease, Eiss says. Weizmann's work, he stresses, is "aiding the development of anti-viral drugs and potential vaccines against AIDS."

Researchers at NIH and Weizmann are working together in an attempt to create a vaccine for crippling diseases such as rheumatoid arthritis, says Eiss. WI also played a prominent role in cancer research explaining "how healthy cells become cancerous ones" he adds. According to Eiss, vision research being conducted at Weizmann will "over the long haul improve our ability to prevent blindness."

And there's much more. Institute biologists are studying changes in the brain and nervous system that make the elderly more susceptible to disease. They also are examining the reproductive system to devise new infertility treatments and birth control methods. Other scientists are working to produce drugs to provide coronary patients with better chances of recovery.

Researchers are working to create more potent anti-asthma medication. Animal studies are in progress with drugs that may one day be used to treat epilepsy, manic-depression, alcoholism and multiple sclerosis. Institute-developed drugs aiding kidney sufferers and elderly victims of bone diseases are on the market. A vaccine for bilharzia, one of the many parasitic diseases that kill and maim millions throughout the Third World, is being studied.

FEEDING THE HUNGRY

Weizmann scientists are helping to feed a hungry world by developing high-protein bread wheat varieties that will improve nutrition. WI researchers are also developing vegetable crops that are more resistant to herbicides. Weizmann-developed hybrid cucumbers are now grown throughout the Mediterranean region, including several Arab countries.

The Institute's new Center for Energy Research has embarked on numerous solar energy-related projects, including development of solar water heaters necessary for use with air-conditioning systems. WI's physics department is devising new ways to identify faults in aircraft wings. It is also investigating new ways to detect heat leaks from buildings.

Many firms operate in Kiryat Weizmann Industrial Park, located adjacent to the Rehovot campus. For 20 years, the Institute's Department of Plastics Research has been cooperating with Makhteshim Chemical Industries of Beersheba, a division of Koor Chemicals, one of Israel's industrial giants. Together with WI, Makhteshim is on the verge of opening up several new product lines, including a compound used to reduce the flammability of industrial materials.

One American-based high-tech company located in Kiryat Weizmann is Gelman Ltd., a subsidiary of Gelman Sciences of Ann Arbor, Mich. The firm, whose products include material for surgical gowns and disposable diapers, set up a research and development operation there nearly a decade ago. Gelman's Rehovot workforce has grown from four to 35, and the plant has started to produce material for the parent company. "We built the place from people we'd recruited . . . from the Weizmann Institute," the firm's vice president for advanced technology, Dr. Gerald Tanny, told NER. "The Weizmann Institute attracts high-grade people who are very hardworking and dedicated." Tanny said his company also benefited greatly by being able to use the adjacent campus library.

Weizmann's scientific staff is 1,800, including nearly 500 scientists-in-training, working toward master-of-science degrees or doctorates at WI's Feinberg Graduate School. Twenty-eight nations are represented in Weizmann's student body. These include approximately 30 Americans, and students from countries as diverse as Singapore, China, Mexico and Brazil. Last year, Weizmann's first Egyptian student received a Master's degree. The school is non-sectarian, and classes are conducted in English.●

ENTERPRISE ZONE PROGRAM

● Mr. BOSCHWITZ. Mr. President, I rise today to share with my colleagues a recent editorial that appeared in the Washington Post by Housing and Urban Development Secretary Jack Kemp. In this column, Secretary Kemp lauds an innovative program I have been advocating for almost a decade in this body—namely, the Enterprise Zone Program.

Eight years ago, then-Congressman Kemp and I introduced the first enterprise zone bill, and this year, I introduced an updated version of the measure once again. Although enterprise zone legislation of the type Secretary Kemp and I support has passed the Senate twice, it unfortunately has yet to become law.

This country is presently in a record-breaking economic recovery, jut there are still many who have not been a part of this growth. Now, more than ever, we need to strengthen the enterprise zone concept to target economic development assistance to depressed areas where jobs and the dreams of economic independence have been lost.

The 1987 Housing Act provided for the establishment of 100 enterprise zones eligible for special tax or financial advantages to encourage business development and job creation. But this Federal program lacks any direct Federal support. As a result, many States have moved forward with their own targeted enterprise zone programs. And as Secretary Kemp points out in his editorial, the verdict is in.

At last count, 36 States and the District of Columbia were utilizing enter-

prise zones, and those numbers are increasing. A recent survey by Business Facilities magazine estimated that enterprise zones had created 184,600 new jobs through 1988 while retaining 169,100 jobs.

Clearly, the strength of enterprise zone has been demonstrated. It is now time to graduate the program from trial run to full implementation. I look forward to addressing the issue as soon as possible in the Senate.

I ask that a copy of Secretary Kemp's column be printed in the RECORD at the conclusion of my statement.

The column follows:

[From the Washington Post, Sept. 17, 1989]

(By Jack Kemp)

LIGHTING CANDLES FROM HARLEM TO WATTS

The House Ways and Means Committee, including six Democrats, narrowly passed a tax bill that reduces the capital gains tax rate—a measure the Bush administration strongly supports. Yet the congressional tax writers ignored the opportunity to pass enterprise zones to help poor people in depressed urban and rural communities. Instead, the committee recommended a host of special tax provisions, including solar and geothermal tax credits, relief of tax on heavy industry and simplification of the corporate minimum tax. I believe the committee's priorities have been tragically misplaced by not giving poverty top billing on this nation's political agenda.

I hope this mistake will be rectified on the floor of Congress and that President Bush's enterprise zone bill, which is widely supported by both parties, will yet become part of this year's tax bill. With the 25th anniversary of the War on Poverty this year, it is absolutely crucial to reinvigorate this nation's anti-poverty agenda by passing an enterprise zone bill that in many ways has its roots in the goals, if not the methods, of anti-poverty thought of the early '60s.

Enterprise zones and the War on Poverty share a common philosophy of empowering poor people to help themselves. Unlike those today who say that the poor are condemned to a permanent underclass, Great Society thinkers believed that poor people had the resources and the vision to overcome poverty if the federal government empowered them politically.

Unfortunately, Lyndon Johnson's efforts relied too much on political action. Enterprise-zone advocates also believe that poverty is not inevitable but that poor people must become entrepreneurs, small business men and women, and risk-takers. While Chapter I of the struggle for equality focused on legal, civil and voting rights, Chapter II now should center on economic opportunity, jobs and access to income if freedom is to be made real for poor people and minorities.

While conceding our goals, skeptics have expressed three concerns about enterprise zones. First, the common wisdom has been that enterprise zones haven't worked at the state level. That's wrong. Since 1982, 37 states and the District of Columbia have enacted enterprise-zone programs. These state zones are demonstrating substantial success, despite the fact that they do not include powerful federal incentives. Surveys show that state zones have created approximately 184,600 new jobs, helped retain nearly 169,100 existing jobs and promoted more than $18.1 billion in new capital investment. For example, a July 1989 report prepared for the New Jersey Department of Commerce, Energy and Economic Development estimated that New Jersey's program added so much new economic activity and jobs to poverty areas that every dollar in tax incentive actually raised between $1.90 and $5.20 in new state tax revenue.

A second concern has been that enterprise zones presume that reducing federal tax and regulatory barriers would be enough to revive communities. Again, this is not true. Enterprise zones have always been considered one element in an overall empowerment strategy, which also should include evicting drug abusers from low-income housing, encouraging resident management and spreading home-ownership opportunities in public housing. Enterprise zones will give states and cities the incentive to offer their own comprehensive anti-poverty and anti-crime initiatives, since the 50 federal zones will be designated, in major part, on the strength of state and local efforts.

A third charge is that enterprise zones naively ask too much of poor people. It is argued that big businesses should be lured into depressed areas or at least that incentives should be designed to keep existing businesses from dying.

We disagree. The thriving urban underground economy—not just drug sales but everything from bartered plumbing and house painting to informal day care—demonstrates that these areas are rich in entrepreneurial potential. Waves of largely poor and unskilled immigrants also tell us that those in poverty can become producers, entrepreneurs and taxpayers, if their services are properly rewarded rather than blocked by government red tape, regulation and high taxation. As one who has championed lower capital gains taxes, I believe that eliminating this tax in depressed communities can help "percolate" a whole new generation of small business entrepreneurs. Small businesses must be the focus of enterprise zones because they generate two-thirds of all net new private-sector jobs and practically all new jobs in the Northeast.

Perhaps the potential of enterprise zones is best understood by describing one. Imagine making the Kenilworth-Parkside public housing project here in the District an enterprise zone. Resident leader Kimi Gray and the co-op residents already manage their housing project. They began a "College Here We Come" program and kicked out the drug pushers. But can you picture the accelerated progress if Kenilworth residents had access to new business seed capital because we eliminated the capital gains tax in the zone and allowed outside investors a dramatic tax incentive for investment in EZ enterprises? Imagine the new work incentives if residents were given a tax credit to reduce or eliminate their federal tax burden as they left welfare for a new job. The D.C. government might also help by relaxing zoning, licensing and building code regulations, targeting the area for a magnet school and even abolishing some regressive local taxes. Can you envision the positive effect on that community and the model it would present to the rest of the nation as Southeast Washington began to revive and prosper?

We must light thousands of candles like that in areas of poverty around the country from Harlem to Watts and from Overtown to Motown. Tempered by the failures of the past and aware of the limits of government, I remain confident that this nation is ready, once again, to dare to believe that poverty can be eliminated, this time by unleashing the enormous potential of entrepreneurial capitalism through enterprise zones in poverty-stricken areas across America.●

IN RECOGNITION OF MENTAL ILLNESS AWARENESS WEEK

● Mr. SIMON. Mr. President, today marks the beginning of "Mental Illness Awareness Week." Since 1984, this designation has been used as an important educational tool. Throughout this week, people will be made aware of the seriousness of mental illness, and the progress in developing education about the realities of this disease. I agree with the headline from last year's awareness campaign: "Mental illness is curable. But public apathy must be cured first."

This week is cause to reflect on the seriousness of the issue. One out of four families was affected by mental illness. One out of 5 adults, 29.4 million Americans, are directly afflicted. When children 17 and under are included, the number increases to 35 million suffering with the disease. That's more than cancer, lung, and heart disease combined.

These statistics are staggering. However, while we reflect on the magnitude of the problem we want to celebrate positive programs that are in place and working. One such initiative is that of the Advertising Council and the American Mental Health Fund.

Together, they recognized that despite the prevalence of mental illness the public knows very little about it or its warning signs. Further, the stigma associated with the disease and the professional treatment available inhibits the overwhelming majority of its victims from seeking help.

The Ad Council, a nonprofit organization of corporate leaders and communication executives, has applied their expertise to such national social issues as mental illness, drug use, AIDS, child abuse, and drunk driving. They are responsible for using their special talents to help publicize and achieve the goals and objectives of the American Mental Health Fund. They have worked to develop a multimedia, national advertising campaign that will dispel the myths and destroy the stigma of mental illness. Their message has been that mental illness is a legitimate disease with biological components and, most importantly, that professional treatment is available.

This happened through an extensive system of voluntarism that deserves recognition. Specifically, Warwick, Baker & Fiore, Inc. donated their advertising services, AT&T Communications volunteered their advertising expertise, and the media freely gave of their time and space—nearly $30 million in 1988 in television, radio, print, and transit.

29-059 O-90-41 (Pt. 16)

The American Mental Health Fund, which is supported entirely by private donations, is in its 6th successful year of raising the public's awareness on mental illness and its stigma. Through educational programs, research grants, literature publications, and many other programs, the fund has pursued every opportunity to raise consciousness and create support for the mentally ill.

I applaud the Advertising Council and the American Mental Health Fund for their work. Many times there is a tendency, as a society, to blame the conditions of mental illness on those suffering, as if the illness were a matter of free choice. We have a tendency to harbor unconscious prejudices and negative attitudes toward the victims of mental illness. Groups such as these work to remind us that this discrimination is wrong and that, together, through proper research, we can find causes and appropriate treatments for mental illness.●

COST OF DEFENSE DEPARTMENT REPORTS

● Mr. BOSCHWITZ. Mr. President, for more than a year I have spoken before my colleagues on the subject of congressional micromanagement of the Defense Department. I have pointed out that in our efforts to oversee the Pentagon, the Congress has imposed some 1,500 separate laws or regulations dealing with procurement, for example, and that, rather astonishingly, more than 100 committees and subcommittees have responsibility for overseeing some part of the Defense Department's operations.

One of my particular concerns has been the phenomenal, virtually unregulated growth in the number of reports that Congress mandates from the Defense Department. To illustrate, in 1970 we required a mere 36 reports. This year, in comparison, we required 661—a 1,836-percent increase since 1970.

And I can't say we are receiving good value for our money, not when those 661 reports take an astounding 370 man-years to produce at an estimated cost to the taxpayer of $6 million. Not when one report alone cost nearly $2 million to prepare. And certainly not when the average cost of a report was $54,000, an amount almost twice the average family's income.

As part of my effort to have the Congress focus on the issue of Defense reports, I offered in August an amendment to the Department of Defense authorization bill. My amendment, the Defense Reports Reduction Act, would terminate all current Defense Department reporting requirements as of January 1, 1991, and set down guidelines for future reports, which could be requested only on a case-by-case basis. I withdrew the amendment because of the agreement that had been reached on limiting amendments.

However, I still feel now as I felt then—that we simply must restrain ourselves when it comes to mandating reports from the Defense Department.

Mr. President, I'm glad to see that my concerns about this problem are beginning to be met and that we are taking the first, small steps to making Congress a part of the solution and not a part of the problem as it has been for so long.

This year's report from the Senate Appropriations Committee accompanying the fiscal year 1990 Department of Defense appropriations bill includes a new provision, detailed in section 9089, requiring the Pentagon to print the full cost entailed in the production of reports and publications. Section 9089 goes on to state that Secretary of Defense Cheney's initiative to display the full cost of preparing reports should be expanded to include all Defense reports, not only those prepared at the request of the Congress.

I applaud both the Appropriations Committee for its inclusion of this section as well as the Secretary for his initiative. I hope that he will comply with the report's expanded request for information. I believe that after we have the requested cost information in hand, we in the Congress will be in an enhanced position to take positive actions to see to it that the American taxpayers get true value for their money when we mandate reports from the Defense Department.●

MARTIN E. SEGAL

● Mr. MOYNIHAN. Mr. President, 50 years ago, on October 15 to be exact, a young man began a business in New York City. In itself, this event was not remarkable. Certainly many other businesses were begun by young men in New York City in 1939. However, this young man—through creativity, hard work, intelligence and farsightedness—began a business that has flourished and become one of the leading companies in its field. This young man is Martin E. Segal, founder and chairman of the Martin E. Segal Co., now one of the top 10 employee benefit and actuarial consulting firms in our Nation.

Martin Segal is in many ways the quintessential American achiever, one who arrived in the United States from his birthplace, Vitebak, Russia. His very successful company has been instrumental in the advocacy, design, and implementation of innovative benefit practices.

But, aside from his business acumen, he has also become one of the foremost champions of the arts. Martin Segal is currently chairman of the board of directors of the New York International Festival of the Arts and chairman emeritus of Lincoln Center for the Performing Arts. He is also a trustee of the Institute for Advanced Study at Princeton and a member of the board of directors of some of New York's and the Nation's most important cultural organizations.

He has received honorary degrees from the City University of New York, Long Island University, the Mannes College of Music, New York University, and Pratt Institute and countless awards and honors for his service to the arts. This year alone, he received the Presidential Citation of the National Federation of Music Clubs, the Public Spirit Award of the Creative Arts Rehabilitation Center, and the New York State Governor's Art Award presented to him by Gov. Mario Cuomo.

Marty's other accomplishments are quite numerous, but one has to mention his having been founding president of the Film Society of Lincoln Center, of which he is now president emeritus, and the first chairman of the Commission for Cultural Affairs of the City of New York.

Mr. President, I am sure that my colleagues join me in sending great congratulations to this distinguished New Yorker, Martin E. Segal, on the 50th anniversary of the founding of the Martin E. Segal Co.●

APPOINTMENT BY THE VICE PRESIDENT

Mr. BIDEN. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort His Excellency Carlos Salinas de Gortari, President of the United Mexican States, into the House Chamber for the joint meeting to be held tomorrow, Wednesday, October 4, 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

STRIKING OF MEDALS IN COMMEMORATION OF THE BICENTENNIAL OF THE U.S. COAST GUARD

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 279, S. 1091, a bill to provide for the striking of medals in commemoration of the bicentennial of the U.S. Coast Guard.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1091) to provide for the striking of medals in commemoration of the bicentennial of the United States Coast Guard.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. If there be no amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill (S. 1091) was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1091

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Coast Guard Bicentennial Medal Act".

SEC. 2. MEDAL COMMEMORATING THE BICENTENNIAL OF THE UNITED STATES COAST GUARD.

(a) COMMEMORATIVE MEDAL.—The Secretary of the Treasury shall design, strike, and sell a medal in commemoration of the bicentennial of the United States Coast Guard in 1990.

(b) SALES.—Medals struck pursuant to subsection (a) shall be sold at a price sufficient to cover the cost of such medals, including labor, materials, dies, use of machinery, and overhead expenses.

SEC. 3. DESIGN OF MEDAL.

The design of the medal authorized by this Act shall be selected by the Secretary of the Treasury after consultation with the Secretary of Transportation and the Commission of Fine Arts.

SEC. 4. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPORT-IMPORT BANK AMENDMENTS ACTS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 280, S. 1704, a bill to extend the Tied-Aid Credit Program of the Export-Import Bank.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1704) to extend the Tied-Aid Credit Program of the Export-Import Bank, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1704

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "Export-Import Bank Amendments Act of 1989".

SEC. 2. TIED-AID CREDIT PROGRAM.

(a) PURPOSE.—Section 15(a)(5) of the Export-Import Bank Act of 1945 (15 U.S.C. 635i-3(a)(5)) is amended by striking all that follows "commercial advantage" and inserting the following: "for the purposes of—

"(A) enforcing compliance with the existing arrangement restricting the use of tied aid and partially untied aid credits for commercial purposes; and

"(B) facilitating efforts to negotiate, establish, and enforce new or revised comprehensive international arrangements effectively restricting the use of tied aid and partially untied aid credits for commercial purposes; and such program should be aggressively used for such purposes.".

(b) ESTABLISHMENT OF PROGRAM.—The first sentence of section 15(b)(1) of the Export-Import Bank Act of 1945 (15 U.S.C. 635i-3(b)(1)) is amended by striking the matter preceding subparagraph (A) and inserting the following: "To carry out the purposes of subsection (a)(5), the Bank shall establish a tied aid credit program under which grants shall be made from funds available in the Tied Aid Credit Fund established under subsection (c)—".

(c) ADMINISTRATION OF THE PROGRAM.—Section 15(b)(2)(A) of the Export Import Bank Act of 1945 (15 U.S.C. 635i-3(b)(2)(A)) is amended by striking all that follows "effectively and efficiently" and inserting "to carry out the purposes of subsection (a)(5);".

(d) AVAILABILITY OF FUNDS.—Section 15(c)(2) of the Export-Import Bank Act of 1945 (15 U.S.C. 635i-3(c)(2)) is amended—

(1) by striking "cost" and inserting "amount equal to the concessionality level"; and

(2) by striking all that follows "authorized by the Bank" and inserting "through fiscal year 1991".

(e) AUTHORIZATION.—Section 15(e)(1) of the Export-Import Bank Act of 1945 (15 U.S.C. 635-3(e)(1)) is amended by striking out "1987, 1988, and 1989" and inserting "1990 and 1991".

(f) REPORTS.—Section 15(g)(2)(E) of the Export-Import Bank Act of 1945 (15 U.S.C. 635i-3(g)(2)(E)) is amended to read as follows:

"(E) the progress achieved by negotiations conducted to carry out the purposes of subsection (a)(5).".

SEC. 3. EXPORT-IMPORT BANK ACT INTEREST SUBSIDY PAYMENTS.

Section 2(f) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(f)) is amended—

(1) by striking paragraph (2) and redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively;

(2) by amending paragraph (3) (as redesignated by paragraph (2)) to read as follows:

"(3) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated to the Bank not to exceed—

"(A) $20,000,000 for fiscal year 1990; and

"(B) $20,000,000 for fiscal year 1991."; and

(3) in paragraph (4) (as redesignated by paragraph (2)), by striking "1988" and inserting "1991".

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPORT ADMINISTRATION AUTHORIZATION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 281, S. 1705, a bill to reauthorize the Export Administration for fiscal year 1990.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1705) to amend section 18 of the Export Administration Act of 1979 to authorize appropriations for fiscal year 1990, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BIDEN. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of the House companion (H.R. 2653) an act authorizing appropriations for fiscal year 1990 to carry out the Export Administration Act of 1979; that all after the enacting clause be stricken, the text of S. 1705 be substituted in lieu thereof, the bill be read a third time and passed and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2653), as amended, was passed.

BILL INDEFINITELY POSTPONED—S. 1705

Mr. BIDEN. Mr. President, I ask unanimous consent that S. 1705 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

URGING THE NOBEL COMMISSION TO CONSIDER AWARDING NOBEL PRIZE RECOGNITION FOR ACHIEVEMENTS IN PRESERVATION OF THE WORLD ENVIRONMENT

Mr. BIDEN. Mr. President, on behalf of Senator GORE and others, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 190) to urge the Nobel Commission to consider awarding Nobel Prize recognition for achievements in preservation of the world environment.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on agreeing to the resolution.

The resolution (S. Res. 190) was agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as folllows:

S. RES. 190

Whereas the world's environmental problems are no longer confined within the borders of a single nation, but affect the citizens of all nations;

Whereas the world must act in the next decade to ward off a grave and growing danger to the global ecological system that sustains life as we know it;

Whereas the science of global environmental studies is expanding dramatically both in academic stature and in political importance;

Whereas the findings of environmental scientists in areas such as stratospheric ozone depletion, the greenhouse effect, deforestation, and acid rain are already leading to a profound change in public consciousness and in the agendas of all governments;

Whereas the work of these outstanding individuals shuold be recognized on a global scale, not only to reward their accomplishments, but to increase worldwide awareness of the environmental peril and underscore the urgency of environmental protection; and

Whereas humankind's pursuit of progress in the sciences, literature, economics, and world peace will falter if we do not also work to save the planet on which we live: Now, therefore, be it

Resolved, That the Senate of the United States urges the Nobel Commission to consider awarding Nobel Prize recognition for achievements in preservation of the world environment. Such a prize would recognize outstanding individuals who have made signal contributions to our awareness of and responsibility for the environment.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ACTION ON SENATE JOINT RESOLUTION 162 VITIATED AND INDEFINITELY POSTPONED

Mr. BIDEN. Mr. President, I ask unanimous consent that passage of Senate Joint Resolution 162 be vitiated and that Senate Joint Resolution 162 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFERRAL OF A BILL—S. 1324

Mr. BIDEN. Mr. President, on behalf of Senators BOREN and COHEN, I ask unanimous consent that S. 1324, the Intelligence Authorization Act, originally reported from the Intelligence Committee, be referred to the Intelligence Committee for additional action that the committee may wish to take with respect to that legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL HELD AT THE DESK—HOUSE JOINT RESOLUTION 412

Mr. BIDEN. Mr. President, I ask unanimous consent that House Joint Resolution 412, a joint resolution dealing with Federal flood insurance and crime insurance to be held at the desk until the close of business Friday, October 6.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS BENEFITS AND HEALTH CARE ACT

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 234, S. 13, the veterans compensation and health benefits bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 13) to amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemnity compensation for veterans and survivors, to increase the allowances paid to disabled veterans pursuing rehabilitation programs to the dependents and survivors of certain disabled veterans pursuing programs of education, and to improve various programs of benefits and health-care services for veterans; and for other purposes, which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Benefits and Health Care Act of 1989".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Reference to title 38, United States Code.
Sec. 3. Definitions.
TITLE I—COMPENSATION AND PENSION
Sec. 101. Disability compensation and dependency and indemnity compensation.
Sec. 102. Expansion of clothing allowance.
Sec. 103. Pension limitations for hospitalized veterans.
TITLE II—HEALTH CARE
PART A—MENTAL HEALTH
Sec. 201. Care for combat-theater veterans with service-related post-traumatic stress disorder.
Sec. 202. Eligibility for services at Vet centers.
Sec. 203. Community-based residential care for homeless and certain other chronically mentally ill veterans.
Sec. 204. Mental illness research, education, and clinical centers.
Sec. 205. Special Committee on Post-Traumatic Stress Disorder.
Sec. 206. Study of and research on Department of Veterans Affairs outreach services and health-care services for certain Vietnam veterans suffering from post-traumatic stress disorder.
Sec. 207. Funding for post-traumatic stress disorder programs.
PART B—GENERAL HEALTH
Sec. 211. Services to overcome service-connected disabilities affecting procreation.
Sec. 212. Compensated work therapy and therapeutic residence pilot program.
Sec. 213. Pilot program: noninstitutional alternatives to nursing home care.
Sec. 214. Preventive medicine.
Sec. 215. Extension of authority to furnish respite care.
Sec. 216. Pilot program for furnishing assistive animals to certain veterans.
Sec. 217. Signal dogs for certain disabled veterans.
Sec. 218. State home construction grants.
Sec. 219. Prosthetic services report.
Sec. 220. Outpatient dental care.
Sec. 221. Reimbursement for emergency care of vocational rehabilitation participants.
Sec. 222. Repeal of authority to furnish tobacco to veterans receiving hospital or domiciliary care.
Sec. 223. Sharing of specialized medical resources.
Sec. 224. Development of recommended legislation for the elimination of inconsistencies in certain veterans benefits laws.
PART C—HEALTH-CARE PERSONNEL
Sec. 250. Short title.
Sec. 251. Pay rates for nurses and other health-care professionals in certain positions.
Sec. 252. Employment of personnel trained by the Department of Veterans Affairs.
Sec. 253. Director pay.
Sec. 254. Overtime rates of pay for certain nurses.
Sec. 255. Additional pay for head nurses.
Sec. 256. Pay enhancements for certain health-care personnel.
Sec. 257. Special rates cap and approval.
Sec. 258. Elimination of reduction in retired or retainer pay.
Sec. 259. Awards for recertification.
Sec. 260. Coverage of Veterans Health Services and Research Administration personnel by Federal employees' collective bargaining procedures.
Sec. 261. Disciplinary actions and grievances.
Sec. 262. Leave transfers and banks.
Sec. 263. Temporary appointments of health-care personnel.
Sec. 264. Health-care professionals cash awards.
Sec. 265. Dependent care assistance program.

Sec. 266. Health professionals scholarships.
Sec. 267. Assistance to health-personnel educational institutions.
Sec. 268. Payment of physicians' and dentists' special pay.
Sec. 269. Pilot program of pay and personnel management practices.
Sec. 270. Rates of pay for certain psychologists.

TITLE III—EDUCATION AND EMPLOYMENT

Sec. 300. Short title.
Sec. 301. Rehabilitation subsistence allowances for veterans with service-connected disabilities.
Sec. 302. Educational assistance for survivors and dependents.
Sec. 303. Vocational training for certain pension recipients.
Sec. 304. Provision for permanent program of independent living services and assistance.
Sec. 305. Veterans' and reservists' work-study program.
Sec. 306. Work-study program for survivors and dependents.
Sec. 307. Withdrawal from course under mitigating circumstances.
Sec. 308. Limited extension and expansion of the veterans' readjustment appointment authority.
Sec. 309. Pilot program to furnish employment and training information and services to members of the Armed Forces separating from the Armed Forces.
Sec. 310. Alternate secondary school credentials for Montgomery GI Bill eligibility.
Sec. 311. Bar to receipt of chapter 32 and 106 benefits for same period of service.
Sec. 312. Accepting school certification for renewal of educational benefits after unsatisfactory progress.
Sec. 313. Removal of attendance requirement distinctions between degree and nondegree training.
Sec. 314. Funding for State approving agencies for training curriculum development.
Sec. 315. Proof of satisfactory pursuit of a program of education.
Sec. 316. Reporting fees.
Sec. 317. Clock-hour measurement of certain unit courses or subjects creditable toward a standard college degree.
Sec. 318. Department of Veterans Affairs approval of certain courses.
Sec. 319. Limitations on changes of programs of education.
Sec. 320. Effective date of adjustments of educational benefits.
Sec. 321. Technical and clerical amendments.

TITLE IV—HOME LOAN

Sec. 400. Short title.
Sec. 401. Establishment of Home Loan Guaranty Fund.
Sec. 402. Loan fee.
Sec. 403. Indemnification of veteran after default.
Sec. 404. Sale of vendee loans.
Sec. 405. Computation of entitlement amount.
Sec. 406. Procedures on default.
Sec. 407. Refinancing loans.
Sec. 408. Waiver of indebtedness.
Sec. 409. Clarifying correction regarding entitlement.

TITLE V—MEMORIAL AFFAIRS

Sec. 501. Reimbursement for cost of cemetery headstone or marker.
Sec. 502. Cremated remains in Arlington National Cemetery.
Sec. 503. New Arizona national cemetery.

TITLE VI—MINORITY AFFAIRS

Sec. 601. Assignment of minority issues to an Assistant Secretary of Veterans Affairs.
Sec. 602. Reestablishment of the Advisory Committee on Native American Veterans.
Sec. 603. Study of home loans to Native-American veterans.

TITLE VII—MISCELLANEOUS

Sec. 701. Security services.
Sec. 702. Expansion of multiyear procurement authority to include nonmedical items.
Sec. 703. Notice of procedural rights and other information.
Sec. 704. Use of Internal Revenue Service and Social Security Administration data for income verification.
Sec. 705. Court of Veterans Appeals.

SEC. 2. REFERENCE TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 3. DEFINITIONS.

Section 101 is amended by adding at the end the following new paragraph:

"(33) The term 'Secretary' means the Secretary of Veterans Affairs (except when the context indicates otherwise).".

TITLE I—COMPENSATION AND PENSION

SEC. 101. DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) IN GENERAL.—(1)(A) The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1989 (except as provided in subparagraph (B)), the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(B) The Secretary shall make effective August 1, 1990, the increase in the rate in section 314(k) of title 38, United States Code, that as of September 1, 1989, was $63.

(2)(A) In the case of each of the rates and limitations in sections 314, 315(1), 362, 411, 413, and 414 of title 38, United States Code, the Secretary shall increase such rates and limitations, as in effect on November 30, 1989, by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1989, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(B) In the computation of increased rates and limitations pursuant to subparagraph (A)—

(i) except in the case of rates of disability compensation for a disability rated at 20 percent or below, amounts of $0.50 or more shall be rounded to the next higher dollar amount and amounts of less than $0.50 shall be rounded to the next lower dollar amount; and

(ii) in the case of rates of disability compensation for a disability rated at 20 percent or below, amounts of less than $1.00 shall be rounded to the next lower dollar amount.

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1990, the Secretary shall publish in the Federal Register the rates and limitations being increased under this section and the rates and limitations as so increased.

SEC. 102. EXPANSION OF CLOTHING ALLOWANCE.

Section 362 is amended—

(1) by striking out "Administrator" the first two places it appears and inserting in lieu thereof "Secretary"; and

(2) by striking out all after "each veteran" and inserting in lieu thereof "who, because of disability which is compensable under this chapter—

"(1) wears or uses a prosthetic or orthopedic appliance (including a wheelchair) which the Secretary determines tends to wear out or tear the clothing of such veteran; or

"(2) uses medication which (A) has been prescribed for a service-connected skin condition, and (B) the Secretary determines stains or otherwise damages such veteran's clothing.".

SEC. 103. PENSION LIMITATIONS FOR HOSPITALIZED VETERANS.

(a) AMOUNT OF LIMITATION.—Section 3203(a)(1) is amended by striking out "$60" each place it appears in subparagraphs (A) and (C) and inserting in lieu thereof "$105".

(b) EXTENSION OF PERIOD FOR PAYMENT OF FULL PENSION TO HOSPITALIZED VETERANS.—Section 3203(a)(1) is amended—

(1) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) Except as provided in subparagraphs (D) and (E) of this paragraph, where any veteran having neither spouse nor child is being furnished hospital or nursing home care by the Department of Veterans Affairs, no pension in excess of $105 per month shall be paid to or for the veteran for any period after—

"(i) in the case of a veteran being furnished hospital care, the end of the eighth calendar month following the month of admission for such care; and

"(ii) in the case of a veteran being furnished nursing home care, the end of the third calendar month following the month of admission for such care.";

(2) in the first sentence of subparagraph (D), by striking out "the last day of the third month referred to in such subparagraph" and inserting in lieu thereof "the last day of the period for which the veteran's pension is not reduced under such subparagraph"; and

(3) by adding at the end the following new subparagraph:

"(E) The Secretary may extend the period during which the pension of a veteran referred to in subparagraph (B)(i) of this paragraph is not reduced under such subparagraph if the Secretary determines that the veteran is likely to be discharged from the hospital within the period for which the extension is granted or within a reasonably short period after the expiration of such extended period. No extension may be granted under this subparagraph for a period exceeding two months. Successive extensions may be granted, but the total period of all

extensions granted a veteran under this subparagraph in connection with one hospitalization may not exceed four months.".

(c) LIMITATIONS ON ESTATES OF INCOMPETENT INSTITUTIONALIZED VETERANS RECEIVING PENSION.—Section 3203(b)(1)(A) is amended—

(1) by striking out "$1,500" and inserting in lieu thereof "$6,000"; and

(2) by striking out "$500" and inserting in lieu thereof "$2,000".

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall take effect with respect to veterans who are being furnished hospital care by the Department of Veterans Affairs on or after (1) the first day of the first month that begins after the date of the enactment of this Act, or (2) October 1, 1989, whichever is later.

TITLE II—HEALTH CARE

PART A—MENTAL HEALTH

SEC. 201. CARE FOR COMBAT-THEATER VETERANS WITH SERVICE-RELATED POST-TRAUMATIC STRESS DISORDER.

(a) REQUIREMENT TO FURNISH CARE AND SERVICES.—(1) Section 602 is amended—

(A) by inserting "(a)" before "For"; and

(B) by adding at the end the following new subsections:

"(b)(1) Any veteran—

"(A) who, as determined by the Chief Benefits Director of the Department of Veterans Affairs in accordance with paragraph (2) of this subsection, served on active duty in a theater of combat operations (as defined by the Secretary) during World War I, World War II, the Korean conflict, or the Vietnam era or in any other area during a period in which hostilities (as defined in subsection (c) of this section) occurred in such area, and

"(B) whom a mental health professional designated by the Chief Medical Director has diagnosed, following an examination of such veteran by such professional, to be suffering from post-traumatic stress disorder related to such service,

shall be furnished care and services for such disorder pursuant to sections 610(a)(1)(A) and 612(a)(1)(A) of this title even though such disorder has not been determined to be service-connected.

"(2) In the case of a veteran who is diagnosed as suffering from post-traumatic stress disorder, a determination of whether the veteran satisfies the service requirement related to such disorder set out in paragraph (1) of this subsection shall be made by the most expeditious means practicable.

"(c) For the purposes of subsection (b) of this section, the term 'hostilities' means an armed conflict in which members of the Armed Forces are subjected to danger comparable to the danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary in consultation with the Secretary of Defense.".

(2)(A) The heading of such section is amended to read as follows:

"§ 602. Special provisions relating to mental illness disabilities".

(B) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"602. Special provisions relating to mental illness disabilities.".

(b) TIMELINESS OF EVALUATION AND VERIFICATION OF STATUS.—Section 612A is amended—

(1) in subsection (h)—

(A) by striking out "Administrator" and "Veterans' Administration" each place it appears and inserting in lieu thereof "Secretary" and "Department", respectively; and

(B) in paragraph (5), by striking out "the Secretary considers" and inserting in lieu thereof "such Secretary considers";

(2) by redesignating subsection (i) as subsection (j) and, in such subsection, by striking out "Veterans' Administration" each place it appears and inserting in lieu thereof "Department"; and

(3) by inserting after subsection (h) the following new subsection (i):

"(i) Whenever a veteran is referred by a center to a Department general health-care facility for a determination regarding such veteran's eligibility for care and services under section 602(b) of this title, the veteran shall be evaluated for diagnostic purposes within 7 days after the date on which the referral is made.".

SEC. 202. ELIGIBILITY FOR SERVICES AT VET CENTERS.

Subsection (a) of section 612A is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Upon the request of any veteran who served on active duty in a theater of combat operations (as defined by the Secretary) during World War I, World War II, or the Korean conflict or in any other area during a period in which hostilities (as defined in subparagraph (B) of this paragraph) occurred in such area, the Secretary may furnish counseling to such veteran in order to assist the veteran to overcome any psychological problems associated with such service. The counseling shall include a general mental and psychological assessment to ascertain whether the veteran has mental or psychological problems associated with such service.

"(B) For the purposes of subparagraph (A) of this paragraph, the term 'hostilities' means an armed conflict in which members of the Armed Forces are subjected to danger comparable to the danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary in consultation with the Secretary of Defense.".

SEC. 203. COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS AND CERTAIN OTHER CHRONICALLY MENTALLY ILL VETERANS.

(a) IN GENERAL.—(1) Chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 620C. Community-based residential care for homeless and other chronically mentally ill veterans.

"(a)(1) The Secretary shall conduct a program to furnish care and treatment and rehabilitative services (directly or by contract) in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities to homeless veterans suffering from chronic mental illness disabilities who are eligible for care under section 610(a)(1) of this title.

"(2) As part of the program, the Secretary may also provide such care and treatment and rehabilitative services to—

"(A) veterans with service-connected chronic mental illness disabilities;

"(B) veterans described in section 612(a)(1)(B) of this title who have chronic mental illness disabilities; and

"(C) veterans being furnished hospital or nursing home care by the Secretary for chronic mental illness disabilities.

"(b) Before furnishing care and treatment and rehabilitative services by contract under subsection (a)(1) of this section to a veteran through a facility described in such subsection, the Secretary shall approve (in accordance with criteria which the Secretary shall prescribe) the quality and effectiveness of the program operated by such facility for the purpose for which the veteran is to be furnished such care and services.

"(c) The Secretary may provide in-kind assistance (through the services of Department of Veterans Affairs employees and the sharing of other Department resources) to a non-Department facility described in subsection (a)(1) of this section that is furnishing care and services to veterans under this section. Any such in-kind assistance shall be provided under a contract between the Department and such facility. The Secretary may provide such assistance only for use solely in the furnishing of appropriate care and services under this subsection and only if, under such contract, the Department receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Department facility that provided the assistance.

"(d) The Secretary may not furnish care and treatment and rehabilitative services under subsection (a) of this section after September 30, 1992.

"(e) Not later than February 1, 1992, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience of the Department under this section and the recommendation of the Secretary (together with the reasons for such recommendation) as to whether the program should be continued.

"(f) The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 620B the following new item:

"620C. Community-based residential care for homeless and other chronically mentally ill veterans.".

(b) CONFORMING AMENDMENT.—Section 801(c) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628; 102 Stat. 3257) is amended by striking out "section 115 of the Veterans Benefits and Services Act of 1988 (Public Law 100-322; 102 Stat. 501)" and inserting in lieu thereof "section 620C of title 38, United States Code,".

SEC. 204. MENTAL ILLNESS RESEARCH, EDUCATION, AND CLINICAL CENTERS.

(a) IN GENERAL.—Section 4101 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The purposes of this subsection are (A) to improve and expand the capability of Department of Veterans Affairs health-care facilities to respond with the most effective and appropriate services possible to the needs of veterans suffering from mental illness, especially from service-related conditions, and (B) to advance scientific knowledge regarding mental illness, especially

service-related conditions, and regarding such needs and the methods of meeting them by facilitating higher quality care for eligible veterans suffering from mental illness, especially from service-related conditions, through research, the education and training of health personnel in the provision of health care to such veterans, and the development of improved models of clinical services for eligible veterans suffering from mental illness.

"(2)(A) In order to carry out the purposes of this subsection, the Secretary, upon the recommendation of the Chief Medical Director and pursuant to the provisions of this subsection, shall designate not more than five health-care facilities of the Department of Veterans Affairs (at least one of which shall be designated before July 1, 1990) as the locations for centers of mental illness research, education, and clinical activities and (subject to the appropriation of sufficient funds for such purpose) shall establish and operate such centers at such locations in accordance with this subsection.

"(B) In designating facilities as the locations for centers under subparagraph (A) of this paragraph, the Secretary, upon the recommendation of the Chief Medical Director, shall ensure appropriate geographic distribution of such facilities.

"(C) The Secretary may not designate any health-care facility as a location for a center under subparagraph (A) of this paragraph unless the Secretary, upon the recommendation of the Chief Medical Director, determines that the facility has (or may reasonably be anticipated to develop)—

"(i) with an accredited medical school which provides education and training in psychiatry and with which such facility is affiliated, an arrangement under which residents receive education and training in psychiatry through regular rotation through such center so as to provide such residents with training in the diagnosis and treatment of mental illness;

"(ii) with an accredited graduate school of psychology which provides education and training in clinical or counseling psychology or both and with which the facility is affiliated, an arrangement under which students receive education and training in clinical or counseling psychology or both through regular rotation through such center so as to provide such students with training in the diagnosis and treatment of mental illness;

"(iii) an arrangement under which nursing, social work, or other allied health personnel receive training and education in mental health care through regular rotation through such facility;

"(iv) the ability to attract the participation of scientists who are capable of ingenuity and creativity in research into the causes, treatment, and prevention of mental illness and into models for furnishing care and treatment to veterans suffering from mental illness;

"(v) a policymaking advisory committee composed of appropriate mental health care and research representatives of the facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of such center during the period of the operation of such center; and

"(vi) the capability to conduct effectively evaluations of the activities of such center.

"(3) There are authorized to be appropriated for the basic support of the research and education and training activities of the centers established pursuant to paragraph (1) of this subsection $3,125,000 for fiscal year 1990 and $6,250,000 for each of the next three fiscal years. The Chief Medical Director shall allocate to such centers from other funds appropriated generally for the Department of Veterans Affairs medical care account and medical and prosthetics research account such amounts as the Chief Medical Director determines appropriate.

"(4) Activities of clinical and scientific investigation at each center shall be eligible to compete for the award of funding from amounts appropriated for the Department of Veterans Affairs medical and prosthetics research account and shall receive priority in the award of funding from such account insofar as funds are awarded to projects for mental illness.

"(5) The Chief Medical Director shall ensure that research activities carried out through such centers include an appropriate emphasis on the psychosocial dimension of mental illness and on models for furnishing care and treatment to veterans suffering from mental illness.

"(6) The Chief Medical Director shall ensure that useful information produced by the research, education and training, and clinical activities of such centers is disseminated throughout the Veterans Health Services and Research Administration through the development of programs of continuing medical and related education provided through regional medical education centers under subchapter II of chapter 73 of this title and other means.

"(7) The official within the Central Office of the Veterans Health Services and Research Administration responsible for mental health and behavioral sciences matters shall be responsible for the supervision of the operation of the centers established pursuant to paragraph (1) of this subsection.".

(b) REPORTS.—Not later than February 1 of each of 1991, 1992, and 1993, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience during the prior fiscal year under the centers established pursuant to the amendment made by subsection (a). Each such report shall contain—

(1) descriptions of (A) activities carried out at each center and the funding provided for such activities, (B) the advances made at each center in research, education and training, and clinical activities, and (C) the efforts to disseminate throughout the Veterans Health Services and Research Administration useful information produced by such activities; and

(2) the Secretary's evaluations of the effectiveness of the centers in fulfilling the purposes of subsection (g) of section 4101 of title 38, United States Code, as added by subsection (a).

SEC. 205. SPECIAL COMMITTEE ON POST-TRAUMATIC STRESS DISORDER.

(a) EVALUATION OF STUDY OF POSTWAR PSYCHOLOGICAL PROBLEMS OF VIETNAM VETERANS.—(1) Not later than January 1, 1990, the Special Committee on Post-Traumatic Stress Disorder (hereinafter in this section referred to as the "Special Committee") established pursuant to section 110(b)(1) of the Veterans' Health Care Act of 1984 (Public Law 98-528; 98 Stat. 2691) shall submit concurrently to the Secretary of Veterans Affairs and the Committees on Veterans' Affairs of the Senate and House of Representatives (hereinafter in this section referred to as the "Committees") a report setting forth the Special Committee's evaluation of the results of the study required by section 102 of the Veterans' Health Care Amendments of 1983 (Public Law 98-160; 97 Stat. 994). Such report shall include the Special Committee's—

(A) overall evaluation of the conduct, validity, and meaning of the study;

(B) assessment of the capability of the Department of Veterans Affairs to meet the need for diagnosing and treating veterans for post-traumatic stress disorder and for other psychological problems in readjusting to civilian life, as estimated in the results of such study;

(C) evaluation of the Secretary's report on the study; and

(D) recommendations for any further or follow-up research on the matters addressed in the study.

(2) Not later than 30 days after receiving the Special Committee's report under paragraph (1), the Secretary shall submit to the Committees any comments concerning the report that the Secretary considers appropriate.

(b) UPDATES OF REPORTS UNDER SECTION 110(c) OF PUBLIC LAW 98-528.—(1) Not later than February 1 of each of 1991 and 1992, the Special Committee shall concurrently submit to the Secretary and the Committees a report containing information updating the reports submitted to the Secretary under section 110(e) of the Veterans' Health Care Act of 1984 (Public Law 98-528; 98 Stat. 2693), together with any additional information the Special Committee considers appropriate regarding the overall efforts of the Department of Veterans Affairs to meet the needs of veterans with post-traumatic stress disorder and other psychological problems in readjusting to civilian life.

(2) Not later than 60 days after receiving each of the Special Committee's reports under paragraph (1), the Secretary shall submit to the Committees any comments concerning the report that the Secretary considers appropriate.

SEC. 206. STUDY OF AND RESEARCH ON DEPARTMENT OF VETERANS AFFAIRS OUTREACH SERVICES AND HEALTH-CARE SERVICES FOR CERTAIN VIETNAM VETERANS SUFFERING FROM POST-TRAUMATIC STRESS DISORDER.

(a) STUDY REQUIREMENT.—(1) The National Center on Post-Traumatic Stress Disorder established pursuant to section 110(c) of the Veterans' Health Care Act of 1984 (Public Law 98-528; 98 Stat. 2691) shall provide for a study of the extent to which, and the degree of effectiveness with which, the Department of Veterans Affairs carries out outreach, and furnishes treatment, to Vietnam veterans who (A) are Asian Americans, American Indians, Native Hawaiians, other Native-American Pacific Islanders (including American-Samoan Natives), Alaska Natives, black, or Hispanic Americans, and (B) suffer from post-traumatic stress disorder or other psychological problems in adjusting to civilian life.

(2) The Center shall provide for the conduct of research as necessary to determine the effectiveness of the outreach and treatment described in paragraph (1) and to develop more effective outreach activities and treatment methodologies and programs.

(b) REPORT.—(1) Not later than October 1, 1991, the Center shall submit to the Secretary of Veterans Affairs and to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing the results of the study required by subsection (a) and the Center's findings and recommendations on the most effective

methods for providing outreach and treatment to Vietnam veterans described in subsection (a)(1).

(2) Not later than 60 days after receiving such report, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report together with any comments and recommendations concerning the report that the Secretary considers appropriate.

(c) DEFINITIONS.—In this section:

(1) The term "Alaska Native" has the meaning given the term "Native" in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(2) The term "Native Hawaiian" has the meaning given that term in section 813(3) of the Native American Programs Act of 1974 (42 U.S.C. 2992c(3)).

SEC. 207. FUNDING FOR POST-TRAUMATIC STRESS DISORDER PROGRAMS.

In the documents providing detailed information on the budget for the Department of Veterans Affairs that the Secretary of Veterans Affairs submits to the Congress in conjunction with the President's budget submission for fiscal year 1991 and for fiscal year 1992 pursuant to section 1105 of title 31, United States Code, the Secretary shall identify the amounts in the appropriations requests for Department accounts that are estimated to be obligated for—

(1) the payment of compensation to veterans for disabilities resulting from post-traumatic stress disorder (hereinafter in this section referred to as "PTSD") that is service-connected;

(2) the treatment of veterans by or at the expense of the Department for PTSD related to their active-duty service, including specific designation of funds for the treatment of PTSD—

(A) in PTSD programs designated pursuant to section 110(a)(1) of Public Law 98-528;

(B) in inpatient psychiatric programs and outpatient mental health programs other than such designated PTSD programs;

(C) in readjustment counseling programs pursuant to section 612A of title 38, United States Code; and

(D) under contract through non-Department sources furnishing (i) readjustment counseling services pursuant to section 612A(e) of such title, (ii) mental health services pursuant to such section 612A(e), or (iii) mental health services pursuant to other authority, and described in the first annual report submitted pursuant to section 110(e)(1) of Public Law 98-528 as having been proposed by the Special Committee on Post-Traumatic Stress Disorder;

(3) education, training, and research at—

(A) the National Center on Post-Traumatic Stress Disorder established under section 110(c) of Public Law 98-528;

(B) any centers of mental illness research, education, and clinical activities that may be established at Department medical centers; and

(C) other Department research facilities; and

(4) the operation of the National Center on Post-Traumatic Stress Disorder.

PART B—GENERAL HEALTH

SEC. 211. SERVICES TO OVERCOME SERVICE-CONNECTED DISABILITIES AFFECTING PROCREATION.

(a) DEFINITION OF "MEDICAL SERVICES".—Clause (A) of section 601(6) is amended to read as follows:

"(A)(i) surgical services, (ii) services to achieve pregnancy in a veteran or a veteran's spouse when such services are necessary to overcome a service-connected disability impairing a veteran's procreative ability (but only if such services are furnished by contract, except for services which the Chief Medical Director determines that Department of Veterans Affairs facilities are fully capable of furnishing in a cost-effective manner), (iii) dental services and appliances as described in sections 610 and 612 of this title, (iv) optometric and podiatric services, (v) (in the case of a person otherwise receiving care or services under this chapter) preventive health-care services as defined in section 662 of this title, (vi) (except under the conditions described in section 612(f)(1)(A)(i) of this title) wheelchairs, artificial limbs, trusses and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as the Secretary determines to be reasonable and necessary, and (vii) travel and incidental expenses pursuant to the provisions of section 111 of this title; and".

(b) ADVISORY COMMITTEE.—The Chief Medical Director of the Department of Veterans Affairs shall appoint an advisory committee to advise the Chief Medical Director on the exercise of authority to furnish services described in subclause (ii) of section 601(6)(A) of title 38, United States Code, as added by subsection (a). Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee appointed under this subsection.

SEC. 212. COMPENSATED WORK THERAPY AND THERAPEUTIC RESIDENCE PILOT PROGRAM.

(a) AUTHORIZED SOURCES FOR PROVISION OF THERAPEUTIC WORK.—Section 618(b)(1) is amended by striking out "contractual arrangements with private industry or other sources outside the Veterans' Administration" and inserting in lieu thereof "a contract or other arrangement with any appropriate source (whether or not an element of the Department of Veterans Affairs or of any other Federal entity)".

(b) USE OF REVOLVING FUND.—The first sentence of section 618(c)(1) is amended by inserting before the period at the end "(including defraying the costs of travel and related expenses necessary to train and educate employees in the administration of services under such subsection)".

(c) PILOT PROGRAM.—(1) Subchapter II of chapter 17 is amended by inserting after section 618 the following new section:

"§ 618A. Compensated work therapy and therapeutic residence pilot program

"(a) During fiscal years 1990-1994, the Secretary shall conduct a compensated work therapy and therapeutic residence pilot program. The pilot program shall have two components as follows:

"(1) A component, under subsection (b) of this section, which provides for contracting with nonprofit corporations to furnish compensated work therapy in conjunction with the operation of therapeutic residences.

"(2) A component, under subsection (c) of this section, which provides for the direct operation of therapeutic residences in conjunction with the furnishing of compensated work therapy.

"(b)(1) Under the pilot program, the Secretary shall encourage and participate in the establishment of nonprofit corporations for the purpose of contracting with such nonprofit corporations to conduct compensated work therapy programs under the pilot program at not less than ten and not more than fifteen Department of Veterans Affairs medical centers operating such programs.

"(2) The Secretary may enter into a contract with a nonprofit corporation under the pilot program only if the corporation provides assurances satisfactory to the Secretary that it will operate a therapeutic residence for eligible veterans in conjunction with an existing compensated work therapy program at a medical center. The contract may remain in effect only as long as the corporation operates the therapeutic residence for eligible veterans in connection with the pilot program.

"(3) A contract with a nonprofit corporation under this subsection may provide for the Secretary to furnish the corporation (with or without consideration) in-kind services, including—

"(A) technical and clinical advice;

"(B) supervision of the activities of compensated work therapy participants in the rehabilitation of any property for use as a therapeutic residence under the contract and for possible later sale as a private residence; and

"(C) minor maintenance of and minor repairs to such a therapeutic residence.

"(4)(A) In order to assist a nonprofit corporation to purchase or lease any real property for the purpose of operating a therapeutic residence under the pilot program or to operate such a residence, the Secretary may lend the corporation up to the maximum amounts specified in subparagraphs (C) and (D), respectively, of this paragraph.

"(B) Loans authorized by this paragraph shall be paid out of sums in the fund.

"(C) The amount of a loan under this paragraph for the purchase or lease of real property may not exceed—

"(i) in the case of a purchase of real property for such use, the amount equal to 25 percent of the purchase price; or

"(ii) in the case of a lease of real property for such use, the amount of the rent for one year.

"(D) The amount of a loan under this paragraph for the operation of a therapeutic residence may not exceed an amount equal to the estimated amount, as approved by the Secretary, necessary for the operation of the residence for a period of six months.

"(E) A loan made to a nonprofit corporation under this paragraph—

"(i) shall be payable on demand;

"(ii) shall not bear interest for the first five years;

"(iii) after the first five years, shall bear a rate of interest specified by the Secretary, in consultation with the Secretary of the Treasury; and

"(iv) shall be subordinate to any mortgage loan entered into for purchase of the residence.

"(5) In the case of each nonprofit corporation to which a loan is made under paragraph (4) of this subsection for the purchase of real property, the pilot program contract with such corporation shall include a provision that requires the corporation—

"(A) to sell the real property if the corporation does not operate or ceases to operate a therapeutic residence on that property;

"(B) to pay the fund the sum of the unpaid balance of the loan and the amount equal to 50 percent of the excess, if any, of the sale price over the total amount paid by the corporation for the purchase and improvement of such real property; and

"(C) to use the proceeds of the sale of the property to pay the obligations imposed by clause (B) of this paragraph.

"(6)(A) The Secretary shall deposit in escrow any sums to be loaned to a nonprofit corporation under paragraph (4) of this sub-

section until the corporation demonstrates to the satisfaction of the Secretary that at least 25 percent of the net annual operating expenses of the corporation will be paid out of funds obtained from sources other than the Department of Veterans Affairs or will be satisfied by in-kind services obtained from such sources, or both. For the purpose of this subparagraph, the term 'net annual operating expenses' means the amount equal to the excess of the estimated amount of the annual expenses of operating the therapeutic residence or therapeutic residences to be acquired or operated with such escrow sums over the estimated annual rental income from eligible veterans residing in such residence or residences.

"(B) If, in the case of a corporation for which any amount is held in escrow pursuant to subparagraph (A) of this paragraph in connection with a contract awarded under the pilot program, the corporation fails to meet the requirements of such subparagraph within 18 months after the award of that contract, the corporation shall forfeit all rights to the amount so held in escrow, the escrow shall be terminated, and that amount shall be credited to the fund.

"(7)(A) Subject to subparagraph (B) of this paragraph, the Secretary shall transfer to the Veterans Health Services and Research Administration not less than 10 residences acquired by the Department of Veterans Affairs in the administration of chapter 37 of this title.

"(B) Each property so transferred under this paragraph—

"(i) shall be located in an area suitable for meeting the need of the Department for a therapeutic residence under the pilot program; and

"(ii) shall be leased, in accordance with subparagraph (C) of this paragraph, to a nonprofit corporation for operation as a therapeutic residence under the pilot program.

"(C) A lease of property under this paragraph—

"(i) shall provide for a lease period of not less than one and not more than three years and may include one or more options for renewal at the option of both parties for up to three additional years;

"(ii) shall require that the property be operated as a therapeutic residence during the lease period;

"(iii) shall require that the residents of the therapeutic residence pay to the nonprofit corporation such reasonable rent as the Secretary shall prescribe;

"(iv) shall require the lessee to pay to the medical center benefiting from the operation of such therapeutic residence 60 percent of the rent received each month during the lease period from eligible veterans residing in a therapeutic residence on such property;

"(v) shall provide for return of the property to the Secretary upon termination of the lease; and

"(vi) shall include such other terms and conditions, consistent with this subsection, as the Secretary considers appropriate for protection of the interests of the United States.

"(8) The director of a medical center shall hold the sums received pursuant to paragraph (8)(C)(iii) of this subsection until such sums are transferred pursuant to this paragraph. The Secretary shall periodically transfer such sums to the appropriate loan guaranty fund. The Secretary, in consultation with the Secretary of the Treasury, shall prescribe regulations to carry out this paragraph.

"(9) In the case of a nonprofit corporation that, on September 30, 1989, is conducting a compensated work therapy program pursuant to a contract awarded by the Department of Veterans Affairs, the operations of such corporation not covered by a contract awarded under the pilot program shall not be affected by the provisions of this subsection.

"(10) In-kind services furnished to a nonprofit corporation by the Department of Veterans Affairs under the pilot program shall be considered as part of a pass-through account under the Department's resource allocation methodology and any other methodology used by the Department to allocate resources to its health-care facilities.

"(11)(A) Any nonprofit corporation established to operate a therapeutic residence or therapeutic residences under the pilot program shall be established in accordance with the nonprofit corporation laws of the State or States in which the therapeutic residence or residences are to be operated and shall, to the extent not inconsistent with any Federal law, be subject to the laws of such State or States, as the case may be.

"(B) A nonprofit corporation participating in the pilot program shall be established solely for the purpose of conducting one or more compensated work therapy programs and operating therapeutic residences in conjunction with such programs.

"(C) Except as otherwise provided in this paragraph or under regulations prescribed by the Secretary, a nonprofit corporation participating in the pilot program, and its directors and employees, shall be required to comply only with those Federal laws, regulations, and executive orders and directives which apply generally to private nonprofit corporations.

"(D) The board of directors of each nonprofit corporation participating in the pilot program shall include employees of the Department, but the total number of such employees on the board must be less than one-half of the total number of directors. An employee of the Department of Veterans Affairs directly responsible for the conduct of compensated work therapy programs at the medical center benefiting from the operation of a therapeutic residence by the corporation shall be a member of the board.

"(E) A nonprofit corporation participating in the pilot program may—

"(i) accept gifts and grants from, and enter into contracts with, individuals and public and private entities solely to carry out the purpose specified in subparagraph (B) of this subsection;

"(ii) employ such employees as it considers necessary for such purpose and fix the compensation of such employees; and

"(iii) in the discretion of the corporation board of directors, transfer gifts and grants accepted under clause (i) of this subparagraph to the fund.

"(F) The records of a nonprofit corporation participating in the pilot program shall be available to the Secretary.

"(G) For the purposes of sections 4(a)(1) and 6(a)(1) of the Inspector General Act of 1978, the programs and operations of such a nonprofit corporation shall be considered to be programs and operations of the Department with respect to which the Inspector General of the Department has responsibilities under such Act.

"(H) Such a nonprofit corporation shall be considered an agency for the purposes of section 716 of title 31 (relating to availability of information and inspection of records by the Comptroller General).

"(I) Each such nonprofit corporation shall submit to the Secretary an annual report providing a detailed statement of its operations, activities, and accomplishments during that year. The corporation shall obtain a report of independent auditors concerning the receipts and expenditures of funds by the corporation during that year and shall include that report in the corporation's report to the Secretary for that year.

"(J) Each member of the board of directors of a nonprofit corporation participating in the pilot program, each employee of such a corporation, and each employee of the Department involved in the functions of the corporation during any year—

"(i) shall, with respect to such functions, be subject to Federal laws and regulations applicable to Federal employees with respect to conflicts of interest in the performance of official functions; and

"(ii) shall, with respect to such functions, submit to the Secretary an annual statement signed by the director or employee certifying that the director or employee is aware of, and has complied with, such laws and regulations in the same manner as is required of Federal employees.

"(K) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the number and locations of nonprofit corporations participating in the pilot program and the amount loaned and the value of in-kind services furnished by the Secretary to each such corporation under the pilot program.

"(c)(1) Under the pilot program, the Secretary, in connection with the conduct of compensated work therapy programs at not less than ten and not more than fifteen Department of Veterans Affairs medical centers, shall operate residences as therapeutic residences for the furnishing of transitional housing solely for veterans who are furnished compensated work therapy pursuant to section 618(b) of this title.

"(2) Notwithstanding any other provision of law, the Secretary may use such procurement procedures for the purchase, lease, or other acquisition of residential housing for purposes of this subsection as the Secretary considers appropriate to expedite the opening and operation of therapeutic residences and to protect the interests of the United States.

"(3) A therapeutic residence may be operated for veterans described in paragraph (1) of this subsection under the following conditions:

"(A) That only veterans described in such paragraph and a house manager reside in such residence.

"(B) That each resident, other than the house manager, pay the Department rent for the period or periods of residence in such residence.

"(C) That, in the establishment and operation of such therapeutic residence in a community, the Secretary consult with appropriate representatives of such community and comply with zoning requirements, building permit requirements, and similar requirements applicable to other real property used for similar purposes in such community.

"(D) That the residence meet the State and community fire and safety requirements applicable to other real property used for similar purposes in the community in which the therapeutic residence is located.

"(4)(A) The Secretary may provide for free room and subsistence for a house manager

in addition to or instead of payment of a fee for the house manager's services.

"(B) The total amount of the compensation paid and otherwise provided for a house manager (taking into consideration the value of any free room and subsistence under subparagraph (A) of this paragraph) may not be less than the equivalent of the total amount that would be payable to the house manager for the house manager's services if the house manager were paid the hourly minimum wage under section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)).

"(5) The Secretary may operate as a therapeutic residence under this subsection—

"(A) any suitable residential property (i) acquired by the Secretary as the result of a default on a loan made, guaranteed, or insured under chapter 37 of this title, or (ii) purchased for the pilot program; and

"(B) any other suitable residential property purchased, leased, or otherwise acquired by the Secretary.

"(6) In the case of the purchase of any property referred to in paragraph (5)(A) of this subsection, the Secretary shall transfer from unobligated amounts in the fund to the appropriate loan guaranty fund the amount equal to the amount that the Secretary would charge for the sale of such property to a nonprofit organization or a State pursuant to section 9 of Public Law 100-198 (101 Stat. 1320).

"(7) Subject to the authority, direction, and control of the Secretary, the Chief Medical Director shall be responsible for the management, maintenance, and disposition of property acquired for the purpose of this subsection.

"(8) The Secretary shall prescribe—

"(A) a procedure for establishing reasonable rental rates for persons residing in therapeutic residences; and

"(B) appropriate limits on the period for which such persons may reside in therapeutic residences.

"(9) The Secretary may dispose of any property acquired for the purpose of carrying out this subsection when such property is no longer used for such purpose. The proceeds of disposition of such property shall be credited to the fund.

"(d)(1) There is authorized to be appropriated to the fund for the purposes of carrying out this section, a total of $5,000,000 for fiscal years 1990 through 1994.

"(2) To the extent that less than $5,000,000 is appropriated pursuant to paragraph (1) of this subsection, the Secretary may transfer to the fund, from unobligated amounts in the General Post fund of the Department of Veterans Affairs medical center that will contract for the operation of or operate a therapeutic residence under this section, such amounts as the Secretary determines are necessary, in addition to any amounts so appropriated, to carry out this section.

"(e)(1) Not later than February 1, 1994, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience under the pilot program.

"(2) The report shall include—

"(A) the Secretary's assessment of the effects that transfers of housing to Veterans Health Services and Research Administration under the pilot program have on the Loan Guaranty Revolving Fund established under section 1824(a) of this title and the Home Loan Guaranty Fund established under section 1824A(a) of this title; and

"(B) such recommendations as the Secretary considers appropriate.

"(f) For the purposes of this section—

"(1) the term 'appropriate loan guaranty fund' means (i) in the case of a lease or purchase of a property that had secured a loan that was guaranteed, insured, or made under chapter 37 of this title and was closed or assumed after September 30, 1989, the Home Loan Guaranty Fund established by section 1824A(a) of this title, or (ii) in the case of any other property, the Loan Guaranty Revolving Fund established under section 1824(a) of this title;

"(2) the term 'eligible veteran' means a veteran eligible to receive therapeutic and rehabilitative services under this section;

"(3) the term 'existing compensated work therapy program' means a compensated work therapy program that is being conducted under section 618(b) of this title by a Department of Veterans Affairs medical center on the date of the enactment of the Veterans Benefits and Health Care Act of 1989;

"(4) the term 'fund' means the Special Therapeutic and Rehabilitation Activities Fund established by section 618(c)(1) of this title;

"(5) the term 'nonprofit corporation' means a corporation recognized as an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986; and

"(6) the term 'therapeutic residence' means a residential facility in which eligible veterans may reside while participating in a compensated work therapy program conducted pursuant to section 618 of this title and includes real property associated with such facility.

"(g) The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 618 the following new item:

"618A. Compensated work therapy and therapeutic residence pilot program.".

(d) NONPROFIT CORPORATIONS FOR VETERANS COMPENSATED WORK THERAPY PROGRAMS.—(1) Chapter 73 is amended by adding at the end the following new subchapter:

"SUBCHAPTER VII—NONPROFIT CORPORATIONS FOR VETERANS COMPENSATED WORK THERAPY PROGRAMS

"§ 4171. Authority to establish; status

"(a) The Secretary may authorize the establishment of one or more nonprofit corporations to provide a flexible funding mechanism for the conduct of Department compensated work therapy programs for veterans (including homeless veterans) in such community or communities as the Secretary may designate. Except as otherwise required in this subchapter or under regulations prescribed by the Secretary, any such corporation, and its directors and employees, shall be required to comply only with those Federal laws, regulations, and executive orders and directives which apply generally to private nonprofit corporations.

"(b) Any corporation established under this subchapter shall be established solely to facilitate the conduct of compensated work therapy programs for veterans.

"(c) If, by the end of the three-year period beginning on the date of the establishment of a corporation under this subchapter, the corporation is not recognized as an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, the Secretary shall dissolve the corporation.

"§ 4172. Funds received by corporations

"(a) Except for sums used as provided in subsection (b) of this section, funds received by a corporation established under this subchapter for the conduct of compensated work therapy programs shall be transferred to the Special Therapeutic and Rehabilitation Activities Fund established under section 618(c) of this title and shall be administered by the Secretary for conducting such programs.

"(b)(1) Subject to paragraph (2) of this subsection, the corporation may use funds referred to in subsection (a) of this section to defray the administrative and fundraising expenses of the corporation.

"(2) Expenditures of the corporation shall be approved in advance in accordance with procedures prescribed by the Secretary.

"§ 4173. Board of directors; executive director

"(a) The Secretary shall provide for the appointment of a board of directors for each corporation established under this subchapter. The board shall include—

"(1) an officer or employee of the Department who—

"(A) is in a field office of the Department in or near the community or communities for which the corporation is established; and

"(B) is involved in the administration of section 618 of this title; and

"(2) representatives of the community or communities for which the corporation is established who are not officers or employees of the Federal Government.

"(b) Each such corporation shall have an executive director who shall be appointed by the board of directors with the concurrence of the Secretary. The executive director of a corporation shall be responsible for the operations of the corporation and shall have such specific duties and responsibilities as the board may prescribe.

"§ 4174. General powers

"A corporation established under this subchapter may—

"(1) accept gifts and grants from, and enter into contracts with, individuals and public and private entities solely for the purpose of facilitating the conduct of compensated work therapy programs;

"(2) employ personnel to carry out such purpose; and

"(3) fix the compensation of such personnel.

"§ 4175. Applicable State law

"Any corporation established under this subchapter shall be established in accordance with the nonprofit corporation laws of the State or States in which the community or communities for which the corporation is established are located and shall, to the extent not inconsistent with any Federal law, be subject to the laws of such State or States, as the case may be.

"§ 4176. Accountability and oversight

"(a)(1)(A) The records of a corporation established under this subchapter shall be available to the Secretary.

"(B) For the purposes of sections 4(a)(1) and 6(a)(1) of the Inspector General Act of 1978, the programs and operations of such a corporation shall be considered to be programs and operations of the Department with respect to which the Inspector General of the Department has responsibilities under such Act.

"(2) Such a corporation shall be considered an agency for the purposes of section 716 of title 31 (relating to availability of information and inspection of records by the Comptroller General).

"(b) Each such corporation shall submit to the Secretary an annual report providing a detailed statement of its operations, activities, and accomplishments during that year. The corporation shall obtain a report of independent auditors concerning the receipts and expenditures of funds by the corporation during that year and shall include that report in the corporation's report to the Secretary for that year.

"(c) Each member of the board of directors of a corporation established under this subchapter, each employee of such a corporation, and each employee of the Department who is involved in the functions of the corporation during any year—

"(1) shall be subject to Federal laws and regulations applicable to Federal employees with respect to conflicts of interest in the performance of official functions; and

"(2) shall submit to the Secretary an annual statement signed by the director or employee certifying that the director or employee is aware of, and has complied with, such laws and regulations in the same manner as is required of Federal employees.

"(d) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the number and location of corporations established and the amount of the contributions made to each such corporation.

"§ 4177. Report to Congress

"Not later than February 1, 1992, the Secretary shall submit to Congress a report on the experience through the end of fiscal year 1991 under this subchapter. The report shall include such recommendations as the Secretary considers appropriate.

"§ 4178. Expiration of authority

"No corporation may be established under this subchapter after September 30, 1992.

"§ 4179. Definition

"For the purposes of this section, the term 'compensated work therapy program' means any program of therapeutic and rehabilitative activities conducted under section 618 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"SUBCHAPTER VII—NONPROFIT CORPORATIONS FOR VETERANS COMPENSATED WORK THERAPY PROGRAMS

"4171. Authority to establish; status.
"4172. Funds received by corporations.
"4173. Board of directors; executive director.
"4174. General powers.
"4175. Applicable State law.
"4176. Accountability and oversight.
"4177. Report to Congress.
"4178. Expiration of authority.
"4179. Definition.".

(e) AVAILABILITY OF THE SPECIAL THERAPEUTIC AND REHABILITATION ACTIVITIES FUND FOR CERTAIN ACTIVITIES.—Section 618(c), as amended by subsection (b), is further amended—

(1) in paragraph (1), by inserting "and for the purpose of carrying out section 618A(c) of this title" before the period at the end of the first sentence; and

(2) in paragraph (2)—

(A) by inserting "and all funds received by the Department as rent under section 618A(c) of this title," in the first sentence after "paragraph (2) of such subsection,"; and

(B) by adding at the end the following: "The Secretary may also distribute out of unobligated amounts in the fund such amounts as may be necessary for the acquisition, management, maintenance, and disposition of real property for the purpose of carrying out section 618A of this title."

(f) CONFORMING AMENDMENT.—Section 618(b) is amended by striking out "therapeutic work" both places it appears and inserting in lieu thereof "compensated work therapy".

SEC. 213. PILOT PROGRAM: NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE.

(a) AUTHORITY TO PROVIDE FOR NONINSTITUTIONAL CARE.—(1) Subchapter II of chapter 17, as amended by section 203(a), is further amended by adding at the end (after the section added by section 203(a)) the following new section:

"§ 620D. Noninstitutional alternatives to nursing home care; pilot program

"(a) During the four-year period beginning on October 1, 1989, the Secretary shall conduct a pilot program for the furnishing of medical, rehabilitative, and health-related services in noninstitutional settings for veterans who—

"(1) are eligible under this chapter for, and are in need of, nursing home care; and

"(2)(A) are in receipt of or in need of nursing home care primarily for the treatment of a service-connected disability; or

"(B) have a service-connected disability rated at 50 percent or more.

"(b)(1) Under the pilot program conducted pursuant to subsection (a), the Secretary shall (A) furnish appropriate health-related services solely through contracts with appropriate public and private agencies that provide such services, and (B) in the case of each veteran furnished services under the pilot program, appoint a Department of Veterans Affairs health-care employee to furnish case management services.

"(2) For the purposes of paragraph (1) of this subsection, 'case management' includes the coordination and facilitation of all services furnished to a veteran by the Department of Veterans Affairs, either directly or through contract, including, but not limited to, screening, assessment of needs, planning, referral (including referral for services to be furnished by the Department, either directly or through a contract, or by an entity other than the Department) monitoring, reassessment, and followup.

"(c) The Secretary may provide in-kind assistance (through the services of Department of Veterans Affairs employees and the sharing of other Department resources) to a facility furnishing services to veterans under subsection (b)(1)(A) of this section. Any such in-kind assistance shall be provided under a contract between the Department and the facility concerned. The Secretary may provide such assistance only for use solely in the furnishing of appropriate services under this section and only if, under such contract, the Department receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Department facility that provided the assistance.

"(d) The total cost of providing services or in-kind assistance in the case of any veteran in any fiscal year under the pilot program may not exceed 65 percent of the cost that would have been incurred by the Department during such fiscal year if the veteran had been furnished, instead, nursing home care under section 610 of this title in that fiscal year.

"(e) The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.".

(2) The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 620C the following new item:

"620D. Noninstitutional alternatives to nursing home care; pilot program.".

(b) REPORT.—Not later than February 1, 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report setting forth the Secretary's evaluation, findings, and conclusions regarding the conduct, through September 30, 1992, of the pilot program required by section 620C of title 38, United States Code (as added by subsection (a)), and the results of the furnishing of care under such pilot program for the participating veterans. The report shall include a description of the conduct of the pilot program (including a description of the veterans furnished services and of the services furnished under the pilot program), and any plans for administrative action, and any recommendations for legislation, that the Secretary considers appropriate to include in the report.

SEC. 214. PREVENTIVE MEDICINE.

(a) EXTENSION OF PILOT PROGRAM.—Paragraph (1) of section 663(a) is amended to read as follows:

"(1) In order to carry out the purpose of this subchapter, the Secretary, through fiscal year 1994—

"(A) shall furnish annually at least two preventive health-care services that the Secretary determines to be feasible and appropriate to any veteran being furnished care or services under section 610(a)(1) or 612(a)(1) or (2) of this title; and

"(B) shall implement annually at each Department of Veterans Affairs health-care facility a major preventive health-care and health-promotion initiative for such veterans.".

(b) LIMIT ON EXPENDITURES.—Section 663(c) is amended—

(1) by striking out "or" after "1983,"; and

(2) by striking out the period at the end and inserting in lieu thereof ", more than $16,000,000 in fiscal year 1990, more than $17,000,000 in fiscal year 1991, more than $18,000,000 in fiscal year 1992, more than $19,000,000 in fiscal year 1993, or more than $20,000,000 in fiscal year 1994.".

(c) DIRECTOR OF PREVENTIVE HEALTH-CARE AND HEALTH-PROMOTION PROGRAMS.—Section 663 is amended by adding at the end the following new subsection:

"(d)(1) The Chief Medical Director shall designate an official in the Veterans Health Services and Research Administration to act as the Director of Preventive Health-Care and Health-Promotion Programs.

"(2) The Director of Preventive Health-Care and Health-Promotion Programs shall prepare guidance regarding and be responsible for coordinating and evaluating, and advising the Chief Medical Director on, all activities carried out under this subchapter.".

(d) REPORTS.—Section 664 is amended to read as follows:

"(a) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives—

"(1) not later than February 1, 1992, an interim report on the experience under the program provided for by this subchapter; and

"(2) not later than February 1, 1994, a final report on the experience under the program.

"(b) Each report submitted pursuant to subsection (a) of this section shall include, with respect to the experience under the program through September 30 of the year preceding the deadline for submission of such report specified in subsection (a) of this section—

"(1) a description of the types of services that have been furnished pursuant to section 663(a)(1)(A) and the number of veterans who received such services;

"(2) a description of the preventive health-care and health-promotion initiatives that were implemented pursuant to section 663(a)(1)(B) of this title and the number of veterans who have been served through such initiatives;

"(3) a description of the types of preventive health-care services that have been furnished pursuant to sections 610, 612, and 601(6) of this title and the number of veterans who received such services;

"(4) a description of activities conducted pursuant to section 663(a)(2) of this title;

"(5) an assessment of the results of the program; and

"(6) any plans for administrative action, and any recommendations for legislation, that the Secretary considers appropriate.".

(e) CONFORMING AND CLARIFYING AMENDMENTS.—(1) Section 661(1) is amended by striking out ", including veterans with service-connected disabilities rated at 50 per centum or more and veterans being furnished care or services involving a service-connected disability under this chapter,".

(2) Clauses (1) and (2) of section 662 are amended to read as follows:

"(1) periodic medical and dental examinations (including screenings for high blood pressure, glaucoma, colorectal cancer, and cholesterol);

"(2) patient health education (including education about nutrition, stress management, physical fitness, and smoking cessation);".

SEC. 215. EXTENSION OF AUTHORITY TO FURNISH RESPITE CARE.

(a) IN GENERAL.—Section 620B(c) is amended by striking out "1989" and inserting in lieu thereof "1991".

(b) EXTENSION OF DEADLINE FOR REPORT.—Section 201(b)(2) of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (Public Law 99-576; 100 Stat. 3254; 38 U.S.C. 620B note) is amended by striking out "1989" and inserting in lieu thereof "1990".

SEC. 216. PILOT PROGRAM FOR FURNISHING ASSISTIVE ANIMALS TO CERTAIN VETERANS.

(a) REQUIREMENT FOR PILOT PROGRAM.—During fiscal years 1990, 1991, 1992, and 1993, the Secretary of Veterans Affairs shall conduct a pilot program under which the Secretary—

(1) shall—

(A) furnish assistive monkeys to quadriplegic veterans who have service-connected disabilities rated 50 percent or more; and

(B) facilitate the furnishing of assistive monkeys to other quadriplegic veterans; and

(2) may—

(A) furnish service dogs to quadriplegic veterans who have service-connected disabilities rated 50 percent or more; and

(B) facilitate the furnishing of service dogs to other quadriplegic veterans.

(b) SELECTION OF VETERAN-PARTICIPANTS.—(1) In determining whether to furnish an assistive animal to a veteran, or to facilitate the furnishing of an assistive animal to a veteran, under the pilot program, the Secretary shall (A) consider the extent to which the veteran needs and can benefit from the assistance of the animal, and (B) provide a preference for veterans who have service-connected quadriplegia.

(2) The Secretary shall approve a veteran for participation in the pilot program only upon the Secretary's determination that the veteran is well-suited for—

(A) carrying out the responsibilities involved in the care of the animal; and

(B) effectively using the animal for assistance in performing the veteran's daily living tasks.

(c) ADMINISTRATIVE MATTERS.—(1) The Secretary is authorized to enter into contracts for the furnishing of assistive monkeys under subsection (a)(1). Under such contracts the Secretary may make advance payments for the furnishing of the monkeys before receipt of the monkeys and may either reimburse the provider of such monkeys for the costs of training the monkeys or, subject to such terms and conditions as the Secretary determines necessary to protect the interests of the Government, make advance payments for such costs before the costs are incurred.

(2) Ownership of an assistive animal furnished to a veteran under the pilot program shall be determined in accordance with a contract between the provider of the animal and the veteran.

(3) The Secretary shall provide for the protection of the welfare of assistive animals furnished veterans under the pilot program.

(d) EVALUATION AND REPORT.—(1) The Secretary shall evaluate the conduct of the pilot program, the nature and extent of the benefit to veterans furnished assistive monkeys or service dogs under the program (including any benefits related to employment), the costs and cost-effectiveness of furnishing such monkeys or dogs to quadriplegic veterans, and the effects of such program on the recruitment and retention of paid primary caregivers for veterans receiving monkeys or dogs and on the morale of unpaid primary caregivers for such veterans.

(2) Not later than February 1, 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience under the pilot program. The report shall contain—

(A) the results of the evaluation carried out under paragraph (1), including descriptions of the procedures and criteria used to select veterans to receive assistive monkeys or service dogs, the nature and extent of the benefit that the veterans received from the assistance of such monkeys or dogs, and the amounts and types of costs incurred by the Department of Veterans Affairs in the conduct of the program;

(B) the Secretary's views on the relationship between the furnishing of an assistive monkey or service dog to a veteran and the payment to a veteran of (i) an aid and attendance allowance under section 314(r) of title 38, United States Code, or (ii) an annual rate of pension under section 521 of such title based on the veteran's need of regular aid and attendance; and

(C) any recommendations that the Secretary considers appropriate regarding whether the pilot program should be continued or whether the authority to furnish assistive monkeys or service dogs, or both, to quadriplegic veterans should be made permanent.

(e) DEFINITIONS.—For the purposes of this section—

(1) the terms "veteran" and "service-connected" have the meanings given those terms in paragraphs (2) and (16), respectively, of section 101 of title 38, United States Code;

(2) the terms "assistive monkey" and "service dog" mean a monkey or dog, respectively, that is specially trained to assist in the performance of daily living tasks for quadriplegic individuals; and

(3) the term "assistive animal" means an assistive monkey or a service dog.

SEC. 217. SIGNAL DOGS FOR CERTAIN DISABLED VETERANS.

(a) AUTHORITY TO PROVIDE SIGNAL DOGS.—Section 614 is amended by adding at the end the following new subsection:

"(c)(1) The Secretary may provide signal dogs to veterans who have service-connected hearing impairments and are in need of the assistance of such dogs and may pay travel and incidental expenses, under the terms and conditions set forth in section 111 of this title, for travel to and from their homes that are incurred in becoming adjusted to such signal dogs.

"(2) For the purposes of this subsection, the term 'signal dog' means a dog specially trained to provide hearing assistance to deaf persons.".

(b) TECHNICAL CORRECTIONS.—Section 614(b) is amended by striking out "(under the terms and conditions set forth in section 111 of this title) to and from their homes and" and inserting in lieu thereof ", under the terms and conditions set forth in section 111 of this title, for travel to and from their homes that are".

SEC. 218. STATE HOME CONSTRUCTION GRANTS.

Section 5033(a) is amended in the first sentence by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

SEC. 219. PROSTHETIC SERVICES REPORT.

Not later than January 15, 1990, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

(1) the Secretary's evaluation of the reasons for the backlog that occurred in the procurement of prosthetic appliances in fiscal year 1989, and for the failure to furnish prosthetic appliances in accordance with the priority established in section 612(i) of title 38, United States Code; and

(2) a description of the actions that the Secretary has taken and plans to take to prevent a recurrence of—

(A) the failure to furnish prosthetic appliances in accordance with such priority, including a schedule for any such planned actions; and

(B) the accumulation of a significant backlog in the procurement of prosthetic appliances.

SEC. 220. OUTPATIENT DENTAL CARE.

Section 612(b) is amended—

(1) in paragraph (1)—

(A) by striking out "or" at the end of clause (F);

(B) by striking out the period at the end of clause (G) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following new clause:

"(H) for which the furnishing of such services, treatment, or appliances is medically necessary in preparation for hospital admission."; and

(2) in paragraph (3), by striking out "$500" and inserting in lieu thereof "$1,000".

SEC. 221. REIMBURSEMENT FOR EMERGENCY CARE OF VOCATIONAL REHABILITATION PARTICIPANTS.

Section 628(a)(2)(D) is amended by striking out "found to be" and all that follows through "rehabilitation training and" and inserting in lieu thereof "(i) a participant in a vocational rehabilitation program (as defined in section 1501(9) of this title), and (ii)".

SEC. 222. REPEAL OF AUTHORITY TO FURNISH TOBACCO TO VETERANS RECEIVING HOSPITAL OR DOMICILIARY CARE.

(a) IN GENERAL.—Section 615 is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 is amended by striking out the item relating to section 615.

SEC. 223. SHARING OF SPECIALIZED MEDICAL RESOURCES.

(a) EXPANSION OF PURPOSE.—Section 5051 is amended by striking out "hospitals" both places it appears in the first sentence and inserting in lieu thereof "health-care facilities".

(b) EXPANSION OF AUTHORITY.—Section 5053 is amended—

(1) in subsection (a)—

(A) by striking out "hospitals" the first place it appears and all that follows through "community" and inserting in lieu thereof "health-care facilities and other health-care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools"; and

(B) by striking out the last sentence; and

(2) in subsection (b)—

(A) in the first sentence, by striking out "charge" and all that follows and inserting in lieu thereof "methodology that provides appropriate flexibility to the heads of the facilities concerned to establish an appropriate reimbursement rate after taking into account local conditions and needs and the actual costs to the providing facility of the resource involved."; and

(B) in the second sentence, by inserting before the period at the end "and to funds that have been allotted to the facility that furnished the resource involved".

SEC. 224. DEVELOPMENT OF RECOMMENDED LEGISLATION FOR THE ELIMINATION OF INCONSISTENCIES IN CERTAIN VETERANS BENEFITS LAWS.

(a) REQUIREMENT TO ESTABLISH TASK FORCE.—The Secretary of Veterans Affairs shall establish a task force to recommend policies and legislation for the elimination of inconsistencies among provisions of law relating to veterans' eligibility for certain health-care benefits.

(b) COMPOSITION OF TASK FORCE.—The task force shall be composed of the following:

(1) Employees of the Department of Veterans Affairs involved in the administration of programs affected by the inconsistencies in law referred to in subsection (a).

(2) Representatives of organizations concerned with the administration of such programs, as determined by the Secretary.

(c) RESPONSIBILITIES OF TASK FORCE.—The task force shall—

(1) identify inconsistencies among sections 601(6), 612, 614, 617, and 619 of title 38, United States Code, and the implementation of such sections;

(2) after consultation with appropriate representatives of veterans, develop policy recommendations and legislative proposals for the elimination of any such inconsistencies; and

(3) not later than the date specified by the Secretary, submit to the Secretary a report containing (A) descriptions of the inconsistencies identified by the task force, (B) the policies and legislative proposals recommended by the task force for the elimination of such inconsistencies, and (C) the reasons for each such recommendation.

(d) ACTION BY THE SECRETARY.—The Secretary shall review the report submitted by the task force and either approve the recommendations for legislation contained in the report [disapprove such recommendations and either?] prepare alternative legislative proposals that the Secretary considers appropriate for the elimination of the inconsistencies identified by the task force or decline to recommend any alternative legislative proposals.

(e) SUBMISSION OF RECOMMENDATIONS TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives—

(1) the report submitted to the Secretary by the task force; and

(2) a report containing—

(A) any legislation recommended by the Secretary for the elimination of the inconsistencies identified by the task force;

(B) an analysis of any legislation recommended by the Secretary; and

(C) the reasons for any differences between any legislation recommended by the Secretary and the legislation recommended by the task force.

PART C—HEALTH-CARE PERSONNEL

SEC. 250. SHORT TITLE.

This part may be cited as the "Veterans Health-Care Personnel Act of 1989".

SEC. 251. PAY RATES FOR NURSES AND OTHER HEALTH-CARE PROFESSIONALS IN CERTAIN POSITIONS.

(a) IN GENERAL.—(1) Chapter 73 is amended by inserting after section 4107 the following new section:

"§ 4107A. Competitive pay rates for certain nurse and other health-care professional positions

"(a)(1) It is the purpose of this section to ensure, by a means providing maximum flexibility to directors of Department of Veterans Affairs health-care facilities, that the rates of basic pay for health-care professional positions described in paragraph (2) of this subsection in each such facility (including the rates of basic pay of personnel employed in such positions on a part-time basis) are sufficient for such health-care facility to be competitive, on the basis of pay and other employee benefits, with non-Department health-care facilities in the recruitment and retention of qualified personnel for such positions.

"(2) The health-care professional positions referred to in paragraph (1) of this subsection are registered nurse positions, registered nurse anesthetist positions, certified registered nurse anesthetist positions, and the positions for such other health-care professionals referred to in clauses (1) and (3) of section 4104 of this title as the Secretary may determine upon the recommendation of the Chief Medical Director.

"(b) The Secretary shall ensure that, for pay periods beginning on or after July 1, 1990, the rates of basic pay for covered positions in the Department are established in accordance with this section instead of section 4107(b)(1) of this title.

"(c)(1) Not later than June 1, 1990, the director of each Department health-care facility shall, with respect to the covered positions in each category of covered positions—

"(A) conduct a survey in accordance with this subsection; and

"(B) on the basis of such survey, establish the rates of basic pay in each pay grade provided for such positions in accordance with this section as necessary to carry out the purpose of this section.

"(2) The rates of basic pay established pursuant to paragraph (1) of this subsection shall become effective beginning with the first pay period that begins on or after July 1, 1990.

"(3) Not later than December 1 of each year after 1989, the director of each Department health-care facility shall, with respect to the covered positions in each category of covered positions—

"(A) conduct a survey in accordance with this subsection; and

"(B) on the basis of such survey—

"(i) determine whether it is necessary to adjust the rates of basic pay for such covered positions at such facility in order to carry out the purpose of this section; and

"(ii) effective with the first pay period that begins on or after January 1 of the next year, adjust the rates of basic pay in each pay grade provided for such positions in accordance with this section as necessary to carry out such purpose.

"(4)(A) In the case of the covered positions in each category of covered positions in a Department health-care facility, the director of that facility shall survey the entry-level compensation established for the corresponding health-care professional positions in comparable non-Department health-care facilities within the same labor market area as that Department health-care facility. The Secretary shall specify in regulations the criteria for determining the number of comparable non-Department health-care facilities to be included in the survey.

"(B) If the number of non-Department health-care facilities comparable to a Department health-care facility in the same labor market area is less than the number determined in accordance with the criteria specified pursuant to subparagraph (A) of this paragraph or is less than the director of that Department health-care facility considers necessary in order to produce a valid comparison, such director shall, in the case of the covered positions referred to in such subparagraph, survey—

"(i) the entry-level compensation established for the corresponding health-care professional positions in such comparable non-Department health-care facilities as are located within that labor market area; and

"(ii) the entry-level compensation established for the corresponding health-care professional positions in other non-Department health-care facilities within that labor market area.

"(C) For the purposes of this paragraph, a non-Department health-care facility is comparable to a Department health-care facility if the director of the Department health-care facility determines, in accordance with regulations prescribed by the Secretary, that the non-Department health care facility (i) is in direct competition with the Department health-care facility for the recruitment and retention of personnel qualified for employment in covered positions, and (ii) has other characteristics that are comparable to

the characteristics of a Department health-care facility.

"(5)(A) Except as provided in subparagraph (B) of this paragraph, the director of a Department health-care facility shall ensure that an appropriate cost-of-living adjustment is provided for in adjustments of rates of pay that are made for years following 1990 pursuant to a survey under this subsection.

"(B) The director of a Department health-care facility may waive, in whole or in part, with respect to any rate of basic pay for a covered position the cost-of-living component of any adjustment for any year in which the cost-of-living adjustment is not necessary, in whole or in part (as the case may be), in order for that rate of pay to be competitive.

"(d)(1) If the director of a Department health-care facility determines in any year that, because of an insufficiency in the number of non-Department health-care facilities or non-Department covered positions, a survey under subsection (c) of this section would not provide a valid comparison with respect to the covered positions in the director's facility, the director shall establish or adjust the rates of basic pay for the covered positions in the director's facility as provided in this subsection instead of subsection (c) of this section.

"(2) Not later than 90 days before the date on which the director of a Department health-care facility establishes or adjusts rates of basic pay pursuant to paragraph (1) of this subsection, the director shall—

"(A) identify a labor market area that is similar to the labor market area of such facility and includes a Department health-care facility; and

"(B) notify the Chief Medical Director of the labor market identified pursuant to clause (A) of this paragraph.

"(3) The director of a health-care facility referred to in paragraph (1) of this subsection shall prescribe the same rates of basic pay for the covered positions in the director's facility as are prescribed for the same covered positions in the Department health-care facility located in the identified labor market area unless the selection of that labor market area for the purpose of this subsection is disapproved by the Chief Medical Director in accordance with paragraph (5) of this subsection.

"(4) If the Chief Medical Director disapproves (in accordance with paragraph (5) of this subsection) the selection of a labor market area by the director of a health-care facility for the purpose of this subsection, the director of that facility shall prescribe the same rates of basic pay for the covered positions in that facility as are prescribed for the Department health-care facility in a labor market area which the Chief Medical Director shall designate. The Chief Medical Director may designate any labor market area that the Chief Medical Director determines to be similar to the labor market area of the director's health-care facility.

"(5) Not later than 60 days after receiving a notification from the director of a Department health-care facility under paragraph (2)(B) of this subsection, the Chief Medical Director shall—

"(A) approve the selection of the labor market area identified in the notification; or

"(B) disapprove the selection of that labor market area, designate another labor market area determined by the Chief Medical Director to be similar to the labor market area of the director's health-care facility, and notify that facility director of that designation.

"(6) In order for a labor market area to be determined similar to the labor market area of a Department health-care facility for the purposes of this subsection, both labor market areas must be similar in size, demographic characteristics, and labor market characteristics.

"(e)(1) When the director of a Department health-care facility establishes or adjusts the rates of basic pay for a grade for any category of positions at such facility in order to carry out the purpose of this section, the director shall specify the minimum rate of basic pay for such grade and, subject to paragraph (3) of this subsection, increase or reduce the other rates of basic pay for such grade to amounts that bear the same relationship to the specified minimum rate of basic pay and to each other as the rates of basic pay within such grade bear to each other before the increase or reduction, as the case may be.

"(2) The minimum rate of basic pay prescribed for a grade for the positions in any category of covered positions in a Department health-care facility on the basis of a survey conducted under subsection (c) of this section shall be sufficient for the pay and other employee benefits of the health-care professionals employed in such positions in such grade to be competitive with the entry-level compensation (but may not exceed the highest rate of entry-level pay established) for the corresponding health-care professional positions in non-Department health-care facilities in the same labor market area, as ascertained by the director of such facility in such survey.

"(3)(A) Except as provided in subparagraph (C) of this paragraph, the maximum rate of basic pay for any grade designated by the Secretary, upon the recommendation of the Chief Medical Director, as the entry-level grade for any category of covered positions may not exceed the maximum rate of basic pay established for grade 13 of the General Schedule under section 5332 of title 5.

"(B) The maximum rate of basic pay for any grade other than an entry-level grade for any category of covered positions may not exceed the maximum rate of basic pay established for a position in level V of the Executive Schedule under section 5316 of title 5.

"(C) The limitation prescribed by subparagraph (A) of this paragraph shall not apply to the entry-level grade for any category of covered positions if the positions have been designated by the Chief Medical Director as supervisory or managerial positions. The maximum rate prescribed by subparagraph (B) of this paragraph shall apply to such entry-level grade.

"(4) Whenever a grade is added to the schedule of grades for covered positions in any category of covered positions or a step within grade is added to a grade in such schedule, the director of a Department health-care facility shall establish the rates of basic pay for that grade or the rate of pay for that step, as the case may be, in the same manner as the rates of pay are established and adjusted under the other provisions of this subsection. The rates of basic pay for the additional grade shall bear the same relationship to the minimum rate of basic pay specified for such grade and to each other as the rates of basic pay within each other grade in such schedule bear to each other. The rate of pay for an additional step within grade shall bear the same relationship to the other rates of basic pay within such grade as such other rates bear to each other.

"(f) An employee who is paid a rate of basic pay established under this section and who is transferred (voluntarily or otherwise) from a covered position in one Department health-care facility to a covered position in another Department health-care facility shall be paid the rate of basic pay in effect for the covered position at the health-care facility to which the employee is transferred for the same grade and the same step within that grade as was applicable to that employee immediately before the transfer, if the Chief Medical Director determines that the duties of the position to which the employee is transferred are at least comparable to the duties of the position from which the employee was transferred.

"(g)(1) Rates of basic pay may be increased or reduced under this section.

"(2) A reduced rate of basic pay established for a covered position under this subsection shall not apply to an employee serving in such position at a Department health-care facility on the day before the effective date of the reduced rate. That employee shall continue to be paid at a rate of basic pay not less than the rate of basic pay applicable to that employee on such day for as long as the employee continues to serve in such position at such facility.

"(h)(1) In developing the criteria for the conduct of surveys under subsection (c) for application by all Department health-care facilities, the Secretary shall consult with representatives of each labor organization accorded exclusive recognition under chapter 71 of title 5 for a unit that includes employees whose rates of pay are to be established on the basis of such surveys.

"(2) In the case of employees in covered positions in a unit in a particular Department health-care facility with respect to which a labor organization is accorded exclusive recognition under chapter 71 of title 5, the director of the health-care facility shall consult with the representatives of such labor organization on—

"(A) the criteria developed by the director of that health-care facility for the conduct of surveys under subsection (c);

"(B) the director's plans for the collection of data in conducting surveys; and

"(C) the determinations regarding specific rates of basic pay.

"(i) The establishment and adjustment of rates of basic pay under this section for covered positions does not limit the authority of the Secretary to pay bonuses under section 4120 of this title to employees appointed to such positions.

"(j)(1) Not later than March 1 of each year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the exercise of the authority provided in this section for the immediately preceding calendar year.

"(2) The report shall contain an assessment of the effects of the exercise of such authority on the ability of the Department to recruit and retain qualified health-care professionals for covered positions. The Secretary shall include in the report recommendations for such additional legislation to facilitate the recruitment and retention of qualified health-care professionals for such positions as the Secretary considers necessary or appropriate.

"(3) If the authority provided in this section was exercised for the year covered by the report only to adjust the rates of basic pay for nurse positions, the report shall also contain the reasons that rates of basic pay were not adjusted for other health-care pro-

fessional positions under such authority for such year and any plans for adjusting the rates of basic pay for other health-care professional positions under such authority.

"(k)(1) The Secretary, upon the recommendation of the Chief Medical Director, shall prescribe regulations setting forth criteria and procedures to carry out this section. Such regulations shall provide maximum flexibility for the director of each Department health-care facility. Documentation requirements in such regulations shall be minimal.

"(2) If the Secretary fails to prescribe final regulations under this subsection before April 1, 1990, the Secretary shall, not later than such date, prescribe interim final regulations for the purposes of this subsection. Such regulations shall be effective upon issuance and shall remain in effect until the effective date of final regulations issued for the purposes of this subsection.

"(3) If neither final regulations nor interim final regulations are prescribed under this subsection before April 1, 1990, the director of each Department health-care facility shall, nevertheless, make determinations and establish and adjust rates of basic pay under this section with respect to covered positions in such facility for 1990 and subsequent years. In the case of any determination or other action which is subject to criteria or procedures to be prescribed in such regulations, the director of each such facility shall apply such criteria and follow such procedures as the director considers appropriate and consistent with this section. Each such director shall apply the final regulations when issued.

"(l) Information collected in surveys conducted under this section are not subject to disclosure under section 552 of title 5.

"(m) For the purposes of this subsection—

"(1) the term 'covered position' means a position referred to in subsection (a)(1) of this section;

"(2) the term 'health-care facility' means a hospital or an independent outpatient clinic;

"(3) the term 'entry-level compensation', with respect to corresponding health-care professional positions in non-Department health-care facilities, means—

"(A) the minimum rate of pay established for professionals in such positions who have education, training, and experience equivalent or similar to the education, training, and experience required for health-care professionals employed in the same category of Department covered positions; and

"(B) the other pecuniary employment benefits, if any, provided for the non-Department health-care professionals paid such minimum rate of pay; and

"(4) the term 'corresponding', with respect to health-care professional positions in non-Department health-care facilities, means those positions for which the education, training, and experience requirements are equivalent or similar to the education, training, and experience requirements for health-care professional positions in Department health-care facilities.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4107 the following new item:

"4107A. Competitive pay rates for certain nurse and other health-care professional positions.".

(b) RELATIONSHIP OF PAY RATES TO ADDITIONAL PAY.—Section 4107(e)(1) is amended by striking out "in subsection (b)(1) of this section".

(c) GRADES FOR NURSE PAY SCHEDULE.—(1) Section 4107(b)(1) is amended by striking out the items under the heading "NURSE SCHEDULE" and inserting in lieu thereof the following:

"Three or more grades, as prescribed by the Chief Medical Director pursuant to paragraph (3) of this subsection.".

(2) Section 4107(b) is amended by adding at the end the following new paragraph:

"(3) The Chief Medical Director shall prescribe the number of grades and the number of steps within grades for nurse positions.".

(d) INTERIM COMPETITIVE PAY RATES.—(1) The director of each Department of Veterans Affairs health-care facility located in a rural area—

(A) shall, not later than December 1, 1989, conduct a survey consistent with the provisions of section 4107A(c) of title 38, United States Code (as added by subsection (a)); and

(B) pursuant to the authority provided in section 4107(g) of such title (as amended by section 255)—

(i) shall decide, not later than January 1, 1990, on the basis of the survey referred to in clause (A), whether to adjust, on a local basis, the rates of basic pay for nurses employed by the Department of Veterans Affairs; and

(ii) if deciding to adjust such rates on a local basis, shall adjust such rates effective for pay periods beginning after January 1, 1990, and before July 1, 1990.

(2) In conducting the survey referred to in paragraph (1), the director of a health-care facility located in a rural area shall include in such survey the rates of pay paid to nurses who reside in such area, who are employed in a health-care facility located outside such area, and who commute to work from such area to such health-care facility, if the director determines that the number of nurses who commute to work outside the area adversely affects the ability to employ nurses in the health-care facility of the director.

(3) For the purposes of this subsection—

(A) the term "health-care facility" has the meaning given such term in section 4107A(l) of title 38, United States Code (as added by subsection (a)); and

(B) the term "rural area" means a geographic area that the Secretary determines, upon the recommendation of the Chief Medical Director, to be a rural area.

(e) FIRST REPORT.—The first report under section 4107A(j) of title 38, United States Code (as added by subsection (a)), shall be submitted not later than March 1, 1991.

SEC. 252. EMPLOYMENT OF PERSONNEL TRAINED BY THE DEPARTMENT OF VETERANS AFFAIRS.

Section 4106 is amended by adding at the end the following new subsection:

"(h)(1) Notwithstanding subchapter I of chapter 33 of title 5, the Secretary, upon the recommendation of the Chief Medical Director, may appoint in the competitive service under such title any individual who—

"(A) has been awarded a degree or certificate in a health-care profession or occupation by an accredited institution;

"(B) has been appointed by the Secretary to participate in a clinical education program conducted by an educational institution affiliated with the Department health-care facility; and

"(C) within one year before that individual's appointment in the competitive service, has successfully completed such clinical education program.

"(2) In making appointments to the competitive service under this subsection, the Secretary shall apply the principles of preference for the hiring of veterans and other persons established in subchapter I of chapter 33 of title 5.".

SEC. 253. DIRECTOR PAY.

Section 4107(b)(2) is amended by inserting "or is a physician or dentist serving in a comparable position in the central office of the Veterans Health Services and Research Administration" before the period at the end of the first sentence.

SEC. 254. OVERTIME RATES OF PAY FOR CERTAIN NURSES.

(a) IN GENERAL.—Section 4107(e)(5) is amended by striking out the first sentence and inserting in lieu thereof the following: "A nurse who performs officially ordered or approved hours of service in excess of forty hours in an administrative workweek, or in excess of eight hours in a day, shall receive overtime pay for each hour of such additional service. The rate of overtime pay for such nurse shall be one and one-half times such nurse's hourly rate of basic pay.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to overtime service performed on or after October 1, 1989.

SEC. 255. ADDITIONAL PAY FOR HEAD NURSES.

(a) IN GENERAL.—Section 4107(e) is amended by adding at the end the following new paragraph:

"(11) A nurse shall be paid additional pay equal to 6 percent of the nurse's hourly rate of basic pay for each hour of service performed as a head nurse. The preceding sentence shall not apply to a nurse who is assigned to perform service as a head nurse for a period of less than 30 consecutive days.".

(b) RELATIONSHIP TO BASIC PAY.—Paragraph (1) of section 4107(e) is amended by inserting "and paragraph (11)" after "(8)".

(c) COMPUTATION OF HOURLY RATE OF PAY.—Paragraph (6) of section 4107(e) is amended by striking out "or (5)" and inserting in lieu thereof "(5), or (11)".

(d) RELATIONSHIP TO OTHER ADDITIONAL PAY.—Paragraph (7) of section 4107(e) is amended by striking out "or (5)" and inserting in lieu thereof "(5), or (11)".

(e) ADDITIONAL PAY AS HEAD NURSE TO BE COUNTED FOR CERTAIN BENEFITS.—Paragraph (9) of section 4107(e) is amended by inserting ", other than pay under paragraph (11) of this subsection," after "this subsection".

(f) TECHNICAL AMENDMENT.—Paragraph (9) of section 4107(e) is further amended by inserting "84," after "83,".

(g) EFFECTIVE DATE.—The amendments made by subsections (a) through (d) shall take effect with respect to service performed as a head nurse on or after October 1, 1989.

SEC. 256. PAY ENHANCEMENTS FOR CERTAIN HEALTH-CARE PERSONNEL.

Section 4107(f) is amended by striking out "or occupational therapists," and inserting in lieu thereof "occupational therapists, or any other health-care personnel furnishing direct care to patients or providing services incident to the furnishing of direct care to patients,".

SEC. 257. SPECIAL RATES CAP AND APPROVAL.

(a) INCREASE IN LIMITATION.—Section 4107(g)(3) is amended—

(1) by inserting "(A)" after "(3)";

(2) by inserting "by two times" after "exceed" the first place it appears; and

(3) by inserting at the end the following new subparagraph:

"(B) Whenever the amount of an increase under paragraph (1) of this subsection results in a rate of basic pay for a position being equal to or greater than the amount

that is 94 percent of the maximum amount permitted under subparagraph (A) of this paragraph, the Secretary shall promptly notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the increase and the amount thereof.".

(b) APPROVAL OF SPECIAL RATES OF PAY.—Section 4107(g)(4) is amended—

(1) in the first sentence, by striking out "ninety" and inserting in lieu thereof "45"; and

(2) by adding at the end the following new sentence: "If, prior to such effective date, the President approves such increase, the Secretary may advance the effective date to any date not earlier than the date of the President's approval.".

SEC. 258. ELIMINATION OF REDUCTION IN RETIRED OR RETAINER PAY.

Section 4107(i) is amended by striking out "which result" and all that follows and inserting in lieu thereof "which—

"(1) result from a severe shortage of well-qualified candidates in (A) physician positions, (B) positions of health-care professionals involved in providing direct patient care, or (C) positions of personnel involved in providing services incident to direct patient care; and

"(2) cannot otherwise be readily met.".

SEC. 259. AWARDS FOR RECERTIFICATION.

Section 4107 is amended by adding at the end the following new subsection:

"(k)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall pay each nurse who is recertified in the specialty in which the nurse is employed a lump-sum payment equal to 1 percent of the annual salary of the nurse (as of the time the nurse is recertified). The Secretary shall make such payment when the nurse is recertified.

"(2) A payment may not be paid to a recertified nurse under this subsection if the performance rating for such nurse for the latest rating period ending before the date of the recertification is less than satisfactory.

"(3) A special payment under this subsection shall not be considered as basic pay for the purposes of any provision of law referred to in section 4107(e)(9) of this title.".

SEC. 260. COVERAGE OF VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION PERSONNEL BY FEDERAL EMPLOYEES' COLLECTIVE BARGAINING PROCEDURES.

Section 4108 is amended—

(1) by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary";

(2) by striking out "Veterans' Administration" each place it appears and inserting in lieu thereof "Department of Veterans Affairs";

(3) by striking out "Department of Medicine and Surgery" each place it appears and inserting in lieu thereof "Veterans Health Services and Research Administration";

(4) in subsection (a), by inserting "except as provided in subsection (e) of this section," after "Notwithstanding any law, Executive order, or regulation,";

(5) in subsection (c)(2), by striking out "non-Veterans' Administration" and inserting in lieu thereof "non-Department of Veterans Affairs";

(6) in subsection (d), by inserting "except as provided in subsection (e) of this section," after "Notwithstanding any other provision of law,"; and

(7) by adding at the end the following new subsection:

"(e) The provisions of chapter 71 of title 5 shall apply to the exercise of the Secretary's authority under this section except with respect to—

"(1) the prohibitions set out in paragraphs (1) through (6) of subsection (a) of this section; and

"(2) the matters covered by section 4110 of this title.".

SEC. 261. DISCIPLINARY ACTIONS AND GRIEVANCES.

Section 4110 is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a)(1) The Chief Medical Director, under regulations prescribed by the Secretary, shall from time to time appoint disciplinary boards to determine, upon notice and fair hearing, the charges in any disciplinary action brought against a person employed in a position listed in paragraph (1) of section 4104 of this title (hereafter in this section referred to as the 'respondent') on the basis of the performance or conduct of the respondent during employment with the Department of Veterans Affairs.

"(2) A disciplinary board appointed in the case of any respondent shall consist of not less than three nor more than five employees of the Veterans Health Services and Research Administration who are senior in grade to the respondent. The majority of the members of such board shall be employed in the same category of position as the respondent.

"(3) The Chief Medical Director may delegate the performance of the function of appointing a disciplinary board to an employee of the Veterans Health Services and Research Administration who is not involved in deciding whether to file charges to be determined by the board and who is not subordinate to any official involved in making such decision.";

(2) in subsection (b), by striking out "Administrator" and inserting in lieu thereof "Secretary";

(3) in subsection (d)—

(A) in the first sentence, by striking out "Administrator" and all that follows and inserting in lieu thereof "Secretary that the proposed disciplinary action be sustained or modified within limitations prescribed by the Secretary.";

(B) in the second, third, and fourth sentences, by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary";

(4) in subsection (e), by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary"; and

(5) by adding at the end the following:

"(f)(1) A disciplinary board is not required in the case of a disciplinary action if the proposed action is suspension for 14 days or less, reassignment without a reduction in basic pay, reduction in rank without a reduction in basic pay, reprimand, or admonishment.

"(2) An employee against whom a disciplinary action described in paragraph (1) of this subsection is proposed to be taken shall be entitled to—

"(A) an advance written notice stating the specific reasons for the proposed action;

"(B) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(C) representation by an attorney or other spokesperson; and

"(D) a written decision and the specific reasons for the decision at the earliest practicable date.

"(3) Disciplinary actions described in paragraph (1) of this subsection shall be subject to review under either the provisions of section 4110A of this title (in the case of employees appointed under authority of this title who are members of a unit determined appropriate under section 7112 of title 5) or an agency review procedure to be established by the Secretary (in the case of such employees who are not members of such a unit). Any such agency review procedure established by the Secretary shall include—

"(A) an informal review of the decision on the disciplinary action by an official of a higher level than the official who made the decision;

"(B) a prompt decision by such higher level official and a right to formal review by an impartial examiner within the Department of Veterans Affairs;

"(C) a prompt report of the findings and recommendations by the impartial examiner; and

"(D) a prompt review of the examiner's findings and recommendations, together with any comments by the employee and the Department on such findings and recommendations, by an official of a higher level than the official who conducted the review pursuant to clause (A) of this paragraph.".

(b) GRIEVANCES.—(1) Subchapter I of chapter 73 is amended by inserting after section 4110 the following new section:

"§ 4110A. Grievances and certain disciplinary reviews

"(a)(1) The Secretary shall authorize review of Department of Veterans Affairs actions on the following matters under procedures established by collective bargaining in accordance with the provisions of chapter 71 of title 5:

"(A) Grievances of employees appointed under authority of this title who are members of a unit determined appropriate under section 7112 of title 5.

"(B) Subject to paragraph (2) of this subsection, disciplinary actions described in subsection 4110(f)(1) of this title involving such employees.

"(2) In the case of a review of a disciplinary action involving any question of clinical competence, as determined by either party, any person selected to serve as an arbitrator in such case under procedures established as provided in paragraph (1) of this subsection must be qualified as an arbitrator and must also be (A) qualified as a physician, dentist, or nurse, or (B) otherwise qualified, by specialized experience or training or both, in examining and adjudicating health-care issues.

"(b) For the purpose of resolving grievances of supervisors and employees appointed under authority of this chapter who are not members of a unit determined appropriate under section 7112 of title 5, the Secretary shall authorize review of action of the Department on such grievances pursuant to a Department review procedure established by the Secretary under section 4110(f)(3) of this title.".

(2) The table of sections at the beginning of chapter 73 is amended by inserting after the item relating to section 4110 the following new item:

"4110A. Grievances and certain disciplinary reviews.".

SEC. 262. LEAVE TRANSFERS AND BANKS.

(a) IN GENERAL.—Section 4108, as amended by section 260(7), is further amended by adding at the end (after subsection (e), as added by section 260(7)) the following new subsection:

"(f)(1) The Secretary—

"(A) shall, subject to paragraph (6) of this subsection, establish a voluntary leave transfer program for the benefit of health-care professionals referred to in the matter preceding clause (1) of subsection (a) of this section; and

"(B) may establish a voluntary leave bank program for the benefit of such health-care professionals.

"(2) To the maximum extent feasible—

"(A) the voluntary leave transfer program shall provide the same or similar requirements and conditions as are provided for the program established by the Director of the Office of Personnel Management under subchapter III of chapter 63 of title 5; and

"(B) any voluntary leave bank program established pursuant to paragraph (1)(B) of this subsection shall be consistent with the requirements and conditions provided for agency leave bank programs in subchapter IV of such chapter.

"(3) The Secretary and the Director of the Office of Personnel Management may enter into an agreement that permits health-care professionals referred to in paragraph (1) of this subsection to participate in the leave transfer program established by the Director of the Office of Personnel Management under subchapter III of chapter 63 of title 5.

"(4) The Secretary and the Director of the Office of Personnel Management may enter into an agreement that permits health-care professionals referred to in paragraph (1) of this subsection to participate in any voluntary leave bank program established for other employees of the Department pursuant to subchapter IV of chapter 63 of title 5.

"(5) Participation of such health-care professionals in a voluntary leave transfer program or a voluntary leave bank program pursuant to an agreement entered into under paragraph (3) or (4) of this subsection shall be subject to such requirements and conditions as may be prescribed in such agreement.

"(6) The Secretary is not required to establish a voluntary leave transfer program for any personnel permitted to participate in a voluntary leave transfer program pursuant to an agreement referred to in paragraph (3) of this subsection.".

(b) IMPLEMENTATION REQUIREMENT.—The Secretary of Veterans Affairs shall implement the programs provided for in subsection (e) of section 4108 of title 38, United States Code (as added by subsection (a)), not later than October 1, 1990.

SEC. 263. TEMPORARY APPOINTMENTS OF HEALTH-CARE PERSONNEL.

Section 4114(a)(3) is amended—

(1) in subparagraph (A), by striking out the penultimate sentence and inserting in lieu thereof the following: "Temporary full-time appointments of persons who have successfully completed a full course of nursing in a recognized school of nursing approved by the Secretary or a full course of training for any category of personnel described in paragraph (3) of section 4104 of this title in a recognized education or training institution approved by the Secretary and who are pending registration or licensure in a State, or certification by a national board recognized by the Secretary, shall not exceed two years."; and

(2) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) A student who has a temporary appointment under this paragraph and who is pursuing a full course of nursing in a recognized school of nursing approved by the Secretary or a full course of training for any category of personnel described in paragraph (3) of section 4104 of this title in a recognized education or training institution approved by the Secretary may be reappointed for a period not to exceed the duration of such student's academic program.".

SEC. 264. HEALTH-CARE PROFESSIONALS CASH AWARDS.

(a) AUTHORITY TO PAY CASH AWARDS.—(1) Subchapter I of chapter 73 is amended by inserting after section 4120 the following new section:

"§ 4120A. Performance awards and cash awards

"(a)(1) The Secretary shall pay—

"(A) performance awards under section 5406 of title 5 to Department employees described in section 4104(1) of this title who are supervisors or managers; and

"(B) cash awards under section 5407 of title 5 to Department employees described in section 4104(1) of this title who are supervisors or managers in grades GS-13 through GS-15 of the General Schedule.

"(2) The Secretary may pay performance awards under section 5406 of title 5 to Department employees described in section 4104 of this title who are not supervisors or managers.

"(b) In the application of section 5406(c)(1) of title 5 to the payment of performance awards under subsection (a), the reference to employees covered by the performance management and recognition system shall be deemed to refer to the employees who are covered by paragraph (1)(A) of such subsection and the employees whom the Secretary elects to cover pursuant to paragraph (2) of such subsection.

"(c) The Secretary shall prescribe in regulations the criteria for making performance awards under subsections (a)(1)(A) and (b) of this section.

"(d) Determinations of which employees are supervisors or managers shall be made in accordance with the regulations prescribed to carry out this section, except that for purposes of this section head nurses shall be considered supervisors.

"(e) A cash award under this section shall not be considered as basic pay for the purposes of any provision of law referred to in section 4107(e)(9) of this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4120 the following new item:

"4120A. Performance awards and cash awards.".

(b) EFFECTIVE DATE.—(1) The amendments made by subsection (a) shall take effect on October 1, 1990.

(2) Awards may be made under section 4120A of title 38, United States Code (as added by subsection (a)), only for service performed on or after October 1, 1989.

SEC. 265. DEPENDENT CARE ASSISTANCE PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Subchapter I of chapter 73, as amended by section 264, is further amended by inserting after section 4120A the following new section:

"§ 4120B. Dependent care assistance

"The Secretary shall establish and conduct a dependent care assistance program, which meets the requirements of section 129 of the Internal Revenue Code of 1986, for the care of dependents of employees in the Veterans Health Services and Research Administration.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as amended by section 201, is further amended by inserting after the item relating to section 4120A the following new item:

"4120B. Dependent care assistance.".

(c) IMPLEMENTATION REQUIREMENT.—The Secretary of Veterans Affairs shall implement the program provided for in section 4120B of title 38, United States Code (as added by subsection (a)), not later than June 1, 1990.

SEC. 266. HEALTH PROFESSIONAL SCHOLARSHIPS.

(a) APPLICANT PRIORITY AND EQUITABLE ALLOCATION FOR NURSING DEGREE APPLICANTS.—Section 4312(b)(5) is amended to read as follows:

"(5) In selecting applicants for the Scholarship Program, the Secretary shall—

"(A) give priority to applicants who will be entering the final year in a course of training; and

"(B) ensure an equitable allocation of scholarships to persons enrolled in the second year of a program leading to an associate degree in nursing.".

(b) IMPLEMENTATION REQUIREMENT.—The Secretary of Veterans Affairs shall provide for the implementation of the amendment made by subsection (a) beginning with scholarships awarded under section 4312 of title 38, United States Code, in 1990.

SEC. 267. ASSISTANCE TO HEALTH-PERSONNEL EDUCATIONAL INSTITUTIONS.

(a) DEVELOPMENT OF NEW HEALTH CAREERS.—Section 5091 is amended by inserting "(in collaboration with representatives of the professions the members of which are currently responsible for carrying out the duties involved)" after "paramedical personnel, and".

(b) AUTHORIZATION OF APPROPRIATIONS FOR GRANTS.—(1) Subchapter III of chapter 82 is amended by adding at the end the following new section:

"§ 5094. Authorization of appropriations

"(a) There is authorized to be appropriated for the purpose of making grants under this subchapter $5,000,000 for each of fiscal years 1990 and 1991 and $6,000,000 for each of fiscal years 1992 and 1993.

"(b) The sum appropriated for a fiscal year pursuant to subsection (a) of this section shall remain available until the end of the fifth fiscal year following the fiscal year for which the sum is appropriated.

"(c) Of the funds appropriated for each fiscal year pursuant to the authorization in subsection (a) of this section, an amount not to exceed 10 percent of the sum so appropriated may be expended for the purpose described in section 5096(2) of this title.".

(2) The table of sections at the beginning of chapter 82 is amended by inserting after the item relating to section 5093 the following new item:

"5094. Authorization of appropriations.".

(c) IMPLEMENTING REGULATIONS.—(1) The Secretary of Veterans Affairs shall prescribe interim final regulations for implementation of the amendment made by subsections (a) and (b) not later than February 1, 1990.

(2) For the purposes of paragraph (1), the term "interim final regulations" means regulations that are in effect until the effective date of final regulations issued for implementation of the amendment made by paragraph (1).

SEC. 268. PAYMENT OF PHYSICIANS' AND DENTISTS' SPECIAL PAY.

(a) IN GENERAL.—Notwithstanding any other law and except as provided in subsection (b), effective with respect to pay periods beginning on or after April 1, 1990, the Secretary of Veterans Affairs shall pay the maximum amounts of special pay and incentive

special pay authorized for physicians and dentists in section 4118 of title 38, United States Code, for such pay periods taking into account in the case of each physician and dentist the conditions specified in such section for determining the maximum amount applicable to such physician or dentist, as the case may be.

(b) EXCEPTION.—The Secretary is not required to pay the maximum amounts referred to in subsection (a) to physicians and dentists serving in any geographic area or in any specialty in which the Chief Medical Director has determined there is no significant recruitment and retention problem.

SEC. 269. PILOT PROGRAM OF PAY AND PERSONNEL MANAGEMENT PRACTICES.

(a) IN GENERAL.—The Chief Medical Director of the Department of Veterans Affairs shall conduct a pilot program at not less than five Department medical centers or independent outpatient clinics during calendar years 1990, 1991, and 1992, in order to determine—

(1) the effects of pay and personnel management practices of the Veterans Health Services and Research Administration on the ability of the Department to recruit and retain persons qualified to provide direct patient-care services or services incident to direct patient-care services in Department health-care facilities as employees in employee position categories in which the Department is experiencing recruitment and retention problems;

(2) whether it is desirable to establish programs which foster interdisciplinary professional collaboration and collegial relationships between physicians, registered nurses, and other employees providing direct patient care, and what effects such programs would have on the ability of the Department to recruit and retain registered nurses;

(3) whether it is desirable to create new alternatives for utilizing the skills and knowledge of registered nurses and other health-care professionals in furnishing direct patient care and services incident to the furnishing of such care, and what effects such alternatives would have on (A) the ability of the Department to recruit and retain persons qualified to provide such care and services, and (B) the cost of providing such care and services; and

(4) whether increasing the pay differential for evening and night shifts will attract adequate numbers of qualified workers for such shifts and result in more permanent day-shift assignments.

(b) CONDUCT OF PILOT PROGRAM.—In conducting the pilot program under subsection (a), the Chief Medical Director shall—

(1) at not less than one site, establish a collaborative practice committee involving physicians, nurses, and, as appropriate, other direct health-care personnel;

(2) at not less than one site, significantly increase the pay differential for evening and night service; and

(3) at not less than three sites, implement new alternatives for utilizing the skills and knowledge of registered nurses and other health-care professionals in furnishing direct patient care and services incident to the furnishing of such care.

(c) REPORTS.—(1)(A) Not later than May 1, 1991, the Chief Medical Director shall submit to the Secretary of Veterans Affairs a report on the experience under the pilot program during the first 12 months such program is conducted. The report shall contain—

(i) the Chief Medical Director's evaluation of the effect of each management practice undertaken in the pilot program on the ability of the Department of Veterans Affairs to recruit and retain health-care employees;

(ii) information on the cost factors associated with each such management practice;

(iii) an evaluation of the functioning and productivity of the employees involved in or affected in any substantial way by such practices;

(iv) a discussion of any effects on the quality and timeliness of care provided to veterans; and

(v) any planned administrative actions and any recommendations for legislation or administrative action that the Chief Medical Director considers appropriate to include in the report on the basis of the results of such pilot program.

(B) Not later than 60 days after receiving the report under subparagraph (A), the Secretary shall submit a copy of the report, together with any comments on the report and any recommendations for legislation that the Secretary considers appropriate, to the Committees on Veterans' Affairs of the Senate and House of Representatives.

(2)(A) Not later than May 1, 1993, the Chief Medical Director shall submit to the Secretary a final report on the pilot program required by subsection (a). In such report the Chief Medical Director shall—

(i) update all information contained in the report submitted pursuant to paragraph (1)(A) of this subsection;

(ii) make a final assessment of the pilot program based on the experience under the program during the 36 months for which the program was conducted; and

(iii) make any recommendations for legislation or administrative action that the Chief Medical Director considers appropriate.

(B) Not later than 60 days after receiving the report under subparagraph (A), the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report together with—

(i) any comments on the report that the Secretary considers appropriate;

(ii) the Secretary's final assessment of the pilot program based on the experience under the program during the 36 months for which the program was conducted; and

(iii) any recommendations for legislation that the Secretary considers appropriate.

SEC. 270. RATES OF PAY FOR CERTAIN PSYCHOLOGISTS.

Notwithstanding any other provision of law, the Secretary of Veterans Affairs, not later than 90 days after the date of the enactment of this Act, shall utilize the authority provided in section 4107(g) of title 38, United States Code, to increase the rates of pay for clinical or counseling psychologists who hold diplomas as diplomates in psychology from an accredited authority recognized by the Secretary unless the Chief Medical Director of the Department of Veterans Affairs determines that such psychologists are not needed to furnish appropriate quality of psychological services for veterans. The amount by which such rate of pay shall be increased shall be the amount determined by the Secretary, upon the recommendation of the Chief Medical Director, to be necessary to make the pay for such psychologists competitive with the pay of psychologists with the same qualifications and credentials serving in non-Department of Veterans Affairs capacities comparable to the Department capacities in which the Department psychologists are serving.

TITLE III—EDUCATION AND EMPLOYMENT

SEC. 300. SHORT TITLE.

This title may be cited as the "Veterans Education and Employment Amendments of 1989".

SEC. 301. REHABILITATION SUBSISTENCE ALLOWANCES FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

(a) RATE INCREASES.—The table in section 1508(b) is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional training:				
Full-time	$339	$420	$495	$36
Three-quarter-time	255	315	371	27
Half-time	170	211	249	19
Farm cooperative, apprentice, or other on-job training:				
Full-time	297	358	413	26
Extended evaluation:				
Full-time	339	420	495	36
Independent living training:				
Full-time	339	420	495	36
Three-quarter-time	255	315	371	27
Half-time	170	211	249	19.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1990.

SEC. 302. EDUCATIONAL ASSISTANCE FOR SURVIVORS AND DEPENDENTS.

(a) INCREASED ALLOWANCES.—Section 1732 is amended—

(1) in subsection (a)—

(A) by inserting "109.5 percent of" in paragraph (1) after "computed at"; and

(B) by striking out "the rate prescribed in section 1682(b)(2) of this title for less-than-half-time pursuit of an institutional program by an eligible veteran" in paragraph (2) and inserting in lieu thereof "the lesser of (A) the rate determined under clause (A) of section 1682(b) of this title, or (B) 109.5 percent of the rate provided in clause (B) of such section 1682(b)";

(2) in subsection (b), by striking out "$304" and inserting in lieu thereof "$333";

(3) in subsection (c)—

(A) by inserting "109.5 percent of" in paragraph (2) after "computed at"; and

(B) by striking out "the rate prescribed in section 1682(e) of this title." in paragraph (3) and inserting in lieu thereof "the lesser of (A) the rate determined under clause (A) of section 1682(b) of this title, or (B) 109.5 percent of the rate provided in clause (B) of such section 1682(b). Section 1682(e) of this title, except for the first sentence, shall apply to the educational assistance allowance computed under this paragraph.";

(4) in subsection (e)—

(A) by striking out "(e) In" and inserting in lieu thereof "(e)(1) Subject to paragraph (2) of this subsection, in"; and

(B) by adding at the end the following new paragraph:

"(2) For the purposes of paragraph (1) of this subsection, the amounts of the monthly educational assistance allowances prescribed in subsections (a)(1) and (c)(2) of section 1682 of this title and in section 1787(b)(1) of this title, as referred to in section 1682(g) of this title, for a veteran with no dependents shall be deemed to be equal to 109.5 percent of the amounts so prescribed."; and

(5) by adding at the end the following new subsection:

"(f) In the computation of an educational assistance allowance under this section, any amount of 50 cents or more shall be rounded to the next higher dollar and any amount of 49 cents or less shall be rounded to the next lower dollar.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1990.

SEC. 303. VOCATIONAL TRAINING FOR CERTAIN PENSION RECIPIENTS.

(a) ELIMINATION OF MANDATORY EVALUATION REQUIREMENT.—Section 524 is amended—

(1) in subsection (a)—

(A) by striking out paragraphs (1) and (4) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(B) in paragraph (1) (as so redesignated) by striking out "Subject to paragraph (3)" and all that follows through "applies" and inserting in lieu thereof "Subject to paragraph (2) of this subsection, if a veteran who is awarded pension on or before January 31, 1992, applies"; and

(2) in the first sentence of subsection (b)(4), by striking out "either" and all that follows through the period and inserting in lieu thereof "the award of pension to the veteran as described in subsection (a)(1) of this section.".

(b) TRIAL WORK PERIOD.—Section 524 is further amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) The pension being paid to a veteran who, while participating in a vocational training program under subsection (b) of this section, secures employment within the scope of the objective of the veteran's individualized written rehabilitation plan, or in a related field which requires reasonably developed skills and the use of some or all of the training or services furnished the veteran under such plan, shall not be terminated by reason of either the veteran's capacity to engage in such employment or the income received from such employment (but only if the veteran's annual income from the other sources would, taken alone, not result in the termination of the veteran's pension) unless the veteran maintains that employment for twelve consecutive months.".

SEC. 304. PROVISION FOR PERMANENT PROGRAM OF INDEPENDENT LIVING SERVICES AND ASSISTANCE.

Section 1520 is amended—

(1) by striking out subsection (b);

(2) by striking out paragraph (5) of subsection (a);

(3) by redesignating paragraphs (2), (3), (4), (6) and (7) of subsection (a) as subsections (b), (c), (d), (e) and (f), respectively;

(4) in subsection (a)—

(A) by striking out "(1) During fiscal years 1982 through 1989, the" and inserting in lieu thereof "The";

(B) by striking out "paragraph (7) of this subsection" and inserting in lieu thereof "subsection (f) of this section"; and

(C) by striking out "paragraph (2) of this subsection" and inserting in lieu thereof "subsection (b) of this section";

(5) in subsection (b), as redesignated by clause (3), by striking out "and who is selected" and all that follows through "subsection";

(6) in subsection (c), as redesignated by clause (3), by striking out "paragraph (2) of this subsection" and inserting in lieu thereof "subsection (b) of this section";

(7) in subsection (e), as redesignated by clause (3), by striking out "of the fiscal years 1982 through 1989" and inserting in lieu thereof "fiscal year"; and

(8) in subsection (f), as redesignated by clause (3), by striking out "paragraph" and inserting in lieu thereof "subsection".

SEC. 305. VETERANS' AND RESERVISTS' WORK-STUDY PROGRAM.

(a) CRITERIA FOR DETERMINING WORK-STUDY ALLOWANCE.—(1) Section 1685(a) is amended—

(A) in the second sentence—

(i) by striking out "either";

(ii) by striking out "the hourly minimum wage" and all that follows through "(29 U.S.C. 206(a))" and inserting in lieu thereof "the applicable hourly minimum wage"; and

(iii) by striking out "or $625, whichever is the higher,";

(B) in the fourth sentence—

(i) by striking out "either"; and

(ii) by striking out "the hourly minimum wage" and all that follows through "higher" and inserting in lieu thereof "the applicable hourly minimum wage";

(C) by inserting "(1)" after "(a)"; and

(D) by adding at the end the following new paragraph:

"(2) For the purposes of paragraph (1) of this subsection, the term 'applicable hourly minimum wage' means the hourly minimum wage under section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) or the hourly minimum wage under comparable law of the State in which the services are to be performed, whichever is higher.".

(2) Section 1685(b) is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a)(1)".

(b) SELECTED RESERVISTS' WORK-STUDY ASSIGNMENTS.—The second sentence of section 1685(a), as amended by subsection (a)(1)(A), is further amended—

(1) in clause (3), by striking out "or" at the end; and

(2) by striking out the period at the end and inserting in lieu thereof ", or, in the case of a veteran-student who is receiving educational assistance under chapter 106 of title 10, activities relating to the administration of such chapter at Department of Defense facilities.".

(c) EXPANSION OF WORK-STUDY ELIGIBILITY FOR SERVICE-DISABLED VETERANS AND RESERVISTS.—Section 1685(b) is amended—

(1) in the first sentence by striking out "are pursuing" and all that follows through the period and inserting in lieu thereof "(1) are pursuing full-time programs of education or training under chapter 30, 32, or 34 of this title or chapter 106 of title 10, (2) have service-connected disabilities rated at 30 percent or more and are pursuing programs of education or training on at least a half-time basis under chapter 30, 32, or 34 of this title, or (3) are pursuing programs of rehabilitation on at least a half-time basis under chapter 31 of this title (excluding programs where pursuit is based on limited work tolerance)."; and

(2) in the last sentence by striking out "full-time student" and inserting in lieu thereof "veteran-student as described in clause (1), (2), or (3) of this subsection".

(d) CONFORMING AMENDMENTS.—(1) Section 1685 is amended by adding at the end the following new subsection:

"(e) For the purposes of this section, the terms 'veteran' and 'veteran-student' include a person receiving educational assistance under chapter 106 of title 10.".

(2) Section 2136(b) of title 10, United States Code, is amended by striking out "and 1683" and inserting in lieu thereof "1683, and 1685".

(e) CLERICAL AMENDMENT.—Section 1685 is amended by striking out "per centum" each place it appears and inserting in lieu thereof "percent".

(f) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on August 1, 1990, and shall apply to services performed on or after that date.

SEC. 306. WORK-STUDY PROGRAM FOR SURVIVORS AND DEPENDENTS.

(a) IN GENERAL.—(1) Subchapter IV of chapter 35 is amended by inserting after section 1736 the following new section:

"§ 1737. Work-study allowance

"(a) Subject to subsection (b) of this section, the Secretary shall utilize, in connection with the activities described in section 1685(a) of this title, the services of any eligible person who is pursuing, in a State, a full-time program of education (other than a course of special restorative training) and shall pay to such person an additional educational assistance allowance (hereafter in this section referred to as 'work-study allowance') in return for such eligible person's agreement to perform such services. The amount of the work-study allowance shall be determined in accordance with section 1685(a) of this title.

"(b) The Secretary's utilization of, and payment of a work-study allowance for, the services of an eligible person pursuant to subsection (a) of this section shall be subject to the same requirements, terms, and conditions as are set out in section 1685 of this title with regard to veteran-students pursuing full-time programs of education referred to in subsection (b) of such section.".

(2) The table of sections at the beginning of chapter 35 is amended by inserting after

the item relating to section 1736 the following new item:

"1737. Work-study allowance.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on August 1, 1990.

SEC. 307. WITHDRAWAL FROM COURSE UNDER MITIGATING CIRCUMSTANCES.

Section 1780 is amended by adding at the end the following new subsection:

"(h) Mitigating circumstances referred to in subsection (a)(4) include the suspension of the pursuit of a program of education, or withdrawal from a course or courses, by an eligible veteran or eligible person in order for such veteran or person personally to furnish child care for the veteran's or person's child if the necessity for personally furnishing such child care results from difficulties, beyond the control of such veteran or person, in making or changing child-care arrangements.".

SEC. 308. LIMITED EXTENSION AND EXPANSION OF THE VETERANS' READJUSTMENT APPOINTMENT AUTHORITY.

(a) EXTENSION OF AUTHORITY.—Paragraph (2) of section 2014(b) is redesignated as paragraph (3) and is amended by striking out "1989" and inserting in lieu thereof "1991".

(b) ELIGIBILITY.—(1) Section 2014(a)(1) is amended by striking out "qualified disabled veterans and veterans of the Vietnam era" and inserting in lieu thereof "certain disabled veterans, certain veterans of the Vietnam era, and veterans of the post-Vietnam era who are qualified for such employment and advancement".

(2) Subsection (b) of section 2014 is amended—

(A) in paragraph (1)—

(i) by striking out "veterans of the Vietnam era" and inserting in lieu thereof "veterans referred to in paragraph (2)"; and

(ii) by striking out clause (B) and inserting in lieu thereof the following:

"(B) a veteran referred to in paragraph (2) shall be eligible for a readjustment appointment during the four-year period beginning on the date of the veteran's latest discharge or other separation from active duty;";

(iii) by inserting "referred to in paragraph (2)" in clause (C) after "a veteran of the Vietnam era";

(iv) by striking out "and" at the end of clause (C);

(v) by striking out the period at the end of clause (D) and inserting in lieu thereof "; and"; and

(vi) by adding at the end the following new clause:

"(E) a veteran may not receive, after the date of the enactment of this clause, more than one readjustment appointment pursuant to this subsection."; and

(B) by inserting after paragraph (1) the following new paragraph (2):

"(2) This subsection applies to—

"(A) a veteran of the Vietnam era who—

"(i) is a disabled veteran; or

"(ii) during such era, served on active duty in the Vietnam theater of operations, as defined by the Secretary;

"(B) a veteran who has a service-connected disability rated at 30 percent or more; and

"(C) a veteran who served on active duty after the Vietnam era.".

(b) TRANSITION PROVISION.—If the eligibility of a veteran for an appointment pursuant to paragraph (1) of section 2014(b) of title 38, United States Code, would expire by reason of the provisions of clause (B) of such paragraph, as amended by subsection (a)), then, notwithstanding such clause, that veteran shall continue to be eligible for such an appointment until January 1, 1992.

(c) EFFECTIVE DATE.—(1) Except as provided in paragraphs (2) and (3), the amendments made by subsection (a) shall take effect on January 1, 1990.

(2) Clause (E) of section 2014(b)(1) of title 38, United States Code (as added by subsection (a)), shall take effect on the date of the enactment of this Act.

(3)(A) A veteran who has a service-connected disability rated at 30 percent or more or who served on active duty after the Vietnam era shall be eligible for appointments pursuant to section 2014(b)(1) of title 38, United States Code, on and after the date of the enactment of this Act.

(B) For the purposes of subparagraph (A)—

(i) the term "veteran" shall have the meaning referred to in section 2014(f) of title 38, United States Code; and

(ii) the terms "active duty" and "Vietnam era" shall have the meanings given such terms in section 101 (21) and (29), respectively, of title 38, United States Code.

SEC. 309. PILOT PROGRAM TO FURNISH EMPLOYMENT AND TRAINING INFORMATION AND SERVICES TO MEMBERS OF THE ARMED FORCES SEPARATING FROM THE ARMED FORCES.

(a) REQUIREMENT FOR PROGRAM.—During the three-year period beginning on October 1, 1989, the Secretary of Labor shall conduct a pilot program to furnish employment and training information and services to members of the Armed Forces within 180 days before such members are separated from the Armed Forces.

(b) AREAS TO BE COVERED BY THE PROGRAM.—The Secretary shall conduct the pilot program in not more than five geographically dispersed States in which the Secretary determines that employment and training services to eligible veterans will not be unduly limited by the provision of such services to members of the Armed Forces under the pilot program.

(c) UTILIZATION OF SPECIFIC PERSONNEL.—The Secretary shall utilize disabled veterans' outreach program specialists or local veterans' employment representatives to the maximum extent feasible to furnish employment and training information and services under the pilot program.

(d) REPORT.—Not later than February 1, 1992, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience under the pilot program.

SEC. 310. ALTERNATE SECONDARY SCHOOL CREDENTIALS FOR MONTGOMERY GI BILL ELIGIBILITY.

(a) ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM.—(1) Section 1411(a)(2) is amended by striking out "(or equivalency certificate)" and inserting in lieu thereof "(or the equivalent as determined by the Secretary concerned, pursuant to regulations prescribed by the Secretary)".

(2) Section 1412(a)(2) is amended by striking out "(or an equivalency certificate)" and inserting in lieu thereof "(or the equivalent as determined by the Secretary concerned, pursuant to regulations prescribed by the Secretary)".

(c) EDUCATIONAL ASSISTANCE PROGRAM FOR MEMBERS OF THE SELECTED RESERVE.—Section 2132(a)(2) of title 10, United States Code, is amended by striking out "(or an equivalency certificate)" and inserting in lieu thereof "(or the equivalent as determined by the Secretary concerned, pursuant to regulations prescribed by the Secretary)".

SEC. 311. BAR TO RECEIPT OF CHAPTER 32 AND 106 BENEFITS FOR SAME PERIOD OF SERVICE.

Section 1621 is amended by adding at the end the following:

"(f) An individual who serves in the Selected Reserve may not receive credit for such service under both the program established by this chapter and the program established by chapter 106 of title 10 but shall elect (in such form and manner as the Secretary may prescribe) the program to which such service is to be credited.".

SEC. 312. ACCEPTING SCHOOL CERTIFICATION FOR RENEWAL OF EDUCATIONAL BENEFITS AFTER UNSATISFACTORY PROGRESS.

(a) VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.—Section 1674 is amended by striking out clauses (1) and (2) and inserting in lieu thereof the following:

"(1) the veteran will be resuming enrollment at the same educational institution in the same program of education and the educational institution has both approved such veteran's reenrollment and certified the reenrollment to the Department of Veterans Affairs; or

"(2) in the case of a proposed change of either educational institution or program of education by the veteran—

"(A) the cause of the unsatisfactory conduct or progress has been removed;

"(B) the program proposed to be pursued is suitable to the veteran's aptitudes, interests, and abilities; and

"(C) if a proposed change of program is involved, the change meets the requirements for approval under section 1791 of this title.".

(b) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE PROGRAM.—Section 1724 is amended by striking out clauses (1) and (2) and inserting in lieu thereof the following:

"(1) the eligible person will be resuming enrollment at the same educational institution in the same program of education and the educational institution has both approved such person's reenrollment and certified the reenrollment to the Department of Veterans Affairs; or

"(2) in the case of a proposed change of either educational institution or program of education by the eligible person—

"(A) the cause of the unsatisfactory conduct or progress has been removed;

"(B) the program proposed to be pursued is suitable to the person's aptitudes, interests, and abilities; and

"(C) if a proposed change of program is involved, the change meets the requirements for approval under section 1791 of this title.".

SEC. 313. REMOVAL OF ATTENDANCE REQUIREMENT DISTINCTIONS BETWEEN DEGREE AND NONDEGREE TRAINING.

(a) UNSATISFACTORY ATTENDANCE.—(1) Section 1674, as amended by section 312, is further amended by striking out "conduct" each place it appears and inserting in lieu thereof "attendance, conduct,".

(2) Section 1724 is amended by striking out "conduct" each place it appears and inserting in lieu thereof "attendance, conduct,".

(b) APPROVAL OF ACCREDITED COURSES WITHOUT ATTENDANCE STANDARDS.—Section 1775(b) is amended by inserting "If the educational institution does not have a formal policy or regulations specifying minimum satisfactory attendance standards required for a student to avoid interruption of a

course, loss of credit, or dismissal" before the end parenthesis in the first sentence.

(c) PAYMENT PERIOD.—Section 1780(a) is amended—

(1) in clause (1), by striking out "which leads to" and all that follows through "title," the first time it appears and inserting in lieu thereof "approved pursuant to section 1775 of this title";

(2) by striking out clause (2) and inserting in lieu thereof the following:

"(2) to any eligible veteran or eligible person enrolled in a course approved pursuant to section 1776 of this title for any period for which the Secretary finds, pursuant to section 1674 or 1724 of this title, that such veteran's or person's attendance, conduct, or progress is unsatisfactory or that such veteran or person is not pursuing that course in accordance with (A) the provisions of such regulations as the Secretary may prescribe pursuant to subsection (g) of this section, and (B) the requirements of this chapter or of chapter 34 or 35 of this title;";

(3) in subclause (A) of the matter following clause (5), by striking out ", and such periods" and all that follows through "subsection"; and

(4) in subclauses (B) and (C) of the matter following clause (5), by striking out ", but such periods" and all that follows through "subsection" each place it appears.

(d) CONFORMING AMENDMENT.—Section 1785(b) is amended by striking out "excessive absences from a course, or".

SEC. 314. FUNDING FOR STATE APPROVING AGENCIES FOR TRAINING CURRICULUM DEVELOPMENT.

(a) IN GENERAL.—Section 1774(a) of title 38, United States Code, is amended—

(1) in paragraph (2)(A), by striking out "section and for" and inserting in lieu thereof "section, for expenses incurred in carrying out activities described in section 1774A(a)(4) of this title (except for administrative overhead expenses allocated to such activities), and for"; and

(2) in paragraph (2)(C), by inserting before the period the following: "and the amount of expenses incurred in carrying out activities described in section 1774A(a)(4) of this title for such period (except for administrative overhead expenses allocated to such activities)".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1989.

SEC. 315. PROOF OF SATISFACTORY PURSUIT OF A PROGRAM OF EDUCATION.

(a) WITHHOLDING OF BENEFITS; FORM OF PROOF.—Section 1780(g) is amended by striking out "the Administrator is authorized" in the second sentence and all that follows through the period at the end of that sentence and inserting in lieu thereof "the Secretary may withhold payment of benefits to such eligible veteran or eligible person until the required proof is received and the amount of the payment is appropriately adjusted. The Secretary may accept such veteran's or person's monthly certification of enrollment in and satisfactory pursuit of such veteran's or person's program as sufficient proof of the certified matters.".

(b) TECHNICAL AMENDMENT.—Section 1780(g) is amended by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary".

(c) CONFORMING AMENDMENTS.—Section 1434 is amended—

(1) in subsection (a)(1), by striking out "1780(g),"; and

(2) by striking out subsection (b).

SEC. 316. REPORTING FEES.

Section 1784 is amended—

(1) in subsection (a)(1), by striking out "chapter 34" and inserting in lieu thereof "chapter 31, 34,";

(2) in subsection (b), by striking out "chapters 34" and inserting in lieu thereof "chapters 31, 34"; and

(3) in subsection (c), by striking out "chapter 34" each place it appears and inserting in lieu thereof "chapter 31, 34,".

SEC. 317. CLOCK-HOUR MEASUREMENT OF CERTAIN UNIT COURSES OR SUBJECTS CREDITABLE TOWARD A STANDARD COLLEGE DEGREE.

Section 1788(e) is amended to read as follows:

"(e)(1) For the purpose of measuring clock hours of attendance or net of instruction under clause (1) or (2), respectively, of subsection (a) of this section for a course—

"(A) which is offered by an institution of higher learning, and

"(B) for which the institution requires one or more unit courses or subjects for which credit is granted toward a standard college degree pursued in residence on a standard quarter- or semester-hour basis,

the number of credit hours (semester or quarter hours) represented by such unit courses or subjects shall, during the semester, quarter, or other applicable portion of the academic year when pursued, be converted to equivalent clock hours, determined as prescribed in paragraph (2) of this subsection. Such equivalent clock hours then shall be combined with actual weekly clock hours of training concurrently pursued, if any, to determine the total clock hours of enrollment.

"(2) For the purpose of determining the clock-hour equivalency described in paragraph (1) of this subsection, the total number of credit hours being pursued will be multiplied by the factor resulting from dividing the number of clock hours which constitute full time under clause (1) or (2) of subsection (a) of this section, as appropriate, by the number of semester hours (or the equivalent thereof) which, under clause (4) of such subsection, constitutes a full-time institutional undergraduate course at such institution.".

SEC. 318. DEPARTMENT OF VETERANS AFFAIRS APPROVAL OF CERTAIN COURSES.

Section 1789(b)(6)(B) is amended by inserting "and members of the Selected Reserve of the Ready Reserve eligible for educational assistance under chapter 106 of title 10;" after "dependents".

SEC. 319. LIMITATIONS ON CHANGES OF PROGRAMS OF EDUCATION.

(a) REPEAL OF LIMITATION ON NUMBER OF CHANGES.—(1) Section 1791(a) is amended by striking out "Except" and all that follows through "education, but" and inserting in lieu thereof "An eligible veteran or an eligible person who has not made a change of program of education pursued by such veteran or person, as the case may be, may make one such change without the approval of the Secretary. Except as provided in subsections (b) and (c) of this section,".

(2) Section 1791 is amended—

(A) in subsection (b), by striking out the matter above clause (1) and inserting in lieu thereof "The Secretary may approve any change in program (including any change in the case of a veteran or person not entitled to make a change under subsection (a) of this section) if the Secretary finds—"; and

(B) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The Secretary may also approve any change of program of education if the Secretary finds such change is necessitated by circumstances beyond the control of the eligible veteran or eligible person.".

(b) COUNSELING REQUIREMENT.—(1) Section 1791(b)(1) is amended by inserting ", determined, in the case of each change after the eligible veteran's or eligible person's first change, as provided in subsection (d) of this section" after "abilities".

(2) Section 1791 is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection (d):

"(d) The Secretary may approve a second or subsequent change of program of education by an eligible veteran or eligible person only if—

"(1) the veteran or person accepts educational or vocational counseling services referred to in section 1663 of this title; and

"(2) the Secretary determines, on the basis of the results of the educational or vocational counseling, that the change is suited to the veteran's or person's aptitudes, interests, and abilities.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on August 1, 1990.

SEC. 320. EFFECTIVE DATE OF ADJUSTMENTS OF EDUCATIONAL BENEFITS.

Section 3013 is amended to read as follows:

(1) by striking out "Effective" and inserting in lieu thereof "(a) Except as provided in subsection (b) of this section, effective"; and

(2) by adding at the end the following new subsection:

"(b) The effective date of an adjustment of benefits under any chapter referred to in subsection (a) of this section, if made on the basis of a change in a student's rate of pursuit of training for which proof is required by the Secretary under section 1780(g) of this title, or if made on the basis of any other change in a student's training time for which proof is required by the Secretary under such section, shall be the date of the change.".

SEC. 321. TECHNICAL AND CLERICAL AMENDMENTS.

(a) ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM.—Section 1434, as amended by section 315(c), is further amended—

(1) in subsection (a)(1), by inserting "1780(f)," after "1780(c),"; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) Payment of educational assistance allowance in the case of an eligible individual pursuing a program of education under this chapter on less than a half-time basis shall be made in a lump-sum amount for the entire quarter, semester, or term not later than the last day of the month immediately following the month in which certification is received from the educational institution that such individual has enrolled in and is pursuing a program at such institution. Such lump-sum payment shall be computed at the rate determined under section 1432(b) of this title.".

(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM—Section 1633 is amended by adding at the end the following new subsection:

"(d) For any month in which an individual fails to complete 120 hours of training, the entitlement otherwise chargeable under subsection (c) of this section shall be reduced in the same proportion as the monthly benefit payment payable is reduced under subsection (b) of this section.".

(c) ADMINISTRATION OF EDUCATIONAL BENEFITS.—Section 1790 is amended—

(1) in subsection (a)(2), by striking out "and prepayment"; and

(2) in subsection (b)(3)(A), by inserting "30," before "32".

TITLE IV—HOME LOAN

SEC. 400. SHORT TITLE.

This title may be cited as the "Veterans Home Loan Guaranty Restructuring and Solvency Act of 1989".

SEC. 401. ESTABLISHMENT OF HOME LOAN GUARANTY FUND.

(a) NEW FUND.—(1) Chapter 37 is amended by inserting after section 1824 the following new section:

"§ 1824A. Home Loan Guaranty Fund

"(a) There is hereby established in the Treasury of the United States a revolving fund known as the Home Loan Guaranty Fund (hereinafter referred to as the 'Guaranty Fund').

"(b) The Guaranty Fund shall be available to the Secretary for all operations (other than administrative expenses) carried out with respect to (1) housing loans guaranteed or insured under this chapter which are made after September 30, 1989, and (2) loans to which section 1814 of this title applies and which are assumed after such date.

"(c)(1) All fees collected under sections 1803(a)(3)(A) and 1829 of this title after September 30, 1989, shall be credited to the Guaranty Fund.

"(2) There shall also be credited to the Guaranty Fund—

"(A) for each housing loan guaranteed or insured under this chapter after September 30, 1989, an amount equal to 0.25 percent of the original amount of such loan for each of the three fiscal years beginning with the fiscal year in which such loan is guaranteed or insured (except in the case of a loan guaranteed or insured during fiscal year 1990, for which such amount shall be credited for each of the three fiscal years beginning with fiscal year 1991);

"(B) all collections of principal and interest and the proceeds from the use of property held, or from the sale of property disposed of, with respect to loans to which subsection (b) of this section applies;

"(C) amounts required to be credited under section 1829(c) of this section; and

"(D) all income from the investments described in subsection (d) of this section.

"(d)(1) The Secretary of the Treasury shall invest the portion of the Guaranty Fund that is not required to meet current payments made from the Guaranty Fund, as determined by the Secretary of Veterans Affairs, in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

"(2) In making investments under paragraph (1) of this subsection, the Secretary of the Treasury shall select obligations having maturities suitable to the needs of the Guaranty Fund, as determined by the Secretary of Veterans Affairs, and bearing interest at suitable rates, as determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.".

(2) The table of sections of subchapter III of chapter 37 is amended by inserting after the item relating to section 1824 the following new item:

"1824A. Home Loan Guaranty Fund.".

(b) ANNUAL SUBMISSION OF INFORMATION ON THE LOAN GUARANTY REVOLVING FUND AND THE HOME LOAN GUARANTY FUND.—(1) Subchapter III of chapter 37 is amended by adding at the end the following new section:

"§ 1834. Annual Submission of Information on the Loan Guaranty Revolving Fund and the Home Loan Guaranty Fund

"(a) In the documents providing detailed information on the budget for the Department of Veterans Affairs that the Secretary of Veterans Affairs submits to the Congress in conjunction with the President's budget submission for each fiscal year pursuant to section 1105 of title 31, United States Code, the Secretary shall include—

"(1) a thorough description of the operations of the Loan Guaranty Revolving Fund and the Home Loan Guaranty Fund during the fiscal year preceding the fiscal year in which such budget is submitted; and

"(2) the needs of such funds, if any, for appropriations in—

"(A) the fiscal year in which the budget is submitted; and

"(B) the fiscal year for which the budget is submitted.

"(b) The matters submitted under subsection (a) of this section shall include, with respect to each fund referred to in subsection (a), the following:

"(1) Information and financial data on the operations of the fund during the fiscal year before the fiscal year in which such matters are submitted and estimated financial data and related information on the operation of the fund for—

"(A) the fiscal year of the submission; and

"(B) the fiscal year following the fiscal year of the submission.

"(2) Estimates of the amount of revenues derived by the fund in the fiscal year preceding the fiscal year of the submission, in the fiscal year of the submission, and in the fiscal year following the fiscal year of the submission from each of the following sources:

"(A) Fees collected under sections 1803(a)(3)(A) and 1829 of this title for each category of loan guaranteed, insured, or made under this chapter.

"(B) Federal Government contributions made under section 1824A(c)(2)(A) of this title.

"(C) Federal Government payments under section 1829(c) of this title.

"(D) Investment income.

"(E) Sales of foreclosed properties.

"(F) Loan asset sales.

"(G) Each additional source of revenue.

"(3) Information, for each fiscal year referred to in paragraph (2) of this subsection, regarding the types of dispositions made of defaults on loans guaranteed, insured, or made under this chapter, including the cost to the fund, and the numbers, of such types of dispositions.".

(2) The table of sections of subchapter III of chapter 37 is amended by inserting after the item relating to section 1833 the following new item:

"1834. Annual Submission of Information on the Loan Guaranty Revolving Fund and the Home Loan Guaranty Fund.".

(c) CONFORMING AMENDMENTS.—Section 1824 is amended—

(1) in subsection (b), by inserting "and the operations carried out in connection with the Home Loan Guaranty Fund established by section 1824A" before the period at the end of the first sentence; and

(2) in subsection (c)—

(A) by inserting "before October 1, 1989" after "title" in clause (2); and

(B) by inserting "with respect to housing loans guaranteed or insured under this chapter before October 1, 1989" after "chapter" in clause (3).

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect on October 1, 1989, and shall apply with respect to loans closed or assumed on or after that date.

SEC. 402. LOAN FEE.

(a) IN GENERAL.—Section 1829 is amended to read as follows:

"§ 1829. Loan fee

"(a)(1) Except as provided in subsection (c), a fee shall be collected from each veteran obtaining a housing loan guaranteed or insured under this chapter, and from each person obtaining a loan under section 1833(a) of this title, and no such loan may be guaranteed, made, or insured under this chapter until the fee payable under this section has been remitted to the Secretary.

"(2) The amount of such fee shall be 1.25 percent of the total loan amount, except that—

"(A) in the case of a loan made under section 1833(a) of this title, the amount of such fee shall be one percent of the total loan amount;

"(B) in the case of a guaranteed or insured loan for a purchase (except for a purchase referred to in section 1812(a) of this title), or for construction, with respect to which the veteran has made a downpayment of not less than 5 percent of the total purchase price or construction cost, the amount of such fee shall be 0.75 percent of the total loan amount;

"(C) in the case of a guaranteed or insured loan for a purchase (except for a purchase referred to in section 1812(a) of this title), or for construction, with respect to which the veteran has made a downpayment of not less than 10 percent of the total purchase price or construction cost, the amount of such fee shall be 0.25 percent of the total loan amount; and

"(D) in the case of a guaranteed or insured loan for a purchase referred to in section 1812(a) of this title with respect to which the veteran has made a downpayment of not less than 10 percent of the total purchase price, the amount of such fee shall be 0.75 percent of the total loan amount.

"(3) The amount of the fee may be included in the loan and paid from the proceeds thereof.

"(b) Except as provided in subsection (c) of this section, a fee shall be collected from a person assuming a loan to which section 1814 of this title applies. The amount of the fee shall be equal to 0.75 percent of the balance of the loan on the date of the transfer of the property.

"(c)(1) A fee may not be collected under this section from a veteran who is receiving compensation (or who but for the receipt of retirement pay would be entitled to receive compensation) or from a surviving spouse of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability. There shall be credited to the Home Loan Guaranty Fund, on behalf of such veteran or surviving spouse (in addition to the amount required to be credited to such fund under section 1824A(c)(2)(A) of this title), the amount equal to the fee that, except for this subsection, would be collected from such veteran or surviving spouse.

"(2) Credits to the Home Loan Guaranty Fund under paragraph (1) of this subsection with respect to loans, guaranteed, insured, or made under this chapter during fiscal year 1990 shall be made in October 1990.

"(d)(1) Subject to paragraphs (2) and (3) of this subsection, the Secretary may increase each fee percentage specified in subsections (a) and (b) of this section, or each such fee percentage as previously increased under this paragraph, if the Secretary determines, on the basis of economic projections and analyses, that the Home Loan Guaranty Fund would, except for such increase, be unable to pay the valid claims of holders of defaulted loans during the first 24 months that such increase is to be in effect. In exercising the authority under this paragraph, the Secretary shall increase all such fee percentages by multiplying each such fee percentage by the same factor.

"(2) An increased percentage prescribed by the Secretary under paragraph (1) of this subsection for a fee required to be collected under subsection (a) or (b) of this section may not exceed the percentage determined by multiplying the percentage specified for such fee in that subsection by 1.2.

"(3) The Secretary may not in any fiscal year increase fee percentages under paragraph (1) of this subsection unless the Secretary first submits to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing the Secretary's determination to increase the fee percentages, the factor by which the fee percentages are to be increased, and the economic projections and analyses on which the Secretary bases such determination. Any such report shall be submitted not later than the day on which the President, pursuant to section 1105 of title 31, submits to the Congress the budget for the fiscal year in which the increase is proposed to take effect. On the same day that the Secretary submits the report to the committees, the Secretary shall submit a copy of the report to the Director of the Congressional Budget Office.

"(4) Not later than 30 days after the Secretary submits the report to the committees, the Director of the Congressional Budget Office shall transmit to the committees the Director's views on the Secretary's report.

"(e)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the Secretary may reduce each fee percentage increased under paragraph (1) of this subsection if the Secretary determines, on the basis of economic projections and analyses, that the Home Loan Guaranty Fund will, despite such reduction, be able to pay the valid claims of holders of defaulted loans during the first 24 months that the reduced fee percentage is to be in effect.

"(2) In exercising the authority under paragraph (1) of this subsection, the Secretary shall reduce all such fee percentages by multiplying each such fee percentage by the same factor.

"(3) The percentage for a particular fee may not be reduced below the percentage specified for that fee in subsection (a)(2) of this section.

"(4) At least 30 days before reducing fee percentages under this subsection, the Secretary shall provide the Committees on Veterans' Affairs of the Senate and House of Representatives with notice of the proposed reduction, a copy of the Secretary's determination under paragraph (1) of this subsection, and the economic projections and analyses on which the Secretary bases such determination.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1989, and shall apply with respect to loans closed or assumed on or after that date.

SEC. 403. INDEMNIFICATION OF VETERAN AFTER DEFAULT.

(a) EXCEPTIONS FROM LIABILITY.—Section 1803 is amended by adding at the end the following new subsection:

"(e) Any individual who pays a fee under section 1829 of this title, or is exempted under section 1829(c) from paying such fee, after September 30, 1989, with respect to a housing loan (other than a loan made under section 1833(a) of this title) shall have no liability to the Secretary with respect to the loan for any loss resulting from any default of such individual except in the case of (1) fraud, misrepresentation, or bad faith by the individual in obtaining the loan or approval of an assumption of the loan or in connection with the loan default, or (2) a default or liquidation resulting from circumstances within the individual's control.".

(b) CONFORMING AMENDMENT.—The last sentence of section 1832(a)(1) is amended by striking out "If" and inserting in lieu thereof "Except as provided in section 1803(e) of this title, if".

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on October 1, 1989, and shall apply with respect to loans closed or assumed on or after that date.

(2) Clause (2) of section 1803(e) of title 38, United States Code (as added by subsection (a)), shall take effect on the date on which the Secretary of Veterans Affairs issues final regulations to implement such subsection.

SEC. 404. SALE OF VENDEE LOANS.

(a) IN GENERAL.—Section 1833(a)(3) is amended—

(1) in subparagraph (A), by striking out "1989" and inserting in lieu thereof "1990";

(2) in subparagraph (B), by striking out "1989" and inserting in lieu thereof "1990";

(3) in subparagraph (C), by striking out "1989" and inserting in lieu thereof "1990"; and

(4) by adding at the end the following new subparagraph:

"(D) Notwithstanding the Balanced Budget and Emergency Deficit Control Act of 1985 and the Congressional Budget and Impoundment Control Act of 1974, all amounts received from the sale of such loans shall be credited without any reduction, for the fiscal year in which the amount is received, as offsetting collections of the Loan Guaranty Revolving Fund (established by section 1824 of this title) or the Home Loan Guaranty Fund (established by section 1824A of this title), for which a fee was collected (or from which a fee was exempted from being collected) at the time the loan was originally guaranteed. The total amount credited to the Loan Guaranty Revolving Fund or the Home Loan Guaranty Fund for a fiscal year shall offset outlays attributed to such Fund, as the case may be, during such fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989.

SEC. 405. COMPUTATION OF ENTITLEMENT AMOUNT.

(a) OPTIONAL INCREASED ENTITLEMENT.—Section 1803(a) is amended—

(1) in paragraph (1)(B), by striking out "The" and inserting in lieu thereof "Except in the case of an election pursuant to paragraph (3)(A) of this subsection, the"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraphs (B) and (C) of this paragraph, the maximum amount of guaranty entitlement available to a veteran for purposes specified in clauses (1), (2), (3), and (6) of section 1810(a) of this title may, upon the election of the veteran, be increased by not more than $5,000 in connection with a specific loan. The Secretary shall collect from that veteran a fee equal to 0.1 percent of the total loan amount for each $1,000 (and fraction of $1,000) by which the veteran elects to increase that maximum amount.

"(B) The total amount of the guaranty entitlement available to a veteran in connection with a loan for a purchase or construction may not be increased pursuant to subparagraph (A) of this paragraph by an amount which would cause the sum of the guaranty and any downpayment to exceed 25 percent of the price of the purchase or construction.

"(C) The Secretary may waive the limitation in subparagraph (B) of this paragraph in the case of a loan for the purchase or construction of housing whenever the Secretary determines, in accordance with regulations prescribed by the Secretary, that the housing is being purchased or constructed in a housing market area for which it is the general practice of lenders, in the case of loans to be guaranteed under this chapter, to require the payment of points in, or to discount the loans by, such large amounts as to make it unlikely that a veteran could obtain such a loan for the purchase or construction of housing in such market area.

"(D) The amount of the fee imposed by subparagraph (A) of this paragraph may be included in the loan and paid from the proceeds thereof.".

(b) EFFECTIVE DATE AND APPLICABILITY.—The amendments made by subsection (a) shall take effect on October 1, 1989, and shall apply with respect to loans guaranteed or insured under chapter 37 of title 38, United States Code, after September 30, 1989.

SEC. 406. PROCEDURES ON DEFAULT.

(a) NOTIFICATION REQUIREMENT.—Section 1832(a) is amended by adding at the end the following new paragraph:

"(5) When a default has occurred in the payment of any loan made, guaranteed, or insured under this chapter and the holder of the obligation has refused a tender of a payment of a significant portion of an amount payable under the terms of the loan, the Secretary may require the holder of the obligation to notify the Secretary as soon as such tendered payment has been refused. The Secretary may require that any such notification include a statement of the circumstances of the default, the amount tendered, the amount of the indebtedness on the date of the tender, the reasons for the holder's refusal, and such other information as the Secretary determines is necessary in order to service defaulted loans.".

(b) COMPUTATION OF NET VALUE.—Section 1832(c)(1)(C) is amended by—

(1) striking out "(i)";

(2) striking out "(ii)" and inserting in lieu thereof "(i)"; and

(3) inserting "(other than the cost of borrowing funds to acquire the property), and minus (ii) 50 percent of the cost to the Government of borrowing the amount equal to the excess, if any, of the total indebtedness over the amount guaranteed under this chapter" before the period at the end.

(c) POSTPONEMENT OF EXPIRATION DATE.—Paragraph (11) of section 1832(c) is amended by striking out "October 1, 1989" and inserting in lieu thereof "October 1, 1991.".

SEC. 407. REFINANCING LOANS.

(a) REPEAL OF LIMITATION ON AMOUNT OF REFINANCING LOAN.—Section 1810 is amended by striking out subsection (h).

(b) CONDITIONS FOR GUARANTEEING OR MAKING A REFINANCING LOAN.—Subsection (b) of section 1810 is amended—

(1) in paragraph (5), by inserting "except in the case of a loan described in clause (7) or (8) of this subsection," after "(5);

(2) by striking out "and," at the end of paragraph (5);

(3) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon; and

(4) by adding at the end the following new paragraphs:

"(7) in the case of a loan (other than a loan made for a purpose specified in subsection (a)(8)) that is made to refinance a construction loan, an installment land sales contract, or a loan assumed by the veteran and that provides for a lower interest rate than the loan being refinanced, the amount of the loan to be guaranteed or made does not exceed the lesser of—

"(A) the reasonable value of the dwelling or farm residence securing the loan, as determined pursuant to section 1831 of this title; or

"(B) the sum of the outstanding balance on the loan to be refinanced and the closing costs (including discounts) actually paid by the veteran, as specified by the Secretary in regulations; and

"(8) in the case of a loan to refinance a loan other than a loan or installment sales contract described in clause (7), the amount of the loan to be guaranteed or made does not exceed 90 percent of the reasonable value of the dwelling or farm residence securing the loan, as determined pursuant to section 1831 of this title.".

SEC. 408. WAIVER OF INDEBTEDNESS.

Section 3102 is amended—

(1) in subsection (a), by adding at the end the following: "The Secretary shall include in the notification a statement of the debtor's right to submit an application for a waiver under this subsection and a description of the procedures for submitting the application."; and

(2) in subsection (b)—

(A) by striking out "101 and 1801" and inserting in lieu thereof, "101, 1801, and 1802(a)(2)(C)(ii) of this title"; and

(B) by adding at the end the following: "An application for relief under this subsection must be made within one year after the date on which the Secretary notifies the debtor of the indebtedness. The Secretary shall include in the notification a statement of the debtor's right to submit an application for a waiver under this subsection and a description of the procedures for submitting the application.".

SEC. 409. CLARIFYING CORRECTION REGARDING ENTITLEMENT.

Section 1802(a)(2)(C) is amended—

(1) by striking out "Each veteran," and inserting in lieu thereof "Each person";

(2) in clause (i), by inserting "is a veteran who" after "(i)"; and

(3) in clause (ii), by inserting "without regard to whether such person has been discharged or released from active duty" [before the period at the end?].

TITLE V—MEMORIAL AFFAIRS

SEC. 501. REIMBURSEMENT FOR COST OF CEMETERY HEADSTONE OR MARKER.

Subsection (d) of section 906 of title 38, United States Code, is amended—

(1) by striking out "actual costs incurred by or on behalf of such person in acquiring" in the first sentence and inserting in lieu thereof "cost of acquiring";

(2) by inserting after the first sentence the following: "The cost referred to in the preceding sentence is the cost actually incurred by or on behalf of such person or the cost prepaid by the deceased individual, as the case may be."; and

(3) by striking out "the preceding sentence" and inserting in lieu thereof "this subsection".

SEC. 502. CREMATED REMAINS IN ARLINGTON NATIONAL CEMETERY.

(a) IN GENERAL.—Chapter 24 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 1010. Burial of cremated remains in Arlington National Cemetery

"The Secretary of the Army shall designate an area of appropriate size within Arlington National Cemetery for the unmarked interment of the ashes of persons eligible for interment in Arlington National Cemetery whose remains were cremated and shall prescribe regulations for such interments. The area selected by the Secretary shall be an area that is not suitable for the burial of casketed remains.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1010. Burial of cremated remains in Arlington National Cemetery.".

SEC. 503. NEW ARIZONA NATIONAL CEMETERY.

(a) APPOINTMENT OF EMPLOYEES.—The Secretary of Veterans Affairs may, without regard to laws relating to appointments in the competitive service, employ in a position in the Department of Veterans Affairs in connection with the administration of the Arizona Veterans Memorial Cemetery transferred to the Department pursuant to section 346 of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322; 102 Stat. 541) any person who (1) was employed by the State of Arizona in connection with the administration of such cemetery on the day before the date of the transfer, and (2) meets the criteria and qualifications established by the Secretary for employment in such position.

(b) OPERATING BUDGET PLAN.—(1) For each of fiscal years 1989, 1990, and 1991, the Secretary of Veterans Affairs shall prepare an operating budget plan for the administration of the Arizona Veterans Memorial Cemetery referred to in subsection (a).

(2) The operating budget plan for a fiscal year shall include the anticipated sources of funds for such fiscal year, the Secretary's estimate of any budget deficit (taking into consideration the operating needs of the cemetery for such fiscal year and the limitations and requirements in section 346(f) of the Veterans' Benefits and Services Act of 1988), and the Secretary's estimate of the workload for such fiscal year.

(3) The Secretary shall transmit the budget operating plan for a fiscal year to the Committees on Veterans' Affairs of the Senate and House of Representatives—

(A) in the case of fiscal year 1989, not later than 30 days after the date of the enactment of this Act;

(B) in the case of fiscal year 1990, not later than October 1, 1989; and

(C) in the case of fiscal year 1991, not later than February 1, 1990.

TITLE VI—MINORITY AFFAIRS

SEC. 601. ASSIGNMENT OF MINORITY ISSUES TO AN ASSISTANT SECRETARY OF VETERANS AFFAIRS.

(a) POSITION AND FUNCTIONS OF ASSISTANT SECRETARY.—Section 4 of the Department of Veterans Affairs Act (Public Law 100-527; 102 Stat. 2638) is amended by adding at the end of subsection (b) the following new paragraph:

"(11) The review and assessment of the effects of policies, regulations, and programs and other activities of the Department on minority veterans and the coordination and monitoring of policies facilitating access of such veterans to services and benefits provided under laws administered by the Department.".

(b) "MINORITY VETERANS" DEFINED.—Section 4 of such Act is further amended by adding at the end the following new subsection:

"(g) DEFINITIONS.—As used in this section:

"(1) The term 'minority veterans' means veterans who are—

"(A) black individuals;

"(B) Native Americans;

"(C) Hispanic-Americans;

"(D) Asian-Americans;

"(E) Pacific-Islander-Americans; and

"(F) women.

"(2) The term 'veteran' has the meaning given that term in section 101(2) of title 38, United States Code.

"(3) The term 'Native American' means an Indian, a Native Hawaiian, or an Alaska Native.

"(4) The term 'Indian' has the meaning given that term in section 4(a) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(a)).

"(5) The term 'Native Hawaiian' has the meaning given that term in section 815(3) of the Native American Programs Act of 1974 (42 U.S.C. 2992c(3)).

"(6) The term 'Alaska Native' has the meaning given the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

"(7) The term 'Asian-American' means any citizen or permanent resident of the United States, other than a Native American, whose ancestral origin is in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent of Asia.

"(8) The term 'Pacific-Islander-American' means any citizen or permanent resident of the United States, other than a Native American, whose ancestral origin is in any of the original peoples of the Pacific Islands.".

SEC. 602. REESTABLISHMENT OF THE ADVISORY COMMITTEE ON NATIVE AMERICAN VETERANS.

(a) ESTABLISHMENT.—Effective October 1, 1989, the Advisory Committee on Native-American Veterans established by section 19032 of the Veterans' Health-Care Amendments of 1986 (title XIX of Public Law 99-272; 100 Stat. 388) is reestablished.

(b) INCORPORATION OF PROVISIONS OF PRIOR LAW.—Subsections (b) through (e) and (g) of section 19032 of the Veterans' Health-Care Amendments of 1986 shall apply to the Advisory Committee on Native-American Veterans reestablished by subsection (a).

(c) REPORTS.—(1) Not later than March 31, 1990, and March 31, 1991, the Committee shall submit to the Secretary of Veterans Affairs a report containing the findings and any recommendations of the Committee regarding the matters described in section 19032(b) of the Veterans' Health-Care Amendments of 1986, and the matters described in section 603 of this Act, that were examined and evaluated by the Committee during the fiscal year preceding the fiscal year in which the report is submitted.

(2) Not later than 60 days after receiving each such report, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any com-

ments and recommendations concerning the report that the Secretary considers appropriate.

(d) TERMINATION.—The Committee shall terminate 90 days after the date on which the second report is transmitted by the Committee pursuant to subsection (c).

SEC. 603. STUDY OF HOME LOANS TO NATIVE-AMERICAN VETERANS.

(a) STUDY REQUIRED.—The Secretary of Veterans Affairs shall conduct a study to determine the following:

(1) The extent to which veterans who are Native Americans living on Native-American trust lands participate in the Department of Veterans Affairs home loan guaranty program under chapter 37 of title 38, United States Code.

(2) Whether the level of participation of such veterans in such program is lower than the level of participation of all veterans and, if so the reasons for the lower level of participation, including any reasons relating to the structure of the home loan guaranty program, cultural factors, and attitudinal factors.

(3) What, if any, legislative, regulatory, and administrative actions are necessary to improve the access of the veterans referred to in paragraph (1) to benefits under chapter 37 of title 38, United States Code.

(4) Whether it would be desirable, feasible, and equitable to utilize the direct home loan authority under section 1811 of title 38, United States Code, to promote increased home ownership among such veterans.

(b) CONSIDERATIONS.—In conducting the study, the Secretary shall consider—

(1) the concerns and recommendations of the Advisory Committee on Native-American Veterans contained in the reports submitted by that committee pursuant to section 19032(f) of the Veterans' Health-Care Amendments of 1986 (title XIX of Public Law 99-272; 100 Stat. 388); and

(2) the experience of the Bureau of Indian Affairs and the Department of Housing and Urban Development in developing and carrying out programs designed to meet the home financing needs of Native Americans.

(c) REPORT.—Not later than March 1, 1990, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the study conducted under subsection (a).

(d) DEFINITIONS.—For the purposes of this section—

(1) the term "Native-American trust land" means any land that—

(A) is held in trust by the United States for Native Americans;

(B) is subject to restrictions on alienation imposed by the United States on Indian lands;

(C) is owned by a Regional Corporation or a village corporation, as such terms are defined in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)); or

(D) is on any island in the Pacific Ocean if such land is, by cultural tradition, communally-owned land, as determined by the Secretary of Veterans Affairs; and

(2) the term "Native American" means—

(A) an Indian, as defined in section 4(a) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(a));

(B) a Native Hawaiian, as defined in section 8 of the Native Hawaiian Health Care Act of 1988 (Public Law 100-579; 102 Stat. 2921);

(C) an Alaska Native, within the meaning provided for the term "Native" in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)); and

(D) a Pacific Islander, within the meaning of the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.).

TITLE VII—MISCELLANEOUS

SEC. 701. SECURITY SERVICES.

(a) SECURITY AND LAW ENFORCEMENT FUNCTIONS.—Section 218 is amended by adding at the end the following new subsection:

"(f) The Secretary may not delegate the functional and technical supervision of the performance of security and law enforcement functions under this section to any official outside the Office of the Secretary.".

(b) REPORT ON SECURITY AND LAW ENFORCEMENT MATTERS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

(1) the Secretary's plan for improving the training, recruitment, retention, and pay of security and law enforcement personnel of the Department of Veterans Affairs; and

(2) the Secretary's assessment of—

(A) the need, after considering potential alternatives, for establishing a policy on the issuance of weapons to such personnel assigned to medical centers of the Department located in high-crime areas and the use of weapons by such personnel;

(B) various options available to the Secretary for providing improved protection for such personnel assigned to medical centers referred to in subclause (A);

(C) various options available to the Secretary for providing improved protection for such personnel assigned to medical centers of the Department not located in high-crime areas;

(D) the adequacy of the number and deployment of security and law enforcement personnel at each of the Department medical centers.

SEC. 702. EXPANSION OF MULTIYEAR PROCUREMENT AUTHORITY TO INCLUDE NON-MEDICAL ITEMS.

(a) IN GENERAL.—Section 114 is amended—

(1) by striking out the heading and inserting in lieu thereof the following:

"§ 114. Multiyear procurement";

(2) in subsection (a), by striking out "for use in Veterans' Administration health-care facilities";

(3) in subsection (b)(2)(A), by striking out "health-care"; and

(4) in subsection (e)—

(A) by striking out paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 is amended by striking out the item relating to section 114 and inserting in lieu thereof the following:

"114. Multiyear procurement.".

SEC. 703. NOTICE OF PROCEDURAL RIGHTS AND OTHER INFORMATION.

(a) IN GENERAL.—Chapter 71 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 4011. Notice of procedural rights and other information

"(a) In the case of a claim for benefits under laws administered by the Department of Veterans Affairs, the Secretary, as to proceedings other than proceedings before the Board, or the Chairman of the Board, as to proceedings before the Board, shall, at each procedural stage relating to the disposition of such a claim, beginning with the decision after an initial review or determination, and including the furnishing of a statement of the case and the making of a final decision by the Board, provide to the claimant and such claimant's authorized representative, if any, written notice of the procedural rights of the claimant and the rationale for the decision, including a summary of the evidence (or lack of evidence) supporting the decision.

"(b) The notice required by subsection (a) of this section shall be on such forms as the Secretary or the Chairman, respectively, shall prescribe and shall include, in easily understandable language, with respect to proceedings before the Department of Veterans Affairs the following:

"(1) Descriptions of all subsequent procedural stages provided for by statute, regulation, or Department of Veterans Affairs policy.

"(2) Descriptions of all rights of the claimant expressly provided for in or pursuant to this chapter, of the claimant's rights to a hearing, to reconsideration, to appeal, and to representation, and of any specific procedures necessary to obtain the various forms of review available for consideration of the claim.

"(3) In the case of an appeal to the Board, the opportunity for a hearing before a traveling section of the Board.

"(4) Such other information as the Secretary or the Chairman of the Board, respectively, as a matter of discretion, determines would be useful and practical to assist the claimant in obtaining full consideration of the claim.".

(b) The table of sections at the beginning of chapter 71 is amended by adding at the end thereof the following new item:

"4011. Notice of procedural rights and other information.".

SEC. 704. USE OF INTERNAL REVENUE SERVICE AND SOCIAL SECURITY ADMINISTRATION DATA FOR INCOME VERIFICATION.

(a) DISCLOSURE OF RETURN INFORMATION.—Paragraph (7)(D) of section 6103(l) of the Internal Revenue Code of 1986 is amended—

(1) by striking out "and" at the end of clause (vi);

(2) by striking out the period at the end of clause (vii) and inserting in lieu thereof "; and";

(3) by adding at the end the following new clause:

"(viii)(I) any needs-based pension provided under chapter 15 of title 38, United States Code, or any other law administered by the Department of Veterans Affairs;

"(II) parents' dependency and indemnity compensation provided under section 415 of title 38, United States Code;

"(III) health-care services furnished under sections 610(a) (1)(I) and (2)(A), 610(b), and 612(a)(2)(B) of title 38, United States Code; and

"(IV) compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total; except that, in such cases, only wage and self-employment information may be disclosed."; and

(4) by inserting before the period at the end of the heading "or to the Department of Veterans Affairs".

(b) PROTECTION AGAINST IMPROPER USE OF RETURN INFORMATION.—(1) Chapter 53 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3117. Protection of benefit applicants and recipients from improper use of certain information

"(a)(1) In order to protect applicants for and recipients of the benefits and services described in paragraph (2) of this subsection from the improper use of information obtained from the Commissioner of Social Security or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(l)(7)(D)(viii)), the Secretary may not terminate, deny, suspend, or reduce any such benefits or services of an individual until the Secretary has complied with the requirements in section 1137(c) of the Social Security Act (42 U.S.C. 1320b-7(c)), and such requirements shall be fully applicable in the case of such benefits and services.

"(2) The benefits and services described in this paragraph are—

"(A) needs-based pension benefits provided under chapter 15 of this title or under any other law administered by the Department of Veterans Affairs;

"(B) parents' dependency and indemnity compensation provided under section 415 of this title;

"(C) health-care services furnished under sections 610(a) (1)(I) and (2)(A), 610(b), and 612(a)(2)(B) of this title; and

"(D) compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total.

"(b) In the case of compensation described in subsection (a)(2)(D) of this section, the Secretary may independently verify or otherwise act upon wage or self-employment data referred to in subsection (a) of this section only if the Secretary finds that the amount and duration of the earnings reported therein clearly indicate that the individual may no longer be qualified for a rating of total disability.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3116 the following new item:

"3117. Protection of benefit applicants and recipients from improper use of certain information.".

(c) INITIAL NOTIFICATION OF INCOME VERIFICATION.—Not later than 90 days after the date of the enactment of this Act and prior to obtaining information from the Commissioner of Social Security or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986, the Secretary of Veterans Affairs shall notify applicants for and recipients of the benefits described in subsection (a)(2) (A), (B), and (D) of section 3117 of title 38, United States Code (as added by subsection (b)), that income information furnished by such applicants and recipients may be compared with information obtained from the Commissioner of Social Security or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986. Thereafter, the Secretary shall notify all new applicants for such benefits and for services described under subsection (a)(2)(C) of such section 3117 that income information furnished by them may be so compared and shall periodically renotify all recipients of such benefits and services.

(d) PAYMENT OF ADMINISTRATIVE COSTS.—The costs incurred by the Secretary in obtaining, verifying, and using information disclosed pursuant to the amendments made by subsection (a) shall be paid for out of the Department of Veterans Affairs compensation and pension account, and amounts collected as a result of such actions shall be paid into such account.

SEC. 705. COURT OF VETERANS APPEALS.

(a) EXCLUSIVE JURISDICTION.—Notwithstanding section 402 of the Veterans' Judicial Review Act and section 4052(a) of title 38, United States Code, the jurisdiction of the Court of Veterans Appeals to review decisions of the Board of Veterans' Appeals with respect to a matter covered by sections 775 and 784 of such title or a matter arising under chapter 37 of such title shall not be exclusive in cases in which a notice of disagreement is filed under section 4004 of such title before the end of the 30-day period beginning on the date of the enactment of this Act.

(b) JUDICIAL PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS.—(1) Section 308 of the Ethics in Government Act of 1978 (28 U.S.C. App. 308) is amended—

(A) in clause (9), and inserting "United States Court of Veterans Appeals;" after "Appeals;"; and

(B) in clause (10)—

(i) by striking out "or" the first place it appears; and

(ii) by inserting a comma and "or of the United States Court of Veterans Appeals" after "Appeals".

(2) Not later than 30 days after the date of the enactment of this Act, each person who, on that date, is a judge of the United States Court of Veterans Appeals or a judicial employee of such court and each person who, before that date, has been nominated by the President to be a judge on such court shall file a report containing the information described in section 302(b) of the Ethics in Government Act of 1978 (28 U.S.C. App. 302(b)). Subsections (e), (f), and (g) of section 302 of such Act shall apply to the requirement in the preceding sentence.

AMENDMENT NO. 947

Mr. BIDEN. Mr. President, on behalf of Senators CRANSTON and MURKOWSKI, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for Mr. CRANSTON (for himself and Mr. MURKOWSKI), proposes an amendment numbered 947.

Mr. BIDEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. MURKOWSKI. Mr. President, I rise in strong support for the committee amendment to S. 13, as reported and urge the Senate to also support it. I will not discuss each of the provisions of the amendment. However, I would like to express my thoughts on three of the provisions.

THIRD-PARTY REIMBURSEMENT

I am especially pleased that Senator CRANSTON, Senator GRAHAM, and I were able to reach an agreement to include in the amendment provisions to expand and improve VA's third-party reimbursement program. This issue was one of great contention and we worked very hard to reach this agreement. I thank Senators CRANSTON and GRAHAM for their assistance on this issue which was of utmost importance to me. As my colleagues will note from reviewing the additional views of Senator CRANSTON as well as those of Senators SIMPSON, THURMOND, and myself this is certainly a difficult issue. Let me briefly explain the agreement.

First, the amendment would provide VA with the authority to bill health insurers for the cost of care provided to service-connected veterans rated at 20 percent or less for the treatment of non-service-connected disabilities. Although my bill—S. 573—would have provided such an authority for all service-connected veterans, I am pleased that we could begin the process by permitting such reimbursement for only certain service-connected veterans. This compromise proposal, which was also proposed by the administration as described in the fiscal year 1990 budget request, is an important first step in this area. Although I have not decided to immediately propose next year to expand the program to other service-connected veterans, I do not preclude that possibility. This proposal should save the Government over $20 million annually. I am pleased that the committee had the courage to support legislation which saves the Government—and thus the taxpayer—money at a time when such savings are not required of us.

Second, this bill would require the VA Secretary, to the extent feasible, to contract with the private sector for the recovery and collections of third-party reimbursements for the care of non-service-connected disabilities. Such contracts shall provide that the payment of fees to the contractor would be determined by the Secretary and shall be solely out of amounts recovered or collected by the contractor. Under current law and practice, VA employees carry out the billing and collections process. We believe that the private sector—who will have different incentives and expertise—may be a more effective collector. The amendment requires VA to submit reports so that the Congress can determine if that is indeed the case. I have requested a GAO study on VA's third-party reimbursement program. The results are expected sometime before the end of the year. I look forward to reviewing GAO's findings and recommendations in order to explore additional ways to make the program function more effectively.

PILOT TRAINING

Mr. President, I am pleased the committee amendment includes a proposal by our colleague from South Dakota which would allow veterans eligible for

benefits under the Montgomery GI bill to use those benefits for a program of instruction leading to the ojective of professional pilot.

I commend the Senator from South Dakota for his commitment to providing veterans with the widest possible range of educational opportunities. I also commend him for his willingness to modify his original proposal so as to reduce the vulnerability of the program to abuse. This modification enables me to join in cosponsoring the provision. By limiting VA reimbursement to actual dual instruction and excluding solo practice and cross-country flights we will be excluding from VA reimbursement those flights least amenable to verification of the instructional nature of the flight. This change will help protect the integrity of this critical veterans' educational program.

NAMING OF THE LEAVENWORTH VA

I appaud the outstanding work of the Senators from Kansas, Senators KASSEBAUM and DOLE, on proposing that the committee include in this amendment a provision to name the VA medical center in Leavenworth, KS, in honor of Dwight D. Eisenhower. On July 25, 1989, Senator KASSEBAUM introduced S. 1404 which would have provided for the naming of this VA facility after President Eisenhower. I am pleased that the proposed naming meets all the criteria stipulated in the Senate Veterans' Affairs Committee rules. That is, it has the support of the Kansas congressional delegation and the veterans' service organizations. Next year will commemorate the 100th anniversary of President Eisenhower's birth. I am pleased that during the year in which we celebrate this outstanding American's birth, that a VA facility will be named in his honor. I thank the Kansas Senators for this thoughtful amendment.

I urge the adoption of the committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 947) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 948

Mr. BIDEN. Mr. President, on behalf of Senators DASCHLE, KERRY, and CRANSTON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for Mr. DASCHLE (for himself, Mr. KERRY, and Mr. CRANSTON), proposes an amendment numbered 948.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DASCHLE. Mr. President, on August 3, 1989, the Senate passed S. 1153, the Veteran's Agent Orange and Vietnam Service Benefits Act of 1989, after defeating a motion to table the bill by a vote of 92 to 8. Ninety-two Members of the Senate have expressed their will to bring victims of agent orange the relief they deserve—relief that is long overdue.

That relief comes in the form of a very modest proposal to deliever interim disability benefits to Vietnam veterans suffering from non-Hodgkin's lymphoma and soft-tissue sacoma, and to establish an independent, apolitical mechanism to identify any disabilities with a positive association to exposure to agent orange or Vietnam service. In other words, we propose to establish, for the first time, a system under which veterans have a fighting chance to learn the truth about their health and to be duly compensated for their service-connected disabilities.

Ninety-two senators supported this proposal, which, frankly, does not go as far as I would like. So why is it not law? Because an extremely small minority of people have been successful in their efforts to prevent House action on this legislation. They have made it clear that they have no intention of allowing this issue to be debated on the House floor. This can only be because they know what I and most of the rest of us know—if there were a vote on the House floor on this amendment today, it would pass overwhelmingly.

People constantly ask me, "Why would anyone who cares about veterans want to block this?" I am hardpressed to give them an answer.

Some have said that veterans should just hold on and wait a little longer. Well, Mr. President, that answer just isn't good enough. I've watched veterans die, and I've watched veterans listen while bureaucrats and politicians tell them they're demanding too much when they ask for the same recognition that other service-connected veterans receive. I've watched them endure a decade of Government ineptitude, delays, and insults. Veterans have been patient, but the time for patience is over. We have an obligation to do what little we can to right our past wrong while there's still time.

I do not need to take lot of time on the floor. Every senator here knows how hard I have been fighting to bring simple justice to agent orange victims. Some are tired of hearing me talk about this issue. I can understand that, as I am tired of talking about it myself. I can tell you that I hope I do not find myself standing here in a few months talking about it again. But I will if I have to. And if you think we're tired of this issue, just ask a Vietnam veteran how he or she feels about it.

I hope the inclusion of my amendment in S. 13 will send a strong message to those in the House who want to avoid this issue: I and many other senators are determined to enact this legislation, and we will be back, talking about agent orange, as often as necessary. Because it is the right thing to do.

Vietnam veterans did their job. It's time that we do ours.

Finally, Mr. President, I want to recognize Senator KERRY for his work on this legislation. It has been a long, difficult road, and we have taken every step of it together. I also want to thank Senator CRANSTON, the chairman of the Senate Veterans' Affairs Committee, whose work has been critical to the effort to bring both S. 1153 and this amendment to the floor. I look forward to working with both Senators KERRY and CRANSTON, as well as the many House and Senate supporters of agent orange benefits, to ensure that this amendment is included in the final version of the veterans' compensation legislation and signed into law at the earliest possible date.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 948) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I am delighted to urge unanimous approval of the pending measure, S. 13, the proposed Veterans' Benefits and Health Care Act of 1989 as reported by the committee on September 14 and as modified by an amendment to be offered by our committee's ranking minority member, Mr. MURKOWSKI, and myself which I will describe in more detail later in my statement and by an amendment that will be offered by Senators DASCHLE, KERRY, and myself to add the text of S. 1153, the proposed Veterans' Agent Orange Exposure and Vietnam Service Benefits Act of 1989, as passed by the Senate on August 2.

Mr. President, the measure as it comes before the Senate today—which I will refer to as the committee bill—is derived from a number of bills which

are described in detail in the committee's report accompanying this measure, Senate Report No. 101-126. This is a very comprehensive legislative initiative with approximately 90 substantive provisions covering a wide range of subjects, including provisions providing for the following: Cost-of-living adjustments [COLA's] for compensation and related service-connected benefits; improvements in services to and benefits for certain disabled veterans; major new initiatives to improve VA's ability to recruit and retain health care personnel; improvements in VA's Home Loan Program to enhance that program's value to veterans while maintaining program solvency and reducing dependency on appropriated funds; implementation of certain recommendations made by the Commission on Veterans' Education Policy to make the benefits under, and administration of, the various GI bill educational assistance programs more uniform; enhancements in various VA mental health care programs, including programs to assist veterans suffering from posttraumatic stress disorder [PTSD] and to expand mental health research; new VA disciplinary and grievance procedures for title 38 health care personnel; noninstitutional care alternatives; procreative services; enhancement of VA's capacity to verify income eligibility for various programs and thus reduce overpayments and make large cost savings beginning in fiscal year 1991; and improvements in VA efforts to provide benefits and services to minority veterans.

Mr. President, because the various provisions in the very extensive committee bill are described in detail in the committee's report, I will at this time just set forth a summary of the provisions and then discuss some selected provisions that I want to highlight. I refer my colleagues and all others with an interest in this bill to the committee report for more complete information on it.

SUMMARY OF PROVISIONS

Mr. President, S. 13 as reported has seven titles: Compensation and Pensions; Health Care; Education and Employment; Home Loan; Memorial Affairs; Minority Affairs; and Miscellaneous, as follows:

TITLE I—COMPENSATION AND PENSIONS

Mr. President, title I contains freestanding provisions and amendments to title 38 that would:

First, require the Secretary of Veterans Affairs to increase, effective December 1, 1989, the rates and limitations for compensation generally paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation [DIC] paid to certain service-connected disabled veterans' survivors by the same percentage—estimated at this time by the Congressional Budget Office to be 5.2 percent—as that which will be provided to Social Security recipients and VA pension beneficiaries effective on that same date, with the increased rates rounded down to the nearest dollar for those with 10- and 20-percent disability ratings and rounded to the nearest dollar for those with ratings of 30 percent and higher.

The basic increase would apply to: First, basic compensation rates for service-connected disabled veterans and the rates payable for certain severe disabilities; second, the allowances for spouses, children, and dependent parents paid to service-connected disabled veterans rated 30-percent or more disabled; third, the annual clothing allowance paid to veterans whose compensable disability requires the use of a prosthetic or orthopedic appliance, including a wheelchair, that tends to tear or wear out clothing; and, fourth, the DIC rates paid to the following: Surviving spouses of veterans whose deaths were service-connected, surviving spouses for dependent children and surviving spouses who are so disabled as to be in need of aid and attendance or to be permanently housebound, and the children of veterans whose deaths were service-connected where no surviving spouse is entitled to DIC, the child is age 18 through 22 and attending an approved educational institution, or the child is age 18 or over and became permanently incapable of self-support prior to reaching age 18.

Second, require the Secretary of Veterans Affairs to increase, effective August 1, 1990, the rate of compensation for the statutory award, known as the "k" award, given to service-connected disabled veterans—in addition to other disability compensation provided under section 314 of title 38—for certain anatomical and functional losses caused by service in the military.

Third, expand the clothing allowance to include cases in which a medication prescribed for a veteran's service-connected skin condition stains or otherwise damages the veteran's clothing.

Fourth, provide that monthly VA pension payments to veterans who are being furnished hospital care by VA and have no spouse or dependent children would be reduced when the veteran has been hospitalized for 8 months—rather than the current 3 months—with the Secretary authorized to extend that period if VA's Chief Medical Director determines that the veteran is likely to be released from the hospital in a reasonable period of time.

Fifth, raise from $60 to $105 the limit on monthly pension payments for veterans being furnished institutional care.

Sixth, increase from $1,500 to $6,000 the maximum value of the estate of an incompetent veteran who has no dependents and is being furnished institutional care at Government expense that is allowed before VA suspends the veteran's compensation or pension benefits; and increase from $500 to $2,000 the amount to which the veteran's estate must be reduced before suspended compensation or pension payments are resumed.

TITLE II—HEALTH CARE

PART A—MENTAL HEALTH

Mr. President, part A of title II includes amendments to chapters 17 and 73 of title 38 that would:

First, require VA (1) to provide treatment for posttraumatic stress disorder [PTSD] once (a) a diagnosis of the PTSD related to the veteran's service in a combat theater has been made by a mental health professional designated by the Chief Medical Director, and (b) the veteran's combat theater service has been verified, with verification required by the most rapid means possible; and (2) to accomplish an evaluation of a veteran within 7 days after the referral of the veteran to a VA medical center by a Vet center.

Second, authorize VA to expand eligibility, currently provided to only Vietnam-era veterans, for readjustment counseling and followup mental health care to include veterans of service in theaters of operations of any prior periods of war and veterans of service in areas in which United States personnel were subjected to danger from armed conflict comparable to that of battle with an enemy during a priod of war.

Third, remove the pilot program designation of VA's homeless chronically mentally ill program; extend the program for 3 years; and expand eligibility to include chronically mentally ill veterans with service-connected disabilities rated at 50 percent or more.

Fourth (1) require the Secretary to designate not more than five health care facilities as the locations for centers of mental illness research, education, and clinical activities [MIRECC's], with at least one to be designated by July 1, 1990; (2) provide that, to qualify for designation, a facility must maintain arrangements with an accredited medical school, graduate school of psychology, or nursing, social work, or other allied health personnel school, under which residents or students would regularly rotate through the VA facility; and (3) authorize the appropriation of $3.125 million in fiscal year 1990 and $6.25 million for each of fiscal years 1991, 1992, and 1993 for MIRECC's.

Fifth, extend for 3 years the reporting requirements of VA's Special Committee on PTSD and require the reports to be submitted concurrently to VA and the congressional Committees on Veterans' Affairs.

Sixth, require the National Center on PTSD to provide for a study of the extent to which, and the degree of effectiveness with which, VA reaches out to, and furnishes treatment to, Vietnam veterans who are Asian Americans, native Americans, native Hawaiians, other native-American Pacific islanders, Alaska Natives, black, or Hispanic Americans, and who suffer from PTSD or other psychological problems in adjusting to civilian life.

Seventh, require VA to specify in its fiscal year 1991 and fiscal year 1992 budget documents the type and amount of resources that are proposed to be spent in the coming fiscal year on PTSD-related activities.

PART B—GENERAL HEALTH

Part B of title II includes amendments to chapters 17 and 81 of title 38 that would:

First, require VA (1) to furnish services to a service-connected disabled veteran or the spouse of such a veteran to achieve pregnancy in cases in which the veteran's service-connected disability impairs procreative ability; (2) to establish an interdisciplinary task force to advise the CMD on the implementation of this provision; and (3) to furnish these services on a fee-care basis unless Va is able to provide them.

Second, authorize VA compensation work therapy [CWT] programs to contract with elements of VA, as well as other private or governmental sources, to provide for the work involved.

Third, authorize the use of funds from the Special Therapeutic and Rehabilitation Activities Fund [STRAF], which is used for the operation of CWT programs, to defray the costs of travel and related expenses necessary to train and educate VA employees to administer CWT programs.

Fourth, require VA to conduct a 5-year, two-part CWT and therapeutic residence [TR] pilot program at not more the 25 VA health care facilities, under which VA would be required (1) at not less than 10 nor more than 15 of these sites, to promote and participate in the establishment of nonprofit corporations with which VA would contract to run CWT programs as long as the nonprofit runs a TR, and (2) directly to acquire and operate TR's for veterans participating in CWT programs at not less than 10 nor more than 15 of these sites.

(A) As to VA's contracting with nonprofit corporations for the operation of a CWT program in conjunction with a TR, provide for the following:

(i) Authorize VA to make demand-note loans to the nonprofit corporation in the amounts of (a) either 25 percent of the purchase price or the total of 1 year's rent in the case where the property is to be leased and, (b) the estimated cost of operating the TR for 6 months. Such loans would not bear interest for the first 5 years, and thereafter would bear a rate of interest specified by the Secretary, in consultation with the Secretary of the Treasury. Unobligated funds in the STRAF would be authorized to be used for the loans. Make the security for the note subordinate to any purchase-money mortgage; and require that, if the corporation sells the residence, the proceeds of the sale be used to repay the unpaid balance of the loan and to pay VA 50 percent of any profit realized from the sale.

(ii) Require VA to deposit the loan in an escrow account and permit the funds to be disbursed to the corporation only upon its demonstrating to VA's satisfaction that at least 25 percent of its annual operating expenses for running the TR—over and above the expenses anticipated to be paid from VA patients's rental payments—would be paid from non-VA sources, either in cash or in-kind services.

(iii) Authorize VA to provide in-kind services—including technical and clinical expertise, building-rehabilitation supervision, and minor maintenance and repairs to the residence—to the corporation; and provide that services would be considered as pass through expenses and, accordingly, would not be subject to adjustment by VA's resource allocation methodology or any other methodology VA uses in allocating funding to its health care facilities.

(iv) Require the corporation, when it ceases to operate the TR, to return to the STRAF out of the proceeds from the sale of the property any loan amount it owes to VA plus 50 percent of any profits from the sale.

(v) Direct the Secretary to transfer to the Veterans Health Services and Research Administration [VHS&RA] not less than 10 properties acquired by VA as a result of defaults on loans under its home loan guaranty program, for VHS&RA to lease to nonprofit corporations, which have CWT contracts and agree to use the properties as TR's, for terms of 1 to 3 years, with renewal options permissible for up to another 3 years; require the corpration to pay to the VA health care facility 60 percent of the rent collected from veteran residents, for subsequent transfer by VA into the appropriate loan guaranty program revolving fund; and require the corpration, upon termination of the lease, to return the property to the Secretary for disposition in accordance with loan guaranty program procedures.

(vi) Direct that any existing nonprofit corporation carrying out a CWT program be grandfathered in its CWT operations without regard to the provisions in the bill.

(vii) Provide for the structure of the CWT/TR nonprofit corporations to be similar to that of the research nonprofit corporations, which are currently authorized in subchapter VI of chapter 73 of title 38, in terms of their general powers, the structure of their boards of directors—but with VA employees limited to being a minority of board members—the applicability of State law, accountability, oversight, and authority to accept gifts or grants.

(viii) Provide that the pilot program may be conducted through nonprofit corporations only at VA health care facilities that have existing CWT programs.

(B) As to VA's direct operation of TR's:

(i) Require VA to allow only veterans participating in VA CWT programs and a house manager to reside in a TR and to prescribe limits on the length of time a veteran may reside in a TR; charge each resident, other than the house manager, rent in a reasonable amount to be determined through procedures prescribed by the Secretary, with the rent to be deposited into the STRAF: consult with appropriate representatives of the community and comply with zoning, building permit, and similar requirements applicable to other real property used for similar purposes in the community; meet State and local requirements relating to fire and safety standards; provide adequate Federal supervision of the residents at the TR's; be responsible, through the CMD, subject to the direction and control of the Secretary, for the management, maintenance, and disposition of the properties acquired; and ensure that the proceeds, if any, resulting from the disposal of a TR, are credited to the STRAF.

(ii) Permit VA to provide house managers with free room and subsistence in addition to or instead of other compensation and require that the manager's total compensation be no less than any applicable minimum wage rate.

(iii) Authorize the Secretary to purchase for use as TR's properties acquired by VA as a result of defaults on loans made under VA's home loan guaranty program; and require that, as payment for each such property, STRAF funds equal to the amount that would have been charged for the property if it had been sold for use as a homeless shelter under section 9 of Public Law 100-198 be transferred to the appropriate loan guaranty revolving fund.

(iv) Authorize VA to form nonprofit corporations to act solely as a funding mechanism with power to accept gifts and grants and transfer those funds to STRAF.

(C) Authorize the appropriation to the STRAF for the purposes of carrying out the CWT/TR pilot program of $5 million.

(D) To the extent that less than $5 million is appropriated for this purpose, authorize the Secretary to transfer to the STRAF from unobligated funds in the General Post Fund of the VA medical facility hosting a CWT/

TR program such amounts as the Secretary determines are necessary to carry out the CWT/TR pilot program.

(E) Require VA to submit, not later than February 1, 1994, to the congressional Committees on Veterans' Affairs a report on the experience under the pilot program, including an evaluation of the impact of the loan guaranty program foreclosed property transfers to VHS&RA on VA's home loan guaranty program.

Fifth, require that (1) VA conduct a 4-year pilot program, with a report due after 3 years, for the purposes of furnishing health, rehabilitative, and, by contract with non-VA entities, health-related services in noninstitutional settings; (2) participation in the program be limited to veterans who are eligible for and otherwise in need of nursing home care and are either (a) receiving or needing that care primarily for the treatment of a service-connected disability, or (b) have service-connected disabilities rated at 50 percent or more; (3) VA case managers be used to coordinate and facilitate services contracted for with public and private agencies; and (4) the total cost of the program during each fiscal year be limited to not more than 65 percent of the total cost that would have been incurred in furnishing the veterans involved with nursing home care instead.

Sixth (1) extend until September 30, 1994, the requirement for the Secretary to conduct a pilot program of preventive health care services; (2) expand the categories of veterans to whom VA is required to furnish such services to include all veterans who are entitled to receive the care they are receiving; (3) require that those veterans annually be offered a minimum of two preventive health care services when they are othewise receiving care; (4) require that each VA health care facility annually implement a major preventive health care and health promotion initiative; (5) expressly provide that the permissible scope of preventive health care services under the pilot program includes stress management, smoking cessation, physical fitness, and screening for high blood pressure, glaucoma, colorectal cancer, and cholesterol; (6) require the Secretary to submit reports on the experience under the pilot program; (7) limit pilot program expenditures to $16 million in fiscal year 1990, $17 million in fiscal year 1991, $18 million in fiscal year 1992, $19 million in fiscal year 1993, and $20 million in fiscal year 1994; and (8) require the CMD to designate a Director of Preventive Health and Health Promotional Programs.

Seventh, extend for 2 years, through September 30, 1991, VA's authority to furnish respite care to certain chronically ill veterans and for 1 year, to February 1, 1990, the due date for an evaluative report on the program to the House and Senate Veterans' Affairs Committees.

Eighth, require VA to conduct a 4-year pilot program under which VA would be required, as to assistive monkeys, and authorized, as to service dogs, to furnish to quadriplegic veterans who have service-connected disabilities rated 50 percent or more and to facilitate the furnishing of these assistive animals to other quadriplegic veterans.

Ninth, authorize VA (1) to provide signal dogs to veterans who have service-connected hearing impairments and are in need of assistance of such a dog, and (2) to pay a veteran's expenses for necessary travel in connection with the veteran becoming adjusted to the dog.

Tenth, extend for 3 years, through September 30, 1992, the authorization of such appropriations as are necessary for State Veterans' Home construction grants.

Eleventh, require the Secretary to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report by January 15, 1990, containing (1) an evaluation of the reasons for the accumulation of the backlog in VA's provision of prosthetic appliances that grew to $10.6 million in fiscal year 1989 and for the failure to observe, in connection with the provision of prosthetic appliances, the statutory priorities established for the treatment of many of the veterans involved; and (2) a description of the actions that the Secretary has taken, and is planning to take, to prevent such a recurrence of the accumulation of such a significant backlog and of failure to observe such priorities.

Twelfth, authorize the furnishing of outpatient dental services when medically necessary in preparation for hospital admission and increase from $500 to $1,000 the amount which a fee-basis dentist may be reimbursed for prior to obtaining a VA second examination.

Thirteenth, provide specific authority to the Secretary to reimburse a service-disabled veteran in a VA vocational rehabilitation program for certain emergency hospital or medical services if the veteran could not reasonably obtain those services through VA or another Federal health care facility.

Fourteenth, repeal the Secretary's authority to provide free tobacco products to veterans receiving hospital or domiciliary care.

Fifteenth, revise VA's authority to enter into agreements for sharing scarce medical resources so as to (1) expand the categories of facilities with which VA may enter into sharing agreements to include all health care facilities; (2) delete the requirement that reimbursement rates cover full costs and substitute a standard providing for flexibility after costs are taken into account; and (3) provide that payments for the use of VA resources be returned to the VA facility involved.

Sixteenth, require VA to establish a task force—including representatives of VA offices with responsibility for the benefits involved and appropriate representatives of concerned organizations—to recommend policies and legislation for the elimination of inconsistencies among provisions relating to the eligibility for medical devices and certain other rehabilitative health care benefits.

PART C. HEALTH CARE PERSONNEL

Part C of title II, entitled Veterans Health-Care Personnel Act of 1989, includes a freestanding provision and amendments to chapters 73, 76, and 82 of the title that would:

First (1) require the Secretary to take steps to establish and maintain, for full- and part-time registered nurses [RN's], registered nurse anesthetists [RNS's], and certified registered nurse anesthetists [CRNA's], levels of pay which are competitive which are competitive with but do not exceed the pay of employers which offer similar employment and compete in the same labor market area for qualified employees; and (2) authorize the Secretary to establish and maintain levels of competitive pay for employees covered by title 38 for pay purposes only—the so-called hybrid category, which includes certain psychologists, respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, and occupational therapists. The steps involved in establishing and maintaining such levels of pay would be as follows:

(a) individual VA facility directors would be required to perform an annual survey of comparable health care facilities in the same labor market area, no later than June 1, 1990—thereafter December 1 of each year—to determine the entry level salaires for RN's, RNA's, CRNA's, and, as determined by the Secretary, personnel in title 5/title 38 hybrid personnel categories, taking into consideration both educational preparation and years of experience;

(b) if the findings of a survey demonstrate that wages paid in the community are such that VA is no longer competitive in its efforts to recruit and retain qualified employees in one or more of the positions surveyed, step 1 of the appropriate entry pay grade would be adjusted to provide with, but not exceeding, the wage rate in the labor market area surveyed for that occupation, and additional steps within each grade and other higher, related grades would be increased correspondingly, so as to maintain the same occupational relationships between steps and grades, other than entry grades determined by the survey, as currently exists;

(c) if the findings of the survey demonstrate that wages paid in the community are competitive with but do not exceed those paid by VA, no further adjustment would be required;

(d) when making the determination as to what, if any, pay adjustment would be made, the VA facility director would pass along to the employees the annual Federal civilian personnel COLA unless the director makes an affirmative finding that doing so is unnecessary for recruitment and retention purposes;

(e) in determining competitive salaries, items such as premium pay, other additional pay, and the value of other benefits such as payment of insurance premiums—both in VA and non-VA facilities—would be taken into consideration;

(f) in no instances would the rate of an incumbent employee's pay be decreased as a result of lower salaries identified in the community through the survey process although the salary scale would be adjusted downward if such a salary trend occurs in the relevant labor market area;

(g) pay increases resulting from the labor market area survey would become effective at the beginning of the first pay period on or after July 1, 1990—thereafter at the beginning of the first pay period starting on or after January 1 of each year;

(h) in addition to other parameters which may be set forth in regulations, a comparable health care facility would be defined as one identified by the individual facility director to be in direct competition with VA for the same employees;

(i) if no comparable health care facilities exist within a given labor market area, the salaries of the same type of employees employed in other health care settings in the labor market area for whom the VA is competing would be utilized;

(j) if the number of comparable facilities and the number of corresponding employees within the labor market area is insufficient to produce a valid comparision a VA health care facility, approved by the CMD for this purpose, in a similar demographic and labor market area would be utilized as the comparison;

(k) in those facilities where RN's, CRNA's, or other affectd employees are covered by a collective bargaining agreement, union consultation would be required in connection with (i) the development of national survey criteria, (ii) the development of local survey criteria, (iii) the development of the local plan for data collection, and (iv) the decisions regarding specific salary determination;

(l) protection from disclosure of survey information would be provided pursuant to the Freedom of Information Act, section 552 of title 5;

(m) for any grade in the VA salary scale determined by the Secretary, upon the recommendation of the CMD, to be an entry level grade, the entry salary could not be increased to a level in excess of step 10 of grade 13 of the General Schedule; for those grades which are not entry level, the entry salary could not exceed the statutory cap for the Executive Schedule;

(n) unless a promotion, demotion, or change of assignment is involved, either voluntary or otherwise, employees transferring from one VA facility to another would retain their grade and step but would receive the applicable wage associated with such grade and step as determined for the receiving facility; and

(o) require the Secretary, not later than March 1 of each year—beginning with 1991—to submit to the congressional Committees on Veterans' Affairs a report containing a review of the implementation of this new authority and the effect of market rate adjustments on the ability of VA to recruit and retain health care professionals pursuant to this legislation, and any other legislation recommended to assist in recruitment and retention efforts.

Second, authorize the VA to hire, without regard to the civil service register process, VA-trained health care professionals—other than physicians, dentists, and nurses—during the first year after their graduation.

Third, authorize VA to use the Director grade for certain physicians and dentists assigned to Central Office if the position is comparable to the position of a medical center director.

Fourth, require VA to pay overtime to RN's, RNA's and CNRA's at the rate of 1½ times their hourly rates of basic pay.

Fifth, require the Secretary to provide a 6-percent pay differential to nurses appointed to head nurse positions, or assigned to such positions in excess of 30 days, and provide for this pay to be considered as basic pay for the purposes of determining other employment benefits.

Sixth, provide the Secretary with discretion to pay to health care personnel employed under title 5 or the title 5/title 38 "hybrid" appointment authorities who furnish direct care or services incident to direct care additional pay on the same basis as registered nurses.

Seventh, increase the cap on special salary rates so as to permit the rates to exceed by two times the difference between the minimum and maximum of the grade and require the Secretary to notify the Committees on Veterans' Affairs when a special salary rate becomes 94 (or more) percent of the maximum amount permitted.

Eighth, reduce from 90 to 45 days the period, after VA submission of a title 5 health care employees' special-pay rate, in which the President or the President's designee may disapprove the proposed rate and clarify that the proposed rate may be put into effect earlier if approval is given in a shorter period.

Ninth, expand the Secretary's authority to make an exception—currently limited to physicians—to the title 5 provisions reducing the amount of retirement or retainer pay of a uniformed services retiree employed by the Federal Government so as to include other VHS&RA employees where necessary to meet special or emergency VA employment needs which result from a severe shortage of well-qualified candidates.

Tenth, require the Secretary to award each nurse, upon recertification in a specialty, an amount equal to one percent of the nurse's annual basic rate of pay if the nurse is employed in the clinical specialty in which he or she is certified and if the most recent performance evaluation of the nurse was not less than satisfactory.

Eleventh, make the labor-management rights of Federal employees generally (under chapter 71 of title 5) applicable to the Secretary's authority under section 4108(a), to establish the hours and conditions of employment and leaves of absence of title 38 employees (except with respect to the prohibitions set out in paragraphs (1) through (6) of that section, which pertain to potential conflict-of-interest situations arising in the context of health care).

Twelfth (1) remove from the coverage of the provisions governing disciplinary actions against title 38 employees (section 4110 of title 38) certain lesser proposed penalties—specified as suspension for 14 days or less, reassignment or reduction in rank without a reduction in basic pay, reprimand, or admonishment; (2) provide that, in such cases, a title 38 employee would be entitled, in lieu of a section 4110 proceeding, to a process which would include (a) advance written notice setting forth the specific reasons for the proposed action, (b) a reasonable time to answer the notice, either in writing or orally, including time to furnish affidavits and other documentary evidence in support of the answer, (c) a chance to be represented by an attorney or some other representative, and (d) a written decision, including the reasons for the decision, at the earliest practicable time; (3) provide two methods by which title 38 employees could gain a review of a decision on such a specified lesser disciplinary matter or of a decision on a grievance: (a) for those title 38 employees who are not members of bargaining units, an agency review procedure established by the Secretary, and (b) for those employees who are members of such a unit, a negotiated grievance procedure

which would include binding arbitration; and (4) provide that any agency review procedure established by the Secretary with respect to proposed disciplinary actions and grievance resolution regarding title 38 employees who are not covered by collective bargaining agreements would have to include (a) an informal review of the decision on the disciplinary action by a VA official of a higher level than the official who made the original decision and a prompt decision following that review, (b) a right to have the matter reviewed further by an impartial examiner from within VA who would have to submit a prompt report of findings and recommendations, and (c) a prompt review of those findings and recommendations, as well as any comments the employee or the Department or both wishes to make on the findings and recommendations, by a Department official at a higher level than the one who carried out the first informal review.

Thirteenth, require the Secretary to conduct, for 5 years, a leave-transfer program for medical emergencies of VA employees appointed pursuant to section 4108 of title 38 and authorize the Secretary to establish and conduct a leave-bank program for medical emergencies of those same employees.

Fourteenth, authorize extending, for a period not to exceed 2 years, the temporary full-time appointment of a nurse or a health-care professional appointed under the title 5/title 38 "hybrid" appointment authority, such as a licensed practical nurse, physical therapist, occupational therapist, or pharmacist, who has completed a full course of academic training and is awaiting licensure or certification.

Fifteenth, authorize extending, for a period not to exceed the length of an academic program, the temporary appointment of a student who is pursuing an academic degree in physcial therapy, occuptional therapy, pharmacy, or nursing.

Sixteenth, require (and authorize for other title 38 employees), effective September 1, 1990, that (1) cash awards analogous to those required by sections 5406 of title 5 be paid to title 38 supervisors and managers (including head nurses) who receive the highest proficiency rating possible, as determined under criteria promulgated by the Secretary; (2) such awards range from 2–10 percent of the employee's base annual salary but allow the award to be increased to up to 20 percent if the employee's performance is unusually outstanding; (3) the aggregated amount paid for such awards be limited in a manner identical to that provided in section 5406(c)(1) of title 5, which establishes the maximum total amount of cash awards as not more than 1.5 percent multiplied by the aggregate amount of basic pay payable to the covered employees in the agency and the minimum amount as not less than 1.15 percent multiplied by the aggregate amount of basic pay payable to covered employees in the agency; and (4) the Secretary establish a cash award program identical to the program under section 5407 of title 5 (which provides for amounts up to $10,000 or, for outstanding performance, up to $25,000) for title 38 supervisors and managers in grades comparable to General Schedule grades 13-15 who, by their suggestion, invention, superior accomplishment, or other personal effort, contribute significantly to the Federal Government.

Seventeenth, authorize the Secretary to establish and operate a dependent care assistance program for the care of dependents of VHS&RA employees that meets the requirements of section 129 of Internal Revenue Code.

Eighteenth, require the Secretary to ensure an equitable allocation of VA health professional scholarships to persons enrolled in their second year of a program leading to an associate degree in nursing.

Nineteenth (1) authorize the appropriation of $5 million for each of FYs 1990 and 1991 and $6 million for each of FYs 1992 and 1993 for VA to reinstitute a program of VA funding for the expansion or improvement of programs in post-secondary schools to educate health-care professionals; (2) provide for such funds to remain available until the end of the fifth fiscal year following the fiscal year for which they are appropriated; (3) require that the development of new health careers, interdisciplinary approaches, and career-advancement opportunities with this VA assistance occur in collaboration with professionals carrying out the duties involved; and (4) authorize VA to expend up to 10 percent of each year's appropriation under this section on VA programs designed to develop or initiate improved methods of education and training for health-care personnel.

Twentieth, require the Secretary to pay the maximum amount of special pay authorized for a VA physican or dentist without regard to the 1982 administratively-imposed offset unless the CMD determines, in the case of a particular individual or category, that it is unnecessary to do so in order to recruit or retain qualified physicians or dentists in a specific specialty or geographic area.

Twenty-first, require VA during calendar years 1990, 1991, and 1992 to conduct, and submit periodic reports on, a pilot program at not less than five VA medical facilities to determine the desirability of: (1) establishing programs which foster interdisciplinary professional collaboration and collegial relationships between physicians, RNs, and other personnel furnishing direct patient care; (2) creating new alternatives for utilizing the skills and knowledge of RNs and other health-care professionals in furnishing direct-patient care or services incident to direct patient care; and (3) increasing the pay differential for evening and night service.

Twenty-second, require the Secretary to increase rates of pay for VA psychologists who have board certification by using the "hybrid" title 5/title 38 appointment authority unless the Chief Medical Director certifies, within 90 days after the date of enactment, that an increase of board-certified psychologists is not necessary for VA to furnish the appropriate quality of psychological services to veterans.

TITLE III—EDUCATION AND EMPLOYMENT

Mr. President, title II, entitled the "Veterans Education and Employment Amendments of 1989", includes free-standing provisions and amendments to chapters 30, 31, 32, 34, 35, 36, and 41 of title 38 and chapter 106 of title 10 that would:

First, provide, effective January 1, 1990, a 9.5-percent COLA in the subsistence allowance paid to service-connected-disabled veterans participating in programs of rehabilitation under chapter 31 of title 38.

Second, provide, effective January 1, 1990, a 9.5-percent COLA in the educational assistance allowances paid to service-connected-disabled veterans' dependents and survivors pursuing training under chapter 35 of title 38.

Third, modify the pilot program of vocational evaulations and training for new recipients of VA needed-based non-service-connected-disability pension so as to (1) make participation in the program completely voluntarily by eliminating the requirement that veterans under age 50 who are awarded pension during the program period participate in an evaluation to determine whether achievement of a vocational goal is reasonably feasible, and (2) add a trial-work-period component under which the pension of a participant who obtains a job for which he or she was trained would not be terminated either by reason of having the capacity to engage in employment or by reason of earned income until the veteran has maintained that employment for 12 consecutive months.

Fourth, make permanent the program of independent living services for service-disabled veterans under chapter 31.

Fifth (1) as of August 1, 1990, require work-study payments to be based on the higher of the Federal minimum wage or the minimum wage of the particular State involved; (2) expand the work-study program to include individuals training under chapter 106 of title 10 (members of the Selected Reserve) and make activities related to the administration of chapter 106 at Department of Defense facilities a service

which may be performed by chapter 106 participants under work study; and (3) make service-disabled veterans eligible for work-study benefits when pursuing training or attending school at a half-time or higher rate (a) under chapter 31 (vocational rehabilitation), or (b) if the veteran's service-connected disability is rated at 40 percent or more, under chapter 30 (Montgomery GI Bill (MGIB)), chapter 32 (Post-Vietnam Era Veterans' Educational Assistance Program—VEAP), or chapter 34 (Vietnam-era GI Bill) of title 38.

Sixth, as of August 1, 1990, expand eligibility for VA's work-study program to include service-connected disabled veterans' dependents and survivors pursuing education programs under chapter 35 of title 38.

Seventh, specify that "mitigating circumstances"—which excuse a veteran from repayment of part of the benefits received for a course from which the veteran withdrew—include difficulties beyond the control of the veteran in making or changing child-care arrangements.

Eighth, (1) extend the Veterans' Readjustment Appointment (VRA) authority termination date from December 31, 1989, to December 31, 1991, for Vietnam-era veterans who are service disabled or served in the Vietnam theater of operations; (2) expand eligibility during the extended period to include post-Vietnam-era veterans and all veterans with service-connected disabilities rated at 30 percent or more; (3) permit a veteran to receive a VRA only once after the date of enactment; and (4) limit the period during which an appointment may be made by requiring that the veteran receive an appointment by the later of (a) the end of the 4-year period from the date of separation from active duty, or (b) the 2-year period beginning on the date of enactment.

Ninth, authorize the Secretary of Labor, during FYs 1990–92, to conduct a pilot program of providing employment and training information services with the participation of Disabled Veterans' Outreach Program Specialists and Local Veterans' Employment Representatives to servicemembers within 6 months of their separation dates in not more than five nor less than ten geographically dispersed States in which the Secretary determines that services to veterans would not be unduly limited as a result of the pilot program, with a report on the program due on February 1, 1992.

Tenth, authorize the Secretary of Defense to broaden the secondary-school equivalency that is acceptable as a prerequisite for eligibility to participate in the MGIB by permitting the Secretary to determine what is an adequate equivalent.

Eleventh, prohibit individuals from receiving entitlement credit under both chapter 32 (VEAP) and chapter 106 (MGIB-Selected Reserve) based on the same period of service.

Twelfth, permit VA to accept a school's certification for renewal of an individual's educational benefits following termination for unsatisfactory conduct or progress.

Thirteenth, eliminate differences in attendance requirements ("absence reporting") which exist between "degree" and "nondegree" training.

Fourteenth, as of October 1, 1989, provide that funding for the development of a national training curriculum for State approving agency (SAA) employees may come from the amounts made available to the SAAs by the Secretary.

Fifteenth, provide VA with discretionary authority to require monthly self-certification verifying pursuit of training under any VA education program (currently in operation under the MGIB only) for both degree and non-degree training and for all rates of training, including training on less than a half-time basis.

Sixteenth, include service-disabled chapter 31 (vocational rehabilitation) participants in the count of those for whom VA pays fees to schools to defray the costs incurred by the schools in making reports and certifications to VA of the enrollment of VA-assisted students.

Seventeenth, simplify the formula for determining whether a student receiving VA-administered educational assistance is engaged in full-time study when pursuing a non-college-degree course at an institution of higher learning if the institution requires as part of the course one or more unit courses or subjects creditable toward a college degree.

Eighteenth, modify the criteria for determining the applicability of, and exceptions to, both the "two-year" and the "85–15" rules, which limit the types of courses for which GI Bill benefits may be paid, for certain courses provided under contract with the Defense Department so as to take into account individuals training under the MGIB Selected Reserve program.

Nineteenth, as of August 1, 1990, (1) repeal the existing limit on changes of eductional program which generally permits no more than two changes of program (except for changes necessitated by circumstances beyond the student's control); and (2) in the case of second and subsequent changes of program, permit VA approval only if (a) the veteran or person accepts educational or vocational counseling services referred to in section 1663 of this title; and (b) the Secretary determines, on the basis of the results of the educational or vocational counseling, that the change is suited to the veterans' or person's aptitudes, interests, and abilities.

Twentieth, provide that, if VA exercises the discretionary authority (proposed in section 316, discussed above) to require monthly self-certification, the effective date of an educational benefits adjustment based on a change of a student's course load or other change in aggregate training time would be the date of the change rather than the end of the month in which the change occurs.

Twenty-first, make various technical and clerical amendments to certain VA educational assistance programs.

TITLE IV—HOME LOAN

Mr. President, title IV contains free-standing provisions and amendments to title 38 that would:

First, establish a new revolving fund, the Home Loan Guaranty Fund (HGLF), to finance the loan guaranty program with respect to loans made after September 30, 1989.

Second, require the Federal Government to contribute 0.25 percent of the loan amount to the HGLF for the fiscal year in which the loan is guaranteed and for each of the next two years, except in the case of loans guaranteed in FY 1990 for which the initiation of the contribution would be delayed by one year.

Third, require the Secretary of the Treasury to invest in Government securities the surplus amounts in the new fund (section 401).

Fourth, require VA to include in its annual budget submission to Congress certain information about the current and future operations and financial status of the Loan Guaranty Revolving Fund (LGRF)—which would continue to supprt all loan guaranties made prior to October 1, 1989—and the new HGLF.

Fifth, generally increase the current loan fee from 1 percent to 1.25 percent but decrease it to 0.75 percent for veterans making a downpayment of 5 percent or more (10 percent or more for manufactured-home loans) and to 0.25 percent for downpayments of 10 percent or more on other than manufactured-home loans.

Sixth, continue the current 1-percent fee for vendee loans.

Seventh, increase the current 0.5-percent fee to 0.75 percent for assumed loans.

Eighth, continue the current exemption of disabled veterans and their surviving spouses from payment of the loan fee and require the Government to pay the fees for those borrowers (with such payments deferred until FY 1991 in the case of loans closed in FY 1990).

Ninth, authorize the Secretary, when necessary to maintain the solvency of the HGLF and upon providing advance notice to the congressional Committees on Veterans' Affairs, to raise all the fees uniformly to no more than 20 percent above the statutory levels and, if later warranted, to de-

crease the fees to no lower than the statutory levels.

Tenth, provide that veterans and assumptors who have paid (or are exempt from paying) the increased fees generally are exempted from liability to VA ("indemnified") in the event of foreclosure on a VA-guaranteed loan, except in cases of fraud, misrepresentation, or bad faith or, under regulations prescribed by the Secretary, when the default is for reasons within the veteran's or assumptor's control.

Eleventh, extend for 1 year, to October 1, 1990, (1) the current expiring authority for VA to sell vendee loans either with or without recourse and (2) the requirement for VA to submit detailed reports on each such sale in a report to the Committees on Veterans' Affairs.

Twelfth, require that all amounts received from recourse and nonrecourse loan asset sales be credited, without reduction, as offsetting collections of the LGRF or the HGLF, depending on which fund received the fee for the loan involved.

Thirteenth, allow a veteran to acquire additional loan guaranty entitlement—up to $5,000—by paying a 0.1-percent fee for each additional $1,000 of entitlement or portion thereof.

Fourteenth, in cases where a veteran has acquired additional entitlement, provide that the total of the guaranty and any downpayment may not exceed 25 percent of the purchase price, unless the Secretary grants a waiver, under regulations prescribed by the Secretary, in order to enable a veteran to use a VA-guaranteed loan in a market where lenders otherwise would charge so many points (which sellers must pay) that it is unlikely that the veteran could use his or her VA entitlement to acquire a home.

Fifteenth, authorize the Secretary to require, pursuant to regulations, that holders of VA-guaranteed or direct loans who refuse a borrower's tender of a "significant" portion of the debt due provide VA with notice of the refusal and provide certain other information about the tender.

Sixteenth, extend by two years, through FY 1991, the statutory formula (known as the "no-bid" formula) by which VA determines whether it will acquire at foreclosure the property securing a VA-guaranteed loan.

Seventeenth, prohibit VA, in determining the net value of a property for purposes of the no-bid formula, from considering the cost of borrowing the funds necessary to acquire the property, except to the extent of one-half of the amount by which the cost of borrowing that amount exceeds the cost of borrowing the amount necessary to pay the guaranty.

Eighteenth, expand the purposes for which a veteran may obtain a VA-guaranteed refinancing loan for up to the full value of the property to include refinancing a construction loan, replacing an installment land sales contract with a traditional deed and mortgage loan, and refinancing a non-VA loan with a VA-guaranteed loan having a lower interest rate.

Nineteenth, limit the time during which a veteran may apply to VA for waiver of a home-loan debt to 1 year after the date VA notified the debtor of the indebtedness.

Twentieth, require that VA debt notices both for home-loan debts and for non-home-loan debts inform the recipient of his or her right to apply for a waiver and how to apply.

Twenty-first, correct an error in existing law that inadvertently omitted service members on active duty from the definition of "veteran" for home-loan purposes.

TITLE V—MEMORIAL AFFAIRS

Mr. President, title V includes freestanding provisions and amendments to chapter 23 and 24 of title 38 that would:

First, permit payment of the VA headstone allowance to the estate of a deceased veteran who purchased a headstone prior to death.

Second, direct the Secretary of the Army to set aside for the unmarked interment of cremated remains an appropriate area in Arlington National Cemetery that is not suitable for the burial of casketed remains.

Third (1) authorize the Secretary, in connection with the operation of the National Memorial Cemetery in Arizona, to employ without regard to Civil Service requirements persons who were employed by the State of Arizona in the administration of the cemetery when it was transferred to VA pursuant to section 346 of the Veterans' Benefits and Services Act of 1988; and (2) require the Secretary to submit an operating budget plan for each of FYs 1989, 1990, and 1991, and, to submit such plans each year to the congressional Committees on Veterans' Affairs.

TITLE VI—MINORITY AFFAIRS

Mr. President, this title includes freestanding provisions and amendments to chapter 3 of title 38 and the Department of Veterans Affairs Act (Public Law 100-527) that would:

First, require the Secretary to assign to an Assistant Secretary responsibility for assessing the effects of VA policies and activities on minority veterans, including women veterans, and for coordinating and monitoring policies facilitating the access of such minority veterans to VA benefits and services.

Second, reestablish the Advisory Committee on Native American Veterans for an additional 2 years.

TITLE VII—MISCELLANEOUS

Mr. President, title VII contains free-standing provisions and amendments to chapter 61 of title 26, title 28 appendix, chapters 1, 2, 53, and 71 of title 38 which would:

First (1) specify that the Secretary may not delegate the functional and technical supervision of the performance of security and law enforcement functions within VA to any official outside the Office of the Secretary; (2) require the Secretary, within 120 days after enactment, to submit a report containing the Secretary's plan for improving the training, recruitment, retention, and pay of VA security personnel, as well as an assessment of (a) the need for establishing a policy on the issuance of weapons to security personnel assigned to medical centers located in high-crime areas and the use of weapons by such personnel, (b) the various options available to the Secretary for providing improved protection for security personnel assigned to medical centers in high-crime areas and those not located in high-crime areas, and (c) the adequacy of the number and deployment of security and law enforcement personnel at each VA medical center.

Second, expand VA's multiyear procurement authority to include the purchase of nonhealth-care supplies and services.

Third, require VA, at each stage of its claims-adjudication proceedings to provide the claimant and the claimant's representative, if any, clearly-written notice of the rationale for any decision relating to the claim and a detailed description of the subsequent procedural alternatives through which the claim might be pursued.

Fourth, amend paragraph (7) of section 6103(1) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(1)(7)), relating to disclosures of certain third-party and self-employment tax information (from the Commissioner of Social Security or the Secretary of the Treasury) to Federal, State, and local agencies administering certain programs under the Social Security Act (essentially Supplemental Security Income, Aid to Families with Dependent Children, and Medicaid), the Food Stamp Act of 1977, or the unemployment compensation program for purposes of income verification, so as to require disclosure to the Department of Veterans Affairs (VA) of (1) all such information for purposes of determining eligibility for VA needs-based pension programs under chapter 15 of title 38 or any other law administered by VA, needs-based parents' dependency and indemnity compensation provided under section 415 of title 38, and VA health-care services based on income status under sections 610(a)(1)(I) and (2)(A), 610(b), and 612(a)(2)(B) of title 38, and (2) only wage and self-employment information from such returns for purposes of determining eligibility for compensa-

tion paid, pursuant to section 4.16 of title 38, Code of Federal Regulations, at the total-disability-rating level based on an individual determination of unemployability.

Fifth, allow VA, in the case of compensation beneficiaries with total-disability ratings based on individual unemployability, to verify or otherwise act upon wage or self-employment data only if the Secretary finds that the amount and duration of the earnings reported therein clearly indicate that the individual may no longer be qualified for a rating of total disability.

Sixth, amend chapter 53 of title 38, relating to special provisions pertaining to VA benefit programs, to add a new section 3117 to prohibit the Secretary from using such tax information without first complying with the requirements of section 1137 of the Social Security Act (42 U.S.C. 1320b-7) relating to independent verification of such data, notification to the individual concerned, and allowing the individual fair opportunity to contest Department findings based on such information.

Seventh, within 90 days after the date of enactment and before obtaining such return information, require VA to notify benefit recipients and applicants that income reported to VA will be subject to verification against such return information, and to so notify all new applicants and periodically to renotify all recipients.

Eighth, provide that (1) VA's costs of establishing and operating the program under which the return information would be obtained, used, and verified would be paid for out of VA's compensation and pension account, and (2) amounts collected as a result of the program would be paid into that account.

Ninth, provide that the statute (section 4052(a) of title 38) giving the United States Court of Veterans Appeals exclusive jurisdiction over all matters decided by the Board of Veterans' Appeals (BVA) shall not apply as to BVA decisions involving VA insurance matters under sections 775 and 784 of title 38, or VA home loan guaranty matters under chapter 37 of title 38, when the notice of disagreement in the case is filed within 30 days after the effective date of the committee bill.

Tenth, amend the statute relating to financial disclosure by judicial personnel (section 301 et seq. of title 28 Appendix, United States Code) to add the United States Court of Veterans Appeals to the list of courts covered by that law.

COMPENSATION/DIC COLA

Section 101 of the committee bill would provide for a cost-of-living adjustment (COLA) in the rates of VA service-connected compensation and dependency and indemnity compensation (DIC), which the Congressional Budget Office (CBO) currently estimates to be 5.2 percent for fiscal year 1990. The COLA would generally be effective on December 1, 1989, but for the statutory (k) award the effective date would be August 1, 1990.

Mr. President, I believe that we must attach the highest priority to meeting the needs of the 2.2 million veterans with service-connected disabilities and the 365,000 survivors of those who have made the ultimate sacrifice. This is, and always has been, my number-one priority in veterans' affairs. Through the COLA, we can ensure that the value of their VA benefits is not eroded by inflation. For greater detail about this provision, I would refer my colleagues to pages 92-100 of the report accompanying the committee bill.

RECRUITMENT AND RETENTION OF SCARCE HEALTH-CARE PROFESSIONALS

Mr. President, the provisions in part B of title II of the committee bill are designed to assist VA to overcome problems of recruiting and retaining sufficient numbers of qualified health-care professionals—a problem which has intensified in recent years. Many of these provisions are the same or nearly the same as provisions which the Senate passed last October and on which we were unable to reach agreement with the House at the end of the 100th Congress.

A number of factors have contributed to VA's recruitment and retention problem, including inadequate salaries, increased demand for personnel, poor working conditions, and decreased enrollment in educational institutions which prepare health-care professionals. Because the services furnished to veteran-patients are largely a function of the quality of the personnel furnishing the services, we must do all that we can to enable VA to attract the "best and brightest" health-care personnel into the system.

To provide VA the tools to compete effectively in today's marketplace, the committee bill incorporates the provisions of S. 947, which I developed with Senator MITCHELL and others to provide many new approaches and authorities to deal with VA's personnel shortages. The principal provision—section 251—would require the Secretary of Veterans Affairs to establish and maintain, for full- and part-time registered nurses (RNs), registered nurse anesthetists (RNAs), and certified registered nurse anesthetists (CRNAs), and would authorize the Secretary to establish and maintain for other health-care employees covered by title 38 for pay purposes only (the so-called "hybrids"), levels of pay which are competitive with but do not exceed the pay of employers offering similar employment and competing in the same labor market area for qualified employees.

The major differences between the committee bill—which to avoid confusion I will refer to as providing for "competitive pay"—and the existing statutory authority to establish special rates in section 4107(g) of title 38 are: (1) special rates are discretionary while competitive pay for RNs, RNAs, and CRNAs would be mandatory; (2) competitive-pay salary ranges would generally be determined by the individual facility director while special rates are approved by VA Central Office; (3) competitive pay calls for salary ranges to be increased or decreased on an annual basis depending upon labor market area rates; and (4) in the instance of competitive pay, a pre-established time in December (June in the first year—1990) would be established for review and adjustment of pay grades rather than waiting for a problem to arise as is the case with special rates. Of course, in the intervening year between routine competitive pay reviews and adjustments, special rates could still be implemented as needed and could be implemented thereafter between the annual reviews as needed.

Competitive pay would end the pattern of VA's being continuously behind in its rates of pay. Because special rates must be approved by VA Central Office, there is a significant time-delay between the time when the need arises and is recognized and when the remedy is applied. Hence, VA is often behind again by the time special rates are implemented. Competitive pay provides an entirely new and innovative approach. The impetus for developing such a new approach was the disturbing situation in locations such as San Francisco, Los Angeles, New York City, and Boston, cities in which VA is constantly struggling to recruit and retain health-care professionals due to high costs of living and numerous health-care facilities competing for personnel from a limited pool.

As a result of testimony in connection with the committee's May 18 hearing, the competitive-pay measure as introduced was modified so that (1) when making the determination as to what, if any, pay adjustment would be made, the Federal COLA would be passed along unless the facility director makes an affirmative finding that it is unnecessary for recruitment and retention purposes to do so; (2) in those facilities where RNs, RNAs, CRNAs, or other affected employees are covered by a collective bargaining agreement, union consultation would be required when (a) survey criteria are developed nationally, (b) survey criteria are developed locally, (c) the local plan for data collection is developed, and (d) the decision is made regarding specific salary determinations; and (3) protection would be provided from disclosure of survey information

pursuant to provisions in section 552(b) of title 5.

Many other provisions addressing recruitment and retention strategies are included in the committee bill, including items targeted at overtime pay for RNs, head nurse salaries, dependent care assistance, scholarships for Associate degree nursing students, cash awards for title 38 employees, and a variety of other matters. There is also a provision, derived from my bill, S. 1211, to provide VA doctors and dentists a pay raise, in most cases, of about $2,700 for full-time service.

The problems leading to health-personnel shortages are complex and the resulting approach used to resolve those problems must be multifaceted. This belief was our overriding guide when designing the provisions in the committee bill.

SERVICES TO OVERCOME SERVICE-CONNECTED DISABILITY AFFECTING PROCREATION

Mr. President, section 211 of the committee bill would (1) require VA to furnish services to a service-connected-disabled veteran or the spouse of such a veteran to achieve pregnancy when the veteran's service-connected disability impairs procreative ability; (2) establish an interdisciplinary task force to advise the Chief Medical Director on the implementation of this provision; and (3) require VA to furnish this service generally on a fee-basis. The latter two proposals were added to the provisions as introduced in order to help clarify VA's responsibilities in this new area of services.

This new statutory directive is necessary because VA has maintained that it does not have the authority to furnish medical services for service-connected disabilities that impair the ability to have children. This came to light in the case of a woman who, while serving in the U.S. Air Force, developed pelvic inflammatory disease, which was misdiagnosed. The disease progressed, scarred her fallopian tubes, and left her sterile. Although she tried to convince VA to pay for in vitro fertilization (IVF)—which is the only procedure that offered her the possibility of having a child—VA chose to interpret its statutory authority very narrowly and refused to provide the procedure, claiming that it lacked the authority to furnish such services. I have tried, unsuccessfully, to change VA's narrow interpretation of its statutory authority.

Because of an unusual aspect of the case I just discussed, I was able to convince VA to reach a settlement with the woman, but generally the current situation is that, veterans who because of a service-connected disability are unable to have children are being denied access to services to enable them to reproduce and have a family—one of life's most basic and fundamental activities. The committee bill would end this patent unfairness.

POST-TRAUMATIC STRESS DISORDER PROVISIONS

The Research Triangle Institute (RTI) study recently revealed that 479,000 Vietnam veterans, of which nearly 40 percent have never been seen by, much less received treatment from, a mental-health professional, are currently suffering from PTSD and that in the past year almost 80 percent had not utilized any mental health services. These figures make totally clear that a tremendous unmet need continues to exist for PTSD treatment.

Additionally, a VA survey, conducted at my request, confirms reports received by the committee that veterans who need to be referred to VA medical centers from Vet Centers for evaluation and treatment of their PTSD are very often not getting any timely evaluation or treatment. The May survey results, reported in a July 11, 1989, letter from VA, indicated that 33 percent of those veterans who Vet Centers concluded should be referred to a VA medical center by a Vet Center did not receive timely evaluations and 45 percent did not gain access to care. The May survey results, reported in a July 11, 1989 letter from VA, indicated that 33 percent of those veterans who Vet Centers concluded should have been referred to a VA medical center for evaluations did not receive timely evaluations and that 45 percent of those veterans who were assessed by Vet Centers to require treatment at VA medical centers were not able to receive any care at the medical centers. This fracturing of care—making the effort at Vet Centers to outreach to veterans with PTSD, only to bring them into the system, and then turn them away—is inexcusable and cruel. It must stop.

So must the waiting lists at VA's 16 inpatient PTSD units—which stretch from weeks to over two years at American Lake in Washington State.

Section 201 of the committee bill, which is derived from section 201 of S. 13, would require VA (1) to provide treatment for PTSD on a priority-care basis once (a) a diagnosis of the disorder has been made by a mental-health professional designated by the Chief Medical Director, and (b) the veteran's service in a combat area is verified (with verification by the Veterans Benefits Administration by the most rapid means possible), without the need for a pretreatment adjudication on the issue of service-connection; and (2) to accomplish an evaluation of a veteran within 7 days after the referral of the veteran to a VAMC from a Vet Center. The combat-area-status and evaluation provisions have been added to the provision as introduced in response to hearing testimony and VA's recent survey data.

I believe this provision is essential in order to ensure that those veterans who served their country when called receive an answer from VA when they in turn call for help in their fight to overcome the effects of PTSD.

Our efforts to improve VA's PTSD treatment capacity have recently been successful in the appropriations arena. On September 28, the Senate passed the VA, HUD, and Independent Agencies FY 1990 Appropriations Act with a $6-million add-on for PTSD treatment that I had requested.

Another provision that addresses some of the issues raised by the RTI report is section 203 of the committee bill, derived from section 203 of S. 13 and S. 192, which would require VA's National Center on PTSD to study the outreach to and treatment of minority veterans and develop methods of improving those outreach and treatment activities. The RTI study demonstrated that the current prevalence of PTSD among minority groups studied is significantly higher (28 percent for Hispanics and 21 percent for blacks) than that among white males (15 percent). Rather than simply determining the prevalence of PTSD among minority groups not specifically studied by RTI, as this provision as introduced would have done, this provision now moves beyond the question of prevalence, to require VA to study how best to reach and treat minority veterans. Given the combined research, education, and treatment components of the National Center on PTSD, I believe it is particularly appropriate for the National Center to undertake this responsibility.

HOME LOAN GUARANTY IMPROVEMENTS

Mr. President, title IV of the committee bill contains important provisions designed to improve the VA home loan program to enhance its value to veterans, maintain its solvency, and reduce its dependence on taxpayers' funds—all without compromising basic program goals. These measures are, in large part, taken directly from S. 1158 which I introduced on June 9, 1989. The bill also incorporates some provisions of S. 898, a bill I introduced at the request of the administration on May 2, 1989. The changes and additions reflected in the committee bill resulted from testimony at the June 22, 1989, hearing on home loan guaranty legislation and from subsequent discussions about some concerns of the ranking minority member of the committee, Senator MURKOWSKI.

Mr. President, I note that the home loan provisions in the committee bill taken from S. 1158 are substantially similar to home loan legislation passed by the House on June 6, 1989. This legislation, H.R. 1415, as introduced in the House on March 15, 1989, by Representative HARLEY STAGGERS, who chairs the House Veterans' Affairs Subcommittee on Housing and Memorial Affairs; reported by the House Veterans' Affairs Committee on June

1, 1989; and passed by the full House on June 6, 1989. The House bill is derived directly from H.R. 5221, a bill authored by Representative MARCY KAPTUR in the 100th Congress and passed by the House late last year. I congratulate Representatives KAPTUR and STAGGERS, as well as the House committee, for their leadership in this matter.

Mr. President, I am pleased that the committee bill preserves all of the fundamental features of S. 1158 as introduced. The committee bill would create a new fund, known as the Home Loan Guaranty Fund, with significant differences from the current Loan Guaranty Revolving Fund. For example, the new fund would retain and invest any surplus collections for the benefit of the home loan program, rather than depositing that surplus into the general Treasury as current law requires. The administration has agreed that section 113(a)(6) of title 38 clearly would exempt the new fund from sequestration under the Gramm-Rudman-Hollings Deficit Reduction Act.

The legislation also would raise the basic loan fee from 1 percent of the loan amount to 1.25 percent—but in return, generally release participants from liability to VA for guaranty payments VA makes when a lender forecloses on a home due to the borrower's default. The committee bill would reduce the basic fee significantly for 5- or 10-percent downpayments. Also, assumptors of a VA-guaranteed loan would pay a higher fee (0.75 percent) than under current law, but they also would be indemnified.

The bill would require the Government to contribute to the new fund over 3 years a total of 0.75 percent of the amount of each new loan. I believe this pay-as-you-go Government support is a great improvement over the current practice of relying on large, unplanned deficit appropriations each year. The committee bill would continue the practice in current law of exempting disabled veterans and surviving spouses from loan fees, but would recognize the actual costs of these borrowers' loans by requiring the Government to pay the fees on behalf of the exempted borrowers. Further, the legislation includes some flexibility for VA to adjust the fees within a limited range if the new fund faces imminent insolvency.

The committee bill would provide an opportunity for veterans to obtain some additional entitlement, for which they would pay an additional fee, that would allow those who live in high-cost real estate markets to take advantage of this important veterans' benefit.

In addition, the committee bill would allow VA to sell vendee loans with or without recourse during fiscal year 1990, but require the Office of Management and Budget to treat the proceeds from both types of sales the same for budget scorekeeping purposes.

Mr. President, following a default on a VA-guaranteed loan, VA applies a statutory formula to determine whether it will purchase that property at foreclosure. This calculation, known as the "no-bid" formula, compares the cost of paying the guaranty with the cost of purchasing and reselling the home, to determine which option would be most profitable for VA. Current law does not state specifically whether VA may consider the cost of borrowing funds in determining the net value of a home for purposes of determining whether it will bid on the property at foreclosure.

The committee bill would also allow VA to consider a limited portion of the Government's cost of funds in making its no-bid calculation. This is a very controversial issue, and I note that most who testified on this provision—including both VA and the Government National Mortgage Association—consider our provision a "reasonable compromise" on the issue that they can support.

Mr. President, I would like to highlight briefly some of the substantive changes to S. 1158 as introduced.

The committee bill modifies provisions in S. 1158 that would create a new Home Loan Guaranty Fund to require that VA's annual budget submission to Congress include certain pertinent projections, including information about default dispositions and about the current and future operations and financial status of both the current Loan Guaranty Revolving Fund and the new Home Loan Guaranty Fund. This annual report would help the committee evaluate the status of both funds and address problems as they arise, in order to help ensure that the program remains solvent through the 1990's—as CBO has estimated.

The committee bill also modifies the provision in S. 1158 that would allow the Secretary to increase the loan fees by also allowing decreases back to the statutory level when appropriate. This authority was added to ensure that fees do not remain unrealistically inflated if economic conditions change after the Secretary appropriately increased the fees.

Mr. President, the provision in S. 1158 denying indemnification to certain borrowers has been clarified in the committee bill. The provision as introduced would have denied indemnification when a default was due to circumstances "not beyond the individual's control." The committee bill changes the phrase to "within the individual's control" and would require the Secretary to prescribe regulations before using this basis for denying indemnification. These modifications are designed to minimize further the chance of misinterpretation or misapplication of this authority to deny indemnification.

S. 1158 as introduced would have allowed veterans the option to purchase up to $10,000 in additional entitlement. I believe that an option for this amount of additional entitlement is warranted to address certain high housing cost areas, but in an effort to reach an overall agreement on the loan-guaranty provisions with the committee's ranking minority member, my good friend, Senator MURKOWSKI, the committee bill would reduce the maximum additional entitlement to $5,000. The optional increased entitlement still would help veterans in high-cost real estate markets to use their VA home loan benefit. Under current industry practice, the committee bill would allow a veteran to obtain a $164,000 loan without a downpayment if the veteran acquired the maximum $5,000 additional entitlement by paying a 0.5-percent additional fee. This would be a beneficial increase over the current guaranty limits, which allow a no-downpayment loan of just $144,000.

Mr. President, to reach further agreement with the ranking minority member, the fee charged to those who assume VA loans would be increased under the committee bill from two-thirds of a percent in S. 1158 to 0.75 percent (compared to the current 0.5-percent fee) in order to extend the indemnification provisions to assumptors.

Mr. President, an important provision in S. 1158 that would have required lenders to notify VA when they refuse tender of a partial payment has been changed to authorize—rather than require—the Secretary to prescribe regulations requiring notice of a lender's refusal to accept tender of a "significant" portion of the debt due and "any other information about the tender." These modifications would allow the Secretary some flexibility to implement the notification requirement in the most efficient manner and to require other useful information, such as the amount refused and the amount of the delinquency at the time of the tender. I believe that this provision would allow VA's loan counselors to target their efforts at those individuals who are best able to avoid default, foreclosure, and ultimately the loss of their home.

EDUCATION AND EMPLOYMENT

Mr. President, title III of the committee bill would make a number of amendments to current GI bills and veterans' employment programs administered by VA and the Department of Labor, two of which I would like to make particular mention of today.

First, the committee bill would extend the Veterans' Readjustment

Appointment [VRA] authority termination date from December 31, 1989, to December 31, 1991, for Vietnam-era veterans who are service-disabled or who served in the Vietnam theater of operations; expand eligibility during this period to include post-Vietnam-era veterans and all veterans with service-connected disabilities rated at 30 percent or higher; provide for a one-time limit on use of the authority for any particular veteran after the date of enactment; and limit the period during which an appointment may be made by requiring that the veteran receive an appointment by the later of either the end of the 4-year period from the date of separation or the 2-year period beginning on the date of enactment.

As I explained in my January 25, 1989, statement upon introduction of S. 13, because of the continuing difficulties that service-disabled Vietnam-era veterans and Vietnam-era veterans who served in the Vietnam theater of operations are experiencing in the job market, I do not believe Congress should allow the VRA authority to expire for these groups. On the basis of that view, I initially proposed a 2-year VRA extension targeted specifically to disabled and theater veterans of the Vietnam era. In response to the 7.1-percent unemployment rate among post-Vietnam-era veterans ages 20 to 29, and because of the continuing employment problems confronting seriously disabled veterans of all wars, Senator MURKOWSKI and I have blended the approaches in section 113 of S. 13 and his bill, S. 1279, and developed the provision extending VRA eligibility on a time-limited basis to veterans in these groups as well and limiting a veteran to one use of a VRA appointment after the date of enactment.

Mr. President, the committee bill would also authorize the Secretary of Labor, during FYs 1990–1992, to conduct a pilot program under which Disabled Veterans' Outreach Program Specialists [DVOP's] and Local Veterans' Employment Representatives [LVER's] would participate in providing employment and training information services to members of the Armed Forces within 180 days before their separation from active duty. The program would involve not less than 5 nor more than 10 geographically dispersed States in which the Secretary of Labor determines that services to veterans would not be unduly limited as a result of the pilot program.

This provision is based on the interest shown by certain State employment security agencies, the Veterans' Employment and Training Service of the Department of Labor, and the military services, in providing assistance to separating service members—who are about to become veterans—and the general need for a more innovative approach to assisting in service members' transition from military life into meaningful civilian careers.

According to the Bureau of Labor Statistics, the unemployment rate for veterans in the 20-to-29 age group—the category in which the majority of separating veterans fall—was 7.1 percent as of August 1, 1989. Moreover, it is widely anticipated that the Nation will confront a shortage in the supply of skilled workers in the civilian workforce in the late 1990's. These factors serve to justify increased emphasis on matching peacetime military job skills to private industry and public-sector needs.

Mr. President, the preseparation employment and training services pilot program in this provision is not without precedent, but in fact is modeled on a program which has for several years been contributing directly to improving employment prospects for service members making the transition from active duty to the civilian workforce. I am proud to cite, as a model for the pilot program in the committee bill, the State of California's "Career Awareness Program" [CAP] initiated over 10 years ago by the Rehabilitation Foundation of the California Department of the Disabled American Veterans [DAV] Foundation and the California Employment Development Department [EDD]. That program, first provided to separating service members at Lemoore, CA Naval Air Station in 1978, has expanded its services to 13 Navy, Marine Corps, Army, and Air Force bases in California.

Through 1988, 11,177 service members attended some 173 CAP classes prior to their separation from active-duty service. In 1989, about 9,000 service members will attend the CAP's 1-week preseparation classes, which address the following aspects: First, identification of individual skills and values; second, job sources and job analysis; third, résumé preparation and job interview techniques; fourth, veterans' and military benefits and procedures for applying for them; and fifth, opportunities in the Selected Reserve.

Based on preliminary analysis, the CAP program has proven to provide many benefits, including increased retention in active duty and reserve components, reduced unemployment costs associated with post-separation job referral and placement, higher starting salaries among CAP attendees as compared to non-CAP attendees, and reduced military retraining costs.

Various California community colleges have participated in this program by providing, under contract to the California EDD, instructors for various parts of the program. In addition, excellent cooperation has been provided by the four military services, particularly the Navy, in furnishing classroom facilities and informing military separatees and retirees of the procedures associated with registering for CAP.

Mr. President, I want to acknowledge several individuals for their significant contributions to the development and success of California's highly innovative CAP program. They include Glen M. Halsey, Assistant State Supervisor of Veterans' Programs, California EDD; Navy Comdr. John Halvorson, Military Liaison to the CAP Programs; Pat Ford, CAP Program Manager and his assistant, John Reece and lead DVOP, Joe Hollinshead; Stewart M. Roth, State Supervisor of Veterans' Programs, California EDD; and Mark Sanders, Deputy Director, Operations Branch, California EDD. In addition, the three California DAV National Service Officers—Bob Jordan in Los Angeles, Mike Warbois in San Diego, and Ken Warr in San Francisco—have lent invaluable financial and manpower support to the day-to-day operations of the CAP Program.

I also want to express today, Mr. President, my deep appreciation for the very fine work of the Commission on Veterans' Education Policy. The Commission's extensive and very constructive recommendations on improving the overall effectiveness of VA's administration of its educational assistance programs served as the basis for many of the provisions I introduced initially in S. 1092, the Veterans' Education Policy Improvements Act, all of which are included in the committee-reported S. 13 under consideration today.

I congratulate all the Commission members for their outstanding contributions and applaud particularly the very fine leadership of the chairperson, Janet D. Steiger, who is now Chairman of the Federal Trade Commission. I am also deeply grateful for the excellent work of Executive Director Babette V. Polzer, who served as a staff adviser to me for 12 years, and Commission members Bertie Rowland, a past president of the National Association of Veterans' Programs Administrators and a constituent of mine, Jack Wickes, who previously served as an associate counsel on the Veterans' Affairs Committee, and Oliver Meadows, Chairman of the Secretary's Advisory Committee on Education, who served with such great distinction for many years as staff director of the House Veterans' Affairs Committee. We owe a great debt of thanks to these and all the members of the Commission as we advance their fine efforts on behalf of the veterans, service members, and eligible persons pursuing fulfillment of educational and vocational goals through VA's educational assistance programs.

Finally, Mr. President, I wish to acknowledge the many career professionals in the Veterans Benefits Ad-

ministration of the Department of Veterans Affairs for the excellent cooperation and valuable assistance they provided to the members of the Commission in the conduct of their work.

MINORITY AFFAIRS

Title VI of the committee bill contains a number of provisions, derived from legislation introduced by Senator MATSUNAGA—S. 564, S. 1145, and S. 1146—that are designed to improve VA's efforts to provide benefits and services to veterans who are members of minority groups. The first of these provisions would assign responsibility for coordinating and monitoring the provision of benefits and services to minority veterans to an Assistant Secretary of Veterans Affairs. This should result in needed, higher level attention being paid to the needs of minority veterans and to VA's efforts to respond to those needs. A second provision would reauthorize the Advisory Committee on Native-American Veterans through fiscal year 1991. A third provision in this title of the committee bill would require VA to carry out a study to determine the level of participation in VA home loan programs of certain minority veterans who live on trust or communally-owned land.

SECURITY SERVICES

Mr. President, section 701 of the committee bill would relocate organizationally VA's security force under the Office of the Secretary. I believe that this arrangement, while not altering the direct line of security force accountability at the medical center level, would give the security force program more resources, more visibility, and more top management attention than it has received in VHS&RA.

The need for a higher quality VA security force can be illustrated by the numerous incidents of vandalism, general disturbances, forced entries, assaults, and robberies at VA medical centers in fiscal year 1988. These offenses during that fiscal year resulted in almost $7.7 million in property loss and damage.

Despite this sizable dollar loss, the Veterans Health Services and Research Administration [VHS&RA] has been generally inattentive to making the changes needed in the security force program. This inattention can best be demonstrated by the lack of action by VHS&RA management after the fatal shooting of security force personnel at the Breckville, OH, and Bronx, NY, VA Medical Centers in 1986 and 1988, respectively. VHS&RA leadership was in a position to learn from each unfortunate situation and make needed changes to the security force program to preclude similar situations from occurring elsewhere. Yet it took no decisive actions. After the Brecksville, OH, shooting, VHS&RA was very much in a position to conclude that greater protection was very probably needed for all security force personnel working at the 78 VA medical centers which are located in high-crime areas.

However, rather than pursue a course of greater protection systemwide, VHS&RA has permitted individual medical centers to review independently and, possibly, deny local security force requests for protective equipment. After the Bronx, NY, shooting, VHS&RA managers should have been aware that allowing a security force officer to operate a walk-through metal detector alone was not only a violation of Departmental policy but was also a high-risk situation that may have contributed to the security force officer's death. Yet, regrettably, no attempt was made to survey VA medical centers nationwide regarding the need to follow the policy of having two officers operate walk-through metal detectors or to check to see whether or not individual centers were, in fact, following the policy. As a result, even today at the Bronx, NY, VAMC, a single officer is still often asked to operate the walk-through metal detector alone.

VA inaction regarding the use of protective vests by security personnel also demonstrates the inconsistency with which the security force program has been administered. According to VA-supplied information, 66 VAMC's have purchased protective vests for use by their security personnel. Of that number, 45 are located in high-crime areas while 21 are not. VA also indicated that at 8 VAMC's walk-through or portable metal detectors are used to interdict the introduction of dangerous weapons, but the centers have not purchased protective vests for their security personnel's use. VA further pointed out that one or more of the personnel were not wearing the vests at 33 (of the 66) VAMC's that have purchased protective vests for their security personnel.

This seemingly routine lack of attention and action by VHS&RA managers raises serious questions about their capability to manage the security force program properly. My views on this matter are set forth in detail in my Additional Views (on pages 480–490) in the committee report.

I believe that the realignment proposed in the committee bill, along with the requirement in the committee bill that the Secretary study and report to Congress on a number of vital security issues is the first step toward the resolution of VA security force problems that need immediate attention. I am pleased to say that I have discussed the approach in the committee bill with the Deputy Secretary of Veterans Affairs, Anthony J. Principi, and that, after further study of the situation and the extensive questions I submitted in connection with the committee's June 22 hearing, he is generally in accord with our approach.

CRANSTON/MURKOWSKI AMENDMENT

Now, Mr. President, on behalf of the committee, I am offering an amendment with Senator MURKOWSKI, that I will describe in a moment, to the bill as reported. This amendment incorporates amendments offered by me, by Senator MURKOWSKI, and by a number of other Senators whom I will indicate in describing each of the amendments.

SUMMARY OF AMENDMENT PROVISIONS

Mr. President, the committee amendment includes seven provisions which would:

First, require VA to contract to the maximum extent that the Secretary considers feasible, with private firms, on a commission basis, for the recovery from health insurers of the cost of VA-furnished care for nonservice-connected conditions for which such reimbursement is authorized (Cranston-Murkowski-Graham).

Second, expand VA's authority to recover from health insurers the reasonable cost of care furnished by VA after November 30, 1989, for nonservice-connected disabilities to include the cost of such nonservice-connected care in the cases of those whose service-connected disabilities are rated at 20 percent or less (Murkowski-Graham).

Third, require VA's Chief Medical Director, before providing any assistive monkeys, to have an independent evaluation conducted, after consultation with appropriate animal welfare organizations, of the treatment that the monkeys would receive during their training and placement under the pilot program (Cranston).

Fourth, provide for limited use of Montgomery GI Bill benefits for flight training (Daschle-Murkowski).

Fifth, extend, until 180 days after completion of a relevant, statutorily-required HUD study, the requirement (expiring on November 7, 1989) for FHA to accept a VA certificate of reasonable value for a home in a subdivision as an administrative approval of the entire subdivision (Cranston).

Sixth, delete, in order to avoid a possible Budget Act point of order and thus expedite consideration of the committee bill, the provision relating to the proceeds of VA home-loan-asset sales (Cranston-Murkowski).

Seventh, expand the memberships of VA Chief Medical Director and Chief Benefits Director search commissions to include two additional representatives of veterans and one at-large member (Cranston-Matsunaga-DeConcini - Rockefeller - Graham - Jeffords).

Eighth, name the Leavenworth, KS, VA Medical Center as the Eisenhower VA Medical Center (Kassebaum-Dole).

Ninth, make two technical amendments in the Public Law 100-687 provisions establishing the U.S. Court of Veterans Appeals, as requested by the

Chief Judge of the Court (Cranston-Murkowski).

THIRD-PARTY INSURANCE COLLECTIONS

Mr. President, included in the amendment are provisions offered on behalf of myself and Senators MURKOWSKI and GRAHAM which would require: First, that contract services using one or more private vendors be used to the maximum extent feasible, as determined by the VA Secretary, to recover from a third party the costs incurred by VA when treating a veteran described in section 629(a)(2)(D) of title 38; second, that the vendor's fee be negotiated by VA and paid out of the collection proceeds and that any remaining proceeds be deposited in the Treasury; third, that the vendor be subject to all laws affecting VA regarding confidentiality of a veteran's medical record and health status; fourth, that there be no reduction in full-time equivalent employees assigned to any VA medical center [VAMC] as a result of entering into such a contract; and fifth, that VA submit a report 90 days after enactment and on each February 1 thereafter on the status of contracting out the collections process and the results achieved.

Also included, on behalf of Senators MURKOWSKI and GRAHAM, is an amendment that would require that: First, VA recover from the third-party insurer of any veteran who has a service-connected disability rated at 0-, 10-, or 20-percent, for the cost of care received beginning after November 30, 1989, in connection with a nonservice-connected condition; and second, that this measure not nullify any provision of a health-plan contract that was entered into before the date of enactment of this measure and is not modified or renewed on or after that date.

BACKGROUND

Mr. President, proposals relating to billing third-party insurers for care furnished to veterans began to appear in the 91st Congress. However, cost-recovery provisions were not enacted until 1981 in Public Law 97-72.

Because of my belief that billing third-party insurers for the cost of care furnished to veterans being treated for their nonservice-connected conditions would hurt rather than help VA's health-care system—it does nothing to reduce the overall cost of VA health care; in fact it increases the cost—I have long opposed such legislation. In addition to my concern about the overall impact of such proposals, I have raised questions about the increased administrative costs VA and insurance companies would incur as a result of such proposals, the reliability of VA's and OMB's collection estimates, the inflationary effect collections would have on health insurance premiums, and the legality of such recovery legislation.

Public Law 97-72 required VA to recover only the cost of care furnished to a veteran for a nonservice-connected disability that was incurred: First, incident to the veteran's employment and the disability was covered by worker's compensation; second, as a result of a motor vehicle accident which occurred in a State having "no-fault" automobile insurance; or third, as the result of a crime of personal violence that occurred in a State or area in which the victim is entitled to receive health care or services at the State's expense.

On April 7, 1985, Public Law 99-272, the Consolidated Omnibus Budget Reconciliation Act [COBRA] of 1985, was enacted which contained a measure giving the United States the right to recover or collect from third-party insurers the reasonable cost of care provided by VA to nonservice-connected disabled veterans to the extent that the insurer would be liable to pay for the care if it has been furnished by a private facility. I expressed my concerns about this legislation at that time, and I refer my colleagues to S. Prt. 99-150, pages 69-71 for a detailed discussion of my views.

Generally, over the 4 years between enactment of Public Law 97-72 and the enactment of COBRA, my concerns had not changed: I continued to oppose any extension for much the same reasons. However, at the time COBRA was enacted, both the Senate and House Veterans' Affairs Committees were faced with very significant reconciliation instructions, and the fact that CBO estimated savings of $960 million over 3 years through the enactment of legislation providing for third-party recoveries made this an option our committees "simply could not refuse".

On January 30, 1987, VA published final regulations, retroactive to April 7, 1986, implementing Public Law 99-272. Because VA was operating a manual billing system, the cost of producing a bill for inpatient and outpatient care was the same, and the monetary return on inpatient collection activities was greater than outpatient activities. Thus, VA decided to concentrate billings in the area of inpatient care. VA has continued this practice; however, consideration is being given now to expanding billings to include outpatient care. Although VA has improved slightly its inpatient collection performance over the past 4 years, its record in this area is not impressive.

In fiscal year 1987, VA identified $97 million in receivables and collected $24 million—a 24.7-percent collection rate. In fiscal year 1988, VA identified $275 million in receivables and collected $105.5 million—a 38.4-percent collection rate. Through July of fiscal year 1989, VA has identified $270.5 million in receivables and collected $108 million—a 30-percent collection rate. For fiscal year 1990, OMB estimates that VA will collect $304 million compared to a VA estimate of $136 million. It should be noted that VA is in the process of changing the manner in which it reports accrued receivables. The figures I have just recited reflect 100 percent of that which VA has billed—gross receivables—and not the amount—which VA calls "net receivables"—that VA says can be expected to be collected based upon deductible amounts and copayments which the third-party, contract, is not obligated to pay. As an example, using VA's new method of calculating the success of its collection efforts, for fiscal year 1988, whereas gross receivables were $275 million, net receivables were $194 million. If VA's estimate of "net receivables" is used as the criterion against which the success of the collection program is measured, VA's fiscal year 1988 collection rate would improve—to 54 percent. For fiscal year 1989, through July, VA's new net receivables equal $162.6 million, increasing VA's collection rate from 39 percent to 66.4 percent.

There are no comparable private sector figures to compare with VA's experience.

Recently, because they believe that VA's billing and collections outcome needs improvement and because of the budget shortfall being experienced in VA health care, some VA medical center directors have suggested that their hospitals be permitted to retain all or part of what is collected so that personnel will have the incentive to do a better job. As advocates of this approach explain it, because the amounts collected from billing third-party insurers go directly to the Treasury and are not credited to VA, there is no motivation to ensure high collection performance.

In response to a January 26, 1989, question I asked in preparation for the committee's budget hearing about the impact of converting general fund receipts to reimbursements in medical care, VA stated that "In lieu of providing a known budget in advance for statutory programs, funding would be split between known and estimated levels, creating a continuous question as to the availability of funding in any month or year." VA went on to say that it "would not help solve our budget shortfall problems since there would be no net increase in funding." This view was further reinforced by VA's Chief Medical Director [CMD] in his April 12 statement to the House Veterans' Affairs Committee. at that hearing, he expressed the view that, if there were VA retention of third-party reimbursements, the administration's request for VA appropriations for a coming fiscal year would be reduced by OMB by the amount estimated to be collected.

On May 10, 1989, I wrote to various veteran service organizations and VA

medical center directors expressing my concern about VA retaining third-party reimbursements. The responses I received were unanimous—VA would not gain by such a policy and might be hurt as a result of OMB overestimating VA collections and thus reducing VA's budget by a like amount. Mr. President, I ask unanimous consent that the text of my letter and the respective organization responses be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, at the committee's May 18 hearing on various health-care matters, I discussed third-party reimbursement with Deputy VA Secretary Principi. VA's prepared testimony for that hearing proposed that 50 percent of collections be legitimately retained by VA. I explained that I would favor an approach that would give local hospitals an incentive to do a better job on third-party collections but that I was convinced OMB would reduce VA's budget request by more than VA would be able to collect. When I asked Deputy Secretary Principi what legitimately meant, he explained that legitimately "means there will be no offsets, that we will be allowed to retain those dollars." However, he also admitted that he had no assurances from OMB that VA would be allowed to retain these funds; he could only state that OMB had agreed to the words "legitimately retained." I urged Deputy Secretary Principi to get this definition of legitimately clarified.

During the period of time that retention of third-party reimbursements was being discussed, the President submitted his fiscal year 1990 budget request. That package noted that legislation would be proposed which would, among other items, authorize reimbursement from third-party health insurers for treatment of nonservice-connected disabilities of insured veterans who have "relatively minor" service-connected disabilities, defined by the administration as veterans with a 0-, 10-, or 20-percent disability rating. OMB estimated receipts from this proposal to be approximately $63 million. CBO estimated these receipts to be $26 million in fiscal year 1990, $31 in fiscal year 1991, $34 million in fiscal year 1992, $36 million in fiscal year 1993, and $40 million in fiscal year 1994. According to CBO, the major difference in the two estimates is that OMB assumes an unrealistic 100 percent collection rate and CBO assumes a 50 percent collection rate and CBO assumes that VA will bill only for inpatient care. To date, the administration has not transmitted such a legislative proposal.

On March 15, 1989, Senators MURKOWSKI, SIMPSON, and JEFFORDS introduced legislation, S. 573, which would provide for third-party reimbursement for the cost of health care and services furnished any service-connected disabled veteran by VA for a nonservice-connected disability. CBO estimated receipts from that proposal to be $52 million in fiscal year 1990, $63 million in fiscal year 1991, and $69 million in fiscal year 1992. This measure elicited no support from witnesses at the committee's May 18 hearing and was opposed by many witnesses. For example, the Disabled American Veterans stated that it was "adamantly opposed to this measure" and The American Legion concurred that it was "totally opposed to this provision". The Paralyzed Veterans of America and the Veterans of Foreign Wars also opposed enactment of S. 573, and the Vietnam Veterans of America did not support it.

At the committee's July 27, 1989, markup, neither legislation authorizing VA to retain receipts from third-party collections nor legislation providing for VA to bill the third-party insurers of veterans for nonservice-connected care was included in the legislation ordered reported by the Committee, S. 13. Senator MURKOWSKI did, however, offer an amendment to S. 13 which would have authorized VA to seek reimbursement from health-care insurance companies for the cost of health care which is furnished to any service-connected veteran for the treatment of a nonservice-connected disability. The amendment also would have provided for VA to retain one-half of the collections made for a period of 2 years. After extended debate, this amendment was tabled unanimously.

CONCERNS ABOUT RETENTION OF THIRD-PARTY RECEIPTS

I am strongly opposed to legislation that would allow VA to retain third-party payments. I understand why it may seem logical and fair, upon initial analysis, for VA itself to utilize the third-party payments in order to furnish care given in VA facilities. However, in practical and operational terms, the funds collected would not be a source of additional support for the VA health-care system. Rather, if VA were authorized to retain these funds, VA budget requests and appropriations would be reduced by an amount equal to the amount anticipated—and I stress anticipated—to be collected. I believe there is a substantial probability that the reductions would significantly exceed the actual amount collected.

If there were VA retention of third-party reimbursements, the administration's request for VA appropriations for a coming fiscal year would be reduced by OMB by the amount estimated to be collected. As noted earlier, this is not speculation; it is exactly what OMB has made clear to VA that it would do—in the CMD's April 12 House testimony. This would almost certainly result in VA being put in the position of trying to provide health-care services at the program level contemplated in its budget request, as possibly amended by the Congress, but having to do so with a reduced appropriations level. VA would thus be forced to depend on its ability to make the collections at the OMB-projected rate in order to make up the difference.

In addition, OMB consistently overestimates the amount of third-party reimbursements that can be collected. This legislation would give OMB the power to bring about a decrease in VA's overall medical care budget by projecting greater amounts of third-party collections than VA would actually receive. For example, as I have previously noted, the OMB estimate of third-party payments for fiscal year 1990 is $304 million while VA's own estimate of these payments is only $136 million. If VA were authorized to keep one-half of the money it collects, rather than depositing the entire amount in the Treasury, and it eventually collected only the amount it estimated, total VA funds available for health care for fiscal year 1990 would be decreased by $84 million. Such a result would aggravate an already very serious VA health-care budget situation.

Thus, although I have strongly advocated increased funding for VA health care, I continue to reject the desirability of VA's retaining third-party reimbursements. Ironically, this seemingly free money could, and I believe almost certainly would, hurt VA more than it would help. Hence, far from increasing VA medical care funding, any proposal to allow VA to retain collections would likely serve to decrease it, and there is no way that there can be any assurance that this would indeed not happen. In short, there is no free money.

BILLING THIRD-PARTY INSURERS OF SERVICE-CONNECTED DISABLED VETERANS

Mr. President, in response to Senator MURKOWSKI's proposal to collect third-party payments for the cost of medical care furnished to any service-connected veteran for the care of nonservice connected conditions, I expressed several concerns. First, in many cases it may be difficult to say with any certainty that the non-service-connected disability being treated is not a result of or associated with the veteran's service-connected injury or disease. This would be especially true of those veterans rated as having a 50-percent or more service-connected disability and likely to be true of those veterans rated as having a 30- or 40-percent service-connected disability.

We all know that psychological stress can create physical symptoms

and disease. Ulcers, migraine headaches, and hypertension are examples of this phenomena. Additionally, psychological stress can create physical symptoms and disease. VA recognizes that vascular—heart and circulation—problems may be the result of limb amputations. These are the most obvious manifestations of the interdependencies occurring within us. I believe it is possible that we will eventually discover that a number of non-service-connected disabilities are closely related to service-connected illness or injuries.

Second, the cost of making the collections can be substantial for VA. Although VA currently bills third-party payers for the cost of some care, VA does not have the capability to collect successfully on a large scale unless it is provided additional staffing. Private-sector hospitals have large staffs which are responsible for sending out bills and following-up with delinquent payers. For VA to match that effort, personnel would have to be transferred from patient-care services or services which support direct-patient-care activities. The VA—and veterans—cannot afford such personnel reductions.

EXPANDING THE RECOVERY OF THIRD-PARTY PAYMENTS

Mr. President, as all of our colleagues are well aware, we are experiencing a Federal budget deficit of grave proportions. We must search for ways to reduce that deficit without adversely affecting the beneficial programs and services we have worked hard to develop. According to CBO estimates, receipts to the Treasury would increase by $26 million in fiscal year 1990, $31 million in fiscal year 1991, and $34 million in fiscal year 1992 if VA were to bill health insurers for non-service-connected care furnished to veterans with disability ratings of 0, 10, and 20 percent. Although I continue to have the same reservations I had in the early 1980's when Public Law 97-72 was enacted, I cannot ignore the contribution these funds would make to reducing that deficit. This provision will not result in veterans being denied services nor will it negatively affect the quality of health care provided. Additionally, with the requirement to utilize contracted services for collections and that the contractor's fee be a percentage of collections drawn from these receipts, as we propose in this amendment, VA's own costs should not increase significantly as a result of expanding collections to include certain service-connected veterans being treated for non-service-connected conditions and should decline somewhat as a result of contracting for collections already authorized.

EFFECTIVE DATE

In order to furnish VA and third-party insurers time to implement this measure, collections for the treatment of nonservice conditions of service-connected veterans would be delayed so as to include only that care provided after November 30, 1989. Also, because of my concern about the Federal Government intruding into private contractual relationships and "changing the rules" during a time a contract may be in force, this provision explicitly would not nullify any provision of health-plan contract which was entered into before the date of enactment of this measure and which is not modified or renewed on or after that date. This effective date provision is modeled closely after the effective date provision, in section 19013(b) of COBRA of 1985, accompanying the enactment of the original authority for VA to collect from third-party insurers.

CONTRACTING OF COLLECTION FUNCTIONS

As I have previously stated, I am very concerned about VA retaining any portion of the funds collected from third-party insurers. I remain convinced that VA would not benefit for such a practice and, in fact, would lose funding. On the other hand, I do believe that incentives are needed to encourage persons to perform at their highest potential. Recognizing that VA was not collecting at the highest rate possible, we determined that contracting out that service and providing the contractor an incentive to collect would be the most advantageous solution to the problem.

Collecting funds from health-care insurers entails more than just sending out a bill for services rendered. The first step is to determine which veterans should be approached about their insurance coverage. After that is accomplished it must be determined if the veteran actually has insurance, what services or programs would be paid for, and under what circumstances payment would be made. If special authorization is required, that special authorization must be obtained. If other utilization review parameters exist, it would be essential to know and understand those. Once a veteran from whom third-party payments can be collected is identified, the terms of her or his insurance coverage determined and adhered to, and, in the case of inpatient care, the veteran discharged, a bill can be generated.

It must be stressed that care furnished to veterans is not dependent upon these functions being performed or VA meeting any utilization review criteria established by the third-party payer. Section 629(e) of title 38 clearly states that "a veteran eligible for care or services under this chapter may not be denied such care or services by reason of this section," and that provision is not being altered in any way by this measure.

Mr. President, the collections process is a complex one. However, it can be made more difficult if a hospital is located in a metropolitan area where many different companies provide a wide variety of different insurance plans. In those circumstances the VAMC, or the vendor contracted with to do the collections, must become familiar with many requirements. This process may be simpler in a smaller community where there are only one or two major employers who utilize the services of one insurance provider. As a result of these differences and the differences in administrative practices of VA hospitals, our amendment would provide that VA can determine the extent to which contracted services should be used but must do so to the maximum extent feasible. In some instances it might be more beneficial and cost-effective to contract out the entire collection process while, in other instances, it might be better to contract out only the utilization review process or billing process.

Rather than requiring VA to pay a set fee to a vendor for services provided in the collections process, our amendment would require VA to negotiate that fee. Because both the extent to which services would be contracted out and the amount which is needed to provide an incentive for different vendors in differing areas of the country might vary, we did not believe that Congress should establish a prevailing contract rate. However, our intention is for VA to negotiate a rate which would provide an incentive to the vendor while leaving enough remaining after that fee is paid to increase the amount turned in to the Treasury. It cannot be forgotten that the sole purpose of collecting from the third-party insurers of veterans is to reduce the Federal deficit.

Our provision would also require that the vendor be subject to all laws affecting VA regarding confidentiality of a veteran's medical record and health-status. For example, section 4132 of title 38 provides that records of the identity, diagnosis, prognosis, or treatment of any patient with certain conditions may be disclosed only for specific purposes. Persons violating these laws would be subject to fines of from $5,000 to $20,000.

The committee has heard concerns from VA officials that, if collection services were contracted out, full-time equivalent employee [FTEE] positions would be reduced in medical administration services throughout the VA system. These concerns were based on the fact that the President's fiscal year 1990 budget justified certain savings—FTEE cuts—on the theory that the implementation of certain new computer support programs would reduce the number of people needed to handle the existing workload. However, that has not proven to be the case. As an example, a budget assump-

tion made was that implementation of certain clinical computer programs would reduce the FTEE needed to perform certain tasks. Although that may prove to be the case, no allowance was made in the budget either for the needed additional FTEE to support the computer package or for the possibility that the clinical personnel relieved of one task by implementation of the computer programs could be productively reassigned to another function and thus should not be eliminated.

The fear exists that the same analogy will be drawn to the contracting out of third-party collections. At the time the third-party collection program was initiated, all VAMCs were provided at least one additional FTEE to perform the increased work. According to VA field officials, even if services are contracted for, one FTEE will continue to be needed, generally, to serve as a liaison with the contractor and respond to that contractor's needs. If the contractor is to be successful, VA assistance will be needed. Therefore, our amendment would require that there be no reduction in FTEE assigned to any VAMC as a result of entering into a contract for third-party collections.

CONCLUSION

Mr. President, I believe the provisions of this amendment are a fair compromise considering the very difficult budgetary constraints under which we are laboring. As I previously indicated, services furnished to veterans are not to be affected by this new policy of recovering costs from the third-party insurers of certain service-connected veterans receiving care for their non-service-connected disabilities. Additionally, it is our clear intention that VA's medical care appropriation is not to be reduced as a result of contracting out the collections process in the way we propose. However, I plan to watch closely VA's implementation of these provisions, if they are enacted, in order to ensure that our Nation's veterans do receive the care to which they are entitled.

EVALUATION OF PRIVATE ASSISTIVE MONKEY PLACEMENT PROGRAMS

Mr. President, the committee amendment includes a provision I am offering relating to the proposed VA pilot program to aid quadriplegic veterans that is set forth in section 216 of the Committee bill.

Because I believe it necessary to ensure that animals used in any such VA program are properly treated, I developed this amendment, in conjunction with Senator MURKOWSKI, to require VA's Chief Medical Director, before any animals are placed with veterans under the pilot program, to provide for the conduct of an independent evaluation of the treatment of the assistive monkeys during their training by private organizations and thereafter during their activities as assistive animals. The Chief Medical Director would be required to ensure that the person or organization performing this evaluation consults with representatives of appropriate animal-welfare groups prior to carrying out the evaluation.

Currently, the only private organization providing assistive monkeys to disabled persons is Helping Hands, Inc., of Boston, MA.

Mr. President, I believe that assistive animals can add significantly to the quality of a disabled individual's life and that VA should be on the front-line of innovation with respect to the rehabilitation of and assistance for severely disabled veterans. For veterans with high-level quadriplegia who have lost the use of their legs and much or all of the use of their hands and arms, many of their most basic needs go unmet. Assistive monkeys can provide much needed state-of-the-art assistance as well as a large degree of independence.

Although several evaluations have favorably examined many such aspects of the Helping Hands program, none thus far have focused solely on the overall treatment and general welfare of the monkeys. I have received communications from many in California and elsewhere expressing concern about the treatment of the monkeys involved in the current program. I believe it is in the best interests of all concerned for such an independent evaluation to be carried out after receiving the prior input of appropriate animal-welfare groups.

ELIGIBLILITY FOR FLIGHT TRAINING UNDER THE MONTGOMERY GI BILL

Mr. President, a provision in the committee amendment which is offered on behalf of the Senator from South Dakota [Mr. DASCHLE] and Senator MURKOWSKI would permit veterans and members of the Selected Reserve to pursue commercial pilot training at flight schools under the Montgomery GI bill.

More specifically, the amendment would amend sections 1432 and 1434 of title 38 and sections 2131 and 2136 of title 10, United States Code, so as to enable MGIB participants to pursue flight training in such schools—other than for tuition and fees charged for or attributable to solo flying hours required for instrument and commercial ratings—if such training is necessary for the vocational objectives in the field of aviation. The MGIB participants are already eligible for flight training under section 1673(b) when such training is pursued at an institution of higher learning for credit toward a standard college degree. Under the committee amendment, which would permit individuals to train at private flying schools, an individual would be required to possess a valid private pilot's license and meet the medical requirements necessary for pursuit of a commercial pilot's license. In addition, the flight school courses would be required to meet the Federal Aviation Administration standards and be approved by the FAA and State Approving Agency.

Benefits would be paid at the rate of 60 percent of the established charges for tuition and fees—other than tuition and fees charged for or attributable to solo flying hours required for instrument and commercial ratings—which similarly circumstanced nonveterans enrolled in the same flight courses are required to pay. Computation of MGIB educational entitlement would depend on the educational assistance program. In the case of an individual receiving training under chapter 30 of title 38, United States Code, the number of months of entitlement charged would be computed by dividing the total amount of educational assistance paid for flight training by the participant's normal monthly rate of educational assistance. A member of the Selected Reserve pursuing flight training under chapter 106 of title 10 would be charged 1 month of entitlement for each $140 paid to that individual.

The committee amendment would authorize flight training only for those individuals who begin their training during the 4 years beginning September 30, 1990, and ending September 30, 1994. It would also require the Secretary of Veterans' Affairs to submit to the Committees on Veterans' Affairs no later than January 31, 1994, an evaluation of the MGIB flight training program's effectiveness in preparing participants for recognized vocational objectives in the field of aviation.

This amendment is the same as one adopted a year ago as part of S. 2011 except for the provision which excludes from eligibility for reimbursement by VA the tuition and fees attributable to solo flying hours required for instrument and commercial ratings. That amendment was not acceptable to the House last year. We shall try again.

EXTENSION OF AUTHORITY FOR RECIPROCITY IN APPROVAL OF HOUSING SUBDIVISIONS AMONG FEDERAL AGENCIES

Mr. President, the committee amendment includes an amendment that I am offering to section 535 of the Housing Act of 1949 (42 U.S.C. 1490o) to require that the Secretary of Housing and Urban Development continue to consider the issuance of a VA certificate of reasonable value for one or more properties in a subdivision to be an administrative approval of the entire subdivision. The extension would remain in force until 180 days after the Secretary of Housing and Urban Development reports to Congress on the housing subdivision approval policies and practices of HUD,

VA, and the Department of Agriculture [USDA], pursuant to current subsection (c) of section 535.

Mr. President, section 523 of Public Law 98-181, enacted in 1984, requires reciprocity among VA, HUD, and DOA in approving housing subdivisions. Approval of a subdivision by any of the Departments constitutes approval by both of the other Departments as well. This applies to VA-guaranteed loans, Federal Housing Administration loans, Farmers Home Administration [FmHA] loans, and other home loans administered by these Departments.

At the time of the enactment of Public Law 98-181, VA issued appraisals, known as certificates of reasonable value [CRV's], for homes in a subdivision only if VA had approved the subdivision as a whole. Thus, a single CRV was conclusive evidence to HUD or DOA that VA already had approved the entire subdivision and HUD or DOA was thus bound by VA's subdivision approval. VA eliminated its subdivision-approval process in 1984 and now issues CRV's for homes in a subdivision without first approving the entire subdivison.

HUD and DOA subdivision-approval processes have, however, remained in effect. HUD determined in 1988 that VA's elimination of subdivision approvals meant that the CRV no longer indicated approval of the entire subdivision. On that basis, HUD stopped accepting VA CRV's as subdivision approvals.

Section 1067 of Public Law 100-628, the McKinney Homeless Assistance Amendments Act of 1988, enacted on November 7, 1988, imposed a 1-year requirement on HUD to accept VA CRV's for one or more homes in a subdivision as administrative approval of the entire subdivision. It also required HUD to conduct a study, in consultation with VA and DOA, of housing subdivision approval policies and practices, focusing on the impact of environmental laws. The study was to include recommendations for statutory, regulatory, and administrative changes necessary to achieve true reciprocity in housing-subdivision approvals by the three Departments.

Mr. President, the requirement for HUD to accept VA CRV's as subdivision approvals will expire on November 7, 1988. That is also the deadline for HUD's required report to Congress on the three Departments' subdivision-approval process. My understanding is that that report is not yet complete and may not even have been begun. Our amendment would thus ensure that Congress has at least 6 months to consider, and possibly act on, the results of that report before the reciprocity requirement expires.

PROCEEDS OF VENDEE-LOAN ASSET SALES

Mr. President, our amendment would delete the provision, in section 404(a)(4) of S. 13 as reported, which would have restored the pre-1987 methodology under which the proceeds of VA vendee-loan asset sales—whether the loans were sold "with or without recourse" against VA—were counted as offsetting collections. The background and purpose of this provision are discussed on pages 267-71 of the committee report. Senator MURKOWSKI and I are proposing to strike it from the committee bill only in order to facilitate the Senate's expeditious consideration of the bill by avoiding the possibility of a point of order being raised against it. We continue to support the policy and purpose of this provision very strongly.

EXPANSION OF SEARCH COMMISSIONS

Mr. President, the committee amendment contains a provision derived from Amendment No. 710 which I submitted on September 6 and which is cosponsored by my colleagues on the Veterans' Affairs Committee, Senators MATSUNAGA, DECONCINI, ROCKEFELLER, GRAHAM, and JEFFORDS. The amendment has the same cosponsorship. This provision would amend the Department of Veterans Affairs Act, Public Law 100-527, so as to provide that any commissions established pursuant to section 3 of that act for the purpose of recommending individuals for appointment to the position of Chief Medical Director [CMD] or Chief Benefits Director [CBD] of the Department of Veterans Affairs would be comprised of up to 13 members, to include 4 persons representing veterans served by VA. Under current law, as enacted last October, such commissions are comprised of up to 10 members, with only 2 being specified as persons representing veterans served by VA.

Earlier this year, a Commission was established to recommend individuals to fill the position of Chief Benefits Director. In setting up that entity, VA Secretary Edward Derwinski appointed four representatives from veterans service organizations. Despite my concerns that this action did not accord with the law, I did not voice any formal objection because I was aware of questions which were raised at the time within VA as to whether there was, under the statute, the need for such a search Commission for that task since there was no vacancy in the CBD position; rather, the current CBD, John Vogel, had not resigned or announced his intention to resign—indeed, he is a leading candidate for appointment as the first CBD under the new Department.

More recently, Secretary Derwinski appointed a Commission to seek recommendations for the position of Chief Medical Director following the announcement by Dr. John Gronvall, VA's current CMD, of his intention to step down as soon as a replacement has been selected. In accordance with section 3(b)(2)(B) of Public Law 100-527, which clearly applies in the situation of an "anticipated" vacancy, Secretary Derwinski appointed only two representatives of veterans service organizations—one from the American Legion and one from the Veterans of Foreign Wars.

Mr. President, many members of the Disabled American Veterans have contacted me to express their very strong disappointment about their organization not being represented on the CMD search Commission, noting the fact that all of their members have service-connected disabilities and, as such, are primary consumers of VA's health-care system. I have also been made aware of substantial unhappiness among other organizations, including the Paralyzed Veterans of America which has a very active and effective medical program.

I am generally sympathetic to the concerns expressed, but, at the same time, I recognize that Secretary Derwinski under current law was empowered to appoint only two veterans service organization representatives, thus ensuring that he would have to exclude some important organizations. The provision in the committee amendment is designed to avoid a recurrence of this unfortunate situation, which has become so divisive and has created much unnecessary and counterproductive tension between VA and several service organizations.

Mr. President, this provision would also provide for the addition of a 13th Commission member in order to achieve three purposes: First, to make the Commission membership an odd number; second, to help keep the role of representatives of service organizations in appropriate balance; and third, to give the Secretary a little more discretion in comprising the Commissions. Under this provision, the Secretary would appoint a 13th member from among four statutory categories—persons representing program activities affected by the VA entity concerned, either the Veterans Benefits Administration or the Veterans Health Service and Research Administration; persons representing veterans served by VA; persons who have experience in the management of VA programs or of programs of similar content and scope; or an individual who is a former CMD or CBD.

Mr. President, I note that the provisions in Public Law 100-527 relating to the establishment of these CMD/CBD search Commissions and the composition thereof originated in S. 533 as reported by the Committee on Governmental Affairs and passed by the Senate, in H.R. 3471, on July 12, 1988, and arose out of recommendations made by the Veterans' Affairs Committee to that committee. The provisions originally reported in and passed by the Senate would have required the

appointment of Commissions of up to 14 members, including four representatives of veterans served by VA. The provisions finally enacted relating to the size and composition of these Commissions represent the end point of extensive negotiations between House and Senate conferees, one of whom I was privileged to be, on this issue among others. Thus, this provision now represents a further effort to put forward, and secure House reconsideration of, the original Senate position as to the makeup of these search Commissions.

NAMING THE LEAVENWORTH, KS, VA MEDICAL CENTER AS THE "DWIGHT D. EISENHOWER DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER"

Mr. President, the committee amendment includes a provision, offered on behalf of the distinguished senator from Kansas [Mrs. KASSEBAUM], which would designate, upon enactment, the Leavenworth, KS, VA Medical Center, as the "Dwight D. Eisenhower Department of Veterans Affairs Medical Center," and would provide that any reference to this Medical Center in law, regulation, or other U.S. document shall be considered to be a reference to the "Eisenhower" VA medical center.

Mr. President, the life accomplishments of former President Dwight D. Eisenhower are far too numerous and our time too limited to elaborate on all of them here. As the Senator from Kansas pointed out in the introduction of S. 1404, a bill to name the Department of Veterans Affairs Medical Center in Leavenworth, KS, for Dwight D. Eisenhower, the renaming of the Fort Leavenworth facility is fitting for two reasons.

First, President Eisenhower had very close ties with the State of Kansas. In the town of Abilene, KS, where he was born and raised, can be found not only the Eisenhower Museum and Library, but also his family home and final resting place.

Second, next year will commemorate the 100th anniversary of President Eisenhower's birth. Therefore, the renaming of the Leavenworth VA Medical Center in his honor would certainly seem a most appropriate way to bestow further honor and tribute on this great American who served his country so admirably.

Mr. President, I would note that this proposed naming of the Leavenworth facility complies with the Rules of Procedure of the Committee on Veterans' Affairs—as amended February 3, 1989—including the requirement that the pertinent State department or chapter of each congressionally chartered veterans' organization having a national membership of at least 500,000 has indicated in writing its support of the proposal.

I ask unanimous consent that a copy of recent letters from the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, and the American Veterans of World War II, Korea, and Vietnam, supporting the proposed naming be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

TECHNICAL CHANGES REGARDING THE COURT OF VETERANS APPEALS

Mr. CRANSTON. The committee amendment includes two provisions I am offering with Senator MURKOWSKI relating to the new United States Court of Veterans Appeals. Both were requested by Chief Judge Frank Q. Nebeker in a letter of September 18, 1989. The first provision would amend section 4061(a)(2) of title 38, relating to the scope of the court's powers, so as expressly to authorize the court to compel actions that have been "unreasonably delayed," as well as, under current law, to compel actions that have been "unlawfully withheld." This change would parallel the comparable judicial-review provision in the Administrative Procedure Act, section 706(1) of title 5, United States Code. Second, our amendment would empower judges of the court to administer oaths, a power given to the Court of Military Appeals, 10 U.S.C. 936, and the Tax Court, 26 U.S.C. 7456, the most clearly analogous courts.

Mr. President, I concur with Chief Judge Nebeker that these changes are appropriate to clarify the court's powers.

CONCLUSION

Mr. President, it has been a pleasure to work with Senator MURKOWSKI and all the members of the committee in the development of this comprehensive legislation. I want to note the contributions of, and thank, the committee staff members who have worked so very hard on this legislation—on the minority staff, Lisa Moore, Chris Yoder, Laura Stepovich, Todd Mullins, Vic Reston, and Al Ptak; Roy Smith, who so ably provides editorial support to the committee; Bob Baney, on detail to the committee from the General Accounting Office, who worked so effectively on the provisions relating to VA's Security Service, and, on the majority staff, Sandi Isaacson, Darryl Kehrer, Michael Cogan, Thomas Tighe, Elizabeth Beuchler, who left the committee staff at the end of July, Erin McGrath, Jodi Epstein, Mike Cuddy, Brett Hansard, Charlotte Hughes, Sharon Blackman, Claudia Kashin, Bill Brew, Ed Scott, and Jon Steinberg.

Mr. President, I am delighted that we have been able, once again, to develop a truly bipartisan measure that will fulfill our commitment to ensure that compensation and DIC benefits for this Nation's service-connected-disabled veterans and the survivors of those who have died from service-connected causes are protected from the effects of inflation, that will help to maintain and improve the quality and efficiency of health-care services provided to eligible veterans, and that will provide needed safeguards for and improvements in VA programs.

Mr. President, I urge the Senate's approval of the pending legislation.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, May 10, 1989.

Hon. EDWARD J. DERWINSKI,
Secretary of Veterans Affairs,
Washington, DC.

DEAR ED: In the face of the current severe budget shortfall in the Department of Veterans Affairs health-care system, there has been renewed discussion of the desirability of legislation permitting VA to retain some or all of the amounts it collects as a result of third-party reimbursement rather than requiring VA to submit these payments to the U.S. Treasury, as it must under current law. I am writing to explain why I was strongly opposed to this approach during consideration of the legislation enacted in the Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law 99-272, and why I continue to believe that legislation to allow VA to retain third-party payments is very ill-advised.

I can understand why it may seem logical and fair, upon initial analysis, for VA itself to utilize the third-party payments for care given in VA facilities. However, in practical and operational terms, the funds collected would not be a source of additional support for the VA health-care system. Rather, if VA were authorized to retain these funds, VA budget requests and appropriations would be reduced by an amount equal to the amount anticipated to be collected. Moreover, I believe there is a substantial probability that the reductions would significantly exceed the amounts of the collections. Let me explain why.

If there were VA retention of third-party reimbursements, the Administration's request for VA appropriations for a coming fiscal year would be reduced by the amount estimated to be collected. This is not speculation; it is exactly what the Office of Management and Budget has made clear to VA that it would do (most recently stated by VA in Dr. Gronvall's testimony at the April 12, 1989, House Veterans' Affairs Committee Hospitals and Health Care Subcommittee hearing). This would almost certainly result in VA being put in the position of trying to provide health-care services at the program level contemplated in its budget request, as possibly amended by the Congress, but having to do so with a reduced appropriations level. VA would thus be forced to depend on its ability to make the collections at the OMB-projected rate in order to make up the difference.

In addition, because the OMB consistently overestimates the amount of third-party reimbursements to be collected, this legislation would give OMB the power to bring about a decrease in VA's overall medical care budget by projecting greater amounts of third-party collections than VA would actually receive. For example, the OMB estimate of third-party payments for FY 1990 is $304 million while VA's own estimate of these payments is only $136 million. If VA were authorized to keep the money it col-

lects, rather than depositing it in the Treasury, and it eventually collected only the amount it estimated it will, total VA funds available for health care for FY 1990 would be decreased by $168 million. Such a result would aggravate an already desperate VA health-care budget situation.

I am aware of some efforts to try to draft legislation to prevent OMB from taking the steps I have described. I seriously doubt whether any legislation could be effective in that regard.

Thus, although I have strongly advocated increased funding for VA health care, I continue to reject the desirability of VA's retaining third-party reimbursements. Ironically, this seemingly "free" money could, and I believe almost certainly would, hurt VA more than it would help.

I welcome your views on this and other issues as I continue in my efforts to maintain the high quality of VA health-care.

With warm regards,

Cordially,

ALAN CRANSTON,
Chairman.

PARALYZED VETERANS OF AMERICA,
Washington, DC, June 15, 1989.

Hon. ALAN CRANSTON,
Chairman, Senate Committee on Veterans' Affairs, Russell Senate Office Building, Washington, DC.

DEAR SENATOR CRANSTON: On behalf of the members of Paralyzed Veterans of America, I whole heartedly support your position regarding opposition to the Department of Veterans Affairs retaining any funds accrued through third party reimbursements. As you so clearly articulated in your letter of May 10, 1989, such a policy would work to the detriment of the veterans' healthcare system and would further weaken its already tenuous financial viability.

If third party receipts were a source of DVA operating funds this fiscal year the Department would be in even a more perilous financial position than it currently is. This year's funding shortfall has resulted in the curtailment of services to Category "A" and "B" veterans. This action would reduce the projected receipts from third party payers thereby further exacerbating the shortage of DVA operating funds.

Again, PVA agrees completely that third party payments should not accrue to the Department of Veterans Affairs. DVA should receive all needed appropriations with receipted funds going directly to the Treasury. We sincerely appreciate your continuing leadership in this and other issues of concern to this Nation's veterans.

Sincerely,

GORDON H. MANSFIELD,
Associate Executive Director for Government Relations.

VIETNAM VETERANS OF AMERICA, INC.,
Washington, DC, May 17, 1989.

Senator ALAN CRANSTON,
Chairman, Senate Veterans Affairs Committee, Russell Senate Office Building, Washington, DC.

DEAR CHAIRMAN CRANSTON: Thank you for your letter of May 10, 1989 in which you provided an analysis of the relative liabilities of depositing funds, derived from third party reimbursements within the DVA health care function rather than in the U.S. Treasury. This subject has recently arisen in connection with legislation introduced by Senator Murkowski to authorize DVA collections from third party insurers of disabled veterans being treated for non-service connected disabilities.

On initial review of that legislation, we were of the opinion that redirecting third party reimbursements from the Treasury to DVA health care was a prudent move given the DVA's shortfall in health funding. On closer examination, however, and in further discussion of this matter with Senator Murkowski's committee staff, we arrived at the same conclusion you reached in your May 10 analysis.

Moreover, we are now fully prepared to oppose the rerouting of funds derived from third party reimbursements from the Treasury to the DVA's health care operations. Should you need some directed assistance in preventing this change, please feel free to contact Paul S. Egan, our Legislative Director.

Sincerely,

MARY R. STOUT,
National President.

THE AMERICAN LEGION,
Washington, DC, May 17, 1989.

Hon. ALAN CRANSTON,
Chairman, Senate Veterans Affairs Committee, Russell Senate Office Building, Washington, DC.

DEAR CHAIRMAN CRANSTON: This is in response to your May 10 letter regarding VA retention of third party reimbursement payments for health care provided to certain veterans in VA medical facilities.

As you know, The American Legion remains opposed to the concept of third party reimbursement. Prior to its enactment as a budget reconciliation device in 1986 we opposed it for several reasons, to include the basic concern expressed in your letter.

We believed then, and continue to believe today, that the Office of Management and Budget would attempt to reduce VA medical care budgets by the annual amounts of its projected revenues in reimbursement payments. Having learned from experience, we were convinced that OMB would artificially inflate those projections for the specific purpose of recommending lower spending levels for VA medical care. This, in fact, has happened and continues to happen.

Our organization certainly shares your concern over legislative proposals that would authorize VA to retain third party payments. While they appear initially to offer VA a financial advantage we are convinced that such a budgetary arrangement would provide OMB more leverage in its annual attempt to restrict veterans health care funding.

Mr. Chairman, we appreciate your attention to this matter. You can be sure that we will closely monitor any proposal that seeks to change the current budgetary treatment of third party reimbursement payements.

Sincerely,

MYLIO S. KRAJA,
Executive Director.

EXHIBIT 2

THE AMERICAN LEGION,
Topeka, KS, July 7, 1989.

Senator NANCY KASSEBAUM,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR KASSEBAUM: Enclosed is a copy of Resolution number 10 approved by The American Legion, Department of Kansas, on May 21, 1989. This resolution calls for the renaming of the Leavenworth VA Medical Center in Leavenworth, Kansas in honor of Dwight D. Eisenhower.

As you may recall, you helped The American Legion in this same cause several years ago; however, the Disabled American Veterans were against the change; therefore, the task could not be completed. However, The American Legion has again passed this resolution and, we convinced both the Veterans of Foreign Wars and the Disabled American Veterans to approve similar resolutions during their respective State Conventions which took place recently.

Since 1990 will mark President Eisenhower's Centennial, The American Legion believes it a fitting tribute to rename the Leavenworth VA Medical Center as a part of the year long observance planned. We would like to hold the rededication ceremonies on January 29, 1990 which marks the beginning of Kansas' Eisenhower Centennial Celebration. Therefore on behalf of The American Legion, Department of Kansas, I ask you to take whatever steps necessary to implement such a tribute to President Eisenhower.

Sincerely,

CHUCK YUNKER,
Department Adjutant.

RESOLUTION No. 10

Whereas the citizens of Kansas, including thousands of Kansas Veterans who served in the Armed Forces under him, are proud of Dwight David Eisenhower, thirty-fourth President of the United States and Five Star General of the Army; and

Whereas Abilene, Kansas was home to the Eisenhower family and was chosen as the site of the Dwight David Eisenhower Library and his final resting place; and

Whereas the Command and General Staff School at Fort Leavenworth, Kansas played a large roll in "Ike's" career; and

Whereas a fine Veterans Medical Center is located in Leavenworth, Kansas; and

Whereas the Staff of the VA Center at Leavenworth is heartily in favor of changing the name of the Center to honor "Ike"; and

Whereas it would seem only right and proper that a facility dedicated to serving Veterans and located in an area closely associated with "Ike's" career should bear his name as a continuing reminder of the high esteem in which "Ike" is held by all veterans; and

Whereas the Centennial of "Ike's" birth will be celebrated in 1990 and his service to our nation meets the criteria required to have a Veterans's Administration Medical Center named in his honor; now, therefore, be it

Resolved by The Kansas Department of The American Legion in regular Convention assembled in Topeka, Kansas, May 21, 1989, That action be taken by the Department of Kansas to rename the Veterans Administration facility in Leavenworth, Kansas, as the Dwight David Eisenhower Veterans Administration Center; and be it

Further resolved, That such action include as a first step, informing the Kansas Congressional Delegation, the Governor of Kansas and other Veterans Organization of the intent of this resolution and asking for their support of our efforts; and be it

Further resolved, That the national Organization of The American Legion be advised of this Resolution and asked to lend their support to our efforts.

VETERANS OF FOREIGN WARS OF THE UNITED STATES, DEPARTMENT OF KANSAS,

August 2, 1989.

Hon. NANCY KASSEBAUM,
U.S. Senator, Washington, DC.

DEAR SENATOR KASSEBAUM: Thanks for your recent telephone call and the news on the proposed renaming of the VA Medical Center at Leavenworth, Kansas.

We certainly appreciate the opportunity to have a part in this governmental process.

At our State Mid-Summer Meeting we voted our support for the name change to Dwight D. Eisenhower Medical Center.

It was also brought out at the meeting by Past State Adjutant Quartermaster Barney M. Aldridge of Topeka, that in 1980, when the VA Center here in Topeka was renamed, the Veterans of Foreign Wars submitted two names and the American Legion also submitted names for the committees' consideration.

In the final selection on the name of Colmery-O'Neil, the V.F.W. was assured by verbal agreement that if the V.F.W. supported the name of Colmery O'Neil, the next name change in Kansas would be selected from names submitted by the Department of Kansas, Veterans of Foreign Wars.

This verbal agreement was made between Ernest Garcia of Senator Dole's office, V.F.W. Representative Cooper T. Holt of the V.F.W. Washington D.C. office and Troxal K. Mellinger, then Commander of the Kansas V.F.W.

If and when the Wichita VA Medical Center is renamed, we would appreciate your support concerning this agreement.

We appreciate your support on Leavenworth, and look forward to working with you in the future.

Sincerely,

DARRELL F. BENCKEN,
Adj.-Qm., Department of Kansas, V.F.W.

DISABLED AMERICAN VETERANS,
DEPARTMENT OF KANSAS,
June 26, 1989.

Senator BOB DOLE,
Hart Building, Washington, DC.

DEAR SIR: Enclosed is a copy of Resolution passed by The Disabled American Veterans at their Annual Convention June 11, 1989.

Sincerely,

ELMER E. SPILLMAN,
Adjutant.

TOPEKA, KS.

DISABLED AMERICAN VETERANS DEPARTMENT OF KANSAS—RESOLUTION

Whereas the citizens of Kansas, including thousands of Kansas Veterans who served under him, are proud of Dwight David Eisenhower, thirty-forth President of the United States and Five-Star General of the Armies; and

Whereas Abilene Kansas, home to the Eisenhower family, is the last resting place of the former General/President and the location of the Eisenhower Library, and

Whereas the Centennial of "Ike's" birth will be celebrated in 1990; and

Whereas is only right and proper the oldest Veterans Administration Medical Center in Kansas, Leavenworth VA Center, located near the historic Forth Leavenworth US Army Command and General Staff School, where The General was once assigned, be renamed as the; Dwight David Eisenhower, Veterans Administration Medical Center, and

Whereas the staff of the Leavenworth VA Center, and the other major veterans organizations support this effort, now therefore, be it

Resolved by the 1989 Department of Kansas Convention of the Disabled American Veterans; assembled in Topeka, Kansas, June 11, 1989, That full support be given to this renaming, and, be it

Further resolved, That the Department of Kansas, Disabled American Veterans, inform our two United States Senators, our five United States Congressmen, and the other veterans organizations of the intent of this Resolution and ask for their assistance and support.

DEPARTMENT OF KANSAS,
September 18, 1989.

Hon. JIM SLATTERY,
Member, House of Representatives, Washington, DC.

DEAR MR. SLATTERY: We, the AMVETS Department of Kansas, are in support of HR 2987 that would change the name of VA Medical Center at Leavenworth to the Dwight David Eisenhower Medical Center.

If we can be of further assistance to you, please feel free to contact us.

Sincerely yours,

ROBERT E. PITTS,
Commander, AMVETS.

BURRTON, KS.

Mr. DASCHLE. Mr. President, I am pleased that the Senate Committee on Veterans' Affairs has endorsed my flight training legislation by including it in the committee amendment to S. 13, the Veterans Benefits and Health Care Act of 1989. As my colleagues know, I have been working for a number of years to reinstate flight training benefits for eligible veterans under the Montgomery GI bill, and this legislation brings us one step closer to realization of that goal.

The flight training component of the committee amendment addresses two major concerns facing our Nation—veteran unemployment and pilot shortages. I believe it addresses these concerns in a reasonable, cost-effective manner.

There is a significant need to expand employment opportunities currently available for veterans. It is a national tragedy that one of every three homeless people on the street is a veteran. Lack of adequate job training is one of the primary contributors to this tragedy.

The authorization of flight training benefits is certainly not a panacea for veterans' employment needs. But common sense dictates that if we do a better job of matching the skills and interests of our veterans with vocations currently in demand, we will reduce the number of veterans unable to find jobs. That is why I believe the Montgomery GI bill will be strengthened by the authorization of flight training benefits.

I know my colleagues are aware that America is facing a serious pilot shortage. The Future Aviation Professionals of America [FAPA] has quantified that shortage. FAPA reports that in the next decade, America will need to fill approximately 32,000 jet pilot positions and up to 30,000 nonjet regional airline pilot positions.

This demand for pilots cuts across all segments of the aviation industry. The University of North Dakota's Center for Aerospace Sciences estimates that by the year 2010, 240,000 pilot positions will need to be filled. The majority of these openings will be for commuter pilots, not airline captains.

Similarly, the Aircraft Owners and Pilots Association [AOPA] has stressed that the Nation's 80,000 to 120,000 nonairline positions—such as air ambulance pilots, crop dusters, and corporate pilots—are facing the same shortage as the rest of the industry. AOPA reports that current-level efforts to train commercial and instrument pilots will leave us with a shortfall of over 4,000 pilots as early as 1992.

The pilot shortage has been caused by a number of factors. A review of pilot training over the last 15 years tells part of that story. Student pilot starts have dropped by 30 percent. Instrument rating issuances are down 49 percent. And commercial pilots certificates issued are down a staggering 58 percent.

These dramatic decreases in pilot training coincide with an 11-percent increase in the average age of commercial pilots. Within the next 10 years, we can expect to lose nearly 2,000 pilots annually due to retirement.

These statistics add up to one indisputable conclusion—America is faced with a pilot shortage of drastic proportions. The problem is exacerbated by the fact that current methods of training pilots simply cannot meet this demand.

This fact was the subject of a hearing before the Senate Commerce, Science, and Transportation Subcommittee on Aviation this summer. In chairing that hearing, Senator WENDELL FORD, my distinguished colleague who has been a strong supporter of flight training benefits for many years, emphasized the need for our Nation to address that growing shortage. I want to extend my thanks to my good friend from Kentucky for his leadership and help in bringing authorization of flight training benefits one step closer to reality today.

It is with these concerns in mind that I drafted the flight training amendment. The amendment authorizes flight training that meets FAA standards required of all flight programs. Further, it enables veterans to use the training methods that are available to them by region as well as the type of training that will address all aspects of the pilot shortage. The amendment offers a comprehensive approach to an extensive problem.

In the past, some have expressed reservations about previous flight training measures due to concern that the benefits might be subject to abuse.

In response to this concern, additional safeguards were written into the flight training amendment I offered on the Senate floor last year. That amendment received overwhelming support when it was incorporated into the Veterans' Benefits and Programs Improvement Act of 1988. Nevertheless, doubts lingered in some people's minds, and the spectre of abuse cited in outdated studies and the press of legislation close to adjournment prevented House acceptance of the amendment in conference.

I am pleased that we are considering the flight training issue early enough in the 101st Congress to allow it to receive thorough scrutiny free from the artificial pressure of congressional adjournment. I am also pleased to report that significant steps have been taken to further address Members' concerns about the potential for abuse of flight training benefits.

In an effort to clarify the intent of the flight training amendment and further tighten the safeguards against abuse, I have worked closely with my colleague from Alaska, Senator FRANK MURKOWSKI, the ranking minority member of the Senate Veterans' Affairs Committee. Through our combined efforts, we have reached a solution that will make flight training benefits available, but eliminate one of the most easily abused components of flight training.

Eligibility criteria for receiving flight training benefits remain the same as in last year's amendment; individuals must have a valid pilot's license, meet the medical requirements for a commercial pilot's rating, and be pursuing training recognized as being necessary to obtaining a vocation in the aviation industry—training that must be authorized by the Federal Aviation Administration and the State Approving Agency. There is an additional stipulation, however, addressing the concern that, under previous flight training benefits, pilots were reimbursed for flight time that was not related to actual training, but rather was accumulated in the course of a pilot's private business travel or as recreational flying.

Although substantial efforts were made last year to address this concern, this potential program abuse was recognized by some as one of the major obstacles to reinstatement of flight training benefits. Through the elimination of reimbursement to program participants for time spent accumulating solo flight hours, a bipartisan agreement has been reached that will allow veterans to receive flight training benefits and, at the same time, allay the fears that program funds might be spent on vocational flying.

Finally, as a 4-year test program with a mandated department review, this flight training program contains its own checks and balances. I am confident that, as written, there will be overwhelming support for reauthorizing these benefits through 1994.

Mr. President, I am encouraged by discussions I have had with key House Members regarding flight training. I am very hopeful that, when S. 13 reaches the House/Senate conference flight training will be retained in the final legislation.

Before closing, I would be remiss if I did not acknowledge the contribution the distinguished chairman of the Senate Veterans' Affairs Committee, Senator ALAN CRANSTON, has made to promotion of my flight training amendment. Senator CRANSTON has worked with me for 2 years on this legislation, and his advice and counsel have been indispensable to the effort to reauthorize flight training benefits.

Mr. President, I look forward to the Senate's favorable consideration of this Committee amendment that will bring both new employment opportunities for America's veterans and a new generation of pilots for our aviation industry.

VETERANS BENEFITS AND HEALTH CARE ACT OF 1989

Mr. GRAHAM. Mr. President, I rise today in support of S. 13 and commend the distinguished chairman and ranking minority member of the Senate Veterans' Affairs Committee for their work on this comprehensive legislation. I am pleased with the policy directions this bill takes in a number of areas and would like to highlight particular provisions in this bill which I strongly support.

Section 213 of the committee bill establishes a pilot program for noninstitutional care as an alternative to nursing homes. Florida is facing a severe shortage of nursing home beds. Federal and State budget pressures will make it difficult to keep pace with demand. Any opportunities for developing alternatives to nursing home care should be explored, not only for financial reasons but, as I am sure all will agree, nursing home care is neither appropriate or necessary for every aging person.

Second, Mr. President, section 214 of the committee bill extends and improves the preventive health care programs of the VA. Everyone agrees that preventive health care saves lives and money. With the fastest aging veteran population, Florida has a real interest in providing our veterans with preventive care.

This provision will expand the categories of veterans eligible for such services and require that these veterans annually be offered a minimum of two preventive health-care services when they are receiving other treatment or care. It will also require the VA to annually implement at all VA health-care facilities a major health promotion initiative.

Third, I am very pleased with the provisions in this bill improving efforts to recruit and retain quality health care professionals in the VA health care system. One of the underlying problems causing delay and denial of services to eligible veterans is the lack of manpower in veterans' health care facilities. While there is a nursing shortage in the health-care industry nationwide, the VA seems to have particular difficulty attracting nurses because it generally offers below-market salaries. Sections 251-270 establish much-needed salary, benefits, training and continuing education policies.

Title III of S. 13 makes a number of improvements in veterans education and employment programs. I would like to highlight section 309 which authorizes the Secretary of Labor to furnish employment and training information to military personnel separating from the armed services. The overall goal of this project is to ease the veteran's transition from military life to the civilian work force.

In Florida, we have seen how such a program not only benefits the veteran but also public and private sector employers. In the early 1980's, the State of Florida created an interagency task force to recruit military personnel leaving active-duty service to fill a variety of skilled labor positions, such as math and science teaching and electrical engineering. This task force, under the auspices of the Florida Department of Education's Career Development Services, launched an advertising campaign in military journals and at military-discharge centers encouraging personnel to locate in surrounding communities needing skilled labor.

The program was eventually transferred to the Florida Department of Labor and Employment Security and established as the military retiree skills bank. With the assistance of the Department of Defense, the Department of Labor developed a computer data base with 3,000 names of people with high-technology skills who were planning or had recently undergone separation from the military. Each person received a letter from the Governor offering placement assistance in skilled labor positions. The job bank information was also available for public and private sector entities in search of skilled labor.

Increased emphasis on the services provided by this type of program in matching skilled labor to industry and public sector needs can be expected to become increasingly critical in the coming years as the skilled-labor supply continues its current decline.

Title V of S. 13 addresses memorial affairs. Arlington National Cemetery is place of honor for deceased veterans. Its history dates back to 1864. Unfortunately, it is anticipated that all

in-ground plots will be exhausted by the year 2020 and that the columbarium for cremated remains will be exhausted by 2029.

Mr. President, section 502 of S. 13 includes provisions I introduced in S. 1141 to set aside an appropriate area in Arlington Cemetery, not suitable for the burial of casketed remains, for the unmarked internment of the cremated remains of persons eligible for internment in the cemetery. The area, already being designed under the leadership of the Secretary of the Army, will include a memorial wall with the names of those choosing this burial option. I commend my distinguished colleague from the State of Florida, Congressman CHARLIE BENNETT, for originating this idea and am pleased to have worked with him to secure Senate approval for this plan.

Finally, Mr. President, I would like to express my support for a provision in the committee amendment to S. 13 that will help achieve savings for the Government. The amendment requires the VA to contract with a private firm for the recovery of costs for VA-furnished care provided to certain veterans with health insurance.

Currently such reimbursement is authorized for the care of non-service-connected disabilities. This amendment extends the authority to include reimbursement for the cost of VA-furnished care in the cases of those whose service-connected disabilities are rated at 20 percent or less.

Many veterans have private health insurance provided through their employers. The veteran and his or her employer is paying for this coverage, yet the Government is paying for their health care. Considering the fiscal constraints the VA is experiencing in the delivery of health care, we must look at every opportunity for savings which do not jeopardize veterans services.

This amendment will not affect veteran eligibility for health care. Further, this amendment will not reduce the VA budget and appropriations requests. The amendment specifically states third-party reimbursements collected would go to the general treasury rather than the VA, and thus the VA budget request should not be lowered.

Again, I commend the Senator from California and the Senator from Alaska for their diligent work on S. 13 and am proud to be a cosponsor of this legislation.

THE VETERANS BENEFITS AND HEALTH CARE ACT OF 1989

Mr. MATSUNAGA. Mr. President, I rise in support of S. 13, the Veterans Benefits and Health Care Act of 1989. This omnibus bill comprises seven titles and nearly 90 active provisions designed to improve health, education, compensation, and loan programs for the Nation's 27 million veterans.

Major features of this legislation include the following:

Full disability and dependency and indemnity compensation cost-of-living allowances [COLA's] equal to that provided for Social Security and VA pension annuitants;

Priority care for veterans suffering from post-traumatic stress disorder [PTSD];

Recruitment and retention incentives for scarce health care professionals such as nurses;

Extension of the veterans readjustment appointments authority for an additional 2 years;

A 9.5-percent COLA in service-connected disabled veterans' rehabilitation subsistence allowance;

Establishment of a new home loan guaranty fund; and

Provisions for purchase of additional home loan guarantee entitlements.

Mr. President, I am pleased that the committee has seen fit to create a separate title in the bill for three provisions designed to improve services and benefits for minority veterans which are derived from measures that I introduced earlier this year. The first provision, section 601, would require the Secretary of Veterans Affairs to assign to an Assistant Secretary responsibility for assessing the effects of VA policies and activities on minority veterans, and for coordinating and monitoring policies facilitating the access of such veterans to VA benefits and services. It is clear from reports the committee has received that minority veterans have special problems and needs that are not being addressed by the VA. By placing oversight responsibility for minority veterans at the Assistant Secretary level, the committee hopes to ensure that concern for native American, Hispanic, black, Asian-, Pacific-Islander, and women veterans is institutionalized at the highest policymaking levels. I am extremely pleased that the original legislation on which this section is based is cosponsored by Senators from both sides of the aisle, including the chairman and ranking minority member of the committee, Senators CRANSTON and MURKOWSKI, who each made numerous material improvements to its form and content.

The second provision, section 602, would reestablish the VA's advisory committee on native American veterans for an additional 2 years. Since its creation in 1986, the advisory committee has provided the VA and Congress with important information concerning the problems and needs of a unique class of veterans. By reestablishing the committee, Congress would ensure the continued existence of an important mechanism for considering and assessing the situation of Indian veterans. Moreover, the advisory committee would serve as an important, primary resource for the Assistant Secretary who would eventually be assigned responsibility for minority oversight, as called for under section 601.

The third provision under the minority affairs title, section 603, would require the VA to conduct a study to determine whether native American, Native Alaskan, and Pacific Islander veterans residing on trust or communally owned lands experience difficulty in obtaining VA home loan benefits, and, if so, to propose administrative, regulatory, or legislative changes to address the problem. The need for this provision is clear: very few, if any, veterans residing on reservations or other trust lands have been able to receive VA guaranteed home loans. This is primarily because of the nontransferrable nature of trust land, which makes it unsuitable for collateral, and the low economic status of those residing on reservations, which disqualifies loan applicants on income insufficiency grounds. It is my hope that the study will lead to changes, including the limited reopening of the VA's moribund Direct Loan Program, that will permit veterans residing on reservations and other trust lands to own their own homes in their own communities.

Mr. President, another provision affecting minority veterans is included under the health care title of the bill, and is based on legislation I introduced earlier in the session as well as in the 100th Congress. I refer to section 206, which would require the National Center on PTSD to conduct a study of the extent to which, and the degree of effectiveness with which, the Department reaches out to, and furnishes treatment to, certain minority Vietnam veterans who suffer from PTSD or other psychological problems, and who were not adequately sampled in the VA's recently completed national Vietnam veterans readjustment study [NVVRS]. The committee has received evidence indicating that veterans from certain ethnic and cultural backgrounds may have wartime experiences and reactions that are qualitatively different from that of white veterans, and therefore may require the development of unique outreach and treatment regimes to meet their readjustment needs. Implementation of section 206 would permit the VA to assess the effectiveness of its outreach and treatment of such veterans in a clinical research setting.

In closing, Mr. President, I wish to commend Senator CRANSTON, the chairman of the Veterans' Affairs Committee, for the leadership he has exhibited in managing to bring this large but carefully constructed bill to the Senate floor. Year after year, the senior Senator from California holds countless hours of hearings on every conceivable subject that may relate to the welfare of the Nation's veterans.

And, year after year, he develops new initiatives or modifications to existing programs to improve the services and benefits that our Government provides to veterans. This year is no exception. I commend him for his energy, patience, and, most of all, his continuing commitment to veterans.

I also want to commend Senator MURKOWSKI, the ranking minority Member, whose sense of bipartisanship has made committee deliberations a fruitful, cooperative enterprise.

Last, I would be remiss if I did not recognize the efforts of the majority and minority committee staffs, headed by Jon Steinberg and Alan Ptak, respectively, which have worked hundreds of hours to produce the carefully refined legislative product before us today.

Mr. President, I urge my colleagues to support the pending bill. I yield the floor.

Mrs. KASSEBAUM. Mr. President, it is with great honor that I introduce this amendment to S. 13, the Veterans Benefits and Health Care Act of 1989. I am doubly honored that my colleague Senator DOLE is joining me as a cosponsor. This amendment will designate the Veterans Administration Medical Center at Leavenworth, KS, as the "Dwight D. Eisenhower Department of Veterans Affairs Medical Center." First, President Eisenhower had very close ties with the State of Kansas. In the town of Abilene, KS, can be found not only the Eisenhower Museum and Library, but also his family home and final resting place.

Second, next year will commemorate the 100th anniversary of President Eisenhower's birth. As members of the Eisenhower Centennial Commission, Senator DOLE and I will be engaged in a number of activities throughout the country. In that regard, the renaming of the Leavenworth hospital in "Ike's" honor would certainly be appropriate.

As I mentioned before, President Eisenhower had very deep Kansas roots. Raised and schooled in Abilene, he graduated from Abilene High school and began his celebrated military career soon thereafter by attending West Point Military Academy. In order to hone his military planning and leadership skills, Ike returned to Kansas to attend the Command and General Staff Course at Fort Leavenworth. From there, one need only refer to basic U.S. history texts to learn of General Eisenhower's achievements and contributions to a nation he dearly loved. Assuming command of the European theater during World War II, he led the greatest amphibious operation in battle history, the Normandy invasion.

His achievements as President of the United States were equally historic, and he proved to be one of the most popular Presidents of all time. His Midwestern roots can be found in the legacy of his Presidency: a genuinely bipartisan domestic and foreign policy; a Federal Government living within its means; significant international exchanges founded on the notion that reasonable and sound negotiation can be effective; and a national commitment to education, science and technology. He was a decent and good-humored man, a strong leader, with a vision both practical and far sighted.

For these reasons, I believe designating the Leavenworth VA Hospital in President Eisenhower's honor would be a fitting tribute.

Mr. MURKOWSKI. Mr. President, as ranking minority member of the Committee on Veterans' Affairs, I rise today in support of S. 13, as reported by the committee. This bill, the Veterans Benefits and Health Care Act of 1989 proposes to make significant improvements in veterans' benefits and health-care programs administered by the Department of Veterans Affairs [VA]. I am pleased to support this bill and I urge my colleagues to do to.

S. 13, as reported contains six titles: compensation and pension, health care, education and employement, home loan, memorial affairs, minority affairs, and miscellaneous. I believe this bill is one of the most comprehensive veterans' bills ever considered by the Senate. I will not discuss each of the over 100 provisions contained in S. 13. I refer my colleagues to Senate Report No. 101-126 for the details of each provision. However, I will briefly highlight a few provisions of special interest to me.

COST-OF-LIVING INCREASE

Mr. President, S. 13 would provide a cost-of-living adjustment [COLA] to be effective December 1, 1989, for the 2.19 million veterans receiving compensation for disabilities and illnesses incurred or aggravated while they were on active duty. The COLA would be equal to the percentage that will be provided for Social Security and VA pension recipients. The COLA is currently estimated to be 5.2 percent. The same COLA would be paid to dependents and survivors of those who died on active duty or as result of a service-connected disability.

HEALTH CARE

Mr. President, the health care provisions relate to several primary issues: mental health, extension and expansion of certain VA general health-care programs, and health-care personnel issues.

RECRUITMENT AND RETENTION

Mr. President, this bill contains many provisions which are designed to improve VA's ability to attract and retain health-care personnel, particularly registered nurses. VA, like its counterparts in the Department of Defense and the private sector, is feeling the effects of the nursing shortage. The real solution is to increase the pool of individuals who want to be nurses. In my view, this must begin at the junior and high school levels. However, in the mean time the health-care industry must address the shortage in a variety of ways. This bill attempts to address educational and pay issues. Although I do not support every provision in this portion of the bill, I am hopeful that my concerns can be addressed in the conference process.

TOBACCO AUTHORITY

Mr. President, S. 13 contains a provision which would repeal the Secretary of Veterans Affairs authority to provide free tobacco products to veterans receiving hospital or domiciliary care. I believe the current VA authority authorizing the Secretary to furnish such tobacco products to hospitalized veterans to be inconsistent with current VA practice. VA has not utilized this authority in over 20 years. We are living in a health conscious environment and in light of the information regarding the health hazards associated with smoking, I believe this provision makes a lot of sense.

This repeal would not prohibit the VA from selling tobacco products—that general authority will remain in section 4201 of title 38. This provision would, however, delete specific statutory reference regarding the furnishing of free tobacco to veterans in hospitals and domiciliaries.

NONINSTITUTIONAL CARE

Mr. President, I am please that the committee bill includes a provision which requires VA to conduct a 4-year pilot program of furnishing, under contract, health, rehabilitative, and health-related services in noninstitutional settings. Health-related services would include such things as homemaker, transportation, and bathing/dressing assistance. Specifically, this provision would authorize VA to furnish such services to veterans who are eligible for, and otherwise in need, of nursing home care; and are either receiving or needing that care primarily for the treatment of a service-connected disability, or have service-connected disabilities rated at 50 percent or more.

Let me describe a case of a veteran who would be assisted by this provision. An Alaskan veteran is in need of, and receives, community nursing home care for the treatment of a service-connected disability. VA is paying for his care and will do so indefinitely because he needs care for his service-connected disability. His care costs VA $8,000 per month. This veteran's family wants him at home. They are willing to take the responsibility of caring for him but will need some help. This family cannot understand why VA lacks the legal authority to provide such services at home but will pay $8,000 monthly to keep him insti-

tutionalized. This provision would correct that situation by authorizing VA to pay for health-related services at the veterans home.

HOME LOAN GUARANTEE

Title IV of the bill would restructure the veterans' home loan program. It would establish a new home loan guaranty fund and provide the fund with ongoing sources of funding to be used for the operation of the program. It would allow veterans who lose their homes due to default and foreclosure to escape the additional burden of debt to VA for the amount of the VA guarantee. It would provide an incentive for veteran homebuyers to make a small downpayment when they buy their homes.

Mr. President, I will not assert that this title is above criticism or that it will solve all of the problems of the Loan Guaranty Program. It is not and it will not.

The bill does little to address the controllable causes of program losses: underwriting, appraisal, loan processing, loan servicing, property acquisition, property management, and property sales. The Congress has passed legislation addressing many of these areas and the committee is now reviewing VA's implementation of these bills. In many areas VA has made commendable progress but there is more to be done.

Nor does the bill completely address the allocation of risks between veterans, lenders, and the taxpayers. Credit risk, the risk that a homebuyer will be unable or unwilling to make his or her payments is partially—up to $36,000 under current law and up to $41,000 under the committee bill—is assumed, in part, by the Government. That is, in fact, the purpose of the benefit. This benefit allows veterans to buy a home even if they have not, because of their service, been able to accumulate the savings necessary for a downpayment or establish the credit history needed to qualify for a downpayment free loan.

The bill does address the risk assumed by the veteran by limiting his or her exposure to the potential loss of the home. If enacted, this bill would eliminate any risk to the veteran that foreclosure will result in additional personnel debt if the house does not provide adequate security to satisfy the loan, accrued interest, and foreclosure costs.

Left addressed only indirectly is the question of allocation of risk and costs between VA and lenders in that situation. This means current practice will continue. Under current practice VA may either pay the lender the entire outstanding loan amount, accured interest, and foreclosure costs or the VA can pay the guaranty—up to $41,000 under the committee bill. In the first case the VA takes possession of and resells the home. VA bears the loss if the value of the home is inadequate. In the second case, the lender gets the house—and the $41,000—but also the expense—and risk—of reselling the house. On a nationwide basis, VA takes possession of the home about 75 to 80 percent of the time.

In a world of stable or rising real estate values this question would not be a major one. But, we can no longer count on living in such a world. In recent times, we have seen declining real estate values in the industrial midwest, in the farm belt and most recently in the oil patch, including Alaska. The Congress has never explicitly considered the extent to which losses on VA-guaranteed loans resulting from declining property values should be transferred to the taxpayers or the extent to which they should be born by lenders, just as they are in the case of a conventional mortgage. Such a decision would have to consider the extent to which lenders influence, through their underwriting, appraisal, servicing, and foreclosure processing actions can influence the amount of losses in individual properties.

The bill does contain a provision which will allow VA to consider a portion of the cost to the Government of borrowing the funds necessary to acquire foreclosed properties when VA acquires a property.

VETERANS READJUSTMENT ACT

Mr. President, I am pleased the bill now before the Senate includes provisions extending the Veterans Readjustment Act [VRA] and expanding eligibility for this program. VRA allows Federal agencies to hire eligible veterans directly, without the delay of the normal civil service hiring system. It thus serves as a benefit to both Federal agencies, who gain disciplined, capable employees by hiring veterans, and veterans, who are provided with an effective tool for obtaining Federal employment.

I am distressed that the bill now before us does not provide eligibility for all compensable service-connected disabled veterans. It does provide eligibility for disabled veterans evaluated 30 percent or higher. However, these veterans already have the benefit of a direct hiring authority and VRA is redundant for them. Approximately half of America's disabled veterans are evaluated either 10- or 20-percent disabled and would receive no benefit from this provision based on their disability. I look forward to the day when the Congress will be able to correct this situation.

CONCLUSION

Mr. President, I do not support every provision in S. 13. My concerns about certain provisions are outlined in additional views which I, together with certain other Republican members of the committee, submitted to accompany the report on S. 13. However, on balance this is a good bill.

Mr. President, in concluding I wish to thank the chairman of the committee, Senator ALAN CRANSTON and the other members of the committee and their staffs. I also thank the outstanding efforts of the majority and minority staffs of the committee for their hard work on this bill. In particular, I wish to acknowledge the work of my most dedicated committee staff including my chief counsel and staff director Alan Ptak, Vic Reston, Chris Yoder, Lisa Moore, Laura Stepovich, Tracy Gourd, Todd Mullins, and Janet Klinger. I further recognize the work of the majority staff including Bob Baney, Sharon Blackman, Bill Brew, Michael Cogan, Mike Cuddy, Jodi Epstein, Sarah Graham, Brett Hansard, Charlotte Hughes, Sandi Isaacson, Claudia Kashin, Darryl Kehrer, Erin McGrath, Joan Orgon, Ed Scott, Pamela Winaker, and the majority chief counsel and staff director, Jon Steinberg, and our fine printers Roy Smith and Charlie Carter. I would also like to take this opportunity to express my thanks to Sandi Isaacson, of the majority staff. She has recently left the committee staff to pursue other endeavors and I wish her the best of luck. My staff and I will miss Sandi's hard work and professionalism.

I urge my collegues to join me in supporting this legislation, I thank the Chair.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Veterans's Affairs be discharged from further consideration of H.R. 901; that the Senate proceed to its immediate consideration; that all after the enacting clause be stricken; that the text of S. 13 be substituted, as amended, in lieu thereof, and the bill be read for the third time, passed, and the motion to reconsider the vote on final passage be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 901), as marked was passed.

Mr. BIDEN. Mr. President, on behalf of Senators CRANSTON and MURKOWSKI, I send an amendment to the title to the desk.

The PRESIDING OFFICER. Without objection, the amendment to the title is agreed to.

The title was amended so as to read:

To amend title 38, United States Code, to increase the rates of disability compensa-

tion and dependency and indemnity compensation for veterans and survivors, to increase the allowances paid to disabled veterans pursuing rehabilitation programs and to the dependents and survivors of certain disabled veterans pursuing programs of education, and to improve various programs of benefits and health-care services for veterans; and for other purposes.

ORDER FOR RECESS

Mr. BIDEN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:40 a.m., Wednesday, October 4, and that immediately following the prayer the Senate stand in recess until 12 noon, to accommodate the joint meeting with the House of Representatives to hear the address by the President of Mexico and that upon reconvening the provisions of the previous unanimous-consent agreement remain in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10:40 A.M. TOMORROW

Mr. BIDEN. Mr. President, if the distinguished Republican leader has no further business and if no Senator is seeking recognition, as I pray they are not, I now ask unanimous consent that the Senate stand in recess until the previously ordered time of 10:40 a.m., Wednesday, October 4.

Mr. SIMPSON. Mr. President, I have no further business, and I commend the chairman of the Judiciary Committee for his work on the bill on which we have been working.

Mr. BIDEN. Mr. President, having had the privilege of standing in for the majority leader on this occasion at this hour, I might add two points. No. 1, I would never like to be majority leader, and I commend the Senator from Wyoming for being willing to take on the responsibility of the whip of the Republican Party and do this almost every evening. Most of us get to go home about 5 hours earlier than this hour on occasion. That is a slight exaggeration, but I seriously commend my colleague from Wyoming for the job that he does and his willingness to do it. I am not going to ask him why he does, but I commend him.

Mr. SIMPSON. I thank the Senator from Delaware. We realize it is the majority leader and the minority leader who do the work. They are the ones who get the brunt of the legislative body. I commend both of them.

There being no objection, the Senate, at 11:57 p.m., recessed until Wednesday, October 4, 1989, at 10:40 a.m.

NOMINATIONS

Executive nominations received by the Senate October 3, 1989:

DEPARTMENT OF STATE

SMITH HEMPSTONE, JR., OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KENYA.

KEITH LEVERET WAUCHOPE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE GABONESE REPUBLIC AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC REPUBLIC OF SAO TOME AND PRINCIPE.

DEPARTMENT OF DEFENSE

ANN CHRISTINE PETERSEN, OF ILLINOIS, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE AIR FORCE. (NEW POSITION—PUBLIC LAW 100-456.)

DEPARTMENT OF AGRICULTURE

LEON SNEAD, OF MARYLAND, TO BE INSPECTOR GENERAL, DEPARTMENT OF AGRICULTURE, VICE ROBERT W. BEULEY, RESIGNED.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

GORDON H. MANSFIELD, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE JUDITH Y. BRACHMAN, RESIGNED.

EXECUTIVE OFFICE OF THE PRESIDENT

J. THOMAS RATCHFORD, OF VIRGINIA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY, VICE JOHN P. MCTAGUE, RESIGNED.

JAMES B. WYNGAARDEN, OF NORTH CAROLINA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY, VICE THOMAS P. RONA, RESIGNED.

CONFIRMATION

Executive nomination confirmed by the Senate October 3, 1989:

DEPARTMENT OF STATE

JOSEPH ZAPPALA, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SPAIN.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

EVENTS IN SOUTH AFRICA

HON. DAN BURTON
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. BURTON of Indiana. Mr. Speaker, our collective attention is focused these days, as it should be, on events in South Africa. We are all, I believe, united in our firm opposition to apartheid. We all want to see South Africa move toward a post-apartheid, nonracial, democratic future. But we have a lively debate going about the best means to achieve that goal.

Many of my colleagues support further sanctions. But the evidence is that sanctions do not work and that further sanctions would inflict great hardship and suffering upon the blacks of South Africa. The evidence is overwhelming that blacks of all walks of life in South Africa are firmly opposed to sanctions for these reasons. I commend to my colleagues' attention the executive summary of a recent Gallup poll of South African blacks, and a letter from the vice president of Gallup to the chairman of the Africa Subcommittee.

EXECUTIVE SUMMARY OF SURVEY FINDINGS

(Overall Opinion Concerning the Policies of Sanctions and Divestment)

A Gallup survey of South Africans conducted in March 1989, indicates strong opposition to economic sanctions imposed on South Africa by foreign governments and equally strong opposition to the idea of foreign divestment of corporate investment in South Africa. South Africans overwhelmingly believe that sanctions (84%) and divestment (85%) are bad ideas, and blacks and whites are equally likely to hold these views.

The possibility that sanctions and divestment will lead to higher unemployment and poverty is the reason most frequently given for thinking such policies are a bad idea.

Despite the strength of opposition to sanctions among blacks there are approximately one in six who believe sanctions are a good idea. The largest proportion of this group holds this opinion because they believe such a policy will pressure their government to abolish apartheid.

When respondents are posed with a variety of scenerios concerning the consequences of sanctions, the basis for and degree of opposition to sanctions is evident. Approximately six in ten blacks, for example, would oppose all sanctions even if such sanctions might cause the government to resign within five years. Oppositon increases to two-thirds of the black population given a more stringent condition that "many people would lose their jobs" is introduced.

Given the possibility that the respondent might lose his or her own job because of sanctions, more than three-quarters of all South Africians, including 93% of whites and 76% of blacks, would oppose sanctions. The negative response to sanctions is also evident among the 73% of blacks who disagree that non-whites are "prepared to suffer and to risk losing their jobs while sanctions and boycotts are used against South Africa."

Concerning the expected reaction of the South African government to sanctions imposed by foreign governments, eight in ten South Africans, including 77% of blacks, think their government will make only a few small changes (43%) or no changes (36%) in its apartheid policy. Only 16% believe sanctions will lead the government to end apartheid. Approximately the same proportion (17%), see sanctions as a very successful means of changing the apartheid policies of South Africa. One-third, on the other hand, including the majority of whites, believe a policy of sanctions would not be at all successful in this regard. Another third believe sanctions can only be somewhat successful in forcing change.

Opinion regarding divestment by foreign corporations follows the same pattern as that regarding sanctions. Eighty-three percent think overseas companies should not leave South Africa because this is not a good way to fight apartheid. Sixteen percent believe companies should divest because the South African government does not want companies to leave and will be persuaded to end apartheid if they do. Eighteen percent of blacks compared to only 7% of whites agree that divestment will force an end to apartheid.

In fact, the survey shows that South Africans believe there is an important role to be played by foreign corporations operating in South Africa. A substantial majority (58%) of South Africans, including 51% of whites and 59% of blacks, think that American companies in South Africa can help make the government change away from apartheid.

The negative aspect of the withdrawal of an American corporate presence in South Africa is reflected by the three-quarters, including 84% of whites and 73% of blacks, who believe ending American business operations would have a bad effect on the lives of blacks in that country.

Nearly three-quarters (73%) think that ending American business operations would seriously hurt the South African economy. This view is more prevalent among blacks (77%) than among whites (50%). Among whites, 45% think such action by American companies will hurt their economy only a little.

While six in ten (60%) think divestment will seriously hurt the strength of the South African government, this view is most prevalent among blacks (69%). Whites are more likely to think divestment will effect the strength of the government only a little (42%) or not at all (37%).

Majorities of South Africans believe American business activity: contributes to a higher standard of living for black South Africans (78%); provides black workers with good jobs that would not otherwise exist (74%); does not contribute to the misuse of black workers (60%); does not help to continue racial segregation and discrimination (58%).

THE GALLUP ORGANIZATION, INC.,
MARKETING AND ATTITUDE RESEARCH,
Princeton, NJ, August 3, 1989.

Hon. HOWARD WOLPE,
Chairman, Subcommittee on Africa, Committee on Foreign Affairs, Washington, DC.

DEAR CHAIRMAN WOLPE: The Gallup poll of South Africans on the issues of sanctions and divestment referred to in your July 10th memorandum to Members of the House of Representatives, was conducted by the Gallup Organization, Inc. headquartered in Princeton, New Jersey in conjunction with Markinor, the South African affiliate of Gallup International, on behalf of the South African Chamber of Mines, the mining industry trade association.

I was responsible for overall management of the project including questionnaire development, sample design and analysis of the survey results. I personally share your abhorrence of apartheid, and I am certainly aware of the sensitive nature of the project. We have, therefore, taken great care to ensure that the questions were written fairly and that the survey method would produce an accurate representation of black public opinion in South Africa. I believe we have been successful in both regards.

Our survey of South Africans, conducted in March of this year, indicates strong opposition to economic sanctions imposed on South Africa by foreign governments and equally strong opposition to the idea of foreign divestment of corporate investment in South Africa. South Africans overwhelmingly believe that sanctions (84%) and divestment (85%) are bad ideas, and blacks and whites are equally likely to hold these views.

The possibility that sanctions and divestment will lead to higher unemployment and poverty is the reason most frequently given for thinking such policies are a bad idea.

Despite the strength of opposition to sanctions among blacks there are approximately one in six who believe sanctions are a good idea. The largest proportion of this group holds this opinion because they believe such a policy will pressure their government to abolish apartheid.

Backing for sanctions is strongest among blacks who told us they support the ANC (35%) or the UDF (31%). Support is also greater among blacks who live in urban areas compared to rural (25% vs 12%) and among those who are best informed politically compared to those who are less knowledgeable (30% vs 10%). But it should also be noted that 65% or more of blacks in each of these groups say they believe sanctions are a "bad idea" (ANC supporters, 65%, UDF supporters, 69%, urban residents, 74%, well informed, 70%).

Contrary to your assertion that we failed to permit South Africans to react to or "vote for" conditioned sanctions, that was precisely the point of the survey. You will see in reviewing the enclosed report of survey results that we have asked numerous questions about support for sanctions and divestment in the real world context of how they might affect actions of the South African government and how they might affect the people of South Africa.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

When respondents are posed with a variety of scenarios concerning the consequences of sanctions, the basis for and degree of opposition to sanctions is evident. Approximately six in ten blacks, for example, would oppose all sanctions even if such sanctions might cause the government to resign within five years. Opposition increases to two-thirds of the black population given a more stringent condition that "many people would lose their jobs" is introduced.

Given the possibility that the respondent might lose his or her own job because of sanctions, more than three-quarters of all South Africans, including 93% of whites and 76% of blacks, would oppose sanctions. The negative response to sanctions is also evident among the 73% of blacks who disagree that non-whites are "prepared to suffer and to risk losing their jobs while sanctions and boycotts are used against South Africa."

Concerning the expected reaction of the South African government to sanctions imposed by foreign governments, eight in ten South Africans, including 77% of blacks, think their government will make only a few small changes (43%) or no changes (36%) in its apartheid policy. Only 16% believe sanctions will lead the government to end apartheid. Approximately the same proportion (17%), see sanctions as a very successful means of changing the apartheid policies of South Africa. One-third, on the other hand, including the majority of whites, believe a policy of sanctions would not be at all successful in this regard. Another third believe sanctions can only be somewhat successful in forcing change.

Opinion regarding divestment by foreign corporations follows the same pattern as that regarding sanctions. Eight-three percent think overseas companies should not leave South Africa because this is not a good way to fight apartheid. Sixteen percent believe companies should divest because the South African government does not want companies to leave and will be persuaded to end apartheid if they do. Eighteen percent of blacks compared to only 7% of whites agree that divestment will force an end to apartheid.

This Gallup survey of South Africans is based on face to face interviews with 2,192 individuals. The interviews were conducted in the preferred language of the respondent by interviewers of the same race as the respondent. I went to South Africa and talked at great length with these black, colored, Asian, and white interviewers as they returned from their interviews. I have complete faith in their work and that of the methodology and research staff at Markinor.

The results of the survey are based on 1,400 interviews representing a national sample of black South Africans. In addition, interviews with 392 white respondents are representative of the metropolitan white population of the country. One hundred interviews each were conducted with colored and Asian race groups residing in the Cape Town and Durban metropolitan areas respectively.

A separate survey using the same questionnaire and sampling methodology was conducted during the same time period of a representative sample of the squatter population residing in the Johannesburg, Cape Town and Durban metropolitan areas. We found no differences in opinion among black squatters compared to those interviewed in the primary study.

Regarding the timing of the survey. We began negotiations for this project in the spring of 1988. The field work was scheduled for March 1989, in preparation for release of the results in May. While we could not have known at the outset that Rev. Boesak and Bishop Tutu would visit Washington in May, release of the results was timed so that an accounting of public opinion would be part of the debate over sanctions.

I would be happy to answer any questions you might have about our report or the project.

Sincerely,

NEIL UPMEYER,
Vice President.

DR. STANLEY IRZINSKI APPLAUDED FOR HIS COMMITMENT TO THE DISABLED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to Dr. Stanley Irzinski, to recognize his many career achievements and, most importantly, to recognize his great sense of community service.

Dr. Irzinski graduated from Wilkes College in Wilkes-Barre, PA, and Pennsylvania State University as a doctor of education in counseling and rehabilitation. He is currently administrator of United Rehabilitation Services, Inc. [URS], located in Wilkes-Barre, with branch facilities in Hazleton and Tunkhannock.

URS was established as a result of the Wyoming Valley United Way's Community Services Study Commission Report. It is a comprehensive vocational rehabilitation center providing services to the disabled adult population of northeastern Pennsylvania, with a daily enrollment of over 500 persons, making this one of the Nation's largest populations of handicapped persons under one administration. In addition, URS works in conjunction with other community resources helping disabled adults learn to function within the community to the best of their ability.

Dr. Irzinski has recognized that a large number of disabled adults, hundreds in our area alone, remain without services and have little or no opportunity to enter into the mainstream of society. An advocate of progressive programming, he has made a great impact on rehabilitation trends statewide and nationally, as well as locally. He is eager to make the public aware of the challenges faced by the disabled and the progress being made to overcome these obstacles.

In addition, he is a supportive and compassionate leader who is truly committed to his work. His strong dedication inspires those who work with him to do their best to assist the disabled.

Dr. Irzinski was recently presented with the prestigious Bell Greve Award by the National Rehabilitation Association in recognition of his leadership in developing exciting vocational and leisure opportunities for the disabled.

I commend Dr. Irzinski on the tremendous work he has done on behalf of the disabled citizens of the Wyoming Valley. With the help of people like Dr. Irzinski, dedicated and committed to the disabled, it is possible for the less fortunate in this country to become contributing members of society.

THAT'S THE AMERICAN WAY—THAT'S THE FARMER'S WAY

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. DE LA GARZA. Mr. Speaker, last month a trainload of generosity arrived at the railroad station in the small city of George West, TX, in my 15th Congressional District.

Five rail cars were carrying 85 tons of rolled hay grown and cut in the northern part of Texas. These five carloads were the first of a planned 22-rail car shipment to south Texas totaling about 700 tons of hay. Every speck of it was donated by producers in north Texas anxious to help their fellow producers to the south.

For nearly 3 years, uncommonly dry weather has turned into severe drought in south Texas. Livestock producers were looking to the sky for signs of hay to help feed their animals. When they focused their vision on the railroad tracks, they saw the hay coming from their brethern in the north of Texas where wet weather has resulted in an abundance of hay.

The Texas Farm Bureau organized this impressive hay donation program and we appreciate the time and energy devoted by north Texas Farm Bureau members in putting the whole operation together.

To each and every farm producer in Texas who donated hay to this relief effort, this Congressman—as chairman of the House Agriculture Committee and speaking for all our committee—stands up to acknowledge your generosity and your desire to help fellow producers who are still battling the drought.

When farmers and ranchers extend their helping hands to other farmers and ranchers, you are seeing American agriculture at its finest. It makes no difference what crop is grown or what animal is reared, all farmers and ranchers share a kindred spirit and a common soul when it comes to their love of the land. Nowhere is that fraternal spirit more evident than when help comes from within.

The Union Pacific Railroad Co. took the lead in transporting this donated hay to our south Texas producers. I had approached the railroad and asked if it could assist in bringing the hay from its loading point in Longview, TX, down to south Texas and the Union Pacific people obliged with a smile and a desire to help those in need.

The hay donation effort would have been halted in its tracks were it not for the commitment of Union Pacific. I applaud Union Pacific for showing the spirit of compassion and generosity in moving this hay free of charge.

The Southern Pacific railroad joined the effort so that additional rail cars would be available. The 700 tons of donated hay destined for south Texas would never have a chance of arriving in south Texas without the help of Southern Pacific. We extend out gratitude to the management of Southern Pacific for making it possible to ship all 700 tons of the hay to south Texas and make this private

effort a total success. Without Southern Pacific, the effort could not have expanded to its current size and we applaud the railroad for its commitment.

For some producers in south Texas this donated hay will mean the difference between hanging on and going down. These producers will mark this day in their hearts with a view to returning the favor if the need arises. There may come a day when our friends in north Texas need our help, and to a person, south Texans will be there to help—no question about that.

This is one program which did not need Uncle Sam. The Federal Government watched with great satisfaction in seeing farmer reach out to farmer in a time of need. That's the American way—that's the farmer's way.

UNITED WAY LABOR PARTICIPATION COMMITTEE

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. WOLPE. Mr. Speaker, I rise to pay tribute to the Greater Kalamazoo United Way's Labor Participation Committee for their efforts to address the drug problem facing Kalamazoo, MI. The committee has scheduled an October 4 rally designed to bring together union members with residents throughout the area to formulate an action plan.

Drug abuse is a poison in this country which is draining away the talent and energy of people in communities like Kalamazoo. President Bush has recently released a blueprint for an all-out war on drugs and has asked our country to get tough on drug suppliers and users. I fully support the need to strengthen drug law enforcement and hold sellers and users accountable for their actions. However, while we might be able to win a battle or two on the drug law enforcement front, I believe we will never win the war unless we recognize the importance of eliminating the demand for drugs in the first instance.

The Kalamazoo Labor Participation Committee recognizes the necessity of drug rehabilitation. Their program is an example of the kind of community-wide drug prevention effort that is needed to provide individuals and their families with the education and information needed to help better prepare them to say no to drugs and to select other alternatives. This initial meeting and the followup activities are testimony to the recognition by local union members of their responsibility to the community in which they live and their desire to be an effective element in the struggle to save people's lives and their livelihoods.

Mr. Speaker, I am certain my colleagues will want to join me in saluting the Greater Kalamazoo United Way Labor Participation Commitee for their continuing efforts to improve the quality of life for working people, their families and their neighbors. I am honored and privileged to represent constitutents who care so deeply for their comunity and who are willing to act upon their beliefs.

BALTIMORE CITY COLLEGE CELEBRATES 150TH ANNIVERSARY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. CARDIN. Mr. Speaker, Baltimore City College, the third oldest public high school in the United States, celebrates the 150th anniversary of its founding on October 20, 1989.

Established the same year that baseball began in Cooperstown, NY, City College has enjoyed a history rich in tradition, academic excellence, and community spirit. For 150 years its students have studied the humanities, a curriculum based in the classics, philosophy, history, languages, literature, and the arts, and have gone forth from City to excel internationally, nationally, and locally.

During the 150th year City graduates hold positions of public trust in all levels of government—from the Governor of Maryland, William Donald Schaefer, to the mayor of Baltimore, Kurt Schmoke. Judges on the U.S. Court of Appeals, the court of special appeals, the circuit court, and district court all include graduates of City College. State senators and delegates, Baltimore City Councilmen, the public defender, and the Maryland Stadium Authority chairman come from City College.

Graduates from all walks of life continue to credit their success to the faculty and teachers who inspired them—Dr. Philip H. Edwards, C.B. Moloy, J.J. Hinson, Boyd Winkleblech, Henry Yost, John Desch, Millard Foard, Floyd Holden, James Leonhart, G. Warfield Hobbs, Blanche Bowlsey, John A. Pentz, Warren Wilmer Almy, George Young, Ken VanSant, Otts Helm, Andy Norgan, Harry Lawrence, Dr. Templeman, and countless others.

On the 100th anniversary of City College, then Gov. Harry W. Nice, also a City graduate, said:

City College has made possible advanced education for many young men who otherwise would never have had the opportunity of higher education. The taxpayer's money has never been more profitably spent. The returns from the investment have been of inestimable benefit to the public at large, in infusing into our public life leaders, in the professions and in business, with a civic consciousness making for the general welfare and good of the entire community.

In the years since the centennial celebration the benefits of City College have grown even larger. Contributions have been made in our everyday world and contributions have been made that are larger than life. Authors Leon Uris and Russell Baker have provoked thought and sparked humor throughout the world. Scientist Abel Wolman made it possible for people in countries all over the world to have healthy water systems. John Wheeler brought the "black hole" theory to scientific minds across our boundaries. Major league pitchers Tommy Byrne and Johnny Neun have thrilled baseball fans in Yankee Stadium. T. Garrison Morfit—Garry Moore—and Michael Tucker have come into homes througout the country. Educators Eric Goldman and Norman Hackerman changed lives in higher education. Aaron Straus, Robert H. Levi, and Joseph Meyerhoff established traditions of philanthropy touching the breadth of Baltimore and beyond.

We celebrate the great accomplishments of the past. Yet City College celebrates something even greater than the past. Its future, and the future for public education looks bright because of its strong roots. In keeping with its respect for the classics, Latin is still required at City. Students there say the Pledge of Allegiance in Latin. Students there still strive to live up to the school motto—"Palman Qui Meruit Ferat"—honor to him who earns it.

The students at City in 1989 look different than they did 150 years ago. The school that was all male and white has become a coeduational school that is 75 percent minorities. Yet the students are really not different. They carry the spirit of tradition and the pursuit of excellence. They go forth to the best colleges and universities in the country in ever increasing numbers. At the last graduation exercises 85 percent of the class had been accepted into college, 10 percent planned to enter the military, and 5 percent planned to go directly into business.

At a time when the foundations of public education are being questioned, when America's competitiveness in the international economy is threatened, when talk of our youth centers around high school dropouts, teenage pregnancy, and drug abuse, it is with pride that Baltimore City College tells its story of past, present, and future success. We celebrate this historic event, and believe that our celebration is no more and no less the celebration of the success of the best of public education.

RELIGIOUS LEADERS IN ROMANIA HARASSED

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. SMITH of New Jersey. Mr. Speaker, over and over again we are presented with evidence that the Romanian authorities continue their harsh practices of intimidation and repression of the religious congregations within their borders.

I would like to bring to my colleagues' attention the systematic harassment which has been endured by Romania's Rev. Laszlo Tokes and his congregation, the Diocese of Temesvar—in Timisoara. I am concerned about the safety of Reverend Tokes, especially in light of the recent mysterious death of one of his parishioners.

Mr. Speaker, Reverend Tokes has long been the object of official harassment for his religious faith and activities. He has openly renounced the regime's actions against the Hungarian Reformed Church in Romania but not without severe consequences. Likewise, one of this parishioners, Erno Ujvarossy, was outspoken in his defense of Reverend Tokes and has met a violent fate.

On September 12, Mr. Ujvarossy disappeared, never to be seen again alive. Mr. Ujvarossy had received many threats because

of his active participation in the Diocese of Temesvar and support for his minister, and had expressed his grave fear to Reverend Tokes. On September 16, Mr. Speaker, the body of Mr. Ujvarossy was found in woods outside Timisoara.

Sadly, Mr. Speaker, such unexplained deaths are not completely unusual in Romania. A number of other cases of organized street beatings, death threats and outright murder of religious leaders in Romania have been documented.

The people of Romania, and especially the religious community, are living under the constant fear of harassment, persecution, and even the threat of murder. It is clear that the authorities are condoning or turning a blind eye to these abuses of a person's basic human rights of life and freedom if not actively involved in the practice themselves. Mr. Speaker, the Government of Romania is more and more showing its true colors as an outlaw regime. The people need our support in condemning their oppressors. Congress must not shy away from this task.

WAX AND GOLD IN ATLANTA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. BURTON of Indiana. Mr. Speaker, the terrible catastrophe that has befallen the people of Ethiopia for the past 10 years deserves our close attention. The Ethiopians are victims of a vicious Communist dictatorship led by Colonel Mengistu. Their ruthlessness and cruelty knows no bounds. I commend the following unpublished statement by Yonas Deressa, noted Ethiopian freedom fighter.

WAX AND GOLD IN ATLANTA—WHY JIMMY CARTER'S ETHIOPIAN PEACE INITIATIVE WILL FAIL

(By Yonas Deressa)

"Summin a Worq"—"Wax and Gold"—is an ancient Ethiopian figure of speech I learned at my mother's knee. It's used to illustrate the fact that things people do or say often have a hidden significance. "Wax" stands for an outward, obvious meaning. "Gold" is the reality it hides.

I was reminded of this familiar old metaphor by the recent news that former President Jimmy Carter has persuaded Ethiopian Communist dictator Mengistu Haile Mariam to send a delegation to Atlanta, Georgia, on September 7th for peace talks with one of his most implacable enemies. That enemy is the Eritrean Peoples' Liberation Front (EPLF), an insurgent movement that has fought for more than two decades to split off the Ethiopian province of Eritrea from the rest of the country.

At first glance this seems a momentous occasion. During his 15 years in power, Mengistu has made himself the engineer of a state machine of repression that has murdered almost 2 million people, caused 3.5 million to flee the country, and turned Ethiopia into a living hell for the rest. He deliberately caused the great famine of 1984-85 to crush resistance to his rule. His so-called "resettlement" campaign kidnaps poor farmers and ships them, packed like cattle, hundreds of miles to concentration camps, killing at last count over 150,000. Today every Ethiopian lives in fear of the midnight knock on the door, of being taken away, or simply disappearing.

But now Mengistu seems to have compromised on his often expressed resolve to crush all resistance to his absolute rule, and opened the door to an end to the violence that is tearing the country apart. And at the same time, he has begun campaigning for better relations with the United States, after more than a decade of excoriating America as an enemy of the world socialist revolution.

In short, one of the world's greatest megalomaniacs—a dictator whose ruthless brutality rivals that of the Khmer Rouge and exceeds that of Idi Amin—seems to be turning over a new leaf.

If only it were true. But in fact, Mengistu is playing the game of "Wax and Gold." He has no intention of making any real concessions in Atlanta—in fact, he simply cannot afford to reach a peaceful agreement with the Eritrean guerrillas.

The struggle for Eritrea is only part of the civil war Mengistu's repression has provoked in 11 of Ethiopia's 14 provinces. And the war is not going well for him anywhere. In March 1988, the EPLF captured 20,000 of Mengistu's best troops and sewed up its control of Eritrea, Ethiopia's gateway to the sea. In the vital province of Tigre next door, the army suffered an even greater defeat this February at the hands of the Tigre People's Liberation Front (TPLF). Another 12,000 troops were captured and Mengistu's army was driven completely out of the province. Elsewhere in the country, Ethiopian army units, demoralized and riddled with desertions, are having increasing difficulty dealing with the growing number of separatist insurgents besieging the regime, threatening to break the country into pieces.

In May most of Mengistu's top generals tried to oust him in a coup, failing apparently because they were betrayed before it took place. On the domestic scene, fifteen years of Stalin-style collectivization and rule by violence have alienated every sector of society from the regime, destroyed the economy, and literally bankrupted the treasury. Mengistu is universally hated; his regime is crumbling. Terror—enforced by his East German-led secret police—is now the only thing keeping him in power.

With his back against the wall, Mengistu is desperately searching for a way to stave off the end. He needs economic aid from the West, but his continuing atrocities have made him a pariah in the Free World. And his army, newly bereft of its most experienced leaders in the purges that followed the coup attempt, needs time to rearm with Soviet-supplied weapons, conscript more cannon fodder, and lick its wounds.

Jimmy Carter's peace initiative is just the opportunity Mengistu wants to gain breathing space, as well as a chance to refurbish his image in the West. He is betting that if he makes a few token concessions and manages to convince Americans he is sincere about reforms, he'll be rewarded with desperately needed economic aid and diplomatic pressure against the neighboring countries that support the guerillas. That is the gold that lies beneath the wax.

An objective look at Mengistu's options shows that he has nothing to give at the negotiating table. His last, tattered shreds of legitimacy as ruler of Ethiopia are based on his pose as a nationalist trying to keep the country together against the separatist insurgencies. Ethiopians are deeply patriotic, and view with horror the prospect of their country being partitioned. If Mengistu give Eritrea away he's finished. On the other hand, if he agrees to federation with the province—the least the EPLF can accept and maintain its own legitimacy—he also loses. Federation means Eritrea would have its own flag and its own autonomous government. The result would only be to discredit Mengistu's brutal, totalitarian rule over the rest of the country, giving added credibility and momentum to the remaining insurgencies.

Mengistu's recent actions belie his new pose as humanitarian peace-maker. Far from emulating the reforms of his Soviet mentors, he has forbidden the very mention of the words "perestroika" and "glasnost." The notorious resettlement campaign is continuing, as well as a huge effort to "villagize" the entire rural population of Ethiopia. At gunpoint, farmers are forced to pull up stakes and then herded into centralized compounds where they can be more easily taxed, monitored, and browbeaten into accepting the state's edicts. Under a new conscription campaign press gangs are kidnapping thousands of teenagers for the army. And in the province of Gondar, Mengistu is training 80,000 new troops for yet another bloody offensive against the guerillas in neighboring Tigre.

The revenge Mengistu took against the officers arrested in the recent coup was savage enough to curdle anyone's blood. Some were dragged behind trucks until dead; their heads were then cut off, stuck on pikes, and paraded through the streets. One general was tortured to within an inch of his life, then displayed on television half dead in his underwear. Another general was tied to the ground while a battle tank crushed him to death. Still another was flogged in public until he died, all the while being forced to hold a framed portrait of Mengistu.

Mengistu has already demonstrated a lack of sincerity about the upcoming Atlanta talks by secretly negotiating in South Yemen to cut a deal behind the EPLF's back with its rival and arch-enemy, the Eritrean Liberation Front. And meanwhile, he has blocked progress toward peace in neighboring Sudan, which is being torn apart by a civil war resulting from his sponsorship of the Sudanese People's Liberation Army, led by renegade army officer John Garang. As I predicted in a paper published last May, Garang—under pressure from Mengistu—recently sabotaged peace talks by making nonnegotiable demands that were unacceptable to the Sudanese government.

Mengistu was rudely reminded at the beginning of this month that parleying with the EPLF alone won't pull his chestnuts out of the fire when his attempt to take back Tigre was stymied by widespread resistance by the TPLF. No doubt we can expect a similar reminder from the growing Oromo Liberation Front (OLF), as well.

Atlanta is going to be a bust.

There is a way out of this deadlock, however, in the form of a resistance movement dedicated to Ethiopian unity and the liberal democratic ideals that have served the West so well. Today, thanks to a radio station broadcasting in Ethiopia's three major languages, its message of hope has galvanized the entire nation. With its call for a constitutional, federal-style government giving representation to all Ethiopia's many and varied ethnic groups, it is the only movement that offers hope for an end to the growing violence, and its replacement with a stable, free society. Because of the high

regard in which Ethiopians hold the United States, American support for this movement would result in the speedy collapse of Mengistu's regime and its replacement with one dedicated to democracy, freedom, and the rule of law. But the democrats were not invited to Atlanta. And so far, the U.S. has refused to give them any kind of substantial support. Now that possibility seems to be receding as American diplomats warm to Mengistu's new friendliness and his empty promises for more moderate behavior.

Actually, Mengistu has played this game before, taking the advice of leftist friends in the U.S. Congress and making token gestures in order to neutralize the threat of economic sanctions. Each time, however, he has reverted to form, embarassing his Congressional patrons.

Americans must ask themselves, what do they hope to accomplish with such initiatives as the Atlanta negotiations? Is it simply to stabilize communism in Ethiopia? Or do they want to see an end to the kind of regime that engineered the starvation that horrified them four years ago? Do they want free elections and a constitutional government in Ethiopia—the strategic linchpin of Eastern Africa?

If they do, now is the time to push for real reforms, by giving support to the democratic resistance and including them in any American-sponsored negotiations. Mengistu is desperate, and deeply vulnerable to the right kind of pressure from the U.S. Faced with the choice of giving up power gracefully, or being thrown to the wolves, he would choose to save his hide.

But as things stand, Jimmy Carter cannot hope to emulate Theodore Roosevelt's triumph at the turn of the century, when he won the Noble Peace Prize for refereeing the end of the Russo-Japanese War. The negotiations in Atlanta will go down in history not as a milestone, but as a farce—doomed by American optimism and Mengistu's game of wax and gold.

DIMMICK MEMORIAL LIBRARY CELEBRATES 100 YEARS OF SERVICE

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to the Dimmick Memorial Library in Jim Thorpe, PA, as the citizen's of this town celebrate the library's 100th anniversary.

A fund to construct the library was established when Mr. Milton Dimmick, a prominent attorney at the time, died and in his will bequeathed his entire estate to a library building fund. Mr. Dimmick asked that the library be named in honor of his father, mother, brother, and sister. His father, also a lawyer, served as a Member of Congress for several terms. Dimmick's estate bought the land on which the library now stands for $1,781.

The cornerstone of the Dimmick Memorial Library was laid on June 15, 1889, and on October 1, 1890, the library opened its doors to the public for the first time. In July of this year, the cornerstone was rededicated in a ceremony conducted by the Carbon Lodge No. 242 Free and Accepted Masons. This impressive program was highlighted by a procession through the town of more than 150 members of the Masonic Order.

During the ceremony, a second cornerstone was laid. The stone laid in 1889 was recently opened by the library, revealing a number of newspapers of the era as well as coins, including a silver dollar and an Indian head penny. Enclosed in the rededication cornerstone were newspapers published on or about July 8, 1989 and coins of the present period. These artifacts have been sealed in an airtight lead container to be opened, perhaps, in another 100 years.

In 1979, the library was gutted by a disastrous fire, destroying 25,000 volumes of the library's collection. After the fire, the library operated on a temporary basis until the building was repaired. A new wing was added at that time with the help of a $76,000 grant from the Gladys Brooks Foundation in New York.

The highlight of the Dimmick Memorial Library's year-long centennial celebration will be an anniversary banquet to be held in Jim Thorpe on October 14, 1989. Because of my great belief in the value of a sound education, I was honored to be asked to serve as the keynote speaker for this a memorable event. The Dimmick Memorial Library has contributed greatly to the community of Jim Thorpe by providing citizens, both young and old, with an accessible pool of information.

The Dimmick Memorial Library has certainly served as a bountiful resource of knowledge and learning for the citizens of Jim Thorpe as well as the surrounding communities. I know that my colleagues in the House of Representatives will join me in congratulating the Dimmick Memorial Library and all those who have contributed to its success.

"GROCERS CARE" SALUTE TO INDEPENDENT FOOD INDUSTRY

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. DE LA GARZA. Mr. Speaker, I wish to bring to the attention of the House the community contribution of the American independent retail grocers and their wholesalers.

In past years, through passage of the National Independent Retail Grocers Week, the House and Senate have recognized the important role these businesses play in our economy. This week, October 1–7, 1989, commemorates the 5th year we have recognized this important segment of the food industry.

Next week, National Grocers Association, heads of philanthropic and consumer groups will honor outstanding independent retail grocers and wholesalers as well as their State association executives for their community service with the N.G.A. "Grocers Care" awards.

This annual celebration highlights the important role small business plays. According to Thomas K. Zaucha, President and CEO of National Grocers Association [N.G.A.], active leadership with community service projects reflect the commitment independent retail grocers and their wholesalers have to the communities they serve.

GROCERS CARE AWARD HONOREES

The "Grocers Care" awards ceremony will be held Tuesday, October 10, in Chicago Illinois. Representatives from companies, organizations, and associations around the United States will be honored. These honorees include:

Peter Gregerson, Gregerson's Foods, Inc., Gadsden, AL; John Virciglio, Food Giant, Bessemer, AL; Roger Hames, Hames Corporation, Sitka, AK; Tom Shope, Shopes Market, Coolidge, AZ; Paul Bone, Thriftway Superfoods, Clinton, AR; John Phillips, The Phillips Company, Bentonville, AR; Don Baker, Bakers IGA, Glenwood, AR; Doy Grubbs, Northside Food Center, Mena, AR; Polly Rand Moore, Rand's Inc., North Little Rock, AR; Tom Hervey, The Mad Butcher, Pine Bluff, AR; C.E. Toland, Affiliated Food Stores, Little Rock, AR; Charles Collings, Raley's West Sacramento, CA; Gene Yee, Dick's Super Markets, Sunnyvale, CA; John Meamy, John's Valley Foods, Palo Alto, CA; Bob Foster, Nielsen's Market, Solvang, CA; Bill Christy, Certified Grocers of California, Los Angeles, CA; Robert Inadomi, JonSon's Market, Los Angeles, CA; Robert Stewart, Walter Stewart Company, New Canaan, CT; Ted Franklin, Franklins Great Value, Naranja, FL; Karim Sadeeh, Big Dollar Food Store, Jupiter, FL; Jim Sapp, Tice Foodway, Inc, Ft. Myers, FL; John Warren, E-Z Kwik Markets, Miami, FL; Carroll W. Cheek, Great Scot of Florida, Clearwater, FL; Ernest Harris, Food Spot Management Corp., South Miami, FL; Ron Edenfield, Wayfield Foods, Decatur, GA; Glenn Adams, Adams Food Centers, Richland GA; Jack Hill, Hill Shopping Center, Reidsville, GA; Ronald McIntire, Ron's Thrift Stores, Hayden, ID; Richard Gromer, Gromer's Super Markets, Elgin, IL; Richard Welton, Welton's Food Mart, Gurnee, IL; James Robertson, Fairway Finer Foods, Harvey, IL; Phillip Salerno, Franks Finer Foods, Winfield, IL; Joe Ethridge, Wilb Walker's Supermarkets, Charleston, IL; Roundy's/Scot Lad Foods, Eldorado Division, IL; Ron Bissonnette, Key Markets, Inc., Hammond, IN; Harry L. Meeke, Jr., Mickey's T. Mart, Shelbyville, IN; Kyle Johnson, Al's Supermarkets, Michigan City, IN; Martins Supermarkets, South Bend, IN; Bill Reitz, Scott's Food Stores, Fort Wayne, IN; Steve Schares, Schares Food Mart, Jesup, IA; Robert Hand, Dahl's Food Marts, Des Moines, IA; Chuck Mallory, Harry's IGA, Tokepa, KS; William Gore, Gore's Foodland, Paducah, KY; Lee Markwell, Markwell's Supermarket, Louisville, KY; Bruce Chestnut, Laurel Grocery Company, East Bernstadt, KY; Danny Allnutt, Food World, Williamsburg, KY; Joe Walters, Superior Food Market, Whitesburg, KY; Kenneth Techau, Ken's Newmarket, Cynthiana, KY; Charles Lunxwiler, Piggly Wiggly Super Markets, Mayfield, KY; Hillar Moore, Associated Grocers, Inc., Baton Rouge, LA; Paul Leblanc, Payless Supermarkets, Gonzales, LA; Thomas Smith, Tom's Super Thrift, Cardiff, MD; Stan Seppa, Magruder's, Rockville, MD; Bob Gordon, Alexanders Super Markets, Lowell, MA; Patrick Quinn, Spartan Stores, Grand Rapids, MI; James Maus, Maus Foods, Inc., Monticello, MN; Tom Harberts, Byerly's Inc., Edina, MN; Bill Farmer, Fairway Foods, Minneapolis, MN; Richard Jackson, Jackson's Super Valu, Madison, MN; Kim Mackenthun, Mackenthun Supermarkets, Waconia, NM; Daniel Coborn, Coborn's, St. Cloud, MN; Glen Woody, Glen's Supermarket, Forsyth, MO; Tommy Roland, Piggly Wiggly Mid-South

Corp., Sikeston, MO; Roger Dierberg, Dierbergs Markets, Chesterfield, MO; Donald Woods, Woods Super Market, Bolivar, MO; Donald C. Woods, Jr., Woods Super Markets, Stockton, MO; Charlean Keller, Kon's IGA, Billings, MO; Jack Clifford, Jack's IGA, Forsyth, MT; Pat Raybould, B&R Stores, Lincoln, NE; Preston K. Olds, Scolari's Warehouse Markets, Reno, NV; Charles Butson, Butson's Supermarkets, Woodsville, NH; Jerome Yaguda, Wakefern Food Corp., Elizabeth, NJ; Joseph Pagano, Pagano's IGA, Bayonne, NJ; Buddy Dewey, Farmers Family Center, Bloomfield, NM; John Brooks, Food Town, Albuquerque, NM; Nicholas D'Agostino; D'Agostino Supermarket, New Rochelle, NY; Ray Furnal; Hilton Big M, Hilton; NY; David Bronstein, Big V Supermarkets, Inc., Florida, NY; James Robinson, Olean Wholesale Grocery, Olean, NY; Don Anderson, Jr., Hillco Food Stores, Whiteville, NC; Charles Richards and Lindsey Evans, Reids Better Foods, Charlotte, NC; William Smith, Smith's Harvest Market, Canton, OH; Billy Flory, Flory's IGA, Canal Fulton, OH; Mike Gardner, Cardinal Food Gallery, Columbus, OH; Lloyd Bay, L.T. Bay Enterprises, Lithopolis, OH; Lee Schear, Metro Markets, Dayton, OH; Dick McKenzie, McKenzie's Fine Foods, Worthington, OH; Fred Nemenz, F.G. Nemenz Food stores, Lake Milton, OH; Al Hamed, Al's Super Thrift, Columbus, OH; Tony Bailey, Sacks Food Avenue, Amelia, OH; Dave Seimetz, Chatterton Road Super Duper, Columbus, OH; Tom Bowers, Stumps, Dayton, OH; additional Ohio stores: Buehlers, Pay Less Food Stores, Chief/Ray's Supermarkets, Scott's Supermarkets, John Frederick, Horner Foods Inc., Tulsa, OK; Bill Johnson, Johnson Foods, Muskogee, OK; Alan Jones, United Grocers, Portland, OR; Christopher Michael, Associated Wholesalers, York, PA; Frank Galley, OK Grocery Co., Pittsburgh, PA; Carole Bitter, Friedman's Supermarkets, Butler, PA; Harry Boyer, Boyer's IGA, Orwigsburg, PA; John Cara, Gould's IGA, Conynogham, PA; D. Scott Karns, Karns Food, Mechanicsburg, PA; Dave Carter, Cumberland IGA, Cumberland, RI; William David, Grand Central Market, Tiverton, RI; Reid Boylston, Reid's Red & White, Barnwell, SC; Frank Boulineau III, Boulineau's Inc., North Myrtle Beach, SC; Eddie Brown, Taylers IGA, St. Stephens, SC; Mike Gresek, Mike's Jack & Jill, Webster, SD; Carl Waitz, Carl's Grocery Co., Inc., Mission, TX; Bob Minyard, Minyard Food Stores Inc., Coppell, TX; Elizabeth Guerrero, Loudouze Market Company, San Antonio, TX; Donald Bonham, Fiesta Mart, Houston, TX; Brent Johnson, J & B IGA, Ogden, UT; Jim Howard, Howard's Friendly Market, So. Barre, VT; Dean Comstock, C & C Supermarket, Barton, VT; David Sweeney, Dave's Quik Stop, Swanton, VT; Rex Corwin, Camellia Food Stores Cooperative, Norfolk, VA; Eugene Wenger, Red Front Super Market, Harrisonburg, VA; Robert Ukrop, Ukrop's Super Markets, Richmond, VA; Linda Swift, Roanoke Natural Foods Co-op, Roanoke, VA; Frances Kalman, Siegel's Super Markets, Richmond, VA; Ilse Irish, Magruder's Vienna, VA; Larry O'Neill, O'Neill Markets, Tacoma, WA; William Witschey, Witschey's Market, Inc., New Martinsville, WV; Joe May, Pick 'n Save, Milwaukee, WI; Don Miller, Sentry Foods, Waunakee, WI; Bill Confer, Roundy's Milwaukee, WI; Richard Williams, Williams Town & Country, Glenrock, WY.

The following state associations were instrumental in coordinating information relative to the community service activities of their members:

Arkansas Retail Grocers Association, Retail Grocers Association of Arizona, Cleveland Food Dealers Association, Florida Retail Federation, Georgia Grocers Association, Retail Grocers Association of Houston, Illinois Food Retailers Association, Indiana Retail Grocers Association, Kansas Food Dealers Association, Kentucky Grocers Association, Louisiana Grocers Association, Massachusetts Food Association, Michigan Grocers Association, Minnesota Grocers Association, Missouri Grocers Association, Montana Food Distributors, Nebraska Retail Grocers Association, New Hampshire Retail Grocers Association, New Jersey Food Council, New Mexico Food Dealers, New York State Food Merchants, North Carolina Food Dealers Association, Ohio Grocers Association, Central Ohio Retail Grocers Association, Oklahoma Retail Grocers Association, Association of Oregon Food Industries, Rocky Mountain Food Dealers Association, Food Retailers Association of South Carolina, South Dakota Retailers Association, Utah Retail Grocers Association, Vermont Retail Grocers Association, Virginia Food Dealers Association, and Washington State Food Dealers.

"Grocers Care" awards recognize the involvement of individual food retailers and wholesalers in community programs. A sampling of exemplary contributions includes:

Participation in a single day sales support of "Grocers Fight Cancer" American Heart Association, American Diabetes Alert, Red Cross and other national charity organizations where a percentage of sales are donated: voter registration campaigns; local educational commitments through scholarships, percentage of sales direct contributions; contributions of time, funds, and buildings in support of the arts; programs to shelter and feed the homeless and hungry; fitness programs and support in planning activities as well as supply healthy food; sports tournaments in support of hospitals and fire departments; safe trick or treat events; reading programs to fight illiteracy; senior citizen assistance; and Boy and Girl Scouts, Little and Lassie Leagues, and other sports program sponsorships.

CAPITAL AREA COMMUNITY SERVICES 25TH ANNIVERSARY

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. WOLPE. Mr. Speaker, I rise to pay special tribute to the Capitol Area Community Services [CACS] on the occasion of its 25th anniversary celebration.

Founded on November 25, 1964—less than just 3 months after President Lyndon B. Johnson signed into law the Economic Opportunity Act—Capitol Area Community Services has worked to meet the needs of low-income residents in the Greater Lansing, MI, area. CACS, has, over the years, proven to be a most effective warrior in the war on poverty, and has been a model for the other 954 community action agencies throughout the Nation.

In the past year alone the CACS distributed over 1.3 million pounds of commodities to 10,296 households, provided nearly 18,000 direct services and 13,000 information and referral services, furnished 19,819 rides for medical and grocery shopping trips and 10,497 hours of homemaker services to senior citizens. Additionally, during this time over 1,000 children were enrolled in the Preschool-Head Start Program, 141 young people were enrolled in high school completion programs, 54 obtained unsubsidized employment through the agency's Neighborhood Youth Corps, and 651 families were given targeted fuel assistance while 359 homes were weatherized.

The success of the Capitol Area Community Service is due, in large part, to its capacity to adopt to meet changing urgent needs, and its ability to work closely with other agencies in addressing those needs. CACS serves as a critical link in the Greater Lansing community by effectively utilizing the community services block grant moneys it receives to leverage other private and public funds, by spending its dollars effectively, and by working with other community programs to avoid the duplication of services.

There are many individuals who deserve special recognition for their efforts in the creation of the Capital Area Community Services—Mary Black, Marc Coey, Cargaret Cotsidas, Dorothy Payne, Edward Eustace, Dr. Duane Givson, Althea La. Pointe, and Elton Tubbs, to name but just a few. There are many hundreds of others—staff, volunteers, and members of the board of directors—whose selfless contributions have been responsible for CACS success over the past quarter of a century.

Mr. Speaker, I am honored and privileged to represent constituents who care so much for their community and their neighbors. They are testimony to the fact that, working together, we can make a difference. I am certain that my colleagues will want to join me in congratulating them and in wishing them many years of continued success.

HUGO'S CATASTROPHIC DAMAGE

HON. FLOYD H. FLAKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. FLAKE. Mr. Speaker, I take this opportunity to express to the Congress my sense of urgency to provide immediate assistance to the helpless victims whose homes were destroyed by Hurricane Hugo. Although it is premature to know the full extent of damage, today we do know that many areas are without power, tens of thousands of people are homeless and a quarter of a million people are without jobs in the Virgin Islands, Puerto Rico, and South Carolina. Damages are appraised between $2 and $3 billion.

We, in the Congress must do everything in our power to encourage the recent efforts in aiding the devastated cities left in the wake of Hurricane Hugo. For instance in my State of New York, Mayor Edward Koch announced on September 22, 1989, that city emergency personnel—the police department, the fire department and nine parks' departments—and supplies were dispacted to Puerto Rico in response to a request from the Puerto Rican

government for help in relief efforts there. Supplies varied from vehicles, generators, communications equipment, and articles of clothing to food and water. Private and voluntary organizations throughout the United States are seeking contributions and other aid for victims of Hurricane Hugo.

I commend the preventive measures taken by mainland United States with the forewarning of Hugo's catastrophic damage in the islands. Many lives were ultimately saved because of preventive measures and people's willingness to follow such instructions as evacuating homes and buildings, stocking up on supplies and boarding up buildings. True, many human lives have been spared yet we must now focus on reconstructing the ruins of these people's lives. Clearly, a long-term commitment is imperative in reassembling the lives of our neighbors in the Caribbean and South Carolina.

THE 100TH ANNIVERSARY OF CHRISTOPHER COLUMBUS HIGH SCHOOL IN THE BRONX

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. ENGEL. Mr. Speaker, I rise today to recognize the 100th anniversary of Christopher Columbus High School, which is located in my district.

In 1939, Mayor Fiorello LaGuardia opened the doors of Columbus High School for 3,600 students at a time when the Depression loomed large and education became a cornerstone on which to build a new America. How appropriate that the new school was named after the great discoverer who dared to explore new horizons.

Since that time, the school has graduated more than 25,000 students. Its graduates include the actress Ann Bancroft, author Robert Elegant, and the comedian Gary Morton. Its distinguished faculty has enlightened countless students and then often risen to leadership positions in the education community.

Columbus High School also features some innovative programs that are models for other schools in New York City and throughout the country. The school's elective music and art programs are among the most comprehensive in the city and have helped bring out the creativity in its students. A program entitled Project Education, which attracts promising students interested in teaching careers, allows pupils to take a formal course in education as well as serve as cadet teachers in neighboring elementary and junior high schools.

For all their fine work, I congratulate the students, parents, teachers, and administrators—particularly the current principal, Frank J. Melia, and his staff—who have built the well-deserved reputation that Columbus High School now enjoys. I am confident that Christopher Columbus High School will continue to provide quality education and community leadership, and I join with the residents of my district in wishing all those associated with the school a happy and healthy 100th anniversary.

NEW BILATERAL TRADE INITIATIVE BETWEEN THE UNITED STATES AND MEXICO

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. PEASE. Mr. Speaker, I would like to take this opportunity to voice my pleasure over a new bilateral trade initiative between the United States and Mexico: The Trade and Investment Facilitation Talks. Yesterday, Secretary of State James Baker and Secretary of Foreign Relations Fernando Solana signed an understanding to begin these talks, and U.S. Trade Representative Carla Hills and Secretary of Commerce and Industrial Development Jaime Serra Puche signed the action plan to implement them. These talks are designed to build on the 1987 Bilateral Trade and Investment Framework Agreement.

The Framework Agreement greatly improved the process by which we conduct our commercial relations with Mexico. It instituted consultative and dispute settlement mechanisms and established working groups in agriculture, investment, intellectual property rights, and other issues. Since the signing of the Framework Agreement, both nations have managed to avoid major trade controversies, and I believe that framework—and the goodwill of both nations—deserves much of the credit.

As Cochair of the Competitiveness Caucus Task Force on Mexico and a member of the Ways and Means Trade Subcommittee, I am hopeful that the Trade and Investment Facilitation Talks will move the framework process beyond the mere avoidance of conflicts—albeit an important goal—toward the achievement of substantive agreements on remaining barriers to trade and investment. I stand ready to work with USTR as it devises its negotiating strategy for these forthcoming talks.

Below are the texts of the Understanding and Action Plan signed yesterday.

UNDERSTANDING BETWEEN THE GOVERNMENT OF THE UNITED MEXICAN STATES AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA REGARDING TRADE AND INVESTMENT FACILITATION TALKS

I. GENERAL CONSIDERATIONS

The Government of the United Mexican States and the Government of the United States of America:

1. Recognizing the importance of their bilateral trade and investment relations to the well-being and prosperity of their peoples and taking into account the economic interdependence between Mexico and the United States;

2. Recognizing that in recent years the two Governments have built institutional mechanisms to conduct their trade and investment relations;

3. Appreciating that progress has been made under the "Understanding concerning a Framework of Principles and Procedures for Consultations regarding Trade and Investment Relations" of 1987 in further improving the bilateral process of consultations;

4. Taking into account that Work Groups have been established under the Framework Understanding in the areas of agriculture, industry, investment and intellectual property rights, services, tariffs and coordination; and

5. Noting that these Work Groups have served as consultative bodies and as vehicles for the progressive reduction of impediments to trade and investment flows.

II. MANDATE FOR TRADE AND INVESTMENT FACILITATION TALKS

Intending to build upon the Framework Understanding have agreed:

1. To move beyond the consultative and dispute settlement functions of the Framework Understanding to negotiate in product areas and interrelated issues in order to facilitate trade and investment and to promote predictability and certainty in both countries' marketplaces.

2. To conduct these negotiations in a manner consistent with the principles set forth in the Framework Understanding, and with the rights and obligations of each country under the General Agreement on Tariffs and Trade [GATT] and the Uruguay Round of Multilateral Trade Negotiations.

3. To ensure the continuation of consultations initiated under the Framework Understanding, in particular the ongoing activities under the above cited Work Groups.

4. To expand, where appropriate, the scope of these Work Groups to provide for a comprehensive evaluation of trade and investment issues that is conducted through analyses of product areas and interrelated issues, including (but not limited to) tariffs, nontariff barriers to trade, investment, intellectual property rights, technology, services, marketing restraints, distribution problems and trade remedy actions.

5. To initiate "trade and investment facilitation talks", which are to be comprehensive negotiations on market access and trade and investment facilitation in product areas and interrelated issues.

Done at Washington this third day of October, nineteen hundred and eighty-nine, in two original copies, in the English and Spanish languages, both texts being equally authentic.

For the Government of the United States of America: James A. Baker, Secretary of State.

For the Government of the United Mexican States: Fernando Solana, Secretary of Foreign Relations.

ACTION PLAN FOR IMPLEMENTATION OF THE OCTOBER 3 MANDATE TO INITIATE TRADE AND INVESTMENT FACILITATION TALKS

Objective—To implement the mandate provided by the "Understanding Between the Government of the United Mexican States and the Government of the United States of America Regarding Trade and Investment Facilitation Talks."

Scope.—This Action Plan provides guidelines for negotiations that are to be conducted under the Understanding.

Product Areas and Interrelated Issues.—The areas and issues that are to be examined in future negotiations are to be determined through bilateral consultations held after the Understanding is signed.

The initial list of product areas and interrelated issues that would be covered in the negotiations is to be decided in November 1989.

Negotiations on product areas would concentrate, *inter alia*, on problems that arise from the time a product leaves the factory or farm until it reaches the ultimate consumer.

Negotiations on interelated issues could include (but not be limited to) those on tariffs, non tariff barriers to trade, investment, intellectual property rights, technology, services, marketing restraints, distribution problems and trade remedy actions.

Bilateral Teams.—Negotiations are to start after an intensive period of analysis and review conducted by binational teams of experts. Initially, the binational teams would gather information and analyze current trade and investment difficulties.

Period of Negotiations.—Negotiations are to be completed over the next several years. The schedule of negotiations is:

October 1989: Agreement of mandate for negotiations.

November 1989: Agree on the initial areas or issues; initiate analysis.

March 1990: Issue reports; initiate negotiations.

July 1990: Announce first phase results.

November 1990: Announce second phase results; create new binational teams.

February 1991: Issue reports; initiate negotiations.

June 1991: Announce first phase results.

October 1991: Announce second phase results; create new binational teams.

Done in Washington this third day of October, nineteen hundred and eighty-nine, in two original copies, in the English and Spanish languages, both texts being equally authentic.

For the Government of the United States of America: Carla A. Hills, United States Trade Representative.

For the Government of the United Mexican States: Jaime Serra Puche, Secretary of Commerce and Industrial Development.

THE OVERSEAS PRIVATE INVESTMENT CORPORATION IN CHINA

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. WEISS. Mr. Speaker, on June 6—2 days after the brutal massacre of hundreds, perhaps thousands, of unarmed demonstrators on Tiananmen Square—I offered an amendment to the foreign aid authorization bill to suspend the activities of the Overseas Private Investment Corporation [OPIC] in the People's Republic of China. I believed then—and I continue to believe today—that the suppression of the Chinese prodemocracy movement makes the Beijing government ineligible for the benefits associated with OPIC coverage. This opinion is also shared by OPIC's president, Mr. Fred Zeder, who in testimony before the Foreign Affairs Committee on July 13 announced that OPIC had suspended its activities in China.

My amendment to prohibit OPIC coverage, however, was never intended to affect projects approved before the June 4 crackdown. Such projects involve commitments between OPIC—a U.S. Government corporation—and investors who reasonably expect these commitments to be honored. In light of such previous commitments, OPIC now plans to proceed with five projects that had received clearances prior to the crackdown, but were not executed as a result of the political turmoil of last June. Proceeding with these previously approved projects is consistent with the intention of my amendment.

The decision to go forward with these projects, however, should not be seen as a deviation from our Government's condemnation of recent events in China. These projects will proceed because of preexisting agreements—not because of any diminution in our opposition to the Chinese Government's efforts to silence the prodemocracy movement.

In a recent letter concerning these five projects, OPIC President Fred Zeder has reaffirmed his intention to continue the current policy of denying OPIC coverage for new investments in China. No applications for OPIC insurance or guarantees have been processed since the June 4 crackdown, and OPIC has no intention of considering any new applications so long as the Chinese Government continues to violate the human rights restrictions that govern OPIC activities.

Believing that the Tiananmen Square massacre has faded from memory, the Chinese Government is now quietly attempting to rebuild its diplomatic and commercial relationships with the United States, even while the crackdown on dissent continues. Mr. Zeder, through consultation and cooperation with the Congress, has helped to assure us that OPIC remains committed to a policy of effective opposition to the continuing crackdown in China. I very much appreciate his efforts to keep the Congress informed about OPIC's activities on this important issue. Mr. Zeder's letter follows:

OVERSEAS PRIVATE
INVESTMENT CORPORATION,
Washington, DC, September 27, 1989.

Hon. TED WEISS,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN WEISS: Since assuming my duties here at OPIC, I have placed high priority on cooperation and consultation with the Congress. By so doing, I believe we can best ensure that OPIC makes a meaningful contribution to U.S. foreign policy goals and that OPIC operates in a manner consistent with its statutory charter.

As you know from testimony which I presented on July 13, 1989 to the Subcommittees on International Economic Policy and Trade, Asian and Pacific Affairs, and Human Rights and International Organizations of the House Committee on Foreign Affairs, my first appearance before a Congressional committee since taking up my duties at OPIC, I joined in the condemnation of recent events in China. More importantly, I announced at that time that OPIC has ceased issuing new coverage in China, a policy which remains in effect today. Further, while we are closely monitoring pending legislation which would statutorily suspend OPIC programs in China, I can assure you that even in the absence of final passage of such legislation, OPIC will not support any new projects in the People's Republic of China as long as proceeding with such projects in that country would not be in keeping with OPIC's statutory restrictions and the foreign policy interests of the United States.

To avoid any misunderstandings, my staff has consulted with yours regarding five projects which would be entitled to OPIC coverage even if the pending sanctions bill were in effect, and which certainly, in our view, should be covered. These projects had received clearances prior to June 1989, but were not executed as a result of uncertainty created by the events of June which shocked the conscience of us all. Approval of these projects at this time represents no change or deviation from OPIC's policy against any new project coverage. Applications which had not been processed before June will not be considered further under present circumstances, including anticipated adoption of a sanctions bill.

Thank you for your courtesy and cooperation in considering this matter. We are sensitive to your interests and look forward to continuing to work with you on this and other matters which will promote proper respect in China and throughout the world for democracy, worker rights and human rights.

Sincerely,

FRED M. ZEDER,
President and Chief,
Executive Officer.

A TRIBUTE TO BISHOP JOHN WALKER

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. FAUNTROY. Mr. Speaker, this morning in the Washington Post, one great churchman of Washington, DC, paid high tribute to another great churchman. I would share this tribute—which is a measure of both these men of God—with Members and staff of the U.S. Congress.

Father Timothy S. Healy, S.J., who served in our Nation's Capital with distinction as president of Georgetown University for many years, captured in words the spirit of Bishop John Walker.

It is the tragic loss of Bishop Walker that fills our hearts with sorrow today. Though the memory of his good deeds and high goals remains an inspiration for all of us, it is our task now to carry on the work to which he dedicated his life—in human relations and in ministry to those who are the least among us.

As a lasting monument to his spiritual leadership, we shall all join the congregations of the National Cathedral in celebrating 100 years of their building of a cathedral that shall, indeed, be the center of a national and international ministry in the Nation's Capital.

REMEMBERING JOHN WALKER

(By Timothy S. Healy, S.J.)

The death of Bishop John Walker brings sadness and a sense of loss. Both are personal, of course, but both are very much more. For me he was a friend, but also a major part of this city as I had come to know it. He touched my life, and Georgetown University, and in a great many more ways, the life of the city itself.

I first met him on his own ground at the National Cathedral, where I was struck by his grace of movement. Despite the voluminous and heavy trappings of a bishop's regalia, he carried them rather than letting them encase him. Beneath the robes was a self-possessed gentleness. It's a rare gift, and having so very little of it myself, I can envy it in others. It argued to no weakness either of perception behind those quick-appraising eyes or of resolve: he could end a

discussion with a determined smile that dropped the temperature notably.

His too the quicksilver of humor. Years ago we robed together at St. Paul's School in New Hampshire, where he, an alumnus, and I, a guest, shared a chapel ceremony marking the school's 125th anniversary. His robes were episcopal, mine academic. Both of us had a red, almost floor-length scapular, his from Canterbury, mine from Oxford. As I wriggled into mine and he recognized it, he took his miter, held it out to me and said, "Try this on for size; you've already got the rest of the outfit." Much to the annoyance of the master of ceremonies, we both processed out chuckling.

He told me of his tough and lonely years at St. Paul's, where he was the only black student. But he also praised and cared for the school because of the training it gave his mind. He had a feel for schools, and seemed to understand by instinct the edgy balance of a university such as Georgetown, where, in John Courtney Murray's words, the church meets the world across an uneven and ever-shifting frontier. I told him of my fear that the university's belief in God and in His laboring presence in creation could become a distraction or, worse, a memory. His comment was typical: "God seems to weigh more in this century than in earlier ones."

During Georgetown's bicentennial I asked him to let us use the National Cathedral for an ecumenical "celebration of freedom." We talked it over, and both of us wanted not to vaunt but to render thanks for the 200 years of freedom that our fellow citizens had granted both our churches. At one point he laughed at the irony of the site and the celebrant; a cathedral of the one church that had to give up its colonial "establishment" and a university that by its very being in the 1780s was the first great test of the new republic's willingness to carry out its principles about religious neutrality. John Walker not only lent us the cathedral, but came himself and spoke from his heart that same commitment to respect and comity.

Most of the time we shared events and activities that had to do with the city itself, Georgetown's front yard and his diocese. The problems always seemed insoluble: homelessness, AIDS, drugs and the battle to protect and yet armor the young. He knew in his bones the irreducible gap between the cuckoo in Washington's nest—the federal establishment—and the real city. Both of us feared being locked in the cuckoo's half of the nest, with its banks and lawyers, lobbyists, think tanks and universities. He ached over how separate the intellectual and social life of the capital was from the lives and pains of the people who make it work, who in their poverty hold it all together with wiring and roads, with shops and stores, with service and humor and hard work.

Over the years he became for me a living bridge across that gap in the city's life. On one hand he was the prelate who ruled its great cathedral, moved with ease among its potentates, married their kids and buried their parents. On the other, he was a man who could walk in every part of the city and know its pain and fear. He could move from Northwest to Southwest without changing smile or rhythm. He was always the priest, always used the fact of his blackness to console and strengthen and bring together, as if both halves of our 10 square miles were bonded somehow in his own person.

That, of course, was his secret strength, one that tied him in friendship to Cardinal Hickey: his priesthood, it is so easy for prelacy in the 20th century to be what it was in the bad old days of the 16th: more princely (in preoccupation if not in style) than priestly. Both men, despite the fleshpots of the world's most powerful capital, never yielded to power's blandishments, never yearned after its rewards. John Walker knew the Apostle's hunger and thirst: "I am in labor until Christ be built up in you." His whole life and work in the city looked to that end and that end alone.

Now, just as the city prepares to celebrate its completion, he lies in state under the soaring cathedral he labored to finish. For all who knew him, the great arches will seem empty, haunted by a comfortable ghost who was in quiet and love the heart and life of the building itself. Cathedral and city are the poorer for his loss, but all of us are richer for the years we spent with him. "The Lord had given," and we have known a modest and good man. "The Lord has taken away" too soon, and left all of us with the hurt of his loss. John Walker would have been the first to join us in ending the ancient prayer, "Blessed be the name of the Lord."

UNITED WAY LABOR PARTICIPATION COMMITTEE

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. WOLPE. Mr. Speaker, I rise to pay tribute to the Greater Kalamazoo United Way's Labor Participation Committee for their efforts to address the drug problem facing Kalamazoo, MI. The committee has scheduled an October 4 rally designed to bring together union members with residents throughout the area to formulate an action plan.

Drug abuse is a poison in this country which is draining away the talent and energy of people in communities like Kalamazoo. President Bush has recently released a blueprint for an all-out war on drugs and has asked our country to get tough on drug suppliers and users. I fully support the need to strengthen drug law enforcement and hold sellers and users accountable for their actions. However, while we might be able to win a battle or two on the drug law enforcement front, I believe we will never win the war unless we recognize the importance of eliminating the demand for drugs in the first instance.

The Kalamazoo Labor Participation Committee recognizes the necessity of drug rehabilitation. Their program is an example of the kind of communitywide drug prevention effort that is needed to provide individuals and their families with the education and information needed to help better prepare them to say "no" to drugs and to select other alternatives. This initial meeting and the followup activities are testimony to the recognition by local union members of their responsibility to the community in which they live and their desire to be an effective element in the struggle to save people's lives and their livelihoods.

Mr. Speaker, I am certain my colleagues will want to join me in saluting the Greater Kalamazoo United Way Labor Participation Committee for their continuing efforts to improve the quality of life for working people, their families, and their neighbors. I am honored and privileged to represent constituents who care so deeply for their community and who are willing to act upon their beliefs.

THE SILVER ANNIVERSARY OF RAIN

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. ENGEL. Mr. Speaker, I rise today to recognize the 25th anniversary of an organization that provides vital services to the elderly and homebound in my district, Regional Aid for Interim Needs, Inc. [RAIN].

Since 1964, RAIN's founder and president Bea Castiglia has worked tirelessly to reach out to the most needy people in the community. Bea's concern for the sick and elderly grew out of her own personal experience of caring for her terminally ill mother-in-law while raising three children and holding down a job as a nurse. Twenty-five years ago, Bea made a promise that if she persevered, she would dedicate the rest of her life to helping others. That is exactly what she has done.

RAIN began as a community-based organization that provided homecare assistance to the elderly, but its services have since grown to include a senior citizen center, a social service referral center, a thrift shop, and a program that provides meals for the homebound poor.

Today, more than 1,000 clients are served by RAIN Home Attendent Services. More than 300 meals are served in the senior center or delivered to the homebound every day. Countless others have received guidance and comfort from Bea Castiglia and her staff.

This week, the community is gathering at a dinner dance to honor RAIN and the people who have supported its efforts through the years. It is with great pride that I extend thanks and congratulations to Bea Castiglia and her staff on behalf of all the people in the Bronx who have been touched by RAIN's caring attention.

REPEAL CATASTROPHIC

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. CRANE. Mr. Speaker, important legislation is being laid out for us tomorrow concerning catastrophic health care. It is our second chance to vote no against this preposterous act which was mistakenly passed last year. I am in support of the amendment to repeal the Catastrophic Act of 1988, and believe that the original purpose of the act has now become skewed. The most crucial part of health care for Americans now, long-term nursing care, is not even included in the package. This poorly designed health bill only served to increase the costs of health care to our senior citizens. Not to mention that these same seniors are being asked to pay new taxes on top of it all.

I would like to bring to the attention of my colleagues the following article by David P. Gergen which appeared in U.S. News and World Report on September 25, 1989. As he states, "the program brought a deluge of new taxes but only a drop of new protection." In order to demonstrate that we are truly concerned about the issues facing our aging citizens, we simply must repeal the catastrophic bill and start over.

REPEAL A BAD HEALTH BILL

(By David R. Gergen)

If I had to live my life again," Tallulah Bankhead once said, "I'd make the same mistakes, only sooner." When Congress gets around to correcting one of its dumber mistakes, it won't be soon enough for many older Americans.

A year ago, complete with ruffles and flourishes, Congress passed and President Reagan signed the Medicare Catastrophic Coverage Act of 1988. It was hailed as the biggest expansion of medicare since 1965, a historic advance in protecting the 33 million beneficiaries of medicare. But that was before senior citizens read the fine print. For most, the program brought a deluge of new taxes but only a drop of new protection. They have been angrily howling ever since, and a red-faced Congress is now scratching its head over what to do next.

The benefits package is riddled with catches and loopholes. Its centerpiece, sponsors said, was to protect older Americans against the devastating costs of acute illness. But under the rules, only 4 percent of all beneficiaries will be helped each year in paying for such illness, according to the Congressional Research Service. New coverage for prescription drugs will help far more people, 16.8 percent of senior citizens per year, but no one will realize any benefit until an annual $600 deductible is paid. For most drugs, consumers must pay 50 percent of any additional costs.

For this pig in a poke, Congress has singled out senior citizens to pay hefty new taxes. Veterans are not asked to pay for all costs of VA hospitals, parents are not asked to pay all the costs of schools, but the elderly—and the elderly alone—must bear the entire costs of this new program. About a third of the costs are to be met by mandatory new charges on all medicare enrollees, starting at $4 a month this year and rising to at least $10 a month by 1993. The other two thirds of the costs are to come from a controversial new surtax. For every $150 in taxes owed to the federal government, a senior citizen must pay an extra "tax on a tax," starting at 15 percent this year and rising to at least 28 percent by 1993. As with all new Washington entitlements, the costs are sure to explode. A new Bush administration document estimates that the program will cost $48 billion over the next five years, 60 percent more than first thought.

These new charges will help to sock many older Americans with the highest tax rates in the country. Those who scrimped and saved for their retirement will be penalized the worst, while those who want to keep working past age 65 will be encouraged to quit. Critics say the surtax hits only wealthy retirees and they should stop bellyaching. Not true. It's a middle-class tax, kicking in this year for any individual with income over $17,285 and requiring payments from more than 40 percent of senior citizens. In fact, the wealthy are shielded from high payments by a cap placed on the tax, starting at $800 this year.

But the worst feature of this law is that it provides the kind of coverage most seniors don't need and don't want. Some 62 percent of medicare enrollees already have some private insurance against acute illness, often paid for through past employment. An additional 10 percent are protected by medicaid. It makes no sense to force people into paying twice for coverage. What most senior citizens want far more and aren't getting is coverage against a true catastrophe: Long-term nursing care. It is extraordinarily expensive to buy insurance protecting a family against nursing-home charges, which average $25,000 for a year's care and are driving an estimated 1 million Americans a year into poverty.

Congress is now tinkering with changes in the law. Both the Bush administration and Democrats are reluctant to abandon it because it will produce surplus revenues this year that can paper over the federal deficit. It is outrageous to make new taxes from senior citizens hostage to Washington budget shenanigans. Congress should have the courage to repeal the 1988 law and start over. The nation has enormous problems in health care—medical costs rising at twice the inflation rate, more than 31 million Americans uninsured, poor children with no medicaid coverage, older Americans with no nursing-home coverage. From the ashes of the 1988 medicare act, the President and Congress should build a new national-health-care system that is fairer and more durable than today's mess.

LEGISLATION TO CORRECT INEQUITY IN LAW AFFECTING WIDOWS OF FEDERAL LAW ENFORCEMENT OFFICERS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. WOLF. Mr. Speaker, I am introducing legislation today to change a provision in title 5, United States Code, section 8336, that negatively affects some spouses of Federal law enforcement officers.

The problem was brought to my attention by an individual in my district who recently lost her husband, a Federal law enforcement officer, to brain cancer. Her husband had 20 years' service as a Federal law enforcement officer but died before his 50th birthday.

Law enforcement officers are allowed to contribute to a special 7½ percent pension over the years. If they die before the age of 50, however, their spouses are only allowed to collect an annuity based on a 7-percent contribution over the years. In some cases, this one-half of 1 percent reduction affects their annuity by as much as $4,000 a year.

This legislation would amend the law to allow the spouses of deceased Federal law enforcement officers the opportunity to receive the special 7½ percent law enforcement annuity as long as the officers had 20 years or more of law enforcement service at the time of their deaths, regardless of age.

This initiative is fully supported by the National Treasury Employees Union and the Federal Law Enforcement Officers Association and I hope Members will join me in sponsoring this legislation. A copy of the bill is included with this statement.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8341 of title 5, United States Code, is amended by adding at the end the following:

"(j) If a law enforcement officer dies after satisfying the service requirement under section 8336(c) of this title for entitlement to an annuity, but before satisfying the age requirement thereunder, any right of a widow, widower, or former spouse to an annuity under this section based on the service of the decedent shall be determined as if the age requirement had been met on the day before date of death."

(b) The amendment made by subsection (a) shall apply with respect to benefits payable for periods beginning on or after the date of enactment of this Act to any survivor of an individual whose date of death is after 1985.

TAIWAN'S NATIONAL DAY

HON. FLOYD H. FLAKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. FLAKE. Mr. Speaker, 78 years ago the heroic Chinese leader, Dr. Sun Yat-sen, created the first free democratic nation in Asia, the Republic of China. On Tuesday, October 10, the anniversary of that momentous event, the island nation of Taiwan will celebrate its National Day.

Indeed, Taiwan has much to celebrate. Its per capita income, by the end of this year, will climb from 30th to 25th in the world, or from US$6,053 to US$7,237. Taiwan's per capita income will surpass those of Spain and Puerto Rico. At the same time, Taiwan fully recognizes its responsibility to help other nations. Most recently, it announced it was going to help other nations by establishing a $1 billion development fund and a $75 million education fund.

Mr. Speaker, I applaud Taiwan's many accomplishments, and I wish to extend to Taiwan's president Dr. Lee Teng-hui my best wishes and congratulations.

AN OUTSTANDING HONOR FOR AN OUTSTANDING MAN—L. WILLIAM SEIDMAN

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. VANDER JAGT. Mr. Speaker, it is a very special personal honor for me to have this opportunity to bring to the attention of my colleagues a most recent tribute given to a dear friend and a most highly respected government official, well known to all of us, L. William Seidman, Chairman of the Federal Deposit Insurance Corporation. Bill, a fellow Michiganite, was recently recognized as the 1989 recipient of the Business Leadership

Award presented by the College of Business of Arizona State University and its Dean's Council of 100.

I am so pleased to have this chance to extend my personal congratulations to Bill whose great service to our country, in a whole host of challenging and difficult roles, has always been exemplary.

Permit me at this time to bring to your attention a statement issued by the Arizona State University regarding Bill's Business Leadership Award, along with some very special background materiai on Bill's outstanding accomplishments.

FDIC CHAIRMAN PRESENTED BUSINESS LEADERSHIP AWARD BY ASU COLLEGE OF BUSINESS

L. William Seidman, chairman of the Federal Deposit Insurance Coroporation and former dean of the Arizona State University College of Business, is this year's recipient of the Business Leadership Award, presented by the college and the Dean's Council of 100.

Presented annually, the honor is given in recognition of "broad accomplishments; to someone whose lifetime contribution is recognized as significant to the nation and whose presence presents a model for future business leaders." Past recipients include Edward Brennan, chairman and chief executive officer of Sears, Roebuck & Co.; Donald Kendall, former chairman of PepsiCo; and David Packard, chairman of Hewlett-Packard Co.

The council is a group of the Valley's top business executives who serves as advisors to the business college's dean. Seidman founded the group during his tenure as dean from 1982 to 1985. He received the award during a Council of 100 luncheon today at the Arizona Biltmore.

Appointed to head the FDIC in 1985, Seidman had been vice chairman of Phelps-Dodge Corporation before coming to ASU. He also served as President Ford's assistant for economic affairs from 1974 to 1977.

In addition to the Business Leadership award, Seidman was honored with the formal dedication of the Seidman Institute for Business Leadership, which he also founded while dean. The institute serves as the umbrella over 10 business research centers located in the college. They are the:

Arizona Real Estate Center;
Center for Advanced Purchasing Studies;
Center for Business Research;
Center for Financial System Research;
COAR: A Management Technology Research Center;
Decision Systems Research Center;
Economic Outlook Center;
First Interstate Center for Services Marketing;
Hahn Center for Entrepreneurship and Innovation; and the
Joan and David Lincoln Center for Ethics.

L. WILLIAM SEIDMAN

L. William Seidman, 67, became the fourteenth Chairman of the Federal Deposit Insurance Corporation on October 21, 1985.

At the time of his presidential appointment, he was Dean of the College of Business at Arizona State University, Tempe, Arizona, one of America's largest business colleges. While in Arizona, he was Chairman of the Governor's Commission on Interstate Banking, and also wrote a business column for the Phoenix Gazette.

Mr. Seidman was in the White House with President Gerald Ford as his Assistant for Economic Affairs from 1974 to 1977. He served as co-chair of the White House Conference on Productivity in 1983 and 1984.

On the business side of his career, Mr. Seidman was Vice-Chairman and Chief Financial Officer of the Phelps Dodge Corporation (a fortune 500 company) from 1977 to 1982.

Mr. Seidman was managing partner of Seidman & Seidman, Certified Public Accountants, New York, New York, from 1968 to 1974. One of the major public accounting firms in the Nation.

He is also the founder of The Washington Campus, a consortium of universities organized to help students and corporate executives understand the operations of the White House, the Congress, and the regulatory agencies.

Mr. Seidman holds an A.B. from Dartmouth (Phi Beta Kappa), an LL.B. from Harvard Law School, and is an honors graduate with an M.B.A. from the University of Michigan. He served in the U.S. Navy from 1942-46, earning battle stars and the Bronze Star Medal.

Mr. Seidman and his wife Sally have six children. Their son Tom is a movie director in California; Tracy is an artist and ranch operator in New Mexico; Sarah is a freelance writer and maple syrup producer in Vermont; Carrie is a ballet dancer in Montana and former N.Y. Times sports reporter; Meg is an assistant race horse trainer in Nebraska; and Robin is a school teacher in New Jersey.

A TRIBUTE TO THE DISTINGUISHED CAREER OF PETE ESCOVEDO

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. DELLUMS. Mr. Speaker, October 3, 1989 marks the occasion of a testimonial dinner honoring a legendary Latin-Jazz percussionist Pete Escovedo. Born in Pittsburg, CA, Pete has invested a great deal of his time in his native Bay Area and the Escovedo family have been a creative force in Latin-Jazz history.

I know firsthand of Pete's notable accomplishments and the leadership he has shown to enhance and preserve as a historic treasure the art form jazz. Pete has received numerous local and national awards recognizing and honoring him as "Jazz Musician of the Year." He has recorded and performed with a variety of top artists, including Billy Cobham, George Duke, Herbie Hancock, Mongo Santamaria, Stephen Stills, Greg Kihn, Carlos Santana, Boz Scaggs, Cal Tjader, Tito Puente, Anita Baker, Woody Herman, and many others. We join this salute to a dedicated and committed citizen who is serving as a role model to our youth and as someone committed to a worldwide legacy for jazz.

Music is the essence of Pete's life and we personally extend our congratulations and best wishes to Pete Escovedo. I am delighted to share his remarkable achievements with my colleagues in the U.S. Congress and the people of our Nation.

RECOGNIZING THE NEED FOR A COMPREHENSIVE CHILD DEVELOPMENT POLICY

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. HAWKINS. Mr. Speaker, the New York Times lead editorial of September 30 correctly points out the glaring need for a comprehensive child development policy for children under 5. Indeed, a joint statement issued by the President and the Governors at the education summit last week recognized the need to help poor children "get off to a good start in school." We, as a nation, can ill afford to ignore the benefits derived from successful early childhood programs. The Head Start expansion and early childhood education provisions included in H.R. 3299, the Omnibus Reconciliation Act, would help us fulfill this need.

For the benefit of my colleagues, I am inserting the Times editorial in the RECORD.

[From the New York Times, Sept. 30, 1989]

OVERLOOKED IN VIRGINIA: LITTLE KIDS

As he stood at the conference on American education this week, president Bush saw only dimly the one need that stands out most sharply on the horizon: the youngest children.

Government programs to help preschool children have proved successful. If children aren't ready for school—in health, curiosity or self-esteem—they will likely suffer through their school years. But despite urgings from the assembled governors, Mr. Bush only halfheartedly embraced the job of helping to ensure that all children are mentally and physically prepared for school.

The two-day meeting in Charlottesville, Va., of the President and the nation's governors merits praise. It created a cooperative, bipartisan spirit on a subject of great national importance. It yielded agreement to develop national performance goals, seek more flexibility in the use of Federal funds, restructure the public school system and strengthen accountability through annual report cards.

There is little question that American education needs a dramatic overhaul. A series of articles in The Times this week demonstrated that students are leaving schools without adequate job skills. That threatens the nation's economic security and its social fabric.

Mr. Bush pledged a new "social compact" for his Administration, parents, educators and state politicians to improve the chances of all youngsters. The participants in the conference agreed to establish national education goals like improving math and science skills, and reducing the dropout rate. And the White House and the governors also agreed to try to find ways that would give states and local school districts more flexibility in using existing Federal funds.

But as Gov. Bill Clinton of Arkansas observed, "This country needs a comprehensive child development policy for children under 5." A joint statement by the White House and the governors recognized the Federal Government's responsibility to help poor children "get off to a good start in school," and Mr. Bush later cited the need

for more Federal support for Head Start and other prekindergarten programs. However, he failed to pledge additional dollars or specific targets, promising only to give priority to those programs as funds become available.

That's not good enough, given the urgency of the problem and the demonstrated long-term benefits of early childhood intervention. The governors are pledged to do better by America's schoolchildren once they enter kindergarten. Now Mr. Bush needs to do better by them before they get there.

HONORING THE REVEREND SPYRIDON MACRIS

HON. GUY V. MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. MOLINARI. Mr. Speaker, I would like to take this opportunity to pay tribute to the memory of the Reverend Spyridon Macris, an outstanding clergyman and contributor to the Staten Island community.

For almost 25 years, Father Macris served the people of Holy Trinity Greek Orthodox Church with great enthusiasm and compassion. His dedication to the church was a deep and personal one. During his tenure at Holy Trinity, membership increased over threefold. The parish also saw the completion of a new church.

Father Macris took great pride in his Greek heritage, and because of his inspirational ability, became a leader to the Greek community as well. Every year the church organized a Greek festival, which served as a celebration of Greek culture and history. I always looked forward to attending this festival and saw firsthand the respect and affection Father Macris engendered.

Our community is saddened by the untimely death of Father Macris, but comforted in the knowledge that his legacy of hard work and genuine concern for others will serve as a model for all of those who want to make their community better.

In a few weeks, Mr. Speaker, a group will gather on Staten Island for a luncheon at which Father Macris was scheduled to be the guest of honor. His friends had wanted to pay a public tribute to him. Now, we will gather with, of course, some sadness. But it will also be a time for gratitude and thanksgiving as we remember a man of caring who contributed so much to our community.

AMERICAN WATERWAY OPERATORS' STATEMENT IN SUPPORT OF H.R. 1465, OIL POLLUTION PREVENTION, RESPONSE, LIABILITY AND COMPENSATION ACT OF 1989

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. CLEMENT. Mr. Speaker, this week the House of Representatives is scheduled to consider H.R. 1465, the Oil Pollution Prevention, Response, Liability and Compensation Act of 1989.

This important measure is the product of many hearings and the experience of past Congresses which have considered similar measures. It is a bill which takes a tremendous step forward in preventing future oil spills and in insuring an immediate response should a spill occur.

Recently, the American Waterway Operators, which is the trade association representing the tug and barge industry, issued a statement on the bill which I commend to my colleagues. The statement also discusses several amendments that may be offered and their detrimental effect should they be adopted.

I invite my colleagues to read this statement as the House begins consideration of this important legislation.

STATEMENT ON OIL SPILL LIABILITY LEGISLATION

I am Joe Farrell, President of the American Waterways Operators (AWO), the national association of the tug and barge industry. The barge industry transports 40 percent of America's petroleum and petroleum products. I am speaking on behalf of AWO and other national organizations directly concerned with either marine transportation or natural resource development.

Americans demand safe, environmentally-sound transportation of oil, and full compensation if an accident occurs. The House of Representatives is soon to consider comprehensive legislation that provides a single federal regime for oil spill liability and compensation. These organizations have for over a decade advocated enactment of such a law, and we support the bill which Rep. Walter B. Jones, Chairman of the House Merchant Marine and Fisheries Committee, will bring to the House floor. It contains many sound measures for preventing and responding to oil spills more effectively, imposes strict liability on vessels and facilities that handle oil, and ensures swift, fair and full compensation to oil spill victims by the transporter, backed up by an unlimited fund financed entirely by the private sector. The concept of this legislation is even more valid today than when first developed in 1975, as the tragic spill in Prince William Sound has dramatically demonstrated. In the backdrop of the legislation pending in Congress, we must recognize that U.S. energy consumption is very high. Americans consume over 17 million barrels of oil a day, burn over two million tons of coal a day, and use nuclear energy for over 17 percent of the electricity generated in the U.S. every day. Although Americans constitute only six percent of the population, we consume a full 40 percent of the world's energy. Nothing in the foreseeable future will change this pattern. If anything, energy consumption will increase as the population grows and the benefits of our industrial democracy expand.

Further framing what is at issue, we wish to highlight some data:

Major oil spills occur infrequently. Over three-quarters of all recorded spills are 100 gallons or smaller;

In the course of the last 22 years, there have been 45 major spills world wide. Six of these occurred in or near U.S. waters; and

Major oil companies . . . at which much of the passion of the current oil spill debate is aimed . . . own only eight percent of the world's tanker fleet. The rest are owned by independent operators.

The House bill is based on a system of shared liability between the shipowner and the cargo owner. It is important to understand that this scheme of shared liability is a major undergirding of safe transportation. If cargo owners are exposed to spill liability, they will exercise extraordinary diligence in selecting vessel operators with proven safety records to transport their cargos. It is also important to understand that under this legislation, limitation of liability only describes the line where payment of cleanup and compensation costs shift from the vessel owner to the cargo owner, and in no way limits the ability of victims to be fully compensated for their claims. It works this way:

The shipowner, who transports the oil, is responsible for paying all cleanup and compensation costs up to his limit of liability. Shipowners are subject to unlimited liability in cases of gross negligence or willful misconduct, or a violation of operating or safety regulations;

The cargo owner, who introduces the oil into commerce, is responsible for paying any cleanup and compensation costs which exceed the shipowner's limit of liability. The cargo owners share of these costs are derived from a comprehensive fund financed entirely by a tax paid by the oil companies. Therefore, under this legislation, oil spill cleanup and compensation will be borne entirely by the shipowners and the oil companies. The U.S. taxpayer will not be forced to bear any of these costs.

We are here today to express our support for the House bill, and our concern about a group of amendments being sponsored by Representatives Gerry Studds and George Miller, at the behest of strict environmentalists, aimed straight at the heart of fundamental goals of virtually all Americans: to reduce to an absolute minimum the likelihood of major spills and, when and if spills occur, move immediately to contain and clean up the spill, and swiftly and equitably compensate the injured for damages and restore, replace, or rehabilitate natural resources.

The Miller-Studds amendments would impede progress toward these goals. Instead of strengthening environmental protection in the transportation of petroleum, the Miller-Studds amendments would weaken it. Instead of spending compensation to oil spill victims, the Miller-Studds amendments would ensure long delays.

If enacted, the Miller-Studds amendments would expose petroleum transporters and facilities such as offshore drilling rigs, production platforms, and terminals in virtually all incidents to unlimited liabilities for oil spills. If enacted, these amendments would severely restrict, if not eliminate completely, the ability of oil transporters and producers to obtain insurance and maintain efficient shipping, drilling, and terminal operations. The result would be that responsible parties will be driven to abandon the oil transportation business. If replaced at all, they will be replaced by undercapitalized and environmentally insenstive parties.

If enacted, the Miller-Studds amendments would remove the provision in the legislation preempting state liability laws for cleanup costs, natural resource damages, and third party claims. This would dismantle the establishment of comprehensive legislation to replace the current patchwork of international, federal, state and common law. In so doing, lost would be the great benefit of a single regime to provide full, fair and swift compensation to those injured

by a spill. Messrs. Miller and Studds insist that claimants must pursue recovery of speculative and punitive damages in state courts. Consider what that would do in the real world. We reviewed this past summer, following the three spills of last June, the liability laws of those affected states: New Jersey, Pennsylvania, Delaware, Texas and Rhode Island. The analysis shows clearly that the citizens of those states would fare far better under a federal preemptive compensation scheme as proposed in the House bill, rather than under the conflicting laws of the states.

If enacted, the Miller-Studds amendments would provide that federal caps on liability would not apply in cases of simple negligence as opposed to gross negligence. "Simple negligence" is a legal term of art; for all concerned, this proposal has serious potential consequences. The legal concept of negligence is inherent in any activity where an element of risk is involved. Because claimants must access arcane legal concepts, utilizing instead a simple negligence standard would serve to tie up the matter of compensation in the court system for years. The structure of the House bill assures that all cleanup and compensation costs are paid by the transporter or the cargo owner—liability limits merely delineate where the payment shifts to the cargo owner. Anyone who portrays limtis of liability as a cap on cleanup and damage costs either does not understand the legislation or is purposely trying to mislead.

If enacted, the Miller-Studds amendments would also apply to organizations whose sole purpose is to respond to spills and protect the environment. But without reliable limits on potential liability, such organizations would be inhibited from responding quickly and effectively to a spill. Some might be forced to shut down because insurance would be unavailable or too costly.

If enacted, the Miller-Studds amendments would add onto the federal regime another layer of shared liability, termed "secondary liability." Under the House bill, the cargo owners are liable for cleanup and damage costs through the federal taxes they will pay to create the backup federal compensation and cleanup fund. The proposed addition of so-called secondary liability breaks down in no constructive way this allocation of risks and has far-reaching ramifications for the world oil distribution network by fostering restructuring of cargo owner arrangements. What this amendment would really do is defeat the clean, easily accessed, streamlined regime claimants need and will have under the House bill.

We urge the Members of the House of Representatives to reject the Miller-Studds amendments and adopt the oil spill liability legislation brought to the floor by Chairman Walter Jones. We believe that this legislation provides the fairest and most effective approach to oil spill liability and compensation. Attempts to weaken it must be defeated.

EMPLOYEE OWNERSHIP WEEK

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. MATSUI. Mr. Speaker, I rise today to invite my colleagues to join me in commemorating October 1-7, 1989, as Employee Ownership Week.

Employee ownership is becoming a practice that is instrumental in helping more Americans share in our Nation's growth and prosperity by enabling our citizens to accumulate significant amounts of capital stock in the businesses with whom they are employed. It has become a powerful incentive for employees to make the best of their talents and energies in their places of work, thus strengthening their competitive potential in the Nation's enterprises. Moreover, this practice is a viable tool for creating and retaining jobs in communities throughout our country.

I need only look to my own community to find a shining example of how employee ownership can work. The Lynn-Edwards Corp. of Sacramento is the Nation's largest publicly held office supply distributor. This is a company that started operations out of a garage in lieu of a warehouse with only a panel van to serve as a delivery truck. From these humble beginnings, Lynn-Edwards has grown to become one of the most successful and respected companies in the western region of the United States.

The growing number of firms and their employee owners who have used this concept deserve special praise for their participation in the positive economic trend of employee ownership. Certainly, all the jobs that have been saved, the businesses that have remained solvent, the families that have benefited, and the futures that have been brightened speak to the worthiness of saluting employee owners everywhere.

THE DEATH PILL

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. DORNAN of California. Mr. Speaker, I would like to call your attention to the excellent article in the October 1989 issue of the American Spectator magazine. In the article, Charlotte Low Allen discusses the destructive abortion pill, RU-486. Just last week its French creator was awarded the prestigious American Lasker prize for research. The Washington Post reported it a safe and effective approach, a stunning advance which could transform family planning. But this is blatantly false.

As Ms. Allen relates in her article, RU-486 has more than a dozen contraindications which proscribe its use. It is no morning after pill. It must be administered under direct medical supervision and the procedure, which last several days, is painful and bloody. What was supposed to be a quick and easy way to fix unwanted pregnancy has turned out to be an extremely ugly alternative. And so goes the tragedy of abortion.

Mr. Speaker, I enjoin my colleagues to read this timely article:

THE MYSTERIES OF RU-486

(By Charlotte Low Allen)

Now that the Supreme Court has decided to allow states to restrict abortion substantially at hospitals and medical clinics, interest among members of the women's movement has rekindled in do-it-yourself abortion, a fad of the early 1970s bra-burning days that fell into disuse. The home remedies range from cocaine (it can induce uterine contractions) to something called "menstrual extraction," which involves a syringe, plastic fishtank tubing, and a Mason jar. These methods although touted by feminist health clinics, are generally considered dangerous, certainly for the mother, but also for any baby who survives them to birth. "Sadly, many home remedies could damage a fetus instead of kill it," was Newsweek magazine's rather odd comment on the subject.

Invariably into this discussion of ways of completely privatizing abortion—thus removing it from the purview of the law and the right-to-life movement—comes the abortion pill, RU-486. That pill, as this article will explain, is far from a do-it-yourself abortion fix, but there are many optimistic souls who would like to think it is.

RU-486 is an anti-progesterone steroid that destroys the uterine lining, at least in most cases, starving out the already attached fetus, which dies and is expelled. In the year since the pill, whose trade name is Mifepristone, went on the French market, the National Organization for Women and its offshoot, former NOW president Eleanor Smeal's Fund for a Feminist Majority (FFM), have been leading a campaign to find a U.S. pharmaceutical company willing to take on the U.S. marketing of the pill.

The NOW/FFM coalition is one wheel of a strong troike whose other wheels are the Population Council and the Planned Parenthood Federation of America. They seem determined to push RU-486 through, with the goal of speeding FDA review to four years (by using European tests in lieu of American ones), limiting damage exposure for any private company that decides to make the drug, and even using federal funds to pay the research and marketing costs.

RU-486 is currently the sole property of its French developer, Roussel-Uclaf, a joint subsidiary of the German pharmaceutical company Hoechst and the French government. Invented in 1982, the pill has been on the market in France since September 1988; 12,000 French women are said to have used it so far. China also had a brief licensing arrangement with Roussel to use RU-486 as part of its one-child-per-couple population-halving program but has reportedly terminated the arrangement. Because China does not recognize international copyright or patent conventions, it is difficult to say with certainty whether some black-market version of the pill is currently circulating in that country and perhaps outside its borders.

Meanwhile, no U.S. pharmaceutical company to date has shown the slightest interest in manufacturing or marketing it. Part of the reason for the drug industry's cold feet is probably fear of a massive boycott by the right-to-life movement of all the drug company's other products. In 1985, the National Right to Life Committee was instrumental in Upjohn Co.'s decision to stop making its labor-inducing prostaglandin (another extremely painful abortifacient) and to disband its entire fertility research division.

But the main reason for the hesitancy on RU-486 is undoubtedly fear of liability exposure. No company wants to see its product go the lawsuit-dotted way of the first generation of birth control pills (millions of dollars in damage awards, including $2.75 million in punitive damages against the Ortho Pharmaceutical Corp. alone) or, even worse, the Dalkon Shield, whose $2.5 billion in pu-

nitive assessments, with another $12 billion possibly to come, forced the manufacturer, A. H. Robins Co., into bankruptcy court (a payout plan was recently approved).

From a reading of the somewhat scant English-language medical literature on RU-486—articles in the New England Journal of Medicine, Lancet, and the American Journal of Obstetrics and Gynecology—the abortion pill emerges as one of the creepiest human concoctions around. And not only because it kills the unborn, a job at which it is actually not outstandingly efficient, zapping only about 50 to 85 percent of them depending on which study you read (prostaglandin, taken in conjunction with the pill, boosts the rate to 95 percent). By contrast, surgical abortion is 99 percent effective.

Abortion via the pill is an ordeal for the women involved, far more of an ordeal than conventional surgical abortion. It is time-consuming (the abortion part alone lasts three days, and the clinical part comprises a week's worth of visits), bloody (one woman in a Swedish trial required a transfusion, although for most it resembles an exceedingly heavy menstrual period, with bleedings lasting an average from six to sixteen days, occasionally up to thirty), and painful (many women require analgesic shots to ease them through). Nausea and vomiting are other common side effects: so, in some women, for reasons no one can figure out, are itching and burning sensations around the vagina.

In the seven years since Dr. Etienne-Emile Baulieu, the French physician who developed the RU-486 molecule for Roussel, announced his invention, the drug has gone through several violent transmogrifications of description, leading one to wonder just how much anyone really knows about it. At first, it was supposed to be the long-desired "morning after" pill, preventing the fertilized egg from implanting itself on to the uterine wall as normally happens a week after conception. Then the Roussel researchers discovered the drug did not work immediately after conception. So it was next touted as a kind of menstrual regulator, a drug a woman could take every month and not even know if she was aborting, presumably easing her conscience. Then they found that it quickly causes a phenomenon called "dysynchrony," in which a woman's ovulatory and menstrual cycles become unlinked, reducing the drug's effectiveness in terminating any pregnancy.

In 1987 Balulieu bragged that RU-486 would completely replace surgical abortions up through the first ten weeks of pregnancy, which is when 80 percent of abortions take place. It turns out that the drug does not work very well after the seventh week. Indeed, timing is of the essence with RU-486. It is most effective taken about a week after a woman misses her menstrual period up through that seventh week, when it is markedly less effective. That is typically about a three-week window. So far, all the studies have concluded that RU-486 is "safe." But "safe," in the definition of Marie Bass of the Reproductive Health Technologies Project, means "there's been no evidence so far of mortality." That is, no woman has yet died from taking the pill.

No one has researched the long-term effects of RU-486 on a woman's health or fertility. The drug seems to suppress ovulation for three to seven months after it is taken. Some women clearly have no trouble eventually conceiving again: the studies have reported repeaters in their programs. But there are no scientific data on this question. Rather ominously, rabbit studies reveal that RU-486 can cause birth defects, Lancet reported in 1987. The drug's molecular structure resembles that of DES, the 1950s antimiscarriage drug that, by altering the fetus's DNA, tended to cause cervical cancer in the daughters of the women who took it. All the published studies strictly warn that women on whom the drug proves ineffective cannot change their minds but must undergo a surgical abortion. Birth defects, a sure source of lawsuits, are one reason the U.S. pharmaceutical industry is steering clear of RU-486.

One might well ask: Why bother with this drug at all? Some abortion advocates have been asking themselves this very question. RU-486 "probably represents a technical advance in an area where none is needed, or at least not very much," said Dr. Phillip G. Stubblefield, president of the National Abortion Federation, at a reproductive health conference in 1986. Many physicians have expressed concern over the heavy bleeding, which occurs even if the drug fails to induce an abortion. It typically takes from eight to ten years to obtain the federal Food and Drug Administration's approval for a new drug (stages of animal and human studies plus layers of review), and the cost of testing and marketing a new drug can range from $30 million to $70 million. Some have suggested it may be prohibitive for a private company even to obtain the necessary insurance to perform the clinical tests.

The Health and Human Services Department currently forbids the National Institutes of Health from funding abortion research as part of its $8 million contraceptive program. But the Population Council, a 37-year-old, $20 million nonprofit organization that has the backing of the Rockefeller and Melton foundations and currently subsidizes most U.S. research on contraceptives, has recently been paying for U.S. studies of RU-486 on a Roussel license, including a series at the University of Southern California's medical school. NOW is trying to browbeat the pharmaceutical industry into getting involved. (Its scare-tactic prediction: the pill "will be available in the U.S. either legally or illegally, in no more than 2-5 years.") Planned Parenthood lobbied heavily last year in hopes of defeating an amendment that would have exempted abortifacients from a products-liability reform bill in Congress.

Following the feminist and population-control lead has been a generally bovine press. News stories about RU-486 continue to call it a "morning-after" pill, although many mornings must pass before its effective. A June 1988 article in Mother Jones magazine is typical of the general level of media ignorance. "For a woman whose period is late, using RU-486 means no waiting, no walking past picket lines at abortion clinics, and no feet up in stirrups for surgery," burbles health writer Laura Fraser. "It also means she will never have to know whether she had actually been pregnant." Wrong on all counts, Miss Fraser. Although Baulieu, with typical hyperbole, has boasted that the pill will soon be available over the counter in drugstores for home dosing, it is being administered in France only under strict hospital-like supervision in the presence of a doctor. (Roussel reportedly has every pill marked and accounted for to make sure none slips into the black market.)

Thus, a woman who used RU-486 to have an abortion would have to make three trips to the clinic past those picket lines: an initial visit for medical screening (anemics and those with previous pregnancy problems are eliminated) and to take the pill, a second trip forty-eight hours later for the prostaglandin, administered either via injection or vaginal suppository, and a third trip a week later to make sure she has completely aborted. Furthermore, because timing is so critical with RU-486, she will learn, via a pelvic examination (feet in stirrups) and ultrasound, not only that she is pregnant, but just how pregnant she is. No doctor fears malpractice liability would likely expose a non-pregnant patient to the risk of hemorrhaging. Many women may even see the dead fetus they have expelled, a sight the surgical-abortion industry typically spares them. At seven weeks, a fetus is about three-fourths of an inch long and recognizably human.

Some members of the health profession have expressed reservations about the abortion pill, most notably Sue Halpern, a researcher at the Columbia University College of Physicians and Surgeons, in an April 1987 article in Ms. Magazine. But anyone outside scholarly circles who dares dissent from the RU-486 brouhaha can expect perfunctory dismissal as a right-to-life hysteric.

Much of NOW/FFM literature repeats claims for RU-486 that the medical profession has already dropped. For example, one press release still calls it a "menses inducer." Another NOW assertion is that "chemical abortion entails even less risk than a vacuum aspiration abortion," the suction procedure that is the most common form of surgical abortion in the United States. How's that again? Pro-choice advocates have always insisted that surgical abortion itself is virtually risk-free, even safer than childbirth, and it certainly takes less time than the pill, and without the side effects. Is surgical abortion actually riskier than anyone has let on?

It turns out that NOW is comparing apples and oranges: the risks of legal, rigidly supervised administration of RU-486 in the West to the risks of illegal, putatively unsupervised surgical abortions in Third World countries where sanitation standards are not high. But what if RU-486 started to circulate illegally—or even legally—in those Third World countries, where there are not enough doctors to supervise every dose and patients may not be sophisticated enough to return for the crucial follow-up visits? "The woman does need to have access to a health clinic," admits Bass of the Reproductive Health Technologies Project.

The heavy NOW/FFM drum-beating for RU-486 has created a double bind for the 10,000-member National Women's Health Network, which does not want to be seen as anti-abortion or aligned with the right-to-lifers but has serious qualms about introducing reproductive products onto the market without adequate testing. Just by way of contrast to RU-486, another Population Council product, the new Norplant contraceptive—a set of hormone-releasing capsules to be injected into a woman's arm and designed to last five years—has been in the works for twenty years and still does not have final FDA approval. "Women know the contraceptive revolution has been influenced more by the pursuit of population control and profit than by the need for safe birth control," wrote Sybil Shainwald, a past president of the Network, in a recent issue of USA Today. The Network is taking a schizophrenic line on the abortion pill. "It's a complicated issue," says executive director Victoria Leonard. "Certainly the Network would think it appropriate that there's more extensive testing and that it be fol-

lowed closely to watch for abuses in medically under-served communities."

The search for "better" contraceptives and "better" abortifacients is at bottom an effort to neutralize via technology the blind, brute hand of Mother Nature, who drives male and female inexorably together to couple and to reproduce the species. It is the force that through the green fuse drives the flower: trying to stop the process is like trying to stop a tulip bulb from sprouting. Stopping the reproductive process (or "controlling fertility," to borrow the phrase du jour of the women's movement) is unimaginably hard, yet we want to believe that science will someday, somehow make it easy, like waving a fairy godmother's wand. The egg and sperm will never meet: the pregnant woman will magically become un-pregnant by swallowing a pill.

All chemical methods of fertility control are designed to interfere in some fashion with the complex hormonal process of the female reproductive system, producing the estrogen that releases the egg for fertilization and the progesterone that stimulates the building of the uterine lining and the nourishment of the fetus for its first eight weeks. The early birth control pills were heavy serial mixes of synthetic estrogen and progesterone designed to mimic pregnancy, fooling the pituitary gland into stopping egg production. The newer generation of pills contain little synthetic estrogen and low levels of progestin, blocking implantation but not ovulation. IUDs are also likely implantation-blockers (although there is some evidence they simply "dissuade" the sperm from swimming up the fallopian tube to meet the egg), and the newer IUDs release progestin as well.

The early histories of the two biggest fertility-control disasters, the first-generation birth control pills and the Dalkon Shield, bear a striking resemblance to the story so far of RU-486. Indeed, someone who wishes to predict a possible scenario for the abortion pill might do well to read such books as Paul Vaughan's The Pill on Trial, Morton Mintz's At Any Cost: Corporate Greed, Women and the Dalkon Shield, and Nightmare: Women and the Dalkon Shield by Susan Perry and Jim Dawson. As with RU-486, the Population Council was a major player, heavily promoting both the birth control pill (Planned parenthood funded the research) and the IUD. It convened the First International Conference on Intrauterine Contraception in 1962.

The intense promotion of the Pill and IUD by the population-control industry came in the face of overwhelming evidence of unpleasant side effects for both. All tests of the Pill uncovered a laundry list of them: weight gains, depression, anemia, thrombosis, jaundice, nausea, skin disorders, and migraine headaches were only a few. Experimental IUDs tested from the 1920s to the '50s engendered persistent reports of pain, bleeding, infection, and sterility (all had silk tails that tended to "wick" bacteria into the womb, a failing of the multi-filamented Dalkon Shield tail).

Enthusiasts for both contraceptives poohpoohed the reported side effects as female hysteria. With the Pill, it was predicted that unpleasant symptoms would taper off as women's bodies got used to being prepetually synthetically pregnant. The FDA approved the first pill, Enovid, in 1960, after only about four years of testing, mostly on Puerto Rican slum women.

Under the law as it then existed, IUDs as medical "devices," not "drugs," did not require any testing before marketing. At the Population Council's IUD conference in 1962, the individual complaints of women played second fiddle to the general goal of defusing what was viewed as the incipient worldwide population explosion (it was the decade of Paul Ehrlich's book, The Population Bomb). "Perhaps the individual patient is expendable in the general scheme of things, particularly if the infection she acquires is sterilizing but not lethal," one expert declared. "You have to realize that the population movement has an ideological bend, and that, as far as science is concerned, it's not just concerned with finding out the truth," says Mintz, a former Washington Post health reporter. Poor women—Baltimore blacks who visited inventor Hugh Davis's clinic at Johns Hopkins University's medical school—were the Shields' test subjects.

Accompanying the release of both kinds of products was a Sexual Revolution-fueled euphoria that created intense public demand. Each kind of contraceptive seemed to hold itself out as the fairy godmother's touch that would painlessly sever the pesky link between sexual delight and procreation. Pill fever was the hallmark of my own college years during the 1960s. In my dormitory, girls ostentatiously flashed their plastic Pill packets and condescendingly touted its virtues to naives still using the diaphragm. Even girls who did not have boyfriends got Pill prescriptions. One friend of mine was a virgin for four of the seven straight years she was on the Pill. The IUD engendered a similar fad a few years later, although most women I knew had their IUDs removed after a short time because of the pain and heavy menstrual bleeding they seemed to cause. From 1960 through 1970, 20 million women took the Pill. By 1980, 60 million women worldwide had tried IUDs.

The first-generation Pills got pulled from the market amid a flood of lawsuits linking it with thrombo-embolisms; blood clots in the veins that are fatal if they reach the heart. A 1969 study by the FDA showed that women were 4.4 times as likely to have the embolisms if they used the Pill. Other studies linked the early oral contraceptives with cancer. About 13 million women currently use second-generation Pills, although smokers and women over thirty-five are not supposed to take them. At last report, those Pills, too, have been linked to breast cancer, but the FDA has decided no extra warnings are necessary.

About 4.5 million Dalkon Shields were distributed in eight countries during the 1970s, about 2.9 million of them in the United States, before thousands of women started reporting pregnancies and miscarriages, uterine wall perforations, and infection-induced sterility. As many as 90,000 wearers may have been injured. In 1976, Congress amended the Food, Drug and Cosmetic Act to require premarket testing of medical devices such as contraceptives. Currently there are only two IUDs in distribution, both manufactured by small, low-exposure companies and recommended for women in monogamous relationships whose risk for pelvic inflammatory disease is low.

What all of this bodes for RU-486 is uncertain. At the behest of pro-choice members of Congress, a four-year reauthorization bill for Title X federal family-planning assistance now contains a $10 million grant for "development, evaluation and bringing to the marketplace of new and improved contraceptive devices, drugs and methods." If this passes—a Senate version has already been cleared for a floor vote—it would put the federal government into the contraceptive marketing business for the first time. It also could put the government into the RU-486 business, which would please feminists dismayed at what they view as pusillanimity in the private-sector drug industry. On July 23, Congresswomen Patricia Schroeder and Olympia Snowe introduced a $77 million "birth-control research" bill that is drafted broadly enough to include abortifacient research.

We do not know whether RU-486 will be as disastrous as some of the earlier fertility control methods released to unblinking, uncritical cheers from educated people who should have known better. We will not know until a first generation of female guinea pigs—all of whom will be more than happy to volunteer for the job—has put the abortion pill through the clinical test of time.

One of the fascinating aspects of the RU-486 controversy, and also of the recent abortion-rights protests centered on the Supreme Court's recent ruling in *Webster* v. *Reproductive Health Services Inc.*, is how the women's movement has lately turned into strictly an abortion movement. The much-touted April 9 march in Washington was originally supposed to consolidate support for a variety of issues that are considered to be of central importance to women, including parental leave, government funding for child care, equal pay for work of "comparable" worth so that single mothers can earn family wages, and forcing errant fathers to support their offspring. All these issues (perhaps paradoxically, revolving around women's role as mothers, not as trailblazers of sexual liberation) fell by the wayside as the march became focused on abortion alone. A similar abortion-rights march is scheduled for November 12.

The National Organization for Women is now almost entirely an abortion-rights organization: it's nonprofit litigation arm devotes itself to eliminating abortion restrictions and neutralizing abortion protesters. In late July, at the organization's annual convention in Cincinnati, NOW delegates voted to demand that the U.S. government test and distribute RU-486 and even to consider forming a new abortion-oriented political party. The ideological eggs of the feminists are going into one basket. In the long run, the women's rights advocates may discover they have been used simply to serve the goal of the population control enthusiasts—cutting the birth rate by any means possible. It is a goal in which, as that Population Council expert declared twenty-seven years ago, the scientific truth is subservient to ideology and the individual female patient is expendable.

BLACK LEADERS HONORED

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. TANNER. Mr. Speaker, I rise today to bring to the attention of my colleagues an event which is being held in my congressional district this Sunday, October 8, 1989. At 6 o'clock that evening, the First Baptist Church of Alamo will be holding a special program in tribute to black pioneer male leaders who have been outstanding in the leadership they

have provided for the black community in Crockett County, TN.

The five men being honored on this occasion are Rev. J.J. Nance, Rev. John Mathis, Mr. E.D. Brown, Mr. Curtis Koonce and Mr. B.W. Simmons. These men are to be highly commended for their many years of service in the fields of religion and education. I extend to each of them my sincere congratulations upon this recognition.

THE DEPARTMENT OF THE INTERIOR'S LATEST STUDY ON OFFSHORE OIL DRILLING IN THE FLORIDA KEYS IS A WASTE OF $213,000

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. FASCELL. Mr. Speaker, I rise to express my dismay at a $213,000 contract recently awarded by the Department of the Interior [DOI] to a Virginia consultant to study the impacts of oil and gas development on employment and service needs in the Florida Keys. According to DOI's Minerals Management Service [MMS], "it is important to * * * identify the recreation and tourism activities in those areas that may be affected by possible offshore oil and gas development." For the past 6 years, the State of Florida and the Federal Government have conducted numerous studies on the consequences and affects of oil and gas drilling in this area. We do not need another study on the impacts of oil drilling; we need a permanent ban on it in the waters adjacent to the Florida Keys and the Everglades National Park.

I must also question why the Department of the Interior commissioned this study when its Secretary is currently reviewing offshore drilling in this area in his role as chairman of the President's Task Force on Outer Continental Shelf Oil and Gas Development. This study, and earlier comments made by the Secretary of the Interior, lead me to believe that the President's task force is not, and never was, committed to determining the legitimate environmental consequences of oil drilling near the Florida Keys.

I would like to call to the attention of our colleagues an editorial in the September 23 edition of the Florida Keys Keynoter. As the House prepares to take up the oilspill liability and prevention legislation, I urge our colleagues to acquaint themselves with the concerns of our Nation's coastal communities.

[From the Florida Keys Keynoter, Sept. 23, 1989]

ABSURD STUDY

Journalists, as a rule, can't get enough information. The more facts are available, the better—usually.

But this time, the government's penchant for buying an information-gathering "study" seems to have gone too far.

The U.S. Department of the Interior has ordered a Virginia consulting firm to "study impacts of oil and gas development on tourism and recreation in the Florida Keys."

Cost of the study: $213,000. In federal terms, this may be a drop in the bucket. In real terms, it is an outrage.

Any one of the hundreds of Keys residents who have testified at the various oil-drilling hearings could happily tell the Interior the same thing:

The economy of the Florida Keys lives and dies on tourism. The sight of oil rigs on the horizon and water degradation from routine drilling operations would be very bad. A spill or accident of any kind would be fatal.

To have someone tell us this—again—is worth $213,000 from the hard-pressed federal treasury?

And in ordering the study, Interior officials even had the gall to order that impacts from a spill not even be considered!

Oh, but this study will address other things, the bureaucrats say. It will tell us about employment impacts and such.

Again, we offer some facts of life well known to all who are fortunate enough to live here. The cost of Florida Keys living is a bear. An influx of well-paid oil employees will place a crushing burden on a housing market that barely accommodates our essential service workers as it is.

In all likelihood, the consultants will hop down to Key West, put themselves up at a pricey resort for a couple of weeks, then subcontract somebody local to rewrite the Monroe County Statistical Abstract.

We would urge Interior to just buy a copy of the abstract and save us all some $212,985. Give it to the Coast Guard. Make a contribution to the war on drugs. Expand our marine sanctuaries. Give it to anybody who *really* needs it—not a well-heeled "consultant" from inside the Capital Beltway.

Nothing like the oil-drilling issue has ever elicited such an overwhelming consensus from the people of the Florida Keys.

Our environment is fragile and irreplaceable. To jeopardize this treasure for the sake of oil-company profits is an obscenity.

No Valdez in the Keys.

Study that.

IN SUPPORT OF THE RECONCILIATION BILL'S CHILD CARE PROPOSAL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. KILDEE. Mr. Speaker, I would like to commend to my colleagues the statements of the many Members of Congress and concerned community leaders on the importance of the child care provisions within H.R. 3299, the Budget Reconciliation Act of 1989.

These statements exemplify the broad support that these child care provisions enjoy.

STATEMENT OF HON. STENY H. HOYER

The House will be voting tomorrow to protect the provisions of the reconciliation measure which will ensure that our Nation adopts a comprehensive child care policy.

The child care provisions in reconciliation, as opposed to the substitute amendments, offer parents a full range of choices in their day care providers while ensuring that quality day care is available to the broadest number of children. The reconciliation bill provides States and communities with the flexibility and the resources to build upon and improve existing child care services.

The substitute amendments provide little assistance for low-income parents and school-age latchkey children. These are the children who are the most vulnerable to drug abuse and whose parents have the least options. Furthermore, in effect, the substitutes narrow parental choice and provide parents no assurances that their children will be cared for in a safe environment. Furthermore, there is a desperate need to increase the supply of child care, yet the substitute's provisions are completely inadequate in that regard.

The question before the House tomorrow is clear. We can continue to ignore the needs of millions of American families or we can vote to ensure that comprehensive child care legislation is enacted.

STATEMENT OF MARIAN WRIGHT EDELMAN, PRESIDENT, CHILDREN'S DEFENSE FUND

Last week at the education summit, the governors committed themselves to making sure that all American children graduate from our public schools able to read, write, and think well.

This week, the House of Representatives has the responsibility of making sure that American children start school prepared to learn how to read, write, and think well.

Young children who are ill, undernourished, and undernurtured, do not enter the school house ready to learn. Our nation will not be able to improve our children's educational performance until we get serious about improving the environment in which young children develop. This includes the child care programs where they spend their days while their parents work.

The child care package that is included in the Reconciliation Bill, is vital to helping out states and our schools deliver on their commitment to better educate America's children. H.R. 3 will offer low-income families direct child care assistance to help them choose and pay for decent child care, and it will help assure parents at all income levels that their children are safe and well cared for.

This crucial package is threatened by a substitute proposal offered by Representative Stenholm. There are seven compelling reasons why one should vote against the Stenholm substitute:

1. Nationally, under Stenholm, 800,000 children and their working parents will lose urgently needed and safe child care. Southern states will lose $680.5 million child care dollars. Over 300,000 Southern children will be denied the child care assistance included in the House Reconciliation Provisions. Two hundred million dollars under Title XX is not the same as $1.750 billion in H.R. 3 for direct child care assistance.

2. Stenholm provides no minimal health and safety protection for children which polls show parents place at the top of their list of child care concerns. Under the Reconciliation Bill's provisions, states can use funds to meet state-developed minimal health and safety protections. At a time when national leaders are calling for performance goals in education, it would be a travesty to fail to provide decent care to help young children arrive at the school house door ready to learn.

3. Stenholm provides no new or additional help for Head Start. The substitute eliminates the child care assistance necessary to supplement the part-day Head Start program. The substitute merely—and unnecessarily—repeats the action taken by the House to reauthorize Head Start. The National Head Start Association opposes Stenholm.

4. Stenholm's tax provisions, unlike the Downey Reconciliation provisions, penalize working families that the House attempted to help in the Family Support Act. Many working families will either be denied AFDC completely or will have their partial AFDC counted as income for AFDC purposes. Many other working poor families that do not receive AFDC will be denied Medicaid benefits because their Medicaid eligibility is calculated using the AFDC rules for treatment of income.

5. The South has a higher proportion of mothers with children under 6 in the work force than any region and more of them are poor. Seventy-seven percent of southern voters believe there is a shortage of decent affordable child care. Three-fourths believe the federal government should help working parents get safe, affordable child care.

6. An overwhelming majority of parents in all regions support federal investment in quality child care and recognize that a tax credit alone is not enough to protect children whose parents work. A Stenholm tax credit alone that provides an additional $215 a year to a low-income working family with one school-age child and an additional $645 per year for a family with one child under six does not really give parents a real choice to stay at home. Edwards provides even less. The Reconciliation child care provisions respond to the dual crises of low-income working parents for both more income to meet rising housing and food costs and child care assistance which averages $2500–$3000 a year per child.

7. The Reconciliation child care provisions provide states and parents with a range of child care choices from religious institutions to family day care homes. States, not the federal government, set the priorities. The church-state provisions in the bill are the same as those contained in the Head Start program.

It is time for the House of Representatives, the entire Congress and the White House to remember that it is children and the American future that we are about. It is time to bring the American nation into the 20th century in the care and protection of its children and support of its working families. If we do not, we will not be ready to compete in the 21st century.

Statement of Representative Pat Schroeder

When I entered Congress in 1973, I had two little kids. It was not surprising that the fight for a comprehensive child care bill was the first legislative effort I joined.

Sixteen years have passed. My kids are on their own. And the Congress is finally on the verge of passing comprehensive child-care legislation.

In poll after poll, a majority of Americans agree that the Congress should do more to assure adequate child care for working parents.

It's time for the House to listen to the American people and give them a bill that addresses safe, affordable, quality childcare.

H.R. 3, the childcare proposal that Gus Hawkins, Chairman of the Education and Labor Committee, has crafted takes into account two important factors. First, a quality childcare initiative must attend to children's early developmental needs. Second, child-care worries cut across all income and socio-economic levels.

The goal of H.R. 3 is to create more options for moderate and lower income families by expanding some of the effective programs that already exist, such as Head Start, and encouraging the development of new slots and new programs.

The main threat to the passage of H.R. 3 is the substitute offered by Rep. Charles Stenholm of Texas. The Stenholm substitute fails to meet the child care needs of American families in three ways.

The Stenholm substitute caps and phases out the Dependent Care Tax Credit—a tax break offered to all families, regardless of income.

The Stenholm substitute fails to authorize new funds for Head Start.

The Stenholm substitute does not ensure the safety of children in child care programs.

One only has to look around to see that the number of families with both parents working is increasing. These families deserve a good child care bill. Let me alert all of my colleagues: They will be watching.

Statement of Hon. Christopher J. Dodd

Good morning. Every so often we in Congress have a chance to do something right for the families of this nation; something which fulfills both national goals and individual needs; something which is both a prudent expense today and a sound investment for tomorrow. Every so often we turn political rhetoric into bipartisan action. Tomorrow, the House of Representatives will have one of those rare opportunities—to pass meaningful child care legislation which will really make a difference in the lives of millions of low-income families. This could be the most important vote in decades for the children of this nation.

We are here today because we support the child care package included in the House Reconciliation bill and we urge the House to adopt it without weakening amendments. Like the Act for Better Child Care—or ABC bill—which we passed in the Senate last June, the House provisions deal comprehensively with the availability, affordability and quality of care for low-income families. Like the Senate bill, the House packag is designed to establish a floor of safety protection for all children regardless of where they live or how much their parents make.

Three months ago, the Senate voted overwhelmingly to reject pale alternatives which would simply throw poor families a few hundred dollars a year and let them fend for themselves. We chose comprehensive legislation which will improve the quality of care as we help parents pay the bills. I am confident that my colleagues in the House will make the same choice tomorrow.

Statement of Hon. Augustus F. Hawkins

Tomorrow is a crucial day for all proponents of meaningful and compassionate child care. Availability of safe, affordable and quality child care is an essential part of helping poor families become economically self-sufficient. Child care is a major workplace issue of the 1990's and is a key element of a comprehensive competitiveness strategy.

Today, three out of five mothers with children under the age of six work outside of the home. The number of preschool children requiring care will grow from 6 million to an estimated 14.6 million for 1995. By the year 2000, four out of five infants under one year of age will have mothers in the workforce.

I believe that the carefully crafted package incorporated into H.R. 3299 is a responsible approach which will help alleviate the critical shortage of quality child care. This measure builds on effective, existing programs like Head Start, early childhood education, and State initiatives that address pressing child care issues like affordability, accessibility and quality.

This bill has bipartisan support in the House and has been endorsed by more than 150 major organizations.

When H.R. 3299 comes to the Floor, attempts will be made to repalce this comprehensive approach with piecemeal alternatives that do not fully address the needs of parents and children. The Edwards Republican Substitute provides only tax credits, while H.R. 3299 expands tax credits and provides grants to States for child care.

The Stenholm substitute is also deficient because it lacks an education or early childhood development focus as well as any quality assurances. Nor does it target funds to increase the supply of child care.

I am optimistic that the grassroots support for H.R. 3299 will translate into a victory for working parents and their children by providing greater access to quality child care.

Statement of Hon. Dale E. Kildee

Today, Congressman Dale E. Kildee, sponsor of the Act for Better Child Care in the House of Representatives, urged support for the child care provisions in H.R. 3299, the House Omnibus Reconciliation Act of 1989, because of their quality assurance protections. H.R. 3299 calls upon states to develop and implement program quality features designed to safeguard the health and safety of children in child care.

In an effort to preserve the comprehensiveness of the House legislation, Kildee is calling for the defeat of the Edwards and Stenholm substitute amendments which would eliminate H.R. 3299's quality assurance protections.

"The quality assurance provisions of H.R. 3299 represent a long-term investment in our nation's children, their futures, and our country's future. The federal government asks states to set speed limits and address other safety related factors in order to receive federal highway funds. We should ask no less for our children," Kildee said.

H.R. 3299 provides:

1. for the development of national model child care standards setting forth guidelines for states to improve the quality of child care;

2. that, within three years, states must develop and implement quality assurance protections relative to the health, safety and development of children in child care, if adequate safeguards are not already in place;

3. that federal funding may be used to improve state licensing and monitoring efforts, to assist service providers to meet local or state child care requirements, and to assist states in improving their quality assurance protections; and

4. that funding designed to improve the quality of child care may be used to assist family, group, and center-based programs.

Statement of Senator Edward M. Kennedy

We have come together this morning to offer our strong support for the child care proposal in the House reconciliation legislation. The Senate has already approved a comparable measure, the ABC bill. We urge the House to reject weakening alternatives and to accept the companion measure to ABC. It is our best hope for ensuring that American families have access to safe, affordable, child care.

Every day, over five thousand mothers turn down paid jobs because of the lack of adequate child care. Every day, more than two million children spend another day alone and unsupervised. Every day, more than three million children risk injury or even death in unsafe day care arrangements.

In my view, the Hawkins-ABC approach has three major advantages over the proposed alternatives. It includes voluntary national standards for health and safety in child care, and it offers incentives to States to see that these standards are met. To do less is to abdicate our responsibility.

It makes early childhood education more widely available. To do less is to ignore the overriding lesson of the education summit in Charlottesville—that such assistance is one of our most important national goals in education.

Finally, the Hawkins proposal provides needed funds to help families pay for quality child care. To do less is to pay lip service to the importance of child care, while denying the tangible help that families need.

I commend Chairman Hawkins for his initiative. The Senate has already enacted strong legislation responsive to the need, and I urge the House of Representatives to do no less.

STATEMENT OF SENATOR ORRIN HATCH

It may seem odd that I am here this morning with so many distinguished Democrats to voice my concern for child care. But this is one issue on which there is no disagreement that the time has come for federal leadership in this area.

On June 23, 1989, the United Staes Senate passed landmark legislation that authorized a comprehensive program of grants and tax credits to help families and communities address the three significant issues in child care: availability, affordability, and quality. This legislation was passed with solid bipartisan support—support that was made possible by the labor of many people, particularly Senators Dodd, Kennedy, and Mikulski. We worked long and hard to fashion a bill that would provide much needed financial help to parents as well as to states and communities for child care programs. We wanted a bill that would provide parents quality assurances but that also recognized the need for local flexibility and parental choice. S. 5 accomplishes these goals.

I am proud to have played a role in the Senate's passage of S. 5, the "Act for Better Child Care" and urge my colleagues in the House of Representatives to support it too. We can be one step closer to safeguarding the children whose parents must work outside the home. We can unlock choices and options for untold numbers of low-income families.

We should not let another session of Congress go by without action on the "Act for Better Child Care."

PEDIATRICIANS URGE PASSAGE OF CHILD CARE LEGISLATION INCLUDING HEALTH AND SAFETY PROVISIONS

WASHINGTON, D.C.—The American Academy of Pediatrics (AAP) today urged Congress to pass legislation that will increase the availability and improve the quality of child care in the United States.

"Parents need and children deserve the quality assurance provided by the Early Childhood Education and Development Act (H.R. 3)," AAP president Donald Schiff, M.D. said today. "To spend federal dollars on services for children without addressing the concerns parents have for safety and security is irresponsible and negligent."

The U.S. House of Representatives is scheduled to begin debate on H.R. 3 on Wednesday, October 4th, as part of deliberations on the House budget reconciliation act. A similar child care bill passed the Senate on June 23.

H.R. 3 would provide resources to states to set minimum standards for group size, child-staff ratio, qualifications and training of child care personnel, health, safety and nutrition requirements, and parental involvement. Low interest loans would be available for facility improvement and renovation.

Dr. Schiff noted that a recent AAP/American Public Health Association survey of child care facilities nationwide shows that critical health and safety regulations in many states are inadequate, vague or nonexistent—underlining the need for quality assurances in federal child care legislation.

"We need this child care bill because it enhances parental choice by expanding the supply of safe, affordable child care, while maintaining broad flexibility for states," said Dr. Schiff.

"An opportunity lies before us to take a major step forward in achieving improvements in child care across the country. To do anything less would rob children of their basic right to safety and security," he said.

The American Academy of Pediatrics is an organization of 37,000 pediatricians dedicated to the health, safety and well-being of infants, children, adolescents and young adults.

STATEMENT BY GERALD W. MCENTEE, PRESIDENT OF THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO

WASHINGTON, D.C.—The House of Representatives will be voting later this week on the first major child care initiative since President Nixon vetoed the Comprehensive Child Development Act of 1971. America has changed radically since those days when most mothers stayed home with their children while fathers worked outside the home. In the decade that begins this January, two-thirds of women with preschool children will be working.

We as a nation are totally unprepared to deal with the child care needs of those families. And the American public knows that. A recently released Lou Harris poll has documented a dramatic increase in the number of parents concerned about child care just in the last nine months. Over seven in every ten families want federal action on child care this year.

But it will do those families little good if the House of Representatives votes to replace the child care provisions in the reconciliation bill with either of the substitutes that will be offered by Congressman Stenholm or the House Republicans.

These substitutes strike through the heart of the child care legislation approved by both the Education and Labor Committee and the Ways and Means Committee. They undermine or jettison key aspects of the legislation that would address the strongest concerns of American families.

The Harris poll found a 23 percent jump since January in family dissatisfaction with the cost of child care. Yet, the substitutes will mean less direct child care assistance, especially for infants, toddlers and school-age children. Low income families would stand to lose the most. The Earned Income Tax Credit is not real alternative to direct federal assistance for these families. If they can't make ends met anyway, they may have no choice but to use the added income for food or rent. The solution to their problems with child care costs is not a little extra money. It is direct federal assistance to help pay their child care bills.

No matter how much money you have, it's still hard to find good stable child care, and the Harris poll indicates that. Dissatisfaction with the availability of child care grew 15 percent in the last eight months. Even so, the substitutes strike provisions in the legislation that would require resource and referral systems to help parents find child care. They also eliminate training, licensing and enforcement procedures that will improve quality.

Dissatisfaction with quality has grown 13 percent since the beginning of the year. It's not hard to understand why if you take a look at state policies that are now in effect in the absence of any federal direction. Today, 24 states have no requirements for group size for infants. You can have—and probably do have—as many as eight children under one year of age with one adult. How in the world can those children get any decent attention to their developmental needs? How could they be rescued if a fire broke out? Eleven states have no requirement for health or First Aid training and 19 states still do not require infants in child centers or family day care to have immunizations—the most basic of health standards. Thirty states fail to guarantee unlimited parental access to their children. Can you imagine not having the right to drop in unannounced to see you own child?

Yet both substitutes would strike the requirements in the legislation that would at least begin the process of improving quality. Those provisions are modest at best. We at AFSCME would have preferred strong federal standards. This legislation only requires that all states develop standards in the areas of group size, health and safety, parental involvement, and staff qualifications. They could have the most minimal of standards and still meet their legal obligations under this legislation.

A 15-hour annual training requirement is one of the few standards in the legislation, and it is generating considerable opposition. We represent child care workers, and they tell us all the time about the need for good in-service training to help them do their jobs better. The quality of child care is directly related to the knowledge and skills of the people providing the care. Ongoing training in such matters as hygiene, First Aid and early childhood development makes a critical contribution to the quality of child care.

Our children deserve good quality child care. Without it they will languish in custodial care without the stimulation they need to reach their full potential. Our country needs competent citizens and skilled workers. Parents need the assurance that their children are safe and happy in their absence. The reconciliation bill will help us meet these objectives; the Stenholm and Edwards substitutes will not.

Three years ago the idea of the federal government making a major commitment of its resources and authority to help build a decent child care system for American workers and their children was just a dream in the minds of a few people. The fact that we have moved so far in such a short time reflects the public's strong support for comprehensive child care legislation. We call on the House of Representatives not to sidetrack this important step forward for Amer-

ican families by approving either in the Stenholm or Republican substitute.

WHAT'S GOING ON IN THE SOVIET UNION

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. ASPIN. Mr. Speaker, today I rise to give my colleagues a status report on an urgent task the House Armed Service Committee has set itself: To understand what's going on in the Soviet Union and what the implications are for the national security of the United States. Moscow and its allies in the Warsaw Pact pose by far the most serious military threat the United States faces in the world today. This fact has been a fixture on the security policy horizon for decades. It remains so today.

But Mikhail Gorbachev's policies of glasnost, perestroika, and democratization have added two new elements to the U.S.-U.S.S.R. security equation: Great uncertainty and a real chance to reduce the threat of war. For more than 1 year, the committee and its Defense Policy Panel have been engaged in a sustained, systematic, and unprecedented effort to examine first hand the historic changes underway in the Soviet Union. Our aims are to bring the best-informed judgment possible to consideration of the defense authorization bills we present to the House, and to share what we learn in the process with our House colleagues.

We began this effort with the premise that we should seek information from all sources. We have heavily engaged the executive branch, particularly the intelligence community. We have gone to the private think tanks for their Soviet expertise. And we have engaged the Soviets themselves. Why? Because for the first time in 70 years it makes sense to ask the Russians what they are doing. We have armed ourselves for these exchanges with a healthy skepticism, as I shall illustrate in a moment. But we've also found enough substance in the new openness on military matters to make these contacts worthwhile—well worthwhile, as I shall also illustrate.

The committee has taken the unprecedented step of hearing testimony from high-ranking Soviet officials. The reduction in Soviet armed forces announced by President Gorbachev is of obvious and great importance to us. We have twice taken testimony from the civilian who heads the commission reviewing that reduction, Andrey Kokoshin. Mr. Kokoshin also happens to be the deputy director of the Institute for the United States and Canada, a Moscow think-tank from which the West often first hears ideas that later become Kremlin policy.

We have also taken testimony from the individual who is perhaps the top military man in the Soviet Union, Marshal Sergey Akhromeyev. Formerly chief of the Soviet general staff, Marshal Akhromeyev is now a principal military adviser to Gorbachev. As I said at the time, the hearing room of the Armed Services Committee had received many a man in uniform, but never one like his.

There were those who said his testimony was a mistake, that it would merely offer a propaganda platform to the Soviets. When we asked about Soviet tank production—a matter of great concern to the West—some thought his answer supported this criticism. He said production would be 1,700 units for 1989—from all sources for all purposes. It was quickly pointed out that this was about half what Western intelligence agencies estimated. Since then, there have been indications that tank production is, indeed, dropping. Confirmation of that came recently from Defense Secretary Dick Cheney.

Does this mean that we can dismiss our intelligence agencies and simply invite Soviet witnesses to spill military secrets? Of course not. It means a couple of things. The first is that Moscow is finally coming around to the notion that the West has a legitimate interest in asking such questions. The second is that it can be in Moscow's interest to give us straight answers. This kind of public exchange is new to superpower relations and I'm proud the House Armed Services Committee has been able to assume a ground-breaking role.

Going beyond hearings in Washington, the committee in August completed a unique tour of military installations in the Soviet Union. Among the "firsts" were visits to an active East German military unit, to the chemical weapons detoxification plant at Chapayevsk, and to areas of the Baikonur Cosmodrome never seen by Westerners. We toured an active SS-11 missile launch control center and watched the firing of a high-energy chemical laser at a laboratory in a Moscow suburb.

Committee members who made this visit to Soviet military facilities will soon publish a report on what we saw and learned about the unilateral Soviet force reductions in Eastern Europe and the restructuring of Soviet military forces. I hardly need point out how important these issues are to the security of Europe, and the committee report treats them in detail. What I wish to do today is illustrate the process we employed to learn first hand everything we could and then to assess what we had learned.

First, we brought our experts with us to observe first hand along with committee members and staff. The executive branch was fully represented, and private sector authorities of international reputation were in our party. On the way to visit East German and Soviet units, we stopped to talk to our military commanders and intelligence officers in West Berlin. There we learned of their concerns about the restructuring that was going on and the conduct of the unilateral withdrawals. Armed with those concerns, we were able to question Soviet officers in the field, and generals in Moscow. When the answers remained confusing, we asked for and got a session with General V.N. Lobov, first deputy chief of the Soviet general staff and chief of staff of the combined forces of the Warsaw Pact. We didn't get every question answered, but we did get unprecedented access. And we did give the generals a taste of what it's like to be cross examined by civilian legislators—not an everyday experience for officers in the Soviet Union.

Our firsthand examination didn't deal only with high-level military policy. On a visit to a motorized rifle division we were given access to tanks, infantry fighting vehicles, artillery, and the training facilities of the division. It was on a training range that we received a nasty surprise about the way reactive armor is being used on T-72 tanks. We've known that the Soviets were bolting reactive armor onto its existing tanks like so many metal cigar boxes. Reactive armor isn't armor in the traditional sense, but rather an arrangement of steel plates and layers of explosives confined within a steel box.

It's aimed at defeating a whole class of antitank weapons that employ what's called a shaped charge. When this charge hits the tank, it doesn't simply explode. It is shaped so that its explosive power is formed into a narrow, focused jet that eats its way through the tank armor, creating blast effects inside and perhaps igniting stored ammunition.

When the jet from a shaped charge hits one of the reactive boxes, it detonates the explosive inside. That, in turn, sends the plate flying to interrupt the jet. And that usually means the jet won't penetrate the base armor of the tank. To combat reactive armor, the United States has gone to dual shaped charge warheads on its antitank weapons. The first charge sets off the reactive armor, gets it out of the way and a second, larger charge ignites fractions of a second later to penetrate the tank. For another wrinkle, the United States and other nations have developed shaped charge weapons that attack tanks from above, reasoning that frontal armor is the toughest to penetrate.

Pictures of tanks with a single layer of these boxes bolted over exposed surfaces have become commonplace in the West. What we saw, however, were tanks with not one, not two; but three layers of reactive boxes bolted to the top of their turrets. That can't be anything but bad news to forces planning to defend against these tanks with current antitank weapons. At the same time, our antitank weapons should retain high effectiveness against Soviet armored fighting vehicles whose numbers are being increased as tanks are withdrawn from Soviet forces in Eastern Europe.

Direct contacts with the Soviets have thus loomed large in our efforts to track what's going on in the Soviet Union. And the most important element has been our contact with the committee on defense and state security of the Supreme Soviet, the newly reconstituted legislature in Moscow. United States Government-Soviet experts judge that the unprecedented access we have to the Soviet military would not have been possible except through our counterpart committee. That's certainly a good enough reason for the contracts, but there are more, as well.

For one thing, legislature-to-legislature exchanges are appropriate. In our scheme of things, most dealings with foreign governments are strictly the province of the executive branch. We've made that clear to our Soviet counterparts. We want to inform ourselves, not conduct negotiations that belong to the White House and the State Department.

For another, there is the development of the Supreme Soviet itself. In decades past, it

was a rubber stamp. Under Gorbachev, it may become something quite different—a more independent legislature. We have a ringside seat on its development. That's important for more reasons than idle curiosity. If power in the Soviet Union—to start wars, for instance—becomes diffuse, it can only help the cause of world peace. I can report to you first hand that there is much sentiment in the defense committee of the Supreme Soviet to prevent a handful of Kremlin leaders from launching another Afghanistan. It's not foolproof, of course. Real democracies with independent legislatures have launched inappropriate military adventures. But if the Supreme Soviet becomes an independent power center within the Soviet Government, it will be tougher for the Soviet Union to go back to the bad old days. And it will be tougher to keep policy debates secret. We'll resume our person-to-person contacts early next year when members of the Supreme Soviet defense committee visit the United States.

In the coming weeks, we will be factoring what we have learned into a new look at five critical areas in the U.S.-U.S.S.R. military balance. Those are the strategic and naval balances, and the balances in Europe, the Middle East and South Asia, and Northeast Asia. We hope this report will help provide a context in which to consider the administration's 1991 defense budget early next year.

These are extraordinary times. Events in the Soviet Union today may represent the triumph of Western values as some now proclaim. We can only hope that it is true. But the military forces of the Soviet Union—and therefore the threat they represent—remain formidable. We must find a way not only to seize an historic opportunity for better superpower relations, but find ways to reduce that threat as well.

INTRODUCTION OF VAN POOL LEGISLATION

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mrs. KENNELLY. Mr. Speaker, today I am introducing legislation designed to promote the use of mass transit and van pools.

My bill would restore Federal tax incentives for employer-sponsored van pools and mass transit subsidies.

Prior to 1986, the Tax Code allowed employers to set up van pool programs for employees as a tax-free fringe benefit, as long as the program was available on a nondiscriminatory basis. That provsion has now expired.

Therefore, for an employer to continue the program, it must determine the fair market value of the transportation, deduct any payments made by the employee, and report the difference as imputed income to the employee on his or her W–2 form. Not surprisingly, many employers have elected not to continue these subsidies due to the paperwork.

Current law allows employer-provided discounts of up to $15 per month for mass transit costs tax free to the employee. In many communities, however, this is an insufficient amount to encourage employees to use mass transit. In Hartford, CT for instance, the average monthly cost is $86. Yet, under current rules, if the employer provides a larger discount, the entire amount is taxable to the employee.

My bill would reinstate the provision that allowed the value of qualified van pool benefits to be excluded from the income of employees. In addition, the bill would raise the limits on mass transit subsidies to $100 per month in order to promote greater utilization of this benefit in communities with higher transit costs.

I would urge my colleagues' support.

JACK J. COYLE

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. SANGMEISTER. Mr. Speaker, I rise today to pay tribute to Jack J. Coyle who has served as the executive director of the United Way of Will County for 12 years, and it gives me special pleasure to recognize him for his efforts and achievements in Will County. Jack will be honored at a reception on October 10, 1989, given by the volunteers for the United Way of Will County.

Jack began his distinguished career with the United Way of Will County in 1977 when he was hired as the executive director. He was responsible for campaign, budget, public relations, and planning. Through Jack's determination and strong leadership during his tenure, the United Way more than doubled the amount raised in previous campaigns and under his leadership, the United Way was able to greatly increase agency participation due to his "open door" policy.

Jack has long been associated with the United Way. He served as executive director of the United Way of Champaign County for 16½ years. His list of achievements there includes the development of a working relationship between the State department of mental health, the county mental health board, and the United Way. Jack also developed the White House Conference Committee on Aging and other projects directly benefiting senior citizens while with the Champaign County United Way.

Jack has also served as chairman of the Federal Emergency Food and Shelter Program in Joliet for 8 years and was instrumental in obtaining $1,408,048.01 for Joliet and Will County for food, utilities, and shelter.

While serving in World War II, Jack was decorated for his distinguished service and leadership. He was awarded the Distinguished Service Cross, the Purple Heart, and the British Distinguished Conduct Medal.

Mr. Speaker, Jack Coyle's service to his community has been lengthy and outstanding. He serves as a role model for all who know him. I am pleased to take this opportunity to honor and recognize this man of fine character whose public service and commitment to improving the lives of his fellow Americans is exemplary. I want to invite my colleagues to join me in extending our thanks and best wishes to Jack Coyle.

TRIBUTE TO THE NEDROW VOLUNTEER FIRE DEPARTMENT

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. WALSH. Mr. Speaker, I rise today to commend a local volunteer organization in my district, the Nedrow Volunteer Fire Department, for its community service in the area of health care. While it is common for firefighters in towns all across the United States to earn the respect and praise of their fellow citizens, I believe the Nedrow firefighters are unique in their approach. I want to brag a little bit today about the creative way these people are helping their neighbors.

For several years now, the members of the department have offered a drive-in blood-pressure-checking clinic, free of charge.

They also offer free tests for glaucoma and diabetes, but this blood pressure clinic is perhaps the most novel in its approach.

People simply drive their cars into a bay and a volunteer does the testing, sometimes without the passenger even getting out of the car. As you can imagine, this method of testing is particularly valuable for people who use walkers or wheelchairs. Because they have made the process so easy, the department has encouraged countless others to come in for a checkup when those people may have just as easily stayed home on the couch.

I am very proud of Coordinator Charles Petrie and all the members of the Nedrow Volunteer Fire Department who volunteer their time in this worthwhile endeavor. I look forward to being with these good and selfless people very soon when I drive in to have my own checkup.

The members of the Nedrow Volunteer Fire Department have shown themselves to be worthy of our greatest praise and admiration. We will never know how many lives they have saved, but we in central New York do know this is just one more reason to be thankful they are there.

THE REALITY IN CUBA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mrs. ROS-LEHTINEN. Mr. Speaker, the Subcommittee on Western Hemisphere just completed its five-part series on United States relations with Cuba and unfortunately, the view of most of the panelists involved in the discussions is that the United States should renew full diplomatic relations with Cuba.

Last week's panelists included representatives from the liberal American Civil Liberties Union as well as the editor of the magazine "Conservative Digest." The other two panelists espoused opinions calling for closer ties with Fidel Castro. One businessman even made this incredible statement.

"It is a fact the President Fidel Castro is in power by popular demand. Anyone who would

believe the Cuban people are either being held hostage or ruled by military power can only be considered misinformed. He is most certainly loved by the Cuban people with very few exceptions."

It is almost inconceivable that such an idiotic and baseless statement could be uttered in the hallowed Halls of Congress.

This statement, and others actually as ludicrous, were made during the hearing by a U.S. businessman who wants to sell lobsters to Fidel and believes that his civil rights are trampled upon if he is not granted this privilege.

This fellow traveler continued by asking:

"What terrible crimes have the Cuban people committed which make them so undesirable as not to have been able to initiate negotiations toward full diplomatic relations and normalization of trade?"

Apparently this greedy and selfish businessman does not understand the difference between the corrupt Government of Cuba and the honest people of Cuba who are under full control of the tyrant Fidel Castro.

The businessman finished his words before the Congress by saying:

"Cuba, being only 90 miles from our coast, is potentially a major market for a great range of American products and services."

All that this person sees when he sees Cuba is dollar signs. He does not see the suffering of the political prisoners long since held in jail even after their term of sentence has expired. He does not see the anguish of a mother whose 12-year-old daughter is forced to leave her home and work in the sugar mills.

He does not see the fear of a 16-year-old who is made to fulfill his service by working in Siberia. He does not see the empty churches and synagogues which people fear to attend because of the religious persecution they will have to endure. He does not see the meal ration coupons which force the homemaker into deciding how to stretch one pound of hamburger meat for a full month's use.

He does not see the long lines of people hoping to be able to buy some shoes for their children.

But far more important, this greedy businessman does not see or does not care to see that there is only one newspaper in Cuba, the state party controlled Communist Granma. He does not see that any opposition is quickly and effectively crushed and silenced. Or that no one is allowed to even circulate flyers espousing an opinion different from the party line.

It is too bad that this businessman and others like him only see dollar signs when they see Cuba. It is sad, that they so cavalierly dismiss the true suffering of the Cuban people under the dictatorship of Fidel Castro.

THE NUTRITIONAL INFORMATION LABELING ACT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. RANGEL. Mr. Speaker, before the August recess I reintroduced the Nutritional Information Labeling Act (H.R. 3084). It is a bill that I introduced last year to amend the Federal Food, Drug, and Cosmetic Act to require that the label or labeling of a food state the specific common or usual name and the amount of each fat or oil contained in the food. It also requires the label to state the amount of saturated, polyunsaturated, and monounsaturated fats contained in the food, the amount of cholestrol contained in the food and the amount of sodium and potassium contained.

Today's consumers have become very health conscientious and deserve the information required to make informed decisions when purchasing products for future consumption. I know the consuming public wants nutritional labeling but the FDA has been slow in responding to the decade long call.

The benefits of health conscientious society is apparent in the marked decrease in the death from diseases of the cardiovascular system, like heart attacks, stroke, and high blood pressure. Most physicians attribute the decline to changes in health-related habits, such as elimination of smoking, increased exercise, and changes in diet. All of these things help reduce the risk factor that leads to cardiovascular disease.

Unfortunately, minorities suffer disproportionately from heart disease and could benefit greatly from increased nutritional information. Because so many of these individuals have limited access to health care, providing improved labeling information on food products could be a way to prevent development of cardiovascular disease within the minority community that leads to expensive treatment.

My bill is an attempt to insure that the American consumer is provided with the necessary information to purchase products that will not contribute to his poor health. I ask my colleagues to support me in this effort to have a healthier and more intelligent consumer.

A TOUCHING TRIBUTE TO THE MAN, AND TO AN ERA

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. KOLBE. Mr. Speaker, I am enclosing an article that describes the effort put forth by the State of Arizona to preserve a historical monument. The Tom Mix memorial, constructed in honor of the late cowboy star of the western film era, is characterized by a likeness of his favorite steed, Tony the Wonder Horse. Unfortunately, in recent years two statues have been stolen from this monument. The Panel County Historical Society has rallied behind preservation of this monument, and has commissioned its restoration. Inmates of the Arizona State Prison in Florence are fashioning a third statue of Tony. We can only hope that future visitors to the site will recognize the importance of this link to our frontier history and leave the new statue as they find it. The figure of the riderless horse, with head bowed, is a touching tribute to the man, and to an era.

[From the Arizona Daily Star]

WANDERING STEED—PINAL OFFICIALS HOPE TONY THE WONDER HORSE III STAYS PUT

(By Douglas Kreutz)

Coming soon to a lonely stretch of highway near you: Tony the Wonder Horse III.

"We're getting a new statue of Tony put up in the place where the other ones were stolen," Billy Earley, spokeswoman for the Pinal Country Historical Society, said last week.

"We're not going to give in to this stealing."

Last month, a statue of Tony, the favorite steed of movie cowboy Tom Mix, was stolen from the Mix memorial in a quiet desert area on U.S. 89 between Tucson and Florence.

That statue had been erected as a replacement for the original Tony the Wonder Horse likeness, which was taken in the spring of 1980 by thieves who apparently used a hacksaw to remove it from a stone pedestal.

The original statue, depicting a horse with its head lowered and its saddle empty, was put up by the Florence Chamber of Commerce in 1947 at the site where Mix was killed in a one-car accident Oct. 12, 1940. Mix, who was famous for performing his own stunts with Tony in a series of action-packed silent-screen westerns died of a broken neck after his yellow Cord roadster crashed in a dry wash.

The original Tony statue was never found.

And a spokesman for the Pinal County Sheriff's Department said this week that there are no leads so far in the theft of Tony II.

Earley said the historical society, which provided materials for the second Tony statue, has been working with the Arizona Department of Transportation to produce Tony III.

"Whether you liked it or not, Tom Mix was an idol for many, many people, and we want to keep that monument in place," Earley said. "We hope to have the new horse in place by next month.

"If I could find the person who took the other horse, I'd have a shredding party," she said. "It's just disgusting to do something like that."

Tom Teague, area maintenance superintendent for the Department of Transportation office in Globe, said the department is providing sheet metal for Tony III—and for a backup Tony as well.

"We had one piece of sheet metal and we bought another one so we could have another horse cut out while we're at it," Teague said. "That way we'll have a backup if it gets ripped off again."

Teague said inmates at the Arizona State Prison in Florence, who produced Tony II, will cut out the two new statues in a prison shop.

"Then we'll install it out there," he said. "It could be up within the next few weeks. As soon as we get the horse ready, we'll get in touch with Mrs. Earley and coordinate plans with her on putting it up."

Teague said the transportation department would foot the costs of the project, estimated at about $100 per horse.

Teague and Earley said they know of no way to protect Tony III and subsequent Tony the Wonder Horses from thieves.

"There's not really much we can do to secure it," Teague said. "There's a weak point where the statue is attached (to the monument)."

Said Earley: "How could we protect it? You can't have a guard out there all the time, can you? And you couldn't fence it. They'd just cut the fence.

"I can't think of a way in the world to keep it secure," she said. "I would just hope people would have the decency to leave it there."

THE FOURTH ANNUAL "CALIFORNIA RIDESHARE WEEK"

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Ms. PELOSI. Mr. Speaker, this week California is celebrating the fourth annual California Rideshare Week to recognize the serious problem of automobile congestion and to highlight commute alternatives.

My district of San Francisco has recently been honored by the California Transit League, which called the city "the home of the best transit system in California." In San Francisco, we have seen what explosive population growth does to transportation infrastructure and we understand the need for transit and transportation planning.

This is an opportunity to discuss, at the Federal level, our commitment to transportation planning. At the Federal level, we must support funding for mass transit. The Federal Government played a major role in roadbuilding in this country; we built an excellent Interstate Highway System. It is now time to turn our attention and energy toward building an intercity transit system which will alleviate the gridlock which is choking urban areas.

We must also insist that people who receive tax-free employer-provided parking are not denied the same tax benefit for employer-provided transit benefits. This is essential if we are to encourage people to leave their cars at home.

And we must acknowledge that, at the bottom line, transportation planning has become an environmental issue. If we are to be successful in our battles to save our coasts and clean our air, we must look for alternatives to the fuel-intensive and smog-producing automobile.

I commend the California rideshare organizations which have coordinated California Rideshare Week and I hope their efforts will add renewed vigor to local, State and Federal officials who are working to address the important issue of transportation planning. It is an issue of great urgency to all cities in the United States.

PROTECT REV. LASZLO TOKES AND OTHER ROMANIAN HUMAN RIGHTS ADVOCATES

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. LANTOS. Mr. Speaker, the Congress and the administration have denounced the oppressive policies of Romania's ruthless dictator, Nicolae Ceausescu. His economic policies have demanded exportation of most of the nation's food products, causing widespread starvation and poverty among Romanian citizens. His rural "systemization" policy has displaced thousands of people, destroyed historic architecture, and threatened local customs and traditions. He has intimidated and persecuted religious and ethnic minorities.

I would like to call the attention of my colleagues to an ethnic Hungarian living in Romania who constantly faces the threat of death for speaking out against the Romanian regime. Laszlo Tokes is a minister of the Hungarian Reformed Church in Temesvar—Timisoara—Romania. The danger he is in cannot be exaggerated. Two weeks ago one his parishioners was murdered for being associated with him.

For years, Reverend Tokes has raised his voice in defense of human rights in Romania, protesting the Romanian regime's brutal campaign to destroy the culture and institutions—including the churches—of some 2 million ethnic Hungarians in Romania.

Romanian authorities have reacted to the minister's protests with characteristic brutality. They have repeatedly tried to drive him from his parish and forcibly relocate him, but he has refused to abandon his congregation. They have arrested, searched, and interrogated him, disconnected his telephone, prohibited anyone from contacting him, and created an atmosphere of terror in his parish. Tokes remains under close surveillance today.

The official campaign of terror has extended to Tokes' parishioners, who suffer telephone threats and constant harassment, and now one of them has been killed as an act of violence threatening and intimidating the congregation. On September 16, 1989, Erno Ujvarossy, who had been active in defending Tokes, was found murdered in Transylvania's Vadasz forest. This murder has not been acknowledged in Romanian newspapers. Mr. Ujvarossy's family and members of this Hungarian parish know that their fears have been justified. They recognize that the Romanian authorities will stop at nothing to terrorize dissidents like Reverend Tokes. Nevertheless, Tokes continues to stand up for his people, even in the face of death.

As cochairman of the Congressional Human Rights Caucus, I urge my colleagues in Congress to join me in denouncing the policies of Nicolae Ceausescu and calling for an end to the harassment of Laszlo Tokes, parishioners of the Hungarian Reformed Church, and members of other religious and ethnic minority institutions in Romania. We must support Reverend Tokes and others like him, who seek "to tear down the wall of silence and terror in Romania that is more solid than the Berlin Wall." The vicious practices of the Romanian regime—murdering it citizens, like Erno Ujvarossy, and continually harassing and intimidating its citizens—must cease. These are crimes that must be recognized and denounced by all the civilized world.

I call on my colleagues in Congress to add their voices in condemning Ceausescu for his flagrant human rights violations and to actively and effectively speak out for the human rights of the suffering peoples of Romania. I applaud my distinguished colleagues, Congressman CHRIS SMITH, author of H.R. 2765 which imposes limited sanctions targeted at Romanian food exports, and Congressman FRANK WOLF, who chairing the recent Congressional Human Rights Caucus briefing on Romania and for helping to disseminate information on this issue which demands our urgent concern.

SUPPORT NURSE AIDE/NURSING HOME REFORM LANGUAGE IN RECONCILIATION BILL

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. GEKAS. Mr. Speaker, I rise in support of at least one section of H.R. 3299, the Budget Reconciliation Act of 1989: the provisions of section 4271, amendments relating to nursing home reform. While other provisions of this reconciliation bill have been the focus of great controversy and rhetorical flourishes, the nursing home reform amendments of section 4271 have been quietly, but happily, accepted.

Let me pass on some background to those in the House who may not be aware of the importance of section 4271. The passage of the Omnibus Budget Reconciliation Act of 1987 [OBRA '87] created a problem by stipulating that all nurse aides used by nursing facilities participating in Medicaid and hired prior to July 1, 1989, would be required to pass a State-approved training and certification exam in order to retain their positions. An aide who failed the test on the first try would be allowed to take the test again but failure to pass the test by a January 1, 1990, deadline could result in loss of the job. A delay in the publication of regulations by HCFA in response to OBRA '87 resulted in a delay in the development by the States of training and evaluation programs. Delay upon delay caused confusion and uncertainty within the nurse aide field. Some States issued regulations requiring nurse aides to take difficult written tests at faraway locations and to pay for the costs of the training and tests. In some cases the exact training manuals and procedures had not been chosen, leaving nurse aides to have to decide for themselves what to study for the tests. Nurse aides who have been practicing their gentle art for years upon years felt that they would suffer under a written test requirement and would undoubtedly have to leave the field. New hires expressed the same concerns. The nurse aide profession was in a tailspin of concern and confusion, wondering if there would be enough of its members left to handle the needs of our nursing homes.

Hundreds of nurse aides and others in the nursing home field contacted me with a variety of concerns associated with the effects of OBRA '87 and the HCFA/State regulations thereto. Many expressed a desire to see no training or testing of nurse aides; many felt that training and testing of aides was desired but the method of training and testing had to be revised and improved; and others had no problem with training but were opposed to written tests, especially for those who had been working in their profession for many years. In response to their concerns I intro-

duced three measures, H.R. 2302, H.R. 2303, and H.R. 2687, which respectively repealed, grandfathered, and delayed the OBRA '87 requirements. In addition, my office was in constant contact with HCFA and the office of the Committee on Energy and Commerce's Subcommittee on Health and the Environment, chaired by Mr. WAXMAN of California, in an effort to advance a change in the language of the OBRA '87. Along with the efforts of myself, Mr. WALGREN of Pennsylvania, and others, Mr. WAXMAN and his subcommittee presented to the House language in the reconciliation bill which meets many, if not all, of the concerns expressed.

In summary, H.R. 3299 provides for a delay from January 1, 1990, until October 1, 1990, of the date by which nurse aides must complete a competency evaluation program; gives nurse aides a choice of demonstrating competence through means other than a written examination; prohibits the imposition of fees on nurse aides for textbooks, course material, and other costs related to training or competency evaluation; as well as other clarifications.

I commend the subcommittee and Chairman WAXMAN for their work in this area and urge my colleagues to approve this reform language which supports the nurse aide profession.

TAIWAN CELEBRATES 78TH ANNIVERSARY

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. KENNEDY. Mr. Speaker, I am delighted to join my friends on the Hill in extending my best wishes and congratulations to the people of Taiwan on the occasion of their 78th anniversary—October 10, 1989.

Taiwan, small as it is, has much to be proud of. It has a booming economy and a bulging foreign reserve; it is a constitutional democracy; and most important of all, it is our friend and ally in the Pacific.

Taiwan's representative in Washington, Dr. Ding Mou-shih, is a seasoned diplomat with considerable charm, wit, and grace. I appreciate his firm grasp of issues and he has certainly done much to help me understand his country.

Good luck, President Lee Teng-hui. God bless you and your people.

IMMANUEL LUTHERAN CHURCH CELEBRATES ITS 125TH ANNIVERSARY

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mrs. BENTLEY. Mr. Speaker, last week we celebrated Religious Freedom Week, a reminder to us all that we are fortunate recipients of that freedom. Much of our history is bound up with religious values and a heritage bequeathed to us by our immigrant forebearers. Their zeal and dedication in establishing congregations in their new homeland provide countless examples of personal sacrifice and personal triumphs over adversity.

Such an example is furnished by Immanuel Lutheran Church, which celebrates its 125th anniversary in this month of October. Immanuel Lutheran congregation was founded on October 3, 1864 by German-Americans, recent arrivals from Europe who were determined to preserve their strong Lutheran traditions for themselves and their children. Their reasons for leaving Germany were diverse; there were intellectuals disappointed by the failed revolutions of 1848, young people fearful of the ever-increasing powers of an oppressive police state, and middle-class shopkeepers anxious for economic prosperity. The first meetings of the congregation were held at Depford Hall located at Gough and Dallas Streets in East Baltimore. Eleven days after President Lincoln's assassination it was resolved to begin the construction of an impressive church edifice on Caroline Street near Baltimore Street. The cornerstone was laid in September 1865, and on May 6 of the following year the completed structure was dedicated with appropriate services. Among the speakers for the occasion was Prof. Charles Porterfield Krauth of Philadelphia, the foremost leader of conservative Lutheranism in America. In keeping with the founders' intense interest in Christian education, a day school was established shortly thereafter.

Assimilation into the larger community caused church members to question the continued use of German as the language of worship and gradually English services were introduced in the 1890's. The early 1900's, particularly the post-World War I years, saw members relocating to the suburbs, returning for worship services. School enrollment declined and the onslaught of the Great Depression multiplied the church's financial worries, but the congregation did not lose heart. In August 1934, lightning struck the church spire resulting in the partial destruction of the church building itself and its organ. Members accepted this disaster as a challenge and, in faith, the building was rebuilt and rededicated on April 7, 1935.

During the years of World War II, efforts were made to reach the families without a parish who were housed in Government projects, but membership declined, making pastoral efforts, however diligently made, more and more difficult. The congregation made a momentous decision at the close of the war to relocate, believing that missionary efforts might be more gratifying at a new site.

A cornerstone for a parish hall, which would serve as a place of worship until the church proper could be built, was laid on September 28, 1947 at the 2-acre plot on Loch Raven Boulevard and Belvedere Avenue. The church building itself was completed in 1951, expedited by a generous gift from Emma Wolpman Momberger, a lifelong member.

The imposing stone church structure, regarded as one of the finest examples of church architectural design in America, has not changed since that time. Yet within, the congregation worshiping there is no longer comprised solely of descendants of German-Americans. The membership has grown to reflect changes in the community Immanuel serves, but its mission remains the same—to minister to the needs of the people of its congregation as well as those of the community at large.

Great things have happened in the history of Immanuel Lutheran Church in the last 125 years, and great things have taken place in our Nation. Both have survived a bloody Civil War and two World Wars, both have struggled under the economic hardships of the Great Depression, both have witnessed societal changes and have adapted to those changes, and both have never lost the fervor and sense of commitment exhibited by those early immigrants.

Mr. Speaker, I would like to take this opportunity to congratulate Immanuel Lutheran congregation on the occasion of its 125th anniversary, and admonish the members to continue to live in deeds, not in years. You have contributed immensely to the community you serve. Continue to labor in the knowledge that God will continue to use your strength and abilities to meet your responsibilities to that community, the Nation, and the world. More service is demanded of you, and I wish you continual prosperity and growth.

GEN. HARRY W. BROOKS HONORED FOR MINORITY BUSINESS ACHIEVEMENTS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. LANTOS. Mr. Speaker, I would like to bring an American success story to the attention of my colleagues in the House of Representatives. Maj. Gen. Harry W. Brooks, U.S. Army, retired, has been honored by the Minority Business Development Agency during this year's Minority Enterprise Development Week for outstanding achievements in the business world.

After 25 years of service in the U.S. Army, including the command of the 25th Infantry Division, General Brooks retired in 1976 and joined Amfac, Inc., a member of the Fortune 500.

His stellar service record in the military is matched only with his performance on the corporate battlefield. He rose through the ranks to become the executive vice president and chairman of Amfac, Inc.'s Horticulture Group.

General Brooks' achievements are admirable for any individual; however, his rise to the top is especially noteworthy: he was the only black executive vice president of a Fortune 500 company in the United States.

General Brooks, not one to rest on his laurels, left Amfac, Inc. in 1984 and took control of Gurney Seed and Nursery Corp., and formed Advanced Consumer Marketing Corp. [ACMC]. ACMC, under Brooks' leadership, has charted an upward path and acquired an IBM advanced product dealership at the highest discount level.

As chairman and chief executive officer of ACMC, he has seen it grow into the 25th largest black operated industrial supply company.

ACMC has turned a profit for 2 years running, doing so last year on $27 million in revenues.

Mr. Speaker, Minority Enterprise Development Week highlights the achievements of some of our Nation's most successful and innovative entrepreneurs. They are to be commended for their commitment to fulfilling the American dream for themselves, their children, and our Nation. I sincerely hope that General Brooks' achievement will serve as an example to all Americans.

WILLIAM V. CHAPPELL, JR., VETERANS' OUTPATIENT CLINIC

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1989

Mr. HUTTO. Mr. Speaker, I am very supportive of this legislation to name the veterans' outpatient clinic in Daytona Beach, FL, as the William V. Chappell, Jr., Veterans' Outpatient Clinic. As a member of the Florida delegation I am well aware of the hard work of Bill Chappell in establishing the veterans' outpatient clinic in Daytona Beach. I had the privilege of visting with Bill in his district on several occasions and each time a number of his constituents mentioned to me their deep appreciation for Congressman Chappell's work in getting this facility so that the veterans of that area could receive needed medical attention.

Bill Chappell, before his death on March 3 of this year, was a longtime statesman in our Sunshine State of Florida. His record of public service is among the most distinguished of our political leaders. Bill, who was a veteran of the Navy in which he was an aviator, was always in the forefront of fighting for veterans' benefits. He was active in this manner in both the Florida Legislature, in which he served as Speaker of the Florida House of Representatives, as well as in the U.S. Congress. Bill was a very active member of the Appropriations Committee and served as the chairman of the Subcommittee on Defense Appropriations. He was a true patriot who believed in and supported a strong defense for our Nation. Therefore, it is altogether fitting that this facility in Daytona Beach be named William V. Chappell, Jr., Veterans' Outpatient Clinic. I am pleased to be among the supporters of the legislation to accomplish this purpose.

TRIBUTE TO SYNTHIA SUZANNE COCKRELL

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. GEPHARDT. Mr. Speaker, I rise today to congratulate Ms. Synthia Cockrell, who is being recognized by the Department of Defense as an outstanding Federal employee with a disability for 1989 in an awards ceremony today. The strength of America is rooted in its workers, and Synthia's accomplishments are a heartening example of the vigor of the American spirit.

Synthia Suzanne Cockrell was born totally deaf, has no peripheral vision due to paralyzed eye muscles, and suffers from amblyopia, which means that she can only use one eye at a time.

Synthia worked throughout high school as a keypunch operator for Sample Brothers, and she was hired by the Defense Mapping Agency Aerospace Center in St. Louis, MO, shortly after her high school graduation. She has been promoted twice in the last 6 years, and she has received several outstanding performance ratings. These achievements are especially impressive considering the nature of her work; without peripheral vision and only the use of one eye at a time, she must constantly move her head to scan documents and to check appropriate key-ins. Synthia has exhibited superior performance, and she is still improving.

Synthia's determination has proven her to be an employee who is reliable, conscientious and courageous. Because of this, she has been an inspiration to her fellow employees. Synthia has shown unusual fortitude and she has never shunned responsibility, always keeping a healthy outlook and accepting any challenges that may come her way.

It is an honor to recognize and pay tribute to Synthia Cockrell, who clearly personifies the contributions and abilities of the physically challenged in today's society, and I feel certain that I speak for the entire House of Representatives when I wish Synthia all the best.

IN HONOR OF GEORGE HAGOPIAN, CHAMPION OF VETERANS

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. ROSTENKOWSKI. Mr. Speaker, I rise to address the House on a matter of great sadness for me—the passing of the Honorable George Hagopian, alderman of the city of Chicago and champion of the veteran, at age 68, on September 1, 1989.

George Hagopian was a man of the highest principles and the deepest commitment. He was also one of the kindest men I have ever met.

I must have had hundreds of conversations and meetings with George. Yet, there is one incident which I will always think of first in remembering of him. One of my daughters was suffering a grave illness, and I was worried sick. George went out of his way to track me down. He offered the simple comfort of his spirituality and he asked what he could do for me.

The call had the most remarkable effect on me. It lifted me up when I needed it most. That one phone call captures what George Hagopian meant to me and I will never forget him.

As a dedicated elected official, George distinguished himself in many good causes on behalf of the people and businesses of his Northwest Side 30th Ward. However, George reserved his most passionate work for a constituency which stretched far beyond his ward lines—the veteran.

It can truly be said that George yielded to no one in the protection and promotion of the interests of those who served our country, and their families.

He proposed the Chicago City Council Committee on Veterans Affairs, fought for its creation, and served with distinction as its first chairman. A veteran himself, he threw himself into the championship of causes and positions backed by his wartime peers. Sometimes this embroiled him in raging controversies, such as the question of the use of the American flag in artistic and political expression. His devout patriotism was never more forcefully displayed, nor with greater effect.

George also had a deeply spiritual side. His study of the Bible and biblical history was contagious, resulting in a regular study group involving a number of aldermen and other local leaders. He was honored by his colleagues by being asked to deliver the invocation at city council meetings. George took that responsibility very seriously, and did it beautifully.

His devotion to things spiritual was matched by his pride in his ethnic heritage. Born of Armenian immigrants, George never forgot his roots. Nor would he let others forget the tragic events which fell upon his people at the turn of the century. His faithfulness to the task made him my chief adviser on that terrible event. I am sure that he also helped a great many others to guard against the horrors of genocide in any form. In that way, George was protecting the past and the future.

George's commitments to God and to the Armenian people found common ground in his generous involvement in St. Gregory the Illuminator Armenian Apostolic Church, at Normandy and Diversey in Chicago. In fact, he donated the very land on which it was built, although he was hardly a wealthy man. He kept all of his friends fully aware of the doings at the church, and many visited there with George.

In sum, Mr. Speaker, this was a fine man and I am proud to have called him my friend. He will be terribly missed by his family, his colleagues, his constituency, and his city. My sympathy and that of my entire family goes out to his children, his grandchildren, and all who loved him.

I thank my colleagues for this opportunity to put this tribute to Alderman George Hagopian into the permanent RECORD of the House. He deserved to be so remembered.

LONG BEACH TRANSIT HONORED FOR OUTSTANDING ACHIEVEMENT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. ANDERSON. Mr. Speaker, the American Public Transit Association, the international organization representing nearly 1,000 rapid transit and motor bus systems, has honored Long Beach Transit with the award of the

prestigious Public Transportation System Outstanding Achievement Award.

The award is given annually to the North American transit system that has demonstrated extraordinary achievement in efficiency and effectiveness in its size category.

I am very proud of the level of service provided by Long Beach Transit. During the last 3 years, ridership has increased by more than 700,000. At the same time, the cost per vehicle service has increased by less than half the rate of inflation.

My wife Lee and I offer our congratulations to all of the people who have helped produce this record of success for Long Beach Transit. I am now offering APTA's description of Long Beach Transit's award winning operation.

Long Beach Transit has established itself as one of the leading transit systems in California and the Nation. By concentrating on the development of standards and specific action plans to improve efficiency and effectiveness, LBT has maintained an outstanding record of limiting cost increases to well below the overall increase in the Consumer Price Index. It has reduced the number of peak-hour buses from 136 to 100 while at the same time increasing the number of passengers carried by more than 700,000. LBT has been particularly effective in reducing absenteeism and improving vehicle maintenance facilities and procedures, resulting in a 20-percent reduction in road calls over the past 2 years, and substantially more reliable service to the consumer. At the same time it has improved efficiency and effectiveness, LBT has developed within the organization a focus on innovation and maximizing the level of customer and community satisfaction with public transit services. For example, the organization responded to the challenge of privatization by successfully bidding to operate 27,000 hours of service at a cost reduction of more than 25 percent. As a result of such efforts, more than 95 percent of riders and nonriders rate LBT favorably, and ridership continues to grow substantially.

Larry Jackson, the president and general manager of Long Beach Transit, has served as President of APTA. In that role, he successfully led the battle to retain Federal operating funds for transit. LBT has also been an active participant in the Transit 2000 Taskforce and APTA Marketing Committee.

HONORING VA MEDICAL DISTRICT DIRECTOR MALCOM RANDALL

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. STEARNS. Mr. Speaker, thank you for this opportunity to say a few words about Mr. Malcom Randall, a good friend and constituent of mine from Gainesville, FL. Mr. Randall is the Medical District Director for Medical District 12, which includes Florida and southern Georgia. He has held that important position since 1973, after serving for 7 years as the Director of the Veterans' Administration Medical Center in Gainesville, a position he still holds.

Mr. Randall was honored in 1983 by President Ronald Reagan, who presented him with the Presidential Rank Award for distinguished senior Federal executives. The Veterans' Administration has also given him their most prestigious award, the Meritorious Service Award.

He has been a member and served on the boards of numerous State and Federal organizations, including the American Health Planning Association, the North Central Florida Health Systems Agency, the Council of Teaching Hospitals of the Association of American Medical Colleges, and the Governor's Committee on Alzheimer's Disease. He was also named Gainesville citizen of the year by the Civitan Club and Outstanding Director in the VA hospital system.

Malcom Randall has an impressive biography, with accomplishments that he can be very proud of. But I'd like to take a moment to talk about more than his résumé. I'd like to address his dedication to public service, a dedication which has spanned 50 years. He has unwaveringly supported the cause of veterans, and has actively and aggressively championed their causes in the State of Florida and at the national level. He has fought to get funding for the facilities that are so badly needed in our State, because he knows and sees firsthand the dire necessity for more and better service for our Nation's veterans.

I truly admire Malcom Randall's perseverance and effort throughout the last 50 years. I look forward to working with him in the future and hope that my service to veterans is as long and heartfelt as his has been.

BIRTHDAY OF J. HOWARD CARTER

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. GREEN. Mr. Speaker, I want to share with my colleagues news concerning a special constituent, Mr. J. Howard Carter of New York City. On October 13, 1989, Mr. Carter will celebrate his 85th birthday in the company of more than 100 of his family and friends at a birthday party at the Spring Lake Golf Club in Spring Lake, NJ.

As one of the founding partners of the law firm of Townley and Updike, Mr. Carter has had a long and illustrious career as an attorney in New York City. During his career, he represented a wide variety of clients, including the New York Daily News. In addition to his legal practice, Mr. Carter was also a professional baseball player. But, Mr. Carter's prowess in the sporting world has not been limited to baseball. He is a well-known golfer and is the former president of Wingfoot Country Club, Westchester, NY.

Please join me in extending congratulations and best wishes to Mr. Carter on the momentous occasion of his 85th birthday.

AN AMERICAN HERO

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. BARTON of Texas. Mr. Speaker, at a time when many newspaper headlines reflect drugs and crime, I'd like to proudly recognize a fellow Texan who, in making headlines herself, is a hero. I am referring to Nancy Carroll who, as a "Tarrant County, Texas hero," is the kind of person our Nation still cultivates, one representing honesty and integrity.

Nancy Carroll is a resident of Fort Worth, TX, and is currently employed as a maid. While on duty at a local bank, Nancy discovered $100,000 and immediately turned the sum in to the authorities. As her story spread, she has been commended not only in Texas but all over the world—from Fort Worth's neighboring town of Cleburne where the city's high school proclaimed September 20 as Nancy Carroll Day, to Munich, Germany where one man wrote to Nancy claiming she should be acknowledged "for her demonstration of what a human being ultimately is."

Heroes do still exist. And in my book, they don't come any better than Nancy. She is a symbol of what I believe most citizens all over the world still strive to be—honest and hard working. These individuals who we read about—however seldom—give the rest of us inspiration. I thank Nancy for that.

COUNTRY MUSIC MONTH

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. CLEMENT. Mr. Speaker, "From out the wide Pacific, to the broad Atlantic shore," Americans love country music. Country music legend Roy Acuff immortalized those words in a song written by A.P. Carter and copyrighted in 1933 by Peer International Corp.

I use those words to reflect the broad appeal country music has in our Nation. Today country music has also gained international appeal, spreading across our planet.

Today I join a majority of my colleagues in the U.S. House of Representatives in officially proclaiming the month of October as "Country Music Month."

With the adoption of House Joint Resolution 401, designating October as "Country Music Month," the U.S. House of Representatives will be honoring an industry that has annual sales of $550 million.

According to a recent Harris survey, country music is the best liked music in America, with over 60 percent of adult Americans stating that country music is their favorite music.

Over 2,200 radio stations in America are fulltime country music stations, up 92 percent over a decade ago.

From the Soviet Union to Australia people love country music. People always know about my home city, Nashville, TN, because it is the home of country music. Since being

elected to the U.S. House of Representatives, I have had the opportunity to visit many parts of the world.

More than once I've had foreign citizens ask me, "Do you really know Johnny Cash?"

This illustrates the unique "Americanism" of country music. It is a musical style that was born in the hills of Tennessee, Virginia, and the Carolinas. Country music draws its roots from religious hymns, traditional ballads, folk songs, and even the soulfulness of rhythm and blues, and embodies the spirit of America.

In fact, there is nothing more American than applie pie, our flag, and country music.

I am proud to represent "Music City U.S.A.," the home of country music. I am also proud to present House Joint Resolution 401 to declare October as "Country Music Month" on the floor of the U.S. House of Representatives.

I urge my colleagues to join me and the millions of country music fans across this Nation and throughout the world in recognizing this great American style of music on the 25th or silver anniversary of "Country Music Month."

THE 78TH ANNIVERSARY OF TAIWAN

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. TALLON. Mr. Speaker, 78 years ago the heroic Chinese leader, Dr. Sun Yat-sen, created the first free democratic nation in Asia, the Republic of China. On Tuesday, October 10, the anniversary of that momentous event, the island nation of Taiwan will celebrate its 78th national day.

We here in Congress and around the free world should celebrate as well. We should acknowledge and recognize Taiwan's many contributions and successes. We should pledge America's support for Taiwan and especially for what Taiwan stands for: democracy and free enterprise. And we should express our warmest regards to Taiwan's President, His Excellency, Dr. Lee Teng-hui, and to his Washington envoy, Dr. Ding Mou-shih, a most eloquent spokesman for Taiwan, who has helped us understand Taiwan's efforts in reducing her trade surplus with us and in cooperating with us fully on matters of mutual interest and concern.

H.R. 1335, VETERANS' COMPENSATION AMENDMENTS OF 1989

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. SOLOMON. Mr. Speaker, yesterday the House of Representatives unanimously approved H.R. 1335, the Veterans' Compensation Amendments of 1989, to provide a full cost of living allowance [COLA] for veterans with service-connected disabilities and for the survivors of veterans who have died as the result of their military service. The Bush administration supports a full COLA. The 4.9 percent COLA is welcome news for these veterans and their survivors, who deserve this protection against inflation at least as much as any group of Federal beneficiaries I know of. Along with my colleagues on both sides of the aisle, and as the former ranking member of the Veterans' Affairs Committee, I was pleased to support H.R. 1335. As the senior ranking member of the House Rules Committee, I have continued to take an active interest in veterans affairs and have had the opportunity to help along legislation affecting veterans when it came before the Rules Committee.

Mr. MONTGOMERY, chairman of the Veterans' Affairs Committee, and Mr. STUMP, the ranking member, are providing outstanding leadership to the committee, and I commend them for advancing this essential bill promptly. Also, Mr. APPLEGATE, chairman of the Subcommittee on Compensation, Pension and Insurance, and Mr. MCEWEN, the subcommittee's ranking member, started the ball rolling for the COLA, and I take my hat off to them too.

Mr. Speaker, H.R. 1335, along with the COLA provision, contains provisions intended to encourage collocation of Department of Veterans Affairs regional offices with DVA medical centers, both for cost effectiveness and improved services to veterans. For reasons which are unclear, DVA has endorsed the concept of collocation, but is moving toward implementation at a glacial pace, having collocated facilities at only one place in the Nation. At Little Rock, AR, collocation is a great success, according to the ranking member of the Subcommittee on Hospitals and Health Care, Mr. HAMMERSCHMIDT.

Mr. Speaker, the other body has not yet passed its veterans COLA bill, S. 13, and I urge it to follow suit to ensure that veterans receive a timely COLA on December 1, 1989.

REMEMBERING JUSTICE OF THE PEACE LINDON WILLIAMS

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1989

Mr. FIELDS. Mr. Speaker, a good friend of mine, Justice of the Peace Lindon Williams of Baytown, TX, died September 24, and I would like to take a moment to remember this man who worked so hard, in so many ways, to improve his community, his State, and his country.

Lindon Williams gave new meaning to the term "public service," and he gave politics a good name. Lindon was more than just a dedicated public official for 22 years; he was a man who cared deeply about his community, his State, and his Nation. And he was convinced that the best way to help others was to become involved in public service. But long days in the legislature, or on the bench, didn't prevent Lindon from working with community groups throughout east Harris Country to make that area a better place for all who live there.

Lindon served with distinction in the Texas House of Representatives from 1967 to 1975 and in the Texas Senate from 1975 to 1985. His interests were as diverse as his committee assignments: education, business and industry, natural resources, and intergovernmental affairs. In 1984, his colleagues elected him president pro tempore of the senate, which put him third in line to the Governor. Indeed, on December 8, 1984, Lindon was inaugurated as "Governor for a day" and was honored in ceremonies in Austin.

In 1985, upon the death of precinct 3, place 2, Justice of the Peace N.O. "Pookie" Morrison, Harris County commissioners appointed Williams to the vacancy. In 1986, Lindon won a full term as judge in the justice court of east Harris County without opposition.

Lindon's real passion, however, was helping America's veterans. A U.S. Army veteran of Korea, Lindon was appointed by Gov. Mark White to serve on the Texas Veterans Commission; eventually he served as secretary of the commission.

Later, Lindon was elected State commander of the American Legion. In that capacity, he and I had a number of opportunities to work together on behalf of the approximately 100,000 Texas members of the American Legion. Lindon was a life member of the American Legion, the Veterans of Foreign Wars and the Disabled American Veterans. Lindon served as chairman of the Texas Medal of Honor Committee, which established—and raised more than $50,000 for—the Texas Acre at Freedoms Foundation in Valley Forge, PA. Also, he served as a member of the Texas State Korean and Vietnam Veterans Memorial Committee.

But Lindon was a man of tireless energy who saw opportunities to serve others elsewhere, as well.

He was an active member of the Baytown Rotary Club; he served on the board of governors of the Shrine Crippled Children's Hospital; he was a member of the Baytown Shrine Club; he was raised as a master mason at Galena Park Post 1290; and he was a 33-degree Scottish Rite Mason and a member of the Scottish Rite and York Rite.

In addition, Lindon was active in many of the chambers of commerce in east Harris County, including the Highlands Chamber; the North Channel Area Chamber; the Northeast Houston Chamber; the Crosby-Huffman Chamber; the Baytown Chamber, which he served as director; and the Galena Park Chamber, of which he was a past president.

Lindon also was active in the Boy Scouts of America, a member of the Royal Order of Jesters, a member of the board of directors of Youth Reach and a member of the Channelview Eastern Star.

Mr. Speaker, Lindon Williams was an extraordinary man whom I very much respected as a public official and very much liked as a friend. Lindon is survived by his lovely wife, Evelyn, and two sons—Gerald and Lindon II, all of Baytown. He also is survived by his mother, Bessie Williams of Dayton; his twin sister, Lorene Williams Graves of Dayton; his sister, Ina Williams Clegg of Dayton; and his brother, J.B. Williams of Liberty.

To each of them, I want to extend my deepest and most heartfelt sympathies. Your husband, your father, your son, and your brother was one of those rare men who truly made a

difference in the lives of others. Our community is much the better for his work in the legislature, on the bench, and as a neighbor. All of us will carry with us our own special memories of this wonderful man, and all of us will remember him with admiration and affection.

SENATE—*Wednesday, October 4, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 10:40 a.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy strength, and with all thy mind, and thy neighbor as thyself.—Luke 10:27.

Gracious God, merciful Father in Heaven. Testing Jesus, the lawyer, desiring to justify himself, asked, "And who is my neighbor?" Jesus responded with the familiar story of the good samaritan. His point: We are to be neighbors to any need, known or unknown.

With profound gratitude, loving God, we thank Thee for the massive outpouring of neighborliness from all over the Nation to those people in South Carolina who suffered such cosmic tragedy and loss from Hurricane Hugo. Grant, dear God, that this spontaneous expression of love may continue until healing and restoration is complete in all the devastated areas; and give to those who have suffered so much a special sense of Thy love and grace. In Jesus' name who is love incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 4, 1989.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized.

THE JOURNAL

Mr. FOWLER. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. FOWLER. Mr. President, since I seized the floor before your gavel, I do remind all Senators that we will adjourn now until noon; that we are adjourning to hear the address of the President of Mexico in a joint meeting of Congress to be held in the House of Representatives. We will return to the regular order of business at noon today.

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF MEXICO

The ACTING PRESIDENT pro tempore. The Senate will now stand in recess until 12 noon, for the purpose of attending a joint meeting with the House of Representatives to hear the address by the President of Mexico.

At 10:43 a.m., the Senate recessed until 12 noon.

Thereupon, at 10:45 a.m., the Senate, preceded by the Secretary of the Senate, Walter J. Stewart; the Sergeant at Arms, Henry K. Giugni; and the President pro tempore of the Senate, ROBERT C. BYRD, proceeded to the Hall of the House of Representatives to hear the address by the President of Mexico, Carlos Salinas de Gortari.

(The address delivered by the President of Mexico to the joint meeting of the two Houses of Congress appears in the proceedings of the House of Representatives in today's RECORD.)

At 12 noon, on the expiration of the recess, the Senate, having returned to its Chamber, reassembled, and was called to order by the President pro tempore.

The PRESIDENT pro tempore. The majority leader is recognized.

FLAG PROTECTION ACT OF 1989

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate Calendar No. 258, H.R. 2978.

The PRESIDENT pro tempore. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2978) to amend section 700 of title 18, United States Code, to protect the physical integrity of the flag.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. PELL addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from Rhode Island [Mr. PELL].

Mr. PELL. Mr. President, I ask unanimous consent to speak as if in morning business.

The PRESIDENT pro tempore. Without objection, the Senator from Rhode Island may speak out of order.

ATTEMPTED COUP IN PANAMA

Mr. PELL. Mr. President, all decent people are disappointed that the coup in Panama did not succeed and that General Noriega has yet to be ousted. I congratulate the President on the restraint with which he handled the situation.

It would have been easy for him to have responded to the calls for U.S. troops unilateral participation in violent actions to throw out Noriega. But if he had done that we would have reaped the bitter frustration of that exercise for many years to come as the hemisphere saw it as one more example of belligerence on the part of the United States.

To my mind the only time that U.S. troops should be used in Panama is either to protect the Canal in accord with the Panama Canal Treaty, or to defend American lives or to be part of multilateral forces that might be created by the OAS or the United Nations to restore democracy in Panama.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll, the absence of a quorum having been suggested.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

FLAG PROTECTION ACT OF 1989

The Senate continued with the consideration of the bill.

Mr. BIDEN. Mr. President, we are about to move to our discussion and debate, as has been ordered by the Senate some several months ago, on a statutory remedy to prevent the burning of the flag.

Under our previous unanimous-consent agreement, the Senate Judiciary Committee was instructed to hold hearings on both the statutory remedy and a constitutional remedy—constitutional amendment as a remedy—for dealing with preventing the burning and mutilation of the flag.

The Senate Judiciary Committee has followed the instructions of the Senate and has held extensive hearings, as, I might add, the House of Representatives has. We are now on, as previously ordered, the legislative remedy.

Well, upon the completion of the recess, whether or not there is a recess, we will then be voting on the constitutional amendment. So the only thing before us today, by previous order, I say to my colleagues, is the statutory remedy.

Mr. President, after consulting with the distinguished ranking member of the Judiciary Committee, I would like to ask unanimous consent that only two amendments be in order to this legislation and a technical amendment—the two amendments being the Biden amendment clarifying expediting review provisions, and the Dole amendment adding language to the bill "maintain on the floor and on the ground."

The PRESIDENT pro tempore. Is there objection?

Mr. THURMOND addressed the Chair.

The PRESIDENT pro tempore. The Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. I have just been informed that the Republican leader does not wish to give any consent at this time. So if we can delay that.

Mr. BIDEN. No problem. I misunderstood. I apologize.

The PRESIDENT pro tempore. Does the Senator from Delaware withdraw his request?

Mr. BIDEN. Yes. Maybe we should move right to the heart of the matter, Mr. President. I ask that we call up what is being held at the desk, the House bill, H.R. 2978, for consideration.

The PRESIDENT pro tempore. That is the pending business.

Mr. BIDEN. That is the pending business. I thank the Chair.

Mr. President, we have come a long way in a relatively short time since the Supreme Court decision of Texas versus Johnson, and we can take heart that in the Halls of the Congress and across the Nation we proceeded rationally and democratically to consider how best to accomplish what most of us think we should accomplish, and that is protecting the American flag.

The PRESIDENT pro tempore. Will the Senate suspend.

You may proceed.

Mr. BIDEN. Thank you.

Now, after more than 3 months of deliberation, and after an extensive series of hearings before the Judiciary Committee, and after a similar set of hearings in the House, and after listening to a broad spectrum of witnesses, we are ready to vote on legislation to protect the flag.

Mr. President, I stand more firmly than ever behind the legislation before us. It is simple, it is quick, it is constitutional, it is the constitutional means of legislatively protecting the flag.

As soon as the President signs this legislation, assuming the House and Senate were to pass it, it will be illegal to burn the flag, to trample upon the flag, to deal with the flag in a way that all of us, most of us, at least, hope will not be able to be done.

Mr. President, I have discussed at length—both on this floor and in the committee—the decision in Texas versus Johnson, the rationale for the legislation before us, and the reasons I believe the legislation before us is constitutional. But very briefly, let me recapitulate.

The fatal flaw in the law struck down in Texas versus Johnson was that it made the prosecution of Mr. Johnson turn on whether someone else was seriously offended. In other words, the State of Texas punished Gregory Johnson because of the content of the message that he conveyed.

The law punished only one point of view, a point of view defined through the eyes of the beholder, or put another way, as the case clearly points out, both in lower court case and Supreme Court case, if when Johnson burned the flag it could not be proved that the one witnessing it was offended, there would be no offense.

So the offense rested upon whether or not someone was offended. Therefore, it punished a point of view, the point of view held in the eyes of the beholder of the action. And that, the Court said, is unconstitutional. It made the Texas law what first amendment lawyers call "content based." That led to it being struck down.

Mr. President, the legislation before us eliminates that particular flaw. That was the basis for the Court's decision in Texas versus Johnson. It would change the Federal statute from one that punishes expression of a contemptuous idea to one that protects the physical integrity of the American flag in all circumstances.

Operation of this statute will not depend on whether the flag was used for communicative or noncommunicative purposes, or upon whether anyone might or might not be offended or opposed to what the person is doing. It is straightforward, and it is simple. It says that you cannot burn the flag under any circumstances. So, therefore, it does not go to the message being communicated, and, therefore, it does not go to the first amendment.

Mr. President, unlike the law struck down in Texas versus Johnson which is, as the lawyers say, content based, this legislation is content neutral. Unlike the law struck down in Texas versus Johnson, whether one's treatment of the flag violates the amended Federal law would not depend on the likely communicative impact of that conduct. Unlike the law struck down in Texas versus Johnson, the amended Federal law is, in fact, aimed at protecting the physical integrity of the flag in all circumstances, which is, I think, what we want, Mr. President. That is what we are about. Are we or are we not going to protect the flag, that unique American symbol?

Mr. President, the Judiciary Committee had 4 days of hearings on the statute, and it proposed a constitutional amendment. The hearings were extensive, covering nearly 20 hours of witness time, and the witnesses were enlightened and informative and extremely well respected.

It is undeniable, Mr. President, that we had compelling testimony in support of the constitutionality of this legislative approach that we are undertaking.

It came from constitutional scholars who are categorized as conservatives. It came from those who are categorized as moderates, as well as from liberal scholars.

For example, Geoffrey Stone, dean of the University of Chicago Law School and a noted first amendment scholar, said that at minimum, there were reasonable grounds to believe that the statute was constitutional. He made it clear, furthermore, that the constitutionality of the statute is not in his words "controlled by the principles that dictated the outcome" in Texas versus Johnson.

Henry Monaghan—who teaches at Columbia Law School, who is one of the Nation's leading experts on precedent and who is recognized as a "conservative"—said in a written statement submitted to the committee that the majority opinion in Texas versus Johnson "goes out of its way to state that flag desecration was not immune from all legislative control."

Other witnesses—Profs. Larry Tribe, Walter Dellinger, Gordon Baldwin, and Brady Williamson—echoed this same theme. The record before the Judiciary Committee simply belies any

claim that the statute cannot survive constitutional scrutiny.

Suffice it to say, Mr. President, that I began the hearings firmly believing that the statute was constitutional, by the time the hearings were over, I was more confident than ever that the statute will pass muster, and I believe that anyone who studies the record of our hearings will reach the same conclusion.

Mr. President, I believe it makes the most sense for us to take up the House bill that is before us, a bill that has already passed the House of Representatives by an overwhelming margin, 380 to 38. Based on its very extensive hearings, those held in the House, the House added some provisions to the operative language of the Senate bill. Their changes were well thought out. They improve the bill, and I commend our colleagues in the House for their hard work.

But there is one change, however, that I believe this body should make to the House bill. The House added a provision for expedited procedure, and if I can note parenthetically the reason for that: One of the things that the critics of this approach, the legislative approach, have is they say "Now, wait a minute, BIDEN; if you and THURMOND and others go ahead and pass a piece of legislation although it will be from that moment on, if the President signs it, illegal for someone to burn the flag, and if they do they must suffer the consequences which could include a fine and/or a jail sentence, at some point in the future the court may strike this down, a year, 2 or 3 years from now, and then we will have lost a great deal of time in dealing with the ultimate remedy that they believe is necessary, a constitutional amendment."

So in order to deal with that the House attempted to do what I considered doing in the so-called Biden bill, but because the way the momentum moved here I did not add it at that moment, and that is provide an expedited procedure provision. Simply stated, it is a means by which the Congress can constitutionally direct the courts to move quickly on an issue once the issue is before the courts. Unfortunately, the House of Representatives, in its effort to do that, I believe, and I believe some of their membership now believes, went too far in that they passed a provision that may not be constitutional. They said that once a matter is brought before a district court it must automatically without any decision, without even being briefed, go straight to the Supreme Court of the United States of America to be considered.

There is a body of constitutional opinion that suggests that we do not have the authority to do that. But it is clear we do have authority to deal with an expedited procedure.

And I might add under the leadership of the Presiding Officer we did that in a number of areas including the so-called Chadha case. We did it in the Gramm-Rudman issue. We did it in Buckley versus Valeo.

Fortunately we have good and qualified staff that is here to help me out on this and I appreciate it very much.

But what we did in those cases is we said, look, once a case is taken before a Federal district court and it is briefed and a decision is rendered on the constitutionality of the issue that is briefed, then it can bypass the circuit court and go straight to the Supreme Court and we can ask the Supreme Court and direct the Supreme Court to move on that constitutional question and do it quickly.

So what the Senator from Delaware, in conjunction with the distinguished Senator from South Carolina, is going to do in a moment, after the Senator from South Carolina makes his opening comments, is send an amendment to the desk, and I will not take a lot of time explaining then, but I will explain a little more now, which will have as its purpose to clarify and rectify the expedited provision that the House bill now contains by eliminating the requirement that it go straight from the moment jurisdiction is taken to the Supreme Court of the United States of America.

This change we believe, I believe, and I believe the Senator from South Carolina believes will in fact remedy any question that remains about the constitutionality of the bill.

I understand that Senator DOLE also has an amendment. He wants to add language to the House bill that makes it illegal to maintain on the floor or the ground the American flag. The original provision of the Senator from Delaware in the Senate bill, the so-called Biden flag bill, contains that very language. I believe it is necessary. I believe it is a useful addition and when the time comes for the Senator from Kansas to do that we will readily accept that amendment.

Mr. President, I urge our colleagues to support the legislation before us. The flag deserves protection—for as President Woodrow Wilson said on Flag Day in 1915:

> The flag is the embodiment, not of sentiment, but of history. It represents the experiences made by men and women, the experiences of those who do and live under the flag.

Mr. President, I urge our colleagues today to join me in restoring the dignity of the American flag we all respect.

I further urge them to consider this point: Historically this great body has almost always turned to a legislative remedy before it has attempted a constitutional amendment to remedy a situation unless it was absolutely clear that there was no legal way, constitutional way by which you could legislatively remedy a situation. I think we should be prudent. Amending the Constitution is a significant and solemn step and undertaking. I respect and suggest to our colleagues, assuming they believe as I do that it is important and necessary to protect the flag—and I will not bore my colleagues with my rationale why I think that is important; I have done it too many times on the floor and in the committee—but assume they do, I respectfully suggest that we should be prudent.

The overwhelming body of scholarly opinion believe the approach of the Senator from Delaware is constitutional. We should at a minimum seek the legislative remedy before we seek to amend the Constitution.

Second, I say to my colleagues that assume for the sake of discussion the Senator from Delaware is incorrect and the House is incorrect, that it is not possible to legislatively remedy this situation. We will have lost nothing because during the period this law is in place people are going to know full well that there is a sanction if they burn the flag. It may well be, arguably, that 2 years from now they are let out of jail because it was not constitutional. But there is a sanction in place. And if the statutory approach of the Senator from Delaware does not work, the constitutional remedy would still be available and nothing would have been lost.

So, Mr. President, I urge my colleagues, when it comes time to vote on this amendment, to support it.

Mr. President, I ask unanimous consent to, at this point in my speech, have printed in the RECORD a much longer dissertation on the constitutional comments made by the constitutional scholars on the constitutionality of this amendment.

There being no objection, the material was ordered to be printed in the RECORD as follows:

> The law at issue in *Texas* v. *Johnson* did not make it a crime to burn or otherwise destroy the American flag. Instead, the law prohibited such acts only if they were conducted in a manner that was offensive to others. Similarly, the Federal statute does not make it a crime to subject the American flag to misuse. Rather, it criminalizes misuse only when the actor is "casting contempt."
>
> Under the terms of the majority opinion in *Texas* v. *Johnson*, the fatal flaw in each such statute is that the commission of the crime is inextricably linked to the communication of an idea. They were, in other words, "content-based." The court was not, and has never been, presented with a content-neutral statute—a statute that banned flag burning and other similar acts of destruction in all circumstances—a statute under which prosecution would not depend on such communication.
>
> The legislation before us is such a content-neutral statute. Unlike the Texas law, this statute focuses not on the likely reaction of the audience when it views flag burning—the so-called "communicative

impact"—or on the intent of the actor but on protecting the physical integrity of the flag.

The legislation, in the words of the majority opinion in *Texas* v. *Johnson*, is "aimed at protecting the physical integrity of the flag in all circumstances' and thus should pass constitutional muster."

Several witnesses testified that the statute will pass, or has a reasonable chance of passing, constitutional muster.

Geoffrey Stone said: "Johnson does not directly control the constitutionality of the Biden-Roth-Cohen Act * * *. In the end, there are at a minimum reasonable grounds to believe that the Supreme Court would uphold the proposed statute."

"Unlike the Texas law invalidated in Johnson, the proposed legislation is not content-based, it is not directly related to the suppression of free expression, and its constitutionality is thus not controlled by the principles that dictated the outcome in Johnson. Put simply, the decision in [Johnson] does not of its own force invalidate the [Biden bill].

Professors Williamson and Baldwin said: "The legislation adopted by the House of Representatives and the legislation before this committee are content-neutral on their face. Unlike the proposed constitutional amendment, they are specific and immediately enforceable. Unlike the Texas statute, they are 'aimed at protecting the physical integrity of the flag in all circumstances.' "

They also said: "This committee has heard several distinguished witnesses argue that the Supreme Court would not approve this statute. We find this difficult to accept because the legislation before this committee is content-neutral, at least on its face, and for at least one of the justices in the 5–4 majority in *Texas* v. *Johnson* that might be sufficient to distinguish and validate this statute * * *. The proposed legislation focused more precisely on conduct itself rather than on the expressive impact of the conduct. That, too, distinguished it from the Texas law and that, too, might be a sufficient distinction for at least one justice."

Brady Williamson added: There are "substantial differences between the Biden statute and the Texas statute invalidated in *Texas* v. *Johnson*. The legislation passed by the House and, I believe to an even greater extent, the legislation before this committee, does not punish speech as such, it does not make criminal conduct dependent on the eye of the beholder, it is content-neutral and it protects the physical integrity of the flag in every circumstance."

Walter Dellinger said: "A simple act of Congress protecting the physical integrity of the flag in all circumstances has a very reasonable basis for being sustained in the United States Supreme Court."

Henry Monaghan said in his written statement: "In fact, *Texas* v. *Johnson* is far too unstable a precedent to permit a confident conclusion that a majority of the court would reach such a result [striking down all flag destruction statutes]. Johnson itself was 5–4, and the minority seems adamant. Thus, the fundamental question is whether the proposed legislation is sufficiently different to detach one or more members of the majority. As a predictive matter, that seems to me a fair possibility, given both the discriminatory character of the Texas statute and because the majority opinion itself goes out of its way to state that flag desecration was not immune from all legislative control."

Larry Tribe said in his written statement: "* * * The relevant fact is that five Justices on the current Supreme Court (the four dissenters plus Justice Blackmun) are on record as having voted, either in Johnson or in prior opinions expressly endorsed in the Johnson majority opinion, that the first amendment permits the conviction of flag-burners so long as the government does not make the mistake Texas made—that is, so long as the government does not single anyone out for prosecution based on the views he or she meant to express."

At some point after the Senator from South Carolina has spoken, I will move the adoption of the amendment on expedited procedure, and then at the appropriate time I am sure Senator DOLE will quickly move to adopt the Dole amendment.

I thank the Chair, and I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDENT pro tempore. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, I yield to the Senator from South Carolina.

The PRESIDENT pro tempore. The Senator from South Carolina [Mr. THURMOND] is recognized.

Mr. THURMOND. Mr. President, in accordance with the unanimous-consent agreement of July 14, we are now considering a proposed statute designed to overturn the infamous Johnson decision which allows the contemptuous burning of the American flag.

We have arrived at this juncture through a series of events which I will briefly describe.

During the Republican Convention of 1984 in Dallas, TX, one Gregory Lee Johnson was an active participant in an anti-American demonstration through the streets of that host city. The aggressive demonstration culminated to a gathering in front of Dallas City Hall.

While many fine citizens of Dallas watched in anger and disgust, Johnson doused an American flag, which had been stolen during the march, with kerosene and set it on fire. While he engaged in this offensive conduct, Johnson chanted, "America, the red, white, and blue, we spit on you."

Being in violation of a Texas statute which prohibits the desecration of a venerated object, Johnson was rightfully charged, tried, and convicted. His conviction was upheld on first appeal but later reversed by a Texas Court of Appeals and that decision was finally affirmed by the U.S. Supreme Court as protected conduct under the first amendment.

Now Mr. President, I am not sure which offends me more, Johnson burning an American flag or the fact that the Supreme Court would sanction his contemptuous conduct.

In any event, immediately after the Supreme Court ruling, I introduced a proposed constitutional amendment to alter the Johnson decision. A Senate resolution passed 97 to 3 expressing our resounding disapproval with the decision. Additionally, both statutory language and proposed constitutional amendments were introduced to overturn the Johnson decision.

Also, after bipartisan discussions with members of the Senate, President Bush transmitted language for a 27th amendment to the Constitution. The President's proposal states simply, "The Congress and the States shall have power to prohibit the physical desecration of the flag of the United States." This language is succinct and would effectively overturn the Johnson decision.

Public officials and millions of Americans expressed their anger and consternation with the Johnson decision.

On July 14, the Senate entered into a unanimous-consent agreement concerning the various legislative proposals addressing the Johnson decision. The agreement provided for at least four hearings, consideration of the statutory approach on the Senate floor prior to the October recess and the proposed constitutional amendment to be the Senate business upon return until final disposition.

That brings us up to the current situation. I will have more to say on the constitutional amendment upon its consideration here in the Senate.

Mr. President, the Senate Judiciary Committee indeed held four hearings on the Flag issue. The primary focus of our hearings was not whether we should provide protection for the Flag, but what is the proper course for providing that protection.

There was sharp disagreement among some of our Nation's top constitutional scholars as to whether a Federal statute seeking to overturn the Johnson decision would be constitutional.

President Bush, Attorney General Thornburgh, and Assistant Attorney General William P. Barr are convinced that a constitutional amendment is the only way to adequately protect the Flag.

Judge Robert H. Bork, former Assistant Attorney General Charles J. Cooper, Stephen B. Presser, Professor of Law at Northwestern School of Law, and Eugene W. Hickok, Jr., Professor of Political Science at Dickinson College, also testified that only a constitutional amendment will be effective in reversing the Johnson decision.

While I stated that I would support Chairman BIDEN's bill to overturn the Johnson decision, I remain convinced that a 27th amendment to the Constitution is the only sure and foolproof way to protect the integrity of the American Flag.

While a statute may be effective, a constitutional amendment would make clear that the Congress and the States have the power to prevent the physical desecration of the American Flag.

Proponents of the statutory approach claim that a Federal statute neutral in its application—preventing all physical destruction of the Flag regardless of intent—would be constitutional.

I am not too sure that the American people want a neutral Flag statute in the wake of the Johnson decision. Our proposed constitutional amendment is designed to prohibit offensive, egregious conduct such as Johnson's and to protect the Flag as our symbol of national unity.

A statute which is content neutral would not only address contemptuous desecration of the Flag but would also make criminals out of those persons who retire a worn or soiled Flag out of respect by burning.

The House bill presents a different situation. It is not neutral in its application by providing certain exceptions to conduct with the Flag. It is my belief that while these exceptions in the House bill concerning the disposal of a worn or soiled Flag are appropriate, they may not be reconciled with the Johnson decision. The majority opinion clearly states that government action allowing some types of conduct with the Flag while prohibiting other conduct would not be constitutional. The majority opinion states:

If we were to hold that a State may forbid Flag-burning wherever it is likely to endanger the Flag's symbolic role * * * we would be saying that * * * the Flag itself may be used as a symbol * * * only in one direction. We never before have held that the Government may ensure that a symbol be used to express only one view of that symbol.* * *

This statement from the majority opinion would likely render the House bill unconstitutional.

Mr. President, although I will support the statutory approach for overturning the Johnson decision, I look forward to consideration of Senate Joint Resolution 180, the proposed constitutional amendment, as the most effective and honest measure to address this unfortunate Supreme Court ruling.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from South Carolina has not yielded the floor.

Mr. THURMOND. Mr. President, I ask unanimous consent that an article by Stephen B. Presser and ArLynn Leiber Presser, entitled "Rights, Responsibilities and the Flag," which appeared in the Chicago Tribune, September 27, 1989, be printed in the RECORD following my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. I would state Stephen B. Presser is a professor at the Northwestern University School of Law, and ArLynn Leiber Presser is a lawyer and freelance writer.

Professor Presser presented these arguments to the Senate Judiciary Committee.

Mr. President, I yield the floor.

EXHIBIT 1

[From the Chicago Tribune, Sept. 27, 1989]

RIGHTS, RESPONSIBILITIES AND THE FLAG

(By Stephen B. Presser and ArLynn Leiber Presser)

According to a Newsweek reading of the conventional wisdom, only Neanderthals would favor an amendment to the Constitution to reverse the Supreme Court's opinion in *Texas v. Johnson*, which held flag burning to be protected by the 1st Amendment. As lawyers with a deep interest in history, who return often to the world of our Constitution's framers, we believe there are compelling reasons to support the proposed amendment to prohibit desecration of the flag.

The most challenging task for our nation as it proceeds in the third century of its development is to strike a balance between the need to protect the freedom of individuals and the need to maintain the sense of an American community.

Without freedom for individuals, much that is rich and diverse in American culture would vanish. Over the years, legal and constitutional development has recognized this and increasingly protected Americans' liberties and rights. Arguably, much of the Supreme Court's devotion to furthering individualism has been noble. It is difficult to argue with the hard-won rights that allowed slaves to be freed, women to own property and both groups to vote and fully participate in society.

But without a sense of community and decency, unbridled individualism will degenerate into license, anarchy and greed. The Constitution's framers clearly were more concerned with the civic responsibilities and duties a citizen owed the American republic than with assuring citizens maximum freedom or license.

In fact, in the early years of the republic, it was widely recognized, in common law or by federal statute, that false writings critical of the character of the American government or its officials were likely to result in a criminal offense punishable by fine or imprisonment. It was commonly said that the two things a republic ought to fear most were too much luxury or too much licentiousness in the press.

Certainly, we do not advocate a renewal of the concept of seditious libel. Rather, we would like to emphasize that the greatness of American institutions did not in the late 18th Century and does not now rely entirely on the principle of individual self-expression.

The logic of the majority opinion in *Texas v. Johnson* misses what our Constitution's framers and other great English classic liberals, such as Edmund Burke, knew: There are times when the sensibilities, the traditions, the prudence and even what Burke called the "prejudices" (probably meaning concepts of decency or taste) of the majority of the people deserve some deference.

Now that our more secularized society forbids, the official expression of American sensibilities, traditions or tastes through religious exercises, virtually the only acceptable public outlet seems to be in the realm of politics or patriotism. Just as it is wrong to construe freedom of expression so broadly that obscenity or libel must be left uncontrolled, so should the outrage sought by maliciously burning the flag be prohibited.

Further, though it may be true—as the Supreme Court has often reminded us—that it is a test of our commitment to individual freedom to be able to tolerate the statement of the thought or the idea that we hate, such a theory does not require us to tolerate *actions* that offend our sense of decency.

As the minority in *Johnson* understood, the Texas flag desecration statute challenged in the case did not prohibit, nor would the proposed constitutional amendment prohibit, the communication of thoughts or ideas regarding the flag. Only offensive actions would be barred.

Still, it is apparent even to us, whose sympathies lie with the dissenters in *Johnson*, that the logic of the court's previous 1st Amendment cases compelled the result the majority reached. That logic also would probably be the nemesis of a congressional statute prohibiting desecration of the flag, even one as carefully and neutrally crafted as the one before Congress. Only a new Supreme Court decision or a constitutional amendment could change the result in *Johnson*.

It is time to permit Americans to make a statement about our political community and the responsibility membership in it entails. As this country has moved away from the turmoil of the great Depression and the carnage of World War II and has experienced the increasing pace of immigration and technological advances, there has been an extraordinary breakup of the ideals upon which the United States was built.

In the war of ideas, we are now often fighting ourselves—black against white, Jew against Gentile, immigrant against native. We are more a boiling cauldron than a melting pot. We often seem unable to agree on the simplest norms for behavior or the most basic ideas that should bind us.

We cannot hope for a preacher to walk through our cities and towns telling allegorical tales that make the orignial principles of the Constitution clear. All we have are symbols. Just as Jesus gave his followers simple parables to make powerful points and to bind a church, our nation's framers gave us select symbols to make our country understandable. The flag certainly seems to be the most recognizable—and the one we all seem to endorse.

Too often we are more aware of our rights than our responsibilities as American citiens. We are often adamant about our rights—to fair or equal treatment, to government aid and to protection. A constitutional amendment on the flag, if nothing else, would be a beginning in making us more aware of our responsibilities.

The PRESIDENT pro tempore. The Senator from Nebraska [Mr. KERREY].

Mr. KERREY. Mr. President, let me first state that I have a great deal of respect and admiration for the Senator from South Carolina. His sense of duty to the Nation and his sense of honor to our country are sincerely felt, and I believe more of it is needed. I admire his willingness to stand for those things that have made this Nation great, and I believe he has led many of us who often wonder whether or not the people themselves understand what true patriotism is.

I would like to continue some comments I made earlier about this. I do not support either the statutory change or the change in our Constitu-

tion. As I have said on a previous occasion, I was offended, not only by the burning of the flag but by the statements made by Mr. Johnson, from Texas—greatly offended. Watching the videotape of those events made me angry and made me wonder how it was the Supreme Court could have decided the way that they did.

But, in the calmness of the Fourth of July recess, I read the judgment of the Supreme Court, and I discovered that I agreed with it. It was altogether reasonable, no new rights had been created; in fact, a unanimous decision by a Texas court had concluded the same way. A conservative circuit court had concluded that this was a right protected under our Constitution and that it was not something new being considered by the people.

In fact, I think it is significant that the Solicitor General of the United States himself did not intervene on behalf of the United States at the Supreme Court level.

I would like to go slightly beyond that today, Mr. President, to speak to why I think the statutory change is not needed. Though I understand why it is being offered and appreciate in particular it is being offered out of a genuine concern for the symbol of America, our flag, and a genuine concern as well for our Constitution, I find in the first instance that the statute is not needed because I see no evidence of danger.

I see no threat to our domestic tranquility being offered up by lines of people preparing to burn the American flag. I believe the negative feelings that all of us have, and all Americans have, toward people who burn a flag are deterrent enough; that our outrage at this act is enough; that the United States of America faces other problems that we have been debating the last 3 or 4 weeks that we need our law enforcement people addressing; and that Government should not intervene unless it is needed.

Mr. President, I simply do not see the clear and present need for us to pass a statute and ask our Government at all levels to respond to a danger that I believe does not exist.

Second, I do not believe it is needed for democracy. It is not an inalienable right that we would put forward to emerging democracies. I hear no one when they visit Poland say: Make sure in your new Constitution that you have a protection that prevents your citizens from burning the Polish flag. I do not hear people talking about prohibiting the burning of a flag as an inalienable right, and urging other democracies to include it in their constitutions. It is not needed for the maintenance of democratic freedom.

Finally, Mr. President, I do not believe it is needed for us, as individuals, to use the freedoms that we have to give honor to our God. It is not needed because I believe it is inalienable and I believe we have attempted with our Constitution to give honor to that inalienable need to be free and to express oneself. Of all things today in the United States of America, we need to encourage our people to be less afraid of speaking what they genuinely believe, to be less afraid of letting their own minds and hearts give rise to what they think ought to be done, less afraid to rise before the audience and say, "This is what I believe is right. This is what I believe is wrong. This is what I believe should be done."

It is also, it seems to me, Mr. President, something that sends the wrong message to our people because to be a truly unselfish individual, to live and I think to give honor, inalienably, to our God, means we must serve others. We must give ourselves to our families. We must give ourselves to our neighbors. We must be willing to risk our own freedom in defense of a stranger, in defense of someone else's rights. We must look out there, Mr. President, and see that there is in the end something more important than just our own personal security, our own personal well-being, our own personal material wealth.

We need to be encouraging Americans to understand it takes more than words for us to build a more perfect union. It takes more than words for us to be a strong and good and noble country, more than just words for us to show the world what democracy can do.

I finish here, Mr. President, by quoting from a song that I will not attempt to sing. It was in the Broadway version of "My Fair Lady." Liza Dolittle, speaking to Henry Higgins, saying:

Words, words, words, I'm so sick of words. If you're in love, show me.

I yield the floor.

The PRESIDENT pro tempore. The senior Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to join in paying tribute to my friend, the Senator from Nebraska. I think all of the Members are very familiar with his distinguished service in advancing the interests of this country and in combat. As he speaks on the floor of the U.S. Senate today, we know that they are not just words from the Senator from Nebraska; they come from one who has struggled to represent to the best of his ability this country in wartime and is now carrying on that challenge in peacetime as our colleague.

I think his statement, although brief, is enormously compelling. Even though there are only a few of us here on the floor, I hope our colleagues will have the chance either to see it on the television or to hear about it from others. I want to join, as I say, in commending the Senator for his statement on this extremely important issue which touches upon the most fundamental principles of our Constitution and our society.

I urge the Senate to reject the proposed flag desecration law.

Patriotism is not the issue—free speech is. All of us cherish the flag as our most hallowed national symbol. And all of us are outraged when a demonstrator shows his contempt for America by burning the flag.

The challenge facing us today is how best to hold true to the constitutional freedoms for which the flag stands. First among these is freedom of speech.

If freedom of expression means anything, it means that we must tolerate not just views we approve, but views we detest as well.

That fundamental principle is what gives America its true strength, and permits our flag to fly high.

Once we abandon the broad tolerance required by the Constitution, even for unpopular views, what will we say the next time we are offended by some other form of protest? Once we yield to the temptation to stifle dissent, there is no fair way to draw the line.

That fundamental constitutional value was at issue in the Johnson case. Gregory Lee Johnson committed a despicable act. He burned the flag to express his anger against the President. But Johnson was not prosecuted for starting a fire, or inciting a breach of the peace.

He was prosecuted under a Texas law which made it a crime to mistreat the flag in a way that would seriously offend others. He was prosecuted because he used the flag to send a message with which most of us disagree.

The Supreme Court ruled that the Constitution prohibited the State of Texas from prosecuting Johnson for his act of protest. The decision generated an initial firestorm of public outrage, which ignited an unwise effort to amend the Constitution to forbid flag desecration.

But with the passage of time, millions of Americans have indicated that they are unwilling to tamper with the Constitution to silence dissent. It is wrong to desecrate the Constitution to prevent desecration of the flag.

The proposed statute is supported in good faith by many who see it as the only means of heading off a constitutional amendment. But if we really want to honor the constitutional values symbolized by the flag, we must oppose the statute as well.

Since the proposed legislation is not explicitly aimed at expression, it may be upheld by a majority of the Supreme Court against a constitutional challenge. But the outcome is in doubt, since the courts will obviously consider the degree to which enactment of the statute is motivated by the desire to stifle unpopular speech.

I also believe that because of the breadth of the criminal prohibitions set forth in the proposed law, the statute will become a tool for selective prosecution of those who use the flag to express unpopular views. In my opinion, that would be clearly unconstitutional.

Because the bill bars all defacing of the flag, regardless of the context, it will criminalize a great deal of relatively trivial behavior, such as throwing out a paper flag affixed to a toothpick. It will change the flag from a treasured symbol to a Government-regulated icon.

Once the image of a flag is created, its owner could change it or dispose of it only at the risk of criminal prosecution. That kind of intrusive governmental regulation of private conduct is contrary to our traditions as a free people, and it is dubious public policy.

A number of outstanding scholars of the Constitution—with strikingly different points of view—testified that doing nothing is the best way to honor the flag and the constitutional values for which it stands. They include former Solicitors General Erwin Griswold and Charles Fried, Judge and former Yale University Law School dean Louis Pollak, and former Senator Charles Mathias. The American Bar Association also opposes the proposed legislation.

The Constitution has served America well for 200 years. It has survived a civil war and countless national debates over bitterly divisive issues.

There is no need to adopt an amendment—or even pass a law—merely to express our anger at a single despicable act of flag burning. We respect the flag most when we take no action at all.

Mr. HEFLIN addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from Alabama [Mr. HEFLIN].

Mr. HEFLIN. Mr. President, I rise today in support of H.R. 2978, the Flag Desecration Act of 1989, which will protect the physical integrity of the American flag. Since June when the Supreme Court decision in Texas versus Johnson placed flag burning under the protection of the first amendment, I have felt it is our responsibility to return the flag to the position of respect it deserves.

I support this statutory approach. I also support a resolution calling for a constitutional amendment. In my judgment, we must pursue any vehicle or method which will accomplish the goal of protecting our Nation's flag. This statute was passed by the House of Representatives on September 12, 1989, and represents a comprehensive approach to the situation.

This statute takes the important step of providing a fine or imprisonment for anyone who knowingly mutilates, defaces, burns, or tramples upon any flag of the United States. In addition, this statute does not prohibit the disposal of a flag when it has become worn or soiled. The flag represents the very heart of what it means to be an American. It would be a tragedy for us to allow the power of the flag to be undermined through its legal desecration.

The Pledge of Allegiance is a pledge to the flag "and to the Republic for which it stands." As we recite the Pledge of Allegiance, it comes through loud and clear that the flag represents the Republic. That is the true meaning of the Pledge of Allegiance. The "Star Spangled Banner" is written about the flag. I think the flag is symbolic of America. It is America. If we desecrate America, then I think we ought to be held accountable. If we desecrate the flag, I think we ought to be held accountable.

Dicta in many Supreme Court decisions written by great protectors of the first amendment indicate that there is nothing wrong with statutes designed to protect the flag from destruction and desecration. Hugo Black, Chief Justice Earl Warren, Justice Abe Fortas and others wrote words to that effect.

Some say that the first amendment should not be tampered with in any way. But I point out that the first amendment stands in the position as it is interpreted by the Supreme Court at a particular time and place in the history of this nation.

After the War Between the States, we adopted the 13th, 14th, and 15th amendments. In my judgment, these amendments tampered with the then interpretation of the first amendment. The 13th, 14th, and 15th amendments changed the interpretation of the first amendment as it existed in, at that time and place in our history and gave the right of freedom of expression to those who had been slaves. We are all thankful today for that tampering.

I do not believe the argument that you should not tamper with the first amendment is valid. Tampering depends on the circumstances; it depends on the cause. I think the cause of protecting our Republic is extremely important and, in my judgment, we ought to take all steps to protect our Republic and its sacred symbols. We ought to take all steps to protect against flag burning. I support the legislative approach as well as the constitutional amendment approach.

I do not think there is any inconsistency in supporting both. I think we ought to take all possible steps to protect our flag.

Nothing symbolizes America's patriotism quite like a flag billowing in the wind. Each year on Memorial Day, millions of Americans show their respect for this Nation's veterans by flying a flag over their home. On this same day, thousands of tiny flags fly over the graves of our fallen soldiers at Arlington National Cemetery. Although it is not often that someone destroys an American flag, the power of this image and the symbol dictate that we must protect its integrity. Allowing the legal burning of the flag would create a mockery of the great respect so many patriotic Americans have for the flag.

The flag is an important national asset which we must always support as we would support the country herself. In my judgment, we must act to ensure that the American flag remains protected and continues to hold the high place we have afforded it in both our hearts and our history. Proudly displaying the flag stands as one of this country's great privileges.

Although a constitutional amendment provides a sure way to offset the Supreme Court's ruling in Texas versus Johnson, this statute calls for the Supreme Court's expedited review of the statute if its constitutionality is challenged in any case before a U.S. district court. This provision should expedite the otherwise tedious process which will determine if a flag desecration statute can withstand constitutional muster. I support this bill and also will support a constitutional amendment. The flag must be protected.

Mr. President, I urge my colleagues to join me in supporting H.R. 2978, which will protect the American flag.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The point of no quorum having been raised, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I support a constitutional amendment restoring to the States and Congress power to prohibit physical desecration of our flag. I oppose enactment of a new statute to prohibit flag desecration. Let me give you some reasons why I oppose that.

No flag desecration statute, in my opinion, will survive constitutional scrutiny after the case of Texas versus Johnson. The Supreme Court will be very hard-pressed to accept a statute that basically overrules a constitutional decision of the Court itself. Thus, a statutory approach, in my opinion, is a futile and ineffective gesture which will not protect the flag at all. It is unsound to overturn such an interpretation of the Constitution by statute.

I remember when we had Members of this body who basically believed that we should be able to overturn a constitutional decision by a statute,

and there was a tremendous outcry against that. Can you imagine trying to overturn an important constitutional decision by a mere majority vote statute? If we permit that in this case or in that case, then we could amend the Constitution at will.

I might also add that when John East, the distinguished Senator from North Carolina, came up with what was called the human life statute—we will all recall Senator East was a very sincere, dedicated person against our present system of abortion on demand—he read very carefully the Supreme Court decision in Roe versus Wade, which said that basically human life does not begin at conception, among other things. He then decided that the Congress of the United States would tell the Supreme Court when life begins. The time would begin, by statute, at conception. That was a very ingenious approach, and he certainly had a right to bring it to the Judiciary Committee, but I can remember the hullabaloo that occurred caused by many who are supporting this statute today. They said, there was Senator East trying to overturn an important constitutional decision, Roe versus Wade, by a mere majority vote statute. If the criticism applied then, it should apply today.

The Biden statute, S. 1338, as adopted in committee, is in my opinion deeply flawed as a matter of policy. This is so because, as a blanket ban, it criminalizes the disposal of the worn or soiled flag by burning. Thus, a veteran or other American wishing to dispose of such a flag in such a manner faces a $1,000 fine or a year in jail, or both, under the Biden proposal. Ironically, Congress itself has recommended the burning of a worn or soiled flag as an appropriate means of disposal.

Proponents of this approach, apparently recognizing the overbroad nature of such a statute, have now brought before us a different version. It is not the facially neutral, content-neutral ban that the proponents of the statutory approach have claimed all along is necessary in order to pass constitutional muster.

It contains an exception to permit flag disposal, but this exception, as I will explain later, only renders the bill even more infirm under the Constitution, as interpreted in Texas versus Johnson.

A Federal statute already prohibits flag desecration:

Whoever knowingly casts contempt upon any flag of the United States by publicly mutilating, defacing, defiling, burning, or trampling upon it shall be fined not more than $1,000 or imprisoned for not more than 1 year, or both.

This is the proper statutory approach and what Congress needs to do is render it enforceable again with a constitutional amendment, not enact another statute with different language.

I have to say that I really believe the flag is more than just a national symbol. It is a very, very important part of our national life. I think a vast majority of Senators will vote for a constitutional amendment, and probably for this statute. But I think it is wrong to vote for the statute because we will be amending the Constitution at will. I have consistently maintained that point through the years.

WHY WE SHOULD PROTECT THE FLAG

The American people revere the flag as a unique symbol of our country and of the freedom we enjoy as Americans. It is the one symbol that unites a very diverse people in a way nothing else can. Despite our differences of party, politics, philosophy, religion, ethnic background, economic status, social status, or geographic region, the flag forms a unique, common bond among us.

Many of us have lost members of our family fighting for the flag, fighting for what it represents, the freedoms that we all appreciate, and that the rest of the world appreciates as a result of our constitutional way of life. I lost my brother in the Second World War. He was shot down three times flying out of Italy. Twice he got back through enemy lines with the help of the underground, but the third time was killed on a famous raid when they knocked out the Austrian oil fields. Of course, that shortened the war considerably because it knocked out the fuel-gathering capacity of the Nazis at that particular time.

Our family was devastated by his death though we also knew he died not in vain. He died doing the best he could for our country. I lost a brother-in-law in Vietnam under the same circumstances, fighting for freedom, fighting for our flag, fighting for things that he believed in.

Justice Stevens, dissenting in Texas versus Johnson, aptly stated:

A country's flag is a symbol of more than nationhood and national unity. It also signifies the ideas that characterize the society that has chosen that emblem as well as the special history that has animated the growth and power of those ideas. * * *

[The American flag] * * * is a symbol of freedom, of equal opportunity, of religious tolerance, and of goodwill for other peoples who share our aspirations. * * *—Slip op. at 1,2 (Stevens, J. dissenting).

Chief Justice Rehnquist has written:

The significance of the flag, and the deep emotional feelings it arouses in a large part of our citizenry, cannot be fully expressed in the two dimensions of a lawyer's brief or of a judicial opinion.—*Smith* v. *Goguen*, 415 U.S. 566 at 602 (1974) (Rehnquist, J., dissenting).

The Chief Justice then noted:

* * *if the government may create private proprietary interests in written work and in musical and theatrical performances by virtue of copyright laws, I see no reason why it may not * * * create a similar governmental interest in the flag by prohibiting even those who have purchased the physical object from impairing its physical integrity. For what they have purchased is not merely cloth dyed red, white, and blue, but also the one visible manifestation of two hundred years of nationhood. * * *—Id. at 602-603.

Justice White has written:

One need not explain fully a phenomenon to recognize its existence and in this case to concede that the flag is an important symbol of nationhood and unity, created by the Nation and endowed with certain attributes. * * *—Id. at 587 (White, J., concurring).

PROTECTING THE FLAG DOES NOT THREATEN THE FIRST AMENDMENT

In my view, it cannot be seriously argued that the protection of the flag from physical desecration impairs the first amendment's principle of freedom of speech. This freedom has never been deemed absolute. Libel is actionable, even under the first amendment. Obscenity is not protected under the first amendment. Nor are "fighting words," designed to provoke violent reactions by an audience, protected. Reasonable time, place, and manner limits may be constitutionally placed on speech. Hence, a person cannot blare out his or her political views at 2 o'clock in the morning in a residential neighborhood and claim first amendment protection.

Protecting the flag from physical desecration does not prevent a single idea or thought from being expressed. It does not interefere with the numerous ways of conveying an idea—through speech, use of placards, leaflets, newspapers, and more. It merely prevents conduct with respect to one object, and one object only, our flag. We can withdraw that one unique object from physical desecration without limiting freedom of speech. Indeed, for many years, a Federal statute and 48 State statutes did protect the flag. Can anyone identify actual harm to the first amendment during this time?

I note that other ardent proponents of the first amendment have expressed similar views. In *Street* v. *New York*, 394 U.S. 576 (1969), the defendant burned a flag while uttering a political protest. The Court overturned his conviction since the defendant might have been convicted solely because of his words. The Court reserved judgment on whether a conviction for flag burning itself could withstand constitutional scrutiny. Id. at 581. Chief Justice Warren dissented: "I believe that the States and the Federal Government do have the power to protect the flag from acts of desecration and disgrace. * * * Id. at 605 (Warren, C.J., dissenting). Justice Black—generally regarded as a first amendment "absolutist"—also dissented and stated, "It passes my belief that anything in the Federal Constitution bars

a State from making the deliberate burning of the American Flag an offense." Id. at 610 (Black, J., dissenting). Justice Fortas agreed with Chief Justice Warren and Justice Black: "[T]he States and the Federal Government have the power to protect the flag from acts of desecration committed in public.* * * [T]he flag is a special kind of personality. Its use is traditionally and universally subject to special rules and regulation.* * * A person may 'own' a flag, but ownership is subject to special burdens and responsibilities. A flag may be property, in a sense; but it is property burdened with peculiar obligations and restrictions. Certainly * * * these special conditions are not per se arbitrary or beyond governmental power under our Constitution." Id. at 615-617 (Fortas, J., dissenting).

Moreover, there is no slippery slope here—because there is simply nothing else like our flag. We are seeking no protection for any other symbol.

A STATUTORY RESPONSE TO TEXAS VERSUS JOHNSON IS INADEQUATE

I have concluded that a constitutional amendment is absolutely necessary to ensure with certainty the validity of any statute banning flag desecration. I believe it is futile to try to overturn this Supreme Court interpretation of the Constitution by a statute. The Constitution provides, in article V, for the exclusive means of its amendment. The article V amendment process is an organic, fundamental part of the Constitution and should not be evaded and this statute evades that process. As I mentioned earlier, I can well remember when our late colleague, Senator John East, offered a human life bill to protect the unborn by statute. He was met by the same criticism to which this bill is vulnerable and many who are arguing for the bill here today were those who criticized Senator East and did so vociferously. Indeed, Chief Justice Marshall, in Marbury versus Madison in 1803, made clear Congress cannot amend the Constitution. The first Federal income tax statute was declared unconstitutional in 1895. *Pollock* v. *Farmers' Loan and Trust Co.*, 158 U.S. 601.

Congress had to adopt the 16th amendment in order to levy an income tax. We would not just do it by statute. If we did, the Constitution would not mean anything. It would not be the enduring document that it is today. We have 26 amendments to the Constitution—that is all—in a 200-year history of this country.

I intend to take some time to explain why I find neither S. 1338 as adopted in committee nor the version of the bill before us now, an acceptable means of protecting our flag. I will spend some time first on S. 1338 as adopted in the committee, and then will speak to the version now before us. All of the constitutional flaws in the committee approved bill apply to the bill now before us, and more. I think a discussion of both approaches will help show why the statutory approach in general is so unworkable, and why a constitutional amendment is needed.

I want to state at the outset of this that I am not finding any fault with those who are sincerely advocating this statute and I am not really criticizing them. I think there are only two principled approaches to this issue. One is the constitutional amendment, using article 5, the appropriate way to do it, not overruling the Supreme Court's constitutional decision by a mere 51-percent majority statute. No. 2, doing nothing at all.

I do not like approach No. 2, but I have to say it is a principled approach. I think those arguing this approach are arguing for a system that would break down the Constitution and would ultimately cost us this great document. It would make it easy for any majority to come up with their own personal preferences and be able to amend the Constitution at will by a mere majority statute. Therefore, I think they are wrong.

To approach this matter before us, I believe that a facially neutral statute, such as S. 1338, as adopted in committee, which bans all knowing mutilation, defacement, trampling, or burning of the flag undertaken for any purpose, including for the purpose of ceremoniously disposing of a worn or dirty flag, is unlikely to survive constitutional scrutiny.

Even such a facially neutral statute will be unenforceable when applied to a person who desecrates the flag as part of a political expression, after Texas versus Johnson. Why? Because the Supreme Court declared in that case that the Government's asserted interest in preserving the flag as a symbol of nationhood and national unity is insufficient to overcome a person's so-called right to burn the flag as part of expressive conduct. Indeed, it cannot be denied that the principal, if not the only, purpose in enacting a facially neutral statute is to prohibit expressive conduct that physically desecrates the flag. No one claims that we are interested in protecting the material, the thread, and the dye in the flag. We protect the flag as a symbol, including against those who would desecrate the flag as part of a political expression. Because this is the clear purpose of the statutory approach, that approach will fail after Texas versus Johnson.

The argument that S. 1338, as adopted in committee, is constitutionally sound because phrased in neutral language that does not affect free speech is misplaced. Irrespective of the language chosen, the principal purpose of that bill, like the pending constitutional amendment, is to change the result of the Johnson case. The Supreme Court frequently examines the legislative history of a statute. Wallace versus Jaffree is the perfect case that comes to mind. The legislative history of this law, if it is enacted, will reveal overwhelming evidence that it was designed to prevent the expression of an idea through flag desecration—that is an unconstitutional purpose under the Johnson decision. Indeed, Justice Brennan has written that:

> The only basis for a governmental interest (if any) in protecting the flag is precisely the fact that the flag has substantive meaning as a political symbol. Thus, assuming that there is a legitimate interest at stake, it can hardly be said to be one divorced from political expression. *Kime* v. *United States*, 459 U.S. 949, 953 (1982) (Brennan, J., dissenting).

Now, I do not always agree with Justice Brennan, although I have great admiration for him, and I would substitute the phrase "national symbol" for "political symbol," but he is essentially correct on this point.

I want to dwell on this for a moment. The uniqueness of the flag as a symbol distinguishes it from any other object. A content-neutral prohibition on draft-card multilation serves practical, not symbolic, purposes. A content neutral prohibition against misuse of a U.S. military uniform serves practical, not symbolic, purposes. But a statute banning flag desecration, whether facially neutral or otherwise, inherently serves the purpose of protecting a revered national symbol precisely because it is such a symbol. Let us be forthright about this. The flag does not have the kind of practical usage of a draft card or military uniform, and we do not seek to protect it for such a purpose.

As William Barr, Assistant Attorney General for Legal Counsel, testified:

> It cannot be seriously maintained that a statute aimed at protecting the flag would be constitutional.

The unconstitutionality of any statute which attempts to protect all forms of flag destruction has been predicted by Justice Brennan, who wrote that any statute—

> That simply outlawed any public burning or mutilation of the Flag, regardless of the expressive intent or nonintent of the actor—

Would be—

> invalid for the reasons stated in my discussion of *Spence* v. *Washington*, *Kime* v. *United States*, 459 U.S. 949, 955 n.7 (1982) (Brennan, J., dissenting).

The American Bar Association's house of delegates adopted a resolution opposing both a constitutional amendment to overturn Texas versus Johnson as well as a statutory approach to protecting the flag. The resolution was unanimously proposed by an ABA task force. The task force was chaired by former Commissioner of the Internal Revenue Service Randolph Thrower. Its members were Co-

lumbia University Law School dean, Barbara Black; former Deputy Secretary of State, Warren Christopher; former Harvard Law School dean and Solicitor General of the United States, Erwin Griswold; Stanford University Law School professor, Gerald Gunther; former New York University Law School dean, Robert McKay; former U.S. Attorney, Earl Silbert; and former Secretary of State, Cyrus Vance.

The ABA's analysis of the constitutional flaws of the legislative approach mirrors my own. The ABA's analysis of statutory proposals, which was a general analysis, in my view, is applicable both to S. 1338 as adopted in committee and the version now before us. The ABA said:

The basic infirmity of these proposals is that they might validate prosecution of those physically abusing the flag without intending to express a contemptuous or dissenting view but would run afoul of *Texas* v. *Johnson* and fail on constitutional grounds in those cases where the flag is burned or otherwise abused in an effort to dramatize a protest or cummunicate a dissenting view.

That is exactly what Johnson was trying to do, and I think the vast majority of Americans agree, he was wrong to do it.

The ABA also said:

Whatever the State or Federal legislation on the subject, we can be sure that political protests against actions of the Federal Government will continue to be made by both words and expressive conduct. We can also be assured that legislation such as that being proposed will violate the principles of *Texas* v. *Johnson* when applied to desecration of "the flag" as an act of political expression. Yet, desecration of the flag as a political protest is the real target of the legislative proposals. It would thus seem not only futile but also irresponsible for the Congress to enact legislation which would directly challenge a recent decision of our highest court.

As I have mentioned, I believe protecting the flag from desecration is appropriate, but I agree with the ABA that such protection cannot be constitutionally achieved by a mere statute. At least, in this instance, then, the ABA is half right.

A CONTENT-NEUTRAL STATUTE IS THE WRONG STATUTE

Moreover, I do not believe a neutral, blanket statute reaching all physical desecration of the flag, such as S. 1338, as adopted in committee, is appropriate even if it is held constitutional. I think a blanket statute sweeps much too far. There are legitimate reasons to dispose of worn or dirty flags in a way that would run afoul of such a statute. Indeed, Congress has spoken a great deal on this matter and has enacted a statute concerning proper respect for the flag, which includes the following:

The flag, when it is in such a condition that is no longer a fitting emblem for display, should be destroyed in a dignified way, preferably by burning. (36 U.S.C. 176(K)).

But, under S. 1338 as adopted in committee, a veteran or any other American who reverently wished to dispose of a worn or dirty flag by burning it would be subject to a $1,000 fine or 1 year imprisonment or both.

Apparently recognizing the unsoundness of such a result, the committee report attempted to evade this plain meaning of S. 1338 in a footnote. Report, page 4, footnote 2.

The report suggests that disposal of a worn or soiled flag by burning it is not prohibited by S. 1338 because "[s]uch a flag is no longer a fitting emblem for display" and the Government's "interest in protecting its physical integrity no longer applies."

This interpretive gloss clashes directly with the language of S. 1338. It is an entirely useless effort to cure a disastrous defect in the bill. S. 1338 as adopted in committee, punishes the knowing mutilation, defacement, burning, maintaining on the ground, or trampling of the flag—without more. It establishes no exception for "a flag [which] is no longer a fitting emblem for display." Moreover, the definition of the term "flag of the United States" contained in the statute amended by S. 1338 does not turn on whether the flag is "a fitting emblem for display." (18 U.S.C. 700(b)). The forthright way of excluding disposal of a worn or soiled flag from the strictures of the statute is to include a provision to that effect in the statute itself. Indeed, H.R. 2978, the House-passed flag statute, contains such a provision.

And now, at the last minute, I can only assume that the proponents of a statutory approach have recognized that a blanket statute is overboard, after all, and therefore unsound as a matter of public policy. And, they have apparently recognized that no footnote in a committee report can alter the blanket nature of the bill they have been supporting for months as the answer to Texas versus Johnson. So, they have now put before us a bill providing for an exception in its prohibitions when the conduct at issue is the disposal of the flag.

Suddenly, then, the proponents of the statutory approach have changed their tune over here: Their bill no longer protects the physical integrity of the flag in all circumstances. The original S. 1338 certainly did so. But Senators who planned to vote for S. 1338 on that basis better take a close look at the bill now before us. The rationale for S. 1338 as introduced and as adopted by the committee, is no longer viable with respect to the bill before us. The committee report at page 4, says that S. 1338 as adopted in committee—

Focuses solely and exclusively on the conduct of the actor, without regard to any message or idea he or she might be intending to convey, without regard to whether the actor intends to offend or cast contempt. * * *

Mr. President, the bill no longer focuses solely and exclusively on the conduct of the actor. Now, the bill protects conduct by an individual reverently and respectfully seeking to dispose of a worn or soiled flag. That expression of revence for the flag as a symbol is now explicitly permitted under the bill. But if someone wished to express disagreement with Government policy by burning the flag, that is illegal under the bill. Accordingly, the thin veneer of content neutrality, the linchpin, until now, of the alleged constitutional viability of the statutory approach, has been stripped away by its own proponents.

Yet, an exception, such as this one, protecting conduct aimed at disposal of a flag, further undermines the constitutionality of the statutory approach. Indeed, the bill before us has all of the constitutional defects of a blanket statute, and an additional one. Like a blanket statute, such as S. 1338 as adopted in committee, the bill before us will be unenforceable when applied to a flag desecration undertaken for expressive purposes.

The analysis I went through earlier is fully applicable, as is the ABA's analysis, in my opinion.

Moreover, the Court in Texas versus Johnson noted that if a State were to forbid—

Flag-burning wherever it is likely to endanger the flag's symbolic role, but allow it wherever burning a flag promotes that role—as where, for example, a person ceremoniously burns a dirty flag—we would be saying that when it comes to impairing the flag's physical integrity, the flag itself may be used as a symbol—as a substitute for the written or spoken word * * * only in one direction. Slip opinion at 19.

This, the Court indicated, is impermissible. I am convinced that such a rationale would be used to invalidate just the kind of statute now before us.

Thus, we have the dilemma that statute supporters cannot escape: A statute truly neutral on its face, even if constitutional, which I think it is not, would cover flag dispoal by burning and similar appropriate means. But, if such a flag disposal exception is either implicitly or explicity contained in such a statute, it is no longer content neutral, which the statute's supporters had always claimed it must be in order to pass constitutional muster.

You cannot have your cake and eat it too in this way. You cannot have it both ways and neither way is appropriate or really works. Neither will be held constitutional in the end, and we will have gone through the exercise for no good reason at all. And, such an exception makes the statute even more clearly aimed at protecting the flag's symbolic role and even more constitutionally infirm. There is a way out of this dilemma, Mr. President and

that is the adoption of a constitutional amendment. For those who feel strongly that we must protect the flag the way to do it, the appropriate way to do it, is through a constitutional amendment and if we disagree with this constitutional decision by the court, then, under Marbury versus Madison, our recourse is to turn to article 5 of the Constitution.

Further, the bill before us, Mr. President, reaches private conduct, such as that undertaken in the home. It is the public casting of contempt on the flag, however, which I believe should be outlawed. Thus, the present Federal statute is the appropriate approach to outlawing flag burning and that statute reads:

> Whoever knowingly casts contempt upon any flag of the United States by publicly mutilating, defacting, defiling, burning, or trampling upon it shall be fined not more than $1,000 or imprisoned for not more than 1 year, or both. (18 U.S.C. 700(a)

Accordingly, I see no need for Congress to pass a new Federal statute; Congress need only assure the constitutionality of the current one, which has been on the books for more than 20 years and is a much better written statute than the one we are trying to pass here today.

A constitutional amendment, therefore, is the safest, surest, and most permanent way of achieving the protection of the flag that the supporters of a statute-only approach also claim they favor. It is difficult to square their opposition to an amendment on their asserted grounds—that it somehow tampers with the first amendment—with their own statutory approach. How is a statute which prohibits flag desecration in all or some instances, including when undertaken for expressive purposes, not a threat to first amendment principles under their rationale, while a constitutional amendment achieving the same thing is such a threat? That is sophistry, especially when the statute is motivated by a desire to protect the flag as a symbol, following the Texas versus Johnson decision. Indeed, the bill before us bans more conduct than the Federal statute now on the books (18 U.S.C. 700). As I mentioned earlier, the current Federal law bans mutilation, burning, and so forth, of the flag, in public, and when done knowingly to cast contempt on the flag. The bill before us prohibits all knowing mutilation and burning, and so on, whether contemptuous or not, and whether in public or in private, with one exception—for flag disposal.

I note that the Federal statute has not yet been struck down by the Court. Of course, it is not presently enforceable. If we enact a constitutional amendment, this statute will already be on the books, and it is a superior statute. Thus, there will be no gap in protection of the flag between the effective date of an amendment and the enactment of a new statute. A new statute is not needed; what is needed is a constitutional amendment legitimizing the statute we now have.

So I encourage the rejection of the bill before us today and the adoption of the constitutional amendment when we consider such an amendment later this month.

One of the arguments that is constantly being made is that what we need to do is pass a statute, and if it does not work then we can pass a constitutional amendment. We should not amend the Constitution of the United States without first trying the statute.

We already have a statute that is better written than this statute. It is on the books now, but it would not be found to be constitutional under the Texas versus Johnson case. And if we go this statutory route, you are talking about at some future date, probably a year or so from now, having a case arise where you have another Johnson mutilate the flag, where it goes to the district court and then is appealed all the way up to the Supreme Court. It may be 4, 5, or 6 years down the road before this matter is resolved. If we pass a constitutional amendment which legitimizes our current statute then it seems to me we would be in a position to have that amendment become the 27th amendment to the Constitution within a relatively short time, probably less than 18 months, and we would resolve this problem in a proper constitutional way and in a way that I think would be beneficial for all concerned.

With that, I yield the floor.

Mr. BIDEN. Mr. President, some have argued that the Johnson case cannot be overturned by statute, and that only a constitutional amendment will be effective. The argument is that only the Supreme Court can define a constitutional right—and that Congress cannot override that definition.

This argument is a red herring. The flag legislation is not an attempt to overrule a Supreme Court interpretation of the first amendment, and we've never said it was. Rather, the flag legislation represents a good faith effort to remedy a defect that the Court has identified in flag destruction laws.

Three principal examples illustrate that the flag legislation is a proper response to the Johnson case.

First is Schacht versus United States. At issue in that case was a Federal law that said actors in plays and movies could wear military uniforms except in one situation—when the actor's performance tended to discredit the Armed Forces of the United States. The Court struck down the provision because it discriminated against a particular viewpoint—only when the actor sought to cast contempt, if you will, on the Armed Forces was there no authorization for his performance.

The Court made it clear that a blanket prohibition on unauthorized wearing of a uniform would have been valid. Thus, Congress could have responded to the Court's decision by banning the use of uniforms in all performances, rather than only when uniforms were used to discredit the Armed Forces. In other words, Congress could have made the law content-neutral to remedy the defect in the law that the Court had found.

Just as Congress could have responded to the Schacht decision with a blanket, content-neutral ban on the unauthorized wearing of military uniforms of the United States, so, too, can Congress respond to Texas versus Johnson with a blanket, content-neutral ban on destroying the flag of the United States.

When asked about the Schacht case during the hearings, Professor Dellinger said: (9/14, Page 55-56):

> I think that is one of the strongest analogies in defense of the kind of statutory proposal you have made. * * * The Court goes to such trouble in Shacht to find the particular flaw in the statute being that you may not wear a U.S. military uniform replica in a theatrical production if it brings discredit on the Armed Forces, so as to indicate that Congress could say we do not want confusing symbols, Congress could come back and say you cannot use the U.S. military uniform in any production, no matter whether it is praiseworthy or blameworthy. If that is constitutional, then I think the blanket ban on flag burning may be constitutional.

Second is the 1975 case of Buckley versus Valeo. In 1971, the Federal Election Commission was created by the Federal Election Campaign Act. The six voting members of the Commission were to be appointed as follows: Two by the President, two by the President pro tempore of the Senate and two by the Speaker of the House. These appointees were then to be confirmed by a majority of both Houses of Congress.

In Buckley, the Court struck down as unconstitutional this method of appointing members of the Federal Election Commission. Given the powers conferred upon the Commission, the congressional control over their selection was held to be an unconstitutional violation of the separation-of-powers doctrine.

Congress quickly passed remedial legislation. In the Federal Election Campaign Act Amendments of 1976, Congress gave the President the power to select all six voting members and delegated to the Senate the traditional confirmation function it performs with other executive branch appointees.

Congress' response to Buckley provides a clear example of a statute, held unconstitutional by the Supreme

Court, and then modified to conform with the ruling of the Court.

In the second paragraph of the Senate report, under a heading titled, "purpose of the bill," Congress left no doubt as to its intent: The recommended legislation is a measure designed to reconstitute the Federal Election Commission and to make certain other amendments of law necessary and desirable in light of the decision of the Supreme Court in Buckley versus Valeo.

A third example is the response to the Gramm-Rudman-Hollings case, Bowsher versus Synar. In that 1986 case, the Supreme Court struck down portions of the Gramm-Rudman-Hollings Act, under which mandated spending cuts were to be triggered if the Comptroller General issued a report estimating a budget deficit in excess of the amount allowed by the act.

In Bowsher, the Supreme Court held that this triggering mechanism was unconstitutional. Because the Comptroller is removable from his office at the discretion of Congress, the Court held that he was an employee of the legislative branch. His central role in the triggering mechanism thus constituted an impermissible execution of the laws by the legislature.

In the Balanced Budget Act of 1987, Congress responded to the Court's decision by substituting the report of the Director of the Office of Management and Budget for that of the Comptroller. Since the Director of OMB is an officer of the executive branch, Congress' remedial legislation placed the power to execute budget cuts mandated by Gramm-Rudman in the executive branch and the constitutional defect identified by the Court was removed from the legislation.

Several witnesses flatly rejected the argument made by Hatch, Bork, and others, and testified that it is perfectly proper for Congress to remedy a defect in a statute.

Walter Dellinger's testimony said:

"It is * * * simple Hornbook constitutional law that Congress is free to correct any flaw that may have rendered an act of Congress unconstitutional, in response to a Supreme Court decision. That does not in any way abridge the principle of Marbury V. Madison. Indeed, where Congress responds to a decision of the Supreme Court that points out a flaw in a statute by removing that flaw, it is acting very much in accordance with the direction that the Court has indicated and we have seen examples of this in recent years.

Gordon Baldwin rejected the view that this is an attempt to reverse a constitutional decision. When a defect is found in a statute, the Court invites repair. * * * I think the flag decision is a quintessential example of the Court striking out a statute and sending the issue back to the public and to [Congress] for reconsideration and debate, and that is not reversing a constitutional decision.

Mr. SANFORD. Mr. President, what we are dealing with is protest against the Government. We are not dealing with attempts to overthrow the Government by force. That is a different matter. We are dealing with protest, albeit protest that is extremely offensive. The flag means so much to so many in so many ways. Any desecration makes our blood boil.

The flag represents the values and experiences of men and women, represents history, and pride, and our traditions. No wonder we take great offense when the flag is insulted or abused.

I am going to vote for the protection of the flag against desecration. Most people in my State support this vote.

But in doing so, we need to remind ourselves that protest, even obnoxious and blood-boiling protest, is the fundamental ingredient of a free people.

We see what the outlawing of protest did to the people of China. Dictators first of all outlaw dissent by citizens against the government. Noriega does not permit dissent.

The United States of America is strong enough to withstand considerable dissent, and even an occasional fool that burns a flag.

We are not endangered, we are not threatened, and this is not one of the most crucial of all the great issues facing the Nation and the Supreme Court. It just makes us mad. Rightly so.

My point is short of the courageous statement of the Senator from Nebraska, Mr. KERREY. I have said I will vote for a statute and I will.

But I do so with a commitment to caution. We are chiseling away at our freedoms, even if ever so slightly. Let us be ever so careful.

The right to dissent is fundamental. We cannot be a free country without it.

Thank you, Mr. President. I yield the floor.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from Maine [Mr. COHEN] is recognized.

Mr. COHEN. Mr. President, the pending legislation amends the Federal flag desecration statute in response to the U.S. Supreme Court's decision in Texas versus Johnson, upholding the burning of the American flag as a political expression protected by the first amendment. By amending the statute to meet constitutional objections, it will allow the Federal Government to continue to make flag desecration a crime while remaining consistent with the Court's decision in Johnson.

The Court's decision shocked and angered many Americans, touching off an outcry of opposition in Congress and throughout the country. The flag evokes deep emotions in the hearts of millions of men and women in this country, many of whom have made sacrifices in the defense of the ideas of liberty and freedom that the flag represents. It is unique, a special emblem of our principles and ideals, and of our Nation's struggle for freedom. Americans stand respectfully when it rises, fly it from their front porches on patriotic holidays, lower it to half-mast in times of tragedy and shroud their veterans' caskets in it. I do not know of any more important symbol than the American flag. It is our most revered national symbol.

As Justice Stevens noted in his dissent in the Johnson case:

A country's flag is a symbol of more than "nationhood and national unity." It also signifies the ideas that characterize the society that has chosen that emblem as well as the special history that has animated the growth and power of those ideas. The value of the flag as a symbol cannot be measured.

The Court held that Mr. Johnson's action was expressive conduct protected by the first amendment. I share the Court's reverence for the first amendment and fully agree with the Court that if there is a fundamental principle "underlying the first amendment, it is that the Government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable."

I believe it is possible to honor the first amendment's protection for freedom of speech while recognizing that the flag is a unique national symbol that warrants unique protection. Preventing the physical desecration of this unique symbol does not in any manner inhibit the constitutional right to criticize the United States, its policies, or the principles upon which it was founded.

The Supreme Court struck down the Texas statute because it found that the law was designed to protect the flag only against abuse that would be offensive to others, rather than protecting the flag from physical destruction in all circumstances. It was, therefore, Mr. Johnson's expression of an idea—contempt for the flag and what it represents, and his desire to convey that message to those who witnessed the flag burning—that was targeted for punishment.

While the contempt and hatred Mr. Johnson expressed for the United States by his words and his actions are offensive to me and to the vast majority of Americans. I do not dispute his right to express or advocate such views. It is not his views but only his action in physically violating the American flag that is in question here.

The pending bill removes from the Federal flag statute those words that could be interpreted as attempting to suppress certain types of expression or speech. By amending the law so that it is "content neutral," it will prohibit

the desecration of the flag in all circumstances without reference to the message or point of view being conveyed.

The Senate passed a resolution expressing its profound disappointment that the Texas statute prohibiting the desecration of the flag was found to be unconstitutional, and expressing its continuing commitment to preserving the honor and integrity of the flag as a symbol of our Nation and its aspirations and ideals. We can best demonstrate that commitment and, at the same time, address the Court's decision in Johnson by enacting the pending legislation. By prohibiting the desecration of the American flag regardless of the any political expression the individual may want to convey by his action, the legislation will achieve the result we all seek, and it will do so quickly and constitutionally.

There is, of course, disagreement among Members of the Senate, legal scholars, and others on whether or not this legislation will be upheld as constitutional in light of the Johnson decision. Although we all share the same objective, some believe the statutory approach is flawed and that a constitutional amendment is the only method of effectively protecting the integrity of the flag of the United States.

I joined Senator DOLE, Senator THURMOND, and others in cosponsoring the constitutional amendments introduced shortly after the Johnson decision was handed down. Since that time, however, I have become convinced that the statutory route is a positive approach that will achieve our mutual objective. I have been persuaded by the views of numerous constitutional authorities that the pending bill amends the Federal flag statute in such a way as to make it conform with Supreme Court rulings and, thereby, restores protection for the flag without the need for a constitutional amendment.

The Constitution should be amended only if it is shown to be absolutely necessary; only if it is the only option available to achieve the desired goal. When presented with a reasonable and less drastic alternative, in my view it is both unnecessary and unwise to move to amend the Constitution. I urge my colleagues to give the statutory solution a chance to work. It is quick, easy, contains no risk, and I am convinced that it will achieve our common goal. However, if it untimately proves to be inadequate, Congress can, and I am confident, will initiate the more complicated and lengthy process of amending the U.S. Constitution.

Mr. President, what we have heard in the past few moments of this debate invokes great passion. I was struck that the day the decision from the Supreme Court came down there was an article in the Washington Post, I believe in the style section, about a man who was fined not for desecrating the flag but for flying the flag. Apparently, this individual had a large flag and he would run it up the flagpole on windy days. The flapping of the flag would make so much noise it distrubed his neighbor and, as a result of that disturbance, he in fact was fined for flying the flag. That story was written about the same time as the flag decision itself. I was struck by the anomaly of it.

Listening to the Senator from Utah, he spoke with great passion about his own personal losses in World War II and also in Vietnam. There are others in this Chamber who have also suffered great loss over the years. We have Senator KERREY, who spoke earlier. He suffered the loss of a leg. Senator BOB DOLE and Senator INOUYE also had severe wounds from their service for their country. They may have entirely different views on this subject matter.

Senator JOHN MCCAIN gave a very, very moving speech at the Republican National Convention a year ago. He told the story about one of his fellow POW's who kept his spirit alive night after night be sewing a small replica of a flag on the inside of his jacket. And when the North Vietnamese found this jacket, they took that man out and beat him severely and almost killed him on one particular occasion. No sooner did they return him to his cell then once again he opened that jacket up and started sewing the flag back in.

So there is no doubt about it, the flag is an important, unique symbol. I find it somewhat ironic that we can prohibit the desecration of an Ameican coin or of a dollar bill. If we can prohibit the burning of currency or the desecration of it or the defacing of it, surely we can prohibit the desecration of the American flag.

Mr. President, it has been suggested that the only way to cure the Supreme Court decision is by constitutional amendment. I do not agree with that. There is great debate within the intellectual community and the academic community. It was suggested if we move to the amendment of the Constitution, we can go very, very rapidly. I would disagree with that. I think that will take longer and would be more contentious than this statutory approach.

I think we ought to pass this statute and then find out on an expedited basis whether or not the statute will survive constitutional scrutiny. It may or may not fall. I believe it will survive constitutional scrutiny, but it might not. If that is the case, then we can come back and pursue the constitutional process. I am a cosponsor of the Dole-Thurmond constitutional amendment, but I intend to support this measure and not the constitutional amendment until such time as we pursue the statutory process all the way through.

I thank the Chair.

Mr. DIXON. Mr. President, I rise today to support H.R. 2978, the anti-flag-burning statute.

I am also an original cosponsor of Senate Joint Resolution 180, the flag desecration constitutional amendment, which will come to the floor for a vote at a later date.

I support a statute because I believe the decision the Supreme Court reached in Texas versus Johnson was wrong and it needs to be addressed.

The statutory approach before us today may work. However, I have always had my doubts, quite frankly, about the possibility of drafting a statute that can pass constitutional muster. Further, it is unclear whether any statute would be upheld by today's Supreme Court. Under the expedited procedures provided for in H.R. 2978, it is entirely possible that the same Supreme Court which overturned the Texas statute in Texas versus Johnson, would find H.R. 2978 unconstitutional.

I believe if this statute can pass constitutional muster, then we can protect the flag without an amendment to the Constitution. However, we cannot know with certainty what the Supreme Court will do if faced with this statute. Therefore, while I will support this statute, I remain committed to supporting the upcoming amendment as well.

I appreciate all the hard work of my distinguished colleague, Senator BIDEN, who held numerous hearings on this issue. I congratulate him for his effort on behalf of a statutory approach. He ensured that all sides in this debate have had their say.

Mr. President, it will take some time, even under expedited procedures, to determine the constitutionality of this statute. Because of the time involved, it makes sense to go forward on both the statutory and constitutional amendment tracks. If the Court upholds the constitutionality of a flag desecration statute, there will be ample opportunity to stop the constitutional amendment process. If, however, the Court eventually overturns the statute, which I think is more than likely, we will have wasted considerable time by not starting to move forward with the constitutional amendment now.

We need to move forward to redress the injustice against the American flag perpetrated by Gregory Johnson in front of the Dallas City Hall in 1984. As Senators will recall, he took an American flag, poured kerosene on it, and burned it. While it burned he chanted, "America, the Red, White, and Blue, we spit on you."

His speech, Mr. President, while offensive, certainly, to this Senator and I know to the distinguished President pro tempore in the Chair, was and should always be protected speech. The act of burning the American flag, I contend, was and is not protected speech. Of all the ways Gregory Johnson could have chosen to express his displeasure, he chose to desecrate the unifying symbol of a great nation.

Clearly, the flag is an important national asset. I would argue the most important one. Chief Justice Rehnquist in his dissent reminds us that freedom of speech is not an absolute right under the Constitution. The Chief Justice cites Chaplinsky versus New Hampshire, in which a unanimous court held that "there are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any constitutional problem * * * it has been well observed that such utterances are no essential part of any exposition of ideas."

In his dissent, Justice Stevens, of my own State of Illinois, stated that "Had he—Johnson—chosen to spray paint—or perhaps convey with a motion picture projector—his message of dissatisfaction on the facade of the Lincoln Memorial, there would be no question about the power of the Government to prohibit his means of expression. The prohibition would be supported by the legitimate interest in preserving the quality of an important national asset." He further wrote that "sanctioning the public desecration of the flag will tarnish its value—both for those who cherish the ideas for which it waves and for those who desire to don the robes of martyrdom by burning it."

I hope H.R. 2978 will pass the Congress, Mr. President, because in the end the Senator from Delaware and I share a common goal of preserving and protecting the flag. Our approaches may be different, but our intent is the same.

I urge my colleagues to support the bill before us today, and remind them that the issue has not ended should we pass H.R. 2978. More will need to be done. Whether it is a statute or an amendment, one of the two approaches needs to be in place to protect the integrity of the flag. For as Justice Stevens stated in his dissent, If "* * * the ideas of liberty and equality * * * are worth fighting for * * * it cannot be true that the flag that uniquely symbolizes their power is not itself worthy of protection from unnecessary desecration."

Mr. ROTH. Mr. President, I am proud to stand today and offer this legislation with my distinguished colleagues, Senator BIDEN and Senator COHEN. Since the Supreme Court handed down its decision in Texas versus Johnson, I have come to this floor several times to urge that we do something to protect our flag. I believe this is a measure that Americans want, as well as a measure that America needs.

As I have said before, the move to protect our flag—the public outcry since the Supreme Court decision—is sparked by the deep and abiding sense of loyalty we feel toward it. The flag serves as a symbol of courage and virtue and truth that binds us all together as Americans. To our youth it represents hope. To our young families it represents security. To our veterans it is a reminder of ideals for which they were willing to lay down their lives, and to our seniors it is the embodiment of principles for which they have labored so long.

When a soldier dies in battle, or a police officer on duty, or a statesman in office, the flag is used to cover the coffin, then it is presented to the spouse—not as a mere memento for momentary service rendered, but as a reminder—a reminder of all that loved one gave, even life itself, to preserve the spirit, the values, and the promises the flag has come to symbolize. And this is fitting, because with each death, with each drop of blood, each drop of a serviceman's sweat, or a widow's tear, the majesty of our flag unfurls with meaning beyond mortal expression. It unfurls with a meaning that transcends words to the spine tingling, teary eyed, lump in the throat moment most of us feel when the flag passes by. Indeed, the spirit speaks far more powerfully than the words.

Consequently, when America's detractors violate our flag—whether in the alleys of Iran or on the streets of Dallas—they are insulting all who have given so much—they are insulting all who believe so strongly in the values symbolized by the flag. And they are assaulting those very values. And that is why this bill is so important.

Mr. President, there really is no controversy about our desire to protect the flag. The controversy, rather, is about legalisms. In Texas versus Johnson, the Supreme Court, in a 5-to-4 decision, struck down a State flag-protection law as applied to a political protester. I disagree with that decision's result and its reasoning. Consequently, I have no difficulty championing the Biden-Roth-Cohen bill or the House bill; it is simply a legally perfected version of current law, a law I personally believe is constitutional.

The question is whether the new version before us will persuade one of the five justices who struck down the Texas law, as applied, to switch and join the dissenters in supporting a flag-protection statute. Since the answer does not depend directly on the merits of the question but rather on how a single justice may perceive the merits, it is not easy to answer.

The eloquent arguments of the opponents of any legislative response to the Supreme Court decision do not persuade me. But they may persuade a majority of the Court. The arguments of the opponents thus lend support to the need for a constitutional amendment. That is the only solution that provides certainty.

The law held unconstitutional in Texas versus Johnson included a "communicative impact" as one of its elements. The statutory language before us is "content-neutral." Current Federal law requires that the perpetrator act contemptuously. Since this element might be viewed as requiring a communicative impact, the language before us eliminates that requirement. The content-neutral result thus actually broadens the instances of flag burning that are covered.

Without more, a content-neutral statute would pose some problems for patriotic Americans, who out of respect for the flag and with the blessing of Congress, burn worn, torn, or soiled flags. Thus the House bill, H.R. 2978, expressly declares that it does not cover "any conduct consisting of the disposal of a flag when it has become worn or soiled." While S. 1338 contains no such declaration, the committee report states in footnote two that a worn, torn, or soiled flag "is no longer a fitting emblem for display and may be disposed of by burning or other means."

Such exceptions may call into question the content neutrality of the statute. If Congress cannot consistent with Johnson prohibit bad flag burning, can it prohibit all flag burning except good flag burning? Does this scheme bring us back to the Johnson case? That, of course, will be the question before the courts. I would hope that the courts recognize that the argument merely contests the success of the legislative effort. After all, the statute still does not require a communicative impact as an element of the offense. If only flag burnings of a contemptuous nature remain covered, that is fine so long as the contempt is not an element.

Under this analysis, I believe that the legislation is constitutional, and I hope that the courts concur. However, I must admit that the constitutionality of this legislation is a matter over which reasonable men may—and do—differ. That is why only an amendment to the Constitution can provide us a solution with certainty.

For these reasons, I support both the statutory and the constitutional amendment proposals—the statutory solution because I believe it to be constitutional and the constitutional solution because it is the only way to

eliminate constitutional doubts for all time.

Mr. President, I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Vermont.

Mr. LEAHY. Mr. President, I rise, as many others have, in support of the bill that will protect the integrity of the flag by outlawing its physical destruction. I cherish the flag for the values and experiences it represents. I believe most Americans do, whatever their political backgrounds.

The chairman of the Judiciary Committee, the distinguished Senator from Delaware [Mr. BIDEN] is right in protecting the flag in the best and most effective way possible, and I commend him for that.

The Judiciary Committee has held exhaustive hearings on the subject of flag desecration, and the chairman has made sure that virtually every idea, every school of thought has been heard. We have heard from scholars, historians, veterans, and other Senators. By far, the most personal and compelling testimony has come from veterans, from those who have fought most courageously to defend the fundamental liberties guaranteed by the Constitution. They do not speak with one voice, but they do speak for all Americans when they attest to the emotions that the flag stirs in each of us.

We cherish and respect the flag as a national symbol because it is rooted in tradition, the family histories of devotion, sacrifice, and respect for these United States.

In fact, when I think of the flag, Mr. President, I think of the flag displayed in every town in Vermont, not just on special days like Memorial Day or Flag Day or the Fourth of July, but all year round. I think of the flagpole outside my mother's home in Montpelier where the flag often flies from early morning to dusk.

It is right we protect the flag.

Mr. President, we are going to do so here today. This bill will protect the flag by changing the current Federal flag desecration statute. Constitutional scholars testified before the Judiciary Committee that this proposal will pass muster by the Supreme Court because it outlaws flag burning in all circumstances. I am convinced, after reading the testimony, that these scholars are correct. I am confident that the legislation is the best way to prohibit physical destruction of the flag, and I support that without any reservation.

The statute the Judiciary Committee reported to the Senate demonstrates that we can protect the flag as true patriots without tampering with the Constitution, because amending the Constitution is not necessary. If you ask me, amending the Constitution in response to the idiotic actions of one publicity seeking jerk in Texas lionizes him. It gives him a place in history that he does not deserve and that none of us should want to give to him.

We can beat our breasts and wrap ourselves in the flag from now until Christmas, but it is going to be meaningless if we betray the oath we are sworn to uphold. It will be meaningless if we allow one foolish publicity seeker to have the last laugh as we rush to amend the very foundation of our democratic system. It would be meaningless because after 200 years when faced with all the dangers and problems of two world wars, a Civil War, Presidential assassinations and resignations, all the other things—including the Great Depression, the expansion of our Nation—we have not amended the Bill of Rights. Can you imagine how sorry we would look to history if we now amended the Constitution because of some publicity seeking misfit? What a way to go down in history.

In fact, in that regard, in many ways it has already gone down in history. I think about the time that has been spent on the floor of the Senate and in the other body because of his actions. I would be willing to bet that we have spent more time this year talking about the actions of one publicity seeking character, and how patriotic we are in response to him—as though any one of us have to defend our patriotism. We probably have spent more time talking about this man in Texas than we have about health care and its sorry state in this country or about the enormous deficit we have run up in the last 8 years, because nobody wants to do anything that might be unpopular; more than we talked about arms control, even though the two superpowers have the ability to destroy the whole world and everybody on it in a matter of hours; certainly more time than we talked about global warming; certainly more time than we talked about the sorry state of education in this country where we are falling far behind the European nations and Japan, again, because we are unwilling to make the sacrifices necessary. Certainly we talked more about this flag burner in Texas than we have about the fiscal disaster we are going to leave the next generation.

That is why I hope, Mr. President, that once we pass this statute, we do not take the next step and pass a constitutional amendment. After 200 years and despite the enormous pressures this country has faced, we have always resisted amending the Bill of Rights. Suddenly because of somebody who none of us would recognize if he walked on the floor of this Senate, we rush to amend the Bill of Rights. Was his act for the TV cameras in Texas more important to our history than two world wars, assassinations, the Depression, the expansion of our country, and everything else we have faced? Boy, that would be a tragic gift to history if we lionize that person that way.

I think the American people will not tolerate shallow contests of patriotism that jeopardize the freedoms they enjoy. Every night on the evening news, we see by comparison how valuable our democracy is. Americans watch as people in other parts of the world fight and flee and die in pursuit of the freedoms that we have automatically under our Bill of Rights. They see Chinese students and East German citizens risking everything they have in hopes of enjoying some measure of what we in this country take for granted, because of the Bill of Rights. They know we can outlaw flag destruction by passing this legislation, and they will not tolerate political expediency that ultimately diminishes their freedom by amending the Bill of Rights.

So we must appreciate the unparalleled liberties we enjoy and resist any efforts to tamper with our fundamental freedoms. As Thomas Jefferson said, "Those who expect to reap the blessings of freedom must, like men, undergo the fatigues of supporting it."

So today we have the opportunity to support our freedom. We will pass this statute to outlaw physical destruction of the flag, and in the process, we will protect our most treasured symbol and the values it represents.

We will protect the flag with a statute that will obviate any need to tamper with the Constitution. That is the most noble course. We will protect the flag, and we will get back to dealing with the other pressing problems facing our country—like budget deficits, crime and drugs, education, and health care—because it is time we get back to the business of the country.

So let us pass the law and, I say to my friends and colleagues in the Senate, let us not abuse this forum in the memory of the Constitution's framers with any more public exhibitions on who is the fairest patriot in the land. By passing the statute, we attack the problem, we preserve the Constitution of the United States, and then, fellow Senators, we can go back to the very pressing needs of this country.

Mr. President, I yield the floor.

Mr. SPECTER. Mr. President, I support the Flag Protection Act of 1989. I first learned of the Texas versus Johnson decision back on June 2 of this year, when the morning news report on the radio announced the 5-to-4 decision by the Supreme Court of the United States. My instinctive reaction was to question why the court reached that conclusion in light of the many precedents which have limited freedom of speech in a context of obsceni-

ty or where, for example, fighting words were used or where, for example, there was inciting to riot or where, for example, there was the cry of "fire" in a crowded theater.

I then secured the decision in Texas versus Johnson, read through it carefully, and concluded that the better arguments, at least in my judgment, lay with the four dissenters as opposed to the five Justices in the majority.

But whenever I see a 5-to-4 decision, Mr. President, I revel in the fact that in the United States we can have these pitched arguments and animated discussions and then decide close questions by 5 to 4, which is as close as it can be decided. We can think through the issues without resorting to violence, as they sometimes do in Cambodia, or in Angola or in Afghanistan or in Panama. We can rationally consider the issue and decide what, if anything, we wish to do about it.

Immediately after the decision came down on June 21, the Senate had a recess, and I traveled back to my home State of Pennsylvania. There I heard many concerns expressed about this decision. The vast majority of my constituents felt that the decision was a bad decision, that the flag ought to be protected. There was discussion about a constitutional amendment versus a statute. My own instinctive sense was that if a statute could provide the protection, that was the course which ought to be followed. There were some who felt that nothing should be done.

During the course of the past several months, many hearings have been held. Senator BIDEN and I held a hearing in Philadelphia, in Old City Hall, near where the Constitution was adopted, and there we heard the learned viewpoint of Judge Louis Pollak of the U.S. District Court for the Eastern District of Pennsylvania, who contended that Congress should do nothing. Judge Pollak commented that it might be very hard for Congress to do nothing. And that led to my response that Congress was expert at doing nothing.

I often quote my colleague, Senator STEVE SYMMS, who says the country is safe when the Congress is adjourned. There are many people who agree with that.

Whether or not Congress should act is an interesting question of public policy. In my view, there is a clear majority in this country which favors protecting the flag, probably sufficient for the super majority required for a constitutional amendment, but I do believe that is only the beginning of the discussion.

I believe that the best articulation of the democratic process is that of Edmund Burke a century and a half ago when he said that in a representative democracy, consideration should be given to the popular will, but the people's representatives ought to come to a decision based on their own judgment, after taking into account the views of their constituents.

Mr. President, the mood of the American public, at least as I gauge it, has shifted substantially since June 21—and it is only a few months—so that no longer is it the kind of pressing issue it was immediately after the decision came down.

Several months after the decision, I held an open house town meeting in Pottsville, and a young man rose in the courtroom where we had the meeting and read a prepared statement. He happened to be very close to a group of Veterans of Foreign Wars wearing their hats, clearly denominated. The young man read a statement urging that we not do anything on the flag issue because the burning of the flag was a symbolism of the great freedom in this country, that such freedom really was our strength, and we would be stronger, not weaker, to allow that sort of conduct.

The people present, the men from the VFW, listened politely and quietly. I would have expected them to respect that statement in any event, but there was no show of emotion. That moment demonstrated to me that Americans are prepared to address this issue in a calm and measured fashion.

Mr. President, I think we are approaching this issue in a very prompt and responsible way. Here we are at the beginning of October, less than 4 months from the date of the decision. We already have a House-passed bill. We have the matter under consideration in the Senate. We have a provision in this bill, which is an unusual one, which provides for expedited review of the constitutional issue.

So it is entirely possible, Mr. President, that within the year, perhaps within a year from the decision in Texas versus Johnson, we could have a decision on the constitutionality of this provision. I think that is highly desirable.

Mr. President, I think we can derive much wisdom in this situation from the concurring opinion of Justice Louis Brandeis in the case of Ashwander versus the Tennessee Valley Authority. So often Justice Brandeis spoke in dissent or in concurrence, and so often those dissents and concurring opinions have become the majority opinions. But this is what Justice Brandeis said in terms of a constitutional abstention doctrine for the Court and I think it applies equally for the Congress.

He said, "The Court will not pass upon a constitutional question, although properly presented by the record, if there is also present some other ground upon which the case may be disposed of. The rule has found most varied application. Thus, if a case can be decided on either of two grounds, one involving a constitutional question, the other a question of statutory construction of general law, the Court will decide only the latter."

And so, too, Mr. President, I think it the better course of wisdom for the Congress to address only the narrower of the two questions. I think that is especially applicable when we take up the first amendment, part of the Bill of Rights, which has never been amended in the 200-year history of this country.

All of our amendments are important, especially the amendments in the Bill of Rights, but I think few would disagree that the most important amendment is the first amendment because it provides for freedom of speech, press, assembly, religion—really the rockbed of our society. That is the amendment which expresses more of America's values than any other, and it ought to be left untouched if we can possibly do so.

Mr. President, my legal analysis is that the pending statute will be approved by the Supreme Court of the United States. I say that for a number of reasons.

First, the decision in Texas versus Johnson was a 5-to-4 decision so that it was decided by the most fragile of majorities.

Second, when the Court addressed the issues in Texas versus Johnson, Justice Brennan was very careful to point out that the decision turned on the issue of expression, political expression. As noted on page 5 of the slip opinion in Texas versus Johnson, the Court said: "We must first determine whether Johnson's burning of the flag constituted expressive conduct." At page 7, the Court again noted the importance of expressive conduct saying, "We have not automatically concluded that any action taken with respect to the flag is expressive." At page 8 the Court noted, "In these circumstances, Johnson's burning of the flag was conduct sufficiently imbued with the elements of communication." At page 9, again there is a reference to the suppression of expression.

The statute before us, Mr. President, is content neutral. The statute does not require a public demonstration. Thus, flag burning would be unlawful even if done privately by an individual in his own home. That might raise some other issues but it is clear that this statute is very carefully drawn.

Mr. President, there are many precedents for upholding this kind of a limitation on speech. As I alluded to before, "Fire" in a crowded theater; none would disagree that kind of expression is not protected by freedom of speech. The fighting words doctrine already described by some of my colleagues in the Chaplinsky case means that speech which is socially unaccept-

able may be limited in certain circumstances.

The obscenity laws have long been debated in this country. The Supreme Court of the United States has said that obscenity may constitutionally be banned, notwithstanding the first amendment. And it is hard to define obscenity. Justice Potter Stewart said he could not define it, but he knew it when he saw it. The courts have wrestled with it, and the juries have wrestled with it, and it is a matter of great national debate. There are other examples which I shall not belabor at this point which show that certain limitations on speech are legitimate because the first amendment is not absolute.

Mr. President, I suggest further that the Supreme Court of the United States is not oblivious to what happens in our society. The Supreme Court of the United States does not function in such a lofty ivory tower that the Justices do not hear what goes on in the streets of America or what goes on right across the park, in the Congress of the United States.

Incidentally, I think it is noteworthy for those who have not noticed that the pillars and columns of the U.S. Senate line up directly across the park with the pillars of the Supreme Court of the United States. I am not saying the Justices will note our floor statements as much as we note their opinions, but they do know what America is doing and what America is thinking.

That was articulated precisely by a noted scholar, Walter F. Murphy, in his 1962 book "Congress and the Courts." At page 216, Murphy states: "As a participant in public policymaking who has only limited power, a Justice of the Supreme Court, like a legislator, must weigh considerations of political prudence."

Then there is the very famous statement attributed to Finley Peter Dunn, a turn of the century political commentator who said: "No matter whether the Constitution follows the flag or not, the Supreme Court follows the election returns."

While we like to think of the document of the Constitution as having a meaning all unto itself which only requires interpretation, we know that is not so. For example, Brown versus Board of Education ruled that segregation violated the equal protection laws, but that decision overturned a longstanding precedent of the Supreme Court.

Mr. President, there have been examples in our history where the Court's interpretations of the Constitution have changed. This could be the subject of a learned discourse, but let me refer very briefly to the writings by Prof. Gerald Gunther on constitutional law. On page 152 of Gunther's treatise, he refers to the contentious litigation on the New Deal in the 1930's where the Court reversed its position. Gunther notes that the Court interpreted the commerce power narrowly in the case of Jones and Laughlin involving the minimum wage laws and then shortly thereafter in the case of West Coast Hotel versus Parrish, Justice Owen Roberts changed his position in the face of the Roosevelt challenge, the so-called switch in time that saved the 9. An analysis of these and other decisions very strongly suggests that the Court was very closely attuned with what was happening in public opinion.

One other illustration is worthy of comment and that relates to the Communist organization investigations of the 1950's. Again I refer to Gunther on constitutional law, at page 1490, where he refers to the decisions in Watkins and Sweezy and Voningsberg which provoked considerable criticism in the Congress. Thereafter, the Court decided Barenblatt and Uphouse, and the inference was unmistakable that there had been a marked shift in the Supreme Court decisions attributable to the reaction to those cases.

Mr. President, we have had the recent opinion of Justice Scalia in Wilkins versus Missouri. That case stands for the proposition that the Supreme Court looks to a national consensus in certain constitutional decisions.

Stanford versus Kentucky involved a slightly different issue, but it is illustrative of the same principle. That case involved the question of capital punishment for juveniles. Unlike the flag issue, which concerns the first amendment, Stanford involved the constitutional provision on cruel and unusual punishment. But it is relevant that Justice Scalia looks to what he calls a "national consensus" as a basis for determining what the Constitution means.

Is there a national consensus on cruel and unusual punishment? It is true that Justice Scalia can find the national consensus a little more easily in statutes than in a public opinion poll or open house town meetings or the discussions we in the Congress engage in.

Significantly, to Justice Scalia, the Constitution consists of more than naked words. It is the conduct of our country, the feel of our people.

Mr. President, the feel of the people is not an easy matter with respect to the flag. There are some who say that the Congress should do nothing, that the country would be stronger to let this issue rest. There are many who have articulated that point of view, and with some persuasiveness, although it has not persuaded me.

Then there are those who would like to move ahead with a constitutional amendment, and it may be that that will have to be considered. It may be that that day will come, but I doubt it very much, Mr. President. This carefully drafted statute—a content-neutral statute which does not penalize expression—will likely be held constitutional, especially in the face of the Supreme Court's very natural, understandable, historical response to what is on the public's mind.

I submit, Mr. President, that this statute is a very moderate approach which will provide protection for the flag, which will not jeopardize the solidity or the tranquillity of the first amendment to the U.S. Constitution, and which will appropriately accommodate the many competing interests which we face on this issue.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I have enormous respect for the chairman of our committee and for our ranking member. But I will vote against H.R. 2978.

I oppose it because, like its Senate counterpart, S. 1338, it is flatly insufficient to protect our flag from physical desecration.

Frankly, for the reasons my colleague from Utah and I have written in the report on this bill, I find these statutory approaches to be little more than an empty gesture.

Indeed, there should be no mistake about what we are doing here today—or more accurately, what we are not doing.

These bills will not stop anyone from mutilating, defacing, burning, or trampling on the American flag.

Rather, these statutes are the responses for those of us who really do not want to change the result in Texas versus Johnson.

These are the solutions for those who do not think there is a crime when someone burns the flag.

These are the answers for those who think what Gregory Johnson did was constitutionally protected.

Frankly, these bills are a waste of the Senate's time. We already have a Federal statute on the books. It has been there for over 20 years. We do not need another one. Rather, we need to ensure that the law we already have is constitutional.

After Texas versus Johnson, the only way to do that is to amend the Constitution.

Mr. President, I understand that the pressure on my colleagues to support a statutory response is great. After all, who among us can safely vote against a bill styled to protect our flag from desecration?

And the way things have been so neatly arranged on the floor here today—with this bill passed before we can consider an amendment—my colleagues will think that we've solved the problem of Texas versus Johnson.

My colleagues will think that there is no longer a need for an amendment, that they have done all they need to do.

This view, Mr. President, is wrong. In my judgment, it is profoundly wrong.

I start from the proposition that to protect our flag from physical desecration in no way impairs, restricts, or diminishes the first amendment principle of freedom of speech.

Protecting the flag from physical desecration does not prevent a single idea or thought from being expressed. It does not interfere with the numerous ways of communicating an idea. Rather, it merely prevents conduct with respect to one object, and one object alone—our flag.

We can withdraw that one object from threat of physicial desecration without limiting freedom of speech. For many years, a Federal statute and the laws of 48 States did protect the flag from physical desecration.

Who here can say that any harm was done to the first amendment?

For all these many years, were we less free to express ourselves? Of course not.

Some will suggest that passions have cooled on this issue. Or that Gregory Johnson's act was a one-time-only stunt by a crackpot.

Quite to the contrary, there are many budding Gregory Johnsons out there. Indeed, there were widespread reports of flag burnings following the Supreme Court's abortion decision. Would these acts be proscribed by H.R. 2978? Clearly not.

Under the teaching of Texas versus Johnson, these hateful acts would be deemed "speech," and thus protected by the first amendment.

And, a recent news account told of a Penn State University college professor who burned a flag in her classroom, to—in her words—"promote discussion."

Will H.R. 2978 proscribe this conduct? I doubt it, as long as the professor could find some first amendment pretext for her conduct.

Our hearings and recent events have reinforced my belief that we are obliged to respond to the Supreme Court. I do not take such a responsibility lightly.

I was an original cosponsor of the chairman's bill—S. 1338—to protect the flag by amending the Federal flag desecration statute. I supported the bill because if a statute would suffice, that route might be preferable.

However, the hearings held by our committee have convinced me that a statute will not survive a legal challenge, if this statute does what its proponents say it will.

And I must take exception to our consideration of the other body's flag statute—despite the unanimous consent agreement allowing the Senate to consider it.

H.R. 2978 was not the subject of our committee's deliberations. Its provisions differ from those of S. 1338. We received no direct testimony regarding its possible impact, and there is no Senate report on H.R. 2978.

During the Judiciary Committee's hearings on the constitutional amendment and S. 1338—the Senate Flag Protection Act—we were told that a content-neutral statute, if challenged, would more than likely be approved by this supreme court.

This view may or may not be valid, for reasons I will explain later.

But, for argument's sake, if we agree for a moment that a content-neutral statute regarding the flag is constitutional, in my view, H.R. 2978 does not establish a content-neutral statute that will pass constitutional muster.

I am sure there are those who may argue that the first section of H.R. 2978—prohibiting the knowing mutilation, defacement, burning, or trampling upon any flag of the United States—is not constitutional because of its potential impact on free speech.

Indeed, even a facially-neutral statute will be struck down when applied to a person who desecrates the flag as part of a political expression, after Texas versus Johnson. Why? Because the Supreme Court declared in that case that the Government's asserted interest in preserving the flag as a symbol of nationhood and national unity is insufficient to overcome a person's so-called right to burn the flag as part of expressive conduct.

It cannot be denied that the principal, if not the only purpose, in enacting a facially-neutral statute is to prohibit expressive conduct that physically desecrates the flag. No one claims that we are interested in protecting the material, the thread, and the dye in the flag. We protect the flag as a symbol, including against those who would desecrate the flag as part of a political expression. Because this is the clear purpose of the statutory approach, that approach will fall after Texas versus Johnson.

The unconstitutionality of any statute which attempts to protect all forms of flag destruction has been predicted by Justice Brennan, who wrote that any statute "that simply outlawed any public burning or mutilation of the flag, regardless of the expressive intent or nonintent of the actor" would be "invalid for the reasons stated in my discussion of Spence versus Washington."

But I think an even stronger argument against the constitutionality of H.R. 2978 can be made for the provision in the bill that carves out an exception to allow "conduct consisting of the disposal of a flag when it becomes worn or soiled."

Justice Brennan's opinion in Johnson states:

> The Government may not prohibit expression simply because it disagrees with its message, is not dependent on the particular mode in which one chooses to express an idea.
>
> If we were to hold that a State may forbid flag-burning wherever it is likely to endanger the flag's symbolic role, but allow it wherever burning a flag promotes that role—as where, for example, a person ceremoniously burns a dirty flag—we would be saying that when it comes to impairing the flag's physical integrity, the flag itself may be used as a symbol—as a substitute for the written or spoken word or a "short cut from mind to mind"—only in one direction.
>
> We would be permitting a State to "prescribe what shall be orthodox."
>
> We never before have held that the Government may ensure that a symbol be used to express only one view of that symbol.

That is why I believe that a statute—particularly the statute we are debating today, H.R. 2978—lacks the certainty of a constitutional amendment.

In addition, the provisions of section 3 of the bill allowing for expedited review disturb me.

Why should the Congress mandate a mechanism for expedited review of the question of the constitutionality of cases arising under this bill?

Is the issue important enough to warrant such special treatment? Then, I suppose, one may argue that the Congress should seriously consider granting expedited review to cases arising from other worthy contexts such as civil rights, abortion, religious liberty, death penalty.

And has not the Supreme Court just climbed out from under the weight of much of its mandatory review caseload? Just last Congress, we passed legislation largely eliminating the Court's mandatory jurisdiction.

Why do we want to start to load up the Court again when it has been determined that such expedited review is not in the proper interests of the administration of justice?

The fact is that any statute on this subject should not be guaranteed expeditious review in the Courts.

Certainly, there is sufficient disagreement with the effects of H.R. 2978 to leave in doubt its constitutionality.

And, finally, I am still uncomfortable with attempting to overturn a Supreme Court decision—which is grounded in the Constitution—by the passage of a mere statute. We have had some very persuasive testimony on this point.

I prefer the proposed constitutional amendment—Senate Joint Resolution. 180.

Senate Joint Resolution 180 provides for the following amendment to the Constitution:

29-059 O-90-44 (Pt. 16)

The Congress shall have power to prohibit the physical desecration of the flag of the United States.

We believe adoption of this amendment fulfills its intent to overturn the Texas versus Johnson decision and restore the power to Congress and the States to prohibit flag desecration which we believe they always had. In Johnson, the Court said it could not pick and choose which symbols were so unique as to warrant protection:

There is, moreover, no indication—either in the text of the Constitution or in our cases interpreting it—that a separate juridical category exists for the American flag alone.

This amendment established just such a category in the Constitution's text.

I appreciate the concern that Congress should not act in haste by amending the Constitution. Of course, nothing the Congress does regarding an amendment to the Constitution is automatic or pro forma.

By very thoughtful and intentional design, the passage of an amendment signals only the beginning of the process—one that is cumbersome at best.

As we all know, the States must have their opportunity to speak to the issue through ratification. That is how it should be; and thankfully, that is how it is.

I know many of my colleagues fear the effect that an amendment might—in theory—have on some first amendment rights.

And of course we must be serious and thoughtful in our deliberations about a change in the Constitution. But remember, that great document is not inviolate. The Founding Fathers—to their credit—provided for amendment, albeit through a most cumbersome process—and properly so.

Indeed, a number of the amendments are a direct response to Supreme Court decision. These include the 11th, prohibiting the exercise of Federal judicial power over a case brought by a citizen of one State against another State; the 13th abolishing slavery in the United States; the 14th granting the former slaves citizenship and all rights and privileges pertaining thereto; and the 16th, establishing the Federal income tax.

On thoughtful reflection, and having cited my serious reservations regarding H.R. 2978, I must vote against its passage.

A constitutional amendment is the only real solution to restore the law to the status quo prior to the Supreme Court's June decision in Texas versus Johnson. That is all the constitutional amendment does. That is all we ought to be doing, and that is what this debate is all about.

Thank you, and I yield the floor.

Mr. SASSER. Mr. President, the distinguished Senator from Alabama has been waiting. He said he could dispose of his statement here in about 4 minutes, so I will yield to him.

Mr. SHELBY. I thank the distinguished Senator from Tennessee for his courtesy in yielding to me.

Mr. President, I rise today in support of S. 1338, a bill that has been debated here on the floor this afternoon, a bill that provides it shall be a crime to knowingly mutilate, deface, burn, maintain on the floor or ground, or trample upon any flag of the United States.

I will support this bill as a means to protect Old Glory. But I have as others do, and as the Senator from Iowa has just pointed out, serious doubts as to its constitutionality. However, it is my belief that Senate Joint Resolution 180, the proposed constitutional amendment that calls for a constitutional amendment to protect the flag, is a better route to protect the U.S. flag from any form of desecration or abuse.

I am an original cosponsor of this proposed constitutional amendment Senate Joint Resolution 180. The resolution states that "The Congress shall have the power to prohibit the physical desecration of the flag of the United States." This, in my opinion, is a suitable response here, a much stronger response, a response that will protect the flag from now on.

The infringement on the first amendment was the fatal flaw in the Texas versus Johnson opinion. Unlike the law in that case, S. 1338 is content-neutral. Pursuant to S. 1338, whether one's treatment of the flag violates the amended Federal law would not depend on the likely communicative impact of the conduct.

Mr. President, like you and others, I was outraged over the Court's decision in Texas versus Johnson. I categorically and undeniably reject the majority of the Court's decision in the case. The integrity of the U.S. flag must be maintained.

It stretches the imagination to include the desecration of the U.S. flag within the zone of protection offered by the first amendment. The flag of the United States of America embodies the true spirit of democracy. Mr. Justice Stevens elaborated eloquently on this point. It is so important and central to this argument that it cannot be paraphrased but must be quoted in its entirety:

A country's flag is a symbol of more than nationhood and national unity. It also signifies the ideas that characterize the society that has chosen that emblem as well as the special history that has animated the growth and power of those ideas.

So it is with the American flag. It is more than a proud symbol of the courage, the determination and the gifts that transformed 13 fledgling colonies into a world power. It is a symbol of freedom of equal opportunity, of religious tolerance and of goodwill for other peoples who share our aspirations. The symbol carries its message to dissidents both at home and abroad who may have no interest at all in our national unity or survival.

Mr. President, I can reach no other conclusion than that the desecration of the flag of the United States of America must be prohibited. To knowingly mutilate, deface, burn, maintain on the floor or ground, or trample upon any flag of the United States should not fall within the purview of first amendment protection. The scope of the protection is broad but it does not extend this far and we should do something about it.

As a believer in democracy and as a stalwart champion of the Bill of Rights, I have joined with a lot of my colleagues on both sides of the aisle in supporting legislation that calls and provides for the protection of the integrity of the flag by calling for a constitutional amendment. I am going to vote for this bill today but I do not believe it will meet constitutional muster later and we ought to come right behind it with a constitutional amendment and pass it.

I yield back my time.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I ask unanimous consent to proceed as in morning business for 6 minutes.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

RECONCILIATION QUESTIONS

Mr. SASSER. Mr. President, the distinguished Republican leader gave notice yesterday of his intent to propound four parliamentary inquiries of the Chair regarding the reconciliation process pursuant to the Congressional Budget Act of 1974. I rise today to address these inquiries from the perspective of the Committee on the Budget.

First, the Republican leader asks: "Can the Senate Budget Committee incorporate into the reconciliation bill, pursuant to the congressional budget resolution, material which was reported after August 4, 1989?"

Mr. President, from the perspective of the Committee on the Budget, the answer is "Yes." Let me quote from the controlling statute, section 310(b) of the Congressional Budget Act: "the Committee on the Budget, * * * upon receiving all such recommendations, shall report to its House reconciliation legislation."

Two things are worth noting about this statutory requirement. First, it is mandatory. The statute says the Budget Committee "shall" report. Second, it only comes into effect upon the happening of a contingency: "Upon receiving all such recommendations." The mandatory requirement for the Budget Committee to report only ripens when all instructed committees have reported.

Now what happens if the deadline for reporting reconciliation arrives and all committees have not reported? In this situation, we have to fall back on the Standing Rules of the Senate. Rule 25(e)(2) gives the Committee on the Budget jurisdiction over "matters required to be reported by it under titles III and IV of the Congressional Budget Act of 1974." Now the reconciliation legislation is a "matter * * * under title III." It is a creature of section 310 of the Budget Act.

Under this rule, in the absence of specific constraints, the Budget Committee has jurisdiction over the reconciliation bill just as other committees have jurisdiction over other bills within their jurisdiction. Thus, after the deadline has passed, the Budget Committee may report out the reconciliation bill absent the contributions of the tardy committees, or the Budget Committee may wait for all committees to report. Only when all committees report, does the Budget Committee's obligation ripen.

What becomes of the bill that includes a title that is reported late? This lateness is a factor that the Chair must take into account in determining whether the bill as a whole constitutes a reconciliation bill deserving of the procedural protections set forth in the statute. It is a factor, but I should think a rather minor factor when weighed along with whether the other requirements are met, that is whether the committees instructed have achieved deficit reduction of the right amount, whether they have done so in their jurisdiction, and whether provisions are otherwise extraneous or nongermane.

Should a title reported late be subject to any extraordinary remedies? We submit, no. The remedy for failure to comply with the amount of reconciliation instructions is that any Senator may rise and offer a motion to recommit with instructions to report back forthwith an amendment that would bring the title into complete compliance.

But could that remedy apply here? It would make no sense. There is no possible amendment that could make the committee's title comply with the deadline for reporting recommendations.

There is no way it could be sent back and the clock turned back to make it comply with the time requirement.

Now, should the tardy committee be otherwise punished? The Committee on the Budget would respond no. There is sufficient sanction in the threat that the Budget Committee might report the reconciliation bill and the Senate might consider it without that committee's title. In essence, the committee that reports in a tardy fashion, gambles upon the patience of the Budget Committee and on the patience of the Senate leadership.

Mr. President, the distinguished Republican leader asked a second question, and it was this:

"Can the Byrd rule, the extraneous rule, be used to attack the House language on capital gains?" That was the question.

We in the Committee on the Budget would submit that the answer to that is yes. The Byrd rule, by its term, applies to a "reconciliation bill." If the Senate were to take up a House-reported reconciliation bill, it would be considering a "reconciliation bill" pursuant to the Byrd rule.

The procedures regarding reconciliation would apply, including that debate would be limited to 20 hours, that no amendment that is not germane would be received, and that the bill wouuld be out of order if it proposed changes in Social Security.

Likewise, the Byrd rule on what is extraneous would apply. Otherwise, the Senate would be forced to take up a measure to which the Senate's own rules would not apply. Clearly, a gigantic loophole would be created and the result would be unacceptable, in that the Senate's own rules could not be used to determine its actions.

Mr. President, what is the effect of a Byrd rule point of order against a provision in the House bill? The text of Senate Resolution 509 from the second session of the 99th Congress, I think, provides some guidance. The effect would be just the same as if the Senate had adopted an amendment striking the offending provision. That is, after all, the effect of the Byrd rule on provisions of Senate reported reconciliation bills.

Third, the distinguished Republican leader propounds the question: "How to write a capital gains amendment that would not have a point of order?"

If I were the Parliamentarian that is the kind of question I would be loath to receive. It is not the job of the Chair, clearly, I would submit, to negotiate a Senator past procedural impediments to any legislation that a Senator might wish to propose.

Suffice it to say that to be in order on a reconciliation bill, an amendment must be germane within the meaning of the precedents of the Senate, it must not be extraneous within the meaning of the Byrd rule, it must not cause the relevant committee to fail to meet its instructed amount of deficit reduction.

Finally, Mr. President, the Republican leader asked this question: "If there are no recommendations voted out by the Finance Committee on reconciliation, can the committee be brought into compliance through a motion to recommit with instructions?".

That question is now moot because the Finance Committee, after staying in session until 3 a.m. this morning, has reported out with reconciliation instructions.

Thus, Mr. President, in sum, our position on the three questions that the Republican leader gave notice he would ask the Chair, I think, has been made clear. I might say that in my experience, the Parliamentarian and his staff have always used great reason and exhibited substantial professionalism and I trust that the Parliamentarian's advice to the Chair will be of the highest quality, as it has been in the past. Of that I have no doubt.

I do not envy their job, however. Personally, I would not want to be subject to the criticism that the person who sits in the Chair of the Parliamentarian often is, without being allowed to speak in response.

In closing, let me salute the Parliamentarian and his office, whatever he decides in response to these questions that we have raised here today.

Mr. DOMENICI. Will the Senator yield for a question?

The PRESIDING OFFICER (Mr. ROBB). Will the Senator yield to the Senator from New Mexico?

Mr. SARBANES. I will yield if my time has not expired.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. Mr. President, I ask unanimous consent to be permitted to proceed with a question for no more than 2 minutes.

The PRESIDING OFFICER. Without objection the Senator is recognized for 2 minutes.

Mr. DOMENICI. Mr. President, I say to my good friend, the chairman of the Budget Committee, I was not present for the entirety of his comments.

It is the distinguished chairman of the Budget Committee suggesting here today that purported reconciliation bills from committees that are after the deadline date, such as the one submitted today by Labor, Health and Human Resources, which substituted for one that they had already submitted before, on time—but in the meantime they have apparently thought they would do something differently—has my colleague suggested that the Senate need not concur in the extension of the deadline date in order to make that bill reported today, as a substitute to one that was timely, be part of a valid reconciliation bill?

Mr. SASSER. I say to the distinguished Senator from New Mexico that the reconciliation could be modified to include the language reported today by the committee, to which the distinguished Senator has reference.

What I am saying is that the Committee on the Budget, at its option, following the expiration of the deadline, may choose to go ahead and report in spite of the fact that one or more committees have not obeyed the

directions of the Budget Committee and reported, pursuant to reconciliation.

In this instance, the Committee on the Budget, as the distinguished Senator from New Mexico knows, did not do that. We simply waited until all committees had reported, including the Senate Finance Committee. And my point is that simply by waiting past the deadline, this does not mean that the reconciliation that ripens at that time would not be eligible for the safeguards and the expedited procedures and that surround a reconciliation bill.

Mr. DOMENICI. Mr. President, might I say to my good friend from Tennessee, I do not want yet to say I disagree with the Senator. Because I, as I indicated, have not had a chance to review his statement. But tentatively I would tell the Senate, I believe I disagree. I have not had a chance to search the record but my reflection tells me that never have we treated reconciliation this way in the U.S. Senate.

To the contrary, whenever a committee was late we, either by unanimous consent of the Senate extended the time for the filing of that and if reconciliation itself was late we asked for an extension of time to accept reconciliation measures. I say to the Senate, reconciliation is a two-edged sword. For those who want to use it to produce budgets it is a neat instrument. For those who want to perpetrate mischief by including all kinds of legislation, even until the last hour, by getting a majority on the committee to report it: Beware, Senate. Beware. We are in for some real destruction of the rules of the U.S. Senate. This is a serious issue.

I applaud the Parliamentarians, as my colleague has. They have a tough job. But I submit, precedent does make some sense and the precedent is not some: Willy-nilly, we will ask the Parliamentarian, submit it when you can get around to it, the dates do not mean anything. I do not think that is a very good policy. We will look into it a little more. I thank the Senator for granting me time. I yield the floor.

FLAG PROTECTION ACT OF 1989

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington [Mr. GORTON].

Mr. GORTON. Mr. President, on June 21, 1989, by a vote of 5 to 4 in the case of "Texas versus Johnson," the Supreme Court of the United States invalidated a Texas flag desecration statute which had been used to prosecute a particularly outrageous and egregious form of flag desecration. That statute differed from the one with which we are dealing today, because it included a subjective element, the element that the actor knew that his action would "seriously offend one or more persons likely to observe or discover his action."

I read each of the three decisions filed by members of the Supreme Court of the United States shortly after that decision came down and was convinced of the error of the result and of the reasoning of the two decisions which led to it. The Senate of the United States—and I think in a commendable fashion—responded promptly to the challenge presented to us by that Supreme Court decision.

The distinguished chairman of the Judiciary Committee, the Senator from Delaware, with my help, introduced and passed an amendment to a bill on another subject. The amendment made it a Federal offense to desecrate the flag without including the subjective clause which appears to have been the basis of decision governing the 5 to 4 Supreme Court decision.

That proposal was thereafter incorporated in S. 1338, of which both the distinguished chairman of the Judiciary Committee and this Senator are sponsors. After a series of hearings in both the House and the Senate, the House-passed H.R. 2978, which is before us today.

The chairman of the Judiciary Committee, for reasons which I think are appropriate, has determined that we would be better served to debate the slightly different House version than we would S. 1338. H.R. 2978 is a slightly different statutory response to the same Supreme Court decision which is based on the Constitution rather than on a Federal or State statute.

The questions before the Senate during the course of this debate are: Can and should this Nation offer some specially protected status to its flag symbol by statute?

Mr. President, my answer to each of those questions is a "yes" answer. I note that this debate becomes an interesting one because there are at least four distinct responses to the question which is before us today. The other three include, "no," we cannot accomplish this goal by statute but we can and should reach this goal by amending the Constitution to the United States.

A subset of the answer which I make here is that, "yes," we can perhaps accomplish this goal by statute but that we ought to pass a statute and also propose a constitutional amendment at the same time.

And the final answer is a negative answer to both questions, not only that we cannot protect our flag symbol by statute but that we should not do so either by statute or by constitutional amendment because we will restrict what are asserted to be first amendment rights of the people of the United States.

I agree with one of the immediate preceding speakers on this subject, the distinguished Senator from Iowa, for the proposition that a statutory approach to this subject is certainly something which will raise constitutional questions, which will be tested in the courts of the United States.

I am inclined to think that the chances that this statute will be found constitutional are fairly good, either by reason of the very real distinctions between this and the Texas statute or because even the Supreme Court reads the headlines and has some understanding of public opinion and may well be affected in part, at least, by the vehemence and breadth of the objection to its decision of June 21, 1989.

In any event, I do feel it important that we move in this direction in exactly the way that the distinguished Senator from Delaware has asked us to move. As a consequence, I will join him not only in supporting this statute, I will join him in opposing a constitutional amendment now before we have a definitive decision by the Supreme Court of the United States on the validity of our approaching this subject by the statute which is before us today.

During the several months following the June 21, 1989 Supreme Court decision, we heard a great deal of what I can only describe as courting and posturing from those who style themselves protectors of the first amendment, defending the decision of the Supreme Court not only as a question of law but as a question of policy.

Mr. President, I know that you, as has this Senator, read at least half a dozen newspaper columns with the most outlandish prosecutions possible of young people or, for that matter, old people for cutting a cake with a flag on it, or for wearing a flag on a T-shirt or a pair of pants, or the like. They are all threatened with jail should the Senate and House of Representatives of the United States pass a statute like this one criminalizing flag desecration.

Mr. President, I believe those objections to be totally without merit. We can come up with such objections, such absurd constructions to almost any criminal statute which has never been passed by the Congress of the United States or by the legislature of any State. Suffice it to say that no such prosecutions of that degree of absurdity were ever brought or, on the rare occasions they were brought, they did not result in convictions leading up to a decision like that in Texas versus Johnson.

I simply wish to remind my colleagues that the situation which brought about the decision in Texas versus Johnson was not cutting a cake with a flag on it or wearing a flag as a personal decoration. It was exactly the

kind of outrageous desecration of the flag of the United States which most Americans find to be so obnoxious.

I am totally confident, Mr. President, that this body, the courts of the United States and of the several States and the people of the United States will be able to distinguish between true desecration, a true and invalid attack on the flag of the United States, and a red, white and blue, herring prosecuted under this statute. I am certain that it will not be misused. I am convinced that we are dealing with conduct and not speech, and that conduct of this sort can and should be prohibited by a country which has a belief in its institutions, its symbol and its history and a full and complete dedication to the rights of freedom of speech.

I must say, incidentally, Mr. President, that I am somewhat dubious about the section in this bill on expedited Supreme Court review. Personally, I would just as soon see no such section in the bill at all and allow this statute to be tested like any other. I do understand, however, that the distinguished Senator from Delaware at least has an amendment which I think will improve this section, and which may well be demanded by a majority of this body.

I want to close, Mr. President, by commending the Senator from Delaware for what I consider to be a balanced and thoughtful approach to an issue which is one of high passion, and of great importance. Not only is the flag the symbol of the United States of America, but the debate and careful consideration of these proposals is a symbol of the ability of the Senate of the United States to deal with such issues responsibly.

Mr. BIDEN. Will the Senator yield for a moment?

Mr. GORTON. I will be happy to yield.

Mr. BIDEN. I would like to make two brief comments, one personal and one relating to substance of the statute.

With regard to the criticism that has been raised and the Senator has spoken to and indicated that he did not subscribe to, that it was going to spawn litigation and we will not know, we have had testimony—and I have been reluctant to respond and/or speak to each of the points that have been raised here, but I think this one is important to speak to—we have had testimony throughout the hearings we held—and they were extensive hearings. They were genuinely thoughtful undertakings, attended by responsible people who participated as witnesses, some of the best minds in America participating in the hearings—consistent testimony that, ironically, the proposed amendment would unquestionably spawn more litigation by a long shot than any statute, this one of the Senator from Delaware, or any other version, because it does not define what desecration is; it leaves that up to 50 different States, and it raises issues that are almost insurmountable, according to most of the witnesses. And these were people who were against the amendment as well as the statute, some of them like the distinguished and renowned Erwin Griswold, a particular case in point.

I ask unanimous consent that I may enter those statements in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

THE BUSH AMENDMENT WILL LEAD TO MUCH LITIGATION

One of the arguments made by the proponents of the Bush amendment is that it will eliminate litigation on the issue of flag destruction once and for all. Several witnesses testified that the Bush amendment will generate litigation, not eliminate it, and will, in one witness's words, lead to a "jurisprudence of the 27th Amendment."

Erwin Griswold said:

"I think the Bush amendment will not only encourage, it will stimulate litigation."

Judge Louis Pollack said:

"I think we can say with confidence—that with the Bush amendment, we could anticipate a decade or so of active litigation in which cases would arise in many quarters of the country * * *"

Walter Dellinger said:

"Far from—being a simple and quick solution to a problem, even after ratification, the Bush amendment will create an entirely new jurisprudence of the 27th amendment."

Gordon Baldwin said:

"While you would be allocating authority to the States to make experiments, you would also be inviting litigation, continued litigation * * *."

Brady Williamson said:

"If you have a multiplicity of laws, you are going to have a multiplicity of reprehensible incidents to test the law. So, instead of fostering respect for the flag, we would have the not intended purpose, but I think the inevitable purpose of fostering disrespect for the flag."

Mr. BIDEN. Further, in the interest of time, I say to my colleague, I will not go on, on the second point because so many people wish to speak, but let me just say, and I say this sincerely, it is not only important but it is flattering to the Senator from Delaware that the Senator from Washington rises to speak on behalf of this approach because without any question the Senator from Washington is regarded by his colleagues on the floor, Republican and Democrat alike, as one of the most thoughtful and knowledgeable lawyers in this body.

I want the record to show that the Senator did not come to this position automatically. The Senator was skeptical. The Senator sought constitutional expertise. The Senator labored over this, and the Senator read on the subject, as one of our former older colleagues used to say.

I am flattered that the Senator has concluded to take the position he has because—again, I am not being solicitous—the Senator from the State of Washington, along with the Senator from Pennsylvania [Mr. SPECTER] and several others, are viewed by all their colleagues as being extremely thoughtful and able lawyers, Senators who understand and appreciate the Constitution and its complexity.

So I thank the Senator for his support. It means a great deal in this undertaking. I yield the floor.

Mr. GORTON. I thank the Senator from Delaware. I yield the floor.

Mr. SIMON. Mr. President, before my colleague from Washington leaves the floor, and if I may have the attention of the chairman of the committee, I happen to agree with the last point raised by the Senator from Washington. I am going to vote for this, but my belief is we would be much better off without the expedited review because, among other things, if we do not have the expedited review, if it takes 3 years to get this before the courts—and I think the probability is the courts will approve it, but there is some uncertainty—why not have the statute on the books for 3 years. I do not know what the inclination of my colleague from Washington is, but if he wants to toss in an amendment to knock this portion out, I will be a cosponsor of that amendment.

Mr. GORTON. I thank the Senator from Illinois. I am not sure I feel that strongly about it. I have discussed the subject with the Senator from Delaware. He can answer the question better than I. He intends to make some changes. If he wished to make that change, I would certainly support him on it, but I want to work in concert with him to see that we get something through and not go off on a rock on my own.

Mr. BIDEN. If the Senator from Illinois will yield for a moment, the Senator raises a very important and thoughtful question about expedited procedures.

There are from the perspective of the Senator from Delaware two issues relating to that question. The first is the constitutionality of such a procedure, of the Congress as a whole instructing the Court to move in a manner they would not ordinarily move. The second issue is the utility of such an amendment.

If I can speak very briefly to both points, on the question of the constitutionality, it is the judgment of the Senator from Delaware and a number of people in the House as well, including their informed staffs, that the expedited procedure provision as written in the bill before us is probably unconstitutional. Therefore, the Senator from Delaware, along with the Senator from South Carolina and the minority leader, Senator DOLE, are prepared to rectify that by striking the

portions of that expedited procedure which in fact are egregious so that it would conform with expedited procedures that we have historically used and have been upheld by the Supreme Court in the past. I will not take the time to go into that now unless the Senator wishes.

On the second point of whether or not we should have the expedited procedure provisions in this statute, the Senator from Delaware, when he, along with his colleague from Delaware and Senator COHEN from Maine, drafted the original statute he did not include the expedited procedure for several reasons, but the practical fact of life is that there is a need for accommodation and comity in the Congress, at both ends of this long corridor, not just up and down Pennsylvania Avenue. The House Members felt, after holding extensive and thoughtful hearings, that they wanted this procedure for the following reason: They felt it was important that the issue be resolved as rapidly as reasonably possible so that those who wish and believe the only way to go is the constitutional amendment would not be in any way prejudiced by having voted for this particular statute.

I share the point of view of the Senator from Illinois, but the practical fact of life is that it does not do any damage to the substance of the statute, and it does add, for those who are truly uncertain about whether or not to go with the statute or the amendment, preferring a statute because the amendment is such a momentus undertaking, that they would not in any way find themselves in the position that this issue would not ultimately be able to be resolved 2, 3, 4, 5, years down the road.

Last, I say to my friend from Illinois, he raises a central political point—not political in a partisan sense, a political fact of life. That is, if the statute is passed, Mr. President, from the moment we pass it and if it is signed by the President and becomes law, as I sincerely hope it will be, it will be a Federal violation to in fact burn the flag, trample on the flag, et cetera. So the flag sitting to the Chair's right will be protected.

The notion that expedited procedures have been put into place, in my view, does not in any way diminish that protection. I am so confident of the outcome of this before the Supreme Court that I am not reluctant to acquiesce in the House's very strongly held desire to have expedited procedures.

I am not suggesting the Senator agrees with my explanation. I hope that does, though, at least explain why the Senator from Delaware has gone along with the expedited procedure provision as, hopefully, amended.

Mr. SIMON. I understand the position of the Senator from Delaware, and I do not feel so strongly that I want to offer an amendment myself, though my preference would be not to have the expedited procedure.

The second concern I have, though I support the legislation, is the old story of two parents who go out, saying we are just running down to get some gas at the service station. They tell the children do not go near the cookie jar while we are gone.

Well, you know the first thing those young people are going to think about at the time is that cookie jar. I fear that by simply passing the statute it is going to maybe encourage some fringe elements out there. I hope I am wrong on that.

Then speaking to the issue itself, I join everyone in respect for the flag. You visit my home in southern Illinois. We have 12 acres in that little town of Makanda, IL. You will see a flagpole and a flag flying. When I was in the service, as I know the Presiding Officer was in the Marines, I was in an outfit he might not have heard of, the Army. One of the things I was proud to do—maybe a little old fashioned—when I was at a football game and they played that "Star Spangled Banner," was stand there and salute; it did someting to you.

I remember being overseas, and I visited England. I saw some horses and, like everyone else, I went over to see what was going on. The man next to me nudged me and said, "Take off you hat." He said, "That's the Queen's flag going by" and I respected that. I have great respect for the flag, but I also have great respect for the Constitution.

And we ought to handle this statutorily. I happen to think the Supreme Court decision was wrong. Justice Hugo Black, the all-time champion of freedom of speech, Justice Hugo Black who believed so much in freedom of speech, believed that liable laws are unconstitutional. I am pleased his view did not prevail.

There may be some in the press gallery who will have differing views on that. But Justice Hugo Black said, "Free speech does not include burning the flag." I think the Court decision is wrong. I am a champion of freedom of speech.

But I hope we take this route rather than the constitutional amendment. The reason is a very simple one. As you look at our history, whenever we have had an unpopular decision by the Supreme Court, there is almost always a rush to change the Constitution.

It is very interesting as you look back in our history. At one point we had an unpopular Court decision on polygamy. We almost ended up with an amendment to the U.S. Constitution outlawing polygamy.

I do not favor polygamy. My colleague from Arkansas does not. My colleague from Virginia does not. But I think we would agree that you do not handle that problem with a constitutional amendment. I think there are many problems that we face that we can handle statutorily without trivializing the Constitution. That is my fear.

I hope we pass a statute. I would sooner have it without the expedited procedure in it. I think that is a mistake, frankly, but I do not feel strongly enough on it that I want to introduce an amendment. But I hope we refrain from passing a constitutional amendment.

I know there is the passion of the moment. There is a feeling we ought to stand up and have that constitutional amendment. But just as we have great respect for the flag, we also ought to have great respect for the Constitution, and not handle it through a constitutional amendment.

Mr. President, I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Before the Senator from Illinois leaves the floor, I want to commend him for what I consider to be a very eloquent and concise statement, and what I have to say is largely redundant because he has already said it so well.

Now I have never been favorably disposed toward television evangelists, but I have sort of separated Billy Graham out from that crowd because he said something one time that was very impressive to me in San Francisco. He said people are always coming up to him and saying: "What would Jesus say if he came back today?" He held up the Bible, and he said, "He would say exactly what he said the first time."

If James Madison and John Jay and Alexander Hamilton were alive today, they would say exactly what they said the first time.

I agree with Arthur Schlesinger, Sr., who said that in Philadelphia in 1787 the greatest assembly of minds ever in the history of the world congregated. And we the people of the United States are the recipients of that tremendous wisdom. The Constitution is the thing that has given us the greatest organic law in the world. It is the thing that has made us the second-oldest living democracy in the world next to little Iceland, where incidentally, the literacy rate is 99.9 percent.

But my point is this: I said on this floor dozens of times, when you start talking about amending the Constitution, I belong to the wait-just-a-minute club. I intend to vote for this bill. I am deeply troubled by the expedited procedures. And there may be even a constitutional problem with that.

But I think in the past, the Supreme Court has allowed direct appeals from three-judge courts. But I do not like

that part of it. I am sorry we are debating the House bill instead of the language of the Senate Judiciary Committee.

Having said that, Mr. President, I also want to say that as I sat here the other night and listened to the amendment on obscenity and indecency there is something in me that was offended by that amendment, not because I am such a great patron of the arts. I agree with everybody here that those exhibits were trash. But you know beauty is in the eye of the beholder. To me, they were terribly offensive. They were trash.

But to suggest an amendment as broad as the one we defeated the other night which was supposed to cure one of those once-in-a-lifetime aberrations was like a finely tuned surgeon using a broad ax.

So I was very pleased that we defeated that amendment the other night, but the point I want to make is there is something in that which is offensive to me because there is a suggestion that some of us, simply because we defend the Constitution and people's freedom of expression through art, speech, religion, and press, that somehow or the other we just do not understand what pornography and obscenity are.

There was not a single soul in the Senate the other night who was not offended by the Mapplethorp exhibits. I was offended by the other one too.

But the point I want to make is when it comes to desecration of the flag, I yield to nobody in this body about my love for the flag. I have never had as many goose bumps in my life as when I graduated from boot camp in the Marine Corps. We had our final parade down the parade ground in San Diego. And after 10 weeks of the most barbaric, brutal treatment I have ever been subjected to in my life, I was really happy that I had endured it, and I was happy that I had about a half-inch of hair that had grown on my head since I went in.

But above all, marching down the parade field behind the American flag while the Marine Band played the "Marine Corps Hymn," I have never been so exhilarated in my life. There is not one person in this body, though, that does not love the American flag just as much as I do. I love it just as much as anybody else.

But because some lunatic in Texas, and in a very isolated instance, decided to desecrate the flag, I am not sure we need to rush to change the works of James Madison, Alexander Hamilton, and in an indirect way, Thomas Jefferson, John Jay, John Adams, George Washington, and all the others.

There are two questions, Mr. President, for this body to answer: That is why and how? Why do we need a statute to prohibit flag burning; and No. 2, how can we accomplish this in a constitutional way?

I think I have better language. I have language that I consider preferable to that which is being offered here. But I am not going to offer it as a substitute. I intend to vote for the language that we are being presented.

The answer to the first question, why, is apparent. Since the Texas versus Johnson decision in June, we all have had a chance to examine ourselves, the reverence and respect we have for our flag, and how much we cherish this great symbol.

I do not think there is anybody who is more patriotic than anybody else in this body. Most people in this body have served in the service at some time or other. I do not think anybody would disagree that one of our most blessed freedoms under the Constitution is freedom of speech, freedom to express ideas, to dissent, to disagree. But the history of this Nation illustrates that these freedoms enshrined in the Bill of Rights are not absolute.

We are not always unconditionally free to say or do whatever we want, whenever we want, and wherever we want. This is true of the two most precious freedoms in the first amendment, free speech and freedom of religion. What one thinks and believes in his heart is absolutely protected.

But some speech is unspeakably offensive to others and is not and should not be protected by the Constitution. The Supreme Court has held that "fighting words" fall outside of the protection of the first amendment. In Chaplinsky versus New Hampshire, in 1942, the Supreme Court upheld the conviction of a Jehovah's Witness for calling a policeman a "goddamned racketeer" and a "damned fascist," even though that speech was clearly politically motivated. Generally defamatory or slanderous statements are not protected by the first amendment. A person cannot simply say or publish whatever they please about another person, without regard to the truth or falsity of the statement.

It is true, the standard is higher when the person being written about is a public official. There are times when, as a public official, I hate the New York Times versus Sullivan decision. If I am going to sue a newspaper for slandering me, I have to prove that it was done with actual malice. The fact that it is false does not give me a right to judgment against them. I have to prove that they did it with actual malice to get me. I have trouble with that sometimes.

So the Court has also held that obscenity is wholly unprotected by the free speech clause. We cannot always say whatever we want. We are not always able to speak wherever we want. The Government has the right to place restrictions on, No. 1, the time; No. 2, the place; and, No. 3, the manner of speech. For example, access to public property, which is not a public forum, such as a jailhouse, can be restricted for purposes of a political demonstration, as Justice Black said in Adderley versus Florida, in 1966. Who here is not familiar with Justice Holmes when he said one does not have the right to yell "fire" in a crowded theater.

Does anybody here believe they have the unfettered right to conduct a demonstration in a courtroom? Of course not. You do not have an absolute right to demonstrate in the galleries of the U.S. Senate, while we are trying to conduct the business of the country. No citizen has a right, an absolute right, to walk onto the Senate floor and carry out a demonstration.

The Court has consistently ruled that free speech can be limited to certain times and places. These limitations on free speech are not only permissible under the Constitution, but they make common sense. Any American, in the exercise of his or her free speech, has a right to spray paint the words "U.S., get out of Nicaragua" on the front of their homes, but they do not have the right to spray that on the Washington Monument. And the Court would not permit it under any of the first amendment guarantees.

There are some forms of conduct which are injurious to people. The Government has the authority to legislate against this conduct, notwithstanding that free speech or religion may be involved. The aims behind these limitations are among the highest and most responsible purposes of government. One, to protect the public health; two, to insure domestic tranquillity; and three, to preserve justice.

While our political and religious freedoms rest at the very core of the first amendment, there are instances when even these can be reasonably curtailed. That is especially true when the speech in question is tied to conduct. For example, if this fellow Johnson down in Dallas, TX, had that day back in 1984 just verbally assaulted the flag, there would not have been a thing in the world the Government could do about it. We could not have silenced him, unless his words caused a breach of the peace or started a riot or was calculated to do those things.

The State of Texas did not prosecute him for saying "America the red, white, and blue, we spit on you." He was not prosecuted for that. But Johnson coupled that speech with a physical act; namely, destroying the flag. Again, while the Court has held time and time again that political and religious speech enjoy the highest degree of constitutional protection, they are indeed subject to limitations where the speech is mixed with conduct, as opposed to pure speech.

Now, there are certain kinds of conduct that are simply unacceptable to society. They are not protected by the Constitution. For example, Congress can prevent the killing of an endangered species such as the bald eagle. We can prevent the pollution of our waterways; we can prevent the dumping of hazardous waste into our food chain; and we can prevent the vandalism of gravesites and the destruction of U.S. mailboxes, an evening pastime in rural America. We can do that, despite the fact that the perpetrator of those acts may be politically motivated.

Now, if the Government can prohibit these destructive acts, then why can it not prevent the desecration of the flag? Does a U.S. mailbox have more protection than the flag? In this respect, the Court's opinion really violates common sense. It seems to me that if we cannot protect the flag, we cannot protect anything. To almost any criminal act there is a potential or arguable first amendment defense. For example, could a citizen murder a declared card-carrying Communist and then use as his defense that he did it to protest the despotic policies of communism? Why, of course, he cannot do that.

Nobody today disputes the Government's ability to ban polygamy, despite a Mormon's religious claim that this practice is his God-given right and done in the free exercise of his faith. The Supreme Court, on this issue, held 100 years ago, in Davis versus Beason, that polygamy was not protected. And as the Senator from Illinois said, everybody wanted to rush out and pass a constitutional amendment banning polygamy. In the wake of the Johnson case, by letting the current law stand unamended, it is virtually unenforceable.

To fail to pass the bill before us would mean choosing dissent at the expense of honor. On the other hand, if Texas versus Johnson had been decided the other way, would we not have chosen honor at the expense of dissent? Dissent is a great political tradition. Lincoln said, "To sin by silence when they should protest makes cowards of men."

I protest. Some of my constituents unhappily protest the way I vote. But it is their constitutional right and frankly their duty to express themselves.

Is there not a way for both of these voices, honor and dissent, to ring fully and equally no matter how raucous, how loud, or how shrill? Is there not a balance between these strong competing interests? I believe this bill essentially addresses that balance.

As the committee record indicates, a number of constitutional scholars have testified that there are legal ways to prohibit flag burning. These are mainly predicated on the Johnson case's focus on the communicative nature of the Texas statute, namely, that a defendant, in order to be convicted, had to engage in conduct that "would seriously offend one of more persons likely to observe or discover his action." Obviously, a conviction for flag burning under these circumstances would silence a political message based on the subjective reactions of other people.

Mr. President, nobody is suggesting anything about how offended somebody may be. People may be listening to my speech right now and be offended. But that does not make what I am doing unconstitutional.

These constitutional opinions of the Court deserve great deference because we ought not to willy-nilly amend the Constitution every time somebody wakes up with a headache.

The statute that we are considering today, the statute that is on the books here today is a disaster. I read it again before I came over here. It is unbelievable. And the Texas statute was a disaster. Both of them were practically invitations to the decision the Supreme Court finally reached.

The statute that we are considering today bans conduct only, not speech, and the conduct is the physical act of damaging the flag.

Moreover, it requires what lawyers refer to as "scienter" or "mens rea" or intent. There must be knowledge by the defendant of what he is doing. One who accidently or inadvertently damages a flag cannot be convicted under this statute. The bill today does not ban a point of view, but only an act. And under these circumstances, since the ban is not content-based, it should not invoke the Supreme Court's strict scrutiny test under which the Government must advance a compelling interest for such a ban.

Here, since the revised statute is content-neutral or does not suppress expression, then a less stringent standard controls for judging the constitutionality of the statute.

Finally, Mr. President, and contrary to the assertion of the Senator from Utah, we are not trying to reverse a constitutional decision by a mere majority vote. We are attempting to pass a statute which will not suffer from the same constitutional objections as the Texas law struck down in Johnson.

It is a sound constitutional maxim that we should closely tailor our means to meet a desired end where freedom of expression is involved. We ought not to amend the Constitution especially when a much less drastic means is readily available. It is analogous to the doctrine of "judicial restraint." We do not want the Supreme Court to rule on constitutional issues when it does not need to. And we ought not to amend the Constitution when statutory relief is available.

We ought not to tamper with the majestic phrases of that document. To me the medicine is worse than the disease. I think we ought to give this legislation a chance.

I do not know if I will ever vote for a constitutional amendment, but I certainly do not intend to until this statute has been tested by the Supreme Court.

This is totally consistent with precedent. When other statutes passed by Congress have contained constitutional flaws—take, for example, the Gramm-Rudman-Hollings Act which the Supreme Court said was unconstitutional, or at least part of it. What did we do? They brought it back here and we changed it to meet the constitutional objection. We did not jump out there and pass a constitutional amendment. We amended that bill to make it acceptable.

And so it is with this case. The Court did not say that flag burning could never be prohibited. It said that a criminal conviction could not lie under this particular Texas statute because it was designed to prohibit political speech under the cover of a ban on flag burning. I believe the Supreme Court erred in the Texas versus Johnson decision, even though I must say the Texas statute, like the Federal statute, looked like an invitation to being declared unconstitutional.

But I have disagreed with the Supreme Court a number of times. Sometimes I felt that history proved me right. And sometimes history has proven the Court right.

While this time I believe I am right, on another day and with another statute I believe the Court will get it right. And that being the case, Mr. President, this statute is a prudent and wise step and I support it.

It is my hope that with its passage we can return to the pressing business of the Nation, to the real threats facing our country, to problems such as the monstrous deficit which ties our hands every time we turn around; to the war against drugs where Americans are getting gunned down like animals in the streets; to the protection of our environment, the pollution and desecration of which are harming the health of our citizens and our children.

With the passage of this bill I hope we can return to the problems which actually threaten our future and our children's future in a very ominous and real way.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi.

Mr. LOTT. Mr. President, as we all know, on June 21, 1989, the Supreme Court in its now infamous decision, Texas versus Johnson, invalidated a Texas flag desecration statute. This

ruling aroused the deepest possible concern and indeed even outrage in the Senate, in the Congress, and across America. And it called into question State statutes in 47 States.

Within a week, both bodies of Congress passed resolutions expressing our strong concern about this Supreme Court decision. As Members of the Senate went back to their home States, we all heard the same thing, all across America. We heard outrage. We heard the people express their concern. In fact, I am sure we saw people in tears over this decision. I did and I know most Senators did. In city after city across the State of Mississippi, veterans groups, civic groups, and other concerned individuals collected petitions with hundreds and thousands of signatures expressing their concern about this decision and calling on the Congress to take action, in fact calling on the Congress specifically to pass a constitutional amendment that would prohibit the desecration of the flag.

I assure my colleagues, as I am sure they already know, that this is an issue that will not go away. There will be another court challenge. There will be another appeal. This flag burning issue will flare up again and again. So while our constitutents now may not be as much in an uproar as they were when this decision was first handed down in June, it is a passion that is just under the surface and it will come up again. So I think it is highly appropriate that the Congress act and not just hope that this issue will go away.

The House had hearings and acted on a statute. The Senate Judiciary Committee had extensive hearings. And the result of those hearings led to this legislation that we are considering here today, S. 1338.

I have taken the time to read the language of this bill again and again, and I know, as lawyers in this body, we could argue back and forth about this word or that word. Is it strong enough? Is it too strong about expedited procedures? As a matter of fact, I feel strongly that we need expedited procedure because I do not think this bill is going to do the job.

It is an effort to do the right thing by protecting the flag from desecration. But I also fear that the courts and the Supreme Court in particular will eventually strike this down.

How do we know? We do not know. That is what our judicial system is for. That is what expedited procedures are for, not to wait for somebody to burn the flag or in fact encourage somebody to burn the flag so we can test this law that is on the books. But I fear that it will not be enough. Still I will support it because I do think it is well-meaning; it is a step in the right direction.

If it will work, fine. None of us want to amend the Constitution just for the sake of amending the Constitution. We do not like to do that. But this is an issue, I think, that if we cannot address the problem with a law, we are going to have to amend the Constitution.

So today I am going to vote for this bill and hope it will work. If it does not, I am still absolutely committed to the constitutional amendment language that has been proposed by the President and by others in the Senate and the House.

In addition, I will vote for this measure because we have been assured that this body, as well as the other body, will have an opportunity to vote on the constitutional amendment. That is absolutely essential as far as I am concerned. So today I will not attempt to act like a lawyer analyzing all the details. Just suffice it to say that I will support this bill because it does specifically say that anyone "whoever knowingly mutilates, defaces, burns, maintains on the floor or ground, or tramples upon any flag of the United States shall be fined not more than $1,000 or imprisoned for not more than 1 year, or both."

It is good language. It is a step in the right direction. And it also is evidence to the American people that we are going to act here today on this and we are going to act on a constitutional amendment. We will come up with legislation that will protect the flag, the symbol of all that is good and sacred and holy about this great country.

I yield the floor.

(Mr. KOHL assumed the chair.)

Mr. BIDEN. Mr. President, we have several more people who would like to speak on this issue, including Senator HUMPHREY, Senator METZENBAUM, Senator MCCONNELL, and several others. Senator METZENBAUM just walked off the floor.

Let me say while we are waiting for them to arrive that I think the quality of the discussion and debate—I guess we cannot call it a debate because we have not been challenging and/or reinforcing what has been said here—but the quality of the comments made by our colleagues thus far has been, I think, very significant and very straightforward.

I do think, though, that there are a few misnomers. I will take just a moment while we are waiting for those who have not spoken yet to get a chance to speak.

Mr. President, we find ourselves having it said by some that the reason for this statute is to head off a constitutional amendment. That is not the reason. That may be the result. I for one do not believe the constitutional amendment in question is sound or valid on its face. We will get a chance to debate that when we come back on October 17. So I will not take time to point out why I think that particular amendment, constitutional amendment, is so deficient.

I would point out that it is very possible, in the mind of the Senator from Delaware, to draft a constitutional amendment that does not do violence to the first amendment, that will not spawn interminable and unlimited litigation and that will set a standard that is a standard for the Nation.

Ironically, the reason we usually conclude that we should go the route of a constitutional amendment is because we want to set a national standard. We did not say to the States, for example, you determine when it is appropriate, what age it is appropriate for your constituency, your citizens, to vote in Federal elections. They are Federal elections. We said there is one standard, everyone 18 years or older can vote in a Federal election. We did not pass a law saying to the States, now the States are hereby authorized to determine at what age anyone in the United States can vote for Federal office.

Ironically, we find ourselves in the position that the very people who argue the strongest for there being a national standard to protect their flag are proposing an amendment and supporting an amendment that requires a protection based upon local community standards.

Now we have that law. We have that as the law of the land because of the Supreme Court on matters of pornography and what other people would refer to as injudiciously and the like. But here we are saying we want a national standard. So when we get into the debate that will occur and is occurring about whether or not the statute that the Senator from Delaware and others are proposing is one that is going to end up in litigation, I respectfully suggest that at the appropriate time we will point out at some length—by some length I mean a half hour or an hour—how disruptive the constitutional amendment which is being discussed as the alternative to this statute is.

Today we are in the interesting dilemma, an understandable dilemma, that we are focusing on the statute as we should. And those who do not support the statute are measuring it as against a constitutional amendment that has not been discussed, dissected and/or debated as if it is automatic that merely by passing a constitutional amendment we have rectified a situation that we are all attempting to rectify, that is protecting the flag.

The constitutional amendment merely enables States to make their individual judgments about whether or not they wish to have a law that protects the flag from desecration. Well, desecration is something that has never been defined. It is nowhere defined in the law. It is nowhere defined in the statute and therefore it is

left up to every State legislature to determine what desecration is.

In the State of Maine, desecration may be viewed as allowing the flag to be flown on the day that moose season opens. In Mississippi, it may be desecration by putting an American flag decal on the side of a hot dog vendor's machine at the Ole Miss-Alabama game. I know it sounds bizarre, but literally those things can happen.

But, more importantly, what the Senator from Delaware is worried about is by having that incredibly broad mandate left to the States and the States not having to worry about whether or not they are crossing over that line, that first amendment line, if you will, are able to do things that will maybe cause them in times to come to respond to the—how can I say it?—respond to the immediate public sentiment of the moment.

For example, I can imagine in Illinois, the Illinois legislature, when the Nazis wanted to march through Skokie, as you will recall. I know the Presiding Officer is fully aware of that dilemma and how troublesome that was to not only millions of Americans but to millions of people who find it so repugnant. And here the Nazis specifically picked Skokie because it is overwhelmingly Jewish, Jewish American. Now I can imagine the pressure being built in the Illinois State legislature saying, "The American Nazi Party cannot display the American flag; cannot fly the American flag." Well, I quite frankly personally think that would be wonderful, but it would also be a real step in the wrong direction.

To the best of my knowledge, one city in Vermont, up until last year, had the only Socialist mayor in the United States of America; an avowed Socialist, member of the Socialist Party, elected mayor.

I can picture some incident occurring in Vermont and the Vermont Legislature saying the Socialist Party at their convention cannot display the American flag.

You say "OK, BIDEN, so what? Maybe we should have laws saying the Nazis cannot display the American flag and the Socialist Party cannot display the American flag."

What is the next step? How do we move down the line? How about if a third party emerges that is legitimate that the major two parties do not like?

How about if there is a decision in the State of Delaware that we cannot display the American flag on any apparel, and a woman from Pennsylvania, having purchased a $3,000 sequined dress from a designer house in Philadelphia, is invited to the Governor's ball in Delaware? Does she have to worry when she crosses the State line if her dress has the American flag on it?

I know that sounds silly and it sounds like I am just looking for these outlandish examples. But it is real life. It is the way it will work in American politics. We will have 50 different standards in 50 different States.

The reason I bother to take this little bit of time to speak to the amendment is that this statute must be measured on its own, on all fours. Look at this statute by itself.

But, in addition to that, if we are going to compare the amendment to statute, people should understand what amendment we are comparing. Relatively speaking, there is no doubt that the constitutional amendment as proposed would, in fact, spawn years of litigation unless every State in the Union got together and decided it was going to pass one simple, straightforward amendment which mirrored the statute being proposed.

I see my friend from Ohio has come to the floor. He has been so patient. He has been on and off the floor probably for the past 4 hours or so. I will not take any more time at this moment.

But I do want my colleagues to understand that they should not measure this statute against some absolute that clearly resolves the problem. The constitutional amendment proposed does not resolve the dilemma of protecting the American flag. And there are some States which may conclude not to have any statute, such as the State of Wyoming right now, and someone would still be able to burn the flag or trample on it or say whatever they want to say about it.

We really are on a slippery slope when we start to talk about a constitutional amendment that allows individual States to set whatever standard they wish and define in any way they want what the word "desecration" means, and to be able to apply it subjectively for political reasons and for emotive reasons that may occur at the time.

I now yield the floor to my colleague from Ohio.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, I rise in opposition to this bill.

I love the flag as much as any American. I shared the scorn and outrage which Americans felt toward Gregory Johnson's cowardly act of flag burning.

But one of the things that makes this country the greatest and freest in the world, is that we protect free expression even when we hate the message and despise the messenger. Johnson's act communicated little other than some sort of infantile rage at our system of government. It was a contemptible message. But in this country, we do not jail people for expressing contemptible ideas.

I took a position early on this issue. I said that while Gregory Johnson's form of protest was detestable, the Court properly decided to protect his right to protest in that manner. I said that while flag desecration was abhorrent, Congress did not need to pass legislation to prohibit it.

I expected to be criticized for taking this position. But I am frank to say, I have not been. I think I probably received more commendation than condemnation.

The fact is that the American people are not clamoring for action on this issue. They know that respect for the flag is not under siege. That is why there is no grassroots firestorm for jailing flag burners or for amending the Constitution.

When I was home in Ohio last month, I hardly heard a thing about the flag. And I was not alone. News reports indicate that few legislators were pressed on the flag issue while home for the August recess.

The truth is that the American people understand the principles at stake here, apparently better than either Congress or the President. The most important right symbolized by the American flag is the right to differ. The Court's decision in Johnson upheld a bedrock principle of the first amendment, which is that Government may not forbid the expression of an idea simply because society finds the idea itself offensive or disagreeable.

The right to free expression is meaningless if that right only protects expression sanctioned by the majority. The depth of a nation's commitment to free speech is measured by its willingness to tolerate expression which most of its people find repellent. And the strength of a nation's unity—its sense of shared values—is measured by its capacity to tolerate expression which tries to destroy that unity. Strong nations tolerate dissenting expression. Weak nations suppress it. It is that simple.

The Court's decision in the Johnson case was grounded in these enduring principles. Rather than try to craft a legislative response to that decision, the Constitution and the flag would best be served by having Congress do nothing.

Think about the brutal repression which took place in China earlier this year. Look at the fervor with which thousands are fleeing from Eastern Europe. Those are regimes which restrict protest and suppress dissenting expression. Now we should ask ourselves this: Which is more consistent with American values—tolerating outrageous protest or punishing it?

I recognize that the bill before us is intended to protect the flag in all circumstances, rather than simply in those instances in which treatment of the flag is offensive or contemptuous. Since its purpose is content-neutral,

there is a real possibility that a majority of the Supreme Court will hold this bill to be constitutional.

But I oppose the bill because it will have the effect of forbidding expression which has been protected by the Court. I do not think we should be passing legislation which affects liberties protected by the Bill of Rights, unless there is a real and compelling need to do so. And I think it is obvious to everyone that flag desecration is not a real problem in this country.

The Court's decision in the Johnson case was courageous and unpopular. It illustrates the wisdom of allowing the Supreme Court to have the last word on the Constitution, thereby preventing the sweep of its protection from varying according to the passions of the day.

The controversy surrounding the Johnson decision illustrates the paradox of living in a nation which is both governed by majority rule and fiercely protective of individual liberties. Johnson's act was detestable and contrary to all that Americans hold dear. But the Court's decision in Johnson was laudable and fully consistent with the principles underlying the Bill of Rights.

I think that some of us are afraid to stand up for those principles. It seems that we cannot summon enough political courage to say to our constituents that protecting free speech means protecting even expression which we find to be wrong-headed, outrageous, and offensive. I think we are afraid that the American people will not understand that. I think we are afraid that our opponents in the next election will be even less understanding.

Mr. President, instead of acting out of fear, let us show a little faith. Let us have faith that the American people understand that tolerating the outrageous protest of a few kooks is the price to pay for the liberties secured by the Bill of Rights. Let us have faith that the flag is well protected by the pride and respect which millions of Americans feel whenever they see it flying.

Since the Johnson decision, we have not seen an outbreak of flag desecration, but instead a spontaneous outpouring of renewed commitment to the flag. To enact legislation to protect the flag betrays a lack of faith in our Constitution and a lack of faith in our people's commitment to the flag. Rather than pass a law, Congress should simply recognize that the flag's safety is most firmly secured by the legions of Americans who quietly, routinely, and freely decide to display it every day.

Mr. President, stop and reflect. If you believe that there is a political tidal wave that you cannot resist, you are wrong. And to my colleagues in the Senate I say the same things. If you think there is some kind of a tidal wave out there that demands that you pass some legislation in connection with the flag, you are wrong. The American people are wiser than you think. It is not really the cloth flag we love, but the country over which it waves. The true fabric of our Nation can be found in the values and liberties set forth in our Bill of Rights. This legislation would not strengthen us as a nation. It would weaken us as a model of freedom for the world.

I urge my colleagues to reject this legislation, as well as the constitutional amendment to be debated later. That would be the right decision. I am concerned that the political decision will be the one that is made rather than the right decision.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, the purpose of the legislation before us is simple and it is direct. It is to make Federal law on the destruction of the American flag conform to the requirements of the first amendment.

This bill will provide a penalty against physical abuse or destruction of the flag, for whatever purpose, It does not seek to shape or direct speech.

Its purpose is directly to correct a weakness in the prior Federal flag statute which the Supreme Court identified in the case of Texas versus Johnson earlier this summer.

The bill does not, as some have tried to claim, overturn a Supreme Court judgment by legislation. Instead it corrects the weakness a divided Court found in a similar State statute, where the penalty for vandalism was conditioned on the offensiveness of the action. This bill makes the prohibited conduct illegal, not its offensiveness or intent.

The freedom of speech clause of the first amendment to the Constitution explicitly protects the right of all Americans to speak freely. It says nothing about actions. The speech provision of the Constitution protects the right of Americans to say things, but does not create a right to do things.

The Supreme Court has both limited and expanded the first amendment's protection.

As a limitation, it has imposed restrictions on some forms of speech. In the 1919 case of Schenk versus United States, Justice Oliver Wendell Holmes wrote that:

> The character of every act depends on the circumstances in which it is done. The most stringent protection of free speech would not protect a man in falsely shouting fire in a theater and causing a panic.

Those words represented a commonsense principle of behavior that is essential to preserve a civil society with free speech. Clearly, no first amendment right would today protect a statement by an airplane passenger that he was about to explode a bomb, even if his purpose was to call attention to his political views.

The Court has expanded first amendment protection to include certain actions, even though the amendment itself specifically protects only speech. The Court has reasoned that certain actions are closely related to speech and should be regarded as a form of speech, particularly where political ideas are involved.

In those cases involving action—the Court calls it "symbolic speech" or "expressive conduct"—the Court balances the governmental interest in prohibiting the conduct against the burden placed on the individual by not permitting the conduct to occur.

In reaching that balance, reasonable people can, do, and have disagreed.

In the flag burning case itself, the Court divided 5 to 4.

In another case, a divided court ruled that homeless persons wishing to demonstrate their destitution could not sleep in the square before the White House. The Supreme Court said that sleeping was not a form of speech protected by the Constitution.

In another case, local statutes barring demonstrations within a certain distance of foreign embassies have been upheld, because they do not unduly burden speech, and they serve valuable government purposes.

In my judgment, the principle applied in those earlier cases applies to the actions in the flag case.

The protesters were not denied the right to speak. They chose to burn the flag as an addition to that right, not as a substitute when speech was impossible or endangering.

The facts in the case are not in dispute. Gregory L. Johnson, apparently leading a group of demonstrators outside the 1984 Republican Convention, poured kerosene on an American flag and set a match to it, while his group chanted: "America, the red, white and blue, we spit on you."

Those words, offensive as they are to me and the vast majority of Americans, are protected by the first amendment. To my knowledge, no one disputes or disputed their right to say those words. Nobody interfered with their right to speak freely. They were not prevented from speaking.

But the did not merely speak. They also acted. It was this action which was punished, not the speech.

Indeed, they may well have burned the flag in order to obtain the atten-

tion that their speech itself would not have garnered.

The first amendment guarantees the freedom to speak. It guarantees nobody an audience for his words.

And if these protesters' purpose was to compel attention that their words alone could not attract, there is no constitutional obligation to provide that attention.

I agree with the dissent of Justice Stevens in this case, when he said:

> The case has nothing to do with "disagreeable ideas" * * * it involves disagreeable conduct * * *

Justice Stevens is right. The five-man majority of the Court is wrong.

Justice Stevens made the point succinctly:

> Had [Johnson] chosen to spray paint * * * his message of dissatisfaction on the facade of the Lincoln Memorial, there would be no question about the power of the government to prohibit his means of expression. The prohibition would be supported by the legitimate interest in preserving the quality of an important national asset.

The flag is also a national asset, albeit admittedly an intangible one.

We need not permit acts that undermine its value for all Americans in order to avoid burdening in slight fashion the speech rights of those who seek to be heard in the face of indifference, not persecution.

Every American has the right to speak freely and to dissent from the policies of the Government or from the orthodox and accepted views of the day. It is precisely that vast freedom which makes it unnecessary to condone extreme means of dissent.

Ours is not a repressive system in which dissent is stifled or goes unheard. Ours is a system tolerant of dissent, even extreme dissent.

There is no doubt in my mind that the broad protections of the Bill of Rights are the fundamental reason why we have been able to tolerate all forms of dissent for two centuries without losing our liberties.

But liberty and license are not the same. And the freedom to speak, openly, loudly, even obnoxiously, is not limitless. None of the liberties guaranteed by the Constitution is absolute; each is balanced by a corresponding requirement that the demands of a rational society be respected and the rights of others be recognized.

There are claims that even the most minor infringement upon the right of any dissenter to act out in full his or her preferred form of dissent constitutes an impermissible attack on the very foundations of the first amendment itself.

But that absolutist view of the first amendment does not take account of the fact that the statute before us is not, unlike the law the Court struck down, a statute which goes to communicative purposes or effects.

The legislation simply bans an action, destruction, without regard to the communicative intention of the person performing the action. There is no good reason to assume, as some opponents have, that such a direct statute would necessarily trigger a "strict scrutiny" review by the Supreme Court or, indeed, by any court faced with a challenge to the law.

I believe the 4 days of hearings held by the Judiciary Committee helped elucidate the distinctions between content-neutral legislation, such as the measure before, us, and legislation that is designed to suppress opinion.

Those distinctions are real and have been upheld in other instances where expressive conduct was at stake. With that important distinction in mind, this legislation represents a full, adequate, and sufficient response to the narrowly drawn ruling in Texas versus Johnson. It deserves the support of the Senate, and it will make unnecessary constitutional amendment to accomplish the same purpose.

Mr. President, I am awaiting the arrival of the distinguished Republican leader, at which time I will have an announcement to make regarding the schedule in the Senate for this week and next.

Pending the arrival of the Republican leader, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, over the past several days I have consulted on several occasions with the distinguished Republican leader, with virtually every Democratic Senator, and I have also talked to many Republican Senators—I know the distinguished Republican leader has discussed it with all of the Republican Members of the Senate—to consider the course of action the Senate should follow with respect to the schedule for the remainder of this week and for next week.

Several months ago we announced an intention to have the Senate in recess next week. As every Senator knows, these schedules must be announced months and, in some cases, a year in advance to permit Senators to plan their travel schedules accordingly, including their visits to their constituents in their home States.

However, the events of recent weeks and the possibility of an automatic sequester under the Gramm-Rudman-Hollings law occurring on or shortly after October 15 now compel me to announce that the recess by the Senate previously scheduled for next week will be canceled. The Senate will not be recessed next week. The Senate will be in session next week, as we attempt to meet the requirements of the law and to prevent the automatic sequester from occurring on or shortly after October 15.

Mr. President, before I describe the proposed schedule for next week, I think it important to describe the schedule for the remainder of this week, because that will be a decisive factor in what occurs next week.

We now have before us pending flag burning legislation, which it is my hope that we will be able to complete in the near future today.

We then must complete action on the drug legislation, which was begun yesterday and which I understand from the managers most of the amendments have been dealt with, with a few more remaining, and hopefully, that will be able to be completed in a relatively short period of time.

We then are required, by a prior agreement, to take up the catastrophic health insurance bill prior to reconciliation. Therefore, it is my intention, if we can complete the drug legislation either tonight or tomorrow morning, to go to the catastrophic health bill, which Senator McCain will initiate with legislation that he has introduced or will introduce.

We then, hopefully by Friday, will be able to begin action on the reconciliation bill, which is, of course, the principal matter to which we must address ourselves in connection with the budget and the pending sequester. I have discussed with the distinguished Republican leader how we might deal with the reconciliation bill in a manner that is most expeditious and fair to all concerned, but I think it is clear that it will take at least Friday and Saturday to complete action on the reconciliation bill. If necessary, we will be in session on Sunday to complete action on the reconciliation bill.

There is a further factor to consider, and that is the previous cloture vote on the Eastern Airlines matter, and it is my hope that we are going to be able to resolve that matter in a manner acceptable to all concerned. We are not at that stage now. Discussions, I understand, are underway seeking to achieve that objective.

If—and I emphasize this to my colleagues—action on the reconciliation bill is completed prior to this coming Sunday evening—I want to repeat that: If action on the reconciliation bill in the Senate is completed prior to this Sunday evening, that the Senate will not be in session on Monday in observance of the religious holiday and Columbus Day and will not be in session on Tuesday. The Senate would be in session on Wednesday. There would

be no rollcall votes on that day. The Senate will then be in session on Thursday and possibly on Friday with rollcall votes possible on those days.

Mr. President, the principal purpose for the Senate to be in session next week will be to encourage progress on what I hope will then be the conference on reconciliation. I have, this afternoon, met with most of the Democratic chairmen of the respective Senate committees. They are unanimous in their support for the decision to cancel the recess next week. Each of them is specifically and firmly committed to be here next week, to proceed with the conference, which will of necessity involve a large number of Senators on both sides, so that the conferees may proceed with the least amount of interruption and unimpeded during next week, beginning on Tuesday and continuing through the week. It would be my intention that we would have the least amount of disruption of their proceedings while they are going on.

This involves a great deal of inconvenience to a great many Senators, and a requisite amount of effort on the part of a large number of Senators, particularly those involved in the conference. Although it will be extremely difficult, and many say not possible, it is still my hope that we can complete action on the conference and act on a conference report prior to the deadline on October 16. Since October 15 falls on a Sunday, the date for the issuance of the final sequester order is Monday, October 16.

Whatever possibility exists of that occurring, however slim or large it may be in the eyes of each individual Senator, it will only be possible if all Senators concerned with the conference are prepared to be here and to devote their full time and effort throughout the entire week to that conference.

So, Mr. President, I have discussed this with the distinguished Republican leader, and he has indicated that he will talk with the ranking members of these committees to encourage their participation as well.

This is a difficult circumstance for all concerned. I apologize to each Senator for the inconvenience to which he or she may be subject as a result of this. Each of us, myself included, and I know the distinguished Republican leader, is going to have to cancel plans that have been made weeks, and in some cases, months in advance. But our first and foremost responsibility is our public responsibility, and nothing we do in the next 10 days is going to be more important than completing action on the reconciliation bill, and hopefully preventing the automatic sequester that will occur if we do not do so.

I want to especially thank the distinguished Republican leader for his cooperation in this regard. We have talked on many occasions about this—most recently earlier this afternoon—and he has been extremely helpful in providing me with advice on how best to handle this. There is no way that we can accommodate the interests of every Senator, because those interests are sharply in conflict. This has been done without regard to party affiliation—rather, in an attempt to accomplish our public objective and meet our public responsibilities in a way that provides the least inconvenience to the largest number of Senators.

Accordingly, Mr. President, I note the presence of the distinguished Republican leader, and invite his comment or suggestions in this regard.

Mr. DOLE. I thank the majority leader. I think he has correctly stated it. Recesses are always subject to change. I think if the people look at the date on the calendar and the deadlines we have to meet, there is a possibility of meeting those deadlines, but I think it is fair to say it is certain that we are going to have a Saturday session.

I alert all Members on both sides that we are certainly going to have a Saturday session. It will be the responsibility of ranking Republicans and Democrats to be here next week for conferences. That goes with the leadership and the territory of being ranking Republican and the chairman of the committee. So I will convey that message to Republicans on this side who rank on each of the various committees. I think it was indicated earlier that the last time there was a reconciliation, 58 of the 100 Senators were conferees. I guess they wrestled with about 245 House Members. But in any event it is over half the Senate. So that would keep everyone pretty well occupied starting probably next Tuesday or Wednesday at the latest. I think so.

Everyone has been notified. We alerted Senators on this side through the hotline to make this announcement.

So I am again reflecting what I believe was clearly stated by the majority leader: A Saturday session, possibly a Sunday session this week, out Monday and Tuesday, in on Wednesday, but no votes, and possibly votes on Thursday and Friday. And all this depends on completing action on reconciliation.

I think that is the big if because there are some impediments. There is the Eastern matter. The flag bill will probably be disposed of today, hopefully, and then we have the remaining amendments on the drug bill. Then it is back to the Eastern matter where cloture has been invoked and it takes unimous consent to go to anything else until that is disposed of, including reconciliation and including conference reports.

As part of that equation, and I am not trying to frustrate the majority leader, it is whether or not we are going to be able to get a vote on the President's capital gains package. That is part of the factor, and I am meeting with, as I indicated earlier today, Mr. Sununu, Mr. Brady, and Mr. Darman a little later on today in my office. So we hope we can resolve any question there.

But even if all that works out, it is going to take the cooperation of every Member. We are going to need consensus to do some of these things. And I will be visiting with the majority leader and trying to be helpful where I can.

As he knows, I think at least everyone knows now what to expect and if they have commitments they have to keep they should. Missing votes is not the worst thing if you are keeping commitments that you made with people in your State. That is very important, too.

Mr. MITCHELL. Mr. President, I thank the distinguished Republican leader.

So there can be no possible misunderstanding on the part of any Senator at the risk of redundancy, I repeat: The schedule I have outlined for next week is wholly dependent upon completion of Senate action on the reconciliation bill this week prior to Sunday evening. If for any reason the Senate does not complete action on the reconciliation bill by Sunday evening, then the Senate will be back in session next Tuesday working on the reconciliation bill until we do complete action on it. We will just stay right here until we finish it.

There are numerous obstacles, and as the distinguished Republican leader said, it requires a great deal of restraint and cooperation on the part of all Senators. Everyone knows it is not very difficult for a single Senator to obstruct the proceedings of the Senate.

So with respect to next week, I have outlined the schedule but I emphasize the condition upon which it is based.

Many years ago when I was starting to try cases as a lawyer an elderly practitioner who tried many cases told me when you get before a jury do three things: Tell them what you are going to say, say it, and then tell them what you just said.

I have attempted to follow that advice today, having now repeated for the third time the condition upon which the schedule for next week is based.

One way we could obviously expedite that is to move forward on this legislation and I look forward to that. I am pleased to hear the distinguished Republican leader indicate he believes we will be able to complete that sometime today.

I thank the distinguished Republican leader very much for his advice and cooperation in this matter and I thank my colleagues for their patience and understanding in this situation.

Mr. DOLE. I am just reminded I failed to mention another roadblock or barrier is the catastrophic measure but the majority leader mentioned that.

Mr. MITCHELL. I did.

Mr. DOLE. We have that to be disposed of.

But things can move pretty quickly once the Senate decides to move, at least I heard it can.

Mr. MITCHELL. Mr. President, I yield the floor, and I notice the manager here present.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CONRAD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

Mr. GRAMM. Mr. President, I intend to vote for the pending bill which makes it illegal to desecrate the American flag.

My views on the bill are very similar to those expressed earlier today by Senator SHELBY from Alabama.

I am voting for this bill because I support the basic objective of the bill. I also intend to vote for the constitutional amendment which will be offered later under the unanimous-consent agreement that has brought this bill before us now, because I do not believe this bill will be sustained when it is taken to court. Given the previous ruling by the Supreme Court, I believe that as desecration of the flag can be portrayed in the context of being a political expression, the Court is going to strike down the bill that seeks to protect the flag.

I cannot imagine a situation in which someone would desecrate the American flag other than to make a political statement about hating America and its great institutions. So I intend to vote for this bill.

I applaud those who will include by amendment, the provision which will provide for expedited consideration of the bill by the Supreme Court. I hope the Supreme Court will uphold the bill. If it does, then should the amendment pass and be sent to the States, it will probably never be ratified.

On the other hand, I think it is important that we move along a dual track so that if the Court does strike down the bill we have an amendment that can go to the States, that can be ratified and will protect the American flag in the process.

There has been a lot of rhetoric on this issue already today. Let me simply say, I believe that the flag is the symbol of the Nation. The other day I was in my State at a school system outside Longview, attending a program on the 175th anniversary of the Constitution.

A fourth grader had written an essay about why we ought to protect the flag, and although I lack that fourth grader's simplicity and eloquence, I will try to paraphrase it, as there is no sense in trying to improve on something that is already good. He wrote:

> We don't let people kill bald eagles. We protect them. We don't let people paint on the Washington Monument. We protect it. Why don't we protect the American flag?

I think that is well put, and it is a position that I hold. This is a great free country. If people have an alternative view they can express it. But I believe the vast majority of Americans believe that the flag as a symbol of the Nation ought to be protected.

I am going to vote for this bill. I hope it works. If it does not work we are going to get the constitutional amendment. I think we ought to move on a dual track.

Although I am not a lawyer, it is my humble opinion that the bill will not stand the constitutional test. So we will need the amendment.

I intend to vote for the bill today. I intend to vote for the amendment when it comes up. If the bill is sustained before the Supreme Court then I think the amendment will be largely superfluous. If the bill is not sustained, then the amendment will go to the States and I believe it will be ratified.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I would like to propound a parliamentary inquiry to the Chair. I would be interested to ask the Chair if there is precedent for amending a statute such as this with a constitutional amendment?

The PRESIDING OFFICER. The Chair will consult the Parliamentarian.

Mr. MITCHELL. Mr. President, while the Presiding Officer is consulting with the Parliamentarian, would the Senator from Idaho permit me to comment in response to the inquiry which he made?

Mr. SYMMS. Yes.

Mr. MITCHELL. I would say to my friend and colleague that whatever the answer of the Parliamentarian, on July 14 of this year, an order was entered into, pursuant to a unanimous-consent agreement, which specified when the statute would be taken up and when the amendment would be taken up. That is published in the Calendar of Business of today, Wednesday, October 4, 1989, at the top of page 2, which sets forth of the agreement which the Senate entered into following the lengthy discussions between the distinguished Republican leader and myself. Under that agreement, the Senate will take up the constitutional amendment on October 16, 1989.

I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. Is the Senator from Idaho satisfied by the observation of the majority leader?

Mr. SYMMS. Well, yes. The Senator from Idaho has no intention, I might say to my colleagues and the majority leader, to offer an amendment. I was just curious. I was interested in the debate this afternoon. I have been preoccupied with other things. But in listening to some of my colleagues debate, it was just sincerely a question for this Senator's education if there was precedent for amending the Constitution on legislation like this if it was a relevant subject. That was the question.

I do not intend to do it. I understand we have a unanimous-consent agreement so that it may be irrelevant. But if the Parliamentarian has the answer, I would be happy to hear what it is. If not, I can seek that information from the Parliamentarian at a later time.

The PRESIDING OFFICER. At this point, the Chair does not have a definitive answer.

Mr. SYMMS. I withdraw my parliamentary inquiry.

Mr. DOMENICI. Mr. President, parliamentary inquiry.

What is the position of the Senate with reference to the Senator from New Mexico making a statement on a matter that is not before the Senate and sending a bill to the desk to be referred to a committee?

The PRESIDING OFFICER. The Senator would need to seek consent to do that. The pending business is H.R. 2978.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I may have 1 minute to make a statement regarding a bill and send it to the desk and ask for its referral as if in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 1725 are located in today's RECORD under

"Statements on Introduced Bills and Joint Resolutions.")

MINORITY SMALL BUSINESS PERSON OF THE YEAR

Mr. DOMENICI. Mr. President, today is a very proud day for New Mexico and the United States. Teresa McBride, president of McBride Micro Source in Albuquerque, NM, is the "National Minority Small Business Person of the Year."

Teresa McBride, at age 25, is a young and vibrant New Mexico business leader. Her accomplishments in the world of high-technology computers are outstanding. She started her business in 1985, at the age of 21 with one full-time employee and $5,000. This year, her annual sales exceed $8 million, and she employs 22 full-time staff.

As a Hispanic woman, Teresa also represents an important emerging minority in the United States. Hispanic employment by the year 2000 is expected to increase by almost 75 percent—far more than for any other ethnic group.

I have been working for many years to help create spin-off businesses from the large scientific laboratories in New Mexico. Teresa's story is an affirmation of the business potential of that strategy. Her success is clearly linked to her technological creativity and competence.

Teresa McBride built her computer business with her own talent, creativity, and perserverance. She is an inspiration to all business owners, young people, and potential entrepreneurs. She is an affirmation that our free enterprise system can generate new enterprises in a very competitive field.

In President Bush's proclamation for "Minority Enterprise Development Week, 1989," he recognizes the importance of minority business enterprise to our national economy.

President Bush says:

Minority business men and women have helped to expand our economy through innovation, hard work, and by taking advantage of the opportunities available in our free enterprise system. These enterprises have become an indispensable force in our economy, and they will continue to play a key role in our efforts to expand America's share of world markets.

The President also pledges to "continue to promote quality education and effective job training" and to "foster an appreciation for individual initiative and private enterprise among young people."

Today, President Bush himself presented this award to Teresa McBride at the White House. In so doing, he is affirmed his commitment to the important role of 800,000 minority businesses in America.

I agree with President Bush about the fostering an appreciation of private enterprise among our young people. Teresa McBride is clearly the best choice for this award. Her accomplishments will touch many potential young entrepreneurs as word of her award is made public. I believe her story will encourage many more young people to pursue their business dreams.

Mr. President, Teresa McBride was selected by the Small Business Administration [SBA] for this national award from among local winners in the 50 States.

I am very proud of my good friend Teresa McBride.

I call the attention of my colleagues to her outstanding business accomplishments. The U.S. Senate can be proud of this outstanding young American our "National Minority Small Business Person of the Year."

FLAG PROTECTION ACT OF 1989

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. DOMENICI. I do not believe I did yield the floor. I have a brief statement on the flag and another more lengthy matter, so I will be pleased to yield.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I have no objection to the Senator from New Mexico speaking on the flag, but I think we can begin to move a few of these things. There is what in essence ends up being almost a technical amendment, rectifying the situation with regard to expedited procedure.

AMENDMENT NO. 949

(Purpose: To clarify the conditions for expedited review of constitutional issues)

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislature clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for himself and Mr. THURMOND, proposes an amendment numbered 949.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, strike line 17 through page 3, line 11, and insert the following:

"(d)(1) An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order issued by a United States district court ruling upon the constitutionality of subsection (a).

"(2) The Supreme Court shall, if it has not previously ruled on the question, accent jurisdiction over the appeal and advance on the docket and expedite to the greatest extent possible.

Mr. BIDEN. Mr. President, I supplied this previously this morning. One of the provisions of the bill before us provides for an expedited review in the Supreme Court on the constitutionality of this statute and I am pleased that this provision was added. But, unfortunately, after consultation with a number of experts in the field and in consultation with the ranking member among our own legislative counsel, I believe it would be beneficial to clarify the wording of the first portion of the expedited review provision which is section (D)(1) of the House bill.

So, Mr. President, without going into a lot of detail let me say it does this. The amendment modifies the remaining two sections on expedition in the House bill so they conform with the changes that we wish to make. Here is what the change is.

Right now, as the bill is written, there is an expedited review calling for the matter to go essentially directly to the Supreme Court of the United States of America. We believe that is probably not constitutional.

So, what we are doing is, as a result of this amendment, ending up with an expedited review provision, very similar to what existed in the Gramm-Rudman expedited review, what existed in Buckley versus Valeo, what existed in a number of other pieces of legislation which we have already passed in the past and which have been held to be constitutional.

This is a straightforward way of providing expedited review in any case in which a district court rules on the question of the constitutionality of this section.

Mr. THURMOND. Mr. President, we think this amendment improves the bill and we are pleased to agree to it.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. SYMMS. Mr. President, I wanted to ask a question of the Senator from Delaware, and the distinguished former President pro tempore.

It is on the general bill. This amendment, of course, would be part of that.

My question is, Why was the word "defile" taken out of the bill? Obviously the committee must have had some reason. I would say, as a preface to this, that "deface" which the Senator has in the language of the bill, "to destroy or mar the face of, looks of, to disfigure"—and then in Webster's, defile is "influenced by foul and by file to foul, to trample, crush, to make filthy, ravish, pollute, bring dishonor on, as a person's reputation."

I thought the purpose of this bill was to stop people from the idea of dishonoring the flag. I was wondering why was that taken out?

Mr. BIDEN. Mr. President, if I can respond, the reason why "defile" was taken out is because it is not clearly definable. The concern was it would be

viewed as requiring or allowing or dealing with communicative impact.

The problem with the Texas statute was the Court said, if we are attempting to impact upon an idea that is being communicated by the person taking a particular action, then we cannot pass a law like that. We cannot do that because that then goes straight to the first amendment. Therefore, all those words and notions which would in fact lead a court to be able to make the argument that we were going at the communication as opposed to simply protecting the flag period, in and of itself—we took out.

Mr. SYMMS. If I can ask the chairman a frank question, and I also would be happy to have a response from the distinguished senior Senator from South Carolina on this also. The current statute, if I understand it correctly, says "whoever knowingly casts contempt upon any flag of the United States by publicly mutilating, defacing, defiling, burning, or trampling upon shall be fined," et cetera.

"Whoever knowingly casts contempt." The Court ruled that someone could cast contempt; is that correct?

Mr. BIDEN. The Court ruled that they could.

Mr. SYMMS. And that is why we are here today, to try to correct that?

Mr. BIDEN. The Court ruled that the guilt or innocence of a person could not be judged on what impact that person's action and words had upon an observer; or had upon a notion he was communicating to a third party.

So we could pass a law and say: You simply cannot burn the flag. Period. Boom. That is OK.

But we cannot stand up and say: You cannot burn a flag if it casts contempt, because casting contempt is in the eye of the beholder. Someone out there has to make a judgment. "That action is contemptuous in my mind. Therefore, you should not do it."

The Court said we cannot do that. We cannot limit expression because another individual out there will not like what we are expressing. But we can, de facto say: You cannot burn that flag. Period.

But we cannot make the gravamen of the crime the idea we are communicating when that idea rests upon and is determined by the observer.

For example, if I took a flag and said all kinds of horrible things about it and destroyed it, and there was no third party to see it, no one in the room, then under the Texas law or under Federal statute, there is no offense. I have not committed an offense because it requires a third party to say: "He cast a contempt on that flag; that is what you just did," or "you brought disgrace on the flag," or you did whatever on the flag, because then the whole idea is, the Court says, the crime rests upon an idea being communicated from one person to another person. If you are trying to deal with that, it says, now you are in the first amendment area, you cannot deal with that any more than with my saying I can walk out on the steps any say we should bring this Government down, or I think the President is a bad guy, or all the Senators are a bunch of bums.

Mr. SYMMS. Just do not bring that one up for a vote.

Mr. BIDEN. I think the Senator is probably right. I hope that answers the question. That is what the Court said. What this amendment is designed to do is avoid first amendment implications and say it is national policy, once this is passed, that you cannot burn that flag, you cannot trample on it, you cannot do things to it that, in fact, mutilate that flag. If you do, it is against the law, period.

Mr. SYMMS. I thank the distinguished chairman of the committee. Let me just read this and, as a nonlawyer, ask the Senator one more question. Quoting from the bill, page 2, line 1:

> Whoever knowingly mutilates, defaces, burns, or tramples upon any flag of the United States shall be fined under this title. . . .

Et cetera. Why would it not strengthen this bill if you had "whoever knowingly mutilates, defaces, defiles, burns, or tramples upon"? I would think you would have a stronger case.

Mr. BIDEN. I understand what the Senator is saying. The reason why we would not is that defile raises a definitional question: What constitutes defiling the flag?

Mr. SYMMS. What are we here for?

Mr. BIDEN. What we are here for is to prevent that flag from being physically destroyed. We are not here to prevent someone from holding onto that flag and saying, "Red, white, and blue, I spit on you."

Mr. SYMMS. If I can ask a further question, if a person had to burn a flag to keep from freezing to death, surely they would not be prosecuted under the statute. But if they dishonor the flag, is that not a different question? I go back to Webster's. Deface says absolutely nothing about dishonor, I say to my colleague; but defile says "to bring dishonor on as on a person's reputation." Is that not what this issue is all about?

Mr. BIDEN. I say to my friend, as he knows, what we are not talking about here, what we are not attempting to rectify is the notion of dishonor, because dishonor is a judgmental call. For example, I think it is dishonoring the flag that the Aryan Nation carries it. I view that as repugnant and dishonoring that flag and everything it stands for. When those folks who call themselves part of the Aryan Nation, or when the Ku Klux Klan carries that flag, or when the American Nazi Party carries that flag, I think it dishonors the flag.

In my view, that is the most repugnant thing that can happen. That is worse to me than having that idiot Johnson burn the flag; to think that the Nazis could carry that flag, implying that anything they stood for was embodied in that flag. That dishonors it.

But that is a judgment call made by me. That is subjective. The Court says when you are being subjective, when you are imposing a penalty that requires a subjective judgment then, in fact, what you are doing is impacting on communication. It is communicative in its nature.

So the way to deal with that, the way to protect that flag is to not use words like dishonor, not use words like disgrace, just be real simple and straightforward. Say, if you burn that sucker, you go to jail. If you put it on the floor and you walk on it, you go to jail. If you mutilate that flag, you go to jail.

Mr. SYMMS. What if you burn it to keep from freezing to death?

Mr. BIDEN. It would be treated the same way as if you shoot someone in self-defense. There is a law that says you cannot shoot folks. It would be a defense to raise as to why you did what you did. That would be defensible. The same way if I walked up and shot somebody, the question of my defense would be I shot them because they were going to shoot me.

There is a law that says you cannot shoot people, but there is a law that says you can explain why you shot somebody. If you use that flag to burn it to keep warm, it is the same way where we have had cases in our courts where people have actually engaged in cannibalism to live. There are all kinds of strange phenomena.

Mr. SYMMS. What if you soil the flag?

Mr. BIDEN. If you soil the flag, if that constitutes mutilation, that is against the law as it appears in this statute, and that would be one that would find someone guilty because you can objectively determine. You can pick up the flag and a judge or jury in court can look at the flag and say: "Is this thing mutilated? Have you done damage to this physical property of the flag?"

And they say yes, as opposed to saying, well, was someone offended by what was done?

Mr. SYMMS. Does soiling then constitute mutilation?

Mr. BIDEN. Yes, soiling can constitute mutilation. For example, if you soil the flag in the sense that if you are walking along and you accidentally drag the flag, it hits the ground and it is dirty at one end, that is one thing. If you come along and you take that

flag, you rub it in dirt, use a Brillo pad on it, you do things that end up defacing it so it is not recognizable as a flag, then, in fact, it would fall within the statute.

Mr. SYMMS. I thank the distinguished chairman. Far be it for me, as a nonattorney, get involved in a nitpicking argument about the words you have chosen here.

But it just appears to this Senator that this bill the committee has brought forth would be a better bill if you had the word defile in it, because then you would have covered all those bases.

I thank the chairman.

I would like to make an inquiry, if I could, Mr. President, of the distinguished Senator from South Carolina if he concurs with everything the chairman says, or if he agrees defile would be a worthy word to try to add to this legislation, or was this already debated in committee? Maybe I should ask that.

Mr. THURMOND. Mr. President, this particular bill has not been to committee. It is a House bill. The Senate bill, of course, is here, but they are bringing up the House bill.

According to the dictionary, the word defile means tread underfoot, insult, to make something unclean, to corrupt, to profane or sully, and so forth. I think the chairman has explained it fully and the reasons why it was not put in there.

Personally, I have no objection to putting defile in there. On the other hand, some people feel it might raise some question as to the constitutionality of it, and I believe that is the reason it was left out; is that correct?

Mr. BIDEN. That is correct. If the Senator will yield for just a moment, all of the descriptive words defining "defile" are accurate, one of which was just mentioned—profane. Defile can mean profane. Profane is a communicative word. It rests upon the communicative impact, unlike deface, which means, according to Webster's Dictionary, disfigure. It goes to the physical treatment of the flag as opposed to the communicative impact. You profane something. I can stand here, never touch the flag, never do anything to physically hurt the flag, and I can profane that flag. If I do that, it is clearly in conflict with my first amendment right if the law says I cannot profane the flag.

I yield back to my colleague. But the short answer to his short question is, yes, that is the reason why we would rather not have it, and believe that if we included "defile" in the statute, it would yield it to be unconstitutional.

Mr. SYMMS. Mr. President, I yield the floor. I thank the Senators.

Mr. BIDEN. Mr. President, what is the matter before the body now?

The PRESIDING OFFICER. The question is on agreeing to the pending amendment. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 949) was agreed to.

Mr. BIDEN. I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I rise today to express some of my thoughts on an issue that is of great concern to many Americans. On June 21, 1989, the Supreme Court ruled in Texas versus Johnson that it was legal to burn the American flag. Since that time, I have heard from many of my constituents, and other Americans as well, who were extremely upset about the Supreme Court's ruling.

I too am upset about the Supreme Court ruling, Mr. President. I have little respect for those who devalue the flag by burning it, walking on it, or in any other way desecrating it. The Court decision was wrong, and that is why earlier this summer I stood with a number of my colleagues in the Senate to express my disapproval of the Supreme Court's decision.

Mr. President, I feel that we must protect the right of every American citizen to speak his or her mind, no matter how offensive their ideas may be. Freedom of speech is a right that the Constitution grants to every American, and our Constitution has preserved the vitality of our Nation for over 200 years.

But, clearly there is a difference between speaking one's mind and desecrating the American flag. The act of desecrating the American flag goes beyond merely expressing a point of view. It is a violent act against the symbol of our Nation. The Supreme Court erred in equating free speech with the desecration of the American flag. Its decision is gravely offensive to countless Americans, particularly those who have carried the American flag into battle to protect our Nation.

Mr. President, this error needs to be corrected. While I think that the foolproof and effective way to fix this error is by a constitutional amendment, some have expressed their feeling that it can be corrected by statute. Either way, Mr. President, this is an issue that must be addressed.

The bill we are considering would remove the provisions in the Federal law against flag-burning that are similar to the provisions of the Texas law the Supreme Court found unconstitutional. It makes all burning, mutilation, and defacing of the American flag illegal, regardless of motives or political purposes of the person who burns, mutilates, or defaces the flag.

The American flag and all it represents deserves the protection of our laws, and I rise in support of this bill to prohibit flag burning because of the necessity to correct the flawed decision of the Supreme Court. I hope that its authors are correct and it solves the problems with the Federal flag-burning law.

It may not, though. There is a very serious question about whether the bill we are now considering will pass constitutional muster. That is why I will also vote for a constitutional amendment to protect the integrity of our Nation and its oldest symbol, the American flag.

Mr. President, I am obviously in the same position as almost all Senators. We want to stop desecration of the American flag. I am one who thought it would be very easy for the U.S. Supreme Court to have ruled otherwise. I am sorry they did not. They made a mistake. So I think we ought to correct it.

Many have made this effort to correct the Supreme Court's mistake a monumental episode in constitutional law. I do not think it is at all. Regardless, we have chosen to proceed first with a statute rather than a consititutional amendment. I compliment the distinguished Senators for bringing it to the floor.

Nonetheless, I am of the opinion that a constitutional amendment can be drafted such that it will not infringe on the constitutional rights that we all hold so sacred, and I hope we will so proceed because I think the overwhelming majority of the American people, in their good common sense, expect we can do such, and I think we can.

We ought to pass the bill that is before us and go to conference, if such is necessary, and get it done quickly. So I will join with what I imagine will be an overwhelming number of Senators, even those who want the constitutional amendment, in voting "aye" later on this evening.

RECONCILIATION

Mr. DOMENICI. Mr. President, as the Senate knows, a new fiscal year began last Sunday. Much to the disappointment of this Senator, the expectations earlier in this year of a quick budget year have wilted away like flowers in the autumn. I am only hopeful that some of the attitudes which existed 7 or 8 months ago between Democrats and Republicans in both Houses and the President in an effort to proceed with a multiyear budget deficit package can be revived. But I note that this disappointment is not only felt by this Senator but by others on the Hill.

Recently, some of my colleagues relieved their frustration by blaming the President for our congressional failures. I am not one who shies away

from criticizing Presidential policy when I think it appropriate; I have done my share of that, but truly, Mr. President, if the biblical admonition that he who is without sin, let him cast the first stone ever applied, it now applies. Normally, I would not waste the Senate's time to respond to what I perceive to be unnecessary and false charges, but I choose to do it in a very brief way to set the record straight, at least as I see it.

I do not believe the President of the United States is responsible for our waiting to do the remainder of the appropriations conferences when the year is completed and we are operating under a continuing resolution. I do not believe the President is responsible for having our distinguished majority leader and minority leader come to the floor just 20 minutes ago and talk about completing a reconciliation bill by Saturday night or Sunday at the latest. A reconciliation bill means technical things, but in the sense of this budget, if done properly, it is supposed to carry out the will of Congress and save some money and raise some revenues to meet the target. That is what it is supposed to do. But obviously we are still here and we can pass that bill. The House has not yet passed theirs.

In this Senator's opinion, President Bush does not do everything right, and certainly we can criticize him, but I do not think he is to blame for us not having our work done on time.

Let me remind everyone the President sent Congress a revision of President Reagan's budget on February 9, 1 month earlier than usual for any new President. We asked him to do that. Barely in office, they sent the revisions to Congress. They did it whether or not we liked it. The Congress examined his proposal for a couple of weeks. We then entered into the so-called budget summit for this following 6 weeks.

It is now history. For the first time, the executive branch and bicameral representatives, House and Senate, Democrat and Republican, met, and they agreed, on April 14.

Shortly thereafter, the Budget Committees began to work on this 1990 resolution, and the conference on the budget resolution was completed in record time, by May 15, the date by which the House is supposed to begin appropriations bills. That was done in a timely manner by both bodies.

The budget resolution set a date of July 15 for the committees of the House and Senate to submit their recommendations for this reconciliation package. The instructions were in that budget resolution of May 15. That is when we began to slow down. I am not laying blame on any committee chairman. Nonetheless, I do not believe it is the President's fault we did not get our work done on time. The Senate did not finish their 13 appropriations bills on time. I understand that some would like to blame the President for that. Frankly, we were on our way. The House had finished theirs.

What happened? I hear some say the President kind of threw a monkey wrench in that because he sent up a package on his drug proposals, and that that was very late.

Mr. President, we ordered him to do it on that date. The 26th day of last month, when we asked him to send it to us, was in our law. He sent up a small budget change to accomplish a portion of his proposal. We could have done it however we wanted, and I am not critical again of the Senate, but nonetheless we chose to get into what turned out to be a rather reasonable approach to a different package on drugs. We did that. The House had already finished all of their appropriations bills.

So, Mr. President, it seems to me we are in a real bind because the budget year is already over.

We are starting a new one. We have not yet completed our appropriations bills. I explained that. I cast no stones. If we get those done in the next 8 or 10 days and they get signed, it is not the end of the world. Nonetheless they have an impact on the budget or conversely they have an impact on how much we sequester if indeed we send it to him now. They probably would cause more of a sequester. So we are in a very strained position.

I say nonetheless to my fellow Senators, and I do not think I am exaggerating, in looking at the two reconciliation bills, and I have just explained what they are, I say to the distinguished majority leader and the minority leader in all deference, we probably will not vote on a bill in the name of budget savings and in the name of meeting targets for Gramm-Rudman-Hollings if we stay on the path that is in both those two reconciliation bills the House almost finished. The Senate is in a state of chaos. We do not even have the bills yet. But let us assume we had them.

If we stay on that path and vote for them, that vote on final passage of that reconciliation bill or the conference will be as important a policy vote as you will ever make; not because it is going to meet the budget target. It might do that, but, Mr. President, fellow Senators, there is more law change, tax law change, pension law change, all kinds of laws are changed, altered, and amended.

Speak of the Tax Code and the sanctity of the tax reform package. There are enough changes in the tax law in the Senate almost reported bill—not yet reported but almost—to cause anyone to say "there is no sanctity to the notion that we had a reform bill and we will leave it alone." I have not done the numbers yet but I think to save $9 or $10 billion over 5 years, to raise that much in new revenue we change tax laws to the extent of $38 billion for a net of $9 billion. You do not change $37 or $38 billion worth of tax laws to net out 9 or 10 in increased revenues without having changed tax laws pretty much.

That is just the beginning. There is the Medicare, there is the Medicaid, there is dial-a-porn, the fairness doctrine, and there is pension reform.

So frankly, I do not believe all that is the President's fault. I do not know whose fault it is. But those who think we just kind of hurry our way through this little last episode in the budget process know this is no way to do business. This is pretty risky stuff; to change laws with such an impact in the last hours of last night, and let me say on the basis of what I have read—I am not on that committee. I am not suggesting that good policy cannot be effected expeditiously. Sometimes you make better policy in 3 hours on the last night than you make in 6 months. But I submit we are really making some giant changes in both tax law, in entitlement laws, all in the name of meeting a budget target.

So it is pretty serious. Again, I repeat I do not believe the President of the United States had very much to do with that. I want to read just one paragraph, and I will close.

In the summit that we held with reference to tax measures and the Congress, this was the bicameral leadership agreement with the President of the United States:

> The specific measures composing governmental receipts—the figure—will be determined through the regular legislative and constitutional process.

Continuing on they said very specifically:

> Measures composing government receipts will be determined through the regular legislative processes.

It proceeded—

> Agreements reached between administration and congressional tax writing committees on revenue legislation reconciled pursuant to this agreement will be advanced legislatively when supported by the President of the United States.

No, I do not think it should surprise anyone that the regular legislative process envisioned the President of the United States trying to get his capital gains tax. The thing is nobody thought he would. This is what happened. But he did. Whether it is his proposal or a capital gains proposal, nonetheless, there were at least 9 weeks before these votes. Some would say 12 when committees did not do their work, did not take their votes and did not bring the bill to the floor of the Senate and the House.

I hope they understand, those who had the challenge of putting this together, the Senator from New Mexico

is not critical of them. The policy decisions, and the political decisions were tough. But neither do I think we should say the President caused this logjam and this dilemma.

I want to close by suggesting that nothing would please me more than if we could finish this work by Sunday and have the conference alluded to by the distinguished majority leader next week. But I do not believe that is going to work. I will try. I will not race, I am not one to make objections just to make objections. But frankly, we have never completed a reconciliation conference in one week, never. One took 6 weeks, one took 4 weeks, one took longer than both. And the only time we did it in 2 weeks was the posteconomic summit one after the Wall Street crash; a pretty well defined one with executive and legislative having their hands in it together from beginning to end—2 weeks.

So I do not mean to cast cold water on the notion that we are going to avoid a sequester by getting a reconciliation bill here by the 16th. I laud the majority leader for his goal, his determination, and his willingness to be forthright here on the floor of the Senate stating that most of next week's recess is either gone or in jeopardy or rather piecemeal for most Senators.

It hurts me like everyone else but it is probably the reality. I do not believe we are going to get it done on time unless there is serious negotiation, bipartisan, and hopefully with the executive branch about what ought to be in this reconciliation bill. I am not speaking of capital gains, no capital gains. Let the Congress work its will.

But there are many, many other matters, a myriad of matters that meet the goals of certain committees, meet the desires of certain Members, that I tell you, Mr. President, do not belong in this bill. I am not the one who is going to decide that.

But I think a lot of that ought to be taken away rather quickly, and then I say to the distinguished majority leader and minority leader there might be a bill. You send the conferees off next week, if the distinguished majority leader's desires are met, to a conference with the kind of bills that are coming from these two Houses and expect them to produce something that will pass both bodies by the 16th and get signed. I think that would be pretty miraculous.

But, I think we could strip away all but the essentials, if we really wanted a budget reconciliation bill and not a legislative Christmas tree of the highest proportion. We will have more to say about it as we get the details, but it is a rather extraordinary piece of legislation as it winds its way in the waning days of this week perhaps as long as 5 weeks late. Nonetheless it is finally making its way.

I will make a part of the record, if the Senate permits the Bulletin No. 90-01 to the heads of the executive departments. This is a public record, September 29 from OMB Director carrying out the sequester. I think it might be interesting for people to see it.

I believe we are going to have a real sequester, and the probabilities of it are getting better every day. This gives you some idea of how it begins as we move through this first episode by the Director of OMB and ultimately where we will end up in a few weeks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, September 29, 1989.

Bulletin No. 90-01.

To the Heads of Executive Departments and Agencies.

Subject: Apportionment Under the Fiscal Year 1990 Sequester.

1. *Purpose.*—An initial Presidential order has been issued indicating that a final sequester might be required. This Bulletin therefore, provides guidance on apportionment of amounts for FY 1990. It covers amounts made available under either short-term continuing resolutions or regular enacted appropriations for FY 1990, and amounts normally available without further action (*e.g.*, amounts available under permanent law and amounts normally exempt by the Office of Management and Budget (OMB) from apportionment).

2. *Background.*—Under the Balanced Budget and Emergency Deficit Control Act of 1985 (commonly known as the Gramm-Rudman-Hollings law), as amended:

(a) The OMB sequester report due on August 25, 1989, was issued on August 21, 1989, and published in the Federal Register of August 28, 1989.

(b) The President issued an initial order that will be effective on October 1, 1989. The order was published in the Federal Register of August 28, 1989.

(c) Between October 1st and October 15th, the amounts sequestered pursuant to the initial order are required to be withheld from obligation or expenditure.

(d) The Director of OMB is required to issue a final report on October 16, 1989.

(e) On October 16th, the President is required to issue a final order; that order will be effective upon issuance.

(f) If the final order specifies that a sequester is required, then the amounts sequestered under the final order are to be permanently cancelled or reduced.

3. *Apportionment guidance.*—The amounts provided for FY 1990 will be apportioned as specified in the attachment.

4. *Inquiries.*—Questions should be addressed to the OMB examiner with budget responsibility for the account.

RICHARD G. DARMAN,
Director.

Attachment.

DETAILED APPORTIONMENT GUIDANCE

1. *Apportionment guidance before October 16th.*—The amounts provided will be apportioned in the following manner:

(a) *Short-term continuing resolutions.*—Unless the conditions in section 1(d), below, apply, this Bulletin automatically apportions the lowest of:

The annualized level in the continuing resolution minus the sequester amount, multiplied by the rate of seasonal obligations, as specified in section 1(a)(1);

The annualized level in the continuing resolution minus the sequester amount, multiplied by the period covered by the continuing resolution, as specified in section 1(a)(2); or

The post-sequester amount, which is the sequester base minus the sequester amount in the OMB sequester report, multiplied by the period covered by the continuing resolution, as specified in section 1(a)(2).

(1) *Seasonal calculation.*—Take the annualized level in the continuing resolution. Subtract the sequester amount in the most recent OMB sequester report. Multiply the result by a percent that is based on a fraction determined as follows:

The numerator of the fraction will be the amount of obligations incurred last year during the period covered by the resolution(s).

The denominator will be the total obligations incurred last year. If the total actual obligations are not yet known, then use the amount on line 7 of the most recently signed version of the S.F. 132 for FY 1989.

Before multiplying, round the fraction to the nearest whole percent that is at least 1 percent. For amounts greater than 1 percent, use the following rounding rule: 13.5 percent becomes 14 percent but 12.5 percent becomes 12 percent.

(2) *Period calculation.*—Take the annualized level in the continuing resolution or the sequester base, whichever is lower. Subtract the sequester amount in the most recent OMB sequester report. Multiply the net result by a percent that is based on a fraction determined as follows:

The numerator of the fraction will be the number of days in the fiscal year covered by the continuing resolutions for FY 1990.

The denominator will be 365.

Before multiplying, round the fraction to the nearest whole percent that is at least 1 percent. For amounts greater than 1 percent, use the following rounding rule: 13.5 percent becomes 14 percent but 12.5 percent becomes 12 percent.

All conditions specified on the most recent prior apportionment, including those specified in footnotes, are continued under automatic apportionments. An apportionment request must be submitted if the agency deems it necessary to revise or omit such conditions.

(b) *Regular FY 1990 appropriations enacted before October 16th.*—Take the enacted appropriation (place it on line 1 of the S.F. 132). Subtract an amount determined by applying the sequester percentage in the initial OMB report against the enacted appropriation. Place the amount on line 5, as a negative. The difference is the amount available for FY 1990. Place it on line 7.

(c) *FY 1990 amounts normally available without further action.*—All accounts must be apportioned or reapportioned in such a way as to give effect to the intent of the Gramm-Rudman-Hollings law. Therefore, the following amounts are required to be apportioned or reapportioned:

(1) Amounts made available without current legislative action, such as advance appropriations;

(2) Amounts that are already apportioned for FY 1990, such as unobligated balances carried forward; and

(3) Amounts that are normally exempt from apportionment by OMB, such as some special and trust funds.

(d) *Written apportionments.*—Agencies are required to submit apportionment requests to OMB:

(1) Whenever required by OMB;

(2) If, in the view of the agency, the pattern of seasonal obligations justifies an amount higher than the automatic apportionment;

(3) Whenever the agency deems it necessary to change the conditions specified on prior apportionments or instructions; and

(4) Whenever the conditions specified in section 1(c), above, apply.

2. *Apportionment guidance on October 16th.*—The amounts provided for FY 1990 will be apportioned in the following manner.

(a) *Short-term continuing resolutions.*—Unless the conditions in section 1(d), above, apply, this Bulletin automatically apportions the *lower* of:

The annualized level in the continuing resolution minus the sequester amount, multiplied by the rate of seasonal obligations, as specified in section 1(a)(1); or

The annualized level in the continuing resolution minus the sequester amount, multiplied by the period covered by the continuing resolution, as specified in section 1(a)(2).

All conditions specified on the most recent prior apportionment, including those specified in footnotes, are continued under automatic apportionments. An apportionment request must be submitted if the agency deems it necessary to revise or omit such conditions.

(b) *Regular FY 1990 appropriations enacted before October 16th.*—If the final report indicates that a sequester is required, then take the enacted appropriation (place it on line 1 of the S.F. 132). Subtract the sequester amount in the final OMB report from the enacted appropriation. Place the amount on line 5, as a negative. The difference is the amount available for FY 1990. Place it on line 7.

(c) *Regular FY 1990 appropriations enacted on or after October 16th.*—If the final report indicates that a sequester is required, then use the following steps to calculate the amount available for FY 1990. Start with the enacted appropriation and compare it with the sequester base in the final OMB sequester report. The amount available after the sequester will vary, as follows:

(1) The enacted appropriations are above the sequester base for the account in the final OMB sequester report. In these cases, reduce the enacted full-year appropriation by the amount (not the percent) of the sequester specified in the final OMB report. The result is the amount available for FY 1990.

(2) The enacted appropriations are equal to or between the sequester base for the account and the post-sequester amount for the account in the final OMB report. In these cases, the amounts available for FY 1990 are the post-sequester amounts, as calculated in the exhibit using the OMB report.

(3) The enacted full-year appropriations are below the post-sequester amount for the account in the final OMB report. In these cases, the amount of the sequester is zero. The amounts appropriated are available for FY 1990.

The attached exhibit provides an illustration of these three different cases. For apportionment requests (S.F. 132s): the enacted amount will be placed on line 1; the sequester amount will be placed on line 5, as a negative, as not available; and the post-sequester amount, i.e., the amount available, will be placed on line 7.

3. *Apportionment requests (S.F. 132) for amounts provided under a continuing resolution.*—For written reapportionment requests of amounts previously automatically apportioned, fill in the column, "Amount on Latest S.F. 132" with the amounts that were automatically apportioned under this Bulletin, as follows:

(a) Place the annualized level in the most recent continuing resolution on line 1.

(b) Place the amounts automatically apportioned by this Bulletin on line 7.

(c) Place the amounts automatically apportioned by this Bulletin, as a negative, on line 5.

If only one public law applies, then in the space on line 5 insert the public law. Otherwise, in a footnote to line 5 separately identify:

(1) The sequester amount—cite P.L. 100-119 and P.L. 99-177;

(2) The amount not automatically apportioned because it was greater than the pro rata share, if any—continuing appropriations; and

(3) The amount not apportioned because it would have resulted in a rate of obligation greater than the normal seasonal pattern of obligations, if any—cite the joint resolution(s) providing the continuing appropriations.

4. *Budget execution report (S.F. 133).*—For budget execution reports:

(a) Place the enacted amount on line 1 of the S.F. 133.

(b) Place the amounts available for apportionment on line 7.

(c) Place the amounts that are not available pursuant to a law, as a negative, on line 5. If only one public law applies, then in the space on line 5 insert the public law. Otherwise, in a footnote to line 5 separately identify each public law and the associated amounts.

REGULAR FISCAL YEAR 1990 APPROPRIATIONS ENACTED ON OR AFTER OCTOBER 16

Illustration: All amounts are in thousands of dollars. Assume that the sequester is 5.3 percent and the amounts in the final OMB sequester report are:

Sequester base	$100,000
Sequester amount	−5,300
Post-sequester amount (calculated from amounts in the OMB sequester report)	94,700

Case (1): enacted above the sequester base for the account. In this case, the enacted appropriation is $110,000.

Enacted appropriation	$110,000
Sequester amount	−5,300
Available for fiscal year 1990	104,700

Case (2): enacted equal to or between the sequester base ($100,000) for the account and the post-sequester amount ($94,700). The following provides examples of enacted appropriations equal to the sequester base ($100,000), between the base and the post-sequester amount ($98,000), and equal to the post-sequester amount ($94,700).

Enacted appropriation	$100,000	$98,000	$94,700
Adjusted sequester	−5,300	−3,300	0
Available for fiscal year 1990	94,700	94,700	94,700

Case (3): enacted below the post-sequester amount ($94,700) for the account—for example $90,000.

Enacted appropriation	$90,000
Sequester amount	0
Available for fiscal year 1990	90,000

Mr. DOMENICI. I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

FLAG PROTECTION ACT OF 1989

The Senate continued with the consideration of the bill.

Mr. KERREY. Mr. President, I would like to associate myself with the remarks made by the distinguished Senator from New Mexico. I agree that the amendment or the statutory change to protect the American flag, though it has importance, is not the gigantic issue that a lot of people seem to think it is. I further will associate myself with the Senator's remarks concerning not only the budget but the budget process.

In 1985, when the Senator from New Mexico was the chairman of the Budget Committee, I and a number of other Governors supported and worked for a proposal that was extremely difficult, as it turns out, and it was not agreed to by the President at that time. Unfortunately so, because if it had been done, in my judgment, I and the Senator and the distinguished Presiding Officer would not have to be giving speeches on the floor of the Senate talking about the budget deficit.

RESOLUTION TRUST CORPORATION

Mr. KERREY. Mr. President, I would like to comment that I read in this morning's paper an article that I would like to describe to you a bit today. It is a story about the hard-working people that are working for all of us, the dedicated executives of one of America's largest corporations, the newly formed Resolution Trust Corporation.

Saturday, on the 30th of September, the final day of this fiscal year, this merry band of men found themselves in a very uncomfortable position. They had $8 billion to spend and only a few hours left in the fiscal year to spend it in. For 7 weeks the men had worked very hard and long spending the first $12 billion of the $20 billion that President Bush gave them to help America's savings and loans.

President Bush gave them strict instructions to have all the money spent before midnight, September 30, the last day of the fiscal year. If they spent it by midnight, it would count against last year's deficit. If they spent it 1 minute after midnight, it would count against the deficit of 1990.

So these folks began to sweat and sweat, because they knew how impor-

tant it was to the President to be able to say that next year's budget deficit has gone down. You know, it is not easy to spend $20 billion in 7 weeks. These executives worked hard and did the best they could. They spent $230 million every day, since the 9th of August. They just could not get rid of all the dough. That is $160,000 a minute, assuming they worked right through the weekend and around the clock.

If only America's Governors had known, maybe they would have had their education summit in a different location. If only America's fathers and mothers had known, maybe they could have gotten a few dollars for the care of their children. If only Tadeus Mazowiecki, the new Polish Prime Minister had known or President Virgillio Barco, and the communities trying to fight the war on drugs, if only these people had known, they would not have wasted their time talking to President Bush or Members of Congress. They would have gone over to 550 17th Street, NW., the home of the Resolution Trust Corporation, where the real money in America is to be found.

Unfortunately, they did not realize that the best way to make a case today for the American taxpayers' money is to incorporate yourself as a savings and loan.

Seeing no other public need except the one in front of them, the public servants I referenced earlier, in the Resolution Trust Corporation, had to come up with an answer, or their boss would be embarrassed.

Here is what they did, Mr. President, with that $8 billion. First, they gave the $8 billion to five savings and loans; and the second thing they did is borrowed that $8 billion right back from them. So they were able to say, with a straight face, "It is all gone, Mr. President," as well as William Seidman, the impeccable financial institution regulating czar. He was able to say in testimony he was preparing that the money was all gone, as well as the master of quick government giveaways, that powerful advocate of free markets, Danny Wall, in a speech he gave to a banking group on Monday of this week.

Mr. President, cleverness with numbers is so frequently and generously rewarded in America today, that I would anticipate this piece of creative accounting would receive the U.S. Chamber of Commerce free enterpriser of the year award. Sadly, some legal technocrat delivered the bad news to our good working people of the Resolution Trust Corporation.

They said that the transaction, in their words, was "a thinly disguised ruse to get the money off the books before the end of the fiscal year." Then to make matters worse, some Treasury Department wizard threatened to undo all their work with a simple wave of his wand, in spite of the shocked protest by William Seidman who said he thought we had it completed, and it was on the books. They have done this before with other FDIC transactions. In spite of that, the Treasury Department reversed it.

The U.S. Treasury airbrushed the entire incident from the record. According to them, it never happened. Apparently, the same can be said of this new RTC oversight board who said, when they were asked about it, "I do not think we knew about it."

It turns out that our faithful executives had done all this work for nothing. It turns out that it does not matter how much money you actually spend in this fiscal year, it only matters what the legal projection is. It turns out that the Office of Management and Budget had frozen the deficit in an estimate it made in August, and it turns out that real spending does not matter. What matters is the legal snapshot taken by Congress and agreed to by the Office of Management and Budget.

So that is the story, Mr. President, that I read in the paper this morning. It does not give me an awful lot of confidence that we are being honest with the American taxpayers, and it does not give me a lot of confidence, as well, in the priorities of our President. In fact, Mr. President, it made me wish I had never learned how to read.

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

FLAG PROTECTION ACT OF 1989

The Senate continued with the consideration of the bill.

Mr. BIDEN. Mr. President, I think we are very close to being ready to vote. I expect a voice vote on the amendment. The only other amendment we are aware of is the amendment by the Senate Republican leader, and he has an amendment to add and enhance the statute, adding several words to the statute which would make it illegal to walk upon or trample upon the flag on the ground. He is unavoidably detained at the moment, because he is meeting in his office with a head of state, I believe. He should be here shortly.

Just for the benefit of my colleagues and staff who may be here, to let them know how fast a track this is on, my expectation and hope is, as is that of the Senator from South Carolina [Mr. THURMOND] that immediately upon passage of the Dole amendment, which will not require a rollcall vote, and both managers have accepted it—unless someone demands a rollcall vote, and it is clear to me that the Senate Republican leader does not want a rollcall vote on that—we would move to third reading.

To the best of my knowledge, there is no one else who is seeking the floor to speak on this issue, and we have provided the opportunity today for a good number of our colleagues—I do not know how many but a significant number—to speak. It would be my hope, if the Republican leader can break loose, that we could have a vote on this amendment in the next 15 mintues—hopefully, by 6:30, but I cannot guarantee that. The Republican leader is not here at the moment.

So while we are waiting for him, since there is no other business on this amendment that the Senator from Delaware is aware of, and the Senator from Delaware, over the last 4 months, has spoken enough on this amendment and will not in any way be able to enlighten the Senate beyond what I may have—and that is doubtful, how much I have enlightened them to begin with—I would suggest, in the meantime, the absence of a quorum while we ascertain the presence of the leader.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 950

(Purpose: To include maintaining a flag upon the floor or ground as a criminal act)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas, [Mr. DOLE], for himself, Mr. DIXON, and Mr. THURMOND, proposed an amendment numbered 950.

On page 2, line 1, after "burns," insert "maintains on the floor or ground,".

Mr. DOLE. Mr. President, on behalf of Senators DIXON and THURMOND, I rise to offer an amendment to the flag desecration bill now before the Senate.

This amendment is a very simple one. It would add the phrase "maintaining the flag on the floor or ground" to the list of activities prohibited by the Federal flag desecration statute. I would point out that this phrase was included in the original bill introduced by Senator BIDEN—a bill which has been the subject of 4 days of hearings by the Senate Judiciary Committee.

THE CHICAGO ART EXHIBIT

Last March, we all watched television news accounts of a certain so-called art exhibit at the Institute of Art in Chicago. In this exhibit, a U.S. flag was placed on the floor—right

below a register for visitors of the institute to sign. Obviously, in order to sign the register, a visitor would have to step on the flag.

Needless to say, the Chicago exhibit caused an uproar—an uproar almost as great as the one that followed the Supreme Court's decision in Texas versus Johnson. Members of veterans' groups, families of veterans, and other concerned Americans were so outraged by the exhibit that they did something that most thought they could never do—they engaged in demonstrations of protest.

SENATE ACTION LAST MARCH

In response to the exhibit, and in response to the overwhelming public outrage generated by the exhibit, Senator DIXON and I introduced a bill that added the phrase "displaying the flag on the floor or ground" to the list of activities prohibited by the Federal flag desecration statute. This bill was supported by the American Legion, the Veterans of Foreign Wars, the Disabled Veterans of America, and other veterans' groups. And the bill passed the Senate unanimously—by a vote of 97 to 0. Unfortunately, the bill has not yet been taken up by the House.

CONTENT-NEUTRALITY

I would also like to point out that my amendment refers only to "maintaining" the flag on the floor or the ground. I have consciously substituted the word "maintaining" for the word displaying so that my amendment would not inadvertently undermine the underlying bill's content-neutrality. In this way, my amendment is consistent with the efforts of Senator BIDEN to draft a flag desecration statute that prohibits only conduct and not speech.

I believe there is no problem with this amendment. I am sorry to take the Senate's time to make the statement. I did want to make the record because it is a repeat of something done earlier in the Senate. I apologize to my colleagues for taking the time.

Mr. BIDEN. Mr. President, it is a positive addition. I think it was worth the brief time the Senator took to make the record. I am prepared to vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 950) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that I may speak in morning business for 4 minutes or 3 minutes and this statement not interfere with the debate on the matter before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEW ADMINISTRATION INITIATIVE ON POLAND

Mr. DOLE. Mr. President, I am pleased to report that the White House has just announced an important new aid initiative for Poland.

I ask unanimous consent to print the full text of the White House statement in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
OFFICE OF THE PRESS SECRETARY,
October 4, 1989.

STATEMENT BY THE PRESS SECRETARY

The world has watched with wonder as Poland has moved—swiftly and peacefully—to form a new government under Prime Minister Mazowiecki, the first non-Communist government in Eastern Europe in more than forty years. We salute Prime Minister Mazowiecki, President Jaruzelski, Solidarity leader Lech Walesa and so many other distinguished Polish leaders for their courage and wisdom in helping bring about a new beginning for Poland.

From the very start of this Administration, President Bush has taken the lead in supporting reform in Poland and Hungary. At Hamtramck, Michigan, in April, on the day of the signing of the Roundtable Agreement in Poland, the President announced a set of measures to open U.S. Markets and encourage private sector loans and investments. In July, he visited Poland and Hungary and spoke before the Polish parliament, as well as to a massive gathering at the Solidarity monument in Gdansk. He announced a further comprehensive package of assistance measures to support Poland's economic and political regeneration, a package which took account of the fact that Poland did not yet have its new government or its new economic policies in place. He announced a similar program during his visit to Hungary, which is also embarked on a promising path of political and economic reform. A few days later, at the Paris Economic Summit, the President proposed and our Summit partners agreed to a plan for concerted Western action to encourage and assist economic reform and democratic change in Poland and Hungary.

In early September, the Administration submitted to Congress a comprehensive legislative proposal that would create a $100 million Enterprise Fund for Poland and a $25 million Fund for Hungary, as well as a Labor Initiative and an Environmental Initiative together totalling $20 million. In addition to this $145 million proposal, and other initiatives taken by reprogramming existing resources, we have offered $100 million in emergency food aid to Poland in the coming fiscal year, in addition to $8 million in FY 89. In dollar terms, this total package already involves over $250 million.

We have also moved to encourage new trade and investment, by proposing that Congress grant both Poland and Hungary access to the U.S. Generalized System of Preferences and that it authorize the Overseas Private Investment Corporation (OPIC) to operate in both countries. On September 18, the President announced that he would grant Hungary permanent Most Favored Nation status, contingent upon passage by the Hungarian parliament of new emigration legislation, which has since occurred.

We have engaged the resources and creativity of the private sector, recognizing that the U.S. Government alone could not, and should not, render all the support Poland and Hungary require. On the eve of his trip to those countries in July, the President hosted a White House Symposium in which he urged leaders from the American private sector—labor leaders, businessmen, educators, and others—to be actively engaged in supporting economic and political change in Eastern Europe. Labor Secretary Dole visited Poland in August and signed an agreement providing for U.S. technical assistance and bilateral exchanges in the labor field. In mid-September, Commerce Secretary Mosbacher led a U.S. investment mission to Poland and Hungary, where he and American businessmen developed concrete proposals to encourage new private investments, joint ventures, and other forms of expanded U.S business involvement in redeveloping these two economies.

The dramatic changes in Poland over the past two months have lent new urgency to our efforts. What Poland is doing is historic, in the largest sense of the word. It holds the promise not only of a peaceful transition to democratic rule in Poland, but also of the beginning of the end of Europe's division, toward a Europe whole and free. It is also unprecedented: never before has a country attempted a successful transformation of a state-controlled economic and political system into one of political pluralism, democracy and a market economy. The new Polish government under Prime Minister Mazowiecki has a chance to consolidate the public trust that is needed for the difficult economic steps ahead, but it faces major economic problems.

There is no disagreement that both Poland and Hungary need, and will have, strong U.S. support. There is no disagreement that the U.S. needs to play a leading role in developing a concerted Western approach to Poland's economic recovery. The question is how best to achieve our goal. We believe, as do our Western economic partners, that Poland can best go forward by reforming its economy and becoming creditworthy again by reaching early agreement with the IMF on an economic reform plan. We also support a prompt and generous Paris Club rescheduling of Poland's international debt. This, along with agreement with the IMF, will make Poland eligible for IMF and World Bank loans totalling hundreds of millions of dollars annually. It will also give confidence to official and commercial lenders and to investors, whose participation in Poland's recovery is vital.

Poland is taking important steps toward reforming its economy. The Administration had a series of meetings last week with key Ministers in the new Polish government and reviewed the outlines of their economic

reform program. It is an ambitious and bold plan, calling for radical economic reform and rapid movement toward agreement with the IMF. An integral part of the plan is an urgent request for Western economic assistance in helping to stabilize the Polish economy as reforms are implemented. In the context of an agreement with the IMF, the Poles seek, in addition to IMF and World Bank support, $1 billion in stabilization funds from the Western industrialized countries.

In response to Poland's request, the President has decided on two major new steps.

He will ask Congress to approve a $200 million grant for stabilization purposes, which would be the U.S. contribution to the $1 billion in Western assistance the Poles have requested. The grant would be contingent upon conclusion of an IMF agreement, and upon the recommendations of an experts' mission that the President will send to Poland soon. The U.S. will be working closely with the Summit Seven and its other allies to make certain that the entire $1 billion is available to Poland for this stabilization fund since the concept can be effective only if the fund is fully financed. A program for use of the $200 million U.S. contribution will be developed with the Polish government. The President wants to work with Congress to develop a strong bipartisan approach toward the common goal of providing prompt and effective support to the government and people of Poland.

It is important to complete development of a strategy to assist Poland's recovery. Toward that end, the President will send to Warsaw within the next few weeks a Presidential Mission including senior U.S. officials, business leaders and experts to discuss with the Polish government its economic plans and evaluate its needs. This mission will make recommendations to the President based on their own findings and their deliberations with experts from the twenty-four nation "Group for Economic Assistance to Poland and Hungary" as to the most effective use of the $1 billion stabilization fund. This mission will also focus on those economic sectors where U.S. expertise and experience can be of greatest assistance—agriculture, business management, financial services and others, pinpointing areas for reform and for productive use of assistance resources. The Congress can certainly be helpful in this endeavor. This initial mission will be followed by experts' missions in key economic sectors. In addition, Administration economists will examine urgently the structural economic challenges Poland will face now and in the years ahead so that we can provide the most effective help possible to the Polish government.

As the President has said, the futures of Poland and Hungary depend on concerted and sustained Western action. These efforts must be complementary, not duplicative, and must be coordinated with the efforts of the IMF and World Bank. That is why the President called on our G-7 economic partners at the Paris Economic Summit to establish new mechanisms for coordinating our efforts. The resulting 24-nation group has already met three times under the chairmanship of the EC Commission. The EC on October 3 committed itself to $330 million in additional assistance, over and above the $271 million in emergency food aid already pledged by the U.S., the EC and other donors. It has also begun to develop a common assistance strategy for Poland and Hungary, along with working groups on food aid, environment, manpower training and other specific areas of assistance. The goal is to set clear priorities, avoid redundant efforts and assume maximum aid effectiveness.

West Germany, France, Britain, Japan, and several other countries have already announced their intention to provide substantial bilateral assistance. The IMF has indicated it will move quickly in assisting Poland to develop an overall economic stabilization and reform program, and the World Bank is prepared to extend promptly major new credits once an IMF program is in place, and to develop additional loans.

Finally, in order to continue the dialogue with Poland's leaders that he began in July, the President is inviting President Jaruzelski and Prime Minister Mazowiecki to visit Washington at times convenient for each of them.

These are the steps the Administration has taken and will be taking in support of democratic change in Poland and Hungary: economic assistance conditioned upon real progress toward reform, business and technical assistance, the opening of investment and trade opportunities, and concerted Western action in conjunction with other industrialized democracies and the international financial institutions. These combined measures constitute an international recovery program that provides broad and substantial Western support for the historic changes now underway in Poland and Hungary.

Mr. DOLE. Mr. President, the initiative has two main elements. First, the administration will seek congressional approval of $200 million in grant assistance for fiscal year 1990—to be used for economic stabilization efforts. Those funds would be part of a $1 billion effort, involving our European and Japanese allies; and would be contingent upon an IMF agreement, insuring that Poland is committed to badly needed economic reforms.

Although the White House announcement notes that the exact uses for the money are contingent on negotiations with the Poles, it is clear that one important need in Poland is for currency stabilization. I would expect that most of these funds would end up being used for that purpose.

The other principal element of the administration's initiative is the creation of a Presidential mission of senior U.S. officials, business leaders and economic specialists—to go to Poland within the next few weeks; to help the Polish Government in evaluating its economic needs and formulating its economic program; and to report back to the President on how we can best help.

I would note that credit for originating this idea probably goes to the distinguished Senator from New Mexico, Senator DOMENICI, who recommended formation of just such a group in a letter to the President immediately after the President's visit to Poland and Hungary.

Mr. President, the total of all the assistance for Poland so far announced or proposed for Poland by the administration is more than $450 million. That number—in the context of our own deficit crisis and the many, many demands on our foreign assistance budget—reflects the priority the President attaches to responding to Poland's needs at this critical juncture.

But helping Poland is not a numbers game. It should not be turned into a partisan bidding war.

Helping Poland should mean coming up with a well-thought-out, realistic, affordable program of American aid—aimed at Poland's real needs; coordinated with efforts of the West Europeans and Japanese; and conditioned on, and conducive to, needed economic reform in Poland.

That is the kind of aid that serves Poland's needs; advances American interests; and will be supported by the American people.

I think the President and the administration have put together a very strong, credible program. I have one or two other ideas that I will still be pursuing, and I know that others do, too.

But the President's package is an excellent core package; it is the place where our consideration of aid for Poland should start.

The White House statement today includes a strong call for bipartisanship. It calls on the Congress to work with the White House in considering the President's proposals and other proposals on the table.

I am not sure that everyone has been proceeding on quite that course up until now. I hope, though, that everyone will heed the President's call, and that we will stop holding news conferences; stop calling names; and start serious discussions of how we can work together to help Poland, and advance American interests.

Mr. DOMENICI. Mr. President, a number of Members who have had the opportunity to visit Poland in recent months have shared their experiences with the Senate. Several have offered comprehensive legislative proposals to assist Poland.

It would be no exaggeration to note that there is a constructive competition among us to bolster the movement of Poland toward democracy and individual opportunity.

The President announced an initial package of assistance to Poland during his July visit. Some said it was not enough. Last month, the Foreign Relations Committee reported a bill that is similar to the President's proposal, but one that would triple the funding originally requested by the President.

Earlier this week, the House Democratic leadership offered an assistance package that was somewhat more modest than the Senate authorization bill. And, now the President has augmented his proposal to take into account the changing situation in Poland under its new democratic Prime Minister.

The President's new proposal adds two new concepts:

A $200 million grant as part of a $1 billion stabilization package by the Western industrial nations.

The dispatch of a Presidential mission of experts to assess the situation in Poland in a comprehensive manner.

Some may be surprised to hear what I am about to say. Sending a Presidential mission to Warsaw to assess the situation there is more important than the extra $200 million proposed by the President.

Let me make clear my own view about the economic situation in Poland. No one—repeat no one—at the present time knows for certain the financial and humanitarian needs of Poland in 1990 and beyond.

Many of us discussed Poland's economic reform plan last week with the new Polish Finance Minister. We learned from him that the new government is just beginning a drastic and unparalleled effort to do a very simple—but also very difficult—thing.

What the Finance Minister and the Solidarity-led government and parliament are trying to do is to make things work again in Poland. After 50 years of war, occupation, and Communist incompetence and corruption, almost nothing works in Poland. Trying to fix the mess in Poland is far more difficult, and politically dangerous, than anything we have ever attempted in America.

No one knows how the Polish people will react to the further sacrifices needed to put things right. But only the Poles can turn their economy and their society around, in their own way. Spending billions of dollars into unreformed Poland right now would be like pouring water into a spaghetti strainer. I think we all know that. Certainly the Polish-American community does.

Many of us have had great little ideas about how to help Poland. This Senator wants us to help the Polish Parliament obtain equipment and training. Many of us are working to help redress specific problems. But none of us, not even the President, or the new Polish Government, is certain about the big picture, the macroeconomic climate, as the economists would say, for growth and investment in Poland.

The President's decision to send to Warsaw a Presidential mission will give him and us a better grasp of what we are about. The mission will consist of business leaders who know how to make things work. It will include experienced officials and private experts in the areas of agriculture, financial services, and management. For the first time, Congress and the President will have a comprehensive review of the Polish situation.

Mr. President, I applaud the President for sending this mission to Poland. It is an approach that I encouraged him to take, and one that makes it easier for us to help Poland in a truly effective and imaginative way.

FLAG PROTECTION ACT OF 1989

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from South Carolina.

BY ALL MEANS, PROTECT THE FLAG

Mr. HOLLINGS. Mr. President, let me express my wholehearted support for H.R. 2978, Senator BIDEN's flag-protection bill.

Mr. President, there are two routes to our singular goal of protecting the American flag from desecration. We can do it by statute, fully aware that such a law faces challenge in the courts on first amendment grounds. And we can do it by means of a constitutional amendment, which would get the job done once and for all. I do not see these two vehicles—statutory and constitutional—as mutually exclusive.

I support Senator BIDEN's proposed statute because it will get a law in place urgently and immediately. This will provide a bridge, and interim remedy, pending passage and ratification of a constitutional amendment. At the same time, let me make it clear that I continue to support Senator THURMOND's proposed constitutional amendment as the optimum long-term solution; its protection would be ironclad and unchallengeable.

In other words, Mr. President, in supporting Senator BIDEN's statutory solution, I am opting for a bird in the hand, fully expecting also to obtain a bird in the bush, that is, the constitutional amendment.

There is no question, Mr. President, that our flag needs and deserves protection. I do not for a minute accept the hysterical, ultrapurist notion that the first amendment is compromised by flag-protection legislation. Opponents of this bill purport to defend the first amendment, but in fact they end up trivializing and perverting the first amendment. Never in our Nation's history have Americans tolerated wanton desecration of our most cherished and sacred symbol, the flag. Nor would we tolerate someone spray-painting political graffiti on the Washington Monument, or burning a cross on someone's lawn. Those who would characterize these acts as speech protected by the first amendment are dead wrong. The first amendment is not—and was not intended to be—absolute. We have always allowed for commonsense exceptions.

Mr. President, it is in this regard that the Supreme Court's divided ruling in Texas versus Johnson is a decision that shocks the conscience. It is intellectual nonsense, and personally offensive to me and to every other veteran who has seen brave young Americans killed following the flag into combat. The Court's decision is morally outrageous, and it is a gross misinterpretation of the Constitution.

Enough said. The Supreme Court has spoken, now let the people speak. The Justices have confused destruction with freedom, and in the process they have misconstrued the first amendment. I support reaffirming freedom of speech, and distinguishing it from desecration and destruction. To that end, I urge my colleagues to pass the Biden bill and to follow up with a constitutional amendment.

Mr. DODD. Mr. President, contrary to what some may believe, the Supreme Court's decision in Texas versus Johnson does not pit flag burners against patriots in a constitutional tug of war over the importance of the flag. Almost all Americans accept the flag's unique symbolic value. That is why it is singled out in the first place. The Court's decision raises two issues for us: First, given its uniqueness, is the flag worthy of our special protection from defilement; and, second, if so, what is the best way to provide that protection, by statute or constitutional amendment?

I share with the majority of the American people the desire to protect the flag from deliberate destruction or mutilation. The flag is an important symbol representing our land, our Government, our people, our ideals, and our values. The flag makes us proud. It has given us courage, and it has moved us to sacrifice. Many brave men and women have died protecting the flag from dishonor and disgrace. These deep feelings have understandably caused strong reactions to the Court's decision. However, we must not be so outraged that we misread what the Court actually said, nor make the wrong decision in seeking a remedy.

During the 200 years since the signing of the Constitution, amendments to it have been added only 26 times. With the exception of the prohibition amendment, no amendment has ever been diminished. This fact, coupled with the time-consuming nature of the amending process, strongly suggests that we should not cavalierly amend the Constitution. A constitutional amendment should be considered only when there is a great and absolute necessity. I believe that a few people engaging in the act of flag burning, however much it offends our sensibilities, does not warrant such a response if there is another effective remedy.

Moreover, I think special vigilance is required when a proposed amendment, such as the administration's, is written in such vague or broad terms that it leaves cracks through which the seepage of political whim can erode the very foundation of our Bill of Rights. As Prof. Walter Dellinger of Duke

University Law School stated before the Senate Judiciary Committee:

> This potentially dangerous amendment would create an entirely undefined exception to either one, some, none, or all of the Bill of Rights; it would place this power in the hands of all future Congresses, 50 State legislatures, the government of the District of Columbia, and perhaps as many as 14,000 local governments * * *.

The Supreme Court's decision, however, does not preempt an alternative statutory remedy. As Prof. Laurence H. Tribe, the well-known constitutional scholar from Harvard Law School, points out, "In a little noted passage, the Court majority observed that the case would have been altogether different if the State had punished Mr. Johnson on the simple ground that he had physically mistreated something that the majority of the people had chosen by law to protect." His conclusion is that the Court would be sympathetic to a narrowly written statute and, therefore, we should "change the law, not the Constitution." I agree.

In addition to being a valid and constitutionally workable alternative, a statute is preferable because it is faster and easier to implement. What is the sense of plodding through an amendment process when a statute that would accomplish the same goal is available right now? Why wait? If the flag is threatened, how would we protect it in the meantime? Also, adoption of the administration's proposed constitutional amendment could well entangle us in a web of litigation over its meaning. Because the amendment is so vague in its relationship to the first amendment, Professor Dellinger stated: "The proposed amendment will produce uncertainty, confusion, and conflicting Court decisions * * *. Such a result would keep us in lengthy litigation—and the flag unprotected—for years to come.

Mr. President, I believe the Biden bill meets the Supreme Court's criteria for constitutionality in this area. It would protect our flag and withstand the Court's scrutiny in regard to the first amendment protection of symbolic free speech. Such a statute would reaffirm the flag's unique symbolic value without jeopardizing the very ideals it embodies.

I urge adoption of H.R. 2978.

Mr. REID. Mr. President, let me quote for my colleagues "The American's Creed":

> I believe in the United States of America as a Government of the people, by the people, for the people; whose just powers are derived from the consent of the governed; a democracy in a republic, a sovereign Nation of many sovereign States; a perfect Union one and inseparable; established upon those principles of freedom, equality, justice and humanity for which American patriots sacrificed their lives and fortunes. I therefore believe it is my duty to my country to love it, to support its Constitution, to obey its laws, to respect its flag, and to defend it against all enemies.

The American's Creed was adopted by the House of Representatives on April 3, 1918. It is no less powerful or correct today.

I do believe it is my duty, and the duty of every American, to respect the flag of the United States; 48 of the 50 States have statutes to protect the national flag, but not the Federal Government.

In Korea, it is illegal to burn the American flag, but we allow it here.

The Federal Government has statutes prohibiting the burning of money, but the Supreme Court says it is OK to burn the symbol of the very principles and truths by which we live.

I am proud to stand here today among my colleagues not only to profess my creed, but to take action in accordance with it.

It is poetically ironic that the word "flag" has a second and beautiful meaning.

"Flag" denotes a member of the genus iris, a very colorful family of flowers: the water-flag, the yellow-flag, the American blue flag. All types of iris.

Just as this many-colored field of flowers is united by a common bond—flag—so are we citizens of the United States united by a common genus—the red, white, and blue flag.

In the "Book of Job," a question is posed: "Can the flag grow without water?" The reference is to a flower, but the analogy is well taken.

Our flag cannot prosper without the sustenance of our ideas. But the flag also needs shade—protection from the burning sun.

Mr. President, our flag should never be burned. What should be burned is the Supreme Court's decision.

I, therefore, join my colleagues in cosponsoring this legislation to protect the flag of the United States.

Mr. MOYNIHAN. Mr. President, I respect and concur with the sincere sentiments of my colleagues who would like to protect, by Federal statute, the American flag from mutilation and destruction. I take the view, however, that this bill, if enacted, would be unconstitutional under the Supreme Court's decision in Texas versus Johnson. This compels me to oppose the legislation. As I have said many times, you don't have to agree with what the Supreme Court says, but you do have to obey it.

It seems plain to me that if the notorious Mr. Johnson were to burn another flag at the next Republican Convention and were to be convicted under the proposed law, the Supreme Court would strike down the law just as it did the Texas statute. And the reason, whether we agree with it or not, would be the same—his symbolic political speech is protected by the first amendment and may not be punished by State or Federal statute.

Thank you, Mr. President.

Mr. KOHL. Mr. President, it was on September 4, 1789—exactly 200 years and 1 month ago—that the U.S. Senate approved a constitutional amendment guaranteeing freedom of speech. For all these years—through world wars, urban riots, a depression, and even a bloody civil war—the first amendment has needed no repair, caused no calamity. In fact, it has been the guardian of our freedom. In the words of one scholar, the fourth amendment protects the first amendment, and the first amendment protects the others.

As a member of the Judiciary Committee, I've attended many hours of hearings on the flag issue. Nothing I've seen or heard convinces me that we need a constitutional amendment on account of Gregory Lee Johnson's foolish and offensive act. There's no reason to "go nuclear" when a clean rifle shot may do the trick. That rifle shot is a statute against flag desecration.

All of us have the same goal: to protect the most cherished symbol of our Nation. All of us hold in contempt those who would stain our heritage by defiling our flag. So today we are looking for the best means to reach an agreed-upon end.

The quickest, the most effective, and even the most conservative solution is to enact a law. This point was driven home at Judiciary's final hearing by two law professors from my State, Brady Williamson and Gordon Baldwin. They noted that the constitutional amendment process is time consuming, will generate an avalanche of litigation, and may not even work in the end. It's entirely possible that the Supreme Court will not let a constitutional amendment on the flag override the first amendment—just as the Court has previously not allowed the fourteenth amendment to override the first amendment. What is more, a flag amendment invites a crazy-quilt patchwork of laws across the Nation. Surely it is better to have a single Federal statute on the books.

Mr. President, by enacting H.R. 2978, we fulfill our obligations as guardians of the flag and defenders of the Constitution, H.R. 2978 will pass constitutional muster. Its definition of "flag" is appropriately narrow, protecting flags that are "commonly displayed" and not, say, red-white-and-blue paper plates. Although I am not happy with expedited review—because it means that the Supreme Court will decide an important issue with no factual context outside of a single case—I realize that many Americans want this question settled quickly and with finality. Thus, I favor H.R. 2978 as amended by Senator BIDEN's provision for expedited review.

I would like to close, Mr. President, with this observation: The flag is fire-

proof. No one—not Gregory Johnson or any other nut—can destroy the symbol of our collective aspirations. The Constitution, however, is much more fragile. Let us not tamper with the document when we can achieve our goals with a more efficient and more effective statute.

Mr. McCONNELL. Mr. President, I rise today to express my strong support for a constitutional amendment restoring to the States and Congress the power to prohibit any desecration of the American flag.

Like most Americans, I was truly outraged by the Supreme Court's bizarre decision in the case of Texas versus Johnson. In that case, the Court held that a person can do anything to the flag: burn it, soil it, walk on it, or spit on it—and the vast majority of Americans who love the flag and everything it stands for have to stand aside and let it happen.

After this decision, and the public outcry over it, some people argued that the flag was "just a piece of cloth"—no need to get so upset about burning it.

But, Mr. President, most of us know better—we know that the American flag is a lot more than a piece of cloth. It is the symbol and the standard of this great Nation. It is a beacon of freedom to those who live under the yoke of oppression throughout the world.

The American flag has fired the courage of our fighting men in war; and it is a strong reminder of the values of liberty and justice that set this country apart from every other Nation on Earth.

Burning the flag is not merely burning a piece of cloth; it is an affront to every value and principle that we Americans hold dear. For those hundreds of thousands of families who have lost fathers and sons in war, burning the flag is indistinguishable from scorching the grass on these heroes' graves.

That is why I did not hesitate to advocate and cosponsor an amendment to the Constitution assuring the dignity and sanctity of the American flag. On the morning following the Supreme Court's ridiculous decision, I joined with the Senator from South Carolina, Senator THURMOND, in introducing a constitutional amendment prohibiting flag-burning and other acts of flag desecration.

Also before the Senate today is a separate bill which purports to prohibit flag-burning—without any constitutional amendment.

I share the sentiment behind this measure, but I am concerned that it will do virtually nothing to address the constitutional issue posed by the Supreme Court's decision.

If we only pass this statutory measure, we may be back here within a few months—after the Supreme Court strikes it down—and we will be giving the same speeches; and then, maybe at last, we will owe up to the task of passing a real constitutional amendment.

It doesn't seem to me that a mere congressional statute will do anything to deter a lawless flag-burner like the defendant in the Texas versus Johnson case. If anything, the bill being proposed by the chairman of the Judiciary Committee will be seen as throwing down a challenge to desecrate the flag—and see whether this statute is constitutional after all. In essence, we will be saying, "Go ahead—burn our flag." I don't think that is what we want to do in defense of our Nation's greatest symbol.

So in conclusion, Mr. President, flag-burning is not speech. It merely reflects hostility for the traditions and values of this country. And rather than burn the U.S. flag, I suggest that such people express their hostility in a more meaningful way: by leaving the country and going somewhere else—like Tiananmen Square in China, or East Germany, or the Soviet Union. People in those countries are seeking refuge under our flag, not burning it.

The Marines who risked their lives to raise the American flag over Iwo Jima knew what our flag stands for. Certainly, we know what the flag stands for. Now is the time to enact an amendment to the Constitution—to tell the Supreme Court what the American flag stands for.

We cannot stand idly by while the symbol of our Nation for over 200 years is dragged through the mud, spat upon, walked on, and torched by those who don't know what an honor and a gift it is to be an American.

I urge my colleagues to join the President, the Republican leader, and the ranking member of the Judiciary Committee, in passing this historic constitutional amendment to protect the glorious flag of the United States of America.

Thank you. I yield the floor.

Mr. ADAMS. Mr. President, I rise today in support of Senator BIDEN's bill, which protects our national symbol by amending the flag-desecration statute to prohibit physical desecration. It is a straightforward approach to upholding the dignity of our flag without tampering with the Constitution, as some would have this body do.

The Supreme Court held in the recent Texas versus Johnson case—that burning the flag as a political statement was protected by the first amendment's guarantee of free speech. The act which brought this case before the Court was deeply offensive. But as Justice Anthony Kennedy wrote in his concurrence, "It is poignant but fundamental that the flag protects those who hold it in contempt."

The underlying principle of the first amendment is to protect the rights of Americans to express their political views, no mater how unpopular they may be. This right distinguishes our Nation from others around the world. It is telling that at the very time the Supreme Court was issuing its opinion, protesters seeking freedom were being massacred in Beijing.

In an effort to show our disdain for burning the flag, we must not destroy the freedoms that the flag represents. Limiting the first amendment would be nothing less than a fundamental change in what our Republic represents. As we celebrate the bicentennial of the Constitution, I am reminded of Benjamin Franklin's warning; "Those who would give up essential liberty to purchase a little temporary safety deserve neither liberty or safety."

The first amendment, like the flag, has weathered attacks for over two centuries and survived with glory. I will resist efforts to alter the foundation of our form of government that has served us so well for so long.

Mr. SIMPSON. Mr. President, I want to commend my distinguished colleagues on the Judiciary Committee, Senator BIDEN and Senator THURMOND, for taking on this tough issue and showing such leadership on this matter.

Mr. President, I have often stated my support for both the statutory remedy to Texas versus Johnson and to the constitutional amendment approach which we will soon be discussing on this floor.

I have to confess some surprise, however, that we are debating the House version of the statute rather than S. 1338, which was the version prepared by our colleagues Senators BIDEN, ROTH, and COHEN. It was that bill which was the focus of the testimony the Judiciary Committee received during our hearings on this matter. H.R. 2978 was a companion to S. 1338, but was never discussed in the detail that S. 1338 was or Senate Joint Resolution 180—the constitutional amendment.

But I do support the principle behind the statutory approach. We need to have something in place as soon as possible which will make it very clear that the American flag has a very special role in our society. It is more than a mere symbol. It is so well deserving of the protection we are attempting to enact today.

I am very pleased that my colleagues, Senator THURMOND and Senator BIDEN, were able to cooperate to the fine degree that they have. I am also pleased to support the Thurmond-Biden amendments which eliminate all of my objections to this bill.

Mr. President, I am obliged to remind this body that this bill is not a complete answer to Texas versus

Johnson. A great many of the voters out there in the land are also waiting for us to present them with an amendment to the Constitution. Most all of our military veterans are demanding stronger action than "just a statute" protecting the flag. I join in their expressions of concern and I join in their expressions of absolute disgust at Mr. Johnson's obscene antics.

So, Mr. President, I am proud to add my voice in strong support of this measure. I will be equally proud to speak in favor of a constitutional amendment.

Above all, however, we must urge caution as we deal with this issue. What we do here is of no small consequence. Our actions today may shape one of the most enduring pieces of legislation from this Congress.

As we write the statute in final conference, we must carefully phrase its provisions so that we are not attempting to legislate away any constitutional freedoms—this would be wasteful and futile.

It is for us to be cautious and thoughtful in our deliberations, so we do not let our intense disgust at Johnson's antics push us into legislation that is restrictive of our precious freedoms. We must be so careful not to prohibit "innocent" desecrations of our national symbol. That is why I am pleased that this measure has a "dirty flag" defense included in its provisions. That is a thoughtful measure.

We must be even more cautious and thoughtful as we craft a proposed constitutional amendment to protect the flag, as my distinguished colleagues have already stated. An amendment to our Constitution is of monumental consequence. We must be cautious in our approach to its creation.

The reprehensible acts committed by Mr. Johnson should not be allowed to galvanize us into a reaction which dilutes our freedoms, for then he would have achieved his crude goals. Instead, let us make a clear statement that his speech crossed the line. He can speak all he wants about anything he wants—we will not condone his conduct.

So, I do support both of these measures, and I thank you.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the only amendments remaining in order to the pending bill be the following: An amendment by Senator DOLE to add the word "publicly"; and an amendment by Senator WILSON to add the words "physically defiled."

I further ask unanimous consent that no motions to recommit be in order and that votes on or in relation to the amendments be stacked to occur at 10:30 a.m. tomorrow, Thursday, October 5; and that when these amendments are disposed of, the Senate proceed without any intervening action or debate to third reading and vote on final passage of the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the first vote be a 15-minute rollcall vote and the second and third votes be 10-minute votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I thank all concerned for their cooperation in permitting us to reach this point. Accordingly, there will be no further rollcall votes this evening. It is our intention, having discussed this with the distinguished Republican leader and the managers of the bill, that the debate on these two amendments will occur this evening; that when the Senate recesses this evening, it will return to session at 10 o'clock in the morning; that following the time for the two leaders, there will be a brief period for morning business until 10:30, at which time there will then be three rollcall votes: A vote on each of the Dole and Wilson amendments and then a vote on final passage. Senators should now be alerted to the fact that there are no further rollcall votes this evening; there will be three votes to complete action on this bill beginning at 10:30 tomorrow.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE CATASTROPHIC REFORM ACT

Mr. McCAIN. Mr. President, I first of all am appreciative of the talents of the distinguished chairman of the Judiciary Committee for allowing me to say a few words at this time in introducing the Catastrophic Reform Act which has been discussed on many occasions on this floor. It is my understanding that perhaps tomorrow, I emphasize perhaps, after we dispense with the drug bill that we will be able to move to the catastrophic reform bill which was agreed to by unanimous consent to be taken up before this Saturday or in any event before the Senate addresses the reconciliation bill.

Mr. President, I know the discussion of this legislation will be long; I know that it will be detailed. I will try to just make a few remarks.

First of all, I would like to comment on the House vote that took place today. I understand the frustration of the Members of the House that caused them to repeal that act, and I also understand why the Members of the House rejected the so-called Stark-Gradison-Waxman amendment.

One of the reasons why I believe the amendment was indeed beaten is because, frankly, it did not address the catastrophic health care issue and should have been renamed the prescription drug bill. But be that as it may, Mr. President, the House of Representatives has spoken on this issue. They have totally repealed the Catastrophic Illness Act which is, frankly, an almost unprecedented action in the history of this body, certainly in recent years where a program's benefits have been repealed by at least one body of the Congress.

Mr. President, I think that is a mistake to repeal. I think the focus of the anger of seniors is the surtax. I believe they deserve and want catastrophic health coverage. I believe they deserve and want protection from spousal impoverishment. I believe they need the Medicaid buy-in and pregnant mothers program, in-home deductible, home health, respite, mammogram screening, the so-called Mitchell drugs and hospice.

Mr. President, we can do that with the $4.90 that is now being paid by seniors as part of their Medicare part B payments. Mr. President, we will have to repeal significant portions of the Medicare Catastrophic Act, but we can keep what I believe seniors need, want, and deserve. We will have to repeal the skilled nursing facility benefit. We are going to have to repeal the outpatient prescription drug program beyond the so-called Mitchell drugs and repeal the part B out-of-pocket.

I would also like to say, according to the number of CBO, and I would like to say this twice because there has been a great deal of misinformation conveyed on my proposal, this proposal is not underfunded according to CBO. This proposal is not underfunded according to CBO. People who have not seen this bill have already told the media and their colleagues that my proposal would be underfunded.

Indeed, it is not. In fact, it builds up a modest surplus in the years ahead and as far as its impact on the overall budget next year is concerned, it is indeed an impact of about $4 billion on the budget deficit.

I say, again, Mr. President, we should not allow bad policy to keep alive a piece of legislation simply because we want to disguise the deficit.

Mr. President, I am pleased that the House acted. I think it is time that the Senate acted. I look forward to the opportunity of debating the numerous amendments which will be proposed to this bill because I think the Senate needs to act, we need to get this issue behind us in one way or another and get back to addressing the real concerns of seniors in this country, which is, of course, long-term care.

I am also suggesting that if we totally repeal this legislation, there will be seniors who have already received these benefits, who believe they will be receiving these benefits, who will now find out that they have been deprived of them and you may get a backlash of enormous proportions on this issue.

So my proposal basically says let us keep what we can. Let us give them what we promised them—catastrophic illness hospitalization coverage, protection from spousal impoverishment, deductible home health, hospice, mammogram screening, and other benefits. At the same time, Mr. President, we have to repeal the most expensive parts of the program, which drove us into this terrible surtax dilemma and which, by the way, has escalated costs so dramatically such as prescription drugs, such as the skilled nursing facility benefit, and the part B cap we need to preserve. We need to do it for seniors. I look forward to the debate on the floor. I caution again my colleagues against repeating what the House did. Let us try to preserve some benefits and give the people what they really want. That is repeal of the surtax.

Mr. President, I thank my colleague from Delaware again for his patience and his courtesy. He has been on the floor now I believe for over 8 hours. He has been very kind in allowing me to speak on this issue.

I ask unanimous consent that the bill be held at the desk and that the text be printed in the RECORD, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1726

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF MEDICARE CATASTROPHIC COVERAGE PROVISIONS EFFECTIVE IN YEARS AFTER 1989 AND SUPPLEMENTAL MEDICARE PREMIUM.

(a) GENERAL REPEAL.—

(1) IN GENERAL.—The following provisions of the Medicare Catastrophic Coverage Act of 1988, as amended by the Technical and Miscellaneous Revenue Act of 1988, are hereby repealed, and the Social Security Act shall be applied and administered as if such provisions (and the amendments made by such provisions) had not been enacted:

(A) Section 201.

(B) Subsections (i), (j), and (k) of section 202.

(C) Section 211(c)(3).

(D) Section 212 (other than subsection (b)(2)).

(E) Section 213.

(2) EFFECTIVE DATE.—The repeals made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(b) SUPPLEMENTAL MEDICARE PREMIUM REPEAL.—

(1) GENERAL REPEAL.—Section 111 of the Medicare Catastrophic Coverage Act of 1988, as amended by the Technical and Miscellaneous Revenue Act of 1988, is hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such provisions (and the amendments made by such provisions) had not been enacted.

(2) CONFORMING AMENDMENTS RELATING TO TRUST FUNDS.—

(A) FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.—Section 1817A of the Social Security Act (42 U.S.C. 1395i-1a) is amended by adding at the end thereof the following new subsection:

"(d) On November 1, 1989, the Secretary shall transfer any amount remaining in the Trust Fund (including interest) to the general fund.".

(B) SMI TRUST FUND.—Section 1841(a) of the Social Security Act (42 U.S.C. 1395t(a)) is amended by striking "which are attributable to the catastrophic coverage rate and which are not otherwise appropriated under section 1817A(a)(2) to the Federal Hospital Insurance Catastrophic Coverage Reserve Fund".

(3) EFFECTIVE DATES.—The repeal and amendments made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(c) MODIFICATION OF EXTENDED CARE SERVICES.—

(1) DURATION OF EXTENDED CARE SERVICES REDUCED TO 100 DAYS PER YEAR.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended by striking "150 days" in subsections (a)(2) and (b)(1) and inserting "100 days".

(2) POST-HOSPITALIZATION REQUIREMENT REINSTATED.—

(A) IN GENERAL.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended—

(i) in subsection (a)(2), as amended by paragraph (1), by striking "extended care services for up to 100 days during any calendar year" and inserting in lieu thereof "(A) post-hospital extended care services for up to 100 days, and (B), to the extent provided in subsection (f), extended care services that are not post-hospital extended care services";

(ii) in subsection (b)(1), by inserting "post-hospital" before "extended care";

(iii) in subsection (e), by inserting "post-hospital" before "extended care"; and

(iv) by adding at the end thereof the following new subsections:

"(f)(1) The Secretary shall provide for coverage under clause (B) of subsection (a)(2) of this section, of extended care services which are not post-hospital extended care services at such time and for so long as the Secretary determines, under such terms and conditions (described in paragraph (2)) as the Secretary finds appropriate, that the inclusion of such services will not result in any increase in the total of payments made under this subchapter and will not alter the acute care nature of the benefit described in subsection (a)(2) of this subsection.

"(2) The Secretary shall provide—

"(A) for such limitations on the scope and extent of such services described in subsection (a)(2)(B) of this section, and on the categories of individuals who may be eligible to receive such services, and

"(B) notwithstanding sections 1814, 1861(v), and 1886 of this title for such restrictions and alternatives on the amount and methods of payment described in such subsection,

as may be necessary to carry out paragraph (1).

"(g) For a definition of 'post-hospital extended care services' and definitions of other terms used in this part, see section 1861 of this title.".

(B) MISCELLANEOUS AND CONFORMING AMENDMENTS.—

(i) Section 1811 of such Act (42 U.S.C. 1395c) is amended by inserting "post-hospital" before "extended care".

(ii) Paragraphs (2)(B) and (6) of section 1814(a) of such Act (42 U.S.C. 1395f(a)) are each amended by inserting "post-hospital" before "extended care" each place it appears.

(iii) Section 1861(e) of such Act (42 U.S.C. 1395x(e)) is amended—

(I) in the matter before paragraph (1), by inserting "and, subsection (i) of this subsection," after "and paragraph (7) of this subsection";

(II) in the second sentence, by inserting ", and subsection (i) of this section" after "and section 1814(f)(2)";

(III) in the fourth sentence, by inserting "except for purposes of subsection (a)(2)" after ", such term shall not"; and

(IV) by inserting after the first sentence the following new sentence: "For purposes of subsection (a)(2) of this section, such term includes any institution which meets the requirements of paragraph (1) of this section.".

(iv) Section 1861 of such Act (42 U.S.C. 1395x) is amended by inserting after subsection (h) the following new subsection:

"(i) The term 'post-hospital extended care services' means extended care services furnished an individual after transfer from a hospital in which such individual was an inpatient for not less than 3 consecutive days before his discharge from the hospital in connection with such transfer. For purposes of the preceding sentences, items and services shall be deemed to have been furnished to an individual after transfer from a hospital, and such individual shall be deemed to have been an inpatient in the hospital immediately before transfer therefrom, if such individual is admitted to the skilled nursing facility—

"(A) within 30 days after discharge from such hospital, or

"(B) within such time as it would be medically appropriate to begin an active course of treatment, in the case of an individual whose condition is such that skilled nursing care would not be medically appropriate

within 30 days after discharge from a hospital;
and an individual shall be deemed not to have been discharged from a skilled nursing facility if, within 30 days after discharge therefrom, such individual is admitted to such facility or any other skilled nursing facility.".

(v) Subsections (v)(1)(G)(i), (v)(2)(A), and (v)(3) of section 1861 of such Act (42 U.S.C. 1395x) are each amended by inserting "post-hospital" before "extended care" each place it appears.

(vi) Section 1861(y) of such Act (42 U.S.C. 1395x(y)) is amended

(I) by inserting "Post-Hospital" before "Extended Care" in the heading and by inserting "post-hospital" before "extended care" each place it appears, and

(II) in paragraph (1), by inserting "(except for purposes of subsection (a)(2))" after "Boston, Massachusetts, but only".

(vii) Section 1866(d) of such Act (42 U.S.C. 1395cc(d)) is amended by inserting "post-hospital" before "extended care".

(viii) Subsections (d)(1) and (f) of section 1883 of such Act (42 U.S.C. 1395tt) are amended by inserting "post-hospital" before "extended care" each place it appears.

(3) COINSURANCE MODIFIED.—

(A) AMOUNT.—Paragraph (3) of section 1813(a) of such Act (42 U.S.C. 1395e(a)) is amended to read as follows:

"(3) The amount payable for post-hospital extended care services furnished an individual shall be reduced by a coinsurance amount equal to one-eighth of the inpatient hospital deductible for each day (before the 101st day) on which he is furnished such services after such services have been furnished to him for 20 days.

(4) USE OF EXCESS PREMIUM REVENUES.—Nothwithstanding any other provision of law, the Secretary of Health and Human Services shall use any excess revenues resulting from the amendments made by this section to—

(A) first, reimburse the Federal Hospital Insurance Trust Fund for any costs resulting from the provision of extended care services to individuals admitted before November 1, 1989, and

(B) second, to further reduce premiums imposed under section 1839 of the Social Security Act.

(5) STUDY.—The Secretary of Health and Human Services, or the Secretary's delegate, shall study the reasons for the unexpected increase in cost estimates of the extended care services benefit under title XVIII of the Social Security Act. The Secretary shall report to the Congress no later than February 1, 1990 the results of the study, including any recommendations for further modifications to such benefit appropriate during the consideration of the provision of long-term care benefits.

(6) EFFECTIVE DATE.—The amendments made by this subsection shall apply to admissions occurring after October 31, 1989, and shall apply to care and services furnished on or after such date.

(d) LIMITATION OF DRUG BENEFITS TO IMMUNOSUPPRESSANTS AND HOME IV DRUGS.—

(1) IN GENERAL.—Subparagraph (B) of section 1861(t)(3) of the Social Security Act (42 U.S.C. 1395x(t)(3)) is amended by striking "in 1990" and inserting "in years after 1989".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(e) ADJUSTMENT IN MEDICARE PART B PREMIUM.—

(1) IN GENERAL.—Section 1839(a) of the Social Security Act (42 U.S.C. 1395r(a)) is amended—

(A) in paragraph (1) by striking all after "(a)(1)" and inserting the following: "(A) The Secretary shall, during September of 1989 and of each year thereafter, determine the monthly actuarial basic rate and the monthly actuarial catastrophic illness rate for enrollees age 65 and over which shall be applicable for the succeeding calendar year.

"(B) The monthly actuarial basic rate determined under this paragraph for a calendar year shall be the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to those enrollees age 65 and over will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees (excluding benefits payable under section 1833(c)).

"(C) The monthly actuarial catastrophic illness rate determined under this paragraph for a calendar year shall be equal to the sum of—

"(i) the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to those enrollees age 65 and over will equal the total of the benefits and administrative costs which he estimates will be payable from—

"(I) the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative services costs incurred in such calendar year with respect to such enrollees under section 1833(c), and

"(II) the Federal Hospital Insurance Trust Fund, which are attributable to the Medicare Catastrophic Coverage Act of 1988, as amended, and

"(ii) the amount (if any) that the Secretary estimates to be necessary to offset any amount—

"(I) by which the monthly premiums otherwise payable under this section with respect to such enrollees for such calendar year (disregarding subsections (b) and (f)) are reduced by reason of the limitation imposed by subsection (f), and

"(II) that are attributable (as determined by the Secretary) to the portion of such monthly premiums that is determined under paragraph (3)(A).

"(D) In calculating the monthly actuarial rates under this paragraph, the Secretary shall include appropriate amounts for a contingency margin.",

(B) in paragraph (2) by striking "1983" and inserting "1989",

(C) in paragraph (3)—

(i) by striking "1983" in the first sentence and inserting "1989",

(ii) by striking the second sentence and inserting the following: "The monthly premium shall (except as otherwise provided in subsection (e)) be equal to the sum of—

"(A) a weighted average of the monthly actuarial catastrophic illness rate for enrollees age 65 and over, determined under paragraph (1) of this subsection, and that rate for disabled enrollees under age 65, determined under paragraph (4) of this subsection, for that calendar year, and

"(B) the smaller of—

"(i) the monthly actuarial basic rate for enrollees age 65 and over, determined according to paragraph (1) of this subsection, for that calendar year, or

"(ii) the monthly payment rate most recently promulgated by the Secretary under this paragraph, increased by a percentage determined as follows: The Secretary shall ascertain the primary insurance amount computed under section 215(a)(1), based upon average indexed monthly earnings of $900, that applied to individuals who became eligible for and entitled to old-age insurance benefits on November 1 of the year before the year of the promulgation. He shall increase the monthly premium rate by the same percentage by which that primary insurance amount is increased when, by reason of the law in effect at the time the promulgation is made, it is so computed to apply to those individuals for the following November 1.", and

(iii) by striking "amount of an adequate actuarial rate for enrollees age 65 and over as provided in paragraph (1)" in the third sentence and inserting "amounts of adequate actuarial rates for enrollees as provided in paragraphs (1) and (4)", and

(D) by striking paragraph (4) and inserting the following:

"(4)(A) The Secretary shall also, during September of 1989 and of each year thereafter, determine the monthly actuarial basic rate and the monthly actuarial catastrophic illness rate for disabled enrollees under age 65 which shall be applicable for the succeeding calendar year.

"(B) The monthly actuarial basic rate determined under this paragraph for a calendar year shall be the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to disabled enrollees under age 65 will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees (excluding benefits payable under section 1833(c)).

"(C) The monthly actuarial catastrophic illness rate determined under this paragraph for a calendar year shall be equal to the sum of—

"(i) the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to disabled enrollees under age 65 will equal the total of the benefits and administrative costs which he estimates will be payable from—

"(I) the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative services costs incurred in such calendar year with respect to such enrollees under section 1833(c), and

"(II) the Federal Hospital Insurance Trust Fund, which are attributable to the Medicare Catastrophic Coverage Act of 1988, as amended, and

"(ii) the amount (if any) that the Secretary estimates to be necessary to offset any amounts—

"(I) by which the monthly premiums otherwise payable under this section with respect to such enrollees for such calendar year (disregarding subsections (b) and (f)) are reduced by reason of the limitation imposed by subsection (f), and

"(II) that are attributable to the portion of such monthly premiums that is determined under paragraph (3)(A) (as determined by the Secretary).

"(D) In calculating the monthly actuarial rates under this paragraph, the Secretary shall include appropriate amounts for a contingency margin.".

(2) CONFORMING AMENDMENTS.—

(A) Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

(i) by striking "the Medicare Catastrophic Coverage Account) in the last sentence of subsections (a)(1) and (a)(4) and inserting "the amendments made by the Medicare Catastrophic Coverage Act of 1988",

(ii) by striking "(b), (e), and (g)" in subsection (a)(2) and inserting "(b) and (e)",

(iii) by striking "subsections (f) and (g)(6)" in subsection (b) and inserting "subsection (f)",

(iv) by striking "monthly premium" in subsection (e)(1) and inserting "portion of the monthly premium otherwise determined under subsection (a)(3)(B)",

(v) by inserting "basic" in subsection (e)(1) after "actuarial", and

(vi) by striking subsection (g).

(B) Section 1840 of such Act (42 U.S.C. 1395s) is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding the previous provisions of this subsection, premiums collected under this part which are attributable to the monthly actuarial catastrophic illness rate established under subsections (a)(1)(C)(i)(II) and (a)(4)(C)(i)(II) of section 1839 shall, instead of being transferred to (or being deposited to the credit of) the Federal Supplemental Medical Insurance Trust Fund, be transferred to (or deposited to the credit of) the Federal Hospital Insurance Trust Fund.".

(C) Subsection (a) of section 1844 of such Act (42 U.S.C. 1395w) is amended by striking the last sentence.

(D) Subsections (a)(1)(A)(i) and (a)(1)(B)(i) of section 1844 of such Act (42 U.S.C. 1395w) are each amended by striking "twice the dollar amount of the actuarially adequate rate" and inserting "the sum of the dollar amount of the actuarially adequate catastrophic illness rate and twice the dollar amount of the actuarially adequate basic rate".

(E) Section 1876(a)(5) of such Act (42 U.S.C. 1395mm(a)(5)) is amended—

(i) in the matter preceding subparagraph (A), by striking "200 percent of", and

(ii) in subparagraphs (A)(ii) and (B)(ii), by striking "monthly actuarial rate" and inserting "the sum of the monthly actuarial catastrophic illness rate and twice the monthly actuarial basic rate".

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) of this subsection shall apply to monthly premiums for months beginning after October 1989.

(B) The amendments made by paragraph (2) of this subsection shall take effect on or after November 1, 1989.

(f) REVISION OF MEDIGAP REGULATIONS.—(1) Section 1882 of the Social Security Act (42 U.S.C. 1395ss), as amended by section 221(d) of the Medicare Catastrophic Coverage Act of 1988, is amended—

(A) in the third sentence of subsection (a) and in subsection (b)(1), by striking "subsection (k)(3)" and inserting "subsections (k)(3), (k)(4), and (m);

(B) in subsection (k)—

(i) in paragraph (1)(A), by inserting "except as provided in subsection (m)," before "subsection (g)(2)(A)", and

(ii) in paragraph (3), by striking "subsection (l)" and inserting "subsections (l), (m)"; and

(C) by adding at the end the following new subsections:

"(m) In the case of an insurer which had in effect, as of December 31, 1988, a medicare supplemental policy with respect to an individual, for which the individual terminated coverage as of January 1, 1989 (or the earliest renewal date thereafter), no medicare supplemental policy of the insurer shall be deemed to meet the standards in subsection (c) unless the insurer—

"(1) provides written notice, by January 15, 1990, to the individual (at the most recent available address) of the offer described in paragraph (2), and

"(2) offers to the individual, during the period beginning on January 1, 1990, and ending on March 1, 1990, continuation of coverage under such a medicare supplemental policy (with coverage effective as of January 1, 1990), under the terms respecting treatment of pre-existing conditions and group rating of premium which are at least favorable to the individual as such terms as existed with respect to the policy as of December 31, 1988.".

(2) SENSE OF CONGRESS.—It is the sense of Congress that States should respond, at the earliest practicable date after the date of enactment of this Act, to requests by insurers for review and approval of riders and premium adjustments for medicare supplemental policies in order to comply with the amendments made by paragraph (1).

(3) ADJUSTMENT OF CONTRACTS WITH PREPAID HEALTH PLANS.—Section 222 of the Medicare Catastrophic Coverage Act of 1988 is amended by inserting "and before January 1, 1990," after "December 31, 1988," each place it appears.

(4) NOTICE OF CHANGES.—The Secretary of Health and Human Services shall provide, in the notice of medicare benefits provided under section 1804 of the Social Security Act of 1990, for a description of the changes in benefits under title XVIII of such Act made by the amendments made by this section.

(5) MISCELLANEOUS TECHNICAL CORRECTION.—Section 221(g)(3) of Medicare Catastrophic Coverage Act of 1988 is amended by striking "subsection (f)" and inserting "subsection (e)".

(6) EFFECTIVE DATE.—The provisions of this subsection shall take effect January 1, 1990, except that the amendment made by paragraph (5) shall be effective as if included in the enactment of Medicare Catastrophic Coverage Act of 1988.

FLAG PROTECTION ACT OF 1989

The Senate continued with the consideration of the bill.

Mr. BIDEN. Mr. President, I see my distinguished colleague from California, with whom I have spent a great deal of time in the last several days and the last several weeks. He is on the floor. I think and I hope he is ready to proceed with his amendment. If that is the case, I am delighted to yield to him so he and I can leave before midnight.

Mr. WILSON. Mr. President, I thank my friend, the distinguished manager. He is quite correct. We have spent much time together. I consider it good company, but, like him, I am willing to give up a little of it so that both he and I might seek some rest and company of our families.

AMENDMENT NO. 951

(Purpose: To prevent the defiling of the American flag)

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. GRAHAM). The clerk will report:

The assistant legislative clerk read as follows:

The Senator from California [Mr. WILSON], for himself and Mr. SYMMS, proposes an amendment numbered 951:

On page 2, line 1 after the word "defaces" add the words "physically defiles".

Mr. WILSON. Mr. President, as you are able to tell from the clerk's reading, this is a very short and very simple amendment. It seems to me it is an important amendment, because the definition contained in the statute, as it is presently before us, is seriously lacking. What we are trying to regulate is conduct of a kind which has aroused concern, because it affects what is a national symbol, and by that we mean not simply a symbol of nationhood or of national unity but, as has been expressed repeatedly on this floor, expressed with great eloquence in the opinions, perhaps best expressed in my view by the dissent of Mr. Justice Stevens, this is an intangible asset, a national asset that is virtually unique. That is symbolized by the American flag.

What we are seeking by this amendment is to prohibit conduct of a kind that does injury in a variety of different ways to that unique symbol of the United States of America.

The present prohibited conduct deals with a number of different forms, but it does not deal with defilement. It is said by some that mutilation or defacement would necessarily include within their meaning what we are intending to proscribe by adding the words "physically defiles."

I do not agree, and I think that common understanding from most dictionary definitions would indicate that "physically defiles" fills a serious omission which would otherwise exist in the statute. The first definition is "to make filthy" and what we have in mind is obviously the kind of conduct that would result if someone were to throw dirt upon a flag, if someone were to throw grease upon a flag, if someone were to drag it through grease, if someone were to soil it in a way that does not perhaps permanently damage it, as does defacement, or which does not render it in pieces as does mutilation.

If I, Mr. President, were to throw dirt in your face, apart from being offended, to which you would certainly be entitled, I do not think you could charge me with having mutilated your face. Most people, if they heard I had been charged with that heinous act, would assume I had done something

far more serious, that I had physically disfigured you, that I had in some manner scarred you at the very least. So what we are talking about is a kind of conduct that I think we do intend to proscribe, that we should, that we are entitled to proscribe because of the importance and the seriousness of this unique national symbol, the American flag. We are talking about a kind of conduct that is not proscribed or prohibited by the word "defaced" or by the word "mutilated."

Defacement again suggests something permanent. It suggests that perhaps the stars had been ripped off the field. It suggests a more permanent kind of and actual disfigurement, but what we are talking about is conduct which most definitely does give offense.

I am not going to get into the language of the Johnson decision unless, of course, my friend wishes to do so. Then I will be happy to do so. But the point is, what we are doing with the statute, as he has offered it to us, is to proscribe conduct that definitely is offensive, offensive because it does violence of some kind to a unique national symbol. If that were not the case, then we would, in fact, not even be bothering with this statute or later on with a constitutional amendment. But the point really is that we are entitled—indeed, most of us think we are obliged—to prohibit that kind of conduct.

It is quite true that the framers of the first amendment had in mind providing very clearly a freedom of speech, a freedom of expression, that would encourage political dissent. It would encourage ideas, criticisms, certainly criticisms of government, and criticisms of governmental policies.

What they had in mind, of course, was sort of specific content, intellectual content, argument that in many times and in many places prior to the existence of the first amendment had been proscribed. Of course, one of the reasons we all prize the American flag is that it is a symbol of freedom, freedom of expression.

But what we are seeking to do here is to impose some reasonable limits upon conduct, conduct of a kind that does violence to that unique intangible asset. What we are doing, I think, is perhaps more easily captured by certain analogies, certain metaphors. I note some contained in the eloquent dissent of Mr. Justice Stevens. He points out that, for example, allowing the posting of bulletins or the kind of bumper stickers that we see on bumpers—if we are to allow that instead upon the Washington Monument, it might, in the view of some, encourage free speech but at a rather obvious cost.

If we were to permit, to take a more extreme case, the painting of slogans in spray paint upon the facade of the Lincoln Memorial, that would, I think, be offensive but a good deal beyond that. It would be conduct of a kind that deals with another symbol and one that many Americans hold sacred.

Here we are talking about the American flag. I suppose that in dealing with the basic concept so as to justify what I think is an entirely justifiable action on the part of Congress, an effort to proscribe conduct injuring the flag as a symbol of the United States, what we are really seeking to do, I think, is perhaps to do the kind of thing that we would understand if we said, yes, it is perfectly fine to speak ill of the dead. It may be tasteless. It may be offensive but it is permitted clearly under the first amendment.

It is one thing to speak ill of the dead. It would be quite another though to spray a cemetery with a can of spray paint, deface or disfigure or even simply defile on a temporary basis the headstone of that same deceased.

That is the kind of distinction that I think is quite legitimate because we are not proscribing intellectual content, argument, criticism, but what we are doing is proscribing conduct, conduct of a kind that is not just offensive but which does violence to that unique American symbol, and a symbol that I think is not just deserving but I think is one that obliges upon us the duty of protection.

Mr. President, the language is I think simple enough. We are talking about physical defilement. So there is no need to be concerned with simple phrases. We are not talking about someone addressing an oath or a profanity to the flag. What we are talking about is conduct that is expressive by virtue of its being conduct but expressive of no importance than hostility, devoid of other intellectual content.

And it is because of the unique status as a symbol of something more than national unity and nation that we are here at all. It is because this conduct is not of a kind that in fact in the context of that unique symbol is deserving of the broad latitude otherwise given by the first amendment that we are here about. We are not just justified in my judgment. We are obliged to accord for millions and indeed hundreds of millions of Americans who value that flag as a unique national symbol, as a symbol of what they believe America to be, the kind of protection, the simple protection that this amendment will give.

Without the amendment, Mr. President, I think there is a serious omission and one that people seeking to do violence to the flag will find, and I do not think we should waste our time or seek to confuse the American people. We should have a simple and understandable and straightforward prohibition upon conduct of this kind.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I seek recognition, if the distinguished Senator from California yields the floor.

I will not keep the Senate long. I understand the concern of the Senator from California. I do not want to sound like a broken record here but I feel compelled to once again state the rationale for why I drafted the statute in the first instance, and why I support the particular statute we have before us.

The intention of the Senator from Delaware is to see to it that—without having to invoke the majesty of the Constitution, the constitutional process, and convene the legislators of the requisite number of States—that we settle a problem, and we fix a problem.

What is the problem? The problem is in the mind of the Senator from Delaware that that magnificent flag sitting to the right of the Presiding Officer's shoulder is protected, physically protected, done so in a way that it does not do violence to the first amendment, and does so in a way that by statute we can meet our objective which is to protect the physical integrity of that flag and not interfere in any way with the first, probably among equal amendments of the Constitution.

So the Senator from Delaware, and others, Senator ROTH, Senator COHEN from Maine, and our colleagues in the House who share this view have been as scrupulous as we could be and as precise as we could be so as to ensure that we would meet any potential objection by the Supreme Court of the United States as to the constitutionality of a statute that we are proposing that would result in the protection of that flag.

The one thing we are required to avoid doing, or giving the Court the excuse to suggest we are doing, is to proscribe any communicative notions, any ideas, any speech for we are not allowed to do that. By the way, even though we are allowed to do that by constitutional amendment, I would strongly object to us doing that, to say that we can pick and choose among individuals as to what they can say, what they can do to communicate an idea relative to the flag or any other notion they wish to communicate.

I will not go into the detail again because the hour is late. But the Court decision seems to me and to the vast majority of the constitutional scholars—which I am not—that Court decision says we are telling you the way you can remedy the situation, so Mr. Johnson cannot stand on the steps of the Capitol and burn the flag. The

way to do that is to come up with a content neutral statute.

So the burning of the flag or defacing the flag, doing something that physically damages that flag becomes illegal. And so the words knowingly mutilates, defaces, burns, tramples upon or puts upon the floor for display, maintains on the floor for display, were chosen because they connote, if you will, content neutral intent.

Everything that the Senator from California wishes to protect against, I respectfully suggest, is covered by the word "deface," which is in the statute now. It can be argued that, as it has been, that somehow the word "defile" has a broader net. The fact is that if you look at the things that the Senator wishes to deal with, if you talk about defacing, according to Webster's Dictionary, it is "to mar the face or appearance, or disfigure; to deface, obliterate or injure the surface as to make illegible, invalid."

Now, defile is "to make foul or unclean, pollute or taint, to violate the chastity of." Obviously, we are not worried about the chastity. "To make impure for ceremonial use, to desecrate, to sully a person's reputation." Defile, arguably—and I do not want to provide the Court with any arguments along these lines—goes to speech. "To ruin the reputation of." You do not deface the reputation. You can defile the reputation. To desecrate—you must be able to consecrate before you can desecrate—but "to desecrate, to violate the chastity of." It connotes that there is a communicative, a verbal injury that you can inflict upon somone or something when you say defile.

Everything that the Senator worries about physically being able to be proscribed or prohibited relative to the flag is covered by deface. I do not want to give, God bless them all, anyone in the High Court the excuse to suggest that we have moved into the realm of speech by attempting to prohibit or proscribe a particular action.

I understand, and I respect, the Senator's attempt to add "physically" to the word defile. So I assume the reason for the word "physically" being added, unlike the Senator from Idaho, who did not add "physically" today when he debated this issue with me, is to attempt as a recognition of the fact that defile, on its own, carries with it the notion of communication of an idea. You defile someone's reputation; you communicate an idea. The idea is through speech that this person is bad. We are not all concerned about, in this amendment, whatever idea is communicated relative to the flag. We are worried about the physical integrity of that flag.

The example the Senator gives—and they are good examples—about headstones and the like in graveyards, all are covered by deface. As a matter of fact, the Senator inadvertently used the word deface, when he was talking about headstones, as his example of the kind of thing he wanted covered.

So everything the Senator, I respectfully suggest, wishes to proscribe relative to the flag is covered by the word deface. "Defile" arguably encompasses everything that deface encompasses and means, but clearly, literally by definition, goes beyond that to cover notions of speech in communication.

The one thing that the Court has made abundantly clear is that a State, a Federal Government, any entity in this Nation, is incapable by any law they pass from limiting communication. You cannot do that. They made it absolutely clear. They have also, in the minds of the Senator of Delaware and many others, made it clear that there is room to legislate against actions that do physical damage to something.

For example, we always hear the use of examples of the Washington Monument and the Lincoln Memorial and so on and so forth. I do not think they are particularly appropriate, because they are public property. You can have laws against doing physical damage to them, because you do not own them. The American people own them, and you cannot do damage. But if the Presiding Officer owned a home that was on the Historic Register, he could not go home tonight and say, you know, honey, I have never liked that mantlepiece. I am going to remove that mantlepiece and put up a beautiful $8,000 marble mantlepiece and make this room look much better. He cannot do that, even though he owns the property, it is his. This is because we made a judgment. It is clear that we are able to make the judgment. We want to physically protect certain properties.

On the other hand, if we pass the law and say, anyone who owns a certain kind of property that was built prior to 1750 cannot desecrate it, what does desecrate mean? Or one cannot take an action relative to that property that casts contempt upon the pilgrims or the Founding Fathers, because they lived in those kinds of houses. The Senator, Presiding Officer, could go home, if that was the law, and burn down his house, and while it is burning, say I am burning down this house to make the point that the Founding Fathers were for slavery, and they were not for the emancipation of women, and, therefore, they were bad. I am burning down this house, which is the type of home they used to live in to make the point. And so on and so forth. Burn it down if you want to.

It depends on the fire code, depending on whether or not you are endangering someone's life; just like, by the way, when Gregory Johnson burned the flag. He could have been arrested for burning the flag in a building if it sets off a smoke alarm, because he has violated the code. In burning the flag on the marble steps, under the Texas statute, Gregory Johnson was protected because he violated no law but the Texas law, which was unconstitutional relative to casting contempt upon, and so on and so forth, which was the Federal statute.

The point I want to make here, and I will cease, is that I genuinely respect the Senator's attempt to strengthen this amendment, but I respectfully suggest that it is an ill-founded attempt, that a careful reading of the Court case and the dissenting opinions and concurring opinions as well will, I think, lead us to the inescapable conclusion that the further away we get from any language that even by implication connotes a communicative restriction, the more in trouble we are. And the language we have here in this statute protects everything that the Senator is concerned about.

I cannot think of anything, and maybe he can give me an example of something he would not like done relative to that flag that is not covered by the existing language. You deface a flag when you mar the face of it. The concern about whether or not someone would drag it through the mud or whether or not someone would walk up and put a Nazi swastika on it or someone would rip off a star, or any other thing you can conjure up, all of that is covered by defacing.

So I ask the Senator whether he would consider withdrawing his amendment, and if not could he give me an example of some physical act to that flag that he would like to proscribe that is not already covered by the language that is in the statute. I am not trying to be argumentative. I am sincerely inquiring.

Mr. WILSON. The Senator has every right to be argumentative. That is perfectly all right; the Senator has to respond to the question.

Mr. BIDEN. I yield the floor for purposes of the Senator responding.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. Thank you, Mr. President.

Mr. President, I think the answer to my friend from Delaware is to go back to the definition which he offered for "defaced" that is to be found in most conventional dictionaries. "Deface: To destroy or mar the face of or looks of; to disfigure."

Mr. President, that is why in my opening remarks I went to some pains to make the semantic distinction between defacement as defined with the definition that he has quoted and I have just used again, between that act and the act of defilement, which is not nearly so permanent nor so violent.

You can defile something, I would suggest, by throwing dirt upon it. You would not destroy it. You would not mar it in the sense that marring the face or looks of permanently would require something far more serious than that. It would require perhaps paint or dye, or something of that kind. You could, I think, with a handful of dirt or for that matter a handful of grease, soluble grease, which arguably could be washed from the flag with no permanent damage to it, engage in a defilement, because the judgment that we are talking about here is or the definition we are talking about is one of physical defilement, and we are talking about an act of making something dirty.

Mr. BIDEN. Mr. President, will the Senator yield for a moment?

Mr. WILSON. Certainly.

Mr. BIDEN. Who we really need is former Senator S.I. Hayakawa back in this body for a moment, because he was a semanticist, and he was the only one I think to ever serve in the U.S. Senate.

Mr. WILSON. If he were here what I think he would tell you is that defacement might in your judgment include defilement, but what you are setting up in the statute is a situation in which defilement would not be a violation of the statute. It would require the greater, more serious, permanent act of defacement.

Mr. BIDEN. If the Senator will yield, I think were he here he would agree with the Senator there is nothing in the word "defacing" that implies or connotes permanency; nothing, not a single thing.

Mr. WILSON. "To destroy." That is rather apparent.

Mr. BIDEN. But to mar the face of does not require anything permanent. That does not require it.

Mr. WILSON. I think on the contrary that it does, or at least would require repair. If you are talking about marring the face, that was the example and the distinction I have used. I said that were I to throw dirt in the face of the distinguished President, he would have every right to be offended but not to charge me with mutilation or not to charge me with having defaced him. I would have offended him; I would have dirtied him; arguably, I would have physically defiled him but I would not have defaced him, nor would I have mutilated him. That is the distinction, and I think it is a proper one.

So I would say to my friend that first of all to address the semantic argument, there is a distinction between defacement and physical defilement. There has to be certain further meaning to the word "defile" when it is not modified by the adverb "physically." It can mean, as the Senator has pointed out, in an archaic sense the taking of chastity.

In this case clearly we are talking about a physical act, an act which is not the same as defacement. In other words, if you read the statute with defacement, then you would be requiring permanency. You would be requiring destruction or marring the face or disfigurement.

Those things I think clearly connote a far more serious injury in terms of its being lasting, or organic, in a way that throwing dirt upon a flag would not. But that would, nonetheless, be an act which should be proscribed because it is, along with the other things that the Senator has offered, an injury, though a temporary one, to this unique national symbol.

So much for semantic distinction. Let me go further and say that argument that my friend has made, and incidentally, before we leave the semantic distinction, my use of the word "deface" was not inadvertent. I would be, I think, derelict not to point out that the Senator has in his choice of the other words, that there are many ways to do injury, and what I was talking about was there is a distinction between speaking ill of the dead, going into a cemetery, or either going in and defacing or defiling a headstone, and I think this is a clear difference.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. WILSON. Yes.

Mr. BIDEN. Is the thing the Senator is trying to get to someone throwing dirt on the flag?

Mr. WILSON. Or doing something else that would make it filthy as the definition is given.

Mr. BIDEN. Can the Senator think of anything else?

Mr. WILSON. Sure, I gave another a while ago—soluble grease, that would be to defile, if you would wipe off the grease, anything you throw on which could be washed out.

Mr. BIDEN. That is not in the Senator's view defacing?

Mr. WILSON. It is not in my view defacing.

Mr. BIDEN. I understand the Senator's point of view. I think he understands mine. I am ready to yield back. We have no time to yield back. I am ready to listen to the Senator if he wishes to speak. I have said my piece.

Mr. WILSON. Mr. President, I will not take much longer, but I do think there is another point to be made, and that is in this list whether it includes my addition of the phrase "physically defiled", or only those words which presently are offered by the Senator from Delaware.

In each case, what is proscribed is an action which he thinks, in the case of the words he has offered, are not communicative, or to use the phrase that he has used repetitively, these are actions that are content-neutral.

Mr. President, the phrase "physically defile" is no more or less content-neutral than defaces or disfigures or multilates. These are obviously all actions which are pretty much content bereft beyond signifying some vague and unexplained hostility.

So I would have to say to my friend that if he is correct in his assertion that the phrase "physically defiles" is somehow content laden in a way that will offend the standard proposed under the Johnson decision, then I have the bad news for him that so will deface, so will mutilate, so will the other words because they are similar in character despite the semantic distinction between the actual physical actions involved.

And if he is correct, then I will tell him that I think what he has done is portend the necessity of a constitutional amendment. If he is wrong, the statute will be constitutionally sound with physically defiled as well as without it. But if it is without physically defiled, we will have provided an opportunity for someone to one day come and throw dirt upon the flag, do temporary injury to it, and I do not think that is our purpose here. I think our purpose is to proscribe a kind of conduct and it includes all the words that he has given us but it includes more. It includes physical defilement, as well.

So, Mr. President, if he is right, then the entire statute is flawed, fatally flawed. If he is wrong, then I may have given him the offense of some surplusage in his understanding of the words "physically defiled." But since I now hold the chair and immediately succeeded the distinguished semanticist, Senator Hayakawa, I will have to tell my friend that I think his understanding of the distinction is insufficient. There is a distinction. And knowing that he loves the language as much as I do, I will be happy to debate it further, but perhaps we should do that on our time and not on the part of the public or that of the distinguished Republican leader, who I see here on the floor, I assume, in anticipation of our stopping this so that he may present his own amendment.

Mr. BIDEN. I obviously strongly disagree with the assertions made by the Senator from California that if I am right about defile, then knowingly mutilate, burn, deface, falls as well.

But just so that we do not frighten those who work the night shift and just got up and turned on C-SPAN and hear this argument and think that maybe they have gotten to Saturday Night Live early and they are late for work, I will no longer try to explain the difference. I say that in no way to reflect upon the Senator from California. It is reflecting upon the Senator from Delaware. I just wonder how people feel who woke up at home and turned on the television and heard this debate.

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I realize that it is a sincere debate, sincere on both our parts. But the way it sounds on both our parts, it makes it seem—well, at any rate, I think we have exhausted the area.

I disagree with the Senator. We will have a chance to vote on it tomorrow. I respect his opinion. I thank him for taking the time to propose the amendment.

Mr. WILSON. Mr. President, I thank my friend. He may flatter us both by thinking we have a television audience.

However, he is correct in saying that we have publicly given this sufficient attention and should move on to the amendment of the Senator from Kansas.

Before relinquishing the floor, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WILSON. Mr. President, I yield the floor.

AMENDMENT NO. 952

(Purpose: To require the desecration of the flag be public in order to be a criminal act)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Under the previous order, amendment No. 951 is now laid aside until the hour of 10:30 a.m. tomorrow.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 952.

On page 2, line 1, after "Whoever" insert "publicly and".

Mr. DOLE. Mr. President, before I discuss the amendment, I want to make a comment. I appreciate the Senator from Delaware saying during the debate tonight that we have a lot of work to do this week. I think we have tried to accommodate the requests of the majority leader.

But I was asked earlier if we were trying to prevent this from going to the House tomorrow. I want to remind people that had we not given unanimous consent to take it up, we would not be on it until the last thing before we go out for recess, and since there may not be a recess, I do not know what that would have done to the unanimous-consent request.

But I wanted the record to show that those are not my motives. In any event, the record should show the only reason we are on this is because we got unanimous consent to take it up, contrary to the agreement which said it would be the last thing we would take up before the recess.

Mr. BIDEN. Will the Republican leader yield?

Mr. DOLE. Yes.

Mr. BIDEN. I think it is a very valid point. I want to acknowledge that it is obviously on its face correct and I do not doubt the motivation of the Senator.

Mr. DOLE. I know the Senator does not. I think there were some who thought we were stalling.

Mr. BIDEN. If the Senator will yield further, I was the one who thought that. I want to go on the record to say that if I had thought a step further, I would have realized what the Senator from Kansas just stated. I do want to acknowledge that that was one thought that did not cross my mind. Had I thought a step further, I would have realized exactly what the Senator said.

Mr. DOLE. I agree with the majority leader that we have a lot of work to do and we would like to get it all done by Saturday evening and not be here on Sunday. We are not there yet. We are working on trying to get an agreement on everything to be done.

Mr. President, the amendment I have sent to the desk simply adds a single word. I suppose we could call it a technical amendment, technical on this side. I am not certain how it is viewed on the other side. The word that we add is "publicly."

In its current form, the bill passed by the House last month prohibits both public and private acts of flag desecration. The fact that the bill covers both public and private acts is a perfect example of the statute's overbreadth.

I understand the reason why the bill's sponsors have intentionally deleted the word "publicly" from the Federal flag desecration statute. They want to make this statute content neutral.

I must say I am not as well versed on constitutional law as is the distinguished chairman of the Judiciary Committee. I commend him for the hearings he had on both the constitutional amendment and the statutory approach. I do not know how many hours were spend on it. I know what happens generally is that after the first day the cameras are gone and there is nobody there but the chairman and the witness and it gets to be hard work. So I appreciate that.

I appreciate the fact that I was permitted to speak and also a new friend of mine named Gary Freeman of Hutchinson, KS, was able to come back here and appear before the committee. It could certainly be the highlight of his life. But he was also, as I viewed it, an average American out there minding his own business, doing what he thought he should be doing. He was also collecting signatures for a constitutional amendment.

So, as I said, I understand the reason why the bill's sponsors have intentionally deleted the word "publicly" from the Federal flag desecration statute. They want to make this statute content neutral—they want to make sure that the statute does not punish anyone's speech or anyone's point of view.

Senator BIDEN has ably pointed out that a public act of flag destruction could represent a form of speech—symbolic speech—thereby running afoul of the Texas versus Johnson decision and unconstitutional.

But it seems to me if we do not put in the word "publicly" then, in effect, we are in the business of prohibiting private conduct of this nature—simply in a mad rush to conform with a Supreme Court decision with which many of us disagree. You can ask yourself all kinds of hypothetical questions. Frankly, I do not know what harm it does to insert the word "publicly." I think what we want to punish is public desecration. That is the point I would make. Private acts of flag destruction, it seems to me are not things we would want to punish. I am not certain I want somebody roaming around and looking at what we may be doing privately with the flag or with anything else.

Let us take the case of the mother who accidentally tears the flag in her living room. Is that going to be punishable under this statute? The statute deletes the word "publicly", so it must apply to private conduct.

Do we really want to punish the child who spills something on the flag in the family kitchen? Do we really want the flag protection police snooping around in the privacy of our homes?

The flag statute as it is currently drafted could cover these kinds of activities by covering private conduct. Simply because it would delete the word "publicly" from the flag descration statute.

So, a lot of Senators who support this statute are the first ones to step on this floor and express deeply held concerns about privacy protections, they are the first ones to argue that police do not belong in our homes unless they have a valid search warrant. I think this amendment addresses these concerns and would help remedy the overbreadth problem of the statute now before the Senate.

I know we are going to hear a lot about overbreadth when we get to talk about the constitutional amendment and I think it also may be evident here.

Also, I would include in the RECORD additional minority views of Senators HATCH and GRASSLEY, which are the following: The Court there noted, in Texas versus Johnson, that if a State were to forbid:

flag-burning wherever it is likely to endanger the flag's symbolic role, but allow it wherever burning a flag promotes that role—as where, for example, a person ceremoniously burns a dirty flag—we would be saying that when it comes to impairing the

flag's physical integrity, the flag itself may be used as a sympol—as a substitute for the written or spoken word * * *—only in one direction.

This, the Court indicated, is impermissible. While the Court did not make this remark in the context of an otherwise blanket ban on flag desecration, we are deeply concerned that such a rationale would be used to invalidate just such a blanket statute.

Indeed, this constitutional flaw is present in H.R. 2978, the House-passed flag statute, which is also pending in the Senate. Its ban on flag desecration includes an exception for "any conduct consisting of the disposal of a flag when it has become worn or soiled."

Further, S. 1338 and H.R. 2978 reach private conduct, such as that undertaken in the home. It is the public casting of contempt on the flag, however, whether to make a political point or no point at all, which we believe should be outlawed.

That is simply the argument in favor of this amendment. I know the distinguished chairman of the committee has an entirely different view and I would rest my case with those remarks.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I thank the Republican leader for his attempt to strengthen this statute. I must say when I first drafted the statute I had the word "publicly" in the statute. I had the word "publicly" in because, quite frankly, what I was thinking about were the circumstances where this would usually occur. It would be in public, just automatically.

Then I thought about it. I should not say that. Let me be more precise.

It was called to my attention by, roughly, half a dozen constitutional scholars that if we make a distinction between public and private, what we are doing is no longer just dealing with the physical integrity of the flag. We are dealing with the physical integrity of the flag only in circumstances where it would have an effect upon people who were watching. "Publicly," requires another person.

If you go out in the middle of a public park tonight, with no one there, and burn a flag or do something bad to the flag, it is not "publicly." There is no one there. There is no one to see it.

You can have a public encounter if you have your neighbors in your house for coffee and you burn the flag. Then it is public if you do it in your living room.

So, it gets down to whether anyone else is there observing this. Again, the import of that is that it then gets back to the motion of appearing to deal with the communicative impact of the action; of doing something to physically injure the flag.

The Senator from Kansas says, to him it is a technical amendment. It may be more over here. I am afraid it will be a technical amendment to the Court. They will point out technically that as a consequence of inserting the word "public" we may be in a position where it is no longer content-neutral and it no longer is devoid of an attempt to restrict communicative notions or have a communicative impact.

This notion of private conduct: The fact of the matter is, I suspect if we walked out of here, any one of us, just think of the reflex action we would have if on the way back to the office there was a flag just burning in the trash can. No one is around; just the flag burning in an incinerator.

I suspect all of us would have the instinct immediately to try to put the fire out. It almost sounds ludicrous to say that, but think about that. The instinct would be to immediately protect the integrity of the flag. Not because it was burning; because someone had thrust it in there and first said, "Red white and blue, we spit on you." Someone said that, threw it in the trash can, and left.

We would pick it out of there because it was physically being damaged. The notion of whether or not a woman in her home who spilled something on the flag—or whatever the example was given—would be subject to prosecution implies several things. It implies, one, that we have a flag patrol out there going around looking in windows, and/or an officer of the law or someone else happens on that occasion to be there; and, second, that she did it knowingly. The statute requires knowingly: knowingly mutilates, knowingly defaces, knowingly burns, knowingly tramples upon.

So, if there is an accidental defacing of the flag, no one is guilty of anything.

The idea of the young child in the kitchen who spills something on the flag, that child would only be guilty of breaking the law under the Wilson amendment. If the Wilson amendment were law, that child may be guilty. Because Senator WILSON would like to get at temporary damage as well as permanent damage. That is the distinction he makes.

But, again all kidding aside, it would require "knowingly," intent to do damage.

With regard to the issue raised at the tail end of the comments, reading from the minority report, this idea that we were making a distinction between burning a flag when it is done under military rules, et cetera, and in burning one when it is done in protest—the distinction rests upon the point that is, now I am employed in the rules that exist for burning flags. We are burning flags because they are no longer worthy symbols. They are no longer flags. They no longer are flags, as we mean them and intend them and define them to be in the law.

So it is a distinction with a significant difference. Not a distinction without a difference.

I will not drag this out, but not because it is not worthy of debate. I do not mean to imply that. But I think the point is very clear that to add the word "publicly" in my view gains us nothing in our effort to deal with protecting the flag; and only brooks a significant possibility of an argument from court that what we are really intending to do is get at speech. Otherwise, they may very well argue, why include the word "publicly"?

Let me go back to the example. I do not know how I got off on this but I think it is appropriate. Let me get to the example of the home protected under the historic register. People do not run around to determine whether or not they have the ability to go in without warrants or without probable cause—that is how you get a warrant—and check whether or not someone is taking out the interior library of an old home and replacing it with mirrors, which would be against the law for them to do. They do not do that. It is against the law, whether it is done publicly or privately because we want to protect the physical object.

Well, it is against the law. It is the intention of the Senator from Delaware to make it against the law, whether it is done privately or publicly, to protect that physical object. It is not the intention of the Senator from Delaware to protect that physical object only in circumstances where someone else will witness whether or not it is being defaced or in any way multilated.

But, again, I have a friend I went to high school with. He is a fine businessman. He lives just across the line in Pennsylvania. When you get into a discussion or argument with him and you go on, at one point you will look at him and say, "Do you understand?" He will look at you and say, "I not only understand, I overstand." I suspect I am debating this to the point where my point is "overstood." There is no such word, obviously, but I would conclude by saying that, again, I do not know what it adds by adding the word "publicly" in terms of the intention of the statute what it adds, and I only know what it may detract, and that is, it may diminish the overwhelming possibilities that this will be viewed as a constitutionally valid statute.

Therefore, I respectfully urge my colleagues when the time comes to reject the amendment. I yield the floor. I will be happy to respond further if the Senator wishes to speak.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I think we have a fundamental difference of opinion here between the Senator

from Delaware, who certainly worked very hard on this. I do not take issue with what he has done. We just happen to have a different view on how we want to protect the flag. He wants to protect the flag as a physical object; I want to protect, the important symbols that the flag represents. That is why I tried to restore the word "publicly" to the bill before us. And if we want to protect the symbolic value of the flag, I think then that the Texas versus Johnson decision tells us that we will need a constitutional amendment.

I do not think we can do it this way. I do not think people are concerned about the red, white, and blue dye, the cloth, things of that kind, the flag as a physical object. We are concerned about the symbolic value of the flag. We are all concerned about the symbols, what it symbolicly means to the American people, what it symbolicly means to someone at a graveside service or somebody in uniform, what it symbolicly means to somebody overseas when they see the American flag. Did he notice the colors, notice the cloth, or notice the symbol? By inserting the word "publicly," then you have that protection.

Mr. President, I would like to take the time now to commend the efforts of my friend and colleague, Senator BIDEN. His proposed amendment to the Federal flag desecration statute is a serious effort—and one that deserves serious consideration by the Senate today.

I would also like to commend the Senator from Delaware—and his distinguished colleague on the Judiciary Committee, Senator THURMOND—for the fine committee hearings that they have chaired over the past 3 months. These hearings were comprehensive, fair, and extraordinarily well managed.

THE SYMBOLIC POWER OF THE FLAG

Now, my colleagues in the Senate do not need me to tell them about the symbolic importance—and power—of the flag. And you do not need me to tell you how revered the flag is by the overwhelming majority of Americans. Just ask your constituents.

The flag is the one symbol—the one symbol—that unites us as a nation. It is the one symbol that transcends the diversity of America and brings us together as a people—a people with vastly different—but vastly rich—cultural, religious, and social heritages.

Even Justice Brennan recognized the unique symbolic power of the flag when—in the Johnson decision—he speaks of the "flag's deservedly cherished place in our community." He also speaks of the "flag's special role," and of the "feelings it inspires."

Justice Brennan is right on target—and his words echo my views and the views of millions of Americans. For it is precisely because of the flag's cherished place in our community, it is precisely because of the flag's special role, it is precisely because of the feelings that the flag inspires among Americans, that I believe that the flag—our flag—deserves protection. And I believe that the overwhelming majority of my Senate colleagues would agree with me.

So the question we must answer today—and during the week of October 16—is simply this: "What kind of protection does the flag deserve?" Should we give the flag statutory protection or should we give the flag more permanent, more lasting protection—constitutional protection?

A STATUTE WILL NOT DO THE TRICK

I have come to the conclusion—regretfully—that a statute, rather than a constitutional amendment, will simply not do the trick—that a statute will simply not guarantee the flag's safety from physical desecration. And that is why I am prepared to vote against the statute proposed by the distinguished Senator from Delaware and the House flag statute.

THE REAL PURPOSE OF THE STATUTE

During the committee hearings, Senator BIDEN asserted that Americans want to protect the flag "because it is the flag, period, and that the message attached to the flag's destruction is not very relevant to most Americans."

With all due respect to my friend and colleague, I completely disagree with his statement—and with his representation of the attitudes of Americans toward their flag. The American people want to protect the flag from destruction not because it is the flag, period. Americans want to protect the flag because they want to protect it as the symbol of our Nation. Americans do not care so much about the flag as a physical object. They are not concerned about the cloth, the fabric, the red, white, and blue dye, the physical components of the flag.

But Americans do care—they care very deeply—about the cherished principles that the flag has come to symbolize. And they do care when irresponsible people desecrate these principles by desecrating Old Glory.

So—it seems to me—that the legislative motivation behind a so-called content-neutral statute and a statute aimed at contemptuous conduct is identical: Protecting the symbolic value of the flag. And I know that the hearings on the content-neutral statute have made this abundantly clear.

Unfortunately, the Supreme Court in the Texas versus Johnson decision taught our Federal and State governments some lessons—it taught them that protecting the symbolic value of the flag is an impermissible governmental objective. It taught them that a person's so-called right to desecrate Old Glory outweighs—and always outweighs—the Government's interest in protecting the values that the flag represents.

These lessons are clear—and it is clear to me that a statute—even though content-neutral—will not survive constitutional analysis. I am not alone in this view. The Justice Department testified that a statute will not work. Judge Robert Bork testified that a statute will not work. Former Solicitor General Charles Fried of Harvard has testified that a statute will not work. And even those who testified in support of the statute admitted that the statute's constitutionality was not airtight.

THE STATUTE'S OVERBREADTH

Now, I have heard a lot about the alleged overbreadth of the constitutional amendment endorsed by President Bush last June and introduced by Senator DIXON and myself. But the real problem of overbreadth—it seems to me—lies not with the constitutional amendment, but with the statute before us today.

By removing the words "cast contempt upon," "publicly," and "defiling" from the Federal flag desecration statute, this statute would criminalize event acts of patriotism—all under the guise of something called content-neutrality.

But do we really want to punish the mother who, while mourning the loss of her dead son, pins her son's medals on the flag? Do we really want to punish the movie producer who depicts the destruction of the flag in a patriotic film? Do we really want to punish the child who innocently tears the flag? Do we really want the flag protection police snooping around in the privacy of our homes—perhaps in our bedrooms?

The answers to these questions is, of course, a resounding "no." But the statute—as currently drafted—could cover these types of activities.

THE "GREATER DANGER" TO THE FIRST AMENDMENT

I have also heard a great deal about how the flag amendment will somehow tamper with the first amendment. But let's tell it like it is here: This content-neutral statute—which prohibits flag destruction in all circumstances—is more of a threat to first amendment values than a constitutional amendment that would prohibit flag destruction only in some circumstances. And, in fact, the content-neutral statute would ban more conduct than the Federal flag desecration statute that is currently on the books.

So, I have to wonder which is the so-called greater danger to free speech—the content-neutral statute or the flag amendment?

CONCLUSION

Now, I would be the first one to admit that I am not a constitutional scholar. I am a politician—and I have been one for some time. But I have lis-

tened to the legal experts, I have listened to the constitutional scholars, and I have listened to the American people—and the message is loud and clear. The American people do not want a quick fix, they do not want a statute, and they especially do not want a neutral statute that may or may not work. The American people are not neutral when it comes to flag desecration.

So, I regret to say that I will vote against the statute. And I urge my colleagues to support the constitutional amendment that the Senate will consider on October 16.

Mr. BIDEN. Mr. President, I will take only 30 seconds more of the Senate's time. I would argue that the way the statute is written it protects everything the Senator wishes to protect, including the symbol, and it does no violence to additional protections that the Senator is worried about being overly broad. So it is either overly broad, which means it protects everything he wishes to protect, or it is not overly broad, and it does not protect everything he wishes to protect.

I would respectfully suggest it does both, but, again, the hour is late. The point has been made, and I respect the Senator, and I respect the point of view of the Senator from Kansas. No one who I know has demonstrated more and has a greater right to speak to the importance of this symbol than the Senator from Kansas. I respect his effort. As he said, we just disagree.

Mr. DOLE. I thank the Senator from Delaware.

Mr. BIDEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

NATIONAL DRUG STRATEGY

Mr. BIDEN. Mr. President, I ask unanimous consent that a detailed description of the forfeiture and public corruption amendments (923 and 926) adopted by the Senate yesterday be printed in the RECORD.

There being no objection, the analyses were ordered to be printed in the RECORD, as follows:

ANALYSIS OF AMENDMENT NO. 923 TO S. 1711

FORFEITURE

Uses of asset forfeiture fund to purchase guns for police. Section 1201 amends the statute governing the uses of the Justice Department Asset Forfeiture Fund, 28 U.S.C. 524(c), to allow up to $10,000,000 in each fiscal year to be disbursed from the fund to purchase firearms, ammunition, protective body armor and other personal safety equipment for Justice Department law enforcement agents. This use is in keeping with other currently authorized disbursements from the Fund which include the equipping of government-owned vessels, vehicles and aircraft for use by federal agents. Section 524(c)(1)(F).

Such disbursement would not diminish the amount available for any other purpose authorized in section 524(c) except to the extent that any disbursement from the Fund diminishes the amount left over in the Fund at the end of the fiscal year. Under section 524(c)(9), up to $150,000,000 in unobligated funds remaining in the Fund at the end of the fiscal year is to be transferred to an account controlled by the Director of National Drug Control policy for use in carrying out the priorities of the National Drug Control strategy.

Section 1201 also includes a number of technical amendments. The first is made necessary by the enactment of the Chemical Diversion and Trafficking Act of 1988. Pub. L. 100-690, 102 Stat. 4312-20. Currently, section 524(c)(1)(A)(ii) permits disbursements from the fund to be used to defray expenses associated with the storage, protection and destruction of controlled substances. The amendment expands this to cover precursor and essential chemicals.

A second amendment authorizes the payment of reward money for information relating to money laundering offenses. This conforms clauses (B) and (C) to clause (G) which already permits the use of money from the Fund to purchase evidence of money laundering violations.

Finally, a technical amendment in subsection (b) allows the Attorney General to warrant clear title to forfeited property.

Restoring Equitable Sharing. In 1984, Congress amended section 511 of the Controlled Substances Act (21 U.S.C. 881) to permit the Attorney General to share the proceeds of any civil or criminal forfeiture with any state or local law enforcement agency that participated in the forfeiture. If the seizure was the result of a wholly state or local law enforcement operation, the statute permitted the federal Drug Enforcement Administration to take over or "adopt" the seizure, forfeit the property under federal law, and return it to the state or local agency under the sharing provision. 21 U.S.C. 881(e)(1)(A).

A provision in the Anti-Drug Abuse Act of 1988 amended the forfeiture statute to prohibit such "adoptive" forfeitures in cases where state forfeiture statutes apply. 21 U.S.C. 881(e)(3)(B) enacted by Pub. L. 100-690, Sec. 6077, 102 Stat. 4324-25. State and local law enforcement officials from a number of states have complained that this provision, which is due to take effect on October 1, 1989, would adversely affect their ability to retain forfeited property for law enforcement purposes, and would unnecessarily curtail a program that has fostered cooperation between state and federal agencies and has proven beneficial to all parties involved.

Section 1202 would repeal Section 6077 of the 1988 Act to allow the adoptive forfeiture program to continue as it has since 1984.

Removal of ceiling on administrative forfeitures of cash. Current law permits forfeitures involving certain property worth $100,000 or less to be handled administratively by the respective law enforcement agencies. Forfeitures involving more valuable property must be processed through the judicial system. In 1988 the Senate passed an amendment to raise the limit on what could be handled administratively to $500,000, but it did not pass the House. (Sec. 2951 of H.R. 5210, as passed by the Senate October 14, 1988.)

The General Accounting Office has found that approximately one-third of all drug forfeitures involves cash. Fourteen percent of this is forfeited administratively because the amount in question is $100,000 or less; the remaining 86 percent is subject to judicial forfeiture. Judicial forfeitures of cash are almost always uncontested, however, and therefore could be handled administratively without jeopardizing property rights. For that reason, GAO has recommended making all forfeitures of cash administrative.

Section 1203 adopts this recommendation, making forfeitures of all monetary instruments administrative regardless of the dollar amount involved. The term "monetary instruments" is defined, as in 31 U.S.C. 5312(a)(3), to include currency and bearer instruments only. See 19 U.S.C. 1401(c). Section 1203 also raises the limit on administrative forfeitures for other types of property to $500,000. These changes will shorten the time it takes for seized property to be shared with state and local law enforcement or deposited into the respective asset forfeiture funds for other purposes. The amendment does not alter the existing provision whereby anyone who desires to contest an administrative forfeiture may post a bond and have his property rights adjudicated in a judicial forum.

The amendment in Section 1203 applies to forfeitures handled by the U.S. Customs Service under the Tariff Act of 1930 (19 U.S.C. 1607) as well as to forfeitures handled by Justice Department agencies since the procedures for such Justice forfeitures are governed by cross-reference to the Tariff Act. 21 U.S.C. 881(d).

Minor and technical forfeiture amendments. Currently, the forfeiture provisions relating to the commission of a foreign drug offense permit the forfeiture only of property constituting or traceable to the proceeds of such an offense; unlike under 21 U.S.C. 881, relating to forfeiture for domestic drug violations, no authority exists to forfeit the instrumentalities of foreign drug crimes. Section 1204 would create such authority, subject to the same limitations, concerning the rights of "innocent owners" of conveyances, set forth in 21 U.S.C. 881(a)(4)(C), as enacted by section 6075 of the Anti-Drug Abuse Act of 1988.

Closing of loophole regarding criminal forfeiture and bankruptcy. Section 1205 is designed to prevent the unjustified use of bankruptcy proceedings to thwart a federal criminal forfeiture through the payment of a violator's unsecured, general creditors from forfeitable assets. The limitation to those bankruptcy proceedings commenced after or in contemplation of criminal proceedings for which criminal forfeiture sanctions exist safeguards against interference with legitimate bankruptcy filings.

Nonabatement of criminal forfeiture when defendant dies pending appeal. Section 1206 would overturn the questionable decision of the Ninth Circuit in *United States* v. *Oberlin*, 718 F.2d 894 (1983), which held that a criminal forfeiture proceeding abated upon the post-verdict suicide of the defendant. Compare *United States* v. *Dudley*, 739 F.2d 175 (4th Cir. 1984) (order of restitution does not abate with defendant's death). See also *United States* v. *Miscellaneous Jewelry*, 667 F. Supp. 232, 245 (D. Md. 1987). The Solicitor General's Office in the *Oberlin* case, *supra*, and in a later Ninth Circuit case (*United States* v. *Mitchell*), while deeming the issue not to warrant Supreme Court review, has written memoranda criticizing the courts' reationale for abatement in the criminal forfeiture context.

Forfeiture of personal property used to facilitate a drug offense. Section 1207 would close a gap in the controlled substances forfeiture statute and permit civil forfeiture of certain personal property—a weapon, computer or an electronic communications device (e.g. a mobile telephone)—that is commonly used to facilitate drug violations. The amendment has been suggested by a number of persons, including the Los Angeles County Sheriff, Sherman Block.

Forfeiture of proceeds traceable to conveyances used to facilitate drug violations. Due to an apparent anomaly in the controlled substances civil forfeiture law, which normally and properly reaches the proceeds of forfeitable property in addition to the forfeitable property itself, 21 U.S.C. 881(a)(4), relating to the forfeiture of conveyances used to facilitate a controlled substance violation, does not extend to the forfeiture of the proceeds traceable to the sale of such conveyances. Not infrequently, for investigative reasons, facilitating conveyances are not immediately seized. Thus, the owners are able to sell the conveyance and the proceeds of that sale are outside the purview of the statute. This result would be changed by the proposed amendment in Section 1208 so as to permit forfeiture of proceeds traceable to forfeitable conveyances. The other aspects of the amendment insure that proceeds will not be forfeitable under the three so-called "innocent owner" exceptions to section 881(a)(4), where the conveyance itself would not be forfeitable by virtue of those provisions.

Equitable transfer to a participating foreign nation of forfeited property. Sections 6074 and 7366 of the Anti-Drug Abuse Act of 1988 amended 21 U.S.C. 881(e) and 19 U.S.C. 1616a, respectively, in an identical manner to provide for the equitable sharing with a foreign nation of forfeited property or the proceeds therefrom where the foreign nation participated in the seizure or forfeiture of the property. Under the Anti-Drug Abuse Act amendments, transfers of property to participating foreign nations may be made where three conditions are satisfied: (1) the Secretary of State concurs, (2) the transfer is authorized in an international agreement between the United States and the foreign country, and (3) the country has been certified under section 481(h) of the Foreign Assistance Act of 1961.

In thus amending the law to permit sharing of forfeited property or proceeds with foreign nations, Congress neglected to make a conforming amendment to 18 U.S.C. 981(i), which before the enactment of the Anti-Drug Abuse Act of 1988 was the only statute authorizing transfers of forfeited property to a foreign country. Under 18 U.S.C. 981(i), however, such transfers could only be made "to the extent provided by treaty"—a restriction which rendered the provision virtually useless from a practical standpoint and which was the reason for seeking the amendments in the Anti-Drug Abuse Act of 1988 that relaxed the requirement so as to permit such transfers pursuant to an international agreement.

Section 1209 would conform the provisions of section 981(i) to the recently amended provisions of 21 U.S.C. 881(e) and 19 U.S.C. 1616a. Moreover, elimination of the introductory language now in section 981(i) is appropriate because the language is misleading. The introductory language appears to render the entire subsection applicable only to forfeitures that occur "under subsection (a)(1)(B)" of section 981—that is, forfeitures of the property or proceeds of a *foreign drug offense*—but the first sentence of paragraph (i)(1) is clearly applicable to all property forfeited under the Controlled Substances Act. Thus, deletion of the introductory language enhances the clarity of the subsection and the applicability of the first sentence to all foreign-sharing-of-forfeited-property statutes.

Clarification of Attorney General's forfeiture sale authority. Other than providing that the Attorney General may "sell" forfeited property, the principal existing controlled substances forfeiture statute, 21 U.S.C. 881(e)(1)(B), and the child pornography civil forfeiture law, 18 U.S.C. 2254(f)(2), are silent as to what means may be used to effect the sale. By contrast, the RICO and other forfeiture laws, 18 U.S.C. 1963(f), 1467(h), and 2253(g) provide for the disposition of property by sale "or any other commercially feasible means".

Section 1210 would add similar clarifying language to 21 U.S.C. 881(e)(1)(B) and 18 U.S.C. 2254(f)(2), thus providing clear statutory authority for the use of commercial auctioneers, brokers, and other techniques to sell forfeited property.

Clarification of civil forfeiture seizure warrant authority. 18 U.S.C. 981 deals with civil forfeiture relating to money laundering offenses. The means of seizing the property alleged to be forfeitable are set forth in subsection (b) and include obtaining a warrant "pursuant to the Federal Rules of Criminal Procedure". That language is inartful, however, since the Federal Rules of Criminal Procedure are expressly inapplicable to civil forfeiture proceedings. Rule 54(b)(5). Accordingly, 18 U.S.C. 981(b) is amended in Section 1211 to clarify that the warrant is to be obtained "in the same manner" as provided for the securing of a warrant under the Federal Rules of Criminal Procedure. This tracks the language used in another civil forfeiture statute, 21 U.S.C. 881(b).

Forfeiture and destruction of dangerous, toxic, and hazardous materials. Section 1212 amends 21 U.S.C. 881(f), which authorizes the summary forfeiture and destruction of schedule I and II controlled substances seized for violation of the Controlled Substances Act. The proposed amendment adds to the category of property that may be summarily forfeited and destroyed all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under 21 U.S.C. 881(a)(2) and any equipment or container subject to forfeiture under section 881(a) (2) or (3) if the equipment or container cannot be separated safely from the dangerous raw materials or products.

The amendment is needed because law enforcement agents investigating illegal laboratories are placed in a position of danger in seizing and transporting hazardous substances. For example, the substances may emit toxic fumes or cause an explosion when in contact with certain other substances. Ethyl ether is an example of a dangerous substance which law enforcement agents encounter in investigating clandestine laboratories.

Raw materials, products, equipment, and containers used or intended for use in the manufacture, delivery, import, or export of controlled substances in violation of the Controlled Substances Act are subject to forfeiture under 21 U.S.C. 881(a)(2) and (3). However, they are not subject to the summary forfeiture and expeditious destruction provisions applicable to schedule I and II controlled substances under section 881(f). These raw materials, products, and equipment must be forfeited according to the provisions of the customs laws relating to the seizure, summary and judicial forfeiture, condemnation, and disposition of property involved in a violation of the customs laws. 21 U.S.C. 881(d). The customs procedures, involving either judicial or administrative forfeiture, are time-consuming and necessitate the handling and storage of property. Hazardous substances used or intended for use in the manufacture of controlled substances should be exempt from these procedures because of the dangers they create for law enforcement agents.

The amendment reaches both the dangerous substances themselves and equipment or containers from which the substances cannot safely be separated. If law enforcement agents were not authorized to destroy such equipment and containers, the purpose of the amendment would be defeated since the agents would be forced to extract the dangerous substances from their containers or other equipment to which they may be linked for purposes of destroying the substances.

Elimination of restriction on disposal of judicially forfeited property. 18 U.S.C. 981(e) governs the disposal of property forfeited by the Attorney General, the Secretary of the Treasury, or the Postal Service. The subsection provides, among other things, that the property may be retained, may be transferred to another federal agency, or may be transferred to a State or local law enforcement agency which participated directly in any of the acts which led to the forfeiture. The three federal departments or agencies are directed equitably to share the proceeds of forfeitures with such participating State and local law enforcement authorities.

Section 6469(b) of the Anti-Drug Abuse Act of 1988 added a sentence to 18 U.S.C. 981(e) which limited the authority of the Treasury Department and the Postal Service under that subsection to "property that has been administratively forfeited." No rationale for this limitation is stated and none is apparent. Prior to the 1988 Act, Treasury enjoyed the authority to dispose of property it seized irrespective of whether the property was later judicially forfeited in a proceeding conducted by the Attorney General. Possibly, the last sentence of subsection 981(e) was inserted because in some manner it was believed necessary to protect the litigating authority of the Attorney General. However, such litigating authority is not implicated by subsection 981(e), nor is there any other reason why Treasury and the Postal Service should not be able to dispose of property seized within their respective jurisdictions, as to which a judicial forfeiture proceeding is later brought. Accordingly, section 1213 would repeal the last sentence of 18 U.S.C. 981(e) to give those agencies that authority.

ANALYSIS OF BIDEN AMENDMENT NO. 926

SUBTITLE C—PUBLIC CORRUPTION

Biden Anti-Corruption Act. Sections 1251-54 comprise S. 327, a public corruption bill introduced by Senator Biden. A section-by-section analysis of the bill appears in the Congressional Record, February 2, 1989, at S1064. The version of S. 327 included in this bill, however, contains the following changes.

The penalty provision has been changed to a maximum penalty of 10 years. S. 327 provided for a maximum 20 sentence in certain circumstances. The change was made for the sake of simplicity. The current ver-

sion has also been modified to apply to the corruption of officials of Indian tribal governments. The election fraud provisions have been amended to include paying a person to vote in an election. The basis for federal jurisdiction has been amended by adding as a separate ground that the offense involved an official who, if elected, would have authority over federal funds. Federal jurisdiction would also apply if the offense involving the intrastate use of a facility of interstate commerce. Finally, the amendment to 18 U.S.C. 1343 is modified to include an attempt provision in that statute.

Narcotics-related public corruption statute that passed the Senate in 1988 drug bill. Section 1255 is derived from the narcotics related public corruption bill passed by the Senate in the 100th Congress as section 2151 of H.R. 5210. It would make it a federal crime to bribe any public official, including a law enforcement agent, in connection with drug trafficking activity.

This section is modeled on 18 U.S.C. 201, relating to bribery of federal officials and witnesses, and it is intended that the case law interpreting the elements of a section 201 offense will be directly applicable to the new offense. The new section, however, differs from section 201 in two important respects.

First, whereas section 201 is limited to offenses involving federal officials, the new section 220 would pertain to the corruption of any official at any level of government. This is intended to permit federal prosecution of offenses involving corruption of state and local law enforcement personnel by narcotics traffickers. Such instances have, unfortunately, become commonplace in many parts of the country. The involvement of the federal law enforcement apparatus is necessary in such cases, of course, because local authorities are hampered in their ability to prosecute corruption in their own ranks.

Second, federal jurisdiction under section 220 would be limited to offenses connected to drug trafficking. It is not intended for this section to become a general purpose public corruption statute; it is intended to be an important tool in the federal government's effort to combat narcotics trafficking.

CORRECTION OF AMENDMENT NO. 923, AS MODIFIED

NOTE.—In the RECORD of October 3, 1989, at page S12463, in Biden amendment No. 923, as modified, certain provisions of the amendment do not appear in print. The following is the full text of Biden amendment No. 923, as modified:

At the appropriate place in the bill insert the following:

Subtitle B—Forfeiture

SEC. 11. USES OF JUSTICE FORFEITURE FUND.

(a) PURCHASE OF FIREARMS.—Section 524(c)(1) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (G);

(2) by redesignating subparagraph (H) as subparagraph (I);

(3) by inserting a new subparagraph (H) as follows:

"(H) for any fiscal year, not to exceed $10,000,000 for the purchase of firearms, ammunition, protective body armor, and other personal safety equipment for investigative and enforcement personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service who devote a substantial amount of their time to drug law enforcement activities; and";

(4) in subparagraph (A)(ii) by—

(A) inserting a comma after "forfeitable assets";

(B) inserting "or listed chemicals (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))" after "storage, protection, and destruction of controlled substances".

(5) In subparagraph (S) by inserting before the semicolon ", or the money laundering offenses set forth in sections 1956 and 1957 of title 18 and sections 5313(a) and 5324 of title 31"; and

(6) in subparagraph (C) by inserting before the semicolon "or the money laundering provisions in sections 981 and 982 of title 18".

(b) DEFINITIONS AND PROCEDURES.—Subsection 524(C) of title 28, United States Code, is amended by adding at the end the following new paragraphs:

"(11) For the purposes of this subsection, the term 'firearm' means any rifle, handheld pistol or revolver, or other weapon that is authorized by the Attorney General, or his designee, to be carried by personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service.

"(12) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his or her discretion, to warrant clear title to any subsequent purchaser or transferee of such property.".

(c) CONFORMING AMENDMENT.—Section 524(c)(9) of title 28, United States Code, is amended by striking "and (G)" and inserting "(G) and (H)".

SEC. 12. RESTORING EQUITABLE SHARING.

(a) Section 511(e)(3) of the Controlled Substances Act (21 U.S.C. 881(e)(3)) is amended by—

(1) striking subparagraph (B);

(2) striking the dash and "(A)"; and

(3) striking "; and" and inserting a period.

(b) Section 6077 of the Anti-Drug Abuse Act of 1988 is amended by striking subsection (c).

(c) The amendment made by subsection (a) shall be effective with respect to fiscal years beginning with fiscal year 1990.

SEC. 13. INCREASING EFFECTIVENESS OF ADMINISTRATIVE FORFEITURES.

(a) AMENDMENTS TO THE TARIFF ACT OF 1930.—Subsection (a) of section 607 of the Tariff Act of 1930 (19 U.S.C. 1607(a)) is amended—

(1) in paragraph (1) by striking "$100,000" and inserting "$500,000";

(2) by striking "or" at the end of paragraph (2); and

(3) by inserting "or" after the semicolon at the end of paragraph (3); and

(4) by adding after paragraph (3) the following:

"(4) such seized merchandise is monetary instruments;".

(b) CONFORMING AMENDMENT.—The section heading for section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"SEC. 1607. SEIZURE; VALUE $500,000 OR LESS, PROHIBITED ARTICLES, TRANSPORTING CONVEYANCES.".

SEC. 14. FORFEITURE OF INSTRUMENTALITIES OF A FOREIGN DRUG OFFENSE.

Section 981(a)(1)(B) of title 18, United States Code, is amended—

(1) by inserting after "proceeds obtained directly or indirectly from" the words "or which represents the instrumentalities of"; and

(2) by adding at the end thereof the following: "No conveyance shall be forfeited under this paragraph to the extent of an interest of an owner by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner.".

SEC. 15. CLOSING OF LOOPHOLE TO DEFEAT CRIMINAL FORFEITURE THROUGH BANKRUPTCY.

(a) TITLE 18.—Section 1963(a) of title 18, United States Code, is amended by inserting after "shall forfeit to the United States irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution under this chapter".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413(a) of the Controlled Substances Act (21 U.S.C. 853(a)) is amended by inserting after "shall forfeit to the United States, irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution of such violation".

SEC. 16. NONABATEMENT OF CRIMINAL FORFEITURE WHEN DEFENDANT DIES PENDING APPEAL.

(a) TITLE 18.—Section 1963 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(n) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end thereof the following new subsection:

"NONABATEMENT OF FORFEITURE ORDER

"(q) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

SEC. 17. FORFEITURE OF PERSONAL PROPERTY USED TO FACILITATE A DRUG OFFENSE.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end thereof the following new paragraph:

"(10) Any weapon, computer, or electronic communications device used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.".

SEC. 18. FORFEITURE OF PROCEEDS TRACEABLE TO CONVEYANCES USED TO FACILITATE DRUG VIOLATIONS.

Section 511(a)(4) of the Controlled Substances Act (21 U.S.C. 881(a)(4)) is amended—

(1) by inserting "and any proceeds traceable to such conveyances" after "property described in paragraph (1) or (2),";

(2) in subparagraph (A), by inserting ", and no proceeds traceable to such conveyance," before "shall be forfeited"; and

(3) in subparagraphs (B) and (C), by inserting "and no proceeds traceable to such conveyance" before "shall be forfeited".

SEC. 19. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATION FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 20. CLARIFICATION OF ATTORNEY GENERAL'S FORFEITURE SALE AUTHORITY.

Section 511(e)(1)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(B)) and section 2254(f)(2) of title 18, United States Code, are each amended by inserting ", by public sale or any other commercially feasible means," after "sell".

SEC. 21 CLARIFICATION OF CIVIL FORFEITURE SEIZURE WARRANT AUTHORITY.

Section 981(b)(2) of title 18, United States Code, is amended by striking "has obtained a warrant for such seizure pursuant to the Federal Rules of Criminal Procedure" and inserting "has obtained a warrant for such seizure in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure".

SEC. 22. FORFEITURE AND DESTRUCTION OF DANGEROUS, TOXIC, AND HAZARDOUS MATERIALS.

Section 511(f) of the Controlled Substances Act (21 U.S.C. 881(f)) is amended by inserting "; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a)(2) or (3) which cannot be separated safely from such raw materials or products" after "this title" wherever it appears.

SEC. 23. ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE TREASURY DEPARTMENT AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

Mr. DODD. Mr. President, I rise to express my support for the national drug control strategy bill, which expands critical support for treatment and support programs that address the human costs of the drug war. I particularly want to thank Senator BIDEN who has worked hard to ensure that all aspects of the drug problem are considered.

My remarks today will focus on provisions in the bill directed at children. When we add up the costs of poverty and drug abuse in this country, we find that our children pay the highest price today through abuse, neglect, and homelessness. But the consequences to our society in the future are alarming.

Children are often the victims of the current drug epidemic, because women particularly seem to be drawn to smoking crack cocaine. Child welfare agencies around the country are overwhelmed by cases of children abused and neglected as a result of their parents' drug abuse. Often these children, many of them quite young, are invisible to our society until tragedy strikes. Although historically between 30 and 40 percent of abuse and neglect cases nationally have involved substance abuse, individual jurisdictions report much higher proportions. In my own State of Connecticut, 65 percent of referrals on seriously abused children involve parental substance abuse.

Homeless children also contribute to the growing child welfare caseload. Children have come to represent a major proportion of the homeless in many areas. In Fairfield County, CT, almost two-thirds of the homeless in 1988 were children.

These pieces add up to an alarming picture of a lost generation: children with no time for childhood, growing up in fear and confusion amidst poverty and violence. What does the future hold for these children as they reach adulthood? Children of substance abusers become callous and hardened at an early age to hide their pain and anxiety. Child abuse and substance abuse often are transmitted among generations. Homelessness deprives a child of security, privacy, and consistency, thereby interfering with education and personality development.

This legislation provides a start to help reach these very vulnerable children. I have sponsored a provision to help overburdened child welfare agencies cope with the increase in drug-related abuse and neglect. The emergency protective child services grants, an amendment to the Child Abuse Prevention and Treatment Act, would provide $40 million toward protecting these very vulnerable children.

Agencies could use these grants to hire more staff, creating manageable caseloads so that children can receive the attention they need. The grants also could pay for staff training in dealing with the special problems confronted in substance abusing families. Some families could be preserved if only the resources and the time to work with them were available.

Unfortunately, many children must be removed from their families, some of them permanently. The grants would help agencies recruit foster and adoptive parents to give these children the caring homes they need and deserve. Finally, the grants could promote coordination among the many agencies that affect the lives of these families rather than addressing problems piecemeal.

I also would like to comment, Mr. President, about the need for appropriations for this important initiative. The appropriations bill for the Department of Health and Human Services [HHS] currently contains no provision for the emergency grants. I urge the distinguished Appropriations Subcommittee chairman, Senator HARKIN, and the other conferees on the bill to fully fund this critical effort.

Another provision which I have sponsored authorizes the Secretary of Health and Human Services [HHS] to make grants available for local agencies and institutions—public or nonprofit—to provide primary pediatric outreach care. Such care could include immunizations, acute care, health screenings, assessments, as well as referrals to other services. To be eligible, the programs would have to demonstrate the ability to actively reach disadvantaged children.

The inspiration for this provision, and a potential model for other programs, is the New York Children's Health Project. Based in the department of pediatrics at the New York Hospital-Cornell Medical Center, the project delivers health care to homeless children via mobile medical vans. This concept of providing care is flexible and superbly adaptable to local conditions, from inner-city neighborhoods to Appalachia. The initiative I am sponsoring provides $10 million to support similar efforts. No Federal bureaucracy is established. We simply foster and encourage worthy local initiatives and the exchange of information and experiences among them.

In conclusion, the predicament of many American children parallels that of refugees in the Third World—dislocated, destitute, and victimized. We must do more than shudder and turn away at the stories of these sad young lives. We must give our child welfare agencies the tools to protect these children even as we expand treatment for their parents. We must give our children what American relief agencies have long provided children abroad: decent health care, food, and shelter. Surely, no group in our society is more deserving of our compassion and our support.

Mr. President, I urge passage of this legislation.

Mr. LIEBERMAN. Mr. President, late last night the Senate approved an extremely important amendment to S. 1711, the President's national drug strategy bill, which preserves and improves the Federal Asset Forfeiture

Program. The amendment was offered by Senator BIDEN, the author of the Federal forfeiture law.

During a hearing that I held in Connecticut this summer, I received compelling testimony from law enforcement officers, including the head of Connecticut's Statewide Narcotics Task Force, Capt. James Mooney, about the benefits of the Federal Asset Forfeiture Program.

Under current law, if the State or local police, acting on their own, seize money or property during a drug bust, they can turn them over to Federal authorities to be processed in forfeiture proceedings. This is known as an "adoptive forfeiture," with the Federal Government "adopting" the assets seized. If the assets can be retained by the Government, 90 percent of the funds are returned to the State or local law enforcement agencies that were involved in the drug bust.

Section 6077 of last year's drug act, however, would prohibit adoptive forfeitures whenever a State forfeiture statute might apply. The theory behind section 6077 was that Federal law should not interfere with or override State forfeiture statutes. But the existence of forfeiture statutes in some States is no reason to eliminate a Federal forfeiture procedure that has already proven to be effective and vitally important to the narcotics law enforcement efforts of State and local police. The amendment approved last night would repeal section 6077 and thereby preserve the adoptive forfeiture program.

At the Connecticut hearing, police officers testified that the money received from Federal adoptive forfeiture proceedings provided funds that were crucial to successful narcotics law enforcement. From fiscal year 1986 until April of this year, Connecticut law enforcement agencies have received $6.4 million in Federal forfeiture funds, including over $2.3 million during the first 7 months of this fiscal year. Most of these funds have come from adoptive forfeitures. The funds have been used to finance large-scale narcotics investigations—to pay for undercover cars, communications and surveillance equipment, bullet-proof vests, and the large quantities of cash that are necessary to make big drug purchases and follow the trail up to the big-time drug dealers. Just a few years ago, I was told, drug dealers in Connecticut could sniff out undercover police simply by upping the ante: cops never had the money to make large scale buys. In short, forfeiture funds have led directly to better and more effective narcotics police work.

Following that hearing, I conveyed the concerns of Connecticut police to Senator BIDEN and his staff, who were receiving similar complaints from police throughout the country. I am pleased that these concerns have been addressed by the amendment approved by the Senate last night. That amendment would not only preserve adoptive forfeiture, it would also facilitate the processing of forfeiture claims. In essence, these changes mean State and local police will be able to receive forfeiture funds much more quickly. Finally, the amendment would permit up to $10 million from the Justice Department Asset Forfeiture Fund to be used to fund the purchase of firearms and safety equipment for Federal law enforcement agents.

As more and more money is needed to fund prevention, education and treatment initiatives, it is more important than ever to preserve programs, like adoptive forfeiture, that create funds for law enforcement. And there is something particularly appropriate about using money and property obtained from drug dealing to fund continued narcotics enforcement.

Mr. HUMPHREY. Mr. President, it seems to me that it comes down to this: A statute will not work, because the Court will overturn it the first time a case comes along that involves desecration clearly meant as political expression. Therefore, I will vote against the bill.

That leaves a constitutional amendment. The founders meant for the Constitution to be amendable. But amending must always be viewed as a radical remedy. There have been radical wrongs that demanded such a radical remedy. For example, slavery. For example, denial of equal protection of the laws. For example, denial of the right to vote on account of race, color, or previous condition of servitude. For example, denial of the right to vote on account of sex. For example, denial of the right to vote by reason of failure to pay any poll tax or other tax. These were radical wrongs demanding a radical remedy.

But does the comparatively rare desecration of our flag merit the radical remedy of amending the Constitution? Further, does desecration merit amending the first amendment—that precious bedrock of our freedom? Not in my view. It doesn't even come close.

Judging by the hyperactivity of politicians from the President, to Members of Congress, to State legislators to members of city councils, you would think America was aflame with burning flags. That is not the case. Americans revere our flag. Every day, there are millions—millions—of acts of reverence for our flag. Schoolchildren salute our flag and pledge their allegiance. Citizens raise the flag at their homes and their places of business. The flag is displayed at ceremonies of every kind. These are everyday acts that number in the millions every day. They number in the billions every year. Measure that against an occasional burning of the flag. How many cases of desecration are there, 10 or 20 a year? So few, no one bothers to keep count.

So, I say, enough hyperactivity. Enough breastbeating. Enough political one-upsmanship. Amending the Constitution is serious business, not a ploy for gaining an advantage in the next election.

There are radical wrongs crying out for an amendment to the Constitution. If we are so passionate about an amendment, how about an amendment to balance the Federal budget? Last year, this very committee had an opportunity to send a balanced budget amendment to the floor, but certain of the members of the majority party on this committee contrived to strangle it. Senate Resolution 11 had 31 cosponsors, from both sides of the aisle. It was reported favorably by the Constitution Subcommittee on May 25 of last year. But it never reached the floor, because the committee leadership bottled it up. If we are panting to amend the Constitution this year, let us amend it to require a balanced budget. Budget deficits year in and year out, budget deficits that have run our national debt up to $3 trillion do far more injury to our country and to our fellow citizens that an occasional flag burning by a crackpot.

And there is a radical wrong far worse than fiscal irresponsibility that cries out every day for a Constitional amendment. Desecration of the flag is wrong, but it is nothing compared with the desecration of human life that takes place in abortion clinics every day in this country. When you talk about abortion, you are not talking about an occasional act of desecration, you are talking about an everyday desecration. You're not talking about a handful a year, your talking about thousands every day of the year—a million and a half every year.

Flag desecration is wrong, but killing the offspring of human beings is far more wrong. The offspring of human beings are human beings. They are not dogs or pigs. It's self-evident that the offspring of human beings are human beings, and every abortion kills a human being, so let's amend the Constitution to prevent the desecration of human life, except in those rare cases where the life of the mother is threatened.

Unfortunately, such an amendment is not the subject of today's hearing. So, I return to the matters before us. Burning the flag is distasteful. Showing disrespect of any kind toward the flag is disgusting and highly offensive to nearly every American citizen, including this one. And if the majority rules in this case, we shall have a new law or a new provision of the Constitution.

A new law will not last. It will last only as long as it takes for a case to

reach the Supreme Court involving political expression. Then that law will be overturned.

It is interesting to note why this is the case. It is so, because the first amendment forbids the enactment of law which abridges the freedom of speech. The framers of the Bill of Rights in effect withdrew from the legislatures authority to legislate in a way that would limit free speech.

Of course, the right of free speech is not absolute, nor was it meant to be. No one has a right to endanger public safety by means of intemperate speech. No one has a right to injure another through slander or libel. No one has the right to injure or destroy the property of another, while expressing himself under the first amendment.

But apart from these restrictions, based on upholding the rights of others, there are no restrictions on our right to free speech, nor should there be. Except to ensure public safety and to protect the rights of others, speech must never be restricted simply because the majority want it restricted. The right to free speech must always be just as broad and far-reaching as the rights of others will permit. However, obnoxious and offensive flag-burning might be, it does not constitute grounds for restricting the right to free speech. It does not constitute grounds for amending the first amendment.

The Republic is in no danger from the isolated few, often demented, persons who burn the flag. Their tiny sparks of hatred are quickly extinguished by a vast ocean of love for our flag. Those few who dishonor the flag are but specks in the huge throngs of Americans who honor and uphold our flag.

MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEATH OF JOHN T. WALKER, EPISCOPAL BISHOP OF WASHINGTON

Mr. DANFORTH. Mr. President, last Saturday, John T. Walker, the Episcopal Bishop of Washington, died. He was a man of principle, a man of determination, a man of gentleness, and a man of justice. Those who had the privilege to know him are grieving over his loss, but they are rejoicing in the light of his ministry.

John Walker was determined to show that racism has no place in the church or in society. Accordingly, he subjected himself to the trial of endless firsts. He was in the front rank of blacks to join the Episcopal Church in America. He was first to integrate the Virginia Theological Seminary. He was the first black rector of St. Mary's Church, Detroit. He was the first black on the faculty at St. Paul's Preparatory School in Concord, NH. He was the first black canon of the Washington Cathedral. In 1971, he was elected suffragan bishop, and in 1976, he was elected to succeed the Right Reverend William F. Creighton as Bishop of Washington. His was a pilgrimage of great risk. His was a path of loneliness. Bishop Walker never flinched. Yet, he brought a gentle, soft-spoken kindness to his journey. There was sparkle in his eye and tolerance in his heart as the indomitable force of his personality came to bear on those who felt threatened by his reforming life.

Bishop Walker was insistent on justice. In fact, he had a prophetic sense of justice. When he became bishop, the Washington Cathedral carried an enormous debt. He mobilized a fundraising drive that paid off the debt and financed the remaining construction. It was a draining and daunting task. Completion of the cathedral should have been a crowning success in its own right. But Bishop Walker had a different vision. He wanted the cathedral to be a place where the national conscience was rallied. Indeed, the cathedral did become such a place. There, the problems in South Africa were held up for us to see. There, people dedicated their lives in the fight against world hunger. There, Americans first gathered in Days of Remembrance of the Holocaust.

Notwithstanding John Walker's prophetic sense of justice, he believed fervently in the separation of church and state. Several years ago, Congress was considering the reintroduction of school prayer. Bishop Walker stood in the driving rain on the steps of the Capitol patiently waiting his turn to speak out in favor of preserving our traditional separation of church from state.

But if there was a central theme to his ministry, many think it was his deep belief that we are all responsible to be ambassadors of reconciliation. What a miraculous ambassador of reconciliation was John Walker. He gathered into the daily life of his diocese the whole spectrum of God's creation. Women and minorities were ordained. The laity was empowered. Under his leadership, parish life has begun to move beyond the passive voice of worship to the active voice of service to those who are in need.

In a recent interview with the Washington Post, Bishop Walker said this:

When you look at conditions in black Washington today—the poverty, infant mortality, shootings and drugs—we've got a thousand years to go, we're not there. And I know some people want to throw in the sponge and give up, but I can't do that. My feeling is too strong that it is God's will that we live together in harmony and peace.

So now, Mr. President, it is up to us. We must honor the life of this remarkable man by taking up his banner. We must become ambassadors of reconciliation. And we should start by breaking down the terrible wall of separation that continues to exist in Bishop Walker's own beloved city of Washington, just as he broke down the barriers that existed in his church. We must gather the people of this city, this country, and indeed, the whole world together, just as John Walker has taught us how to do.

CEASE-FIRE IN LEBANON

Mr. HEFLIN. Mr. President, I rise today to address my concern over the recent tragic violence in Lebanon. The fighting between the Lebanese forces and the Syrian troops in that country has forged a war zone filled with the death and destruction wrought by 7 months of fighting. Fortunately, the current cease-fire has halted the senseless destruction which has killed more than 830 people and injured over 3,000 since the fighting began in March. We must move to ensure a permanent cease-fire between these countries.

Since March, when Maj. Gen. Michel Aoun blockaded illegal militia ports used by the Syrian-backed Moslem militia, Lebanon has been bombarded with its most savage battles in 5 years. The fighting which has ensued since Aoun blockaded the ports has instilled fear in the people of Lebanon. Beirut now stands as a hollow shell of its former glory. Civilians have fled the capital city by the hundreds of thousands and now only about 150,000 of the 1.5 million residents remain in Beirut. Until this cease-fire, these people were forced to huddle in basements and bomb shelters to hide from the long-range shelling. Most of the city's buildings stand damaged or gutted.

I remain hopeful that the cease-fire negotiated by the Arab League will bring an end to the fighting in Beirut. The current cease-fire raised hope that a peaceful solution to this conflict can be found. The United States must act to show our support of this cease-fire. Our Government must show that we will not stand idly by and allow the Syrians to inflict such violence and death upon the Christians and Moslems of Beirut. In my judgment, the time has come for the United States to press for a halt to the Syrian involvement in Lebanon.

While I deplore the Syrian involvement in Lebanon, I cannot accept the actions of any group which threatens United States diplomats with terrorism. If lasting peace is to prevail, all vi-

olence and terrorism must cease. I believe the United States should still press for the removal of the Syrian occupation forces and an end to the 14-year civil war. I encourage the Department of State to take action to discourage any further Syrian attacks on Lebanon. These actions could include an economic boycott of the Syrian regime as well as political pressures.

Mr. President, it is my hope that the violence in Lebanon has drawn to a close. In my judgment, we should work to ensure that this becomes a permanent cease-fire which will save countless lives and bring peace to this ravaged nation.

Currently, the remaining members of Lebanon's last Parliament in 1972, are seeking to restructure the government to reconcile differences between Moslem and Christian citizens. Although the powers of the Christian presidency might be trimmed through these negotiations, the Parliament should not relent on General Aoun's demand that all Syrian troops be removed from Lebanon.

Thank you, Mr. President.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, Terry Anderson will be 42 at the end of this month. He has been held in captivity in Beirut for over 4½ years. In fact, today is the 1,663d day that he has been held.

I ask unanimous consent that a short article on this subject be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Oct. 27, 1987]

40TH BIRTHDAY SALUTE FOR HOSTAGE

WASHINGTON.—Under gray skies and in a driving rain, a somber 40th birthday salute was held today for American hostage Terry Anderson, held in the Middle East longer than any of 22 foreign captives.

"This is for you, Terry," Anderson's sister, Peggy Say, told a gathering outside the Jefferson Memorial of about 100 people, including 22 schoolchildren, each with a cardboard star embossed with the name of a hostage. "I don't know hardly what to say to you anymore. Happy birthday doesn't seem appropriate," said Say, noting that Anderson probably spent his 40th birthday as he has his 955 earlier days as a hostage—in a tiny, barren room.

BUDGET RECONCILIATION

Mr. MOYNIHAN. Mr. President, late last evening or, if you like early this morning, the Committee on Finance reported out a budget reconciliation bill which includes as an amendment a bill (S. 1627) which I offered on the floor September 14 on behalf of myself and Senators DANFORTH, BOREN, CHAFEE, PRYOR, HEINZ, and DASCHLE.

The amendment restores to colleges and universities, as 501(c)(3) organizations, the right to issue bonds in the same manner which present law treats governmental units. Specifically, it repeals the present $150 million limitation on outstanding tax-exempt indebtedness, and the 2 percent limitation on financing costs of issuance. This restores to colleges and universities their status prior to the Tax Reform Act of 1986.

The provision was contained in the "chairman's mark" offered at the outset of our markup session by Senator BENTSEN. The accompanying description of revenue reconciliation proposal, part 3: Miscellaneous tax provisions prepared by the Joint Committee on Taxation reads:

c. Conform treatment of 501(c)(3) bonds to governmental bonds.

PRESENT LAW

Present law permits tax-exemption for interest on bonds to benefit section 501(c)(3) organizations (qualified 501(c)(3) bonds). Qualified 501(c)(3) bonds are defined as bonds which would not be private activity bonds if section 501(c)(3) organizations were treated as governmental units with respect to their exempt activities (sec. 145). Qualified 501(c)(3) bonds are classified as private activity bonds and such bonds are generally subject to several of the limitations on qualifying private activity bonds. In addition, no more than $150 million of qualified 501(c)(3) bonds (other than hospital bonds) may be outstanding with respect to any section 501(c)(3) organization at any time.

EXPLANATION OF PROPOSAL

The proposal would repeal section 145 and generally treat bonds issued by 501(c)(3) organizations in the same manner in which present law treats bonds issued by governmental units. The proposal thereby would: (1) repeal the $150 million limitation on outstanding tax-exempt indebtedness of 501(c)(3) organizations; (2) repeal the two percent limitation on the financing of costs of issuance with bond proceeds; and (3) other changes.

EFFECTIVE DATES

The proposal would generally be effective for bonds issued after December 31, 1989. The proposal would not apply to certain bonds issued after December 31, 1989, if such bonds are subject to any transition rule under subtitle B of title XIII of the Tax Reform Act of 1986.

The committee also approved an amendment offered by Senator CHAFEE which for 1 year exempts gifts of appreciated property from inclusion in the calculation of the alternative minimum tax.

Senators will recognize that these measures, entirely in the one case, partially in the other, undo the very considerable disadvantage imposed on private institutions of higher learning by the 1986 act. Supporters must now consider how to ensure that the provisions of the committee bill become law.

In this regard I must report that the Treasury representative, present on the occasion, declared that the administration opposes both measures.

I could wish for more time to expand on what is at issue here, which, in my view at all events, is quite simply the long-term viability of the private sector in American higher education. I think it may be said that ours is the only nation on Earth which has, in any considerable measure, such a private sector. I believe it is in jeopardy. I have spoken of this on a number of occasions, and would ask permission to include in the RECORD at this point addresses given at Marymount Manhattan College in 1986, and at Columbia University in 1987.

There being no objection, the addresses were ordered to be printed in the RECORD, as follows:

HONORS CONVOCATION MARYMOUNT MANHATTAN COLLEGE

(Address by Daniel Patrick Moynihan)

Temple Sharaay Tefila, New York, NY, November 12, 1986

For some years I have kept a watching brief, as lawyers like to say, on Joseph Schumpeter's proposition that the political and economic arrangements of capitalism would be transformed by the "conquest" of the private sector by the public sector.

This, surely, is one of the great hypotheses of twentieth century social science, subsuming all manner of previous speculation ranging from Karl Marx to Leo XIII.

Matters proceed much as Schumpeter forecast, or such is my reading. Witness for example the steady absorption of international trade into the realm of state policy. But the best evidence for the hypothesis comes in areas where it is clear that a society has options, which is to say is under no pressure to change its arrangements, but does so anyway. Such evidence is most compelling when the events take place under a political regime vociferously, or at least doctrinally, opposed to just such a transformation, and, finally, when almost no one notices.

I believe such an event took place in the course of the recent tax legislation in Washington. The 99th Congress rewrote the Internal Revenue Code: quite the most radical revision in half a century, which is to say roughly from the time marginal tax rates began to move from quite low to exceptionally high levels. (High levels routinely avoided, but that is another matter.) I had a share in this enterprise. I was one of the "core group" of Senators which drafted the main outlines of the bill in a brief but intense period last spring, and was on the Committee of Conference with the House of Representatives which fashioned the final legislation.

Obviously, the Congress played a large and determining role in the legislation. But the initiative was the President's. He proposed tax reform in his State of the Union Address of January 1984, and a full and detailed proposal, which came to be known as Treasury I, was made public the following November. Before it was all over Treasury I was changed in many ways but one proposition persisted which affects in the most profound manner the private sector of higher education.

And this is my tale.

First some details; well enough known. Higher education begins in America as an extension of organized religion. (And for that matter unorganized religion, the Quakers, for example, being prodigious founders of academies.) The founders of Harvard College dreading, as they put it, to leave poster-

ity to an "illiterate ministry" commenced instruction in Hebrew. It was almost two centuries before state sponsored institutions appeared. In time state institutions would enroll the greater proportion of students, but private colleges and universities continue to be vigorous and typically growing institutions. American higher education is unique in the degree to which its major research institutions are "private"—about an even split—and to the extent that the private sector contains so many of the most sought after small undergraduate institutions.

Now these institutions are not private in any significant sense that conflicts with our notion of things public. New York University describes itself as "a private university in the public service," and that gets it nicely.

And the law so recognized.

That is to say, the tax law. The one that mostly matters most!

I now enter a realm which not one professor in ninety will know of. Certainly I never knew it in my days as a teacher. But those denigrated and buffeted trustees and treasurers have known about it in great detail, in consequence of which the rest of us have had classrooms in which to teach and something like a pension to look forward to.

In a word, private education was tax exempt. In practical terms this had its largest significance in the ability of private colleges and universities to issue tax exempt bonds to build dormitories and laboratories, and yes, football stadiums. The holders of such bonds did not pay federal income tax on the interest they received, in consequence of which borrowing was much less expensive which in turn meant there were more, or at least sufficient, dormitories and laboratories and such.

This provision constituted elemental recognition of the public interest served by such private institutions.

In the language of the Internal Revenue Code they were known as "Section 501(c)(3)" institutions. In 1968 Congress placed some restrictions on the issuance of tax exempt bonds to finance commercial activities, something state and local governments had begun to do in the usual competition for investment. These were termed industrial development bonds and it was specifically provided that the new restrictions would not apply to any "exempt person." An exempt person was thereupon defined (in Section 103(b)(3) of the Code) as:

(A) a governmental unit, or

(B) an organization described in section 501(c)(3) . . .

Now here we have something important. Private institutions of higher education are said to be imbued with a public purpose such that they were specifically equated in the tax code with sovereign institutions of government. This was an immunity, if you like, of the largest consequence.

Until, that is, Treasury I, followed by Treasury II. These documents proposed to eliminate all tax exempt bonds for "nongovernmental persons," to include private colleges and universities, declaring that this was an undeserved "subsidy." State and local governments would "retain the ability to finance projects with tax-exempt obligations if the proceeds are not used by nongovernmental persons." But 501(c)(3) institutions could no longer do so.

Treasury I stated: "The proposal would virtually eliminate . . . the Federal subsidy currently made available to nongovernmental persons through tax exempt financing." (p. 292).

The House of Representatives, specifically of course the Committee on Ways and Means, while continuing some tax exempt bonds for nongovernmental persons, nevertheless accepted the general proposition that access to tax exempt financing by nongovernmental persons, including 501(c)(3) institutions, should be substantially restricted. It fell to me to contest this in Conference (always with the complete support of Senator Packwood of Oregon, Chairman of the Senate Finance Committee.) In the end we reached agreement that private colleges and universities could each issue up to $150 million in tax exempt bonds, and could advance refund bond issues on the same basis as governmental entities, but even so the bonds of these institutions were to be classified under the rubric of "private activity bonds." The status of private institutions of higher education as "exempt persons" quite disappeared from the tax code.

I did win agreement to one provision, Sec. 1302 of the new law, which states that future legislation affecting "private activity bonds" will not automatically affect private colleges and universities unless "expressly provided." But that is all. Under the new law, the bonds of private colleges and universities have the same status as those used to construct sewage treatment plants and small scale industrial development projects.

And so this is where we are. Under the new law tax exempt financing is available in unlimited amounts for any public institution of higher education, but in strictly limited amounts for private institutions. (In New York, Columbia, NYU, Rochester, and Cornell are already well above those amounts.) The level playing field that once existed between the two sectors is now emphatically tilted toward the public sector. In this era of capital intensive research, to use David A. Spence's term, the consequences over one or two generations could easily lose us a legacy of two and three centuries.

It would be comforting to think that this all came about because of a super rationalist document drafted by career officials of the Treasury having nothing more in mind but to strip the tax code of hidden "subsidy" (as they choose to call anything that costs the Treasury revenue, or is thought to).

It started there, but it didn't stop there.

In the final days of the Tax Bill Conference, beginning specifically with a summary of the proposed bill prepared by the Joint Committee on Taxation ("August 16, 1986, 8:30 PM") I raised this issue with the utmost specificity. We were, I asserted, making a profound change in education policy, grievously impairing the opportunities of institutions in the "private" sector. It does not speak well for my advocacy that the more I insisted on this as a fact, the more the House conferees insisted on it as a policy.

I repeat, told that this would grievously injure private higher education, the House conferees grew if anything more attached to the idea. I do not wish to exceed the bounds of courtesy to respected colleagues but I have the firm impression that the more it became clear that private colleges and universities would be hurt, the more the idea appealed to some members.

There is no mystery to this. We were seeing old resentments against the Yales and the Harvards transmuted into a generalized bias against the Bible colleges of South Carolina, the Yeshivas of the Bronx, and the Catholic junior colleges of Iowa.

The representatives of private institutions did their best. This I attest. (This the Speaker of the House could attest!) Those normally responsible for education in the Administration did nothing, but then they would have had little influence on the tax writing committees, and are in any event oriented toward elementary and secondary schooling. Higher education has no spokesman in government and shouldn't have to have: it should be everyone's concern. It ends up no one's.

On the first day of the 100th Congress, I will introduce legislation to restore the ancient liberties of our private colleges and universities. I don't know how I will do, but do know that an issue of great consequence is at stake.

Schumpeter would have agreed.

ROAR, LION, ROAR!

(By Daniel Patrick Moynihan)

Charter Bicentennial of Columbia College, Low Memorial Library, Columbia University, New York, NY, April 25, 1987

One measure of the morale of a civilization is the manner in which it observes the notable dates of its history. On this score Columbia College has acquitted itself well over the centuries. The festivities of 1837 emerge by every account as admirable and aspiring: speeches, poems, and Latin odes. 1887, as befitted that gilded age, saw a stately procession to the old Metropolitan Opera House and a veritably Wagnerian three score honorary degrees. In 1937, busy with the affairs of the nation, the College let the sesquicentennial slip by. Given the state of those affairs, this was not the worst thing, especially now that the bicentennial makes such handsome amends.

The trick is to combine a respect for the past without too much reverence; indeed intimidation. There is enough of the latter in Western civilization just now: thinking ourselves outthought and outperformed by predecessors. Yet surely the greater danger is to suppose ourselves too well-endowed, the benefactors of some perpetual, compounding trust. The art historian Robert Byron observed how in the latter half of the nineteenth century, the disease of complacency fastened on Englishmen. "Misfortune comes to the complacent," he wrote, "brought not by some moral law, but because complacence is the parent of incompetence."

Let me take this for my text as I speak about the condition of our universities, and especially our private universities.

Here we encounter an extraordinary legacy which is unmistakably beginning to be threatened by complacency.

A first fact. The United States is the only nation on earth in which there are truly private universities. Elsewhere the state, be it benevolent or coercive, reigns supreme. It is no accident that ours should be a plural arrangement. This is the deepest of our constitutional and societal impulses. The balance is indeed quite exceptionally just that. If you will accept the judgment of the Association of American Universities that its 56 members represent the ranking research facilities of North America, then note that 28, exactly half, are private, and the other 28 are public.

This is not to say that private universities do not receive public support. Most received some early on. In 1784, just as the University of the State of New York was being established, with its Chancellor and Board of Regents, and Columbia College its only charge, John Jay set it down that: ". . . universities . . . ought no longer to be regarded

in the light of mere private corporations. The government should extend to them their constant care; and the State treasuries afford them necessary supplies."

But this, mind, in the context of the 1784 legislation, the title of which reads: "An Act for granting certain Privileges to the College heretofore called King's College, for altering the Name and Charter thereof, and erecting an University within this State."

In the main these privileges—across the nation—continue unimpaired, but not wholly. It is possible to see them as threatened, and seriously so, because so many of those who should know better choose not to be concerned, which is the most conspicuous feature of complacency.

I think here of the events of the Tax Reform Act of 1986, concerning the issuance of tax exempt bonds by private universities. The details will not much interest faculty, and will verge on the incomprehensible to students, but I am here to argue their importance. In an age of "capital intensive science" (and declining Federal support), such bonds make possible the libraries and laboratories and infrastructure of a research university. More, the status of the bonds defines the status of the institutions. Praise God and Alexander Hamilton that the President of this institution agrees.

In 1968 Congress enacted the first statutory limits on what are known as "industrial development bonds." These were defined as bonds used in the trade or business of any entity that was not an "exempt person." An "exempt person" was further defined as either a unit of government—shall we say the State of New York—or "an organization described in Section 501(c)(3)" of the Internal Revenue Code—shall we say Columbia University.

A nice equivalency, you will agree, and an indispensable one, you would think.

Or such was the case until the fall of 1984 when the present administration in Washington proposed a massive restructuring of the tax code which effectively stripped universities of the status of "exempt persons." The House of Representatives, where tax legislation must originate in the Congress, accepted this change. The House bill classified all tax-exempt bonds as either "governmental" or "nonessential function" bonds. Bonds for universities (and private hospitals, and suchlike institutions) were placed in the "nonessential" category.

We drew a bill in the Senate which specifically and deliberately preserved the exempt person category shared by governmental units and universities. We argue that it was profoundly mistaken public policy to relegate the private universities and colleges of the nation to the status of solid waste disposal plants. (And, of course, hospitals, and similar institutions.)

We lost. Oh, in conference with the House, we got fairly generous allowances in terms of the amount of tax exempt bonds private institutions can issue, but we lost the principle that these are unique institutions with privileges not unlike the immunities of government units in a Federal system. Money was not the issue with the administration. The issue was changing the status of the likes of Columbia.

Let me say I do not think this would have happened save for the silent acquiescence of the Secretary of Education. The Department of Education was created, of course, in 1979. If it is now in the hands of conservative Republicans, it was wholly the creation of liberal Democrats who assumed that bringing all the education activities of the Federal government together in one place would increase support for education. The Senate vote was 72 to 21, with a mere five Democrats in opposition.

The debate that April was not long, but it had moments of some intensity. It fell to me to ask David Riesman, the most eminent commentator of higher education of the present age, if we might have his judgment in the matter. This came in a brief letter which belongs on tablets somewhere.

I read it to the Senate:

"Education, contrary to people who speak of it as an "establishment," is a weak power, subject to whims and fashions in the country at large, and these show up in the attitudes of individual members of Congress and their aides, assistants and others. Therefore education is best served by being part of a much more powerful coalition in which it is joined with the rest of H.E.W. with its labor union and medical and other affiliations. Furthermore, education is, because of its weakness, vulnerable to attack because something done in one of the three thousand accredited postsecondary institutions by somebody may offend somebody or get in the papers. It therefore needs to have many diverse sources of support, combined with a certain precious obscurity.

"Once it is separate, its target quality and actual weakness will be visible and this is a weakness not only vis-a-vis potential critics but potential lobbyists—captors—in the country. Education is best served by decentralization, not only in this huge and diverse country, but also within the federal government and its many agencies." [1]

I went on to state that, that in creating a single agency, we risked the politicization of education itself, "and . . . it will come about in ways that the system of education itself will not be able to resist." [2]

As for example in the tax code.

If the Secretary of Education was silent when the private institutions of higher education were being stripped of their previous status in the tax code, what of the representatives of higher education when the post of Secretary of Education was being created?

Silent, also. That is to say the Association of American Universities, under pressure from the White House, no less political for being Democratic as against Republican pressure, said nothing. Its executive committee knew better.

The mood of the moment will pass. The distemper of the 1980s, is in most ways a delayed response to the disorder of the 1960s, that "sum of a decade" to cite Dick Hofstatder. It is about spent. One can almost imagine a certain reasonableness descending on the capital, rippling outwards. Yet that is but another invitation to complacency and to the incompetence it breeds.

A generation ago Schumpeter warned us that the transformation of liberal society would come not through some Marxist convulsion but rather from the steady "conquest" of the private sector by the public sector. This is now commencing in higher education and will continue unless understood and overcome.

The men who gave Columbia College its name knew something of taking destiny into their own hands. Cannot their successors learn? Ought they not? Must they not?

Let me suggest a good beginning. The candidates now running for their party's nomination for President should be asked to state in writing that if successful, whatever the politics of their administration their Secretary of Education will be expected to stay out of them. From Martin C. Barell back to John Jay, the Chancellor of the University of the State of New York has done as much here, where the Federal government began. Let Washington learn by our example.

Further, the candidates should be asked to promise, win *or* lose, to support the restoration of the tax exempt status of universities and comparable institutions. If enough do, we can almost surely get a bill through this Congress. The power to tax is the power to destroy and candidates should so state.

And so, Lion—Roar!

Mr. MOYNIHAN. There is, I believe and hope, a theme to both these addresses. It is Schumpeter's great thesis of the conquest of the private sector by the public sector. It is that which he thought would transform modern society, not some Marxist convulsion or recidivist repression. On September 14, I spoke of this subject to the annual leadership conference of the National Association of Independent Colleges and Universities. On this occasion I brought up the most recent of our troubles, the decision by the Department of Justice to commence a civil investigative demand, a process of documentary subpoena, concerning the possibility that various colleges and universities are in violation of the antitrust laws by virtue of collusion in setting tuition rates.

Think back a century ago to 1890 when Senator John Sherman of Ohio carried his famous antitrust legislation. Do you suppose that he could even have imagined that this law, designed to restrain unethical and undesirable business practices, could ever have conceived that the law might one day be turned against institutions of learning? He was concerned with corporations that make and sell things, not institutions that conserve and advance the culture. Yet here we are. Universities and colleges reduced to the statutory condition of factories.

One university president wrote to me recently: "I believe that the fundamental question is the constitutional status of nonprofits." He is right. For does anyone in the nonprofit sector have any idea how far can be the reach of government investigation? Item. A small liberal arts college in Virginia has recently been asked—required—by the Justice Department to produce 60,000 documents.

I have the honor to have been associated in academic pursuits with a scholar whose special interest has been the decision to prosecute within the Antitrust Division of the Justice Department. I sought her advice as to what was going on. She enquired and got back to say that there was no "politics" here. The Bush administration has not set out to harass the Ivy League, much less the 4-year liberal

[1] Congressional Record, Sept. 24, 1987.
[2] Ibid.

arts institutions of the Nation. It all seemingly began with an article in the Wall Street Journal, a publication no doubt read with some regularity in the Antitrust Division. There had in any event been a growing interest in the subject. Next thing: Send us 60,000 documents so that we might get to know you better.

Magna Carta speaks of the "ancient liberties and free customs" of various institutions of England in that distant time. The right to issue bonds as a "exempt person"—which was the law before 1986—fits very well into a definition of liberty from Black's Law Dictionary: "a franchise or personal privilege, being some part of the sovereign power. * * *"

And there were such. And there were those who were prepared to insist upon and to defend them. Not long ago we had that very document on display in the rotunda of the Capitol. I would stop from time to time to look at it and wonder. Are we fit heirs to those "bishops, abbots, earls, barons, justiciars, foresters, reeves, servants"? Let us hope. And not be too certain. The next 10 days will be critical. But more than that: This generation will be critical. Our cause is not understood. Deep tendencies in modern society oppose us. We have lost more than we have gained of late. Still, at 3 o'clock this morning there was a small victory.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

12TH ANNUAL REPORT OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES—MESSAGE FROM THE PRESIDENT—PM 65

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the requirements of section 809 of the Housing and Community Development Act of 1974 (12 U.S.C. 1701j-2(i)), I herewith transmit the twelfth annual Report of the National Institute of Building Sciences for 1988.

GEORGE BUSH.

THE WHITE HOUSE, *October 4, 1989.*

MESSAGES FROM THE HOUSE

At 3:11 p.m., a message from the House of Representatives announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 122. Joint resolution to designate October 1989 and 1990 as "National Down Syndrome Month."

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3026) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DIXON, Mr. NATCHER, Mr. STOKES, Mr. AUCOIN, Mr. HOYER, Mr. CARR, Mr. WHITTEN, Mr. GALLO, Mr. GREEN, Mr. REGULA, and Mr. CONTE as managers of the conference on the part of the House.

The message further announced that the Speaker specified sections 828 and 829 as additional portions of the Senate amendment for consideration by the additional conferees from the Committee on Government Operations in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2461) entitled "An Act to authorize appropriations for fiscal year 1990 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.".

The message also announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 1335. An act to amend title 38, United States Code, to increase rates of disability compensation and dependency and indemnity compensation for veterans with service-connected disabilities and survivors of such veterans, and for other purposes;

H.R. 1358. An act to amend title 38, United States Code, with respect to the Montgomery GI bill, and for other purposes;

H.J. Res. 392. Joint resolution designating October 1989 as "Italian-American Heritage and Culture Month"; and

H.J. Res. 401. Joint resolution to designate the month of October 1989 as "Country Music Month".

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 8:39 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 2358. An act to authorize appropriations for fiscal year 1990 for the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives, and for other purposes; and

S.J. Res. 122. Joint resolution to designate October 1989 and 1990 as "National Down Syndrome Month".

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1358. An act to amend title 38, United States Code, with respect to the Montgomery GI bill, and for other purposes; to the Committee on Veterans' Affairs.

H.J. Res. 401, Joint resolution to designate the month of October 1989 as "Country Music Month"; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1335. An act to amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemnity compensation for veterans with service-connected disabilities and survivors of such veterans, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC1738. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the annual Horse Protection Enforcement Report; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1739. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Secretary of Agriculture, under certain conditions, to release the public purpose reversionary clause contained in deeds for land conveyances made under the provisions of the Bankhead-Jones Farm Tenant Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1740. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation entitled "The Government Losses in Shipment Act Amendments of 1989"; to the Committee on Appropriations.

EC-1741. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the FDIC's annual report for the calendar

year 1988; to the Committee on Banking, Housing, and Urban Affairs.

EC-1742. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report entitled "The U.S. Automobile Industry, 1986-1987"; to the Committee on Banking, Housing, and Urban Affairs.

EC-1743. A communication from the Administrator of the Federal Aviation Administration, U.S. Department of Transportation, transmitting, pursuant to law, a report on the revision of the National Airspace System Plan for Facilities, Equipment, Associated Development, and Other Capital Needs; to the Committee on Commerce, Science, and Transportation.

EC-1744. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the effects of delaying application to any foreign motor carrier or foreign motor private carrier under certain conditions; to the Committee on Commerce, Science, and Transportation.

EC-1745. A communication from the Acting Chairman of the Federal Maritime Commission transmitting pursuant to law, a report on the impact of the Shipping Act of 1984; to the Committee on Commerce, Science, and Transportation.

EC-1746. A communication from the Deputy Associate Director for Collection and Disbursements, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1747. A communication from the Deputy Associate Director for Collection and Disbursements, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1748. A communication from the Deputy Associate Director for Collection and Disbursements, Minerals Management Service, Department of the Interior transmitting pursuant to law a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1749. A communication from the Secretary of Energy transmitting, pursuant to law, the annual report on the progress by state authorities and non-regulated utilities in complying with the Public Utility Regulatory Policies Act of 1978; to the Committee on Energy and Natural Resources.

EC-1750. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the independent certified public accountants' audit of the Trans-Alaska Pipeline Liability Fund's financial statements; to the Committee on Energy and Natural Resources.

EC-1751. A communication from the Deputy Associate Director for Collection and Disbursements, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1752. A communication from the Chairman of the Culture Property Advisory Committee, U.S. Information Agency, transmitting, pursuant to law, a report of findings and recommendations as to how the U.S. Government should respond to a request from the Government of Peru regarding import restrictions; to the Committee on Finance.

EC-1753. A communication from the Chairman of the United States International trade Commission, transmitting, pursuant to law, the fourth annual report on the impact of the Carribean Basin Economic Recovery Act on U.S. industries and consumers; to the Committee on Finance.

EC-1754. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Review of Payments Payment Standards and Internal Controls of the Tenant Assistant Program"; to the Committee on Governmental Affairs.

EC-1755. A communication from Executive Director of the National Mediation Board, transmitting, pursuant to law, a report of the Board under the Government in the Sunshine Act for the period of January 1, 1988 through December 31, 1988; to the Committee on Governmental Affairs.

EC-1756. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "D.C. Auditors's Evaluation of the Tenant Assistance Program Administration and Operations"; to the Committee on Governmental Affairs.

EC-1757. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the valuation of the United States Coast Guard Military Retirement System; to the Committee on Governmental Affairs.

EC-1758. A communication from the Director of the Office of National Drug Control Policy, transmitting a draft of proposed legislation to implement the President's 1989 National Drug Control Strategy, to the Committee on the Judiciary.

EC-1759. A communication from the Chairman of the Interagency Council on the Homeless, transmitting a draft of proposed legislation to amend the Stewart B. McKinney Homeless Assistance Act; to the Committee on Labor and Human Resources.

EC-1760. A communication from the Secretary of Labor, transmitting a draft of proposed legislation to amend the Steward B. McKinney Homeless Assistance Act to make a technical change; to the Committee on Labor and Human Resources.

EC-1761. A communication from the President and Chief Executive Officer of the College Construction Loan Insurance Association, transmitting, pursuant to law, the first annual report on the operations of the Association; to the Committee on Labor and Human Resources.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

John M. Sayre, of Colorado, to be an Assistant Secretary of the Interior;

Dennis B. Underwood, of California, to be Commissioner of Reclamation;

David Courtland O'Neal, of Illinois, to be an Assistant Secretary of the Interior; and

Curtis Virgil McVee, of Alaska, to be Federal Cochairman of the Alaska Land Use Council.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

John T. Martino, of Pennsylvania, to be Superintendent of the Mint of the United States at Philadelphia;

Barbara E. McTurk, of Colorado, to be Superintendent of the Mint of the United States at Denver; and

Richard C. Breeden, of Virginia, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 1993.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

David George Ball, of Connecticut, to be an Assistant Secretary of Labor;

Gerard F. Scennell, of New Jersey, to be an Assistant Secretary of Labor;

William James Tattersall, of Pennsylvania, to be Assistant Secretary of Labor for Mine Safety and Health;

Jerry M. Hunter, of Missouri, to be General Counsel of the National Labor Relations Board for a term of four years;

Clifford R. Oviatt, Jr., of Virginia, to be a member of the National Labor Relations Board for the remainder of the term expiring August 27, 1993;

Donald F. Rogers, of Maryland, to be a member of the National Labor Relations Board for the remainder of the term expiring December 16, 1992;

Dennis M. Devaney, of Maryland, to be a member of the National Labor Relations Board for the remainder of the term expiring December 16, 1989;

Dennis M. Devaney, of Maryland, to be a member of the National Labor Relations Board for the term of five years expiring December 16, 1994;

Jane A. Kenny, of Virginia, to be Director of the ACTION Agency;

Daphne Wood Murray, of Texas, to be Director of the Institute of Museum Services;

Leonard L. Haynes, III, of Louisiana, to be Assistant Secretary for Postsecondary Education, Department of Education;

Christopher T. Cross, of Maryland, to be Assistant Secretary for Educational Research and Improvement, Department of Education; and

Thomas E. Collins, III, of Mississippi, to be Assistant Secretary of Labor for Veterans Employment and Training.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRAHAM (for himself and Mr. GORE):

S. 1723. A bill to provide that the exception from the hospital insurance tax for service performed by an election official or election worker shall apply where renumer-

ation for such service is less than $600 in a calendar year; to the Committee on Finance.

By Mr. D'AMATO:

S. 1724. A bill to suspend temporarily the duty on 7 Acetyl-1,1,3,4,4,6 hexamethyltetrahydronaphthalene; to the Committee on Finance.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1725. A bill to establish a commission in the Department of the Interior to provide compensation to individuals who lost their land or mining claims to the U.S. Government for the establishment of the White Sands Missile Range; to the Committee on the Judiciary.

By Mr. McCAIN (for himself, Mr. GRAMM, Mr. BOSCHWITZ, Mr. COATS, Mr. COCHRAN, Mr. DOMENICI, Mr. HELMS, Mrs. KASSEBAUM, Mr. McCLURE, Mr. PRESSLER, Mr. SIMON, Mr. THURMOND, Mr. WARNER, Mr. WILSON, Mr. GORTON, Mr. GARN, Mr. HATCH, Mr. LOTT, Mr. KASTEN, Mr. MACK, Mr. McCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. BOND, Mr. BURNS, Mr. D'AMATO, Mr. GRASSLEY, Mr. RUDMAN, Mr. SYMMS, Mr. WALLOP, Mr. LUGAR, Mr. SPECTER, and Mr. STEVENS):

S. 1726. A bill to repeal Medicare catastrophic coverage provisions effective in years after 1989 and the supplemental Medicare premium, and for other purposes; ordered held at the desk.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM (for himself and Mr. GORE):

S. 1723. A bill to provide that the exception from the hospital insurance tax for service performed by an election official or election worker shall apply where renumeration for such service is less than $600 in a calendar year; to the Committee on Finance.

EXEMPTION FROM HEALTH INSURANCE TAX FOR CERTAIN ELECTION WORKERS

● Mr. GRAHAM. Mr. President, one of the most effective means of access to our governmental decisionmaking system is the election process. If there are strains placed on this system and access is limited, then efforts must be made to eliminate them. That is why I have introduced legislation to exempt election officials and poll workers earning less than $600 per year from the hospital insurance tax.

The collection of the hospital insurance tax places an unreasonable burden on election supervisors whose key responsibility is ensuring each citizen access to our decisionmaking process. In my State, as many as 35,000 citizens assist at poll sites on each election day. It is common for districts to have more than two elections and in some areas to have up to six.

For some districts, it will mean the processing of an additional 1,000 W-2 forms each year for what often amounts to less than a $5 contribution to Medicare from each employee. Some supervisors are considering reducing the number of election workers to ease the burden of processing additional forms and, consequently, risking the smooth operation of election day activities.

This administrative task exacerbates an already difficult situation created by the limited budget allowed election supervisors. Because of their modest budgets, supervisors must rely on community members to work at polls for a small stipend. This stipend can exceed $540 if the poll worker works as many as six elections in a calendar year. Under current tax laws, the poll worker and supervisor must pay a 1.45-percent hospital insurance tax on all earnings of $100, therefore, creating a financial as well as administrative burden.

Florida's election supervisors have been administering the collection of these taxes and have consequently redirected funds and energy from their primary responsibility of ensuring each citizen's right and opportunity to vote. It is my hope that this legislation will alleviate the burdens placed on election supervisors and on the election process.

The estimated revenue loss for this exemption is insignificant. The increased cost to election offices and the strain placed on the election process is not.

Mr. President, I am pleased to be joined by my colleague, Senator GORE, in introducing this bill.●

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1725. A bill to establish a commission in the Department of the Interior to provide compensation to individuals who lost their land or mining claims to the U.S. Government for the establishment of the White Sands Missile Range; to the Committee on the Judiciary.

WHITE SANDS FAIR COMPENSATION ACT

Mr. DOMENICI. Mr. President, I rise today to introduce legislation to remedy a wrong committed by our Government over 47 years ago. Since White Sands Missile Range was created in the early days of World War II, the Federal Government has consistently refused to provide adequate compensation to the loyal Americans whose land was taken from them to form the missile range.

The act that I am introducing today, the White Sands Fair Compensation Act, will provide the ranchers and miners who were displaced from their land when White Sands Missile Range was created with the compensation to which they are entitled.

At the outbreak of World War II, President Franklin Roosevelt issued an Executive order that temporarily withdrew all public lands in the area that was to become White Sands Missile Range from the operation of the public land and mining laws and reserved the land for use by the War Department as a bombing range. The lands were to be returned to the Department of the Interior when they were no longer needed as a bombing range.

Within the withdrawn area were a number of ranches. The Government acquired these properties either by entering into voluntary lease agreements with the ranch owners or by condemnation. As compensation for the use of these lands, the ranchers received annual payments that took into account the grazing lands associated with each ranch, as is normal when determining the value of ranches.

Although the Government's original intention was to retain possession of the ranches only for the duration of the war, after the war the military determined that it had a continuing need for the missile range. It continued to lease the ranches until 1975, when it condemned the ranches in fee.

The compensation awarded to the ranchers after the 1975 condemnations failed to pay the ranchers for the full value of their ranches, as the compensation was determined according to a formula that specifically excluded taking into account the grazing lands associated with the ranches. Thus, the ranches were valued as if the grazing lands that were part of the ranches did not exist, contrary to the normal procedure for appraising the value of ranches.

Since that time, the ranchers have sought unsuccessfully to obtain fair compensation for the full value of their ranches through the courts. Their only recourse for compensation now is the U.S. Congress.

The Congress, as a matter of simple justice, should provide this compensation.

The White Sands ranchers were denied their constitutional rights to just compensation when the Government refused to compensate them for the full value of their ranches, including associated grazing lands, when the Government acquired their ranches in fee.

Similarly, a number of individuals who had mining claims on White Sands Missile Range argue that they were not adequately compensated when the Government condemned their mining claims in 1975.

The White Sands Fair Compensation Act will remedy this sad situations by providing ranchers and miners with the compensation to which they are entitled.

Specifically, the act would provide an administrative mechanism for the expeditious payment of compensation to ranchers and miners and their heirs who have not been fully compensated for the ranches and mining claims that the United States took to create White Sands Missile Range.

The act will establish a 7-member White Sands Fair Compensation Commission appointed by the Secretary of the Interior.

The Commission will evaluate the claims of White Sands ranchers and miners or their heirs who seek compensation for their ranches and mining claims and make payments to those individuals that the Commission finds have not been fully compensated for their ranches or mining claims.

In evaluating claims, the Commission will determine the value of the ranches or mining claims taken in 1975 on the basis of established precedents for the valuation of comparable ranches or mining claims in the State of New Mexico. The payments to the ranchers and miners shall be equal to the difference between the payment that they received in 1975 and the payment they would have received had the ranch or mining claim been valued in this manner.

If a claimant disputes the finding of the Commission, he may appeal the Commission's ruling to the Secretary of the Interior, whose decision shall be final.

The act authorizes up to $17.5 million for the payment of these claims, as that is the amount of the outstanding claims.

There is precedent for this legislation in the Aleutian and Pribilof Islands Restitution Act, title II of Public Law 100-383. That act recognized that residents of the Aleutian Islands had not been adequately compensated for losses caused by American military occupation of the islands in World War II. Congress acknowledged that the Aleutian Islanders had no remedy except an act of Congress providing appropriate compensation and proceeded to provide that compensation.

Mr. President, the White Sands ranchers and miners made great sacrifices for our Nation. They gave up their lands, their homes, and their livelihoods to help our country win World War II. The war ended 44 years ago, but the destruction and disruption to the lives of these patriotic men and women has yet to end. Justice delayed is justice denied. The White Sands ranchers and miners have waited too long for their Government to pay them what they deserve. Let us not delay any longer. Let us provide these men and women with the compensation to which they are entitled, and let us do it quickly.

Mr. BINGAMAN. Mr. President, I rise today to discuss legislation introduced today by my colleague from New Mexico, Senator DOMENICI, regarding compensation to individuals who lost their land or mining claims to the U.S. Government for the establishment of the White Sands Missile Range.

I strongly support creating a mechanism to properly evaluate the claims of these individuals and to provide appropriate compensation. The United States established the White Sands Missile Range during World War II, temporarily displacing ranchers and miners working on land in the area and then, in 1975, permanently taking the land. These individuals have not yet been fully compensated by the Government for their loss of land.

The legislation establishes within the Department of the Interior a Commission to evaluate the claims submitted by landowners relating to their property, and to authorize payments to these landowners determined by the Commission to deserve compensation.

I strongly support an effective mechanism to resolve this longstanding issue and I think the legislation today provides such a mechanism.

However, I do not support prejudging the decision of the Commission by authorizing in this bill a specific level of appropriations. I would prefer to first see what determination the Commission makes with respect to the compensation issue. At that time, we would know the amount of compensation required. I don't think it is good public policy to assume a particular level of compensation before the Commission considers the individual claims.

I look forward to working with my colleague to resolve this issue.

By Mr. MCCAIN (for himself, Mr. GRAMM, Mr. BOSCHWITZ, Mr. COATS, Mr. COCHRAN, Mr. DOMENICI, Mr. HELMS, Mrs. KASSEBAUM, Mr. MCCLURE, Mr. PRESSLER, Mr. SIMON, Mr. THURMOND, Mr. WARNER, Mr. WILSON, Mr. GORTON, Mr. GARN, Mr. HATCH, Mr. LOTT, Mr. KASTEN, Mr. MACK, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. BOND, Mr. BURNS, Mr. D'AMATO, Mr. GRASSLEY, Mr. RUDMAN, Mr. SYMMS, Mr. WALLOP, Mr. LUGAR, Mr. SPECTER, and Mr. STEVENS):

S. 1726. A bill to repeal Medicare catastrophic coverage provisions effective in years after 1989 and the supplemental Medicare premium, and for other purposes; ordered held at the desk by unanimous consent.

(The remarks of Mr. MCCAIN and the text of the legislation appear earlier in today's RECORD.)

ADDITIONAL COSPONSORS

S. 82

At the request of Mr. THURMOND, the names of the Senator from Illinois [Mr. SIMON], the Senator from Utah [Mr. HATCH], the Senator from Wyoming [Mr. WALLOP], the Senator from Vermont [Mr. JEFFORDS], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Texas [Mr. GRAMM], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Missouri [Mr. DANFORTH], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 82, a bill to recognize the organization known as the 82d Airborne Division Association, Inc.

S. 232

At the request of Mr. MOYNIHAN, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 232, a bill to establish the American Conservation Corps, and for other purposes.

S. 1067

At the request of Mr. GORE, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1067, a bill to provide for a coordinated Federal research program to ensure continued U.S. leadership in high performance computing.

S. 1091

At the request of Mr. GRAHAM, the names of the Senator from Texas [Mr. GRAMM] and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of S. 1091, a bill to provide for the striking of medals in commemoration of the bicentennial of the U.S. Coast Guard.

S. 1162

At the request of Mr. KOHL, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 1162, a bill to amend the Congressional Budget Act of 1974 to require the Committees on the Budget to adopt the economic and technical assumptions of the Congressional Budget Office in preparing the concurrent resolution on the budget for a fiscal year.

S. 1618

At the request of Mr. BOSCHWITZ, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1618, a bill to amend the Internal Revenue Code of 1986 to allow less frequent deposits of payroll taxes for employers of certain lower paid employees.

S. 1675

At the request of Mr. KENNEDY, the names of the Senator from California [Mr. CRANSTON] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 1675, a bill to provide financial assistance for teacher recruitment and training, and for other purposes.

S. 1678

At the request of Mr. COCHRAN, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 1678, a bill to provide for the establishment of the Margaret Walker Alexander National African-American Research Center.

S. 1692

At the request of Mr. NUNN, the names of the Senator from Washington [Mr. ADAMS] and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of S. 1692, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain timber activities under passive loss rules.

SENATE JOINT RESOLUTION 183

At the request of Mr. SIMON, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of Senate Joint Resolution 183, a joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget.

SENATE JOINT RESOLUTION 193

At the request of Mr. DECONCINI, the name of the Senator from Connecticut [Mr. DODD] was added as cosponsor of Senate Joint Resolution 193, a joint resolution designating October 1989 as "National Italian American Heritage and Culture Month."

SENATE JOINT RESOLUTION 198

At the request of Mr. SIMON, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Arizona [Mr. DECONCINI], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of Senate Joint Resolution 198, a joint resolution designating November 1989 as "An End to Hunger Education Month."

SENATE JOINT RESOLUTION 212

At the request of Mr. DOLE, the names of the Senator from Georgia [Mr. NUNN] and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of Senate Joint Resolution 212, a joint resolution designating April 24, 1990, as "National Day of Remembrance of the 75th Anniversary of the Armenian Genocide of 1915–1923."

At the request of Mr. DOLE, the name of the Senator from Wisconsin [Mr. KASTEN] was withdrawn as a cosponsor of Senate Joint Resolution 212, supra.

At the request of Mr. HEFLIN, his name was withdrawn as a cosponsor of Senate Joint Resolution 212, supra.

SENATE CONCURRENT RESOLUTION 53

At the request of Mr. DODD, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Iowa [Mr. GRASSLEY], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Concurrent Resolution 53, a concurrent resolution concerning Iranian persecution of the Baha'is.

SENATE CONCURRENT RESOLUTION 63

At the request of Mr. BREAUX, the names of the Senator from Mississippi [Mr. LOTT], the Senator from Maine [Mr. COHEN], the Senator from New York [Mr. D'AMATO], the Senator from Washington [Mr. GORTON], the Senator from Hawaii [Mr. INOUYE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Arizona [Mr. MCCAIN], the Senator from Alabama [Mr. SHELBY], the Senator from Mississippi [Mr. COCHRAN], the Senator from Virginia [Mr. WARNER], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Senate Concurrent Resolution 63, a concurrent resolution to recognize the uniqueness of and express strong support for the maritime policy of the United States, and to urge the President in the strongest possible terms to ensure that the United States does not propose maritime transportation services for inclusion in the General Agreement on Tariffs and Trade discussions and that any proposal that would consider maritime transportation as an area for negotiation is actively opposed by the United States.

AMENDMENTS SUBMITTED

PROTECTION OF PHYSICAL INTEGRITY OF THE FLAG

BIDEN (AND THURMOND) AMENDMENT NO. 949

Mr. BIDEN (for himself and Mr. THURMOND) proposed an amendment to the bill (H.R. 2978) to amend section 700 of title 18, United States Code, to protect the physical integrity of the flag, as follows:

On page 2, strike line 17 through page 3, line 11, and insert the following:

"(d)(1) An appeal may be taken directly to the Supreme Court of the Untied States from any interlocutory or final judgment, decree, or order issued by a United States district court ruling upon the constitutionality of subsection (a).

"(2) The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal and advance on the docket and expedite to the greatest extent possible."

DOLE AMENDMENT NO. 950

Mr. DOLE proposed an amendment to the bill H.R. 2978, supra; as follows:

On page 2, line 1 after "burns," insert "maintains on the floor or ground.".

WILSON (AND SYMMS) AMENDMENT NO. 951

Mr. WILSON (for himself and Mr. SYMMS) proposed an amendment to the bill H.R. 2978, supra, as follows:

On page 2, line 1, after the word "defaces" add the words "physically defiles".

DOLE AMENDMENT NO. 952

Mr. DOLE proposed an amendment to the bill H.R. 2978, supra, as follows:

On page 2, line 1, after "Whoever" insert "publicly and".

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on fish inspection: pending legislation. The hearing will be held on October 24, 1989, at 2:30 in 332 Senate Russell Office Building.

For further information, please contact Bob Young, chief economist, of the committee staff at 224-5207.

Mr. President, Mr. JOHNSTON and I would like to announce for the public that a joint hearing has been scheduled before the Committee on Agriculture, Nutrition, and Forestry and the Committee on Energy and Natural Resources.

The hearing will take place in Washington, DC, on October 25, 1989, beginning at 2 p.m. The exact location of the hearing will be announced in the near future.

The purpose of the hearing is to receive testimony on issues relating to the national forest planning process as provided in the National Forest Management Act of 1976.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit testimony should send two copies to the Committee on Agriculture, Nutrition, and Forestry, or the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC, 20510.

For further information regarding the hearing, please contact Tom Tuchmann of the Agriculture, Nutrition, and Forestry Committee staff at (202) 224-2035, or Beth Norcross of the Energy and Natural Resources Committee staff at (202) 224-7933.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 4, at 9 a.m., to hold hearings on international money laundering: law enforcement and foreign policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Aviation Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 4,

1989, at 9 a.m. to hold a hearing on foreign investment in U.S. air carriers.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 4, 1989, at 3:00 p.m., to hold a hearing on the nomination of Warren O. Leback, of New Jersey, to be Maritime Administrator.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FOREIGN COMMERCE AND TOURISM

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Foreign Commerce and Tourism, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 4, 1989, at 10 a.m., to hold a hearing on the Japanese space industry—the American commercial challenge.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMERS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Comsumer Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 4, 1989, at 9:30 a.m., to hold a hearing on S. 583, the National Plumbing Products Efficiency Act of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, October 4, beginning at 9:30 a.m., to conduct a hearing to hear testimony regarding pending amendments to the Clean Air Act concerning acid deposition legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate at 9:30 a.m. and 2 p.m. on Wednesday, October 4, 1989, to hold a hearing on the nomination of James E. Cason.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs, be allowed to meet during the session of the Senate, Wednesday, October 4, 1989, at 10:15 a.m., to conduct hearings on the Resolution Trust Corportion [RTC].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. BIDEN. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on the nominations of Jo Ann K. Webb to be Director of the National Cemetery Service and Edward G. Lewis to be Assistant Secretary for Information Resources Management on Wednesday, October 4, 1989, at 10:30 a.m. in SR-418.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BIDEN. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, October 4, 1989, 9:30 a.m. for a business meeting pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Children, Family, Drugs and Alcoholism, of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Wednesday, October 4, 1989, at 1 p.m., to conduct a hearing on homeless children.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 4, at 1:30 p.m., to hold hearings on State Department nominations and to immediately follow the hearing with a business meeting to consider and vote on pending business items and nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRADE WITH THE SOVIET UNION

● Mr. BAUCUS. Mr. President, United States-Soviet relations have entered a new era. Over a period of only months, United States-Soviet relations have gone from being dominated by the arms race to being dominated by a peace race. President Bush and General Secretary Gorbachev have been practicing one-upmanship in conventional and nuclear arms control arena with offering larger concessions.

If this trend is sustained, it will profoundly change the world we live in. Already, it has changed the way we look at the Soviet Union.

There are other changes afoot as well. Just a few years ago, military and diplomatic concerns dominated our relationship with the rest of the world—allies and adversaries alike. But a shift is underway. Economic concerns are rising on our agenda.

Now we spend nearly as much time talking with our allies about trade concerns as we spend talking about military and diplomatic issues. But this transformation has been much slower coming with regard to the Soviet Union and the East bloc.

With the Soviet Union, military and geopolitical disputes have so dominated the agenda that trade and economic issues were seldom if ever raised. But with the military threat seemingly receding, it is time to take a new look at the potential trade and economic relationship between the United States and the Soviet Union.

THE JACKSON-VANIK PROVISION

On May 12, President Bush signaled that he was willing to work with Congress to grant a waiver of the Jackson-Vanik provision for the Soviet Union—opening the door for an expanded trade relationship between the Soviet Union and the United States.

The Jackson-Vanik provision links the issue of emigration from the Soviet Union to favorable tariff treatment and access to credit. Essentially, Jackson-Vanik prohibits granting most-favored-nation tariff treatment or extending Government loans to the Soviet Union until it liberalizes its emigration policy.

The President may waive Jackson-Vanik for the Soviet Union or the other countries affected by the provision by certifying to Congress that the Nation has liberalized its emigration policy. Congress can then disapprove the President's waiver with a concurrent resolution or allow it to go into effect.

The Soviet Union has been liberalizing its emigration policy. The statistics tell the tale. In 1973 at the peak of détente, the Soviet Union allowed almost 35,000 Jewish emigres to leave. In the years after passage of the Jackson-Vanik provision, Jewish emigration declined to a low of just over 13,000 in 1975. In the late 1970's, Jewish emigration increased sharply. In 1979, more than 51,000 Jewish emigres left the Soviet Union.

But the United States failed to respond and superpower relations deteriorated in the wake of the Soviet invasion of Afghanistan. The flow of emigres dwindled. At the low point between 1984 and 1986, only about 1,000

Jewish emigres were allowed to leave each year.

But Soviet emigration levels have climbed sharply. In 1989, a record number of emigres may be allowed to leave the Soviet Union. Already more than 100,000 refugees—Jews, Armenians, Germans, and Evangelicals—have left the Soviet Union. By the end of the year, a total of 150,000 may be allowed to leave and next year the total may climb to 250,000.

The Soviet Union is now drafting permanent changes in its immigration laws. As the Washington Post has reported, the flow of Soviet emigres is already straining the capacity of the United States to absorb them.

Debate on waiving the Jackson-Vanik provision has already begun within and among emigre advocacy groups. One major group supports an immediate waiver for the Soviet Union. Others, such as the National Conference on Soviet Jewry, have noted that important problems remain to be resolved.

Certainly, the ball is still in the Soviet's court. The Soviet Union must come through on its promises to reform emigration practices and address some of the longstanding emigration cases. The United States must not back away from its commitment to Soviet emigres.

But it is time for the President and the Congress to begin working directly with Soviet officials to establish clear and detailed criteria for an acceptable Soviet immigration policy.

The best way to cement the progress we have made and ensure further progress is to establish economic ties with Moscow—ties that give the Soviets a tangible reason to proceed with glasnost and continue to liberalize its emigration policy.

ECONOMIC IMPLICATIONS OF TRADE WITH THE SOVIET UNION

In the short term, the trade implications of a Jackson-Vanik waiver may be limited. The Soviet Union and the United States have never been significant trading partners. Neither has ever accounted for more than 1 percent of the other's total trade.

In 1988, United States-Soviet trade totalled only about $3.3 billion up from $2 billion in 1987. Interestingly, the Soviet Union is one of the few nations with which the United States runs a trade surplus. In 1988, the United States exported about $2.7 billion in goods—mostly agricultural products—to the Soviet Union. The Soviet Union exported only about $650 million to the United States.

Jackson-Vanik has been part of the reason for low trade flow, but there have been other reasons—the shortage of hard currency in the Soviet Union, United States export restrictions, and the lack of competitive Soviet exports.

Even if the Soviet Union was granted lower most-favored-nation tariff rates and access to United States credit, there would be no surge in Soviet exports to the United States. Soviet sources have estimated that exports to the United States might increase by only about $30 million in the first year if Jackson-Vanik were waived.

But the Soviets would certainly be able to export a few products to the West. And the opening of western markets would encourage the Soviet Union to develop some competitive export industries. These export industries could help the Soviet Union earn some hard currency and, in turn, import products from the West to satisfy Soviet consumers.

The Soviet Union is badly in need of everything from food processing technology to medical devices. We can be almost certain that the dollars the Soviets earn exporting to the United States would rapidly be used to purchase United States exports. Eventually, a strong trade relationship could be established between the United States and the Soviet Union. United States-Soviet economic ties are already blossoming in two areas: United States agricultural exports and corporate joint ventures.

U.S. AGRICULTURAL EXPORTS

The Soviet Union has long been an excellent customer for United States agricultural exports. The agricultural trade relationship was temporarily disrupted by the grain embargo, but it has recovered.

The United States is once again a major source of Soviet agricultural imports. Last year, the Soviet Union was the largest overseas market for United States wheat—importing more than three times as much as the No. 2 customer. In total, the Soviet Union imported about $2 billion worth of United States agricultural exports in 1988. Soviet representatives have made it clear that they view Jackson-Vanik as a major political barrier to further increases in United States agricultural exporters.

Most major grain exporting companies and major agricultural groups advocate repealing or waiving the Jackson-Vanik provision because it dampens Soviet demand for United States agricultural exports. If Secretary Gorbachev continues on his course toward glasnost and perestroika, Soviet agricultural imports are likely to increase.

As a recent White House study noted: "There are very real possibilities of expanding trade with the Soviet Union. Opportunities exist in many areas, but agriculture, food, and related industries hold particular promise." Thus, waiving the Jackson-Vanik provision would help the United States build upon its already strong foothold in a major growth market for U.S. agricultural exports.

The administration just announced that it plans to begin negotiation on another long-term agricultural trade agreement with the Soviet Union. Perhaps linking possible negotiations to extend MFN status to the Soviet Union with the long-term grain agreement is the best way to ensure that the agricultural trade between the superpowers expands in coming years.

JOINT VENTURES

The United States business community has been much quicker to respond to changes in the Soviet Union than the United States Government. A number of United States businesses, including Honeywell, McDonald's, and Combustion Engineering, have already opened successful joint ventures in the Soviet Union.

These joint ventures are the beachheads that the U.S. business community can use to get access to a $2.4 trillion annual market of 286 million people. They open the door to United States exports to the Soviet Union and build a long-term United States commercial presence in the Soviet Union.

Unfortunately, the United States will face stiff competition in the Soviet market. Japan and Europe have also been working to build ties in the Soviet market. In fact, both have a larger presence in the Soviet Union than the United States.

United States firms have about $23 million invested in Soviet joint ventures. But Japan now has $30 million invested in the Soviet Union, West Germany has $64 million, Italy has $62 million, and France has $43 million.

As is the case with agricultural exports, the United States business community believes that waiving the Jackson-Vanik provision would significantly improve the atmosphere for developing further joint ventures and help it meet the Japanese and European competition head on. A Jackson-Vanik waiver could also have direct benefits to joint ventures by opening U.S. credit programs to joint ventures.

WAIVING JACKSON-VANIK

Some have said that we should be cautious. We should not waive Jackson-Vanik until we are sure that changes in the Soviet Union are permanent. They point to China and note that we can never be sure if changes in the Communist world will last. Even if refugees are being allowed to leave the Soviet Union now there may be a crackdown at some future date.

The lesson of China is well taken. But it is worth noting that the United States already extends MFN tariff treatment to China, Iran, Syria, Iraq, and a number of other nations known to violate human rights, support terrorism, or engage in other abhorrent behavior. Does it really make sense to treat the Soviet Union less favorably than China, Iran, Syria, and Iraq—especially in light of the progress made in the Soviet Union? If the emigration

policy of the Soviet Union continues to improve, it surely does not. Further, economic ties with the Soviet Union encourages the Kremlin not to resort to a crackdown.

It is a way of encouraging the Soviet Union to continue to liberalize emigration, improve respect for human rights, move toward democracy, and improve ties to the west. And, if worse comes to worse, and the Soviet Union does slide back toward repression and totalitarianism, the waiver can always be terminated leaving us no worse off than we are now.

But if we don't act, we could miss a truly historic opportunity to promote emigration and human rights while opening a tremendous new market for U.S. farmers and businessmen.

Some are fond of saying that we should not be paying for perestroika. That may be true. But nor should we continue a policy of economic sanctions against the Soviet Union. A two way trade relationship is in both countries best interest.

The President has already said he is ready to work with the Congress, the business community, emigre advocacy groups, and the Soviet Union to fashion an acceptable waiver of the Jackson-Vanik provision. Its time for us all to roll up our sleeves and get down to work.●

DAVE DRAVECKY, SAN FRANCISCO GIANTS PITCHER

● Mr. WILSON. Mr. President, I rise today to honor one of our Nation's most inspirational sporting figures. This summer, I joined millions of Americans in following the miraculous comeback story of San Francisco Giants pitcher Dave Dravecky.

Thirteen months ago, Dave and his wife Janice, went to the Cleveland Clinic to have tests completed on a lump in his pitching arm. Dave thought initially that the lump was probably a buildup of scar tissue, but his doctors informed him that a cancerous tumor had formed on his deltoid muscle. As he and his wife prayed in the clinic, they realized they were no longer dealing with an end to just his baseball career, but to his life as well.

After further tests, the doctors determined that half of his deltoid muscle would need to be removed. During the 8-hour surgery, his doctors had to freeze the bone near the deltoid muscle to remove the tumor. After the surgery, the doctors told Dave that he had almost no chance to pitch again, and would be lucky if he could even play catch with his children, Tiffany and Jonathon.

But Dave did not quit. Dave knew that if it was God's will, he would pitch again.

Slowly, Dave progressed. Last January, he was able to toss a football. In March, he picked up a baseball for the first time since the surgery. By June, he was able to pitch batting practice to his teammates. Finally, after pitching three games in the minor leagues, the Giants told him to pack his bags for his return to the major leagues.

On August 10, Dave made his triumphant return. I am sure I was not the only one who was touched by the sight of Dave taking the mount against the Cincinnati Reds. And after 8 strong innings, giving up only 4 hits and 3 runs, Dave left the game to a standing ovation.

Then, during one of his windups in his second start, Dave went down as if he had been shot. In fact, Dave would say later that it felt as though his arm had come off. The freezing process used in the surgery to remove the cancerous tumor had weakened the bone so much that the stress from his throwing motion broke his arm.

During his comeback, we all were inspired not only by his pitching effort, but also by his relationship with a 6-year old luekemia patient, Alex Vlahos. Using the press exposure from his story, Dave was able to share Alex's story with the entire country, and help him in his attempt to find a suitable bone marrow donor. Along with a local radio station, Dave has also raised $100,000 for Alex's operation.

Dave's story has also given other cancer patients the hope and will needed to fight this deadly disease. Through his miraculous comeback, Dave has shown that the fight against cancer can be won.

Will Dave be back again next season? The doctors believe not only that his arm will heal, but that it actually will be stronger than prior to its fracture in August. I have every confidence that No. 43 will return next season to the delight of the Giants organization, millions of endearing fans, and all those who suffer from cancer across our Nation, who must find his recovery an inspiration to their own.●

FORTY YEARS OF COLD WAR

● Mr. SIMON. Mr. President, recently, the novelist, John le Carré, spoke to a New York Times luncheon, and his remarks were printed on the editorial page of the New York Times.

He basically calls for a much more realistic asessment of where we are vis-a-vis the Soviets and that we ought to be working with them to make sure Stalinism doesn't return and that all of us can achieve our dreams.

His remarks make eminent good sense, and I urge my colleagues who may not have seen the article, to read what he has to say.

At this point, I ask that his remarks be printed in the RECORD.

The remarks follow:

WHY I CAME IN FROM THE COLD

In "The Russia House," his newest novel, John le Carré introduced glasnost into espionage. On Sept. 17, while Washington wrestled with the problem of responding to the Gorbachev upheaval, he examined U.S.-Soviet relations at a New York Times luncheon. His speech is excerpted here.

That day, George J. Mitchell, the Senate majority leader, accused the Administration of feeling "almost nostalgic about the cold war." He was responding to a speech by Deputy Secretary of the State Lawrence S. Eagleburger, who said, "For all its risks and uncertainties, the cold war was characterized by a remarkably stable and predictable set of relations among the great powers."

(By John le Carré)

It is in America that my good luck and reputation have been made. So if I seem to address myself to that tiny and no doubt unhappy band of social misfits who did not welcome "The Russia House" as a pearl of modern literature, do not think I am here to peck away at sour reviews, but rather to respond to a general point—call it political, philosophical.

In "The Russia House," the voyage to America has been, in my experience, unique. The unhappy readers choke on what they discern as the book's political message. The word "naive" looms large. They are angry with me for taking away their cold war toys. "For 30 years," they seem to be saying, "this guy has been selling us honest-to-God political despair. Now he turns round and gives us hope. Who does he think he is?"

"The book," warns one distinguished reviewer, "has an ideological slant not every reader will agree with." Another gave the devil its name: "le Carré willingness to accept at face value the premise that the millenium is at hand is, at least, credulous." A third, alluding to kind words the book had attracted in the Soviet Union wrote: "Why should Americans care whether Russians like this book or not?"

Which, when you pause a moment, is a pretty startling thing to ask. Why shouldn't Americans throw their hats in the air at the thought that Russians are allowed to read this, or any other contentious Western novel, and that when they do they get a buzz from it?

But no, it seems we are not to be pleased by the notion that Russians should be enjoying the same book as ourselves. Books aren't meant to join nations, apparently—spy books least of all. They should remain this side of the Wall. Spy books should celebrate our incompatibility, specialness, insularity, superiority. Anything else—that's just treating with the enemy.

And if that sounds more like a Soviet attitude than an American one, I can't help wondering whether the 40 years of cold war have bred a silent affinity between the forces of intolerance on both sides.

Who is the enemy now? And who are we, the Western alliance, and who is America, if we can no longer unite against the Great Satan of Communism? And who is the Soviet Union aligned against, if aligned at all? "Why, against America!" say the tough guys. "Forget the cosmetics. They're still out there. Even if Gorby is on the side of the angels, what about those hardliners, those Stalinists waiting to step into his boots? Give 'em a coupla years, glasnost will be as dead as the Charleston."

But their argument runs deeper. And darker: "Even if we could help the Soviet

Union with its reforms, why do it? Why should we, in the very hour where our adversary of 40 years is reaping the whirlwind for his wicked ways—why should the alliance and United States, who have sweated blood and money to bring him to this pass—lift a finger to help him up? So the Soviets are fragmenting? Let them fragment! Took us 40 years to get them there!"

The tough guys are not impressed that the Soviets have made concessions in arms reduction which a few years back would have been dismissed as Utopian wish-dreams. Or that a Soviet leader is conducting a hair-raising and perhaps impossible crusade to implement reforms we have been urging upon his predecessors for decades: "He's still a Communist. He's still a Russian," they say. They add that it falls to us and not to our defeated enemies to decide when the war is over.

As if we knew.

So they are content, even merry, these tough guys, to watch the Soviet Union sink and perhaps drown in the mire of its misdeeds, on the good old principle that the worse things are for them, the better they must be for us. They say, "It's all a sham: Beneath the cunning Russians smile, the old order scowls away. And besides," they say, "Gorbachev will never make it."

Are they right? Or is it possible that after 40 years of being locked into the ice of the cold war, some of us in the West have lost the will, even the energy, to climb out and face a more hopeful future? That after believing so long we could improve nothing inside the Evil Empire, we have to pinch ourselves before we can accept that we really can write tomorrow's script, and help to make it play?

But even supposing we can get what we want, what do we want?

Do we want an independent Azerbaijan—with the probability of an Armenian massacre? If Russia disintegrates, that's not an idle fantasy.

Do we want a rise of Islamic extremism in the Soviet Asian states—to the reviving trumpet sounds of traditional anti-Semitism in Poland and European Russia?

Do we want a return to Stalinist levels of arms production? Not only the Soviet people would be enslaved, we, too, would be locked back inside the iron walls of an ever-mounting military budget and the ever-mounting risk of war.

Do we want the reimprisonment of writers, painters, musicians, dissidents, refuseniks and Jews?—the renewed suppression of free speech, free newspapers?—the restoration of the suffocating party apparatus?

Naïve I may be, though I doubt it. But I am not naïve enough to believe that the danger of such a backlash is over. The agressive passivity of the Soviet people, hardly woken from serfdom, could still make them accomplices in their own destruction. The new spirit of freedom will insure that the backlash, if it does come, will be ferocious, even by the dreadful standards of Soviet repression.

These things are on offer to us if we want them—or if, by apathy or neglect, we can think of nothing we want more.

Do we want to assist in the shaping of a Soviet market economy? Or is it more convenient to forecast its collapse and watch the prophesy fulfill itself?

Do we want to grab the chance to treat hard and effectively for a balanced arms reduction—and thereby allow the Soviet Union to divert its economic resources to peaceful purposes? Or do we want Russians to go on eating guns not butter into the 21st century, while their leaders cast round for foreign adventures to distract them from the domestic misery?

Have we now entered a new time, where we need the old divisions to justify our galloping materialism? If so, it is no wonder that half of Western Europe, and sections of America, look to Gorbachev for their dreams.

What are our Western dreams? Shall we go on dreaming about more refined ways to kill each other—or do we prefer to dream of a partnership of superpowers that could address itself to tomorrow's enemies rather than to yesterday's? Such enemies as drugs, terrorism, poverty, bush fire wars, the pollution of our air, sea, beaches, rivers, forests?

I do not believe the millennium is upon us. But I do believe we are witnessing an hour in history as momentous as 1917, and that we have yet fully to wake from the morbid confinement of cold war beligerence and seize the brave opportunities waiting on us—though for how long?

So no, not the millennium. Not yet. Just a unique moment in history—perhaps no longer than the blink of a star—when to be a realist it is necessary also to be an idealist, when the improbable is happening every day and the impossible every week, and where imagination and creativity, unleashed in time, may yet sweep us above the slough of hopelessness to which we have been condemned too long. That sounds like a pretty American sort of dream.●

WYCKOFF HEIGHTS HOSPITAL CENTENNIAL

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to a hospital which over the last 100 years has served the Brooklyn communities. This month, Wyckoff Heights Hospital is celebrating its centennial anniversary.

In 1899, Wyckoff Heights Hospital—then named German Hospital—opened its doors to serve the sick and maimed irrespective of creed, color, or nationality. During the last 100 years, the hospital has continued to serve its community through two world wars, Vietnam, and financial difficulties in New York City.

While serving Bushwick, Williamsburg, Greenpoint, and Ridgewood Queens communities, the hospital has also managed to expand and include new programs to its facilities. Among such programs, Wyckoff Heights Hospital became one of the lowest cost teaching hospitals in New York State. Furthermore, the hospital has instituted a community advisory board to keep the lines of communication open between the hospital and the communities it serves.

Mr. President, I offer Wyckoff Heights Hospital my congratulations and commend them on their 100 years of excellent service to the surrounding Brooklyn communities. I wish them continued success in another 100 years of operation.●

CRIMES OF HATE

● Mr. SIMON. Mr. President, as chief sponsor of the Hate Crime Statistics Act, I urge my colleagues to support my legislation to direct the FBI to keep statistics on so-called crimes of hate. I have written a column on the growing incidence of these detestable acts. I ask to have it reprinted in the RECORD.

The column follows:

CRIMES OF HATE

The other day I picked up a copy of the St. Louis Post-Dispatch and there were two prominent stories: One of a black couple passing through a largely white area, being suddenly pulled from their car and roughed up; and the other a story of a black family living in a white area facing a variety of forms of harassment.

My impression is that racism is on the rise. I am sponsoring a bill to direct the FBI to collect information on crimes of hate and violence against people because of the group to which they belong. I hope it can pass soon.

My instinct is that if we had such statistics today they would show a rise in such incidents, and not just against blacks.

Part of the reason is that our national leadership has too often failed to appeal to the noble in each of us. When there is no understanding between groups, that vacuum too often is filled by fear. And fear too easily leads to hatred and violence. One of the functions that political leaders—as well as other leaders—have, is to lead people down the path of understanding.

One factor in our problem is that we are increasingly separating ourselves as Americans on the basis of economics. If you are wealthy, you live in certain areas; if you are middle-income, you live in other areas; and if you are poor, you are increasingly isolated in certain parts of urban America.

And there is far too little communication between groups. The wealthy do not understand the problems of middle-income Americans, and the middle-income Americans do not understand the problems faced by the poor.

And while the majority of the poor are white, the percentages of blacks and Hispanics who fall into this category are high.

And since we are increasingly isolated from each other, it becomes easier and easier to ignore the problems of others, and even to fear and hate them.

Recently, Jack Valenti, head of the Motion Picture Association of America, spoke about President Lyndon Johnson's efforts to help the poor. He said the need to fight against poverty and prejudice has increased and that we are failing to win this fight.

And then he added, "The champion who will lead this charge [against poverty] must care, care so very much, so very deep in his gut, about the vacancy of hope and opportunity."

What he said about national leadership is true of all of us. We must care more.

When we repeat the pledge of allegiance of the flag, we talk about "one nation under God, indivisible."

That means we are one family.

And when anyone in that family hurts, ultimately we all hurt.

We have to learn to care about one another more and when we do, the twisted

minds that want us to hate one another will find few takers.

A great America must be a tolerant and understanding America.●

REMOVING MARITIME TRANSPORTATION FROM GATT

● Mr. D'AMATO. Mr. President, I rise today to consponsor Senate Concurrent Resolution 63, a resolution urging the administration to remove maritime transportation from General Agreement on Tariffs and Trade [GATT] services-in-trade negotiations.

A strong and vigorous maritime industry is central to America's industrial base. The absence of an ability to ship American goods overseas could make such shipments subject to the competitive whim of foreign nations. Clearly, any great nation must have a significant domestic shipping capability.

To allow GATT negotiations in this sector would likely undermine the health of this delicate industry. Allowing unfettered foreign intervention into the maritime industry would invite a further reduction in an American made, owned, operated, and serviced merchant fleet.

The maritime industry plays a central role in assuring America's national defense. In times of mobilization, an ability to ship men and materiel is essential. If we allow our maritime transportation capability to fade away, a palpable security crisis would loom on the horizon. Prudence demands, therefore, that we take adequate steps to avoid any further contraction of this industry.

During negotiation of the United States-Canada Free Trade Agreement the question of maritime services was raised. The administration at that time recognized the importance of not negotiating away in the name of free trade an integral element of our national defense and fundamental component of our industrial base. The wisdom of those arguments are no less compelling today.

I urge my colleagues, Mr. President, to join in this effort by cosponsoring this necessary resolution.●

BISHOP JOHN WALKER—A GOOD SHEPHERD

● Mr. SIMON. Mr. President, on Saturday afternoon, September 30, 1989, the Washington community and people of faith everywhere lost a good friend and a good shepherd. The Right Reverend John T. Walker, Bishop of the Washington diocese of the Episcopal Church, died of cardiac arrest in the Georgetown University Hospital following triple bypass heart surgery. We lost more than a leader in several reform movements in the Episcopal Church, a civil rights advocate in Washington, DC, since the 1960's, a strong voice against apartheid practices in South Africa, and a man who loved people—even those he disagreed with—the Nation has lost a man of reconciliation and a true shepherd of his flock.

I first met John Walker in the early 1980's while I was a Member of the other body. We were introduced by one of my former staff members, Bud Blakey, who knew the bishop through his membership in St. Stephen and the Incarnation Episcopal Church. The bishop loved St. Stephen's because it was always challenging the limits of its faith and challenging the Episcopal Church to fulfill its obligation to the poor, the hungry, and those in prison. Because I was then very interested in the whole issue of world hunger and especially starving and malnourished children in Africa, the bishop and I talked about that. I was struck by the sheer warmth of the man and his personal interest in his work, in world hunger efforts.

Bishop Walker has counseled many present and former Members of this body. Our former colleague, Charles McC. Mathias talked with the bishop frequently. My friend, the senior Senator from Oregon, knew John Walker well. I found John Walker's advice and counsel on the subject of South Africa to always be wise and just. He traveled to Africa frequently, on church business and as chairman of AFRICARE, and was one of the first persons arrested in the antiapartheid protests at the South African Embassay. He did not go alone. He led many Episcopalian parishioners from around the diocese to protest as well. Yet, his views on South Africa were not always popular. Although he fought valiantly against the racist system of apartheid, he opposed American companies withdrawing from South Africa. He supported efforts to get them to train black South Africans for the work and the roles they will inevitably inherit.

John Walker was first in a lot of things in his life. In addition to being the first black Episcopal bishop of the diocese of Washington, he was also the first black seminarian at Virginia Theological Seminary, and the first and only black faculty member at St. Paul's School in Concord, NH. Importantly, although he was first among black Americans in many of his endeavors, he was never the last. He always set the proper example, blazed a widened trail, and opened doors for blacks who would surely follow. He raised money to rebuild the Washington Cathedral, but he also raised money to eliminate human misery in Washington. More importantly, he encouraged his parishes to get involved in local programs to help people who really need help. The Samaritan Ministries of Greater Washington is one small example of the effectiveness of John Walker's diocesan ministry.

He never forgot his role as a black bishop in a predominantly white church. As the Washington Post recalled on Tuesday, in John Walker's own words "We must discover how we make racial minorities in a predominantly white church feel at home." Father Timothy S. Healy, former president of Georgetown University, summed John Walker's life up quite well the other day, when he wrote:

Over the years he became for me a living bridge across that gap in the city's life. On one hand he was the prelate who rules its great cathedral, moved with ease among its potentates, married their kids and buried their parents. On the other, he was a man who could walk in every area of the city and know its pain and fear. He could move from Northwest to Southeast without changing smile or rhythm. He was always the priest, always used the fact of his blackness to console and strengthen and bring together, as if both halves of our 10 square miles were bonded somehow in his own person.

Mr. President, we will miss this good shepherd. I ask that the October 2, 1989, Washington Post editorial and the October 3, 1989, Post article by Father Healy, "Remembering John Walker" be printed in the RECORD at this point.

The material follows:

BISHOP JOHN T. WALKER

Like most good priests, John T. Walker was out of tune with his times. As the Episcopal bishop of Washington, he placed himself firmly in a great tradition of reform, but it wasn't the style of reform that most of his generation adopted. He lived in a time when the fashion was to rely on confrontation, litigation, non-negotiable demands and public demonstration. A soft-spoken man, Bishop Walker preferred to appeal to charity and reason—in that order. But for 23 years, from his arrival here until his death on Saturday, he was a powerful and effective force for change in his church and in this city.

When he was ordained more than three decades ago, the Episcopal Church was largely segregated by race and social class, not officially or formally but as a reflection of the larger segregation of the society. Its membership tended to be securely upper middle class and descended, like the church itself, from English ancestry. A black priest was not unprecedented, but he was uncommon. Currently it's a very different church, with the lines of race and class blurred and the commitment to social concerns much more visible. A great many Episcopalians worked on that transformation, but none more productively than Bishop Walker.

Like most American blacks, he was seized by the outrages committed by a racist government in South Africa, and he was arrested in one of the early protests here at the South African Embassy. But it was characteristic of him that, instead of concentrating on forcing all American corporations out of South Africa, he called on them to begin training blacks there for the leadership they would one day win. That brought him much reproach. But he always regarded himself as the man in the middle—the mediator.

He was also in the middle of every serious question of conscience that gripped his church in those decades. He pushed consist-

ently for a larger role for women, and especially women priests, although it once brought him into collision with his presiding bishop. He raised money efficiently for the completion of the Cathedral but also for the relief of the poverty and misery that lived not far from it. He pressed the principle that, as he once put it, "We must discover how we make racial minorities in a predominantly white church feel at home."

Washington Cathedral is the great symbol of the Episcopal Church's presence here, but the nature of that symbol has changed over the years. There was a time when a bypasser could have been forgiven for thinking that the Cathedral on its hill seemed to look down on the city with the disdain of accustomed wealth and social position. Today it sends a different message, one of concern for the city and an active involvement in its daily life. That change owes much to the remarkable man who was the bishop.

REMEMBERING JOHN WALKER

The death of Bishop John Walker brings sadness and a sense of loss. Both are personal, of course, but both are very much more. For me he was a friend, but also a major part of this city as I had come to know it. He touched my life, and Georgetown University, and in a great, many more ways, the life of the city itself.

I first met him on his own ground at the National Cathedral, where I was struck by his grace of movement. Despite the voluminous and heavy trappings of a bishop's regalia, he carried them rather than letting them encase him. Beneath the robes was a self-possessed gentleness. It's a rare gift, and having so very little of it myself, I can envy it in others. It argued to no weakness either of perception behind those quick-appraising eyes or of resolve: he could end a discussion with a determined smile that dropped the temperature notably.

His too the quicksilver of humor. Years ago we robed together at St. Paul's School in New Hampshire, where he, an alumnus, and I, a guest, shared a chapel ceremony marking the school's 125th anniversary. His robes were episcopal, mine academic. Both of us had a red, almost floor-length scapular, his from Canterbury, mine from Oxford. As I wriggled into mine and he recognized it, he took his miter, held it out to me and said, "Try this on for size; you've already got the rest of the outfit,." Much to the annoyance of the master of ceremonies, we both processed out chuckling.

He told me of his tough and lonely years at St. Paul's, where he was the only black student. But he also praised and cared for the school because of the training it gave his mind. He had a feel for schools, and seemed to understand by instinct the edgy balance of a university such as Georgetown, where, in John Courtney Murray's words, the church meets the world across an uneven and ever-shifting frontier. I told him of my fear that the university's belief in God and in His laboring presence in creation could become a distraction or, worse, a memory. His comment was typical: "God seems to weigh more in this century than in earlier ones."

During Georgetown's bicentennial I asked him to let us use the National Cathedral for an ecumenical "celebration of freedom." We talked it over, and both of us wanted not to vaunt but to render thanks for the 200 years of freedom that our fellow citizens had granted both our churches. At one point he laughed at the irony of the site and the celebrant; a cathedral of the one church that had to give up its colonial "establishment" and a university that by its very being in the 1870s was the first great test of the new republic's willingness to carry out its principles about religious neutrality, John Walker not only lent us the cathedral, but came himself and spoke from his heart that same commitment to respect and comity.

Most of the time we shared events and activities that had to do with the city itself, Georgetown's front yard and his diocese. The problems always seemed insoluble; homelessness, AIDS, drugs and the battle to protect and yet armor the young. He knew in his bones the irreducible gap between the cuckoo in Washington's nest—the federal establishment—and the real city. Both of us feared being locked in the cuckoo's half of the nest, with its banks and lawyers, lobbyists, think tanks and universities. He ached over how separate the intellectual and social life of the capital was from the lives and pains of the people who make it work, who in their poverty hold it all together with wiring and roads, with shops and stores, with service and humor and hard work.

Over the years he became for me a living bridge across that gap in the city's life. On one hand he was the prelate who ruled its great cathedral, moved with ease among its potentates, married their kids and buried their parents. On the other, he was a man who could walk in every part of the city and know its pain and fear. He could move from Northwest to Southeast without changing smile or rhythm. He was always the priest, always used the fact of his blackness to console and strengthen and bring together, as if both halves of our 10 square miles were bonded somehow in his own person.

That, of course, was his secret strength, one that tied him in friendship to Cardinal Hickey; his priesthood, it is so easy for prelacy in the 20th century to be what it was in the bad old days of the 16th: more princely (in preoccupation if not in style) than priestly. Both men, despite the fleshpots of the world's most powerful capital, never yielded to power's blandishments, never yearned after its rewards. John Walker knew the Apostle's hunger and thirst: "I am in labor until Christ be built up in you." His whole life and work in the city looked to that end and that end alone.

Now, just as the city prepares to celebrate its completion, he lies in state under the soaring cathedral he labored to finish. For all who knew him, the great arches will seem empty, haunted by a comfortable ghost who was in quiet and love the heart and life of the building itself, Cathedral and city are the poorer for his loss, but all of us are richer for the years we spent with him. "The Lord had given," and we have known a modest and good man. "The Lord has taken away" too soon, and left all of us with the hurt of his loss. John Walker would have been the first to join us in ending the ancient prayer, "Blessed be the name of the Lord,"●

FEDERAL FISH INSPECTION ACT, S. 1245

● Mr. D'AMATO. Mr. President, I rise today to join my distinguished colleagues in cosponsoring the Federal Fish Inspection Act. This legislation will provide the certainty to ensure the wholesomeness and safety of fish and fish products.

There is widespread public concern over the health of our coastal waters, and rightly so. I remember last summer, in my home on Long Island, people were deathly afraid to eat the local fish. This had an adverse impact upon the local fishing industry as well as local seafood restaurants. Even now that Congress has passed a law ending ocean dumping of sludge, people are still very concerned about their seafood.

According to an analysis of recently released data from the Centers for Disease Control and the Department of Agriculture, From 1982 to 1986, seafood was 25 times more likely to cause an illness outbreak than beef and 16 times more likely than poultry.

In recent years, the American public has become very conscious about nutrition and the promotion of public health. Less red meat is being consumed and more people are turning to fish and fish products. This awareness is reflected by the fact that consumer per capita consumption of seafood increased over 20 percent in this decade.

I believe it is extremely important that an effective regulatory program is implemented so that our consumers are adequately protected.

As it stands, the Department of Agriculture currently conducts inspection programs for all meat products other than fish and has the technical expertise and work force capacity necessary to rapidly expand meat inspection programs to cover fish and fish products. It is obvious that the Government inspection programs currently in place do not provide the quality assurances demanded by the public. We need to enhance public confidence in the safety of fish and protect markets through a comprehensive inspection program specifically designed for fish. American consumers are concerned and we must make sure that the food on our supermarket shelves is safe and nutritious.

My home State, New York, is the largest seafood market in North America. In 1988, the Fulton Street Fish Market alone sold 91 million pounds of seafood with a commercial value of $250 to $300 million. We must remind ourselves that these figures are low due to the recent concerns about the safety of domestic seafood as a result of our coastal pollution. As we all remember, 1988 was the year public officials closed several beaches in the New York area after medical wastes or high bacteria levels were found in coastal waters. We monitor water quality for the benefit of swimmers. Shouldn't those consumers who eat fish be given the same assurances as to the quality of the food they eat?

The Federal Fish Inspection Act will provide the consumer with the confidence needed to continue to enjoy nutritious and healthy seafood. I urge

my colleagues to act on this important legislation.●

A TRIBUTE TO JOHN LEMLY MORRISON

● Mr. SHELBY. Mr. President, I would like to ask my colleagues to join with me in paying tribute not only to an exceptional Alabamian, but a great American as well. John Lemly Morrison of Greensboro, AL, is a compassionate and caring man, a good friend and a concerned citizen. Lem recently published his autobiography a book entitled, "Best in the Land: Lem Morrison Story."

Born on June 6, 1903, in the hills of Hale County, Lem has been a lifelong resident of Greensboro. Lem is the son of the late William and Henrietta Morrison. He married Beatrice Harrison in 1930, is the father of two children, Lemuel and John Lemly, Jr. His children are a tribute to their parents.

As a World War II combat veteran, Lem possessed a deep love for his country and a strong commitment to our Government. He served 2 years in the South Pacific and retired as a lieutenant colonel.

On August 26, 1983, Lem was awarded an honorary doctorate of science from Auburn University. He has had a tremendous impact on the programs of Auburn University, particularly 4-H and the Cooperative Extension Service. He has served as chairman of the Alabama 4-H Foundation since 1964.

In addition to his work as chairman of the board of the Dairy Fresh Corp., Lem's commitment to his community has extended in the realm of civic and charitable endeavors. He is a member of the Huntington College Advisory Committee, the board of directors of National Disabled Amateur Artists, the Goodfellows of Mobile College, and the First United Methodist Church of Greensboro.

John Lemly Morrison embodies the characteristics that identify the American spirit—faith, courage, and determination. It is my pleasure to serve as his Senator in Washington. I salute Lem as a man of great personal character.●

ARKANSAS ABLE, COWINNER OF THE 1989 NATIONAL ALLIANCE OF BUSINESS DISTINGUISHED PERFORMANCE AWARD FOR ADULT PROGRAM OF THE YEAR

● Mr. PRYOR. Mr. President, I rise today to pay tribute to an outstanding nonprofit organization which since 1982 has provided valuable employment training and placement services to older Arkansans. On October 2, Arkansas ABLE—Abilities Based on Long Experience—received a National Alliance of Business [NAB] Distinguished Performance Award for Adult Program of the Year.

As a cowinner of this award, along with Operation ABLE of Chicago and Operation ABLE of Greater Boston, Arkansas ABLE adds to the impressive list of honors and awards it has received over the years. These include the regional Department of Labor award for Outstanding Older Worker Program in 1986 and 1987, and one of the first 10 Job Training Partnership Act [JTPA] Presidential Awards ever given in 1988.

Mr. President, the list of accomplishments of this fine organization is impressive, and I would like to quote from the tribute to Arkansas ABLE contained in the NAB Distinguished Performance Awards program:

Since 1982, more than 4,866 older Arkansans have found jobs through the ABLE program. For the last two years, ABLE has exceeded its placement goal by an average of 82%, cutting participant and placement costs by over 40%. In 1987-88 alone, more than $3 million was added to Arkansas' economy through salaries earned by the older people put to work, exceeding by 450% ABLE's annual JTPA budget of $668,331.

Arkansas ABLE was the first non-profit in the country to administer statewide the 3% set-aside under JTPA, the first to establish a statewide toll-free number to provide resources to the older population and to businesses, and the first to conduct in-depth market research into the problem of minority recruitment through focus groups and telemarketing.

Arkansas ABLE presents Distinguished Senior Employee Awards every year. Eight seniors were honored in 1989, ranging in age from 58 to 81. The 81-year-old performs multiple jobs for women's apparel store, where she functions as a sales clerk, a hosiery and lingerie buyer, and a window decorator. In addition to her full-time job, she is active in her church and in several civic clubs.

She is an inspiring example of the success of Arkansas ABLE's mission "to strengthen and expand employment services for older job seekers, to promote public awareness of older workers and their value to employers, and to develop job opportunities for older persons in the public and private sectors."

In particular, I want to congratulate the executive director of Arkansas ABLE, Phyllis Haynes, and her staff for a well-deserved honor. More important than that, I want to thank them for their dedicated service to the people of Arkansas.

S. 543, a bill to amend the JTPA, will soon be considered by the Senate, and I understand that the bill drastically changes the nature of the title II older worker program. Department of Labor data shows that older workers are one of the fastest growing and most important segments of our country's work force. I strongly believe that in changing the 3-percent set-aside for older workers we cannot afford to lose the institutional knowledge of Arkansas ABLE and other programs which have been successful in serving older individuals for years, and I have been working with the sponsor of the bill, Senator SIMON, to ensure that older individuals will continue to be adequately served under the JTPA.

Mr. President, once again I want to congratulate Arkansans ABLE and express my confidence that older Arkansans will continue to receive the best employment services available in the country from this great organization.●

TRIBUTE TO WPDQ RADIO IN JACKSONVILLE AND MAYOR GULLIFORD OF ATLANTIC BEACH

● Mr. GRAHAM. Mr. President, today I rise to offer a tribute to WPDQ Radio in Jacksonville, FL, which was the lifeline for many South Carolina and Florida residents during the wrath of Hurricane Hugo.

I also commend Mayor William I. Gulliford of Atlantic Beach, who symbolizes the selfless dedication of many Americans to help others during this relief effort. Americans are a generous and compassionate people, and the actions of people like Mayor Gulliford and the broadcasters at WPDQ make us all proud.

From September 21 through September 26, WPDQ broadcast nonstop hurricane coverage to help listeners in the Carolinas and in Florida-Georgia. The station broadcast information about the well-being of friends and relatives in the Carolinas, providing timely information in the finest tradition of broadcast journalism.

I would like to recognize these individuals: Bruce Maduri, station manager; Jerry Smith, operations manager; Alan Sands, on-air personality; A.J. Davis, on-air personality; Larry Browdy, on-air personality; Jack Ingram, news director; Leroy Cumbie, traffic reporter; Rufus Hafer, weather reporter; Lee Pearce, news reporter; Sandra Simmons, receptionist; Cathy Salmon, secretary; Jeanine McGinn, office manager; Larry Stevens, program assistant; Debbie Perez, account executive; and Bob Cunningham, account executive.

I know my colleagues Senators HOLLINGS and THURMOND join me in thanking the many Floridians who have offered their time, their energy, their resources and their prayers to those in need in the Carolinas.●

A TRIBUTE TO REGGIE HAMNER

● Mr. SHELBY. Mr. President, it is with great pleasure that I ask my colleagues in the Senate to join with me in paying tribute to a great Alabamian, Reggie Hamner of Montgomery, AL.

On April 8, 1989, Reggie took office as the president of the University of Alabama National Alumni Association. Reggie was elected to this post because he characterizes all of the quali-

ties that presidents of the National Alumni Associations possess. Reggie has an extraordinary sense of loyalty to the University of Alabama, a willingness to devote time and energy to the highest office of the alumni association. His joy at being able to serve in such an important position on behalf of his alma mater is readily noticeable.

Reggie's connections with the University of Alabama began literally at birth. Reggie, a native of Northport, AL, was born at Druid City Hospital, located only a parking lot from the University of Alabama School of Law. His closeness to the university continued throughout his childhood, as a student at the University of Alabama and the University of Alabama School of Law.

As executive director of the Alabama Bar Association, Reggie now lives in Montgomery. A dedicated husband and father, Reggie married Anne Ellen Young on November 8, 1969. Their two children, Patrick and Chris, are a tribute to their wonderful parents. Patrick entered the University of Alabama this fall.

Reggie is known to us all as a compassionate and caring man, a good friend and a concerned citizen. In addition to his roles with the Alabama State Bar and the University of Alabama, Reggie is an active member of the First Baptist Church in Montgomery. The American Judicature Society, Alabama Council of Association Executives, and the Alabama Law Institute are just a few organizations that benefit from his participation.

Mr. President, I know I join Reggie's wife, Anne, his two children and their families in sharing their pride in Reggie's accomplishments at the University of Alabama. I am proud to serve as one of Reggie's Representatives in Washington and even prouder to call him my friend.●

CHESS

● Mr. KOHL. Mr. President, we are hard at work here trying to resolve a number of difficult problems: passing all the appropriation bills, avoiding a sequester, dealing with the changes in the Soviet system, responding to events in Poland—the list goes on. And because we are involved in those events, we may not have noticed that quietly, almost secretly, an important era in the history of mind may be coming to an end—an era in which man was the unchallenged master of the chessboard.

Now some might not think of this as significant. But they would be wrong. Chess, Mr. President, represents more than a game that challenges the intellect; it also represents a movement in human history away from physical warfare to symbolic combat. When the game of chess was invented in ancient Hindustan, conflict began to move from the battlefield to the chessboard. Great leaders came to be acclaimed for their ability to move knights rather than kill them; strategic geniuses were praised for their ability to make pawns of marble rather than men. Castles could be protected, knights could campaign recklessly, a queen's honor defended, an enemy's king deposed—all without the loss of life or the shedding of blood.

The game has a complexity that has challenged great minds for centuries. It has been said that there are more possible moves in a chess game than there are individual atoms in the entire universe. Yet now this greatest test of mental power has been challenged by the nonhuman intellect of the computer. It was once thought that no computer program could match the inituitive judgment of human masters. But the march of our own technical progress, at which we all marvel, is pushing us backward in the final moves of a tragic endgame.

According to the New York Times, researchers at Carnegie Mellon University have developed a computer chess program that has defeated several grandmasters. Mr. President, I ask that the article from last week's New York Times which describes this ominous turn of events appear in the RECORD at the conclusion of my remarks.

But Mr. President, there is still hope. Next month, this chess program will challenge world champion Gary Kasparov. Now I want the record to show that I approve of advancements in computer technology, but I still like the idea of humans defeating computers. I like even more the fact that in this battle for supremacy against the machine, it does not matter that Kasparov is a Soviet citizen; what matters is that he is a human being.

If we could adopt the same perspective when we react to other challenges which we as human beings face—the challenges of war, environmental destruction, poverty, and the rest—we might elevate the game of government beyond a simple struggle between Democrats and Republicans, First World and Third World, Communist and free. We might recognize the value of an individual human being in an increasingly complex world. We might begin to find a new strategy that would see us all working in concert to force our common enemies to resign.

Let us root for Kasparov, Mr. President. He is our mate.

The article follows:

[From the New York Times, Sept. 26, 1989]

CHESS-PLAYING COMPUTER CLOSING IN ON CHAMPIONS

(By Robert Byrne)

The time when a computer wrests the world chess championship from a human being may be approaching. Last Thanksgiving, Deep Thought, which won the world computer chess championship in May, defeated a grandmaster, Bent Larsen of Denmark, who is ranked 96th among all chess players in the world. And just recently, this same computer defeated another grandmaster—me.

Deep Thought, developed by researchers at Carnegie-Mellon University in Pittsburgh, beat Mr. Larsen in the Software Toolworks Open Tournament in Long Beach, Calif., a competition featuring several grandmasters. Though it lost its only other game with a grandmaster, Deep Thought went on to tie for first place in the event, the first time a computer had shared the top prize in a mixed field of humans and machines.

Deep Thought, combines enormous speed and computational power with sophisticated analysis, itself developed by computer, of the relative values of the chess pieces depending where they are and what stage the game has reached. The computer has also been trained to judge the relative merits of differing lines of attack.

COMPUTER VS. CONTENDER

The accomplishment is extraordinary. Last fall Hitech, another computer developed at Carnegie-Mellon, defeated the 74-year-old grandmaster Arnold Denker in a match. But Mr. Larsen, a regular championship contender in the 1960's and 1970's, is still playing near his top strength. He has a rating of 2580 from the International Chess Federation, whose ratings are computed by weighting tournament results by the strength of their participants. Mr. Denker's rating is 2295 and mine is 2465; the world champion, Gary Kasparov of the Soviet Union, has a rating of 2775, 5 points below the all-time high, Bobby Fischer's last rating of 2780.

After playing Deep Thought, I would say it is not yet ready to mount a serious challenge to Mr. Kasparov, though they are scheduled to play two exhibition games Oct. 22 at the New York Academy of Art at 419 Lafayette St. in Greenwich Village.

Deep Thought was constructed by five graduate students in the Computer Science Department of Carnegie-Mellon who often play against one of the best commercial chess programs, Mephisto. They win some and lose some against Mephisto, but they are unable to give their own creation any kind of opposition at all.

Deep Thought calculates incomparably faster than any human, speeding along to view 720,000 possible arrays of chess pieces on a board every second. The key to its speed are two custom processors, each with a very large integrated chip. The chip was invented by Feng-Hsiung Hsu of Taiwan, who devised it as part of his work toward a doctorate and who also designed the circuit board, which has about 100 other standard chips.

"BRUTE FORCE" AND OTHER VIRTUES

There is nothing special about the host computer, a Sun 4, and Deep Thought can be adapted to run on any powerful work station or computer. But "brute force" calculation, as computer experts call it, is not Deep Thought's only virtue. It can also evaluate the signal features of chess positions, like whether pawns are blocked by other pawns. This was the contribution of Andreas Nowatzyk of West Germany.

Chess pieces move in different ways and some are more powerful than others. Bishops move only on diagonals; rooks move only horizontally or vertically. The queen,

which can move in all directions, is the most powerful piece, but the most important is the king. When an opponent's piece threatens to capture the king, the player must move the king, capture the threatening piece or interpose one of his own pieces; if he cannot, he is defeated—checkmate.

In evaluating the individual pieces, introductory chess books rate the pawn at 1, a knight or a bishop at 3½, a rook at 5 and the queen at 9. But a piece may have a radically different value depending on its position relative to other pieces. For example, a pawn in a phalanx may be stronger; a doubled pawn, one directly behind another, is vulnerable. Other factors include the number of pieces in play and the space your pieces control. Deep Thought continually evaluates these positional values.

Mr. Nowatzyk started with rough values worked out by chess experts, but only after they had been improved by the intuitive adjustment of the best chess player of the five—Murray Campbell of Canada. Mr. Nowatzyk applied his tuning process to the positional values as adjusted by Dr. Campbell to obtain more exact values.

He did this by running 900 games played by grandmasters and the next lower class, international masters, through a computer. By analyzing the play of these experts, the computer figured out the relative value they gave to various pieces in various positions. In effect, the method made Deep Thought a pupil of some of the best human players in the world.

DIFFERENT KINDS OF KING

Mr. Nowatzyk produced a matrix of nearly 100 evaluations of chess pieces and positions. For example, a knight out on the board has a value of 6,274, whereas a knight in a corner, with fewer possible moves, has a value of 4,738.

The stage of the game also alters the evaluations. For example, it is foolhardy to bring the king to the center early in the game—it would be like marching naked into enemy cannon fire. But in the endgame, when few pieces remain, the king is generally quite safe and could play an important part in supporting the other pieces. Deep Thought gives negative values to the king in the center early in the game and positive values later.

Besides Mr. Hsu's chip and Mr. Nowatzyk's and Dr. Campbell's creation of the evaluations matrix, Deep Thought employs a process called singular extension to evaluate the vast number of possible moves in a game of chess and determine which are most likely to be successful. The number of moves in a game is estimated as at least 10^{120}; the estimated number of atoms in the universe is only 10^{80}

Another team member, Thomas Anantharaman of India, contributed the singular extension work. Deep Thought, starting from a given position, typically determines its move by making an exhaustive search of all possible moves in 10 plies, or five moves by each player. This takes it three minutes. As soon as it turns up a move worth roughly half a pawn more than the alternatives, the probe is extended further down that line. Often it will go 15 plies deep and has been known to go as deep as 40 plies. It thus gives its maximum attention to the critical lines of play, as the human grandmaster does by judgment, intuition or what is sometimes called "positional sense." And it avoids wasting time and energy on all the poor or even idiotic moves that abound.

The fifth team member, Peter Jansen of Belgium, helped Dr. Campbell install a data base of endgame analysis. He also assisted with the evaluation function. These two were also responsible for providing Deep Thought with its opening book, the list of preferences for playing the beginning stage of the game.

GOING FOR THE GOLD

Chess is such a subtle and complicated game that even Deep Thought, a computer of immense power and sophistication, cannot always beat a grandmaster. The computer can look many moves in advance along a line of strategy; but it cannot do this as well as a Fischer or Kasparov.

What would it take for Deep Thought to contest for the world championship?

"First, more power," said Mr. Hsu. He would like to increase its probing power to one billion positions a second, which would bring its standard search to 14 plies or 7 moves. To achieve this, he plans to work on a newer, more efficient and speedier chip.

Deep Thought's evaluation ability is being improved all the time. For example, the researchers are now increasing the machine's ability to evaluate such strategies as blockading pawns that do not have an opponent's pawns in their path in this area, it is already stronger than it was at Thanksgiving in its game with Bent Larsen.

Also, its opening book is weak, tending to give it passive positions it must work laboriously to improve so it can move to the attack. Moreover, for reasons that are not clear, it occasionally plays eccentrically in the opening stage. For example, it may mount elaborate attacks on pawns that are easily defended.

Besides taking on the world champion next month, Deep Thought is scheduled to play a four-game match with David Levy of Scotland in London in mid-December. Even though Mr. Levy is only a comparatively low-ranked international master, the Deep Thought team takes him very seriously—and rightly so.

Mr. Levy is a programmer, and he has made an avocation of defeating the best computers over the years. If there is a hidden flaw in Deep Thought, they would expect him to ferret it out and exploit it.

So it will be fascinating to see what he finds. Deep Thought plays a conservative, at times almost sluggish game, but it is quick to pounce on the opponent's mistakes, and it makes very few errors itself. It also spots checkmate possibilities faster than any human player, and once it recognizes the opportunity for any kind of attack, it proceeds relentlessly.

Mr. Hsu and Mr. Anatharaman are finishing their doctorates and expect to go to work soon at I.B.M., where Dr. Campbell is already working. Mr. Jansen has another year of graduate study, and Mr. Nowatzyk, also finishing his studies, has not decided where he will work. But the five intend to stay in touch.

Mr. Hsu says I.B.M. is eager to have them continue the development of their creation so that it might one day boast of having the first machine to defeat a human world chess champion. He added, "Deep Thought is heavily chess-specific and we don't evision any spinoffs."

Besides its games against grandmasters, Deep Thought served as a sparring partner for Kevin Spraggett of Canada before his quarterfinal world championship match with Arthur Yusupov of the Soviet Union in Quebec in February. The computer found a flaw in an opening analysis by Mr. Kasparov. This neat feat caused Mr. Spraggett to revise his choice of opening for Match Game 1, which ended in a draw.

Mr. Spraggett also turned to the computer for help in a postgame analysis, and it turned up some interesting alternatives. He called Deep Thought "a very powerful tool" and told Mr. Jansen, who operated the computer at Quebec, that he would like to use it again in the future.

Mr. Anantharaman said their was no need to keep the program or its hardware secret. "We think it's too hard to figure out," he said. Mr. Jansen added, "We cannot explain each other's contribution." and Mr. Hsu is so confident that the wall of his office has a poster-size blueprint of his chip.●

TERESA McBRIDE, SBA MINORITY BUSINESS PERSON OF THE YEAR

● Mr. BINGAMAN. Mr. President, today I rise to recognize the Small Business Administration's [SBA] Minority Business Person of the Year. New Mexico has many minority businesses that contribute to the economic stability of our State and serve as examples for the rest of the country. This year I am especially proud that the SBA has honored a young, vibrant, assertive, and capable businesswoman from the State of New Mexico.

SBA has named Ms. Teresa N. McBride from Albuquerque, NM, as the 1989 Minority Business Person of the Year. Ms. McBride serves as a strong role model to aspiring young minority businesswomen throughout the country. Her success represents an ability to overcome the obstacles of being a young person involved in the competitive world of business. As founder and owner of McBride Micro Source, she has proven her resourcefulness and ability in developing a high-technology computer business.

McBride Micro Source began operation in 1985 with a single full-time employee and mere $5,000 in cash. In a very short time this firm has grown to 22 full-time employees with annual sales in excess of $8.6 million—an impressive accomplishment.

McBride Micro Source is a successful business today because Teresa has overcome numerous obstacles by strategically planning and using her business skills and resources to build her company. McBride Micro Source is a certified SBA 8(a) business. This program has provided Teresa with the needed assistance to develop a business to effectively compete in the rapidly changing world of high-technology computers.

To add to her credit, Teresa has been very active in local business and woman's groups, and participates in charitable projects. In 1987, her firm received the Los Alamos National Laboratory Subcontractor of the Year Award and the New Mexico Minority Supplier Development Council Supplier of the Year Award. The firm has won several other awards and is con-

sidered one of the top computer businesses in the southwest region.

Mr. President, Teresa is a fine example of the caliber of businesswomen in my State and this country. I applaud her for her hard work and dedication.●

IN HONOR OF CYPRUS: ON THE VISIT OF PRESIDENT VASSILIOU AND THE 29TH ANNIVERSARY OF CYPRUS INDEPENDENCE

● Mr. SARBANES. Mr. President, this week marks both the 29th anniversary of the establishment of the Republic of Cyprus and the visit to this country of the President of Cyprus, George Vassiliou. It is therefore a most appropriate time to reflect on the courage of the Cypriots in the face of adversity, their abiding commitment to justice, freedom and democracy, the travails visited upon them in the 15 years since the Turkish occupation of the northern region of the island nation, and their hopes and aspirations for the future.

Although the history of the Republic of Cyprus dates back barely three decades, the history of civilization on Cyprus can be traced back through the ages to the seventh millennium B.C. and the neolithic settlement of Khirokitia. It has come to us indirectly, through references in the Homeric hymns and through the archaeological discoveries of modern times; the earliest historians remain mute witnesses, for to this date the script in which they wrote remains undeciphered.

This ancient civilization, buffeted for centuries by the cross-currents of great power rivalries and imperial domination, achieved international recognition as a sovereign state in 1960, in that year becoming a full-fledged member of the community of nations. The early years in the history of a new republic are inevitably years of trial and challenge, and such was the experience of Cyprus. Then, in 1974, the young Republic was dealt a terrible blow. After just 14 years of independence, the Turkish invasion and military occupation, which continues to this day, left hundreds of thousands displaced, homeless in their own land.

With the passing years, a whole generation has grown up in the shadow of the military occupation as the effort to restore peace and justice has been unavailing. In his May 1988 report to the U.N. Security Council, Secretary General Perez de Cuellar observed:

> The Cyprus problem, in its various manifestations, has been before the Security Council for a quarter of a century. There has been a natural tendency for both sides to become entrenched in long-held positions. It will require statesmanship of a high order to break free from these positions and to make, in good faith and with a readiness to compromise, a new attempt to bridge the wide differences that exist.

Since the election of President Vassiliou in May 1988 the efforts to restore the integrity of the Republic of Cyprus, in a manner consistent with the principles of peace and justice, have been redoubled. The world has indeed seen, in his leadership, the "statesmanship of a high order" called for by the Secretary General, and a bold new attempt to bridge at last profound and longstanding differences.

Mr. President, on the 29th anniversary of the establishment of the Republic of Cyprus, the people of Cyprus deserve our congratulations and respect. But they deserve as well a chance to live peaceful and prosperous lives, to raise their children and care for their families without fear of assault and aggression in a nation living peacefully under the rule of law. At this important moment in the history of the Republic of Cyprus, we welcome President Vassiliou to this country. We salute his courage and wisdom in working ceaselessly toward a just and workable solution to the Cyprus impasse, and affirm once more our own commitment to that important goal.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar No. 247, J. Michael Davis, to be an Assistant Secretary of Energy;

Calendar No. 248, Stephen A. Wakefield, to be General Counsel of the Department of Energy;

Calendar No. 249, John J. Easton, Jr., to be an Assistant Secretary of Energy;

Calendar No. 250, Jacqueline K. Brown, to be an Assistant Secretary of Energy;

And the nomination reported today by the Committee on Banking, Housing, and Urban Affairs: Richard C. Breeden, to be a Member of the Securities and Exchange Commission.

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid on the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF ENERGY

J. Michael Davis, of Colorado, to be an Assistant Secretary of Energy (Conservation and Renewable Energy).

Stephen A. Wakefield, of Texas, to be General Counsel of the Department of Energy.

John J. Easton, Jr., of Vermont, to be an Assistant Secretary of Energy (International Affairs and Energy Emergencies).

Jacqueline Knox Brown, of the District of Columbia, to be an Assistant Secretary of Energy (Congressional and Intergovernmental Affairs).

SECURITIES AND EXCHANGE COMMISSION

Richard C. Breeden, of Virginia, to be a member of the Securities and Exchange Commission for the term expiring June 5, 1993.

Mr. DOLE. Mr. President, I want to take this opportunity to thank our colleague, Senator BRYAN, for his courtesies, and willingness to work with me and my staff, the Department of Energy, Senator MCCLURE, and others in reaching an accord to release the four nominees in the Energy Department. I appreciate his courtesies, and I thank him for it.

STATEMENT ON THE NOMINATION OF J. MICHAEL DAVIS TO BE ASSISTANT SECRETARY FOR CONSERVATION AND RENEWABLE ENERGY

Mr. McCLURE. Mr. President, on July 26, 1989, the Committee on Energy and Natural Resources favorably reported the nomination of J. Michael Davis to be Assistant Secretary for Conservation and Renewable Energy of the Department of Energy by a unanimous vote.

Mr. Davis has a strong educational, technical, and business background which makes him well qualified for the position of Assistant Secretary for Conservation and Renewable Energy. Since 1986, Mr. Davis has served as the president of Glowcore Colorado, Inc., and from 1982 to 1986 was vice president of Sunbelt Energy Corp. Prior to joining the private sector, Mr. Davis worked in various management positions at the Department of Energy's Solar Energy Research Institute as well as serving as a division manager in DOE's solar-thermal program. He is a registered professional engineer and served on the advisory board for the Colorado office of energy conservation.

Mr. President, I urge my colleagues to join me in supporting Mr. Davis' confirmation as Assistant Secretary for Conservation and Renewable Energy of the Department of Energy.

STATEMENT ON THE NOMINATION OF STEPHEN A. WAKEFIELD TO BE GENERAL COUNSEL

Mr. McCLURE. Mr. President, on July 26, 1989, the Committee on Energy and Natural Resources favorably reported the nomination of Stephen A. Wakefield to be general counsel of the Department of Energy by a unanimous vote.

Mr. Wakefield has excellent qualifications for the position of general counsel of the Department of Energy, with experience in both the public and private sectors. Mr. Wakefield is a former Assistant Secretary of the Interior for Energy and Minerals as well as the former Assistant Administrator for DOE's predecessor, the Federal Energy Office. He currently is a senior partner with the law firm of Baker & Botts in Houston, TX.

Mr. President, I urge my colleagues to join me in supporting Mr. Wakefield's confirmation as General Counsel of the Department of Energy.

STATEMENT ON THE NOMINATION OF JOHN J. EASTON, JR., TO BE ASSISTANT SECRETARY FOR INTERNATIONAL AFFAIRS AND ENERGY EMERGENCIES

Mr. McCLURE. Mr. President, on July 26, 1989, the Committee on Energy and Natural Resources favorably reported the nomination of John J. Easton, Jr., to be Assistant Secretary for International Affairs and Energy Emergencies of the Department of Energy by a unanimous vote.

Mr. Easton has had an extended career as an attorney both in private practice and in State government. He served as attorney general of the State of Vermont from 1981 to 1985 and as assistant attorney general for that State from 1975 to 1978. Mr. Easton was in private practice for approximately 8 years. He currently serves as a principal Deputy Assistant Secretary of Energy.

Mr. President, I urge my colleagues to join me in supporting Mr. Easton's confirmation as Assistant Secretary for International Affairs and Energy Emergencies of the Department of Energy.

STATEMENT ON THE THE NOMINATION OF JACQUELINE KNOX BROWN TO BE ASSISTANT SECRETARY FOR CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS

Mr. McCLURE. Mr. President, on July 26, 1989, the Committee on Energy and Natural Resources favorably reported the nomination of Jacqueline Knox Brown to be Assistant Secretary for Congressional and Intergovernmental Affairs of the Department of Energy by a unanimous vote.

Mrs. Brown has had an extended career in public service. She served in a variety of staff positions in the Congress from 1972 to 1988. Following her position as minority staff director of the Senate Labor and Human Resources Committee's Subcommittee on Aging, she joined Secretary Watkins as a senior policy analyst for the President's AIDS Commission. Mrs. Brown's familiarity with the Congress and the legislative process, as well as her experience with the executive branch of Government, will serve her well in the position of Assistant Secretary for Congressional and Intergovernmental Affairs.

Mr. President, I urge my colleagues to join me in supporting Mrs. Brown's confirmation as Assistant Secretary for Congressional and Intergovernmental Affairs of the Department of Energy.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a-1928d, as amended, appoints the following Senators as members of the Senate delegation to the North Atlantic Assembly Meeting during the 1st session of the 101st Congress, to be held in Rome, Italy, October 6–10, 1989:

The Senator from Oregon, Mr. HATFIELD;

The Senator from Mississippi, Mr. LOTT; and

The Senator from Florida, Mr. MACK.

ORDERS FOR TOMORROW

RECESS UNTIL 10 A.M.; MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Thursday, October 5, and following the time reserved for the two leaders, there be a period for morning business not to extend beyond 10:30, with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BIDEN. Mr. President, if the distinguished Republican leader has no further business and no Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess until the previously ordered time of 10 a.m., Thursday, October 5.

There being no objection, the Senate, at 9:07 p.m., recessed until Thursday, October 5, 1989, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 4, 1989:

COMMUNICATIONS SATELLITE CORPORATION

BARRY M. GOLDWATER, SR., OF ARIZONA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMUNICATIONS SATELLITE CORPORATION UNTIL THE DATE OF THE ANNUAL MEETING OF THE CORPORATION IN 1992, VICE E. PENDLETON JAMES.

APPALACHIAN REGIONAL COMMISSION

HILDA GAY LEGG, OF KENTUCKY, TO BE ALTERNATE FEDERAL COCHAIRMAN OF THE APPALACHIAN REGIONAL COMMISSION, VICE JACQUELINE L. PHILLIPS, RESIGNED.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

PETER G. FREDERICK, OF DELAWARE

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

ROBERT JOHN MARRO, OF NEW JERSEY
THEODORE A. ROSEN, OF CONNECTICUT

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR REAPPOINTMENT IN THE FOREIGN SERVICE AS A FOREIGN SERVICE OFFICER OF CLASS 1, A CONSULAR OFFICER, AND A SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

U.S. INFORMATION AGENCY

JOHN P. DWYER, OF CONNECTICUT

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 1, CONSULAR OFFICER, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

LEONARD A. JAMESON, OF FLORIDA
WILLIAM CLEMENS RUOTOLA, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 2, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

WAJAT IQBAL, OF WASHINGTON

AGENCY FOR INTERNATIONAL DEVELOPMENT

DOUGLAS CARL ROHN, OF VIRGINIA
JAMES G. SNELL, OF VIRGINIA
KAREN D. TURNER, OF THE DISTRICT OF COLUMBIA

U.S. INFORMATION AGENCY

SHIRLEY HILL WITT, OF NEW MEXICO

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 3, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

CONSTANCE HAMMOND, OF MARYLAND
SUSAN E. KEOGH-FISHER, OF CALIFORNIA

AGENCY FOR INTERNATIONAL DEVELOPMENT

JON HASKELL BRESLAR, OF MASSACHUSETTS
STEPHEN GERALD DUSTER, OF FLORIDA
DEBORAH K. KENNEDY, OF VIRGINIA
MARTIN F. NAPPER, OF FLORIDA
ANDREW B. SISSON, OF NEW YORK

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 4, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

PAUL V. ACETO, OF NEW YORK
JUAN ARTURO ALSACE, OF VIRGINIA
MICHELE RENE ANGULO, OF CALIFORNIA
JEFFREY ADAM BELLER, OF COLORADO
NICHOLAS STEPHEN BOURAS, OF NEW JERSEY
THOMAS MANN BOVAIRD, OF NEW HAMPSHIRE
RAYMOND L. BROWN, OF CALIFORNIA
DANIEL FRENCH CHRISTIANSEN, OF WYOMING
MAURA CONNELLY, OF NEW JERSEY
J. THOMAS CONVERSE, OF KENTUCKY
ELLEN MARY CONWAY, OF NEW YORK
JOHN STEELE CREAMER, OF MASSACHUSETTS
MARY T. CURTIN, OF MINNESOTA
JAMES L. DUDLEY, OF GEORGIA
STUART E. FRIEDMAN, OF CALIFORNIA
SYLVIA L. HAMMOND, OF CALIFORNIA
PATRICIA L. HANIGAN, OF NEW JERSEY
MARSHALL FREEMAN HARRIS, OF VIRGINIA
CHARLES M. HEFFERNAN, OF WASHINGTON
CHRISTOPHER PAUL HENZEL, OF NEW YORK
CATHERINE M. HILL, OF THE DISTRICT OF COLUMBIA
DANIEL MENCO HIRSCH, OF MARYLAND
GRETA CHRISTINE HOLTZ, OF FLORIDA
ELIZABETH A. HOPKINS, OF THE DISTRICT OF COLUMBIA
EDWARD BRUCE HOWARD III, OF CALIFORNIA

LAUREN MCCLANAHAN HUEBER, OF GEORGIA
GREGORY PAUL HULKA, OF CALIFORNIA
AMY J. HYATT, OF CALIFORNIA
CAROLE ANN JACKSON, OF FLORIDA
JEANINE JACKSON, OF WYOMING
MICHAEL J. JACOBSEN, OF TEXAS
LAUREN SPIVAK JOHNSON, OF CALIFORNIA
MATTHEW E. JOHNSON, OF MARYLAND
MARIE L. KISH, OF VIRGINIA
TODD ANDREW KUSHNER, OF CALIFORNIA
THERESA M. LEECH, OF CONNECTICUT
THERESA A. LOAR, OF NEW JERSEY
MATTHEW JOHN MATTHEWS, OF OREGON
JOHN M. MCCASLIN III, OF OHIO
ELIZABETH BARKALOW MCGAFFEY, OF CALIFORNIA
JAMES DESMOND MELVILLE, JR., OF NEW JERSEY
JEFFREY A. MIOTKE, OF CALIFORNIA
NECIA L. QUAST, OF WASHINGTON
THOMAS C. RAEZER, OF CALIFORNIA
EDWARD JAMES RAMOTOWSKI, OF CONNECTICUT
DAVID MALCOLM ROBINSON, JR., OF CONNECTICUT
DAVID ALEXANDER ROLLMAN, OF COLORADO
SUE SAARNIO, OF MONTANA
EDMOND E. SEAY III, OF CALIFORNIA
GARY L. SHEAFFER, OF PENNSYLVANIA
DAVID LAWRENCE SHULER, OF NEW HAMPSHIRE
ANNE WINIFRED SIMON, OF CALIFORNIA
TIMOTHY W. SMITH, OF PENNSYLVANIA
ROBERT A. SORENSON, OF NEW JERSEY
TERESA F. STEWART, OF FLORIDA
JOHN W. STRUBLE, OF OHIO
THOMAS EDWARD TORRANCE, OF CALIFORNIA
ANDREW L. VINCENT, OF VIRGINIA
STEPHEN W. WALKER, OF MASSACHUSETTS
CHARLES JAMES WINTHEISER, OF ILLINOIS
CYNTHIA DIGBY WOOD, OF SOUTH CAROLINA
MICHAEL JAMES ZAK, OF ILLINOIS

U.S. INFORMATION AGENCY

WILLIAM BERNARD ARMBRUSTER, OF MISSOURI
DALE ALAN BAKER, OF TEXAS
VICTORIA SINGER BELL, OF KENTUCKY
ELIZABETH A. CORWIN, OF FLORIDA
WALTER THOMAS DOUGLAS, OF CALIFORNIA
A. CHRIS ECCEL III, OF WYOMING
JAMES R. ELLICKSON-BROWN, OF OREGON
THOMAS R. GENTON, OF NEW JERSEY
MICHAEL NICHOLAS GREENWALD, OF CALIFORNIA
ROBERT LOUIS HUGINS, OF FLORIDA
PAUL R. KOZELKA, OF CALIFORNIA
LAYNE COLLEEN LATHRAM, OF FLORIDA
MICHELLE RENE RABAYDA, OF PENNSYLVANIA
ANDREW J. SCHILLING, OF NEW YORK
STEVEN JEFFREY SHARP, OF UTAH
GUSTAVO LORENZO SUAREZ, OF NEW YORK
KARL STOLTZ, OF CALIFORNIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENTS OF STATE, AGRICULTURE, AND COMMERCE AND THE U.S. INFORMATION AGENCY, TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

GLORIA FELICIA BERBENA, OF CALIFORNIA
MARIALISA BIANCO, OF VIRGINIA
BONITA S. BISSONETTE, OF MINNESOTA
MARY ELISABETH BROCKING, OF VIRGINIA
KENT C. BROKENSHIRE, OF MARYLAND
MARIA NOLI BRONSON, OF VIRGINIA
FREDERICK C.B. BRUNER, OF CALIFORNIA
GREGORY S. BURTON, OF PENNSYLVANIA
JEREMY CARPER, OF ILLINOIS
R. WESLEY CARRINGTON, OF MARYLAND
JOSEPH PATRICK CASSIDY, OF MASSACHUSETTS
BARBARA FOULKE CATES, OF MARYLAND
MAUREEN ELIZABETH CORMACK, OF ILLINOIS
VALERIE L. CRITES, OF OREGON
SHEILA JEAN DAHL, OF CALIFORNIA
PAUL J. DEAN, OF VIRGINIA
CAROL ANN DENNISON, OF VIRGINIA
ARTURO DOMINGUEZ, JR., OF TEXAS
J. THOMAS DOUGHERTY, OF CALIFORNIA
JACQUELINE KAY DUNPHY, OF VIRGINIA
DALE BLAINE EPPLER, OF NORTH DAKOTA
J. ADAM ERELI, OF TEXAS
GONZALO R. GALLEGOS, OF KANSAS
JAMES S. GIBNEY, OF CALIFORNIA
PATRICIA J. GLERUM, OF VIRGINIA
RICHARD R. GOESER, OF VIRGINIA
CAREN F. GORDON, OF VIRGINIA
STEVEN CARL GRUNDMAN, OF CONNECTICUT
HENRY HARRISON HAND, OF NEW YORK
SHIRLEY L. HANSEN, OF VIRGINIA
WAYNE E. HARRIS, OF FLORIDA
DONALD CAMERON HARWICK, OF VIRGINIA
WALLIS SPENCER HAYNES, OF NORTH CAROLINA
CATHERINE R. HEER, OF CALIFORNIA
JAYNA LYNNE HILL, OF MARYLAND
JEFFREY M. JAMISON, OF PENNSYLVANIA
EDWARD M. JORDAN, OF CONNECTICUT
GLEN KEISER, OF CALIFORNIA
PATTIE B. KINDSVATER, OF VIRGINIA
EDWARD KOWALSKI, OF VIRGINIA
CHRISTOPHER MILES KRAFFT, OF MICHIGAN
ELLEN K. KRESEN, OF NEW JERSEY
STEPHANIE A. KRONENBURG, OF TEXAS
CLARA E. KYIM, OF NEW YORK
PATRICIA A. LACINA, OF IOWA
KARIN L. LARSON, OF MINNESOTA
EDMUND R. LEATHER, OF RHODE ISLAND
SPENCER N. LEE, OF CALIFORNIA
ARTHUR LIN, OF VIRGINIA
LAURA A. LOCHMAN, OF INDIANA
LEWIS A. LUKENS, OF MARYLAND
JONATHAN LEON MARKS, OF CONNECTICUT
DANIEL LINAN MARTINEX, OF TEXAS
NAN MATTINGLY, OF FLORIDA
THOMAS P. MEEHAN, OF ARIZONA
PATRICIA S. MEGENITY, OF VIRGINIA
WILLIAM JAMES MOZDZIERZ, OF NEW YORK
MICHAEL CHASE MULLINS, OF RHODE ISLAND
DAVID JOHN NEIGHBOR, OF CALIFORNIA
FRANK E. NEVILLE, OF NEW YORK
DAVID T. NEWELL, OF THE DISTRICT OF COLUMBIA
GEORGE THOMAS NOVINGER, OF CALIFORNIA
GEOFFREY M. ODLUM, OF CONNECTICUT
NANCY J. OLSON, OF MINNESOTA
MICHAEL DEAN ORLANSKY, OF OHIO
WILLIAM A. OSTICK, OF GEORGIA
ANN R. PICKENS, OF MICHIGAN
THOMAS PICKREL, OF MISSOURI
KRISTIN H. PLAEHN, OF TEXAS
LYNETTE JOYCE POULTON, OF CALIFORNIA
ANN G. RAMOS, OF WASHINGTON
MICHAEL ALAN RICHARDS, OF NEW HAMPSHIRE
DANIEL H. RUBINSTEIN, OF CALIFORNIA
MARIA RUDENSKY, OF THE DISTRICT OF COLUMBIA
JEFFREY L. SAMELSON, OF ILLINOIS
KIRSTEN A. SCHULZ, OF CALIFORNIA
LAWRENCE R. SILVERMAN, OF MASSACHUSETTS
ERIK K. SITES, OF MARYLAND
STEPHEN S. SOLLENBERGER, OF PENNSYLVANIA
ERIC W.K. STROMAYER, OF VIRGINIA
SARA A. STRYKER, OF MINNESOTA
LAIRD D. TREIBER, OF OKLAHOMA
JENNIFER A. VARRELL, OF MASSACHUSETTS
CATHY LEE WARD, OF OREGON
LINDA R. WEISSGOLD, OF THE DISTRICT OF COLUMBIA
ALICE G. WELLS, OF CALIFORNIA
JOHN T. WOTRING, JR., OF VIRGINIA
PAUL D. YESKOO, OF NEW JERSEY
DAVID J. YOUNG, OF MISSOURI
MICHAEL PAUL ZORICK, OF CALIFORNIA

CONSULAR OFFICERS OF THE UNITED STATES OF AMERICA:

PHILLIP P. HOFFMAN, OF NEW YORK
JON LEROY KUEHNER, OF IOWA
SCOTT R. REYNOLDS, OF PENNSYLVANIA
HENRY RICHMOND, OF HAWAII
JULIE A. SNYDER, OF LOUISIANA
SAMUEL D. STARRETT, OF FLORIDA

SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

EDWARD WILLIAM CANNON, OF FLORIDA
STEPHEN K. CRAVEN, OF FLORIDA
LUCY P. REED, OF THE DISTRICT OF COLUMBIA
DANIEL L. THOMPSON, OF CALIFORNIA
JEFFREY M. WILLIS, OF KANSAS

The following-named Career Members of the Foreign Service of the Department of State for promotion in the Senior Foreign Service to the classes indicated, effective November 6, 1988.

Career Member of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:

JAMES D. PHILLIPS, OF KANSAS

Career Member of the Senior Foreign Service of the United States of America, Class of Counselor:

JAMES P. BERMINGHAM, OF NEW YORK

CONFIRMATIONS

Executive nominations confirmed by the Senate October 4, 1989:

DEPARTMENT OF ENERGY

J. MICHAEL DAVIS, OF COLORADO, TO BE AN ASSISTANT SECRETARY OF ENERGY (CONSERVATION AND RENEWABLE ENERGY).

STEPHEN A. WAKEFIELD, OF TEXAS, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF ENERGY.

JOHN J. EASTON, JR., OF VERMONT, TO BE AN ASSISTANT SECRETARY OF ENERGY (INTERNATIONAL AFFAIRS AND ENERGY EMERGENCIES).

JACQUELINE KNOX BROWN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS).

SECURITIES AND EXCHANGE COMMISSION

RICHARD C. BREEDEN, OF VIRGINIA, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE TERM EXPIRING JUNE 5, 1993.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Wednesday, October 4, 1989*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, we pray, O mighty God, of the gifts of the spirit—of tolerance and understanding for both friend and adversary, for people of our tradition and those whose background is alien to ours. As we have faith in our own beliefs and hold to our own ideals, so may we also continue to be open to growth in grace and appreciation of another's heritage. May not our limited faith, O God, keep us from the bounty of Your spirit that we may be filled with Your truth that indeed makes us free. In Your holy name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Mexico [Mr. SCHIFF] please come forward and lead the House in the Pledge of Allegiance.

Mr. SCHIFF led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks announced that the Senate had passed a bill, joint resolutions and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1521. An act to amend Public Law 91-34 relating to the police force of the National Zoological Park of the Smithsonian Institution, and for other purposes;

S.J. Res. 200. Joint resolution providing for the reappointment of Jeannine Smith Clark as a citizen regent of the Board of Regents of the Smithsonian Institution;

S.J. Res. 203. Joint resolution providing for the appointment of Homer Alfred Neal of Michigan as a citizen regent of the Board of Regents of the Smithsonian Institution; and

S. Con. Res. 68. Concurrent resolution authorizing a concert by the American Soviet Youth Orchestra on Capitol grounds.

APPOINTMENT OF CONFEREES ON H.R. 3026, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1990

The SPEAKER. The Chair announces the following conferees on the bill H.R. 3026 making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes:

Messrs. DIXON, NATCHER, STOKES, AUCOIN, HOYER, CARR, WHITTEN, GALLO, GREEN, REGULA, and CONTE.

CLARIFICATION OF APPOINTMENT OF CONFEREES ON H.R. 2461, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1990 AND 1991

The SPEAKER. Pursuant to the previous order of the House of September 20, 1989, relating to the appointment of conferees on the Defense authorization bill, the Chair specifies the following additional portions of the Senate amendment to H.R. 2461 for consideration by the conferees indicated:

For consideration by the additional conferees from the Committee on Government Operations, sections 828 and 829 of the Senate amendment.

The Clerk will notify the Senate of the change in the assignment of conferees.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

The Chair announces that during the joint meeting to receive the President of the United Mexican States, only the doors immediately opposite the Speaker and those on his left and right will be open.

RECESS

The SPEAKER. Pursuant to the order of the House of Thursday, September 28, 1989, the House will stand in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 3 minutes a.m.) the House stood in recess subject to the call of the Chair.

JOINT MEETING OF THE HOUSE AND SENATE TO HEAR AN ADDRESS BY THE HONORABLE, CARLOS SALINAS DE GORTARI, PRESIDENT OF THE UNITED MEXICAN STATES

The SPEAKER of the House presided.

The Doorkeeper, the Honorable James T. Molloy, announced the Vice President of the United States and Members of the U.S. Senate, who entered the Hall of the House of Representatives, the Vice President of the United States taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort the Honorable Carlos Salinas de Gortari, President of the United Mexican States, into the Chamber:

The gentleman from Missouri [Mr. GEPHARDT], the gentleman from Pennsylvania [Mr. GRAY], the gentleman from Florida [Mr. FASCELL], the gentleman from Michigan [Mr. BONIOR], the gentleman from Maryland [Mr. HOYER], the gentleman from Texas [Mr. DE LA GARZA], the gentleman from Illinois [Mr. MICHEL], the gentleman from Georgia [Mr. GINGRICH], the gentleman from Michigan [Mr. BROOMFIELD], the gentleman from California [Mr. LEWIS], the gentleman from Oklahoma [Mr. EDWARDS], and the gentleman from Texas [Mr. SMITH].

The VICE PRESIDENT. The President of the Senate appoints the following Senators as the committee on the part of the Senate to join a like committee on the part of the House to escort the President of the United Mexican States into the House Chamber:

The Senator from Maine [Mr. MITCHELL], the Senator from Rhode Island [Mr. PELL], the Senator from Texas [Mr. BENTSEN], the Senator from Arizona [Mr. DECONCINI], the Senator from New Jersey [Mr. BRADLEY], the Senator from Connecticut [Mr. DODD], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Kansas [Mr. DOLE], the Senator from Wyoming [Mr. SIMPSON], the Senator from New Mexico [Mr. DOMENICI], the Senator from Indiana [Mr. LUGAR], the Senator from California [Mr. WILSON], the Senator from Texas [Mr. GRAMM], and the Senator from Arizona [Mr. MCCAIN].

The Doorkeeper announced the ambassadors, ministers, and charges d'affaires of foreign governments.

The ambassadors, ministers, and charges d'affaires of foreign governments entered the Hall of the House of Representatives and took the seats reserved for them.

The Doorkeeper announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 11 o'clock and 3 minutes a.m., the Doorkeeper announced the President of the United Mexican States.

The President of the United Mexican States, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. Members of the Congress, it is my great privilege, and I deem it a high honor and personal pleasure to present to you His Excellency, Carlos Salinas de Gortari, President of the United Mexican States.

[Applause, the Members rising.]

ADDRESS BY THE HONORABLE CARLOS SALINAS DE GORTARI, PRESIDENT OF THE UNITED MEXICAN STATES

(The following is an English translation of the address delivered in Spanish by President Salinas before the joint meeting:)

President SALINAS. Mr. President, Honorable Speaker of the House, distinguished Senators and Representative, ladies and gentlemen: I very much appreciate this opportunity to address the Congress of the United States of America. To the house of citizen representation of this great Nation I bring the greetings of the people of Mexico and the desire to open a new chapter of respect and friendship in our relations. We have a spirit of exchange, not only material, but also of ideas and cultures. We aspire to a more fruitful cooperation between our two countries and a more harmonious coexistence among the world's nations.

MEXICO, A LIVING PRESENCE OF DIVERSE HERITAGES

Mexico does not conceive of its presence in the modern world in purely economic terms, nor even only in political terms, but as a cultural and historical presence. We are the bearers of an experience that spans age-old Indian civilizations, our Spanish heritage and the strength of the mixture of those two races. Our nationality cost us the struggle and the blood of generations. That is why we value it so highly. Sovereignty, freedom, and justice identify the three great movements of the Mexican people: Independence in 1810, reform in 1857, and revolution in 1910. That is the source of our pride and the origin of our moral strength to face the future.

Today the world is abandoning absolute discourses and totalitarian temptations. Mexico participates in the world with its enormous cultural wealth and the singularity of its history. Those who seek uniformity in today's world do not know what we Mexicans have learned: The living presence of very different heritages that have become united within us: The Indian cosmogonies, the humanism of the ancient Mediterranean, the creative energy of the Renaissance, the Age of Reason's faith in progress and the critical spirit of modern times. All this acts on our paintings and poems, on our music and architecture, on our universities and museums, on our communities and cities. It is, quite simply, our lifestyle.

A WORLD OPEN TO BOLDNESS OF THE IMAGINATION

Our culture tells us that there are many ways, not just one, of being creative and free men and women. Our history is permanent awareness of our sovereignty in an interdependent world. It demands that we be loyal to our traditions so as to participate productively in today's very rapid changes. We live in a world almost without distances, in the present instant: that is inevitable. But we believe that true interdependence can only take place among independent nations.

A new world awaits us on the threshold of the 21st century, open to the boldness of the imagination. Bipolarity is being overcome and the specter of war is growing more distant. We are witnessing a speedy increase in communication between people. The technological revolution opens up new prospects for development. Mexico joins the aspirations of many people who see, in the coming century, a horizon of material and spiritual liberation. To that new world we Mexicans say: Our hope is bright and our participation generous.

Aware of this, Congressmen and friends, I come to this honorable forum bearing the desire of men and women of good faith to inaugurate an era of new friendship. [Applause.]

LET US BUILD A RELATIONSHIP FREE OF MYTHS AND MISTRUST

The time has come to build a new relationship free of myths and mistrust, abuses and recriminations; a relationship of ongoing dialog between our two nations, respectful of our inherent differences, imaginative, to find the cooperation that benefits us, inspired in the ideals of democracy, justice, and freedom which we share. My country's aim is to make this new relationship a respectful and mature process, at once valuable and useful.

It is time to recognize dispassionately, objectively, that anything that affects the one will soon have repercussions on the other; that problems on one side of the border have an impact of the life and well-being of the people who live on the other side. As in any border relationship, but particularly in this highly dissimilar one, it is natural that differences should exist. Nevertheless, it is now time to accept that over and above such differences, there are many points in common to aid us in working together.

The strength of our nation, the vigor of our culture and the desire to participate in our own right in the great world transformation that is underway, allow us to offer this new relationship without fear or mistrust, with no restrictions and without hesitation.

That, in essence, is the spirit that has prevailed in the meetings I have had with President Bush. In them, a positive, cordial climate has been established. It expresses the new content of the relations between our respective governments. That has also been the spirit between Mexican and American Congressmen. The recent interparliamentary meeting attests to this. What is occurring between our governments is simply clear evidence of a deeper pattern of relations in the daily lives of our people. It is our task to learn from them; to encourage and stimulate our rapprochement.

WE ARE CHANGING TO BECOME STRONGER

Congressmen and friends: All nations are committed to change, a change that brings hope of freedom and justice. We all have the obligation and moral duty to support it. This Nation's greatness has been its spirit of work and its commitment to freedom. Today, while experiencing an unprecedented economic expansion, it can enrich cooperation and solidarity with other peoples who also love work, freedom, and justice.

The subject that is most discussed in Mexico today is modernization. Mexico lives by its principles but has no dogmas. Today we look at the world with different eyes. A new spirit and a new optimism prevail in Mexico. Faith in the future moves us to undertake profound reforms in the economy, in politics, and in society. [Applause.] We do this by own sovereign decision. That is what we want: To decide, autonomously, the direction of our own path. It was Lincoln who said that if there is one thing that is the duty of each nation, it is never to leave to others the preservation and perpetuation of its own freedoms and institutions.

We are prepared to change because we want to preserve what interests us most: freedom; and because we want to attain what is most pressing: justice.

Mexico is a united country which lives under the rule of law. We enjoy stability and social peace. Our political system is increasingly pluralistic. We are a nation with principles that is able to promote relations of respect and cooperation with other countries. Our solid institutional life is our principal political heritage. It is what allows us to introduce the changes that a more open, complex, and pluralistic Mexican society is demanding.

Mexico is transforming itself precisely in order to preserve its unity and national stability. We Mexicans do not want a change that goes against our roots or that causes discord and dispute amongst ourselves. We change to become stronger, to fulfill the aims that we have set ourselves in our history: So that individuals and families, communities and villages may have opportunities for well-being. The aim of modernization is to extend social justice in our country: Only thus will we be able to assure our democracy and the sustained growth of the economy. It is to preserve our institutions and freedoms.

The challenge my country is facing is enormous. To the backlogs already accumulated has been added almost a decade of economic stagnation and a 50-percent drop in the population's living standards. My nation is required to meet the demands of 85 million Mexicans; despite the drop in population growth there will be 10 million more in the next 5 years. This means the need for more food, urban services, housing, education, a clean environment, and ways to make an honest living. Every year 1 million young people will enter the employment market. They aspire to a decent job and a secure future.

Over the last 7 years Mexicans have made enormous sacrifices. During that period we could not count on external flows of financing; oil revenues dropped by an amount equivalent to 6 percent of the GDP; the terms of our trade evolved negatively; excessive indebtedness because one of the most significant obstacles to development; we suffered devastating earthquakes and natural disasters.

Faced with this extraordinary challenge, we applied in depth, with discipline, a consistent economic strategy to attack the causes of the crisis and recover growth. The solidity of our political institutions and the strength of our people were put to the test and have been proved. A very high price was paid; that is why our fundamental commitment is the seriousness of our policy.

Mexico has put its public finances on a sound footing with an effort equivalent, in relation to the GDP, to more than three times the size of the Gramm-Rudman amendment. Inflation has gone from almost 200 percent in 1987 to 17 percent this year. The economic recovery is underway, and growth this year will be higher than population growth. The Government's actions are more agile and effective. Today we have an open, export-oriented economy. Private companies have considerable financial strength. The productive plant is more efficient and in better conditions to face the healthy competition from abroad.

This stategy also included privatization of activities which previously were almost considered taboo; deregulation of entire areas of economic activity, such as transportation and telecommunications; indepth revision of the policy of subsidies in order to eliminate all those that concealed inefficiency and even corruption; new regulations for foreign investment which eliminate bureaucratic redtape, introduce automatic procedures and transparency, and provide greater legal security; and a process of trade liberalization which today makes Mexico one of the countries most open to trade in the world, with direct benefits for our people.

MORAL RIGHT IN DEBT NEGOTIATIONS

This effort shared by the great majority of Mexicans gave us the moral right and the strength to renegotiate the foreign debt with international banks. Therefore we have always preferred firm negotiation to unilateral confrontation. The arrangement reached is satisfactory. The reduction of the amount of the debt, the lowering of interest rates, the availability of fresh funds on a multiannual basis, are three options that make it possible for us to reduce the transfer of resources abroad and thus provide certainty to investors and continuity to the economic recovery.

The value of the renegotiation of the foreign debt should not be measured only by its direct contribution to the balance of payments. Its additional effects, in qualitative and dynamic terms, on domestic confidence, repatriation of capital, which so far this year has reached $2.5 billion, and foreign investment, are also highly important. Therefore, in the 2 weeks following the announcement of the arrangement, domestic interest rates fell 20 points, which signifies savings equivalent to $10 billion on servicing the domestic public debt.

We know that the arrangement on the foreign debt is not going to make domestic problems disappear; these can only be solved with work and more work; but my country is in a better position for its effort to produce more and allow growth without inflation to be resumed.

I feel that this is an appropriate occasion to express to the Government of the United States, and in particular to you, distinguished Congressmen, my personal appreciation and that of my fellow countrymen for the understanding and solidarity shown in the important chapter of the renegotiation of the foreign debt. [Applause.]

DEMOCRACY FOR GROWTH AND WELL-BEING

The changes in the economy have been matched by changes in our political institutions, changes that are necessary to strengthen our democratic life. Just as freedom does not flourish in stagnation, development is not continuous unless it is supported by the energy, vitality, and participation of the people. The future of all societies today must necessarily be democratic. Democracy is essential to promote economic growth and satisfy the requirements of social well-being.

For us, just as for any modern society, democracy begins with unrestricted respect for the will of the citizen; it occurs in conditions of observance of the law and it demands responsible exercise of authority. Mexican democracy has gradually become stronger by embracing the broader social plurality that exists, through a more open public debate, a more intense political party life and more competitive elections. There is a consolidation of the conditions that give citizens security in exercising their freedoms and rights, the conditions of social peace and stability and of respect in the dissemination of ideas and civilized treatment in political competition. But democracy does not end there. Full democracy requires the material conditions and the conditions of social justice to guarantee equality of opportunity for all.

To that end, Mexico must grow, create well-paid jobs and forge a new spirit of solidarity. A healthy economy and a greater capacity to conduct politics are instruments to construct a broad, promising horizon of opportunities for Mexicans. The well-being of the people is the higher purpose of my administration. This is why we have undertaken an all-out struggle against extreme poverty through a National Solidarity Program, whose objective is to deal with the social demands of the neediest, gradually consolidate the productive capacity of the poorest groups and promote their full incorporation into the benefits of progress. In Mexico, today, the Government works more for those who have the least. [Applause.]

A NEW REALISM IN WORLD RELATIONSHIPS

Our relationship with the rest of the world is founded on this spirit of internal transformation. Coexistence amongst ourselves and with the other nations of the world is based on respect for the rights of others. That is the lesson we inherited from Benito Juárez. Mexico, therefore, is loyal to the principles that govern its coexistence with the rest of the world: Self-determination of peoples and nonintervention; cooperation and solidarity among nations; peaceful coexistence for growing development that trans-

lates into more and better freedom, and a better quality of life for all. These are ideals I am sure our societies share.

For Central America, Mexico wishes the reestablishment of peace, the consolidation of democracy, and the resumption of development. In this we join the wishes of the peoples of the region. Central America today is registering the highest population growth rate but is mired in economic recession: Growth and job creation are needed to stem the migrations toward the south of Mexico or their passage toward the United States. The international atmosphere of détente, the exhaustion after years of war, the despair over economic deterioration, the good sense of peoples and the current political will of governments have created a new climate of dialog and reconciliation. The Central American countries themselves are taking their destinies fully into their own hands, establishing commitments, timeframes, and responsibilities. We encourage that process without trying to mediate from outside. [Applause.]

By the same token, we respect the sovereign rights of Panama and the validity of the canal treaties, but we distinguish the defense of those principles from support for those who have become the obstacle to the democratic progress of their people. [Applause.]

We have priority relations with Latin America: We are joined to Latin America by common origins and sensitivities. Still fragile from the hardships caused by the economic crisis and the awakening of enormous social demands the democracies of the region are struggling to promote well-being, not poverty. The hopes of millions lie in these democracies. All in all, we expect better prospects for the democracies in our hemisphere.

There is a new realism among us all. New opportunities are opening up for dialog between Latin America and the United States. Today the Brady plan offers a promising framework for solving the debt problem in an orderly manner and a beginning of hope for the region; it would strengthen the social viability of economic policies aimed at financial stability and structural change. Democratic elections will take place in many of the Latin American countries in the next 2 years. These are sensitive times, but they are also replete with opportunities and points of convergence. Mexico seeks agreement with the other countries of the Rio Group. The world and the hemisphere will benefit from a prosperous, stable, and democratic Latin America. A united, clear, and constructive Latin American voice is not a call to confrontation, but the best path to productive and effective dialog on the common problems that concern us all.

Mexico, together with the rest of the world, promotes cooperation and friendship. We seek new and strong relations for trade, investment, and technology transfer with an integrated Europe and with the Pacific basin. We are a sovereign society that is open and participating in world changes.

Esteemed Members of the Congress, four topics now dominate the agenda for our bilateral relations: trade, migration, drugs, and environment.

Trade is the most promising area in which substance can be given to our new era of bilateral friendship. In order for Mexico's economic modernization to be lasting, we must grow; but growth requires greater and more secure access to the world's largest market, the United States. We already have a suitable legal framework in which to establish consultation principles and procedures on the trade and investment relations between our countries. The intensity and diversity of trade made an agreement of this nature essential. Mexico is the United States' third largest export market, which creates a significant number of jobs for United States citizens. We conduct 65 percent of our trade with the United States. Trade between the United States and Mexico already amounts to nearly $45 billion. Nevertheless, the amount of Mexican goods on the American market is still insufficient.

RECIPROCAL TREATMENT IN TRADE

To ensure that Mexico will continue to be one of the most open economies at the international level, we need greater reciprocity. In a framework of understanding and cooperation, there is no place for nontariff barriers that prevent or hinder the free flow of goods between the United States and Mexico. Our country is already practically free of such barriers, but we continue confronting them in the United States. Let us resolve this inequitable paradox. We seek greater access to the textile and steel markets and to the generalized system of preferences. We want a bilateral agreement that will break down trade barriers, sector by sector. We want a positive attitude toward consolidation of a dynamic in-bond assembly industry. I believe that you, friends and Members of Congress, could contribute to the strengthening of trade relations between our countries. Between neighbors, reciprocal and equitable treatment makes friendships lasting, creates an atmosphere of trust and encourages solidarity and stronger ties. The United States Congress knows that the best interests of its nation lie in a growing and dynamic Mexican economy that is open to United States exports and whose goods have broad access to the American consumer.

MIGRATION, A PROBLEM OF ELEMENTAL HUMAN DIGNITY

The migration of Mexican workers to the United States is a harsh reality. These population movements meet a demand created by United States production activities in the border States, but they are also the result of the complex economic situation affecting Mexico. The absence of growth is naturally reflected in a shortage of jobs and employment opportunities. By allowing for greater growth in my country, a trade agreement would enable Mexicans to find jobs in Mexico rather than seeking work in the United States.

Let's get rid of myths: Mexican workers do not push anyone out of a job; they work efficiently and with dignity for wages, in many cases, below the market wage, doing jobs that are not done by American citizens. Mexico does not ignore its responsibility and will meet it one day when the children of our country find, in their own homeland the well-being that they deserve and seek on crossing the border. However, we fail to understand why the "American dream" must be harsh for the Mexican immigrants who have decided to share it, and why the productive and cultural potential of the ever-growing Mexican-American community is not taken advantage of to benefit the United States and, unquestionably, our bilateral relations. They seek to better themselves through education and abide by the laws, thus giving prestige to their country of origin. The law should also protect them and prevent discrimination. The abuse and exploitation of Mexican workers is intolerable in all cases. [Applause.]

Migration is a problem that involves more than economic or legal causes. It is a problem of fundamental human dignity which must be confronted in a realistic manner. Current U.S. legislation has made it possible to regularize the situation of many undocumented workers, but it has not altered the basic dynamics of the problem.

Over the next few years, increased demand for labor in the United States may be expected in employment sectors and regions that have traditionally hired and will continue hiring Mexican workers. A far-reaching solution should be based on a long-term political understanding. With pragmatism and foresight, we should consider the viability of new mechanisms that could include the participation of workers' organizations and State governments on both sides of the border in order to meet the labor demand in the United States, protect human and labor rights and do away with the network of corruption and illegality surrounding the migration of my fellow countrymen.

DRUG TRAFFICKING: A COMMON ENEMY

Mexico intends to eradicate drug-trafficking at its very roots in the sphere that falls under its responsibility. [Applause.] This world fight is also our own. We have left behind the

times of blaming others and of reciprocal recrimination between producer, transit and consumer countries, which, instead of attacking the common enemy, wasted time and efforts. Today, there is a mature and responsible understanding of the links in the drug chain of terror in the United States; there is greater acceptance regarding the importance of fighting consumption and distribution. I recognize the courage of President Bush in expanding understanding of the drug problem and his interest in gaining allies in the fight against drug trafficking.

In Mexico, we now affirm that drug trafficking is a threat to national sovereignty and to the security of the state because in our country, as in all other nations, it corrupts whatever it touches. Mexico views the fight to end drug trafficking as a matter of national security, a concern for the health of Mexican youth and an act of solidarity with the community of nations. Consequently, greater cooperation among governments is indispensable. We will cooperate, but the responsibility for the fight in our country is exclusively ours, and therefore, there will be no joint military operations on our soil. We are demonstrating, however, that coordination and cooperation are effective as regards information and evaluation. We can also work together to make law enforcement more effective and attack money laundering.

Over the past few months, we have seized 22 tons of pure cocaine, which once cut, would sell for $30 billion on the streets of New York. This represents more than one-third of the consumption of this drug in the United States and is equivalent to half of the drugs seized over the past 10 years. The destruction of 6,000 hectares of marijuana and poppies, together with other seizures of these substances, has prevented the distribution and consumption of 2.5 billion marijuana cigarettes and 1.13 billion doses of heroin. These actions have been followed by the disbanding of 153 criminal organizations and the arrest of 8,000 people, including the major drug traffickers and producers in the country. We have seized goods and properties from drug traffickers and distributed ranches with a total land coverage of over 50,000 hectares among peasants. To achieve these results, in addition to political determination, we have substantially increased budget resources to combat drugs. These resources are almost three times greater than they were last year. Half of the resources of the Attorney General's Office and one third of the Army's are used to fight drugs. We have increased penalties and sanctions. We have ratified the Vienna Convention and play an active role in international forums. The field in which drug traffickers may become involved is so broad and the Government's current fight so intense that, when investigating a seizure, we recuperated invaluable archeological pieces which had been stolen from our National Anthropology Museum in 1985.

The successful efforts of our institutions in the fight against drug trafficking, even at the cost of the lives of many of their members, are not merely a source of pride and satisfaction.

I make mention of them here as a source of distress and concern. When we see the magnitude of the fight against drugs, we must honestly ask ourselves: Are we winning or losing the war? I think that, at the world level, we are losing, and that is unacceptable. More cooperation, more effectiveness in each territory and, particularly, greater firmness will, I am certain, put an end to this terrible scourge of modern times. [Applause.]

ECOLOGY, A PRIORITY AREA FOR BILATERAL COOPERATION

In defending the environment, Mexico shares a commitment with the United States and the entire world, since it is a universal humanitarian cause. Overcoming the problem of excessive indebtedness is gradually providing us with greater leeway for putting into action the new priority that we are placing on ecological issues. First, to control and reverse air, water, and land pollution along our borders, thus eliminating a source of poor sanitation and irritation for the inhabitants of the region. Second, to attack problems that are now worldwide, such as the greenhouse effect and the depletion of the ozone layer. Third, to directly tackle the problems of Mexico City, the most populated and polluted city in the world: experience gained and the technology developed by the United States to deal with similar problems in transport, water treatment and waste management is significant in this regard. Finally, to conserve the enormous wealth of our flora and fauna, tropical forests, rivers and lakes, which are the heritage of the Mexican people also enjoyed by all mankind. We intend to take action, determined action, to protect the environment and we shall support all international initiatives that lead to decisive cooperation to benefit the world's ecology. [Applause.]

Distinguished Members of Congress, more than 200 years ago, in this Congress, the most modern and enlightened assembly of its time laid down for posterity the promise that all men in this land are born free and have a right to the pursuit of happiness. In essence, it is a premise that has given shape to the American soul. It is the soul of the common people, and therein lies its greatness; of a people that love their rights, and are sensitive to human suffering and to the value of liberty; of an ingenious and creative people who are pioneers in human association and espouse mankind's highest values.

The Mexican people recognize these virtues because they in turn have upheld them throughout a rich, heroic history of courage, love of liberty and a unique sensitivity to justice and beauty. This truth is what counts between our two nations, the truth that unites us and that must prevail, although, on occasion, our political and social organizations do not seem to understand this.

THE SPIRIT OF THE NEW ERA

The time has come to give the men and women of our nations the place they deserve in the reign of justice. It is the spirit of a new friendship that does not attribute the cause of the problems to others. Now, it is a spirit that seeks to tackle, hand in hand with others, the concrete problems to be solved, promptly and properly, because human well-being is the higher consideration. It is the spirit of the Founding Fathers of this great Nation. It is the lesson bequeathed to us by the men who built Mexico.

This is the essence of a new friendship that seeks to permeate all spheres of contact between Mexico and the United States of America.

It is up to us to ensure that these words are put into action. We are two vigorous nations with pride in their past, the vitality to build their future in a sovereign manner and the desire to speak forthrightly and act both truthfully and cordially.

The greatest privilege of freedom does not lie in eliminating the discrepancies that its exercise involves. The infinite capacity to learn is what makes it the most human of social virtues. Where it does not resolve differences, it respects and learns to live in recognition of the freedom of others. This, and no other, is the spirit that prevails at the outset of this new era in our relations: a new era of cooperation and friendship.

[Applause, the Members rising.]

At 11 o'clock and 43 minutes a.m., the President of the United Mexican States, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Doorkeeper escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet.

The ambassadors, ministers, and charges d'affaires of foreign governments.

JOINT MEETING DISSOLVED

The SPEAKER. The Chair declares the joint meeting of the two Houses dissolved.

Accordingly, at 11 o'clock and 46 minutes a.m., the joint session of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The House will continue in recess until 12:15 p.m.

□ 1220

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 o'clock and 20 minutes p.m.

PRINTING OF PROCEEDINGS HAD DURING RECESS

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair has an announcement concerning rollcall 264 of October 3, 1989. Two votes by electronic device were conducted on that question. Due to an irregularity in the electronic voting system, the first vote was aborted. The Chair vacated that first vote and initiated another 15-minute vote by electronic device. However, five Members who had been recorded on the first, aborted vote were not recorded on the second vote on the same question. The irregularity in the electronic voting system should not prejudice the Members concerned. Therefore, the Chair will direct the Clerk to record the Members concerned on rollcall 264 in conformity with the first, aborted vote and to enter those proceedings in the Journal and RECORD.

INADVERTENTLY OMITTED FROM THE CONGRESSIONAL RECORD OF TUESDAY, OCTOBER 3, 1989

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. If the Members will bear with the Chair, we have had some problems with the electronic voting machine and the Chair is attempting to decide at this point whether to vacate the previous vote and to begin again, so if the Members will hold for just a moment, the Chair is trying to find out if the machine has been restored.

The Chair would like to advise the House that that machine was not working properly. The Clerk is not certain that all the votes were recorded.

So it is the intent of the Chair to vacate the vote at this point and to direct a new record vote by electronic device on the previous question on the motion to instruct conferees.

The voting machine is now working. So we will begin the voting process again. The Chair is informed that some Members have left the Chamber, so this will be a full 15 minute vote in all fairness to give all Members an opportunity to vote.

This vote is on ordering the previous question.

The vote was taken by electronic device, and there were yeas 198, nays 222, not voting 12, as follows:

[Roll No. 264]

YEAS—198

Ackerman	Gejdenson	Murtha
Akaka	Gekas	Nagle
Alexander	Gephardt	Natcher
Anderson	Gibbons	Neal (MA)
Annunzio	Gilman	Neal (NC)
Anthony	Gonzalez	Oakar
Aspin	Gradison	Oberstar
Atkins	Gray	Olin
AuCoin	Green	Ortiz
Bates	Guarini	Owens (NY)
Beilenson	Gunderson	Panetta
Berman	Hatcher	Pashayan
Boehlert	Hawkins	Payne (NJ)
Boggs	Hayes (IL)	Pease
Bonior	Hertel	Pelosi
Borski	Hoagland	Perkins
Bosco	Hochbrueckner	Pickle
Boucher	Horton	Price
Boxer	Hoyer	Pursell
Brooks	Johnson (CT)	Rangel
Brown (CA)	Johnston	Regula
Bryant	Jones (GA)	Richardson
Bustamante	Jones (NC)	Roe
Campbell (CA)	Jontz	Rostenkowski
Campbell (CO)	Kanjorski	Roybal
Cardin	Kaptur	Sabo
Carr	Kastenmeier	Savage
Chandler	Kennedy	Sawyer
Clay	Kennelly	Saxton
Clinger	Kildee	Scheuer
Coleman (TX)	Kleczka	Schneider
Collins	Kolbe	Schroeder
Condit	Kostmayer	Schumer
Conte	Lancaster	Sharp
Conyers	Lantos	Shays
Coyne	Leach (IA)	Sikorski
Crockett	Lehman (CA)	Sisisky
de la Garza	Lehman (FL)	Skaggs
DeFazio	Levin (MI)	Slaughter (NY)
Dellums	Levine (CA)	Smith (FL)
Derrick	Lewis (CA)	Smith (IA)
Dicks	Lewis (GA)	Smith (VT)
Dingell	Long	Solarz
Dixon	Lowey (NY)	Spratt
Donnelly	Machtley	Stark
Dorgan (ND)	Manton	Stokes
Downey	Markey	Studds
Durbin	Martinez	Swift
Dwyer	Matsui	Synar
Dymally	Mavroules	Torres
Early	Mazzoli	Torricelli
Edwards (CA)	McCloskey	Towns
Engel	McCrery	Traxler
Espy	McDermott	Udall
Evans	McHugh	Unsoeld
Fascell	McNulty	Vento
Fazio	Mfume	Visclosky
Fish	Miller (CA)	Walgren
Flake	Miller (WA)	Waxman
Foglietta	Mineta	Weiss
Ford (MI)	Moakley	Wheat
Ford (TN)	Moody	Whitten
Frank	Morella	Wilson
Frenzel	Morrison (CT)	Wolpe
Frost	Morrison (WA)	Wyden
Gallo	Mrazek	Yates

NAYS—222

Andrews	Archer	Baker
Applegate	Armey	Ballenger
Bartlett	Herger	Ray
Barton	Hiler	Rhodes
Bateman	Holloway	Ridge
Bennett	Hopkins	Rinaldo
Bentley	Hubbard	Ritter
Bereuter	Huckaby	Roberts
Bevill	Hughes	Robinson
Bilbray	Hunter	Rogers
Bilirakis	Hutto	Rohrabacher
Bliley	Hyde	Ros-Lehtinen
Brennan	Inhofe	Rose
Broomfield	Ireland	Roth
Browder	Jacobs	Roukema
Brown (CO)	James	Rowland (CT)
Bruce	Jenkins	Rowland (GA)
Buechner	Johnson (SD)	Russo
Bunning	Kasich	Saiki
Burton	Kolter	Sangmeister
Byron	Kyl	Sarpalius
Callahan	LaFalce	Schaefer
Carper	Lagomarsino	Schiff
Chapman	Laughlin	Schuette
Clarke	Leath (TX)	Schulze
Clement	Lent	Sensenbrenner
Coble	Lewis (FL)	Shaw
Coleman (MO)	Lightfoot	Shumway
Combest	Lipinski	Shuster
Cooper	Livingston	Skeen
Costello	Lloyd	Skelton
Coughlin	Lowery (CA)	Slattery
Craig	Luken, Thomas	Slaughter (VA)
Crane	Lukens, Donald	Smith (NE)
Dannemeyer	Madigan	Smith (NJ)
Darden	Marlenee	Smith (TX)
Davis	Martin (IL)	Smith, Denny (OR)
DeLay	Martin (NY)	Smith, Robert (NH)
DeWine	McCandless	Smith, Robert (OR)
Dickinson	McCollum	Snowe
Dornan (CA)	McCurdy	Solomon
Douglas	McDade	Spence
Dreier	McEwen	Staggers
Duncan	McGrath	Stallings
Dyson	McMillan (NC)	Stangeland
Eckart	McMillen (MD)	Stearns
Edwards (OK)	Meyers	Stenholm
Emerson	Michel	Stump
English	Miller (OH)	Sundquist
Erdreich	Molinari	Tallon
Fawell	Mollohan	Tanner
Fields	Montgomery	Tauke
Flippo	Moorhead	Tauzin
Gallegly	Murphy	Thomas (CA)
Gaydos	Myers	Thomas (GA)
Geren	Nelson	Thomas (WY)
Gillmor	Nielson	Traficant
Gingrich	Nowak	Upton
Glickman	Owens (UT)	Valentine
Goodling	Oxley	Volkmer
Gordon	Packard	Vucanovich
Goss	Pallone	Walker
Grandy	Parker	Walsh
Grant	Parris	Watkins
Hall (TX)	Patterson	Weber
Hamilton	Paxon	Weldon
Hammerschmidt	Payne (VA)	Whittaker
Hancock	Penny	Wise
Hansen	Petri	Wolf
Harris	Pickett	Wylie
Hastert	Porter	Young (AK)
Hayes (LA)	Poshard	Young (FL)
Hefley	Quillen	
Hefner	Rahall	
Henry	Ravenel	

NOT VOTING—12

Barnard	Florio	Obey
Courter	Garcia	Vander Jagt
Cox	Hall (OH)	Williams
Feighan	Houghton	Yatron

So the previous question was not ordered.

The result of the vote was announced as above recorded.

OMNIBUS BUDGET RECONCILIATION ACT OF 1989

The SPEAKER. Pursuant to House Resolution 245 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the

State of the Union for the further consideration of the bill, H.R. 3299.

□ 1221

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3299) to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990, with Mr. MAVROULES in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Tuesday, October 3, 1989, the amendment offered by the gentleman from Ohio [Mr. OXLEY] had been disposed of.

It is now in order to consider amendment No. 6 printed in section 2 of House Report 101-261.

AMENDMENT OFFERED BY MR. DONNELLY

Mr. DONNELLY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DONNELLY: Amend part F of subtitle B of title X (relating to revisions to the Medicare Catastrophic Coverage Act of 1988) to read as follows (and conform the table of contents of such subtitle accordingly):

PART F—REPEAL OF MEDICARE PROVISIONS IN THE MEDICARE CATASTROPHIC COVERAGE ACT OF 1988

Subpart 1—Provisions Relating to Part A of Medicare Program and Supplemental Medicare Premium

SEC. 10181. REPEAL OF EXPANSION OF MEDICARE PART A BENEFITS.

(a) IN GENERAL.—

(1) GENERAL RULE.—Except as provided in paragraph (2), sections 101, 102, and 104(d) (other than paragraph (7)) of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) (in this part referred to as "MCCA") are repealed, and the provisions of law amended or repealed by such sections are restored or revived as if such section had not been enacted.

(2) EXCEPTION FOR BLOOD DEDUCTION.—The repeal of section 102(1) of MCCA (relating to deductibles and coinsurance under part A) shall not apply, but only insofar as such section amended paragraph (2) of section 1813(a) of the Social Security Act (relating to a deduction for blood).

(b) TRANSITION PROVISIONS FOR MEDICARE BENEFICIARIES.—

(1) INPATIENT HOSPITAL SERVICES AND POST-HOSPITAL EXTENDED CARE SERVICES.—In applying sections 1812 and 1813 of the Social Security Act, as restored by subsection (a)(1), with respect to inpatient hospital services and extended care services provided on or after January 1, 1990—

(A) no day before January 1, 1990, shall be counted in determining the beginning (or period) of a spell of illness;

(B) with respect to the limitation on such services provided in a spell of illness, days of such services before January 1, 1990, shall not be counted, except that days of inpatient hospital services before January 1, 1989, which were applied with respect to an individual after receiving 90 days of services in a spell of illness (commonly known as "lifetime reserve days") shall be counted;

(C) the limitation of coverage of extended care services to post-hospital extended care services shall not apply to an individual receiving such services from a skilled nursing facility during a continuous period beginning before (and including) January 1, 1990, until the end of the period of 30-consecutive days in which the individual is not provided inpatient hospital services or extended care services; and

(D) the inpatient hospital deductible under section 1813(a)(1) of such Act shall not apply—

(i) in the case of an individual who is receiving inpatient hospital services during a continuous period beginning before (and including) January 1, 1990, with respect to the spell of illness beginning on such date, if such a deductible was imposed on the individual for a period of hospitalization during 1989;

(ii) for a spell of illness beginning during January 1990, if such a deductible was imposed on the individual for a period of hospitalization that began in December 1989; and

(iii) in the case of a spell of illness of an individual that began before January 1, 1989, and has not ended as of January 1, 1990.

(2) HOSPICE CARE.—The restoration of section 1812(a)(4) of the Social Security Act, effected by subsection (a)(1), shall not apply to hospice care provided during the subsequent period (described in such section as in effect on December 31, 1989) with respect to which an election has been made before January 1, 1990.

(3) TERMINATION OF HOLD HARMLESS PROVISIONS.—Section 104(b) of MCCA is amended by striking "or 1990" each place it appears.

(c) TERMINATION OF TRANSITIONAL ADJUSTMENTS IN PAYMENTS FOR INPATIENT HOSPITAL SERVICES.—

(1) PPS HOSPITALS.—Section 104(c)(1) of MCCA is amended by inserting "and before January 1, 1990," after "October 1, 1988,".

(2) PPS-EXEMPT HOSPITALS.—Section 104(c)(2) of MCCA is amended—

(A) by inserting "and before January 1, 1990," after "January 1, 1989,"; and

(B) by striking the period at the end and inserting the following: ", without regard to whether any of such beneficiaries exhausted medicare inpatient hospital insurance benefits before January 1, 1989.".

(d) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990, except that the amendments made by subsection (c) shall be effective as if included in the enactment of MCCA.

SEC. 10182. REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM AND FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.

(a) IN GENERAL.—Sections 111 and 112 of MCCA are repealed and the provisions of law amended by such sections are restored or revived as if such sections had not been enacted.

(b) DELAY IN STUDY DEADLINE.—Section 113(c) of MCCA is amended by striking "November 30, 1988" and inserting "May 31, 1990".

(c) DISPOSAL OF FUNDS IN FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.—Any balance in the Federal Hospital Insurance Catastrophic Coverage Reserve Fund (created under section 1817A(a) of the Social Security Act, as inserted by section 112(a) of MCCA) as of January 1, 1990, shall be transferred into the Federal Hospital Insurance Trust Fund and any amounts payable due to overpayments into such Trust Fund shall be payable from the Federal Hospital Insurance Trust Fund.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the provisions of this section shall take effect January 1, 1990.

(2) REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM.—The repeal of section 111 of MCCA shall apply to taxable years beginning after December 31, 1988.

Subpart 2—Provisions Relating to Part B of the Medicare Program

SEC. 10185. REPEAL OF EXPANSION OF MEDICARE PART B BENEFITS.

(a) IN GENERAL.—

(1) GENERAL RULE.—Except as provided in paragraph (2), sections 201 through 208 of MCCA are repealed and the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted.

(2) EXCEPTION.—Paragraph (1) shall not apply to subsections (g) and (m)(4) of section 202 of MCCA.

(b) CONFORMING AMENDMENTS.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)) is amended—

(1) in paragraph (3)(C)—

(A) by striking "Subject to paragraph (4), deductibles" and inserting "Deductibles", and

(B) by striking "1813, section 1833(b)" and all that follows and inserting "1813 and section 1833(b)."; and

(2) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(c) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990.

SEC. 10186. REPEAL OF CHANGES IN MEDICARE PART B MONTHLY PREMIUM AND FINANCING

(a) IN GENERAL.—Sections 211 through 213 (other than section 211(b)) of MCCA are repealed and the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted.

(b) 1-TIME TRANSFER OF NET ADDITIONAL PREMIUMS.—There shall be transferred, as of January 1, 1990, from the Federal Supplementary Medical Insurance Trust Fund to the Federal Hospital Insurance Trust Fund an amount equal to—

(1) the amount of the premiums collected pursuant to section 1839(g) of the Social Security Act, minus

(2) the amount of administrative expenses incurred under part B of title XVIII of such Act relating to implementation of MCCA, plus

(3) the amount of interest accrued to the Federal Supplementary Medical Insurance Trust Fund attributable to balance described in paragraphs (1) and (2).

(c) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect January 1, 1990, and the repeal of section 211 of MCCA shall apply to premiums for months beginning after December 31, 1989.

SEC. 10187. AMENDMENT OF CERTAIN MISCELLANEOUS PROVISIONS.

(a) REVISION OF MEDIGAP REGULATIONS.—

(1) Section 1882 of the Social Security Act (42 U.S.C. 1395ss), as amended by section 221(d) of the Medicare Catastrophic Coverage Act of 1988, is amended

(A) in the third sentence of subsection (a) and in subsection (b)(1), by striking "subsec-

tion (k)(3)" and inserting "subsections (k)(3), (k)(4), (m), and (n)";

(B) in subsection (k)—

(i) in paragraph (1)(A), by inserting "except as provided in subsection (m)," before "subsection (g)(2)(A)"; and

(ii) in paragraph (3), by striking "subsection (1)" and inserting "subsections (1), (m), and (n)"; and

(C) by adding at the end the following new subsections:

"(m)(1)(A) If, within the 90-day period beginning on the date of the enactment of this subsection, the National Association of Insurance Commissioners (in this subsection and subsection (n) referred to as the 'Association') amends the amended NAIC Model Regulation (referred to in subsection (k)(1)(A) and adopted on September 20, 1988) to reflect the changes in law made by part F of substitle B of title X of the Omnibus Budget Reconciliation Act of 1989, subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the amended NAIC Model Regulation (referred to in subsection (k)(2)(A)) as amended by the Association in accordance with this paragraph (in this subsection and subsection (n) referred to as the 'revised NAIC Model Regulation').

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the revised NAIC Model Regulation or 1 year after the date the Association first adopts such revised Regulation.

"(2)(A) If the Association does not amend the amended NAIC Model Regulation, within the 90-day period specified in paragraph (1)(A), the Secretary shall promulgate, not later than 60 days after the end of such period, revised Federal model standards (in this subsection and subsection (n) referred to as 'revised Federal model standards') for medical supplemental policies to reflect the changes in law made by part F of subtitle B of title X of the Omnibus Budget Reconciliation Act of 1989, subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the revised Federal model standards.

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the revised Federal model standards or 1 year after the date the Secretary first promulgates such standards.

"(3) Notwithstanding any other provision of this section (except as provided in subsection (n))—

"(A) no medicare supplemental policy may be certified by the Secretrary pursuant to subsection (a),

"(B) no certification made pursuant to subsection (a) shall remain in effect, and

"(C) no State regulatory program shall be found to meet (or to continue to meet) the requirements of subsection (b)(1)(A),

unless such policy meets (or such program provides for the application of standards equal to or more stringent than) the standards set forth in the revised NAIC Model Regulation or the revised Federal model standards (as the case may be) by the date specified in paragraph (1)(B) or (2)(B) (as the case may be).

"(n)(1) Until the date specified in paragraph (4), in the case of a qualifying medicare supplemental policy described in paragraph (3) issued in a State—

"(A) before July 1, 1990, the policy is deemed to remain in compliance with the standards described in subsection (b)(1)(A) if the insurer issuing the policy complies with the transition provision described in paragraph (2), or

"(B) on or after July 1, 1990, the policy is deemed to be in compliance with the standards described in subsection (b)(1)(A) if the insurer issuing the policy complies with the revised NAIC Model Regulation or the revised Federal model standards (as the case may be) before the date of the sale of the policy.

"(2) The transition provision described in this paragraph is—

"(A) such transition provision as the Association provides, by not later than December 15, 1989, so as to provide for an appropriate transition to reflect the changes in benefits under this title made by part F of subtitle B of title X of the Omnibus Budget Reconciliation Act of 1989, or

"(B) if the Association does not provide for a transition provision by the date described in subparagraph (A), such transition provision as the Secretary shall provide, by January 1, 1990, so as to provide for an appropriate transition described in subparagraph (A).

"(3) In paragraph (1), the term 'qualifying medicare supplemental policy' means a medicare supplemental policy which has been issued in compliance with this section as in effect on the date before the date of the enactment of this subsection.

"(4)(A) The date specified in this paragraph for a policy issued in a State is—

"(i) the first date a State adopts, after the date of the enactment of this subsection, standards equal to or more stringent than the revised NAIC Model Regulation (or revised Federal model standards), as the case may be, or

"(ii) the date specified in subparagraph (B), whichever is earlier.

"(B) In the case of a State which the Secretary identifies, in consultation with the Association, as—

"(i) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet standards described in subparagraph (A)(i), but

"(ii) having a legislature which is not scheduled to meet in 1990 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1990. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

"(5) In the case of a medicare supplemental policy in effect on January 1, 1990, the policy shall not be deemed to meet the standards the standards in subsection (c) unless each individual who is entitled to benefits under this title and is a policy holder under such policy on such date is sent a notice in any appropriate form by not later than January 31, 1990, that explains—

"(A) the changes in benefits under this title effected by part F of subtitle B of title X of the Omnibus Budget Reconciliation Act of 1989, and

"(B) how these changes affect the benefits contained in such policy and the premium for the policy.

"(6) In the case of an insurer which had in effect, as of December 31, 1988, a medicare supplemental policy with respect to an individual, for which the individual terminated coverage as of January 1, 1989 (or the earliest renewal date thereafter), no medicare supplemental policy of the insurer shall be deemed to meet the standards in subsection (c) unless the insurer—

"(A) provides written notice, by January 15, 1990, to the individual (at the most recent available address) of the offer described in subparagraph (B), and

(B) offers to the individual, during the period beginning on January 1, 1990, and ending on March 1, 1990, continuation of coverage under such a medicare supplemental policy (with coverage effective as of January 1, 1990), under the terms respecting treatment of pre-existing conditions and group rating of premium which are at least as favorable to the individual as such terms as existed with respect to the policy as of December 31, 1988.".

(2) It is the same sense of Congress that States should respond, at the earliest practicable date after the date of the enactment of this Act, to requests by insurers for review and approval of riders and premium adjustments for medicare supplemental policies in order to comply with the admendments made by paragraph (1).

(b) ADJUSTMENT OF CONTRACTS WITH PREPAID HEALTH PLANS.—Section 222 of MCCA is amended by inserting "and before January 1, 1990," after "December 31, 1988," each place it appears.

(c) NOTICE OF CHANGES.—The Secretary of Health and Human Services shall provide, in the notice of medicare benefits provided under section 1804 of the Social Security Act for 1990, for a description of the changes in benefits under title XVIII of such Act made by the amendments made by this part.

(d) MISCELLANEOUS TECHNICAL CORRECTION.—Section 221(g)(3) of MCCA is amended by striking "subsection (f)" and inserting "subsection (e)".

(e) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990, except that the amendment made by subsection (d) shall be effective as if included in the enactment of MCCA.

Subpart 3—Miscellaneous Amendments

SEC. 10191. OTHER MISCELLANEOUS AMENDMENTS.

(a) IN GENERAL.—Section 421 through 425 and 427 of MCCA are repealed and any provision of law amended or repealed by such sections is restored or revived as if such sections had not been enacted.

(b) MISCELLANEOUS TECHNICAL CORRECTIONS.—

(1) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, section 1834(b)(4)(A) of the Social Security Act, as added by section 4049(a)(2) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "insurance and deductibles under section 1835(a)(1)(I)" and inserting "coinsurance and deductibles under sections 1833(a)(1)(J)".

(2) Section 1842(j)(1)(C)(vii) of the Social Security Act, as added by section 4085(i)(7)(C) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "accordingly" and inserting "according".

(3) Section 1886(g)(3)(A)(iv) of the Social Security Act, as added by section 4006(a)(2)

of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "may) be" and inserting "may be)"

(4) Section 1866(a)(1)(F)(i)(III) of the Social Security Act is amended by striking "fiscal year))" and inserting "fiscal year)".

(5) Section 1875(c)(7) of the Social Security Act, as added by section 9316(a) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking "date of the enactment of this Act" and inserting "date of the enactment of this section".

(6) Section 1842(j)(2)(B) of the Social Security Act, as amended by section 8(c)(2)(A) of the Medicare and Medicaid Fraud and Abuse Patient Protection Act of 1987, is amended by striking "paragraphs" and inserting "subsections"

(c) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990, except that—

(1) the repeal of section 421 of MCCA shall not apply to duplicative part A benefits for periods before January 1, 1990, and

(2) the amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

Subpart 4—Provisions Relating to Budget Waivers

SEC. 10195. EXCLUSION FROM CALCULATION OF DEFICIT OF AMENDMENTS MADE BY PART.

The changes in outlays and revenues resulting from the amendments made by this part shall not be counted for fiscal year 1990 for purposes of calculating—

(1) the deficit in each budget of the Federal Government submitted by the President under title 31, United States Code, for purposes of comparison with the maximum deficit amount in section 3(7) of the Congressional Budget and Impoundment Control Act of 1974;

(2) the deficit under section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 for purposes of comparison with the maximum deficit amount in section 3(7) of such Act; and

(3) the deficit and excess deficit for purposes of sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

The CHAIRMAN. Pursuant to the rule, the gentleman from Massachusetts [Mr. DONNELLY] will be recognized for 30 minutes and a Member opposed will be recognized for 30 minutes.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes.

Mr. DONNELLY. Mr. Chairman, I ask unanimous consent that 15 minutes of my time be yielded to and controlled by the distinguished cosponsor of the amendment, the gentleman from Texas [Mr. ARCHER].

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to join my colleague, BRIAN DONNELLY, in sponsoring this amendment to repeal the Medicare Catastrophic Act. I recognize that it is unusual for Congress to enact a major program one year and repeal it the next—but regardless of the best intentions of my colleagues who framed this law—I see no other alternative. The Congress should admit it made a mistake and vote today to repeal.

Every since the Depression years, Americans have been told to save for their own retirement. Now—as a result of the catastrophic surtax—senior citizens who sacrificed during their work lives to provide for their own retirement needs have been singled out to pay the highest marginal tax rates borne by any Americans.

Proponents of catastrophic contend that those who receive new benefits and can afford it should pay for the benefits. That sounds fair—but in fact, under the law senior citizens who have saved must pay not only the cost of their own benefits—but also the cost of benefits for six other people—including those who paid no premiums for the coverage, such as those disabled by AIDS.

That last point deserves special attention. People under 65 who are disabled are also eligible for catastrophic benefits—and this flawed law subsidizes the cost of their benefits by taxing our Nation's elderly.

This is just plain bad economic and social policy. In effect, we've told the American people—don't save any more for your own retirement needs—because if you do, your savings and pensions will be penalized when you reach 65.

What seniors get in return is benefits that few needed or wanted—and which only a few will ever receive. When this program was enacted, 80 percent of all senior citizens already had some form of catastrophic coverage. But the new law preempts both private insurance—which cost an average of $420 a year—and Medicaid coverage for the poor—which was paid for by the general treasury. In their place, it will tax each senior citizen up to $1,500 a year by 1993.

And the surtax will only go up and up to pay the mushrooming costs. When Catastrophic was enacted, CBO estimated it would cost $32 billion over 5 year. The most recent estimates are now $48 billion. Estimates for drugs alone have almost doubled. And given our experience with Medicare cost estimates over the past 20 years, you can be sure that even these latest estimates are still grossly low.

Mr. Chairman, repealing Medicare Catastrophic is the only way to assure that we will eliminate the unfair surtax. Any hastily prepared approach, such as the Stark-Gradison amendment would give the surtax an opportunity to rise again—because a vote for Stark-Gradison would leave it up to a House-Senate conference to bargain on Medicare Catastrophic—and the deal would be wrought by those who still believe in the surtax.

If you want to see the surtax repealed, pure and simple, vote for Donnelly-Archer. It's the only vote you can be sure of.

The repeal of Medicare Catastrophic is not the end, but the beginning of a comprehensive effort by a wiser Congress to reform our Nation's health and long-term care system. Only repeal will let us work from a clean slate.

I urge Members to vote for Donnelly-Archer.

Mr. LEVIN of Michigan. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, it has been said here by my distinguished friend from Texas, "Repeal the surtax." That is going to happen anyway.

There was a problem with the financing of catastrophic. The surtax hit middle-income taxpayers and seniors too heavily. The answer was to fix that, not to fracture the whole program.

What we are seeing here, I am afraid, is a paralysis in government. Last week, in terms of the capital gains tax, we had paralysis by polarization. This week on catastrophic we have a different form of paralysis. It is government by default, a government by passiveness.

In terms of Congress, we are responding to misinformation, and we are responding to pressure. In terms of the President, where is he? he is the invisible executive. Instead of a bully pulpit, we have an empty chair.

Some are saying, and my distinguished colleague from Texas has said so, "Let us take another look," but I do not think that is what repeal means. Repeal means a continuation of the old problem. Repeal is not reexamination by Members of this body. It is retreat.

□ 1230

Is it likely that as the budget crisis worsens and an election nears we are going to act on thorny health issues? Will failure to meet any part of a $10 billion need as in this program truly enhance the chances to tackle a $50 billion program?

Full home and nursing care. Is it likely that the repeal of any semblance of relating benefits to income will enhance the chances of a broad attack on this problem? Not at all. Not at all.

In a word, repeal is not reexamination, it is going to be retreat.

Let me add, what might seem like a popular vote today is going to appear less and less appealing as the population ages and Washington equivocates.

There was a problem with the catastrophic funding mechanism. It did hit seniors, especially middle-income seniors, too stringently. The answer is to fix that problem, not throw out the whole program. It is retreat.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. LEVIN of Michigan. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, as a respected member of our committee, the gentleman from Michigan knows that our committee spent 3 weeks attempting to "fix" the problems in catastrophic, and the unsatisfactory end result is what is in the reconciliation bill which passed on a 19-to-17 vote.

Mr. LEVIN of Michigan. Mr. Chairman, as the gentleman knows, the Ways and Means Committee cut the surtax in half, and we did so in a way that increased the flat rate. If that is unsatisfactory, let us on this floor or in the other ways in conference work at that. But what the gentleman is proposing today is a full-scale retreat, and what he is saying is we have a commission and we will do it another day.

What I am saying is with all the budget pressures and with all the election pressures, as sure as I am standing here, a vote today for repeal and nothing else is turning our back on the seniors of America, and it is not going to be wait until next year, it is going to be like some of those Brooklyn Dodgers teams, I am afraid, it is going to be closer to a decade before we readdress it.

For that reason, while I very much favor reform, I oppose repeal.

Mr. DONNELLY. Mr. Chairman, I intend to close debate, so I yield 2½ minutes to the distinguished gentlewoman from Connecticut [Mrs. KENNELLY], cosponsor of my amendment.

Mrs. KENNELLY. Mr. Chairman, what a difference a year can make. I, like many of my colleagues, am surprised to find myself standing here as an original cosponsor with the distinguished gentleman from Massachusetts [Mr. DONNELLY] for repeal.

However, I came to the conclusion that this catastrophic health care resembled very much a car that we commonly called a lemon. You buy the car, you are so excited, all good things are going to happen, you are going to get places on time. But then the car breaks down and breaks down. Eventually you realize you have to turn the car in and start all over again.

The members on the Committee on Ways and Means tried to fix this bill almost all summer. We tried so hard and we could not do it. Catastrophic health care is a lemon.

We had some options that we have before us today. The option was the option to spread the tax, take it away from older Americans and spread it around, maybe raise the payroll tax. The payroll tax right now is already too high. Finally, a new option. lower that surtax which was much too high. But how did we do it? We raised the basis on those that didn't have very much. So we come to repeal. I think that is the only answer.

I would say, Mr. Chairman, I have never seen anything like the outcry, yes, across this country from the elderly. But as a former secretary of the State of Connecticut, this is all right. This is the Democratic way. Government is there to help those that cannot help themselves. Obviously this does not apply here.

More importantly, we are not in business to pass laws that people do not want. To put it more bluntly, we are not in the business to ram something down somebody's throat. The people told us they already had the benefit in their retirement plans, that they did not want this piece of legislation. The people told us they liked their Medigap. The people told us they wanted long-term care.

Let us not say today that that is not something we will pay attention to, because we will. They did not want catastrophic. The people wanted long-term care. We did not have the money at the moment for long-term care. We have got to find that somehow.

Mr. Chairman, today one thing is in place, repeal. I wish we did not have to do it, but we made a mistake.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I rise in opposition to the amendment repealing the Medicare Catastrophic Coverage Act.

If we vote to repeal, it will not be a proud day for this House. It has taken 25 years to pass a law to provide protection for older Americans against the catastrophic cost of either a lengthy acute illness or long-term care.

Last year we finally took the first bold step in enacting the catastrophic coverage law. We recognized at that time that the bill wasn't perfect, but it was an important beginning—the first step to providing comprehensive protection for the elderly.

Now we stand on the brink of repealing this law. And yet I think most of us still believe that there is a need for this protection, perhaps not for all the elderly but certainly for many who will lose everything they have because of the crippling cost of a lengthy illness. We will decide whether to repeal this law, not because it isn't needed, but because we cannot agree on how to pay for the coverage.

It is appropriate that we consider changing the financing of the law. In fact, I proposed an amendment in the Ways and Means Committee to make this coverage truly voluntary and to spread the cost of the protection over a broader population by slightly increasing the Medicare hospital insurance tax. This approach would maintain the traditional approach of the Social Security System and assure that those most in need of coverage would have access to it. I believe this is the best approach for an overall solution, and I think something like it will be the ultimate answer.

However, Mr. Chairman, we will throw away the opportunity to preserve these benefits and to correct the financing if we vote to repeal the law today. We will take an embarrassing step backward and strip older Americans of protection which many are using today. The inpatient hospital benefits and skilled nursing coverage now in effect have been a godsend for many. The fact that thousands of elderly beneficiaries are already using this coverage is silent proof which should speak loudly about the great need for the law.

Mr. Chairman, to repeal catastrophic coverage today is to deny older Americans crucial protection when the need is proven. What will we say to those in hospitals and nursing facilities? Will we tell them to be patient—we will start over from scratch, and one day we may be able to pass another law? That is a poor answer, Mr. Chairman, because once we repeal this law we will have fallen to the very bottom and the climb back up the mountain will be much harder and much longer.

So, Mr. Chairman, I ask the House not to repeal. Let us not go backward. Let us correct it in conference in a way that can be done in conference so that we can retain the program.

How embarrassing to look back years later and say we repealed this bill. If we do that, we send this catastrophic illness program back to the bottom of the hill. We will kill it not for 1 year or 2 years, but indefinitely, and if we do that we are going to find, though our intentions are good, that the climb up the hill is going to be harder and longer. Let us not be embarrassed by our vote.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from Illinois [Mr. FAWELL], chairman of the Republican Task Force on Catastrophic Coverage.

□ 1240

Mr. FAWELL. Mr. Chairman, today I rise in strong support of the Donnelly-Archer amendment to repeal the Medicare Catastrophic Coverage Act of 1988.

Congress has made a mistake in passing the Cat. The Cat went in the wrong direction. It provided benefits seniors did not want nor need. In fact, rather than allow seniors the right to choose this coverage, we mandated they take it.

A senior's highest priority still has not been recognized—long-term custodial nursing home care. This is a benefit all Americans, young and old alike want, and this law does not even address it in the most minimal of ways.

Instead, we provide coverage most seniors already had. In fact, 70 percent of seniors had the coverages provided under Cat through their former employers or Medigap insurance policies. Another 10 percent were already covered for these costs by Medicaid.

Another key problem the Cat created was it relied upon senior financing of not only themselves, but to also subsidize others as well. If that alone were not enough, we created the most unfair way for them to pay. We created a special open-ended income tax on a special group of people. Then we euphemistically named that income tax a supplemental premium.

Who would be hurt by this? Not the poor—they are protected by Medicaid. The rich are also protected by the caps included in the law. It is the middle-income seniors who are hit hardest by the surtax. The very people who did all that we asked them to do; they saved, they invested, and they don't rely on Social Security. They are not rich and they live on a fixed income. This law penalizes them for doing all that Congress ever asked them to do.

Now we face an opportunity to lift this unfair burden and to repeal a program that is currently falling apart under its own weight. The program's costs have exploded. The initial cost estimate of Cat has increased by $18 billion, a 60-percent increase for a program that has not even been fully implemented. That is a fact we cannot ignore and a consequence we cannot overlook because the same middle-income seniors will have to pay the difference.

If we are going to create new benefits and use a senior's own money to finance these benefits don't you think we owe it to them to ask them what benefits they would be interested in paying for.

I think we should. Support the Donnelly-Archer amendment and give seniors the right to choose.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, I rise today to express my concern about efforts to repeal the Medicare Catastrophic Coverage Act of 1988. As we are all aware, just 1 year has passed since the enactment of the new law and now we are back again trying to determine who should pay for the cost of these needed services.

Rising health care costs faced by our Nation's elderly is of crucial importance to me, especially for those elderly that are attempting to survive on very low, fixed incomes. I strongly believe that the catastrophic care program created last year fills a very real need for older Americans, but the obvious problem is the financing mechanism. Today, it is my hope that we will retain the positive aspects of the program while at the same time correct the problems in its financing.

I am entirely opposed to the complete repeal of the act. While it is clearly an answer for those that are able to afford to pay for their own catastrophic coverage, I think there are some that too quickly forget about those that are in need of help, those that cannot afford to pay for this service. I know for a fact that my constituents are in need of this legislation.

For those of my colleagues who today support a repeal, believing that in a few years the issue will again be considered, I ask that you consider what might happen to those elderly and disabled that are in need of catastrophic health coverage now and that are barely financially able to make ends meet.

Are we not tired of deliberately making survival more and more difficult for those that are economically disadvantaged? We have been unsuccessful in defeating the capital gains exclusion, which only benefits the wealthy—we have been unsuccessful in passing a much needed minimum wage increase, which would clearly benefit those trying to rise above the poverty line—and we have failed to halt the exploitation of pension plans by corporate interests.

Today, I encourage my colleagues to support the interests of those elderly that are most in need of some protection against catastrophic expenses by not totally repealing the law, but by making the necessary changes and improvements to the law while retaining the positive and much needed benefits.

Mr. DONNELLY. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Georgia [Mr. ROWLAND], one of only two physicians in the House of Representatives.

Mr. ROWLAND of Georgia. I thank the gentleman for yielding.

Mr. Chairman, last year we made a mistake. Let us face it. Let us admit it.

Now we have a chance to correct that mistake. Let us not correct that mistake through a partially thought-out provision in order to get to where we think we ought to be.

But let us correct this mistake completely.

You know we have with this legislation which we passed last year churned up a lot of hostility out there. Mr. Chairman, we have been churning up hostility now for many years, some 20-odd years.

It seems that we never learn from our mistakes.

Shortly after we enacted Medicare in 1965, the cost went up much more than anticipated, so we put a fee freeze in place in the early 1970's just on medical fees.

Imagine what price controls did in just one area. In 1974, then, we passed a National Health Planning and Resources Development Act. We created all these HSA's around the country, creating more hostility.

Then, in 1983 we passed an amendment to the Social Security Reform Act, the prospective patient system; the DRG's. What we did with that was to close down several hundred rural hospitals and some 90-odd hospitals in urban areas that treat mostly Medicare and Medicaid patients, the very people we are trying to help.

What that did was to begin to shift some of the cost of the Medicare program over to the private sector, so now we have industrialists who are finding that the costs of health care insurance is going up and they are calling for a federally funded national health program.

Isn't that something? Can you believe that? Industrialists are doing this, people who have profited under our free enterprise system.

At the town meetings that I have, almost everyone tells me, the elderly citizens, how much they are concerned about whether or not they are going to have access to health care and whether or not they are going to be able to pay for that care.

Then we did something else.

We are going to Medicare, looking for money to meet the Gramm-Rudman targets, $5 billion in fiscal year 1988 and 1989, $2.8 billion of that in the next fiscal year. There's some terrible inconsistency about that. In fact, we have been floundering around with an incremental approach in trying to address the problems in our health care delivery system and we are just making it worse.

We have not even looked at the young people trying to get started, to raise their families, some 30 million-odd people that do not have any insurance. What about long-term health care?

In reconciliation for 7 to 8 years now we have been tinkering with our health system, micromanaging it, creating more hostility.

Medical science is moving incredibly fast in developing new technologies that improve health care and the quality of life, and we are moving just as fast in Congress, tearing down the system that delivers that care.

We must stop this incremental approach in addressing the problems in our system. We must make fundamental changes, we must restructure the system to provide comprehensive care for all cities of our country.

The best part of the catastrophic bill was the bipartisan commission that was created. Let this commission look at the problems, look at some of the

proposals to restructure the system and make recommendations to the Congress. We must stop this myopic approach.

The whole health care delivery system is in danger. We must act to save this system that provides the best quality of care of any in the world.

Vote "yes" on repeal and stand firm.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Chairman, I think that we may see in the next half hour or so the conclusion of one of the shortest legislative victories in my career in this House. But I would like those of you, particularly those among the 302 of you who voted for this bill last year, to know what you are doing when you allow the most well-to-do, highly organized minority of senior citizens to turn you away from the 20 million seniors you are about to expose to catastrophic financial ruin.

There are 20 million seniors without prescription drug benefits, and you are going to deny this valuable benefit to them—perhaps for all time.

There are 20 million seniors who will pay no surtax. As a matter of fact, there are 28 million who will pay way below the $800 that has been touted by the hysteria-mongers that have turned you away from the majority of your senior constituents.

Seventy-seven percent of the Americans do not want repeal, and almost two-thirds of the seniors do not want repeal.

Mr. DONNELLY. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Massachusetts who is about to do in the poor in his district.

Mr. DONNELLY. Mr. Chairman, the gentleman is incorrect on that statement as he was on the prior one.

I think the gentleman is referring to numbers in a poll that appeared on ABC News last night. I think it is important for the edification of the Members that they understand exactly what the poll said. When you read the poll but what did not appear on television, 80 percent of the people over 65 say they wanted the program repealed, and that is a fact.

Mr. STARK. Mr. Chairman, reclaiming my time, I am sure that as many Members have read the poll as there are Members who read the bill when they voted for it, and have read the amendment of the repealers.

What I am suggesting is that we are being stampeded by a group, representing a small group of the wealthiest seniors, to deny needed benefits to a majority of seniors. This is tragic, but this is exactly what is happening.

It is not my intention to try to protect this body from itself. That is a job for those with far more experience than I have.

When you repeal, you should understand what you are doing. You are going to cause the death of 4,000 elderly women next year, 9 in each of your districts, by denying them mammography screening.

You are going to deny extended hospital or doctor care to the 20 million seniors who would pay no extra surtax for these benefits.

Think about it carefully. Repeal would eliminate respite care for families that need it. Repeal would eliminate benefits for those without employer-based coverage.

Let me suggest for all of the seniors who said, "I already have those benefits," those who have the benefits of the auto companies and the airlines, they may have benefits until the next leveraged buyout when they will disappear more quickly than this legislation.

I urge you to do the right thing and to oppose the Donnelly amendment.

□ 1250

The CHAIRMAN. The Chair will notify the gentleman from Massachusetts [Mr. DONNELLY] that he has 10 minutes remaining, the gentleman from Illinois [Mr. ROSTENKOWSKI] has 19 minutes remaining, and the gentleman from Texas [Mr. ARCHER] has 8½ minutes remaining.

Mr. DONNELLY. Mr. Chairman, I yield myself 30 seconds.

In all due respect to the chairman of the Subcommittee on Health, on which I serve, I think that some of the statements that were made in the gentleman's presentation should be corrected for the record. I think the level of debate should not be lowered to what I consider to be demagogic statements that were made in the gentleman's statement. To say that voting for repeal causes elderly women to die is outrageous, and this institution deserves better debate.

Therefore, I hope over the course of the next hour we debate facts and not demagogic statements.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I want to make just two points about catastrophic health care insurance, and why it is important not to repeal it. In doing so, I want to respond to the claims that are often made: First, that this bill only benefits a few; and second, that it is unfair to charge an income-based premium.

First, catastrophic coverage benefits everyone who is potentially eligible, just as fire insurance benefits everyone who is covered. Individuals do not have a benefit from fire insurance only when they have a fire. They benefit from fire insurance if they are covered at all, even if no fire ever occurs. And the benefits are enormous under catastrophic insurance.

The second point I want to make relates to the income-based premium. Specifically, I want to respond to what the Members of Congress, who say "Why should my upper-income constituents subsidize 5 others or 4 others who are not upper income, when my wealthy constituents pay the income-based premium?" In response I would say that catastrophic is not just a health care program. It is a program to insure savings, to shield life savings of the elderly from being wiped out by the cost of serious illness. In a sense, we already insure the health care of poor people, but then shift the cost onto someone else, either private insurance payers or onto local taxpayers. What this program is, is an asset protection program. It protects people from being wiped out. It protects their life savings. Now, if a person is wealthy, if a person is fortunate enough to be wealthy and have a high income, that person benefits—not by the same amount, but more. It is only fitting, therefore, that that person pay a premium that is more. To insist, as many Members and some senior citizen organizations do, that everybody pay the same, would be like saying everybody should pay the same premium for fire insurance, whether or not they are insuring a mansion or a shack. That would be unfair. It would be equally unfair to insist that everybody pay the same premium for catastrophic health care coverage.

So this program is basically asset protection, and for the many Members who have stood on this floor and said we should scrap catastrophic care and move to long-term care, which they say our constituents really need instead of catastrophic, let me remind those Members that a long-term would really be asset protection, clear and simple. Hence it would truly benefit the well-off the most. If we shrink from the concept of paying for catastrophic coverage with some of income-related premium we will never be able to do that for long-term care.

I would, at this point, like to place in the RECORD my full statement as to why catastrophic health care coverage should not be repealed:

I rise in strong opposition to the Donnelly-Archer amendment to repeal the Medicare Catastrophic Coverage Act. The amendment by my colleagues on the Ways and Means Committee is the epitome of the old adage that "when you're being run out of town get out in front and make it look like a parade." But this is not a parade that any of us should rush to join.

The pressure to "just get rid of this issue" is undeniable. To yield to it is wrong.

None of the major senior citizen groups advocate repeal of the MCCA. Not even the National Committee to Preserve Social Security and Medicare—which has gone out of its way to mislead seniors on the MCCA—wants the coverage or the benefits repealed.

Your constituents are not going to thank you for voting for this ill-conceived and hasty amendment. You will not be making a good public policy choice.

Let me address just a few of the major misconceptions about the MCCA.

First, only a minority of seniors benefit: This is just plain wrong. Every single senior citizen benefits from the coverage. Above all, the MCCA is a Federal Medigap insurance program. The protection offered by the insurance is a benefit to every single senior citizen in this country. We don't argue that fire insurance is of benefit only if your house burns down. The benefit of the insurance is clearly in the peace of mind that the protection provides from financial ruin. So it is with the MCCA.

Second, the cost outweighs the benefits: This is just plain wrong. Just briefly, here are the main benefits of the MCCA, beyond the insurance value:

Hospital coverage: Single annual deductible, no coinsurance, 365 days of care per year.

Nursing coverage: one hundred fifty days of coverage, coinsurance cut by two-thirds, elimination of the 3-day prior hospitalization requirement.

Home health: seven days a week of care for 38 days.

Respite care: eighty hours a year of respite care.

Prescription drugs: A major new benefit.

Doctor's bills: Real out-of-pocket limits on the fastest growing health care expense facing seniors today.

Mammography: A major new benefit which will save thousands of lives.

These are just a few of the benefits which will be eliminated by adoption of the misguided Donnelly-Archer amendment.

Third, the financing is unfair: This is just plain nonsense. Who is really paying for catastrophic coverage? Of the 33 million Medicare beneficiaries, 19.2 million will pay $0—nothing—in the supplemental tax. That's 58 percent of beneficiaries who won't pay a penny in the surtax for the MCCA. Another 4 million—12.8 percent—will pay less than $100 per year—less than $10 per month—for the coverage. Altogether, nearly 90 percent—9 out of 10—seniors will pay less than $400 per year for this coverage. And the majority will not pay one single penny in surtax for it.

On the other end a grand total of 1.8 million seniors—just 5.5 percent of all Medicare beneficiaries—will pay the $800 cap under current law. Barely 10 percent of all seniors will pay $400 or more for the coverage.

Under the changes adopted by the Ways and Means Committee that are now part of the reconciliation bill, an even smaller fraction of seniors will pay the $800 maximum. In fact, a couple would have to have a retirement income of $80,000 to $100,000 per year to pay the maximum premium—clearly among the wealthiest taxpayers in the country, and certainly among the very wealthiest of senior citizens.

Is it sound public policy to repeal the MCCA when more than 95 percent of beneficiaries will not pay the $800 cap, and when 90 percent won't pay even one-half the maximum?

Who is benefiting from the repeal? It is not going to be the 25 percent of seniors who cannot afford Medigap. It is not going to be the 58 percent of seniors who won't pay a penny in surtax for the coverage. It is not going to be the seniors in nursing homes who will lose the expanded Medicare nursing benefit. It is not going to be the millions of seniors who will lose the prescription drug benefit.

The principal winners will be the wealthiest senior citizens in the country.

(4). We should repeal catastrophic and enact a long-term care bill: A long-term care program will cost $60 billion a year, minimum. Proponents of repeal know this. Who do they think that they're kidding. If we are not going to hold fast on a $10 billion catastrophic coverage program, where are we going to find the courage to enact a $60 billion long-term care program? If your seniors are angry about a catastrophic program where the costs are so modest and borne by so few, how do you think they will react to a bill that is six times as large? Advocating repeal in exchange for the promise of a long-term care program is a hoax.

Mr. Chairman, the easy solution to the MCCA problem is to push for repeal. But we are not elected to make the easy choices. We are not elected to make the wrong choices. And repeal is both. I urge my colleagues to reject this rush to judgment.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. MOODY. Mr. Chairman, I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, the gentleman makes an interesting point about fire insurance.

The CHAIRMAN. All time has expired.

Mr. ARCHER. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, surely the gentleman would not say that the elderly who have saved should pay the insurance premiums for six others, so they get insurance on their home, would he?

I yield to the gentleman from Wisconsin.

Mr. MOODY. No.

Mr. ARCHER. Mr. Chairman, so actually there is no real comparison, and the subsidy is to six people to pay their insurance premiums, from a person who has saved and is elderly.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 additional minute to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, my point is only this: For those who say this program should be scrapped in favor of something that is not income-based in its cost structure, or in its premium structure, I say remember that the beneficiaries benefit very differently, depending on their own income status. Those who have more, have more at stake and therefore more that is insured. They should pay more. Those without any assets or savings do not need catastrophic health care insurance as much. They are going to be covered, basically, through Medicaid or uncompensated care or charity that shifts the cost to private insurance, or is borne by public tax dollars. It is those who have assets, those who have appreciable life savings, who are the ones that benefit the most. The more a person has, the more a person benefits.

So it would be grossly inappropriate and inequitable for all people to pay the same. Different people have an enormously different benefit from the program, depending on their income level. Thus high retirement income people should pay more than folks with little or nothing.

Mr. ARCHER. Mr. Chairman, I yield myself 30 seconds.

I hope the gentleman understands, irrespective of what assets a person has, this coverage is limited to 1 year of hospitalization care. Therefore, it does not protect all of one's assets, and if it is truly to be an insurance concept, then it certainly should be based on people paying their own premium, if they can afford to pay it, and not dumping that burden on those who have saved to pay not only their own premium but that for six other people.

Mr. MOODY. If the gentleman will yield, it goes on forever, I will remind the gentleman. It is not 1 year.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume, to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I rise in support of the Donnelly-Archer amendment.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, as 1 of 27 who voted "no" on the legislation originally, I rise in support of the Donnelly-Archer amendment.

Mr. Chairman, last week I attended a reception at which Senators from both parties spoke on the topic of catastrophic. They asked themselves what are the lessons that we, as legislators, have learned from the outpouring of senior opposition to this law? Why are seniors so mad at us when all we tried to do was help them?

The answer they all agreed, was simply that Congress had failed to properly educate the public about how good the benefits are and how little they really will cost the average senior.

Mr. Chairman, I was shocked to still be hearing this kind of analysis. There are two lessons we can learn from catastrophic: First, don't give people benefits that they didn't ask for; and second, don't make people pay the Government for benefits that the vast majority of them already have.

Mr. Chairman, the fact is that seniors did not ask us to give them the kind of coverage that we gave them in the catastrophic law. Why should they? Eighty-five percent of them already have similar coverage through Medicaid, Medigap, or employer-provided insurance coverage. What seniors really wanted was long-term care coverage.

But we had an election coming up. We knew we could not afford a long-term care entitlement, but we did not want to appear to be ignoring seniors. So we gave them a lot of benefits they didn't want and we couldn't pay for.

That to me seems reason enough to repeal this legislation. But beyond that, there are good practical reasons for repeal. Mr. Chairman, everyone now agrees that the catastrophic program is going to add billions of dollars to the deficit over the next several years, as the costs of benefits exceed revenues.

Everyone from the GAO to CBO to the White House knows that catastrophic is a budget buster. Mr. Chairman, it's time to repeal this nightmare and face up to the American people. If we cannot afford long-term care for the elderly, we ought to tell them so. We certainly shouldn't be giving them this catastrophic sham.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I rise in support of the Donnelly-Archer amendment.

Mr. Chairman, I have heard from over 1,500 seniors from my district about the Catastrophic Act, twice as many as wrote concerning the congressional pay raise. This issue has also been raised at every townhall I have held since the first of the year. Out of all this outcry, I can count on one hand the voices that have spoken in favor of the Catastrophic Act. This is not a few displeased constituents; this is the public yelling its outrage.

The defenders of the act also suggest that all seniors care about is the surtax or don't understand the benefits of the act. Sure they are upset about the surtax, but they are upset because it doesn't cover the care, the cost of which can truly lead to financial catastrophe—long-term nursing home or custodial care. It has been estimated by the Congressional Research Service that only 4 percent of Medicare beneficiaries will utilize the provisions and benefits of the Catastrophic Act.

Congressman STARK is proposing that we scrap most of the Medicare benefits while retaining the Medicaid benefits and the new prescription drug benefit. What we are left with is the Stark amendment that was tacked on to the Catastrophic Act in 1987. Essentially, the Stark amendment takes the catastrophic out of the Catastrophic Act.

To sweeten the pot, this amendment eliminates the onerous surtax and keeps the $4 a month part B premium increase to cover the costs. The problem is, the Stark amendment does not come close to paying for itself. If the Stark amendment prevails the new prescription drug benefit will cause the part B premium to rise an additional $16.75 a month by 1993 or face falling seriously in the red.

I know many of my colleagues are going to be tempted by this amendment. Many will also be tempted to vote for total repeal and then turn around and support the Stark amendment to save some of the benefits. Such an action would be hypocritical and wrong. And don't for 1 minute think that our seniors won't figure out what "King of the Hill" means.

Millions of seniors have exercised their most basic right: They've petitioned their Government to protest a law that they feel is unjust. They have written or called their Congressman and Senators, many for the first time ever. They've signed petitions. They've attended townhalls. They've waited long enough. It is time to repeal the Medicare Catastrophic Coverage Act and start from scratch. Support the Donnelly-Archer amendment and reject the Stark amendment.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Mr. Chairman, I rise in strong support of the Donnelly-Archer amendment.

Mr. Chairman, it is always hard to say you were wrong. It is difficult to admit that you made a mistake.

That is why this vote today is so hard for so many people. Because this vote today is an admission that Congress made a mistake last year when it passed the catastrophic health care bill. A very big mistake.

Last year the AARP and other senior citizen groups made a mistake and misread what their membership wanted. Last year, Congress made a mistake and misread what its constituents wanted. And together they passed a landmark piece of legislation—a landmark disaster.

As soon as the senior citizen community across this country got a basic understanding of what this law which was dumped in their laps really did and really cost, it generated a storm of outrage that made Hugo look like an autumn breeze.

Some people—who don't like admitting they made a mistake—are now trying to tell us that it is only wealthy retirees, only the rich retirees who are complaining about the catastrophic bill. That is nonsense. Any one of you who has been out and about in your district knows that is not true.

You don't generate a storm this size with just a few isolated elderly people. Virtually every older person who mentioned the issue to me was opposed to the catastrophic health bill and not just a little bit. It didn't matter where I met them, at nursing homes or senior citizen housing; at church picnics or political events; out in rural Pendleton County or in the suburbs of Louisville. They were virtually unanimously opposed to the Catastrophic Health Care Act. It was not just the rich. It was the overwhelming majority.

This law was well intentioned—no one disputes that. But it was off target. The major concern of senior citizens is long term nursing home and home health care—things that this bill did not provide.

It is easy for me to say Congress made a mistake because I was 1 of the 72 who voted against it the first time around. But it is time for everyone to recognize that when you do something to help someone and they all get angry about it, you probably did not do a very good job the first time.

It is time to repeal catastrophic and start over.

For this reason, I also urge my colleagues to reject the Stark-Gradison amendment. It slices the catastrophic health pie up a good bit and eliminates the most odious portion of catastrophic—the income tax surcharge. But it leaves intact the costly drug benefit program which benefits so few.

When Congress was working on the catastrophic health bill, it promised the elderly an apple cobbler but gave them a cow pie instead. And no matter how you slice a cow pie, it is still the same old manure.

We need outright repeal so we can start over with more wholesome ingredients.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, I rise in strong support of the Archer-Donnelly amendment to repeal.

Mr. Chairman, I am pleased that today indications are that the House will act to repeal the Catastrophic Coverage Act.

I have received more mail, phone calls, and personal contacts on this issue than almost any other.

Out of several thousands communications, I have had only two people from my district to speak in favor of this law as it was written.

This Catastrophic Coverage Act is not wanted or needed by the overwhelming majority of our senior citizens—the very people it was designated to help.

It should be repealed today by this House.

I have said many times that all legislation sounds good on the surface. All bills have good titles.

But just because a bill has a good title does not mean that it is a good bill.

I support the Donnelly-Archer amendment to repeal the Catastrophic Coverage Act, rather than the proposed Stark-Gradison alternative, for the following reasons:

The Stark-Gradison amendment repeals the supplemental premium, but it retains the significant increase in the Medicare part B flat rate premium that all part B participants must pay.

By 1993, this increase goes to $10.20 per month, which makes for a total monthly premium of $42.60. Only those senior citizens with extremely high prescription drug costs will see any benefit from this increase.

Under Stark-Gradison, Medicare will spend more than $2 billion to set up the administrative system for a drug benefit which will help only 5.9 million of the 34 million beneficiaries in 1993.

The prescription drug benefit is likely to explode in cost. CBO estimated when catastrophic was signed into law that the drug benefit through 1993 would cost $5.7 billion. However, by this past July, CBO had doubled this estimate to $11.8 billion.

While Stark-Gradison claims that its program will pay for itself, its initial year premiums will only pay for the benefits if the CBO estimates are correct. However, both the drug and respite benefits are new and the estimate are far from certain.

Moreover, a Wall Street Journal editorial of September 20, 1989, points out that catastrophic coverage was estimated to cost $30 billion through 1993 and to run a $9 billion surplus. CBO updated its projections last

month to a cost of $48 billion and a deficit of over $6 billion.

The editorial goes on to say that miscalculations of past entitlement programs have contributed to their growth over the past 30 years. It says, "* * * Medicare spending is now nearly $100 billion a year, and is growing at twice the rate of medical costs and 2½ times the rate of inflation."

The Catastrophic Coverage Act is part of that growth and, what is more, it will greatly increase our deficit. Our senior citizens at home do not want it. Therefore, Mr. Speaker, I support repeal of the Catastrophic Coverage Act.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Chairman, I rise today to express my full support of the Donnelly-Archer amendment to repeal the Medicare Catastrophic Coverage Act of 1988. Although well-intentioned, this program has not only fallen short of its purpose of meeting seniors' catastrophic health care costs, the program's so-called supplemental premium has created a catastrophic expense for the very people it was meant to help.

More than 5,000 of my constituents have contacted me to express their opposition to the current form of the Medicare Catastrophic Program. They have numerous reasons for their views which I understand and share. One reason is that many seniors already have private coverage of catastrophic health care expenses. A second reason is the supplemental premium which can cost as much as 1,600 per couple per year.

My constituents want this program repealed, and they want their Congress to craft a program to meet the Nation's long-term care needs. This important task should not—and cannot—be achieved on the House floor. Let's not do a cut and past job on such an important program. Let's support an outright repeal of the Catastrophic Program so we can meet our constituents pleas and move on to crafting a true workable program.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. Goss].

Mr. GOSS. Mr. Chairman, I rise in support of the Donnelly-Archer amendment.

Mr. Chairman, my constituents—and the senior citizens across this country—have waited for this day for a very long time. Today, thanks to an incredible grassroots effort on the part of thousands of older Americans, this House will vote on whether to repeal the badly flawed Catastrophic Health Care Act.

When a handful of my colleagues and I began this battle almost 10 months ago it was something like David staring at the boots of an imposing Goliath.

Catastrophic health care was a done deal, we were told. It's only a small, vocal minority that dislikes the measure, we were told. We need this bill to meet our deficit targets, we were told.

But the senior citizens refused to buy that. They continued the drumbeat for repeal—the thousands upon thousands of cards, letters, petitions, and phone calls—the well-organized protests and personal appeals. And it worked.

Mr. Chairman, we cannot shy away from our responsibility to take this faulty law off the books once and for all. There is no point in trying to save face with a so-called compromise.

This is not time to compromise. Today we have a tremendous opportunity to do the right thing—to demonstrate to the American people that we can and do listen to their concerns.

Mr. Chairman, I urge my colleagues to cast their votes for complete repeal of the Catastrophic Health Care Act—a law that is unfair, unwanted and economically unsound.

And then Mr. Speaker, I urge my colleagues to make their repeal vote count by opposing the Stark alternative.

It's time to clean the slate on this issue and start again by developing a large-term health care program that works and that is fairly funded.

Mr. RUSSO. Mr. Chairman, will the gentleman from Texas yield?

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. RUSSO].

Mr. RUSSO. Mr. Chairman, just to correct the record for all my colleagues who are asking to support the Donnelly-Archer amendment, I would like to inform them that it was originally the Donnelly-Russo amendment, and we are more than happy to welcome the gentleman from Texas on board. I would like the RECORD to reflect whose amendment it was.

Mr. ARCHER. Mr. Chairman, I am happy to. It could be called the Donnelly-Archer-Russo amendment.

The CHAIRMAN. The unanimous-consent request has taken up 1½ minutes. Let the Chair bring Members up-to-date. At this point the gentleman from Massachusetts [Mr. DONNELLY] has 9½ minutes remaining, the gentleman from Illinois [Mr. ROSTENKOWSKI] has 15 minutes remaining, and the gentleman from Texas [Mr. ARCHER] has 7½ minutes remaining.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I rise in support of the Archer-Donnelly-Russo provision.

Mr. Chairman, I was 1 of just 72 Members who voted against this legislation last year. I did so because I was doubtful that the benefits promised by this legislation would ever reach our Nation's elderly. Today, I can say that my worst fears have been realized.

The Medicare Catastrophic Coverage Act does not provide health care for senior citizens; rather it merely levies harsh and burdensome income taxes on the middle-income elderly. It does not protect older Americans from the most common catastrophic health care costs, such as long term care. Rather, it imposes a significant income surtax on the elderly, many of whom will never receive the benefits for which they are being taxed.

The new income tax primarily hurts middle-income retirees, not the affluent, as its supporters claimed last year. As the representative of the 8th Congressional District of Texas, older men and women have approached me and asked, "Why? Why did Congress do this to us? Don't they know we're hurting enough already?"

Since the Medicare Catastrophic Coverage Act was enacted, I have received over 2,000 letters in opposition to this plan. My constituents are angry and they demand that we eliminate this well-intentioned, but fatally flawed program. Mr. Chairman, older men and women in my district are not well-to-do retirees looking for a free ride. They're retired refinery workers, truck drivers, teachers, and dockworkers. And they pay enough taxes without this additional burden being placed upon them. The surtax imposed on middle-income retirees by the Medicare Catastrophic Coverage Act represents an unacceptable financial burden for them. They simply cannot afford this legislation.

Mr. Chairman, the men and women in my district who have been hurt most by this proposal—at least most of them—have saved for a lifetime so they will not be dependent on the Government or their children. The only problem is that increasingly, they realize that they might become dependent on both the Government and their children—they might have to ask their children for money to pay these outrageous taxes to the Government.

Perhaps the biggest reason that this new law has provoked a storm of outrage by older Americans is that they are upset that their financial futures can be so jeopardized by a Congress who does not understand their needs and has forced them into accepting a bad financial deal.

While I originally supported legislation to delay implementation of the law for 2 years, I have concluded that the only sensible answer is for Congress to repeal the whole Medicare Catastrophic Act and rethink its basic assumptions.

Mr. Chairman, I urge my colleagues to support the Donnelly-Archer amendment to repeal the Medicare Catastrophic Coverage Act. Simply restructuring the law—as the Ways and Means plan or the Stark-Gradison-Waxman proposal would do—does not begin to address the law's fundamental problems. Repeal is the only alternative.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I am for repeal of the catastrophic health care provisions that hurt the seniors in this country.

Mr. Chairman, I rise in support of the Donnelly-Archer amendment and in opposition of the Stark-Gradison amendment.

My vote against catastrophic coverage last year wasn't very popular at the time. I'm pleased to see that my position has been vindicated. I have never seen so many senior citizens so upset about any single piece of legislation.

The basic problem with the Catastrophic Coverage Act is that it costs seniors too much and gives them too little. Only 7 percent of the Medicare recipients will receive any of the new benefits this year for hospital stays or doctors' bills. Only 17 percent will receive any prescription drug benefits. At the same time,

the surtax the elderly have to pay makes them one of the highest taxed groups in America. This just isn't right.

The No. 1 health-care concern for the elderly is long-term nursing home care and long-term in-home care, and the Catastrophic Care Act didn't offer any solutions to these serious problems. We should go back to the drawing board now to work on solutions to these serious problems.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, as the Member who introduced the first repeal bill on the first day of the 101st Congress, I rise in strong support of the catastrophic repeal.

Mr. Chairman, as the first Member of Congress to introduce a bill to repeal the Catastrophic Act in the 101st Congress, I rise in strong support of the Donnelly-Archer repeal amendment.

At a recent senior citizens gathering in my district this weekend, I heard once again from the people who count.

And they are counting on us to repeal the catastrophe we gave them.

The good news out of all of this is that the House has listened to the people and is about to act.

Now, I say to my colleagues, that seniors do not want us to put a facade on a decrepit building.

They don't want a Jerry-built quick fix. They want us to put our efforts into something constructive that would truly help them: long-term care.

When asked to choose between the current Medicare catastrophic coverage or a new long-term care program, only 10 percent of the respondents of the Wirthlin survey preferred the catastrophic coverage as it now exists.

Sixty-five percent of the respondents preferred long-term care coverage and 14 percent where undecided.

That's the message we have been hearing.

The Stark revision, however, continues to move us in the wrong direction.

It attempts to put a good face on the catastrophic bill, but it retains the most expensive and most unpredictable provision, the drug prescription benefit.

Seniors do not want to pay an increase of $16.90 per month in 1994 for an additional drug benefit that they haven't asked for. That is the estimate, too, and we all know what happens to health care cost estimates.

And it makes no sense to shift the cost for this unwanted program to the lower-income seniors as the reconciliation package requires.

What we have before us uses up both seniors' capital and their patience.

Long-term care will never get to the drawing board as long as the catastrophic bill remains on the table.

Vote for repeal and against revision.

□ 1300

Mr. DONNELLY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, I rise today in strong support of the amendment offered by Mr. DONNELLY and Mr. ARCHER to repeal the Catastrophic Act. There is absolutely no doubt in my mind that my constituents want total, outright repeal of the act. More than 15,000 of my senior constituents have signed petitions calling for repeal of this law, and a group formed to advocate repeal of the act regularly draws in excess of 1,000 seniors to its meetings in Las Vegas, which is located in my district.

In the thousands of letters that I have received from my senior constituents on this act, there was one consistent theme—senior citizens already, through their Medigap policies, have the benefits that the catastrophic law provides. In fact, my constituents often obtained these benefits at a lower cost through the private sector than they did under the catastrophic law.

It is clear what we must do—repeal the Catastrophic Act now, and then get to work on a comprehensive health care package that will address the needs of all Americans, especially our senior citizens, and the 37 million Americans who have no health insurance.

One of the newspapers from my district, the Las Vegas Sun, stated the case for repeal very well in a recent editorial, and I now insert this editorial in the RECORD immediately following my remarks.

[From the Las Vegas Sun, Sept. 24, 1989]

CATASTROPHIC HEALTH CARE ACT HAS MANY COSTLY FLAWS

The Catastrophic Health Care Act, which was designed to expand Medicare coverage to protect seniors from the rising costs of hospitalization and prescription drugs, seemed like a good idea when it was approved by Congress barely a year ago.

But in practice, the new senior health plan has proved too costly for many senior citizens, who often have to stay within strict budgets to simply buy food and make mortgage or rent payments. In addition, it has forced some seniors to pay for benefits they already receive through private insurance programs.

As a result of these negative effects, elderly people across the nation have joined a Las Vegas-based lobbying group in seeking repeal of the well-meaning but flawed catastrophic act.

Senior citizens, following the lead of the grassroots Senior Coalition Against Catastrophic Act have garnered the support of hundreds of congressional officials, including Nevada's delegation, which originally voted for the bill.

The act is now being examined closely by congressional committees, which have proposed various ways of altering the act to give the hardest-hit seniors some relief. More hearings are scheduled.

Unfortunately, many of the proposed modifications appear to only make matters worse. Changes recently approved by a House committee, for example, would raise costs for nearly 60 percent of beneficiaries, with the biggest losers being seniors with incomes just above the poverty line.

The only real answer to the problems created by the Catastrophic Health Care Act is repealing the act in its entirety. While the act's benefits surely would be missed, most seniors believe they would be better off without them. Most seniors would rather have enough money in their pockets to pay the bills than fork out hundreds of dollars for benefits many of them don't use.

Congressional leaders should listen to America's growing senior population, which has spoken loudly and clearly on this issue. They want the catastrophic act repealed.

If the catastrophic act were repealed, it may be possible at some future date to consider enacting legislation that expands Medicare coverage. But thorough studies are needed first to determine the best formula for a fair and equitable catastrophic coverage plan.

Mr. DONNELLY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. The passage of the Donnelly amendment repealing this catastrophic health insurance bill should not be the end of the debate on health care policy. Rather, it should be the beginning, giving us the opportunity to examine health care in America in a more comprehensive, less piecemeal way. That is why I will vote for the amendment.

The health care problems in America are immense. We have five examples.

First, 15 percent of our population, mostly young, have no health insurance at all;

Second, millions of our elderly have no nursing or long-term security;

Third, we have one of the highest infant mortality rates of any civilized nation in the world;

Fourth, our health care costs are escalating dramatically; and

Fifth, hospitals in urban and rural America are in deep trouble financially because of uncompensated care, and many physicians are leaving medicine for similar reasons.

I disagree with those who say that repeal is abdication or retreat by this Congress on health care policy. The American people want major comprehensive changes in national health policy, but they want it financed fairly, and they also want it for all Americans, young and old.

Mr. Chairman, that is the message of the voters today.

Mr. DONNELLY. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Chairman, I rise in support of the Russo-Donnelly-Archer amendment.

Mr. Chairman, I rise in support of repealing the Medicare Catastrophic Coverage Act. Congress obviously enacted a law which was too burdensome for the participants in the program, those who have paid into Social Security for many years, relying on their Government to provide needed cash and medical

coverage. In effect we let them down by enacting a law which cost many of them more than they could afford.

Today I will be supporting the Donnelly-Archer amendment to repeal this act although if I had my choice, I would be here supporting a measure to cover catastrophic care costs by including it in a long-term payment, which people would pay into throughout their lifetime, as included in the combined employer/employee contribution to Social Security, of which there is 2.90 percent which is for Medicare part a hospital insurance. Through these payments we are able to cover many of the costs of the hospital insurance. A small increase in that would go a long way in providing the extended benefit of catastrophic health care.

To me there exists a fundamental idea of Americans paying smaller premiums throughout their life for coverage by a program. For instance, we also pay taxes for school services before and after we have children who benefit. Some pay without ever having children because its important to our society. The same principle is in Social Security and this same principle should be extended to any social program, especially in health care for our elderly citizens.

Because the proposals we have to choose from today do not address the problems of comprehensive long-term health care in a reasonable way I sincerely believe that we should repeal the act and make a sincere commitment to finding a proper solution to the problems that will start us on the road toward providing the needed benefits to America's seniors without over burdening them at the same time. But I will vote for the Waxman-Stark-Gradison amendment hoping that this will open the door for more discussion and more legislation that will provide our seniors with a sense of security when they are faced with long-term health problems.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman fron New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I rise in opposition to repeal.

Who says that Congress is not concerned with minority rights? We are now in the process of listening to and responding to the demands of thousands while we are turning our backs on the needs of millions.

I think Charlie Osgood of CBS had it right yesterday in his commentary. Here is what he had to say when considering the plight of those who need health and catastrophic insurance:

When there's money on the table, lots of folks will reach and grab. But the reaching that's missing is the reaching for the tab.

Lots of folks will reach and grab, but the long and short of it is this: Who is going to pay?

Let us not walk away from that crisis. Let us face it squarely. If we do not like the surtax, let us revise it, but let us not scrap this whole program. We have thousands and thousands of Americans who every day lose everything because of catastrophic illness. Are we going to walk away from them because we have a boxfull of postcards from people who say, "We demand repeal" when in many instances they are arguing against a surtax they are not even going to pay?

Mr. Chairman, I urge opposition to repeal.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, I thank my friend for yielding this time to me.

Mr. Chairman, as one of the 72 who proudly voted against this bill when we had it up last year, I naturally stand here in strong support of the effort to repeal.

Mr. Chairman, I rise in support of the Donnelly amendment to repeal the Medicare Catastrophic Protection Act, and want to commend the author for his diligent work in bringing this historic amendment to the floor. It is, indeed, historic because we have before us today the opportunity to reverse the momentum of those advocating nationalization of our Nation's health care industry. It is a policy that has failed the American people, and it should be repealed.

Many of my colleagues seem to be surprised by the reaction of the senior citizen community to the catastrophic health care law, in spite of the fact that we were forewarned of its consequences. Thousands of pages of testimony were presented to Congress providing evidence that passage of the Medicare Catastrophic Protection Act would be expensive, unnecessary, and overly burdensome to our Nation's elderly.

Senior Americans throughout the country told us that the program duplicates health care services already provided in the private market. They told us that it imposes massive premium and income tax increases on the elderly for benefits that as many as 97 percent may never receive, and for coverage that most already have available through supplemental insurance. They told us that it neglects the most catastrophic costs associated with long-term care—expensive nursing home care for the chronically ill. Congress chose to ignore this advice and today, we are trying to undo the biggest catastrophe ever afflicted upon our Nation's elderly.

In supporting repeal of what is obviously a bad law, I also want to express one major concern. Mr. Chairman, I have seen press reports indicating that there may be some animosity directed toward those senior citizens that opposed the catastrophic surtax, and that they can forget about future legislation to address the more pressing problem of long-term custodial care. I hope that is not the case.

I eagerly await the recommendations of the Pepper Commission, which would continue to be authorized under the Donnelly amendment. I hope we can then move forward to develop a comprehensive long-term health care program, recognizing, of course, that any future solution must include a viable private sector delivery system.

Mr. ARCHER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in support of the Donnelly-Archer amendment.

Mr. Chairman, I was one of the first in my party, if not the first, to support Dr. Otis Bowen, the Secretary of Health and Human Services, when he first advanced this proposal to cover catastrophic illness. His proposal grew to encompass a wide array of services and was adopted with overwhelming support from the general public, the senior citizens and their lobbying groups, and with good reason.

There are millions of working people who, no matter how hard they worked, how much they save for a rainy day, they cannot afford the medical costs when illness strikes in their old age.

And so we adopted this catastrophic illness bill—well-intentioned and in many respects well-devised.

But it seems Dr. Jekyll has turned into Mr. Hyde or some other fiscal monster we cannot describe accurately at this point. We simply do not have the hard cost projections we need.

In short, this program is a catastrophe!

And so it is with great reluctance and regret that I rise in support of this amendment to repeal the Catastrophic Coverage Act.

Let me state for the record that our Nation's elderly deserve better. They deserve thoughtful deliberations by both bodies of Congress to determine what expansion of Medicare coverage is most needed and the fairest way to pay for it. It seems that instead of thoughtful deliberations, we have gotten political maneuvering and much backing and filling. This is not Congress' finest moment.

I have come to the conclusion that repeal of this law is necessary because there is no reasonable alternative before us. Yes, I, too, have received the thousands of letters from my constituents asking for repeal, but this is not the reason for my decision. Since debate over catastrophic coverage has begun, much new information has come to light which has exposed the faults of the program. For instance, the Congressional Budget Office has issued revised estimates of program costs that reveal the deficient nature of original cost estimates upon which every Member of Congress based his or her vote regarding this law last year. I am bewildered by these revised estimates that take the cost of catastrophic benefits from the original estimate of $32 billion over the next 5 years, up to $48 billion for the same period. How can our original cost projections have been so grossly underestimated? And for that matter, how can we be sure that $48 billion is correct?

The new cost projections are enough to convince me that something is seriously wrong with the program. Can you imagine the outrage, and rightly so, of senior citizens 5 years down the road if Congress say "Oh, sorry, our cost projections were off by $16 billion. We'll be sending you a tax bill for the difference." This is ludicrous.

But program cost is not the only reason which forces me to choose repeal. New information also reveals that medical treatment and research is making great progress in prolonging the life of AIDS patients. While I am hopeful that those affected with AIDS will see

effective treatment and possibly a cure in the near future, I am concerned that those with AIDS that are surviving longer will become eligible for Medicare catastrophic benefits. If this should happen, the cost overruns just presented to Congress will pale in comparison to the increased cost that treatment of AIDS patients will place on the Medicare Program. This is a sensitive subject, and I do not want to be misunderstood. We need to do all we can to help those suffering with AIDS. However, it is unconscionable to have the elderly Medicare beneficiary pay for the cost of treating AIDS patients. This is the responsibility of the Government and the Nation as a whole and is properly paid for out of general revenues. No single group should be saddled with this expense.

I am firmly convinced that repealing this law will be as controversial and damaging as enacting it has proven to be. There are millions of senior citizens who need the benefits provided by this Law. Perhaps their voices have not been heard, yet their needs are real. However, there is no alternative before us—one that can give the coverage and gain the support of our constituents.

There has been too much misinformation. Too much disinformation. We cannot put Humpty-Dumpty back together again. It is time to start over.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MCCANDLESS].

Mr. MCCANDLESS. Mr. Chairman, I thank the gentleman from Texas for yielding me this time.

Mr. Chairman, as one of the original opponents of this bill, I rise in support of the Donnelly-Archer amendment.

Mr. Chairman, I rise in strong support of the amendment to repeal the Medicare Catastrophic Coverage Act [MCCA]. As 1 of the 72 Members of the House who voted against the act when it was before Congress, I actively opposed the MCCA before it became law, and have worked to repeal it after it became law. Today, we will have the opportunity to take a major step toward that goal.

In defense of my colleagues who voted for the MCCA, it should be remembered that the legislation did not suddenly or magically appear on the House floor. The legislation was the result of years of efforts on the part of groups and organizations who were supposed to be looking out for the interests of senior citizens. The MCCA was sold to Congress as something that seniors wanted, and sold to senior citizens as added Medicare benefits at a low cost. In fact, neither was true.

The MCCA was intended to protect retirees from having to pay more than $2,500 for acute catastrophic health care in a year. While well-intentioned, the act failed to provide any new benefits to a majority of senior citizens, and at the same time, imposed a higher income tax on retirees.

At the time the MCCA was being considered, about 70 percent of Medicare enrollees had purchased Medigap policies from private insurance companies. These policies covered most of the health care costs for which Medicare did not pay, and were tailored to meet the needs of the individual. Among those who purchased Medigap policies, fewer than one-half of 1 percent had out of pocket expenses over $2,500. Even these higher expenses, generally for prescription drugs and physicians' fees above Medicare-approved levels, could have been covered by expanded Medigap policies.

In addition, 10 to 15 percent of Medicare enrollees without Medigap coverage were eligible for Medicaid. The group at risk for acute health care costs was a portion of the elderly who did not buy Medigap policies and who were not covered by Medicaid. Among this group, only an estimated 5 percent had acute health care expenses in excess of $2,500. Some of those who did not buy Medigap policies considered themselves wealthy enough to cover their out-of-pocket medical expenses. Others were not able to afford the policies. It was this group—those who could not afford Medigap, but were ineligible for Medicaid—that the MCCA should have been designed to protect.

In spite of the need to protect a relatively small number of people, the MCCA created a broad program. However, every time the Government creates a program or adds a new benefit, somebody; that is, taxpayers, has to pay for it. The new program was self-financing—meaning that new revenues would pay for the new benefits. For good reason, Congress was reluctant to add this program to the tax burden borne by working Americans. Many working families already pay more in Social Security and Medicare tax than they pay in income tax. Payroll taxes have gone up by 50 percent since 1972, and have already increased six times since 1980, with another increase scheduled for January 1, 1990. Because nearly all of the benefits went to retirees, and since a majority in Congress seemed to believe that the MCCA was something seniors wanted, the bill for the program went to senior citizens. The monthly premium for Medicare was increased, and those eligible for Medicare, regardless of whether or not they had enrolled in Medicare, were assessed an income tax surcharge. The maximum surcharge in 1989 is $800 for an individual taxpayer, and $1,600 for couples. By 1993, the MCCA tax will increase to $1,050 for individuals and $2,100 for couples.

The reaction of senior citizens was easy to predict. To put it politely, they have told Congress, "Thanks, but no thanks!" I have received thousands of letters from angry constituents who have said that they do not want this program, and they do not want to pay for it. Those, such as Federal, civilian, and military retirees, who have adequate non-Medicare medical coverage as a retirement benefit were especially outraged by the new Medicare tax.

There are other problems with the MCCA. When Congress passed it, it was estimated that expenditures for the program during the first 5 years would be around $30 billion. According to a recent Congressional Budget Office [CBO] report, Congress underestimated the cost by 50 percent. CBO now estimates that the 5-year cost will be $45 billion, and others are estimating costs as high as $55 billion. This will far exceed the $42 billion expected to be collected to pay for the program.

The picture gets worse when the prescription drug benefit and payments for skilled nursing facilities are considered. The prescription drug benefit will not be fully implemented until 1991. However, because of its high out-of-pocket deductible—which CBO estimates may be as high as $1,224 per year within 5 years—only a small percentage of seniors will ever qualify for the benefit. Even so, the estimated 5-year cost of the prescription drug benefit has doubled from $5.7 billion when the MCCA was passed, to CBO's current estimate of $11.8 billion. The cost of the skilled nursing facility benefit for 1990 has soared from the original CBO estimate of $400 million, to the current estimate of $2.4 billion. In view of the current cost estimates, seniors may be facing the prospect of even higher taxes for a program they do not want.

In short, the Medicare Catastrophic Health Insurance Program is out of control. It was bad legislation when it was considered by Congress, and it is a bad law. It should be repealed.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Mr. Chairman, I rise in strong support of the Donnelly-Archer amendment to repeal the Medicare Catastrophic Protection Act of 1988.

Mr. Chairman, this is the third time that the issue of catastrophic health care for our Nation's older Americans comes before the House. Unfortunately, it also is the third time that the leadership of this House has limited debate on this important matter and has prohibited the majority of the Members of the House from being able to offer and consider substantive amendments to this legislation.

When this matter was first brought before the House in July 1987, the leadership made in order only one major alternative amendment to the bill. I supported that alternative to eliminate the unfair surtax on Medicare beneficiaries to fund this expansion of the Medicare Program. The amendment also would have eliminated the prescription drug benefit, which has been a primary reason for the high cost of this program. Finally, the alternative I supported 2 years ago would have initiated the first plan of action by the Congress to address the primary overriding concern of older Americans—that being the skyrocketing cost of long-term health care.

This proposal, however, failed and the House was faced with the decision of whether to reject the Catastrophic Health Care Act or approve it and send it to the Senate where some of the major problems I warned my colleagues about in a detailed statement during the debate could be rectified when it was brought back to the House. The legislation which emerged from a House and Senate conference committee 1 year later did not correct these serious flaws but the House leadership insisted on moving it through the Congress anyway because they believed this would be a good 1988 compaign issue.

Almost immediately after being enacted, Medicare beneficiaries throughout our nation expressed many of my same concerns about the new program, especially about its cost

and about its lack of long-term health care coverage. As the representative of more Medicare beneficiaries than any other Member of this House, you can be sure I have had thousands of cards, letters, and telephone calls about this matter. Last fall and through the winter and spring of this year, I assured those who contacted me that the reform or repeal of this legislation would be a top priority of this 101st Congress.

Last January, I cosponsored legislation to delay implementation of this legislation to allow the committees with jurisdiction to hold hearings to determine if there was any way to correct the objectionable provisions of this legislation. Numerous hearings were held and the consensus emerged that nothing short of repeal would be able to eliminate from the program the major items of concern to older Americans.

The Ways and Means Committee attempted to fix the legislation last month with a number of amendments that are included in the 1,935 pages of the Omnibus Budget Reconciliation Act that has been before us these past 2 weeks. That fix, however, fails once again to address the financing problems and the lack of any new long-term care initiatives. The committee's attempt to provide a patchwork solution to the problems of this act were doomed to failure because under the procedures by which this legislation is being considered, alternative amendments and suggestions by the majority of the Members of this House again are barred from any consideration.

Instead, we are faced with three options today. One is to approve the committee's quick fix solution which fails on virtually every count to take into consideration the concerns of millions of older Americans. A second option, which I will support, will repeal the act entirely and send the matter back to the House and Senate with the message that the committees should more carefully consider the real needs of our Nation's Medicare beneficiaries. The third option today, would be to approve the Stark-Gradison-Waxman substitute proposal which would retain but a shell of the important original catastrophic health care benefits; keep virtually intact the extremely costly prescription drug program that fewer than one in five beneficiaries would qualify for, and only after their annual prescription drug costs exceed almost $1,000 in any 1 year; and once again ignore the pleas of older Americans for Federal initiatives to provide assistance with long-term home health and nursing home care that is currently unavailable privately or through Government-sponsored or assisted programs.

It is with great disappointment that I will support the repeal of the Catastrophic Health Care Program that was initiated two years ago. Congress had the opportunity in 1987 and 1988 to establish an important new program to alleviate the fears of older Americans that the cost of catastrophic illness and long-term care would drain their life savings. The 100th Congress failed in that mission and the message we have heard in the past year and the message that we will take from this vote today is that the American people want us to try again to develop a program that addresses their concerns.

Those concerns are first, that the cost to the beneficiary of the program itself should not be as great a threat to their retirement savings as the cost of catastrophic illness. Second, that the Congress provide some leadership into the area of home health and long-term nursing home care coverage. And third, that the legislation be flexible enough to not force upon any beneficiary duplicative coverage they already receive under private health care or retirement plans.

Mr. Chairman, there is no quick fix to this problem. It will require the diligent work of the Congress and the input from all the Members of the House, not only during the hearing process, but also during the consideration of the legislation before the House. As so often happens here, the Congress attempted to pass off on the American people legislation with a title that sounded good, but which in the end cost too much and failed to meet their needs.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the highly regarded gentleman from Washington [Mr. CHANDLER], a member of the Ways and Means Committee.

Mr. CHANDLER. Mr. Chairman, I would like to point out, for the historical record, that before the end of 100th Congress, the gentleman from Texas [Mr. ARCHER] and this gentleman from Washington introduced legislation to repeal catastrophic.

In the 87th and 88th Congresses we were busy here listening to every senior group that purported to represent the interests of senior citizens, most notably the AARP. We overwhelmingly adopted a catastrophic health insurance law for this land. I want to point out that I was not among the 302 who supported that bill. Then we went home.

It took about 2 months for the seniors to understand what had happened. They were furious, and, I think, justifiably so. We had never bothered to listen to them.

I think Congress made two major mistakes when we adopted this bill. First, the benefits. We completely missed what seniors wanted. We essentially replaced with the catastrophic legislation what they had already provided themselves with Medigap insurance, covering their doctor bills and covering their hospitalization which Medicare did not cover. Most were satisfied with what they had provided themselves privately.

Seniors, however, did want long-term care coverage and security from that because long-term illness is the cost that does, can, and will wipe them out.

Second, I think a mistake was made on the financing mechanism. We put this on the backs of the middle-income elderly and, yes, on the rich, too. But it is the middle-income elderly who are the most adamant about repeal. These are people who came through the Depression determined never to suffer that again, people who have saved, sacrificed, and invested and now have some income—a finite source, yes, because they do not know how long they are going to live and they do not know what their requirements will be. But they do not want their ssvings to be taken away from them as we have tried to do with this legislation.

I am frankly tired of people telling me that it is only the rich who are complaining. I had in my office last week retired Federal workers who were saying, "Please go and repeal catastrophic health insurance." The message we are receiving from seniors is not that they want the benefits but they want someone else to pay. That is not the message we are receiving.

We need to start over. Yes, it will be embarrassing, but good heavens, it is not less embarrassing to admit a mistake and go back and restructure a program than to sit here and say, "Let's keep our pride and stuff something down the throats of people who have not accepted it and will not accept it"?

We should start over and structure a program that meets that real needs of the elderly and which, as my friend, the gentleman from Kansas, pointed out, meet the health care needs of the rest of the population.

Mr. Chairman, my hat is off to the gentleman from Texas for his leadership on this issue. It has been outstanding.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I think it is important today to focus on the decision of what we can repeal and what we cannot repeal. We obviously can repeal this law, catastrophic health care, and get rid of respite care for the elderly in order to have short-term political respite care for the Members of Congress.

But the fact is that in repealing this law, there are areas that we cannot repeal. We cannot repeal the need for catastrophic health care. The reason 328 Members voted for that bill is because there is a record to substantiate the need for catastrophic health care.

We are not going to do away with the 70-year-old woman who has cancer and cannot afford chemotherapy. We are not going to do away with the daughter of a stroke victim who needs respite care in order to try to provide for her mother. We are not going to do away with the 7 million people in this country who need catastrophic health care. And because we cannot do away with the need, we cannot really repeal the costs either. The costs are simply going to be transferred someplace else.

□ 1310

They are going to be put into increased premiums on Medigap insurance. They are going to be put into increased costs on Medicaid. They are

going to be transferred to our patients, other taxpayers. To those of my colleagues who think we can simply come back with another law, let me remind them that somebody is going to have to pay for it, and when they complain, are we going to come back here and repeal it?

Mr. Chairman, the fundamental principle, the fundamental principle that we cannot repeal today, is our responsibility, as Representatives, to serve the public good even though it may be unpopular. Edmund Burke said it best of all:

Your representative owes you, not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion.

Mr. Chairman, today we are in danger of sacrificing good judgment to the opinion of the few who are too angry to see the full implications of repeal, and the impact is going to be not just on the quality of care, but on the quality of our democracy.

My colleagues, vote against repeal.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Chairman, the House of Representatives is running scared. A couple of hundred people at a town meeting can change the course of events here in the House of Representatives. Shame on us. We need to revise the financing of this program. But, Mr. Chairman, we are about to throw out the senior citizens with the bath water. It will be years, not months, before we come back and revisit this issue. Is there anybody here who really believes we are going to have national health care first and then take care of the needs of the senior citizens second?

Mr. Chairman, that is nonsense. Nonsense. We are about to make the second colossal mistake in 2 weeks. We responded to the rich on capital gains last week, and we are responding to the voices of a few this week in repeal of this bill. It is a mistake, and when the clouds of misinformation and dust settle in a couple of months, we are going to have to look at this in the cold dawn of reality, as the gentleman from California [Mr. PANETTA] said, and recognize that the needs of the people have not gone away.

Mr. DONNELLY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I did not vote for the catastrophic health care bill which President Reagan signed into law last year. As a result, I have not borne the brunt of as many angry constituent attacks as some of my colleagues. I have heard though, from hundreds—no, thousands—of angry senior citizens from throughout Delaware who don't like the law and want it changed or repealed.

As we debate the fate of catastrophic health care, I want to share with Members of this House the thoughts of one man at a townhall meeting of mine earlier this year. He spoke for many others in America when he said:

All my life I've worked hard. Sometimes two jobs at once. Our family didn't take expensive vacations. We didn't drive expensive cars. Our children did not go to the best colleges. We lived modestly, even frugally. We saved our money. I worked for a company which provided generous health insurance to its retirees. All of this I did to prepare for our retirement.

Now, because we were thrifty throughout our lives, because we husbanded our resources, my wife and I will have to pay an extra $1,700 in taxes next year. And for what? For benefits we neither want nor need. Benefits I've already worked most of my life to earn. It isn't fair, it just isn't fair.

Mr. Chairman, as it turns out, much in life is not fair, and there is little we can do about that. But today, Members of the House can restore a sense of fairness for that Delawarean and for millions of others like him from across the country. We can vote to repeal the catastrophic health care law, and replace it with something they want, need, and are willing to pay for.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. RINALDO].

Mr. RINALDO. Mr. Chairman, I rise in support of the Donnelly-Archer amendment.

Mr. Chairman, it is critical that Congress repair the mistake it made last year and repeal this program.

Nearly 4 years ago, President Reagan directed then-Secretary Bowen of HHS to report on ways to help Americans provide for their catastrophic health care needs. The Secretary's report outlined the problem, but instead of addressing seniors' long-term care needs, Congress adopted provisions dealing with acute care, physicians' services, and prescription drugs. On top of that, they imposed a 15-percent surtax on seniors to pay for the program.

Seniors are in an outrage and I do not blame them. I opposed this tax from the start and it must be repealed.

In my 17 years in the House, I have never witnessed anything like this senior revolution. As vice-chairman of the Aging Committee, I conducted a field hearing on the catastrophic care bill up in New Jersey.

The hearing was chaired by my colleague, HENRY WAXMAN. During the course of that hearing, Congressman WAXMAN requested a show of hands in support of the program. Not one hand went up. Of over 300 seniors, the majority supported outright repeal of the program.

However well intentioned, Congress should admit its mistake. We thought we were helping the seniors. We voted to expand Medicare for the first time in 25 years. But in doing so, we asked those living on fixed incomes to pay for it themselves. We increased their taxes to pay for benefits many already had. Moreover, the benefits provided by the Medigap policies were often better.

Regardless of the outcome today, we cannot lose sight of our original goal: to help older Americans with the costs of catastrophic illness. We should repeal the tax, and at the same time we should lay the groundwork for necessary health care reforms.

The truth is, we can accomplish our goal of helping senior citizens. But to do so, we must recognize that the Federal Government can't go it alone.

I will shortly reintroduce legislation that would establish a Federal-private partnership to provide long-term care.

My bill would clarify the Federal tax treatment of reserves—revenues raised by premiums—of private long-term insurance policies; liberalize the use of funds to purchase such policies; encourage employers to offer such policies; and it would underscore the Federal commitment to such a system through the establishment of a Federal National Reinsurance Corporation to protect private insurers against extraordinary losses in providing such coverage.

Under my plan, such insurance would be available at affordable rates. Preliminary estimates by the Prudential Insurance Co. showed that, in some instances, premiums for an individual at age 50 could be as low as $15 per month. Moreover, for those ineligible for such coverage, we would still have in place the nursing home benefit under Medicaid. But with more people providing for themselves, that system will be under less financial strain in the years ahead.

We cannot address these issues until we have cleared the air about the Medicare Catastrophic Coverage Act. I urge my colleagues to join me in voting for repeal so that we can get on with the real business at hand—providing long-term nursing and home health care to those in need.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, I salute the gentleman from Texas [Mr. ARCHER], and I fully support his amendment as 1 of the 72 who voted against catastrophic in the first place.

Mr. Chairman, I rise this afternoon to voice my support for the Donnelly-Archer amendment to repeal the Medicare Catastrophic Coverage Act of 1988. As 1 of only 72 Congressmen to vote against this ill-conceived bill when it was first before the House, I am very happy that seniors throughout the country let their Representatives know how they felt about this program.

Although I am concerned about the availability and cost of health care for the elderly, the Catastrophic Act did little to address the real concerns of the elderly. Instead, it simply saddled the elderly with increased taxes for programs they would not have chosen for themselves.

In exchange for these increased bills, the Catastrophic Act did not even begin to address the issue of most concern to the elderly—long-term health care.

The Catastrophic Act needs to be repealed; it is so flawed that we have no recourse but to start over. If Congress is to address the real needs of seniors in our society, any future Government program should stimulate the private sector to provide affordable, nonduplicative insurance that seniors would choose for themselves.

Under the Catastrophic Act, all Medicare enrollees—not just those considered to be well-off older Americans—faced stiff increases in their part B premiums. Moreover, millions of retirees are being forced to pay hundreds of dollars in additional discriminatory and mandatory income taxes.

While other Americans find their total tax bill reduced for the bracket creep effects of inflation, senior citizens continue to face an increasing surtax to keep pace with the rising costs of medical treatment. Thus, the elderly would face much higher marginal tax rates than those paid by nonelderly individuals with the same income.

I urge the rest of my colleagues to join the 72 of us who originally voted against the Catastrophic Act and repeal this act.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SHAW], a valued member of our committee.

Mr. SHAW. Mr. Chairman, I say to my colleagues, "If you are like me, many times you give your best speech on the way home from the event at which you spoke. How many times do you wish you had the opportunity to go back and relive a vote, to regive a speech?"

Mr. Chairman, 1 year ago the House of Representatives right here on the floor of the House laid an egg, and instead of fathering, or mothering, or parenting a beautiful swan, behold, we had a turkey.

The people of this country have spoken out, and they have written to us. Now we are going to have a rare moment and a rare opportunity to go back and relive that vote, to vote the way that the American people want us to vote.

My colleagues, let us listen to the people that we represent. They are calling for repeal. Let us be honest and face the fact that we made a mistake a year ago and go back and undo that mistake.

Please vote for repeal of the catastrophic health care plan. Support the Donnelly-Archer amendment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, I rise to speak against this amendment.

I do so knowing I will not dissuade very many of those who are already committed to voting for repeal.

However, I do hope that I will persuade some of you to examine what we are doing and why.

The situation is one of double frustration. The call for repeal is born out of the confusion, misunderstanding and anger of the elderly over the bill we enacted last year. Almost all of the elderly think they are responsible for paying the maximum surtax. They are not. Almost all think they get these same benefits at less cost through their Medi-Gap policies. They do not. Many think there are no nursing home benefits. They are wrong. Many think they will be the lucky ones who will escape the need for catastrophic coverage. They are unfortunately wrong too.

These misunderstandings have led to a firestorm of protest by the elderly. And that in turn has given us a sense of frustration.

It has paralyzed us. But let us not let our frustration cloud our judgment.

The message from the elderly has been strong, but let's think about what they're saying.

What I have heard most clearly are two fundamental objections and one plea for help. The two objections are to the special "seniors only" income tax bracket used to finance most of the bill and the fact that many of the benefits are duplicative of those people already had under retirement plans or Medigap. The other features, including the increased monthly premiums for benefit improvements were not objectionable.

The plea I've heard is to preserve the benefits the elderly have asked for and don't get elsewhere—namely, prescription drugs and long-term care. That is what the amendment we will offer later today does.

Many have said but that amendment doesn't deal with the catastrophic costs we started out to address. That is correct. We simply cannot fashion a comprehensive and acceptable health program when the needs exceed the resources and no funding source beyond what the elderly contribute themselves is available. I believe we will rue the day if we repeal the full range of catastrophic benefits. But we will rue it even more if we refuse to salvage the prescription drug, mammography, and respite benefits that can be such a boon to effective and humane medical care for our elderly citizens.

I personally oppose repeal. I favor alternate funding. But that is not a choice we have today. The question is, can we salvage something. Do not act in anger toward the elderly. Save the benefits they are asking for.

Mr. DONNELLY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, it seems that each day Congress repeals another major law. It is getting so bad that there is a rumor going around outside. They are saying that today Congress may even repeal the sex act.

Mr. Chairman, the fact is this highlights our situation. We are going bankrupt, and we are presiding over the biggest bankruptcy in world history, and we are treating it with bandaids and aspirin.

Mr. Chairman, last year we passed a bad law. It is evident that we made a mistake. The American people in growing numbers have written to all of us and told us that. Today we should deal with that bad law by changing it.

Mr. Chairman, bad laws should be thrown out by Congress. I am going to vote to repeal!

Mr. ARCHER. Mr. Chairman, I yield the balance of my time to the gentleman from Colorado [Mr. BROWN], a valued member of the Committee on Ways and Means.

□ 1320

Mr. BROWN of Colorado. Mr. Chairman, I thank the gentleman from Texas for yielding me this time.

Mr. Chairman, catastrophic is a turkey. It is a huge tax increase. It denies a choice about the insurance they are required to pay for.

Mr. Chairman, it hurts the poor of this country. It should be repealed, because it has five fatal flaws.

One, it requires our seniors to pay for coverage that they may not want. That is right. Even if you do not want this program, you have to pay for it.

The second major flaw is that it requires you to pay for this coverage even if you do not need it. It is unbelievable! If someone already had the coverage—has earned it through their employment or has paid for it, they still have to pay for catastrophic, and that is ludicrous.

Third, it ought to be repealed because it is a devastating tax increase on our seniors. A 28-percent tax increase in addition to the monthly premium, and it does not even end at 28 percent. It costs above what they estimate it will be, the tax goes above ther 28-percent level.

The fourth flaw is that it is not the program that was advertised. It was advertised as being revenue-balanced, but the fact is this year it is a $4.2 billion tax increase, part of the money that is levied on our seniors does not even go to them this year. It goes to the general fund.

The fifth and the greatest flaw is one that I do not think the people have understood. They say it helps the poor. Anyone who has talked to the poor in this country understands that. Catastrophic does not help the poor of this Nation. The poor are not the ones who want the program. The facts are these: If you are poor and you get a catastrophic illness, you quickly slip into coverage under Medicaid. This program does not help you. All this does is prevent you from going into Medicaid as fast. If you are really poor, this program penalizes you. This program hurts the poor of this Nation,

not helps them. It hurts because it levies a higher monthly premium on them. It levies a tax increase on the meager earnings that they have, and it holds out a false hope that they are really being helped.

The reality is anyone who thinks this is supported by the poor of this country has not taken the time to talk to them. I have talked to them. I have talked to them in meetings throughout Colorado. I have not run into a single one who does not favor the repeal of the catastrophic, and that is because they know what it does to them.

The real reason catastrophic ought to be repealed is because it violates a basic tenet of American philosophy. It says that if you have worked hard, if you have saved and prepared for your future, we are going to have a special penalty for you. That is not fair and that is not right.

It says that as an American you are not going to have a choice in the kind of health care that you pay for, and that is not American.

It says that we do not trust you enough to decide what is good for you. We are going to have government decide for you, and that is not American.

The fact is we believe in seniors and all Americans having a choice about their lives, having a choice about their health coverage, having a choice about their own future. Catastrophic violates that basic tenet of the American philosophy, and it ought to be repealed. It ought to be repealed because it hurts the poor. It penalizes the industrious and it denies choice to the working men and women of this country.

Mr. DONNELLY. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Illinois (Mr. RUSSO), a cosponsor of the Russo-Donnelly-Archer amendment.

Mr. RUSSO. Mr. Chairman, first I would like to take this opportunity to thank the chairman of the committee, the gentleman from Illinois [Mr. ROSTENKOWSKI] for doing all that he could over the last several months to reach a compromise on this piece of legislation. He has given us opportunity in the committee, votes in the committee to deal with it, but there was just no way to fix this bill. It is unfair and it deserves to be repealed. It was created with the best of intentions, but with an onerous funding mechanism imposed on us by the President.

Health care coverage is a problem that faces not only senior citizens, but every citizen in our country. We have the most sophisticated health care system in the world, but the accessibility to our great health care system is a disgrace.

We spend more on health care than any other industrialized nation, yet 37 million Americans are uninsured, 7 million of whom are children. How can it be that we spend 11.2 percent of our GNP on health care and still have so many Americans uninsured and underinsured; when Canada, spending 8.6 percent of their GNP, and England, spending just 6.1 percent of their GNP, provide quality health care to all of their citizens? It is because we insist on dealing with health care in a piecemeal fashion. As a result, our health care system is needlessly complex, incredibly expensive, and fails to meet the needs of large numbers of our citizens. A recent report shows that 25 percent of the money we spend on health care is wasted, thrown down the drain. The health care system in the United States needs to be reformed. This reform should have as its goal universal access to health care for every citizen.

We should make the same commitment to health care that we made to putting a man on the Moon and developing a national highway system. Until we make universal health care a national priority, we will continue to have a health care system that the young cannot afford, that the old cannot afford, and that the poor cannot afford.

I appeal to every citizen in America, both young and old, to make a commitment to urge our leaders to start down the road to establishing a national health care system. We should demand that of our leaders. We should send our postcards, send our letters, call our Representatives, call our Senators and call the President, tell them we want universal health care coverage and we deserve no less.

Mr. Chairman, I urge my colleagues today to make this commitment. Repeal the Catastrophic Health Care Program. Vote for the Donnelly-Russo-Archer amendment and begin today the debate to establish a universal health care system that delivers the best quality health care to all citizens at an affordable cost. To do less would be a national disgrace.

Mr. DONNELLY. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I rise to express my support for the amendment to repeal the Medicare Catastrophic Coverage Act.

The time has come to wipe the slate clean, and to come to grips with the fact that this program—despite its good intentions—is fundamentally flawed.

Not to mince words, our older constituents are vivid about the cost of this program, and the prospect of paying a surtax up to $800 in the first year.

But, Mr. Chairman, it goes beyond that. They also see a future of uncontrolled, escalating costs for a program that does not even begin to deal with their most pressing concern—long-term health care.

Earlier this year, I wanted to find out just how strong the sentiment against the Catastrophic Care Program was. I circulated an informal survey in my congressional district.

Thousands of responses poured into my office, and no less than 96 percent emphatically said this health care program was not what they wanted.

Mind you, this was before the Congressional Budget Office issued its report saying the program was bankrupt before it has barely begun. It would be an exercise in futility to stand here today and try to justify a program which will run $9 billion in the red in the first 5 years alone.

The decision at this point is clear. Seniors say "the cat must go," and they are right. I urge my colleagues to support this repeal amendment. And I urge them to make this repeal measure stick by rejecting the reform amendment which will follow.

I can understand and appreciate the fine intentions of my colleagues who wish to retain the drug benefit, and in doing so, salvage some remnants of the Catastrophic Care Program. But now is not the time to be jumping for a quick fix.

Again, we must wipe the slate clean, and we should reopen the whole health care debate. We should be moving toward long-term, nursing home-type care. That is what our seniors want, and that's what they need.

Mr. DONNELLY. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Chairman, I rise in support of the Donnelly proposal for repeal of the catastrophic health plan.

Mr. DONNELLY. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I rise in full support of the amendment to repeal catastrophic insurance, as someone who fought for this a long time ago.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. GRADISON].

Mr. GRADISON. Mr. Chairman, I rise in opposition to the Donnelly-Archer amendment to repeal the Medicare Catastrophic Coverage Act. I appreciate that my colleagues do not offer this significant change lightly.

However, I take issue with arguments made by some in this Chamber that the public is only interested in outright repeal. Repeal may appear attractive today, but in the not too distant future, Members may regret taking such unprecedented action.

Mr. Chairman, as one of the framers of the Medicare catastrophic legislation, I thought we got it right the first time. Two years of thoughtful deliberation and hard work went into developing the program. Both the House and the Senate passed the measure by large majorities, and the Reagan administration embraced the effort.

While there certainly are valid reasons to oppose the current law, from

the start, the new act suffered from a misinformation campaign. The elderly heard more about what was wrong with the program—what it did not do—than what it had to offer. Also, many of the elderly mistakenly believed that they would have to pay the $800 supplemental premium.

As did many of my colleagues, I took the message about Medicare catastrophic to the elderly of my district and tried explaining the program. On a one-to-one basis, or in small groups, the program seemed to make sense to them. But, for the majority of the elderly, their impressions about the act were already formed.

So, we are here today considering whether to "throw the baby out with the bath water," or roll up our sleeves and make the program more attractive for those it is meant to help. I firmly believe the House should take this opportunity to refine the act, not reject it.

If the supplemental premium is so unpalatable, let's change it or eliminate it. If the benefit package is unaffordable, let's reduce it.

I am confident that if the Congress repeals the program outright, we will soon hear from the majority of beneficiaries who will be angry about the protection they have lost. They'll have plenty of help from candidates challenging incumbents who vote for repeal. We'll also hear from others who are disgruntled by the significant increases in Medigap supplemental premiums which they are likely to experience with the rollback of Medicare catastrophic.

Mr. Chairman, in order to avoid this outcome, the House should work to recraft the act and we should do it now. Believe me, we will know no more a year from now than we do today.

The Senate is in the midst of reconsidering the program and is exploring a number of constructive alternatives. Some of these alternatives were considered in the Ways and Means Committee. Others reflect fresh approaches.

But, as we all know, on this issue the House will go first. Frankly, the Senate is looking to the House for leadership. If the House votes to repeal, the Senate is likely to follow. However, if this Chamber favors refinement, the Senate likely will join in such efforts.

An alternative to refinement of the act is included in the reconciliation bill now under consideration by the House, and another will be offered by me and my colleagues, Representatives STARK and WAXMAN.

The approach incorporated in the budget reconciliation bill by the Ways and Means Committee restructures the financing of the program, while leaving the benefits essentially in place. This proposal also allows beneficiaries to opt out of the catastrophic coverage and the supplemental premium.

The Stark-Gradison-Waxman amendment will eliminate the supplemental premium as well as the catastrophic hospital and physician coverage, leaving the drug benefit and other needed and popular benefits in place. Both of these alternatives maintain important aspects of the program and lay the groundwork for negotiations with the Senate.

Mr. Chairman, I thought Congress did a good job writing the catastrophic program as it now stands on the books. However, the tide is clearly against the current law. So, I believe the House should make one last effort to salvage what is worth keeping and eliminate what is politically unacceptable.

To repeal the act outright would unnecessarily tie our hands in conference with the Senate and likely lead to even greater disenchantment and unhappiness from millions of seniors when they realize what we have taken away from them.

□ 1330

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I rise in strong opposition to the Donnelly-Archer amendment which would repeal the Medicare Catastrophic Coverage Act of 1988. Just 16 months ago, this House passed the conference report by an overwhelming 328 ayes to 72 noes. Majority Democrats and majority Republicans supported the measure. The catastrophic health bill was a major initiative of President Reagan and strongly supported by him throughout the legislative process.

Mr. Chairman, I have no illusions of how this vote will come out today. But in my few minutes, I would like to hold up a mirror so we can take a long look at ourselves. Let me speak first to my colleagues on the other side of the aisle.

Catastrophic coverage was the major domestic initiative of President Reagan's 8 years in office. President Reagan has not yet been out of office 1 year, and yet, you are determined to repeal that major initiative. When you hear the screams of protest fromone well-organized constituency, you simply cannot stand the heat.

At your urging, the Ways and Means Committee crafted, on a bipartisan basis, conservative financing principles into this bill. We ensured that there would always be sufficient revenues before outlays had to be paid. That is no different than private insurance companies making sure that they have adequate reserves. Now the advocates of repeal have changed the budgetary rules by waiving Gramm-Rudman because you are unwilling to cut spending or raise revenues to offset the $4 billion increase in the budget deficit. You are abandoning all fiscal discipline under Gramm-Rudman in pursuit of, in my opinion, a misguided goal. This budgetary precedent will come back to haunt this House in the future.

Now let me address my colleagues on my side of the aisle. We thought that the original Reagan bill was not good enough and so we loaded it up with additional benefits. In so doing, Congress also converted President Reagan's proposed flat premium into a progressive financing system. In calendar year 1990, less than 5 million people will pay more than $500 per year. When those wealthy individuals screamed, we abandoned the democratic principle of progressive financing.

For the majority of the elderly, the additional insurance benefits exceed the flat premium cost. This bill was primarily designed to help those elderly who did not have additional insurance and whose income was just high enough to keep them from Medicaid eligibility. It gave them assurance and peace of mind that they did not have to go on welfare if struck with a serious illness. Because we in this Congress cannot take the heat from a wealthy few, all principles are being abandoned. The House is in full retreat.

With the benefit of hindsight, we might have all done some things differently. However, we have done one thing right. If the very individuals for whom the benefits were intended believe that it is not worth the price, I am glad we did not shift the costs to their children. If we are going to repeal, we need to repeal both the benefits and the financing simultaneously.

I do not like how our collective image looks in the mirror. While we have been elected to represent our constitutents, that does not mean we should be cowed or intimidated by every special interest group that spreads misleading information. In must instances, it does not mean we must succumb to the whims of a few and abandon our principles at the expense of many others. Five million senior citizens may be complaining about the supplemental premium. You may quench their thirst for repeal today. But in the process, make no mistake about it: You will be hurting many more millions of senior citizens whose voices have not been heard. But mark my words, those voices will be heard after you repeal the Catastropic Health Program today.

For myself, I do not want to be party to it. I strongly urge a "no" vote on the Donnelly-Archer repeal amendment.

Mr. DONNELLY. Mr. Chairman, I yield such time as he may consume to

the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I rise today in support of the Donnelly-Archer-Russo amendment to repeal the Medicare Catastrophic Protection Act of 1988.

I do so with some misgivings because there is unquestionably a seriuous need in this country for some type of assistance to those older Americans who suffer from uninsured catastrophic medical costs. I am especially concerned about long-term care for the chronically ill.

In fact, instead of repeal, I wish we had an option before us today to place the entire program on hold for 1 year, so that we would have time to refine the list of benefits and develop a new financing mechanism. I have cosponsored legislation to provide for just such a 1-year delay but, unfortunately, the appropriate committees have shown little interest in pursuing that option.

I frankly feel we need to devote a lot more effort toward fashioning a program that will avoid unnecessary or duplicative coverage, while meeting the long-term health care needs of seniors in a way that is both wanted and needed by older Americans, and that they are willing to pay for.

Unfortunately, that third option is not before us today and, accordingly, the only choice is to repeal or to adopt the Stark-Gradison amendment which, while very well intentioned, does not reflect the priorities which, in my judgment, are the most critical to older Americans. Given such a limited choice, repeal is the only viable option.

I just hope that, despite voting for repeal today, we will continue to work toward developing a program that will help offset the uninsured catastrophic medical expenses without singling out any one group to bear a disproportionate or unfair share of the burden of such a program.

Mr. DONNELLY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this debate this afternoon has nothing to do with anything else other than health care policy in this country and the failure of a year-old initiative to respond to the needs of 32 million Medicare beneficiaries.

What we did not see a year ago, those of us who were authors and conferees and spoke in favor of this legislation, were the fatal flaws that 32 million beneficiaries saw. Let me point them out to the Members today. The real fundamental flaw in this legislation is that over half of the beneficiaries already had this coverage, some or all of the coverage. They had already paid for the coverage before we came along and said to them, "You take this coverage even though you already have it, and you pay an additional fee." They objected to that and rightfully so.

They also objected to not having the same right as every other American, and that is the right to choose their health care, the rights that you and I have as a Member of Congress, that our constituents, that our spouses have. The elderly object to that. They want the right to choose. They do not want to be told that they have to pay for something they already have.

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The elderly have refused to pay. They have raised a storm of objection that this institution has not seen in years, and we must respond.

I have worked with the committee for over a year attempting to respond to the legitimate objections and concerns of the elderly of this country. What were our options? We could have transferred the cost of the program from the beneficiaries to the taxpayers. I think most Members would not agree that that is something that is possible, politically, to do under the present set of circumstances, nor is it correct policy under the present set of circumstances. We could take away benefits from the beneficiaries that they had already paid for or earned through a union contract or had given up pay increases to get so that they would be protected in their retirement years. That is not feasible and not fair.

We could allow the seniors to opt out. My friends, if we allow them to opt out, the program would fall of its own weight, because it has no support amongst the people that we purport to help.

Let me say one quick thing about the people that allude to the fact, the incorrect fact, that repeal will hurt the elderly poor. That is frankly not true. People who say that, I would suspect, have to be disingenuous or they do not understand how the health care delivery system for the elderly poor works in this country.

The program costs have skyrocketed. We were told by the Congressional Budget Office that the program was going to cost $30 billion. We are now told 1 year later it is going to cost $47 billion. We were told drug coverage was going to cost $6 billion. We are now told it is going to cost $12 billion. The SNF benefit, skilled nursing facility, we were told it was going to cost $2.5 billion. It is now going to cost $12 billion, a 650-percent increase in 1 year.

Finally, Mr. Chairman, let me say that repeal of catastrophic is not the end. It is the beginning. It is the beginning of a realization that we cannot deal with the health needs of Americans by putting patches over problems. It does not work. People are too sophisticated to allow it to happen, and this is a message to them that maybe they know about their needs better than we do.

Vote repeal. Take a hard look at where we are in health care in this country.

TECHNICAL DESCRIPTION OF AMENDMENT TO REPEAL MEDICARE CATASTROPHIC COVERAGE ACT

The purpose of the amendment is to generally repeal the Medicare Catastrophic Coverage Act—surtax, flat premium, and benefits—and to restore the Medicare Program benefit levels to those found in prior law.

The Medicare supplemental premium is repealed, effective for taxable years beginning after December 31, 1988, and premiums already collected are returned.

The flat monthly premium is repealed as of January 1, 1990, and premiums collected in 1989 are transferred, on a one-time basis, to the Federal Hospital Insurance Trust Fund, the part A trust fund, to reimburse that fund for catastrophic benefits delivered in 1989. The Federal Hospital Insurance Catastrophic Coverage Reserve Fund and the Federal Supplemental Medical Insurance Trust Fund are abolished and any balance in these funds will be transferred to the Federal Hospital Insurance Trust Fund.

The amendment repeals the expansion of Medicare part A and part B benefits. Transition provisions for Medicare beneficiaries are also provided in the amendment.

The specific provisions of the amendment follow:

(1) REPEAL OF MEDICARE CATASTROPHIC FINANCING

The supplemental Medicare premium is repealed with respect to taxable years beginning after December 31, 1988, that is, as if never enacted. Any supplemental premium funds collected will be returned to individuals who have paid them when those individuals file income tax returns in 1990. Any balance in the Federal Hospital Insurance Catastrophic Coverage Reserve Fund will be transferred as a one-time transfer to the Federal Hospital Insurance Trust Fund. The Federal Hospital Insurance Catastrophic Coverage Reserve Fund is abolished.

The flat monthly premium is repealed as of December 31, 1989. There will be a one-time transfer of net additional premiums from the Federal Supplementary Medical Insurance Trust Fund to the Federal Hospital Insurance Trust Fund. These funds will include any interest accrued to the Federal Supplementary Medical Insurance Trust Fund. The Federal Supplementary medical Insurance Trust Fund will be abolished.

(2) REPEAL OF EXPANSION OF MEDICARE PART A BENEFITS

Inpatient hospital benefits return to the per-spell-of-illness concept of prior law, with a hospital deductible per spell of illness, 60 days of coverage, daily coinsurance for the 61st through 90th days, and 60 lifetime reserve days with a daily coinsurance rate.

Skilled nursing facility [SNF] services return to 100 days of posthospital care per spell of illness with no coinsurance for the first 20 days and a daily coinsurance rate of one-eighth of the hospital inpatient deductible for days 21 through 100. Thus, the prior hospitalization rule is restored.

Home health services return to a limit of 21 consecutive days of care.

Hospice coverage returns to a lifetime limit of 210 days.

The blood deductible remains at 3 units per year, reduced by any part B blood deductible.

(3) REPEAL OF EXPANSION OF PART B BENEFITS

The catastrophic limitation on beneficiary cost sharing for Medicare part B costs is repealed.

Mammogram screening services, respite care, and home intravenous therapy will not be covered.

The outpatient prescription drug benefit returns to coverage under prior law: coverage of immunosuppressive drugs for first year after an organ transplant.

No provision requiring the Secretary to change contracts with risk-sharing HMO's with respect to benefits required or payment rates established for contract year 1990.

(4) CHANGES TO MEDICAID EXPANSIONS

The amendment does not repeal the Medicaid benefit expansions enacted as part of MCCA.

(5) OBRA TECHNICAL CORRECTIONS AND BIPARTISAN COMMISSION

OBRA technical corrections found in the Medicare Catastrophic Coverage Act all remain in effect. Similarly, no changes are made to the Bipartisan Commission.

(6) TRANSITION PROVISIONS FOR MEDICARE BENEFICIARIES

For purposes of calculating an individual's balance of lifetime reserve days, hospital or skilled nursing facility days used during 1989 will not be counted.

For any individual receiving inpatient hospital services of extended care services on December 31, 1989, no day before January 1, 1990, will be counted in determining the beginning of a spell of illness and no additional inpatient hospital deductible will be charged other than that charged in 1989. A new spell of illness will not be considered to have occurred until an individual has had 30 consecutive days without inpatient hospital or extended care services.

(7) REVISION OF MEDIGAP REGULATIONS

Revision of the NATC Medigap regulations by no later than December 1, 1989, would be required and will reflect the changes in the law made by these amendments.

Medigap supplemental insurers will therefore be required to alter their policies, by Janaury 1, 1990, to adapt to the changes in law made by these amendments.

In addition, for those Medicare beneficiaries who had Medicare supplemental policies in effect on December 31, 1988, and who terminated coverage under the policies as of January 1, 1989, the NAIC model regulations will require Medigap policies to treat those individuals as having continued coverage under such policies for 1989.

(8) ISSUES RELATING TO REIMBURSEMENT FOR HOSPITALS

MCCA provided special payment rules for hospitals. With respect to PPS hospitals, the Secretary was directed to adjust DRG weighting factors and outlier cutoff points to reflect the increased Medicare payments to hospitals on behalf of beneficiaries. With respect to PPS-exempt hospitals, a similar adjustment to the target rate of increase was required.

Under the amendment, authority for the Secretary to make these adjustments expires on January 1, 1990. The amendment also contains a technical correction with respect to PPS-exempt hospitals providing services to Medicare beneficiaries during 1989. The technical correction is designed to overturn HCFA's policy with respect to interpretation of section 104(c)(2) of MCCA.

In enacting section 14(c)(2), Congress intended that the target rate of increases be adjusted for all beneficiaries receiving services in a PPS-exempt hospital. HCFA has taken the position that the adjustments should not be made for beneficiaries who had exhausted Medicare benefits prior to admission to a PPS-exempt hospital. HCFA's policy is incorrect and contrary to the intent of Congress.

Consequently, the amendment overturns that policy by requiring an adjustment to the target rate of increase in 1989 only for all Medicare beneficiaries, regardless of whether they had exhausted benefits prior to admission to the facility.

Mr. JONES of Georgia. Mr. Chairman, I rise today in support of the Donnelly-Archer-Russo amendment to H.R. 3299, the Omnibus Budget Reconciliation Act of 1989.

Many of my constituents in the Fourth Congressional District of Georgia have taken the time to share their thoughts on the Medicare Catastrophic Protection Act with me. As I have traveled throughout the district, I have had the opportunity to discuss the concerns many of them have with the act.

Mr. Speaker, Congress was focusing much-needed attention on the importance of health care to America's senior citizens when it passed the Catastrophic Act, and President Reagan signed it into law on July 1, 1988.

The premise of the act is commendable—place a ceiling on the out-of-pocket expenses of 33 million Medicare beneficiaries for such Medicare-covered services as physicians' care, hospitalization, and prescription drug costs. The hospital benefits began on January 1 of this year, physician benefits are scheduled to begin next year, and the drug benefits in 1991.

Judging from the mail which I received, most of my constituents have no objection to the benefits contained the act, but disagree with the way the act is financed.

At the insistence of then-President Reagan, the new coverage had to be financed entirely by supplemental premiums paid by those senior citizens eligible for Medicare. In other words, the new benefits under the act are funded exclusively by senior citizens.

The end result of this financing scheme is that one-third windup paying more for the new supplemental premium than they will, on average, receive in new benefits. I believe this to be inherently unfair. A better deal is available from private insurance organizations. Plus, many in this affected group already have insurance similar to the coverage contained in the act.

The premium hits many middle-income seniors, who are far from affluent, very hard. The act's current structure adds potentially $1,100 more in taxes for some seniors by 1993. Due to the financing structure, the level of the premium is simply too high, and too burdensome, on too many seniors.

Mr. Chairman, today the full House will vote on repeal of the Medicare Catastrophic Coverage Act. After the vote on repeal, we will consider other alternatives to provide for the health-care needs of our senior citizens.

Mr. Chairman, the sad side effect of the backlash over the supplemental premium is to have made Congress hesitant about examining new long-term care benefits. Also, Congress lost its most visible and ardent advocate for a comprehensive long-term care policy with the passing of Congressman Claude Pepper.

Undoubtedly, long-term care promises to be a persistent issue. Americans are living longer. The nursing home population will double to 2.2 million in 10 years. The older than 85 group is the fastest growing segment of the population, and is expected to triple by 2025.

According to a University of Maryland study, a third of Americans report personal or family experiences with long-term care in the past 5 years. During the next two decades, the baby boomers will reach retirement age. As a result, there will be fewer workers supporting more retirees. Also, hospital costs are rising twice as fast as Medicare rates. These are problems which will have to be addressed.

Mr. Chairman, I urge my colleagues to vote for the Donnelly amendment and to put an end to the burdensome supplemental premium. Then we must examine a more equitable means of providing catastrophic illness protection to our seniors.

Mr. MILLER of Ohio. Mr. Chairman, the influx of mail and telephone calls that congressional offices have been receiving for the past several months from senior citizens indicates the depth of their opposition to the Medicare Catastrophic Coverage Act which was signed into law last year. Over and over they tell us that most of them already have insurance policies that provide the benefits that this coverage offers. What they really want and need is some kind of insurance to help with the truly catastrophic costs of nursing home care or assistance that would allow them to remain in their own homes when they are no longer able to care for themselves.

Early this year I cosponsored a bill that would delay the implementation of the Medicare Catastrophic Coverage Act in order to give the Congress time to take necessary corrective action. Many alternatives have been suggested—from outright repeal, to the Ways and Means Committee proposal to cut the surcharge in half and increase the part B premium for the next 4 years, thereby spreading the costs to those who can least afford to pay. Furthermore, the Ways and Means Committee chose budget gimmickry to cover the costs of reducing the supplementary premium. Payments to health care providers would be delayed a matter of days at the end of the next 4 years, supposedly saving money each year by moving the charges into the following year.

Earlier rosy predictions of budget benefits from the catastrophic law have been discredited. In the past month, cost estimates for the skilled nursing facility benefit under the catastrophic law have increased 650 percent, and in the past year, the cost estimates for the drug benefit have increased 107 percent. Let's have the courage to admit our mistake and use this experience to craft legislation that provides care for the senior citizens who do not already have sufficient health insurance, as well as provisions for the real financial catastrophe most people fear—long-term care.

Mr. BRENNAN. Mr. Chairman, I rise in support of repealing the unfair surtax placed on

only 41 percent of senior citizens. I support repeal of the surtax and I support the return of all estimated taxes paid for the program in 1989. The Donnelly-Archer amendment does this. However, by voting for the Stark-Gradison-Waxman substitute I am going to support restoration of those benefits which are the most expensive and therefore the least accessible under private Medigap policies.

In other words, Mr. Chairman, I am voting to ensure that senior citizens of all incomes will be protected against the high costs of prescription drugs, respite-care, home health care, mammography screening and spousal impoverishment requirements. All of us, each and every person in this Nation, may one day require assistance with the devastating costs associated with catastrophic illness or injury and long-term disease.

I feel strongly about, not only talking about, but actually establishing a health care system in this Nation which provides everyone with accessible and affordable care, including long-term care for our Nation's increasing population of senior citizens. The Medicare Catastrophic Coverage program was intended to be a step toward long-term care coverage for Medicare beneficiaries. However, that plan contained serious flaws with its financing and surtax structure, and that part of the program must be changed.

I am supporting the Stark-Gradison-Waxman proposal in order to salvage at least a step toward providing long-term care. I am voting to continue home health care and respite-care services for chronically dependent homebound beneficiaries. I am voting to save 4,000 lives from preventable cancer deaths through mammography screening, and I am voting to continue coverage for those least able to purchase full Medigap plans, poor senior citizens.

I believe it is irresponsible to build a house for my family to provide shelter 1 year, and then upon discovering that the house has a faulty door, to completely destroy the foundation and remove my family from shelter. Similarly, I believe it is irresponsible to establish a comprehensive plan for Medicare coverage for our senior citizens in 1987, and upon discovering a faulty door, the surtax, completely destroy all of its protections, some of which are presently being realized. I am voting to fix the door, repeal the unfair surtax, and save the house, retain the significant protections for our senior citizens.

Mr. FRENZEL. Mr. Chairman, I voted against catastrophic Medicare insurance when it was adopted last year. A number of groups purporting to represent senior citizens advised me to support it. However, it was not long before Medicare beneficiaries made it quite clear, that they wanted the act repealed.

After voting against the bill, I sponsored efforts to repeal it. But, once its revenues were included in our fiscal year 1990 baseline, the job of repeal became fiscally more difficult. Because catastrophe was forward funded, cancellation requires about $4 billion in savings elsewhere, or it requires a waiver of Gramm-Rudman.

Gramm-Rudman is the last and only vestige of discipline in the budget process. Waiving Gramm-Rudman is an act to be undertaken only in the most extreme circumstances. For that reason, I voted for a repeal provision which was funded by other savings in committee, and I voted for other alternatives which did not require a waiver, including the version now in the bill.

Today we have three options. The first is the committee's version. It does not now seem able to command a majority, and it is not supported by any major group. It is better than current law, but inferior to repeal. I shall vote for the second, the Donnelly amendment, for repeal. The Stark-Gradison amendment, preserves the worst of the current law benefits and does not improve the tax problem much. I shall vote against it.

The Donnelly amendment is expected to pass. It will have a Gramm-Rudman waiver. The chairman of the Budget Committee, Mr. PANETTA, and I will offer an amendment to remove the waiver. I believe it is possible to find offsetting spending reductions so we can have repeal and keep Gramm-Rudman, too.

I am afraid we will be short of votes to pass the Panetta-Frenzel amendment. Whatever happens, I will do my best to see that Gramm-Rudman is preserved. A waiver requires 60 votes in the other body, so the issue may not be settled by what we do today.

Mr. DELAY. Mr. Chairman, hundreds of senior citizens in my district are writing in telling me that Congress' catastrophic health care plan is a disaster. What was once hailed as a historic advance in providing long-term health care to the 33 million beneficiaries of Medicare has been reduced to a benefits package riddled with catches and loopholes. Our seniors are asking us to repeal this ill-conceived legislation.

For most, the program has brought a deluge of new taxes but only a drop of new protection. This package helps only 4 percent of all beneficiaries each year in paying for their benefits. New coverage for prescription drugs will help 16.8 percent of senior citizens per year, but no one will realize any benefit until an annual $600 deductible is paid. It duplicates benefits that many senior citizens already have from their former employers or through private insurance.

Furthermore, those who scrimped and saved for their retirement will be penalized the worst, while those who want to keep working past age 65 will be encouraged to quit. Critics say the surtax hits only wealthy retirees and they should stop complaining. Not true. It's a middle-class tax, kicking in this year for any individual with income over $17,285 and requiring payments from more than 40 percent of senior citizens.

I opposed the catastrophic health care plan when we voted on it last summer and I intend to oppose it again. It is a bad bill. Attempts to amend it will only compound the problems, not fix it. Our seniors are asking for repeal and after all, who knows better what long-term health care benefits they need and can afford than our seniors citizens.

Mr. GOODLING. Mr. Chairman, during the last Congress I voted against the catastrophic health care law. At the time of the vote, I was told by many of my colleagues that I would live to regret my "no" vote. Well, I am here to tell you I don't regret my vote. The catastrophic law is a mess and my constituents are very happy with my vote.

We are now presented with an opportunity to fix the mess we created in the 100th Congress. The time has come for this body to respond to the strong opposition to the catastrophic health care law expressed by our Nation's senior citizens. It's time to repeal this unfair surtax.

I have listened to proponents of the catastrophic law state that only those seniors who have to pay the surtax want it repealed. This has not been my experience. During senior meetings on this subject in my district—attended by seniors of all income levels—not one person spoke in favor of the law. Did they know the provisions? Yes, they did. I had representatives from the Health Care Financing Administration [HCFA] and the IRS in attendance to explain the catastrophic health care law. I asked for the opinions of my senior constituents after they had been educated.

I also received a large number of unsolicited opinions. I have received letters, postcards, and telephone calls against this law from over 2,000 individuals. Many of them contacted me two or three times. The overwhelming sentiment expressed in their communications was, Repeal the law. It is expensive, duplicates coverage we already have, and doesn't help us with the costs associated with long-term care."

No matter where I go in the 19th Congressional District of Pennsylvania, a major topic of discussion is the new catastrophic health care law and why it should be repealed.

Mr. Chairman, senior citizens do not want this law. They never did. My senior constituents, as well as senior citizens throughout our country, want protection from the high cost of long-term care. They want us to repeal the catastrophic law and start working on a program to provide them with assistance in meeting the high cost of long-term home health care and care provided in nursing homes.

We can show our senior constituents we are listening. The surtax will be collected in 1990. Time is running out for us to correct our mistake and repeal this unfair, expensive law. I urge my colleagues to support their senior constituents and repeal the catastrophic health care law.

Mr. LIPINSKI. Mr. Chairman, many of my colleagues remember when, in 1986, President Reagan came to these Halls and promised to have a catastrophic illness proposal to us by early the next year. That January, in his State of the Union Address President Reagan promised to have his Secretary of Health and Human Services begin developing a program that would protect elderly and disabled Americans from the high costs associated with a catastrophic illness. I remember President Reagan's promise because it came as a surprise. I was surprised because there had been 6 years of cutbacks in health care programs for the elderly under the Reagan Administration and now he was proposing what appeared to be an increase in health care benefits for our senior citizens.

As the President's proposal worked its way through Congress there were several points that he would not negotiate, the most controversial of which was that the next program must be paid for entirely by the beneficiaries, in other words, no new taxes. This restriction

made developing an acceptable financing mechanism very difficult. In order to provide for a large enough pool of money to fund the new benefits we decided that participation must be mandatory. If this were not done then the younger, healthier senior citizens would not participate, leaving a small amount of resources to care for the most frail of our elderly. As our only financing option, we saw a need to base the amount one contributed on their income. If we relied on a flat rate fee, too many seniors would not have the resources to pay the new premium. As you can see Mr. Chairman, President Reagan's insistence on having our seniors pick up the tab for this new legislation made it very difficult to create a large enough pool of resources to cover the costs of the new program without putting too large a burden on the seniors of this country.

I believe the problems we had developing an equitable financing package within the parameters set by President Reagan, has led us to the unfortunate position we are in today. While this legislation was being developed I and my colleagues on this side of the aisle felt that President Reagan had not properly addressed the true concerns of America's seniors when it came to catastrophic illnesses. I believed then, and I still do today, that what seniors really wanted was financial protection from the runaway costs of prescription medicine. They wanted financial help with home health and hospice services. And they wanted respite care benefits. These benefits, although not in the plan Reagan sent to the Hill, were fortunately included in the final package. However, other concerns such as nursing home care were not included. By the time the legislation was ready for a final vote I felt compelled to support it. I figured that after speaking out on behalf of more health benefits for this country's senior citizens since I arrived in Congress, I could not defend a vote against any apparent expansion of benefits. And although some seniors would be asked to pay a larger share of the new program, the financial projections showed that the costs should not be too great.

Well, Mr. Chairman, as I and my colleagues have learned, the estimated costs were wrong. Originally around 40 percent of the seniors in the country were going to be required to pay the supplemental premium. But already in Illinois 690,550 or 47 percent of our senior citizens have been required to pay the supplemental premium. And well over half of these will pay more in new premiums than they will receive in new benefits. Because of this discrepancy and because there are still many benefits such as nursing home care that are not covered, many seniors in my district are looking for relief from this well intentioned but very expensive bill. Since it is obvious to me and many of my colleagues that this legislation is not achieving its intended goal I believe it must be repealed. I would prefer to see the act repealed than to chip away at it piece by piece. I believe that by wiping the slate clean and starting again with the real concerns and needs of this country's seniors in mind, we can best achieve our goal of providing health protection for our elderly.

Mr. Bush has restated Reagan's pledge that this is a pay as you go program that must be paid for by the seniors as they go it alone.

However this political rhetoric makes no sense. One of the greatest aspects of this Nation of ours is that no one goes with out at least some sort of a safety net below them. And whether we have catastrophic legislation or not, no ill senior citizen in this country will be thrown onto the streets just because he has no money. And when this happens the American citizen pays, not just that individual and not just seniors, but all Americans. I believe that the best way to approach our problem from here is to repeal our current program and work with this country's senior citizen groups to develop a program that addresses their true needs. It may not be easy to reach a compromise on a new proposal but we owe it to today's seniors, and tomorrow's as well, to try.

Mr. MORRISON of Connecticut. Mr. Chairman, I rise today in support of the Donnelly-Archer-Russo amendment to the Medicare Catastrophic Coverage Act of 1989. This amendment repeals the Medicare benefits created by the law and both the surtax and the increase in the Medicare part B premium by which the program was financed. However, it does leave in place several provisions of the law that will ensure that certain medically needy persons with incomes below the poverty level have access to Medicare and Medicaid and help to prevent impoverishment of the spouses of seriously ill people.

While I originally supported this program when it was enacted last year, I have come to believe that it is seriously flawed. Furthermore, none of the current reform proposals adequately address my concerns.

I regret that this is necessary. Many of the benefits included in the program would prove invaluable to Medicare recipients. These include a cap on out-of-pocket expenses for services covered by Medicare, expanded coverage for stays in skilled nursing facilities, and new coverage for prescription drugs and respite care. However, the combination of recent evidence that the cost of the program may have been underestimated by as much as half and the enormous public outcry makes repeal necessary.

I find the package of reforms now before the House to be unacceptable. First, while the package halves the income-based supplemental premium, it makes up the lost revenue by increasing the flat premium and increasing deductible for the benefits. Not only would the value of the package be lessened for all recipients, but the increasess in the flat premium would be particularly detrimental to people with low and moderate incomes. Second, while these reforms would make catastrophic coverage optional, those who chose not to receive this coverage would also lose Medicare part B benefits. These benefits are perhaps the best deal available to Medicare recipients. They are required as a condition of many Medigap supplemental insurance policies. Therefore, this provision would serve only to punish those who were so ignorant of the economics of Medicare as not to elect catastrophic coverage or too poor to afford it.

A third option before the House today is the Stark-Gradison-Waxman amendment. This option would retain the additional part B premium—paid by all Medicare recipients—and several of the benefits included in the original bill, including a reduced version of the prescription drug benefit. Although this amendment leaves the door open to the enormous expenses that the catastrophic coverage was designed to prevent, it is in many ways a desirable expansion of the Medicare program. However, it continues to dance around one of the greatest problems our country now faces: How to guarantee access to needed medical coverage to all Americans, regardless of income or age.

My experience over the last 2 years with Medicare catastrophic coverage has reaffirmed a belief I have long held. In my view, our entire system for providing health care is drastically in need of reform. The United States is the only major industrialized nation without a national health insurance system. As long as we continue to take a band-aid approach to the issue, dealing with problems by tinkering with Medicare and Medicaid and private health insurance programs, we will continue to have inequities in cost and access to care. And we will continue to waste billions on needless paperwork and red tape. Developing an efficient and equitable plan for broad reform of our health care system is one of my highest goals. Universal health insurance should now be the goal we seek, rather than continuing a piecemeal approach that is doomed to failure.

Mr. Chairman, I do regret that this vote has become necessary. However, we cannot shy away from either the problems of the Medicare Catastrophic Act or the need to address the entirety of our national health care problem.

Mr. ROHRABACHER. Mr. Speaker, I am proud to support the amendment offered by the gentlemen from Massachusetts and Texas, Mr. DONNELLY and Mr. ARCHER. Their amendment would repeal Public Law 100–360, the Medicare Catastrophic Coverage Act.

Mr. Chairman, I do not believe that elderly Americans should have to chase Congressmen down the street in order for us to get their message. On this subject their message is clear; they want us to repeal the Catastrophic Health Care Act.

When Congress passed the Medicare Catastrophic Coverage Act, it effectively raised the marginal tax rates for elderly Americans far in excess of even the wealthiest nonelderly taxpayers. According to a recent study by the National Center for Policy Research, elderly taxpayers now face the highest marginal tax rates ever imposed on middle income Americans in our Nation's history.

The Congressional Budget Office [CBO] has recently reexamined the costs to this catastrophe. CBO estimates that the cost of the program has soared 60 percent higher than was projected 15 months ago.

The law was supposed to cost $30 billion. CBO now believes that the 5 year cost (1989–93) will be $48.2 billion. Revenues are estimated at only $42 billion. Mr. Speaker, it seems that repealing catastrophic health would not be revenue neutral—it would create a net gain for the Treasury.

The Ways and Means proposal that is included in the reconciliation bill assumes program costs of $36 billion—over $10 billion less than the new projected costs. It is obvi-

ous that the program is confused and bankrupt.

The time has come for Congress to lift this burden off the backs of elderly Americans.

Mr. Chairman, Members of Congress cannot vote for the Donnelly/Archer amendment, to repeal the law, and then turn around and support the Stark/Waxman amendment to restore some of the program's benefits. In the past year, the cost estimates of the drug benefit have increased 107 percent—from $5.7 billion to $11.8 billion. The Stark/Waxman amendment retains this provision and makes all Medicare beneficiaries—rich and poor alike—to pay an increase in the flat part B premium. In fact, the Stark/Waxman amendment will cost each senior an additional $16.90 per month in Medicare premiums by 1994, according to the Congressional Budget Office [CBO]. For senior couples this amounts to $405.60 per year in increased Medicare premiums.

I urge my fellow members to support repeal of this catastrophic program. I also would like to submit for the RECORD at this point portions of a few of the thousands of letters that I have received from constituents on this issue:

DEAR CONGRESSMAN ROHRABACHER: I urge you to defeat this measure and drop the whole concept of "catastrophic health care." I have lost confidence in my Government's ability to play straight with its citizens on a wide variety of major issues * * * kill the catastrophic health care.

Mr. and Mrs. ROBERT BENEDICT.
PALOS VERDES ESTATES.

DEAR CONGRESSMAN: Please vote to repeal the catastrophic health care law of 1988 which is effective in the 1989 tax * * * to put it more succinctly: repeal the Catastrophic Coverage Act of 1988 or lose our votes for your reelection in the House of Representatives.

Mr. and Mrs. BORIS RAYNES.
PALOS VERDES ESTATES.

DEAR REPRESENTATIVE ROHRABACHER: I'm writing to you in regard to the Medicare Catastrophic Coverage Act. I would like you to put priorities on repealing this act.

Mrs. CATHARINE DOROTHY.
TORRANCE, CA.

DEAR CONGRESSMAN ROHRABACHER: This brief letter is in reference to the Catastrophic Coverage Act, one of the worst pieces of legisation ever enacted by the Congress. We wish to state, we do not want it, we do not need it, and we ask that it be repealed in its entirety. We are among the middle class senior citizens that are being severely penalized by this terrible act.

Mr. and Mrs. WAYNE F. LAUXMAN,
WESTMINSTER, CA.

Mr. SWIFT. Mr. Chairman, the catastrophic health care bill was certainly well named. It has been a catastrophe. The law we passed is poorly understood. The difficulties we faced in crafting the legislation were not adequately explained to the public. The alternatives we now face are still not made clear.

But it is certainly part of our job to see that the public does understand the intent of the legislation we draft, the limitations we face in drafting it and the limited alternatives we now have.

The normal complaint is that government is too slow. In this case, the biggest mistake we made was in moving too fast. President Reagan proposed this legislation and Congress then passed the bill so quickly that the public was not given the time to come to terms with the problems in this issue.

For example, most of the folks I talk with do not understand why we chose this particular funding method. There was not extended public discussion that would have focused on the reality that we simply could not load more payroll deductions on working people to fund this program. It is true that we all get old and helping the elderly will, in the long run, help all of us. Social Security is based on that concept. But people during their earning years have homes to buy, children to feed and college tuition to pay. There is a limit to how much we can withhold to help cover later costs.

Congress concluded, rightly I think, that we could not load the catastrophic program deductions on the pay check working people take home. It was decided instead that this program for seniors would need to be paid for by seniors. Then it was noted that low income seniors could not afford to pay all of their share of the costs. So we graduated the fee, just like income taxes have been graduated for decades. Also misunderstood is that even the people who would pay the most under this system—when you add up all of the contributions and subtract all of the benefits—would still have their health care partially subsidized. That point was never made clear.

What working person out there is aware that we did not pile more taxes upon them? Did any of you get letters from them thanking you for not loading on more payroll deductions?

What low income senior knows we tried to include them in the law at a cost they could afford? How many letters acknowledging that effort have you received?

The higher income seniors did not know of this either, but they learned about the tax surcharge right away. Without a chance to understand why we came to the conclusions we did; to discuss them and debate them, they just felt ambushed. I've talked to lots of seniors whom I know to be caring, concerned people—generous and supportive of efforts to help those less fortunate then themselves—who perceive this bill as a perverse Jack-in-the-Box—an unhappy surprise.

And that's where we went wrong. We broke one of the basic rules of politics: no surprises.

As we vote today, most Americans don't even know all the benefits included in the catastrophic bill. Frankly, the list is impressive. Among other things it would provide:

Unlimited hospital benefits after a deductible;

Unlimited physician benefits after a deductible;

Unlimited prescription drug benefit after a deductible;

Increased reimbursement for skilled nursing home care, while substantially reducing the copayments;

Increased home health care services;

Removal of limit on hospice care;

National spousal impoverishment protection;

For the first time, in home respite care; and

For the first time, mammogram testing.

What are our choices today? Well, we could adopt the alternative in the Ways and Means bill which would make catastrophic coverage voluntary, but tie it to part B of Medicare. That won't solve the discontent. Most seniors see that as merely relocating the site of the ambush.

Or we can adopt a much smaller program that offers some good benefits, but leaves many other important benefits behind in an effort to eliminate the need for the surcharge. I would support this as a stand-alone proposal, but we cannot now separate it from the catastrophic bill. My fear is that most people—who do not know all the benefits of the full bill—will assume the cutdown version is essentially the same as the original and conclude that we could have offered catastrophic without a surcharge in the first place. That is not the intent of the authors of the amendment, but I am afraid that will be the result. Again, there has not been time for people to understand what we are doing.

We do the public no favor by letting them think that a huge outcry about our action resulted in us finding a way to give them the same thing at lower cost. If we decide on legislation to give seniors much less coverage at less cost, then we should do that in a context where it will not be mistaken for a genuine catastrophic insurance measure.

Our other alternative, I have concluded reluctantly, is to repeal this law and start all over again.

There is a need for catastrophic insurance. There is a huge demand for an even more expensive program—long-term health care. But we must find a way to focus the public on the problems of paying for expensive health programs as part of developing them. We failed to do that with catastrophic. We need to back up and try again. We need to find a way to engage seniors and the rest of the public in the debate about how to fund health programs before we initiate a vastly more expensive program.

I have argued for nearly 6 years now that we have to be more courageous in laying out the alternatives. We need to talk about more effective ways of slowing the incredible escalation of health care costs if any program we devise is to be affordable. And in that context we need to discuss catastrophic, long-term and other forms of health care. Proposals to mandate employers to provide health insurance and other proposals to establish a national health care program do not address this prerequisite question and they need to.

I am going to vote to put the catastrophic bill out of its present misery. But I do so in the hope that we wll revisit this important issue, get more information to people about the realistic options we face. This should not be seen as the end of efforts to improve the health programs of this Nation, but as a reminder that Americans are used to thinking for themselves. And to do that, they need to be included in the information loop on an issue as important as this one. If we do that right, they will give us guidance—not unanimity, probably not even consensus—but valuable input about how we can address difficult problems of cost as we design programs to assure Americans a sound health care policy.

Ms. SNOWE. Mr. Chairman, today we must vote on a very critical issue, the repeal of the

Medicare Catastrophic Care Program. While this program was designed to protect Medicare beneficiaries from the huge unexpected costs associated with catastrophic acute illness, the financing of this measure has been of great concern to many of the program's beneficiaries. With this concern in mind, I am casting my vote for the repeal of the Catastrophic Care Program.

It is not surprising that we are standing at this point today. When the Medicare Catastrophic Coverage Act was enacted, Congress was aware that there were problems associated with the financing of this measure.

Indeed, when this legislation was first brought to the House floor, I voted in favor of a less costly Republican substitute. After the substitute was defeated, I supported the Medicare Catastrophic Coverage Act because I believed that many of the program's benefits were important to Medicare beneficiaries. I did so, however, while noting that this vote was being cast despite my reservations about the bill's financing mechanism.

I still believe that the Catastrophic Care Program provides some important benefits to Medicare beneficiaries, and I regret that my vote today will eliminate these protections. However, I feel that given the concern which has been loudly expressed by the program's beneficiaries, including many from the Second District of Maine, a vote for repeal is the only responsible thing to do.

It is my hope that should the Catastrophic Care Program be repealed, it will not impede Congress' willingness to address the critical health care needs of our Nation's elderly. Rather, repeal should serve as a catalyst for the development of a comprehensive plan which more effectively addresses the health care needs of our older citizens and which has the backing of the individuals for whom it is designed to benefit.

Repeal provides us with an opportunity to eliminate the catastrophic care provisions which many beneficiaries have found to be unacceptable, to reconsider those provisions that are believed to be of particular value and to begin with a clean slate when reevaluating the real health care concerns of our elderly. As such, I am voting to repeal the program because I believe that in the end, Medicare beneficiaries will be better served.

Mr. BLILEY. Mr. Chairman, during the past year my office has been flooded with communications from my constituents expressing their justifiable outrage over the Medicare Catastrophic Coverage Act. In response to their concerns, I intend to vote for the Donnelly-Archer-Russo amendment to the Budget Reconciliation Act which would repeal this disastrous law.

Last year, when the Catastrophic Act first came to the House floor, I voted against it. It was clear that this legislation was going to have an enormous impact on the health and financial security of millions of seniors in a way that they did not ask for or want. Congress acted on the word of a few groups, like the AARP, which claimed to represent the interests of the elderly. Now those same folks have returned, in a mistaken effort to save as much as possible of the Catastrophic Act, to support the Stark-Gradison-Waxman amendment. I urge my colleagues, in considering their pleas, to consider the source, also.

Both the Ways and Means proposal, currently in the Budget Reconciliation Act, and the Stark-Gradison amendment are recipes for failure. If the House adopts either of these proposals, we will find ourselves revisiting this issue again next year after much greater damage has been done.

Proponents of the Ways and Means Committee proposal maintain that their provision will make the Catastrophic Act optional by giving senior citizens the chance to give up catastrophic benefits coverage. However, in order to do so, seniors must also abandon all of their part B coverage. This proposal is not optional at all; it is just plain blackmail.

The Stark-Gradison amendment keeps one of the most expensive benefits, the prescription drug benefit, and eliminates the genuine catastrophic coverage. The drug benefit is the most unpredictable benefit in the law as far as cost is concerned. Over the last year alone, the four-year cost estimates of the drug benefit have increased from $5.7 billion to $11.8 billion—an increase of 107 percent. Seniors should know that much of the cost increases for keeping this and other benefits will be reflected in an increased part B premium, reduced benefits, or higher deductibles.

Let me make it clear that I, too, would have preferred that we amended this act without repealing it outright. Since its enactment, several bills have been introduced, which I supported, to correct Congress' mistake by eliminating the senior surtax and scaling back the benefits. Even last year many Members were asking for a 1-year delay in the implementation of the law to assess it implications. That effort was stonewalled.

Now the time has run out. Further debate on this matter is a luxury we and 30 million older Americans can no longer afford. We are left with only one choice: repeal. If we want to change this dreadful law, we will have to start from scratch.

I urge my colleagues to support the Donnelly-Archer repeal amendment and to reject the other so-called compromises.

Mr. MANTON. Mr. Chairman, I rise in support of the Donnelly-Archer amendment to H.R. 3299, the Omnibus Budget Reconciliation Act. The catastrophic protection law was designed as the largest expansion of Medicare benefits since that program was created in order to protect senior citizens from high medical costs. However, since the bill became law, the seniors in my district have let me know they think this law is a catastrophe. They have told me they did not ask for this protection and don't want to pay for benefits they did not request. I have received more than 2,000 letters from my constituents expressing their discontent with this law and its financing mechanism. Today, I am listening to the seniors in my district and supporting the Donnelly-Archer amendment to repeal the catastrophic protection law.

Mr. Chairman, when we repeal the Medicare Catastrophic Protection Act today, we should not forget why the law was originally drafted. The catastropic law was conceived because Members understood that America's senior citizens need protection from the high costs of a long-term illness. This fact has not changed. Although the current catastrophic law has failed to effectively address this need, the Congress must continue to work toward this goal. Congress should consider long-term care legislation and work to improve the Nation's health care system. I urge my colleagues to view the repeal of the Catastrophic Act, not as the end, but rather, as a new beginning in the debate on our Nations health care needs.

Mr. GALLO. Mr. Chairman, I rise in support of the amendment to repeal the Catastrophic Insurance Act of 1989 and in opposition to the various plans to revise the current law.

Senior citizens in my district have carefully reviewed both the benefits and the cost of the current catastrophic Health Care Act. Upon review of this plan and in response to a survey I conducted in my district, the answer is clear—seniors don't want it—not, at least, as the plan currently stands and the way it is financed. Since seniors are the ones affected by the law, it is only right and fair that we listen to their concerns.

Frankly, I would have preferred a proposal to delay implementation of this bill for 1 year. By doing so, we could have salvaged the truly catastrophic benefit that this bill was originally intended to provide. This act was supposed to protect against financial devastation from a prolonged illness that requires an extended stay in the hospital.

Recently, I received a touching letter from a constituent who told me about her 89-year-old mother who had suffered a serious illness and has been in the hospital for over 8 weeks. Without this catastrophic coverage, the family would not have been able to continue to care for their mother. So, this insurance coverage is helping people. But, I agree with my constituents who wrote me this letter—save the important benefits and fix the financing.

Senior citizens are not unreasonable and are not asking for a free ride. What they are demanding, and rightfully so, is to be treated fairly.

Specifically, senior citizens in my district have raised three essential complaints against this law that demand the full attention of this House:

First, this plan is not optional. Seniors deserve freedom of choice, especially when they have taken steps for their own protection. Many people already have this insurance under pension plans and others are fully satisfied with the private insurance coverage they have purchased for themselves.

Second, the financing is unfair. Forty percent of the seniors should not be paying for 100 percent of the program. Congressman MICHEL the minority leader, originally proposed a catastrophic health care plan to be financed by a flat fee shared equally among all seniors. This plan focused on coverage of lengthy stays. With limits on deductibles, it was estimated that the entire program could be financed by an optional flat monthly fee of under $10.

Third, the benefits should be clearly defined and limited to the essential needs of all seniors. For instance, the law currently provides for a very costly drug benefit. In the State of New Jersey, we already have in place a drug benefit program for seniors to help limit the

cost of prescriptions. Why should seniors in New Jersey have to pay for something they already have?

Mr. Chairman, I believe that these issues can be resolved. That seniors are willing to work with the Congress, but only if we communicate with them and respect their feedback. For the past 2 years when this proposal was originated, I established senior citizen task forces, and requested their personal views through surveys, newsletters and updates.

It is time now to reestablish a constructive dialog with senior citizens. I feel strongly we must have a direct dialog, not through national organizations claiming to represent their interests here in Washington.

Finally, I do not support the piecemeal approaches to remedying this bill that have been proposed by the Ways and Means Committee and by Congressmen STARK and WAXMAN. We need more than a bandaid approach.

None of the reform proposals make the plan optional.

None of the reform proposals address the duplication of benefits.

And, none of the reform proposals deal adequately with the income-based surtax. Decreasing the surtax while increasing the monthly premium is deceptive.

Mr. Speaker, I urge my colleagues to join with me in voting to repeal this act. Repeal is not my first choice, but it is a better solution than the proposal by the Ways and Means Committee or keeping the status quo.

Mr. CRAIG. Mr. Chairman, I rise in opposition to the Stark-Gradison amendment and in favor of the Donnelly-Archer amendment. Last year, the "Medicare Catastrophic Coverage Act of 1988" was billed as being the much sought after solution to the elderly's long-term health care coverage concerns. However, since the implementation of this legislation, we have found that it contains unforeseen costs about services that do not meet the elderly's real concerns about long-term health care.

Speaking as a Member with former State legislative experience, I am highly opposed to bundling issues of this magnitude into budget reconciliation. These issues should stand on their own and be considered as such. By combining issues within budget reconciliation, we, as representatives of the American people, are not accurately and effectively doing our jobs, we are not serving the people. Although I strongly oppose this procedure, I am forced to abide by these rules.

I voice my opposition to the continuation of the "Medicare Catastrophic Coverage Act of 1988." Reform, as Stark-Gradison and the Ways and Means proposal suggests, is not the answer. These alternatives are but bandaid solutions to the problem. The only way to accurately respond to our seniors' needs and to effectively solve this dilemma is to repeal this act.

Retention of the prescription drug benefit, as proposed by Stark-Gradison, will not only cost Medicare over $2 billion to set up the reporting and administrative system, but by 1993, the program will also actually only help 5.9 million of the 34 million beneficiaries. Furthermore, estimated costs are now expected to reach as high as $11.8 billion—twice as high as originally projected. Finally, the Stark-Gradison amendment will not ensure that the surtax is repealed.

The only way to make sure that this surtax is nullified, and that the long-term health care needs of the elderly are truly met, is to repeal the "Medicare Catastrophic Coverage Act of 1988." That is why I support the Donnelly-Archer amendment. Piecemeal reform will not correct the problem. With repeal, we will be able to take a fresh look at the health care needs of our Nation's elderly. The Donnelly-Archer amendment will give us this opportunity.

Mr. SYNAR. Mr. Chairman, last year I joined a majority of my colleagues in the House and Senate in passing legislation making landmark improvements in Medicare coverage for the elderly. I knew that the legislation wasn't perfect. It had little to offer in the way of long-term care coverage. Many elderly opposed the financing mechanism. But given the narrow parameters imposed on the Congress by President Reagan and the budget deficit, and the competing interests of all the groups, I felt it was the best the Congress could do. In the immortal words of the Rolling Stones, "you can't always get what you want. But if you try sometimes, you just might find you get what you need."

That the elderly need catastrophic coverage is undisputed. On average, Medicare covers only 45 percent of an elderly person's health care bills. It doesn't provide coverage for prescription medicines. Every day low-income elderly decide not to get medicines their doctors prescribe because they can't afford them. Coverage for long-term care costs are almost nonexistent. Elderly couples must spend down all of their savings and become distitute to get help from the Government. Millions of elderly cannot afford private insurance to supplement Medicare's coverage.

The Catastrophic Coverage Act would have gone a long way toward meeting these needs by providing a package of benefits that pick up where Medicare now leaves off.

Congress obviously underestimated the strength of the opposition to a catastrophic program which was substantially self-financed. Regrettably efforts to educate beneficiaries about the new coverage were unsuccessful. Misinformation about who will pay what and what they will get for it abounds. The Joint Committee on Taxation has studied the incomes of the elderly and the catastrophic health insurance program. Based on their findings, only 5.6 percent of elderly will pay the maximum surtax; 60 percent of all seniors will pay no surtax.

Leaving the program as is is no longer an option. It would have been nice to authorize Medicare to undertake a comprehensive educational program on the merits of catastrophic coverage. The Congress has decided to respond to the complaints of the elderly by either modifying the program or repealing it.

Given the choice between the changes the Ways and Means Committee made in the program and repeal, I have to support repeal.

First, the Ways and Means proposal is unacceptable because it shifts the burden of paying for the catastrophic coverage to those least able to afford it. A recent study shows that 70 percent of Oklahoma seniors would pay higher premiums under this plan. Under the original catastrophic proposal, 70 percent of Oklahoma elderly would have paid nothing. Over 37 percent of Oklahoma seniors are at or below poverty level. The median income of Oklahoma seniors is just $13,343—only $3,000 above poverty for a single person. Oklahoma's elderly spend 13.3 percent of their incomes on medical costs.

Second, although the proposal claims to make the catastrophic coverage voluntary it is not. Volunteering to give up the catastrophic coverage also means losing Medicare part B coverage. This definition of volunteer gives new meaning to Orwellian doublespeak.

Even though I'm supporting repeal of the program, it troubles me. Repeal of catastrophic doesn't do anything to help the millions of elderly who are at great risk of financial ruin due to an unexpected, long-term illness. As I travel around the Second Congressional District elderly tell me that their biggest fear is their families. I receive letters from elderly Oklahomans in just this predicament every week. Some of the people qualify for Medicaid but still can't afford their medicines, like the elderly couple I heard from recently.

Their combined Social Security is $520 a month. One spouse's monthly drug bill is $207. She has high blood pressure; he had congestive heart failure. She writes that sometimes she skips buying her medicine because of the high cost. And, she concludes by saying that she's not asking for anything. "We learned long ago that the poor people, expecially the elderly, are going to be left that way."

I would like to say that these letters are rare. They aren't. It's true that the number of letters I get from low-income elderly pale in comparison to the stack of mail I've gotten in opposition to the Catastrophic Coverage Act. Perhaps if these elderly were better organized we would not be voting on this issue today.

My conscience won't let me vote for repeal for catastrophic without also supporting the Stark-Waxman-Gradison amendment which reinstates the prescription drug benefit and preserves some of the more important long-term-care benefits.

The Stark-Waxman-Gradison amendment eliminates the supplemental premium as well as all of the Medicare part A benefits, including unlimited hospitalization. Recent polls suggest this coverage is least needed by the elderly. It provides up to 38 days of home health care per illness and extends the hospice coverage for terminally ill elderly. It permits every elderly woman to receive a mammogram every other year and provides new respite care coverage to relieve unpaid care providers up to 80 hours a year. These benefits are paid for through a flat monthly premium of just $5 per month this year. For elderly that are 100 percent of poverty, the States will be required to pay for the deductibles and premiums.

The elderly who will benefit from this amendment haven't waged an organized campaign for this coverage. They don't expect any help from their Government. Many Members of Congress probably haven't even heard from them or know that they exist. It is for them that the Catastrophic Coverage Act was

created and it is them that will suffer most as a result of its repeal. The modest expansion of Medicare as proposed in the Stark amendment is the least the Congress can do to ease their burden.

Mr. BEREUTER. Mr. Chairman, today Members of this body have a unique opportunity to respond to the huge outpouring of dissatisfaction that has spread like wildfire across the country. Today this body can admit that it made a mistake last year when it passed the Medicare Catastrophic Coverage Act. Today this body can vote to repeal the Medicare catastrophic law and its onerous tax imposed on the Nation's elderly.

Let the record show that this Member intends to cast his vote to repeal this law. I have been pushing for this kind of action, as have many of you, because I am convinced that America's senior citizens are finally speaking for themselves through the Members of the House, not through senior citizen groups who have purported to represent them. A great many senior Americans clearly don't want the catastrophic coverage at the cost mandated; if they don't want it under those circumstances, it shouldn't be forced on them.

Today's debate and votes will send an important message to the millions of senior citizens who have been contacting Congress. We hear you. We hear your pleas and demands, and we have successfully convinced the leadership of this body to permit an up-or-down vote on repeal of the catastrophic program.

Like every single Member of Congress, this Member has received hundreds of letters from angry constituents who vigorously protest the imposition of the onerous surtax. In town meetings across my congressional district during the last several months, the No. 1 concern on the minds of most of the senior citizens constituents attending was the repeal of the Medicare Catastrophic Coverage Act and the surtax that would fund what they see as useless or less than cost-effective benefits. They don't want the surtax, and often as not, they say they don't want or need the coverage it would bring. What many say they want and need is assistance on long-term care, not catastrophic care. Many already had catastrophic care insurance. In many cases, their private coverage was said to be superior to the benefits that would be provided under the Medicare Catastrophic Coverage Act.

Congress cannot turn its back on the Nation's senior citizens and other Medicare-eligible beneficiaries who say they do not want to reform a law they see as fundamentally flawed. We should return to the drawing boards and begin anew to discuss the need for long-term care and most important, to consider how it can be financed without creating further generational strife and inequities.

While the reforms offered by the members of the Ways and Means Committee in the pending reconciliation bill may have been well-intentioned, the catastrophic reform package contained in the committee's reconciliation proposal is flawed.

According to a study by Families United for Senior Action, under the tax panel's proposed catastrophic revisions, 58 percent of the Nation's elderly taxpayers will pay more under the committee's proposed changes, while only 25 percent will pay less. The remaining 17 percent will experience no change. Additionally, the study points out, 31 percent of those individuals who will have to pay more under the Ways and Means Committee's proposals have incomes between 100 and 149 percent of the poverty guidelines, while 79 percent of those individuals who will pay less than current law calls for have incomes at or above 300 percent of poverty.

Just as the committee reforms are flawed, so too are the provisions of the Stark-Gradison-Waxman substitute amendment. The substitute is unrealistic. Those who believe that modest flat-rate premiums will actually cover the drug benefits provided in the substitute are looking at life through rose-colored glasses. Just between February and July of this year, the Congressional Budget Office doubled its estimate of the cost of prescription drug benefits.

In closing, this Member says: We need repeal, not reform. This is the time to repeal the law before the benefits start. This action takes away no benefits presently being delivered. The repeal language provides a transition back to prior law governing Medicare supplemental—sometimes called Medigap—policies. It requires that insurance companies treat individuals who dropped such policies in anticipation of the Medicare catastrophic law be treated as if their coverage continued, if they want to resume their private plans.

America's elderly citizens are watching us and will not forget our actions. This is a historic moment for Congress and for the Nation's elderly. We now have the opportunity to undo a clossal mistake.

Mr. BAKER. Mr. Chairman, I would like to take this opportunity to express my full support for repeal of Public Law 100-360, the Medicare Catastrophic Coverage Act of 1988.

I am proud to say that at the onset, I was one of 72 Members of the House of Representatives who voted against enacting this catastrophic health bill. From the beginning, I knew that this bill would penalize seniors who saved money for their retirement years. The so-called benefits of this law do not meet the majority of seniors' needs, nor address the real problems with long-term and custodial care.

Since the beginning of the 101st Congress, my office has received at least 2,000 letters and has received hundreds of calls from seniors who are in strong opposition to this law.

Clearly, the Donnelly-Archer amendment which repeals the Medicare catastrophic law makes the most sense. We can not make adequate adjustments to the law on the floor of the House of Representatives, we need to make a fresh start and provide seniors with true catastrophic health care which addresses the problems of home and long-term health care.

The Stark-Waxman-Gradison amendment is nothing more than a poor band-aid approach which contains no meaningful long-term care benefits or meaningful long-term custodial care features. Additionally, the Stark-Waxman-Gradison amendment retains the most expensive, unpredictable, and controversial prescription program which few seniors will benefit from and which many do not feel is really catastrophic in nature.

I urge my colleagues to support the Donnelly-Archer amendment. Seniors throughout the Nation have expressed their views and we must now take responsible action and repeal this catastrophic law.

Mr. BROWN of California. Mr. Chairman, today I cast a vote which reflects the sentiments of an overwhelming 77 percent of the seniors in my district. Although I voted in favor of the Medicare Catastrophic Protection Act last year, today I am compelled to vote to repeal that law.

When we passed this law last year, most of us believed we would protect senior citizens from the catastrophic costs associated with unexpected, serious illnesses and accidents. We voted on that law largely because of the recommendations of national groups, such as the American Association of Retired Persons [AARP], which we believed represented the views of the majority of older Americans, and which informed us that the new protections we offered were vitally needed. This year, we spent much time and energy explaining our votes for the Medicare Catastrophic Coverage Act to millions of very angry senior citizens.

These men and women do not simply write letters. They write hundreds of thousands of letters. They call. They send telegrams. They join organizations which mass mail mountains of postcards. They demonstrate, holler, and carry signs. One women has even turned herself into a folk heroine of sorts by throwing herself across the hood of a car in which the chairman of the Ways and Means Committee, DAN ROSTENKOWSKI, was a passenger. These people are furious, and many of them have every reason to be furious.

Some have tried to dismiss this outcry as nothing more than complaints from a very vocal minority of wealthy seniors. Although there is no doubt that higher-income elderly are far more upset by this new law than are low-income elderly, I have also heard complaints from Federal and military retirees who are far from wealthy. While many seniors claim that the entire funding mechanism for the Medicare Catastrophic Coverage Act is unfair, if not unconstitutional, many of my constituents have presented convincing cases to show that regardless of the cost, the new coverage does not add anything to their existing benefits packages.

More than 6 million elderly men and women will go without catastrophic protection if we repeal this law today; however, millions will pay as much as $800 this year for benefits they already had if we do not repeal the law. Although I continue to believe that the Medicare Catastrophic Protection Act offers a good value for the benefits it provides, and continue to believe that many seniors need this coverage, the public response to this program makes it impossible for us to retain this law in its present form. I recently mailed a questionnaire to seniors in my district regarding this law. A decisive 77 percent told me they wanted to see the law repealed. Today, Mr. Speaker, I must cast a vote which represents the sentiments of my constituents.

I vote today for an amendment which will repeal the Catastrophic Coverage Act and the surtax which has raised such an outcry. In its place, we will offer a chronic and preventive

care program, financed by a flat, monthy premium increase paid by all Medicare part B subscribers. This new program contains modified prescription drug coverage, and those benefits which are seldom, if ever, covered by private insurers. Most importantly, it retains important protections for the poor, and for seniors whose spouse must enter a nursing home.

This amendment has the support of every major senior citizens group in the Nation: National Council of Senior Citizens, National Commitee to Preserve Social Security and Medicare, National Council on Aging, AARP, United Auto Workers, Families USA, AFSCME, Service Employees International Union, Save our Security Coalition, and National Association of Retired Federal Employees. Members of these very groups have been largely responsible for the flood of mail which our offices have received on this issue. I believe a vote for this amendment is needed to stem the tide.

I would like to think that we are not merely backpaddling by repealing this law. I realize that we are undoing untold months of hard work which went into creating the Catastrophic Protection Act; however, we need not chalk it all up to wasted time and misguided effort. Rather, let us learn from this debacle, in order that we as a nation can move forward and address the truly catastrophic health care problems in America—namely, long term care, and health coverage for the uninsured.

Our constituents have told us loud and clear that those are the most pressing health needs facing our country today. Presently, the Pepper Commission, a group of health care experts and informed Members of Congress, is drafting a report which addresses both of those needs. I urge this body to take that report to heart, to learn from the lessons of the Medicare Catastrophic Protection Act, and move this country forward with a health policy that protects all Americans not only from the catastrophe of illness, but from the catastrophe of the cost of illness.

Mr. COMBEST. Mr. Chairman, today we have the opportunity to show senior citizens across this Nation that we have heard their cries of protest over the Medicare Catastrophic Coverage Act. My office like many of my colleagues have been inundated with over 3,000 letters asking for repeal of the this unfair and potentially devestating act. I voted against this ill-conceived legislation when it came before the House last year and I will vote today for the Archer-Donnelly amendment to repeal the catastrophic health care law.

My seniors have made it clear that they will except nothing less than total repeal. The Stark-Gradison-Waxman amendment, which would try to salvage the most fiscally unpredictable portion of the catastrophic act, the drug benefit, is like throwing a cement life preserver to a drowning man, it just won't work.

Let's repeal this truly catastrophic legislation and start from scratch to give seniors what they really want, long-term care.

Mr. BEILENSON. Mr. Chariman, I rise in support of the Donnelly-Archer-Russo amendment. It's clear that we need to go back to square one and reconsider what kind of health care coverage the Government should provide and how it should be paid for.

It is unfortunate that the focus of opposition to this new program has centered on the surtax. As one of only a few Democrats who voted against this expansion of Medicare last year, I did not oppose it because of its financing—in fact, I thought, and continue to think, that progressive financing of the benefits was a positive aspect of the bill. I voted against it because there was a more fundamental flaw: it levied high fees for largely marginal benefits, except for hospitalization, rather than for truly catastrophic needs—that is, for long-term illnesses or disabilities which require lengthy stays in nursing homes or full-time care in a person's own home.

Neither the Ways and Means Committee provision, nor the Stark-Gradison-Waxman amendment, resolve this fundamental problem. Both are attempts to salvage at least part of the program by cutting or eliminating the surtax. But doing so necessarily means increasing the burden on a low- and middle-income elderly, either by raising their premiums or cutting their benefits. Furthermore, under either option, we would find it nearly as difficult to finance the long-term care benefits that should be our true goal as it would be if we kept the current program.

There is no way that the Federal Government can cover all the health care needs of the people in this country, elderly and nonelderly alike. We have to choose priorities. As I hope we have learned from the outcry over this bill, Congress made the wrong choice by approving a program costing tens of billions of dollars to increase coverage for physicians' fees and add coverage for prescription drugs and a host of other benefits. Those costs may cause some hardship, but they do not compare with the financial catastrophe of long-term care—a cost that bankrupts all but the very wealthiest Americans.

If we succeed in repealing the Medicare Catastrophic Coverage Act, I hope that the Ways and Means Committee will go back and look at what the unmet health care needs really are, and what people really want; I think they will find them to be helpful with nursing home and home health care costs. I also hope that our experience with the the 1988 law will not discourage the committee from pursuing a plan for progressive financing. If we provide the benefits people want—and probably thought they were getting when we first starting talking about catastrophic coverage—then we'll see a greater wilingness on their part to pay for them.

Mr. Chairman, repeal is the right choice. I urge our colleagues to vote for the Donnelly-Archer-Russo amendment, and against the Stark-Gradison-Waxman amendment.

Mr. MADIGAN. Mr. Chairman, I rise today in support of the amendment offered by my distinguished colleagues, Representative DONNELLY and Representative ARCHER, to repeal the Medicare Catastrophic Coverage Act.

I will cast my vote for this amendment with considerable reluctance. When President Reagan originally proposed legislation to expand Medicare to cover catastrophic medical expenses for the elderly and disabled, I welcomed the plan. Participants would have received up to 1 year of hospital care, with a $2,000 cap on out-of-pocket expenses, for the nominal cost of about $5 per month, or $60 per year. Unfortunately, what began as an actuarially sound, simple reform to Federal health insurance for the elderly has become a broad expansion of Medicare benefits financed through premium increases and an unacceptable surtax on America's elderly. As it stands, the program has become a gross caricature of itself and must be repealed.

Earlier this year, I joined with a number of my colleagues in introducing H.R. 2055, the Medicare Catastrophic Coverage Amendments of 1989. This legislation would have repealed catastrophic and restored the Reagan-Bowen plan with some needed modification. I remain hopeful that one day, Congress will pass similar legislation. Regretfully, now is not the time. It is apparent that this program is beyond repair. Senior citizens have spoken with unmistakable clarity for repeal.

We must realize that the firestorm caused by the existing legislation will seem tame compared to the hostility and resentment that will result if we do not alter our course. New projections by the Congressional Budget Office [CBO], indicate that the costs of Catastrophic will be far in excess of those relied upon in enacting this law. Last year, CBO estimated that the 5-year cost of the bill would be $31 billion; now, just 1 year later, with many elements of the program not yet in place, costs are said to be $48.2 billion. The program is simply too expensive for participants, and for the Federal Government. It makes no sense for us to continue a program that is staunchly opposed by those we sought to help.

While repealing the major provisions of the Catastrophic Act, this amendment before us also offers transitional protections for the elderly which I believe are vitally important. Those senior citizens who had Medigap policies in effect on December 31, 1988, and who terminated coverage under the policies as of January 1, 1989, will be treated by insurers as having had coverage throughout 1989. Additionally, the amendment provides protection for individuals hospitalized or admitted to a skilled nursing facility in 1989. For these individuals, hospital or skilled nursing facility days used during 1989 will not be counted for purposes of calculating lifetime reserve days.

Mr. Speaker, the solutions to the problem of health care for the elderly are elusive and complex. We must, however, learn from our constituents, and have the courage to recognize the widespread unpopularity of the status quo. I urge my colleagues to join me in supporting the repeal of the Medicare Catastrophic Coverage Act.

Mr. LENT. Mr. Chairman, I rise in support of the amendment by Mr. DONNELLY and Mr. ARCHER to repeal the major provisions of the Medicare Catastrophic Coverage Act.

I take this step with a great deal of regret. When President Reagan proposed to expand Medicare coverage to include Catastrophic Health Care Coverage, I thought it was an excellent idea. However, the version signed into law bears virtually no resemblance to the President's original program. What began as a sound, simple reform to the Medicare Program for the elderly, expanded into a broad array of benefits which went far beyond the notion of

catastrophic coverage. The Catastrophic Act financed the program through increases in the program's existing premium and by adding a new mandatory premium which is essentially a tax for nearly 40 percent of the elderly.

Before the ink was dry on the President's signature, senior citizens across the country were expressing their dismay, arguing that the surtax arbitrarily subjected older taxpayers to a higher Federal income tax than younger ones. This maximum surtax would reach $1,050 a year by 1993 for an elderly single individual.

While the benefits, such as the drug benefit, are certainly meritorious, they are benefits that the elderly did not want to pay with a surtax. And for other benefits, many elderly already have coverage through their Medigap policies.

Also, it has become very clear in recent weeks that the costs of the Medicare Catastrophic Coverage Act were grossly underestimated at the time of passage. The Congressional Budget Office recently informed us that the 5-year cost of the bill has been underestimated by $17 billion in comparison to original estimates. The program is now estimated to cost $48.2 billion over 5 years instead of the original $31 billion. The country can ill afford to finance a program that costs so much and provides so little in substantive benefits.

I urge my colleagues to join me in supporting the Donnelly-Archer repeal amendment.

Mr. ROTH. Mr. Chairman, as an original cosponsor of this repeal amendment, I urge my colleagues to vote for America's senior citizens by ending this legislative mistake. Although only small groups of us voted against the catastrophic bill last year, by now every Member of Congress has heard a clear message from our senior citizens: They do not need this law, they cannot afford this law and they do not want this law.

The American people are tired of paying the costs for the grand designs of the ivory tower social engineers in Washington who somehow think they have been anointed with the wisdom and power to tell the rest of us what health insurance we can and cannot have.

On September 20, a group of us held a special order in this House to discuss the problems with last year's law. My analysis has been based on the thousands of letters and calls from senior citizens across northeast Wisconsin who have provided the evidence that my opposition to this bill last year was what seniors want and need.

There are three basic problems. First, the cost of this program is very high. The seniors only surtax adds an extra 15 percent—as much as $800—to the tax bill of each senior citizen due next April. This burden rises each year, to $1,000 in 1994 and even higher thereafter. On top of this tax, each Medicare beneficiary pays a monthly premium, beginning at $4 this year and rising to $10 over the next 3 years, with no limit later on.

Second, very few seniors will ever use this insurance. Only 1 of every 15 seniors will actually ever benefit. Very few will use the drug coverage above the $600 a year deductible. And few will benefit from the physician coverage which is limited to paying only at government set rates.

Third and worst, seniors have no choice. Last year's bill wiped out all of the existing private insurance that seniors already had for catastrophic illness. All Medicare eligible seniors must pay the surtax, whether they want Medicare coverage or not. And all seniors already on Medicare must take the new coverage or give up their existing Medicare physician insurance. That is simply wrong.

There is another amendment today that some want to override our repeal effort. That amendment would keep a part of the Medicare insurance plan that supposedly covers prescription drugs. But the fine print shows that each senior would have to spend $800 out of their own pocket before getting any coverage. And for this benefit each senior would still pay the monthly premium, even though only a small group would ever benefit. This amendment only makes the problem worse, and I urge my colleagues to oppose it.

Today's votes go directly to a fundamental principle of our Government: The role of the Congress is to respond to the will of the people. For most of us, that is the watchword of our office, but some need to be reminded they are here to serve, not to rule. How else can one explain the last ditch attempt by a small group of diehards who want to override our repeal amendment with a pared down mandated health insurance plan? Could it be their hope is to preserve just enough of this Medicare catastrophic law so that later on in a closed conference with the other body they can resurrect their insurance scheme and bring it back as part of the final version of this budget bill?

America's senior citizens understand that we will not have finished the job today unless we have both voted for our repeal amendment and defeated the attempt to keep a part of the catastrophic insurance plan on the books. We must send this bill to the other body with the repeal amendment that our senior citizens have demanded.

In a few weeks, the other body will act on its version of this legislation, and a small group from each House will then meet to work out the differences. Since the likely House conferees are mostly fighting against our repeal amendment, we must send them to conference with a clear message: Repeal is the only acceptable decision for our senior citizens and for this House.

Repeal of the Medicare catastrophic insurance law is not the end of our work. Senior citizens need access to health care services and they need insurance that fits their budgets. But to make progress toward a better Medicare Program, we must wipe the slate clean, so we can move on to work on an insurance plan that really helps our senior citizens and does not bankrupt them. I look forward to the day when Congress can act on a plan that senior citizens want, and not what the self-appointed Washington spokesmen and social engineers seek. Ours must remain the Government of the people, by the people, and for the people.

Today, let the rest of the House join those of us who have taken the lead in bringing this repeal amendment to the House. I urge my colleagues to vote for our repeal effort.

Mr. OWENS of New York. Mr. Chairman, I rise in supoprt of the Stark substitute to overhaul the Medicare Catastrophic Coverage Program the Congress enacted last year.

This substitute would eliminate the supplemental premium and most of the catastrophic benefits but would retain the monthly premium and some of the new benefits that many of my constituents have told me they consider to be most important. The new respite care benefit would be maintained, providing coverage for 80 hours a year of home health aide services to relieve families and friends who are helping to care for a homebound Medicare beneficiary. The expanded home health care benefit would also continue, providing coverage for up to 38 days of home care per illness. Also preserved would be the new, unlimited coverage for hospice care and coverage of mammograms, a critical service that experts estimate will help save the lives of some 4,000 Medicare beneficiaries each year. And most importantly, the Stark substitute would preserve the prescription drug coverage that our late colleague Claude Pepper fought so hard to get included in the act.

For these reasons, I join with the AARP, National Council of Senior Citizens, NARFE, the Gray Panthers, the Older Women's League, the National Caucus and Center on Black Aged, and the National Committee to Preserve Social Security and Medicare in supporting the Stark substitute.

When the House first debated the Medicare Catastrophic Coverage Act, I made clear my opposition to requiring senior citizens themselves to pick up the entire cost of the new benefits. It was and is a bad idea. We do not insist that parents of school-age children pay the cost of elementary and secondary education in this country. We all contribute because we believe that access to education is a basic prerequisite for the kind of just and decent society we want to live in. And so it is also with health care. The burden should not fall exclusively on the ill or the elderly; it is something all of us must share.

Last year I also noted that the Medicare Catastrophic Coverage Act was not the kind of legislation my constituents most wanted to see. Their chief concern—then and now—is long-term health care, an issue that the act did not address at all. Claude Pepper supported the act, but he described it as the "step of a dwarf." He was right—and, in the judgment of many of my constituents, it was not even a step in the right direction.

I am pleased that the House is finally acting to address these and other concerns seniors have about the act. But I am disturbed by some of the talk going on behind the scenes. Privately and also publicly, we hear from some of those who both support and oppose repeal complaints that older Americans are greedy and selfish. Others suggest the problem is that seniors are confused and do not really understand the issue. And more and more, you hear people say the Congress is going to teach senior citizens a lesson by refusing to take action to confront the problem of long-term health care.

How idiotic.

The older Americans in my district are not greedy and they are not confused. From the day I first came to Congress to the present, their message to me has been the same: Something must be done now to guarantee quality, affordable health care to all who need

it. No bill excites more interest when I meet with seniors in my district than Representative RON DELLUMS' U.S. Health Service legislation—H.R. 2500—and other similar bills. People in Brooklyn simply do not understand how it can be that the Governments of Libya and Luxembourg and dozens of other nations can provide more generous health care coverage to their people than the Government of a wealthy and powerful Nation like the United States. They are sick and tired of seeing Medicare slowly bled to death by a thousand cuts; sick and tired of the mounting monthly premiums and deductibles; sick and tired of paying more and more for less and less; and sick and tired, most of all, of the endless string of excuses they are given for Washington's inaction. They want action now. Not minor, piecemeal reforms, but a decisive and radical overhaul of our Nation's health care system. It is broke, they say, and it is time for us to fix it.

Many of my colleagues have probably heard much the same thing back home in their districts. But somehow here in Washington the message never seems to get through. Nothing happens. It's business as usual. The premiums go up; the problems deepen; nothing is done. And when we do finally do something, we give people benefits they don't want and then hand them the bill.

Today, at last, the message from the grassroots has gotten through. The anger, the frustration, the demands for change are starting to be heard. Seniors will no longer be put off or ignored. And anyone who thinks they are going to get even with seniors by doing nothing about long-term care can expect to find themselves learning a lesson—not teaching one.

There is no reason why we cannot act on the long-term care issue during the 101st Congress. So far, this has been a singularly disappointing session of Congress. With so many vital issues and problems needing to be addressed—not only health care, but the drug abuse emergency, the housing crisis, and the state of our schools—we have wasted our time on the legislative equivalent of shadowboxing and puppet plays, debating nonissues like flag burning and titillating artwork. No problem we face is insurmountable or insoluble; there are concrete, meaningful actions we can take tomorrow to revitalize our schools, to build housing for our people, and to make quality health care available to all.

"The earth is littered with the jawbones of asses," the poet Georg Buchner once wrote, "What may be missing are the Samsons to swing them." The 101st Congress can still be salvaged if we start heeding the call from our constituents and come out swinging.

Mr. SHUMWAY. Mr. Chairman, I appreciate having this opportunity to speak out on behalf of the many senior citizens I am privileged to represent concerning the terribly unfair burden imposed by the Medicare Catastrophic Coverage Act.

I have opposed this bill from the outset, calling it catastrophic taxation and a cruel hoax on the elderly. As passed, the bill fell far short of the goal of providing affordable, catastrophic health insurance coverage. Instead, it represented the largest expansion of Medicare since the program was created over 20 years ago, requiring that we impose catastrophic taxation to provide protection against the cost of catastrophic illness.

More than 11 million senior citizens, or 35 percent of all retirees, will be forced to pay the new Medicare surtax this year. Both the tax rates and the percentage of elderly paying the tax will continue to rise in future years. According to the Congressional Budget Office [CBO], 42 percent of the elderly, or 14 million retirees, will be paying the new tax by 1993. Recent proposals to lower the cap will not cure the inequities in this legislation and should not be accepted as a solution. Congress can just as easily raise the cap when additional revenues are needed.

Most seniors will be paying for health care coverage they do not need. Of the Nation's 32 million Medicare beneficiaries, 125,000 will benefit from the provision allowing for hospital stays in excess of 60 days per year. This act assures that 93 percent of the participants will not exceed the out-of-pocket limit on physicians fees and services. Moreover, 83.2 percent will never exceed the deductible for prescription drugs. Costs to the potential beneficiaries in terms of taxes, premiums, and deductibles will continue to rise while the percentage of actual beneficiaries remains constant.

Furthermore, over 70 percent of Medicare beneficiaries already have provided catastrophic coverage for themselves. Participants who are most likely to incur the supplemental premium are likely to be covered by their existing Medigap or retirement health plans. Nearly 70 percent of Medicare enrollees also carry policies to cover what Medicare does not offer, and another 10 percent are covered by Medicaid.

In response to a wave of outrage from older Americans, the House Ways and Means Committee has approved a revision of last year's catastrophic care bill. While the committee's action provides some relief from the catastrophic taxes, it doesn't go far enough. Rather than support the Ways and Means reform package, I would urge my colleagues to support the Donnelly amendment which is being offered today. Representative DONNELLY's amendment would repeal the Catastrophic Protection Act, while keeping in place those provisions which assist the poor and most vulnerable. Under Representative DONNELLY's plan, the surtax would be repealed, effective December 1988, and the supplemental would be returned to the participating individuals.

The Medicare Catastrophic Coverage Act is a costly mistake in more ways than one. It should be repealed. Today we have the opportunity to convince our respective senior constituencies that their voices have been heard, and that we share their outrage. Vote today for the Donnelly amendment to repeal the Catastrophic Protection Act.

Mr. FAUNTROY. Mr. Chairman, the Medicare Catastrophic Coverage Act that we passed last year has been the object of more controversy and constituent outcry than most of us have seen in a good long while. Although none of us in the 100th Congress was completely satisfied with the legislation that was passed, many of us were determined to get something through the Congress that would provide for the catastrophic health care needs of America's senior citizens. In the meantime, of course, we have been bombarded with complaints from individuals and from senior citizen advocacy groups who are opposed to the costs of the catastrophic care provisions, and especially the imposition of the surtax.

Realizing that the financing mechanism for the catastrophic coverage was flawed, I immediately cosponsored legislation in the 101st Congress, H.R. 974, introduced by my colleague, BARNEY FRANK, of Massachusetts, that would repeal the additional part B increases mandated by the new law and would freeze the part A surtax rate and cap at the 1989 level, with possible adjustments for inflation; additional revenues necessary to pay for the coverage would instead be raised through a doubling of the cigarette tax. A few months later, I also became a cosponsor of H.R. 2547, introduced by my colleague, DAVID BONIOR, of Michigan, to repeal the supplemental premium and provide for catastrophic benefits by extending the maximum individual income tax rate of 33 percent, eliminating a longstanding inequity that favors the very rich. I cosponsored both of these bills in an effort to retain the catastrophic benefits for so many people who need them, while alleviating the apparent unfairness in the financing mechanism which penalized many low- and moderate-income individuals and families.

As the debate on catastrophic care continued, both in committees of the House and in the Nation as a whole, I have become increasingly disturbed by two emerging trends. First, I am concerned about the avalanche of selfishness exhibited by too many people of means all across our Nation who are saying, "Yes, we want the catastrophic care benefits, but we don't want to pay for them." Many of the same people who were advocating for the catastrophic care bill 1 year ago are now complaining that they don't want it because they must bear a portion of the expense. While I recognize that the financing mechanism may need adjustment, to alleviate the disproportionate burden now being levied upon some low- and middle-income consumers, I am convinced that many who do have the means to pay simply are too selfish to share the cost of the services from which they will directly benefit.

Second, I am concerned that so many of my colleagues in the House are advocating for repeal of the entire catastrophic care package because it needs revision and refinement. Certainly, while the law needs some reworking, to repeal this legislation for which we struggled so long would be a serious step backward in our response to the health care needs of our Nation's senior citizens. According to mail received in my office just in the past few days, the majority of senior citizens and, indeed, 77 percent of all Americans—and believe me, all of us will in some way be affected by the outcome of today's legislative decisions—are staunchly opposed to repeal of the catastrophic coverage and instead support the Stark-Waxman-Gradison substitute, which retains many provisions of the current law, including the widely favored prescription drug benefits, but eliminates the Medicare surtax completely. While I am not completely satisfied that the Stark-Gradison-Waxman substitute is the perfect solution to the catastrophic

care dilemma, I respect the monumental effort that my colleagues have invested in its development and I am responsive to the dozens of national senior citizen advocacy groups and other national health organizations which have strongly endorsed this alternative over repeal.

Mr. Chairman, while I would much prefer that we were voting today on a comprehensive national health care policy that would provide a unified and accountable program of health care for all Americans, I urge my colleagues to take a stand to retain what is good in our current provisions for catastrophic medical coverage and to support the Stark-Gradison-Waxman substitute as the best alternative before us today for providing for the catastrophic health care needs of our Nation's senior citizens. And I urge us to work even harder in the days before us to stop the insanity of merely throwing peanuts at our Nation's needs for nonviolent solutions to its human problems while we pour billions into poorly designed war plans masquerading as national defense. We need a comprehensive national health care policy, and this current confusion over catastrophic care is a grating example of why we cannot afford to wait for it any longer.

Mr. BUECHNER. Mr. Chairman, over 1 year ago I was visited by the lobbyist for one of our Nation's most powerful senior citizens groups. He demanded I support the Medicare Catastrophic Coverage Act. I expressed to him my serious concerns with the bill. He said he felt it was in the best interest of our Nation's senior citizens and likened their bill to be a train coming down the track and that I could either support them or be left at the station. My reply was I think I'll just step aside and listen for the crash.

Well, Mr. Chairman, the crash has occurred and Congress is being called upon to clean up the mess it created. Only 1 year ago, the Catastrophic Coverage Act was hailed as a major advancement for long-term health care for our senior citizens. I had serious problems with the bill and was one of 72 Members who voted against it.

Two overriding factors guided my vote. At town meetings in my district senior citizens called upon Congress to address their prime concern of long-term care cost. I heard their voices and decided the present catastrophic package did not meet the criteria they set forth.

Now, in a true catastrophic care package the long-term needs of our Nation's elderly population would be directly addressed and not simply swept over with a "free-for-all benefit expansion" of the present system. Unfortunately, the present catastrophic law was a generous benefit expansion which obviously did not resolve the long-term care dilemma. In fact, the package has actually harmed seniors by way of prohibitive, duplicative costs and in absence of true long-term care benefits.

The Stark-Waxman revision of the catastrophic law is not the answer. The amendment may seem to retain some long-term benefits, when, in fact, there is no meaningful long term custodial care feature in this amendment or under current law. The home health coverage and hospice benefits it retains are associated with acute care, not long term custodial care.

Even the Ways and Means revision of the Catastrophic Health Care Act bill does not address the problem. It does not address the concerns of seniors who do not want to duplicate catastrophic benefits that are already available through supplemental insurance policies. Further, the revision ties the catastrophic benefits to part B of Medicare which amounts to more of subliminal cohersion rather than a true option.

Another factor in my decision not to support the bill last year was that most of the senior population who shoulder the costs for this massive Federal program are older Americans who were already covered with some form of private insurance. The "catastrophic" financing provision is not only unfair but carries with it costs that will spiral out of control. In addition, the costs that will be picked up by Medicare adds one more obligation to a system that is already stretched to its limit.

The public outcry over the Catastrophic Program is deafening, and the voices calling for repeal are getting louder. Our "window of opportunity" to provide a straightforward, accessible, and cost-effective catastrophic package that meets the needs of our aging population closes with each passing day.

The same people who gave me the directive to get me on the train that crashed are back. This time they have a plane. It's called the Stark proposal. It provides the wrong benefits at the wrong price. Let's ground it now before it too crashes.

The cure for this ailing program is quite simple: Congress should just "do the right thing"—repeal the current defective plan and begin more deliberate work on a system truly responsive to needs of our elderly Americans.

Mr. WELDON. Mr. Chairman, I am pleased to rise today in strong and vocal support for the Donnelly-Archer amendment. Last summer, Congress got itself in trouble by listening to the suggestions of Washington lobbyists claiming to represent the best interests of the senior citizens.

Mr. Chairman, I think you have heard the real voices of the senior citizens. I know that the elderly don't approve of what their national organizations paraded as a triumph for Medicare. The senior citizens in my district want repeal. And they want it now. I am pleased that the House will have a chance to act on those wishes, in a clean, up or down fashion.

Later today we will have an opportunity to vote on a reform proposal offered by the gentlemen from California [Mr. STARK and Mr. WAXMAN]. Provided the House agrees to repeal "catastrophic health care," I will vote against their amendment. While I applaud their desire to see that some of the protections offered to senior citizens be retained, I am suspicious of any modification package supported by "nearly every major senior citizen's group." Isn't that how we got into this mess in the first place? Isn't that the reason that every Member of this body has received thousands of postcards, letters, and petitions from angry senior citizens who complain that we did not act with their best interests in mind? Isn't that the reason that we are having this debate on the floor today?

If we are to be truly effective Members of Congress, then we must listen to the voices of our constituents. Sometimes that can be difficult, as there is often confusion and disagreement among them. In this case, our senior citizens are speaking with one voice. If we fail to vote for repeal today, then we have slapped democracy in the face. We will have acknowledged the complaints and concerns of the people, but listened to paid lobbyists. If we fail to vote for repeal today, then Jefferson and Madison and Washington and Adams will roll over in their graves.

I urge my colleagues to listen to the people and vote for repeal.

Mr. BALLENGER. Mr. Chairman, I would like to take this opportunity to express my strong support for the repeal of the Medicare Catastrophic Coverage Act. Since the passage of this truly catastrophic legislation, I have received numerous letters, almost 2,000 of them, from elderly constitutents asking me to change or even repeal this law. Senior citizens complain that they are paying too much for benefits they do not need, and they are paying for it through increased taxes and premiums. I believe that today we finally have the opportunity to give the people what they want. By voting for the Donnelly-Archer substitute we have the opportunity to repeal this law.

While the Medicaid provisions are beneficial, the rest of the act is a catastrophe. Original estimates projected the cost of the legislation to be $30 billion over 5 years—1989–93. However, new estimates put the cost at closer to $45 billion. With estimated revenues of $39 billion, the Congressional Budget Office [CBO] predicts that the program will be running a $6.2 billion deficit within the initial 5 years of enactment. With the program gone bankrupt, we will be forced to repeal benefits or increase the surtax in order to maintain the program.

Under the Stark-Gradison-Waxman substitute, the controversial surtax is repealed; however, the part B flat premium is increased for all seniors. In addition, the expensive prescription drug benefit would be maintained. This particular benefit alone would boost the cost of the entire program by 45 percent, and very few seniors could take advantage of the coverage. Proponents of this approach claim that it solves the problems voiced by seniors because it repeals the surtax, but maintains needed benefits. I question this reasoning. While the surtax is repealed, part B premiums increase, and it would retain the benefit most likely to bankrupt the entire program.

I recognize the efforts of my colleagues to revise the existing law; however, I believe the only way to effect any real changes is to repeal it, and to start over. Attempting to save a few of the benefits will only cause new problems for a new set of seniors. In addition, it would still not provide the type of coverage that most seniors need and want, such as coverage of extended nursing home care.

I recognized this legislation was a mistake last year, and voted against it. It's time to repeal the law, and craft a new program that matches the needs of the majority of the seniors. Passage of the Donnelly-Archer substitute would allow us this opportunity.

Mr. PACKARD. Mr. Chairman, today we will consider whether or not to repeal the Medicare Catastrophic Coverage Act. Last year

when we passed this legislation, we believed that the program would adequately meet the needs of the elderly. However, over the past several months many of us have heard from the senior citizens in our districts that the program is not what they need or want.

I originally supported the Medicare catastrophic coverage bill. I felt that, although it was not perfect, it was a step in the right direction. However, in the ensuing months, it became apparent that the system was flawed and none of the solutions seemed to address the problem. It is for this reason that I am supporting repeal of the program.

My seniors have expressed dismay over the financing mechanism of the program. Under the plan, those who saved and invested their earnings so that they would be self sufficient in their later years must pay an extra fee over and above the premium paid by other beneficiaries. This system punishes those who have planned for their future.

Many seniors have also enrolled in additional Medigap policies which cover some of the benefits included in the Medicare Catastrophic Coverage Act. Without the option to enroll in the Catastrophic Program, seniors were forced to either give up the Medigap policies in which they had already invested or pay for double coverage.

Further, because of these additional Medigap policies, acute care costs were covered for many seniors. They were more worried about long-term care costs, which can be much greater and for which protection from the private sector is harder to obtain.

I believe that we need to address this as the real catastrophic cost which senior citizens face. I hope that by repealing this program in its present form, we will not preclude ourselves from addressing this serious issue.

Mr. BRUCE. Mr. Chairman, I share with my colleages the reservations that have been expressed over the Medicare Catastrophic Coverage Act. I appreciate very well the tremendous political pressure that we in Congress have been under to repeal this law. I also understand the concerns of some of our senior citizens who have been asked to pay additional taxes to support the program.

However, I must express my deep regret that, in so doing, we will be voting to repeal the skilled nursing facility [SNF] benefit included in the 1988 act. Loss of this provision will exact a great toll in human terms. Thousands of our frail elderly who desperately need skilled nursing care will go wanting, now and in the future.

Let me cite a few facts. The catastrophic health law expanded an already existing SNF benefit. Prior to enactment, it was mainly a "paper benefit." Today it is a bona fide benefit used by many frail elderly. According to figures obtained from the Health Care Financing Administration, more than 500,000 beneficiaries will have obtained a day of covered nursing home care in 1989. My office, and the offices of other Members of Congress, may not have heard from these people, since their condition makes it difficult for them to communicate. But they have been receiving an unmistakable benefit as a result of our passing the catastrophic health law last year.

Mr. Chairman, this is a very sad hour for the U.S. Congress. I hope that even now we can state our commitment to providing accessible, quality long-term care to the millions of Americans who need it.

Mr. MARLENEE. Mr. Chairman, I hate to say it but I told you so. Throughout the 100th Congress, I voted against the catastrophic health bill each time it came up on the House floor. I was concerned about the outrageous cost to senior citizens, adding a 28-percent surtax and a monthly Medicare premium of $42.60 to their already tight budgets to pay for this catastrophe. It's unfair to unload all the cost of this program on the elderly and then provide hardly any service that they will use.

In my discussions with constituents, Montana senior citizens are worried about long-term health care. What does the future hold for them? Will they have to impoverish themselves to receive health care? The bill passed last year did nothing to address the issue of nursing home care or home health care. Its main provisions focused on extended hospital stays and a new drug benefit. What good is that when only one out of every 25,000 Medicare recipients would benefit from this hospital benefit?

Plus, the cost of the drug benefit has already outstripped projected estimates. The Congressional Budget Office estimates that the cost of the new drug benefit, which many pharmacists oppose because of a lack of adequate reimbursement from Medicare, has jumped 107 percent to $11.8 billion. If the Stark/Gradison amendment is approved, which keeps this benefit, who will pay for this increase? You guessed it—the elderly.

At the time, I was attacked for my vote on this legislation, claiming that I was callous toward the elderly. Campaign ads were run against me saying that my vote against the catastrophic health care bill reflected my views that I was against health care for the elderly.

Nothing can be further from the truth. Now, I have the last laugh. I was one of the 73 Members to vote against H.R. 2470, and I have never been more proud of my stand. I'm glad I don't have to reverse my stand from last year. What is needed is a fresh start toward long-term health care—not a half-hearted attempt to piece together bits of a flawed Federal catastrophic health care law.

I would encourage my colleagues to reexamine the role of the private sector in delivering quality health care at the lowest possible cost. I have cosponsored various bills in the past that would encourage the creative energies of the private sector to come up with solutions to the long-time health care problem. We have the best health care system in the world. Let's take the politics out of health care, and put people first before special interest and poll results. Vote "yes" on the Donnelly/Archer catastrophic health care repeal and vote against the Stark/Gradison amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Massachusetts [Mr. DONNELLY].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ROSTENKOWSKI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 360, noes 66, not voting 6, as follows:

[Roll No. 267]

AYES—360

Ackerman	Dyson	Kyl
Akaka	Eckart	LaFalce
Andrews	Edwards (OK)	Lagomarsino
Annunzio	Emerson	Lancaster
Applegate	Engel	Lantos
Archer	English	Laughlin
Armey	Erdreich	Leach (IA)
Aspin	Espy	Leath (TX)
Atkins	Fascell	Lehman (CA)
AuCoin	Fawell	Lehman (FL)
Baker	Fazio	Lent
Ballenger	Feighan	Levine (CA)
Barnard	Fields	Lewis (CA)
Bartlett	Fish	Lewis (FL)
Barton	Flake	Lewis (GA)
Bateman	Flippo	Lightfoot
Bates	Foglietta	Lipinski
Beilenson	Ford (MI)	Livingston
Bennett	Frank	Lloyd
Bentley	Frenzel	Lowery (CA)
Bereuter	Frost	Lowey (NY)
Bevill	Gallegly	Luken, Thomas
Bilbray	Gallo	Lukens, Donald
Bilirakis	Gaydos	Machtley
Bliley	Gejdenson	Madigan
Bonior	Gekas	Manton
Borski	Geren	Markey
Bosco	Gibbons	Marlenee
Boxer	Gillmor	Martin (IL)
Brooks	Gingrich	Martin (NY)
Broomfield	Glickman	Martinez
Browder	Goodling	Matsui
Brown (CA)	Gordon	Mavroules
Brown (CO)	Goss	Mazzoli
Bruce	Grandy	McCandless
Bryant	Grant	McCloskey
Buechner	Gray	McCollum
Bunning	Green	McCrery
Burton	Guarini	McCurdy
Bustamante	Gunderson	McDade
Byron	Hall (OH)	McEwen
Callahan	Hall (TX)	McGrath
Campbell (CA)	Hammerschmidt	McMillan (NC)
Campbell (CO)	Hancock	McMillen (MD)
Carper	Hansen	McNulty
Carr	Harris	Meyers
Chandler	Hastert	Michel
Chapman	Hatcher	Miller (OH)
Clarke	Hayes (LA)	Miller (WA)
Clement	Hefley	Mineta
Clinger	Hefner	Moakley
Coble	Henry	Molinari
Coleman (MO)	Herger	Mollohan
Coleman (TX)	Hertel	Montgomery
Combest	Hiler	Moorhead
Condit	Hoagland	Morella
Cooper	Hochbrueckner	Morrison (CT)
Costello	Holloway	Morrison (WA)
Coughlin	Horton	Mrazek
Cox	Hoyer	Murphy
Craig	Huckaby	Natcher
Crane	Hughes	Neal (MA)
Dannemeyer	Hunter	Neal (NC)
Darden	Hutto	Nelson
Davis	Hyde	Nielson
de la Garza	Inhofe	Nowak
DeFazio	Ireland	Oakar
DeLay	Jacobs	Olin
Dellums	James	Ortiz
Derrick	Jenkins	Owens (NY)
DeWine	Johnson (CT)	Oxley
Dickinson	Johnson (SD)	Packard
Dicks	Johnston	Pallone
Dingell	Jones (GA)	Parker
Dixon	Jones (NC)	Parris
Donnelly	Kanjorski	Pashayan
Dornan (CA)	Kasich	Patterson
Douglas	Kastenmeier	Paxon
Dreier	Kennelly	Payne (VA)
Duncan	Kildee	Pease
Durbin	Kleczka	Pelosi
Dwyer	Kolbe	Penny
Dymally	Kolter	Petri

Pickett	Schumer	Sundquist
Porter	Sensenbrenner	Swift
Poshard	Sharp	Synar
Price	Shaw	Tallon
Pursell	Shays	Tanner
Quillen	Shumway	Tauke
Rahall	Shuster	Tauzin
Rangel	Sikorski	Thomas (CA)
Ravenel	Sisisky	Thomas (GA)
Ray	Skaggs	Thomas (WY)
Regula	Skeen	Torres
Rhodes	Skelton	Torricelli
Richardson	Slattery	Traficant
Ridge	Slaughter (NY)	Traxler
Rinaldo	Slaughter (VA)	Unsoeld
Ritter	Smith (FL)	Upton
Roberts	Smith (NE)	Valentine
Roe	Smith (TX)	Vander Jagt
Rogers	Smith (VT)	Visclosky
Rohrabacher	Smith, Denny (OR)	Volkmer
Ros-Lehtinen	Smith, Robert (NH)	Vucanovich
Rose	Smith, Robert (OR)	Walgren
Roth	Snowe	Walker
Roukema	Solarz	Walsh
Rowland (CT)	Solomon	Watkins
Rowland (GA)	Spence	Weber
Russo	Spratt	Weiss
Saiki	Staggers	Weldon
Sangmeister	Stallings	Wheat
Sarpalius	Stangeland	Whitten
Sawyer	Stearns	Williams
Saxton	Stenholm	Wilson
Schaefer	Stokes	Wolf
Schiff	Studds	Wolpe
Schneider	Stump	Wyden
Schroeder		Wylie
Schuette		Yates
Schulze		Young (FL)

NOES—66

Alexander	Gilman	Nagle
Anderson	Gonzalez	Oberstar
Anthony	Gradison	Obey
Berman	Hamilton	Owens (UT)
Boehlert	Hawkins	Panetta
Boggs	Hayes (IL)	Payne (NJ)
Boucher	Hopkins	Perkins
Brennan	Houghton	Pickle
Cardin	Hubbard	Robinson
Clay	Jontz	Rostenkowski
Collins	Kaptur	Roybal
Conte	Kennedy	Sabo
Conyers	Kostmayer	Savage
Coyne	Levin (MI)	Scheuer
Crockett	Long	Smith (IA)
Dorgan (ND)	McDermott	Smith (NJ)
Downey	McHugh	Stark
Early	Mfume	Towns
Edwards (CA)	Miller (CA)	Udall
Evans	Moody	Vento
Ford (TN)	Murtha	Waxman
Gephardt	Myers	Whittaker

NOT VOTING—6

Courter	Garcia	Yatron
Florio	Wise	Young (AK)

□ 1404

The Clerk announced the following pairs:

On this vote:

Mr. Florio for, with Mr. Wise against.

Mr. STOKES changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 7, printed in section 2 of House Report 101-261.

AMENDMENT OFFERED BY MR. STARK

Mr. STARK. Mr. Chairman, I offer an amendment on behalf of myself, the gentleman from Ohio [Mr. GRADISON], and the gentleman from California [Mr. WAXMAN].

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. STARK: Amend part F of subtitle B of title X (relating to revisions to the Medicare Catastrophic Coverage Act of 1988) to read as follows (and conform the table of contents of such subtitle accordingly):

PART F—REVISION OF MEDICARE PROVISIONS IN THE MEDICARE CATASTROPHIC COVERAGE ACT OF 1988

Subpart 1—Provisions Relating to Part A of Medicare Program and Supplemental Medicare Premium

SEC. 10181. REPEAL OF EXPANSION OF MEDICARE PART A BENEFITS.

(a) IN GENERAL.—

(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), sections 101, 102, and 104(d) (other than paragraphs (2)(C) and (7)) of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) (in this part referred to as "MCCA") are repealed, and the provisions of law amended or repealed by such sections are restored or revived as if such section had not been enacted.

(2) EXCEPTION FOR BLOOD DEDUCTION.—The repeal of section 102(1) of MCCA shall not apply insofar as such section amended paragraph (2) of section 1813(a) of the Social Security Act (relating to a deduction for blood).

(3) EXCEPTION FOR HOSPICE BENEFIT CHANGES.—The repeal of section 101 of MCCA shall not apply insofar as such section—

(A) amended paragraph (4) of subsection (a) of section 1812 of the Social Security Act (relating to hospice care benefits), and

(B) amended subsection (d) of such section (relating to a subsequent extension period of an election).

(b) TRANSITION PROVISIONS FOR MEDICARE BENEFICIARIES.—

(1) INPATIENT HOSPITAL SERVICES AND POST-HOSPITAL EXTENDED CARE SERVICES.—In applying sections 1812 and 1813 of the Social Security Act, as restored by subsection (a)(1), with respect to inpatient hospital services and extended care services provided on or after January 1, 1990—

(A) no day before January 1, 1990, shall be counted in determining the beginning (or period) of a spell of illness, except that days of inpatient hospital services before January 1, 1989, which were applied with respect to an individual after receiving 90 days of services in a spell of illness (commonly known as "lifetime reserve days") shall be counted;

(B) the limitation of coverage of extended care services to post-hospital extended care services shall not apply to an individual receiving such services from a skilled nursing facility during a continuous period beginning before (and including) January 1, 1990, until the end of the period of 30-consecutive days in which the individual is not provided inpatient hospital services or extended care services; and

(C) the inpatient hospital deductible under section 1813(a)(1) of such Act shall not apply—

(i) in the case of an individual who is receiving inpatient hospital services during a continuous period beginning before (and including) January 1, 1990, with respect to the spell of illness beginning on such date, if such a deductible was imposed on the individual for a period of hospitalization during 1989;

(ii) for a spell of illness beginning during January 1990, if such a deductible was imposed on the individual for a period of hospitalization that began in December 1989; and

(iii) in the case of a spell of illness of an individual that began before January 1, 1989, and has not ended as of January 1, 1990.

(2) TERMINATION OF HOLD HARMLESS PROVISIONS.—Section 104(b) of MCCA is amended by striking "or 1990" each place it appears.

(c) TERMINATION OF TRANSITIONAL ADJUSTMENTS IN PAYMENTS FOR INPATIENT HOSPITAL SERVICES.—

(1) PPS HOSPITALS.—Section 104(c)(1) of MCCA is amended by inserting "and before January 1, 1990," after "October 1, 1988.".

(2) PPS-EXEMPT HOSPITALS.—Section 104(c)(2) of MCCA is amended—

(A) by inserting "and before January 1, 1990," after "January 1, 1989,"; and

(B) by striking the period at the end and inserting the following: ", without regard to whether any of such beneficiaries exhausted medicare inpatient hospital insurance benefits before January 1, 1989.".

(d) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990, except that the amendments made by subsection (c) shall be effective as if included in the enactment of MCCA.

SEC. 10182. REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM AND FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.

(a) IN GENERAL.—Sections 111 and 112 of MCCA are repealed and the provisions of law amended by such sections are restored or revived as if such sections had not been enacted.

(b) DELAY IN STUDY DEADLINE.—Section 113(c) of MCCA is amended by striking "November 30, 1988" and inserting "May 31, 1990".

(c) DISPOSAL OF FUNDS IN FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.—Any balance in the Federal Hospital Insurance Catastrophic Coverage Reserve Fund (created under section 1817A(a) of the Social Security Act, as inserted by section 112(a) of MCCA) as of January 1, 1990, shall be transferred into the Federal Supplementary Medical Insurance Trust Fund and any amounts payable due to overpayments into such Trust Fund shall be payable from the Federal Supplementary Medical Insurance Trust Fund.

(d) CONFORMING AMENDMENT.—Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking "Federal Hospital Insurance Catastrophic Coverage Reserve Fund,".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the provisions of this section shall take effect January 1, 1990.

(2) REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM.—The repeal of section 111 of MCCA shall apply to taxable years beginning after December 31, 1988.

Subpart 2—Provisions Relating to Part B of the Medicare Program

SEC. 10185. REPEAL OF LIMITATION ON MEDICARE PART B COSTSHARING; MODIFICATION OF COINSURANCE PERCENTAGE FOR COVERED OUTPATIENT DRUGS.

(a) IN GENERAL.—Section 201 of MCCA is repealed and the provisions of law amended or repealed by such section are restored or revived as if such section had not been enacted.

(b) MODIFICATION OF COINSURANCE PERCENTAGE FOR COVERED OUTPATIENT DRUGS FOR 1993.—Section 1834(c)(2)(C)(ii) of the Social Security Act (42 U.S.C. 1395m(c)(2)(C)(ii)) is amended—

(1) by striking "and" at the end of subclause (II), and

(2) by striking subclause (III) and inserting the following:

"(III) in 1993 is 30 percent, and

"(IV) in 1994 or a succeeding year is 20 percent.".

(c) CONFORMING AMENDMENTS.—

(1) Section 1834(e)(1) of such Act (42 U.S.C. 1395m(e)(1)) is amended by striking "(except as provided in section 1833(c))".

(2) Section 1861(11)(4) of such Act (42 U.S.C. 1395x(11)(4)) is amended—

(A) in the first sentence, by striking "either" and all that follows through the end of such sentence and inserting "has become entitled to have payments made for covered outpatient drugs under section 1834(c).",

(B) in the second sentence, by striking "subparagraph (A) or (B)" and inserting "the previous sentence",

(C) in the third sentence, by striking "a buy-out plan (as defined in section 1833(c)(5)(D)) or", and

(D) in the third sentence, by striking "subparagraphs (A) and (B), respectively," and inserting "the first sentence of this paragraph".

(d) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990.

SEC. 10186. REVISION OF MEDICARE PART B MONTHLY PREMIUM AND FINANCING.

(a) CONSOLIDATION OF CATASTROPHIC MONTHLY PREMIUM.—

(1) IN GENERAL.—Section 1839(g)(1) of the Social Security Act (42 U.S.C. 1395r(g)(1)) is amended—

(A) in subparagraphs (A)—

(i) by striking "paragraphs (4) and (5)" and inserting "paragraph (3)",

(ii) by striking "the sum of the catastrophic coverage monthly premium and the prescription drug monthly premium" and inserting "the catastrophic coverage monthly premium",

(iii) by striking 'paragraphs (2) and (3)" and inserting "paragraph (2)",

(iv) in the column in the table relating to the catastrophic coverage monthly premium, by striking "5.46", "$6.75", and "$7.18" and inserting "$7.40", "$9.20", and "$10.20", respectively, and

(v) by striking the column in the table relating to the prescription drug monthly premium; and

(B) by striking subparagraphs (B) and (D) and redesignating subparagraph (C) as subparagraph (B);

(2) UPDATE IN MONTHLY PREMIUM.—Section 1839(g)(2) of such Act is amended—

(A) subparagraph (A), by striking "or (1)(C)",

(B) in subparagraph (B)(i), by inserting "for years beginning with 1998," after "(i)",

(C) in subparagraph (C)(i)(I), by striking "catastrophic outlays" and inserting "prescription drug outlays",

(D) in subparagraph (D)(i), by striking "or (1)(C)",

(E) in subparagraph (D)(ii), by striking "37 percent" and inserting "100 percent",

(F) in subparagraph (D)(iii)(I), by striking "20 percent" and inserting "the percent specified in clause (iv)",

(G) in subparagraph (D)(iii)(I), by striking "Medicare Catastrophic Coverage Account created under section 1841B" and inserting "the Federal Catastrophic Drug Insurance Trust Fund",

(H) in subparagraph (D)(iii)(II), by striking "such Account" each place it appears and inserting "such Trust Fund",

(I) in subparagraph (D)(iii)(II), by striking "or section 59B(e) of the Internal Revenue Code of 1986", and

(J) by adding at the end of subparagraph (D) the following new clause:

"(iv) For purposes of clause (iii)(I), the percent specified in this clause for 1994 is 75 percent, for 1995 is 50 percent, for 1996 and for 1997 is 25 percent, and for 1998 and each succeeding year is 20 percent.".

(3) ELIMINATION OF SEPARATE PRESCRIPTION DRUG MONTHLY PREMIUM.—Section 1839(g) of such Act is further amended by striking paragraph (3).

(4) TREATMENT OF RESIDENTS OF PUERTO RICO AND TERRITORIES.—Section 1839(g)(4) of such Act is amended—

(A) in subparagraph (A), by striking "(4)" and inserting "(3)",

(B) in subparagraph (A), by striking "the sum of" and all that follows through the end and inserting "the catastrophic coverage monthly premium determined under subparagraph (B).",

(C) in subparagraph (B)(ii), by striking "$3.56" and "$5.78" and inserting "$1.37" and "$2.22",

(D) in subparagraph (B)(ii), by striking "and" at the end,

(E) in subparagraph (B)(iii), by striking "catastrophic outlays" each place it appears and inserting "prescription drug outlays",

(F) by redesignating clause (iii) of subparagraph (B) as clause (iv), and

(G) by inserting after clause (ii) of subparagraph (B) the following new clause:

"(iii) in 1991 is $1.92 for a resident of Puerto Rico and $3.10 for a resident of another U.S. commonwealth or territory; and", and

(H) by striking subparagraph (C).

(5) CONFORMING AMENDMENTS.—Section 1939 of such Act is further amended—

(A) in the second sentence of subsections (a)(1) and (a)(4), by striking "the amendment made by the Medicare Catastrophic Coverage Act of 1988" and inserting "covered outpatient drugs",

(B) in the last sentence of subsections (a)(1) and (a)(4), by striking ", but shall not" and all that follows up the period,

(C) in subsection (b), by stricking "(g)(6)" and inserting "(g)(4)",

(D) by striking paragraph (5) of subsection (g),

(E) in subsection (g)(6), by striking "(6)(A)" and inserting "(4)" and by striking subparagraph (B),

(F) in subsection (g)(7), by striking "(7)(A)" and inserting "(5)(A)" and, in subparagraph (B), by striking "paragraph (4)" and inserting "paragraph (3)", and

(G) in subsection (g)(8)—

(i) by striking subparagraphs (A), (D), and (F),

(ii) in subparagraph (B)(ii), by striking "part A" and inserting "part B", and

(iii) by redesignating subparagraph (B), (C), and (E) as subparagraphs (A), (B), and (C), respectively.

(b) FEDERAL CATASTROPHIC DRUG INSURANCE TRUST FUND.—Section 1841A of such Act (42 U.S.C. 13955-1) is amended—

(1) in subsection (a), by striking "(a)(1)" and inserting "(a)", by striking "or under paragraph (2)", and by striking paragraph (2),

(2) in subsection (d)(1)(B), by striking "prescription drug" and inserting "catastrophic coverage",

(3) in subsection (d)(2), by striking "and under section 59B of the Internal Revenue Code of 1986", and

(4) in subsection (e), by striking "and the Medicare Catastrophic Coverage Account".

(c) REPEAL OF MEDICARE CATASTROPHIC COVERAGE ACCOUNT.—Section 1841B of such Act (42 U.S.C. 1395t-2) is repealed.

(d) MISCELLANEOUS CONFORMING AMENDMENTS.—

(1) The seventh sentence of section 1817(b) of such Act, inserted by section 212(c)(3) of the Medicare Catastrophic Coverage Act of 1988, is amended to read as follows: "Such report shall also identify (and treat separately) those outlays from the Trust Fund which are attributable to the amendments made by the Medicare Catastrophic Coverage Act of 1988.".

(2) Section 1840(i) of such Act (42 U.S.C. 1395s(i)) is amended by striking "a prescription drug monthly premium established under".

(3) Section 1841(a) of such Act (42 U.S.C. 1395t(a)) is amended by striking the sentences added by section 212(b)(2) of the Medicare Catastrophic Coverage Act of 1988.

(4) The seventh sentence of section 1841(b) of such Act, inserted by section 212(c)(4) of the Medicare Catastrophic Coverage Act of 1988, is amended to read as follows: "Such report shall also identify (and treat separately) those outlays from the Trust Fund which are attributable to the amendments made by the Medicare Catastrophic Coverage Act of 1988.".

(5) Section 1844(a) of such Act (42 U.S.C. 1395w(a)) is amended by striking "or section 59B of the Internal Revenue Code of 1986".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1990.

(f) 1-TIME TRANSFER OF 1988 PREMIUMS.—There shall be transferred, as of January 1, 1990, from the Federal Supplementary Medical Insurance Trust Fund to the Federal Catastrophic Drug Insurance Trust Fund an amount equal to—

(1) the amount of the premiums collected pursuant to section 1839(g) of the Social Security Act during 1989, minus

(2) the amount of administrative expenses incurred under part B of title XVIII of such Act relating to implementation of MCCA, plus

(3) the amount of interest accrued to the Federal Supplementary Medical Insurance Trust Fund attributable to balance described in paragraphs (1) and (2).

SEC. 10187. AMENDMENT OF CERTAIN MISCELLANEOUS PROVISIONS.

(a) REVISION OF MEDIGAP REGULATIONS.—

(1) Section 1882 of the Social Security Act (42 U.S.C. 1395ss), as amended by section 221(d) of the Medicare Catastrophic Coverage Act of 1988, is amended—

(A) in the third sentence of subsection (a) and in subsection (b)(1), by striking "subsection (k)(3)" and inserting "subsections (k)(3), (k)(4), (m), and (n)";

(B) in subsection (k)—

(i) in paragraph (1)(A), by inserting "except as provided in subsection (m)," before "subsection (g)(2)(A)", and

(ii) in paragraph (3), by striking "subsection (1)" and inserting "subsections (l), (m), and (n)"; and

(C) by adding at the end the following new subsections:

"(m)(1)(A) If, within the 90-day period beginning on the date of the enactment of this subsection, the National Association of In-

surance Commissioners (in this subsection and subsection (n) referred to as the 'Association') amends the amended NAIC Model Regulation (referred to in subsection (k)(1)(A) and adopted on September 20, 1988) to reflect the changes in law made by part F of subtitle B of title X of the Omnibus Budget Reconciliation Act of 1989, subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the amended NAIC Model Regulation (referred to in subsection (k)(1)(A)) as amended by the Association in accordance with this paragraph (in this subsection and subsection (n) referred to as the 'revised NAIC Model Regulation').

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the revised NAIC Model Regulation or 1 year after the date the Association first adopts such revised Regulation.

"(2)(A) If the Association does not amend the amended NAIC Model Regulation, within the 90-day period specified in paragraph (1)(A), the Secretary shall promulgate, not later than 60 days after the end of such period, revised Federal model standards (in this subsection and subsection (n) referred to as 'revised Federal model standards') for medical supplemental policies to reflect the changes in law made by part F of subtitle B of title X of the Omnibus Budget Reconciliation Act of 1989, subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the revised Federal model standards.

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the revised Federal model standards or 1 year after the date the Secretary first promulgates such standards.

"(3) Notwithstanding any other provision of this section (except as provided in subsection (n))—

"(A) no medicare supplemental policy may be certified by the Secretary pursuant to subsection (a),

"(B) no certification made pursuant to subsection (a) shall remain in effect, and

"(C) no State regulatory program shall be found to meet (or to continue to meet) the requirements of subsection (b)(1)(A),

unless such policy meets (or such program provides for the application of standards equal to or more stringent than) the standards set forth in the revised NAIC Model Regulation or the revised Federal model standards (as the case may be) by the date specified in paragraph (1)(B) or (2)(B) (as the case may be).

"(n)(1) Until the date specified in paragraph (4), in the case of a qualifying medicare supplemental policy described in paragraph (3) issued in a State—

"(A) before July 1, 1990, the policy is deemed to remain in compliance with the standards described in subsection (b)(1)(A) if the insurer issuing the policy complies with the transition provision described in paragraph (2), or

"(B) on or after July 1, 1990, the policy is deemed to be in compliance with the standards described in subsection (b)(1)(A) if the insurer issuing the policy complies with the revised NAIC Model Regulation or the revised Federal model standards (as the case may be) before the date of the sale of the policy.

"(2) The transition provision described in this paragraph is—

"(A) such transition provision as the Association provides, by not later than December 15, 1989, so as to provide for an appropriate transition to reflect the changes in benefits under this title made by part F of subtitle B of title X of the Omnibus Budget Reconciliation Act of 1989, or

"(B) if the Association does not provide for a transition provision by the date described in subparagraph (A), such transition provision as the Secretary shall provide, by January 1, 1990, so as to provide for an appropriate transition described in subparagraph (A).

"(3) In paragraph (1), the term 'qualifying medicare supplemental policy' means a medicare supplemental policy which has been issued in compliance with this section as in effect on the date before the date of the enactment of this subsection.

"(4)(A) The date specified in this paragraph for a policy issued in a State is—

"(i) the first date a State adopts, after the date of the enactment of this subsection, standards equal to or more stringent than the revised NAIC Model Regulation (or revised Federal model standards), as the case may be, or

"(ii) the date specified in subparagraph (B),

whichever is earlier.

"(B) In the case of a State which the Secretary identifies, in consultation with the Association, as—

"(i) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet standards described in subparagraph (A)(i), but

"(ii) having a legislature which is not scheduled to meet in 1990 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1990. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

"(5) In the case of a medicare supplemental policy in effect on January 1, 1990, the policy shall not be deemed to meet the standards in subsection (c) unless each individual who is entitled to benefits under this title and is a policyholder under such policy on such date is sent a notice in any appropriate form by not later than January 31, 1990, that explains—

"(A) the changes in benefits under this title effected by part F of subtitle B of title X of the Omnibus Budget Reconciliation Act of 1989, and

"(B) how these changes affect the benefits contained in such policy and the premium for the policy.

"(6) In the case of an insurer which had in effect, as of December 31, 1988, a medicare supplemental policy with respect to an individual, for which the individual terminated coverage as of January 1, 1989 (or the earliest renewal date thereafter), no medicare supplemental policy of the insurer shall be deemed to meet the standards in subsection (c) unless the insurer—

"(A) provides written notice, by January 15, 1990, to the individual (at the most recent available address) of the offer described in subparagraph (B), and

"(B) offers to the individual, during the period beginning on January 1, 1990, and ending on March 1, 1990, continuation of coverage under such a medicare supplemental policy (with coverage effective as of January 1, 1990), under the terms respecting treatment of pre-existing conditions and group rating of premium which are at least as favorable to the individual as such terms as existed with respect to the policy as of December 31, 1988.".

(2) It is the sense of Congress that States should respond, at the earliest practicable date after the date of the enactment of this Act, to requests by insurers for review and approval of riders and premium adjustments for medicare supplemental policies in order to comply with the amendments made by paragraph (1).

(b) ADJUSTMENT OF CONTRACTS WITH PREPAID HEALTH PLANS.—Section 222 of MCCA is amended by inserting "and before January 1, 1990," after "December 31, 1988," each place it appears.

(c) NOTICE OF CHANGES.—The Secretary of Health and Human Services shall provide, in the notice of medicare benefits provided under section 1804 of the Social Security Act for 1990, for a description of the changes in benefits under title XVIII of such Act made by the amendments made by this part.

(d) MISCELLANEOUS TECHNICAL CORRECTION.—Section 221(g)(3) of MCCA is amended by striking "subsection (f)" and inserting "subsection (e)".

(e) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990, except that the amendment made by subsection (d) shall be effective as if included in the enactment of MCCA.

Subpart 3—Miscellaneous Amendments

SEC. 10191. REPEAL OF MAINTENANCE OF EFFORT AND RATE REDUCTION FOR MEDICARE ELIGIBLE FEDERAL ANNUITANTS.

(A) IN GENERAL.—Sections 421 and 422 of MCCA are repealed and any provision of law amended or repealed by such sections is restored or revived as if such sections had not been enacted.

(b) EFFECTIVE DATE.—The repeals made by subsection (a) shall take effect January 1, 1990, except that the repeal of section 421 of MCCA shall not apply to duplicative part A benefits for periods before January 1, 1990.

SEC. 10192. MISCELLANEOUS AMENDMENTS AND TECHNICAL CORRECTIONS.

(a) TECHNICAL CORRECTIONS RELATING TO MEDICARE CATASTROPHIC COVERAGE ACT OF 1988.—

(1) CORRECTIONS RELATING TO CATASTROPHIC DRUG BENEFIT.—

(A) DEFINITION OF COVERED OUTPATIENT DRUGS.—Section 1861(t)(3)(A) of the Social Security Act, as added by section 202(a)(2)(C) of the Medicare Catastrophic Coverage Act of 1988 (in this subsection referred to as "MCCA"), is amended—

(i) by redesignating clauses (iv) through (xiii) as clauses (vi), (vii), (viii), (ix), (x), (xii), (xiii), (xiv), (xvi), and (xviii), respectively;

(ii) by inserting after clause (iii) the following:

"(iv) Diagnostic services under subsections (s)(2)(C) and (s)(3).

"(v) X-ray, radium, and radioactive isotope therapy under subsection (s)(4).";

(iii) by inserting after clause (x), as so redesignated, the following:

"(xi) Parenteral nutrition nutrients under subsection (s)(8).";

(iv) by inserting after clause (xiv), as so redesignated, the following:

"(xv) Partial hospitalization services (as defined in subsection (ff)).''; and

(v) by inserting after clause (xvi), as so redesignated, the following:

"(xvii) Qualified psychologist services (as defined in subsection (ii)).".

(B) COVERED HOME IV DRUGS.—Section 1861(t)(4)(A) of such Act (42 U.S.C. 1395x(t)(4)(A)) is amended by striking "dispensed" and inserting "furnished by a qualified home intravenous drug therapy provider".

(C) REFERENCES TO CATASTROPHIC DRUG DEDUCTIBLE AMOUNT.—Section 1834(c) of the Social Security Act, as added by section 202(b)(4) of MCCA, is amended—

(i) in paragraph (1)(C), by striking "Subject to subparagraph (D), the" and inserting "The,

(ii) in paragraph (2)(A), by striking "under paragraph (1)(A) and except as provided in subparagraph (C)" and inserting "under paragraph (1)"; and

(iii) in paragraph (8)(E), by striking "paragraph (1)(A)" each place it appears and inserting "paragraph (1)",

(D) PAYMENT FOR ELECTRONIC EQUIPMENT FOR PHARMACIES.—Section 1842(o)(2) of the Social Security Act, as added by section 202(c)(1)(C) of MCCA, is amended—

(i) in subparagraph (B)—

(I) by inserting ", software," after "electronic equipment", and

(II) by inserting ", or reimbursement for such equipment or software modifications," after "telephone service)";

(ii) by adding at the end the following:

"Any reimbursement under subparagraph (B) shall be contingent upon a pharmacy's system meeting the requirements specified in the contracts between the Secretary and carriers and shall not exceed the reasonable cost of the modifications or, if less, the cost of a point-of-sale terminal (as defined in such contracts).".

(E) INTERIM FUNDING OF CATASTROPHIC DRUG EXPENSES.—(i) Section 202(m)(5) of MCCA is amended by striking "January 1, 1990" and inserting "April 1, 1990".

(ii) Section 1841A(c) of the Social Security Act, as inserted by section 212(a) of MCCA, is amended by striking "and administrative costs" and inserting "(and on or after April 1, 1990, for administrative costs)".

(F) EXPANSION OF IDENTIFIERS TO NONPHYSICIAN PRACTITIONERS.—The Secretary of Health and Human Services shall expand the identifier system established under section 9202(g) of the Consolidated Omnibus Budget Reconciliation Act of 1985 to provide unique identifiers to each nonphysician practitioner (physician assistants, nurse practitioners, and certified registered nurse anesthetists) who is authorized to prescribe or dispense covered outpatient drugs for which payment may be made under title XVIII of the Social Security Act.

(2) SCREENING MAMMOGRAPHY.—

(A) APPLICATION OF PARTICIPATING PHYSICIAN DIFFERENTIAL.—Section 1834(e)(4) of the Social Security Act, as added by section 204(b)(2) of MCCA, is amended by adding at the end the following new subparagraph:

(D) APPLICATION OF PARTICIPATING PHYSICIAN DIFFERENTIAL.—In applying the limit under subparagraph (A) with respect to a nonparticipating physician, the limit applied shall be the applicable percent (as defined in the second sentence of section 1842(b)(4)(A)(iv)) of the limit otherwise established in that subparagraph.".

(B) FREQUENCY OF SCREENING.—Section 1834(e)(2)(A) of the Social Security Act, as added by section 204(b)(2) of MCCA, is amended—

(i) in clause (iii)(I), by striking "the 11 months of a previous screening mammography" and inserting "11 months following the month in which a previous screening mammography was performed",

(ii) in clause (iii)(II), by striking "the 23 months of a previous screening mammography" and inserting "23 months following the month in which a previous screening mammography was performed",

(iii) in clause (iv), by striking "11 months of a previous screening mammography" and inserting "11 months following the month in which a previous screening mammography was performed", and

(iv) in clause (v), by striking "23 months of a previous screening mammography" and inserting "23 months following the month in which a previous screening mammography was performed".

(3) ROUNDING OF PART B PREMIUM.—Section 1839 of the Social Security Act, as amended by section 211(c)(1)(E) of MCCA, is amended—

(A) in the first sentence of subsection (b), by striking "subsections (f) and (g)(4)" and inserting "subsection (f)",

(B) in subsection (b), by inserting after the first sentence the following new sentence: "If the resulting monthly premium is not a multiple of 10 cents, such premium shall be rounded to the nearest multiple of 10 cents.", and

(C) in subsection (c), by striking "the foregoing provisions of this section" and inserting "subsection (a)(3) or (e)".

(4) MISCELLANEOUS.—

(A) Clause (iii) of section 1814(a)(7)(A) of the Social Security Act, as added by section 104(d)(2)(C)(iii) of MCCA, is amended by moving its alignment 2 ems to the left so its alignment is the same as that of clause (ii) of such section.

(B) Section 1842(p)(3)(B) of the Social Security Act, as added by section 202(g) of MCCA, is amended by striking "section 1842(j)(2)(A)" and inserting "subsection (j)(2)(A)".

(C) Section 221(g)(3) of MCCA is amended by striking "subsection (f)" and inserting "subsection (e)".

(D) Section 1842(h)(5)(B)(iv) of the Social Security Act, as added by section 223(b)(4) of MCCA, is amended by striking "paragraph (2)(A)" and inserting "paragraph (2)".

(b) MISCELLANEOUS CORRECTIONS RELATING TO THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987.—

(1) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, section 1834(b)(4)(A) of the Social Security Act, as added by section 4049(a)(2) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "insurance and deductibles under section 1835(a)(1)(I)" and inserting "coinsurance and deductibles under sections 1833(a)(1)(J)".

(2) Section 1842(j)(1)(C)(vii) of the Social Security Act, as added by section 4085(i)(7)(C) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "accordingly" and inserting "according".

(3) Section 1886(g)(3)(A)(iv) of the Social Security Act, as added by section 4006(a)(2) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "may) be" and inserting "may be)".

(c) OTHER CORRECTIONS.—

(1) Section 1866(a)(1)(F)(i)(III) of the Social Security Act is amended by striking "fiscal year))" and inserting "fiscal year)".

(2) Section 1875(c)(7) of the Social Security Act, as added by section 9316(a) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking "date of the enactment of this Act" and inserting "date of the enactment of this section".

(3) Section 1842(j)(2)(B) of the Social Security Act, as amended by section 8(c)(2)(A) of the Medicare and Medicaid Fraud and Abuse Patient Protection Act of 1987, is amended by striking "paragraphs" and inserting "subsections".

Subpart 4—Provisions Relating to Budget Waivers

SEC. 10195. EXCLUSION FROM CALCULATION OF DEFICIT OF AMENDMENTS MADE BY PART.

The changes in outlays and revenues resulting from the amendments made by this part shall not be counted for fiscal year 1990 for purposes of calculating—

(1) the deficit in each budget of the Federal Government submitted by the President under title 31, United States Code, for purposes of comparison with the maximum deficit amount in section 3(7) of the Congressional Budget and Impoundment Control Act of 1974;

(2) the deficit under section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 for purposes of comparison with the maximum deficit amount in section 3(7) of such Act; and

(3) the deficit and excess deficit for purposes of sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

MODIFICATION OF AMENDMENT OFFERED BY MR. STARK

Mr. STARK. Mr. Chairman, the amendment contains certain technical imperfections, and I ask unanimous consent that the amendment be modified with technical corrections. The technical corrections are at the desk.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read the modification, as follows:

Modification to amendment offered by Mr. STARK: In proposed section 10185—

(1) in the heading, insert "INCREASE IN CATASTROPHIC DRUG DEDUCTIBLE AMOUNT;" after the first semicolon; and

(2) after subsection (a), insert the following new subsection (and redesignate the succeeding subsections of such section accordingly):

(b) INCREASE IN THE CATASTROPHIC DRUG DEDUCTIBLE AMOUNT.—Section 1834(c)(1)(C)(i) of the Social Security Act (42 U.S.C. 1395m(c)(1)(C)(i)) is amended—

(1) in subclause (II), by striking "1991 is $600" and inserting "1991 is $800", and

(2) in subclause (III), by striking "1992 is $652" and inserting "1992 is $950".

Mr. STARK (during the reading). Mr. Chairman, I ask unanimous consent that the reading of the revision or of the amendment, as modified, be dispensed with, and that the amendment, as modified, be printed in the RECORD.

The CHAIRMAN. The modification has been read. Is there objection to the modification?

Mr. GRADISON. Mr. Chairman, reserving the right to object, although I do not intend to object, I would take this time to give an opportunity to the gentleman from California to explain the amendment.

Mr. Chairman, I yield to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Chairman, the request concerns drafting the amendment as presented to the Committee on Rules. There was an error in the amount of deductible for the prescription drug benefit.

Under the erroneous draft, the deductible is not increased to $800 and subsequently $950 as is and was intended by the drafters of the amendment.

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It was an error, and it has been presented to our colleagues at all times as an $800 and $950 amendment. This would merely reflect both the intention and the material submitted to the Rules Committee.

Mr. GRADISON. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. WALKER. Mr. Chairman, reserving the right to object, I certainly understand the position the gentleman from California finds himself in.

The problem is that we did make a determination to operate under a closed rule. Under open rules we can make corrections when problems are found. However, when we decide to operate under closed rules, there are advantages to that and there are specific consequences. One of the consequences of closed rules is the fact that we cannot take steps to modify amendments.

Therefore, on that basis, I would object.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. WALKER. Further reserving the right to object, I do yield to the gentleman from California. I do not intend to cut any Member off.

Mr. STARK. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, it is my understanding that in the further debate on amendments to be offered later this week there will be other unanimous-consent requests made of the body, and as a courtesy I wonder if the gentleman would, recognizing the gentleman's objection to closed rules, allow me to explain to him that this is almost in the nature of a typographical error, and the gentleman may make his own observations as to the chance of passage.

But I would submit to the gentleman and request as a courtesy that he might allow us to correct this typographical error at this point because it is a rather significant part of the bill.

Mr. WALKER. Mr. Chairman, I thank the gentleman for his explanation.

Mr. Chairman, further reserving the right to object, let me say to the gentleman that I understand the suggestion he is making. The problem is that in this instance the typographical error has fairly substantial results associated with it, and the fact is that the version the gentleman has before the Committee of the Whole at this time, without correction, is what the Rules Committee made in order. It seems to me that we ought to stick in the debate with the substantive amendment as made in order by the Rules Committee.

Therefore, Mr. Chairman, I do object.

The CHAIRMAN. Objection is heard.

Pursuant to the rule, the gentleman from California [Mr. STARK] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Mr. ARCHER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes in opposition to the amendment.

Mr. ARCHER. Mr. Chairman, I ask unanimous consent that 15 minutes of my time be controlled by the gentleman from Massachusetts [Mr. DONNELLY].

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. ROSTENKOWSKI], chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Chairman, as chairman of the Committee on Ways and Means, I support the Stark-Gradison-Waxman substitute for the Medicare catastrophic coverage provisions of H.R. 3299.

Although I would prefer not to make any changes to the current Medicare catastrophic coverage law, this substitute both responds to Members who feel that the supplemental premium must be repealed and preserves important benefits of last year's law.

The Stark-Gradison-Waxman substitute eliminates the supplemental premium completely. But unlike the Donnelly-Archer repeal amendment, it then takes the important next step and retains essential benefits.

Frankly, while I would prefer to maintain major medical coverage for hospital and physician services, I recognize that it is simply not possible to keep all of the benefits.

There are four reasons to support this proposal.

First, the Stark-Gradison-Waxman substitute retains important benefits from the Medicare catastrophic coverage program without shifting any financial burden to younger workers and their families.

The benefits provided by the Stark-Gradison-Waxman proposal are fully funded by the Medicare part B premiums enacted last year. The substitute is deficit neutral after the first year.

Second, it retains the benefits that are especially beneficial to senior citizens with modest means. These include prescription drug coverage, safeguards against impoverishment for spouses of nursing home residents, and the Medicaid buy-in for the poorest senior citizens with incomes below the poverty level.

Third, the proposal retains some long-term care benefits including home health and hospice expansions and respite care. Senior citizens and their families are concerned about the costs of long-term care. These new benefits are a first step in the area of long-term care.

Finally, for those that are concerned about better Medicare coverage for the elderly, let me suggest that they should not hesitate to support the Stark-Gradison-Waxman substitute.

It is hard to imagine that there will be a second chance to reconsider improved Medicare benefits in the near future. No matter what the proponents of repeal will tell you, no "magic bullet" will be discovered to resolve the issue next year—an election year.

Moreover, if the Donnelly-Archer repeal amendment is ultimately enacted, it will blunt any momentum to respond to serious health care problems of this nation—such as long-term care or health care for the 35 million uninsured Americans.

I strongly urge your support of the Stark-Gradison-Waxman substitute.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I rise in support of the Stark-Gradison-Waxman substitute amendment before us today which would repeal the supplemental premium but retain important benefits for older Americans.

Older Americans have asked us for a change and we hear them loud and clear. That is why we are here today debating changes to the Medicare Catastrophic Coverage Act. Our decision today is whether to eliminate the entire package of valuable benefits or to salvage important benefits yet repeal the most objectionable provision, the supplemental premium.

Medicare is an extensive Federal program which affects over 30 million senior citizens. The Catastrophic Coverage Act of 1988 has

been one of the most controversal laws passed in recent memory. Yet whatever our actions are today, we will only be making piecemeal improvements to a health care system where fundamental change is needed.

Mr. Chairman, it is painfully obvious that our Nation's health care system is in disarray. We spend over a half a trillion dollars on health care each year. We spend much more than any other industrialized nation on health care, over 11 percent of our gross national product. This adds up to $1,926 for every man, woman, and child in America.

What is this massive expenditure buying us? Is our Nation's health status superior to that of other countries which spend less on health care than the United States?

Over 37 million Americans have no health insurance coverage at all. Another 17 million are underinsured. Over 200 million Americans are without long-term care protection and are at great risk of financial ruin if a chronic or catastrophic illness strikes. Our infant mortality rate is the highest among industrialized nations.

These figures are appalling in a Nation of wealth and abundance such as the United States. Behind these statistics and numbers are real people with real problems. Nearly every day, people in my district contact me with serious problems they are having with health care coverage, whether it be the high cost of health care, the complexity of private and public insurance programs, or their general frustration with the health care system.

I would like to remind my colleagues of the words spoken on the floor of the Senate by my fellow Minnesotan Hubert Humphrey:

> The moral test of government is how it treats those who are in the dawn of life, the children; those who are in the twilight of life, the aged; and those who are in the shadows of life, the sick, the needy, and the handicapped.

Looking at our system of health care, it is clear that we are on the verge of failing this moral test.

The group most affected by the hardship of rising health care costs is the elderly. Out-of-pocket health care costs are rising about twice as fast as seniors' incomes. It is estimated that older Americans spend at least 16 percent of their incomes on health care, a larger percentage than when Medicare and Medicaid began. Older Americans would be paying even more than the nearly $1 in $5 of income they do now if Congress had not fended off the past administration's attempts to gut Medicare and Medicaid.

It was against this backdrop of rising costs of health care for older Americans and the threat of financial ruin from catastrophic illness that Congress originally passed the Medicare Catastrophic Coverage Act. The President sent an incomplete and limited catastrophic health care plan to Congress. Many Members, including myself, would have preferred expanding Medicare to include long-term care and shifting more of the burden away from low and moderate income elderly. We realized that such an expansion was not feasible under the Reagan administration but we recognized the importance of accomplishing this first step.

Today we are presented with three proposals to change the law. Given these choices, I am supporting the proposal that will be most beneficial to older Americans in my district and across the Nation.

One option that the House will vote on today is a total repeal of the Cata- strophic Coverage Act. A repeal would not only eliminate Medicare catastrophic care benefits, it would likely dash any future hopes of enacting long-term care coverage universal health care or any other improvements in the Medicare national health care system. Not a single major senior citizen organization supports a repeal because of its detrimental impact on seniors health care and the negative impact on further Medicare health care improvements in the future.

Another proposal is the House Ways and Means Committee plan contained in the bill which would scale down some of the benefits and make catastrophic coverage optional. This plan would require seniors to choose between giving up part B coverage and catastrophic coverage or continuing in both programs and paying the premiums. Making the coverage optional might have unforeseen consequences such as shifting the cost burden from higher income individuals who could afford to opt out of the plan to lower income seniors whose costs could increase. This policy would make the financing of catastrophic more unfair than current law. And result in the sole reliance, by those who opt out, on Medicaid when catastrophic illness and health care costs arise. Financed not by an orderly health insurance process but by the general tax revenues.

If I had my preference, I would maintain most of the increased benefits provided by the Catastrophic Coverage Act but finance them by a more acceptable mechanism than the supplemental premium. However, that choice is not available to us today.

The best option before the House today is the Stark-Gradison-Waxman proposal which eliminates the supplemental premium yet retains some important benefits.

The main benefit maintained by the Stark-Gradison-Waxman substitute is the outpatient prescription drug benefit. This benefit is an important benefit for a number of reasons. Currently, fewer than 20 percent of older Americans have private insurance coverage for prescriptions drugs. Prescription drugs are the largest out-of-pocket health care expense for three-fourths of the Nation's elderly. Thirty percent of all prescription drugs are taken by older Americans even though they comprise only 12 percent of the population. The combination of the high costs and large demand for prescription drugs explains why more than 6 million Medicare beneficiaries will exceed the deductible and receive prescription drug coverage in 1991. Nearly one in five Medicare beneficiaries will be eligible and utilize such coverage. This coverage will be extremely beneficial to these recipients since the seniors that exceed the deductible will spend on average almost $2,000 per year for prescription drugs.

The Stark-Gradison substitute amendment before us also contains some important long-term care benefits. As a member of the Select Aging Subcommittee on Health and Long-Term Care, I have been a strong and consistent supporter of proposals to provide long-term health care coverage. I supported Congressman Claude Pepper's Medicare Long-Term Home Care Catastropic Protection Act which would have provided long-term home care services to chronically ill children and older and disabled persons. Unfortunately this legislation did not receive enough votes to pass in the 100th Congress.

Although the substitute before us today does not attempt to provide comprehensive long-term care coverage, it does add up to 17 days of home health care for beneficiaries who need care up to 7 days a week. It also retains a respite care benefit, allowing up to 80 hours a year of respite care services for chronically dependent homebound seniors who meet the drug deductible. I am optimistic that the Pepper Commission created by Congress last year will come up with feasible recommendations on ways to provide affordable, comprehensive long-term care for disabled and older Americans. I will continue to work in Congress for the enactment of legislation to expand Medicare to include long-term care.

The amendment also retains several other essential protections for the poorest senior citizens. Many elderly poor do not have access to Medicare benefits to which they are entitled because they cannot afford monthly premiums, deductibles and co-payments. The Medicaid buy-in program allows States to pay these costs for individual seniors below the Federal poverty line. The amendment also helps alleviate the problem of spousal impoverishment, in which a spouse living at home has to spend nearly all the couple's resources before Medicaid will pay for the care of the spouse living in a nursing home. The change contained in the original Catastrophic Coverage Act which allows a spouse to retain a greater percentage of assets and income will be retained by the substitute amendment. Finally, the amendment retains the biennial mammography screening benefit, which is expected to save as many as 4,000 lives per year.

The benefits are financed by maintaining the monthly part B premium which is part of the original legislation and a beneficiary can choose not to receive the benefits if he or she decides not to participate in the part B program as had been the case before the 1988 changes in Medicare law.

Support for this substitute is widespread among national organization representing seniors, organized labor, the disabled and other groups. A partial listing of supporters of this amendment includes the National Committee to Preserve Social Security and Medicare, the American Association of Retired Persons, the National Association of Retired Federal Employees, the Gray Panthers, the National Council of Senior Citizens, the Older Women's League and others. Many of these groups have been very critical of the Catastrophic Coverage Act in the past.

Mr. Chairman, we are faced with some difficult votes today. Some have incorrectly portrayed the vote for total repeal of the Catastrophic Program as a courageous vote. Voting for repeal is not courageous, it is taking the easy way out. Voting for total repeal would be

a cruel joke on older Americans and would jeopardize future improvements to the Medicare system. The better vote today is for the Stark-Gradison-Wayman substitute which preserves some of the best features of the original Catastrophic Act. Some have claimed that the substitute "takes the catastrophic out of the catastrophic law." Actually, the amendment takes out what most seniors found truly catastrophic, the controversial supplemental premium, and retains some important benefits for elderly Americans. This vote says to the American people that we recognize the national disgrace of our health care system and we are serious about taking steps to change that system for the better. Until we can come up with a sound and workable program to implement our vision of quality health care for all, we must today take smaller incremental steps to fill the gaps in our health care safety net.

I would like to thank my colleagues Chairman STARK, ranking member GRADISON and Chairman WAXMAN for working out this worthwhile compromise. I urge my colleagues to join me in supporting this effort today and working for expanded health care protections in the future.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL], a valued and respected member of the Committee on Ways and Means.

Mr. FRENZEL. Mr. Chairman, I rise in opposition to the Stark-Gradison-Waxman substitute amendment because it will not provide the benefits that my constituents have resoundingly told me are important to them.

My constituents want and need to have long-term care coverage, such as services provided in skilled nursing facilities [SNF's]. But the Stark-Gradison-Waxman amendment would terminate the expanded SNF benefits. Instead it retains the outpatient prescription drug benefits that duplicate benefits available to 40 percent of Medicare enrollees. These are benefits already provided mostly through the Medicaid Program and employer-based health insurance plans for retirees.

I voted against the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) because I knew it was unfair. I knew then that it was impossible to calculate, with any certainty, the outpatient drug benefits costs. GAO and the Department of Health and Human Services have confirmed this. Costs for the outpatient prescription drug benefit are already 150 percent above the original estimate and quickly heading North.

The benefits, as whimsical so they may be, are not Congress' to give away. The beneficiaries must pay. They ought to be heard. The outpatient prescription benefit drug is not a cheap benefit. Medicare beneficiaries will have substantial drug deductibles to pay. The deductible begins at $600 in 1990 and grows to $1,224 by 1994. This is in order to limit the number of beneficiaries to 16.8 percent of Medicare enrollees.

Furthermore, the Stark-Gradison-Waxman amendment would collect nearly $18.5 billion in flat premiums over 5 years from our senior citizens. These moneys can be put to better use than financing a benefit the seniors are not asking for and which nearly half of them already receive—often at no or little cost to themselves.

I urge my colleagues to join me in voting against the Stark-Gradison-Waxman substitute amendment.

□ 1420

Mr. DONNELLY. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from North Dakota [Mr. DORGAN], a member of the Committee on Ways and Means.

Mr. DORGAN of North Dakota. Mr. Chairman, I appreciate the gentleman from Massachusetts [Mr. DONNELLY] yielding this time to me.

Mr. Chairman, I voted against repeal on the previous vote, not because I think this is a wonderful program, but because I think that it is a program that will and can benefit some senior citizens who might want to take advantage of it.

The problem, Mr. Chairman, is the alternative that should be on this floor is not here. I do not support the alternative on the next vote. I think it is taking the least important, not unimportant, but the least important benefits and paying for it with a head tax and repealing what I consider more important benefits such as nursing home and hospital catastrophic coverage. I do not happen to think we should do that.

However, Mr. Chairman, I think that the problem with the Catastrophic Act is that it is mandatory. The proposal I offered in the Committee on Ways and Means would have eliminated the drug benefit, a very expensive component, and use the savings from the elimination of the drug benefit to reduce the supplemental premium and keep the rest of the benefits. Unfortunately, this proposal did not prevail. I also supported another proposal that would have made the catastrophic program truly voluntary. That says to senior citizens:

Take a look at this. If you want it, if you like it, if you think it is for you, it benefits you, then you can have it, and pay for it, and get the benefits. If you don't, if you think it's not a good deal and you don't want it and you don't want to pay for it nor get the benefits, then opt out.

Mr. Chairman, taking that approach would have completely dissolved the opposition to this program. We would have preserved the program's benefits for those who might have chosen to take advantage of them, and we would have said to those who choose to opt out.

That's fine. You don't get the benefits, and you don't have to pay the cost, but you don't lose any of your existing Medicare benefits.

Mr. Chairman, that is what we should be discussing on the floor today. Unfortunately that amendment was not made in order.

So, Mr. Chairman, I voted against repeal because I think we should retain this option for those senior citizens who want it. I am going to vote against this motion because I do not want to preserve these meager benefits, although they are good benefits, while repealing the benefits relating to hospital coverage and nursing homes stays. I do not want to preserve the lesser with a head tax when we have not addressed nursing homes and catastrophic hospital coverage and at the same time we see the hospital coverage dissolved because this House voted to repeal the Catastrophic Act.

Mr. Chairman, this is not an easy issue. It is not easy for any of us. There has been a howl of protests across this country, and in my judgment the howl of protests resulted not because the benefits here are not worth anything but because this program was made mandatory for every senior citizen. We said:

Here's the program, here are the benefits, here's what it costs, and you must take it, and you must pay for it.

Mr. Chairman, there was a way to dissolve that opposition by making it optional. That is what we should do. It appears that we are not going to do it in the House. I hope the other body will do it because that makes the most sense for these issues.

Mr. Chairman, over the past year Members of Congress have been deluged with protests from their senior constituents about the Catastrophic Act. The protests have lead us to take a second look at the program. Unfortunately, today the House has chosen to repeal many important Medicare benefits that were enacted by the Catastrophic Act.

Although many senior citizens of this country have complained about the financing for the new program, I do not believe that the majority of Medicare beneficiaries want the Catastrophic Act repealed. It is my belief that the protests are directed at the financing rather than at the benefits.

Mr. Chairman, I do not believe that repeal is the answer. I think that the catastrophic program should be available to those senior citizens who want to take advantage of it. For those who do not feel that the program is worth it's costs, we should allow them to opt out without losing any of their other Medicare benefits.

My position is that the Catastrophic Health Insurance Program should be a voluntary program. That is the position I've voted for in the Ways and Means Committee, and it's a position that should have been made available as an alternative on the floor of the House of Representatives.

The alternative the House should have adopted was to make the catastrophic benefits completely voluntary without having to give up other Medicare benefits. This would have removed the opposition that any senior citizen might have had to it. If they do not like it, they wouldn't have to take it, and if they thought it was beneficial to them, they could sign up.

I do not support the Stark-Gradison-Waxman proposal because it repeals the most important benefits and completely removes the option of those senior citizens who might want to take advantage of them. It is my belief that benefits such as extended hospital coverage, which is repealed under this amendment, provides financial protection that many seniors could benefit from. That, after all, was the most important feature of the catastrophic legislation.

If we are going to restructure the benefits and the financing, it is my position that we should repeal the prescription drug benefit. When the Ways and Means Committee debated revisions to the Catastrophic Act, I proposed to eliminate the drug benefits, which are extraordinarily expensive in my judgement. Although many perceive this to be an important benefit, because of the high deductible, I do not believe that the benefit offers many seniors much relief from truly catastrophic health costs.

I want to clarify for the record that not only am I voting against repeal and the Stark-Gradison-Waxman alternative, I also oppose the financing revisions reported by the Ways and Means Committee. I voted against the provision in the reconciliation bill that came out of the House Ways and Means Committee because the financing is more regressive and it does not provide Medicare beneficiaries with a real voluntary option with respect to the catastrophic health insurance program.

Unfortunately, the proposal that I've advanced on this issue has not been made available for a vote by the full House of Representatives. I hope that it may be adopted by the Senate so that we can see this provision coming back from conference.

Mr. STARK. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. WAXMAN], a coauthor of the amendment.

Mr. WAXMAN. Mr. Chairman, the House has addressed the issue of repealing the catastrophic proposal from last year. We have repealed the surtax which would have funded it and the two catastrophic benefits that we suggested to use by the Reagan administration—protection against doctor bills and hospital bills. One of the reasons we eliminated those protections is that people feel they are already covered.

Mr. Chairman, what the Stark amendment would do would be to restore some Medicare benefits that the elderly want. These are benefits they have been trying for decades to have coverage under the Medicare Program, because they cannot go out and buy coverage so easily for prescription drugs, or mammography, or home health care, or respite care, or those protections for the poorest of the poor in our society that also get help under this legislation. We would retain these benefits while we still eliminate the surtax. The benefits would be financed by a modest increase in the premium that would be paid by all Medicare beneficiaries.

The prescription drug benefit is one that the elderly have tried to get coverage for since 1972, and it is an enormous cost when people are sick. The cost of prescription drugs really do bankrupt many Americans. Look at the figures of what the prescription drug benefit will mean, and the average drug costs for the 6 million Medicare beneficiaries who will exceed the deductible of $800. For those 6 million beneficiaries who exceed $800, their average costs are $2,000.

Mr. Chairman, there are millions of reasons to go along with this Stark proposal. There are six million beneficiaries who will receive prescription drug coverage every year. There are 33 million American beneficiaries under Medicare who will have unsurpassed insurance protection against the high costs that accompany the tragedy of chronic disease and illness. These are reasons for us to say yes to retain these benefits. There is the respite care benefit, the mammography benefit, the help for the spouse who stays at home while the other spouse is in a nursing home, assistance for low-income elderly who cannot afford to pay for their Medicare costs, and help for low-income women and children who need prenatal care and infant care.

Mr. Chairman, this proposal is not inconsistent with the previous vote and the previous amendment that has passed the House. That vote repealed the catastrophic bill. It is gone.

However, Mr. Chairman, in repealing the catastrophic bill, let us not throw out all the benefits that are there. Every senior citizen organization that lobbies in Washington today stands behind this Stark amendment. This time, they have checked with their membership, and I hope their membership has registered with the Members of Congress to vote for the Stark amendment.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], a valued member of the committee.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in opposition to this amendment with great respect for its authors and enthusiasm for some of the benefits retained.

Mr. Chairman, I have been an advocate of reform of the catastrophic care program, but it will take hearings, better estimates and hard work to satisfactorily modernize Medicare. I strongly oppose this amendment because it retains the drug benefit and funds it with premium increases. The drug benefit is very costly, and its administration will eat up almost half of the program's costs. This costly benefit will be paid through the premium structure.

My colleagues, I represent lots of seniors who are living on $500 a month. To these seniors increases in premiums are indeed a very heavy burden and are forcing some of them to drop out of the program. The very seniors who will find the premium increase most burdensome will also never be able to spend the money for medications that would trigger their coverage and their benefits under this program. They simply cannot spend the first $600, to $800, $1,000, that is necessary to trigger the benefits under this program, and time after time I have had them come to me and say, "I simply don't buy the prescription. I can't afford it."

So, Mr. Chairman, to fund an expensive benefit for some CEO's who are retired on big incomes we are going to burden every low-income senior in America with premiums that are harsh in their reality.

Mr. DONNELLY. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, the Stark amendment, as I see it, is a last-ditch effort to resurrect the cat, the catastrophic care bill, and to unrepeal the repeal which we just passed. We just finished doing what millions of seniors all over this country have asked us to do, in effect make that cat go away, repeal the cat.

Mr. Chairman, in my opinion they give us something that is just about the same, going down the same path. In the Stark amendment, the very people who brought us the cat in the first place have the cat coming back, not as in the rhyme, on the very next day, but on the very same day the cat is back.

□ 1430

The very next vote, in fact.

I think that we still have not heard from the seniors. A vote for the substitute is a vote, like the vote last year on the catastrophic, in the wrong direction again. As Yogi Berra once said, it is deja vu all over again.

Seniors have made it clear that if their money is to be used for expanding Medicare, it should go toward their highest priority. I know it has been said before, but that is long-term custodial nursing home care or in-home care. These are the catastrophes not covered by Medicare. These are not covered by Medicare and we cannot go out and buy them in the insurance market.

Like the catastrophic law, the Stark substitute does not, I emphasize, move toward long-term custodial care, it simply does not. It gives us something that is duplicative and many of our

seniors have that kind of coverage in a drug prescription program.

So much for going back to the drawing board for a careful evaluation of what the seniors of America have been telling us. They have been telling us this for over a year and now, bango, we are going to go right back down the same path. A vote under the Stark amendment, Mr. Chairman, will cost every senior couple $405.60 in brand new premiums over and above the flat rate premiums which we have right now by 1994, just for one new benefit which is volatile, and we do not know what will happen in terms of cost.

In effect, the Stark substitute mandates what I call an un-COLA and tells seniors to pick up the tab.

The Stark substitute would virtually wipe out senior Social Security COLA's by 1994 to pay for the prescription drug benefit, hence the use of the word un-COLA.

An average senior couple gets $40 Social Security COLA for a year, assuming a 4.3 percent inflation. The Stark prescription drug benefit will cost all senior couples $406 per year when fully implemented. Ninety-seven percent of their COLA's will be wiped out to pay for just one benefit: prescription drugs.

Most seniors will never see their COLA since Medicare premiums are deducted from Social Security checks.

Vote against Stark-Waxman the "un-COLA" plan. Support Donnelly-Archer, the real thing.

Mr. STARK. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Arkansas [Mr. ANTHONY].

Mr. ANTHONY. Mr. Chairman, I rise in support of the substitute.

I voted against repeal. Two years ago we bragged about trying to do something for health. Now we are being stampeded into making bad judgments.

As for my own district let me quickly say, the basic patient is older, sicker, with no employment-based insurance. Under this substitute, they get 38 days. Under the old law, they get 21 days of home health care. That is an extension of long-term health care.

There is a new provision of 80 hours for respite care, those people who are burdened with taking care of the sick at home. It is a good new program.

But more importantly, if we repeal this, and I tell my southern gentlemen, take a look at your own States. In the State of Arkansas under the old law there were 1,600 Medicare patient days used in skilled nursing home facilities. Under the catastrophic bill that we passed, that has jumped up to 27,000 Medicare patient days used today. They will be grandfathered, no longer be eligible for these services at the end of this year and then asked to leave.

Mr. STARK. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I rise in support of the Stark-Waxman substitute to the Medicare catastrophic coverage provisions of H.R. 3299. The House has just voted to repeal the surtax, a move which was necessary if we are to preserve any of the new benefits. Now we have the chance to restore some of the benefits of the package, and to finance them with the already scheduled increase in the part B premium. As was the case in the Donnelly substitute, the surtax would be eliminated.

I believe the Stark-Gradison-Waxman proposal preserves some of the most important benefits for the elderly. Many of the benefits which would be retained are particularly important to older women. The bill would retain the provisions to address spousal impoverishment, the need for regular mammography screening, expanded home health care benefits, and respite care. The mammography provisions alone are expected to save 4,000 lives per year. While the respite care benefit is a very limited one, it does provide for the first time some respite for caregivers of the elderly, most often elderly women themselves. Clearly, the spousal impoverishment provisions are vital if we are to prevent the impoverishment of so many at-home spouses of nursing home residents.

I am concerned with the potential future costs of the drug program, and I will certainly work with the House/Senate conferees to better ensure that part B premiums do not skyrocket in order to finance future drug cost increases.

I will also be working very hard to ensure the continuation of the current law provision which protects public retirees, as well as some private sector retirees, from paying for a duplication of benefits between their own health plans and the Medicare program. The substitute retains these provisions.

I believe the overriding need today is to eliminate the surtax, and to work to retain at least some of the new benefits. I urge my colleagues to support the Stark-Gradison-Waxman amendment, and to then work to address the true catastrophic health needs of the elderly: long-term and home health care coverage. As a member of the Select Committee on Aging, I will continue my efforts in this regard, and I urge my colleagues to join me in making this issue a top priority.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Chairman, I rise in opposition to the Stark-Gradison proposal.

I want to point out that if this were a referendum on respect or affection for the gentleman from California and the gentleman from Ohio who have brought us this amendment, I would vote yes. They are outstanding leaders.

But on catastrophic health insurance, we got it wrong. We have already admitted that. Unfortunately, last year we listened to the AARP, the AFL-CIO, the American Pharmaceutical Association. Then finally we went home and we listened to the elderly. They said no. They said no to the surtax, no to the premium increase, no to replacing Medigap, and no to the benefit package.

Finally we listened, by the score of 360 to 66.

Now, did seniors tell us to retain the drug benefit? Was that what you heard? Is this the priority of seniors?

Oh, believe me, the AARP wants it. The AFL-CIO wants it. The American Pharmaceutical Association wants it, of course.

Do senior Americans want it? None of them have told me they do.

Now, would it not be wise to stop and start over, to hold hearings, ask seniors what they want? Do they want a drug benefit? Do they want hospital coverage? Do they want more doctor benefit, or do they want long-term care coverage?

Is a $42.60 a month premium by 1993 too much?

Do we want to shift the cost of care of the disabled to the elderly? And let me make a very important point here. Ten percent of those eligible for part B are disabled. They are not 65. They are not retired. They are disabled. Yet 20 percent, the CBO estimates 20 percent, of this long-term benefit will go to that 10 percent of those who qualify. Is that a policy decision you are willing to defend today?

I want to ask you some important questions. If we adopt the drug benefit, what more can we do? Can we make room for a long-term care benefit? Are we ready to take this decision? Has there been time? Have you had any input? Did anyone ask your opinion as to what should be in this package? Do your seniors understand this? Do you know how they would want you to vote?

Mr. Chairman and my colleagues, let us avoid another mistake. Vote no on the Stark-Gradison amendment.

Mr. STARK. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Chairman, the seniors of this Nation need health care—they need help with long-term home care. They need to know that serious health problems will not bankrupt them and their families.

But they do not need and they cannot afford an unfair and burdensome tax.

The catastrophic surtax violates every principle of equity that our Nation holds dear. No

other group of Americans has been asked to foot the bill for the entire cost of the benefits they receive—not students, not veterans, not farmers, no one.

We have taken the first step by repealing the surtax.

But now we must make a commitment to the future, to the development of a health care system that truly meets the needs of seniors. The Stark, Gradison, Waxman proposal is the next step.

It repeals the surtax and keeps intact the most important benefits seniors need. It keeps the prescription drug benefit, saving more than 6 million seniors hundreds of dollars per year. It keeps the mammography screenings benefit, saving as many as 4,000 lives per year.

And, it takes an important step toward full coverage of long-term care costs by providing 38 consecutive days of home health care.

It was not too long ago that we lost our most revered and beloved colleague Claude Pepper. Senator Pepper believed in a compassionate vision for health care. He committed his career to helping the elderly.

If this country is going to meet the challenge of a national health care crisis, we must adopt that vision, that commitment, that passion at this critical moment and not give up on the dream of adequate health care for our seniors.

Health care for the elderly is a trust between generations. It is vital not just for the old, not just for the disabled, not just for the sick, but for the security of American families.

Today, we must make a new beginning to guarantee family health security. I believe the Stark-Waxman-Gradison amendment is the first step.

Mr. Chairman. I urge my colleagues to support this amendment.

Mr. Chairman, I would have preferred today to be voting for an alternative that would repeal the surtax and keep all the current medical benefits intact. In fact, earlier this year I introduced legislation that would have accomplished both of these goals. Unfortunately that is not one of our options today.

Under the current program, an individual senior can be required to pay more than $800 in "supplemental premiums" for benefits that average $65. By 1993, some seniors will be required to pay over $1,100 for benefits that will average about $322 per person. The inequities are obvious. Under the current law, too many seniors would be required to pay more for the surtax than the value of the benefits provided.

Most elderly citizens live on fixed incomes and cannot afford to pay such a dramatic increase in taxes. Today we are acting to correct this gross inequity. We must repeal the surtax.

I hope my colleagues will support the Stark-Waxman-Gradison proposal which will both repeal the surtax and preserve some of the most critical senior health care benefits. By focusing on preventive and chronic care, the Stark-Waxman-Gradison proposal provides benefits that aren't covered by most private insurance plans.

I will be voting for this proposal today and I hope a majority of my colleagues will as well.

It is a disgrace that in this country we allow a cruel catastrophic illness that may have already robbed a family of a life, to also rob that family of its life savings. I hope my colleagues share my sense of urgency. We can't wait much longer. We must move forward to provide adequate health care for our senior citizens. Mr. Chairman, we must make a promise that today is a new beginning.

Mr. STARK. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS. Mr. Chairman, I rise today in support of the Medicare Catastrophic Coverage Act and specifically the Stark-Gradison-Waxman proposal. I commend our colleagues for devising a plan to save the most essential of catastrophic's benefits, while eliminating the surtax that so many of our constituents have opposed.

The purpose of Medicare was to make high-quality health care affordable for this Nation's elderly and disabled. The Medicare Catastrophic Protection Act was passed to assist those elderly and disabled Americans who risk financial ruin when catastrophic illness strikes.

Many of us worked long and hard to craft a measure that we thought was a good attempt to deal with one of the most serious problems in our health care system today: The financial consequences of prolonged and expensive illnesses. However, I have come to understand that as currently implemented, the surtax is unfair to many seniors and must be changed.

The question of how to change the act is not easy to answer. To finance the benefits through a mix of general revenues and income from beneficiaries would be the most fair option, but that would necessitate a tax increase of some kind. And regardless of how significant and beneficial a program this may be, it appears that nothing is good enough to warrant a tax hike. Another option we are asked to consider is out-and-out repeal of the act. I find this the most distressing and unfavorable proposal of all. If we can save any of the benefits and finance them through means other than the general revenues or a surtax, we should do so. That is exactly what we have in the Stark-Gradison-Waxman alternative.

The Stark proposal repeals the supplemental premium altogether, and takes with it the acute care catastrophic coverage for hospital, physician, and skilled nursing facility care. However, this amendment retains some of the most important benefits of the Catastrophic Coverage Act, including those that are generally not offered by private insurers. It retains the outpatient prescription drug benefit which would become applicable after a beneficiary had reached the $800 deductible. This may not sound like a big deal to many of you, but those of us with sizable elderly populations in our district know that prescription drugs are a major expense for seniors. Many elderly persons who are on multiple medications and will likely be on them for the rest of their lives find that they must frequently adjust their dosages—I heard that some take their pills only every other day instead of daily—because they cannot afford to take their medicines as their doctors have prescribed. Three out of four of them pay more for prescription drugs than for anything else, including food.

Another important benefit retained in the Stark proposal is the mammography screening benefit. I am particularly pleased that this preventive measure was deemed worthy of inclusion because I fought hard for its acceptance into the Medicare Catastrophic Protection Act. Through screening and early detection of breast cancer, we save lives—an estimated 4,000 per year—and we save money. It is much easier, less traumatic to the patient and less expensive to treat cancer at early stages than at more advanced stages.

The Stark proposal also retains some of the long-term care benefits in the original Catastrophic Protection Act, such as adding 17 days of the home health care benefit and adding respite care services for chronically dependent, homebound beneficiaries. It is very important that we continue to build on the home health care provisions, for this will be one of the next major health care financing issues we address. More and more ill and disabled persons prefer to be cared for at home, whenever possible. Likewise, family members often prefer the peace of mind of knowing that a loved one is receiving the love and attention they deserve. We must act—and act soon—to offer some kind of assistance to these families so that they do not have to deplete their resources in order to get help in properly caring for a loved one.

Finally, as I urge my colleagues to support the Stark-Gradison-Waxman proposal, let me note that it has been heartily endorsed by numerous national and local groups representing seniors, retirees, and consumers. If you haven't heard from these people yet, trust me, you will. They are firmly backing the Stark proposal over repeal and are letting their voices be heard.

Again, I urge you to vote "Yes" on the Stark-Gradison-Waxman alternative.

Mr. STARK. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. MOODY], a member of the committee.

Mr. MOODY. Mr. Chairman, I thank the gentleman for yielding me this time.

The Stark-Waxman-Gradison catastrophic amendment is important.

I urge support for the Stark-Waxman-Gradison substitute to total repeal of catastrophic care.

This bipartisan alternative to total repeal would:

First. Repeal entirely the supplemental surtax, but not the flat tax.

Second. Retain several key benefits:

Spousal impoverishment protection;

Medicaid buy-in to Medicare for the poorest seniors;

Prescription drugs;

Expanded home health care;

Respite care;

Mammography screening; and

Expanded hospice care.

Seniors groups do not want total repeal. Even the National Committee to Preserve Social Security and Medicare—Roosevelt group—says that the Stark-Waxman-Gradison substitute is much preferable to repeal. This substi-

tute is also endorsed by the National Council of Senior Citizens and AARP.

Suggestions that total repeal of catastrophic coverage paves the way for a federally funded long-term care are cynical and insincere. Most cost estimates on comprehensive long-term care programs range from $50 to $90 billion—5 to 9 times the cost of catastrophic. I can't see us funding long-term care after the fiasco over catastrophic funding.

Under the Ways and Means mark in the reconciliation bill, 60 percent of seniors would not pay a single penny in the supplemental income-based surtax, while less than 5 percent would pay the maximum surtax of $800. Total repeal of the MCCA would therefore be chief benefit to the fewer than 1 in 20 seniors who would pay the maximum premium, so the Stark-Waxman-Gradison substitute is vastly preferable to repeal.

□ 1440

Mostly about the controversy over catastrophic care insurance has always been financing, not the benefits. The Stark-Waxman-Gradison substitute retains important, real benefits and removes the controversial supplemental surtax.

The easy vote may have been for total repeal. The responsible vote, and the right vote, is for the Stark-Waxman-Gradison substitute.

Mr. DONNELLY. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, one of the previous speakers said this is deja vu all over again. If I did not have such respect for the drafters of this particular amendment, I would think it was sent up here by Joe Isuzu.

This time, my colleagues, we have just been beat up on the question of catastrophic health care, a very bad bill we passed last year. This time, let us be more responsible. Let us read the fine print.

We have just voted to repeal catastrophic. Let us not bring back now the worst part of catastrophic. There has been interest expressed on both sides of the aisle, and I have an interest, a very definite interest, a strong constituent interest as a member of the Committee on Ways and Means to go back and study this to see if there is a way we can bring back one that is equitably financed. This is not the one.

I would urge the Members that we can be forgiven for one mistake, but let us not come down on the side of error again. Let us come down on the side of caution and look at what is before us with a great deal of caution, and this time let us listen to the people first and then vote.

Mr. STARK. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, I rise in opposition to Stark-Gradison and in support of total repeal.

Mr. Chairman, soon Congress will vote on whether or not to repeal the Catastrophic Act. Newspapers, newsletters, news broadcasts, town hall meetings, and constituent mail have all served to relay to Congress the displeasure of the Nation's seniors. The number of persons who have contacted and spoken with me alone are in the thousands. And the common theme which unites their pleas and arguments is that the Medicare Catastrophic Coverage Act needs to be changed.

In January, I cosponsored several pieces of legislation to reform the Catastrophic Act. Unfortunately, those efforts and countless others went nowhere. Instead, only the Ways and Means compromise was put forth. As noble an attempt as it was to appease seniors and save some catastrophic benefits, the Ways and Means proposal is not an appropriate reform vehicle. Not only do I seriously doubt the fiscal health of the Ways and Means proposal, but I believe the voluntary provision is an ill-conceived straw option. Mandating that anyone who opts out of the Catastrophic Program must opt out of Medicare part B as well is ridiculous.

Thus, Mr. Chairman, I rise in support of the Donnelly/Archer amendment to repeal the Catastrophic Act. Unfortunately, it alone represents an appropriate response to the precarious policy situation in which this body finds itself today; mainly, that the Medicare Catastrophic Coverage Act does not make prudent sense either as public or fiscal policy.

Last year, prior to the enactment of the Catastrophic Act, Congress received assurances that private Medigap premiums would decrease. Today I still have yet to see a private premium which has decreased. In fact, some seniors are now paying 40 percent more for private insurance than they were before we passed the act. This increase, coupled with the catastrophic surtax, is simply too much for our seniors to pay, especially since a good deal of what they received in catastrophic benefits duplicated benefits they already had. Mr. Chairman, the Catastrophic Act is a policy whose time has passed.

Similarly, this law makes bad fiscal sense. Originally this act was to cost $30 billion. CBO now estimates the cost to be closer to $48 billion. The skilled nursing home benefit alone will cost an estimated $2.5 billion this year, 150 percent above the $1 billion estimated when Congress passed the act into law. Obviously, raising the current surtax rates to cover the cost of the new benefit estimates is out of the question. And certainly we have not the fat in Government revenues to float the cost of this program. Thus, let us rid ourselves of this deficit monster before it grows larger.

Finally, Mr. Chairman, a word about the Donnelly/Archer repeal amendment. From the start of the catastrophic debate, I have been most concerned about the affordability of nursing home coverage for those least able to afford. Why we have forced people to become impoverished and down right poor before we helped them is beyond me. I am pleased, therefore, that this repeal amendment retains the spousal impoverishment provision. Although it may ultimately cost the Federal Government in the short run, I believe it will have a positive long-term effect. We simply cannot afford to repeal the surtax and maintain expensive benefits as some would have us do. Not only does the Donnelly/Archer amendment make good public policy sense, but it makes good fiscal sense as well.

In retrospect, what began as an earnest attempt to protect elderly Americans from catastrophic illnesses, turned itself, into a catastrophe. Reform efforts have been squelched, thus let us repeal; support the Donnelly/Archer amendment.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. Goss].

Mr. GOSS. Mr. Chairman, I rise in opposition to Stark and Gradison.

Mr. Chairman, we have come down to the moment of truth. We have overwhelmingly supported a complete repeal of the Catastrophic Health Care Act. We have gone on record to the seniors of this Nation that we want to wipe this bad piece of legislation off the books.

So let us not lose our resolve now. Let us not undo what we have just done.

I rise today in strong opposition to the Stark alternative.

We have read in the newspapers that this issue, the issue of repealing catastrophic health care, is the result of an "annoyance" among seniors. We have read that the uproar has been caused by lobbyists.

Well, Mr. Chairman, my district has the second highest number of senior citizens in this Nation. They are not just annoyed at this law. They are adamant; 82 percent of those who responded to a questionnaire this summer demanded outright repeal of this law. They will not accept a patch-work alternative.

I urge my colleagues to stand by their votes of only a few minutes ago. I urge my colleagues to oppose the Stark alternative.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. Mr. Chairman, last year's vote on the Medicare Catastrophic Coverage Act was one of the most difficult I have faced in my years in Congress. No elderly person should be forced into poverty by high health care costs. No elderly person should be forced to choose between paying for life sustaining medicines or paying the electric or grocery bill. No elderly couple should be forced into poverty before Medicaid will cover the cost of nursing home care.

Our intentions were good, but our final product was seriously flawed health care policy and retirement income policy. In the end, I voted against this legislation. I believed that Congress could and should have done better.

Today, we face another very difficult vote. We have three choices: Repeal the Catastrophic Act and start over

from scratch; allow the Ways and Means Committee's modifications to stand and force the elderly to choose between paying for benefits they may not want or need or dropping all of their part B coverage; or vote for an amendment which repeals the physician and hospital portions of the coverage but retains a costly, very poorly structured, inflationary prescription drug benefit and repeals the limits on beneficiary part B cost-sharing.

Again, Congress could and should do better. I am encouraged to note that all of the options before us today preserve spousal impoverishment protection, a first step toward addressing the catastrophic cost most elderly fear most: long-term institutionalization. But as I review the options before us, I am convinced we are rushing to judgment. I sense that we are spurred not only by the overwhelming opposition of the elderly to the Catastrophic Act, with its inequitable surtax, mandatory participation, and duplication of coverage that a majority of the elderly already have. I also sense a good deal of anger over what many perceive to be the ingratitude of those they thought they were helping. Many in Congress continue to believe that it is a minority of higher-income elderly fueling the opposition to the Catastrophic Act and a majority of elderly who simply do not understand what a good deal they are getting.

I believe the elderly are not misinformed in their opposition to the current law and it is we who are not listening. It is poor retirement income policy to single out those who have saved independently for retirement and tax them to pay for benefits for all of the elderly and for younger disabled persons. As a group, we would tax the elderly at a higher rate than any other taxpayers. Some working elderly would see marginal tax rates in excess of 100 percent. Given our population's demographics, we need to be encouraging independent savings and participation by the elderly in the work force, not providing disincentives through our tax policies.

While the elderly pay for the lion's share of the program's costs, the disabled, with their greater medical needs, are likely to receive the greatest share, proportionally, of the catastrophic protection. I support providing catastrophic coverage for the disabled. But if we were designing a Federal program to do so, would we finance it largely by taxing the elderly? That is precisely what we did in the Catastrophic Act.

We should not have been surprised by the fact that the cost estimates coming in to Congress now are billions more than the estimates we had when we voted on the Catastrophic Act. We expanded benefits under a system in which costs were already spiraling out of control. With all due respect to my colleagues, the Stark-Waxman-Gradison amendment would repeat this mistake. It is likely to further fuel increases in prescription drug prices, providing limited protection to a few elderly, but leading to higher out-of-pocket costs for prescriptions for the vast majority.

Further, a very high percent of the prescription drug benefit is consumed by administrative costs. Instead of providing the benefit through Medicaid for lower-income elderly, the Catastrophic Act establishes a costly new program. The prescription purchases of every Medicare beneficiary will have to be tracked.

In summary, this is not the time to rush to judgment and again seek to patch up a fundamentally troubled health care system. I am supporting repealing the act, with the exception of spousal impoverishment and Medicaid protection for low-income beneficiaries, because we need to start over. We need to take a comprehensive approach, examining our entire health care system and making those reforms necessary to ensure that every American has access to health care at a reasonable cost and protection against catastrophic health care costs.

The options before us today, other than repeal, will simply further fuel health care costs for the majority of the elderly and the nonelderly, increasing the number who cannot afford any coverage at all. There are better alternatives. I would prefer to put the surtax, the physician, and the drug coverage on hold for a period of time to give ourselves the opportunity for reasoned, dispassionate consideration of how to best restructure this law and our health care system as a whole.

Mr. STARK. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I am for long-term care. I am a sponsor of long-term-care legislation. But anybody who tells seniors that they are likely to get it if we totally repeal catastrophic is simply peddling baloney.

This President does not have the vision, and this Congress does not have the guts, unfortunately, to pass long-term care.

I found out what my seniors wanted, because I asked them. I sent a questionnaire to senior citizens in my district. One-third want repeal, two-thirds do not. Two-thirds of the seniors in my district said they want us to salvage respite care. They want us to salvage the protection against spousal impoverishment. They want us to salvage the drug benefit.

The Stark-Waxman amendment gets rid of the surtax. It does not get rid of needed benefits. I urge the Members to support it.

I have only one other thing to say. I am very angry about some of the misinformation being peddled by Mr. Roosevelt and his group over the past year and a half. I think that what that may demonstrate is that Archie the cockroach was right when he said that, "Blood will tell, but it often tells too much."

Mr. STARK. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Chairman, I take this time to explain why I plan to vote for the Stark-Gradison-Waxman amendment.

Last year I vote for an insurance program designed to protect our Nation's elderly from catastrophic costs related to health care. Most people in my district support the belief that we need catastrophic health insurance protection—and have since I was first elected to Congress. That must have been true in most districts, since Congress passed the largest expansion of Medicare benefits to the elderly in more than two decades.

Since then, I, like all of us, have been swamped with thousands of letters from seniors who object to paying the surtax for a variety of reasons.

Some have adequate coverage in private plans and others like employees of the State of Ohio have catastrophic-type coverage under State plans. They were asked to pay a tax for something from which they cannot benefit. I understand how they feel and, Mr. Chairman, I voted for a repeal of the surtax a few minutes ago. I will now vote for the Stark-Gradison-Waxman amendment, because to me it retains the concept of catastrophic health care benefits. As has been mentioned, it retains the prescription drug benefit. I know from personal experience that the cost of prescription drugs can be catastrophic in the case of long-term painful illnesses. This amendment retains mammography screening. I am told by my good friend, Dr. Arthur James, a leading cancer specialist, that thousands of women's lives can be saved through periodic mammograms. This is reason enough for me to vote for this amendment.

It retains the new home health care coverage, hospice, and in-home respite care.

For a lot of people this is a vote for merciful treatment of our elderly. It retains the spousal impoverishment provision.

Most people who have contacted me do not seem to object to the $4 a month increase in monthly premiums to pay for these benefits. I feel the equities weigh in favor of a favorable vote on this amendment.

Mr. STARK. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, every week I receive gut-wrenching accounts

from elderly Oklahomans on fixed incomes unable to pay for their prescription medicines.

Some of them are eligible for Medicaid but still can't afford their medicines, like the elderly couple I heard from last week: Their combined Social Security is $520 a month. One spouse's monthly drug bill is $207. She has high blood pressure; he has congestive heart failure. She writes that sometimes she skips buying her medicine because of the high cost. And, she concludes by saying that she's not asking for anything. "We learned long ago that the poor people, especially the elderly, are going to be left that way."

I would like to say that these letters are rare. They're not.

Apparently the Congress is not capable of coming up with an acceptable comprehensive solution to the problem of inadequate Medicare coverage. That's too bad.

In the meantime, the Stark amendment is the least we can do.

The people who will benefit from this amendment have not asked us for anything. They don't expect our help. You may not even have heard from them.

It was for them that catastrophic was created and it is them that will suffer most from its repeal.

I urge my colleagues to vote yes on the amendment.

Mr. STARK. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I rise in support of the Stark-Waxman-Gradison alternative, and I commend my distinguished colleagues, the gentlemen from California, Mr. STARK and Mr. WAXMAN, and the gentleman from Ohio, Mr. GRADISON, for working for a constructive alternative to address the serious concerns which have been raised over this bill, while retaining many of its vital benefits.

Mr. Chairman, we must bear in mind that the Catastrophic Protection Act was initially enacted in order to protect nearly 32 million Medicare beneficiaries from the devastating costs of catastrophic illness. I urge my colleagues not to throw the baby out with the bathwater.

I have long supported the need for catastrophic health benefits. However, many serious questions have been raised over the method of financing this legislation.

The Stark-Waxman-Gradison substitute repeals the troublesome Medicare surtax, removing the duplicative benefits which are already covered by many retirement programs, and retains many of the more beneficial provisions of the present law.

All of us are aware of the heartbreaking stories of our Nation's seniors who suffered from a catastrophic illness and whose assets rapidly withered away turning their financial security into destitution in a matter of just a few months.

This proposal retains important health benefits for our elderly: Home health care, hospice and respite care, the prescription drug benefits, and the Medicaid buy-in and spousal impoverishment benefits.

Mr. Chairman, accordingly, I urge my colleagues to support this measure which repeals the surtax, the major argument against the bill, while at the same time retaining sorely needed health benefits.

□ 1450

Mr. STARK. Mr. Chairman, I am pleased to yield 1 minute to the distinguished gentleman from Michigan [Mr. LEVIN], a member of the subcommittee of the Committee on Ways and Means.

Mr. LEVIN of Michigan. Mr. Chairman, there has been reference to the cost of administration as a third. That is out of thin air. The CBO estimates at most when the program is implemented it would be 15 percent. Do not try to scare us.

Popular appeal. The ABC poll, and I hope Members will take this into account, and we have rechecked their figures, 77 percent of the public is against repeal, and 57 percent of the seniors are against repeal. We talked with ABC today. For those who think they are responding to the public, I say look at the broader figures, and in a sense hedge your bet and at least retain some key benefits for the seniors of this country.

Third, the cost of the benefit. The demand is going to be somewhat high.

Fourth, wait for the commission. It is well intentioned, but it is a dodge. We should not wait to retain the essence of a good program.

Mr. DONNELLY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have great personal and professional respect for the three authors of this amendment. I have worked closely with them over the years. But let me paraphrase what Ted Koppel said to the Governor of my State this time last year: "Fellows, you just don't get it, do you?"

Pride of authorship is a dangerous thing. I can understand why these gentlemen want to save a modicum of this program, because they have worked so hard, so diligently. Years of their life were put into drafting something that has been rejected by the people they purport to help.

The vote that was just taken in the House is a message from the Members of the House to those of us that write health policy in this Congress. The next time you do it, they are saying, do it right.

If there is one valid criticism of what was wrong with the catastrophic program, it is that we added benefits on a catch-as-catch-can basis. We added this benefit to assuage this interest group, to gain their support. We added this benefit to gain the support of these Members of the House. We added this benefit to get the support of those Members of the other body, with very little logic behind it.

I personally support all of these benefits. They are good benefits. They are needed benefits.

Let me just talk about one, the drug benefit. The benefit we were told was going to cost $5.7 billion a year ago, and by the Congressional Budget Office we are now told it is going to cost $12 billion.

Who is going to pay that $12 billion cost and how is it going to be paid? The same people that reject Catastrophic Illness Program are the people we are now telling your constitutents to pay for this coverage that less than 20 percent of them receive.

It starts out at $4 a month; it goes to $6 a month; it goes to $12 a month; it is a never-ending road. The administrative costs are outrageous.

This is not the way to draft health care policy, may I suggest, ladies and gentlemen, by adding a few benefits to pick up a few votes. Good benefits albeit, but it is just not the way to do it.

The House just spoke to us and told us not to do it this way. Members cannot have it both ways. Members cannot vote to repeal the program, and make no mistake about it, we did not just repeal the surtax, we repealed the benefits also.

The last thing that the elderly people in this country want us to do to them is to try to trick them. Let us tell them the truth. We made a commitment to go back to square one, to look at the needs, to listen to the people that we are going to ask to finance the program. Now we are coming through the back door adding, in a patchwork quilt, additional good coverages, with no way to pay for them other than on the backs of beneficiaries who rejected that same proposal just half an hour ago.

Let me just say in conclusion about the groups that support the Stark proposal, let me remind my colleagues these were the same groups this time last year that told us when we passed this catastrophic bill it would be welcomed with open arms by our constituents. We got a little less than an open-arm welcome from 32 million Medicare beneficiaries.

Listen to the people that Members represent. That is what the title of the job is all about. Not to the people in the corridors, some group which will have financial benefits from this amendment. I need not name whom, I think everybody knows.

Do not make the same mistake again. We do not get ourselves out of a

hole by digging it deeper. Let us go back, let us take a sober, antiseptic look at what the needs of the beneficiaries are and how we can fund a program that is necessary. Let us listen to their input. Let us not jump back in and create another problem for ourselves.

The people expect some sort of logic and honesty about how we vote here. When we vote to repeal the surtax, we vote to repeal the programs. Do not add them back one at a time, little by little, without any sober analysis of where we are going.

This amendment, of all the amendments, ought to be overwhelmingly rejected.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. HUGHES) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

OMNIBUS BUDGET RECONCILIATION ACT OF 1989

The Committee resumed its sitting.

The CHAIRMAN. The gentleman from California [Mr. STARK] has 16 minutes remaining; the gentleman from Massachusetts [Mr. DONNELLY] has 2½ minutes remaining; and the gentleman from Texas [Mr. ARCHER] has 7 minutes remaining.

The Chair recognizes the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, I rise in support of the amendment.

The Chairman, it is very obvious that the health care system in this country is in a shambles. But now we have a chance to throw some important relief in the system to millions of older people.

In particular I would encourage my colleagues to support the Stark amendment because it offers benefits which are least likely to be covered through Medigap policies or employer-sponsored retiree health plans. On top of that, it takes the baby steps toward a long-term care policy with respite benefits. They are preventive benefits in a system that is essentially sick care.

Finally, I would say to my colleagues, in the very first year, 1991, at least 5 million people will be helped as we fill in the gaps in our system through the drug benefit.

Mr. STARK. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I wasn't here when the Medicare Catastrophic Coverage Act was adopted but I'm pleased to be here today to have an opportunity to rectify the injustice done to thousands of America's senior citizens by scrapping the supplemental premium or surtax that is intended to fund the majority of the benefits of the Medicare Catastrophic Coverage Act. In the 9 months I have served in Congress, no other issue has generated the consistent outcry I have witnessed from senior citizens, who are justifiably angry to discover they are to be taxed to fund benefits they don't want and feel they don't need.

Hundreds of my constituents have written or called or talked with me during my trips back home about this issue. Rarely before in my years of public service have I seen an issue where popular sentiment was so overwhelmingly one sided. I've received less than a dozen letters in support of the Catastrophic Act as it is currently structured. Senior citizens feel they were ambushed.

It simply isn't fair to ask that middle-income seniors alone fund the catastrophic costs of low-income seniors or of those disabled individuals below the age of 65.

Furthermore, the surtax penalizes those senior citizens who had the foresight to save for their retirement. In essence they are now asked to help foot the health care bill for those who didn't make those tough choices.

The injustice even seems greater when we see that over 75 percent of older Americans have some type of supplemental Medicare coverage, either available through their preretirement employers or through privately purchased Medigap policies. Many of the new catastrophic benefits duplicate the benefits already available through these supplemental policies. The benefits most likely to be duplicated by these private policies are the "catastrophic" benefits of the new act. The end result for those with such supplemental policies is that they are faced with higher cost of the supplemental premium, for which they will see little in return.

The unfortunate outcome of the surtax controversy has been to draw attention away from the importance of the Medicare Program and the value of the program expansions included in the catastrophic benefits. Medicare has played a significant and important role in protecting the financial security of older Americans in the 25 years since its enactment. The Catastrophic Act filled in a number of important gaps that existed in the Medicare Program, particularly for low-income seniors and younger disabled persons. I would contend that each of the benefits included in the Catastrophic Act has significant value and should be a part of the Medicare Program. The factors of cost and political reality, however, simply make that impossible at this time.

I urge my colleagues to vote to terminate the supplemental premium. Such an action is the honorable thing to do and absolutely necessary if we are to restore the faith of older Americans in this body. The Medicare Program does need to be expanded and we need to examine the long-term care issue, the true catastrophic issue for America's elderly. The controversy over catastrophic benefits highlights just how difficult that task will be.

We have the opportunity today to end the supplemental premium, while still retaining at least some of the important features of the Catastrophic Act. The Stark-Waxman-Gradison proposal will do just that. It still is not an ideal choice, but I doubt we will find one that can satisfy everyone. Most important, passage of this compromise will retain the important prescription drug benefit, a benefit rarely covered in private supplemental policies. One in six beneficiaries are expected to exceed the prescription drug deductible in any given year; almost half the elderly will use the drug benefit over 5 years. Those who qualify for the drug benefit, spend almost $2,000 per year on average for prescription drugs.

The Stark-Waxman-Gradison proposal would also retain the mammography screening benefits, which is expected to save some 4,000 lives each year, as well as retain the in-home respite care benefit, the expanded home health care and hospice benefits. Each one of these benefits should be a part of Medicare.

We can retain these benefits and still entirely eliminate the unfair supplemental premium. The increase in the monthly premiums, that began this past January with a $4 monthly premium increase, is not ideal, but I believe that America's senior citizens are willing to accept that cost. I have gotten only a handful of letters objecting to the increased monthly premiums. I am well aware of the burden of these higher premiums on those seniors with very limited incomes. Unfortunately, the budget pressure we face today leave us with no alternative if we are to retain any of the catastrophic benefits.

A number of organizations that have been leaders in the fight to eliminate the supplemental premium have en-

dorsed the Stark-Waxman-Gradison proposal. Many of the letters I have received in opposition to the supplemental premium have come from the members of these very organizations. I am comfortable that this proposal offers us an excellent opportunity to end the horrible injustice of the supplemental premium, but yet retain some of the important benefits of the original act.

□ 1500

Mr. STARK. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. McDERMOTT].

Mr. McDERMOTT. Mr. Chairman, I rise in support of the amendment.

I did not vote for catastrophic last year because I was not here. But I will not vote to throw away the first Medicare expansion in a generation, just because Ronald Reagan insisted that seniors pay for it.

Whatever you think about catastrophic, I know one thing for sure. Prescription drugs keep people out of hospitals and nursing homes. They help us treat patients, control symptoms, and prevent illness. Nothing frustrates a doctor more than to prescribe a drug the patient cannot afford.

My parents live on Social Security and spend $200 a month for prescription drugs. So do millions like them. They do not have a choice. They do not have private insurance to cover this cost. Most Medigap policies will not pay for it. Next to long term care, this is the senior citizens' greatest need.

Why pay to see a doctor if you cannot pay for the drugs you need? Why pay for hospitalization instead of the medication that keeps you out of the hospital?

Vote for the drug benefit, for good medicine and good economics. Vote for the amendment.

Mr. STARK. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, Dr. McDERMOTT talked about one area that is covered under the Stark-Waxman proposal.

I would like to zero in on another one.

The price of the average mammogram in this country is about $150, it is three times more than the annual premium would be for seniors. We know that breast cancer has reached crisis proportions in this country.

One out of nine women get breast cancer. Most of those 1 out of 9 women never get a mammogram. Most senior women, and by the way we are talking about two-thirds of the elderly being female, most senior women cannot afford a mammogram.

This would allow them to get this particular benefit.

Now, Mr. Chairman, I think that when you are talking about 4,000 lives annually that can be saved because of this one benefit, 9 women in each congressional district, we ought to save this amendment for the sake of this one benefit, let alone all the other benefits.

I urge you to have some courage and to support the Stark-Waxman amendment.

Mr. STARK. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, I have sat and witnessed the trampling on the bodies and heads of poor people for 2 weeks now. I am not stupid enough to assume that I can say anything in 1 minute that might stop that situation—but I hope it will.

Just to give you an example: One poor lady in my district, and I am sure there are others, had a regular diet of dog food that she eats, canned dog food, in order to try to pay now, under current circumstances, her medical bills, trying to extend her life a little longer.

I want to ask the question which somebody needs to answer for me so I can take it to my constituents: What is going to happen while we construct the so-called perfect piece of legislation that we are going to get together on to correct what is being done?

Mr. Chairman, I support the current amendment being proposed by our colleagues, Messrs. STARK and WAXMAN.

Mr. STARK. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I opposed passage of the Catastrophic Coverage Act last year because I felt the financing mechamism was unfair and felt the benefits weren't the coverage that most seniors needed or wanted. But, today, I rise in support of the Stark, Waxman, Gradison amendment.

The benefits of the Stark amendment: increased respite care, hospice care, home health care, and the State Medicaid buy-in and the spousal impoverishment protection are important and needed health-care coverage. The expanded respite coverage will benefit elderly women who are in the Nation's primary in-home care givers. The mammography screening is the first preventative health care benefit offered under the Medicare Program, and the expanded home health care and hospice care coverage are steps toward long-term care coverage.

I have strong concerns with the prescription drug benefit in the Stark proposal. I have concerns with the scheduled premium increases, Medicare premiums and deductibles have already increased 200 percent since 1980. And I have concerns that the Stark amendment would repeal benefits that have alredy gone into effect. Seniors who have dropped Medigap policies for extended hospital stays and physician services, will find themselves without coverage for those costs.

However, given the options, total repeal or the Ways and Means proposal that would increase the monthly flat premium by 71 percent and reduce benefits across-the-board, I must support the Stark, Waxman, Gradison proposal. I hope that it will be improved in conference and that a better targeted benefit package will prevail.

Over the next 30 years, the number of Americans over the age of 65 will double. The need for long-term, in-home and preventative care coverage will be acute. This body will have to make some very difficult decisions about how to provide coverage for those individuals. Turning our backs on the elderly because this is a difficult issue is not responsible government.

Health care and retirement benefits for our seniors represent a contract between the generations; one that transcends nationality or party lines; one that is innately human. If we shirk our responsibility as a society to care for our parents and for their parents, we betray our humanity. Support the Stark, Waxman, Gradison amendment.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Chairman, I rise today to express my opposition to the Stark-Gradison-Waxman substitute proposal for repeal of the Medicare Catastrophic Coverage Act of 1988.

Mr. Chairman, today is an important day for the millions of Medicare beneficiaries who have been forced to participate in the Medicare Catastrophic Program. Although well-intentioned, this program itself has many ills. It does not help senior citizens with their much-needed long-term care needs; many of the program's estimated costs are doubling; and the financing of the program is surely a "seniors only" tax!

We can craft a better health care program for our Nation's senior citizens. We can and we must. But this important task cannot be achieved as an amendment to budget reconciliation. We must admit our failure in crafting the current catastrophic program and go back to the drawing board to create a program that will prove to be beneficial to our Nation's growing number of senior citizens.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Chairman, today Members of the House have the opportunity to be responsive to the overwhelming sentiment of older Americans with regard to the Medicare Catastrophic Coverage Act. We have the

opportunity today to vote to repeal the Catastrophic Act.

A few months ago this moment did not seem possible. Only through the unrelenting drive of older Americans making known to Congress their clear opposition to the Catastrophic Act is this vote possible. Only through the tireless and reasoned efforts of my colleagues on the Catastrophic Task Force, led by HARRIS FAWELL of Illinois, to force congressional action on the Catastrophic Act is this vote possible. And only through the foresight of my colleagues BRAIN DONNELLY and BILL ARCHER who have offered us this repeal amendment here today is this vote possible.

I have heard from over 4,000 of my constituents in northern Virginia who are unmistakeably opposed to the Catastrophic Act. My constituents' concerns have focused not only on the inequities of the funding mechanism but also on the fact that senior citizens have many pressing long-term health care needs that the Catastrophic Act fails to address.

The latest figures from the Congressional Budget Office [CBO] on the cost of the Medicare Catastrophic Coverage Act are disturbing, if not shocking. The expected cost of the program has soared 60 percent higher than anticipated just 15 months ago. The Catastrophic Coverage Program will shortly be bankrupt. It has changed from a program running a $9 billion surplus to one that will incur a $6 billion deficit. None of the catastrophic reform proposals, including the latest House Ways and Means revision, are feasible alternatives, according to the latest CBO figures.

It is now time for Congress to start with a clean slate, repeal the Catastrophic Act, and hold public hearings in order to better address the pressing health care needs of older Americans.

The Donnelly-Archer amendment gives us that clean slate. Among senior groups supporting repeal is the Military Coalition, an organization representing 21 military employee and retiree groups.

The Military Coalition submitted a letter to Congress which said in part:

Our 1.3 million members oppose the Stark-Gradison-Waxman Amendment.

Imposing the prescription drug benefit on seniors by linking it to Part B Medicare reduces the value of Part B and is overwhelmingly opposed by senior citizens. The mandatory provision that they will not use is particularly costly to military retirees and service-connected disabled veterans who already have earned a drug benefit from the U.S. Government.

We urge you to vote for Donnelly-Archer and reject Stark-Gradison-Waxman.

The Military Coalition is comprised of: Air Force Association, Air Force Sergeants Association, Association of Military Surgeons, Association of U.S. Army, Commissioned Officers Association of the Public Health Service, Fleet Reserve Association, Marine Corps League, Marine Corps Reserve Officers, National Association for Uniformed Services, National Military Family Association, Naval Reserve Association, Naval Enlisted Reserve Association, Navy League of the U.S., Non-Commissioned Officers Association, Reserve Officers Association, the Retired Officers Association, the Retired Enlisted Association, Society of Medical Consultants to the Armed Services, U.S. Army Warrant Officers Association, U.S. Coast Guard CPO Association, and the U.S. Coast Guard WO and CWO Association.

A "yes" vote on Donnelly-Archer and a "no" vote on Stark-Gradison-Waxman is a vote in the best interests of older Americans and the long-term future of the Medicare system. I urge my colleagues to not lose this opportunity today to repeal the Catastrophic Act.

The full text of the letter is as follows:

THE MILITARY COALITION,
Alexandria, VA, October 3, 1989.

MEMBER OF CONGRESS,
U.S. House of Representatives,
Washington, DC.

When the House considers the proposed changes to the Medicare Catastrophic Coverage Act of 1988, you will have the choice of voting for the Donnelly-Archer Amendment to repeal the act or to vote for the Stark-Gradison-Waxman Amendment which repeals the surtax, but, imposes a mandatory prescription drug benefit on Part B Medicare recipients.

The Military Coalition prefers to retain core catastrophic benefits as in the Senate McCain Bill (Catastrophic Reform Act); however, our 1.3 million members oppose the Stark-Gradison-Waxman Amendment.

Imposing the prescription drug benefit on seniors by linking it to Part B Medicare reduces the value of Part B and is overwhelmingly opposed by senior citizens. The mandatory provision which they will not use is particularly costly to military retirees and service-connected disabled veterans whol already have earned a drug benefit from the U.S. Government.

We urge you to vote for Donnelly-Archer and reject Stark-Gradison-Waxman.

Sincerely,

GEORGE F. HENNRIKUS, Jr.,
Colonel, USAF, Retired Chairman.

Mr. STARK. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia. [Mr. JENKINS].

Mr. JENKINS. Mr. Chairman, every single alternative from repeal to the various substitutes that have been offered deal with the real problem that is troubling this body, and that is the supplemental premiums.

Obviously that was a mistake and has to be corrected.

There are those who believe that the best opportunity for this insurance substitute is to simply scrap the entire program, come back next year, look at the possibility of universal health care or all of the other alternatives that are being offered.

But I doubt that those things are going to come about because I do not think there is a body of opinion that would support that at the present time.

So I think one has to look at the alternatives that are offered to see whether or not there is one that provides benefits that all of us can generally support. And the people that I hear from, more than any other, and people that I deal with on a day-to-day basis, more than any other, are those people who are slightly above the Medicaid stage, do not qualify for Medicaid and yet they are slightly below the poverty line.

□ 1510

This is a real problem that is not going to change, however long we wait. Therefore, I think if we really want to deal with those people slightly over the Medicaid wage level who do not qualify for Medicaid, but do need help simply because they cannot afford hospital care, cannot afford the medicines that they need, then we ought to see if there is a program that can be paid for that is affordable. I believe that the Stark amendment comes closer to that than any other.

Time after time I talk with people who cannot possibly use up all of their few hundred dollars because their spouse is in a nursing home. I think all Members agree that should not be the case. This attempts to correct that. Time and time again I see the need for a Medicaid buy in. That is not going to change, however long we wait. I see the need for additional home health care, that ought to save members money in the long term. I see the need for each of these programs that has been scaled down in this amendment, that are not going to change. The only thing that we do is to pay for these benefits, and they are not overly generous.

I do not think that is going to change. For that reason, I support this amendment.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Stark-Gradison amendment.

Despite the best intentions of its sponsors, it comes to the House too hastily prepared. It is a last minute, almost desperate and expedient move to expand Medicare with little thought for what beneficiaries really want or need. The proponents settle arbitrarily on an array of noncatastrophic benefits plus prescription drugs. Drug coverage may be needed by the elderly, but Medicare's capacity to administer and afford this benefit is doubtful.

The authors of the amendment argue that the cost of their benefits will be covered by part B premiums. What they fail to mention is that CBO

estimates for the drug benefit alone have nearly doubled in just a year. CBO's original 5-year cost estimate was $5.7 billion. That number has now exploded to $11.8 billion.

The fact is—not one druggist has yet filled one prescription under this program. We have no way of accurately estimating its cost. It's reasonable to assume that demand for new AIDS drugs will expand exponentially and lead to much, much higher drug costs.

Experience has taught us one thing for sure—all estimates for new Medicare benefits are understated. The only question is by how much.

To save the Catastrophic Program, we're asked to pick the one benefit most likely not to succeed. Even the current low ball estimates call for a deductible in 1994 of over $1,200 and an increase in the part B premium of over $200 a year per person. That's a big hit on low-income elderly.

Few of us can seriously believe Congress will allow a deductible or premium of that size to stick. The drug benefit is a train wreck waiting to happen—and in the end will require either more taxpayer dollars or broken promises to the elderly.

That is not to say that the other benefits retained by Stark-Gradison may not have merit—as part of a thoughtful comprehensive overhaul of Medicare. However, for purposes of this debate, there's no evidence that they are any more justified than the catastrophic benefits the amendment so readily throws overboard.

Mr. Chairman, I understand that the authors of this amendment are trying in good faith to save a program in which they deeply believe.

However, I just as sincerely believe that when you consider the volatility of the drug benefit—and the question of priorities—our wisest course is to repeal the program now so that we can begin with a clean slate next year in thoughtfully reconsidering the future direction of our Nation's health and long-term care policies.

This body has just voted overwhelmingly for Donnelly-Archer to repeal catastrophic. A vote for Stark-Gradison is totally inconsistent and would overturn that vote. It would play into the hands of the conference committee which is likely to be dominated by supporters of the surtax and it sends the wrong message to the Senate.

I urge my colleagues to vote "no" on Stark-Gradison.

I reserve the balance of my time.

Mr. STARK. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, I rise in support of the Stark-Gradison amendment.

Mr. Chairman, I rise today in opposition to the Donnelly amendment to repeal the Medicare Catastrophic Coverage Act and in support of the Stark amendment to delete the supplemental premium and preserve the prescription drug, home health care, respite care, mammography and spousal impoverishment benefits.

Our Nation's senior and disabled citizens need the benefits provided by the catastrophic insurance law. The costs of a catastrophic illness can literally bankrupt a family. The financing mechanism in the new law, however, is contrary to the traditional means of financing Medicare. In the interests of fairness, Congress must eliminate the surtax.

If we vote to repeal, we deprive those seniors who need these benefits. I favor an adjustment in the financing mechanism. We should pay for this extension of Medicare the way we have always paid for Medicare, with a balance between current beneficiaries and future beneficiaries. When we abandoned that principle to please Ronald Reagan, we planted the seeds that led to today's action.

I support the Stark amendment because it keeps key elements of the program alive, preserving the chance that we can rebuild the rest of the program on a sounder foundation. The surtax must go. But the benefits it financed should be saved.

Each year more than 6 million senior citizens will benefit from the prescription drug program preserved by the Stark amendment. In addition, this compromise proposal includes the home health, respite care, and biennial mammography screening benefits. We know that the mammography benefit alone will save the lives of 4,000 women a year. In addition, the Medicaid buy-in for poor seniors and the spousal impoverishment provision that provides financial protection to spouses of nursing home residents have been retained in this amendment.

I am hopeful Congress can resolve this issue satisfactorily this year so we can move on to address the pressing need for protection against the enormous costs of long-term care.

Mr. STARK. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio (Mr. GRADISON).

Mr. GRADISON. Mr. Chairman, just 15 months ago, President Reagan signed into law the Medicare Catastrophic Coverage Act of 1988. This legislation represents the greatest expansion of Medicare for the elderly and chronically disabled since the Medicare program itself was enacted in 1965. Now, before a significant portion of the new benefits have even begun, an effort is being waged to repeal this landmark legislation.

Today, two substitutes are being offered to the provisions contained in H.R. 3299 relating to the Medicare catastrophic coverage program. The first calls for near total repeal; the second, which we are considering now, eliminates the highly controversial supplemental premium and, yet, retains many of the program's essential benefits.

While I wish that the whole program could have been given an opportunity to work, that clearly is not going to happen. I have, therefore, joined the distinguished chairmen of the Ways and Means and Energy and Commerce Health Subcommittees in developing a much more moderate alternative to the Donnelly-Archer amendment.

What have we heard from our constituents over the past year concerning the catastrophic program? They do not like the supplemental premium. They feel they already have coverage for many of its acute care benefits. They want protection from the skyrocketing costs of prescription drugs. And they want long-term care coverage.

Does the just approved Donnelly-Archer repeal substitute, respond to the concerns we have heard? It does eliminate the supplemental premium, but it also eliminates all non-Medicaid benefits of the catastrophic program—benefits that the elderly and their advocates worked for years to have included in the Medicare program.

The Stark-Gradison-Waxman substitute also eliminates the supplemental premium. Equally important, however, it retains essential health care benefits that many of our constituents tell us they want and need. For example:

The prescription drug benefit would be retained.

Some long-term care benefits such as expansion of home health and hospice coverage as well as in-home respite care would be retained.

The long overdue coverage of mammography screening for women age 65 and over would be retained. It is estimated that this provision alone would save thousands of lives each year.

Also retained are essential benefits for the poorest senior citizens, including the Medicaid buy in to protect against the financial burden of Medicare cost sharing and protection for spouses of nursing home residents against impoverishment.

Not only are the retained benefits important, but they are also largely unavailable or unaffordable to a great many beneficiaries through the private sector. The Stark-Gradison-Waxman amendment finances the retained benefits with the monthly flat premium as set by current law.

For those who may hope otherwise, near total repeal would not be the end of the controversy. Yet to weigh in are millions of moderate-income elderly who will be considerably worse off with repeal. Also, I expect that nearly all beneficiaries will be totally unprepared for the huge Medigap premium increases that will occur when the policies are adjusted to pick up benefits from the catastrophic program. Who do you think they are going to blame for the increases?

Perhaps the ultimate irony may be that so many Members consider repeal politically necessary. The politics of an issue can change, and I think the politics of this issue could change radi-

cally if this program is repealed and millions of senior citizens and the chronically disabled realize what they have lost. One need not be a media whiz to envision the future campaign ads against incumbents who voted to take these benefits away from our most vulnerable citizens.

The Stark-Gradison-Waxman substitute is not perfect, but it would give us an opportunity to save as many of the valuable new benefits as possible while addressing the concerns that have been raised about the program's financing.

I join with such diverse organizations as the United Auto Workers, the American Federation of Government Employees, and the National Education Association, as well as the major senior citizen groups in urging you to support the Stark-Gradison-Waxman substitute. Doing so is a responsive and responsible approach to modifying the Medicare catastrophic program. It is the least our elderly and chronically disabled citizens deserve.

□ 1520

Mr. DONNELLY. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Illinois [Mr. RUSSO].

Mr. ARCHER. Mr. Chairman, I yield my remaining time, 30 seconds, to the gentleman from Illinois [Mr. RUSSO].

The CHAIRMAN. The gentleman from Illinois [Mr. RUSSO] is recognized for 3 minutes.

Mr. RUSSO. Mr. Chairman, here we go again. Another band-aid, another short-term fix for a serious problem and the continuation of an inefficient, complicated, costly system, a system that everyone in this country agrees does not work well.

What is wrong with limited prescription drugs? What is wrong with limited long-term health care? I will tell the Members what is wrong with it. They are limited. That is the problem. They are limited.

We need prenatal care, we need postnatal care, we need preventive medicine, we need comprehensive long-term care, and we need a comprehensive prescription drug program. We do not need limited piecemeal fixes.

The only way we are going to get this is if we commit ourselves to enacting a comprehensive national health care program. I do not accept the argument that has been espoused today by several Members that if we do not do this today, we will never have these benefits, we will never see the light of day. I think that is wrong. The issue of the 1990's and the 21st century, I say to my colleagues, is going to be quality health care for every American, and if Members do not think so, they can just read the polls.

Mr. Chairman, we can do it. All we need to do is make a commitment as leaders in government to start down that road toward national health care. Corporations that were opposed to this for years are not for it. Why? Because they spend so much money on health care costs for their employees. They realize that they are at a complete disadvantage because of the extreme cost of health care, and they have no way of containing that cost.

So they are ahead of the curve. They are ahead of Members of Congress. The American people understand it. They are ahead of the Congress. They have already made health care costs in this country a national priority. What is wrong with Members of Congress doing the same thing?

Let us join the American people. Let us do what they want. They want a national comprehensive health care program. It does not belong on the back burner. The elections of 1990 and 1992 and the elections of the future are going to be dealt with with an eye toward national health care.

So let us get on board. Let us do what the American people want. They deserve better of this Congress. Let us move forward, defeat this amendment, and start the debate for universal health care for every American.

Mr. Chairman, they deserve it. Let us do it.

Mr. STARK. Mr. Chairman, I yield myself such time as I may consume.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. STARK. I am happy to yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, let me remind my colleagues that if they vote for the Stark-Gradison measure, we can at least go to conference and give the conferees a chance to work out this difficult problem. That can be done. The intent has clearly been established here today, and that is the thing to do.

If we vote "no," then we have no vehicle, and we have no choice except to be embarrassed in front of the American people.

So, Mr. Chairman, I hope this amendment will be supported.

Mr. STARK. Mr. Chairman, I thank the gentleman from Texas [Mr. PICKLE] for his comments.

Mr. Chairman, I would like to urge my colleagues to support the amendment that is coauthorized by the gentleman from California [Mr. WAXMAN] and the gentleman from Ohio [Mr. GRADISON]. It is important.

We have eliminated the supplemental tax which generated 90 percent of the complaints. We should vote for this amendment if for no other reason than supporting this amendment will cost $1 billion less than the Donnelly-Archer amendment in deficits next year and $2 billion less over 5 years. It will be revenue-neutral in the out years.

But that is not the reason we came to this as an alternative. The real reason is that we determined that it is the right thing to do. Will it be expensive? Yes, of course it will be, although it will be paid for by the beneficiaries at less cost than they could buy the same protection commercially.

It will be expensive because they will use more drugs. And why is that? Because the technology for geriatric medicine will improve more and develop more in the area of pharmaceuticals in the next decade than at any other time.

There will be no major advances in diagnostic techniques for seniors. There will be no major advances in surgery for seniors. Parkinson's disease and Alzheimer's disease and high blood pressure and the other chronic diseases that afflict the elderly will be cured with pharmaceuticals breakthrough, and these drugs will be expensive.

I want to point out to the Members that our constituents do not have insurance available commercially to protect them against the cost of pharmaceutical medicine. That is why it is the most important benefit to retain. They can buy on late-night television from Danny Thomas and Lorne Greene and the rest of them all the doctors' benefits and all the hospital benefits they want, but they cannot buy the prescription drug or other minor benefits that are included in this bill.

The benefits are fully paid for by a modest increase of $4 rising to $10 a month in the 5th year. This premium increase has not been objected to by any of the groups. I might add that it is supported by many senior groups, including the group that generated the uprising against the supplemental premium. That group is now attempting to generate support for this amendment.

I urge the Members to consider, in the interest of our seniors, for a modest monthly increase which they are not objecting to, giving them a benefit they cannot otherwise purchase and which is desperately needed this year and for many years to come.

With this vote, we will have shown our response to the outcry of seniors by eliminating the supplemental surtax. That is what they objected to most. Now, let us go home and for $1 or $2 billion less than the Donnelly-Archer amendment, let's give them benefits which they desperately need and which they will increasingly need in the future. Let's give those benefits to them at a modest monthly cost, which they have not objected to, and which they could not replace in the commercial market.

Mr. Chairman, I urge the Members to support this amendment as a responsible step forward in providing some incremental benefits to the needy, the 20 million Americans we

have not heard from and for whom we can preserve some small sense of safety, dignity and necessary health care. I ask the Members to please vote "yes" on this very important amendment.

Mr. STOKES. Mr. Chairman, I rise in support of the Gradison-Stark-Waxman substitute to the Medicare Long-Term Care Catastrophic Protection Act of 1988. Let me start off by saying that it seems very appropriate, under the circumstances, that this legislation has coined the term "catastrophic." The events that have lead up to today's debate and vote have not only wreaked havoc in our offices, with the outpouring of letters, postcards and telegrams from angry seniors, but if we repeal this measure today, we will have taken part in wrecking the lives of millions of elderly who desperately need the services provided in this bill.

When we enacted the Medicare Catastrophic Coverage Act last year, I and others, following the lead of the late Claude Pepper, recognized then that we needed to enact a measure that included long-term care and other services. And even though this body voted down Mr. Pepper's initiative, we did support the new expansions of Medicare, acknowledging this as a first-step in our improving health coverage for our Nation's elderly.

Furthermore, we established the Bipartisan Commission on Comprehensive Health Care to examine and make recommendations on those issues and concerns not included in the catastrophic legislation. In the short time that I have been a part of this panel as its newest member, I firmly believe that we will develop an action plan to deal with closing the other gaps in health care for the elderly, persons with disabilities, and other needy Americans.

The American public is looking to us for leadership. I urge my colleagues to vote in support of this Medicare improvement provision and show our Nation that we will not be swayed in our efforts to move forward and improve the health of our citizens.

Mr. WEISS. Mr. Chairman, for over 30 years Congress has considered proposals to alter substantially the role of the Federal Government in providing for the health care of the American people. Today we are on the verge of the latest revision. Unfortunately, we will not expand health coverage for our senior citizens. Because of problems with the funding mechanism established by the Catastrophic Care Act of 1988, Congress will most certainly repeal most, if not all, of the act.

When Congress enacted Medicare in 1965, we made a solemn compact with the American people—a compact which declared that when you grow old and retire, you should not live in fear that you will become sick and not be able to pay the medical bills. However, it is clear that the Medicare Program has not kept pace with the needs of our Nation's elderly population or with the skyrocketing costs of health care. We have the responsibility to review, revise, and renew the Medicare compact.

As a nation we took an important step in this direction in 1988 with the Catastrophic Coverage Act. This measure was the only type of legislation to expand health care coverage for the elderly that the Reagan administration was willing to consider, and as such it was by no means perfect or even adequate. It did not address, for example, the most pressing health care problem facing our senior citizens, namely the lack of any comprehensive approach to long-term health care. Nevertheless, senior citizens organizations strongly supported the Catastrophic Coverage Act, and it did provide a host of health benefits to people who greatly needed them. These included prescription drug coverage, an increase in Medicare's mental health reimbursement, a respite care benefit, and spousal impoverishment provisions.

The Catastrophic Care Act of 1988 went a long way toward meeting some of senior America's most urgent health care needs. Contrary to current public opinion, many Members of Congress, including myself, expressed concern over the inequitable method of financing this new legislation. I have always felt that the cost of these essential benefits should be paid for by all Americans rather than specifically targeting one segment of the population, in this case Medicare beneficiaries. However, President Reagan was very clear about his desire for full financing by the elderly and about the need for a self-financing mechanism such as the controversial surtax that was signed into law. In fact, he assured Congress that he would veto legislation that did not contain this component. Thus, the funding mechanism established in the 1988 act was simply the best we could do at the time and were encouraged to support by various of the seniors organizations.

Today, under a dramatically different set of circumstances, Congress must decide the future of the 1988 Catastrophic Care Act. There are two major amendments concerning health care for the elderly to be considered: one to repeal the act outright, with the exception of three improvements in Medicaid, and one to reform the act. I support the Donnelly-Archer-Russo amendment to repeal the 1988 Catastrophic Care Act because I still believe that the funding mechanism as it stands is unfair. I am also persuaded that those seniors who would be paying the surtax strongly believe that they are being unfairly treated. Under these circumstances, I believe it makes more sense for Congress to start again and develop a health policy which is fair and responds to the health needs of all Americans, in particular to the poor and the elderly.

However, the Stark-Gradison-Waxman amendment would spare a small portion of the original catastrophic act's critical benefits. For example, it would retain catastrophic prescription drug coverage, home health care coverage, hospice coverage, and mammogram coverage. In our determinations to do away with the act's flawed method of financing, we must not lose sight of the merit of its purpose. Therefore, I support the Stark-Gradison-Waxman amendment as a substitute.

America's elderly are a vulnerable population. They deserve protection. Its funding not withstanding, the Catastrophic Care Act provided some of that vitally needed protection in the form of health benefits. Members must stand up for a fair and responsible health care program for the elderly. Because I believe that it salvages an important health benefit for the elderly I support the Stark-Gradison-Waxman substitute.

Mr. MFUME. I join my colleagues in support of the Stark-Gradison-Waxman Medicare catastrophic coverage amendment to H.R. 3299, as it eliminates the burden of a surtax but retains some instrumental benefits.

I recognize that the current Catastrophic Coverage Act of 1988 is significantly flawed; however, the benefits that this measure does provide are long overdue and should be retained. More importantly, I also recognize that even as we continue to legislate, those citizens whom we set out to protect from total financial loss resulting from a catastrophic or long-term illness, remain yet unprotected from financial devastation.

Total repeal of the current Catastrophic Coverage Act would serve only to impact negatively, not only on the indigent elderly, but also on middle income older Americans. While able to sustain themselves minimally, they certainly cannot continue to do so in the event of a serious or chronic illness requiring costly medication or extensive hospitalization and nursing care, without coverage. The Stark-Gradison-Waxman amendment would clearly work to ensure that coverage would be available for those in need.

Mr. Chairman, there is no question that the issue of catastrophic coverage must be revisited and that the establishment of a viable plan should top the agenda of those concerned about the well-being of our Nation's elderly. We must remain keenly aware, however, that timely revisitation is necessary. We presently have no guarantees of this in any manner. Moreover, should existing benefits benefits be rolled back, what will become of those elderly persons currently benefiting from the provisions already in place?

It pains me to think there are those willing to acquiesce to the pressure of the amplified cries of a few, while making day-to-day existence for those suffering illness, a financial nightmare.

Let me conclude by stating that the Stark-Gradison-Waxman provision is a good measure which ensures the continuence of crucial provisions which a great many elderly and chronically ill Americans need. I support this measure along with continued strides toward the development of a sound catastrophic health coverage measure.

I urge my colleagues to join with me in voting for this amendment.

Mr. SCHEUER. Mr. Chairman, I rise in support of the Stark-Waxman-Gradison substitute.

I commend the gentlemen for offering their amendment.

This debate highlights the dilemma we face regarding health care in this country today.

We know seniors want and need protection against doctor and hospital bills, the highest cost of prescription drugs and the staggering price of long-term care.

But we can't figure out how to provide that protection because we are already spending so much on health care.

In 1950, we spend $1 billion a month on health care. That figure rose to $1.5 billion a day by 1988, despite several rate freezes or payment reforms in the interim.

We devote a 50-percent greater share of our gross national product to paying for health care than the average for all industrialized nations.

No industrialized nation spends more for health care on a per capita basis than the United States. We spend 38 percent more per capita than Canada, 87 percent more than West Germany, 124 percent more than Japan, and 170 percent more than Great Britain.

Even at these very great expenditure levels, however, we alone among industrialized nations fail to provide universal access to basic health care services, including long-term care.

Why?

As much as $1 out of every $4 spent on health care today—about $125 billion annually—may be wasted.

Some experts estimate 20 to 30 percent of all medical procedures performed provide no appreciable improvement in outcomes and, in some cases, actually may be detrimental to the welfare of patients.

We also lose billions because of the unique pluralistic nature of our system.

The thousands of individual insurers and businesses who pay for health care do not have the clout to bargain effectively for lower prices. Our system places enormous paperwork burdens on providers and competition runs up costs for advertising, public relations and other frills which add nothing to the quality of patient-care.

If we are going to meet the health care needs of the American people now and in the future, we must have a fundamental, structural overhaul of our health care system that will allow us to provide more and better medical care without raising costs.

We must consider measures such as:

Implementing a national health insurance system that guarantees the access of all Americans to affordable, comprehensive, high-quality medical care;

Changing the emphasis of the system from sickness care to disease prevention by improving coverage of preventive health services;

Increasing funding for health education and health promotion programs to convince Americans to stop smoking, moderate alcohol consumption, avoid drugs, lose weight and exercise regularly;

Establishing wellness clinics at work sites, in schools, and in senior citizens centers;

Funding research into the prevention of the leading causes of debilitation and dependence among senior citizens—incontinence, arthritis, dementia and debilitating falls;

Developing admistrative and other out-of-court mechanisms to resolve medical malpractice cases; and,

Improving our technology assessment capability and developing treatment guidelines so that only those procedures that actually improve outcomes are utilized and paid for.

With a strong national commitment to making these types of fundamental, structural changes in our health care system, we can become a healthier and more productive nation in the 21st century.

Mr. MATSUI. Mr. Chairman, I am voting today for both the repeal of the Medicare Catastrophic Coverage Act and for Stark-Gradison-Waxman substitute. The reason for these votes is that I believe the surtax levied upon Medicare recipients to pay for the benefits under this law was wrong. I also believe, however, that the benefits created under the Medicare Catastrophic Coverage Act will make a significant difference in the lives of millions of American seniors.

The benefit levels included in the Medicare Catastrophic Coverage Act enacted by the 100th Congress, met a critical need among the Nation's elderly. However the financing mechanism created to pay for these benefit increases was flawed.

Many of us would have liked to have retained all of the benefits under the catastrophic law, such as the expansion of coverage for individuals who needed the services of a skilled nursing facility. However, given the situation, that is not possible.

The Stark amendment repeals the surtax while retaining many benefits that will help the estimated 8 million elderly individuals who experience chronic illness or disability each year. The impact of these provisions is far too important to merely erase without further consideration.

While some 80 percent of Medicare beneficiaries have some form of catastrophic coverage for hospital and physician costs through private Medigap policies, this is not true of prescription drug costs. Prescription drug costs are the largest out-of-pocket health care expense for three out of four elderly individuals. At the same time, fewer than 20 percent of Medicare beneficiaries have private insurance that covers the costs of prescription drugs. The prescription drug benefit that is retained under the Stark substitute will protect millions of elderly individuals from the often devastating costs of prescription drugs.

The Stark substitute also retains several other important provisions included in the original law—home health care benefits; respite care; hospice care; coverage of mammography screening; the ability for low-income seniors to buy into the Medicaid Program; and the protections against impoverishment for spouses of nursing home patients.

The importance of these provisions is not insignificant. For example, the mammogram benefit will save more than 4,000 women's lives each year. The respite care benefit provides often-needed relief for the families of homebound seniors.

While the spousal impoverishment protections contained in the law are not as generous as those enjoyed by seniors in California, the do set a minimum standard for the spouses of nursing home patients around the country. I will work to correct this inequity in the spousal impoverishment provision for California seniors.

These provisions enacted by Congress last year to help Medicare beneficiaries are too important to erase by repealing the entire program. Putting the burden of paying for these benefits on the backs of the elderly was wrong, but an overhasty repeal of the entire program would also be a step in the wrong direction. I believe the Stark-Gradison-Waxman amendment is a step in the right direction and I urge my colleagues to vote for this substitute.

Mr. HILER. Mr. Chairman, with the showdown involving the Medicare Catastrophic Coverage Act finally at hand, Members are faced with the difficult task of revising or repealing what was considered one of the major accomplishments of the 100th Congress.

Without question, the new Medicare coverage has become the single most contentious issue among the elderly in this country. The senior citizens I represent tell me they don't want this coverage; it's too expensive, many of them already have this sort of coverage through private or employer-paid plans, and it doesn't adequately address the real health care need faced by seniors. The question remaining at this point is whether Congress will admit its mistake and remedy the situation.

I've remained hopeful all along that we could fix this legislation, as I think few people would deny that the program is well-intentioned. The problem is that we took what was a good idea—put forth by a constituent of mine, Dr. Otis Bowen—and came up with a piece of legislation that went far beyond our original intent; to provide seniors with sound protection from the high costs of acute, catastrophic illness. Instead, as Congress is often prone to do, we produced a massive health insurance package that seniors consider of dubious value.

Unfortunately, it is becoming apparent that we are no longer talking about what was originally a $30 billion program, as recent cost estimates put out by the Congressional Budget Office and the Department of Health and Human Services indicate that the actual costs will be much higher. CBO told Congress last year the cost of the overall program would be about $30 billion over 5 years. Now they are saying the cost could top $45 billion. HCFA goes so far as to estimate the 5-year cost at $55 billion. This is clearly way out of control.

If these figures are indeed true, we have clearly overstepped what we originally set out to accomplish. Added to this is the fact that seniors have clamored all along for help in the area of long-term custodial care which is clearly a valid concern given the fact that a nursing home stay costs $25,000 a year or more.

I believe that reform of the catastrophic coverage law should embrace the need for basic, low-cost Medicare coverage against the high costs of hospital and doctor-related expenses. As I stated, the premise is a good idea. But let's act to protect older Americans and relieve the burden, not add to it. The point of this coverage is to provide seniors with peace of mind, and to do so at a reasonable and fair cost.

Unfortunately, it seems we are now faced with a choice of either repealing the act, approving the Stark-Waxman plan, or accepting the reform proposal put forth by the Ways and Means Committee. As I see it, what Ways and Means did neither improves the program or alleviates the concerns that seniors have. The focal point of the outcry, the surtax, remains in place, albeit scaled back to a small degree, and what's worse, in an attempt to lower the tax bite on one segment of the senior population, the Ways and Means proposal would shift the added financial burden on low and middle-income seniors. Simply put, we would provide a small measure of relief to 5.6 million

beneficiaries at the expense of over 12 million others.

Stark-Waxman eliminates the surtax and most of the core catastrophic benefits as well, retaining the most costly and perhaps least predictable benefit in the entire program, prescription drug coverage. We're not quite sure how much this benefit will cost when it is fully implemented. Originally thought to cost about $5.7 billion, recent CBO estimates put the figure closer to $12 billion.

This is not my idea of reform, and we would be kidding ourselves if we truly expected seniors to accept either of these proposals. We will undoubtedly be faced with trying to fix the program again next year. If Congress is unable to get its act together and provide real improvement to the Medicare Program—scale the benefits back and lower the costs for all senior citizens—then a vote for the Donnelly-Archer amendment for repeal is the only responsible choice we have.

Mr. PICKLE. Mr. Chairman, I rise in support of the amendment proposed by the chairman of the Ways and Means Subcommittee on Health.

I must say honestly that I am less than enthusiastic about the Stark-Gradison-Waxman proposal, and I think the majority of us who will vote in favor of it would agree that this alternative is not our first choice. However, Mr. Chairman, it does preserve some important benefits in the current law, and more importantly it keeps the effort to revise and correct the law alive so that we can work out a better solution in conference.

I do not like the fact that this amendment would take us $3 billion in the hole, but even that deficit is less than the cost of repealing the law outright. I intend to support the amendment to be offered by the chairman of the Budget Committee to eliminate the exemption from the Gramm-Rudman deficit reduction law and keep this cost on budget. The cost of revising or repealing catastrophic coverage is something conferees on this bill will have to wrestle with.

For all its flaws, Mr. Chairman, this amendment should be adopted because it will provide the House with a foundation from which we can join the other body in continuing to develop a balance and fair plan to revise the current catastrophic coverage law. If we fail to take advantage of this opportunity, I believe it will be a very long time before we have another chance to provide this important protection for the elderly.

I urge my colleagues to vote for the Stark-Gradison-Waxman amendment and join with us in continuing to work to improve the current law and maintain our commitment to the elderly.

Ms. LONG. Mr. Chairman, I rise today in support of the Catastrophic Care Program, but in strong opposition to the catastrophic surtax. I believe this tax on senior citizens is not fair, and I support reducing the Medicare premium for catastrophic coverage. Instead of requiring beneficiaries to be solely responsible for covering the costs of the additional benefits, we should be finding cost savings in other areas of the Federal budget.

The Catastrophic Care Program provides critical protection to senior citizens faced with the economic devastation of a catastrophic illness. As we in Congress make spending decisions, preventing the impoverishment of our senior citizens should be one of our first considerations. This is not an endeavor to be shouldered by senior citizens alone. In the best American tradition, we need to all lend a hand in supporting catastrophic care for our elderly.

Of the alternative proposals to amend the Catastrophic Care Program, I do not support repealing the Catastrophic Care Program nor do I support shifting the cost of the program to those least able to pay: Low-income senior citizens, the very people who are struggling to stay out of poverty.

The second alternative available today is the Stark-Gradison-Waxman amendment. Under the provisions of this proposal some benefits would be cut while the surtax would be eliminated. However many important benefits such as the provisions covering the cost of prescription drugs, home health care services, respite care and expanded hospice care would be retained. In addition, the spousal impoverishment protection for nursing home Medicaid patients, as well as the Medicaid buy in to Medicare for seniors below the Federal poverty level, would be kept.

While I believe that we should be voting to keep the benefits of the Catastrophic Care Program while reducing the surtax on senior citizens, today we have no such choice. I support the Stark-Gradison-Waxman amendment to enact equity and protection for our senior citizens.

Mr. SMITH of New Jersey. Mr. Chairman, today I will vote to repeal the unfair and onerous surtax provisions of the Medicare Catastrophic Coverage Act.

Mr. Chairman, constituents in my district overwhelmingly disapprove of this tax. It unjustly overburdens senior citizens, many of whom are on a fixed income. I am most pleased to have this opportunity to vote to repeal the catastrophic surtax.

Lest there be any misunderstanding among our colleagues, Mr. Chairman, it is important to note that both amendments presented to the House today—the Donnelly and the Stark amendments—will provide us with the opportunity to repeal the tax. In fact, the surtax repeal provisions are identical.

I will vote for the Stark surtax repeal.

After careful consideration, I have concluded that the Stark approach, which eliminates the surtax but preserves some modest health care benefits, is superior to the Donnelly alternative. The Stark amendment is the prudent and balanced way to eliminate the tax problem while preserving some relatively inexpensive health care benefits.

Mr. Chairman, less than a year ago, Congress committed itself to provide assistance to the millions who had no health care coverage and to the hundreds of thousands more who were so ill that they were forced to deplete all their savings, sell their homes, and in some extreme cases actually divorce their spouse for no other reason except to qualify for needed health care. For some, divorce was seen as a way of protecting the other from impoverishment.

Our health care programs should not be constructed in such a way so as to impose such hardship and emotional trauma on our seniors. Regardless of the outcome today—I believe Congress should revisit the elderly health care issue and come up with a fair and humane system. The Stark amendment in a modest way seeks to provide some health care benefits for seniors and at the same time repeals the surtax which unnecessarily singled out and burdened our elderly population.

The Stark amendment continues the commitment to these seniors and at the same time repeals the surtax which unnecessarily burdened our elderly population.

Mr. Chairman, I will vote for the Stark amendment because it:

First. Repeals the surtax;

Second. Returns all estimated taxes paid for calendar year 1989;

Third. Preserves the prescription drug benefit expected to aid over 6 million seniors;

Fourth. Protects the biennial mammography screening program projected to save the lives of more than 4,000 women a year;

Fifth. Keeps the proposed expansion of home health care coverage for beneficiaries who are attempting to recuperate at home but still need special medical attention;

Sixth. Allow expanded respite-care services for chronically dependent homebound beneficiaries;

Seventh. Maintains Medicare buy-in provisions for those seniors caught between Medicaid and Medicare regulations and left with no coverage at all; and

Eighth. Maintains spousal impoverishment provisions that enable seniors to qualify for nursing homes without forcing their spouses to sell their homes or obtain a paper divorce.

Mr. Chairman, the important health care provisions attached to the Stark surtax repeal protect both preventive and chronic health care assistance now offered to our senior citizens. These benefits should not be forsaken in the justified ground swell of support for repeal of the surtax.

Unfortunately, Mr. Speaker, the Donnelly amendment before us today will not only repeal the surtax, but it will destroy all that we have gained in health care coverage. To do that would be a mistake.

In casting our votes today, we must remember that it is the surtax which needs to be repealed—not each and every one of the benefits. This is one of those rare instances when we can have the best of both—repeal of an unfair tax, but retention of some benefits.

Mr. Chairman, too many seniors have come to know—firsthand—the fear and tragic realities of catastrophic illnesses. And it is exactly these people who can least afford to pay a surtax for health care protection.

I will vote for the Stark amendment. It will repeal the surtax and it will relieve our seniors from this unfair, financial burden. At the same time, Mr. Speaker, the Stark amendment will protect some of the more humane health care benefits established for those who may some day face a catastrophic medical tragedy.

□ 1530

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. STARK].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. STARK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 156, noes 269, not voting 7, as follows:

[Roll No. 268]

AYES—156

Ackerman	Hammerschmidt	Obey
Akaka	Hatcher	Ortiz
Alexander	Hawkins	Owens (NY)
Anderson	Hayes (IL)	Owens (UT)
Andrews	Hayes (LA)	Panetta
Anthony	Hefner	Pashayan
Aspin	Hertel	Payne (NJ)
Atkins	Hoagland	Pelosi
Bates	Hochbrueckner	Perkins
Berman	Hopkins	Pickle
Boehlert	Houghton	Rahall
Boggs	Hoyer	Rangel
Bonior	Hubbard	Robinson
Boucher	Hutto	Roe
Boxer	Jenkins	Rose
Brennan	Johnston	Rostenkowski
Brown (CA)	Jones (GA)	Roybal
Bryant	Jontz	Savage
Cardin	Kaptur	Sawyer
Clay	Kennedy	Scheuer
Collins	Kildee	Schneider
Conte	Kostmayer	Schroeder
Conyers	LaFalce	Schumer
Coyne	Lantos	Sikorski
Crockett	Leach (IA)	Skaggs
DeFazio	Lehman (FL)	Skelton
Dellums	Levin (MI)	Smith (FL)
Dicks	Levine (CA)	Smith (IA)
Dingell	Lewis (GA)	Smith (NJ)
Dixon	Long	Solarz
Downey	Lowey (NY)	Spratt
Durbin	Markey	Staggers
Dwyer	Martinez	Stark
Dymally	Matsui	Stokes
Early	McDermott	Studds
Edwards (CA)	McHugh	Synar
Engel	McNulty	Tallon
Espy	Mfume	Torres
Evans	Miller (CA)	Torricelli
Fazio	Mineta	Towns
Feighan	Molinari	Traxler
Flake	Mollohan	Udall
Ford (MI)	Moody	Unsoeld
Ford (TN)	Morella	Vento
Frost	Morrison (WA)	Walsh
Gephardt	Mrazek	Waxman
Gillmor	Myers	Weiss
Gilman	Nagle	Wilson
Gonzalez	Neal (NC)	Wolpe
Gradison	Nowak	Wyden
Green	Oakar	Wylie
Hamilton	Oberstar	Yates

NOES—269

Annunzio	Buechner	Crane
Applegate	Bunning	Dannemeyer
Archer	Burton	Darden
Armey	Bustamante	Davis
AuCoin	Byron	de la Garza
Baker	Callahan	DeLay
Ballenger	Campbell (CA)	Derrick
Barnard	Campbell (CO)	DeWine
Bartlett	Carper	Dickinson
Barton	Carr	Donnelly
Bateman	Chandler	Dorgan (ND)
Bellenson	Chapman	Dornan (CA)
Bennett	Clarke	Douglas
Bentley	Clement	Dreier
Bereuter	Clinger	Duncan
Bevill	Coble	Dyson
Bilbray	Coleman (MO)	Eckart
Bilirakis	Coleman (TX)	Edwards (OK)
Bliley	Combest	Emerson
Borski	Condit	English
Bosco	Cooper	Erdreich
Broomfield	Costello	Fascell
Browder	Coughlin	Fawell
Brown (CO)	Cox	Fields
Bruce	Craig	Fish
Flippo	Lukens, Donald	Rowland (GA)
Foglietta	Machtley	Russo
Frank	Madigan	Sabo
Frenzel	Manton	Saiki
Gallegly	Marlenee	Sangmeister
Gallo	Martin (IL)	Sarpalius
Gaydos	Martin (NY)	Saxton
Gejdenson	Mavroules	Schaefer
Gekas	Mazzoli	Schiff
Geren	McCandless	Schuette
Gibbons	McCloskey	Schulze
Gingrich	McCollum	Sensenbrenner
Glickman	McCrery	Sharp
Goodling	McCurdy	Shaw
Gordon	McDade	Shays
Goss	McEwen	Shumway
Grandy	McGrath	Shuster
Grant	McMillan (NC)	Sisisky
Gray	McMillen (MD)	Skeen
Guarini	Meyers	Slattery
Gunderson	Michel	Slaughter (NY)
Hall (OH)	Miller (OH)	Slaughter (VA)
Hall (TX)	Miller (WA)	Smith (NE)
Hancock	Moakley	Smith (TX)
Hansen	Montgomery	Smith (VT)
Harris	Moorhead	Smith, Denny (OR)
Hastert	Morrison (CT)	Smith, Robert (NH)
Hefley	Murphy	Smith, Robert (OR)
Henry	Murtha	Snowe
Herger	Natcher	Solomon
Hiler	Neal (MA)	Spence
Holloway	Nelson	Stallings
Horton	Nielson	Stangeland
Huckaby	Olin	Stearns
Hughes	Oxley	Stenholm
Hunter	Packard	Stump
Hyde	Pallone	Sundquist
Inhofe	Parker	Swift
Ireland	Parris	Tanner
Jacobs	Patterson	Tauke
James	Paxon	Tauzin
Johnson (CT)	Payne (VA)	Thomas (CA)
Johnson (SD)	Pease	Thomas (GA)
Jones (NC)	Penny	Traficant
Kanjorski	Petri	Upton
Kasich	Pickett	Valentine
Kastenmeier	Porter	Vander Jagt
Kennelly	Poshard	Visclosky
Kleczka	Price	Volkmer
Kolbe	Pursell	Vucanovich
Kolter	Quillen	Walgren
Kyl	Ravenel	Walker
Lagomarsino	Ray	Watkins
Lancaster	Regula	Weber
Laughlin	Rhodes	Weldon
Leath (TX)	Richardson	Wheat
Lehman (CA)	Ridge	Whittaker
Lent	Rinaldo	Whitten
Lewis (CA)	Ritter	Williams
Lewis (FL)	Roberts	Wolf
Lightfoot	Rogers	Young (AK)
Lipinski	Rohrabacher	Young (FL)
Livingston	Ros-Lehtinen	
Lloyd	Roth	
Lowery (CA)	Roukema	
Luken, Thomas	Rowland (CT)	

NOT VOTING—7

Brooks	Garcia	Yatron
Courter	Thomas (WY)	
Florio	Wise	

□ 1551

The Clerk announced the following pair:

On this vote:

Mr. Wise for, with Mr. Thomas of Wyoming against.

Messrs. KANJORSKI, FOGLIETTA, McDADE, and GRAY changed their vote from "aye" to "no."

Messrs. MATSUI, MRAZEK, and LEWIS of Georgia changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. THOMAS of Wyoming. Mr. Chairman, I was here for the vote on the Stark amendment. I put my card in the machine. I thought I had voted.

I would have voted "no." It did not register.

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in section 2 of House Report 101-261.

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PANETTA: In part F of subtitle B of title X, as previously amended, strike the last subpart ("Provisions Relating to Budget Waivers").

The CHAIRMAN. The gentleman from California [Mr. PANETTA] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. DONNELLY. Mr. Chairman, I wish to be recognized in opposition to the amendment.

The CHAIRMAN. The gentleman from Massachusetts [Mr. DONNELLY] will be recognized for 15 minutes in opposition to the amendment.

The Chair recognizes the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I yield 7½ minutes to the gentleman from Minnesota [Mr. FRENZEL], and I ask unanimous consent that he be allowed to control the time and be allowed to yield further.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PANETTA. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, my amendment prevents the consequences of repeal from being waived from Gramm-Rudman. The amendment that was adopted on repeal has an impact on the fiscal year 1990 budget, some $4 billion to $5 billion depending on whose numbers we use. That is largely the result of anticipated premium payments that would be expected in fiscal year 1990.

The issue, therefore, at this point is not whether or not there will be repeal. Obviously a majority of the House has voted for that. But the issue now is whether the deficit increase caused by repeal in fiscal year 1990 will be waived from the Gramm-Rudman law.

Mr. Chairman, I would urge the Members not to waive the Gramm-Rudman law for three very important reasons. First of all, Gramm-Rudman, for all of its problems and imperfections, and we all know them well, is still a very important element in the budget process. It is the very law that drives whatever deficit reduction we can achieve. It is the basis for scorekeeping in terms of whether or not we can avoid across-the-board cuts.

I recognize continually that there are efforts to try to bypass it either through asset sales or scorekeeping gimmicks or time shifts or one thing or another. The reality is that Congress has never waived the law with regard to a particular bill.

The waiver here sets a very dangerous precedent, and it is not fair to all of those other committees, particularly the Committee on Appropriations that has to abide by all of the targets established by that law. The fact is that once we provide this kind of waiver, where do we draw the line? What about funds for education, what about funds for drugs, for health care, for space, for defense? Where do we draw the line in terms of whether or not we permit a waiver?

In addition, we ask committees time and time again to abide by the budget resolution and they do, only to come back and permit a waiver. Does that not undercut the very budget process that we try to support?

Last, and I think very important, the fact is that it is not necessary to waive Gramm-Rudman in this instance. The indication is that we have in reconciliation now about $16.6 billion compared to the instruction of $13.4 billion. So we have about $3.2 billion in addition.

□ 1600

In addition to that, the conferees obviously can provide additional room, depending on what we do with regard to capital gains, or Medicaid, or score keeping, or other areas that are included in reconciliation.

Third, I read in part from a letter from the Director of the Office of Management and Budget to me which states:

> Further, in this particular case there does not now appear to be a need to grant a Gramm-Rudman-Hollings exemption for the purpose of avoiding sequester.

The fact is that we feel the room is present in reconciliation to accommodate the costs of repeal, and all we asked for is the opportunity to try to accommodate repeal in reconciliation without waiving the Gramm-Rudman law.

So for all of these reasons, budget discipline, the fact that it would set a bad precedent in terms of the House and the other committees, and the fact that we have the room here to try to at least attempt to accommodate the costs, for all of those reasons I would urge support of this amendment.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Louisiana.

Mr. HUCKABY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to commend the gentleman from California for his efforts. Gramm-Rudman, with all its fallacies, has forced fiscal responsibility on this House, and I would hate to see us throw the towel in at this late hour.

Mr. PANETTA. I thank the gentleman.

Mr. Chairman, I reserve the balance of my time.

Mr. DONNELLY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me make this observation: Only in this city would the repeal of a $47 billion program be charged against the author of the program as increasing the deficit. I understand how that happens because I happen to understand the bizarre way that we do accounting under our system. But I think the American people have a difficult time understanding that the deficit is going to increase when we eliminate a $47 billion major domestic program.

Let me just say I have spoken with the chairman of the Budget Committee and it is my understanding that he has had an opportunity to discuss this technical situation with the Director of the Office of Management and Budget. At this point in time I have no objection, even though technically I am opposed, to the Panetta amendment being adopted, the Gramm-Rudman waiver being stricken from the Donnelly-Archer-Russo amendment, and to giving the parties involved the opportunity to see if this can be worked out without suspending the law.

If it cannot, clearly when this legislation comes back to conference, then the House at that time would have to address the issue.

If I could ask the chairman of the Budget Committee are my statements correct?

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. DONNELLY. I yield to the gentleman from California.

Mr. PANETTA. The gentleman is correct. I think what we are asking for is the opportunity to try to accommodate this within the confines of reconciliation. Obviously if we cannot, the gentleman always retains the opportunity to come back and fight for a waiver.

Mr. DONNELLY. So I have no objection to the gentleman's amendment.

Mr. FRENZEL. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would make the same statement for one of the coconspirators of the gentleman from Massachusetts [Mr. DONNELLY] I refer to the gentleman from Texas [Mr. ARCHER] who feels the same way about our amendment.

This is a case of the amendment of the gentleman from California [Mr. PANETTA] and myself being the same whether the amendment of the gentleman from California [Mr. STARK] was going to be accepted or whether the amendment of the gentleman from Massachusetts [Mr. DONNELLY] was going to be accepted. The gentleman from California [Mr. PANETTA] supported the Stark amendment and I supported the Donnelly amendment. Had either prevailed, we would have had this amendment, and we hope in that case the gentleman from California [Mr. STARK] would have accepted this, as has the gentleman from Massachusetts [Mr. DONNELLY] and the gentleman from Texas [Mr. ARCHER].

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. I thank the gentleman from Minnesota for yielding time to me.

I rise in support of the amendment by the chairman of the Budget Committee and the ranking member, the gentleman from Minnesota [Mr. FRENZEL]. I want to take a moment to congratulate them both for their leadership on that committee.

Before I speak on the amendment let me just mention we have just saved ourselves and the Nation from what had been earlier an awful error by repealing the catastrophic medical bill. Though we clearly have problems with medical care that must be readjusted as we take up that task again, let me commend to the body a study I have just discovered entitled "Critical Issues: A National Health System for America," edited by Stuart Butler, produced by the Heritage Foundation. Perhaps if we get this we can begin anew.

But now to the point of this amendment: I was one who voted for Gramm-Rudman in the first place. Why did I do that? Because we as a body are able to use the American citizens' money in three ways: we can tax it, we can borrow it, or we can spend it.

Historically we have done all three of these with very little constraint and very little incentive for rationality and rationing and selecting among scarce options in our decisionmaking process.

We have tended to want to do all we could of everything we could. Gramm-Rudman introduced a constraint in this process. It is a limit on borrowing. This is not the constraint I would have chosen. I would have chosen a constraint that defined a limit on spending and a limit on taxing. But the one constraint we have that exists in a hard number in the law is Gramm-Rudman. The existence of that constraint defined as it is in the law says we must go to a more rational, a more thoughtful, a more thorough, a more integrated decisionmaking process.

If we waive that constraint, we return to the kind of business as usual, lackadaisical, careless decisionmaking system that allowed us to get into this

terrible problem of deficit spending in the first place.

We must preserve the integrity of Gramm-Rudman-Hollings and that constraint.

As the chairman says, it is not necessary even at this point for this purpose with respect to the next fiscal year to waive the constraint. But to do so would give us a terribly unholy precedent.

What are the alternatives? Accept the constraint, accept the challenge. Look at the possibility of deferring the reauthorization, the new authorization of spending as we have in this bill. Look for previous spending programs that can be revised and improved upon. But look at the larger option and save the integrity of Gramm-Rudman.

The CHAIRMAN. The Chair would inform Members that the gentleman from California [Mr. PANETTA] has 3½ minutes remaining; the gentleman from Minnesota [Mr. FRENZEL] also has 3½ minutes remaining, and the gentleman from California [Mr. PANETTA] has the right to close debate.

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI], chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in strong support of the Panetta amendment. There is no compelling reason why this House should waive Gramm-Rudman.

What is particularly disheartening, is that the House has instructed its committees to live under an entirely different set of rules. The Ways and Means Committee struggled to achieve the deficit reduction target of $8 billion. If a member had a revenue loser, then it had to be paid for. Yet, the House has adopted a different set of rules for itself. The House waived the budget neutrality principle as if it did not exist. Why should a committee strive to achieve its reconciliation instruction again?

When the catastrophic health insurance bill was enacted last year, it contained a sound conservative financing principle that collected revenues before outlays were committed. Congress wanted to insure that moneys were always available to cover the costs of the program and that the trust funds never went bankrupt. Private insurance companies follow that same principle. This decision was not made to have the elderly help meet the 1990 deficit target, as some have alleged.

If Gramm-Rudman is waived today, why shouldn't Gramm-Rudman be waived every time there is a politically appealing reason to do so? We waived Gramm-Rudman to bail out the savings and loan industry. Why not waive Gramm-Rudman to fight the drug war or deal with the loss of funds in the FHA, or provide funds for disaster relief, or go to Mars?

Mr. Chairman, I say to my colleagues you cannot be selective about Gramm-Rudman. Once it is waived for catastrophic health, all budget discipline in this Congress will be completely eroded. The proponents of this misguided waiver are simply saying, Let's borrow more money. Let's borrow more money so that our children and grandchildern can pay the bill. Let's borrow more money so that we can become more dependent on foreign investment. Let's borrow more money because we don't have the courage to cut spending or raise taxes.

At the end of this month the public debt limit will have to be raised again. All of you who vote against the Panetta amendment will bear the responsibility to carry that increase in the public debt limit.

If you are against borrowing more money, if you are against shifting budgetary costs to your children and the younger generation, I strongly urge you to support the Panetta amendment.

Mr. FRENZEL. Mr. Chairman, I yield myself such time as I may consume.

□ 1610

Mr. Chairman, I rise in strong support of the amendment to strike the waiver of Gramm-Rudman-Hollings contained in the catastrophic health amendment just agreed to by the House.

Under the waiver in the catastrophic amendment, changes in outlays and revenues shall not be included when calculating whether the budget deficit exceeds the $100 billion maximum deficit amount allowed under Gramm-Rudman for fiscal year 1990. Instead, unless we pass the Panetta-Frenzel amendment, the Gramm-Rudman calculations are supposed to pretend that the original catastrophic program is still in place.

Under the original catastrophic program, revenues in fiscal year 1990 were estimated to exceed premiums by a substantial amount. Under the amendment adopted a few moments ago by the House, the cushion is entirely wiped out and the program runs a deficit in fiscal year 1990. Therefore, compared to present law, the amendment increases the fiscal year 1990 deficit by several billion dollars.

The administration strongly supports this amendment. The following letter from OMB Director Darman makes that very clear. He also believes that we can overcome the costs of repeal without a waiver. Chairman PANETTA and I wrote a similar but less optimistic letter on the amendment yesterday. Both letters follow.

As the reconciliation bill has already made painfully evident, Gramm-Rudman and Budget Act procedures have been bent badly out of shape to accommodate congressional spending desires. There are billions of dollars of year-to-year timing shifts, several instances where the bill directs CBO and OMB to change customary scoring practices, and dozens of extraneous provisions including several which create costly new entitlements.

This amendment to strike the GRH waiver offers us a chance to support what discipline is left in the budget process. There are many other urgent or politically popular spending needs lined up behind the catastrophic program. If GRH is waived for catastrophic, how will we be able to deny waivers to next year's batch of crises? First it was S&L's; then it is catastrophic Medicare; tomorrow it will be the war on drugs.

The sequester calculations show that the deficit is already more than $16 billion over the GRH target. Denying this waiver will make the job of avoiding a sequester even more difficult. However, with effort it can be done sooner or later—and most probably later.

This is the vote that separates the deficit reducers from the cake-eaters. The deficit reducers will vote in support of the budget process, in support of Gramm-Rudman, and in support of smaller Federal deficits. The cake-eaters will talk about deficits and vote to punch another hole in Gramm-Rudman.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 4, 1989.

Hon. BILL FRENZEL,
House Budget Committee, U.S. House of Representatives.

DEAR CONGRESSMAN FRENZEL: We understand that the House has just voted to support an amendment to the Omnibus Budget Reconciliation Act that would exempt the Catastrophic Health Insurance (CHI) program from scoring under the Gramm-Rudman-Hollings (G-R-H) legislation. The Administration strongly opposes this exemption from G-R-H scoring. We have opposed exemptions to G-R-H consistently in the past. The most recent case was the exemption proposed, but not enacted, as part of the financial institutions reform and recovery legislation. We believe that the fiscal discipline imposed by the G-R-H legislation—admittedly imperfect, but nonetheless important—would be substantially weakened if exemptions to it were allowed.

Further, in this particular case there does not now appear to be a need to grant a G-R-H exemption for the purpose of avoiding sequester. As we approach the crucial October 15 deadline, there are several new elements in the calculus that I would call to your attention. The DOD paydate shift, which had been a subject of dispute, has now been overtaken by events. It has already taken place. In addition, the House includes Medicare scoring language, which we did not support but which is now moving forward in the reconciliation bill. If enacted, this language would direct us to score certain shifts in Medicare payments between fiscal years that we would otherwise be pro-

hibited from scoring. And if the emerging House reconciliation bill, including the language dealing with the scoring of Medicare payment shifts, is enacted, our current estimate of the G-R-H baseline deficit would be reduced by approximately $12 billion. This would then yield a revised G-R-H deficit estimate that could accommodate the CHI roll-back without triggering sequester.

Let me be clear: The CHI amendment would unquestionably have a serious adverse effect on the actual fiscal year 1990 deficit. But in view of the scoring issues I've noted, it is now the case that without the undesirable G-R-H exemption the CHI amendment would not trigger a sequester if the House version of the reconciliation bill, including the Medicare payment shift language, were passed by the Congress and signed by the President before October 16th.

I write this letter in response to your inquiry on this matter. Nothing in this letter should be construed as an expression of support for or opposition to one CHI substantive amendment as opposed to another. The sole purpose of this letter is to report on the relationship of scoring issues to a possible sequester—as currently estimated.

With best regards,

RICHARD G. DARMAN.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, October 2, 1989.

DEAR COLLEAGUE: Tomorrow, as part of the debate on reconciliation, the House will be voting on two amendments to the Ways and Means catastrophic reform legislation. Both the Stark and Donnelly amendments contain provisions which waive the Gramm-Rudman law by excluding the fiscal year 1990 deficit increase caused by the amendments from the Gramm-Rudman deficit and sequestration calculations. CBO estimates that if enacted the Stark amendment will increase the deficit by $3.2 billion, and that the Donnelly amendment will add $4.0 billion to the fiscal year 1990 deficit.

Should the Stark or Donnelly amendments be adopted, we intend to offer an amendment to strike the Gramm-Rudman waiver included in each proposal.

While the Gramm-Rudman law is imperfect, it is an important element of the congressional budget process. It provides a budgetary discipline that has encouraged Congress and the President to agree on substantial deficit reduction in recent years. To exempt the deficit impact of the Stark or Donnelly amendments from Gramm-Rudman sequestration calculations is bad precedent and threatens to undermine budget discipline.

Over the course of this year there have been numerous attempts—some successful, some not—to use asset sales, changes in scorekeeping conventions and timing shifts to evade the Gramm-Rudman restrictions. On the other hand, this year the House has generally met its budget resolution targets on appropriation bills. In addition, the reconciliation package we are currently considering actually surpasses the reconciliation targets agreed to in the fiscal year 1990 budget resolution. We are within reach of the $110 billion deficit required to avoid sequestration under Gramm-Rudman.

Next year we will certainly face additional demands on the budget because of defense, education, health, anti-drug, space, transportation and child care needs, to name a few. These pressures make it even more important that we preserve the basic discipline of Gramm-Rudman to ensure that we continue on a path towards a balanced budget. A vote for our amendment will help preserve the Gramm-Rudman discipline.

Frankly, there is a down-side to our amendment. Members should be aware that without the Gramm-Rudman waiver in catastrophic reform/repeal the total deficit reduction required to reach the $110 billion target set by Gramm-Rudman for fiscal year 1990 could be $3 billion to $4 billion higher.

OMB has calculated that up to $13 billion in reconciliation savings must be achieved to avoid sequestration. With the additional $443 billion in outlays resulting from the $1.1 billion in budget authority for disaster assistance funding agreed to last week, the amount needed to avoid sequestration will clearly rise. Currently the reconciliation bill contains over $16 billion in deficit reduction. While there is a good chance that the Stark or Donnelly amendments can be accommodated without triggering sequestration, there is no guarantee that the conference agreement on reconciliation will result in enough deficit reduction to meet the $110 billion target. Obviously accounting honestly for catastrophic reform/repeal will increase pressure on the reconciliation bill and the reconciliation conference to achieve enough deficit reduction to avoid sequestration.

We firmly believe that avoiding the bad precedent of waiving Gramm-Rudman outweighs the increase deficit reduction burden that may be placed on the reconciliation bill. We do not believe we should pretend we are closer to the Gramm-Rudman target than we are. If necessary, we should pay for catastrophic repeal/reform.

We urge Members to support our motion to strike the Gramm-Rudman waiver contained in the Donnelly/Stark amendments.

Sincerely,

BILL FRENZEL,
Ranking Republican.

Mr. Chairman, I yield back my remaining time.

Mr. PANETTA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. PANETTA].

The amendment was agreed to.

Mr. VANDER JAGT. Mr. Chairman, a question has been raised concerning the effective date provision of section 11202 of H.R. 3299, a provision of the budget reconciliation legislation within the jurisdiction of the Committee on Ways and Means. Specifically, the question relates to the effective date provision of changes affecting certain original issue discount obligations. As I understand it, that effective date provides a grandfather in those situations where there was a written binding contract in effect on July 10, 1989, and at all times thereafter. I believe I am correct in concluding that an assignability feature in such a contract would not cause the grandfather rule to be inapplicable. Specifically, if such a contract was assigned to another party, I believe that party could then enjoy the benefits of the grandfather rule by being able to issue instruments that would not be subject to the new limitations contained in section 11202. I would hope that the conference report language on this provision will make this point clear and I will ask that the professional tax staffs review this issue to make sure this clarification raises no technical problems inconsistent with the objective of the grandfather rule.

GENERAL LEAVE

Mr. DONNELLY. Mr. Chairman, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Donnelly-Archer amendment just considered and I ask unanimous consent to insert technical descriptions of the Donnelly-Archer amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

POINT OF ORDER

Mr. ROSTENKOWSKI. Mr. Chairman, I seek recognition in order to make a point of order against section 7001 of the bill.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ROSTENKOWSKI. Mr. Chairman, I make a point of order against section 7001 on the grounds that it is a tax measure which is in violation of paragraph B, clause 5 of House Rule 21.

Mr. Chairman, section 7001 of the bill imposes a fee of $20 per passenger on vessels engaged in U.S. cruise trade or which offer offshore gambling. The proceeds of this fee are to be deposited in both the harbor maintenance trust fund and Treasury's general fund.

The supporters of this provision argue that a significant portion of the Coast Guard's costs of providing safety and navigational assistance are attributable to these vessels.

Mr. Chairman, charging one class of beneficiaries of governmental activity does not transform a tax into a user fee. The maintenance of our harbors and the safety of our waters are concerns to all of us and we are all the beneficiaries of these activities.

Mr. Chairman, the Federal Government has already decided to raise revenue in a manner which is related to these activities through the harbor maintenance tax. However, such a provision of law is clearly a tax and not a user fee.

User fees are paid by persons whose voluntary request for a government service causes the government to incur costs which are defrayed through the payment of a fee. Mandatory assessments to finance the costs of government are taxes. This provision is clearly a tax and I urge the Chair to sustain my point of order.

The CHAIRMAN (Mr. MAVROULES). Does any other Member desire to be heard on the point of order?

If not, the Chair will respond to the point of order of the gentleman from Illinois, with the committee's indulgence, by first making a general statement.

The gentleman from Illinois makes the point of order against section 7001 of H.R. 3299 that it constitutes a tax measure contained in a bill reported by a committee—the Committee on the Budget—not having jurisdiction to report tax and tariff measures in violation of clause 5(b) of rule 21. As indicated on page 615 of the House rules and manual, the Chair did on October 24, 1985, sustain points of order against provisions in a reconciliation bill reported from the Committee on the Budget which were tax measures contained in recommendations from the Committee on Education and Labor and from the Committee on Merchant Marine and Fisheries which clearly involved the application of tax provisions within the Internal Revenue Code.

However, the question which the Chair is called upon to answer in this instance is the application of clause 5(b), rule 21 to a provision recommended by a committee of the House and contained in the bill reported from the Budget Committee which does not directly amend the Internal Revenue Code, but rather which is drafted to take on the characteristics of a "fee" charged against a particular class of users availing itself of a certain service or engaged in an activity in order to generate revenue in support of Government service or at least to be credited as an offsetting or proprietary receipt against expenditures incurred by a governmental entity providing a service.

At the outset it should be made clear that clause 5(b) of rule 21 does not preclude the inclusion of "revenue" measures in bills reported by committees not having jurisdiction over revenues, but rather the inclusion of "tax and tariff measures" in such bills. Decisions by the House, for example, that a certain provision originating in the Senate constitutes a "revenue measure" which must under section 7 of article I of the Constitution originate in the House, and referrals of "revenue measures" by the Speaker to the Committee on Ways and Means under clause 1(v), rule 10, are not necessarily precedents which the Chair must follow in determining whether a provision is a "tax or tariff." It is clear that certain assessments, fees, and charges, while constituting "revenue" measures, are not necessarily taxes or tariffs as those terms are properly understood in law and in accepted budget concepts. The Chair has no direct precedent upon which to rely since the incorporation of clause 5(b), rule 21 into the rules of the House in the 98th Congress in January 3, 1983. However, the Chair would note that when the rules change was presented to the House on that date then majority leader Wright explained that:

> The rules would allow a new point of order to be raised at any time against a provision in any bill or Senate Amendment which contains a tax or tariff measure, unless that measure was reported by the Committee on Ways and Means, the committee which has proper jurisdiction over those matters.

In establishing legitimate parameters by which to measure legislative proposals as taxes or tariffs under clause 5(b) of rule 21, the Chair has examined relevant case law as well as budget concepts, and committee counsel's briefs containing definitions of user fees and taxes which are generally accepted in the budget of the United States and by the Congressional Budget Office. When distinguishing between user fees and taxes, the U.S. Supreme Court has treated with deference the classification of the change as a fee. Ultimately, however, the Court would go beyond the bare face of the legislative measure or the legislative label to consider the true nature of the charge.

Several insightful Supreme Court cases make the following distinctions between fees and taxes. Fees imposed by a governmental entity tend to fall into two categories. The first category contains user fees that are incident to a voluntary act by a person to whom a service is provided or a benefit is bestowed by the government that is not shared by all members of society. The second category contains regulatory fees, such as licensing and inspection fees, which are founded on governmental police power to regulate particular businesses or activities.

User fees and regulatory fees share common traits that distinguish them from taxes: Fees are paid by choice in that the party paying the fee has the option of not utilizing the governmental service or avoiding the regulatory activity and thereby avoiding the charge. Furthermore, fees are collected merely to compensate the governmental entity for providing the service, or, in the case of regulating activities, for the expenses incurred in regulating the activity, such as processing the license application and providing the requisite inspection, and are legitimate to the extent that the services for which they are imposed are sufficiently particularized as to justify distribution of the costs among a limited group—the "users"—of the services rather than the general public.

On the other hand, taxes are collected for the purpose of raising revenue to offset the general costs of government as well as to offset the costs of services provided to a more generalized group of beneficiaries.

□ 1620

In response to the specific point of order, the gentleman from Illinois makes a point of order against section 7001 of H.R. 3299 on the ground that it carries a tax measure in a bill reported by a committee—the Committee on the Budget—not having jurisdiction to report tax measures, in violation of clause 5(b), rule 21.

Section 7001 of the bill would impose a fee of $20 per passenger on certain cruise vessel passages in U.S. ports. Revenues gathered by the fee would be deposited as offsetting receipts of the harbor maintenance trust fund established by the Internal Revenue Code, and otherwise funded by excise taxes, and as proprietary receipts of the Coast Guard.

The report on the bill notes that "much of the funding required by the Coast Guard for port safety and security and antiterrorism plus a substantial percentage of the amounts necessary for navigational assistance (including channel marking and maintenance) is attributable to" such cruise vessel passages.

The point of order asserts that the cruise ships against which the fee would be assessed would not merely be providing recompense for the government activity that they make necessary by their passages. Rather, the revenues gathered by such fees would be applied to more general government activity of broader benefit. In the first place, the revenues are being deposited in accounts that relate to government activities ranging far beyond port security and navigation assistance programs. In the second place, even those two government activities benefit classes far beyond cruise ships.

The Chair believes that such a provision gathering revenue to finance such general government activity is properly characterized as a tax within the meaning of clause 5(b), rule 21. Accordingly, the point of order is sustained against section 7001.

POINT OF ORDER

The CHAIRMAN. Are there any other points of order?

Mr. ROSTENKOWSKI. Mr. Chairman, I make a point of order against section 7002 of the bill.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ROSTENKOWSKI. Mr. Chairman, I make a point of order against section 7002 on the grounds that it is a tax measure which is in violation of paragraph B, clause 5 of House rule 21.

Mr. Chairman, section 7002 of the bill imposes an annual fee of $1 per acre on the holder of Outer Continental Shelf leases. This fee has been designed to offset the costs of ocean-related environmental research, assessment, and protection programs.

Mr. Chairman, we all benefit from environmentally sound activities relating to Outer Continental Shelf drilling. The beneficiaries go far beyond the leaseholders who are being assessed this fee.

Mr. Chairman, the provision meets the classic definition of a tax—namely,

revenues raised to fund a public purpose. There is nothing about the provision which would justify it as a user fee. Most importantly the payer of the fee has not caused the Government to provide him some service or thing of value. Without such a nexus, this fee is unmistakably a tax.

I urge the Chair to sustain my point of order.

The CHAIRMAN (Mr. MAVROULES). Are there any other Members who wish to be heard on this point of order?

If not, the Chair is prepared to rule. The gentleman from Illinois makes a point of order against section 7002 of H.R. 3299 on the ground that it carries a tax measure in a bill reported by a committee—the Committee on the Budget—not having jurisdiction to report tax measures, in violation of clause 5(b), rule XXI.

Section 7002 of the bill would impose an ocean protection fee of $1 per acre on oil and gas leaseholdings on the Outer Continental Shelf. Unlike the traditional rents collected on OCS leases, which are deposited either as undistributed miscellaneous receipts in the Treasury or into the Land and Water Conservation Fund, the revenues gathered by the ocean protection fee would be deposited as offsetting receipts of the Department of the Interior and the National Oceanic and Atmospheric Administration. As described in the report on the bill, such revenue would be specifically designed to offset some of the costs of various ocean protection programs of those two agencies.

The essence of the point of order is that OCS leaseholders would not merely be providing recompense for some Government activity that they occasion. Rather, the revenues gathered by such fees would be applied to more general Government activity of broader benefit.

The report on the bill lists some of the ocean protection programs that would be partially financed by the new, per-acre fee. Two examples are the Coastal Zone Management Program and Fisheries Management Program. Although such programs bear logic relationship to OCS oil and gas leasing activities, they are among the general functions of government. That the per-acre fee might attempt to pro rate the relationship of such programs to OCS oil and gas leasing activities does not alter the character of the program as general functions of government.

The Chair believes that a provision raising revenue to finance general Government functioning is properly characterized as a tax within the meaning of clause 5(b), rule XXI. Accordingly, the point of order is sustained against section 7002.

POINT OF ORDER

Mr. FRENZEL. Mr. Chairman, I make a point of order against section 3156 of the bill.

The CHAIRMAN. The gentleman will state his point of order.

Mr. FRENZEL. Mr. Chairman, I make a point of order against section 3156 on the grounds that it is a tax measure which is in violation of paragraph b, clause 5 of House rule 21.

Mr. Chairman, section 3156 of the bill provides that an employer who terminates a pension plan in a standard termination must pay a $200 per-participant fee to the Pension Benefit Guaranty Corporation [PBGC], the Federal insurance agency established to insure defined benefit pension plans against insolvency.

The authors of this provision argue that the charge is a deferred premium to reflect the fact that ongoing insurance premiums are too low. This catch-up fee, they argue, merely imposes on employers the true cost of the risk they imposed on the system before exiting.

This fee is in no way a user fee in return for ongoing insurance. When an employer makes a standard plan termination, the plan must be fully funded and assets used to purchase annunities. The plan benefits are no longer insured by the PBGC. The employer poses no further risk on the system, and receives no further protection from it.

By paying this one-time fee, employers would pay neither for ongoing risk nor for the past risk they imposed. Rather, they would pay a fee to finance the continuing risk imposed by the employers who remain in the system. This is a tax, an amount paid by a class of taxpayers for no benefit, past or future, but rather to finance a broader—and in this case, totally different—class of beneficiaries.

Mr. Chairman, this provision is clearly a tax and I urge the Chair to sustain my point of order.

□ 1630

The CHAIRMAN. Are there other Members who wish to be heard on the point of order?

Mr. HAYES of Illinois. Mr. Chairman, I wish to be heard on the point of order raised by my colleague, the gentleman from Minnesota [Mr. FRENZEL].

The CHAIRMAN. The Chair will recognize the gentleman.

Mr. HAYES of Illinois. Mr. Chairman, section 3156 provides that single-employer pension plans terminating in a standard termination must pay a final premium of $200 per participant. This represents a deferred premium, not a tax.

Pension plans are covered under the termination insurance system established under title IV of ERISA and administered by the Pension Benefit Guaranty Corporation. The insurance program is funded entirely by premiums paid by covered plans, not by general revenues or taxes.

Each covered plan pays an annual per-participant premium. When ERISA was first enacted, this premium was set at $1. Over the years, the premium has been substantially increased, but has never adequately reflected the true cost of the insurance protection received by participants in defined benefits plans. Congress has deliberately kept the actual premium charged artificially low in order to encourage employers to continue their defined benefit plans.

The $200 termination premium, paid by the plan, is merely a continuation or extension of the premium to recapture a portion of this premium subsidy. Even at $200, the termination premium continues to be substantially less than the benefits the plan and its participants have received while covered under the insurance system.

Despite the fact that neither the annual premiums themselves nor this new termination premium are taxes, there is no dispute that setting of PBGC premiums is within the joint jurisdiction of the Committe on Education and Labor and the Committee on Ways and Means. This has been true since ERISA was enacted because the statute specifically provides for consideration of any resolution to raise premiums by both committees. In light of the past history regarding treatment of premium increases under title IV, we fully expect that members of both committees will be conferees on this provision.

Mr. Chairman, I do not believe that a statutory grant of joint jurisdiction transforms the premium paid by covered plans to fund the termination insurance program into a tax.

I urge you not to sustain the gentleman's point of order.

The CHAIRMAN. Are there other Members who wish to be heard on the point of order?

Mr. FRENZEL. May I be heard further, Mr. Chairman?

The CHAIRMAN. The Chair will hear the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, the argumentation in support of this fee as a premium would make more sense if it were absorbing any risk or buying any protection. It obviously does not, for those who are terminating their plan, and it buys protection for others. It, therefore, has to be considered a tax and not a premium.

The CHAIRMAN. Does the gentleman from Illinois [Mr. HAYES] wish to be heard further on the point of order?

Mr. HAYES of Illinois. No. Mr. Chairman, I have completed my presentation.

The CHAIRMAN (Mr. MAVROULES). The Chair is prepared to rule.

The gentleman from Minnesota [Mr. FRENZEL] makes a point of order against section 3156 of H.R. 3299 on the ground that it carries a tax measure in a bill reported by a committee—the Committee on the Budget—not having jurisdiction to report tax measures, in violation of clause 5(b), rule XXI.

Section 3156 of the bill would impose certain fees incident to terminations of employee benefit plans under the Employee Retirement Income Security Act of 1974 [ERISA]. Funds so received would be deposited as offsetting receipts in the applicable fund established under section 4005 of ERISA. Amounts in that fund are available for expediture for various purposes specified in section 4005(b)(2).

The basis of the point of order is that the payers of the fees in question would not merely be providing recompense for some Government activity that they occasion. Rather, the revenues gathered by such fees would be applied to more general Government activity of broader benefit. As was stated in argument on the point of order, a terminating plan poses no further risk on the Pension Benefit Guaranty Corporation; thus the only risk financed by the termination fee would be the continuing risk posed by the plans remaining in the system.

The Chair believes that such a provision is properly characterized as a tax within the meaning of clause 5(B), rule XXI. Accordingly, the point of order is sustained against section 3156 and that section is stricken from the bill.

POINT OF ORDER

Mr. FRENZEL. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. FRENZEL. Mr. Chairman, I make a point of order against section 3131(B) on the grounds that it is a tax measure which is in violation of paragraph b, clause 5 of House rule 21.

Mr. Chairman, section 3131 of the bill exempts multiemployer pension plans from the full funding limits of the Internal Revenue Code section 412(c)(7).

This provision directly amends the Internal Revenue Code to allow the deductibility of contributions to a multiemployer pension plan in excess of the full funding limit. I would argue that this provision which provides a specific exemption from the full funding limitations for multiemployer pension plans is a tax because a deduction would be allowed for amounts which are not deductible under current law.

I urge the Chair to sustain my point of order.

The CHAIRMAN. Are there other Members who wish to be heard on the point of order?

Mr. HAYES of Illinois. Mr. Chairman, I wish to be heard on the point of order raised by my colleague, the gentleman from Minnesota [Mr. FRENZEL].

The CHAIRMAN. The Chair will hear the gentleman.

Mr. HAYES of Illinois. Mr. Chairman, section 3131(b) contains parallel amendments to both title I of ERISA and the Internal Revenue Code relating to the full funding limitation governing pension plans. The gentleman from Minnesota is seeking to strike the portion of that subsection that amends the Code on the ground that this is a tax and within the exclusive jurisdiction of the Committee on Ways and Means.

Mr. Chairman, as we know, ERISA is a unique statute. Many of its requirements are implemented through parallel provisions in both title I and the Internal Revenue Code. The provision at issue here is a provision that has been subject to this parallel treatment under ERISA since its enactment. When the section was amended most recently in the 1987 Budget Reconciliation Act, parallel changes were made and members of both the Committee on Ways and Means and the Committee on Education and Labor were appointed conferees on those provisions.

Over the years, the Committee on Education and Labor has strenuously objected to changes in ERISA that were accomplished solely by amendments to the Internal Revenue Code, since failure to amend the corresponding section in title I leaves employers and pension plans with conflicting or inconsistent rules. We have tried to act responsibly by making both sets of changes with respect to this provision. We fully expect that members of both committees will be appointed conferees on this provision.

If the point of order against the Code amendment is sustained, the title I provision will still remain, thus the issue will still be a live one for conference. Of course, if the conferees move forward and adopt this provision, they will have to add the corresponding Code amendment.

Mr. Chairman, I am sympathetic to my colleague's concern that other committees may be trying to usurp his jurisdiction. As you know, that happens to us all the time. However, this is not a case of usurping jurisdiction; this is a case of a good faith effort on our part to legislate responsibly and not play jurisdictional games.

I urge you not to sustain the gentleman's point of order.

The CHAIRMAN (Mr. MAVROULES). Are there other Members who wish to be heard on the point of order?

If not, the Chair is prepared to rule.

The gentleman from Minnesota [Mr. FRENZEL] makes a point of order against section 3131(b)(1)(A) of H.R. 3299 on the ground that it carries a tax measure in a bill reported by a committee—the Committee on the Budget—not having jurisdiction to report tax measures, in violation of clause 5(b), rule XXI.

For the reasons stated by the gentleman from Minnesota [Mr. FRENZEL], the provision in section 3131(b)(1)(A) constitutes a tax in that it directly relates to deductibility under the Internal Revenue Code.

The point of order is sustained and section 3131(b)(1)(A) is stricken from the bill.

Mr. FRENZEL. Mr. Chairman, I would like to reserve a point of order against section 3201, and I would intend to raise it tomorrow before final passage.

The CHAIRMAN. It is not necessary to reserve that point of order.

Mr. FRENZEL. Mr. Chairman, I thought I would give the House notice, including our distinguished chairman.

The CHAIRMAN. The Chair thanks the gentleman from Minnesota [Mr. FRENZEL].

Mr. PANETTA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. ROSTENKOWSKI] having assumed the chair, Mr. MAVROULES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3299) to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990, had come to no resolution thereon.

PROVIDING ASSISTANCE FOR FREE AND FAIR ELECTIONS IN NICARAGUA

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 256 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 256

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 3385) to provide assistance for free and fair elections in Nicaragua. All points of order against the bill and against its consideration are hereby waived. The amendments recommended by the Committee on Appropriations shall be considered as having been adopted. Debate on the bill shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, or their designees. It shall be in order to consider the amendment printed in the report of the Committee on Rules accompanying this resolution, by and if offered by Representative Durbin of Illinois, or his des-

ignee, said amendment shall be debatable for not to exceed one hour, equally divided and controlled by the proponent and a Member opposed thereto, and said amendment shall not be subject to amendment. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, which may only be offered by Representative Michael of Illinois, or his designee.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR. Mr. Speaker, for purposes of debate only, I yield the customay 30 minutes to the gentleman from California [Mr. PASHAYAN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 256 provides for consideration of H.R. 3385, a bill which would provide assistance for free and fair elections in Nicaragua.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

The bill shall be considered in the House, and all points of order against the bill and against its consideration are waived.

Amendments recommended by the Committee on Appropriations, which specify the types of groups to receive these funds and require reports from the Agency for International Development to the appropriate committees of Congress, shall be considered as having been adopted.

The rule further makes in order an amendment by Mr. DURBIN or his designee, printed in the report accompanying this resolution. The amendment shall be debatable for 1 hour, equally divided and controlled by Representative DURBIN and a Member opposed. The Durbin amendment is not subject to amendment.

Finally, the rule provides for one motion to recommit for the minority leader, Mr. MICHEL, or his designee.

Mr. Speaker, during the last 6 months, events in Central America have accelerated at a heady pace. Many steps have been taken toward democracy, peace, and reconciliation in Nicaragua.

In April, the Nicaraguan Government instituted major electoral and media law reform. Studies by the United Nations, the Organization of American States, the Venezuelan Government, and the Hispanic Law Division of the Library of Congress have concluded that the Nicaraguan electoral laws are essentially democratic and within the mainstream of Western norms.

In early August, the Nicaraguan Government and 17 opposition parties signed a sweeping accord which met "95 percent" of their demands, according to one opposition leader.

Just a few days later, the five Presidents of Central America met in Tela, Honduras—on the second anniversary of the historic signing of the Esquipulas II peace agreement—and adopted a plan to disband the Contras by December 8, 1989.

In September, the opposition parties picked Violetta Chamorro, editor of La Prensa, to be their Presidential candidate. Throughout October, voter registration will occur, and on December 4 the electoral campaign will officially begin.

After so many years of war, the administration's cooperation in seeking a peaceful resolution in Nicaragua through diplomacy, and support for free and fair elections is welcome.

Today represents a victory for those of us who have advocated this strategy for such a very long time.

I know of no other country whose election will receive such intense scrutiny. The United Nations has agreed to send international observers to Nicaragua, the first time that body will monitor a sovereign nation's elections.

In contrast to monitoring efforts in countries such as the Philippines, El Salvador, and Panama, international efforts in Nicaragua will cover the entire campaign period, not just election day.

Similarly, the OAS has sent monitoring teams to Nicaragua. By election day on February 25, 1990, the United Nations and OAS will each have 160 observers on the ground in at least 80 locations.

In addition, former President Jimmy Carter will lead an international delegation of monitors comprised of former Presidents and Prime Ministers of Western Hemisphere countries.

These types of efforts—which all of us support—will receive funds in H.R. 3385. Up to $9 million will be provided through the National Endowment for Democracy, consistent with its charter, in support of free, fair and open elections in Nicaragua. Specifically, $400,000 will be earmarked for the Carter monitoring team.

We stand at a pivotal point in Nicaragua. We must do everything we can to ensure equal opportunity for the opposition, and free and fair elections next February.

I have every confidence that with the provision of this assistance we will have done all that we can to help this process.

House Resolution 256 will provide for an open and full discussion of the assistance provided in H.R. 3385. I urge the adoption of the rule so we may proceed to consideration of this important matter.

□ 1650

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 256 is the rule under which the House shall consider providing $9 million in funds previously appropriated, in order to offer financial assistance for free and fair elections in Nicaragua.

The bill made in order by this rule, H.R. 3385, is a major policy initiative of the Bush administration. Those who believe in democracy should support passage of the bill.

For the past 8 years, the policy of the United States aimed at establishing a democracy in Nicaragua. Now that we are on the verge of elections—the very essence of a democratic government—we must not falter. We must intensify our efforts on behalf of democratic institutions in Nicaragua.

Mr. Speaker, the bill made in order by the rule would transfer $3 million from funds previously appropriated to support peace, democracy, and reconciliation in Central America. It would also transfer $6 million from funds previously appropriated for humanitarian assistance for the Contras.

There will be no effect on the budget from this legislation.

Mr. Speaker, the President has requested that $9 million go to the National Endowment for Democracy to assist in voter registration efforts, poll-watching, election day get-out-the-vote efforts, and in monitoring of the elections, which will be held on February 25.

Up to $5 million of these funds may be available in assistance to internal groups, such as political organizations, independent elements of the media, independent labor unions, and business, civic, and professional groups for support in the election process.

Up to $4 million of these funds may be available to the National Endowment for Democracy to assure the conduct of free, fair, and open elections.

Under the rule, the amendments recommended by the Committee on Appropriations shall be considered as having been adopted. The administration strongly supports the amendments, which are printed in the bill.

Mr. Speaker, I want to make this point clear to the House: The package of assistance requested by the Bush administration is contained in the bill as amended and reported from the Committee on Appropriations.

The rule makes in order one amendment, to be offered by the gentleman from Illinois [Mr. Durbin]. His amendment would effectively deny the President's request by striking all but $400,000 from the bill and limiting that $400,000 to the sole purpose of monitoring the election process.

Mr. Speaker, the policy of the Bush administration, to provide financial as-

sistance for democracy in Nicaragua, is a natural extension of the policy put forward by President Reagan.

Mr. Speaker, it was never the policy of the United States in the Reagan administration to wage war with the Sandinista Government, or to have conflict forever. Our support of the Contras for the past 8 years has brought us to the point where the military stalemate produced the desired result: Diplomacy and free elections.

There is no doubt that the policy has succeded so far, because the Sandinista Government of Nicaragua, which has ruled by the bayonet and the bullet since 1979, has now committed itself to national elections.

If Ortega had crushed the Contras by force of arms, it is clear that Nicaragua would not be having this election. The question presented by this legislation is a simple one: Shall the United States support democracy in a totalitarian society?

Or shall the United States permit an absolutist Marxist ruler to continue in office, relying on hundreds of millions of dollars in Soviet aid to influence the election prospects?

Mr. Speaker, an article in the Newsweek of October 9 makes it clear that there are stark differences between the election process as we know it in the United States and as it is being waged in the Nicaraguan presidential election.

When the National Opposition Union held a rally recently, the only site available was a dingy movie theater with a primitive sound system. When the ruling Sandinistas nominated President Ortega, they did so in a nationally televised rally held in a spacious, government-owned arena.

The Sandinista presidential campaign is financed by the Nicaraguan Government.

The National Opposition Union gets 10 minutes of free television time every third night, on a channel that is so weak, a Managua resident can hardly see the pictures.

Mr. Speaker, democracy is at stake in this legislation. Shall we support free and fair elections? Or shall we not?

There are Members who claim that the U.S. aid will taint the election process, that our financial assistance will produce a result with "made in the U.S.A." stamped all over it.

Mr. Speaker, if so, I believe that "made in the U.S.A." is certainly preferable to "made in the U.S.S.R."

The course of action suggested in the Durbin amendment is a victory for President Ortega, purely and simply. The Durbin amendment would eviscerate $8.6 million from the President's request.

Does anyone really think that Ortega wants the United States to assist in the election process in Nicaragua? Obviously he would not.

Does anyone really believe that the elections will be more free or more fair without this $9 million? Obviously they will not.

Mr. Speaker, the course of action suggested in the Durbin amendment is to let nature take its course, to stand by and let Ortega win unfairly, as if by default. Hollow democracy is no democracy at all.

The course of action suggested by the President's policy is to assist democratic institutions, to strengthen the free press, to help to free trade unions and democratic political parties in their effort to participate in free, fair, and open elections.

Mr. Speaker, the choice is clear. The House should support the President's initiative.

Mr. BONIOR. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I thank the distinguished Member for yielding me this time.

Mr. Speaker, in speaking about this provision of my good friend, the gentleman from Illinois [Mr. DURBIN], let me just make three points from the perspective that I am coming from on this bill.

First, I have almost consistently opposed aid to the Contras.

Second, I maintain that if you are going to get involved in a Nicaraguan election effort, the effort should be overt, and not convert.

Third, I really have no preference as to who wins that election. I think that is up to the Nicaraguan people, and this is something we should deeply respect.

I think passage of this amendment would be very, very difficult for our policy in Central America. First of all, what a lot of this money does is that it enforces free and fair elections, election observers, and I think what it assures is some kind of semblance of a free election.

Now, I do not know if the Sandinistas are going to run a free election, but I think these funds that we are providing at least will make a difference in that direction.

Second, this entire Central American stalemate that has occurred, in other words, no peace, some kind of repatriation, an election campaign gearing up, has been brought forth by a very delicate balance of negotiations between the Democratic leadership, the Republican leadership and the President.

I say just leave it alone.

Third, I do not know if my friend intends this, I am sure he does not, because he has a distinguished record on Central American issues, I am concerned that his amendment would undercut the efforts of President Carter.

□ 1700

President Carter is going out to that area as a negotiator. He met with a group of us, and it is his understanding that the policy initiated by the administration is consistent with his objectives in the area, and that is that there be no covert activity consistent with the Tela agreements, that there be a respect for election observers, free and fair elections, and that some of these objectives through the Center for Democracy are consistent with his mission.

I understand that there are some funds in the package for President Carter's purposes in sending monitors between now and the election.

Again, I deeply respect my friend from Illinois. I just think somebody who has voted with him all the way on Central American issues, maybe nearly, not every one, I just think his provision is not adequate right now. I think it is well intentioned, but I think we should leave this alone and hope that the election is fair. These funds, in my judgment, will help this election be fair.

Mr. PASHAYAN. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, let me say at the very outset that I will support this rule. Even though it is not completely open because it has been agreed to by the leadership of both parties during the Rules Committee meeting yesterday, I expressed some misgivings over this rule. And, frankly, I would have preferred a clear-cut debate over the administration's proposal—period—rather than having the Durbin amendment also coming before the House.

Be that as it may, I expect the Durbin amendment will not meet a kinder fate on the floor than the one it suffered in the Appropriations Committee, and so we will get an up-or-down vote on the administration's proposal. I very much hope that H.R. 3385 will be enacted in its present form because time is of the essence. And so I will vote for this rule in the hope that we can get the bill down to the President's desk in time to really make a difference.

An important component of the aid package contained in H.R. 3385 will go toward registering voters. The voter-registration process will be closed as of the end of this month, and so it is absolutely essential that we get this aid to the democratic political parties in Nicaragua as soon as possible.

Surely the democratic forces in Nicaragua deserve at least a minimal token of moral support from the United States. They do not seem to be worried about some kind of stigma that supposedly accompanies assistance from the National Endowment for Democracy. They do not fear this kind of aid

any more than democratic forces in Poland, Chile, and the Philippines were afraid of it.

And that brings up a second point, Mr. Speaker. These other countries I just mentioned all had a history of democratic institutions and exposure to Western political values. Whatever may have been—or may be their current plight, at least they have had a history of democratic experiences to fall back on.

No such luck in Nicaragua. The democratic forces there are starting from scratch. There is not a Nicaraguan living who can remember a time when that country was a democracy worthy of the name. This coalition of Democratic parties desperately needs the kind of practical assistance that the National Endowment for Democracy has provided so successfully in these other countries.

Mr. Speaker, we have reached the end of the game. This may well be the last important vote concerning Nicaragua that Congress will need to make.

Mr. Speaker, in my remaining time, I would like to comment on one specific controversy that we are likely to hear about during debate today.

Statements are going to be made that this $9 million package represents a huge intrusion into the Nicaraguan political process, that the words "Made in America" will be stamped all over the coalition of democratic parties opposing the Sandinistas, and that people we profess to be helping will thereby be hopelessly compromised and defeated.

But before these crocodile tears start flowing, I believe we should remind ourselves of the mammoth obstacles already standing in the way of those Nicaraguans who are struggling to establish a democratic society.

First, these elections are being conducted in a totalitarian environment. The atmosphere of intimidation is overwhelming. I would add further that the Sandinista police state is almost totally dependent on massive amounts of aid from the Soviet bloc. Nine million dollars is peanuts in the face of a multibillion dollar effort, paid for in Moscow, to consolidate the Sandinistas in power.

If democracy cannot take root in Nicaragua, that country is doomed to a hopeless future. Indeed, there will be no future. The Nicaraguan people will be condemned to the life of serfdom and tyranny they have known for too long already.

I strongly urge support for H.R. 3385. This is our last chance to do something good for those people.

Mr. PASHAYAN. Mr. Speaker, I share the gentleman's sentiments.

Mr. Speaker, I yield 4 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support for the rule and aid to the Nicaraguan election process.

The Nicaraguan electoral process is absolutely critical if there is any chance for a satisfactory and democratic resolution to a decade of strife and conflict.

A date for elections has been set, and the Sandinista leaders have stated that they will not subvert the elections; but this does not automatically mean that elections will be free and fair. Nor does it mean that opposition candidates can organize for an effective campaign. Truly fair elections require a democratic process and election infrastructure that does not exist in Nicaragua. And the funds that this body is now considering can help to provide that needed money for the process and infrastructure.

This is not an effort to steal the election with U.S. high technology and sophisticated North American campaign techniques. Nicaragua is so impoverished that the most basic of election materials and necessary logistics are missing, and are needed. Paper, typewriters, telephones, loudspeakers, and vehicles to use are all in desperately short supply. If there is any hope for a successful election, these very basic materials are needed. Parenthetically, I do hope that these limited funds are not used to buy many—if any—vehicles. Land Rovers or other vehicles are very expensive and would arrive too late anyway for the crucial registration period.

There should be no confusion about where the proposed aid will go—great proportions of money will not pour directly into the coffers of the united opposition Presidential candidate, Violetta Chamorro. Instead, much of the funds will go to an officially designated election oversight body. This oversight body will then disburse aid between the Sandinistas candidates and the United Opposition Union [UNO] candidates.

Mr. Speaker, open foreign funding of the election is legal under Nicaraguan law. Of course, the election law has been established by the Sandinista government. Direct money contributions must be shared, and the United States has no choice but to abide by these rules with overt, legal contributions. Those who insist that no covert assistance go to the opposition must accept the legal requirements imposed on overt election aid. While the proposed U.S. aid will go to the UNO, some of the aid will also go to the Sandinistas.

This body should be aware, Mr. Speaker, that the United States is not the only nation who is considering contributing to the Nicaraguan election process. Europe's Christian Democratic and Social Democratic foundations have made their generosity known.

Indeed, Daniel Ortega has traveled to Europe seeking additional funds for the Sandinista Party and the election process. Indeed, Mr. Ortega told us 3 weeks ago that he had approached, thus far unsuccessfully, the Libyan Government of Colonel Qadhafi for electoral assistance funds.

If the United States is to help the Nicaraguan election process, it must do so quickly. Within the next 3 weeks the voters are to be registered, and if the registration process is not conducted properly and Nicaraguans encouraged and able to register, then the election on February 25, 1990 will stand no chance of being a fair election that represents the will of the true majority of all Nicaraguans.

Mr. Speaker, the fate of Nicaragua has been discussed by this body on countless occasions in recent years. During those debates, opinions have differed sharply. But past divisions over Nicaragua should not obscure the undeniable merits of open, legal help to Democrats seeking peacefully to make their case to the voters.

If democracy is to be given a chance in Nicaragua, the opposition to the Sandinista government in the February 25, 1990 election must be given the resources to be competitive. Members of the House are down to the last option since the majority in this body are said to be against covert aid for that purpose, and aid to the Contra's effort against the Sandinistas has been terminated.

I urge support for House Resolution 256, the rule provided for H.R. 3385.

Mr. PASHAYAN. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DREIER].

□ 1710

Mr. DREIER of California. Mr. Speaker, first I would like to associate myself with the very succinct and outstanding explanation which was provided to this House by the gentleman from California [Mr. PASHAYAN] outlining the situation in Nicaragua. I believe that it is a very important one, and there is a point that he made in his explanation which I wish that he would underscore for us once again. I believe that he talked about the amount of time that has been allotted to the opposition, and the amount of time that the Sandinistas used in their nominating convention.

I heard the gentleman when I was in my office, and I believe the gentleman said that the opposition is allowed 10 minutes on a very obscure television channel every 3 days, and that the Sandinistas, in fact, for their nominating convention used 12 hours on their government-owned television in a huge office building to nominate Daniel Ortega. Was I correct in what I heard from the gentleman?

Mr. PASHAYAN. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I yield to the gentleman from California.

Mr. PASHAYAN. Mr. Speaker, the gentleman was correct half way. I mentioned the 10 minutes, but I failed to mention the 12 hours and appreciate the gentleman adding that. Although it is a detail, it is an enormously important detail because it highlights the contrast that exists, obviously manipulated by the Sandinista government.

Mr. DREIER of California. I think it is a very important one. Mr. Speaker, I would like to share with my colleagues a conversation which I had, having spent all day with Commandante Tomas Borge in Nicaragua. When I challenged him on the issue of 12 hours of uninterrupted Sandinista convention television being carried in Nicaragua he said, "Well, it wasn't quite 12 hours, but we really did make a mistake in doing it for that amount of time."

It clearly underscored, Mr. Speaker, the fact that we have seen the Sandinistas once again abuse power.

Let us look briefly at the situation in Central America and a couple of neighboring countries.

On March 19 of this year we saw for the first time in the history of the country of El Salvador a transition from one democratically elected government to another.

That would not have taken place, Mr. Speaker, had we not seen in the early part of this decade, 1983 to be exact, a tremendous infusion of United States technology to help bring about the first real election in years in El Salvador.

Here we are once again, Mr. Speaker, asking to see that that process takes place again, this time in Nicaragua, a place where we all recognize that we have invested a heck of a lot of money throughout this entire decade. I believe as we look at this $9 million, it is a very important expenditure for us.

I do not have a record of spending money frivolously in this House, Mr. Speaker, but I believe it is very important that we provide the support.

If we contrast El Salvador's situation with the experience that we had just yesterday in Panama and the bloodshed that we saw in May following the horrible election by Manuel Noriega in Panama, it is very clear that the last bastion of freedom in the world, and specifically the Western Hemisphere at least, is the United States of America. That underscores again our responsibility.

My very good friend, the gentleman from Michigan [Mr. BONIOR] mentioned the fact that throughout October we are going to see the registration process take place in Nicaragua. Throughout October 4 days can be expended on the registration process, a total of 4 days, 4 Sundays. In fact, the registration process as we stand here today is 25 percent completed.

That is why it is absolutely essential, Mr. Speaker, that we do everything that we can to immediately encourage the democratic process in Nicaragua. I hope that we will be able to report this bill out as it has been reported by the committee just as quickly as possible.

Mr. BONIOR. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado, [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I want to thank the gentleman from Michigan for yielding time to me.

I feel a little bad standing up here saying I hope Members vote against the rule, I hope Members vote against all of this, because I find it kind of amazing. In a way I want somebody to keep pinching me on the floor.

Here are Members on the other side of the aisle who do not believe in spending limits domestically. They do not even believe in the fairness doctrine, many of them, when it comes to television coverage. They do not believe in public financing for any of our races. But boy oh boy, in Nicaragua they are for everything.

I am not sure I am getting this right, but that is what I think I hear. I find that really astounding.

I also find it astounding that we have seen in Panama an election where everybody agreed that Noriega stole it. It was not just the United States, we all did. We saw the President of the United States encouraging people in Panama to do something about the fact that their election was stolen.

Yesterday some very courageous young officers did something about it and the White House did not do anything except come up with the idea let us send some money into Nicaragua.

I mean, come on. I do not really see this as any kind of a Central American policy except throw money at it and do all sorts of things that people will not agree to at home. I think we look awfully silly.

I think we ought to save some time by voting against the rule, just putting this thing out and saying this is not working, this is not where we should be.

I hear the argument that if we do not do this above-board they will just do it covertly, and that is probably right. I think the Members who make that argument on our side of the aisle are correct, that at least we are bringing this out in the open and we are showing what has been going on and what some of the problems have been.

So I do salute the gentleman from Michigan and others who are saying if we are going to do it, at least it should be done overtly and people should know it. Government is not a fungus, it can thrive in sunshine, and the taxpayer ought to know where their money goes overseas.

I find it amazing that what I heard advocated for the Nicaraguan elections, if we were advocating that here ourselves, they would say we were Socialists, we were doing all these terrible things. Yet somehow it is perfectly all right for us to be doing it down there.

I just do not quite get it, and I think that part of this is trying to cover up the nonfesance of the White House yesterday after they had actively encouraged Panamanians to do things. I really find this a very sad day.

So I think we ought to just put this behind us and go on and see what transpires down there.

Mr. PASHAYAN. Mr. Speaker, may I inquire as to the amount of time remaining.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The gentleman from California [Mr. PASHAYAN] has 10 minutes remaining, and the gentleman from Michigan [Mr. BONIOR] has 17 minutes remaining.

Mr. PASHAYAN. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I regret that the gentlewoman who preceded me in the well of the House left so quickly. Is it that difficult to ever support some kind of bipartisan policy in Central Ameria? Is it that difficult to support something echoed and supported by this administration, that now when we are talking about full and free and fair elections we cannot even support the election process?

The gentlewoman gets up here and suggests that somehow we would not support using tax dollars in the American political system? Was I sleeping or did we not give the Democratic National Party and did we not give the Republican National Party something like $3 million each last year to run their national conventions?

What we are talking about here is simply providing the infrastructure assistance to allow full, free, and fair elections, not just an election, but elections which are full, free, and fair and competitive and where people have the opportunity to participate. Each and every one of we Members of Congress take for granted that when we go home and participate in our campaigns, and we create these schedules, and we make the telephone calls, and we have the stationery, and we get in the cars and travel to our campaign events that that is something that exists all over. The reality is that does not exist in Nicaragua, and it is that kind of infrastructure we are talking about here today.

To suggest Members going to oppose this rule and to oppose this legislation is to say that we will by reality of the time clock do everything we can to

make sure that Sandinistas are not participants in full, free, and fair elections where the opposition has equal opportunity to make their case.

□ 1720

If there ever is a time for a bipartisan consensus on Central American policy, this simple legislation, H.R. 3385, ought to be supported.

The rule ought to be endorsed by voice vote. The Durbin amendment ought to be rejected for what it is, and we ought to go on and pass the bill.

Mr. PASHAYAN. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

Mr. Speaker, I take the well at this point not to speak specifically to the bill, which I will do when we get into the general debate and into the discussion on the amendment, but to ask all of my colleagues on both sides of the aisle to vote for this rule, to bring this bill to the floor.

We are running out of time in Nicaragua.

The process by which voters in that country can register to vote lasts only for three more Sundays.

We are in a time bind if we are going to have any chance at all to allow the Nicaraguan people to freely register and have their voices heard.

I would just as soon the Durbin amendment was not offered because it is a bad amendment. I am eager to vote against it as I am eager to speak against it.

But it is in the rule. That is in the spirit of fair play. But I ask my colleagues, whether they like the Durbin amendment or not, that we have to bring this bill to the floor. We have no time to lose.

Mr. PASHAYAN. Mr. Speaker, just to make it clear, as a matter of reiteration, this side supports the rule and encourages Members to vote for it.

Mr. Speaker, I yield back the balance of my time.

Mr. BONIOR. Mr. Speaker, I urge my colleagues to support the rule and get on with this legislation.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. OBEY. Mr. Speaker, pursuant to House Resolution 256, just adopted, I call up H.R. 3385, a bill making assistance available for free and fair elections in Nicaragua.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin [Mr. OBEY] will be recognized for 30 minutes, and the gentleman from Oklahoma [Mr. EDWARDS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. OBEY].

GENERAL LEAVE

Mr. OBEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, and that I be permitted to include charts, tables, and other material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. OBEY. Mr. Speaker, I yield myself 13 minutes.

Mr. Speaker, I think we ought to place this bill in a little context.

In the 1970's, after about four decades of misguided American policy supporting every tinhorn government around in Latin America, one of the governments that we were supporting in Central America, the Somoza regime in Nicaragua, began to lose its grip. Mr. Somoza was a greedy despot, by anybody's definition, and like many other governments which the United States was misguidely supporting, because of his activities, he began to generate a broad spectrum of opposition to his continued rule.

That opposition included many respected businessmen, many respected members of the academic community, youth groups as well as left-wing revolutionaries.

In about 1978 President Carter was advised to withdraw United States support from the Somoza regime because it was clear that Somoza was losing support, and President Carter was told that we ought to support a more progressive government down there.

The Carter administration declined to withdraw their support from Somoza at that time because, very frankly, they were told by a lot of conservatives in this House and in the other body that if the administration pulled the plug on the Somoza regime that people in this House would see to it that the Panama Canal implementation legislation never went through the House.

So, recognizing they could not fight two battles at the same time, the Carter administration delayed in its withdrawal of support from Mr. Somoza.

I have always believed that if the Carter administration had gone ahead at that time and withdrawn its support from the Somoza Government, that we would have had a much different government in place in Nicaragua than we have today because at that time you still had a business-based opposition, you still had a capitalist-based opposition to the Somoza regime.

But because of the preference of the right wing in this country, the Carter administration was prevented from following its best instincts.

So over the next year the middle class departed Nicaragua, they gave up; they could see that the United States policy was not going to make a positive difference. And in the end, when Somoza fell, the only effective resistance to him was on the part of the left-wing Sandinistas.

In 1979 they won.

For the next about 1½ years the United States tried to construct a relationship with the Sandinistas and finally gave up in frustration. People like Adolfo Calero, who later went into the Contra movement, persuaded this Congress for about a year and a half that we ought to provide some United States assistance to Nicaragua even though the Sandinistas were in power.

They said we ought to provide that assistance largely through the private sector to try to moderate the conduct of the Sandinistas.

A lot of us had misgivings about that, but we respected the motives of a lot of people who were trying to limit the radical change the Sandinistas were intending to carry out.

So we supported them for a while.

Then we gave up on it. And for the last 8 years the United States, as you know, has financed a war against the Sandinistas which was fought by and through the Contras.

Many of us in Congress thought that was a futile act. Many of us thought it was a misguided policy. Many of us thought it was self-defeating.

Finally the Central American presidents asserted themselves. They urged an end to it.

And, finally, we won a crucial vote on the floor of this House and, as a consequence, we are now following a different policy in Central America and a different policy in Nicaragua.

The United States has agreed, "No more dollars for war."

Now we have an election in which, no doubt about it, the Sandinistas have a lopsided advantage, both procedurally and politically.

Now, a few years ago this Congress created an institution called the National Endowment for Democracy to help promote democratic beliefs and democratic processes all over the world.

The National Endowment has done some good work in Chile. We have done some good work in Poland through the AFL-CIO.

In Nicaragua we have provided $3.5 million in this fiscal year so that the National Endowment can provide just the kind of effort being talked about by a number of speakers today, an effort to build some democratic infrastructure in Nicaragua, an effort to try

to familiarize people with "get-out-the-vote" techniques, registration techniques and all the rest.

And I think we reached a bipartisan agreement that that is legitimate.

□ 1730

Now the administration has brought a new request to the Congress. They have asked for $9 million in additional funding for these same kind of activities. They asked the leadershp to put it on a fast track, and they did. Secretary Baker made his request on September 20. The Committee on Appropriations received the bill on September 28 . We reported it out October 3. That is extraordinarily fast. I think anyone would grant that.

That bill, very simply, would provide about $5 million through the National Endowment for Democracy for what is described as "support for the election process and monitoring." It would also provide for about $4 million for election support and monitoring, to include funds for the minimum contribution necessary to the Supreme Electoral Council, to satisfy their 50 percent tax on foreign contributions to political parties. It also provides $400,000 for former President Carter's group to Council on Freely Elected Heads of Government, which is trying to monitor the conduct of that election; $250,000 for the Center of Democracy to do the same thing; and $400,000 for the center for Electoral Assistance and Promotion to do the same thing.

Mr. Speaker, I would not object to this legislation if it would accomplish its ends. However, I honestly do not think it does. As the chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs, I felt it was my duty to the House, because of the agreement between the White House and the bipartisan leadership, I felt it was my institutional duty to the House to bring this bill to this body as quickly as possible, and not to try to interpose my objections in a procedural way, and thereby prevent this House from working its will. We brought this bill through the Committee on Appropriations to the floor, and I am trying to handle the bill here today in as fair a way as I know how.

Let me simply say that having fulfilled my duty to the House, I now feel I have to fulfill my duty to my conscience. That means that I will be voting against this bill. I recognize that it is very rare for a bill manager to vote against a bill with his own name on it, and to vote against a bill which he is bringing to the floor of the House. However, as I have indicated, the bill has my name on it because I did it as a courtesy to the President. The bill is here, as a courtesy to the House.

My reasons for being dubious are very simple. First of all, I am concerned that the provision of such a large amount of money—and while this does not seem to be a large amount of money in American terms, it is certainly a large amount of money in Nicaraguan terms—I simply am very concerned that the infusion of such a large amount of money in what I consider to be a very inexact manner, will, in fact, operate to cripple the very people we are trying to help. I want to see the opposition to the Sandinistas win that election, make no mistake about it. I am concerned that this package is so large and so loosely put together, and so loosely conceived that, in fact, it will have the opposite effect.

Newsweek was quoted by a previous speaker on the Nicaraguan election, the conduct of the Sandinistas, and I do not challenge that that was quoted from an article. But I would like to quote the key paragraph from that article which was conveniently left out by the previous speaker referring to it. The last paragraph in that article says that:

> The Chamorro campaign appears to have committed a tactical error by aligning itself too visibly with the United States—

And it goes on to say,

> if Chamarro is defeated, many Nicaraguans will blame the United States, and some Americans may criticize the President for sending good money after bad.

Well, I am not going to criticize the President because we can have an honest disagreement on this, and I think we do.

But there are two other reasons why I oppose and will vote against this bill. First of all, the U.S. law does not allow for the use of money contributed by foreign entities in our own elections. I think we ought to abide by that same process with respect to other people's elections. That may be an old-fashioned principle, but I happen to believe in it. Second, I have supported public financing of American congressional campaigns for the last 15 years. I find it ironic that today we find the Bush administration, for the first time, in support of public financing, for Nicaragua. I find it difficult to explain why the U.S. taxpayers can legitimately be expected to promote democratic processes somewhere else, but somehow can be told at the same time that it is not legitimate for them to promote democratic processes in congressional elections here in our country. I find that a mite quaint, to say the least.

Now, the administration, to be fair about it, will say that there is no money that will go directly for campaign purposes, and the administration has been honest and above board in their dealings with me, and I am sure that that is the intent. Very frankly, money that we are providing here is what would be known in American political parlance as soft money. It is money which is going to parties, and Members know very well that a dollar which goes to a party computer or a dollar which goes to a get-out-the-vote campaign helps the candidate every bit as much as it helps the party. I would not object to that if I thought it would help, but I am afraid it will have a snap-back effect. I would simply say that while I will not vote for the Durbin amendment because I think the Durbin amendment is not sufficiently evenhanded on the question of to whom it would give money, neither will I vote for this package, because I think it goes too far. In fact, it will wind up, I think, significantly hurting the very people in the Nicaraguan election process we are trying to help.

We can have a legitimate disagreement about that. I recognize we have one today.

Mr. Speaker, I reserve the balance of my time.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill has moved quickly because the leadership of both parties understands that the need is great and urgent. The UNO coalition is facing an entrenched dictatorship with all the resources of the state at their disposal, including secret police, the government ministries, the media, and the military. The Sandinistas continue to receive massive support from the Soviet bloc—$1 billion in military and economic aid alone in the last 12 months.

The democratic opposition, on the other hand, has few resources. UNO has an office without equipment, volunteers without training, and parties without material infrastructure. How can UNO register voters without vehicles to transport to the countryside? How can poll watchers and observers be trained without instructors? How can offices be established in Nicaragua's 16 departments without typewriters or telephones?

We are talking not just about an honest council, we are talking about a fair election with a level playing field. Some argue that the United States should not support such activities. I did not hear their voices when money was appropriated for NED in Poland or Chile. Democracy does not come cheap—especially when facing a dictatorship with lavish Soviet bloc funding.

This money will allow seminars, meetings, and workshops to be conducted on how to register and how to get out the vote. It will allow materials and media messages to be developed to inform Nicaraguans how, when, and where to register and vote. It will enable the training of poll watchers

and the establishment of a national network of monitors to make a parallel vote count as was so important in the Philippines and Panama.

There is really one very simple question before this body: Are we willing to give democracy a chance in Nicaragua? That is the question: Dictatorship or democracy? The field of battle has changed from bullets to ballots, and over the years I have listened to numerous colleagues argue that we should give peace a chance.

□ 1740

Mr. Speaker, it is not hard to have peace. Simply do not oppose dictatorships, and there will be peace. Now is the time to give democracy a chance.

Mr. Speaker, I reserve the balance of my time.

[Mr. OBEY addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore (Mr. KANJORSKI). Correction is noted.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. CONTE], the ranking member of the Committee on Appropriations.

Mr. CONTE. Mr. Speaker, you have heard of the Stealth bomber. You may have even seen it. Well, the State Department has one upped Defense. Today, rolling out of Foggy Bottom and onto the House floor to be fueled with dollars, we have H.R. 3385—the Stealth bamba.

Mr. Speaker, la bamba zoomed into my sights Monday night. No radio contact. No flight plans. The State Department didn't bother talking to me, and I don't think they bothered talking to a lot of others they should have talked to. State flies solo.

By Tuesday, the Stealth bamba was before the Appropriations Committee. No hearings. No subcommittee. No justification. I hear it. I see it. But I don't know what it is. Maybe it's an enchilada.

By today, la bamba has flown onto the House floor, untouched by human hands. An airspeed record. Those doorkeepers out there must have their radar off.

I have a list describing what the $9 million transfer for elections in Nicaragua will be used for. Bear in mind, this is for 3 months for voter registration and election. Put on your flak jacket.

First, salaries, benefits, and related expenses—$815,000. Here it is, Mr. Speaker, a nation's chance to reenter democracy. A chance to shrug off tyranny and oppression, and they need money for fringe benefits. Mr. Speaker, I don't know about you, but when I run a campaign, I rely on volunteers.

Second, seminars, lectures, and meetings—$315,000. Mr. Speaker, we're paying for coffee and donuts.

Third, courtesy invitations to international observers and/or visiting delegations—$140,000; $50,000 for the Nicaraguans to fly abroad and observe the international observers. Fly the friendly skies of Nicaragua. Who gets the frequent flyer miles?

Fourth, vehicles—$1,345,000. Mr. Speaker, I hope we're renting and not buying. At $20 a day from Hertz Rent a Car, that is 2,241 cars for a month. And if they're buying, instead of renting—they're surely going to win the election—with the slogan "register to vote and get a free car."

And listen to this, Mr. Speaker.

Fifth, gasoline, lubricants, and maintenance, $149,472.

Lubricants, Mr. Speaker. What kind of monkey business are we getting into?

Mr. Speaker, no wonder this bamba is flying by night. It is one thing to support the vital cause of democracy. It is another to be taken for a ride; $9 million is more than a drop in the bucket. I just wish I knew into whose bucket this bamba was being dropped.

Mr. Speaker, I yield back the balance of my time.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida [Mrs. ROS-LEHTINEN], our newest Member.

Mrs. ROS-LEHTINEN. Mr. Speaker, as a political refugee who has felt the anguish of losing one's homeland to communism, I can understand the anxiety that the Nicaraguan people are feeling. I know what it is to see the Communist thugs take away your home, your business, rip apart your family and drive a wedge between children and their parents.

It is difficult to list all that is lacking in Nicaragua: food, decent jobs, an adequate education, health care, justice; the list is too long.

However, Mr. Speaker, the one main item that is missing in Nicaragua today is the one thing that this vote can provide: free, open and fair democratic elections for all.

The Sandinistas control the whole ball game right now.They have the infrastructure in place to register voters, to get the paperwork cleared up. They have the trucks to take them to remote villages. They have the megaphones to get the attention of the farmers in faraway fields. They have the telephone lines, the telegraphs, radio, television, all of the equipment, ready to rally the troops. They are registering only those who are friendly to the Communist regime.

What does the opposition have? They have the spirit of freedom ready to guide them. They hear the rousing bell of democracy. The call of liberty sounds out to them. It is sounding out to all of us here as well.

Mr. Speaker, I ask my colleagues, "Will you heed their call? Or will you merely save all of your words of praise about democracy for the Fourth of July picnics and for the parades? Will you vote today to implement a real plan for democracy, or will you merely continue to parrot empty rhetoric about the glory of democracy, about the importance of voting, about the need for fairness?"

Mr. Speaker, let us give everyone, even the opposition, the same opportunities as the ruling Sandinistas have had for many years. I only wish that we would have a similar opportunity for my native Cuba.

Mr. McHUGH. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. CROCKETT].

Mr. CROCKETT. Mr. Speaker, I rise in opposition to the administration's request for $9 million to buy the Nicaraguan election. I hope the House will defeat this bill.

The Congress has already appropriated $3.5 million for the National Endowment for Democracy to support free and fair elections in Nicaragua. That in itself is more than the Endowment has spent on elections in the Philippines, Poland, Chile, or anywhere else in the world.

This bill would increase the total amount to $12.5 million. That amount not only exceeds by several orders of magnitude what we have spent on any other election. It also comes close to equalling the regular budget of the National Endowment for Democracy for the entire world, which is $15 million.

This is not support for free elections. This is an attempt to buy an opposition victory. These funds will go to support the campaign of Violeta Chamorro and the opposition coalition that nominated her for President.

We have written into the governing statutes of both institutions that will receive this money—NED and AID—a prohibition on doing precisely that.

Section 116(e)(1) of the Foreign Assistance Act of 1961 states with respect to AID, "None of these funds may be used, directly or indirectly, to influence the outcome of any election in any country."

Section 505(a)(1) of the National Endowment for Democracy Act states, "Funds may not be expended, either by the Endowment or by any of its grantees, to finance the campaigns of candidates for public office."

Those prohibitions, which we so casually ignore in this bill, are there for very good reasons. On the one hand, if we attempt to buy a victory for a party in a foreign election, we enable others—in this case, the Sandinistas—correctly to paint that party as being in the pocket of the United States. On the other hand, such a victory, financed by foreign funds, would lack the very legitimacy that we say we are promoting.

Have we already forgotten that for 8 years the United States attempted to dictate the nature of the Nicaraguan Government by force? Do we now expect people to believe that we have suddenly become a disinterested party that seeks only free and fair elections? Do we expect the Nicaraguan people to sit still and let us try to overwhelm their election with our money? Who are we trying to kid?

This legislation is unwise. We would do better to limit ourselves to supporting the activities of legitimate internatoinal monitors—such as the United Nations, the Organization of American States, and former President Carter's Council of Freely-Elected Heads of Government—who bring cleaner hands to this endeavor.

I urge my colleagues to defeat this measure.

□ 1750

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. Speaker, while the gentleman is coming forward, I would like to point out that the very fine remarks we heard from the gentlewoman from Florida [Mrs. ROS-LEHTINEN] a few minutes ago were her first speech in the House and they could not have come at a better time or be better delivered.

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of the proposed funding for the democratic electoral process in Nicaragua.

Many of us in the Congress believe that the upcoming elections in Nicaragua on February 25, will determine whether the future government in that country will be democratic or totalitarian. We also believe that what happens between now and February 25 will determine whether those elections are free and fair.

The Sandinista government has agreed to a number of electoral reforms that offer the potential framework for democratic elections. However, many critics of the Sandinistas agree that they are attempting to use the electoral laws and electoral reform proposals to their advantage and, unless the democratic opposition receives adequate help, the opposition will not be able to compete on an equal basis.

Former President Jimmy Carter, whose initiatives in 1979 were instrumental in paving the way for the Sandinista takeover in Nicaragua, met with President Bush and Secretary of State Baker in mid-September to discuss the upcoming elections in Nicaragua. Secretary Baker explained the proposed request to Congress for $9 million to help the democratic opposition and called it a "rare chance for us to support democratization in a totalitarian society." Mr. Carter said such aid is necessary "to make the playing field level" and is "entirely proper" so long as it meets the guidelines that require similar contributions to the independent organization monitoring the February elections.

I agree with President Carter that such aid is necessary to give the democratic opposition a fair chance in Nicaragua. If we want to see the democratic process advance in Nicaragua and avoid, what critics call, a military solution, then I believe we must approve these funds to support the electoral process.

I urge my colleagues to support this funding.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker I rise to express strong support for H.R. 3385, a bill authorizing up to $9 million in unexpended Agency for International Development funds, to provide assistance for free and fair elections in Nicaragua.

The rising tide of democratic reform throughout the world has somehow managed to evade some of our Latin American neighbors. This is an important bill because it helps to promote democracy. There is nothing covert about the purpose and function of these funds. This legislation mandates that the executive branch notify the Congress prior to the obligation of funds. The bill further specifies that funds going to the Supreme Electoral Council of Nicaragua be used solely for technical electoral purposes.

Mr. Speaker, this is a timely measure at an appropriate time. I commend the gentleman from Wisconsin [Mr. OBEY] and the gentleman from Oklahoma [Mr. EDWARDS] for their work on this measure, and I urge its adoption.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, if I may, I would like to read a couple quotations here. One is the first paragraph in the charter of National Endowment for Democracies. It says:

> The National Endowment for Democracies was founded upon the belief that the world's greatest democracy should help others who share our democratic values and are striving to build free and democratic societies.

I do not think that takes a great deal of anybody's thought to understand that.

Then I am quoting today from a neighbor from Mexico who happens to be the President of Mexico in his speech today. He says:

> Congress and friends, all nations are committed to change, a change that brings hope for freedom and justice. We have the obligation and the moral duty to support it.

Again from the President of Mexico:

> The future of all societies today must necessarily be democratic. Democracy is essential to promote economic growth and satisfy the requirements of social well-being. Mexican democracy has gradually become stronger by embracing broader social plurality, which Nicaragua does not have, that exists and through more open public debate and a more intense and political life and competitive elections.

Mr. Speaker, the money that is coming from the National Endowment for Democracies that we are going to vote on today, we mentioned leveling the playing field, and I say to the gentleman from Illinois [Mr. DURBIN], the gentleman knows, I was also in Nicaragua this past week, and questions were made about the television time that is allowed. The Sandinistas for their national election where they elected Mr. Ortega had 12 straight hours on their national TV. UNO is allowed 20 minutes a week.

Mrs. Chamorro, whose headquarters is right next to her house because she cannot afford anyplace else, a neighbor is lending her the house, she does not even have a telephone. She had to pull a line in from next door to connect the phone. She cannot call out, but she can receive calls.

The majority of people here ought to recognize that those people who have been involved in this election, the election is now, the next 4 weeks are going to decide this, the next 4 Sundays, and the truth of the matter is, Mr. Speaker, if we do not help now, you can kiss it goodbye.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, as I have listened to today's debate, I reflected back on the last 7 years of debate that has taken place in this Chamber on our involvement in Central America. In those 7 years we witnessed some brutal moments as we wrangled over whether to provide lethal aid, covert aid, nonlethal aid, or humanitarian aid to the Contras. At times, those debates included charges of giving Central America away to the Communists on the one hand, or charging that we were trying to overthrow a government with which we had normal diplomatic relations on the other hand.

Much has changed in the last year or so. Much has changed in recent months, and I welcome those changes. We are no longer debating whether or not to send bullets to Nicaragua, to the Contras, but how best to ensure that the ballots cast in next February's election are truly meaningful, that they mean something. We are hoping for an election that is free of corruption, relatively free of intimidation, an election where the opposition party and its candidates have a real chance to make their best case and win municipal elections, wins seats in

the National Assembly, perhaps even win the Presidency of the country.

Frankly, I was never very enthusiastic about lethal aid to the Contras, although I have supported a number of Contra aid packages in recent years to sustain them. While I appreciate the concerns raised by the gentleman from Wisconsin [Mr. OBEY] and the gentleman from Illinois [Mr. DURBIN] and others that we may be buying some trouble with this $9 million, I am inclined nonetheless to support this bill. There are a couple questions that I think we need to consider here in this debate. One, is whether $9 million is too much. The gentleman from Massachusetts [Mr. CONTE] has argued that perhaps it is. He may be right, but, I am afraid that the $400,000 that the Durbin amendment would provide simply is not enough.

Another question that should be asked is whether we are doing something in Nicaragua that we have not done as a nation in other countries, be it in Chile, Panama, the Philippines, or Poland. Clearly, we have funded similar activities in other places. We have undertaken similar kinds of activities, although perhaps not to the extent of the dollars involved in this case.

The third question might be, can the dollars that will be spent, that are being appropriated here, be spent on any one particular candidate's election? My understanding is that no, they cannot be, and I think that is as it should be.

□ 1800

The last question I would have us consider is: How does the Nicaraguan law address this issue? Is it silent on it? Does it permit the money to be spent? As long as one-half of the money we are spending does go as is required under the Nicaraguan law to the Supreme Electoral Council, this money can flow, even under Nicaraguan law.

Mr. Speaker, this is perhaps a close call, but I think a vote in favor of this bill is in order, and I intend to support it.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DELAY]

Mr. DELAY. Mr. Speaker, let me just commend the gentleman from Delaware who just spoke, because he reflects what has been going on in this body for many years about what is happening in Nicaragua. He is really a thinking man who has looked at the issue and has come down to support free and open elections in Nicaragua. Because for years on the floor of this House we have heard time and time again a debate of withholding aid for Nicaraguans to fight for their freedom and calling for free and open elections and calling for democracy in Nicaragua through peaceful means. We are here today to do that.

This is not new money, Members. This is not new money. This money has already been authorized, and it is just that we are trying to reprogram it. This is not money going to the Sandinista government. One might say that, "Well, if it goes to the Council on Elections, it goes to the Sandinistas," and they might be able to make an argument about that. But we have, or the opposition has, a member on that council that can monitor how this money is being spent, that if it is used by the Sandinistas in their elections process, do we not know that everyone will know about it?

The real issue here is Nicaragua, not the United States. Its economy is devastated by the policies of the Sandinista government. They do not have vehicles. They do not even have bicycles. They cannot buy gas. If there is anything left in the country, it is controlled by the Sandinista government.

How is the opposition going to run an election? This money, by the way, is not used for bumper stickers and buttons and T-shirts. This is to run elections. The only way that elections can be run openly and fairly is by passing this bill and channeling money into that process.

If Members will not support the Nicaraguans to fight for their freedom, at least support the Nicaraguans to hold elections to win their freedom by the polls and at the polls.

I urge all Members to support the election process in Nicaragua by voting for this important spending measure.

Mr. Speaker, may the best candidate win.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Speaker, yesterday and today there was a hue and cry here on the Hill from Members on both sides, as a matter of fact, that yesterday in Panama we missed a great opportunity to help the Panamanians find freedom and democracy, if we had only "done something yesterday." While it is true, I am not quite sure what that something could or should have been. Still, there was a feeling that we missed an opportunity to help the Panamanians find democracy.

Mr. Speaker, here we have an opportunity to do something to help the Nicaraguans find democracy and find freedom. We have had many of those opportunities in the past, some that we have seized, some we have let go by, but here is an opportunity, a chance to level this thing out, to give the opposition an opportunity to run a decent, fair campaign and to give the Nicaraguans a fair choice as to what kind of government they want in their country in the future. This is an opportunity that cannot be let go by. It is an oportunity that, as has been pointed out by the gentleman from Delaware, is perfectly legal under Nicaraguan law. This is a chance we must take.

Mr. Speaker, we must give UNO the opportunity to run the kind of election that we would want to run ourselves so that the people in that country have a fair and free choice to choose the way they wish to be governed in the future. It is a chance for us to do something. Let us do it. Vote for the aid.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. SLATTERY].

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I thank my friend, the gentleman from Oklahoma, for yielding me this time.

Mr. Speaker, I rise today as someone who has consistently opposed military assistance to the Contras. I always thought our Nation's policies toward Nicaragua should be designed to encourage the internal political opposition. Ladies and gentlemen, the legislation before us today does exactly that, and I plan to support it.

The $9 million under consideration today some might say is too much, and we can debate that. But the fact of the matter is money is needed for poll watchers. It is needed for ballots, ballot boxes, and all the other incidental things we have heard people talk about today.

The one thing that I would like to focus on for the remaining time that I have is the need for us in this country, and this is a responsibility that this administration is going to have to bear, and that is to make sure that we do not create the perception in Nicaragua that this election is being dominated by the United States, and, folks, if we do not think that is going to create a problem for the internal opposition in Nicaragua, we are dead wrong.

Just consider this: If some foreign power was running a candidate for President of the United States in this country, and if the perception was created that that candidate was beholden to a foreign interest, how would Americans that even opposed that candidate's philosophy react to that?

I hope that this administration, in administering these funds in Nicaragua, will keep it in mind and recognize that it is critically important for us to provide these neutral-type items as we advance the cause of democracy which we all support in Nicaragua.

Mr. Speaker, I thank the chairman for his work, and I thank my friend, the gentleman from Oklahoma [Mr. EDWARDS], for his work on this legislation. Folks, the administration has a

great responsibility in this area to carry forward this program in a way that does not create the perception that this election is being bought by U.S. interests.

Mr. OBEY. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. McHUGH], a member of the subcommittee.

Mr. McHUGH. Mr. Speaker, frankly I had hoped that we would have a third option available to us today, because I think the two options that we are confronted with are not a reasonable response to the circumstances in Nicaragua.

The bill itself, which is one option, would provide $9 million to support the electoral process, but it would be spent in ways which are not very clear from the language of the bill.

The Durbin amendment would provide very little assistance: Only $400,000 for the monitoring group chaired by former President Carter. I have no objection to that, of course, but even if one supports nothing more than election monitoring, I believe that the Durbin amendment is too restrictive. For example, it would cut out money for the Center for Democracy, an organization that has been invited to Nicaragua by both the Government and the opposition. It is on the ground now, and it seems to me unwise to exclude $250,000 for that monitoring group.

Furthermore, I personally believe it is reasonable to provide some additional assistance in Nicaragua. The National Endowment for Democracy [NED] has been successful in promoting the democratic process and institutions in other parts of the world, including Chile. It is well organized to provide such assistance, and I think that is appropriate in Nicaragua.

Mr. Speaker, I would go even further and support some modest campaign assistance to the opposition parties in Nicaragua, preferably through some organizations unrelated to NED. Nicaragua is not the United States. Nicaragua does not have a tradition of democratic elections and strong party organizations. The Sandinistas have been dominant and still control much of the power, including the media.

If we want to help in providing an even playing field, it is not unreasonable to provide some modest assistance to the opposition. Certainly we should not fully fund their campaign, but some help openly provided is not unreasonable. It is also not in conflict with Nicaraguan law. The law in Nicaragua contemplates outside campaign assistance. One only has to provide 50 percent of that assistance to the Nicaraguan electoral council. Thus, we would not be offending Nicaraguan law by providing some assistance.

It is also important to note that the likely alternative to assistance openly provided is covert assistance, which in my judgment would be a serious mistake.

My problem with this bill is that it is far too generous. To provide $9 million in Nicaragua, a dirt poor country, is to flood the country with money. I think it will create a significant risk of abuse and waste, and reports of that kind will create a problem not just for us, but for the opposition in Nicaragua itself.

□ 1810

The problem is further exacerbated by the ambiguity of the bill on how that money will be spent. The bill would deliver most of the money through the National Endowment for Democracy, consistent with that organization's charter, and that charter specifically provides that "funds may not be expended, either by the Endowment or by any of its grantees, to finance the campaigns of candidates for public office." That is clear enough.

Unfortunately, when one looks at how the administration intends to spend the money, one finds in its breakdown the following items:

"Salaries, benefits and related expenses, $815,000; vehicles, $1,345,000; travel allowances and per diem for 20,000 poll watchers, $600,000." These items raise serious questions; there seems to be a conflict between what the bill says and what the administration intends. If we are representing in this legislation that funds will not be spent for campaign purposes, we should be sure that will be the case. This is not at all clear.

Accordingly, Mr. Speaker, while I would be willing to support some assistance in Nicaragua, I must oppose this bill as being both too large and too loosely drawn.

Mr. RHODES. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, let me begin by thanking the gentleman from Kansas [Mr. SLATTERY] for his comments.

The last time I was in Nicaragua the gentleman from Kansas [Mr. SLATTERY] and I were down there at the same time, and I appreciate his comments and his statements.

Second, I want to thank the gentleman from Wisconsin [Mr. OBEY] for allowing the bill to come out and to move.

This is a good package. It is a good package. All of the Members in the body want peace. We are not talking about sending AK-47's down to Nicaragua. We are not talking about bombs. We are not talking about mining the harbors. We are not talking about any kind of mines that young people could step on. We are talking about the opportunity to promote democracy.

We have an opportunity for free elections. As one speaker said, when we look at all the resources the Sandinistas have, when we met several years ago with Cardinal Obando y Bravo and later with Mrs. Chamorro and went back again to see the resources the Sandinistas had, this helps with regard to changing the process.

It worked in Poland. We are pushing in this body the President to put more money in Poland because we, both Republicans and Democrats, do not think he has done enough.

Well, the same thing would hold true here. It worked in Chile. In Chile and Poland it worked. Let us give it a chance down in Nicaragua.

I would hope that we would have a big strong vote. This is a bipartisan issue. This is not a Republican issue and it is not a Democrat issue. Hopefully we can come together in a spirit of reconciliation to bring about democracy down in Nicaragua. So I rise in strong, strong support.

I thank the gentleman from Wisconsin [Mr. OBEY] for allowing the package to come out. I think the gentleman is a real statesman.

I thank the gentleman from Kansas [Mr. SLATTERY] for his position. Hopefully my colleagues on both sides will come together to do what I think is appropriate, to help bring about democracy in Nicaragua.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I thank my distinguished colleague for yielding time to me.

This is a matter of utmost urgency at this time before this body. As my colleagues have indicated who were with me this Sunday observing the registration process in Nicaragua, time is running out and the process is not leading to full, fair democratic elections as we have envisaged in this House.

There is no question that we found a very strong unification among the political party that is flying the democratic flag, the democratic opposition. We found morale high and we found a commitment to democracy in the country.

There is also no question that we found that the people who are running these elections in Nicaragua are the same people, the same Sandinistas, that ran the sham elections in 1984 that by international opinion were labeled as a fraud.

Very clearly there is a challenge to democratic-loving people to make sure that this election provides the opportunity for fair play.

As we went about the country, as we went about Managua and listened to citizens and watched the polling process work, we discovered that the people want to vote, they want to express their opinion. There is no question about that.

There is interest and enthusiasm in the country in coming to grips with an election. It is exciting. It is something that they are focusing on. Yet if they do not register in the next three Sundays they will be preempted from having that opportunity.

It is critical that we have observers there. It is critical that we have a way to get people who want to get to the polls to register, not in a partisan way, but to exercise their right to vote. It is critical that they understand the process, that they have help understanding what is a complicated registration process. We need to help these people do these things.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I thank the Chair and the manager of this bill for allowing me the time to express my opposition to the appropriation of $9 million to the Nicaraguan political opposition.

First of all, Secretary Baker had in fact endorsed the candidate. I think that that takes us out of the impartial position that we want so much to be in.

Second, I think that it is very clear that $9 million there is like $900 million somewhere else. So if we think that we are going to vote this money today and not be thought to be dominating the process, please forget it. It will not work.

Third, the fact of the matter is that no one has asked for this money. I think that we ought to honestly consider the fact that this is one way that we can get it through the National Endowment for Democracy.

Please be concerned.

Mr. Speaker, I rise today in opposition to this bill that appropriates $9 million in fiscal year 1990 for assistance to the Nicaraguan political opposition, election monitoring, and other election related activities.

The majority of these funds will be channeled through the National Endowment for Democracy. We probably should be eliminating all funding for the NED, not increasing it.

By next year, Nicaragua will already have the monitoring groups from the United Nations and the Organization of American States as well as the Council of Freely-Elected Heads of Government, headed by former President Jimmy Carter, a total of 160 people. Everyone involved in bringing genuine peace to this region would agree that we do not need to allocate $9 million, funneled through the NED.

The National Endowment for Democracy is former administrations baby espousing the so-called "crusade for freedom." It is a small private organization whose primary function has become to influence and shape U.S. foreign policy. This organization funds itself with taxpayer money.

We cannot tolerate this organization meddling in foreign elections, advocating views they ascribe to the American people, and embarrassing our Government overseas.

Most working Americans are feeling the tight squeeze of the Gramm-Rudman deficit reduction targets, trying to meet a Federal budget balance, yet we in Congress are willing to provide $9 million to influence the Nicaraguan elections.

The NED has been able to convince some in Congress that its work is essential to promote democratic institutions abroad and that it does not meddle in or determine policy. This is a euphemism for covert U.S. action. In fact the endowment has secretly supported an organization in France, one of the world's oldest democracies, actively opposing there the governing party. President Mitterand was not informed that the U.S. taxpayer money funded his political opposition and the group had publicized ties to an outlawed terrorist organization.

But perhaps the endowment's most extraordinary activity was funding an organization advocating support of Contra funding in American newspaper advertisements; taxpayer money to advise 535 Members of Congress to support Contra funding opposed by a majority of Americans. The organization, Prodemca, argued that none of the moneys went to the advertisements. But the arguments were unconvincing most people know that funds are fungible.

Prodemeca also appears to have drawn the endowment into one of the most serious public policy scandals in American history: the Iran-Contra affair. Project Democracy, supported and funded by the endowment, was identified by the Tower Commission as part of the illegal Contra supply efforts, so the endowment has repeated again its history of improper involvement in foreign policy affairs, of the execution of policy outside the constraints of accountability and of the decisionmaking process determined by the Constitution.

Other endowment activities have included support for a military-backed candidate in Panama, the ADN Party in Bolivia, the Conservative Party in Columbia.

I urge my colleagues to reject a vote for $9 million and to favor the amendment by our colleague, Mr. DURBIN, to cut our $8.6 million, leaving $400,000 for the team headed by former President Jimmy Carter, the council of Freely-Elected Heads of Government.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, sometimes I wonder what we do around here when it comes to Central America. We play by different rules there than we do here.

In our country under laws passed by Congress there may be absolutely no foreign money injected into our campaigns, not one penny, and rightly so.

Imagine Manuel Noriega giving our Presidential candidates money, or Muammar Qadhafi, or think of any foreign country doing that. It is ridiculous and it is wrong. But yet those very Members in this Congress who would be repelled by such a thing support foreign intervention in Central America. I do not understand.

I will tell Members another thing I do not understand. Members vote in this Congress to cut out our newsletters whereby we communicate with our constituents, but we want to give Mrs. Chamorro $5 million to send out her newsletters.

Now, that is wonderful, but I do not understand it. We are quick to cut our own newsletters, but we are going to give this money that is going to work its way into that campaign so the UNO party can communicate with its constituents. I do not understand. And that is why I am going to vote against it. I am going to vote for the Durbin amendment.

In this country less than 50 percent of the eligible voters vote in Presidential elections. I do not see the same concern about that that I do about registration in Central America. I wonder how many of my colleagues who are bemoaning the fact that there is not enough voter registration in Central America worry about it in this country and are supporting the same-day registration bills that we have here in this House?

So, Mr. Speaker, I think it is time to speak up, and we ought to speak up together. We should be for democracy, yes. Let us support the Durbin amendment. Let us not support a waste of funds. With the $8 million we save, maybe we could immunize all of the kids in this country who are waiting in line for it.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I would like to associate myself with the gentlewoman's remarks. She does not understand.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

□ 1820

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Speaker, I find it hard to understand the logic or illogic that prevails in part of this Chamber. The Soviet Union has told us this year that they are curtailing their aid to Nicaragua and yet, even though Mr. Shevardnadze told Mr. Baker and our President that aid is not going to continue, we knew through intelligence sources that they have been transshipping hundreds of millions of dollars in aid to Nicaragua.

We know that the Communist-controlled Government in Nicaragua for 12 straight hours had propaganda given on state television to the people of that country. Yet the opposition, the UNO forces down there who are fighting for freedom and want free and fair elections, they get 20 minutes a week. They have no money. They do not even have a telephone. They do not have ways to get people to the polls and to the registration areas for registration.

Of course we do not want to help them.

Let the Soviets pour hundreds of millions of dollars of aid in there, let them do everything they can to control the election, but we do not want to help the people who are fighting for freedom down there? You folks have helped abandon the freedom fighters, the 42,000 people who are living, women and children who are living in Honduras who want to be free.

There are 12,000 to 14,000 people who have been fighting for freedom down there. They will not let them register and vote. And you guys, you lovers of freedom will not even allow them to have a pittance so they can at least try to fight for a free and fair election down there.

My attitude is you are supporting a Communist government down there by your inaction. That is my view.

Mr. EDWARDS of Oklahoma. Mr. Speaker, may I inquire how much time remains on each side?

The SPEAKER pro tempore (Mr. KANJORSKI). The gentleman from Oklahoma [Mr. EDWARDS] has 5 minutes remaining and the gentleman from Wisconsin [Mr. OBEY] has 3 minutes remaining.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I strongly support the bill before us which provides assistance for free and fair elections in Nicaragua.

I have been sitting listening to some of the arguments against this bill. It is too much money, we are told. Providing assistance through NED destroys the integrity of that organization, we are told. Some of the funds will inevitably be spent on campaign purposes, we are told.

I do not agree. All these arguments avoid addressing the issue we face today.

That issue is: "Will Congress support democracy in Nicaragua?" It's not enough to say you're for democracy; this is not a time for words, it's a time for action.

This legislation provides the essential assistance needed to conduct free and fair elections.

Without this assistance Nicaragua's democratic opposition faces almost certain defeat. They face running a campaign with only one phone—a phone which is shared with two other businesses and only receives incoming calls. They face the difficulty of transporting UNO pollwatchers to over 4,300 registration booths across the country without even one vehicle.

I urge all Members to support this bill; it is a vote for freedom and democracy in our hemisphere. Vote for democracy, vote for this legislation.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. GRANT].

Mr. GRANT. I thank the gentleman for yielding.

Mr. Speaker, I would just like to remind the body that when we were in Nicaragua recently and met with Mrs. Chamorro and others of the opposition, we also met with Mr. Ortega. He had just returned from a trip to Libya, from the Eastern-bloc countries where he was trying to raise money to use in a very partisan nature, I am sure, in that election. And for us to say that we ought not to put American money from our taxpayers into the race is to fly in the face of the fact that Mr. Ortega is himself doing the very selfsame thing.

So I rise in very strong support for the position that the Representative from Oklahoma [Mr. EDWARDS] so eloquently stated and would remind the Members that we are talking about fair elections as well as free elections.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, I just returned from a trip to Central America, and I offer these observations as we prepare to vote on this package of aid to the Nicaraguan election process.

First, the Sandinistas are likely to win the February elections regardless of what we do to aid the opposition. Let's look at the facts: Over 200,000 Nicaraguans have left the country in the past 10 years. Some are part of the Contra resistance. Others live in refugee camps in Honduras and Costa Rica. Many have left because of political persecution or because they had little economic opportunity within Nicaragua. All of these groups represent, for the most part, anti-Sandinista voters who will not be allowed to participate in the upcoming elections.

Within Nicaragua, the voters have a choice. A real campaign between the Sandinistas and the organized opposition, UNO, is now underway. Violeta Chamorro and her slate of opposition candidates have officially filed for office. That is the good news. The bad news is that voters have only 4 days—the first 4 Sundays in October—to register for the February elections. Many will fail to register. Why? Last Friday in the streets and markets of Managua, I discovered that most people were anxious to register and vote. Yet, no one, I repeat no one as yet knew where they could register although the first registration Sunday was just 2 days away.

The Sandinistas have all the advantages of incumbency. Political patronage is the name of the game in Nicaragua, and all of those Government workers are working overtime to identify and register their supporters.

In spite of this gloomy picture for the Nicaraguan opposition, I feel that our support of the electoral process is crucial at this time. For 8 years I have opposed military aid to the Nicaraguan Contras and the Reagan administration agenda in Cental America. Several of my colleagues and I have supported positive interventions during that time, namely the child survival assistance project.

But child survive funding has been the exception, not the rule. Virtually all of our effort over the past 10 years has been geared toward a military overthrow of the Nicaraguan Government. This misguided and unfortunate policy has brought nothing but hardship and suffering to the people of Nicaragua.

We now have an opportunity for change. Our military support for the Contra forces has ended. Opposition groups are being given a chance to dislodge the Sandinistas with ballots instead of bullets. Aid in support of a free, fair, and competitive election is a welcome departure from the destructive aid of the past.

Frankly, we are getting started too late with this electoral assistance. With one registration Sunday already behind us, this aid is several weeks too late to assist in the voter registration effort that is required to assure the maximum number of Nicaraguans a voice in the coming election. Nonetheless, this money can do some good if made available quickly.

I am most comfortable with those allocations in this bill which generally supported the electoral process, $4 million has been provided for the National Endowment for Democracy. These funds will be allocated to internal groups such as labor unions, the media, and business and civic groups to promote voter information and organization activities. Specific allocations would support the Carter Council, the Center for Democracy, and the Center for Training and Promotion, groups that are dedicated to monitoring the fairness of the Nicaraguan election.

I am more troubled by the prospect of direct aid to the Chamorro campaign. However, half of these funds, under Nicaraguan law, will have to be donated to the Supreme Electoral Council. This money should therefore be used to support the election infrastructure—polling places, election personnel, ballot boxes, et cetera. Ironically, given the fact that the Sandinista Party dominates the Supreme Electoral Council, this represents a windfall for the Government the United States is committed to bringing down.

In spite of my reservations about the funding in this bill which may directly help the UNO ticket, I intend to support the legislation.

First, it reflects a policy change which will make it less likely that we will return to the military option.

Second, Mr. Ortega is already blaming Mrs. Chamorro for receiving aid from the United States though none has been approved. This will be an issue in the campaign whether or not we appropriate the money. Mrs. Chamorro is interested in the help in spite of the charge that she is the U.S. candidate. She claims that many Nicaraguan voters are prepared to vote for a candidate who can improve relations with the United States.

Third, Ortega and the Sandinistas are receiving significant financial support from the Soviet Union, Cuba, Lybia, and other sources. It is naive for us to think otherwise. The Sandinistas will be well-funded by outside governments and our aid will only balance the scales.

Finally, a competitive election is essential if Nicaragua is to continue on the path to democracy. If the Sandinistas walk away with a landslide because the opposition was handicapped, then the prospects for pluralism and economic reforms will be set back. A close race will force the Sandinistas to reach out to a broader cross-section of voters. It will also demonstrate to the opposition groups that they can compete fairly and peacefully for a share of the power and hopefully keep their efforts focused in the political arena where—as in America—they know they will get another chance in the next election.

On balance, this package offers a better shot at a better future for the Nicaraguan people.

Mr. OBEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, several speakers on the other side of the aisle have suggested that persons on this side of the aisle who do not want to provide this exact package "don't want to help freedom, don't want to help the Nicaraguan opposition." That is absolute nonsense. The question is: Are we going to help them smart or help them stupid?

It seems to me that this is far from being a skillful application of American know-how; it is a fairly clumsy application of American electoral and political know-how.

You know, I guess in life sometimes God is cruelest when he gives you exactly what you ask for. And I think that today God is going to give the administration exactly what they asked for. At least the House is, but not with my vote. But I have very little doubt they are going to get it.

□ 1830

I believe one of the problems with this is that in the process of trying to fulfill a very laudable and understandable goal, it results in our turning NED into a pretzel by suggesting that somehow funds that will be provided in this package will not be used for direct campaign purposes.

NED will, according to this proposal, not provide direct aid to a campaign, but they will be able to use these funds for party infrastructure support that would enable the National Opposition Union to receive cash grants from NED's grantees to buy vehicles, set up party offices, purchase office equipment, and pay the salaries of individuals working for the party.

Now, I have been in politics 26 years, and I know that when money goes in to help my party, it helps me. Therefore, I believe we cannot really say with a straight face that we are living up to NED's charter, by the provisions of this debate, and I would be willing to give a reasonable amount of money if it were more clearly and skillfully applied.

I would simply make this point: NED is supposed to be an important and precious instrument which we use to promote the interests of democracy around the world. I would like it to continue to be that kind of instrument. I do not think we help sustain the National Endowment for Democracy, if we require it to go through the kinds of procedural folderol that is required in this instance in order to, with a straight face, provide any assistance for them under this package.

Members are going to vote however they choose. This is not an earth-shattering question. It simply is a judgment call as to whether or not this package is going to injure the National Endowment long term. It is also a judgment call as to whether or not it is, in fact, going to be more help than hurt to the Nicaraguan opposition when all is said and done.

I think that this package is too hefty for them to carry. I think it will be used cynically by the Sandinistas to, in fact, discredit the opposition. I hope they do not succeed. I think we would better protect that opposition if we had a more skillfully drawn package, which I would be willing to support. This is not it.

Mr. RAY. Mr. Speaker, I rise in support of H.R. 3385.

Since 1983, when I was first elected to this body, I have been concerned about the situation in Central America, and in Nicaragua in particular. In my opinion, the economic and political problems of our Southern neighbors pose one of the greatest threats to the future security of our Nation, and I believe it is vital that the United States develop a comprehensive and well-thought out policy toward the region—and that we stick with that policy over the long term.

For those of us in this body who believe that democracy in Central America must be nurtured and encouraged, H.R. 3385 provides a tangible way to prove that our support of the parties seeking free and open elections in Nicaragua is more than just rhetoric.

For the last 6 years, we have tediously and with great difficult and internal conflict within the Congress brought pressure to bear upon the Sandinista government in order to bring about the elections now scheduled for February. If the elections in Nicaragua are to really be free and open, and if the voice of the people is to be heard, then it is vital that this $9 million be channeled to the opposition parties so they can register their supporters, campaign effectively and provide the observation needed to ensure fair elections.

We have encouraged the growth of democracy in Nicaragua, and we have applauded the courage of the opposition parties in mounting a campaign against Daniel Ortega. Now, it's time for us to show that the United States can be counted on to support democractic elections. I urge my colleagues to vote yes on H.R. 3385.

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 3385, as amended, and urge its immediate adoption.

The election scheduled to take place in Nicaragua on February 25, 1990, represents an historic opportunity to break the cycle of repression, violence and economic decline that has plagued that country and to open the way toward a new period of democracy and development. Whether or not this opportunity will be seized will depend not only on the credibility and outcome of the electoral process itself, but also upon the extent to which the political space that is now opening can be secured and continually enlarged upon even after the election is concluded. For this to occur, the fragmented and beleaguered democratic opposition in Nicaragua must develop the experience, confidence and strength that will enable it to become an enduring force in Nicaraguan society and the guarantor of pluralism in the years ahead.

February 25, therefore, is a unique moment in the history of Nicaragua. The election is potentially a watershed which can set the country on a new, democratic course.

It is in that spirit that the Congress should approach this election. The central question facing us is whether the circumstances are such in Nicaragua as to justify providing noncampaign assistance to the Nicaraguan United Opposition, UNO, the broad party alliance of Nicaraguan opposition, and other groups through the National Endowment for Democracy for the purpose of strengthening democratic institutions, processes and participation in a manner consistent with the endowment's mandate and authorizing legislation. I believe we should.

According to the measure before us, funds may be used for nonpartisan purposes, including infrastructure development and training, and for such activities as voter registration and education, get-out-the-vote drives, election monitoring, and international observer delegations. In addition, assistance to support democratic education programs of labor, civic, and business organizations and independent media is authorized and appropriated. As with all NED programs, support would be given openly, for specific purposes outlined in grant agreements.

The factors that must be considered in the debate over whether to provide this assistance include the following:

This is not an ordinary election among parties committed to the rules of peaceful political competition. Rather, it is a contest between a coalition of parties covering the entire democratic spectrum and a nondemocratic party which enjoys a monopoly of state power, including control of the army and the police. While the ruling party, the Sandinista National Liberation Front [FSLN], has accepted electoral reforms in the context of Central American peace negotiations, it possesses vastly superior financial and organizational resources, including those made available to it by virtue of holding state power and aid from Cuba, Libya, and the Soviet bloc. Given the desperate economic circumstances in the country, its ability to use the offer or denial of jobs, food, and housing as political incentives and to discourage people from joining the opposition is an enormous advantage.

No amount of aid to UNO can rectify this imbalance. But such aid can nonetheless be justified out of considerations of fairness and the need to level the playing field by giving UNO sufficient resources to establish itself as a credible democratic force.

It would be preferable if such support could be obtained elsewhere; and indeed, it is hoped that UNO will be able to obtain direct campaign support from Latin America and Europe. But sufficient support is not available from within Nicaragua, given the utter impoverishment of the country. Indeed, the economic decline has produced an urgent need for elementary infrastructure support.

The democratic groups in Nicaragua want this support. They do not believe that their efforts will suffer by receiving noncampaign support from the United States. This judgment call is theirs to make. In this regard, UNO has specifically requested support from the National Endowment for Democracy and its Democratic and Republican Party institutes, not directly from the U.S. Government. They also request that such support be given openly, subject to public and international scrutiny and in the spirit of democratic solidarity.

Consistent with the statute governing NED programs, no funds made available in this legislation may be used to support campaign activities. Standard to all NED grant agreements is a provision which states that, "No funds provided hereunder shall be used to finance the campaigns of candidates for public office;" language requiring the maintenance of "* * * such records as may be reasonably necessary to fully disclose the amount and the disposition * * *" of the funds granted under the agreement; and a series of other provisions establishing procedures to ensure that funds are spent for the purposes stated in the grant.

All NED grant agreements include provisions allowing for an interruption of the flow of funds or termination of the grants if the grantee is found to be in violation of the terms of the agreements.

The National Democratic Institute for International Affairs [NDI] and the National Republican Institute for International Affairs [NRI] would serve as the United States grantees for NED support to democratic political groups in Nicaragua. NDI and NRI will be receiving a proposal from a prominent U.S.-based international accounting firm laying out what role it can serve in establishing and carrying out ongoing accounting and auditing functions. The institutes would work with this proposal and the firm to establish strict policy guidelines and management structures for ensuring segregation of NED funds from campaign activities. Grant agreements would not be signed until budgets are worked out based on policy guidelines, management and accounting requirements. It is anticipated that the necessary consultations would begin as soon as possible.

These consultations would include a review of all budget items requested to ascertain which elements of the budget might be in conflict with NED's prohibition against support for candidates. Specifically, all budget items, including salaries, will be analyzed to determine which of the costs can legitimately be segregated as noncampaign expenditures for nonpartisan purposes after the start of the campaign period on December 4. In addition to salaries, the review would include an analysis of equipment purchases and ancillary activities. In addition to contracting with a major firm to establish accounting structures, NRI and NDI intend to contract for management, purchasing and legal services and will establish a permanent presence in Nicaragua to ensure that all financial and programmatic policies are followed.

Mr. Speaker, it is the Nicaraguan people, not the United States, who must contest this election. It is they who must organize, communicate and do all the other hard work that will be involved in this difficult campaign. All that can be done from here is to provide assistance to those who want a democratic future for Nicaragua so they can function as effectively as possible under the circumstances. If they do, they may have a chance to make this election the occasion for the institutionalization of pluralism, the empowerment of previously marginalized democratic forces, and the establishment of peaceful political competition—grounded in the strategic freedoms of expression and association—as the means of resolving disputes and achieving national reconciliation.

Regardless of the outcome of the February elections, the only true guarantor of democracy in Nicaragua is an active, well-organized civil society. A sustained effort to build and nurture the institutions of democracy in Nicaragua is necessary to ensure that the political opening which now exists does not close abruptly after February 25, 1990. While this legislation requires the Agency for International Development to obligate the funds by February 28, 1990, it is my intention that the National Endowment for Democracy and its grantees develop long-term programs to promote pluralism by aiding the broad civic opposition in Nicaragua beyond this relatively short campaign period.

Mr. Speaker, this legislation was introduced and jointly referred to the Committees on Appropriations and Foreign Affairs on Monday. The bill is of great interest to members of my committee. Yet, in order to accommodate the wishes of the leadership and because of my strong support for a sustained effort to aid democratic forces in Nicaragua, as chairman of the Committee on Foreign Affairs, I agreed to the House's consideration of this legislation today. For the record, I would like to insert a copy of my letter to the Speaker on this matter.

Mr. Speaker, I urge adoption of H.R. 3385, as amended. Given the stakes involved, I believe that the circumstances in this case warrant approval of this support for democracy in Nicaragua and I encourage our colleagues to support the measure.

The letter follows:

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, October 3, 1989.

Hon. THOMAS S. FOLEY,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: The bill H.R. 3385, to provide assistance for free and fair elections in Nicaragua, was introduced and referred jointly to the Committees on Appropriations and Foreign Affairs yesterday, on October 2, 1989. It is my understanding that it is your intention that this legislation, as reported this morning by the Committee on Appropriations, be considered expeditiously by the full House.

As you know, the bill, as introduced and amended by the Committee on Appropriations, contains legislative provisions within the jurisdiction of the Committee on Foreign Affairs. Specifically, the bill, as introduced, waives existing provisions of law in order to provide the assistance stipulated therein and contains a statement of policy with respect to the use of the funds.

Although the Committee on Foreign Affairs was not consulted with respect to the procedure for handling this bill, I fully support the purpose of the legislation. Therefore, without prejudice to the Committee's jurisdiction and to accommodate the Leadership, I have no objection to consideration of the bill, as reported by the Committee on Appropriations, in the House tomorrow. Thank you for your consideration.

With best wishes, I am

Sincerely yours,

DANTE B. FASCELL,
Chairman.

Mr. FEIGHAN. Mr. Speaker, this is a sad day for the U.S. House of Representatives. It is a sad day when the most powerful democracy in the world decides that we are so threatened by an impoverished nation of 3 million people that we feel obligated to buy an election.

In the process, we hurt the cause of democracy. We tarnish the reputation of the National Endowment for Democracy. That organization has been so successful precisely because it has avoided taking one side in an election campaign—but scrupulously supported the process of free and fair elections.

The vote this afternoon is portrayed as whether or not we support democracy in Nicaragua. That simply is not the issue. We all support democracy in Nicaragua. And in Poland, in Hungary, in Chile, and in the Soviet Union. But we don't inject millions of dollars into a country where the per capita income is $300. We don't run a campaign for our own hand-picked candidate. This package is akin to a foreign government sending $800 million to a U.S. Presidential candidate.

We support ballot boxes, voter registration, election observers because we believe that democracy offers the fullest expression of self-determination. But once we cross the line

and begin funding particular candidates, we inject the U.S. Government into the process and we infringe upon the individual right we are seeking to protect.

The package is billed as a way to level the playing field. But over the last 10 years, U.S. policy has focused on leveling the entire country. The Reagan administration began with a covert program designed to interdict arms. Then, we tried to make the Sandinistas "cry uncle." When the administration failed to get public support for the Contra war, they took the operation off the books and we ended up with the Iran-Contra fiasco—the biggest scandal of the decade. In the name of democracy, innumerable laws were broken in this country to bring democracy to that country. Given the historical context, we do no favor to the Nicaraguan opposition by stamping their candidate "made in the U.S.A."

We have a golden opportunity to help support the democratic process. Or we can subvert it. For the greatest democracy in the world, that choice should be clear. Vote for the Durbin amendment.

The SPEAKER pro tempore (Mr. KLECZKA). All time has expired.

Pursuant to the rule, the amendments recommended by the Committee on Appropriations are considered as having been adopted.

The text of H.R. 3385, as amended by the amendments of the Committee on Appropriations, is as follows:

H.R. 3385

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That of the amounts remaining unexpended from funds allocated to the Agency for International Development, up to $3,000,000 of the funds made available by section 9 of Public Law 100-276, and up to $6,000,000 of the funds made available by section 2 of Public Law 101-14, may be used by the Administrator of the Agency for International Development, notwithstanding any other provision of law, for assistance for the promotion of democracy and national reconciliation in Nicaragua: *Provided,* That such assistance may be made available only as follows: (1) up to $5,000,000 in assistance to internal groups, such as support for political organizations and alliances, independent elements of the media, independent labor unions, and business, civic, and professional groups through and consistent with the charter and standard operating procedures of the National Endowment for Democracy; and for support for the election process and monitoring including, but not limited to the organizations specified in proviso 2(c) below, and (2) up to $4,000,000 (a) for election support intended to ensure the conduct of free, fair, and open elections through and consistent with the charter of the National Endowment for Democracy (which may include contributions through the National Opposition Union to the Supreme Electorial Council as necessary); (b) for support for the election process and monitoring, and; (c) of which not less than $400,000 shall be made available for the Council of Freely-Elected Heads of Government, and of which not less than $250,000 shall be made available for the Center for Democracy and of which not less than $400,000 shall be made available for the Center for Training and Election Promotion: *Provided further,* That the provisions of section 7, 8, and 9 of Public Law 101-14 shall be applicable to funds made available by this Act: *Provided further,* That the Agency for International Development shall report to the appropriate Committee of Congress prior to obligation of funds: *Provided further,* That all travel by Members of Congress conducted pursuant to the upcoming Presidential elections in Nicaragua shall be in accordance with section 1754, title 22, United States Code: *Provided further,* That it is the sense of Congress that the National Opposition Union's representative on the Supreme Electorial Council are used solely for technical electoral purposes, such as ballot boxes and ballot printing: *Provided further,* That funds made available by this Act shall remain available until February 28, 1990.

The SPEAKER pro tempore. It is now in order to consider the amendment printed in House Report 101-268 by, and if offered by, the gentleman from Illinois [Mr. DURBIN] or his designee. Said amendment shall be debatable for 60 minutes, equally divided and controlled by the proponent of the amendment and a Member opposed thereto and shall not be subject to amendment.

AMENDMENT OFFERED BY MR. DURBIN

Mr. DURBIN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DURBIN: Strike the first "$3,000,000" and insert "$400,000";

After the first "Public Law 100-276", strike the word "and" and all that follows through the phrase "the provisions of sections 7," and insert "shall be made available for the Council of Freely-Elected Heads of Government for the sole purpose of monitoring the election process: *Provided further,* That the provisions of Sections 7,"; and strike the next to the last proviso.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois, [Mr. DURBIN] will be recognized for 30 minutes and a Member opposed will be recognized for 30 minutes.

PARLIAMENTARY INQUIRY

Mr. OBEY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. OBEY. Mr. Speaker, I am opposed to the amendment, but I would like to guarantee that I can yield 15 minutes of my time to the gentleman from Oklahoma, and that the gentleman from Oklahoma [Mr. EDWARDS], in turn, might be able to yield portions of his time.

Therefore, Mr. Speaker, I make that as a unanimous-consent request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. OBEY] will be allotted 15 minutes, and the gentleman from Oklahoma [Mr. EDWARDS] may receive the balance of the time, 15 minutes.

The Chair recognizes the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I would like to say that the legislation being considered by the House of Representatives suggests we appropriate $9 million to the National Endowment for Democracy to the nation of Nicaragua for their electoral process. Prior to entering into the debate on the specifics and wisdom of that proposal, I would like to make note for the record that the following language is included in the authorizing legislation of the National Endowment for Democracy:

Funds may not be expended either by the Endowment or by any of its guarantees to finance the campaigns of candidates for public office.

Another point I would like to make is that the present population of Nicaragua is approximately 3½ million people, about 1½ million voters. What the administration is proposing with this additional $9 million, that we spend over $12.5 million, through the National Endowment for Democracy, to influence the February 1990 election in Nicaragua.

I would hope that Members of the House would compare that total spending of $12.5 million for 1½ million voters to what we have spent in other nations around the world in pursuit of democracy through the same National Endowment. In Poland, a nation of 36 million people, we spent $2.7 million. In the Philippines, a nation of 50 million, we spent less than $1 million. In Chile, a nation of 12 million people, we spent $1.5 million.

Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Speaker, this is an awful lot of money for a very small country. It is a $9 million package. About $1 million of the $9 million will be used for President Carter's group and related groups. That leaves about $8 million. A couple of hours ago I called Carl Gershman, the very able director of the National Endowment for Democracy, and I asked him when they could get this $8 million, if it is approved today, when they could get it to Nicaragua. He said probably not until early November. That means it will be spending that money between early November and election day on February 14. That is about $600,000 per week. It is about $6 per vote. A major component of that budget is for voter registration, but voter registration will be over by November 1. What is the $600,000 per week going to be spent on? Others have dealt with the list: $615,000 for salaries, benefits and related expenses; $1,345,000 for vehicles, traveling allowances for UNO representatives to visit overseas. That is an awful lot of money, Mr. Speaker.

What this does is to make NED an arm of the Government. That is not what NED is supposed to be. This $9 million, plus the $3.5 million that we are already spending in Nicaragua, through NED comes to a total of $12.5 million in Nicaragua. Last year NED's budget worldwide was $12.3 million. We will spend $12.5 million in one country over a short period of time, when last year NED's entire worldwide budget was only $12.3 million. That is too much money. It is a bad policy. It ought to be rejected, and the Durbin amendment ought to be adopted.

Mr. OBEY. Mr. Speaker, I yield 2 minutes.

Mr. Speaker, I was sorely tempted to vote for the Durbin amendment, but in the end I decided that I would oppose it for two simple reasons. No. 1, I think a case could be made that some additional assistance for electoral process activities, not political party activities, can be made. I think the United States could legitimately provide that assistance without doing injury either to the National Endowment for Democracy or our own national interests.

Second, I think the Durbin amendment is defective because it is very selective in terms of the money it is going to provide. It is willing to provide $400,000 for the Council of Freely Elected Government which is headed by President Carter.

□ 1840

Mr. Speaker, I have absolute confidence that they will do a fine job in overseeing the election activities down there, and I think that we ought to provide that $400,000.

However, Mr. Speaker, there are two other organizations who are also actively involved in trying to assure fair elections down there. One is the Center for Democracy. The bill, as presented for the administration, contains a $250,000 item for them. Also the Center for Training and Election Promotion in San Jose is also providing $400,000 for their election work in Nicaragua. I think that is also a legitimate expenditure.

Mr. Speaker, the Durbin amendment does not provide for those, and, therefore, I think the Durbin amendment is not adequately balanced, and I will, therefore, vote against it.

Mr. DURBIN. Mr. Speaker, I yield 3 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman from Illinois [Mr. DURBIN] for yielding this time to me.

Mr. Speaker, I rise in support of the gentleman's amendment, the gentleman from Illinois. We have had a sad and disgraceful history between our country and Nicaragua from overthrowing popularly elected governments to installing dictators. And now we are attempting to openly support the democratic process by providing money from our country through the National Endowment of Democracy.

Mr. Speaker, I think that generally is good. I think that it is a watershed in Central American relations with the United States.

However, like others who have spoken here this evening, I am very much concerned that there is too much money and too few rules to guide the administration of these funds, and we all know that money corrupts and that $9 million in a very poor, impoverished country is equivalent to maybe $100 or $200 million and will probably corrupt the process there.

Mr. Speaker, I am also concerned that the initiative may backfire, and whomever we support might be opposed by the Nicaraguan people. That would be the effect in my State if someone from Oklahoma tried to come over to Arkansas and openly influence an election. I mean we would all vote against them, and that is the way it works with other peoples as well.

Mr. Speaker, I am very much concerned that the amount of money and the lack of rules might also tarnish the reputation of the National Endowment for Democracy, and I want to rise this evening and urge my colleagues to support the Durbin amendment which I think reduces the amount of funds, makes some rules that are necessary and gives this new initiative, this new change of direction, in Central American relations a chance to succeed.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, this aid package has very broad bipartisan support. It is not a campaign assistance program, but rather supportive of the electoral process, as we have heard, and it is legal under Nicaraguan law. As a matter of fact, part of the money is even taxed by the Sandinista government.

The Durbin amendment, therefore, is perplexing and really devastating to a fair prospect for fair elections in Nicaragua. For years we have been promoting democracy in Central America. We finally signed off on plans for elections removing support for the Contras and getting them out of Nicaragua.

We have all said that we support the holding of free and fair elections in Nicaragua. What do we mean by support? Are these only hollow words?

Mr. Speaker, we have criticized the President for not supporting the Chinese students, for not supporting the new Polish Government more, for not supporting the democracy in Panama. Here we have a chance to really back up our words with actions, real support, and $9 million is not too much when starting from scratch.

Mr. Speaker, this money supports the process, the monitoring, the balloting, the voter registration, the get-out-the-vote campaign, civic meetings, international observers' training of poll workers, and, yes, even transportation. That is true. However they have absolutely none, and that is why $9 million, starting from scratch, is not too much.

Mr. Speaker, all of these are things that NED has previously supported in Panama, Chile, the Philippines, and Poland.

We should oppose the Durbin amendment which would gut the funding of this resolution. We have one chance here because time is very short, as has been pointed out. They are already partly through the registration process.

My colleagues, the Durbin amendment is tantamount to killing the resolution. I urge my colleagues to vote no on the Durbin amendment.

Mr. DURBIN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Speaker, I think that there are a lot of us that came to the floor with a determination to try to make up our minds after listening to some debate on this issue. I do not think it is all that clear-cut. I did not think so up until just a few minutes ago.

Mr. Speaker, I just want to tell my colleagues that one of the problems that I am personally going to have with this piece of legislation is, No. 1, I hesitated to oppose it because I am never sure I am completely right, like some of my other colleagues appear to be. Second, my view was that perhaps we would do just the reverse of what we intended to do by providing the kind of assistance that this bill purports to provide.

However, Mr. Speaker, let me say to the gentleman from Indiana [Mr. BURTON] who preceded me in the well by some speakers it has always been a part, quite truthfully, of the undercurrent in this House that, if somehow one does not support the administration's position with respect to Nicaragua, that they would somehow be coddling communism.

Mr. Speaker, I take that personally, and what the gentleman just said on the floor ahead of us I think deserves to be taken back by him.

As far as I am concerned, the Durbin amendment ought to be passed. This bill is not worth the paper it is printed on so long as there is the belief that the rest of us are coddling Communists if we do not support their position. Well, they can forget it.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, it is very clear that a simple choice stands before us. Does the United States of America stand for the cause of freedom and democracy by supplying $9 million? It is a small amount of money when we are talking about an issue like freedom.

Or, Mr. Speaker, does the United States of America do nothing, basically nothing, and stand back and allow this Communist, totalitarian, and repressive regime to remain in control?

I think it is a very simple choice. We have in this decade seen 13 countries, now 14 countries, have free and fair elections, countries which had not had elections throughout the decade and who had not had elections for years and years in the past, and now I think it is important for us to do everything that we can to put this aid package in place.

Many people have said that we are supporting one particular party. Mr. Speaker, this coalition consists of the Communist party; the AFL-CIO is heavily involved, the union party, all the way to the conservative party. They are united. They are united because they have one simple and basic goal, Mr. Speaker, and that is to turn out the Sandinistas.

Will this $9 million package make it possible for free and fair elections? I fear that it will not. The election is one-quarter of the way complete because of the registration process which is overwhelmingly stacked against UNO, the opposition. Unfortunately we have seen hurdle after hurdle established by the Sandinistas. They have millions, in fact hundreds of millions, of dollars which has gone into Nicaragua from the Soviet Union and Libya.

Mr. Speaker, it is clear that we need to have at least this $9 million package, and I urge opposition to the Durbin amendment.

□ 1850

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, I stand to oppose the Durbin amendment. I stand for what is in the bill which is, of course, $9 million in fiscal year 1990 funds drawn from previously appropriated funds, $5 million to the National Endowment for Democracies, $400,000 to the Council of Freely Elected Heads of Government, $250,000 to the Center for Democracies and $400,000 for the Center for Training and Promotion, plus $4 million for general election support.

I think the important thing is that we stand for a full, free, and fair election. This is an attempt to help that come to pass.

The cards are stacked against the opposition. We know that as a result of the Sandinista government and the roadblocks that have been mentioned here toward a free election.

I am convinced and I will predict that if we are able to pass this amendment and the money is allowed to be spent for the general election support and that there is a truly free and open election, you will see what happened in Panama and the opposition will win and it will win overwhelmingly.

I think it is important that we have and establish the framework for a free and fair election there.

We need to level the playing field in an electoral process that is heavily tilted toward the government, that is, the Sandinistas favor.

Mr. Speaker, this is not military aid. It is not covert aid. The National Endowment for Democracies will not be allowed to support any particular party.

This money will go to voter registration. It will go to education. It will go to poll watching. It is designed to encourage the internal political opposition to fight the good fight, and if they do fight the good fight, we will have a free, fair and open election and we know what it will be like in Panama. The opposition will win.

Mr. DURBIN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in support of the Durbin amendment to H.R. 3385. The Durbin amendment would strike $8.6 million of the proposed $9 million for assistance for the elections in Nicaragua, leaving $400,000 for election monitoring. H.R. 3385 unamended would provide $9 million in assistance for elections in Nicaragua. This legislation is not appropriate for a number of reasons.

Mr. Speaker, I have no doubt that every Member on both sides of the aisle is a strong supporter of democracy and wants to promote democracy and free elections everywhere.

I oppose H.R. 3385 because I do not believe that the Bush administration's plan to assist in the Nicaraguan elections will achieve any of these goals.

Nine million dollars, contrary to what some of our colleagues have stated, $9 million is an extremely large amount of money to be spending on an election in Nicaragua. There has already been $3.5 million appropriated to build the democratic process in Nicaragua. The additional $9 million, bringing it to $12.5 million spread over 1.5 million Nicaraguan voters, equals $6 for every voter in a country where the average per capital income is $300.

We have heard these figures before this afternoon. I just want to revisit them.

A foreign government undertaking a similar effort to influence the elections in the United States, an action which would be illegal, would spend over $800 million. That is the comparable figure.

As many of my colleagues will point out, although the United States generally advocates a position of neutrality in foreign elections, we have aided opposition parties in the 1988 Chilean plebiscite and the 1989 elections in Panama. This plan for $9 million, combined with the $3.5 million already appropriated would mean we would be spending almost 40 times more per capita to influence the Nicaraguan elections than we spent on the Chilean plebiscite. I find the arithmetic and the amounts proposed staggering. The United States aid would nearly equal the total cost of $14.4 for administering the Nicaraguan election as estimated by the Nicaraguan supreme electoral.

H.R. 3385 is uncomfortably vague about the activities on which the money can be spent. The administration is unable or unwilling to provide a detailed accounting for how American taxpayer's dollars would be used in the Nicaraguan election, raising the very real possibility that it will be misused. What will the money be used for? The Bush plan proposes millions for voter registration—a process that will only be on-going for another 2 weeks in Nicaragua. Our Federal Government does not even expend any funds for voter registration in our own country.

We have learned the hard way that even when there are laws in place, zealots will find ways around them. It is totally unacceptable to support a plan that contains no guidelines or restrictions for activities in a region in which the temptation for the administration to interfere is great. As we search for ways to promote democracy, we must realize that our activities are setting bad examples of how a democracy might work.

There are indeed legitimate activities to promote democracy. The administration has not presented us with any comprehensive plan for such activities. Fiddling around in the Nicaraguan electoral process runs the real risk of creating an atmosphere hostile to "Yankee Imperialism" and a backlash against the very democratic process which we seek to encourage.

I do believe that there is a legitimate role to be played in the Nicaraguan elections by international election monitors. I support the Durbin amendment because I believe that it supports the kinds of activities which we must encourage, unbiased international election monitoring. We want to ensure that free and fair elections are held in Nicaragua. Let us set an example by making positive that our own Government does not participate in activities which will prejudice the election. I urge my colleagues to oppose the obscene expenditure of $9 million

for uncertain, vague and possibly illegal activities.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, you know, it is a fascinating exercise we are watching here. We have known for some time that there are elements in this Chamber that want to emasculate the Contras, and they succeeded. The Contras are now fading into refugee status, but they put all their eggs in the basket of democracy, free and fair elections, but now we see an effort to pull the life support system on free and fair elections, $400,000 instead of $9 million.

Well, if you want an already vertical playing field to become even more perpendicular, I suppose go ahead. Imagine $400,000 against $500 million a year from the Soviet Union in military and economic support a year, $500 million. The army is dominated by the opposition party. If Mrs. Chamorro wins, what is she going to do for an army? They are all in the Sandinista camp; telephones, access to the media, a stacked election commission, and we begrudge them $9 million, half of which I guess goes to the electoral commission under their laws.

I should think people who have successfully emasculated the Contras would have a serious interest in seeing that somehow there is a pass at a free and fair election, but that is not so.

To the gentleman from Texas who said that they are being accused of coddling Communists, I would disavow that notion totally, but I would say that actions have consequences. There is a Latin phrase, "cui bono?" Who benefits?

Now, Neville Chamberlain did not coddle Hitler. I am sure he was as great an English patriot as Lord Nelson, but what he did benefited the Nazis and caused an awful lot of deaths in World War II.

And so what we are doing with the Sandinistas by not giving the democratic opposition adequate resources, they do not have telephones, they do not have trained poll watchers, they do not have transport; by not giving them a modicum of assistance and resources, not to the candidates, but to the process, it is already farcical, and this makes it even more so.

I will tell you, I know how Henry Jackson would vote were he alive on the Durbin amendment. I know how Harry Truman would vote on the Durbin amendment. I know how John F. Kennedy would vote, and yes, I know how George McGovern would vote.

I would suggest that you should have an interest now that you have made refugees out of the Contras in giving democracy a half even chance. Give David a slingshot as he goes against the Sandinista Goliath.

I hope and pray that you will reject this poisonous amendment and give democracy half a fighting chance.

Mr. DURBIN. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. MRAZEK].

Mr. MRAZEK. Mr. Speaker, with all due respect to my distinguished colleague, the gentleman from Illinois, we have blown hundreds of millions of dollars on the Contras that has gone into their bank accounts and their Gucci suits and their Rolex watches, and now the gentleman acts as if $400,000 is a pittance in a country where some people are rubbing sticks together to make fire.

I would like to tell you, tell the people of Charleston what they could do with $9 million when they have lost everything they have got.

Mr. HYDE. They could vote.

Mr. MRAZEK. Think what your local school districts could do with $9 million. With $9 million, your local school district might be able to provide a little better education for your kids.

Maybe we ought to think about that a little more.

Now, I happen to have a breakdown here of where all those millions of dollars are going to be spent in that godforsaken country.

We have got courtesy invitations to visiting delegations, $140,000.

Travel allowance and per diem, $600,000. Well, there is $740,000.

Why do we not send Malcolm Forbes and Liz Taylor down there with their team? What do you think? They could enjoy a good party for $740,000.

Here we have vehicles, $1.345 million, that is one million, three hundred forty-five thousand dollars.

What are we doing, are we taking these people to the polls in a fleet of Jaguars?

□ 1900

Education programs for registration and voting, $720,000. In those big city machines in Chicago and New York City, they used to talk about a chicken in every pot. It sounds to me for this kind of money like we are going to be putting a CIA agent in every hut down there. We are talking about seminars, lectures, and meetings, $315,000. Who are we sending down there to provide these lectures and seminars? I know that Ollie North is getting $50,000 a speech now, but that would only be six speeches, so I assume that for all of the people we need to educate, we are going to have to send down more than Ollie North.

I think we have to be concerned that we are going to be looked at as the big gringo again trying to buy an election and corrupting the results of an election in which a lot of human beings for the first time will hopefully have an opportunity, in a free and fair election, to vote.

They have the same hopes and dreams for their children that they have a better life that we have for our children. Yet, we have to make sure they get registered. I do not think we have to spend $9 million to get a process through to get them registered.

I know the gentleman from Oklahoma [Mr. EDWARDS] himself suggested on his recent trip to Nicaragua he said he was able to see 50 people walk in and register while he was there observing alone.

We are a nation of laws. It is what separates us from the nations we so easily condemn on this floor, and as a nation of laws and a nation of respect for laws, yes, we do have a responsibility to see that we can help to monitor a free and fair election in Nicaragua, but let us not waste more American taxpayer dollars that could be better spent in Charleston or in your own school districts on a process which clearly cannot effectively utilize this money, which is designed to buy an election, which will be counterproductive in terms of how a victory by Mrs. Chamorro is looked at, and Lord knows, I hope Mrs. Chamorro is elected. But when she is elected, it will have to be on the basis that we allowed a free and fair election with $400,000 designed for monitoring, and a lot of people who want to make sure that that free and fair election takes place.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BOSCO].

Mr. BOSCO. Mr. Speaker, I do not know what the word Nicaragua means in Spanish—but I do know what it means in English—"Let's waste money." We wasted millions when we gave it to the Sandanistas, we wasted millions when we gave it to the Contras, and now we're about to waste millions by giving it to the apparently innocuous election process.

Now I do not know exactly how this money is going to be used. I have heard the purpose described as everything from poll watchers to paying Mrs. Chamorro's phone bill. This amendment will apparently help former President Carter and his group.

I will say people in Communist countries don't have much trouble getting out to vote. Sixty-five percent voted in Poland and ousted the Communist government there. Eighty percent voted in the Soviet Union and turned the party upside down—even defeating some longtime Soviet politicians who didn't have any opponents.

Let us look at voting in Central America. An overwhelming number of people showed up in Panama, ousted Noriega and his friends, forcing him to steal the ballot boxes. People stood in lines to vote in El Salvador, even while

they were being shot at. In Guatemala over 80 percent of the people voted.

If we are worried about people voting—let's do something about our own turnout—only 53 percent of those eligible voted in our last Presidential election.

Maybe that is because people are tired of us wasting money. The $9 million is a waste. The $400,000 is a waste.

We are not used to leaving people alone. Especially when we can waste money on them. But in this case I think leaving the people of Nicaragua alone—without 1 cent of our largesse that may very well do the best thing, for them and for us.

Mr. DURBIN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Speaker and Members, I rise in support of the Durbin amendment, not because it is my first choice but because it is the only choice. My personal preference would have been to provide a small amount of money to help out for voter registration and things of that nature, clearly, not buying four-wheel vehicles which will end up in the camp of Daniel Ortega come next February.

Mr. Speaker, let me try to put the debate in a different light. Let us just suppose that Dan Ortega and the Sandinistas in the last Presidential election here in this country sent Michael Dukakis $4 million. What would be the reaction from the Bush campaign? What would be the reaction from the Republican side of the aisle? My lord, the outcry would be deafening, totally deafening. But what are we doing today? We are doing in essence the very same thing.

A portion of this legislation, about $4 million, will go to the opposition party, UNO, and its candidate, Mrs. Chamorro.

Under Nicaraguan law, 50 percent of that goes to the Supreme Electoral Council. The gentleman from Texas on the other side indicated that, yes, there is one representative on the council from the opposition party. In fact, there are two opposition members on the election council, but clearly not a majority. The majority is controlled by the Sandinistas.

By our vote today, we are going to give a minimum of $2 million to the Sandinista reelection campaign of Dan Ortega, and I think it is kind of comical. It is going to be very comical in a short while to watch my friends on the other side of the aisle vote $2 million of U.S. taxpayers' money for their good friend, Dan Ortega.

I just had the opportunity, with three other colleagues, to return from Nicaragua, and we toured the camps. We met with the refugees. We went to the hospitals to see the little children who have been maimed by this war, and I tell the Members, my friends, if we have an additional $9 million laying around in this country, let us earmark it for the child survival fund where in that country we cannot only provide corrective surgery for the kids who had their limbs blown off; so we could provide prostheses so these kids can walk and have a normal life. But to give $2 million to Dan Ortega, I think, is totally absurd, and I plead with my colleagues to support the Durbin amendment.

Mr. DURBIN. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, with all the other pressing national questions, with thousands of homeless Americans in Washington this week to tell us we have failed to provide affordable housing in America, with veterans' medical care in crisis, how do we suddenly come up with $9 million in an attempt to buy an election in one of the poorest nations on Earth, $9 million outside the regular appropriations and authorizations process, $9 million in 36 hours? Because it is a crisis?

Mr. Speaker, why can we not show the same urgency in bringing bills to the floor that will help American citizens? This Congress has already appropriated $3.5 million, $2 per voter, for the National Endowment for Democracy. This bill adds $9 million on top of that, $5 per voter, public funding for elections in Nicaragua, public funding for voter registration in Nicaragua, and not a penny here at home.

My friends, democracy starts at home. Vote for the Durbin amendment and turn back this hypocrisy.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Speaker, I rise in opposition to the Durbin amendment. As I have argued many times on this floor, our policy toward Nicaragua has, for too long, been characterized by a bitter partisanship unrivaled on other foreign policy debates. The result has been that the democratic center in the House has given way to extremes on both ends of the political spectrum.

The potential for a fresh approach toward Nicaragua came earlier this year when, after Daniel Ortega promised to hold free and fair elections in February 1990, the administration and the bipartisan leadership in Congress reached an agreement to sustain the Nicaraguan resistance with humanitarian aid through the elections.

Since Ortega made this promise last January, a consensus has been building that the United States should take decisive action to promote democracy in Nicaragua by leveling the playing field without directly interfering in the elections. The package the administration has sent up today accomplishes this important objective. It will support the democratic process in a number of important ways. It will allow the National Endownment for Democracy and its affiliate institutes to carry out activities similar to those pursued by NED in Chile, Panama, the Philippines, and Poland. These activities include training, party building, civic education, "Get out the vote" drives, election monitoring, support for international observers, and other critical programs which will ensure a maximum voter turnout.

Mr. Speaker, this package deserves our support. But the Durbin amendment threatens to undo all of this.

Supporters of the Durbin amendment argue that it is too much money. However, the fact is that 10 years of Sandinista rule have done great harm to the democratic process in Nicaragua, and it will take money to repair and restore it. The $9 million in the administration's package not only will promote the democratic process for the election in February, it also will lay the foundations for its continued development after the elections take place.

Proponents of the Durbin amendment also claim that the reputation of NED will be damaged if we adopt this aid package. Yet the Board of Directors of NEC, which includes such distinguished individuals as DANTE FASCELL, Lane Kirkland, Zbig Brzezinski, and Charles Manatt, has unanimously endorsed this proposal. It is ludicrous to suggest that the Board of Directors would do anything to put NED's reputation at risk. Again, NED has carried out similar activities in other parts of the world. Are Nicaraguans less deserving of a democratic process than Poles, Chileans, and Panamanians? I do not think they are.

Finally, supporters of the Durbin amendment contend that we might somehow discredit the outcome of the election or allow the Sandinistas to claim that we are buying the election. Mr. Speaker, the Sandinistas will make these accusations even if we do not send a dime to Nicaragua.

Nicaragua is at a political crossroads, and we have an opportunity to put it on the path to democracy. The Sandinistas are taking advantage of every resource of the state to frustrate the opposition's campaign. We should make this minimal gesture to ensure that the opposition has an opportunity to compete with the Sandinistas on a level playing field.

I urge my colleagues to oppose the Durbin amendment and support the bill to provide free and fair elections in Nicaragua.

□ 1910

Mr. DURBIN. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I came over because I heard the gentleman from California [Mr. Bosco] and

I thought it was the most formative speech I have heard on this subject for a long time.

I just would like to say that Congress had better start talking about Toyotas. Sandinistas will take care of themselves.

If we keep sending money down there we are just buoying up the economy. They do not have enough money to keep toilet paper on the shelves in their stores. Communism is falling apart and $400,000 is more than enough.

We better start looking at Toyotas and start talking about soybeans around here before in about 10 years we will be shipping foreign aid over with the yen.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield myself 3 minutes.

First of all, Mr. Speaker, let me say I am sorry that my good friend, the gentleman from Illinois, Mr. DICK DURBIN, and he is a friend, is wrong on this amendment, because he is right on so many of the other things that he brings to the House floor.

I am surprised by the Members who have suddenly become fiscal conservatives and who find it shocking that we would provide $9 million to help promote democracy in a nation where people are starving for democracy.

I wish these Members had had the same sense of fiscal responsibility when other bills had come to the floor, but it was lacking at that time. But I am always glad to welcome converts.

I am also very interested in the fact that so many of my colleagues find it so outrageous that we would involve ourselves in foreign elections and in foreign politics. I do not remember hearing them say that about Chile; I do not remember hearing them say that about Panama; but I guess I was just not listening, because I am sure they did. My colleagues are very consistent. I will go back and look in the CONGRESSIONAL RECORD and find those comments.

I am a little surprised at the concern about how quickly we have moved at the request of the Speaker of this House to provide $9 million for the elections in Nicaragua. It seems we moved just about as quickly to provide $200 million to Mrs. Aquino in the Philippines, and I am very glad that we did.

I am not neutral between democracy and dictatorship. I do not think it is wrong to take a stand and say they are not morally equivalent.

I urge my colleagues to vote down the Durbin amendment. I urge my colleagues to vote for this small amount of money to promote democracy in our hemisphere.

I associate myself closely with the words of my friend, the gentleman from New York [Mr. MRAZEK], they are human like us. They have the same dreams we have, they have the same aspirations we have. Let us not deny them the right to a free and fair election on a level playing field.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Promoting democracy and helping people who want to be free is and should be the life blood of the U.S. foreign policy. A couple of speakers have said that we want to prevent bloodshed. My friends, democracy is the alternative to bloodshed.

If Members do not want to give this money, if you do not want to spend money to help Nicaraguans and democracy, to build democracy in their own country, then we might as well tear down this picture of Lafayette and put up perhaps a picture of Scrooge.

This is absolutely critical. As the gentleman from Illinois [Mr. HYDE] said, we have the Soviet Union financing the other side to the tune of $500 million or $600 million a year. To fiscal conservatives, sure, even if we have to give a couple of thousand to Daniel Ortega, this is worth it, because this is the only chance we have.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I thank the gentleman for yielding time to me.

I just want to point out, and I think it makes a lot of sense, many in the majority party have outlined a plan to aid Hungary and Poland to the tune of $887 million.

Imagine that. We are going to give $887 million to Hungary and Poland, who are still part of the Warsaw Pact, not that we should not do things there. Obviously we should. But we are reluctant to allocate less than 1 percent of that amount to a country in our own hemisphere that wants to have some kind of election down there.

The problem I have with giving the $9 million is I am concerned this is going to validate the election. If there is an election held in Nicaragua and there are phony results, which I fear and I suspect in advance of those elections, people are going to stand up on the left side of this issue and argue that we just had a free fair election and it has been validated by putting this $9 million in there.

We put ourselves in the trick bag in this case. But do you know what? This is the only game in town, and that is why we have got to do the $9 million, because we have no other option at this point. Let us give the election a chance.

Mr. DURBIN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I think it is pretty clear that upon examination of this measure this is not a question of fiscal conservatism or liberalism, this is a question of whether we are a fiscal fool to send $9 million into this process, and we are asked to vote on it before it is determined how that money will be used, who the recipients will be, and the purposes to which it will be put.

The notion is that somehow this is an endorsement of freedom if we simply vote for this $9 million. The notion is that they cannot have freedom unless we spend this $9 million. We cannot have a free and fair election even though there will be every monitoring group that exists in the world involved in this process.

□ 1920

We are into this election process $1 billion. We funded the Contras, we have destroyed their economy, we have taken Mrs. Chamorro, and we buy her newsprint, we pay for her newspaper to run, we make sure that she has access to newsprint, we funded her entire operation, and now we are going to provide her the very best election that America can buy.

You could have had—if you want to take a stand for democracy, you could have taken it for free yesterday, had the President just grabbed General Noriega when he had his hands on him. But he chose to send him back.

What is it going to cost us to promote democracy in Panama? Is that another $9 million or $10 million?

We already had that election. We already had the dictator. The people spoke out yesterday, people risked their lives, and we threw them to the wolves. Do not tell me about your commitment to freedom. You had your hands on him. But you decided you would not do it. You would not take the risk for democracy to set an entire nation free, but now you tell us you are going to spend $9 million and somehow that is going to assure freedom. It will not work, it will not work.

These Contras would not fight unless we paid them. UNO would not stay in business unless we paid them. They have squirreled away the money in their bank accounts. And apparently now they will not register and go vote unless we pay them.

Is this not a time that we make this a Nicaraguan election rather than an American election? Is it not time that we step back and let the Nicaraguan people decide this? Then should they decide to vote for Mrs. Chamorro, and I hope that they do, then we ought to consider aid just as we did in the case of the Philippines, aid in the case of Poland, when we see that that demonstration has taken place. We ought not to be voting for this $9 million.

The Durbin approach is a reasoned approach so that this election can be monitored, it can be certified, we can determine that it is either free and

fair or it is a farce and we can take appropriate action at that time.

We should not be spending this money and sending it down the same rathole with the same rats that took us for a billion dollars.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. With all due respect to the rhetoric on the other side—please, some of you gentlemen please listen.

With all due respect to the rhetoric on the other side, Mr. MILLER of California, Violetta Chamorro is not a rat. You got that? She is not a rat. And what she is trying to do down there is not a rathole. When her husband was assassinated in January——

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding.

Mr. Speaker, my reference was to the same people that have been sucking U.S. Treasury money and sitting around in Miami trying to get a free ride.

Mr. DORNAN of California. But that is not her.

Mr. MILLER of California. They are trying to get a free ride. Now they are sucking off of this process in the name of freedom. Those are the people I have referred to. They know who they are, you know who they are, and I know who they are.

Mr. DORNAN of California. I will accept that, as confusing as it was, by way of clarification that the gentleman does not mean Violetta Chamorro is a rat. Her husband died for freedom, assassinated in January 1978. That is how we got rid of Samoza eventually.

Now if this were an election called by Samoza, if that dictator were alive, as Pinochet got arrogant and called for an election, you would be out there saying send them $19 million to $90 million.

The fact remains that the Washington Post said the Sandinistas want $4 million, the others will get most of the $5 million, and Carter gets 0.4.

How far radical left do you have to be to deny the 9 to both sides?

Mr. EDWARDS of Oklahoma. Mr. Speaker, the gentleman from Illinois [Mr. DURBIN] has the right to conclude, after my side does, with his remarks on his amendment.

So, Mr. Speaker, for those Members who did not hear her before, I yield 1 minute to the gentlewoman from Florida [Mrs. ROS-LEHTINEN], who did such a beautiful job before.

Mrs. ROS-LEHTINEN. I thank the gentleman for yielding.

Mr. Speaker and colleagues, we have heard a lot of fine words, people who say they are for democracy, they are for free and open elections. But this is the time when you have to put that vote down and you have to decide that those empty words of praise for democracy and praise for free and open elections is not just reserved for those wonderful democratic and free and open picnics that we have and the parades and all those fancy things that we do back home when we say we are for democracy.

This is the time when it counts.

I know what communism is. I lost my home; I have family there that are still suffering; I have family that wants to come over here to the United States and they are not allowed.

I have family members who want free and open and fair democratic elections in my native Cuba, and they are not allowed to have them. Here we have an opportunity to really put our money where our mouths are.

If we say we are for free and open and fair democratic elections, then vote that way, and this is a good opportunity for you to do so.

I only wish that my family in Cuba would have the opportunity that some of my residents who have family in Nicaragua will have the opportunity to do on February 25.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE].

The SPEAKER pro tempore (Mr. KANJORSKI). The gentleman from Illinois [Mr. HYDE] is recognized for 3½ minutes.

Mr. HYDE. Mr. Speaker, I think we ought to step back a little bit and look at what is proposed here.

I have heard it said we are attempting to buy an election. I would have recourse to the history books after World War II.

In Italy it is a matter of record that this country involved itself to the extent of sending money over to the non-Communist political forces in Italy and helped save that country from going behind the Iron Curtain.

One of the great facilitators of that good move was Clark Clifford, a gentleman who is held in high, justifiably, regard by the Democratic Party.

We did not buy the election there. We facilitated a democratic process.

We are not trying to buy an election in Nicaragua; we are attempting to even things up.

When you have one party that has the army, that has control of the media, that has control of the transport, that has control of the electoral commission and which receives hundreds of millions of dollars from the Soviet Union and Cuba and from the East bloc, it is pathetically little that we want to give to the process, not to the candidates.

One of the gentlemen, I think the gentleman from Wisconsin, said that we should not be giving Mrs. Chamorro money. We are not giving any candidate money. We are attempting to give the political process an assist on the side of liberty rather than subjugation.

Parenthetically let me inquire why the romance with the Sandinistas? Why are they thought to be social democrats with a humanitarian face? I do not know. What is happening is all—you are saying let us be isolationists, let us step away and leave this to the Nicaraguan people.

But the people are in a straitjacket. People are impoverished; the people have no resources to have a free and fair election.

That is what we want.

Now, Pinochet was defeated in a plebiscite down there, he was deposed in the future, but the plebiscite voted "no." The National Endowment for Democracy was active down there, not supporting any candidates but supporting the opposition so they would have a chance.

They had a chance, and they won.

Those people here who object to what we are trying to do through the same agency in Nicaragua where silent, thunderously, resoundingly, ringingly silent when the National Endowment tried to assist the forces of democracy in Chile.

Mrs. Aquino has been the recipient of lots of money, hundreds of millions of dollars, and I say "Good." We have a stake in freedom around the world.

This notion that we should take care of our own people at home rather than help countries overseas comes a little hollow when we vote a for billions of dollars for countries around the world because we have a stake in their survival.

□ 1930

We have a stake in freedom. To retreat behind a blanket and pull it over our head and say what goes on on the land bridge between Texas and the Panama Canal is of no concern to the United States is blind; dangerously, willfully blind.

So I hope and pray that this modest, little anemic, not to say anorexic program to help the process down in Nicaragua will receive the support of those Members who are committed, verbally and by posture, to the democratic process in our hemisphere.

Mr. DURBIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, if the goal of our foreign policy in Central America is to energize an election, the United States, through the National Endowment for Democracy, has already made a substantial investment in Nicaragua. Let it not be said by anyone leaving the floor today that if the United States does not spend another penny, we have somehow forsaken the electoral process. In fact, in this fiscal year, we will have spent $3½ million in Nicara-

gua specifically for this electoral process.

For what? Our $3½ million has been spent on workshops, voter registration, conferences on election monitoring, promoting trade unions and registering their members, and subsidies to anti-Sandinista newspapers, radios, TV and magazines. Just a few weeks ago, the National Endowment for Democracy released the last allotment of funds, $1½ million, into the tiny, poor nation of Nicaragua. For what? $415,000 for labor groups, over $800,000 for voter registration, and $250,000 for the opposition newspaper, La Prensa. The United States has made it clear that we want a fair and free election. We have already invested millions of dollars to that end.

What I am asking my colleagues in the House to consider tonight is whether or not it is necessary to spend an additional $9 million on the Nicaraguan election. I think not.

Several days ago, the Secretary of State, Mr. Baker, sent a letter to the Speaker of the House which was released to the Committee on Appropriations. The administration is obviously not content with the millions already spent. The Secretary of State wants an additional $9 million spent by our taxpayers in Nicaragua. He made it clear, though, that his intent is not to aid the electoral process. Reading his letter makes that clear. If Members of this House received this letter in their campaigns, they would put it in their brochures because Secretary Baker endorses one particular candidate and one particular party—the UNO party and Mrs. Chamorro.

I might also say that the Secretary waves the bloody shirt of the Soviet Union spending $500 million in Nicaragua, as if this is going to somehow influence the outcome of this election. Let me remind the Members that the United States of America spent $384 million supporting the Christian Democrats in El Salvador, and guess who won? Mr. Cristiani of the rightist ARENA party. All of that United States aid did not buy the Salvadoran election. All the money spent in Nicaragua by the Soviet Union and by the United States can hardly be expected to do the same.

Let me add, too, that the suggestion that we are somehow leveling the playing field misses the point. I just returned from Nicaragua. I can tell Members what the people had concerns about. They were concerned about food, clothing, milk for their children, vaccinations. The basics, the necessities.

Look what we have done to the nation of Nicaragua. We have promulgated a civil war which has destroyed their economy. We have turned to a trade embargo to strangle their economy, and we wonder why they are suffering. We have added to the decline of the marxist economy with our own foreign policy, and it is the people of Nicaragua who are the unfortunate victims.

Up to $5 million in this appropriation can go directly to one political party; $1.4 million in cash, with little or no accountability. Ladies and gentlemen of the House, we would not turn loose this money to any agency in the United States with that little accountability. Ironically, because of Nicaraguan law, up to $4 million could go to the Sandinistas themselves. Is that what the other side of the aisle wants, support for the Sandinista government? I did not catch that message in all of the speeches made earlier.

The strategy which we are pursuing in Central America, the one which the administration brings to Members to spend this $9 million, replaces gunboat diplomacy in Central America with political action committee diplomacy. If the United States is unhappy with the government, we will not send in the marines; we will send in media consultants.

Now the saddest argument I have heard in support of this appropriation comes, unfortunately, from my side of the aisle, where otherwise progressive Members support $9 million spent over the table as opposed to untold millions spent under the table. They would rather see this money spent overtly than by the CIA covertly, and welcome a mugging in broad daylight to avoid the suspense of a burglary at night.

The amendment which I offer tests whether the United States is setting out to secure a free and fair election in Nicaragua, or whether our goal is to guarantee a victory for one slate of candidates. Our best policy is to stand fast with the money we spend and to encourage vigorous monitoring by people we trust. The group that I am supporting with $400,000 includes a former Republican President of the United States, Gerald Ford, and a former Democratic President, Jimmy Carter. They have been entrusted with the responsibility of monitoring this election. I am fully funding their effort to make certain that it is free and fair, or if it is not, that the results be reported in the court of public opinion.

Let me close by saying this: For those who feel that the United States' funding of a bloody civil war in Nicaragua was not a proud chapter in the history of a peace-loving Nation, I am afraid this massive expenditure of millions, to muscle into the Nicaraguan elections, will never prove our national commitment to democracy. If our goal is really free and fair elections in Nicaragua, Uncle Sam has to keep his hands off the ballot box.

Mr. OBEY. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, I think it takes a real sense of humor for any Republican in this House to lecture any Democrat on fiscal responsibility after the 8 years of Reagan deficits which we have seen run up in this decade. I also find it somewhat ironic to see that $2 million in this package will wind up in the hands of the Sandinista government.

The gentleman from Illinois referred to a "love affair" which he thinks some people on the left have with the Sandinistas. I know of no one in this House who has a love affair with the Sandinistas, and I can imagine the hue and cry which would come from this side of the aisle if Democrats were to propose this package tonight and suggest that we provide $2 million in direct contributions to the Electoral Council, which, in Republican words, is controlled 4 to 1 by the Sandinistas. I can imagine the uproar that we would hear.

I would like to make a third point in response to some of the comments made from this side of the aisle. No person I know in this institution is neutral on the question of democracy. Everyone in this institution is for democracy. Every Member in this institution is for America. To suggest, directly or indirectly, straightforwardly or through innuendo that it is otherwise, is to discredit yourself and to discredit this institution.

I do not happen to believe that the elections in Nicaragua are going to be fair. I do not think it is possible, given Sandinista domination of that society, down to the village level, to ever have fair elections. I do think it is legitimate for the United States to try and provide, along with other countries in the world, some tools to open up the process.

However, I do not believe it will produce a fair election. I never did believe that. Any Member who believes it is, in my judgment, hopelessly naive.

My objection to this bill is virtually the same as my objection to the amendment.

□ 1940

Mr. Speaker, I think that the bill goes far beyond providing legitimate institutional, electoral support. I think the bill winds up being ham-handed, and I think it will backfire. The administration, I have no doubt when the votes are counted tonight, will get every dollar they ask for, and they will get it when they ask for it.

The Durbin amendment is unbalanced because it is highly selective in the electoral supervision groups to which it provides money, and I think it, therefore, ought to go down.

I think the bill is muddled and confused. I think the best approach is to simply vote against both, which is what I intend to do when the rollcall is opened.

Mr. MICHEL. Mr. Speaker, I rise in strong opposition to this amendment.

But I must say that in one sense I welcome the amendment.

After 8 years of debate about American policy in Nicaragua, we are at last confronted with an unambiguous choice.

Either we support the democratic process in Nicaragua or we turn away while avowed totalitarians conquer a brave opposition.

The Contras are not the issue here. We are not arming them. This issue is whether we help a 14-party coalition, spanning the political spectrum, to compete on a fairly equal basis.

The sponsors of this amendment tell us we are interfering in the internal affairs of another nation.

This is selective indignation, selective isolationism. We are told by the same people that the United States must support democratic forces in countries ruled by right-wing authoritarians.

Indeed, in 1979, the administration of Jimmy Carter, with the support of many who now support this amendment, interfered in Nicaragua, against Somoza.

But somehow this sense of noble purpose gets lost when democracy faces the Sandinistas in Nicaragua.

For 8 years we have been told covert aid is bad, overt aid is good. So here we are giving this aid overtly.

For 8 years we have been told by the supporters of this amendment that the United States should emphasize diplomacy not force.

So we emphasized diplomacy in the bipartisan accord. Now the supporters of this amendment tell us we should abandon the democratic resistance in the electoral process that resulted from diplomacy.

That's like pushing a car to the starting line of the Indy 500 and then refusing to give it gasoline.

Some complain because some of these funds will go to a Sandinista-controlled entity, the supreme electoral council.

But if we don't abide by this condition of Nicaraguan law, the democratic coalition won't get any of the funds it needs.

So, I ask you: Are we going to deny bread to the starving just because we also have to give bread to the well-fed?

The Sundays in October are the only times Nicaraguans may register. One Sunday is already gone. If we don't get aid to the democratic opposition to help them get out their vote, there will be no election—only electoral fraud.

To those who for eight years have been telling us force isn't the answer, I say: Put your vote where your mouth is. Support the peaceful democratic opposition.

Mr. SMITH of Vermont. Mr. Speaker, I rise today in opposition to the Durbin amendment, which would violate the provisions of the bipartisan compromise on United States aid for the Nicaraguan elections.

I think we ought to recognize the distance this administration and the Committee on Appropriations have come in crafting a compromise on election assistance to Nicaragua. This money is not covert; it is open, above board aid given to balance the political playing field, and thus to allow the Nicaraguan people to choose their own destiny.

In the past few years we have seen a series of countries experience the satisfaction of self-determination for the first time. We have the opportunity today to give the people of Nicaragua, who have suffered through an endless war and an even longer economic depression, a fair choice next February. Let us be farsighted enough to ensure that freedom which has meant so much in Poland and elsewhere. The National Endowment for Democracy has given us confidence in the fairness of elections in Chile, Panama, in addition to Poland, and can do the same for Nicaragua.

I urge my colleagues to vote against the Durbin amendment.

Mr. COLEMAN of Texas. Mr. Speaker, I rise in strong support of the Durbin amendment. As a member of the Committee on Appropriations, I should report that our committee reported this bill favorably so as to afford the President an opportunity to have a vote on the floor on this issue. I thought that the President was dead wrong on this issue yesterday and I think so just as strongly today.

It was pointed out yesterday that the volume of money under consideration here is a huge sum in the context of the Nicaraguan economy. On a proportional basis, this proposal is the equivalent of a donation from a single foreign government in the amount of $800 million to either the Democratic or the Republican Party. Never mind that our laws prohibit the acceptance of such donations. We would be outraged at the suggestion that you can promote democracy by throwing money at one group and excluding the others.

The State Department has informed the leadership that this money will contribute to institution-building in Nicaragua. The administration assures us that even though funds are to be provided for "travel by UNO leaders * * *" they will not be used for campaigning. This clearly is a distinction without a difference. You give a politician money to travel around this district to spread his political message and yet you deny that it is a campaign contribution.

Why are we doing this? The voter registration underway this month in Nicaragua is reported to be a great success. It is hard to see how the introducing of a huge, corrupting sum of money at this critical stage does anything positive for the process. Never mind what the implications of this are for the National Endowment for Democracy, and organization that until now has made grants on a competitive basis. This bill will do virtually nothing to convince Nicaraguans that their votes should be cast as a matter of conscience. Just the opposite, it will convince each voter that forces beyond his or her control will determine the outcome of this election. This is a terrible idea that has come up at just the wrong time and it should be thoroughly rejected.

The SPEAKER pro tempore (Mr. KANJORSKI). Under the rule, the previous question was ordered.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Illinois [Mr. DURBIN].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DURBIN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 142, noes 278, not voting 12, as follows:

[Roll No. 269]

YEAS—142

Ackerman	Frank	Panetta
Akaka	Frost	Payne (NJ)
Alexander	Gejdenson	Pease
Anderson	Gonzalez	Pelosi
Applegate	Hall (OH)	Perkins
Atkins	Hayes (IL)	Poshard
AuCoin	Hertel	Rahall
Bates	Hochbrueckner	Rangel
Bosco	Jacobs	Roe
Boucher	Johnson (SD)	Rostenkowski
Boxer	Johnston	Roybal
Brennan	Jontz	Russo
Brooks	Kanjorski	Sabo
Brown (CA)	Kaptur	Sangmeister
Bruce	Kastenmeier	Savage
Cardin	Kennedy	Sawyer
Carr	Kennelly	Scheuer
Clay	Kildee	Schumer
Clement	Kleczka	Sharp
Coleman (TX)	Kostmayer	Sikorski
Collins	Leach (IA)	Skaggs
Condit	Lehman (FL)	Slaughter (NY)
Conyers	Levine (CA)	Smith (IA)
Costello	Lewis (GA)	Staggers
Coyne	Long	Stallings
Crockett	Lowey (NY)	Stark
DeFazio	Luken, Thomas	Stokes
Dellums	Manton	Studds
Derrick	Markey	Swift
Dingell	Matsui	Synar
Dixon	Mavroules	Torres
Donnelly	McCloskey	Towns
Dorgan (ND)	McDermott	Traficant
Downey	Mfume	Traxler
Durbin	Miller (CA)	Udall
Dymally	Mineta	Unsoeld
Early	Moakley	Valentine
Eckart	Morrison (CT)	Vento
Edwards (CA)	Mrazek	Visclosky
Engel	Murphy	Walgren
Espy	Nagle	Weiss
Evans	Neal (MA)	Wheat
Fazio	Neal (NC)	Williams
Feighan	Nowak	Wolpe
Flake	Oakar	Wyden
Foglietta	Oberstar	Yates
Ford (MI)	Olin	
Ford (TN)	Owens (UT)	

NAYS—278

Andrews	Byron	English
Annunzio	Callahan	Erdreich
Anthony	Campbell (CA)	Fascell
Archer	Campbell (CO)	Fawell
Armey	Carper	Fields
Aspin	Chandler	Fish
Baker	Chapman	Flippo
Ballenger	Clinger	Frenzel
Barnard	Coble	Gallegly
Bartlett	Coleman (MO)	Gallo
Barton	Combest	Gaydos
Bateman	Conte	Gekas
Beilenson	Cooper	Gephardt
Bennett	Coughlin	Geren
Bentley	Cox	Gibbons
Bereuter	Craig	Gillmor
Berman	Crane	Gilman
Bevill	Dannemeyer	Gingrich
Bilbray	Darden	Glickman
Bilirakis	Davis	Goodling
Bliley	de la Garza	Gordon
Boehlert	DeLay	Goss
Boggs	DeWine	Gradison
Bonior	Dickinson	Grandy
Borski	Dicks	Grant
Broomfield	Dornan (CA)	Gray
Browder	Douglas	Green
Brown (CO)	Dreier	Guarini
Bryant	Duncan	Gunderson
Buechner	Dwyer	Hall (TX)
Bunning	Dyson	Hamilton
Burton	Edwards (OK)	Hammerschmidt
Bustamante	Emerson	Hancock

Hansen	McHugh	Schiff
Harris	McMillan (NC)	Schneider
Hastert	McMillen (MD)	Schroeder
Hatcher	McNulty	Schuette
Hayes (LA)	Meyers	Schulze
Hefley	Michel	Sensenbrenner
Hefner	Miller (OH)	Shaw
Henry	Miller (WA)	Shays
Herger	Molinari	Shumway
Hiler	Mollohan	Shuster
Hoagland	Montgomery	Sisisky
Holloway	Moody	Skeen
Hopkins	Moorhead	Skelton
Horton	Morella	Slattery
Houghton	Morrison (WA)	Slaughter (VA)
Hoyer	Murtha	Smith (FL)
Hubbard	Myers	Smith (NE)
Huckaby	Natcher	Smith (NJ)
Hughes	Nelson	Smith (TX)
Hunter	Nielson	Smith (VT)
Hutto	Obey	Smith, Denny (OR)
Hyde	Ortiz	
Inhofe	Oxley	Smith, Robert (NH)
Ireland	Packard	
James	Pallone	Smith, Robert (OR)
Jenkins	Parker	
Johnson (CT)	Parris	Snowe
Jones (GA)	Pashayan	Solarz
Kasich	Patterson	Solomon
Kolbe	Paxon	Spence
Kolter	Payne (VA)	Spratt
Kyl	Penny	Stangeland
LaFalce	Petri	Stearns
Lagomarsino	Pickett	Stenholm
Lancaster	Pickle	Stump
Lantos	Porter	Sundquist
Laughlin	Price	Tallon
Lent	Pursell	Tanner
Levin (MI)	Quillen	Tauke
Lewis (CA)	Ravenel	Tauzin
Lewis (FL)	Ray	Thomas (CA)
Lightfoot	Regula	Thomas (GA)
Lipinski	Rhodes	Thomas (WY)
Livingston	Richardson	Torricelli
Lloyd	Ridge	Upton
Lowery (CA)	Rinaldo	Vander Jagt
Lukens, Donald	Ritter	Volkmer
Machtley	Roberts	Vucanovich
Madigan	Robinson	Walker
Marlenee	Rogers	Walsh
Martin (IL)	Rohrabacher	Watkins
Martin (NY)	Ros-Lehtinen	Weber
Martinez	Rose	Weldon
Mazzoli	Roth	Whittaker
McCandless	Roukema	Whitten
McCollum	Rowland (CT)	Wilson
McCrery	Rowland (GA)	Wolf
McCurdy	Saiki	Wylie
McDade	Sarpalius	Young (AK)
McEwen	Saxton	Young (FL)
McGrath	Schaefer	

NOT VOTING—12

Clarke	Hawkins	Owens (NY)
Courter	Jones (NC)	Waxman
Florio	Leath (TX)	Wise
Garcia	Lehman (CA)	Yatron

□ 1959

Mr. CAMPBELL of Colorado and Mr. MARLENEE changed their vote from "yea" to "nay."

Mr. SAWYER and Mr. MAVROULES changed their vote from "nay" to "yea."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 2000

LEGISLATIVE PROGRAM

Mr. MICHEL. Mr. Speaker, I ask for this time for the purpose of inquiring of the distinguished majority leader the program, as amended, for tomorrow or any unanimous-consent requests the majority leader might wish to make at this juncture for tomorrow.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I would like to announce to the Members that on tomorrow we will intend, and I will in a moment ask for unanimous consent to meet at 9 in the morning, to dispense with the 1-minutes, and to immediately go to the child-care provisions of the reconciliation bill. We believe that we can be completed in 5 or 5½ hours, which would have us finished with that bill on or about 2 or 3 o'clock. We do not plan that there be further actions on the floor tomorrow, so we would have Members out of here by 2 or 3 o'clock tomorrow afternoon.

HOUR OF MEETING ON TOMORROW

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 9 a.m. tomorrow.

The SPEAKER pro tempore (Mr. KANJORSKI). Is here objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Chair announced that he was in doubt.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 263, noes 156, not voting 13, as follows:

[Roll No. 270]

AYES—263

Andrews	Burton	Dyson
Annunzio	Bustamante	Edwards (OK)
Anthony	Byron	Emerson
Archer	Callahan	English
Armey	Campbell (CO)	Erdreich
Aspin	Carper	Espy
Baker	Chandler	Fascell
Ballenger	Chapman	Fawell
Barnard	Clinger	Fields
Bartlett	Coble	Fish
Barton	Coleman (MO)	Flippo
Bateman	Combest	Frenzel
Beilenson	Cooper	Gallegly
Bennett	Coughlin	Gallo
Bentley	Cox	Gekas
Bereuter	Craig	Gephardt
Bevill	Crane	Geren
Bilbray	Dannemeyer	Gibbons
Bilirakis	Darden	Gillmor
Bliley	Davis	Gilman
Boehlert	de la Garza	Gingrich
Boggs	DeLay	Glickman
Bonior	DeWine	Gordon
Borski	Dickinson	Goss
Broomfield	Dicks	Gradison
Browder	Dornan (CA)	Grandy
Brown (CO)	Douglas	Grant
Bryant	Dreier	Gray
Buechner	Duncan	Green
Bunning	Dwyer	Guarini
Gunderson	McCollum	Schaefer
Hall (TX)	McCrery	Schiff
Hamilton	McCurdy	Schuette
Hammerschmidt	McDade	Schulze
Hancock	McEwen	Shaw
Hansen	McMillan (NC)	Shays
Harris	McMillen (MD)	Shumway
Hastert	McNulty	Shuster
Hatcher	Meyers	Sisisky
Hayes (LA)	Michel	Skeen
Hefley	Miller (OH)	Skelton
Hefner	Miller (WA)	Slattery
Henry	Molinari	Slaughter (VA)
Herger	Mollohan	Smith (FL)
Hiler	Montgomery	Smith (NE)
Holloway	Moody	Smith (NJ)
Hopkins	Moorhead	Smith (TX)
Horton	Morrison (WA)	Smith (VT)
Houghton	Murtha	Smith, Denny (OR)
Hoyer	Myers	
Hubbard	Nelson	Smith, Robert (NH)
Huckaby	Nielson	
Hughes	Ortiz	Snowe
Hunter	Oxley	Solarz
Hutto	Packard	Solomon
Hyde	Pallone	Spence
Inhofe	Parker	Spratt
Ireland	Parris	Stangeland
James	Pashayan	Stearns
Jenkins	Patterson	Stenholm
Johnson (CT)	Paxon	Stump
Jones (GA)	Payne (VA)	Sundquist
Kasich	Penny	Tallon
Kolbe	Pickett	Tanner
Kolter	Pickle	Tauzin
Kyl	Porter	Thomas (CA)
LaFalce	Pursell	Thomas (GA)
Lagomarsino	Quillen	Thomas (WY)
Lancaster	Ravenel	Torres
Lantos	Ray	Torricelli
Laughlin	Regula	Udall
Lent	Rhodes	Upton
Levin (MI)	Richardson	Vander Jagt
Lewis (CA)	Ridge	Visclosky
Lewis (FL)	Rinaldo	Volkmer
Lightfoot	Ritter	Vucanovich
Lipinski	Roberts	Walker
Livingston	Robinson	Walsh
Lloyd	Rogers	Watkins
Lowery (CA)	Rohrabacher	Weber
Luken, Thomas	Ros-Lehtinen	Weldon
Lukens, Donald	Rose	Whittaker
Machtley	Roth	Wilson
Madigan	Roukema	Wolf
Marlenee	Rowland (CT)	Wylie
Martin (IL)	Rowland (GA)	Young (AK)
Martin (NY)	Saiki	Young (FL)
Matsui	Sarpalius	
McCandless	Saxton	

NOES—156

Ackerman	Donnelly	Kennelly
Akaka	Dorgan (ND)	Kildee
Alexander	Downey	Kleczka
Anderson	Durbin	Kostmayer
Applegate	Dymally	Leach (IA)
Atkins	Early	Lehman (CA)
AuCoin	Eckart	Lehman (FL)
Bates	Edwards (CA)	Levine (CA)
Berman	Engel	Lewis (GA)
Bosco	Evans	Long
Boucher	Fazio	Lowey (NY)
Boxer	Feighan	Manton
Brennan	Flake	Markey
Brooks	Foglietta	Martinez
Brown (CA)	Ford (MI)	Mavroules
Bruce	Frank	Mazzoli
Campbell (CA)	Frost	McCloskey
Cardin	Gaydos	McDermott
Carr	Gejdenson	McGrath
Clay	Gonzalez	McHugh
Clement	Goodling	Mfume
Coleman (TX)	Hall (OH)	Miller (CA)
Collins	Hayes (IL)	Mineta
Condit	Hertel	Moakley
Conte	Hoagland	Morella
Conyers	Hochbrueckner	Morrison (CT)
Costello	Jacobs	Mrazek
Coyne	Johnson (SD)	Murphy
Crockett	Johnston	Nagle
DeFazio	Jontz	Natcher
Dellums	Kanjorski	Neal (MA)
Derrick	Kaptur	Neal (NC)
Dingell	Kastenmeier	Nowak
Dixon	Kennedy	Oakar

Oberstar	Savage	Swift
Obey	Sawyer	Synar
Olin	Scheuer	Tauke
Owens (UT)	Schneider	Towns
Panetta	Schroeder	Traficant
Payne (NJ)	Schumer	Traxler
Pease	Sensenbrenner	Unsoeld
Pelosi	Sharp	Valentine
Perkins	Sikorski	Vento
Petri	Skaggs	Walgren
Poshard	Slaughter (NY)	Weiss
Price	Smith (IA)	Wheat
Rahall	Smith, Robert (OR)	Whitten
Rangel	Staggers	Williams
Rostenkowski	Stallings	Wolpe
Roybal	Stark	Wyden
Russo	Stokes	Yates
Sabo	Studds	
Sangmeister		

NOT VOTING—13

Clarke	Hawkins	Waxman
Courter	Jones (NC)	Wise
Florio	Leath (TX)	Yatron
Ford (TN)	Owens (NY)	
Garcia	Roe	

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So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CLARKE. Mr. Speaker, I was absent during consideration of rollcalls 269 and 270 providing for free and fair elections in Nicaragua, H.R. 3385. Had I been present I would have voted "nay" on rollcall 269, the Durbin amendment, and "aye" on rollcall 270, final passage.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. NEAL of Massachusetts). The Chair will entertain 1-minutes at this time.

THE JURISDICTION MAZE OVER THE WAR ON DRUGS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I rise today to continue the series of 1 minutes started by our colleague Larkin Smith calling attention to the maze of jurisdiction over the war on drugs.

Because every committee has a piece of this issue, the drug war is the top priority of no committee with legislative authority. How in the world can committees with other primary objectives be expected to make drugs its main focus?

Let me take the Banking Committee, on which I serve, as an example. This year we had to deal with the savings and loan crisis. A big issue. An important, even crucial issue for all Americans, and we had to deal with it immediately. But what about our part in the drug war? It has not been given the priority in the Congress that it demands, in spite of the fact that the drug problems under our jurisdiction are not going away. Because we had another pressing issue, the war on drugs took a back seat.

We must create a new committee with sole jurisdiction over the drug war. I urge all of my colleagues to cosponsor H. Res. 247, which would do just that.

ANNUAL REPORT OF NATIONAL INSTITUTE OF BUILDING SCIENCES FOR 1988—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Banking, Finance and Urban Affairs.

(For message, see proceedings of the Senate of today, Wednesday, October 4, 1989.)

COMMUNICATION FROM CHAIRMAN OF SUBCOMMITTEE ON COURTS, INTELLECTUAL PROPERTY, AND THE ADMINISTRATION OF JUSTICE OF THE COMMITTEE ON THE JUDICIARY

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Subcommittee on Courts, Intellectual Property, and the Administration of Justice of the Committee on the Judiciary:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 29, 1989.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the Circuit Court of Dane County, Wisconsin.

After consultation with the General Counsel to the Clerk, I have determined that compliance with the subpoena is not consistent with the privileges and precedents of the House.

With warm regards,
Sincerely,
ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Intellectual Property, and the Administration of Justice.

COMMUNICATION FROM THE HONORABLE BILL GRADISON, MEMBER OF CONGRESS

The SPEAKER pro temopre laid before the House the following communication from the Honorable BILL GRADISON, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 3, 1989.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, D.C. 20515.

DEAR MR. SPEAKER: This is to notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena *duces tecum.*

After consultation with the General Counsel, I will determine whether compliance with the subpoena is consistent with the privileges and precedents of the House.

With great respect, I am
Sincerely yours,
BILL GRADISON,
Representative in Congress.

SECRETARY KEMP CLEARS THE DECKS AT HUD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. WYLIE] is recognized for 5 minutes.

Mr. WYLIE. Mr. Speaker, yesterday HUD Secretary Jack Kemp made an announcement of reforms that he characterized as a clear-the-decks proposal. Earlier this year the Secretary promised to clean up HUD from stem to stern.

Mr. Speaker, from the daily accounts in the media of fraud and favoritism at HUD, it is easy to see that Secretary Jack Kemp inherited a foundering ship. If I may continue the sailing ship analogy, a recent GAO report on FHA describes in painful detail how systemically flawed programs like hospital insurance, and coinsurance have torn great, gaping holes in HUD's mainsail, the FHA insurance funds. The combination of favoritism and well-intentioned but poorly designed programs has caused HUD to follow an erratic course leading toward dangerous financial straits.

I am confident that the worst of the storm may be over for HUD. Our former colleague, Secretary Kemp, has a firm grasp at the helm of HUD. Yesterday's announcement fulfills Secretary Kemp's promise in a comprehensive form that addresses three major areas: ethics, management, and finance, and the Federal Housing Administration [FHA].

Mr. Speaker, the HUD reforms to which Secretary Kemp referred are based on the collective efforts of the Banking Committee under the fine leadership of Chairman GONZALEZ, the Government Operations Committee under TOM LANTOS, and various legislative proposals from House Members as well as reform task forces within HUD. In announcing his reforms, Secretary Kemp said, "I have been heartened by the bipartisan spirit with which many in the Congress have approached the past abuses at HUD."

Mr. Speaker, during the debate over the S&L legislation, Chairman HENRY GONZALEZ steered the Banking Committee through "shark-infested"

waters to ensure the passage of that emergency legislation. Similarly, the HUD reform package put forth by Secretary Kemp is truly emergency legislation which addresses needs as compelling as those addressed by the savings and loan recovery legislation. As soon as possible, I fully expect to join the chairman of the Banking Committee, Mr. GONZALEZ, in introducing this reform proposal.

The issue of affordable housing and the restoration of a national housing policy both have gone unaddressed for too long. Both House and Senate Banking Committees have put tremendous effort into developing major potential housing legislation. In addition, Secretary Kemp also is working on new housing initiatives. Yet, we all realize that the abuses at HUD must be cleared up first. Mr. Speaker, I am confident that the Banking Committee on a bipartisan basis, under the leadership of Chairman GONZALEZ, will swiftly bring an excellent HUD reform package to the House floor. In this regard, I commend Chairman GONZALEZ for scheduling a hearing on Secretary Kemp's reform proposal on Thursday, October 12, 1989.

Mr. Speaker, I am including the full text of Secretary Kemp's statement at his press conference on HUD reforms, which urges prompt action to help set HUD back on the right course.

STATEMENT BY SECRETARY JACK KEMP

When President Bush asked me to join his Administration as Secretary of Housing and Urban Development, he made it clear that our mission would be to use the full resources of HUD to wage war on poverty, homelessness, and despair.

Unfortunately, we soon learned that a number of programs intended to help the poor were riddled with systemic flaws that allowed them to be corrupted by greedy individuals who used their political influence to gain unfair access to HUD resources. As these abuses gradually unfolded we recognized that comprehensive changes in program management and financial accountability would be necessary to "clear the decks" for homeownership, jobs, and hope in our nation's inner cities and distressed rural communities.

This is not to say that other reforms will not be required as investigations proceed. It is to say that I will not allow HUD's mission to be paralyzed.

President Bush and I have not and will not tolerate the systemic flaws at HUD which have allowed its programs to be abused for political purposes or personal gain at the expense of those in need. I look forward to working together to quickly pass a legislative package of reforms which will include the best proposals, so we can get on to working on new initiatives that will help better meet our responsibilities to those in need.

I have been heartened by the bipartisan spirit with which many in Congress have approached the past problems at HUD. There have been many good ideas and constructive proposals offered by members, such as Congressman Lantos and Senator Bob Byrd, as well as by those in my own party. Many of the proposals we offer today have drawn on their suggestions, as well as those of the GAO, HUD's Inspector General, and HUD's many professional and dedicated employees, both career and non-career.

Some of the reforms I am proposing can be implemented unilaterally and I will do so. Others will require legislative action and I am asking Congress to consider those proposals immediately. I am grateful that Congress has been carrying out a thorough examination of these problems. I feel certain that we will have its full bipartisan cooperation in passing the necessary legislative reforms, and that we will continue to work together on any further reforms that may be needed.

The comprehensive package I am announcing today envisions reforms in three areas: ethics, management and finance, and the Federal Housing Administration. Here are some of the major reforms which will have to be implemented.

First, ethics. Many of HUD's worst problems first came to light in the Inspector General's report to Congress. Among the issues addressed in these reports were allegations that housing grants had been awarded to certain developers who paid huge fees to politically connected consultants and lobbyists, who did little more than open doors and place phone calls.

The first reform in this package will establish a strict requirement that all consultants and lobbyists who represent those attempting to obtain grants from HUD must register with the Department. In addition, all those applying for funds will be required to disclose any fees paid to lobbyists, consultants, and lawyers in connection with their application. HUD will have the authority to deduct all or part of the fees which have been paid from the total amount of any grant or award. I will also ask Congress to give me the power to impose civil penalties amounting to as much as $10,000 for each act of non-compliance.

We have learned that many past funding decisions have been based on political influence rather than merit. I will require that from now on all housing awards will be made on the basis of a formula or by a competition with criteria designed to measure need.

I believe it is essential that HUD's business be conducted in the light of full public scrutiny. All awards will be published in the Federal Register and will be fully documented for all to inspect.

Moreover, cases occasionally arise where complex federal regulations applying to HUD programs need to be waived. In far too many instances, however, these waivers turned into "black holes" that were manipulated to maximize someone's financial gain. Luxury apartments were constructed in an upper income area in Chicago, for example, which qualified for FHA insurance only by waivers on normal cost and mortgage ceilings. Waivers should only be necessary in very rare circumstances and when they are, they will require personal approval of an appropriate Assistant Secretary, and will be published in the Federal Register.

Finally, although there is some value to having a discretionary fund available to the Secretary, I have concluded that the Secretary's Discretionary Funds for housing and community development must be eliminated. Scarce resources must be allocated solely on the basis of need and merit. In the Bush Administration, and during my stewardship of this agency, *no* decisions will be made at HUD for the political advantage or personal gain of anyone.

Second, Management and Financial Reform. We have discovered that HUD's management system has been severely lacking in anything like rigorous financial accountability and as a result great difficulties have been created in our ability to evaluate the financial health and effectiveness of many of our programs. In the past, because of our inability to judge whether our programs were properly targeted, for example, HUD was unable to recognize that program funds were often benefiting developers and consultants instead of needy Americans. There is the case of the largest Title X default—a California country club which included a $7 million golf course; $8 million club house; 17 tennis courts; 2 swimming pools; and a health spa. That's why we are eliminating the Title X program.

I will create a new position—Chief Financial Officer—who will report directly to me and who will have the responsibility of overseeing HUD's financial operations. I will also appoint a Comptroller for the FHA. Moreover, I intend to contract for an independent management firm to identify structural and systemic problems and to recommend comprehensive reforms to strengthen the financial and managerial integrity of HUD's programs.

The Community Development Block Grant Program (CDBG), we have realized, has not always focused its precious resources on low-income people. Counties with desperate needs for jobs and housing have instead, all too often, directed block grant funds to wealthy suburbs for amenities like planting trees and building bike racks and swimming pools. Currently, there is a legal requirement that a portion of CDBG funds be spent on low- and middle-income people. I will ask Congress to increase the required proportion from the current level, up to 100 precent in wealthy communities and 75 percent in distressed communities and to make CDBG a more effective tool in our new war against poverty.

To further ensure my goal of strictly targeting HUD's resources to benefit those in need, I am asking Congress that up to one-half of one percent of all appropriations—approximately $100 million—for housing and community development be set aside for program monitoring and evaluation. I will also ask for greater authority to better recover misused government funds from HUD grantees, and will continue the aggressive efforts of our Asset Recovery Strike Force, which I created last June, and which has recovered nearly $4.5 million to date.

Finally, the Federal Housing Administration. We have concluded that the FHA requires sweeping reform. FHA's accounting and financial records have been so poorly maintained that they are indecipherable. As a result, from 1975 until earlier this year, no audits of the FHA's programs could be conducted. I intend to require the FHA to publish financial statements on a yearly basis. These will be compiled and audited by independent accounting firms. In addition, the FHA's accounts which have been lumped together indiscriminately in the past will be broken out program by program, region by region beginning in 1991, so we can have an accurate and accountable basis for decision making.

The FHA's single family insurance programs are designed to provide homeownership opportunities for families who will actually occupy their homes. FHA was never intended to create opportunities for profit by real estate speculators and "no money down" operators. Yet, while investors made

up only 2.5 precent of new FHA policies last year, they accounted for about 15 percent of the losses. There is one investor in Denver who defaulted on all 750 FHA homes he owned. To correct this abuse, private investors as well as those who use FHA for second homes for vacations or other purposes will no longer be allowed to obtain FHA insured loans on these properties.

As everyone knows, abuses by private sector closing agents have been notorious. The "Robin HUD" case in which one agent failed to transfer $5 million in sales proceeds to HUD is perhaps best known, but unfortunately not an isolated one. These reforms will impose tough new standards on private sector entities such as closing agents, appraisers, lenders, services, and mortgage bankers, including requirements for licensing and bonding. Also, because of huge losses from defaults in the coinsurance program, I suspended the program and sanctioned many coinsuring lenders. Today, I am restructuring the program by raising entry, capital, and disclosure requirements for coinsurers. I will insist on more stringent monitoring of this program by HUD managers.

Finally, the layering of HUD subsidies on top of the subsidy provided for low-income housing development by the low-income housing tax credit has resulted in, at times, huge profits for developers. HUD will tighten its procedures, in conjunction with legislative reforms in the reauthorization of the LITC, to ensure that scarce resources are used to maximize the number of units developed, rather than subsidize consultants and developers.

These reforms, as a whole, represent a fundamental redirection of our programs—a redirection back to the poor and the tenants and the community-based non-profits, and the wisdom, ingenuity, and entrepreneurial spirit they demonstrate throughout our Nation. President Bush has reaffirmed our Nation's moral charter to provide affordable housing opportunities and job opportunities for all Americans. We invite all who care deeply about our Nation's future to work with us to advance initiatives in urban economic development and resident empowerment to go beyond reform and place housing once again at the forefront of the Nation's domestic policy agenda.

I'm proud of the team we've assembled at HUD. Under Secretary Alfred DelliBovi; Assistant Secretary for Housing, Austin Fitts; General Counsel, Frank Keating; and all of the team President Bush and I have assembled at HUD are capable, dedicated public servants of great integrity. We look forward to taking your questions.

GOVERNMENT-SPONSORED ENTERPRISES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PICKLE] is recognized for 5 minutes.

Mr. PICKLE. Mr. Speaker, last Thursday, the Subcommittee on Oversight of the Committee on Ways and Means held a hearing on Government-sponsored enterprises [GSE's]. When I speak of GSE's, I am referring to organizations such as Fannie Mae, Freddie Mac, Sallie Mae, and the Farm Credit System. These are all corporations created by Federal charter, which are backed by the implicit guarantee of the U.S. Treasury, but which are completely off the Federal budget. Our goal was to better understand the operations of these GSE's; the financial risks they represent to taxpayers; and, the oversight currently exercised by the Federal Government in this area.

These are important issues for several reasons: First, the current debt and loan guarantees of GSE's exceed $720 billion; second, GSE obligations have grown rapidly from only $37 billion in 1970; third, GSE activities represent 37 percent of all Federal or federally assisted borrowing; fourth, all of this GSE activity is backed by an implicit guarantee that the U.S. Treasury will step in and bail them out if anything goes wrong; fifth, the number of GSE's is increasing, with five new organizations having been chartered since 1987, and others being proposed; and sixth, neither the unified budget, nor any other Federal budget documents show any cost to the Federal Government from the risks it bears as a result of GSE activities.

Any one of these reasons would justify careful congressional oversight. Considered together and in light of recent history, they make such oversight essential. Twice over the past 3 years, Congress has had to spend billions of dollars to make good on these implicit guarantees. We approved a $4 billion bailout of the Farm Credit System in 1987, and lest we forget, this year we have approved a $160 billion "fix" for the savings and loan crisis. If we have learned nothing else from these experiences, we must surely accept the fact that these off-budget liabilities can have very sudden and profound on-budget consequences.

I have asked what oversight does the Federal Government exercise. I must say to my colleagues that, based on my findings to date, the answer is very little. It is not at all clear to me that there is a Federal regulator for some GSE's. For others, the oversight is cursory at best. For example, the Federal National Mortgage Association, Fannie Mae, is nominally regulated by the Department of Housing and Urban Development [HUD]. Fannie Mae either holds or guarantees over $300 billion of mortgages and mortgage backed securities. And yet, the CEO of Fannie Mae testified last Thursday that HUD has not chosen to audit Fannie Mae's activities, and that GAO has only limited audit authority. In effect, the only auditing being done is by private accountants hired by Fannie Mae. Let me repeat, in all these years HUD has never thoroughly audited Fannie Mae. If it has done so at all, it has only been in a cursory way. They have the authority, but they have never used it.

Furthermore, it is clear from the testimony by the Treasury Department that they also exercise little or no restraint on the issuance of GSE debt. While statutorily charged with approving debt issuances by GSE's, as a practical matter they function only as a traffic cop, regulating the timing of debt issuances so as not to flood the financial markets with competing Federal debt. As of this time, neither the Department of the Treasury nor any other Federal agency has any idea about the financial solvency of any particular GSE, the risk represented by additional debt issuances, or the cumulative affect of GSE activities on the national economy. I must confess, neither do I. I don't think anyone does.

In effect we have given these GSE's our national credit card and hoped for the best. Let me be absolutely clear, I don't know that any GSE has misused this credit or is in financial difficulty. But with GSE borrowing at $700 billion and climbing, its high time we checked.

It is for this reason that I joined with Congressman GRADISON and Congressman SCHULZE to initiate legislation requiring the Treasury Department to study and report on GSE's. The public, the Congress, and the administration all have a strong interest in seeing that GSE's are soundly managed so as to anticipate and minimize the risks inherent in carrying out their important public purpose. I want the Treasury Department to tell the American people who these GSE's are, how they originated, what they are doing, how great a risk do they represent to the taxpayer, and who, if anybody, is responsible for overseeing their activities.

I intend to work with officials at the Treasury Department to make sure that this Treasury study is thorough, accurate, and timely. From time to time, I intend to report on its progress to my colleagues. The American public has been very tolerant of our efforts to correct past financial mismanagement, but the time has come to stop just using taxpayer dollars to clean up these messes. The time has come to prevent them from happening.

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Mr. Speaker, in conclusion, we do not wish to leave any inference that any GSE is in difficulty. We do not wish to, and want in any way, to alarm the public. However, we do say, when we have $720 billion off budget borrowing with the implicit credit of the United States back of each one of the GSE's, that is a matter that each Member of Congress and the American people should be better informed about.

We hope to keep our colleagues informed of the study by the Treasury Department that is under way.

CHICAGO'S 1989 COLUMBUS DAY PARADE

The SPEAKER pro tempore (Mr. NEAL). Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on Monday, October 9, Chicagoans will celebrate the discovery of America by Christopher Columbus, with a gigantic parade through the city, sponsored by the Joint Civic Committee of Italian Americans. In addition to paying tribute to Christopher Columbus, the theme of this year's parade, "Voyages of Discovery," will commemorate the 20th anniversary of the Moon landing, highlighting the important contributions of Italian Americans to this historic event.

All of us in Chicago are very pleased that our Nation's First Lady, Mrs. Barbara Bush, will be joining us as the guest of honor in this year's celebration. Other participants in the parade will include Mayor Richard M. Daley of the city of Chicago, Gov. James R. Thompson of the State of Illinois; Congressman MARTY RUSSO; Dr. Leonardo Baroncelli, Consul General of Italy, and many other civic and political dignitaries, as well as myself.

Mr. Speaker, this week the President of the United States, Hon. George Bush, will be issuing a proclamation commemorating the discovery of America by Columbus. Also, the Governor of the State of Illinois, Hon. James R. Thompson; and the mayor of the city of Chicago, Hon. Richard M. Daley, have issued proclamations, and copies of these proclamations follow:

STATE OF ILLINOIS—PROCLAMATION

Whereas, every American knows what historic event occurred in 1492, for in that year the history of the world took a dramatic leap. The voyage of Columbus, which spurred further exploration of the New World, is celebrated annually throughout the lands; and

Whereas, Columbus and many other distinguished Italians have contributed to the growth of civilization. The Italian community is joined by Americans of every ethnic background in recognizing Columbus Day; and

Whereas, Italian-American residents in Illinois will be sponsoring their 33rd annual Columbus Day Parade to honor their native hero;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim October 9, 1989, as COLUMBUS DAY in Illinois.

JAMES R. THOMPSON,
Governor.

PROCLAMATION

Whereas, the Joint Civic Committee of Italian-Americans (JCCIA) is sponsoring its annual Columbus Day Parade on October 9; and

Whereas, the coverage and visionary wisdom displayed by Christopher Columbus in his intrepid voyage of discovery is exemplary of the Italian-American community; and

Whereas, those qualities of our Italian-American brothers and sisters are evident in the many contributions to the arts, politics, sports, and socio-economic life of Chicago; and

Whereas, the Chicago Council on Fine Arts, Department of Cultural Affairs is presenting its annual exhibit and program series in honor of Italian Heritage Month in October, and the public is invited to attend; and

Whereas, this year's parade honors the 20th anniversary of man's landing on the moon;

Now, Therefore, I, Richard M. Daley, Mayor of the City of Chicago, do hereby proclaim October 9, 1989, to be COLUMBUS DAY IN CHICAGO, and urge all citizens to be cognizant of the events held in connection with this historical observance in honor of the great navigator, Christopher Columbus.

Dated this 15th day of August, 1989.

RICHARD M. DALEY
Mayor.

Mr. Speaker, Chicago's Columbus Day celebration will begin at 9 a.m. with a concelebrated Mass at Our Lady of Pompeii Church in Chicago. Arrangements for this year's Mass have been made by the Reverend Lawrence Cozzi, C.S., chairman of the religious committee and Reverend Leonard Mattei, cochairman. The main celebrant will be Joseph Cardinal Bernardin, Archbishop of Chicago, and the host for liturgy will be the Reverend Angelo Carbone, C.S., pastor of Our Lady of Pompeii Church. An introduction before the Mass will be given by Theresa Petrone, the theme coordinator of this year's parade, and cochairperson of the programs and arrangements committee. Norman Boccio of the finance and souvenir book committee will serve as commentator, and the lectors will be Marion Ortale, president of the JCCIA Women's Division, and Lilia Juarez, president of the JCCIA West Suburban Women's Division. The prayer of the faithful will be offered by Ron Onesti, president of the JCCIA Young Adult Division, and cochairman of the floats committee; and the members of the offertory procession will include, Renata Zanichelli, the queen of the Columbus Day Parade; Mauro Glorioso, who will be portraying Christopher Columbus in this year's parade; Marie Palello, executive secretary of the JCCIA, chairperson of the floats committee, and coordinator for this year's parade and Ann Sorrentino, chairperson of the costume committee.

Music will be provided by the Italian Cultural Center Choir of Chicago, under the direction of Josephine LiPuma; and the organists will be Lawrence Salvador and Frank Pungo. Serving as ushers will be Nick Bianco, John De Bella, Michael Palello, Lawrence Spallitta, chairman of the floats personnel committee, and Anthony Lanzito. The Fourth Degree Knights of Columbus will serve as the honor guard, including Ben Daniel, master, 4th degree, and Joseph Nardi, admiral, LaSalle Assembly, and breakfast will be prepared and served following the Mass by the mother's club of Our Lady of Pompeii Church.

After the breakfast, at 10:15 a.m., a wreath laying ceremony will take place at the Columbus Statue in Arrigo Park, cosponsored by the Grand Lodge of the State of Illinois, Order Sons of Italy in America, and the Joint Civic Committee of Italian Americans. Coordinating this event will be Thomas Baratta, chairman of the TV advertisements committee for this year's parade, and Sam Garnello of the Order of the Sons of Italy in America, aided by the Color Guard of the Italian-American War Veterans of the State of Illinois. The invocation at the wreath-laying ceremony will be given by Joseph Cardinal Bernardin. The host of this ceremony will be Anthony J. Fornelli, chairman of the Columbus Day Parade Committee, and posting of the colors will be under the direction of Joe Leoni and Al Guiliano of the State of Illinois Italian-American War Veterans. Also, participating in the ceremony will be the ladies auxiliary of the Italian-American War Veterans with Grace Del Principe, State auxiliary president.

The parade will step off at Dearborn and Wacker Drive in Chicago, and this 2 hour celebration will be carried live on WGN-TV in Chicago. Over 200 floats, marching units and bands, will participate in this event, and several of the floats will carry members of the Italian-American community wearing traditional costumes from various regions in Italy. Also featured on the floats will be Mauro Glorioso as Christopher Columbus, Angela Petrone as Queen Isabella and Elizabeth Serpe as the Statue of Liberty. Ben Affetto, serving as parade marshal, will carry on the proud tradition of his grandfather, the late Marco DeStefano, who had been parade marshal for the past 37 years. Nello Ferrara of Ferrara Pan Candy Co. will serve as grand marshal of the parade.

Other chairmen and cochairmen for this year's parade, include: Elena Frigoletti, cochairperson of the authentic Italian costume committee; and Dominic DiFrisco, cochairman of the program and arrangements committee.

The television sponsors of this year's parade include Joe Rizza of Rizza Ford; Dominick Di Matteo of Dominick's Finer Foods; Nello Ferrara of Ferrara Pan Candy Co.; Anthony Fornelli of Festa Italiana; Paul Butera of Butera Foods; Ron Turano of Turano Baking Co.; Joseph Marchetti of Como Inn; Phil Stefani of Stefani's Restaurant; John Serpico of Central States Joint Board; Commonwealth Edison; Hilton Hotels Corps.; True Value Hardware; Alitalia Airlines; St. Paul Federal Bank for Savings; Arlington Race Course; the Illinois State Lottery; and Waste Management Co.

Joseph Ahern, president of the WLS-TV in Chicago, has announced that his station will also rebroadcast the parade on Saturday, October 14, from 12:00 to 2:00 p.m. Narrating the telecast for WLS will be Theresa Petrone, Mary Ann Childers, and Jim Gibbons.

Each year one of the highlights of the Chicago Columbus Day celebration is the selection of the queen of the parade. Judged on her beauty, poise, and personality, Renata M. Zanichelli of Norridge, IL, who lives in the 11th Congressional District of Illinois which I am privileged to represent, was chosen to reign as this year's Italian-American community queen. She received a $2,000 prize which was presented by the Joint Civic Committee of Italian Americans, Festa Italiana-Amerital Unico, and the James E. Coli Chapter of the Italo-American National Union.

The members of the queen's court include Arianne Venuso of Mount Prospect, IL; Angela J. Dio Guardi of Park Forest, IL; Charisse Cannistra of Hoffman Estates, IL; and Michelle Dantino of Melrose Park, IL. Dinners for the queen and her court at the Como Inn are being provided with the compliments of Joseph Marchetti.

The chairman of the queen contest is Fred Mazzei, and the cochairperson is Josephine Bianco. Judges for the contest include: John T. Coli, vice president and administrator of Teamsters Local Union 727, and president of the James E. Coli Memorial Chapter 15 of the Italo-American National Union; Joseph M. Caliendo, fur fashion designer and fur fashion show coordinator. Joseph Cosentino, editor of FRA NOI, the Italian-American community newspaper; Dr. John Drammis, cosmetic plastic surgeon and director of the cosmetic surgery center of Chicago; Rose Farina, manager of the Daley Center events for the department of culture affairs in the Chicago Office of Fine Arts; Marilyn Cusimano Fredericks, travel agent and choreographer for the Italian Heritage Ball and for the Italianettes, the folk dance troupe sponsored by the JCCIA; Laura Spingola, president of Trade Resources, Ltd., and adjunct professor for Mundelin College and the National College of Education; and Dr. Carl Tintari, cosmetic dentist and facial aesthetics consultant.

The Joint Civic Committee of Italian-Americans, under the able leadership of its president, Carl De Moon, and executive director Robert Allegrini, is comprised of more than 50 Italo-American civic organizations in the Chicagoland area and sponsors the Columbus Day Parade and related activities. Founded in 1952 to fight prejudice and discrimination toward Italian-Americans, the Joint Civic Committee of Italian-Americans has grown over the last three decades into a formidable organization for addressing the broadened social, cultural and educational concerns of more than one-half million Italian-Americans living in the metropolitan area of Chicago.

The Columbus Day celebration will close with a reception at the Como Inn Restaurant in Chicago at 3:30 p.m., in honor of the guests, the officers, committee chairmen, and members who are participating in making the 1989 Columbus Day Parade a monumental success.

On this 19th celebration of Columbus Day as a National holiday, as honorary parade chairman of the Columbus Day parade, I would like to take this opportunity to commend the members and officers of the Joint Civic Committee of Italian-Americans for their dedicated efforts and careful planning that will again make this year's parade a memorable event and overwhelming success.

The officers and members of the 1989 Chicago Columbus Day Parade Committee are as follows:

LIST OF OFFICERS AND MEMBERS OF CHICAGO'S COLUMBUS DAY PARADE COMMITTEE

COLUMBUS DAY PARADE COMMITTEE

Anthony J. Fornelli, Chairman.
Nello Ferrara, Grand Marshal.
Congressman Frank Annunzio, Honorary Chairman.
Congressman Marty Russo, Honorary Chairman.

JCCIA OFFICERS

Carl de Moon, President.
Leonard Giampietro, 1st Vice President.
Fred Mazzei, 2nd Vice President.
Thomas C. Baratta, 3rd Vice President.
John C. Porcelli, 4th Vice President.
John Ciolfi, 5th Vice President.
Emil Venuti, Treasurer.
Tena Amico, Secretary.
Lawrence Spallitta, Sergeant-at-Arms.
Robert Allegrini, Executive Director.
Reverend Lawrence Cozzi, Chaplain.

BOARD OF TRUSTEES

Michael Coli, Chairman, Congressman Frank Annunzio, Vice Chairman, Richard Parrillo, Vice Chairman, Theresa Petrone, Coordinator, Robert Ansani, Henry Anselmo, Alderman William J.P. Banks, Thomas C. Baratta, Consul General Leonardo Baroncelli, Fred Bartoli, Merrill Becker, Frank Belmonte, Anthony Bertuca, Victor Cacciatore, and Richard Caldarazzo.

Jerry Campagna, Dr. James Cantanzaro, Rep. Ralph Capparelli, Michael Cardilli, Gilbert Cataldo, Jack Cerone, Dr. Leonard Cerullo, John Ciolfi, Judge Michael Coccia, James L. Coli, Hon. Jerry Cosentino, Joseph Cosentino, Father Lawrence Cozzi, C.S., Christine Curelli, Oscar D'Angelo, Senator John D'Arco, Jr., Father Gino Dalpiaz, and Commissioner Frank Damato.

Louis Da Prato, Senator Aldo De Angelis, Chuck Dee, Rep. James De Leo, Pat De Leo, Carl De Moon, Pat S. De Moon, Senator Vince De Muzio, Dominic Di Frisco, Joe Di Leonardi, Dominick Di Matteo, Ettore Di Vito, Commissioner Marco Domico, Joan Esposito, Nello Ferrara, Bernard Fio Rito, Anthony J. Fornelli, and Anthony Fratto.

Fire Commissioner Louis Galante, Sam Garnello, Joe Gentile, Leonard Giampietro, Ronald Girodano, Dr. James F. Greco; Ernie Kumerow, Angelo Lencioni, Joseph Lizzardo, Jr., Steve Lombardi, Charles Lo Verde, Joseph Lucania, Commissioner Gloria Majewski, Frank Mancari, Joseph Marchetti, Pat Marcy, Jr., Peter Martino, and Joseph Mazza.

Amy Mazzolin, Gil Mazzolin, Joseph Monostero, Pat Naples, Michael Nardello, Michael R. Notaro, Oriano Pagnucci, Dewey Paoletti, George Paulik, Charles C. Porcelli, John C. Porcelli, Dino Porto, Nunzio Raimondi, Fred Randazzo, Sam Rosa, Ray Rosato, Ciro Rossini, and Nat Rosasco.

Tom Roti, Dr. Salvatore Rotella, Dr. Mario O. Rubinelli, Congressman Martin Russo, Anthony E. Sacco, Ronald Santo, Sam Scott, Fred Serpe, John Serpico, Anthony Sorrentino, Dr. Raffaele Suriano, Anthony Terlato, Joseph Tolitano, Lester Trilla, Renato Turano, Emil Venuti, and Jerome N. Zuia.

EXECUTIVE COMMITTEE

Mathew J. Alagna, Jr., Sam Andolino, Joseph Annunzio, Larry Battisti, Norma Battisti, Sam Bellavia, Josephine Bianco, Nick Bianco, Rudolph Bilotta, Shirlee Blacconeri, Norman Boccio, Richard Caifano, Dominic Candeloro, Enrico Caputo, Pasquale Caputo, Frank Paul Catrambone, Sam Cerniglia, John Coli, Mike Coli, Louis Da Prato, Marie Davino, John De Bella, and Patrick S. De Moon.

Alfonso Di Benedetto, Joseph Di Chicio, Dominic Di Frisco, Ettore DiVito, Bernard Fio Rito, Camille Fotopoulas, Elena Frigoletti, Sam Garnello, Jennie Giampa, Ronald J. Giordano, Dan Goduto, Kenneth J. Kolnicki, Joseph La Calamita, Leonara LiPuma, Jerry Lonigro, Anthony Lupo, Dr. Gregory Macaluso, Marino Mazzei, Susan McFall, Rudolph L. Milasich, Sr., Ron Onesti, Marion Ortale, and Michael Palello.

Joseph Pantaleo, Pat Pavini, Molly Pavone, Theresa Petrone, Gino Pisani, Louis Rago, Fred Randazzo, Louis Ranieri, Mike Rongo, Tom Roti, Ann Sassetti, Phyllis Schoene, Fred Serpe, Jr., Peter Silvestri, Dr. Joseph Sirchio, Ann Sorrentino, Anthony Sorrentino, Mary Spallitta, Anthony Terlato, Anthony Tolitano, Ange Tufano, and Renato Turano.

WOMEN'S DIVISION OFFICERS

Marion Ortale, President.
Judy Guzaldo, 1st Vice President.
Carmello Tolitano, 2nd Vice President.
Jo Anne Spata, Recording Secretary.
Marie Pallelo, Corresponding Secretary and Treasurer.
Marie Davino, Adviser.

WEST SUBURBAN WOMEN'S DIVISION OFFICERS

Lilia Juarez, President.
Carol Pederson, Vice President.
Ida Coglianese, Treasurer.
Carol Cerny, Recording Secretary.
Ann Sorrentino, Corresponding Secretary.
Tena Amico, Adviser.

YOUNG ADULT DIVISION OFFICERS

Ron Onesti, President.
Mike Tassi, 1st Vice President.
Vita Conforti, Treasurer.
Nickey Amico, Recording Secretary.
Cindy Consalvo, Secretary.

CHAPLAIN

Rev. Lawrence Cozzi, C.S.

THEME COORDINATOR

Theresa Petrone.

RELIGIOUS PROGRAM AND ORGANIZATIONS

Rev. Lawrence Cozzi, C.S., Chairman.
Rev. Leonard Mattei, Cochairman.
Rev. Armando Pierini, Adviser.
Nick Bianco, John DeBella, Michael Fortino, Mike Palello, Anthony Pope, Lawrence Spallitta.

TV ADVERTISEMENTS

Thomas C. Baratta, Chairman.
Anthony J. Fornelli.

AUTHENTIC ITALIAN COSTUMES

Ann Sorrentino, Chairperson.
Elena Frigoletti, Mary Spallitta.

FINANCE AND SOUVENIR BOOK

Norman Boccio, Angeline Annunzio,

LABOR COMMITTEE

Ernie Kumerow, James Coli, Robert LoVerde, Angelo Fosco, Daniel L. Ligurotis, Charles LoVerde.
Tony Judge, Chuck Spranzo, John Serpico, Bruno Caruso, Mike Coli, John Coli.

BANDS, MARCHERS, AND TRANSPORTATION

Marie Palello.

FLOATS

Marie Palello, Chairperson.
Ron Onesti, Cochairman.

PROGRAM AND ARRANGEMENTS

Dominic DiFrisco, Cochairman.
Theresa Petrone, Cochairperson.
Alderman William Banks.
Anthony Fornelli, James DeLeo, Leonard Giampietro, Fred Serpe.

QUEEN CONTEST

Fred Mazzei, Chairman.
Josephine Bianco, Cochairperson.
Anita Bianco,
Nick Bianco,
Mike Palello,
Marie Palello,
Vicki Pecora,
Ron Onesti,
Jo Anne Spata,
Angelo Del Giudice, and
Frank Nocita.

FLOAT PERSONNEL

Lawrence Spallitta, Chairman.

PARADE MARSHALS

Ben Affetto, Larry Battisti, John DeBella, Nick Bianco, Pasquale Caputo, Ettore DiVito, Neil Francis.

Frank A. Lato, Mike Palello, Joseph Pantaleo, Ron Onesti, Norman Boccio.

STAFF PHOTOGRAPHER

Sam Bruno.

COORDINATOR

Robert Allegrini, Marie Palello.

OFFICE VOLUNTEER

William Travers.

NEED FOR CONGRESSIONAL REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. WALSH] is recognized for 60 minutes.

Mr. WALSH. Mr. Speaker, I rise tonight to continue this fourth in a series of our special orders called for the purpose of highlighting the need for congressional reform. I have cochaired this series of special orders with the distinguished gentleman from Michigan [Mr. UPTON].

I yield such time as he may consume to the gentleman from Michigan.

Mr. UPTON. Mr. Speaker, I thank the gentleman from New York.

It is Wednesday night. This is our congressional reform task force evening, and every week we talk about a different, what some Members would call abuse of the rules. In the first couple of weeks since we have been having special orders on Wednesday evening, I think we have gotten a good response from callers all across the country, to our offices. I know the gentleman from New York was remarking about a woman from the Bronx that has been a faithful listener and watcher, I guess, the last couple of weeks. I have had calls even as far away as Alaska into my office. Perhaps it is midafternoon in Alaska instead of quarter to 9 on the opening of the National League series this evening.

However, there are two points I'd like to make about the rules of our House.

THE PACKED COMMITTEE

The first has to do with the Rules Committee itself. As everyone here knows, the rules that govern debate on legislation in this body make an enormous difference in the way legislation is shaped, because they determine what amendments or changes can be brought to the floor and how much Members can deliberate on them.

So if the leadership of the House wants to control the nature of legislation, all it has to do is pack the Rules Committee with Members who will follow the leader.

With regard to numbers, at least, that's exactly what's happened with the Rules Committee. The committee has nine Democrats to just four Republicans. So if the leadership wants to shut us out, they can do it easily through their overwhelming majority on the Rules Committee.

Now, we recognize that—for the time being at least—the Democrats have the majority in this House and we are in the minority. But unlike the ratio on the Rules Committee, there are about three Democrats to every two Republicans in the whole House.

That ratio is reflected, approximately, in the other standing committees in the House. Consider some of the numbers:

□ 2040

Mr. Speaker, let us take the Committee on Ways and Means: 23 Democrats, 13 Republicans. Pretty close to the ratio in the House.

The Committee on Energy and Commerce, another very powerful committee here in the House: 25 Democrats, 17 Republicans. Pretty close to the actual numbers in the House.

The Committee on the Budget: 21 Democrats, 14 Republicans.

The Committee on Foreign Affairs: 28 Democrats, 18 Republicans.

The Committee on Public Works and Transportation, a committee that I serve on: 31 Democrats, 20 Republicans.

The Committee on Small Business, another committee that I serve on: 27 Democrats, 17 Republicans.

In all these cases, the ratio is about three Democrats to two Republicans—the same as the ratio of Democrats to Republicans in the whole House.

Only the Rules Committee—which has the effective power over all legislation that comes to this floor—only the Rules has come up everywhere—in the constituent mail I receive, in discussions at town meetings, and everywhere else I go. And I'm sure everyone here is aware of the kinds of problems our Ways and Means Committee chairman ran into in his home district last summer.

Mr. Speaker, senior citizens literally confronted him in his automobile in the streets of Chicago.

After weighing all the opposition, many of us in this House concluded that the best remedy was simply to repeal the Catastrophic Act—and its taxes—and try to start over with a clean slate.

So in the reconciliation bill that we've been debating for the last week and a half, we got the opportunity to vote that way.

But there was a catch. The catch was in the form of a king-of-the-hill procedure. After the vote on repealing catastrophic health care, we also were to vote on another alternative that would preserve parts of the catastrophic benefits and parts of the taxes on senior citizens. The rule from the Rules Committee said that this whole process would be by a king-of-the-hill method, with the repeal amendment first and the revision second.

Now, as a member of the Republican Whip organization, part of my job is to count votes and to talk to Members who aren't sure how they will vote. As I was doing that this week, I found that many Members favored repeal of the catastrophic law. But I can't tell you how many of them thought that if the repeal amendment received more votes than the other, then the repeal would pass. They didn't realize that—under the king-of-the-hill procedure—even if the repeal got 400 votes, it could be defeated if the second amendment received as few as 216 votes. In other words, even if the repeal had overwhelming support, it would have been defeated by the second amendment if the second amendment had just enough votes to squeak by. If it lost, it still would win.

I doubt that's the way they teach it in ninth grade civics classes. Most students of democratic processes are taught that victory goes to the legislation that gets the most votes. But not when you're playing king-of-the-hill.

This issue is especially important in light of today's votes. This wasn't simply a procedural gimmick. These were votes on a major Federal program, costing billions of taxpayers' dollars. The king-of-the-hill procedure was the trick that nearly confused enough Members to vote in a way that would have defeated their own intention to repeal catastrophic health care.

Even more important than that, though, is what all of this does to the credibility of the House. How would any of us explain to our constituents that an overwhelming majority in the House favored a repeal of catastrophic health care and voted for it, but the repeal was defeated by another amendment that got fewer votes? I doubt any of our constituents would understand that. And I wouldn't blame them.

That's really the point of all this. We always like to mention here that this is the people's House. But when this House operates by rules that the people don't understand, then we're just not representing them properly.

My point is that we should stop trying to play the game that Jake LaMotta's brother Joey played. Our rules should be simple, straightforward, and completely fair: If you win, you win. But if you lose, you lose.

Mr. Speaker, our rule should be simple, straightforward, and completely fair. It should be, "If you win, you win. But if you lose, you lose."

Mr. WALSH. Mr. Speaker, I thank the distinguished gentleman from Michigan [Mr. UPTON] for giving us those thoughts mixed with sports analogies. I think we tend to look at politics and sports with a lot of the same rules, and the same competitive spirit and the same drive that drives

people to excel in sports. I think it drives them to excel also in politics. And the great thing about sports is that the rules are set. They do not change. Everyone knows what the rules are, and one of those things that we learn as kids is to play by the rules, that we do not take our ball and go home. We win or lose the game based on our ability, and the rules are the same for everyone.

Mr. Speaker, it has been an interesting couple of weeks in the Congress these past 2 weeks with a number of truly major issues coming before the Congress. One of the things that I have noticed as a relative newcomer here is that while the Democratic Party holds the majority in numbers, there really seems to be evolving a new majority, a majority of conservative and moderate members of both parties who take positions independent of some of the leadership, at least the voiced leadership, positions. I think that this shows surely some independence on the part of the legislators and their support for good ideas, not necessarily for anything else other than for good ideas.

Mr. Speaker, I am reminded that this sort of independence has not been rewarded in the past in Congress. I have had the occasion to read an interesting book by former Speaker of the House, Mr. O'Neill, who was also a member of the Committee on Rules and served as the distinguished Speaker of this House.

□ 2050

He became a member of the Rules Committee fairly early in his career, which was certainly a great reward for his leadership ability. He learned rather quickly that you cannot count on simple majorities to get the votes that you want.

What happened in his tenure on the Rules Committee is that the Democratic leadership at the time decided that the ratio was not big enough, that it would be better, rather than a majority that reflected the House majority, a 3-to-2 majority, to make it a 2-to-1 majority, or a 2-to-1 plus 1 majority. That was done and it stands today.

Mr. UPTON. Mr. Speaker, will the gentleman yield?

Mr. WALSH. I yield to the gentleman from Michigan.

Mr. UPTON. You know, what is really interesting about the way the numbers have been set on the Rules Committee, Republicans were able to get about 48½ percent of the vote for Congress nationwide, but because of gerrymandering practices, et cetera, we ended up with just a shade more than 40 percent of the seats here in this House, in essence a 3-to-2 margin that the Democrats have over the Republicans. Many of the committee reflect that same 3-to-2 ratio, as the gentleman just indicated.

Here we have the Rules Committee, a committee that almost every bill goes to before it comes for debate on this floor, dictates what amendments can be offered, if any, who is going to offer them, how much time is going to be offered for debate, whether it waives the Budget Act, and most of the rules do waive the Budget Act that we bring up on this House floor. It is viewed by many as a procedural vote, but it is very important. Take this reconciliation bill that we have been debating this past week, 1,935 pages, only allowed 8 or 9 amendments.

There are many things certainly that I as a Member representing southwestern Michigan cannot stand in this bill, and we have no way to get it out, no way to debate the merits. There are hundreds and hundreds of pages in that bill, and yet that vote when it came up, you know, it is viewed as a procedural vote and you only got an hour of debate for the purpose of the bill.

The other committees, and I cited some of the numbers a little bit earlier, Energy and Commerce, Foreign Affairs, my Public Works Committee, relatively fair in terms of numbers in the House, a 3-to-2 margin, and you think, well, the Republicans have four Members on that committee, on the Rules Committee. The Democrats ought to have 6, 3 to 2, or 6 to 4. That is what it ought to be. The Democrats do not have six. They do not have seven. They do not have eight. They have nine.

So even if we are able to win on the merits in the discussion in the Rules Committee, we are going to get rolled almost every single time.

Mr. WALSH. Well, in a sporting event, I guess I might even take four good Republicans to nine good Democrats in a baseball game.

Mr. UPTON. Well, they won 8 to 2, and they did not have the umpire here when they played in August; even Bart Giamatti was on our side that evening, I think.

Mr. WALSH. But even in a case where each individual has one vote, there are nine votes to four votes, it is pretty tough to muster a majority from that small a minority.

Mr. Speaker, there are a number of other points that I would like to make in regard to these rules. This discussion of rules, I think, goes to the very foundation of our democracy. Indeed, we, the membership of this House, have begun to recognize the need for change, that we, the Representatives of a democratic form of government must ourselves become more democratic. Because if our legislative process is fair, then indeed we bettter represent the interests of the American people.

Thomas Jefferson wrote in his Manual of Parliamentary Practice:

> It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or the captiousness of the Members. It is very material that order, decency and regularity be preserved in a dignified public body.

Let us talk about self-executing rules.

The practice of providing that upon the adoption of an order-of-business resolution, an amendment or measure would automatically be agreed to, is called a self-executing rule. Such a rule was used only once in the 95th Congress or 0.4 percent, never in the 96th or 0 percent, twice in the 97th or 1.3 percent, 5 times in the 98th or 2.6 percent, 20 times in the 99th or 12 percent, and 26 times in the 100th Congress or 16 percent of all the rules that were promulgated were executing rules. My source of these statistics is the Rules Committee.

The Republican rule package would place limits on self-executing rules. The rules package states:

> It would not be in order to consider any order-of-business resolution from the Rules Committee that provides for the automatic passage of any bill, joint resolution or conference report, or adoption of any motion, amendment, or resolution, except by a two-third House vote on agreeing to such consideration.

In the Omnibus Budget Reconciliation Act of 1989, on which we have been working for the past several weeks, H.R. 3299, the rule provides for five "self-executing" provisions, they are as follows:

The rule provides for an amendment striking textile and footwear provision of the Caribbean Basin Initiative in the bill and adding back a 50-percent reduction in duties on certain leather-related products.

The rule provides for an amendment collecting a user fee for the filing of FCC form 740 in the Energy and Commerce title of the bill.

The rule provides for an amendment designed to bring the Post Office and Civil Service Committee's reconciled savings up to the level required in this year's budget resolution. The amendment would require the Postal Service to pay for cost-of-living adjustment for certain retirees and survivors and would raise an estimated $69 million toward reconciliation targets.

The rule provides for an amendment providing that transfers of outlays, receipts, or revenues from one fiscal year to another are a necessary but secondary effect of a significant policy change. This amendment addresses several timing changes in the Agriculture, Energy and Commerce, and Ways and Means titles of H.R. 3299, and would permit the scoring of the amount of deficit reduction that would result from their enactment.

Finally, the rule provides for an amendment incorporating abortion-neutral language into the bill. This amendment is designed to clarify that sex discrimination provisions of the child care portion of this bill do not require an employer to pay for or provide abortion-related service.

Now, you may notice that some of these things you would support, others you may oppose, but in fact none of us will ever have the opportunity to vote on these because they become a self-executing rule. They are part of the rule itself.

It would seem that reconciliation bills such as this are loaded with extraneous and nongermane issues which have all sorts of spending implications. A lot of the issues contained in this bill should be allowed to stand on their own merit. Again, whatever your arguments concerning a particular idea, for or against, a reconciliation bill is simply not an appropriate legislative vehicle for self-execution.

The democratic process is not served when you restrict the opportunity for debate and amendment, and pass a separate bill at the same time. We pass a rule to limit debate, and on the basis of that vote, consider a separate bill passed. What happens if we oppose limiting debate and amendments, but we support the separate unrelated bill that is connected to it? We are stuck and put in the position of choosing which is more important.

There are a number of concerns that this raises. There are so many things in the reconciliation bill that we do not get to vote on that one is obliged almost to support the entire bill because one supported certain aspects of that bill. There is a number of issues within the bill that should be pulled out and voted upon, but will not be.

Mr. Speaker, there is a number of other rules that we are certainly concerned about, as the gentleman from Michigan [Mr. UPTON] discussed, the king-of-the-hill rule, closed rules, modified rules, and other amendments that have caused difficulty and have taken some of the fairness out of the process.

□ 2100

If I could redirect just back briefly before I close, when I was elected to city council president in Syracuse, and I know you, Mr. Speaker, served in city government yourself, and I appreciate you sitting here listening to our discussion of the rules promulgated by the Democratic Party, but very patient and a very fairminded individual, my first act, unofficial act in office, was to present each member of the council that I was presiding over but was a Democratic majority a copy of the Robert's Rules of Order and the rules of the city council, and I enforced those rules as they stood without an add on or change in the rules or interpretation or special interpretations. I did that for 3 years, and I enforced the rules evenhandedly for and against the Democrats, for and against the Republicans. My rulings were never challenged in that 3-year period, and I think that what that told me was that one can have a legislative body, and it does not matter who is in control of the body as long as everyone respects the rules.

If the rules are respected and enforced evenhandedly, the public benefits. The legislature benefits.

I would submit upon closing that that approach should be carried out in this august body. There is no more important legislative body on Earth than this one, and certainly we could show the other countries of the world the best way to run a legislature is to do it with good rules.

HURRICANE HUGO'S DEVASTATION OF THE VIRGIN ISLANDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from the Virgin Islands [Mr. DE LUGO] is recognized for 60 minutes.

Mr. DE LUGO. Mr. Speaker, let me begin by first thanking the Members of the Udall Codel that came to my home in our time of need, that flew down to St. Croix to assess the damage that had been done to this American community by Hurricane Hugo. I want to thank the gentleman from California [Mr. MILLER], who led the delegation, my good friend, the gentleman from New Jersey [Mr. GUARINI], my very good friend, the gentleman from New York [Mr. RANGEL], the gentlewoman from Maryland [Mrs. BYRON], the gentleman from Puerto Rico [Mr. FUSTER], my neighbor from Puerto Rico, the gentleman from Samoa [Mr. FALEOMAVAEGO], my friend from across the other side of the world in the Pacific, American Samoa, and, of course, our former colleague, the Secretary of the Interior, Manual Lujan. I want to thank the gentleman from Puerto Rico [Mr. FUSTER], the gentleman from California [Mr. MILLER], the gentleman from California [Mr. LAGOMARSINO], the gentleman from Texas [Mr. DE LA GARZA], the gentlewoman from Maryland [Mrs. BYRON], the gentleman from American Samoa [Mr. FALEOMAVAEGA], and the chairman, the gentleman from Arizona [Mr. UDALL], for taking a special order on Tuesday, September 26, to talk to the Members of this House and the people of our country about what they had seen in this U.S. territory.

Mr. Speaker, I have been on St. Croix since the day after the hurricane. I remained there until this Monday, October 2. I flew in to St. Croix on Tuesday on a C-141 which flew in before the St. Croix airport was open, and this plane was made available to us through FEMA and through the Department of Defense. I had contacted the day of the storm Robert Morris, the Acting Director of FEMA. I had also contacted Stella Guerra, the Assistant Secretary of the Interior for Territories, or I should actually rephrase that and say that Assistant Secretary Stella Guerra actually contacted me, called me from Hawaii to offer the assistance of the Department of the Interior. For that I am very grateful, and the people of the Virgin Islands are grateful, too.

I contacted Tom Wiener, chief of staff to Secretary Lujan and Dave Gribbin, the Assistant Secretary of Defense for Legislative Affairs. We also contacted Lt. Gov. Derrick Hodge while he was in the air. He had gone to Syracuse taking his daughter to enroll her for the new college year, and we told the Lieutenant Governor what was happening. He was flying back. He was going toward Miami, but we asked him to come and join us here in Washington so that we could fly down together on this aircraft. So we did that.

First, we met on Tuesday, the morning after the hurricane at 8 a.m. with Grant Peterson, the Deputy Director of FEMA, and at 9 o'clock the Lieutenant Governor, Derrick Hodge, and myself left for the Air National Guard base at Martinsburg, WV, and at 11 a.m. we were in the air along with the Under Secretary of the Interior, Frank Bracken, two members of the Office of Territories and International Affairs, with Gerald Conley, the Federal Coordinator for FEMA, and from FEMA also Stephen Singer and Curtis Carlton, 1 SBA official and approximately 15 communications specialists from FEMA.

At 4 o'clock that afternoon we arrived on St. Croix, and that night at 6 o'clock, on Tuesday evening, communications for the first time since Hugo struck were established by the FEMA communications team with the outside world. The outside world was the United States, the mainland.

We could communicate with Washington, but we could not communicate down the street in Christiansted. We could not communicate with Frederiksted. We could not communicate with the people living in the outlying districts of St. Croix. In fact, we could not communicate with anyone on the island of St. Croix. We could not communicate with the island of St. Thomas, the capital of the Virgin Islands, 40 miles away. There was no communication.

I want to tell the Members what I found when I returned to my home, and I want to share with them what it was really like in this American territory. I have to tell them that I was not ready for the devastation that we found on St. Croix. I simply was not ready for it, and I do not think that

anyone who has seen what happened to St. Croix, those who were there in the early days, was prepared for it.

When we arrived in St. Croix and we went with a convoy, just a group of cars, into the town of Christiansted, I have never seen such devastation. The island of St. Croix, which just a few days earlier had been green and verdant, was brown as the walls of this Chamber, the entire island. There was not a speck of green. There was not a single green leaf anywhere on St. Croix. This was one of the things that struck me. I never thought that a lack of green could have such an effect on one, but no one would believe how we relate to nature until there is a dramatic change between the environment that one is accustomed to.

There were 100-year-old mahogany trees, these majestic giants, and they were picked up as though they were nothing. They were thrown across the road. For us to drive to Christiansted, it took a long time, because there were telephone poles down everywhere. There was wires down everywhere. The power lines were down. There were, as we entered Christiansted, rows of these trees that we have along the sides of the roads that were not completely down.

□ 2110

And it was the eeriest sight. It looked as though cruisers or battleships had been laying off of Christiansted or St. Croix and shelling the island for months, because those trees that had not been uprooted, where they had been maybe 100 feet tall, they were maybe 12 feet tall, and they were ripped off. There were just shreds.

It looked like a World War I picture of a forest that they used to battle in and shell each other for a year or so.

You saw all the buildings without roofs. Ninety percent of the buildings on St. Croix had major destruction. The people were in shock.

You cannot conceive of what it is like until you have been in a community where there is no communication whatsoever as when you have been on an island.

If you have a hurricane on the mainland, that hurricane passes. There is devastation. Help comes from across the State line. You can communicate with the States around you. You are not completely cut off.

The little island of St. Croix, with some 60,000 people, was completely cut off for at least 48 hours. They did not know if any help was coming. There was no way to get word in or out except for some broadcasts that were being made by ham radio operators from boats lying off the shore.

Why did certain things happen in St. Croix? God, I wish the press, which has written so much and said so much about St. Croix, rather than reaching for sensationalism had taken a moment to ask themselves certain questions and ask how any American community would respond when they are frightened, when they cannot communicate with each other

If you are the chief of police and you try to reach your men on St. Croix after that storm, how do you reach them? Do you call them up? There is no telephone. There are no radios working. All of the radios that had been put in by FEMA and the others, they were not working because every relay station had been torn down.

The only way that you could communicate with anyone was to send a runner. Ten percent of the police department came. That 10 percent, has anybody given them a commendation? Has anybody from the press said one word about the 10 percent that were on duty for 4 continuous days and nights, or what they did during those days?

I will tell you that there are men in the St. Croix Police Department that I will walk anywhere with. Capt. Ohanio Richards showed such devotion and good judgment. Do you know what the police did? There was rioting. No, there was not rioting, there was only rioting reported in the press. There was looting. There is a vast difference. There was looting, which is condoned by no one. Who condones looting? But there was looting. I saw it.

We have never had looting in the history of the Virgin Islands. But when I arrived on Tuesday, I saw the crowds. But they were not rioting. There were not mobs with machetes and guns.

I am going to quote some of the things that were printed in the press. The press got so carried away, they showed groups looting on the television screen and they used certain words that convinced people looking that, my God, what is happening here?

This little island of people, frightened; tourists in the Virgin Islands, frightened. Certainly they were frightened. You would be frightened. Anyone would be frightened, anyone, when you are placed in a situation where there is no power, there is no water, there is no food, there is no communication, there is no word that anyone knows anything about what is going on. Is anyone coming to help? What is happening?

All you hear are rumors. The rumors go like wildfire. The mainland press only prints the rumors. The television, they show the rumors.

They did not show the devastation or the problems that this community had. All they showed were people looting. Looting is a tragedy for any community.

Is looting new after a storm? It is new in the Virgin Islands, but it is a common occurrence here on the mainland.

When there is a hurricane that hits New Jersey, has there not been looting? When a hurricane hits Miami, has there not been looting? Was there not looting in Virginia without a hurricane just recently? But has the press played it up as though there were some sort of a racial attack upon innocent people? That is what it was played up as.

I hold in my hand a copy of the New York Times, an article written by one Jeffrey Schmalz entitled "Roots of Looting on St. Croix Lie in Racial and Class Tensions." From the New York Times of September 26. I will quote to you just a little bit.

> Some private groups, including the Council on Hemispheric Affairs, said they believed that unemployment on St. Croix is as high as 30 percent. They said St. Croix is treated as "backwoods" by the United States. It has few paved roads.

Well, my friends, for the record this American community that this left-wing think-tank is talking about happened to have an unemployment rate of between 2 and 3 percent. That is a rate that is considered by any American community as full employment.

Roads, the Virgin Islands participates as a State under the Federal Highway Program. The roads on St. Croix are the envy of St. Thomas, to tell you the truth.

But that is not so bad. Listen to this from the same New York Times.

> I woke up and heard Rastafarian drums right after the storm, said a 40-year-old woman who lived on St. Croix 10 years and was at the airport on that Friday to flee to Miami with her two small children.

Rastafarian drums. Drums in the hills. I have lived all my life in the Virgin Islands. My family has been in the Virgin Islands for over a century. I have never heard Rastafarian drums. But it is a picture that will terrorize people on the mainland. It was so good that the Miami Herald the next day reprinted this Schultz on page 1.

Then we have the Chicago Tribune of September 21. The Chicago Tribune talks about "machete armed mobs."

I tell you that there was looting, and that the looting came about I was told because the people were in fear, wondering where is the food going to come from. They did not know that the 10 percent of the police department that had been on duty had secured the warehouses of food and they had secured the armory where the arsenal is.

□ 2120

And they secured a number of other key places. But they went into a grocery store to buy food after the storm. The people went in there and they started to buy the food. The next thing, people started, everybody wanted to be first, and they got into pushing and shoving, and the next

thing, one of the managers of the grocery store said, "Look, all you just go ahead, help yourselves, take it, take it," because they are insured anyway. That was the beginning of the looting because the minute you tell people, "Take it, help yourself," they start grabbing and that sets it off. It set it off in St. Croix and it set it off in mainland community after mainland community.

So we had looting. What did the police do? Well, it just so happens that the police did make arrests. But then what were they going to do with the people they arrested? The prison had been destroyed or suffered major damage so that the prisoners had gotten out from Hurricane Hugo. Also the detention center at Anna's Hope had suffered major damage.

So the police arrested the people that were looting, and then finally they gave up because they realized they had no place to put them and they let them go.

The looting continued and it got out of hand. People were afraid.

You can believe that in a situation like that you are afraid.

The people that were on the island were afraid, that is a natural thing to be afraid in a situation like that.

They wanted to know what help was coming, who was going to come to help them. But it is one thing to be frightened down there; it is another thing to be a member of the press with the responsibility of being a member of the great U.S. press and the powerful television media and your responsibility really is to give the people a balanced report of what is really happening in this U.S. territory.

The temptation is to go for sensationalism. Well, unfortunately they went for the sensationalism because on September 20 the Miami Herald said that gangs were moving through the streets with rifles and frightened tourists begged for help. There were no gangs with rifles.

There were people with rifles and guns protecting their property, but there were no gangs of machete-wielding people going through the town.

Time magazine, not to be outdone, listen to Time magazine:

> Anarchy in Paradise. When the skies cleared, locals armed with rifles, guns and machetes plundered the ravaged streets of Christiansted and Frederiksted. Gunfire could be heard throughout those cities.

When you read all these things and they are telling you these things and they are showing you pictures of people looting, they convince you that you are seeing things that you are not seeing.

Even worse, this is Time magazine again, "There was rioting by armed gangs of local residents."

The Wall Street Journal, Alexander Cockburn, again they are quoting the same Larry Birns, director of Washington-based Council of Hemispheric Affairs as saying unemployment and underemployment hovered around 30 percent before the hurricane.

You know, one thing we can all be proud of regarding Hurricane Hugo was the response of our country.

I want to tell you that when the Governor requested of the President that the MP units be sent in, they asked me, "If there was only looting, why are you asking for MP units?" Because you would have done the same thing as a responsible leader on the mainland. If you only have 10 percent of your police force, because the rest of the police force are with their families who have lost their homes, they are with their wives and children, looking after their families—it is not something I am condoning, you should first be on duty—but they made the decision that they wanted to look out for their families because their families had no shelter. So they were human.

But the reality was that we had 10 percent of the police force and 15 percent of the National Guard. It went up to 25 percent when I came there.

You say, "Well, if there was only looting, why did you ask for MP's?" Well, because with the type of reports that were circulating and the fear that was there, all you had to have was one incident and you would have seen a cycle begin that would have taken down that entire community.

So the Governor and I asked the President of the United States to send professionals, men who would have restraint, men who had good judgment, who could handle a situation like that.

Those are the same type of men that we would have brought to a mainland community under those circumstances because the police had been on duty, that 10 percent were worn out. It is when you are overtired that you can make a mistake.

So they came in. The President got the request from the Governor at 4 on Wednesday afternoon, and that was on September 20. The President declared it a disaster at 1:30 that afternoon. The Governor's request for military police went in at 4 and at 7:30 for the Airborne at Fort Bragg to mobilize.

At 7 the next morning, Brig. Gen. W. Bruce Moore and the advance party arrived at the airport on St. Croix, and for the rest of the day the rest of the troops were coming in.

I am going to tell you something about these men and about this officer, Brig. Gen. Bruce Moore. You will not find better anywhere in the world.

They came in and they displayed such professionalism. They did not go out, were not occupying a U.S. territory, they were not invading; they came to help and they came and they worked with our local police department and with our National Guard unit, and order was the rule of the day.

With all the dire predictions that have been made, not one person, not one white person, was killed. One young man did lose his life in the hysteria. He is a black youth who was slightly mentally retarded, well known in the community, never harmed anyone. Evidently he got into mischief, and a frightened pharmacist shot him dead.

□ 2130

This young man that was shot dead, he ran errands for the president of the legislature. The president of the legislature is of Danish descent. In other words, I am telling Members that the president of the legislature of the Virgin Islands is white. That is how it is in the West Indies. We have a society where we do not judge everything by the color of your skin. The president of the legislature was speaking to me the day after, and I was telling him what had happened. He was shocked, because the day before he had been with the young man.

However, that is what happens to human beings when hysteria takes over. That young man is dead. Many more could have been dead.

The fierceness of Hugo alone, it is a miracle that hundreds were not killed in the Virgin Islands. However, they were not. That was the miracle of Hugo. We survived Hugo. Only the material things were destroyed—our homes. My brother lost his home. He lost two houses, one that he lived in, and another that he rented. One completely, the other one, 50 to 60 percent damaged. Lots of people lost their homes. Many people lost everything they had. The price was a little time to focus on that. These are human beings in St. Croix, and they are Americans.

Members should have seen the fury of Hugo. A person goes there and sees at the Hess Oil refinery huge steel tanks, crushed as though they were papier-mache. The gymnasium at Central High School, that was used as a shelter for the people because it was made of concrete and steel, and it was a shelter from the storm, that was destroyed. The steel was twisted as though it were spaghetti, and the concrete just blown down. The people, at the height of the storm, were crawling on their bellies across that field, trying to get to the Central High School. That is what was going on in St. Croix. Did the press mention that?

I visited Dr. Aubrey Anduze, who I had the great honor to serve with in the legislature of the Virgin Islands. We were together. He is a former president of the legislature. He is a deacon of the Anglican Church. He is a dentist. He is a civic leader. He is a wonderful human being. He is educated, and he is black. However, he does

not think of himself in racial terms. He thinks of himself as a West Indian. He and his son lost their home, totally. I went to their house. Their roof is gone, and he said, "Ron, my son and I, we are amazed that we are alive," because during the storm they thought they would stay in their bedroom, because this is a well-built house of concrete, and during the storm the roof starts to give, and he and his son are trying to get out of their bedroom, and the door was stuck. Something was jammed against the door, and they were up on the second floor. They were pushing. They are not kids any more, they are older, and they were pushing that door, and they finally got the door open and the roof comes crashing in. They would have been killed. So they go downstairs to the first floor, and as they get to the downstairs, this huge window blows out, and bam, and all the things that they had on the wall, things start blowing around and whistling around the room. They grab a mattress, put it against the window and for 6 hours they are holding that mattress against the window. The press does not tell readers about that.

Hurricane Hugo. The might of Hurricane Hugo. It is like God saying, "Hey, you are spending too much time just interested in material things. Maybe I will show you what my power is." He sure did show citizens what his power is. The helicopters of the National Guard that were put into the hanger were crushed, destroyed. The airport terminal, the control towers, both airports—down. Buildings destroyed. People so frightened. No communication, no way of talking to your neighbor. No way of knowing what is happening to your son who lives in that part of the island, or your daughter who lives over here, or your cousin who lives over there. Or your child, who is staying with your cousin. That is how it was.

We have to have compassion and understanding. We have to have responsibility and restraint when we report about a tragedy in an American community. I know TV has these programs that have become so vulgar and so sensational where they shout at each other, and the more common they can become, the more the public watches this. Is that what the news is supposed to be, that we simply make it sensational, make it sensational and do not mind at all this devastation that has been wreaked on these poor people in St. Croix?

Nows the power of the mainland media. They are going to try to equal Hugo in the devastation that they wreak on this poor community, where not only the buildings have been destroyed, but the entire economy has been destroyed. Scare all the people on the mainland, because tourism is the lifeblood of this place. Let me tell Members the things that they said had been going on, then absolutely tell the people. But what was going on was looting, and what was going on was fear, and all the things I have been describing to Members. So much fear.

If a person is a leader, and I come from a background of radio and the media, I know what the responsibility of broadcasting is. A person does not broadcast rumors until they are checked out to see if it is a rumor or if it is a fact. The New York Times, in an article they did on the early page, page 2 or so, they went into all kinds of hysterical overstatements, and they jumped to page 24, and they continued, and at the end of page 24, the last thing if a reader struggles through reading all that, then they reported at the end of the whole thing that the Federal authorities had stated that the reports that had come out of St. Croix were greatly exaggerated.

Now I imagine that what I am saying is being carried by C-SPAN, and I know that some Members who are watching me address the House may have been in St. Croix and were so frightened that they think there was shooting and that there were mobs with machetes.

□ 2140

No, there was looting, and there was destruction, and there was a suffering community, and there were a lot of frightened people who wanted out and deserved to be able to come out. I say to them, "You came out because your country responded, and we helped to get the means to bring you out."

There were shots all over the place? Yes, a lot of damage beyond Hugo has been put on this community, and we are going to have to rebuild it now.

However, Mr. Speaker, I want to tell my colleagues some good things. I want to tell them, first of all, that our country looks very good in the Caribbean because of men like General Moore, because of naval officers such as Admiral Moriarity who is heading the operation down there; Admiral Moriarity, because of people like Colonel Frederick, who was a top aide to General Moore, because of people like Capt. Paul Hanley of the U.S. Navy, because of one of the greatest skippers that I met, skipper of a small Navy ship called the *Groves*. We in St. Croix will always remember the *Groves* and men who reflect their skipper, their commanding officer, the men of the *Groves*. Mr. Speaker, they are the way we would like to see all Americans be and all American sailors be. They were incredible. They came ashore, they volunteered, they helped in the clean-up, they helped in rebuilding homes. One of the men even helped in the delivery of a child, new life, after this storm. They did everything.

Then there were the men of the *Pensacola* under the command of William Niethal. The *Pensacola* came there. It had nine berths; that is, hospital beds, that were needed.

The Coast Guard did a fine job. They are, of course, under the Department of Transportation, but I tell my colleagues that I was telling Admiral Kelso who came down; Dick Cheney sent him down to look at the whole situation, and I told the admiral, I said, "You know I've never seen anything like this." I said, "I just don't think that a few years ago the military could have done this. I think that a few years ago there would have been all kinds of interservice rivalries, but in this operation there was none of that."

The Air Force, the Army, the Navy, the Coast Guard all working together to help this American community and these poor people who were suffering.

The President sent in plane load after plane load. Do my colleagues know what it is to send in 15 C-5's? A C-5 is the largest plane in the world. The Russians have one like ours. It looks nice on the outside, but it is not quite as good on the inside, not quite the quality of the C-5. Fifteen C-5's loaded with food and supplies, relief material for this American community.

Forty-one C-141's, 25 C-130's, 2 portable airport towers and navigational aids, a portable field hospital, a complete hospital, 850 pallets of food from the U.S. Department of Agriculture, and then on top of that, another 4 C-5's loaded with food and supplies for this community.

Some local people did well, too. I want to tell my colleagues a moment about a radio station—talk about media? Media should take a look at real media, a radio station called WSTA.

Mr. Speaker, I started out with that radio station when I got out of the service. That was a long time ago, over 30 years ago. It was a little 250-watt station when I started out with it. It is considerably more than that today.

However, Mr. Speaker, this station stayed on the air continuously, 24 hours a day, for the past 2 weeks. They did not broadcast a single commercial up until maybe 2 or 3 days ago.

My colleagues have never heard anything like this. They were on the air during the storm. They were the only thing in St. Thomas. Our stations were knocked off the air.

Mr. Speaker, this was a big handicap in St. Croix, but this station in St. Thomas stayed on the air, and people were calling in during the storm saying, "My roof is collapsing. The windows are blowing in. I'm afraid. I'm afraid."

Mr. Speaker, my colleagues have never heard anything like a hurricane, the wild howling, and powerful blow-

ing down of things, and continuously roofs flying through the air, and they said, "I'm afraid. I got to get out of here. I've got to get out of here." Mr. Speaker, the announcer was saying, "No, don't. Go into the bathroom in your house. Hide there. That's the best place, or go by your sink, and go under the sink, and hide there, and stay there," and they would do it.

Mr. Speaker, one family tried to cook something during the storm, and the stove blew up, and they got burnt, and they called into the radio station saying, "My mother is in agony. She's been burnt. what can we do because they can't get the ambulance to us?"

And another person called in, and it was a nurse, and she said, "Have your mother put her hands under the cold water," and she told them what to do, how to wrap it, and how to take care of her mother and the others until the ambulance got there.

My colleagues, it was incredible. I mean this is incredible. This station; there is no question in my mind that this station is responsible for the saving of who knows how many lives. Who knows how many people did not panic and run out into the street during the storm because of this station staying on the air with Lee Carle, and Addie Ottley and Brownie. All of them, they deserve our special commendation.

WAPA: That is the public utility. I always used to beat up on them. Well, let me tell my colleagues that they have earned my admiration. Director Alberto Bruno-Vega and Gregory Willocks, a Cruzan who heads the operation in St. Croix. He is as good as anybody. He is terrific, and they are getting back the power. They are putting it back together. They have already gotten the de-sal plants working. They have already got water out into the community. They are bringing this community back.

And VITELCO, I never had a good word to say about them—this is the telephone company—never until now, because they are doing a terrible job.

The Alabama and Georgia Power and Light Hugo Express: they are down there helping us. They were flown in from Alabama, and from the other side of the world Governor Ada has sent 21 experts on restoring power on lines because they are accustomed to dealing with typhoons out in the Pacific. And he sent from that American territory in the Pacitic to the American territory in need in the Caribbean this help.

□ 2150

Why does the press not tell that story? Why does it not tell the story of Americans in Guam helping Americans in the Caribbean? Is it not sensational enough? No. That is passed on. They are not talking about St. Croix anymore. That is finished. They have moved on to other things, you know, bearded women and God knows what else, but we have to live with it.

Thank God that we have a President, a Secretary of the Interior, a Secretary of Defense, who have responded to the needs of this American community.

I am convinced that we are going to be all right in the Virgin Islands. We are going to be all right in St. Croix. The Army Corps of Engineers is down there helping us to rebuild.

I want to tell Chairman ANDERSON, he called me, we missed each other.

There is Colonel Cox of the Army Corps and Captain Torres of the Army Corps, Lt. Gov. Derek Hodge, Virgin Islands National Guard Bob Moorhead, who worked tirelessly around the clock on St. Croix.

Everything you did on St. Croix you had to do like you were doing it five or six times before you could get it done, because there was no communication.

The FAA, Castleberry, FAA Atlanta, who helped us to restore those airports so that the planes could come in.

There was Sandy Bathon, the FAA tower manager of St. Croix.

Terry Highfield of Pan American, general manager, St. Croix.

Mike Navarro, American Airlines general manager, St. Croix, and the Zenon Construction Co., and I will tell you about many more in the week and months ahead.

What a wonderful thing it was to have one of the President's Cabinet officers come down on the Sunday after the storm, Manuel Lujan. We all know Manny Lujan, we who have served with him here. It is typical of him to do that, because he is a caring person. He is a warm person. There are people who are capable of being put into high positions and not lose their humanity and retain their caring for other people, and Manny Lujan is such a person. Some of the press do not like that style. They have already started to beat up on him, but we like him because he cares about people.

And Chairman MO UDALL, responding to my request and dispatching Codel Udall, led by GEORGE MILLER, CHARLIE RANGEL, coming down to see us. He has always been helpful to us.

There was FRANK GUARINI, BEVERLY BYRON, her remarks during the special order a few days ago, beautiful and caring.

So I want to say to all my friends here in the Congress that we will need your help.

You know, we have a lot of legislation on the books for disasters like this. We have the FEMA legislation, but unfortunately the rebuilding of the buildings and the putting on of the power and restoring water, that is the easiest part of it, but there is nothing on the books to help to rebuild a totally devastated economy, and that is where St. Croix is. So I will need your help. The U.S. Territory of the Virgin Islands will need your help. The people of St. Croix will need your help, and I am convinced that we will get your help, because that is the kind of country we are and that is the kind of Congress we are and that is the kind of people you are.

We are going to come out of this in St. Croix better than ever, because we are going to be the type of community that we should be in the West Indies, in the Caribbean, a community where we are going to live together, and we do not judge each other by the color of our skins. The vast majority of the people of the Virgin Islands are black. And how do I get to be their delegate to Congress? I run in a free election every 2 years, because we do not judge each other by the color of our skin. We like each other based on what we know about each other, whether a person is fun or kind, truthful and we can count on them. Really, on that score, we are way ahead of you here on the mainland, we really are.

So I say to the press, if you really want to do something, come down in a few months and see how we are living on St. Croix.

I was at a press conference today over at the National Press Club with a group of business leaders from St. Croix and St. Thomas who were led by Commissioner Eric Dawson and Leona Bryant, the director of tourism, and you had representatives of the chamber and of the hotel industry.

St. Thomas is coming back so fast. St. Thomas did not have the devastation of St. Croix. St. Thomas had selected areas that were very hard hit. They were talking about, "Come down to St. Thomas. We are going to give you guaranteed hotel rooms." That is, they guarantee that you have a good time at that hotel or you pay nothing. Sounded like a good deal to me.

But I was thinking, what do you say about St. Croix, because we suffered so much damage. Why would you want to go to St. Croix? I will tell you why you want to go to St. Croix. If you want in a few months to go down there, you are going to meet the people, because the island of St. Croix is going to be a very close community, close community, not closed, but close. We are going to share many things. It will be like it was I think back in the fifties when it was great to go to a West Indian or Caribbean island and meet the people. You do not go and have this plastic vacation like you have so many places today. You meet the people. You find out what a West Indian is really like. You find out that I like that person. You find all the qualities, all the warmth that is there. You have a great time. You learn about a great part of the world. You will learn about an American community that is, well, very different. It is

not there just to make a lot of money. It is there, well, to protect our values and to have a really great life.

So I hope you will come and I hope you will help me and help our people rebuild from the devastation of Hugo.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. WALSH) to revise and extend his remarks and include extraneous material:)

Mr. WYLIE, for 5 minutes, today.

(The following Members (at the request of Mr. JONTZ) to revise and extend their remarks and include extraneous material:)

Mr. PICKLE, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WALSH) and to include extraneous matter:)

Mr. SKEEN.
Mr. GALLO.
Mr. VANDER JAGT.
Mr. CLINGER in two instances.
Mr. GEKAS in two instances.
Mr. DENNY SMITH.
Mr. RINALDO.
Mr. THOMAS of Wyoming.
Mr. HUNTER.
Mr. BOEHLERT.
Mr. GILMAN.
Mr. ROWLAND of Connecticut.
Mr. LEWIS of Florida.
Mr. GOODLING.
Mr. MCEWEN.
Mr. BARTON of Texas in two instances.
Mr. COLEMAN of Missouri.
Mr. LAGOMARSINO.
Mr. BEREUTER.
Mr. PACKARD.

(The following Members (at the request of Mr. JONTZ) and to include extraneous matter:)

Mr. HAMILTON.
Mr. STARK.
Mr. KASTENMEIER.
Mr. MCMILLEN of Maryland.
Mr. DURBIN.
Mr. SKELTON.
Mr. MAVROULES.
Ms. PELOSI.
Mr. CROCKETT.
Mr. MORRISON of Connecticut.
Mr. RANGEL.
Mr. LIPINSKI.
Mrs. COLLINS.
Mr. DINGELL.
Mr. HERTEL.
Mr. FROST in three instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table, and, under the rule, referred as follows:

S. 1521. An act to amend Public Law 91-34 relating to the police force of the National Zoological Park of the Smithsonian Institution, and for other purposes; to the Committee on House Administration.

S.J. Res. 200. Joint resolution providing for the reappointment of Jeannine Smith Clark as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration.

S.J. Res. 203. Joint resolution providing for the appointment of Homer Alfred Neal of Michigan as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration.

S.J. Res. 68. Concurrent resolution authorizing a concert by the American Soviet Youth Orchestra on Capitol grounds; to the Committee on Public Works and Transportation.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Admninistration, reported that that committee has examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2358. An act to authorize appropriations for fiscal year 1990 for the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives, and for other purposes; and

H.R. 3282. An act to amend title 5, United States Code, to authorize the continuation of the performance management and recognition system through March 31, 1991, and for other purposes.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 122. Joint resolution to designate October 1989 and 1990 as "National Down Syndrome Month."

BILL PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, a bill of the House of the following title:

H.R. 1486. An act to authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes.

ADJOURNMENT

Mr. DE LUGO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10:59 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, October 5, 1989, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1789. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Secretary of Agriculture, under certain conditions, to release the public purpose reversionary clause contained in deeds for land conveyances made under the provisions of the Bankhead-Jones Farm Tenant Act; to the Committee on Agriculture.

1790. A letter from the Acting Administrator, Agency for International Development, transmitting determination that it is in the national interest to grant assistance to Peru which is in payment default to the United States for certain indebtedness, pursuant to 22 U.S.C. 2370(q); to the Committee on Foreign Affairs.

1791. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting the annual report on the extent to which significant progress has been made toward ending the system of apartheid, pursuant to 12 U.S.C. 635(b)(9); to the Committee on Foreign Affairs.

1792. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Keith Leveret Wauchope, of Virginia, Ambassador Extraordinary and Plenipotentiary-designate to the Gabonese Republic, to Sao Tome, and to Principe; and by Smith Hempstone, Jr., of Maryland, Ambassador Extraordinary and Plenipotentiary-designate to the Republic of Kenya, and members of their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1793. A letter from the Comptroller General of the United States, transmitting their review of the independent certified public accountants' audit of the Trans-Alaska Pipeline Liability Fund's financial statements as of December 31, 1988, pursuant to 43 U.S.C. 1643(c)(4); jointly, to the Committees on Government Operations, Energy and Commerce, and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. Supplemental report on H.R. 1465 (Rept. 101-242, Pt. 5). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROWLAND of Connecticut (for himself and Mr. MICHEL):

H.R. 3401. A bill to amend chapter 55 of title 5 and chapter 10 of title 37, United States Code, to provide procedural due process in determining the status of missing per-

sons and to require the Secretary of Defense to conduct a study of the provisions of the Missing Persons Acts codified in titles 5 and 37, United States Code; jointly, to the Committees on Post Office and Civil Service and Armed Services.

By Mr. FASCELL (for himself, Mr. GEPHARDT, Mr. MICHEL, Mr. DINGELL, Mr. ROSTENKOWSKI, Mr. DE LA GARZA, Mr. HAWKINS, Mr. GONZALEZ, Mr. OBEY, Mr. HAMILTON, Mr. SOLARZ, Mr. GEJDENSON, Mr. LANTOS, Mr. BROOMFIELD, Mr. GILMAN, Mr. HYDE, Mr. SMITH of New Jersey, Mrs. MEYERS of Kansas, Mr. HOUGHTON, Mr. GOSS, Mr. HOYER, Mr. BONIOR, Ms. KAPTUR, Mr. KLECZKA, Mr. NOWAK, Mr. GUARINI, Mr. HERTEL, Mr. FLORIO, Mr. MARKEY, Mr. WALGREN, Mr. SWIFT, Mr. SYNAR, Mr. ECKART, Mr. SIKORSKI, Mr. COOPER, Mr. BRUCE, Mr. MANTON, Mr. STENHOLM, Mr. GLICKMAN, Mr. LAFALCE, Mr. LENT, Mr. MOORHEAD, Mrs. MARTIN of Illinois, Mr. NIELSON of Utah, Mr. BROWN of California, Mr. OLIN, Mr. PENNY, Mr. STALLINGS, Mr. NAGLE, Mr. JOHNSON of South Dakota, Mr. ESPY, Mr. SARPALIUS, Mr. LANCASTER, Mr. COLEMAN of Missouri, Mr. MADIGAN, Mr. ROBERTS, Mr. GUNDERSON, and Mr. SCHUETTE):

H.R. 3402. A bill to promote political and economic democracy in Poland and Hungary as those countries develop and implement programs of comprehensive economic reform; jointly, to the Committees on Foreign Affairs; Banking, Finance and Urban Affairs; and Ways and Means.

By Mr. NOWAK:

H.R. 3403. A bill to require that vessels exchange their ballast before entering the Great Lakes; to the Committee on Merchant Marine and Fisheries.

By Mrs. COLLINS:

H.R. 3404. A bill to promote competitiveness and more efficient Government operations by requiring a value engineering review for certain types of Federal contracts, and for other purposes; to the Committee on Government Operations.

By Ms. KAPTUR (for herself, Ms. OAKAR, Mr. LEACH of Iowa, Mr. STOKES, Mr. JONTZ, Mr. TOWNS, Mr. SAVAGE, Mr. FUSTER, Mr. VENTO, Mr. MOODY, and Mr. WISE):

H.R. 3405. A bill to amend the National Housing Act to authorize the Secretary of Housing and Urban Development to make repayable matching contributions to HOME savings certificate accounts established by low- and moderate-income first-time home buyers to assist such home buyers in purchasing homes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KASTENMEIER:

H.R. 3406. A bill to amend title 28, United States Code, to provide for Federal jurisdiction of certain multiparty, multiform civil actions; to the Committee on the Judiciary.

By Mrs. KENNELLY:

H.R. 3407. A bill to provide for the establishment of the Peace Corps Professional Consultant Program for Poland and Hungary; to the Committee on Foreign Affairs.

By Mr. SKEEN (for himself, Mr. SCHIFF, and Mr. RICHARDSON):

H.R. 3408. A bill to establish a commission to provide compensation to individuals who lost their land or mining claims to the U.S. Government for the establishment of the White Sands Missile Range; to the Committee on the Judiciary.

By Mr. VISCLOSKY:

H.R. 3409. A bill to require the Environmental Protection Agency to provide information to Congress regarding environmental requirements in other nations, and for other purposes; to the Committee on Foreign Affairs.

By Mr. NEAL of North Carolina:

H.J. Res. 415. Joint resolution calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons; to the Committee on Foreign Affairs.

By Mr. RANGEL:

H.J. Res. 416. Joint resolution designating December 3 through 9, 1989, as "National Cities Fight Back Against Drugs Week"; to the Committee on Post Office and Civil Service.

By Mr. GILMAN (for himself, Mr. LANTOS, Mr. PORTER, Mr. HALL of Ohio, and Mr. ROSE):

H. Con. Res. 208. Concurrent resolution concerning human rights violations by the People's Republic of China; jointly, to the Committees on Ways and Means; Banking, Finance and Urban Affairs; and Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII.

260. The SPEAKER presented a memorial of the Legislature of the State of South Dakota, relative to the boundary between South Dakota and Nebraska; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. LEHMAN of Florida introduced a bill (H.R. 3410) for the relief of Pilar Mejia Weiss; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 61: Mr. SLAUGHTER of Virginia.

H.R. 76: Mr. STEARNS.

H.R. 83: Mr. JACOBS, Mr. NEAL of North Carolina, Mr. BRYANT, and Mr. POSHARD.

H.R. 84: Mr. TRAFICANT and Mr. SAVAGE.

H.R. 182: Mr. MARKEY, Mr. GALLO, Mr. LEWIS of Georgia, and Mr. OWENS of New York.

H.R. 500: Mr. ROBINSON and Mr. FASCELL.

H.R. 534: Mr. AUCOIN.

H.R. 614: Mr. GINGRICH, Mr. YATES, Mr. FISH, and Mr. WALGREN.

H.R. 634: Mr. LEVINE of California.

H.R. 675: Mrs. ROS-LEHTINEN.

H.R. 1068: Mr. DREIER of California and Mr. GALLO.

H.R. 1136: Mr. KOLBE.

H.R. 1468: Mr. HASTERT.

H.R. 1470: Mr. JOHNSON of South Dakota.

H.R. 1515: Mr. PRICE.

H.R. 1699: Mr. DELAY, Mr. THOMAS of California, Mr. MILLER of Washington, Mr. BURTON of Indiana, Mr. HOCHBRUECKNER, Mr. ENGEL, Mr. COLEMAN of Texas, and Mr. LEWIS of Florida.

H.R. 1730: Mr. PURSELL, Mr. ANDREWS, Mr. JONTZ, Mr. ROBERTS, and Mr. NIELSON of Utah.

H.R. 1746: Mr. VENTO.

H.R. 2099: Mr. JOHNSON of South Dakota.

H.R. 2123: Mr. PALLONE.

H.R. 2124: Mr. FAZIO.

H.R. 2228: Mr. LAGOMARSINO.

H.R. 2366: Mr. TORRICELLI, Ms. SLAUGHTER of New York, and Mr. UPTON.

H.R. 2580: Mr. CONDIT, Mr. DEFAZIO, Mr. FUSTER, Mr. GARCIA, Mr. MILLER of California, and Mr. OWENS of New York.

H.R. 2589: Mr. UPTON, Mrs. MEYERS of Kansas, and Mr. LIGHTFOOT.

H.R. 2596: Mr. DARDEN, Mr. LEWIS of Florida, Mr. SOLARZ, Mr. RAHALL, Mr. COUGHLIN, Mr. KASICH, and Mr. SAXTON.

H.R. 2641: Mr. DANNEMEYER, Ms. LONG, Mr. TOWNS, Mr. FUSTER, and Mr. FAUNTROY.

H.R. 2714: Mr. GORDON.

H.R. 2909: Mr. MURTHA and Mr. CLINGER.

H.R. 2926: Mr. DELLUMS, Mr. MURPHY, Mr. CONYERS, Mr. MRAZEK, Mrs. PATTERSON, Mr. TORRICELLI, Mr. DONALD E. LUKENS, Mr. IRELAND, and Mr. BEREUTER.

H.R. 2947: Mr. FALEOMAVAEGA.

H.R. 2972: Mr. REGULA, Mr. FAUNTROY, Mr. PENNY, Mr. OBERSTAR, Mrs. BYRON, and Mr. TOWNS.

H.R. 3028: Mr. STARK.

H.R. 3047: Mr. SOLOMON.

H.R. 3053: Mr. DELLUMS.

H.R. 3067: Mr. FEIGHAN.

H.R. 3102: Mr. ARMEY, Mr. STUMP, and Mr. DOUGLAS.

H.R. 3110: Mrs. ROS-LEHTINEN.

H.R. 3136: Mr. SLATTERY.

H.R. 3146: Mr. BUSTAMANTE, Mr. TORRES, Mr. ORTIZ, Mr. GEJDENSON, and Mr. TOWNS.

H.R. 3147: Mr. GINGRICH and Ms. SLAUGHTER of New York.

H.R. 3158: Mrs. BOXER, Mr. MAZZOLI, Mr. BROWN of California, and Mr. MCDERMOTT.

H.R. 3266: Mr. TOWNS, Mr. BERMAN, Mrs. COLLINS, Mr. FUSTER, and Mr. FAUNTROY.

H.R. 3267: Mr. UPTON.

H.R. 3294: Mrs. BOXER, Mr. MINETA, Mr. JONTZ, and Mr. FOGLIETTA.

H.R. 3297: Mr. ATKINS, Mr. LEHMAN of California Mr. WHITTAKER, and Mr. MARKEY.

H.R. 3307: Mr. BROWN of California, Mr. DELLUMS, Mr. FAZIO, Mr. OWENS of New York, Mr. TOWNS, and Mr. WEISS.

H.R. 3343: Mr. MORRISON of Connecticut, Mr. HYDE, Mr. PEASE, Mr. LAGOMARSINO, Mr. WOLPE, Mr. FASCELL, Mr. HAWKINS, Mr. DEFAZIO, Mr. LIVINGSTON, Mrs. COLLINS, Mr. TORRES, Mr. BROWN of California, Mr. FAZIO, Mr. PALLONE, Mr. MCCURDY, Mr. AKAKA, Mr. MRAZEK, Ms. OAKAR, Mr. FUSTER, Ms. PELOSI, Mr. LAUGHLIN, Mr. UDALL, Mrs. BOXER, Mr. BUSTAMANTE, Mr. TOWNS, Mr. MOLLOHAN, and Mr. KASTENMEIER.

H.J. Res. 82: Mr. WOLPE.

H.J. Res. 230: Mr. DAVIS, Mrs. PATTERSON, Mr. HAWKINS, Mr. ESPY, Mr. VOLKMER, Mr. CLEMENT, Mr. INHOFE, Mr. CARR, Mrs. JOHNSON of Connecticut, and Mrs. SAIKI.

H.J. Res. 373: Mr. NIELSON of Utah, Mr. FISH, Mr. COLEMAN of Texas, and Mr. BEILENSON.

H.J. Res. 389: Mr. BYRON, Mr. DYSON, Mr. ENGEL, Mr. HOPKINS, Mr. SHUMWAY, Mr. BOUCHER, and Mr. OBERSTAR.

H. Con. Res. 186: Mr. HERGER, Mr. LAGOMARSINO, Mr. ROHRABACHER, and Mrs. MEYERS of Kansas.

H. Con. Res. 194: Mr. FROST, Mr. MCNULTY, Mr. GEJDENSON, Mr. BILBRAY, Ms. SLAUGHTER of New York, Mr. BARTON of Texas, Mr. ERDREICH, Mr. GILLMOR, Mr. BROOMFIELD, Mr. EMERSON, Mr. LEVIN of Michigan, Mr. BUECHNER, Mr. FORD of Tennessee, Mr. LANCASTER, Mr. MANTON, Ms. OAKAR, Mr. BERMAN, Mr. SKEEN, Mr. ARMEY,

Mr. BLILEY, Mr. HAYES of Illinois, and Mr. LAGOMARSINO.

H. Con. Res. 195: Mr. NEAL of North Carolina, Mr. BATEMAN, Mr. BEVILL, Mr. LANCASTER, Mr. BUNNING, Mr. THOMAS of Wyoming, Mr. FRENZEL, Mr. BROWN of Colorado, Mr. MADIGAN, and Mr. HASTERT.

H. Res. 159: Mr. SMITH of Florida, Mr. MANTON, Mr. EVANS, Ms. KAPTUR, Mr. SCHEUER, Mr. LANTOS, Mr. ENGEL, Mr. ROE, Mr. FROST, and Mr. ATKINS.

H. Res. 244: Mr. SMITH of Vermont, Mr. DONALD E. LUKENS, Mr. DURBIN, Mr. BAKER, Mr. GOSS, Mr. PENNY and Mr. BLILEY.

EXTENSIONS OF REMARKS

INTRODUCTION OF A BILL TO PROVIDE FEDERAL JURISDICTION OF CERTAIN MULTIPARTY, MULTIFORUM CIVIL ACTIONS

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. KASTENMEIER. Mr. Speaker, I am introducing legislation designed to improve the efficiency with which Federal courts are able to handle complex, multidistrict litigation. A single airline crash, hotel fire or bridge collapse can generate hundreds of lawsuits in a myriad of State and Federal courts. Existing law provides the means to unify these proceedings to a considerable extent; nevertheless, it often remains impossible to avoid parallel proceedings in a variety of forums, due to defects in the laws governing joinder, transfer and consolidation. The result is a waste of judicial resources in both the Federal and State courts, which may be obliged to try identical liability issues numerous times. In addition, multiple suits give rise to problems in coordination between State and Federal courts, the threat of bankruptcy before all valid claims can be satisfied, and unfairness in connection with multiple awards of punitive damages.

My bill would create a new Federal court subject matter jurisdiction, specially tailored to meet the problems created by mass tort litigation. It would authorize such cases to be heard in Federal court provided that there is minimum diversity of citizenship among adversaries, and that at least 25 persons are alleged to have sustained physical injury or death resulting in damages over $50,000 per person. It would broaden available venues in mass tort cases to include any district in which any, rather than all, defendants reside. It would expand the authority of courts receiving mass tort cases transferred via multidistrict litigation procedures, so that such actions could be retained not only for pretrial proceedings, but for determinations of liability and in some cases, damages. Finally, it would relax requirements applicable to removal of cases from State to Federal court, so as to permit mass tort cases filed in State court to be more easily consolidated in Federal court, and to enable the Federal courts to return cases to the State courts for damage determinations, when appropriate.

At a time when the burgeoning volume of drug cases is imposing ever increasing workload pressures on the Federal courts, we must be mindful of the impact the laws we enact will have on the Federal judiciary. One of the primary objectives of this bill is to reduce duplicative litigation in the Federal courts, and so improve the efficiency of court operation. Accordingly, while this bill creates a new basis for federal jurisdiction, its net effect will be to assist rather than burden the Federal courts in their efforts to cope with workload pressures.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multiparty, Multiforum Jurisdiction Act of 1989".

SEC. 2. JURISDICTION OF DISTRICT COURTS.

(a) BASIS OF JURISDICTION.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1367. Multiparty, multiforum jurisdiction

"(a) The district courts shall have original jurisdiction of any civil action involving minimal diversity between adverse parties that arises from a single event or occurrence, where it is alleged in good faith that any 25 persons have either died or incurred injury in the event or occurrence and that, in the case of injury, the injury has resulted in damages which exceed $50,000 per person, exclusive of interest and costs, if—

"(1) a defendant resides in a State and a substantial part of the event or occurrence took place in another State;

"(2) any two defendants reside in different States; or

"(3) substantial parts of the event or occurrence took place in different States.

"(b) For purposes of this section—

"(1) minimal diversity exists between adverse parties if any party is a citizen of a State and any adverse party is a citizen of another State, a citizen or subject of a foreign state, or a foreign state as defined in section 1603(a) of this title;

"(2) a corporation is deemed to be a citizen of any State, and a citizen or subject of any foreign state, in which it is incorporated or has its principal place of business, and is deemed to be a resident of any State in which it is incorporated or licensed to do business or is doing business; and

"(3) 'injury' means physical harm to a natural person and physical damage to or destruction of tangible property.

"(c) In any action in a district court under this section, any person with a claim arising from the event or occurrence described in subsection (a) shall be permitted to intervene as a party plaintiff in the action, even if that person could not have brought an action in a district court as an original matter.

"(d) A district court in which an action under this section is pending shall promptly notify the judicial panel on multidistrict litigation of the pendency of the action.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 85 of title 28, United States Code, is amended by adding at the end the following new item:

"1367. Multiparty, multiforum jurisdiction.".

SEC. 3. VENUE.

Section 1391 of title 28, United States Code, is amended by adding at the end the following:

"(g) A civil action in which jurisdiction of the district court is based upon section 1367 of this title may be brought in any district in which any defendant resides or in which a substantial part of the event or occurrence giving rise to the action took place.".

SEC. 4. MULTIDISTRICT LITIGATION.

Section 1407 of title 28, United States Code, is amended by adding at the end the following:

"(i)(1) In actions transferred under this section when jurisdiction is based in whole or in part on section 1367 of this title, the transferee district court may, notwithstanding any other provision of this section, retain actions so transferred for the determination of liability. An action retained for the determination of liability shall be remanded to the district court from which the action was transferred, or to the State court from which the action was removed, for the determination of damages unless the court finds, for the convenience of parties and witnesses and in the interest of justice, that the action should be retained for the determination of damages.

"(2) Any remand under paragraph (1) shall not be effective until 60 days after the transferee court has issued an order determining liability and has certified its intention to remand some or all of the transferred actions for the determination of damages. An appeal with respect to the liability determination and the choice of law determination of the transferee court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the transferee court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination and the choice of law determination shall not be subject to further review by appeal or otherwise.

"(3) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.".

SEC. 5. REMOVAL OF ACTIONS.

Section 1441 of title 28, United States Code, is amended—

(1) in subsection (e) by striking out "(e) The court to which a civil action is removed" and inserting in lieu thereof "(f) The court to which a civil action is removed under this section"; and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) A defendant in a civil action in a State court may remove the action to the United States district court for the district and division embracing the place where the action is pending if—

"(A) the action could have been brought in a United States district court under section 1367 of this title, or

"(B) the defendant is a party to an action under section 1367 in a United States district court arising from the same event or occurrence as the action in State court.

The removal of an action under this subsection shall be made in accordance with section 1446 of this title, except that a petition for removal may also be filed before trial of the action in State court within 30 days

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

after the date on which the defendant first becomes a party to an action under section 1367 in a United States district court arising from the same event or occurrence, or at a later time with leave of the district court.

"(2) Whenever an action is removed under this subsection and the district court to which it was removed has made a liability determination requiring further proceedings as to damages, the district court shall remand the action to the State court from which it had been removed for the determination of damages, unless the court finds that, for the convenience of parties and witnesses and in the interest of justice, the action should be retained for the determination of damages.

"(3) Any remand under paragraph (2) shall not be effective until 60 days after the district court has issued an order determining liability and has certified its intention to remand some or all of the removed actions for the determination of damages. An appeal with respect to the liability determination and the choice of law determination of the district court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the district court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination and the choice of law determination shall not be subject to further review by appeal or otherwise.

"(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

"(5) An action removed under this subsection shall be deemed to be an action under section 1367 and an action in which jurisdiction is based on section 1367 of this title for purposes of this section and sections 1367, 1407, 1658, 1697, and 1785 of this title.".

SEC. 6. CHOICE OF LAW.

(A) DETERMINATION BY THE COURT.—Chapter 111 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1658. Choice of law in multiparty, multiforum actions

"(a) In an action under section 1367 of this title, the district court in which the action is brought or to which it is removed shall determine the source of the applicable substantive law, except that if an action is transferred to another district court, the transferee court shall determine the source of the applicable substantive law. In making this determination, a district court shall not be bound by the choice of law rules of any State, and the factors that the court may consider in choosing the applicable law include—

"(1) the law that might have governed if the jurisdiction created by section 1367 of this title did not exist;

"(2) the forums in which the claims were or might have been brought;

"(3) the location of the event or occurrence on which the action is based and the location of related transactions among the parties;

"(4) the place where the parties reside or do business;

"(5) the desirability of applying uniform law to some or all aspects of the action;

"(6) whether a change in applicable law in connection with removal or transfer of the action would cause unfairness;

"(7) the danger of creating unnecessary incentives for forum shopping;

"(8) the interest of any jurisdiction in having its law apply;

"(9) any reasonable expectation of a party or parties that the law of a particular jurisdiction would apply or would not apply;

"(10) any agreement or stipulation of the parties concerning the applicable law; and

"(11) whether a change in applicable law in connection with removal or transfer of the action would cause unfairness.

"(b) The district court making the determination under subsection (a) shall enter an order designating a single jurisdiction whose substantive law is to be applied in all other actions under section 1367 arising from the same event of occurrence as that giving rise to the action in which the determination is made. The substantive law of the designated jurisdiction shall be applied to all such actions before the court, and to all elements of each action, except where Federal law applies or the order specifically provides for the application of the law of another jurisdiction with respect to an action or an element of an action.

"(c) In an action remanded to another district court or a State court under section 1407 or 1441(e)(2) of this title, the district court's choice of law under subsection (b) shall continue to apply.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 111 of title 28, United States Code, is amended by adding at the end of the following item:

"1658. Choice of law in multiparty, multiform actions.".

SEC. 7. SERVICE OF PROCESS.

(a) PROCESS THAN SUBPOENAS.—(1) Chapter 113 of title 28, United States Code, is amended by adding at the end of the following new section:

"§ 1697. Service in multiparty, multiforum actions

"When the jurisdiction of the district court is based in whole or in part upon section 1367 of this title, process, other than subpoenas, may be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.".

"When the jurisdiction of the district court is based in whole or in part upon section 1367 of this title, process, other than subpoenas, may be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.".

(2) The table of sections at the beginning of chapter 113 of title 28, United States Code, is amended by adding at the end the following new item:

"1697. Service in multiparty, multiforum actions.".

(b) SERVICE OF SUBPOENAS.—(1) Chapter 117 of title 28, United States Code, is amended by adding at the end of the following new section:

"§ 1785. Subpoenas in multiparty, multiforum actions

"When the jurisdiction of the district court is based in whole or in part upon section 1367 of this title, a subpoena for attendance at a hearing or trial may, if authorized by the court upon motion for good cause shown, and upon such terms and conditions as the court may impose, be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.".

(2) The table of sections at the beginning of chapter 117 of title 28, United States Code, is amended by adding at the end the following new item:

"1785. Subpoenas in multiparty, multiforum actions.".

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall apply to a civil action if the event or occurrence giving rise to the cause of action occurred on or after the 90th day after the day of the enactment of this Act.

CHILD CARE

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Ms. PELOSI. Mr. Speaker, tomorrow the House will debate a child care bill. This is one of the most important bills that we will take up this session.

It has been 20 years since we have debated child care. Within the past 20 years, we have seen over half of the mothers with young children leave the home to enter the work force. The number of single parent families with children under 10 will have risen 48 percent during the 1980's alone. These fundamental changes in the structure of the family require fundamental changes in our child care system. We cannot wait any longer to address these changes and to help our working families who depend on child care.

I want to commend Chairman HAWKINS and my colleagues on the Committee on Education and Labor, Chairman GEORGE MILLER of the Select Committee on Children, Youth, and Families and Chairman TOM DOWNEY of the Ways and Means Subcommittee on Human Resources for their diligent work on the child care bill. I know they have spent much time and energy to develop the best child care bill possible for America's families.

I urge my colleagues to vote for the child care provisions in the budget reconciliation package and oppose the substitute amendments. American families are depending on the U.S. Congress to assist them in delivering a bill which will provide quality and affordable child care.

THE WAR ON POVERTY HANGS ON

HON. CARL C. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. PERKINS. Mr. Speaker, as we celebrate the 25th anniversary of the Job Corps, I found the following article in the Sunday, September 24 edition of the Washington Post to be most timely and appropriate in discussing our much overlooked war on poverty. The article, written by Colman McCarthy, points out the largely ignored 25th anniversary of the Economic Opportunity Act—an act that created such programs as Head Start and VISTA as well as the Job Corps.

In the past decade, these critical and ultimately tax-saving programs have suffered severe cuts in funding as our administration has apparently shifted its Federal spending

priorities. But in my Eastern Kentucky district, we continue to struggle in this war on poverty as unemployment rates reach as high as 40 percent in some areas. Though unfortunately, this ongoing battle no longer commands the attention that it had in the sixties, the programs that resulted play a crucial role in my district and the Nation.

Secretary Kemp, who is mentioned in the article, would be wise to build on these already proven and established programs that have been battling poverty long before Mr. Kemp decided to enter the battle. I respectfully submit Mr. McCarthy's article for my colleagues' review:

[From the Washington Post, Sept. 24, 1989]

THE WAR ON POVERTY HANGS ON

(By Colman McCarthy)

Given mainstream media's penchant—no, addiction—for fluff, the 20th anniversary of Woodstock transformed editors and reporters into hype-mongers convinced that a bemudded mob self-pastured for three days listening to over-amplified rock music was an event that shaped a generation.

Another anniversary—a 25th—occurred this summer about which hardly a syllable was written or uttered, although a torrent of stories was deserved. It was an event that led to the improvement and uplift of tens of millions of lives and that did shape a generation: the passage of the Economic Opportunity Act in August 1964.

The legislation created the Office of Economic Opportunity, an agency that was to last in name for 10 years but which has survived politically for 25 years in the programs its officials began. These include Head Start, Legal Services, VISTA, Job Corps, Foster Grandparents, Community Health Centers, Upward Bound and Community Action Agencies.

All were created following the funding of the 1964 law. All have survived. OEO-born programs were nurtured in the early days by some of the Left's most politically astute strategists, ranging from Michael Harrington who came aboard as a consultant, to Daniel Berrigan, the Jesuit priest and icon breaker who came to leadership meetings and later served as a volunteer in the Upward Bound Program. The original vision of the 1964 act—to eliminate poverty—has been sustained by allies in Congress who, though chiled by feeling like exiles, stayed unshaken in liberalism's belief in governmental compassion for the weak and poor.

Today, government largess is shoveled out to S&L pirates, to B-2 bombers, to witless prison-building, to the HUD pals of Sam Pierce. While the money is dispensed in unprecedented gobs, the same Republican right that has opposed poverty programs for a quarter-century now has as its leader in Congress Newt Gingrich who says: "The values of the Left cripple human beings, weaken cities, make it difficult for us to in fact survive as a country. . . . The Left in America is to blame for most of the current major diseases which have struck this society."

For a time—two years in the mid-60's—I was one of the disease carriers. I worked at OEO, mostly carrying suitcases for Sargent Shriver, its first director and today a man beloved by all those who worked, or still work, in the life-enhancing programs he inspired and ran. Maybe I'm not objective—the suitcases were always light and Shriver ever warmhearted—but what other public official in the past 25 years has seen so many of his own pro-people programs touch so many lives? Add in the Peace Corps, which Shriver whipped into shape before OEO, and the assertion of Shriver's uniqueness is even more undeniable.

That was the sentiment the other evening at the reunion conference of the National Association of Community Action Agencies. Some 2,000 officials and volunteers from 950 community action agencies honored Shriver for his enduring commitment.

Poverty war stories were told, with one of the sharpest coming from Arthur Blaustein, once chairman of Lyndon Johnson's advisory council on economic opportunity and now a professor at Berkeley:

"During the 1980 presidential campaign, then-candidate Reagan would entertain crowds with the line: 'Do you know how much it costs to keep a kid in the Job Corps? (Pause.) And how much it costs to send a youngster to Harvard? (Long pause.) Well, I'll tell you: $8,200 for the Job Corps and only $8,000 for Harvard.' This usually elicited gales of smug laughter. But it was a totally false comparison, a perversion of reality. It just shows how distortions and false myths are created. The average taxpayer doesn't want a complex economic answer but he does deserve an honest answer.

"There are substantial costs if we eliminate Job Corps. It costs $26,000 a year to keep a youngster in prison. It costs $32,000 to keep a youngster in an alcohol and drug abuse program. It costs $55,000 to keep a youngster in a mental institution. And it costs only $16,000 to keep a youngster in the Job Corps, where they are learning self-respect and job training."

Job Corps currently has 106 centers. Legal Services has 325 grantees. Head Start has nearly 10,000 centers. Community action agencies operate in 96 percent of all U.S. cities and counties, and VISTA, ever valiant, has 3,012 volunteers in 666 sites.

Earlier this year Jack Kemp announced he would commence "a war on poverty." Where has he been the past 25 years? Let Kemp, if he's interested in more than high-pitched gab, join the war on poverty that's already in progress and might be faring better had his own party not tried so often to gut it.

A TRIBUTE TO OLIN KING

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. FLIPPO. Mr. Speaker, I rise today to pay tribute to Olin King, and his accomplishments in the fields of science and business.

Olin B. King is chairman, chief executive and a founder of SCI Systems, Inc. Since 1961, Olin King has displayed the type of innovative business leadership that has resulted in SCI Systems growing from a three-man operation to one of our country's multinational Fortune 500 sized companies. I am proud to have Olin King as one of my constituents.

Since first coming to Huntsville, AL, in 1957, Olin King has contributed greatly to the area's development as a center of science and industry and to our Nation's progress in electronics and aerospace technologies. Working first as an engineering manager at the Army Ballistic Missile Command and later as part of the original team at NASA's Marshall Space Flight Center, Olin King decided to return to the private sector in 1961 when he founded SCI.

Today, SCI Systems operates under Olin King's leadership as a diversified electronics manufacturer for both aerospace and commercial markets, and is now one of the Huntsville area's largest industrial employers with over 4,000 employees. In recognition of his innovative business leadership, Olin King was selected as the National Management Association's 1984 Executive of the Year.

Originally a native of Georgia, Olin King received a bachelor of science degree from North Georgia College. He performed graduate work at Emory University and the University of Pennsylvania after which he served in the Korean war as an officer in the U.S. Army Signal Corps.

Olin King is an active business and civic leader in Huntsville. In addition to being chairman of the board and CEO for SCI Systems, he serves as a director of First Alabama Bank of Huntsville, N.A., a director of Delta Comunications, Inc., and president of Crown Properties, Inc.

He has worked with both State and local civic organizations committed to promoting excellence in education and economic development in Alabama. Currently, he serves as a trustee of the Alabama Heritage Trust Fund, is a member of both the Council of Twenty-One, Alabama Commission on Higher Education and the Governor's Task Force on Economic Recovery, and is a director of the Alabama Research Institute. Additionally, Olin King serves as chairman, Research Park Board of the city of Huntsville, vice chairman and trustee of the Huntsville Hospital Foundation, and is a member of the University of Alabama in Huntsville's science and engineering advisory committee. A listing of his civic contributions could go on and on.

Olin B. King is the type of business leader which any community would be proud to claim as their own. He has contributed greatly to the growth of north Alabama as one of America's emerging high technology centers. I salute Olin King and wish him the best as he continues his pioneering work in the fields of science and industry.

MANAGING PUBLIC LANDS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 4, 1989, into the CONGRESSIONAL RECORD.

One of the tough questions facing the Congress is how our public lands should be managed. Most Americans agree that our nation must both develop and protect its natural resources, but striking a balance between those goals has never been easy. While current debate focuses largely on public lands in the Western states, the issue affects us in Indiana and across the nation as well.

Over 600 million acres in the United States are owned by federal land management agencies, or about 25% of the nation's

2.2 billion acres. These lands are concentrated in the West, including over 75% of both Alaska and Nevada but less than 3% of Indiana. The Bureau of Land Management (BLM) and the Forest Service manage the majority of these lands under a concept known as "multiple use"—allowing for a combination of mining, logging, grazing, oil and gas development, hunting, and recreation. These lands provide 20% of our commercial timber, 33% of our coal, and up to 50% of our onshore oil and gas reserves. Only 80 million acres of federal land are protected as national parks—such as Yellowstone, Yosemite, and the Grand Canyon—where such development activities as mining and logging are prohibited. And scattered throughout national parks, forests, wildlife refuges, and BLM lands are 90 million acres of pristine wilderness, where no roads, vehicles, or structures are permitted.

Questions abound about management of federal lands. How much access should the public have to public lands? Should the federal government own over half of Utah and Idaho and over three-quarters of Alaska and Nevada? How much land should be put into commercial production and how much saved for future generations? Are we threatening wildlife and habitats by allowing mining, drilling, and logging projects next to national parks? Does multiple-use management give too much discretion to land management bureaucracies? Can park managers cope with the large increase in visitors as federal funds dwindle? Many also question why the government reportedly fails to recover the expenses incurred in managing its lands. An estimated $500 million is lost, for example, on timber sales each year from national forests, since building and maintaining roads for loggers can cost more than they pay to harvest the logs. Similar losses also occur under federal grazing and mining programs.

The greatest debate centers on the extent the government should restrict development to protect environmentally important lands. At issue is whether, when, and how much we value undeveloped and unexploited lands and their riches. While federal laws require both the preservation of natural resources and their commercial use, they do not offer a ready formula for balancing the two. Many argue that the economic benefits for local communities and the nation of developing public lands far outweigh the value of preserving them unimpaired. Others argue that preserving wilderness and other remnants of the American frontier protects water sources, wildlife, and recreation areas, while providing an important link to America's past. The Reagan Administration is largely seen as having tilted toward development. While President Bush has received high marks for his rhetoric in support of environmental protection, his choice of land management officials and his commitment to oil drilling proposals concern many.

The Congress is now focusing on land battles in Alaska and the Pacific Northwest. President Bush advocates opening up 1.5 million acres of Alaska's Arctic National Wildlife Refuge—the only undeveloped Arctic coastline—where there is an estimated one-in-five chance of finding a major oil field. Opponents of drilling argue that the pristine land, supporting one of the largest caribou herds left in the world, should not be damaged for the sake of short-term oil supply. In Washington and Oregon, the logging industry is pitted against environmentalists who want to save the remnants of the original forests that once covered much of the country and the spotted owl which is dependent on those woods. Environmental groups have won early court battles which have crippled timber sales in the region, shutting down more than half the region's federal timber sales and causing painful job losses.

In Indiana, Hoosiers have been debating for years the final shape of a management plan for the Hoosier National Forest. While the participants in the process are Hoosiers, the major issues are national—how much land should be harvested and how much protected? The long negotiation process is slowly working toward some compromises, such as reductions in the acreage available for harvest and changes in harvest methods.

There is no black-or-white solution to these debates. The Congress may consider measures to overhaul mining and grazing laws—efforts to ensure that public resources are economically harvested. Yet on the larger question of balancing land uses, no recipe exists. The Congress will likely continue to examine each land debate in a piecemeal fashion. In each case, the Congress will confront questions of dwindling natural resources—can we afford either to close off lands to development or to lose untouched lands which cannot be replaced?

How we manage public lands goes to the heart of America's history and to its future. Our country was created out of the wilderness and made prosperous from harnessing its riches. Now, the economics of the country are shifting. The resources industries which depend on the use of the land remain important, but tourism and recreation which depend on the preservation of the land are growing. My sense is that, while development is sometimes appropriate, we should try to preserve fragile lands. It is worth keeping some of our lands untouched so that we and future generations will see the land that nurtured the nation. We will certainly see increasing pressures to develop those lands. Saying no to development becomes harder to do and to afford. But wilderness once developed can never be regained. Although no consensus exists among the public or the government on the management of public lands, we know that the decisions we make now will affect the land profoundly.

PROBLEMS WITH UNITED STATES NARCOTICS AID FOR COLOMBIA

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. CROCKETT. Mr. Speaker, as we launch an extensive program of military aid to Colombia for the purpose of aiding Colombia's war on the narcotics traffickers, it is important to realize that the Colombian military itself has links with the paramilitary organizations that form the traffickers' private army. We ignore this fact at our peril, because we might end up aiding "the very forces we are trying to combat."

Such is the conclusion of Coletta Youngers of the Washington Office on Latin America. In a recent op-ed piece for the Los Angeles Times, Ms. Youngers analyzes the problem of paramilitary violence in Colombia and the apparent acquiescence or collusion of elements of the Colombian military with such violence.

I urge my colleagues to take the time to read this excellent article, which follows:

[From the Los Angeles Times, Aug. 31, 1989]

WILL COLOMBIA STAND UP TO PARAMILITARY?

(By Coletta Youngers)

The assassination of Sen. Luis Carlos Galán hit in a nerve in Colombian society, and the courageous response of the people and the government deserves applause. For it is political will, not military might, that ultimately will determine whether Colombia will rid itself of the cocaine cartel.

Since the murder of Galán, one of the country's most outspoken anti-drug politicians, the government has made thousands of arrests and expropriated millions in drug-financed property. But the Colombian security forces have yet to confront the military arm of the traffickers, the paramilitary structure that sustains the political and drug-related violence in the country.

According to the government, there are more than 140 paramilitary organizations, most of which are organized and financed by traffickers. Operating like death squads but with the weaponry of mini-armies, they defend the drug lords' interests. These extend beyond narcotics to politics.

Rabid anti-communists, the traffickers have united with landowners and other traditional cities to protect their common economic interests against guerrilla groups and the growing demands for political and economic reforms by poorer sectors of the populations. Supporting the alliance are members of the Colombian security forces who resort to paramilitary activity for profit or out of frustration with the inability to win the 30-year battle against guerrilla insurgencies. The net result is a "marriage of convenience" in certain areas of the country between the traffickers and other landowners and members of the military and police forces, all of whom are bent on eliminating "subversive elements."

The paramilitary activity stemming from this "marriage" has displaced guerrillas from areas where they have enjoyed substantial popular support, such as the middle Magdalena agricultural region. However, more often than not, the targets of violence are Colombia's growing nonviolent forces, such as civic movements, peasant and labor unions and a newly formed political party, the Patriotic Union. Last year there were 2,738 political assassinations, including 82 massacres (killings in groups of four or more civilians), the vast majority of which were carried out by death squads or "hit men" trained by them. The murder of Sen. Galan was just one of more than 1,000 political killings this year.

Colombian government investigators and human-rights activists have compiled significant evidence implicating members of the military and police in paramilitary activity. One of the most highly publicized cases occurred in March, 1988, when gunmen raided two banana farms in the Uraba region, killing 22 union leaders. The investigation by the Colombian equivalent of the FBI led to the indictment that September of two well-known drug traffickers, three military officials, a police lieutenant, a mayor and others. After presenting her report on the massacre, the judge presiding over the case fled the country because of death threats. Her father was recently killed, apparently in retribution for her brave actions.

Perhaps evidence such as this provides a clue as to why the Colombian security forces have yet to raid the paramilitary organizations' geographical base, Puerto Boyaca in the middle Magdalena region. Since Galan's death, there has not been one direct confrontation between the military and a paramilitary group anywhere in the country, nor have there been any attempts to raid the highly publicized paramilitary training schools. In fact, within the range of measures being implemented, the paramilitary issue is conspicuously absent. Until the paramilitary groups are confronted directly, drug traffickers will continue to wage their "total war" on the Colombian government and society.

While the Colombian government's recent efforts to curb drug trafficking must be taken in good faith, the Colombian military has yet to show the political will to engage in battle with the traffickers paramilitary arm. The U.S. government, having declared a "war on drugs," has steadily militarized its anti-narcotics programs overseas and is already providing Colombia with significant levels of military assistance under the anti-narcotics rubric. Now it is sending $65 million more, along with U.S. military advisers to provide "technical assistance." Yet until the Colombian military proves its willingness to clean up its own house and to rid the nation of paramilitary violence, such aid will only serve to exacerbate domestic political conflict. Ironically, in the end it may aid the very forces we are trying to combat.

D.C. POLICE TRAINING

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. GALLO. Mr. Speaker, on March 24 of this year, I requested a review by the General Accounting Office of compliance with title I of the District of Columbia Appropriations Act of 1989, which barred the use of Federal funds for all District operations until the D.C. government certified that the number of adequately trained, full-time uniformed officers available for duty was at least 3,880 persons.

As a former local official, I understand the necessity of providing protection of the public health and safety. I am committed to the idea that the keystone of that public responsibility is an adequate number of trained professionals on the front lines of our struggle against crime and lawlessness—the uniformed officer must be prepared to deal with the street.

While recruiting and initial screening of candidates for the Metropolitan Police Department are important components in this overall process, my concern has been, and continues to be, with the entire process that prepares these young men and women for the duties and responsibilities that they will face on a daily basis on the streets of our Nation's Capital.

In March, I provided the GAO with a list of questions that focused on the issue of compliance with the 1989 Appropriations Act. Initially, we were looking at completion of the preliminary report by midsummer.

In July, I was asked by the GAO review team for additional time to complete its work, because existing District record-keeping was inadequate to answer my questions and, of greater importance, because the initial GAO review process had raised additional questions involving the training of candidates once they were selected by the initial testing process. For that reason, I was pleased to extend the time of reporting in the interest of thoroughness.

Because my initial request for review was based on the number of qualified officers on the street, not merely the initial testing and selection process, I believe our main concern must be with training procedures, rather than initial entrance to the Police Academy for a number of reasons.

Among them, the overwhelming need for uniformed officers in the District will, in and of itself, dictate that no qualified individual will be turned away.

Also, questions involving ranking procedures, as addressed in the GAO preliminary report provided to me today, will be helpful to those Members of Congress and D.C. government officials engaged in this on-going debate, but are not the main issue in my mind.

My most pressing argument for increased emphasis on training rather than initial selection is one of common sense. Anyone who has taken the college entrance exam knows that a good score will provide an initial opportunity for higher education, but is no guarantee that a candidate will eventually receive a degree.

I urge a full review by my colleagues of the findings of this preliminary GAO report, but I will focus my efforts on the training issue.

Specifically, the GAO found that procedures and requirements at the D.C. Police Academy have fluctuated greatly in recent years, but that no documentation exists to justify the changes that have been made.

For instance, the GAO found:

The number of hours of classroom instruction have varied from 927 hours to 450 hours, with the current requirement set as 653 hours. The reason for the fluctuation is undocumented, but could be due to factors such as need for additional officers on the streets, a lack of qualified instructors or other causes.

The number of courses that a candidate can fail and still remain at the Academy has varied from 3 to 5, with no justification or indication as to who within the D.C. government made the policy decision.

The comprehensive exam required for graduation has been waved without justification or documentation at various times, allowing whole classes of candidates to become police officers without taking the exam.

Academy applicants are allowed to take entrance exams an unlimited number of times until they pass, yet no records are kept as to the number of times that individual applicants have been tested. Although copies of the tests were not available to the GAO, the developers of the test confirm that only six questions have been changed in recent years, suggesting that repeated test-taking could allow applicants to pass by trial and error.

I believe that the most disturbing GAO finding is the total lack of documentation supporting decisions and the complete breakdown of record-keeping concerning how decisions are made within the chain of command. If everyone is in charge, then no one is in charge.

I have included in the fiscal year 1990 budget a $26,000 allocation to begin the process of outside accreditation. I intend to fight for these funds in the upcoming House-Senate Conference Committee, based on the urgency of the current situation as outlined by the GAO in this preliminary report to me.

But the bottom line is that we cannot require the District to accept this allocation, which specifically requires an outside accreditation process conducted by a nationally recognized review organization.

I believe that recent news reports and the GAO findings strongly indicate the need for credibility that can only come from an independent accreditation process.

In addition, and perhaps of greater importance, the GAO preliminary findings raise serious questions about the way instructors are selected. No one can say today that the quality of instruction is either good or bad, because there is no apparent rationale for decision-making.

I am therefore calling for a full review of instructor selection and qualifications, either as part of the accreditation process or prior to its inception, but immediately in either case.

The fact is that the officers going through the Academy today will be the future leaders of tomorrow's District police force.

Finger pointing and Monday morning quarterbacking at this point are a waste of time. At the same time, I appreciate the efforts of countless people who believe as I do that we face a crisis now, not 6 months or a year from now.

The question should not be where have we been, the question should be where do we go from here?

I have asked the General Accounting Office to complete work on its preliminary findings and provide me with a final report.

Although the final report is not expected to be completed until late spring or early summer of 1990, I am satisfied that the preliminary report provides the District government with incentives to proceed with a definite course of action. I am hopeful that, by the time the final report is issued, most of these concerns will already have been addressed.

TRYING TO "UNSCRAMBLE" SOVIETS' EGGS

HON. HARRY A. JOHNSTON II

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. JOHNSTON of Florida. Mr. Speaker, I am pleased to submit for the RECORD the remarks of Mr. Arthur Burck of Palm Beach, FL, that appeared recently in the Palm Beach Post. Mr. Burck frequently comments on the changes in our global balance of power and ideology:

TRYING TO "UNSCRAMBLE" SOVIETS' EGGS

(By Arthur Burck)

The recent triumphant tour of President Bush through Poland and Hungary has ig-

nited hope for freedom among the communist satellite nations of Central and Eastern Europe.

But just as the recent student uprising in Beijing's Tiananmen Square raised worldwide hope for democracy that turned out to be most premature, we must now restrain our expectations. The removal of the communist yoke, especially in its economic implications, is likely to be a slow process, one that may well be prolonged for many decades.

I have been mulling these problems since last October when we cruised the Danube River on a Soviet river boat. As a consequence of what we observed throughout the Balkans, I then predicted the "beginning of the end of communism in Eastern Europe."

THE BEGINNING OF AN END

In 1945, I also witnessed the beginning of the end of the independence of these very same nations that were then occupied or liberated by Soviet armies. Convinced that the permanence of any post war peace hinged on what happened to these occupied nations, then-Sen. Claude Pepper embarked on a five-week investigative tour of these nations. The U.S. Army had ordered me, an Army captain stationed in Rome awaiting return to my civilian position as a Wall Street lawyer, to assist Sen. Pepper as a special aide.

There was nothing that could dissuade the U.S.S.R. from dominating these nations.

Soon thereafter the Soviets "scrambled the egg" of each of these nations by setting up a communist dictatorship of the government and by confiscating all industry and other private property, placing ownership in the state.

Now, the $64 question that is beginning to confront these nations is: How do we "unscramble the egg"?

Just as the Achilles heel of the Soviet Union is its stagnating economy, the satellite nations face the same problem: bureaucratic state-owned industries that do not function efficiently.

MIND-BOGGLING TRANSITION

Indeed, the transition from a communist economy to a capitalist economy presents mind-boggling problems. Only one thing is certain: the transition will take much longer than anyone imagines.

Remember that there is negligible private capital in communist countries. I suspect, however, that underground assets are much greater than expected. There may be ways of minimizing the problem through leasing arrangements and loans, but it is slow and cumbersome.

Perhaps early solutions can come if most free nations band together to launch a worldwide Marshall Plan to rescue the economies of the stagnant socialist-communist world. But can we do so without also coming to the aid of the present Third World countries in Latin America, Africa and Asia?

And how will our own industries react when they find difficulty in competing with new low-wage countries subsidized by our largess?

In sum, any way one looks at the problems that lie ahead, we must come to the conclusion that, despite current enthusiasm generated by the Bush visit, effective solutions will be remote.

HONORING THE CENTENNIAL OF PIKEVILLE COLLEGE

HON. CARL C. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. PERKINS. Mr. Speaker, on October 19, 1989, Pikeville College in my home district of eastern Kentucky will celebrate its centennial, marking 100 years of service to the education of our region.

Pikeville College was founded in 1889 as the Pikeville Collegiate Institute, an academy for grades 1 through 12. Preparatory classes for teachers were added later, and by 1921, Pikeville College was offering junior college courses at its Pikeville campus. The first 4-year baccalaureate degrees were awarded in 1957, the same year that the high school courses were phased out.

Today, Pikeville College is a thriving liberal arts college with 938 students and 50 faculty members. Its graduates are accepted to some of the top graduate and professional schools, and many of eastern Kentucky's leading citizens are Pikeville College alumni, including State Senator Benny Ray Bailey, State Representative N. Clayton Little, and Pikeville Mayor William C. Hambley.

More than half of Pikeville College's students are adults who have spent several years in the work force of raising families, and have now returned to school in an effort to improve their own education. Many of them would be unable to attend college if it were not located near their home communities. Kentucky has one of the Nation's lowest levels of adult educational attainment, and the service that Pikeville College offers to these returning adult students will go a long way toward righting that terrible wrong.

Pikeville College is in the midst of its Second Century Fund drive, which will provide for a new library and badly needed parking facility on campus, as well as a larger endowment and an increased annual operating budget. This Second Century Fund will help to position Pikeville College to continue its service to eastern Kentucky for yet another 100 years.

The educational opportunities offered by Pikeville College of today are far different than what awaited young eastern Kentuckians before its founding.

In the early 1880's, Dr. William C. Condit of Ashland was sent by the Ebenezer Presbytery to prospect for Presbyterianism in the mountains, to determine the need for churches there. Dr. Condit returned to Ashland distressed by the lack of both churches and schools in the region. "I made my report to the Presbytery," he wrote later, "recommending that we attempt to establish schools and churches together in the mountain communities."

Condit and two other Presbyterian ministers, Dr. James Hendrick and the Reverend Samuel B. Alderson, selected Pikeville as the best site for such a combination, and in 1883, the First Presbyterian Church of Pikeville was founded, followed 6 years later, in 1889, by the Pikeville Collegiate Institute.

The early years were hard for the young school. Poor roads, a lack of funds to pay teachers, and several outbreaks of typhoid all worked against the dedicated teachers and principals who worked in those years to make the school succeed. But succeed they did, and today Pikeville College is in its most secure position ever as it prepares for its second century of service.

I know that the Members of the House will join me in congratulating Pikeville College on the event of its centennial, and in wishing it well in the years to come.

A TRIBUTE TO JAMES MEADLOCK

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. FLIPPO. Mr. Speaker, I am very happy to pay tribute today to James Meadlock, and his outstanding work as an entrepreneur in the field of interactive computer graphics.

James Meadlock is a founder, president, and chairman of the board of Intergraph Corp., one of Alabama's home-grown "Fortune 500" companies. James Meadlock has been a pioneer in designing, manufacturing, marketing, and supporting interactive computer graphics systems for design, engineering, and mapping applications.

James Meadlock is a leader in the continuing growth of Huntsville as a center for high-tech computer science and industry. He has contributed greatly to making the city of Huntsville a better place to live and work. I am proud to have James Meadlock as one of my constituents.

Originally a native of North Carolina, James Meadlock attended North Carolina State University where he received a degree in electrical engineering. During 12½ years of work with IBM, he made major contributions to America's historic achievements in missile guidance and space systems technologies.

James Meadlock worked to make America's dreams of space exploration a reality. He was responsible for the software system that was used to guide and control the Titan II Missile System. In addition, he developed all software that was used on the Saturn Launch Vehicle for guidance and control of the vehicle and all of the check-out software that was used prior to launch to test the readiness of the vehicle in flight.

In 1969, James Meadlock became one of the founders of M&S Computing, the company which was renamed Intergraph Corp. in 1980 to better reflect its ground-breaking work in interactive graphics. His work in this area was recognized by the U.S. Congressional Caucus for Science and Technology in 1985 when he was awarded a Congressional High Technology Award for outstanding contributions to the advancement of science and technology. In 1987, James Meadlock was named Executive of the Year by the National Computer Graphics Association.

Under James Meadlock's leadership Intergraph Corp. has become the U.S. Government's leading supplier of interactive comput-

er graphics systems. Serving both defense and civilian needs, Intergraph systems are used by local, regional, and national services and agencies worldwide. Intergraph Corp. is now one of the Huntsville area's largest employers.

James Meadlock and his innovative work at Intergraph Corp. have placed Huntsville on the cutting edge of this exciting new technology. The people of Huntsville are fortunate to have this hard-working, dedicated individual as a member of their community. I salute James Meadlock and wish him the best in his efforts to expand the horizons for new developments in interactive graphics.

THE ILLUSION OF "LAND FOR PEACE"

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. RINALDO. Mr. Speaker, a constituent, Mr. Joel Weingarten, recently published an article expressing his views on aspects of the Middle East situation. He requested that I insert excerpts of his remarks in the CONGRESSIONAL RECORD, and those excerpts follow:

THE ILLUSION OF "LAND FOR PEACE"

(By Joel Weingarten)

The current wisdom in Washington and Jerusalem is that Israel can resolve a multitude of economic and national security difficulties by conducting "land for peace" negotiations with its Arab neighbors. The paradigm for this view, of course, is the Camp David Treaty, which Israel signed with Egypt ten years ago. Yet before plunging into another Camp David, we might first pause to consider the consequences of the first Camp David.

The Camp David Accords call for Egypt and Israel to: "refrain from hostile propaganda directed at one another * * *." Egypt's government-controlled press repeatedly violated this obligation.

On June 8, 1987, Egypt's leading government-owned newspaper, El-Ahram, reported that Israel was responsible for hoof and mouth disease in Egypt, arguing that Israeli "biological warfare" began in 1983 and that all imports from Israel should therefore be halted.

In December 1988, the government-owned newspaper El-Akhbar claimed that Israel was the most likely culprit in the terrorist bombing of Pan Am flight 103 which exploded over Lockerbie, Scotland on December 21, killing 259 passengers. Western intelligence, however, has traced the attack to Libyan and/or Syrian-backed terrorists.

It should further be noted that since 1981 Egypt has only agreed to one summit meeting between the Egyptian and Israeli leaders—and that was at the behest of the United States.

The peace process was supposed to promote the normalization of trade. However, Egypt has placed an almost total embargo on trade with Israel.

Even more important are violations of the treaty's guarantee that neither nation's citizens would be physically harmed by the other country's citizens, or by parties using the countries' mutual border. Egypt has aided the PLO by providing its terrorists safe haven in Cairo and allowing them to launch attacks against Israel from its border. Since October 1987 there have been at least six such attempts to infiltrate Israel by use of Egyptian territory.

In addition to cross-border terrorism, Egypt has been the site of the assassination of Israeli citizens. In June 1984, Egyptian terrorists shot Israeli diplomat Zvi Kedar. In September of 1985, seven Israeli tourists were killed by an Egyptian soldier. In August 1986, Egyptian terrorists assassinated Israeli diplomat Albert Atrachki.

Finally, Egypt has engaged in an extensive build-up of its military along its Israeli border, in clear violation of troop level agreements reached at Camp David.

The Camp David process has been good to Egypt, which has reclaimed the 23,600 square-mile Sinai peninsula from Israel and gained funds and military support from the United States without sacrificing its standing in the Arab world. More important, Egypt has made these acquisitions without having to conform to either the letter or the spirit of the Camp David treaty.

In exchange for the promise of peace, Israel has sacrificed strategically and economically valuable territory. Israel's geopolitical position has been irreparably weakened. All of these losses could be deemed acceptable had Israel received a true peace; but that has not been the case.

A real peace treaty would have required that Egypt actually change its intentions toward Israel. But this is not what the Camp David treaty has meant. It has instead meant continued belligerence under the guise of peace.

The issue behind Camp David's record is whether forfeiting land brings peace. The Egyptian example shows that the Arab world can gain through negotiations as much as, if not more than, it can receive through battle, and that it need not even provide true peace in exchange.

THE BUREACRACY DOES WORK

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. SWIFT. Mr. Speaker, the motivational technique that is least used in politics and government is positive reinforcement. The electorate tells us more frequently what we've done wrong than what we've done right. And, in turn, Members of Congress tend to berate the bureaucracy far more often than we praise it. That's too bad. It is as useful to let people know what they do that pleases us as it is to identify what does not.

I recently got a letter from a constituent who understands this very well. The objects of his praise were the people in his local Social Security office in Everett, WA. I asked his permission to put this letter in the CONGRESSIONAL RECORD where others could see that usually government does work the way it is supposed to.

The letter was addressed, importantly, not to me but to "Dear helpful and concerned staff." I thank Mr. Leonard Gurian for writing the letter and I'm happy to share it with all of my colleagues.

I would like to thank you people for your concern and advice in my recent "misunderstanding" with the Social Security Administration. Even if there was no direct part in the resolving of the problem on your part the fact that you were there to give me some encouragement and advice was certainly comforting. You helped to give perspective that I did not have and could not have achieved elsewhere at so "little" cost.

I would also like to put on paper my feelings about the people at the local office of the Social Security office. With no exception they were polite, tolerant (of a man who was quite angry when he first went out to the office) informative, patient, straightforward, and actually, I felt, wanted to help me.

Too often we hear of bureaucrats who want to chalk up one more for the team (or for themselves) having shot down Joe Citizen. Not so here. I wish I had the name of the person who helped me at the window out there—she was excellent. Mr. Ron Ferwerda who ultimately passed judgment on my case could not have been any more fair. Perhaps he went by the book but how refreshing it was to be told that if I were prepared to culminate the business right then and there I would not have to come back for the second session.

When I went in for the appointment I felt quite strongly that I should not have to pay for 3 months of the over-payment because I had been advised when I applied for S.S. to ask for those months. Mr. Ferwerda agreed. Although I felt that someone, somewhere fouled up in sending me the money for the months I did not deserve, the fact is that the money was not mine and should be paid back.

Well, enough already. One hears so many horror stories about people trapped in the labyrinth of government red-tape over "sins" never committed it was indeed heartening to have come out of this business with a judgment that I felt was the only fair one. Thank you.

Sincerely,

LEONARD GURIAN,
Everett, WA 98201.

THE LONG-TERM HEALTH CARE APPROACH

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. HEFLEY. Mr. Speaker, it has been over 2 years since I first cautioned this body on the effects of enacting catastrophic health care coverage and a financing surtax. Today, the House will be asked to correct the catastrophic nightmare enacted during the 100th Congress. Hopefully a majority of my colleagues will join me in repealing this bad law and starting over in our search for a long-term approach to health care for our senior citizens.

This cannot be the end of it, however. The problem of health care for the elderly, and particularly long-term health care, is a problem we must not ignore. Currently, the elderly comprise 12 percent of our population and that number is expected to double by the year 2040. Approximately 1.3 million senior citizens are residents of nursing homes. By the year 2040, a projected 4.4 million senior citizens will require nursing home care, and another 14 million disabled seniors will be living in the

community. This creates a situation where the present health care system will be inadequate.

Consequently, now is the time for Congress to enact an effective and efficient long-term health care plan for our elderly. Such a program must be affordable for our Medicare beneficiaries and, unlike the present catastrophic legislation, must address the real problems of catastrophic care.

Options such as the use of community-based services such as home care and adult daycare services could lower the cost of long-term health care. The unnecessary institutionalization of persons who are better served by community-based services is a financially wise alternative.

The private sector financing mechanism for long-term care has potential for addressing some of these concerns. The market for long-term care insurance is rapidly expanding, with approximately 70 companies now underwriting 420,000 persons. There is growing interest in increasing the coverage of long-term health care, while making it more affordable through employer-based group coverage.

In closing, I remind you that during the last session of Congress, we heard the wishes of the people concerning health care. The recent outcry concerning the catastrophic law suggests that Congress failed. With this in mind, I am calling on Congress to devise a plan that allows the private sector to play a significant role in responding to the catastrophic health care needs of our Nation with as little government interference as possible.

IN RECOGNITION OF MICHAEL I. PUPIN

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. GEKAS. Mr. Speaker, I would like my colleagues to join me in recognizing a great Serbian-American who was born on this day in 1858.

Michael I. Pupin was born in Banat, which is in present day Yugoslavia. In 1874 he came to America with only 4 cents in his pocket. Within 9 years he earned a B.A. from Columbia University and 6 years later he obtained his Ph.D. from the University of Berlin. He became a professor of electronics at Columbia, and during his tenure, he continually pursued improved technology in America. Professor Pupin received a total of 34 patents for his inventions and won the 1924 Pulitzer Prize in biography for his work "From Immigrant to Inventor."

I include an article about this important American reprinted from the November 29, 1981 Buffalo Courier-Express.

MICHAEL PUPIN, FROM IMMIGRANT TO INVENTOR

[Reprinted from Buffalo Courier-Express, Sunday, November 29, 1981]

When he got off the ship at Castle Garden in 1874, a 16-year-old boy from Serbia had five cents in his pocket. Unable to resist a piece of prune pie, prunes being a Serbian delicacy, he invested his nickel in it, only to discover that the prunes consisted largely of pits. It was his introduction to American self-reliance.

This initial setback did not discourage Michael Pupin. He went on to become professor of electromagnetics at Columbia and the man who made it possible for us to talk to one another over long-distance telephones. Each week I walked past a building named after him, where generations of his students, their students, and their students' students, have studied physics.

His autobiography, "From Immigrant to Inventor," published in 1922, won the Pulitzer Prize. The book is document appropriate to that far-off time in which cheerfulness and good will invariably triumph over adversity. Seeing a copy in a bookstore recently, I couldn't resist grabbing it.

Pupin was an engaging mixture of loyalty to his rural Serbian origins and, at the same time, rebelliousness and a desire to rise in the world. He never quite put behind him the traditions and associations of his native village of Idvor, and even before he left it, he had acquired a police record of opposition to his country's government.

In the new world, he was badgered by a group of young rowdies for wearing a red fez, scuffled with their leader and wrestled him to the ground, only to be given a loud cheer by the others, who defended him when a large mustachioed policeman arrived. It was his second lesson in America.

He worked on a farm in Pennsylvania, learned English, returned to New York to do odd jobs and finally made his way to Columbia, where he encountered modern science and was transformed. The driving ambition which carried him through long hours of labor and study also drove him toward knowledge, and it is chacteristic of Pupin that for him, rising in the world of men and rising in one's knowledge of the natural world were essentially blurred.

When he went back to Europe for his first visit after 11 years, the same railroad conductor in Vienna who had earlier called him a Serbian swineherd now called him "gracious sir." Pupin gave him a big tip and reminded him of their earlier encounter, "America is the land of rapid changes," said the conductor.

Pupin was an example of what we now call the upwardly mobile. He had a gift for sloughing off provincial mannerisms and accommodating himself to another moral system. He took nearly everything at face value, and wealth and station never lost their fascination for him. Writing in the early 1920s, he referred to Warren G. Harding as that "ideal type of genuine American," which looks a little odd today.

But he accomplished much. No other discovery in his lifetime had aroused quite so much interest as that of the X-rays, and he was in the vanguard of their use. He was at that time the only physicist in the United States who has any experience with vacuum tubes, and so when Roentgen's discovery was first announced, Pupin was better prepared than anyone else on this side of the Atlantic to repeat it. On Jan. 2, 1896, he made the first X-ray photograph in America.

Soon thereafter, Dr. William T. Bull, a surgeon of great gifts, brought to Pupin a distinguished lawyer named Prescott Hall Butler. Butler had received a full shotgun charge in his hand in a hunting accident and was in considerable pain.

Pupin realized that the patient would not be able to stand the exposure of nearly an hour which X-ray photography then required. But his good friend Thomas Edison had sent him several fluorescent screens which were much more sensitive. "I decided," Pupin wrote, "to try a combination of Edison's fluorescent screen and the photographic plate.

He put the screen on the plate and Butler's hand on the screen, and a "beautiful" photograph was obtained with an exposure of only a few seconds. It showed the numerous shots "as if they had been drawn with pen and ink." Dr. Bull operated and extracted everyone of them in a "short and easy" operation.

Thus originated the process we all take for granted. Pupin grumpily complained that nobody gave him credit for the discovery, although he had described it in the journal Electricity on Feb. 12, 1896. The patient was more appreciative. When other offers to reward Pupin were refused, Butler proposed to establish a fellowship for Pupin at the Century Club which would guarantee Pupin two drinks a day for the rest of his life. "This offer," wrote Pupin, "was also refused."

Pupin conducted his research when there were no well-supplied laboratories and lavish grants. He and his colleague, Francis Crocker, had to earn money on their own with which to buy equipment. And all this in addition to a heavy teaching load. Research scientists today would recoil in horror from the conditions under which he worked.

Pupin dreamed of being a great discoverer in science. This was denied to him. He chose the title of his book deliberately, and it was as "inventor" that he knew he had truly achieved distinction. Yet the long-distance transmission line was no gadget produced by the tinkering around of some garret engineer. Rather, it resulted from the thoughtful pondering of a genuinely theoretical physicist.

His own discoveries have been eclipsed by those of his great pupils, like Edwin H. Armstrong. But this is as he would have wanted it to be. "The aim of his whole life," wrote Freeman Dyson, "was to imbue his fellowmen, and fellow-Americans in particular, with his own deep love for pure scientific knowledge."

A TRIBUTE TO CHARLES MARION COOPER

HON. WES WATKINS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. WATKINS. Mr. Speaker, I rise today to pay tribute and homage to a longtime member of my staff—Charles Marion Cooper. Charley passed from this life late yesterday evening at the age of 63 years old. For those who did not know Charley, they missed a rare opportunity, for he was a rare breed. He was part of the last of an era—an old-time newspaperman.

Charley was more than a staffer, he was a trusted personal friend. He was not only a great writer and staff member but a fine father figure to the staff. And, I might add, Charley was someone that you considered as a second dad or brother, if you will. He never met a stranger.

As part of this great institution we call the House of Representatives, Charley embodied

that which we find so important—institutional knowledge. Charley Cooper worked in two gubernatorial, two senatorial, and three congressional campaigns. He lobbied for not only free markets but fair markets in petroleum and agriculture.

For 6 years he served as special assistant and press secretary, and administrative assistant in my office. He headed former Oklahoma Representative Clem McSpadden's office when the powerful Congressional Rural Caucus was formed.

He was an effective champion of rural Oklahoma. Those who knew him considered him a humorist and philosopher that could always be counted on for wisdom, advice, and counsel. No doubt, if Charley were here today he would weave his wisdom into a good story. He was always good for at least one if not two stories at any sitting.

In an 18-year news career in Oklahoma, Charley served as the editor of the Pryor Daily Times and worked for newpapers at Temple, Anadarko, and Antlers. Together with his wife, Allene Bary-Cooper, an artist-writer-photographer, he produced "The Homeplace: A Gathering of Voices," a coffeetable book on rural America.

A Capital correspondent for World Oil, he was a Washington lobbyist/writer/public relations director for the Independent Petroleum Association of America, 1975–77. He served as public relations director 1981–83 for the American agriculture movement and was the free-lance associate editor of the AAM Reporter at the time of his death. He was a board member of the American Family Farm Foundation.

In Oklahoma, he helped expose the 1964–65 asphalt price-fixing case that led to court judgments for the State while working for the Oklahoma Good Roads and Streets Association.

Candidates that he advised were U.S. Senator Fred R. Harris, U.S. Representative Toby Morris, Ed Edmondson and Clem McSpadden, Oklahoma Attorney General Larry Derryberry and Keith Cartwright, Preston Moore, and Clyde A. Wheeler, Jr.

He served two active duty tours in the Navy, was commander of two American Legion posts, was a Mason, and earned a college degree in Texas.

As so often Charley wrote in floor statements for me on occasions such as this one, I want to close with one of his favorites and Charley, I think it applies—"well done thou good and faithful servant." You will be missed by the staff and all that knew you. The world, the Congress, the State of Oklahoma, and numerous individuals are better off having known Charles Marion Cooper.

SEVEN REASONS WHY THE BUSH ACID EMISSIONS CAP IS A GOOD IDEA

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. BOEHLERT. Mr. Speaker, as the Energy and Commerce Committee considers H.R. 3030, the Dingell-Lent clean air bill proposed by President Bush, questions will be raised concerning a very important element of that package, the postcompliance cap on some emissions.

As EPA Administrator William Reilly recently told the Subcommittee on Energy and Power, it would be very difficult to view H.R. 3030 as an adequate, definitive solution to the acid rain problem if, as some propose, this environmental safeguard is dropped. In fact, it is the acide emissions cap of H.R. 3030 which makes that bill superior to H.R. 1470.

The cap language in H.R. 3030 deserves careful study and, if necessary, fine tuning. I don't profess to have all the answers on this one. But before giving any consideration to eliminating the cap, we should all recognize it for what it is—good environmental, energy, and economic policy. Here's why:

First. Without a cap, our multibillion-dollar national investment in acid rain controls could, over time, erode away. The Environmental Protection Agency forecasts up to a 20-percent erosion in emission reductions by 2010 without the safeguard of a cap. Such erosion would be a tragic, frustrating result for everyone.

Second. The acid emissions cap is intimately linked to the trading allowed under the Bush proposal. Inter-regional trading without a cap shortchanges the environment; a tight emissions limit without trading is needlessly costly to electric consumers. The integrity of the emissions market breaks down without the cap.

Third. The cap will lead to a long overdue emphasis in energy policy on efficiency and conservation. According to the Center for Clean Air Policy Analysis, the efficiency encouraged by a cap could: Halve cost impacts in States most-affected; reduce the need for costly new powerplants; enhance energy independence and industrial competitiveness relative to Japan and Europe; spur new technologies; and lower emissions of carbon dioxide, which contributes to global warming.

Fourth. The cap-and-trading scheme creates a form of cost-sharing requiring no new taxes or Federal subsidies. No matter what kind of plan is devised, the costs of acid rain controls will be felt throughout the national economy. So which is better: A fee imposed on utilities regardless of their contribution to the problem or their own cleanup requirements; or a system based on who can afford to pay for the largest, most cost-effective reductions? Utilities who make such reductions can sell excess allowances to others who cannot.

Fifth. The cap is compatible with economic growth. The record from 1973 to 1987 demonstrates that America can enjoy economic growth and increase coal utilization even as acid emissions decline. H.R. 3030 guarantees emissions will drop faster to environmentally acceptable levels and, with the cap, stay there well into a distant and uncertain future.

Sixth. State public utility commissions [PUC's] should appreciate the cap's benefit of all electric consumers.

Seventh. Several factors will effectively discourage hoarding of pollution allowances: Pressure from State PUC's to sell the allowances and give rate relief to customers; the unpredictable value of allowances in later years as the supply increases; and the pool of allowances that will be created by the incentives for cost-effective reductions by the industrial sector.

Mr. Speaker, I note with interest the efforts by several of my colleagues to eliminate arbitrary inequities under the proposed cap, and ensure its workability. The House Working Group on Acid Rain, which I cochair, looks forward to working with them in the pursuit of balanced environmental and energy policy.

But obviously, there are numerous economic and environmental benefits to the proposed acid emissions cap which merit our consideration before any efforts are made to eliminate it.

ST. PETER'S CHURCH CELEBRATES ITS 150TH ANNIVERSARY

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. DURBIN. Mr. Speaker, I rise to congratulate St. Peter's Catholic Church in Quincy, Ill, on its 150th anniversary celebration. The church has sponsored a series of special events over the past 6 months to mark the event, and is holding a grand banquet on Wednesday, Oct. 11.

St. Peter's parish has 1,108 families, and a total of 3,200 parishioners—the largest in the city. St. Peter's School also is the largest parochial grade school in Quincy, with 338 students in grades K through eight.

The church has a long and illustrious history. The parish was founded June 13, 1839, on the southwest corner of Eighth and Maine Streets in Quincy. The original church was built for the city's English-speaking Irish Catholics, who until then had been served only by visiting missionaries and a German-speaking priest assigned to St. Boniface Church.

The church was renamed for Saint Peter in 1863. Tragically, a tornado demolished the building on April 12, 1945, and parishioners subsequently rebuilt the church at its present site on 25th and Maine. A rectory and convent opened in 1967, a school for the handicapped and the St. Peter Holy Children pre-school were opened just last year.

One of the major forces in the early days of the church was Father Peter McGirr, appointed pastor in 1862, who oversaw a large expansion of the church and school. It was Reverend McGirr who welcomed into the parish a runaway slave, Augustine Tolton, who later entered the seminary and went on to become the first black priest in the United States.

Mr. Speaker, I salute the parishioners and paster of St. Peter's the Rev. Roy Bauer, on the 150th anniversary of their church.

CELEBRATING NATIONAL CHILDREN'S DAY

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. GEKAS. Mr. Speaker, I want to draw the attention of my colleagues to a very special young person in my congressional district.

Frieda Dyson is a high school senior from Harrisburg, PA, who was selected to represent the State this week in Washington as a child ambassador. Frieda, and other child ambassadors from around the country are here to celebrate National Children's Day with a series of events intended to call attention to the state of our Nation's children. The ambassadors are helping Congress to focus on the positive possibilities open to young Americans, as well as to consider the pressing needs and problems facing our youth.

The ambassadors testified yesterday before the Select Committee on Children, Youth, and Families and the Budget Committee Task Force on Human Resources. Their unique insight and experience was both moving and inspirational.

The testimony of my constituent, Frieda, focused on the importance of teens rising above peer pressure to stay away from drugs. Frieda knows a great deal about such inner strength. She lived in foster homes for the first 8 years of her life; yet Frieda has been able to overcome this difficult start. She is president of her senior class at the Harrisburg Academy, she tutors disadvantaged children after school, she aspires to be a writer, and is an articulate spokesperson on saying no to drugs. Needless to say, I am extremely proud to have this young lady in the 17th Congressional District.

I would like to take this opportunity to share with my colleagues a segment of Frieda's testimony from yesterday's hearing:

Children are malleable and impressionable. We are open to a lot of stresses and are vulnerable, but the reverse is true too. We are open to positive influences if they are made available to us; we need adult influences that are positive. More environmental emphasis needs to be focused on strengthening family units, stable homes and continued support will, over time, decrease drug usage rates among my peers. For further significant positive changes to occur there needs to be communication and cooperation between the youth of America and the leaders—the educators and the parents.

In conclusion, only through joint efforts on all levels and spheres of influence will the situation brighten. We, the youth of America, are looking to you, the present leaders, not necessarily for the answers to the drug crisis, but for your continued pledged commitment to us. As it has been said many times—we are the future and even more so, we are the present. We need your help and your concentrated efforts here and now.

Mr. Speaker, it is when I have the privilege of meeting young people like Frieda Dyson, I become more certain than ever that America is in good hands.

STAND UP FOR THE CHILDREN

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. STEARNS. Mr. Speaker, I would like to take this opportunity to turn our attention to an issue which is close to all of our hearts—our Nation's children.

I am inserting into the RECORD here the lyrics to a song written and produced by two constituents of mine in Ocala, FL, which says beautifully that it is our duty and responsibility to care for and care about the children of the world. Their rights to a future that is safe, free, and healthy should be a priority to all of us, and I applaud the efforts of Robin MacBlane and Larry Whitler to bring attention to this important goal. Their song "Stand Up for the Children" is a wonderful tribute to their commitment, and I am proud to share it with you today.

STAND UP FOR THE CHILDREN

(Lyrics and music by Larry Whitler)

A child's smile
A child's laughter in the air
Is the most beautiful song I'll ever hear
But this world is cruel
And we've got to

Stand up for the children
Teach them how to fight
Let them know you stand behind them
Let them know they have a right
To a free world
A safe world
A clean world
A drug free world, oh God
If I do anything
Let me stand up for the children of the world

A child rests
His little head upon my shoulder
And with each breath I feel upon my ear
I melt inside
I melt inside

A young girl strives
To do her best with all her talents
And there's a beautiful look within her eyes
As she sees her mom and dad applauding

SIXTY YEARS OF SERVICE TO MICHIGAN'S GASOLINE DEALERS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. DINGELL. Mr. Speaker, I rise today to pay tribute to the Service Station Dealers Association of Michigan. Established in 1929 as the Retail Gasoline Dealers Association of Michigan, this organization is currently celebrating its 60th anniversary.

For 60 years the SSDA has been in the business of promoting and protecting the interests of Michigan's gasoline retailers. It represents over 1,000 dealers and their families in the areas of oil company-dealer relationships, health and liability insurance, credit cards, and other dealer-related activities.

From its inception in 1929, the association has been a leader for the dealers of Michigan. From "Gasoline Lil," a noted SSDA lobbyist, to Cash Hauley and Chuck Shipley, former executive directors of the association, the retail gasoline dealers have been well served.

Currently, President Philip Bucalo, a Livonia Shell dealer, Executive Director Daniel Loepp, and the entire SSDA board are working hard to represent dealers' interests on a number of important issues including franchises, small business, and the environment.

Once again, congratulations to the Service Station Dealers Association of Michigan on the 60th anniversary of this fine organization. I am sure the next 60 years will see the SSDA continuing in its fine tradition of serving the gasoline dealers of the State of Michigan.

TIME TO FIGHT BACK IN OUR NATION'S CITIES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. RANGEL. Mr. Speaker, regardless of how many national drug strategies and drug bills we produce in the Congress and the executive branch, the war on drugs will not be won without grassroots involvement and support from the American people.

The National League of Cities has been involved in recent years in fighting the drug war on our local government front. The National League of Cities has been instrumental in forging a productive, working relationship among the chief executives who run our Nation's communities; a relationship that has led to a healthy exchange of ideas and strategies to combat the drug crisis in America's major cities. Consequently, we have witnessed a rebirth of grassroots warriors, lending hope to the cause of a drug-free America.

In order to help carry forward with this noble effort and continue the work being done by the National League of Cities, I am introducing today a House joint resolution to commemorate December 3–9, 1989, as "National Cities Fight Back Against Drugs Week." It is during this week, Mr. Speaker, that the National League of Cities hopes to shine the public spotlight on the important antidrug efforts taking place within our cities. We hope to inspire those who are working in the trenches to continue their work, and those who are standing on the sidelines will be persuaded, we hope, to join in on the action.

This special resolution is more than just a symbolic effort. The passage of this House resolution, Mr. Speaker, would bring about direct action and noticeable results in the war on drugs, through the scheduling of a variety of events in communities throughout the country. Churches, civic groups, law enforcement agencies and educators, parents and young people will be joining forces to let the drug traffickers know that we are not going to give up the reins on our communities. We must let them know that we are united in our stand against the pervasiveness of these poisons in our society.

Our cities have been devastated by the war on drugs. Entire communities are being held hostage by drug dealers and their agents who conduct their heinous trade with no regard for

human life and the law. An entire generation of youth in our inner cities stands on the brink of being lost for the future because of the infatuation with crack and fast money. When our children begin to flock to the dead-end road of drug involvement—a road that almost always ends in death or incarceration—then something is truly wrong with America.

Mr. Speaker, some of our inner cities are so blighted that their populations consist mainly of hopeless and helpless individuals who turn to drugs because they have nowhere else to turn. They do not have jobs. They do not have education. They do not have opportunities and options. They are the homeless and the hungry. They are the forgotten and the ignored.

We must act and we must act now to restore order, along with hope and opportunity, in our cities. This resolution seeks to restore that order, hope, and opportunity.

Americans everywhere have said in poll after poll that they want to end the drug scourge. To the citizens in this country, the drug crisis is the No. 1 crisis in our Nation. Americans want us to solve this problem, and in doing so, we must realize and pay attention to what is happening in our inner cities.

I hope that all of my colleagues will support this resolution, and will take an active role in National Cities Fight Back Against Drugs Week.

SALUTE TO SIGMA CHI AT GEORGE WASHINGTON UNIVERSITY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. SKELTON. Mr. Speaker, I rise today to salute Epsilon chapter of Sigma Chi fraternity at George Washington University on its 125th anniversary. The chapter was granted petition on December 10, 1864, and has since contributed to the development of hundreds of young men, emphasizing the ideals of friendship, justice, and learning.

Today, the excellence of Epsilon chapter is demonstrated by its academic success, record of community service, and campus involvement. For 3 consecutive years, the national fraternity has recognized Epsilon with the Peterson Outstanding Chapter Award, its highest honor. Through its 125 years, this chapter has produced community, State, and national leaders who have made positive contributions to our country.

As the son of a Sigma Chi, the father of three, including one Epsilon member, and a Sigma Chi myself, it is with great personal pleasure that I ask Congress to join me in extending congratulations and best wishes to Epsilon chapter.

THE FORESTRY AMENDMENT TO INTERIOR APPROPRIATIONS

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. DENNY SMITH. Mr. Speaker, as a Member who represents many timber dependent communities in Oregon, I have worked with my colleagues for months in an effort to achieve a short-term solution to the timber supply crisis facing the Pacific Northwest. My support for the amendment before us, however, is not without reservations about its long-term implications for both the Northwest and the entire Nation.

This is not a painless, easy compromise for the tens of thousands of forest products workers in the Pacific Northwest. The timber sale level in this amendment is a significant reduction from previous years. The amendment may keep people employed throughout the coming year, which I certainly support. In the long run, however, reduced harvest levels will result in economic chaos as tens of thousands of jobs are lost in the Northwest.

Every Member of this House needs to know that this amendment, and all other measures that reduce the public timber supply, will directly affect your constituents as well. Twenty percent of the wood products consumed in the United States come from public lands. Restricted domestic supply will lead to higher prices or a higher trade deficit from increased imports.

Higher timber prices will mean higher housing costs for your constituents, edging young couples and first-time buyers out of the housing market. Thirty percent of this Nation's building supplies are already imported, and nothing is being done to reverse that trend.

We in the Northwest have a good story to tell. Our region is the most productive timber region in the Nation. We can have a perpetual timber yield that provides a sustained supply of wood products for all Americans. And we can do so in an environmentally sound manner.

As we work for the long-term solution, we must be willing to examine the entire public land base in Oregon and Washington. The acres of old growth already preserved in national parks and in wilderness status must be counted toward any long-term solution.

In closing, let me reiterate that this was a truly, a compromise of a compromise, and one that is much more severe than the compromise originally proposed by the Oregon delegation at the summit in June 1989. It also relies on the good faith, constructive participation of the environmental community in order to make these provisions work. If that good faith is broken, I will be back next year to push for a solution that really works.

THANKS TO LIVERMORE'S MAYOR: DALE TURNER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. STARK. Mr. Speaker, I would like to extend my deepest appreciation to one of the finest citizens and community leaders in California's Ninth District. Mayor Dale Turner has, for the past 17 years, served the city of Livermore and the Livermore/Amador Valley in an elected and appointed position with great integrity and honor. Unfortunately for his constituents, Dale has decided not to seek reelection as Livermore's mayor.

Dale Turner's public life began when he was appointed to the Livermore Planning Commission in 1972. He then ran for the Livermore City Council in 1974, where he served until 1980. In that same year, Dale became Livermore's first directly elected mayor; a position he is now retiring from. Mr. Turner has served on many committees designed to improve the Livermore Valley quality of life and foster better relations with local communities. He has been particularly active in ensuring that the huge Lawrence Livermore and Sandia National Laboratories were good neighbors to the people of the valley.

Professionally, Mr. Turner is a graduate of the Pacific Coast Banking School/University of Washington, Louis Allen Management School and the American Institute of Banking. Mr. Turner has worked for local banks and currently holds a mortgage banking position.

Mayor Turner has served the people of Livermore with dignity and a commitment to excellence. He has never let anything but the quality of life and the future of Livermore influence his decisions as mayor. The people of Livermore are not only losing their mayor, but a true friend as well.

My wife, Carolyn Wente, and I wish him the very best in the years to come. We are sure he will continue to find new ways to provide civic and business leadership in the Greater Livermore Valley.

SENSE OF CONGRESS CONCERNING THE CONTINUED HUMAN RIGHTS VIOLATIONS BY THE PEOPLE'S REPUBLIC OF CHINA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. GILMAN. Mr. Speaker, today I am introducing House Concurrent Resolution 208 a resolution concerning human rights violations by the People's Republic of China [PRC].

The daily arrests, beatings, and repression go on. Yet, there are some U.S. officials considering PRC admission to the General Agreement on Tariff and Trade [GATT].

There have also been high-level meetings between representatives of the administration and PRC officials. Secretary of State Baker has met twice with the Foreign Minister of the PRC.

I believe now is not the time for these sort of contacts and initiatives. There should first be a dramatic change of leadership in the PRC before we allow entry into the GATT, extend MFN, grant World Bank loans and meetings between high-level officials.

House Concurrent Resolution 208 expresses the sense of Congress that the state of human rights in the PRC and Tibet is still far too grim and that the proposed congressional sanctions and those put into place by the President should be upheld. Accordingly, I urge my colleagues to support House Concurrent Resolution 208.

I request that at this point in the RECORD a copy of House Concurrent Resolution 208 be printed in full.

H. CON RES. 208

Whereas on June 4, 1989, the Government of the People's Republic of China ordered an unprovoked, brutal, and indiscriminate assault on thousands of peaceful and unarmed demonstrators and onlookers in and around Tiananmen Square by units of the People's Liberation Army;

Whereas the Government of the People's Republic of China has engaged in widespread mass arrests in the aftermath of the June 4, 1989, military assault in Tiananmen Square, arresting thousands of students, workers, and others and executing scores of individuals;

Whereas security forces of the Government of the People's Republic of China have repeatedly assaulted peaceful demonstrators in Tibet and have imprisoned thousands of Tibetans for the expression of their political and religious beliefs;

Whereas freedom of emigration is currently being denied by the People's Republic of China to individuals supporting the prodemocracy movement, particularly to leaders of the movement who are currently residing in the United States and Australian Embassies in China, and to the citizens of Tibet, where martial law has been in effect since March of 1989;

Whereas a subcommission of the United Nations Human Rights Commission has voted 15 to 9 to have the full Commission examine charges that the People's Republic of China brutally suppressed the prodemocracy movement in China in violation of the Universal Declaration of Human Rights, representing the first time that a permanent member of the United Nations Security Council has been censured in a United Nations forum for its human rights performance; and

Whereas harassment and intimidation continues within the People's Republic of China and within Tibet, where surveillance, arrests, beatings, and torture have been documented by independent, international human rights organizations, and as well as in the United States, where harassment of Chinese students participating in the prodemocracy movement has been reported widely by leading United States press organizations: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the situation in the People's Republic of China and in Tibet remains as grim today as it was when President Bush first imposed sanctions on the People's Republic of China and when the House and Senate passed legislation calling for additional sanctions;

(2) there should be no relaxation of those Presidential sanctions, and the Congress should act swiftly to secure final enactment of its own proposed sanctions legislation;

(3) the President should confer with the other signatories of the General Agreement on Tariffs and Trade and oppose any further meetings or any further action regarding the People's Republic of China's desire to accede to the General Agreement on Tariffs and Trade until martial law is lifted and human rights are restored in both the People's Republic of China and Tibet;

(4) the United States should continue to oppose any change in World Bank policy toward loans to the People's Republic of China, and continue to oppose the release of loan funding to the People's Republic of China until martial law is lifted and human rights are respected in both the People's Republic of China and Tibet; and

(5) the President should carefully consider withholding nondiscriminatory treatment (most favored nation treatment) for the products of the People's Republic China for an additional 12 months pursuant to section 402(d)(5) of the Trade Act of 1974, as proposed by the President on May 31, 1989, until there is freedom of emigration in both the People's Republic of China and Tibet.

THE 30TH ANNIVERSARY OF AFGE LOCAL 1923

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. MCMILLEN of Maryland. Mr. Speaker, today I wish to give special recognition to the American Federation of Government Employees [AFGE] Local 1923 as they celebrate their 30th anniversary. I would like to extend my sincerest congratulations to this organization on their accomplishments and also recognize the week of October 1-7 as AFGE 1923 week as Gov. William Donald Schaefer has proclaimed it.

Local 1923 was founded on August 1, 1959, with the goal of fostering rights and protections for Federal employees of the Social Security Administration. Since its inception 30 years ago, under President William MacNeil, the membership of Local 1923 has grown to over 7,000 people who represent approximately 20,000 Social Security Administration, Office of the General Counsel, and Health Care Administration employees. This representation covers a five-state area, including Pennsylvania, West Virginia, Virginia, Delaware, and Maryland. Under its current president, John Gage, who also serves as the national AFGE vice president, Local 1923 has become a respected and admired organization throughout the political and labor arenas.

It is with great pride that I congratulate the AFGE Local 1923 on their 30 years of government employee services. I know that my colleagues will join me in offering best wishes for the continued success of this organization.

INTRODUCTION OF WHITE SANDS FAIR COMPENSATION ACT OF 1989

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. SKEEN. Mr. Speaker, today I am introducing the White Sands Fair Compensation Act of 1989, which would authorize $17.5 million to individuals who lost their land or mining claims to the U.S. Government for the establishment of White Sands Missile Range during World War II.

This legislation establishes a 7-member commission which will evaluate the claims submitted by owners related to the taking of their property and make payments to those claimants not fully compensated. In evaluating claims, the Commission would determine the value the property had in 1975—when the U.S. Government permanently took the lands comprising White Sands Missile Range—based on established precedents for the value of similar real estate in New Mexico. Priority consideration would be given to the claims of ranchers and miners who owned property continously between 1941 and 1975.

To gain a broader understanding of the plight these individuals have undergone over nearly half a century, one must go back to the international strife that plagued this country of united Americans during the second World War. Most Americans were asked to sacrifice for the great causes this nation fought for.

The ranchers and miners affected by this legislation are just a few of the many patriotic individuals who made great sacrifices for this country. All of these fine people gave up their lands, their livelihood and their homes to the U.S. Government which pledged that these ranchers and miners would be returned their property once World War II ended. The productive land these people gave up was ultimately used to develop and detonate the most destructive weapon known to mankind—the atomic bomb. Nearly 45 years after Hiroshima and Nagasaki, and after the rebuilding of Japan and Europe, and after a bill authorizing the compensation of Japanese-Americans interned in American prisons during World War II, these ranchers and miners are still trying to rebuild their lives and salvage what is left of the future. In a real sense, the destruction of World War II has never ended for these individuals and their families and it is ironic that a nation which can establish a Marshall plan to rebuild Europe has failed to adequately compensate its own citizens.

The Aleutian and Pribilof Islands Restitution Act, title II of Public Law 100-383, provides a precedent for compensation of these White Sands ranchers and miners.

When the Japanese attacked the two westernmost Aleutian Islands during World War II, the U.S. military evacuated about 900 Aleuts from the Pribilof Islands and from many islands in the Aleutian chain. Though this action was militarily justified, the Aleuts were treated poorly during the relocation period. When the Aleuts returned to their villages after the war, they were confronted with wartime destruc-

tion, much of which was done by U.S. military personnel.

In Public Law 100-383, Congress stated: "The United States has not compensated the Aleuts adequately for the conversion or destruction of personal property, and the conversion or destruction of community property caused by the United States military occupation of Aleut villages during World War II. There is no remedy for the injustices suffered by the Aleuts during World War II except an Act of Congress providing appropriate compensation for those losses which are attributable to the conduct of United States forces and other officials and employees of the United States."

If this same standard were used for the White Sands ranchers and miners, it would allow them to be compensated for public domain lands included in the ranch and mining units, as this is an established precedent for ranch valuation in New Mexico.

I have introduced this bill as remedy for the 150 or so ranching families who were displaced by the creation of the White Sands Missile Range. This legislation would be a significant step in the process of bringing an end to this controversy. This bill is the result of six months of study and consultation with the ranchers and miners, their families, individuals of the New Mexico Cattle Growers Association and the range management specialists at New Mexcio State University.

GERMAN-AMERICAN DAY

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. HERTEL. Mr. Speaker, I rise today on the occasion to recognize German-American Day which will be celebrated all over the United States on October 6, 1989, and in Michigan by many of my constituents.

The President will sign a proclamation on October 6, 1989, which was adopted already in both Houses of Congress. Over 850 cities will celebrate this occasion with parades, festivals, dances and banquets. The richness of the German culture will be fully recognized and will demonstrate the contributions of Americans of German descent to the United States.

My constituents, many who are of German descent will be celebrating this day by attending a German-American heritage ball on Friday, October 6. The ball is an annual event which is held at the German-American Cultural Center in Detroit. As in the past, many Congressmen and Senators, and other local officials will be attending this event to show their appreciation for all that the German-American community has done.

The German-American Cultural Center is the host of this event and this celebration is considered the cultural event of the year among German-Americans in the Detroit area. Dancing and singing will be featured and the music will be provided by various German music groups along with the German American Cultural Center Orchestra. The center has also sponsored festivals and other cultural events throughout the year and have been very instrumental in helping to drawing the German-American community together.

My dear colleagues please join me in honoring the German-Americans and joining them in celebration in Michigan and in the United States.

THE BUCKTAIL COUNCIL OF THE BOY SCOUTS OF AMERICA

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. CLINGER. Mr. Speaker, I rise today to pay tribute to the Bucktail Council of the Boy Scouts of America. The Bucktail Council, located in DuBois, PA, encompasses all or part of four counties in my congressional district.

The Bucktail Council was one of two councils in the United States to have received this year's annual Gold Seal Award. The U.S. Department of Agriculture has presented this award annually since 1963, for outstanding conservation efforts to a local Boy Scout council in America.

The council has had an active Conservation Committee for over 15 years. Every 3 years the Bucktail Council Conservation Committee plans and executes a councilwide Conservation camporee, which is attended by more than 500 Scouts and Scouters.

In 1982, the council received the Green Seal Award for outstanding conservation contribution in the Northeast region. Because of the prestige of this award, the council was not eligible to be recognized for their accomplishment for another 5 years.

Council leaders indicate they will continue to have the council place a strong emphasis on conservation. Douglas L. Krofina, Bucktail Council executive, explains, "Conservation is more than planting a tree or building a jack dam; it is an ethic we must teach our children." I have been a long-time supporter of conservation and I applaud the Bucktail Council on its community spirit and its work on projects that help to control erosion and improve streams.

On behalf of the 23d District of Pennsylvania, I want to congratulate each and every member of the Bucktail Council of DuBois, on this notable accomplishment. The council's dedication is most impressive and deserves our recognition and our thanks.

CLEAR THE RUNWAY, HERE COME THE DUCKS

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. HUNTER. Mr. Speaker, I am extremely privileged to honor a great American conservationist upon the realization of one of his lifetime efforts. Bert McKee's achievements at Edwards Air Force Base in California in establishing critically needed wetlands and waterfowl habitat demonstrate the creative thinking we so desperately need as Congress addresses the environmental problems facing our country. I hope that every Member will find some time to read about the great work of my friend, Bert McKee.

CLEAR THE RUNWAY, HERE COME THE DUCKS

(By Rich Roberts)

EDWARDS AIR FORCE BASE.—In this desert sky where eagles dare, ducks, too, will fly.

The site of aviation history will score a blow for wildlife with the re-creation of 170 acres of waterfowl wetlands. The Piute Ponds Expansion Project, in the southwest corner of Edwards' 470 square miles, will provide an enlarged rest area, with limited hunting, for weary ducks migrating along the Great Basin corridor of the Pacific Flyway—one of four major waterfowl migration routes of North America.

It's a joint venture of the Air Force, Ducks Unlimited, the California Department of Fish and Game and the Los Angeles County Sanitation District, Lancaster Division, each delighted that its own interests will be served.

By creating a gridwork of dikes, Lancaster will have more overflow ponds for its treated sewage, the Air Force won't worry so much about birds buzzing its aircraft or the runways flooding, and the wildlife people are so happy they could quack.

All it will take is a few bulldozers and $262,000, but the dream is a quarter-century old. It's Bert McKee's dream.

McKee, 86, of Arcadia, has a conservation history dating back to 1931, about 50 years before such causes became popular and six years before Ducks Unlimited was founded when the Dust Bowl era had dropped waterfowl populations to all-time lows. He chaired a local Junior Chamber of Commerce committee that was concerned about vanishing habitat—an issue now critical because of development and drought.

Later, in 1962, McKee became president of Ducks Unlimited which has grown to about 600,000 members, including 55,000 in California, and is perhaps the most effective wildlife conservation organization in the world.

McKee started hunting ducks in the desert in the 1930s when he bought into the nearby Wagas Club, one of the few ducks clubs spared during World War II when Edwards took over most of the land east of the Sierra Highway (California 14) between Lancaster and Mojave.

"They took out about 10 duck clubs," McKee said. "Some of them moved over on the west side [of the highway]. Most of 'em left the area . . . moved down to the Salton Sea or wherever they could get water."

There was once water here, too. Area maps indicate Rogers and Rosamond Dry Lakes on the base, and the Air Force wants to keep them that way, which is part of the story of how the project came about—that and the preseverance of Bert McKee.

Dedication ceremonies are scheduled Thursday alongside Shuttle Road where Columbia, Discovery and the ill-fated Challenger have rolled. McKee will be there, perhaps with his longtime duck-hunting friend Gen. Jimmy Doolittle, 91, who led the B-25 carrier-based raid on Tokyo in 1942.

The cost is being borne by an anonymous donor who earmarked the project as part of a $2-million gift to Ducks Unlimited. McKee, a former international president of DU, described the donor only as "an old duck hunter."

Perhaps he once used one of the old duck blinds that can still be seen on the site.

McKee started working on the Air Force to help the ducks in the mid-'60s.

"We started several times to get something going," he said. "It depended a great deal on who headed the [base]. We had a tremendous interest when [Maj.] Gen. [Irving L.] Branch was there in '65, then there was a lack of interest because a lot of these fellas had no interest in wildlife. We'd have it ready to do and they'd change administration, and we'd have to start all over again."

The breakthrough occurred as the end result of the Antelope Valley's population boom. The sanitation district was running out of places to dump used water.

Denton Guthrie, assistant state chairman for DU, said: "Every time somebody flushes their toilet out here, that water's gotta go someplace."

Since the late '50s, the district has had 320 acres of containment ponds for chemically treated effluent just west of the site. But as the population grew and those ponds overflowed, the water would flood Rosamond Dry Lake, which is an emergency landing site for test aircraft and lies directly under the Alpha Low Level Flight Corridor. The flooding not only made the lake unusable but drew birds into the area and raised the risk of what the Air Force calls "bird strikes," a danger with fatal implications.

Chris Rush, the civilian base natural resources planner, said: "We've had to restrict flight operations when it's flooded."

As the Air Force and the sanitation district became increasingly alarmed, McKee said, "I just kept plowing away."

Jimmy Doolittle's a great friend of mine. He went over there with me and attended meetings and talked. Most of our problem had been we weren't getting up high enough."

Doolittle helped McKee gain altitude in the Air Force hierarchy, and results followed.

"Finally, I went back to Washington and got to the people back there at the North American Wildlife Conference. They had two [representatives] from Edwards—the boys that were lukewarm on the deal—and they voted to really get the thing going."

It's only 170 acres, making a total of 490, which is less than a square mile. But when one considers that California has lost 95 percent of its wetlands, according to Mike Maier of the Waterfowl Habitat Owners Alliance, every little bit counts.

"We've destroyed more wetlands than any other part of the country," Maier said. "Two-thirds of the wetlands in California—267,000 acres—are now owned by private duck clubs."

That was the message McKee took to the Air Force.

"They knew they had to do something with all this land they were tying up," he said. "There are 300,000 acres in Edwards, and when you multiply all these military bases that aren't doing anything at all to encourage wildlife * * * the most important part of this is that we're establishing precedent."

This is the first significant wildlife habitat restoration project on a military base.

Guthrie said: "There are a lot of wildlife projects that, if done properly and managed properly wouldn't detract at all from military operations."

It's also the first DU project in Los Angeles County, which has no significant duck hunting on public lands and only three private clubs.

Until 1986, in fact, DU, which reported a net income of $67 million last year, spent all of its funds developing habitat in Canada, from where the birds come. Now it has expanded its projects to its MARSH program—Matching Aid to Restore States Habitat—working with groups such as these under its "Partners in Conservation" concept.

The Piute Ponds already have more than 200 species of birds. The project is targeted for ducks, but geese and other winged creatures, not unlike the space shuttle, are expected to use the site as a landing zone as they migrate between Canada and Mexico. A few will stay and nest. All waterfowl need is shallow water with a food supply.

From a month before hunting season to a month after, the sanitation district increases chlorination, but the birds seem to thrive.

Hunting will be limited. The only people allowed to hunt are military personnel, active or retired, and their dependents; base civilian personnel and contractors, and a few longtime local Rod and Gun Club members with "grandfather" privileges.

The limitations don't seem important to DU.

"Probably 50 percent of our members don't even hunt," Guthrie said. "They're just interested in saving the ducks."

Rollie Kienzle of Whittier, a lifelong hunter who belongs to the Rio Hondo DU chapter, said: "This isn't for hunting. This project is for conservation."

Maier: "This valley is a historic flyway, once populated by [Piute] Indians. It's reasonable to believe it was a wetlands at one time. People live where there's water."

In later days, McKee brought Air Force generals and astronauts out to hunt ducks around Edwards. John Wayne, Bing Crosby and other celebrities visited his ranch.

"In those days we had rugged individualists," he said. "We've got to teach more people what the art is. These fellas that go out and simply shoot ducks and don't do anything else are not gonna save the resource."

MISSING SERVICE PERSONNEL ACT LEGISLATION

HON. JOHN G. ROWLAND

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. ROWLAND of Connecticut. Mr. Speaker, today I am joining with the distinguished minority leader, BOB MICHEL, in introducing legislation to provide procedural due process in determining the status of missing service personnel.

Earlier this year, I introduced the Missing Service Personnel Act (H.R. 1730). The purpose of this bill is to correct the current method by which the U.S. Government accounts for missing service personnel, and to establish a more acceptable system for future servicemen.

Having been involved in the POW-MIA issue since the beginning of my tenure in Congress, I am aware of the differing opinions as to how best to make final determinations regarding missing service personnel. Throughout this time, my goal has steadfastly remained that Congress must find the most workable and acceptable solution to ending the pain and suffering of the families of those left unaccounted for.

To achieve this objective, today I have again written to Congresswoman BYRON, the chairperson of the House Armed Services Subcommittee on Military Personnel and Compensation. I have requested a hearing on both H.R. 1730 and the legislation I have introduced with Congressman MICHEL. I believe that the best way to formulate legislation ensuring that we do not repeat our Nation's past mistakes is to hold a congressional hearing on both proposals. We must work to pass the best legislation possible to address this critical issue.

THE INTRODUCTION OF THE SYSTEMATIC APPROACH FOR VALUE ENGINEERING [SAVE] ACT

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mrs. COLLINS. Mr. Speaker, not a day goes by that we don't pay homage to the national urgencies of our day, such as the needs to maximize our resources, decrease the national debt, increase our international competitiveness, reduce our trade deficit, and develop superior technologies and products. The difficulty is found in devising plans that address one or more of these concerns.

But there is, in fact, a process which deals with all of these issues: Value engineering.

Value engineering [VE] routinely yields sizable contract savings and improves quality at the same time. The beneficiaries include taxpayers, the governmental entity engaging the contractor, the contractor itself, the contractor's industry, and the American economy in general. In short, no one loses. This is a rare case of a "win-win" situation.

VE is a specialized, multifaceted, creative, team-conducted technique that defines the objective of a product, service, process or construction project and questions every step toward reaching it. It does so with an eye to reducing all costs—including initial and long-term costs—and completion time while improving quality, reliability, and aesthetics. Analysis covers the equipment, maintenance, repair, replacement, procedures and supplies involved. Life-cycle cost analysis is one of its many aspects and it differs from other cost-cutting techniques in that it is far more comprehensive, scientific, and creative.

It is widely accepted that VE saves no less than 3 percent of a contract's expense, and commonly that figure is 5 percent. At the same time, the cost of doing a VE review ranges from one-tenth to three-tenths of a percent. Thus, on a $2 million construction contract, the very minimum that would be saved would be $54,000 while savings of $98,000 is very likely. On a major military procurement contract for $1 billion over life-cycle, that translates to a range of savings from $27 million to $49 million. Based on VE usage in recent years, the ratio of VE costs to VE savings has ranged from 1:10 to 1:100, with 1:18 being the most frequent result.

Examples of VE successes are plentiful. In 1988, a VE review of a bridge repair project in

Cleveland yielded $7 million in savings from a $26 million budget—27 percent savings—and shortened the period of the bridge being closed from 36 months to 20—44 percent. In 1986, the aircraft giant Hughes documented savings of $462.1 million from VE, and VE savings of $490 million were anticipated for the following year. Another giant, General Dynamics, saved the Air Force more than $25.4 million over the life of the F-16 program, retaining $941,058 as an incentive fee. And the list goes on.

Whenever VE has been examined, the invariable conclusion is that it should be used more often as it has an untapped potential too great to even estimate. The Senate Committee on Governmental Affairs held a hearing in 1987, from which it was made clear that VE has a shockingly successful track record and that vast savings are ready, willing and able to be attained. The Governmental Accounting Office has conducted at least 12 studies on VE in recent years, each one of which has touted VE's achievements and advocated its expanded use in a broad spectrum of activities. VE's utility is so well recognized that Donald Trump extolled its virtues in his recent book, "The Art Of The Deal." In regard to the building of a casino in Atlantic City, Trump writes:

One way we stood to save money was from something known as value engineering. A good example was the installation of the cooling towers for our air-conditioning system. Originally our architects placed them on the roof of the hotel tower. Through value engineering, we determined that we'd save a lot of money by installing them on a lower section of roof, just seven floors up, because that roof could be poured much sooner. In turn we'd be able to start all the piping and electrical work for the air-conditioning 6 months earlier.

I got the building finished right on schedule for a May 14 opening. That meant we'd be able to take advantage of the Memorial Day weekend, traditionally the best 3 days of the year for the casino business in Atlantic City. I also came in slightly under the original budget, at $218 million. It represented the first casino-hotel in Atlantic City ever built on time and on budget.

Numerous Federal departments, agencies, and other contracting authorities have already reaped substantial benefits from the use of VE. Among them are: Army Corps of Engineers, Veterans' Administration, General Services Administration, Army, Naval Facilities Engineering Command, Air Force, Federal Highway Administration, Navy, and the Environmental Protection Agency Wastewater Treatment Program.

But its past and present use would be characterized as sporadic, at best. The use of VE remains far below its potential.

Today I am introducing a bill which would require that VE reviews be conducted for:

Every construction contract exceeding $2 million;

Every "major" procurement contract;

Subcontracts of major procurement contracts for 25 percent of a contract's value and otherwise where deemed appropriate by the VE team; and

State and municipal contracts where the State or municipality is using Federal funds or operating under Federal authority.

By targeting only large Government contracts, VE efforts will be concentrated on the activities which will reap the greatest rewards. While a VE review of a $25,000 contract would most likely be cost effective—and should be done voluntarily—the bill would chase the more sizable savings.

To address the principal explanation for VE's sporadic usage—i.e., that the absence of top-level management support fosters resistance to change—my bill would also establish a VE office in each Federal department and agency to oversee the VE program and encourage contractor compliance. Where appropriate, the VE office could also conduct the VE reviews itself.

Some have suggested that this is not the appropriate time for legislation in light of the Office of Management and Budget's circular number A-131, which directed Executive branch offices to utilize VE. But A-131 has been ineffective. The Executive branch offices that had not employed VE before A-131 are still not relying on it. Still other offices are disregarding A-131's reporting requirements and I can only assume their use of VE to be inadequate. Putting a VE requirement into law would promote compliance and facilitate accountability and enforcement. It could not be eliminated by a subsequent order from this nor a future administration.

Moreover, the S.A.V.E. Act would go far beyond A-131 by applying VE to: All contracts within certain defined categories rather than simply "where appropriate" with authority to make case-by-case exceptions; State and local governments in connection with federally funded contracts; and large subcontracts.

In addition, each department and agency that engages in contracts would be directed by the S.A.V.E. Art to institutionalize VE in a separate VE office, staffed with professionals well versed in VE.

Mr. Speaker, we have a responsibility to take advantage of VE. Ironically enough, although VE was developed in the United States during World War II for the purposes of maximizing our resources and improving our defense capabilities, it has most effectively been used by the Japanese electronics and automobile industries. Isn't it time that we reap the fruits of our own brainchild? Isn't it time that we support this effort within our own Government?

RETIREMENT OF WILLIAM H. HOGAN, JR.

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. MAVROULES. Mr. Speaker, I would like to pay tribute to an individual who, with the highest distinction, served the Committee on Armed Services, U.S. House of Representatives, as an assistant counsel, and then general counsel, Mr. William H. Hogan, Jr.

After over 20 years of outstanding service to the Committee on Armed Services, 2 years of service to the late Honorable William H. Bates, then ranking minority member of the committee, and over 23 years of service in the U.S. Navy, Bill is retiring.

Bill has assisted me for many years on the Armed Services Committee, but in addition, is a constituent of mine. Bill was born in Lynn, MA, and despite having traveled around the world with the Navy and the committee, rarely misses an opportunity to return to Massachusetts.

Bill has been in public service all his life. He began his career in August 1940, when he enlisted in the U.S. Navy. Except for 3 years following World War II, he served in the Navy until retirement in 1968 as captain, Judge Advocate General Corps.

In August 1968, Bill became assistant to the late Honorable William H. Bates, then ranking minority member of the House Committee on Armed Services. Upon Congressman Bate's death in 1969, Bill became assistant counsel to the Investigations Subcommittee, and shortly thereafter was appointed to the full committee staff as counsel. Upon organization of the committee for the 95th Congress in February 1977, Bill was appointed general counsel, and has served in that position for the last 12½ years.

During that time Bill participated in countless investigations, including the investigation into the massacre at My Lai, the first investigation into drug abuse in the military and the investigation of Honor Code violations at West Point, and provided invaluable expert advice to the members of the committee as counsel to numerous special subcommittees, including the Special Subcommittee on Defense Aspects of the Equal Employment Opportunity Program, the Special Subcommittee on Disciplinary Problems in the Navy, the Special Subcommittee to Probe Disturbances at Military Bases, and the Special Subcommittee on Intelligence.

Because of his special efforts and mastery of issues in such diverse areas as the naval petroleum reserves, CHAMPUS, the Uniform Code of Military Justice, admission of women to the service academies, and the contempt of Congress citations relating to the Watergate break-in, Bill contributed greatly to the committee's resolution of these critical issues.

On behalf of the Armed Services Committee, the Congress, and the Nation, I want to express our sincere appreciation to Bill Hogan for his selfless dedication, loyalty, professionalism, and the great contributions he has made to the security of this Nation. We wish him well in his retirement.

HONORING KEN LAHNER

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. HYDE. Mr. Speaker, I want to suggest to my colleagues that they take a moment and read a transcript of an editorial tribute to an excellent public servant, Mr. Ken Lahner—a man who gave much of career to the people of DuPage County, IL, for the past 12 years. The editorial appeared recently in The Daily Journal of Wheaton, IL.

[From the Daily Journal, Aug. 9, 1989]

PUBLIC SERVICE LOSES ITS HARDEST WORKER

The image of Ken Lahner that will always stick in our minds is one in which he is sitting in the county building cafeteria very early in the morning, well before board members or administrators are even in the building.

He is on his second king-sized cup of black coffee and third or fourth cigarette, pouring over the pages of a computer printout the size of a Chicago phone directory. He will find the information he needs, boil it down to a page or two memo and have it copied for board members at a committee meeting in less than an hour.

Lahner last week confirmed rumors that he was leaving county government to take a management position in private industry.

His departure leaves more than a vacancy at the comptoller job he held. he was also a savvy politican who could convince people in Wheaton and Springfield to look past county board Chairman Jack Knuepfer's aloofness and see the wisdom of many of his programs.

His abilities to crunch members and lobby officials have been described as "genius."

Lahner's personal style made it hard not to like him. A permanent smile, a friendly pat on the back and a gravelly "Howya doin, guy" was a daily greeting. His rumpled "Det. Columbo" look of someone always with too much to do and never enough time is a sharp contrast to the pressed, urbane professional look of the modern politician.

As a county board member from 1978-82, Lahner was vice chairman of the influential finance committee and chaired the public works committee, helping to turn around the then-floundering department.

He was Knuepfer's floor whip and was labeled by the media as "Knuepfer's right-hand man." The assessment was accurate but politically fatal. He tried hard to repair the rift between the county and the DuPage Water Commission only to have Knuepfer lobby for legislation that dismantled the group.

He lost his country board seat by only 115 votes to Ray Soden, a county newcomer and Addison Township supervisor. Knuepfer rewarded Lahners loyalty and ability with the comptroller job, in effect making him the county administrator.

In whatever capacity for the county, he was on the job early, stayed late and was the only official one could count on finding at work late on Friday afternoons.

His ability and personal commitment to whatever job he tackles are unquestionable. He has earned thanks for his contributions and best wishes for personal success in his new direction.

SANFORD KANE—A LEADER IN THE SEMICONDUCTOR INDUSTRY

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. PICKLE. Mr. Speaker, it has been my good fortune to have had the opportunity to work closely over the past few years with a man who is truly a national leader in the development of this country's semiconductor industry—Sanford L. Kane.

I rise today to call the attention of my colleagues to the announcement that the Semiconductor Industry Association [SIA] recently named Sandy as the recipient of its annual Appreciation Award in recognition of his contributions to the semiconductor industry. I want to join SIA in recognizing Sandy's outstanding work in developing the industry's ability to compete with foreign semiconductor manufacturers.

My involvement with Sandy began during his tenure as director of SEMATECH, the semiconductor manufacturing consortium located in Austin, TX. Sandy has now moved on to an important new challenge as the president and chief executive officer of U.S. Memories, Inc., an industry-led, privately financed joint venture of semiconductor producers aimed at establishing our country as a leader in production of dynamic random access memories or "DRAM's" the primary memory for computers. In this venture, he is making even greater contributions to our semiconductor industry.

Mr. Speaker, I congratulate Sandy Kane on this well-deserved recognition of his invaluable contributions to the semiconductor industry, and I look forward to working with him in the future to make the U.S. Memories project a reality and to make our Nation a leader once again in the computer industry.

RON CHAPMAN HONORED BY NATIONAL ASSOCIATION OF BROADCASTERS

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. FROST. Mr. Speaker, I am delighted to inform the Congress that Mr. Ron Chapman, a long-time radio personality in the Dallas/Fort Worth/North Texas area, has been awarded the National Association of Broadcasters' First Annual Marconi Radio Award for "Personality of the Year."

The radio station for which Ron Chapman works, KVIL, has also been named "Station of the Year" in the medium market category, logically in great part because of Ron Chapman's great contribution to their programming.

Winners were selected from 119 nominees across the country, with the presentation being made at the Grand Finale Gala closing the National Association of Broadcasters' Radio '89 Convention in New Orleans, LA, on September 16.

The prestigious awards were given to the legendary station and radio personalities of the year by a special ballot vote of NAB radio members and associate members

Mr. Speaker, congratulations are certainly in order for KVIL AM/FM of Dallas, and to Ron Chapman for their years of service to our community and for the NAB's glowing recognition of their efforts.

AID TO THE NICARAGUAN OPPOSITION

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. SYNAR. Mr. Speaker, today I voted against H.R. 3385, which provides $9 million designed to support the electoral process in Nicaragua, including direct funds for the opposition parties. I support an amendment to the bill offered by Representative DICK DURBIN.

I voted against the bill because I believe that we set a bad precedent in choosing and funding one party in a sovereign nation's election. I am afraid that sending aid to the opposition in Nicaragua may be followed by similar intervention in Cambodia, Angola, and other nations whose governments are not to our looking. This should not be our policy.

More important, this funding package may in fact be counterproductive to our goals of ensuring a free and fair election in Nicargua. Our support of the corrupt Somoza dynasty is still fresh in the minds of many Nicaraguans, not all of them Sandinista supporters. These Nicaraguans may be sympathetic to charges of "Yankee imperialism" if we provide direct support to the opposition in the election. The lack of details about exactly where the funds in this bill will be spent can only buttress such charges.

I realize that the purpose of this aid package is to ensure that the election in Nicaragua is fair. However, the great number of international observers who will be in Nicaragua next February should result in sufficient monitoring of the election. The election will be monitored by the United Nations, the Organization of American States, and a number of leaders of nations in the Western Hemisphere.

I supported the amendment offered by Representative DURBIN because it provides funds only for international monitoring by the Council of Freely Elected Heads of Government, of which former Presidents Jimmy Carter and Gerald Ford are delegates. This type of assistance cannot be construed as vote buying and is a legitimate way to support the democratic process in Nicaragua.

NAPLES PHILHARMONIC CENTER CREATES PUBLIC/PRIVATE PARTNERSHIP LEADING FLORIDA TO MAJOR CULTURAL ROLE

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. LEWIS of Florida. Mr. Speaker, one of the enduring issues of contemporary debate is whether or not America has lost its will for leadership. Has its zest for risk-taking, that intangible quality that focuses on the potential for accomplishment rather than the safety of accommodation, cooled? Do we expect rather than dream? Some Cassandras say our self-

indulgence and passivity has dulled our capacity for entrepreneurial initiatives.

Not so. I offer as substantive proof of the vitality of American enterprise the performing arts boom, in my State fueled by millions of dollars raised largely by private citizens willing to take the necessary risks. By 1992, Florida will have virtual chorus line of performing arts centers with a total price tag of nearly $250 million. Although State funding for the arts, which was an anemic $10,000 in 1966 has risen to $61.2 million, ranking Florida third nationally in terms of arts funding, a substantial catalyst has been the private sector dollars—$21.5 million in Tampa, $10 million in Fort Lauderdale, $20 million in West Palm Beach and $14.5 million in Clearwater.

One of the more dramatic examples of this unique partnership between private and public sectors will premiere this fall in Naples where a magnificent $17 million performing arts complex will open fully paid for, and able to achieve breakeven on a $4.8 million operating budget at 70 percent of its capacity. All of this due to the leadership of an indefatigable lady chief executive, 25 dedicated community leaders, 450 volunteers—and 7,200 local residents, businesses and foundations.

This Philharmonic Center for the Arts was described by the chairman of the National Endownment for the Arts as a "unique achievement" and was, he said, "especially remarkable * * * that it will open debt-free." The State's contributions were a modest $3.5 million.

The current performing arts boom in my State, of which the Naples complex is the most current example, reflects not only the maturation of our State but also the realization of the pivotal role culture has in a State's economic development. Not only do these centers bring new jobs and new business for suppliers and stimulate tourism but, as in the case of Naples, FL, it can anchor major real estate development. The Naples Philharmonic Center is the centerpiece of a $1.6 million planned community of 15,000 by Westinghouse Communities (of Naples). The discreet integration of villas, shops, restaurants—and culture—is expected to have minimally, a $40 million plus impact on the local economy, creating some 7,000 new jobs.

The Naples arts complex represents another dimension to this cultural boom—survivability. It is a product of modern business and marketing techniques rather than amateur enthusiasm and boosterism—which tends to fade over time. It all began, with a no-nonsense feasibility study, which led to a strategic plan and, ultimately, to the setting of 5-year objectives. This new breed of arts center also differs from conventional centers in that it sees as its primary mission to provide a varied arts schedule that can sustain its appeal to the community, and is educational as well. Many of the earlier arts centers functioned solely as rental halls.

Let me illustrate this point with a concise inventory of what the Naples Philharmonic Center embraces.

It features a 1,221-seat concert hall fronted by a giant stage larger than Carnegie Hall's or the New York State Theater's. Its orchestra pit can easily accommodate a full-scale orchestra. There is also a 300-seat theater with moveable stage, two domed, balconied art galleries and a courtyard sculpture garden. In addition to the usual arts amenities of dressing rooms, conference rooms, etc., there are seven teaching studios for master classes in music in collaboration with the University of Miami and a music library.

The cultural fare is as varied as the entertainment pages in any major newspaper. There's the Warsaw Philharmonic and The Academy of St. Martins-in-the-Fields; such Broadway hits as "Me and My Girl"; oldies like "Mame," "The Wiz" and "West Side Story"; concert artists like Andre Watts and Itzhak Pearlman; chamber music from the Lincoln Center ensemble; opera from the New York City Opera's national company; the heralded Miami City Ballet; international flavor via the Vienna Boys Choir; the Don Cossacks of the U.S.S.R. and the Hungarian State Folk Ensemble; singers Mel Torme, Shirley Jones and Helen Reddy; Pops via The Big Band Festival; jazz by Marian McPartland and New Orleans' Preservation Hall Jazz Band; family oriented features such as "A Christmas Carol"; Broadway on Ice; lectures by E.G. Marshall, Pearl Bailey, Sid Caesar and individual performances by Carol Channing and Rudoph Nureyev.

Typically, ticket sales cover about half the operating budget costs of an arts center. The Naples complex, because of its diversified programs—which can be produced autonomously one from another—expects ticket sales to cover 70 percent of the operating budget, the rest to be generated through a variety of properly conceived concessions, art gallery admissions, program income, contract fees with hotels and airlines and a host of special functions, from cooking seminars and film festivals to fashion shows.

The Naples center opens its inaugural season on November 6 with a modest endowment and a balanced budget—an accomplishment of some significance.

Thus, it will mark yet another major step in the emergence, I believe, of Florida as a major cultural State.

GERMAN-AMERICAN DAY, OCTOBER 5, 1989: A CELEBRATION OF FREINDSHIP

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. COLEMAN of Missouri. Mr. Speaker, tomorrow October 5, 1989 we celebrate German-American Day here in Washington and in communities across the United States. And while the day has special meaning to millions of German-American citizens it also signifies the importance of the strong ties between America and the Federal Republic of Germany.

The role of German-Americans in our Nation's history began in fact before we were a nation. German people came early to the New World; their values and culture helped shape those early settlements that first would become the Colonies and then the United States of America. Their energy and enterprise were driving forces in the westward expansion of the Nation and in our development as an industrial and financial leader of the world.

Today nearly every community in the United States reflects the contribution of its German-American citizens.

As we celebrate German-American Day this year we also celebrate the 40th anniversary of the Federal Republic of Germany which was forged from the ruins of World War II. In the four decades since, the people of West Germany have reclaimed their tradition of freedom and self-determination, rebuilt their economy and taken their place among the leaders of the free world. West Germany has opened its doors to thousands of people to give them the opportunity to fullfill their hopes for a better life both for themselves and their children.

Within NATO, the ties between America and West Germany form a linchpin of Western security. Today, 50 percent of NATO's active land forces in central Europe, 50 percent of the ground-based air defense system, and 30 percent of all combat aircraft are German; including 250,000 U.S. troops, the FRG hosts a total of 400,000 allied personnel. Most of NATO's nuclear weapons are located on German soil.

I would note that earlier this year a number of security issues threatened NATO unity. Yet the strong allied ties forged over the past 40 years sustained the alliance and led to agreements on such sensitive issues as short-range nuclear weapons modernization and the number of low-flying aircraft exercises.

In additon to its security role, and perhaps as important in today's rapidly changing political climate in Eastern Europe, is West Germany's economic leadership. It has been a major factor in efforts to achieve European economic integration and an open, expanding world economy.

The economic ties between America and Germany are critical to both nations, with trade between them in 1988 valued at more than $40 billion. While there have been and continue to be differences between us on tariff and trade issues, our record of cooperation is good and that record supports the hope that we can resolve many of the economic issues of concern to each nation.

Mr. Speaker, we have enjoyed 45 years of peace in Europe. At the heart of this peace has been a free, democratic, and stable Federal Republic of German. This enormous achievement alone would justify our celebration tomorrow; combined with the historic contribution of German-Americans in our own country we have much indeed to celebrate.

THE GLOBAL ENVIRONMENTAL STANDARDS REPORTING ACT

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. VISCLOSKY. Mr. Speaker, I am pleased to introduce a bill today to greatly enhance our understanding of various environmental protection initiatives throughout the world—

particularly those of our major trading partners.

My legislation, the Global Environmental Standards Reporting Act, would require the Environmental Protection Agency [EPA] to report to Congress annually on the environmental standards of our trading partners, particularly member nations of the Organization for Economic Cooperation and Development, Mexico, Brazil, South Korea and Taiwan. The annual reports will focus on three specific questions—What environmental standards do these nations have? To what degree are these standards enforced? And, how much governmental assistance do foreign industries receive to meet their respective environmental obligaitons?

Industry in the United States incurs great costs to comply with our anti-pollution regulations. Stringent environmental standards do have a price tag. That price is paid for by our society, our workers and our economy. Furthermore, that cost impairs the ability of our domestic industries to achieve and maintain international competitiveness.

There is ilittle doubt that our domestic industry will have to deal with new and costly emission standards established by the Clean Air Act amendments now being considered in Congress. These standards will further influence our long-term competitiveness. Many of our trading partners do not subject their industries to rigorous environmental standards. Thus, they have a great competitive advantage. Of those that do have similar regulations, many do not enforce them. Because there is no repository of information regarding the environmental regulations of our trading partners, it is impossible to gauge their economic advantage. What data we do have is scattered and incomplete.

The report required by this legislation would evaluate environmental regulations on an industry-specific basis. While an annual report is required, I would expect the EPA to phase in this evaluation, starting with the industrial categories which are subject to new regulatory requirements in the United States. This would mean, for example, that the EPA would start with those industrial categories for which air toxics emission standards are first being promulgated under a revised section 112 of the Clean Air Act.

I would like to stress that the information derived from the required report is essential for environmental reasons as well as economic. As we compete in a global economy, so must we live in a global environment. Toxic air and polluted water know no international boundaries. It does not matter where the poluton is released, if the quantity is high enough it will eventually find its way to our nation's shores. The safety of our citizens and our world depends upon the maintenance of our global environment.

I am not advocating tariffs or trade barriers for the purpose of forcing other nations to bring their standards up to ours. Rather, that we initiate a process to encourage or assist others to do so at an accelerated pace. The compilation of sound, comprehensive information is a crucial first step that must be taken if we are to make a change for the better.

I believe that the bill I am introducing today takes a significant step toward building the information base we need to assess the effects of different environmental policies throughout the world. It will provide the information we need to rationally consider the arguments that we hear from various industries and their workers. In addition, it will expose those who have not joined the United States in making our Earth a more livable place so that we can take positive steps to encourage them to do so.

My bill would not trim any existing law or proposed environmental standard that is currently being discussed. Rather, it provides a way for the administration and Congress to effectively compare environmental efforts of other nations in what is being called a "global economy."

THE 250TH ANNIVERSARY OF THE COMMUNITY OF POINT PLEASANT

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. KOSTMAYER. Mr. Speaker, today, I rise to honor the community of Point Pleasant, Bucks County, PA, as it celebrates its 250th anniversary. Point Pleasant has retained its special character as a village. It still looks much as it did in the 19th century.

The beauty of this river village is a tribute to the efforts and concern of its citizens. I am pleased to share with my colleagues a brief history of Point Pleasant by residents Barbara and Don Morris with assistance from Jeff Marshall of the Bucks County Conservancy:

A BRIEF HISTORY OF POINT PLEASANT

Point Pleasant traces its modern day origins to the grant of a charter to Enoch Pearson, on June 23, 1739, to operate a ferry service across the Delaware River at the mouth of the Tohickon Creek. For many years, the part of Point Pleasant lying north of the Tohickon was known as Pearson's Ferry or Pearson's Landing. The part of the village south of the Tohickon was known as Black's Eddy, and later as Lower Black's Eddy, named after a prominent local family and the large and powerful eddy in the river that occurs at the south end of the village.

Lower Black's Eddy developed faster than did Pearson's Landing for several reasons, among them that the Indians remained active and hostile north of the Tohickon much after the area south of the creek had become relatively safe for settlers. A number of industries grew up in the area: Taverns, hotels, and stores to serve river commerce; a sawmill on the Tohickon in 1748; and at least one large fishery.

On February 29, 1828, the post office was transferred from Lower Black's Eddy to a location north of the Tohickon in Pearson's Ferry; and Joseph Hough, the postmaster, changed the name of the entire village to Point Pleasant.

The opening of the Delaware Canal in 1831 was one of the most important events in Point Pleasant's history, bringing unprecedented economic development and prosperity. By the mid-1860's four large hotels were operating in the village, and Point Pleasant had become the largest and one of the most important canal towns north of New Hope. Another major spur to development came with the opening of the five-span covered bridge over the Delaware River in 1855.

The covered bridge over the Delaware burned in 1892, and was rebuilt of steel. That bridge was taken out in the famous flood of August 1955, and has never been replaced. Point Pleasant thus had a bridge over the Delaware for exactly 100 years. The Delaware Canal continued in operation for exactly 100 years, ceasing commercial operations in 1931.

After the decline of canal traffic in the later 1800's, Point Pleasant became a vacation and resort center, with many people coming from Doylestown and Philadelphia to stay in one of the lovely hotels located there. Two U.S. Presidents, Grover Cleveland and William McKinley, came to Point Pleasant frequently to fish for shad.

Point Pleasant has five prehistoric archaeological sites, including one that was excavated as part of the pumping station. These sites have revealed materials from the Late Archaic Period—c. 4000–1500 B.C.

ANNUAL GERMAN-AMERICAN FRIENDSHIP DAY

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. BEREUTER. Mr. Speaker, in October 1683, 13 families from Krefeld set foot in the New World somewhere near Philadelphia. In the years since then the German ethnic presence in America has continued and grown. Looking for farmland in which to sink their roots, Germans-Americans were among the largest group in the move to America and westward, including my home State of Nebraska where they constitute the largest ethnic group. Almost one in four Americans can now claim some German ancestry.

German-American Friendship Day also gives us an opportunity to note the very special relationship we enjoy with the Federal Republic of Germany. The FRG is indeed a unique nation. Created during the chaotic years immediately following the Second World War, West Germany immediately found itself the focus of cold war tensions. We should recall that the FRG was created at a time when the Berlin airlift was in effect. At that time it was far from certain that a viable government could be formed in Bonn. It was a nation in ruins, a people divided, and a country at risk from Soviet aggression.

With massive American assistance from the Marshall plan, Germany was able to rebuild. Later they created the German Marshall Fund to help repay American generousity and good will. Their trust fund continues to benefit Americans. We can point with justifiable pride to the great achievements of our West German friends. West Germany has faced the obstacles that all youthful nations must face, and it has overcome those obstacles magnificently. In 40 years Germany has emerged from a devastating war and has become one

of the leading nations in the free world. It has turned former adversaries into steadfast friends by its actions.

While the United States and Germany may occasionally differ on minor details of day-to-day policy, we enjoy a stable friendship because of our shared values. We are now bound inextricably together in a basic recognition of the dignity of man and respect of democratic principles. And, because we share a common vision of the world, we can expect the United States and the Federal Republic of Germany and our people to remain good friends and allies.

EDWARD DOYLE RECEIVING THE SAVINO FERRANTO HUMANITARIAN AWARD

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. ENGEL. Mr. Speaker, I rise today to honor Edward Doyle who will be receiving the Savino Ferranto Humanitarian Award, which is given every year to a person who is active in his or her community and works to improve it. This year, Mr. Doyle's fine work in the city of Yonkers is being rewarded by the Yonkers Christopher Columbus Day Committee.

Edward Doyle, life long a resident of the city of Yonkers, has always been active in civic affairs. Mr. Doyle serves on the board of directors of the Angel Guardian for the Elderly and on the board of directors of A Brighter Tomorrow, a shelter for abused and battered women. He is also active in the March of Dimes and United Cerebral Palsy Association.

Since 1958, Mr. Doyle has worked at Castle Block Co. in Tarrytown and has been a member of Teamsters Local 456. In 1961, he was elected a vice president of local 456 and has held a number of other elected offices in this union. Since 1985, Mr. Doyle has served as secretary-treasurer and business manager of Teamsters Local 456. Mr. Doyle's late father was also active in local 456, serving as president for 10 years.

Mr. Doyle has a loving family, which includes his wife, Linda, and his three children Eddie, Jr., Carol Cassanelli, and Kim Doyle. They have always supported him in his efforts to improve the lot of others and I am sure that they are pleased that his endeavors are being rewarded.

I am proud of all the work Edward Doyle does in the city of Yonkers and am glad he is one of my constituents. I offer my sincere congratulations to Mr. Doyle for receiving this great honor.

VIOLETA CHAMORRO APPEALS TO EXPATRIATES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. LAGOMARSINO. Mr. Speaker, I wish to call to the attention of my colleagues a speech recently given by Violeta Barrios Chamorro in Miami. Speaking on her first trip outside of Nicaragua as the presidential candidate of the National Opposition Union [UNO], Mrs. Chamorro urged Nicaraguans in exile to join their fellow countrymen in the long, hard struggle against the Sandinista dictatorship. As you will recall, 10 years ago the Sandinistas betrayed the people's revolution. They created an atmosphere of repression and hostility, and wreaked havoc on the Nicaraguan economy, ultimately destroying the hopes of its citizens for liberty. As the presidential candidate of UNO, Mrs. Chamorro represents the hope for the establishment of a democratic, free government in Nicaragua.

We in the United States have been awaiting a Nicaraguan Government that would respect the rights of its people. I urge my colleagues to carefully consider the remarks of Mrs. Chamorro in the text that follows:

VIOLETA CHAMORRO APPEALS TO EXPATRIATES

[Speech by Violeta Barrios Chamorro, presidential candidate of the National Opposition Unity, in Miami—date not given]

I have come with great pride today to this city—a city that became great thanks to the drive of a people that preferred freedom and exile to dictatorship. A city that became great thanks to the drive of the Cuban people, a courageous and rebellious but also progressive and hardworking people. The Cubans proved how much men are worth when they decide to be free. Using the trail blazed by the Cubans, another rebellious people came here and are also making this city great. I am referring to my people, and I have brought a message for them: The bell of freedom is ringing in Nicaragua! The time has come to make our small and long-suffering homeland great!

In my first trip outside the country as the presidential candidate of the National Opposition Union (UNO) and at my second big rally, I have come here to ask my compatriots to join me in the struggle that will free Nicaragua in February.

We believed in 1979 that it was worth fighting together to form a national government in which all would be represented and all would participate in the making of a new republic, which was what that historical moment demanded. However, the Sandinists never understood what Nicaragua wanted. They only understood what their masters, the Soviet Union and Cuba, were ordering them to do, and they spoiled that historical moment.

In the beginning, they had working for them a revolution supported by an entire nation, with a heroism that knew no bounds, and they used this to deceive others. However, they wasted this opportunity. In the beginning, when a Nicaraguan traveled abroad, everyone would look at him with respect. We were well-liked by the rest of the world. Ten years later, we have lost what we worked so hard for, and the current government is a beggar government that tours the world with an outstretched hand. It is a government that has made Nicaragua the poorest country on the continent. The Sandinists' international revolution ended up this way. Instead of leading and maintaining our national revolution, they put an end to everything. They declared themselves enemies of the United States, turned hostile to the democracies that had helped them, oppressed poor peasants until they wre forced to take up arms, censored newspapers and radio stations, and expropriated property owned by businessmen and humble market vendors.

There was not a single Nicaraguan who was not directly or indirectly affected by the Marxist-Leninist dictatorship. We have had no respite: repression, war, the recruitment of the young, and the cordoba devaluations. Destruction and death, that is what the Sandinist revolution is.

But I think that the time has come to rise from the rubble and brandish the banner of hope. I think that was the banner that was stained with blood when my husband was murdered. It is the banner of Nicaraguan brotherhood. It is the banner of unity against the dictatorship. It is the banner of freedom and justice. It is the banner of democracy. It is the banner I have picked up at this critical hour. It is the banner of UNO, because we are once again one [wordplay on the acronym UNO]. It is the banner under which Nicaragua will be a republic again.

It is a very big sacrifice to brandish this banner under the current conditions in Nicaragua because the Sandinists are using the most slanderous words, lies, vile deeds, and showing great disrespect. One feels that it is necessary to wade through mud to achieve freedom. However, it is also an honor. It is an honor to represent the heroic fighters who have maintained their opposition against all odds. It is an honor to represent those who have maintained their opposition to an ideology that goes against man and the history of Nicaragua. It is an honor to represent those who have fallen, who have been persecuted or incarcerated because they defended democracy. It is an honor to represent sons who were forced to die for an oppressing party and mothers who were forced to grieve because of a totalitarian party. It is an honor to be a symbol of the unity of all those who want a free nation and fatherland. It is an honor to represent the Nicaragua of mothers and widows who cry. It is an honor to unite all those who desire reconciliation among the Nicaraguan people so that Nicaragua can be a good home to return to, the home of the fraternal embrace, the home of peace.

We have a hard, perhaps heroic campaign ahead of us. We will win, and that victory will bring us a truly democratic, pluralist, and free government imbued with a deep human and Christian sentiment. In the UNO program, we guarantee—a guarantee backed by all the Nicaraguan democratic forces—a government with three separate branches: a democratic representative government that respects human rights, free enterprise, religion, and religious freedom. We do not want any one to leave Nicaragua because of poverty, persecution, or discrimination.

And I ask you, why were you forced to leave your country? For lack of freedom? The new government will work to guarantee forever the freedoms of all Nicaraguans. Did you leave your country because of the threat of militarism? The new government will work to reduce the Army to the minimum, to have an Army that will not be a burden to the people, that will not be a threat, that will not be a shame like the Sandinist Army that has served to threaten Central America. It has sacrificed a generation of 150,000 young men, who have lost their chances for an education or who were sent to die, instead of creating opportunities for them in life and exposing them to culture.

Did you leave your country because there were no opportunities, or because the CDS [Sandinist Defense Committee] was making life impossible for you, or because the com-

munist commissars did not give you a chance to work? All that will be over when the people hand the new government its victory.

We will offer our friendship to the United States and to the democracies of the free world. We will regain our ability to obtain credit. There will be a free market for the merchant, for the industrialist, for anyone who has an enterprising spirit, and the cordoba will overcome inflation. We shall recover the good salaries and the justice the workers are demanding. We are not going to carry out a "world revolution" but a humble revolution for a people to recover their liberty and their capacity to produce, to work. That is why I come to ask my brothers for their encouragement and solidarity.

Brothers, I have come with a message of unity. It is a time when the fatherland asks as a first duty for everyone's support to achieve liberty in the fatherland. We are struggling to obtain the voters of the exiles. We shall exert pressure with all the might of the free world to obtain them. Those who are able to return to Nicaragua, return. Each of you add your little grain of sand so that Nicaragua can become a republic. While I ask you for this help, I also ask the United States for two things: to truly understand the sufferings of those in exile by granting Nicaraguans a legal provisional status and a permit to allow them to work until they return voluntarily to help rebuild Nicaragua; and to provide a great deal of political support and material aid so that February's elections will be clean and fair.

Nicaraguan friends, the die is cast! We are going to face the threat of a new, lying, and deceitful Sandinism. A Sandinism that does not live up to its agreements; that talks of socialism but has set up big personal businesses; that recruits youths to defend it and instead brainwashes them. The die is cast. In the face of this adversary, which has forced into exile a tremendous number of people like never before in our history; in the face of this adversary that produces war, exiles, and repression, democracy has raised its flag. It has raised its flag in Miami, among thousands of banished Nicaraguans, offering to open the fatherlands' doors to seek reconciliation for those who want to return. With all the generous aid from all the Nicaraguan, Cuban, and Hispanic communities in Miami, we shall open the doors to peace. We will open the doors to peace in the way that I feel today—with a fully open heart hoping for our liberation; hoping for a free and democratic Nicaragua that will hug to its breast all its children.

Long live Nicaragua! Thank you.

THEIR LIVES, FORTUNES, AND SACRED HONOR

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1989

Mr. McEWEN. Mr. Speaker, Caesar Rodney was weary when he reached his plantation near Dover on the night of July 1, 1776. An outspoken advocate of American independence, Rodney was exhausted from many months of battling Delaware's Tories while building up and drilling the colony's militia. The 47-year-old son of a plantation owner, he was first elected to the colonial legislature in 1761, and sent to the First and Second Continental Congresses. Caesar Rodney was also afflicted with a painful and unsightly facial cancer. So terribly was he ravaged by the disease that he wore a green silk scarf over part of his face, and was described by one colleague as "an animated skeleton, with a bandaged head."

Tonight there was to be no rest for this weary patriot. An urgent message from his colleague, Thomas McKean, now demanded his presence in Philadelphia "at the earliest possible moment." McKean and George Read, the other two representatives from Delaware, were split on the issue of independence and Caesar Rodney's vote was needed if Delaware was to join the United States of America.

But Philadelphia was 80 miles away and a torrential rainstorm was swamping the region between the two cities. Exhausted, wracked by cancer, Rodney set out after dusk and rode all night through the pouring rain and the crashing thunder, stopping only long enough to change horses. As he raced through the stormy darkness, it must have occurred to Caesar Rodney that a political storm was rising out of Philadelphia that would change the course of history. It was a storm which had been building for more than a decade as the British Parliament and King George III imposed one oppressive measure after another on the colonies, increasing their taxes and decreasing their freedoms.

THE GRIEVANCES

The passage of the Stamp Act in 1765 had infuriated many wealthy and influential colonists, and was responsible for beginning the storm that settled over that historic assembly in Philadelphia in July 1776. These Americans had become angry not so much at the amount of taxes exacted as at the realization that this was only the opening move in a program of confiscatory taxation. If Parliament "may take from me one shilling in the pound," argues Richard Henry Lee of Virginia, "what security have I for the other nineteen?"

Although the Stamp Act was subsequently repealed, it had been followed by the Townshend Acts and the Writs of Assistance in 1767, the Boston Massacre in 1770, increasing interference in colonial governments, the Boston port bill in 1774, and other "injuries and usurpations, all having, in direct object, the establishment of an absolute tyranny over these states."

The tyrannical actions of the Crown were quickly followed by measured and sometimes violent reactions from the colonists. They had held a Stamp Act Congress in New York during September 1765, and that same year formed the Sons of Liberty, which one observer called a mob of gentlemen. Committees of Correspondence were organized in 1772 to exchange information among the colonies and mold public opinion in the developing struggle. And Continental Congresses were convened at Philadelphia in 1774 to deal with Britain's passage of the Intolerable Acts and in 1775 shortly after the Battles of Lexington and Concord.

The Second Continental Congress had constituted itself a provisional government and began making preparations for war with Britain, including the creation of a Continental Army under the command of George Washington. But even as late as January 6, 1774, the Congress adopted a resolution stating that the colonies "had no design to set up as an independent nation." Many men of influence were opposed to independence, preferring a return to the relationship of a dozen years earlier.

In January, however, a sensational pamphlet appeared in Philadelphia and stirred more revolutionary fervor than anything that had been written to that time. Entitled "Common Sense," the 25,000-word tract by Thomas Paine challenged British authority over the Colonies and bluntly stated that "the period of debate is closed; arms, as a last resort, must decide the contest."

In the months that followed, impassioned speeches were delivered from New Hampshire to Georgia, and the political tension became almost unbearable. Then, on June 7, Richard Henry Lee put this resolution before the Congress:

Resolved. That these United Colonies are, and of right ought to be, free and independent States, that they are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britian is, and ought to be, totally dissolved.

After several days of heated debate, final action on Lee's resolution was deferred until July 1, and men on both sides of the issue used the intervening weeks to lobby their own position. On July 1 the Colonies, balloting according to a majority of each delegation, approved the Lee resolution by a vote of 9 to 2, with South Carolina and Pennsylvania opposed, Delaware deadlocked, and New York abstaining. Unanimity was essential, so Edward Rutledge of South Carolina moved that a final vote be postponed until the following day.

THE GREAT DECISION

Thus had the stage been set as Caesar Rodney galloped up Chestnut Street to the statehouse in Philadelphia on the morning of July 2. The exhausted rider was enthusiastically greeted by Thomas McDean and escorted into the brick building were some 50 to 60 men were about to decide the fate of a continent.

There was no debate or discussion. The time had come to vote again on Richard Henry Lee's resolution. New England was unanimously for independence. New York still abstained, but New Jersey and Pennsylvania voted in the affirmative. The Pennsylvania delegation had been 4 to 3 against independence, but Robert Morris and John Dickinson deliberately stayed away from the statehouse during the balloting, allowing Pennsylvania, under the unit rule, to support independence despite instructions by which the two men felt themselves personally bound.

Delaware was called next by Charles Thomason, the Clerk of Congress, and Caesar Rodney, in a tired but clear voice, responded: "As I believe the voice of my constituents and of all sensible and honest men is in favor of independence, and my own judgment concurs with them, I vote for independence." Rodney knew very well that, now unable to go to England for treatment of his terrible cancer, he would die an early and horrible death.

There were no negative votes among the 5 southernmost Colonies—South Carolina went along for the sake of unity—and when the roll had been completed 12 Colonies had voted in favor of separation from Britain, and only New York had abstained. A monumental decision had been made, and now it would have to be implemented.

DECLARING THEMSELVES

The man chosen formally to declare the reasons for independence was Thomas Jefferson, a 33-year-old lawyer and plantation owner from Virginia. A member of the five-man drafting committee created immediately after the Lee resolution was introduced, Jefferson had proposed that John Adams of Massachusetts undertake the actual writing of the statement, but Adams declined. He said that the task should fall to his rival, Jefferson, on three counts: "Reason first, you are a Virginian, and Virginia ought to appear at the head of this business. Reason second, I am obnoxious, suspected, and unpopular; you are very much otherwise, Reason third, you can write ten times better than I can.

"Well," said Jefferson, "if you are decided, I will do as well as I can."

That he did his job well is obvious to anyone who has read the Declaration of Independence, particularly his statement of the self-evident truths that "all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed."

On July 3, Jefferson's draft of the Declaration was submitted to the delegates from the 13 Colonies, and he suffered the pain of all authors at the hands of editors—in this case, half a hundred of them. The debate continued into the 4th of July and, in Jefferson's own words, "seemed as though it would run on interminable. The weather was oppressively warm and the room occupied by the delegates was hard by a livery stable * * * The horseflies swarmed thick and fierce, alighting on the legs of the members and biting hard through their thin silk stockings. Handkerchief in hand they lashed at the hungry pests to no avail."

The revisions were completed on the evening of July 4, the document was adopted without dissent, and the Declaration of Independence was ordered proclaimed throughout the United States. Only John Hancock signed the Declaration that day, and a formal signing by all the delegates was scheduled for August 2.

In the days that followed, copies of the Declaration of Independence were posted throughout the 13 States and read in public places. General Washington ordered that the document be read to each Army brigade on July 9, and he reported afterward to Congress on "the expressions and behavior of officers and men testifying their warmest approbation of it." Parades and demonstrations, patriotic observances and celebrations, were held across the States. Exuberant citizens of Bowling Green, NY, hauled down a large equestrian statue of George III and carried it to the Connecticut home of Gen. Oliver Wolcott, a Delegate to Congress. Wolcott's wife and children, and other ladies of the town, melted down the statue into 42,088 bullets for the American Army.

Meanwhile, the New York State Convention had finally voted to allow its delegates to approve the Declaration, and on July 15 New York became the 13th Colony to affirm independence.

THE SIGNING

Two weeks later, August 2, 1776, the Congress met again at the statehouse in Philadelphia to formalize with their signatures what they had adopted a month before. Not all of those who had voted for independence on July 2 were present in August. Some had left Congress; others were away and had to sign later; and, several new Delegates had since been elected.

Whatever their status that August, the 56 men who eventually signed the Declaration of Independence were under no illusions. They knew they were committing an act of high treason against the Crown and that the penalty for doing so was death by hanging. They understood quite clearly that they were indeed pledging "to each other our lives, our fortunes, and our sacred honor."

William Ellery, of Rhode Island, deliberately moved close to the signing table "to see how they all looked as they signed what might be their death warrants." He said that "undaunted resolution was displayed on every countenance."

John Hancock, of Massachusetts, the President of the Congress, had been the first to sign. "There!" he had said after writing his name in large, bold letters. "His Majesty can now read my name without spectacles, and can now double his reward of 500 pounds for my head. That is my defiance."

Hancock is also reported to have said that "we must be unanimous. There must be no pulling different ways; we must all hang together." To which the witty Benjamin Franklin, of Pennsylvania, reportedly replied: "Yes, we must all hang together, or most assuredly we shall all hang separately."

Stephen Hopkins, of Rhode Island, the second-oldest signer, was afflicted with palsy. "My hand trembles," he said as he handed the quill to William Ellery, "but my heart does not." And Charles Carroll, a new Delegate from Maryland and one of the wealthiest men in America, replied as he was asked by Hancock if he would sign: "Most willingly." When he had backed away from the table, one Delegate whispered, "There go a few millions!"

And so it went through the rest of the States, with George Walton, of Georgia, the last to affix his name to the historic document that day. Even George Read, of Delaware, who had voted against the Declaration on July 2, signed it; as did Robert Morris, of Pennsylvania, who had stayed away from the session rather than vote no as he was formally instructed to do.

It took only a few minutes to complete the signing, and it was agreed not to make the signatures public for 6 months to give the signers and their families as much time as possible to secure themselves against certain reprisals. Despite this precaution, it is probable that the British Government and their Tory allies knew the names of every signer long before they were released to the public.

MEN OF CHARACTER

These 56 men who spoke for some 2½ million American freemen were a spectacular group of individuals. That such men were present at the moment of America's birth strongly suggests that the same Divine Providence they invoked in the Declaration of Independence had indeed planned it that way.

The signers were public-spirited and patriotic citizens who had for years been important in the affairs of their local communities and governments. Ranging in age from 26—Edward Rutledge—to 70—Benjamin Franklin—they were for the most part materially well off in colonial society. Eleven Delegates were prosperous merchants, 9 were wealthy farmers or landowners, and 24 were lawyers or judges. The Colonies' most respected doctors, educators, and clergymen were numbered among their ranks.

Here were the elite of 18th century America, but few were elitist. They were moral men, mostly religious, and all men of integrity who had been welded together in a common purpose. They had a great deal to lose—life, liberty, and property—but they were convinced that the cause was worth the risk. That risk was not only substantial, it was imminent. On the day of the signing, the British fleet—an armada of dozens of ships with 42,000 sailors and soldiers—was waiting off the coast to crush these patriots and make an example of them. Behind that fleet was all the wealth and power of the British Empire.

Arrayed against such might was a Continental Army of 10,000 men; and a handful of poorly equipped and badly trained militia in the several States. Few with a knowledge of history would have predicted anything but disaster and ruin for those gathered in Philadelphia during the first week of August in 1776.

In point of fact, disaster and ruin was the lot of many of the signers. Nine died of wounds or hardship during the war. Five were jailed and brutally treated. One lost all 13 of his children; and the wives, sons, and daughters of others were killed, imprisoned, harassed, or deprived of all material possessions. Seventeen signers lost everything they owned, and all of them were hunted as traitors, with most separated from their homes and families.

But none of the signers ever betrayed his pledged word. There were no defectors. No one changed his mind. Lives and fortunes were lost, but their sacred honor was never sacrificed. Half continued to serve their country after the war—several as President, many as Members of Congress, Governors, and State legislators—and a number of them later played a role in drawing up the Constitution of the United States.

TRAGEDY AND TRIUMPH

The first signer to die, in 1777, was John Morton of Pennsylvania, a former crown officer who had been sent to Philadelphia to oppose independence. Once persuaded otherwise, however, Morton signed the Declaration and stood by his decision, though he was ostracized by his family and friends, many of whom were Tories. That reaction deeply hurt Morton, particularly when he was ignored even after he fell gravely ill early in 1777. On his deathbed, John Morton sent these final words to those who had rejected him: "Tell

them that they will live to see the hour when they shall acknowledge it [the signing] to have been the most glorious service that I ever rendered to my country."

The New York signers—William Floyd, Philip Livingston, Francis Lewis, and Lewis Morris—were particularly vulnerable to British retaliation. The ink was hardly dry on the Declaration of Independence when Gen. William Howe landed 25,000 British soldiers on Long Island and inflicted nearly 20-percent casualties on the Continental Army in a battle on August 27. Washington ordered his forces to withdraw and the Redcoats laid waste to most of the countryside, destroying in the process the homes and lands of the four who signed for New York.

The wife of William Floyd escaped with her children by boat across Long Island Sound into Connecticut and died in 1781 without ever again seeing her home.

Philip Livingston lost two homes and much of his business property; but was able to sell some of his remaining holdings to help maintain the credit of the United States. He died in 1778 while separated from his family by the war.

Francis Lewis was away when the British ransacked his home, so they seized his wife, treated her brutally, and threw her into prison under foul conditions. Her health broke during captivity and Mrs. Lewis died shortly after being released in a 1778 prisoner exchange.

The other New York signer, Lewis Morris, lost his magnificent estate, "Morrisania," which was sacked and burned. He lived in poverty for years before he was able to restore his property. Yet he so conducted himself that Benjamin Rush of Pennsylvania said of Morris that "every attachment of his heart yielded to his love of his country."

Great hardships and suffering were also inflicted upon three signers from neighboring New Jersey; John Hart, at the insistence of his dying wife, finally left her bedside to flee as a party of Hessians approached his farm. He was hunted by soldiers and dogs and was forced to hide in the woods and caves of the Sourland Mountains during icy December weather. When he was at last able to return to his home, John Hart found that his wife had died and his 13 children were scattered throughout the countryside or in captivity. His own health began to deteriorate and he was dead by the third anniversary of the signing of the Declaration.

Richard Stockton was betrayed by a loyalist and seized by the British, who subjected him to frequent beatings and starvation. When he was finally freed in a prisoner exchange. Stockton was an invalid who died a short time later at the age of 51.

Abraham Clark, the New Jersey signer who was known as the "Poor Man's Counsellor," had two sons—both Army officers—who were captured and accorded barbarous treatment on the hellship *Jersey*. The British offered freedom for his boys if he would abandon the American cause, but Abraham Clark refused. When other Members of Congress heard of the plight of the Clark sons they ordered George Washington to take a British prisoner, preferably an officer, and starve him to death in a dark hole. The mere communication of that congressional order to General Howe was enough to end the persecution of the Clark brothers and they survived their imprisonment.

During the siege of Yorktown in 1781, the British forces were under heavy attack from some 16,000 American troops, 3,000 Virginia militia, and the French fleet. The militia commander was signer Thomas Nelson, Jr., who noticed that the artillery gunners were shelling everything in the vicinity except his own stately brick mansion, which was being used as British headquarters. "Why do you spare my house?" Nelson demanded of the gunners. "Sir, out of respect to you." an artilleryman replied. "Give me the cannon," Nelson shouted. The next round from the gun went through the mansion, killing the British officers inside and destroying the Nelson home.

Thomas Nelson, Jr., who died in poverty after paying off his wartime debts "like an honest man," said he was only honoring a pledge he had made 6 years before. "I am a merchant of Yorktown, but I am a Virginian first," he declared in the House of Burgesses. "Let my trade perish, I call to God to witness that if any British troops are landed in the County of York, of which I am Lieutenant, I will wait no orders, but will summon the militia and drive the invaders into the sea!"

Joseph Hewes of North Carolina was a Quaker with a long pacifist heritage, and for many months he sided with those in Congress who were opposed to independence. After much soul-searching, Hewes decided that his belief in liberty outweighed his pacifist convictions, and he joined those urging separation from England. During the war he devoted a superhuman effort to outfitting the Continental Navy, activity which alienated him from his fellow Quakers. "My country is entitled to my services, and I shall not shrink from the cause, even though it should cost me my life," he declared. Joseph Hewes died in 1779, literally from overwork, a lonely man separated by principle from his Quaker friends and family.

During the British assault on South Carolina in 1780, three of that State's signers—Thomas Heyward, Jr., Arthur Middleton, and Edward Rutledge—distinguished themselves in the defense of Charleston. All three were captured, refused a British offer to amnesty if they would repudiate the American cause, and were shipped to the crown stockade at St. Augustine, FL. Heyward defied the guards by writing new words to "God Save the King" and teaching the other prisoners to sing, "God Save the States" to the old tune. The three South Carolinians were given their freedom in a prisoner exchange late in 1781. Thomas Heyward returned to find that his wife had died in hardship during his imprisonment.

Such was the caliber of the men who signed the Declaration of Independence, the men who risked their lives, their fortunes, and their sacred honor to establish the American Republic and guarantee our rights to life, liberty, and the pursuit the happiness.

"These are the times that try men's souls," Thomas Paine wrote in "Common Sense". "The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of his country; but he that stands it now deserves the thanks of man and woman. Tyranny, like Hell, is not easily conquered; yet we have this consolation with us, that the harder the conflict, the more glorious the triumph."

We, too, live in times that try men's souls. Like the Founding Fathers, we find the right to life and liberty threatened in our own country. We are burdened by an oppressive Government that "has erected a multitude of new offices and sent hither swarms of officers to harass our people and eat out their substance," a government that has left us exposed and vulnerable to a foreign enemy bent upon our destruction.

And we have our own "summer soldiers and sunshine patriots" who shrink from the service of our country. But we also have many more courageous and dedicated men and women—some in the Congress, others in the State legislatures, still more in the cities and towns among people of all walks of life—who will not submit to tyranny, who are now vigorously defending our rights and fighting for less government, more individual responsibility, and, with God's help, a better world. This too is a time for patriots. And it is a time to remember that "the harder the conflict, the more glorious the triumph."

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday October 5, 1989, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 6

9:30 a.m.

Joint Economic

To hold hearings on the employment-unemployment situation for September.

SD-562

10:00 a.m.

Foreign Relations

Closed business meeting, to consider S. 195, the Chemical and Biological Weapons Control Act.

SD-419

Judiciary

To hold hearings on S. 1631, to make a technical amendment to the Bank-

ruptcy Code (title II, United States Code), regarding railroad reorganization.
SD-226

1:00 p.m.
Armed Services
To hold hearings on the nominations of James R. Locher, III, of Virginia, to be Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, and Terrence O'Donnell, of the District of Columbia, to be General Counsel of the Department of Defense.
SR-222

OCTOBER 17

9:00 a.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on S. 1007, to examine the reduction in apportionment of Federal-aid highway funds to certain states, relating to highway fatality and injury reduction.
SD-406

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on advanced transportation systems, focusing on magnetic levitation and high-speed rail.
SD-253

Energy and Natural Resources
To hold oversight hearings on the appropriate role of methanol as a potential alternative fuel in our future energy policy.
SD-366

Small Business
To hold hearings on the Regulatory Flexibility Act (Public Law 96-354) and its impact on small business.
SR-428A

1:00 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold joint hearings with the House Committee on Agriculture's Subcommittee on Department Operations, Research, and Foreign Agriculture on the national initiative for research on agriculture, food and environment.
1300 Longworth Building

OCTOBER 18

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 952, to stimulate the design, development, and manufacture of high definition television technology.
SR-253

9:30 a.m.
Budget
To hold joint hearings with the Committee on Governmental Affairs on budget reform issues.
SH-216

Governmental Affairs
To hold joint hearings with the Committee on the Budget on budget reform issues.
SH-216

10:00 a.m.
Foreign Relations
To hold hearings on the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (Treat Doc. 100-20).
SD-419

2:15 p.m.
Environment and Public Works
To hold hearings on the nominations of Forrest J. Remick, of Pennsylvania, to be a Member of the Nuclear Regulatory Commission, and David C. Williams, of Illinois, to be Inspector General, Nuclear Regulatory Commission.
SD-406

OCTOBER 19

9:30 a.m.
Energy and Natural Resources
To resume hearings on the Department of Energy's efforts to improve the operations and management of its atomic energy defense activities and its efforts to restore public credibility in the Department's ability to operate its facilities in a safe and environmentally sound manner, and on S. 972, S. 1304, and other related measures with respect to the environment, safety, and health aspects of operation of the Department of Energy's nuclear facilities.
SD-366

Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on South Korean trade practices, focusing on the black market.
SD-342

Small Business
To hold hearings on the nomination of Kyo R. Jhin, of Maryland, to be Chief Counsel for Advocacy, Small Business Administration.
SR-428A

10:00 a.m.
Foreign Relations
Business meeting, to consider the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Treaty Doc. 101-4).
SD-419

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 1289, to improve the management of forests and woodlands and the production of forest resources on Indian land.
SR-485

OCTOBER 24

9:00 a.m.
Agriculture, Nutrition, and Forestry
Conservation and Forestry Subcommittee
To hold hearings on the protection of water quality.
SR-332

2:30 p.m.
Agriculture, Nutrition, and Forestry
To hold hearings on proposed legislation to provide for the establishment of a Federal fish inspection program.
SR-332

OCTOBER 25

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on cable carriage of local broadcast signals.
SR-253

OCTOBER 26

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on cotton.
SR-332

2:00 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on proposed legislation to promote and encourage travel in the U.S., and to review the National Tourism Policy Act (P.L. 97-63).
SR-253

OCTOBER 27

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 1236, to require a waiting period and certain documentation prior to the sale, delivery, or transfer of a handgun.
SD-226

NOVEMBER 1

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Telecommunications and Information Administration, Department of Commerce.
SD-562

10:00 a.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold oversight hearings on programs administered by the U.S. and Foreign Commercial Service.
SR-253

NOVEMBER 2

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on Indian health facilities.
SR-485

POSTPONEMENTS

OCTOBER 17

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on wheat.
SR-332

OCTOBER 18

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the international decade of natural disaster reduction.
SR-253